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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
SECOND SESSION

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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

## SENATE—*Wednesday, July 21, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, our heavenly Father, who dost guide and govern the minds and hearts of men, make us deeply conscious of Thy presence as once more we take up the task committed to us. To the guidance of Thy higher wisdom we commend our Nation. Rule in the hearts of Thy servants the President, the Vice President, the Members of this body and all others in authority, that they, knowing whose ministers they are, may above all things seek Thy honor and glory. Help us to move forward Thy kingdom neither too fast nor too slow, but according to the timetable of Thy providence. May the sense of duty and the spirit of service enable us to do what we ought to do. And may we walk in the steps of Him, who with fewest hours finished the divinest work.

We pray in His holy name. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., July 21, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

### THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leaders or their designees have 5 minutes this morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### PROPOSED LIFTING OF ARMS EMBARGO ON TURKEY

Mr. ROBERT C. BYRD. Mr. President, during an appearance on "Face the Nation" on Sunday, in discussing the proposed lifting of the arms embargo on Turkey, I commended the Turks for their recent flexibility on Cyprus, I also stated that they could and should do more. Specifically, I called upon Turkey to turn over the important seaside city of Varosha to United Nations administration so that 35,000 Greek refugees could begin returning to their homes and businesses in coming weeks.

I was informed yesterday that the Turkish Cypriots have agreed to the creation of an interim administration for the city of Varosha, under the United Nations, as soon as the negotiations between the Greek and Turkish communities are resumed. United Nations administration of Varosha, which has been under Turkish control since August 1974, would mean that one of the key issues holding up a Cyprus solution is closer to resolution.

Yesterday's announcement, along with other steps taken by Turkey in recent months—including new constitutional and territorial proposals; withdrawals of troops; and summit meetings with the Greek Prime Minister—are steps in the right direction toward solving a problem of great concern to all of us in the Senate. This latest action demonstrates a positive attitude and I hope sets the tone for future actions by the Turks and the Greeks.

### TEN WEEKS UNTIL OCTOBER 7

Mr. ROBERT C. BYRD. Mr. President, following the completion of business today, there remain only 51 scheduled working days until October 7. I mention October 7 simply because that is 1 month before November 7, the date of the election.

I am not setting that as a target date, but in looking toward adjournment of the Senate, at least we could consider October 7 as being a reasonable date, hopefully, because that would allow 1 month then for the Senators and the Members of the House to campaign prior to the election date.

Now, that does not include Saturdays, nor does it include the scheduled Labor Day nonlegislative day period.

In the 10 weeks remaining, we must complete action on more than a score of major authorization bills, 11 appropriation bills, the energy conferences, the energy tax conference, the second concurrent budget resolution, tax cut legislation, and other major legislation.

Obviously, meeting this schedule may require late sessions and may require some Saturday sessions if we are to achieve a record of which we all may be proud as Members of the 95th Congress and avoid the necessity of returning after the elections to complete work on matters of vital national concern.

I do not want to anticipate such an event, but it must be recognized as a possibility. I am definitely against coming back after the election. But, first of all, we have to do our work and our work encompasses, certainly, all or most all of the legislation I have made reference to.

So unless we can complete that work, I think it would necessitate returning after the elections. I believe we all recognize our responsibilities as legislators to have the important work facing the Senate completed when we adjourn for the year.

Now, achieving the adjournment date of October 7, if we can do it, will require the cooperation of all Members in conserving the time of the Senate in our deliberations, a willingness to enter into time agreements on legislation wherever possible, and the preparedness of the committees and the managers of the bills to take the floor on short notice when their priority legislation is called up.

Mr. President, on behalf of the leadership, I want to express appreciation for the cooperation that has been given to the leadership by the Members during this session. I want to express the hope that with mutual effort we will be able

to complete our work and not have to return after the election and have a record of which we can all be proud.

Mr. TOWER addressed the Chair.

The ACTING PRESIDENT pro tempore. The acting minority leader, the Senator from Texas.

Mr. TOWER. Mr. President, I believe, of course, that the Senator from Tennessee (Mr. BAKER), the distinguished minority leader, has shown every disposition to be cooperative with the Democratic leadership in moving things along. I think that he reflects the feeling of the minority Members of the Senate that we should do our business expeditiously. It is my view that with proper ordering of priorities, that is to say, turning our attention to those things that are most important and most urgent, I believe that this side of the aisle will certainly be prepared to cooperate in every way, to act expeditiously to get behind us our vital business by the 7th of October.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. TOWER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have asked the distinguished Senator to yield because I do want to express my appreciation to the distinguished minority leader (Mr. BAKER), and the minority leadership and the members of the minority, for the fine cooperation that has been accorded the majority leader during this session. I certainly have no complaints along that line. The cooperation has been splendid. It has been excellent on my side of the aisle, as well.

I want to take the occasion to thank not only my own Members on this side of the aisle, but also the leadership and the Members on the other side of the aisle.

But I took the floor today to indicate in a general broad-brush fashion the kind of workload that is still ahead of us, the fact that the time frame is becoming more restrictive as we go along, and to express the hope that we can all work together and cooperate and work hard in the effort to complete our work, not have to come back after the election, and be able to present to the people of this country a record on the part of the Congress—when I say the Congress, that includes both parties, the joint leadership—a record of which we can all be proud.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I meant what I was saying earlier about the work schedule, and I ask that the remarks I am about to make be included with those earlier remarks.

Mr. President, I urge my colleagues on both sides of the aisle to plan on votes on Fridays from here on out and to plan their schedules on the basis that we will have plenty of work to do on Fridays. With the kind of workload that we have ahead of us, I hope Senators will not, any more than they absolutely have to, schedule themselves away from the city on Fridays from here on out until we adjourn.

A good many Senators are absent today, but we are going to have some rollcalls, and I issue this friendly word of caution so that Senators will not be caught unaware: From here on Fridays are going to be heavy workdays, as will Mondays, Tuesdays, Wednesdays, and Thursdays, and as I have already indicated, we may have to come in on some Saturdays, and I especially say that after this Saturday, after tomorrow, Senators should be at least aware of the possibility of Saturday sessions beginning next Saturday, a week from tomorrow. I am not saying there will be a session next Saturday, a week from tomorrow, but I am saying that beginning next Saturday, a week from tomorrow, we may have to start coming in because our first responsibility is to do our job, do our work, and to do it well.

Mr. President, I yield the floor.

## ORDER OF BUSINESS

Mr. GOLDWATER. Will the Senator yield to me?

Mr. TOWER. I yield to the Senator.

## WILDCAT STRIKE ON METRO SYSTEM

Mr. GOLDWATER. Mr. President, like most other Washingtonians, I experienced considerable difficulty getting to work today largely because of the wildcat strike of workers on the Metro system. And thanks only to an 11th-hour agreement reached last night, am I now reasonably assured that my mail will be delivered and that postal workers will not strike. But in Philadelphia, the garbage still piles up and other cities around the country are without adequate fire and police protection because public employees have decided to take the safety of the public into their own hands and limit according to their own selfish wishes.

Mr. President, Calvin Coolidge once commented that the people had no right to strike against themselves. What he meant was that men and women who serve the public have a special responsibility and that responsibility is to make sure that their services are not interrupted. As inflation continues to mount under the ridiculous policies of this administration, I can foresee that we are headed for more and more trouble along these lines. Here in the District of Columbia, not only has this ridiculous walkout of the Metro workers caused monumental inconvenience and discomfort to thousands of people in the capital of the free world, but it has contributed to air pollution and become a health hazard as well as a nuisance.

Mr. President, I believe it is time for Government officials and union leaders to understand the public will not forever go on putting up with inconveniences and hardships engineered by the very people their taxes pay to work. I believe it is time for a crackdown on Government workers who refuse to acknowledge their responsibility to the public and to the people who pay them and I believe this requires some show of leadership on the part of Government officials and the Congress.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina is recognized for not to exceed 15 minutes.

## THE SENATE'S ROLE IN U.S. POLICY TOWARD TAIWAN

Mr. MORGAN. Mr. President, I have asked for this time this morning to deal with a subject about which I feel very strongly. I want to voice my views before actions may be taken and it will be too late for me to express my views, except through my vote on the floor of the Senate.

Mr. President, many Members of the U.S. Senate, including myself, have great affection for the people of the Republic of China and are determined that this island republic, for so long strongly allied with the United States, shall survive as a free and democratic nation. Consequently, we would view with great concern any move on the part of this administration, or any other, to impair our continuing relationship with the Republic of China and our mutual defense treaty without prior consultation with the Senate. I emphasize "without prior consultation with the Senate."

I, frankly, have been disturbed lately by the manner in which we have made overtures to the People's Republic of China. I hasten to point out that I do not oppose improving our relationship with the Communist mainland government. It is in the interest of world peace and security in Asia that we do so and do so as quickly as possible. I recognize this fact, and I think that, when all is said and done, our friends in the government of the Republic of China do, also.

But we should be realistic in approaching the whole question of "normalization" and understand why it is that at this point the People's Republic of China desires to strengthen its ties with us. As former Under Secretary of State George Ball said in an August 24, 1977, column for the New York Times:

> Throughout history our views about China have been distorted by fantasy. The Peking Government does not love us for the color of our eyes, nor would it respect us for cravenly yielding to its wishes; it is interested in conducting limited diplomatic business with us for one reason only—that we are an enemy of its enemy, the Soviet Union.

I do not purport to be a seer, and I have no way of knowing what the intentions of the leadership of the People's Republic of China are concerning the future of Taiwan. But I have observed, I think, that the strident militancy of past years has diminished as the mainland government has become more concerned about its relationship with the Soviet Union and exhibited increasing fear of armed confrontation with the Soviets. I do not discount the continuing threat of the People's Repub-

lic of China to the small island nation of Taiwan and would not argue for a moment that the guard of the Taiwanese should be lowered. It should not be. But, at the same time, we may well have come to a time in the history of this Asian area when it is of greater advantage to the People's Republic of China to have open and apparent American presence in the area in order to maintain a balance of power—in Japan, in the Philippines, and in Taiwan—than to continue sabre rattling across the Straits of Formosa.

I, for one, have always believed that the United States eventually could establish increased ties with the mainland without forfeiting its long-standing and close relationship with the Republic of China. On the other hand, the People's Republic for a while, I think, thought that we would rush headlong into an accommodation with them, to the detriment of the Government of Taiwan. And it has appeared from time to time that we have been headed in that direction.

I pause here to caution the members of the administration, and officials of the State Department in particular, against this course of action, for, in my opinion, the Senate will not consent to it and the American public will not tolerate it. This courtship of the mainland may be the ultimate romance for some members of the American diplomatic community, but the affection of the American public rests with the people of Taiwan; and, in the end, votes taken in the U.S. Senate will reflect that affection.

I have been a steady friend of the people of Taiwan for a long time. I did military service there for a period of time in 1972. I observed then the friendship of that nation for our people. I observed the relationship of that nation during the Vietnamese war, when they offered every assistance they possibly could to the Americans. While some of our so-called friends in the Asian area were refusing to permit our bombers to use their bases, and while Japan would not permit us even to land B–52 bombers at Okinawa for the purpose of getting them off Guam and away from a typhoon, the Taiwanese were welcoming the Americans and even were operating a repair base for us.

I do not believe that I compromise my friendship with the Taiwanese, however, by suggesting at this time that the United States can maintain effective relationships with both the Republic of China and the People's Republic of China. I know that mainland leaders in the past have said that it must be all or nothing. I reject outright that notion and say that if this is the way it must be, we are wasting our time and money in paying court to the People's Republic.

The United States is great enough to have as friends two peoples of divergent political and economic philosophies and historic hostilities. One nation has no right to demand that friendship with it be to the excluson of friendship with another, especially where that friendship is close and warm and formalized in a mutual defense treaty which we signed. In my opinion, we as a nation would be diminished in the eyes of the People's Republic of China if we acceded to this demand, and they would feel that having once bullied and manipulated us, they could continue to do so at will.

What would the people of Taiwan think? They would rightly perceive that their friendship had been betrayed and that a sure and certain relationship with them had been sacrificed by this nation for an unsure and tenuous relationship with their hostile neighbor. They would see, as we could not, that the favor of the United States had been won with trifles and they had been betrayed in deepest consequence. Humiliated and crippled in the world community, these proud people would see that they had chosen in vain to cast their national lot on the side of democracy and free enterprise and their scorn would stand as a sign to the world that friendship with the United States is meaningless.

I suggest, as a firm friend of the Republic of China, that perhaps it is time that representatives of the People's Republic of China and Taiwan seek an opportunity to discuss informally, but face to face the differences which create tensions between them. There has been some indication that mainland leaders are willing to do so; and, if that is the case, I think it would be a mistake for Taiwan to refuse. There is much to gain.

I have been told that the leaders of the Republic of China fear the domestic political consequences of talking with representatives of the People's Republic. Supposedly, they feel that citizens of Taiwan will not stand for any talk of compromise between the two governments. Frankly, I feel that these fears, if in fact they exist, have been exaggerated and that the people of Taiwan might actually welcome some break in the standoff which has existed for these last many years. If it takes a period of "public education" to get the citizenry prepared for such talks, then I think the Government should proceed to prepare its people for eventual discussions with mainland leaders.

But in order for such talks to be effective, even at the most informal level, the leaders of Taiwan must have some assurances that the United States is firm in its resolve not to sacrifice their national interest in conversations between our Nation and the People's Republic. For, as long as there is expectation on the mainland that the Government of the United States eventually will accede to their demands in "normalizing" relationships, they will never deal in good faith with the people of Taiwan. I, again, make this suggestion as a friend, and hope that the Government of Taiwan will give serious attention to its merits.

I conclude by saying that I think it is clear that the Members of the U.S. Senate are deeply concerned about the future of the people and the Government of Taiwan and want to make sure that the course which is steered by this Nation in its dealings with leaders of the Republic of China and the People's Republic of China is thoughtful, sure, deliberate, and respects our duties and obligations under the mutual defense treaty. We are requesting that proposed policy changes affecting the continuation in force of the treaty be submitted to the Senate for prior consultation, and I do not believe that is too much to ask.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 5 minutes?

Mr. MORGAN. I am delighted to yield 5 minutes to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

## RHODE ISLAND INDIAN CLAIMS SETTLEMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 902, which has been cleared on both sides and which is of interest to both Mr. PELL and Mr. CHAFEE.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3153) to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Rhode Island Indian Claims Settlement Act".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. Congress finds and declares that—

(a) there are pending before the United States District Court for the District of Rhode Island two consolidated actions that involve Indian claims to certain public and private lands within the town of Charlestown, Rhode Island;

(b) the pendency of these lawsuits has resulted in severe economic hardships for the residents of the town of Charlestown by clouding the titles to much of the land in the town, including lands not involved in the lawsuits;

(c) the Congress shares with the State of Rhode Island and the parties to the lawsuits a desire to remove all clouds on titles resulting from such Indian land claims within the State of Rhode Island; and

(d) the parties to the lawsuits and others interested in the settlement of Indian land claims within the State of Rhode Island have executed a Settlement Agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Rhode Island.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Indian Corporation" means the Rhode Island nonbusiness corporation known as the "Narragansett Tribe of Indians";

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish;

(c) "lawsuits" means the actions entitled "Narragansett Tribe of Indians v. Southern Rhode Island Land Development Co. et al., C.A. No. 75–0006 (D.R.I.) and Narragansett Tribe of Indians v. Rhode Island Director of Environmental Management, C.A. No. 75–0005 (D.R.I.)";

(d) "private settlement lands" means approximately 900 acres of privately held land outlined in red on the map marked "exhibit A" attached to the Settlement Agreement that are to be acquired by the Secretary from certain private landowners pursuant to sections 5 and 8 of this Act;

(e) "public settlement lands" means the lands described in paragraph 2 of the Settlement Agreement that are to be conveyed by the State of Rhode Island to the State Corporation pursuant to legislation as described in section 7 of this Act;

(f) "settlement lands" means those lands defined in subsections (d) and (e) of this section;

(g) "Secretary" means the Secretary of the Interior;

(h) "Settlement Agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Rhode Island Indian Land Claims", executed as of February 28, 1978, by representatives of the State of Rhode Island, of the town of Charlestown, and of the parties to the lawsuits, as filed with the Secretary of State of the State of Rhode Island;

(i) "State Corporation" means the corporation created or to be created by legislation enacted by the State of Rhode Island as described in section 7 of this Act; and

(j) "transfer" includes, but is not limited to, any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of land or natural resources.

RHODE ISLAND INDIAN CLAIMS SETTLEMENT FUND

SEC. 4. There is hereby established in the United States Treasury a fund to be known as the Rhode Island Indian Claims Settlement Fund into which $3,500,000 shall be deposited following the appropriations authorized by section 11 of this Act.

OPTION AGREEMENTS TO PURCHASE PRIVATE SETTLEMENT LANDS

SEC. 5. (a) The Secretary shall accept assignment of reasonable two-year option agreements negotiated by the Governor of the State of Rhode Island or his designee for the purchase of the private settlement lands, provided that the terms and conditions specified in such options are reasonable and that the total price for the acquisition of such lands, including reasonable costs of acquisition, will not exceed the amount specified in section 4. If the Secretary does not determine that any such option agreement is unreasonable within sixty days of its submission, the Secretary will be deemed to have accepted assignment of the option.

(b) Payment for any option entered into pursuant to subsection (a) shall be in the amount of 5 per centum of the fair market value of the land or natural resources as of the date of the agreement and shall be paid from the fund established by section 4 of this Act.

(c) The total amount of the option fees paid pursuant to subsection (b) shall not exceed $175,000.

(d) The option fee for each option agreement shall be applied to the agreed purchase price in the agreement if the purchase of the defendant's land or natural resources is completed in accordance with the terms of the option agreement.

(e) The payment for each option may be retained by the party granting the option if the property transfer contemplated by the option agreement is not completed in accordance with the terms of the option agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING THE NARRAGANSETT TRIBE AND THE TOWN OF CHARLESTOWN, RHODE ISLAND

SEC. 6. If the Secretary finds that the State of Rhode Island has satisfied the conditions set forth in section 7 of this Act, he shall publish such finding in the Federal Register and upon such publication—

(a) any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, and any transfer of land or natural resources located anywhere within the town of Charlestown, Rhode Island, by, from, or on behalf of any Indian, Indian nation, or tribe of Indians, including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of August 4, 1790, Ch. 33, Sec. 4, 1 Stat. 138, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(b) to the extent that any transfer of land or natural resources described in subsection (a) may involve land or natural resources to which the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, had aboriginal title, subsection (a) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(c) by virtue of the approval of a transfer of land or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or right involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy) shall be regarded as extinguished as of the date of the transfer;

(d) any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof) whose transfer of land or natural resources was approved or whose aboriginal title or claims were extinguished by subsection (a), (b), or (c) of this section may, within a period of one hundred and eighty days after publication of the Secretary's findings pursuant to section 6 of this Act, bring an action against the State Corporation in lieu of an action against any other person against whom a cause of action may have existed in the absence of this section. In any such action, the remedy shall be limited to a right of possession of the settlement lands.

FINDINGS BY THE SECRETARY

SEC. 7. Section 6 of this Act shall not take effect until the Secretary finds—

(a) that the State of Rhode Island has enacted legislation creating or authorizing the creation of a State-chartered corporation satisfying the following criteria:

(1) the corporation shall be authorized to acquire, perpetually manage and hold the settlement lands;

(2) the corporation shall be controlled by a board of directors, the majority of the members of which shall be, selected by the Indian Corporation or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

(3) the corporation shall be authorized, after consultation with appropriate State officials, to establish its own regulations concerning hunting and fishing on the settlement lands, which need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock; and

(b) that the State of Rhode Island has enacted legislation authorizing the conveyance to the State Corporation of land and natural resources that substantially conform to the public settlement lands as described in paragraph 2 of the Settlement Agreement.

PURCHASE AND TRANSFER OF PRIVATE SETTLEMENT LANDS

SEC. 8. (a) When the Secretary determines that the State Corporation described in section 7(a) has been created and will accept the settlement lands, the Secretary shall exercise within sixty days the options entered into pursuant to section 5 of this Act and assign the private settlement lands thereby purchased to the State Corporation.

(b) Any moneys remaining in the fund established by section 4 of this Act after the purchases described in subsection (a) shall be returned to the general Treasury of the United States.

(c) Upon the discharge of the Secretary's duties under sections 5, 6, 7 and 8 of this Act, the United States shall have no further duties or liabilities under the Act with respect to the Indian Corporation or its successor, the State Corporation, or the settlement lands: Provided, however, That if the Secretary subsequently acknowledges the existence of the Narragansett Tribe of Indians, then the settlement lands may not be sold, granted, or otherwise conveyed or leased to anyone other than the Indian Corporation, and no such disposition of the settlement lands shall be of any validity in law or equity, unless the same is approved by the Secretary pursuant to regulations adopted by him for that purpose: Provided, however, That nothing in this Act shall affect or otherwise impair the ability of the State Corporation to grant or otherwise convey (including any involuntary conveyance by means of eminent domain or condemnation proceedings) any easement for public or private purposes pursuant to the laws of the State of Rhode Island.

APPLICABILITY OF STATE LAW

SEC. 9. Except as otherwise provided in this Act, the settlement lands shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island.

FEDERAL BENEFITS PRESERVED

SEC. 10. Nothing contained in this Act or in any legislation enacted by the State of Rhode Island as described in section 7 of this

Act shall affect or otherwise impair in any adverse manner any benefits received by the State of Rhode Island under the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669–669(i)), or the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C. 777–777(k)).

AUTHORIZATION OF FUNDS

SEC. 11. There is hereby authorized to be appropriated $3,500,000 to carry out the purposes of this Act.

LIMITATION OF ACTIONS

SEC. 12. Notwithstanding any other provisions of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within one hundred and eighty days of the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Rhode Island.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE OUTSIDE THE TOWN OF CHARLESTOWN, RHODE ISLAND, AND INVOLVING OTHER INDIANS IN RHODE ISLAND

SEC. 13. (a) Except as provided in subsection (b)—

(1) any transfer of land or natural resources located anywhere within the State of Rhode Island outside the town of Charlestown from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (other than transfers included in and approved by section 6 of this Act), including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indians, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of August 4, 1790, Ch. 33, Sec. 4, 1 Stat. 138, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in paragraph (1) may involve land or natural resources to which such Indian, Indian nation, or tribe of Indians had aboriginal title, paragraph (1) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of such transfers of land or natural resources effected by this subsection or an extinguishment of aboriginal title effected thereby, all claims against the United States, and State of subdivision thereof, or any other person or entity, by any such Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or rights involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy), shall be regarded as extinguished as of the date of the transfer.

(b) This section shall not apply to any claim, right, or title of any Indians, Indian nation, or tribe of Indians that is asserted in an action commenced in a court of competent jurisdiction within one hundred eighty days of the date of enactment of this Act: *Provided*, That the plaintiff in any such action shall cause notice of the action to be served upon the Secretary and the Governor of the State of Rhode Island.

● Mr. PELL. Mr. President, I am very pleased that the Senate today has acted favorably upon my bill, S. 3153, to settle the Narragansett Indian land claim in Rhode Island. I am proud that Rhode Island is the first State to reach a consensus resolution of an Indian land claim arising under the so-called Trade and Non-Intercourse Act of 1790. In more than 14 States, these claims are preventing innocent landowners from selling or developing their land, jeopardizing municipal finances, and impairing relations between landowners and their native American neighbors.

The legislation enacted by the Senate today represents a fair out-of-court agreement negotiated freely by the parties to the Narragansett land claim in Rhode Island. For landowners in Charlestown, R.I., affected by the suit, this bill provides a mechanism to clear clouded titles and allow the resumption of normal living without waiting the 5 to 7 years necessary for the courts to finally lay the issue to rest. The bill also extinguishes all non-Narragansett Indian land claims in Rhode Island within 180 days of enactment, insuring that the State will not again face the burden of defending a divisive lawsuit of this sort. To avoid the problems raised by the Alaska Native Claims Act, the bill contains language specifically extinguishing all claims and defenses of every sort, such as claims for trespass damages.

This bill also satisfies the historic grievances of the Narragansetts, a great people with a tradition of cultural achievement and self-sufficiency. It is appropriate that we enact this legislation during the week following the Longest Walk, when native Americans from every part of our country have come to Washington to focus attention on Indian rights. This bill is a signal that where the parties are willing to compromise and negotiate in good faith, and the State is willing to make a significant contribution to an out-of-court settlement, the administration and the Congress are willing to support them by enacting legislation to implement settlements and eliminate claims. I urge my colleagues to look upon this legislation as a model for the kind of settlement that can be achieved when there is a willingness to resolve the problem through compromise.

Within Rhode Island, I welcome the creation of a State-chartered corporation to hold over 1,800 acres of land, in trust for the Narragansetts, one-half contributed by the State of Rhode Island, and one-half freely sold by landowners at fair market prices. The State-chartered corporation, the majority of whose directors will be chosen by the Narragansett Indians, will provide a vehicle for the Narragansetts to share their rich history and culture with all Rhode Islanders, thus creating a new bond of understanding between native Americans and their neighbors.

I applaud the Senate Select Committee on Indian Affairs for its expeditious handling of this bill and the great amount of time which Chairman ABOUREZK and his staff have devoted to it. I am pleased to have played a leading role in the passage of this precedent-setting legislation.●

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–972), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 3153 is to implement a settlement agreement between the Narragansett Indian Tribe and the State of Rhode Island and private landowners in Charlestown, Rhode Island concerning the Tribe's claim to certain lands within the town of Charlestown and for damages for trespass on such lands.

Briefly, the Tribe claims aboriginal title to these lands and argues that the alienation of tribal lands by the Tribe under the auspices of the State of Rhode Island between 1790 and 1880 was null and void under the Trade and Intercourse Act of 1790, as amended and supplemented (25 U.S.C. 177). Under the terms of the settlement agreement, the Tribe would relinquish its claim in return for approximately 900 acres of land from the State and an additional 900 acres of land from private landowners, the latter to be purchased with $3.5 million from the Federal government. Both extinguishment of the Tribe's claims and purchase of the private settlement lands, as well as other provisions by Congress. Additional implementing legislation by the State is required as well.

S. 3153 provides for the extinguishment of all land claims of the Narragansett Tribe (and for the conditional extinguishment of all land claims, if any, within the State of Rhode Island, by other Indian tribes), provides for the purchase of private settlement lands by the Federal government on behalf of the Tribe as provided in the settlement agreement, and implements various other provisions of the settlement agreement, thereby eliminating any cloud on the title to claimed lands while assuring that the Tribe is adequately compensated for the extinguishment of its claims to the land.

SUMMARY OF MAJOR PROVISIONS

This bill represents the first legislation submitted to the Senate which would resolve the land claims of an Indian tribe arising under the Trade and Intercourse Act of 1790, as amended and supplemented, on the basis of an out-of-court settlement negotiated between the Tribe and the affected parties. The Committee is convinced that this legislation will serve as a landmark for the resolution of other land claims by eastern tribes under the Trade and Intercourse Act.

The legislation is predicated, first, upon the finding and conclusion of the Administration that the Narragansetts have presented a credible claim to the lands involved such that a legislative settlement is justified. Second, the extinguishment of the Narragansett's land claims under the bill is premised on the voluntary relinquishment of their claims by the Tribe and the provision of fair compensation for that relinquishment. Third, it should be noted that although there is no liability on the part of the Federal government involved in legal action brought by Indian tribes against third parties under the Trade and Intercourse Act, the Administration has recognized that the mere pendency of Indian claims may result in severe economic hardships from the clouding of land titles and that it is proper for the Federal government to aid the states in settling legitimate Indian claims. Fourth, the legislation is precedential in that even

with respect to the hypothetical claims of Indians other than the Narragansetts, extinguishment is not effected without allowing any such Indians the opportunity to present their claims in court. And, finally, the bill is important in that it follows the precedent set in the Alaskan Native Claims Settlement Act. 43 U.S.C. 1601 et seq. by providing the Indians with an opportunity to acquire a viable land base in the process of resolving their claims to aboriginal lands.

Under the major provisions of the legislation:

(1) The aboriginal title to any land or natural resources claimed by the Narragansetts (and aboriginal title to land or natural resources within Charlestown, Rhode Island claimed by any other Indian tribe), as well as all derivative claims such as damages for trespass, are extinguished, effective as of the date such land was originally transferred from aboriginal ownership by the Tribe, upon the Secretary of the Interior's publication of his finding that the State of Rhode Island has enacted legislation establishing the state-created, Indian controlled corporation for holding and managing the settlement lands on behalf of the Tribe and authorizing the conveyance of the public settlement lands to the corporation as per the settlement agreement.

(2) Any Indian tribe, other than the Narragansetts, whose claim to lands within Charlestown is extinguished may assert their claim only against the state-created corporation. Such an action must be asserted within 180 days of the extinguishment and the exclusive remedy in such action is possession of the settlement lands.

(3) All other claims by Indian tribes, other than the Naragansetts, to land within the state, outside Charlestown, are extinguished unless asserted in an action by the Tribe within 180 days from the date of enactment of this legislation. (As noted below, there are no known or probable claims to lands within Rhode Island based on unextinguished Indian title, other than that of the Narragansetts).

(4) The Federal government, through the Secretary, will purchase approximately 900 acres of private settlement lands specified in the settlement agreement. $3.5 million is authorized to be appropriated for the purchase of the lands, including the payment of option fees. An option mechanism is employed under which the terms of the purchase, including the price of the land (fair market value), are to be agreed upon by the Governor of the State of Rhode Island and the private landowners. The options are to be assigned to the Secretary who will pay the option fees, execute the options, and convey the lands to the state-created corporation for the Tribe.

(5) The settlement lands will be subject to a special federal restraint on alienation only if the Secretary subsequently acknowledges the Tribe's existence under the Department of the Interior's regulations governing recognition of Indian tribes. The settlement lands will be subject to the civil and criminal jurisdiction of the State, except as otherwise provided in the bill. (Other provisions of the settlement agreement relating to the exemption of the settlement lands from federal, state, and local taxation (other than "in lieu" payments for governmental services) and providing for capital gains deferral with respect to income received by private landowners from the sale of the private settlement lands to the Federal government require implementing legislation by Congress but have been reserved for subsequent legislation in order not to delay the enactment of this bill.)

Mr. CHAFEE. Mr. President, I thank the majority leader for taking up that Indian lands claim matter involving Rhode Island, and that is the first of the eastern Indian land claims matters that have come before Congress.

It has been a very trying situation for us in Rhode Island. It does not involve substantial amounts of land as the Maine situation does. Nonetheless, it has been a very difficult matter, but all the sides have come together. To have Congress approve it is very helpful for all of us in Rhode Island.

So I am grateful that has been taken up and favorably disposed of.

I yield back my time.

## SPECIAL ORDER

The PRESIDING OFICER (Mr. MORGAN). Under the previous order, the Senator from Arkansas (Mr. HODGES) is recognized for not to exceed 15 minutes.

## MULTILATERAL TRADE NEGOTIATIONS

Mr. HODGES. Mr. President, last week, the United States and other major participants in the multilateral trade negotiations issued a statement on the current status of the so-called Tokyo round of negotiations. The statement, called a "framework of understanding," summarizes the result of almost 5 years of negotiation and lists what could become the major elements of a comprehensive trade agreement governing international trade into the 1980's. The "framework" alludes to a tariff package that would be more liberal than that accomplished in the Kennedy round of negotiations, but more importantly, it indicates potental for agreement on a list of nontariff items. These nontariff items would include the ways in which participants value customs and implement Government procurement and the subsidies and countervailing duties that are placed on certain goods. A lessening of nontariff restraints could have greater and more immediate impact than reduced tariff schedules. Progress to date holds the promise of a final agreement by late in this calendar year.

That these negotiations have gotten this close to completion is in large part due to the efforts of our special trade representative, Robert Strauss. Ambassador Strauss is to be commended for the energy and forcefulness with which he has pursued a satisfactory conclusion to these discussions. In particular, I applaud the attention of Mr. Strauss has paid to the agricultural portion of the negotiations. The Kennedy round entertained agricultural problems after industrial bargaining was virtually complete, resulting in far less liberalization of agricultural trade. Some of the most onerous restaints upon international trade today are the levies and quotas placed on agricultural imports. Early in his tenure, Ambassador Strauss emphasized that he felt agriculture had been left behind in the Kennedy round, but; that "it would not be so left behind in the Tokyo round." Since then, especially in discussions with representatives of the EEC and Japan, he has continued to express the United States determination to arrive at a truly comprehensive agreement, insisting that trade in industrial and agricultural products be dealt with simultaneously and in the same form. Last week, during which some had hoped that a final settlment on all major issues would be reached, Mr. Strauss again made clear that any agreement on industrial items would be contingent on arriving at satisfactory terms on agricultural matters.

Regretfully, however, there is a consensus that progress in the agricultural areas has been disappointing. Only last Tuesday, July 18th, Mr. Strauss indicated, in a report to the Trade Subcommittee of the House Ways and Means Committee, that our goals on agricultural items had not been reached and that the reluctance of other negotiation participants to increase access for our agricultural products remained as one of the major impediments to a successful agreement. He cited both Japan and the EEC for their unwillingness to provide more open markets.

The issue of increased access to foreign markets for our agricultural goods is crucial. During the farm strike of last winter, farmers were repeatedly told by Congressmen, by the Department of Agriculture, and by Secretary Bergland himself, that the key to any solution to agricultural problems was increased agricultural exports. There are real limits to how much our exports can be increased as long as some of our major foreign markets maintain highly protectionist import policies. Some of the same markets that remain closed to U.S. agricultural products have enormous trade surpluses due to the accessibility of our own markets. I speak in particular, of course, of the very advantageous position that Japan holds in trading with the United States. The Japanese surplus in trade with us in calendar year 1977 was over $8 billion. Mr. President, I repeat: over $8 billion in surplus. During the first 3 months of this year, that situation appears to have worsened, with a first quarter surplus to Japan of over $3 billion. A goodly share of this surplus is the result of large sales of Japanese automobiles in the United States—$4 billion last year alone. Japanese sales of machinery and transportation equipment to the United States amounted to almost $11 billion in 1977 or about 60 percent of the total sales of Japanese products to the United States. I might add it put numbers of American workers on the streets.

The U.S. duty on imported automobiles is a nominal 3 percent. Sales of U.S. agricultural products to Japan, while sizable at $2.2 billion, pale in comparison to our trade deficit with Japan. There is a tremendous potential for increasing our agricultural sales to Japan if the Japanese would reduce the restraints placed on imports. Although no duty is placed on wheat, Japan's internal price system reduces domestic demand and makes our price competitiveness irrelevant. I am particularly disturbed by their intransigence on beef

imports. Beef is a popular food in Japan and demand remains high despite prices on some cuts as high as $20 per pound. They cannot supply demand domestically and yet beef imports face not only a duty of 25 percent, but also a very stiff quota. Some minor quota increases were made by the Japanese last January, but there remains much room here for increasing access and for reducing the trade surplus.

The reluctance of the Japanese to make concessions may be attributed to the vociferous reaction they expect from Japanese farmers who are highly protectionist and, I might add, highly protected. The negotiators of Japan, and the EEC, and of all participants in fact, should be reminded that there are such protectionist forces to be dealt with in every country, including the United States. The final product of the Tokyo round will come before the next Congress when legislation that would implement the agreement will be considered. In order to mollify domestic protectionist pressure, Ambassador Strauss and the White House will have to be able to point to actions that other participants have taken that indicate a sincere willingness to share markets. The EEC, and in particular the Japanese, should take note—the tide of protectionism is rising in the United States. Agriculture is one area where our products are economically competitive in the international marketplace—obstinate refusal to reduce barriers to U.S. agricultural products signals this Senator to encourage and assist that rising tide.

Take note Mr. D. and Mr. T.

I thank the Chair. I yield back the remainder of my time.

## ABSENCE OF SENATOR LEAHY EXCUSED

Mr. LEAHY. Mr. President, I ask unanimous consent to be excused from any sessions of the Senate or votes after 2 o'clock this afternoon, because of a death in the family.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2617, which the clerk will state by title.

The legislative clerk read as follows:

Calendar No. 754, S. 2617, a bill to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Domestic Volunteer Service Act Amendments of 1978".

SEC. 2. Section 103 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) (hereinafter referred to as "the Act") is amended by—

(1) amending subsection (b) by—

(A) striking out "Prior to" and inserting in lieu thereof "Within thirty days after" in the second sentence; and

(B) inserting at the end thereof the following new sentence: "The Director shall offer to provide each volunteer enrolled for a period of full-time service of one year or more under this title, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences."; and

(2) amending subsection (d) to read as follows:

"(d)(1) Volunteers under this part shall not be assigned to duties or work in a project or program in any State unless the project or program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him or her within forty-five days of the date of such submission. In the event of a timely disapproval in writing, supported by a statement of reasons, by the Governor or other chief executive officer, volunteers may be assigned to duties or work in such project or program if, following disapproval, the Director determines in writing, with a statement of reasons therefor, that such project or program is fully consistent with the provisions and in furtherance of the purpose of this part.

"(2) Except as provided in the second sentence of this paragraph, when so requested by the Governor or other chief executive officer of the State concerned in writing, supported by a statement of reasons, a volunteer project or program or the assignment of a volunteer to a project or program in such State shall be terminated by the Director not later than thirty days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer. The Director may refuse to terminate such a project or program or the assignment of a volunteer to such a project or program if the Director so determines by notifying the Governor or other chief executive officer in writing, with a statement of reasons therefor, that such program or project or the assignment of such a volunteer to a project or program is fully consistent with the provisions and in furtherance of the purpose of this part.".

SEC. 3. Section 105(a)(2) of the Act is amended by amending the first sentence thereof to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part thereof, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

SEC. 4. Section 114(a) of the Act is amended by—

(1) striking out in the first sentence "10" and inserting in lieu thereof "15"; and

(2) striking out in the second sentence "$6,700,000" both times it appears and inserting in lieu thereof "$4,600,000".

SEC. 5. Section 122 of the Act is amended by—

(1) amending subsection (a) by—

(A) inserting "in urban and rural areas" after "programs" the first place it appears;

(B) striking out "and" the first place it appears and inserting a comma and 'a program of assistance to victims of domestic violence, and the programs specified in section 134 (1) and (2) of this Act" after "abusers"; and

(C) inserting at the end thereof the following new sentence: "In carrying out programs authorized by this part, the Director is authorized to provide for the recruitment, selection, and training of volunteers."; and

(2) amending subsection (c) to read as follows:

"(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of twenty hours or more per week for twenty-six or more consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of sections 103(d), 104(c), and 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of one year or more under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) (with respect to low-income community volunteers), 104(d), and 105(a) to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

SEC. 6. (a) Title I of the Act is amended by adding at the end thereof the following new part:

"PART D—URBAN NEIGHBORHOOD VOLUNTEER PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 131. The purpose of this part is to strengthen and encourage the involvement of individuals, neighborhood groups, voluntary associations, labor organizations, local enterprises, local governments, and other local entities in community revitalization and person-to-person service activities in distressed urban neighborhoods by providing for Urban Neighborhood Volunteer Programs which build on the capacity of existing and emerging neighborhood groups, through the use of volunteers enrolled for a period of full-time service and volunteers enrolled for periods of part-time service, to assist in efforts to reverse deterioration of and improve the quality of life in their neighborhoods, particularly in situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems, and to provide appropriate authorities and responsibilities designed to assist in the development and coordination of such programs.

"GENERAL PROVISIONS

"SEC. 132. (a) The Director is authorized to conduct or make grants to and contracts with public agencies and private nonprofit organizations, or both, for projects to carry out the purpose of this part in accordance with the authorities and subject to the restrictions in the provisions of this part.

"(b) The assignment of volunteers under this part shall be on such terms and conditions, and volunteers may be provided only such allowances, stipends, and benefits and be afforded such status and be subject to such restrictions as are provided for in this Act (except with respect to coverage under section 415(d)) for volunteers whose service and time commitment is of similar charac-

ter. The Director shall take appropriate steps to encourage the assignment together of volunteers from various age groups, particularly young and old, and the use of volunteers enrolled for a period of full-time service of one year or more and volunteers enrolled for periods of part-time service in assignments as catalysts to extend the effectiveness of paid employees of projects and in assignments to carry out recruitment and placement activities.

"(c) Notwithstanding any other provision of this Act or any other law, not more than an amount equal to 15 per centum of the total amount available for grants and contracts and the conduct of programs under this part for each fiscal year shall be expended for administrative expenses from sums appropriated under section 504 of this Act in order to carry out this part.

"AUTHORITY TO OPERATE URBAN NEIGHBORS PROGRAMS

"SEC. 133. (a) The Director, with the concurrence of the mayor or other chief elected governmental authority of an urban area with distressed neighborhoods, is authorized to designate and provide financial assistance to a lead agency to support the efforts of teams (each team consisting of one professional employee familiar with the distressed urban area in question, at least one volunteer enrolled for a period of full-time service of one year or more, and volunteers enrolled for periods of full-time and part-time service) and essential support staff to operate Urban Neighbors Programs to carry out community revitalization and person-to-person service activities in distressed urban neighborhoods through—

"(1) the recruitment, on a request-for-service basis, of volunteers who possess needed skills and the matching of such volunteers with neighborhood groups requiring the skills of such volunteers in carrying out community revitalization and person-to-person service projects, with appropriate emphasis on activities to carry out the national neighborhood priority programs established under section 134 of this Act;

"(2) the development of a resource bank listing locally-recruited persons willing to serve as volunteers enrolled for periods of part-time service to assist such groups in such projects;

"(3) the encouragement of the development of neighborhood groups in distressed urban neighborhoods to carry out such projects;

"(4) the coordination and facilitation of volunteer assistance available through regional resource centers pursuant to subsection (b) of this section; and

"(5) such other activities consistent with the provisions of this part as the Director determines are necessary to carry out the purpose of this part.

"(b)(1) The Director is authorized to provide financial assistance for the establishment and operation of regional resource centers to support (A) the recruitment of scarce-skill volunteers to assist in projects carried out pursuant to this part, (B) the provision, where appropriate, of such payments (such as essential job-related expenses) to volunteers serving under this part as are authorized under section 132(b) of this Act, and (C) the provision of technical, management, and coordination assistance for lead agencies designated under subsection (a) of this section. Not more than $100,000 may be provided for salaries and related expenses under a grant or contract for any such center.

"(2) The Director, after consultation with the mayor or other chief elected governmental authority of the urban area involved, is authorized to make neighborhood seed-money grants to nonprofit organizations in distressed urban neighborhoods (either directly or for distribution to such organizations by lead agencies designated under subsection (a) of this section) to promote volunteer activities in such neighborhoods, and provide volunteers working in neighborhood groups with such materials, tools, supplies, training, and administrative support as the Director deems necessary to enable such volunteers to work effectively, in community revitalization and person-to-person service projects. No nonprofit organization grantee shall be eligible to receive in any fiscal year funds under this subsection in excess of $15,000 or a total of $30,000 over any three fiscal years for use by an entity in a particular neighborhood.

"(3) Not more than 30 per centum of the sums appropriated to carry out this part for each fiscal year shall be used for the purpose of making grants under this subsection.

"AUTHORITY TO DEVELOP AND CARRY OUT NATIONAL URBAN NEIGHBORHOOD PRIORITIES PROGRAMS

"SEC. 134. The Director shall develop and carry out National Urban Neighborhood Priorities Programs, including—

"(1) a program designated 'Helping Hand', utilizing person-to-person services to reduce the necessity for institutionalization (in hospitals, mental institutions, nursing homes, other extended-care settings, and other facilities) and to ameliorate residential isolation (in senior centers, halfway-house facilities, and other residential settings) of older persons, handicapped persons, and other affected persons, stressing interactions between persons from various age groups, particularly young and old, and carried out in coordination with the appropriate State system for the protection and advocacy of the rights of persons with developmental disabilities established pursuant to amendments made by section 203 of the Developmental Disabilities Assistance and Bill of Rights Act;

"(2) a program designed to provide personal and group financial counseling to low- and fixed-income individuals utilizing volunteers with specialized or technical expertise; and

"(3) such other additional program as the Director may identify each year as a national program priority to stimulate and initiate improved methods of utilizing volunteers to carry out the purpose of this part, and the continuation of any such programs as the Director may determine.".

(b) The table of contents of the Act is amended by inserting below the heading for section 123 the following:

"PART D—URBAN NEIGHBORHOOD VOLUNTEER PROGRAMS

"Sec. 131. Statement of purpose.
"Sec. 132. General provisions.
"Sec. 133. Authority to operate Urban Neighborhood Programs.
"Sec. 134. Authority to develop and carry out National Urban Neighborhood Priorities Programs.".

SEEC. 7. Section 201 of the Act is amended by—

(1) striking out in subsection (c) "sixty" and inserting in lieu thereof "forty-five"; and

(2) inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with provisions and in furtherance of the purpose of this part.".

SEC. 8. Section 212(a) of the Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2)(A) The Director shall award a grant or contract under this part for a project to be carried out over an area in a State more comprehensive than one community, to the State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), unless (i) the State has not established or designated such an agency, or (ii) such agency has been afforded at least forty-five days to (I) review the project application made by a prospective grantee or contractor other than such agency for a project to be carried out in such State and (II) make recommendations thereon. In the event that such an established or designated State agency is not awarded the grant or contract, any application approved for a project in such State must contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such agency.

"(B) The Director shall award a grant or contract under this part for a project to be carried out entirely in a community served by a community action agency, to such agency unless such agency and the State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) have been afforded at least forty-five days to (i) review the project application made by a prospective grantee or contractor other than either such agency for a project to be carried out in such community and (ii) make recommendations thereon. In the event that such a community action agency or such an established or designated State agency is not awarded the grant or contract, any application approved for a project to be carried out entirely in such community must contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such community action agency.".

SEC. 9. Section 404(g) of the Act is amended by—

(1) inserting "(1)" after "(g)"; and

(2) inserting at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

SEC. 10. Section 410 of the Act is amended by inserting at the end thereof the following new sentence: "The Director, in consultation with the Chairman of the Civil Service Commission and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment, and (2) to make provision for the listing and description of volunteer work on all employment application forms.".

SEC. 11. Section 415 is amended by—

(1) amending subsection (b) by—

(A) striking out in the first sentence "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than twenty hours or more per week for twenty-six or more consecutive weeks, under title I of this Act";

(B) striking out in clause (3) "and";

(C) amending clause (4)(A) by striking out "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service under such title I shall be deemed to be that received under the entrance salary for a grade GS–7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such title I shall be deemed to be an appropriate portion of such entrance salary,"; and

(D) striking out the period at the end thereof and inserting in lieu thereof a comma and "and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)."; and

(2) inserting at the end thereof the following new subsection:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under title I of this Act shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

"(2) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

"(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

SEC. 12. Section 414 of the Act is amended by inserting "among various regions of the country and" after "equitably".

SEC. 13. Section 417 of the Act is amended by—

(1) inserting at the end of subsection (a) the following new sentence: "For the purposes of this subsection, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.), any project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance."; and

(2) inserting at the end thereof the following new subsection:

"(c) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1974 (42 U.S.C. 2000e–16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V), and in the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers and to volunteers serving under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.), and any remedies under such laws shall be available to aggrieved such applicants or volunteers. Not later than ninety days after the date of the enactment of this Act, the Director, after consultation with the Equal Employment Opportunity Coordinating Council (established by section 715 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–14)) with regard to the application of the policies set forth in section 717 of such Civil Rights Act and with the Secretary of Health, Education, and Welfare and the Interagency Committee on Handicapped Employees (established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a))) with regard to the application of the policies set forth in title V of such Rehabilitation Act, and not later than ninety days after the Secretary of Health, Education, and Welfare publishes final general regulations to carry out such Age Discrimination Act, the Director, after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies so as to promote the enrollment and service of persons as such volunteers without regard to the discriminatory factors proscribed in such laws.".

SEC. 14. Title V of the Act is amended by—

(1) amending section 501 by—

(A) striking out "(a)" and striking out "and" after "September 30, 1977," in the first sentence, and inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978," in such sentence;

(B) striking out "$29,600,000" in the second sentence of subsection (a) and inserting in lieu thereof "80 per centum"; and

(C) striking out the last sentence of subsection (a) and all of subsection (b).

(2) amending section 502 by—

(A) striking out in subsection (a) "and" after "September 30, 1976," and inserting "$25,000,000 for the fiscal year ending September 30, 1979, $30,000,000 for the fiscal year ending September 30, 1980, and $35,000,000 for the fiscal year ending September 30, 1981," after "September 30, 1978,"; and

(B) inserting below clause (B) of subsection (b)(2) the following new sentence: "There are further authorized to be appropriated $55,000,000 for the fiscal year ending September 30, 1979, $62,500,000 for the fiscal year ending September 30, 1978, and $70,000,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out programs under part B of such title.";

(3) amending section 503 by striking out "and" after "September 30, 1977,", and inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978,"; and

(4) amending section 504 by striking out "and" after "September 30, 1977,", and inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978,".

SEC. 15. Not later than February 1, 1979, the Director of the ACTION Agency shall submit to the appropriate Committees of the Congress a report specifying the special needs and circumstances to be addressed in designing programs under the Domestic Volunteer Service Act of 1973 for implementation in rural areas, and a strategy and timetable for meeting such needs and circumstances.

The PRESIDING OFFICER. Debate on this bill is limited to 1 hour to be equally divided and controlled by the Senator from California (Mr. CRANSTON) and the Senator from New York (Mr. JAVITS), with 30 minutes on any amendment, and with 15 minutes on any debatable motion, appeal or point of order.

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Steinberg, Fran Butler, and Jim O'Connell have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise to urge favorable action on S. 2617, the proposed Domestic Volunteer Service Act Amendments of 1978, as reported by the Human Resources Committee on May 15. I introduced this legislation on March 1, 1978, along with the Senator from New Jersey (Mr. WILLIAMS), the Chairman of the Human Resources Committee to which the bill was referred and long a supporter of the volunteer programs administered by the ACTION Agency, and the Senator from Michigan (Mr. RIEGLE), the ranking majority member of the Human Resources Committee's Subcommittee on Child and Human Development which has oversight responsibility for the domestic volunteer programs of the ACTION Agency. I am privileged to serve as chairman of the subcommittee. The Senator from New York (Mr. JAVITS), the ranking minority member of the full committee, subsequently joined us in cosponsoring S. 2617 after contributing significantly to the development of an amendment—section 6 of the bill as reported—authorizing the creation of new urban neighborhood volunteer programs adopted in full committee.

I am pleased to report that S. 2617, as amended, was unanimously ordered favorably reported from the Human Resources Committee on May 3.

S. 2617 would extend the authorizations of appropriations for the domestic volunteer programs of the ACTION Agency through September 30, 1981, and provide for refinements and improvements in the authorizing legislation.

SUMMARY OF BILL AS REPORTED

Mr. President, I would like to highlight the major provisions of S. 2617, as reported.

First, to provide for a 3-year extension of the four authorizations of appropriations (for title 1 and title 2 volunteers, SBA small business volunteers, and administration) with special emphasis on bringing about an expansion of the RSVP and foster grandparent/senior companion programs and providing the latter volunteers with a long overdue stipend increase and on continuing the basic antipoverty focus of the title 1 program, while providing the director with increased flexibility as between the deployment of full-time and part-time volunteers and in the making of grants and contracts for older American volunteer projects under title 2;

Second, to clarify, in a number of instances, the status of volunteers (particularly part-time and health service volunteers) with respect to whether they are covered by or subject to other provisions of law (such as the Federal Tort Claims Act and workers' compensation laws) and with respect to service in a State where the Governor has some objections;

Third, to extend to ACTION Agency volunteers appropriate coverage and remedies under the nondiscrimination policies of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act;

Fourth, to provide authority for appropriate support of short-term, part-time volunteers;

Fifth, to direct the ACTION Agency to take appropriate steps to encourage employers to take into account experience in volunteer work in considering applicants for employment;

Sixth, to provide that the ACTION Agency meet in fiscal year 1979 its commitments (approximately $3.9 million) to UYA grantees before undertaking other service-learning efforts; and

Seventh, to amend title I by adding a new part D—"urban neighborhood volunteer programs." The purpose of the new part, which Senator JAVITS and I developed based on a request of the administration, is to strengthen and encourage the involvement of individuals, neighborhood groups, voluntary associations, labor organizations, local enterprises, local governments, and other local entities in community revitalization and person-to-person service activities in distressed urban neighborhoods. The new "urban neighborhood volunteer programs" it authorizes would build on the capacity of existing and emerging neighborhood groups, through the assistance of part-time and full-time volunteers, to assist in efforts to reverse deterioration and improve the quality of life in their neighborhoods.

The strength of this approach lies in its recognition of the vital role which can be played by neighborhood self-help groups working in partnership with volunteers in combatting urban ills, and in its support for these groups as vehicles for community improvement.

The new programs authorized in the new part D include an "urban neighbors program" (section 133(a)) and a "national urban neighborhood priority program" (section 134). The priority programs will include a program designed by Senator JAVITS, called "helping hand" focused on deinstitutionalization, a program to provide personal and group financial counseling to low- and fixed-income individuals—which has long been a matter of keen personal interest on my part—and an additional national urban neighborhood priority program which may be initiated each year by the agency to carry out the purpose of the new part D.

BACKGROUND

Mr. President, on February 9 and 20, 1978, the Child and Human Development Subcommittee held hearings on the ACTION Agency's implementation of its authorizing legislation—the Domestic Volunteer Service Act of 1973 (Public Law 93–113)—and on suggestions for its modification. Public witnesses included representatives from each of the Agency's major domestic volunteer programs—VISTA, university year for ACTION (UYA), the retired senior volunteer program (RSVP), the foster grandparent program (FGP), and the senior companion program (SCP), as well as representatives from private sector volunteer efforts. Subsequent to the hearings, each witness was sent the text of S. 2617 with related descriptive materials, and was requested to provide written comments for the hearing record and the subcommittee's consideration.

The witnesses generally favored the bill, which included many provisions similar to those included in the administration's proposal which I introduced by request on April 4, 1978, as S. 2823 and on May 2 as amendment No. 1839 to S. 2823.

Mr. President, several witnesses raised the question of whether or not the title II older American volunteer programs might not receive more effective advocacy under the leadership of the Administration on Aging in the Department of Health, Education, and Welfare. Most, however, favored retaining the programs under the ACTION Agency, with the caveat that the ACTION Agency should strive to deal more sensitively with problems commonly faced by older American volunteer program sponsors. The committee has not proposed any program transfer for the title II programs.

On April 6, 1978, the subcommittee considered and unanimously ordered S. 2617, with several substantive amendments, favorably reported to the full Human Resources Committee. The Human Resources Committee on May 3, 1978, approved and ordered favorably reported S. 2617, as reported from the subcommittee, with an amendment in the nature of a substitute adding additional substantive amendment designed to provide for the development of urban neighborhood volunteer programs and to stress rural programing needs.

HISTORY OF THE ACTION AGENCY

Mr. President, the ACTION Agency was created on July 1, 1971, pursuant to Reorganization Plan No. 1 of 1971, as an independent agency of the executive branch for the purpose of coordinating volunteer programs being administered by various agencies throughout the Federal Government. These programs included: Volunteers in service to America (VISTA) and auxiliary and special volunteer programs, both from the Office of Economic Opportunity; service corps of retired executives (SCORE) and active corps of executives (ACE) both from the Small Business Administration; foster grandparents program (FGP) and retired senior volunteer program (RSVP) both from the Department of Health, Education, and Welfare; and the Peace Corps from the Department of State. The SCORE and ACE programs were subsequently transferred back to the sole sponsorship of the Small Business Administration by Executive order in July of 1975.

Reorganization Plan No. 1 empowered the ACTION Agency to administer these programs, while matters of entitlement, authorization, and appropriation remained with those agencies from which the programs had come.

The Domestic Volunteer Service Act of 1973 (Public Law 93–113), which I authored, incorporated into one law the legislative authority for each of the domestic volunteer programs administered by the ACTION Agency, and in addition provided the Director of the Agency with discretionary authority to develop new volunteer efforts designed to address pressing domestic needs of the country. The act in title IV contained 3-year authorizations of appropriations.

In 1976, Mr. President, these authorizations were extended for an additional 2 years beginning with fiscal year 1977. The bill before us today provides for another 3-year extension.

MAJOR PROVISIONS OF S. 2617

Mr. President, I would like to highlight the major provisions of S. 2617.

ANTIPOVERTY MISSION OF TITLE I PROGRAMS

Mr. President, S. 2617 as reported would continue the basic antipoverty nature of the title I programs—VISTA, service-learning programs, including the university year for ACTION program (UYA), the agency's discretionary programs, and the new urban neighborhood volunteer programs"—by requiring that 80 percent of the funds appropriated pursuant to title I must be spent on programs to eliminate poverty and poverty-related human, social, and environmental problems.

UNIVERSITY YEAR FOR ACTION

It would protect the university year for ACTION—UYA—program by modifying the limitations in present law on the funding for service-learning programs other than UYA so that the requisite amount to continue current commitments to UYA can be provided, dependent upon appropriations actions. The administration had requested total elimination of these limitations to allow approval of its recommendations to eliminate all funding for UYA projects during fiscal year 1979.

SPECIAL VOLUNTEER PROGRAM EMPHASIS

Mr. President, S. 2617 as reported highlights special volunteer programs authorized to be conducted which would provide assistance to vicitms of domestic violence, and those which would focus on deinstitutionalization and on the provision of consumer counseling to fixed-income and low-income persons.

SHORT-TERM VOLUNTEER SUPPORT

It would provide the Director of the ACTION Agency with new authority to provide certain in-service support for short-term, part-time volunteers enrolled for periods of service of 20 hours or more per weeks for 26 or more consecutive weeks.

URBAN NEIGHBORHOOD VOLUNTEER PROGRAMS

The Committee bill would add a new part D—urban neighborhood volunteer programs—to title I of the present law. This new set of provisions results from some very successful collaboration between Senator JAVITS and myself working closely with the administration. The new programs authorized under the new part D would include "urban neighbors programs" and "national urban neighborhood priority programs." The priority programs will include a new program designated "helping hand" focused on deinstitutionalization, a program to provide personal and group financial counseling to low-income and fixed-income individuals, and another national urban neighborhood priority program as may be added annually by the Director to carry out the purpose of the new part D.

URBAN NEIGHBORHOOD PROGRAMS

Mr. President, "urban neighbors programs" would have three aspects:

First would be designation of the Director, with the concurrence of the mayor or other chief elected governmental authority of an urban area with distressed neighborhoods, of a "lead agency" to coordinate and support community revitalization and person-to-person projects in distressed urban neighborhoods.

The selection process for the local agency is further spelled out in an amendment which Senator NELSON, Senator JAVITS, and I will be proposing today.

The ACTION Agency would be authorized to provide financial assistance to the "lead agency" to support a staff consisting of a team or teams of paid employees and volunteers—each team composed of one professional employee familiar with the neighborhood and the support systems which can assist in its revitalization, at least one full-time volunteer, part- and other full-time volunteers, and essential support staff. Their work would include:

The recruitment, on a request for service basis, of volunteers possessing needed skills—such as lawyers, architects, and city planners—and the matching of those volunteers with neighborhood groups requiring their skills;

The development of a resource bank listing locally recruited persons willing to volunteer to work with the neighborhood groups in carrying out community revitalization and person-to-person projects;

The encouragement of the development of neighborhood groups in distressed urban neighborhoods to carry out such projects;

The coordination and facilitation of volunteer assistance available through "regional resource centers," also authorized under the new part D; and

Such other activities consistent with the provisions of the new part as the Director determines are necessary to carry out the purpose of the new part.

The second aspect would be provision for establishing, by grant or contract, "regional resources centers" to provide scarce-skill volunteers to neighborhood groups and to coordinate and provide technical and management assistance to the activities of "lead agencies" across the Nation. The new part D limits to $100,000 grant funds for salaries and expenses available to the "regional resource centers."

The third aspect would be provision for the Director—after consultation with the mayor or other chief elected governmental authority of the urban area—to make "neighborhood seed money grants," generally averaging $5,000 to $7,000 but restricted so as not to be in excess of $15,000 or a total of more than $30,000 over any 3 fiscal years for any particular neighborhood group. The purpose of these grants, which are similar to the successful "mini-grants" program now operated by the ACTION Agency, is to promote volunteer activities in community revitalization and person-to-person service projects, and to provide volunteers working in neighborhood groups with such materials, tools, supplies, training, and administrative support as the Director deems necessary to enable them to work effectively in such projects. The grants would be made to nonprofit organizations in distressed urban neighborhoods either directly by the ACTION Agency or for distribution by "lead agencies."

URBAN NEIGHBORHOOD PRIORITIES PROGRAMS

Mr. President, the urban neighborhood priorities programs would include two mandated programs:

First, Helping Hand, utilizing person-to-person services to reduce the necessity for institutionalization and to ameliorate residential isolation of older, handicapped, and other persons, stressing interactions between persons from various age groups, particularly young and old; and

Second, a program designed to provide personal and group financial counseling to low- and fixed-income individuals, utilizing volunteers with specialized or technical expertise.

The committee bill also would authorize the Director to add each year (and continue thereafter) a new priority program to stimulate and initiate improved methods of utilizing volunteers to carry out the purpose of the new part D.

The new part D also would require that appropriate emphasis on activities consistent with national neighborhood priority programs be given by the lead agencies under the urban neighbors programs in developing and supporting community revitalization and person-to-person service projects.

Mr. President, the administration has stated it will request that $40 million be appropriated for fiscal year 1979 to carry out the urban neighborhood volunteer programs authorized by the new part D. These new programs would relate to a larger strategy to combat urban problems which the Carter administration proposed on April 13, 1978.

OLDER AMERICAN VOLUNTEER PROGRAMS

Mr. President, S. 2617, as reported, significantly increases the authorizations of appropriations for the older American volunteer programs administered by the ACTION Agency—RSVP, foster grandparents, FGP, and senior companions SCP—in recognition of the committee's high regard for these programs. It would retain the present purpose of the RSVP program "to help retired persons to avail themselves of opportunities for voluntary service in their community." It would combine the authorizations of appropriations for FGP and SCP in order to encourage more jointly administered FGP/SCP projects.

APPROPRIATE RECOGNITION OF ENCOURAGING CREDIT FOR VOLUNTEER WORK

The committee bill would include a new provision making it an affirmative responsibility of the Director of the ACTION Agency, in consultation with appropriate governmental units, to take all appropriate steps to encourage State and local governments, charitable, and service organizations, and private employers first to take into account experience in volunteer work in the consideration of applicants for employment and second to make provision for the listing and description of volunteer work on their employment application forms.

NONDISCRIMINATION PROVISION

The committee bill would extend the nondiscrimination provisions of the present law pertaining to volunteer service to include title VI of the Civil Rights Act, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, so as to cover both volunteers serving in programs authorized by the Domestic Volunteer Service Act of 1973 and volunteer applicants. It would charge the Director to establish a remedy process for volunteers and applicants for volunteer service in programs under the ACTION Agency (including Peace Corps service).

RURAL PROGRAMING EMPHASIS

Mr. President, S. 2617 as reported includes provisions to insure that the ACTION Agency gives appropriate focus to programing in rural as well as urban areas.

Mr. President, I ask unanimous consent that a table showing the authorizations of appropriations in the bill as reported be printed in the RECORD at this point.

There being no objection, the table

was ordered to be printed in the RECORD, as follows:

AUTHORIZATION OF APPROPRIATIONS

TABLE 1.—*Authorizations of appropriations in S. 2617 as reported*

Title I (VISTA, UYA, discretionary programs, new urban neighborhood volunteer programs):
Fiscal year:
1979—"such sums"
1980—"such sums"
1981—"such sums"

Eliminates the VISTA earmarking and substitutes 80 percent of the title I appropriation for the present $29,600,000 antipoverty earmarking.

Title II (Older Americans Volunteer Programs):

[In millions of dollars]

| Fiscal year | Part A (RSVP) | Part B (FGP and SCP) | Total |
|---|---|---|---|
| 1979 | $25 | $55 | $80 |
| 1980 | 30 | 62 | 92 |
| 1981 | 35 | 70 | 105 |

Title III (SCORE/ACE):
Fiscal year:
1979—"such sums"
1980—"such sums"
1981—"such sums"

Title IV (Administration):
Fiscal year:
1979—"such sums"
1980—"such sums"
1981—"such sums"

CURRENT PROGRAMS

Mr. CRANSTON. Mr. President, I would like to speak for a moment about the kinds of activities and accomplishments undertaken by the many volunteers now serving in the individual ACTION Agency programs.

VISTA

Since the Volunteers in Service to America (VISTA) program was created in 1964, nearly 50,000 men and women of all ages have served in its efforts to combat poverty by helping low-income persons come together and find ways to improve their lives and surroundings. They are assigned to antipoverty organizations for periods of service of 1 year or more. Volunteers are paid at a subsistence level, are on call without regard to regular working hours, and live among the people whom they are assigned to serve.

VISTA volunteers have served with groups that helped gain improvement in migrant housing, focused attention on the problem of black lung disease, secured food stamps for needy persons, encouraged parents to work for bilingual education for their children, worked for pure water to end parasite infestation, and worked to secure the rights of welfare recipients, Indians, and migrants. VISTA volunteers have helped poor people organize themselves to form consumer co-ops, to build or rehabilitate housing, to prevent highways and urban renewal schemes from destroying neighborhoods, and to assure older people the physical and financial security they deserve.

A recent evaluation showed that the fiscal year 1978 average of 4,560 VISTA volunteers will serve approximately 1,150,000 of the Nation's poor in fiscal year 1978. The average cost to the Federal Government of training, supporting, and supervising these volunteers is $5,866 for each full year of their service, compared to the $10,258 average equivalent salary that could be commanded by paid workers performing similar functions. This results in a cost/benefit ratio of 1:1.75. Their effort also resulted in bringing a project average of over $67,000 in money and program services to benefit the poverty community they were seeking to serve. Additionally, volunteers recruited on the average 14 non-ACTION volunteers to work on each project.

UNIVERSITY YEAR FOR ACTION PROGRAM (UYA)

Mr. President, the UYA program, providing full-time volunteer service in antipoverty projects together with academic credit, was the first new activity of the ACTION Agency. The concept of UYA was announced in July 1971, and a test program was begun by the Office of Policy and Program Development. In July 1972, the program was judged successful and was transferred to Domesitc and Anti-Poverty Operations' new ACTION education programs unit as an established program.

UYA programs, funded under title I of the Domestic Volunteer Service Act of 1973, deal with problems of poverty. Typical UYA volunteer assignments which characterize the program's projects are: mental health/retardation, special youth service, comprehensive social service planning, housing rehabilitation/construction, early childhood/preschool education, tutoring/remedial education, delinquency/crime prevention, recreation, senior citizen programs, and prisoner/offender advocacy.

Of the 1,200 UYA volunteers active in about 50 UYA projects, 66 percent are in urban assignments, 28 percent in rural areas, and the remainder work in suburban or mixed area assignments. Of these, more than 30 percent represent ethnic and social minorities. Over one-third of UYA volunteers are from low-income families.

The ACTION Agency has indicated that it will be reviewing the UYA program model during the present fiscal year with the view of developing an alternative service-learning model. Although I look forward to reviewing this alternative proposal, I believe that the ACTION Agency should meet its current commitments to UYA grantees (which are generally funded for 3-year periods) as it develops new efforts in this area. The administration had requested no funding for UYA for fiscal year 1979. I was pleased that the members of the Human Resources Committee agreed that current commitments should be met in the interim period and included a provision to this effect in section 4 of the bill as reported.

THE RETIRED SENIOR VOLUNTEER PROGRAM (RSVP)

The retired senior volunteer program (RSVP) was developed in 1971 by the Administration on Aging, in the Department of Health, Education, and Welfare, to benefit older persons by providing them with a meaningful role in the community through opportunities for volunteer service. The program was transferred to the ACTION Agency on July 1, 1971.

This initial appropriation of $5 million funded a modest 11 pilot projects. The fiscal year 1977 appropriation of $20.1 million increased projects to the present 692 in the 50 States, Guam, Puerto Rico, and the Virgin Islands. By December 30, 1977, there were more than 240,000 RSVP volunteers.

RSVP is inherently a local community program. Each project is locally planned, operated, controlled, and supported.

In 1976, the Agency's Office of Evaluation completed a study of RSVP. The study showed where volunteers serve as follows, in percentage terms:

| | *Percent of volunteers* |
|---|---|
| Schools and colleges | 7.2 |
| Health care facilities, agencies, and organizations | 25.6 |
| Libraries, museums, performing arts centers | 4.4 |
| Parks, botanical gardens, zoos | .9 |
| Police departments, courts, correctional facilities | .3 |
| Other public agencies, (local, regional, State, and Federal) | 21.7 |
| Other private community service organizations (including private community ACTION agencies) | 28.2 |
| Other (nutrition sites, music festivals, information booths, handicrafts, churches, telephone reassurance, and Bicentennial planning) | 11.7 |

In its fiscal 1979 budget request to the Congress, the administration proposed a $4.7 million reduction in funding for RSVP (from the $20.1 million appropriated for fiscal year 1978). The administration explained this request as follows:

Despite its many useful projects and the genuine popularity for this program, the Citizen's Review Committee and the internal task force raised serious questions about some portions of RSVP. Their major criticism was that too many RSVP volunteers worked with people who were not members of any minority community and in settings where the income level was above the poverty line. They believed that although this was an allowable use of volunteers it should not be the primary use. The committee also felt little had been required of RSVP in the way of demonstrating useful community service beyond service to the volunteer.

As a result of these recommendations, plans are already underway to:

Support projects that directly affect minority and low-income individuals and groups. These would take precedence over projects that do not;

Thoroughly assess the relative need for expansion;

Measure the effectiveness of each project in meeting ACTION's goals; and

Focus on the projects, volunteer stations, and volunteer assignments that improve by service and advocacy the delivery of the most basic human needs.

Funding requirements have, therefore, been reduced for fiscal year 1979. During the remainder of fiscal year 1978, and throughout fiscal year 1979, RSVP project directors throughout the country will be asked to work closely with the Agency in identifying the most pressing needs in their communities and in assigning volunteers to stations which have the clearest positive impact on these needs. When this process of review has been completed, ACTION will have a higher quality program upon which to base future requests.

The proposed budget cut would have reduced the number of projects by 138, and the number of volunteers by 30,000.

The requested budget cut was met by very substantial opposition within the Congress and the public. Many RSVP volunteers expressed their concern that the reduced budget request signaled a lack of advocacy for RSVP on the part of the ACTION Agency. Numerous protests were received from recipients of RSVP service, Federal and State legislators, Governors, and other public officials. During the February 20 hearing, I expressed my own disagreement with the budget cut request, and asked the Director of the ACTION Agency to attempt to convince the administration to request a restoration. In addition, the committee chairman, the Senator from New Jersey, (Mr. WILLIAMS) and the ranking minority member (Mr. JAVITS), and other members expressed similar concerns.

On May 3, during full committee consideration of S. 2617 as reported from the subcommittee, ACTION Agency representatives advised me of the administration's agreement to make a supplemental request to the Congress for the additional $4.7 million for RSVP. Although I welcome the administration's pledge to seek restoration of the RSVP cut, I will continue to support expansion of RSVP along the lines authorized for appropriation in S. 2617 as reported.

FOSTER GRANDPARENT PROGRAM

Mr. President, in 1978, its 12th year of operation, the foster grandparent program, with a budget of $34.9 million has funded 16,500 foster grandparents serving about 42,000 children in 195 projects in every State, Puerto Rico, and the District of Columbia. In addition, the program has demonstrated its merits sufficiently to generate legislative appropriations in 24 States of $4,865,482, enough to support 1,726 additional foster grandparents.

The program was originally developed in 1965 as a cooperative effort between the Office of Economic Opportunity and the Administration on Aging in the Department of Health, Education, and Welfare.

ACTION Agency grants to support the operation of foster grandparent programs are awarded to public or private nonprofit agencies and organizations working in the program settings in which foster grandparents serve. Settings where foster grandparents serve include correctional facilities, pediatric wards of general hospitals, schools, day care centers, private homes and institutions for mentally retarded, physically handicapped, emotionally disturbed and dependent and neglected children. Foster grandparents serve 4 hours a day, 5 days a week, and receive a small stipend to enable them to serve without added cost to themselves.

The foster grandparent program provides volunteer service opportunities for low-income persons, aged 60 and over, to offer personalized support and care to children with exceptional needs in health, education, and welfare and related settings.

The program enables older persons to maintain a sense of personal worth and self-respect, to enrich social contacts and retain physical and mental alertness. Foster grandparents do not displace salaried staff, but complement staff care to special children with the love and personal concern essential to their well-being. The ACTION Agency is making a special effort to cooperate with communities in their efforts to deinstitutionalize children. Foster grandparents work long and hard to provide the support that makes it easier for handicapped children to adjust to a new environment.

SENIOR COMPANION PROGRAM

The senior companion program is modeled after the foster grandparent program. It expands on the concept of older persons serving children by providing opportunities for service to adults with special or exceptional needs.

Eighteen projects were funded by August 1, 1974. By February 1975, more than 1,000 senior companions were serving in rural, suburban, and urban community projects. By fiscal year 1977, there were 46 projects with approximately 3,000 volunteers nationwide. There are senior companion programs in 39 States which range in size from 52 to 120 volunteers.

The program is presently being directed primarily toward serving and helping vulnerable, frail older persons maintain independent or semi-independent living arrangements in their own places of residence. Senior companions are also helping to ease the impersonal nature of group care institutions by providing support to the forgotten and lonely and, where possible, contributing to their return to the community.

Approximately 68 percent of the senior companions are assisting their homebound peers on an individualized basis. Activities which they perform include giving peer-socialization support, observing and reporting on a client's health, social and environmental conditions, aiding in personal management of a household, and advocating improvement of a client's social support through appropriate community services.

The administration's fiscal year 1979 budget request of $7 million includes plans to expand and refine new concepts. New program elements will involve testing the feasibility of integrating senior companions into a written plan of care that addresses the social and health needs of clients.

In September 1975, a two-phased evaluation of the program was completed. Each of the original 18 projects was examined and assessed in terms of its early development, and operational procedures and progress were measured against project objectives. The study concluded that approximately 62 percent of the volunteers reported that their own physical and emotional health improved as a result of their participation in the program. The program's effect on clients served was in the study seen as having an "important impact" on alleviating loneliness and increasing their level of activity and meeting other basic needs.

OTHER PROGRAMS

Mr. President, in addition to these specifically authorized domestic volunteer programs, the ACTION Agency administers or supports a number of smaller-scale part-time volunteer programs designed to meet a broad range of human needs. They include projects in which volunteers serve as personal advocates for mentally retarded persons, programs in the areas of criminal justice, economic development, and conservation efforts.

SECTION-BY-SECTION ANALYSIS

Mr. President, I ask unanimous consent that the section-by-section analysis from the committee report, setting forth in detail the provisions of S. 2617, as reported, be printed in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 2617 AS REPORTED

Section 1 establishes the short title of the bill as the "Domestic Volunteer Service Act Amendments of 1978".

Section 2(1) amends section 103(b) of the Act to modify the career provisions for low-income VISTA volunteers by requiring that a plan for each such volunteer designed to provide opportunity for job advancement or for transition to a situation leading to gainful employment be developed within 30 days after the assignment of the volunteer, rather than prior to such volunteer's assignment. Section 103(b) is also amended to provide that such career development assistance be provided to any other volunteer (enrolled for at least 1 year of full-time service under title I) who requests such assistance.

Section 2(2) amends section 103(d) of the Act which presently prohibits the assignment of volunteers to a State unless the Governor has been given 45 days advance notice of the project and has not disapproved it, and provides that if a Governor requests the Director to terminate the assignment of a volunteer within a State, the Director must do so within 30 days. The amendment requires a Governor to state, in writing, the reasons for disapproval of a project or the assignment of a volunteer, or of a request for termination of a project or a volunteer. In either case—an initial disapproval or a later request for termination—the Director of the ACTION Agency may disagree, after reviewing the statement of reasons given by the Governor, based on a determination that the project or the assignment of a volunteer is fully consistent with the provisions and in furtherance of the purpose of the VISTA program. Any such determination must be in writing. This authority is derived from that contained in section 242 of the Economic Opportunity Act of 1964, as amended, (42 U.S.C. § 2834), with respect to community action programs.

Section 3 amends section 105(a)(2) of the Act, relating to the payment of volunteers' end-of-service stipends, to make it consistent with a similar provision in the Peace Corps Act. The purpose of the amendment is to authorize advances of the end-of-service stipend under such conditions as the Director of the ACTION Agency shall determine, rather than only in "extraordinary circumstances," as is the case at present. Under the new provision, the Director could, for instance, authorize the advance of part of the end-of-service stipend for purchase of U.S. Savings Bonds, as has been done with respect to the readjustment allowances of Peace Corps volunteers.

Section 4 amends section 114(a) of the Act, which currently prohibits the expenditure of more than 10 percent of the first $6,700,000 of the service-learning program appropriation for programs other than UYA.

The amendments would raise the 10 percent to 15 percent, and reduce the $6,700,000 to $4,600,000, so that if the full $4.6 million is appropriated, the requisite amount to continue current commitments to UYA would be provided (approximately $3.9 million) in addition to allowing expenditure of the amount in the administration's budget request for non-UYA service-learning activities ($605,000). The administration requested no funds for UYA for fiscal year 1979.

Section 5(1) amends section 122(a) of the Act—the Director's discretionary special volunteer and demonstration project authority—to include specific mention of a program to provide assistance to victims of domestic violence and the "Helping Hand" and fixed-income counseling programs authorized by new section 134 (1) and (2) as added by section 6 of the committee bill as among the special volunteer or demonstration programs that the Director is authorized to conduct under part C of title I of the act. The Congress is currently considering legislation to assist victims of domestic violence which recognizes the important role of volunteers in mounting successful programs (S. 2759 (section 14(a)) also being reported from this committee on May 15). This modification in the act should encourage further programing by the ACTION Agency in this critical area. Section 122(a) is also amended to make clear that all these special programs should be carried out in both urban and rural areas, and to clarify the authority provided in the 1975 amendments to part C of title I for the Director to recruit, select, and train volunteers for part C special volunteer programs (the provision is moved from subsection (c) to subsection (a) of section 122).

Section 5(2) revises subsection (c) of section 122 to allow the Director, for the first time, to provide, except for stipends (end-of-service allowances), support for short-term, part-time volunteers provided they are enrolled for periods of service of 20 hours or more per week for 26 or more consecutive weeks. The amendment also (1) requires that full-time volunteers serving part C programs take the same oath required for VISTA volunteers by section 104(c), that the Director insure that they have sufficient support to carry out their assignments (as required for VISTA volunteers by section 105(b)), and that the Governor's approval provisions in section 103(b)—as revised by section 2 of the committee bill—would also apply to their service; (2) provides the Director with discretionary authority to provide stipends, in amounts not to exceed the stipends for VISTA volunteers, to full-time, full-year volunteers enrolled under part C programs (such as the National Youth Service demonstration program); and, with respect to those full-time, full-year volunteers whose service under part C is of similar character to VISTA service under part A, requires application of the provisions of section 103(b) (relating to employment counseling and services to low-income community volunteers), section 104 (d) (relating to grievance procedures), and section 105(a) (relating to the payment of stipends) to the extent those provisions are applied to part A volunteer service.

Section 6(a) amends title I of the Domestic Volunteer Service Act of 1973 (Public Law 93-113) by adding a new part D—"Urban Neighborhood Volunteer Programs." The new part D combines provisions of the Javits proposals for an Urban Service Corps (S. 2740), Senator Cranston's proposals, and the Carter administration urban policy proposals (submitted on April 13, 1978) for a new partnership among governments, voluntary associations, local businesses, neighborhood groups, and individuals to work for urban social and community development. The strength of the approach in new part D lies in its recognition of the vital role which can be played by neighborhood groups through volunteer activities and through teaming volunteers and paid workers to combat urban ills, and in the opportunities it provides for residents of all ages to join together in urban areas in providing person-to-person services to persons in distressed urban areas and elsewhere who need special help to overcome isolation and poverty, poverty-related, or near-poverty conditions.

The new programs authorized by the new part D includes "Urban Neighbors Programs" and "National Urban Neighborhood Priority Programs" (which shall include a program designated "Helping Hand," a program to provide personal and group financial counseling to low- and fixed-income individuals, and another national urban neighborhood priority program to be determined by the Director each year to carry out the purpose of the new part D).

NEW PART D—"URBAN NEIGHBORHOOD VOLUNTEER PROGRAMS"

New Section 131 sets forth the purpose of the new part—to strengthen and encourage the involvement of individuals, neighborhood groups, voluntary associations, labor organizations, local enterprise, local governments, and other local entities (including community action agencies) in community revitalization and person-to-person service activities in distressed urban neighborhoods; and to build on the capacity of existing and emerging neighborhood groups, through the assistance of part-time and full-time volunteers, to assist in efforts to reverse deterioration and improve the quality of life in their neighborhoods.

Program emphasis is directed to problems associated with poverty. As part of title I, the title I 80-percent poverty/poverty-related earmark (as added by section 14(1)(B) of the committee bill) would have application to expenditures under the new part D, but only as part of the total amount expended for title I programs of which section 501(a) (as amended by the committee bill) requires 80 percent be expended for poverty and poverty-related purposes.

Subsection (a) of new section 132 provides the Director of the ACTION Agency with the authority to establish and operate programs and projects pursuant to the new part D. In authorizing the Director to conduct programs, or to make grants to and contracts with public agencies and private nonprofit organizations, the committee is paralleling the statutory language found in sections 112 and 122(a) of the act. The committee recognizes with regard to the new section 132, as with these other two authorities, that the most appropriate mechanism may be a cooperative agreement, as authorized by Public Law 95-244 (92 Stat. 5). It is not the committee's intention to preclude the use of these types of agreements in appropriate cases.

New Subsection (b) of new section 132 provides that volunteers working in the new part D programs would serve under the same terms, conditions, and restrictions, and would receive and accrue and be subject to the same limitations as volunteers of similar character serving in programs under the various authorities of the Domestic Volunteer Service Act of 1973. These provisions will serve to encourage—as subsection (b) also requires—the working together of volunteers from various age groups and of volunteers able to commit themselves to various periods of full-time and part-time service, while insuring that volunteers serving under this part receive no more or no fewer benefits than volunteers of a similar character serving in other programs under the act, such as VISTA, Foster Grandparents, or RSVP.

Thus, all full-time volunteers would be deemed to be Federal employees to the extent provided in section 415 of the Act, except that section 415(d) relating to noncompetitive appointment to the competitive civil service would not apply to any such volunteers. To the extent that full-time volunteers are enrolled for a full year of service, they would be eligible to receive both stipends and allowances, not in excess of those paid to VISTA volunteers. Part-time volunteers would not be eligible to receive either stipends or allowances, except that volunteers enrolled for not less than 20 hours per week for at least 26 weeks could be paid appropriate allowances (but not stipends). To the extent that volunteers under this part meet the eligibility requirements of section 404(g) of the Act, relating to income disregard for public assistance eligibility, that section would apply to them.

New subsection (c) of new section 132 provides that administrative expenses (appropriated under section 504 of the act) for carrying out the new part D may not exceed 15 percent of the amount available for carrying out part D programs.

Section (a) of the new section 133 establishes "Urban Neighbors Programs" under which the Director—with the concurrence of the mayor or other chief elected governmental authority of an urban area with distressed neighborhoods—would designate and provide financial assistance to a "lead agency" to coordinate and support community revitalization and person-to-person projects in distressed urban neighborhoods.

Lead agencies will generally be public or private, nonprofit organizations. Local government agencies, community action agencies, community colleges, broad-based coalitions of neighborhood groups, church organizations, and other voluntary agencies would be logical candidates for the local lead agency role. Critical in the selection of the lead agency will be the demonstrated effectiveness of the applicant in earning acceptance on the part of residents of the area to be served, in establishing firm and ongoing relationships with the business, academic, and public service communities in the area, and in its capacity to mobilize volunteers and broker for volunteer assistance on behalf of neighborhood groups. In some communities, community action agencies of demonstrated effectiveness may offer the best mix of these qualities.

The committee expects that no new entities will be created solely for the receipt of the lead agency grant, although in some cases new coalitions of existing groups might be designated a lead agency. The committee further expects that funds granted to lead agencies will not be used to duplicate nor supplant existing efforts.

The "lead agency" would be required to provide staff consisting of a team or teams of paid employees and volunteers (each team composed of one professional employee familiar with the neighborhood and the support systems which can assist in its revitalization, at least one full-time volunteer, and part- and full-time volunteers) and essential support staff. Their work would include—

(1) the recruitment, on a request-for-service basis, of volunteers who possess needed skills (such as lawyers, architects, city planners) and the matching of such volunteers with neighborhood groups requiring their skills with appropriate emphasis on activities consistent with the national neighborhood priority programs established under section 134;

(2) the development of a resources bank listing locally recruited persons willing to volunteer to work with the neighborhood groups in carrying out community revitalization and person-to-person projects;

(3) the encouragement of the development of neighborhood groups in distressed urban neighborhood to carry out such projects;

(4) the coordination and facilitation of

volunteer assistance available through regional resource centers, also authorized under the new part (section 133(b)(1)); and

(5) such other activities consistent with the provisions of the new part as the Director determines are necessary to carry out the purpose of the part.

The process of lead agency selection will be based on a partnership with the chief elected official who will be involved in the process from the outset. No proposal will be funded without the concurrence of the chief elected official. The committee expects this process will include the following operational steps:

1. First notice of availability of "urban neighbors programs" grants will go to the mayor.

2. The ACTION Agency and the mayor will work together in developing a proposal from the lead agency.

3. A letter of support from the mayor will be required as part of all lead agency proposals.

New subsection (b)(1) of new section 133 includes, as part of the "urban neighbors programs", provision for regional resource centers to provide scarceskill volunteers to neighborhood groups and to coordinate and provide technical assistance to the activities of lead agencies across the Nation. In addition, authority is provided for the centers to make payments of essential job-related expenses (such as travel or out-of-pocket expenses) for volunteers serving under the new part D. The subsection restricts to $100,000 annually the amount of financial assistance which may be provided for salaries and related expenses for the regional resource centers.

New subsection (b)(2) of new section 133 authorizes the Director, as part of the "urban neighbors programs," to make neighborhood seed money grants (similar to the successful "mini-grants" program now operated by the ACTION Agency)—after consultation with the mayor or other chief elected governmental authority of the urban area involved—generally averaging $5–7 thousand, but restricted to not in excess of $15 thousand nor a total of more than $30 thousand over any 3 fiscal years to a particular entity for use in a particular neighborhood. The purpose of these grants is to promote volunteer activities in community revitalization and person-to-person service projects and provide volunteers working in neighborhood groups with such materials, tools, supplies, training, and administrative support as the Director deems necessary to enable such volunteers to work effectively in such projects. The grants would be made to non-profit organizations in distressed urban neighborhoods either directly or for distribution by lead agencies. Not more than 30 percent of the sums appropriated for the new part shall be used to fund the neighborhood seed-money grants program and the regional resource centers.

The committee anticipates that in recognition of the small amounts of these grants, the agency will develop simplified application and audit procedures.

With respect to the requirement for consultation with the mayor or chief elected official of the urban area in which a seed money grant would be made, the agency has advised the committee that a time-limited mayoral concurrence process will be followed as follows:

1. Advance Notice.—Upon receipt of proposals from neighborhood groups the ACTION Agency will send a letter to the appropriate mayor or chief elected official. This letter will notify the mayor that the proposals have been submitted.

2. Formal Notice of Intent.—After the ACTION Agency has screened the proposals and selected the finalists, the ACTION Agency will notify the mayor or chief elected official of the intent to award a grant. The mayor will have 30 days to communicate concurrence or nonconcurrence. If the mayor takes no action within 30 days the grant will be awarded. If the mayor informs the ACTION Agency within 30 days that he or she does not concur within the 30 days period, no award will be made.

In focusing the urban neighborhood volunteer programs on distressed urban neighborhoods, it is the intention of the committee to provide the Director with authority to provide assistance to a wider range of neighborhoods and communists than those that meet the test of a poverty target area because they have a high proportion of low-income residents. Neighborhoods might be suffering from stress, for instance, because of a combination of some or all of the following: racial tensions, deterioration or lack of needed municipal services, instability of population, deterioration of housing stock, displacement of residents, or any one of a number of other conditions which combine to prevent the realization of a vital, stable urban environment. The committee expects that the Director will develop standards for determining those areas which may be considered distressed.

The committee also recognizes that the term neighborhood is an imprecise one, and intends that it shall be interpreted to include logical groupings of individuals and families in contiguous areas who are affected in common by the problem sought to be addressed, without regard to traditional political or other subdivisions.

New section 134 establishes "urban neighborhood priorities program," which the Director is mandated to develop and carry out, with two mandated programs: (1) "Helping Hand," utilizing person-to-person services to reduce the necessity for institutionalization and to ameliorate residential isolation of older, handicapped (physically or mentally) and other persons, stressing interactions between persons from various age groups, particularly young and old, and requiring that the Director coordinate programs under "Helping Hand" which assist handicapped persons with the appropriate State system for the protection and advocacy of persons with developmental disabilities; and (2) a program designed to provide personal and group financial counseling to low- and fixed-income individuals, utilizing volunteers with specialized or technical expertise. The new section also authorizes the Director to add each year (and continue thereafter) a new priority program to stimulate and initiate improved methods of utilizing volunteers to carry out the purpose of the new part.

In addition to the agency's developing the new "helping hand" program to serve handicapped and other persons, the committee expects the ACTION Agency to provide greater visibility and opportunities for handicapped people to participate in each of its programs. This emphasis is expressed in the amendments to the nondiscrimination provisions (section 417) of the act, made by section 13 of the committee bill, to prohibit discrimination against handicapped individuals among others, in any ACTION Agency assisted or administered volunteer program.

The committee wishes to stress that it is not its intention that the person-to-person services authorized by the national urban neighborhood priorities programs be limited to individuals living in distressed neighborhoods. These services are designed to assist individuals, and are not necessarily related to the place of residence of the person being served.

The administration has indicated it will seek the appropriation of $40 million to carry out the new part D porgram for fiscal year 1979.

Section 6(b) amends the table of contents of the act to reflect the addition of new part D made by subsection (a) of section 6.

Section 7(1) amends section 201 of the act—the RSVP program authority—by reducing from 10 to 45 days the time which is given to State agencies on aging to comment on proposed RSVP programs, the same time period permitted for review of foster grandparent and senior companion program project applications (which review period is continued in the amendments to section 212 (a) made by section 7 of the committee bill).

Section 7(2) also adds a new subsection (d) to section 201 to make clear that RSVP volunteers are not employees, either of the ACTION Agency or of local sponsoring agencies, for any purpose which the Director of the ACTION Agency finds not to be fully consistent with the provisions and in furtherance of the purpose of the act. This clarification is necessary because questions are being raised in several States as to whether RSVP volunteers must be covered by workers' compensation. RSVP volunteers do not receive compensation, they must be over 60 years of age, and they serve for relatively short periods of time each week. The ACTION Agency requires that all RSVP volunteers be provided with medical insurance to cover costs associated with any injury to the volunteers. Self-insured sponsors, such as public agencies, cover the volunteers under their own policies. For non self-insured sponsors, the ACTION Agency makes available a policy of medical insurance.

RSVP service has never been considered as employment. Application of a State requirement that they be covered by workers' compensation laws would clearly be inconsistent with the purpose and volunteer nature of the program, and would increase the cost of the program, thereby making it available to fewer older persons than are now participating.

Section 8 modifies provisions in section 212(a) of the Act—the foster grandparent and senior companion program authority—which have tended to result in an absolute preference for the award of foster grandparent or senior companion grants or contracts to State agencies on aging (in the case of a proposed project area which is more comprehensive than one community) or to community action agencies (in the case of a proposed project area entirely in a community served by a community action agency) by providing that grants or contracts shall be awarded to such agencies in these situations unless there are no such agencies or unless such agencies have had 45 days to examine and make recommendations on other such project applications. In order to be approved, it is required that applications from other than these two agencies must contain satisfactory assurances that those applications have been developed and will, as appropriate, be carried out in consultation with these two agencies. These requirements will more nearly approximate the treatment of such agencies for purposes of RSVP project application under section 201(c) of the act.

Section 9 amends section 404(g) of the act—the income disregard provision for previous public assistance recipients—by adding a new paragraph (2) providing that full-time, title I volunteers may not be denied during their service public assistance or food stamps for which they were eligible before service because of a refusal to register for, seek, or accept employment or training during the period of their enrollment.

The new paragraph resolves an unintended conflict between the Domestic Volunteer Service Act of 1973 and the work incentive provisions of title IV of the Social Security Act, which require that recipients of aid to families with dependent children (AFDC) register with a sponsor of the work incentive (WIN) program for manpower services, training, and employment as a condition of eli-

gibility for AFDC (and resultant medicaid eligibility). More recently, eligibility for food stamps has been conditioned on a similar requirement (section 6(d)(1) of the Food Stamp Act of 1977 (Public Law 95–113, section 1301)).

Section 103(b) of the Act contains explicit authority for the Director of the ACTION Agency to enroll low-income individuals as full-time volunteers, and requires that, as part of their service, they receive an individual plan designed to provide an opportunity for job advancement or transition to gainful employment. Section 104(b) requires that all volunteers in the VISTA program be enrolled for periods of service of at least 1 year, with limited exceptions. Section 404(g) of the Act provides that payments to volunteers under the Act shall not reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program.

It is the intention of these provisions that low-income persons should be encouraged to participate in programs of voluntary service, and that the allowances they receive not be counted as income to reduce public assistance benefits for which they or their families were eligible prior to commencing volunteer service. The purpose of this provision is to assure that the families of these volunteers would continue to receive the same level of benefits, for instance medicaid coverage for children, during the volunteer's service as they received prior to the commencement of the service. A WIN registration requirement would disqualify for AFDC, medicaid, and food stamps benefits the families of individuals who are otherwise qualified but who cannot participate in training or register for or seek employment because of their enrollment as volunteers.

Volunteer service provides a positive benefit to the volunteer as well as to the community, and low-income volunteers and their families should continue to receive throughout their service public assistance benefits to which they were entitled before becoming volunteers. If they are required to accept training, or to seek employment, during their service as a condition to receiving benefits, their service will be disrupted, to the detriment of the individual and the community.

Section 10 amends section 410 of the Act, relating to coordination of programs, to require the Director, in consultation with the Chairman of the Civil Service Commission and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, to take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers to take into account experience in volunteer work in the consideration of applicants for employment, and to make provision for the listing and description of volunteer work on all employment application forms.

The concepts embodied in this section were earlier introduced by Senator Cranston as part of Senate Concurrent Resolution 21, expressing the sense of the Congress that experience in volunteer work should be taken into account for this purpose. Volunteers acquire valuable skills, which, if remunerated, would no doubt be immediately marketable. But the irony of volunteer work lies in the tendency of employers to measure contributions and skills only by the amount of money expended to secure them. The result is that the value of the contributions made and the skills developed by those dedicated enough to work for little or no pay too often have been underrated.

This section seeks to turn around this situation by making it an affirmative responsibility of the ACTION Agency to encourage employers to take a new look at whether they give sufficient consideration to volunteer experience in the information requested on their standard application forms, and to take positive action to improve the situation. The Civil Service Commission standard form for application for Federal employment (SF–171) already contains an appropriate provision for the listing of volunteer work.

Section 11(1) (A), (B), and (C) amend section 415(b) of the Act—the provision deeming volunteers as Federal employees for certain purposes—to provide that, in addition to the full-time, full-year volunteers now covered under this section, part-time volunteers enrolled for periods of service of not less than 20 hours per week for at least 26 consecutive weeks are deemed to be Federal employees, as the Director determines is appropriate, for the purposes of the Hatch Act, the Internal Revenue Code, title II of the Social Security Act, the Federal Tort Claims Act, and the Federal Employees Compensation Act. (The committee, however, does not expect part-time volunteers to be covered by the Hatch Act, and, indeed, feels that such coverage should be determined by the Director to be inappropriate.) The previous lack of authority to provide appropriate coverage to less than full-time, full-year volunteers has been impediment to the enrollment short-term full-time volunteers.

Section 11(1)(D) further amends section 415(b) of the Act by deeming full and part-time volunteers covered under this section to be Federal employees for the purposes of section 5584 of title 5 of the United States Code, which authorizes the waiver of collection of erroneous overpayments of pay to Federal employees, up to a limit of $500, where collection would be against good conscience and not to the advantage of the Government. This authority is already available with respect to Peace Corps volunteers, and is necessary because the agency has, in the past, been required to attempt recovery of relatively small overpayments, with consequent damage to volunteer morale and loss of substantial parts of the volunteers' end-of-service allowances. Volunteer in-service allowances are designed to meet only basic needs, and are insufficient to permit repayment of overpayments. In addition, the administrative cost burden to the agency has been substantial in relation to the relatively small amounts recovered.

Section 11(2) makes the Federal Tort Claims Act the sole available remedy of an individual making a medical malpractice claim as a result of actions by a volunteer serving in a health-care capacity. At present, the individual can elect to make a claim against the Government, or against the individual volunteer. Since volunteers serve for no personal gain and are paid only minimal allowances, not sufficient to pay for expensive medical malpratcice insurance, the agency's ability to attract individuals to serve in health-care programs is severely limited by its present inability to give assurance that there is no possibility of a ruinous malpractice claim against the individual volunteer. This section is similar to the malpractice provisions contained in section 4116 of title 38 of the United States Code which applies to health personnel employed by the Veterans' Administration and similar authority in section 224 of the Public Health Service Act (42 U.S.C. 223) applicable to commissioned officers and employees of the Public Health Service.

Section 12 amends section 414 of the Act to insure that the Director, in assuring that equitable distribution be made of benefits and service to residents of rural and urban areas, takes into account the various regions of the country as well.

Section 13(1) amends section 417(a) of the Act—the provision prohibiting discrimination in programs receiving financial assistance under the Act—to provide that the assignment of volunteers under programs authorized by the act shall be deemed to be the provision of Federal financial assistance for purposes of the anti-sex-discrimination provision presently incorporated by reference in subsection (a) of section 417 as well as for purposes of title VI of the Civil Rights Act, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. This new provision will assure that minority individuals or those with handicaps, or other conditions which do not interfere with their ability to perform volunteer service, will have remedies against any discrimination by any project or sponsor under the Act if such individuals desire to participate in or secure the benefits of these federally supported volunteer programs.

Section 13(2) adds a new subsection (c) to section 417 to make the policies (and remedies thereunder) set forth in section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C., section 2000e–16), title V of the Rehabilitation Act, and the Age Discrimination Act, applicable to volunteers and applicants for volunteer service under the ACTION Agency (including Peace Corps service). At present, since volunteers under title I are not deemed employees of the Federal Government, they have no formal remedy in cases of racial, religious, age, sex, or handicap discrimination. The new subsection charges the Director of the ACTION Agency to establish (generally within 90 days after enactment) a remedy process for volunteers and applicants for volunteer service, after consulting with the Equal Employment Opportunity Coordinating Council (whose responsibilities have now been transferred to the Equal Employment Opportunity Commission by Executive order), the Secretary of Health, Education, and Welfare, and the Interagency Committee on Handicapped Employees. Since the committee has received indications that such discrimination—particularly with respect to victims of cancer who were perceived by others to be "handicapped"—has taken place within the Agency in the past, it wishes to underscore its view that a volunteer or volunteer applicants' ability to perform a volunteer assignment should be the determinative factor in the selection and assignment process.

Section 14 amends title V of the Act—providing authorizations of appropriations—to provide authorizations of appropriations for the ACTION Agency domestic programs for fiscal years 1979, 1980, and 1981.

Clause (1) amends section 501 of the Act to provide an authorization of appropriations for programs under title I of the Act (National Volunteer Anti-Poverty Programs), as follows: such sums as are necessary, except that 80 percent of the funds appropriated pursuant to title I must be spent on programs to eliminate poverty and poverty-related human, social, and environmental problems. The Act now stipulates that not less than $29.6 million shall be used for this purpose. Section 501 (a) and (b) is also amended by deleting the earmarking for the part A VISTA program and deleting subsection (b) which sets forth a formula for distribution of funds appropriated for title I in excess of $37.6 million. These changes are made to provide greater flexibility to the Director in carrying out title I.

Clause (2) amends section 502 of the act to authorize appropriations for older American volunteer programs (retired senior volunteer program, foster grandparents, and senior companions) under title II of the act as follows:

| Program: | *Millions* |
|---|---|
| Fiscal year 1979: | |
| RSVP | $25,000,000 |
| FGP and SCP | 55,000,000 |
| Fiscal year 1980: | |
| RSVP | 30,000,000 |
| FGP and SCP | 62,500,000 |
| Fiscal year 1981: | |
| RSVP | 35,000,000 |
| FGP and SCP | 70,000,000 |

Specific breakdowns of appropriations between the foster grandparent and senior companion programs would be deleted in order to provide encouragement for more jointly administered FGP/SCP projects.

Clause (3) amends section 503 to authorize the appropriation of such sums as may be necessary for fiscal years 1979, 1980, and 1981 for programs utilizing business volunteers under title III of the Act. These programs were transferred to the Small Business Administration by Executive order in 1975.

Clause (4) amends section 504 to authorize the appropriation of such sums as may be necessary for the ACTION Agency to perform administrative functions in fiscal years 1979, 1980, and 1981.

Section 15 requires that the Director of the ACTION Agency submit a report to the appropriate committees of Congress, not later than February 1, 1979, on the special needs and circumstances to be addressed in designing programs under the Domestic Volunteer Service Act of 1973 for implementation in rural areas, and a strategy and timetable for meeting such needs and circumstances. This section is included to insure that the ACTION Agency does not neglect its responsibilities to rural areas it develops the new "urban neighborhood volunteer programs" authorized under the new part D added to title I of the Act by section 6 of the committee bill. The committee expects that the needs of migrant workers will be considered in the development of rural programming strategies.

CONCLUSION

Mr. CRANSTON. Before closing, I want to express my particular appreciation to the cosponsors of S. 2617, the Senator from New Jersey (Mr. WILLIAMS), chairman of the Committee on Human Resources, the Senator from Michigan (Mr. RIEGLE), the ranking majority member of the Child and Human Development Subcommittee, and the Senator from New York (Mr. JAVITS), who is our ranking minority member on the Child and Human Development Subcommittee. I would also like to recognize the special contributions made in the development of S. 2617 by their staffs and other staff members of the Committee on Human Resources, particularly Fran Butler, Susanne Martinez, Bonnie Connors, Pat Markey, Craig Polhemus, and Jack Andrews. I want especially to thank Jim O'Connell and Diane Kamino of Senator JAVITS' staff, who made major contributions to the development of the urban neighborhood volunteer programs provisions in S. 2617, and Dave Rust and Jeff Lewis for Senator DOMENICI, Scott Ginsburg and Lori Hansen for Senator NELSON, and Mary Wheat for Senator DOLE, who worked so hard with the majority and minority staff of the committee to develop the floor amendment we will be offering. I also want to thank for their great cooperation Sam Brown, Dan Maldonado, Bob Martin, Tom Glynn, Kathy Garmezy, Dana Rodgers, and Marge Tabankin of the ACTION Agency.

Mr. President, S. 2617, the committee bill, will enable the continuation of these fine programs for an additional 3 fiscal years. In addition, the committee bill reflects suggestions for modification of current law that were made by witnesses at the February 9 and 20 hearings held by the Subcommittee on Child and Human Development; it reflects provisions included in the administration's bill, S. 2823; and it reflects my own provisions and those developed by the members of the Human Resources Committee. I think we have developed a responsible legislative product, and I urge my colleagues to approve S. 2617 as reported, with one floor amendment that I am about to offer. But at this time I would like to yield to my distinguished friend and colleague from New York, Senator JAVITS.

Mr. JAVITS. Mr. President, the S. 2617 Domestic Volunteer Service Act Amendments of 1978, extends for 3 years the authorization for the domestic volunteer programs in the ACTION Agency, and will enhance the ability of these programs to serve low-income and older Americans.

The committee bill would extend title I, "national volunteer antipoverty programs," which include, VISTA (part A), University Year for ACTION (part B), and the special volunteer programs (part C); title II, the "national older American volunteer programs" which include RSVP (part A) and the foster grandparents and older American community service programs (part B); and title III, the "national volunteer programs to assist small business and promote volunteer service by persons with business experience."

S. 2617 would, first, modify State Governor's approval authority for VISTA projects to make it more consistent with the approval authority for community action programs in the Economic Opportunity Act of 1964, as amended; second, make the VISTA volunteer stipend more consistent with that of Peace Corps volunteers; third, clarify the employee status of retired senior volunteers and low income VISTA volunteers; fourth, provide authority to support short-term, part-time VISTA volunteers; and fifth, enable ACTION to continue programs designed to assist victims of domestic violence.

Mr. President, the Domestic Volunteer Service Act Amendments of 1978 which is before the Senate today also contains in title I, part D, a new authority for urban neighborhood volunteer programs, to be established under the ACTION Agency. Its genesis is my own Urban Service Corps bill, S. 2740, which proposed the establishment of programs to encourage residents of urban areas to volunteer on a full- or part-time basis to help relieve the serious crisis in our central cities and other urban areas.

This is a particularly propitious time for consideration of this legislation, because a recent Gallup poll shows that 89 percent of city residents would be willing to contribute their time, efforts, or money to help resolve urban problems. The Gallup poll confirms my belief that citizens are rady to come forward and help in solving the problems of their cities. They need only the opportunity to become involved in meaningful projects that can make use of their energies and dedication.

Indeed, this was the essence of my own proposal for estabilshment of an Urban Service Corps, to tap the potential volunteer spirit that is latent in our cities.

Mr. President, in my own city of New York, we have many indefatigable and public-spirited citizens. They do not wish to stand by while their city slips so materially, as it has so in recent times. They stand ready, willing, and able to enlist in urban neighborhood volunteer programs and contribute their time and talent to the amelioration of our economic and social ills.

To help deal with such problems in New York beginning in 1975, and in cooperation with the mayor and Governor of New York, my then Senate colleague Jim Buckley, and the ranking Members of the New York congressional delegation, Representatives DELANEY and WYDLER, I caused to be established the Citizens Committee for New York City which, under the leadership of Oz Elliott—former deputy mayor of New York City, and former editor of Newsweek magazine—and Dennis Allee—his deputy and formerly my New York City executive assistant—and now Sandra Silverman as executive director, inspired thousands of New Yorkers to volunteer their time and effort to help maintain these desperately needed services.

Mr. President, I believe our experience can be a model of what can be achieved throughout our country by the establishment of urban neighborhood volunteer programs under the ACTION agency.

President Carter, in his urban initiative program proposed an urban volunteer program which, like my own proposal for the Urban Service Corps, sought to promote voluntarism by increasing the effectiveness of voluntary activities at the local level. The urban neighborhood volunteer program in part D of S. 2617, therefore, contains provisions from the President's urban package, my own bill and Senator CRANSTON'S proposals.

The thrust of the urban neighborhood volunteer program is to enlist older and younger residents of cities and other areas by mobilizing community action agencies, neighborhood groups, voluntary associations, labor organizations, local enterprises, local governments, and other local entities in community revitalization and person-to-person service activities designed to halt and reverse the decline of municipal services and the deterioration of neighborhoods.

In the urban neighbors program provided for under section 133, the Director of ACTION is authorized to make grants to—or enter into contracts with—local "lead agencies," which would be catalysts in bringing together volunteers and neighborhood groups. The lead agencies would recruit volunteers who possess needed skills and match these persons with neighborhood groups requiring such skills. Lead agencies would also maintain resources of locally recruited volunteers and, in general, would coordinate volunteer assistance in the area.

While any existing public or private nonprofit agency would be eligible for selection as the lead agency for part D—for example, the United Way, the Red Cross, or a local government social serv-

ices office—special consideration would be given to a local Community Action Agency in a poverty-impacted area. Many of the CAP's have a proven record of effectiveness in encouraging constructive voluntarism at the local level, so we intend that such agencies be given every consideration for selection as the local lead agency.

Volunteers working under the urban neighbors program would emphasize services to local neighborhood groups. Efforts would be made to enlist persons with professional, managerial and technical skills, as volunteers who could advise and work with neighborhood associations in improving their effectiveness and strengthening their contributions in ameliorating problems. Examples of the activities section 133 volunteers might engage in include accountants assisting organizations which could not otherwise get such services with their record-keeping and accounting practices; engineers advising associations about space and material requirements; horticulturalists assisting in area beautification projects; artists designing esthetic improvement programs; and lawyers advising housing associations about organizational procedures. Urban volunteer programs participants would not be likely to deliver services directly to poor persons but, rather, would be engaged in assisting local organizations in improving their effectiveness in neighborhoods.

Section 133(b) contains authority for regional resource centers and neighborhood seed-money grants, both of which will improve the logistical abilities of organizations in assisting volunteer activities.

Mr. President, a unique feature of the part D, urban neighborhood volunteer programs, is the "urban neighborhood priorities program," authorized in section 134, which would include two mandated programs: Helping hand and fixed income counseling.

The helping hand program of section 134(1), for the first time, will utilize direct person-to-person volunteer services to help reduce the necessity for institutionalization of the ill and disabled and thus ameliorate the problems associated with residential isolation. In contrast to section 133 activities, the urban neighborhood priorities programs will involve direct provision of services by volunteers to needy persons. Older and younger individuals working side by side will volunteer their time and energies in hospitals, mental institutions, nursing homes, other extended care settings and other facilities to be a source of encouragement, support and help to patients. Volunteers could do such things as taking residents of senior citizen centers shopping, or assisting handicapped people to and from work, or helping individuals in mental institutions or other institutional settings in a variety of ways. Mr. President, all of us in this body understand from our own experiences that what they do will not nearly be so important as their presence; their helping hands.

Additional programs under the urban neighborhood volunteer plan would concentrate on social services, such as emergency shelters, service to the elderly or disabled and child care; and community services, such as block security, housing renovations, park beautification and sanitation. Technical and management assistance will also be provided to individuals and organizations seeking to establish or continue business in deteriorating urban neighborhoods.

The urban neighborhood volunteer programs will provide an opportunity for our Nation's citizens—old and young—to take part in a positive work-service experience. With proper safeguards to protect existing employees, volunteers can work in their own urban neighborhoods, and can be utilized for such services as block security, child care, park beautification, and home improvement projects. Such qualitative and one-on-one services in the cities have been materially diminished and the reason for this is to be found in a lack of adequate funds. Personal and esthetic services are always the first to go. The establishment of urban neighborhood volunteer programs can greatly help to improve these services and help restore the morale of our urban citizens.

Our experience now with the cities which, because of financial difficulties simply have to rely heavily upon this kind of volunteer effort has dictated the specialized applications of the volunteer principle.

Mr. President, I would be remiss in my duty if I did not pay an enormous tribute to the rank and file Americans. People want to do it. Our lists really are crowded with people for whom we have to find a slot and give whatever little training is required. But the will is there as well as the need, and that would just be belaboring the obvious to talk about the need.

So it is a necessary element that has come into American life because of the financial stringency. I think we have learned something about ourselves which we may not have known before, of how many people are ready, able, and willing to lend a hand if we give them a channel through which to do it. I am very thankful that the American people show this response.

In addition, Mr. President, S. 2617 increases the authorization for the older American volunteer programs—RSVP, foster grandparents, and senior companions—administered by the ACTION agency. The administration, in its fiscal year 1979 budget request to Congress, proposed a $4.7 million reduction in funding for RSVP, and a tacit reduction in the other older Americans volunteer programs. The Human Resources Committee, in reporting S. 2617, has supported strengthening rather than weakening of these essential programs, which provided older persons with the opportunity for volunteer service to their local communities. In the 6 years of RSVP, for example, the program's volunteer strength has grown to 240,000. These volunteers render extremely useful service to their communities in a wide range of programs designed to address basic human needs, and their numbers should be increased rather than reduced. S. 2617 will provide for their necessary expansion of volunteer strength.

Many representatives of our older American population have advocated the transfer of the older American volunteer programs currently under the administration of the ACTION Agency to the Administration on Aging in HEW. If the intent of the ACTION Agency, as expressed in the reduced budget request for these programs, is indeed to downgrade or phase out the services rendered in these programs by older Americans, then it may be appropriate to remove these programs from ACTION and return them to the Administration on Aging in HEW. While S. 2617 does not mandate such a transfer, the Human Resources Committee will continue to monitor the ACTION Agency's administration of these older American volunteer programs and the relationship of these programs to the other activities of the ACTION Agency, in order to assure that these programs best serve the needs of older American volunteers and their communities.

Mr. President, let us give our citizens the opportunity to volunteer; let us marshall their spirit, their talent, and their passion for our cities' survival in constructive ways that can best help resolve the severe problems of our distressed cities.

I ask unanimous consent that two recent articles by Neal Peirce which appeared in the Washington Post be included at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 29, 1978]

A SELF-HELP BINGE IN NEW YORK CITY

(By Neal R. Peirce)

NEW YORK.—In a perverse but important way, New York City performed a service for the nation through its fiscal crisis. From coast to coast, mayors and councils and citizens' groups began to examine their own cities' financial practices, to make sure they weren't falling into the same trough of red ink.

Now New York, on a more positive note, is showing the country what a city's people, through volunteer and self-help efforts, can do to compensate for sliced budgets and to make their own neighborhood upbeat, pleasant places to live.

The story is told in a new, 140-page "New York Self-Help Handbook." Published by the Citizens Committee for New York City (630 Fifth Avenue, New York, N.Y. 10020), it is probably the most exhaustive listing ever compiled of what citizens, on their own, can do to enhance the quality of life of their city. All of the hundreds of citizen efforts listed in the handbook are now taking place, sometimes in hundreds of locations in New York's boroughs.

The self-help binge doesn't mean that all of New York's familiar selfishness, cynicism and impersonality has been expunged. Crime (albeit reduced), indifference and exploitation remain. But only the most hard-bitten skeptic can dismiss the sense of small-town community spirit and cooperation that's sprouting on the city's blocks.

The Self-Help Handbook starts with a section on community crime prevention, including block-watcher programs, civilian car and foot patrols, auxiliary police officers and alarm systems. It goes on to parent safety patrols, property identification systems and a buddy alarm system for merchants.

Fire prevention comes next, with suggestions on how to set up volunteer fire-warden

groups and fight false alarms. To back up the badly undermanned sanitation department, there are programs for block cleanups, sidewalk sweeps, litter baskets, graffiti removal, recycling centers, neighborhood dog runs and anti-litter campaigns. There are programs in community gardening, playlots, mural painting, bench painting, and how citizens can adopt and care for street trees.

The handbook reviews many programs for children, ranging from street olympics and volunteer tutorial programs to trips for youth, family day care and turning residential blocks into daytime play streets. For senior citizens, there are suggestions for local-merchant-discount programs, medical- and food-supply delivery to homebound people, escort services and telephone reassurance.

Citizen self-help was clearly needed when New York plunged into its fiscal crisis in 1975. But the Citizens Committee, founded that year with foundation support, has been an invaluable catalyst. It ran public service ads asking "greedy, heartless New Yorkers" to volunteer for work in city or social service agencies. It got 8,000 responses, and placed 2,000 volunteers. To spread the self-help gospel, the committee maintains a speaker's bureau, utilizes the media and has assembled a mailing list of 8,000 block associations, civic groups and concerned citizens.

The outside world is generally unaware of the "vibrant" life of New York's neighborhoods, says Osborn Elliott, chairman of the Citizens Committee. Of the city's 35,000 blocks, some 10,000 have organized block associations. The Citizens Committee believes it may have inspired 2,000 to start up. Active in areas from crime control to credit unions, the block associations have begun to replace New York's declining political clubs as mini-governments at the grassroots level.

At annual Citizens Committee dinners, awards are given to unsung New York heroes—people like Patricia Cordes, who set up teams of students to stop false fire alarms in an arson-torn section of the South Bronx; and Jackie and Dennis Canning, who organized their Brooklyn block to drive out prostitutes and drug pushers (one method: bombarding pimps with balloons filled with water from rooftops). The Cannings also converted a vacant, rat-infested lot into a children's playground and garden.

When the blackout and looting hit New York last summer, the Citizens Committee administered a $3-million emergency fund to encourage owners of vandalized businesses to reopen their doors—and some three-quarters did. The organization launched a "Citizen Sweep Corps" and gave away 5,000 brooms to volunteers willing to sweep their sidewalks regularly. And it has made hundreds of small grants to groups that need a little seed money ($1,000 limit, usually less than $100) for projects. A $70 grant stimulated several Manhattan women to collect $2,000 in contributions from department stores and use the proceeds to plant 3,000 flowers in front of the New York Public Library.

Elliott hopes New York's self-help record will soften congressional hearts when further emergency assistance is debated this spring. Political reality dictates Congress probably won't act unless it thinks bankruptcy is imminent. But by any objective scorecard, the city has made immense strides since 1975.

It may be years before New York is completely "out of the woods." But the despair of 1975 has given way to cautious optimism in 1978. And for that, a lot of credit goes to New Yorkers who have cared enough to help sustain their neighborhoods—and thereby their city.

PEOPLE, NEIGHBORHOODS AND THE ROSALYNN PLAN

(By Neal R. Peirce)

While President Jimmy Carter struggled for months to formulate his policy for the cities, Rosalynn Carter was at work on one of her own.

The Rosalynn Plan, which she has now formulated and outlined in an interview with me, involves no billions of dollars, no master management strategies. It is simply to use her good offices—the broad influence she has as First Lady—to encourage volunteerism and self-help, and to stimulate business and foundation support to revitalize neighborhoods and provide fresh opportunities for the disadvantaged people of the inner cities.

Mrs. Carter will pay major attention to neighborhood and civic activities in Washington. "That's where I am; that's my community," she says. But she will also, from time to time, travel the country visiting neighborhoods with successful programs in youth employment, housing rehabilitation, commercial strip revitalization, neighborhood beautification and various forms of volunteerism.

Rosalynn Carter's city and neighborhood program, complementing her continuing but lower-profile activities in mental health and for the elderly, could well become the hallmark of her years as First Lady—counterpart of Eleanor Roosevelt's advocacy of the poor and Lady Bird Johnson's beautification program.

Mrs. Carter would like to counteract the prevailing attitude "that the cities are beyond hope"—to get Americans to realize that, despite deep pockets of despair, "the cities are alive." Countless self-help activities are already under way, she notes, but need to be spread further because "there's not enough money in the U.S. treasury to rebuild every city. If I can somehow get people in the whole country excited about doing things in their own communities, then I think it will be a real contribution."

It is a tall order, and the caution and modesty with which Mrs. Carter approaches most activities could militate against full success. Her own roots and experience are primarily rural and small town, and she quickly notes she has had a lot to learn about the big cities and has turned for counsel to a wide range of experts on the urban scene.

But she's proven a quick learner, and her well-known tenaciousness may stand her in good stead. She says she's intensely excited about the prospects of what she might achieve, and pledges to devote a major portion of her time to city and neighborhood activities.

It's possible the First Lady's constant exposure to the urban grass roots could bear dividends beyond the White House imprimatur she'll be placing on promising undertakings.

Her urban interests should telegraph to administration officials a continuing and deep residential interest in specific city issues. No bureaucrat is likely to be impervious to a call from the president's wife asking why a program for cities or neighborhoods is not moving forward smoothly.

Mrs. Carter is careful to say she won't let herself be put in the position of "distributing federal funds" to specific local projects. Also, by virtue of her constant access to the president (he has called her "a perfect extension of me"), Mrs. Carter may help to keep urban concerns in his consciousness, even when other domestic and foreign problems tend to preocupy or bedevil him.

The idea of active White House encouragement for urban volunteerism came from what would seem an unlikely source—Arthur Burns, then chairman of the Federal Reserve Board—in a talk with the president last October. "Jimmy came home to see me just very excited about the idea of getting the private sector involved and people in their communities excited about solving problems themselves," Mrs. Carter explains. "We talked about it a long time." Since the president "was bogged down in the energy program," the responsibility became Mrs. Carter's.

From handwritten notes, Mrs. Carter outlined the specific initiatives she's starting. She'll invite pastors from Washington churches, then national church leaders, to discuss how they can help poor people—often befuddled by bureaucratic forms—apply for government manpower program jobs.

She's trying to get private philanthropy directed toward neighborhood projects by assisting a fledgling community foundation in Washington, hoping that will set an example for other cities. She'll work with the National Council of Negro Women and other women's organizations to help them assist unskilled, low-income women who are single heads of households.

She believes there are rich possibilities in involving private citizens in work with public institutions. Already, the interest she expressed in improving conditions at D.C. General Hospital has prompted the Jaycees and the Business and Professional Women's Club to take an action interest. An architect has volunteered to renovate the lobby and construct a gift shop, the Corcoran School of Art to do graphics and wall paintings, a fabric company to install curtains and ACTION to assist with volunteer services. Mrs. Carter hopes a more positive climate will help the hospital win the accreditation it lost a few years ago.

There are some problems in the Rosalynn plan: blurry lines of staff responsibility within her office, for instance, and the question whether other communities will automatically pick up on the local programs she supports here.

But with luck in even a reasonable share of the projects she's set before herself, the onetime Navy wife and keeper of peanut warehouse accounts could well become the most influential occupant of the White House ever enlisted on the neighborhoods' side.

Mr. JAVITS. Mr. President, may I, too, while I am on my feet and before the amendment comes in, express my deep appreciation and my gratification at being associated with the Senator from California (Mr. CRANSTON) who is chairman of the Child and Human Development Subcommittee, which has jurisdiction over the ACTION Agency. He joined me last year in seeking an additional appropriation for ACTION for, among other things, demonstration projects in the Urban Service Corps, and has remained a working partner with me this year. I deeply appreciate his leadership in guiding the urban volunteer program authorization through the subcommittee and full committee. Also, we acknowledge the help of those with whom we worked on the amendment which will come forward, Senators NELSON and DOMENICI, for their very constructive and creative participation in the final result which is now before the Senate. and which I urge upon the Senate as a highly constructive way to utilize American talents in important services which do not displace other talents, other efforts.

Mr. President, the bill is an excellent bill. I endorse it very strongly. It does the needed things respecting volunteer man of the Child and Human Develop-

service, things which we have learned from our experience.

Mr. CRANSTON. I thank the Senator very much. It is a genuine pleasure to be associated with him in this and in so many other very important endeavors. He is always a great person to work with.

UP AMENDMENT NO. 1455

(Purpose: To provide a process for designation of and coordination of activities by lead agencies for Urban Neighborhood Programs, to require submission of a program plan to Congress prior to initiation of such programs, to provide for expansion of Older American Volunteer Programs, and to modify the volunteer income disregard provision in existing law)

Mr. CRANSTON. Mr. President, there is one amendment to be considered agreed to by all the parties.

Mr. President, I call up, on behalf of Senator NELSON, myself, and Senator JAVITS, the amendment to which I have referred, and ask that the reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment by number.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. NELSON, and Mr. JAVITS, proposes an unprinted amendment numbered 1455.

The amendment is as follows:

On page 18, between lines 13 and 14, insert the following new subsection:

"(d) In prescribing regulations to carry out this part and in designating lead agencies pursuant to section 133(a) of this Act, the Director shall consult with the Director of the Community Services Administration established under section 601(a) of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941(a)).

On page 18, line 15, insert "(1)" after "(a)" and on line 18, insert "in accordance with the provisions of paragraph (2) of this subsection" after "agency".

On page 19, line 3, strike out "(1)" and insert in lieu thereof "(A)".

On page 19, line 11, strike out "(2)" and insert in lieu thereof "(B)".

On page 19, line 15, strike out "(3)" and insert in lieu thereof "(C)".

On page 19, line 18, strike out "(4)" and insert in lieu thereof "(D)".

On page 19, line 21, strike out "(5)" and insert in lieu theerof "(E)".

On page 19, between lines 23 and 24, insert the following new paragraph:

"(2) An organization which is a public or private nonprofit organization (such as a local governmental agency, a community action agency, a community college, a broad-based coalition of neighborhood groups, or other voluntary organization or agency) or a combination of such organizations may qualify for designation as a lead agency under paragraph (1) of this subsection. In the selection of lead agencies, the Director shall assure that—

"(A) an application process, pursuant to regulations which the Director shall prescribe, has been established for organizations and agencies interested in being designated as a lead agency;

"(B) public announcement has been made and other appropriate efforts have been made to provide individual notification to potentially eligible organizations and agencies of such process; and

"(C) special consideration is given to those organizations and agencies which have demonstrated their effectiveness in serving persons in distressed urban areas and in mobilizing volunteers, coordinating volunteer assistance projects, and working with other appropriate private, public, and voluntary organizations and agencies or Federal, state, and local governmental agencies, with priority given to community action agencies (as defined in section 212(b) of this Act) of demonstrated effectiveness where the program in the urban area in question will focus predominately on low-income persons served by such agency.".

On page 19, strike out lines 24 and 25, and on page 20, line 1, strike out "resource centers to support" and insert in lieu thereof:

"(b)(1) The Director is authorized to provide directly, and not by grant or contract, appropriate assistance to programs operated under this section, including

On page 20, line 8, strike out beginning with "Not more" through the end of line 10.

On page 21, between lines 6 and 7 insert the following new subsection:

"(c) With respect to activities carried out under this section to assist low-income persons residing in areas served by community action agencies (as defined in section 212(b) of this Act), lead agencies designated under subsection (a) of this section and the Director shall consult with such community action agencies, and, with respect to activities carried out under this section to assist elderly persons residing in an area served by an area agency on aging designated under title III of the Older Americans Act of 1965, as amended (42 U.S.C. ch. 35), such lead agencies and the Director shall consult with such agency.

On page 21, line 17, strike out "in" and insert in lieu thereof "through".

On page 22, line 8, insert "(based on the Director's determination that the activities to be carried out under such program have been demonstrated in programs carried out under part C of this title to be effective in achieving their purposes)" after "priority".

On page 16, line 12, insert "(1)" after "(a)", and on page 22, between lines 12 and 13, insert the following new paragraph:

(2) Not less than 60 days prior to instituting any programs, carrying out any activities, or making any grants or contracts under part D of title I of this Act (as added by paragraph (1) of this subsection), the Director of the ACTION Agency shall submit to the appropriate Committees of the Congress a program plan describing in particularity the proposed nature, scope, and geographic distribution of such programs, activities, grants, and guidelines proposed to govern the implementation of such part D and the specific arrangements to be made for the conduct of evaluations of such programs, activities, grants, and contracts pursuant to section 417 of this Act. Not later than 18 months after such program plan is submitted, the Director shall submit to such Committees a report on such programs, activities, grants, and contracts, including a description of all programs established and contracts and grants made under such part D and funds obligated therefor and thereunder.

On page 24, line 18, strike out "and"; on line 19, strike out "(2)" and insert in lieu thereof "(3)"; and between lines 18 and 19, insert the following new clause:

(2) insert before the period at the end of paragraph (1) (as redesignated by clause (1) of this section) a colon and *"Provided*, That this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.)".

On page 30, between line 21 and 22, insert the following new section:

SEC. 14. (a) Title IV of the Act is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.".

(b) The table of contents of the Act is amended by inserting below the heading for section 422 the following: "Sec. 423. Reduction of paperwork.".

On page 30, line 22, strike out "Sec. 14." and insert in lieu thereof "Sec. 15."; and on page 32, line 8, strike out "Sec. 15." and insert in lieu thereof "Sec. 16.".

On page 31, line 6, insert immediately before the semicolon a comma and the following: striking out "this" and inserting in lieu thereof "such", and inserting before the period a comma and "and, of the sums so appropriated, not more than $25,000,000 for the fiscal year ending September 30, 1979, not more than $27,500,000 for the fiscal year ending September 30, 1980, and not more than $30,000,000 for the fiscal year ending September 30, 1981, shall be available for the purpose of carrying out part D of such title: *Provided*, That, notwithstanding any other provision of law, no sums appropriated for such purpose shall be obligated or expended (except insofar as it is necessary in order to comply with clause (2) of this section) unless (1) not less than a total of $72,600,000 has been appropriated and made available under section 502 of this Act, and (2) not less than $8,100,000 of the sums appropriated for the purpose of carrying out such part D has been obligated for carrying out the programs authorized by section 134 (1) and (2) of this Act'

Mr. CRANSTON. Mr. President, the Senators from Wisconsin (Mr. NELSON) and New Mexico (Mr. DOMENICI) have raised several questions about implementation of the new part D—urban neighborhood volunteer programs—which Senator JAVITS and I, as coauthors of the legislation, agreed should be dealt within an amendment, which we then prepared in consultation with our two colleagues, to the bill as reported, to be offered by Senator NELSON on behalf of himself, Senator JAVITS, and me. In addition, the Senator from Kansas (Mr. DOLE) wished to modify the income disregard provisions of the Domestic Volunteer Service Act of 1973—section 404(g)—and his modification is also included in our amendments. We are grateful for his help and cooperation.

I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUMMARY OF AMENDMENT

Mr. CRANSTON. These amendments would provide a process for designation of and coordination of activities by lead agencies for the new part D urban neighbors programs, it would require submission to Congress of a program plan prior to initiation of the part D activities, it would provide for expan-

sion of the title II older Americans volunteer programs, and it would provide for modification of the coverage of the volunteer income disregard provisions in current law. The latter provision was proposed by my friend from Kansas (Mr. DOLE).

This amendment is, I believe, acceptable to all parties involved; it is cosponsored by the floor managers of the legislation and is acceptable to the committee. I ask unanimous consent that a description of the amendments, prepared and agreed to by the sponsors, be printed in the RECORD at this point.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF NELSON/CRANSTON/JAVITS UNPRINTED AMENDMENT NO. 1455 TO S. 2617

SHORT STATEMENT OF PURPOSE

These Amendments would provide a process for designation of and coordination of activities by lead agencies for the Urban Neighbors Programs (proposed in section 6 of S. 2617 as reported); require submission of a program plan to Congress prior to initiation of such programs; provide for expansion of the Domestic Volunteer Service Act of 1973's title II Older American Volunteer Programs; and provide for modification of the volunteer income disregard provisions in existing law.

SUMMARY OF AMENDMENTS

*Consultation requirements*

The first Amendment would amend new section 132 (added by section 6 of the bill) by adding a new subsection 132(d) to require consultation between the Directors of the ACTION Agency and the Community Services Administration both during the process of establishing regulations to carry out the new part D programs and in designating lead agencies to carry out the Urban Neighbors Programs authorized by new section 133(a).

*Criteria for selection of lead agencies*

The second Amendment would make clear the types of agencies and organizations that may qualify as "lead agencies" under programs authorized under new section 133(a) (added by section 6 of the bill). This amendment would amend new section 133(a) specifically by adding a new paragraph (2) stating that an organization which is a public or private nonprofit organization (such as a local governmental agency, a community action agency, a community college, a broad-based coalition of neighborhood groups, or other voluntary organization or agency) or a combination of such organizations may qualify for designation as a lead agency. Further, the new paragraph (2) would require (a) that, in the selection of lead agencies, the Director of the ACTION Agency shall assure that an application process is established for agencies and organizations interested in being designated as a lead agency; (b) that public announcement and other appropriate efforts have been made to provide individual notification to potentially eligible organizations and agencies of that process; and (c) that special consideration be given to those organizations and agencies that have demonstrated their effectiveness in serving persons in distressed urban areas in mobilizing volunteers, coordinating volunteer assistance projects, and working with other appropriate private, public, and voluntary organizations and agencies or Federal, State, and local governmental agencies. The requirement that there be "appropriate efforts" made by the agency to make individual notification to potential lead agencies does not require that any particular type of potential lead agency receive individual notification, although it is the strong intention of the sponsors, and the ACTION Agency has agreed, that community action agencies will be so notified in every case where a section 133(a) grant is being contemplated and where the Agency has decided to designate other than the CAA as the lead agency.

*Role of community action agencies*

The new paragraph (2) added to new section 133(a) by the second amendment would further give "priority" in the lead agency designation process—that is, a presumptive role as the lead agency—to a community action agency (CAA) of demonstrated effectiveness where the section 133(a) program in the urban area in question will focus predominately on low-income persons residing in the area served by the CAA. In such cases, it is the intention underlying this amendment that such a CAA should be designated as the lead agency unless there is strong justification for concluding that another agency in the area would be superior. This priority would not supercede the request in new section 133(a)(1) that the mayor or other chief elected official must approve of the lead agency designation.

*Deletion of grant and contract authority for backup services*

The third amendment would revise the new section 133(b) (added by section 6 of the bill) to authorize the Director to provide directly for backup assistance to lead agencies. Under the bill as reported the Director would have been authorized to contract or grant out for such assistance through the creation of regional resource centers. This function would now be carried out by the Agency itself through its regional and State offices. The amendment also would strike the grant and contract funding limitation in the last sentence of new section 133(b) since it would no longer be applicable.

*Consultation with community action agencies and area agencies on aging*

The fourth amendment would amend new section 133 (added by section 6 of the bill) by inserting a new subsection (c) to require the Director to consult regarding section 133 activities (1) with the respective CAA when an agency other than a CAA is designated as the lead agency and where section 133 Urban Neighbors Program activities will assist low-income persons served by CAA's, and (2) when Urban Neighbors Programs activities will assist elderly persons residing in an area served by an area agency on aging designated under title III of the Older Americans Act of 1965, as amended), with that area agency on aging.

*Technical modification*

The fifth amendment would rephrase slightly the parenthetical in new section 134 (1) (added by section 6 of the bill)—authorizing the "Helping Hand" program—oy making clear that senior centers, halfway-house facilities, and other types of residential settings are examples of ways to ameliorate residential isolation.

*Restriction on development of new programs*

The sixth amendment would amend section 134(3) (added by section 6 of the bill)—authorizing the development annually of a new National Urban Neighborhood Priorities program—by adding a parenthetical to provide that any new such priority programs have first been developed as part of programs of demonstrated effectiveness carried out by the Agency under its existing title I, part C, discretionary demonstration and special volunteer authority.

*Reporting requirements*

The seventh amendment would add a new paragraph (2) to section 6(a) of the bill—adding the new part D programs—to require the Director of the ACTION Agency (1) 60 days prior to implementing any activities or making any awards under the new part D to submit to the appropriate Committees of the Congress a program plan describing in particularity the proposed nature, scope, and geographic distribution of the new part D programs, activities, grants, and contracts, including the regulations and guidelines proposed to govern their implementation and the specific arrangements to be made for their evaluation; and (2) not later than 18 months after submission of the program plan, to submit to the appropriate Committees of Congress a report on the new part D activities, including a description of the types of grants and contracts made and an accounting of the funds obligated for them.

The purpose of the new paragraph (2) is to ensure accountability to the Congress in the ACTION Agency's implementation plan for carrying out the new part D programs. This provision responds directly to the suggestion for such "'report-and-wait' provisions" to deal with these type of situations, made by the President in his June 21, 1978, Message to the Congress on "The Legislative Veto".

*Modification of the existing volunteer payments disregard provision*

The eighth amendment would modify present section 404(g) of the Act by including an amendment proposed by Senator Dole to add a proviso to make clear that the income disregard provision in existing law applicable to volunteer payments under the Act does not apply in any case where payments to volunteers under the Act equal or exceed the applicable minimum wage. (The existing 404 (g) authority is intended to apply only in those cases where the volunteer had been receiving benefits prior to entering volunteer service.) The purpose of the modification is to make clear that Federal benefits recipients receiving employment income should not be treated differently from volunteers who receive allowance and stipend payments under the Act which are equivalent to or greater than the applicable minimum wage.

*Reduction in paperwork*

The ninth amendment would add a new section 423 to the Act to require the Director to take such action as may be necessary to reduce the paperwork required under the Act. This provision would be identical to the provision added (as proposed by Senator Domenici in S. 2609) to the Older Americans Act of 1965 as a new section 212 by S. 2850 as reported from the Committee on Human Resources (S. Rept. 95–855).

*Expansion of older American volunteer programs and limitations on funding of new part D initiatives*

The tenth amendment would amend existing section 501 of the Act (as amended by section 14 of the bill) to make a technical change in the Act to make clear that the anti-poverty set-aside in section 501(a) applies only to funds appropriated to carry out title I of the Act, and to limit the three-year authorization of appropriations for the new part D programs (from the Administration-proposed $40 million each for fiscal years 1979, 1980, and 1981) to $25 million for FY 1979, $27.5 million for FY 1980, and $30 million for FY 1981. It would further add a proviso to existing section 501 to require that at least an additional $10 million be appropriated in each of the three fiscal years over the Administration's fiscal year 1979 amended budget request of $52.6 million for the title II, Older American Volunteer Programs (Foster Grandparents, Senior Companions, and the Retired Senior Volunteer Programs), before the Agency may obligate and expend funds to undertake the new part D urban initiatives, and that the first $8.1 million of funds available for these new part D programs be obligated for the new Fixed In-

come Counseling and Helping Hands programs authorized by new section 134 (added by section 6 of the bill) before further obligations may be made to carry out such part D programs.

CONSULTATION REQUIREMENTS

Mr. CRANSTON. Mr. President, Senator NELSON was concerned about the relationship of the new urban neighborhood volunteer programs to programs operated by community action agencies—CAA's.

To clarify this relationship, the amendments call for consultation between the Directors of the ACTION Agency and the Community Services Administration—both during the process of establishing regulations to carry out the new section 133 programs, and in designating lead agencies to carry out the section 133(a) urban neighbors programs. In addition, the amendments would make clear the types of agencies and organizations that may qualify as "lead agencies" under the section 133 programs. The amendment adding a section 133(a)(2) states that an organization which is a public or private nonprofit organization (such as a local governmental agency, a community action agency, a community college, a broad-based coalition of neighborhood groups, or other voluntary organization or agency) or a combination of such organization may qualify for designation as a lead agency. Further, the new paragraph (2) would provide that, in the selection of lead agencies, the Director of the ACTION Agency shall assure that an application process is established for agencies and organizations interested in being designated as a lead agency; public announcement and other appropriate efforts have been made to provide individual notification to potentially eligible organizations and agencies of that process; and special consideration is given to those organizations and agencies which have demonstrated their effectiveness in serving persons in distressed urban areas in mobilizing volunteers, coordinating volunteer assistance projects, and working with other appropriate private, public, and voluntary organizations and agencies or Federal, State, and local governmental agencies.

Mr. President, our intention here is that the major organizations such as community action agencies, United Way, the Red Cross, church organizations, social service agencies, and family service organizations, be looked at carefully as potential lead agencies and, unless infeasible, those types of organizations should receive individual notification as potential applicants—not that individual letters go to every conceivable potential sponsor—and that those that have demonstrated their ability to mobilize volunteers and develop effective relationships with other entities which can assist in the urban neighborhood volunteer programs established under the new part D be given special consideration during the selection process.

In addition, Mr. President, the amendment gives a presumptive lead agency role to community action agencies where the program in the urban area in question will focus predominantly on low-income persons residing in the area served by the CAA. In such cases, the CAA should be designated as the lead agency unless there is strong justification for concluding that another agency serving residents of the area would be superior in carrying out the purposes of a lead agency. In cases where an agency other than a CAA is designated as the lead agency and where urban neighbors program activities will assist low-income persons served by CAA's, another amendment—adding a new subsection (c) to new section 133 of the act—would require the Director to consult with the respective CAA.

Similarly, Senator DOMENICI was concerned that in cases where urban neighbors program activities will assist elderly persons residing in an area served by an area agency on aging—designated under title III of the Older Americans Act of 1965, as amended—the responsible lead agency and the Director should also consult with that agency on aging. We agreed, and provision for such consultation has been part of this new subsection (c).

AREAS TO BE SERVED

Mr. President, Senator NELSON also raised the question of which distressed urban areas would receive support under these new programs. I wish to make clear my intention that "bigness" not be the chief factor. Smaller urban areas may have a greater incidence of urban distress than some larger areas, and this must be taken into consideration. The question of what constitutes urban distress is addressed on pages 43 and 44 of the committee report. In this connection, Mr. President, we do not believe that the Agency should exclude urban areas from participation under part D merely because they do not meet a particular population size. Rather, the committee expects that a variety of approaches will be pursued in a variety of urban areas, ranging from the largest to some of the smallest ones, throughout—as required by section 414 of the act, as it would be amended by section 12 of S. 2617 as reported—the various regions of the country. Mr. President, the Subcommittee on Child and Human Development intends to work with the Agency in developing the criteria for determining which urban areas should receive assistance under the new part D programs.

RESOURCE CENTERS

Mr. President, section 133(b) of the reported bill would authorize the Director to provide financial assistance, by grant or contract, for the establishment and operation of "regional resource centers" to provide backup and support services to the lead agencies operating the urban neighbors programs. Both Senator NELSON and Senator DOMENICI questioned the need for setting up new structures such as resource centers, using outside organizations to carry out such a function, although both acknowledged the importance of the technical assistance function itself. We agreed, reluctantly, that a suitable modification was to authorize the Director to provide directly for such backup assistance through ACTION Agency State and regional offices and thus included in the amendment a provision providing for the direct provision of such assistance.

REDUCTION IN AUTHORIZATION OF APPROPRIATION

Mr. President, in addition to eliminating authority to set up regional resource centers by grant or contract, we made a corresponding reduction of $1 million in the amount which is authorized to be spent for the part D programs—a reduction which, when added to additional reductions made to accommodate an increase in the older American volunteer programs which I will discuss further on in my remarks and a decrease in the need for administrative expenses, would reduce spending for the new part D from the projected $40 million to a maximum of $28,750,000 for fiscal year 1979; $31,625,000 for fiscal year 1980; and $34,500,000 for fiscal year 1981—including not more than $3,750,000, $4,125,000, and $4,500,000 in administrative expenses for each such year, respectively.

NATIONAL PRIORITY PROGRAMS

Mr. President, Senator DOMENICI had an additional concern about the nature of the discretionary national priority program which the Director is authorized to identify and carry out each year under section 134—national urban neighborhood priorities programs—in addition to the two programs—the fixed-income counseling program and the helping hand program—mandated by section 134. We agreed that any new thrusts developed under this authority should be based on programs of demonstrated effectiveness which the ACTION Agency has carried out under its existing title I, part C, discretionary authority for special volunteer and demonstration programs and, therefore, included an amendment to new section 133(3) to add that condition.

REPORTING REQUIREMENTS

Mr. President, as I have stated in my remarks describing the reported bill, the new part D—urban neighborhood volunteer programs constitute the legislative authority for the ACTION Agency's participation—the volunteer role—in the multifaceted urban policy which President Carter proposed on March 27. The basic purpose of the new part D programs is to mobilize individual involvement in neighborhood betterment and person-to-person service projects. Although I solidly support the purpose of this effort, I have already expressed by dissatisfaction with the timeliness of the urban strategy announcement vis-a-vis the legislative calendar. With respect to the ACTION Agency programs, the urban policy was announced well over a month after the conclusion of the subcommittee's hearings on the ACTION Agency, and in the middle of the process of moving S. 2617 through the committee process. The Agency's actual legislative submission was dated 7 days after the subcommittee markup.

Because we were unable to review the administration's proposal for the ACTION Agency's role in the urban strategy to the extent we would have

liked, we agreed with Senators DOMENICI and NELSON to include in our amendments a reporting requirement as follows: 60 days prior to implementing any activities or making any awards under part D, the Director of the ACTION Agency shall submit to the appropriate committees of the Congress a program plan describing in particularity the proposed nature, scope, and geographic distribution of the new part D programs, activities, grants, and contracts, including the regulations and guidelines proposed to govern their implementation and the specific arrangements to be made for their evaluation. In addition, not later than 18 months after submission of the program plan, the Director must submit to the appropriate committees of Congress a report on the new part D activities, including their description and an accounting of the funds obligated for them. This provision responds directly to the suggestion for such " 'report-and-wait' provisions" to deal with these types of situations, made by the President in his June 21, 1978, message to the Congress on "The Legislative Veto."

Mr. President, we feel that such reporting requirements will help insure accountability to the Congress in the carrying out of the new part D programs. In addition, as chairman of the ACTION Agency oversight subcommittee, I intend to call a hearing 18 months after the part D programs are in place to review the Agency's record in implementing this new part D.

Mr. President, Senator NELSON prepared a very detailed letter of inquiry to Sam Brown, Director of the ACTION Agency, in which he asked many of the kinds of questions which would have been included in hearings in the new part D programs. Because his June 22, 1978, letter and the Agency's July 11, 1978, response are so descriptive of the new program, it will be included in the hearing record on the ACTION Agency programs, and Senator NELSON will be including it in the RECORD along with his remarks.

In connection with this letter, I want to stress three additional points which I feel should be a part of the legislative history on S. 2617 as reported and these amendments.

First. With respect to question 3 of the letter on the role of lead agencies in carrying out the section 133 urban neighbors program, the Agency has assured us that while in its response to Senator NELSON it emphasized the recruitment of skilled volunteers, it understands that lead agencies—assisted by the Agency itself—will also be recruiting generalist volunteers to work in community betterment and person-to-person service projects—indeed, this will be a major function of the lead agencies.

Second. With respect to questions 5 and 6 concerning fixed-income consumer counseling activities, it has always been my intention that these activities be service and informational oriented, and that volunteers involved in them take on only noncontroversial advocacy activities—such as assistance in securing benefits and advantages provided by existing law and regulation, rather than advocating new such benefits and advantages. The emphasis here is on counseling activities.

Third. With respect to the application of terms, conditions, and restrictions generally placed on volunteers serving under other programs authorized by the Domestic Volunteer Service Act of 1973—Public Law 93-113—such as the restrictions on political activities set forth in section 403 of the act and the prohibitions on pro- or antiunion activities set forth in section 404(d) of the act, I want to make clear that the same such conditions and restrictions apply to volunteers serving under the new part D program.

REDUCTION OF PAPERWORK

Mr. President, also included in our amendment is a provision, suggested by Senator DOMENICI, that would require the Director to take such action as may be necessary to reduce the paperwork required under the act. This provision is similar to a provision included in the Older Americans Act amendments at my request during committee consideration of that legislation—now new section 212 added by S. 2850 as reported by the committee, Senate Report No. 95-855—based on a provision in Senator DOMENICI's bill, S. 2609, and I agree that it provides needed focus and a plan of action to deal with a very troublesome aspect of Government in general—excess paperwork burdens. I was pleased that during our February hearings on the ACTION Agency, Sam Brown was able to provide the subcommittee with an impressive report of the Agency's record—in response to President Carter's Government-wide directive—for reducing its paperwork requirements.

EXPANSION OF OAVP

Mr. President, finally, and most significantly, the amendment to section 501 of the act would provide that an additional appropriation of $10 million above the administration's no-growth budget request for the proven older American volunteer programs must be made available for these programs before the Agency undertakes to obligate any funds for the new part D urban initiatives. To accommodate this mandate, we have correspondingly limited the expenditures that may be made for the part D programs, as I outlined earlier. The basis for this change is our conviction that increases in funding for the proven older Americans volunteer programs should be provided before the Agency takes on new programs of such considerable size.

Mr. President, it is my preference that the majority of the $10 million be targeted for an increase in the hourly stipend provided for participants in the foster grandparent and senior companion programs, but some program expansion in title II programs is also anticipated, and the allocation of the $10 million among the three title II programs and the focus of the use of these funds is left to the Agency to determine. These hourly stipends, established in 1965 at $1.60 per hour—then the minimum wage—have never been increased. I have recommended to the Appropriations Committee that a stipend increase to $2.05 per hour be provided in the appropriate fiscal year 1979 Labor/HEW appropriations measure. If all of this $10 million increase over the administration's fiscal year 1979 budget request of $62.6 million for the older Americans volunteer programs were applied to such a stipend increase, it would provide, according to the Agency, necessary additional funds for a stipend increase to approximately $1.90 per hour.

In addition, Mr. President, this amendment would require that the first $8.1 million of funds available for the new part D programs be obligated for the section 134 fixed income counseling and "Helping Hand" programs. The Agency had previously indicated its intention to allocate $5.1 million for the fixed income counseling initiative and $3 million for "Helping Hand." Our amendment requires that the Agency adhere to this allocation projection within the overall program expenditure limitation provided by the amendments and described earlier in my remarks.

INCOME DISREGARD MODIFICATION

Finally, Mr. President, our amendment deals with a concern expressed by the Senator from Kansas (Mr. DOLE) with respect to the volunteer-payments disregard provision in existing section 404(g) of the act. The original provision in the act was designed to remove the disincentives to the enrollment in VISTA, Foster Grandparents, and the senior companions programs of low-income individuals whose preservice social security, supplemental security income, or AFDC benefits—including medicaid coverage for the children of VISTA volunteers—was jeopardized by their joining these programs. By assuring these potential volunteers through section 404(g) that their existing benefits would not be jeopardized, Congress was able to afford greater opportunity to the most needy to become involved in these community service efforts, and to make the VISTA experience a potential and viable stepping stone to future gainful employment for the low-income enrollees in that program. It was our intention, however, that individuals who meet eligibility requirements for benefits solely because of their volunteer enrollment in an ACTION Agency program, and who, except for the fact of such enrollment, would not be so eligible, should not establish an entitlement for these benefits, because of the economic status they assume by virtue of their enrollment as volunteers.

The Senator from Kansas (Mr. DOLE) was concerned that the volunteer payment disregard provisions might result in unequal treatment for other such benefits recipients who also received employment income rather than volunteer payments. I agree that if a volunteer in one of these programs were to receive allowances and payments under the act, the value of which was equal to or greater than the hourly rate of the applicable minimum wage, then the section 404(g) protections should not apply to them. We, therefore, included in our

amendments a proviso to this effect to be added to existing section 404(g).

Mr. JAVITS. Mr. President, if I may digress for a moment, I think the amendments are so important that they should be referred to specifically, because the Senator from Wisconsin (Mr. NELSON) and the Senator from New Mexico (Mr. DOMENICI) have raised certain concerns they have about the new part D programs in title I of S. 2617.

The Senator from Wisconsin has been concerned, among other things, about the possible crowding out effects of the lead agencies described in section 133, particularly on existing community action agencies operated locally under title II of the Economic Opportunity Act. On reflection, I agreed that to the extent volunteers under this bill would be working in both poverty and nonpoverty areas, there was some danger that the CAP agencies—which are almost exclusively poverty area-oriented—might be preempted from selection as lead agencies.

Accordingly, the amendment before us has been drafted in order to secure the place of community action agencies in being designated as lead agencies under part D. Specifically, the amendment: First, mandates consultation between the ACTION Director and the Director of CSA in the preparation of regulations under section 133; and second, provides that where the program to be operated will focus predominantly on low-income persons, priority for selection of the lead agency will be afforded to community action agencies.

I commend highly the Senator from Wisconsin for bringing this matter to the attention of the committee and believe the agreed upon language greatly improves part D of the bill.

The Senator from New Mexico expressed a number of concerns to the committee, including the fact that ACTION intended to request an appropriation of $40 million for part D, even though funding for the RSVP, foster grandparents and senior companions programs has remained relatively unchanged at around $62 million. We have discussed this particular matter in detail and concluded that $10 million of the planned request for part D ought to be earmarked instead for title II older American volunteer programs.

Accordingly, our amendment provides that no funds appropriated for part D may be obligated unless not less than $72.6 million has been appropriated for section 502, the authorization of appropriations provisions for the national older American volunteer programs.

I specify that because he considered this an important element of his agreement with us, which we have duly entered into.

The Senator from New Mexico was also concerned that section 133 of part D was lacking in specifics respecting the kinds of activities volunteers would engage in on behalf of neighborhood groups. While there was no generic objection to the idea of professionals as volunteers assisting organizations in community revitalization activities—there was some concern that volunteers might get engaged in irrelevant or controversial issues.

I wish to make clear that it is our intent that volunteers not get involved in political activities. We do not, however, wish to discourage the wide range of useful activities volunteers could engage in at the local level, such as lawyers helping with tax exempt status, architects designing community recreation facilities, athletes organizing neighborhood sports programs or artists helping prepare neighborhood crafts festivals. There really is no limit to the kinds of fine activities these volunteers could undertake, so we had to be very careful in how we wrote the provisions. But I understood the Senator's concerns and know that as a former mayor of the city of Albuquerque he supports the committee's effort to design an urban volunteer program that can have such salutary effects on our cities, small and large.

What the amendment does, therefore, is to pinpoint that the activity, especially of professionals—doctors, lawyers, accountants, or engineers, which will be as volunteers, and which, by the way, will not displace activities which might otherwise be professionally engaged in—will be of a very finite nature; the activity will be defined in advance. Sixty days before commencing any program, a notice is to be filed with Congress, quoting now from the amendment, "describing in particularity the proposed nature, scope and geographic distribution of such programs."

Also, I have given assurance to Senator DOMENICI, as the ranking minority member of the committee, that I will see that there is strong oversight by the committee of the activities that are undertaken under this part D.

In my judgment, Senator DOMENICI has made a most valuable contribution to the development of this idea; one that will help to assure that the urban neighborhood volunteer programs improve the quality of living in our distressed urban areas. I thank him for his interest and concern in this regard and urge the Senate to agree to the amendment.

Mr. CRANSTON. I thank my colleague.

Mr. President, I want to acknowledge the very helpful cooperation of Senator NELSON, Senator JAVITS, Senator DOMENICI, and Senator DOLE and their very able staffs—Jim O'Connel for Senator JAVITS, Scott Ginsburg and Lori Hansen for Senator NELSON, Dave Rust and Jeff Lewis for Senator DOMENICI, and Mary Wheat for Senator DOLE, all of whom worked with us so very diligently in developing the amendments. Without their constructive suggestions and very extensive efforts, we would have been unable to reach the consensus set forth in the amendments. I want to thank in particular Senator JAVITS for his continuing strong and abiding support in working with me both in developing the part D amendment for full committee consideration on May 3, and for his constant assistance in moving the bill and the amendments to it on the floor today.

Mr. President, I am prepared to yield back all time on the amendment.

Mr. JAVITS. Mr. President, Senator DOLE wants to put in a word.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I thank the Senator from New York.

Mr. President, the Senator from Kansas would like to address a few points covered by S. 2617, the Domestic Volunteer Service Act Amendments of 1978.

PROGRAMS FOR SENIORS

I am particularly pleased to see the continued emphasis placed on creating meaningful service slots for senior citizens. From my mail, I know that the older Americans participating in the retired senior volunteer program (RSVP) and the senior companion and foster grandparents' programs benefit tremendously from their association with these volunteer activities.

Many have indicated that through these programs, they have regained an interest in living, they have rekindled a feeling of self-worth, and they have found a new independence. For many older Americans, these benefits have erased the guilt of dependency which they have often been made to feel. Now, equipped with a new outlook, volunteers are contributing needed services to their communities. The volunteer, his family, the recipient, and the community in general all benefit from these programs.

THE HANDICAPPED

Additionally, I am particularly pleased to note the specific emphasis given to serving handicapped citizens. I would hope that efforts will also be made to attract the handicapped as volunteers into the program. Many disabled persons have little or no work experience, and are not given much encouragement—either from society or from their family and friends—to seek employment. Consequently, they have no experience or work record.

The thrust of current law is clearly aimed toward integrating the able disabled into the work force and into positions of responsibility. I hope that S. 2617 will benefit those people who are handicapped and wanting to work, as well as those persons who are handicapped and needing some assistance.

SECTION 404(g)

Section 404(g) of the act has caused some problems over its interpretation. The intent behind this provision is to allow persons receiving public assistance at the time they volunteer to continue receiving benefits. In other words, it provides an income disregard for volunteers who were on public assistance before joining the action program.

GUARD AGAINST ABUSE

I am anxious that this income disregard not be abused. I think the Congress needs to be extremely careful that we never make job programs with the Federal Government more attractive than private employment. We also must be mindful of the fact that all citizens are entitled to equal treatment under law. It is immoral to give one low-income group preferential treatment over another low-income category.

COMPROMISE

I have discussed my concerns with the floor manager, and together we have arrived at a satisfactory compromise. We have agreed to add clarifying language to section 404(g) indicating that if any income received under this program is more than or equal to the minimum wage, it will not be disregarded under other Government programs.

This addition is necessary, for it will help reinforce the distinction between a volunteer program such as VISTA and other Government jobs programs. I am pleased that this compromise has been reached.

JUSTIFICATION OF EXCLUSION

The income exclusion is not intended to be applicable to VISTA volunteers who were not receiving welfare at the time they volunteered. We do not expect nor want persons to become eligible for welfare because of their VISTA service.

The reason for this exclusion is to make sure that welfare recipients are not discouraged from applying for volunteer service because of the possibility of losing public assistance. We want to attract many of these very individuals, for the domestic service jobs are designed to give volunteers experience in a work environment, and to instill good work habits. Furthermore, the VISTA Director is instructed to see that each low-income volunteer has an individual plan leading to job advancement or opportunities for gainful employment.

DISCREPANCIES IN THE REGULATIONS

I would like to reemphasize that section 404(g) restricts the income disregard solely to those volunteers who were receiving public assistance when they joined ACTION. There appears to be a lack of understanding concerning the intent of this provision, particularly at the departmental level.

For instance, the AFDC regulations provide as an income inclusion those payments made to VISTA volunteers (section 233.20)(a)(4)(h) of title 45 code of Federal regulations). There is no distinction made between volunteers who were or were not receiving welfare at the time they joined VISTA.

The "Food Stamp Certification Handbook," section 2263.7, excludes payments to domestic service volunteers under treatment of income. The proposed food stamp regulations, dated May 2, 1978, likewise exclude from treatment of income all payments to ACTION volunteers. These departments clearly are not administering their assistance programs in accordance with congressional intent.

Furthermore, a letter from the Department of Health, Education, and Welfare to the Department of Agriculture, reads in part as follows:

Current policy is based on the Department's opinion that there is no statutory requirement to limit the disregard to persons who were receiving public assistance prior to becoming VISTA volunteers. Therefore, the disregard is now extended to both applicants and recipients.

I ask unanimous consent that the letter in its entirety be reprinted in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. This letter and these regulations point out an obvious inconsistency between the law and the implementation of the law. I trust that the accompanying Senate Report 95–823, as well as today's floor remarks, will provide helpful direction for the administration of these programs.

EXHIBIT 1

SOCIAL SECURITY ADMINISTRATION,
*Washington, D.C., September 7, 1977.*

Mr. BILL TLUCEK,
*Acting Chief, State Agency Operations Branch, Food Stamp Division of Agriculture, U.S. Department of Agriculture, Washington, D.C.*

DEAR MR. TLUCEK: This is in response to your letter of July 28, 1977 in which you request information in the form of any position paper, General Counsel opinion, fair hearing decision or potential law suit that influenced our decision to revise the HEW interpretation of Section 404(g) of P.L. 93–113 with respect to payments to Volunteers in Service To America (VISTA).

Section 404(g) of P.L. 93–113, The Domestic Volunteer Service Act of 1973, provides that "notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or service any such volunteer may be receiving under any governmental program."

Current policy is based on the Department's opinion that there is no statutory requirement to limit the disregard to persons who were receiving public assistance prior to becoming VISTA volunteers. Therefore, the disregard is now extended to both applicants and recipients.

In 1974, General Counsel held that either interpretation is permissible under the law. The Acting Administrator, Social and Rehabilitation Service chose to interpret the law as disregarding VISTA payments only for recipients at that time. A subsequent administrative decision was made in 1976 to read the law as providing for the disregard of VISTA payments for applicants and recipients. This decision also reflects the 1974 General Counsel opinion.

I hope that this information will be of value to you. If I may be of further assistance, please inform me.

Sincerely yours,

DAVID S. HURWITZ,
*Acting Associate Commissioner, Office of Family Assistance.*

● Mr. NELSON. Mr. President, the amendment offered here today, which I have introduced with Senators CRANSTON and JAVITS, would make several improvements in the proposed urban neighborhood volunteer programs established by S. 2617, as part D in title I of the Domestic Volunteer Services Act of 1973. This amendment, which establishes requirements and procedures for consultation with other agencies, designation of lead agencies, priority selections of agencies, and program reporting, is designed to insure that the urban volunteer program does not duplicate the activities of other programs or create new agencies or structures.

DESIGNATION PROCESS FOR "LEAD AGENCIES"

The amendment establishes a process for the designation of an agency, an organization, or a group of agencies or organizations as a "lead agency" under the proposed urban neighborhood volunteer programs. A "lead agency" is the term used to describe the agency or organization, or combination of agencies or organizations, through which the urban neighbors programs, established by this legislation, will be administered. Without this amendment, the legislation would not contain provisions for a process to designate "lead agencies".

The urban neighbors programs have two separate components: one of them is to provide funding to lead agencies to support the efforts of teams of volunteers and essential support staff to carry out community revitalization and person-to-person activities in distressed urban neighborhoods, and the other component authorizes the Director of ACTION to make neighborhood seed money grants to nonprofit organizations in distressed urban neighborhoods. The nonprofit organizations may receive their funding directly from the Director of ACTION or through the lead agency.

A prescribed designation process is necessary to insure that agencies or organizations potentially eligible to participate in the programs funded under part D of title I are given appropriate notice of the new program's availability in their community and its application process. Under the provisions of the amendment the Director is responsible for establishing an application process—through the promulgation of regulations—for agencies interested in being designated as a lead agency. In addition, the Director is required to make public announcement and take other appropriate action to give individual notice to potentially eligible organizations and agencies of the programs' purposes and activities, the availability of local funding, and the application process to apply for such funds.

These particular provisions are designed to insure that potentially eligible organizations and agencies are made aware of the program's purposes, activities, and the application process. For example, community action agencies in areas eligible to participate in the program should be notified of ACTION's intent to designate a lead agency and how the community action agency would apply to be designated as a lead agency.

In every State and thousands of communities across the Nation, community action agencies are conducting community revitalization and person-to-person activities. Frankly, I was concerned that unless community action agencies were apprised of the existence and availability of urban neighborhood volunteer funds and activities, duplication of activities could occur. The Director of the ACTION Agency, Mr. Sam Brown, addressed these concerns in a letter to me. In this letter the ACTION Director indicated that the Agency was prepared to take two actions "to insure maximum cooperation at the local level between the CSA (Community Services Administration) and ACTION":

1. ACTION will notify, in writing, all Community Action Programs of the availability of funds to local lead agencies under the Urban Neighbors Program. Local CAAs will thus be

notified of the availability of funds and the process of applying for them.

2. ACTION will notify, in writing, the CAA agencies of the intent to award a grant in their communities.

These actions would comply with the intent of the designation process.

Mr. President, I ask that a letter I sent to Director Brown and his response to me be inserted in the RECORD at the close of my remarks.

(See exhibit 1.)

Mr. NELSON. As part of the designation process, the Director would also be required to give special consideration to agencies which have demonstrated their effectiveness in serving persons in distressed areas, in mobilizing and coordinating volunteers and in working with other public, private, and voluntary organizations or Federal, State, and local governmental agencies. In areas which are predominantly low-income, priority for selection as a lead agency is given to community action agencies.

Community action agencies are an excellent example of the type of agency or organization which would be given special consideration for designation as a lead agency and would in fact, be given priority for selection as a lead agency in low-income areas. For instance, community action agencies usually have demonstrated effectiveness in the coordination and mobilization of volunteers, in serving the people in distressed areas, and in working with other agencies, especially Federal, State, and local agencies. Community action agencies are also well suited to accomplish the purposes of the program. In my judgment, it appears that in most areas the community action agency is probably the agency which could best further the purposes of the urban neighborhood volunteer program.

The other types of public or private nonprofit organizations that could be designated as a lead agency under this amendment, other than community action agencies, include local governmental agencies, community colleges, broad-based coalitions of neighborhood groups, or other organizations or agencies.

CONSULTATION

Mr. President. this amendment would also establish consultation requirements in order to further the coordination of activities under the urban neighborhood volunteer program with other volunteer efforts and to avoid duplication. The Director of ACTION would be required to consult with the Director of the Community Services Administration in prescribing regulations to carry out the urban volunteer program and in the designation of lead agencies. In low-income areas served by community action agencies lead agencies and the Director would be required to consult with such community action agencies regarding program activities in the area. Lead agencies and the Director would also be required to consult with area agencies on aging with respect to any activities to assist elderly persons residing in an area served by such an area agency on aging.

REPORT TO CONGRESS

Mr. President, when any new program is established, it is essential that the program's performance be monitored closely and carefully evaluated. Because certain aspects of the urban neighborhood volunteer program operation have not yet crystallized, it is very important that Congress be kept informed of the program's operations and progress. This is especially applicable to the question of how the lead agency designation process is working, what agencies or organizations and activities are being funded, which areas are being selected as distressed urban areas and which neighborhoods within these areas are receiving assistance.

This amendment would, therefore, require the Director to submit to Congress, at least 60 days prior to program implementation, an urban neighborhood volunteers program plan describing the proposed nature, scope, and geographic distribution of programs, activities, grants, and contracts, including the proposed regulations and guidelines for the program, and the evaluation plans for the program. Within 18 months after this program plan has been submitted to the Congress, the Director would be required to submit a report on the operating programs, activities, grants, and contracts, including a description of all programs, established contracts and grants.

REGIONAL RESOURCE CENTERS

The amendment would also eliminate the provision for regional resource centers established in S. 2617. The establishment of such regional centers would have unnecessarily duplicated existing regional offices and would have added to an already bloated and unmanageable Federal bureaucracy. The technical assistance activities provided for in S. 2617 could be carried out by the existing regional and State ACTION offices.

Mr. President, this amendment would also lower the authorization for appropriations to $25 million in fiscal year 1979, $27.5 million in 1980, and $30 million in 1981 from the $40 million which S. 2617 would authorize for each of these 3 fiscal years. These revised appropriation levels will enable the program to become operational at a more modest level and begin the testing phases of the program. I believe the Congress must provide for a trial period for new programs, in terms of appropriations, before commiting the Federal Government to a new program and sizable appropriation authorizations. This amendment will, in effect, provide for a trial period in this new program.

DISTRESSED URBAN AREAS

Mr. President, I have some reservations about the use of the term "distressed urban areas," primarily because the term is not defined anywhere in the legislation. The committee report accompanying S. 2617 does discuss the meaning of "distressed urban neighborhoods," but is silent as to areas in which these neighborhoods are to be found. The committee report states:

In focusing the urban neighborhood volunteer programs on distressed urban neighborhoods, it is the intention of the committee to provide the Director with authority to provide assistance to a wider range of neighborhoods and communities than those that meet the test of a poverty target area because they have a high proportion of low-income residents. Neighborhoods might be suffering from stress, for instance, because of a combination of some or all of the following: racial tensions, deterioration of housing stock, displacement of residents, or any one of a number of other conditions which combine to prevent the realization of a vital, stable urban environment. The committee expects that the Director will develop standards for determining those areas which may be considered distressed.

The committee also recognizes that the term neighborhood is an imprecise one, and intends that it shall be interpreted to include logical grouping of individuals and families in contiguous areas who are affected in common by the problem sought to be addressed, without regard to traditional political or other subdivisions.

Given the fact that the President's urban policy package makes use of similar terminology, I am concerned that the areas eligible for the urban neighbors programs would be limited to the 143 areas the President has established as meeting the prerequisites for assistance through his urban package. In the implementation of this legislation, the availability of the program should not be limited to just those areas qualifying for assistance under the President's urban program.

The primary authors of this particular legislation—Senator CRANSTON and Senator JAVITS—have assured me that it is not the intent of the urban neighbors programs to serve just those areas qualifying under the administration's urban program. Instead, the program should be available to as many communities as possible that have been or are likely to be in a distressed situation for some time. The most apparent example of this type of area is a low-income community in an economically distressed area.

Moreover, the term "urban" should not be applied strictly. The programs funded through this authorization should be available to not only those areas that qualify as "urban" in the Census definition of the word, but also to those areas which have problems similar to those of large urban areas. Under section 414 of The Domestic Volunteer Service Act, as provided for in S. 2617, there is a requirement that the benefits under the act will be distributed equitably among various regions of the country and between residents of rural and urban areas. In implementing the legislation, the requirements of section 414 of the act, as amended by S. 2617, may necessitate adjustments in the distribution of benefits and services under the act due to the addition of the urban neighbors program.

This amendment also contains a provision put forth by Senator DOLE modifying the existing volunteer income disregard, and a provision put forth by Senator DOMENICI which expands the older American volunteer programs and limits the funding of the urban neighbors programs initiatives.

Mr. President, I appreciate the cooperation of Senators CRANSTON and JAVITS, as well as that of the ACTION Agency,

in the preparation and drafting of this amendment. Their leadership has been very important to the expeditious approval of this legislation.

EXHIBIT 1

U.S. SENATE,
*Washington, D.C., June 22, 1978.*

Director SAM BROWN,
*ACTION Agency,*
*Washington, D.C.*

DEAR MR. BROWN: As you know, S. 2617, the Domestic Volunteer Service Amendments of 1978, has been placed on the Senate calendar for floor action. This legislation contains the authorization for a new program called the Urban Neighborhood Volunteer Program. Since no hearing record exists on the purposes or activities of such a program, I believe it is very important that a number of questions regarding the Urban Neighborhood Volunteer Program be answered prior to Senate consideration of this legislation.

These questions include:

1. What types of volunteer efforts are now ongoing in communities across the country? How many communities have volunteer efforts taking place?

2. What is the estimated number of additional volunteer efforts which would occur as a result of Federal involvement and Federal dollars spent in this new program area?

3. What activities will "lead agencies" be engaged in? What types of existing agencies would be able to carry out the purposes of the program and best qualify for designation as a "lead agency"?

4. What kinds of activities will be funded with "seed money"? Are there any types of activities which could not be funded?

5. Will either volunteers or funding be utilized to facilitate the delivery of services? To what extent will the program focus on service delivery? Please describe the types of service delivery activities which would be carried out.

6. Will either volunteers or funding be utilized for advocacy activities? To what extent will the program focus on advocacy? Please describe what types of advocacy activities, if any, would be carried out.

7. What role will Community Action Agencies have in this new program? What relationship will a Community Action Agency and a lead agency have to one another in an area which they both serve?

8. What new structures might be set up as a result of this program?

9. What do the terms "distressed urban area" and "distressed urban neighborhood" mean? In the bill proposed by the Administration and ACTION the term "urban area" was used. What is the difference, if any, between the terms "distressed urban area," "distressed urban neighborhood" and "urban area"?

10. What does the term "community revitalization" mean? What activities are included within the definition of "community revitalization"?

11. What does the term "team" mean? How were the components of a team decided upon? Why are the specified components necessary?

12. What are the purposes and the activities of the resource centers?

Any additional information in supplement to the answers supplied to these questions would, of course, be appreciated.

I look forward to a response as soon as possible, in order to allow for adequate review prior to Senate consideration of S. 2617.

Thank you for your cooperation in this matter.

Sincerely,

GAYLORD NELSON,
*U.S. Senator.*

ACTION,
*Washington, D.C., July 11, 1978.*

Hon. GAYLORD NELSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR GAYLORD: Attached is ACTION's response to the questions you raised on the Urban Neighborhood Volunteer Program portion of S. 2617, The Domestic Volunteer Service Amendments of 1978.

Poverty remains a serious and systemic problem. This is a society which leaves millions unemployed and without hope or work; unhealthy without hope of decent medical care; and poorly housed without reason to dream of improvement. Government has a responsibility to see that its citizens are decently employed, housed, and fed. And there is now a virtually unprecedented effort at the federal level to integrate and coordinate a range of anti-poverty initiatives that have historically tended to fragment and undermine local efforts.

ACTION's commitment to expanding the capacity of voluntary associations to participate in the lives of their communities will not solve the systemic problems of poverty, but the careful support of voluntary associations and their combined efforts can go a long way toward averting some problems and creating workable models for solving still others. This is the point I made in a speech to the United States Conference of Mayors at their annual conference in Atlanta on June 19. (A copy of that speech it attached.) But ACTION can't do it alone.

Our agency, together with the Community Services Administration, can help to stimulate and support efforts which further this ideal. Indeed, ACTION's new urban programs have been designed to capitalize on the energy, creativity, and problem-solving skills that ordinary people possess. In order to ensure maximum cooperation at the local level between CSA and ACTION, we are prepared to undertake two measures:

1. ACTION will notify, in writing, all Community Action Programs of the availability of funds to local lead agencies under the Urban Neighbors Program. Local CAAs will thus be notified of the availability of funds and the process of applying for them.

2. ACTION will notify, in writing, the CAA agencies of the intent to award a grant in their communities.

I appreciate your interest in this new initiative, and hope this response will serve to clarify some of your concerns. I hope we can look forward to your continued support.

Should you or your staff need additional information on this program, please let me know.

Sincerely,

SAM BROWN,
*Director.*

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QUESTIONS AND ANSWERS

Question 1. What types of volunteer efforts are now on-going in communities across the country? How many communities have volunteer efforts taking place?

Answer. The National Association of Neighborhoods estimates that there are over twenty-two thousand (22,000) essentially voluntary organizations operating around the country. The majority of these organizations would be eligible for funding under tho Urban Neighborhood Volunteer Program.

A recent survey (January, 1978) conducted by ACTION's Office of Policy and Planning Evaluation Division, assessed the breadth of volunteer activities in five ACTION programs: Volunteers in Service to America (VISTA); Foster Grandparent Program (FGP); Retired Senior Volunteer Program (RSVP); Senior Companion Program (SCP); and University Year for ACTION (UYA). The compilation of that data, which is attached, shows the variety of community-based efforts in which volunteers are involved around the country. We feel this survey provides a fairly representative picture of such efforts, whether or not they are ACTION funded.

To identify more precisely the number of communities with existing volunteer efforts becomes difficult because of the very nature of community associations. Often they spring up in response to a particular need and disband when their objectives are met; other organizations are active within their own communities, but are unknown outside that area; still others are "hidden" within the formal structure of a large program such as a health center, day care project, or recreation program.

VISTA

Volunteers in Service to America: provide full-time volunteer resources to public and private nonprofit organizations working to eliminate poverty and poverty-related human, social and environmental conditions.

Volunteers: 4,246.

Projects: 702 (42 percent had one to three volunteers) (Region IV, greatest percent).

Types of activity*: 1,867.

Location: 36 percent rural, 59 percent (including surrounding suburban), 5 percent other.

Basic human needs (project areas): 48 percent Community Services, 13 percent knowledge/Skills, 11 percent Legal Rights, 10 percent Health/Nutrition, 9 percent Housing, 7 percent Economic Development/Income, 1 percent Energy/Conservation, 1 percent Food/Water.

FGP

Foster Grandparent Program: provide meaningful volunteer opportunities for low-income persons, age 60 and over, provide supportive services to children with special needs in health, education, welfare and related settings.

Volunteers: 16,500.

Projects: 195.

Types of Activity: 9.

Location: 76 percent in Social Agencies—mostly with institutionalized children.

Basic human needs (project areas): 71 percent Health, 21 percent Education, 8 percent Community Services.

RSVP

Retired Senior Volunteer Program: create meaningful opportunities for persons of retirement age to participate more fully in the life of their communities through volunteer service.

Volunteers: 242,080.

Projects: 680.

Types of Activities: 62.

Location: 49 percent urban, 14 percent suburban, 37 percent rural.

Basic human need: (project areas) 35 percent Community Services, 15 percent knowledge/Skills, 1 percent Legal Rights, 43 percent Health/Nutrition, 1 percent Housing, 5 Economic Conservation.

SCP

Senior Companion Program: provide meaningful volunteer opportunities for low-income persons, age 60 and over, provide supportive services to adults with special needs in health, education, welfare and related settings.

Volunteers: 3,100.

Projects: 49.

Types of Activities: 6.

Location: 31 percent rural, (—65 percent in homes and—35 percent in institutions), 69 urban.

Basic human needs: (project areas) 100 percent Health.

UYA

University Year for Action: provides effective full-time volunteer manpower to work on problems of poverty, combine community service and academic study, encourage university involvement in local poverty communities, administer volunteer projects at the local level through universities, and institutionalize these purposes at participating schools.

Volunteers: 1,070.
Projects: 41.
Types of Activities: 326.
Location: 66 percent urban, 28 percent rural, 6 percent suburban.

Basic human need: (project areas) 41 percent Community Services, 24 percent knowledge/Skills, 7 percent legal rights, 13 percent Health/Nutrition, 10 percent Housing, 4 percent Economic Development/Income, 1 percent Energy Conservation, Food/Water.

Mental Health/Mental Retardation is most frequent area of project involvement and area with highest percentage of volunteers.

Question 2. What is the estimated number of additional volunteer efforts which would occur as a result of Federal involvement and Federal dollars spent in this new program area?

Answer. We estimated, based upon experience with ACTION's established part-time volunteer programs, that an Urban Neighbors Program investment of approximately $22,000,000 will generate a minimum of 14,875,000 volunteer hours of direct service. A breakdown of this estimate follows below:

46,000 volunteers in the Urban Neighbors Program volunteers will produce 10,979.000 hours of technical and managerial assistance.[1]

145 lead agencies broker 300 volunteers each per year, each volunteer serving 10 hours per week for 25 weeks [2] equals 10,875,-000 hours.

10 regional back-up centers provide 50 volunteers each per year, each volunteer serving 8 hours per week per year equals 104,000 hours. For a total of 10,979,000 hours.

47,000 fixed income consumer counselling (FICC) volunteers will provide an average of 5 hours per week of services to an average of 40 weeks per year equals 9,400,000 hours.

10,000 Helping Hand volunteers will provide an average of 10 hours per week of services for an average of 35 weeks per year equals 3,500,000 hours.

Total estimated amount of volunteer hours equals 23,997,900.

Question 3. What activities will "lead agencies" be engaged in? What types of existing agencies would be able to carry out the purposes of the program and best qualify for designation as a "lead agency?"

Answer. The role of lead agencies is to provide for the "recruitment, on a request for service basis, of volunteers who possess needed skills and the matching of such volunteers with neighborhood groups." To accomplish this purpose lead agencies will engage in the following activities:

1. Solicit from neighborhood groups requests for services of volunteers with specific occupational and professional skills, where the availability of such skills will permit the neighborhood groups to perform more effectively in providing community services or in contributing to neighborhood revitalization. Examples of such needs include: a day care center required to establish sound accounting practices in order to qualify for a mortgage loan; a teen-age crisis center seeking legal advice concerning incorporation; a housing cooperative seeking sound management practices in organizing its purchasing of goods and services.

2. It will develop a roster of skilled volunteers willing to offer their time to respond to neighborhood organizations' needs. Areas which local lead agencies are expected to concentrate attention include: management techniques, accounting, legal services, public relations and fund-raising, artistic design and activities which reflect the national neighborhood priority emphasis of Section 133A. Where special skills are requested for which a roster has not been developed, the lead agency would attempt to locate volunteers capable of supplying that skill, or contact the regional resource center on behalf of the neighborhood group (see question 12). Where skill banks of volunteer professionals already exist, local lead agencies would be expected to work with them to enhance this community resource, rather than compete with it.

3. It would work with volunteers and neighborhood groups to facilitate productive relations between the two. Experience shows that skilled volunteers work most effectively with neighborhood groups when they are provided with an orientation to volunteering in this way, and when neighborhood groups are provided with an orientation toward the use of skilled volunteers.

We anticipate that a variety of existing agencies qualify as lead agencies. These are the agencies, both public and private, which in each jurisdiction are best able to work with neighborhood groups, with the established volunteer sector, and with associations of professionals who might help provide the volunteer resources. Private associations and agencies that qualify include the United Way, established charity associations, Catholic Charities, settlement houses, the Urban League, or already existing volunteer clearinghouses. Public agencies that might qualify include community action agencies, mayors' offices of neighborhood affairs, city offices of volunteer services or offices of community development. Where volunteer services are already provided in occupational sectors (such as lawyers), it is anticipated that these networks will be utilized by the lead agency. ACTION will seek to insure that a full cross section of lead agencies are selected and that this cross section represents existing public and private agencies.

Question 4. What kinds of activities will be funded with "seed money?" Are there any types of activities which would not be funded?

Answer. "Neighborhood seed money grants" will be used to support two broad categories of activity:

1. Those which engage residents of an urban community in providing volunteer assistance to their neighbors.

Examples include: assistance to the elderly; programs focused on young people (particularly those facing problems with the criminal justice system); cultural activities which celebrate or educate; programs designed to lower consumer costs for disadvantaged urban residents; and programs which enhance the ability of voluntary organizations to make ongoing contributions to their neighborhoods.

2. Those which involve preservation, restoration, or reuse of abandoned property or other facilities in support of the above.

Examples include: development of land for urban gardening; the utilization of property for community use (e.g. creation of a community craft center); a one shot purchase of capital items such as a transportation vehicle or the hardware or material needed for an essentially voluntary neighborhood project (e.g. van for a jitney service).

These two activity categories are reflective of the broad range of community efforts underway throughout the country. The distinguishing characteristic of the "seed money" is that it allows neighborhoods to undertake a volunteer effort around an issue important to community residents, and to continue that effort, using local resources after the federal seed money has been expended.

ACTION will make careful use of accounting, evaluation, and monitoring criteria to ensure both an equitable distribution of seed money and the quality of project design. ACTION intends to provide funds for the equipment, supplies, tools, and other resources needed to support existing voluntary projects and to mobilize additional volunteer efforts.

A wide range of activities will be eligible for funding (see Question 10) and, with three exceptions, ACTION does not intend to a priori prescribe any broad category of projects. Funds will not be used in support of political campaigns or legislative lobbying. Further, funds will not be available to use as overhead for existing community organizations.

The criteria for project eligibility are as follows:

Project proposals will be evaluated against two sets of criteria. The first set describes basic requirements which all proposals must meet in order to qualify. The second set represents issues of special emphasis, which while not mandatory, are of national importance. Premium consideration in the competitive process will be given to those proposals which meet the special criteria. Both sets of criteria are listed below:

(1) Basic Criteria—All project proposals must:

a. Be achievable in a relatively short period of time; and be responsive to an assessment of human needs in the low-income community to be served.

b. Demonstrate that neighborhood members are supportive of the purpose and activities of the project; and that the project does not duplicate the activities or thrust of other activities in the area.

c. Be directed toward mobilizing volunteers in neighborhood revitalization efforts producing high impact in the community. (e.g., number of people affected by stimulation of other community betterment projects. Note: Proportionately greater impact expected from larger project grants.)

(2) Special Premium Criteria

In the competitive grant award process, premium consideration will be given to those projects meeting the following additional areas of national priority:

a. Impact upon the needs of urban communities experiencing unusual distress, e.g., concentrated areas of high unemployment, extreme deterioration of housing and/or public services, etc.

b. Impact upon multi-ethnic communities and/or isolated minority groups in poor communities.

c. Innovative projects which offer opportunity for future replication in other urban communities.

d. Support community efforts to mobilize additional community based human and material resources. Note: Proportionately greater impact expected from larger project grants.

Question 5. Will either volunteers or funding be utilized to facilitate the delivery of services? To what extent will the program focus on service delivery? Please describe the types of service delivery activities which would be carried out.

Answer. In general, only two components of the Urban Neighborhood program will emphasize the delivery of services directly. They are the Fixed Income Consumer Counselling (FICC) and the Helping Hand programs. The FICC program is designed to provide personal and group financial counseling to persons living on low and fixed incomes. FICC will be administered as part of the

[1] Activities which fall under technical and management assistance include those which (1) engage residents in stabilizing and organizing their community associations through improved management techniques (e.g. use of lawyers to assist with an exempt status, or an accountant to "balance the books") and those which (2) use volunteers to assist neighborhood groups in the preservation, restoration, and improvement in the quality of life in their community (e.g. an artist to support a community fair, an architect to help with a small mall plan, an engineer to design street lighting or to assist with an elderly van service, a nutrition expert to help set up a food co-op). Question No. 10 details the types of activities further.

[2] Partial years reflect planning estimate of first year loss due to start-up.

Urban Neighborhood Program: Local Lead Agencies (LLAs) will recruit, train, and match part-time-non-stipended volunteers to the needs of individuals, families, and groups of people living on low or fixed incomes. Counseling services and other assistance will be offered in such areas as: low cost/no cost transportation; consumer affairs; welfare and health care entitlements; nutrition; and effective strategies for combatting utility and insurance rate increases.

The Helping Hand program emphasizes the provision of "person-to-person" services that will reduce the need for institutionalizing individuals (in hospitals, mental institutions, nursing homes, and other extended care settings) and to ameliorate the isolation frequently experienced by older people or handicapped people living in residential settings. This program will stress personal interactions among people of different age groups, particularly young and old, and will be carried out in coordination with the appropriate State system for the protection and advocacy of individuals with developmental disabilities.

The Urban Neighbors Program, broadly defined, will essentially "purchase the services" of a network of skilled volunteers. It is unlikely that in cities with an Urban Neighbors Program, Neighborhood Seed Money grants would be used toward purchase of such services. In cities without an Urban Neighbors Program, Neighborhood Seed Money grants might be used to purchase the services of skilled professionals. However, Neighborhood Seed Money grantees will be discouraged from seeking services for individual citizens, since that program's objective is to build the capacity of neighborhood groups to accomplish and support community-wide voluntary activities and objectives.

Question 6. Will either volunteers or funding be utilized for advocacy activities? To what extent will the program focus on advocacy? Please describe what types of advocacy activities, if any, would be carried out?

Answer. Both the volunteers recruited by Local Lead Agencies and the small grants will be available to neighborhood organizations in support of existing and new program activities. Especially with respect to the volunteers, the character of the organizations ongoing emphasis will determine the area of activity. Thus certain kinds of advocacy will take place under the Urban Neigborhoods Program. Since a primary thrust of the Urban Neighbors Program is the mobilization of new volunteers (those with technical skills who will serve in both full time and part time service), the program will act as a catalyst for the use of volunteers in community revitalization activities. This, in effect, implies volunteers being advocates for the role of other volunteers in both their own and other neighborhood efforts. For example, volunteers in the Urban Neighbors Program might provide urban planning or architectural assistance to a community organization evaluating the impact of a shopping center project on the elderly in a community, and assist that organization in the preparation of a survey which details that impact. Or a local artist might assist a community group in designing a brochure which brings together other artists, and local resources in support of a community based craft center. Similarly, volunteers will likely assist on the development of proposals and recommendations with respect to the allocation of community development block grants, Title XX or other funds which require citizen participation and review. The volunteers working in fixed income consumer counseling activities will also be advocates on behalf of those individuals whom they assist.

Under no circumstances will the local lead agency initiate any advocacy. In this regard, ACTION will take steps to insure that its funds do not support either electoral activity or legislative lobbying.

ACTION also anticipates that volunteers working in Fixed-Income Consumer Counseling and the Helping Hand programs will be engaged in certain kinds of advocacy on behalf of individual citizens. The small grants are expected to be capital rather than staff intensive and are unlikely to be used in support of significant advocacy activities.

Question 7. What role will Community Action Agencies have in this new program? What relationship will a Community Action Agency and a lead agency have to one another in an area which they both serve?

Answer. Community Action Agencies can qualify as a designated Local Lead Agency and will serve that purpose in a number of jurisdictions. In cities where the Local Lead Agency and the local Community Action Agency are different entities, it is expected that the CAA will serve as a valuable resource for identifying the needs of particular neighborhoods and providing reliable area-wide information to the Local Lead Agency.

Community Action Agencies and programs initiated by them are often the most important and significant institutions operating in low-income neighborhoods. ACTION anticipates that a significant portion of the volunteer energy marshalled through Local Lead Agencies will therefore be used by CAA's and CAA affiliates. Close and cooperative working relationships between CAA's and Local Lead Agencies will be crucial.

To insure maximum cooperation between CSA and ACTION at the local level, ACTION is prepared to:

1. Notify in writing the CAA of the availability of funds to Local Lead Agencies under the Urban Neighbors Program, so that the CAA's will be aware of the availability of funds and the process of applying for them.

2. Notify in writing the CAA agencies in cities with an Urban Neighbors Program of the intent to award a grant in their communities.

Question 8. What new structures might be set up as a result of this program?

Answer. ACTION does not anticipate that any new structures will be established as a result of these programs. Both the Urban Neighbors Program and the Neighborhood Seed Money grants program are explicitly designed to support existing organizations and their initiatives. With respect to Local Lead Agencies, only existing, established, and credible organizations will be able to meet the funding criteria we will establish. Supporting local initiatives and providing the necessary resources for institutions in the community and voluntary sectors are the major goals of the ACTION initiatives and would be significantly vitiated if a new layer of organizations were to emerge.

Question 9. What do the terms "distressed urban area" and "distressed urban neighborhood" mean? In the bill proposed by the Administration and ACTION the term "urban area" was used. What is the difference, if any, between the terms "distressed urban area", "distressed urban neighborhood" and "urban area"?

Answer. The report of the Committee of Human Resources states that "the Committee also recognizes that the term neighborhood is an imprecise one and intends that it should be interpreted to include logical groupings of the individuals and families in contiguous areas who are affected in common by the problem sought to be addressed, utmost regard to traditional political or other subdivisions." ACTION intends to write guidelines and develop standards which determine those areas which might be considered distressed, as required by the Human Resources Committee. In doing so, the Agency recognizes the characteristics of a "distressed urban area" and a "distressed neighborhood" will differ. As the President voiced in his announcement of these initiatives "distress" is not limited to large cities. Further there are distressed neighborhoods in some of the nation's "statistically affluent" cities, and there are affluent neighborhoods in some of the country's "distressed urban areas". The standards which ACTION plans to develop will be threefold.

(1) They will broadly define urban area, based on population and political jurisdiction, with an eye toward a range of city size.

(2) They will determine criteria for a "distressed urban area," which are based on a variety of factors, but not limited to population size.

(3) They will stipulate guidelines for a distressed neighborhood which will include economic and quality of life indicators (e.g. status of municipal services, housing stock, business loss) which focus on the characteristics of neighborhood distress as they differ from the larger "distressed urban area."

In this manner, ACTION hopes to provide assistance to neighborhoods in larger urban areas as diverse as Phoenix or Houston and Los Angeles, New York and Detroit, as well as smaller cities across the country.

Question 10. What does the term "community revitalization" mean? What activities are included within the definition of "community revitalization"?

Answer. Activities to be conducted under Part D authorizes ACTION to provide resources in support of "community revitalization and person-to-person activities in distressed urban communities." As detailed in sub-sections (a) and (b), all such revitalization and service activities have as their principal focus the participation of volunteers in activities which solve or allevate locally-perceived problems.

Two broad categories of programs which fall within the definition of community revitalization are discussed in Question 4. The following list covers activities in which volunteers might participate under Section 133.

A. Programs to the Elderly (or Using Elderly Volunteers):

1. Fixed-income counseling and consumer education;
2. Mobile groceries;
3. Specialized transportation assistance (Jitney services);
4. Food buying clubs;
5. Block watch activities or tenant patrols;
6. Escort services;
7. Library delivery;
8. Visiting services;
9. Medical cooperatives;
10. Pre-retirement planning;
11. Elderly/Youth Activities—visiting, tutoring, etc.;
12. Senior Citizen Centers.

B. Cultural/Community Betterment:

1. Clean-up campaigns or anti-litter campaigns;
2. Recycling centers;
3. Crafts/Arts fairs;
4. Creation of Cultural Centers;
5. Wall Murals;
6. Health Fairs;
7. Street Malls and Bazaars;
8. Street Furniture;
9. Volunteer Ambulance Corps;
10. Cosmetic Building Renovation;
11. Community Planning Projects;
12. Community museums;
13. Landscaping;
14. City-wide (multi-ethnic and multi-racial) coordination of volunteer activities;
15. Community films and videos;
16. Energy related programs—e.g., solar energy uses; local energy councils.

C. Cooperatives and Open Space Projects:

1. Playlots;
2. Urban gardening and greenhouses;
3. Tree planting;
4. Health/housing cooperatives;

5. Food Distribution Systems: Food Coops, buying clubs, houses;
6. Erosion control;
7. Furniture repair coops;
8. Tool lending libraries;
9. Parent babysitting cooperatives;
10. Automobile repair coops;
11. Adopt a Building Program;
12. Community Credit Systems;
13. Sweat equity programs;
14. Women's programs; lay rape hotlines, family violence;
15. Food processing centers.

D. Safety and Transportation:
1. Playground watches;
2. Block watches;
3. Volunteer fire prevention;
4. Property identification;
5. Whistle stop programs;
6. Bicycle cooperatives;
7. Victim assistance;
8. Telephone hotlines;
9. Crime prevention education;
10. Community transport services;
11. Street lighting/physical planning prevention programs.

E. Education:
1. Consumer education;
2. Preventative health education and health resources;
3. Food stamp outreach;
4. Adult education;
5. Nutrition education;
6. Energy conservation education;
7. Environmental education;
8. Child care and parenting education.

F. Young People:
1. Playground centers;
2. After school facilities—Play streets;
3. Street olympics—youth recreation;
4. Bi-lingual tutoring;
5. Telephone hotlines;
6. Youth offenders (i.e. deinstitutionalization or division) programs.

G. Organizational:
1. Volunteer placement services;
2. Administrative assistance in community stabilizing efforts;
3. Legal assistance with tax exempt status, etc., for small neighborhood organizations;
4. Marketing;
5. Bookkeeping;
6. English/Spanish (and other language) translation;
7. Auditing procedures;
8. Community Recruitment and Advertising Campaigns;
9. Community Resource Surveys/identification of services;
10. Block management assistant programs;
11. Planning assistance for community revitalization;
12. Community publicity efforts;
13. Fundraising and financing.

Question 11. What does the term "team" mean? How were the components of a team decided upon? Why are the specified components necessary?

Answer. The team concept is one which has proven very viable and effective in the health and social service field. The combination of a professional employee with both full time and part-time volunteers is viewed as a mechanism for maximizing the ability of a lead agency to reach throughout an urban area. The team will in fact be an "outpost" of a centrally located lead agency. Many of the agencies who will qualify as a Local Lead Agency (LLA) already have such neighborhood based branch offices staffed by professionals.

Volunteers in the Urban Neighborhood Volunteers Program could be assigned to work within such a branch office, as well as on a City-wide basis through the LLA headquarters. The decision on the team components was made on the basis of discussions with the majority and minority of staff(s) of the Senate Human Resources Subcommittee on Child and Human Development.

Question 12. What are the purposes and activities of the Regional Resource Center?

Answer. The ten Regional Resource Centers will function as a backup system to support the Local Lead Agencies (LLAs) of the Urban Neighbors Program, strengthening their capacity to serve local clients groups by recruiting highly specialized volunteers with specific technical/management assistance not available locally.

The support activities of the Regional Resource Centers fall into four principal categories: 1) receiving and evaluating requests for help from LLAs and their clientele, developing and maintaining a national volunteer information and referral system, matching appropriate volunteers (willing to travel outside their areas) with requests for assistance; 2) developing and/or distributing specialized materials, handbooks, media resources, etc.; 3) designing seminars, workshops, conferences, and institutes which address problems common to LLAs and their clientele; and 4) strengthening the capacity of LLAs to implement a city-wide program and to train a local cadre of skilled volunteers.

ACTION will award grants, on a competitive basis, to organizations which already have experience in providing training and technical assistance in management, volunteer, and consumer advocacy activities on a multi-state basis. The Regional Resource Centers will be operated within the funding limitation of $100,000 annually for salaries and related expenses as stipulated in S. 2617.●

Mr. JAVITS. Mr. President, I yield myself 1 minute to thank the Senator from California (Mr. CRANSTON) and his staff, the Senator from Wisconsin (Mr. NELSON), the Senator from New Mexico (Mr. DOMENICI), and now the Senator from Kansas (Mr. DOLE) and their staffs, for their outstanding cooperation in helping us to get this renewal of the ACTION programs under way, and Senator DOLE for his concurrence in and helping us to shape the new part D, which is based upon experience in recent times. We feel it can be a very critical and very helpful addition to the total program.

I am prepared to yield back the remainder of my time.

Mr. CRANSTON. Mr. President, once again I thank the Senator for his cooperation and his good words, and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendment (UP No. 1455) of the Senator from California.

The amendment, en bloc, was agreed to.

Mr. CRANSTON. Mr. President, I know of no other amendments. I believe we are ready for the adoption of the committee substitute amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

● Mr. KENNEDY. Mr. President, I am extremely pleased to speak in support of S. 2617, the Domestic Volunteer Service Act Amendments of 1978.

I have served on the Human Resources Committee since entering the Senate 16 years ago. Since that time, the idea of voluntary participation by Americans in helping to build both a more secure and humane world through the Peace Corps and a more secure and humane America through VISTA and other programs, has flourished and has been one that is very close to my heart. It was in 1961 that President Kennedy proposed the establishment of the Peace Corps, the forerunner of the current ACTION. I have always believed that one of our Nation's greatest strengths was the willingness of our people to voluntarily contribute to the creation and development of a better America.

We have all seen evidence of the American voluntary spirit illustrated in cities and towns across the country.

In Boston, VISTA volunteers are staffing educational counseling centers which provide basic educational skills and a new sense of hope to young people who had dropped out of high school. I spoke to the graduates of one such program last month and was heartened after seeing the rekindled educational interest in students who not long before had given up on themselves and their environment.

I have long been deeply interested in the work of programs such as the Retired senior voluntary program, the foster grandparent program and the senior campanion program that enable older Americans to perform part-time voluntary services in their communities. Through these programs, hundreds of thousands of our elderly have given of themselves to others in need. An additional benefit has been the utilization of the skills of these citizens who are largely retired but still productive. All of these men and women are to be commended for extending the cup of human kindness to the children and other adults having exceptional needs.

Since the creation of ACTION, thousands of our citizens have sacrificed in these people-to-people programs helping to alleviate poverty and deprivation in the United States. They have faced the most complex problems and have brought sensitive and well-planned solutions. Senator CRANSTON and his committee, through this legislation, intend not only to assure the continuance of these and other fine programs, but they have also worked with the administration to develop needed new initiatives.

I am encouraged by the proposed "Urban Neighborhood Volunteer Programs" the purpose of which is to strengthen and encourage the involvement of individuals, neighborhood groups, voluntary associations, labor organizations, and other local entities in community revitalization and person-to-person service activities in distressed urban neighborhoods.

Paramount under this provision is the focus on consumer services to those citizens who are living on fixed incomes and the elderly who are unemployed, I believe that the relatively small amount of Federal dollars that will be available to make grants to neighborhood and local organizations engaged in this work will have a broad-based affect on the lives of some of our most needy citizens.

Mr. President, in passing this legislation, we have the opportunity to support those Americans whose efforts

made a difference in the quality of life in our country and throughout the world. The passage of this legislation is one of the great hopes for our future.●

● Mr. CHURCH. Mr. President, I support S. 2617, to reauthorize the Domestic Volunteer Services Act for 3 years. Of particular importance to me are the provisions which would extend the retired senior volunteer program and the foster grandparent and senior companion programs for 3 years and significantly increase funding levels.

Last year, more than 225,000 older Americans participated in the retired senior volunteer program. Many more older Americans throughout the Nation want to use their skills and energies to help other people. The authorization levels in this bill—$25 million for fiscal year 1979, $30 million for fiscal year 1980, and $35 million for fiscal year 1981—will help provide this opportunity.

I know the RSVP program well, and I know how effective the volunteers are. Older men and women are providing services to other older Americans, working with children in school settings, operating health screening clinics, and performing many other jobs.

The volunteers themselves have been very effective spokesmen for the program, and I have heard from literally hundreds of them during the past few months.

I have also heard from community leaders and many others who have worked with the volunteers and wanted to tell me how important the program has been to them.

These volunteers deserve our full recognition and thanks for the unselfish contributions they are making and our continued support for the work they will do.

This is especially true of older Americans who serve as foster grandparents and senior companions. Most foster grandparents work in sensitive relationships with emotionally and physically handicapped children. Many others give long, diligent attention to youngsters with special learning problems, providing the continuing support and tutoring so often necessary to overcome frightening disabilities. More than 41,000 children have been served in this way by foster grandparents.

Almost 3,000 senior companions are providing the same kind of specialized assistance to 10,000 older Americans in nursing homes and in other residential settings.

All foster grandparents and senior companion program participants have very low incomes, and they receive a small stipend of $1.60 an hour to help defray their expenses. This stipend has not been raised since the programs began, and an adjustment is long overdue. The increased authorizations in S. 2617 can make this possible for the first time, and I urge my colleagues and ACTION to raise this modest rate.●

● Mr. WILLIAMS. Mr. President, I am pleased to join my colleague, Senator CRANSTON, the chairman of the Subcommittee on Child and Human Development, and other members of the Committee on Human Resources in recommending the adoption of S. 2617, the Domestic Volunteer Service Act amendments of 1978.

S. 2617 would extend the ACTION Agency's domestic volunteer programs through fiscal year 1981 and is designed to strengthen the ACTION programs and improve the administration and overall operation of this unique agency. ACTION was originally conceived in July of 1971 to consolidate an array of voluntary action programs operating throughout the executive branch of the Federal Government. Through the years, this agency has made marked gains in addressing the needs of the disadvantaged through voluntary efforts and has served as the vehicle to engage older Americans in a variety of productive activities benefitting young and old alike.

The Volunteers In Service to America (VISTA) program, authorized under title I of the act, has served a critical role in the effort against poverty. It was designed to combat poverty and to improve the lives of the poor. In my own State of New Jersey, the VISTA program has been an invaluable tool for helping those in need. The services being provided include: Legal services to those who otherwise could not afford them, assistance in neighborhood renewal, day care services, youth programs, and urban assistance. Such services are at the cutting edge of meeting the basic human needs of the disadvantaged. An increased allocation for these and other services could be critical these communities and others like them across the Nation.

Under this measure, legislative authority for the continuation of older American programs—the retired senior volunteer program, the foster grandparent program, and the senior companion program—would also be provided. These vital programs draw upon the strengths of citizens, 60 years of age and older, who contribute their time, energy, and talents to redress the problems of poverty, disadvantage, and other areas of human need.

Historically, the older American programs have enjoyed widespread support and have been highly valued by many Members of Congress. These programs have been responsible for the delivery of a multiplicity of services by older citizens to children with special needs and to the elderly themselves, often alone and forgotten. Participants have aided citizens of all ages and has assisted in providing many basic services such as food, housing, transportation, adequate health care and other services. The long-standing achievements of these programs underscore the importance of allocating increased funds to continue and expand their activities.

Therefore, S. 2617 calls for increased authorization levels for title II programs at levels of $80 million, $92 million, and $105 million for fiscal years 1979–81 respectively.

My continuing interest in the needs of the disabled and the elderly move me to strongly endorse the proposed provision in the bill which would require ACTION to apply the nondiscrimination policies and authorities set forth in the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. I am hopeful that this provision will assist in opening new horizons for both the handicapped and the elderly so that they may fully participate in the volunteer activities of the Agency.

In addition, the Domestic Volunteer Service Act Amendments of 1978 would provide a new authority for the establishment of an urban neighborhood volunteer program designed to assist in revitalizing communities and delivering self-help services in distressed urban neighborhoods. The underlying concept of this section is to stimulate neighborhood residents to join forces against urban deterioration and to equip communities with the needed resources and manpower to accomplish this objective.

The urban neighbors program would authorize financial assistance to a lead agency. such as a local government agency, a community action agency, a community college, or a broad-based neighborhood coalition, to administer, coordinate, and support efforts to solve debilitating community problems. Seed grants totaling not more than $30,000 over 3 fiscal years could be provided for any particular neighborhood group. These funds would be used to promote volunteer activities, as well as to provide volunteers and neighborhood groups with materials, training, and administrative support.

Under the urban neighborhood priorities programs two other self-help programs would be implemented in rural as well as urban areas. A Helping Hand program would utilize volunteers to reduce unnecessary institutionalization and isolation of older and handicapped persons. A financial counseling program, utilizing volunteers with specialized or technical expertise, would provide advice to low- and fixed-income persons.

I strongly endorse the reauthorization of the Domestic Volunteer Service Act, and I recommend passage of this important legislation which will do so much to enhance the lives of the elderly, the impoverished, and the disadvantaged.●

Mr. DOMENICI. Mr. President, I would like to touch briefly upon several areas of concern to me with regard to the ACTION Agency and its programs. When I first reviewed S. 2617, after it was reported by the Human Resources Committee, I noted that a category of new programs was being authorized without the benefit of hearings. In my view, this portion of the legislation was unnecessarily vague, and it granted to the ACTION Agency far too much discretion in the structuring of a whole new urban volunteer strategy. My initial reaction was to seek to delete altogether the new part D programs. It struck me as being especially ironic that we would be opening a whole new classification of volunteer activities, with an authorization of $120 million over the next 3 years, at the same time we were "suffocating" the older American volunteer programs.

RSVP, senior companions, and foster grandparents are programs of demonstrated effectiveness. The overwhelming majority of ACTION volunteers are older American volunteers, and yet the

Agency, in setting its budget priorities for fiscal year 1979 chose to permit no growth in two of these programs, and recommended a 25 percent cut in the RSVP program. To me, Mr. President, this attitude represented gross insensitivity to the valuable role older volunteers play in the overall ACTION program.

Mr. President, I believe very strongly that RSVP, foster grandparents, and senior companions are excellent programs which involve elderly individuals in a whole range of activities which better the lives of their fellow citizens. These programs have been free of many of the disturbing abuses which have sometimes tainted other ACTION endeavors.

It was my opinion, Mr. President, that we should not rush to enact the urban volunteer program without the careful scrutiny and safeguards necessary to prevent abuse. I need not remind my colleagues that the ACTION Agency, under its present leadership, has entered into a number of contractual agreements with organizations that have not always adhered to the letter or the spirit of the law. Some of these grantees have engaged in overt political activitv, while others have become involved in union organizing activities, both of which are prohibited in the Domestic Volunteer Service Act of 1973.

In an effort to correct the most obvious deficiencies in this legislation, Mr. President, I entered into a period of negotiations with Senators CRANSTON, NELSON, and JAVITS. The result of that negotiation was a corrective amendment which seeks to tighten this program, and establish far more clearly the statutory guidelines under which the action agency will be operating. More specifically, this amendment will:

First, reduce the $40 million authorization to $25 million in fiscal year 1979; $27.5 million in fiscal year 1980, and $30 million in fiscal year 1981.

Second, delete the authority to establish, by contract, 10 regional resource centers, thus saving an additional $1 million per year.

Third, along with the joint explanatory statement that accompanies it, explain more precisely the role of local elected officials in the control and supervision of this program.

Fourth, require the agency to develop a program plan for these new urban volunteer programs, and to submit that plan to the appropriate committees of Congress 60 days before their effective date.

Fifth, obligate the agency to increase spending on the older American volunteer programs by $10 million before new funds can be made available under the new part D program.

Sixth. limit the agency's flexibility requiring that the first $8.1 million appropriated for part D will be devoted to "helping hand" and the financial counseling to individuals on fixed income programs. Both of these programs, I would note, have as their primarv objective the improvement of the quality of life for older Americans.

Seventh, S. 2617, as reported, grants to the Director the authority to establish a new urban volunteer program each year. We have insisted that this authority be tempered by limiting the Director to those programs which have already proved their effectiveness during a demonstration period, as described by part C of the act; and finally,

Eighth, require the ACTION Agency to ease the general paperwork burden by establishing a review process within ACTION which will continually reexamine the nature and frequency of all agency requests for information.

Mr. President, in closing, I would like to simply say that even in its modified form I am concerned about the prospect of this new program. As a former city official of Albuquerque, N. Mex., I understand the need for expanded volunteer activities in our urban areas. The need for such an expansion becomes even greater as the budget crunch worsens, and taxpayer resistance to new levies intensifies. But I am not at all certain that these programs are going to have the beneficial impact that I would like to see. It is my hope that the leaner, tighter provisions contained in S. 2617, as amended by the Nelson amendment here on the floor today, can achieve these objectives without abuse and undue controversy and we will be watching.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. All time is yielded back.

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2617) was passed, as follows:

S. 2617

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Volunteer Service Act Amendments of 1978".*

SEC. 2. Section 103 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) (hereinafter referred to as "the Act") is amended by—

(1) amending subsection (b) by—

(A) striking out "Prior to" and inserting in lieu thereof "Within thirty days after" in the second sentence; and

(B) inserting at the end thereof the following new sentence: "The Director shall offer to provide each volunteer enrolled for a period of full-time service of one year or more under this title, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences."; and

(2) amending subsection (d) to read as follows:

"(d)(1) Volunteers under this part shall not be assigned to duties or work in a project or program in any State unless the project or program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him or her within forty-five days of the date of such submission. In the event of a timely disapproval in writing, supported by a statement of reasons, by the Governor or other chief executive officer, volunteers may be assigned to duties or work in such project or program if, following disapproval, the Director determines in writing, with a statement of reasons therefor, that such project or program is fully consistent with the provisions and in furtherance of the purpose of this part.

"(2) Except as provided in the second sentence of this paragraph, when so requested by the Governor or other chief executive officer of the State concerned in writing, supported by a statement of reasons, a volunteer project or program or the assignment of a volunteer to a project or program in such State shall be terminated by the Director not later than thirty days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer. The Director may refuse to terminate such a project or program if the Director so determines by notifying the Governor or other chief executive officer in writing, with a statement of reasons therefor, that such program or project or the assignment of such a volunteer to a project or program is fully consistent with the provisions and in furtherance of the purpose of this part.".

SEC. 3. Section 105(a)(2) of the Act is amended by amending the first sentence thereof to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part thereof, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

SEC. 4. Section 114(a) of the Act is amended by—

(1) striking out in the first sentence "10" and inserting in lieu thereof "15"; and

(2) striking out in the second sentence "$6,700,000" both times it appears and inserting in lieu thereof "$4,600,000".

SEC. 5. Section 122 of the Act is amended by—

(1) amending subsection (a) by—

(A) inserting "in urban and rural areas" after "programs" the first place it appears;

(B) striking out "and" the first place it appears and inserting a comma and "a program of assistance to victims of domestic violence, and the programs specified in section 134 (1) and (2) of this Act" after "abusers"; and

(C) inserting at the end thereof the following new sentence: "In carrying out programs authorized by this part, the Director is authorized to provide for the recruitment, selection, and training of volunteers."; and

(2) amending subsection (c) to read as follows:

"(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of twenty hours or more per week for twenty-six or more consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of sections 103(d), 104(c), and 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of one year or more under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) (with respect to low-income community volunteers), 104(d), and 105(a) to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

SEC. 6. (a)(1) Title I of the Act is amended by adding at the end thereof the following new part:

"PART D—URBAN NEIGHBORHOOD VOLUNTEER PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 131. The purpose of this part is to strengthen and encourage the involvement of individuals, neighborhood groups, voluntary associations, labor organizations, local enterprises, local governments, and other local entities in community revitalization and person-to-person service activities in distressed urban neighborhoods by providing for Urban Neighborhood Volunteer Programs which build on the capacity of existing and emerging neighborhood groups, through the use of volunteers enrolled for a period of full-time service and volunteers enrolled for periods of part-time service, to assist in efforts to reverse deterioration of and improve the quality of life in their neighborhoods, particularly in situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems, and to provide appropriate authorities and responsibilities designed to assist in the development and coordination of such programs.

"GENERAL PROVISIONS

"SEC. 132. (a) The Director is authorized to conduct or make grants to and contracts with public agencies and private nonprofit organizations, or both, for projects to carry out the purpose of this part in accordance with the authorities and subject to the restrictions in the provisions of this part.

"(b) The assignment of volunteers under this part shall be on such terms and conditions, and volunteers may be provided only such allowances, stipends, and benefits and be afforded such status and be subject to such restrictions as are provided for in this Act (except with respect to coverage under section 415(d)) for volunteers whose service and time commitment is of similar character. The Director shall take appropriate steps to encourage the assignment together of volunteers from various age groups, particularly young and old, and the use of volunteers enrolled for a period of full-time service of one year or more and volunteers enrolled for periods of part-time service in assignments as catalysts to extend the effectiveness of paid employees of projects and in assignments to carry out recruitment and placement activities.

"(c) Notwithstanding any other provision of this Act or any other law, not more than an amount equal to 15 per centum of the total amount available for grants and contracts and the conduct of programs under this part for each fiscal year shall be expended for administrative expenses from sums appropriated under section 504 of this Act in order to carry out this part.

"(d) In prescribing regulations to carry out this part and in designating lead agencies pursuant to section 133(a) of this Act, the Director shall consult with the Director of the Community Services Administration established under section 601(a) of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941(a)).

"AUTHORITY TO OPERATE URBAN NEIGHBORS PROGRAMS

"SEC. 133. (a)(1) The Director, with the concurrence of the mayor or other chief elected governmental authority of an urban area with distressed neighborhoods, is authorized to designate and provide financial assistance to a lead agency in accordance with the provisions of paragraph (2) of this subsection to support the efforts of teams (each team consisting of one professional employee familiar with the distressed urban area in question, at least one volunteer enrolled for a period of full-time service of one year or more, and volunteers enrolled for periods of full-time and part-time service) and essential support staff to operate Urban Neighbors Programs to carry out community revitalization and person-to-person service activities in distressed urban neighborhoods through—

"(A) the recruitment, on a request-for-service basis, of volunteers who possess needed skills and the matching of such volunteers with neighborhood groups requiring the skills of such volunteers in carrying out community revitalization and person-to-person service projects, with appropriate emphasis on activities to carry out the national neighborhood priority programs established under section 134 of this Act;

"(B) the development of a resource bank listing locally-recruited persons willing to serve as volunteers enrolled for periods of part-time service to assist such groups in such projects;

"(C) the encouragement of the development of neighborhood groups in distressed urban neighborhoods to carry out such projects;

"(D) the coordination and facilitation of volunteer assistance available through regional resource centers pursuant to subsection (b) of this section; and

"(E) such other activities consistent with the provisions of this part as the Director determines are necessary to carry out the purpose of this part.

"(2) An organization which is a public or private nonprofit organization (such as a local governmental agency, a community action agency, a community college, a broad-based coalition of neighborhood groups, or other voluntary organization or agency) or a combination of such organizations may qualify for designation as a lead agency under paragraph (1) of this subsection. In the selection of lead agencies, the Director shall assure that—

"(A) an application process, pursuant to regulations which the Director shall prescribe, has been established for organizations and agencies interested in being designed as a lead agency;

"(B) public announcement has been made and other appropriate efforts have been made to provide individual notification to potentially eligible organizations and agencies of such process; and

"(C) special consideration is given to those organizations and agencies which have demonstrated their effectiveness in serving persons in distressed urban areas and in mobilizing volunteers, coordinating volunteer assistance projects, and working with other appropriate private, public, and voluntary organizatons and agencies or Federal, State, and local governmental agencies, with priority given to community action agencies (as defined in section 212(b) of this Act) of demonstrated effectiveness where the program in the urban area in question will focus predominately on low-income persons served by such agency.

"(b)(1) The Director is authorized to provide directly and not by grant or contract, appro riate assistance to programs operated under this section, including (A) the recruitment of scarce-skill volunteers to assist in projects carried out pursuant to this part, (B) the provision, where appropriate, of such payments (such as essential job-related expenses) to volunteers serving under this part as are authorized under section 132(b) of this Act, and (C) the provision of technical, management, and coordination assistance for lead agencies designated under subsection (a) of this section.

"(2) The Director, after consultation with the mayor or other chief elected governmental authority of the urban area involved, is authorized to make neighborhood seed-money grants to nonprofit organizations in distressed urban neighborhoods (either directly or for distribution to such organizations by lead agencies designated under subsection (a) of this section) to promote volunteer activities in such neighborhoods. and provide volunteers working in neighborhood groups with such materials, tools, supplies, training, and administrative support as the Director deems necessary to enable such volunteers to work effectively, in community revitalization and person-to-person service projects. No nonprofit organization grantee shall be eligible to receive in any fiscal year funds under this subsection in excess of $15,000 or a total of $30,000 over any three fiscal years for use by an entity in a particular neighborhood.

"(3) Not more than 30 per centum of the sums appropriated to carry out this part for each fiscal year shall be used for the purpose of making grants under this subsection.

"(c) With respect to activities carried out under this section to assist low-income persons residing in areas served by community action agencies (as defined in section 212(b) of this Act), lead agencies designated under subsection (a) of this section and the Director shall consult with such community action agencies, and, with respect to activities carried out under this section to assist elderly persons residing in an area served by an area agency on aging designated under title III of the Older Americans Act of 1965, as amended (42 U.S.C. ch. 35), such lead agencies and the Director shall consult with such agency.

"AUTHORITY TO DEVELOP AND CARRY OUT NATIONAL URBAN NEIGHBORHOOD PRIORITIES PROGRAMS

"SEC. 134. The Director shall develop and carry out National Urban Neighborhood Priorities Programs, including—

"(1) a program designated 'Helping Hand', utilizing person-to-person services to reduce the necessity for institutionalization (in hospitals, mental institutions, nursing homes, other extended-care settings, and other facilities) and to ameliorate residential isolation (through senior centers, halfway-house facilities, and other residential settings) of older persons, handicapped persons, and other affected persons, stressing interactions between persons from various age groups, particularly young and old, and carried out in coordination with the appropriate State system for the protection and advocacy of the rights of persons with developmental disabilities established pursuant to amendments made by section 203 of the Developmental Disabilities Assistance and Bill of Rights Act;

"(2) a program designed to provide personal and group financial counseling to low- and fixed-income individuals, utilizing volunteers with specialized or technical expertise; and

"(3) such other additional program as the Director may identify each year as a national program priority (based on the Director's determination that the activities to be carried out under such program have been demonstrated in programs carried out under part C of this title to be effective in achieving their purposes) to stimulate and initiate improved methods of utilizing volunteers to carry out the purpose of this part, and the continuation of any such programs as the Director may determine.".

(2) Not less than sixty days prior to instituting any programs, carrying out any activities, or making any grants or contracts under part D of title I of this Act (as added by paragraph (1) of this subsection), the Director of the ACTION Agency shall sub-

mit to the appropriate Committees of the Congress a program plan describing in particularity the proposed nature, scope, and geographic distribution of such programs, activities, grants, and contracts, including the regulations and guidelines proposed to govern the implementation of such part D and the specific arrangements to be made for the conduct of evaluations of such programs, activities, grants, and contracts pursuant to section 417 of this Act. Not later than 18 months after such program plan is submitted, the Director shall submit to such Committees a report on such programs, activities, grants, and contracts, including a description of all programs established and contracts and grants made under such part D and funds obligated therefor and thereunder.

(b) The table of contents of the Act is amended by inserting below the heading for section 123 the following:

"PART D—URBAN NEIGHBORHOOD VOLUNTEER PROGRAMS

"Sec. 131. Statements of purpose.

"Sec. 132. General provisions.

"Sec. 133. Authority to operate Urban Neighbors Programs.

"Sec. 134. Authority to develop and carry out National Urban Neighborhood Priorities Programs.".

SEC. 7. Section 201 of the Act is amended by—

(1) striking out in subsection (c) "sixty" and inserting in lieu thereof "forty-five"; and

(2) inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with provisions and in furtherance of the purpose of this part.".

SEC. 8. Section 212(a) of the Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2)(A) The Director shall award a grant or contract under this part for a project to be carried out over an area in a State more comprehensive than one community, to the State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), unless (i) the State has not established or designated such as agency, or (ii) such agency has been afforded at least forty-five days to (I) review the project application made by a prospective grantee or contractor other than such agency for a project to be carried out in such State and (II) make recommendations thereon. In the event that such an established or designated State agency is not awarded the grant or contract, any application approved for a project in such State must contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such agency.

"(B) The Director shall award a grant or contract under this part for a project to be carried out entirely in a community served by a community action agency, to such agency unless such agency and the State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) have been afforded at least forty-five days to (i) review the project application made by a prospective grantee or contractor other than either such agency for a project to be carried out in such community and (ii) make recommendations thereon. In the event that such a community action agency or such an established or designated State agency is not awarded the grant or contract, any application approved for a project to be carried out entirely in such community must contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such community action agency.".

SEC. 9. Section 404(g) of the Act is amended by—

(1) inserting "(1)" after "(g)";

(2) insert before the period at the end of paragraph (1) (as redesignated by clause (1) of this section) a colon and *"Provided*, That this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.)"; and

(3) inserting at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

SEC. 10. Section 410 of the Act is amended by inserting at the end thereof the following new sentence: "The Director, in consultation with the Chairman of the Civil Service Commission and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment, and (2) to make provision for the listing and description of volunteer work on all employment application forms.".

SEC. 11. Section 415 is amended by—

(1) amending subsection (b) by—

(A) striking out in the first sentence "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than twenty hours or more per week for twenty-six or more consecutive weeks, under title I of this Act";

(B) striking out in clause (3) "and";

(C) amending clause (4)(A) by striking out "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service under such title I shall be deemed to be that received under the entrance salary for a grade GS–7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such title I shall be deemed to be an appropriate portion of such entrance salary,"; and

(D) striking out the period at the end thereof and inserting in lieu thereof a comma and "and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes).."; and

(2) inserting at the end thereof the following new subsection:

"(f)(1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28, for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under title I of this Act shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

"(2) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

"(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

SEC. 12. Section 414 of the Act is amended by inserting "among various regions of the country and" after "equitably".

SEC. 13. Section 417 of the Act is amended by—

(1) inserting at the end of subsection (a) the following new sentence: "For the purposes of this subsection, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.), any project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance."; and

(2) inserting at the end thereof the following new subsection:

"(c) The Director shall apply the nondiscrimination policies and authorities set

forth in section 717 of the Civil Rights Act of 1974 (42 U.S.C. 2000e–16) in title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V), and in the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers and to volunteers serving under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.), and any remedies under such laws shall be available to aggrieved such applicants or volunteers Not later than ninety days after the date of the enactment of this Act. the Director, after consultation with the Equal Employment Opportunity Coordinating Council (established by section 715 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–14)) with regard to the application of the policies set forth in section 717 of such Civil Rights Act and with the Secretary of Health, Education, and Welfare and the Interagency Committee on Handicapped Employees (established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)) with regard to the application of the policies set forth in title V of such Rehabilitation Act, and not later than ninety days after the Secretary of Health, Education, and Welfare publishes final general regulations to carry out such Age Discrimination Act, the Director, after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies so as to promote the enrollment and service of persons as such volunteers without regard to the discriminatory factors proscribed in such laws.".

SEC. 14. (a) Title IV of the Act is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.".

(b) The table of contents of the Act is amended by inserting below the heading for section 422 the following:

"SEC. 423. Reduction of paperwork.".

SEC. 15. Title V of the Act is amended by—

(1) amending section 501 by—

(A) striking out "(a)" and striking out "and" after "September 30, 1977," in the first sentence, and inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978," in such sentence;

(B) striking out "$29,600,000" in the second sentence of subsection (a) and inserting in lieu thereof "80 per centum,"; and striking out "this" and inserting in lieu thereof "such", and inserting before the period a comma and "and, of the sums so appropriated, not more than $25,000,000 for the fiscal year ending September 30, 1979, not more than $275,000,000 for the fiscal year ending September 30, 1980, and not more than $30,000,000 for the fiscal year ending September 30, 1981, shall be available for the purpose of carrying out part D of such title: *Provided*, That, notwithstanding any other provision of law, no sums appropriated for such purpose shall be obligated or expended (except insofar as is necessary in order to comply with clause (2) of this section) unless (1) not less than a total of $72,600,000 has been appropriated and made available under section 502 of this Act, and (2) not less than $8,100,000 of the sums appropriated for the purpose of carrying out such part D has been obligated for carrying out the programs authorized by section 134 (1) and (2) of this Act".

(C) striking out the last sentence of subsection (a) and all of subsection (b).

(2) amending section 502 by—

(A) striking out in subsection (a) "and" after "September 30, 1976,", and inserting "$25,000,000 for the fiscal year ending September 30, 1979, $30,000,000 for the fiscal year ending September 30, 1980, and $35,000,000 for the fiscal year ending September 30, 1981," after "September 30, 1978,"; and

(B) inserting below clause (B) of subsection (b)(2) the following new sentence: "There are further authorized to be appropriated $55,000,000 for the fiscal year ending September 30, 1979, $62,500,000 for the fiscal year ending September 30, 1978, and $70,000,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out programs under part B of such title.";

(3) amending section 503 by striking out "and" after "September 30, 1977,", and inserting September 30, 1979, September 30, 1980, and September 30, 1981," after September 30, 1978,"; and

(4) amending section 504 by striking out "and" after "September 30, 1977,", and inserting "September 30, 1979, September 30, 1980, and September 30, 1981," after "September 30, 1978,".

SEC. 16. Not later than February 1, 1979, the Director of the ACTION Agency shall submit to the appropriate Committees of the Congress a report specifying the special needs and circumstances to be addressed in designing programs under the Domestic Volunteer Service Act of 1973 for implementation in rural areas, and a strategy and timetable for meeting such needs and circumstances.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## HEALTH MAINTENANCE ORGANIZATION ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 2534, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Health Maintenance Organization Act Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. (a) Section 1301(b)(3) is amended to read as follows:

"(3) The services of physicians which are provided as basic health services shall be provided through physicians or health professionals who are members of the staff of the health maintenance organization, through a medical group (or groups), through an individual practice association (or associations), through physicians or health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or physicians or health professionals under contract with the organization, except that this paragraph shall not apply in the case of (A) physician services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any physician service provided a member of the health maintenance organization other than by such a physician because of an emergency which made it medically necessary that the service be provided to the member before he could have it provided by such a physician. A health maintenance organization may also, during the thirty-six-month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide physician services through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for the purposes of this title. After the expiration of such period, the organization may provide physician services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years after the end of its fourth fiscal year of its operation, enter into contracts with physicians other than members of staff, medical groups, or individual practice associations if the amounts paid under such contracts for basic and supplemental health services provided by physicians exceed 15 per centum of the total estimated amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services by physicians, or, if the health maintenance organization principally serves a rural area, 30 per centum of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of physician services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for the purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education). For purposes of this paragraph, the term 'health professional' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.".

(b) The second sentence of section 1301(b)(4) is amended to read as follows: "A member of a heal maintenance organization shall be reimbursed by the organization for his expenses in securing emergency health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.".

DEVELOPMENT GRANTS AND INITIAL OPERATING LOANS

SEC. 3. (a) Section 1304(f)(2)(A) is amended to read as follows:

"(A) $2,000,000, or".

(b) Section 1305(b)(1) is amended by—

(1) striking "$2,500,000" and substituting "$5,000,000"; and

(2) striking "$1,000,000" and substituting "$2,00,000".

AMBULATORY CARE FACILITIES

SEC. 4. (a)(1) Section 1305(a) is amended by striking "and" after paragraph (2); striking the period at the end of paragraph (3)

and susbtituting a semicolon, and adding at the end thereof the following new paragraph:

"(4) make loans to, and guarantee to non-Federal lenders payment of principal of and interest on loans made to—

"(A) public or nonprofit private entities which have submitted and had approved an application for assistance under section 1304 in accordance with regulations promulgated by the Secretary, or

"(B) public or nonprofit private health maintenance organizations which have demonstrated to the Secretary the capability of maintaning continued fiscal soundness in accordance with the requirements of section 1301(c)(1), or

"(C) other private health maintenance organizations (which have submitted and had approved an application for assistance under this subsection in accordance with regulations of the Secretary and which have demonstrated to the Secretary the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1)) but only if the health maintenance organization will serve a medically underserved population,

to assist them in meeting the costs of equiping, constructing, acquiring, or renovating ambulatory care facilities.".

(2) Section 1305(a) is further amended by striking "operating costs" in paragraphs (1), (2), and (3) and substituting in each case "costs of operation".

(b) Section 1305(b) is amended by inserting after "under this section" each time it appears "(other than paragraph (4) of subsection (a))".

(c) The section heading for section 1305 is amended to read as follows:

"LOANS AND LOAN GUARANTEES FOR INITIAL COSTS OF OPERATION AND AMBULATORY CARE FACILITIES"

(d) Section 1305(d) is amended by striking "1980" and substituting "1985".

BENEFITS REQUIRED

SEC. 5. The material in section 1301(b) preceding paragraph (1) is amended by striking "other than those prescribed by or under this title" and substituting "(other than limitations and exclusions approved by the Secretary with respect to services the health maintenance organization is unable to deliver due to natural disasters, wars, or insurrection; with respect to financial liability for care for illness, injury, or conditions covered by a workmen's compensation statute; or with respect to unusual and infrequent medical services or procedures not necessary to protect the health of the member; and other than a limitation otherwise prescribed by or under this title)".

EMPLOYEES' DEDUCTIONS FOR HEALTH BENEFIT PLANS

SEC. 6. (a) Section 1310 is amended by adding at the end thereof the following new subsection:

"(i) Each employer, with a demonstrated capability to provide payroll deductions for health benefits, which is required by subsection (a) to offer to his employees the option of membership in a qualified health maintenance organization shall, with the consent of the employee who exercises such option, arrange for the employee contribution for such membership to be deducted from such employee's wages and salaries and forwarded on his behalf to the qualified health maintenance organization.".

(b) Section 1310(b)(1) is amended to read as follows:

"(1) one or more of such organizations provides physician services through physicians who are members of the staff of the organization or a medical group (or groups), and".

(c) Section 1310(b)(2) is amended to read as follows:

"(2) one or more of such organizations provides physician services through (A) an individual practice association (or associations), or (B) a combination of such association (or associations), medical group or groups, staff, and individual nonstaff physicians under contract with the organization, then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).".

CONTINUING DEVELOPMENT

SEC. 7. (a) Section 1304(b)(2) is amended by inserting "improvement of services, or" after "subsection includes".

(b) Section 1304 is further amended by adding at the end thereof the following new subsection:

"(l)(1) A grant or loan guarantee made under this section for the improvement of services may be made only to an entity which demonstrates the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1).

"(2) Grants or loan guarantees made to a single entity under this section for the improvement of services may not in the aggregate exceed an amount equal to the maximum sums which the applicant would have been eligible to receive under section 1303 and this section less any amounts actually received under such section. The provisions of paragraph (3) of subsection (b) shall not apply to a grant made for the improvement of services.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 1309(a) is amended by—

(1) striking "and" after "1977," the first time it appears; and

(2) striking everything after the semicolon and substituting the following: "$50,000,000 for the fiscal year ending September 30, 1979, $70,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, $95,000,000 for the fiscal year ending September 30, 1982, and $95,000,000 for the fiscal year ending September 30, 1983; and for the purpose of making payments under grants and contracts under section 1304(b) for the fiscal year ending September 30, 1984 there is authorized to be appropriated $95,000,000.".

TRAINING FOR HEALTH MAINTENANCE ORGANIZATION ADMINISTRATORS

SEC. 9. Title XII is amended by adding at the end thereof the following new section:

"MANAGERIAL TRAINING

"SEC. 1317. (a) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter referred to as the 'Program') for the purpose of training qualified health maintenance organization administrators and other managerial personnel.

"(b) Payments for internships or for the costs of internships administered under this section may be awarded by the Secretary either—

"(1) to individuals whose application for such position has been approved by the Secretary; or

"(2) to a health maintenance organization or other entity which has submitted and had approved an application for a grant under this section.

"(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments to health maintenance organizations or other entities may be used only for the costs of such internships, and payments under this section with respect to any internship shall be limited to such amounts as the Secretary finds necessary to cover the costs incurred by the health maintenance organization or other entity under this section.

"(d) Payments to individuals receiving training under this section shall not exceed the sum of $2,000 per month per individual, excluding relocation costs, nor shall the term of such payments exceed twelve months.

"(e) There are authorized to be appropriated for the purposes of this section $2,000,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, $3,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.".

FINANCIAL DISCLOSURE

SEC. 10. Title XIII as amended by this Act is further amended by adding at the end thereof the following new section:

"FINANCIAL DISCLOSURE

"SEC. 1318. (a) Each health maintenance organization shall file annually with the Secretary financial information in such form as the Secretary may require (which in the case of an organization which is related to the health maintenance organization by common ownership or control, shall be a consolidated financial statement), which shall include:

"(1) Such information as the Secretary may require, demonstrating that the health maintenance organization has a fiscally sound operation.

"(2) A description of transactions, as specified by the Secretary, between the health maintenance organization and a party in interest. Such transactions shall include—

"(A) any sale or exchange, or leasing of any property between the health maintenance organization and a party in interest;

"(B) any furnishing for consideration of goods, services (including management services, but excluding health services provided to members by staff, medical group (or groups), individual practice associations (or associations), of any combination thereof), or facilities between the health maintenance organization and a party in interest; and

"(C) any lending of money or other extension of credit between a health maintenance organization and a party in interest.

"(b) For the purposes of this section the term 'party in interest' means:

"(1) any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the assets (and in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under the applicable State corporation law) of the health maintenance organization;

"(2) any entity in which any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note or other interest secured by, and valuing more than 5 per centum of the assets (and in the case of a health maintenance organization organized as a nonprofit membership corporation, an incorporator or member of such corporation under the applicable State corporation law) of the health maintenance organization:

"(A) is an officer or director;

"(B) is a partner (if such entity is organized as a partnership);

"(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

"(D) has a mortgage, deed of trust, note, or other interest valuing more than 5 per centum of the assets of such entity;

"(3) any person directly or indirectly controlling, controlled by, or under common control with the health maintenance organization.

"(c) Each health maintenance organization shall make the contents of the annual statement described in subsection (a) available to its enrollees upon reasonable request.

"(d) The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(2) for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(2).

"(e) The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

"(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d);

"(2) an assessment of the degree of conformity or noncomformity of each health maintenance organization evaluated by the Secretary under subsection (d) with each such standards and norms;

"(3) what action, if any, the Secretary considers necessary under section 1312 with respect to health maintenance organizations evaluated under subsection (d).

"(f) Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization.

"(g) Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) shall be ineligible for any Federal assistance under this title until such time as such statement is received by the Secretary.".

HEALTH PLANNING AMENDMENTS

SEC. 11. (a) Section 1531(5) is amended to read as follows:

"(5)(A) The term 'institutional health services' means (i) the health services provided through health care facilities (but excluding health care facilities of health maintenance organizations other than hospitals) as defined in regulations of the Secretary including, but not limited to, private and public hospitals and nursing homes if such services entail annual operating costs of $50,000 or more; and (ii) diagnostic or therapeutic equipment, acquired through purchase, rental, lease, or gift, valued at the time of acquisition in excess of $150,000, used in the delivery of health care services by any person, institution, or other entity.

"(B) In determining whether diagnostic or therapeutic equipment has a value in excess of $150,000 for purposes of subparagraph (A), the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.".

(b) Section 1531 is further amended by adding at the end thereof the following new paragraph:

"(6)(A) Except as provided in paragraph (B), the term 'health maintenance organization' means a public or private organization, organized under the laws of any State, which has had approved an application for assistance under section 1304 or which (i) provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out of area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in clause (i) to enrolled participants on a predetermined periodic rate basis; and (iii) provides physicians' services primarily (I) directly through physicians who are either employees or partners of such organization, or (II) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis)

"(B) For the purposes of section 1532(d), the term 'health maintenance organization' means an entity which has been determined by the Secretary to be qualified health maintenance organization pursuant to section 1310(d).".

(c) Section 1523(a)(4) is amended by (1) striking "services, facilities, and organizations" each place it occurs and inserting in lieu thereof "services and facilities" and (2) inserting before the last sentence thereof the following: "No such program shall have provisions for the review and determination of need of the services, facilities, equipment, and organization of health maintenance organizations that are in addition to provisions for the review and determination of need of the services, facilities, equipment, and organization of other providers of ambulatory health care".

(d) Section 1532 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding subsection (c), an application for a health maintenance organization (as defined in section 1531(6)(B)) for a certificate of need for new institutional health services shall be approved by the State Agency if the State Agency finds (in accordance with criteria prescribed by the Secretary) that—

"(1) approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll, and

"(2) the health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.".

PROGRAMS ADMINISTRATION

SEC. 12. (a)(1) Section 1306(b)(2) is repealed.

(2) Paragraphs (3), (4), (5), (6), (7), and (8) of section 1306(b) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(b) Section 1037 is amended by adding the following new subsection at the end thereof:

"(f) The Secretary may make grants to public or nonprofit private entities and enter into contracts with private entities for activities to assist in the provision of technical assistance to projects and health maintenance organizations, and in making determinations within the meaning of sections 1308, 1310, and 1312 of the Act.".

(c) Subsection (h) of section 1310 is repealed.

(d) Subsection (c) of section 1312 is repealed.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Susan Brannigan and Robin Paquin of my staff may have the privilege of the floor throughout the day today for any votes and any debates on any bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I make the same request for Sherri Kramer and Robert Hunter of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOLE. Mr. President, I ask unanimous consent that during the consideration of S. 2534, Marcia Stanhope, Tom Delbanco and Sheila Burke have the privilege of the floor during consideration and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ray Jones be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I yield myself so much time as I may require.

(Mr. BUMPERS assumed the chair).

Mr. SCHWEIKER. Mr. President, as the ranking Republican on the Senate Subcommittee on Health and Scientific Research, I am delighted to join our distinguished chairman (Mr. KENNEDY) in presenting S. 2534 for Senate approval.

The Schweiker-Kennedy Health Maintenance Organization Act Amendments of 1978 are the product of commendable bipartisan cooperation involving the administration and many dedicated Members of the House and Senate. This joint effort reflects a growing belief that health maintenance organizations can become a major asset for meeting the health care needs of our Nation.

As my colleagues are aware, health maintenance organizations are prepaid health plans in which members make fixed regular payments entitling them to the variety of services provided by the organizations. Since payments are made in advance, there is an economic incentive for HMO s to maintain the health of their members and also to avoid costly and unnecessary treatment. Traditionally, the emphasis of physicians and other providers of health care has been on the treatment of chronic or crisis illness; in an HMO system, the emphasis is more on preventive care.

One of the most pressing issues facing this Nation today is the skyrocketing cost of health care. Congress has now spent many months attempting to sort out and resolve a host of complex problems stemming from proposals that the Federal Government directly regulate hospital revenues. Health maintenance organizations are a promising method for driving down health care costs, and, at the same time, improving access and quality of care through the operation of internal incentives rather than direct Government regulation.

While HMO's are not the final answer to the health care cost problem, they do provide an attractive alternative and create much needed competition for the health care dollar. HMO's have now had time to prove their cost-saving abilities. We know that HMO's can achieve overall cost savings of from 10 to 40 percent. According to a new HMO census, inpatient hospital utilization under health maintenance organizations is only 488 days per 1,000 per year—compared to a national average of over 900 days under the traditional fee-for-service system. The more information we get on HMO performance, the more we know about their cost-saving potential.

Since 1971, Federal HMO policy has been both confusing and unpredictable. The Health Maintenance Organization Act of 1973 was designed to encourage the devlopment of HMO's through Federal grants and loans, and through a number of devices to help HMO's compete with more traditional health systems in the health insurance marketplace. However, it became apparent that the 1973 act contained too many restrictions which kept HMO's from being financially viable. A long implementation process, regulations that made the original law unworkable, and years of inattention by the Department of Health, Education, and Welfare all kept the HMO movement from getting off the ground as it should have. This inconsistent pattern of Federal HMO policy failed to attract new enterprises to the program and also damaged HMO's efforts to raise private capital.

But, thanks to the perseverance of all who are dedicated to this innovative prepayment concept, a very difficult beginning has become a constructive educational foundation. I was pleased to introduce and support the 1976 HMO amendments, which went a long way toward freeing health maintenance organizations from excessive Federal requirements and putting them on an equal footing with the fee-for-service system. They also attacked some distressing instances of HMO fraud and abuse by requiring Federal qualification of any HMO receiving medicare or medicaid moneys.

We now have many reasons to be encouraged about the future of HMO's in the United States. HMO's are growing in popularity and the movement is working hard to resolve the technical and operational difficulties any new industry experiences. In addition, the administration has announced that HMO development is one of its highest health priorities. It has undertaken steps to reorganize and greatly improve the operation of the HMO program at HEW. HMO activities have now been consolidated under a newly appointed director of the Office of Health Maintenance Organizations. HEW is also moving ahead with plans to promote public awareness of the HMO concept, implement stringent qualification, compliance, and quality of care monitoring mechanisms, and eliminate unnecessary delays in processing applications for Federal assistance.

However, it is also clear that HMO's will not be able to achieve their full potential under existing law. Only about 6 million Americans now belong to HMO's. There has only been a 5.2 percent increase in HMO enrollment over the last year. A number of new legislative steps are necessary to encourage HMO development, assure their financial independence, improve the capacity of HEW to administer the program effectively, and insure that HMO's will not be abused by health care profiteers. It is for this reason that Senator KENNEDY and I introduced S. 2534, which will couple an extension of HMO program authorizations with a number of new provisions necessary to improve the HMO program and allow HMO's to enter a new stage of development.

Specifically, S. 2534, as amended and reported unanimously by the Human Resources Committee, would do the following:

First. Extend the authorizations of appropriations for HMO feasibility, planning, and initial development grants and contracts.

Second. Increase the maximum dollar limit for initial development project grants, contracts, and loan guarantees from $1 to $2 million.

Third. Increase the aggregate dollar limit for HMO initial operating loans and guarantees from $2.5 to $5 million and increase the amount of operating loans which could be disbursed to an HMO in any 1 year from $1 to $2 million.

Fourth. Add a new authority for loans and loan guarantees to assist in the costs of equipping, consulting, acquiring, or renovating ambulatory care facilities for HMO's and entities intending to become HMO's.

Fifth. Extend the authority for initial operating loans and loan guarantees.

Sixth. Expand the purposes for which assistance for initial development projects may be made to include improvement of services.

Seventh. Authorize narrow limitations and exclusions with respect to benefits required to be provided by HMO's in order to obtain Federal qualification. Such limitations and exclusions would have to be approved by the Secretary and could apply only to: first, services that the HMO cannot deliver because of natural disasters, war, or insurrection; second, financial liability for care for illness, injury, or conditions covered by a workmen's compensation statute; or third, unusual and infrequent medical services or procedures not necessary to protect the health of the member.

Eighth. Clarify provisions in existing law with regard to limitations on contracting for health services outside the HMO. As amended, these limitations would apply only to physicians' services and not to all health professional services.

Ninth. Clarify provisions in existing law with regard to reimbursement for emergency medical services. As amended, these provisions would specify that HMO members will be reimbursed by the HMO for expenses incurred in securing emergency health services not provided by the HMO only if it was medically necessary that these services be provided before the member could secure them through the HMO.

Tenth. Require each employer subject to the dual choice provisions of section 1310 to arrange for the deduction of HMO membership payments from an employee's salary, provided the employee consents.

Eleventh. Establish a national health maintenance organization intern program for the purpose of training qualified HMO administrators and managerial personnel. The Secretary would be authorized to award payments for individuals receiving training in the internship program in amounts up to $2,000 a month, per individual, for a maximum of 1 year of training, and also to reimburse HMO's or other entities for costs incurred in training interns.

Twelfth. Add reporting and disclosure requirements with regard to financial information concerning HMO's so as to trigger HEW monitoring of self-dealing situations. The Secretary would conduct an evaluation of reported transactions between HMO's and parties-in-interest for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the HMO.

Thirteenth. Repeal provisions of existing law which require that the qualification and compliance activities of the HMO program be administered in the Office of the Assistant Secretary for Health.

Fourteenth. Authorize the Secretary to make grants and contracts for the provision of technical assistance to HMO's.

Fifteenth. Amend the health planning law to require that State certificate-of-need laws cover services, facilities, equipment, and organization of HMO's no more restrictively than fee-for-service providers. Certain specified criteria would be applied to evaluation of CON applications for the purchase of expensive equipment and acquisition of inpatient hospital facilities by qualified HMO's.

Mr. President, certain features of our bill warrant special mention. One of the primary considerations we had in the development of S. 2534 was the perplexing matter of isolated incidents of abuse in medicaid-related prepaid health plans. These incidents were brought to light in 1975 by the Investigations Subcommittee on the Government Affairs Committee. The authors of S. 2534 were seriously

concerned that these occurrences could jeopardize the viability of the HMO concept. While the 1976 HMO amendments responded to these problems by requiring that any HMO receiving medicare or medicaid moneys be federally qualified, we attempted to draft even stronger financial disclosure provisions to insure that such problems would not recur. Section 10 of S. 2534, containing detailed reporting requirements, as well as mandates on HEW to review the information collected, is the result of these efforts. We think it will be an important and effective tool for preventing further abuse.

In addition, the Subcommittee on Health and Scientific Research has devoted a considerable amount of time, particularly in its hearings on March 3, 1978, toward assuring itself that HEW is moving ahead steadily with plans for improved compliance procedures.

I have communicated with Secretary Califano on this matter and have met personally with the director of the new HMO office in order to be sure that rapid progress was being made. I can report to my colleagues that HEW's blueprint for improvements in administration of the HMO program is both impressive and promising.

Regarding S. 2534's new provisions for HMO's under the planning act, I would like to emphasize that under current law health maintenance organizations are subject to certificate-of-need requirements for virtually all phases of their operation. The activities of fee-for-service physicians, on the other hand, are seldom covered by CON laws. The thrust of section II of S. 2534 is to place HMO's on an equal footing with the fee-for-service system and to insure that past discrimination against HMO's by provider-dominated HSA's will not continue. Our committee received substantial evidence of a number of instances where legitimate HMO development was interfered with by misunderstandings of the HMO concept and apparent bias against HMO's at the HSA level.

While these changes in the Planning Act are contained in both S. 2534 and S. 2410, the Health Planning Act Amendments, Senator KENNEDY and I will propose, through an amendment at the appropriate time, that their consideration be postponed until S. 2410 is debated by the Senate in the near future. It should be emphasized that this postponement is suggested only for purposes of scheduling convenience and in no way reflects a judgment on the merits of the provisions themselves.

Mr. President, one provision of the bill I am particularly enthusiastic about is the authority for an HMO management training program in section 9. In testimony before the subcommittee, the General Accounting Office singled out a lack of qualified management personnel as a major impediment to HMO growth and as one of the most common reasons for financial difficulties among developing HMO's. To respond to this need, the bill would establish an HEW-administered training program. Under current projections this would allow the training of up to 70 candidates per year for a maximum 1 year each. In addition, HMO's could be compensated for expenses incurred in providing such training, such as salaries, administrative expenses, curriculum development, and related costs.

Mr. President, the 5-year extensions of authorizations contained in the committee bill were based on moderate estimates of future HMO expansion. The committee was impressed by the cost saving potential of HMO's and believes authorizations for HMO's is money well spent. In this regard, it should be noted that the $26 million in Government money that went into HMO's in 1978 will save the health care system $32 million in that year alone.

While committee testimony and other contact with the HMO Office convinced us that HEW intends to implement an effective program with appropriate safeguards, we recognize that past difficulties in the HMO program may require additional progress before longer and higher authorizations for this money-saving program are enacted. At the appropriate time, therefore, Senators KENNEDY, NUNN, and I will offer an amendment to the bill extending the program for 3 years at levels of $35 million in 1979, $65 million in 1980, and $70 million in 1981. These levels are the product of fruitful discussions with Senator NUNN and other colleagues, in which Senator KENNEDY and I renewed our pledge to maintain our vigilance over progress made by this important health care program. We will also offer amendments to:

First, penalize the making of false statements pursuant to the bill's new disclosure provisions;

Second, prohibit enrollment of HMO membership in an enrollee's home;

Third, condition higher loan amounts during fiscal 1979 on a specific finding by the Secretary that new assistance will preserve an HMO's fiscal solvency; and

Fourth, require a GAO evaluation of the HMO program at HEW within 1 year.

Finally, Mr. President, I would like to commend Senator KENNEDY for his invaluable contributions to the HMO movement and to this particular piece of legislation. I would also like to thank Senator JAVITS for his help and support and also our 10 cosponsors for their contributions and support during the development of this legislation. Senator NUNN also deserves both credit and praise for his diligent efforts to improve the administration of the HMO program and eliminate abuse of this promising health care reform. I look forward to his continued cooperation in this regard.

Finally, Mr. President, I would like to express renewed enthusiasm for the great contribution HMO's can make to the future of health care in this country. I urge my colleagues to join with us in the support of this promising cost-saving reform.

Mr. President, I retain the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. RIEGLE). The Senator from Massachusetts.

Mr. SCHWEIKER. If the Senator will yield, Mr. President, I ask unanimous consent that David Main and Robert Rubin of my staff, Barbara Green and Spencer Johnson of Senator JAVITS' staff, Fran Paris of Senator CHAFEE's staff, Ginny Eby of Senator HAYAKAWA's staff, Bob Hunter of Senator HATCH's staff, and Mary Block of Senator STAFFORD's staff, be granted privilege of the floor during consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following persons have the privilege of the floor: Dr. Larry Horowitz, Dr. David Blumenthal, Dr. Stuart Shapiro, Sister Rosemary Donnelly, Mr. Peter Harris, Becky Beauregard, and Mr. Robert Wenger.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself such time as I may require.

Mr. President, I urge the Senate to give favorable consideration to S. 2534, the Health Maintenance Organization Act Amendments of 1978. This legislation would extend programs which support and monitor the development of Health Maintenance Organizations throughout the United States. The legislation was reported unanimously by the Committee on Human Resources. It is supported by the administration, by the Group Health Association of America, by the Blue Cross/Blue Shield organizations, by the Health Insurance Association of America, by organized labor, and by a number of other groups. It was drafted in close cooperation with the General Accounting Office and the administration. I think S. 2534 deserves the overwhelming support of this body.

Mr. President, few health programs in recent times hold more promise for improving the quality of health care in this country or for controlling costs of our medical care system. The virtues of HMO's are well-known to many of my colleagues, but let me just summarize some of the more salient illustrations of the achievements of HMO's.

First, HMO's have time and time again demonstrated their ability to reduce the cost of delivering health care. On average, it costs 10 to 40 percent less to care for the members of HMO's than it does for patients in the fee-for-service system. HMO's achieve these cost savings primarily by cutting hospital utilization by anywhere from 30 to 60 percent.

Second, health maintenance organizations deliver health care of superior quality. All federally qualified HMO's are required to have quality assurance mechanisms. These quality assurance systems are at least as good as, and usually superior to, quality assurance mechanisms in the fee-for-service sector.

Third, health maintenance organizations offer ideal settings for experimen-

tation with innovative methods of health care delivery. They have built-in peer review, they have experimented with the use of allied health personnel, the use of physician extenders, nurse practitioners, and medexes. They have an impressive record of substituting outpatient care for more expensive inpatient care.

Fourth, and perhaps most important, by offering care of good quality at lower cost, HMO's inject an essential element of competition into the traditional fee-for-service sector. They, thus, offer the promise of containing costs through the free working of the marketplace, rather than through regulation. As a matter of fact, there is already preliminary evidence of the competitive effect of HMO's. A recent report by the Federal Trade Commission points out that in communities with HMO's insurance companies are sometimes forced to expand benefits or reduce premiums in order to stay competitive with health maintenance organizations.

When the HMO Act was passed in 1973, many observers still considered the HMO concept experimental. Since that time, almost 60 HMO's have been qualified under the Federal HMO program. Total HMO membership has grown from 3.5 million to 6.2 million. Total HMO membership in qualified HMO's is now 4.1 million. A total of 165 HMO projects are now funded annually by the Federal Government.

With the added experience of the last 6 years, I think, Mr. President, that the advantages and virtues of HMO's have been proven. I think it is also clear that HMO's have earned a permanent place in our health care system as alternatives to the prevailing fee-for-service system.

Last year, Mr. President, the 3,500,000 enrollees in federally qualified HMO's saved $262 to $315 million in health care costs. If 25 percent of the Nation were enrolled in HMO's, as they are in some areas, hospital expenditures would be reduced by $4 to $6 billion per year. Perhaps the most telling statistic on potential HMO cost-saving, Mr. President, is the fact that the Nation saves more money by subsidizing HMO's than it expends for those subsidies. In fiscal 1978, for example, patients enrolled in federally subsidized health maintenance organizations saved $6 million more in health care costs than the HMO budget of the Federal Government.

The Health Maintenance Organization Act Amendments of 1978, S. 2534, would continue and reinforce the positive aspects of our Federal HMO program while providing authority to correct documented deficiencies. Before proceeding to describe these amendments in detail, Mr. President, I would like to make a few comments to set my forthcoming discussion in perspective.

First, I think there are widespread misperceptions of the management of the Federal HMO program. It is true that GAO has been critical of the administration of the Federal HMO effort, and I want to make it clear that I, as chairman of the Subcommittee on Health and Scientific Research, have repeatedly taken the Department to task for administrative failings.

Nevertheless, HEW has now launched an aggressive and promising effort to meet criticisms of their management of the HMO program. Taking note of this administrative reform, the GAO commented in its June 30 reports:

HEW has fomulated plans for, and is taking steps to, implement the changes the GAO believes are needed.

Some of these steps include the following:

First, HEW has reorganized the HMO office into six administrative subunits and hired a new Director and Deputy Director.

Second, the Department has obtained from Congress 37 new positions for the HMO program, 23 of which will be used for monitoring HMO compliance with the requirements for qualification.

Third, for the first time in the program's history, HEW has notified four HMO's that their qualifications status is in jeopardy, because of noncompliance with qualification requirements.

Finally, HEW has published in the Federal Register a detailed new program for monitoring the financial status of federally subsidized HMO's and the quality of care they provide. The hearings on this proposed program have already been held.

We believe these initiatives are evidence that the Department is moving to deal with past inadequacies in program administration. The success of the administration's new program is critical to the growth of the HMO movement.

As chairman of the Subcommittee on Health and Scientific Research, I want to make it clear that we will continue to monitor with the utmost vigilance the management of the HMO program.

Mr. President, I also want to make several points on the question of fraud and abuse in prepaid health plans on HMO's. I fully support an open and thorough airing of any charges of fraud and abuse in the HMO program. As chairman of the Subcommittee on Health and Scientific Research, my concern about fraud and abuse in the HMO movement goes back to the inception of the Federal program. We began investigations as far back as 1972 on abuses in the prepaid health program in California.

For example, the subcommittee staff conducted a case study of certain prepaid health care organizations in California. We examined the effectiveness of quality controls in these organizations. As part of that study, we made a detailed inquiry into medical and financial aspects of a number of hospitals and clinics operated by a Los Angeles physician.

In that inquiry, we discovered that the physician opened his first clinic in 1964 and subsequently expanded his operation to the point where he had an interest in nine medical clinics and six hospitals. This expansion increased his gross annual income from $187,000 in 1965 to $18 million in 1970.

We found that two of the six hospitals had not been accredited by the joint commission on the accreditation of hospitals and only one had been approved by the California Medical Association's medical staff survey. The others were found by the survey team to have serious deficiencies, including unjustified and prolonged hospitalization of patients, unnecessary X-rays and lab tests, inadequate medical records, the use of unlicensed doctors, and generally substandard medical care.

Our investigation also indicated that these institutions engaged in widespread double billing resulting in overpayments by insurers of $250.000 and substantial questionable payments to individuals and organizations, some of which were inappropriately reimbursed by insuring institutions.

The results of this staff study, which was subsequently turned over to the Department of Justice for consideration of possible prosecution, demonstrated graphically the kind of abuses that can and have occurred in connection with prepaid health care programs.

The subcommitee has approached the potential abuses of prepaid plans from another tack as well. In our early hearings about health maintenance organizations, their advantages and disadvantages, we were alerted to the importance of monitoring the quality of care provided by prepaid plans. While the fee-for-service system provides incentives to abuse patients through overutilizing health care services the HMO may offer incentives to underutilize care. We saw the need to make sure that the quality of care in HMO's was monitored.

As a result of these hearings, we tried to build strong quality controls into our initial HMO legislation. Our original legislation, which passed the Senate in May 1973, contained provisions for a National Commission on Quality Health Care Assurance. This Commission would have provided guidance for HMO's and the fee-for-service on appropriate methods for caring for various medical conditions.

With respect to that panel, we were interested in developing the kind of information and data for inputs and outputs in terms of lab tests, hospitalization, surgical procedures. We would be able to collect that information. It would be available, within the medical profession, to find out what particular services are being overutilized, what particular hospitals are keeping patients in for a longer period of time.

The purpose of that amendment was to be able to collect that information. It was strongly opposed by the American Medical Association and by a number of Members of the Senate, and it was opposed strongly by the House of Representatives.

It is a tragedy, Mr. President. We want to try to get information with respect to abuses, with respect to overutilization. Whether you are talking about drugs or medical procedures or time in hospitals.

This provision was dropped in conference and alternative quality controls were adopted. These required that every qualified HMO have a program for quality assurance. The law specified that this program stress health outcomes, and that it provide for reviews of the HMO's medical care processes. The law also required that every HMO have a grievance

procedure. In addition, the Health Maintenance Organization Act of 1973 contained provisions for a major study aimed at perfecting mechanisms for assuring the quality of health care provided by HMO's and other entities. Despite repeated prodding from our subcommittee, this study was never undertaken by the previous administration.

In addition to our own investigations, and in addition to these protections in law, we went a step further in trying to safeguard the HMO program against fraud and abuse. We asked the GAO to follow in the closest possible fashion the implementation of the HMO law and the progress of individual HMO's funded by the Federal Government. We asked the GAO to look at the effectiveness of HEW's administration, and we asked them to evaluate individually one-half of all HMO's qualified by December 1976. The GAO has delivered to our committee major assessments of the HMO program in May 1974, September 1976, and most recently, June 30, 1978. The GAO has worked with us day in and day out on the problems raised in their investigations.

As a matter of fact their input was essential in crafting the very comprehensive fraud and abuse provisions contained in S. 2534 as reported from committee. Those provisions, in our opinion, and the opinion of the GAO will go a long way toward preventing among federally qualified HMO's the kind of abuses which occurred among prepaid health plans in California.

Section 10 of S. 2534 requires qualified HMO's to disclose any transactions that may have an adverse effect on the fiscal soundness of the HMO or the reasonableness of rates, when such transactions occur between an HMO and a party in interest. This disclosure requirement will bring immediately to light any self-dealing relationships which may work to the detriment of the HMO or its patients. Abusive self-dealing has been a central concern of GAO and of other investigations of the California situation. We require the Secretary to evaluate any potentially suspect transactions, and to report to Congress on his disposition of these cases, including any actions with respect to dequalifying the HMO's in question.

With the cooperation of Senator NUNN, we are moving to strengthen these provisions even further, in ways I will shortly describe.

Mr. President, I want to repeat my assurances that the subcommittee has been vigilant on the question of fraud and abuse, that we have taken action to prevent it, and that we will remain vigilant in the future. We take a back seat to no one on this issue. If there is evidence of abuses, that evidence must be sifted, analysed, and weighed. We must not hastily tar the entire HMO movement with a broad brush because of abuses which may be confined to a few programs. At the same time, we must move firmly and decisively to root out any documented fraud and abuse.

Let me proceed now, Mr. President, to describe the provisions of S. 2534 and of certain amendments which are being proposed to the legislation as reported from committee.

First, Mr. President, I would like to note that since the subcommittee completed its legislative work on S. 2534, some important new information about the HMO program has come to light. I refer to the General Accounting Office's report of June 30, 1978 and the report of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee.

I think both Senator NUNN and the Comptroller deserve a great deal of credit for the diligent and thorough work they have done in preparing these documents. They have been of great help to the committee in refining S. 2534.

Mr. President, the provisions of S. 2534 and on-going administrative reforms in HEW will go a long way toward redressing the real and important problems noted in the reports to which I have just referred. Nevertheless, these documents cite difficulties in the management of the HMO program that indicate the need for Congress to continue to close and careful oversight of the Federal HMO program. To facilitate that oversight, Senator NUNN proposes certain amendments to S. 2534 as reported from committee.

These proposals will add significantly to the committee bill, and at this point, I would like particularly to express to Senator NUNN my gratitude for the help and the leadership he has provided crafting these proposals. I am pleased to cosponsor them.

First, these amendments propose to reduce the extension of current funding authorities from the 5 years contained in S. 2534 as reported to 3 years. This will encourage an early, full-scale review of the HMO program and HEW's attempts to address program problems.

Second, Senator NUNN proposes reducing the grant authorities in S. 2534 as reported from $400 million to $170 million. This is the minimum amount needed over the next 3 years to maintain the program at its current pace, and to prevent HEW from defaulting on existing commitments to infant HMO's.

Third, we are asking GAO to report to the Committee on Human Resources within 1 year on the administration's progress in implementing recommendations in their report and the report of the Permanent Subcommittee on Investigations.

Fourth, the amendments provide additional steps to tighten the fraud and abuse controls already contained in S. 2534. These added provisions would incorporate some recommendations of the Permanent Subcommittee on Investigations not already contained in S. 2534.

In particular, we are adding certain restrictions on the use of door-to-door solicitation by HMO's for new members, and certain penalties for failure to accurately disclose financial transactions where such disclosures are required by law.

In addition, we propose a few additional changes in S. 2534 as reported. The most important of these is a provision which would delay until 1980 the effective date of new maximum limits on grants and loans available to HMO's. S. 2534 raises maximum loans from $2.5 million to $5 million for a single HMO, and maximum grants for initial and continuing development from $1 to $2 million. However, to give HEW time to work out administrative problems relevant to the management of their grant and loan programs, we are postponing the effective date of these increases for 1 year. This is consistent with GAO's criticisms of the loan program as currently administered by HEW.

We recognize that some HMO's desperately need additional funds to maintain their fiscal soundness and to prevent fiscal insolvency. To provide for that problem, we allow the Secretary to waive current maximum loan limits in 1979. We do not want any potentially viable HMO's to go bankrupt in 1979 because additional and deserved funds are not available.

Mr. President, I would like to go on now to describe in some detail the provisions of S. 2534 as amended.

First, as I have noted, sections 4(b) and 8 of the bill would extend existing authorizations for the Federal HMO program for 3 years. Feasibility and planning grant authorizations would then expire in 198—, development grant authorizations in 198—, and initial operating loan authorities in 198—. Maximum allowable grants to an HMO for initial development would be raised from $1 million to $2 million. For initial operating loans the limit would be raised from $2.5 million per HMO to $5 million per HMO. Total authorizations for the HMO program as a whole would be $35 million in 1979 and be raised to $65 million in 1980 and $70 million in 1981.

A second important new provision of S. 2534 would establish a National HMO Management Intern program. Testimony before the Subcommittee on Health and Scientific Research confirmed that a lack of qualified management personnel has been a major impediment to HMO growth. The General Accounting Office singled out this shortcoming as one of the most common reasons for financial difficulties among developing HMO's.

To respond to this need, the bill would establish a 3 year authorization for an HEW-administered HMO management training program. Under current projections, this would allow the training of up to 70 candidates per year for a maximum 1 year each.

Another key provision of S. 2534 are financial disclosure provisions contained in section 10 of the legislation. We devoted a great deal of time and effort to developing antifraud and abuse provisions which, in concert with those contained in the 1976 amendments, would be aimed at preventing abuses of the program without stifling the development of a promising health care reform. Section 10 of S. 2534 was drafted in close cooperation with the General Accounting Office and the Department of Health, Education, and Welfare, and was supported by GAO witnesses in testimony before the Subcommittee on Health and Scientific Research. Rather than simply prohibit certain classes of transactions, section 10 requires disclosure of suspect, or poten-

tially abusive, transactions and evaluation of those transactions by HEW. Despite extensive study, the committee was unable to isolate clearly definable categories of transactions which were so consistently abusive or fraudulent as to warrant outright prohibition. Indeed, transactions with related organizations may, in certain situations, result in economic efficiencies that are beneficial to the HMO and its enrollees, rather than fraudulent or abusive. The committee believes that the nature of the fraud and abuse problem in the highly variable and still-experimental HMO arena requires a careful screening of potential conflicts of interest for their adverse affect on HMO's, rather than categorical prohibitions or detailed requirements for HMO management.

S. 2534 also provides for certain limited secretarial discretion in determining benefit packages HMO's must offer. Under current law, HMO's must provide basic and supplemental health services "without limitations as to time or cost" in order to obtain Federal qualification. (Section 1301(b)). This language has resulted in extremely narrow qualification rulings that have restricted HMO development. The committee feels that a limited amount of secretarial discretion in the areas identified in section 5 of the bill would not jeopardize the original act's mandate to provide basic and supplemental health services.

Another key provision of S. 2534 provides for the first time for construction loans and loan guarantees to HMO's for ambulatory care facilities. Existing law does not allow Federal assistance to be used for construction of facilities. The bill would allow HMO's to receive loans or loan guarantees of up to $2.5 million, out of the existing loan fund established under section 1308 of the act, for the construction of ambulatory care facilities.

One of the most important cost saving features of health maintenance organizations is their emphasis on the use of ambulatory, rather than inpatient facilities. In addition, developing HMO's must make timely plans to accommodate membership increases. However, even the more successful new and developing HMO's are frequently unable to obtain the funding necessary to acquire such facilities because they often lack the equity base and financial history to attract capital from the private financial community. We believe that additional Federal loans in this area would enhance the cost saving potential of many new HMO's, thus strengthening their long-range financial viability.

In order to insure efficient use of these Federal funds, however, the bill contains strict criteria for their allocation. In order to obtain assistance under this section, an HMO would have to demonstrate continued fiscal soundness in accordance with previously established development schedules. Under existing law, HEW has developed detailed criteria for measuring fiscal soundness and should utilize such criteria in the administration of the provision.

S. 2534 has additional provisions which allow HMO's to receive grant support for continuing development activities. Under existing law, HMO's cannot receive grant money once they become operational, except for "significant expansion." Qualified HMO's are eligible only for initial operating loans or guarantees. The bill would allow HMO's to receive grant and loan money for continued development after they become operational and qualified, but only to the extent that they had not used all of the feasibility, development, and planning grant funds to which they were entitled prior to qualification.

Existing law presupposes that HMO "development" ceases when an HMO becomes operational and qualified and thus terminates development fund eligibility at that point (except for "significant expansion"). However, experience has shown that many HMO's must continue the development process after they become operational and qualified—for example, to acquire facilities to improve services and enhance financial viability.

Under existing law, an HMO may be denied needed assistance where its membership has increased in a manner which necessitates improvement of existing services. A typical example would be where the HMO is initially so small that it is economically more feasible to contract out for services which it would prefer to provide in-house and which, if developed prior to qualification, would be a legitimate initial development expense. In such cases, the developing, qualified HMO is faced with two unreasonable alternatives. It can either postpone qualification or overdevelop a service prior to qualification. Either course is unnecessary and counterproductive. HMO's should qualify when they can meet the qualification requirements but should not be penalized by losing entitlement to the full developmental amount. Their initial developmental needs grow with their initial membership and they should have the initial development assistance available when needed.

S. 2534 also contains proposed amendments to the health planning law—amendments also contained in S. 2410—designed to reduce discrimination against HMO's under the planning act.

Under existing provisions of the Health Planning Act, health maintenance organizations are subject to certificate-of-need requirements for virtually all phases of their operation. The activities of fee-for-service physicians, on the other hand, are seldom covered by CON laws.

The committee views with great concern a growing body of evidence that the planning process has seriously handicapped HMO development. Among the original purposes of the Health Planning Act was the encouragement of cost containment in the fee-for-service system through more efficient allocation and management of health care resources. In contrast to the fee-for-service system, health maintenance organizations contain internal cost containment incentives and have proved their ability to reduce health care costs. Despite this exceptional capacity to serve the overall goals of the planning process when allowed to operate properly, testimony before the committee revealed repeated instances of misunderstanding of the HMO concept and discrimination against HMO certificate-of-need applications at the HSA and State Agency levels. This evidence indicates that HMO's, because they compete with the fee-for-service system, are frequently given unobjective appraisals of CON applications by provider-dominated HSA's. This situation is particularly serious since HMO's are usually new entrants into an area and do not enjoy the presumptions benefiting the status quo under the planning process.

While it was clear to the committee that this situation required remedy, the members were concerned that the exemptions from CON contained in the original version of S. 2534 might intrude upon legitimate State prerogatives and give HMO's too great an advantage over fee-for-service physicians. Section 11 of the committee amendments represents a carefully tailored balance of these competing considerations.

Section 11 requires that State certificate-of-need laws cover HMO's no more restrictively than fee-for-service providers. States would also be required to cover the inpatient hospital facilities of both qualified and nonqualified HMO's. In order to insure fair appraisal of HMO certificate-of-need applications, however. the bill sets forth certain limited criteria that must be used in processing qualified HMO's applications for the purchase of equipment costing more than $150,000 and for new inpatient hospital facilities. It should be emphasized that these criteria are to be the sole criteria utilized in processing such applications.

Mr. President, S. 2534 contains a number of other provisions, both substantive and technical in nature, on which I will not now elaborate in order to facilitate consideration of the legislation.

I recognize the very special interest that my colleague and friend, Senator SCHWEIKER, has shown in this particular program. We passed a good bill here in the Senate. The HMO concept was strongly and warmly endorsed by President Nixon's administration, by the then Secretary of HEW, Elliot Richardson, but we faced very, very strong opposition to the program and the initiation of the program.

We were eventually able to get the House of Representatives to move on what they considered to be a pilot program for the development of HMO's.

We have seen some areas where there have been abuses, and we welcome working closely with Senator NUNN and members of his committee in trying to insure that the provisions of this bill will deal effectively with fraud and abuse. Unless we are going to be serious about rooting out, as we should be, any abuses, HMOs will never really be able to serve as an alternative delivery system for the fee-for-service system. The benefits of HMO's can improve the quality of health care for the American people and do it in a way that provides a sense of competition which will be an important factor in moderating the dramatic increase in health care costs.

The Senator from Pennsylvania has been tireless in the pursuit of these goals

and his work in the fashioning of this legislation is well recognized by all of us on the Labor Committee, and I think all of us are very grateful for the leadership that he has provided in bringing this legislation to where we are today.

Before concluding, the President, I want also to thank staffs for their efforts in perfecting S. 2534. In particular, I want to single out Mr. David Main of Senator SCHWEIKER's staff, Mr. David Vienna and Ms. Cheryl Davis of the Permanent Investigations Committee staff, and Mr. David Blumenthal, of my staff.

● Mr. WILLIAMS. Mr. President, I am pleased to be able to join with Senators KENNEDY, SCHWEIKER, NUNN, and others in cosponsoring this amendment to S. 2534, the Health Maintenance Organization Amendments of 1978.

As unanimously reported by the Committee in Human Resources, the provisions of S. 2534 were designed to strengthen the existing Federal HMO law and to assure the careful expansion of the Federal program. Essential provisions were included to improve program management and prevent fraud and abuse.

Since our committee completed its deliberations on S. 2534, additional information regarding Federal HMO activities has been presented to the Congress. And while I am confident that the administrative reforms now being initiated by the Department of Health, Education, and Welfare will address the problems recently raised by the General Accounting Office and others, the Congress must continue its close oversight over the program. To facilitate that oversight, I am supporting the four modifications to S. 2534 contained in this amendment.

First, the extension of the current funding authorities in S. 2534 would be reduced from 5 to 3 years.

Second, in corresponding to this reduction in the number of years for which the program would be authorized, the total grant authority would be reduced from $400 million to $170 million.

Third, new provisions would be added to make the bill's disclosure provisions more consistent with our medicare and medicaid fraud and abuse laws.

And finally, the General Accounting Office would be required to conduct for the Congress an evaluation of the Department of Health, Education, and Welfare's administration of the HMO program within 1 year.

These modifications to S. 2534 are intended to guarantee the stimulation of HMO development. They respond to the concern of many Members of the Senate that careful monitoring of HMO growth is needed to assure steady acceptance of the HMO concept as an alternative to fee-for-service health care. Though often criticized, the fee-for-service approach to health care delivery and financing is well established. Certainly the stimulation of alternative approaches should be considered at the Federal level.

Those of us who have long believed in the HMO concept have every reason to be encouraged. The debate on cost containment has convinced many people that structual reform in the health care delivery system must come through positive incentives. HMO's are one type of incentive-based reform that will make the system more self-regulating with a minimum of Government oversight. We know that they can cut the costs of health care by 10 to 40 percent. We know that all federally qualified HMO's have quality assurance systems that are at least as good as, and usually better than, those in the fee-for-service sector.

We know that they offer real hope for badly needed competition in the health care industry. The amendment we are offering is to make the HMO concept stronger than ever. I urge my colleagues to vote for this important measure as amended.●

UP AMENDMENT NO. 1456

(Purpose: To strike section relating to Health Planning Amendments)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. SCHWEIKER proposes unprinted amendment numbered 1456.

On page 30, beginning with line 18 strike all through page 33, line 16.

On page 33, line 18, strike "12" and insert in lieu thereof "11".

Mr. KENNEDY. Mr. President, this amendment is offered in behalf of myself and Senator SCHWEIKER.

The reason for deleting these provisions is that these provisions relate to the planning law, amend that law and are contained in their entirety in S. 2410 which the Senate will hopefully debate next week. The planning amendments are more germane to the consideration of S. 2410. Deleting them from this law will prevent the Senate from having to consider these provisions two times.

It seems to me to make sense to take this step. We have communicated with the Members of the Senate who have intended to offer amendments on those particular provisions, and it is agreeable to those Members. We will certainly have full notice for those Members to be able to address those issues in the planning act.

I believe that that procedure is acceptable to the members of the committee and to those concerned most about those provisions.

I move the adoption of the amendment.

I yield back the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Does the Senator yield?

Mr. KENNEDY. Could we dispose of this?

Mr. HATCH. It is on this particular point.

Mr. SCHWEIKER. Mr. President, I yield 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 3 minutes.

Mr. HATCH. I thank the distinguished Senator from Pennsylvania.

Mr. President, I am pleased to cosponsor the Nunn-Dole compromise which will be offered shortly on the HMO legislation because I believe it to be a responsible plan which stimulates the development of HMO's under reasonable conditions with realistic funding levels. It is an important public policy decision we make here today to assist a health system which may well improve the delivery of medical care to our people, with cost savings and without a sacrifice of the quality of that care.

Unfortunately, the bill in its present form does not resolve my concerns as well as those of Senator HUDDLESTON and others relative to the issue of whether States will continue to be protected in exercising their options to formulate certificate of need requirements under the health planning law.

This bill, until modified by its sponsors to delete this subject matter in its entirety, which is a wise and prudent action because not germane to this bill, sought to make what I believe are improper regulatory inroads into the private ambulatory health care setting by subjecting individual physician's offices, and indeed all private care facilities, to certificate of need requirements for their major medical equipment purchases—a matter which is most disturbing if for no other reason that it is again attempting to reverse a State trend and a State option. Our proposed amendment, No. 3099, which is now made moot by the action of the floor managers, would have preserved the current State CON laws, as their individual State legislatures have so determined, to include under, or exclude from, CON requirements any providers of ambulatory health care or HMOs as they see fit—the alternative under the committee bill having been to prohibit HMO coverage unless all other licensed providers of health care were brought in also.

Our amendment is totally in keeping with the thrust of Public Law 93–641, which is to encourage and promote the design and implementation of health planning policy to the States which are best able to formulate decisions like those pertaining to CON laws.

That being the case, Senator HUDDLESTON and I would like to serve notice that we intend to offer amendment No. 3098 to S. 2410, the Health Planning amendments of 1978. We feel that S. 2410 provides us with the opportunity to deal directly with this issue in a straightforward and constructive manner. Regardless of each Senator's attitude on the relative merit or demerit of the CON concept, amendment No. 3098 offers us a chance to decide whether the rights of his respective State will be protected and the local character of our original health planning law preserved. We will have a good deal more to say on this subject when the Senate considers S. 2410.

We welcome the opportunity to strengthen the health planning bill by offering this amendment and hope that our colleagues will support us in our endeavor.

I thank the Chair.

Mr. SCHWEIKER. Mr. President, I strongly support the statements of the Senator from Massachusetts. I am a cosponsor of the amendment, and I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield about 7 minutes on the bill?

Mr. KENNEDY. I yield 7 minutes on the bill.

Mr. BUMPERS. It may take as long as 10.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mr. KENNEDY. Mr. President, I yield whatever time the Senator needs.

Mr. BUMPERS. I thank the Senator.

Mr. President, in 1976 Americans spent nearly $140 billion on health care. That is $640 apiece or more than $2,500 for every family of four.

Health care in all of its forms increased to more than $1 in $12 of our gross national product, and by 1980, according to Government estimates, the figure will exceed $1 in $10.

If we are to reverse the structural deficiencies of the present health delivery system, then we must have a system under which consumers and providers have incentives to control health care costs. These health incentives are found in health maintenance organizations.

HMO's are technically comprehensive prepaid" plans; comprehensive because they provide care both in and out of the hospital; prepaid because the subscriber or his employer pays a flat annual fee regardless of whether he merely sees his doctor for an annual checkup or goes to the hospital for open heart surgery. For HMO's it is not a case of the more they spend the more they get, but like businesses the more they spend the less they have left.

This means, among other things, that HMO's have a powerful incentive to use hospitalization, by far the costliest form of care, as little as possible.

The advantages of this type of health delivery system have been outlined at length in the Senate during the consideration of the HMO Act of 1973 and the HMO Amendments of 1976.

The support for HMO's is based on several assumptions about their differences from the traditional fee-for-service system:

First, lower hospital utilization and, consequently lower costs; Second, continuity of health care rather than fragmentation; Third, emphasis on prevention, early detection and treatment rather than on acute care; fourth greater accessibility to primary medical care; and fifth, greater satisfaction with the medical care received.

These differences are said to result from the unique organization and financial arrangements of HMO's. Studies show that HMO's reduce hospital utilization by as much as 30 to 60 percent.

Mr. President, I want to repeat that: Studies show that HMO's utilize hospitals by 30 to 60 percent less than all other forms of hospital care.

The biggest and best known HMO, the Kaiser-Permanente care program——

Mr. KENNEDY. Mr. President, will the Senator yield at that point?

Mr. BUMPERS. I would be happy to.

Mr. KENNEDY. Are not hospital costs responsible for 40 to 60 percent of the increase in health care costs? The Senator wisely points out that if we are really serious about health care costs, this is the kind of track record we should be encouraging. Yet, as the Senator well understands, we are talking about maybe 3 percent of the American people covered by this program, and even our proposed funding is basically a drop in the bucket. I think it is important that, as the Senator mentions, that we begin to recognize the fuel potential of HMO's and where they can lead in the future both on the cost issue, which everybody is so sensitive about today and in terms of the quality issue. The results are very similar. But I welcome the point of the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator. The point is certainly well taken.

The 30 to 60 percent lower hospitalization utilization by HMO's, of course, is reflected very dramatically in the Kaiser-Permanente system, by far, the biggest in the country, where actually their hospitalization utilization is 65 percent less than the national average.

Utilization data continued to show reductions in the rate of inpatient care which approach the 50-percent level.

Mr. KENNEDY. Mr. President, will the Senator just yield at that point?

Mr. BUMPERS. Certainly.

Mr. KENNEDY. It is pointed out by some of the critics of those statistics that actually the Kaiser program is directed toward a special population group who are generally the healthier people in our society. But the fact remains that you get similar kinds of savings even with medicaid patients when they are included in a number of the HMO's. It is not quite as dramatic, but the experience is still well maintained. There are those who will try to take the Senator's statistics on that and try to say, "Well, it really is not applying to the general population." But the statistics, even for the poorest people who have been enrolled in the programs through various other kinds of both State, local, and Federal support, are very, very close to those.

I think these are overwhelming statistics and they need repeating here in the Senate.

Mr. BUMPERS. I am pleased the Senator pointed that out, because that is always the classic argument that you are dealing with a healthier society and that is the reason for these figures.

But the more detailed studies indicate otherwise. For example, in inpatient hospitalization the rate last year for all federally certified HMO's, that is, as of September 30, 1977, was 529 days per 1,000 members. That compares to a national yearly average of 1,022 days per 1,000 persons.

Well, the implications for public and private health expenditures are substantial. For example, for every 1 percent that hospitalization could have been reduced last year there would have been a savings of $320 million. Mr. President, I want to repeat that. For every 1 percent we could have reduced medical care costs last year we would have saved the American people—I am sorry, not medical care but hospitalization—for every 1 percent we could have reduced hospitalization costs last year we would have saved the American people $320 million.

Since the President's Council on Wage and Price Stability reported that in 1975 the Government met 55 percent of the expenditures for hospitalization in 1975, a reduction of just 1 percent in hospitalization for Federal payments alone would have saved the Treasury $176 million.

Both industry and individuals benefit from the cost-reducing effect of HMO's. As Government expenditures for health care decrease, this could be translated into lower taxes. In addition, as industry saves money on employees' health benefits, the result is lower prices to the consumer. Listen to this: Last year alone, the Ford Motor Co. reports that, with only 5 percent of its work force enrolled in HMO's, it saved almost $2 million over comparable fee-for-service costs. Think of it: If only 5 percent of the employees of the Fortune "500" employers had enrolled last year in HMO's, the savings would have amounted to approximately $150 million.

If we could have 25 percent of the national population in HMO's as they are in some areas, it would mean that hospital expenditures would be reduced by $4 to $6 billion annually because HMO enrollees use half the hospitalization as do comparable consumers in the fee-for-service sector.

Another measure of the cost-of-living implicit in lower rates of hospitalization in HMO's, is that the entire Federal investment in HMO development is recouped in national health care cost savings each year. Persons enrolled in federally certified HMO's which received grant support generate savings of $29 to $35 million during 1978. These savings exceed the entire fiscal year 1978 HMO program budget.

HMO's also effect cost savings by introducing competition into the marketplace. A recently published staff report of the Federal Trade Commission shows that where HMO's are present, competing plans increase benefits and the community's hospital utilization decreases.

HMO's can be helpful as we try to place greater emphasis in this country on preventive medicine. One of the most shocking situations in this country was the low level of immunization among children. In 1977, 19 million children under 14 years of age—36 percent—were inadequately immunized against childhood diseases. These low levels are indicative of the lack of adequate health services for our children. HMO's have the organizational capacity to insure that this problem does not exist among their membership. With an enrolled pop-

ulation, HMO's can aggressively pursue, and it is to their advantage to actively pursue, an active campaign to provide adequate immunization and health services coverage for children.

The HMO movement today represents little threat to traditional fee-for-service medicine. At present, a total of 181 HMO's, 63 of them federally qualified, serve about 6.5 million people in 36 States and the District of Columbia. There has only been a 5.2-percent increase in HMO enrollment over the past year. The 6.5 million now served is only 3 percent of the population. The administration's goal is to have 172 federally qualified HMO's in operation by 1982.

The HMO amendments of 1978 will:

First. Provide increased controls to prevent fraud and abuse, such as requirements for disclosure of relationships and transactions between HMO's and their affiliates to deter self-dealing activities. The scandal in California with certain prepaid health plans which enrolled only medicaid patients on a cut-rate basis cannot be repeated. To prevent a recurrence of this situation, HEW has recently expanded the compliance staff by 37.

Second. Provide for necessary increases in the limits on initial development grants and initial operating loans which take account of the inflation that has occurred since the limits were set in 1973.

Third. Authorize use of the existing loan fund for loans and loan guarantees for construction which can contribute to HMO's cost-saving potential.

Fourth. Ease strict benefit requirements for disaster coverage that have unnecessarily delayed HMO development.

Mr. President, I strongly support the efforts by the administration to foster HMO growth and improve the HMO program. After years of delay and frustration, HMO's can play an important role in this country, and S. 2534 is essential to making that possible.

Mr. President, I would like further to compliment the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for their untiring efforts in bringing these amendments to the floor, which I think will do a great deal to enhance competition and reduce the cost of medical care in this country.

I would just like to say there is not anything radical about an HMO. Sometimes the AMA would give us the impression that this is socialistic, or against the traditional free enterprise fee-for-service concept.

If I might take one second to relate a personal experience, when I was a child, I lived 18 miles from the town of Paris, Ark., at that time a red hot community in coal mining. Three brothers who were doctors there started their own HMO in the 1920's, and every year, for $10 per family member, or $40 for a family of four, you could join the Smith Brothers hospitalization plan, and everybody up and down the Arkansas River Valley joined it. They built their own hospital.

I never knew what kind of a system it was, and never recognized it, really, as an HMO until recently, when I was elected Governor of my State and started promoting HMO's. But that was a system that had over 10,000 enrollees in the 1930's and 1940's.

My wife was a member of it. Her family lived 20 miles from Paris. She had an appendectomy free, and I can tell you she and I both came from poor circumstances, and we would have had a tough time paying for it otherwise.

I am simply saying there is nothing new or magical about HMO's. This was done in isolated sections of the country years ago, and I think we ought to be making even more dramatic efforts to encourage the development of HMO's across this country. The statistics are actually without refutation.

The PRESIDING OFFICER. All time of the proponents has expired.

Mr. KENNEDY. Mr. President, will the Senator from Pennsylvania yield 4 or 5 minutes?

Mr. SCHWEIKER. Yes.

Mr. KENNEDY. I just want to commend the Senator from Arkansas for a very eloquent statement and a keen analysis.

To demonstrate the point of the Senator from Arkansas, the Georgetown HMO has 43,000 members, has a total support from the Federal Government of $3,162,000, and now saves $4.3 million in hospital costs alone per year. It recoups the original investment.

I have other examples I will include in the RECORD, but the Senator is correct from a dollars and cents point of view.

I am sure some of them are not going to make it, and some will have difficulty, but the fact is that the soundness of the concept has been demonstrated; it is cost effective, it adds competition in the system, and I think it can mean better quality health care at lower cost. I welcome the statement of the Senator from Arkansas.

UP AMENDMENT NO. 1457

(Purpose to reduce the term and authorization levels; to modify grant and loan programs; and to strengthen fraud and abuse provisions)

Mr. NUNN. Mr. President, I have an amendment which I send to the desk, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself and others, proposes an unprinted amendment numbered 1457:

On page 20—

Mr. NUNN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, strike line 1 and insert "(A) $1,000,000 through September 30, 1979, and $2,000,000 thereafter, or ".

On page 20, strike lines 3 through 6 and substitute the following:

(1) striking "$2,500,000" and substituting "$2,500,000 (or $5,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and within 30 days of the making of such loans or loan guarantees furnishes the Human Resources Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives with written notification and reasons thereof and a copy of such written determination and the reasons therefor) through September 30, 1979, and $5,000,000 thereafter"; and

(2) striking "$1,000,000" and substituting "$1,000,000 (or $2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and within 30 days of such disbursement furnishes the Human Resources Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives with written notification thereof and a copy of such written determination and the reasons therefor) (through September 30, 1979, and $2,000,000 thereafter". On page 21, line 24, strike "1985" and substitute "1981".

Strike page 24, line 17 through page 25, line 2 and substitute the following:

(2) striking everything after "1978" and substituting the following: ", $35,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981.".

On page 30, strike line 17 and substitute the following: "ceived by the Secretary and shall not be a qualified health maintenance organization for purposes of section 1310."

On page 30, between lines 17 and 18, insert the following:

"(h) Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

On page 19, between lines 22 and 23, insert the following:

(c) Section 1301(c) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) provide the Secretary with assurances satisfactory to him that no membership enrollment shall occur at an individual's place of residence.".

On page 34, after line 6, insert the following new section:

PROGRAM MANAGEMENT EVALUATION

SEC. 13. Section 1314 is amended by adding at the end thereof the following new subsection:

"(d) The Comptroller General shall evaluate the adequacy and effectiveness of the policies and procedures of the Secretary of Health, Education, and Welfare for the management of the grant and loan programs established by this title and the adequacy of the amounts of assistance available under such programs and shall report to the Congress the results of such evaluation not later than May 1, 1979.".

Mr. NUNN. Mr. President, a number of Senators have cosponsored this amendment with me, including Senator SCHWEIKER, Senator KENNEDY, Senator BELLMON, Senator PROXMIRE, Senator DOLE, Senator BARTLETT, Senator ROTH, Senator HATCH, Senator BUMPERS, Senator WALLOP, Senator WILLIAMS, Senator

JAVITS, Senator CHAFEE, Senator PERCY, and Senator TALMADGE.

The amendment which I am offering today responds to many of the concerns over mismanagement, fraud and abuse in the health maintenance organization program.

Mr. President, from the time point of view, how much time do we have on an amendment, under the order?

The PRESIDING OFFICER. The Chair is advised that we have 30 minutes, equally divided.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we have 1 hour for this amendment, equally divided, or that the time be divided with 25 minutes to the Senator from Georgia and 5 minutes to the other side.

Mr. NUNN. I believe that would be satisfactory.

Mr. KENNEDY. I ask unanimous consent that of the one-half hour, the Senator from Georgia have 25 minutes, with 5 minutes to be retained by the managers.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? Without objection, it is so ordered.

Mr. NUNN. I thank the Senator. Mr. President, I believe that this amendment strengthens the already solid base for management improvement and curtailment of program abuse which is contained in S. 2534 as reported by the Human Resources Committee.

Many of these provisions are in direct response to the recommendations of the report of the Permanent Subcommittee on Investigations on prepaid health plans and health maintenance organizations.

Specifically, the Human Resources Committee bill recognizes that HMO's are frequently comprised of a nonprofit corporation whose directors either own or control for-profit entities which provide services to the nonprofit HMO.

Through this type of corporate pyramid, Government grant and loan funds can be diverted from their intended purpose. More importantly, however, the cost of health care for HMO enrollees can be artifically inflated.

S. 2534 already contains a provision for a consolidated financial statement. It would treat as one reporting entity all of the corporations that comprise the HMO. Furthermore, the bill would require disclosure of ownership interests in the various entities.

The amendment I offer today goes a step further. It would impose penalties of up to $25,000 and up to 5 years' imprisonment for filing a false statement.

I regard the requirement of a consolidated financial statement, ownership disclosure, and the criminal penalties a response to the most important finding of a 3½-year inquiry by the Permanent Subcommittee on Investigations into prepaid health systems.

This amendment also includes a response to door-to-door sales abuses uncovered by the Investigations Subcommittee.

All of the control measures we can write will matter little if we have a continuation of crippling mismanagement of the HMO program by the Department of Health, Education, and Welfare.

In 1973, the Congress enacted the HMO Act and in doing so acknowledged that the development of health maintenance organizations should be encouraged. The act was based on sound reasoning and a solid history of lower cost health care that met standards in medical communities across the Nation where private prepaid group practices had been in business for years.

HMO's can be viable alternatives to our present fragmented system of organizing, financing, and delivering health care services. Strong and viable HMO's, if properly managed, can offer competition in the health community. That competition can potentially work to the benefit of all—the patient, the health care community, and the Government.

Last year, officials of the Department of Health, Education, and Welfare announced that the development of HMO's would be a priority. It was to be a major cost containment initiative, as well as an effort to restructure our health care system.

HEW's management performance has been the subject of a steady flow of highly critical reports, not only from the General Accounting Office and the Governmental Affairs Committee of the Senate, but from the HMO program managers themselves.

Mr. President, one of the reports was generated by the Permanent Subcommittee on Investigations. The report, released in April, warned of HMO program problems and shortcomings in the law, which we are addressing today. But the report was not taken seriously by the officials of HEW who had already begun a nationwide effort to promote the development of HMO's. In response to criticism that our report had dated information and related only to California, I presented testimony in May before the Senate Finance Subcommittee on Health which included several examples of current HMO program problems and HMO abuses.

Mr. President, I ask unanimous consent that the complete text of this testimony be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Subsequent to my testimony the Under Secretary of HEW and the Director of the HMO program met with and told me that they had confirmed the information in my testimony about current program problems and abuses. They told me of their efforts to improve the program and of a proposed new compliance program. There is no question that HEW is beginning to move in the right direction. However, the HEW officials agreed that there was a shortfall in HEW personnel competent to manage the program. Notwithstanding this and other problems, it is apparent that HEW wants to push ahead full speed with the promotion of HMO's.

HEW believes that it can repair the plane in flight. This is the crux of our difference. HEW, while acknowledging its program management failures, believes it can improve program management, while at the same time doing out many millions of dollars.

Mr. President, I disagree with this approach and a number of my colleagues concur in my view. I believe we must have HEW prove that it can manage programs efficiently and economically before we expand programs.

Any concerned father, seeing that his son could not properly manage his present allowance, would probably deny his son's request for an increase in that allowance. The father could rightfully expect that his son should prove he can manage his money before receiving an increase in his funds.

I have said many, many times over the past year that HEW should temper its zeal to promote the rapid development of HMO's until it can prove that it can manage the program well. I do not disagree with the policy to promote HMO's. I simply believe that we should not build on quicksand.

These issues are beyond politics. They are even beyond the 100 differing political philosophies represented in this Chamber. The issue is simply a matter of commonsense: We must take one step at a time.

Just a few weeks ago, the General Accounting Office recommended to the Congress that the loan element of the HMO program not be expanded until HEW develops a loan policy, procedures and a system to administer the loan program.

Senators KENNEDY and SCHWEIKER, the chairman and ranking minority member of the Health Subcommittee, also share this concern. Their commitment to improved program management is reflected by their cosponsorship of this amendment of which one of the most important elements is a $330 million cutback in the proposed authorization of $500 million and a reduction in the program extension to 3 years.

In addition, this amendment provides for a delay until fiscal year 1980 the increase in grant and loan levels proposed in S. 2534.

There is also a provision to meet the emergency loan needs of a few developing organizations in the first year of the program's extension which I believe is reasonable, but which I might add the members of my subcommittee will be watching very closely, to make certain that the Department of HEW handles with a great deal of prudence any exception to this 1-year moratorium on the increase in grants and loans.

The amendment provides that the General Accounting Office shall study and report on the validity of grant levels and on the implementation of a loan administration program.

By the adoption of this amendment, the Senate could send no clearer message to the Department of Health, Education, and Welfare that we are skeptical about their ability to manage. The reports of the General Accounting Office, the actions of the Senate Appropriations Committee, and the amendment we are considering now are in no way indications of a diminution of the Senate's advocacy of the HMO as a concept. Rather, it

should be a clear signal to HEW that we will continue to watch them closely.

Mr. President, I believe I speak for many Senators when I say that we will not take lightly continued HEW program mismanagement. We will watch each grant to see whether it was a reasonable award. We will watch each loan and hold HEW to a standard that loan officers in the private sector must meet. Frivolous grants and loans and less than efficient or sloppy administration will make us all victims of our advocacy of the HMO concept.

Mr. President, I am sure no one in the Senate is more concerned with program management and HMO abuses than the members of the Human Resources Committee, particularly Senators KENNEDY and SCHWEIKER. Indeed, it has been Senators KENNEDY and SCHWEIKER who have continued to ask the GAO for reports on the HMO program.

I pledge my support of them and the other members of the Human Resources Committee in this effort to give vigilant oversight to the program.

In addition, I would like to acknowledge my personal gratitude for the cooperation of Dr. David Blumenthal and Mr. David Main of the Health Subcommittee staff. They have worked diligently toward the development of good legislation. They have been forceful advocates of program improvements and they are to be commended.

Mr. President, in closing, I recommend to my colleagues that they vote in favor of the amendment we are offering today. What we have proposed responds to two, apparently divergent, but quite consistent concerns that many of us have. First, this amendment provides for the reasonable development of the HMO program.

Second, it slows the program down for 1 year to give HEW a chance to develop efficient and economical program management. It gives to Congress the opportunity to review the program once again in 3 years, and provides for a General Accounting Office analysis. In my view, this is a reasonable and responsible approach for the Senate to take toward a program that, despite its management difficulties, has the potential for providing quality and cost-effective health care services to many of our citizens. I urge the Senate to adopt this amendment to S. 2534.

EXHIBIT 1

STATEMENT OF SENATOR SAM NUNN

Mr. Chairman and members of the Subcommittee. I am grateful for this opportunity to appear before you today to present to you the report by the Permanent Subcommittee on Investigations on its inquiry into prepaid health plans and health maintenance organizations.

I also wish to discuss certain other information the Investigations Subcommittee staff has obtained and raise a number of questions suggested by this information. This information relates to alleged current abuses in the Federal HMO program.

Most of the new information we have developed has not been given the scrutiny of a public hearing with witnesses under oath and subject to questions. Nonetheless, I will discuss a number of examples that give rise to very serious questions about the current Federal HMO effort.

First, I would like to express my appreciation for the personal interest and support of Senator Talmadge and Senator Dole in the work of our Subcommittee. Likewise, the Permanent Subcommittee on Investigations has been helped in this HMO inquiry and others by your most competent staff. Specifically, I would like to thank Jay Constantine, John Kern and Bob Hoyer for their continuing help in our health inquiries.

The report on HMO's is timely. Both the Senate and the House are about to consider renewal of the Health Maintenance Organization Act with a half billion dollar authorization. This is a law that authorizes the Department of Health, Education and Welfare to give grants, loans and loan guarantees for the development and operation of HMO's.

The study of health maintenance organizations by the Investigations Subcommittee offers the Congress the opportunity to further improve the HMO Act and the Medicare and Medicaid programs to assure not only a more effective expenditure of public funds, but also to ensure the health and safety of patients entrusting themselves to HMO's.

Mr. Chairman, I would like to offer the report as an exhibit to this hearing record.

The Subcommittee's report on its investigation is full of examples of fraud and abuse of patients as well as shortcomings in present law and program administration with regard to HMO's. That does not mean that all HMO's are bad or that the program should be scrapped.

Indeed, bona fide prepaid group practice is a viable method of organizing, financing and delivering health care which should be encouraged. To label all HMO's as bad or to suggest that the concept is doomed on the basis of the Subcommittee report would be irresponsible. Likewise, simply because we find some fee-for-service physicians and hospitals overcharging, providing more services to patients than they need or being convicted of fraud does not mean that fee-for-service health care is bad.

I hope the Finance Health Subcommittee will perceive our report in this context. I come before you today to urge you to protect Medicare and Medicaid program funds from the kinds of fraud and abuse identified by the Subcommittee investigation.

Your Committee is to be commended for placing strong safeguard against HMO abuses of the Medicare program as early as 1972. I am also aware that similar safeguards were voted by the Senate for the Medicaid program in 1973 but that the House of Representatives did not take action on the Senate bill. It's too bad. House passage in 1973 of your Committee proposal to protect Medicaid programs from HMO fraud and abuse would have prevented many problems with regard to Title XIX.

Our report discusses the Subcommittee's investigation of the prepaid health plans receiving Medicaid funds in California. At the peak of the program there, some 54 plans provided health care services to more than 250,000 Medicaid beneficiaries. As you will recall, I have testified here before on issues involved in our inquiry.

There were several times more Medicaid prepaid health plans in California than in all the other States combined. The 1972 implementation on a large scale of prepaid health system contracting in California preceded by almost two full years the enactment of the Federal HMO Act at the end of 1973.

Our investigation found that most of the California HMO's sent door-to-door salesmen through the poverty neighborhoods. These salesmen offered Kentucky fried chicken dinners, free tickets to the Los Angeles Rams football games and stereo head sets to people who agreed to enroll in these HMO's.

Of course, the people didn't have to pay anything to join; the State Medicaid program was picking up the tab.

One blind lady signed an enrollment form after she was told someone would read the Bible to her every week. And a number of people signed their names to enrollment forms after they were told they were signing petitions to impeach Governor Ronald Reagan.

Once in the plans, the people ran into some very serious problems. Our investigation found a doctor who operated on two patients at the same time. One plan employed eight unlicensed foreign medical graduates who practiced medicine. Sick people were denied hospitalization. Narcotics were given to drug addicts. Medical records were a mess.

The cornerstone of the program was the State's belief that it would save money by contracting with these HMO's. The General Accounting Office said in 1974 that the program may have cost more than paying doctors' fees for their services. Almost all of the HMO's were non-profit corporations, but the officers and directors of these organizations contracted with for-profit companies they owned or controlled for services needed to fulfill State contract obligations.

We found that more than half of the Medicaid funds going to some HMO's were diverted from health care services through these for-profit firms and were accounted for as administrative costs and profits. We found that the return on invested capital in one California plan was 3,000 percent.

These facts are quite significant for they show how HMO's can be manipulated to defeat the very purpose of such organizations. HMO's offer the promise of health care services at fixed monthly costs to the persons enrolled. By selling its services to large numbers of people, the HMO is assured of a large amount of money. From this pool of funds, the HMO can finance health care to patients who need it. There is a financial disincentive to provide more services than the patients need. This is in contrast to the financial incentive in the fee-for-service financial system which pays health providers for each service rendered.

While there may be a financial disincentive in HMO's to overutilize, there was evidence in California of the financial incentive to provide less services than patients required.

Some California HMO's closed clinics on nights and weekends which were required to be open under their State contracts. One plan with nearly 100,000 enrollees, most of whom were women and children, had only one obstetrician and no pediatricians.

We found several additional examples of poor medical services. Instead of performing surgeries, pain killing drugs were given to patients. Children were not immunized. Sick patients were placed in clinic holding rooms instead of in hospitals where they belonged. Hospitalized patients were discharged too early. Some were the subjects of efforts to disenroll them when their hospital stays grew too long and expensive.

In summary, the financial disincentive to provide necessary services, combined with corporate structures enabling the easy diversion of funds, can turn the HMOs into havens of financial and patient abuse.

One of the Subcommittee's goals in its investigation of prepayment systems in California was to learn from the mistakes of that program so that the lessons could be applied to Federal HMO efforts.

According to their testimony before our Subcommittee, HMO officials have no mechanisms under the law to respond to marketing and enrollment abuses. They have no regulations preventing or controlling self dealing by HMO principals. They cannot safeguard the Federal investment in HMOs

from abusive financial practices. They have neither a financial auditing program nor a method to evaluate the quality of care provided in HMO's though HEW is required under the Act to have such compliance programs.

Mr. Chairman, building upon this foundation would be building on quicksand. The Administration in its HMO bill would liberalize Medicare and Medicaid reimbursement to HMO's and increase from $1 million to $2 million the amount of grant funds and from $2.5 million to $5 million the amount of Federal loan funds an HMO can receive. Based upon experience to date it seems as though HEW is rewriting that old saying, "double or nothing" to "double and nothing!" For there is nothing—not a word—in the Administration's HMO bill that effectively responds to the evidence of HMO fraud and abuse. I would like placed into the record of this hearing Senate Bill 2676, the Administration's HMO proposal.

HEW has made the development of HMO's across the nation a major initiative. On March 10 of this year, the HEW Secretary convened a conference of labor and business leaders to encourage their participation in the development of HMO's and the enrollment of union populations in them.

Likewise in April, the Secretary sent to the White House a number of options for national health insurance. Included is a highly visible and prominent role for health maintenance organizations.

The HEW officials have made a number of speeches and have given testimony before the Congress advocating HMO's and stressing their importance as a major means toward containing health care costs.

There is little question that the development of HMO's is a major policy initiative of the HEW Administration.

I would like to place in the record, reports by the General Accounting Office and internal HEW documents evidencing problems in the HMO program. These can be made a single exhibit to include all of these reports which deal with problems ranging from self dealing in Federally qualified HMO's to problems of inferior quality of patient care. There are reports of misallocation of Federal funds by HMO's and fraud against the Government.

In the face of this overwhelming evidence, HEW presented to the Congress legislation that does not respond to HMO fraud and abuse. Instead HEW would increase funding to HMO's and repeal the present method of reimbursing HMO's for the care of Medicare beneficiaries. In its place HEW would pay HMO's 95 percent of the average per capita fee-for-service costs to Medicare. The same reimbursement would apply to Medicaid under the proposal.

The present Medicare reimbursement formula provides that the HMO's costs of provided services to Medicare beneficiaries be substracted from the program's fee-for-service costs in the geographic area. As a reward for its efficiency and as a benefit to Government, the difference between the HMO's costs and fee-for-service costs are split between the organization and Government.

The Administration contends that increased reimbursement to HMO's is necessary to encourage the development of more organizations. James Lane, Counsel to the Kaiser Foundation Health Plan, explained the position at an HMO conference held by HEW in September of last year.

The critical factor in increasing the number of Medicare and Medicaid beneficiaries enrolled in HMO's is to provide sufficient incentive for them to enroll in an HMO when to do so would mean that they will have to accept less freedom of choice of physicians and hospitals than they have now.

This can be accomplished by paying the HMO's the savings resulting from their efficiency which they may pass on to their Medicare and Medicaid members in the form of added benefits or lower rates or both.

In arriving at the proposed reimbursement rate, the areawide cost of the fee-for-service program, including the Government's costs of program administration, for example, carrier and intermediary costs, would be determined. Ninety-five percent of this sum would be computed on a per-capita basis and paid to the HMO. This calculation would amount to approximately 100 percent of the fee-for-service costs for medical services. The only savings to the Government would be the administrative costs of fee-for-service.

The Administration's bill presumes that accurate fee-for-service figures for small regional areas can be identified in order to compute the percentage. HEW's experience, however, is to the contrary. Likewise, States can't precisely quantify Medicaid costs on even a county-wide basis.

This overall Administration reimbursement proposal raises a rather interesting question. Why should the Federal Government give organizations $2 million in grants and $5 million in loans to set up health maintenance organizations and then pay them an amount equal to fee-for-service for providing care to Medicare and Medicaid beneficiaries?

The DHEW proposal for HMO reimbursement belies all of the arguments that HMO's are financial alternatives to fee for service. Indeed, attaching HMO reimbursement to the fee-for-service inflationary spiral should raise the question as to whether we need HMO's at all from a simply financial standpoint.

Mr. Chairman. As you well know, your Subcommittee considered in 1972 a proposal to pay HMO's 95 percent of Medicare fee-for-service levels and you rejected it, wisely. It was resurrected in the Administration proposal which has its roots in a HEW "Conference to Review Legislation and Regulations Governing HMO Contracting with Medicare and Medicaid" on September 23, 1977. One of the advocates of the proposal is Kaiser's Mr. Lane. I offer Mr. Lane's paper for inclusion in the record.

The conference was attended by only a few, other than Mr. Lane, including Bruce Yarwood, the Chief Deputy Director for Programs of the California Health Department. Mr. Yarwood sent on December 16, 1977, a memorandum prepared by his staff for DHEW. The memorandum was prepared in response to an issue paper which included a proposal to pay HMO's 95 percent of fee-for-service levels. I'll read from a part of that memorandum:

"If the primary interest of the issue paper was to produce a proposal pleasing to the HMO industry, it undoubtedly succeeded. The concept of paying 95 percent of per capita costs should have almost universal appeal to HMO's. Since (to quote the issue paper itself), 'actual HMO costs can be expected to run typically 15 to 20 percent below that of the fee-for-service system.' The notion that the HMO's would be required to plow back the difference between the adjusted community rate and this (95) percentage . . . in the form of reduced premiums and/or increased benefits is a gesture in the direction of proper use of public funds, but would be virtually unenforceable."

Mr. Chairman, I offer for the record of the hearing, Mr. Yarwood's complete memorandum to HEW.

The Subcommittee staff recently asked the California Health Department to project the cost impact on the State Medicaid program if the Administration's proposal is adopted.

In a letter to me, California explained it is presently paying $60 million a year to 13 HMO's for health care services to 125,000 Medicaid beneficiaries. This represents a spending level equal to about 80 percent of fee-for-service costs in the State.

The California Health Department says that under the Administration's reimbursement formula, the Medicaid prepaid program costs could rise from $60 million to $71 million a year. Aggregate HMO profits from the State Medicaid program would increase 250 percent from $7.5 million to $18.8 million. In short, the State is already paying HMO's at a reasonable level for the services they provide. Any increase in the payment would be an absolute increase in HMO profits.

The California Health Department said "95 percent rates would undoubtedly be higher than the premiums most HMO's charge private members, in exception to the usual principle that Government should pay no more for goods or services than private purchasers. It is difficult to believe that legislators would accept such an arrangement."

This information was prepared by Rigby Leighton, the director of the Prepaid Health Research Evaluation and Demonstration Project, which is committed to receive $5.2 million in HEW funds. I offer his letter to me as an exhibit. The Finance Committee passed legislation specifically authorizing this project in 1975, following the first round of prepaid health hearings in the Permanent Subcommittee and the receipt by your Subcommittee of a number of reports on prepaid systems by the General Accounting Office.

Both your Subcommittee and ours were concerned that Government develop methods to determine the actual costs of delivering specific health care services in HMO's where there is a financial disincentive to provide the necessary level of care. In addition, we were concerned that Government have an appropriate and uniform method of determining rates to pay and whether care being provided to enrollees is appropriate.

Mr. Chairman, the standards and methods being developed by the California project can be important and useful to Government program administrators. I know that the staff of your Subcommittee and my Subcommittee over the past many months have continually recommended to the HMO staff at HEW to discuss with the California Demonstration project staff what they are finding.

As of yesterday, there has neither been a visit nor even a telephone call from HMO program staff to the California project. It is as if the HEW staff does not want to know. I strongly suggest that our Subcommittees continue to monitor, as we have, the work of the California Demonstration project. And when its work is concluded, you may well want to consider the possible inclusion of the HMO cost determining, rate-setting and quality evaluation methods as part of the Medicare and Medicaid programs. Perhaps HEW is ignoring the California project for the same reason the report by the Permanent Subcommittee on Investigations is apparently not taken too seriously.

Mr. Chairman, we have been told by HEW officials and staff that our report deals with California prepaid health plans, not Federally qualified HMO's. HEW regards the California experience as an aberration that has been resolved.

Our Subcommittee contends in its report that the California prepaid health experience portends what can be expected in the Federal HMO effort. The report concludes that "unless remedial action is taken, the Federal Government, through its program of financing the development of HMO's faces the prospect of encountering nationwide the same kinds of scandal and abuse that have plagued the California Medicaid program."

Mr. Chairman, during the course of our continuing interest in HMO's, the Subcommittee staff has received unsolicited telephone calls from credible sources offering

examples of problems in the Federal HMO program similar to those identified in the Subcommittee report.

In addition, the staff obtained information on its own. I would like to discuss some of this information. Because most of the individuals and organizations involved have not been interviewed or otherwise offered the opportunity to respond to the information and allegations we have obtained, I will not mention any names. However, each of the examples I will give is supported by materials obtained from the files of the Department of Health, Education, and Welfare, the General Accounting Office, from interviews with employees of the HMO program and/or from interviews of Government auditors and HMO employees.

With that understanding, I would like to offer the information we have obtained as a sealed exhibit and discuss these issues.

Mr. Chairman, the first case I would like to discuss involves the certification of a former California prepaid health plan as a Federally qualified HMO. I bring this up because there is no clearer example of how the Federal HMO program may not be learning from California's mistake.

This particular HMO is a non-profit corporation which has received $437,000 in HMO loans. The medical director is the president and sole owner of a for-profit management company and a company that leases a clinic building to the HMO. The medical director's wife owns corporations which provide lab and pharmacy services to the HMO.

The organization has a history of negative medical quality and financial audits by California agencies. As late as March 8, 1978, one week before Federal qualification, the HMO was put on notice by the State that it had not been responsive to problems which had been identified.

The HMO has reported that its administrative costs are running $14 for every $39.57 per month the State Medicaid program pays for each of the 5,500 Medicaid members enrolled in the plan. This amounts to 40 percent of Medicaid program payments to the plan.

The Subcommittee's concern in its inquiry and report is that through complicated corporate structures which can artificially increase HMO costs, monies can be diverted from health care.

The utilization records of this newly qualified HMO either bear out the Subcommittee's concern for diversion of funds or they indicate that this organization has enrolled some of the healthiest poor people in the State.

For example, the Medicaid beneficiaries in the 13 qualified HMO's in California are hospitalized at a rate of 319 days per thousand enrollees per year. This average, in itself, is below the 400 to 500 a day average in most HMO's. But for the newly qualified HMO the rate is 95 days, less than a third the statewide rate.

The statewide rate for hospital outpatient visits is 143 per thousand enrollees per year. But the rate of this newly qualified HMO is one-seventh that, at 20 visits. Dental visits statewide are running at a rate of 747 visits per thousand enrollees per year. But the newly qualified HMO's rate is 204 such visits.

The qualification of this HMO raises a number of questions:

First, to what extent does the Federal HMO qualification process take into account the possibility of diversion of funds through complicated corporate structures?

Second, what weight is given during the qualification process to patient utilization rates in HMO's? and

Third, now that this HMO is qualified, what can HEW do to assure a reasonable standard of care for the enrollees?

Mr. Chairman, another matter of concern to the Investigations Subcommittee was the slippage of Federal grant and loan funds from the non-profit HMO to related for-profit entities.

In a mid-Atlantic State, a non-profit corporation was created to take over a for-profit HMO, which had been created by a nursing home chain. The purpose according to sources was to take advantage of Federal grants and loans.

Immediately prior to qualification, the non-profit board created by resolution a $500,000 indebtedness to the nursing home chain. According to reliable sources interviewed, satisfactory documentation was not provided to support the contention that such a debt was owed. At first, HEW staff won an agreement from the nursing home chain that it would subordinate its interest in the indebtedness to the Government's $2.5 million loan. But in December, 1977, the staff allowed the non-profit HMO to use Federal loan funds to pay off the debt.

This incident raises a question about whether HMO loans should be used in such a way. The primary purpose of the loan program is to assist developing HMO's make it through the difficult first years. Should Federal loan funds be used to buy out proprietary interests?

Mr. Chairman, there are other examples of possible diversion of funds. For some time, HEW has known first hand of a problem with an HMO now in financial trouble in a southern State. In this case, the GAO reported that Federal grant and loan funds were being diverted through the non-profit corporation to a for-profit entity, which in turn used part of the funds to purchase equipment. Once again, in turn, the equipment was leased back to the non-profit HMO. The GAO found that among the items leased were disposable test tubes and syringes.

The HMO office was recently advised by the HEW regional office that a Federally qualified HMO in the Pacific Northwest is using part of its $2.5 million loan to build a building in direct violation of the terms of the loan and HEW regulations.

In addition to diversion of funds, there are examples of questionable HEW management decisions. The GAO will soon make public a report on how the Denver regional HEW office allowed, contrary to law, Federal health care funds to be used to build an HMO clinic. Title to that building is now vested in an HMO.

Mr. Chairman, there are other examples that I will list briefly. Each is indicative of HMO program problems. The Investigations Subcommittee and the General Accounting Office recently referred to the HEW Inspector General allegations that the executive director of a western HMO received a kickback from a firm providing services to his plan. In addition, the plan paid for the executive director's round trip first class air fare to St. Louis. Likewise, the HMO paid for an "emergency out of area service." The man allegedly flew to St. Louis where surgeons reversed his vasectomy.

In an east coast HMO which has received more than $3 million in grants and loans, the $65,000 a year executive director told the staff that his plan provides him with a $300 a month car allowance and all maintenance costs for the car. The car is a new Mercedes Benz, which the executive director said is used exclusively to drive between the administrative office of the plan and its two clinics. He said he lives a block away from his office and has a car of his own for his personal use.

While this is not scandalous, it raises a broad question about how grant and loan recipients are spending their funds.

Mr. Chairman, my staff has obtained internal HEW documents indicating 4 HMO's are in serious financial trouble. These 4 plans have borrowed over $12 million which the Government may lose if these plans fail.

Mr. Chairman, these kinds of examples, and those investigated and documented in the Subcommittee's report raise some fundamental questions that must be addressed prior to any enactment of the Administration's proposed legislation or even the extension of the present program:

1. Once surfaced, does the internal HMO management mechanism have the capability to take decisive action to stop the abuses?

2. Will adequate safeguards be developed to minimize the frequency of these kinds of problems? and

3. Finally, is Congress discharging its oversight responsibilities adequately? Are we going to be able to ensure that this megabuck program can be controlled? Can we ensure it will not become just another give-away program?

The information staff has obtained on abuses suggests that there is a need for an expanded number of competent staff involved in the HMO qualification and compliance elements of the programs.

The Administration acknowledged the need for more staff. In February, HEW asked for and received from the Appropriations Committee an increase of 37 positions for the programs. HEW officials promised the Appropriations Committee that of the new positions, 13 would be added to the 12 persons now responsible for qualification. Some 23 persons would be added to the group of 9 persons responsible for compliance.

The Director-Designate of the HMO program now intends to have 10 persons in qualifications, 15 short of the number promised to the Appropriations Committee and 25 persons in compliance, 7 less than what the Appropriations Committee expects.

When I learned of this plan last week, I directed the staff of the Permanent Subcommittee to bring it to the attention of the Appropriations Committee staff and suggested that Senator Warren Magnuson, the Chairman, be advised.

The Appropriations staff told us that they had not been advised of this planned cutback by HEW. Senator Magnuson provided us with an exchange of letters between his Committee and HEW on the 37 new positions and the planned use of them. With Senator Magnuson's consent, I offer this correspondence for the record of this hearing.

In addition, I offer as an exhibit, a May 9, 1978, memorandum of the HMO program Director-Designate on re-organization of the program staff. Attached is a chart showing the planned cutback in qualification and compliance staff. There is also a memorandum discussing the commitment to Senator Magnuson and the intended reversal.

Subcommittee staff discussed this matter with the HMO Program Director. He said that the commitment was made prior to his taking over the job. Based on his review, too many slots had been allocated to the compliance and qualification functions.

Following approval of his reorganization plan by superiors, he said he intends to discuss it with Appropriations staff. He insisted that there are appropriate numbers of staff to maintain their responsibilities at this time.

Nevertheless, the question remains: Does this cutback in compliance and qualification staff reflect a change in HEW's announced commitment to improve program management?

Mr. Chairman, in spite of the facts I have presented and the concerns I have raised, I don't believe we should overreact or react harshly to the officials of HEW and the director of the HMO program. There are very, very few people in the nation who under-

stand prepayment systems and only a handful who have a broad enough background to appreciate the benefit of HMO's, and at the same time recognize their potentials for abuse.

The Department of Health, Education, and Welfare has selected HMO development as its major cost containment and health delivery system reform effort. The Administration made this choice because there is evidence of financial and quality of care benefits resulting from some prepaid health organizations of long standing around the country.

But the organizations that form the basis of this policy initiative were founded, and developed for the most part, on their own, without Federal or State Government support. They were the creations, frequently, of consumer groups, as is the case with the Group Health Cooperative of Puget Sound, an HMO with an excellent reputation.

When the Government announces that it will finance the devolpment of anything, it creates instantly a new industry, a financial constituency and a host of problems, because some of the people inevitably attracted to the Federal trough are those interested in a fast buck. Their success is directly relative to the quality of program administration. The poorer the program management, the greater the potential for actual ripoff.

HEW should be given a chance to advance its policy initiative and expand the development of health maintenance organizations. However, HEW should temper its fervor with an understanding of what can happen to taxpayer funds and patients and manage the program accordingly.

We have only to look at what happened to us when we got into the Medicare and Medicaid programs. When Government dollars were placed into the medical marketplace, we created instantly a political and financial constituency, clothed in human needs and standing in a medical-commercial complex that includes huge professional and trade associations and millions of elderly and poor. The older the programs become, the more difficult and complex become our efforts at reform.

Indeed, it is the very problems with Medicare and Medicaid that provide us with reasons that such systems as health maintenance organizations should be given an opportunity to succeed.

But let us not build another uncontrollable, unmanageable, inflationary program in the process. It would be the height of irresponsibility to do so, given what we know now.

Let's not legislate on the basis of the promises of those offering easy answers to complex problems. Let's try new methods—but let's try them cautiously and carefully before we open the gates of the Federal Treasury.

Therefore, we ask that HEW listen. Listen to facts. Take a historical view, not only of HMO's, but also of what can happen when a major Government initiative is begun without serious regard for good law, and effective regulations, and proper management.

Mr. Chairman, in closing, I would like to invite your attention to what may be a growing problem. As you may know, the Subcommittee is taking a fresh look at the Federal law enforcement efforts to deal with what many perceive to be a growing organized crime problem in this country. One thing is clear, organized crime is becoming very sophisticated in its financial activities—and, of course, it is always attracted to vast dollars without much regard to whether they are tax dollars or gambling dollars.

There are preliminary indications that there may be a move on the part of organized crime figures into the health care services industry. This makes efficient Government program administration all the more important.

Just to give you an example, the Subcommittee staff a few years ago received information that a west coast prepaid health plan operator was the subject of a contract to kill him. The reason was that he had failed to withdraw a lawsuit he had filed against a chain of hospitals and clinics allegedly owned by Chicago organized crime figures.

Staff informally developed information that tended to confirm the threat, which was allegedly never carried out because the man who was to pull the trigger died of a heart attack the day before the planned execution. As for the HMO operator, he has recently been convicted of bribing union officials to contract with his plan.

The Permanent Subcommittee on Investigations has been watching another corporation which plans to franchise HMO's. The franchise plan raises a question as to whether it is good public policy to provide health care through outlets similar to the way McDonald's sells hamburgers.

This particular corporation has been the recipient of HEW funds related to, but not provided directly by the HMO program. I would prefer not to name this firm because of our ongoing interest in it, but I have a sealed exhibit of materials on this corporation.

The Subcommittee staff, through the cooperation of midwestern law enforcement officials, has established a relationship between one director of this corporation and organized crime figures in Detroit.

I am by no means suggesting that the HMO industry has been or is about to be taken over by organized crime. However, I don't believe we can mix the mafia and medicine and expect to provide good health care to the people. Any identification of organized crime figures in the health care services industry should be a lesson to us all that there is a need for more vigilant and efficient government and private sector health program administration.

I am sure you will agree with me that the large majority of health professionals and those who operate and work in health facilities are decent, conscientious and dedicated men and women.

Our concern should be those who make a mockery of that dedication and decency by taking advantage of them with schemes and scams. We should be especially concerned with sloppy and careless government program administrators which are easy marks and government officials who refuse to respond to compelling records of fraud and abuse.

Mr. HARRY F. BYRD, JR. Will the Senator from Georgia yield?

Mr. NUNN. I am glad to yield to my colleague from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I commend my colleague from Georgia (Mr. NUNN) for the amendment which has been presented. I shall support it. I think it materially and significantly improves the legislation now pending before the Senate.

Also, I associate myself with the remarks which the Senator from Georgia just made in regard to the importance of HEW managing the various programs in an efficient way. I have been greatly disturbed by the report of the Inspector General of HEW that in this past year, HEW misspent, through waste, mismanagement, and fraud, between $6.3 billion and $7.4 billion. It is important, if the HMO concept is to be successful, and I should certainly like to see it succeed, that HEW be vigilant in this area.

I should like to ask the Senator from Georgia whether he feels it would be desirable to require a report from HEW, either from the Inspector General or from the Secretary of HEW, an annual report with regard to this program, or does he think the GAO audit would be sufficient?

Mr. NUNN. I certainly do not think there would be any harm in having a reporting requirement of HEW. I say to the Senator from Virginia that the General Accounting Office, by reason of this amendment and our overall scrutiny of this program for the last 3½ years, and also at Senator SCHWEIKER's and Senator KENNEDY's requests, has been monitoring this program. I think they will continue to monitor it very closely.

Frankly, I should think we might get a more objective analysis of the program from the General Accounting Office than we would from HEW. I should think the Inspector General certainly would have a role to play here with regard to fraud and abuse in the program. But I defer to Senator SCHWEIKER and Senator KENNEDY as to the final desirability of such an amendment. It would certainly do no harm and perhaps would lead to the overall emphasis the Senate would give to HEW to let the Secretary know we are going to be watching this program very, very carefully.

Mr. HARRY F. BYRD, JR. I thank the Senator from Georgia.

(Mr. NELSON assumed the chair.)

Mr. KENNEDY. Will the Senator yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. KENNEDY. In the amendment, under program management evaluation, there is a requirement for the General Accounting Office to do an annual report.

Mr. HARRY F. BYRD, JR. Yes, but I was wondering if it would be helpful or necessary to include the Secretary of HEW.

Mr. KENNEDY. In the legislation, the HEW does an annual report. That is in the legislation.

Mr. HARRY F. BYRD, JR. That is in the pending legislation?

Mr. KENNEDY. Yes.

Mr. HARRY F. BYRD, JR. I thank the Senator from Massachusetts.

Mr. NUNN. I say to the Senator from Virginia, just to elaborate, in my amendment we have a program management evaluation section. Basically, it states in section 13(d):

(d) The Comptroller General shall evaluate the adequacy and effectiveness of the policies and procedures of the Secretary of Health, Education, and Welfare for the management of the grant and loan programs established by this title and the adequacy of the amounts of assistance available under such programs and shall report to the Congress the results of such evaluation not later than May 1, 1979.

The purpose of that date is to get in front of the appropriation bills next year on this subject. Overall, I believe this would give us a good analysis.

Mr. President, I ask unanimous consent that Cheryl Davis of my staff, David Vienna of the Permanent Subcommittee on Investigations and Barry Kinsey of the Committee on the Budget be granted the privilege of the floor during all debates and votes on S. 2534, as well as Larry Patton of Senator PROXMIRE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, do I have control of the time and if so, how much time do I have left?

The PRESIDING OFFICER. The Senator from Georgia has 7 minutes.

Mr. NUNN. I yield 3 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I am pleased to join my colleagues in offering this amendment to the Health Maintenance Organization Act. With this amendment I believe we have sought and achieved a balance at a time when we are all so justly concerned about wasteful Federal expenditures and are trying to devise rational ways to control costs, while improving our health care delivery system.

SUCCESS OF SOME HMO'S

There is now good evidence that some health maintenance organizations deliver high quality care to our citizens, while also beginning to approach control of costs. All of us need to support techniques which help improve our Nation's health care while avoiding the frightening inflationary spiral in which we are caught, and I view the experiments in developing health maintenance organizations as important efforts along those lines.

FRAUD AND ABUSE

On the other hand, it is only fair to point out that many of the initial claims, most of the promised cost saving, much of the widely heralded benefits, have yet to appear. A recent GAO report tells us that several well established health maintenance organizations remain on shaky financial ground and may well not survive without continued, open-ended, perhaps unending Federal support. The distinguished Senator from Georgia (Mr. NUNN) and his colleagues on the permanent Subcommittee on Investigations have pointed graphically to examples of fraud and abuse in the system. Today, as we discuss these programs, opportunities persist for illicit self-dealing, a potential for huge profits at the expense of our citizens' health.

Testimony before the Senate Finance Committee, of which I am a member, indicated further that unless we monitor much more closely what we have been doing, we may be supporting a program which, in the future, could prove to rival the nursing home and medicaid mill scandals about which we have heard all too much in the past.

I should like to give full credit to my distinguished colleagues, Senators SCHWEIKER and KENNEDY, for making every effort to identify problem areas and propose changes which should certainly lead to solutions.

While I believe present regulatory authority afforded a fine opportunity for the HEW administration to guard against and take measures to avoid fraud and abuse, I support the measures in the bill as originally introduced. These proposals will help to address these issues and serve to protect against the conflicts of interest and instances of harmful self-dealing that have characterized the past.

I believe our amendment furthers these efforts by strengthening sanctions aginst those who might persist in defrauding our citizens and abusing their trust.

PROGRAM ADMINISTRATION

The administration acknowledges inadequacy in past program management. The report submitted by my distinguished colleagues on the Committee on Human Resources states clearly that administration of this program has been lackluster at best. The GAO points to concrete examples of inefficiency and inability to follow the timetable specified by statute. To this day, regulations implementing several statutory requirements are lacking. To this day, Federal loan policies for individual HMO's remain unclear. To this day, the elderly and poor have few opportunities to join and benefit from even the most fully established programs.

But I believe there is reason for hope. HEW has appointed new leadership. We know more today about the strengths and weaknesses of many of the individual programs. The new leadership now has a golden opportunity to clearly define responsible approaches to maximizing that which is good about these programs, while abolishing deficiencies which should have disappeared long ago.

SUPPORT FOR THE AMENDMENT

This amendment sets authorizing levels which provide ample opportunity to further develop, refine, and monitor the progress of the HMO efforts that are under way. In agreeing upon these levels, we believed that this was not the time to rush ahead with a virtually open-ended, 5-year commitment; this was not the time to quickly expand the loan program, expand the grant program, double the authorizing levels. Our citizens tell us daily that this is the time to step slowly and support leadership which understands that we must move with proper caution.

Let us give the administration a chance to do something really well. Let us not burden new leadership with a mandate to double a program which to this point has been poorly managed and has not lived up to even its most modest potential. It seems to me that by supporting this amendment, we would act responsively, we would endorse the hopes of those who are developing such programs for the future, and we would act in a way that our citizens can view as responsible and accountable to their needs.

CONCLUSION

In conclusion, I offer my thanks to my distinguished colleagues, particularly Senators NUNN, BELLMON, PROXMIRE, SCHWEIKER and KENNEDY for working out a compromise which addresses these difficult issues successfully. My special thanks go also to Senator NUNN and the Permanent Subcommittee on Investigations, whose efforts brought to light so many of the problems we must address.

I am pleased to join in sponsoring this amendment, and I urge its support and adoption.

I yield back whatever time I have remaining.

Mr. NUNN. Mr President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 1 minute to myself.

As I indicated before, I am glad to have the opportunity to support this amendment and I appreciate the constructive attitude of the Senator from Georgia and the others who cosponsored it. I do think that we ought to keep the types of abuses that we have seen in this program in some perspective.

Clearly, the advantages of this program to the American people far outweigh some of the abuses that we have seen alleged. We have taken strong steps and I want to indicate to the membership that there will be no committee or no member who will suggest stronger action than the members of our committee have. As a member of the Committee on the Judiciary, I know we had actually requested additional resources for the Department of Justice for the investigation of fraud, not only in HEW but in a variety of other programs. As one who is strongly committed to health care programs, I realize at the outset that, unless they are going to be virtually free from fraud and abuse to the extent that we can make possible legislatively, there is no hope for them.

I do think if many of our other programs got the kind of review that this one got, we might find other similar problems in other areas.

The tragedy of this program is that it was administered by people, from 1973 up to a year ago, that were completely and totally opposed to an effective program, and we can document that, chapter and verse.

There is no sense making excuses about it. We are interested in the future.

I think the amendment of the Senator from Georgia, which we have welcomed the opportunity to join, should deal with some of the problem areas. I am hopeful we will be able to get a clean bill of health. I think the continued review by the General Accounting Office and by HEW and by our committee will attempt to assure that.

So I thank the Senator from Georgia for his constructive comments and the contribution he has made to this legislation.

Mr. SCHWEIKER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I want to join with the chairman of the Health Subcommittee in thanking the distinguished Senator from Georgia for his diligence and vigilance in the areas of fraud and abuse and HEW program management. I share his concerns and support his efforts in this area. I have supported many of his suggestions to avoid problems in the future. I also have registered this concern and pursued our oversight efforts in the Appropriations Committee, on which I serve. I intend to continue those oversight efforts as the Appropriations Committee, as well as the Human Resources Committee, oversees this program.

I think there is a renewed dedication by all of us to monitor HEW's performance, and a renewed dedication on HEW's part, too, to perform more efficiently in the HMO area.

So I think we have the target in sight. I think it is achievable.

I commend the Senator from Georgia (Mr. NUNN), the Senator from Kansas (Mr. DOLE), and others, for their work in this area, and for their very valuable, constructive contributions to this bill.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I want to thank my colleague from Pennsylvania (Mr. SCHWEIKER) and my colleague from Massachusetts (Mr. KENNEDY) for their cooperative attitude in bringing this program, which has so much potential in terms of providing health care services for our citizens, and also a potential for saving a great deal of money for our taxpayers, under close scrutiny, and for making sure we do everything possible to see that we take a step-by-step approach and build a health maintenance organization program on a very solid foundation.

I believe this amendment and the provisions they already had in the bill dealing with fraud and abuse will go a long way in that direction.

I might say in summary that this amendment would cut $50 million from the program over the first 3 years. Then, of course, it would limit the program to a 3-year authorization, thereby saving another $185 million, the following 3 years, for a total savings of $335 million.

I am hopeful that we will find this works so well there will be an expanded effort. Hopefully, it really can save money. I do think and agree it has a great potential for that.

I thank my colleague from Kansas (Mr. DOLE) not only for cosponsoring this amendment, but for the very diligent efforts he gives us in the overall area of health care, and also for the opportunity I had to appear before the Finance Subcommittee on Health before Senator DOLE and Senator TALMADGE to present some of the problems we had uncovered in the investigations.

Mr. President, unless there are further Senators who desire to speak, I am prepared to yield back the remainder of my time on the amendment. I do not anticipate we would need a rollcall vote, unless the Senator from Massachusetts would think otherwise.

● Mr. PERCY. Mr. President, I am pleased to join with Senators NUNN, KENNEDY, and SCHWEIKER in sponsoring this amendment to S. 2534, the Health Maintenance Organization Act Amendments of 1978. I am a firm believer in Health Maintenance Organizations. They seek to promote preventive medicine and have financial incentives to keep their members healthy. They are not new to the health field but their importance is just beginning to be felt on a large scale. In view of the astronomical rise in health care costs in the past decade it is important that competition be encouraged in this field. HMO's have provided this competition and have proven themselves to be a viable means of containing health care costs. We have 7 federally qualified HMO's in Illinois, 5 located in the Chicago area, which are doing an excellent job of providing for the health care needs of the people in Illinois.

I see HMO's as part of the foundation on which any future national health care programs will be built. However, I am concerned about the establishment of financially secure HMO's. They must earn good reputations to insure public support. As ranking minority member of the Permanent Subcommittee on Investigations, I have participated in many hearings on Prepaid Health Plans and HMO's. Witness after witness cited the numerous cases of fraud and abuse in the HMO industry. This testimony sensitized me to the need for stringent fraud and abuse provisions.

The fraud and abuse provisions present in this amendment are the result, in large part, of this report. These provisions will aid in protecting the reputations of legitimate and successful HMO's from being tarnished by the unscrupulous dealings of a few.

The other provisions in this amendment follow the philosophy of promoting the growth of HMO's while scrutinizing the expenditure of public funds used for this purpose. Regulations which insure that tax dollars furnished to this program will not be misspent are not only requested, but loudly demanded by the taxpayers. This amendment responds to that demand.

I strongly support this amendment. It addresses the issue of fraud and abuse, but does not stifle HMO development. I urge my colleagues to vote for this amendment.●

● Mr. BELLMON. Mr. President, I support the amendment to S. 2534 offered by Senator NUNN of Georgia. I emphasize that although I support this amendment, I believe that expansion of HMO's is desirable and will help to create competition and greater efficiency in the health care delivery system. I am greatly disturbed, however, at the prospect of greatly expanding authorization levels for the HMO program in light of the rather dismal record established to date. If authorizations are fully appropriated, CBO estimates that outlays for this program would increase from $19 million in fiscal year 1978 to $48.8 million in fiscal year 1979; $70.5 million in fiscal year 1980; $91.3 million in fiscal year 1981; $97.9 million in fiscal year 1982; and $98.5 million in fiscal year 1983.

Mr. President, it is difficult to justify increases of this magnitude in light of clear evidence of widespread abuse and mismanagement. The problem of fraud and exploitation of citizens by many California prepaid health plans has been well documented. More recently, GAO completed a study of 14 federally supported HMO's and reported that only 3 had a good chance of achieving financial independence at the end of 5 years. Five have a fair chance, but at least six will almost certainly not achieve financial viability.

It is true, Mr. President, that there is some risk in the development of any new health financing program. However, there is evidence that many of the past failures can be attributed to poor management and inadequate administrative control by HEW. I call attention, for example, to the following administrative problems reported by GAO in its analysis of HMO programs:

HEW has not developed specific standards or guidelines for the community rating requirements of the act. Thus, at least some HMO's do not conform to required community rating standards.

HMO's have not enrolled persons broadly representative of their service area, especially the elderly and indigent.

HMO's have failed to develop adequate quality assurance programs.

HEW's implementation of the HMO Act has been fragmented, uncoordinated, and understaffed, and there have been long delays in issuance of regulations and guidelines.

I am encouraged, Mr. President, by the fact that the administration has given HMO's high priority and has taken important steps to improve the management of these programs. Most of these changes have not been fully implemented, however, and we have no solid evidence that HEW can effectively monitor programs at this time. This inability to administer HMO programs becomes an important issue because the Congress is being asked to greatly expand the grant and loan program. Under the current provisions of S. 2534 (the HMO Extension Act) total loans and grants would be increased from $4.65 million to $10.65 million. Mr. President, I have a table prepared by GAO which summarizes the impact of the proposed bill on the grant and loans programs and I shall include it at the end of these remarks.

The Nunn amendment offers a reasonable solution to the grant and loan problem. It keeps current levels through fiscal 1979 but allows for increases to the recommended levels in S. 2534 for fiscal year 1980 and fiscal year 1981. Exceptions may be made in very unusual situations to protect a viable HMO, which might require some increase in loan levels. This gives HEW a year to develop the structure necessary to properly administer the program and addresses many of the problems raised by GAO.

Mr. President, there has been a great deal of criticism of HEW because of widespread abuse, waste and mismanagement. Thus, we must be very reluctant to approve large increases in authorizations and to more than double grant and loan levels, at least until all necessary administrative improvements are in place and effective. It appears that we would be best advised to continue with a more modest program until we have assurances that the potential for fraud and abuse has been minimized.

Mr. President, the provisions in this amendment provide for continued, orderly development of HMO's and help to reduce opportunities for fraud and abuse. It is consistent with my view that we should continue to promote alternative methods for providing for the health care of our citizens. The development of alternative delivery systems and expansion of consumer choices offers an attractive alternative to greater Federal regulation as a means for containing health care costs. We must be certain, however, that HMO's are properly administered both to protect the public from exploitation and to reduce the risk

of abuses which undermine public confidence in the HMO concept. This amendment will allow the HMO initiative to to move forward and at the same time protect the American public against unwise and premature expenditure of scarce resources. I congratulate the distinguished Senator from Georgia for his efforts to develop an amendment which will, in the long-run, help to insure the viability of the HMO program. I also express appreciation to the distinguished Senators from Pennsylvania (Mr. SCHWEIKER) and Massachusetts (Mr. KENNEDY) who have worked diligently to develop responsible solutions to many of the problems in this bill.

The table follows:

COMPARISON OF CURRENT AND PROPOSED FUNDING UNDER THE HMO ACT

| Type of assistance | HMO Act (as amended) | | | | | Proposed HMO amendments of 1978 (S. 2534), total maximum amount |
|---|---|---|---|---|---|---|
| | Total maximum number allowed | Maximum period per award (months) | Maximum amount per award | Total maximum period (months) | Total maximum amount [1] | |
| Developmental grants: | | | | | | |
| Feasibility | 2 | 12 | $75,000 | 24 | $150,000 | $150,000 |
| Planning | 2 | 12 | 200,000 | 24 | 400,000 | 400,000 |
| Initial development | 3 | 12 | 1,000,000 | 36 | 1,000,000 | 2,000,000 |
| Initial development (expension grant) | (2) | (2) | (2) | (2) | 600,000 | 600,000 |
| Subtotal | 7 | 36 | 1,275,000 | 84 | 2,150,000 | 3,150,000 |
| Qualified HMO's: Loans | | | | | [3] 2,500,000 | [4] 7,500,000 |
| Subtotal | | | | | 2,500,000 | 7,500,000 |
| Total | 7 | 36 | 1,275,000 | 84 | 4,650,000 | 10,650,000 |

[1] Feasibility, planning and initial development expansion grants can be awarded to a federally assisted project provided (1) it is seeking to become a federally qualified HMO; (2) the total maximum number of grants allowed and total maximum grant period have not been exhausted; and (3) individual awards do not exceed $75,000 for feasibility, $200,000 for planning, and $1,000,000 for initial development.

[2] A maximum initial development expansion grant can be awarded (in addition to the $1,000 initial development grant) provided (1) the total maximum number of grants allowed and the total maximum period have not been exhausted, and (2) the project expands its service area.

[3] Disbursements in any 12-mo period cannot exceed $1,000,000.

[4] Maximum operating loan assistance would increase to $5,000,000 and a maximum loan of $2,500,000 would be made available for construction of ambulatory care facilities.●

● Mr. ROTH. Mr. President, I am pleased to cosponsor this amendment and I want to commend Senators NUNN, KENNEDY, and SCHWEIKER for their efforts in developing this fair and realistic legislation.

Since passage of the HMO Act of 1973, the program has had a history of fraud and abuse at the local level as well as gross mismanagement on the part of HEW. Criticisms of these administrative problems have been the subject of testimony by Senator NUNN to the Senate Finance Committee, Subcommittee on Health and of reports from the General Accounting Office and the Senate Governmental Affairs Committee, Subcommittee on Health and of reports from the General Accounting Office and the Senate Governmental Affairs Committee, Subcommittee on Investigations. This amendment is a result of careful scrutiny of the concerns expressed in these reports and an attempt to remedy the problems identified in them.

I believe the approach this amendment takes regarding the grant and loan component of the program is a sound one. To date, HEW has exhibited an inability to effectively establish a uniform loan policy and monitor HMO financial performance. Their response to these criticisms is we need more money for grants and loans. My response is HEW needs more time to learn how to manage the money they have before they get more of our taxpayers' dollars. This is precisely what this amendment provides—time first, money later, when HEW proves it can effectively administer the program. Funding levels for grants and loans will remain constant for 1 year. During that year HEW is expected to develop and implement proper financial policies. GAO will continue to study the HMO program to assure this goal is accomplished.

Provisions are also included to insure proper financial accounting in the HMO's themselves. Imposing a penalty of up to $25,000 and up to 5 years imprisonment for filing a false financial statement insures the provisions already contained in the bill relating to financial statements will be something more than "paper tigers."

When Congress enacted the HMO Act it did so with the belief that HMO's could eventually provide a low-cost alternative for health care coverage. HEW's inefficiency and mismanagement of the program has made light of Congress intent to encourage a service that could be of benefit to those who choose to participate.

I believe this bill is a reaffirmation of the Congress' faith in the potential of the HMO concept and this amendment is a clear statement to HEW that such bureaucratic bungling cannot and will not be tolerated.

I urge that the Senate adopt this amendment to S. 2534.●

Mr. NUNN. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (UP No. 1457) was agreed to.

UP AMENDMENT NO. 1458

(Purpose: To provide for compliance with the Budget Act)

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 1458.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 12, insert "beginning October 1, 1978," after "(4)".

On page 33, line 24, strike "The" and substitute "Beginning October 1, 1978, the".

On page 34, line 4, insert "Any contracts entered into pursuant to the provisions of this section shall be limited to amounts provided in appropriation Acts." after "Act.".

Mr. SCHWEIKER. Mr. President, these are technical amendments to insure that the bill is in compliance with the Budget Act.

I am prepared to yield back the remainder of my time on the technical amendments.

Mr. KENNEDY. I yield back our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1458) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, S. 2534 represents a bipartisan effort to make significant improvements in the Health Maintenance Organization Act of 1973. The bill is the product of careful review of the Human Resources Committee of the problems and the promise of the HMO program during the last 5 years.

I would like to commend Senator KENNEDY, chairman of the Health and Science Research Subcommittee; Senator SCHWEIKER, its ranking minority member; and the other members of the subcommittee who have dealt with the need to provide quality health care to all Americans at affordable prices. These Senators have grappled with some of the most troublesome and pressing issues to come before Congress.

While health care issues have become more complex, health care costs have been rapidly escalating. In the United States today, nearly 9 percent of our GNP is spent on health care, and that proportion increases every year.

The concept of health maintenance organizations is a proven method of health care delivery. A prepaid group practice provides health care at significantly lower costs than the traditional fee-for-service system. Health care providers operating on a prepaid basis have a built-in economic incentive to maximize preventive care and to minimize unnecessary and duplicative tests. It is only logical that U.S. business, organized labor, the administration, and Members of Congress are focusing more attention on the development of HMO's.

As of February 1978, about 6 million Americans were being served by some 167 health maintenance organizations. More people might choose to participate if given the opportunity.

S. 2534 addresses the problems which have been identified in administering the program. Clarifying and strengthening the existing laws will further the development of health maintenance organizations. The measure would promote more cost-effective management of HMO's through an administrative training program and through strong reporting and disclosure requirements designed to detect fraud and abuse. It would provide existing HMO's with loans and loan guarantees for construction of ambulatory care facilities. Their emphasis on the use of ambulatory care accounts in part for the HMO's success in holding down health care costs.

In recent weeks, the Senate has acted favorably on three pieces of health care legislation. We have made major progress in the advancement of local mental health centers, major progress in important biomedical and technical research programs.

The Health and Science Research Subcommittee has examined our health care system in its entirety. Its members have studied and tried to balance the need for long-term health research—which is crucial to the future health of all Americans—with the immediate need for quality health care delivery. Through their efforts, much attention has been given to the planning and integration of the many services needed to protect the health of every American.

The dramatic human and economic cost of illness in this country mandates detailed review of every Federal health care dollar. We have before us today a bill which would promote a cost-effective system of health care delivery. I congratulate Senator KENNEDY, Senator SCHWEIKER, and all members of the subcommittee for their endeavors.

● Mr. JAVITS. Mr. President, I support S. 2534, the Health Maintenance Organization Amendments of 1978, of which I am a cosponsor.

As a longtime proponent of the prepaid health care concept, and having played an active role in the fashioning of the original Health Maintenance Organization Act, Public Law 93–222, I remain strongly committed to continued Federal support for the development of health maintenance organizations.

In my judgment, the HMO concept embodies many of the very goals which health policymakers in both the public and private sectors are currently seeking to achieve. HMO's stress prevention and early detection; HMO's employ a reimbursement scheme which discourages unnecessary hospitalizations, unnecessary lab tests, the purchase and construction of unnecessary equipment and facilities, and utilize other practices which lead to greater demonstrated cost efficiency; furthermore, HMO's inject in the health care system a much-needed element of competition—that is, an alternative to the fee-for-service system which now dominates health care. Taken together, these characteristics build a solid foundation for health care services delivery reform. The need for such reform is paramount and undeniable; consequently I believe that continued Federal support of the HMO program is warranted and justified.

I recognize that implementation of the HMO Act has not been without its problems. During the years immediately following passage of the act, HEW, for example, was inexcusably slow in issuing regulations. More recently the Department has allowed applications for HMO qualification to accumulate, causing undesirable backlogs in the qualification process. In addition, many HMO's have experienced serious difficulties in becoming financially viable entities. Despite these short-term problems, however, I am convinced that HMO's hold great promise for the provision of reasonably priced, accessible health care services.

In the recent years of Federal experience with HMO's, legislative improvements have been identified which, if enacted, would better stimulate the growth and development of HMO's. The amendments before us today by and large represent the Human Resources Committee's efforts to modify and thus strengthen the provisions of the HMO Act in order to achieve this objective.

I believe that the committee bill as amended by the proposal to be offered by Senator NUNN, of which I am a cosponsor, is an excellent compromise which will strengthen the HMO program. I urge my colleagues to support favorably both the Nunn amendment and the amended committee bill.●

● Mr. CRANSTON. Mr. President, I am pleased to be a cosponsor of S. 2534, the proposed Health Maintenance Organization Act Amendments of 1978, and urge my colleagues to support this legislation.

Although there have been reports recently of abuses which have occurred in HMO's, and they were indeed serious offenses, major steps have been taken to correct the conditions which led to those abuses. The State and Federal Governments have learned a great deal from those unfortunate cases and have now developed the capacity to avoid their reoccurrence.

Mr. President, when the Health Maintenance Organization Act was amended 2 years ago by Public Law 94–460, several amendments to title XIX of the Social Security Act were enacted which were directed at insuring that medical care provided to medicaid beneficiaries through HMO's would be of high quality. This action was taken in response to serious abuses which had occurred prior to 1974 in California where a concerted effort had been made by the State to provide medical care to medicaid beneficiaries through prepaid health programs. Unfortunately, at that time, there were no measures taken to assure quality of care or to assure cost-effective financial management free of fraud and abuse.

Since 1974, under the leadership of Gov. Jerry Brown, California has completely overhauled the medicaid program of contracts with HMO's. State laws have been enacted to correct the abuses which had occurred prior to 1974.

I think it is fair to say that the new California law has provided a model for other States to follow in providing their medicaid beneficiaries with an opportunity to belong to an HMO.

In fact, the State is developing an annotated version of that law so that States can avoid repeating the mistakes made in 1971 when California first began the contract program with prepaid health care.

S. 2534 addresses these issues as well by requiring each HMO to file financial disclosure statements annually with the Secretary of HEW. These provisions were drafted in cooperation with the General Accounting Office as well as with the Department of Health, Education, and Welfare. I would like to point out, Mr. President, that the committee report expresses the committee's expectation that HEW, in carrying out this program, will make every effort to limit paperwork burdens to the extent effective administration of the program will allow.

Mr. President, HEW has also taken steps to insure that the quality of the services provided members of HMO's meet high standards and that the programs are financially sound and of high integrity. A draft plan for implementing the Department's regulatory responsibilities for HMO compliance was published in the Federal Register last month with the expectation of implementation in the near future.

With the adoption of an effective compliance program, the quality of HMO's participating in the Federal program can be assured.

HEW has also taken steps internally to provide stronger administration of the HMO program. With the new organization and management that has been instituted, many of the problems of the past can be avoided.

Although I began my remarks by emphasizing steps which are being taken to prevent abuse by HMO's, I do not want to give the impression that abuse has been common among HMO's. Indeed, HMO's have shown that they provide valuable options in our health care system.

They have been cost effective, they have provided a high quality of health care, and they provide the kind of health care which is directed towards preventing illness, rather than only providing care after illness has struck. They are built on the premise of promoting health and are truly primary health care programs.

A basic component of many HMO's is a strong patient education program which teaches the patient to follow good health habits, and to take necessary precautions such as making sure that the children in the family are immunized against childhood diseases.

Data submitted to the committee by HEW show that the number of hospital days used by members of HMO's is approximately one-half the number used by Americans generally. An HMO has a financial incentive to detect an illness early, and to care for the patient in an ambulatory setting. There is no advantage to an HMO to refer a patient to a hospital unnecessarily or to order unnecessary tests. HMO's must provide high-quality responsive care to remain competitive with other health insurance options. The growing enrollment in HMO's is evidence they are doing so and that patients are satisfied with the care they are receiving.

In addition, HMO's provide a setting where a number of physicians are in close association with each other daily. Their shared experiences and constant exchange of information expands their capacity to care for patients.

Mr. President, S. 2534 as reported would make several revisions in existing law designed to encourage the development of HMO's and to clarify certain provisions which will permit better administration of the program.

The modifications made by the amendments agreed to today would make further changes to reduce opportunities for abuse. The bill as amended would not make major changes in the HMO law. For the most part, it corrects problems that have been identified in existing law. I believe its enactment will result in an improved program which, with HEW's new organizational structure, can make this concept of health care a real option for many more Americans.

I urge adoption of the committee bill by the Members of the Senate.●

Mr. KENNEDY. Third reading.

Mr. SCHWEIKER. I yield back all my time on the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CLARK), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Dakota (Mr. BURDICK) would each vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 71, nays 1, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—71

| | | |
|---|---|---|
| Abourezk | Goldwater | Nelson |
| Bartlett | Hansen | Nunn |
| Bayh | Hart | Packwood |
| Bentsen | Hatch | Pearson |
| Biden | Heinz | Pell |
| Bumpers | Helms | Proxmire |
| Byrd, Harry F., Jr. | Hodges | Randolph |
| Byrd, Robert C. | Hollings | Riegle |
| Cannon | Humphrey | Sarbanes |
| Case | Inouye | Sasser |
| Chafee | Jackson | Schmitt |
| Chiles | Javits | Schweiker |
| Church | Kennedy | Scott |
| Cranston | Leahy | Sparkman |
| Culver | Long | Stafford |
| Danforth | Lugar | Stennis |
| Dole | Magnuson | Stevenson |
| Domenici | Mathias | Stone |
| Durkin | McClure | Talmadge |
| Eastland | McGovern | Tower |
| Ford | Melcher | Wallop |
| Garn | Metzenbaum | Williams |
| Glenn | Morgan | Young |
| | Muskie | Zorinsky |

NAYS—1

Curtis

NOT VOTING—28

| | | |
|---|---|---|
| Allen | Griffin | Laxalt |
| Anderson | Haskell | Matsunaga |
| Baker | Hatfield, Mark O. | McIntyre |
| Bellmon | Hatfield Paul G. | Moynihan |
| Brooke | Hathaway | Percy |
| Burdick | Hayakawa | Ribicoff |
| Clark | Huddleston | Roth |
| DeConcini | Johnston | Stevens |
| Eagleton | Laxalt | Thurmond |
| Gravel | Matsunaga | Weicker |

So the bill (S. 2534) was passed, as follows:

S. 2534

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) this Act may be cited as the "Health Maintenance Organization Act Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. (a) Section 1301(b)(3) is amended to read as follows:

"(3) The services of physicians which are provided as basic health services shall be provided through physicians or health professionals who are members of the staff of the health maintenance organizations, through a medical group (or groups), through an individual practice association (or associations), through physicians or health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or physicians or health professionals under contract with the organization, except that this paragraph shall not apply in the case of (A) physician services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any physician service provided a member of the health maintenance organization other than by such a physician because of an emergency which made it medically necessary that the service be provided to the member before he could have it provided by such a physician. A health maintenance organization may also, during the thirty-six-month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide physician services through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for the purposes of this title. After the expiration of such period, the organization may provide physician services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years after the end of its fourth fiscal year of its operation, enter into contracts with physicians other than members of staff, medical groups, or individuals practice associations if the amounts paid under such contracts for basic and supplemental health services provided by physicians exceed 15 per centum of the total estimated amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services by physicians, or, if the health maintenance organization

principally serves a rural area, 30 per centum of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of physician services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for the purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education). For purposes of this paragraph, the term 'health professional' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.".

(b) The second sentence of section 1301(b)(4) is amended to read as follows: "A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing emergency health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.".

(c) Section 1301(c) is amend—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) provide the Secretary with assurances satisfactory to him that no membership enrollment shall occur at an individual's place of residence.".

DEVELOPMENT OF GRANTS AND INITIAL OPERATING LOANS

SEC. 3. (a) Section 1304(f)(2)(A) is amended to read as follows:

"(A) $1,000,000 through September 30, 1979 and $2,000,000 thereafter, or".

(b) Section 1305(b)(1) is amended by—

(1) striking "$2,500,000" and substituting "$2,500,000 (or $5,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and within 30 days of the making of such loans or loan guarantees furnishes the Human Resources Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives with written notification and reasons thereof and a copy of such written determination and the reasons therefor) through September 30, 1979, and $5,000,000 thereafter"; and

(2) striking "$1,000,000" and substituting "$1,000,000 (or $2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and within 30 days of such disbursement furnishes the Human Resources Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives with written notification thereof and a copy of such written determination and the reasons therefor) through September 30, 1979, and $2,000,000 thereafter".

AMBULATORY CARE FACILITIES

SEC. 4. (a)(1) Section 1305(a) is amended by striking "and" after paragraph (2); striking the period at the end of paragraph (3) and substituting a semicolon, and adding at the end thereof the following new paragraph:

"(4) beginning October 1, 1978, make loans to, and guarantee to non-Federal lenders payment of principal of and interest on loans made to—

"(A) public or nonprofit private entities which have submitted and had approved an application for assistance under section 1304 in accordance with regulations promulgated by the Secretary, or

"(B) public or nonprofit private health maintenance organizations which have demonstrated to the Secretary the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1), or

"(C) other private health maintenance organizations (which have submitted and had approved an application for assistance under this subsection in accordance with regulations of the Secretary and which have demonstrated to the Secretary the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1)) but only if the health maintenance organization will serve a medically underserved population,

to assist them in meeting the costs of equipping, constructing, acquiring, or renovating ambulatory care facilities.".

(2) Section 1305(a) is further amended by striking "operating costs" in paragraphs (1), (2), and (3) and substituting in each case "costs of operation".

(b) Section 1305(b) is amended by inserting after "under this section" each time it appears "(other than paragraph (4) of subsection (a))".

(c) The section heading for section 1305 is amended to read as follows:

"LOANS AND LOAN GUARANTEES FOR INITIAL COSTS OF OPERATION AND AMBULATORY CARE FACILITIES"

(d) Section 1305(d) is amended by striking "1980" and substituting "1981".

BENEFITS REQUIRED

SEC. 5. The material in section 1301(b) preceding paragraph (1) is amended by striking "other than those prescribed by or under this title" and substituting "(other than limitations and exclusions approved by the Secretary with respect to services the health maintenance organization is unable to deliver due to natural disasters, wars, or insurrection; with respect to financial liability for care for illness, injury, or conditions covered by a workmen's compensation statute; or with respect to unusual and infrequent medical services or procedures not necessary to protect the health of the member; and other than a limitation otherwise prescribed by or under this title)".

EMPLOYEES' DEDUCTIONS FOR HEALTH BENEFIT PLAN

SEC. 6. (a) Section 1310 is amended by adding at the end thereof the following new subsection:

"(i) Each employer, with a demonstrated capability to provide payroll deductions for health benefits, which is required by subsection (a) to offer to his employees the option of membership in a qualified health maintenance organization shall, with the consent of the employee who exercises such option, arrange for the employee contribution for such membership to be deducted from such employee's wages and salaries and forwarded on his behalf to the qualified health maintenance organization.".

(b) Section 1310(b)(1) is amended to read as follows:

"(1) one or more of such organizations provides physician services through physicians who are members of the staff of the organization or a medical group (or groups), and".

(c) Section 1310(b)(2) is amended to read as follows:

"(2) one or more of such organizations provides physician services through (A) an individual practice association (or associations), or (B) a combination of such association (or associations), medical group or groups, staff, and individual nonstaff physicians under contract with the organization, then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health servics as described in clause (2).".

CONTINUING DEVELOPMENT

SEC. 7. (a) Section 1304(b)(2) is amended by inserting "improvement of services, or" after "subsection includes".

(b) Section 1304 is further amended by adding at the end thereof the following new subsection:

"(l)(1) A grant or loan guarantee made under this section for the imppovement of services may be made only to an entity which demonstrates the capability of maintaining continued fiscal soundness in accordance with the requirements of section 1301(c)(1).

"(2) Grants or loan guarantees made to a single entity under this section for the improvement of services may not in the aggregate exceed an amount equal to the maximum sums which the applicant would have been eligible to receive under section 1303 and this section less any amounts actually received under such section. The provisions of paragraph (3) of subsection (b) shall not apply to a grant made for the improvement of services.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 1309(a) is amended by—

(1) striking "and" after "1977," the first time it appears; and

(2) striking everything after "1978" and substituting the following: ", $35,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981.".

TRAINING FOR HEALTH MAINTENANCE ORGANIZATION ADMINISTRATORS

SEC. 9. Title XIII is amended by adding at the end thereof the following new section:

"MANAGERIAL TRAINING

"SEC. 1317. (a) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter referred to as the 'Program') for the purpose of training qualified health maintenance organization administrators and other managerial personnel.

"(b) Payments for internships or for the costs of internships administered under this section may be awarded by the Secretary either—

"(1) to individuals whose application for such position has been approved by the Secretary; or

"(2) to a health maintenance organization or other entity which has submitted and had approved an application for a grant under this section.

"(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments to health maintenance organizations or other entities may be used only for the costs of such internships, and payments under this section with respect to any internship shall be limited to such amounts as the Secretary finds necessary to cover the cost incurred by the health maintenance organization or other entity under this section.

"(d) Payments to individuals receiving training under this section shall not exceed the sum of $2,000 per month per individual, excluding relocation costs, nor shall the term of such payments exceed twelve months.

"(e) There are authorized to be appro-

priated for the purposes of this section $2.000.000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, $3,000,000 for the fiscal year ending September 30, 1981, $4.-000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.".

FINANCIAL DISCLOSURE

SEC. 10. Title XIII as amended by this Act is further amended by adding at the end thereof the following new section:

"FINANCIAL DISCLOSURE

"SEC. 1318. (a) Each health maintenance organization shall file annually with the Secretary financial information in such form as the Secretary may require (which in the case of an organization which is related to the health maintenance organization by common ownership or control, shall be a consolidated financial statement), which shall include:

"(1) Such information as the Secretary may require, demonstrating that the health maintenance organization has a fiscally sound operation.

"(2) A description of transactions, as specified by the Secretary, between the health maintenance organization and a party in interest. Such transactions shall include—

"(A) any sale or exchange, or leasing of any property between the health maintenance organization and a party in interest;

"(B) any furnishing for consideration of goods, services (including management services, but excluding health services provided to members by staff, medical group (or groups), individual practice assoication (or associations), or any combination thereof), or facilities between the health maintenance organization and a party in interest; and

(C) any lending of money or other extension of credit between a health maintenance organization and a party in interest.

"(b) For the purposes of this section the term 'party in interest' means:

"(1) any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the assets (and in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under the applicable State corporation law) of the health maintenance organization;

"(2) any entity in which any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the assets (and in the case of a health maintenance organization organized as a nonprofit membership corporation, an incorporator or member of such corporation under the applicable State corporation law) of the health maintenance organization:

"(A) is an officer or director;

"(B) is a partner (if such entity is organized as a partnership);

"(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

"(D) has a mortgage, deed of trust, note, or other interest valuing more than 5 per centum of the assets of such entity;

"(3) any person directly or indirectly controlling, controlled by, or under common control with the health maintenance organization.

"(c) Each health maintenance organization shall make the contents of the annual statement described in subsection (a) available to its enrollees upon reasonable request.

"(d) The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(2) for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(2).

"(e) The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

"(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d);

"(2) an assessment of the degree of conformity or nonconformity of each health maintenance organization evaluated by the Secretary under subsection (d) with such standards and norms;

"(3) what action, if any, the Secretary considers necessary under section 1312 with respect to health maintenance organizations evaluated under subsection (d).

"(f) Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization.

"(g) Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) shall be ineligible for any Federal assistance under this title until such time as such statement is received by the Secretary and shall not be a qualified health maintenance organization for purposes of section 1310.

"(h) Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

PROGRAM ADMINISTRATION

SEC. 11. (a)(1) Section 1306(b)(2) is repealed.

(2) Paragraphs (3), (4), (5), (6), (7), and (8) of section 1306(b) are designated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(b) Section 1307 is amended by adding the following new subsection at the end thereof:

"(f) Beginning October 1, 1978, the Secretary may make grants to public or nonprofit private entities and enter into contracts with private entities for activities to assist in the provision of technical assistance to projects and health maintenance organizations, and in making determinations within the meaning of sections 1308, 1310, and 1312 of the Act. Any contracts entered into pursuant to the provisions of this section shall be limited to amounts provided in appropriations Acts.".

(c) Subsection (h) of section 1310 is repealed.

(d) Subsection (c) of section 1312 is repealed.

PROGRAM MANAGEMENT EVALUATION

SEC. 12. Section 1314 is amended by adding at the end thereof the following new subsection:

"(d) The Comptroller General shall evaluate the adequacy and effectiveness of the policies and procedures of the Secretary of Health, Education, and Welfare for the management of the grant and loan programs established by this title and the adequacy of the amounts of assistance available under such programs and shall report to the Congress the results of such evaluation not later than May 1, 1979.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CHILD NUTRITION AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3085, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 3085) to extend and amend the special supplemental food program and the child care food program, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill, which has been reported from the Committee on Appropriations with amendments as follows:

On page 28, line 4, after "section" insert "for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1971, and September 30, 1982";

On page 36, line 25, strike "$600,000,000" and insert "$550,000,000";

On page 39, line 6, strike "specified level of funding authorized to be appropriated" and insert "funds provided in accordance with this section".

The PRESIDING OFFICER. Debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from South Dakota (Mr. McGOVERN), and the Senator from Kansas (Mr. DOLE), with 30 minutes on any amendment and with 15 minutes on any debatable motion, appeal, or point of order.

The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I wish to preface my remarks on this bill, the child nutrition amendments of 1978, with a commendation to the chairman of our committee, Senator TALMADGE of Georgia, and the ranking member of that committee, Senator DOLE of Kansas, and also the other members of the committee who have worked especially on this legislation, Senator LEAHY, Senator BELLMON, and other members of the committee, for their efforts to improve our child nutrition programs.

One of the things that I have been proudest of during the years I have worked in this nutritional field is that whether those efforts involved the work of the Select Committee on Nutrition or the full standing Committee on Agriculture, Nutrition and Forestry, they have

without exception always been bipartisan in character. Frequently the Senator from Kansas and I have teamed up in efforts to improve our nutrition programs, and maybe this is as good a time as any to express my appreciation to him for the leadership he has provided in this field and also to congratulate him on his birthday which falls on today.

Several bills were introduced in the Senate in this Congress relating to the child nutrition programs: S. 2630, that was introduced by Senator HUMPHREY, would extend and amend the program for women, infants, and children which is one of the best social programs on the statute books today.

S. 2809, introduced by Senator DOLE, would extend and amend the child care food program. There were also two other bills before the committee: S. 2824, introduced by Senator LEAHY, and the administration's bill, which were comprehensive bills to consolidate the National School Lunch Act and the Child Nutrition Act of 1966.

The Subcommittee on Nutrition held 6 days of hearings on child nutrition legislation: Four in Washington (April 6, April 10, April 11, and April 12), one in Vermont chaired by Senator LEAHY (April 22), and one in Oklahoma chaired by Senator BELLMON (May 8).

On May 3, 1978, the subcommittee, after careful consideration, voted to report to the full committee a bill that was not comprehensive in nature, but rather a bill that was in the form of a series of amendments to the current law. With the press of business facing the committee and the Senate this year, the committee believed that it would be more prudent to proceed in this manner and to postpone any comprehensive rewrite of the National School Lunch Act and the Child Nutrition Act of 1966.

The subcommittee bill represented a consensus of views regarding needed changes in the child nutrition programs, and was based, in part, on the provisions of the various bills before the committee.

The Committee on Agriculture, Nutrition, and Forestry, unanimously voted to report to the Senate the subcommittee bill, with several changes, as a clean committee bill.

The Child Nutrition Amendments of 1978 amends the National School Lunch Act and the Child Nutrition Act of 1966. The major provisions of the bill would:

First. Extend and make permanent the child care food program;

Second. Extend the WIC program for 4 years with guaranteed funding for local WIC agencies up to the authorized amounts of $600 million for fiscal year 1979, $800 million for fiscal year 1980, $900 million for fiscal year 1981, and $950 million for fiscal year 1982;

Mr. President, I realize that these are large figures we are talking about, approaching ultimately $1 billion. But I think every member of the committee who sat through the hearings on this legislation and who had an opportunity to look at the program would contend that this is a program that, in the long run, will save this country money by heading off disease and the handicapping of children in the early formative months and years in such a way as to avoid much more costly results to our society later on.

The more I deal with nutritional issues, the more I am convinced that one way to reduce the Nation's medical bill, that is now approaching some $200 billion is by sound preventive health measures to keep ourselves from becoming ill in the first place. It is enormously expensive to deal with the results of disease and illness and handicap once it strikes. But these programs are designed to provide assistance, good nutrition to nursing mothers, to mothers during the pregnancy period, to infants in the early years of life, in the most vulnerable stages, and to do it in such a way as to not only respond in a humane way to the needs of our people, but actually to head off much greater costs that would otherwise result later on in life.

Third. Expand the nutrition education authority in the WIC program and provide that a minimum of one-fifth of WIC program administrative funds shall be used for nutrition education.

I would like to underscore here again, Mr. President, the importance of this investment in the nutrition education. Congress cannot legislate sound diets, we all know that. But we can provide some of the modest funding that will be required to bring education to our children and to the American people as a whole as to what nutritional habits are more likely to contribute to their health and well-being.

Fourth. Retain the requirement that eligibility in the WIC program be based on "nutritional risk;"

Fifth. Require local WIC agencies to be State approved;

Sixth. Establish an income eligibility standard, for the first time, at the reduced price lunch guideline of the National School Lunch Act (195 percent of the poverty level);

Seventh. Authorize the Secretary of Agriculture to purchase commodities for the WIC program;

Eighth. Reduce by 10 cents the Federal reimbursement rate for the reduced price lunch program;

Ninth. Increase the level of funding for State administrative expenses for the child nutrition program; and

Tenth. Encourage, but not mandate, expansion of the school breakfast program by: First, making such schools eligible for "reserved" equipment funds; second, increasing the portion of equipment funds that are "reserved" from 33⅓ percent to 50 percent; and third, increasing the authorization for equipment funds from $40 to $75 million.

During the past decade or so, I, along with many of my distinguished colleagues, have attempted to bring a special focus to the problems of hunger and malnutrition in this country. The Agriculture Committee and the Congress have responded. We have established several food programs designed to reach the most vulnerable groups with special problems. We have also made significant steps toward combining the food aspects of our food assistance programs with an emphasis on the health and preventive health aspects of a nutritionally adequate diet. I believe the WIC program is an excellent example, providing health support as well as food to those in need of nutritional supplements.

The WIC program has earned a special place in the hearts and minds of all of us who have been associated with it. Its purpose is simple, yet sound: providing a supplemental food package to women, infants, and young children who have been shown to be at nutritional risk will encourage mental and physical development, maximize human potential, and minimize remedial costs.

I am pleased to report that the studies to date indicate that the WIC program does, in fact, work.

Since 1973 the Center for Disease Control (CDC) in Atlanta, Ga., has cooperated with a number of State health departments in an ongoing nutrition surveillance system. Participating States systematically collect data on standard indices of the nutritional status of infants and children during their visits to public health clinics. These statistics, including data gathered during WIC certifications, are sent to CDC. Several States report data from clinics authorized to prescribe WIC supplemental foods that can be compared with data from clinics that do not participate in WIC. These records (released by the Department of Agriculture in June; Document No. FNS–176) have provided evidence of the positive effect of the WIC program on individual and aggregate nutritional status.

In addition, the city of Waterbury, Conn., in cooperation with the department of epidemiology and public health at the Yale University School of Medicine has recently forwarded to me a copy of its evaluation of the WIC program. Like the Center for Disease Control study, this study vividly portrays the societal benefits of the WIC program.

I ask unanimous consent that the highlights of the CDC study as well as the letter of transmittal of the Yale study be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF FINDINGS

1. Children entering the WIC Program have a high prevalence of anemia, presumably caused by iron deficiency.

2. Children entering the WIC Program have a high prevalence of linear growth retardation.

3. Children entering the WIC Program have a high prevalence of overweight.

4. Children enrolled in the WIC Program for 1 year experience considerable improvement in their hemoglobin and hematocrit values.

5. Children entering the WIC Program with low weight-for-length or stature show marked increases in this parameter during the first 6 months of their participation. It appears that much of this improvement is due to correction of gross measurement errors made at the time of the initial examination.

6. A very slight degree of improvement in linear growth is achieved overall by children enrolled in the WIC Program for 1 year. Children at the lowest end of the length or stature-for-age spectrum achieve consid-

erable improvement, some of which may be caused by technical measurement variability and errors at time of initial examination.

7. Children remaining in the WIC Program for 1 year maintain a prevalence of inappropriately high weight for their length or stature. Despite this, children entering the program who are overweight do experience some loss in weight, although some of this improvement may also be the result of measurement variability and errors.

8. The proportion of low birthweight infants born to WIC mothers is similar to that in the general population, which probably represents a considerable improvement over the proportion of low birthweight babies which would have been born to these mothers had they not had the advantages of the WIC Program.

9. Many children entering the WIC Program are both stunted in growth and concomitantly overweight. Provision of food alone, without nutritional supervision and nutrition education, cannot adequately address all of the nutritional problems of these children.

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WATERBURY, CONN., *June 1, 1978.*

Senator GEORGE STANLEY MCGOVERN,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR: I take the liberty to send you a copy of the attached study which has some very amazing results with important implications for the improvement of Public Health.

As you know infant mortality is a measuring staff for determining whether health delivery is good in a group or nation or whether it is not. There is a possibility that adequate food as given by the WIC program is the key to raise up our national infant mortality to the top.

May I put your attention, especially to the infant mortality chart on page 5 Section II which indicates that 1975, 1976 and 1977 combined WIC participants have only an infant mortality of 8.4 and non-participants 22.7. During 1977 nearly 50% of the pregnant women were participants in the WIC program for whom the infant mortality was only 4.6, and for non-participants 19.1.

It seems that further studies are indicated on a State wide basis, especially to pin point from what non-participant infants died. Unfortunately, our sample is not statistically large enough for such a study as explained in the text.

May we thank you again for all the assistance that you have given to our WIC Program.

Sincerely yours,
GERT WALLACH, M.D., M.P.H.,
*Director of Health.*

Mr. MELCHER. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. MCGOVERN. Yes.

Mr. MELCHER. Mr. President, I ask unanimous consent that Carol Donnelly of my staff have floor privileges during the consideration of the bill and any votes thereon.

The PRESIDING OFFICER (Mr. GLENN). Is there objection? The Chair hears none, and it is so ordered.

Mr. MCGOVERN. Mr. President, perhaps before I resume my remarks, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of S. 3085, including all rollcall votes thereon: Herny Casso, Carl Rose, Marshall Matz, Steve Starch, Bill Lesher, and Lenora Moragne.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCGOVERN. The potential cost effectiveness of the WIC program as an adjunct to good health care cannot be overemphasized. Money spent on the WIC target population can only result in reduced Federal expenditures for these individuals in the future.

The preventive aspects of the WIC program are among its strongest virtues. The provisions of supplemental foods can make the difference between a productive life for these women and children and unborn fetuses or a life doomed to institutionalization, due to mental or physical deterioration, or an early death. In no group are these preventive aspects more critical than the small group of children suffering from phenylketonuria (PKU), an inborn error of metabolism treated solely by dietary management. The WIC program has always provided the special diets necessary for these children up to 1 year of age. Amendments have been made in the Department of Agriculture's regulations to provide these special diets for these children throughout their eligibility for the WIC program. Medical advances during the last 10 years have greatly contributed to the identification and successful early dietary treatment of these children with an estimated 1:14,000 live births suffering with this disease. Despite these advances, the ability of families to pay for the required diets has become difficult due to rising costs. Cost to a family with a PKU child is $700 per year for special formula alone. This important modification of the WIC program at a relatively low cost ($1 million per year versus $250,000 per year for each institutionalized child) can help assure that more children become productive, wage-earning, citizens rather than burdens upon family and society.

Perhaps the most controversial provision of the bill, Mr. President, will be the funding structure for the WIC program.

The bill provides that any State-approved local eligible agency that applies to conduct or expand the WIC program shall be provided with the necessary funds, up to the specified amounts authorized—$600 million in fiscal year 1979, $800 million, $900 million, and $950 million in the succeeding years.

It is my feeling that this type of capped entitlement is crucial, in the short run at least, to provide for program growth.

Unfortunately, this program, successful as it has been, and a proven success, has had administrative difficulties from the very beginning, stemming from the way the administration has handled it. It has been the subject of impoundments and numerous court battles and to this day the WIC funding structure is still governed by a court order which will finally expire at the end of this fiscal year.

The effect of all this has been to create an atmosphere of uncertainty, and make local administrators and potential administrators extremely reluctant to start or expand individual WIC sites. From year to year these administrators are concerned over whether the program will continue, and if it did continue what level of funding would be available. Entitlement is necessary in the WIC program to reassure potential local administrators that the program does have support in Washington and that they will not be abandoned if they incure startup expenses.

In short, the unique and unfortunate history associated with the WIC program demands that some exception be made from the normal appropriations process to reestablish faith on the part of local administrators and participants in the integrity of the process.

An exception is further justified based on the demonstrated results—substantial reductions in anemia, low birthweight infants, and most importantly, infant mortality. Expansion of the program is crucial in the fight to reduce the high infant mortality rate in the United States. The United States ranks a poor 16th among the nations of the world in infant mortality, with a rate almost double that of Sweden—the country with the lowest infant mortality rate.

It is time the Federal Government told participants, and those waiting to become participants, as well as local administrators, that maximizing the mental and physical development of our children is a high national priority. The funds will not be impounded. Expansion of the program will not be stiffled. The Congress is committed to the program over the life of this bill and favors whatever program growth can be effectively used and administered.

One further comment on the WIC program:

Under the committee's bill, the Secretary would determine which foods should be made available under the WIC program. The Secretary is expected to promulgate regulations setting forth the type and the quantity of such foods that should be made available to recipients of WIC benefits. In doing so, the Secretary would attempt to use the best available information concerning the foods that are most conducive to mothers' and children's good health, and that serve as good examples for proper nutrition education. Pursuant to the foods made available in the Secretary's regulations, competent professional authorities would prescribe foods for the persons they are serving. Such prescriptions would be prepared with the view in mind of providing individual WIC participants with the appropriate types of foods that they need—considering their medical and nutritional conditions and cultural eating patterns, as well as the appropriate amount of fat, sugar, and salt that they should consume.

I ask unanimous consent to have printed in the RECORD a summary of the other major provisions of S. 3085.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS

(1) CHILD CARE FOOD PROGRAM (SECTION 2)

(a) *Eligible institutions*

Institutions eligible for participation in the child care food program must have Federal, State, and local licensing or be complying with appropriate renewal procedures. Where Federal, State, or local licensing or approval is not available, the institution must receive referrals or funds from Federal, State,

or local governmental agencies or demonstrate that it meets approval standards established by the Secretary of Agriculture after consultation with the Secretary of Health, Education, and Welfare. (Under existing law, unlicensed institutions must satisfy the Secretary that its standards are not less comprehensive than the Federal interagency day care requirements.)

The institution must also accept final administrative and financial responsibility for its food service. If the institution has been found to be seriously deficient in operating any of the programs under the National School Lunch Act or the Child Nutrition Act of 1966, it cannot be approved until necessary corrections have been made, and the institution must provide adequate supervisory and operational personnel for the monitoring and management of the food service.

*(b) Funding*

The bill makes the child care program permanent and authorizes the appropriation of such funds as may be necessary to carry out the program.

*(c) Payment rates*

*(i) All participating institutions, except family and group day care homes.*—The bill simplifies the child care food program by prescribing one payment rate for each category of institution, other than family and group day care home sponsoring organizations. In institutions where at least two-thirds of the children enrolled are eligible for free or reduced-price school meals, the State will receive reimbursement for all meals at the reimbursement rates for free school meals. In institutions where between one-third and two-thirds of the children enrolled are eligible for free or reduced-price school meals, the State will receive reimbursement for all meals at the rates for reduced-price school meals. In institutions where less than one-third of the children enrolled are eligible for free or reduced-price school meals, States will be reimbursed at the rates for paid school meals. (Special rates are applicable to snacks or meal supplements.)

The bill also allows institutions to elect, in lieu of these new reimbursements procedures to continue to be reimbursed according to the income of each child as provided under existing law.

*(ii) Family and group day care homes.*—A separate reimbursement schedule is established for family and group day care homes. Family and group day care homes would receive a payment for food and labor costs and payments for administrative costs up to limits prescribed by the Secretary, without a requirement for documentation of these costs. This provision is designed to simplify operation of the program in these small homes, where current rules have proved difficult to administer.

*(d) Tax exempt status*

The bill enacts the provision in the Department's current regulations that institutions participating in the program as a sponsoring organization for family or group day care homes, rather than the individual homes, must satisfy the requirements regarding tax-exempt status.

*(e) Administrative expenses and start-up funds*

Institutions that sponsor family or group day care homes will receive reimbursement for administrative expenses. Such reimbursements would include start-up payments for administrative expenses payable in accordance with procedures prescribed by the Secretary. A family or group day care home may function as its own sponsoring organization.

*(f) Studies*

The bill requires the Secretary to study—

(i) the administrative costs for institutions participating in the program and allows the Secretary to use the results of the study in prescribing maximum allowable levels for administrative payments;

(ii) food service operations under the program, including an evaluation of meal quality as related to costs, whether maximum reimbursement levels should be set for food service costs; and

(iii) the nature of licensing problems faced by institutions and family and group day care homes.

Up to $2 million of the fiscal year 1979 child care food program appropriations will be available to conduct these studies. The results of these studies would be reported to Congress within 18 months of the effective date of the bill.

*(g) Food service equipment assistance*

The bill increases from $3 million to $6 million the amount of funds available to the Secretary for food service equipment assistance for child care institutions participating in the program.

*(h) Direct disbursement of food service equipment suppliers*

The bill requires the Secretary to issue regulations authorizing the State to disburse funds directly to a supplier of food service equipment, prior to approval of the institution for participation, for equipment for that institution if the institution (i) meets all the requirements for program participation except for licensing and (ii) satisfies all requirements for licensing except for food service equipment.

(2) SPECIAL SUPPLEMENTAL FOOD PROGRAM (WIC) (SECTION 3)

*(a) Extension of the WIC program*

Section 3 of the bill extends the WIC program for four years.

*(b) Eligibility*

The bill enacts the current definitions in the Department's regulations for postpartum, pregnant, and breastfeeding women, and retains the current age limit for children eligible for the program at age five.

Program participation would be limited to pregnant, postpartum, and breastfeeding women, infants, and children who are at nutritional risk and whose incomes are below the standard for reduced-price lunches under the National School Lunch Act, 195 percent of the poverty level. There is currently no income cap on participation in the program.

Persons would not be eligible for program participation solely on the basis of their income.

*(c) Definition of "nutritional risk"*

The bill retains the concept of nutritional risk based on specific medical or nutritional conditions, but deletes specific examples of such conditions from the definition.

The definition is also amended to include conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

*(d) Concurrent operation with the commodity supplemental food program*

The bill allows the simultaneous operation of the commodity supplemental food program and the WIC program in the same area. The Secretary is required to issue regulations that would prevent dual receipt of benefits under these two programs. Existing law allows these programs to operate "side-by-side," which has been interpreted by USDA to preclude simultaneous operation in the same area.

*(e) Nutrition education*

The bill expands the existing authority for nutrition education in the WIC program by requiring that—

(i) the Secretary prescribe standards to ensure that adequate nutrition education services are provided and requiring that nutrition education training be provided to persons employed to provide such education;

(ii) nutrition education be provided to all pregnant, postpartum, and breastfeeding program participants and parents or caretakers of infant and child program participants. States may provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants or children who are enrolled at local agencies operating the program but who do not participate in the program;

(iii) the State agency evaluate annually the nutrition education component, including securing the views of participants, and provide nutrition education materials in languages other than English in areas with substantial non-English speaking low-income populations;

(iv) the Secretary, after submitting proposed nutrition education materials to the Secretary of HEW for comment, issue such materials for use in the program; and

(v) one-fifth of the funds provided for State and local agency administrative costs, except those funds used for evaluation and pilot projects, be used for nutrition education.

*(f) Migrants*

The bill requires—

(i) the Secretary to establish procedures to facilitate program participation of migrants as they move from State to State. The State agency is required to use bilingual program materials, where appropriate, in administering the program in areas with substantial numbers of non-English speaking low-income populations; and

(ii) the Secretary to prepare, by October 1 of each year, a report describing plans to ensure, to the maximum extent feasible, continuous WIC program benefits to migrants. The report is to be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

*(g) Submission on monthly financial and participation reports*

The bill requires State agencies to submit to the Secretary monthly financial and participation reports.

*(h) Continuing certification for participants who move*

The bill allows a person's certification of eligibility to remain valid for the period for which the individual was certified as eligible, when that person moves from one program area to another. A person would not need to have a new certification of eligibility in the new area, but the availability of a WIC program opening in the new area would not be guaranteed.

*(i) Food package composition*

The bill requires the Secretary to prescribe the foods available in the program. Competent professional authorities have the responsibility for prescribing food, from the foods designated by the Secretary, for individual participants in the program. To the degree possible, the competent professional authority should assure that the fat, sugar, and salt content of the prescribed food is appropriate.

Commercially available products designed for pregnant, postpartum, and breastfeeding women, infants, or children will be available to participants, at the discretion of the Secretary.

*(j) Authorization levels for appropriations for WIC*

The bill authorizes the appropriation of $600 million for fiscal year 1979, $800 million for fiscal year 1980, $900 million for fiscal year 1981, and $950 million for fiscal year 1982.

Of the sums appropriated for any fiscal year for the program, one-half of 1 percent, not to exceed $3 million, shall be available to the Secretary for the purpose of evaluating program performance, health benefits, and the administration of pilot projects. This includes projects designed to meet the special needs of migrants, Indians, and rural populations.

(k) *Program level*

The bill provides, subject to the authorization levels for appropriations, that any State-approved eligible local agency that applies to operate or expand the program shall immediately be provided with the necessary funds to conduct the program.

(l) *Administrative funds*

The bill authorizes the Secretary to make 20 percent of the funds provided each fiscal year (exclusive of the funds provided for evaluation and pilot projects) available for State and local agency administrative costs. Current law authorizes not to exceed 20 percent of such funds for local agency administrative costs. The bill also allows the Secretary to exceed the 20 percent maximum level on administrative funds as a result of reallocation when necessary for proper, efficient program and effective program administration.

The bill changes the administrative costs reimbursement formula so that each State's administrative funds are not tied to the cost of the food it prescribes. Each State would, instead, receive an administrative budget at the start of the year, so that States would know how much administrative money they have for the year.

(m) *National Advisory Council on Maternal, Infant, and Fetal Nutrition*

The bill expands the membership of the National Advisory Council on Maternal, Infant, and Fetal Nutrition from 19 to 20 persons.

(n) *Commodities*

The bill authorizes the Secretary to donate for distribution under the WIC program foods (i) available under section 416 of the Agricultural Act of 1949 including, but not limited to, dry milk, or (ii) purchased under section 32 of the Act of August 24, 1935, or (iii) purchased with appropriated funds.

(3) REDUCED-PRICE LUNCHES (SECTION 4)

The bill reduces the Federal reimbursement rate to States for reduced-price lunches by 10 cents. Currently, the Federal reimbursement rate for reduced-price lunches is set 10 cents below the rate for free lunches. The bill provides, with one exception, that the Federal reimbursement rate for these lunches be set 20 cents below the free lunch rate. However, in States where all schools charge less than 20 cents for a reduced-price lunch, the reimbursement rate for these lunches would be set at a level where the average reimbursement per lunch, plus a charge paid by the student, would equal the free lunch reimbursement.

(4) CHANGES IN COMMODITY INDEXES (SECTION 5)

(a) The bill changes the basis on which the reimbursement rate for milk in the special milk program is adjusted from the "food away from home" series of the Consumer Price Index to the wholesale price of milk.

(b) The annual adjustment in the commodity donation rate for the school lunch program would be based on changes in the Department of Agriculture's Wholesale Price Index for food used in schools and institutions, rather than changes in the "food away from home" series of the Consumer Price Index.

(5) SCHOOL BREAKFAST EXPANSION (SECTION 6)

(a) *Cost accounting practices*

The bill eliminates the requirement in existing law for schools serving both lunches and breakfasts to allocate all costs between the two programs and account for each program separately. This change will reduce bookkeeping and paperwork burdens significantly.

(b) *Equipment assistance*

The bill makes equipment assistance more accessible to schools that will use equipment to institute a breakfast program by—

(i) making such schools eligible for "reserved" equipment funds;

(ii) increasing the portion of equipment funds that are "reserved" from 33⅓ percent to 50 percent; and

(iii) increasing the authorization for equipment funds from $40 million to $75 million.

(v) *Additional assistance*

Assistance of up to 10 cents more per free breakfast will be made available to schools if they meet the State's definition of "especially needy" schools. The State definition must include any schools that are required to serve breakfast under State law, or that meet the Federal definition of especially needy. The bill establishes (for the 1979–1980 school year) the Federal category of especially needy schools as schools in which not less than 50 percent of the lunches served under the school lunch program were served free or at a reduced price during the 1977–1978 school year. This percentage is reduced to 45 percent for the 1980–1981 school year, and to 40 percent for all succeeding school years for lunches served during the second preceding year.

(6) STATE ADMINISTRATIVE EXPENSES (SECTION 7)

The bill—

(a) increases funding for State administrative expenses (SAE) in operating the child nutrition programs. Presently, the total funding for SAE nationwide is set at no less than 1 percent nor more than 1½ percent of the funds spent the second previous fiscal year on school food programs, and the special milk, child care and equipment programs. The minimum funding level is increased by the bill to 1½ percent;

(b) prescribes methods for allocating funds to States and raises the minimum State allocation from $75,000 to $100,000; and

(c) provides for an increase of approximately $750,000 in State administrative expense funds for operating the summer food program. (New administrative requirements imposed by P.L. 95–166 are increasing State administrative burdens. A new GAO report concludes that more State administrative expense funds are needed to manage the summer program properly.)

(7) INCOME POVERTY GUIDELINES (SECTION 8)

The bill—

(a) provides for the use of one uniform set of poverty guidelines for all USDA food programs; and

(b) sets a uniform national income limit for free school meals at 125 percent of the poverty guidelines. Currently, the standards may be set at 100 percent to 125 percent of the poverty guidelines.

(8) STUDY ON MENU CHOICES (SECTION 9)

The bill requires the Secretary to conduct a study on the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns.

(9) OUTLYING AREAS (SECTION 10)

The bill provides for adjustments in the reimbursement rates under the school breakfast and school lunch programs for Alaska, Guam, and American Samoa to take into account documented higher costs in food service.

(10) CRIMINAL PENALTIES (SECTION 10)

The bill provides criminal penalties for fraud or embezzlement in connection with the child nutrition programs.

Mr. McGOVERN. I urge my colleagues in joining me in supporting S. 3085, as reported by the Committee on Agriculture, Nutrition and Forestry. I am very hopeful that all Senators will join us in supporting the bill as reported.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. First of all, Mr. President, I certainly wish to thank our distinguished colleague the chairman (Mr. McGOVERN), for his work not only on this particular piece of legislation, but over the years. I would guess that whoever eventually sits down to write an objective assessment of who has had the greatest impact on nutrition in America will find it to be the distinguished Senator from South Dakota, because his efforts started years ago as chairman of the Nutrition Committee. His work relates not just to this particular subject matter, but to other outstanding programs, including changes made in the food stamp legislation. There is no question of where the credit belongs, or where it will go.

Mr. President, over the past several months the Nutrition Subcommittee and full committee have given full attention to the Child Nutrition Amendments of 1978—covering miscellaneous school meal provisions, the WIC program and the child care food program. Last March 23, I introduced the bill to extend and strengthen the child care food program in S. 3085, based on its demonstrated sucess in providing nourishing meals to children in day care settings.

Under the leadership of our distinguished chairman the Senator from South Dakota (Mr. McGOVERN)—and I might add, as the Senator from South Dakota has pointed out, the leadership of the Senator from Georgia (Mr. TALMADGE) and the Senator from Oklahoma (Mr. BELLMON). The subcommittee has benefited greatly from public testimony and other discussions during several days of hearings—here in Washington, in Vermont, and in Oklahoma.

The bill represents the consensus of the subcommittee's views regarding the needed changes called for at this time. We are proud to say that S. 3085 has the full support of the school food service community and other individuals and groups who are associated with these Federal meal programs on a daily basis.

Mr. President, there are particular aspects of the total package, aside from child care which I feel deserve special mention at this time.

In the WIC section, the subcommittee worked hard to establish a solid education base to support the food package delivered, including setting nutrition education standards, training persons hired to each the clients, and evaluating the nutrition education component. In fact, the department secretary is required to see that nutrition instruction is given all WIC parents or caretakers.

A 20-member national advisory council on maternal, infant, and fetal nutrition is established to make a continuing study of how best to improve, strengthen and enhance WIC benefits. I would like to see competent professionals appointed to this body, and the fullest possible use

made of the expertise and recommendations they bring to the council and the department.

In the school meals section, the "food choice" study deserves special attention. Here we have an assessment of the cost and feasibility of schools offering a choice of menu item within the basic pattern. My nutrition contacts tell me this may be an even better approach to lunchroom participation and plate waste than some of the other measures we have tried.

As for school breakfast expansion: Few argue the need and benefit. Most argue the cost. I have always felt that there are aspects of our federally supported food programs which should be left up to the State and school districts.

I am encouraged by the three incentives outlined in the bill which encourage breakfast outreach: Combined lunch and breakfast recordkeeping, equipment assistance funding, and special help to those severely in need.

Finally, I feel the uniform set of poverty guidelines for all USDA nutrition programs coupled with the new indexes for reimbursement rates are significant advances which deserve our special attention and support at this time.

Mr. President, I would like now to turn to the child care portions of S. 3085 which reflect major accomplishments in legislation, and summarize a few highlights just briefly.

SIMPLIFIES PAPERWORK

The bill seeks to take some of the burden out of paperwork and calls for one payment rate for institutions other than family and group day care. Yet, it gives these same institutions the option of receiving reimbursement based on income of each child as in current law.

The regulatory impact evaluation report on S. 3085 endorses the fact that the bill contains procedures which reduce accounting, recordkeeping, and other administrative requirements. I am told that the flat reimbursement rate here, free of detail calculations required in current law, also the separate payment for administrative costs should reduce regulations immensely, and few would dispute the need to reduce the tons of regulations processed annually.

Eligible institutions must have State and local licensing or be complying with licensing renewal procedures. However, where this is not available other options are offered. In spite of loosening up the rules for eligibility, let me hasten to make clear that all participating institutions are still expected to meet appropriate local health and safety standards. The flexibility is here to allow great program access to family and group day care homes who traditionally have been denied program benefit due to obstacles in the licensing procedures.

Additional eligibility safeguards which every recipient organization must abide by are, first, accept final administration and financial responsibility for management of an effective food service; second, provide adequate supervisory and operational personnel to manage the site; and, third, avoid being seriously deficient in operating any child nutrition program.

Startup funds for administrative expenses are available, in accordance with guidelines established by the Secretary, and institutions that sponsor day care homes will receive reimbursement for administrative expenses, including startup funds.

Finally, other forward-looking aspects of the bill call for studies to be conducted by the Secretary: First, studies on administrative costs for centers and homes, which would help the Secretary to establish levels for administrative payments; second, evaluations of food service operations, including meal quality as it relates to costs; and, third, assessing the nature of licensing problems. By far the section of my child care bill that stimulates the most discussion was that of eligibility. A solution to the bureaucratic licensing process that hinders many day care homes and centers programs from participating must be found.

RETAINS MEAL INTEGRITY

The nutrition goals of meals served are established through the normal research channels of the Department of Agriculture, and reimbursement rates are based on these USDA requirements. Since many young children spend 10 to 12 hours daily in day care settings the nutrition contribution of the foods served is paramount.

The fact that States have the option of receiving cash in lieu of commodities, for some or all of the commodities it is entitled to under the child care food program, will hopefully have an impact on meal quality and nutrition contribution. Under current law a State must take all cash or commodities.

I am pleased with the language providing training, technical assistance, and program monitoring. Frankly, I would like to see such assistance stress the matter of proper food habits development at an early age; because I have come to the conclusion that many of our problems associated with child nutrition programs might better be addressed if more could be done to assure more responsible food selection practices by the individual. Many children served in child care are from families where it is necessary for mothers to work and therefore are unable to care for the children during the day. This brings me to my last point, and that is the reassurance this program gives working parents.

REASSURES WORKING PARENTS

I will repeat here what I said on the floor when I introduced the child care bill: The relief it provides working parents is immeasurable. Knowing that a child is enrolled in a care facility and receiving well-prepared, well-served, and well-balanced meals must be an enormous relief for any employed mother and father.

Of late, the care of children while their parents are working has been a subject of increasing concern to many; one reason being the growth in the number of children whose mothers are in the labor force. Recent statistics of the Department of Labor show that 48 percent of the children under 18 years of age had mothers in the labor force in March 1977, up from 39 percent in 1970. Among preschool-age children, the proportion whose mothers worked or looked for work rose from 29 percent to 38 percent between 1970 and 1977.

Mr. President, before concluding these remarks—a bit of history.

The CCFP began in 1968 as part of a 3-year pilot program known as the special food service program for children. Designed originally to serve especially needy children, the pilot program provided assistance to nonresidential child care centers serving children from low-income areas or from areas with significant numbers of working mothers.

In October 1975, Public Law 94–105 expanded the program by extending eligibility to all nonprofit day care programs —those serving nonneedy as well as needy areas. It also opened participation to family and group day care homes, allowing them to join under the sponsorship of a qualified institution or organization.

During the first year of the program $2.8 million in Federal funds were spent and 39.8 thousand children were served. In fiscal year 1978 the program cost $137 million in Federal expenditures and served 676,000 children.

S. 3085 makes the program permanent and authorizes the necessary appropriations for continuing this important food and nutrition service to the Nation's child care institutions. Today the Congress demands a greater commitment of limited Federal dollars and I believe the need and benefit of Federal nutrition programs like S. 3085 become even more evident in the years to come. I hope it will have the support of my colleagues.

Finally, Mr. President, I would ask unanimous consent that Ed Twilly, of Senator THURMOND's staff, be granted the privileges of the floor during the debate and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I yield to the Senator from Florida such time as he may require.

Mr. CHILES. Mr. President, I ask unanimous consent that Rick Brandon and Bob Fulton, of the Budget Committee staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that the statement of Senator HENRY BELLMON on this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BELLMON

The bill now before the Senate has been considered by all three of the committees on which I serve. The Committee on Agriculture, Nutrition and Forestry, has jurisdiction over Child Nutrition legislation and has reported this bill to the Senate. The Committee presented its recommendation after consideration of the progress made in current child nutrition programs, problems which have been encountered in those programs, and after receiving the recommendations of the Carter Administration.

As a result of a problem related to the Budget Act, the bill was referred to the Appropriations Committee for a recommendation. The Appropriations Committee has now reported the bill back to the Senate with an amendment which I support. That amendment would reduce the ceiling for the WIC Child Nutrition Program in FY 1979. The Appropriations Committee's amendment would also convert the WIC Program in FY 1981 and 1982 from an entitlement program to a simple authorization for appropriations.

The Budget Committee, on which I also serve, has had considerable involvement with this legislation, beginning with the recommendations in the First Budget Resolution for this year, continuing with review of the Budget Act implications of the bill, and concluding just this week with endorsement of a waiver request related to the future entitlement increases under the bill.

I endorse the recommendations of the Agriculture and Appropriations Committees, and I supported the waiver recommendation of the Budget Committee.

Nothing is more important than assuring adequate nutrition for children in low income families. The programs that are authorized under this bill, together with the on-going school lunch and school breakfast programs, are critically important to the improvement of the health of America's young people. I think we have made considerable progress in recent years in promoting better nutrition and I am very hopeful that the changes that this legislation will bring will enhance and continue that progress.

I do have some concerns about this bill: First, it provides a very rapid increase in the rate of growth of the programs to which it relates. The WIC program, for example, will double over its current level during the next four years under this legislation. Likewise, the Child Care Food program, which provides food for non-residential child care centers, will continue the rapid growth pattern which has characterized that program in recent years. I would have personally preferred a somewhat slower rate of growth in these programs. I pledge to the Senate my personal attention to the management and delivery effectiveness of these programs in the coming months and years to help assure that the money will continue to be well used.

A second concern relates to the size and the entitlement features of the WIC program. I support the compromise recommended by the Appropriations Committee which will continue the entitlement provisions in FY 1979 and FY 1980, and then switch to an authorization for appropriations in FY 1981 and FY 1982. While I would have liked a smaller entitlement level in FY 1980 than the $800 million the bill provides, I am a realist, and, on balance, I believe that the compromise struck among the three Committees on this is an acceptable one.

Thirdly, the possibilities for cost savings in the Child Nutrition programs which were identified by the Administration have not, in my view, received adequate attention in the development of this legislation. There are opportunities for achieving economies in child nutrition programs. One of them, relating to the Special Milk program, is under active consideration in the Appropriations Committee at the present time. Another possibility, to which I expect to give particular attention during the coming months, relates to the reimbursement formula for school lunches and school breakfasts for non-needy children.

In conclusion, I find this an acceptable bill which offers promise of continued progress in improving child nutrition in this country. I will be working in the committees on which I serve for more effective Congressional oversight of the implementation of this legislation, and will seek to identify and present to the Senate opportunities for achieving economies which can help hold down the rising cost of the programs.



Mr. CHILES. Mr. President, the chairman of the Appropriations Subcommittee, Rural Development and Related Agencies, Senator EAGLETON, asked me to handle this matter on behalf of the committee, since he had to be out of town today.

The bill was referred to the Appropriations Committee pursuant to section 401 (b) of the Budget Act, because it creates new entitlement authority and, as reported, exceeds the Agriculture Committee's allocation of the first concurrent budget resolution for 1979. The principal reason is the creation of new entitlement authority for the special supplemental food program for women, infants, and children (WIC) mandating the spending of up to $600 million, $800 million, $900 million and $950 million in the 4 years beginning with fiscal year 1979.

In considering this bill, the Appropriations Committee examined both the spending levels and the new entitlement authority it creates. As a result of the combination of both, the Budget Committee advised the Appropriations Committee that this would cause the Agriculture Committee to exceed its allocation of the first concurrent budget resolution by $196 million.

In general, the committee noted that the creation of new entitlement programs mandates spending without full, annual congressional review through the appropriations process. This places the committee in a situation where funding becomes mandatory, regardless of the merits or particular financial needs of a program. In a time of scarce availability of funds, mandatory programs effectively squeeze out their high priority programs. The committee took note of a recent report from the General Accounting Office which pointed out the loss of congressional control that accompanies the creation of new entitlements, and recommended their adoption only after thorough study and analysis has determined that they would be in the public interest. Upon consideration of the unusual history of the women, infants and children feeding program, which includes a continuous series of impoundments, lawsuits, and court orders to spend funds that remain in effect through September, 1978, the committee decided that a special case for entitlement could be made, but only for a limited time. This will insure both administrators and recipients that the program will continue to be viable.

Accordingly, the committee is recommending an amendment that would eliminate the entitlement during 1981 and 1982, but leave it in effect during the first 2 years covered by the bill. In addition, the committee is recommending an amendment that would reduce the 1979 entitlement to $550 million to bring it in line with the President's budget and the congressional budget resolution. It is recognized that by itself this amendment will not entirely eliminate the amount by which this bill exceeds the Agriculture Committee's allocation of the first concurrent resolution. However, the committee believes that the targets in the first concurrent resolution can be achieved through adjustment in other programs within its jurisdiction. It should also be noted that the amended authorization levels will not cause the committee's program increases to exceed the assumptions of the first budget resolution. Rather, the excess reflects an inability to immediately achieve all the savings assumed in the budget resolution. The Agriculture Committee has made some program reductions in its authorization, and I expect the agriculture appropriations bill to achieve further savings. However, food prices have increased more rapidly than the Budget Committee anticipated, and other factors have limited the ability of Congress to achieve all these savings immediately. We therefore believe that reducing the authorization level to $550 million is a prudent measure that will not violate the intent of the budget resolution.

Mr. President, I strongly support child nutrition programs, which have a tremendous payoff and top priority for promoting the health of our population. Early childhood and pregnancy are the times in the life-cycle that proper nutrition is most critical for proper physical and mental development. However, we do have to keep careful watch to insure that we are spending our money most effectively. It should be noted that the WIC program, to which this amendment is addressed, is only one of several child nutrition programs authorized in this bill. In total, those programs cost well over $3 billion a year. It is therefore important for us to maintain an annual review of how each of those programs is performing and how they are relating to each other. The Appropriations Committee amendment will do just that, by ending the entitlement status for WIC in 1981.

We are providing for major growth in the program, because from all reports it is the best designed of our nutrition programs, working closely with local maternal and child health programs to reach the highest risk groups. As the program expands from $247 million this year, to $550 million in 1979, to as much as $950 million in 1982, we will want to keep careful watch on its progress. All too often, programs work well when they are small because of the dedication of a few people, but suffer growing pains when we try to expand them rapidly. I hope that the special supplemental food program (WIC) can retain its special character and quality, and that is why we will want to keep our ability to closely monitor its growth.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I yield myself such time as I require.

I appreciate the comments of the Senator from Florida.

As he knows, it is my feeling that the WIC program should be an entitlement program during the 4-year period covered by this legislation. The Agriculture

Committee reported the bill unanimously with this provision in the bill.

As I mentioned earlier in my statement I believe that there are ample reasons to make an exception from the appropriation process for the WIC program.

Nonetheless I am respectful of the opinion of the appropriations committee and I know that the staffs have been working hard to arrive at a compromise which will be acceptable to all concerned. The amendment he offers will bring the WIC program to a level of $800 million. As the chairman of this committee, Senator TALMADGE is fond of saying: "Politics is the art of the possible."

I shall, therefore, accept the amendment offered. For the record, however, I believe a point of order would lie, if I chose to make it. It is my understanding that under the Budget Act, when a bill is referred to the Appropriations Committee pursuant to section 401, the committee cannot make substantive changes in the legislation.

The Committee on Agriculture, Nutrition, and Forestry does not view the amendment of the Appropriations Committee as being in accord with the Congressional Budget Act of 1974 insofar as it relates to fiscal years 1981 and 1982.

S. 3085 was properly referred to the Appropriations Committee under section 401(b)(2) of the Congressional Budget Act. Section 401(b)(2) requires that any bill providing new entitlement authority—new spending authority mandated by law—be referred to the Appropriations Committee if the amount of new budget authority which would be required by such bill exceeds the allocation of new budget authority for the fiscal year in the most currently agreed to concurrent resolution.

Although the referral to the Appropriations Committee was proper, the amendment to S. 3085 offered by that committee is not. Section 401 of the Congressional Budget Act limits the scope of consideration by the Appropriations Committee to fiscal year 1979, in that it is the only fiscal year affected by S. 3085 for which a concurrent resolution has been agreed to and for which the cost of the bill would exceed the concurrent resolution. However, the Appropriations Committee amendment, in addition to lowering the level of entitlement for the special supplemental food program (WIC) for fiscal year 1979, eliminates the entitlement status of the program for fiscal years 1981 and 1982. Such action, in our opinion, is not permissible under section 401(B)(3) even for fiscal year 1979. Section 401(B)(3) authorizes the Appropriations Committee, in reference to S. 3085, to report an amendment which limits the total amount of new spending authority provided in such bill for fiscal year 1979.

I am in total agreement with Senator EAGLETON's statement before the Senate Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies on March 16, 1978, that the purpose of a section 401 referral is not for the Appropriations Committee to "tinker" with the bill referred.

However, rather than simply dealing with numbers, their amendment makes substantive changes in the bill and thereby restructures 2 years of a 4-year WIC program.

The question may appear moot in this instance, since even if a point of order is raised and sustained, any Senator could simply offer the amendment. Moreover, in this instance, I am prepared to accept the Appropriations Committee amendment on the behalf of the Committee on Agriculture, Nutrition, and Forestry. My acceptance is based on the uniqueness of the WIC program. Our desire to insure the continued vitality of that program outweighs our concern with the procedural infirmities in the amendment. However, if it is the wish of the Senate to have the Appropriations Committee's jurisdiction under section 401 of the Budget Act expanded, the proper vehicle to express that concern would be an amendment to the Budget Act. Until that is done, the mandate and restrictions of the Budget Act should be strictly adhered to.

I think the proposal that the Senator has made in his amendment is a reasonable compromise and one that can be accepted by everyone that really believes in this program. As I understand it, the amendment results in a $50 million reduction for the fiscal year 1979 and, as the Senator has said, it is possible that we could not effectively use much more than that, in any event, in fiscal year 1979. The amendment does bring the WIC program to a level of $800 million with entitlement in fiscal year 1980, which I think is a reasonable figure.

I, therefore, will accept the amendment.

It is my best judgment that if we wanted to press the point of order against the substantive changes that have been made in the entitlement language as authorized in the legislation, that point of order would be sustained. I do not choose to make such a point of order, because I think what the Senator has proposed is reasonable; therefore, I shall be happy to accept the amendment. I hope it will be adopted.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. McGOVERN. Yes, I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, S. 3085, the Child Nutrition Amendments of 1978, would extend and expand the special supplemental food program for women, infants, and children, known as the WIC program, extend the child care food program, and make minor revisions to other child nutrition programs.

All of these programs are included in the nutrition programs mission of budget function 600, income security. In fiscal year 1979 the bill would cost $0.8 billion in budget authority and $0.7 billion in outlays, which represent increases of $0.4 billion in budget authority and $0.3 billion in outlays above the cost that would be incurred if expiring programs were simply extended without substantive modifications.

The bill as reported was subject to a point of order under section 303 of the Budget Act because it would provide new entitlement authority for years for which there is no budget resolution in place. Specifically, S. 3085 would extend the WIC program, which expires in September of this year, as an entitlement for 4 years, raising the entitlement spending limit to $600 million in fiscal 1979, $800 million in fiscal year 1980, $900 million in fiscal year 1981 and $950 million in fiscal 1982.

Section 303 of the Budget Act is designed to provide Congress with a tool to prevent congressional control over future-year budgets from being curtailed by advance commitments to mandatory spending increases for entitlement programs.

The Appropriations Committee, to which S. 3085 was referred under another section of the Budget Act, has reported an amendment to S. 3085. This amendment addresses the concern over future budget control that is the basis for section 303.

Largely in anticipation of this amendment, on July 20, the Senate passed Senate Resolution 522, waiving the point of order under section 303, so that S. 3085 and the Appropriations Committee amendment could be considered by the Senate.

Section 401 of the Budget Act required that S. 3085 be referred to the Appropriations Committee because it would cause allocations for entitlement programs in the Agriculture Committee's crosswalk report to be exceeded. Under section 401, the Appropriations Committee has jurisdiction to report any bill or resolution referred to it with an amendment limiting the amount of new entitlement spending authority provided in such bill or resolution.

The Appropriations Committee has reported an amendment which would limit the new entitlement spending authority provided in the bill for the WIC program. This amendment would continue the WIC program as an entitlement for only 2 years, to be capped at $550 million in fiscal 1979 and at $800 million in fiscal 1980. In addition, under the Appropriations Committee amendment, the entitlement nature of the program would be eliminated by converting it to an authorization of appropriations of $900 million in fiscal year 1981 and $950 million in fiscal year 1982. Thus, in both these years the Appropriations Committee would have the discretion to fund the WIC program according to its assessment of the program's needs, up to the authorized level.

The amendment is consistent with the President's fiscal year 1979 budget request for the WIC program. The President also recommended that the WIC program be extended as an authorization, rather than as an entitlement.

Mr. President, the Congress should exercise great restraint in the creation of entitlement programs. We should scrutinize carefully whether an entitlement funding mechanism is necessary to achieve the purposes for which a program is designed. Simply because a program is an effective one does not justify locking it in at mandatory spending levels.

I, therefore, support the Appropriations Committee amendment because it would strengthen the Congress control

over spending for the WIC program, and I urge Senators to vote for it.

The Appropriations Committee's amendment would bring the cost of S. 3085 more in line with the first budget resolution targets for fiscal year 1979. However, I must caution that adoption of this amendment will not completely eliminate the amount by which this bill would cause the budget resolution targets to be exceeded, despite the fact that the budget resolution allowed for ample and responsible growth in nutrition programs. Not only would the fiscal 1979 budget be exceeded, but the targets for fiscal year 1979–82 would be exceeded as well.

In order for the cost of the bill, as amended, to be consistent with the first budget resolution targets, it will be necessary for the Appropriations Committee to accommodate the amount by which S. 3085 would exceed such targets within its own budget allocation. I have confidence that the committee, under the able and responsible leadership of Senators MAGNUSON and EAGLETON, will be able to achieve this in fiscal year 1979 as well as in future years.

I simply want to indicate that I do support the Chiles amendment and commend him on it.

On the point of order question, I must say at this point, I would not be in a position to comment on it, but I think it is a point worth exploring, because we may have to face similar questions in the future. I shall undertake to do so, I say to my good friend from South Dakota.

Mr. DOLE. Will the Senator yield?

Mr. McGOVERN. Yes, I yield.

Mr. DOLE. I understand that the distinguished Senator from South Dakota has no objection to the amendment, based on the statement made by the chairman. I appreciate the efforts of the distinguished Senator from Florida and the chairman of the Budget Committee (Mr. MUSKIE).

Mr. CHILES. I thank the distinguished Senator from South Dakota and the distinguished Senator from Kansas. I think this is a reasonable compromise and I think the Subcommittee on Appropriations did recognize the value of the program and certainly wanted to emphasize that value.

I think the point raised on the point of order is an arguable point. At some stage, it is going to have to be decided, but I am pleased that the Senator from South Dakota did not raise it at this time.

I move that the amendment be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Do we now need to adopt the amendments? They are included in the bill reported by our committee.

The PRESIDING OFFICER. The committee amendments have been agreed to.

Who yields time?

UP AMENDMENT NO. 1459

(Purpose: Reduces Reserved Equipment Funds from 50% to 40% so as to be more equitable to all states)

Mr. MELCHER. Mr. President, I have an amendment at the desk. I ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1459:

On page 47, line 2, strike out "50" and insert in lieu thereof "40".

Mr. MELCHER. Mr. President, S. 3085 increases the portion of food service equipment funds that are reserved from 33⅓ to 50 percent of the appropriated equipment assistance funds. The 50 percent is the figure the committee prefers, but there is a valid reason to reduce it to 40 percent. This provision is linked to another provision in the bill that would make schools that will use equipment assistance funds to institute a breakfast program eligible for the "reserved" equipment assistance funds.

While it was the committee's intent to provide an incentive for program expansion through increasing the percentage of reserved funds, the American School Food Service Association has brought to our attention the fact that this provision will adversely affect many States. Reserved funds are available only to those schools without meal service facilities, whereas unreserved funds are available to all schools that enroll high percentages of economically needy children and demonstrate a need for equipment assistance to expand or maintain a food program. All States receive a proportionate share of the reserved funds and have flexibility in directing those funds to the schools with greatest need. Therefore, an increase in reserved funds will result in a reduction of the unreserved funds received by each State.

The amendment I am offering would increase the reserved equipment funds, but the increase would be to 40, rather than 50 percent. I believe this amendment will retain the incentive for schools to initiate breakfast programs and will remove any of the potential harm resulting from decreasing the unreserved equipment assistance funds.

I ask unanimous consent that there be printed in the RECORD a letter from Mrs. Gene White, president of the American School Food Service Association. This letter clearly demonstrates the past experience of several States that received increased equipment funds as a result of lowering the proportion of reserved funds.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 19, 1978.

Hon. GEORGE MCGOVERN,
*Chairman, Subcommittee on Nutrition, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The American School Food Service Association is concerned about the provision of S. 3085, the Child Nutrition Amendments of 1978, which changes the formula of reserved funds for Food Service Equipment Assistance from 33⅓ percent of the appropriation to 50 percent (Sec. 6 (b) (6)). We earnestly seek your assistance in securing a change in this provision to restore the unreserved allocation to no less than 60 percent of the appropriation. It is our understanding that S. 3085 provides for the allocation of reserved funds to schools which plan to initiate a breakfast or a lunch program. This provision will facilitate breakfast program expansion.

ASFSA supported the change in the Food Service Equipment Assistance formula when it was under discussion in early May only because it was linked to an authorization of $75 million, and no State under those circumstances would have received a reduced allocation. However, it has become more and more obvious that the appropriation for FY '79 will not be increased beyond the present $28 million, and the majority of the States would receive less unreserved money for Food Service Equipment Assistance with the formula proposed in S. 3085. Many States which have aggressively initiated food programs would receive little if any of the reserved funds. For example, the State of Georgia received only $1641 in reserved funds in 1977, and Alabama received only $177.

As you recall, P.L. 94–105 reduced the reserve formula from 50 percent of the appropriation to 33⅓ percent. When this provision was implemented, the following changes occurred in the amount of money received in the five States identified below. Every State, however, received additional funds. The five listed below are selected to illustrate the impact of the change:

| State | 50 percent fiscal year 1975 allocation (unreserved) | 67⅔ percent fiscal year 1977 allocation (unreserved) |
|---|---|---|
| Georgia | $531,907 | $678,642 |
| Louisiana | 429,787 | 560,706 |
| Massachusetts | 392,410 | 527,345 |
| California | 784,987 | 1,132,161 |
| New York | 851,315 | 1,183,816 |

From this brief look at the impact of the change in the formula on five States, it is obvious that most, if not all, States received additional unreserved funds in 1976. Conversely, the change proposed in S. 3085 would have the opposite effect. It would reduce the amount of unreserved funds to most States, and would provide large sums of funds to a few States.

Senator McGovern, ASFSA is committed to a child nutrition program which serves acceptable meals to all children. To do this, the 20-year-old school with obsolete, inadequate facilities needs equipment just as those schools without any food service equipment.

ASFSA seeks your support in securing the change in Section 6(b)(6) to provide a larger portion of the Food Service Equipment Assistance in unreserved funds.

We appreciate your continuing leadership to secure adequate nutrition programs for all children in America.

Sincerely yours,

GENE WHITE,
*President.*

Mr. MELCHER. Mr. President, I believe the amendment is acceptable to the distinguished manager of the bill and the chairman of the Nutrition Committee.

Mr. McGOVERN. Mr. President, the Senator from Montana is correct. I have looked over the amendment. I have listened to the arguments of the American School Food Service Association, and read the letter from Mrs. Gene White, the president of that association. I think the amendment does improve the bill and I move its adoption.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. MELCHER. I yield back my time.

Mr. McGOVERN. I yield back my time.

The PRESIDING OFFICER. All time

having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McGOVERN. Mr. President, I yield now to the Senator from Vermont.

Mr. LEAHY. Mr. President, this bill, S. 3085, before the Senate today is vital to the health and well being of many of our Nation's citizens. The programs this bill extends and amends—the supplemental feeding program for women, infants, children (the WIC program), the child care feeding program, and the school lunch and breakfast programs—provide much needed nutritional assistance to some of our most vulnerable segments of society.

This bill extends the WIC program for 4 years. This program, created by the late Senator Hubert Humphrey, has the greatest and longest term impact on the citizens participating of any Government program. The WIC program provides nutrious foods to pregnant and postpartum mothers and to children until their fifth birthday.

Pregnancy and early childhood is critical to mental and physical development. Maternal and infant malnutrition can inflict devastating disabilities, such as birth defects, mental retardation, physical abnormalities, and sometimes even death. The WIC program has helped alleviate much maternal and infant malnutrition and, therefore, has had literally a lifetime's impact on millions of this Nation's children.

I am particularly pleased with one revision of the WIC program contained in this legislation. This bill expands the nutrition education component of the WIC program. I strongly support this provision because I feel it is absolutely necessary to provide benefits whose effects will long outlive the family's participation in the program. Nutrition education for the mother will not only have an impact upon her, but also the rest of the family.

I believe that good nutrition holds the greatest promise of controlling our $120 billion a year national health bill. Good nutrition is the key to a national preventive health policy which is long overdue. And education is necessary to the adoption of good dietary habits.

The other programs amended in this legislation are also critical in providing nutrition assistance and in teaching good dietary habits. The child care feeding program and the school lunch and breakfast program provide meals to over 25 million children in child care centers and in schools. The nutritional benefits of the program are obvious. The importance of these programs are increasing and more and more families have both parents working.

In addition to the nutrition assistance these programs provide, they provide to the children participating exposure to a variety of nutritious foods and encourages good dietary practices.

One provision of the bill I particularly support amends the school breakfast program to encourage schools through financial incentives to offer this valuable program.

Breakfast is a very important meal for all age groups, but particularly for growing children. Yet, only about 14 percent of our country's nutritionally needy children are able to participate in the school breakfast program because of lack of availability. Breakfast can make a significant positive contribution to the quality of a child's dietary intake.

In addition, several studies have shown a clear relationship between eating breakfast and the ability to learn and perform in school. A hungry child cannot perform to his full potential in the classroom. He has trouble paying attention and concentrating, diminishing his ability to learn no matter how skilled the teacher or advanced the learning aids. It is unfortunate that this meal is the one most likely to be neglected. Surveys of breakfast habits have shown that children in all socioeconomic groups omit breakfast or eat an inadequate meal. Where schools have taken advantage of the opportunity to provide their students breakfast, school personnel are impressed with the improvements in physical well-being, learning abilities, behavior, and attendance. I believe that schools should play a major role, through the breakfast program, in alleviating hunger, improving the overall nutritional status of the children, teaching good food habits, and increasing the capacity of children to learn.

Although the national school breakfast program was first established in 1966, and made permanent in 1972, expansion benefits have been disappointingly slow, and many children whose nutrition and educational development would benefit by participation do not have access to the program. Incentives, encouragement, exhortation, and past legislative requirements have not been effective in bringing about meaningful expansion.

Because of the importance of the breakfast, last spring I introduced a bill which, among other things, would have required the implementation in certain needy schools. However, because of the comprehensive nature of my bill, the committee decided to exclude this provision this year but committed itself to hold hearings on the measure next spring.

The committee did, however, include in this bill a measure of financial incentives for schools to implement the breakfast program. I support this provision as a step in the right direction of expanding the breakfast program. Yet, I hope that in the near future some stronger measure will be adopted to accomplish this goal.

Mr. President, it is for the above reasons that I urge my Senate colleagues to join me in voting for this bill.

I would like to thank Senators McGOVERN and DOLE for their leadership in the Nutrition Committee. Also thanks must go to Marshall Matz for the hard work he has put into this effort. Finally, I appreciate all the assistance of the National Child Nutrition Coalition provided me and my staff.

UP AMENDMENT 1460

Mr. LEAHY. Mr. President, I send to the desk an unprinted amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes unprinted amendment No. 1460.

Mr. LEAHY. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 4 of the Child Nutrition Act is amended by adding, at the end thereof, subsection (h) which shall read as follows:

"(h) Any school, that is not offering school breakfasts or that is not committed to offering school breakfasts in the subsequent school year, and that is under the jurisdiction of a school food authority that participated in the school lunch program during the school year ending June 30, 1978 or during any subsequent school year, shall conduct an annual impartial election of the parents of pupils in that school to determine whether they do or do not favor the implementation of the school breakfast program in their school. The elections, whenever feasible, shall be conducted at the same time that local school authorities, pursuant to section 9 (b)(1) of the National School Lunch Act, publicly announce guidelines and offer applications for free and reduced-price meals, and the results of such elections shall be publicly announced. The Secretary shall promulgate regulations for the purpose of ensuring the impartiality and integrity of the election process, and local school officials shall transmit the results of the elections to state educational authorities so that these results are reflected in the annual plans of child nutrition operations pursuant to section 11(e)(1) of the National School Lunch Act. If a majority, and at least 50, of the votes cast in such an election designate a desire for school breakfast program implementation in a school, that school shall initiate the breakfast program by the beginning of the subsequent school year, commencing such breakfast program initiation the school year ending on June 30, 1980."

Mr. LEAHY. Mr. President, the provision that I am offering seeks to provide local parents with a voice in the operation of the school breakfast program. It does so in a manner that does not create any inconvenience to the school administrators. To underscore this point, I would like to offer the following explanation concerning how the election and implementation system will function.

The election system I propose will function only in the schools that are not currently operating the breakfast program or that are not committed to implementing the program in the upcoming year. The schools that are currently implementing the program, or that have been committed to operate the program in the following year, would not need to conduct these elections inasmuch as they would be expected to offer school breakfast services in the following school year. Thus, it would not be useful to conduct elections in those schools.

For schools that conduct these annual elections, the process would be simple. Whenever feasible, the election would be conducted at the same time that parents are notified about the eligibility guidelines for free and reduced-price lunches, and are provided with applications for such free and reduced-price meals. In addition to these notifications

and applications, parents would receive a simple ballot concerning their preference about implementing a school breakfast program. Those who wish program implementation would vote in the affirmative, and those who do not wish program implementation would vote in the negative. After marking their vote on the ballot, parents would send the ballot sheet to school with their children for submission on the following day.

The Secretary would promulgate regulations to insure that the election system is conducted in a fair and impartial manner. Thus, the question on the ballot, concerning parents' preferences for school breakfast implementation, would be stated in an objective and fair manner. The Secretary's regulations, essentially, would insure that the procedures and pertinent materials offered by school officials would tilt neither in favor nor against the election proposition.

If a majority of those casting their ballots in the affirmative or negative designate that they wish to have a breakfast program in their school, and if at least 50 votes are cast favoring breakfast implementation, the school would have to initiate the program at the outset of the following school year. Of course, as in any election, in determining whether a majority of the votes cast favored the proposition, only votes indicating a "yes" or a "no" would be counted. Thus, the number of votes from which a majority could be determined would not include people who refused to vote or abstained from voting.

However, the amendment requires at least 50 ballots to designate a desire for program implementation before such elections result in a requirement for breakfast program implementation at the beginning of the next school year. The purpose of this provision is to insure that any breakfast program that is implemented as a result of the election process, is a viable program. From all the data that the Committee on Agriculture, Nutrition, and Forestry has gathered, it appears that a school needs at least 40 to 50 children in the breakfast program to make that program economically viable. Consequently, since at least 50 votes in favor of breakfast program implementation would guarantee that at least 50 children would participate in the program, we would insure the viability of such a newly implemented school breakfast program if at least 50 votes were cast in favor of the election proposition.

The same rationale leads to the conclusion that parents should have one vote for every child in a school. For example, a family with three children in a particular school would be allowed to cast three votes in that school's election. This would permit a matching up of the number of favorable votes with the number of children likely to participate in the breakfast program. Of course, parents with more than one child in a school and who are against breakfast program implementation, would also have as many votes as they have children in a school.

It should be noted that my amendment does not, in any way, change the traditional options of local school districts to opt into the breakfast program. If school officials previously implemented the program, or if they wanted to implement the program in the next school year, they could always do so, and they could do so without subjecting their decisions to a vote in the election system envisaged by my amendment. This is the type of option that local school officials have had ever since the breakfast program was authorized in 1966, and this amendment does not change that option. If, however, they did not commit themselves to program implementation—either because they never had the program, or they currently have the program (implemented voluntarily or as a result of an election) but would like to drop it—they would have to permit parents to vote under the election system established under my amendment so that a determination could be made of the breakfast program's status in the following school year.

I believe it is important to point out that my amendment will promote the efficient and effective implementation of the program. The first school elections under my amendment would be conducted at or around the beginning of calendar year 1979, and the results of those elections would not need to bring about program implementation until the beginning of the 1979–80 school year. Thus, breakfast program implementation brought about by my amendment would not occur until September 1979, almost a year and a quarter from today. Moreover, in succeeding elections—when it would be feasible to conduct the elections through the notification and application procedure for free and reduced-price meals as envisaged under section 9(b)(1) of the National School Lunch Act—school officials would have 1 year, between the elections and the beginning of the following school year, to implement the program if parents so desired such implementation.

In summary, therefore, the school-by-school election system established by my amendment would: Allow parents a more effective voice in determining breakfast program implementation; promote increased breakfast program implementation in an efficient and effective manner; and insure that no significant burdens are placed on program administrators. At a time when people around the country are demanding a greater voice in governmental affairs, this amendment will be responsive to their democratic rights and demands.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. LEAHY. Certainly.

Mr. McGOVERN. Mr. President, I appreciate the comments of the Senator.

As he knows, the bill which we reported out of subcommittee did contain a breakfast mandate. In the vote in full committee on this issue, I voted in support of the breakfast mandate. Nonetheless the provision failed by a decisive margin, and I am reluctant therefore to simply accept the amendment.

In addition I did receive this morning a letter in opposition to the proposal from the American School Food Service Association. As you know they represent the 70,000 people who are most responsible for the service of school meals. In the face of their opposition and the vote in the committee and in the absence of hearings on the current proposal of the Senator from Vermont, may I suggest to the Senator that he not push his proposal to a vote now, but that we assure the Senator of early hearings next year?

Mr. LEAHY. Mr. President, I appreciate that. I know both Senator McGOVERN and Senator DOLE, as ranking minority member of that committee, have expressed a great deal of concern about the school breakfast program.

I want to mention for the record that Senator HODGES has asked to be a cosponsor of that amendment and that it has received the support of the administration.

I also understand the committee process. I think the Senator from South Dakota raises valid points on this. With his assurances of hearings on this matter in the next Congress, hearings I certainly would join with, I would ask to withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

Mr. McGOVERN. I thank the Senator from Vermont.

Mr. LEAHY. I thank the Senator from South Dakota.

UP AMENDMENT NO. 1461

(Purpose: To provide the Secretary of Agriculture with the authority to provide for pilot cost and feasibility programs in connection with school lunch programs)

Mr. MORGAN. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1461.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

"SEC. . Section 20 of the National School Lunch Act is amended by—

"(1) inserting before the period at the end of the first sentence of subsection (c) the following: ', except for the pilot projects conducted under subsection (d) of this section'; and

"(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in up to 14 school districts (or other appropriate units), of which not more than one may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

"(2) The Secretary shall reimbuse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the

Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

"(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection no later than six months after the conclusion of such projects.

"(4) There are hereby authorized to be appropriated such sums, as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of such pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise be expected to receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.".

Mr. MORGAN. Mr. President, today I am offering an amendment which will provide the Secretary of Agriculture direction in conducting a series of pilot projects to determine the cost and feasibility of a free school lunch program.

I would, as the majority and minority floor managers know, prefer to have a universal free school lunch program for the schoolchildren of this Nation. I personally believe that there are strong philosophical, fiscal, and social reasons for the creation of such a program. However, I concluded that under the current political realities such a program would not be possible this year. So, on April 26 of this year I introduced legislation, S. 2991, that would mandate pilot projects for free school lunches, legislation that was not accepted by the Committee on Agriculture, Nutrition, and Forestry in its markup of the bill before the Senate today.

The amendment I offer today varies from my bill, S. 2991. Instead of mandating such a program, it provides the Secretary permissive authority. However, it does mandate standards by which such a series of pilot projects should be conducted. If this amendment is accepted, you can be assured that I will personally encourage the Secretary to exercise such authority. I understand the Secretary does not object to the amendment.

I do not want to belabor this debate with a lengthy statement. I would simply like to explain the philosophical, social, and fiscal reasons why such a program would enhance the nutrition programs of this Nation.

First, let me say that the school lunch program is currently viewed as a separate program from our educational program. The school systems, with Federal support, provide everything from school buildings to baseball bats to textbooks. However, the children are asked to come up with varying amounts of money for lunch, vital nutrition that will make a difference in their ability to take advantage of the education that they are in school to receive.

Second, the current system of free and reduced price meals is demeaning. Parents have to fill out forms which have the effect of turning this important program into another welfare program. Some parents choose not to do so, at the expense of the children. Still other parents cheat, a situation that provides a bad example for children. Currently the General Accounting Office is investigating this abuse of the program.

Third, the current program cost local and State governments untold time and dollars. In fact, these costs are so high that two counties in my home State, Hoke and Edgecombe, have decided to pay the additional costs of providing free lunches. As the distinguished majority and minority floor managers know, the current program costs local officials money and school teachers time. I suspect that there are other counties across this Nation, perhaps some in South Dakota and Kansas, that have made or are close to making a similar decision as the one made by officials in Hoke and Edgecombe Counties of North Carolina.

My amendment is quite simple. If the Secretary chooses to exercise authority provided by this amendment, the Department of Agriculture will be required to conduct pilot projects in up to 14 school districts, or other appropriate units, in representative areas of the country. This authorization would provide the Secretary authority to reimburse school districts funds that such projects would cost in addition to funds that these governmental units would normally receive under the National School Lunch Program Act. Also, it mandates that the Secretary carefully evaluate the cost and feasibility of such a program and report back, within 6 months, to the Congress.

Mr. President, I would like to ask unanimous consent that three items be printed in the RECORD which demonstrate the need for such a program. The three items include my testimony before the Committee on Agriculture, Nutrition, and Forestry of last April 10, and editorials from the Winston-Salem Sentinel and Lenoir News-Topic.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BEFORE THE SUBCOMMITTEE ON NUTRITION, SENATE COMMITTEE ON AGRICULTURE

Mr. Chairman, it is a privilege for me to appear before this Subcommittee to discuss the merits of a Universal Free School Lunch Program. Such a program, embodied in S. 1251, enjoys wide political support. Introduced by the late Senator Hubert Humphrey, Senators MCGOVERN, CLARK, and THURMOND join me as a cosponsor. Certainly, this bill was very important to Hubert. I remember discussing this legislation with him last year and I recall the great interest that he had and his firm conviction in how this program would impact on the health and vitality of our children.

I must also say that this program enjoys the support of many in my home state of North Carolina. Furthermore, the American School Food Service Association has indicated its unequivocal support.

This Subcommittee knows of the importance of good nutrition. Indeed, you, Mr. Chairman, have offered legislation to strengthen this nation's nutrition programs. I commend you for your leadership.

The importance of proper nutrition for the health and sound development of our children is clearly established. The absence of proper or sufficient food for our children interferes with their physical health, and makes it more difficult for them to stay alert, learn, or otherwise develop their minds. It can place serious restraints on their ability to live a happy life as adults, by increasing their likelihood of having chronic or other health problems, and the possible loss in mental activity may negatively reflect on their chance to go to a college and to get a good job. It would be wrong to place handicaps on young children who are unable to fend for themselves.

A free school lunch would not be another unnecessary government handout. Government requires children to attend school. It pays for their transportation and instruction, buys bats and balls and their textbooks. But at lunch-time, children are expected to hand over varying amounts of money.

The present system already gives free lunches to some students, greatly reduced-price lunches to others, and slightly reduced-price lunches to the remainder. In effect, we have created three classes of students in our schools.

Being singled out for a free or greatly reduced-price lunch is degrading to a child. We were all children once, and most of us have children, and we know what it is like for a child to be singled out for special treatment. And here it is being done for circumstances totally beyond the child's control.

Actually, we are telling our children that some parents have been less effective in providing for their children than others. For this reason, many school children from middle and lower income families, who might otherwise benefit, do not get to take advantage of the present limited program because their parents consider it demeaning.

Meanwhile, some other parents, whose childern are not eligible, seek to submit inaccurate information so they might save a little money and, in the process, transmit their willingness to commit petty fraud to their children. Schools do not have the means, nor should they be expected, to check out the validity and accuracy of the information in the application forms.

The present system, which provides several different subsidies for the same lunch imposes a bureaucratic and administrative nightmare on our schools and teachers. The present system of sending out, processing, and evaluating applications is time-consuming, expensive, and frequently arbitrary. It is arbitrary for the reasons mentioned above: some parents whose children are eligible do not submit applications, and others submit inaccurate ones.

Even the process of distributing the tickets or tokens so that children can get their lunch, is expensive and time consuming. In some schools this is done by administrative employees, which means somebody must be hired to do the work. In other schools, the work is done by teachers, who should be spending their time teaching and planning lessons. Regardless of the method, it reduces class-time for the children, by as much as 30 minutes a day, which does not cost money, but then it does not help them to learn either.

The problems with the present system are so serious that two counties in my state, Edgecombe in the east and Hoke in the west, have gone ahead, without state or federal support, and introduced their own free school lunch programs. This, however, is so novel that there are no rules or regulations to cover the situation, so they are having some trouble dealing with the Department of Agriculture, even though the free program costs no more money than the old one. Now I do not blame the USDA. The Department requires guidance over how to deal with this situation, and the Congress should provide it. Remember, a free lunch program cannot be cost effective unless many of the ex-

isting bureaucratic requirements can be abolished or greatly reduced.

Implementing a universal school lunch program would not cost much more than what is being spent now. By the time one considers the lowering of costs due to fewer administrative requirements and the ability to reduce the price of each lunch through economies of scale, and the increase in class time available for useful purposes, the value of each dollar being spent would be greatly stretched. Some increase in cost would result because of higher participation rates, which are only about 62 percent now, and the lower contribution required from many families, but the latter would be money saved as far as he family was concerned. But we must always keep in mind the great benefit that would accrue to so many of our children.

Recognizing, however, that it might be difficult to get such a major new initiative as a universal free lunch program approved and implemented, it might be more appropriate to begin by having pilot projects in several states. With this in mind, I will be introducing legislation in the very near future which will authorize a series of pilot projects in various parts of this great nation.

Mr. Chairman, I really believe that a Universal Free Lunch Program would be a prudent and valuable program for this Congress to enact. However, in full recognition of budgetary and political realities, a middle ground must be sought. So, after considerable thought, I have decided that legislation for pilot projects would be both appropriate and acceptable.

I hope that the members of the Subcommittee on Nutrition will give this bill serious consideration when it mark-up child nutrition legislation in May. I certainly will be available to you, Mr. Chairman, to help in this effort. We must remember that it is the children of this country whose futures we are deciding and I submit we have no more precious resource.

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[From the Winston-Salem (N.C.) Sentinel, May 10, 1978]

THE "FREE" LUNCH

How can any measure fail when it attracts support from senators with views as diverse as Strom Thurmond, Robert Dole, Muriel Humphrey and George McGovern? Sen. Robert Morgan has persuaded all these leaders from the Left and Right to co-sponsor his bill to set up a pilot program for blanket free school lunches.

The delay in securing federal support for a nationwide lunch program is hardly Morgan's fault. He has introduced such measures in the past, to no avail. The present proposal would set aside $10 million to establish 30 pilot lunch programs around the country. Morgan hopes the benefits of the concept will be proved, paving the way for still broader application.

Little doubt remains that adequate nutrition is essential to learning. The only debate remaining is over the degree to which the government should get involved in feeding school children.

About 39 percent of U.S. public-school students are already getting free or cut-price lunches. Morgan argues cogently that a blanket program would save enough in administrative costs to feed thousands more youngsters. Still more who now refuse to take meals to which they are entitled would eat if the stigma of "handouts" were erased. As Morgan noted, the schools supply everything else needed for education. Why do people take free books and blackboard erasers for granted, but quibble over the propriety of providing a meal?

Many school systems have already recognized the value of a proper diet. They have begun their own universal free-lunch programs. Low-cost breakfasts are also provided in many places, and have proved beneficial.

As the old saying goes, "There's no free lunch." "Free" school lunches would, of course, be paid for by the taxpayers. But they represent an investment far wiser and more productive than the education money now wasted because youngsters are handicapped by diet and nutritional deficiencies that could be corrected by one decent meal at school a day. We hope the Senate sees Morgan's lunch proposal that way.

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LUNCH PROPOSAL MERITS AT LEAST A TRIAL RUN

The old saying about there being no such thing as a free lunch will have to be revised if U.S. Sen. Robert Morgan has his way. North Carolina's junior senator has introduced legislation to provide free lunches for every public school student in the country.

Technically, of course, the meals would not be free. They would be paid for by tax dollars. What Sen. Morgan is actually calling for is to shift the cost from the child to the taxpayers.

Nonetheless, he makes some persuasive points in touting this legislation. Far from constituting "another unnecessary government handout," the free lunch program would give all youngsters the opportunity to receive the proper nourishment they need to learn, Sen. Morgan has stated. There is no arguing with the fact that it is hard to concentrate on assignments on an empty stomach. Innumerable studies have shown that poor diet not only hampers a child's physical development, but his mental growth, too.

Up to a certain age, children are required by law to go to school, he noted. For those who attend public classes, the government "pays for their transportation and instruction, buys bats and balls and their textbooks. But at lunchtime, children are expected to hand over varying amounts of money," he said.

Now there are already programs under which youths from low income families may receive free or reduced price lunches, but Sen. Morgan claimed that this arrangement can prove embarrassing for some of them. When you think about how cruel youngsters can be in their teasing of each other, the senator is undoubtedly correct. If no one had to pay for lunches, then at least this distinction between affluent and poor children could be eliminated.

More important, however, Sen. Morgan contends, are the headaches the schools suffer in trying to administer the current lunch program—with some pupils paying full price, some a reduced price and some nothing.

Although the Tar Heel solon has expressed his desire to see the free lunch concept applied nationwide, this year he is simply asking for 30 pilot projects at a cost of $10 million. He has gained an impressive list of cosponsors that spans the ideological spectrum. Among these other boosters are conservative Republicans Strom Thurmond and Robert Dole and liberal Democrats George McGovern and Muriel Humphrey.

Sen. Morgan asserts that the savings in administrative costs would virtually pay for the experimental ventures. Already, two North Carolina counties, Edgecombe and Hoke, are operating free lunch programs. All told, 46 percent of this state's public school students receive free or cut price lunches (as compared with the 39 percent national average).

No one disputes the importance of a nutritious noon meal for growing youngsters. Particularly for those from low income backgrounds, it may serve as the only balanced part of their diet. It is distressing to think that some of these youngsters may be missing healthful food due to embarrassment about getting it free or at reduced cost when their classmates pay full price. In some situations, however, that is undoubtedly just what is happening.

If, as Sen. Morgan supposes, the costs of overseeing the present school lunch program are so great that they would almost pay for a free lunch for all, then the conversion to such a setup ought to be made. The test projects he is interested in launching would give a reasonable indication of just how feasible a changeover of this kind would be.

For that reason, Sen. Morgan's bill deserves passage so the proposal can be given a trial run. Should it prove unworkable, then only a limited amount of tax dollars will have been lost. On the other hand, if the first 30 projects succeed, then that would indicate that the idea of providing all schoolchildren with the opportunity for a square meal free of charge is one whose time has come.

Mr. MORGAN. Mr. President, Senators HUMPHREY and THURMOND, along with the distinguished floor managers of this bill, cosponsored my bill, S. 2991, a range of cosponsors that reflects wide political support for such an approach in our nutrition programs. I believe that this amendment is in the best interest of the children of this country, our most precious resource, and I urge my colleagues to support this amendment.

Mr. McGOVERN. Mr. President, I yield myself such time as I require.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I think the Senator from North Carolina has made a reasonable presentation to the Senate on his proposal. It is one that has no budget impact, yet it does authorize the study that I think can be justified to work out the possibility of the universal school lunch.

Under those circumstances, I would have no objection to the Senator's amendment.

Mr. DOLE. Mr. President, if the Senator will yield briefly, I share the views expressed by the chairman. I think it is a good amendment and I support the amendment. I am happy to cosponsor it.

Mr. MORGAN. I thank my distinguished colleague. I am delighted.

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back all time?

Mr. McGOVERN. I yield back the remainder of my time.

Mr. MORGAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1461) was agreed to.

UP AMENDMENT NO. 1462

(Purpose: Concerning the use of alternate foods in the school lunch program)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1462.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, between lines 14 and 15, insert the following:

(d) Section 19 of the Child Nutrition Act is amended by adding, at the end thereof, the following:

"(k) Notwithstanding any other provision in law, the Secretary is directed to review and reconsider from time to time any approvals granted for the use of alternate foods as exceptions to the basic meal pattern requirements established for the child nutrition programs pursuant to this Act and the National School Lunch Act, and, if the Secretary determines that such alternate foods no longer fulfill their original purposes, or that such foods are not an integral part of a nutritionally sound diet or contravene currently accepted nutrition education principles, the Secretary shall revoke any previous approvals of such alternate foods: *Provided*, that no alternate food items shall be presented to substitute for more than one foor component in the basic meal requirement."

Mr. DOLE. Mr. President, I submit an amendment today which directs the Secretary of Agriculture to occasionally review and consider the use of alternate foods in the child nutrition programs.

Last fall my Agriculture Committee colleagues and I introduced a $26.2 million training and education program to support school meals—the food quality and the nutritional goals.

That piece of legislation came on the heels of national publicized allegations that suggest we have serious problems in school cafeterias—excessive plate waste, stagnation participation rates, and problems of food choices.

Hearings of the Select Committee on Nutrition and recent subcommittee hearings on nutrition research have brought to our attention the findings of leading scientists on the relationships between diet, nutrition, and health.

All of this expert testimony has convinced me that we have got to do more to protect the goals of the Nation's Federal food programs—especially school meals. The Government has got to be either in these programs fully or it will be out of the business. Our investment in child feeding programs is close to $3 billion a year.

So let us make the program one for healthy living. Let us make the meal delivered not just a food, but a nutrition building block for complete preventive health care. If we can instill good food habits in our children today, we can achieve a great deal in reducing health and hospital costs.

I urge my colleagues to favorably consider this amendment which gives us greater assurance that the meals we serve our young people will lead to improved food habits and prolong good health.

Mr. President, I ask unanimous consent to have printed in the RECORD certain articles appearing in various newspapers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 2, 1978]

SUPER DONUTS? USDA WANTS TO BAN KIDS' "BREAKFAST BARS"

(By Marian Burros)

When children in some rural areas board buses for school in the morning, they are offered not only a seat but "breakfast": a half-pint of milk plus a fortified donut, cupcake or a similar confection.

These items, termed "formulated grain-fruit products," were made eligible in 1974 for the school breakfast program, a program which will cost the federal government $200 million this year. They have been a subject of controversy ever since and now an attempt to ban them from the program has created controversy too.

Products with names like Huzzah!, Morning Break and Super Donut were conceived as alternatives to the "conventional" school breakfast, which provides a serving of fruit, bread product or cereal in addition to milk. The manufacturers say USDA asked them to develop these products for use in schools unable to supply the conventional breakfast because of a lack of facilities. Now, under a new administration, Agriculture wants to get rid of them and the manufacturers are angry.

When the Department of Agriculture originally proposed adding the fortified products to the breakfast program in which 2.6 million children participate, public comments were overwhelmingly opposed to their inclusion. Feeding children such foods runs counter to nutrition education, opponents protested, since children are unable to distinguish between fortified high-sugar, high-fat foods and their look-alikes (often called "junk" foods) which do not contain added nutrients. USDA ignored the negative comments and approved their use.

Then last August, USDA proposed banning the so-called "breakfast bars" from the school breakfast program. The explanation was that their withdrawal "will promote the development of good food habits in the furtherance of nutrition education through a well-balanced diet of conventional foods." Public comment has been overwhelmingly in favor of the proposal. Out of 154 comments USDA received, 112 support the ban.

The Grocery Manufacturers Association (GMA), at the request of Morton Foods, a division of ITT-Continental, and Keebler Baking Company—two of the big producers of these grain-fruit products—has launched a public-relations campaign to prevent USDA from going through with the ban. They have targeted for attention members of the Congressional Black Caucus, hoping to force hearings that will either prevent the ban or at least delay it.

GMA has hired a minority public relations firm, Vanguard Associates of Minneapolis, for the job. The breakfast bars are used most frequently in both rural and inner-city schools where there are large numbers of minority and disadvantaged children.

GMA has an official statement which it makes to all inquiries regarding its interest in the proposed ban and its hiring of Vanguard. "We feel our association with Vanguard is especially sound because of our mutual concern that the withdrawal of these products will have a direct effect upon feeding the minority and disadvantaged children who participate in the breakfast program in schools which do not have facilities for serving a conventional breakfast. These, of course, are the very children and schools for whom this product was developed."

Kathy Ehrman, a Vanguard representative, puts her company's interest more strongly: "We became involved with GMA because of our outrage, and that's exactly what it was, because potentially hundreds of thousands of disadvantaged children would be deprived of a nutritious breakfast. We viewed this action (USDA's) as being arbitrary and socially insensitive."

Asked if the withdrawal of the products would mean these children would go without breakfast, neither Ehrman nor a GMA spokesman, Jim May, was able to answer the question. Yet neither GMA nor the Agriculture Department is aware of any school in which these formulated products are served five days a week.

The custom is to serve them two or three times, offering other choices from the accepted list of school breakfasts on the remaining days of the school week. School food service personnel who want to keep them in the program cite convenience, speed and low cost as reasons for using them. Said one North Carolina school food service official: "I doubt that anyone would starve without them."

But the GMA-Vanguard lobbying effort implies otherwise. According to Ehrman, Vanguard is "contacting large black religious and fraternal organizations to bring the proposed ban to their attention. We are asking them to help us in getting a delay on the ban until congressional hearings can be held."

FRAC (Food Research and Action Center), a non-profit public-interest law firm which is concerned with government feeding programs for the poor, has launched its own lobbying effort. It has asked anti-hunger and low-income groups to write USDA in support of the withdrawal.

Rep. Shirley Chisholm (D-N.Y.) is one House member who has been approached by Keebler. According to Tim Hetz, a member of Chisholm's staff, the company "wanted us to endorse their idea of a breakfast bar. They allege that the nutrition bars are very useful in inner-city schools without facilities to prepare breakfast."

Chisholm disagrees. She has circulated a memo to the Black Caucus, which often relies on her on nutrition matters, endorsing USDA's planned withdrawal.

Chisholm says both USDA and FRAC can provide alternative conventional breakfasts which do not require kitchen facilities; that the government offers enough money to individual school districts for the breakfast program to cover the cost of conventional breakfasts, contrary to what many food corporations are saying.

"Feeding our youth sugar-filled cakes teaches them poor eating habits," said Chisholm. "Part of the purpose of the breakfast program is to teach children how to eat a well-balanced meal. Breakfast bars taste like dessert. A child should not get in the habit of eating a dessert-like product for breakfast."

If USDA goes ahead with its plan to ban the breakfast bars, the manufacturers have a fall-back position. They have told the department they are willing to reshape the products so they won't look like their unfortified counterparts and to reformulate them to reduce the amounts of sugar and fat.

Foreman says the department "is considering all of the comments and reviewing them in great detail."

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IN THE HALLOWED HALLS OF CONGRESS, WHOSE VOICE ECHOES LOUDEST?

(By Goody Solomon)

Does agribusiness really call the shots on food laws or does Congress respond to the public interest? That question, often raised when consumer measures run into trouble, is being asked with new intensity now that consumer-supported food and nutrition regulations have been jeopardized by heavy campaigns by processors and producers.

Popular support for the proposed legislation was indicated in preliminary findings of a consumer survey, done by Yankelovich, Skelly and White, Inc., released in April at the Food Marketing Institute (FMI) con-

vention. A full report was aired last week at a nutrition conference jointly sponsored by FMI, the Community Nutrition Institution (a Washington-based public interest group) and Family Circle magazine.

Out of a national sample of 1,188 consumers, 65 percent said they regarded government as primarily responsible for nutrition education and 77 percent said they were more interested in nutrition than they were a few years ago. Moreover, 60 percent said they supported an end to advertising aimed at children, even if the reduced ad revenue meant fewer children's programs would be available.

Another result: 63 percent of the respondents supported increased government regulations on food safety, even if the outcome was higher prices. And when asked their major concerns about food content 64 percent named sugar, 62 percent cited additives and 64 percent checked cholesterol.

Several congressional moves have been running counter to these popular views, however. Consider, as one illustration, House and Senate attempts to prevent the U.S. Department of Agriculture (USDA) from eliminating vitamin-enriched pastries from school breakfasts. Responses to a proposed ban, issued a few months ago, have been running 2-1 in favor, in the belief that cake for breakfast teaches youngsters bad eating habits.

However, food manufacturers have been telling senators and representatives that to withdraw the confections would totally deprive poor black children of a morning meal.

Angrily dubbing that message a "myth," Rep. Shirley Chisholm, D-N.Y., who heads the Black Caucus, told a press conference in March that schools can serve dry cereal and fruit as conveniently as donuts.

Enter the Senate Agriculture committee. With an amendment tacked onto a child nutrition bill, the USDA would be barred from doing anything about the breakfast items until two studies are completed. One is due in six months; another in 18 months. Therefore, no final action could be taken by Agriculture for at least two school years.

In addition, a House appropriations subcommittee has written language into another piece of legislation so as to leave the whole matter up to local authorities.

Meanwhile, a nutrition education bill has been sidetracked. Among other things, the measure would create a national nutrition education policy, coordinate federal activities, experiment with effective ways of delivering popular information about diet and health, and test an alternative nutrition labelling scheme using graphics instead of listing the nutrients in a given food by grams and percentages.

The bill was written on the basis of eight days of hearings on the nutrition education activities of government and industry. The subcommittee had found that government efforts were scattered among numerous agencies and largely proved ineffective; also that business classed as nutrition education programs were mainly advertisements and product promotions.

The bill, which has bipartisan sponsorship, was sent to the full Agriculture committee by an 8-2 vote.

However, on May 16, that panel voted 20–19 to return the measure to the subcommittee for further hearings. Rep. Margaret Heckler, R-Mass., called it "outrageous." She and other sources said the vote reflected strong lobbying by cattle and egg producers as well as the Grocery Manufacturers of America, who fear that if Uncle Sam started to teach people how to eat right, official messages would warn against too much fat, sugar and processed food.

Another anti-consumer move in Congress has been the attempt to thwart the Federal Trade Commissions proposed inquiry into advertising on children's television programs. The inquiry casts a special eye on ads for highly-sugared food items such as cereal, soda and candy.

In what one observer described as a "quick, unpublicized maneuver," a House subcommittee wrote a special prohibition into the FTC's appropriations bill: that the Commission could not limit the advertising of a food product found to be safe by the Food and Drug Administration.

While aimed most directly at the children's advertising inquiry, the restrictions also would have struck down two proposed trade rules, one regarding nutritional claims made in advertisements and the other about supplements.

The full appropriations committee received angry protests from eight congressional wives as well as consumer leaders and health professionals. One letter, signed by 22 public interest representatives and nutritionists said:

"The trade press has reported that over 45 representatives of manufacturers, advertisers and broadcasters have united to combat the FTC's inquiry and proposed rule. . . . These forces . . . reportedly have raised a $2 million war chest to finance their efforts. Such political interference in the independent regulatory process prior to the fact-finding phase sets a dangerous and reprehensible precedent."

In part, the outcries paid off. The Appropriations committee voted to keep the limitation on FTC but softened it by adding this language: "Provided that nothing herein shall be construed as prohibiting or constricting the Federal Trade Commission with respect to false or deceptive advertising."

The clause has been interpreted to mean FTC can pursue the proposed rules on nutritional claims and protein supplements as well as the inquiry into children's advertising. However, no rule on the latter can be promulgated in fiscal 1979.

The full House and the Senate have to act on the matter. Similarly, the school breakfast and nutrition education isues aren't closed.

Calling the situation "scarey," Kathleen Sheekey of Consumer Federation of America describes it this way: "We're getting legislation through appropriations; telling agencies what they can or can't do by taking away money."

GRANDMA'S NO-FRILLS SPRING TONIC

Maybe grandma knew best about spring tonics when she made them with molasses. Elaine Rose of Cornell University's Cooperative Extension Service recommends dark molasses, which usually costs less than $1 per 12-ounce bottle, as a good inexpensive source of iron.

According to Rose, many nutrition experts have found that the hundreds of dollars some people spend annually on vitamins and dietary supplements, are at best a waste of money, and at worst a potential health hazard, especially in the case of vitamins A and D, which can cause toxic reactions.

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NUTRITIONISTS AND INDUSTRY: BINDING TIES?

(By Marian Burros)

In a report titled "Feeding at the Company Trough," Rep. Benjamin Rosenthal (D-N.Y.) charged that "Eminent nutritionists have traded their independence for the food industry's favors."

The study, compiled by the Center for Science in the Public interest and Rosenthal, said that many of the most prominent nutrition and food science professors at such schools as Harvard, the Universities of Wisconsin, Massachusetts and Iowa, sit on boards of directors of, act as consultants for, and testify at congressional hearings on behalf of, industry, and receive industry research grants.

Officials contacted at several universities denied any conflict of interest and said food industry grants have not influenced researchers' finders. However, a number of professors included in the study refused to divulge their industry connections when queried by the researchers.

The study includes a broad spectrum of scientists from those who see consumer activists as enemies of the food instustry, such as Dr. E. M. Foster of the Food Research Institute at the University of Wisconsin, to Dr. Jean Mayer who most consumer advocates consider a friend.

Mayer, until July a professor of nutrition at Harvard and now president of Tufts University, draws a sharp distinction between directorships and consulting work. In a recent interview Mayer, who is a paid director of Monstanto and Miles Laboratories, said: "I do not want to be a consultant to industry because that is where you are used. To be a director you are not used because you are part of the decisionmaking apparatus and you can really do something about the problem."

Mayer said that "Monsanto is just peripherally interested in food." According to the report, Monsanto "manufactures food flavorings, preservatives, pesticides, fertilizers and other food industry chemicals." The former nutrition professor said his "main interest in being on the board is because Monsanto is the single most important company planning agricultural development. If we are going to feed the world in general, we need more long-range planning and no amount of yelling at them is going to do any good."

Mayer said he is a director for Miles because he is absolutely convinced that development of a vegetable protein substitute for meat is absolutely crucial to our food supply. This is the company that has developed the best technology. I am in a position to influence the food supply of the world tomorrow."

But the study, while criticizing the cozy relationship between scientists and industry, noted that Mayer has repeatedly voiced his concern over food industry advertising and the quality of the American diet. He has assisted consumer advocacy groups as well as the Senate Select Committee on Nutrition and Human Needs, which deserves credit for alerting the public to nutrition matters."

E. M. Foster, on the other hand, thinks consumer activists just get in the way. Foster, who, when asked by the researchers, neglected to mention his directorship of the Stange Corporation—manufacturer of food ingredients including flavorings and colorings—has said that consumer activists have complicated and confused the decision-making process."

Prof. Fergus Clydesdale of the Nutrition and Food Science Department of the University of Massachusetts is described by the report as a frequent public defender of the food industry." He is a consultant for the National Automatic Vending Merchandising Association and told a convention of vending machine executives There is no such thing as junk food."

Clydesdale is also a consultant for the Carnation Company and says he does "informal counseling to several major food industries as well as a major (artificial) color equipment manufacturer." He would not tell the researchers what his current outside affiliations are.

Prof. Aaron Altschul of Georgetown University Medical School has been a consultant for Miles Laboratories, Thomas Lipton, J. E. Underwood and A. E. Staley, a soybean processor. Last year Altschul hosted a breakfast for the press and other interested parties which was designed to explore the advantages of soybean-based breakfast meat substitutes manufactured by Miles.

In the September issue of Family Health magazine, Mayer wrote an article about tex-

tured vegetable protein, used in dozens and dozens of food products as a substitute for meat and as the basis for non-meat products. Such products include Morningstar Farms breakfast meat substitutes, manufactured by Miles Laboratories. Following Mayer's article, which gives the history, background and future of TVP, as it is called, a collection of nine recipes calling for these meat-like breakfast foods is offered. On the facing page there is an advertisement for Morningstar Farms.

Asked if it bothered him that the advertisement and recipe story followed his article, Mayer said that it did. "It is just the sort of position I don't want to be in. I will talk to them (the magazine editors) about that. It may be completely inadvertent. I hope it is. I could see why people would think it isn't."

Other scientists included in the study are: Dr. Alfred Harper, chairman of the Department of Nutritional Sciences at Wisconsin and consultant for the drug company G.D. Searle (Searle also makes some food additives), Proctor and Gamble, Abbott Laboratories, General Mills and Pillsbury; Prof. Paul Kifer, head of the department of food science and technology at Oregon State University and consultant for Ralston Purina; Prof. Richard Barnes of the division of nutrition sciences at Cornell, who is associated with Mead Johnson Co. (Mead Johnson manufactures infants formulas); Prof. Elwood Caldwell of the department of food science and nutrition at the University of Minnesota, a director of Gerber; Dr. Lloyd Filer of the department of pediatrics at the University of Iowa and consultant to the National Automatic Merchandising Association and Carnation Co.; Dr. Samuel Foman, also at Iowa and associated with CPC International (which manufactures Skippy and Mazola products), Gerber, Mead Johnson, Nestle; Prof. Helen Guthrie, a member of the nutrition program at Penn State University and a director of Nabisco; Prof. Lavell Henderson of the department of biochemistry at the University of Minnesota and consultant for Procter and Gamble, Eli Lilly and Dupont; Prof. Gilbert Leveille of the department of food science and human nutrition at Michigan State University and listed as "consultant for a number of companies"; Dr. Charles Whitten of Children's Hospital at Wayne State University and a director at Gerber.

Also included in the study is Dr. Frederick Stare, who was chairman of the department of nutrition at Harvard until his retirement this year. He continues to work in the department. Stare refused to disclose the names of the companies which currently employ him. He is on the board of directors of Continental Can Company and has testified at Congressional and FDA hearings on behalf of Kellogg, Nabisco, Carnation Co., the Cereal Institute, the Sugar Association and the Pharmaceutical Manufacturers Association.

Several scientists refused to disclose their current outside affiliations. Prof. Theodore Labuza of the University of Minnesota department of nutrition and food science was one of them, but the study said that at some time Labuza "has sold his services to General Mills, Searle Biochemics, Pillsbury, Hunt-Wesson and Quaker Oats."

Prof. Bernard Schweigert, chairman of the department of food science and technology at the University of California, "refused to disclose any information." According to the report "he is . . . known to serve on the board of directors of Universal Foods . . ."

Prof. R. V. Lechowich, head of the department of food science and technology at Virginia Polytechnic Institute, told the research: "Since controls of conflicts of interest are excused, the request for names of firms and consulting fees are not pertinent to the question."

Of the 17 scientists included in the study, 10 are members of the prestigious National Academy of Sciences/National Research Council Food and Nutrition Board, which is influential in setting government food policy. These 10 scientists have connections with at least 19 different companies which either sell food or sell to the food industry.

The authors of the report do not suggest that it is necessary for scientists to be totally free of industry connections. They offer several alternatives. One method suggested in the governmenal decisionmaking process "for dealing wih possible biases is to counterbalance" persons with industry affiliations by including persons with consumer affiliations.

They also suggest "the establishment of a nonprofit public interest group to 'launder' contributions before they reach the university."

The report concludes: "If a policy of openness with regard to professorial conflicts of interest were adopted, the disclosures might initially shock the public and make it suspicious of every connection . . . (but) people will come to realize" directorships and consulting for companies do "not necessarily destroy a professor's sense of judgment, but could in fact lead (as Mayer suggests) to greater corporate responsibility and public control over the businesses which affect our lives."

Mr. McGOVERN. Mr. President, I have looked at the amendment offered by the Senator from Kansas. I hope the amendment will be adopted.

I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I support the basic thrust of S. 3085, the Child Nutrition Amendments of 1978. I commend Senator McGOVERN, Senator DOLE, Senator LEAHY, Senator MELCHER, Senator BELLMON, and others for the very fine work they have done in this matter.

I congratulate the distinguished floor managers of this bill for their diligence on behalf of the welfare of the children of this Nation. Senators McGOVERN and DOLE, the Senate's leaders in the area of nutrition, have clearly pledged themselves to a course that assures the nutritional well-being of our children, a strategy that will play a significant role in reducing the skyrocketing health costs faced by the citizens of this Nation.

This bill is not extravagant nor bloated, it is a lean bill that minimally recognizes what we as a country need to do in the area of nutrition.

There are two parts of this legislation that I would like to comment on: First, I applaud the committee, particularly Senator LEAHY, for its work in shaping the school breakfast provision. I assure the Members of this Chamber that such expansion of the breakfast program is highly warranted from the perspective of the people of North Carolina. North Carolina, I would like to point out, has one of the highest, if not the highest, percentage of working mothers in the Nation. Clearly, such an expansion will benefit these hard working families.

The second segment I would like to comment on relates to the special supplement food program for women, infants, and children. This program, the so-called WIC program, originally authored by the late Senator Humphrey, deserves strong support from the Members of this body. I was a cosponsor of S. 2630, introduced by Senator MURIEL HUMPHREY, which has been folded into the bill before my colleagues today. WIC has been a highly successful program in my home State, with results that are highly visible. WIC has not only been a very important nutrition program, but a very important health care program. By linking the nutritional aspects with our health care system, the poor of this Nation have, for the first time, access to the types of care that will make them socially and economically productive citizens.

Mr. President, I would again like to compliment the distinguished floor managers for their efforts on this very important legislation.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1463

(Purpose: To clarify the limitations of participation in the special supplemental food program)

Mr. HATCH. Mr. President, I call up my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1463.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, strike lines 7–11, and in lieu thereof insert the following:

"(d)(1) Participation in the program under this section shall be limited to any of the following who are determined by a competent professional authority to be at nutritional risk: pregnant, postpartum, and breastfeeding women, infants, and children from low-income families.

Mr. HATCH. Mr. President, the bill before us entitled, the Child Nutrition Amendments of 1978, extends the supplemental food program for women, infants, and children—WIC—and provides permanent authorizations for appropriations for the child care food program.

The amendment which I am offering concerns the special supplemental food program which provides specified nutritions foods to pregnant, postpartum, and breastfeeding women, and to infants and children up to their fifth birthday who are determined by competent professionals to be at "nutritional risk" because of inadequate nutrition and inadequate income.

Mr. President, as I have studied the WIC program, it has become readily ap-

parent to me that the intent of this program is to provide nutritious meals to two types of individuals: Women and infants of low-income families and children of those low-income families who have recently suffered from the trauma of childbearing and children of those low-income families. To qualify for the program women and infants as well as the children must be determined to be at a "nutritional risk" by a competent professional qualified to make such a judgment. The first amendment I am introducing clarifies the definition of "postpartum women." As it is now written a postpartum woman is any woman up to 6 months after she has had her pregnancy terminated. There is a multiplicity of ways in which a pregnancy may be terminated including voluntary abortion used as a means of birth control. I do not believe that we should extend free food to women who voluntarily decide that they want to terminate their pregnancy prematurely to avoid the consequences of childbearing. The intent of the program is clear; that is, to provide nutritious fortified food to those who suffer from dietary deficiencies incurred by a pregnancy and subsequent lactation for the purpose of breastfeeding.

The greatest nutritional drain on a pregnant woman comes in the last trimester when the infant's weight increases threefold to fourfold and also postpartum when the mother is lactating in order to breastfeed the child. In my opinion, we should not hand out free food to a woman who becomes pregnant and then decides the 4th or 5th month of pregnancy that she wants an abortion. In such a case, a woman would receive free food for almost 1 year without having suffered any real nutritional or dietary insufficiencies due to the pregnancy. This would simply be a case of getting something for nothing and would allow a pregnant woman to live off of the Government for at least 6 months and in some cases up to a year. This would be the case even though she knew when she became pregnant or shortly thereafter that she would get an abortion.

By clarifying the definition of postpartum women to mean a woman up to 6 months after her pregnancy was terminated except for the case of a nontherapeutic abortion, the original intent of the program would be left intact.

Mr. President, this is basically a technical amendment that clarifies some of the language, and I think it will improve the bill. It is my understanding that the distinguished floor manager of the bill will accept the amendment.

Mr. McGOVERN. Mr. President, I have discussed this matter with the Senator from Utah. It is really an amendment that I think clarifies and clears up some of the uncertainty in the bill as it now stands. I believe the Senator has performed a service in offering the language he has proposed, and I hope it will be accepted by the Senate.

Mr. HATCH. Mr. President, I yield back the remainder of my time.

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I yield to the Senator from Utah such time as he may require.

Mr. HATCH. I thank the distinguished Senator from Utah.

Mr. President, it is my understanding—and I ask the distinguished floor leader if his understanding is the same as mine—that this bill does not intend to cover nontherapeutic abortion situations.

Mr. McGOVERN. The Senator is correct. There is nothing in the legislation that affects that issue in any way.

Mr. HATCH. I had an amendment to make sure that that was put as part of the bill, but I am willing to withdraw that amendment, under the assurance of the distinguished floor manager of the bill that nontherapeutic abortions are not intended to be covered by the bill under any circumstances.

Mr. McGOVERN. I can give the Senator that assurance, without reservation.

Mr. HATCH. I thank the distinguished Senator from South Dakota.

UP AMENDMENT NO. 1464

(Purpose: To authorize the Secretary of Agriculture to purchase fish products for the commodity distribution program for school lunches)

Mr. McGOVERN. Mr. President, I have an amendment that I sent to the dask on behalf of the Senator from Massachusetts (Mr. KENNEDY). It is a noncontroversial amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), on behalf of the Senator from Massachusetts (Mr. KENNEDY), proposes an unprinted amendment numbered 1464.

Mr. McGOVERN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add two sections to read as follows:

SEC. . Section 6(e) of the National School Lunch Act is amended by inserting after the words "high protein foods, meat, and meat alternatives" the words "(which may include domestic seafood commodities and their products)".

SEC. . Section 14(a)(1) of the National School Lunch Act is amended by inserting after the words "customarily purchased under such section" the words "(which may include domestic seafood commodities and their products)".

Mr. McGOVERN. Mr. President, this amendment is offered by the Senator from Massachusetts to clarify the authority of the Secretary of Agriculture to purchase fish products for the school lunch commodity distribution program.

I do not think there is any question at all that fish is a wholesome and nutritious food which contributes to the health of our children.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum on the bill, and the remarks prepared by the Senator from Massachusetts, together with a letter to him, dated July 20, 1978, from Mr. Terry L. Leitzell, Assistant Administrator for Fisheries.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material ordered to be printed in the RECORD follows:

MEMORANDUM

Purpose of amendment: To clarify the authority of the Secretary of Agriculture to purchase fish products for the School Lunch Commodity Distribution program.

Background: Department has been unwilling to purchase seafood commodities until the National School Lunch Act is amended to give them explict authority to do so.

Consequently, of the over $700 million expended by USDA for the commodity distribution program, nothing has been spent for fish products.

Reasons for amendment: Nutritional benefit:

Senate Select Committee on Nutrition and Human Needs report ("Dietary Goals for the U.S.") calls for increased consumption of low-fat protein sources such as fish.

Reduced saturated fat intake is a national dietary goal—increased consumption of fish is one of the best ways to meet this goal.

Dietary patterns developed in childhood. Fish for school lunch should be important part of effort to promote healthy diets.

Benefit to U.S. Fishing Industry:

Since passage of 200-Mile Zone, effort to revitalize domestic fishing industry.

Currently, most new US vessels are entering traditional fisheries, thereby putting excessive pressure on stocks like cod and haddock.

Effort now is to promote fishing of "under-utilized sepcies" such as whiting which would make excellent fish portions for school lunches.

Letter to EMK from Terry Leitzell expressing support.

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STATEMENT BY MR. KENNEDY

The effect of the amendment I am offering today is simply to clarify the authority of the Secretary of Agriculture to purchase fish products for the school lunch commodity distribution program.

The Secretary's basic purchasing authority was amended in 1974 to permit the purchase of seafood commodities, but the Department of Agriculture has been unwilling to do so until they receive a further clarifying amendment to the National School Lunch Act. Consequently, of the over $700 million currently expended by USDA for these purchases, nothing has been spent for fish products.

There are compelling reasons for promoting the purchase of fish. First, and foremost, are the nutritional benefits. As my colleague from South Dakota is well-aware, the Senate Select Committee on Nutrition and Human Needs in its report "dietary goals for the United States" called for increased consumption of low-fat protein sources such as fish. As a member of that select committee, my primary concern was to encourage reduced saturated fat intake as a national dietary goal. Increasing consumption of fish products is one of the best ways to meet this goal. And, as all of us know, dietary patterns are developed at an early age. The school lunch program is, therefore, a vital part of our effort to promote healthy diets.

Permitting the purchase of seafood products for the school lunch program would have another important benefit. Since the implementation of the Fishery Management and Conservation Act last year, I have been involved in an effort with the National Ma-

rine Fisheries Service to more effectively utilize vast fishery resources now available within our 200-mile zone. Currently, most new U.S. vessels entering our coastal fisheries have concentrated their efforts on the more established fisheries, thereby putting excessive fishing pressures on the traditional "fresh fish" species such as cod and haddock. As a result, we are rapidly depleting these fish stocks, and have repeatedly been faced with closures as quotas are exceeded.

Part of the answer to this dilemma is to develop markets for nontraditional species. The central reason U.S. fishermen are not going after the so-called under-utilized species is lack of a stable market at decent prices. The school lunch program, providing meals to some 25 million children, represents a major uptapped market. Under-utilized species such as whiting make excellent fish portions for school lunches. I ask unanimous consent to insert for the record a letter from Terry L. Leitzell, Assistant Administrator for Fisheries, expressing strong support for this effort.

I should emphasize that this amendment requires no new spending authority. It only permits the Secretary to use existing authorized funds to purchase fish products for the commodity distribution program.

This amendment will provide a more balanced diet for school children, and will provide a major new market for high quality seafood products. I appreciate the committee's concern for this issue, and urge passage of this amendment.

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WASHINGTON, D.C.,
*July 20, 1978.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR KENNEDY: In response to a request from Jack Leslie of your office, I am very pleased to comment on the need for greater use of fish and fishery products in the School Lunch Program. As you know, members of my staff and I spent several weeks in New England reviewing the needs of the fishing industry and determining how we could assist the industry.

One of the pressing needs in fisheries is to strengthen markets for traditional and many of the nontraditional species available to U.S. fishermen. With the Fishery Conservation and Management Act we have large quantities of nontraditional species off our shores that are of high nutritional value and widely accepted in many parts of the world, and are gaining acceptance in this country. Inclusion of fishery products in the School Lunch Program will provide a more balanced diet for school children and will provide an additional market for high quality domestically produced fishery products.

The National Marine Fisheries Service is prepared to work with you and the Department of Agriculture in achieving greater use of domestic seafood in the School Lunch Program. The enclosure presents the major reasons why we believe purchases of fishery products should be made by the USDA School Lunch Program.

Sincerely,

TERRY L. LEITZELL,
*Assistant Administrator for Fisheries.*

● Mr. MUSKIE. Mr. President, I am pleased to join with the distinguished Senator from Massachusetts (Mr. KENNEDY) in offering this amendment to the Child Nutrition Act to authorize the Secretary of Agriculture to include seafood and seafood products in the school lunch program. My colleagues from Maine, BILL HATHAWAY, joins in offering this amendment which we support as an effort to improve marketing opportunity for our fishermen.

BILL deserves praise for his continued and dedicated efforts in support of Maine fishermen. He has most recently taken the lead in arguing that countervailing duties be imposed on fish imported from Canada. The hearings he chaired in the International Trade Subcommittee on that issue last week established the unfair advantage which government subsidies give Canadian fishermen and the impact of subsidized fish products on our industry. I have joined with him in that effort. I congratulate him for his leadership.

Mr. President, the amendment we are offering here today clarifies the authority of the Secretary of Agriculture to purchase fish and fish products for the school lunch program.

Because of the absence of clear authority to purchase seafood products, none of the $700 million currently expended by the U.S. Department of Agriculture for the school lunch commodity program has been expended for seafood products. This amendment will clarify his authority to include fish in the program. This broadening of the Secretary's authority will benefit the program and its recipients, and assist our efforts to strengthen the seafood industry and the marketing of underutilized species.

This new authority will give the Secretary flexibility to assure varied and nutritious diets and will provide the 25 million school children participating in the program the benefits of nutritious, high quality seafood. Fish provides an excellent source of low-fat protein. The exposure of our schoolchildren to menus including a range of fish products can play an important role in the improvement of our national diet.

Our fishermen will be able to use this program in their exploration of new markets for species and stocks available to them under the Fishery Management and Conservation Act. New markets for these underutilized species would, of course, broaden our food base and aid our domestic fishery and should relieve pressure on those fish stocks such as cod and haddock which are now subject to stiff quotas. I am pleased to join in offering this amendment and urge its acceptance.●

Mr. McGOVERN. Mr. President, I yield back the remainder of my time on this amendment.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1465

Mr. McGOVERN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 1465.

Mr. McGOVERN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with "No" on line 15, strike out all down through "licensing" on line 17 and insert in lieu thereof the following: "The Secretary is authorized to establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

"'(1) no institution, other than a family and group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing".

On page 2, line 21, strike out "Federal, State," and insert in lieu thereof "State".

On page 3, strike out line 6 and insert in lieu thereof the following:

"'(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:'.

On page 11, line 7, insert "or family or group day care home" after "institution".

On page 11, line 9, insert "or family or group day care home" after "institution".

On page 12, line 23, strike out the comma and insert in lieu thereof a semicolon.

On page 13, line 11, insert "factor" after "reimbursement".

On page 13, line 15, insert after the period the following: "The value of such payments to family or group day care homes shall not be considered to be income or resources (to the family or group day care home operation) under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.".

On page 14, line 3, strike out the comma.

On page 15, line 12, strike out "snack" and insert in lieu thereof "snacks".

On page 17, line 1, insert "and the number of family and group day care homes" after "institutions".

On page 17, line 4, insert "and the number of family and group day care homes" after "institutions".

On page 17, line 10, strike out "the use" and insert in lieu thereof "use".

On page 18, line 7, strike out "group and family" and insert in lieu thereof "family and group".

On page 18, line 8, strike out "group and family" and insert in lieu thereof "family and group".

On page 19, line 9, strike out "group and family" and insert in lieu thereof "family and group".

On page 21, line 4, insert "or family or group day care homes" after "institutions".

On page 21, line 7, insert "or family or group day care homes" after "institutions".

On page 25, line 13, strike out the comma.

On page 23, line 12, strike out "is".

On page 23, between lines 16 and 17, insert "SPECIAL SUPPLEMENTAL FOOD PROGRAM".

On page 24, line 22, insert "agency" before "offices".

On page 25, line 13, strike out the comma.

On page 26, line 14, insert "agency" after "State".

On page 26, line 24, strike out "anthor-" and insert in lieu thereof "author-".

On page 27, line 17, strike out the first comma.

On page 27, beginning with "delivery" on line 20, strike out all down through "effect" on line 27, and insert in lieu thereof "State of Florida may continue to determine the price of food instruments by the method in effect on May 1, 1978".

On page 28, line 11, insert "agency" after "State".

On page 31, line 1, insert "agency" after "State".

On page 32, line 12, insert "agency" after "State".

On page 32, line 16, insert a comma after "counseling".

On page 33, line 4, insert "agency" after "State".

On page 37, line 20, strike out "administration" and insert in lieu thereof "administrative".

On page 37, line 23, strike out "in each State" and insert in lieu thereof "by each State agency".

On page 39, line 15, strike out "will" and insert in lieu thereof "shall".

Page 41, line 10, strike out the comma.

On page 43, line 8, insert "agency" after "State".

On page 43, line 10, insert "agency" after "State".

On page 43, line 15, strike out "fourth" and insert in lieu thereof "fifth".

On page 44, line 4, after "Act" insert "of 1966".

On page 44, line 7, strike out "'Wholesale Price of Milk'" and insert in lieu thereof "'Producer Price Index for Fresh Processed Milk'".

On page 44, beginning with "Department" on line 12, strike out all down through "Wholesale" on line 13.

On page 44, beginning with "and" on line 14, strike out all down through "Secretary" on line 15.

On page 44, line 16, strike out "Wholesale" and insert in lieu thereof "Producer".

On page 44, line 17, strike out "(021)" and "(022)".

On page 44, line 18, strike out "(023)" and "(024)".

On page 44, line 19, strike out "(027)".

On page 44, beginning with "Department" on line 23, strike out all down through "Wholesale" on line 24.

On page 46, line 8, insert a comma after "lunches".

Beginning with line 25 on page 47, strike out all down through line 5 on page 48 and insert in lieu thereof the following:

"'SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with subsections 2, 3, and 4 of this section. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.'".

On page 48, line 24, strike out "(1)" and insert in lieu thereof "(A)".

On page 48, line 25, strike out "(2)" and insert in lieu thereof "(B)".

On page 49, line 1, strike out "(3)" and insert in lieu thereof "(C)".

On page 49, line 2, strike out "(4)" and insert in lieu thereof "(D)".

On page 49, beginning with "subsection" on line 13 strike out all down through "Act" on line 14 and insert in lieu thereof "this subsection".

On page 49, line 25, insert "of" after "administration".

On page 53, line 3, insert a comma after "assets".

On page 53, line 18, strike out "sections 4 and 5" and insert in lieu thereof "section 4".

On page 53, line 19, strike out "section 8" and insert in lieu thereof "sections 5 and 8".

Mr. McGOVERN. Mr. President, this amendment is a series of technical amendments. While they are technical in nature, I believe it would be helpful if I spent a moment describing two of the amendments.

The family and group day care homes participating in the child care food program are managed by people who are truly interested in improving the well-being of children. For their services these people are reimbursed for the actual cost of food plus their time and effort in meal preparation based on a specified reimbursement rate. Question has arisen over whether these reimbursements should be considered income or resources under any laws relating to taxation and welfare and public assistance programs. One of the amendments would clarify that these reimbursements will not be considered income or resources for purposes of those laws or programs. Without this amendment there is a strong possibility of a mass exodus of these people from the program.

Another amendment clarifies the fact that if State or local licensing or approval is not available or the other criteria of the bill are satisfied, no institution, other than a family and group day care home sponsoring organization or family or group day care home, will be eligible to participate in the child care food program.

Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McGOVERN. Mr. President, I yield such time as he requires to the distinguished chairman of our committee, Senator TALMADGE.

Mr. TALMADGE. Mr. President, I support S. 3085, as reported by the Committee on Agriculture, Nutrition and Forestry. This legislation is further evidence of our committee's continued commitment to the health and well-being of America's schoolchildren and the undernourished within our ranks.

S. 3085 is the culmination of the efforts of those parties concerned with the state of our Nation's nutrition. The committee was greatly aided by the efforts of school food service representatives, dieticians, and other scientists and medical personnel, program recipients, and public interest advocacy groups. Senator McGOVERN, the chairman of the Nutrition Subcommittee, is to be commended for his dedication and industry in bringing this bill to the floor of the Senate. Senators DOLE, LEAHY, and BELLMON made considerable contributions to the committee's deliberations. Senator HUMPHREY, following the example of her late husband, our dear friend, Hubert, aided us in our deliberations on the future of the special supplemental food program—popularly known as the WIC program.

The oversight activities of our committee regarding the child care food program and the WIC program have revealed areas for improvement. The improvements in these two programs are contained in S. 3085. These modifications will help assure the continued vitality of these programs.

The committee bill is responsible and responsive legislation. We had to deal with the issue of whether schools should be required to implement a breakfast program. Nobody was contesting the potential merit of the breakfast program. The question really came down to whether it would be best for all concerned for Washington to order schools to do something that they may be opposed to. I strongly believe that the committee made the right decision in not mandating the breakfast program. It is my belief, and one shared by a majority of the committee, that the decision to conduct a school breakfast program should be made by the local authorities who are familiar with the needs of our children. The incentives provided in S. 3085 should serve as a positive force to encourage local school authorities to implement a breakfast program.

S. 3085 is the product of the efforts of many people. It represents our best appraisal of what is needed to improve the child nutrition programs and allow them to continue to serve those in need.

I urge my colleagues to join me in supporting S. 3085.

Mr. McGOVERN. Mr. President, I believe that concludes the deliberations on this bill.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand it, the largest dollar figure in the various programs is the special supplemental feeding program, otherwise known as WIC.

If my figures are accurate, for the fiscal year 1977, the WIC program was $277 million; and in 1978, the current fiscal year, that was increased by 30 percent, to $360 million.

Do those figures jibe with the figures of the distinguished Senator from South Dakota?

Mr. McGOVERN. Yes, I think the Senator's figures are correct.

Mr. HARRY F. BYRD, JR. For fiscal 1979 the cost impact of the same program will increase to $540 million or an increase of 50 percent. And then the following year it goes up to $780 million, which is almost another 45 percent increase. Then in 1981 it goes up to $890 million, and then in 1982 it goes up to $945 million.

Mr. McGOVERN. Yes. The Senator's figures are substantially correct.

Mr. HARRY F. BYRD, JR. I wonder if the Senator would indicate why there should be such a tremendous increase in the cost of this program?

Mr. McGOVERN. Let me say to the Senator from Virginia that I quite understand the point he is making. It is a substantial increase. There is no question about it. I cited evidence earlier in the discussion before it was possible for the Senator to be on the floor that this program is an extremely cost-effective program in that it heads off diseases, physical handicaps, the debilitation of children in various ways, that will cost considerably more in later life either to the Government or to the families involved, in the absence of this program. While I cannot cite an exact benefit cost ratio on the program, I give the Senator my

best judgment, that we have not expanded this program under the terms of the legislation beyond a reasonable level in terms of the benefits to our families, to our children and to the society as a whole. As the Senator knows we are approaching a medical bill in this country that is now close to $200 billion for the treatment of disease. The so-called WIC program that now operates across the country is frankly designed to attack that problem of rising disease and illness costs in this country by providing prevention through nutrition supplements as it provides under this program. I say to the Senator that these provisions came out of the Committee on Agriculture unanimously with the support of the Republicans and Democrats on both sides of the aisle, without a single dissent, I think partly because it was seen as an investment to actually reduce the long-range cost of medical care in this country.

Mr. HARRY F. BYRD, JR. I am not questioning the program per se. I was concerned about the very sharp increase in the cost of the program. May I ask the Senator this: How is the program monitored and by whom?

Mr. McGOVERN. It is monitored, I will say to the Senator, and I think very effectively, by the Department of Agriculture. It cannot be administered anywhere at the State and local level except by authorized agencies that have to be approved by the U.S. Department of Agriculture. I think the Senator understands that the reason for the increase in cost is that it is a fairly new program that has proved to be highly successful and increasing numbers of people are being brought under its scope, and that is the chief reason for the additional costs.

Mr. HARRY F. BYRD. JR. I thank the Senator. Since this colloquy began, I have learned that an amendment has been adopted, which will scale down the figures I cited. I think that is desirable.

Mr. McGOVERN. I thank the Senator from Virginia for his inquiry.

Mr. President, I think that completes our action on this legislation.

● Mr. CRANSTON. Mr. President, I would like to express my support for S. 3085, the Child Nutrition Amendments of 1978, as reported from the Committee on Agriculture. As chairman of the Child and Human Development Subcommittee of the Human Resources Committee, I have a special interest in child nutrition programs, which make vital contributions to the health and well-being of millions of needy children throughout the Nation. These nutrition programs—the WIC program serving mothers, infants, and children at "nutritional risk," the child care food program, and the school lunch and breakfast programs—have repeatedly demonstrated themselves to be of great value to children and families in need.

CHILD CARE FOOD PROGRAM

Mr. President, the Child Nutrition Amendments of 1978 would make permanent the child care food program. This program, begun in 1968 as a 3-year pilot program, served some 676,000 preschool children in child care programs during fiscal year 1978. Although the program has expanded substantially since its inception 10 years ago, it is clear that it reaches only a fraction of the needy preschool children whose parents must work. Statistics released last year indicate that some 6.4 million children under the age of 6 have working mothers. Even with the mother's income, many of the families of these children have incomes that are below or barely above the poverty level. Many of these children in child care centers and family day care homes, may spend 10 to 12 hours a day in child care and need several meals a day in these situations. However, the statistics show that only a tiny portion of these children are participating in the child care food program.

Many individuals have felt that unnecessary paperwork and administrative barriers, as well as the lack of effective outreach and informational efforts regarding the child care food program, have contributed to this low participation. The committee bill addresses these problems, particularly as they affect small family day care homes, by attempting to reduce paperwork and simplify reimbursement procedures.

During the hearings I held this past winter on child care programs before the Child and Human Development Subcommittee of the Human Resources Committee, many individuals testified about the desire of many parents—particularly parents of very young children—to use family day care arrangements for their children. I strongly believe that we should be encouraging and supporting these arrangements. I hope that the type of support these programs can receive through increased participation in the child care food program as a result of the amendments contained in this bill will have that effect.

At the same time, Mr. President, I must add one note of caution. Although I fully support efforts to extend participation in the child care food program to as many needy children as possible, I am equally committed to the principle that the Federal Government has a responsibility to require that the child care programs that receive Federal financial support meet some reasonable standards of quality. I do not believe that the Federal Government should be encouraging—directly or indirectly—child care programs that do not provide safe and healthy environments for young children.

The bill before us today extends eligibility for participation in child care food programs to unlicensed programs in States that either do not have licensing procedures or that fail to act upon licensing applications. Under existing law, unlicensed institutions must satisfy the Secretary of Agriculture that their standards are not less comprehensive than the Federal interagency day care requirements in order to participate in the child care food program. The amendments in the reported bill would allow programs a number of alternative ways to demonstrate that they meet applicable State or local government licensing or approval standards and would authorize the Secretary of Agriculture, after consultation with the Secretary of HEW, to establish standards for approval of unlicensed programs. Some degree of flexibility is needed to insure that needy children receive the food services they are eligible for, but I hope that these new provisions will be administered in a fashion that also encourages compliance with reasonable standards of quality in all federally-assisted child care programs.

CONTRIBUTIONS OF THE WIC PROGRAM TO INFANT HEALTH

Mr. President, I also want to comment in particular upon the provisions of the committee's bill dealing with the WIC program. This program provides nutritious supplemental food to pregnant, post-partum, and breastfeeding women, and to infants and children up to their 5th birthday who are determined by health professionals to be at "nutritional risk" because of inadequate nutrition and inadequate income. This investment in prenatal and post partum nutrition has clearly paid off. Studies of the WIC program have shown such results as a reduced incidence of anemia in children participating in the program and a reduced incidence of low birthweight infants born to mothers participating in the WIC program. The relationship between low birthweight and infant mortality has repeatedly been established. Earlier this year, I chaired hearings before the Child and Human Development Subcommittee—and the Senate passed extension legislation—dealing with the tragic problem of sudden infant death syndrome, sometimes called "crib death." Studies have found a correlation between low birthweight and this devastating problem which takes the life of between 6,000 and 7,000 infants each year in the United States. Clearly, efforts such as those undertaken through the WIC program that reduce the incidence of factors, such as low birthweight, that are related to this type of infant loss are well worth the investment.

SCHOOL BREAKFAST PROGRAMS

Mr. President, the bill as reported also contains a number of provisions designed to encourage and expand participation in the school breakfast program. Initially authorized as a 2-year pilot program in 1967, the school breakfast program was made available to all schools in 1972, and made permanent in 1975 under Public Law 94–105. However, only 22,894 schools are participating in the program—a much lower rate than that for the school lunch program.

Yet, all the available data suggest an increasing need for breakfast programs, particularly in light of the increased incidence of two parent working households or single-parent households and indications that many children from low-income households do not have an adequate breakfast available to them. A number of studies have shown that the school breakfast programs help to decrease sleepiness and apathy, and increase positive attitudes, attentiveness, and performance.

The administration and a number of groups urged that participation in the breakfast program be made mandatory in schools where over half of the students

enrolled have been determined eligible for free or reduced-price school meals. The committee, however, decided to provide various incentives, such as increased financial assistance for schools that desire to establish a breakfast program, to encourage increased participation in this program. While I know that a number of people are not satisfied with this decision, hopefully these incentives will result in increased participation in this program over the next few years.

CONCLUSION

Mr. President, I believe that the Child Nutrition Amendments of 1978 represent responsible and beneficial steps forward in our efforts to insure that all needy children receive the nutritional opportunities that are so essential to their healthy development and future lives. Expenditures for these programs are invaluable investments in the future of our Nation—our children—and they deserve our continued support.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. McGOVERN. Mr. President, I yield back my time.

The PRESIDING OFFICER. Does the Senator from Kansas yield back his time?

Mr. DOLE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CLARK), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from North Dakota (Mr. BURDICK), and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. DANFORTH), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announced that, if present and voting the Senator from Oregon (Mr. HATFIELD), and the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 68, nays 0, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—68

| | | |
|---|---|---|
| Abourezk | Glenn | Metzenbaum |
| Bartlett | Goldwater | Morgan |
| Bayh | Hansen | Nelson |
| Bentsen | Hart | Nunn |
| Biden | Hatch | Packwood |
| Bumpers | Heinz | Pearson |
| Byrd, | Helms | Pell |
| Harry F., Jr. | Hodges | Proxmire |
| Byrd, Robert C. | Hollings | Randolph |
| Cannon | Humphrey | Riegle |
| Case | Inouye | Roth |
| Chafee | Jackson | Sarbanes |
| Chiles | Javits | Schmitt |
| Church | Kennedy | Schweiker |
| Cranston | Leahy | Scott |
| Culver | Long | Stafford |
| Curtis | Lugar | Stone |
| Dole | Magnuson | Talmadge |
| Domenici | Mathias | Tower |
| Durkin | Matsunaga | Wallop |
| Eastland | McClure | Williams |
| Ford | McGovern | Young |
| Garn | Melcher | Zorinsky |

NAYS—0

NOT VOTING—32

| | | |
|---|---|---|
| Allen | Haskell | Muskie |
| Anderson | Hatfield, | Percy |
| Baker | Mark O. | Ribicoff |
| Bellmon | Hatfield, | Sasser |
| Brooke | Paul G. | Sparkman |
| Burdick | Hathaway | Stennis |
| Clark | Hayakawa | Stevens |
| Danforth | Huddleston | Stevenson |
| DeConcini | Johnston | Thurmond |
| Eagleton | Laxalt | Weicker |
| Gravel | McIntyre | |
| Griffin | Moynihan | |

So the bill (S. 3085), as amended was passed as follows:

S. 3085

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Child Nutrition Amendments of 1978".

CHILD CARE FOOD PROGRAM

SEC. 2. Section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) The Secretary is authorized to carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary is authorized to establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

"(1) no institution, other than a family and group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or, where State or local licensing or approval is not available, receives either referrals for placement or funds (such as funds under title XX of the Social Security Act (88 Stat. 2337)) from Federal, State, or local government agencies, or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or licensing or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

"(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

"(A) accepts final administrative and financial responsibility for management of an effective food service;

"(B) has not been seriously deficient in its operation of the child care food program, or other program under this Act of the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

"(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

"Payments to States

"(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served in the manner specified in subsection (c) of this section: *Provided,* That, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of the Federal funds provided by the State to participating institutions within the State for that fiscal year and any funds used by the State under section 10 of the Child Nutrition Act of 1966.

"(c) The Secretary shall provide assistance to each State in the following manner:

"(1) For meals served to children in institutions, other than family and group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (A) the total number of breakfasts served in the State in these institutions by the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966; (B) the total number of lunches and suppers served in the State in these institutions by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and (C) the total number of supplements served in the State in these institutions by the national average payment rate for supplements served in such institutions. For the six-month period ending

June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in those institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent and shall be based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(2) For meals served to children in institutions, other than family and group day care home sponsoring organizations, where less than two-thirds but no less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (A) the total number of breakfasts served in the State in these institutions by the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; (B) the total number of lunches and suppers served in the State in these institutions by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and (C) the total number of supplements served in the State in these institutions by the national average payment rate for supplements served in such institutions. For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent and shall be based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(3) For meals served to children in institutions, other than family and group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection (f)(3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (A) the total number of breakfasts served in the State in these institutions by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966; (B) the total number of lunches and suppers served in the State in these institutions by the national average payment rate for lunches under section 4 of this Act; and (C) the total number of supplements served in the State in these institutions by the national average payment rate for supplements in such institutions. For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent and shall be based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection (f)(3) of this section, each State shall receive assistance in the following manner:

"(A) for meals served to children who are members of families that satisfy the income standards for free school meals in accordance with section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (i) the number of breakfasts served by the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966; (ii) the number of lunches and suppers served by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and (iii) the number of supplements served by the national average payment rate for supplements determined under clause (C) of subsection (c)(1) of this section;

"(B) for meals served to children who are members of families that satisfy the income standards for reduced-price school meals in accordance with section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by mutiplying (i) the number of breakfasts served by the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; (ii) the number of lunches and suppers served by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and (iii) the number of supplements served by the national average payment rate for supplements determined under clause (C) of subsection (c)(2) of this section; and

"(C) for meals served to all other children in such institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying (i) the number of breakfasts served to such children by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966; (ii) the number of lunches and suppers served to such children by the national average payment rate for lunches under section 4 of this Act; and (iii) the number of supplements served to such children by the national average payment rate for supplements determined under clause (C) of subsection (c)(3) of this section.

"(5) For meals served in family and group day care homes, each State shall receive amounts sufficient to make payments for such meals in accordance with subsection (f)(4) of this section.

"Approval of Institutions

"(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax-exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family and group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax-exempt status, or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within 30 days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within 15 days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

"Hearing Procedure

"(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution or family or group day care home aggrieved by the action of the State as it affects the participation of such institution or family or group day care home in the program authorized by this section, or its claim for reimbursement under this section.

"Payments to Institutions and Homes

"(f)(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State in accordance with agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family and group day-care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within 45 days of receipt by the State. The State shall notify the institution within 15 days of receipt of the claim if the claim as submitted is not valid because it is incomplete or incorrect.

"(2) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections (c)(1), (2), and (3) of this section. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this section shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost of the institution of providing meals to such children.

"(3) Institutions, other than group and family day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price, or paid meals under section 9 of this Act. Such reimbursement shall be based on the national average payment rates for lunches under section 4 of this Act; the national average payment rates for free lunches and reduced-price lunches under section 11 of this Act; the national average payment rates for breakfasts, free breakfasts, and reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; and the national average payment rates for supplements under subsection (c) of this section. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

"(4) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs. The value of such payments to family or group day care homes shall not be con-

sidered to be income or resources (to the family or group day care home operation) under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary. Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start-up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

"(5) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

"Meal Service

"(g)(1) Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements perscribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

"(2) No institution may be prohibited from serving a breakfast, lunch, supper, and snacks to any eligible child each day, except in the case of institutions that provide care to schoolchildren outside of school hours.

"(3) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, by different meals or meal service, announced or published lists of names, or other means.

"(4) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

"Use of Donated Foods

"(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year in accordance with the provisions of section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

"State Plan

"(i) For the child care food program, the State plan required under section 11(e) of this Act shall provide, in addition to other information required by regulation or available from regular reporting:

"(1) the number of institutions and the number of family and group day care homes participating in the program, together with the average daily attendance in such institutions;

"(2) the number of institutions and the number of family and group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act (88 Stat. 2337), and the number of such institutions that participate in the program authorized under this section;

"(3) the action program the State proposes to undertake to use the Federal funds provided under this section, including the State's plans to (A) extend the program to all eligible institutions (placing priority on reaching institutions in needy areas first), (B) assist family and group day care homes in obtaining sponsoring organizations, and (C) encourage eligible institutions to participate in the program;

"(4) a plan for the conduct of audits; and

"(5) a plan to monitor program performance and measure progress in achieving program goals.

"Audit Expenses

"(j) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

"Agreement Between Sponsoring Organizations and Homes

"(k) The Secretary is authorized to issue regulations directing States to develop and provide for the use of a standard form of agreement between each family and group day care sponsoring organization and the family and group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

"Administrative Cost Study

"(l) The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels for administrative payments that reflect the costs of institutions participating in the program.

"Food Cost Study

"(m) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

"Licensing Study

"(n) The Secretary shall conduct a study of licensing problems faced by institutions and family and group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

"Report to Congress on Studies

"(o) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under subsections (l), (m), and (n) of this section. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

"Administration by the Secretary

"(p) In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under this section to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

"Food Service Equipment Assistance

"(q)(1) Of the sums appropriated for each fiscal year to carry out the purposes of this section, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

"(2) If any State cannot use all of the funds allocated to it under this subsection, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (1) of this subsection for allocating funds. Payments to any State of funds allocated under this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions or family or group day care homes that are especially needy, as determined by the State.

"(3) Each State shall establish criteria for determining institutions or family or group day care homes that are especially needy for purposes of this subsection and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by subsection (i) of this section.

"(4) Within 30 days of notification by the Secretary to the State of the amount of funds available under this subsection, the State shall notify institutions of the availability of funds for food service equipment.

The Secretary shall establish standards to assure prompt action by States on requests by institutions or such funds and shall also prescribe a priority system to be followed by States in allocating funds under this subsection.

"(5) The Secretary shall issue regulations authorizing the State to disburse funds under this subsection directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (A) meets all requirements for participation under this section, except for licensing requirements, and (B) satisfies all requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this section.

"Training and Technical Assistance

"(r) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved or registered, or that receives funds under title XX of the Social Security Act (88 Stat. 2337), of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

"(s) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(t) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(u) There is hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the program authorized by this section.".

Special Supplemental Food Program

SEC. 3. Section 17 of the Child Nutrition Act of 1966 is amended to read as follows:

SPECIAL SUPPLEMENTAL FOOD PROGRAM

"Declaration of Purpose

"SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

"Definitions

"(b) As used in this section—

"(1) 'Administrative costs' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

"(2) 'Breastfeeding women' means women up to one year postpartum who are breastfeeding their infants.

"(3) 'Children' means persons who have had their first birthday but have not yet attained their fifth birthday.

"(4) 'Competent professional authority' means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

"(5) 'Infants' means persons under one year of age.

"(6) 'Local agency' means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

"(7) 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status, achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"(8) 'Nutritional risk' means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

"(9) 'Plan of operation and administration' means a document that describes the manner in which the State agency intends to implement and operate the program.

"(10) 'Postpartum women' means women up to 6 months after termination of pregnancy.

"(11) 'Pregnant women' means women determined to have one or more fetuses in utero.

"(12) 'Secretary' means the Secretary of Agriculture.

"(13) 'State agency' means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

"(14) 'Supplemental foods' means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

"Establishment of the Program

"(c)(1) The Secretary is authorized to carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section: *Provided*, That the State of Florida may continue to determine the price of food instruments by the method in effect on May 1, 1978, at the discretion of that State. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

"(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

"(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

"(B) any State agency, approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program: *Provided*, That the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

"Eligibility of Persons

"(d)(1) Participation in the program under this section shall be limited to any of the following who are determined by a competent professional authority to be at nutritional risk: pregnant, postpartum, and breastfeeding women, infants, and children from low-income families.

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced price school meals under section 9 of the National School Lunch Act.

"(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

"Nutrition Education

"(e)(1) The State agency shall insure that nutrition education is provided to all preg-

nant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to insure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

"(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

"Administration

"(f)(1) Each State agency shall annually submit to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

"(A) a description of how the State agency will distribute administrative funds, including startup funds, to local agencies operating under the program;

"(B) a description of the State agency's financial management system;

"(C) a description of methods used to determine nutritional risk;

"(D) a budget for administrative funds;

"(E) the staffing pattern;

"(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

"(G) plans to provide program benefits under this section to eligible migrants and Indians;

"(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

"(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

"(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

"(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, alcohol and drug abuse counseling, and child abuse counseling, and with the food stamp program; and

"(L) a copy of the procedure manual developed by the State agency for the program under this section. The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

"(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct public hearings to enable the general public to participate in the development of the State agency plan.

"(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

"(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

"(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit for such period of time, not in excess of five years, as the Secretary determines necessary.

"(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within 30 days of the approval or disapproval of the application, and any disapproval shall be accompanied by a statement of the reasons for such disapproval. Within 15 days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

"(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within 20 days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits fore expeditiously.

"(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas.

"(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

"(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

"(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to carry out the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate: *Provided*, That upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

"(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. Use of commercially available products specifically designed for pregnant, postpartum, and breastfeeding women, infants, or children shall be available at the discretion of the Secretary.

"(13) A competent professional authority shall be responsible for (A) prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns, and (B) to the degree possible, assuring that the fat, sugar, and salt content of the prescribed foods is appropriate.

"(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

"Authorization of Appropriations

"(g) There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

"Administrative Funds

"(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-fifth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities.

"(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum

amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

"(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies in accordance with allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

"(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

"Distribution of Funds

"(i) By the beginning of each fiscal year, the Secretary shall divide, among the States, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State's allocation, as so determined, shall constitute the State's authorized operational level for that year: *Provided*, That the Secretary shall reallocate funds periodically if the Secretary determines that a State is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State's allocation to purchase supplemental foods for donation to the State under this section.

"Annual Report on Migrants

"(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

"National Advisory Council on Maternal, Infant, and Fetal Nutrition

"(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

"(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

"(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

"(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning in the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

"(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

"(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council such as child care expenses and lost wages during scheduled Council meetings.

"Purchase and Distribution of Commodities

"(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary is also authorized to purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.".

REDUCED-PRICE REIMBURSEMENTS

SEC. 4. The fifth sentence of section 11(a) of the National School Lunch Act is amended by striking out "10" and inserting in lieu thereof "20", and by inserting immediately before the period at the end thereof the following: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charge for reduced-price lunches in such State, whichever is greater".

USING COMMODITY PRICES FOR COMMODITY INDEXES

SEC. 5. (a) Section 3 of the Child Nutrition Act of 1966 is amended by striking out "series of food away from home of the Consumer Price Index" and inserting in lieu thereof "Producer Price Index for Fresh Processed Milk".

(b) Section 6(e) of the National School Lunch Act is amended by striking out "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor." and inserting in lieu thereof the following: "the Price Index for Food Used in Schools and Institutions. The index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry, and fish, dairy products, processed fruits and vegetables, and fats and oils. Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year."

(c) Section 11(a) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

(d) Section 13(b)(1) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

SCHOOL BREAKFAST EXPANSION PROGRAM

Combined Allocation for Breakfast and Lunch

SEC. 6. (a)(1) Section 12 of the National School Lunch Act is amended by adding at the end theerof a new subsection (h) as follows:

"(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the costs incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to schools exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.".

Equipment Assistance

(b) Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out $40,000,000" the second time it appears in subsection (a) and inserting in lieu thereof "$75,000,000";

(2) inserting after "schools without a food service program" in the fourth sentence of subsection (b) the following: ", schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches,";

(3) amending the last sentence of subsection (b) as read as follows: "After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.";

(4) striking out "without the facilities to prepare and cook hot meals or receive hot meals" the first time that phrase appears in subsection (e) and inserting in lieu thereof "that do not serve breakfasts or lunches but

that plan to use food service equipment to initiate a breakfast or lunch program";

(5) striking out "without the facilities to prepare and cook hot meals or receive hot meals" all other times that phrase appears in subsection (e) and inserting in lieu thereof "moving toward the initiation of the service of breakfasts"; and

(6) striking out "33⅓" in subsection (e) and inserting in lieu thereof "40".

Especially Needy

(c) The first sentence of section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows: "Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, including those schools in which the service of breakfasts is required under State law, and those schools, as defined in section 12(d)(6)(A) of the National School Lunch Act, in which—

"(1) for the school year beginning July 1, 1979, not less than 50 percent,

"(2) for the school year beginning July 1, 1980, not less than 45 percent,

"(3) for the school year beginning July 1, 1981, and all school years thereafter, not less than 40 percent, of the lunches served to students, during the second preceding school year, were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.".

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with subsections 2, 3, and 4 of this section. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3, 4, and 5 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

"(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon funds expended under such program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

"(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

"(6) Where the Secertary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.".

State Administrative Expenses for Summer Feeding

(b) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.".

INCOME POVERTY GUIDELINES

SEC. 8. Section 9(b)(1) of the National Lunch Act is amended by—

(1) amending the second sentence to read as follows: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines for 1977 by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures that have been used by the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted."; and

(2) amending the fifth sentence to read as follows: "The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.".

STUDY ON FOOD CHOICE

SEC. 9. The National School Lunch Act is amended by adding at the end thereof a new section 22 as follows:

"SEC. 22. As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study.".

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Section 12 of the National School Lunch Act is amended by adding at the end thereof new subsections (f) and (g) as follows:

"(f) In providing assistance for school breakfasts and lunches served in Alaska, Guam, and American Samoa, the Secretary shall establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

"(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.".

(b) Section 12(d)(7) of the National School Lunch Act is amended to read as follows:

"(7) 'School year' means the annual period from July 1 through June 30.".

(c) Section 15(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) 'School year' means the annual period from July 1 through June 30.".

(d) Section 19 of the Child Nutrition Act is amended by adding, at the end thereof, the following:

"(k) Notwithstanding any other provision in law, the Secretary is directed to review and reconsider from time to time any approvals granted for the use of alternate foods as exceptions to the basic meal pattern requirements established for the child nutrition programs pursuant to this Act and the National School Lunch Act, and, if the Secretary determines that such alternate foods no longer fulfill their original purposes, or that such foods are not an integral part of a nutritionally sound diet or contravene currently accepted nutrition education principles, the Secretary shall revoke any previous approvals of such alternate foods: *Provided*, That no alternate food item shall be presented to substitute for more than one food component in the basic meal requirement.".

EFFECTIVE DATE

SEC. 11. The provisions of this Act, except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act shall become effective January 1, 1979. The provisions of sections 5 and 8 of this Act shall become effective July 1, 1979: *Provided*, That the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 not earlier than October 1, 1978, and not later than July 1, 1979.

IMPLEMENTATION

SEC. 12. (a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act within ninety days of the date of enactment of this Act.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior

to the effective date of sections 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of pursuant to the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be available to carry out the provisions of sections 2 and 3 of this Act.

SCHOOL LUNCH PROGRAM, PILOT COST AND FEASIBILITY PROGRAMS

SEC. 13. Section 20 of the National School Lunch Act is amended by—

(1) inserting before the period at the end of the first sentence of subsection (c) the following: ", except for the pilot projects conducted under subsection (d) of this section"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in up to 14 school districts or other appropriate units), of which not more than one may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

"(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

"(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection no later than six months after the conclusion of such projects.

"(4) There are hereby authorized to be appropriated such sums, as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of such pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise be expected to receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.".

PURCHASES FISH PRODUCTS FOR SCHOOL LUNCHES

SEC. 14. Section 6(e) of the National School Lunch Act is amended by inserting after the words "high protein foods, meat, and meat alternatives" the words "(which may include domestic seafood commodities and their products)".

SEC. 15. Section 14(a)(1) of the National School Lunch Act is amended by inserting after the words "customarily purchased under such section" the words "(which may include domestic seafood commodities and their products".

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3085.

The PRESIDING OFFICER (Mr. CANNON). Is there objection? Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA

Mr. ABOUREZK. Mr. President, I ask that the Senate proceed to the consideration of H.R. 8336.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 8336, which the clerk will report.

The legislative clerk read as follows:

**Calendar No. 743, a bill (H.R. 8336) to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes.**

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the Congress finds the natural, scenic, recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the "recreation area"). The recreation area shall consist of the river and its bed together with the lands, waters and interests therein within the boundary generally depicted on the map entitled "Chattahoochee River National Recreation Area," numbered CHAT-20,000, and dated July 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the recreation area to delete tracts that would involve significant severance damages to remaining lands, to delete lands having valuable improvements that would be of little or no benefit to the receration area, to encompass severed lands and to accommodate technical and operational considerations, except that the total area within the recreation, area, exclusive of the river and its bed may not exceed six thousand three hundred acres.

SEC. 2. (a) Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase, with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation. The Secretary may refrain from purchase of tracts of land or portions thereof used or to be used for other than noncommercial residential purposes if the owner shall, within one year of the date of enactment of this Act, enter into an agreement with the Secretary assuring that such property shall be used under such terms and conditions as the Secretary, in his discretion, may describe for the preservation and protection of the recreation area.

(b) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such agricultural or residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition less the fair market value of the term retained by the owner.

(c) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(d) As used in this section the term "improved property" means a detached, year-around noncommercial residential dwelling the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 3. (a) The Secretary shall administer, protect, and develop the recreation area in accordance with the Act of August 25, 1916 (39 Stat. 535), and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this Act. In developing and administering the recreation area the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not lim-

ited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

(b) The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this Act.

(c) In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area are complementary.

(d) In administering the recreation area the Secretary shall permit fishing on waters under his jurisdiction in accordance with applicable State and Federal laws, except that he may designate zones where, and establish periods when, no fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, any rules and regulations of the Secretary pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency.

SEC. 4. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established, except where such project is determined by the State of Georgia to be necessary for water supply or water quality enhancement purposes and authorized by the United States Congress. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on the date of approval of this Act. Nothing contained in this subsection shall preclude the upgrading, improvement, expansion or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established.

(b) No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance, (a) advising the Secretary in writing of its intention to do so and (b) reporting to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate the nature of the project involved and the manner in which such project would conflict with the purposes of this Act or would affect the recreation area and the values to be protected by it under this Act.

(c) Nothing in this Act shall be construed in any way to require the manipulation or reduction of the lake water levels in Lake Sidney Lanier nor to restrict, prohibit or affect any recommendation of the Metropolitan Atlanta Water Resources Study as authorized by the Public Works Committee of the United States Senate on March 2, 1972.

SEC. 5. (a) There is hereby established the Chattahoochee River National Recreation Area Advisory Commission (hereafter referred to as the "Commission") which shall be composed of nine members to be appointed by the Secretary for terms of five (5) years as follows:

(1) Six members to be appointed from recommendations submitted by the Governor of the State of Georgia, two of which shall be residents of the Chattahoochee River Corridor Area, and two of which shall be from the membership of Georgia conservation groups;

(2) One member to be appointed from a recommendation submitted by the Secretary of the Army; and

(3) Two members to be appointed from recommendations submitted by the Atlanta Regional Commission.

(b) The Commission shall terminate ten years from the date of establishment of the recreation area.

(c) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term). The Chairman of the Commission shall be designated by the Secretary.

(d) The Commission shall act and advise by affirmative vote of a majority of its members.

(e) The Secretary or his designee shall from time to time, but at least semiannually, consult with the Commission with respect to matters relating to the development of the recreation area.

(f) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon presentation of vouchers signed by the Chairman.

SEC. 6. (a) The Secretary may not expend more than $72,900,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities: *Provided*, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

(b) Within three years from the effective date of this Act, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the recreation area consistent with the findings and purposes of this Act, indicating:

(1) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, the estimated cost of acquisition, and the recommended public acquisition agency;

(2) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(3) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Dan Dreyfus, Tom Williams, and Laura Beaty of the Energy Committee staff have floor privileges during consideration and voting on H.R. 8336.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ABOUREZK. Yes.

Mr. NUNN. Mr. President, I ask unanimous consent that Gordon Giffin of my staff be accorded the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I ask unanimous consent that Marcia Wolf of Senator WILLIAMS' staff be given the same privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, H.R. 8336 as ordered reported from the Senate Energy and Natural Resources Committee would authorize the establishment of the Chattahoochee National Recreational Area in the State of Georgia.

The Chattahoochee River rises in northern Georgia and flows through the heart of the Atlanta metropolitan area. H.R. 8336, as reported, would designate a 48-mile stretch of this river from the existing Buford Dam downstream to Peachtree Creek, as a National Recreation Area (NRA) to be managed by the National Park Service. The Secretary would have the authority to acquire approximately 6,300 acres of land along the river for the purpose of protecting significant recreational, historical, and ecological values, as well as providing access to the river for the millions of Americans who enjoy the Chattahoochee each year.

Mr. President, I think it is important to note that the State of Georgia has already made a concerted effort to preserve and protect this valuable resource. Since enacting the Metropolitan River Protection Act in 1973, the State has been able to keep the river corridor free of development and the river itself free of pollution. In terms of public use and recreation, the State and local governments have moved forward with an acquisition program for key tracts of prime land within the river corridor. The State has acquired some 1,000 acres of this land but some 5,300 prime acres remain to be acquired according to a comprehensive plan prepared by the State and the Bureau of Outdoor Recreation in 1976. H.R. 8336 will provide the funds necessary to acquire this critical land.

Mr. President, the legislation before us today provides an opportunity to protect a stretch of river which is perhaps the most heavily used recreation river in the Nation. The measure enjoys the support of the State of Georgia, the administration, various environmental and conservation associations, and nine of the ten members of the Georgia congressional delegation including Senator NUNN and Senator TALMADGE.

The version of H.R. 8336 reported by the Energy and Natural Resources Committee is virtually identical to the version

which passed the House by a vote of 273 to 79. The committee agreed to incorporate some technical amendments suggested by the Department with regard to formulation of a final official boundary map for the area. The committee also agreed to adopt a provision included in the Senate version of this legislation, S. 1791, sponsored by my good friend from Georgia, Mr. NUNN, which provides for the creation of a Citizens Advisory Commission which will provide an opportunity for increased public input into the management of the Chattahoochee NRA.

Mr. President, I urge my colleagues to join in support of this important legislation.

Mr. NUNN. Mr. President, if the Senator will yield, I have an amendment which I would propose at this time.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

UP AMENDMENT NO. 1466

(Purpose: To permit hunting in the Chattahoochee River National Recreation Area)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1466.

Mr. NUNN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 17, strike out "fishing on waters" and insert in lieu thereof "hunting and fishing on lands and waters".

On page 14, line 20, insert "hunting or" after "no".

Mr. NUNN. Mr. President, this is a very simple amendment. To my knowledge, national parks, as a general rule contain boiler plate language authorizing hunting and fishing within the boundaries of the area, subject to limitation by the Secretary of Interior. The Chattahoochee bill, as reported from committee, provides the standard language regarding fishing, however, it omits the standard authorization for hunting.

While I do not believe that there will be a high incidence of hunting activity within the confines of the proposed Chattahoochee River National Recreation Area, I believe that it is unwise to depart from the traditional treatment of this issue. My amendment would simply add the standard hunting language to the bill while retaining the usual discretionary authority in the Secretary for limitation of this activity as he deems necessary.

Mr. President, I have talked to the manager of the bill about this proposal, and I do not believe there will be objections from the committee on this amendment.

Mr. ABOUREZK. Mr. President, we have discussed this proposal, and we have no objection; and I am sure the minority side has none.

Mr. NUNN. We have also discussed this with the minority staff. I do not believe the minority has an objection. I ask for a vote on the amendment.

Mr. ABOUREZK. We are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. TALMADGE. Mr. President, I am very pleased to have this opportunity to express my strong support for the passage of the Chattahoochee River National Recreation Area legislation. This proposal, which I am cosponsoring along with Senator Nunn, will be of great benefit to the people of Georgia and the Nation and will make possible the proper protection and utilization of one of our Nation's unique natural resource areas.

This legislation is the culmination of several years of diligent work and cooperative efforts by the Atlanta Regional Commission, the Georgia Department of Natural Resources, the North Georgia Mountain Authority, and the U.S. Department of the Interior. In addition, local citizens' groups and public officials have contributed greatly to the movement to preserve the scenic and historic Chattahoochee River corridor. I would particularly like to commend my distinguished colleague from Georgia, SAM NUNN, for his efforts in seeing that the Chattahoochee River National Recreation Area is established.

Mr. President, with proper care and management, the 48-mile stretch of the Chattahoochee River within the proposed national recreation area will provide valuable recreational and educational benefits to the people of Georgia and the Nation, both now and for generations to come. In this age of vanishing natural resources and surroundings, we must not pass up this golden opportunity to protect and preserve the Chattahoochee River corridor as an area which offers significant natural and recreational resource possibilities. The Chattahoochee River Area has the potential to become one of our Nation's most valued urban parks. I encourage my Senate colleagues to support this legislation in order that this most worthwhile project may become a reality.

Mr. NUNN. Mr. President, I want to express my appreciation to the distinguished senior Senator from Georgia, who has been a dedicated sponsor of this proposal for a long time.

I am extremely pleased that the Senate is about to take one of the final steps in what has been an extended journey toward preserving a unique natural resource, the Chattahoochee River. In an age of urban crowding, it is increasingly important that we preserve the available open spaces in and near our large cities for recreational use. The preservation and protection of parklands and recreation areas throughout the Nation is becoming increasingly important as more and more Americans seek to participate in travel and outdoor activties. The History of the effort to preserve the 48-mile stretch of the Chattahoochee River from Buford Dam to Peachtree Creek is a long one and involves the efforts of many individuals who are dedicated to the task of preventing the loss of this area's natural and histroic character.

The Chattahoochee begins as a small mountain stream in northeast Georgia, following southwesterly across the State where it enters Lake Lanier and is impounded by Buford Dam. The river then continues southerly, passing by the northwest boundary of Metropolitan Atlanta and forms the boundary for the States of Alabama and Georgia, eventually flowing into the Apalachicola River in Florida and emptying into the Gulf of Mexico. Much of the lower portion of the river has been dammed to form a succession of reservoirs.

The proposed national recreation area extends for 48 miles from Buford Dam to Peachtree Creek, near the center of Atlanta. On September 14, 1970, the Secretary of the Interior selected this area, along with 13 other major areas as having recreation potential in a metropolitan setting. The Bureau of Outdoor Recreation, cooperating with other Federal, State, and local agencies, completed a study of this section of the river which was published under the title, "The Chattahoochee Recreation Area Study."

Beginning in the late 1960's and reaching a peak in 1971 when the Georgia General Assembly proposed legislation to place the river under the protection of a State agency, there has been considerable State, local government, and private citizen interest in planned recreational use and preservation of the Chattahoochee. In July of 1972, the Atlanta Regional Commission, a State planning agency, in cooperation with the North Georgia Mountain's Authority and aided by a grant from the Department of Housing and Urban Development, published the Chattahoochee corridor study proposing controlled development along the river. This plan called for areas of private and public land ownership, and recommended public acquisition of 6,000 acres along with planned unit developments of privately owned lands. Subsequently, then Georgia Governor Jimmy Carter, worked with the Atlanta Regional Commission and local citizen's groups to draft legislation which would implement this concept.

In September of 1972, approval of a $1.89 million land and water conservation fund grant helped establish a 377-acre Chattahoochee Palisade's State Park. To date, over 900 acres of land bordering the river, with a value in excess of $14 million, are publicly owned.

The 1973 session of the Georgia General Assembly passed the Metropolitan River Protection Act to regulate development within 2,000 feet of the river. This act now requires review by local governments and the Atlanta Regional Commission of any proposed changes in land or water use within the corridor.

In September of 1975, representatives of the National Park Services Advisory Board on National Parks, Historic Sites, Buildings and Monuments, visited the proposed recreation area, examining various sites along the river's banks, floating a 2-mile stretch of the river, and overflying the entire area from

Standing Peachtree to Lake Sidney Lanier.

As a result of this visit, the Advisory Board submitted a report to the Secretary of the Interior in which they made the following statement:

The Subcommittee was extremely impressed with the natural beauty of the area, particularly since much of the most attractive portions of the River are within the city limits of Atlanta. The Chattahoochee is a unique resource; it obviously must be protected from the multitude of possible immediate encroachments, and it offers an extraordinary possibility to serve the recreation needs of the area. Presently, with no management at all, and often requiring citizens to violate private property, the River is extensively used. Atlanta public transportation and the interstate highway system provide easy access to the River for people in a five state area. Twenty percent of present usage is from outside the Atlanta area, and half of that from outside the State of Georgia. The subcommittee was in agreement that the Chattahoochee Corridor more than met the established criteria for national recreation areas, and that private and state facilities for development have been exhausted. The Board thus recommends that the National Park Service proceed with the necessary preliminary study, building on the work of the Bureau of Outdoor Recreation, the Georgia Department of Natural Resources, and Friends of the River, with the intent of adding to the system the Chattahoochee River National Recreation Area.

During the 93d Congress, I introduced legislation, S. 1738, cosponsored by Senator TALMADGE, which would have accomplished the creation of the national recreation area contemplated by the bill which we are considering today. Field hearings, chaired by Senator BENNETT JOHNSTON, were conducted on S. 1738, by the Committee on Interior and Insular Affairs in Atlanta on October 28, 1974. In the 94th Congress, I introduced similar legislation in the form of S. 661 and S. 2587, a bill to create a Chattahoochee Urban Recreation Area. These bills were the subject of hearings in the Interior Committee's Subcommittee on Parks and Recreation on October 30, 1975, and the Senate subsequently passed S. 2587 in September of 1976. Unfortunately, while the companion measure in the House, H.R. 3078, was reported by the House Interior Committee in 1976, final action on this legislation in the House of Representatives did not come prior to the adjournment of the 94th Congress. Our efforts in this regard were renewed in both bodies in the 95th Congress. Hearings were conducted in the House and Senate last year; the House passed H.R. 8336 on February 14, 1978; and the Senate Energy and Natural Resources Committee favorably reported the bill on May 11 of this year.

Mr. President, this is a synopsis of the events which have taken place to date concerning the effort to preserve a 48-mile stretch of the Chattahoochee. At this point, I would like to mention a few of the reasons which caused me to believe that we should proceed with the formal steps necessary to designate this area as a national recreation area and provide the necessary funds to accomplish its preservation.

This 48-mile stretch of the river should be preserved and protected due to its natural, scenic, historic, educational, and recreational values. It is important, not only to the State of Georgia, but also to the entire Nation. While this is, to some extent, a subjective evaluation, there are several facts which support such a conclusion. According to the 1972 Census of Transportation published by the Commerce Department, half of all trips taken by Americans have a metropolitan area as their destination. This fact is of particular significance to this discussion because of the fact Atlanta is the hub of the South. Due to the intersection of I–75 and I–85 in Metropolitan Atlanta, virtually all north-south vacation traffic passes within view of the Chattahoochee. In a 1972 travel research study on Georgia highways and vacation/recreation travel, the University of Georgia division of research estimated that the average vacation/recreation traffic volume on I–75 from Tennessee to Atlanta in 1970 was 4,000 cars per day. On I–85 from South Carolina to Atlanta, the average was 3,100 cars. More important, however, is the estimation that within 25 years the traffic on the I–75 corridor will reach 9,400 cars per day, while I–85 will produce traffic in the range of 6,200 cars per day. It is important to recognize that these figures represent only vacation/recreation related traffic.

Lake Lanier, which marks the beginning point of the proposed recreation area, has the largest visitation of any Army Corps of Engineer's project anywhere in the United States. The 13.8 million individuals who visited the lake in 1975 also represented a larger visitation than at any single unit in the national parks system.

The seven county area which would be touched by the proposed recreation area currently has a population of in excess of 1.6 million persons. The Georgia Office of Planning and Budget estimates that within 25 years, the population will easily exceed 2 million and represent approximately 35 percent of Georgia's population.

During the summer as many as 10,000 people have been surveyed to be using the Chattahoochee River for recreation on each weekend day. At least 20 percent of these users originate from areas outside of Metropolitan Atlanta and half of these people are from out of State. This volume will certainly increase in the future as Americans continue to seek out natural areas for recreation. It is also important to recognize that this volume of individuals generally must obtain access to the river through privately owned property. In addition to providing a recreational outlet for citizens from outside the Atlanta metropolitan area, this stretch of river provides a vital outlet for the residents of the urban areas in Atlanta.

I want to emphasize my belief that this area possesses the requisite recreational potential, national significance, local significance, and historical importance, and natural significance to warrant designation as a national recreation area. Few, if any metropolitan centers have such a major natural resource which can still be a preserved. As then candidate Jimmy Carter said in a July letter to the chairman of the Interior Committee's Subcommittee on Parks and Recreation, Senator JOHNSTON, and I quote:

I am so convinced of the national significance of urban parks of this type (referring to the Chattahoochee River) and their role in creating equality of life for urban Americans. * * *

While some portions of the corridor have already been acquired through such means as Federal land and water conservation grants, donation, and States funds, this form of "holding action" cannot be expected to prevent deterioration of this resource much longer. We must proceed with an organized preservation effort pursuant to the Atlanta Regional Commission study and a recently completed concept plan developed by the Georgia Department of Natural Resources in cooperation with the Atlanta Regional Commission and local citizen's groups.

Mr. President, I believe that it is essential that we act expeditiously in order to insure that this rare resource is appropriately preserved for the benefit of Georgians and all Americans. Expeditious action would also be in the best interest of all affected property owners in order to clarify the future of their holdings. As I said 4 years ago upon the initial introduction of legislation on this subject, at a time when open space continues to disappear under concrete blankets and high-rise complexes, the preservation of an area of natural beauty, such as the Chattahoochee, for the future enjoyment of generations of Americans should be top priority.

Mr. President, I would just like to take this opportunity to thank a few people who have worked diligently on this matter for a long time. I would like to express my appreciation to Glen Davis, on Governor Busbee's staff, and also to Laura Beatty and to Tom Williams of the committee staff, who have spent a great number of hours looking into the details of this legislation, and have been of immeasurable assistance in bringing the measure to the floor.

Also, I would like to thank the thousands of people in the State of Georgia, particularly people in the Atlanta area, the Cobb County area, who have spent untold hours in terms of their efforts to protect this asset for future generations. Particularly I thank Barbara Blum and Kay McKenzie who have adopted the Chattahoochee River as a top priority of theirs in both their professional and personal lives for a long time, and who have led the effort to preserve this asset for future generations.

I first became acquainted with the efforts to preserve the Chattahoochee through Barbara and by Kay who had formed the Friends of the River. This organization has led the way in doing a masterful job in presenting information to the legislature of the State of Georgia and to the U.S. House of Representatives and the U.S. Senate as to the overall significance of this project.

I add my deep appreciation to them for their leadership in this regard.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. ROBERT C. BYRD. Mr. President, may I ask if there are any Senators who expect to request a rollcall vote in relation to this bill or in relation to any amendments thereto?

Mr. NUNN. I do not suggest that there be a rollcall vote.

Mr. ROBERT C. BYRD. Then I will ask the cloakrooms to advise Senators that there will be no further rollcall votes today. Is that agreeable?

Very well. I thank the Senators.

Mr. NUNN. Mr. President, I also express my deep gratitude to Congressman ELLIOTT LEVITAS, who has been here on the floor today, and who has played a key role in the House of Representatives on the early passage of this legislation. I would like to thank him for the extraordinary job he has done in this regard and in many other ways.

UP AMENDMENT NO. 1467

Mr. WILLIAMS. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1467.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Act add the following new title:

TITLE II

FINDINGS AND PURPOSE

SECTION 201. (a) The Congress hereby finds that—

(1) the purpose of the national park system is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the national park system have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the national park system to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage, and by requiring roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this Act is to make the national park system more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to units of the national park system with minimum disruption to nearby communities through authorization of a pilot transportation program.

SEC. 202. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to formulate transportation plans and implement transportation projects where feasible pursuant to those plans for units of the national park system.

(b) To carry out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this Act, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which property shall be administered as part of the unit: *Provided*, That any land or interest in land owned by a State or any of its political subdivisions may be acquired only by donation:

*Provided, further*, That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Acquisitions pursuant to subsection (b) (3) and (4) shall become final within sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and National Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in the absence of a concurrent resolution of objection.

(d) All fees collected in the operation of the facilities and services authorized by this Act shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

(e) The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of transportation modes other than personal motor vehicles for access to and travel within the units of the national park system.

(f) Transportation facilities and services provided pursuant to this Act shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (79 Stat. 969) and may be undertaken by the Secretary directly or by contact without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided*, That the Secretary or his contractor shall consult with the appropriate state or local public service commission or other such body having authority to issue certificates of convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such requirements would not be consistent with the purposes and provisions of the Act.

(g) No grant of authority in this Act shall be deemed to expand the exemption of section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4)).

SEC. 203. (a) To carry out the purposes of this Act, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

(b) Within one hundred and eighty days from the enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this Act. The Secretary shall revise the compilation thereafter as he deems necessary.

SEC. 204. (a) The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 2 of this Act—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system; and

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the national park system.

(b) Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary shall proceed with the implementation of such plan after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) in the absence of a concurrent resolution of objection.

SEC. 205. The Secretary shall submit a report to the Congress, within three years of the effective date of this Act. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resource values within units of the national park system through access alternatives;

(b) effects of the projects on communities in close proximity to the units of the national park system; and

(c) future transportation projects formulated pursuant to this Act.

SEC. 206. In carrying out the purposes of this Act, there is hereby authorized to be appropriated $1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended.

Mr. WILLIAMS. Mr. President, this amendment would add a new title II to H.R. 8336, as ordered reported. My amendment is identical to the language of S. 975—the so-called National Parks Access Act—which passed the Senate unanimously on May 19, 1978.

On July 20, the House Interior Committee completed a hearing on S. 975. In order to expedite passage of this measure in the House of Representatives, I am offering this amendment to the House-passed bill, H.R. 8336, which we are now considering. I believe that this will provide the House with an opportunity to act expeditiously on both of these proposals.

The amendment I am proposing is designed to improve public access to our national parks and recreation areas.

Mr. President, I would like to take a moment to express my great gratitude to the distinguished Senator from South Dakota and chairman of the Subcom-

mittee on Parks and Recreation (Mr. ABOUREZK). His leadership and his perseverance are responsible for bringing this amendment before the Senate. It is largely due to his efforts that the administration has recently announced its support for S. 975, which is the language of this amendment.

I would also like to thank the able chairman of the Committee on Energy and Natural Resources, our good friend from the State of Washington (Mr. JACKSON), and the distinguished sponsor of H.R. 8336 (Mr. NUNN) for their efforts on behalf of this amendment.

Mr. President, I urge my colleagues to lend their support to H.R. 8336, and to my amendment, which will help preserve the national park system, while giving more people the opportunity to enjoy it.

The problem the amendment addresses is one that afflicts new urban recreation areas, such as Gateway, and traditional older parks, such as Yellowstone, alike. It is the bane of those who want maximum protection of the parks and those who want maximum use of the parks. The problem is our overreliance on the automobile for park access. Excessive use of cars causes air pollution and other environmental damage, as more and more precious parkland is devoted to roads and parking lots. Traffic congestion on access roads adversely impacts local communities and detracts from the visitor's enjoyment of the park. It also represents a wasteful and unnecessary use of our energy resources.

About 90 to 95 percent of all visitors to the national park system arrive by car. This reliance on cars for park access is perpetuated by current Federal policy. The Federal Government pays for construction and maintenance of highways leading to national parks. But it does not provide for any alternative means of getting there. People who do not have cars—particularly the poor, the elderly, the young, and the handicapped—are thus denied the opportunity to enjoy their country's natural splendors.

For all these reasons, we need to develop, provide, and promote alternatives to the automobile for travel to and within the national park system. Just as public transit has provided an alternative means of transportation in our cities, it can provide an alternative means of access to the parks.

An extensive network of bus, rail and air routes serves our Nation's cities and towns. Various public transit services have already been instituted by the National Park Service within the boundaries of certain parks. What is lacking in many cases is a transit link between the two systems—a shuttle bus from an airport or a train station to a park; a ferry from a mass transit stop at a city dock to a seaside or lakeside park. In some cases, existing intercity or commuter services could be modified slightly to accommodate park visitors. In others, a park-and-ride service could link outlying parking lots to points within a park.

This could be accomplished at minimal cost. But it would take planning and coordination which is now lacking.

The amendment before us today would authorize the Secretary of the Interior to undertake a 3-year pilot program to plan and implement park access projects. In planning these projects, the Secretary would consult with other relevant Federal departments and agencies, and provide an opportunity for State and local governments and the general public to participate.

The amendment would authorize the expenditure of $6 million on these transportation projects over the 3-year period. An expenditure on any one project of over $100,000 a year would be subject to review by the appropriate congressional committees.

Mr. President, I believe the support Senator NUNN has given this title has been most helpful in obtaining passage.

Mr. NUNN. Mr. President, I thank the Senator for his comment, though I will not take all the credit.

Mr. SPARKMAN. Will the Senator allow me to compliment him also?

Mr. NUNN. I would be most honored.

Mr. ROBERT C. BYRD. May I say the Senator is not sui generis in that one respect.

Mr. NUNN. I thank the Senator.

Mr. ABOUREZK. Mr. President, we have no objection to this amendment. The Senate has already passed it in this form.

Mr. TOWER. Mr. President, there is no objection from the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1468

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SASSER). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1468.

Mr. DOLE. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend H.R. 8336 by adding a new Title III.

TITLE III

SEC. 301. Section 4 of the Act approved August 31, 1965 (79 Stat. 588), as amended, providing for the commemoration of certain historical events in the State of Kansas, is further amended by changing "$2,000,000." to "$2,750,000.".

Mr. DOLE. Mr. President, this amendment has been discussed with the floor managers of the bill.

This amendment would raise the authorization ceiling for the commemoration of certain historical events in the State of Kansas from the current ceiling of $2 million to $2,750,000.

Although the amendment calls for an authorization increase of $750,000—all that is needed to complete old Fort Scott is an appropriation of $346,000. The reason for this is that under the heritage bill passed last year old Fort Scott received $404,000 above the $2 million ceiling as a part of the appropriations provided in the heritage bill.

Therefore, in order to secure the $346,000, the authorization ceiling must be raised to the level of $2,750,000. The fact that the appropriation for this project has extended the authorization is not unique—Fort Scott is one of 29 projects that, under the terms of the heritage bill, was provided funding above the authorization ceiling.

I wish to make clear the fact that this $346,000 will complete the project.

Mr. President, I yield back the remainder of my time.

Mr. ABOUREZK. Mr. President, we have discussed this amendment. We agree to accept this amendment in title III.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Third reading, Mr. President.

Mr. NUNN. Mr. President, before we go to third reading, let me express my deep appreciation to Senator ABOUREZK for all the assistance he has rendered on this bill and also to Senator HANSEN, who is not in the Chamber today, for his great cooperation. Particularly, I wish to thank Senator JACKSON, who has not only helped us this year on this legislation but who actually came down to Georgia and looked at the Chattahoochee River several years ago and has been a real leader for preserving this asset for Georgia and for all America.

Mr. ABOUREZK. Mr. President, third reading.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 8336) was passed.

The title was amended so as to read:

An act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of H.R. 8336 and the Senate's amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators may be permitted to speak up to 5 minutes each during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of W. K. Smith, of Minnesota, to be Chairman of the Board of Directors of the U.S. Railway Association, which was referred to the Committee on Commerce, Science, and Transportation.

## MESSAGES FROM THE HOUSE

At 12:11 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 15. An act to extend and amend expiring elementary and secondary education programs, and for other purposes.

At 3:19 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House insisits upon its amendment to the bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorization of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROONEY, Mr. METCALFE, Ms. MIKULSKI, Mr. FLORIO, Mr. DEVINE, and Mr. SKUBITZ were appointed managers of the conference on the part of the House.

## HOUSE BILLS PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 15. An act to extend and amend expiring elementary and secondary education programs, and for other purposes.

## COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4017. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on changes in the market shares of the statutory categories of retail gasoline marketers; to the Committee on Energy and Natural Resources.

EC–4018. A communication from the Chairman of the Council on Environmental Quality, transmitting, pursuant to law, a report on chemical information classification, storage, and retrieval; to the Committee on Environment and Public Works.

EC–4019. A communication from the President of the United States, transmitting, pursuant to law, the third annual report of executive branch activities; to the Committee on Governmental Affairs.

EC–4020. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Compensation Comparability: Need for Congressional Action"; to the Committee on Governmental Affairs.

EC–4021. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, notice of interpretation for absorption provision in the impact aid program for Public Law 81–874, as amended by Public Law 93–380.

## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–760. A joint resolution adopted by the legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 61

"Whereas, An area of over 4,500 square miles has risen five to 10 inches since 1961 along a section of the San Andreas fault where major earthquakes have historically occurred and are likely to occur in the future; and

"Whereas, There is uncertainty about the specific location and mechanism of possible earthquakes in such section of the San Andreas fault and in other areas of California which similarly face potential earthquakes; and

"Whereas, The full implications of the uplift and other manifestations of earthquakes are unclear, but serve as a forceful reminder of the constant threat of damaging earthquakes in California; and

"Whereas, In California, there are several tens of thousands of hazardous buildings which constitute a significant danger to life; the strengthening or abatement of which are beyond the financial resources of local and state government; and

"Whereas, The California Seismic Safety Commission recently held hearings in Palmdale on the uplift and other manifestations of earthquakes and advised the Legislature of their implications for public safety; now, therefore, be it

*"Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California finds that while the significance of the uplift and other manifestations of earthquakes is not fully understood, they should be considered as forceful reminders of the possible threat to public safety and welfare; and be it further

*"Resolved*, That the Legislature of the State of California hereby respectfully memorializes the Congress of the United States to ensure that adequate funds are allocated pursuant to the implementation plan for the National Earthquake Hazards Reduction Act to meet the highest priority needs for earthquake hazard mitigation in California, including the following:

"(1) Providing local government with financial and technical assistance in the evaluation of non-earthquake-resistant buildings.

"(2) Providing financial and technical assistance to evaluate the vulnerability of areas subject to earthquake damage and to improve disaster plans, training, public education, and other emergency preparedness measures.

"(3) Assisting in the organization and support of intergovernmental reconstruction planning programs for areas subject to major earthquakes for the purpose of accelerating recovery, minimizing social and economic disruption, and avoiding the creation of future hazards.

"(4) Accelerating the publication of regional and local maps showing faults and other geologic hazards, expected ground motion, and probable damage patterns.

"(5) Assisting in the establishment by the appropriate scientific organizations of a reliable and timely system for the prediction of damaging earthquakes in California; and be it further

*"Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–761. A concurrent resolution adopted by the legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry:

"HOUSE CONCURRENT RESOLUTION NO. 195

"Whereas, the American farmer has long enjoyed the distinction of being the most productive farmer in the world; and

"Whereas, the tremendous productivity of the American farmer has enabled the United States to become both the best fed nation in the world and a principal exporter of food stuffs to less fortunate countries; and

"Whereas, in recent years foreign nationals and aliens have been purchasing agricultural land in this country at ever increasing rates; and

"Whereas, the purchase of agricultural lands by foreign nationals and aliens results in the holding of these lands by absentee landlords who often hold these lands for speculative and other nonagricultural uses; and

"Whereas, this trend of events has caused great alarm among the citizens of Louisiana and of the other states, particularly in the farm community.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the United States Congress is hereby memorialized to take such actions as are necessary to conduct an in-depth investigation and determine the amount of agricultural lands owned by foreign nationals or aliens and its present and potential effect upon the public

welfare and safety of this great nation, with a view to determining whether and to what extent the protection of the agricultural land holdings of United States citizens which are vitally important to the continued prosperity of this great nation require congressional action.

"Be it further resolved that a copy of this Resolution shall be transmitted to the presiding officers of the Senate and the House of Representatives of the United States Congress and to each member of the Louisiana delegation in Congress."

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POM-762. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION No. 34

"Whereas, the marketability of American produced foods is a vital domestic concern; and

"Whereas, the promotion of economic independence as well as the general welfare of the United States is furthered by this country's supplying more of its own needs; and

"Whereas, economic incentives to the American food producers to compete with the influx of imports from foreign food markets should be provided; and

"Whereas, the incidence of bacterial contamination, inadequate labeling of weight and contentts, and unavailability of lots for sampling which accompanies the imported seafoods presents hazards to the health of the American consumer; and

"Whereas, the amount of shrimp imported over the requisite supply of imported shrimp for American consumption has been as high as 240% and is currently 40%; and

"Whereas, the price paid for foreign shrimp steadily undercuts the price needed for operation of American fleets; and

"Whereas, the bankruptcy of yet another American market may be prevented by stabilizing the supply and demand of this commodity.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the Congress of the United States and the President of the United States are hereby memorialized to take the following measures to stabilize the American Shrimping Industry and to protect the health of the American consumer:

"1. Place restrictions on the amount of shrimp imported from foreign markets so that American-produced shrimp will sell for an adequate price on the American commodities markets.

"2. Mandate that foreign shrimp sold or offered for sale in America be identified as to their point of origin on the label of the package in letters placed under the brand name.

"3. In consideration of legislative provisions which would regulate the labeling of imported shrimp, impose a severe fine on shrimp processors who do not obey such regulations.

"Be it further resolved that copies of this Resolution shall be transmitted to the President of the Senate and the speaker of the House of Representatives of the United States, to the Louisiana Delegation in Congress, and to President Jimmy Carter."

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POM-763. A concurrent resolution adopted by the legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"HOUSE CONCURRENT RESOLUTION No. 168

"Whereas, the United States is currently facing a shortage in the supply of energy necessary to meet all of our industrial, commercial and private needs; and

"Whereas, the United States government has not yet developed a sound responsible energy development policy which will provide for the innovative exploitation of alternative energy sources; and

"Whereas, the dependence of our nation on foreign energy supplies has not only stimulated inflation within our own economy but international erosion of the monetary strength of the American dollar due to our balance of payments deficit largely occasioned by our importing of hydrocarbons; and

"Whereas, the need is great to develop renewable, reliable, environmentally safe forms of energy production; and

"Whereas, the Old River Control Structure on the Mississippi River currently directs thirty percent of the Mississippi River discharge volume into the Atchafalaya River and would be an ideal location for the construction of a hydroelectric facility.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the legislature does hereby memorialize the Congress of the United States to take necessary action to direct the United States Army Corps of Engineers to make river dams and control structures and river waters available to private business for the building of electric generating plants and to establish as the first location available therefor the Old River Control Structure on the Mississippi River.

"Be it resolved that copies of this Resolution be forwarded to all members of the Louisiana congressional delegation and to the clerk of the House of Representatives and to the secretary of the Senate of the United States Congress."

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## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 524. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3946, a bill providing for a refundable Federal income tax credit for educational expenses. Referred to the Committee on the Budget.

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 494. A resolution waiving section 402(a) of the Congressional Budget Act (Rept. No. 95-1029).

S. Res. 498. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2693 (Rept. No. 95-1030).

S. Res. 499. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1487 (Rept. No. 95-1031).

S. Res. 500. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 551 (Rept. No. 95-1032).

S. Res. 505. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2692 (Rept. No. 95-1033).

By Mr. CHURCH, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

H.R. 6900. An act to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Traveling as a unit of the National Trails System (Rept. No. 95-1034).

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## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LONG:

S. 3329. A bill to suspend the duty on mixtures of mashed or macerated hot red peppers and salt until the close of June 30, 1981; to the Committee on Finance.

By Mr. CULVER (for himself and Mr. NELSON):

S. 3330. A bill to provide that agencies consider alternative regulatory proposals in the promulgation of agency rules, regulations, and reporting requirements; and for other purposes; to the Committee on the Judiciary.

By Mr. CULVER:

S. 3331. A bill to provide fees and costs to prevailing parties in certain administrative proceedings and civil actions involving the United States and to increase the quality of agency decisionmaking through public participation; to the Committee on the Judiciary.

By Mr. CURTIS:

S. 3332. A bill to permit the importation of a leopard skin; to the Committee on Finance.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LONG.

S. 3329. A bill to suspend the duty on mixtures of mashed or macerated hot red peppers and salt until the close of June 30, 1981; to the Committee on Finance.

DUTY SUSPENSION ON RED PEPPERS AND SALT

Mr. LONG. Mr. President, I am today introducing legislation which would suspend temporarily the duty on imports of mixtures of mashed or macerated hot red peppers and salt. The suspension would be for the period from the date of enactment of the act through June 30, 1981. This legislation would basically apply to imports from certain developing countries, in particular Mexico, which are to my knowledge the only countries which now export this product to the United States. Imports from countries other than Mexico now receive duty-free treatment under the generalized system of preferences. Imports of the pepper mix from Mexico received GSP until this year.

This legislation would help producers of tabasco and similar hot pepper sauces to hold the line against inflationary pressures.

It is my understanding that this bill would not harm any American producer of the peppers about which we are talking. The McIlhenny Co.—the producer of tabasco—has had to import these peppers, because there simply are not enough of these peppers produced in the United States. I assume that other sauce manufacturers have had the same problem.

Indeed, I am not aware of any objections to this bill. The hearings which will be held on this bill should confirm this.

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By Mr. CULVER (for himself and Mr. NELSON):

S. 3330. A bill to provide that agencies consider alternative regulatory proposals in the promulgation of agency rules, regulations, and reporting requirements; and for other purposes; to the Committee on the Judiciary.

By Mr. CULVER:

S. 3331. A bill to provide fees and costs to prevailing parties in certain administrative proceedings and civil actions involving the United States and to increase the quality of agency decisionmaking through public participation; to the Committee on the Judiciary.

REGULATORY REFORM LEGISLATION

● Mr. CULVER. Mr. President, today I am introducing two bills designed to correct some of the problems arising from the application of Federal Government rulemaking to small businesses, small organizations, small governmental jurisdictions, and individuals of limited resources.

The first measure, the Regulatory Flexibility and Reform Act, results from the information obtained from hearings and discussions on S. 1974, which Senator NELSON and I introduced on August 1, 1977. The scope of the legislation I am introducing today has been expanded to cover broader aspects of the regulatory problem not addressed by S. 1974. It amends chapter 5 of title 5 of the U.S. Code to require that Federal agencies assure that their rulemaking has the least adverse effect on organizations with limited resources. It affords to those affected by agency rulemaking an opportunity to suggest alternative regulations to lessen the burden on individuals and small businesses. The agencies must consider such proposals and justify the final rules adopted, stating reasons for rejecting alternate proposals having less adverse economic impact.

The adoption of a recordkeeping or reporting requirement applicable to at least 100,000 persons is made subject to the same requirements as agency rulemaking. This provision makes many Federal Government forms available for public review and comment before they are adopted.

The bill is consistent with the goals endorsed by the President when he promulgated Executive Order 12044 last March, which established similar requirements for the executive branch, and legislatively expands the scope of such requirements to include independent regulatory agencies.

The second bill, the Regulatory Fairness Act, provides that individuals with limited resources and organizations of limited size that prevail over an agency in an administrative adjudication or in litigation may be awarded attorneys fees and other reasonable costs of participation in the dispute, if the agency, as a party to the dispute, took a position that was arbitrary, frivolous, unreasonable or groundless. A hearing necessitated by an unreasonable failure or refusal of the agency to take appropriate action in a timely manner, or, by an unreasonable agency interpretation of existing law is also subject to this provision. It is similar in some respects to S. 2354 now pending in the Committee on the Judiciary.

Together, these two bills are designed to ease the burden of Federal regulation on small organizations whose problems are sometimes inadequately considered in rulemaking and who are otherwise unable to pursue their legal rights because of limited resources. In an increasingly interrelated and complex economy where legitimate social and economic goals often conflict, some Government regulation is necessary and agencies do not customarily abuse their authority in promulgating or enforcing regulations. These bills will not deter Federal agencies from carrying out their responsibilities forcefully and effectively nor will they punish agencies for failing to prevail in a reasonable dispute. Rather, the intent is to require the Federal Government to develop regulations which are consistent with the capabilities of those being regulated, without any loss in regulatory effectiveness, and to make agencies more aware of the economic effects of regulation on small firms, municipalities and other organizations of limited size.

In the three decades since the Administrative Practices Act regularized the process of Federal rulemaking and gave to the public both guarantees of access and procedural safeguards, the scope of regulatory activity has expanded greatly. The number of regulatory agencies and the number of Federal employees engaged in regulatory activities has increased during this period and the areas under regulatory jurisdiction have proliferated dramatically. Between 1970 and 1974, the number of pages of regulations printed in the Federal Register more than doubled, from 20,036 pages to over 42,422 pages a year. In 1977, 7,031 final rules were printed in the Federal Register; in the first 5 months of 1978, another 2,939 final rules have been printed. Federal regulations touch almost every person and organization in the United States.

In many instances, agency rulemaking affects small organizations, such as small businesses, disproportionately because of their limited size. Regulations which are reasonable when applied to large organization can become oppressive to smaller ones. In fact, the cost of compliance with Government regulations has become a major expense to small business. In a survey conducted by the National Federation of Independent Business last January, 12 percent of the responding firms named it as their greatest problem; only taxes and inflation were cited more often. Just 4 years ago, six other elements—taxes, inflation, quality of labor, fuel and material shortages, competition from large businesses and interest rates and financing difficulties—were named at least as often as Government regulations as major problems facing small business.

The general practice followed by many regulatory agencies of issuing uniform regulations for businesses of all sizes magnifies these problems several fold. This occurs even though reasonable alternatives which would avoid undue hardships on small organizations without substantially reducing the effectiveness regulations are available in many cases. One such alternative, "tiering" sets varying levels of compliance responsibility according to the size of the regulated organization. In addition, other agencies have established a minimum-size level below which certain regulations do not apply. I recognize that alternative regulations are not feasible in certain cases, particularly where health and safety are concerned. But, agencies should fully examine the effects of rulemaking and weigh alternatives prior to promulgating regulations.

The Regulatory Fairness Act deals with another set of problems arising from Federal regulatory activities. Under present law a party in litigation or involved in an adjudicatory action with the Government must pay its costs and fees even when the Government's position in the dispute is blatantly wrong or unreasonable. A person or business ensnarled in the conflicting demands of two or more Federal agencies may be forced to spend substantial attorneys fees to determine which agency's requirements must be followed. In other cases, agencies have failed to take legally required actions until forced to act by lawsuit. It is unfair to put on the victim the financial burden of correcting or resisting Government abuse. This legislation addresses this shortcoming by placing that expense where it belongs: on the offending agency.

Federal regulatory powers are not unlimited. But agencies are able to extend their powers past their legal limits because of the vast resources they can bring to bear in enforcement proceedings. Many individuals and small organizations cannot afford the attorney's fees and other costs necessary to participate in hearings or court proceedings to correct such abuses. Small businesses may be coerced because, right or wrong, win or lose, they cannot afford to resist the might of the Federal Government.

The Regulatory Fairness Act will help end the disparity of resources by providing that an agency that takes an arbitrary, frivolous, unreasonable or groundless position in an adjudication or in litigation must pay the costs and attorney's fees of any small organization or individual of limited means who prevails over it.

This bill does not make the Government liable for litigation costs in every case in which the Government does not prevail. That kind of rule would be a deterrent to the conscientious performance of agency responsibilities and would encourage litigation of every dispute, no matter how minor. The approach taken by this bill, which has been recommended by the Department of Justice, should thus go a long way toward ending excesses without interfering with legitimate regulatory activities. And, its reporting provisions should pinpoint for congressional scrutiny those agencies most often identified by the courts and administrative adjudicators as abusers of their power.

The relief afforded individuals and small organizations by these bills will greaty lighten the burden of Federal regulation, recordkeeping, and reporting requirements. The orderly conduct of the business of Government will not be injured: in fact, the quality and efficiency of rulemaking and enforcement will be improved. And Americans will have renewed their beliefs that they can have a

part in formulating the rules under which they must live and that a fair hearing is available to them.

Mr. President, I hope that we can move promptly and affirmatively to enact this important legislation.●

● Mr. NELSON. Mr. President, I am pleased to join Senator CULVER today in introducing the Regulatory Flexibility and Reform Act. This bill would provide innovative administrative procedures for use by individuals, smaller businesses, organizations, and governmental bodies that would otherwise be adversely affected by proposed Federal regulations. The bill directs Federal agencies to seek greater participation by such individuals and smaller institutions when rules affecting them are proposed. This is a goal President Carter has also called for in his recent Executive order on regulatory reform. The bill extends that mandate throughout the Federal Government—to the independent regulatory commissions as well as to the executive branch agencies.

But perhaps the most important innovation of the bill is that it provides agencies with the necessary tools and congressional backing for tailoring regulations to the size and resources of those who will be affected by them. During the public comment period on proposed regulations, agencies would be required to "solicit and consider" lesser cost regulatory alternatives which would meet the legislatively-established goals of the regulations. An agency which rejected a lesser cost alternative would have to explain why it did so in the final rule. The bill suggests a number of approaches to flexible regulations: the use of "two-tier" or "multitier" standards for organizations and businesses of differing economic sizes, the use of performance-oriented standards rather than standards which impose particular technologies, and the use of progressively-applied standards which condition exemption from more rigorous standards upon satisfactory compliance with less rigorous standards. Many of these approaches have been used on an ad hoc basis in existing regulations; the bill would greatly increase the efficiency of the agencies by requiring routine consideration of such approaches.

Finally, the bill sets up stringent new restrictions governing the imposition of reporting and recordkeeping requirements on the public by Federal agencies. All regulations which would involve reporting demands on the public would be required to so indicate at the time the regulations are originally proposed. Regulations which would create significant paperwork demands would have to be proposed and opened to public comment—including suggestions for less burdensome approaches—just like substantive regulations.

These amendments to the Federal rulemaking law will offer agency administrators new congressional guidance for achieving a fit between the scale of regulation and the scale of those being regulated. In the generation that has passed since the enactment of the original Administrative Procedures Act, profound changes have occurred in the American economy, in the roles of governmental bodies, and in the pervasiveness of Federal regulations. Yet the law itself has remained virtually unchanged, and, as a result, there has been very little change in the methods the agencies have used to issue their regulations. Perhaps these methods were appropriate for a time when regulations affected a few large industries—most of them subscribers to the Federal Register—and the public reporting burden was little more than an index-card-sized income tax form. In a society that is characterized by 42,000 pages of Federal rules in 1 year (1977), and a paperwork burden of $100 billion a year (Federal Paperwork Commission estimate), guidelines for rulemaking must be specific, parsimonious, and economically efficient. Individuals of limited means, small businesses, small organizations, rural governments, and the like, must not be forced to assume an unfair burden. Uniform regulations are not necessarily fair regulations.

It was a recognition of these serious and growing problems that led Senator CULVER and I to introduce the Regulatory Flexibility Act, S. 1974, last year. That bill was the first to systematically address the need for differentiating among categories of those regulated, and the first to offer the option of "two-tier" or multitier regulatory standards. S. 1974 drew an exceptional outpouring of support. More than a third of the Senate is now cosponsoring it. Over 200 associations of small businesses and small nonprofit organizations have backed it. The bill's basic concepts have been endorsed by individuals ranging from U S. Chamber of Commerce President Richard Lesher to economist John Kenneth Galbraith.

After evaluating a considerable body of testimony and agency submissions on S. 1974, we are offering this new bill today, which substantially refines the language and broadens the scope of the original. This new bill encourages the agencies to seek alternative regulatory strategies not only from within the Government, but from the public as well. It streamlines the requirement for agency impact statements. It mandates agency consideration of regulatory effects on small cities and towns, as well as on small enterprises and on individuals. It offers regulatory strategies which go beyond "tiering," but have the same effect: reducing the burden on those least able to bear it. It imposes strict controls on paperwork requirements. And perhaps best of all, it opens the regulatory process further to the bright sunlight of public participation.

Representatives KASTENMEIER and BALDUS, who introduced the House companion bill to the original Regulatory Flexibility Act, today join us in introducing the House companion to this revised measure. We believe this legislation will go a long way toward assuring that the regulatory and paperwork burdens of the Government are reduced overall, and that the costs of paperwork and regulations do not fall most heavily on those least able to afford it.●

## ADDITIONAL COSPONSORS

### S. 2860

At the request of Mr. MELCHER, the Senators from Alabama (Mrs. ALLEN and Mr. SPARKMAN) were added as a cosponsor of S. 2860, a bill to provide for a research, development, and demonstration program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes.

### S. 3285

At the request of Mr. TOWER, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 3285, to amend the Internal Revenue Code of 1954 to extend the investment tax credit to certain special use agricultural structures.

### S. 3311

At the request of Mr. DOMENICI, the Senator from North Dakota (Mr. BURDICK), the Senator from Oregon (Mr. MARK O. HATFIELD), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 3311, to amend the Social Security Act to reimburse States for the administrative costs they incur in implementing the Indian Health Care Improvement Act.

### SENATE JOINT RESOLUTION 141

At the request of Mr. MCCLURE, the Senator from Delaware (Mr. ROTH) and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of Senate Joint Resolution 141, to provide for a constitutional spending limitation amendment.

### SENATE CONCURRENT RESOLUTION 92

At the request of Mr. GOLDWATER, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Concurrent Resolution 92, to seek the resurrection of the Ukrainian Orthodox and Catholic Churches and other religions in the Ukraine.

## SENATE RESOLUTION 524—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following original resolution, which was referred to the Committee on the Budget:

### S. RES. 524

*Resolved*, That (a) pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 3946, an Act to suspend for a temporary period the rate of duty on wool not finer than 46s, as such H.R. 3946 was reported by the Committee on Finance and with respect to the consideration of any modification or amendment thereto but only if the net impact of such modification or amendment, if adopted, would not result in an increase in new spending authority for any fiscal year over the amount of new spending authority which would have been provided for in H.R. 3946 as so reported, and

(b) That waiver of such section is necessary because the educational expense tax credit provided for by the bill is provided on a refundable basis and, under present Congressional budget procedures, the refundable aspects of tax credits are treated

as though they created spending authority. Since several aspects of the tax credit are deferred until future fiscal years, the new spending authority considered to exist as a result of the refundability of the tax credit increases in such future fiscal years and this necessitates a waiver of section 303(a) of the Congressional Budget Act.

## SENATE CONCURRENT RESOLUTION 97—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING PRINTING

Mr. PROXMIRE submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 97

*Resolved by the Senate (the House of Representatives concurring),* That there be printed for the use of the Senate Committee on Banking, Housing and Urban Affairs two thousand additional copies of its committee print of the Ninety-fifth Congress, second session, entitled "Preliminary Guide to Export Opportunities to Japan".

## AMENDMENTS SUBMITTED FOR PRINTING

### SMALL BUSINESS AMENDMENTS—H.R. 11445

AMENDMENT NO. 3266

(Ordered to be printed and lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

## ADDITIONAL STATEMENTS

### SUPPORT GROWS FOR BUDGET LIMIT SET AT 20 PERCENT OF GNP

● Mr. DOMENICI. Mr. President, within the past week more bipartisan endorsement arose for the concept of limiting the Federal budget to 20 percent of gross national product. This limitation is contained in S. 3200, the brief amendment to the Budget Act which I introduced 7 weeks ago, on June 13, 1978.

The first endorsement came from President Carter's appointee as Chairman of the Federal Reserve Board, Mr. G. William Miller, and appeared in the July 17, 1978 issue of Time magazine. Federal Reserve Chairman Miller's "whole program," reports Time, "is based on the idea that Government spending must be reduced from the current 22 percent of the GNP to 20 percent by the early 1980's.

"Miller does have a club," continues Time. "If Congress and the White House will not cooperate, the Federal Reserve will have to crack down so hard on money supply, and push interest rates so high, that there really will be a recession."

The second endorsement of the budget limitation contained in my amendment comes from Mr. Herbert Stein, former chairman of the Council of Econonmic Advisers under two Republican Presidents, and appears in the Wall Street Journal of July 18, 1978. According to Mr. Stein:

Unless we make long-run plans we find ourselves each year facing expenditure commitments that seem to preclude any substantial reduction of tax rates. The Government needs to be put on notice to plan expenditures so that its share of GNP declines to, say, 20 percent or 19 percent. We must create a situation in which proponents of new spending programs bear the burden of advocating higher tax rates, or a bigger deficit, and cannot simply dip into the pool of revenue generated by growth and inflation.

I would go beyond that and include in the tax bill a requirement that the President submit each year a budget which does not exceed a specified, declining fraction of GNP. The fraction might be 21 percent of fiscal 1980, 20.5 percent for fiscal 1981, and 20 percent for fiscal 1982.

Mr. President, last week I reported on the study conducted by the world's industrialized nations under the auspices of the Organization for Economic Development. In that study, every single industrial nation reported that expenditures in their public sector had increased considerably faster than their economic output over the last 20 years.

The conclusion reached by the 24-member-nation OECD was that too rapid an increase in public expenditure can: First, reduce productive potential; second, provoke retaliation by taxpayers; and third, be a source of inflationary pressure.

Mr. President, with growing bipartisan support, I think it is time we started to balance Government spending with the Nation's economic output, and S. 3200 is a sensible place to begin.●

### COAL PRODUCTION UNAFFECTED BY NEW STRIP MINE LAW

● Mr. BUMPERS. Mr. President, when Congress enacted Public Law 95–87, the Federal Surface Mining Control and Reclamation Act which President Carter signed into law on August 3, 1977, there were dire predictions from leaders of the coal industry. Coal production would plummet, coal mines would close, coal miners would be thrown out of work—these were echoes of the ill-conceived effort during the Ford administration to stampede Congress and kill the bill through presidential veto.

That those awful warnings have been proven hollow and self-serving is now plain to see.

Coal production is up, not down, nationwide, as compared to 1 year ago. Despite many initial difficulties in getting funded and properly geared up, Interior's new Office of Surface Mining under Director Walter N. Heine is doing a creditable job of bringing the coal-producing States into compliance with the interim standards of the law and encouraging reclamation of abandoned mine areas, without unduly restraining the production of coal so vital to the Nation's energy requirements.

A story in the June 12th New York Times by Ben Franklin reviews the implementation of Public Law 95–87 to date. Congress can take satisfaction in the knowledge that, where coal surface mining is concerned, protection of the environment does not inevitably lead to lowered production and a declining standard of living, as the doomsayers would have us believe.

I ask to have printed in the RECORD the news item from the New York Times.

The article follows:

ENFORCEMENT OF STRIP-MINE RULES YIELDS LITTLE EFFECT ON PRODUCTION

(By Ben A. Franklin)

WASHINGTON June 11.—A month of vigorous enforcement by an understaffed inspection force has failed to bring about the cataclysmic interruption in coal deliveries that the mining industry had predicted would result from the environmental protection provisions of the new Federal strip-mine control law.

When the Federal Surface Mining and Reclamation Act took effect on May 6, after most elements of a massive coal industry lawsuit to block it were rejected in Federal District Court here, the Interior Department's new Office of Surface Mining had only 29 newly trained inspectors in the coal fields. The inspection force may eventually total 150.

The environmental credentials of the new agency's administrators were one reason for the coal industry's bitter resistance to a statute that its lobbyists had fought and delayed in Congress for a decade. Under the administrators' leadership, the inspectors now on the job appear to have been stringent in their first enforcement effort.

18 OPERATIONS CLOSED

The office's enforcement reports as of the end of last week show that in more than 100 inspections, the Federal agents have ordered the closing of 18 strip-mining operations for major or continuing environmental violations. All the closings were in the Appalachian coal fields, where intensive strip mining operations on the flanks of the steep, timbered slopes have left the most widespread scars.

The industry had predicted that if the agency were not deterred by the courts from enforcing the new law, strip mine operators would lose millions of tons of otherwise minable coal. The Department of Energy reported last week, however, that the May coal tonnage figure was nearly 3.5 million tons greater than that of May 1977, when the surface mining industry was still only spottily regulated under the coal states' poorly enforced environmental controls.

COULD CLOSE OPERATIONS

The Federal figures—65,695,000 tons last month as against 62,220,000 in May 1977—reflected all coal production, from deep mines as well as from stip mines. But stip-mine production accounts for more than half of the overall tonnage, and this is increasing.

Lawyers for the nation's largest stripper, the Peabody Coal Company, said in the coal industry's anti-enforcement lawsuit that the Federal law "could in May close down a significant fraction of our mining operations."

A Peabody spokesman said last week, however, that none of the company's 34 strip mines had been forced to close in May and that its June production figures were expected to reflect a rising output. The official David S. Hemenway, a Peabody lawyer, said that some of this increase resulted from the fact that Federal District Judge Thomas A. Flannery had agreed in part to coal industry petitions demanding postponement or dissolution of certain proposed agency rules. These regulations may be restored later, however.

The Interior Department must return to Judge Flannery's court next month to defend the proposed regulations that he enjoined. But agency administrators believe that their environmental program will not be seriously deterred, whatever the court decides.

LAW'S REGULATORY IMPACT

Some of the new law's regulatory impact in the vast new strip mines of the West—in Wyoming, Montana, Colorado and New Mexico—remains to be determined in the courts, particularly regarding enforcement by the agency at mines on Indian reservations and the preservation of precious subterranean water courses at other sites.

But agency officials said last week that in the West, where recently developed surface mines are dominated by subsidiaries of such corporate giants as Exxon and other petroleum and mineral conglomerates, compliance might be better than expected.

The agency so far has only one inspector in the Rocky Mountain area, and two states there—Colorado and New Mexico—are making no moves to adopt their own federally mandated state regulatory programs, so precise information on compliance is scarce.

The biggest strip-mine operators in the West are leading the battle against the new Federal regulations in the courts while apparently preparing to comply with any provisions that survive the legal test.

LITTLE DISSATISFACTION

Aside from the legal issues, there seems to be little dissatisfaction among the major strip-mine operators with the way the agency is administering the new law.

Mr. Hemenway, for example, praised the "fairness" of the former environmentalists enforcement staff here. "Quite frankly," the lawyer said, "we have found them fair—not oversolicitous at all, but generally fair."

The agency is head by Walter N. Heine, a former strip-mine control administrator in Pennsylvania, which is regarded as having one of the strictest state laws on the subject. The enforcement office is run by Richard M. Hall, a former lawyer for the Natural Resources Defense Council. The inspection office is headed by Harriet Marple, a former lawyer with the New York City and the United States environmental protection agencies.

Another aggressive figure on the new agency's staff—the office did not get its first appropriation and begin hiring until March because of a Congressional delay in approving money for it—is Dr. Charles A. Beasley, a 43-year-old native Appalachian with three academic degrees, including a doctorate in mining engineering. He is the agency's chief inspector.

MINES RARELY CLOSED

The state regulatory agencies under which Appalachian strip mines had operated in recent years rarely invoked orders to close the mines, even for the most flagrant violations.

Mr. Beasley's inspectors issued their first closing order two weeks ago at a strip mine in Harlan County, Ky. The operator there had made no provision, according to the inspector's report, for retaining runoff water in sedimentation ponds on the mine site, a provision of the Federal regulations designed to reduce by half the siltation of mountain streams and the resulting increase in flood damage.

Criminal action has been threatened against another strip-mine operator in southwestern Virginia, who, Federal officials said, had continued mining despite a closure order issued two weeks ago for pushing soil—the earth and rock scraped off the surface to expose a mountainside coal seam—down the slope. This environmentally ruinous practice has left some 20,000 linear miles of rubble-strewn scars on the Appalachian mountain flanks. The new Federal law forbids any spoil material "over the side."

OPPOSED REGULATIONS

The mountain strip miners' have vigorously opposed the new regulations.

But both the Federal enforcers and their state government counterparts, once the state-run strip-mine control efforts required by the Federal act come into force in 1980, can apparently expect broad support from the courts.

Last month, in granting the coal industry's demands for exclusion from a few of the law's provisions, Judge Flannery also held that "Congress left the operators only one alternative" in finally passing the long-disputed strip-mine law.

"Surface coal mining operations must comply with the act and the regulations or cease operating," Judge Flannery's opinion said. Three weeks later, he was upheld in the United States Court of Appeals here, and no further appeal has been taken.●



## STRATEGIC DISASTER LOOMS

● Mr. GOLDWATER. Mr. President, as the Soviets go on amassing more and more military strength, the true nature of our Nation's defenses and what has happened to them under the policies of the Carter administration becomes more important with every passing day. Now, at this period, I believe it behooves us to listen carefully to the opinion of men intimately acquainted with the military problems this Nation could face in the event of war with the Soviet Union. One person well equipped to discuss our defense posture is Adm. Elmo R. Zumwalt, Jr., former Chief of Naval Operations.

Recently, Admiral Zumwalt delivered a stark assessment of our position in a speech at the Valley Forge Military Academy and Junior College in Wayne, Pa. In that speech, he urged the American people to wake up and realize the Soviets have the capability to overwhelm us in a nuclear exchange. He further adds that decisions made by the Carter administration are adding to the already great advantage that the Soviets enjoy.

Mr. President, I ask that the text of Admiral Zumwalt's address be printed in the RECORD.

The address follows:

STRATEGIC DISASTER LOOMS

Now that the debate over the Panama Canal Treaties is behind us, it is important that the debate over the prospective SALT II treaty begins.

I enter this debate as one who was proud to support the President on the Panama Canal Treaties. I come into it as one who has tried to work within the Democratic Party, both as a one-time candidate for the U.S. Senate and by working on the defense platform at the last Democratic presidential convention. I enter the debate as one who believes that President Carter's recent defense budget decisions are harmful to the United States' future security, and who further believes that the future of the United States is in great jeopardy as a result of the strategic nuclear imbalance which will result from those decisions.

President Carter's decisions on strategic nuclear budget items and in the strategic arms control field suggest confusion about what the facts are with regard both to our capabilities and to sound negotiating procedure. The Soviets have the capability to overwhelm us in a strategic nuclear exchange today. Carter's decisions should have been designed to regain our capability to deter the Soviets. Instead, his budget decisions on strategic nuclear forces have added to the already great advantage the Soviets would have had over the United States in 1985, if not earlier, whether or not SALT II is signed. He has made these decisions without obtaining any quid in the SALT II negotiations, and thus has given away significant potential leverage. And, the positions that he has taken in the SALT II negotiating arena have moved the U.S. progressively to weaker ground.

STRATEGIC POLICY AND PRESIDENTS

Those of us who participated in the Cuban Missile Crisis experienced first hand the impressive contribution that the U.S. strategic nuclear superiority over the Soviet Union gave President Kennedy in winning Soviet acquiescence to his objectives. We also experienced first hand the horror of calculating that while hundreds of millions of Russians would have died in a nuclear exchange flowing from that crisis, nevertheless tens of millions of Americans would also have died. Some of us could, therefore, understand the fundamental values that lay behind the Kennedy/McNamara decision soon after the Cuban Missile Crisis: to offer to give up the U.S. strategic nuclear advantage; to permit the Soviet Union to catch up with the United States in strategic nuclear capability; and to gamble that by granting the Soviets the opportunity to join us at parity in mutual assured destruction, we would create a state of true mutual deterrence. This policy was to have been coupled with urgent efforts to achieve arms control agreements to provide parity at lower levels of force and expenditure.

President Kennedy and Mr. McNamara made it clear that the United States would not go beyond its then-programmed missile force of 1,054 ICBMs (Inter-Continental Ballistic Missiles) and 656 SLBMs (Submarine-Launched Ballistic Missiles), would greatly reduce the radioactivity in its warheads, would forego larger missiles and would not develop an effective civil defense—a calculus designed to assure the Soviets that we were structuring our forces so that a U.S. first strike could not destroy their retaliatory capability, and to give them further assurance that their retaliatory strike would surely kill not tens, but hundreds of millions of Americans, if we did strike first.

Seven years later, by the time Mr. Nixon came into office, it was beginning to be clear that Soviet strategy during the interim had been to capitalize on the U.S. parity offer, to build huge asymmetrical advantages that would carry them to ultimate superiority. They had not eliminated the lethal radioactivity of their warheads as we had done. They had made their missiles huge, in comparison to ours, with warheads 10 times more powerful. They had begun to develop a civil defense capability to help their people survive a U.S. nuclear strike. They were in the process of overtaking us in numbers of missiles and they were vigorously pursuing greater accuracies—equal or superior to ours—to add to their huge advantage in warhead megatonnage.

The signing of the SALT I agreement was a watershed point. In a corporate sense; the U.S. government at that time viewed the SALT I agreements the last best hope to agree on mutual balanced deterrence. Our side saw the ABM (Anti-Ballistic Missile) treaty as a means of keeping both populations hostage to the weapons of the other by foregoing defense. We saw the interim executive agreement as a five-year tradeoff of Soviet quantitative advantage in missile numbers, megatonnage and throw weight against the U.S. advantages of numbers of strategic bombers, and qualitative advantages in multiple independently targetable vehicles (MIRVs) and weapon accuracy.

The government generally recognized two principles. First, the five-year period had to be followed by an agreement which would move us to strategic parity. Second, the leverage on the Soviets, during the five-year tenure of SALT I to let us have parity in Salt II, could only be maintained by adequately funded strategic force levels, by suit-

able modernization programs, including appropriate research and development, and by gaining full intelligence on Soviet strategic nuclear programs and civil defense.

The Soviets, on the other hand, saw SALT as a device for further accelerating their march toward strategic nuclear superiority. The ABM treaty permitted them, through skillful cheating and by research and development much more vigorous than the U.S. Congress would permit us in view of the treaty, to overtake our advantage in the ABM field. . . . While U.S ABM system deployments are halted, the Soviets have added handsomely to their ABM early-warning radar system around the Soviet periphery. The United States added further to the defense disparity by concluding during this period that since we were, as a policy matter, to leave our homeland naked to Soviet missiles, there was no advantage in defending against Soviet bombers.

The Soviets saw the interim executive agreement as a way to restrict the U.S. programs, while their own exploitation of ambiguities in the agreements would permit them to counter our temporary qualitative advantage in accuracy and in MIRVs while further improving their current advantages in megatonnage and in throw-weight. The Soviets further saw SALT I as a vehicle with which to intrude into our democratic political process. They understood that in our free and open society the interplay of interest groups is important in policy formulation. They knew that their statements, skillful backgrounders and briefings could manipulate the hopes and aspirations of many Americans in ways that would help to constrain U.S. strategic weapon decisions, just as we have seen them do quite recently in campaigning in this country against the tactical neutron bomb.

The Soviets further advanced their strategy through their great good fortune at Vladivostok in being the only side with an interpreter present. In the absence of a U.S. interpreter to keep them honest, they were able to contend after the meeting that President Ford and Secretary of State Kissinger had misunderstood them and that the limitation of 2,400 strategic delivery vehicles was not intended by them to include their new strategic Backfire bomber. For the same reason they were able to leave ambiguous the agreement on cruise missiles. The Soviets capitalized on these ambiguities and carried them into the strategic relationship with the new Carter Administration.

Over the years, although many decisions were made with which I did not agree, I think it is fair to say that one president after another was clear in his own mind about what it was he was seeking to accomplish.

Privately, Presidents Kennedy and Johnson were clear that they were improving our forces qualitatively while holding constant the number of U.S. strategic forces in accordance with their intention to permit the Soviet Union to achieve strategic nuclear parity. Both presidents were carrying out the theory that this policy would most likely provide mutual deterrence and stability.

Presidents Nixon and Ford, by the time they took office, knew very well that the Kennedy/Johnson strategic parity proposal to the Soviets had not worked out. During their years, privately, they were quite clear that the Soviet Union, rather than stopping at parity, was proceeding to achieve strategic nuclear superiority. For example, in the Sixth Fleet, after the Jordan crisis in September of 1970, still early in his first term, President Nixon told me, with regard to his negotiations in SALT I with the Soviets, that he thought that he could get strategic superiority but might have to settle for parity if there was inadequate support for defense budgets. Yet, by the time SALT I was signed, 18 months later, Mr. Nixon was quite clear in private discussions that the United States had had to accept somewhat less than parity. And, 20 months later, by Jan. 24, 1974, while I was attending a National Security Council meeting which President Nixon had called, it was clear that he believed we were going to have to accept strategic nuclear inferiority. My notes of the meeting show that Kissinger expressed the view, and President Nixon agreed, that there was no way the United States could get parity in the strategic nuclear field with the Soviet Union. Kissinger said the people won't support it. President Nixon made it clear that he didn't want any talk that sounded like that publicly.

In my annual discussions with Mr. Ford when he was House minority leader and vice president, it was evident that he recognized the Soviet march to strategic superiority.

It is a separate question as to whether each of these presidents was completely candid with the public on strategic nuclear issues. But, one has to recognize that at the very least, they had done their homework and knew what the facts were.

THE CARTER ERA

In contrast to these previous presidents, Mr. Carter, based on everything one can learn from private conversations, seems not to have done his homework and seems sincerely confused about the facts. He seems truly not to be aware of the burgeoning Soviet nuclear superiority. I can attest to this first hand. I believe that this personal confusion on strategic arms issues is unique among the six presidents I have observed.

In my judgment there are three major reasons why the President has not yet discovered the extent of forthcoming Soviet strategic nuclear superiority.

The first is his failure to review the information available to him. The second is that under our system it is easy, although misleading, to give equal weight to the opinions of uninformed authorities and national figures, and those of the informed. A paper pronouncing that the United States is well off in the strategic nuclear balance can be submitted to him by a staff person who has no real background on the issues and who has had strong previous prejudices that more defense is bad and less is good. This is given equal treatment to the views of the Joint Chiefs of Staff, past and present, the views of recent, and therefore best informed, Secretaries of Defense, such as James Schlesinger and Melvin Laird, and those of the nation's best and most informed strategic expert and negotiator, Paul Nitze.

The third reason is that being in possession of such conflicting views, not properly weighed for their background and experience, President Carter, rather than giving careful study to the issues, tends to select the naively idealistic rather than the realistic alternative. No better recent example can be cited than the President's initial acceptance of the advice of novices Andrew Young and Hamilton Jordan to kill the neutron bomb and his overruling of the advice to build it given by the real expert, Cy Vance. The fact that other pressures subsequently led the President to ameliorate his initial bad decision does not invalidate the point.

STRATEGIC FORCE LEVEL SETBACKS

Let us examine what has resulted in the strategic force level area since Mr. Carter became President.

There were three systems available to the President with which to begin a relatively rapid return to strategic nuclear parity in the 1980s: the B–1 bomber, the mobile (MX) minuteman, and the long-range cruise missile.

The B–1 strategic bomber has been cancelled, while the Soviet strategic Backfire bomber goes forward. (The Soviets deny that the Backfire is a strategic bomber and some in the United States have agreed. Yet, according to a secret memorandum from Secretary of Defense Harold Brown to the President leaked to the New York Times, the Secretary has realistically acknowledged that our bomber defenses, now almost dismantled, are going to have to be improved because of the Backfire threat). The cancellation of the B–1 bombers means that the aging, less penetrable B–52 must carry on until it is no longer operable, and will likely be replaced by extremely vulnerable substitutes. The existing preponderance of Soviet megatonnage, which could have been partly compensated by the B–1, will not grow more disparate.

The mobile minuteman (MX) development has been slowed down by the President. Our fixed ICBMs are not subject to prompt destruction in a Soviet first strike. The huge new Soviet missiles with MIRVed warheads several times larger than ours and with future accuracies of .1 nautical mile, will be able to destroy 90 percent of our 1,054 ICBMs in a first strike, using only about 1,300 of the 5,000 or 6,000 MIRVed ICBM warheads the Soviets will have. The number of MIRVed warheads they have left after that will still be over twice the number they destroyed. There is a desperate urgency to regain the deterrent value of this leg of the triad. The proper course of action for the safety of our country was to accelerate the development of the mobile minuteman replacement to the vulnerable ICBMs. The decision to slow it down is a stunning setback to our national safety.

The long-range cruise missile is the device which could most quickly restore a semblance of strategic nuclear balance because it can be deployed on airplanes, surface ships and attack submarines. All of these platforms are available in large numbers. Deployment of the cruise missile on these platforms would regain a deterrent posture for the United States. Yet, recent budget decisions have slowed down rather than accelerated the cruise missile development programs. . . . The slowdown is another stunning setback to the country's safety.

SALT II SETBACKS

At the same time President Carter has been putting our national safety in jeopardy by budget decisions on strategic forces, he has been making similarly unsafe decisions in the strategic arms control field. In part he has found himself driven to these bad decisions because of the leverage he has given up in cancelling and slowing programs without any Soviet quid in SALT II.

During its 16 months, the Carter Administration has put forth a series of proposals to the U.S.S.R. The formulations have progressively worsened from the United State's point of view.

In March, 1977, President Carter had Secretary Vance present two proposals at Moscow. One of these was a comprehensive proposal involving substantial mutual force reductions, coupled with significant limitations designed to restrain improvements in intercontinental ballistic missiles. The other proposal was more modest in nature—an effort to maintain earlier progress toward implementing the Vladivostok agreement while deferring for the future the resolution of those two highly crucial items left over from Vladivostok, the Soviet strategic Backfire bomber and the U.S. cruise missile.

The Soviets, in their standard negotiating fashion, savagely rejected the March proposals. The United States, in its standard negotiating fashion, went back to the drawing boards to come up with a new proposal more advantageous to the Soviets and less so to the United States. This was the May 1977 proposal for a new negotiating framework. Secretary Vance suggested that the May proposal was designed to arrive at the same

general result as the March comprehensive proposal, but over a longer period.

The new framework was to consist of three tiers. There was to be a first tier consisting of an eight-year treaty similar to the U.S. March proposal. A three-year protocol would contain items not yet negotiable for the longer period. A third tier was to be an agreed set of principles to guide the continuing negotiations on an agreement to come into effect upon the termination of the three-year protocol. Unbelievably, this May proposal was given to the Russians without any clearance by the Joint Chiefs of Staff. Again, in standard Soviet negotiating style, the Russians rejected it and the Warnke team has been progressively improving SALT II from the Soviet point of view during the ensuing year.

The SALT II agreement will, as now drafted, be impossible to verify. We must expect to see the Soviets exploit this opportunity to gain additional strategic advantage just as they exploited the ambiguities in SALT I to gain similar advantage. The SALT II agreement increases still further the opportunities of the Soviet Union suddenly to break out of the deal with greatly increased deployments of antiballistic missiles and intercontinental ballistic missiles.

SALT II will be so structured that the Soviets have nearly all the negotiating leverage of superiority in measures of effectiveness. Heavy pressure will be on the United States to accommodate to the Soviet demands in SALT III negotiations. Given the history of U.S. accommodation to the Soviets' superior leverage in the negotiations, SALT III will almost certainly be worse. The time to consider such consequences is now before SALT II is ratified.

Perhaps the most striking aspect of SALT II is that it will restrict the United States from deploying those weapons systems necessary to regain stability and rough equivalency and to reverse the present trends. Among other limitations, we acknowledge that only the Russians have the right to deploy the huge ICBMs.

One can go on to point out that SALT II, not yet formally agreed, has already impeded our strategic nucluear program. President Carter has assured us that nothing in SALT II's three-year protocol would affect the deployment of weapons after that three-year period. Yet, he then approved his budget director's recommendation that the engineering and development of one phase of the Tomahawk cruise missile be slowed down because the future of the whole cruise missile program after the three-year protocol remained in doubt.

In order to put across the true nature of the strategic balance today, it is insufficient to recite just the advantages in figures of merit in the strategic equation. If one stops there, those who argue incorrectly that the United States today has "overkill" are able to get away with their false doctrine. One must go on to run through the likely consequences of a strategic nuclear exchange under the force balance which would come about under SALT II.

The Committee on the Present Danger has written, "It has become the conventional wisdom to maintain that such strategic advantages do not matter. Yet, detailed calculations demonstrate that under any of the strategic agreements now being considered, and assuming current programs continue (these words were written before President Carter's decisions to slow down the MX and cruise missile developments), regardless of whether the United States or the U.S.S.R. strikes first, the Soviets would destroy far more strategic targets and damage far more people and industries in a nuclear war." Paul Nitze has demonstrated in his analyses that after a Soviet-initiated counter force exchange against each other's nuclear forces, remaining Soviet forces would still be able to destroy the nuclear capacity of China and Western Europe, attack other military and population targets in the United States to kill more than 100 million Americans, and still retain nuclear force weight in excess of that available to the United States.

Analyses done while I was a member of the Joint Chiefs of Staff confirm this. The tragic truth is that in the face of these huge casualties, if the Soviet Union has exercised its impressive civil defense capability, they can expect to lose less than 10 million people. This is not "overkill." It is not one-half of the casualties the Soviets suffered in World War II. It is not as many Russians as Stalin slaughtered. It is not enough, given prospective U.S. casualties in the same exchange, to deter the Soviets from aggressive acts. It is not "overkill."

In summary, President Carter's budget decisions on strategic nuclear forces have accelerated our decline to strategic nuclear inferiority. His decisions on arms control issues in SALT II are serving to codify the U.S. strategic inferiority which his budget decisions are bringing about. He seems to be proceeding in the blind faith but with no logical rationale.

Three quick points in the non-strategic field are now pertinent:

The conventional military inferiority of NATO for many years has been justified in the light of the U.S. strategic nuclear deterrent. In the years ahead we will no longer have that deterrent.

There has been hope that, in the absence of a cabability in the 1980s to deter at either the strategic nuclear level or the conventional military level, President Carter would, at the very least, authorize the neutron bomb to restore some measure of deterrence to NATO. His delay of that program does still further harm to the national safety.

SALT II will interfere with our plans to regain conventional military capability with cruise missiles carrying non-nuclear warheads. We are already seeing the consequence of burgeoning Soviet strategic nuclear and military superiority around the globe. . . . We must expect to see Soviet mischief increase as the world increasingly comes to recognize the military realities of today.

ACTION REQUIRED

Only dramatic action now can begin to turn the tide.

In view of the incipient national disaster inherent in the SALT II strategic nuclear relationship with the Soviet Union, the time has come for heroic action from the two concerned co-equal branches of the government. I call upon the President to do the following:

Broaden his base of official advice. Bring the experience and judgment of a bipartisan group to his assistance on these matters.

Review in depth the Soviet climb to strategic nuclear superiority by studying the minutes and tapes of the top level meetings of the Nixon/Ford years.

Review with the Joint Chiefs of Staff the history of theoretical strategic nuclear exchanges between the United States and the U.S.S.R. since 1970, which show grossly unfavorable exchange ratios.

Obtain the written, frank views of the present Joint Chiefs of Staff on the state of the strategic nuclear balance and on the consequence of the current SALT II deal and any future modifications made to it.

Read what the Soviet leaders are telling their associates they intend to accomplish with their military supremacy.

Report candidly to the American people on the true state of the strategic nuclear balance in terms of JCS calculated outcomes for the last eight years and outcomes predicted during the next eight years. Report candidly the status of SALT I by comparing the assurances that the President gave the Congress as to what it meant at the time, with what the Soviets have actually done with it.

Regain a position of strategic nuclear parity with the Soviet Union by restoring the B-1, cruise missile, and MX programs and by negotiating true parity in SALT II.

I call upon the Congress of the United States, through its appropriate committees, to hold hearings and report to the American people on the following:

Compare what the Congress and the public were told about the meaning and impact of SALT I at the time it was submitted to Congress, with what SALT I has in fact become. Report the extent to which Soviet violations and exploitation of ambiguities have contributed to the present developments.

Portray the extent to which the U.S. strategic nuclear capabilities vis-a-vis the Soviet Union have deteriorated in recent years and will further deteriorate in the years ahead under the prospective SALT II agreement. Report the extent of U.S. strategic nuclear inferiority today and in the years ahead.

Recommend those strategic nuclear force expenditures which will begin to regain parity with the Soviet Union in the absence of a fair SALT II.

Submit a joint resolution of concern to the President urging that SALT II be renegotiated to achieve true parity at reduced levels of force and expenditures, and warning that SALT II in its present form will be rejected.

It is time our elected leaders recognize the realities of today and level with those who put them in office. If they do, our chances of attaining and then maintaining military parity with the Soviets will be vastly greater. If they do not, we shall surely make self-fulfilling the prophecy that the United States has passed its historic high point like so many earlier civilizations.●

## THE TRIALS OF ANATOLY SCHARANSKY AND ALEXANDER GINZBURG

● Mr. MUSKIE. Mr. President, the next few weeks will be an uncertain time for Soviet-American relations. There has been much discussion about the extent to which we should link our outrage over the trials of Soviet dissidents to other questions of United States-Soviet policy.

It is important for the world community to understand the extent of American concern for the dissidents Anatoly Scharansky and Alexander Ginzburg, and others who seek an end to repression in the Soviet Union.

Standing by themselves, unrelated to any other question but that of human rights, these trials by the Soviet Union are contrary to all the basic tenets to which the free world subscribes.

The Soviet Union and its leaders must know that the great majority of the American people do not relate these trials to the cosmic questions which confront our two societies. They simply view these trials as a signal that the Soviet Union is still a repressive country in which there are no rights—no political rights—no civil rights—no social rights—no economic rights—and no human rights.

The American people hold dear the right to move freely about the world and have protested openly and loudly when any attempt has been made to infringe on that right at home or abroad.

The American people hold dear the right to freely exchange views with any

people, anywhere in the world, so much that we permit all voices, no matter how offensive, in any forum, in any place, at any time.

The American people know that the Soviet Union is not an open society. They know that the Soviet Union is not a democracy. They know that in the Soviet Union there is only one party and one ruling structure and one road to opportunity.

The American people know that in the Soviet Union people take risks when they dissent: exile, imprisonment, even death. It is thus bad enough that we know what goes on inside the Soviet Union. It is quite another thing for the Soviet Union, as an element of international policy, to respond to our President's call for human rights by generating this latest mockery of justice.

Mr. President, these are no ordinary trials. There can be no doubt that they were ordered for the purpose of making it abundantly clear to the President of the United States that his call for human rights would be met with an even more vigorous denial of human rights; that his campaign against oppression would be countered with greater oppression.

The real horror of the trials is that the Soviets did not accuse these men as individuals. With bloodless calculation they brought to trial not two men with the courage to speak out, but mere symbols.

The Soviets set out to put American beliefs and sensibilities on trial. And these men were convicted, to convict us; to convict our ideals, hopes and understandings of the basic decency of the individual.

Let the Soviets understand this: We resist their charges. We reject their verdict.

And let the Soviets understand that we seek no special leverage in unrelated areas. In the basic sense, this is not a SALT issue; this is not a trade issue; it is a fundamental moral question. It divides the United States and the Soviet Union more deeply than our economic differences or our political differences.

The Soviet Union has not only elected to reject the international movement to demand protection of human rights. They have chosen to further restrict the rights of people.

I find this offensive and appalling to a degree which I cannot properly express. I would hope that soon the Soviet Union will reexamine its rejection of President Carter's human rights initiative and rejoin the family of nations and the family of man.●

## IMMORAL POLICY ON AFRICA

● Mr. GOLDWATER. Mr. President, it has long been my opinion that three things mark the major thrust of the Carter administration's foreign policy pertaining to Africa: expediency, inefficiency, and self-righteousness. Time and again, we find statements being made by top Government officials which are more inclined to attract political favor in this country than to help solve the complicated problems which confront the nations of Africa. In a recent article in the Washington Post, Georgie Anne Geyer of the Los Angeles Times Syndicate describes the Carter policy in Africa as "immoral." I agree with that assessment and ask that this very incisive article be printed in the RECORD.

The article follows:

[From the Washington Post, July 6, 1978]

"IMMORAL" POLICY ON AFRICA

(By Georgie Anne Geyer)

Washington can now see in the starkest relief the basic immorality of the Carter administration. It is, incredibly, an immorality that is quite willing to sell out millions of black people in the name of expediency, that claims self-righteously to talk about majority rule when it really means black power, and that particularly fools itself about its grand moral postures.

I am referring to the "forward-looking and positive" policy toward Africa that Secretary of State Cyrus Vance recently outlined. In one more (I have lost count because I do not have a computer) "restatement of American policy," Vance now says we want to work with the Marxist Angolan MPLA government "in more normal ways."

That elevates to policy U.N. Ambassador Andrew Young's arguments that we should trade a promise by Angola to stay away from Zaire's Shaba Province for our probable diplomatic recognition of the minority MPLA government. That government is kept in power by some 20,000 Cuban troops, and if there are modern-day black echoes of a Munich-like sellout of Czechoslovakia, this is it.

What is so astonishing about all this is its immortality. Forget for a moment the Cubans' role or non-role in Shaba. The highest intelligence sources tell me that now approximately 2,000 black Rhodesians have crossed from Angola, where they were trained by Cubans, to join Joshua Nkomo's army in Zambia, which is trying to impose (not win through the vote) Nkomo as leader of the new Zimbabwe.

Then, forget that for a moment and consider the revolutionary situation in Angola. I know of no analyst of Angola who does not conclude that 90 percent of the black people of Angola are with the anti-MPLA, pro-Western movements, in particular Jonas Savimbi's UNITA in the South.

With almost no money or weapons, those poor, courageous people are still waging a brutal civil war against the highly equipped foreign Cubans. Only a few weeks ago, Zbigniew Brzezinski, the other side of the president's conscience, was trying to find ways to aid UNITA. But that initiative was thwarted.

If it were only Angola, however, and only the 5 million black Angolans who don't want to live under the MPLA and the Cubans, I suppose one could argue for Vance's and Young's propositions.

In March, Young was quoted in the Zambian press as saying he would look favorably upon military aid to the front-line states: Zambia, Mozambique, Angola and Tanzania. Indeed, the core of the problem is that he has placed our policy under their whims, all in the name of "majority rule for Rhodesia, Namibia and South Africa."

Yet, two of these are Marxist and total failures economically; one is a totally subsidized "socialist" failure; the other is simply a sloppy economic failure. Not one has elections or will have.

Yet all actively and militarily oppose the internal settlement in Rhodesia, which is going ahead with elections to turn the country over to black majority rule.

Why do black Rhodesian guerrilla leaders like Nkomo and the extremist Robert Mugabe, Andy Young's romantic favorite, not want elections? Even Africanists in the administration admit it is because neither one could win them.

Yet, in both places, we are supporting these revolutionary movements and not those who would bring real majority rule. In both places, we come out (1) in opposition to free elections, (2) in opposition to free enterprise and our own economic interests, (3) in support of further, all-out civil war in which hundreds of thousands of blacks will continue to be killed and (4) in favor of the final depotism and economic failure of the one-party states that surround them.

The argument on the other side, of course, is that the internal settlement will not stop the civil war. Yet, Nkomo waits. If the United States and Britain would support it, it is very likely he would come in. As it is, he has no need to.

So, incredible as it seems, this is what is genuinely behind the recent Vance statements. What is also behind them is the fact that people like Andy Young are surrounded by 1960s black-power activists who foresee in Africa what they were denied in the United States. They call it "revolution," but they really mean their own "power." They make Machiavellian Kissinger, whom they so hate, look like St. Augustine.●

## U.S. RAILWAYS

● Mr. McGOVERN. Mr. President, in April 1976, ConRail officially began its operations to continue rail service to the Northeast. It also took its first major step to prove that with innovative management, marketing, car utilization, and other improved operations, that a viable, private sector rail operation could survive in the Northeast. Congress had intended that this system ultimately become an example to the rest of the industry of how to run a railroad.

Today, Government officials are beginning to concede that the Corporation, under its present structure, will never become self-sufficient. In point of fact, ConRail is further from its original projections for success than when it started 2 years ago.

Next week, the Senate is scheduled to consider an additional $1.3 billion authorization in order that ConRail may continue its steadily declining operations. While I believe that the funding for this year should be continued, it is essential that Congress be aware that unless ConRail's operations parallel its most optimistic projections, which is unlikely, the Corporation will return to Congress next year with additional funding needs.

In light of this situation, Congress must begin to consider alternatives to ConRail as it is presently structured. There is no doubt that rail service in the Northeast is essential to the economy of the region and the Nation. However, I believe we are faced with several critical decisions concerning its future operations and organizations if it is to survive at all.

Mr. President, I request that an article that appeared in the July 10, 1978, issue of Business Week be printed in the RECORD.

The article follows:

CONRAIL'S TROUBLES GROW EVEN WORSE

Consolidated Rail Corp. was created by Congress in 1976—and given $2 billion in taxpayers' money—to replace Penn Central Transportation Co and six other bankrupt railroads in the Northeast. After such an infusion of federal money to upgrade its facil-

ities, Conrail was expected to be well on its way toward profitability by 1978.

Instead, government officials are beginning to conclude that Conrail will never become self-sufficient. It is losing more money than the railroads it replaced. Service has deteriorated, not improved. Shippers have been frightened away, and, after a two-year truce, government agencies are taking a more active role in overseeing Conrail's affairs. What is more, Richard D. Spence, who had been president since Conrail's inception, has left following a special meeting of the board on June 26. The board is composed of six government-appointed members and five who represent the creditors and estates of the former Conrail companies. Chairman Edward G. Jordan, a former insurance executive, remains in his post.

In fact, Conrail is further from operating and financial success now than when it started:

It lost $367 million last year, and $216 million more in the first quarter of this year. These larger-than-expected losses sent Conrail back to Congress this spring, seeking an additional $1.3 billion on top of its initial $2 billion.

The percentage of cars delivered within one day of scheduled arrival fell from 75% when Conrail began operations to 55% in early May.

Conrail was fined $2.3 million by the Interstate Commerce Commission early this month for failing to comply with ICC orders to speed the flow of freight cars to other railroads.

Despite an impressive start at rehabilitating track, Conrail's operating difficulties have discouraged many shippers. For example, Sea-Land Service Inc., the nation's largest ship operator, recently said it was switching from Conrail to the Delaware & Hudson Ry. Co. to move containers west from New York.

At times, the company has appeared to be virtually paralyzed. An ICC official points out that the agency had to send 30 car service agents into Conrail facilities this spring to unclog the jammed switching yards. "Our people virtually ran the system for them. We got 34,000 cars off their lines in one month," he says. "The question is, why couldn't they do it themselves?" With more than 100,000 cars belonging to other railroads on its lines, Conrail is a primary cause of the national freight car shortage.

LOSING CUSTOMERS

Conrail's failure to improve service makes it still costlier to rehabilitate the system. Donald C. Cole, president of U.S. Railway Assn., the government agency that bankrolls and monitors Conrail, says: "There is a continuing decline in their traffic base." In the first quarter of 1978, Conrail had revenues of $759 million, down from $770 million in the first quarter last year. Without increased traffic to produce additional revenues, more federal funding will be required. "A 1 percent shortfall in revenue between 1978 and 1982 would require increased federal assistance of $189 million, or 15 percent more than Conrail's $1.3 billion estimate," Cole told Congress this month.

Officials at the ICC, the Transportation Dept., and USRA say publicly that Conrail can still succeed, although it will likely need even more than the additional $1.3 billion it has asked for. In private, most officials seem convinced that further restructuring of Conrail will be necessary.

In its report on Conrail performance, USRA told Congress: "The coming year will be a crucial one for Conrail." Citing problems of service deterioration, locomotive reliability, car utilization, capital investment, and labor productivity, USRA said Conrail has until next April to show progress or the agency "will be prepared to present alternatives for congressional consideration."●

## THE POSTAL SERVICES AMENDMENTS ACT OF 1978

● Mr. NELSON. Mr. President, the Committee on Governmental Affairs has concluded hearings on S. 3229, the Postal Services Amendments Act of 1978. This is vitally important legislation which I hope the Senate will consider and pass at an early date.

I would like to focus on two aspects of this bill which I deem to be of particular importance to the preservation of a vigorous free press in this country.

The bill would continue the present practice of requiring each class, subclass, and type of mail to bear the costs that are attributable to each. However, section 6(b) of the legislation provides that through fiscal 1982, if the Postal Rate Commission finds that attributable costs exceed 60-percent of total postal costs, the attributable costs of each class and kind are to be reduced by multiplying the attributable costs of that class or kind by a fraction whose numerator is 60 and denominator is a whole number equal to the percentage of total estimated costs determined to be so attributable. Under the bill, costs which would otherwise be attributed which are not attributed may be apportioned according to the other criteria, including the perceived social value of a given type of mail. This 60-percent "cap" on attributable costs will be of considerable benefit to regular second-class and controlled circulation publications, whose rates now reflect a 65-percent cost attribution.

Section 6(b)(1) of the bill would provide substantial additional rate relief for regular second-class and controlled circulation publications by requiring that such classes will be required to recover only the costs attributable to regular rate second-class mail for the first 250,000 copies of such publications. This provision would provide these publications with a mailing rate substantially equivalent to that paid by nonprofit publications.

Rate relief for small publications is urgently required. A few statistics will suffice to underscore the need for a change in the law. Between the creation of the U.S. Postal Service in 1970 and July of 1979, the average second-class postal rate will have risen by 400 percent. The New Republic, a prestigious journal of political commentary with a 78,000-person circulation, saw its yearly postal costs rise from $82,005.60 in 1973 to $182,425.44 in 1977. By July of 1979, its yearly postal rate will be a staggering $358,524 if the law is not altered.

In my own State of Wisconsin, countless small publications are being forced to the wall by postal rate increases. To select two examples out of many, the Loyal, Wisconsin Tribune & Record-Gleaner has seen its weekly postal costs increase from $1,077.50 in 1971 to $4,080.89 in 1977 and the small Elroy, Wis. Tribune-Keystone, with an 1,800-person circulation, absorbed a quadrupling of its mailing costs between 1971 and 1977, from $535.35 to $2,392 per year.

During the past 6 years, my involvement with this issue has been consistent.

In 1972 and again in 1973, I introduced legislation to delay the implementation of proposed postal rate increases, to limit the rates which could be charged for the first 250,000 copies and to eliminate the regressive second-class per piece surcharge.

In 1974, I supported S. 411, the law which delayed and phased in postal rate increases for second-class and controlled circulation publications, while consistently arguing that the legislation did not go far enough in the direction of safeguarding the survival of small publications.

S. 3229 now offers the only realistic hope of limiting these catastrophic second-class rate increases. The extent of the relief it would provide is, at present, unclear, but the 60-percent attributable cost "cap" coupled with the additional rate relief provided for the first 250,000 copies of a regular second-class publication offers our small publications some hope of a tolerable financial future.

I believe it is important to restate the fundamental reasons why assistance to our newspapers and periodicals is so necessary and desirable. In the past 7 years, Congress and the Postal Service, tragically, appear to have forgotten these reasons.

From the earliest days of this country, our national leaders have recognized that the essential educational service of keeping the American people informed is best performed by the widest possible distribution of newspapers, periodicals, and journals of opinion.

In 1787, Thomas Jefferson acknowledged the vital role which the printed media played in American democracy when he stated:

I am persuaded myself that the good sense of the people will always be found to be the best army. They may be led astray for a moment, but will soon correct themselves. The people are the only censors of their governors; and even their errors will tend to keep these to the true principles of their institution. To punish these errors too severely would be to suppress the only safeguard of the public liberty. The way to prevent these irregular interpositions of the people, is to give them full information of their affairs through the channel of the public papers, and to contrive that those papers should penetrate the whole mass of the people. The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter. But I should mean that every man should receive those papers, and be capable of reading them.

In 1822, James Madison noted that—

A popular Government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps, both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

James Madison, Thomas Jefferson, and their colonial contemporaries were concerned with assuring sources of popular information in an infant rural nation of about 3 million people. They certainly could not have foreseen the developments

in methods of mass communications which have revolutionized modern society. The validity of their concerns and the force of their arguments, however, are even more compelling at a time when the electronic media can report to a nationwide audience measured in millions the news of an event which has occurred only a fraction of a second previously.

The sheer communicative power implicit in today's electronic network of 7,000 radio stations and 890 television stations is awesome. The broadcast media, however, are only one part of our system of disseminating information and thought. In order to insure that our information and opinion network is truly comprehensive and competitive, a vital role must still be performed by the thousands of daily and weekly newspapers, opinion magazines, and independent journals which collect, condense, comment, challenge, and communicate information, ideas, and opinions in printed form.

There is no doubt that the electronic media can efficiently speed a news message to a vast national audience with an immediacy which cannot be equalled. However, by using the public airwaves, the electronic media are dependent upon Government licenses for their very existence. With governmental pressure as a constant overriding threat, and the need to appeal to great numbers of people to pay for the expensive costs of production, it is no wonder that the electronic broadcast industry is not well equipped to present a multiplicity of opinions and divergent ideas.

The only place where controversy, dissent, criticism and minority points of view can be effectively expressed and widely disseminated is in the printed media, particularly in the independent journals of opinion. Here fresh ideas often see their first public exposure. It is here that traditional thoughts and established norms are challenged with uncommon vigor. In our smaller publications a broad span of issues may be argued in greater depth and with a partisan passion. Complex matters can be discussed and developed over a greater period of time and targeted to specialized audiences.

While the mass media serve to efficiently communicate the common experience quickly to the majority of the Nation, it is the little press that performs the crucial function of providing public access to new and untested ideas, to minority thoughts which might otherwise remain hidden, and to the whole range of human experience and expression which provides the impetus for the continual search for the truth in a free society.

For 178 years Congress provided very specific and precise encouragement and assistance for the national distribution and wide dissemination of newspapers and magazines. Historically, the Congress of the United States has provided these publications with the benefits of favorable rates in the use of the U.S. mail. From 1792 to 1971, the low postal rates which were set by Congress for distribution of printed publications through the mails were recognized as a form of national subsidy justified by the educational function and contribution to the self-governing aspect of citizenship.

This policy was well understood formerly by those charged with enforcing and interpreting the law.

In his annual report for 1901, the then Postmaster-General Charles E. Smith reiterated the basis for the reduced rates set by Congress for the mailing of newspapers and periodical magazines:

> Our free institutions rest on popular intelligence, and it has from the beginning been our fixed and enlightened policy to foster and promote the general diffusion of public information. Congress has wisely framed the postal laws with this just and liberal conception. It has uniformly sought to encourage intercommunication and the exchange of intelligence.

As Justice Douglas further explained in *Hannen* v. *Esquire, Inc.*, 327 U.S. 146 (1946):

> The policy of Congress has been clear. It has been to encourage the distribution of periodicals which disseminated "information of a public character" or which were devoted to "literature, the sciences, arts, or some special industry", because it was thought that those publications as a class contributed to the public good.

In the past 7 years, this tradition, which contributed so much to the growth of our free institutions, has been abandoned. The costs have been considerable. Many religious and other nonprofit publications have failed or are in danger of failure.

Many other magazines, ranging across the ideological spectrum from the National Review to the Nation and the Progressive are struggling for survival. In addition, countless small specialty and hobby publications have disappeared. These publications are the lifeblood of the first amendment. We are all the poorer for their loss.

In conclusion, I urge speedy committee and Senate action on this legislation.●

## LIFE AND DEATH STRUGGLE

● Mr. KENNEDY. Mr. President, on May 25, the trustees of Assumption College in Worcester, Mass., announced the election of Joseph H. Hagan as president of the college.

Joe Hagan had had a long and distinguished career in both education and Government. He has been a teacher, legislative assistant to Congressman ST GERMAIN of Rhode Island, staff assistant to the President's Committee on Juvenile Delinquency, special assistant in the Office of Economic Opportunity, and vice president of Bryant College in Smithfield, R.I. He is presently special assistant to the chairman of the National Endowment for the Humanities where he is responsible for congressional relations. President-elect Hagan will take office at Assumption on August 1.

On May 30, the Evening Gazette of Worcester published an editorial which commented on Joe Hagan's first message to the college community. I ask to have the text of that editorial printed in the RECORD.

The editorial follows:

LIFE AND DEATH STRUGGLE

Joseph H. Hagan, Assumption College's president-designate, hit the nail on the head when he said these are difficult days for colleges and universities.

"Both private and public institutions have felt the pinch and perhaps the small private liberal arts colleges like Assumption have felt it most severely," he said in his first message to the college community.

Indeed, America's colleges are in peril, with many facing extinction.

Says Boston University's President John R. Silber: "There are going to be academic ghost towns all over the country." He foresees as many as 500 of the nation's 1,500 private schools closing, merging or consolidating.

The problem is fairly clear. There are too many colleges and not enough students coming along.

Between 1979 and 1992, the number of 18-year-olds in the U.S. will fall from 4.3 million to 3.2 million, a 26 percent decline in the age group that comprises the bulk of entering college freshmen.

Colleges remaining open also face some of the most serious problems in their history. Inflation—caused by factors ranging from higher energy costs to salary increases—has wreaked havoc on many campuses.

Rising costs will mean higher tuition year after year and continued cuts in faculty and programs. Experts fear that these reductions and the closing of many schools may seriously undermine the quality and diversity of education. Student choices will be diminished.

Lawrence E. Fox, executive director of the Worcester Consortium for Higher Education, Inc., says many area colleges are trying to compensate for the shrinkage problem by enrolling more students over 25 years of age, developing and stressing their evening programs and "life-long learning," and developing special career and managerial programs for women.

"It's going to be a battle," said Fox, "but it is one Worcester's colleges seem to be a good position to fight."

The future will not be easy, but it will be a challenging and exciting time, said Hagan.

"If schools such as Assumption are prudent in the management of their resources, if they are vigorous in seeking well deserved financial support from both public and private sources and if all constituencies of such institutions work together for the common good and do not make unrealistic demands on one another, then such places will not only survive, they will prosper." he said.

We welcome President Hagan to the Worcester community and hope his optimism prevails.●

## JOHN DAVISON ROCKEFELLER 3D

● Mr. McGOVERN. Mr. President, one of the finest citizens I have been privileged to know was the late John D. Rockefeller 3d. His death deprives us of a gentle, humane, and intelligent man who did much to elevate the well-being of his fellow humans.

I had the privilege of several discussions with him on our mutual interest in the issues of food and population.

The July 24, 1978, issue of Time magazine contains an interesting account of some of the highlights in Mr. Rockefeller's career. I ask that this article be printed in the RECORD.

The article follows:

THE SHY PHILANTHROPISTS: JOHN DAVISON ROCKEFELLER 3D, 1906–1978

On one of his trips to Washington to call on President Lyndon Johnson, John D. Rockefeller 3rd flew tourist class and did not ask to be met by a limousine. But it was raining at the airport and no cabs were in sight. So Rockefeller rented the only vehicle avail-

able and rode to the White House as the sole passenger of a sightseeing bus. Not recognizing him, a White House official asked for his name. "John Rockefeller," he replied softly, not bothering to use his distinctive middle initial. Only after several more questions did the official realize that the tall, gaunt man before him was the senior brother of one of the nation's most powerful families.

The shyest and most unpretentious of the five grandsons of the magnate who founded largest fortunes, John Davison Rockefeller 3rd always tried to stay in the background. While his brothers pursued more public careers, he devoted himself full time to the family's philanthropies, which annually donate millions to promote social welfare, health care, the arts and education around the world.

Although he shared in the family wealth, estimated at $1.5 billion, he spurned most of its superficial trappings. "He held out for a simple, sensible kind of life," said Blanchette, his wife of 45 years. Five days a week, he walked or took the crosstown bus from his apartment to his office in Manhattan; on weekends at his country estate twelve miles north of the city, he relaxed by trimming the rose bushes or chopping firewood.

Last week, after spending the day on the estate, he got a lift to the local train station with his secretary in her 1965 Mustang. As they rounded a curve, they collided head-on with a car driven by a 16-year-old boy. Rockefeller, 72, and the boy were killed instantly; the secretary and a woman in a third car were injured. The accident occurred only a mile from the 3,200-acre family estate in Pocantico Hills, N.Y., that was the childhood home of John and his brothers.

As the first-born son, John especially felt the burden of his grandfather's admonition that wealth is "a gift of God to be developed and used to the best of our ability for the good of mankind." After graduating from Princeton in 1929, he dutifully went to work at his father's office. "My father had the idea that his sons would follow the same pattern he had," he once explained. The son eventually became a trustee of the Rockefeller Foundation and of Rockefeller Center, the family's huge real estate complex in Manhattan. He also oversaw the family's $50 million restoration of colonial Williamsburg in Virginia. At one time, he was a trustee or director of some 30 educational and charitable organizations, most of them heavily financed by the Rockefellers.

In 1951, in what Rockefeller called "a major step outside the family orbit," he served as a cultural consultant to John Foster Dulles during negotiations in Tokyo on the peace treaty between the U.S. and Japan. That experience, and his subsequent travels through Asia, convinced Rockefeller that population growth had to be limited if underdeveloped countries were ever to achieve political stability. When the Rockefeller Foundation board rejected this idea as too radical, he used his own funds to set up the Population Council, which conducts research in family planning. At a dinner honoring him and his four brothers, he once said: "If my parents had been exposed to today's ideas of family planning, my brothers Win and David might not have made it." Typically, before delivering that line, he had spent a day agonizing over whether it was in good taste.

The Dulles mission inspired Rockefeller's deep interest in Asia as well. He revitalized the moribund Japan Society and established the Asia Society, the International House of Japan and the Indian International Center—organizations all devoted to fostering cultural and educational exchanges between East and West. As mementos of his trips to Asia, Rockefeller began a collection of Asian art, worth an estimated $15 million. Said his artistic adviser, Sherman Lee, director of the Cleveland Museum of Art: "He was very moved by certain images, especially the Buddhas—the serene, contemplative figures." Rockefeller bequeathed his art to the Asia Society.

Rockefeller's biggest cultural legacy, however, is New York City's Lincoln Center. Originally promising only to serve on an exploratory committee for a new music hall, he became increasingly involved in the project. Made chairman in 1960, he spent nearly 13 years overseeing negotiations with artists, architects and government officials. When the cost of the complex rose from the original estimate of $75 million to $185 million, he covered the deficit through appeals for funds and a personal gift of $10 million.

At last week's memorial service in Manhattan's Riverside Church, the eulogy was delivered by Rockefeller's only son Jay, who is Governor of West Virginia. Said he: "He endures in what he stood for, in what he did, in the inspiration and guidance he has given us. Let me say to you, my father, that you helped shape a country and a world in your own quiet way. You have set a standard for our family and for each of us as individuals. Let me say to you that we are strong and we are ready to carry that standard forward; that we know and accept our responsibility. Rest in peace. You have blessed and touched this world in good ways that will last forever."●

## IN DEFENSE OF RHODESIAN CONSTITUTIONAL AGREEMENT

● Mr. GOLDWATER. Mr. President, during a recent wide-range debate over Rhodesia, many references have been made to the Rhodesian constitutional agreement of 1978. Unfortunately, many of the people who air their views about the Rhodesian situation have never read the constitutional agreement and have little knowledge of what it actually involves. In the interest of clarifying this important aspect of the Rhodesian controversy, I should like to have printed in the RECORD a booklet entitled "In Defense of the Rhodesian Constitutional Agreement" written by Ndabaningi Sithole, one of the architects of the agreement and a senior partner in Rhodesia's transitional government.

The booklet follows:

IN DEFENCE OF THE RHODESIAN CONSTITUTIONAL AGREEMENT: A POWER PROMISE

PREFACE

The Government of Rhodesia (Zimbabwe) unilaterally seized the country's independence on 11 November 1965, severing its historic connections with Great Britain and the Commonwealth. For the black people of this country the act led to hardship and to the deprivation of basic human rights. For the world, it created a serious and at times a critical diplomatic problem which, for thirteen years, defied solution.

During these years various external and internal forces attempted to free Zimbabwe from the heavy burden of white supremacy. The United Kingdom Government applied economic and diplomatic pressures, and on a number of occasions entered into negotiation with Mr. Ian Smith, leader of the illegal regime. The United Nations imposed mandatory economic sanctions against the country. The Organization for African Unity gave moral and practical support to the Zimbabwean liberation movement. Other countries—South Africa, the United States of America and the frontline states of Zambia, Tanzania, Angola, Mozambique and Botswana—as well as many political parties, helped try to resolve the Rhodesian problem.

During all these years the armed struggle between Rhodesian Government forces and guerillas of the Zimbabwean liberation movements continued. This war, this battle to free the people, began on 28 April 1966, when freedom fighters of the Zimbabwe African National Union, dedicated to the cause of majority rule based on the democratic principle of one man, one vote, engaged Rhodesian security forces near Sinoia.

All efforts to solve the problem by peaceful means failed, and the armed struggle grew in intensity between 1966 and 1977.

Then, in December 1977, the internal leaders of the three African nationalist parties began negotiating with the Rhodesian Government for a just political settlement and, after three months of hard bargaining, broke the thirteen-year-old stalemate.

The Rhodesian Constitutional Agreement was signed on 3 March 1978.

The Agreement ensures that Zimbabwe will become independent on 31 December 1978 on the firm foundation of the democratic principle of majority rule based on one man, one vote. In effect it represents the end of white rule and the beginning of black rule in Zimbabwe, and is therefore rightly regarded as the most significant event in the country's history.

The internal African nationalist leaders succeeded where all others had failed.

The people of Zimbabwe—African and White, civilian and guerrilla, city dwellers and those who live in the Tribal Trust lands and who know the ugly brutalities of war—have welcomed the Agreement, because it will bring peace and stability to this strife-torn country.

But the outside world, for reasons of its own, has been less enthusiastic. Attitudes range from cautious acceptance to outright denunciation of the Agreement.

My purpose in this short work is to reveal the true nature of the Rhodesian Constitutional Agreement of 1978 and of the circumstances from which it was born.

Measured against objective criteria, the settlement cannot be faulted. This, I believe, will become evident to all who read this work.

CHAPTER ONE: HISTORICAL BACKGROUND

1. The Rhodesian Front Government unilaterally seized the independence of Rhodesia (Zimbabwe) on 11 November 1965. This means that it declared the country independent without the approval of Great Britain, the colonial power with the ultimate legislative responsibility for Rhodesia, nor of that of Zimbabwe's African people who constituted more than 95 per cent of the population.

2. The main objective of the Rhodesian Government's unilateral declaration of independence (UDI) was to prevent the establishment of African majority rule in Zimbabwe, to perpetuate indefinitely white minority rule, and hence the subjection of the African to the white man.

3. As a result of this unilateral action Britain refused to recognise the so-called independence of Rhodesia, and passed an Act through the House of Commons to that effect. The United Nations supported Britain in her condemnation of the Rhodesian action, as did the Organisation for African Unity (OAU).

4. In order to bring about the collapse of the Rhodesian Front Government which had engineered the illegal seizure, and thereby to ensure a return to constitutional legality, the United Nations passed a resolution applying economic sanctions against Rhodesia. These sanctions have been in force since 1966, and are still in force. As a result, Rhodesia's economy came under critical pressure and there was a massive reduction in the country's foreign currency earnings.

5. A consequence of UDI was that Rhodesia's African nationalist movements altered their strategy from internal pressure to externally-supported struggle, not only in an attempt to reverse the illegal act but

finally to force the Rhodesian Government to accede to the legitimate and long-standing demands of the African people of Zimbabwe for majority rule based on the democratic principle of one man, one vote. The first bullet in this attempt was fired on 28 April 1966 by the freedom fighters of the Zimbabwe African National Union (ZANU) and since that date the conflict has escalated dramatically.

6. The armed struggle to reverse UDI, and to establish majority rule based on one man, one vote, has caused the loss of many lives, and more are being lost daily. Black and white alike have suffered and, during the thirteen years since UDI, an atmosphere of uncertainty, anxiety, insecurity and fear has pervaded the country. The people are weary of the present war which is causing many whites to emigrate and many blacks to stay abroad. The country's foreign currency earnings have been eroded even further and the economy is inexorably winding down, bringing in its wake large-scale unemployment with its many attendant evils.

7. In 1966, the British Labour Prime Minister, Mr. Harold Wilson, now Sir Harold Wilson, and the Rhodesian Premier, Mr. Ian Smith, met on HMS *Tiger* to resolve the UDI dispute. At that time it was considered to be essentially a problem between the British and the Rhodesian Governments rather than, in the first instance, between the Rhodesian Government and the repersentatives of the country's African masses. Consequently, Rhodesia's African nationalist leaders were not invited to participate in the talks and the negotiations centred on the technical details of the country's return to constitutional rule.

It was inevitable therefore that, in attempting to treat the symptoms rather than the cause of UDI, the two premiers would fail to reach accord. In effect the talks did not succeed because the democratic principle of majority rule based on one man, one vote was not conceded.

8. Further talks were held in 1968 between Mr. Wilson and Mr. Smith, again without the participation of the African nationalist leaders.

Once more, the talks failed because the democratic principle of majority rule based on one man, one vote was not conceded.

9. In 1971, similar talks were held between the British Conservative Government and the Rhodesian Government without the participation of the African nationalist leaders.

The agreement which flowed from these talks was put to a test of acceptability through the Pearce Commission and was rejected by the African people because the democratic principle of majority rule based on one man, one vote was not conceded.

10. In 1974, talks were held between Mr. Smith and Bishop Abel Muzorewa, President of the African National Council (ANC), without the participation of the other African nationalist leaders, who were in detention.

The agreement which Bishop Muzorewa reached with, Mr. Smith was rejected by the African people because the democratic principle of the majority rule based on one man, one vote was not conceded.

11. In 1975, talks were held in Milton Building, Salisbury, between the Rhodesian Government and the enlarged ANC, an association comprising ZANU, the original ANC, the Zimbabwe African People's Union (ZAPU), and the Front for the Liberation of Zimbabwe (FROLIZI). The talks culminated in the Victoria Falls Conference.

The initiative failed because the democratic principle of majority rule based on one man, one vote was not conceded.

12. At the beginning of 1976, talks were held between Mr. Smith and Mr. Joshua Nkomo, leader of the Zimbabwe African People's Union, and one of the co-leaders of the enlarged ANC, without the participation of any of the other African nationalist leaders.

The talks failed because the democratic principle of majority rule based on one man, one vote was not conceded.

13. After the breakdown of the Nkomo-Smith talks, Dr. Henry Kissinger, the United States Secretary of State, presented his plan to Mr. Smith for the solution of the Rhodesian problem.

The plan ultimately failed because the democratic principle of majority rule based on one man, one vote was not conceded.

14. Towards the end of 1976, the Geneva Conference was convened and was attended by all Rhodesia's African nationalist leaders.

The Conference failed because the democratic principle of majority rule based on one man, one vote was not conceded.

15. In 1977, the Governments of the United States of America and the United Kingdom essayed to resolve Rhodesia's thirteen-year-old deadlock. This resulted in the Anglo-American Proposals which clearly conceded the democratic principle of majority rule based on one man, one vote. The majority of Rhodesia's African people, as well as the whites, accepted the principles of Proposals but rejected the mechanics proposed for an interim government.

16. In December 1977, internal talks began between the Rhodesian Government and the internally-based African nationalist leaders. For the first time in thirteen years, talks were held between the parties most relevant to the long-standing dispute. After three months of hard bargaining, an agreement was reached in which was conceded the democratic principle of majority rule based on one man, one vote.

The immediate reaction to the Internal Agreement of the people of Zimbabwe and of the outside world will be examined in a separate chapter in which it will be shown that the way outsiders view the Zimbabwe situation is different from the way those inside the country view the same thing.

In this work I examine broadly and critically the various agreements and attempts at agreement to resolve Rhodesia's problem. I examine why these initiatives, why the internal settlement talks, had to be. I also examine the course of the internal talks and their result as well as their effect.

The drama is far from complete. A lot has yet to be written about it as it unfolds. But there can be no doubt that the March 1978 Rhodesian Constitutional Agreement marks a distinct and significant watershed in the country's political history. It marks the end of white minority rule and the beginning of black democratic majority rule.

CHAPTER TWO: CRITICISM OF THE VARIOUS INITIATIVES

In the great effort to solve the Rhodesian problem of UDI, various attempts at agreement were made between the various parties. But they failed simply because they did not get to grips with the country's fundamental problem—the rule of the majority by an elite minority. Hence it is that there has been deadlock for the past thirteen years. It is important therefore that we examine here the attempts, so as to demonstrate why they failed to solve the problem they were intended to solve:

1. The Domboshawa Indaba, 1964.—When the Rhodesian Government imprisoned most of the well-known African nationalist leaders or held them in detention, they ran into the problem of establishing who precisely were the country's African representatives. Consequently, the Government convened the famous Domboshawa Indaba of 1964 during which it was agreed that the Chiefs, and not the African nationalist leaders, were the legitimate representatives of the African people. The Indaba did not concede the democratic principle of majority rule based on one man, one vote, the participants appearing to be unaware of the very existence of the concept, and thus the Indaba did not help to prevent UDI.

2. The Wilson-Smith Talks, 1965.—There was no formal agreement as such between Mr. Wilson and Mr. Smith, but there was an explicit understanding that Britain would not intervene militarily if and when Rhodesia seized its independence unilaterally. This naturally encouraged the Rhodesian Front Government to embark on UDI, having first been assured of Britain's non-intervention militarily.

In a sense Britain underwrote UDI.

The understanding between Mr. Wilson and Mr. Smith that Britain would in no way intervene militarily in the event of UDI did not help the cause of majority rule based on one man, one vote, and therefore did nothing to solve the fundamental problem facing the country. Rather, it helped to cause and escalate the present armed struggle.

3. The Wilson-Smith Tiger Talks, 1966.—Mr. Wilson and Mr. Smith met on HMS *Tiger* to resolve Rhodesia's deadlock after several behind-the-scenes preparations. The main pre-occupation of the *Tiger* talks was the theme of "Return to Legality", which proposals the Rhodesian Government turned down. The talks did not even attempt to concede the democratic principle of majority rule based on one man, one vote. They stuck to the principle of qualified franchise. The Legislative Assembly was to consist of 33 "A" Roll seats, 17 "B" Roll African seats and 17 Reserved non-African seats.

4. The Wilson-Smith *Fearless* Talks, 1968.—The talks on HMS *Fearless* followed the same path as those on *Tiger*, namely, there was no concession to the democratic principle of majority rule based on one man, one vote. The Legislative Assembly was to be the same as proposed at the *Tiger* talks. The main pre-occupational was the "Return to Legality", and once more the parties failed to reach agreement.

5. The Home-Smith Agreement, 1971.—The Agreement, between Sir Alec Douglas-Home, the British Conservative Government Foreign Secretary, and Mr. Smith, known as the Anglo-Rhodesian proposals, was rejected in 1972 by the African people when it was submitted to a test of acceptability by the people of Rhodesia as a whole.

The first flaw in the Agreement was that it was one between the British and Rhodesian Governments, whereas it should have been between the African people and the Rhodesian Government.

The second flaw was that it tended to entrench white supremacy and therefore indefinite African subjection, the termination of which was fiercely being sought by armed struggle. Above all, the Anglo-Rhodesian proposals repudiated altogether the democratic principle of one man, one vote, and offered no prospects for immediate majority rule based on that principle.

6. The Smith-Muzorewa Agreement, 1974.—The Agreement between Mr. Smith and Bishop Muzorewa was privately signed in 1974. It granted to the African people six more seats to the then existing 16 seats in Rhodesia's Legislative Assembly.

The Agreement was vehemently denounced by the other African nationalist leaders and the African people generally. Once again, the reason for its rejection was that it did not concede the democratic principle of majority rule based on one man, one vote.

7. The Rhodesian-Zambian Agreement, 1974.—In October 1974, Rhodesia and Zambia entered into a gentleman's agreement, without the participation of Rhodesia's African nationalist leaders. The Agreement involved, on the one hand, the freezing by Zambia of all guerrilla activities in its territory, and thereby effectively producing a ceasefire, and, on the other hand, the release by Rhodesia of all the nationalists who had been detained

for the previous ten years. The Agreement was not between the Rhodesian Government and the Rhodesian nationalist leaders, and it did not concede the democratic principle of immediate majority rule based on one man, one vote. Neither the freezing of guerrilla activities by Zambia, nor the release of African nationalist detainees by Rhodesia guaranteed majority rule on the basis of adult universal suffrage, and thus the two exercises did not go to the heart of the matter.

The ceasefire agreement between Zambia and Rhodesia caused a great deal of misunderstanding between the nationalist leaders and the Zambian President, Dr. Kenneth Kaunda. The misunderstanding was particularly marked between ZANU and Dr. Kaunda because ZANU, at that time the only liberation movement engaged in the armed struggle, ignored the cease fire agreement.

8. The Zimbabwe Declaration of Unity, 1974.—In essence, the Zimbabwe Declaration of Unity was a sequel to the Zambia-Rhodesian Agreement. Its main purpose was not only to unite the various Rhodesian African nationalist organisations, but also to implement the terms of the Zambia-Rhodesia Agreement to which the nationalist leaders had not been party.

On the advice of Dr. Kaunda, most of the African nationalist leaders of Zimbabwe (Rhodesia) refrained from publicly demanding "majority rule now." It was maintained that such public utterances would have made it more difficult to bring Mr. Smith to a conference table. The ZANU leaders ignored the presidential advice and publicly continued with their demand for "majority rule now" with resultant discord not only between themselves and the other nationalist leaders, who had agreed to abide by the dictates of the Zambian president, but between the majority of the nationalist leaders and the Zambian Government.

Concluded in Lusaka, Zambia, the Zambabwe Declaration of Unity was, in the first place, a *reluctant* agreement between the Zambian Government and the Rhodesian African nationalist leaders, under presidential pressure, and, in the second place, was not an agreement between the nationalist leader and the Rhodesian Government. It therefore did not resolve the Rhodesian problem.

9. The Pretoria Agreement, 1975.—The Pretoria Agreement was entered into by the South African and the Rhodesian Governments, on the one hand, and the Zambian Government on the other. The Rhodesian nationalist leaders were not consulted on the terms of the Agreement and, therefore, were not party to it. It was signed by the South African, Rhodesian and Zambian Governments, but not by any Rhodesian nationalist organisation. It did not conclude the principle of majority rule based on one man, one vote.

In compliance with the terms of this Agreement, a conference was held on the Victoria Falls bridge between the Rhodesian Front Government and the enlarged ANC, which at that time embraced the four major Rhodesian nationalist parties. It ended in deadlock. Mr. Smith stuck to his stand of "no majority rule", while the nationalists stuck to theirs of "majority rule now". Thus the Pretoria Agreement died on the bridge that links Rhodesia with Zambia.

10. The ZIPA Agreement, 1975.—The Zimbabwe People's Army was formed by some of the frontline states without consultation with the political leadership of the enlarged ANC.

The philosophy behind the formation of ZIPA was based on the mistaken belief on the part of some of the frontline states that the future political leaders of a free and independent Zimbabwe should come only from among the fighting cadres of Zimbabwe's freedom fighters. The ZIPA Agreement, therefore, was not reached between Zimbabwe's political leaders and Zimbabwe's fighting cadres, but between Zimbabwe's military leaders and the frontline states.

It was rejected by the people of Zimbabwe, through their political leaders, and by the rank and file of their fighting forces.

11. The Nkomo-Smith Talks, 1976.—The central point of these Talks was that certain African nationalists would be appointed to positions in the Rhodesian Government, as it was then constituted, with Mr. Nkomo as Foreign Minister. This was the understanding before Mr. Smith and Mr. Nkomo began their negotiations. Excluded from the discussions were Mr. Nkomo's colleagues in the combined African nationalist leadership of the enlarged ANC.

The negotiations, which had raised the hopes of the frontline states, were opposed by the African people of Zimbabwe because the democratic principle of majority rule based on one man, one vote had not been conceded at any point either before or during the negotiations, and the Talks consequently failed.

12. The Kissinger Agreement, 1976.—This was an Agreement reached in Pretoria, South Africa between the United States of America, represented by Dr. Henry Kissinger, the American Secretary of State, and leaders of the Rhodesian, South African and Zambian Governments. Zimbabwe's nationalist leaders were excluded.

According to the Agreement, an interim government was to be formed consisting of a five-man Council of State comprising a white chairman, two African representatives and two white representatives, and of a Council of Ministers on which Africans would outnumber whites. Key ministerial positions—Defence, Law and Order, and Finance—were to remain in white hands.

The Agreement was silent on the democratic principle of majority rule based on one man, one vote, did not therefore tackle the fundamental problem, and was rejected by Rhodesia's African nationalist leaders.

13. The Patriotic Front Agreement 1976.—This was an Agreement between the Patriotic Front (PF) and the frontline states that only the PF would speak for the people of Zimbabwe at the anticipated Geneva Conference.

At the urging of the frontline states, the PF was formed specifically for this purpose. It was in essence a curious marriage-of-convenience between two ideologically disparate personalities: Mr. Joshua Nkomo, leader of ZAPU, and Mr. Robert Mugabe, then Secretary of ZANU.

The Agreement was rejected by the people of Zimbabwe, through their nationalist leaders, on the grounds that it was a foreign political device designed to impose upon them certain leaders who had lost their popularity with the masses but who nevertheless were favourites among members of the frontline states.

The belief was widely held that the PF had been sired and fostered by some of the frontline states in order to install Zimbabwean leaders of their own choice in a free and independent Zimbabwe, irrespective of their acceptability to the people whose right, and choice, was to follow political leadership freely and democratically elected. The democratic principle of majority rule based on one man, one vote was unacceptable to the PF, hence their rejection of pre-independence elections in Zimbabwe, and their demand for the outright transfer of power into their hands.

14. The Geneva Conference, 1976.—The Conference was globally heralded as the most promising step yet taken towards producing a solution to the Rhodesian problem, and it received the moral—and in some instances the practical—support of many Governments, including those of the United Kingdom, the United States of America, the frontline states and South Africa. The OAU gave its blessing to the initiative, and the people of Zimbabwe, with high hopes of a final breakthrough, gave their enthusiastic support.

Chaired by Mr. Ivor Richard, representing the United Kingdom Government, the Conference was attended by the leaders of the Rhodesian Front Government, the United African National Council, the Zimbabwe African National Union and the joint leaders of the Patriotic Front.

The Conference—the first external meeting to be attended by all the concerned parties—was bedevilled by dissension, and argument on non-essential details: the intrusion of external influences, and personal competitiveness between some of the delegates. Opinions polarized on some of the issues.

However, in the final analysis the initiative failed because the Rhodesian Government delegation, claiming that it had been mislead—by the Government of the United States and the United Kingdom—in regard to the nature and objectives of the Conference, differed from the African nationalist leaders on the fundamental democratic principle of majorty rule based on one man, one vote.

After the Conference broke up, the broad initiative continued in a somewhat half-hearted fashion through the offices of Mr. Richard, who achieved very little in further discussion with the Rhodesian Government, and the Geneva exercise finally became irrelevant.

15. The Anglo-American Proposals 1977.—This was an attempt by the Governments of the United States of America and the United Kingdom to resolve the thirteen-year-old Rhodesian deadlock. The attempt resulted in the Anglo-American Proposals which, among other things, recognised the democratic principle of majority rule, based on one man, one vote, and independence in 1978 for Zimbabwe.

The African nationalists and the Rhodesian Government broadly accepted the basic principles enunciated by the Anglo-American Proposals, but rejected most of the mechanics for the proposed interim government, principally the proposal that all power be handed to a British Resident Commissioner who would form a one-man legislative authority for the interim period between agreement and the democratic election of a majority rule government based on universal franchise.

Thus, on the level of constitutional principles, the Anglo-American Proposals did provide the solution, but did not do so on the level of the mechanics of the interim government.

16. The Internal Agreement, 1978.—This Agreement was between the Rhodesian Government and the African nationalists who were internally based and who were supported by both the freedom fighters and the overwhelming majority of the African people, now sick and tired of the war which was claiming the lives of twenty people each day.

The Internal Agreement included virtually all the basic principles put forward in the Anglo-American Proposals save that during the interim period all effective power would be vested in an Executive Council assisted by a Council of Ministers (Cabinet) consisting of black and white members in equal numbers.

It should be noted that all the agreements, or attempts at agreement, with the exception of the last two, were quite irrelevant to the Rhodesian (Zimbabwean) problem. The only agreement that was to make any sense was the one between the Rhodesian Government and the majority of the African nationalist liberation movements acting in concert—one which accepted the democratic

principle of majority rule based on one man one vote.

The only ceasefire that could make sense had to be one that derived from an agreement between the Government in power and the African nationalist parties, representing both the political and military movements. What the OAU or UN thought or said was irrelevant. Neither the OAU nor the UN was fighting the war, and consequently there was no point in seeking their approval of the Internal Settlement Agreement. The war was being fought by Zimbabwe's freedom fighters and the Rhodesian security forces. It was therefore logical and relevant that the Agreement produced by the Rhodesian Government and the African nationalist parties received the support of the majority of the people of Zimbabwe.

CHAPTER THREE: WHY THE INITIATIVES FAILED

There are good reasons why the agreements or attempts at agreement, enumerated in Chapter Two, were unsuccessful with the exception of the latter two. It is the twofold thesis of this chapter, that all the other attempts failed to resolve the Rhodesian stalemate because the parties to these agreements or negotiations were often the wrong parties, and because the democratic principle of majority rule based on one man, one vote was not conceded either before or during such negotiations.

The following is a broad examination of this twofold thesis:

1. The Domboshawa Indaba, 1964.—The Domboshawa Indaba produced an agreement between the Rhodesian Government and the African Chiefs. It sought to prevent the establishment of majority rule based on one man, one vote.

The Chiefs were a wrong party to any agreement concerning the political future of the African people of Zimbabwe. The Chiefs were Government servants. They were paid and disciplined by the same Government, and they depended on the Government for their official recognition. For all practical purposes, therefore, the Chiefs were Government agents in the Tribal Trust Lands, and the African people defined them in that light. No agreement of a political nature between the Government and the Chiefs could therefore have been binding on the African people who sought to replace a white minority government with an African majority government.

Similarly, and other than for its representation of Rhodesian whites, the Rhodesian Government was a wrong party.

Thus, the agreement produced by the Indaba was wrong both in representativeness and in principle, and it failed.

2. Anglo-Rhodesian Talks, 1965, 1966, 1968 and 1970.—The talks and agreements between the British and the Rhodesian Governments did not succeed in solving the fundamental problem facing the country because the British Government, although having *de jure* authority, was a wrong party to such talks and agreements. Britain's authority in Rhodesia had been effectively liquidated when UDI was declared in November 1965, and consequently, in practical terms, she had become irrelevant to any agreement relating to the implementation of the principle of majority rule.

Nor was the British Government willing to tackle the essentials of the problem. In 1966, for instance, Britain on HMS *Tiger*, was still preoccupied with the qualified franchise—33 "A" Roll seats, 17 "B" Roll African seats and 17 Reserved non-African seats—when the African nationalists demanded majority rule based on one man, one vote. Both the British and Rhodesian Governments ignored the issue which had been the cause of the armed struggle.

In 1968, again, Britain, on HMS *Fearless*, ignored the issue.

Not only was Britain a wrong party to these talks, but she also propounded principles which were inconsistent with legitimate African nationist demands.

Neither the British nor the Rhodesian Governments had been elected by the African people of Zimbabwe, and therefore neither held a mandate from them.

The Home-Smith Agreement of 1971 also suffered from this flaw and thus Sir Alec and Mr. Smith (other than for his representation of Rhodesian whites) were wrong parties. Furthermore, none of the talks nor the Home-Smith Agreement conceded the democratic principle of majority rule based on one man, one vote.

As a result, the talks and the Agreement were wrong both in representatives and in principle, and they failed.

3. The Smith-Muzorewa Agreement, 1974.—The parties to this Agreement were the right ones in that Mr. Smith represented the Rhodesian whites, while Bishop Muzorewa represented the blacks, as leader of the ANC, at that time the largest African nationalist movement. The essential element of representatives, therefore, was present but the Agreement foundered on that of white supremacy, and hence indefinite African subjection. It ignored the democratic principle of majority rule based on one man, one vote—the cornerstone of African political aspirations—and consequently failed.

4. The Rhodesian-Zambian Agreement, 1974.—The Agreement between the Rhodesian and the Zambian Governments was wrongly based in that not only were its terms unacceptable to the African nationalists but that neither government had been elected by the people of Zimbabwe and therefore held no mandate from them. Hence, the Agreement failed not only in respect of representativeness (other than that of Rhodesian whites) but also in respect of the democratic principle of majority rule based on one man, one vote. In fact, a pre-condition of the Agreement was the requirement of the African nationalist leaders not to demand acceptance of this basic principle.

5. The Zimbabwe Declaration of Unity, 1974.—This Agreement was reached between the Zambian Government and the various African nationalist movements, under pressure from Dr. Kaunda. While the democratic principle of majority rule based on one man, one vote was accepted, the Agreement could not possibly have succeeded because it did not include the Rhodesian Government, a significant party to the dispute. Therefore, although the Agreement was correct in principle, it was wrong in representativeness.

6. The Pretoria Agreement, 1975.—This Agreement was reached between the South African and Rhodesian Governments, on the one hand, and the Zambian Government on the other.

Apart from the Rhodesian Government's representation of Rhodesian whites, all three were wrong parties in that none had been elected by the people of Zimbabwe and therefore held no mandate from them. Moreover, the Agreement did not concede the democratic principle of majority rule based on one man, one vote.

Thus, the Agreement was wrong both in representativeness and in principle and it was inevitable that it would fail.

7. The ZIPA Agreement, 1975.—The Agreement was reached between Zimbabwe's military leaders and the frontline states.

Both were wrong parties in that none of the governments of the frontline states had been elected by the people of Zimbabwe and therefore held no mandate from them, and Zimbabwe's military leaders were subservient to the people and their chosen political leaders and similarly had not the right to enter into any agreement. For these reasons it was rejected by the people, and it failed.

8. The Nkomo-Smith Agreement, 1976.—As leader of the Rhodesian Government and therefore representative of the Rhodesian whites, Mr. Smith was a correct party, but Mr. Nkomo was not. Mr. Nkomo was a minority leader in the enlarged ANC and had not consulted either his fellow leaders or the people of Zimbabwe on the terms of the Agreement. Moreover, it did not concede the democratic principle of majority rule based on one man, one vote.

Thus the Agreement was wrong both in representativeness and in principle, and it failed.

9. The Kissinger Agreement, 1976.—The Governments of the United States of America, South Africa, Zambia and Rhodesia were parties to this Agreement. The African nationalist movements were not consulted.

Once again, and other than for the Rhodesian Government's representation of Rhodesian whites, all three were wrong parties in that none had been elected by the African people of Zimbabwe and therefore held no mandate from them. Furthermore, the Kissinger Agreement did not concede the democratic principle of majority rule based on one man, one vote. Thus it was wrong both in representativeness and in principle, and it failed.

10. The Patriotic Front Agreement, 1976.—This Agreement was reached between the frontline states and the Patriotic Front.

Both were wrong parties. The people of Zimbabwe had not elected the governments of the frontline states and for the reasons outlined in the previous chapter, had rejected the PF. Consequently, neither party held a mandate from the people. Moreover, the Agreement rejected pre-independence elections and therefore the democratic principle of majority rule based on one man, one vote.

Thus, the PF Agreement was wrong both in representativeness and in principle, and it failed.

11. The Geneva Conference, 1976.—The participants at the Geneva Conference were the Rhodesian Government and the three major African nationalist parties: the African National Council, the Zimbabwe African National Union, and the Patriotic Front. The Rhodesian Government delegates came armed with a mandate from the Rhodesian whites and the nationalist delegates with one from the African masses of Zimbabwe, and thus they were the right parties to the Conference.

The Rhodesian Government delegation, however, did not concede the democratic principle of majority rule based on one man, one vote and the Geneva Conference consequently failed because, although it was right in representativeness, it was wrong in principle.

12. The Anglo-American Proposals, 1977.—The Proposals put forward by the Governments of the United States of America and the United Kingdom to the Rhodesian Government (representing Rhodesian whites) and all the African nationalist leaders (representing the African masses) went a long way towards loosening the Rhodesian deadlock.

Intensive consultations were held between all four parties before the American and British Governments tabled their Proposals and the result was that much of their content had been contributed by the Rhodesian Government and the African nationalist leaders. Of greatest significance was the concession by all parties to the democratic principle of majority rule based on one man, one vote. However, the inclusion in the Proposals of a one-man interim administration (see previous chapter) was unacceptable to both the Rhodesian Government and the African nationalist leaders and was rejected.

It is true to say, therefore, that on substantive matters the Anglo-American Proposals succeeded to a remarkable degree but failed on the question of mechanics.

Thus, and aside from the American and British Governments, who played a concili-

atory but dynamic role in formulating the Proposals, the question of both representativeness and of principle was correct. The mechanics of the interim government were rejected, however, and the exercise failed.

From what has been outlined in this chapter, it is clear that for any attempt to succeed in producing a solution to the Rhodesian problem, two criteria had to be established and accepted:

(a) That the parties to the negotiations were the acknowledged leaders of both the whites and the black masses of Zimbabwe with a mandate from them to enter into agreement; and

(b) That a pre-condition of the negotiations was that any agreement reached should embody the fundamental democratic principle of majority rule based on one man, one vote.

With the exception of the Anglo-American Proposals and the Internal Settlement Agreement, all previous initiatives failed because these two criteria had not been established.

Despite having accepted these two criteria, the Anglo-American Proposals failed because of the mechanics of the interim government.

The Internal Settlement Agreement succeeded because representativeness, principle and the mechanics were correct.

CHAPTER FOUR: THE NECESSITY FOR INTERNAL TALKS

There are many reasons why the Internal Settlement Talks had to be held, and the following is a resume of these reasons:

1. Failure of External Factors.—If external talks to solve the Rhodesian problem had succeeded, there would have been no need for internal talks. It is a matter of historic record that all attempts from 1965 to 1977 by external parties failed to resolve the deadlock.

As we have already seen, in 1965, 1966 and 1968, talks between Mr. Harold Wilson and Mr. Ian Smith failed to resolve the problem.

In 1971 talks between Sir Alec Douglas-Home and Mr. Smith also failed when what they had agreed to was massively rejected by the African people through the Pearce Commission.

The Rhodesian Government wrongly assumed that it could resolve the problem through negotiation with the British Government without first coming to terms with the African nationalists. Hence it resorted to the detention of African nationalist leaders in the hope that, by putting them out of circulation, the African people as a whole would in due course come to accept the minority-rule Rhodesian Government, and thus encourage Britain legally to recognise the UDI Government of the Rhodesian Front.

Similarly, successive British Governments also sought to produce a solution by negotiating with the Rhodesian Government without first coming to terms with the African nationalist leaders. Despite the good intentions behind the British Government's persistent attempts, it was inevitable that they would fail time and again, as the basis of their negotiations was inconsistent with legitimate African political aspirations. For example, and until the Anglo-American Proposals of 1977, the British Government was still attempting to negotiate with the Rhodesian Government on the basis of a qualified franchise, contrary to the democratic and historic demands by the African nationalist leaders for a universal franchise—one man, one vote.

It bears repeating, also, that Britain was unqualified to negotiate for the African people of Zimbabwe as her authority for Rhodesia had been effectively liquidated by the Unilateral Declaration of Independence by the Rhodesian Front Government, and it was rude and crude, but possibly correct, when a Zambian diplomat characterised her as a "toothless bulldog."

The Rhodesian Government, on its own, was equally unqualified to resolve the problem to the advantage of the African people since, aside from being representative only of the Rhodesian white minority, its main purpose in seizing independence from Britain was to prevent the establishment of majority rule in Zimbabwe.

The British Government and, to a lesser extent, the Rhodesian Government were external to the fundamental problem that affected the future of more than 95 per cent of Rhodesia's, or Zimbabwe's, population. It is this fact that was finally responsible for the failure of these two governments to provide a solution.

The Zambian and South African Governments were among other external forces who attempted to resolve the Rhodesian problem. They, too, failed as the answer could not possibly have been found in the Lusaka-Salisbury-Pretoria axis. Lusaka looked at the problem through the eyes of the Zambian one-party state, Salisbury through those of Rhodesian white supremacy, and Pretoria through those of South African apartheid—each inconsistent with the democratic aspirations and demands of the vast majority of the people of Zimbabwe.

The governments of the frontline states (Zambia, Tanzania, Mozambique, Botswana and Angola) also tried to produce a solution. But they were unsuccessful. Not only were they external to the problem but they similarly were unsuited for the role.

True to their one-party state principles, the Zambian Government had arbitrarily selected one of Zimbabwe's African nationalist leaders, Mr. Joshua Nkomo, as their choice for president of an independent Zimbabwean people. As explained in the previous chapter, Mr. Nkomo was a minority African nationalist leader and the overwhelming majority of the people of Zimbabwe rejected the attempt as undemocratic.

Tanzania approached the Rhodesian problem from the viewpoint of *ujumaa*, a specifically Tanzanian brand of socialism which was alien to the people of Zimbabwe.

With the active encouragement of Mr. Robert Mugabe, an externally-based African nationalist leader who was also co-leader of the Patriotic Front, Mozambique attempted to apply its marxist principles to the solution but failed because the people of Zimbabwe were diametrically opposed to a marxist solution; they wanted free and democratic elections.

The Organisation for African Unity saw the Rhodesian problem through the eyes of the frontline states, was in fact more concerned with the interests of those states than with the interests of the Zimbabwean people, and herefore ignored the realities of Zimbabwe. Thus, despite its genuine support for the liberation of Zimbabwe, the OAU, as an external body, could not by its very nature solve the problem.

Similarly, the United Nations attempted to liberate Zimbabwe but, because it, too, is an external organization, interpreting the Zimbabwean issue on the basis of the interests of its member states, it failed to find a solution. Its principal weapon—economic sanctions—proved ineffective (sanctions damaged, but did not destroy, the illegal regime) because its member states traded with Rhodesia. Some were obliged to do so in order to safeguard their own vulnerable economies, others violated the Sanctions Order because their governments exercised insufficient control over their private commercial concerns. Even the United States of America was, until recently, importing Rhodesian chrome.

To summarize, no external force, however well-intentioned it might have been, succeeded in resolving the Rhodesian problem simply because it did not see the issue from the viewpoint of the Zimbabwean people themselves.

These external forces acted in their own interests and according to their own prejudices, and, far from alleviating the problem, they complicated it. Too many parties were involved, too many conflicting solutions suggested, and the end result is that for thirteen years the Zimbabwean people were subjected to repression without hope of relief.

2. Failure of Internal Factors.—A number of internal elements have been sincerely anxious to resolve the Rhodesian problem, but sincerity is no substitute for the ability to face political realities. They did not see the real problem.

The Chiefs wanted a solution based on chiefly authority, but their status is hereditable and not elective. The nationalist movement is a democratic one; it rejects the hereditable right to rule for precisely the same reasons as the people of Great Britain finally rejected their aristocratic oligarchies. The Chiefs, by the very nature of their office, could not provide a solution.

On the other hand, although the Rhodesian Government was established on the elective as opposed to the hereditable principle, it nonetheless sought to entrench white supremacy, and its failure to overcome the impasse was inevitable. So long as it rejected free elections based on one man, one vote, and intended to prolong white rule in a country that is predominantly black, it could never succeed in its efforts.

Specifically, the internal talks between Mr. Ian Smith and Bishop Abel Muzorewa failed because the former offered something far less than one man, one vote, and the latter accepted the offer. The people, of course, rejected this acceptance. Both Mr. Smith and Bishop Muzorewa were, for different reasons, ill-attuned to the real needs of Zimbabwe and could not therefore resolve the situation.

The Nkomo-Smith Talks of 1976 ran the same course of rejection by the people of Zimbabwe.

3. The Armed Struggle.—Thirteen years of external talks failed. So did the initial attempts at an internal solution. The final attempt at an internal solution has been successful because—and I have absolutely no doubts about this—the armed struggle forced the Rhodesian Front Government to come to terms with political reality.

The war between the freedom fighters and the Rhodesian security forces, comprising both black and white soldiers, has been long and bitter. Both sides have fought with equal determination. Both sides have committed atrocities. Both sides have justified their respective causes on moral grounds. Both sides have called upon the same God to give them victory.

The armed struggle, what we in Zimbabwe call Chimurenga, has killed many people of both races. It has destroyed many African homes, many white farms. It has seriously disrupted family life in both racial communities. It has made deep inroads into the national economy, which has led to insecurity and to unemployment. Many Africans in the border areas have entered Mozambique as refugees; many whites have left the country.

As the war escalated, so did the elements of fear and insecurity enter more and more into the hearts of the black man and of the white man, the Asian and the man of mixed descent.

The people of Zimbabwe became boneweary of the war, and fearful of its ultimate consequences. They wanted a peaceful settlement, and all that this would bring. Both the freedom fighters and members of the Rhodesian security forces came to realize that the fighting had been too hard and unrewarding, and that an accommodation—fair to all, of genuine benefit to the people of Zimbabwe—had to be found.

That accommodation has been found. War has begot peace.

4. Economic Sanctions.—In somewhat the same way, but of lesser importance, United Nations economic sanctions helped bring about peaceful settlement.

Sanctions failed to bring down the Rhodesian Government, but they had a cumulative effect both on the Rhodesian economy and on the morale of the white supremacists.

In 1977 and 1978 the economy degenerated to the point where the white community began to look, not just for material relief, but for political relief as well. In short, sanctions have influenced the leaders of the various economic sectors—industry, finance, commerce, agriculture—to bring pressure to bear on a hitherto reluctant white political leadership to find a realistic political solution to Zimbabwe's dilemma.

Let me sum up. Clearly, it was the failure of both the external and preliminary internal political initiatives, combined with the cumulative effects of the armed struggle and, to a lesser degree, the effects of sanctions, that produced, among both blacks and whites, a more realistic attitude towards the Rhodesian problem.

There had been no answers for thirteen years, so Zimbabweans began to look for a solution, not beyond themselves, but within themselves.

They realised that they had to co-operate among themselves if the central issue was to be resolved at all.

That is the broad outline. The immediate stimulus for the internal talks which led to the Rhodesian Constitutional Agreement was Mr. Smith's public commitment to the democratic principle of majority rule based on one man, one vote. This was something he had been denying the African people for thirteen years. His surrender on the fundamental issue was the key that opened the door to successful negotiation.

The more imaginative of the African nationalist leaders decided to test his word, and his sincerity, and when they did this Mr. Smith was not found wanting. On 3 March 1978 he and three African nationalist leaders signed a document which provided for a free, independent and democratic Zimbabwe to be inaugurated on 31 December 1978.

CHAPTER FIVE: THE RESULT OF INTERNAL TALKS

The internal negotiations which formally began on 2 December 1977 ended on 3 March 1978, when the following Agreement was formally signed by the heads of the four delegations:

*Rhodesian constitutional agreement*

Whereas the present constitutional situation in Rhodesia has led to the imposition of economic and other sanctions by the International Community against Rhodesia and to armed conflict within Rhodesia and from neighbouring territories;

And whereas it is necessary in the interests of our country that an agreement should be reached that would lead to the termination of such sanctions and the cessation of the armed conflict;

And whereas, in an endeavour to reach such an agreement, delegates from the Rhodesian Government, African National Council (Sithole), United African National Council and Zimbabwe United Peoples Organisation have met during the last two months in Salisbury and, having discussed fully the proposals put forward by the various delegations, have reached agreement on certain fundamental principles to be embodied in a new Constitution that will lead to the termination of the aforementioned sanctions and the cessation of the armed conflict;

Now, therefore:

A. It is hereby agreed that a Constitution will be drafted and enacted which will provide for majority rule on the basis of universal adult suffrage on the following terms—

1. There will be a Legislative Assembly consisting of one hundred members and the following provisions will apply thereto—

(a) there will be a common voters' roll with all citizens of eighteen years and over being eligible for registration as voters, subject to certain recognised disqualifications;

(b) seventy-two of the seats in the Legislative Assembly will be reserved for Blacks who will be elected by voters who are enrolled on the common roll;

(c) twenty-eight of the seats in the Legislative Assembly will be reserved for Whites (i.e. Europeans are defined in the 1969 Constitution) who will be elected as follows—

(i) twenty will be elected on a preferential voting system by White voters who are enrolled on the common roll;

(ii) eight will be elected by voters who are enrolled on the common roll from sixteen candidates who will be nominated, in the case of the first Parliament, by an electoral college composed of the White members of the present House of Assembly and, in the case of any subsequent Parliament, by an electoral college composed of the twenty-eight Whites who are members of the Parliament dissolved immediately prior to the general election;

(d) the reserved seats referred to in (c) above shall be retained for a period of at least ten years or two Parliaments, whichever is the longer, and shall be reviewed at the expiration of that period, at which time a Commission shall be appointed, the chairman of which shall be a judge of the High Court, to undertake this review. If that Commission recommends that the arrangements regarding the said reserved seats should be changed—

(i) an amendment to the Constitution to effect such change may be made by a Bill which receives the affirmative votes of not less than fifty-one members;

(ii) the said Bill shall also provide that the seventy-two seats referred to in (b) above shall not be reserved for Blacks;

(e) the members filling the seats referred to in (c) above will be prohibited from forming a coalition with any single minority party for the purpose of forming a Government.

2. There will be a justicable Declaration of Rights which will protect the rights and freedoms of individuals and, inter alia, will provide for protection from deprivation of property unless adequate compensation is paid promptly, and for protection of pension rights of persons who are members of pension funds.

3. The independence and qualifications of the Judiciary will be entrenched and judges will have security of tenure.

4. There will be an independent Public Services Board, the members of which will have security of tenure. The Board will be responsible for appointments to, promotions in, and discharges from, the Public Service.

5. The Public Service, Police Force, Defense Forces and Prison Service will be maintained in a high state of efficiency and free from political interference.

6. Pensions which are payable from the Consolidated Revenue Fund will be guaranteed and charged on the Consolidated Revenue Fund and will be remittable outside the country.

7. Citizens who at present are entitled to dual citizenship will not be deprived of their present entitlement.

8. The above-mentioned provisions will be set out or provided for in the Constitution and will be regarded as specially entrenched provisions which may only be amended by a Bill which receives the affirmative votes of not less than seventy-eight members.

B. It is hereby also agreed that, following the agreement set out above, the next step will be the setting up of a Transitional Government. The prime function of the Transitional Government will be—

(a) to bring about a ceasefire; and

(b) to deal with related matters such as—

(i) the composition of the future Military Forces, including those members of the nationalist forces who wish to take up a military career, and the rehabilitation of others;

(ii) the rehabilitation of those affected by the war.

C. It is also hereby agreed that it will be the duty of the Transitional Government to determine and deal with the following matters—

(a) the release of detainees;

(b) the review of sentences for offences of a political character;

(c) the further removal of discrimination;

(d) the creation of a climate conducive to the holding of free and democratic elections;

(e) the drafting of the new Constitution in terms of this Agreement;

(f) procedures for registration of voters with a view to the holding of a general election at the earliest possible date.

D. It is also hereby agreed that the Transitional Government will comprise an Executive Council and a Ministerial Council and the following provisions will apply thereto—

1. Executive Council—

(a) Composition: The Executive Council will be composed of the Prime Minister and three Black Ministers, being the heads of those delegations engaged in the negotiations. The members will take turns in presiding as chairman of the Executive Council in such sequence and for such period as that Council may determine. Decisions of the Executive Council will be by consensus.

(b) Functions: (i) The Executive Council will be responsible for ensuring that the functions given to, and the duties imposed on, the Transitional Government by the Constitutional Agreement are dealt with as expeditiously as possible. It will take policy decisions in connection with the preparations.

(ii) The Executive Council may refer the matters set out in Sections B and C of this Agreement, or any other matter, to the Ministerial Council for examination and recommendation.

(iii) The Executive Council will review decisions or recommendations of the Ministerial Council and may confirm such decisions or recommendations or refer them back to the Ministerial Council for further consideration.

2. Ministerial Council—

(a) Composition: The Ministerial Council will be composed of equal numbers of Black and White Ministers. The Black Ministers will be nominated in equal proportions by the heads of those delegations engaged in the negotiations. The White Ministers will be nominated by the Prime Minister. The chairmanship of the Ministerial Council will alternate between Black and White Ministers. The Prime Minister will nominate which White Minister shall take the chair and the heads of those delegations engaged in the negotiations will nominate which of the Black Ministers shall take the chair in the sequence and for the period determined by the Ministerial Council.

(b) Functions: (i) The Ministerial Council will operate on the cabinet system. For each portfolio, or group of portfolios, there will be a Black and a White Minister who will share responsibility.

(ii) The Ministerial Council will be responsible for initiating legislation and for supervising the preparation of such legislation as may be directed by the Executive Council.

(iii) The Ministerial Council will make recommendations to the Executive Council on all matters referred to it by the Executive Council and on any other matter it thinks fit.

(iv) Decisions of the Ministerial Council will be by majority vote and subject to review by the Executive Council.

3. Parliament.—

(a) Parliament will continue to function during the life of the Transitional Government and will meet for the following purposes as and when the Executive Council considers it should be summoned—

(i) to pass a Constitution Amendment Act enabling Ministers who have not been elected to Parliament to serve for periods in excess of four months;

(ii) to pass legislation for the registration of voters;

(iii to pass the 1978/79 Budget;

(iv) to enact any legislation or deal with any other matter brought forward by the Transitional Government (e.g. for the further removal of discrimination);

(v) to enact the new Constitution;

(vi) to nominate 16 Whites for election by voters on the common roll to eight of the seats reserved for Whites.

(b) The work of the various Select Committees and of the Senate Legal Committee will proceed as normal.

E. It is also hereby agreed that Independence Day shall be the 31st December, 1978.

Signed at Salisbury this third day of March, 1978.

N. SITHOLE,
*African National Council.*
CHIEF CHIRAU,
*Zimbabwe United Peoples Organisation.*
I. D. SMITH,
*Rhodesia Government.*
A. T. MUZOREWA,
*United African National Council.*

The Agreement was a deeply significant one, its implications far reaching.

It was the first ever to be made between blacks and whites in the country known as Rhodesia.

It marked the point where Rhodesia ceased to exist and Zimbabwe was created.

It represented the end of an 88-year period of white supremacy and black subjection.

It was a great and unique achievement by the African freedom fighters who, through the armed struggle, had brought about the necessary changes in the political climate of the country. They strengthened the armoury of the African nationalist politicians. War, in the hands of the African negotiators, produced the Rhodesian Constitutional Agreement of 3 March 1978.

CHAPTER SIX: THE COURSE OF THE INTERNAL TALKS

When the internal negotiations, designed to resolve the Rhodesian problem, began in earnest on 2 December 1977, a lot of people, both inside and outside the country, raised objections. Let me examine these briefly so that the true nature of the talks may be revealed.

1. Smith the Constant Factor.—Many critics were quick to point out that, in view of the failures of the past thirteen years, nothing positive could be achieved by negotiating with Mr. Smith.

They rightly claimed that, in all the negotiations over those years, Mr. Smith had been the "constant factor", and all other parties had been the "variable factors". This was true, as the following list shows:

1965: Smith-Wilson negotiations.
1966: Smith-Wilson negotiations.
1968: Smith-Wilson negotiations.
1971: Smith-Home negotiations.
1974: Smith-Muzorewa negotiations.
1974: Smith-Zambia negotiations.
1975: Smith-ANC negotiations.
1976: Smith-Nkomo negotiations.
1976: Smith-Geneva Conference.
1977: Smith-Anglo-American negotiations.

Thus the failure of these initiatives can right be attributed to the "constant factor" and not to the "variable factors".

The reason is obvious: Mr. Smith was consistent in his determination on no majority rule in my lifetime, whereas all the variable factors had demanded majority rule, either immediate or within the foreseeable future.

So long as Mr. Smith resisted majority rule Rhodesia's problem remained, short of direct military intervention, insoluble. Mr. Smith was the cause of the problem, and he was the solution to it.

Both the internal and external opposition to the 1977–1978 negotiations based their arguments on the fact that, over the past thirteen years, the world and the Africans of Zimbabwe had learnt to distrust Mr. Smith's word.

This distrust was understandable, but quite misplaced—as events were to prove.

The opposition failed to perceive that there were two Mr. Smiths. They failed to see this even after Mr. Smith had publicly committed his Government to majority rule based on one man, one vote. They were reluctant to give him the benefit of the doubt.

But in fact, Mr. Smith had undergone a real change of attitude. For more than a decade he had fiercely rejected the principle of majority rule. Now, reluctantly but with an honest and realistic appreciation that white authority could no longer be sustained, he had come to accept the democratic principle.

This failure to draw a distinction between the two Mr. Smiths provoked the opposition to the talks. While the outside world saw only the first Mr. Smith, the participants in the internal talks actually dealt with the second Mr. Smith—the one who could, finally, be trusted.

2. Preconditions for the Internal Talks.—

Most of the critics, internal and external, felt that no negotiations should be entered into before the following conditions had been met:

i. The release of all political detainees, and of political prisoners.

ii. The lifting of the ban on political parties;

iii. The ending of political hangings.

These were conditions which, it was said, would test Mr. Smith's sincerity in accepting the democratic principle of majority rule based on one man, one vote.

However, the internal African nationalist leaders felt that the acceptance of majority rule in itself constituted sufficient reason to begin negotiations. That acceptance was the only absolutely necessary pre-condition for the talks. The principle was not negotiable; everything else was.

These leaders felt very strongly that to lay down a series of supplementary and relatively minor pre-conditions would not help any sort of dialogue to get started, and a golden opportunity would be missed of putting Mr. Smith to the test—and surely his trustworthiness or otherwise would soon emerge in negotiation? Across the conference table, Mr. Smith either had to convince the African leadership that his Government genuinely wanted a peaceful and democratic settlement, or he had to justify an escalating war which was claiming more and more precious lives with each month that passed.

Let me say again: Mr. Smith was both the cause and the solution to the problem. The African nationalist leaders also believed that unnecessary pre-conditions would have had an adverse psychological impact on Mr. Smith. They preferred to begin the negotiations, concentrating initially on the constitutional issue (that is to say, on those areas of disagreement where the issues were not so sensitive) before looking into the questions of the bannings, detentions and hangings.

As it turned out, this policy paid handsome dividends. The conference did not—as had happened so often in the past—begin by the delegates accusing each other of making this unacceptable demand or refusing that acceptable one. They all agreed on the one absolutely necessary condition: universal suffrage for the people of Zimbabwe. The Conference had been convened to give practical effect to this principle, to work out the mechanics of the transition to majority rule. Once this had been done, all else could be resolved, including, above all, the de-escalation of the bloody war which had already claimed far too many lives.

So, although the critics of the negotiations, on the one hand, and the African nationalist leaders, on the other, wished to put Mr. Smith's integrity to the test, they chose different ways of doing so: the critics through prior conditions, the nationalist leaders through seeking a new constitutional arrangement which would automatically lead to the fulfillment of those conditions.

Criticism of the negotiations touched on the superficial rather than the fundamental.

The *fundamental* issue was whether or not the negotiations would lead to an acceptable constitutional arrangement ensuring transition to majority rule, the release of detainees, the review of sentences for political offences, the stopping of the hangings.

The *superficial* issue was whether or not these humane acts would really show that Mr. Smith could be trusted.

In brief, the African nationalist leadership believed that all that was wrong with the country—detention, death sentences, bannings, racial discrimination, the national state of emergency and so forth—stemmed from the imposition, by the Rhodesian Front Government, of an unpopular constitutional structure on the people of Zimbabwe. To have removed the symptoms would not have produced a cure—people in the past, for instance, had been detained, released, and then swiftly re-detained. But to change the constitutional structure would be to change all else, once and forever.

3. The True Nature of the Talks.—

i. Parties to the talks: Negotiations began in earnest on 2 December 1977, at the Government Civil Service Training Centre, Salisbury, and lasted for three months. Four Parties were represented: the Rhodesian Front Government (RF) led by Mr. Ian Smith; the Zimbabwe United Peoples Organisation (ZUPO) led by Senator Chief Jeremiah Chirau; the African National Council (ANC [Sithole]) led by the Rev. Ndabaningi Sithole; and the United African National Council (UANC) led by Bishop Abel Muzorewa. Each Party had five delegates and four legal and political representatives.

ii. The aims of the talks: Over the months of negotiations the aims were defined in somewhat different ways by the various delegations. Perhaps I may briefly summarise:

During the first round of the talks Mr. Smith said: The intention of the Conference is to bring peace to our troubled country.' He said he wanted to put an end to 'years of misunderstanding and bitterness'. But it became increasingly clear in the course of the negotiations that uppermost in his mind was the question of safeguards for the white community. During the ninth meeting Mr. Smith said: 'The intention of the Conference when we accepted one man, one vote which you asked for. Now we insist on the basic confidence-builder for whites . . .'

Mr. Smith's 'basic confidence-builder for whites' comprised certain safeguards which he felt should be entrenched in the new Constitution when the country became independent. Briefly, these were: a justiciable Bill of Rights; an independent judiciary; a neutral Public Services Board; a public administration free from political interference; guarantees relating to the payment and transmission of pensions abroad, dual citizenship, white representation in Parliament.

Mr. Smith's insistence on white safeguards virtually proved his sincerity in accepting, publicly, the democratic principle of majority rule on the basis on one man, one vote. Only a leader who was renouncing his leadership would have tried to negotiate safeguards. Nevertheless the nationalist leaders remained aware, throughout the talks, of the possibility that Mr. Smith might be playing a double game, that he was intending to relinquish the shadow rather than the substance of power.

The Rev. Ndabaningi Sithole expressed the aim of his delegation in these phases: 'I came to this conference to stop the war . . . If ZANU and RF forces come to terms the war would be over . . . I believe one man, one vote can stop the war . . . I did not come here to play. We must stop the war. Mr. Smith, I order you to stop the war . . . What we want here, Mr. Prime Minister, is to stop the war which you and I started . . . .'

In another passage the Rev. Sithole stated: 'I am not saying that any one particular person can stop the war. The war was started for good reasons. Once one man, one vote is achieved, the war will stop. Even those who are physically involved in the war say that they want the war to stop only on one condition—one man, one vote majority rule.'

Throughout the negotiations it was clear that one man, one vote was regarded not only as the necessary instrument of genuine rule by the people of Zimbabwe but also as the only means of stopping the war. Franchise and war were two sides of the same coin. It was the denial of the vote to the Zimbabwean people that had caused the war; the institution of universal suffrage would stop the war.

iii. The Status of the delegations: The critics, both internal and external, of the negotiations, termed the nationalist leaders as 'puppets', 'stooges', 'Smith's runnings dogs' and so on. I comment as follows:

Throughout the deliberations all the representatives fiercely maintained the principle of the equality of the delegations. On occasion tempers flared and harsh words were exchanged. No single delegation had a monopoly on insulting language. All at various times expressed fear, doubt and suspicion—some of the sentiments were justifiable, some invalid.

During one session Deputy Prime Minister Mr. David Smith, well known for his lasting patience, erupted and he exclaimed that he couldn't 'sit here and listen to all these lies', and he prepared to leave the Conference room. That particular meeting came to an abrupt end when Bishop Muzorewa, wounded by Mr. David Smith's remarks, led his delegation out. During another meeting the Rev. Ndabaningi Sithole strongly criticised Mr. Ian Smith for suggesting that some of the delegations were being less than honest, and at one session Mr. Ian Smith gave the whole Conference a dressing down for retraction, warning that nothing could be achieved by going back on what had been agreed upon.

And so it went on. My point is this: the negotiations were acrimonious at times because each Party was genuinely negotiating. None was a 'stooge'; each wanted to achieve a real solution to Rhodesia's problem, to introduce democracy to the people of Zimbabwe.

Despite the acrimony, the Conference succeeded because each of the Parties constantly kept in mind the overriding ingredients of success, namely:

The equality of the delegations;

Freedom and frankness in discussion;

The unrestricted capacity for hard bargaining;

A calculated spirit of give-and-take;

A determination not to fail, but to succeed;

Pragmatism and realism;

An awareness of national as against sectional interests;

An awareness of the profound significance of the issues under discussion;

A sense of unity for a higher purpose;

A readiness to learn from one another.

4. Contentious Points.—During the talks there were many bitterly expressed arguments on delicate issues, contretemps that almost destroyed the Conference.

Perhaps the most contentious debate centered on the question of white representation in the future Zimbabwean Parliament. The Rhodesian Front Government delegation demanded that whites should be represented, temporarily, as a racial group. But this would mean that racialism and, by definition perhaps, racial discrimination, too, would be prolonged into the new, independent Zimbabwe, whose essential nature is non-racial.

The Rhodesian Front Government delegation argued that such a provision would help retain the confidence of the whites, necessary if a mass exodus, with all its attendant economic damage, was to be avoided. The African delegates maintained their adherence to the principle of non-racialism, and the debate was both intense and protracted. But the African leaders are practical men and they eventually recognized the need to allow the white citizens of Rhodesia-Zimbabwe a period for readjustment.

The African leadership deliberately violated the letter of their own principle of non-racialism to honour its spirit. To have been stubborn on the point would have undermined white morale and therefore damaged the future Zimbabwe, perhaps beyond repair in a democratic context. To have given way on the point—as the African leadership did—ensured stability and the eventual but certain creation of a non-racial society.

Closely related to this issue was that of the duration of reserved minority representation in the future Zimbabwean Parliament. One African delegation felt that the arrangement should not last for more than five years—that is to say, for the life of one Parliament. The two other African delegations believed that ten years would be a reasonable period. The Rhodesian Front Government delegation pressed for a period of fifteen years.

After a heated, two-week argument, the Conference agreed on a period of ten years.

A further contentious issue concerned the number of Parliamentary seats allocated to the white community. The Rhodesian Front Government delegation initially demanded 34; two of the African nationalist delegations offered 20; the Conference finally settled for 28.

The internal negotiations were characterized—as are all genuine political negotiations—by a patchwork of disagreements and agreements; differences and similarities; cunning and honesty; insincerity and sincerity; illogicality and logic; emotionalism and objectivity. These are the human elements in all power struggles.

But the delegations were able to overcome these paradoxes, these inhibitions, because they recognize that a spirit of compromise was vital to success. They were deeply aware that:

There was no acceptable alternative to a successful Conference;

None of the problems facing the Conference was insurmountable;

The people of Zimbabwe expected the Conference to produce a solution, and failure to do so would have tragic consequences;

The most tragic of these consequences would be the continued escalation of the war.

In the following chapter I describe various reactions to this historic Agreement, whose effects are still, and increasingly, being felt throughout Rhodesia-Zimbabwe, and which are already influencing most of the freedom fighters in an encouragingly positive way.

CHAPTER SEVEN: CRITICISM OF THE AGREEMENT

As soon as the Rhodesian Constitutional Agreement was published, its critics became vocal. It is worth examining five of their major arguments in some detail:

1. Exclusion of the Patriotic Front—

It was held by the critics that Patriotic Front, jointly led by Mr. Joshua Nkomo and Mr. Robert Mugabe, were deliberately excluded from the talks.

In fact this is simply not true. There was an open invitation to all Zimbabweans in exile to return home and take part in the democratic processes. Leading nationalists such as Mr. James Chikerema, Mr. George Nyandoro, Mr. Noel Mukono, Mr. Stephen Parirenyatwa, and other exiles, accepted the invitation, came back and contributed to the negotiations.

But Mr. Nkomo and Mr. Mugabe chose not to come home. They saw no need for power to be transferred to the people of Zimbabwe. They demanded that power be transferred only to the Patriotic Front. They demanded that there should be no elections before independence.

The vast majority of the people of Zimbabwe and of the freedom fighters, on the other hand, demanded pre-independence elections so that the Government of the new Zimbabwe should be born of the will of the people.

Within the country itself there was a desperate need for a just political settlement. The people—Africans, whites, Asians, and those of mixed descent—had grown weary of a war which was claiming many lives each day. Rather than give the people what they really wanted by taking part in the negotiations for the peaceful transfer of power, Mr. Nkomo and Mr. Mugabe chose to hold this country of seven million citizens to ransom. They elected to remain outside Zimbabwe and continue hostilities until the principle of 'power to the people' could be forcibly changed to 'power to the Patriotic Front'.

The internal leadership, on the other hand, chose not to impede the establishment of democracy in Zimbabwe by recognising the exclusive authority of the Patriotic Front.

Democracy and dictatorship cannot of course be reconciled. Each excludes the other, and people—the ordinary citizen as well as the politician—must make a fundamental choice between the two systems of government. The internal leaders of Zimbabwe and the people of Zimbabwe chose democracy. The representatives of the people negotiated, and reached a valid Agreement which will introduce truly democratic institutions to the country for the first time in its troubled history.

The Patriotic Front chose dictatorship, and thereby excluded themselves from negotiations which have resulted in a guarantee of majority rule on the basis of one man, one vote, and the full and unfettered independence of Zimbabwe on 31 December 1978.

Be that as it may, the invitation is still open to Mr. Nkomo and Mr. Mugabe and their followers, as indeed it is to all Zimbabweans, to return to Zimbabwe to participate in free elections based on the democratic principle of one man, one vote.

2. Rejection of the Anglo-American Proposals.—

The second major criticism leveled at the Rhodesian Constitutional Agreement was that it rejected those proposals which the United Kingdom Government and the Government of the United States of America believed would provide the proper solution to Rhodesia's problem. The British Foreign and Commonwealth Office, in particular, believed strongly that the Agreement represented what amounted to a slap-in-the-face to Whitehall, and made an effort (and at the time of writing that effort is still continuing) to marry the Anglo-American Proposals with the Internal Agreement.

It is important at this juncture to present

a Reconciliation Statement, so that this criticism can clearly be shown to have no substance whatsoever. At the very start, it should be noted that the Agreement closely observes the basic principles embodied in the Anglo-American Proposals, and that the only significant point of difference concerns the question of the transitional period—the nature of the Interim Government.

*Reconciliation statement*

| Item | Reconciliation Statement Rhodesian Constitutional Agreement | Anglo-American Proposals |
|---|---|---|
| 1. Monarchy or Republic | Republic | Republic |
| 2. Dictatorship or Democracy | Democracy | Democracy |
| 3. Executive or Ceremonial President | Executive | Executive |
| 4. Universal or Qualified Franchise | Universal | Universal |
| 5. Black or White Rule | Black | Black |
| 6. Majority or Minority Rule | Majority | Majority |
| 7. Free or Inhibited Elections | Free | Free |
| 8. Voting Age 18 or 21 | 18 | 21 |
| 9. Racial or Nonracial Society | Nonracial | Nonracial |
| 10. Independent or Political Judiciary | Independent | Independent |
| 11. Justiciable or Non-Justiciable Bill of Rights | Justiciable | Justiciable |
| 12. Neutral or Political Civil Service | Neutral | Neutral |
| 13. Dictatorial or Democratic Interim Government | Democratic | Dictatorial |
| 14. Independence 1978 or 1979 | 1978 | 1978 |
| 15. Independence within or without the Commonwealth | Within | Within |
| 16. Special or Common White Representation | Special | Special |
| 17. No. of Special White Representatives | 28 | 20 |
| 18. Orderly, peaceful transition | Acceptable | Acceptable |
| 19. Assets and Debts of Rhodesia | Inheritable by the Gvt. of Zimbabwe | Inheritable by the Gvt. of Zimbabwe |
| 20. Entrenched Clauses | Acceptable | Acceptable |

This list clearly shows that there are far more areas of agreement than disagreement between the negotiated Constitutional Agreement and the Anglo-American Proposals. There is disagreement only on Items 8, 13 and 17. The two sides are therefore 85 percent in agreement. If we take Item 13 as a non-constitutional issue, there is 90 percent agreement on constitutional matters.

What precisely is it, then, that provokes the argument of the external critics that the Rhodesian Constitutional Agreement has run counter to the Anglo-American Proposals?

In the light of the above analytical list, the conclusion must be that the stimulus behind the opposition lies outside the orbit of political objectivity. In plain language, personalities, personal preferences and personal prejudices have intruded, to the detriment of the real interest of the people of Zimbabwe. It appears, for instance, that Dr. David Owen, the British Foreign Secretary, and Mr. Andrew Young, the United States Ambassador to the United Nations, cannot accept that Mr. Smith is relevant to the settlement of the Rhodesian constitutional problem.

The internal African nationalist leadership, however, concedes that Mr. Smith is a minority leader within Zambabwe—a significant minority in terms of economic contribution—and that he does have a place in the Interim Government. That is realistic.

This personality inhibition also helps to explain the extraordinary paradox of Item 13. The Anglo-Americans would rather have all power vested in one externally-appointed man during the transitional period, whereas the Rhodesian Constitutional Agreement provides for the vesting of transitional power in a group of men resident inside and not outside Zimbabwe; representative of the people of Zimbabwe and not of any external elements.

What particularly amazes me, and for that matter all thinking people in Zimbabwe, is that dictatorship during the interim period is being advocated by those very Governments which are themselves historically democratic!

Both the Africans and the whites within Rhodesia-Zimbabwe know the truth behind this apparent contradiction. They know that the United Kingdom Government wants to place total power, during the transitional period, in the hands of a British Resident Commissioner—an 'independent' authority —in order then to transfer that power to the Patriotic Front. It will be remembered that the British Government, in collaboration with the Zambian Government, treated the Patriotic Front as though it was the key to the Rhodesian-Zimbabwean problem when it was not and that these Governments have given the PF increasing support since its inception.

The effort to reconcile the Proposals with the Agreement (and as we have seen they are perfectly reconcilable as they stand) is a gambit intended to keep the Rhodesian issue open so that a means can be found to accommodate the Patriotic Front—to impose dictatorship on the people of Zimbabwe.

For its part, the Patriotic Front has been nothing if not honest in its reaction to the Agreement: it has threatened to disrupt free elections and to unleash the dogs of civil war upon a free Zimbabwe. Whether it has the capacity to do this, especially in view of the changing attitudes within the ranks of the freedom fighters, remains to be seen. I very much doubt it. Our cause is just; that of the Patriotic Front is not. A free Zimbabwe will be strong and united Zimbabwe.

Clearly, then, the Anglo-American plan to keep the Rhodesian pot boiling is motivated by subjective rather than objective factors, and this is tragic. What matters is what the people of Zimbabwe want—peace, stability, prosperity, freedom to choose their own Government. What the Patriotic Front and the Governments of the United Kingdom and United States want is irrelevant to Zimbabwe's true interests.

3. The Smith Presence.—

Many critics have claimed that the Agreement would have been perfectly acceptable but for the presence of Mr. Smith in the Interim Government. They regard Mr. Smith as the only fly in the ointment.

But the policy adopted by the internal African leadership, I think, makes a great deal of good sense. It is to accept the ointment, refine it, and then to take the fly out. After all, one simply cannot remove impediments until one gets to grips with them. Mr. Smith is going to disappear from the arena on 31 December 1978. If the world has had to wait for Mr. Smith's departure for thirteen weary years, surely it can wait a further nine months.

For well over a decade the British Government, the United Nations, the Organisation for African Unity, the frontline states and various Zimbabwean liberation movements tried to remove Mr. Smith, but he stubbornly—and in human terms understandably—refused to assist them in their efforts. The internal African nationalist leaders, on the other hand, have succeeded where all others failed. In March 1978 they persuaded Mr. Smith to endorse his own political liquidation. That is no small victory. Mr. Smith will not be of any political significance after 31 December 1978.

It should also be explained that, in sheer practical terms, Mr. Smith's presence in the Interim Government is essential in the light of the radical political changes that are taking place in Rhodesia-Zimbabwe.

Apart from his value in helping supervise the complex mechanics of political transition, Mr. Smith has after all been the trusted leader of the white minority for fourteen years. If he had disappeared too quickly, this would have seriously undermined white confidence, and there would have been an exodus. In 1978 the economy is controlled by the white people. Mr. Smith had to be included in the Interim Government in order to ensure continuity and economic stability.

For the good of Zimbabwe, the internal African leadership recognised Mr. Smith's usefulness during the transitional period between white minority rule and majority rule based on one man, one vote.

4. A Paper Solution.—

The signing of the Rhodesian Constitutional Agreement was an historic and dramatic event. Developments leading up to the formal signing gave the people of Zimbabwe a feeling of optimism—of excited optimism—and of course the ceremony itself was a splendid climax.

Yet for the next two weeks practically nothing appeared to be happening, and many people began to feel doubt, anxiety and disappointment. They had expected to see an Interim Government formed straightaway, and their expectation was not fulfilled. Critics

of the Agreement were quick to capitalise on this: they said the Agreement was a paper solution, without substance.

But of course this particular criticism was silenced by the formal swearing-in of the Executive Council (on which African nationalists outnumber whites three to one) on 21 March 1978. The Agreement became an undeniable, and irreversible, reality on that date. Following this was the formation of a Ministerial Council (equivalent to the Cabinet) on 14 April 1978.

5. The 28 White Seats.—

The critics held that the allocation of 28 seats in a 100-Member Parliament to a community which comprises less than five per cent of the population was being too generous. Twenty, they said, would have been more equitable, and would have given an extra eight Africans the benefit of ten years' parliamentary experience. They also feared that the eight supernumerary whites could adversely influence the effectiveness of common roll elections.

To a point these criticisms are valid. But in a situation where only sensible compromise will succeed, no one section can achieve all it aspires to.

The sole objective of the African nationalist negotiators was to take power from the white man, who had held it for 88 years, but experience has taught the nationalists that those who hold power will fiercely resist any attempt to wrest it away without compensation, or at least without some sort of reassurance.

So the African negotiators persuaded the Rhodesian Front Government to relinquish its authority in return for 28 white seats for ten years. They felt that this was not too high a price to pay for freedom.

This concession was necessary in order to achieve majority rule based on one man, one vote. It was necessary in order to break the thirteen-year-old political deadlock. It was necessary in order to bring to an end the subjection of the black man to the white man. It was a means to a higher end.

Moreover, the people of Zimbabwe were suffering the ravages of war. Many were dying each day, many more were losing their homes. The concession meant agreement, and agreement opened the way to ending the war.

Finally, the 28 seats helped in the task of sustaining white confidence—essential to the stability of Zimbabwe, as I have explained.

Whatever criticism may be levelled against the Rhodesian Constitutional Agreement of 3 March 1978, the fact remains that it represents the first and greatest victory—recognised as such and welcomed even by the freedom fighters—to be won by the people of Zimbabwe.

CHAPTER EIGHT: REACTION TO THE AGREEMENT

While the reactions to the internal settlement of those organizations and those people who are based outside Zimbabwe are of interest, it is the way that Zimbabweans themselves received news of the Agreement that really matters.

Zimbabweans do not regard their country as a political experimental station, nor as a battleground on which the superpowers can compete against each other. It is their country; it is they and they only who have to live with the decisions that are made. The domestic reaction to the Internal Agreement is therefore of paramount significance.

There were no popular demonstrations within the country when negotiations began, nor were there any during the three months it took to achieve an agreement—because the people of Zimbabwe wanted a peaceful settlement. They were weary of the war. They wanted only peace, and the right to guide their own destiny. They were optimistic of the final outcome.

Moreover, when the final terms of the Agreement were formally endorsed on 3 March 1978, there were no demonstrations against the concorde. On the contrary, a mood of euphoria, of immense relief, prevailed throughout the country—not only among the civilian populace but within the guerilla forces as well.

When the Interim Government was formed two weeks later, on 21 March, no angry crowds collected, no stones were thrown—but congratulatory messages arrived from all parts of Zimbabwe. The people had realized, suddenly, that there really was to be a genuine transfer of power, that true independence was within their grasp, and they reacted enthusiastically.

Let me give a few examples. On 11 March, ZANU (ANC [Sithole]) held a rally at Umtali, on the eastern border of Rhodesia-Zimbabwe, to explain the Agreement to the people. Over 15,000 attended. (This was the figure given by the newspapers, who have often been biased against ZANU.) They had arrived from all parts of the Eastern Highlands, from Chipinga, Melsetter, Makoni, Inyanga and from Umtali itself. These places are in the ultra-sensitive war zone, and it took courage for the people to travel. Others had come from even further afield: from Chiredzi, Fort Victoria, Salisbury, Hartley, Gatooma, Que Que, Gwelo.

The guerillas operating in the Eastern Highlands helped organise this rally. They publicised it, put up posters and so forth, and some of them actually stayed on to hear the addresses.

The main speaker was the Rev. Ndabaningi Sithole, President of ZANU, and among the questions put were the following:

SITHOLE. Do you accept the Agreement?

CROWD. Yes! (Prolonged cheers, whistling and ululating.)

SITHOLE. Hands up those who would like the war to stop. (All hands go up, and the cheering and whistling is deafening.)

SITHOLE. Hands up those who want independence on 31 December 1978.

CROWD. We want it yesterday! (All hands go up again; there is a roar of approval.)

SITHOLE. Hands up those who want our sons and daughters to return from the bush. (All hands go up again; there is wild cheering, whistling and ululating.)

SITHOLE. Are you prepared to defend the Agreement with your very lives?

CROWD. (With clenched fists.) Yes! Yes! (More than half the crowd stand up as if to go into action in defence of the Agreement.)

I am very satisfied that the Agreement was well received by the 15,000 Zimbabweans who attended that rally. Moreover, the guerillas implicitly endorsed the Agreement, for they could easily have stopped the people from attending. They chose not to do so.

On our way back to Salisbury we stopped at Rusape, where crowds estimated at between 5,000 and 6,000 gathered round to hear the terms of the Agreement. Their reaction was precisely the same as that at the Umtali rally. At Marandellas, 60 km from Salisbury, a crowd of between 6,000 and 8,000 received us with equal enthusiasm

On 18 March we—the ZANU (ANC [Sithole]) team—motored through the Fort Victoria area to Chiredzi. Among the 15,000 crowd that gathered were 30 guerrillas. The same questions were asked and the same answers given, and it was transparently clear that the people were in favour of the Agreement. At Fort Victoria, on our way back, 20,000 people listened to us, approved of what we had to say, danced, sang and mobbed us in their enthusiasm. By public acclamation the Agreement was accepted and we were enjoined to form an Interim Government immediately.

Bishop Muzorewa's rally in Salisbury, held on 19 March, attracted a crowd of between 65,000 and 100,000. This huge rally also endorsed the Agreement.

Up to the time of writing, the Agreement is receiving increasing support from the African people of Zimbabwe and from the whites, the Asians and those citizens of mixed descent. More guerillas have expressed their support for its terms, as have the more than three million people of the Tribal Trust Lands.

Perhaps the following memorandum from the ZANU detainees at the Wha Wha detention centre near Gwelo can best illustrate the general reaction to the Rhodesian Constitutional Agreement:

THE PRESIDENT AND THE PARTY

Our Feelings on Settlement.—(i) A Settlement is essential and ought to be effected. This is the wish and aspiration of the people of Zimbabwe. So we find no reason why it should not be implemented by the leaders who have the support of the people. For a leader to ignore the call of the people is to ignore the wishes and aspirations of the masses.

(ii) Who are these people?—There are, first and foremost, the masses who bear the brunt of the war in the operational areas. They are the people who received the war.

Many are being hanged everyday in the prisons. Those kept in Concentration Camps are constantly dehumanised. They face the danger of losing their lives at any time.

The "free" masses, who support and organise the parties, are also in constant threat of abduction, arrest and death at the hands of the enemy.

(iii) Harm.—Already, harm has been caused to the families and property of those in exile, prisons, cells, remand prisons and in dententions.

Family life has been destroyed, marriages broken up, rejections, divorces, illegitimacies, deaths, losses agonies, lack of paternal care and a complete destruction of African culture and norms are taking place.

The children without parents lapse into "poverty culture" lack the confidence, hope, motivation, skills and free parental encouragement commonly provided by the parents.

(iv) *Consensus.*—The general consensus of all the people is that their political parties should settle now. What is lacking in many parties is an able dynamic leadership. In our ZANU, we have this energetic dynamic leadership, distinct direction and the support from the masses and from people of all walks of life. Why idling at the hour of need? Diplomacy, Comrades! Diplomacy!

1. A brief Historical Review: Many nationalists have attempted to settle but failed. Bishop A. T. Muzorewa tried it in 1974 but failed. The Bishop Muzorewa led all the nationalists at the Victoria Falls Bridge Constitutional Talks, which ended in a complete fiasco in 1975. In 1976, Mr. Joshua Nkomo tested it but failed completely.

The main point which causes the failure of these various settlement exercises—is the leaders' lack of vision and foresight. As such, our nation continues to suffer and perish. These leaders lacked the "win formula".

2. President's Decision to come home: The President's return has been motivated by a long foresight.

(a) A provision of direction to the nation. This, he has achieved through his message of Unity of purpose. He has organised rallies, toured the countryside, explained and provided guidance to the people. The 24–45 September and 5 November 1977 rallies are other great heroic deeds to achieve the Unity of Purpose by bringing together 42 associations which cut across many aspects of our national structure.

(b) The struggle for our liberation is almost over. The problem lies with our leaders who often fail to take a bold and decisive action to settle. In Latin America, they use the word "manana" meaning tomorrow. Mind: Manana and manana leads to the city of never.

(c) Fear is failure. With it one falls short of the standard required in a task to settle.

The leader, even the honest leader fears to be branded a sell-out if he settles this crisis. This is one kind of fear.

On the other hand, it is fear that makes the Patriotic Front intimidate the sincere and genuine leader. They fear to lose in a General Election based on One Man One Vote. Clearly, it is fear which makes a jackal bark. This is the second fear altogether.

A leader on the right course, with the mandate of the people should expel this fear and ignore idle threats from the opponents. Our success in the Constitutional Settlement is the P.F.'s failure.

3. Kind of Acceptable Settlement: Definition

(a)—INSTITIA OMNIBUS
—JUSTICE TO ALL
—RUENZANO KUNA WESE
—AMALUNGELO OMUNTU WONKE

(b) *Stability:* Strong leadership provides stability. Our leadership, has no doubt, the ability to provide a climate conducive to a settlement, by, at present, not giving overdue emphasis on atrocities being committed by the enemy on our people. "Chinonyenga chinowarara chinomusa musoro chawana." A stable leadership provides an immediate redress to the suffering of the people. The nation must experience the change.

International advice must be taken with reservation. The freedom is ours to choose what we need and ignore the rest.

The essential prerequisites of a settlement are its broadness. It should fulfill the aim of our struggle i.e. one person one vote.

(c) *Integration of Security Forces:* The principle of 'give-and-take' should be considered in the building of the National Army. We are aware that the question of the composition of the army has been a controversial issue. But integration of the various forces seems to be the most practical policy. Although much weight is to be attached to our side, the rest is negotiable

WHY WE NEED A SETTLEMENT

A settlement answers the human need to govern himself.

(i) To pay heed to the cries of the masses who bear the brunt of the war.

(ii) The reason of our struggle has been felt and accomplished but should not be hindered by the power hungry absolutists. It is clear that the struggle is now centred on power, not on liberation, at the expense of the masses and the freedom fighters.

(iii) Freedom is for the people, not for the soil without the people. So save the nation at the hour of need.

(iv) We have already liberated ourselves by bearing the sting of the bees, so we now want our honey.

(v) We feel we have organised enough, the people are ready to vote us into government. Delays are dangerous. There is something strange about the human mind—laissez faire—a going without an end tires the human mind. Patience has limits.

(vi) Settling now prevents the imposition of a leader with foreign and unwanted ideology. "Tiri veZimbabwe, tinoda zviro zveZimbabwe".

(vii) There is an urgent demand for the reconstruction of the nation, the country and its economy, education and culture.

We bank our wishes and aspirations with our leader, the Comrade President Ndabaningi Sithole to act and act with decisiveness and conclusiveness.

Those who know how critical, and suspicious, the people of Zimbabwe can be are quite satisfied that the Agreement has a great deal more support within the country than is realised by those living outside the country.

Foreigners are still trying to solve the Rhodesian problem. We believe we have solved it.

CHAPTER NINE: SUMMARY AND CONCLUSION

The foregoing is the rather complex, but very clear, case for the Rhodesian Constitutional Settlement of 1978. It remains merely to summarise.

If the true nature of the Rhodesian problem and its solution is to be properly perceived, it must be measured against a number of objective criteria:

Criterion No. 1: Is the Agreement in the interests of the people of Zimbabwe as a whole?

Over the years the Zimbabwean people have—by means of orthodox political pressure, by means of subversive activity and by means of protracted armed struggle—tried to achieve the following:

i. Majority rule;
ii. Independence on a specific date;
iii. A franchise based on one man, one vote;
iv. The elimination of all racial discrimination;
v. A sovereign republic of their own:
vi. Free elections;
vii. The right to choose their own leaders, who would be accountable to the people of Zimbabwe;
viii. Equality with men and women of other races;
ix. Adequate protection by the laws of their country;
x. Full enjoyment of the basic human freedoms and human rights without the restrictions imposed by white supremacy.

The Agreement does indeed give these benefits to the people of Zimbabwe. Its terms are comprehensive in their scope and depth and are capable of national application. They spell the death of white rule; they assure the birth of black rule—and that is all that African nationalism is about. That is all the present armed struggle is about.

CRITERION No. 2: Does the Agreement meet the demands of a modern state as conceived by the international community as it is embodied in and articulates through the United Nations?

On the negative side, the international community is wholly committed to the elimination of the following:

Colonialism and neo-colonialism;
Slavery and serfdom;
White supremacy and other *herrenvolk* doctrines;
Racial and ethnic discrimination;
War, violence, and their causes.

The Agreement does not provoke, promote or give encouragement to any of the above. The application of the principle of majority rule on the basis of one man, one vote does not, shall not, cannot in any way allow the roots of colonialism to flourish, or neo-colonialism to rear its ugly head, or slavery to return, or white supremacy to subsist, or racial discrimination to degrade the human spirit, or war and violence to continue unchecked.

The Agreement is inimical to all the above, and therefore it meets the negative demands of the international community.

On the positive side, the international community holds to the following ideals:

The right of self-determination for all people;
The sovereign independence of all countries;
Universal adult suffrage;
Free and fair elections;

The fundamental personal freedoms and inalienable rights, namely the right to life; the right to liberty of the person; freedom from slavery and forced labour; protection from inhuman treatment; protection from deprivation of property; the right to privacy of the home; the right to fair trial in civil and criminal proceedings; freedom of conscience; freedom of expression; freedom of association; freedom of movement.

The Rhodesian Constitutional Agreement, without shadow of doubt, meets each and every one of the international community's positive criteria. There is not a single clause in the Agreement that infringes any of these criteria.

It is clearly shown therefore that the African nationalist leaders who negotiated the Agreement were guided in their deliberations and decisions by these international criteria.

CRITERION No. 3: Does the Agreement meet the demands of the Organisation for African Unity?

The OAU is totally dedicated to the decolonisation, and by definition the liberation, of the rest of Africa.

Does the Agreement decolonise Rhodesia? Does it liberate Zimbabwe from the grasp of the white settlers? Will it bring majority rule? Will it terminate white supremacy and African subjection? In each case the answer is a resounding 'yes'.

The Agreement does indeed meet the requirements of the Organisation for African Unity.

CRITERION No. 4: Does the Agreement meet the demands of the Government of the United Kingdom?

Britain is, historically, the champion of democracy and fair play. Among the ideals her Government and people cherish are:

Parliamentary democracy;
Free and fair elections;
The sovereignty of the people;
The accountability of the legislators to the people;
The independence of the judiciary;
The neutrality of the Civil Service;
The honouring of pension and other assurance commitments;

The Agreement incorporates all the ingredients which the British people demand and maintain for themselves. The Agreement requires no more for the people of Zimbabwe than the British Constitution assures for the people of the United Kingdom.

Thus the Agreement meets all criteria. The following Reconciliation Statement is probably far more eloquent and persuasive of its acceptability than several pages of argument would be:

*Reconciliation statement*

| | Agreement | UN | OAU | UK |
|---|---|---|---|---|
| A. Rejected | | | | |
| Colonialism | X | X | X | X |
| Neo-colonialism | X | X | X | X |
| Slavery | X | X | X | X |
| Serfdom | X | X | X | X |
| Racialism | X | X | X | X |
| White supremacy | X | X | X | X |
| War | X | X | X | X |
| Violence | X | X | X | X |
| B. Accepted | | | | |
| Majority rule | √ | √ | √ | √ |
| Adult suffrage | √ | √ | √ | √ |
| Sovereign independence | √ | √ | √ | √ |
| Free elections | √ | √ | √ | √ |
| Non-racialism | √ | √ | √ | √ |
| Human equality | √ | √ | √ | √ |
| Basic human rights | √ | √ | √ | √ |
| Basic human freedoms | √ | √ | √ | √ |
| Self-determination | √ | √ | √ | √ |
| Territorial integrity | √ | √ | √ | √ |
| Peace | √ | √ | √ | √ |

In Section A the Agreement rejects all eight items that are rejected by the UN, the OAU and the UK Government. In Section B the Agreement accepts all eleven items accepted by the UN, the OAU and the UK Government.

In the light of these undeniable facts one would have expected the United Nations, the Organisation for African Unity and the Government of the United Kingdom—as well as that of the United States of America—to be favourably disposed toward the Rhodesian Constitutional Agreement.

It is at this point that the motives of the external forces, those who deny the validity of the Agreement, must be questioned. For these forces, the United Nations, the Orga-

nization for African Unity, the Governments of the United Kingdom, the United States and other countries, to reject a constitutional arrangement which embodies the values and principles which they themselves hold dear would appear to be a self-contradiction.

It is self-evident that the Rhodesian Constitutional Agreement cannot be repudiated on objective grounds. By this token therefore it can only be repudiated on subjective grounds, and here we see the sinister and dangerous introduction of double standards. The people of Zimbabwe ask no more and no less for themselves than do the people of the member states of the UN and OAU. These two bodies cannot afford, for the sake of their own futures, to indulge in double standards.

The message contained in the terms of the 1978 Rhodesian Constitutional Agreement is clear and simple: accept the democratic will of the people of Zimbabwe and forget personal preferences; listen to the people inside Zimbabwe and not to those outside Zimbabwe. Only then can Zimbabwe be helped to solve her own problems.●

## NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Sidney I. Lezak, of Oregon, to be U.S. attorney for the district of Oregon for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, July 28, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

## DISPOSITION OF CERTAIN RECREATIONAL DEMONSTRATION PROJECT LANDS BY THE STATE OF OKLAHOMA

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 920.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill (S. 920) entitled "An Act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. That notwithstanding section 3 of the Act entitled "An Act to authorize the disposition of recreational demonstration projects and for other purposes", approved June 6, 1942 (56 Stat. 326; 16 U.S.C. 459t) the State of Oklahoma is hereby authorized to convey oil and gas mineral leases to the following described lands in Carter County, Oklahoma: those lands situated within the project designated and known as the Lake Murray Recreational Demonstration Area, said project lands being more particularly described in a quitclaim deed of the United States of America executed on February 1, 1943, by Harold L. Ickes, Secretary of the Interior approved on February 2, 1943, by Franklin D. Roosevet, President of the United States, and recorded in book 186, pages 312 through 320 of the records of Carter County, Oklahoma. Any conditions providing for a reversion of title to the United States that may be contained in the conveyance of such lands by the United States to the State of Oklahoma are hereby released as to oil and gas exploration and development affecting the lands herein authorized to be leased. The State of Oklahoma shall surrender the present deed of conveyance by the United States of the lands described in this Act and the United States shall issue a new deed to the State of Oklahoma for those lands, which new deed shall include oil and gas exploration and development as permitted uses of such lands: *Provided, however*, That it shall be a condition of such new deed that oil and gas exploration and development shall take place on the lands described in this Act only pursuant to plans which have been reviewed (such review to include preparation of a detailed statement of the type specified in section 2(a) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(a)), and approved by the Secretary of the Interior and which will assure that such exploration and development shall be carried out in a manner which to the maximum extent possible will assure the preservation of the natural, scenic, and recreational values of the Demonstration Area: *Provided further*, (i) That it shall be a further condition of such new deed that the State of Oklahoma, in consideration for the release of the conditions referred to in this section, shall hold all proceeds hereafter received from any oil and gas exploration and development of the lands described in this Act in a separate fund open to inspection by the Secretary of the Interior, and shall pay the Secretary each year from such fund 50 per centum of the gross income from such exploration and development, including rents, royalties, bonuses and any interest accruing thereon and all costs which the Secretary determines are included in his review of the oil and gas exploration and development plans and the operation of such fund; and (ii) That all amounts paid to the Secretary pursuant to this proviso shall be deposited in the general fund of the Treasury as miscellaneous receipts: *And provided further*, That the State of Oklahoma shall continue to use such lands in the Lake Murray Recreational Demonstration Area primarily for park, recreational, and conservation purposes.

SEC. 2. The issuance of the new deed described in section 1 of this Act shall take place only upon payment to the Secretary of the Interior by the State of Oklahoma for administrative costs of issuance of the new deed. Moneys paid to the Secretary of the Interior for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current.

UP AMENDMENT 1469

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. JACKSON, that the Senate concur in the amendment of the House with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for the Senator from Washington (Mr. JACKSON), proposes unprinted amendment numbered 1469:

On page 2, line 19, strike 2(a) and insert the following: 102 2(c)

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 2:33 p.m., recessed for 30 minutes; whereupon, at 3:03 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

## BUDGET WAIVER RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following budget waiver resolutions: Senate Resolution 494, which is to the public works employment bill; Senate Resolution 498, which is to the DOE authorization; Senate Resolution 499, which has to do with S. 1497, Calendar Order No. 894, cigarette racketeering; Senate Resolution 500, which goes to victims of crime; and Senate Resolution 505 to the DOE civilian authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BUDGET ACT WAIVER

The resolution (S. Res. 494) waiving section 402(a) of the Congressional Budget Act was considered and agreed to, as follows:

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3243. Such waiver is necessary to allow for the authorization of funds for administrative expenses authorized by the Public Works Employment Act of 1977. Administrative funds provided in that legislation proved insufficient and an additional authorization is required. This authorization has been recommended by the Administration and the bill reported is as transmitted.

Compliance with section 402(a) was not possible by May 15, 1978, because the required legislation was not transmitted to the Senate until May 10, 1978. The committee was unable to move this legislation prior to the May 15 deadline because of the press of other legislation being considered at that time. The authorization contained in S. 3243 is consistent with the Environment and Public Works Committee March 15, 1977, report to the Committee on Budget.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## BUDGET ACT WAIVER

The resolution (S. Res. 498) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the

consideration of S. 2693 was considered and agreed to, as follows:

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2693, a bill to authorize appropriations to the Department of Energy for national security programs for fiscal year 1979, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

It was impossible for the Armed Services Committee to properly prepare for and give adequate consideration to the annual military procurement authorization bill (S. 2571), the military construction authorization bill (S. 3079) and S. 2693 in time to report all three by May 15. The committee was able to complete action on S. 2571 and S. 3079 by the deadline, but had to defer action on S. 2693. Among the programs funded in S. 2693 are those relating to enhanced radiation weapon systems which are highly technical and complex. The committee felt it necessary to have a special hearing to better understand these systems which, due to the press of time on other matters, was unable to schedule until after May 15.

In addition, the Committee on Energy and Natural Resources, because of the press of other business, was unable to complete its action on title II of the bill, which was jointly referred, until June 7, 1978.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2693 as reported by the Committee on Armed Services and the Committee on Energy and Natural Resources jointly.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## BUDGET ACT WAIVER

The resolution (S. Res. 499) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1487 was considered and agreed to, as follows:

*Resolved,* That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of the Act are waived with respect to the consideration of S. 1487, a bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.

Such waiver is necessary to permit consideration of S. 1487, a bill to eliminate racketeering in the sale and distribution of cigarettes, which will cause the Secretary of the Treasury to set up a comprehensive interdiction program for this purpose. While the bill authorizes to be appropriated such funds as may be necessary, the Congressional Budget Office estimated the cost of the bill at $1,970,000 for the fiscal year beginning October 1, 1978.

Although the bill was reported by the Subcommittee on Criminal Laws and Procedures to the Committee on the Judiciary on March 23, 1978, its consideration by that committee was inadvertently delayed by the press of business both within the committee and within the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## BUDGET ACT WAIVER

The resolution (S. Res. 500) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 551 was considered and agreed to, as follows:

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 551, a bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

Such waiver is necessary to permit consideration of S. 551, a bill which provides for grants to States for the payment of compensation of persons injured by certain criminal acts or omissions. This will complete congressional action on the corresponding bill, H.R. 7010, which passed the House on October 4, 1977. The bill authorizes to be appropriated $40,000,000 for the fiscal year ending September 30, 1979.

Although the bill was reported by the Subcommittee on Criminal Laws and Procedures to the Committee on the Judiciary on April 27, 1978, its consideration by that committee was inadvertently delayed by the press of business both within the committee and within the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## BUDGET ACT WAIVER

The resolution (S. Res. 505) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2692 was considered and agreed to, as follows:

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2692. Such waiver is necessary because S. 2692, the Department of Energy Civilian Program Authorization Act for Fiscal Year 1979, authorizes appropriations for fiscal year 1979 for the civilian programs of the Department of Energy.

The authorizations contained in S. 2692 are consistent with the March 15, 1978, recommendations of the Committee on Energy and Natural Resources to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974.

Compliance with the Congressional Budget Act of 1974 was not possible by May 15, 1978, with respect to these authorizations because of the large numbers of matters that needed to be considered by the Committee on Energy and Natural Resources. Extensive hearings and markup sessions were necessary for full consideration of the President's first proposed budget for the new Department of Energy. As approved by the Committee on Energy and Natural Resources, S. 2692 reflects the decisions of the Senate-House conference on the National Energy Act bills, H.R. 4018, H.R. 5037, H.R. 5146, and H.R. 5289. Adjustments were made in S. 2692 as reported so as to be within the fiscal year 1979 Federal budget target for the energy function as approved in the first concurrent budget resolution.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## THE SISSETON-WAHPETON SIOUX TRIBE LAND CONSOLIDATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 916.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3069) to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 2, line 10, strike "(1)";

On page 2, line 19, strike "(d)" and insert "(c)";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first section of the Act of October 26, 1974, Public Law 93-491 (88 Stat. 1468) is amended—

(1) by inserting "or upon the request of any member of the tribe" after "South Dakota" the first place it appears;

(2) by inserting "for the tribe or member thereof" after "gift, or exchange";

(3) by inserting "or member thereof" after "available to the tribe"; and

(4) by inserting "or for the individual member for whom the land is acquired" before the period at the end thereof.

(b) Section 2 of the Act of October 26, 1974, Public Law 93-491 (88 Stat. 1468) is amended by redesignating subsection (b) as subsection (c) and adding after subsection (a) the following new subsection:

"(b) Notwithstanding any other provision of law, the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, acting through its governing body or its designated agent, shall have a preference right to purchase any land held by the United States in trust for any member or members of the Sisseton-Wahpeton Sioux Tribe offered at public sale or auction. The tribe shall have thirty days from the date bidding is closed to match the high bid and the terms of the notice of sale.".

(c) The amendments made by this Act shall become effective on the date of the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–983), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 3069 amend the Act of October 26, 1974, Public Law 93–491 (88 Stat. 1468), which provides for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholding in North Dakota and South Dakota. The purpose of the amendments is twofold: (1) It authorizes the Secretary of the Interior to acquire lands within the boundaries of the Lake Traverse Reservation for individual members of the Sisseton-Wahpeton Sioux Tribe as well as for the Tribe itself (under existing law, only the Tribe could acquire land within the reservation); and, (2) It authorizes the Tribe to exercise a first right of purchase with respect to lands held in trust by the United States for tribal members when the lands are offered for sale at public sale or auction.

BACKGROUND AND NEED

The Lake Traverse Indian Reservation was established by the Treaty of February 19, 1867 (15 Stat. 505). The reservation is V-shaped and lies in the northeast corner of South Dakota with a small portion in the southeast corner of North Dakota. The original reservation contained 918,779.32 acres. The allotment of tribal lands to individual members and the sale of "surplus" tribal land for homesteading purposes has resulted in much of the land passing into non-Indian ownership.

The Indian lands are checker-boarded and scattered throughout the original reservation. Many of these trust allotments are badly fractionated into multiple ownership. Because of these factors, the Tribe and its members has had a very limited opportunity to manage its lands for the common good. To alleviate these problems, the Act of October 26, 1974, Public Law 93–491 (88 Stat. 1468) was passed. This Act authorizes the Tribe to sell, exchange or mortgage tribal lands for the purpose of acquiring other lands within the boundary of the reservation through purchase, gift or exchange. The lands so acquired may, in the discretion of the Secretary of the Interior, be taken in trust by the United States for the benefit of the Tribe. The effect of the Act is to permit the Tribe to consolidate its current tribally-owned lands into manageable units and to eliminate the debilitating effect of the fractionation of individual Indian lands through tribal purchase of the interests.

The existing Act is inadequate to respond to the demands of individual members to acquire land for homesites, businesses or to buy out other heirs. Problems also exist with individually owned Indian trust lands within the reservation passing out of Indian ownership at public sales or auctions as the result of foreclosure proceedings. Jerry Flute, tribal chairperson, has requested the amendments proposed in S. 3069 to alleviate these problems.

LEGISLATIVE HISTORY

S. 3069 was introduced by Senator James Abourezk on May 15, 1978, and referred to the Select Committee on Indian Affairs. The bill was cosponsored by Senator George McGovern.

Due to the noncontroversial nature of S. 3069, no hearing was held. The bill has the support of the Administration and the Governor of South Dakota, Richard F. Kneip.

A companion bill, H.R. 13096, was introduced in the House of Representatives on June 12, 1978, by Congressman Larry Pressler of South Dakota.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office has reviewed the bill and reported that no additional cost to the government would be incurred as a result of the enactment of S. 3069.

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## INTERNATIONAL ENVIRONMENTAL ASSESSMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 919.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 49) expressing the sense of the Senate that the U.S. Government should seek the agreement of other governments to a proposed treaty requiring the preparation of an International Environmental Impact Statement for any major project, action, or continuing activity which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area,

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with an amendment on page 3, beginning with line 1, strike through and including page 7, line 22, and insert in lieu thereof the following:

"ARTICLE I

"Before a State Party to this treaty, including any nongovernmental entity within the territory of such a Party, undertakes any major project, action or continuing activity within its territory or within areas not subject to the jurisdiction of any nation (that is, a global commons area) which may be reasonably expected to have a significant adverse effect on the physical environment of another State or States Party to this treaty or on a global commons area, an International Environmental Assessment regarding the potential adverse environmental effects of such activity shall be prepared and submitted by the government of the initiating State to the affected Party or Parties and to the United Nations Environment Program (UNEP).

"ARTICLE II

"(1) A Party considering an activity subject to the provisions of Article I shall, upon request, consult with the affected Party or Parties or, in the case of a global commons area, with UNEP, with a view toward preventing or minimizing any potential adverse environmental consequences beyond its territory which might result from the proposed activity.

"(2) The Party considering the initiation of such an activity shall at the request of a Party potentially affected, or at the request of UNEP whenever a global commons area is potentially affected, refrain from initiating the project or activity for a period of not more than 90 days after submission of an international environmental assessment to permit consultation, unless in the opinion of the Party considering initiating the project, action or activity there is such urgency that any delay for the purposes of carrying out the provisions of this Article or Article III would involve serious risks to the safety of life or property or would otherwise be clearly infeasible. In such cases, the negative response to a request to refrain from initiating a project, action, or activity shall set forth fully the nature of the conditions requiring immediate action.

"ARTICLE III

"Any dispute arising between two or more of the States Parties concerning the interpretation or application of the present Treaty shall be settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

"ARTICLE IV

"Five years after the entry into force of this Treaty, a conference of Parties shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account relevant technological developments and consider the need for developing procedures for the assessment of liability regarding State responsibility for damage to the environment of other States or areas beyond national jurisdiction.

"ARTICLE V

"(1) Any Party may propose an amendment to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Government which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Government shall convene a conference, to which it shall invite all the Parties, to consider such an amendment.

"(2) Any amendment to this Treaty shall be approved by a majority of votes of all the Parties to this Treaty. The amendment shall enter into force for those Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties.

"ARTICLE VI

"(1) This Treaty shall be of unlimited duration

"(2) Each Party shall have the right to withdraw from the Treaty upon 90 days notice to one or more of the Depositary Governments.

"ARTICLE VII

"(1) This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

"(2) This Treaty shall be subject to ratification by signatory states. Instruments of ratification and instruments of accession shall be deposited with ------ and ------ which are hereby designated the Depositary Governments.

"(3) This Treaty shall enter into force on the thirtieth day following the date of the deposit of the instruments of ratification or accession by one-fourth of the Signatory States.

"(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

"(5) The Depositary Government shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification

of and accession to, this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

"(6) This Treaty shall be registered by the Depositary Government pursuant to Article 102 of the Charter of the United Nations.".

The amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas there is a vast potential for human betterment through those projects, actions, and continuing activities that modify the Earth (its land, its waters, and its atmosphere) in environmentally sound ways that are consistent with the Earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

Whereas there is potentially great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that the United States Government should seek the agreement of other governments to a treaty along the following general lines.

"The Parties to this Treaty,

"Recognizing the vast potential for human betterment through those projects, actions and continuing activities that modify the Earth (its land, its waters, and its atmosphere) in environmentally sound ways that are consistent with the Earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

"Aware of the great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area,

"have agreed as follows:

"ARTICLE I

"Before a State Party to this treaty, including any nongovernmental entity within the territory of such a Party, undertakes any major project, action or continuing activity within its territory or within areas not subject to the jurisdiction of any nation (that is, a global commons area) which may be reasonably expected to have a significant adverse effect on the physical environment of another State or States Party to this treaty or on a global commons area, an International Environmental Assessment regarding the potential adverse environmental effects of such activity shall be prepared and submitted by the government of the initiating State to the affected Party or Parties and to the United Nations Environment Program (UNEP).

"ARTICLE II

"(1) A Party considering an activity subject to the provisions of Article I shall, upon request, consult with the affected Party or Parties or, in the case of a global commons area, with UNEP, with a view toward preventing or minimizing any potential adverse environmental consequences beyond its territory which might result from the proposed activity.

"(2) The Party considering the initiation of such an activity shall at the request of a Party potentially affected, or at the request of UNEP whenever a global commons area is potentially affected, refrain from initiating the project or activity for a period of not more than 90 days after submission of an international environmental assessment to permit consultation, unless in the opinion of the Party considering initiating the project, action or activity there is such urgency that any delay for the purposes of carrying out the provisions of this Article or Article III would involve serious risks to the safety of life or property or would otherwise be clearly infeasible. In such cases, the negative response to a request to refrain from initiating a project, action, or activity shall set forth fully the nature of the conditions requiring immediate action.

"ARTICLE III

"Any dispute arising between two or more of the States Parties concerning the interpretation or application of the present Treaty shall be settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

"ARTICLE IV

"Five years after the entry into force of this Treaty, a conference of Parties shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account relevant technological developments and consider the need for developing procedures for the assessment of liability regarding State responsibility for damage to the environment of other States or areas beyond national jurisdiction.

"ARTICLE V

"(1) Any Party may propose an amendment to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Government which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Government shall convene a conference, to which it shall invite all the Parties, to consider such an amendment.

"(2) Any amendment to this Treaty shall be approved by a majority of votes of all the Parties to this Treaty. The amendment shall enter into force for those Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties.

"ARTICLE VI

"(1) This Treaty shall be of unlimited duration.

"(2) Each Party shall have the right to withdraw from the Treaty upon 90 days notice to one or more of the Depositary Governments.

"ARTICLE VII

"(1) This Treaty shall be open to all States for signature. Any state which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

"(2) This Treaty shall be subject to ratification by signatory states. Instruments of ratification and instruments of accession shall be deposited with ------ and ------ which are hereby designated the Depositary Governments.

"(3) This Treaty shall enter into force on the thirtieth day following the date of the deposit of the instruments of ratification or accession by one-fourth of the signatory states.

"(4) For states whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

"(5) The Depositary Government shall promptly inform all signatory and acceding states of the date of each signature, the date of deposit of each instrument of ratification of and accession to, this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

"(6) This Treaty shall be registered by the Depositary Government pursuant to Article 102 of the Charter of the United Nations.".

The title was amended so as to read:

Resolution expressing the sense of the Senate that the United States Government should seek the agreement of other governments to a proposed treaty requiring the preparation of an International Environmental Assessment for any major project, action, or continuing activity which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-990), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this resolution is to make nations aware and responsive to the adverse transboundary environmental efforts of activities occurring within their territory. With this goal in mind, the resolution calls for the negotiation of a treaty which would require nations to prepare an environmental assessment of any activity which could reasonably be expected to have a significant harmful impact on the physical environment of another nation or a global commons area.

BACKGROUND

On January 24, 1977, Senate Resolution 49 was introduced by Senator Pell. The following is an excerpt from his introductory statement which explains the need for an international agreement in this area.

Last December 10 (1976), the United Nations General Assembly approved by a 96-to-8 vote—with 30 abstentions—a draft treaty to ban the use of environmental modification techniques in warfare. This development is a great source of satisfaction to me, as this treaty appears to have come about as a result of Senate Resolution 281, including a draft treaty, which I introduced in 1972. That resolution was endorsed unanimously by the North Atlantic Assembly on November 21, 1972, and, after being reintroduced as Senate Resolution 71, passed the Senate on July 11, 1973, by a vote of 82 to 10. With the entry into force of that treaty, a major step forward will have been taken to insure that the emerging sciences of environmental modifications will be used solely for peaceful purposes to benefit mankind. But the dedication of most of the nations of the world to peaceful uses of environmental modification techniques—weather and climate modificationf or example—by itself—will not insure that such techniques will be employed in such a way as not to cause harm to or even wreak devastation on another nation or on a global commons area as the oceans even if there is no aggressive military motive involved.

Similarly, and perhaps more important, large-scale economic projects—for example, dams, canals, nuclear reactors, waste disposal systems, and the clearing of virgin jungle and tropical rain forest land for agricultural development—could have unintended or un-

foreseen effects of a significant nature beyond the borders of the countries in which these projects are being conducted. In the most extreme case, a nation may adopt a self-serving policy and undertake a project of nonmilitary purposes knowing full well that it could have disastrous environmental consequences for a neighboring country.

That is why I am introducing today a Senate resolution calling upon the President to take the initiative in proposing multilateral negotiations on a treaty which would require the preparation of an international environmental impact statement for any activity which may reasonably be expected to have a significant effect on the environment of other nations or a global commons area.

It should also be noted that the 23d Meeting of the North Atlantic Assembly (September 1977) adopted a resolution urging its member governments "to begin the process of negotiating a treaty requiring the preparation of an international environmental analysis for any major project, action, or continuing activity which may be reasonably expected to have a significant adverse effect on the physical environmental interests of another nation or a global commons area." This action indicates that the nations of the North Atlantic Alliance are willing to negotiate an agreement similar to that proposed by Senate Resolution 49.

MAJOR PROVISIONS

The operative clause of Senate Resolution 49, as amended, urges the United States to seek the agreement of other nations to negotiate a treaty requiring the preparation of international environmental assessments for any major project, action or continuing activity within its territory or in a global commons area which could reasonably be expected to have a significant adverse effect on the environment of another nation or a global commons area.

The following is a summary of the major provisions of the draft treaty proposed by Senate Resolution 49.

This treaty:

Provides that no country party to this treaty nor nongovernmental entity within such country will undertake a major project which may have a significant adverse effect on the environment of another nation or global commons area unless it first files an International Environmental Assessment with the United Nations Environment Program (UNEP).

Requires, upon request, that parties undertaking major projects consult with the affected party or parties or in the case of a global commons area, with the UNEP, in order to prevent or minimize any potential adverse transboundary environmental effects.

Requires nations, upon request, to refrain for not more than 90 days for initiating a project or activity which might have adverse transboundary environmental effects in order to permit consultations. This 90-day waiting period may be waived for good reason by the party initiating the project or activity.

Imposes a responsibility for a good faith effort to settle disputes concerning the interpretation or application of this treaty.

Calls for an international conference 5 years after the treaty enters into force to review the operations of the agreement and to consider the need for developing procedures for the assessment of liability regarding state responsibility for damage to the environment of other states or areas beyond national jurisdiction.

## JOZEF SWIDERSKI

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 947.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1951) for the relief of Jozef Swiderski.

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the periods of time Jozef Swiderski has resided in the United States and any State since his lawful admission for permanent residence on July 22, 1968, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act, and his petition for naturalization may be filed in any court having naturalization jurisdiction under section 310 of such Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1018), explaining the purposes of the measure.

The being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of the bill is a 61-year-old native of Poland who is stateless. He was Jozef Jacies, but changed his name to Jozef Swiderski in 1941 after his mother and sister lost their lives during the Nazi occupation. He resides in Rome, Italy, where he has been employed as the Acting Director of the United Nations Food and Agriculture Organization since March of 1966. His wife is a naturalized citizen of the United States. Their daughter is a lawful permanent resident of the United States. The beneficiary was admitted to the United States on July 22, 1968, as a lawful permanent resident and has approximately 3 years and 3 months physical presence in the United States in the aggregate since his admission for permanent residence.

## UMBERTO RUFFOLO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 946.

The PRESIDING OFFICER. The bill will be stated by title:

The assistant legislative clerk read as follows:

A bill (H.R. 1420) for the relief of Umberto Ruffolo.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Texas is so cantankerous that he moves to table every motion I make.

Mr. TOWER. And succeeds every time.

Mr. ROBERT C. BYRD. He is quite right.

My scorecard is looking pretty poor by this time.

Mr. TOWER. The Senator from Texas would be delighted to have record votes on all of these.

## BROADENING THE OBSERVANCE OF THANKSGIVING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 944.

The PRESIDING OFFICER. The resolution will be stated by title:

The concurrent resolution (S. Con. Res. 32) relating to broadening the observance of Thanksgiving to an occasion of sharing our plenty with the hungry of other lands.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

UP AMENDMENT NO. 1470

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mrs. HUMPHREY I call up amendments at the desk and ask they be considered en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2, beginning on line one, delete all through "concurring)," and insert in lieu thereof the following:

*"Resolved by the Senate (the House of Representatives concurring),"*. and

On page 3, line 3, delete "The Clerk of the House" and insert in lieu thereof the following:

"The Secretary of the Senate".

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Without objection, the resolution, as amended, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas since 1621 Americans have each year celebrated a day of gratitude for the bountiful harvests and blessings of our own land with feasts and family gatherings; and

Whereas Americans have a long-demonstrated history of compassion for those less fortunate; and

Whereas compassionate Americans seek a vehicle through which to translate their concerns into constructive action; and

Whereas there is a need to help combat world hunger beyond what governments are providing; and

Whereas in a world where hunger is haunting an ever-growing proportion of the human family, it is appropriate that Americans

should express their thankfulness by sharing with the hungry of other countries; and

Whereas this observance should serve to rekindle the original spirit of sharing and give our people the pride and satisfaction of contributing toward a better-fed world; and

Whereas this observance should add a practical aspect and broaden the ethical aspect of Thanksgiving: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress, that—

(1) the national observance of Thanksgiving should include a voluntary practice called "Thankful Giving", whereby Americans are invited to share with those abroad who are hungry;

(2) before starting their Thanksgiving meal, family members should be invited to make personal donations to combat hunger abroad as a way of giving thanks for the feast that follows:

(3) the sums so collected should be forwarded to the charities their donors chose, either religious or secular;

(4) schools, churches, clubs, labor organizations, and the media should disseminate and promote the concept of "Thankful Giving", and provide lists of appropriate charities;

(5) the President, the Governors of the several States, and local public officials should consider recommending the observance of "Thankful Giving" in their Thanksgiving proclamations.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this resolution to the President, the Secretary of State, the Secretary of Agriculture, and the Governors of the several States.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1015), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The purpose of the resolution is to designate Thanksgiving as the day of "Thankful Giving" on the part of Americans. The resolution calls upon the American people to dedicate part of their day on Thanksgiving to thinking about the problems of world hunger, learning about its consequences, and contemplating the ways in which this tragic problem can be solved. It invites American families to share their bounty with the hungry abroad through donations to private and voluntary organizations which play a key part in overseas development.

The resolution also urges that elected officials across the Nation should consider recommending the observance of "Thankful Giving" in their Thanksgiving Day proclamations.

## ORDER PERMITTING THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNTIL 5 P.M. TO FILE A REPORT ON H.R. 6900

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources may have until 5 p.m. today to file a report on H.R. 6900, the National Trail Systems Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PAIUTE AND SHOSHONE TRUST LANDS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 785.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 785) entitled "An Act to declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes", do pass with the following amendments:

1. Page 2, line 6, strike out "section 33;" and insert "section 33,"

2. Page 2, line 19, strike out "from the date of enactment of this Act," and insert: "beginning on October 1, 1978."

3. Page 2, line 25, strike out all after "entitled," over to and including "Act," on page 3, line 1, and insert: "beginning on October 1, 1978."

4. Page 3, line 19, after "Nevada.", insert: "Nothing in this Act shall be construed to permit the transfer of water rights from lands within the existing Fallon Indian Reservation to lands added to the reservation by this Act."

5. Page 4, line 12, strike out "subsection 4(b)" and insert: "section 4".

6. Page 4, line 18, strike out "subsection 4(b)" and insert: "section 4".

7. Page 4, line 19, strike out "subsection 4(b)" and insert: "section 4".

8. Page 4, line 21, strike out "of" and insert: "or".

9. Page 4, line 22, strike out "subsection 4(b)" and insert: "section 4".

10. Page 5 strike out lines 16 through 19, inclusive.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I move the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

## WE NOW HAVE DOUBLE-DIGIT INFLATION

Mr. HARRY F. BYRD, JR. Mr. President, the Department of Commerce announced today that during the second quarter inflation was at an annual rate of 10.1 percent, so now the United States is back to double-digit inflation.

I am convinced that we will not get the cost of living under control in this country until we get the cost of Government under control. Spending for the current fiscal year will increase by approximately 13 percent over the past year. Under the budget the Congress is now considering, a further 10- to 11-percent increase in spending will be expected.

I think the most dangerous problem facing our country today is that of inflation, and if inflation is to be adequately attacked the attack must be begun right here in Washington, and there must be cooperation in this endeavor by both Congress and the President.

The PRESIDING OFFICER. Is there further morning business?

## THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 937.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CÉSAR B. IBAÑEZ II, M.D.

The Senate proceeded to consider the bill (S. 2067) for the relief of César B. Ibañez II, doctor of medicine, which had been reported from the Committee on the Judiciary, with amendments on page 1, beginning with line 3, strike "That, notwithstanding the provisions of section 212(a)(14) of the Immigration and Nationality Act, for the purposes of such Act," and insert "That, for the purposes of the Immigration and Nationality Act,";

On page 2, line 5, after "under" insert "paragraphs (1) through (8) of";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, for the purposes of the Immigration and National Act, César B. Ibañez II, doctor of medicine, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraph (1) through (8) of section 203 (a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1008), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to César B. Ibañez II, doctor of medicine. The bill provides for the

payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 29-year-old native and citizen of the Philippines who was admitted to the United States as a nonimmigrant temporary worker of distinguished merit and ability on July 26, 1974. He currently resides with his wife and two children in Dunbar, W. Va. One child is a U.S. citizen. Dr. Ibañez is currently employed at Thomas Memorial Hospital in South Charleston, W. Va.

## ORDER TRANSFERRING S. 2068 TO CALENDAR OF SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, is it not correct that measures may be moved from Subjects on the Table just as easily as they can be moved from the General Orders Calendar?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 938 be transferred to the Calendar of Subjects on the Table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I as unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

The PRESIDING OFFICER. Without objection, the Senate is in executive session.

## NUCLEAR REGULATORY COMMISSION

The assistant legislative clerk read the nomination of John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission for the remainder of the time expiring June 30, 1978; and a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1983.

● Mr. DOLE. Mr. President, on Thursday of this week, the Environment and Public Works Committee approved the nomination of John Ahearne to the Nuclear Regulatory Commission. The Senator from Kansas would urge his colleagues to move on this nomination promptly.

INDECISION

Mr. President, the Nuclear Regulatory Commission licenses domestic nuclear powerplants and exports of nuclear materials. For over a year now, this five man Commission has operated with only four members, resulting in split votes on several major decisions. The fifth seat on the NRC is considered pivotal for the future of America's energy development. John Ahearne has the broad-based support of both environmental groups and nuclear industry organizations.

ENERGY FUTURE

Mr. President, the single most serious obstacle to the implementation of a nuclear energy policy is indecision on the part of the Federal Government. Our country is at a crossroads. Last year, our energy needs spawned a $27 billion balance of trade deficit, inviting inflation and jeopardizing our jobs. Our indecision on energy matters is crippling the dollar on money markets in Europe and Japan. President Carter has just returned from Bonn, where the criticism he most often heard was of America's lack of a comprehensive energy policy.

REDTAPE

Certainly America's energy problem is much broader than the problems with nuclear energy. But in no other sector of the energy industry does bureaucratic bungling and redtape play the disastrous role that it does with nuclear power. The nuclear reactor at Seabrook, N.H. is the most illuminating example. Regulatory delays in the building of the Seabrook plant have resulted in lost wages of $114 million. They have increased the cost of the facility by a minimum of $419 million, to date, and they have resulted in a loss of over one-half of a billion dollars lost to the New England economy.

SEABROOK

While the Seabrook reactor has received much coverage in the news recently, it is just one of a number of instances in which the Federal Government has exacerbated the already significant problems of building a nuclear power plant. Because of government regulations, it now takes 10 to 12 years to license and construct a nuclear plant in the United States, roughly twice the length of time it takes in other countries. The Senator from Kansas finds it hard to believe that a country which must now pay four times as much for a barrel of oil as it did 5 years ago, would not only accept, but endorse this policy.

Mr. President, John Ahearne has served for 13 years with the Department of Defense, including a position as Deputy Assistant Secretary. He is currently serving as a Deputy Assistant Secretary at the Department of Energy. I have no delusions about the ability of a single appointment to affect the administration's energy policy, but I do believe that the consideration of Mr. Ahearne would be a step in the right direction.●

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MISSISSIPPI RIVER COMMISSION

The assistant legislative clerk read the nomination of Roy T. Sessums, of Louisiana, to be a member of the Mississippi River Commission for a term of 9 years.

The PRESIDING OFFICER. Without objection the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative business.

The PRESIDING OFFICER. Without objection, the Senate is now in legislative session.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE GENOCIDE CONVENTION—IN CONFORMITY WITH AMERICA'S HIGHEST IDEALS

Mr. PROXMIRE. Mr. President, it is well recognized that the United States played an influential role in creating the United Nations and fashioning the 30 tenets which collectively became known as the United Nations Universal Declaration on Human Rights.

Since the declaration was adopted 30 years ago this December, it has become a significant force in promoting respect for, and observance of, human rights in all parts of the globe. It has evolved into what the General Assembly in 1948 referred to as "a common standard of achievement for all peoples and all nations."

What is less familiar about the declaration is that the vast majority of its articles correspond to America's most cherished ideals. Article 3, perhaps the most important of all the articles, asserts that "Everyone has the right to life, liberty, and security of person."

Mr. President, the similarity between that phrase and the words of our own Declaration of Independence is striking. All men, agreed the Founding Fathers, "are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness." Two hundred years later, we continue to recognize the right to live as basic to the existence of any civilization, and certainly any nation.

At the same time, the United Nations has expressly given recognition to the

right to live by expanding upon the declaration and making genocide an international crime under the Convention on the Prevention and Punishment of the Crime of Genocide, which entered into force on January 12, 1951.

But despite the manifest harmony of the right to live tenets of the Declaration of Independence and the Universal Declaration of Human Rights, the United States has refused to join 83 other nations in ratifying the Genocide Convention. Ever since President Truman submitted the treaty to the Senate for approval in 1949, every chief executive has tried in vain to secure ratification.

Through its failure to become a party to this convention, this country has become increasingly isolated from the development of international human rights law. This failure impairs both our participation in the United Nations work in human rights, and our bilateral efforts to persuade governments to respect international human rights standards.

Worst of all, our refusal to ratify the Genocide Convention signifies a failure to uphold for all people the cornerstone of our democracy—the dignity of man.

Mr. President, we must end this diplomatic embarrassment and protracted compromise of our integrity. If we are ever to condemn mass murder, we must become a contracting party to the treaty against genocide.

We cannot speak for human rights at home unless we speak for them everywhere.

## ORDER FOR RECESS UNTIL 11:30 A.M., MONDAY, JULY 24, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11:30 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on Monday?

The PRESIDING OFFICER. No, there are not.

Mr. ROBERT C. BYRD. I thank the Chair.

## ORDER FOR CONSIDERATION OF S. 2850

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, the Senate proceed to the consideration of S. 2850, a bill to amend the Elder Americans Act to provide for improved programs for the elderly and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this would mean that the bill S. 3075, Calendar Order No. 772, the Foreign Assistance bill, would not be laid down until sometime late during the afternoon, or possibly even at the close of the day, but there will be rollcall votes, I anticipate, on the Older Americans Act and on amendments or motions with relation thereto, on Monday.

Mr. TOWER. Will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. Will he consider getting consent to hold votes until after a certain time on Monday afternoon?

Mr. ROBERT C. BYRD. Yes; does the Senator have a suggestion?

Mr. TOWER. Oh, say, 3 o'clock.

## ORDER FOR NO ROLLCALL VOTES BEFORE 3 P.M. ON MONDAY, JULY 24, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur on Monday, if ordered prior thereto, until the hour of 3 o'clock p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## RECESS UNTIL 11:30 A.M. ON MONDAY

Mr. PROXMIRE. Mr. President, I move, in accordance with the previous order, that the Senate recess until 11:30 a.m. on Monday next.

The motion was agreed to; and at 3:20 p.m. the Senate recessed until Monday, July 24, 1978, at 11:30 a.m.

## NOMINATION

Executive nomination received by the Senate July 21, 1978:

U.S. RAILWAY ASSOCIATION

W. K. Smith, of Minnesota, to be Chairman of the Board of Directors of the United States Railway Association for a term of 6 years, vice Arthur D. Lewis, resigned.

## CONFIRMATIONS

Executive nominations confirmed by the Senate July 21, 1978:

NUCLEAR REGULATORY COMMISSION

John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission for the remainder of the term expiring June 30, 1978.

John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1983.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

MISSISSIPPI RIVER COMMISSION

Roy T. Sessums, of Louisiana, to be a member of the Mississippi River Commission for a term of 9 years.

# HOUSE OF REPRESENTATIVES—*Friday, July 21, 1978*

The House met at 10 o'clock a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
*July 21, 1978.*

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Unto Thee, O Lord, do I lift up my soul. Lead me in Thy truth and teach me, for Thou art the God of my salvation.*—Psalms 25: 1, 5.

O God, our Father, we pray for the leaders of our Nation in these critical days. Grant unto them insight to see the right way to take, the inspiration to want that way, and the industry to walk on it to achieve the high goals we set for our country. Strengthen them and our people across this great land that they may seek to lift human life here and everywhere to a higher plane of good living.

"Lead us, O Father, in the paths of right;
Blindly we stumble when we walk alone,
Involved in shadows of a darksome night;
Only with Thee we journey safely on."
Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1751. An act for the relief of Lucy Davao Jara Graham;

H.R. 2555. An act for the relief of Michelle Lagrosa Sese;

H.R. 2945. An act for the relief of Mrs. Amelia Doria Nicholson;

H.R. 3995. An act for the relief of Habib Haddad;

H.R. 4607. An act for the relief of William Mok; and

H.R. 5928. An act for the relief of Miss Coralia Raposo.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12933) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes."

The message also announced that the Senate agrees to the House amendments to the Senate amendments Nos. 14, 31, 32, and 33 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11504) entitled "An act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act."

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment No. 2 to a bill of the House of the following title:

H.J. Res. 945. Joint Resolution making an urgent supplemental appropriation for the black lung program of the Department of Labor for the fiscal year ending September 30, 1978.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3040) entitled "An act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. LONG, Mr. RIEGLE, Mr. DANFORTH, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2899. An act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions; and

S. 3084. An act to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

## POSTAL SERVICE ACTIONS WILL RESULT IN SIGNIFICANT DETERIORATION OF MAIL SERVICE TO SMALL COMMUNITIES AND RURAL AREAS

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, I would like to take this opportunity to alert my colleagues to actions now being taken by the U.S. Postal Service which would result in a significant deterioration of mail service to smaller communities and rural areas.

The Postal Service has formulated a policy for its 13-State central region to halt the movement on Sundays of mail from its sectional centers to certain smaller communities. This action would have the effect of delaying by at least 1 or 2 days the delivery of mail, which already is slow in these areas.

I protested this action to the Postmaster General after I was alerted that 10 of the largest communities in my congressional district are no longer receiving mail on Sunday. Not only was I not informed of this change in policy, neither were my constituents. Seven of the ten affected cities are county seats of government. All are hubs of commerce for the areas surrounding them. The delay in mail service could have serious, negative effects on Government activities, business transactions, the delivery of newspapers, as well as the delivery of private correspondence.

Rural areas and small communities should not have to tolerate second-rate service. I am sure it is no coincidence that all 13 of the States in the Postal Service's central region have large rural areas.

My colleagues will remember that this body overwhelmingly approved H.R. 7700 to reorganize the Postal Service. One of the provisions of that bill requires the Postal Service to submit to Congress for approval significant changes in nationwide service. While that bill is not law, I contend that the Postal Service has violated the spirit in which that bill was passed by the House. While it may not be a policy of nationwide impact at the present time, if expanded throughout the 13-State central region and then into other areas, it soon will be.

For the benefit of my colleagues who would like to find out from the Postal Service which communities in their congressional districts will be or already are receiving second-rate mail service, the following are the affected States: Nebraska, South Dakota, North Dakota, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, and Kentucky.

## HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12433) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 6, not voting 158, as follows:

[Roll No. 581]

YEAS—268

| | | |
|---|---|---|
| Abdnor | Foley | Murtha |
| Akaka | Forsythe | Myers, Gary |
| Alexander | Frenzel | Myers, John |
| Ammerman | Garcia | Myers, Michael |
| Anderson, Calif. | Gaydos | Natcher |
| Anderson, Ill. | Gephardt | Neal |
| Andrews, N.C. | Giaimo | Nedzi |
| Annunzio | Ginn | Nix |
| Applegate | Glickman | Nolan |
| Archer | Gonzalez | Nowak |
| Ashley | Goodling | O'Brien |
| Aspin | Gore | Oberstar |
| AuCoin | Gradison | Ottinger |
| Bafalis | Grassley | Panetta |
| Baldus | Gudger | Patten |
| Bauman | Guyer | Patterson |
| Beard, R.I. | Hagedorn | Pease |
| Beard, Tenn. | Hall | Perkins |
| Bellenson | Hamilton | Pickle |
| Benjamin | Hammer-schmidt | Pike |
| Bennett | Hanley | Poage |
| Bingham | Hannaford | Preyer |
| Blanchard | Hansen | Price |
| Blouin | Harkin | Pritchard |
| Boland | Harris | Quillen |
| Bonior | Hefner | Railsback |
| Bonker | Heftel | Rangel |
| Bowen | Hightower | Regula |
| Brademas | Hollenbeck | Reuss |
| Breckinridge | Holt | Rinaldo |
| Brinkley | Holtzman | Roberts |
| Brodhead | Howard | Robinson |
| Brooks | Hubbard | Roe |
| Broomfield | Hughes | Rogers |
| Brown, Mich. | Hyde | Rooney |
| Broyhill | Ichord | Rose |
| Buchanan | Ireland | Ruppe |
| Burgener | Jacobs | Russo |
| Burke, Calif. | Jeffords | Ryan |
| Burke, Fla. | Johnson, Calif. | Scheuer |
| Burke, Mass. | Jones, Okla. | Schroeder |
| Burleson, Tex. | Jones, Tenn. | Schulze |
| Burlison, Mo. | Jordan | Seiberling |
| Butler | Kastenmeier | Sharp |
| Carr | Kazen | Shuster |
| Carter | Kelly | Sikes |
| Cederberg | Keys | Simon |
| Chappell | Kildee | Sisk |
| Cleveland | Kindness | Smith, Nebr. |
| Coleman | Kostmayer | Snyder |
| Conable | Krebs | Solarz |
| Conte | LaFalce | Spence |
| Corcoran | Lagomarsino | Staggers |
| Corman | Latta | Stangeland |
| Cornell | Leach | Stanton |
| Coughlin | Lederer | Steed |
| Cunningham | Lehman | Steers |
| D'Amours | Levitas | Steiger |
| Daniel, Dan | Livingston | Stockman |
| Daniel, R. W. | Lloyd, Tenn. | Stratton |
| Danielson | Long, Md. | Studds |
| de la Garza | Luken | Stump |
| Delaney | McClory | Symms |
| Derwinski | McCloskey | Thompson |
| Dickinson | McCormack | Traxler |
| Dicks | McDade | Treen |
| Dingell | McDonald | Trible |
| Dodd | McFall | Tucker |
| Dornan | McHugh | Udall |
| Downey | McKay | Ullman |
| Drinan | McKinney | Van Deerlin |
| Duncan, Oreg. | Mahon | Vento |
| Duncan, Tenn. | Markey | Volkmer |
| Edwards, Ala. | Marks | Walgren |
| Eilberg | Marriott | Walker |
| Emery | Martin | Whalen |
| Ertel | Mattox | White |
| Evans, Del. | Meeds | Whitten |
| Evans, Ga. | Mikva | Wiggins |
| Evans, Ind. | Miller, Calif. | Wilson, C. H. |
| Fary | Miller, Ohio | Wilson, Tex. |
| Fascell | Mineta | Wirth |
| Fenwick | Minish | Wolff |
| Findley | Mollohan | Wylie |
| Fish | Montgomery | Yates |
| Fisher | Moore | Yatron |
| Fithian | Moorhead, Calif. | Young, Fla. |
| Flippo | Moss | Young, Mo. |
| Flood | Murphy, Pa. | Zablocki |
| Florio | | |

NAYS—6

| | | |
|---|---|---|
| Boggs | Lloyd, Calif. | Mitchell, Md. |
| Collins, Tex. | Mikulski | Wilson, Bob |

NOT VOTING—158

| | | |
|---|---|---|
| Addabbo | Fraser | Pressler |
| Ambro | Frey | Pursell |
| Andrews, N. Dak. | Fuqua | Quayle |
| | Gammage | Quie |
| Armstrong | Gibbons | Rahall |
| Ashbrook | Gilman | Rhodes |
| Badham | Goldwater | Richmond |
| Barnard | Green | Risenhoover |
| Baucus | Harrington | Rodino |
| Bedell | Harsha | Roncalio |
| Bevill | Hawkins | Rosenthal |
| Biaggi | Heckler | Rostenkowski |
| Bolling | Hillis | Rousselot |
| Breaux | Holland | Roybal |
| Brown, Calif. | Horton | Rudd |
| Brown, Ohio | Huckaby | Runnels |
| Burton, John | Jenkins | Santini |
| Burton, Phillip | Jenrette | Sarasin |
| Byron | Johnson, Colo. | Satterfield |
| Caputo | Jones, N.C. | Sawyer |
| Carney | Kasten | Sebelius |
| Cavanaugh | Kemp | Shipley |
| Chisholm | Krueger | Skelton |
| Clausen, Don H. | Le Fante | Skubitz |
| | Leggett | Slack |
| Clawson, Del | Lent | Smith, Iowa |
| Clay | Long, La. | Spellman |
| Cochran | Lott | St Germain |
| Cohen | Lujan | Stark |
| Collins, Ill. | Lundine | Stokes |
| Conyers | McEwen | Taylor |
| Cornwell | Madigan | Teague |
| Cotter | Maguire | Thone |
| Crane | Mann | Thornton |
| Davis | Marlenee | Tsongas |
| Dellums | Mathis | Vander Jagt |
| Dent | Mazzoli | Vanik |
| Derrick | Metcalfe | Waggonner |
| Devine | Meyner | Walsh |
| Diggs | Michel | Wampler |
| Early | Milford | Watkins |
| Eckhardt | Mitchell, N.Y. | Waxman |
| Edgar | Moakley | Weaver |
| Edwards, Calif. | Moffett | Weiss |
| Edwards, Okla. | Moorhead, Pa. | Whitehurst |
| English | Mottl | Whitley |
| Erlenborn | Murphy, Ill. | Winn |
| Evans, Colo. | Murphy, N.Y. | Wright |
| Flowers | Nichols | Wydler |
| Flynt | Oakar | Young, Alaska |
| Ford, Mich. | Obey | Young, Tex. |
| Ford, Tenn. | Pattison | Zeferetti |
| Fountain | Pepper | |
| Fowler | Pettis | |

Mr. McDONALD changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12433, with Mr. BENNETT in the chair.

The CHAIRMAN. When the Committee rose on Thursday, July 20, 1978, title III had been considered as having been read and open to amendment at any point. Pending is the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full 5 minutes because I think this matter has been thoroughly debated. I think that probably most Members have made up their minds. However, a couple of points need to be stressed in view of the discussion that occurred last evening.

First of all, even assuming that the Department's criteria for the reorganization actions taken were correct, those criteria have not been equally and equitably and consistently applied with respect to the reorganizations that the Department has ordered.

Secondly, in looking at the cost benefits or the cost benefit analysis of these moves which would justify the moves in the reorganization, we find that the Department has looked primarily at its own budget and how these moves would be cost effective from the Department's standpoint, but the Department has not adequately analyzed the cost benefit to the private sector, for people who utilize the services of these different offices.

Mr. Chairman, let me just cite as an example the Grand Rapids office in Michigan. The Grand Rapids office has been doing a wonderful job in the multifamily insuring function. The Detroit office has a terrible record. Nevertheless, that function would be shifted to Detroit.

Mr. Chairman, what does this mean—I say to the gentleman from Ohio (Mr. ASHLEY), whom I highly respect—in the context of mileage? The Grand Rapids office in Michigan, for instance, covers 57 of the 83 counties, probably three-fourths of the geographical area of Michigan.

What would be the case if the Grand Rapids function were eliminated? One would have to go farther to contact the HUD office from the Upper Peninsula of Michigan by going to Detroit, some 100 miles or more, than would people in the Detroit area if they had to go to Washington. It is some 550 miles from the point in the Upper Peninsula to Detroit.

Mr. Chairman, this does not make any sense if we really are trying to get HUD services out to the people, which is the whole thrust of the HUD programs.

Again, there has not been an attempt to really analyze the additional costs and inconveniences that will occur to those who use HUD services if this reorganization goes through.

Therefore, Mr. Chairman, I urge all of my colleagues to support the Abdnor amendment.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I also support the Abdnor amendment.

In my district in Cincinnati, Ohio, this reorganization has thrown the situation into chaos, and I am not speaking on behalf of the employees except to say that they cynically observe that they think the reorganization will be reorganized back within a few years, and they will be back at the same location, which will be at an additional cost rather than at a saving.

However, from the standpoints of the developer, of the city of Cincinnati, and of others who are interested in housing, in going ahead with development, they are the people whose arguments I have listened to; and I think this has been a tragic mistake.

Mr. Chairman, I support the amendment.

Mr. Chairman, I would like to join with my colleague from South Dakota in supporting his amendment to restore the HUD structure to that which existed prior to the October 13, 1977, announced reorganization.

We have already heard a number of excellent arguments against this reorganization and I wish to expand upon those remarks.

Foremost, this issue is one which deserves the direct consideration of the Congress. HUD has a proposed budget in fiscal year 1979 of over $68 billion and it is our responsibility to see that it runs effectively.

GAO recommended that this matter be brought before the appropriate committees last year, however, HUD proceeded independently. To correct such situations hearings should be held prior to the completion of this plan or any subsequent plans. Much of what we are suffering now is a result of lack of congressional involvement.

The reorganization represents only the Department's viewpoint. Their elimination of field office handling of multifamily functions in many areas does not improve the ability of HUD to serve multifamily construction needs. What is more it will cost over $12 million to implement.

This inefficient change will directly affect developers, mortgage companies, nonprofit sponsors, public accountants, and architects to name a few. Their representatives have pointed out that HUD multifamily consolidations will reduce the quality and speed of HUD operations in planning and construction phases.

A recent GAO report corroborates this opinion. In this report examples of distant offices' making serious mistakes because of lack of sufficient local knowledge have been cited. A housing official in Albuquerque, N. Mex., stated that HUD projects in New Mexico have been approved where designs have not been compatible with climatic conditions and projects sites have been approved for which the cost of construction grossly exceeded the improved value.

Further, in instances where great distances are involved between local sponsors and HUD multifamily services, operating costs will increase substantially. It is not unusual for a developer to make more than 20 one-person trips to a local office prior to the start of construction of a project. These added costs could ultimately result in developers refusing to do business with HUD.

Twelve million dollars is a lot of money for a move that estimates show will be only marginally successful in solving administration and processing problems and that a real threat to multifamily building activities and project management exist.

I believe that this money could be better spent to upgrade and streamline their processing and organizational procedures without this massive and costly change.

For all their attempts at being more efficient HUD proposed completion of this reorganization by March 20. Now, estimates are that the full plan will not be in place until sometime in the fall.

The most expensive part of this reorganization relates to the handling of affected personnel. Over 1,000 persons will be affected—many of whom will resign or retire, creating costs for separation pay as well as early retirement programs. Aside from dollar costs, the loss of

trained and quality personnel cannot be computed.

For each individual that is transferred the average cost to the taxpayer will be $6,000. The question is, is it worth it? It is not.

The administration's proposal is a critical blow to redevelopment efforts in my district. Cincinnati, for some time, has been struggling to get new housing within its corporate limits, particularly the downtown areas. These efforts are just now bearing fruit and much of this success has been attributed to constant contact between the HUD multifamily personnel in Cincinnati and the developer. This reorganization will eliminate that crucial factor and is seen as a great threat.

The Senate Banking, Housing, and Urban Affairs Committee has included in their version of this bill a ban on the use of any appropriated funds for the transfer of multifamily functions from any area, field, or insuring office within HUD. This move came after careful review of the GAO report which concluded that—

HUD's projected cost savings resulting from the reorganization are not well supported" and that consolidation of multifamily functions to a limited number of area offices will result in "a deterioration of HUD's project management capabilities because of increased distance and reduced project monitoring.

In conclusion, I urge my colleagues to join in this effort to halt the reorganization plan and to see that this issue be brought before the Congress for appropriate review. We should not continue to pump money into a plan which is opposed in the private sector and which stands to create added problems in the effort of providing adequate housing to all Americans.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman from Ohio (Mr. LUKEN) for his comments. I think what the gentleman has said applies throughout this Nation. Therefore, I urge my colleagues to support the Abdnor amendment.

Mr. CLEVELAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do not intend to speak for the full 5 minutes because this matter was rather carefully debated yesterday, and I do not want to take the time of the committee.

However, in reading over the RECORD of yesterday, there is some information that was not stressed yesterday which I think the Members should have.

First of all, I do not think it is too apparent from the RECORD of yesterday, although it may be, that what the Abdnor amendment attempts to do is something which the GAO specifically recommended that we do. The GAO recommended that the "Congress request the Secretary of the Department of Housing and Urban Development"—and I am now reading from the report—"to submit to appropriate committees the reorganization plan * * * before implementing the plan."

Mr. Chairman, that is what the GAO suggested.

The question of whether or not it is too late is still open to debate, but we stand on the position that only 24 percent of the reorganization has been completed. I think the House should know that in the Senate-passed bill, there is a similar amendment, so that this is not any wild-eyed idea.

The GAO report, as I understand it, says the reorganization would not result in in any substantial savings—no substantial savings, as was argued yesterday. The GAO report indicates that, if anything, there would be a diminution of services to the taxpayers and to the people who are using these programs.

Finally, I think we should know that most of the users—those are the town fathers and city fathers and the local people in areas affected—strongly support this amendment. I cannot speak for the entire country, but I certainly can speak for northern New England. I have had a great many letters from Vermont, New Hampshire, and Maine, and there is a strong grassroots supports for the Abdnor amendment.

Mr. Chairman, I urge that we adopt the Abdnor amendment.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, the gentleman mentioned earlier that there is some question about how complete this reorganization is. The fact is that it is about 90 percent complete, virtually complete. The Abdnor amendment, I think a lot of people are not aware of, will require the taxpayers and all of us to pick up the expense of moving all these employees who have been transferred, their mortgages, everything else, and put them back in place, which is an absolutely incredible thing. I cannot believe that we would be sitting here seriously debating moving this whole process back and paying the freight. Is that not true?

Mr. CLEVELAND. That is the gentleman's argument. He made it yesterday, and in conflict with the gentleman's argument is the statement of Mr. ABDNOR, the principal author of this amendment. His facts do not substantiate the statement the gentleman just made, so there it is, an honest difference of opinion.

Mr. BLANCHARD. Is it not true that the Abdnor amendment would require us to pay the entire expense of moving people back in place, personal as well as governmental?

Mr. CLEVELAND. The gentleman totally ignores what I consider to be a most important point, that some of these people have quit rather than move. Some of these people have built up skills which they have acquired over the years. They are not moving; they are quitting. Some of these people might come back on board and that might even things out. The fact of the matter is that, although the gentleman says it costs a little, the fact of the matter is that doing it in the first place was a mistake. It was done without consulting Congress; it was done improperly; it was done unwisely, and this is the time to take a mistake like this and nip it in the bud.

Yesterday, when we were arguing about this, the gentleman was unaware that the Senate had a similar provision in its bill. If he wants to cast aspersions on the intelligence of the Senate, as sometimes we feel like doing, he can do it. The fact is that this is an amendment whose time has come, and Congress is going to tell HUD that if they are going to change things around all over again, we want to be in on the decision before not after, as the GAO report recommended.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I do not know where the gentleman from Michigan gets his facts, but in his district, the Grand Rapids–Detroit situation, the gentleman should know that not a single person in Grand Rapids involved in that transfer, although it involves 50 of some 82 employees, not a single person has made any kind of commitment to move to Detroit. Stopping of the reorganization would not affect them whatsoever.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

(At the request of Mr. ASHLEY and by unanimous consent, Mr. CLEVELAND was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, is it not a fact that the Secretary, in something of the nature of a special dispensation for the gentleman from Michigan, agreed not to have people moved until the end of the year? Is that not a fact?

Mr. CLEVELAND. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. No, that is not a fact. To the contrary, the reason it has not been carried out is because Detroit has not been ready to handle it. That is what HUD told me.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ABDNOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 160, not voting 139, as follows:

[Roll No. 582]

AYES—133

| | | |
|---|---|---|
| Abdnor | Collins, Tex. | Forsythe |
| Alexander | Conable | Gephardt |
| Anderson, Ill. | Corcoran | Gillman |
| Archer | Cunningham | Glickman |
| Bafalis | D'Amours | Goodling |
| Bauman | Daniel, Dan | Gradison |
| Beard, Tenn. | Daniel, R. W. | Grassley |
| Benjamin | Derwinski | Guyer |
| Blouin | Dickinson | Hagedorn |
| Breckinridge | Dicks | Hall |
| Broomfield | Dornan | Hammer-schmidt |
| Brown, Mich. | Duncan, Tenn. | Hansen |
| Broyhill | Edwards, Ala. | Harkin |
| Buchanan | Emery | Harris |
| Burgener | Erlenborn | Hollenbeck |
| Burke, Fla. | Ertel | Holt |
| Butler | Evans, Del. | Howard |
| Carr | Fenwick | Hubbard |
| Carter | Findley | Hughes |
| Cederberg | Fish | Hyde |
| Cleveland | Foley | |

| | | |
|---|---|---|
| Ichord | Montgomery | Snyder |
| Jacobs | Moore | Spence |
| Jeffords | Moorhead, | Stangeland |
| Johnson, Calif. | Calif. | Stanton |
| Jones, Okla. | Moss | Steed |
| Kelly | Myers, John | Steiger |
| Keys | O'Brien | Stratton |
| Kindness | Patten | Stump |
| Lagomarsino | Poage | Symms |
| Latta | Railsback | Thornton |
| Leach | Regula | Treen |
| Livingston | Rinaldo | Trible |
| Lloyd, Tenn. | Robinson | Tucker |
| Luken | Roe | Ullman |
| McClory | Roncalio | Van Deerlin |
| McCormack | Ruppe | Volkmer |
| McDonald | Russo | Walker |
| McHugh | Santini | White |
| McKay | Satterfie'd | Wiggins |
| McKinney | Schulze | Wilson, Bob |
| Marriott | Shuster | Wylie |
| Martin | Sisk | Yatron |
| Meeds | Skubitz | Young, Fla. |
| Miller, Ohio | Smith, Nebr. | Young, Mo. |

NOES—160

| | | |
|---|---|---|
| Akaka | Fascell | Myers, Gary |
| Ammerman | Fisher | Myers, Michael |
| Anderson, | Fithian | Natcher |
| Calif. | Flippo | Neal |
| Andrews, N.C. | Flood | Nedzi |
| Annunzio | Florio | Nix |
| Applegate | Fountain | Nowak |
| Ashley | Fraser | Oakar |
| Aspin | Frenzel | Oberstar |
| AuCoin | Gammage | Obey |
| Baldus | Garcia | Ottinger |
| Beard, R.I. | Gaydos | Panetta |
| Beilenson | Ginn | Patterson |
| Bennett | Gonzalez | Pease |
| Bingham | Gore | Perkins |
| Blanchard | Gudger | Pickle |
| Boggs | Hamilton | Pike |
| Boland | Hanley | Preyer |
| Bolling | Hannaford | Price |
| Bonior | Hefner | Pritchard |
| Bonker | Heftel | Quillen |
| Bowen | Hightower | Rahall |
| Brademas | Holtzman | Rangel |
| Brinkley | Ireland | Reuss |
| Brodhead | Jones, Tenn. | Risenhoover |
| Brooks | Jordan | Roberts |
| Burke, Calif. | Kastenmeier | Rogers |
| Burke, Mass. | Kazen | Rooney |
| Burleson, Tex. | Kildee | Rose |
| Burlison, Mo. | Kostmayer | Rosenthal |
| Cavanaugh | Krebs | Ryan |
| Chappell | LaFalce | Scheuer |
| Coleman | Lederer | Schroeder |
| Conte | Lehman | Seiberling |
| Corman | Levitas | Sharp |
| Cornell | Lloyd, Calif. | Sikes |
| Cornwell | Long, Md. | Simon |
| Coughlin | Lundine | Solarz |
| Danielson | McCloskey | Staggers |
| de la Garza | McDade | Steers |
| Delaney | McFall | Studds |
| Dingell | Mahon | Thompson |
| Dodd | Marks | Traxler |
| Downey | Mattox | Udall |
| Drinan | Meyner | Vento |
| Duncan, Oreg. | Mikulski | Walgren |
| Eckhardt | Mikva | Whalen |
| Edwards, Okla. | Miller, Calif. | Wilson, C. H. |
| Eilberg | Mineta | Wilson, Tex. |
| English | Minish | Wirth |
| Evans, Colo. | Mitchell, Md. | Wolff |
| Evans, Ga. | Mollohan | Yates |
| Evans, Ind. | Murphy, Pa. | Zablocki |
| Fary | Murtha | |

NOT VOTING—139

| | | |
|---|---|---|
| Addabbo | Clausen, | Ford, Mich. |
| Ambro | Don H. | Ford, Tenn. |
| Andrews, | Clawson, Del | Fowler |
| N. Dak. | Clay | Frey |
| Armstrong | Cochran | Fuqua |
| Ashbrook | Cohen | Giaimo |
| Badham | Collins, Ill. | Gibbons |
| Barnard | Conyers | Goldwater |
| Baucus | Cotter | Green |
| Bedell | Crane | Harrington |
| Bevill | Davis | Harsha |
| Biaggi | Dellums | Hawkins |
| Breaux | Dent | Heckler |
| Brown, Calif. | Derrick | Hillis |
| Brown, Ohio | Devine | Holland |
| Burton, John | Diggs | Horton |
| Burton, Phillip | Early | Huckaby |
| Byron | Edgar | Jenkins |
| Caputo | Edwards, Calif. | Jenrette |
| Carney | Flowers | Johnson, Colo. |
| Chisholm | Flynt | Jones, N.C. |
| Kasten | Murphy, N.Y. | St Germain |
| Kemp | Nichols | Stark |
| Krueger | Nolan | Stockman |
| Le Fante | Pattison | Stokes |
| Leggett | Pepper | Taylor |
| Lent | Pettis | Teague |
| Long, La. | Pressler | Thone |
| Lott | Pursell | Tsongas |
| Lujan | Quayle | Vander Jagt |
| McEwen | Quie | Vanik |
| Madigan | Rhodes | Waggonner |
| Maguire | Richmond | Walsh |
| Mann | Rodino | Wampler |
| Markey | Rostenkowski | Watkins |
| Marlenee | Rousselot | Waxman |
| Mathis | Roybal | Weaver |
| Mazzoli | Rudd | Weiss |
| Metcalfe | Runnels | Whitehurst |
| Michel | Sarasin | Whitley |
| Milford | Sawyer | Whitten |
| Mitchell, N.Y. | Sebelius | Winn |
| Moakley | Shipley | Wright |
| Moffett | Skelton | Wydler |
| Moorhead, Pa. | Slack | Young, Alaska |
| Mottl | Smith, Iowa | Young, Tex. |
| Murphy, Ill. | Spellman | Zeferetti |

The Clerk announced the following pairs:

On this vote:

Mr. Pressler for, with Mr. Addabbo against.

Mr. Nichols for, with Mr. Phillip Burton against.

Mr. Mottl for, with Mr. Jenrette against.

Mr. RISENHOOVER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Chairman, I offer an amendment.

I ask unanimous consent to modify my amendment to title I previously adopted in the Committee of the Whole on June 28. My modification is at the desk.

The Clerk read as follows:

Amendment offered by Mr. GRASSLEY: Page 9, after line 2, insert the following:

(e) Title I of such Act is amended by adding the following new section at the end thereof:

"FAIR ACCESS FOR SMALLER COMMUNITIES"

"SEC. 120. The Secretary shall not establish requirements that limit or exclude the access of any community from assistance under this title on the basis of the population of such community except as expressly authorized by statute."

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa (Mr. GRASSLEY) to return to title I for the consideration of his amendment?

Mr. ASHLEY. Mr. Chairman, reserving the right to object, I would like to say that the gentleman from Iowa (Mr. GRASSLEY) has discussed this amendment with the majority side. The purpose of the unanimous-consent request is to take care of an inadvertent mistake that was made.

Mr. Chairman, there is no objection to the unanimous-consent request or the amendment on this side, and I withdrew my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GRASSLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan: Page 29, line 20, section 307 is amended by striking subsection (b) and relettering each succeeding subsection accordingly.

Mr. BROWN of Michigan. Mr. Chairman, basically, my amendment strikes the so-called Holtzman amendment. In doing so, it continues the policy of the Federal Government with respect to FAIR insurance programs that has persisted up to this time.

FAIR plans provide fair access to insurance requirements, and FAIR plans are State insurance programs encouraged by the Federal Government. The plans are not Federal insurance programs. To date, 26 States, the District of Columbia, and Puerto Rico have seen fit to adopt FAIR plans. Federal law merely requires that a FAIR plan be adopted by a State in order for insurance companies within a State to be eligible for riot reinsurance.

Now, indeed the law says:

Such plans must be approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State law * * *;

And the law further says that—and I quote:

Such plans may vary in detail from State to State because of local conditions * * *.

Mr. Chairman, the reason that we have this issue before us today is because the State of New York has seen fit to surcharge the high-risk policies with the full amount of the high-risk premium. This is possible under a FAIR plan. However, it is not contemplated by the FAIR plan; rather, under the FAIR plan, each State can determine for itself how the additional cost of this high-risk insurance shall be paid.

A State may directly subsidize this FAIR program so as to keep the rates to high-risk properties at least down somewhere near the voluntary market. A State can decide spread the full amount of the high-risk plan in the high-risk areas across the whole voluntary market. A State can determine that 50 percent shall be surcharged on the high-risk premium cost, or it can provide a 50 percent spread or a 50 percent subsidy, or it can use a formula of 80–20 or perhaps 75–25. All of those things are available under the plan.

The whole idea, though, is that a State shall determine how it will handle this high-risk program.

The State of New York, as I have said, surcharges the full amount, and I suppose that in later speeches there will be an allegation of redlining.

But if there is an allegation of redlining, it is not the Federal Congress that is redlining. It is the State of New York and its legislature.

We should not, because there is a problem in the State of New York, be passing a Federal law which in effect will dictate in an extremely rigid way how the other 49 States shall handle the rating of their insurance policies.

Mr. Chairman, I respectfully suggest that if we start this precedent of our moving in—especially it is bad because there is only one State involved—and

telling State insurance commissioners and State legislatures how they are going to rate their insurance costs for all of their insurance companies, we are indeed in trouble.

Under this theory, I can see where we could just as well tell the States how they should handle their assigned auto risks, and all kinds of matters such as that.

Mr. Chairman, this is not a proper area for the Federal Government to impose itself. It is not needed. A remedy exists at the State level in New York, and we should not be adopting a Federal solution for what is one State's problem.

And let me point out that the State of New York is doing something. I think the State Assembly on June 5, of this year, passed legislation which would give up to $17 million of immediate relief to FAIR plan policyholders. The State decided to directly subsidize it. And that is the way it should be. The States should decide how to handle it.

Let me point out also that the Justice Department, in a letter to OMB dated February 22, this year, with respect to a report that was filed, said this:

> A strong argument may be made that the States, rather than being compelled to rely on a rigid rate structure and crude system of subsidization, should have the flexibility to experiment with new methods of pricing FAIR Plan Insurance and of subsidizing FAIR Plan risks, to the extent necessary, in light of the particular needs of consumers within the State.

Mr. Chairman, this is one amendment that, if we have any consistency in our philosophy of government, we should vote yes on.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment offered by the very distinguished ranking minority member of the Subcommittee on Housing and Community Development, my colleague and friend, the gentleman from Michigan (Mr. BROWN).

Mr. Chairman, the issue involved here, in all truth, has been debated at great length over the past year in the conference on last year's housing and community development bill, in oversight hearings that the Subcommittee on House and Community Development conducted last November, in hearings that the Federal Insurance Administration held in December and January of last year, in the subcommittee's legislative hearings in March and subsequent markup sessions in the subcommittee and full Committee on Banking and, of course, now we are here today during floor consideration of this year's housing bill.

Mr. Chairman, we are not plowing new fields this morning. The issue is clear. It concerns the FAIR plan premiums and the way that these premiums are calculated. Based on the experience of FAIR plan policies alone, these premiums are simply too high for people to afford. For instance FAIR plan policies for people in the State of New York are four or five times higher than similar policies in the voluntary market. That is where the problem is. Because companies for a variety of reasons do not want to insure properties in certain urban areas, FAIR plan coverage was provided some 10 years ago. FAIR plan coverage is a carefully balanced program of private, State, and Federal cooperation. But what has happened in New York State and what is beginning to happen in nine other States as well is that FAIR plan policies more and more are simply beyond the reach of most homeowners.

The bill before us seeks to keep insurance available under the FAIR plan concept by insisting that the FAIR plan costs be no greater than private insurance available in the voluntary market.

Mr. Chairman, the administration supports this approach. So does the committee chairman.

Mr. Chairman, I would urge the defeat of the Brown of Michigan amendment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Wisconsin, the distinguished chairman of the full committee.

Mr. REUSS. I thank the subcommittee chairman for yielding.

Mr. Chairman, I want to thoroughly endorse everything the subcommittee chairman has said. I am 100 percent for that provision in the bill before us.

Mr. Chairman, I have had occasion to become aware of the views of our distinguished State insurance commissioners, Mr. Harold Wilde, who happens to be Wisconsin State commissioner. He heartily endorses this provision for two very commonsensible reasons. One, he points out that it is not going to affect the rate structure, which is on a statewide basis anyway. Of course, all insurance companies would just love to insure the superior risks and let the rest of the world go by. However, that is not how our great American private insurance industry business became great. They did it based on the principle of shared risk.

Mr. Wilde also points out that in both small communities and large communities—and they all have this selectivity problem—if the individual building for which insurance is sought has a condition problem, if it is fire-prone, for example, then, of course, a surcharge can be made, whether it is in millionaires' row or in the center of a tiny pocket of rural poverty.

Finally, he indicates that there should be a more forceful way of drawing the attention of our great insurance industry to the necessity that it stay with the problem of offering insurance on all homes to Americans generally and not continue the quasi-redlining that goes on.

Therefore, Mr. Chairman, I hope that the language in the bill before us will be retained, and I thank the gentleman for his forceful statements.

Mr. ASHLEY. Mr. Chairman, I appreciate very much the comments and the contributions of the chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS).

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am happy to yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I appreciate the gentleman's yielding.

I, too, want to strongly associate myself with his remarks.

I would indicate that I have copies of correspondence from the Commissioner of Insurance in the Commonwealth of Massachusetts, vigorously supporting this provision. I also have correspondence from the Commissioner of Insurance in the State of New Jersey.

The point that I would like to make, Mr. Chairman, is how in the world can we talk about new neighborhoods, revitalizing neighborhoods, providing housing for people, and still ignore the problem of redlining which devastates our neighborhoods?

Mr. Chairman, I vigorously support the remarks made by the chairman of the subcommittee.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding.

There has been some talk about insurance commissioners, and there probably are insurance commissioners who have not had the courage or have not been able to be persuasive enough to get their State legislatures to avoid the very things which the gentleman from Maryland (Mr. MITCHELL) is talking about.

However, what about all the other commissioners? The National Association of Insurance Commissioners of all the 50 States adopted a resolution, and the letter to me says that they "adopted a position of strong opposition to the Holtzman amendment."

In the letter they point out the following:

> Such congressional legislation would directly impact upon the insurance ratemaking process thereby usurping the traditional insurance legislative and regulatory authority responsibilities which have been vested in the States.
>
> Congress should not establish a fundamental adverse precedent of mandating a Federal insurance regulatory role for all States, especially to solve a perceived problem which may be applicable in only one or at most in only a very few states.

Mr. ASHLEY. Mr. Chairman, let me say to the gentleman that with respect to the National Association of Insurance Commissioners, it is a divided question. We are not claiming that there is unanimity as far as those commissioners are concerned. It is a divided question, but I am sure the gentleman is convinced of the merits of the position of the National Association of Insurance Commissioners.

Mr. BROWN of Michigan. If the gentleman will yield further, this was a majority of the National Association of Insurance Commissioners, a majority of the commissioners, at least.

Mr. ANNUNZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my distinguished colleagues, as one of the authors of the original FAIR plan legislation, I rise to most vigorously oppose the amendment.

The original thrust of the FAIR plans was to provide insurance to businesses and homeowners who were being denied insurance. In many cases, the denial was

based on factors which could not be controlled by those seeking insurance.

However, the insurance industry is now using FAIR plans as a dumping grounds designed to funnel more money into their companies' pockets.

I know there are Members of this body who feel this problem is associated only with major metropolitan areas. I want to warn every Member of this House that what is happening in FAIR plan cities in this country will soon spread to the suburbs and even the rural areas unless we stop it here this morning. Every day more and more homeowners with good insurance records are being told that their policies are not being renewed and they must seek coverage under the FAIR plan where, of course, the rates are double and triple normal premiums. You can be certain that this will happen in your community whether you live in New York, Chicago, Los Angeles, or rural America.

If we do not stop this insurance overcharge right now, in a few years the only thing the insurance industry will want to insure against is floods on the Nevada desert.

I am deeply concerned about the report prepared by the General Accounting Office which suggests that FAIR plans are being used by the criminal element to burn down buildings and then to collect insurance. While there is evidence that arson for profit is occurring, the evidence also weighs heavily that it is taking place primarily in the private insurance market rather than in FAIR plan States.

It is strange to me that the General Accounting Office would not even ask the Federal Insurance Administration to comment on their report before it was published. It is also strange that this report was issued at almost the exact time that this legislation was being considered. I hope that this highly questionable report will not tarnish an otherwise good reputation of the General Accounting Office.

In conclusion, I want to ask the Members of the House not to look at FAIR plans as only a major city problem. If you think that is true, just ask your constituents about their insurance problems and then explain to them how this body had an opportunity to solve those problems but did not act.

In 1969, BILL MOORHEAD of Pennsylvania, who was then chairman of the Financial Institutions Subcommittee of the House Banking and Currency Committee, and I conducted hearings on the effects of the FAIR plans on the cities of America. During these hearings, we discovered that the first major exodus out of the cities of this country was due directly to redlining by the insurance companies—and do not ever forget that. And they are still redlining. In view of that fact, the people left the cities of America. The second exodus out of the major cities of America was avoided only because the grandparents who remained behind in their homes, in their old neighborhoods, were able to get coverage under the FAIR plans. What we must do is to make the FAIR plans more honest, more reasonable, so that your constituents and my constituents can be able to buy insurance, not at these exorbitant rates of four and five times the normal rates, but at reasonable rates through these plans.

I have enough faith in the Members of this House to know that they will not turn their backs on FAIR plan States, over 26 States, on millions and millions of homeowners who are being shanghaied by the insurance companies by paying these astronomical rates, and to put a few extra dollars into the pockets of the insurance companies of America who really have too damn much money.

Mr. Chairman, I urge my colleagues to vote down the Brown amendment and vote for the people of their districts.

Mrs. FENWICK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise not in criticism of the General Accounting Office or in criticism of our insurance companies, nor even in criticism of the commissioners who may have written against this very sound bill. I think it is natural that they try to preserve their prerogatives. We have seen enough of that here in the House to understand exactly what they are doing; and without being too condemnatory we can understand it is part of human nature.

But what we have in the bill is something that is fair, something that is just. We do not need to impugn the motives of those who oppose it to say that we believe that in the United States the insurance risks will be shared equally by all in the State.

There is no need to try to suspect wrongdoing here. We are simply saying that the bill provides a more fair, a more just, and a more equitable situation. The bill is good as it stands.

I hope the amendment will be defeated.

Mr. WYLIE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in vigorous support of the Brown of Michigan amendment.

The Holtzman amendment, adopted by the House in the 94th Congress by a voice vote, was passed on the assurance that the Holtzman amendment would apply only to New York City and would have no impact on any other city or State. When we went to conference with the Senate, we found that those assurances were not quite accurate. There is no implication intended here, but we found that the Holtzman amendment would have a direct impact on ratemaking authority, which has traditionally and wisely been left to the States. The amendment is clearly, purely, and simply Federal intervention in a State matter.

Congress is once again being asked to solve a problem for New York City that can be resolved at the State and local level and should be resolved at the State and local level.

Please do not misunderstand. I understand the position of the gentlewoman from New York and I respect her for it. She is representing her district, but I do not think we should be forever passing special legislation for New York City, and that is what this amendment amounts to.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield at that point?

Mr. WYLIE. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, the gentleman is well aware of course that FAIR plans operate on a statewide basis and are not limited to any particular city, so under no circumstances could any assurance have been made that only one city would be affected nor could it have been accepted by anyone.

Mr. WYLIE. I understand the operation of it.

Ms. HOLTZMAN. As the gentleman well knows, this provision in the bill in no way imposes any rate structure on a State. All the provision requires is that whatever rate is set by the State for insurance in the private market must apply as well in the FAIR plan. I would add that the entire riot reinsurance program is voluntary. If a State does not wish to participate, it does not have to establish a plan at all.

Mr. WYLIE. I respectfully disagree.

I would like to continue for just a moment with my statement, because I want to address that point.

The Congress of the United States passed the Federal Riot and Crime Reinsurance Act to encourage the States to establish FAIR plans to provide access to the insurance market for people in businesses that might fall victim of riots. That was the purpose of it. Most States, including my own State of Ohio, charge no more than 25 percent differential to those who cannot obtain insurance in the open market. New York State's FAIR plan has rates which are up to 4 times that of the general property insurance rates, above the rate which is charged for other areas of the State, and that is based on the casualty experience in riot and other crime areas.

The Holtzman amendment would require that such casualty experience not be treated as a special case, as it is in New York, and it would require that FAIR plans charge the same rates for innercity neighborhoods as for other areas. This would raise the rate for people in other low-risk areas, I submit.

But the worst impact to me of the Holtzman amendment is that it puts HUD in the insurance ratemaking business, a role traditionally left to the States.

I believe the insurance industry across the country will withdraw from the numerous state plans now in existence at the State level, including my own State of Ohio, if this amendment passes.

It is clear that New York City is a special problem for casualty insurance companies because of the experience the city had just recently, just last summer, with the power blackouts that originated in New York State. Lightning reportedly struck several different key power facilities in New York State at different times in the night and a subsequent series of human and/or equipment failures in New York State plunged New York City into darkness for an entire night. The police had orders not to shoot, and the word spread among the potential looters who then turned out en masse. New York State did not bring out the National

Guard and crime continued throughout the night.

The Holtzman amendment would require that the insurance companies charge the same rates for properties in the path of the looters in New York City as are charged for those in the rest of New York State. I do not see why the Federal Government has to get involved in this parent/child problem in New York. Let New York City take its problems to Albany and leave the rest of the country alone.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, it does not seem fair to me for New York City to expect the U.S. Congress to be continually acting as the city council for New York City, or to play the role of "in loco parentis" when New York State walks away from New York City's problems. I feel that New York State should do more than it has, and that New York City should accept its condition in life which includes parentage by New York State. Those two political levels should get together for their common good and stop coming to Congress for endless special treatment for New York City, especially when special treatment is going to be costly and perhaps economically destructive for my constituents and to those of most of the representatives in this House.

I have a letter, too, from a State insurance director from the State of Ohio and he is vigorously in opposition to the Holtzman plan.

I urge an aye vote for the Brown of Michigan amendment.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I was very much interested in the gentlewoman from New York's response to the gentleman from Ohio when she said this amendment does not force the insurance upon anybody because the FAIR plans are voluntary. That is a fine position to take. It is, of course, true, but if the States who are subject to this legislation withdraw from the program there would not be any FAIR plans and this provision would not have any application to any State for there would be no program.

That is a fine response to the gentleman's question.

Mr. WYLIE. I agree with the gentleman from Michigan (Mr. Brown). I made the point that the State of Ohio might well if this amendment passes, just withdraw from the FAIR plan.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. The gentleman from Michigan (Mr. BROWN) seems to think that there is a very unique principle involved here. But, as we are all aware, the Federal Government routinely insists on conditions when it extends benefits—as it is doing in this case when it extends the benefit of the riot reinsurance program to the States. It certainly can expect something in return for that.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield further, what is the benefit from the Federal Government that these States have derived? The Federal Government has been the beneficiary under the FAIR program since its inception.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Ms. HOLTZMAN, and by unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield further?

Mr. WYLIE. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. The gentleman from Michigan (Mr. BROWN) asked a question to which I will give him the following answer:

Riot reinsurance for States is backed by the Federal taxpayers. First, the Federal Insurance Administration has borrowing authority of up to $250 million to pay for riot losses. Second, the total exposure of the taxpayers of the United States is $500 billion for all the properties covered by riot insurance. Do you not think the taxpayers are entitled to something in return for that? I think the gentleman is incorrect when he suggests the Federal Government has no basis on which to impose conditions on participation in the riot reinsurance program.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield further, let us look at the facts. There has been a net gain in the Federal budget for each of the years under the riot reinsurance plans; the Federal Government has gotten for this reinsurance a net benefit, a plus, the budget books are here, you can look at them.

Mr. WYLIE. I thank both of you for your contributions.

The CHAIRMAN. The time of the gentleman has again expired.

Ms. OAKAR. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I just want to say a few words extemporaneously about the amendment and also about a situation in my city of Cleveland, Ohio. Last summer we had Select Committee on Aging hearings in the city—all of the areas of the city including an older community, an ethnic community, where many seniors live, including many widows who are trying to maintain their homes and who do not want to go into high-rise complexes. The No. 1 issue, to my surprise, on their minds was the fact that certain insurance companies after 20 and 30 years had canceled their policies arbitrarily. Then, of course, the seniors tried to receive the FAIR plan because naturally, they want to be protected. These were people who were from older residential neighborhoods which did not have disorders of any kind. Most of these people had never had a claim against an insurance company. They could not understand the redlining and unfairness of the companies. Under the FAIR plan in the great State of Ohio, which I also proudly represent, they found that the FAIR plan was much higher than what they had been paying in premiums beforehand. So, in many cases these elderly people could not afford insurance. I feel very, very strongly that this is a great disregard for our older Americans who have tried to maintain older communities, who have lived in these communities for many years. I think that what the solution found in the bill is fair. Why has the Federal Government stepped in? Because the State legislatures have done nothing about it, and it is about time we use and exercise our influence in that regard to protect people like the elderly who want to stay in their homes, to protect people who are of moderate to middle income who, unfortunately, have been redlined by insurance companies.

Therefore, I think that this amendment is very unfortunate, and I hope, for the sake of all the older Americans in our country, we defeat it soundly.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. As a member of the State senate, I was deeply involved in drafting the FAIR plan legislation in Ohio. We have had great success with it, and the issue today is whether we are going to impose Federal regulations on the decision of the State legislatures to deal with the problem as provided for in the FAIR plan law.

I would like to quote from a telegram I received from the Ohio Superintendent of Insurance, Mr. Harry Jump, and I quote:

> We would like to emphasize that the Ohio law already requires the Ohio FAIR plan to use the rates for basic property insurance used in the voluntary insurance market. In fact, since November 1977 the Ohio FAIR plan has stopped imposing condition charges on owner-occupied dwellings. Therefore, the rates for basic property insurance charged by the Ohio FAIR plan will be no more than, and will often be less than, the rate established for basic property insurance by insurance services offices.

Mr. Jump continues:

> Ohio does not have the problem addressed by Section 307(b) of H.R. 12433. We do not believe that Federal involvement is justified in the area of insurance to solve a problem of New York State. We repeat that Ohio does not have this problem.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentlelady from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

As the gentleman knows, I respect the work that he does as a legislator and also as a member of the Select Committee on Aging, but I must tell him—and certainly this is no reflection on him—that that is not true. That is absolutely not true. If we are to believe the people who are the so-called recipients of the Ohio FAIR plan, the people in the communities will tell us that in Cleveland at least it is 40 to 60 percent more, and it is out of the market for them. So the moderate-income people such as the elderly cannot afford that, so I really take issue with that statement.

Mr. REGULA. As the gentlelady knows, I was at the hearings conducted in Cleveland. These are the facts as out-

lined by the superintendent of insurance in Ohio, saying in effect that Ohio is not now imposing extra charges.

I think the real issue is whether or not we are going to substitute ourselves for the New York State Legislature. We dealt with the problem in Ohio. The State of New York ought to deal with the problem in that State, and I do not think we should be legislating something for many States which in fact is directed solely toward the problem in New York State. It goes even to the issue of Federal versus State responsibility for insurance.

I think there is one other element in this and that is that if the States are not responsible, or at least if the legislatures are not taking responsibility and the departments of insurance likewise you get careless underwriting. I think we invite that with this kind of legislation.

The reason the Ohio plan has worked is that the insurance companies and the insurance departments have gone into areas and made a very sustained effort to reduce the losses and to reduce the risks; so, in effect, they are no longer required to impose a surcharge to provide insurance coverage in high-risk areas.

If we pass this legislation, if we take away the element of responsibility in New York State, there will no longer be the incentive, as we have had in Ohio, as I am sure there has been in other States, to make an effort to reduce the high-risk areas, because otherwise you are passing the losses along to those who are more careful and, in effect, not having the kind of administration in the underwriting programs that is so necessary for FAIR rates for everyone.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to my colleague, the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I want to compliment the gentleman for an excellent statement and for putting this issue in proper perspective, to my way of thinking, and also I want to compliment the gentleman for his part as a State senator in Ohio for taking a leadership role in making the Ohio FAIR plan possible.

I have a letter here from one of our insurance executives. He says that the cost burden and higher insurance risk faced by urban residents and property owners would be placed on the shoulders of the average taxpayer by an amendment such as the Holtzman amendment, if enacted into law.

From the gentleman's experience and knowledge, would the gentleman say that is a fair statement?

Mr. REGULA. Mr. Chairman, I think it would depend on how the legislatures in the respective States chose to handle the problem. In Ohio, rather than have a State subsidize the rate, losses were spread over the market. The real problem was to develop a careful program of underwriting.

Mr. LUNDINE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, it is my judgment that there is a very clear need for this provision. It has been well documented carefully by hearings and studies, ordered by this Congress. The history of this matter relatively recently is that the gentlewoman from New York did obtain passage of an amendment, the Holtzman amendment, in the House last year.

We went to conference with the Senate, which had no similar provision, and the outcome of that conference was that a study would be initiated and a report back would be made. That study resulted in the report entitled, "New Crisis in Urban America."

Let me emphasize that, "Insurance Crisis in Urban America," not in Urban New York State. In fact, 10 States of the United States have fair rate plan rates, exceeding those in the voluntary insurance market. Those are Connecticut, Delaware, Illinois, Iowa, Kansas, Minnesota, Missouri, Virginia, and Wisconsin, as well as New York State.

I say we should listen to that report and that this amendment is clearly not an intrusion upon the States' ratemaking prerogatives. They will not be unduly eroded by this approach.

First, this is a Federal program with considerable reinsurance risk and it is voluntary on the part of the States. Why should we not then have some ability to set some reasonable level of standards for the people in these areas who could not otherwise obtain insurance?

There are States which have parity, and if that is the case in Ohio and in other States, they have no problem. In other words, if they are charging the same rates, as my colleague on the committee, the gentleman from Ohio, alleges, then they are in no problem; they are in compliance with this amendment.

This is not a New York State problem. Ten States have it. And it is not a city problem. Upstate areas, as well as city areas, are a factor in this, and that is well documented in the report.

As a matter of fact, the amendment is supported by the National Rural Housing Coalition. We had testimony before the committee which indicated that a new practice is going on now, setting a limit on the value of houses which will qualify for insurance in the voluntary market, so anything under a $20,000 house automatically goes into the FAIR plan. In many areas, including the rural areas of upstate New York I represent, a lot of people live in safe, sanitary, decent houses costing less than $20,000, and they are being thrown into the FAIR plan and are now required to pay four and five times the usual amount just for basic fire insurance.

I have been accused of demagoguery for having said that this is redlining. If that is the case, I want to repeat my tendency. It is not the States that are redlining; this is the insurance companies who are making a determination that some properties will be insured in the voluntary market at certain rates while others are going to pay four and five times as much under the FAIR plans.

If that is not redlining, then I do not know what that word means. To me it simply means that in terms of insurance, people in ghetto areas and poor people in rural areas are being priced out of the insurance market.

Mr. Chairman, I ask my colleagues to defeat the Brown amendment and keep a reasonable standard so that people in the FAIR plan areas will be encouraged to own their own homes and will in fact be able to afford insurance on their own homes.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I would be pleased to yield to my colleague, the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from New York (Mr. LUNDINE) knows that if there has been any redlining, if there has been a surcharging of all the high-risk premiums, it has been done under the authority and direction of the particular State involved, primarily in this case New York; it has not been done by the insurance companies.

The gentleman knows that insurance companies do not set the rates; the rates are set by the insurance commissioner.

How much time has the gentleman from New York (Mr. LUNDINE) and the gentlewoman from New York (Ms. HOLTZMAN) spent with their New York Legislature to get them to do what the Holtzman amendment does? Not a bit, I will bet.

The CHAIRMAN. The time of the gentleman from New York (Mr. LUNDINE) has expired.

(By unanimous consent, Mr. LUNDINE was allowed to proceed for 1 additional minute.)

Mr. LUNDINE. Mr. Chairman, it is true that the States set the rates, but it is also true that the insurance companies make the determinations as to which properties are going to fall under the FAIR plan and which properties are going to fall without that plan and go in the voluntary market.

There are these 10 States—not 1 but 10 States—which have allowed for higher rates in those particular areas where the insurance companies have determined that they are going to throw these people into a poor people's category. Those poor people then have to pay a higher premium, and the result of that is, in my judgment, redlining.

Mr. Chairman, I ask that the amendment offered by the gentleman from Michigan be defeated.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I think it is important to note that the gentleman from New York (Mr. LUNDINE) is absolutely correct when he says redlining is undertaken by insurance companies. Indeed it is very interesting to note that the attorney who now represents and writes letters on behalf of the American Insurance Association was once a Federal Insurance Administrator, and he put out a report called "Full Insurance Availability," the whole first part of which deals with the fact of redlining. In that report he talked about the stigma attached to redlining and

redlining as it relates to insurance companies.

The CHAIRMAN. The time of the gentleman from New York (Mr. LUNDINE) has again expired.

(On request of Mr. BROWN of Michigan, and by unanimous consent, Mr. LUNDINE was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Once again, the State insurance commissioner, under authority of the State legislature, can maintain control over the insurance companies, can bring them in, and can control and supervise the operation of the whole insurance industry in a State. The gentleman knows that. So the fault once again lies with the State, and if there are other States besides New York that have a problem, it is a State problem within those States.

If there is redlining being done, it is being done by the State, not by the Federal Government, and we should not impose and assume that every State is redlining and, therefore, adopt the Holtzman amendment, which in effect accuses them all of redlining, because it is not true.

Mr. LUNDINE. Mr. Chairman, if I may reclaim my time just briefly, I would like to say that this is a problem that should be cured at the State level. Unfortunately, many of them have not done so. The enormous burden of maybe $2 additional premium on other people, apparently, has not. But the fact is that there is $500 billion of Federal reinsurance, and we have not only the right but, I maintain, the responsibility to see that it is distributed in an equitable fashion.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Maryland.

The CHAIRMAN. The time of the gentleman from New York (Mr. LUNDINE) has expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. LUNDINE was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

Mr. Chairman, the gentleman in the well is absolutely right. In my own State of Maryland there was an attempt made to increase the FAIR plan rates by 35 percent. Fortunately, our State Insurance Commissioner recognized that this was another attempt to shaft the poor, who are the victims of redlining, by the insurance companies; and he denied the request.

What happened was that the insurance industry, with its battery of lawyers, went into court and got our insurance commissioner overruled, and the court has sanctioned this insidious increase against the poor and the senior citizens in my community.

Mr. Chairman, the gentleman is absolutely right.

Mr. LUNDINE. That is a good reason why the Federal Government should take this action, which does not set rates but simply sets a standard which will mean there is going to be fair premiums.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman agree that the original concept of this FAIR plan was to have the States regulated?

Mr. LUNDINE. Yes. And I would also say that the understanding in 1968 and the clear congressional intent was that the rates being paid in these areas would be similar to those paid throughout the voluntary market.

Mr. WYLIE. If the gentleman agrees that the original plan was to be regulated by the various States—and it clearly was—then why is this not properly a problem for the New York State General Assembly rather than a problem for the U.S. Congress?

Mr. LUNDINE. Because after 10 years of experience with a Federal program, we found out that not only in New York but other States are charging higher rates.

The intent of Congress is being thwarted, and now it is time to take action.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 5 minutes to 12.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will each be recognized for approximately 1 minute.

(By unanimous consent, Messrs. ASHLEY, MITCHELL of Maryland, REUSS, and ANNUNZIO yielded their time to Ms. HOLTZMAN.)

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I would like to begin by commending the subcommittee and the Committee on Banking, Finance, and Urban Affairs for their recognition of the serious problem of redlining across the United States and for their willingness to act on it.

I think the facts of redlining are indisputable. It has been documented in HUD reports. It has been documented in other reports through the Nation—in Michigan, in Illinois, in New York. Redlining is often done by zip code, and it often has a racial component.

Mr. Chairman, redlining means the doom of urban areas. It means widespread building abandonment and neighborhood deterioration. It means that people cannot get mortgages to rebuild properties, to improve properties, or to purchase properties.

In 1978 the Federal Government recognized that redlining was a serious problem; and in 1968 the Federal Government recognized that States, on their own, were unable to solve the problem. Consequently, the Federal Government set up through the riot reinsurance program an incentive for States to create FAIR plans to assure that everyone had access to insurance.

The Congress stated clearly that the purpose of the 1968 act was to make insurance available at "reasonable cost"—and I am quoting directly from the statute.

Mr. Chairman, section 307(b) of this act carries out the 1968 congressional intent of reasonable rates. All that it says is that no one can price-gouge victims of redlining. It is a very simple principle. It is a matter of equity. After all what right is there for an insurance company to arbitrarily stigmatize anybody by saying, "We will not give you property insurance because we do not like your zip code" or "We do not like your race"?

Enactment of section 307(b) is also an absolute prerequisite to an effective urban policy. Insurance has been called the cornerstone of credit, and if it is not available, mortgage financing is unobtainable and people cannot buy, improve, or expand homes or businesses. In short, without passage of 307(b), the commitment of billions of dollars in funding and mortgage financing to our urban areas will be meaningless.

Mr. Chairman, let me say that the arguments that have been raised time and time again against this proposal are baseless and inaccurate. First this is not an amendment that affects New York State alone. There are 10 States in this country that have insurance rates that are higher in FAIR plans than in the private market. Indeed, the trend is clearly toward higher FAIR plan rates nationwide: in 1975 there were only three States which had FAIR plan rates higher than the private market; now there are 10 States. Furthermore, within the last year increases were sought in FAIR plans in seven States. In one of those States, Illinois, an increase of 157 percent was requested on certain properties.

Second, nothing in this provision intrudes on the States prerogative to set insurance rates. All that 307(b) says is whatever rates the States set for property insurance in the private market, must apply in the FAIR plan as well. States continue to be able to set whatever rates they believe are justified.

Third, this is not an unwarranted imposition on a purely State program. As I emphasized earlier, the riot reinsurance program is a Federal program and the establishment of a State-administered FAIR plan is a condition of eligibility for Federal benefits.

Mr. Chairman, if anyone wants to say there is no Federal regulation of FAIR plans, I would just like to draw his attention to the present statute, which has several pages of conditions that are imposed by the Federal Government with respect to FAIR plans, including annual statements, inspections and numerous other requirements.

Fourth, this provision will not result in signficant cost increases in the private insurance market. In 9 of the 10 States with FAIR plan rates in excess of the private market, it will cost the

average policyholder only 25 cents per year to make FAIR plan rates the same as those in the conventional market. In New York, private rates will rise about $3 if 307(b) is enacted, but FAIR plan premiums will be reduced by about $160 on the average dwelling.

Fifth, this is not a problem the States can solve themselves. This trend is against it, as I have already noted. Furthermore, even in cases where State insurance commissioners have rejected FAIR plan increases, the industry has often gone to court to reverse the State determination. In Maryland, for example, a circuit court recently overruled the denial of a 35-percent increase, claiming nothing in Federal or State law prohibited such exorbitant rates. In Massachusetts, an industry court appeal of the State insurance commissioner's denial of a 50-percent increase is pending. If the House does not act to pass my legislation today, it will be a clear signal to the courts that there is no Federal prohibition against the exploitation of innocent victims of redlining forced into the FAIR plans.

The CHAIRMAN. The time of the gentlewoman from New York (Ms. HOLTZMAN) has expired.

The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I take this time to bring to the attention of the House the fact that the insurance commissioner of the State of California, who, I think, has done a very excellent job in administering the FAIR program, is in strong opposition to the provision that is in the bill and therefore supports the Brown amendment.

Mr. Chairman, I would like to read his letter into the RECORD at this point.

He says the following:

DEPARTMENT OF INSURANCE,
*Los Angeles, Calif., June 21, 1978.*

Re: H.R. 12433, Housing and Community Development Amendments for 1978.

Hon. ROBERT LAGOMARSINO,
*House Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN LAGOMARSINO: It is my understanding that this bill is scheduled for a vote in the House of Representatives, possibly as early as June 23. The bill contains a provision known as the "Holtzman amendment". That amendment relates to "FAIR Plans" and would severely limit the right of an individual state to regulate the rates for risks in the "FAIR Plan".

The mix of risks which find their way into FAIR Plans varies considerably from state to state. In California, a significant number of properties are in the Plan because of the brush fire hazard and the almost unlimited dollar loss which might be incurred in a conflagration. Other properties in the Plan are commercial and industrial risks in the inner city, residential properties in the inner city, and low-valued properties not necessarily in the inner city but in communities which are designated for FAIR Plan eligibility. The California FAIR Plan does not charge a rate higher than the advisory rate set by the largest state-licensed rating organization. It might be said that the California Plan is in full compliance with the proposed Holtzman amendment.

There is no present plan to change the manner in which California FAIR Plan risks are rated. However, because of the unusual mix of business in our Plan, I can envision conditions which might cause the State Legislature to provide for surcharges on one or more of the classes of business in the Plan. It is my belief that the State Legislature is in a far better position to make that determination than is the Congress. For that reason, I would urge that you vote to eliminate the Holtzman amendment from H.R. 12433 when the bill comes before you.

It is my understanding that the Justice Department is opposed to the amendment and that the Office of Management and Budget is not supportive of the amendment. Having served for more than three years as Commissioner and for two years earlier as Chief Deputy Commissioner, it is my firm conviction that the Holtzman amendment is not consistent with the best interests of Californians.

Sincerely,

WESLEY J. KINDER,
*Insurance Commissioner.*

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I yield 10 seconds to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I just want to make the point that passage of the Brown amendment would waste Federal taxpayers' dollars because these exorbitant FAIR plan rates are often paid for under the section 8 housing program.

If one is against price gouging of redlining victims and against wasting Federal tax dollars, one is against the Brown amendment.

Mr. GARCIA. Mr. Chairman, first I would like to associate myself with the statements made by the gentleman from Illinois (Mr. ANNUNZIO). I think he made a strong and important statement.

I would like to add one thing. If we check our own States, the fact of the matter is that there is frequently a relationship between superintendents of insurance in the various States and the insurance industry. One year they are superintendents of insurance, and the next year they are with the industry. If Members will check their own States, they will find that to be so, and that makes it virtually impossible for the consumers, in the long run, to actually get the value that they are entitled to when they insure their homes.

Mr. Chairman, I want to place that on the record, and ask each Member of the House to check the superintendents of insurance, in their respective States, over the last 20 years, and find out how much time they have spent with insurance companies.

I would like to commend my colleagues on the Subcommittee on Housing, and on the full committee on Banking, Finance, and Urban Affairs as well, for the work they have done on this year's Community Development Act. The bill, with some exceptions, is a good bill and I am proud that I have been able to be part of the process.

Over the past few weeks, I reviewed the amendments which will be offered today. Needless to say, I am concerned that some of these amendments will only serve to lessen the impact of the commitment which has been made time and time again—to increase access to decent living places for those who are unable to afford them. A young author recently said, when asked about the struggles she experienced before writing a bestseller, "Poverty is not a self-discipline." I am sure that we here today do not want to make it that either.

I would like to point out some of the successes of the Community Development Act rather than focusing on its failures. Part of my optimism about our community development program grows from the people that I know who have struggled for and won the battles to provide safe, decent, and affordable housing in my district.

It is people like Ramon Rueda of the People's Development Corp. who has organized a group of people on Washington Avenue to renovate and reconstruct not only the housing in the community, but the hopes and spirits of the community as well.

It is people like Hip Kourakos and Aureo Cardona who have sponsored innovative housing like Borinquen Plaza, which has not only meant new housing and jobs for the communtiy, but also a new philosophy—a workable philosophy—in which people participate in the planning, construction, and management of their homes.

It is people like Paul Muscillo of Neighborhood Engaged, Inc., an antipoverty agency, who not only responds to the physical needs of the community, but also the more elusive and equally important community spirit.

It is people like John Patterson of the South Bronx Overall Economic Development Corp. who struggle to attract industry and jobs to our district when others have given up on the idea. These are only a few examples of the kind of progress that feeds my hope and optimism.

I would also like to commend my New York colleague, STAN LUNDINE, my chairman in the Hispanic Caucus, ED ROYBAL, the esteemed chairman of the Select Committee on the Aging, Congressman CLAUDE PEPPER, and all those others who worked so diligently to develop and support title V of this bill, which, for the first time, will provide a viable alternative to nursing homes for our older citizens through the consolidation of section 202 housing programs, public housing programs, and congregate services under the umbrella of a single Federal agency.

The psychological and physical impact of having little or no control over how they live, as all aware and caring people know, a condemnation to a life without personal dignity for our senior citizens. We know all too well, as many of those who testified before the Select Committee on the Aging reported, that this loss of self-esteem and self-control is often a contributing factor to the shorened lifespans of the aged in nursing homes and other long-term care facilities.

Title V will enormously enhance and broaden the scope of the congregate housing services described in the National Housing Act of 1970, and for that every American who will potentially avail themselves of those services in the years ahead must be grateful.

In a historic press conference yesterday, members of the Congressional His-

panic Caucus and members of the Congressional Black Caucus came together for the first time to show their support of the struggle of Native Americans to maintain their sovereignty and rights. Their statement ended with the line "We insist on the same respect for Native American dignity and sovereignty that we ask for all Americans, no matter what their race or national origin." I add now "or age." The congregate housing component of this bill will help immeasurably in assuring their individual sovereignty and dignity to America's older citizens.

The Community Development Act is just a part of the solution of the giant puzzle which is the urban problem. It is not the panacea for all urban ills, but it is an important ingredient. We must be sure not to dilute its intent, but we must continue to work and strengthen its goals.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, to me this issue has nothing at all to do with redlining. If this amendment stays in the bill, it is my judgment that the cost of casualty insurance will surely rise, or Federal subsidies will have to be instituted. Then, the Federal Government will really be in the insurance ratemaking business. Ten States have higher rates for FAIR plans. I imagine the thought here is that, "Misery loves company, let us give Ohio some of the misery."

I say no thanks, and vote for the Brown amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, the kinds of arguments that are used to oppose my amendment are almost incredible. The last statement by the gentlewoman from New York that the Federal Government would have to pay the higher premium costs under section 8 programs is totally inconsistent with her great concern expressed earlier when she pleaded for the poor who would have to pay the premiums. Either the Federal Government pays the premiums or the poor do; she cannot have it both ways.

The basic question is, shall we adopt a Federal plan for the pricing of insurance policies when that authority has always been traditionally, fundamentally, and should continue to be, a function of the States? That is the issue. The answer is "no" and, therefore, you should vote "yes" on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROWN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 185, not voting 128, as follows:

[Roll No. 583]

AYES—119

| | | |
|---|---|---|
| Abdnor | Evans, Ind. | Martin |
| Anderson, Ill. | Findley | Mattox |
| Andrews, N.C. | Fish | Miller, Ohio |
| Applegate | Fithian | Mineta |
| Archer | Flippo | Montgomery |
| Bafalis | Forsythe | Moore |
| Bauman | Fountain | Moorhead, Calif. |
| Beard, Tenn. | Frenzel | Myers, Gary |
| Brinkley | Gammage | Myers, John |
| Brooks | Goldwater | O'Brien |
| Brown, Mich. | Goodling | Pease |
| Broyhill | Gradison | Poage |
| Buchanan | Grassley | Quillen |
| Burgener | Guyer | Regula |
| Burke, Fla. | Hagedorn | Roberts |
| Burleson, Tex. | Hall | Robinson |
| Butler | Hamilton | Ruppe |
| Byron | Hansen | Satterfield |
| Carter | Hefner | Schulze |
| Cederberg | Holt | Shuster |
| Chappell | Ichord | Sisk |
| Cleveland | Ireland | Skubitz |
| Coleman | Jacobs | Smith, Nebr. |
| Collins, Tex. | Jones, Tenn. | Snyder |
| Conable | Kelly | Spence |
| Corcoran | Kemp | Stangeland |
| Cornwell | Keys | Stanton |
| Coughlin | Kindness | Steers |
| Cunningham | Lagomarsino | Steiger |
| Daniel, Dan | Latta | Stockman |
| Daniel, R. W. | Leach | Stump |
| Derwinski | Livingston | Symms |
| Dickinson | Luken | Treen |
| Dornan | McClory | Trible |
| Duncan, Tenn. | McCloskey | Volkmer |
| Edwards, Ala. | McDade | Wiggins |
| Edwards, Okla. | McDonald | Wilson, Bob |
| Erlenborn | McKinney | Wylie |
| Evans, Del. | Madigan | Young, Fla. |
| Evans, Ga. | Marriott | |

NOES—185

| | | |
|---|---|---|
| Akaka | Fraser | Murphy, Pa. |
| Alexander | Garcia | Murtha |
| Ambro | Gaydos | Myers, Michael |
| Ammerman | Gephardt | Natcher |
| Anderson, Calif. | Giaimo | Neal |
| Annunzio | Gilman | Nedzi |
| Ashley | Ginn | Nix |
| Aspin | Glickman | Nowak |
| AuCoin | Gonzalez | Oakar |
| Baldus | Gore | Oberstar |
| Bellenson | Gudger | Obey |
| Benjamin | Hammer-schmidt | Ottinger |
| Bennett | Hanley | Panetta |
| Bingham | Hannaford | Patten |
| Blanchard | Harkin | Patterson |
| Blouin | Harris | Perkins |
| Boggs | Heckler | Pickle |
| Boland | Heftel | Pike |
| Bolling | Hightower | Preyer |
| Bonior | Hollenbeck | Price |
| Bonker | Holtzman | Pritchard |
| Bowen | Howard | Rahall |
| Brademas | Hubbard | Railsback |
| Breckinridge | Hughes | Rangel |
| Brodhead | Hyde | Reuss |
| Broomfield | Jeffords | Rinaldo |
| Burke, Calif. | Johnson, Calif. | Risenhoover |
| Burke, Mass. | Jones, Okla. | Roe |
| Burlison, Mo. | Jordan | Rogers |
| Carr | Kastenmeier | Roncalio |
| Cavanaugh | Kazen | Rooney |
| Conte | Kildee | Rose |
| Corman | Kostmayer | Rosenthal |
| Cornell | Krebs | Russo |
| D'Amours | LaFalce | Ryan |
| Danielson | Lederer | Santini |
| de la Garza | Lehman | Scheuer |
| Delaney | Levitas | Schroeder |
| Dicks | Lloyd, Calif. | Seiberling |
| Dingell | Lloyd, Tenn. | Sharp |
| Dodd | Long, Md. | Sikes |
| Downey | Lundine | Simon |
| Drinan | McCormack | Solarz |
| Duncan, Oreg. | McFall | Spellman |
| Eckhardt | McHugh | Staggers |
| Eilberg | McKay | Stark |
| Emery | Mahon | Steed |
| English | Markey | Stratton |
| Ertel | Marks | Studds |
| Evans, Colo. | Meeds | Thompson |
| Fary | Meyner | Thornton |
| Fascell | Mikulski | Traxler |
| Fenwick | Mikva | Tucker |
| Fisher | Miller, Calif. | Udall |
| Flood | Minish | Ullman |
| Florio | Mitchell, Md. | Van Deerlin |
| Foley | Mollohan | Vento |
| Ford, Mich. | Moss | Walgren |
| Whalen | Wirth | Walker |
| White | Wolff | Young, Mo. |
| Wilson, C. H. | Yates | Zablocki |
| Wilson, Tex. | Yatron | |

NOT VOTING—128

| | | |
|---|---|---|
| Addabbo | Fuqua | Pursell |
| Andrews, N. Dak. | Gibbons | Quayle |
| Armstrong | Green | Quie |
| Ashbrook | Harrington | Rhodes |
| Badham | Harsha | Richmond |
| Barnard | Hawkins | Rodino |
| Baucus | Hillis | Rostenkowski |
| Beard, R.I. | Holland | Rousselot |
| Bedell | Horton | Roybal |
| Bevill | Huckaby | Rudd |
| Biaggi | Jenkins | Runnels |
| Breaux | Jenrette | Sarasin |
| Brown, Calif. | Johnson, Colo. | Sawyer |
| Brown, Ohio | Jones, N.C. | Sebelius |
| Burton, John | Kasten | Shipley |
| Burton, Phillip | Krueger | Skelton |
| Caputo | Le Fante | Slack |
| Carney | Leggett | Smith, Iowa |
| Chisholm | Lent | St Germain |
| Clausen, Don H. | Long, La. | Stokes |
| Clawson, Del | Lott | Taylor |
| Clay | Lujan | Teague |
| Cochran | McEwen | Thone |
| Cohen | Maguire | Tsongas |
| Collins, Ill. | Mann | Vander Jagt |
| Conyers | Marlenee | Vanik |
| Cotter | Mathis | Waggonner |
| Crane | Mazzoli | Walsh |
| Davis | Metcalfe | Wampler |
| Dellums | Michel | Watkins |
| Dent | Milford | Waxman |
| Derrick | Mitchell, N.Y. | Weaver |
| Devine | Moakley | Weiss |
| Diggs | Moffett | Whitehurst |
| Early | Moorhead, Pa. | Whitley |
| Edgar | Mottl | Whitten |
| Edwards, Calif. | Murphy, Ill. | Winn |
| Flowers | Murphy, N.Y. | Wright |
| Flynt | Nichols | Wydler |
| Ford, Tenn. | Nolan | Young, Alaska |
| Fowler | Pattison | Young, Tex. |
| Frey | Pepper | Zeferetti |
| | Pettis | |
| | Pressler | |

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Phillip Burton against.

Mr. Nichols for, with Mr. Jenrette against.

Mr. Mottl for, with Mr. Richmond against.

Mr. Lent for, with Mr. Addabbo against.

Mr. VOLKMER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title III? If not, the Clerk will read.

The Clerk proceeded to read title IV.

Mr. ASHLEY. Mr. Chairman, I did have a technical amendment to title III.

Mr. BROWN of Michigan. Mr. Chairman, reserving the right to object, the parliamentary situation is that we have to return to title III, is that not correct, by unanimous consent?

The CHAIRMAN. That is correct.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent to return to title III to offer this technical amendment.

Mr. BROWN of Michigan. Mr. Chairman, I will not object to the gentleman's unanimous-consent request to return to title III for the gentleman's amendment, so long as title III remains open.

Mr. ASHLEY. Well, wait a minute, Mr. Chairman. The gentleman is reserving the right to object. I would like to know what the gentleman has in mind.

My amendment is entirely technical in nature and merely brings the bill into compliance with the Budget Act. This is the same as other conforming amend-

ments I have offered. I was merely talking to the staff when I should have been listening to the Chair. It is not a fair trade, I will say. I am perfectly open about what I am doing. What does the gentleman from Michigan have in mind by keeping title III open?

Mr. BROWN of Michigan. Mr. Chairman, continuing my reservation to object, I think the gentleman was not quite ready when the Chair moved on to title IV.

Mr. ASHLEY. I have acknowledged that.

Mr. BROWN of Michigan. Mr. Chairman, I think others have amendments that were caught similarly. I would think, that being the case, the gentleman would be willing to return to title III and let those who were similarly situated have the same opportunity.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

First, the Chair will inquire, does the gentleman from Ohio (Mr. ASHLEY) continue to make his unanimous-consent request?

Mr. ASHLEY. Yes, Mr. Chairman, and I will renew my request.

Mr. Chairman, I ask unanimous consent to return to title III for the purposes of offering a technical amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. GAMMAGE. Mr. Chairman, reserving the right to object, as the gentleman across the aisle, the gentleman from Michigan (Mr. BROWN), pointed out a moment ago, there were some other Members also who were not prepared to move from title III. I am one of those Members. I have an amendment to title III, and I did not have an opportunity to offer it because of this hasty move.

Mr. ASHLEY. Mr. Chairman, I withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman from Ohio (Mr. ASHLEY) withdraws his unanimous-consent request, and the Clerk will proceed to read title IV.

The Clerk read as follows:

## TITLE IV—RURAL HOUSING

### AUTHORIZATIONS

SEC. 401. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "September 30, 1978" in clauses (b) and (c) and inserting in lieu thereof "September 30, 1979";

(2) by striking out "not to exceed $105,000,000" in clauses (b) and (c) and inserting in lieu thereof "$150,000,000" in clause (b) and "$115,000,000" in clause (c); and

(3) by striking out clause (d) and inserting in lieu thereof the following: "(d) not to exceed $1,000,000 for research and study programs pursuant to subsections (b), (c), and (d) of section 506 for the fiscal year ending September 30, 1979;".

(b) Section 514 of such Act is amended by striking out "$25,000,000" in subsection (d) and inserting in lieu thereof "$38,000,00 (subject to approval in an appropriation Act)".

(c) Section 515 (b)(5) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(d) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979" and inserting in lieu thereof "September 30, 1979".

(e) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979";

(2) by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979"; and

(3) by striking out "$10,000,000" and inserting in lieu thereof "$16,500,000".

(f) Section 525(c) of such Act is amended by inserting after the first sentence the following new sentence: "There are also authorized to be appropriated for the fiscal year ending September 30, 1979, not to exceed $5,000,000 for the purposes of subsection (a) and not to exceed $5,000,000 for the purposes of subsection (b).".

### RURAL HOUSING RESEARCH

SEC. 402. (a) Subsections (b) and (c) of section 506 of the Housing Act of 1949 are amended to read as follows:

"(b) The Secretary is further authorized and directed to conduct research, technical studies, and demonstrations relating to the mission and programs of the Farmers Home Administration and the national housing goals defined in section 2 of this Act. In connection with such activities, the Secretary shall seek to promote the construction of adequate farm and other rural housing, with particular attention to the housing needs of the elderly, handicapped, migrant and seasonal farmworkers, Indians, and other identifiable groups with special needs. The Secretary shall conduct such activities for the purpose of stimulating construction; improving the architectural design and utility of dwellings and buildings; and utilizing new and native materials, economies in materials and construction methods, and new methods of production, energy conservation, distribution, assembly, and construction. In addition, the Secretary shall conduct such activities for the purpose of reducing the cost of such dwellings and buildings and adapting and developing fixtures and appurtenances for more efficient and economical farm and other rural housing use.

"(c) The Secretary is further authorized to carry out a program of research, study, and analysis of rural housing in the United States for the purpose of developing data and other information on—

"(1) the adequacy of existing rural housing;

"(2) the nature and extent of current and prospective needs for rural housing, including needs for financing, subsidies, improved design, utility, comfort, and the best methods of meeting such needs;

"(3) the adequacy of the rural housing stock to meet the special needs of the elderly, the handicapped, farmworkers, and Indians and the best methods of meeting such needs;

"(4) problems faced by rural people, including farmers, eligible under section 501 for purchasing, constructing, improving, altering, repairing, and replacing their housing;

"(5) rural growth patterns and the interrelation of rural housing problems and the problems of housing in urban and suburban areas;

"(6) the status of community facilities and services in rural areas, problems resulting from inadequate facilities and services, and recommendations to alleviate such problems; and

"(7) any other matters relating to the provision of adequate rural housing and related community facilities."

(b) Section 506 of such Act is amended by adding the following new subsection at the end thereof:

"(f)(1) The Secretary shall conduct a study of housing which is available for migrant and settled farmworkers. In conducting such study, the Secretary shall—

"(A) determine the location, number, quality, and condition of housing units which are available to such farmworkers and the cost assessed such farmworkers for occupying such units;

"(B) recommend legislative, administrative, and other action (including the need for new authority for such action) which may be taken for the purpose of improving both the availability and the condition of such housing units; and

"(C) determine the possible roles which individual farmworkers, farmworker associations, individual farmers, farmer associations, and public and private nonprofit agencies can perform in improving the housing conditions of farmworkers.

"(2) The Secretary shall transmit the results of the study described in paragraph (1) to each House of the Congress within one year after the date of the enactment of this subsection."

### NOTIFICATION REQUIREMENT

SEC. 403. Section 510 of the Housing Act of 1949 is amended by redesignating paragraph (i) as paragraph (j) and by inserting after paragraph (h) the following new paragraph:

"(i) provide, and shall provide, to any applicant which has been denied assistance under this title adequate written notice of the reasons for which such assistance was denied; and".

### RURAL RENTAL ASSISTANCE

SEC. 404. (a) Section 521(a)(2)(A) of the Housing Act of 1949 is amended by inserting after "rental" the second time such term appears in the first sentence the following: ", congregate, or cooperative".

(b) Section 521(a)(2)(A)(i) of such Act is amended by inserting "or by a loan under section 514," immediately after "section 515 for elderly or handicapped housing".

### STUDY OF PROBLEMS CAUSED BY REMOTE CLAIMS

SEC. 405. (a) The Secretary of Agriculture (hereinafter referred to in this section as "Secretary") shall make a detailed study of the problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims or other remote encumbrances which prevent such persons from receiving the full benefit of the use of such property, including the benefit assistance provided under this title. The Secretary shall, in making such study, consider and develop findings and conclusions with respect to—

(1) the extent of such problems as they pertain to the lawful rights of such persons;

(2) the location and amount of land affected by such problems;

(3) the nature, extent, and effectiveness of remedies to such problems presently available, or proposed, under State law;

(4) the potential impact (with respect to existing Federal, State, and local laws) of such remote claims and encumbrances and of any reasonable remedies determined necessary for resolving the problems created for persons by such remote claims or encumbrances;

(5) the liability and losses which might accrue to the Federal Government as a result of each of the remedies considered in the study conducted under this section; and

(6) other issues which the Secretary determines shall be considered; after consulting with the Secretary of Housing and Urban Development.

(b) The Secretary shall, no later than one year after the date of the enactment of this Act, transmit a report to each House of the Congress. Such report shall contain the findings and conclusions of the Secretary with respect to the study made under this section. In addition such report will include—

(1) recommendations for Federal legislative actions necessary to implement reason-

able remedies to the problems studied under this section; and

(2) recommendations for legislative actions which may be undertaken by State and local governments for the purposes of providing such remedies.

ASSISTANCE TO PERSONS RECEIVING LOANS TO PROVIDE OCCUPANT-OWNED, RENTAL, AND COOPERATIVE HOUSING

SEC. 406. (a) Section 521(a)(1) of the Housing Act of 1949 is amended—

(1) by inserting "(A)" after "SEC. 521. (a) (1)";

(2) by striking out everything in the first sentence after "one-eighth of 1 per centum" and inserting in lieu thereof a period; and

(3) by inserting the following at the end thereof:

"(B) From the interest rate so determined, the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing.

"(C) For persons of low income under section 502 or 517(a) whom the Secretary determines are unable to afford a dwelling with the assistance provided under subparagraph (B) the Secretary may provide additional assistance, pursuant to amounts approved in appropriation Acts and for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between (i) the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest, taxes, insurance, utilities, and maintenance, and (ii) 25 per centum of the income of such applicant.

"(D) With respect to borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C), the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary shall make provisions to provide incentives for the borrower to maintain the property in a marketable condition, and the Secretary in appropriate cases may make provision for the borrower to receive from the sales proceeds a relocation allowance. Notwithstanding any other provision of law, any such assistance whenever rendered shall constiute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

"(E) The assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public assistance programs.

"(F) Loans subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under section 235 or 236 of the National Housing Act.

"(G) Interest on loans under section 502 or 517(a) to victims of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.".

(b) Section 517(j) of such Act is amended by striking out "(2)" in paragraph (4).

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 40, strike out the quotation mark at the end of line 7 and insert the following after line 7:

"(g)(1) In order to assist in reducing deaths caused by unsanitary water and waste disposal systems in rural areas, the Secretary shall conduct a study for the purposes of determining—

"(A) the approximate number of rural housing units without access to sanitary waste disposal facilities and potable water or without access to either sanitary waste disposal facilities or potable water; and

"(B) the cost of implementing an emergency program to provide sanitary waste disposal facilities and potable water supplies for such housing units within a two-year period.

"(2) The Secretary shall, no later than 6 months after the date of enactment of this subsection, transmit a report to both Houses of the Congress containing the findings, conclusions, and recommendations of the Secretary with respect to the study conducted pursuant to this subsection."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

Mr. AuCOIN. Mr. Chairman, I ask unanimous consent that the remaining committee amendments to title IV be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The remaining committee amendments to title IV are as follows:

Committee amendments: Page 43, line 15, after "(B)", insert the following: "and when the Secretary determines that assisted rental housing programs (as authorized under this title, the National Housing Act, and the United States Housing Act of 1937) would be unsuitable in the area in which such persons reside."

Page 44, line 5, strike out ", and" and all that follows through "allowance" on line 7.

Page 44, line 13, strike out "The" and insert in lieu thereof "Except for Federal or State laws relating to taxation, the".

Page 44, lines 22 and 23, strike out "section 235 or 236 of the National Housing Act." and insert in lieu thereof "the National Housing Act and the United States Housing Act of 1937.".

Page 45, line 2, strike out the quotation mark and the last period and insert the following after line 2:

"(H) The aggregate principal amount of loans made to borrowers receiving assistance pursuant to subparagraph (C) shall not exceed $440,000,000."

The committee amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title IV?

If not, the Clerk will read.

The Clerk read as follows:

TITLE V—CONGREGATE SERVICES

SHORT TITLE

SEC. 501. This title may be cited as the "Congregate Housing Services Act of 1978".

FINDINGS

SEC. 502. The Congress finds that—

(1) congregate housing, supplemented by supportive services, offers a proven and cost-effective means of enabling temporarily disabled or handicapped elderly and handicapped individuals to maintain their dignity and independence and to avoid costly and unnecessary institutionalization;

(2) a large and growing number of residents of public housing face premature and unnecessary institutionalization because of deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate public housing units; and

(3) supplemental supportive services, available on a continuing basis, are essential to a viable congregate housing program.

DEFINITIONS

SEC. 503. For purposes of this title—

(1) the term "congregate housing" means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, (i) in which some or all of the dwelling units do not have kitchen facilities, and (ii) connected with which there is a central dining facility to provide wholesome and economical meals for such occupants;

(2) the term "congregate services programs" means programs to be undertaken by a public housing agency to provide assistance, including personal assistance and nutritional meals, to eligible project residents who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(3) the term "elderly" means sixty-two years of age or over;

(4) the term "eligible project resident" means handicapped elderly individuals, nonelderly handicapped individuals, or temporarily disabled elderly individuals, who are residents of congregate housing projects administered by public housing agencies;

(5) the term "handicapped" means an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes an individual's ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions; such impairment may include a functional disability or frailty which is a normal consequence of the human aging process;

(6) the term "personal assistance" means service provided under this title which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term "professional assessment committee" means a group of at least three persons appointed by a local public housing agency and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons, or both, in relation to the performance of the normal tasks of daily living; and

(8) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than six months' duration, (B) substantially impedes an individual's ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

AUTHORIZATION TO ENTER INTO CONTRACTS

SEC. 504. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts with local public housing agencies under the United States Housing

Act of 1937 (hereinafter referred to as "public housing agencies") utilizing sums appropriated under this title, to provide congregate services programs for eligible project residents in order to promote and encourage maximum independence within a home environment for such households capable of self-care with appropriate supportive congregate services. Each contract between the Secretary and a public housing agency shall be for a term of not less than three years or more than five years and shall be renewable at the expiration of such term.

CONGREGATE SERVICES PROGRAM

SEC. 505. (a) Congregate services programs assisted under this title must include full meal service adequate to meet nutritional needs, and may also include housekeeping aid, personal assistance, and other services essential for maintaining independent living.

(b) No services funded under this title may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Federal Government or any other public or private department, agency, or organization.

(c) A public housing agency applying for assistance shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965) in determining the means of providing services under this title and in identifying alternative available sources of funding for such services.

(d) Prior to the submission of a final application for either new or renewed funding under this title, a public housing agency shall present a copy of a proposed application to the Area Agency on Aging (or, where no Area Agency on Aging exists, to the appropriate State agency under the Older Americans Act of 1965) for review and comment. The public housing agency shall consider such review and comment in the development of its final application for either new or renewed funding under this title.

(e)(1) When nonelderly handicapped individuals are included among the eligible project residents, the public housing agency shall consult with the appropriate local agency, if any, designated by applicable State law as having responsibility for the development, provision, or identification of social services to permanently disabled adult individuals, for the purpose of determining the means of providing services under this title and of identifying alternative available sources of funding for such services.

(2) Such public housing agency shall also, prior to the submission of a final application for either new or renewed funding under this title, present a copy of the proposed application to such appropriate local agency for review and comment. The public housing agency shall consider such review and comment in the development of its final application for either new or renewed funding under this title.

(f) Any public housing agency receiving assistance under this title may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(g) Public housing agencies receiving assistance for congregate services programs under this title shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this title before the date of the submission of the application for such assistance unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency pursuant to subsection (f) of this section provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public agency under the preceding sentence shall be readjusted in the same manner.

(h) Each public housing agency shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees. When meal services are provided to other project residents, fees shall be reasonable and may not exceed the cost of providing the meal service.

(i) The Secretary shall establish standards for the provision of services under this title, and, in developing such service standards, the Secretary shall consult with the Secretary of the Department of Health, Education, and Welfare and with appropriate organizations representing the elderly and handicapped, as determined by the Secretary.

ELIGIBILITY AND SELECTION

SEC. 506. (a) The identification of eligible project residents who may participate in a congregate services program assisted under this title, and the designation of the services appropriate to their individual functional abilities and needs, shall be made by a professional assessment committee utilizing procedures which insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process.

(b) Other residents may participate in a congregate meal service program assisted under this title if the local public housing agency determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

APPLICATION PROCEDURES

SEC. 507. (a) An application for assistance under this title shall include—

(1) a plan specifying the types and priorities of the basic services the public housing agency proposes to provide during the term of the contract; such plan must be related to the needs and characteristics of the eligible project residents and, to the maximum extent practicable, provide for the changing needs and characteristics of all project residents; such plan shall be determined after consultation with eligible project residents with the professional assessment committee;

(2) a list of the names and professional qualifications of the members of the professional assessment committee;

(3) the fee schedule established pursuant to section 505(h) of this title; and

(4) a statement affirming (A) that the public housing agency has followed the consultation procedures required in subsections (c), (d), and (e) of section 505, and (B) that such application complies with subsection (b) of such section.

(b) The Secretary shall establish appropriate deadlines for each fiscal year for the submission of applications for funding under this title and shall notify any public housing agency applying for assistance under this title of acceptance or rejection of its application within ninety days of such submission.

(c) Within twelve months prior to the submission of an application for renewed funding under this title, each public housing agency shall review the performance, appropriateness, and fee schedules of its congregate services program with eligible project residents and with the professional assessment committee. The results of such review shall be included in any application for renewal and shall be considered in the development of the application for renewal by the public housing agency and in its evaluation by the Secretary.

EVALUATION OF APPLICATIONS AND PROGRAMS

SEC. 508. (a) In evaluating applications for assistance under this title, the Secretary shall consider—

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee; and

(5) the reasonableness of fee schedules established for each congregate service.

(b) In evaluating programs receiving assistance under this title, the Secretary shall—

(1) establish procedures for the review and evaluation of the performance of public housing agencies receiving assistance under this title, including provisions for the submission of an annual report, by each such public housing agency, which evaluates the impact and effectiveness of its congregate services program; and

(2) publish annually and submit to the Congress, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this title. Such report and evaluation shall be based, in part, on the evaluations required to be submitted pursuant to paragraph (1).

SEC. 509. (a) The Secretary shall establish procedures—

(1) to assure timely payments to public housing agencies for approved assisted congregate services programs with provision made for advance funding sufficient to meet necessary startup costs;

(2) to permit reallocation of funds approved for the establishment of congregate services in existing public housing projects if the services are not established within six months of the notification date of funding approval;

(3) to assure that where such funding has been approved for the establishment of congregate services for public housing projects under construction or approved for construction, these services shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living;

(4) to establish accounting and other standards in order to prevent any fraudulent or inappropriate use of funds under this title; and

(5) to assure that no more than 1 per centum of the funds appropriated under this title for any fiscal year may be used by public housing agencies for evaluative purposes as required by section 508(b)(1).

(b) The Secretary shall establish a reserve fund, not to exceed 10 per centum of the funds appropriated in each fiscal year for the provision of services under this title, in order to supplement grants awarded to public housing agencies under this title when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible project residents.

MISCELLANEOUS PROVISIONS

SEC. 510. (a) Each public housing agency shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of public housing projects, but who are not eligible project residents, to participate in providing

the services assisted under this title. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the mininum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(b) No service provided to a public housing resident under this title, except for wages paid under subsection (a) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

(c) Individuals receiving services assisted under this title shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(d) The Secretary may issue regulations to carry out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 511. To carry out the provisions of this title, there are authorized to be appropriated—

(1) for fiscal year 1979, not to exceed $20,000,000;

(2) for fiscal year 1980, not to exceed $25,000,000; and

(3) for fiscal year 1981, not to exceed $35,000,000.

Any sums appropriated pursuant to this section shall remain available until expended.

AMENDMENT TO UNITED STATES HOUSING ACT OF 1937

SEC. 512. Section 7 of the United States Housing Act of 1937 is amended by striking out the second sentence and inserting in lieu thereof the following: "As used in this section, the term 'congregate housing' means (1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title V of the Housing and Community Development Amendments of 1978.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 46, line 16, insert "or a nonprofit corporation" before "to provide".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 47, line 2, insert "or by a nonprofit corporation" after "agencies".

The committee amendment was agreed to.

Mr. LUNDINE. Mr. Chairman, I ask unanimous consent that the remaining committee amendments to title V be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The remaining committee amendments to title V are as follows:

Committee amendments: Page 47, line 18, insert "or a nonprofit corporation" after "agency".

Page 48, strike out the period at the end of line 6 and insert in lieu thereof "; and".

Page 48, after line 6, insert the following new paragraph:

(9) the term "nonprofit corporation" means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.

Page 48, insert "and with nonprofit corporations" before the comma in line 12.

Page 49, line 10, insert "and a nonprofit corporation" after "agency".

Page 49, line 19, insert "and a nonprofit corporation" after "agency".

Page 49, lines 22 and 23, strike out "The public housing agency" and insert in lieu thereof "Such agency and nonprofit corporation".

Page 49, line 24, strike out "its" and insert in lieu thereof "any".

Page 50, line 3, insert "and nonprofit corporation" after "agency".

Page 50, line 10, insert "and nonprofit corporation" after "agency".

Page 50, line 14, insert "and nonprofit corporation" after "agency".

Page 50, line 15, strike out "its" and insert in lieu thereof "any".

Page 50, line 17, insert "nonprofit corporation or" after "Any".

Page 50, line 22, strike out "(g) Public housing agencies" and insert in lieu thereof "(g) Nonprofit corporations and public housing agencies".

Pages 51, lines 8 and 11, insert "or nonprofit corporation" after "agency".

Page 51, line 13, insert "nonprofit corporation and" after "Each".

Page 52, line 23, insert "or nonprofit corporation" after "agency".

Page 52, line 23, insert "or nonprofit corporation" after "agency".

Page 53, line 11, insert "nonprofit corporation or" after "the".

Page 53, line 19, insert "and nonprofit corporation" after "agency".

Page 53, line 23, insert "nonprofit corporation and" after "each".

Page 53, line 25, strike out "its" and insert in lieu thereof "their".

Page 54, line 5, insert "nonprofit corporation or" after "the".

Page 55, line 4, insert "nonprofit corporations and" after "performance of".

Page 55, line 6, insert "nonprofit corporation and" after "such".

Page 55, line 17, insert "nonprofit corporations and" after "payments to".

Page 55, line 23, insert "and projects assisted under section 202 of the Housing Act of 1959" after "projects".

Page 56, line 3, insert "and projects assisted under section 202 of the Housing Act of 1959" and "projects".

Page 56, line 12, insert "and nonprofit corporations" after "agencies".

Page 56, line 18, insert "and nonprofit corporations" after "agencies".

Page 56, line 23, insert "and nonprofit corporation" after "agency".

Page 57, line 1, insert "or projects assisted under section 202 of the Housing Act of 1959" after "projects".

Page 57, line 15, insert "or to a resident of a housing project assisted under section 202 of the Housing Act of 1959" after "resident".

The committee amendments were agreed to.

The CHAIRMAN. Are there other amendments to title V?

If not, the Clerk will read.

The Clerk read as follows:

TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION

FINDINGS AND PURPOSE

SEC. 601. (a) The Congress finds that—

(1) the neighborhood housing services demonstration of the Urban Reinvestment Task Force has proven successful as a program to assist in revitalizing older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present Urban Reinvestment Task Force.

(b) The purpose of this title is to establish a public corporation which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government and which will continue the nonbureaucratic approach to the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

ESTABLISHMENT OF A CORPORATION

SEC. 602. (a) There is established a National Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein.

(b) The corporation shall implement and expand the demonstration activities carried out by the Urban Reinvestment Task Force.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

BOARD OF DIRECTORS; ESTABLISHMENT

SEC. 603. (a) The corporation shall be under the direction of a board of directors made up of the following members:

(1) the Chairman of the Federal Home Loan Bank Board who shall be the chairman of the board of directors;

(2) the Secretary of Housing and Urban Development;

(3) a member of the Board of Governors of the Federal Reserve System, to be designated by the Chairman of the Board of Governors of the Federal Reserve System;

(4) the Chairman of the Federal Deposit Insurance Corporation;

(5) the Comptroller of the Currency; and

(6) the Administrator of the National Credit Union Administration.

(b) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

(c) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(d) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation and consistent with the provisions of this title.

(c) The presence of a majority of the board members shall constitute a quorum.

(f) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(g) All meetings of the board of directors will be conducted in accordance with the provisions of section 552b of title V, United States Code.

OFFICERS AND EMPLOYEES

SEC. 604. (a) The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the highest rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The directors of the corporation shall appoint an executive director who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to approval by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States.

POWERS AND DUTIES

SEC. 605. (a)(1) The corporation shall continue the work of the Urban Reinvestment Task Force in establishing neighborhood housing services programs in neighborhoods througnout the United States, supervising their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered nonprofit corporation, working to bring about reinvestment in one or more neighborhcods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at flexible rates and terms to homeowners not meeting private lending criteria.

(2) The corporation shall continue the work of the Urban Reinvestment Task Force in identifying, monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable developmental processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the Urban Reinvestment Task Force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with grants to expand its national loan purchase pool and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) The corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corporation such information as may be necessary to determine compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation shall have the following powers:

(1) to adopt, alter, and use a corporate seal;

(2) to have succession until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 607(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investments as the board of directors may prescribe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

(c)(1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the Urban Reinvestment Task Force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

(3) The Secretary of Housing and Urban Development, the Federal Home Loan Bank Board of Governors of the Federal Reserve Board and the Federal home loan banks, the System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes of this title.

(d)(1) The corporation shall have no power to issue any shares of stocks, or to declare or pay any dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

REPORTS AND AUDITS

SEC. 606. (a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the annual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each audit shall be maintained for a period of at least five years at the principal office of the corporation.

AUTHORIZATION

SEC. 607. (a) There is authorized to be appropriated to the corporation to carry out this title not to exceed $8,500,000 for fiscal year 1979.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(d) The corporation shall prepare annually a business-type budget which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by the Budget and Accounting Act, 1921. Amendments to the annual budget program may be submitted from time to time.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 70, line 6, strike "who shall" and all that follows through "directors" on line 7.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 61, insert the following after line 18 (and redesignate subsections (b), (c), (d), (e), (f), and (g) on pages 61 and 62 as subsections (c), (d), (e), (f), (g), and (h), respectively):

(b) The Board shall elect from among its members a chairman who shall serve for a term of two years, except that the Chairman of the Federal Home Loan Bank Board shall serve as Chairman of the Board of Directors for the first such two-year term.

The committee amendment was agreed to.

Mr. BROWN of Michigan. Mr. Chairman, I ask unanimous consent that the remaining committee amendments to title VI be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The remaining committee amendments to title VI are as follows:

Committee amendments: Page 64, line 25, strike out "grants to expand" and insert in lieu thereof "support which may include grants and technical assistance to assist in the development of"; and on page 65, line 1, insert "demonstration" after "pool"

Page 69, after line 21, insert the following new section:

APPLICATION OF GOVERNMENT CORPORATION CONTROL ACT

Sec. 608. Section 101 of the Government Corporation Control Act is amended by inserting "National Neighborhood Reinvestment Corporation;" after "Federal Housing Administration;".

The committee amendments were agreed to.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the chairman of the subcommittee and the chairman of the full committee for title VI, the establishment of a Neighborhood Reinvestment Corporation. This grows out of the work of the Urban Reinvestment Task Force which—I think the chairman of the subcommittee would agree with me—has been one of the most successful programs in which substantial private funds have been attracted to the work of preserving many of our neighborhoods with a minimum of Government interference and a minimum of Government investment. Now the step is taken to put this program on a more permanent basis with a greater status under the Urban Reinvestment Corporation.

I take it that the chairman of the subcommittee would agree with me that this does reflect on the part of the committee a recognition of the effectiveness of this program, which involves the banks, the private sector, and the Government in a coordinated way.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. ASHLEY. I thank the gentleman for yielding.

Mr. Chairman, I am in complete accord with the views expressed by the gentleman from New York. The program in question was initiated in 1974. In many respects, it was a demonstration program, under the aegis of the Federal Home Loan Bank Board and the Department of Housing and Urban Development.

The program has been extremely well run. It has been an ambitious program, in terms of what it has sought to achieve. It has been a modest program in terms of establishing a firm base from which to proceed.

Until a few years ago, there were only two dozen cities, or so, in which the Urban Reinvestment Task Force was operating, in which the services of the task force were being made use of. Now it is my understanding that there are some 47 cities that are participating in this program.

Inasmuch as the Urban Reinvestment Task Force has in every respect been a credit to the housing efforts of the United States, particularly in areas in need of rehabilitation, it has seemed to the committee that the task force well deserves a somewhat firmer structure from which to operate. And it is for that reason that the provision is in this year's housing bill, to give it a more permanent structure and status.

Mr. BINGHAM. I thank the chairman for his comments.

I had considered offering an amendment to increase the authorization for the Neighborhood Investment Corporation; but in view of the committee's action and the late hour at which this is being considered, I will not offer that amendment.

I would like to call attention to the fact that the Senate approved a 3-year authorization of $65 million for the Corporation as against the 1-year House authorization of $8.5 million. I hope that the conferees on the part of the House will look sympathetically at the idea of increasing the total authorization for the Corporation above the House figures.

Mr. ASHLEY. If the gentleman will yield further, Mr. Chairman, I think it is worthy of note that the task force, now the Corporation, was funded last year at a level of $4.5 million.

Mr. BINGHAM. I am well aware of that.

Mr. ASHLEY. The Committee on Banking, Finance and Urban Affairs and the Subcommittee on Housing have not been penurious. We have said that amount should essentially be doubled because of the capacity of the Corporation to continue an expanded role.

There is, of course, a limit beyond which the capacity of the Corporation simply will not permit effective work; and this has been discussed with Mr. Whiteside and with others who have been so prominent in the leadership of the task force, now the Corporation.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. Mr. Chairman, will the gentleman yield further?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I just want to assure the gentleman from New York (Mr. BINGHAM) that the House takes the same sympathetic view of the activities of this entity, now a corporation, as does the gentleman from New York. We are not unmindful of the capacity of the Corporation and of the amount of money which should be made available to the Corporation so that it can continue its work on a sound basis.

Mr. Chairman, I can assure the gentleman from New York that these thoughts will be in our minds as we go to conference with the other body.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for his comments.

Let me just say that I do hope that the House conferees will be flexible in their approach, particularly in view of the fact that a substantial part of the additional Senate authorization would go for the development of the neighborhood preservation project component of the task force, which is directed toward more severely deteriorated urban neighborhoods, such as exist in my district.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I thank the gentleman for yielding.

I am delighted to hear all this massive support for my amendment, I must say to the gentleman. I had a little more difficulty in getting it through the committee than I seem to have now, considering the ringing endorsements for it today.

In any event, it seems to me in my city of Bridgeport, Conn., this type of program has had the leverage which we have not been able to get through any other type of Federal program. It has had the greatest amount of private participation, and it has had the greatest amount of community involvement. It has been able to take an area of the city of Bridgeport, which was, in the words of bankers, government, and others "doomed" and bring it back not only to a decent place to inhabit but to a place where there is pride on the part of the citizens who live there. There is safety on the streets again, and there is a whole renewed feeling of neighborhood interest, which is where I think all of our programs have to be if they are going to succeed.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. BINGHAM was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. Mr. Chairman, will the gentleman yield further?

Mr. BINGHAM. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, it is my feeling that we needed to take this kind of program and let it act as a spearhead, as a separate entity, free from the tremendous amount of Government paper and all of the other things which we put into programs and which slow them down and make them almost incomprehensible to the average, ordinary citizen.

It is always interesting to me that this program appears to work with just a few citizens, one or two people, doing the liaison with the banks. We do not need the grant writers; we do not need the reams of Federal employees. Far more importantly, we do not frighten the citizen away by all of the problems that we set up through the programs.

Mr. Chairman, that is one of the reasons I want to separate this out, within its ability to perceive without wasting money, and everyone may rest assured that I will be delighted to see that it has the proper funding.

Mr. BINGHAM. I thank the gentleman. I congratulate him for his contribution.

May I just say that similar success has been recorded in the city of Yonkers, which is not in my district but which is nearby. I hope we can bring this program into my district.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Chairman, I simply want to add my complete concurrence to what the gentleman from Ohio (Mr. ASHLEY), who has been out front on this from the beginning, the gentleman from Connecticut (Mr. McKINNEY), and the gentleman from New York (Mr. BINGHAM) have said. I have seen the plan work in Baltimore, in Bridgeport, and in a number of other places. It is a marvelous example of cooperation. The Federal Reserve and the Home Loan Bank Board are in there with their heavies, making it the chic and in thing to do in communities which would not otherwise do it. The locals get involved. The hand of the bureaucracy is very light indeed, and it gets things done.

Mr. Chairman, it is eminently something to be encouraged. I want to thank the gentleman for not offering his amendment, because he has got some pretty good converts right here on what will be the conference committee. I think we will have the flexibility to do something like that the gentleman wants.

Mr. BINGHAM. I thank the chairman very much for his comments.

In conclusion, Mr. Chairman, I would just like to say that the Urban Reinvestment Task Force has been one of the few bright lights shining in the inner-city darkness. The virtues of the task force's approach to neighborhood revival are numerous. The program is nonbureaucratic, it gets the maximum bang out of the Federal Government buck, and each neighborhood project is run at the local level by neighborhood people. Districts such as mine in the Bronx are desperately in need of such innovative programs. The task force has earned the more permanent status that would be afforded by the creation of the Neighborhood Reinvestment Corporation. I only hope the new Corporation is granted the funds necessary to carry out its programs on a larger scale.

AMENDMENT OFFERED BY MR. DUNCAN OF TENNESSEE

Mr. DUNCAN of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Tennessee: At the end of the bill, and the following new title:

TITLE VII—TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES UNDER CERTAIN FEDERAL HOUSING LAWS

SEC. 701. (a) Notwithstanding any other provision of law, social security benefit increases occurring after May 1978 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this subsection, the term "social security benefit increases occurring after May 1976" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program becoming effective after May 1978 pursuant to section 215(1) of such Act, or any other increase in benefits under such program, enacted afer May 1978, which constitutes a general benefit increase within the meaning of section 215(1) (3) of such Act.

(b) Subsection (a) of this section shall be effective only with respect to assistance which is provided under the Acts referred to in the first sentence of such subsection) for periods after September 30, 1978.

Mr. DUNCAN of Tennessee. Mr. Chairman, before the July Fourth district work period, the House of Representatives voted 297 to 5 to adopt H.R. 10173, the Veterans' and Survivors' Pension Improvement Act of 1978. In doing so, we assured our non-service-connected veterans that they would no longer have VA benefits reduced solely as a result of cost-of-living increases in social security payments.

I feel that this was a long-overdue reform, and wish at this point to offer an amendment to the bill before us to do the same thing for another group of our deserving citizens. These are our social security recipients who live in public housing. Everytime a social security beneficiary receives a cost-of-living increase, his or her public housing rent is raised. This actually provides a windfall for the local housing authority and deprives the social security recipient of the benefit of the increase which is needed for other living requirements.

My amendment would assure these social security recipients who reside in public housing that they would no longer have their rent increased solely as a result of a cost-of-living increase, occurring after May 1978, in social security benefits. The cost-of-living increase would not be considered as income or resources for determining the eligibility or amount of assistance an individual might receive under housing laws.

Mr. Chairman, I am sure that I am not alone in receiving many inquiries and complaints from constituents about social security increases resulting in raised public housing rents or even the termination of eligibility for public housing assistance. I feel that this is blatantly unfair, and must make many of our citizens wonder why we are giving with one hand and then taking away with the other.

My amendment offers a solution to this problem. It is a solution which has been proposed in this Congress by at least 20 of our colleagues. It is a solution which will bring much relief to our many citizens who currently find themselves caught in this "catch-22" situation.

Finally, Mr. Chairman, I offer this amendment as a separate title as it is applicable to many provisions in the legislation before us, and not just to any one title.

I would, therefore, urge my colleagues' support of this important amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. Mr. Chairman, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I rise in most hearty support of the amendment offered by the gentleman from Tennessee. I have long hoped we might achieve some sensible and fair arrangement such as this. It is ridiculous to have a cost-of-living rise and immediately have a penalty for those who live in public housing.

I thank the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. I thank the gentlewoman from New Jersey.

Mr. ASHLEY. Mr .Chairman, I rise in opposition to this amendment which would prevent social security cost-of-living increases from being counted as income when calculating rents in assisted housing. In essence, what the amendment would do is to prevent rent increases for people in assisted housing who get their income from social security.

I am perfectly sympathetic with what the gentleman is trying to accomplish here, but his amendment I am afraid raises far more problems that it solves.

I think it is important to point out that the very purpose of the social security cost of living increases is to help meet a variety of needs, including rent increases. It does not seem reasonable to me to say that cost of living increases are supposed to cover rent increases and then turn around and prevent their use for those rent increases.

What I am getting at is: How does the gentleman define the cost of living increases and what is the purpose of cost of living increases? It is to cover the increases in basic costs in the economy. The gentleman says that is not fair. If there is a cost increase in the social security prorgam, there are increases to cover those costs. He says, well, that is fine except not for purposes of shelter, that is for purposes of increases in rent.

Why not go into the grocery store and

tell the grocer he cannot charge higher for groceries to any recipients of the social security cost of living increases they are getting?

Briefly, Mr. Chairman, what troubles me most about the proposal is that it gives special treatment to a particular group simply because of their source of income. Someone who does not receive social security income would continue to have rent increases, while someone with the identical level of income but who receives it from social security would have no rent increases.

The amendment as drafted would even treat that social security recipient differently based on when he gets into the program. A person who was in public housing today would have essentially their rent frozen based on this year's social security benefit level. Someone who came in under the program next year would have to pay higher rent although the amount of social security received would be identical. They would have to pay a higher rent since the rent would be based on the 1979 benefit level, even though they both would be getting the same social security payment.

In addition to the amendment being inequitable, it would be extremely costly. Projections by the Department of Housing and Urban Development show that by 1980 the cost of the amendment would be $80 million and that in the years after 1980 the costs would grow dramatically.

It seems to me if the gentleman wishes to mitigate rent increases in public housing, there are far more effective and fair ways of doing this.

If it is the gentleman's concern to increase the value of benefits under social security, again there are certainly more equitable ways of accomplishing that end.

In short, Mr. Chairman, the proposed amendment would create an inequitable and extremely costly result. For these reasons I urge my colleagues to join me in opposing the amendment.

Mr. QUILLEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Tennessee (Mr. DUNCAN). It is a terrible thing to give our elderly citizens a social security increase, and then force them to pay more rent if they live in public housing. The Government gives with one hand and takes away with the other. I simply do not think this is fair and I support the amendment.

● Mr. SEIBERLING. Mr. Chairman, I support the amendment offered by the gentleman from Tennessee, Congressman JOHN DUNCAN, to correct one of the injustices that have occurred in Federal means tested programs.

This amendment would provide that administrators of housing programs disregard increases in monthly social security benefits in determining eligibility for and the amount of assistance available through public housing programs for social security recipients. The bill would apply to the 6.5-percent increase they received this month.

Under current law, public housing benefits are reduced for social security recipients whenever they receive a cost-of-living increase in their benefits. This problem has impeded the effective delivery of a variety of needed Federal services to the poor and elderly since 1972, when Congress approved an automatic cost-of-living increase provision to the Social Security Act. The whole point of the law was to provide some relief to older people and others living on fixed incomes who were being hardest hit by inflation.

Instead of receiving and benefiting from the cost-of-living increases, however, social security recipients found their benefits in other means-tested programs—including public housing, food stamps, and medicaid—reduced or eliminated entirely because of the "increased income" provided by the annual social security cost-of-living increases. The effect of this cost-of-living provision—which Congress enacted to help the elderly and others who rely on social security to replace income lost through death, disability or retirement—has been for the Government to give with one hand while taking away with the other.

The amendment before us would eliminate this injustice in the public housing program, which assists only those whose incomes are already so low that they cannot be expected to pay for housing at fair market rates. The elderly and others receiving social security make up about half a million of those receiving housing assistance. In many cases, social security is their income, from which they must pay for food, medicine, clothing and all their other living expenses. Yet the law says that they must pay higher monthly rents when they receive annual increases in social security benefits. In some cases, the cost-of-living increases terminates a recipients' eligibility for subsidized housing, thus forcing that person to pay an even greater proportion of monthly income on housing.

Congressman CHARLES WHALEN and I introduced legislation in this Congress to eliminate this effect of social security cost-of-living increases in seven Federal programs, including public housing. Recently, the House prohibited these cost-of-living increase from reducing veterans' benefits, so we have recognized this problem, and the need to make clear Congress' intent in passing this law. But we should establish this principle in every program which provides necessary services to persons on fixed incomes. I recognize that this one amendment does not cure all the injustices or eliminate all the problems, but it will help tens of thousands of our senior citizens who are barely able to survive. Surely we can do no less.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. DUNCAN).

The question was taken; and on a division (demanded by Mr. DUNCAN of Tennessee) there were—ayes 8, noes 9.

RECORDED VOTE

Mr. DUNCAN of Tennessee. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 38, not voting 138, as follows:

[Roll No. 584]

AYES—256

| | | |
|---|---|---|
| Abdnor | Frenzel | Murphy, Pa. |
| Akaka | Gammage | Murtha |
| Alexander | Garcia | Myers, John |
| Ambro | Gaydos | Myers, Michael |
| Ammerman | Gilman | Natcher |
| Anderson, Calif. | Ginn | Neal |
| Andrews, N.C. | Glickman | Nix |
| Annunzio | Goldwater | Nowak |
| Applegate | Gonzalez | Oakar |
| Archer | Goodling | Oberstar |
| Aspin | Gore | Obey |
| Bafalis | Gradison | O'Brien |
| Baldus | Grassley | Ottinger |
| Bauman | Gudger | Panetta |
| Benjamin | Guyer | Patten |
| Bennett | Hagedorn | Patterson |
| Bingham | Hall | Perkins |
| Blanchard | Hamilton | Pickle |
| Blouin | Hammer-schmidt | Pike |
| Boggs | Hanley | Preyer |
| Boland | Hannaford | Price |
| Bonior | Hansen | Pritchard |
| Bonker | Harkin | Quillen |
| Bowen | Harris | Rahall |
| Brodhead | Hefner | Railsback |
| Brooks | Heftel | Rangel |
| Broomfield | Hightower | Regula |
| Brown, Mich. | Hollenbeck | Rinaldo |
| Broyhill | Holt | Roberts |
| Buchanan | Holtzman | Robinson |
| Burgener | Howard | Roe |
| Burke, Calif. | Hubbard | Rogers |
| Burke, Fla. | Hughes | Roncalio |
| Butler | Hyde | Rose |
| Byron | Ichord | Rosenthal |
| Carter | Ireland | Russo |
| Cavanaugh | Jacobs | Ryan |
| Cederberg | Jeffords | Santini |
| Chappell | Johnson, Calif. | Satterfield |
| Cleveland | Jones, Okla. | Scheuer |
| Coleman | Jones, Tenn. | Schroeder |
| Collins, Tex. | Jordan | Schulze |
| Conable | Kastenmeier | Seiberling |
| Conte | Kazen | Shuster |
| Corcoran | Kelly | Sikes |
| Cornell | Kemp | Sisk |
| Cornwell | Keys | Skubitz |
| Coughlin | Kildee | Smith, Nebr. |
| Cunningham | Kostmayer | Snyder |
| D'Amours | Krebs | Solarz |
| Daniel, Dan | Lagomarsino | Spellman |
| Daniel, R. W. | Latta | Spence |
| de la Garza | Leach | Staggers |
| Delaney | Lederer | Stangeland |
| Derwinski | Lehman | Stark |
| Dickinson | Levitas | Steed |
| Dicks | Livingston | Steers |
| Dingell | Long, La. | Steiger |
| Dodd | Long, Md. | Stockman |
| Dornan | Luken | Stratton |
| Downey | McClory | Studds |
| Drinan | McCloskey | Stump |
| Duncan, Tenn. | McCormack | Symms |
| Edwards, Ala. | McDade | Thornton |
| Edwards, Okla. | McDonald | Traxler |
| Eilberg | McHugh | Trible |
| Emery | McKay | Udall |
| English | McKinney | Van Deerlin |
| Erlenborn | Madigan | Vento |
| Ertel | Mahon | Volkmer |
| Evans, Del. | Markey | Walgren |
| Evans, Ind. | Marks | Walker |
| Fary | Marriott | Whalen |
| Fascell | Martin | White |
| Fenwick | Mattox | Wilson, Bob |
| Findley | Meeds | Wilson, C. H. |
| Fish | Mikulski | Wilson, Tex. |
| Fithian | Miller, Ohio | Wirth |
| Flippo | Mineta | Wolff |
| Flood | Minish | Wylie |
| Florio | Mitchell, Md. | Yates |
| Foley | Mollohan | Yatron |
| Ford, Mich. | Montgomery | Young, Fla. |
| Forsythe | Moore | Young, Mo. |
| Fountain | Moorhead, Calif. | Zablocki |
| Fraser | | |

NOES—38

| | | |
|---|---|---|
| Ashley | Carr | LaFalce |
| AuCoin | Corman | Lloyd, Calif. |
| Beilenson | Danielson | Lundine |
| Bolling | Duncan, Oreg. | McFall |
| Brademas | Evans, Colo. | Mikva |
| Burke, Mass. | Fisher | Miller, Calif. |
| Burleson, Tex. | Gephardt | Moss |
| Burlison, Mo. | Giaimo | Myers, Gary |

| | | |
|---|---|---|
| Nedzi | Ruppe | Treen |
| Pease | Sharp | Tucker |
| Poage | Simon | Ullman |
| Reuss | Stanton | Wiggins |
| Rooney | Thompson | |

NOT VOTING—138

| | | |
|---|---|---|
| Addabbo | Ford, Tenn. | Pepper |
| Anderson, Ill. | Fowler | Pettis |
| Andrews, N. Dak. | Frey | Pressler |
| | Fuqua | Pursell |
| Armstrong | Gibbons | Quayle |
| Ashbrook | Green | Quie |
| Badham | Harrington | Rhodes |
| Barnard | Harsha | Richmond |
| Baucus | Hawkins | Risenhoover |
| Beard, R.I. | Heckler | Rodino |
| Beard, Tenn. | Hillis | Rostenkowski |
| Bedell | Holland | Rousselot |
| Bevill | Horton | Roybal |
| Biaggi | Huckaby | Rudd |
| Breaux | Jenkins | Runnels |
| Breckinridge | Jenrette | Sarasin |
| Brinkley | Johnson, Colo. | Sawyer |
| Brown, Calif. | Jones, N.C. | Sebelius |
| Brown, Ohio | Kasten | Shipley |
| Burton, John | Kindness | Skelton |
| Burton, Phillip | Krueger | Slack |
| Caputo | Le Fante | Smith, Iowa |
| Carney | Leggett | St Germain |
| Chisholm | Lent | Stokes |
| Clausen, Don H. | Lloyd, Tenn. | Taylor |
| | Lott | Teague |
| Clawson, Del | Lujan | Thone |
| Clay | McEwen | Tsongas |
| Cochran | Maguire | Vander Jagt |
| Cohen | Mann | Vanik |
| Collins, Ill. | Mar.enee | Waggonner |
| Conyers | Mathis | Walsh |
| Cotter | Mazzoli | Wampler |
| Crane | Metcalfe | Watkins |
| Davis | Meyner | Waxman |
| Dellums | Michel | Weaver |
| Dent | Milford | Weiss |
| Derrick | Mitchell, N.Y. | Whitehurst |
| Devine | Moakley | Whitley |
| Diggs | Moffett | Whitten |
| Early | Moorhead, Pa. | Winn |
| Eckhardt | Mottl | Wright |
| Edgar | Murphy, Ill. | Wydler |
| Edwards, Calif. | Murphy, N.Y. | Young, Alaska |
| Evans, Ga. | Nichols | Young, Tex. |
| Flowers | Nolan | Zeferetti |
| Flynt | Pattison | |

Mrs. BOGGS and Messrs. ICHORD, HANNAFORD, PATTERSON of California, and RAHALL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 79, after line 10, add the following new title:

TITLE VII—HOUS'NG PROGRAM PAPERWORK REDUCTION

FINDINGS AND AUTHORITY

SEC. 701. (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments), as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multifamily programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Insofar as it is practicable and to the extent permitted by law and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall employ in their respective programs—

(A) uniform single-family and multifamily note and mortgage forms;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form of computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(F) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Aministrator of Veterans' Affairs mutually agreed would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and of maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extent permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93-556.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, one of the primary concerns in my district, and in the State of New Jersey, is the inflationary cost of housing. Our average home is now beyond the reach of 80 to 85 percent of all New Jerseyians. Families whose incomes have not kept pace with fast-rising housing prices are being "priced out" of the housing market. This is particularly true of young families attempting to purchase their first house. No improvement in this situation is in sight and the building industry in my State is shrouded by clouds of uncertainty.

There are many contributing components to the inflationary housing costs dilemma. Some cannot be controlled on a short-term basis. For example, the structure of the Federal Reserve System makes it difficult for Congress to have much influence over mortgage interest rates.

One controllable component, however, which merits our careful consideration is homeownership regulatory cost reduction. Excessive governmental regulation costs can and must be controlled by Congress before the unnecessary costs of bureaucratic paperwork and requirements contribute even more than they do now to pricing new decent housing out of the reach of millions of deserving American families. Jan Janis, the Under Secretary of HUD, has identified the cost of overregulation as one of the greatest threats to achieving the national goal of decent housing.

Today, I am introducing legislation to alleviate the problem of excessive Government paperwork and regulation in the form of an amendment to H.R. 12433, the Housing Community Development Amendments of 1978.

My amendment would accomplish two purposes. First, it would reduce the paperwork burden facing homebuilders, homebuyers, and homesellers by requiring the Federal Housing Administration and the Veterans' Administration—as well as other Federal agencies with FMHA responsibilities in the housing and housing finance areas—to eliminate paperwork duplication by adopting the same forms for the same purposes in their various housing, finance and loan guarantee programs. Second, it would require OMB to monitor these efforts of the various housing and housing finance agencies in this area.

This amendment is based almost entirely on the findings and recommendations of the Commission on Federal Paperwork. This Commission was set up in 1975, following House and Senate passage of the enabling legislation late in 1974. The Commission was given a 2-year mandate to "study Federal statutes, policies, rules, regulations, and procedures relating to information gathering, processing, and dissemination, and the management and control of these activities," and control of these activities," and to present Congress with its findings and recommendations for assuring the availability of necessary information to Federal officials while minimizing the paperwork burden on others, reducing the duplication of information gathering by various levels of Government, and reducing the costs of Federal paperwork.

In its 2-year life, the Commission published more than 30 separate studies, including a June 10, 1977, report on paperwork in our Federal housing and housing finance programs. The report contained 58 recommendations for reducing the paperwork burden of these programs.

In its analysis, the Commission on Federal Paperwork found that "redtape in the form of excessive paperwork imposed on program participants" was a major reason why "builders, developers, mortgage bankers, and other clients of the major Federal housing agencies—HUD, VA, and FMHA—are turning away from the housing programs of these agencies."

As a result, today, fewer than 5 percent of all the members of the National Association of Home Builders participate in Federal housing programs. The percentage of housing starts that are

federally assisted through mortgage loan guarantees and other programs has fallen during the last 20 years from more than 50 percent to less than 10 percent.

The overall conclusion of the Federal Paperwork Commission was that "unless steps are taken to alleviate this paperwork, thus kindling the private sector's participation in Federal housing programs, a decent home and suitable living environment for all Americans will be unachievable."

One of the primary problems discovered by the Commission is that HUD and VA each maintain separate paperwork systems with duplicative requirements for their respective single-family mortgage programs. Although the purpose of each agency is essentially the same; that is, to help qualified applicants buy their homes, maintenance of separate paperwork requirements means extra staff time and costs to program participants.

This is an absolutely unnecessary burden. The information needed by FHA and VA to process a loan application are virtually identical. But mortgage bankers, who originate more than 75 percent of FHA loans and a large percentage of VA loans, must keep two sets of forms on file, must have staff trained to process two different sets of forms, and must know how to deal differently with two different agencies who are running very similar programs. Most mortgage bankers interviewed by the Commission said they could process more loan applications in much less time if only the FHA and VA could agree on common forms for their programs. The Commission recommended a number of forms that could be consolidated, including the application form, the appraisal form, the forms for estimating monthly incomes, as well as other forms that are required in loan processing. With more than 380,000 applications filed in a typical year (1976) for VA loans and almost 450,000 filed for FHA loans, and with considerable overlap, this is clearly not a minor problem. However, not a great deal seems to have been accomplished by these two agencies in reducing this unnecessary source of costly paperwork.

Why have HUD and VA failed to act on the Federal Paperwork Commission's recommendations? It has been suggested that the bureaucrats who run these Federal loan guarantee programs simply do not want to share their powers with other agencies—no matter what the cost of the Nation's consumers and home buyers.

We in the Congress can no longer condone or ignore this kind of attitude. The burden of Government regulations imposed on individuals and businesses by Government bureaucrats, with no regard for the costs to those who must comply, has become overwhelming. Recently, the Joint Economic Committee published a study which found that the overall cost of Government regulations on the private sector came to more than $135 billion last year—more than $500 for every man, woman, and child in this country.

While the unnecessary cost of excessive and duplicative paperwork in our Federal housing and housing finance programs contributes only a fraction of this burden of Government regulations, it is a good place to start cutting these costs. There are 109 repetitive use reports that OMB has cleared for HUD use in its housing production and mortgage credit programs. These 109 reports generate 3,602,760 responses annually, and require almost 2,000,000 hours of time to complete. This is the equivalent of almost 1,000 individuals working full-time just filling out FHA forms.

The housing programs run by VA require about 60 forms, involving 2.7 million annual responses and almost 1.25 million hours of time to complete. This is equivalent to assigning 625 individuals to work all year filling out VA housing forms. On top of this, the FHA uses 37 forms involving 1.5 million annual responses and almost 1 million hours of respondent time. Many of these forms can be merged and their overall reporting burden cut significantly, as the Federal Paperwork Commission recommends.

Although my amendment will not totally cure the problem of inflationary housing costs, it will alleviate one of the industry's most oppressive burdens—excessive Government paperwork. It will directly reduce the proliferation of unnecessary forms and force the various housing agencies to cooperate in an organized way to reduce the burden imposed by their rules and regulations.

I urge this Committee's support for the amendment, and I would like to acknowledge the cooperation and the support of two members of the Committee, the gentleman from New Jersey (Mr. HOLLENBECK) and the gentleman from New Jersey (Mr. MINISH), for providing me with information for having this amendment adopted.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding, and I want to commend the gentleman on what he is doing.

Mr. Chairman, I just had a meeting over in my office on the new simplification on HUD land sales. The new regulations are out. When you submit your new application, part of it is in red type and part of it is in black type. That is the new simplification.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I am happy to yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New Jersey (Mr. FLORIO) and compliment him for the amendment.

Mr. Chairman, one of the problems I hear about most often from builders in my district is excessive Government regulation and redtape. I know that "regulation and redtape" are code words used by anybody who resents anything that Government attempts to do. But for builders those words have very real meaning. Homebuilders are stopped at every turn by rules which tell them where to build, how to build and what to build. And as if that is not enough, when a builder utilizes a program under FHA, VA or Farmers Home Administration, that builder is subjected to an additional set of extensive regulations.

The situation has gotten so bad that many builders in Oregon no longer use Federal programs. And that means that households, especially young families who need inexpensive housing will never have an opportunity to become homeowners.

Not only do excessive regulations discourage homebuilders from using Federal programs, but they boost costs. As chairman of the Task Force on Home Ownership, I know how crucial it is to do everything possible to hold down rising housing costs. My task force has held five hearings across the country: In Corvallis, Oreg., and in Long Beach, Houston, Indianapolis and Baltimore. In every one of those hearings, homebuilders came to express their strong concerns about Government regulation and redtape. It was clear from our field hearings that Government regulations at all levels are responsible for a significant portion of the increase in housing costs over recent years. While most of these regulations are local in nature, it is incumbent on the Congress to do everything possible to minimize the amount of regulation and streamline wherever possible.

This amendment is right on target in attacking the problems of excessive and duplicative paperwork. It may be a small step. But the Government must begin whittling away at the burden of paperwork it now imposes on homebuilders. This is a good start.

Let me give you one example of how this amendment can help the builders in my State. Not long ago, I received from the Oregon State Home Builders a copy of a form that Farmers Home Administration requires builders to complete before they can market their homes with financing by the agency. The form was nearly 10 pages in length. A similar form required by HUD for its program is only two pages long. There is no reason why the two agencies cannot use the same form to meet nearly identical requirements.

Members of Congress are sometimes accused of being unresponsive to problems brought to our attention by small businessmen such as homebuilders.

Now we have an opportunity to demonstrate our concern about Government regulation by addressing a specific problem and adopting the amendment.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment.

I share the gentleman's concern about unnecessary governmental regulation and excessive and duplicative paperwork requirements. While I do not wish to overemphasize the impact of this amendment in reducing housing costs and expanding homeownership opportunities, I do believe it makes a meaningful contribution to this effort and can reduce needless expense incurred by those involved in the housing industry and by home purchases.

Efforts have been underway in the administration to this same end—simplifying forms and reducing housing costs. In

addition, our subcommittee is conducting hearings in this area which I hope will result in more extensive changes with perhaps even greater impact on housing costs which we hope to present to the Congress next year.

I do, however, think this amendment, in itself, makes a valuable contribution to this effort; I am pleased to support it; and commend the gentleman for his efforts.

Mr. HOLLENBECK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment as well.

Mr. Chairman, I commend the gentleman on his diligent efforts in the area of excessive paperwork, not only in the housing medium, but all over the country.

I rise in support of the amendment offered by the gentleman from New Jersey and I would like to compliment Mr. FLORIO in particular on his effort to try and reduce the excessive and duplicative paperwork in our Federal housing and housing finance programs. New Jersey suffers from the paperwork burden and confusion but is not alone in its plight.

Too often, prospective homeowners and homebuilders are discouraged from taking advantage of Federal home loans because of the multitude of complicated and even contradictory forms that are required. By mandating that the FHA, VA and other Federal agencies standardized their forms and eliminate confusion and duplication, homebuilders, homebuyers, and homesellers will find it easier to work with the Federal Government and each other, and receive the benefits to which they are entitled.

I urge adoption of this amendment and I only hope that it is the beginning of a move to streamline the entire Federal paperwork burden.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was agreed to.

● Mr. HANNAFORD. Mr. Chairman, I rise in support of H.R. 12433, the Housing and Community Development Amendments of 1978, which is the product of many hours of hard work by my distinguished colleague Chairman ASHLEY of the Housing Subcomittee and members of the full Banking, Finance and Urban Affairs Committee.

There are two specific provisions in the bill which I would like to address at this time.

First, the bill as reported by the committee contains a provision which clearly instructs the Department of Housing and Urban Development that applications under the CDBG program be approved unless there is a finding (1) that the communities' description of its needs and objectives is plainly inconsistent with the facts and data generally available; (2) that the activities to be undertaken are plainly inappropriate to meeting those needs and objectives; or (3) that the application does not comply with the requirements of the act or other applicable laws, with specific regard to "the primary purposes of principally benefiting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency." The criteria under item (3) are to be treated coequally.

To my dismay and that of many of my colleagues, HUD proposed regulations which would require 75 percent of a community's CDBG funds to be used primarily to benefit persons of low and moderate income. This clearly was not the intent of Congress when the act was considered last year and the action by the committee to inform the Department that it shall not interpret the laws, but implement them as originally intended is a significant message which this bill conveys. The 75-percent rule which HUD recommended received widespread criticism and cities in my district have communicated their dissatisfaction with the Department's tactics to ignore congressional intent.

Another provision in the bill which I will address is one which permits low- and moderate-income mobile homeowners who rent the space on which to park their homes to qualify for section 8 rental assistance. On February 22, I introduced H.R. 11085, which was directed toward this purpose and I am gratified that its provisions are essentially embodied in H.R. 12433. As we know, the costs of conventional housing are soaring. Homeowners throughout the Nation are experiencing affordability problems, and this fact has been illustrated in numerous studies conducted by the CBO, the GAO, the CRS, and other independent groups. Those who have looked to mobile homes as an affordable alternative, however, are, in many cases, finding that space rental is rising rapidly. Almost 500,000 mobile homeowners earn less than $5,000 annually and 63 percent of all mobile homeowners rent the lot on which their home is located. In many parts of California, mobile home space rentals are doubling to as much as $300 per month. This rise affects many senior citizens and younger families who simply cannot afford other housing.

The provision for section 8 rental assistance for low- and moderate-income mobile homeowners is, therefore, an important one and one that contains adequate safeguards and restricts the level of assistance in keeping with our overall budgetary considerations.

There is another issue which I would like to address at this time. That is the need to amend the Department of Housing and Urban Development's Urban Development Action Grant (UDAG) program.

Under this program, entire cities and urban counties meeting certain eligibility criteria for economic distress established by the Secretary of HUD may submit applications for urban development action grants. Excluded from participation in this program, however, are areas of distress having a population under 50,000. This figure is an arbitrary one and one which disregards pockets of poverty within many of the currently UDAG-eligible areas.

Attempting to meet adequately the needs of individuals and families throughout the Nation is a formidable task. It involves establishing guidelines, criteria and measures of need. As national policymakers, we must strive to be equitable in meeting these needs. And where we realize that certain revisions will strengthen program objectives and enhance the likelihood of accomplishing those objectives, then we must act swiftly.

One of the laudable goals set by this administration is to "target" assistance to areas most in need. Amending the UDAG program to permit smaller areas of distress to apply for available funding buttresses the targeting goal. To ignore the fact that needs exist in communities under 50,000 population is deplorable.

On July 20 the Senate adopted an amendment to S. 3084, the housing authorization bill, extending UDAG eligibility to distressed areas with a population of at least 10,000. The passage of this amendment by a vote of 48 to 39 signifies a great victory.

I urge that the House Members appointed to the conference committee on this legislation concur with the Senate's UDAG amendment. It is my firm belief that need should be addressed regardless of geographic location and that measures of need should be continually and critically scrutinized.●

● Mr. WHALEN. Mr. Chairman, today, my colleague from Tennessee (Mr. DUNCAN) is offering an amendment to the Housing and Community Development Act amendments which rectifies an injustice exhibited in our Federal housing program.

Two weeks ago, the nearly 34 million recipients of social security received a 6.5-percent cost-of-living increase. This action was designed to help them deal with the serious problem of living on fixed incomes in an age of spiralling costs. Many of these Americans also are qualified to receive aid under Federal housing programs enacted in 1937, 1948, and 1965. However, under existing laws, these citizens can expect reductions in the level of support provided through projects administered by the Department of Housing and Urban Development.

At present, increases in social security benefits are counted as income for the purpose of determining eligibility for participation in housing and other Federal programs, such as medicaid and food stamps. Thus, the person ordinarily entitled to low rent subsidies in federally sponsored housing projects will quite likely be forced to pay a proportionately higher rent after receiving cost-of-living increase in his or her social security benefits. Effectively, the small benefits increase awarded to social security beneficiaries through the annual inflation adjustments can be seriously curtailed—if not eliminated—under present statutes.

Mr. DUNCAN's amendment seeks to protect these social security beneficiaries from being denied the full support awarded by federally subsidized housing programs. This amendment stands merely as a guarantee of the measure Congress enacted in 1972 to aid economically disadvantaged people. At that time,

automatic cost-of-living raises for social security recipients were sanctioned.

In effect, failure to pass the Duncan amendment would perpetuate an unjust example of Government "giving with one hand, and taking with the other."

I have spoken out on this matter before. Last year, my friend and colleague, Mr. SEIBERLING, joined me in introducing a package of five bills which addressed this problem in housing and other areas. Over 200 Members supported those efforts then. I now urge my colleagues once again to bring an end to this cruel hoax on less fortunate Americans, and to add Mr. DUNCAN'S amendment to the Housing and Community Development Act.

We should remember that our failure to act today inevitably will harm the very people our Federal housing programs are designed to assist: the poor and those on fixed or low incomes.●

● Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 12433, which represents a major effort to refine and strengthen our Nation's housing and community development programs.

I support this bill with certain reservations, however, since I fear that a disproportionately small share of its benefits will in fact reach my constituents in the Seventh Congressional District of Illinois. The reason for my pessimism, Mr. Chairman, should be apparent to those of my colleagues who joined in the debate over the amendment to title II of this legislation that I offered here on the floor on June 28. My amendment would have instructed the Secretary of Housing and Urban Development to remove section 8 new construction authorization for the city of Chicago from the placement formula developed in the case of Gautreaux against Hills either through agreement with other parties before the Federal district court, or through appeal to the circuit court of appeals.

At the risk of repeating myself for the benefit of those colleagues who were not present when I offered this amendment, I wish to briefly underscore the fact that Chicago is the only city in the Nation that has not been receiving its fair share of federally assisted new construction under section 8 because of a unique set of severe restrictions that cover two-thirds of the city. Under these restrictions, which have been implemented in voluntary pursuit of an order issued by the Federal district court in Chicago on May 5, 1975, at least 60 percent of section 8 new construction must be built outside of a 1-mile radius of residential concentration of minority and low-income individuals before the remaining 40 percent can be built within an area that encompasses nearly all of the seventh congressional district. Since, as we all know, the suburbs are not knocking down HUD's doors with applications for low-income housing, my constituents are the victims of a catch-22 situation, for reasons that are completely beyond their control.

For this reason I cannot share the satisfaction expressed by many of my colleagues over the authorization, in this bill, of $1.2 billion in section 8 rent subsidies—enough to support an additional 400,000 units, so long as my district is denied its fair share of these funds. Once again, I call on HUD to remove itself from the shackles of an unworkable formula and apply to Chicago the same site selection standards that it uses effectively in the rest of the country.

HUD's failure to move in a flexible manner so as to meet the twin goals of providing both open housing and new construction in the inner cities is all the more tragic when considered alongside the progressive changes included in this legislation for the purposes of neighborhood development and of assisting our elderly and handicapped citizens.

With respect to community development block grants, for example, the legislation recognizes that local officials have the responsibility for assessing local needs and designing appropriate strategies to meet those needs. In this spirit, the committee has reaffirmed that all three purposes of the community development block grant program are of equal importance. These are: First, to benefit low- and moderate-income persons, second, to prevent or eliminate slums or blight, and third, to meet urgent community needs. In this context, HUD cannot reject a CDBG application on the ground that it meets one of these three criteria more than another of them.

Another provision in this legislation which addresses the crucial issue of neighborhood revitalization is section 307(b) which requires that rates in FAIR plans—State pools which provide property insurance to those who do not have access to insurance in the conventional market—be no higher than rates in the private market. The need for this provision is irrefutable when one considers the conclusions of the report released by HUD last month entitled "Insurance Crisis in Urban America." After documenting the widespread extent of insurance company redlining along with its "undeniable racial component," the report concluded that "affordable property insurance must be guaranteed to all genuinely insurable risks" for any urban policy to have meaning.

Yet, in spite of these obvious considerations, some States, including, I am sorry to say, my own State of Illinois, have raised FAIR plan rates to exorbitant levels that lower and middle income property owners simply cannot afford. I, therefore, oppose the amendment offered by the gentleman from Michigan (Mr. BROWN) which would strike section 307 (b) from the bill.

The committee has also wisely decided to increase its commitment to the restoration and reservation of existing housing stock by providing a fiscal year 1979 authorization of $245 million for the section 312 loan program, which is specifically designed to aid in the rehabilitation of homes of low- and moderate-income families. While in calendar year 1977 over 33 percent of the funds went to homeowners earning over $15,000 a year, H.R. 12433 authorizes a sliding scale interest rate on loans to individuals earning over 95 percent of the median income, thus reducing the subsidy to homeowners who can afford the market interest rate.

Moreover, the institutionalization of the successful urban reinvestment task force in the form of the Neighborhood Reinvestment Corporation demonstrates further our commitment to neighborhood revitalization. Since 1974 the task force—a joint effort of HUD and the Federal Home Loan Bank—has worked as a catalyst, bringing together local resources and demonstrating that a declining but still viable neighborhood can be revitalized through a partnership of resident, financial institutions, and local government.

In continued recognition of the needs of our elderly and handicapped citizens title V of this bill establishes a 3-year, $80 million program under which the Secretary of HUD can make grants to provide such services as health care, nutrition counseling, recreation and other social services to residents of congregate housing facilities operated by public housing agencies or nonprofit owners of section 202 projects.

Recent studies indicate that at least 2.4 million elderly persons would profoundly benefit from some form of alternatives to institutionalization, a premature and unnecessarily costly solution for many of our elderly citizens who remain vigorous in spirit if not in body. Studies of nursing home populations indicate that one-third to one-half of the residents would be able to function in less intensive care settings if they existed. For these reasons, I strongly support title V of this bill and oppose the amendment offered by the gentleman from California (Mr. ROUSSELOT) that would delete this provision. The bill would also provide that a minimum of $50 million for section 202 lending authority—a program specifically designed to finance rental and cooperative housing facilities for the elderly and handicapped—be used annually to construct housing designed to meet the needs of the handicapped. For our elderly citizens the bill would expand the section 232 mortgage insurance program to cover intermediate care facilities which offer daytime services to nonresident elderly persons.

Finally, and reiterating my concern that the residents of the Seventh Congressional District of Illinois be allocated their fair share of these programs—and particularly of section 8 new construction—I urge colleagues to support H.R. 12433, Housing and Community Development Amendments of 1978.●

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12433) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, pursuant to House Resolution 1214, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any

amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 26, not voting 136, as follows:

[Roll No. 585]

YEAS—270

| | | |
|---|---|---|
| Abdnor | Duncan, Tenn. | Keys |
| Akaka | Edwards, Ala. | Kildee |
| Alexander | Edwards, Okla. | Kostmayer |
| Ambro | Eilberg | Krebs |
| Ammerman | Emery | LaFalce |
| Anderson, Calif. | English | Lagomarsino |
| | Erlenborn | Leach |
| Anderson, Ill. | Ertel | Lederer |
| Andrews, N.C. | Evans, Colo. | Leggett |
| Annunzio | Evans, Del. | Lehman |
| Applegate | Evans, Ind. | Levitas |
| Ashley | Fary | Livingston |
| Aspin | Fascell | Lloyd, Calif. |
| AuCoin | Fenwick | Long, La. |
| Bafalis | Fish | Long, Md. |
| Baldus | Fisher | Luken |
| Beard, R.I. | Fithian | Lundine |
| Beard, Tenn. | Flippo | McClory |
| Bellenson | Flood | McCormack |
| Benjamin | Florio | McDade |
| Bennett | Foley | McFall |
| Bingham | Ford, Mich. | McHugh |
| Blanchard | Forsythe | McKay |
| Blouin | Fountain | McKinney |
| Boggs | Fraser | Madigan |
| Boland | Frenzel | Markey |
| Bolling | Gammage | Marks |
| Bonior | Garcia | Marriott |
| Bonker | Gaydos | Martin |
| Bowen | Gephardt | Mattox |
| Brademas | Giaimo | Meeds |
| Brooks | Gilman | Mikulski |
| Broomfield | Ginn | Mikva |
| Brown, Mich. | Glickman | Miller, Calif. |
| Broyhill | Goldwater | Mineta |
| Buchanan | Gonzalez | Minish |
| Burgener | Goodling | Mitchell, Md. |
| Burke, Calif. | Gore | Mollohan |
| Burke, Fla. | Gradison | Moore |
| Burke, Mass. | Grassley | Moorhead, Calif. |
| Burlison, Mo. | Gudger | |
| Butler | Guyer | Moss |
| Byron | Hagedorn | Murphy, Pa. |
| Carr | Hall | Murtha |
| Carter | Hamilton | Myers, Gary |
| Cederberg | Hammer-schmidt | Myers, John |
| Chappell | | Myers, Michael |
| Cleveland | Hannaford | Natcher |
| Coleman | Harkin | Neal |
| Conable | Harris | Nedzi |
| Conte | Heckler | Nix |
| Corcoran | Hefner | Nowak |
| Cornell | Heftel | Oakar |
| Cornwell | Hightower | Oberstar |
| Coughlin | Hollenbeck | Obey |
| Cunningham | Holtzman | O'Brien |
| D'Amours | Howard | Ottinger |
| Daniel, R. W. | Hubbard | Panetta |
| Danielson | Hyde | Patten |
| de la Garza | Ireland | Patterson |
| Delaney | Jacobs | Pease |
| Dickinson | Jeffords | Perkins |
| Dicks | Johnson, Calif. | Pickle |
| Dingell | Jones, Okla. | Pike |
| Dodd | Jones, Tenn. | Preyer |
| Dornan | Jordan | Price |
| Downey | Kastenmeier | Pritchard |
| Drinan | Kazen | Quillen |
| Duncan, Oreg. | Kemp | Rahall |
| Railsback | Simon | Trible |
| Rangel | Sisk | Tucker |
| Regula | Skubitz | Udall |
| Reuss | Smith, Nebr. | Ullman |
| Rinaldo | Snyder | Van Deerlin |
| Roberts | Solarz | Vento |
| Robinson | Spellman | Volkmer |
| Roe | Spence | Walgren |
| Rogers | Staggers | Whalen |
| Roncalio | Stangeland | White |
| Rooney | Stanton | Wiggins |
| Rose | Stark | Wilson, Bob |
| Rosenthal | Steed | Wilson, C. H. |
| Ruppe | Steers | Wilson, Tex. |
| Ryan | Steiger | Wirth |
| Santini | Stockman | Wolff |
| Scheuer | Stratton | Wylie |
| Schroeder | Studds | Yates |
| Schulze | Thompson | Yatron |
| Seiberling | Thornton | Young, Fla. |
| Sharp | Traxler | Young, Mo. |
| Sikes | Treen | Zablocki |

NAYS—26

| | | |
|---|---|---|
| Archer | Holt | Montgomery |
| Bauman | Hughes | Poage |
| Brodhead | Ichord | Russo |
| Burleson, Tex. | Kelly | Satterfield |
| Collins, Tex. | Kindness | Shuster |
| Daniel, Dan | Latta | Stump |
| Derwinski | McDonald | Symms |
| Findley | Mahon | Walker |
| Hansen | Miller, Ohio | |

NOT VOTING—136

| | | |
|---|---|---|
| Addabbo | Ford, Tenn. | Pepper |
| Andrews, N. Dak. | Fowler | Pettis |
| | Frey | Pressler |
| Armstrong | Fuqua | Pursell |
| Ashbrook | Gibbons | Quayle |
| Badham | Green | Quie |
| Barnard | Hanley | Rhodes |
| Baucus | Harrington | Richmond |
| Bedell | Harsha | Risenhoover |
| Bevill | Hawkins | Rodino |
| Biaggi | Hillis | Rostenkowski |
| Breaux | Holland | Rousselot |
| Breckinridge | Horton | Roybal |
| Brinkley | Huckaby | Rudd |
| Brown, Calif. | Jenkins | Runnels |
| Brown, Ohio | Jenrette | Sarasin |
| Burton, John | Johnson, Colo. | Sawyer |
| Burton, Phillip | Jones, N.C. | Sebelius |
| Caputo | Kasten | Shipley |
| Carney | Krueger | Skelton |
| Cavanaugh | Le Fante | Slack |
| Chisholm | Lent | Smith, Iowa |
| Clausen, Don H. | Lloyd, Tenn. | St Germain |
| | Lott | Stokes |
| Clawson, Del | Lujan | Taylor |
| Clay | McCloskey | Teague |
| Cochran | McEwen | Thone |
| Cohen | Maguire | Tsongas |
| Collins, Ill. | Mann | Vander Jagt |
| Conyers | Marlenee | Vanik |
| Corman | Mathis | Waggonner |
| Cotter | Mazzoli | Walsh |
| Crane | Metcalfe | Wampler |
| Davis | Meyner | Watkins |
| Dellums | Michel | Waxman |
| Dent | Milford | Weaver |
| Derrick | Mitchell, N.Y. | Weiss |
| Devine | Moakley | Whitehurst |
| Diggs | Moffett | Whitley |
| Early | Moorhead, Pa. | Whitten |
| Eckhardt | Motti | Winn |
| Edgar | Murphy, Ill. | Wright |
| Edwards, Calif. | Murphy, N.Y. | Wydler |
| Evans, Ga. | Nichols | Young, Alaska |
| Flowers | Nolan | Young, Tex. |
| Flynt | Pattison | Zeferetti |

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Ashbrook.
Mr. Moakley with Mr. Brown of Ohio.
Mr. Addabbo with Mr. Green.
Mr. Richmond with Mr. Harsha.
Mr. Phillip Burton with Mr. Kasten.
Mr. Biaggi with Mr. Quie.
Mr. Nichols with Mr. Horton.
Mr. Carney with Mr. Pursell.
Mr. Cotter with Mr. Quayle.
Mr. Baucus with Mr. Lent.
Mr. Krueger with Mr. Sebelius.
Mr. Hawkins with Mr. Rudd.
Mr. Breaux with Mr. Rousselot.
Mr. Moffett with Mr. Pressler.
Mr. Pepper with Mr. Wydler.
Mr. Dent with Mr. Winn.
Mr. Diggs with Mr. Young of Alaska.
Mrs. Chisholm with Mr. Walsh.
Mr. Le Fante with Mr. Taylor.
Mr. Jenrette with Mr. Sarasin.
Mr. Rostenkowski with Mr. Sawyer.
Mr. Slack with Mr. Mitchell of New York.
Mr. St Germain with Mrs. Pettis.
Mr. Tsongas with Mr. Frey.
Mr. Waxman with Mr. Crane.
Mr. Jenkins with Mr. Cohen.
Mr. Harrington with Mr. Del Clawson.
Mr. Murphy of Illinois with Mr. Caputo.
Mr. John L. Burton with Mr. Badham.
Mr. Clay with Mr. Armstrong.
Mr. Dellums with Mr. Don H. Clausen.
Mr. Edwards of California with Mr. Devine.
Mr. Flowers with Mr. McEwen.
Mr. Flynt with Mr. Lujan.
Mr. Murphy of New York with Mr. Hillis.
Mr. Metcalfe with Mr. Vander Jagt.
Mr. Brinkley with Mr. Andrews of North Carolina.
Mr. Handley with Mr. Rhodes.
Mr. Fuqua with Mr. Runnels.
Mr. Risenhoover with Mr. Thone.
Mr. Moorhead of Pennsylvania with Mr. Lott.
Mrs. Meyner with Mr. Michel.
Mr. Derrick with Mr. McCloskey.
Mr. Conyers with Mr. Marlenee.
Mr. Shipley with Mr. Cochran of Mississippi.
Mr. Stokes with Mr. Cavanaugh.
Mr. Teague with Mr. Eckhardt.
Mr. Waggonner with Mr. Fowler.
Mr. Vanik with Mr. Whitten.
Mr. Weiss with Mr. Wampler.
Mr. Weaver with Mr. Whitehurst.
Mr. Wright with Mr. Milford.
Mr. Pattison of New York with Mr. Watkins.
Mr. Mottl with Mr. Mann.
Mr. Early with Mr. Breckinridge.
Mr. Davis with Mr. Ford of Tennessee.
Mrs. Collins of Illinois with Mr. Evans of Georgia.
Mr. Brown of California with Mr. Edgar.
Mr. Bevill with Mr. Nolan.
Mr. Bedell with Mr. Maguire.
Mr. Huckaby with Mr. Johnson of Colorado.
Mr. Jones of North Carolina with Mr. Gibbons.
Mrs. Lloyd of Tennessee with Mr. Skelton.
Mr. Mathis with Mr. Smith of Iowa.
Mr. Mazzoli with Mr. Whitley.
Mr. Corman with Mr. Holland.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MINISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 12433.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, AND CROSS REFERENCES IN ENGROSSMENT OF H.R. 12433

Mr. MINISH. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, the clerk be authorized to correct section numbers, punctuation, and cross references to reflect the actions of the House in amending the bill, H.R. 12433.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## APPOINTMENT OF CONFEREES ON S. 3040, AMTRAK AUTHORIZATION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and, without objection, appoints the following conferees: Messrs: STAGGERS, ROONEY, METCALFE, Ms. MIKULSKI, Messrs. FLORIO, DEVINE, and SKUBITZ.

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 3350, DEEP SEABED HARD MINERALS ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1240 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1240

*Resolved,* That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3350) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider the text of the bill H.R. 12988 if offered as an amendment in the nature of a substitute for the bill, said substitute shall be read for amendment under the five-minute rule as an original bill by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, and clause 5, rule XXI, are hereby waived. No amendment to title IV of said substitute, including an amendment in the nature of a substitute which would change title IV, shall be in order except amendments recommended by the Committee on Ways and Means and an amendment printed in the Congressional Record of June 5, 1978, by Representative Stark of California, which amendments shall not be subject to amendment, but it shall be in order to debate said amendments and title IV by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1240 provides for the consideration of H.R. 3350, the bill to promote the orderly development of hard mineral resources in the deep seabed while an international agreement concerning deep seabed development is being worked out.

The rule provides for 2 hours of general debate, equally divided and controlled by the chairman and ranking minority members of the Committee on Interior and Insular Affairs, on International Relations, on Merchant Marine, and Fisheries, and on Ways and Means. The subject matter of this legislation is extremely complex, which is illustrated by the fact that the jurisdiction is divided among four House committees. Nonetheless, these committees have negotiated a resolution of most of their differences. The bill was jointly referred to the Committees on Merchant Marine and Fisheries and on Interior and Insular Affairs. There was then a sequential referral to the Committee on International Relations. In the course of resolving the differences among the three committee versions, it was decided to request that the Committee on Ways and Means take up the matter of the revenue sharing system. Ways and Means reported out a revenue sharing provision in the nature of an excise tax.

The consensus of these committees, which resolved approximately 17 out of 19 differences in the course of negotiations, is represented in a substitute bill, H.R. 12988, which the rule makes in order as an original bill for the purposes of amendment, instead of the amendments now printed in H.R. 3350. The substitute will be read for amendment by title rather than by section.

The rule waives all points of order against the substitute for failure to comply with the provisions of clause 7 of rule XVI, which requires that amendments be germane to the original bill. This waiver is necessary because title IV, reported by the Committee on Ways and Means, was not included in the bill as originally introduced.

The waiver of points of order for failure to comply with the provisions of clause 5 of rule XXI also relates to title IV, which provides that funds contained in the "deep seabed revenue sharing trust fund" established by the legislation are to be appropriated to an international revenue sharing account set up by a Law of the Sea treaty. This waiver was granted to protect against a point of order on a possible violation of the prohibition against appropriations in a legislative measure.

The rule also waives the provisions of section 402(a) of the Congressional Budget Act of 1974, which sets May 15 as the deadline for reporting a bill establishing new budget authority. The chairman of the Budget Committee did not object to this waiver.

House Resolution 1240 provides an open rule on the first three titles of the substitute. This will permit the legislative committees to resolve their remaining differences on the floor by offering amendments to H.R. 12988. The substitute does not resolve the difference of opinion as to which executive agency should administer the deep seabed mining program. This matter will be resolved through the floor amendment process.

Title II of the substitute contains a Merchant Marine and Fisheries provision that the integrity of investments in deep seabed mineral exploration and commercial recovery made previous to the adoption of an international agreement be protected in the implementation of such an agreement. The Committees on Interior and Insular Affairs and on International Relations have reserved the right to offer amendments to title II.

The substitute bill provides that permittees may use for the commercial recovery or processing of hard mineral resources vessels which are documented under the laws of the United States or of a reciprocating nation. This subsection remains a point of controversy. An amendment will be offered to require U.S. documentation of mining and processing vessels.

House Resolution 1240 provides for a modified closed rule on title IV of the substitute, which is the revenue sharing title of the bill. Pro forma amendments will be in order for the purpose of debate. Also in order, but not amendable, are amendments which may be offered by the Committee on Ways and Means, and an amendment printed in the CONGRESSIONAL RECORD of June 5, 1978, by Representative STARK of California. The present text of the substitute provides for an excise tax at the effective rate of three-fourths of 1 percent of the annual gross receipts from seabed mining. The Stark amendment would increase the excise tax to 10 percent of gross receipts.

Mr. Speaker, the substitute bill H.R. 12988 is designed to promote the orderly and environmentally sound development of hard mineral resources in the deep seabed, pending adoption of an international agreement on this topic. Our Nation is very dependent upon foreign sources of supply of certain strategic hard minerals. Not only is this factor detrimental to our national balance-of-payments position, but the situation also poses a threat to our national security interests. Our Nation is extremely vul-

nerable to price escalations and supply interruptions.

We import 98 percent of our supplies of both cobalt and manganese. Cobalt is an essential element in many alloys and super alloys and is particularly important in electrical and aerospace industrial production. Our major source of cobalt supply in 1974 was the country of Zaire.

Manganese is an essential element in the steel industry. It is extremely critical to our industrial production because there is no substitute for manganese in its major applications.

We import 71 percent of our nickel, also vital to the iron and steel industry and a key in the development of the aerospace industry. Our greatest use of nickel is in alloys, and particularly stainless steel. Substitutes for nickel can be utilized only at very great expense and at sacrifice in performance.

We also import 15 percent of our copper, which, although substitutions are possible, has a wide range of applications and is of great commercial importance.

These four important minerals are found in manganese nodules, which are deposited generously throughout the deep seabed. We do not know how these nodules are formed or how long it takes, but we know that there are more than 1 trillion tons on the ocean floor. It is believed that these nodules could eventually provide a goodly portion of our needed supply of these four critical minerals.

But the capital investment for deep sea mining activity is very great. The adoption of an international treaty is associated with much risk. At this time, deep seabed mining is considered too uncertain a venture to justify large-scale capital investment in the necessary technology.

It is of great concern to deep seabed mining companies that the legal framework under which they must operate be clearly understood—including tax policy, resource management, and environmental constraints. The prospect of an international treaty that could impose severe restrictions on mining operations has created an unstable investment climate for deep seabed mining at this time. Yet technological capabilities place commercial recovery of manganese nodules within the realm of possibility by 1983. Industry is waiting for a clear notion of governmental action before accelerating prototype mining programs in expectation of commercial development.

If we wish commercial recovery of manganese nodules to occur within the next few years, then we must reduce the risks associated with the adoption of an international treaty which would impose adverse restrictions on mining operations. The substitute bill directs that any international agreement assure U.S. citizens of nondiscriminatory access to the deep seabed and will protect their mining rights and the value of their investments. To provide less would be a disservice in terms of our need for a stable supply of minerals critical to our national security.

The bill encourages the successful negotiation of a comprehensive international Law of the Sea Treaty which will give legal definition to the principle that the mineral resources of the deep seabed are the common heritage of mankind. A special fund will be established from excise taxes on the minerals recovered. The proceeds of this fund will be available to the international community under such a treaty but subject to congressional appropriations. The bill does not in any way provide property rights to the seabed to ocean miners, but it does foster the continued and immediate development of technology necessary to develop the hard mineral resources of the deep seabed as soon as possible.

Mr. Speaker, this legislation is a masterful compromise of numerous interests. It is to our Nation's great advantage to adopt legislation which will promote the rapid development of deep seabed mining right away.

H.R. 12988 represents a great deal of work by many Members of this body. Working together, four House committees have shaped a compromise piece of legislation that is badly needed at this time. The Subcommittee on Oceanography, which is ably chaired by my Louisiana friend and colleague, JOHN BREAUX, has taken a chief leadership role and has held extensive hearings over the past three Congresses. Action on the measure has repeatedly been delayed in the hopes that a law of the sea treaty could be achieved.

We cannot wait any longer to establish a framework for the exploration and development of hard mineral resources in the deep seabed. This rule is a fair and just approach to resolving the remaining points of controversy in the compromise substitute, and I urge the adoption of the rule House Resolution 1240, which will permit the House to consider H.R. 12988 as a substitute for H.R. 3350.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, as explained by the gentleman from Louisiana, this rule permits consideration of H.R. 3350, Deep Seabed Hard Minerals Act. It involves 2 hours of general debate time divided equally between the Committees on Interior and Insular Affairs, International Relations, Merchant Marine and Fisheries, and Ways and Means. Each committee is to receive 30 minutes. Section 402(a) of the Congressional Budget Act, which is the May 15 reporting deadline, is waived.

It will be in order to consider the text of H.R. 12988 as an amendment in the nature of a substitute to H.R. 3350. The substitute is to be read for amendment as an original bill by titles instead of by sections. Clause 7 of rule XVI (the germaneness rule) and clause 5 of rule XXI (appropriations in a legislative measure) are waived against the substitute.

The original bill and the substitute are both open to all amendments which are germane to them respectively, except for title IV of the substitute. No amendment to title IV of the substitute, including a substitute for the substitute which would change title IV, are in order except amendments recommended by the Ways and Means Committee and an amendment printed in the June 5, 1978, CONGRESSIONAL RECORD by Representative STARK of California. These amendments will not be subject to amendment. Finally, there is a motion to recommit with or without instructions.

The purpose of this bill is to create an interim legal framework in the absence of an international treaty to indicate to other nations the extent to which such a treaty should regulate seabed mining and other such activities on the high seas. The minerals contemplated to be impacted by this legislation are cobalt, nickel, and manganese, which I understand are critical in the steelmaking process.

A licensing procedure of an interim nature is to be established to regulate deep ocean mining by U.S. citizens. U.S. deep sea mining companies will be required to pay a new tax based on the value of minerals extracted to be paid into a special fund. Money from the fund would be disbursed after the Law of the Sea Treaty is agreed upon for use by developing nations to obtain technology to mine the seabeds.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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## PROVIDING FOR CONSIDERATION OF H.R. 10285, COMMODITY EXCHANGE ACT EXTENSION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1221 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1221

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for four years. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1221 provides for the consideration of H.R. 10285 which extends and amends the Commodity Exchange Act.

This is an open rule providing for 1 hour of general debate. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The rule makes in order an amendment in the nature of a substitute recommended by the Committee on Agriculture and now printed in the bill as an original text for purposes of amendment under the 5-minute rule.

Points of order are waived against the substitute for failure to comply with the provisions of clause 7, rule XVI, the germaneness rule. The waiver is necessary because the bill as introduced provided only for an authorization through September 30, 1982, while the substitute makes more extensive changes in the Commodity Exchange Act.

As is customary when an amendment in the nature of a substitute is made in order, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 10285 provides authorizations for 3 years for the Commodity Futures Trading Commission in the amount of $14.1 million for fiscal year 1979, $15 million for fiscal year 1980, and $16.2 million for fiscal year 1981.

In addition, the bill makes various changes in the Commodity Exchange Act to facilitate regulation of futures trading by the Commodity Futures Trading Commission and to address certain public concerns which have arisen since the inception of that agency in 1975.

The bill seeks to assure communication among Federal agencies which have some responsibility in the area of commodity exchange by requiring the Commission to obtain the views of the Treasury Department, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission on areas of their jurisdiction.

Commodity option transactions, except in certain specified instances, are prohibited by the bill unless such transactions are expressly permitted under rules and regulations adopted by the Commission subsequent to the date of enactment of the bill.

The bill would delete the requirement that the Commission make public any information furnished a congressional committee. It also contains provisions for strengthening enforcement of the Commodity Exchange Act. The legislation seeks to improve the management and operations of the Commission.

Mr. Speaker, H.R. 10285 is a very important bill for both commerce and the consumer in this country. I urge my colleagues to adopt House Resolution 1221 so that we might proceed to its consideration.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this is a 1 hour, open rule permitting consideration of H.R. 10285, the Commodity Exchange Act. It makes in order the substitute recommended by the Agriculture Committee now printed in the bill as an original bill for purposes of amendment. Clause 7 of rule XVI (the germaneness rule) is waived against the substitute. There is a motion to recommit with or without instructions.

This bill would extend the Commodity Futures Trading Commission for 3 years through September 30, 1981, and make various changes in the act to facilitate the regulation of futures trading by the Commission. In doing so the legislation prohibits commodity option transactions unless expressly permitted under rules and regulations adopted after date of enactment and after notice and opportunity for a hearing. The States are authorized to investigate or prosecute in civil actions violations of the act and the Commodity Futures Trading Commission Act. Certain sections in the bill strengthen the registration provisions with respect to futures commission merchants, brokers, and advisers; and Commissioners and specified Commission employees are prohibited from making any appearance before the Commission on behalf of any person or any matter for 1 year after termination of service with the Commission.

The bill authorizes $14.1 million for fiscal year 1979, $15 million for fiscal year 1980, and $16.2 million for fiscal year 1981.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I am rather surprised that the commodity futures authorization is being considered at this particular time.

Only this morning the newspapers told us of the resignation of a high administration appointee. There was no doubt but that he should have resigned, but now this bill will again remind the Nation of the sorry record of appointments by the President since he assumed office.

That the Chairman of the Commodity Futures Trading Commission, Mr. David Gartner, used questionable judgment in accepting an extremely generous gift from an official of Archer Daniels Midland Co. is well known.

That the President asked Mr. Gartner to resign is a matter of record.

That the Chairman of the Commodity also well known.

If Mr. Gartner can sit as a regulator of a firm which has contributed to the benefit of he and his family, serious questions are raised about how effective the Commodity Futures Trading Commission can be under his chairmanship.

I do not suggest that we throw the baby out with the bathwater. I do suggest that the House take a hard look at this bill.

Sometime next week I intend to speak out on the Department of Agriculture, and I will include a few additional remarks on Mr. Gartner and the Commodity Futures Trading Commission. The Commission's independence from the Department of Agriculture is one illustration of the theme I intend to pursue.

In order to refresh the memories of those of you who may have pushed Mr. Gartner and his problems from your minds, I am inserting at this point the following news accounts from the Washington Post, the New York Times, and Feedstuffs:

[From the Washington Post, June 28, 1978]

GARTNER CLINGS TO TRADING COMMISSION POST

(By Jerry Knight)

David Gartner hung tough yesterday, clinging to his seat on the Commodity Futures Trading Commission in the face of a public demand for his resignation from his old Minnesota friend, Vice President Walter Mondale.

Echoing President Carter, Mondale said Gartner should quit because of "ethical appearances" involved in the gift of $72,000 worth of stock to Gartner's children by Dwayne Andreas, chairman of Archer-Daniels-Midland Corp., a major grain dealer regulated by the commission.

In an interview yesterday, Gartner denied any conflict of interest and accused his accusers of acting without having all the facts.

"When you get to talking about implications and accusations and appearances, you are really not being fair to a man," Gartner complained.

He vowed he will "at least establish there is no conflict of interest or appearance of conflict" during a scheduled appearance today before the Senate Agriculture Committee.

"There are an awful lot of people in this city who deal with issues and have friends who are involved with those issues," he added.

Gartner yesterday won an endorsement from CFTC Chairman William Bagley, who wrote to the Agriculture Committee on behalf of his fellow commission member.

Bagley did not make the letter public, but in an interview said Gartner's ties to Andreas and Archer-Daniels-Midland would not prevent him from "dealing with better than 90 percent of the business that comes before the commission."

But Gartner lost the public backing of Vice President Mondale, who worked with him for many years when both were protegees of the late Hubert Humphrey.

Mondale's public call for Gartner's resignation was no surprise, because it was Mondale's staff that had privately asked Gartner to quit last week. When Gartner refused, the White House went public, in the process raising questions about how the appointment was handled in the first place.

Mondale's first public comments on the matter were made in a previously scheduled interview with Associated Press and United Press International.

The vice president—who reportedly had a key role in naming Gartner to the $50,000-a-year CFTC post—said he was "greatly troubled" when he learned of the gift of ADM stock to Gartner's children.

Gartner himself made the gifts public, and in yesterday's interview said he had told Humphrey about the gifts, which were made when Gartner was on Humphrey's staff.

Saying "this has been a very unhappy situation for me," Mondale added, "I think he's an honest man. I think he made a mistake."

He said Gartner should resign "on the grounds that the ethical appearances surrounding that matter were such that he could not operate without public question-

ing of his integrity and the independence of his judgment."

Mondale said neither he nor President Carter knew of the stock gifts at the time Gartner's appointment was being considered. White House staff members, however, have acknowledged Gartner told them of the stock. They approved the appointment anyway, sending it to the Senate, where Gartner was confirmed in one day.

The Agriculture Committee, which now says it wants to question Gartner further, raised few questions about the stock at the original confirmation hearing.

Gartner refused to comment yesterday on the only new question raised since the hearing—whether some of the stock was transferred to him after the effective date of Senate ethics rules which banned such gifts. An aide described the date question as "a technicality."

One of the nation's biggest buyers and processors of corn, wheat and soybeans, Archer-Daniels-Midland frequently deals in grain futures.

CFTC sources said privately that Gartner's links with ADM Chairman Andreas were no different than the ties of other commissioners to the industry they regulate.

Commissioner Read P. Dunn worked for the National Cotton Council for more than 20 years before being named to the commission. Commissioner Robert L. Martin was a vice president of Cook Industries, another big grain company.

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[From the New York Times, June 29, 1978]

GARTNER INSISTS HE WON'T QUIT—STOCK GIFT IS NOT A VIOLATION, SAYS COMMODITY AIDE

WASHINGTON, June 28.—David Gartner, continuing to defy President Carter, said emphatically today that he would not resign as a member of the Commodity Futures Trading Commission despite the President's call for his resignation.

Even if Mr. Carter personally asked him to step down, Mr. Gartner told the Senate Agriculture Committee, "I would have to tell him I can't quit." The committee was questioning Mr. Gartner about a gift of $72,000 worth of grain company stock and whether it might be a conflict of interest.

Mr. Gartner reminded the panel that he had told the White House and Congress about his family's financial holdings, including the gift, several months ago. He declared that he had not violated any legal or moral standard in performing his $50,000-a-year job.

GRAIN STOCK HAS BEEN SOLD

He repeated his intention to disqualify himself if a conflict of interest arises in the future. He said the grain company stock, which was being held in trust for his children, had been sold.

"If I resigned, it would look to the public as an admission of wrongdoing," Mr. Gartner said. "I am not guilty of a wrongdoing." His wife and three of his four children were seated behind him in the crowded committee room.

When Senator Robert Dole, Republican of Kansas, asked if it was fair to reject a resignation request from President Carter, who had appointed him in the first place, Mr. Gartner said, "I think if there is any unfairness it's directed toward me."

The gift, which has become an embarrassment to the Carter Administration, consisted of shares in the Archer-Daniels-Midland Company. Its $2-billion-a-year operations are partly regulated by the commodity commission.

PRESIDENT'S TV APPEARANCE

President Carter, at a televised news conference Monday, called for Mr. Gartner's resignation. "The image of impropriety resulting from the acceptance by his children of a substantial gift leads me to think it would be better if he did resign," Mr. Carter said, adding that Mr. Gartner had not committed a crime. Yesterday Vice President Mondale, a longtime friend of Mr. Gartner, also called for his resignation.

Mr. Gartner told the committee that these public requests followed private suggestions from top Administration aides that he resign. Last Thursday, he said, the Vice President's chief of staff, Richard Moe, asked him to quit. The next morning, he said, so did Hamilton Jordan, a Presidential assistant.

But Mr. Gartner said no problems had been raised when he told the White House staff about the gift months ago. A White House source said today that staff personnel had concluded there was no reason to inform the President of the gift because Mr. Gartner had not yet been nominated.

Mr. Gartner told the committee today that Dwayne Andreas, who donated the gift, had never asked him for "any special favors . . . nor have I extended any special favors to him." Mr. Andreas is chairman of Archer-Daniels-Midland.

The Senate has no authority to remove Mr. Gartner from his post at the independent regulatory agency. Apparently President Carter also lacks such authority.

Several members of the committee, noting Mr. Gartner's statement that he had earlier provided all relevant information, expressed sympathy for Mr. Gartner, once an aide to Hubert H. Humphrey, the late Democratic Senator from Minnesota.

"I want to thank you for coming here and facing this bunch of hyenas," said Senator S. I. Hayakawa, Republican of California. But Senator Richard G. Lugar, an Indiana Republican who voted for Mr. Gartner's confirmation in May, said he would change his mind if there were another vote.

SWIFT APPROVAL IN RETROSPECT

Senator Dole said that apparently it would have been better if more time had elapsed between the committee's confirmation vote and the full Senate's approval of Mr. Gartner's nomination. Both occurred May 17.

In another development today, the House, apparently reacting to the Gartner controversy, decided to delay action on legislation that would extend appropriations for the Commodity Futures Trading Commission's work.

House leadership sources, asking not to be identified, said a bill to reauthorize the three-year-old agency and strengthen some of its powers was being considered for House action tomorrow. But Representative Thomas S. Foley, the Washington Democrat who is chairman of the House Agriculture Committee, reportedly had the measure withdrawn from the calendar.

The Senate is considering similar authorizing legislation for the agency.

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[From the New York Times, June 30, 1978]

DAVID GARTNER'S OBLIGATIONS

If the circumstances surrounding the appointment of David Gartner to the Commodity Futures Trading Commission seem confusing, that is due mainly to the White House treatment of his case. The facts themselves are not complicated.

Between 1975 and 1977, Mr. Gartner, then an aide to Senator Hubert Humphrey, accepted on behalf of his children $72,000 worth of stock from Dwayne Andreas, chairman of the Archer-Daniels-Midland Company, a big grain firm. Mr. Gartner informed the White House of the gift before President Carter named him to the commission, which supervises some of the $2-billion company's activities. He was appointed nonetheless. At his confirmation hearing in May, he informed a Senate committee of the gift and, pressed by Senator Bellmon, promised that the shares would be sold.

Now the Administration, embarrassed by the attention given to the Gartner-Andreas connection, has been putting pressure on its appointee to resign. He has refused because that would appear to be an admission of wrongdoing. So indeed it might—and for this Mr. Gartner deserves an apology from the President for placing him in so awkward a position.

But the fact that Mr. Gartner has been inconsiderately treated by the Administration does not entitle him to a position on the Commodity Futures Trading Commission. Although there is no evidence of wrongdoing, most people must wonder over the event: so generous a gift—for what? Whatever the answer to that interesting question, the receipt of such a gift from such a firm is a very poor recommendation for such a job. Moreover, it has now been reported that for 15 years, Mr. Gartner has been receiving loans, some without collateral, from a bank owned by Archer-Daniels. Whatever the details of the Andreas-Gartner relationship, it is too close for public comfort.

Mr. Gartner has pledged that as a member of the commission he would not involve himself in any matter affecting Archer-Daniels. That is the least he could do. Even better would be a resignation.

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[From Feedstuffs, June 19, 1978]

A NEW CALL FOR GARTNER'S RESIGNATION

The hasty Senate confirmation of David Gartner as a member of the Commodity Futures Trading Commission on May 17 is beginning to bring on some second thoughts by a number of senators and congressmen. Gartner, the administrative assistant for many years to the late Sen. Hubert Humphrey, breezed through a Senate Agriculture Committee hearing and a full Senate vote on the same day, even though he revealed during the hearing that he had a long, close relationship with Dwayne Andreas, the chairman of Archer Daniels Midland Co., one of the country's largest agribusinesses, and that Gartner's children received $72,000 in ADM stock as gifts from Andreas and his daughter. Gartner promised the senators that he would have the ADM stock, held in a trust fund, sold off and that he would refrain from matters affecting ADM's business.

But now the impropriety of Gartner's appointment is beginning to sink in. Four congressmen wrote President Carter on June 9 questioning the wisdom of Gartner's appointment to a post which regulates much of ADM's business. In their letter, the four said, "Almost any decision concerning the commodities market will impact on ADM's wide ranging operations." Under the circumstances, they added, "Gartner should not have sought the job and the nomination should not have been made."

Last week Sen. Howard Baker said he would ask the President to call for Gartner's resignation. And Sen. Jesse Helms, a member of the Senate Ag Committee, asked for and got the committee to recall Gartner for further questioning.

There is considerable skepticism that Gartner can represent the public interest on the CFTC in view of his cozy relationship, through Sen. Humphrey, with Andreas. (Andreas was a long time supporter of the late senator.) If Gartner cannot see the conflict of interest, even at this point, it is questionable whether he really understands the business of the CFTC.

To remain on the commission at this point, Gartner only casts more doubt on the ability of the CFTC to deal squarely with the multibillion dollar commodity trading industry. He should resign, and President Carter should nominate someone who can represent the public interest, not the interest of friends.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF H.R. 7577, ECONOMIC OPPORTUNITY AND COMMUNITY SERVICES AMENDMENTS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1234 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1234

*Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said amendment for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1234 provides for the consideration of H.R. 7577, the Economic Opportunity and Community Services Amendments of 1978.

This is a completely open rule allowing 1 hour for general debate. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule makes in order an amendment in the nature of a substitute now printed in the bill as an original text for the purposes of amendment under the 5-minute rule.

Points of order are waived for the substitute for failure to comply with the provisions of clause 5, rule XXI, prohibiting appropriations in a legislative measure. The waiver is necessary because several sections of the bill allocate existing appropriations for new purposes.

The rule also makes in order one motion to recommit with or without instruction prior to final passage of the bill.

Mr. Speaker, the purpose of H.R. 7577 is to strengthen and improve the operations of the Community Service Administration as well as to provide authorizations for CSA, Head Start, Follow Through, and the Native American programs. The bill encourages the Director of CSA to streamline and decentralize the management of CSA by providing greater authority for regional and local administration of program operations.

Financial assistance formulas for both community action agencies and the Head Start program are revised. The maximum limit for financial assistance to a community action agency is raised from the current 60 to 80 percent. The new formula for Head Start is intended to eventually equalize the allotments among all States on the basis of service of eligible children under the program.

In addition, the bill eliminates some programs to decrease the duplication of social services. Other programs are brought under more careful congressional review.

Mr. Speaker, H.R. 7577 is designed to improve the efficiency of some of our social service programs which assist the economically deprived. I urge my colleagues to adopt House Resolution 1234 so that we might proceed to its consideration.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule allowing the consideration of H.R. 7577, the Economic Opportunity and Community Services Amendments of 1978. It will be in order to consider a substitute recommended by the Education and Labor Committee now printed in the bill as an original bill for purposes of amendment. Clause 5 of rule XXI (appropriations in a legislative measure) is waived against the substitute because of certain provisions which allocate funds. There is a motion to recommit with or without instructions.

The purpose of this bill is to extend authorizations for programs administered by the Community Service Administration (CSA), for the Head Start and Follow Through programs, and for Native American programs. The legislation provides for a decentralization of management by giving greater authority to regional offices and for a return to the 80–20 ratio for Federal financial assistance to community action agencies. A new fund formula is provided for Head Start.

The estimated costs of this measure are $774 million in fiscal year 1979, $1,466 billion in fiscal year 1980, $1.612 billion in fiscal year 1981, $800 million in fiscal year 1982, and $152 million in fiscal year 1983.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## DISTRICT OF COLUMBIA APPROPRIATION ACT, 1979

Mr. NATCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous-consent that general debate be limited to not to exceed 1 hour, and that the time be equally divided and controlled by the gentleman from California (Mr. BURGENER) and myself.

The SPEAKER pro tempore (Mr. SEIBERLING). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The the question is on the motion offered by the gentleman from Kentucky (Mr. NATCHER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13468, with Mr. DINGELL in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Kentucky (Mr. NATCHER) will be recognized for 30 minutes, and the gentleman from California (Mr. BURGENER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, at this time, we submit for your approval the annual District of Columbia appropriations bill for fiscal year 1979. As chairman of the Subcommittee on the District of Columbia Budget, it is a distinct honor for me to serve with all of the members of this subcommittee. We have on our subcommittee Mr. GIAIMO of Connecticut, Mr. BURGENER of California, Mr. WILSON of Texas, Mr. KEMP of New York, Mr. MCKAY of Utah, Mrs. BURKE of California and Mr. BENJAMIN of Indiana. Mr. Chairman, all of these Members are outstanding Members of the House of Representatives and have made every effort to see that this bill, which we present today, is a good one.

We submit to the House of Representatives a balanced budget for the District of Columbia and we have a cash carryover of $567,000. During the hearings it

developed that the District of Columbia had underestimated the total revenue for the District of Columbia for fiscal year 1979 in the approximate amount of $35 million. In marking up this bill, we took into consideration the additional revenue to be received by the District of Columbia for fiscal year 1979.

Mr. Chairman, we have approximately 705,000 people in the city of Washington and the total amount available under the bill that we present for your consideration today is $1,753,753,800. To give you some idea as to the amount involved and the number of people, we compared the District budget with the budget of the State of California, which as you know, has the largest population of the 50 States. California will have a budget for fiscal year 1979 of some $14.7 billion. The population in California today is approximately 21,520,000.

The District of Columbia will have a total sum of $1,753,753,800 for expenditure during fiscal year 1979. Approximately 47 percent of the total resources will be financed from the various Federal funds available to the District. Based on recommendations in the bill, a total of $698,474,900 in Federal funds will be available to the government of the District of Columbia during the new fiscal year. This total includes the Federal payment for revenue sharing, countercyclical funds and Federal grants.

For payment of water and sewer facilities we recommend $10,300,000. In addition to the Federal payment, the District of Columbia will receive in Federal grants $296,941,300, for revenue sharing the District will receive $28,818,000, for countercyclical funds $5,182,000, and for Federal reimbursements $93,233,600.

In this bill, Mr. Chairman, we recommend a Federal payment of $264 million. This is a reduction of $53 million in the amount requested and $12 million below the 1978 fiscal year level. This Federal payment is also $12 million below the 1977 fiscal year level.

The District of Columbia government currently owes the Federal Treasury some $1.3 billion primarily for loans obtained to finance long-term improvements to the city's capital outlay program. Under the terms of this bill $111,700,000 is provided for repayment of loans and interest to the Federal Government. The total indebtedness is amortized over a period of years and the District government is current in its indebtedness payments.

We authorize and recommend to the committee that 37,906 positions be authorized for the District of Columbia Government for fiscal year 1979. The request was for 38,738. Under the provisions of this bill, we fund 36,846 positions. A total of 222 new postions were requested for the District of Columbia government and 149 for the District of Columbia General Hospital. Mr. Chairman, we do not recommend any of these positions to the committee.

We have in the police department 4,141 men and women in uniform and we provide funds in this bill for this number. As you will recall, in the 1978 fiscal year budget we had to restore $1,243,000 which prevented the reduction in the force of 186 officers recommended by the city. In this bill, the funds are provided for 100 uniformed police who would have been cut if the recommendation of the District of Columbia government had been accepted. Carrying out the provisions of the 1978 fiscal year, the 100 uniformed police will continue the force of 4,141.

Mr. Chairman, we have too many employees in the District of Columbia Government. Down through the years, we have insisted that reductions be made and finally we are down to a total of 36,846 which will be funded in this bill. The Federal grants received will provide for additional positions not provided for in this bill and this will bring the total number of employees working for the city up to about 48,000. The main reason for deleting the request for 222 new positions for the city and 149 for D.C. General Hospital is due to the fact that we now have too many employees and further reductions should be made.

The budget proposed a Federal loan appropriation totaling $129,790,000. The committee has been advised that sufficient authority remains from previous loan appropriations to finance the capital outlay program planned for fiscal year 1979, including projects funded in prior years as well as those recommended in the accompanying bill. Therefore, no new loan appropriations are recommended in the bill for the next fiscal year.

Our committee recommends $93,718,500 for operating expenses; $266,473,800 for public safety; $282,201,200 for education; $18,392,700 for recreation; $284,767,700 for human resources; $71,380,900 for transportation; $72,962,500 for environmental services; $69,300,000 for personal services; $72,800 for settlement of claims and suits; $111,700,000 for repayment of loans and interest; $77,215,000 for capital outlay.

Mr. Chairman, we have called attention in our report to certain matters pertaining to the percentage of disability retirements in the police and fire departments. Beginning some 9 years ago, we started discussing this matter with the District officials urging that a closer examination be given to those presenting themselves for disability retirement. This year, in addition to the usual discussions with the chiefs of the fire department and police department, we had before the committee the members of the Police and Firemen's Retirement and Relief Board.

At that time in our discussion, we stated very frankly to the members of this board that the system now in use whereby more disability retirements were approved than in any other city throughout the United States, was nothing more than a racket and must be stopped. Disability retirements have been more the rule than the exception and this practice must not be allowed to continue. We set forth on page 23 of our report a table showing the percentage of disability retirements from 1966 through 1977. The number of retirements and the disability retirements during this period are as follows:

| Calendar year | Total | Disability | Percent |
|---|---|---|---|
| 1966 | 201 | 177 | 88 |
| 1967 | 201 | 185 | 92 |
| 1968 | 254 | 244 | 96 |
| 1969 | 241 | 237 | 98 |
| 1970 | 176 | 171 | 97 |
| 1971 | 234 | 194 | 83 |
| 1972 | 191 | 146 | 76 |
| 1973 | 187 | 112 | 60 |
| 1974 | 145 | 75 | 52 |
| 1975 | 175 | 108 | 62 |
| 1976 | 171 | 102 | 60 |
| 1977 | 175 | 96 | 55 |

Our investigation discloses Mr. Chairman, that in Los Angeles there are some 5,481 police and firemen on retirement and that 81 percent of those who retired did so through normal service retirement and 19 percent are disability retirees. In New York City, the number is 15,601 with 81 percent on normal service retirement and 19 percent on disability. In Pittsburgh the number is 1,131 with 84 percent on normal service retirement and 16 percent on disability retirement. In Detroit, the number is 4,320 with 90 percent on normal service retirement and 10 percent on disability retirement.

In comparison with other police and fire retirement systems, the District's record so far as percentage of disability retirements is concerned, is the highest of any major city in the Nation. From 1973 through 1977, a total of 488 police officers and firefighters were added to the disability roles which constitutes nearly three of every five retirements awarded during the last 5 years. One of the tables that we set forth in our report, Mr. Chairman, shows that one-third of these disability retirees had been on the force 10 years or less. Our committee also found that at least 40 percent of those retiring on disability in the past 5 years have obtained employment despite their disabling condition. In fact, those with outside jobs outnumber those who are unemployed by a margin of 4 to 3. In addition, Mr. Chairman, 2 out of every 3 disability retirees with outside jobs are employed on a full-time basis and several are holding two jobs—a full-time position as well as a part-time job. The types of employment vary but in most instances require a state of health comparable to that required for many police and firefighter duties.

Accordingly, Mr. Chairman, our committee has reduced the 1979 requests for police pension and relief and firemen's retirement and disability $10 million of which $7,050,000 relates to police pensions and $2,950,000 is for the fire department. A total of $54,937,500 will be available for these two accounts for pension payments in fiscal year 1979.

Mr. Chairman, a request was made for an additional amount of $5,057,100 for increased payments for welfare. We do not recommend this request. In the District of Columbia we have 100,064 people on welfare.

During the past 14 years, we have constructed a number of new school buildings in our Nation's Capital. We are now over-constructed as far as classrooms are concerned. We have a total of 206 buildings with 195 used for teaching the stu-

dents and 11 for administrative purposes. Recently the Superintendent of Public Schools requested that 23 more buildings be closed but the Board only granted approval to close 9. The total school enrollment at this time is 111,700. The average loss in school population during the past 3 years was 4,956. The pupil per capita expenditure totals $2,136; $1,896 is from District funds and $240 is from Federal funds.

You will be interested to know, Mr. Chairman, that for fiscal year 1978, it will cost $338,802 to replace broken window panes in school buildings. In the 1976 fiscal year the amount was $605,092. We have ascertained from our investigation that very few windows are broken out of the school buildings that are in the community school program. Here the buildings are used and respected, not only by the adults, but by the students.

The committee recommends the amount of $500,000 for the Advisory Neighborhood Commissions. A total of $282,201,200 is recommended for the operation of the public school system and the University of the District of Columbia.

The committee recommends a total of $77,215,000 for the fiscal year 1979 Capital improvements program consisting of repayment of hospital grants and 32 construction projects. This allowance is $52,575,000 less than requested. The two projects which we recommend be eliminated are the dog pound and the additional funding for the Washington Civic Center.

Mr. Chairman, the committee has deferred action on the requested appropriation of $49 million for construction of the Washington Civic Center. The initial appropriation for the center totaling $27 million was contained in the 1978 District of Columbia Appropriation Act, Public Law 95–288, approved June 5, 1978. This appropriation was approved subject to the city's full compliance with certain conditions and actions set out in the language of the act and in the joint explanatory statement of the Committee of Conference. Until the actions and conditions are complied with, the sum of $49 million will not be necessary. Upon compliance with those actions and conditions set forth in Public Law 95–288, we will recommend the appropriation of the $49 million to continue this project under construction.

Mr. Chairman, we recommend this bill to the committee and respectfully request that the bill be accepted as reported.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. Mr. Chairman, I yield to our distinguished friend and member of the subcommittee, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I want to commend the gentleman from Kentucky (Mr. NATCHER), the chairman of the District of Columbia Appropriations Subcommittee, for doing what I consider to be an excellent job. The bill that the chairman is bringing before this body is well within the budget constraints that this House adopted and that this Congress adopted. I believe the gentleman from Kentucky, the chairman of the subcommittee, has rendered this body great service in holding the line on unnecessary spending.

Mr. Chairman, the D.C. appropriation bill provides $277 million in Federal funds for the District of Columbia. This amount is $183 million in budget authority and $162 million in outlays below the targets set in the first budget resolution. The first resolution assumed a total of $460 million in budget authority and $438 million in outlays.

I think this is a budget that the District can, should, and must live with. I want to commend the chairman and my colleagues on the subcommittee for a job well done.

I recommend passage of the D.C. appropriation bill as reported.

Mr. NATCHER. I want to thank the gentleman from Connecticut (Mr. GIAIMO).

Now, there is one matter, Mr. Chairman, that I would like to call to your attention. As the Members have heard today, one of our colleagues was mugged last night. This is one of a number of instances that we have had this year in our Nation's Capital.

Each year, Mr. Chairman, we say to the District of Columbia: "You have too many employees. You have about 705,000 people living in the city and about 47,000 or 48,000 employees. Why do you not cut down on the number of employees?" And then in the next budget they present to the Congress they have cut the police department—always the police department, Mr. Chairman. In 1977 they cut the police department which meant a reduction of 105 police officers. We put $901,600 back into the budget to prevent that reduction. In 1978 they cut the police department again and the committee added $1,243,000 above what the city requested to prevent the reduction of 186 officers and to maintain the police strength at 4,141. After two consecutive years of attempts by the city to reduce the police department on one occasion a little over 100 and on another occasion a little over 180, and in this bill for fiscal year 1979 by 100, we still say to the city officials: "The people who pay the taxes that maintain this city, the people who come from the 50 States to this our Nation's Capital, the capital city, they have the right to walk the streets of this city and feel they are protected and will not be robbed and will not be mugged."

This year again, Mr. Chairman, the city has come in with a budget that would reduce the police department by 100 officers. We put them back. Mr. Chairman, including the necessary funding and we hope the Committee approves our action.

Mr. BURGENER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the minority fully supports the committee report and the appropriations bill for the District of Columbia for the fiscal year 1979.

May I just say that it is a real privilege to serve under the distinguished chairman of the full Committee on the District of Columbia, the gentleman from Kentucky (Mr. NATCHER) who has given the District of Columbia for so many years such able leadership and complete understanding of the needs of the people of this community in addition to his own district.

I might point out, Mr. Chairman, that this is an austere and very fiscally responsible budget. It is substantially below the request of the President and below the request of the District of Columbia but yet we believe firmly that it meets all the needs of the citizens of the District of Columbia.

We would point out that there are no new positions in this budget nor are there any job losses, any layoffs or discontinuances, and we might also point out that there is a declining population in the District of Columbia. The public schools, funded through this budget, have an enrollment of about 4,000 fewer this year than last, and the same predicted for next year, as opposed to this year.

In addition to the declining population both general population and schools, there is a genuine business boom occurring in the District of Columbia, with local increases in tax collections other than property taxes. I commend the City Council for the actions they are taking to hold down the property taxes, but other local revenues such as sales taxes and others are increased by $35 million, meaning a very substantial increase in the business climate here in the District of Columbia.

I would point out there are no moneys in this budget for the Convention Center.

The Center is not canceled but it is deferred because they still have the carryover of last year's funds to do the preliminary planning, and there is no new money in this budget for the Convention Center.

I would say in terms of the retirement pension fund, we have arbitrarily but I think rather carefully reduced this amount by $10 million. It is entirely possible that we may have to come back later in the year to make sure that we fund under the law any disability payments that are truly earned. However, our distinguished chairman pointed out that we have severe inequities in this retirement system.

I would point out that a few years ago here in the District of Columbia 98 percent of all the police and firemen retired on disability. I would suggest that the morale in the Department might have been rather high at that time, but the morale of the taxpayers must have been very low. The current retirements on disability are around 55 percent, which are also very, very high. We have reduced this amount by $10 million so that if more is needed, the retirement board will have to come up and justify the amounts.

There are changes in the pension law that are desperately needed, both at the

District level in local government and here in the Congress. We are hopeful that this reduction of this amount will help draw attention to that and force these very much needed reforms to occur sooner than later.

I think all in all, Mr. Chairman, this is a good, sound budget, admittedly an austere one, but most certainly one which will meet all of the legitimate needs of the District of Columbia, and I firmly recommend its adoption.

Mr. Chairman, I reserve the remainder of my time.

Mr. NATCHER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I appreciate the gentleman from Kentucky for yielding. For a number of years—having lived in the District now some 20 years—I have been interested in local affairs. In particular in the last 8 or 10 years my colleague, the gentleman from New York (Mr. HORTON), and some others have been interested in some local endeavors here in connection with professional sports and some other things, and along with that we have been concerned about the attitude of people from other areas, owners of other teams around over the country.

One of the big problems we have run into traditionally has been the question of security. Constantly, it has been charged that our stadium, for example, out here is in the wrong place and that people simply will not attend a sporting contest out there. We have met with the police. We have discussed this matter with the city, the Mayor, and with a variety of people, and we have been concerned about this whole question. I do not agree that in fact there is any substantial danger in connection with that stadium, since I happen to live a matter of about 5 minutes from it, and I think I live in a fairly safe neighborhood. But having said that, it is a recognized fact that, unfortunately, one of the weaknesses of the local government here is a lack of understanding about security and what security means.

In connection with the training, for example, of their police, I have an amendment which I was asked to offer. I shall not offer the amendment because it will actually amount to legislation on an appropriation bill, but it deals basically with some of the problems in connection with the training of policemen in our city.

I was intrigued by the comments of the gentleman from Kentucky (Mr. NATCHER) a little while ago about the fact that anytime there is pressure to cut personnel, they immediately cut out the police. Again this is a thing that causes me real concern as a resident of this city. There is a total lack of understanding of the necessity of security, and it is one of the reasons why I have a good deal of concern about giving this city and the local city council any additional powers in connection with taxation and in connection with any additional powers in the city, in view of the fact that it is the Nation's Capital, and in view of the fact that I have constituents, as does every other Member of Congress have constituents, coming from the 50 States every day of the year, and these people are entitled to some security. This is their capital. This is their Nation's Capital. I simply want to urge the Committee—and I am sure they have, based upon what our good friend, the gentleman from Kentucky (Mr. NATCHER) has said—to look at this whole question of security and the extent to which it is being emphasized, as I said, in connection with the request here.

I happen to know a young man who is on the local police force. He happens to have become a very expert marksman, and yet people in that field in this city get very little encouragement. In fact, they get no transportation paid, no encouragement to go to meets, to training courses in expert marksmanship in other areas, such as, for example, in Montgomery County where they pay their transportation and do a good deal of things to give incentive to get them better trained.

It seems as though we tend here to hire these people, put a gun on their hips and turn them loose. Unfortunately, we know of the consequences from that in connection with some of the things that happen here where from time to time these men have indicated a lack of proper training.

I would hope that, in fact, we would see more concentration on training, giving the opportunity for a law enforcement officer to have better training, a better understanding of what the responsibilities and obligations are and then, in fact, the government of the District of Columbia becomes a little more security conscious in connection with the protection of not only their own citizens, because they are the ones generally taking the brunt of the crime going on, particularly street crime, but also with the protection of our constituency around the country.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I would like to commend the gentleman on his observations of law enforcement; but just add this one point, that if it were not for the chairman, the gentleman from Kentucky (Mr. NATCHER), and I think this has been true over the years, the Washington District of Columbia Police Force would be much smaller than it is today. It is a great tribute to the chairman that the gentleman has been a strong advocate of good police protection in this city.

The CHAIRMAN. The time of the gentleman from California (Mr. SISK) has expired.

Mr. NATCHER. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. SISK. Mr. Chairman, I want to join with my colleagues from California in recognition of what the gentleman from Kentucky has done. I well understand that year after year the gentleman has had to bring pressure on the city and the city powers to handle some of these things; so certainly I want to commend the gentleman, because I do recognize that without the gentleman's efforts we would probably be in far worse shape than we are.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, I do not know how to point the finger, and I do not want to point the finger to anyone for any particular blame; but just last week the city of Cleveland was having some labor problems with their police force and the paper was relating that there were 1,500 policemen in the city of Cleveland, which is a city about the same size as the District of Columbia, and yet we have 5,000 policemen here. We have three times as many policemen as a similar sized city, and yet crime goes on here. Something needs to be done, but I do not know what it is.

Mr. SISK. Mr. Chairman, that is one of the points we are concerned about, are we doing the kind of training, are we doing the kind of community relationship that is necessary?

We have a massive police force compared to other cities, yet we have a city that, unfortunately, has a reputation of not being very safe; so it must mean the city fathers are not doing the kind of training and community relations job that they should be doing. All I am urging is that they should be doing that right now.

Mr. JOHN T. MYERS. Mr. Chairman, if the gentleman will yield further, I do not want to be pointing the finger at the committee, because I served on the committee and I know the tremendous job the ranking member has done and the committee has done through the years; yet we still have a job to do.

Mr. NATCHER. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I have yielded myself this minute to say to the members of the committee that it is a distinct honor and a privilege for me to serve on this subcommittee with my friend, the ranking minority Member, the gentleman from California (Mr. BURGENER).

Mr. Chairman, the gentleman from California (Mr. BURGENER) is one of the able Members of this Congress. It has been a distinct honor and a privilege for me to serve with the gentleman on this subcommittee, along with the other members of the subcommittee. He is always most cooperative and contributes greatly to our committe work. He is always present for our hearings and has supported the committee to the fullest in the preparation and presentation of this bill.

This is a right difficult subcommittee, Mr. Chairman, as the Members well know, and all the Members on both sides of the aisle politically on this subcommittee do a good job. Mr. Chairman, it is an honor for me to serve with them.

Mr. Chairman, I would like to say that we have an excellent staff. Americo S. Miconi and Earl C. Silsby are the staff assistants to our subcommittee and they

serve us well. Mr. Miconi is taking over as staff assistant to our subcommittee after serving 7 years with Mr. Silsby. This is the way it should be as he is experienced in dealing with the District's budget and committee work in general. He has proven that he is well qualified to hold the position.

Mr. Chairman, I would also like you to know that Mr. Silsby, who has served on the committee staff for almost 32 years and for the past 16 years has been the clerk of our D.C. Subcommittee, plans to retire on December 31 of this year after 36 years and 4 months of Federal Government service. He was appointed to the staff on February 16, 1947, after 4 years of military service with the U.S. Navy and a brief resumption of employment with the U.S. Employment Service, by John Taber of New York, who was chairman of the Committee on Appropriations during the 79th and 80th Congresses.

Mr. Silsby is one of the senior members of the committee staff, and has been assigned both as an administrative assistant to the full committee as well as clerk to several subcommittees during his almost 32 years with the committee. He has served under three full committee chairmen: Mr. Taber of New York, Clarence Cannon of Missouri, and our present distinguished chairman, the gentleman from Texas (Mr. MAHON). His service has included assignments as clerk to the Army panel of the Defense Subcommittee as well as a staff assistant to the full Defense Subcommittee, clerk to the Commerce Subcommittee and the Subcommittee on General Government Matters, assistant clerk to the State-Justice-Commerce and Judiciary Subcommittee, clerk of the Legislative Branch Subcommittee, and also clerk to the District of Columbia Subcommittee.

For the past 16 years, Earl has been the principal clerk to the Subcommittee on District of Columbia Appropriations, and in 1971 he was also designated principal clerk to the Subcommittee on Legislative Branch Appropriations, and in these capacities has the distinction of serving simultaneously as principal clerk to two subcommittees of the Committee on Appropriations for the past 7 years.

In describing Earl Silsby, the words loyal, able, and dedicated certainly apply. As I just noted, he has served as principal clerk on our Subcommittee on the District of Columbia budget for 16 years. This is one of the most difficult assignments on our committee since this is the one budget that must be balanced at the time it is presented, with revenues and expenditures coming out even.

I have no further requests for time, Mr. Chairman, and I ask that the Clerk do now read.

Mr. BURGENER. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there points of order on the bill?

The Chair hears none.

Are there amendments to the bill?

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

TITLE II—DISTRICT OF COLUMBIA

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1979, $264,000,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d); and $10,300,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954, as amended (D.C. Code 43-1541 and 1611).

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 2, line 25, strike out "$264,000,000" and insert in lieu thereof "$258,720,000".

Mr. MILLER of Ohio. Mr. Chairman, this is a reduction-in-spending amendment. It is a little different than the normal 2-percent amendment that we have offered to other appropriation bills. This reduces only the Federal payment by 2 percent, and that amounts to $5.2 million. It goes from $264 million to $258,720,000.

That is what the amendment proposes, and it is a reduction in only the Federal payment section. I think those Members who have the report before them should look at page 11 and see how the Federal payment has increased, primarily over the last 10 years. We need not go back quite that far.

In 1969 we had a Federal payment of $89 million, and in 1970 we had a payment of $116 million, up $27 million. Now in 1979 we have a payment proposed of $264 million. When we compare that with the $116 million 10 years ago, in the fiscal year 1969, we find that it is an increase of $148 million, more than double—far more than double.

I have before me articles from newspapers that were published only recently. I have an article from the Washington Post of today stating that a third of the Federal housing aid to the city was spent for overhead and management. That is a third of it.

The Washington Post of July 20 carried this headline: "Auditor: Agencies Make 'Back Door' Transfers." The Washington Star of Wednesday, July 19, had an editorial entitled "CETA—District Style."

Now, when they are speaking of CETA, some of the items that were listed in the editorial tell us that we had emergency employment money—that is the CETA funds—used to pay 60 council employees. CETA funds went to pay salaries of some 60 council staffers, and they were paid $10,000 to $20,000 a year.

This is money that was to be used for the severely disadvantaged, but it is used in management. And it appears it pays to know someone, because then they are shifted into a position where they can collect some $10,000 to $20,000 a year.

Recently, a District of Columbia Council committee moved to reduce taxes for homeowners in the District 29 cents per hundred. It would amount to something around $141 a year. And I think it is time for us in the Congress to give that tax relief to other taxpayers, as well, to our taxpayers back in our congressional districts.

Mr. Chairman, I know we will hear that the bill has been cut, and I want to say that the chairman of the committee, Mr. NATCHER, has worked hard, has worked diligently to reduce the bill. The gentleman from California (Mr. BURGENER) has also worked to reduce the bill. They have put in long hours. Many other members of the committee also should feel that they have done the proper type of job.

It seems to me at this point we could easily reduce the Federal payment $5.2 million and never harm a thing. We have too many people taking advantage of the positions that they have in the District of Columbia government.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. MILLER) has expired.

(On request of Mr. MAHON and by unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 1 additional minute.)

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the distinguished gentleman from Texas, the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Chairman, I have heard the glowing tributes made about the chairman and the other members of the subcommittee, and I just wonder if the gentleman thinks we should also say they have done a good job. They have presented a balanced program in this bill. It seems to me that we ought to reward their efforts by supporting them on the bill that is laid out before us.

I realize that the gentleman has called attention to the necessity for reducing expenditures. That is all well and good. But it seems to me, in view of the situation, that the 2-percent amendment should not be attached. I was wondering if the gentleman does not really feel that way about it himself, although he feels somewhat compelled to offer the the amendment.

Mr. MILLER of Ohio. Mr. Chairman, I feel compelled to offer the 2-percent amendment, because it was stated by the gentleman from Kentucky that our taxpayers helped to pay, as an example, $338,000 to replace windowpanes in the schools.

Mr. BURGENER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, normally I vote with the gentleman from Ohio (Mr. MILLER) on these reductions on these appropriations bills, and I want to commend him

for what he has done in the past. I think this time we have sort of beat him to it. I think it would be a mistake to reduce this any further.

Under this present bill we have a balanced budget for the District of Columbia—admittedly not as much money as they would like to receive, but it is in balance, with a modest surplus of some $567,000. This amendment would place it out of balance, and particularly since we have taken the $10 million out of the police and fire pension funds, some of which may have to be restored at a later date, and I really believe that this amendment at this time would not be in the interest of the Nation or in the interest of the District of Columbia.

I would point out that the Federal payment this year is only 20 percent, versus the overall District budget, whereas in the past 4 or 5 years it has been running as high as 25 percent. So we have trimmed it down, Mr. Chairman, and I think, as much as I normally agree with the gentleman from Ohio (Mr. MILLER) and his amendments, at this time it is not in order.

Mr. NATCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I pointed out to the committee a few moments ago, we have presented a balanced District of Columbia budget for fiscal year 1979.

Acceptance of the amendment offered by my friend, the gentleman from Ohio (Mr. MILLER), would take this budget out of balance. We have worked hard to bring it in balance. As recommended by our committee there are sufficient revenues, including the Federal payment to which this amendment applies to finance the appropriations from District funds in the bill.

Mr. Chairman, we have already reduced the Federal payment $53 million below the amount requested. The gentleman from Ohio wants to reduce it still more, by another $5,280,000. That would mean that the budget, would be out of balance by that amount.

Mr. Chairman, the Federal payment that we recommend to the committee is $53 million below the amount requested. It is $12 million below the amount appropriated for fiscal year 1978. It is $12 million below the amount appropriated for fiscal year 1977. We endeavored to present a budget which the city could live with. It is quite easy to offer a 2-percent amendment and say that we will reduce it another $5 million.

Where would this money required to balance the District of Coumbia budget come from, Mr. Chairman? We have 13 regular appropriation bills each year, and we can bring 12 of them to the House, which are to fund Federal departments and agencies, out of balance. It is just a matter of going to the Federal Treasury and adding to the national debt to finance the operations of these agencies and departments.

However, Mr. Chairman, we cannot do that with the District of Columbia budget. This budget must be presented in balance. We have worked hard to put it in balance. We have reduced it, as I have pointed out, by 40 percent as far as Federal funding is concerned and 5.6 percent as far as District of Columbia appropriations are concerned.

Mr. Chairman, it would be a serious mistake to adopt the amendment of my friend, the gentleman from Ohio (Mr. MILLER), and I say, Mr. Chairman, that he is my friend.

However, for the reasons I have just stated this amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was refused.

Mr. MILLER of Ohio. Mr. Chairman, I demand a division.

The Committee divided, and there were—ayes 21, noes 50.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendemnt.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On Page 16, immediately atfer line 14 add a new section:

"SEC. 218. None of the funds contained in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name and salary are not available for public inspection."

Mr. FINDLEY. Mr. Chairman, this amendment is needed to halt a coverup of salary information evidently carried out for the past 3 years by the District of Columbia City Council.

I was appalled to read in the Washington Star of July 18 a report quoting an internal memorandum believed to be written by Robert A. Williams, secretary and chief administrative officer of the District of Columbia City Council, explaining a longstanding policy under which the names and salaries of staff members of the council are not made available to public inspection.

This amendment will prohibit payment of any salaries unless the name of the recipient and the amount paid is available for public inspection.

I hope the members of the District of Columbia Appropriations Subcommittee will undertake a thorough investigation, determine the facts, and report back to this body. It seems to me that this whole affair smacks of coverup of an especially reprehensible nature, in that it suggests that money intended to benefit the downtrodden has been diverted to the pockets of well-salaried people. I hope the facts disclosed ultimately will lead to the discharge from public responsibility of all those involved whether they are employees or members of the city council, if it is determined that the allegations in the Washington Star are well founded.

I read from the July 18 issue of the Washington Star:

DISTRICT OF COLUMBIA COUNCIL KEEPS STAFF PAY SECRET

(By Robert Pear and Michael Kiernan)

The D.C. City Council has deliberately kept staff salaries secret for 3½ years to avoid "potential embarrassment," according to an internal council memorandum obtained by The Star.

The memorandum was written by Robert A. Williams, secretary and chief administrative officer of the council, who is already under fire for his administration of federal job funds in employing council staff members.

The memo, to Councilman Marion S. Barry, Jr., was dated March 6, five days after The Washington Star first reported evidence of widespread abuse and mismanagement in the way the council has spent more than $1.4 million of federal money under the Comprehensive Employment and Training Act (CETA). The funds are supposed to go toward hiring the hard-core unemployed.

Apparently worried last March about additional stories appearing in The Star regarding council employment practices. Williams cautioned Barry about the dangers of making a list of council salaries public.

Noted Williams: "Council policy since January 1975 has been not to develop lists of employees and their salaries. Such matters are only discussed in executive session."

Williams wrote that the council's policy of secrecy was due to "the sensitive nature of the salaries" and the "potential (for) embarrassment" to "other employees."

The council's insistence upon keeping staff salaries secret differs markedly from disclosure policies of most public agencies, including Congress and departments in the District government's executive branch.

Congress, for example, discloses salaries and all expenses of congressional employees in regular reports issued by the clerk of the House and the secretary of the Senate.

The mayor, meanwhile, must disclose salary information upon request under the District's Freedom of Information Act.

However, in passing the disclosure act during October 1976, the council specifically exempted itself from all of the law's provisions.

As a result, there is apparently no way for D.C. citizens to compel disclosure of legislative branch salaries.

Williams noted this loophole in his memo to Barry, who had requested a list of CETA positions on the council staff.

"I am sure," Williams wrote, "you appreciate the delicate nature of your request and its impact upon your colleagues as you and they voted to exempt the council from the Freedom of Information Act and possible

informational misuse that might have resulted therefrom."

Williams did not describe the "misuse" he envisioned.

Because the council uses city as well as federal funds to pay its CETA employees, 44 CETA workers on the council now earn between $10,000 and $20,000 a year, and at least one CETA worker earns over $20,000 a year.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the Chairman.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, I would like to say to our distinguished friend, the gentleman from Illinois (Mr. FINDLEY), that on this side we have carefully examined his amendment, and we have no objection to it.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I thank the gentleman for yielding.

The minority has examined the amendment. We think it is a good amendment, and we accept it.

Mr. FINDLEY. Mr. Chairman, I thank the gentlemen.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. FINDLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: On page 16, after line 14 add the following new section:

"SEC. 218. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature."

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Kentucky.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, we have no objection to this amendment on this side.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. BURGENER. I thank the gentleman for yielding.

Mr. Chairman, the minority has examined the amendment. We have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The amendment was agreed to.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the Chair, Mr. DINGELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CEDERBERG

Mr. CEDERBERG. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CEDERBERG. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CEDERBERG moves to recommit the bill H.R. 13468, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 215, nays 32, not voting 185, as follows:

[Roll No. 586]

YEAS—215

| | | |
|---|---|---|
| Abdnor | Beard, Tenn. | Brooks |
| Akaka | Beilenson | Broomfield |
| Alexander | Benjamin | Brown, Mich. |
| Ambro | Bennett | Broyhill |
| Ammerman | Bingham | Buchanan |
| Anderson, Calif. | Blanchard | Burgener |
| Anderson, Ill. | Blouin | Burke, Calif. |
| Andrews, N.C. | Boggs | Burke, Fla. |
| Annunzio | Bolling | Burke, Mass. |
| Applegate | Bonior | Burlison, Mo. |
| Ashley | Bonker | Byron |
| Aspin | Bowen | Carr |
| AuCoin | Brademas | Carter |
| Baldus | Breckinridge | Cavanaugh |
| | Brodhead | Chappell |
| Coleman | Hyde | Patterson |
| Conable | Hughes | Pease |
| Conte | Ichord | Perkins |
| Corcoran | Ireland | Pickle |
| Cornell | Jacobs | Pike |
| Coughlin | Jeffords | Poage |
| Cunningham | Johnson, Calif. | Preyer |
| Danielson | Jones, Okla. | Price |
| de la Garza | Jordan | Rangel |
| Delaney | Kazen | Regula |
| Dickinson | Kemp | Reuss |
| Dingell | Keys | Roe |
| Downey | Kildee | Rogers |
| Drinan | Kindness | Roncalio |
| Duncan, Tenn. | Kostmayer | Rooney |
| Edwards, Ala. | Krebs | Rose |
| Eilberg | Lagomarsino | Ryan |
| Erlenborn | Lederer | Santini |
| Ertel | Leggett | Scheuer |
| Evans, Colo. | Lehman | Schulze |
| Evans, Del. | Levitas | Seiberling |
| Fary | Livingston | Sharp |
| Fascell | Lloyd, Calif. | Simon |
| Fenwick | Long, Md. | Sisk |
| Findley | Luken | Skubitz |
| Fish | Lundine | Smith, Nebr. |
| Fisher | McClory | Snyder |
| Flippo | McCormack | Solarz |
| Flood | McDade | Spellman |
| Florio | McFall | Spence |
| Foley | McHugh | Staggers |
| Ford, Mich. | McKay | Stanton |
| Forsythe | McKinney | Stark |
| Fountain | Madigan | Steed |
| Fraser | Mahon | Steers |
| Garcia | Markey | Steiger |
| Giaimo | Marks | Stratton |
| Gilman | Martin | Studds |
| Ginn | Mikulski | Thompson |
| Glickman | Mikva | Thornton |
| Goldwater | Miller, Calif. | Trible |
| Gonzalez | Mineta | Tucker |
| Gore | Mitchell, Md. | Udall |
| Gradison | Mollohan | Ullman |
| Gudger | Montgomery | Van Deerlin |
| Guyer | Moore | Volkmer |
| Hagedorn | Moss | Walgren |
| Hamilton | Murphy, Pa. | White |
| Hannaford | Myers, Gary | Wiggins |
| Harris | Myers, Michael | Wilson, Bob |
| Heckler | Natcher | Wilson, Tex. |
| Hefner | Nedzi | Wirth |
| Heftel | Nowak | Wolff |
| Holland | O'Brien | Wylie |
| Holtzman | Oberstar | Yates |
| Howard | Ottinger | Yatron |
| Hubbard | Patten | Zablocki |

NAYS—32

| | | |
|---|---|---|
| Archer | Gammage | Neal |
| Bafalis | Grassley | Panetta |
| Bauman | Hall | Roberts |
| Burleson, Tex. | Hammer-schmidt | Robinson |
| Cederberg | Hansen | Shuster |
| Collins, Tex. | Kelly | Stump |
| Daniel, Dan | Leach | Symms |
| Daniel, R. W. | Mattox | Walker |
| Dornan | Miller, Ohio | |
| Edwards, Okla. | Moorhead, Calif. | |
| Emery | Myers, John | |
| English | | |
| Evans, Ind. | | |

NOT VOTING—185

| | | |
|---|---|---|
| Addabbo | Conyers | Gibbons |
| Andrews, N. Dak. | Corman | Goodling |
| Armstrong | Cornwell | Green |
| Ashbrook | Cotter | Hanley |
| Badham | Crane | Harkin |
| Barnard | D'Amours | Harrington |
| Baucus | Davis | Harsha |
| Beard, R.I. | Dellums | Hawkins |
| Bedell | Dent | Hightower |
| Bevill | Derrick | Hillis |
| Biaggi | Derwinski | Hollenbeck |
| Boland | Devine | Holt |
| Breaux | Dicks | Horton |
| Brinkley | Diggs | Huckaby |
| Brown, Calif. | Dodd | Jenkins |
| Brown, Ohio | Duncan, Oreg. | Jenrette |
| Burton, John | Early | Johnson, Colo. |
| Burton, Phillip | Eckhardt | Jones, N.C. |
| Butler | Edgar | Jones, Tenn. |
| Caputo | Edwards, Calif. | Kasten |
| Carney | Evans, Ga. | Kastenmeier |
| Chisholm | Fithian | Krueger |
| Clausen, Don H. | Flowers | LaFalce |
| Clawson, Del | Flynt | Latta |
| Clay | Ford, Tenn. | Le Fante |
| Cleveland | Fowler | Lent |
| Cochran | Frenzel | Lloyd, Tenn. |
| Cohen | Frey | Long, La. |
| Collins, Ill. | Fuqua | Lott |
| | Gaydos | Lujan |
| | Gephardt | McCloskey |

| | | |
|---|---|---|
| McDonald | Pursell | Stokes |
| McEwen | Quayle | Taylor |
| Maguire | Quie | Teague |
| Mann | Quillen | Thone |
| Marlenee | Rahall | Traxler |
| Marriott | Railsback | Treen |
| Mathis | Rhodes | Tsongas |
| Mazzoli | Richmond | Vander Jagt |
| Meeds | Rinaldo | Vanik |
| Metcalfe | Risenhoover | Vento |
| Meyner | Rodino | Waggonner |
| Michel | Rosenthal | Walsh |
| Milford | Rostenkowski | Wampler |
| Minish | Rousselot | Watkins |
| Mitchell, N.Y. | Roybal | Waxman |
| Moakley | Rudd | Weaver |
| Moffett | Runnels | Weiss |
| Moorhead, Pa. | Ruppe | Whalen |
| Mottl | Russo | Whitehurst |
| Murphy, Ill. | Sarasin | Whitley |
| Murphy, N.Y. | Satterfield | Whitten |
| Murtha | Sawyer | Wilson, C. H. |
| Nichols | Schroeder | Winn |
| Nix | Sebelius | Wright |
| Nolan | Shipley | Wydler |
| Oakar | Sikes | Young, Alaska |
| Obey | Skelton | Young, Fla. |
| Pattison | Slack | Young, Mo. |
| Pepper | Smith, Iowa | Young, Tex. |
| Pettis | St Germain | Zeferetti |
| Pressler | Stangeland | |
| Pritchard | Stockman | |

The Clerk announced the following pairs:

Mr. Moakley with Mr. Runnels.
Mr. Addabbo with Mr. Cochran of Mississippi.
Mr. Zeferetti with Mr. Frenzel.
Mr. Richmond with Mr. Whitehurst.
Mr. Weiss with Mr. Marlenee.
Mr. Phillip Burton with Mr. McCloskey.
Mr. Biaggi with Mr. Harsha.
Mr. Nichols with Mr. Walsh.
Mr. Carney with Mr. Ashbrook.
Mr. Cotter with Mr. Brown of Ohio.
Mr. Wright with Mr. Nolan.
Mr. Waggonner with Mr. Green.
Mr. Derrick with Mr. Kasten.
Mr. Moorhead of Pennsylvania with Mr. Quie.
Mr. Hanley with Mr. Thone.
Mr. Early with Mr. Lott.
Mr. Bevill with Mr. Michel.
Mr. Baucus with Mr. Andrews of North Dakota.
Mr. John L. Burton with Mr. Eckhardt.
Mr. Krueger with Mr. Fowler.
Mr. Hawkins with Mr. Whitten.
Mr. Breaux with Mr. Wampler.
Mr. Diggs with Mr. Butler.
Mr. Pepper with Mr. Milford.
Mr. Moffett with Mr. Watkins.
Mrs. Chisholm with Mr. Mann.
Mr. Le Fante with Mr. Ford of Tennessee.
Mr. Jenrette with Mr. Evans of Georgia.
Mr. Rostenkowski with Mr. Edgar.
Mr. Slack with Mr. Maguire.
Mr. St Germain with Mr. Johnson of Colorado.
Mr. Waxman with Mr. Gibbons.
Mr. Harrington with Mr. Skelton.
Mr. Murphy of Illinois with Mr. Smith of Iowa.
Mr. Dellums with Mr. Whitley.
Mr. Edwards of California with Mr. Mottl.
Mr. Dent with Mr. Horton.
Mr. Tsongas with Mr. Pursell.
Mr. Jenkins with Mr. Quayle.
Mr. Clay with Mr. Lent.
Mr. Flowers with Mr. Sebelius.
Mr. Flynt with Mr. Rudd.
Mr. Murphy of New York with Mr. Rousselot.
Mr. Metcalfe with Mr. Pressler.
Mr. Brinkley with Mr. Wydler.
Mr. Fuqua with Mr. Winn.
Mr. Risenhoover with Mr. Young of Alaska.
Mrs. Meyner with Mr. Taylor.
Mr. Conyers with Mr. Sarasin.
Mr. Shipley with Mr. Sawyer.
Mr. Stokes with Mr. Mitchell of New York.
Mr. Teague with Mrs. Pettis.
Mr. Vanik with Mr. Frey.
Mr. Weaver with Mr. Crane.
Mr. Pattison of New York with Mr. Cohen.
Mr. Davis with Mr. Del Clawson.
Mrs. Collins of Illinois with Mr. Caputo.
Mr. Brown of California with Mr. Badham.
Mr. Bedell with Mr. Armstrong.
Mr. Huckaby with Mr. Don H. Clausen.
Mr. Jones of North Carolina with Mr. Devine.
Mrs. Lloyd of Tennessee with Mr. McEwen.
Mr. Mathis with Mr. Lujan.
Mr. Mazzoli with Mr. Hillis.
Mr. Corman with Mr. Vander Jagt.
Mr. Boland with Mr. Derwinski.
Mr. Beard of Rhode Island with Mr. Goodling.
Mr. D'Amours with Mr. Hollenbeck.
Mr. Davis with Mrs. Holt.
Mr. Dicks with Mr. Latta.
Mr. Dodd with Mr. Marriott.
Mr. Duncan of Oregon with Mr. Pritchard.
Mr. Gaydos with Mr. Whalen.
Mr. Gephardt with Mr. Quillen.
Mr. Hawkin with Mr. Railsback.
Mr. Hightower with Mr. Rinaldo.
Mr. Jones of Tennessee with Mr. Ruppe.
Mr. Kastenmeier with Mr. Stangeland.
Mr. LaFalce with Mr. Stockman.
Mr. Long of Louisiana with Mr. Treen.
Mr. Meeds with Mr. McDonald.
Mr. Minish with Mr. Young of Missouri.
Mr. Murtha with Ms. Oakar.
Mr. Obey with Mr. Nix.
Mr. Rahall with Mr. Rosenthal.
Mr. Russo with Mr. Roybal.
Mr. Satterfield with Mrs. Schroeder.
Mr. Sikes with Mr. Traxler.
Mr. Vento with Mr. Charles H. Wilson of California.
Mr. Barnard with Mr. Cornwell.
Mr. Fithian with Mr. Young of Florida.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. NATCHER. Mr. Speaker. I ask unanimous consent that all Members may have 5 legislative davs in which to revise and extend their remarks, and include pertinent extraneous material, on the bill. H.R. 13468. just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

## AMERICAN FEDERATION OF LABOR AGREES THAT CAPITAL GAINS TAX SHOULD BE CUT

(Mr. STEIGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEIGER. Mr. Speaker, as the Members of the House know, there has been some controversy recently over the Steiger-Jenkins-Hansen effort to reduce the tax on capital gains.

I could not help but notice the effort by the president of the AFL–CIO, George Meany, to attack this proposal. Lo and behold, what did I discover but the following resolution as a report of the Tax Committee of the Executive Council of the American Federation of Labor. The committee consisted of George Meany, Matthew Woll, and G. M. Bugniazet. The report read as follows:

One tax which has an important effect in slowing up investment in new venture enterprises is the present capital gains tax. If this is not repealed by the new 1942 Revenue Act, it should be sharply modified to tax capital gains at lower rates, and to liberalize the provision for the deduction of capital losses. Failure to take such action in earlier laws has led to a sharp reduction in capital available for new venture enterprises, because of the heavy taxes involved if the business venture is successful, and because of the denial of reasonable credit against other profits if the new venture is not successful.

Mr. Speaker, I wonder if the real George Meany will please stand up.

## LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House 1 minute.)

Mr. BAUMAN. Mr. Speaker, I have asked to proceed for 1 minute in order to ask one of the most distinguished acting majority leaders the gentleman from Maryland can recall what the program will be for the week of July 24.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, I certainly agree with what the gentleman has said.

There is no further business scheduled for today.

The program for the House of Representatives for the week of July 24, 1978, is as follows:

On Monday, the House will meet at noon. There are no District bills.

There are three suspension bills, and votes on suspensions will be postponed until the end of all suspensions.

Mr. Speaker, the legislation on the Suspension Calendar for Monday is as follows:

H.J. Res. 682, National Lupus Week.
H.J. Res. 684, National Family Week.
H.J. Res. 946, National Guard Day.

Also on Monday we will have H.R. 10285, Commodity Exchange Act extension. The rule has already been adopted. We will have general debate only, which as I understand is 1 hour;

H.R. 3350, deep seabed hard minerals, The rule has already been adopted. We will have general debate only, which is 2 hours under the rule;

H.R. 7577, economic opportunity and community services amendments. The rule has already been adopted. We will have general debate only, which is for 1 hour under the rule.

For Tuesday, the House will meet at noon. There are six suspension bills. Votes on suspensions will be postponed until the end of all suspensions. The bills are as follows:

H.R. 12196, cost-of-living adjustments for retired Comptrollers General;

H.R. 11823, reservists retirement eligibility;

H.R. 12349, DuNoir Basin addition to Washakie Wilderness;

H.R. 12973, Social Services Amendments of 1978;

H.R. 11889, increased pension for Congressional Medal of Honor recipients; and

H.R. 11890, benefits for survivors of permanently disabled veterans.

We will then have the conference report on H.R. 12426, New York City Financial Assistance Act of 1978.

Following that, we will have the conference report on H.R. 11877, Peace Corps Act amendments.

Following that, we will have H.R. 10285, Commodity Exchange Act extension, which will consist of votes on amendments and on the bill.

On Wednesday, the House will meet at 10 a.m. and will consider the following:

H.R. 3350, deep seabed hard minerals. We will have votes on amendments and the bill;

H.R. 7577, economic opportunity and community services amendments, votes on amendments and bill;

H.R. 11622, Fuels Transportation Safety Amendments of 1978, subject to a rule being granted.

On Thursday, the House will meet at 10 a.m. to consider the following:

H.R. 12157, Export-Import Bank, to complete consideration;

H.R. 9400, civil rights of institutionalized persons, to complete consideration of this bill.

On Friday, the House will meet at 10 a.m. to consider the following:

H.R. 12432, Civil Rights Commission Act of 1978, complete consideration;

H.R. 12005, Justice Department authorizations, with an open rule and 1 hour of debate.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time, and any further program will be announced later.

I thank the gentleman for yielding to me.

Mr. BAUMAN. I thank the gentleman. I would like to ask the gentleman further, is my understanding correct that there will be an effort made to keep to a minimum the number of votes on Monday to accommodate the Members who may not be here?

Mr. MONTGOMERY. As I understand it, we would hope that there would be a minimum of votes on Monday.

Mr. BAUMAN. I thank the gentleman.

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## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

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## ADJOURNMENT TO MONDAY, JULY 24, 1978

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 o'clock noon on Monday, July 24, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

## DRUG SMUGGLING IN FLORIDA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 10 minutes.

● Mr. BURKE of Florida. Mr. Speaker, on July 18, the Select Committee on Narcotics Abuse and Control following the select committee's hearings in Hollywood, Fla., of this past June, received a seven-page report from the White House detailing proposals to cope with drug trafficking in the southeastern United States. More than a full page of this report is devoted to increased effort to stem the growing drug traffic in Florida. However, I am afraid we must push beyond what the White House report offers.

Florida is geographically the most vulnerable State in the Union to smugglers. First, there is all the coastline, with all the attendant pleasure craft that ply the warm waters, and all the marinas, and remote coves, and canals, where drugs can be transferred. Second, there is the proximity to supply. Tons of marihuana and cocaine worth billions of dollars are flown, shipped, and carried from South American countries—primarily Colombia—to Florida annually. General aviation aircraft, and medium-size pleasure boats are easily in range of illegal drug supplies either from the country of origin or from some offshore mother ship. The tourism industry which was displaced by drug smuggling as the largest industry in Florida is a perfect camouflage for strangers about illicit business. It is hardly surprising, therefore, that Florida is the primary entry place for cocaine, and one of the major entry places for marihuana.

While I am sure that everyone at the White House involved in evaluating the Florida drug situation has tried to do the most they could, I am convinced that it is not enough. In fact, I seriously wonder if the U.S. economy has not already become seriously involved with international drug trafficking. Billions of dollars annually are pouring out of the United States into Colombia and other South American countries—illegally, untaxed—to buy cocaine and marihuana. There is very little quid pro quo to be realized in terms of the national economy from this exchange. Our gross national product is not improved. Our tax base is not broadened. Americans simply pay out of pocket $40 billion annually to buy these illegal narcotics. How long can our Nation afford to do this? We all know the entire budget for the United States did not reach $1 billion until after Word War II. The 1979 budget is $500 billion. In 1980 drug trafficking will probably amount to 10 percent of the annual Federal budget.

Mr. Speaker, on July 18 in South Florida—not the whole State of Florida—just the east coast of south Florida—drug seizures pull in $24 million worth of marihuana and cocaine and $1.1 million in cash. Numbers numb the mind and people do not comprehend them. However, it took me 10 years of hard work to get a Federal building erected in Fort Lauderdale and its cost is not much more than $19 million. The whole building could have been put up with $5 million to spare if yesterday's drug haul could be converted to this purpose. I am still endeavoring to get the harbor at Port Everglades widened and deepened. The estimated cost for this project is $23 million. Yet if the July 18 drug bust of south Florida could be converted to this purpose there would be over $1 million left upon its completion. Another facility badly needed in Broward County is a VA outpatient clinic, the cost of which is estimated at $13 million. But again, if the receipts from the aforesaid July 18 drug busts could be used for this purpose we could build almost two veterans clinics in my State.

July 18's bust was threefold and consisted of the effort by the Bureau of Customs in Key Largo where 17 tons of marihuana was seized on two lobster boats, the effort by the U.S. Coast Guard cutter *Steadfast* where 20 tons of marihuana was seized off the Florida coast, and the effort by the Fort Lauderdale police where $1.1 million in cash and 7 pounds of uncut cocaine was seized in a motel. I applaud each of these efforts and commend the law enforcement people who were responsible for the success. However, the July 18 episodes are not unusual for south Florida. Earlier this year $1 million in cash was seized in Miami. Select committee hearings held in Hollywood, Fla., in June revealed a pattern of high volume shipment of money, cocaine, and marihuana daily in south Florida.

Mr. Speaker, let us be honest, it is too late in the game to send in only a few new reinforcements. The drug enforcement line of defense has been stretched too thin, too long. Drastic and immediate action must be actual and not verbal. In short, a strike force must be set up at the Federal level to reorganize and maximize the various efforts by the Internal Revenue Service, the Drug Enforcement Agency, the Bureau of Customs, the Coast Guard, local law enforcement people, and every person working to eradicate the illegal drug trafficking in our country.

There are too many nontaxable dollars involved not to worry about the economic impact. There are too many lives being destroyed by narcotics addiction not to worry about the future of our country if it continues. Illegal drugs are big business. Any U.S. corporation in the Fortune 500 would be proud of $40 billion per annum in sales. It is a major industry and unfortunately a growth industry. We must think hard about our present efforts to combat it and invent new methods or we will fail utterly. If we are to survive as a free Nation then we must muster the courage to win this battle—not by talk—not by political "clap-trap," but by strong, harsh legislation, and the appropriation of sufficient moneys to buy sophisticated equipment necessary to stamp out this illicit business and to imprison those purveyers of death and havoc, who deal in this evil business.●

## THE 1980 SUMMER OLYMPIC GAMES SHOULD BE MOVED FROM THE SOVIET UNION NOW; A BOYCOTT WILL NOT BE AS EFFECTIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

● Mr. KEMP. Mr. Speaker, as my colleagues are aware, Senator ANDERSON of Minnesota and I are cosponsors of a resolution calling for the withdrawal of the 1980 summer Olympic games from the Soviet Union. Senator ANDERSON is a former Olympian team member in hockey from the 1956 games, and I have been addressing this issue of what the Soviets intend to do since early last year.

As my colleagues are also aware, others in the Senate and the House are calling for a boycott of those games. They are also seeking support for a resolution calling for a boycott.

My purpose here this afternoon is not to say that our approach is the only answer. There might be other strategies which can be employed to resolve this matter, but I think the supporters of both approaches are acting out of the same concerns. I speak, of course, of the Soviets' refusal to permit the exercise of human rights in its borders, of their refusal to guarantee that competition will be open for athletes from all countries, of their refusal to guarantee accreditation of newspersons from all countries and all media.

We have already seen their intent—in the trials of Anatoly Scharansky and Aleksandr Ginzburg, in the trials of two American newspaper men, in the growing harassment of foreign business representatives, diplomats, and newspersons. We have seen their refusal to answer specific questions about freedom of newspersons covering the games. We have seen what looks like a concerted campaign with certain Third World countries to exclude other countries, such as Israel, from those games by making them ineligible under the rules. Rules manipulation is how they are trying to exclude certain news representatives, too.

### MOVE THE GAMES OR BOYCOTT THEM?

My purpose is, however, to bring to the attention of the House certain factors which bear on which is the approach—transfer or boycott—more likely to work.

I have several thoughts.

First, there are alternative sites to Moscow. I personally prefer Montreal, because the facilities there are so new, having been built for the 1976 summer games, that they would not need remodeling. The "disaster" associated with Montreal in 1976 was the huge capital cost of that construction. Putting the games there in 1980 would, without requiring additional capital outlays, allow substantial operating revenues to flow into the city and into the facilities, thus helping to pay them off much more rapidly than can now be projected. The facilities are in good shape.

Second, there is time to do this. I realize that the Soviet Union has undertaken substantial costs already, but I think they have forfeited their right to retain the games and, therefore, will just have to absorb those costs. I am sure that they can be used for socialist countries' participation for years to come. I realize that some American businesses have sunk costs into their activities in association with those games, most notably NBC, which has the contract for television coverage of the games. But the bulk of their $80 million outlay has not yet been made. Perhaps the loss, whatever it is, could be ameliorated if NBC had the principal or a major share of the action in Montreal, if the games are relocated there.

Third, a boycott would hurt our outstanding young athletes and is seldom effective in a case like this. A boycott has no means of enforcement. American athletes might boycott, but that does not mean that the French, British, German, Italian would; or that the Third World countries would. I think, given the political climate in the world, that one would have to expect that many, if not most, would still go to the games. Thus, we would end up penalizing our own athletes and those of countries who see this the way we do, but having no impact on the games being held in that closed society, in the Soviet Union. The Soviet Union would then walk away with all the gold, silver, and bronze medals in almost all the competitions, too.

Fourth, a boycott is an event which happens at the time of the event. Last minute decisions are made, and they are usually to go, since the psychology or rationale that others are going anyway seems to take hold.

If the boycott starts now, with countries making it known that they will not go, the cumulative effect may be to make it obvious that the games cannot continue in Moscow, if there is to be genuine, extensive competition, but that would then take you another step, which is move the games elsewhere. Why go through that elaborate, difficult first step to reach the second step, when we can muster all our efforts behind that second step now. Let us make it the first step.

I think these points lead to the conclusion that our policy choice between transferring the games or boycotting them ought to be resolved in favor of transferring them.

### THE RECORD ON THE SOVIETS' ACTIONS

Mr. Speaker, I am only one of a number in Congress who have been very active in this Olympics question, but I think I have tried to keep my colleagues informed on what we suspect they may be doing and what we know they are doing.

Some of the points I have brought to the attention of the House have been superseded by subsequent events or additional information, but if anyone has any question whatsoever about what the Soviets are up to, I invite them to read the following remarks in the RECORD:

Journalist Jeffrey Hart raises some questions about the 1980 Olympics in Moscow which must be answered to insure the nonpoliticization of the Games, April 21, 1977, 11611–11612.

NBC addresses important questions about the 1980 Olympic Games in Moscow, April 29, 1977, p. 3841–3842.

The United States should take steps to prevent the exclusion of Israel from the 1980 Olympics, July 1, 1977, 22092.

How the Soviets are attempting to exclude Israel from the 1980 Olympics, August 2, 1977, 26222–26223.

Congressional letter to be sent to U.S. Olympic Committee protesting Soviet-Third World campaign to exclude Israel from the 1980 Olympic Games in Moscow, September 14, 1977, 29206–29207.

Soviet tactics in world class chess: an ominous sign for international competition, May 3, 1978, p. 12521–12522.

The Soviets have refused to guarantee freedom of the press for coverage of the 1980 Olypmic Games in Moscow: how can they do otherwise in light of the trials starting today?, July 10, 1978, p. 20028–20030.

The Soviet Union has forfeited its right to host the Olympic Games, July 17, 1978, p. 21243–21244.

I also have a complete set of correspondence with the U.S. Olympic Committee, which has not been terribly responsive on this matter and has not brought sufficient pressure on the International Olympic Committee to get it to change Moscow's direction, for anyone wishing to review it or photocopy it at their expense. It is thick.

### GEORGE MEANY SAYS "NO" TO MOSCOW GAMES, TOO

On Friday of last week, AFL–CIO President George Meany declined an invitation to serve again as the U.S. Olympics Committee's honorary chairman for labor. He did so expressly because of human rights violations by the Soviet Union.

Mr. Meany's letter of July 14 to E. H. Mosler, Jr., chairman of the U.S. Olympics Finance Committee, follows:

Thank you for your letter inviting me to serve once again as Honorary Chairman of the U.S. Olympic Committee for labor.

As I was preparing to respond to your letter, the news arrived that the Soviet authorities have sentenced Aleksandr Ginzburg and Anatoly Scharansky to barbaric prison terms for the crime of seeking their government's compliance with the human-rights provisions of the Helsinki Agreement. Since the Soviet Union has effectively declared these provisions null and void, I see no reason to promote American compliance with other provisions of the Helsinki Final Act, including the sports and cultural exchanges encouraged in Basket III.

My conscience will not allow me to help raise money to send American athletes to Moscow at a time when the KGB is trying to "cleanse" that city of dissidents prior to the Olympic games. I will not be morally complicit in Mr. Brezhnev's attempt to destroy the lives of courageous individuals who seek to advance the cause of human rights.

I must therefore respectfully decline your invitation.

### WE MUST NOT REPEAT THE 1938 SPECTACLE IN BERLIN

Mr. Speaker, from the standpoints of how a country intends to use the Olympic games for its own nationalist purposes and of how an ideology intends to assert its alleged superiority, the Moscow games of 1980 stand as a virtual mirror image of the 1936 games in Berlin, in Hitler's Germany.

And the struggle now taking shape to transfer the games from Moscow stands in surprising similarity to an effort to transfer the games from Berlin, too. Except this: The 1936 effort started very late and it was unsuccessful, because the American committee refused to back it; as a matter of fact, they worked to keep the games in Berlin.

I quote from a March 18, 1977, article in the Los Angeles Times by one of the country's foremost sports writers, Jim Murray, about the 1936 games and the regretful, unthinking actions of the American committee to keep the games from being transferred from Berlin:

It is a dilemma the U.S. Olympic Committee has faced before—but not since 1936. Those Games had been awarded to Germany before Hitler came to power, but the Nazis inherited them when they came around and they made the most of them.

The ascendancy of the Nazis posed a moral problem for the U.S. Olympic Committee. First of all, the Hitlerites had removed the venerable Dr. Theodor Lewald as president of the German Olympic Committee because he was part Jewish. Since Jews were also barred from German sporting clubs, practice fields and swimming pools, they were effectively barred from the German Olympic teams.

The U.S. Amateur Athletic Union, in 1933, took note of all this and voted for a boycott of the German Games. Avery Brundage of the USOC enthusiastically supported the boycott but it was largely a campaign of the AAU president, Judge Jeremiah Mahoney, who hated Hitler as a "pagan." The judge formed a "Committee On Fair Play" to ensure no American athlete took part in Hitler's Olympics.

The Germans, for their part, didn't want to lose the propaganda value of the 1936 Olympics which Dr. Goebbels estimated as worth 20 divisions; so they did some fast window dressing. They announced that 21 Jews had been named to the German team (none of them made it). They took down the "Jews Not Wanted" signs outside Garmisch before the Winter Olympics and tried to house their guests where they wouldn't hear the screams in the night.

They wooed Avery Brundage on his investigative trip to the Fatherland in 1934 to the extent that he reversed his position on the boycott and, in a historic meeting of the AAU in New York in 1935, Brundage not only beat back Mahoney but got himself elected president of the AAU in Mahoney's place.

Not even the fact that Hitler published his infamous "Nurnberg Laws" two months before could save the good judge. As president of both the USOC and the AAU, Brundage was as firmly in charge as Hitler, and Dr. Goebbels had his showcase.

Judge Mahoney had his bonfire (with his million or so signatures protesting participation). Hitler had his parade, Brundage had his games.

WHAT NEEDS TO BE DONE?

There are two things which should be done, starting today.

First, we should get the Anderson and Kemp resolutions adopted—now. That sends a signal of the U.S. Congress concern and intentions, one that will be picked up by the worldwide press, one that will certainly be heard at the U.S. Olympic Committee in New York City, one that will be heard by the national Olympic committees around the free world, and one that will be heard in Moscow.

If we do not get committee movement on these resolutions within a reasonable time frame, I will move to file a discharge petition if all else fails.

Second, we need to make the views of the American community known at the U.S. Olympic Committee, our country's Olympic Committee and, therefore, the official spokesman. It is the U.S. Olympic Committee which has not moved sufficiently on this issue to date. It is the U.S. Olympic Committee that can bring great pressure to bear on the International Olympic Committee and its president, Lord Killanin. It is the U.S. Olympic Committee that could take a direct message to the Moscow committee.

Those Members of Congress, those organizations, those private persons wishing to contact the USOC should write to Robert J. Kane, president, U.S. Olympic Committee, 57 Park Avenue, New York, N.Y. 10016, telephone number (202) 686–1456.

And, then, they should contact all of the officers and directors of that Olympic Committee. The most recent list I have is current only through January 3, 1977. My staff tried to get an updated copy last winter from the USOC, but they would not send it to us.

These officers' and directors' names and addresses follow:

U.S. OLYMPIC COMMITTEE—OFFICERS AND BOARD OF DIRECTORS, AS OF JANUARY 3, 1977

President Robert J. Kane, 57 Park Avenue, New York, N.Y. 10016.[2]

Vice President John B. Kelly, Jr., 1720 Cherry Street, Philadelphia, Pa. 19103.

Vice President Al O. Duer, Parks and Recreation Department, 414 East 12th Street, Kansas City, Mo. 64106.

Secretary E. Newbold Black IV, 25 Sutton Place South (Apartment 14–K), New York, N.Y. 10022.[2]

Treasurer Julian K. Roosevelt, Centre Island, Oyster Bay, N.Y. 11771.

Counselor Patrick H. Sullivan, 522 Fifth Avenue, New York, N.Y. 10036.[1]

Assistant Counsel Louis J. Fisher, P.O. Drawer 1150, High Point, N.C. 27261.[1]

Assistant Counsel Richard G. Kline, 1819 H Street, NW. (Suite 1100), Washington, D.C. 20006.[1 2]

President-Emeritus Kenneth L. Wilson, 36 Linden Avenue, Wilmette, Ill. 60091.[1]

President-Emeritus Douglas F. Roby, 6100 Geddes Road, Ypsilanti, Mich. 48197.[1 3]

Immediate Past President Clifford H. Buck, c/o Mrs. Nancy Brown, 156 Laredo Avenue, Aurora, Colo. 80010.[2]

Assistant to the President Lt. Gen. Henry M. Buse, Jr., USMC (Ret.), 505 Denington Lane, Severna Park, Md. 21146.[1]

Executive Director Col. F. Don Miller, USA (Ret.), 1266 Pickens Court, Yorktown Heights, N.Y. 10598.[1]

Dr. Tenley Albright, (Member-at-Large), 104 Codman Road, Brookline, MA 02146.[2]

Theodore G. Alteneder, Jr., (American Canoe Association), 1217 Spring Garden Street, Philadelphia, PA 19123.

Lloyd C. Arnold, Ed.D., National Council of YMCAs, 291 Broadway, New York, NY 10007.

Carl Battaglia, (AAU-Luge Division), 117 Okara Drive, Schenectady, N.Y. 12303.

Louis A. Benton, (US Revolver Association), Johns-Manville Corporation, PO Box 5108, Denver, CO 80217.

Robert Bjorkland, (State Chairman for USOC), Bankers Life Co. of Des Moines, in Minnesota, 609 Second Avenue South, Minneapolis, MN 55402.

Dr. Peter G. Buehning, (US Team Handball Federation), Ten Nottingham Road, Short Hills, NJ 07078.

Charles W. Buek, (Chairman, USOC Finance Committee), 15 Driftway Lane, Darien, CT 06820.[2]

Suzanne Chaffee, (Member-at-Large), 36 Gramercy Park East, New York, NY 10003.

Gordon H. Chalmers, (US Gymnastics Federation), Rowell Hill Road-RFD #1, New London, NH 03257.

Mathew G. Cusack, (Catholic Youth Organization), 33 Fairfield Road, Yonkers, NY 10705.

Willie Davenport, (Member-at-Large), 4876 Campbell Drive, Baton Rouge, LA 70807.

Dr. Miguel deCapriles, (USA PASO Representative), Hastings College of Law University of California, 198 McAllister Street, San Francisco, CA 94102.[2]

Dr. Evie G. Dennis, (AAU-Track and Field Division), 3072 Cook Street, Denver, CO 80205.[4]

Maj. Gen. Walter D. Druen, Jr., USAF, Asst. DCS/Personnel for Military Personnel, Air Force Military Personnel Center, Randolph AFB, TX 78148.

Gene Edwards, (US Soccer Federation), 4115 North Teutonia Avenue, Milwaukee, WI 53201

Clifford B. Fagan, (National Federation of State High School Associations), 400 Leslie Street, PO Box 98, Elgin, IL 60120.[2]

William P. Fehring, (US Baseball Federation), 1735 Poppy Avenue, Menlo Park, CA 94025.

John Fell, (Bobsledding Division of AAU), 23 School Street, Lake Placid, NY 12946.

Joel Ferrell, Jr., (AAU), 1002 Forrest Drive, Tullahoma, TN 37388.

Charles U. Foster, (US Figure Skating Association), 134 Surplus Street, Duxbury, MA 02332.

Dr. Harry G. Fritz, (Executive Secretary, National Association of Intercollegiate Athletes), 1221 Baltimore Street, Kansas City, MO 64105.[4]

Charles T. Gibson, (US Ski Association), 369 Sasco Hill Road, Fairfield, CT 06430.[2]

Robert F. Giegengack, (Track and Field Division of AAU), Yale University, 402A Yale Station, New Haven, CT 06520.

James G. Growney, (National Federation of State High School Associations), New Jersey State IAA, Route 130, Robbinsville, NJ 06891.

Richard E. Harkins, (AAU), 201 East Armour Boulevard, Kansas City, MO 64111.

Albert E. Hart, Jr., (American Horse Shows Association), 150 East 69th Street, New York, NY 10021.

Theo J. Heap, (National Jr. College Athletic Association), Mesa Community College, Mesa, AZ 85202.

Robert H. Helmick (Aquatics Division of AAU), 2000 Financial Center, Seventh and Walnut Streets, Des Moines, IA 50309.

Dr. Harold Henning (Aquatics Division of AAU), 555 North Washington Street, Naperville, IL 60540.

Captain Micki King Houge, USAF, 9004 Ash Street, Williams AFB, AZ 85224.[2]

Georgie E. Howie (U.S. International Skating Association), Beggs Mainland, Oconomowoc, WI 53066.

***Robert O. Jones, International Director, Athletic Program, Bureau of Educational and Cultural Affairs, Department of State, Room 4821, Washington, DC 20520.

George E. Killian, National Junior College, Athletic Association, PO Box 1586, Hutchinson, KS 67501.

Wey Seng Kim (AAU Judo Division), 6100 West Ridge Road, Kansas City, MO 64133.[4]

William J. Knecht (National Association of Amateur Oarsmen), 879 Beideman Avenue, Camden, NJ 08105.

Karen Kuhn (National Federation of State High School Associations), Wisconsin Interscholastic Association, 41 Park Ridge Road, Stevens Point, WI 54481.

Floyd Lay (Amateur Basketball Association of the USA), Box 1173, Gainesville, FL 32601.

Murray Levin (AAU Weightlifting Division), RD No. 2, Gettysburg, PA 17325.[4]

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Footnotes at end of article.

Dr. Robert Livington (National Association of Intercollegiate Athletics), Oregon College of Education, Monmouth, OR 97361.

Stanley Malless (US Tennis Association), 4437 Bragdon Street, Indianapolis, IN 46226.

Rear Adm. Wesley L. McDonald, USN, Bureau of Naval Personnel (Pers–1), Washington, DC 20370.[2]

Maj. Gen. E. J. Bronars, Deputy Chief of Staff for Requirements and Programs, Headquarters Marine Corps (Code-RP), Washington, DC 20380.[4]

Dr. Roswell D. Merrick (American Alliance of Health, Physical Education and Recreation), 1201—16th Street NW., Washington, DC 20036.

Dr. Leotus Morrison (American Alliance of Health, Physical Education and Recreation), 428 Cardinal Drive, Harrisonburg, VA 22801.

Edwin H. Mosler, Jr. (National Fund Raising Chairman), Hotel Statler Hilton—Suite 600A, New York, NY 10001.

David H. Osborne (State Chairman for USOC), Salomon Brothers, 555 California Street, San Francisco, CA 94104.

Jesse Owens (Member-at-Large), 4747 North 16th Street, Phoenix, AZ 85016.[2]

Wilbur H. Peck (US Volleyball Association), YMCA of Greater Indianapolis, 222 East Ohio Street, Indianapolis, IN 42604.

Lea Plarski (National Junior College Athletic Association), Florissant Valley Community College, St. Louis, MO 63135.

Maj. Gen. Maxwell E. Rich, USA (National Rifle Association of America), 1600 Rhode Island Avenue NW., Washington, DC 20036.

Joseph R. Scalzo (Wrestling Division of AAU), Sun Oil Company, PO Box 920, Toledo, OH 43601.

Roland C. Schwartz, 3937 Rose Hill Avenue, Cincinnati, OH 45229.[4]

Ernest M. Seubert (US Cycling Federation), 137 Brunswick Road, Cedar Grove, NJ 07009.

Clayton B. Shenk (National Archery Association), 1951 Geraldson Drive, Lancaster, PA 17601.

Maj. Gen. Paul T. Smith, The Adjutant General, The Pentagon—Room 2-E-536, Washington, DC 20301.[4]

Stephen B. Sobel, (Amateur Fencers League of America), 158 Central Avenue, Rochelle Park, NJ 07662.[2]

Richard I. Stearns, (US Yacht Racing Union), 22448 North Elston Avenue, Chicago, IL 60614.[2]

Daniel Steinman, (US Modern Pentathlon and Biathlon Association), PO Box 56, Springhouse, PA 19477.[4]

Timothy J. Sullivan, (State Chairman for USOC) PO Box 013311, Miami FL 33101.

Harold L. Suttle, (State Chairman for USOC), Statler Hilton Hotel, Seventh Avenue and 33rd Street, New York, NY 10001.

Clark Swisher, (National Association of Intercollegiate Athletics), Athletic Director, Northern State College, Aberdeen, SD 57401.[4]

William Toomey, (Member-at-Large), 152 Monarch Bay, Laguna Niguel, CA 92677.

William Thayer Tutt, (Amateur Hockey Association of the US), Broadmoor Hotel, Colorado Springs, CO 80906.

Christopher Waters, (Field Hockey Association of America), 25 Homer Avenue, Larchmont, NY 10538.[2]

Wayne W. Wells, (member-at-large), 2300 NW 121st Street, Oklahoma City, OK 73120.

George M. Wilson, (US Modern Pentathlon and Biathlon Association), 707 East Broad Street, Falls Church, VA 22046.

Harold O. Zimman, (National Jewish Welfare Board), 156 Broad Street, Lynn, MA 09101.

FOOTNOTES

[1] Ex-Officio.

[2] New Information.

[3] I.O.C. Member.

[4] New Board Member.●



## WHALEN QUESTIONS ADEQUACY OF ADMINISTRATION'S LIABILITY PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

● Mr. WHALEN. Mr. Speaker, as you know, throughout this Congress I have been very active in the field of product liability. In June 1977, I introduced, together with several of my colleagues, H.R. 7711, the Product Liability Insurance Tax Equity Act. This legislation is designed to facilitate self-insurance for all or part of one's risk for product or professional liability. Since the bill's introduction, I have received support from 66 cosponsors and 50 major trade and professional associations, who also realize the inequities in the present product liability situation.

Today, I am pleased to note that the Carter administration is recognizing the "serious economic problems caused by escalating product liability premiums." On July 20, Secretary of Commerce Juanita M. Kreps announced that the first Federal program to address the product liability problem has been created. The program is a response to the recommendations made by the Commerce Department's Interagency Task Force on Product Liability.

While the executive branch is to be commended for not succumbing to the extensive lobbying of the American Insurance Association, which believes "there is no crisis in product liability," I feel the administration has not offered as complete a solution as the present problem demands.

Briefly, I would like to outline yesterday's proposals. First, in place of a self-insurance trust, which was envisioned in H.R. 7711 and the initial recommendation of the Interagency Task Force, the administration proposes to extend the carryback period for net operations losses attributable to product liability and related costs from the current 3 to 10 years. Hence, if a firm incurred a product liability judgment or settlement, the proposed amendment to the Internal Revenue Service Code would allow the firm to apply the loss against taxable income earned during the 10 preceding years. Consequently, the company could receive a refund of taxes paid in those years.

Second, the administration has directed that a model uniform product liability law be prepared. The law would then be submitted to the individual States. This is a move aimed at clearing up uncertainties in the tort system, and was first recommended by a congressional panel which I chaired before the House Small Business Committee in April 1977.

Third, a worker compensation reform plan is being sought which would include adequate benefits and expanded coverage for workers suffering product-related injuries in the course of employment.

Fourth, the administration has called for a report on insurance ratemaking procedures. The report is to contain draft product liability insurance regulation standards.

Fifth, there will be a greater governmental distribution of product risk information to manufacturers, distributors, and retailers.

Last, an Interagency Council will be formed to improve the coordination of Federal accident compensation initiatives. The Council will be composed of knowledgeable persons in accident compensation from several departmental agencies.

The aforementioned program represents a good beginning in the effort to solve the product liability problems faced by our society today. I am pleased to see the executive branch taking substantive action in this area.

I only regret that the administration has used the carryback extension proposal as a substitute for self-insurance trust funds, instead of as a complement. The following is a summary of my initial reactions to this substitution:

First, since the present law allows a firm to carry back 3 years, an extension of 7 years would only benefit those persons whose judgments or settlements are greater than that already encompassed in 3 years. I am sure there are some manufacturers that will benefit from this legislation, but I submit that this system will not help those who experience relatively small claims on a regular basis or those whose claims exceed the amount of profits reported in recent years.

Second, the major problem in product liability is not the amount paid in claims, but rather the amount paid in insurance premiums. The self-insurance reserve would provide a continually growing fund that enables companies to raise the amount of the deductible feature of their policy, and thus lower their premiums.

Third, as pointed out last year by the Commerce Department's Interagency Task Force on Product Liability, the self-insurance remedy "will enecourage in sureds to utilize product liability prevention measures, since their own funds will be at stake." I contend that under the proposed plan insureds will have less desire to enforce product liability prevention, because they would be paying the claims with Government money.

This is very important, because under the self-insurance reserve plan, such as I have proposed, consumers, as well as manufacturers, benefit. When a reserve exists the manufacturer has an asset which he will make additional efforts to preserve. Therefore, the reserve fund concept provides an added inducement to improve quality control procedures.

Last, the proposed plan is not helpful to those manufacturers that cannot presently obtain insurance, but are required to have coverage in order to conduct their business. The proposed tax manipulation will not satisfy industry insurance requirements. In fact, the administration's proposal would appear not to meet certification of insurance requirements imposed by many Government agencies.

Mr. Speaker, I am hopeful that when the various product liability measures are heard before the Ways and Means Committee this session, there will be some reconciliation between the recent administration proposal and the self-insurance

reserve concept advocated by many in Congress. Such an effort would provide more effective relief to the multitude of American companies suffering from the product liability crisis.●

## THE WESTERN WORLD SHOULD NOT IGNORE CHAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 15 minutes.

● Mr. SIKES. Mr. Speaker, Chad as a nation is seldom in the news in the Western World. It is one of more than 50 African countries. It is a very large country from the standpoint of geography. The population is small. It has no human rights problems, at least none that have invoked an American response. Neither the Russians nor the Cubans have become directly involved in charting Chad's future. Please note that I said "directly involved." Through arms, Russia is involved and is a major contributor to the problem of survival for the Government of Chad. More about that later.

Chad is located in central Africa and is friendly to the United States. It has a stable government which wants progress but which is severely limited in means. Modest expenditures in AID in a number of areas could produce tremendous response and provide needed progress and improved living conditions. Much of Chad is barren desert country but some of those desert areas are rich in undeveloped mineral resources. The southern third of Chad has rainfall, forests, and is productive. That portion of the nation can become much more productive, particularly in grain and cattle. To justify this, a market is needed. The nations around southern Chad want Chadian products but that area is surrounded by major rivers and there are no bridges and few roads. A modest program of assistance from the Western World could speedily correct this and other problems for Chad.

Chad was formerly a French territory and associations with the French are still warm. In fact, it is the French that went to Chad's assistance when they were invaded in recent years by rebels supported from Libya. Chad wants closer association with the West. They have had experience with the Russian presence and want no more of it.

America and the Western World will do well to seek a closer relationship with Chad and to help this country in its search for peace and progress.

It may be startling to some when I say the significance of Chad's present problems to Africa bears a striking resemblance to those of Czechoslovakia in 1938 to Europe. A small landlocked country is gradually being dismembered by a rich aggressive neighbor, whose leader has repeatedly made clear his expansionist designs. This aggression is being carried out in the name of an "oppressed" minority, and if successful will be only the first step in a series of such actions. Libya is the aggressive neighbor. The aggression is in the mineral rich portion of Chad. The government forces have now been driven from at least one-half of the country.

Thus, we have a situation in which a poor, friendly, and moderate nation, which has a good record regarding the rights of man, is being torn apart by a wealthy radical neighbor. The aggressor is an overt friend of the Soviets and is a strong supporter of international terrorism and subversive meddling in the affairs of moderate states. The victim of this aggression has exhausted its appeals to the Organization of African Unity without result. For the time being, France is supporting Chad out of loyalty to its former colony, but it is clear this cannot last indefinitely. If the West stands aside and lets Chad fall, will it do the same when Libya or a similar Soviet entity moves against other moderate nations? Libya has already shown that it has territorial designs on Niger; that it wants "progressive," Moslem governments in its neighboring state regardless of the makeup or wishes of the people concerned.

Libya has supported radical revolutionary movements in many countries; has attempted coups in Sudan, and Egypt, and its Chadian rebel allies operate freely in part of northern Nigeria in a manner that is openly disdainful of the Lagos Government. These conditions hardly argue well for the stability of central Africa should Chad become a Libyan puppet.

The United States is within its rights of self-interest in refusing to become involved in Chad's internal security problems and indeed they would be difficult to solve, but this is an attitude that is nonproductive for the future. There also is the line of argument that in the long run the Soviets and their allies will be incapable of controlling African states and that the United States would do better to sit on the sidelines and wait it out.

However, before adopting this easy solution we should remind ourselves that, in the short run, a series of moderate, friendly African states probably will be subverted, many fine people will be slaughtered, and some of the West's present and potential supplies of valuable natural resources will become usable tools of international blackmail. In addition, it would be relevant to note that the Soviets have proven in Eastern Europe that they are capable of maintaining iron-fisted control over other countries for a lengthy period of time—witness a dozen countries which have been under Soviet control since World War II or shortly thereafter. Our supposition that, because we cannot dominate others with our open democratic methods, the Soviets will have similar problems with different methods is highly suspect.

If we decide to stand aside on Chad, as the world did on Czechoslovakia, we may well precipitate not only the fall of Chad to Marxist influence, but we may also trigger a Marxist takeover in a large portion of Central Africa in which the Soviets thus far have made little progress. At the very least, the United States and the Western World should show a greater interest in what is happening in Chad and give more support to its economic progress and internal development.●

## THE KEMP-ROTH TAX PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 15 minutes.

● Mr. GIAIMO. Mr. Speaker, during his recent appearance before the House Budget Committee, Chairman Charles Schultze of the Council of Economic Advisers presented to us an analysis of the Kemp-Roth tax reduction bill. I believe that all of my colleagues should read these comments.

I, therefore, insert this analysis in the RECORD at this point.

ANALYSIS OF THE KEMP-ROTH TAX PROPOSAL

In his letter of invitation to testify, the Chairman asked me to be prepared to discuss the economic consequences of Congressman Kemp's proposal to reduce Federal income taxes by approximately 30 percent, phased in over a three year period.

Let me begin by reiterating that the American economy does need a moderate tax reduction in 1979. Individuals, confronted with rising social security taxes and inflation-generated increases in effective tax rates, need tax relief if consumption is not to falter. Business tax relief is needed to promote greater investment.

The Administration has proposed a $20 billion reduction effective January 1, 1979. Depending upon the course of private economic activity, additional tax reductions may be necessary in later years. The question at issue is not whether tax reduction is needed, but the appropriate size and timing of the cut.

The Kemp-Roth proposal would enact a three-year tax cut that would reduce taxes by around $30 billion in 1979, and build to a $110 to $120 billion rate of tax reduction by 1981. Committing the Federal Government now to a tax cut of such dimensions is, I submit, a sure-fire recipe for inflation. What the effects of the Kemp-Roth proposal would be on economic activity and prices is a matter of some dispute. Congressman Kemp, in testimony before the House Ways and Means Committee presented simulations from an econometric model suggesting that his proposal would increase the annual rate of real GNP growth over a 10-year period by only .13 percentage points, and would increase the rate of consumer price inflation by one percent per year by 1982. Moreover, these simulations suggested that the Federal deficit would rise to $90 billion—3½ percent of GNP—by 1980. Some proponents of the Kemp-Roth proposal claim that, because it would unlock private incentives and thereby increase productive capacity, the national income would rise so much that the tax cut would actually increase, rather than decrease, Federal revenues. Let me first examine this latter claim.

Before allowing for any induced effects on the size of the economy, the Kemp-Roth tax proposal, when fully in effect in 1981, would cut the Federal revenue yield out of 1981 incomes by somewhere between $110 billion and $120 billion. As a rough rule of thumb, Federal revenues—at the new lower tax rates—would rise about 20 cents for each dollar increase in the gross national product. So, in order to gain back $110 billion in lost revenues, GNP would have to increase by some $550 billion. Our forecast of GNP in 1981—based on current fiscal policy—is $2.8 trillion. A $550 billion increase above this would be an increase of 20 percent.[1]

Traditional analysis of the effects of fiscal policy assumes that there will be a "multi-

plier" effect of tax cuts on GNP. A tax cut of $1 will, under normal conditions, produce more than a one dollar increase in GNP.[2] Abstracting from effects on the rate of inflation, most economic analyses and forecasting models imply a multiplier of about 1¾ to 2. That is, each dollar of tax cut, after a lag of a year or so, adds two dollars or a little less to GNP. Under the normal assumption of a multiplier of about 2, the Kemp-Roth proposal would add enormously to the Federal deficit. A tax cut of $110 billion in 1981 dollars would add $220 billion to the money value of GNP. Since Federal revenues would increase only about $45 billion because of the induced GNP growth, the net addition to the Federal deficit would be about $75 billion. If the tax cut generated more inflation, the effect on nominal GNP would be larger, and the impact on the deficit smaller. Apart from the effects of inflation, I know of no economic analysis which suggests the multiplier of 5 needed to achieve a "free lunch"—that is, an increase in GNP sufficient to recoup all the loss in revenues from a tax cut.

Let us suppose for the sake of argument, however, that the multiplier were 5, as needed for full recoupment, and that the additional after-tax income made available to taxpayers caused a rise of $550 billion, or 20 percent, in the demand for private goods and services. What would happen to real output, employment, and prices?

If there were a substantial degree of slack in the economy—very high unemployment and idle plant capacity — GNP could be increased with running into the scarcities, bottlenecks, and tight labor markets which cause an acceleration of inflation. At the present time, there is some slack in our economy, but not a lot. Estimates of potential GNP by the Council of Economic Advisers suggest that actual real output is presently about 4 to 5 percent below potential.[3] If the degree of economic slack in 1981 were about the same as at present, GNP could expand by no more than 4 to 5 percent without generating very serious inflationary pressures unless our capacity to produce increased dramatically because of the Kemp-Roth proposal.

As we saw earlier, GNP would have to grow by 20 percent in order for a Kemp-Roth tax cut to generate enough national income to recoup the revenue loss. Given the present modest degree of slack in the economy, massive inflationary pressures could be avoided only if the nation's economic capacity were to rise by at least 16 percent more than its normal growth over the next three years. A huge increase in labor supply and in productivity would be necessary over the three year phasing-in period. The evidence is overwhelming that the necessary increase in supply would not occur.

A 30 percent tax reduction would raise the after-tax income of the average worker by about 5 percent. Such an increase in real income would be unlikely to induce either a large addition to the labor force or a major increase in working hours. Working hours have gradually drifted downward during the postwar period as real incomes have risen. The average worker has chosen to take part of the increase in real income made possible by rising productivity in the form of additional leisure. Increases in after-tax income stemming from Kemp-Roth might lead to a still shorter work week. Labor force participation, it is true, has steadily grown over the postwar period, due principally to a rising rate of female participation. But there is no evidence that a 5 percent rise in income would sharply accelerate that trend.

Let us, nevertheless, make the further assumption—again, for the sake of argument—that total labor supply would somehow increase by (say) 4 to 5 percent due to the Kemp-Roth tax cut—that is, by the amount of increase in the average worker's after-tax income. Then, through a combination of taking up existing economic slack and labor supply growth, the nation's economic output might be raised by 8 to 10 percent. To avoid the inflationary consequences of a 20 percent growth in demand (the amount required to recoup the revenue losses from Kemp-Roth), productivity would thus have to grow by at least 10 percent more than the normal increase. Since productivity normally increases by 2 percent or less per year, an additional 10 percent over three years would be an extraordinary feat.

What kind of an expansion in business investment would be necessary, both to provide the additional labor force with capital equipment and to raise productivity by that 10 percent?

It would obviously be impossible to achieve an enormous increase in the capital stock in three years. Planning, designing, ordering, and producing major industrial facilities in the proper balance and mix cannot be done in three years. But let us ignore this difficulty and assume we had ten years to complete the job. How much of an increase in business investment would be necessary?

A number of economists have studied the relationship of business investment to productivity. Based on those studies, it appears that equipping the additional labor force and expanding productivity by 10 percent above its normal trend over a ten year period would require approximately a doubling of the share of business fixed investment in GNP—from its current share of around 10 percent to about 20 percent. Arguing that the tax cut proposed by Kemp-Roth, which increases after-tax incomes of individuals and corporations by about 5 percent, would induce a doubling of business capital outlays is little more than wishful thinking.

In short, projections that a Kemp-Roth tax cut would raise output and incomes by the amount necessary to recoup revenue losses rests upon a series of extremely unrealistic assumptions.

Let me spell out briefly the more likely consequences of the Kemp-Roth proposal. A $110 billion tax cut phased in over three years would raise aggregate demand for goods and services by perhaps $200 to $220 billion—an increase of about 8 percent over what might otherwise exist. The *net* revenue loss (ignoring inflation) would then be about $75 billion. Some added investment probably would occur that would ultimately increase capacity and improve the growth of productivity by a modest amount. But in the first four to five years the increase in productive capacity coming on stream would be minute relative to the $200 billion or larger increase in the demand for goods and services. The result would therefore be a very overheated economy and an increase in the rate of inflation that could be enormous.

As I noted earlier, the economic simulation prepared for Congressman Kemp concludes that, by the third year after enactment the bill would raise the inflation rate by only about a percentage point. In my judgment, this is a substantial understatement of the inflationary effects. The actual amount of inflation induced by the proposal would, however, depend importantly on the actions of the Federal Reserve. If money supply growth were kept low in order to avoid the inflation, interest rates would skyrocket—choking off investment and economic growth. But if interest rates were kept down to facilitate the rise in investment, money and credit supplies would have to grow at extremely high rates. The sharp increase in aggregate demands for goods and services relative to supply would then express itself in a much larger rise of prices.

FOOTNOTES

[1] If GNP were somewhat lower or higher than the $2.8 trillion all of the numbers would change in roughly the same proportion. A 20 percent increase in GNP would still be required to recoup all the revenue loss.

[2] One condition is that the Federal Reserve freely provides the additional money supply needed to finance the higher level of GNP.

[3] This estimate of potential GNP assumes that the high unemployment rate is 4.9 percent. Inflationary pressures stemming from excess demand might, however, emerge before the unemployment rate dropped that far.

## AGRICULTURAL CREDIT ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 10 minutes.

● Mr. LEHMAN. Mr. Speaker, title IV of H.R. 11504, the Agricultural Credit Act of 1978, provides for the emergency conservation program, under which the Secretary of Agriculture is authorized to make payments to agricultural producers who carry out measures to control erosion or to rehabilitate farmlands damaged by natural disasters.

Horticulture is an agricultural enterprise which is growing rapidly in Florida. Therefore the rehabilitation provisions of H.R. 11504 are particularly important to Florida, considering the heavy damage that can result from hurricanes and tropical storms.

In Florida, we have many horticultural operations where fields are under saran cloth for shade. These cloths are moveable, and are put up or taken down depending on the requirements of plants at different stages of growth. A second practice that is growing more and more common in Florida and other States is to grow plants in pots in the fields, so that when the plants are ready for sale they do not have to be dug up. A hurricane could cause a great deal of damage in either of these circumstances, destroying cloths or pots as well as plants and leaving debris.

I would appreciate hearing the opinion of the distinguished gentleman from Tennessee, Mr JONES, who authored the section, as to whether horticultural operations are covered by the provisions of title IV. In the event of a hurricane, would farmers whose fields are under saran cloth or who grow plants in pots be eligible for cost-sharing assistance for clean up operations?●

## AGRICULTURAL CREDIT ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. JONES) is recognized for 10 minutes.

● Mr. JONES of Tennessee. Mr. Speaker, I appreciate the opportunity to respond to the questions raised by the gentleman from Florida (Mr. LEHMAN). I would say that as I understand the Department of Agriculture regulations on the operation of the present program for cleaning up the debris from a disaster, cost-share assistance is not now available to all horticultural field operations. Those operations which now grow their plants in pots or those who use saran cloth for shade are presently

not covered. However, in my opinion, these producers are bona fide farmers and I would have no objection to their being covered. In fact, I think they should be able to receive cost-share assistance for clean up operations resulting from disaster situations and I would hope that in the implementation of this new legislation, they would change their regulations accordingly.●

## REINTRODUCTION OF SUSAN B. ANTHONY COIN ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 5 minutes.

● Ms. OAKAR. Mr. Speaker, I am submitting my bill to amend the Coinage Act of 1965 to change the size, weight, and design of the proposed one-dollar coin. My bill proposes to place the portrait of Susan B. Anthony on the obverse side of this new coin.

I also wish to thank all my colleagues who have agreed to cosponsor this bill. Their support is invaluable.

The bill has the full support of a wide spectrum of women's organizations including the League of Women Voters, the National Women's Political Caucus, the Daughters of the American Revolution, Women's Lobby, Inc., and the National Organization for Women. Senator PROXMIRE, who has introduced similar legislation on the Senate side, has also received letters of support from chapters of the American Association of University Women, and the National Federation of Business and Professional Women's Clubs. I am very grateful to all of them and particularly to Ellie Smeal, president of the National Organization for Women who testified on behalf of the Susan B. Anthony coin.

H.R. 13570

A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—*

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391 (c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.5".

SEC. 3. (a) The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony.

(b) Subject to subsection (a) and the limitations contained in section 3517 of the Revised Statutes, as amended (31 U.S.C. 324), the Secretary of the Treasury may prescribe such design for the one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, as he deems appropriate.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.●

## LONG-MILLER AMENDMENT TO FOREIGN AID APPROPRIATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. LONG) is recognized for 5 minutes.

● Mr. LONG of Maryland. Mr. Speaker, the Long amendment now becomes "Long-Miller" as Representative CLARENCE MILLER joins in the amendment to the foreign aid appropriations bill to cut the Inter-American Development Bank and the International Development Association by $584 million, instead of offering his 8 percent across-the-board cut of the foreign aid bill. If the Long-Miller amendment should not pass, Congressman MILLER reserves the right to reinstate his proposal of an 8-percent cut.

Even with the Long-Miller amendment:

The combined appropriation for the Banks would be the largest they have ever received.

The total foreign aid bill would be the largest in 25 years.

The two Banks would be getting 14 percent more than last year—a greater increase than the President's budget allowed for major domestic programs such as social security, plus 13 percent; energy, plus 12 percent; national defense, plus 9 percent; veterans, no change; public works, minus 11 percent; and community development, minus 11 percent.●

## EXPORT-IMPORT BANK FINANCING NOTIFICATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues two communications from the Export-Import Bank which have been referred to me as chairman of the Banking Subcommittee on International Trade Investment and Monetary Policy. The first communication notifies the Congress of a proposed Eximbank transaction to assist in financing the export from the United States of U.S. goods and services to be used in the construction of two thermal powerplants located at Tunghsiao, Taiwan. The second notification would assist in financing U.S. goods and services for a gas cycling project at Alrar, Algeria.

Section 2(b)(3) of the Export-Import Bank Act of 1945 required the Bank to notify Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In the proposed transaction with the Republic of China, a direct loan of $81,400,000 would be made to the Taiwan Power Co. (Taipower), a 95-percent government-owned corporation, for the purpose of assisting in the purchase from U.S. suppliers of eight 50 MW gas turbine units, steam generating equipment, and related equipment and services. These goods and services will be used in the construction of two 300 MW combined cycle thermal powerplants in Taiwan. The plants will use fossil fuel.

The total cost of the project is $277,300,000 of which U.S. goods and services comprise $148,000,000. To facilitate U.S. participation, the Bank proposes to loan $81,400,000, 55-percent of the U.S. cost. The remaining 45-percent will consist of private loans not guaranteed by Eximbank and cash. The Eximbank credit and private loans, totaling $118,400,000 will be repaid in 20 semiannual installments beginning June 30, 1981. The first six installments and part of the seventh installment will be applied to repayment of the private loans and the balance of the payments will apply to the direct credit extended by Eximbank.

I am inserting at this point in the RECORD the letters from Eximbank pertaining to this transaction with the accompanying materials.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
*Washington, D.C., July 12, 1978.*

Hon. STEPHEN L. NEAL,
*Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, JR.,
*President and Chairman.*

*The Speaker of the House of Representatives, The Speakers' Room, U.S. Capitol, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the House of Representatives with respect to the following transaction involving U.S. exports to the Republic of China.

A. Description of Transaction:

1. Purpose:

Eximbank is prepared to extend a direct credit of $81,400,000 to Taiwan Power Company (Taipower) to assist Taipower in the purchase from United States suppliers of eight 50 MW gas turbine units, steam generating equipment and related equipment and services for use in the construction of two 300 MW combined cycle thermal power plants located at Tunghsiao, Taiwan. The plants will use fossil fuel. Repayment of the Eximbank credit will be unconditionally guaranteed by the Republic of China.

While no equipment suppliers have yet been selected, it is known that General Electric is bidding to supply all of the equipment. Gibbs & Hill Engineering Corporation of New York City will provide the engineering services.

The total project cost of the two plants is $277,300,000 of which the total cost of the U.S. goods and services is $148,000,000. Taipower will obtain loans from local banks and government agencies for the local cost of the project, and will also provide its own funds for the project.

2. Identity of the Parties:

Taipower, organized in 1946, is a corporation 95% owned by the Republic of China and its political subdivisions. It has the sole responsibility for the supply of electricity throughout the island of Taiwan. Taipower is one of the largest users of Eximbank's programs for its U.S. purchases and has maintained an excellent credit relationship with Eximbank.

The Ministry of Finance of the Republic of China will issue to Eximbank an unconditional, full faith and credit guarantee for repayment of the Eximbank direct credit.

3. Nature and Use of Goods and Services:

The goods to be exported from the United States are eight of 50 MW gas turbine generators, two 100 MW waste heat recovery steam units, auxiliary electrical and mechanical equipment, miscellaneous equipment and spare parts. The U.S. originated services are engineering services and ocean freight on U.S. flag vessels. To date only the engineering services from Gibbs and Hill have been contracted, with the remaining U.S. goods and services to be ordered in the next few months.

The U.S. goods and services will provide for two 300 MW combined cycle thermal power plants, located on the western coast of Taiwan. The two plants will supply approximately 8 percent of Taiwan's electricity needs and will be utilized to meet peak power demand. The two plants will burn light distillated oil to be supplied under a long-term contract with the government-owned Chinese Petroleum Company.

B. Explanation of Eximbank Financing:

1. Reasons:

The Eximbank direct credit of $81,400,000 will facilitate the export of $148,000,000 of United States goods and services.

Eximbank perceives no adverse impact on the United States economy from the export of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. None of the goods to be exported are in short supply in the United States.

The domestic market for conventional power equipment has been well below the United States productive capacity. Foreign orders, therefore, have become a vital portion of United States thermal power equipment manufactures' business which enables those manufacturers to retain specialized engineering and technical staffs and production work forces.

General Electric has informed us that the equipment it would be supplying would require 3,529 man years of work at its facilities, principally in Greenville, South Carolina where unemployment is 5.6%; Lynn Massachusetts where unemployment is 6.5%; Portland, Maine where unemployment is also 6.5%; Pittsfield, Massachusetts where unemployment is 6.1%; and Schenectady, New York where unemployment is 4.5%. Gibbs and Hill estimates that it will take 83 man-years of U.S. personnel to perform the engineering services.

Private financing without Eximbank guarantee is available only for the construction period and the earliest years of the repayment period. Lenders of the private financing for this transaction have informed us that they are prepared to extend the private financing without an Eximbank guarantee for a term not to exceed 6 years. In this transaction, there is a total term of nearly 12½ years consisting of a 2½-year construction period and a ten-year repayment period. Thus, private financing is inadequate to meet the total financial requirements of this project and the Eximbank direct credit is necessary in order to generate sufficient financing for the U.S. sales.

The United States suppliers have had a long beneficial relationship with Taipower as a result of their dependable performance and superior technology. However, today manufacturers in nearly all of the industrial countries are fully capable of supplying all or nearly all of the goods and services for the two power plants, and in most instances at prices substantially below the cost of the U.S. goods and services. In the past, Eximbank has received information that suppliers in Japan, Switzerland, United Kingdom and West Germany, with the strong support of the official exports credit agencies in each of these countries, submitted bids for the procurement of major equipment categories for projects similar to the two plants. All were lower in price than the comparable U.S. costs.

In view of the magnitude of the transaction and the necessary repayment term, Eximbank's credit is necessary to secure this sale for United States suppliers.

2. The Financing Plan:

The total cost of United States goods and services to be purchased by Taipower is $148,000,000, which will be financed as follows:

| | Amount | Percent of U.S. costs |
|---|---|---|
| Cash | $29,600,000 | 20 |
| Eximbank credit | 81,400,000 | 55 |
| Private loans not guaranteed by Eximbank | 37,000,000 | 25 |
| Total | 148,000,000 | 100 |

(a) Eximbank Charges:

The Eximbank credit will bear interest at the rate of 8¼% per annum, payable semianually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms:

The Eximbank credit and private loans, which total $118,400,000, will be repaid by Taipower in 20 semiannual installments beginning June 30, 1981. The first 6 installments and part of the 7th installment will be applied to repayment of the private loans and the balance of the 7th and all of the last 13 installments will be applied to repayment of the Eximbank direct credit.

Sincerely,

JOHN L. MOORE, Jr.,
*President and Chairman.*

The second transaction would assist in financing the construction of a gas cycling project to produce condensates and liquefied petroleum gas in Algeria. Eximbank proposes to extend a loan of $165,000,000 to Societe Nationale pour la Recherche, la Production. le Transport, la Tranformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria. This project should be distinguished from the two Algerian liquefied natural gas projects, one already funded by Eximbank and one pending approval.

The total cost of the project is $336,000,000. Of this amount. U.S. costs comprise $220,000,000. Eximbank proposes to loan $165,000,000 or 75 percent of the U.S. content. A cash payment of $33,000,000 and private loans not guaranteed by Eximbank of $22,000,000 total $55,000,000, the remaining 25 percent. The Eximbank loan plus the private loans will be repaid in 20 equal semiannual payments starting January 1, 1983. The private loans will be repaid out of the first two and part of the third payments. The Eximbank loan will be repaid from the remainder.

The Eximbank credit will bear interest at the rate of 8.5-percent per annum and carry a commitment fee of 0.5-percent per annum on the undisbursed portion of the Eximbank loan.

I am inserting at this point in the RECORD the letters from Eximbank pertaining to this transaction with the accompanying materials. I welcome any comments mv colleagues mav wish to offer concerning these two proposed transactions.

EXPORT-IMPORT BANK,
OF THE UNITED STATES,
*Washington, D.C. June 29, 1978.*

Hon. STEPHEN L. NEAL,
*Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, JR.,
*President and Chairman.*

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EXPORT-IMPORT BANK
OF THE UNITED STATES,
*Washington, D.C. June 29, 1978.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
*The Speaker's Room, U.S. Capitol, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Algeria.

A. Description of Transaction:

1. Purpose:

Eximbank is prepared to extend a direct credit in the amount of $165,000,000 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria, to assist in financing the export from the United States of U.S. goods and services for a gas cycling project (Alrar Project) to produce condensates and liquefied petroleum gas (LPG) at Alrar in southeastern Algeria.

The total direct costs of the Alrar Project are estimated at $336,000,000. Of this total, non-Algerian costs will amount to $274,000,000, including U.S. costs of $220,000,000; Algerian costs will be $62,000,000.

The Alrar Project represents another step in the SONATRACH program for the prudent utilization of Algeria's gas reserves. Its primary purpose is to maximize the recovery of associated gas, now flared, from two major oil-producing reservoirs, as well as the recovery of the heavier liquefiable hydrocarbons from the Alrar gas field that would be lost to the reservoir if not produced under a pressure maintenance and cycling method. The gas cycling process is designed to remove the condensates and LPG, i.e., propane and butane, and then reinject the dry gas (methane) into the field. This process involves the continuous removal of the natural gas liquids and eventual exploitation of the dry gas.

The Alrar Project, as now planned, is unrelated to the liquefied natural gas (LNG) projects now under way for which Eximbank financing has been extended (LNG-1) and for which Eximbank financing has been re-

quested (LNG–2). LNG, which is almost pure methane, is to be distinguished from condensates and LPG, which will be the principal products of the Alrar Project.

2. Identity of the Parties:

SONATRACH is the state-owned monopoly of Algeria under the jurisdiction of the Ministry of Energy and Petrochemical Industries charged with the responsibility for the development of Algeria's oil and gas resources.

Banque Algerienne de Developpement is the government-owned development bank which will guarantee repayment of Eximbank's credit for and on behalf of the Democratic and Popular Republic of Algeria.

3. Nature and Use of Goods and Services:

The principal U.S. goods to be exported from the United States for use in the construction and operation of the Alrar Project will be structural steel, compressors and drivers, tanks, heat exchangers, fabricated equipment, piping, electrical equipment and instruments. The principal U.S. services will be to provide engineering design, construction supervision and start-up and training. Major U.S. suppliers for the Project are subsidiaries, which are located in Houston, Texas, and California, of the Fluor Corporation, Irvine, California, as well as various U.S. manufacturing firms yet to be selected.

B. Explanation of Eximbank Financing:

1. Reasons:

Domestic Employment.—The proposed extension of a $165,000,000 credit by Eximbank will facilitate the export of $220,000,000 of U.S. goods and services. In addition to the engineering, design, and construction work that will result from this Project for Fluor, many other U.S. firms will receive contracts to supply equipment, with the result that U.S. export sales for the Alrar Project will generate an estimated 1,350 man-years of direct manufacturing labor in the United States.

Foreign Competition.—The award of this contract to a U.S. company will help maintain the competitive position of the United States in an important area of technology, with respect to both engineering and construction services and to the supply of equipment. There has been active European and Canadian compeitition for this Project and for similar projects in the Rhourde Nouss and Oued Noumer gas fields, for which official export credit support has been offered.

No Adverse Impact.—None of the goods or services to be exported is in short supply in the United States, and Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services.

Advantages of Project.—The Alrar Project fits Algeria's program for the development of its natural gas resources. It will generate substantial amounts of foreign exchange earnings, and, by helping to develop Algeria's energy resources, it will also help to expand the world supply of energy.

Repayment Assurances.—The considerable earnings capability of the Project indicates a very comfortable debt service coverage which, together with the guarantee of the Government of Algeria, provides a reasonable assurance of repayment for the Eximbank financing.

2. The Financing Plan:

The total cost of U.S. goods and services to be exported from the United States for the Alrar Project is estimated to be $220,000,000, which will be financed as follows:

| | Dollars | Percent |
|---|---|---|
| Cash payment | $33,000,000 | 15 |
| Eximbank credit | 165,000,000 | 75 |
| Private loans not guaranteed by Eximbank | 22,000,000 | 10 |
| Total | 220,000,000 | 100 |

(a) Eximbank Charges:

The Eximbank Credit will bear interest at the rate of 8.5 percent per annum, payable semiannually. A commitment fee of ½ of 1 percent per annum will be charged on the undisbursed portion of the Eximbank Credit.

(b) Repayment Terms:

The total Eximbank and ungaranteed private financing of $187,000,000 will be repaid by the Borrower in twenty equal semiannual installments, beginning January 1, 1983. The private loans will be repaid out of the first two and part of the third installments, and the Eximbank Credit will be repaid from the remainder.

Sincerely.

JOHN L. MOORE, Jr.,
*President and Chairman.*●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mrs. CHISHOLM (at the request of Mr. WRIGHT), for today, on account of official business.

To Mr. CORMAN (at the request of Mr. WRIGHT), after 1 p.m. today, on account of official business.

To Mr. MICHEL (at the request of Mr. ANDERSON of Illinois), for today, on account of personal injury.

To Mr. RISENHOOVER (at the request of Mr. WRIGHT), after 12:15 p.m. today, on account of official business.

To Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STEIGER) to revise and extend their remarks and include extraneous material:)

Mr. BURKE of Florida, for 10 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. WHALEN, for 10 minutes, today.

(The following Members (at the request of Mr. AKAKA) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. SIKES, for 15 minutes, today.

Mr. GIAIMO, for 15 minutes, today.

Mr. LEHMAN, for 10 minutes, today.

Mr. JONES of Tennessee, for 10 minutes, today.

Ms. OAKAR, for 5 minutes, today.

Mr. LONG of Maryland, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SEIBERLING, immediatelv prior to the vote on the Duncan of Tennessee amendment to H.R. 12433 in the Committee of the Whole today.

(The following Members (at the request of Mr. STEIGER), and to include extraneous matter:)

Mr. CONTE.

Mr. YOUNG of Florida.

Mr. GILMAN in two instances.

Mr. HOLLENBECK.

Mr. HYDE.

Mr. FINDLEY.

Mr. DERWINSKI in two instances.

Mr. MARKS.

Mr. GRASSLEY.

Mr. ABDNOR.

Mr. WHALEN in two instances.

Mr. LAGOMARSINO in two instances.

Mr. ANDERSON of Illinois in two instances.

(The following Members (at the request of Mr. AKAKA) and to include extraneous matter:)

Mr. MCCORMACK.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. FLORIO.

Mr. LEDERER.

Mr. MITCHELL of Maryland.

Mr. BRECKINRIDGE in two instances.

Mr. ZABLOCKI in two instances.

Mr. HANNAFORD.

Mr. VENTO.

Mr. MILLER of California in two instances.

Mr. BYRON.

Mr. LEHMAN.

Mr. BLANCHARD.

Mr. OTTINGER in two instances.

Mr. RONCALIO.

## ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, July 24, 1978, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4617. A communication from the President of the United States, transmitting the third annual report of executive branch activities under the Privacy Act of 1974, covering calendar year 1977, pursuant to 5 U.S.C. 552a(p); to the Committee on Government Operations.

4618. A letter from the Comptroller General of the United States, transmitting a report on financial controls and oversight of travel expenses by Federal agencies, (FGMSD–78–46, July 21, 1978); to the Committee on Government Operations.

4619. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of defense services sold commercially to Iran (transmittal No. MC–28–78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4620. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase of more than 10 percent in the fund-

ing level for the Agency's fiscal year 1978 program in Bangladesh, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

4621. A letter from the Assistant Administrator of Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase of more than 10 percent in the funding level for the Agency's fiscal year 1978 program in Tunisia, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

4622. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the final annual report of the Federal Power Commission covering fiscal year October 1, 1976, through September 30, 1977; to the Committee on Interstate and Foreign Commerce.

4623. A letter from the Comptroller General of the United States, transmitting a report on needed improvements in the Department of Agriculture's voluntary beef grading programs, (CED-78-141, July 21, 1978); jointly, to the Committees on Government Operations, and Agriculture.

4624. A letter from the Comptroller General of the United States, transmitting a report on Federal compensation comparability (FPCD-78-60, July 21, 1978); jointly, to the Committees on Government Operations, and Post Office and Civil Service.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 13311. A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes; with amendment (Rept. No. 95-1384, Pt. I). Referred to the Committee on International Relations for a period ending not later than August 3, 1978, for consideration of subsections (a) and (b) of section 9 of the Ports and Waterways Safety Act of 1972 as proposed to be amended by section 2 of the bill.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONABLE:

H.R. 13562. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain employees' trusts organized to invest in real estate; to the Committee on Ways and Means.

By Mr. DORNAN (for himself, Mr. ROE, Mr. CHARLES WILSON of Texas, Mr. EILBERG, Mr. BINGHAM, Mr. MOTTL, Mr. EVANS of Georgia, Mr. RANGEL, Mrs. HOLT, Mr. COLLINS of Texas, Mr. GARCIA, Mr. PATTERSON of California, Mr. KREBS, Mr. LIVINGSTON, Mr. HYDE, Mr. LAGOMARSINO, Mr. APPLEGATE, Mr. FISHER, Mr. MARTIN, Mr. MCCLORY, Mr. CORCORAN of Illinois, Mr. ROBINSON, Mr. STANGELAND, Mr. HAGEDORN, and Mr. GOLDWATER):

H.R. 13563. A bill to provide for the exclusion from the United States of aliens affiliated with terrorist organizations, to require investigations of registered agents of such organizations, and for other purposes; to the Committee on the Judiciary.

By Mr. FLORIO (for himself, Mr. CAPUTO, Mr. CLEVELAND, Mr. CUNNINGHAM, Mr. DICKS, Mr. DODD, Mr. DUNCAN of Oregon, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. HUGHES, Mr. KEMP, Mr. LAFALCE, Mr. LENT, Mr. MCHUGH, Mr. MAZZOLI, Mrs. MEYNER, Mr. MOLLOHAN, Mr. NOWAK, Mr. PATTISON of New York, Mr. RINALDO, Mr. ROGERS, Mr. RYAN, Mr. SANTINI, and Mr. SNYDER):

H.R. 13564. A bill to repeal section 3402(q) of the Internal Revenue Code of 1954 which requires, for income tax purposes, amounts to be withheld from certain gambling winnings; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 13565. A bill to rescind certain budget authority contained in the message of the President of July 20, 1978 (H. Doc. 95-370) transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. HARKIN:

H.R. 13566. A bill to transfer certain rural development functions of the Department of Housing and Urban Development and the Department of Commerce to the Department of Agriculture; jointly, to the Committees on Agriculture, and Banking, Finance and Urban Affairs.

By Mr. LEACH:

H.R. 13567. A bill to provide for striking and public sale of a series of gold medallions commemorating outstanding individuals in the American arts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MADIGAN:

H.R. 13568. A bill to amend the Federal Crop Insurance Act and for other purposes; to the Committee on Agriculture.

By Mr. NOLAN (for himself, Mr. ANDREWS of North Dakota, Mr. DAVIS, Mr. PRESSLER, Mr. FLOWERS, Mr. TEAGUE, Mr. THONE, Mr. EVANS of Georgia, Mrs. SMITH of Nebraska, and Mr. NICHOLS):

H.R. 13569. A bill to provide for the establishment of a board which will establish and administer agricultural production and marketing programs, and for other purposes; jointly, to the Committees on Agriculture, International Relations, Interstate and Foreign Commerce, and Ways and Means.

By Ms. OAKAR (for herself, Mrs. LLOYD of Tennessee, Mr. MAGUIRE, Mr. WATKINS, and Miss JORDAN):

H.R. 13570. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the $1 coin, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WOLFF:

H.R. 13571. A bill to amend the Internal Revenue Code of 1954 to suspend the imposition of interest and to prohibit the imposition of a penalty for failure to pay tax on underpayments of tax resulting from erroneous advice given in writing by the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. MINISH:

H. Con. Res. 670. Concurrent resolution relative to rights of Ukrainian citizens; to the Committee on International Relations.

By Mr. MCDONALD (for himself, Mr. RUPPE, Mr. LEACH, Mr. ROE, and Mr. KAZEN):

H. Res. 1282. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

518. By the SPEAKER: Petition of the Lee County Board of Commissioners, Fort Myers, Fla.; relative to the need for a four-laned municipal section of U.S. Highway 41 in Estero, Fla.; to the Committee on Public Works and Transportation.

519. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to energy impact aid legislation; jointly, to the Committees on Banking, Finance and Urban Affairs, Interior and Insular Affairs, and Public Works and Transportation.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

### H.R. 3350

By Mr. BREAUX:

(Amendment to the amendment containing the text of H.R. 12988.)

—At page 8, after line 5, add the following:

(13) The term "Secretary" means the Secretary of Commerce.

### H.R. 12931

By Mr. LONG of Maryland:

—On page 16, line 10, strike out "$814,005,483" and insert "$560,000,000".

—On page 18, line 4, strike out "$430,000,000" and insert "$100,000,000".

### H.R. 12931

By Mr. MILLER of Ohio:

—On page 16, line 10, strike out "$814,005,483" and insert "$560,000,000".

—On page 18, line 4, strike out "$430,000,000" and insert $100,000,000".

### H.R. 12988

(Amendment in the nature of a substitute.)

By Mr. JEFFORDS:

—Page 18, line 2, strike out "permit)" and insert "permit and information on the basis of which revisions are made, under section 105(a)(3), to the applicable final programmatic environmental impact statement)".

Page 24, line 3, strike out "consultation" and insert "cooperation".

Page 25, between lines 6 and 7, insert the following:

(3) The Secretary in cooperation with the Administrator of the Environmental Protection Agency shall undertake a continuing review of the information obtained pursuant to section 106(b)(10)(C), as well as other pertinent information, and on the basis of any such information shall make such periodic revisions as may be necessary and appropriate to any final programmatic environmental impact statement prepared under paragraph (1) or (2).

Page 32, line 12, after "Secretary" insert "or the Administrator of the Environmental Protection Agency".

Page 32, line 13, strike out "the Secretary" and insert "each".

Page 34, line 24, strike out "shall" and insert "in cooperation with the Administrator of the Environmental Protection Agency shall submit".

Page 35, strike out lines 12, 13, and 14 and insert the following:

(3) A summary of

(A) the results of the monitoring conducted under subparagraph (A) of section 106(b)(10) with respect to environmental matters, and

(B) the environmental impact assessments made pursuant to subparagraph (C) of such section;

and a description and estimate of any damage to the quality of the environment resulting from exploration and commercial recovery operations.

Page 35, line 18, strike out "deems" and insert "or the Administrator of the Environmental Protection Agency, or both, deem".

# EXTENSIONS OF REMARKS

## LET US SPEAK OUT ON HUMAN RIGHTS

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. CONTE. Mr. Speaker, as you know, this week marks the 20th anniversary of Captive Nations Week. This year these 7 days have a special significance.

The recent mock trials of Scharansky and Ginzburg demonstrate that after two decades, our fight to secure basic human freedoms is not yet won. Captive Nations Week is not, as some claim, an annual banal repetition of tired phrases and jaded slogans. For those nations that remain captive, this week is a yearly renewal of hope, an affirmation to the world and to themselves that America still deeply believes in the principles upon which she was founded.

These basic freedoms—freedom of religion, of speech, and self-determination—which we have celebrated as Americans for over 200 years have won global acceptance through the U.N. Charter, the U.N. Declaration of Human Rights, and the Helsinki accords. They belong to all men regardless of where they are born or in what country they live.

It goes almost without saying that the recent actions of the Soviet Government have done more to spotlight the cause of human rights than 435 speeches in the House ever can. The plight of Scharansky and Ginzburg has become the concern of all those who value freedom.

During this Captive Nations Week, let us remind the world that the conviction of these two courageous men is a symbolic rejection by the Soviets of the right of all men to certain freedoms. Only with our vocal support can those who desire freedom attain it.

The Soviet Union and other nations claim that our desire and efforts to see basic human rights affirmed is an encroachment into their domestic affairs. They claim we are foisting our ideals and values upon them.

I can only say that to remain silent would be to condone the repression and the denial of human liberties found in the Soviet Union and other nations. As President Carter said in his inaugural address, "because we are free, we can never be indifferent to the fate of freedom elsewhere."

During this week, let us speak out with more vigor than usual, but let us remember: When basic human rights are violated, words alone are not enough. Let us demonstrate to the world at large, but more importantly to the people of captive nations, that we will work tirelessly until the human rights of all are affirmed.●

## MRS. WM. T. DELAPLAINE DIES

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. BYRON. Mr. Speaker, I would like to take this opportunity to honor the memory of one of Frederick, Maryland's most outstanding citizens, Mrs. Janie Hendry Quynn Delaplaine.

Born in Ijamsville and a relative of Barbara Fritchie, Mrs. Delaplaine gave much of her time and talents to better the community of Frederick. She maintained one of the most beautiful gardens in the area, while still finding time to be an active member of many civic clubs. She was a supporter of Hood College and a past president of the Hood College alumnae association.

Her passing will be felt by all who knew and loved her and I know you will join me in extending the official sympathies of the House in honor of this patriotic American woman.

Please include the attached article from the Post, Frederick, Md.

[From the Post, Frederick, Md.]

MRS. WM. T. DELAPLAINE DIES—WAS "MISS JANIE"

Mrs. Janie Hendry Quynn Delaplaine, one of Frederick's most prominent women and a relative of Barbara Fritchie, died Tuesday, July 18, at her residence, 273 Dill Avenue. She had been ill for some time.

Mrs. Delaplaine was the wife of the late William Theodore Delaplaine, who was the president and manager of the Frederick News-Post from Aug. 15, 1955, until his death April 18, 1964. Mr. Delaplaine was the third son of the founder of The News, William T. Delaplaine.

(Funeral arrangements, under the direction of Robert E. Dailey & Son Funeral Home, will be announced Wednesday).

Mrs. Delaplaine was born in Ijamsville, Jan. 9, 1888, a daughter of the late Charles William and Harriete Eleanor Williams Quynn. She was the last of her immediate family.

She was a life-long member of the Evangelical Reformed United Church of Christ. She was graduated from the Woman's College of Frederick, later known as Hood College, in the Class of 1908. She was an ardent supporter of Hood and had remained active in the Hood Alumnae Association.

Mrs. Delaplaine was a founder and charter member of the Frederick Garden Club, a member of the Board of Directors of the Frederick Memorial Hospital, the Historical Society, the Frederick Art Club, the Salvation Army Auxiliary, and a past president of the Hood College Alumnae Association.

Survivors include her daughter, Mrs. Martin L. (Natalie) Bowers Jr. of West Chester, Pa.; two grandchildren, Martin F. Bowers and Miss Jane Elizabeth Bowers, both of West Chester; two nieces, Mrs. Samuel P. (Virginia-Quynn) Grant of North Carolina and Mrs. Myron W. (Frances Ann Delaplaine) Randall of Braddock Heights, and two nephews, Jack T. Quynn of Frederick and George B. Delaplaine Jr., publisher of the Frederick News-Post.

Mrs. Delaplaine was predeceased by two children—a son, Lt. William T. Delaplaine III, a Navy pilot killed in World War II, and a daughter, Miss Eleanor Frances Delaplaine.

Her son was killed in April 1943 in a plane crash with three other pilots and eight airmen. On May 1, 1949, the Delaplaines dedicated the airport building in Frederick in his name.

Her daughter died suddenly Oct. 22, 1938 and a garden on the Hood campus here bears a memorial plaque in her honor.

Mrs. Delaplaine was an artist, and had studied art under Miss Florence Doub, founder of the Frederick Art Club.

She was also a noted gardener, and maintained at her home one of the outstanding gardens in the city.

Jane Quynn and William Delaplaine were married Nov. 15, 1916, and had taken an anniversary cruise the year before his death.

She dedicated the Physicians Lounge at Frederick Memorial Hospital in her husband's name. She also had established scholarship funds at both Hood College and Washington and Lee University.

She had a life-long association with Hood and had known personally all of its presidents.

It is requested that flowers be omitted and expressions of sympathy be made to the Alumnae Association of Hood College in Memory of Mrs. Delaplaine.●

## VIETNAMESE REFUGEES

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. DERWINSKI. Mr. Speaker, an editorial in the Chicago Sun-Times of July 10 expresses a viewpoint which I completely share regarding President Carter's decision to admit additional Vietnamese refugees into this country. The editorial properly commends the President for his decision, and I wish to insert it at this point for the Members' attention:

HELPING THE "BOAT PEOPLE"

The plight of Indochina's "boat people"—refugees from Vietnam, Laos and Cambodia—is cruel enough in that too few countries accept them. Their tragedy has been increased by the incredible sight of military and civilian ships passing them by, leaving them adrift in their often-makeshift vessels.

To his credit, President Carter last week ordered all American ships to pick up these boat people. A State Department spokesman said the refugees may resettle in the United States if they wish.

Not only will the cost of accepting the refugees be minute compared to the billions spent in the Vietnam War, but we also stand to gain in the long run. Most of the escapees are the kind of people who accept the work ethic and whose activities generate new jobs.

For instance, Leo Cherne, chairman of the International Rescue Committee, says that

refugee youngsters already here have proved to be highly motivated students in schools and nearly 92 per cent of the employable adults have found jobs.

Canada has accepted some Indochina refugees, as have Israel and a few other countries. But since Hanoi's victory in Vietnam in 1975, the number of refugees has far exceeded the number accepted. Cherne says churches and individual families can do more to help, too. He's right, and many have.

Carter's decision was a humanitarian one. If other countries follow suit, this modern tragedy can be substantially eased.●

## CAPTIVE NATIONS WEEK

### HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. BLANCHARD. Mr. Speaker, the week of July 16–22 marks the 20th annual observance of Captive Nations Week.

During this week we take note of our commitment to help those who are not free. Yet we do so at a time when the Soviet Union has taken bold and concerted steps to stifle the spirit of freedom in their country. It is indeed frustrating and disgusting to find the Soviet Union actually making a deliberate effort to move against freedom, by further hardening their oppressive policies. Their recent actions in the trials of Anatoly Shcharansky, Alexandr Ginsburg, and Victor Pektus demonstrate a desire to systematically blot out the vestiges of a human rights movement—and they do so by employing their characteristic tool of fear. It is frightening, yet it nevertheless should be said, that the Soviet Union feels it is in a position to ignore worldwide reaction to the trials, in order to better enforce oppressive policies within their own country.

Soviet officials may believe that they can intimidate, through fear of reprisal, the many brave men and women of their own country who have spoken out against the failure of the Soviets to honor international agreements such as the Helsinki accords. Yet we cannot allow them to believe that their cruel and unjust actions will silence the outcry of the free world. We must continue to speak out, bu we must also do more.

It is time that we begin to seriously assess what kinds of more substantive actions we can undertake in such areas as economic or technological exchanges. The words of freedom have clearly had a major impact on the Soviet Union. The idea of freedom itself is disturbing to the Soviet Union because it filters even through the barriers of fear and oppression.

Yet we must now back up those words with actions—actions which force them to take seriously the commitments to human rights that they agreed to at Helsinki, actions which they cannot ignore by turning inward and imposing more oppressive sanctions against their own people.

Over the past two decades we have helped contribute to the strength of the Soviet Union through economic and technological exchanges. Let us reevaluate our policy of cooperation in these areas. For true cooperation is hinged on the premise that each party will honor its end of an agreement. The Soviet Union has not displayed this sense of cooperation because they have blatantly failed to uphold the human rights provisions which they agreed to at Helsinki. How can we continue to cooperate through economic and technological exchanges, with a party that has been as uncooperative and untrustworthy as the Soviet Union? Their recent actions in fact demonstrate how far they are willing to go in scoffing at the very notion of cooperation. We must remain undaunted in this struggle to bring freedom to those who have been denied their most basic rights. Perhaps today, during the observance of Captive Nations Week, more than at any other time in recent years, it is necessary for the people of the free world to stand up and proclaim that we will not retreat from the task before us—that we will not allow the spirit that has been displayed by the people of the captive nations to be lost or spent in vain. In deed, we must reassert with renewed vigor, our commitment to bring freedom and independence to the people of the captive nations.●

## PROHIBITION ON SEX DISCRIMINATION BASED ON PREGNANCY

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. OTTINGER. Mr. Speaker, last fall the Senate passed S. 995, legislation to amend the Civil Rights Act to make it unlawful for an employer to deny pregnancy disability benefits to an employee while providing other disability benefits. I am a supporter of this legislation; it guarantees the right of women workers to the disability benefits they have earned.

Nevertheless, on July 18 I voted against H.R. 6075, the House version of the pregnancy disability bill, which was brought up under a suspension of the rules and passed by a vote of 376 to 43.

Only noncontroversial measures are supposed to be brought up under suspension of the rules, a procedure that permits no amendments. However, H.R. 6075 is anything but noncontroversial. For, as reported out of the Education and Labor Committee, the House bill has been amended to permit employers to withhold pregnancy disability benefits from employees seeking to use them for abortion while requiring the same employers to provide benefits in all other pregnancy-related cases.

The right to choose an abortion is every woman's constitutionally protected right as recognized by the Supreme Court in 1973. For the House to abridge a woman's civil rights in a bill intended to protect women's civil rights makes a mockery of both the pregnancy disability bill and the right to choose.

I want my vote on H.R. 6075 to be understood clearly. It was not a vote against pregnancy disability benefits, which I wholeheartedly support. It was a vote for the House of Representatives to face up to the very real and deep controversy that exists when civil rights legislation is used to authorize discrimination. The bill should have been brought up for full debate and an opportunity should have been afforded to strike the antiabortion amendment from the bill.●

## TWENTIETH OBSERVANCE OF CAPTIVE NATIONS WEEK

### HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. ZABLOCKI. Mr. Speaker, I join my colleagues in the 20th observance of Captive Nations Week. Having participated in this anniversary since its inception, I believe my basic position is well known on this issue. I would, however, like to make a few brief comments in the light of the current status of East-West relations.

First, let me reemphasize my strong conviction that there is nothing inconsistent about expressing U.S. concern over the denial of civil liberties in much of the world today and attempting to negotiate meaningful agreements with other nations, including those who disagree with us on a variety of issues involving our security and overriding national interest.

As chairman of the Committee on International Relations, I fully support the administration's efforts to conclude a mutually acceptable arms control accord. Such an agreement should, I believe, be judged on its own merits and not be viewed as an expression of approval or disapproval of Soviet actions in other fields or other areas of the world.

By the same token, our commitment to the negotiation process should never be interpreted to mean that we condone Soviet oppression over its own minorities or over the peoples of Eastern Europe. Neither does it mean that we accept Soviet "adventurism" in Africa or Soviet violations of the Helsinki accords. President Carter is, in my judgment, entirely justified in making that distinction clear. He is also right in pointing out that while we have to live in the world as it is, and not as we would like it to be, the United States should not lose sight of the goals and principles upon which the Nation was founded. We should, in fact, "stand for something" and uphold our ideals—even an admittedly imperfect international environment.

Captive Nations Week serves as a reminder to all Americans that as long as the ideological struggle continues, as our adversaries consistently proclaim it will—and must—there is no more compelling human ideal or aspiration than the desire for freedom.●

## PATENT POLICY VERSUS INNOVATION

### HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. McCORMACK. Mr. Speaker, in the June 30, 1978, issue of Science magazine, which is published by the American Association for the Advancement of Science, Mr. William Carey, publisher, printed an incisive and articulate appraisal of patent policies established by the Federal Government, and the effect these policies may have on innovation and the benefits arising from our investment of billions of Federal dollars in research and development.

Mr. Carey's thoughts merit careful consideration by the Members of Congress who are sincerely concerned with the need for the public to obtain even a reasonable benefit from our Federal research and development programs. Accordingly, I am taking this opportunity to insert the editorial in the CONGRESSIONAL RECORD. I hope that it may stimulate serious thought in the minds of the Members of Congress, the administration, and the general public, to the end that we may consider our patent policies and program requirements associated with research and development funding.

We have waited too long to address this matter realistically. Mr. Carey's editorial makes this plain. It should stimulate us to corrective action.

The editorial is as follows:

PATENT POLICY VERSUS INNOVATION

The United States is engaged in a massive research and development effort which, measured in current dollars, is edging close to the level of $50 billion annually, counting outlays in both the federal and the private sector. The budget for R & D in government calls for more than $28 billion in the next fiscal year. There is no doubt that the R & D input is strong. The *output* side may be a very different story.

We support R & D to learn something that we do not know, and to make use of what we learn. Like any other type of investment, R & D is expected to yield returns. In the case of government-financed R & D the question arises, Are the investors getting full and timely return? Are the results of federally funded R & D finding their way into the market?

The evidence, as usual, seems mixed. About 8000 inventions are said to be generated each year from government-financed R & D, many of which are patentable. Not enough of these apparently reach the market. Some 30,000 government-owned patents are piled up awaiting takers. To that extent, the national economy is not being enriched and utilization is forestalled. It is a baffling situation until one realizes that the blockage occurs largely in the government's patent policy.

The government operates on the proposition that the economic rewards from federally funded R & D should be captured by the government, or shared only grudgingly with others, since public funds were used. The view prevails that if rights to the discovery were released to private developers on an exclusive basis unreasonable private enrichment could occur. There is scant evidence to support these apprehensions, but the doctrine is riveted into the government's thinking. The effect is that the market incentive to develop government-financed discoveries is circumscribed and inventions are isolated from normal risk-taking and pursuit.

It is not hard to see how this can inhibit the prospects for pass-through of discoveries from biomedical research or energy-related R & D. We see a prodigious R & D enterprise, fueled by tax dollars, constrained from diffusing its results because of a public policy barrier. Throughout the enterprise, discoveries sit stranded and aging. Meanwhile, we search for clues as to what is wrong with U.S. technological innovation, and how it is that foreign industry can undercut American competitiveness and employment.

As usual, public policies are muddled, conflicting more often than complementing one another. In the new study ordered by President Carter of the problems assailing industrial innovation, a fresh opportunity is provided to reexamine both the premises and the consequences of government patent policies. There is ample evidence that the costs of producing and marketing an invention are many times as great as the outlays on the R & D that led to the invention. Not many developers will take these risks with inventions resulting from federal R & D, in the absence of clear ownership.

It begins to appear that we have thought of "science policy" too much in terms of stimulating R & D and too little in terms of liberating its results. The benefits of federally funded R & D are hard enough to realize without the added drag of a dubious policy on patents. A public which is regularly lectured on the promise and performance of science may not be grateful to learn that government's rules are blocking research applications. That could be far more harmful to science than the Golden Fleece awards.

Public policy, if wisely designed, can stimulate economic pursuit of government-financed inventions while at the same time minimizing the risk of abuses. What is clear is that the present patent policies will not get us innovation, nor health and energy benefits, nor economic growth, nor trade competitiveness. We can hardly make the case that R & D contributes significantly to the nation's economy if, at the same time, we isolate its results from utilization. Here is a notable "Catch 22" in federal R & D policy, and it is time to bring it into the open.●

## RECOGNITION OF RITA WHITTAKER

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. LAGOMARSINO. Mr. Speaker and distinguished Congressmen, I would like to take this opportunity on behalf of myself and that of my late colleague, the Honorable Bill Ketchum, to recognize the great contributions of his constituent, Mrs. Rita Whittaker, for her 30 years of loyalty, devotion, and dedication as administrative assistant to the superintendent of the Panama Union School District. She is considered by her colleagues as one of the most highly esteemed and universally loved individuals in the field of education in Kern County, Calif. Mrs. Whittaker is not only recognized for her contributions to education but also for unselfish contribution of time and energy to innumerable community projects. Currently, a petition is being circulated to name a school in her honor. So I ask my fellow colleagues to help me give thanks to such an outstanding citizen. We wish her a very long, healthy, and relaxful retirement.●

## ARE NUCLEAR PLANTS SAFE?

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. MILLER of California. Mr. Speaker, time and time again, in my work on the House Interior Subcommittee on Energy and the Environment, I have seen the Nuclear Regulatory Commission provide less than full and candid information to our subcommittee, despite repeated requests to the contrary. The accompanying articles illustrate that they have succeeded in this case. I will not repeat or summarize what the following articles say, for they do a fine job of laying out a picture of what appears to be a serious lack of strict safety regulation by a former Atomic Energy Commission official who is now the Chairman of the Nuclear Regulatory Commission. This type of incident is not new to our subcommittee, and we will be investigating it thoroughly. I hope that by placing these articles in the RECORD, that other Members become aware of one of the main stumbling blocks to the further advancement of nuclear power: The apparent actions to protect the nuclear power industry by an agency charged with the protection of the public health and safety. It is a lack of confidence in the NRC that is a contributing factor in the Congress declining support of nuclear power as an energy option for the future. I hope that this confidence can be restored, and am heartened by the recent appointment of Dr. Ahearne as the fifth NRC Commissioner. This is a step in the right direction.

The articles follow:

[From the Washington Star, June 23, 1978]

HE FOUGHT SAFETY PLAN IN '72, NRC HEAD SAYS

(By John J. Fialka)

After prodding from Congress, the head of the Nuclear Regulatory Commission has released a document showing he opposed a suggested major change in the design of nuclear power plant safety systems in 1972.

In the memo, released yesterday, the NRC's current chairman, Joseph M. Hendrie, said that although the proposed design change "is an attractive one in some ways," implementing it would conflict with "conventional wisdom" in the nuclear power field.

"Reversal of this hallowed policy, particularly at this time, could well be the end of nuclear power. It would throw into question the continued operation of licensed plants . . . and would generally create more turmoil than I can stand thinking about," the memo states.

Key portions of the memo and others showing that the NRC's predecessor, the Atomic Energy Commission, may have been pressured not to release information about the design problem, had been withheld from an anti-nuclear group, the Union of Con-

cerned Scientists, on the grounds that if they were released under the Freedom of Information Act they would "inhibit the free exchange of opinion" among the staff of the NRC.

Hendrie, who wrote the memo while he was deputy director of licensing for the AEC, reversed the policy yesterday after Sen. Gary W. Hart, D-Colo., suggested in a letter to Hendrie that public release might "improve the credibility of the commission."

Rep. Morris K. Udall, D-Ariz., chairman of the House Interior Committee, was also reported to be miffed about the matter. "It seems to be a problem that was withheld from public hearings on safety issues," complained a Udall aide.

The problem was first raised by Dr. Stephen Hanauer, a technical advisor at the AEC and the NRC, who has the reputation of being a "devil's advocate," a man who often questions accepted engineering practices within the nuclear industry in order to stimulate better safety measures.

In a memo written in November 1971, Hanauer argued that a small leak in pressurized pipes carrying superheated water in the reactors designed by General Electric—of which there are more than 50 in use or under construction in the United States—could bypass a pool of water used as a safety device to condense any steam escaping from the nuclear reactor.

The escaping steam would eventually "overpressurize" the dome surrounding the nuclear plant, causing it to collapse, Hanauer suggested.

He added, "GE wants us and ACRS (an advisory panel of outside scientists and engineers used by the AEC and the NRC) not to mention the problem publicly. They are afraid of delaying hearings in progress."

Hendrie, one of nine AEC officials who were asked to comment on the Hanauer memo, wrote a brief memo to his superior, John F. O'Leary, who has since become deputy secretary of the Department of Energy.

Asked about this controversial response, Hendrie said, "I sort of dashed it off in a hurry. It was meant to be a casual, flippant sort of a note that doesn't attempt to be explicit about the issue."

Hendrie said the problem posed by the possibility of a slow leak was later corrected by procedures and design changes to make sure that "vacuum relief valves" used in the GE pipes do not stick open. There is no ban on the GE design under consideration, Hendrie asserted. "They (GE's plants) present an adequate level of safety," he said.

Robert D. Pollard, a former GE engineer who now works for the Union of Concerned Scientists, has charged that the design feature allows GE to use much cheaper domes over its plants than the heavy steel and concrete ones used by its chief competitor, Westinghouse. The dome is intended to be the last barrier between the radioactive materials in the plant and the outside environment.

Pollard has charged that the withholding of the documents constituted a "cover-up" and possible "illegal activity on the part of former AEC officials, now officials of the NRC."

Hendrie, who yesterday authorized the release of the memo and 153 other documents he signed while he worked for the AEC, asserted that the problem was never covered up and that new refinements of the GE design are being considered.

"My, we had some splendid fights in those days. Everybody in town ought to find something he can be offended at in there," Hendrie said, referring to the documents. With the exception of documents signed by NRC chairmen, Hendrie believes that comments made in the heat of debate over safety designs should be withheld to permit a "frank discussion."

Bertram Wolfe, vice president of GE's nuclear program, said he had "no knowledge" of any attempt by GE to get the AEC to suppress public discussion of the problem.

The GE design, he asserted, "is safer" than its competitors because "it reduces the pressure almost immediately."

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[From the New York Times, June 23, 1978]

NUCLEAR OFFICIAL SOUGHT TO SUPPRESS MEMO

(By David Burnham)

WASHINGTON, June 22.—The chairman of the Nuclear Regulatory Commission last month sought to suppress a memorandum he wrote in 1972 in which he contended that a plan to solve an important reactor safety problem "could well be the end of nuclear power."

Joseph M. Hendrie, who wrote the memorandum when he was an official of the Atomic Energy Commission, further argued in it that if the plan was adopted it "would generally create more turmoil than I can stand thinking about."

Though the Government took no action in 1972, the commission earlier this year exempted 21 of the 70 reactors operating in the United States from a Government rule requiring a "sufficient margin of safety" because of continuing concern about some of the same problems that had been raised in the original discussion.

Mr. Hendrie, in an interview yesterday, acknowledged that he decided last month to refuse a request for the memorandum by the Union of Concerned Scientists, an anti-nuclear group that had asked for the document under the Freedom of Information Act. Today, after inquiries from Congress, he placed his 1972 memorandum and several other documents into the public record.

WRITTEN IN HASTE

He said in the interview that the 1972 memorandum had been written in great haste and was "smart alecky" and that his decision to attempt to block its release to the public was wrong.

Daniel F. Ford, director of the Union of Concerned Scientists, today voiced criticism of the memorandum and the way it had been handled.

"Dr. Hendrie's memorandum indicates that the nuclear regulatory process has been perverted by officials who are more interested in protecting the nuclear industry from criticism than in protecting the public health and safety," he said.

Mr. Hendrie agreed that his 1972 memorandum could be read as an indication that he was more concerned about the nuclear industry than nuclear safety. But he contended that such an interpretation "does not reflect my views then or now."

When he wrote the memorandum, Mr. Hendrie was the deputy director of licensing for technical review of the Atomic Energy Commission, the predecessor of the Nuclear Regulatory Commission. The commission is responsible for assuring the safe operation of nuclear reactors.

The memorandum was prompted by a recommendation made by Stephen H. Hanauer, then technical adviser to the director of regulation of the Atomic Energy Commission.

PROBLEMS IN PRESSURE SYSTEM

Dr. Hanauer, on Sept. 20, 1972, said that "recent events have highlighted the safety disadvantages of pressure suppression containments," a technically complex system designed to handle the heat and pressures that would result if a reactor somehow lost its cooling system in a serious accident.

Although Dr. Hanauer said such pressure containment systems had some advantages, he added that "on balance I believe the disadvantages are preponderant. I recommend that the A.E.C. adopt a policy of discouraging further use of pressure-suppression containments, and that such designs not be accepted for construction permits filed after a date to be decided.

Four days later, Mr. Hendrie wrote his memorandum.

It began by saying that "Steve's idea to ban pressure suppression containment schemes is an attractive one in some ways."

Mr. Hendrie noted, however, that system was widely accepted by all elements of the nuclear field. "Reversal of this hallowed policy, particularly at this time, could well be the end of nuclear power. It would throw into question the continued operation of licensed plant, would make unlicensable the G.E. and Westinghouse ice condensor plants, and would generally create more turmoil than I can stand thinking about."

The pressure suppression containment system was designed by the General Electric Company for its nuclear reactors. The system is an integral part of 21 of the reactors now operating in the United States, including those owned by Consolidated Edison, the Niagara Mohawk Power Corporation, the Power Authority of the State of New York, the Connecticut Yankee Atomic Power Company and Jersey Central Power and Light.

According to a recent report by the N.R.C.'s Advisory Committee on Reactor Safeguards, several of the problems raised by Dr. Hanauer in his 1972 proposal are still considered unresolved questions "important in assuring the health and safety of the public."

Following inquiries from Representative Morris K. Udall, Democrat of Arizona, chairman of the House Interior Committee, and Senator Gary W. Hart, Democrat of Colorado, chairman of the Subcommittee on Nuclear Regulation, Mr. Hendrie requested Dr. Hanauer to give his current opinion about pressure containment systems.

Dr. Hanauer, still a staff member of the N.R.C., replied that despite his 1972 recommendations that the system be abandoned he believed then and believed now that "we have adequate assurance of their safety."

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[From the Independent and Gazette, June 20, 1978]

NUCLEAR OFFICIALS HUSHED WARNING

(By David Hoffman)

WASHINGTON.—Six years ago, top U.S. nuclear energy officials were quietly urged to ban new construction of certain nuclear power plants because of safety risks in the containment system designed to absorb the heat of a major nuclear accident.

But a previously undisclosed memo shows that Joseph M. Hendrie, then a high-ranking Atomic Energy Commission official and now the nation's top nuclear regulator, threw out the suggestion because he feared it "could mean the end of nuclear power."

"It would throw into question the continued operation of licensed plants . . . and would generally create more turmoil than I can stand thinking about," said Hendrie, who is now chairman of the U.S. Nuclear Regulatory Commission.

Hendrie's conclusions were censored by the NRC when the letter was released recently to the Union of Concerned Scientists, an anti-nuclear activist group. But the full text was obtained by the I-G's Washington bureau.

The disclosure of Hendrie's memo is likely to fuel new controversy on Capitol Hill about what critics view as the protective attitude that the NRC has taken of the nuclear power industry it is charged with regulating.

The original suggestion—to halt the building of so-called "pressure-suppression" containments—was never adopted, and currently about 20 U.S. nuclear power plants are licensed to operate with this containment system. Thirteen were licensed after 1972.

The containment is a doughnut-shaped ring encircling the reactor, holding water

that would be used to condense onrushing steam in the event of a core melt-down.

In September, 1972, Stephen Hanauer, technical advisor to AEC's director of regulation, pulled together a series of safety concerns he had about the pressure-suppression containment system, concluding that there were a "preponderance of disadvantages" with it.

But, Hanauer says today, "I don't think it was taken very seriously."

"The memorandum was exceedingly significant," Daniel Ford, executive director of the Union of Concerned Scientists, testified last week before the House energy and environment subcommittee chaired by Rep. Morris K. Udall, D-Ariz.

". . . It refers to the nuclear containment system . . . of the type primarily used on General Electric nuclear plants," he said. "Hanauer's conclusions that the safety disadvantages were such that GE should no longer be permitted to use it had far-reaching implications for public safety."

Bert Sobon, manager of containment licensing for General Electric, defended the safety of the pressure-suppression containment system. He said it had numerous advantages over the "dry" containments that are just concrete shells around the reactor.

At least seven pressure-suppression containment systems had already been licensed and in operation when Hanauer wrote his 1972 memo raising questions about safety risks in the system.

In his letter, Hanauer warned that valves which play a crucial role in the safety of the pressure-suppression system "do not have a very good reliability record." If the valves are not working properly, Hanauer said, the increased hydrogen volume in the chamber could create an "explosive mixture."

Moreover, Hanauer said that 10-year-old test data on safety risks provided by General Electric—and accepted "for many years" by the AEC—had turned out to be "incorrect" because it was "not applicable" to accident conditions.

Taken together, Hanauer said, the "disadvantages are preponderant" in pressure-suppression containment.

"I recommend that the AEC adopt a policy of discouraging further use of pressure-suppression containment and that such designs not be accepted for construction permits filed after a date to be decided.

But Hanauer says that "nothing" happened after his warning was issued. To this day, he says, he has never received a response from those who received it.

Hanauer's letter was sent to several top nuclear safety and licensing officials, including Hendrie, who was at the time deputy director for technical review at the AEC's directorate of licensing. A copy also went to John F. O'Leary, then the AEC's head of licensing and now a top U.S. Energy Department official.

On Sept. 25, Hendrie wrote a two-paragraph memo to O'Leary in which he acknowledged that the idea to "ban pressure-suppression containments is an attractive one . . ."

But Hendrie rejected any shift in federal policy because, he said, acceptance of pressure-suppression "by all elements of the nuclear field . . . is firmly embedded in the convention wisdom."

"Reversal of this hallowed policy, particularly at this time, could well be the end of nuclear power," he said.

Hendrie has refused all comment on his remarks or why he had them censored before release to the Union of Concerned Scientists. O'Leary could not be reached for comment.

However, it was learned that Hendrie has been asked for an explanation from both sides of Congress. He is scheduled to respond this week to letters from Udall and from Sen. Gary Hart, D-Colo., who chair the key Senate subcommittee that oversees the NRC.

The censored version of Hendrie's memo surfaced last week during UCS testimony before Udall's subcommittee on the Carter Administration's bill to speed up nuclear licensing procedures. The UCS charged that Hendrie had failed to disclose Hanauer's concerns in official safety reports.

"There is a broad discrepancy between internal federal assessments of nuclear power plant safety and what is reported in official safety evaluation reports," said Ford of UCS.

The disclosure of Hendrie's memo comes on the heels of previous incidents in which Udall and others on Capitol Hill have criticized the NRC's reluctance to disclose information unfavorable to the nuclear power industry.

"Some of the commissioners and staff continued to be imbued with the notion carried over from the AEC era that there exists a duty to protect nuclear power from its critics, rather than lay out all the facts, no matter how unpleasant they may be," Udall charged in a recent report on the NRC.

In another memo recently released to the UGS, Hanauer recounted a meeting of a special AEC task force set up in November 1971 to study the problem of steam leakage in pressure suppression chambers.

In his notes, Hanauer said that General Electric wanted federal regulators "not to mention the problem publicly" because they were "afraid of delaying hearings in progress."

But Hanauer insisted at the time, that a "commitment" should be obtained from General Electric "to study and fix the problem in whatever way is found . . . all safety evaluations reports from now on will have to 'fess up.'"

Solutions were later found to some of the safety concerns raised in Hanauer's original 1972 letter, but questions have persisted about pressure-suppression systems.

New research brought to the NRC's attention in April 1975 by General Electric cast doubt on the safety margins in earlier nuclear plants, and recently 20 boiling water reactors were granted official waivers by the NRC until a long-term program is completed to bring them into compliance with U.S. safety standards.●

## AMBASSADOR ANDREW YOUNG

### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. ABDNOR. Mr. Speaker, like most Americans, the people of South Dakota are shocked and ashamed at United Nations Ambassador Andrew Young's most recent public utterances.

I have the highest personal regard for our House colleague and the distinguished record which brought him to his present position of world power and influence. Yet, it sometimes seems that Mr. Young does not realize the reverberations of his statements on the conduct of U.S. foreign policy, for which he is supposed to be a defender and spokesman.

The fine art of diplomacy requires far more sensitivity than that imposed upon most of us in public life.

Evidence of widespread dissatisfaction with Mr. Young's performance and public statements comes to me daily from constituents in all walks of life and of differing political persuasions.

Although this is not just a partisan issue—it is an American issue that reflects upon all citizens and our very system of government—the South Dakota Republican State Central Committee has asked me to insert in the RECORD the text of a resolution adopted at Pierre, S. Dak., on July 15, as follows:

RESOLUTION

Whereas, by his public utterances Ambassador Andrew Young demonstrated a deliberate insensitivity to the desperate condition of Jews and other dissidents in the Soviet Union, and lack of understanding of the outrage of most Americans at the brutal and undeserved punishment of Alexander Ginzburg and Anatoly Scharansky:

And whereas, his false allegations concerning political dissenters in the United States has brought discredit upon our political system and has aided the Soviet Union in its attempts to avoid compliance with the Helsinki accords,

It is therefore resolved, that this South Dakota Republican State Central Committee demands that a new ambassador to the United Nations be appointed who does represent the thinking of the American people.●

## COMMENTS ON ASBESTOS CONTROL

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. ANDERSON of California. Mr. Speaker, as many of our colleagues know, I am deeply interested in and concerned with the problems of exposure to asbestos in our general environment, and our workplace. There is much to be done before we solve this problem.

I feel that the commander of the Long Beach Naval Shipyard, Capt. Ed Kaune, is taking aggressive action to try to solve the problem of asbestos usage and control in his shipyard. This, however, is only going to be part of a solution.

I would like to make sure that there is absolutely no placement of asbestos in new ships for any utilization where there is a functionally acceptable substitute. The letter which I received from the Navy, dated July 14, implied that this might be the case, but seemed to avoid clearly stating this to be so.

The letter did state, and this disturbs me, that asbestos would only be removed during the ordinary course of overhaul, regardless of its condition. Apparently, asbestos could be crumbling before their eyes, and it would not be replaced until the scheduled overhaul.

An employer should act in a more responsible manner when his workers lives are at stake. And, of course in this case, the employer is all of us; the people of the United States.

The people of this country should insist that the health of workers in the private sector is also protected. I have written to the Occupational Safety and Health Administration, urging that

much tougher standards be imposed on the use of asbestos in the workplace. The current standard which allows 2.0 asbestos fibers per cubic centimeter is little more than a very sick joke; a deadly joke. Two and a half years ago, ISHA proposed a standard allowing only 0.5 fibers, and this has yet to be approved. The National Institute for Occupational Safety and Health, in 1976, recommended a standard based on 0.1 asbestos fibers per cubic centimeter.

Clearly, Federal health experts feel that the asbestos standards the American worker must live with today could kill him tomorrow.●

## THEATER NUCLEAR BALANCE

## HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, in the first entry in the regional part of my Balances of Power series (Book III), NATO's increasing vulnerability to a Warsaw Pact attack was explained in an article by Justice Galen. Today, continuing our look at the region of NATO's center sector, the same author—a pen name—examines the growing imbalance which is the most troublesome, certainly, to the Europeans and most destabilizing in the absence of corrective action by NATO and the United States: the imbalance in tactical nuclear weapons and the doctrines and assumption underlying the different approaches to theater nuclear warfare. This article, taken from the Armed Forces Journal International, January 1978, is entitled, "Theater Nuclear Balance (part 2)." The first part of the article follows:

Part one of this series discussed the trends in NATO and Warsaw Pact theater nuclear forces which are giving the Warsaw Pact parity or superiority in theater nuclear strength, which are giving the Warsaw Pact the ability to match NATO at virtually any level of conflict or escalation, and which are sharply increasing the number of warheads the Warsaw Pact can bring to bear against NATO targets. This article concludes the assessment of current trends in the theater nuclear balance by examining:

Comparative capability to initiate and escalate a conflict;

Ability to manage the intensity of a conflict, terminate a conflict on equal or favorable terms, and limit or control a nuclear conflict to a tactically or strategically acceptable degree;

Comparative vulnerability;

Ability to use "conventional" forces effectively in a tactical nuclear war;

Comparative command and control capability; and

The comparative impact of theater employable strategic systems on the theater nuclear balance.

### COMPARATIVE CAPABILITY TO INITIATE AND ESCALATE A CONFLICT

Both NATO and the Warsaw Pact have a sufficient variety of nuclear warheads and delivery systems to initiate and escalate a theater nuclear conflict to virtually any level of intensity. The Warsaw Pact is developing a distinct superiority in some areas, such as long range theater surface-to-surface missiles, and is improving its theater nuclear forces more rapidly than NATO. However, the U.S. and U.K. can allocate large numbers of strategic warheads against long range Warsaw Pact theater targets, and the balance of forces in the table below indicates that NATO retains powerful theater nuclear capabilities.

The most critical difference in each side's capability to initiate and escalate theater nuclear war lies in the differences between their political control, ideology, and military doctrine, rather than in their relative force strength and hardware. These differences are "soft"—they cannot be quantified or easily proven—but they are basic to an understanding of the theater nuclear balance.

### IDEOLOGICAL CONSTRAINTS ON NATO: THE STRATEGY OF DETERRENCE

NATO is a democratic alliance. Its military and political structure is inherently tied to the traditions of the nations that have created it. It is reactive, defensive, and deliberate in character. Its liberal Western origins inevitably limit its willingness to use nuclear weapons to fight or escalate. NATO concentrates its planning on successful deterrence, and not successful war fighting. Every NATO activity dealing with theater nuclear forces is oriented towards conflict avoidance, control, and termination.

Whatever military prudence may dictate, NATO is run by military, civilian, and political decision makers who are anything but likely to authorize nuclear war until it has been forced on NATO by the Soviet Union. There are very few NATO military officers who would even privately advocate a NATO first strike, a preemptive strike strategy, or escalation to a massive level of theater-wide conflict. NATO's military is no more anxious to engage in general war than its civilians.

In fact, one of the great ironies of NATO theater nuclear planning is that neither NATO's civilian or military planners could seriously come to grips with the concept of actually having to fight a theater nuclear war for the first two decades of NATO's existence.

During the 1950's, NATO used its initial monopoly of theater nuclear systems to create a deterrent strategy based on a nuclear tripwire. This "MC14/2" strategy provided a limited "shield" of conventional forces. If this "shield" was beaten down, NATO planned to launch its "sword" in the form of a massive all-out attack with its nuclear strike fighters. No one really looked beyond this retaliation.

In practical terms, NATO had no real war plan, only a massive deterrent. In spite of occasional rhetoric to the contrary, NATO linked its theater nuclear forces to the U.S. strategic war plan or SIOP. NATO never developed the command control systems, or other basic war fighting tools, that would have allowed it to fight a theater nuclear war after the first massive exchange.[1]

This situation did not change when NATO converted to a strategy of "flexible response" in the mid-1960s. Contrary to popular opinion, NATO did not develop meaningful options for fighting nuclear wars at controlled levels of escalation as part of its new "MC 14/3" strategy of "flexible response". It concentrated all its attention on improving its conventional options, and on improving civilian control over NATO's nuclear weapons.

As a result, NATO remained totally reliant on theater nuclear deterrence. There was no "flexible response" beyond the limited demonstrative use of a few nuclear weapons. NATO had a choice of options linked to the SIOP or nothing. It also continued to rely on alert strike fighters—"QRA" or quick reaction alert fighters—long after these and their bases became so vulnerable they made sense only as a "first strike" force.

It was not until 1973 that Secretary of Defense James R. Schlesinger shifted U.S. strategy to an emphasis on realistic options for graduated theater nuclear response. It was only then that NATO began to seriously plan for what might happen if deterrence failed.[2]

Yet, NATO still focused on what could be done to control wars rather than fight them. NATO sought the means to control or reduce the collateral damage its weapons would do to civil populations. It sought credible battlefield, theater, and regional nuclear options that would cause the Soviet Union to halt a Warsaw Pact attack, rather than to defeat such an attack.

NATO assumed that it must plan as if there were an alternative to theater-wide war. It added conflict control and a wide range of deterrent strike options to its basic deterrent capability, but it did not seriously plan to fight theater nuclear war.

### THE COST OF A DETERRENT STRATEGY

This emphasis on deterrence does not mean that NATO is relying on, or ever has relied on, a theater nuclear bluff. Ultimately, if the Warsaw Pact should ever force the issue, NATO would use its nuclear weapons.

NATO might even initiate demonstrative or limited theater nuclear strikes to halt a Soviet attack, if forced to do so by a Soviet defeat of its conventional forces, by desperation, or by Soviet escalation. NATO would certainly match the Warsaw Pact step by step to theater-wide or strategic nuclear conflict.

In short, NATO's moral and ideological constraints are not weaknesses, but they do have major military effects. NATO cannot credibly take advantage of many of the major tactical and strategic options for fighting a theater nuclear war which Warsaw Pact planners have made a basic part of their theater nuclear doctrine:

NATO cannot launch a surprise theater nuclear strike before a conflict starts, regardless of how inevitable war is believed to be, or the risk of a Soviet first strike, NATO is not a first strike alliance.

NATO cannot preempt a Soviet strike or major act of escalation until a war reaches so high a level of conflict that political restraint ended and preemption would have little value. NATO is not a preemptive Alliance.

NATO cannot shift to theater nuclear war—with the possible exception of demonstrative use or very selective strike—until its conventional defenses fail or are on the edge of failure. NATO would initiate even battlefield use of nuclear war only as a last resort.

NATO will always act to seek to control or terminate conflicts, and will take significant military risks in trying to do so. NATO is incapable of letting its commanders fight a purely military battle, or in ways which seek tactical military objectives rather than the political goal of conflict termination.

NATO cannot act as if nuclear weapons were simply an extension of other means of firepower. NATO's political organization and leadership is fundamentally incapable of ceasing to make moral distinctions between conventional and nuclear forces. NATO will concentrate on conventional options for nonmilitary reasons.

These are powerful constraints on NATO's war fighting effectiveness. There is no question that Soviet military doctrine, operations research, and systems analysis is correct in stressing the military value of precisely the opposite approach to initiating and fighting theater nuclear war.

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[1] These problems are discussed in depth in Lynn E. Davis' "Limited Nuclear Options," Adelphi Paper 121. I.S.S.S., London, Winter 1975/1976.

[2] L. E. Davis, op. cit., pp. 2–5.

THE SOVIET APPROACH TO WAR FIGHTING

Soviet planners constantly emphasize the value of a first strike, of preemption; of seizing and maintaining the nuclear initiative; and of totally integrated conventional and theater nuclear tactics and force structures.

Anyone who reads through the discussions of nuclear war in the Soviet Military Thought series—or through the extensive unclassified discussions of Soviet exercises, plans, and military literature in RAND, SRI, BDM, and SPC studies—becomes aware of the fact military leadership does not agonize over theater nuclear war. In contrast to the West, the Soviets write about the "scientific" character of such wars. They write about theater nuclear weapons as simply one more extension of firepower, as an aid to mobility, as a method of ensuring breakthroughs, and as a substitute for shock and surprise.[3]

The Soviet military have extended Lenin's focus on what Von Clausewitz called "perfect" or "pure" war to virtually all their discussion and practice of theater nuclear war. While the top Soviet political leaders may, and hopefully do, have a more constrained view of the use of theater nuclear war, there is no published Soviet counterpart to the constant Western discussion of control, avoidance, conflict termination, and deterrence.

This basic difference in ideology also affects other aspects of conflict initiation and escalation. Most Soviet writing tends to treat a war in Europe as a decisive struggle that must end in a conclusive victory for Communism.

Although some allowance must be made for rhetoric, this leads Soviet military writers to focus on the probability that any major conflict would inevitably escalate to the point where NATO would be forced to initiate large scale use of nuclear weapons. And, having begun with the assumption that war must be decisive and will almost certainly eventually escalate, they move immediately to discussing the advantages of efficient massive preemption or strikes that achieve a high degree of tactical surprise.

Almost in reverse of Western planners, who focus on controlling or terminating a slow upward process of escalation from conventional to general war, the Soviets focus on fighting nuclear war from the top down. Their doctrine and methods of analysis focus on how massive deep ranging strikes might bring victory, on how they might help Soviet armored forces smash NATO defenses and sweep across NATO's lines of communication through Belgium and the Netherlands and deep into France.

While not totally rejecting conventional or limited nuclear war, Soviet doctrine still regards the feasibility of such limited war as extremely doubtful. The Soviets concentrate on theater nuclear grand strategy. Their primary concern lies in having the kind of capability provided by the SS-20, the Backfire, and new Soviet strike fighter aircraft—on having the option to win on a theater-wide basis.

It is scarcely surprising, given these differences, that the USSR places so much emphasis on improving the number of nuclear weapons it can deliver against any NATO target, and against NATO air bases, facilities in the rear, and nuclear storage sites. It is also not surprising that Soviet force improvement priorities differ so sharply from NATO's attempts to improve control of escalation or collateral damage, such as the "neutron bomb."

NATO and the Warsaw Pact have fundamentally different priorities in improving their theater nuclear forces. This difference permeates every aspect of NATO and Warsaw Pact force planning, and force structure.

There are some caveats, however, that must be added to any interpretation of Soviet willingness to initiate theater nuclear war:

There are no indications that the Soviets are not deterred by the thought of the damage NATO can inflict, or the risk of strategic escalation. The Soviets very clearly understand the cost of large scale conflict in Europe. There is no indication they would engage in war more readily than NATO, or regard a strategy of trying to win a theater nuclear war as desirable unless their vital interest were threatened. The difference lies fundamentally in what each side would do at the point that a war seems inevitable and not in the caution both sides now show in moving towards any such confrontation.

Recent work by Dr. Joseph Douglas of Systems Planning Corporation strongly indicates that the Soviets do place strong emphasis on damage limitation, and are in no sense cavalier about collateral damaged.[4] Although past U.S. studies have tended to estimate that the Soviets would use the largest possible yield a delivery system could carry, it now seems almost certain that the Soviets would actually use much lower yields tailored to the size of a target attacked. This does not mean that they have NATO's interest in controlling collateral damage "from the bottom up." It does mean the Soviets are efficient military planners. They will not use unnecessary force, or unnecessarily destroy the economic structure of the Europe they intend to win or "liberate."

It is impossible to tell the extent to which present Soviet doctrine is the result of past failures in NATO doctrine. Unfortunately, NATO's unwillingness to think about the unthinkable has led it to adopt deterrent postures that must have seemed extremely threatening or hypocritical to Soviet military planners.

As noted earlier, it was not until Secretary of Defense James R. Schlesinger directed the Joint Chiefs to develop a realistic capability to fight at any level of escalation, in 1973–1974, that the USSR had any reason to regard a graduated nuclear response as credible, and they may well have regarded NATO's previous doctrine of flexible response as little more than a political fraud.

Accordingly, NATO's past emphasis on deterrence, and its political and ideological unwillingness to deal with nuclear weapons in terms of realistic war fighting options may have had an unintended and unmeasurable influence in shaping Soviet doctrine and strategy to focus on the probability of large scale nuclear conflict, and on striking preemptively or first. There are times when being unwilling to face the unthinkable can have potentially disastrous results.

"LIMITED NUCLEAR OPTIONS": COMPARATIVE ABILITY TO MANAGE THE INTENSITY OF A CONFLICT, LIMIT OR CONTROL A CONFLICT, AND TERMINATE IT ON FAVORABLE TERMS

Unfortunately, a well reasoned—but half implemented—strategy can also have disastrous effects. There is no doubt that the new tactical nuclear strategy of "Limited Nuclear Options" or LNOs that Secretary of Defense Schlesinger introduced in NATO was a great improvement over the hollow shell of "flexible response."

By the mid-1970's it gave NATO a wide range of options other than the STOP if the Warsaw Pact attacked with sufficient constraint to make them meaningful. NATO's deterrence was improved because the Warsaw Pact could not attempt to exploit the chance that NATO might not escalate to nuclear weapons because it had no effective alternatives between conventional and strategic nuclear war.

LNO'S WITHOUT WARFIGHTING CAPABILITY?

However, improved deterrence is not the same as improved war fighting capability. The ability to actually fight a limited nuclear war is dependent on the ability to actually manage and terminate nuclear war on favorable terms. In order to develop this ability, both NATO and the Warsaw Pact would have had to meet certain basic criteria:

Both NATO and the Warsaw Pact would have had to adopt roughly the same tactics and doctrine. They would have to have a common interest and belief in constraint.

Both sides would have to plan to fight in a highly rational manner, and to escalate slowly and cautiously.

NATO would have to be able to fight more effectively than the Warsaw Pact at some level of conflict that the Warsaw Pact cannot counter by going to higher or different levels of conflict. Sustaining a war, once NATO uses such options, must involve greater damage or risk to the Warsaw Pact than terminating a conflict.

The Warsaw Pact would then have to have initiated a conflict without having anticipated such NATO options, and the risk of escalation to theater-wide nuclear war. Deterrence would have to have failed in the first place because the Warsaw Pact drastically miscalculated the cost of war.

Given the fact that the USSR does not now share common tactics and doctrine with NATO, or share a common interest in slow escalation and constraint, these criteria can only be met by changing Soviet attitudes or plans. This, however, can only be accomplished in one of two ways: Either NATO must develop superior war fighting capability to force a change in Soviet plans and attitudes; or, NATO must develop some superbly inventive tactical plan for which the Warsaw Pact has no counter, and which the Warsaw Pact can be allowed to know about long enough in advance to change its approach to war.

NATO certainly has not developed superior tactical nuclear forces, and it has done a magnificient job of failing to publicize any superiority in tactical planning.

There has, of course, been a great deal of U.S. discussion of different kinds of NATO nuclear strikes that might be tailored to terminate theater nuclear conflicts on favorable terms or to "manage" the level of nuclear conflict in ways favorable to NATO. This discussion, however, never quite seems relatable to any specific practical course of action or to any special NATO military advantage.

It ultimately always seems to boil down to describing a sophisticated game of "chicken": a heads-on race in which the drivers with the blue hats never flinch, but in which the drivers with the red hats obligingly spin around at the crisis point and go back to their starting line.

This, frankly, seems to be a case of applying game theory to wishful thinking. One only starts a game of chicken when one expects the other player to lose, and the Warsaw Pact would not start a conflict without considering such risks. Further, the USSR has shown no apparent interest in "mirror imaging" its war plans to the Pentagon's. It has tended to view NATO's LNO strategy as a mixture of hypocrisy and exportable military weakness. As a result, both NATO and the Warsaw Pact may be postured for the kind of unintentional tragedy that occurred in 1914.

NATO's theater nuclear and conventional forces are highly vulnerable to a Soviet large scale strike. NATO's talk of graduated options and sophisticated games of chicken may encourage Soviet planners to strike before such games can start, particularly if they do not intend to back down in the first place, think theater-wide escalation is inevitable, and feel NATO might be using dis-

[3] An excellent overview of Soviet doctrine and tactics can be found in Joseph D. Douglas's "The Theater Nuclear Offensive," Studies in Communist Affairs, Vol. 1, Gov't. Printing Office, 1976.

[4] Ibid.

cussions of LNOs to encourage Soviet restraint and give NATO time enough to launch a first strike.

Ultimately, NATO cannot fight an LNO strategy with sophisticated threats. If it wants to develop an LNO war fighting capability, it is going to have to pay for it, and pay enough to convince Soviet planners that theater-wide nuclear war is the feasible and inevitable result of a breakdown of deterrence.●

## STABILIZING MEDICAL COSTS

### HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. FLORIO. Mr. Speaker, today I am inserting in the RECORD an article entitled, "Fee Freeze By Doctors Spreading," which appeared in the Gloucester County Times on July 10, 1978.

The article describes the voluntary medical cost-containment measure now spreading across the State of New Jersey, a movement started by the Gloucester County Medical Society.

Mr. Speaker, I want to commend the Gloucester County Medical Society and all others in New Jersey that have seen fit to join them in this important effort to help control the ever increasing costs of medical care. Hopefully their effort will serve as a model for other physicians and health care providers across the country as the Nation attempts to control inflation. I am pleased to give the Gloucester County Medical Society the recognition it truly deserves for this fine effort. The text of the article follows:

FEE FREEZE BY DOCTORS SPREADING

The Gloucester County Medical Society's effort to stabilize medical costs through a pledge by member physicians not to increase fees for a six-month period is spreading across the state.

The society's voluntary cost-containment measure, which went into effect early in June, has now been adopted by the seven-county Coalition of Southern New Jersey Medical Societies and is scheduled for discussion by the board of trustees of the statewide Medical Society of New Jersey later this month.

The coalition, a loosely-organized union of the medical societies in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem counties, unanimously adopted a resolution supporting the fee freeze two weeks ago, after Dr. Benjamin Wolfson, the Woodbury psychiatrist who proposed the idea, spoke to the group.

According to Dr. Irving P. Ratner, a Willingboro orthopedic surgeon who is chairman of the coalition this year, it is too soon to tell how many of the physicians the unit represents will participate in the voluntary fee limit. But so far, he says, the idea is being received with as much enthusiasm at the regional level as when Wolfson first proposed it to the Gloucester County group in May.

"I anticipate significant cooperation," said Ratner, who is also president of Burlington County's medical society, during a recent interview. "We're hoping that this will catch on throughout the state."

That could happen after the Medical Society of New Jersey's trustee board considers the freeze at its next meeting on July 16.

The board may be reluctant to adopt the plan, preferring to leave that choice to the statewide group's larger House of Delegates which does not meet until April, society executive director Vincent A. Maressa explained. He expects, however, that the board will at least approve of the measure where it is already in effect, an endorsement that could give it more exposure statewide.

"It seems to have a fair amount of sentiment," Maressa said last week from his Trenton office. "I think by mid-fall (when the county medical societies resume their regular meetings) it probably will be adopted throughout the state."

Wolfson and Ratner are pleased by that possibility because they believe that wide acceptance of the cost-containment plan among all segments of the health care industry will help its chances of continuing beyond the initial six-month period.

Both the Gloucester County society and the seven-county coalition will review the freeze this winter. If the costs affecting physicians' charges—labor, supplies, taxes and insurance—have risen appreciably, the voluntary fee limit will have to be lifted or modified to allow for some increases.

"On the other hand, if this voluntary trend (to keep costs down) should continue and the inflation has slowed or stopped, there will be no reason to raise our fees again," Wolfson says.

There is also some evidence that publicity for the cost-containment program has crossed state lines. Since its inception, Wolfson and Ratner have been interviewed by Philadelphia newspapers and TV stations and by a national financial planning magazine for physicians.

So far, however, the plan has evoked little reaction from two of its main targets, government officials and the nationwide American Medical Association, reports Jeanne Budd, executive director of the Gloucester County Medical Society.●

## LOU WOZAR RETIRES FROM STEWARDSHIP OF SISTER CITIES

### HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. WHALEN. Mr. Speaker, I am pleased to bring to the attention of the House the fact that Mr. Lou Wozar today officially concludes his service as president of Sister Cities International.

Under his direction, that excellent organization has flourished and, in so doing, has advanced immeasurably the cause of international understanding and world peace. The chief executive of a major company in my district and an active leader in many Dayton, Ohio civic undertakings, Lou somehow managed to find the time not merely to be part of Sister Cities activities, but to energize and direct them. The fact that the organization is so well known and growing, is due to his tireless efforts and brilliant leadership.

A self-made man in the classic American tradition, Lou once again has excelled in a difficult assignment. In so doing, he has gained the admiration and respect of the many people he has come to know here in Washington. This group includes high-ranking American officials, as well as many important members of the diplomatic community.

Sister Cities has increased the number of community affiliations with foreign nations and expanded both the number and variety of the programs in which it engages. These efforts are a vital force for international understanding and tranquility. For these accomplishments Lou Wozar should take great credit.

"Observe good faith and justice toward all nations," said George Washington just before he died. "Cultivate peace and harmony with all * * *." Lou Wozar has done just that to the benefit of us all.●

## BETHLEHEM'S MAYOR SHARED HIS VIEWS

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. FINDLEY. Mr. Speaker, on a recent visit to Washington, the mayor of Bethlehem, Mr. Elias Freij, shared his views and his hopes for a Middle East peace with several Members of Congress. For those who did not have the opportunity to meet with him, I am placing in this RECORD a copy of his letter to Secretary of State Vance. The letter outlines some of the principles which Mr. Freij feels are essential to a Middle East peace settlement.

The mayor is regarded as a moderate Palestinian by observers of the Middle East. A Christian, he is a spokesman for both Moslems and Christians in the West Bank. He openly supports the Sadat peace initiative; he also has close ties to Jordan. Mr. Freij hopes to see the creation of a Palestinian homeland that will have close links to Jordan and close contacts with Israel. He knows the present Israeli leadership, often meeting with them in connection with his responsibilities as mayor. He feels that he and they deal with each other well and must continue to make every effort to do so now and during and after a peace settlement.

Mr. Freij has children in the United States and has a close affinity for this country. He sees a U.S. presence in the West Bank similar to our current presence in the Sinai Peninsula as a critical element of a settlement. He also stresses the need for the United States to take a more active interest in the West Bank and the Palestinians living there. This will be an important step toward strengthening the hand of the moderates in that region as opposed to more radical elements. In particular, Mr. Freij expressed his concern that certain states such as Libya are providing municipalities with mayors less responsive to the needs of peace with large sums of aid while the moderates receive little support. This has a definite impact upon the political balance in the West Bank and could be detrimental to the hopes there for peace. The United States, therefore, could play a constructive role by taking into consideration the needs of the Palestinian people, by demonstrating an interest in their well-being, and by developing assistance projects to aid them. This, Mr. Freij strongly feels, would promote peace in the Middle East.

BETHLEHEM MUNICIPALITY,
*April 10, 1978.*

Hon. CYRUS VANCE,
*Secretary of State, U.S. Government, Washington, D.C.*

DEAR MR. SECRETARY OF STATE: As a Palestinian Arab citizen and Mayor of the Holy City of Bethlehem, I wish to stress that the Palestinian Arabs in the occupied West Bank and Gaza areas reject the military occupation which is about to complete its eleventh year.

The so-called "self rule plan", which Mr. Begin presented to the World last December fails in every respect to meet the basic demands of the Palestinian Arabs and in fact, it is a long step backward. The Begin plan deprives us of our right for self-determination and of our right for a homeland or a "house for the Palestinians" in the West Bank and Gaza. The Begin plan will be unanimously rejected by all the Palestinian Arabs.

There are mixed feelings in the occupied areas as to the best course to solve the Arab-Israel conflict. However, there are certain basic demands which do have the full support of the inhabitants in the occupied areas. These points call for:

(1) Complete Israeli withdrawal from all parts of the West Bank and Gaza in accordance with Security Council Resolutions 242 and 338 and U.N. Resolution 3236.

(2) The Arab sector of East Jerusalem is an integral part of the occupied West Bank.

(3) Right for self-determination.

(4) Right for a Palestinian Homeland or Independent Palestinian state to be determined by a free plebiscite.

(5) Right of Palestinian Arabs to return and live in the West Bank and Gaza areas.

A majority of the Arab inhabitants will accept and welcome a transitional period of five years, provided Israeli military forces are completely withdrawn and replaced by other forces. The composition of such forces may be the 'KEY' factor in helping to solve this crisis.

Having given this question deep thought, I would strongly suggest that during the transitional period, forces from the U.S., Jordan and Egypt be invited to take full control of the occupied West Bank and Gaza.

The duties of the newly composed forces will authorize it to:

(1) Be in charge of internal and external security matters.

(2) Facilitate the peaceful return of Palestinian Arabs.

(3) Help the inhabitants to organize and build our "House of Palestine" on free and democratic basis.

(4) Other duties to be set and defined as necessary.

I believe that such a force will surely help to stabilize the situation and with constructive planning, might achieve the dearest dream for millions in this part of the World—peace and a home for the Palestinian mothers, children and people.

Hoping that you will find the time to study this proposal, I assure you of my best and sincere wishes.

Sincerely yours,

ELIAS M. FREIJ,
*Mayor of Bethlehem.*●

## CAPTIVE NATIONS WEEK

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. HYDE. Mr. Speaker, this week marks the 20th anniversary of "Captive Nations Week," and I join with my colleagues in the House in paying tribute to the courageous people of the captive nations.

The sentencing of Viktoras Petkus, a member of the Lithuanian public group to promote the implementation of the Helsinki agreements, along with the Alekandr Ginzburg and Anatoly Scharansky trials in the Soviet Union, are further recent examples of the gravest deprivation of human rights and the importance of our commitment as a nation to the basic human rights of all people.

Surely we must wonder about the Soviets ability to comply with any SALT agreement, when they have so blatantly refused to honor their commitment to the Helsinki accords. If the SALT agreements are important to us, they must also be important to the Soviets, and I deeply regret that this administration did not suspend these negotiations taking place during the same week that Scharansky and Ginzburg were so brutally sentenced. Such a suspension would have been a message not only to the U.S.S.R., but to the entire world, that America deplores such totalitarian tyranny. The Russians have, in effect, torn the Helsinki accords to shreds.

There are now 30 countries on the list of captive nations under Communist dominiation and we may well wonder, particularly in light of Soviet actions in Africa, how long it will be before that list is expanded.

Our concern for the basic human rights—personal, civil, and national—of the people of the captive nations must continue not only because it serves their best interest but, ultimately, because it serves our own if democracy is to survive in the world.

As the leader of the free world, we cannot be complacent. It is our duty to publicly deplore all human rights violations against the people of the captive nations and the people of all countries who live under an oppressive government that denies liberty and justice to its citizens. We must demand complete compliance with the Helsinki agreements by all cosignatories. To do less is to reject all that America stands for.●

## IN HONOR OF CAPTIVE NATIONS WEEK

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. OTTINGER. Mr. Speaker, this week marks the 20th observance of Captive Nations Week, a week designated to call attention to the many countries of the world which still do not have the rights of national self-determination of which we of the free world take pride. It points in particular to those proud Baltic nations that once enjoyed freedoms now trampled by Soviet dominations. It serves as a reminder that the struggle for individual liberty continues and is as much in need of our efforts as ever before.

We in the United States have minimal understanding of the intense suffering which is the inevitable result of being denied the most basic and fundamental human rights. Over the past few weeks, many Americans have come a little closer to understanding what it is really like to be persecuted, harassed, and arrested for believing what one believes and for wanting to live where one chooses. They have learned from the news reports about the plight of Anatoly Scharansky, Maria Slepak, Aleksandr Ginzburg, and the many others the Soviets fear and have persecuted.

As the Nation to which many others look for guidance on human rights, we must constantly strive for the preservation and extension of basic human freedom and rights for all people, regardless of the nation in which they reside.

Captive Nations Week is a time for all Americans to rekindle our hope and renew our intent to see that freedom and independence are achieved for all nations throughout the world.●

## PRAISE FOR MILWAUKEE'S FIRST HANDICAPPED EAGLE SCOUT

### HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. ZABLOCKI. Mr. Speaker, I have always believed that scouting, because of the value of the experiences it provides in forming strong leaders and dedicated citizens, deserves our praise and support.

This is especially true of scouting's efforts to assist the handicapped—efforts which are exemplified by the story of a Milwaukee Eagle Scout, Kevin Koehler.

As a commendation for past programs in scouting for handicapped, and as encouragement for future efforts in this important area, I am pleased to share the following article from Scouting magazine about this outstanding young man, his accomplishments in scouting for the handicapped, and the dedicated efforts of Scout leaders who made them possible.

"PERSISTENCE WINS THE GAME"

During the past few months, he has received letters of congratulations from various Scouting executives, the mayor of his city, from both the State's senators as well as the Governor and from the President of the United States. His story has been featured on two local television stations and in the city's major newspaper. The "Today" Show in New York has interviewed him. And with good reason. On June 7, at court of honor ceremonies, Kevin Koehler became the first Eagle Scout in the 35-year history of Milwaukee's Troop 152, a very special outfit.

Of all the boys who join Scouting, only one percent ever attain the rank of Eagle Scout. No one knows what the percentage is among handicapped Scouts. But in Milwaukee, although the percentage isn't known, the number is: *one*. And the name of that one Eagle Scout is Kevin Koehler.

Sitting on the couch in the living room of

his Milwaukee home, Kevin balances the large, spiral notebook on his lap. Reverently, he turns the plastic sheets that house the letters of commendation. His mother, Mrs. Shirley Koehler, sits nearby, smiling at her son. Kevin stops turning the pages and points down at a handwritten letter. "This one means the most to me." His mother nods her agreement. The letter is signed by Norman Schober, Scoutmaster of Troop 152. "This man has been much more than just a Scoutmaster to me," says Kevin. "He has been a close friend."

"We have approximately 30 boys in our troop," said Norman Schober, "all of whom have problems of one sort or another. We have boys with muscular dystrophy, cerebral palsy and cycstic fibrosis. Many of our Scouts have multiple problems. Last year, one had cerebral palsy, epilepsy, a colostomy, no voice box and was mentally retarded and emotionally disturbed. Some of our Scouts have severe orthopedic problems. We had one boy, born with deformed hands, who underwent 58 operations before he could even write. After all those operations, he asked me if he could be the troop scribe. We've had scribes who took better notes but we've never had one who took more pride in his work than that boy."

Closing the spiral notebook, Kevin Koehler pushes his crutches aside as he reaches over and gently lays the book down on a table. "When I joined Troop 152 in 1969," says Kevin, as he sits back on the couch, "I discovered that, even though it had been in existence for over 30 years, the troop had never had an Eagle Scout. I decided right then that I was going to be the first one. Of course, I realize that I was one of the lucky ones in that troop. Cerebral palsy had only affected my legs."

Norman Schober first became involved with Troop 152 through the Kiwanis Club. Since then he has held virtually every Scouting position on the local council and district level. "In 1957, I joined the Kiwanis Club of Milwaukee," said Schober. "The club has about two dozen committees that are involved in community work. I chose the committee that dealt with youth because that was the one that included Scouting activities. You see, I'd already been active in Scouting for the past seven years, I have two boys who became Eagle Scouts. Anyway, after I joined the youth committee, the Kiwanis Club told me the Gaenslen Orthopedic School, a Milwaukee public school, needed help with its Scout troop. The troop was already being sponsored by the Kiwanis Club. All the boys in the troop attend the school, which is totally dedicated to handicapped children."

Every new Cub or Scout unit must have a sponsor to offer initial funding, a place to meet and the needed manpower. Many units, for instances, are sponsored by churches or schools. The amount of money involved in the initial funding is usually minimal. Providing a place for the unit to meet is also normally no problem for the sponsor. Many sponsors, however, according to Norm Schober, find it difficult to provide the unit with a permanent source of manpower. But this has hardly been the case with the Milwaukee Kiwanis Club and its Troop 152.

"We have a committee of 15 men who regularly work with Troop 152," commented Schober. "These men are serious about the work they do in both Kiwanis and Scouting. No one has been on this committee for less than five years. Like myself many of them have been members for over 20 years."

Kevin Koehler sits with a small box in his hand. "It was plenty tough," he says, "but I made it."

"You weren't the only one who had it rough," his mother says, laughing. "Remember, Kevin, when you had to prepare and cook three meals in one day?"

"Those were three great meals," replies Kevin with mock indignation.

"Oh, sure they were," counters his mother. She laughs again. "I knew that if the two of us could survive that, we could survive anything."

Much of the success of Kevin Koehler and the other Scouts of Milwaukee Troop 152 can be credited to the principal of Gaenslen Orthopedic School Carl Schmidt, who is a strong enthusiast of Scouting. He has made Troop 152 a regular part of the school's curriculum. Troop meetings are held on Friday afternoons during school hours.

"Every Friday afternoon," said Carl Schmidt, "you can find the men of the Kiwanis Club at our troop meeting. There is usually one adult for every two Scouts. In order for these men to come on Friday afternoons they must, of course, take time off from their work. I am sure they don't realize the tremendous influence they exert on these boys. On Monday morning, I start getting questions from the boys about the troop meeting on Friday afternoon.

"Scouting does so much for these boys," continued Schmidt. "It gives them the feeling that they are part of a group. Wearing the Scout uniform, or even a part of it, embellishes that feeling. These Kiwanis men who work with the troop are truly the leaders of our community. They're all successful businessmen and professionals. How else, but through Scouting, could our students work with and be influenced by men of such caliber"?

Kevin Koehler balances the box on his knee as he talks about the 24 merit badges he had to earn in order to become an Eagle Scout. "I tell you, in my early days of Scouting, sometimes I'd get discouraged. So would some of the other Scouts. But the men who work with the troop have such enthusiasm. You'd push forward despite yourself because you didn't want to let them down. In Scouting, you know, no one is standing over you forcing you to do it. You can quit any time you want. But with the encouragement you got from these men, you just didn't want to quit."

Despite his cerebral palsy, Kevin Koehler not only earned the 24 required merit badges, he also earned the Red Cross 50-Mile Swim award.

" . . . Swimming those 50 miles was the toughest thing I had to do as a Scout. It took a lot of visits to the pool," says Kevin emphatically, "to get 50 miles."

"One of the major values of Scouting for these boys—for all boys—" said Norman Schober, "is that it gives them something worthwhile to strive for. If you water down the standards, if you make it easy for them, then the goals become meaningless. Believe me, every merit badge in Troop 152 is truly earned.

"You can't feel sorry for these boys," continued Schober. "When I first began working with the troop, one of the boys, hobbled with crutches and braces, fell down on a ramp. I went to help him up. Although he had a severe speech impediment, I still understood the word he said when I reached down to him—'No.' It took him literally 40 minutes to pull himself up, but he made it and when he did he looked back at me and said, 'See?'

"I worked with six boys for a whole year," said Schober, "on one merit badge. Only two passed. But I think it means more to a boy to fail at a meaningful goal than to achieve one that isn't."

"There was a long list of requirements for the Communications merit badge," says Kevin. "One of them was that I had to act as master of ceremonies for some sort of function. So I held a dance at school and was the disc jockey for it."

"That wasn't too difficult for him," comments his mother, "since Kevin was president of the student council. Scouting has literally changed his life. Before Kevin became a Scout, he was a shy, quiet boy who had no self-confidence and a terrible self-image. But Scouting really got his adrenalin flowing. It showed him that he could do far more than he ever thought possible. His confidence has grown tremendously. He is an achiever," Mrs. Koehler states proudly. "He is a leader."

Kevin blushes at his mother's words as he begins to open the small box. "I do feel, though," he says softly, "that my reaching Eagle Scout has given my fellow handicapped Scouts a goal to aim for. Now that someone from our troop has made it to Eagle, they know that at least it's possible."

"Too bad they don't have awards for Eagle Scouts' mothers," said Norm Schober. "If there was one, Mrs. Koehler would certainly get it. She has always been there to listen to Kevin's problems and to offer him moral support. That kind of parent can make the difference in any young person's life, but especially in the life of a handicapped person.

"Most of the parents of handicapped children, like Mrs. Koehler," continued Schober, "somehow learn to provide the proper mix of love and discipline. But some handicapped Scouts have parents who spoil them rotten. They pamper the boy to the point where real communication is simply impossible. At the other extreme are the parents who don't try at all. They simply tolerate the boy. A child can sense that. Sometimes, the parents just leave. Desertion among parents of handicapped children is high. The parent of a handicapped child has to allow that child to struggle to his full potential but also to be ready to give help when it is needed."

Kevin slowly opens the box then holds it up for inspection. Inside, on a velvet bed, are the Eagle medal, the patch for his uniform, the Eagle tie clasp and the Eagle lapel pin. He returns the open box to his lap and stares down at it. "That's really something isn't it?"

He looks up after a moment. "The night I received this, I was certainly filled with mixed emotions. It had been a lot of hard work and in that sense I was glad it was over. But in a way, the hard work was fun. I got a feeling of self-satisfaction out of it." Kevin takes one more look at the symbols of his being an Eagle Scout before closing the box.

"I've got a good life ahead of me," says Kevin. "The future is filled with plenty of new challenges. Since graduating from high school a few months ago, I've been working at the VA regional office. Weekends I'm working at Major Goolsby's, which is a pub and grill. I also plan on attending Milwaukee Area Technical College because I'd like to get a degree in communications. As far as Scouting is concerned, since I'm not officially out of Troop 152 yet. I'm going to add some palms to my Eagle Scout award. After that, I'd like to become an adult volunteer. Mr. Schober and I have already talked about my becoming his assistant Scoutmaster. I very much want to give to other boys what Scouting has given to me."

"You can't do all of that," injects Mrs. Koehler, "you just won't have the time."

"Anything is possible if you want it badly enough and you put your mind to it," says Kevin confidently. "Scouting has taught me that." ●

## EXXON SUIT DRAGS ON

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. VENTO. Mr. Speaker, again, the example of the regulatory agencies dragging its feet and frustrating law enforcement has been repeated here in Washington.

Attached is an article from the Washington Post which reports that lawyers are celebrating the fifth year of getting nowhere at the Federal Trade Commission in the so-called "Exxon Suit."

I want to share with you the clipping from yesterday's paper.

The article follows:

EXXON SUIT DRAGS ON AS LAWYERS CELEBRATE

(By Larry Kramer)

The clinking of champagne glasses could be heard in antitrust law offices all around Washington Tuesday night. There was reason to celebrate.

July 18 was the fifth anniversary of the famed "Exxon suit" filed by the Federal Trade Commission, charging the nation's eight largest oil companies with "anti-competitive practices." It's called the "Exxon suit" because Exxon was listed first on the complaint—it's the biggest.

And after five years, the FTC has gone nowhere—the agency's still in the discovery stage and has not yet received one "substantive" document from any of the oil companies.

Unquestionably, this case has become one of the great legal disasters in history. After the initial filing of the complaint, the case foundered for years in a monotonous filing of papers.

Then, in February 1976, the FTC filed an 1,800-page request for "substantive document discovery," from the oil companies. The defendants said it would be impossible to comply with such a huge request and appealed to the commission.

In November 1976, an FTC administrative law judge agreed with the oil companies, calling the request, and the case that would grow out of it, "unmanageable."

But at least he did order the oil companies to hand over some "non-substantive" materials.

In January 1977, the FTC lawyers appealed to the full commission to overturn the administrative law judge's ruling.

That request sat around until September 1977, when the FTC lawyers filed another pleading with their own commission stating that they had changed their mind, and decided they didn't need all of the documents they asked for in their 1,800-page request.

Instead, they said they would refile a request for documents that would be less burdensome.

Then last Jan. 12, the FTC lawyers filed another request for documents, which the oil companies again challenged.

On May 10, the FTC filed yet another request, this time for information concerning the computer systems used by the oil companies. Again, the oil companies are fighting that request.

Meanwhile, the Department of Energy's Office of Special Counsel, in its investigation of oil company pricing regulations, has already received access to the computers of one oil company—Shell—and has asked for others. And the Office of Special Counsel has only been in existence for about seven months.

The late Sen. Philip A. Hart (D-Mich.), had originally asked the FTC to undertake the investigation in 1970. Elated when the complaint was finally filed, even Hart may have underestimated the length of legal wrangling that would be involved when he said:

"The sad part is that we won't get a verdict—and relief—for 8 to 10 years. The FTC has to prove not just monopoly power, but anticompetitive behavior. This will mean a search of millions of documents to confuse everyone."

Meanwhile, many of the practices alleged in the FTC complaint to be anti-competitive still go on.●

## ENERGY IMPACT ASSISTANCE ACT OF 1978

### HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. RONCALIO. Mr. Speaker, the Senate Committee on Environment and Public Works has spent considerable time developing legislation to address one of the most critical aspects of energy resource development—the energy impacted area. We have enacted, or are in the process of enacting, laws to deal with virtually every other aspect of providing energy for the country. Now is the appropriate time to establish a plan for compensating those areas completely altered during the process of supplying the Nation with energy.

I am happy to introduce a bill very similar to the Senate bill, S. 1493, and am anxious to see the legislation considered by the House as soon as possible, so that the people living in resource-abundant areas can plan for the development which will surely come. The legislation provides financial and technical assistance to States, local governments, and Indian tribes suffering economic impact as a result of energy development activities.

The bill sets up a cooperative system whereby the Governor or governing body of an Indian tribe, State officials, and local officials comprise an "energy impact assessment team" which is responsible for assessing, for a particular area, the projected energy development, anticipated growth as a result of such development, anticipated needs for public facilities, and available funding resources to meet those needs. The Governor is given the option of designating a local developing district certified under the Appalachian Regional Development Act of 1965 as the assessment team for a particular area.

To help make this system effective, the Secretaries of departments having knowledge of any planned major development will be required to provide all relevant information to those assessment teams. In addition, the Council on Environmental Quality will be responsible for revising the National Environmental Policy Act to assure that information useful in anticipating the impact of such major development will be made available as soon as possible for the preparation of an environmental impact statement for the planned development.

The assessment team, in cooperation with designated local officials, will then prepare a mitigation plan which shall identify the projected impact, the resulting needs, proposals for meeting those needs, available resources for meeting those needs, contain an environmental impact statement, and any other information pertinent to the Secretary.

Each State, upon review of individual assessment team mitigation plans, will then be responsible for submitting a "statewide investment strategy" to the Secretary of Commerce, establishing priorities among proposed uses; and, once approved, funds will be made available for implementation of those mitigation plans. The bill also provides funding to meet emergency needs for public facilities or public services in impacted areas following certain requirements.

A total of $150,000,000 for each of fiscal years 1979–83 is authorized to carry out the provisions of the act, to be allocated on the basis of various factors as identified in the bill.●

## IRV SCHWARTZ, ASD CHIEF OF PROTOCOL, TO RETIRE AFTER 38 YEARS OF FEDERAL SERVICE

### HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. WHALEN. Mr. Speaker, I rise on this occasion to pay tribute to an outstanding member of the Dayton, Ohio community, Irving Schwartz.

A transplanted New Yorker, Irv has earned great respect for his extensive participation in many activities both professional and civic. Next week, he concludes 38 years of service with the Department of the Air Force when he retires as the Chief of Protocol of the Aeronautical Systems Division at Wright-Patterson Air Force Base.

Irv, a man of boundless energy, enthusiasm, and ability, will not retire in the normal sense. The event merely means that he will have more time to devote to community undertakings in which he has participated in the past.

He has made notable contributions to the city of Dayton as a member of the important plan board and also to Temple Israel. As a qualified and interested individual, Irv doubtless will continue to apply his talents to the area of educating our young people, a task in which he has been engaged in the past.

Irv Schwartz has given the Federal Government his best during a long and distinguished career. The list of generals who could testify to his sagacity is a long one indeed as is that of his many associates at Wright-Patterson Air Force Base.

For me to praise Irv Schwartz is no idle matter since I count him as one of my oldest friends, back to our student days at the University of Dayton.

He is an outstanding citizen whose departure from Government service only means the gaining of more of his time by the Dayton community.

Mr. Speaker, I am honored to be able to commend Irv for his many contributions and to wish him well in his future endeavors.●

## SUGAR STABILIZATION ACT OF 1978

### HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. LEDERER. Mr. Speaker, I would like to share with my colleagues in both Houses an article in the July 1978 Consumer Federation of America News warning of the dire consequences which would result from the enactment of S. 2990 and H.R. 12486, the Sugar Stabilization Act of 1978.

Unfortunately, matters affecting the sugar policies of this Nation have been afforded a low visibility, allowing legislation not in the best interests of the consuming public or this country to be enacted into law. Serious questions of ethics have been raised concerning the practices of many of the narrow special interest groups attempting to promote such legislation.

When these practices come fully to light and such legislation is considered with the interests of the consuming public in mind "solutions" as proposed in S. 2990 and H.R. 12486 should be rejected summarily in both Houses of Congress.

The article follows:

SUGAR STABILIZATION ACT OF 1978

In testimony before the Senate Finance Committee on May 11 Legislative Director Kathleen D. Sheekey raised CFA's objections to S. 2990, the Sugar Stabilization Act of 1978.

1. *The cost of sugar to consumers would drastically increase.* Based on estimates of the President's Council of Wage and Price Stability, the restrictions on imports provided by the Sugar Stabilization Act of 1978 would raise the price of raw sugar from its present level of about 14¢/lb. to 17.5¢/lb. This 3.5¢/lb. increase would raise the costs to consumers for sugar subsidies to $2.4 billion annually and add a full percentage point to the Consumer Price Index for food.

2. *Cost of corn sweeteners would also rise.* Any measure designed to raise the price of sugar above reasonable levels is likely to result in a further increase in the use of sugar substitutes such as corn syrup. In opening the door to this heavy competition, the supporters of S. 2990 could actually push out the sugar farmers they were intending to help.

3. *Costs would be disproportionately borne by low-income consumers.* Studies by the U.S. Bureau of Labor Statistics show that sugar accounts for a larger percentage of the budgets of low-income consumers than other segments of our population. Therefore, those who can least afford it will be hardest hit by rising sugar prices.

4. *The Future of the International Sugar Agreement will be seriously jeopardized.* Although a stated purpose of S. 2990 is to implement the International Sugar Agreement, the objective being to stabilize world prices, passage of S. 2990 would drastically decrease U.S. sugar imports and thereby seriously compromise the fledgling ISA's intent.

5. *Sugar workers would not benefit from increased sugar prices.* Since workers did not even benefit from the 1974 sugar price explosion, it is highly unlikely that passage of S. 2990 would result in increased wages for sugar workers.

6. *Higher prices will not result in reduced consumption.* Although CFA is firmly committed to measures which will educate consumers in a meaningful way of the health risks associated with sugar (e.g., restricting TV advertising of heavily sugared products to children), we are unconvinced that supporting higher sugar prices will discourage consumption. This was not the case when prices soared in 1974.

Sheekey recommended to the Committee CFA's preference of an interim program which maintains market prices at about 13.5¢/lb. consistent with the minimum ISA price. If cost of production should rise above this market price, then a system of direct payments should be used to compensate efficient producers for the difference.

Mark-up of S. 2990 is not yet scheduled by the Senate Finance Committee. CFA commented on similar measures, H.R. 12486, 12667, and 12604, when they were before the House Committee on Agriculture. They also await markup.

The House bills, as well as an Administration bill submitted on request by Representative Vanik (D-OH), are scheduled for hearings in July before the Subcommittee on Trade, Committee on Ways and Means, to which they were jointly referred.●

## URGENT NEED FOR STRONG MEASURES AGAINST TERRORISM

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. GILMAN. Mr. Speaker, we have become all too familiar with the bombings, kidnapings, assassinations, and hijackings that terrorists wantonly commit. It is not enough to denonuce international terrorism after one of these unconscionable acts grabs the headlines. More important, we must develop an effective policy to prevent these heinous crimes, and in those instances where terrorists continue to strike, impose harsh penalties on these international criminals and strong sanctions against those nations and groups which support terrorists.

Testifying on July 19, 1978, before the Public Works and Transportation Committee's Subcommittee on Aviation in support of H.R. 13261 of which I am a cosponsor, introduced by the distinguished subcommittee chairman, the gentleman from California, Mr. ANDERSON, and House Concurrent Resolution 72, a measure I introduced, I joined with several of my colleagues and other concerned individuals in urging the subcommittee to take expeditious action on legislation that would greatly strengthen U.S. efforts to act decisively against terrorists.

To share my findings and recommendations concerning necessary actions to be taken against international terrorism, I submit the full text of my statement before the Subcommittee on Aviation be inserted at this point in the RECORD:

AN ACT TO COMBAT INTERNATIONAL TERRORISM

Mr. Chairman and other distinguished members of the subcommittee:

It is a privilege for me to appear before the Public Work's Aviation Subcommittee and to join you in these important proceedings. You are to be commended for your efforts to focus attention on the problems of international terrorism and for seeking possible legislative remedies to these problems.

The sad fact is that living with terrorism has become a way of life for many millions of people around the globe. The pattern of terrorism continues to grow and spread throughout the world. As cooperation between terrorists and terrorist organizations increases, so do the bombings, kidnappings, assassinations and hijackings.

These acts of terror have become a popular tool for all those seeking to impose their will on a world community which is unable or unwilling to defend itself. The most frightening aspect of this trend is its arbitrary nature, where innocent victims are gripped by the consequences of terrorist activities often being slaughtered for no apparent reason. As indicated by a PLO terrorist leader in 1970:

"There can be no geographic boundaries or moral limits to the operation of the people's camp. In today's world, no one is innocent, no one is neutral."

As a product of this insanity, over the last ten years, worldwide, there has been nearly 1000 terrorist incidents resulting in the deaths of more than 1300 people and more than 3600 wounded. Unfortunately, under current laws and current levels of international cooperation, more than three-fourths of all terrorists escape punishment for their actions while they are almost certain to achieve their aim of gaining widespread publicity.

The conviction rate for terrorists and the length of actual sentences imposed has been unimpressive. While the FBI has a better than 90 percent capture rate for criminals involved in kidnapping for ransom, a terrorist involved in an international kidnapping has about an 80 percent chance of escaping capture or death. Sadly, the average sentence for those who are caught and brought to trial has been only eighteen months.

At a time when the threats of terrorism are at an all time high, our current domestic and international efforts fall way short of the tasks before them. Earlier this year, FBI Director William Webster testified before the Congress that the bureau's presently strained resources are not adequate to cope with a major terrorist campaign. In fact, he warned that proposed budget cuts this year would threaten already existing investigations of terrorist incidents.

The people of this nation through their government must respond to this attack on the civilized world. We must join together in seeking to mobilize the necessary forces in this and other nations which would be equal to the task of combating the bands of terrorists fanatics and the conditions from which they spring. We must seek to deny a safe haven to terrorists and to establish sanctions against states which aid them, harbor them, or fail to prosecute or extradite them.

We must impress upon each other the collective threat posed by terrorism. As history has shown, terrorism begets other acts of terrorism and violence. Our response can only be to create a dedicated, aggressive, coordinated, multinational effort to apprehend and punish terrorists wherever and whenever they strike. We must meet this

challenge. As pointed out by the Washington Post in its March 17, 1978 editorial:

"The terrorists are pressing the question whether a government actually exists—or is it only the legal shell of a government, with nothing inside? Is it capable of acting, at last, to preserve itself and public order?"

During the past few years in different forums, I have sought to denounce terrorism and to alert those still unmoved to action, that terrorist acts feed on each other. A civilized society cannot for long fail to respond to the threats to its very existence which are posed by the ever increasing incidents of terror. It is impossible to forget that the hateful creed of the terrorist is that there are no innocents; any individual regardless of age or sex, regardless of station is a potential victim.

I have had the privilege in the past and in the present Congress of authoring and cosponsoring much needed legislation to deal with terrorist-related problems. One such resolution, H. Con. Res. 72 which is currently pending before this Committee, deserves your attention. The resolution calls for an international study of the causes of terrorism, urges the President to both take action against nations aiding terrorists, and to seek stronger international sanctions against such countries, and strive for conclusion of an effective international convention against terrorism.

In the specific area of air piracy and hijacking which is currently under study by this Subcommittee, H.R. 13261 will, as stated by its author, Chairman Anderson, "deal in a comprehensive way with the threat terrorism poses to Americans both at home and abroad." This bill and similar legislation now before you can contribute meaningfully by enabling our nation to deal more effectively and promptly with terrorism.

As a compliment to these vital efforts, we must encourage the world community to fully support the existing international treaties dealing with air piracy and hijacking.

The Tokyo Convention of 1963, the Hague Convention of 1970 and the Montreal Convention of 1971 provide for the classification of air piracy as an international crime and provide for the extradition or prosecution of hijackers. Unfortunately, these conventions have not had unanimous acceptance or adherence.

Recently, however, there have been some encouraging signs of an awakening in the world community to threats posed by terrorist hijackings. On November 3, 1977 the United Nations General Assemby, for the first time, adopted a resolution condemning air piracy and called upon all governments to take steps to tighten security and to agree to prosecute or extradite hijackers. In addition, at this week's Bonn Economic Summit Conference, the seven heads of state reached an important agreement on air piracy and terrorism that includes a call for suspension of air flights to and from those countries that provide assistance to hijackers.

I urge the members of this Subcommittee to seize this opportunity to strengthen these efforts through the passage of the legislation before it, thereby strengthening our nation's hand in combating terrorism. The terrorist challenge to the civilized world was summarized recently in a Washington Post editorial of May 16, 1978:

"The breakdown of law enforcement tends, unfortunately, to be circular. One successful crime incites other people with guns to try the same thing. Demoralization among the police spreads. To reverse the deterioration requires vigorous political intervention by the national leadership."

This Subcommittee is playing an important role in providing the needed leadership to combat terrorism. Now the United States as a nation must take the lead to enlist all nations and peoples that are outraged by the brazen attacks, assassinations, threats, the taking of innocent hostages, and other vile forms in which international terrorism manifests itself.●

## SMALL BUSINESS

### HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. MITCHELL of Maryland. Mr. Speaker, on numerous occasions, I have stressed and reiterated the continuing need for more emphasis in the direction of small business development. I would like to briefly address that issue and the need for a stronger approach to its incorporation into the educatory process.

It is my feeling—and I am sure that many of my colleagues in the House will agree—that it is imperative that the Congress and the Nation as a whole recognize the need for the development of new educational and training programs specifically designed to assist prospective and established small business persons with problems they continually encounter in the daily operation of their businesses. Startling reports from the Small Business Administration citing the failure of some 400,000 of the 440,000 small businesses that are initiated annually, are certainly indicative of the dire need for such programs. It is further reported that 50 out of every 100 small businesses starting today will fail in 2 years and approximately 90 out of 100 will fail after 10 years. Sadly enough, these facts disturbingly point out that, after 10 years, only 10 of the original 100 businesses will still be viable.

During the early days of our Nation, the self-employed small business person could survive with little or no training or education and with little knowledge of management techniques, technology, and governmental regulations. However, we must now face the fact that the world of small business is vastly more complex, and there is a need for the small business person to be proficient in these areas. Oftentimes, the small business owner finds him or herself wholly unprepared to meet the challenge of our changing economic picture. This is because, contrary to what is generally believed, many small business people have barely a high school education and lack even the rudimentary educational and business management skills.

It is known that many of the present programs involving business and management educational training are generally geared to the managers of large corporations, and thus have little or no application to the problems encountered in the daily operation of a small business. Consequently, the small business person finds his options for educational training extremely limited.

With the incorporation of simple training programs in the basics of business management and operation into high schools, colleges, adult education, and night schools, a substantial number of small business persons who have encountered various problems as well as those who are preparing for small business careers, can be greatly helped.

Of course, for prospective small business persons these training programs may be of tremendous value since those persons would be made more aware of potential problem areas and instructed as to how to effectively deal with these problems. In addition, both potential and actual small business owners and managers would be made aware of the additional resources for assistance within the community. Further, these training programs would improve the survival potential of many small businesses, and would thus have a significant positive impact on the small business community.

Let me further emphasize my feeling that the increased survival of small business will have a significant impact on unemployment and on the national economy. The Small Business Administration has cited that small businesses employ 58 percent of the national work force and that 1 out of every 10 new jobs is generated in the area of self-employment. This, of course, would allow for the succession of more businesses as well as the generation of more income, jobs, products, and services for the benefit of the general population.

Presently, many of us are desparately searching for noninflationary solutions to the devastating problem of national unemployment. The wide-scale introduction of training programs in the area of small business development can be a giant step in the direction of alleviating this situation. Hopefully, as we initiate new legislative efforts, we can attempt to formulate policies that will be pertinent to the development of new educational and vocational programs of specific application and benefit to prospective and existing small business owners and managers.●

## WARREN, MICH., CHOIR TO TOUR ROMANIA

### HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. BLANCHARD. Mr. Speaker, I am pleased to take note of an upcoming tour of Romania by the Warren Woods Concert Choir of Warren, Mich.

The tour is being sponsored by the Friendship Ambassadors, a nonprofit organization which has sponsored many tours of foreign countries by performing American artists.

The Warren Woods Choir will appear in the following Romanian cities: Bucharest, Sibiel, Sibiu, Kluz, Trigu Mures, Poiana Brasob, Piantra Neamt, Galati, and Olimp.

I know that the people of Romania will thoroughly enjoy this fine choir from Warren. I feel that cultural exchanges of this kind are especially

important because they give people an opportunity, at a very human level, to gain valuable insights into differing ways of life.

I am sending a letter to each of those cities and their leaders expressing my appreciation for their hospitality and cooperation in this venture.

At a time when there is great tension between Eastern and Western nations, I believe that this concert tour, which is organized in a spirit of international friendship, will help strengthen the bonds of good will and understanding.●

## PARKS PACKAGE PRAISED

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. MILLER of California. Mr. Speaker, I would like to note the outstanding accomplishments of my colleague, the gentleman from California (Mr. PHILLIP BURTON). His quiet efforts toward attaining a more perfect degree of environmental quality through an expansion of our national parks and recreation areas will remain a symbol for future generations of what can be done by the collective wisdom of concerned Members of Congress, and their leader.

On this issue, it was Mr. BURTON who provided that leadership.

More than a decade has passed since the last major legislative initiative affecting this Nation's parklands has been considered by the Congress. The National Parks and Recreation Act of 1978, originated by Mr. BURTON, is an accumulation of loose ends and incomplete thoughts that have remained during the past decade of near neglect.

I offer, for the CONGRESSIONAL RECORD, those comments by four major environmental groups that relate to this legislation and to Mr. BURTON'S foresight.

The efforts of the Sierra Club, the Wilderness Society, the Friends of the Earth, and the American Rivers Conservation Council were impressive in shoring up support for the bill.

We can only hope that the Senate can act judiciously and without haste to pass this bill and to send it on to President Carter for his signature into law.

PARKS PACKAGE PRAISED

The Wilderness Society heaped praise on the National Parks Omnibus Bill passed by the House of Representatives today.

Calling it "the most important parks legislation since the establishment of the National Park System," Celia Hunter, Executive Director of the Wilderness Society, praised its chief sponsor, Rep. Phil Burton, who "deserves tremendous credit for the outstanding job he has done in pulling together this remarkable piece of legislation."

The bill if approved by the Senate will:

Designate more national park wilderness than any bill since the 1964 act establishing the National Wilderness Preservation System—almost quadrupling the amount of national parks wilderness.

Provide $650 million in matching grants to local communities to rehabilitate their parks and recreation systems.

Designate more wild and scenic rivers than any bill since the 1968 Wild and Scenic Rivers Act—seven new rivers and nineteen study rivers.

Add thirteen new areas to the National Park System.

Add four new trails to the National Trail System.

"There are literally dozens of items in this bill that are essential if we are to protect and manage our national parks at all adequately," said Hunter. "It's high time that someone took the initiative and did this job. It should have been done years ago. We'll all benefit from Rep. Burton's good work."

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AMERICAN RIVERS
CONSERVATION COUNCIL,
*Washington, D.C., July 12, 1978.*

The American Rivers Conservation Council hails H.R. 12536, the National Parks and Recreation Act of 1978, passed by the House today as a landmark measure in the preservation of our natural heritage. This will be by far the most significant addition to the National Wild and Scenic Rivers System since the original 1968 Act. In addition to the designation of 7 rivers and authorization of 19 studies for potential additions, the bill includes several policy measures which should improve the wild and scenic rivers program and encourage river preservation action by the states.

Chairman Burton and the National Parks Subcommittee are to be praised for the vision they showed in putting this package together. H.R. 12536 will go far towards improving the quality of life for future generations.

The gem of the whole bill though is the wild and scenic designation for the Middle Delaware River. This will help resolve a long standing threat to one of the most outstanding natural areas in the East and allow the recreational use of this marvelous resource within a days drive of one quarter of the U.S. population. Meyner's vote defeating the Thompson amendment was a real high for those who care about our nation's rivers and natural areas. Congratulations to Chairman Burton and Congresspersons Kostmayer, Meyner, Fenwick, McDade, and all the others who attributed to this great victory.

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AMERICAN RIVERS
CONSERVATION COUNCIL.
*Washington, D.C., July 17, 1978.*

HON. PHILLIP BURTON.
*Chairman, Subcommittee on National Parks and Insular Affairs*

DEAR CONGRESSMAN BURTON: Congratulations on a job well done on a bill for which you can always be proud. The National Parks and Recreation Act of 1978 is the biggest step forward for the National Wild and Scenic River System since its 1968 enactment, and is of similar importance for other aspects of the struggle to insure that future generations will have the opportunity for outdoor recreation and for experience with the natural world.

Together with the Redwoods, Boundary Waters, and Alaska legislation which you and Chairmen Udall and Seiberling have fostered, the 95th Congress is certain to be remembered as a high point in the preservation of our natural environment.

We will do all we can to insure that these bills are passed by the Senate and signed by the President in as strong form as they passed the House. Our press release on H.R. 12536 is enclosed.

Sincerely,

HOWARD BROWN.

*Washington, D.C., July 12, 1978.*

SIERRA CLUB PRAISES BURTON PARKS AND RECREATION BILL

The Sierra Club today hailed the passage of H.R. 12536, the National Parks and Recreation Act of 1978, authored by Rep. Phillip Burton (D., Calif.), as "a milestone in conservation."

Michael McCloskey, Executive Director of the Sierra Club, said in a telegram to Rep. Phillip Burton: "May we offer our hearty congratulations for your superb work in guiding the omnibus parks bill through the House of Representatives. We think this is a milestone in conservation. Your skill and perseverance made it possible. We are immensely grateful. We look forward to carrying the work forward now in the Senate."

After the passage of the bill in the House, Linda M. Billings, a Washington Representative for the Sierra Club, said: "We are elated that this major legislation passed the House with such a large margin of support. Rep. Burton deserves high praise for his vision and courage in crafting the legislation and for his political skill in guiding it to victory. The bill has made great strides towards bringing a number of programs forward which have made very slow progress over the past decade. We are particularly pleased with the provisions for wild and scenic rivers, national trails, national park wilderness, urban parks recovery, and new areas protection such as the Santa Monica Mountains, the Chattahoochee River, and the Pine Barrens. We are also gratified that the bill settles some longstanding controversies such as the lower canyons of the Rio Grande, the middle Delaware River and Tocks Island Dam project, and Mineral King Valley in California. We urge the Senate and the Carter Administration to look favorably upon this legislation and to insure its enactment in this Congress."

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JULY 13, 1978.

Representative PHILLIP BURTON,
*House Office Building,*
*Washington, D.C.:*

May we offer our hearty congratulations for your superb work in guiding the omnibus parks bill through the House of Representatives. We think this is a milestone in conservation. Your skill and perseverence made it possible.

We are immensely grateful. We look forward to carrying the work forward now in the Senate.

MICHAEL MCCLOSKEY,
*Executive Director, Sierra Club.*

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FRIENDS OF THE EARTH,
*San Francisco, Calif., July 18, 1978.*

Hon. PHILLIP BURTON,
*Rayburn House Office Building,*
*Washington, D.C.*

DEAR PHIL: Friends of the Earth congratulates you for your leadership and vision in putting together H.R. 12536, the National Parks and Recreation Act of 1978, and for so skillfully steering this historic bill through the House of Representatives.

This omnibus bill not only addresses the need of the American people for additional parks, wild rivers, and recreation areas, it recognizes that we must act swiftly to protect our scenic resources from development. Our California office is most familiar with the threats to areas in this state included in your bill, Mineral King, the Santa Monica Mountains, Golden Gate National Recreation Area, etc. . . . Certainly the threats in other parts of the country are no less great.

H.R. 12536 is not only one of the most significant pieces of environmental legislation to come before the Congress, it is one of the most constructive. In recent years, both the Congress and environmental organizations

have had to spend far too much time in fighting off attacks to existing parks—open pit mining in Death Valley, logging outside of Redwood National Park, and the concessionaire scandal in Yosemite, were just three such battles in California. There has been little time left to devote to protecting new areas, as you have done in H.R. 12536.

Many of the proposals in the omnibus bill have been brought up time and time again but have not been acted upon for one reason or another. H.R. 12536 has been accurately characterized as "catch up" legislation. But it took your hard work and dedication to give the Congress the opportunity to catch up on the urgent business of preserving our natural and historic resources.

We hope the Senate will not wait long to follow suit.

Sincerely,

CONNIE PARRISH,
*California Representative.*●

## TAXING PROBLEMS

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. DERWINSKI. Mr. Speaker, Carl Richards, retired editor and publisher of the Palos Regional, a local newspaper serving my district, can best be described as one of the deans of the weekly community newspaper. Carl is a homespun philosopher as well as a discerning journalist.

Therefore, I wish to insert into the RECORD the editor's note and column of the July 6 Palos Regional which I commend to the attention of the Members:

TAXING PROBLEMS

Carl Richards was lucky. His newspaper survived. But countless other publications have not been able to cope with the monumental tax increases incurred by small business owners. This tale, reprinted from his column of April 14, 1977, is of one such unlucky publisher.

This column is especially timely in light of the recent success of California's Proposition 13, dubbed the property taxpayers' revolt.

Richards told this editor that he thinks that politicians across the nation will now have to listen to their constituents who are demanding that taxes be cut.

We stopped at the front door of a small town newspaper plant last Thursday and read a sign which said that the business has been closed by order of the Internal Revenue Service.

That meant only one thing—the publisher had not paid his taxes.

We do not know the name of the present publisher, nor why he didn't (or couldn't) pay his taxes, but we do know the couple who founded the paper 10 years ago, and some of the paper's history.

It was started by a couple with five or six children and everybody in the family worked on the paper. They served their community and most people in town seemed to like them. After five years of hard work they gave up. He told us that he just couldn't make a living with the paper and he got himself a job with some company in Michigan.

We hear that the same pattern existed with the present publisher.

In the past 20 years the federal, state, county and local governments have piled so many taxes on those who operate a business that it is a wonder that there are any small businesses left. Let's see what faced that small publisher.

He had to withhold income taxes for all of his employees, and himself, and send the money to the Internal Revenue Department. He had to withhold and pay the Social Security tax for all of his employees and pay the same amount himself for all of his employees and himself. He had to pay state unemployment tax, tax on all supplies and equipment he purchased and taxes on everything for his own personal use. Also, real estate taxes, personal property taxes and dozens of hidden taxes.

With the amount of reports he had to file he probably paid an accountant $100 a month or spent nights trying to make out the forms and learn how to be a tax expert. He also had his company and personal income tax returns to make and unless he had professional help he could mess it up and stand the chance of drawing penalties for improper returns. Or, appear before a court which literally says you are guilty before you are tried. If a small businessman would keep a record of the hours he puts in doing bookkeeping and collecting for governmental agencies, and would charge them for it, he could ask for one tax-free year.

Let's assume that this publisher had put aside the amount of money necessary to pay his withholding, Social Security, sales tax, real estate tax, income tax and his unemployment tax, and an emergency hits his family—his wife or kids get sick, or in an accident, and he runs up big hospital and medical bills. Or, he gets sick for a long period and cannot make money for the newspaper. A federal or state sticker appears on the door.

An auction of the newspaper plant and equipment was to have been held Tuesday. We couldn't have gone if they had been giving the machinery away. We couldn't stand to see 10 years of hard work crushed and destroyed by a giant federal government that has long forgotten that our flag once flew over "The land of the free."●

## FORMER CHAIRMAN OF THE COUNCIL OF ECONOMIC ADVISERS, ALAN GREENSPAN, TESTIFIES IN SUPPORT OF THE KEMP-ROTH TAX RATE REDUCTION ACT AND ANSWERS THE INFLATION QUESTION

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. KEMP. Mr. Speaker, the former Chairman of the President's Council of Economic Advisers, Dr. Alan Greenspan, testified last week before the Senate Finance Committee's Subcommittee on Taxation and Debt Management in support of the Kemp-Roth Tax Rate Reduction Act. Dr. Greenspan was Chairman of the Council under President Ford and is now president of Townsend-Greenspan & Co., in New York City.

Dr. Greenspan testified:

I support the Roth-Kemp Tax Reduction Act as a vehicle that will help us break away from an economic policy which looks increasingly unlikely to resolve the problems facing this country.

* * * * *

A new approach must be initiated, one which has a fighting chance of breaking us out of the discouraging cycle and restoring long-term balance to our budget and economy. We need the equivalent of Proposition 13 for the nation as a whole. Roth-Kemp combined with modest restraint in expenditure growth could move us a long way in the right direction.

Then, Dr. Greenspan addressed himself to the recent attacks on Kemp-Roth, attacks that it would be inflationary, by putting it in the context of what our choices are:

It strikes me that those who label Roth-Kemp as inflationary are assuming the same type of federal expenditure growth which has created our current problems. There is no question that should we continue on the current path, we will be running large deficits and highly inflationary fiscal policies. But this would occur with, or without, Roth-Kemp. Our problem is that we tend to spend whatever we have. The great advantage of Roth-Kemp is that it would restore a significant part of the normal increase in tax revenues coming from the growth in the economy to taxpayers, rather than employing them for new expenditure programs. It is not Roth-Kemp that is inflationary, it is the process of federal outlays which Roth-Kemp may succeed in curbing.

Dr. Greenspan's written testimony follows in its entirety:

TESTIMONY OF ALAN GREENSPAN BEFORE THE SENATE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT, COMMITTEE ON FINANCE, JULY 14, 1978

I support the Roth-Kemp Tax Reduction Act as a vehicle that will help us break away from an economic policy which looks increasingly unlikely to resolve the problems facing this country.

We are confronted with an insufficiency of investment and a disturbing shortfall of risk-taking. We have observed, as a consequence of growing inflation fears, an increasing unwillingness on the part of the business community to commit to longer-lived assets: That is to the future of this country. The ability of the market economy to address future imbalances has accordingly been weakened and productivity and real income growth have slowed. We have experienced over the years a gradual deterioration in fiscal restraint and allowed budget expenditures to expand in excess of the capacity of our economy to finance them. While our political leaders are rhetorically eloquent on matters of fiscal restraint, their specific decisions based on short-term political pressures seem inexorably to pad federal outlays.

I had hoped that the recent rhetoric for fiscal restraint would lead to a curbing of expenditure growth, thereby gradually reducing the federal deficit and removing the inflationary pressures from our economic system. The recent inflationary upsurge has apparently put some fiscal backbone into the executive branch and, clearly, the proddings from their constituents have produced a number of new converts to fiscal conservatism in the Congress.

However, with increasing pressure on the financial side of our economy, the chances of a recession within the next two years are now better than even. I fear that when confronted with economic weakness and a newly rising unemployment trend, much of the recent fiscal restraint will dissolve. New short-term fiscal stimulus would then throw the prospect of budget balance indefinitely into the future and, presumably, add little to real growth.

A new approach must be initiated, one which has a fighting chance of breaking us out of this discouraging cycle and restoring long-term balance to our budget and economy. We need the equivalent of Proposition 13 for the nation as a whole Roth-Kemp combined with modest restraint in expenditure growth could move us a long way in the right direction.

Are there risks in the Roth-Kemp proposal? Of course there are. But the level of

risk in initiating such a fiscal policy is less, and the potential rewards significantly greater, than the course which we now appear to be following.

Let us remember that the basic purpose of any tax cut program in today's environment is to reduce the momentum of expenditure growth by restraining the amount of revenues available and trust that there is a political limit to deficit spending. For if expenditures are not curtailed in line with tax reductions, or if tax cuts do not greatly expend taxable incomes, a tax cut is an illusory increase in real purchasing power. Inflation will eat away at whatever increase in nominal incomes is produced.

Hence, any tax program must be associated with programmed curbing of growth in outlays. Fiscal 1978 receipts are currently estimated at $401 billion. Under current tax law, extended, the January budget projected revenues of $608 billion for fiscal 1981 and $686 billion for fiscal 1982. Roth-Kemp would probably reduce 1981 revenues to about $500 billion, still 25 percent above the current fiscal year, and to approximately $560 billion for fiscal 1982. Even if Roth-Kemp did nothing to enhance the economic outlook implicit in this January's budget, a balanced budget by fiscal 1982 under Roth-Kemp would still allow a rise of 5½ percent annually in federal outlays during the next four years. The implied level of fiscal 1982 outlays, I might add, would be precisely the amount that President Ford recommended in his January 1977 budget. To the extent that the Roth-Kemp bill enhances the economic outlook beyond that embodied in the January forecast, revenues would be higher and expenditures could grow faster than 5½ percent annually and still reach a balanced budget.

It strikes me that those who label Roth-Kemp as inflationary are assuming the same type of federal expenditure growth which has created our current problems. There is no question that should we continue on the current path, we will be running large deficits and highly inflationary fiscal policies. But this would occur with, or without, Roth-Kemp. Our problem is that we tend to spend whatever we have. The great advantage of Roth-Kemp is that it would restore a significant part of the normal increase in tax revenues coming from the growth in the economy to taxpayers, rather than employing them for new expenditure programs. It is not Roth-Kemp that is inflationary, it is the process of federal outlays which Roth-Kemp may succeed in curbing.

There is some inflationary risk involved in the Roth-Kemp bill. It does, in the very short run, increase the federal deficit. It does create the types of risks we shouldn't have to be taking. But fiscally irresponsible policies have brought us to the point where we are required to use the type of sledge hammer approach embodied in Proposition 13 to break us out of a stagflation oriented policy scenario. We appear to have a potential very substantial backlog of capital investment, which is being stifled by high risk and required rates of return. This backlog could be activated if we can somehow create greater incentives and increase confidence in cash rates of return on future investments. Such an investment boom would generate a broad expansion in economic activity, in productivity and, hence, in standards of living.

The structure of the Roth-Kemp bill is in the right direction. But, I would go further. I would prefer more emphasis on corporate tax cuts and cuts in the upper-middle and upper income brackets. Hence, I am also in favor of the Steiger Amendment which could compliment Roth-Kemp. Such a program would certainly enhance incentives and expand investment and economic activity. Those who would benefit most from such a tax cut are those who exist at the margin of the economy, those who are most vulnerable to unemployment when the economy sags, and those who are hired or upgraded as the economy expands—namely the middle and middle-lower income earners. To argue that the Roth-Kemp or Steiger initiatives help the rich at the expense of the poor is shortsighted. Everyone should benefit, the poor most of all.

Finally, let me address the issue of the effect on increasing tax rates on the tax base. Unless we initiate a new policy, we will presumably continue to allow inflation to boost effective tax rates, thereby increasing the burden on investment and initiative in this country. We will surely, in the process, give lip service to cutting taxes and will periodically cut rates, but not enough to offset fully the inflation tax. There are those who believe that we have already reached the point where taxation has become counterproductive, that further increases in tax rates will erode the tax base and thereby increase the federal deficit. While evidence is lacking, we know in principle that there is a point where increased tax rates become counterproductive to economic growth.

The problem is that we are unlikely to be aware we have reached such a point until perhaps three or four years after the fact. There is no way analytically to ascertain developing stagnation except in retrospect. Unfortunately, once that stage is reached, as the British have sadly concluded, the pain, economic and social, in reversing it, is close to intolerable. The British have North Sea oil to help them in their transition back to economic sanity. No such bonanza seems pending for the United States. We must avoid, at all costs, slipping into the British disease.

Can we say with a reasonably high degree of assurance that we are not now, nor are we about to, approach a rate of taxation which will engender economic stagnation? While I suspect that we have not as yet reached the danger point, there is surely enough peripheral evidence on investment shortfalls and lagging basic research to give us sufficient concern that we may be entering a level of effective taxation which could cause us trouble.

Since the cost of stagnation politically, socially and economically is so large, we have to lean over backwards to avoid it. A program of well structured tax cuts and expenditure restraint is an insurance policy we badly need.●

## INFLATION CZAR

## HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. GRASSLEY. Mr. Speaker, in recent weeks we have seen much attention given to the problem of inflation. We even now have an "inflation Czar" who is supposed to lead us in our fight against inflation, which is again recognized as our country's No. 1 problem.

Yesterday, July 20, 1978, an article appeared in the Washington Post with the title "Farmers Reap Loss on Inflation." The article accurately points out that farmers have also suffered from the high rate of inflation with which we are now having to live. Farmers have had to endure this high inflation on top of the low commodity prices many of them received last year and the adverse weather conditions which hit some parts of the country.

We all must realize that inflation hits everyone. It is a hidden tax which leaves no one untouched. If we are ever to regain stability in our economy and lower the rate of inflation, we must halt the proliferation of Government spending. The Government cannot solve all of our problems or provide us with everything.

The article provides an excellent insight to the problems facing farmers and in order to share it with my colleagues the text follows:

FARMERS REAP LOSS ON INFLATION—CONSUMER GOODS GO UP AS CROP PRICES SLIDE

(By Bradley Graham)

NORTH PLATTE, NEBR.—Alice Phelps has the patient, tolerant look that comes from a lifetime of farming. She is generally slow to anger and quite diplomatic about most things. Which is why her friends continue to elect her to head the local Farm Bureau chapter, her protestations to the contrary.

But the other day she was obviously disturbed. Her visitor from the East, simply did not understand the facts of farming. He had suggested that current high food prices meant farmers were getting rich.

"Don't blame us for inflation," she said in her most admonishing way, which is very effective. Whereupon she rose from her kitchen chair, walked to a cupboard and reached for a box of Post Grape Nut flakes.

"This box of cereal costs $1.04. It weighs 18 ounces. Know what's in it?" She glanced at the side of the box. "Basically, wheat and barley. Know what a bushel of barley is selling for today? About $1.75. A bushel of wheat goes for about $2.50. Each bushel weighs 50 or 60 pounds. That's a lot of cereal." She paused.

"No, inflation doesn't make us richer," Alice Phelps said, "only poorer."

After several days in this central Nebraska town, it is readily apparent that the current round of inflation has been more bane than boon to crop farmers. In fact, inflation has struck here with a vengeance. For while the prices of consumer goods have been accelerating upwards, the wholesale prices of grains have slid to hardship lows.

It was only a short while ago that this agricultural community knew very good times. In 1974, thanks to a surge in world demand for American grain, crops here were selling at record highs of $4 per bushel and more. Now, a bushel of dried corn can't fetch above $2.

In the meantime, the prices of farm machinery and farmland, sparked by the bumper farm profits and splurge in farm spending of several years ago, have anything but reversed themselves. A 125-horsepower tractor which sold for $14,000 in 1973 is on the market today for $31,293. An acre of prime farmland has soared in price from $800 to more than $2,000.

It is this disparity between the prices farmers can get for what they sell and the prices they are having to pay for what they need that irks them the most about inflation. It doesn't seem fair to them that some prices should rise while others slip back and they get caught in the squeeze. "If everything fluctuated as grain prices do, we'd do all right," said Glen Phelps who, with Alice, grows corn on several hundred acres north of town. "But they don't. They go up and up and then just stay there."

Farming used to be a lot simpler, and farm life more sheltered from fluctuations in national and world markets. Now, everything seems affected by everything else. The tone and tempo of life on the Plains has changed, and inflation is part of the change.

Glen Phelps recalled that his parents 30 years ago had a dairy farm and would trade milk and cheese with neighbors in return for meat and vegetables. "We didn't deal with money then. We bartered for things. Today, everything is money and inflation. I wouldn't mind going back to trading with the neighbors."

The Phelps are still largely independent of the stores in town. Alice grows just about

everything imaginable in the garden and the family draws its meat from the cattle they raise. But Alice still must shop for staples such as coffee, sugar and flour. Many of her friends, she said, have abandoned their gardens altogether. "We've all become somewhat spoiled, I guess," she noted.

Farmers here stress how little influence they have over the price of food. They say they themselves are at the mercy of uncontrollable forces, including the weather, the demand for grain exports and—something that's currently on everyone's mind in Nebraska—grasshopper plagues. The ones really responsible for inflation, they say, are the groups that can control prices, and do.

A favorite target is labor unions, represented in North Platte by the Union Pacific Railroad. The railroad operates a large roundhouse just west of town and employs about 15 percent of the county's eligible work force. Every farmer interviewed sooner or later mentioned the Union Pacific, claimed its workers were overpaid, and blamed inflation on it—at least in part.

Big business, too, comes in for a scolding in these parts, charged with manipulating supplies to raise prices artificially and fatten profits. "Lots of folks remember how the price of fertilizer nearly doubled in 1974 because of a reported shortage of natural gas," said Ron Sobotka, manager of a local grocery store. "The next year you could get all the fertilizer you wanted. The same thing happened with the supply of baling wire here a short time ago."

As much as farmers talk about the advantage in pricing that comes from being organized, they have stubbornly resisted attempts to create a national coalition. Part of the reason may be found in that traditional sense of righteousness, of rural piety, which still prevails here. Part of the reason may be found in the fierce independence farming seems to breed.

In any case, the American Agricultural Movement, which stirred many to drive their tractors to Washington last fall, fizzled here and elsewhere in the spring when planting time came. "They all went back to their own farms," said Harlon Luttrell, this area's farm extension agent. "No one really believed they would strike like they threatened to, not when it came right down to giving up a year's crops."

The cry of hard times on the farm seems to ring inconsistent with the looks of the expensive rigs standing in the fields here. The tractors and combines are large and powerful and come equipped with air conditioning, stereo speakers and even telephones. But these, farmers say, have simply become the tools of the trade. "It's not a question of how we can afford them," said Luttrell, "but whether we could do without them. Farming isn't a small scale operation anymore. The capital investment necessary in a farm today is enormous. The mowers, the mixers, the sprayers, the loaders, planters, rakes, balers, tractors—the average investment per farmer is somewhere around $120,000."

This figure, Luttrel said, has increased with inflation, not only because machinery costs more today, but also because the average size a farm must be in order to be economical has increased—and larger farms require larger machinery.

On the other hand—and here is the only benefit higher prices have had on farming—the tremendous appreciation in land values has meant an increase in personal equity for the many farmers who own their own land, allowing them to borrow more to finance more expensive machinery.

"Land is the best thing you have going for you in the credit market," said Lee Harris, a 41-year-old corn farmer from nearby Cozad who bought his 2,500-acre spread in 1971 for about $800 an acre. Harris estimates his land is now worth at least $2,000 an acre, and last year he found it easy to borrow the necessary $50,000 for a new irrigation system and storage bin.

Though on paper inflation has turned some here into millionaires, farmers say they have had to work harder than before to get their farms to pay. They say they have no fat left to cut. Their only choice is to become more efficient.

Ernie Mehl, a beet farmer, called in a consultant from International Harvester to tell him how to improve his operation. The result: he now grows beets in 30-inch rows instead of in 22-inch ones and uses bigger equipment to harvest them. Gerald Beattie, a grain farmer, also hired a consultant when the cost of pumping water went from $15 to $50 an acre.

With farmers investing what money they have back in their farms, towns like North Platte have been seriously affected by a slump in retail sales. Sales here grew only 2 percent last year—"Hardly enough to keep up with inflation," said Gary Toebbin, director of North Platte's Chamber of Commerce. William Dietemeyer, president of the First National Bank of North Plattee, spoke of a "new conservative attitude" he has seen among farmers.

Over 80 percent of the farmers in this area participate in some kind of federal agricultural support program, receiving payment from the government either for storing their grain or letting some fields lie fallow. While these programs help pay farm bills, they are hardly enough to keep up with the inflation rate, farmers say.

Alice Phelps said the most she can hope for is that grain prices will not stay at their current depressed level long, but rise as beef prices have recently. It is all a matter of supply and demand she knows and all out of her control.

But she won't leave farming. She likes life in the country she said and the independence of farming. "I also like to watch things grow" she added with a smile. "It gives me satisfaction." ●

## 1980 OLYMPICS SHOULD NOT BE HELD IN MOSCOW

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. LEHMAN. Mr. Speaker, in the aftermath of the Soviet trials and sentences of Anatoly Shcharansky, Aleksander Ginzburg, and other Soviet Jews and monitors of Soviet compliance with the Helsinki agreement, we must let the Soviets know that we will not tolerate such outrageous abuses of human dignity and blatant disregard for international covenants. There is no alternative except to increase our efforts to seek freedom for these courageous people and to apply more sanctions to the Soviet Union linking human rights violations with technological and cultural exchange programs.

The most effective way to tell the Soviets that we will not acquiesce to their disregard of human rights and the Helsinki agreement is for our Government to support the removal of the 1980 Olympic games from Moscow. Not to take this kind of action, in effect, makes the United States an accomplice to the acts we so strongly deplore. There is no neutral stance that absolves us from the moral responsibility of acting to resist the violation of human rights, for to fail to do so places the human rights of us all in jeopardy. Unless there is some change in the Soviets' repressive policies and a movement toward the respect of human rights is indicated, the Soviets should not have the privilege of hosting the 1980 games.

The last time a country hosting the Olympic games was involved in a campaign of antisemitism, the world did nothing to respond and, therefore, acted in support of the Nazi propaganda effort. Not only did the United States fail to boycott the 1936 Olympics, but the American team cooperated with the Nazi request to remove two American athletes from competition because they were Jewish. To remove the Olympic games from Moscow would signal our refusal to allow any country to again make such a disgusting display of hypocrisy.

A few weeks ago, I wrote to the president of the International Olympic Committee in Lausanne, Lord Michael Morris Killanin, urging the committee to speak out against the exploitation of these games by the Soviet Union made evident by its campaign to eradicate from its major cities critical elements which may be visible during the Moscow Olympics. I am writing again with my colleagues to urge the removal of the games in Moscow.

I urge my colleagues to join me in cosponsoring House Concurrent Resolution 1268 calling for the removal of the 1980 Olympic games from Moscow. Let us also ask other countries to join us in this effort and in our forthcoming sanctions against the Soviet Union's continued persecution of Soviet Jews and monitors of the Helsinki agreement.●

## LARGO WORLD BAND OF GOLD

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. YOUNG of Florida. Mr. Speaker, on the evening of July 27, three new gold medals will be arriving in the United States. These medals were won on the playing field, but a musical, not an athletic playing field, and the players who marched off with the gold medals were not discus throwers or skiers, but 210 talented young band members from the Largo Senior High School in my district. They will be bringing their medals with them as they triumphantly return from Europe where over the weekend of July 15–16, they marched away with the World Band Title at the World Olympics of Music in Kerkrade, Netherlands.

Competing against 250 bands representing 26 nations, the Largo Band of Gold, as they are more familiarly known, captured their first gold medal in the concert section, playing a medley including works from Beethoven to the Beatles. They outdistanced all competition in the show section by scoring 175 out of a possible 180 points, to win their second gold. And, in placing third in the march section, garnered sufficient points to win the third gold medal, the one awarded to the all-around winner of the competition.

Winning is nothing new to these youngsters, a class AA show band of world standards, winners of national parade, concert and field championships, and in this very same competition from which they have just emerged as world champions, they were last year winners of two gold medals. Credit must be given to the community which has so loyally supported them, their own mayor, the Honorable Warren Andrews accompanied them to Europe and to their fine musical director, Bob Cotter, whose talent and tireless effort has helped develop and to maintain this musical organization at such a high level of excellence. But for now, I think the spotlight belongs to this very wonderful group of boys and girls who have once more helped to prove that the United States is the very best.

I wish I could introduce my colleagues personally to the members of this band which has so ably represented our country in world competition, but since I cannot, I would at least like to share with you the names of the members of the "Largo World Band of Gold."

Abel, Linda, Allen, Thomas J., Jr., Alvarez, Silvia, Anderson, Calvin, Ansell Karen M., Ansell, Kristine E., Aridizzoni, Tracy Jo, Arvold, David A., Babson, Jane, Babson, John E., Jr., Bailey, Cynthia Ann, Badders, Rebecca S., Bandaret, Lynda Sue, Bechard, Brenda, Bell, Shari Lee, Benedict, Alan J., Berglund, Lori, Berkihiser, Rhonda, and Bernard, Tena.

Berry, Marilyn C., Bignotti, Terri Lisa, Bingaman, Kerry, Bobzin, Barbara L., Boelk, Laura Ann, Boelk, Nancy T., Bolinder, Leonard J., Borruso, Melissa, Bouxsein, Tanya L., Brash, Jody, and Brash, Mary.

Brittain, Steven, Brown, Jennifer L., Brown, Lori, Brown, Sharon Rae, Brown, Teresa A., Burridge, Wendy M., Butterworth, Teresa Lee, Butts, Steven J., Cannady, Thomas, Capitanio, Lilliana, Carlson, Carolyn A., Carlson, Catherine A., Carmichael, Crystal Lynn, Chambers, Pamela J., Chambers, Stephanie, and Cody, Nancy.

Collins, Lesley, Crowningshield, Alice E., Davidson, Robert, Demarco, Lori Dana, Diehl, Ronna Jean, Dobson, William A., III, Dominick, Daniel L., Donahey, Sean K., Dort, Glenn K., Drown, James R., Dunbar, Shelley Lyn, Duser, Susan G., Edington, David, Elmore, Gloria P., Engleka, Cynthia M., Estep, Janet, and Flatten, Amy Kathleen.

Flinner, Valerie Ann, Fontain, Troy N., Fuller, David, David, Forde, Steven M., Forde, Theresa Ann, Fuoco, Robert A., Furry, Dora Sue, Furry, Jason, Fussell, Lisa C., Garrett, Dawn M., Garbutt, Robert, Gear, Tamara Rae, and Giesegh, John.

George, John A., Guchemand, Kevin R., Gulliver, Maryfrances C., Gundel, Robert H., Haasl, Frank X, IV, Haddle, Brian K., Hall, Cynthia D., Hamilton, Alison P., Hancock, Elisha Ann, Hancock, Kenneth J., Harrison, Andrew T., Hartzell, Todd William, Harrison, Janet A., Harvey, Jeffrey J., Hensel, James E., Hickey, Monica Lee, Hickcox, Mark E., and Higgins, Craig.

Higgins, Judith, Higgins, Joan, Hoffman, Beverly Gale, Holroyd, Donna M., Howard, Neal, Hullett, Bonnie, James, Joni, Jasmer, Daniel P., Jawors, Baron, Jeworski, James L., Jobson, Jennifer C., Jodrey, Donald S., Johnson, Kimberley K., Johnson, Sonia L., Johnson, Susan K., Jones, Patricia A., Kahn, Julie L., Kampka, Tammi, Keller, Elizabeth M., Kennedy, Teresa, Klein, Ana Marie, Klein, Margaret E., and Kleinsorge, Thomas J.

Kleinsorge, William J., Koller, Donna, Kravako, Tammy L., Kroger, Linda M., Kuenn, James, Kuntz, Jeffrey, Lamelle, Karen, Laplante, Christine A., Laplante, Michael A., Lancaster, Timothy D., Larosa, Michaelle, Lents, Michelle L., Levesque, Karolina M., Lichter, Linda, Lowery, Tammy, Lundeen, Patricia, McConn, Kevin L., McGinnis, Kathleen M., and McGinnis, Kay A.

McClelland, Lisa Ann, McClure, Carolyn M., MacFarlane, Christine, Mack, Lanette, MacMillen, Mary Ann, Mahoney, Linda M., Manion, Robert, Mann, Elain, Mickel, Linda, Milford, Pamela, Militello, Bruce J., Miller, Kelly Jo, Morrow, George W., Moston, Jo Anne M., and Moore, Kathy P.

Murphy, Teresa, Musgrove, Martin H., Navon, Jeffrey, Nelson, Dena, Nelson, Jerome L., Norris, Valerie K., Okerstrom, Valerie K., Patton, Eugene, Patton, Gerald, Pickerill, Lori, Proplesch, Carol E., Proulx, Jeffrey A., Puccinelli, Laura Sue, and Quade, William.

Ranson, Bradley, Revere, Karen Anne, Revere, Mary Louise, Revere, Michele Anne, Riedel, Karen Anne, Rinard, Patrick W., Roberts, John C., Roden, Paul J., Saranceni, Michelle, Schloss, Anthony J., Schroeder, Albert W. Jr., Schroeder, Anna L., Schwersky, Steven E., and Seebacher, Allen B.

Seery, Thomas J., Sheffield, Lorna L., Singer, Michel M., Sipek, George C. Jr., Smaridge, Pamela E., Snyder, Gary L. Jr., Stevens, Mark D., Sweetman, Patricia L., Tapia, Paul, Tapia, Richard Jr., Tice, Marjorie L., Thomson, Mary Francis, Trippett, John E., Tyrie, Eileen L., and Uden, Kevin A.

Urban, Gail M., Van Peer, Nicole S., Wardell, Wendell G., Warner, Daren J., Watson, Robert F., Wilkowski, Laurie P., Wilson Jynne J., Wilson, Vickie S., Wise, Craig E., Wise, Dean, Whitmill, Deborah A., Whitmill, Donna M., Whitmill, Roseanna, Wolf, Jami L., Wolf, Katherine E., Woodside, Elizabeth J., Wotring, Deborah L., Wunderlin, Mark W., Wunderlin, Michael E., Yunko, Tamara C., Kubler, Gary L., Erickson, Debra Ann, Hall, Thomas, and Warner, Derek L.●

## APATHY

### HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. HOLLENBECK. Mr. Speaker, it is often helpful for Members of Congress to consider actions taken at the State and local level before trying to pass Federal legislation in a particular area. Although the election day voter registration bill, H.R. 5400, did not reach the floor last year, it might be helpful to us in future years to study the effects of similar proposals in individual States.

In that regard, a recent editorial by the Hudson (N.J.) Dispatch vividly illustrates some of the problems inherent in recent State legislation. The editorial takes special note of the real reason for low voter turnouts: apathy. The challenge for us is not mandate automatic or 1-day registration procedures, but to demonstrate to the electorate the continuing strength and vitality of the democratic process.

I insert the Dispatch editorial into the RECORD for the benefit of my colleagues:

EDITORIAL

The instant voter registration bill sounds good on paper. It's the practical effect we have qualms about.

If it becomes law, New Jersey residents could register and vote in general elections on the same day by going to the municipal clerk or the county election office and presenting a driver's license or other "suitable identification" or merely having a registered voter vouch for them.

The bill passed the Senate last February and yesterday the State Government Committee of the Assembly voted to release the bill without any recommendation pro or con.

An amendment approved by the committee would enable unregistered voters to cast a ballot after bringing proof of residency to the polls. Prospective voters would have to be accompanied by a sponsor registered to vote in that district. A second amendment would provide a 25-day period after the election for officials to verify residency.

Fraudulent registration would be punishable by a fine of up to $1,000, a three-year prison term, or both.

The theory behind the bill is that the decline in voter participation is due to the inconvenience of the current voter registration process. By allowing registration and voting in one simple process, the theory goes, the state would be opening up the franchise to many people who would otherwise not vote.

Republicans generally oppose the bill because they believe most of the new voters will be potential Democrats.

We oppose the bill the way it now stands for other reasons.

First, it will be an easy avenue for fraud. We have no problem imagining party regulars merrily skipping from municipal clerk to municipal clerk, vouching for each other's residency. There would have to be better safeguards against this easy kind of fraud.

Second, if they wanted to truly open up the franchise, why did legislators limit instant registration just to general elections? In many countries primaries are where the action is. Of course, they are also where organizations have the most control. Maybe party heads are fearful they will lose power if the electorate can register and vote as party members in one day.

Third, the bill doesn't provide additional funds to cover the potentially enormous administrative expense municipalities must bear as a result of instant registration. In Wisconsin, which has a similar statute, 216,000 people registered and voted on Election Day in 1976.

The major defect in the bill, however, can't be addressed by amendments. It is the underlying assumption that democracy will automatically be strengthened by having more voters turn out at the polling booths.

This may have been true 30 years ago, when many states had poll taxes, property requirements, grandfather clauses and other legal barriers to voting for whole groups of people. But these have been eliminated, as have many of the physical impediments to registration.

Today, most people don't vote simply because they feel their vote doesn't make a difference. They feel politics is an irrelevant game participated in by two-bit players concerned only with power or wealth.

California's Proposition 13 and other referenda have hit a responsive chord in voters partially because they permit voters to directly affect the operation of a government that seems to ignore them. Instant voter registration aside, then the message for politicians is that when voters feel they can make a difference, they will go to the polls.●

## A SALUTE TO STEVE ACUNTO

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. OTTINGER. Mr. Speaker, I am delighted to have as one of my constituents. Steve Acunto—an outstanding citizen who gives tirelessly of himself to people of all ages. Steve is a devoted family man who has helped countless young people in Westchester develop their

sports potential. I am pleased to share with my colleagues an article which appeared in the Westchester Rockland newspapers in honor of Steve:

SALUTING ACUNTO, A VERY SPECIAL DAD

(By Helen Ganz Spiro)

Mention the name Steve Acunto in most any home and chances are one member, or even all members, of the family will connect his name with either boxing, Little League, bicycling, politics, journalism, or radio.

There are few children, teenagers, or adults in Westchester County who have not at some point or other crossed paths with Stephen Acunto II . . . father, teacher, coach, sportsman par excellence, columnist and radio sportscaster, whcse high principles have been instilled in many.

And it is for this reason we feel the title of Westchester Father of the Year 1978 should be bestowed on this man whose love for children, devotion to fair play, is undisputed.

There are few children who don't know him from the ballfield, where he has been very much in evidence with Little Leaguers. As an examiner and teacher of safety measures for cyclists his lectures are hard hitting, but with an ulterior motive . . . safety. He is a familiar figure with a pair of boxing gloves on, teaching youngsters self defense, sparring with the older set, or just giving an exhibition.

Acunto is mentor to thousands as well as father to his own four children, now adults—Stephen III, Laura Markevitz, Stephanie, and Donna.

Natives of Staten Island, the Acunto family moved to Westchester in 1935. "My father, the original Stephen, was quite comfortable, and he bought the house we presently live in on Fletcher Avenue. It has always been known as the 'big house' and has been the center of family activities."

Acunto senior was a professor of music, a composer, a music critic and then president of a piano company, the sportsman recalls. "When I was graduated from St. Francis Xavier High School in New York my family wanted me to have a professional career . . . to become a lawyer. But somehow that wasn't what I wanted. Guess I was sort of a maverick.

"I liked to hang out at Stillman's gym and watch the boxing greats train," says the man who presently is director of the Crime Prevention Unit and Youth Activities Unit of the County's Sheriff Department. (Through the years his vocation has been as a salesman, a teacher of physical education, and with a bank.)

But of all his avocational sports, boxing has always been Acunto's favorite and during the years he frequented Stillman's he boxed in exhibition bouts with some of the top notch professionals. "That sport," he says, "helps teach youngsters discipline and confidence," two traits he considers vital.

"Youngsters need and want to be disciplined first at home by their parents, then in school by their teachers and then in sports. Boxing teaches young people to discipline themselves by keeping physically fit, training to participate in the sport and then to respect the ability of their opponent. It's also a way to teach kids self confidence to face life," Acunto says.

He feels children aren't born bad, but they do have to be steered and taught, sternly and lovingly, first by their parents, and then by their teachers. "Young people can go bad at an early age if parents give them too many material things. Giving a child everything is never the substitute for spending time and sharing interests with one's offspring."

Acunto, the man who has been honored by numerous local and national organizations, whose manner is gentle and who radiates kindness, is critical of plea bargaining and of jails that are like country clubs. "If someone does something wrong, there should be a mandatory sentence for the wrongdoing. Sometimes young people get into trouble because of the company they keep, or because of peer pressures. But still they have done something wrong and should be punished for what they have done."

What about the upbringing of his own children? "I was a strict father," he says. "Maybe my children resented it, but later on they realized that what my wife and I did in the way of disciplining them, was for their own good."

And how will this Father of the Year spend today? His wife, Mercedes, and their four children and grandchildren will spend the day together, as they have in many years gone by, at the "big house on Fletcher Avenue." ●

## IMPACT OF LEGISLATION ON FAMILIES

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

Mr. MILLER of California. Mr. Speaker, as a Congressman whose major legislative interest lies in the area of children and families, I strongly support efforts to remove antifamily policies from Federal laws. After laboring over foster care and adoption reforms for over 3 years, as well as several other matters, it is evident to me that there do exist many extremely antifamily provisions in Federal laws, many of which we in Congress would be surprised to learn exist.

In particular, I would like once again to point to the financial incentives for the breakup of the family which are contained in the present foster care program. We will continue to pay hundreds, even thousands, of dollars a month to keep a child in foster care (often far longer, or in far more costly a setting than necessary for the benefit of the child), but we will not pay adoption supports to a qualified family willing to give that child a permanent home. We have not developed the necessary, and cost-effective, review procedures to assure that children are removed from the system at an appropriate time.

Thus, the studies all show that as many as two-thirds of the children in foster care are inappropriately placed. A study by the New York Comptroller last year showed that the cost of these inappropriate placements in New York City alone is in excess of a quarter of a billion dollars.

Many of these problems could be remedied with the comprehensive, and widely supported reforms contained in the H.R. 7200, which this House approved over a year ago. Inaction by the other body has not only delayed enactment, but has contributed to the unnecessary costs of foster care, to the very great detriment of thousands of children who have unnecessarily entered, or remained in inappropriate placements. Once again, I call upon the Senate to act expeditiously on the child welfare provisions of H.R. 7200.

But foster care is not the only problem area. As the attached article from the Wall Street Journal notes, the antifamily aspects of the current welfare program, and even of some of the proposed reforms need further study and improvement. Much of this very essential review is currently being undertaken by the family impact seminar at George Washington University. The FIS, headed by Sid Johnson, an extraordinary talented man, has been engaged in the development of policy analysis techniques so that this Congress will be able to act far more wisely in developing legislation which will benefit, and not interfere with, family life. The second article which I am submitting today describes the very important work of the family impact seminar, which deserves the support and attention of every Member of the Congress concerned with family life.

[From the Wall Street Journal, July 11, 1978]

WHEN WELFARE FAMILIES KNOW THEIR RIGHTS

(By Bradley R. Schiller)

In offering his welfare reform proposals last year, President Carter noted that "the welfare system is antiwork and antifamily." It is antiwork because it provides income guarantees to those who don't work, and imposes high taxes on the wages of those who do. It is antifamily because in most cases it disqualifies poor families that remain intact with an unemployed or low-wage father.

There has never been any serious disagreement about the *theoretical* impact of the welfare system on the emp'oyment or family stability of poor families: The system is indeed both antiwork and antifamily. What has kept the welfare debate alive for so long is that the *actual* antiwork and antifamily effects of the welfare system have not been that large.

For example, one out of four welfare mothers holds a job at least part of the year, despite the fact that the welfare system may take away as much as 67 cents out of each dollar she earns. Even more remarkable is the fact that one out of 10 welfare mothers works full time, despite the very high tax (as much as 67 percent) imposed on her very low wages (around $3 an hour).

Such evidence suggests that welfare mothers have a much stronger work ethic than most Americans (as Leonard Goodwin documented in some fascinating Brookings Institution studies) or that they respond "irrationally" to market incentives. The irrationality argument is based on the premise that welfare mothers are not completely informed about the loss of welfare benefits implied by a decision to work, either before or after they take a job.

The same kind of discrepancy between theory and practice is evident with respect to the antifamily provisions of the Aid to Families with Dependent Children (AFDC) program. There is a very strong financial incentive for poor fathers to desert their families, as desertion of the father (in fact or in appearance) makes the mother and children eligible for welfare (AFDC) benefits.

In view of this incentive, it is truly amazing that nearly three million poor families—including over 11 million individuals—continue to be headed by a male, despite the fact that nearly all of these families would be better off financially if they split up. What should one conclude? Do poor people have stronger family ties than the rest of us? Or don't they understand the complexities of the welfare system?

Recent evidence from the continuing welfare experiments in Seattle and Denver provides some answers. The basic intent of the experiments is to test the impact of different welfare-benefit provisions (especially higher guarantees and lower tax rates) on poor families. However, the most "startling"

finding reported to Congress by the Stanford Research Institute economists conducting the study is that the experimental families are splitting up faster than anyone expected. Indeed, the rate of family break-up increased by 61 percent among black families and by 58 percent among white families after they began participating in the experiment.

The initial reaction to this extraordinary increase in the rate of family breakup has been greeted with dismay by welfare officials. HEW has been quick to point out that the Seattle-Denver experiments do not provide the jobs promised by President Carter's welfare reform proposal, and that such jobs might foster greater family stability. But such responses not only obscure the fact that President Carter's proposals also contain antifamily incentives, but miss a more fundamental point: What really distinguishes the welfare experiments from the regular welfare system is the amount of information provided to welfare recipients.

Families in the Seattle-Denver experiments are completely informed about their welfare rights and the consequences of employment and family break-up for their welfare benefits. By contrast, most welfare families are uninformed about welfare regulations and must go to extraordinary lengths to obtain clear, succinct answers about their welfare rights.

In other words, the distinguishing feature of the welfare experiments is that they encourage "rational" behavior. In so doing, they are quickly closing the gap that has long existed between welfare theory and welfare fact.

The current welfare system is in fact both antiwork and antifamily, and we have not yet witnessed the full implications of its perverse incentives; the Seattle-Denver experiments have provided a preview of what lies ahead. The question now is whether Congress will be sufficiently impressed by this glimpse of the future to undertake serious welfare reform before the full burden of the present system is evident.

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[From the New York Times, June 24, 1978]

STUDYING GOVERNMENT ROLE IN FAMILY

(By Steven V. Roberts)

WASHINGTON, June 23.—When A. Sidney Johnson's mother took sick recently, he wanted to care for her at home. But since Medicare will pay for a nursing facility and not for home-based care, it would have been more expensive to keep his mother in her own house, surrounded by her own family.

This sort of situation infuriates Mr. Johnson and his colleagues at the Family Impact Seminar. Their purpose is to determine ways that government can help families cope with an age of bewildering change. But all too often, they find, government hurts more than it helps.

Supported by several large foundation grants, the seminar is one of dozens of institutes and agencies that have sprouted around the country in recent years to examine the family and its role in modern America. But unlike some of these researchers, who act more like morticians, the seminar staff believes that the family is in good health. "The family," said Ruth Hubbell, the seminar's research director, "is still the best way to do a lot of things, such as raising children and meeting economic needs."

Theodora Ooms, the deputy director, senses a reaction against "professionalism" and the notion that families do not know what is best for themselves. "We have to change practices to meet family needs," she said, "rather than take over family functions."

CHANGES IN THE SOCIETY

Impetus for the seminar came from several sources, among them the devastating societal changes currently affecting the family. Over half the mothers with school-age children are now in the work force, as are more than one-third of those with preschoolers. The rising divorce rate, the increase in single-parent households and the growing career aspirations of women are all shaking the foundations of the traditional family structure.

Furthermore, the findings of the well-known Coleman report of the mid-1960's had stressed that family was more important to a child's development than school or other influences. Professionals realized more than ever that they could not study children in isolation, as if they were laboratory animals, but also had to consider social and economic forces.

A third source was political, since Mr. Johnson, the seminar director, had spent six years as staff director of the Senate Subcommittee on Children and Youth under then Senator Walter Mondale.

The seminar was established in early 1976 with the idea of testing the feasibility of a family impact statement, similar to the environmental impact statements now required for legislation affecting the environment. Some advocates wanted to push the idea through Congress immediately, but Mr. Johnson felt it would be better to study the concept and let it "bubble a bit."

A SENSITIVE ISSUE

Family issues touch on highly emotional and controversial subjects, and there is no one model for a successful, functioning family. The sensitivity of the issue was demonstrated recently when Secretary of Health, Education and Welfare Joseph A. Califano Jr., announced a two-year delay in the White House Conference on Families after different groups had started squabbling over the choice of director and the orientation of the conference.

The seminar consists of 22 experts in the field of family study, who meet periodically to guide and review the work of the small professional staff. Right now, the staff is drafting some model impact statements.

The first model concerns the Federal Government as employer and evaluates the experience of about 140,000 employees who have been working on flexible time schedules.

The seminar members believe that the impact of work on family life has long been underestimated. As Halcy Bohen, chief author of the model impact statement put it, "the competition between time for work and time for family has become a growing problem for an increasing number of Americans."

According to an interim report published in April, many workers say that flexible work hours improve their morale and give them more time for such family-related events as doctors' visits and school days.

CHILDREN IN FOSTER CARE

The second subject for a model impact statement is the foster care system, which is directly influenced by government policy. Seminar studies show that many foster children are allowed to drift in a sort of limbo, since government regulations make it difficult to reunite them with their biological families or put them up for adoption.

After two years of study, the seminar staff has realized that many of the key decisions affecting families take place on the local level, where services are delivered, rather than at the national level. The hours of a hospital clinic or after school day care center, for instance, can be far more important to a family than a Congressional vote on welfare policy. Accordingly, the seminar is also trying to develop a sort of checklist for consumers, a set of questions that can be asked at city council meetings or in letters to the editor, which would help illuminate a policy's impact on families.

Since the seminar places top priority on the family, it encounters some resistance from groups that have other goals. Some feminists; for example, see the emphasis on family as a threat to the full independence and liberation of women.

Focusing on the family can also seem threatening to advocates of "self-acutalization," and to those who believe that "doing your own thing" precludes compromise within a larger social group. "There's been tremendous interest in self-actualization and self-fulfillment, but I think it's gone too far," Mrs. Ooms asserted. "People need some rootedness, some sense of responsibility."

For all its faults, the seminar seems to be saying, the family will, and should, endure. "I find some family talk nauseatingly sweet," Mrs. Ooms said, "but it is still the most intense way in which we get meaning in our lives."

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## BALANCE(S) OF POWER SERIES—SOVIET INTENTIONS AND DOCTRINES IV(i)

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## HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, current Soviet military doctrine, adopted by the party in the late 1950's, "requires that the Armed Forces, the country and the whole Soviet people be prepared for the eventuality of a nuclear-rocket war." This doctrinal decision required a new strategy, which was made known to the West in August 1962, through the publication of Marshal Sokolovskiy's Military Strategy. Further explanations of Soviet military doctrine and strategy have been presented since that time in hundreds of Soviet books, pamphlets, and articles. Subsequent events, such as the Cuban missile crisis, the Nuclear Test-Ban Treaty, and SALT negotiations have not altered their basic provisions. Development, production, and deployment of Soviet weapons systems have been in accordance with stated military objectives and principles.

Despite the clarity with which Soviet military doctrine and strategy have been stated, many Western analysts throughout the 1960's misinterpreted or ignored their basic thrust. While seeking to find internal dissension among the Soviet political-military leadership, Western analysts have failed, as a group, to inform the public about the fundamental tenets of military doctrine and strategy upon which Soviet military-political policies are based.

I should like to continue my ongoing Balance(s) of Power series by initiating herewith a Soviet Intentions and Doctrine book in addition to my book I previously printed, and books II and III now appearing regularly in the RECORD. My first selection is by Dr. William F. Scott, Colonel USAF retired, appearing in the Strategic Review, summer, 1975, and entitled, Soviet Military Doctrine and Strategy: Realities and Misunderstandings. The first part of Dr. Scott's article follows:

I. REALITIES

It has been said that the scholastics of earlier ages spent days in endless discussions considering, for example, how many teeth should be in a horse's mouth. Writings of Plato were examined for views that might shed light on this matter. The size and shape

of a horse's head, as found in paintings of that time, were carefully studied. Finally, after centuries of scholarly analysis, the club rules were broken. Although reportedly later ostracized, one man finally dared to go into a stable and there opened the mouths of a number of horses and counted the teeth that each possessed. Thus the scientific age was introduced.

It is difficult, and often impossible, to obtain first-hand information on the Soviet Union. Of her 400 largest cities over 325 are closed to foreigners. Less than three per cent of the total Soviet land area can be visited by foreign tourists. However, in matters of military doctrine and strategy Soviet writings are remarkable revealing. The Party-military leadership apparently wants the entire nation to understand fully the reasons for the massive defense effort, and what is expected of each individual.

There is no excuse today for mere speculation among Western analysts about the basic content of Soviet military doctrine and strategy. We have readily available a vast amount of Soviet military and political-military writings. To ensure that military doctrine is not misunderstood, Soviet spokesmen are clear and concise. In this period of detente and negotiations, Soviet readers are reminded:

"Placed in a nutshell, the Soviet military doctrine, as Marshal R. Ya. Malinovskiy wrote, states that: the next war, if the imperialists manage to unleash it, will be a decisive armed conflict between two opposing social systems; according to the character of the weapons employed, it will inevitably be a thermonuclear war, a war in which nuclear weapons will be the principal means of delivering weapons on target. This war will be characterized by an armed struggle of unprecedented ferocity, dynamic, highly mobile combat operations, the absence of continuous stable front lines or distinction between front and rear, greater opportunities for dealing surprise strikes of great strength against both troops and the deep rear areas of the belligerent countries."

After quoting from this 1962 work by the late Soviet Minister of Defense, the Soviet authors of the SALT era go on to assert:

A future war will inevitably be intercontinental in scope and most destructive in character, resulting in the death of hundreds of millions of people, with whole countries being turned into lifeless deserts. But the struggle to victory cannot be restricted to nuclear strikes, hence the war may drag out and require the protracted straining of all the forces of the Army and the nation practically to the breaking point. Naturally, the ultimate victory can be achieved only as a result of the joint efforts of all the services and arms involving the participation of mass armies millions strong.

The Soviet military doctrine requires that the Armed Forces, the country, the whole Soviet people be prepared for the eventuality of a nuclear rocket war.

The statements above have been the bases of Soviet military doctrine and strategy, as well as the rationale for the development, production and deployments of Soviet weaponry for over a decade. These statements also give the rationale for much of Soviet industrial planning, as well as for the military indoctrination of the entire Soviet population.

It apparently is difficult for most Western analysts—and for most Western political and military leaders as well—to accept the possibility that the Soviet leadership is, in fact, "preparing the Armed Forces, the country and the whole Soviet people for the eventuality of a nuclear war." Such doctrinal statements may sound irrational by Western standards, and generally are dismissed as utterances of a few dissident elements within the Soviet military structure.

Hence, the military doctrine of the Soviet Union, first formulated in the early 1960s, and the strategy which stems from it, often have been misinterpreted or ignored in both the United States and Great Britain.

If we are to negotiate successfully with Soviet political-military representatives, we first must understand their military doctrine and strategy, regardless of how irrational it may appear. Only through this understanding can we appreciate the continued militarization of the Soviet Union, and the nature of its military forces.

### A CONCEPT OF DOCTRINE

The first key to understanding Soviet military affairs is to recognize the significance of doctrine. "The nuclear age demands above all a clarification of doctrine." With reference to nuclear weapons, "only a doctrine which defines the purpose of these weapons and the kind of war in which they are to be employed permits a rational choice." Further, "strategic doctrine transcends the problem of selecting weapons systems. It is the mode of survival of a society."

We might reflect on the situation in which we in the United States find ourselves in 1975. "In the absence of a generally understood doctrine, we will of necessity act haphazardly, conflicting proposals will compete with each other without an effective basis for their resolution." We might consider our own military planning and attempts to negotiate in light of this statement: "The quest for numbers is a symptom of the abdication of doctrine."

The above views on the importance of doctrine were expressed by Dr. Henry Kissinger in 1957. His plea for the need of doctrine was never faced, or perhaps never understood, by the political and military leaders in the United States. However, within one year after his book, *Nuclear Weapons and Foreign Policy*, was published, his concepts were being quoted by Soviet theorists. By 1959 his book had been translated by Voyenizdat, the publishing house of the Soviet Ministry of Defense, and could be found in military bookstores from Leningrad to Khabarovsk. The Soviet political-military leadership grasped the significance of doctrine, so well expressed by the then-Harvard professor.

According to Soviet theoreticians, the basis of the new Soviet military doctrine was announced by the First Secretary of the Communist Party in his report to the Supreme Soviet on January 14, 1960. (This explanation is given even today, although Nikita Khrushchev, First Secretary at the time, subsequently became a non-person.) A more detailed explanation was given by Marshal Malinovskiy when addressing the XXII Party Congress the following year. In December 1962, within weeks of the Cuban Missile Crisis, a further explanation of the new doctrine was given in yet another work by the Minister of Defense, Vigilantly Stand Guard Over the Peace. Since that time Soviet military doctrine, with a few modifications, has remained generally unchanged.

### A STRATEGY FOR THE NUCLEAR AGE

The new Soviet military doctrine was based on the assumption that a future world war "inevitably will take the form of a nuclear rocket war, that is, such a war where the main means of striking will be the nuclear weapon and the basic means of delivering it to the target will be the rocket." The doctrinal decision, made by the political leadership in 1959, demanded a new strategy. In the summer of 1962, as the Soviet leadership was preparing their Cuban missile adventure, the first edition of Marshal Sokolovskiy's famed *Military Strategy* appeared in bookstores throughout the Soviet Union.

A second edition of this work was published in 1963, little change in substance from the first edition. Five years later a third edition was issued. Again, even after the Brezhnev regime was firmly established, the content of this work essentially was the same as that of both earlier editions, which had appeared while Khrushchev was in power.

By 1967 the Soviets rapidly were approaching nuclear parity with the United States. Parity provided a nuclear umbrella under which their own conventional forces might be employed, if desired, providing additional options. However, the Soviet leadership was careful to assert that these new possibilities for the use of non-nuclear forces did not lessen the significance of the nuclear weapon. In 1968 Lt. Colonel V. M. Bondarenko, Candidate of Philosophical Sciences, was tasked to explain this modification to Soviet military doctrine:

"In our times conditions may arise when in individual instances combat operations may be carried out using conventional weapons. Under these conditions, the role of conventional means and the traditional services of the armed forces are greatly increased. It becomes necessary to train troops for various kinds of warfare. This circumstance is sometimes interpreted as a negation of the contemporary revolution in military affairs, as its conclusion.

"One cannot agree with this opinion. The point is that the new possibilities of waging armed struggle have arisen not in spite of, but because of the nuclear missile weapons. They do not diminish their combat effectiveness, and the main thing, they do not preclude the possible use of such weapons. All of this forces the conclusion that the present situation is one of the moments in the revolution in miliary affairs. It flows out of this revolution, continuing it, instead of contradicting it.

"On the basis of this, we are able to define the contemporary revolution in military affairs, as a radical upheaval of its development, which is characterized by new capabilities of attaining political goals in war, resulting from the availability of nuclear missile weapons to the troops."

The continuity of Soviet military strategy can be seen in a book published in mid-1973, *Scientific-Technical Progress and the Revolution in Military Affairs*. Statements in this book can be traced directly to the 1962 writings of Marshal Malinovskiy and to all three editions of *Military Strategy*. According to the authors of this post-SALT I work:

"The basic positions (principles) of strategy are based on the conclusions of Soviet military doctrine and at the same time they elaborate and make these conclusions concrete, giving them the character of theoretical and practical rules of solving different tasks of preparation for and waging the armed struggle.

"Soviet military strategy examines and researches world war in contemporary conditions, if the imperialists unleash it, as a decisive clash of two opposed world social-economic systems, in which both belligerent sides will pursue decisive political goals. Such a war might be nuclear with the use by the belligerent sides of all the might of the nuclear rocket weapons in their possession. At the same time, in such a war conventional armaments as well might find use. Under certain circumstances, units and subunits will conduct the struggle with only conventional means. War may be unleashed by different methods, including the surprise use of nuclear weapons or conventional means of destruction."

### THE REVOLUTION IN MILITARY AFFAIRS

In the early 1960s an expression became popular in the Soviet military lexicon, which continues to his day—"the revolution in military affairs." Such a revolution, according to Soviet political-military spokesmen, was caused by the introduction of nuclear weapons into the Soviet Armed Forces. Throughout the 1960s and into the 1970s, hundreds of books, articles, pamphlets and speeches refer to this revolution. As a conse-

quence of its occurrence, military power has taken a new meaning:

"Today, the military might of a country is determined by the nuclear rocket weapon, the combat qualities of its nuclear charges and strategic rockets, the level of development of its nuclear and rocket industry, the power of its strategic rocket troops, and the nuclear rocket weapons of all other services of the armed forces."

Soviet theorists assert that the revolution in military affairs took place between 1953 and 1960, although certain phases still continue. The expression was popularized about 1962, after the basic tenets of military doctrine and strategy had been expressed. "Revolution" has a much deeper significance in the Soviet Union than in the United States. The revolution in military affairs was to dramatize and to draw attention to the new military changes, both in military thought and in the restructuring of the Soviet Armed Forces.

In the winter of 1965, within months after Brezhnev came to power, a most significant book, *Problems of the Revolution in Military Affairs*, was published by the Ministry of Defense. This work had gone to print only two weeks after the ouster of Khrushchev. Its contents consisted of articles that had appeared in newspapers and journals over the two preceding years. The only editing of the articles was to drop all references to the deposed First Secretary. This was one of the first clear indications that the revolution in military affairs, with the resulting new doctrine and strategy, was to continue.

Since the signing of the SALT I agreement in 1972, analysts throughout the Western world have watched carefully to see what changes would take place in Soviet military thought. The publication of *Scientific-Technical Progress and the Revolution in Military Affairs* in mid-1973, as already noted, strongly suggests that thus far there have been no more changes in Soviet military doctrine and strategy in the aftermath of SALT I than there were after the overthrow of Khrushchev in 1964.

## THE TUITION TAX CREDIT ACT OF 1978

**HON. MARC L. MARKS**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 21, 1978*

● Mr. MARKS. Mr. Speaker, few issues in the 95th Congress have been more hotly debated than the decision of whether to provide tuition tax credits to offset rising education expenses. As with any highly emotional issue, there were many claims and counterclaims, some valid and some not so valid. I would like to take this opportunity to ferret out the facts in this debate, and explain my reasons for voting for H.R. 12050, the Tuition Tax Credit Act of 1978, as it passed the House of Representatives on June 1.

### I. IMPACT ON PUBLIC SCHOOLS

The debate largely centered around one issue: Whether passage of tuition tax credits for elementary and secondary schools (which would primarily benefit families with students in private schools) would have adverse effects on the public school system. This was the crucial issue for me, since I myself as well as my children had attended public schools in Pennsylvania and I had enjoyed many years of close association with teachers in the Pennsylvania public school system and with the Pennsylvania State Education Association. Therefore, I had no intention whatsoever of taking any action on this issue which I thought might prove to be harmful to the public school system.

There were a number of reasons I came to the conclusion that H.R. 12050, as passed by the House, would have little if any adverse impact on public schools. First, while total enrollments for all institutions of education have declined following the baby boom after World War II, public education's share of the total pie has actually increased. and private education's share has decreased. To be specific, in 1966, 87 percent of all elementary and secondary school students in the United States attended public schools. Ten years later, 90 percent of all students were enrolled in public schools. During the past decade, the total number of nonpublic schools has fallen from 19,946 to 17,950, representing a loss of 10 percent or nearly 2,000 schools. Looking to the future, the U.S. National Center for Education Statistics predicts a drop of enrollment at nonpublic elementary and secondary schools from 6.3 million in 1965 to 4.2 million in 1984. Proponents of a tax credit were not arguing that enrollment in private schools would increase, but rather that the decline in private enrollment might simply be arrested.

My second reason for concluding that a tuition tax credit bill would not harm public schools was the evidence that support for public schools is strongest in the States and communities where private education is strongest. For example, in the five States where the largest percentage of students were enrolled in private schools, public school expenditures per pupil average $300 more than in the five States where private schools account for the smallest fraction of total enrollments. In addition. one argument advanced for tuition tax credits was that some relief would be provided for parents now twice billed (paying property taxes for public schools, and tuition costs for private schools), thus perhaps sweetening the mood of local taxpayers, which in many places is very bitter.

Third, the amount of credits contained in the House-passed tuition tax credit bill were insufficient to encourage parents to place their children in private schools if they had not already done so. H.R. 12050 permitted a maximum credit in 1978 of only $50 for tuition paid at elementary and secondary schools, and a maximum of $100 for these schools in 1979 and thereafter. Also, the House voted to permit a credit of only 25 percent of the total tuition costs, which meant that many persons would not be able to claim the full $50 or $100. An amendment to increase the 25-percent limit to 50 percent was rejected by a vote of 142 to 261; I was among those who voted against increasing the amount of the tuition that could be taken as a credit against income taxes.

If we use as an example a private school which charges $800 each year in tuition and we apply the maximum limits set in the House-passed bill, we quickly see that the costs remaining after use of the tax credit are probably still prohibitive to persons considering private schools, if costs were a factor before. The maximum credit that could be claimed under the House bill for an $800 tuition is only $50 in 1978 and $100 in 1979, leaving a balance of at least $700 to be paid directly out of pocket by the student or the student's family. And with the 25-percent limit, a $200 tuition expense would be reduced by only $50 in all years, still leaving $150 in tuition to be paid and still a prohibitive expense to any applicant unable to afford $200 in tuition. Again, the provisions of the House-passed bill would be extremely unlikely to influence families to send their children to private schools unless they had already decided to do so in spite of financial reasons.

Fourth, the House bill would not encourage "white flight" into racially segregated schools since the credits could only be used to offset tuition paid to private schools which meet Government requirements that the institutions do not discriminate on the basis of race. In addition, the proportion of minority students attending nonpublic schools is increasing significantly. A survey of Catholic schools in 10 metropolitan areas in the 1975–76 school year showed that out of nearly a quarter million students, 26 percent were black, 17½ percent were Spanish-surnamed, and 2½ percent were other minorities.

Fifth, tuition tax credits would not result in more Federal aid going to private schools than to public schools. A figure frequently cited during congressional debate on this issue was that the Federal Government contributed approximately $128 per pupil in public schools. The fear was that tuition tax credit legislation would result in much higher expenditures by the Federal Government per private school pupil. However, as passed by the House, H.R. 12050 at best brought the level of "Federal assistance" per private school pupil to $100, and even this overlooks the fact that in 1978 the Federal Government is estimated to forgo $4.6 billion in revenues for public education because property taxes are deducted from Federal income taxes. Thus, all State and local support for education derived from local property taxes—not counted in that $128 figure of direct Federal assistance—is, in fact, deducted from overall Federal revenues and is then indirect assistance from the U.S. Government, which is given to only public schools.

While H.R. 12050 as passed by the House would represent a loss of approximately $1 billion in revenues to the Government, the Joint Committee on Taxation estimated that if the 7.7 million students now enrolled in private elementary, secondary, or higher education institutions were enrolled in tax-supported schools instead, the education bill to the taxpayer would be an additional $17 billion every year. In Erie, Mercer, and Crawford Counties, the additional burden would be approximately $27 million, or roughly the entire operating budget of the city of Erie school district.

Sixth, the argument was also suggested that the existence of tuition tax credits

would drain students from public schools with the development of "fly-by-night" schools which would open to capture the benefits of the tax credit. As indicated before, the amount of the credit in H.R. 12050 is hardly sufficient to encourage a single student to leave the public school system. More importantly, however, for a student to be eligible for a tax credit, the student must be attending a bona fide nonprofit institution approved by the Internal Revenue Service, and which must be accredited or approved under the laws of the State in which the school is located.

It was for these reasons, then, that I felt the tuition tax credit, as contained in the House-passed bill, would not damage our system of public schools. I also felt that our Nation's system of public schools is strong and viable, and a system in which we can take great pride.

Although I considered most important the argument of impact on public schools, there were other arguments raised against the tuition tax credit bill. I would like to address those arguments at this point.

II. ADMINISTRATIVE BURDEN

One of these arguments was that a system of tuition tax credits would result in a substantial administrative burden. The fact is that such a credit would create no more of a burden to the IRS that a tax credit such as another one also now being considered by Congress for persons who insulate their homes against rising energy costs. And, in comparison, the administrative burden is far less for tax credits than for the two other education aid programs also suggested, which were the administration's Middle-Income Student Assistance Act and Representative MIKVA's tax deferral plan. According to the Congressional Budget Office, an expansion of the current grant program (the Middle-Income Student Assistance Act) "would involve a greater administrative burden" than tuition tax credits, which require only a one-line entry on tax returns. Also, unlike grant programs, tuition tax credits do not invade personal privacy, as they do not require an individual to reveal his or her personal finances to a bureaucrat. The tax deferral plan would also mandate greatly increased complexity, since massive forms would be needed to keep track of amounts owed the Treasury by each family over a period of several years, and the IRS could encounter the same default difficulties now being experienced under student loan programs. Also, the tax deferral plan fails to provide any permanent relief to the taxpayer, since the money is simply a loan and must be repaid.

III. INCREASES IN TUITIONS

Another fear expressed about a program of tuition tax credits was that of schools attempting to "capture" the benefits of the credit by raising their tuition rates by amounts equal to those permitted in the legislation. Schools are hardly likely to do this, however, if they do, in fact, hope to attract new students and avoid the risk of losing current students. In addition, competition among schools is keen and schools which did raise their tuitions would lose students to those which did not. In a period when total enrollments may continue to decline, this competition will be even keener and the effects of a tuition increase that much more acute.

IV. AID TO THOSE IN NEED

Another question asked about tuition tax credits was whether this approach was an effective way to target education funds to those in need of assistance. I had cosponsored legislation early in the 95th Congress which permitted tax credits for higher education tuition costs, but which also gradually reduced benefits for families which had incomes exceeding $25,000. H.R. 12050 contained no similar ceiling on incomes, so I had hoped to offer an amendment during House debate to impose such a limit. Unfortunately, the rule governing House floor consideration of this legislation permitted only three amendments to be offered to the bill, none of which was a proposal to impose a ceiling on income. For this reason, I voted against the rule on H.R. 12050.

Yet, even with this flaw in the bill, the Joint Committee on Taxation estimated that 85 percent of the total benefits of this bill will accrue to families with adjusted gross incomes below $30,000. According to the U.S. Census Bureau, only 4 percent of all benefits would go to elementary, secondary, and postsecondary students whose families have incomes over $50,000.

Finally, one of my reasons for voting for final passage of H.R. 12050 was that this bill may represent the only tax cut legislation the 95th Congress enacts, since the President's personal income tax reduction proposals have floundered, and Republican efforts to reduce income taxes by one-third (the Kemp-Roth bill, which I cosponsored) have been repeatedly defeated by the Democratic majority in Congress. As the Erie Morning News, one 24th District newspaper, observed in January of this year:

> President Carter's tax cut program, with its slight to the middle class, makes passage of a tuition tax measure even more important.

V. EFFECTS ON OTHER AID PROGRAMS

Another concern over enactment of tuition tax credits was whether cutbacks might be made in grant programs for college students, since the tax credits would be available for all students. This possibility arose, in fact, when the House on June 8 considered the Labor-HEW appropriations bill for fiscal year 1979, which contains funding for education programs. An amendment was offered to reduce the student grant program by $233 million, the amount estimated to implement the Middle-Income Student Assistance Act, and that amendment was defeated on a voice vote. Thus, the House of Representatives has indicated its desire to see a strongly supported program of education assistance. In light of past support in the Congress for these grant programs, frequently over Presidential objections, I fully expect this support to continue.

VI. NEED FOR LEGISLATION

Of course, too, the question arose of whether there was any need at all for any program of assistance, since conflicting data appeared comparing increases in income over a period of years and increases in tuition costs over those same years. While some charts did indicate that before tax incomes had kept pace with rising tuition costs at institutions of higher education, additional data revealed that after tax incomes had fallen behind tuition increases. Between 1970 and 1977, the average cost of attending a public college rose 57 percent, and the cost of attending a private college had climbed 54 percent. But during this same period, the median income of families with college-age dependents increased just 46 percent. This data is particularly relevant for our own State of Pennsylvania since, as another 24th District newspaper, the Titusville Herald, noted on October 5, 1977:

> Tuition at Penn State ($1,263), Pitt ($1,310), Temple ($1,450), and Lincoln ($1,168) already is the highest among all public colleges and universities in the nation. Further tuition increases will price the cost of an education beyond the reach of the average Pennsylvania family.

VII. CONSTITUTIONALITY

Finally, the question of constitutionality was raised. Since the Supreme Court has never ruled on a Federal program of tuition tax credits, and since previous State programs differed significantly in several respects from H.R. 12050, no precedent has been set for this bill. Since the benefits will go to families and not the schools, the bill may very well be constitutional, as many eminent constitutional experts believe. Until a Federal tuition tax credit program is enacted by Congress, the Supreme Court will have no opportunity to review its merits.

VIII. CONCLUSIONS

There were several reasons, most commented on earlier in my remarks, that the House of Representatives chose to consider the tuition tax credit bill during this year. It has become increasingly clear, first, that incomes of families who wish to send their children to college are rising above the maximum qualifications for Federal financial aid programs so that more and more middle-income families cannot obtain this assistance. At the same time, however, tuitions are increasing faster than incomes. Thus, middle-income families are caught in a financial squeeze and find it increasingly difficult to obtain a quality education for their children.

Second, the Nation's taxpayers are sending the message loud and clear to their elected representatives that they demand tax relief. One method of providing such relief is the tuition tax credit legislation. The demand for tax relief is entirely legitimate, and the Congress is responding to that need.

Third, with the steady decline in enrollment in private schools, some action is needed to retard that decline and thus maintain a strong and healthy dual education system. Our dual education system has been a part of this Nation since its birth, contributing in countless ways to our society as well as saving on tax dollars going for public education. We should not aid one system over another,

but we must make certain that both survive.

Finally, our Nation was also founded on the principle of freedom of choice, and the belief that a good education is the best possible legacy we can leave our children. We have long believed that the way to break the cycle of poverty and rise to a better life is through education. We have recognized that the way to improved employment is through a good education. To give our children the best education possible, we consider all available alternatives. Most parents choose the public school system, and public schools do provide excellent educational opportunities. Some parents prefer to send their children to private schools, feeling that a particular private school would better meet their needs. The House of Representatives, in approving the tuition tax credit bill, wished to help assure the freedom to choose the school which best provides the educational needs of all children.

For the first time ever, the House of Representatives voted on legislation providing tuition tax credits for education expenses. Much controversy surrounded the issue, and the debate is not over yet. Knowing the importance of this legislation, I examined it in great detail, analyzing the arguments and finally voting as I determined would best benefit the varied educational needs of the 24th District of Pennsylvania and the rest of the Nation.●

# HOUSE OF REPRESENTATIVES—*Monday, July 24, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*The Lord is near to all who call upon Him, to all who call upon Him in truth.*—Psalms 145: 18.

O God, our Father, as we draw near to Thee in prayer do Thou come near to us and stay with us all through the activities of this day. With Thee we can make our decisions wisely; with Thee we can do our work worthily; with Thee we can plan our day wonderfully. So we place our hands in Thine to be led by Thee through the coming hours.

We pray for the people in our districts whom we endeavor to serve faithfully and fully. Make us sensitive to their needs, careful to evaluate their requests, and ready to do all we can to help them.

We pray for our Nation that we may help to so strengthen her foundations that our greatness may be in character, our security in spirit, and our life together in good will.

We pray for all nations that the spirit of fraternity may begin to bind us together and make this planet a fairer place for all to live together in peace.

In Thy holy name we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1420. An act for the relief of Umberto Ruffolo.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 785. An act to declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nev., to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 920. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8449. An act for the relief of Lourdes Marie Hudson.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 85. An act for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza;

S. 140. An act for the relief of Dr. Kok Liong Tan, and his wife, Gloria Siao Tan;

S. 340. An act for the relief of Dr. Belinda A. Aquino;

S. 613. An act for the relief of Kwok Hung Poon and his wife, Sandra Shau Man Lai Poon;

S. 1564. An act for the relief of Tomiko Fukuda Eure;

S. 2061. An act for the relief of Dr. Angelito Dela Cruz;

S. 2067. An act for the relief of Cesar B. Ibañez II, doctor of medicine;

S. 2209. An act for the relief of Munnie Surface;

S. 2243. An act for the relief of Rohini;

S. 2326. An act for the relief of Anupama Alis Chandrakala;

S. 2377. An act for the relief of Muradali P. Gillani;

S. 2509. An act for the relief of Rodolfo N. Arriola; and

S. 2639. An act for the relief of Mrs. Kerry Ann Wilson and Jason John Barba.

## CYPRUS AND THE SENATE

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. BRADEMAS. Mr. Speaker, I take this time only to call to the attention of the Members of the House an excellent editorial appearing in the New York Times of Saturday last, July 22, 1978, entitled, "Cyprus and the Senate." The New York Times editorial argues very forcefully, and I think correctly, that it would be most unwise, for several reasons, for the Senate to vote to repeal the limitations on arms sales to Turkey.

Mr. Speaker, I insert the editorial at this point in the RECORD:

CYPRUS AND THE SENATE

The Senate is about to vote on whether to continue the limitations on arms sales to Turkey. They were imposed after Ankara used American-supplied weapons to occupy two-fifths of Cyprus in 1974, in violation of a Congressional prohibition. We have argued in the past that the limits should be kept until Turkey indicates it will withdraw its forces. We still think so.

Few controversies are as vexing as the feud between the half million Greek Cypriots and the 120,000 Turkish Cypriots over how they will coexist on their island. Their centuries-old quarrel has reached into American politics. The Turks and Turkish Cypriots and their American sympathizers contend that national pride forbids concessions on Cyprus so long as the "embargo" stands. Directly, they predict that maintaining last year's $175-million limit on arms sales will drive Turkey out of NATO, perhaps even into Moscow's arms. But it would be no gain for the West to purchase Turkish good will at the price of Greek resentment.

When Jimmy Carter was a candidate for President he held that the restriction on arms sales should stand until Ankara withdrew the force that enables Turkish Cypriots, with 20 percent of the island's population, to occupy roughly 40 percent of its territory. This spring, however, he urged that the embargo be lifted. Administration spokesmen maintain that once it is lifted, Ankara will make generous diplomatic proposals. But the Government of Prime Minister Bulent Ecevit has so far given no sign that it is prepared to risk the domestic consequences of offering the concessions needed to reach an accommodation. The vague proposal put forward by the Turkish Cypriots on Thursday for resettling some Greek refugees is welcome but scarcely sufficient. The Turkish concessions need to be territorial.

Where Greek Cypriots go wrong is in insisting that their preponderance in numbers also entitles them to the kind of predominance they enjoyed under the island's 1960 constitution. If the Turkish Cypriots would yield significantly on territory, they could more credibly insist on a constitution that provides for virtually autonomous states for the two communities, linking them only for a minimum of such "federal" functions as conducting foreign affairs and issuing currency.

Greek Cypriots denounce this idea as a mere division of the island. Even if this were true, there would be no alternative; nothing except good will can force the two communities to work together. Because ending Turkey's occupation remains an essential first step toward creating an atmosphere of trust,

Congress should not yet relax the restrictions on arms sales. It should make clear to the Greek Cypriots, however, that the United States intends to help them reclaim their farms and villages but not to restore their domination of the Turkish population.

## CALL OF THE HOUSE

Mr. SLACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 587]

| | | |
|---|---|---|
| Abdnor | Flynt | Nichols |
| Addabbo | Ford, Mich. | Nix |
| Ambro | Ford, Tenn. | O'Brien |
| Anderson, Calif. | Fraser | Oakar |
| Anderson, Ill. | Frey | Patten |
| Andrews, N.C. | Garcia | Pepper |
| Andrews, N. Dak. | Giaimo | Pettis |
| Applegate | Gilman | Pressler |
| Archer | Goldwater | Pritchard |
| Armstrong | Gonzalez | Pursell |
| Ashbrook | Goodling | Quayle |
| Ashley | Green | Quie |
| Badham | Hagedorn | Quillen |
| Barnard | Hanley | Railsback |
| Beard, R.I. | Harrington | Rhodes |
| Biaggi | Heckler | Richmond |
| Blouin | Hefner | Roberts |
| Boland | Hillis | Rodino |
| Bonior | Holland | Roncalio |
| Breckinridge | Hollenbeck | Rose |
| Brinkley | Holtzman | Rosenthal |
| Broyhill | Howard | Rostenkowski |
| Burke, Calif. | Ireland | Rudd |
| Burton, John | Jacobs | Ruppe |
| Butler | Jeffords | Russo |
| Caputo | Jenkins | Ryan |
| Cavanaugh | Johnson, Calif. | Sarasin |
| Cederberg | Johnson, Colo. | Scheuer |
| Chisholm | Jones, Tenn. | Schulze |
| Clausen, Don H. | Kasten | Sebelius |
| Clawson, Del | Kemp | Shipley |
| Cleveland | Keys | Skubitz |
| Cochran | Le Fante | Spellman |
| Cohen | Lent | Staggers |
| Coleman | Levitas | Stokes |
| Collins, Ill. | Lott | Symms |
| Conyers | Lundine | Teague |
| Corman | McCloskey | Thone |
| Cornell | McDade | Traxler |
| Cotter | McDonald | Treen |
| Crane | McEwen | Tsongas |
| Cunningham | McKay | Tucker |
| Daniel, Dan | McKinney | Udall |
| Danielson | Maguire | Vander Jagt |
| Davis | Mann | Walker |
| de la Garza | Marriott | Wampler |
| Dellums | Mathis | Waxman |
| Dent | Meeds | Weiss |
| Devine | Metcalfe | Whalen |
| Dicks | Meyner | Whitley |
| Diggs | Michel | Whitten |
| Dodd | Mikulski | Wiggins |
| Drinan | Mikva | Wilson, Bob |
| Early | Milford | Wilson, C. H. |
| Evans, Del. | Miller, Calif. | Wilson, Tex. |
| Evans, Ga. | Moakley | Winn |
| Fascell | Moffett | Wydler |
| Fenwick | Mottl | Young, Alaska |
| Fish | Murphy, Ill. | Young, Tex. |
| | Murphy, N.Y. | Zeferetti |
| | Neal | |

The SPEAKER pro tempore (Mr. SIMON). On this rollcall 252 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

## NATIONAL LUPUS WEEK

Mr. LEHMAN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 682) to provide for the designation of a week as "National Lupus Week," as amended.

The Clerk read as follows:

H.J. RES. 682

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is hereby authorized and requested to issue a proclamation designating the week of September 17 through 23, 1978, as "National Lupus Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LEHMAN) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 682 was introduced by the gentleman from California (Mr. ANDERSON) and provides for the observance of "National Lupus Week" during the week of September 17–23, 1978. Lupus erythematosus, a variety of lupus disease, is a chronic and occasionally fatal disease of the connective tissues between vital organs. Public attention should be called to this disease, which afflicts 500,000 Americans, so that medical research can be encouraged for proper diagnosis and treatment.

Mr. Speaker, this resolution has received 230 cosponsors.

Mr. Speaker, I urge adoption of this resolution, and I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority is strongly in favor of this bill, and we urge its passage with as strong as possible support.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. LEHMAN) that the House suspend the rules and pass the joint resolution (H.J. Res. 682) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

## NATIONAL GUARD DAY

Mr. LEHMAN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 946) to designate October 7, 1978, as National Guard Day.

The Clerk read as follows:

H.J. RES. 946

Whereas several units of the militia of the Massachusetts Bay Colony were organized on October 7, 1636, as the First Militia Regiment and became the forerunner of the National Guard of the United States;

Whereas the National Guard has served with distinction, during the three hundred and forty-two years since 1636, in every major military conflict involving the United States, from the Revolutionary War through the Vietnam conflict;

Whereas the National Guard currently consists of nearly four hundred and fifty thousand volunteer soldiers and airmen, organized into nearly four thousand military units located in the several states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, and forms the Reserve Military Force that supports the Regular Army and Air Force; and

Whereas the people of the United States owe a debt of gratitude to those citizen soldiers and airmen who are members of the National Guard for their continuing contribution to the security of the United States: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation declaring October 7, 1978, as "National Guard Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROWN of Ohio. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LEHMAN) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 946 was introduced by Congressman CLARENCE BROWN of Ohio and provides for the observance of "National Guard Day" on October 7, 1978 The National Guard has served in every major military conflict involving the United States during its 342 years. This resolution brings to the attention of the American people the contributions of the National Guard to the security of the United States.

This resolution has obtained 231 cosponsors.

Mr. Speaker, I urge adoption of this resolution and reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today Members of this body have the opportunity to recognize

an organization for its consistently outstanding contributions to national defense and the welfare of the citizens of the Nation, past and present and for the future as well. The organization to which I refer is the National Guard.

Oldest by far of the components of the U.S. defense team, the National Guard, as we know it today, is an outgrowth of early America's reliance on its civilian-soldiers. This is a tradition that traces its way through American history in an unbroken thread.

The modern-day soldier or airman of the National Guard carries with him or her the heritage of those who triumphed over the wilderness, hostile Indians, and foreign armies. They are the true lineal descendants of the minuteman, joining as Adam Smith wrote in 1776, "the avocation of a soldier to whatever ordinary vocation or trade he happens to carry on."

No one has put this principle into better words than George Washington. The first President declared that, "Every citizen who enjoys the protection of a free government owes not only a portion of his property, but even of his personal services, to the defense of it."

The National Guard was not, by a stroke of the pen, legislated into existence. It came about as a result of the process of evolution. That evolutionary process had its origin with the first colonists of the North American continent. The National Guard originated on October 7, 1636, when the general court of the Massachusetts Bay Colony ordered the formation of the North Regiment and soon thereafter, the East Regiment of the Massachusetts Colonial Militia. The 1st Regiment of Middlesex is now the 1st Battalion, 182nd Infantry, and the Militia Regiment of Essex County is now the 101st Engineer Battalion, Massachusetts Army National Guard.

So important was this concept of citizen soldiers, that the Founding Fathers of this country made provisions for it in article I, section 8, clause 16 of the Constitution, commonly known as the militia clause. In doing so, it gave the Congress the power to provide for organizing, arming, and training the Militia according to the discipline prescribed by Congress.

The name National Guard came about as a result of a visit to the United States by the Marquis de Lafayette in 1824. The honor guard during his visit to New York was furnished by the 2d Battalion, 11th Regiment of New York Artillery. In tribute to Lafayette's command of the Garde Nationale of the Army of France, in Paris, during 1789, the New York battalion became the "Battalion of National Guards."

It was not long before other militia units adopted the name National Guard. By the turn of the century all but a handful of States had redesignated their militia as National Guard.

A distinguishing feature of the National Guard is its dual status as both a Federal and a State military force.

This dual Federal-State role enables a single body of men and women, with a single outlay of money for training, equipment, facilities and administration, to fulfill two vital tasks—one of national defense as part of the total force of the Nation and one of assistance during State emergencies.

The use of military forces of the United States for public protection is a requirement which stands apart from combat employment. Public protection is a peacetime military requirement which occurs with great frequency, usually without warning, throughout the United States.

The military public protection function is primarily performed by the National Guard, both Army and Air, of the several States. Only when this role requires actions and resources that exceed the capability of the State's National Guard does the Governor of a State call on the Active Forces and other Reserve component forces for assistance. If there were no Guard forces available to perform the function, Active forces would have to accept the mission.

Public protection roles are diverse. They include such things as civil disturbances which may require commitment of the entire National Guard of a State. They also include emergency medical evacuation which may require only one helicopter and its three-man crew. Mobilization figures do not always tell the full story of Guard involvement in protecting citizens. During extended operations, Guard personnel are often rotated, so that a 1,000-man callup can often affect two and three times that number of guardsmen, depending on personnel turnover.

In 1977 there were more Guard callups than ever before in history. In that year, guardsmen were mobilized by their States on 231 separate occasions. The biggest single mobilization was Wisconsin's call for 3,652 guardsmen to provide essential State services during a 19-day State employee strike in July 1977. Service during and after flood, tornado, and hurricane disasters is commonplace. In 1977, California alone called guardsmen for forest fire service eight times. In 1977 guardsmen responded to 27 separate snow and cold weather emergencies in 22 States. Twenty-seven mobilizations and flood emergencies were recorded in that same year, with the largest requiring use of 2,421 guardsmen over a 19-day period in Johnstown, Pa. Guardsmen were on duty during a power outage in New York City. They served during a chemical spill clean-up in Tennessee and during danger periods following train derailments in Nebraska and Louisiana. Most recently, in early July 1978, Tennessee National Guardsmen were mobilized during the Memphis firemen's strike.

During that operation 885 guardsmen were mobilized and deployed, while an additional 3,100 guardsmen were on standby alert in case of need.

The dispersal of Guard units in both urban and rural areas throughout each State contributes to the rapid reaction capability of the Guard in all types of State emergencies. The variety of units found in the organizational structure of each State makes it possible for Governors and State Guard commanders to selectively mobilize the units best fitted to the task requirement, that is, infantry units for civil disturbance operations, engineer units for tornado recovery and restoration work.

In its Federal role, the National Guard is the backbone of the total force. Fifty-four percent of Army total force deployable forces are provided by the Reserves with the Army National Guard providing the bulk of the combat forces.

Fifty-two percent of all the artillery of the Total Force Army units is furnished by the Guard. Let me cite another example of the heavy Guard combat role. The Guard has 51 armored cavalry squadrons and tank battalions, while the Active Army has 48. I think this indicates the reliance placed on the Guard in the total force.

The Air National Guard provides over 60 percent of the air defense interceptors of the Active Air Force and nearly 50 percent of the tactical airlift aircraft. These units are closely tied to the Active Air Force and are gone within a few hours of notification to deploy.

The same high standards of readiness required for our active forces are required of Guard units, with one big difference: Training time. Full-time forces train full time. The Guard attempts to produce a level of readiness that approaches or exceeds that of full-time forces, yet must do this in a scant 16 to 20 hours per month, plus 15 days of full-time field training each year.

Obviously, you cannot cram the same amount of training into 20 hours for part-time fighting men that full timers can produce in a full working month. The Guard commanders have a real problem—how much time and effort can they reasonably expect a part-time guardsman to exert when he or she, like any civilian, is attempting to make a living, carry on a normal life and pursue other civilian activities? Out of dedication to get the job done right, Guard leaders devote far more of their time to their unit than they are being paid for.

Since 1636, members of the Guard have maintained their military skills along with maintaining a home, family, and livelihood. This has not been without cost to the individual: Cost in terms of depriving the family of a husband and father for countless hours while he is training to protect the Nation. In many cases, military training has required more time than they can afford from their civilian job.

Therefore, when we think of honoring members of the National Guard by proclaiming October 7, 1978, as National Guard Day, we must not overlook the wives, husbands, family and employers who have supported those hours dedicated to national defense. They too, deserve to be included in the honor we seek to accord the National Guard, for without their sacrifices, understanding and encouragement, the National Guard we depend on today could not be possible.

Mr. LEHMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise in support of this resolution to recognize October 7 as "National Guard Day." I am particularly proud of the 20,000 members of the National Guard Association of Texas. They have always been ready to defend our country when called and have a distinguished record in war and in peace. These National Guard members who train regularly each week so that they will always be ready to serve deserve this recognition.

The State of Texas is particularly fortunate to have unusual leadership in Gen. Thomas Bishop and his staff. These officers, and men make a distinct contribution to our Nation's defense and welfare.

As we observe National Guard Day, I am glad to pay my special respect to our own Guardsmen in Texas.

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I sincerely appreciate the gentleman from Florida (Mr. LEHMAN) and the Post Office and Civil Service Committee for the reporting out of House Joint Resolution 946 and giving Members an opportunity to express their gratitude to our citizen-soldiers by declaring October 7 as "National Guard Day." I would also like to commend the gentleman from Ohio (CLARENCE BROWN) for initiating this resolution. I was pleased to be able to join with him in securing the necessary number of cosponsors.

When we think about our Nation and its various institutions and organizations, we usually date everything from 1776 or later. However, there is one American institution which is older than the United States itself—the National Guard. The Guard has played an important role in our Nation's history and defense ever since the first corps of volunteer militiamen was formed in the Massachusetts Bay Colony in 1636.

This coming October 7 the National Guard will be 342 years old. Designating October 7 as "National Guard Day" would be a fitting way of bringing to the attention of the American people the many contributions of this fine organization.

Mr. Speaker, as everyone is aware, I have long been a strong supporter of the National Guard and have worked for actions aimed toward improving its readiness and its potential as a back-up force. Under the all volunteer concept, the National Guard must be prepared more than ever to meet our Nation's defense needs. However, the reverse seems to be true and positive reinforcement is needed to stimulate interest in the Guard and its activities. This resolution can provide that reinforcement and interest and would help to attract men and women into the National Guard.

It is only fitting that we should be recognizing the National Guard for its dual role as a vital component of our Armed Forces and its responsibilities on the State level during times of natural disasters and domestic strife.

Mr. Speaker, I have said it many times in the past, but it bears repeating—the National Guard is the best buy the American people receive for their defense dollar. I urge my colleagues to give their overwhelming support to this resolution declaring October 7 as National Guard Day.

I then add the further comments.

I would add only that one of the reasons such a resolution is needed is that the National Guard and Reserve are having problems in their strength levels in recruiting young men and women to come into the National Guard and Reserves. I would hope that this resolution would give us some opportunity to attract these young people to look at the Guard and Reserves.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I want to say to the gentleman from Mississippi, I appreciate his support and his leadership on that side of the aisle in helping to obtain the cosponsors of this legislation. More than half the Members of the House are in support of this resolution.

It would be my hope that on October 7, when open houses are held in the various Guard units around the country, Members of Congress would have an opportunity to express in their own congressional districts, as they so clearly express in this resolution today, their support of the National Guard and their encouragement to others to support the Guard, as they have done here.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for his remarks. I would also like to add that really, under the voluntary arrangement that we now have that we really do not have much choice and that these young people have got to come in and volunteer for either the regular armed services or the Reserves or the National Guard and if they do not do so, then there is no question but that we will have to go back to the Selective Service System or we will have no military forces whatsoever.

I might add further, Mr. Speaker, that I think the National Guard is certainly a good buy for the taxpayers of America in that to have one of these units in training the cost is half as much as that required to keep a regular unit trained for the same mission.

Further, Mr. Speaker, there is not a month or a week that passes but that somewhere in this country the National Guard is called out such as in the case of a natural disaster, or because of some problem that public officials are having in their communities.

So, Mr. Speaker, I believe the resolution before us is very timely. Again I commend the gentleman from Ohio (Mr. BROWN) and also the Committee on Post Office and Civil Service for giving us this opportunity to discuss this resolution before the House of Representatives.

Mr. LEHMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I rise in support of House Joint Resolution 946, a joint resolution authorizing and requesting the President to declare October 7, 1978, as "National Guard Day."

On June 16, 1978, I introduced House Joint Resolution 1004, an identical joint resolution.

Mr. Speaker, I want to associate myself with the remarks today of others who have spoken in favor of this legislation. Since 1636, the National Guard—the militia—has been an indispensable part of America's military capability. Today, units of the National Guard are regularly called upon to serve the citizens in each State during times of emergency. And they always respond to the challenge, probably in more ways, at more times, and more places than any similar institution we have.

I know of no other organization which has done so much, for so many people, with so little recognition. Anytime a crisis or a natural disaster threaten our security, our property, or our well-being, we can depend on the National Guard.

Hopefully, "National Guard Day" will bring to the attention of Americans everywhere the many past and present contributions of the Guard to our country, and its accessibility for the future. I wholeheartedly commend this joint resolution to the support of my colleagues.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, I would like to associate myself with the remarks given by those who have preceded me here on the floor today. I believe that this is a very, very important piece of legislation because it is time that we recognize that the Guard is one of the most cost effective and efficient parts of our armed services. We should emphasize the need for readiness and preparedness. The people who serve us so faithfully should have the materiels with which to train and serve.

As a member of the House Armed Services Committee, and especially of the Military Personnel Subcommittee, I have gained a firsthand knowledge of the vital role played by the National Guard in our national security.

I am happy to be associated with my colleagues in supporting House Joint Resolution 946 and urge others to support its passage.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, finally, let me say that this piece of legislation is dedicated in a personal sense by me to two young guardsmen who were killed in a fire when they were called out during a tornado in Xenia, Ohio, in April 1974, one of the communities in my district.

That tornado destroyed half the community and took 35 lives. They, no less than those who were killed by that tornado itself, were victims of that tornado. They had come there to provide protection for those who were homeless, to offer physical assistance to the community and to clean up and help toward reconstruction. Their sacrifice is only typical of the kind of dedication shown and work done by the National Guard.

Many of my friends, with whom I grew up in a small town and with whom I used to play basketball and participate in other activities in the National Guard's Armory and assembly hall, later joined the local Guard unit and were dedicated Guard members. They also were those who were among the first to report for active duty in both World War II and the Korean War, were ready to go and willing to go when their Nation needed them. Such people are part of what has made the National Guard what it is today and has been because they have the patriotic citizen-soldier spirit that has served so well in this country now and for over 300 years. We want it to continue and to continue receiving the honor it deserves.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I am happy to yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I would like to be associated with the remarks that have been so supportive of our National Guard here today.

Mr. Speaker I flew for years with the California Air National Guard and I must say that the standard of excellence of both the Army and Air Guard in California is absolutely phenomenal. Maintenance particularly was superior to everything that I observed during my 5 years of active duty in the Air Force service. In order to keep sophisticated fighter jet aircraft flying you need the best young men and women our Nation can produce as volunteers, the same with new Army equipment. To keep the morale of our Guard forces as high as possible should be a primary goal of our defense efforts in this Congress, and that is why I cosponsored and wholeheartedly support this resolution.

Mr. LEHMAN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the distinguished gentleman from Florida.

I would like to ask a question, if I may. Of course, all of these three bills would commemorate very worthwhile and important matters. I think especially National Family Week and National Guard Day are matters of concern to every person. National Lupus Week is concerned with those people who happen to be afflicted or who have relatives afflicted with the disease. Of course, there are many, many worthy causes in the world. There are many diseases which we would like to eradicate.

I would like to ask the gentleman from Florida if there is any restraining policy so that we do not spend a good part of our time, that could be devoted to matters of substance enacting legislation, on these things which are commemorative or for recognition but which do not actually produce any movement toward solving problems or legislatively support these causes. I would just like to ask the gentleman if he can tell me whether there is some sort of control over this.

Mr. LEHMAN. Mr. Speaker, we do have rules in the Committee on Post Office and Civil Service that have been able to somewhat control the number of these resolutions that come to the floor. This year we have brought, I think, around 14 of these resolutions of all kinds to the floor. There have been almost 500 of these resolutions submitted to the committee. The prerequisite is to get 218 cosponsors. There is a committee policy that I would like to put in the RECORD at this time for the benefit of the the Members so that they can once again see the manner in which these various resolutions can be brought to the floor and in which areas, such as the commemoration of living persons, they cannot be brought to the floor under the policies of the Committee on Post Office and Civil Service.

Mr. Speaker, I ask unanimous consent to make this a part of the body of the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The statement of policy is as follows:

COMMITTEE POLICY FOR CONSIDERATION OF COMMEMORATIVE LEGISLATION

It shall be the policy of the Committee that legislation providing for designation of commemorative days or other periods shall be considered only three times each year during the months of February, June and October.

The following types of proposals shall not be reported:

(a) Any proposal concerning a commercial enterprise, specific product, or fraternal, political or sectarian organization;

(b) any proposal concerning a particular State or any political subdivision thereof, city, town, county, school, or institution of higher learning;

(c) any proposal concerning a living person; and

(d) any proposal providing for recurring annual commemorations.

All other proposals with national appeal and significance, which shall be demonstrated by co-sponsorship of the resolution or written endorsement, or a combination thereof, by a majority of the Members of the House, may be reported.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN. I yield again to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Of course, any time 218 Members wanted to, they could sign a discharge petition and force an issue to the floor in any case, so I suppose that that is almost a necessary policy. But it does seem to me that this can get out of hand. It is awfully easy to sign a petition that does not hurt anybody, and it is awfully hard to say no if it is a worthwhile cause. But I would hope that if the thing starts to proliferate, the committee might come up with some suggestions so that we could prevent the use of the time of this House for matters which are not of legislative import.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I would like to compliment the gentleman from Ohio for bringing up this question. Of course, I intend to vote for this National Guard Day. It is a fine institution. I think the family is a fine institution. I think we have got a resolution on that sometime. But, really, if we are to depend on whether or not there is a majority of the House signing such resolutions, we have a very weak barrier to bringing these matters up constantly at great cost in time and in effort. If we really regard the National Guard, we do not have to set aside a day for it. We respect it for its own purposes.

I really do raise that question as a serious one that the House needs to concern itself with.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further?

Mr. LEHMAN. I yield to the gentleman.

Mr. SEIBERLING. I thank the gentleman for yielding.

The National Guard is something that is of concern to all of us because it is part of our system of national defense. I can see some sense in having National Guard Day the same as we have Armed Forces Day and Armistice Day, but what I am concerned about is that there are hundreds of organizations in this country dedicated to eradicating some disease. Some may affect hundreds of people; some may affect tens of thousands of people. But they are all worthy causes. I just feel that it is very hard to say no. Yet I understand that there is a backlog of some 120 bills that are matters of substance that are on the nonpriority list this year that are probably going to be sidetracked because we are running out of time.

So I suggest that we ought to have some control, so that we do not end up with hundreds of these things taking a great deal of our time from our other legislative duties. That is the only point I wanted to make.

Mr. LEHMAN. Mr. Speaker, I think that the points of the gentleman from Ohio and the gentleman from Texas are well taken. I have no quarrel with them. The facts of life are, though, that in this body there is a lot more pressure on this committee and this subcommittee to relax these rules and prerequisites for consideration. It is difficult even to hold the number down to what we have at the present time, which eliminates, as I said, living people, commercial enterprises, States and political subdivisions of any kind, and other matters.

I think it would be prudent at this time

that this committee and this subcommittee in particular, perhaps, hold hearings in the next Congress in order to revise or maybe further limit the manner in which these particular items can be brought up for consideration by the full body.

Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, apparently the gentleman from Texas and the gentleman from Ohio are not privy to the manner in which this House of Representatives conducts its business. They show an ignorance of the reason why these resolutions were brought up today on a Monday when we only have about 50 working days left in the entire session, when the leadership is jettisoning major pieces of the President's legislation, rather than let the ship go under, throwing off the deck chairs, so to speak.

I am not denigrating in any way these worthy resolutions. They shall have my support. They are good and worthy causes, but the only reason they are brought up today is because today is the day of the annual Congressional Golf Tournament and we bring up things of lesser importance, as far as missing votes, so that Members will not miss the big ones. That is why some of us are sitting here on this beautiful afternoon in Washington with a great many of our colleagues away engaged in other pursuits.

I do not think we should be too hard on this committee. They are doing their job. They acquit themselves admirably and we owe them a debt of gratitude for bringing these matters to our attention. The complaint should not be with the gentleman from Florida (Mr. LEHMAN). Rather, the questions should be put to the leaders of the majority. I would be glad to cooperate with my colleagues in that regard.

I would make one other point, that these are far more meritorious bills than the majority of the bills this House passes on many occasions. I suspect the citizenry of the United States would rather have Congress do nothing than to do what the majority has been doing to America for the past 2 years.

Mr. BROWN of Ohio. Mr. Speaker, I think the committee has acquitted itself and discharged its responsibility for bringing these pieces of legislation to the floor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. LEHMAN) that the House suspend the rules and pass the joint resolution (H.J. Res. 946).

The question was taken.

Mr. HARKIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 264, nays 10, not voting 158, as follows:

[Roll No. 588]

YEAS—264

| | | |
|---|---|---|
| Akaka | Florio | Minish |
| Alexander | Flowers | Mitchell, Md. |
| Ambro | Flynt | Mitchell, N.Y. |
| Ammerman | Foley | Moffett |
| Andrews, N.C. | Forsythe | Mollohan |
| Annunzio | Fowler | Montgomery |
| Applegate | Frenzel | Moore |
| Aspin | Fuqua | Moorhead, Calif. |
| AuCoin | Gammage | Moorhead, Pa. |
| Bafalis | Gaydos | Moss |
| Baldus | Gephardt | Murphy, Ill. |
| Baucus | Gibbons | Murphy, N.Y. |
| Bauman | Gilman | Murphy, Pa. |
| Beard, R.I. | Ginn | Murtha |
| Beard, Tenn. | Glickman | Myers, John |
| Bedell | Gore | Myers, Michael |
| Benjamin | Gradison | Natcher |
| Bennett | Grassley | Neal |
| Bevill | Gudger | Nedzi |
| Bingham | Guyer | Nichols |
| Blanchard | Hall | Nolan |
| Boggs | Hamilton | Nowak |
| Bolling | Hammer-schmidt | Oberstar |
| Bonker | Hannaford | Panetta |
| Bowen | Hansen | Patterson |
| Brademas | Harkin | Pattison |
| Breaux | Harris | Pease |
| Breckinridge | Harsha | Perkins |
| Brodhead | Hawkins | Pickle |
| Brooks | Heftel | Poage |
| Broomfield | Hightower | Price |
| Brown, Calif. | Holland | Rahall |
| Brown, Mich. | Holt | Rangel |
| Brown, Ohio | Horton | Regula |
| Buchanan | Hubbard | Reuss |
| Burke, Fla. | Huckaby | Rinaldo |
| Burke, Mass. | Hughes | Risenhoover |
| Burleson, Tex. | Hyde | Roberts |
| Burton, Phillip | Ichord | Robinson |
| Byron | Jacobs | Roe |
| Carney | Jenrette | Rooney |
| Carr | Johnson, Calif. | Roybal |
| Carter | Jones, N.C. | Runnels |
| Chappell | Jones, Okla. | Ryan |
| Clay | Jones, Tenn. | Satterfield |
| Collins, Tex. | Jordan | Sawyer |
| Conable | Kastenmeier | Seiberling |
| Conte | Kazen | Sharp |
| Corcoran | Kelly | Shuster |
| Corman | Kemp | Sikes |
| Cornell | Keys | Simon |
| Cornwell | Kildee | Sisk |
| Coughlin | Kindness | Skelton |
| Crane | Kostmayer | Skubitz |
| Cunningham | Krebs | Slack |
| D'Amours | Krueger | Smith, Iowa |
| Daniel, R. W. | LaFalce | Smith, Nebr. |
| de la Garza | Lagomarsino | Snyder |
| Delaney | Latta | Solarz |
| Derrick | Leach | Spence |
| Derwinski | Lederer | St Germain |
| Dickinson | Lehman | Staggers |
| Dingell | Livingston | Stangeland |
| Dornan | Lloyd, Calif. | Stanton |
| Downey | Lloyd, Tenn. | Steed |
| Drinan | Long, La. | Steers |
| Duncan, Oreg. | Long, Md. | Steiger |
| Duncan, Tenn. | Lujan | Stockman |
| Eckhardt | Luken | Stratton |
| Edgar | McClory | Studds |
| Edwards, Ala. | McCormack | Stump |
| Edwards, Calif. | McDonald | Taylor |
| Edwards, Okla. | McFall | Thompson |
| Eilberg | McHugh | Thornton |
| Emery | Madigan | Trible |
| English | Mahon | Ullman |
| Erlenborn | Markey | Van Deerlin |
| Ertel | Marks | Vanik |
| Evans, Ind. | Marlenee | Vento |
| Fary | Martin | Volkmer |
| Findley | Mattox | Waggonner |
| Fisher | Mazzoli | Walgren |
| Fithian | Miller, Ohio | Walsh |
| Flippo | Mineta | Watkins |
| Flood | Weaver | Wright |
| White | Wylie | Young, Mo. |
| Whitehurst | Yatron | Young, Tex. |
| Wirth | Young, Fla. | Zablocki |

NAYS—10

| | | |
|---|---|---|
| Bellenson | Obey | Schroeder |
| Evans, Colo. | Ottinger | Stark |
| Miller, Calif. | Pike | |
| Myers, Gary | Rogers | |

NOT VOTING—158

| | | |
|---|---|---|
| Abdnor | Ford, Tenn. | Pressler |
| Addabbo | Fountain | Preyer |
| Anderson, Calif. | Fraser | Pritchard |
| Anderson, Ill. | Frey | Pursell |
| Andrews, N. Dak. | Garcia | Quayle |
| Archer | Giaimo | Quie |
| Armstrong | Goldwater | Quillen |
| Ashbrook | Gonzalez | Railsback |
| Ashley | Goodling | Rhodes |
| Badham | Green | Richmond |
| Barnard | Hagedorn | Rodino |
| Biaggi | Hanley | Roncalio |
| Biouin | Harrington | Rose |
| Boland | Heckler | Rosenthal |
| Bonior | Hefner | Rostenkowski |
| Brinkley | Hillis | Rousselot |
| Broyhill | Hollenbeck | Rudd |
| Burgener | Holtzman | Ruppe |
| Burke, Calif. | Howard | Russo |
| Burlison, Mo. | Ireland | Santini |
| Burton, John | Jeffords | Sarasin |
| Butler | Jenkins | Scheuer |
| Caputo | Johnson, Colo. | Schulze |
| Cavanaugh | Kasten | Sebelius |
| Cederberg | Le Fante | Shipley |
| Chisholm | Leggett | Spellman |
| Clausen, Don H. | Lent | Stokes |
| Clawson, Del | Levitas | Symms |
| Cleveland | Lott | Teague |
| Cochran | Lundine | Thone |
| Cohen | McCloskey | Traxler |
| Coleman | McDade | Treen |
| Collins, Ill. | McEwen | Tsongas |
| Conyers | McKay | Tucker |
| Cotter | McKinney | Udall |
| Daniel, Dan | Maguire | Vander Jagt |
| Danielson | Mann | Walker |
| Davis | Marriott | Wampler |
| Dellums | Mathis | Waxman |
| Dent | Meeds | Weiss |
| Devine | Metcalfe | Whalen |
| Dicks | Meyner | Whitley |
| Diggs | Michel | Whitten |
| Dodd | Mikulski | Wiggins |
| Early | Mikva | Wilson, Bob |
| Evans, Del. | Milford | Wilson, C. H. |
| Evans, Ga. | Moakley | Wilson, Tex. |
| Fascell | Mottl | Winn |
| Fenwick | Nix | Wolff |
| Fish | O'Brien | Wydler |
| Ford, Mich. | Oakar | Yates |
| | Patten | Young, Alaska |
| | Pepper | Zeferetti |
| | Pettis | |

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Abdnor.
Mr. Addabbo with Mrs. Fenwick.
Mr. Shipley with Mr. Pressler.
Mr. Zeferetti with Mr. Anderson of Illinois.
Mr. Howard with Mr. Fish.
Mr. Richmond with Mr. Hillis.
Mr. Pepper with Mr. Lott.
Mr. Moakley with Mr. McCloskey.
Mr. Rostenkowski with Mr. Walker.
Mr. Santini with Mr. Symms.
Mr. Biaggi with Mr. Ruppe.
Mr. Ashley with Mr. Wydler.
Mr. Giaimo with Mr. Whalen.
Mr. Hanley with Mr. McKinney.
Mr. Le Fante with Mr. Devine.
Mrs. Meyner with Mr. Coleman.
Mr. Wolff with Mr. Young of Alaska.
Mr. Rosenthal with Mr. Schulze.
Mr. Rose with Mr. McEwen.
Mr. Bonior with Mr. Marriott.
Ms. Mikulski with Mr. Winn.
Mr. Weiss with Mr. Cohen.
Mr. Fascell with Mr. Butler.
Mr. Dent with Mr. Broyhill.
Mr. Cotter with Mr. Wiggins.

Mrs. Chisholm with Mr. Jeffords.
Mr. John L. Burton with Mr. Hollenbeck.
Mrs. Burke of California with Mr. O'Brien.
Mr. Russo with Mr. Pritchard.
Mr. Stokes with Mr. Goodling.
Mr. Traxler with Mr. Quie.
Mr. Waxman with Mr. Rudd.
Mr. Charles H. Wilson of California with Mr. Green.
Mr. Yates with Mr. Frey.
Mr. Whitten with Mr. Ashbrook.
Mr. Diggs with Mr. Badham.
Mr. Whitley with Mr. Bob Wilson.
Mr. Charles Wilson of Texas with Mr. Dellums.
Mr. Anderson of California with Mr. Andrews of North Carolina.
Mr. Fountain with Mr. Goldwater.
Mr. Patten with Mr. Pursell.
Mr. Blouin with Mr. Rousselot.
Mr. Boland with Mr. Sarasin.
Mr. Garcia with Mr. Thone.
Mr. Teague with Mr. Lent.
Mr. Tsongas with Mr. Cleveland.
Mr. Udall with Mr. Don H. Clausen.
Mr. Meeds with Mr. Burgener.
Mr. Danielson with Mr. Armstrong.
Mr. Dan Daniel with Mr. Cochran of Mississippi.
Mr. Cavanaugh with Mr. Evans of Delaware.
Mr. Brinkley with Mr. Archer.
Mr. Harrington with Mr. Hagedorn.
Mr. Ford of Michigan with Mrs. Heckler.
Mr. Preyer with Mr. Railsback.
Mr. Maguire with Mr. Sebelius.
Mr. Levitas with Mr. Treen.
Mr. Mikva with Mr. Kasten.
Mr. Dodd with Mr. Vander Jagt.
Mr. Davis with Mr. Caputo.
Mrs. Collins of Illinois with Mr. Cederberg.
Mr. Mann with Mr. Del Clawson.
Mr. Metcalfe with Mr. Leggett.
Mr. Early with Mr. McDade.
Mr. Evans of Georgia with Mr. Michel.
Mr. Jenkins with Mr. Wampler.
Mr. Ireland with Mr. Tucker.
Mr. Hefner with Mr. Scheuer.
Mr. Gonzalez with Mr. Quillen.
Mr. Ford of Tennessee with Mrs. Pettis.
Mr. Burlison of Missouri with Mr. Milford.
Mr. Conyers with Mr. Quayle.
Ms. Holtzman with Mr. Roncalio.
Mr. Dicks with Mr. Mottl.
Mr. Barnard with Mr. McKay.
Mr. Mathis with Mr. Nix.
Mr. Lundine with Mr. Johnson of Colorado.
Mr. Frazier with Ms. Oakar.

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the joint resolution (H.J. Res. 946) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## REQUEST TO CONSIDER SENATE AMENDMENT TO H.R. 2777, NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, with a Senate amendment hereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "National Consumer Cooperative Bank Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasingly the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. The Congress also finds that consumer and other types of self-help cooperatives have been hampered in their formation and growth by lack of access to adequate cooperative credit facilities and lack of technical assistance. Therefore, the Congress finds a need for the establishment of a National Consumer Cooperative Bank which will make available necessary financial and technical assistance to cooperative self-help endeavors as a means of strengthening the Nation's economy.

TITLE I—NATIONAL CONSUMER COOPERATIVE BANK

CREATION AND CHARTER OF BANK

SEC. 101. There is hereby created and chartered a body corporate, the National Consumer Cooperative Bank, hereinafter referred to as the "Bank", as an instrumentality of the United States, and until otherwise provided, shall be a mixed ownership Government corporation. The bank shall have perpetual existence unless and until its charter is revoked or modified by Act of Congress. The right to revise, amend, or modify the charter of the bank is specifically and exclusively reserved to the Congress. The principal office of the bank shall be in Washington, District of Columbia, and, for the purpose of venue, shall be considered a resident thereof. It shall make loans and offer its services throughout the United States, its territories and possessions, and in the Commonwealth of Puerto Rico. The Bank shall—

(1) encourage the development of new and existing cooperatives eligible for its assistance by providing specialized credit and technical assistance;

(2) maintain broad-based control of the Bank by its voting stockholders;

(3) encourage broad-based ownership, control, and active participation by members in eligible cooperatives;

(4) assist in improving the quality and availability of goods and services to consumers; and

(5) encourage ownership of its equity securities by cooperatives and others as provided in section 104, so that the date when all of the Bank's class A stock owned by the United States has been fully redeemed (the "Final Government Equity Redemption Date") occurs as early as practicable.

GENERAL CORPORATE POWERS

SEC. 102. The Bank shall have the power to make and service loans, commitments for credit, guarantees, furnish financially related services, technical assistance and the results of research, issue its obligations within the limitations imposed by section 107 in such amounts, at such times, and on such terms as the Bank may determine, and to exercise the other powers and duties prescribed in this Act, and shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) elect by its Board of Directors a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, and define their duties in accordance with regulations and standards adopted by the Board, and require surety bonds or make other provisions against losses occasioned by acts of employees;

(4) prescribe by its Board of Directors its bylaws not inconsistent with law, which shall establish the terms of office and the procedure for election of elective members; provide in a manner not inconsistent with this Act for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; and prescribe the manner in which its officers, employees, and agents are elected or selected, its property acquired, held, and transferred, its loans, commitments, other financial assistance, guarantees, and appraisals may be made, its general business conducted, and the privilege granted it by law exercised and enjoyed;

(5) enter into contracts and make advance, progress, or other payments with respect to such contracts, without regard to the provisions of section 3648 of the Revised Statutes;

(6) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property and sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary or convenient to its business: *Provided*, That any such acquisition or ownership of real property shall not deprive a State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights of the inhabitants of such property under Federal, State, or local laws;

(8) obtain insurance against loss in connection with property and other assets;

(9) modify or consent to the modification

with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or has an interest pursuant to this Act;

(10) utilize and act through any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with such agency, instrumentality, or organization for furnishing or receiving technical services and benefits of research, services, funds, or facilities; and make advance, progress, or other payments with respect to such contracts without regard to section 3648 of the Revised Statutes;

(11) within the limitations of section 107, borrow money and issue notes, bonds, and debentures or other obligations individually or in concert with other financial institutions, agencies, or instrumentalities, of such character and such terms and conditions and at rates of interest as may be determined;

(12) issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it;

(13) participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this Act on terms as may be agreed upon;

(14) accept guarantees from other agencies for which loans made by the Bank may be eligible;

(15) establish one or more branch offices and one or more advisory councils in connection with any such branch offices, as may from time to time be authorized by the Board of Directors;

(16) buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the final Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors;

(17) approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but, except as otherwise provided in this Act, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired; and

(18) have such other incidental powers as may be necessary or expedient to carry out its duties under this Act.

The stock or other securities or instruments issued by the Bank shall, to the same extent as securities which are the direct obligations of the United States, be "exempt securities" within the meaning of the laws administered by the Securities and Exchange Commission.

BOARD OF DIRECTORS

SEC. 103. (a) The Bank shall be governed by a Board of Directors (hereinafter referred to as the "Board") which shall consist of thirteen members. Subject to the provisions of subsection (b) of this section, all members of the Board shall be appointed by the President, with the advice and consent of the Senate, for terms of three years or until their successors have been appointed and qualified. The President shall appoint seven members of the Board from among the officers of the agencies and departments of the United States Government: Provided, That at any one time no more than one member shall be from any one agency or department. The remaining members shall be from the general public (and not from the officers or employees of the United States Government) but shall have extensive experience in the cooperative field representative of the following classes of cooperatives: (1) housing, (2) consumer goods, (3) low-income cooperatives, (4) consumer services, and (5) all other eligible cooperatives, and for these appointments the President shall consider nominees submitted by national associations of cooperatives. Any member appointed by the President may be removed at any time with or without cause by the President. If a vacancy occurs on the Board for any reason other than a resignation pursuant to subsection (b) of this section, a new member shall be appointed by the President to serve until the next annual meeting of the Bank, at which time the vacancy shall be filled for the remainder of the unexpired term by the President or the holders of class B and class C stock, as provided in this section 104.

(b) At the first annual meeting occurring after the time when the amount of paid-in capital of the Bank attributable to the shares of class B stock and class C stock equals or exceeds $3,000,000, three members of the Board appointed by the President from the general public shall resign. Similarly, when the amount of paid-in capital attributable to the shares of class B and class C stock equals or exceeds $10,000,000 the terms of the other three members appointed by the President from the general public shall terminate. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at each of the annual meetings occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds seven-thirteenths and eight-thirteenths of the total amount of paid-in capital of the Bank. As members of the Board resign in accordance with the foregoing provisions, the directorships vacated shall be deemed shareholder directorships and shall be filled by the holders of class B stock and class C stock in accordance with the provisions of subsection (c) of this section. Five remaining members of the Board appointed by the President shall resign on the Final Government Equity Redemption Date. Thereafter, one member of the Board shall continue to be appointed by the President from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers.

(c) At all elections of Directors by holders of class B stock and class C stock, nominations shall be made by the classes of eligible cooperatives specified in subsection (a). Vacant shareholder directorships shall be filled, whether by appointment or election, so that at any time when there are three or more shareholder directors on the board, there shall be at least one director representing each of the classes of housing cooperatives, low-income cooperatives, and consumer goods and services cooperatives. Each nominee for shareholder directorship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented. No one class of cooperatives specified in subsection (a) shall be represented on the Board by more than three directors.

(d) When all five remaining members of the Board appointed by the President have resigned pursuant to subsection (b) of this section, their successors and the successors to shareholder directors shall thereafter be elected pursuant to such rules as the Board may from time to time prescribe in the bylaws of the Bank.

(e) No director shall be eligible to be elected for more than two consecutive full three-year terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank. The Bank shall give adequate advance notice to all voting stockholders of nominees and of the procedures for nominating other candidates. Each voting stockholder shall make the information required in this paragraph available to its members.

(f) The Board shall annually elect from among its members a chairman and vice chairman and select a secretary who need not be a member. The Board shall establish the policies of the Bank governing its funding, lending, and other financial and technical assistance, and shall direct the management of the Bank.

(g) The Board shall meet at least quarterly. Its meeting shall be open to members or representatives of all eligible cooperatives and other eligible organizations, as observers only, and to persons or representatives of groups who identify their interest in the Bank and who are invited to attend a meeting, subject to such rules as the Board may establish for the conduct of such meetings. Those rules shall include the manner of giving notice of meetings, the procedure for the conduct of meetings, the manner of submitting topics for the agenda, the allocation of time of presentations, and debate. The chairman, when sustained by the majority of the Board present, may adjourn the open meeting into an executive session on motion of the chairman, any Board member, or at the request of any applicant, borrower, officer, or employee when the matter under discussion involves an application, a loan, a personnel action, or other matter which might tend to impinge on the right of privacy of any person.

(h) Members of the Board appointed by the President from among the officers of agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. Until the Final Government Equity Redemption Date, members of the Board appointed by the President from among the general public or elected by the holders of the class B and class C stock shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5, United States Code, for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code, for each day that they are away from their homes or regular places of business in the performance of their duties on the Board.

CAPITALIZATION

SEC. 104. (a) The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, and by the United States. Beginning with the fiscal year ending September 30, 1979, the United States shall purchase class A stock and for that fiscal year there are authorized to be appropriated $100,000,000 for such purposes, and there are authorized to be appropriated for the next four succeeding fiscal years an amount not to exceed $200,000,000 in the aggregate. Any amounts so authorized but not appropriated or not utilized to purchase such stock of the Bank in any such fiscal year is authorized to be appropriated or reappropriated and so used in subsequent fiscal years.

(b) The capital stock of the Bank shall include class A, class B, and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not incon-

sistent with law, in the bylaws of the Bank. Class A preferred stock held by the United States shall be a preferred stock with first preference with respect to assets and dividends over all other classes of stock issued by the Bank. So long as any class A stock is outstanding, the Bank shall not pay any dividend on any other class of stock at a rate greater than the statutory dividend payable on the class A stock. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers or organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of othe · classes held, except as provided in subsection (g) of this section

(c) Class A stock with a par value of $100 per share shall be issued by the Bank to the Secretary of the Treasury on behalf of the United States in exchange for capital furnished pursuant to subsection (a) of this section. The holder of class A stock shall be entitled to dividends at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity: *Provided,* That until October 1, 1990, such dividends shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such dividends shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative. Any such dividend payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, but any dividend payment so deferred shall bear interest at the same rate as the rate at which dividends accumulate on the class A stock. Without the approval of the Secretary of the Treasury, the Bank shall not pay any dividend or distribution on, or make any redemption or repurchase of, any other class of stock at any time when the cumulative dividends on the class A stock shall not have been paid in full (together with any unpaid interest thereon). Upon any liquidation or dissolution of the Bank, the holder of class A stock shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any other class of stock of the Bank, an amount not less than the aggregate par value of all class A stock outstanding, plus all accrued and unpaid dividends accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A stock shall be redeemed and retired as soon as practicable consistent with the purposes of this Act (such redemption to be at a price equal to the par value of the class A stock so redeemed plus cumulative dividends accrued thereon to the date of redemption): *Provided,* That beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of shares of class A stock having an aggregate par value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year.

(d) Class B stock shall be held only by recipients of loans under section 105 of this Act, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank may determine will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers

(e) Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 105 of this Act or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank. Such dividends shall be payable only from income, and, until all class A stock has been retired, the rate of such dividends shall not exceed the rate of the statutory dividend on class A stock.

(f) Nonvoting stock of other classifications and other priorities may be issued at the discretion of the Board, to other investors, except that so long as any class A stock is outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A stock as to dividends or upon liquidation or dissolution.

(g)(1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 103(s) of this Act; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

(h) The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board. For the purpose of accepting such contributions, the Bank will be a governmental unit within the meaning of section 170(b)(1)(A)(v) of the Internal Revenue Code of 1954.

(i) After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds for reserves for losses, for cumulative dividends on class A stock and dividends on class C stock and for any redemption of class A stock in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

ELIGIBILITY

SEC. 105. (a) For the purpose of all titles of this Act, subject to the limitations of subsection (d) of this section, an eligible cooperative as an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such goods, services, or facilities, or a legally chartered entity entirely owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case or organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank, or mutual savings and loan association.

(b) No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

(c) As used in this section, the term "net savings" means, for any period, the borrower's gross receipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

(d) An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Rural Telephone Bank, the Banks for Cooperatives or other institutions of the Farm Credit System, or the Farmers Home Administration may receive the assistance authorized by this Act only (1) if the Bank determines that a request for assistance from any such source or sources has been rejected or denied solely because of the unavailability of funds from such source or sources, or (2) by agreement between the Bank and the agency or agencies involved.

(e) Notwithstanding any other provision of this section, a credit union serving predominantly low-income members (as defined by the Administrator of the National Credit Union Administration) may receive technical assistance under title II.

ANNUAL MEETING

SEC. 106. The Bank shall hold an annual meeting of its stockholders which shall be open to the public. At least 30 days' advance notice of the time and place of the annual meeting shall be given to all stockholders. Borrowers from the Bank shall also give notice of the meeting to their members, who shall be entitled to attend. At such meeting the Bank shall give a full report of its ac-

tivities during the year and its financial conditions and may present proposals for future action and other matters of general concern to borrowers and organizations eligible to borrow from the Bank. Members and representatives of borrowers may present motions or resolutions relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda.

BORROWING AUTHORITY

SEC. 107. (a) The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine after consultation with the Secretary of the Treasury: *Provided, however,* That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed five times the paid-in capital and surplus of the Bank.

(b) The Bank is also authorized, but not required, and only so long as any of its class A stock is held by the Secretary of the Treasury, to issue its obligations to the Secretary of the Treasury, in amounts not to exceed in the aggregate such amounts as are provided in appropriations Acts and the Secretary of the Treasury may in his discretion purchase any such obligations. Each purchase of obligations of the Bank under this subsection shall be upon such terms and conditions as to yield a rate of return not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine any of the obligations of the Bank acquired by him under this subsection.

(c) The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(d) Obligations issued under this section shall not be guaranteed by the United States and shall not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Bank.

LENDING POWERS

SEC. 108. (a) The Bank may make loans and commitments for loans under this subsection to any organization determined by the Bank to be eligible under the provisions of section 105 of this Act, and may purchase or discount obligations of members of such organizations if the Bank, to the exclusion of all other persons, entities, agencies, or jurisdictions, also determines that the applicant has or will have a sound organizational and financial structure, income in excess of its operating costs and assets in excess of its obligations, and a reasonable expectation of a continuing demand for its production, goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions. Commencing on October 1, 1983, the Bank shall not make any loan to a cooperative for the purpose of financing the construction, ownership, acquisition, or improvement of any structure used primarily for residential purposes if, after giving effect to such loan, the aggregate amount of all loans outstanding for such purpose would exceed 30 per centum of the gross assets of the Bank. The Board of Directors shall use its best efforts to insure that at the end of each fiscal year of the Bank at least 35 per centum of its outstanding loans are to—

(1) cooperatives at least a majority of the members of which are low-income persons, and

(2) other cooperatives, if the proceeds of such loans are directly applied to finance a facility, activity, or service that the Board finds will be used predominantly by low-income persons.

The Board shall adopt and publish in the Federal Register rules defining the term "low-income persons" for purposes of this subsection. The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any other person or organization.

(b) Loans under this section shall be repayable in not more than forty years and, except for loans with final due date not longer than five years from the date of the loan, shall be amortized as to principal and interest. In setting the terms, rates, and charges, it shall be the objective of the Bank to provide the type of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the Bank, necessary reserve and expenses of the Bank, and the technical and other assistance attributable to loans under this section made available by the Bank, but so long as the Bank makes loans from the proceeds of the sale of class A stock, the interest rate shall not be less than the rates generally prevailing in the area from other sources for loans for similar purposes and maturities, taking into consideration the cost to the borrower of required purchase of class B stock in the Bank. The loan terms may provide for interest rates to vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Bank for new loans at such times. The proceeds of a loan under this subsection may be advanced by the borrower to its members or stockholders under circumstances described in the bylaws or rules of the Bank.

(c) Subject to section 102(13), the Bank may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any borrower if such loan is to an organization that would be an eligible borrower from the Bank for a direct loan and is on terms and conditions (including the rate of interest) which would be permissible terms and conditions for such a direct loan. The Bank may impose a charge for any such guarantee. No loan may be guaranteed by the Bank if the income therefrom to the lender is excluded from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

(d) Any loan guaranteed under subsection (c) shall be assignable to the extent provided in the contract of guarantee as may be determined by the Bank. The guarantee shall be uncontestable, except for fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan. The Bank in lieu of requiring such lender to service such guaranteed loan until final maturity or liquidation, may purchase the loan for the balance of the principal and accrued interest thereon without penalty, if it determines that (1) liquidation of the loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation, and (2) the loan will be repayable with revision of the loan rates, terms, or payment periods or other conditions not inconsistent with loans made by the Bank under subsection (a) of this section, which revisions the lender or other holder of such guaranteed loan is unwilling to make.

(e) As long as any of the class A stock of the Bank is held by the Secretary of the Treasury, the aggregate amount of commitments by the Bank to make or guarantee loans shall not exceed such amounts as may be specified in annual appropriation Acts.

TAXATION

SEC. 109. Until the Final Government Equity Redemption Date, but not thereafter, the Bank, including its franchise, capital, reserves, surplus, mortgages, or other security holdings and income shall be exempt from taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, but any real property held by the Bank shall be subject to any State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

QUARTERS AND SPACE

SEC. 110 Until the Final Government Equity Redemption Date, space for the principal office and any branch offices of the Bank shall be provided by the General Services Administration. Thereafter, the Bank may lease, construct, or own quarters and provide for the space requirements of its principal and other offices.

REPORTS TO CONGRESS

SEC. 111. The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

AUTHORIZATION

SEC. 112. In addition to appropriations specifically authorized in the Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, ending September 30, 1980, and September 30, 1981, such sums as may be necessary: *Provided,* That none of these appropriated sums shall be used to retire any indebtedness of the Bank incurred pursuant to section 107 of this Act. Any sums so appropriated shall remain available until expended.

APPEALS

SEC. 113. (a) If an application for assistance under this Act is denied in whole or in part, the applicant shall be informed within thirty days in writing of the reasons for the denial or restriction.

(b) Any applicant for assistance under this Act receiving notice of denial or restriction of the application may, within thirty days of receipt of such notice, request the Board of Directors to review the application and notice of denial or restriction for a determination of whether the action of the Bank was correctly within the terms of the Act, the regulations, and the policy of the Board. The Board shall consider the request for review at its meeting and promptly inform the applicant of its determination and the reasons therefor.

CONFLICT OF INTEREST

SEC. 114. The Board of Directors shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the Federal Executive conflict of interest rules contained in Executive Order Numbered 11222 in prohibiting participation or action or the use of inside information for personal advantage on any matter involving a corporation, trust, partnership, or cooperative organization in which a board member, officer, or employee holds a substantial financial interest or holds a position as board member or senior officer, the activities of which organization might be relevant to, be competitive with,

or be inconsistent with the objectives of any bank created under this Act. These rules shall require—

(1) each nominee for elected membership on the Board established under this Act to make public and file with the election official before the date of election a statement of his financial interest and position, if any, in such organizations; and

(2) each senior executive officer and appointed member of the Board to file with the appointing officer, before entering that office a statement of his financial interest and position, if any, in such organizations, which shall be available for inspection upon request.

The provisions of this section shall remain in effect until the Final Government Equity Redemption Date.

EXAMINATION AND AUDIT

SEC. 115. Until the stock of the Bank held by the United States has been fully retired, the operations of the Bank shall be examined annually under the direction of an agency or instrumentality of the Federal Government designated by the President, including the General Accounting Office and reports of such examination shall be forwarded to the Congress. The President shall, no later than the date than 66⅔ per centum of the class A stock is held by others than the Secretary of the Treasury, establish an Office of Supervision and Audit which shall be responsible for audits and examinations of the Bank, shall assure that the objectives of this title are carried out, and shall review and comment on the by-laws of the Bank and the general policies of the Bank and shall make an annual report to the Congress.

TITLE II—OFFICE OF SELF-HELP DEVELOPMENT AND TECHNICAL ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established within the Bank an Office of Self-Help Development and Technical Assistance (hereinafter the "Office").

(b) The Office shall have a Director who shall be appointed by the President, with the advice and consent of the Senate, and who shall not be a member of the Board. Subject to review by the Board, the Director shall promulgate and publish in the Federal Register policies and procedures governing the operation of the Office.

AUTHORIZATION

SEC. 202. There are hereby authorized to be appropriated to the Office $10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act. Any amounts appropriated to the Office shall be deposited by the Office in a separate account in the Bank (hereinafter the "Account"), and shall remain available until expended. Repayments of capital investment advances made pursuant to section 203(a) pursuant to section 203(b) and payments of interest thereon pursuant to section 203 (c) shall also be deposited in the Account. No other funds of the Bank shall be transferred into the Account. The Account shall be used by the Office only as authorized in section 203.

CAPITAL INVESTMENTS AND INTEREST SUPPLEMENTS

SEC. 203. (a) The Office may make a capital investment advance out of the Account to any eligible cooperative, either in conjunction with or without a loan if the Office determines that—

(1)(A) the applicant's initial or supplemental capital requirements exceeds its ability to obtain such capital through a loan under section 108 or from other sources; or

(B) the membership of the applicant is, or will consist, substantially of low-income persons, as defined by the Board of Directors, or the applicant proposes to undertake to provide specialized goods, services, or facilities to serve their needs; and

(2) the applicant cannot obtain sufficient funds through a loan under section 108 or otherwise, and the applicant presents a plan which the Office determines will permit the replacement of a capital investment advance out of member equities within a period not to exceed thirty years.

(b) The Office may make advances out of the Account to pay all or part of the interest payable to the Bank or any other lender by an eligible cooperative applicant which the Office determines cannot pay a market rate of interest because it sells goods or services to, or provides facilities for the use of, persons of low income: *Provided*, That such advances will not exceed an amount equal to 4 per centum of the principal amount of the indebtedness of such applicant to the Bank or such other lender for any year in which the net income of the cooperative is insufficient to meet scheduled interest payments.

(c) Capital investment advances made by the Office pursuant to subsection (a) and interest supplement advances made by the Office pursuant to subsection (b) shall bear interest at a rate determined by the Board of Directors of the Bank, and the Board of Directors may authorize an interest rate applicable to such advances lower than the rate applicable to loans by the Bank pursuant to section 108.

ORGANIZATIONAL ASSISTANCE

SEC. 204. The Office shall make available information and services concerning the organization, financing, and management of cooperatives to best achieve the objectives of this Act and to best provide the means through which various types of goods, services, and facilities can be made available to members and patrons. The Office may enter into agreement with other agencies of Federal, State, and local governments, colleges and universities, foundations, or other organizations for the development and dissemination of such information, and services described in this title. The Office may make or accept grants or transfer of funds for such purposes.

INVESTIGATION AND REVENUES

SEC. 205. The Office may undertake investigations of new types of services which can more effectively be provided through cooperative not-for-profit organizations and make surveys of areas where the increased use of such organizations will contribute to the economic well-being of the community.

FINANCIAL ANALYSIS AND MARKET SURVEYS

SEC. 206. The Office may, at the request of any eligible cooperative, provide a financial analysis of the applicant's capital structure and needs and its cost of operations, survey the market for the goods or services the cooperative makes or desires to make available to its members or patrons or the users of its facilities.

DIRECTOR AND MANAGEMENT TRAINING AND ASSISTANCE

SEC. 207. The Office shall develop and make available, alone or in concert with other organizations, a program for training directors and staff of eligible cooperatives to improve their understanding of their responsibilities; the problems of and solutions for effective and efficient operation of their organizations or of cooperatives in general; and may by any means it deems appropriate, conduct membership studies, provide membership education programs, and programs for informing consumers and the general public of the advantages of cooperative action. Management supervision, review, and consultations shall be available from the Office to any eligible cooperative.

GOVERNMENT ASSISTANCE PROGRAMS

SEC. 208. The Office shall work closely with all United States Government agencies offering programs for which consumer cooperatives may be eligible to assure that information concerning all such programs is made available to eligible cooperatives.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated to the Office $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this title. Any sums so appropriated shall remain available until expended.

FEES FOR SERVICES

SEC. 210. The Office may make the technical assistance services under this title available for such fees as it may establish, except that such services as the Office may determine may be made available without charge to eligible cooperatives depending on the nature of the services or on ability to pay. Any fees collected shall be accounted for separately and be available for expenses of the Office.

TITLE III—GENERAL PROVISIONS

AMENDMENTS TO EXISTING LAW

SEC. 301. (a) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by redsignating paragraph (6) the second time it appears therein as paragraph (7), by striking out "and" immediately before "(9)" and by inserting ", and (10) the National Consumer Cooperative Bank" immediately before the period at the end thereof.

(b) Section 302 of the Government Corporation Control Act (31 U.S.C. 867) is amended by striking out "or" before "the Federal Land Banks" and inserting immediately after "the Federal Land Banks," the following: "or the National Consumer Cooperative Bank,".

(c) The second sentence of subsection (d) of section 303 of the Government Corporation Control Act (31 U.S.C. 868(d)) is amended by inserting "National Consumer Cooperative Bank," immediately before "Rural Telephone Bank".

SEC. 302. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) President, National Consumer Cooperative Bank.

"(123) Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.".

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the RECORD. I shall explain the major differences.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do so to engage the gentleman from Rhode Island in a colloquy about this bill and the procedure which we are following here in the absence of the ranking Republican on the Subcommittee on Financial Institutions (Mr. ROUSSELOT).

I had a discussion with Mr. ROUSSELOT this morning, as did the distinguished chairman of the Subcommittee on Financial Institutions. I think it is fair to say that if the gentleman from California (Mr. ROUSSELOT) had his druthers, he would rather have no bill; that has been his position from the beginning.

But, in view of the situation that we now have, he prefers the Senate bill to the bill which passed the House, and he prefers this procedure to the procedure of going to conference.

Is that the gentleman's understanding?

Mr. ST GERMAN. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I will be glad to yield.

Mr. ST GERMAIN. Mr. Speaker, I might state that indeed we have had lengthy discussions on this, Mr. ROUSSELOT and I. We were actually hoping to dispose of this last Thursday, but because of a trip he had to make we held it off until today.

However, he does wish this. He would prefer the Senate bill, and he does not want to go to conference because if we do go to conference our hope would be to expand the Senate bill. I think the gentleman has a few amendments he wants to discuss.

Mr. WYLIE. Further reserving the right to object, the gentleman from California (Mr. ROUSSELOT) did present to us this morning two amendments which he would like adopted under the unanimous-consent procedure, which I am not certain need to be adopted to satisfy his purpose.

The first one would have to do with the provisions of the House bill with reference to the Sunshine Act, and it would provide all meetings of the boards of directors of the banks, as long as class A stock or Federal guarantees remain outstanding, would be open to the public, as would meetings involving considerations of public concern. As I understand it from a discussion with the gentleman, this subject was taken care of in the Senate bill.

Mr. ST GERMAIN. Both the Senate and the House bills clearly call for open operation, full audits, and surveillance.

Clearly, both have the same thrust for open meetings.

The legislative history is clear. I can assure the gentleman that he is well aware that the subcommittee will continue its oversight of this, and if there is any problem as far as sunshine is concerned there will be quick and deliberate action.

However, I do not hesitate to say that because the legislative history is very clear, the meetings should be conducted in the open.

Mr. WYLIE. I thank the gentleman for that assurance. I wish to assure the Members of the House I do associate myself with the gentleman's assurances in that respect.

The other amendment which concerned the gentleman from California (Mr. ROUSSELOT) had to do with regulatory surveillance over the National Consumer Cooperative Bank activities and referred to examinations and examination reports. In the House bill we provide that the President could establish a procedure for audits and examinations through outside firms, through the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Federal Reserve Board. As I understand it, there was a modification in this regard in the Senate bill, that the Senate bill expanded beyond that which we provided in this House. Would the gentleman explain to the House in that respect?

Mr. ST GERMAIN. In essence both the House and the Senate bills do call for an audit. As to the Government agency which would perform the audit or the private agency which would perform the audit, that would be chosen by the President. The only difference is that the Senate bill expands the possibility of audit agencies to include the General Accounting Office, so if indeed we went to conference we would be in a position of accepting the General Accounting Office or not, but we could not substitute the Government Corporation Control Act provision. But, the provisions for full audits and oversight are clear and provide all the necessary controls and protections.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his explanation.

With that explanation, I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, is this the so-called Nader bank bill that passed this House on a rollcall by one vote?

Mr. ST GERMAIN. This is the consumer bank bill. Originally sponsored by myself, Mr. WYLIE, Mr. REUSS, and more than 100 Members of the House.

Mr. BAUMAN. I did not mean to disparage the gentleman's authorship in this matter, but I believe the bill passed this body by only one vote.

Mr. ST GERMAIN. It passed the Senate by a vote of 60 to 33. It passed in the House without administration support. Once the bill reached the Senate, we received the administration support.

Mr. BAUMAN. That is more a commentary on the judgment of the other body than anything else.

I think in a controversial matter of this type, creating a whole new Federal agency and hundreds of millions of dollars in spending, it ought to be dealt with in the regular order. I think the gentleman from California ought to be here, and we should all have time to study the matter. I object.

Mr. ST GERMAIN. If the gentleman will withhold his objection to give me an opportunity to explain, I would appreciate it.

Mr. BAUMAN. I will withhold the objection.

Mr. ST GERMAIN. If the gentleman would.

Very sincerely, I have worked with the gentleman from California on a daily basis for many years. He had to be some place else this afternoon, just as he had to be some place else last Thursday and Friday. We have been over this thoroughly with him and the gentleman from Ohio (Mr. STANTON), the ranking minority member. We have polled the Republicans on the committee. There are no objections to proceeding in this manner.

The reason is that frankly the only one who stands to gain by going to conference would be the proponents because we would like to liberalize the bill and increase the amounts. The amounts have been cut back, I would say to the gentleman, from $500 million to $300 million on the authorization for the bank capital and from $250 million to $75 million on the self-help fund.

The borrowings in the private marketplace have been reduced from 10-to-1 to 5-to-1 of capital. The proponents would stand to gain from a conference, but the reason we are following this procedure is to expedite this matter in order not to have to go to conference because of the many conferences and other legislation we are facing.

We have received complete agreement from the gentleman from California, Mr. ROUSSELOT, and the ranking minority member, the gentleman from Ohio, Mr. STANTON.

Mr. BAUMAN. Mr. Speaker, I am sorry that the gentleman feels that there is some necessity to rush on this matter but all Members should be allowed time to inform themselves on this issue.

Mr. ST GERMAIN. It is not a question of rushing. It passed the Senate 10 days ago. We discussed this last Monday and the gentleman from California, Mr. ROUSSELOT, said let us wait until Thursday morning. He forgot that on Wednesday night he had to leave and could not be here.

I spoke with the gentleman today and he said yes, there is no problem.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I will yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Of course, if it is a fait accompli, then there is probably no use in proceeding further, but I would say, in all fairness, we did discuss this with the gentleman from California (Mr. ROUSSELOT). He said that he would prefer accepting the Senate bill to going to conference. He thinks the Senate bill is much better than the House bill, and that if he could get assurances on these two amendments that we have discussed heretofore, that he would have no objection if he were on the House floor. He has taken the leadership, I would say, in the fight against this bill. I honestly feel that we have come up with a procedure which comes closer to what the gentleman from California (Mr. ROUSSELOT) would prefer short of actually defeating the bill.

Mr. BAUMAN. Mr. Speaker, I think that another 24 hours will not hurt anything and we will have the gentleman from California (Mr. ROUSSELOT) here; therefore I object.

The SPEAKER pro tempore. Objection is heard.

The Chair would ask for clarification that the objection of the gentleman from Maryland (Mr. BAUMAN) goes to the original unanimous-consent request and not to dispensing with the reading; is that correct?

Mr. BAUMAN. That is correct, and I object.

The SPEAKER pro tempore. Objection is heard.

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## HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. REUSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3084) to amend and extend certain Federal laws relating

to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, for the purpose of striking all after the enacting clause of the bill and inserting in lieu thereof the provisions of H.R. 12433, as passed by the House on July 21, 1978, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. REUSS)?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, and I do not intend to object, it is my understanding that the gentleman from Wisconsin (Mr. REUSS) is asking for consideration of this legislation merely for the purpose of inserting the House language in the Senate bill in anticipation of a conference being requested with the Senate? And if I am correct in that, then I have no objection.

Mr. REUSS. Mr. Speaker, if the gentleman will yield, I will tell the gentleman from Michigan (Mr. BROWN) that that is precisely right and that I have an additional unanimous-consent request which would appoint conferees so that we may go to conference and do our best to uphold the position of the House.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3084

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Housing and Community Development Amendments of 1978".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. (a) Section 312 of the Housing Act of 1964 is amended—

(1) by striking out all that follows "projects" in subsection (a) and inserting in lieu thereof the following: "assisted under section 8 of the United States Housing Act of 1937.";

(2) by striking out subsection (c)(3) and inserting in lieu thereof the following:

"(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate, but not to exceed 3 per centum per annum, for loans to families with adjusted incomes of not more than 80 per centum of the median income for the area, or for loans for multifamily properties. For loans to families with adjusted incomes above 80 per centum of the median income for the area, as determined by the Secretary, the Secretary may establish interest rates based on adjusted family income, ranging from above 3 per centum to a rate determined by the Secretary, but in no case may any such rate exceed the current average market yield on outstanding marketable securities of the United States with remaining periods to maturity comparable to the terms of loans made pursuant to this section, adjusted to the nearest one-eighth of 1 per centum. The Secretary may prescribe such other charges adequate in the judgment of the Secretary to cover administrative costs and possible losses under the program.";

(3) by inserting before the semicolon at the end of subsection (c)(4)(A) a comma and "or if such refinancing is deemed necessary by the Secretary to minimize displacement of existing tenants of a multifamily property"; and

(4) by striking out "$50,000" in subsection (c)(4)(B) and inserting in lieu thereof "$100,000".

(b) Section 312(d) of such Act is amended—

(1) by striking out "and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977" in the first sentence thereof and inserting in lieu thereof the following: "not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977, not to exceed $370,000,000 for the fiscal year beginning on October 1, 1978, and not to exceed $370,000,000 for the fiscal year beginning on October 1, 1979"; and

(2) by adding at the end thereof the following: "Of the amounts appropriated under this section for the fiscal year beginning on October 1, 1978, $175,000,000 shall be available only for rehabilitation loans for multifamily properties, and $70,000,000 shall be available only for rehabilitation loans in connection with urban homesteading programs. Of the amounts appropriated under this section for the fiscal year beginning on October 1, 1979, $175,000,000 shall be available only for rehabilitation loans for multifamily properties, and $70,000,000 shall be available only for rehabilitation loans in connection with urban homesteading programs. The Secretary may administratively increase or reduce the amounts set aside under the preceding sentences for rehabilitation loans for multifamily properties or for urban homesteading, if such increase or reduction is necessary, giving due consideration both to the relative demand and need for different types of rehabilitation loan programs, and to the rate at which the Secretary and State and local governments and agencies can expand, and still effectively administer, the rehabilitation loan programs for multifamily properties and urban homesteading.".

(c) Section 312 of such Act is amended by adding at the end thereof the following:

"(1) Rehabilitation loans under this section for multifamily properties shall be subject to the following additional limitations and conditions:

"(1) The property must—

"(A) be located in a low- or moderate-income neighborhood designated by the unit of local government for concentrated community development activities; or

"(B) have a majority of tenants of low and moderate income, and be located in a neighborhood characterized by substantial private investment and rising property values resulting in the displacement of low- or moderate-income persons, and the loan must be for the purpose of minimizing such displacement.

All such loans must be consistent with an overall community development strategy that principally benefits low- and moderate-income persons.

"(2) The property must have fewer than one hundred units except where the Secretary determines that a loan under this section is essential to meet the community development needs of a neighborhood, and alternative sources of financing are not available.

"(3) The Secretary shall insure that the preponderance of multifamily property loans under this section are made with respect to properties of thirty or fewer units, but the Secretary shall provide localities the maximum flexibility in meeting housing needs identified in their housing assistance plans.

"(4) When assistance payments under section 8 of the United States Housing Act of 1937 are necessary to minimize displacement of existing tenants of the property, the Secretary shall insure that an application for such assistance payments is made in conjunction with the application for a rehabilitation loan and shall make available, to the maximum extent possible and for as long a time as is feasible, such assistance payments for such tenants. The Secretary may enter into agreements with investor-owners receiving such loans, and receiving assistance under section 8 of the United States Housing Act of 1937 in connection with such a loan, as provided for in the previous sentence, to ensure that units for which such assistance payments under section 8 are initially received continue to be available for low and moderate income housing for as long a time period as is feasible.

"(5) The Secretary shall enter into an agreement with the investor-owner of a multifamily property which is to be rehabilitated with a loan under this section to limit, for a period of at least five years, the increased rent caused by the rehabilitation.

"(6) Prior to the approval of an application for such a loan, the Secretary shall consider, from evidence of the prior management history of the investor-owner, whether the investor-owner is likely to provide continuing sound management and maintenance of the project, and the Secretary shall require an adequate plan for the future management of the project for which such a loan is made.

"(7) Prior to the approval of an application for such a loan, the Secretary shall insure that there is a program for informing the tenants of the terms of the loan, the possible effects of the loan on rents, and the possible sources of rental assistance for eligible tenants.

"(8) The Secretary shall give maximum possible assistance to investor-owners, particularly smaller investor-owners, of multifamily projects in meeting the application and other requirements of this section.

"(9) The Secretary shall adopt administrative measures to limit the use of a rehabilitation loan for a multifamily property in conjunction with tax syndication financing under the Internal Revenue Code of 1954 except where the Secretary determines the combination is needed to assure the feasibility of the project.

"(10) The Secretary shall make a maximum possible effort to minimize displacement and hardships due to temporary displacement which are caused by rehabilitation loans with respect to multifamily properties.

"(11) The Secretary shall encourage the use of private funds in conjunction with such loans when such private involvement is feasible and does not increase displacement.

"(12) The Secretary may impose additional limitations and conditions on the use and availability of rehabilitation loans for multifamily properties.

"(j) In carrying out the provisions of this section in connection with an urban homesteading program approved under section 810 of the Housing and Community Development Act of 1974, the Secretary shall—

"(1) be authorized to use, and shall use, a portion of the funds set aside under subsection (d) for urban homesteading programs for a demonstration program to explore the feasibility of carrying out, on a national basis, an urban homesteading program involving multifamily properties; and

"(2) provide rehabilitation loan funds for use in a locally developed homesteading program only if that program meets the requirements of section 810(b) of the Housing and Community Development Act of 1974.

"(k) In conjunction with the annual report required under section 113(a) of the Housing and Community Development Act of 1974, the Secretary shall submit to the Congress a report on the rehabilitation loan program. Such report shall include a summary of the use of funds under this section,

particularly with regard to the types of neighborhoods and persons aided under this section, and an evaluation of progress made toward community development goals under this section. As soon as feasible, but not later than December 1, 1979, the Secretary shall submit to Congress an interim report evaluating the use of funds under this section for multifamily properties, with legislative recommendations for improving the overall effectiveness of Federal assistance for the rehabilitation of multifamily properties.".

(d) Section 312(h) of such Act is amended by striking out "1979" each place it appears and inserting in lieu thereof "1980".

URBAN HOMESTEADING

SEC. 102. (a) Section 810(b) of the Housing and Community Development Act of 1974 is amended by inserting before the last sentence thereof the following: "The Secretary may provide for the homesteading of properties in areas other than those where community services and facilities are being upgraded in any case where the Secretary determines such action to be appropriate and such action was requested by the unit of local government, State, or agency involved.".

(b) Subsection (f) of such section is amended—

(1) by inserting "and the Administrator of Veterans' Affairs" after "Secretary" the first place it appears; and

(2) by inserting "or the Administrator" after "Secretary" the second place it appears.

(c) The first sentence of subsection (g) of such section is amended—

(1) by striking out "and" after "fiscal year 1977,"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "and not to exceed $26,000,000 for the fiscal year 1979".

(d) Section 810 of such Act is amended—

(1) by redesignating subsection (g) as subsection (j); and

(2) by inserting after subsection (f) the following:

"(g) The Secretary is authorized to make a grant to reimburse any unit of general local government, State, or designated agency participating in the urban homesteading program under this section for administrative costs incurred by that unit of general local government, State, or designated agency in carrying out its urban homesteading program. The amount of any such grant may not exceed $60,000.

"(h) The Secretary is authorized to make grants to units of general local government, States, and designated agencies to facilitate the homesteading of properties acquired as result of abandonment, tax foreclosure, or otherwise by paying any mechanic's liens or tax liens against such properties. The amount of any grant under this subsection to any unit of general local government, State, or designated agency for any fiscal year shall not exceed for each property made available to the urban homesteading program during that year the lesser of $5,000 or the amount of any lien against the property. The aggregate amount of grants under this subsection shall not exceed $36,000,000.

"(i) The Secretary is authorized to acquire from the Administrator of Veterans' Affairs any property held by the Administrator which is suitable for inclusion in an urban homesteading program, and to reimburse the Administrator in an amount to be agreed upon by the Administrator and the Secretary for each such property.".

(e) Subsection (j) of such section, as redesignated, is amended by adding at the end thereof the following: "In addition, to carry out subsections (g) and (h), there are authorized to be appropriated not to exceed $45,000,000 for fiscal year 1979.".

(f) Section 312(d) of the Housing Act of 1964, as amended by section 101 of this Act, is amended by adding at the end thereof the following: "Of the amount available for urban homesteading programs, the Secretary shall make available $8,000 for each property conveyed in connection with an urban homesteading program under section 810 of the Housing and Community Development Act of 1974. Any amount available to a unit of general local government, State, or designated agency under the preceding sentence but not used for such purpose shall remain available to that unit, State, or agency for not to exceed one year for the rehabilitation of other properties in accordance with this section.".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AMENDMENTS

SEC. 103. (a) Section 104(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "owners of homes requiring rehabilitation assistance," after "large families," in clause (A); and

(2) by inserting "including existing rental and owner occupied dwelling units to be upgraded and thereby preserved," after "existing dwelling units," in clause (B)(i).

(b) Section 105(a)(11) of such Act is amended to read as follows:

"(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate to the community development program;".

URBAN DEVELOPMENT ACTION GRANTS

SEC. 104. (a) Section 119(c) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(6) include a statement analyzing the impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located.".

(b) Section 119(e) of such Act is amended by inserting before "and feasibility" the following: "impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located;".

(c) Title I of such act is amended by adding the following new section at the end thereof:

"FAIR PARTICIPATION FOR SMALL COMMUNITIES

"SEC. 120. No community shall be barred from participating in any program authorized under this title solely on the basis of population, except as expressly authorized by statute.".

(c) Section 119(b) of such Act is amended by adding at the end thereof the following: "For the purpose of the preceding sentence, a city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas which have the levels of physical and economic distress set forth in the minimum standards referred to in the preceding sentence. As used in the preceding sentence, the term 'areas' means one or more contiguous census tracts having a population of at least ten thousand persons.".

## TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately following "October 1, 1976,"; and

(2) by inserting immediately after "on October 1, 1977," the following: "and by $1,195,043,000 on October 1, 1978".

(b) Section 5(c) of such Act is amended by inserting after the fourth sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects.".

(c) Effective on October 1, 1978, section 5(c) of such Act is amended by striking out the second and fourth sentences thereof.

(d) Section 8(e) of such Act is amended by adding at the end thereof the following:

"(5) For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized, notwithstanding any other provision of this section, to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading.".

(e) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately following "on or after October 1, 1976,"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "and not to exceed $729,000,000 on or after October 1, 1978".

(f) Section 3(2)(D) of such Act is amended by striking out "10" where it appears and inserting in lieu thereof "20".

HOUSING FOR THE HANDICAPPED

SEC. 202. (a) Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following new subsection:

"(h) Of the amounts made available in appropriation Acts for loans pursuant to subsection (a)(4)(C) for the fiscal year commencing on October 1, 1978, not less than $50,000,000 shall be available for loans for the development of rental housing and related facilities specifically designed to meet the needs of the handicapped (primarily nonelderly) persons. The Secretary shall take such steps as may be necessary to assure that—

"(1) funds made available pursuant to this subsection will be used to support innovative methods of meeting the needs of handicapped persons by providing a variety of housing options, ranging from small group homes to independent living complexities; and

"(2) housing and related facilities assisted under this subsection will provide handicapped persons occupying units within such housing with an assured range of services specified under subsection (f) and the opportunity for optimal independent living and participation in normal daily activities, and will facilitate access by such persons to the community at large and to suitable employment opportunities within such community.".

(b) The second sentence of section 202(a)(4)(C) of such Act is amended—

(1) by striking out "in any fiscal year" immediately after "under this section"; and

(2) by striking out "for such year" immediately after "authority established".

(c) Section 202(d)(3) of such Act is amended by inserting "the cost of moveables necessary to the basic operation of the project as determined by the Secretary," immediately after "related facilities,".

PUBLIC HOUSING SECURITY DEMONSTRATION

SEC. 203. (a) This section may be cited as the "Public Housing Security Demonstration Act of 1978".

(b)(1) The Congress finds that—

(A) low-income and elderly public housing residents of the Nation, who are already subject to difficult living conditions and have suffered substantially from rising crime and violence, are being threatened as a result of inadequate security arrangements for the prevention of physical violence, theft, burglary, and other crimes;

(B) such residents, living in an insecure housing environment, have restricted their lives and use of the environment because of their concern about crime, and are abandoning public housing projects at a time when there is an increasing demand for public housing units;

(C) higher vacancy rates and heavy financial losses of management in some cases have led to complete abandonment of public housing projects;

(D) an integral part of successfully providing decent, safe, and sanitary dwellings for low-income persons is to insure that the housing is secure;

(E) local public housing authorities have inadequate security arrangements for the prevention of crime and vandalism, and lack specific operating funds to provide security measures; and

(F) action is needed to provide for the security of public housing residents and to preserve the Nation's investment in its public housing stock.

(2) It is therefore declared to be the policy of the United States to provide for the demonstration and evaluation of more effective means of mitigating crime and vandalism in public housing projects and for the development of a comprehensive program for reducing crime and vandalism in all the Nation's public housing projects.

(c)(1) The Secretary of Housing and Urban Development shall promptly initiate and carry out a program for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods, concepts, and techniques which will mitigate the level of crime in public housing projects and their surrounding neighborhoods.

(2) In selecting public housing projects to receive assistance under this section, the Secretary shall consider the extent of crime and vandalism currently existing, the nature and quality of community anticrime efforts in the projects and surrounding areas, the nature and quality of police and other protective services to the projects and their tenants, the vacancy rate and demand for public housing in the locality, and the extent of abandonment of public housing units. Priority shall be given to comprehensive community anticrime and security plans submitted by public housing authorities which provide for the restoration of abandoned dwelling units, coordination between public housing management and local government in providing increased security and social services to the projects and tenants, and maximum opportunity for tenant involvement and employment in the community anticrime and security programs.

(3) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, and ACTION.

(d) The community anticrime and security methods, concepts, and techniques utilized in this demonstration and evaluation may include improved physical security equipment for dwelling units in these projects, new concepts for social and environmental design, tenant awareness and volunteer programs, tenant participation and employment in providing security services, and such other measures as deemed necessary or appropriate by the Secretary.

(e) The Secretary shall initiate and carry out a survey of crime currently existing in the Nation's public housing projects, and transmit a report on such survey to the Congress not later than eighteen months after the date of enactment of this Act. This report shall include the level of crime and the extent of vandalism existing in public housing projects, findings from the demonstration and evaluation of various methods of reducing the level of crime, and recommendations, if appropriate, for a comprehensive public housing program to provide increased community anticrime and security concepts and techniques to all public housing projects, and the estimated costs of such program.

(f) Section 9(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following: "Of the additional authority to make annual contributions under this section provided for the fiscal year beginning on October 1, 1978, not to exceed $10,000,000 shall be available to carry out the Public Housing Security Demonstration Act of 1978.".

HOMEOWNERS REHABILITATION ASSISTANCE

SEC. 204. (a) Section 5(e) of the United States Housing Act of 1937, as amended by section 201 of this Act, is amended by adding after the fifth sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $30,000,000 for contracts for annual contributions for assistance payments under section 8(i).".

(b) Section 8(d)(2) of such Act is amended by inserting after "under this section" the following: ", including under subsection (i),".

(c) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary is authorized to enter into contracts under this section with public housing agencies pursuant to which such agencies may make assistance payments with respect to loans made to finance the rehabilitation of one- to four-family dwelling units owned and occupied by lower income families where the rehabilitation is carried out in accordance with a locally developed plan for rehabilitation in designated neighborhoods which meets the requirements of or is contained in an applicable housing assistance plan. In extending such assistance, the public housing agency, or an agency of local government or other nonprofit entity participating in neighborhood rehabilitation and designated by the local government or the Secretary shall provide homeowner counseling and monitoring concerning the extent of repair, renovation, or rehabilitation activities and the eligibility of contractors to conduct such activities.

"(2) The amount of assistance payments under such contracts shall be—

"(A) the lesser of (i) the monthly costs of principal, interest, and other amounts for repayment of the loan made in accordance with paragraph (3) of this subsection, or (ii) an amount determined under subsection (c)(3), except that the term 'maximum monthly rent' as used in such subsection shall be deemed to mean the total monthly housing cost of the owner; and

"(B) shall be periodically paid to the lender, in accordance with such regulations as the Secretary may prescribe.

"(3) Contracts under this subsection may be entered into only with respect to loans—

"(A) made by federally chartered or federally insured financial institutions or by other entities approved by the Secretary or by the unit of local government in accord with regulations of the Secretary;

"(B) which finance activities which have been approved by the applicable unit of local government, directly or through the entity designated under paragraph (1), or which could be financed with home improvement loans under title I of the National Housing Act;

"(C) which finance the performance of home improvement and rehabilitation activities by the owner of the unit involved, or by contractors approved by the applicable unit of local government, directly or through the entity designated under paragraph (1); and

"(D) which have maturities, maximum amounts, and interest rates not in excess of those applicable to loans under title I of the National Housing Act.

"(4) The Secretary is authorized to prescribe such regulations as may be necessary to assure that the costs of eligible repair, renovation, or rehabilitation activities assisted under this section do not exceed the costs necessary to bring the housing unit into conformity with local housing codes or other appropriate standards.".

ASSISTANCE FOR MOBILE HOME OWNERS

SEC. 205. Section 8 of the United States Housing Act of 1937, as amended by section 204 of this Act, is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary may enter into annual contributions contracts under this subsection for the purpose of assisting lower income families by making rental assistance payments with respect to real property on which is located a mobile home which is owned by any such family and utilized by such family as its principal residence. In carrying out this subsection, the Secretary (A) may enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or (B) enter into such contracts directly with the owners of such real property.

"(2) Contracts entered into pursuant to this subsection shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for each space on which a mobile home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subsection. The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under this subsection.

"(3) The amount of any monthly assistance payment with respect to any family assisted under this subsection shall be the difference between 25 per centum of one-twelfth of the annual income of such family and the sum of—

"(A) the monthly payment made by such family to amortize the cost of purchasing the mobile home;

"(B) monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(C) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its mobile home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(4) Each contract entered into under this subsection shall be for a term of not less than one month and not more than one hundred and eighty months.

"(5) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 206. (a) The purpose of this section is to provide assistance to restore or maintain the financial soundness, and to maintain the low- to moderate-income character, of certain projects assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965.

(b) The Secretary of Housing and Urban Development (hereafter in this title referred to as the "Secretary") is authorized to make and to contract to make, in accordance with the provisions of this section, assistance payments to owners of rental or cooperative housing projects meeting the requirements of this section.

(c) A rental or cooperative housing project shall be initially eligible for assistance under this section only if such project—

(1)(A) is assisted or approved for assistance under section 236 of the National Housing Act or is covered by a mortgage (including a mortgage assigned to the Secretary) insured under such Act and assisted or approved for assistance under the proviso of section 221(d)(5) of such Act or under section 101 of the Housing and Urban Development Act of 1965, except that, in the case of any such project which is not insured under the National Housing Act, such assistance may not be provided before October 1, 1979, or (B)" ; and meet the criteria specified in clause (A) of this sentence and has been acquired and sold by the Secretary, subject to a mortgage insured or held by the Secretary, to a purchaser with whom, at the time of sale, there is an agreement to maintain the low- to moderate-income character of the project, and

(2) meets such other requirements as the Secretary, in the Secretary's discretion, may prescribe.

Assistance payments may be made available under this section with respect to projects meeting the criteria specified in clause (1)(B) of the first sentence of this subsection, which are sold on or after the effective date of this section, only if the Secretary provides at the time of sale that such assistance payments will or may be made available for the project.

(d) No assistance payments shall be made under this section unless the Secretary has determined that (1) such payments are necessary to restore or maintain the economic soundness of the project and to maintain its low- to moderate-income character, (2) the project is being operated and managed in accordance with a management improvement and operating plan approved by the Secretary, and (3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine.

(e) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals as the Secretary may determine, and may be in any amount which the Secretary, in the Secretary's discretion, determines to be consistent with the purpose of this section, but shall not exceed the differential, as determined by the Secretary, between the projected income to be received for the project, and the estimated expense and costs of operating the project, during the period for which such payments are made. For purposes of this section, such projected income shall include all anticipated rental and other income, and all housing subsidies, as defined by the Secretary, to or on behalf of the project or residents thereof, taking into account the income level of such residents, and shall include interest differentials or any other payments to a mortgagee. Such estimated expense shall reflect such necessary operating costs as, but not limited to, taxes, utilities, maintenance, management, insurance, debt service and repairs, and such other allowances related to the costs of operating the project as the Secretary may approve, and shall be based on an annual operating budget for the project submitted by the owner and approved by the Secretary, taking into account such standards for operating costs in the area as may be determined by the Secretary.

(f) In order to carry out the purposes of this section, the Secretary is authorized, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, to provide, in the Secretary's discretion, that, for purposes of establishing a rental charge under section 236(f)(1) of such Act, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments available for the project pursuant to this section.

(g) The Secretary may, at any time, approve adjustments in such annual operating budget and in the amount of such assistance payments to the extent that the Secretary determines that such adjustments are necessary and appropriate to reflect increases or decreases in the amount of income to the project or in the actual and necessary expenses of operating the project. Any continuation of such payments beyond the first annual period for which the payments are made shall be in the Secretary's discretion, and shall be subject to the provisions of the second sentence of subsection (c) and such other criteria as the Secretary may prescribe.

(h) The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including regulations requiring the establishment of a project reserve or such other safeguards as the Secretary determines to be necessary for the financial soundness of any project for which assistance payments are provided.

(i) There are authorized to be appropriated for the purpose of making payments under this section not to exceed $74,000,000 for the fiscal year 1979, and not to exceed $96,000,000 for the fiscal year 1980. Any amounts appropriated under this section shall remain available until expended. Notwithstanding any provision of section 236(g) of the National Housing Act, all rental charges in excess of the basic rental charges which are credited to the reserve fund established pursuant to section 236(g) of such Act after September 30, 1977, shall be merged with and be in addition to any appropriation under this subsection, and all such excess rental charges collected and paid to the Secretary after September 30, 1978, shall be credited to and be in addition to any appropriation under this subsection.

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

SEC. 207. (a) The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term "multifamily housing project" means a project which (1) is covered by a mortgage (including a mortgage assigned to the Secretary) insured under the National Housing Act and assisted or approved for assistance under section 236 or the provisions of section 221(d)(5) of such Act or under section 101 of the Housing and Urban Development Act of 1965, or (2) meet the criteria specified in clause (1) of this sentence and has been acquired and sold by the Secretary, subject to a mortgage insured or held by the Secretary, to a purchaser with whom, at the time of sale, there is an agreement to maintain the low- to moderate-income character of the project, or (3) is owned by the Secretary or covered by a mortgage insured under the National Housing Act or held by the Secretary and is determined by the Secretary to be serving predominantly low- and moderate-income tenants.

(b) To achieve the purpose of this section, the Secretary shall adopt such measures as the Secretary deems appropriate to assure that—

(1) tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on, major actions determined by the Secretary to affect rents, physical condition, or management of multifamily housing projects, and, in the case of a project owned by the Secretary, proposed disposition of the project;

(2) project owners cooperate in reasonable efforts to assist tenants in obtaining rent subsidies or other public assistance;

(3) tenants are not evicted without good cause or without adequate notice of proposed eviction and the reasons therefor: and

(4) project owners cooperate with resident tenant organizations, and do not interfere with the right of tenants to organize such organizations.

In carrying out the provisions of this section the Secretary is authorized to take such actions, and to prescribe such standards for compliance, as the Secretary deems appropriate to achieve the purposes thereof, including approval of reasonable expenditures from project income to support activities of resident tenants' organizations.

MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

SEC. 208. (a) It is the policy of the United States that the Secretary shall manage and dispose of multifamily housing projects which are owned by the Secretary in a manner consistent with the purposes of the National Housing Act. Toward that end, the goals of the property management and disposition program of the Department of Housing and Urban Development shall be—

(1) to dispose of projects in a manner which will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could further the goals set forth in clauses (2) through (6), protect the financial interests of the Government, and produce a satisfactory return to the mortgage insurance funds;

(2) to preserve housing units which are available to and affordable by low- and moderate-income families;

(3) to preserve and revitalize residential neighborhoods;

(4) to maintain existing housing stock in a decent, safe and sanitary condition;

(5) to minimize the displacement of tenants; and

(6) to demolish projects only as a last resort.

In pursuit of those goals, the Secretary is

authorized to balance competing considerations relating to individual projects in a manner which the Secretary deems will further the achievement of the overall purpose of this section.

(b)(1) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 or any other provision of law, the Secretary is authorized, in carrying out the goals set forth in subsection (a) of this section and in addition to any other power or authority vested in the Secretary—

(A) to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, to a purchaser determined by the Secretary to be qualified to satisfy conditions of the disposition, and on such terms as the Secretary deems appropriate considering the low- and moderate-income character of the project and the goals set forth in subsection (a); and

(B) to contract for management services for a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable.

(2) In evaluating the qualifications of potential managers for, and purchasers of, multifamily housing projects which are owned by the Secretary, the Secretary shall consider, but not be limited to considering, the following factors:

(A) ability to implement sound financial management;

(B) ability to provide sound physical management;

(C) ability to respond to the economic and social needs of lower income tenants and to work cooperatively with resident organizations;

(D) responsiveness of the proposed management plan to the needs of the property and residents thereof;

(E) adequacy of organizational, staff, and financial resources to implement the proposed management program; and

(F) the cost of services.

(c) The Secretary shall maintain all occupied multifamily housing projects owned by the Secretary in a decent, safe, and sanitary condition.

(d) The Secretary shall, to the greatest extent possible, maintain full occupancy in all multifamily housing projects which are owned by the Secretary.

(e) The Secretary shall make reasonable efforts to encourage the employment and training of tenants of multifamily housing projects owned by the Secretary and lower income residents of the neighborhoods in which such projects are located in the repair and maintenance of such projects.

(f) The Secretary is authorized to consult with, and to furnish technical assistance to, tenants and organizations for the purpose of developing, where appropriate, nonprofit cooperatives which will purchase multifamily housing projects owned by the Secretary, and to develop tenant management capabilities prior to any such sale.

(g)(1) Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project owned by the Secretary, the Secretary shall identify tenants who will be displaced, shall notify all such tenants of their pending displacement and relocation assistance to be provided.

(2) The Secretary shall seek to assure maximum opportunity for any such tenant (A) to return, whenever possible, to a repaired unit, (B) to occupy a unit in another multifamily housing project owned by the Secretary, (C) to obtain housing assistance under the United States Housing Act of 1937, or (D) to receive such other relocation assistance as the Secretary determines to be appropriate.

(h) Notwithstanding any other provision of law, whenever the Secretary is requested to accept assignment of a mortgage insured by the Secretary which covers a multifamily housing project, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low- and moderate-income character of the project, the Secretary may request the mortgagee in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Secretary may determine. As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(i) For purposes of this section, the term "multifamily housing project" means a multifamily project which is determined by the Secretary to be serving predominantly low- and moderate-income tenants.

SALES TO COOPERATIVES

SEC. 209. Section 246 of the National Housing Act is amended to read as follows:

"SALES TO COOPERATIVES

"SEC. 246. In any case in which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this Act to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis after payment of all operating expenses, taxes and required reserves, except that the Secretary may, at the Secretary's discretion, add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.".

HOUSING ACCESS

SEC. 210. The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 8 of the United States Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

SOLAR UNITS

SEC. 211. (a) It is the purpose of this section to promote and extend the application of viable solar energy installations as the most dependable, pollution-free and desirable source of energy for residential single-family and multifamily housing units.

(b)(1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar units which are economically feasible.

(2) For the purposes of this section, the term "solar units" means—

(A) solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conducive, or radiant energy transfer or some combination of these types,

(B) photovoltaic cells and related equipment,

(C) a product or purpose the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy or which the Secretary determines to be consistent with the intent of this subsection,

(D) equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy,

(E) equipment the primary purpose of which is district heating,

(F) hydroelectric power equipment,

(G) wind energy conversion equipment, or

(H) engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (A) through (G).

(c) The Secretary shall develop, within twelve months after the date of enactment of this section, guidelines to determine the long-term economic feasibility of solar units, as compared to convention energy sources. These guidelines shall take into account factors which shall include but are not limited to the following—

(1) capital requirements, interest charges, projected operating and maintenance costs for solar units, and

(2) projected increases in the cost of other energy source in the city, town, or region for comparable housing which generally meets applicable model building codes, insulation and other standards recommended by the American Society of Heating, Refrigerating and Air Conditioning Engineers, the National Electric Manufacturers Association, or other standards or codes acceptable to the Secretary.

(d) The Secretary shall take such steps as may be necessary to promote the installation of economically feasible solar units in residential single-family and multifamily housing, taking into account the interests of low-income homeowners and renters. These actions shall include the implementation of a plan of action to publicize the availability and feasibility of solar units to current or potential recipients of assistance under the programs and projects of the Department of Housing and Urban Development.

(e) The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after the date of enactment of this Act, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first twelve full calendar months after the date of enactment of this Act;

(2) the number of solar units within each region of the Department of Housing and Urban Development which are projected to be contracted for, installed, or under order by the end of calendar year 1985, under all programs and projects within the Department of Housing and Urban Development;

(3) recommendations to increase the number of units referred to in clause (2) of this section to the maximum feasible number of solar units which could be contracted for, installed or placed under order by the end of calendar year 1985 given a reasonable range of economic assumptions and specify-

ing alternative Federal incentives which might be used and the costs of each;

(4) recommendations as to the most effective Federal incentives and actions to increase the affordability of solar units in single-family or multi-family housing units during the first five years after the installation of the applicable solar units; and

(5) an analysis of the feasibility of using community-scale solar energy and other alternative energy approaches and their applicability to activities carried out under title I of the Housing and Community Development Act of 1974.

## TITLE III—PROGRAM EXTENSIONS

### EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1978" in the first sentence and inserting in lieu thereof "October 1, 1979".

(b) Section 217 of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1978" in the fifth sentence and inserting in lieu thereof "September 30, 1979".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1978" in the first sentence and inserting in lieu thereof "September 30, 1979"; and

(2) by striking out "October 1, 1978" in the second sentence and inserting in lieu thereof "October 1, 1979".

(g) Section 245 of such Act is amended by striking out "September 30, 1978" where it appears and inserting in lieu thereof "September 30, 1979".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

### EXTENSION OF FLEXIBLE RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

### EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

### COMPREHENSIVE PLANNING

SEC. 304. (a) The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $75,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $75,000,000 for the fiscal year 1978, and not to exceed $57,000,000 for the fiscal year 1979".

(b) The second sentence of section 701(c) of such Act is amended by striking out "biennially" and inserting in lieu thereof "triennially".

(c) Section 701(d)(2) of such Act is amended by striking out "biennially" and inserting in lieu thereof "at least triennially" and by striking out "two" and inserting in lieu thereof "three".

(d) Section 701(m) of such Act is amended by adding immediately after clause (4) a new clause to read as follows:

"(5) The term 'Indian tribal group or body' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92–512).".

### RESEARCH AUTHORIZATIONS

SEC. 305. (a) Title V of the Housing and Urban Development Act of 1970 is amended by striking out in the second sentence of section 501 "and not to exceed $60,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year 1978, and not to exceed $62,000,000 for the fiscal year 1979".

(b) Such title is further amended by adding at the end thereof the following new section:

### "CONVERSIONS

"SEC. 509. In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.".

### NEW COMMUNITIES

SEC. 306. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 1979."

### EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 307. (a) Section 1201 of the National Housing Act is amended—

(1) by striking out, in subsection (b)(1), "September 30, 1978" and inserting in lieu thereof "September 30, 1981";

(2) by striking out, in subsection (b)(1)(A), "September 30, 1981" and inserting in lieu thereof "September 30, 1984"; and

(3) by striking out, in subsection (b)(2), "September 30, 1978" and inserting in lieu thereof "September 30, 1982".

(b) Section 1211 of such Act is amended by adding the following new subsection at the end thereof:

"(c) At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.".

### EXTENSION OF NATIONAL FOOD INSURANCE PROGRAM

SEC. 308. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

### FLOOD INSURANCE STUDIES

SEC. 309. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $108,000,000 for the fiscal year 1978" and inserting in lieu thereof a comma and the following: "not to exceed $108,000,000 for the fiscal year 1978, and not to exceed $114,000,000 for the fiscal year 1979".

### FEDERAL HOUSING ADMINISTRATION INSURANCE FUNDS

SEC. 310. Section 519(f) of the National Housing Act is amended by inserting before the period at the end thereof a comma and the following: "which amounts shall be increased by not to exceed $165,000,000 on and after October 1, 1978".

### NATIONAL NEIGHBORHOOD POLICY ACT

SEC. 311. The National Neighborhood Policy Act is amended—

(1) by striking out "one year" in section 204(c) and inserting in lieu thereof "fifteen months"; and

(2) by striking out "$1,000,000" in section 207 and inserting in lieu thereof "$1,500,000".

### NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 312. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting after "1978" the following: ", and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1982".

### INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY AND LIMITS

SEC. 313. (a) The third clause of the proviso in section 302(b)(1) of the National Housing Act is amended by striking "if the original principal obligation thereof exceeds or exceeded $33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require), for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms)" and inserting in lieu thereof "if the original principal obligation thereof exceeds or exceeded $60,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $65,000 in the case of a two or three-family residence; or $75,000 in the case of a four-family residence; or, in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use".

(b) Section 305(c) of such Act is amended by striking out "and by $2,000,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969, and subject to approval in an appropriation Act, by $500,000,000 on October 1, 1978".

### FHA-INSURED MORTGAGE REFINANCING OF HOSPITALS

SEC. 314. Section 223(f) of the National Housing Act is amended by—

(a) striking the period at the end of the first sentence and inserting the following: "or the refinancing of existing debt of an existing hospital which the Secretary has determined is economically viable and which has received such certifications from a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certifications required for hospitals insured under section 242 of this Act."; and

(b) striking from the second sentence the word "property" and substituting, in lieu thereof, "multifamily housing project".

INCREASED MORTGAGE CEILINGS FOR MORTGAGE INSURANCE PROGRAMS

SEC. 315. (a) Section 207(c)(3) of the National Housing Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000", in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(b) Section 213(b)(2) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800" and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(c) Section 220(d)(3)(B)(iii) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158".

(d) Section 221(d)(3)(ii) of such Act is amended—

(A) by striking out "$16,860", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$22,601", "$26,007", "$31,768", "$41,292", and "$45,392", respectively; and

(B) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$23,268", "$26,673", "$32,434", "$41,958", and "$46,058", respectively.

(e) Section 221(d)(4)(ii) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846", in the matter preceding the first semicolon and inserting in lieu thereof "$20,362", "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(f) Section 231(c)(2) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and inserting in lieu thereof "$20,362", "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(g) Section 234(e)(3) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,600", and "$43,158", respectively.

## TITLE IV—CONGREGATE SERVICES

SHORT TITLE

SEC. 401. This title may be cited as the "Congregate Housing Services Act of 1978".

DECLARATION OF FINDINGS

SEC. 402. The Congress finds and declares that—

(1) in keeping with the traditional American principle of individual dignity and independence, innovative and comprehensive means are required to permit frail and handicapped elderly individuals the full and free enjoyment of their lives within their own households;

(2) congregate housing, supplemented by supportive services, offers a proven and cost-effective means of enabling such individuals to maintain their dignity and independence through the avoidance of costly and unnecessary institutionalization;

(3) such supportive services can also provide significant assistance to nonelderly handicapped individuals in their efforts to live independently within their own households;

(4) although existing law requires the Secretary of Housing and Urban Development to encourage public housing agencies to provide congregate housing which meets the special needs of elderly and handicapped individuals, a large and growing number of such residents of public housing face premature and unnecessary institutionalization because of a gap in the spectrum of housing choices due to critical deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate public housing units; and

(5)(A) within the context of public housing management, there exists an inseparable bond between congregate housing and supplementary supportive services, and

(B) security and continuity of funding for a coordinated service package addressing the full range of the needs of frail and handicapped elderly individuals are required to respond successfully to the requirements of this expanding segment of the Nation's population.

AUTHORIZATION OF CONTRACT AUTHORITY

SEC. 403. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts with local public housing agencies (hereinafter referred to as "public housing agencies") under the United States Housing Act of 1937 and nonprofit corporations, utilizing sums appropriated under this title, to provide congregate services programs for handicapped elderly households, nonelderly handicapped households, or temporarily disabled households, who are residents of congregate housing projects of those agencies or nonprofit corporations (hereinafter referred to as "eligible project residents") in order to promote and encourage maximum independence within a home environment for such households capable of self-care with appropriate supportive services. Each contract between the Secretary and a public housing agency or nonprofit corporation shall be for a term of not less than three years nor more than five years and shall be renewable at the expiration of such term. Each public housing agency or nonprofit corporation entering into such a contract shall be reserved a sum equal to its total approved contract authority from the moneys authorized and appropriated for the fiscal year in which the notification date of funding approved falls.

(b) Public housing agencies and nonprofit corporations receiving assistance for congregate services programs under this title shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this title prior to their initial notification date of funding approval, unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency or nonprofit corporation pursuant to section 405(a)(1) provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public housing agency or nonprofit corporation under the preceding sentence shall be readjusted in the same manner.

(c) The second sentence of section 7 of the United States Housing Act of 1937 is amended to read as follows: "As used in this section, the term 'congregate housing' means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under the Congregate Housing Services Act of 1978.".

DEFINITIONS

SEC. 404. For the purpose of this title—

(1) the term "elderly" means sixty-two years of age or over;

(2) the term "handicapped" means an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes an individual's ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. Such impairment may include a functional disability or frailty which is a normal consequence of the human aging process, and may also include a developmental disability, as defined in section 102(7) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;

(3) the term "household" means one or more persons residing in a public housing project or project assisted under section 202 of the Housing Act of 1959;

(4) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than six months' duration, (B) substantially impedes an individual's ability to live independently, (C) may result in displacement from a congregate housing project, and (D) is of such a nature that such ability could be improved by more suitable housing conditions;

(5) the term "congregate services programs" means programs to be undertaken by a public housing agency or nonprofit corporation to provide assistance to handicapped elderly households or nonelderly handicapped households or temporarily disabled households who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(6) the term "personal assistance" means service provided under this title which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term "professional assessment committee" means a group of at least three persons and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons in relation to the performance of the normal tasks of daily living. Such appraisal should determine whether project residents require assistance in one or more of at least the following activities of daily living; (i) eating, (ii) bathing, (iii) grooming, (iv) dressing, (v) toileting, and (vi) ambulation; and

(8) the term "nonprofit corporation" means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.

SERVICES

SEC. 405. (a)(1) Any public housing agency or nonprofit corporation receiving assistance under this title may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(2) In any case, any such public housing agency or nonprofit corporation shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965) in determining the means of providing services under the preceding sentence, and in identifying available sources of funding for such services other than assistance under this title.

(3) Prior to the submission of an application for either new or renewed funding under this title a public housing agency or nonprofit corporation shall present a draft application to the Area Agency on Aging (or, where no Area Agency on Aging exists, to the appropriate State agency under the Older Americans Act of 1965) for review and com-

ment. A public housing agency or nonprofit corporation shall consider such review and comment in the development of its final application for either new or renewed funding under this title.

(4)(A) In any case where a public housing agency or nonprofit corporation determines that nonelderly handicapped individuals are included among the eligible project residents to be served by the congregate services program, the public housing agency or nonprofit corporation shall consult with the appropriate local agency, if any, as designated by applicable State law with having responsibility for the development, provision, or identification of social services to permanently disabled adult individuals. Such consultation shall be for the purpose of determining the means of providing services under paragraph (1).

(B) Such public housing agency or nonprofit corporation shall also, prior to the submission of an application for either new or renewed funding under this title, present a draft application to such appropriate local agency for review and comment. The public housing agency or nonprofit corporation shall consider such review and comment in the development of its final application for either new or renewed funding under this title.

(5) No services funded under this title may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Government of the United States, or any other public or private department, agency, or organization.

(b) Congregate services programs assisted under this title must include full meal service adequate to meet nutritional needs, and may also include housekeeping aid, personal assistance, and other services essential for maintaining independent living.

APPLICATION PROCEDURES

SEC. 406. (a) Whenever a public housing agency or nonprofit corporation applies for assistance under this title, the agency shall include a plan specifying the types and priorities of the basic services it proposes to provide during the term of contract authority. Such plan, including fee schedules established pursuant to section 410 of this title, shall be related to the needs and characteristics of the eligible residents of the projects where the services are to be provided; shall, to the maximum extent practicable, make provision for the changing needs and characteristics of project residents during the term of contract authority; and shall be determined after consultation with eligible project residents and with the professional assessment committee. If a project where such services are to be provided is a new, unoccupied project, then such consultation shall be carried out as a part of the occupancy interview process.

(b) Each application submitted by a public housing agency or nonprofit corporation for assistance under this title shall contain a statement affirming that—

(1) the services provided will not duplicate any services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Government of the United States, or any other public or private department, agency, or organization;

(2) the Area Agency on Aging (or, where no Area Agency on Aging exists, the appropriate State agency under the Older Americans Act of 1965) has been presented with a draft application, has been given a reasonable amount of time for the review of and comment upon such draft application, and that such review and comment has been considered in the development of the submitted application for assistance.

(3) if nonelderly handicapped individuals are included among the eligible project residents, the appropriate local agency, if any, as designated by applicable State law with having responsibility for the development, provision, or identification of social services to permanently disabled adult individuals, has been presented with a draft application, has been given a reasonable time for the review of and comment upon such draft application, and that such review and comment has been considered in the development of the submitted application assistance; and

(4) fees established for services provided under this title are reasonable and have been set in accord with the requirements of subsection (a) and section 407 with respect to consultation with eligible project residents, and with the requirements of section 410 of this title.

(c) Each application for assistance under this title shall have attached to it any comments received upon draft applications pursuant to sections 405(a)(3) and 405(a)(4)(B).

(d) Each application agency for assistance under this title shall list the names and professional qualifications of the members of the professional assessment committee.

PROGRAM REVIEW

SEC. 407. Each public housing agency and nonprofit corporation receiving assistance for congregate services programs under this title shall review the performance, appropriateness, and fee schedules of such services with eligible project residents, and with the professional assessment committee, within twelve months prior to the submission of an application for renewed funding under this title. The results of such review shall be included in such application, and shall be considered in the development of the application by the public housing agency or nonprofit corporation, and in its evaluation by the Secretary.

EVALUATION BY THE SECRETARY

SEC. 408. In evaluating applications for assistance under this title, the Secretary shall consider at least the following:

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee established pursuant to section 410(a)(1) of this title; and

(5) the reasonableness of fee schedules established for each congregate service pursuant to section 410 of this title.

REGULATIONS

SEC. 409. (a) The Secretary is authorized to promulgate regulations to carry out the provisions of this title. Such regulations shall provide for at least the following:

(1) Standards shall be established for the provision of services under this title. The Secretary shall consult with the Secretary for the Department of Health, Education, and Welfare, and with appropriate organizations representing the elderly and the disabled, in the development of such service standards.

(2)(A) Procedures for the review and evaluation of the performance of grantees under this title shall be established.

(B) Each public housing agency and nonprofit corporation assisted under this title shall submit to the Secretary an annual evaluation of the impact and effectiveness of its congregate services programs.

(C) The Secretary shall annually publish, and make available to Congress and the public, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this title. Such report and evaluation shall be based, in part, on the annual evaluations required to be submitted pursuant to subparagraph (B).

(3) Sound principles of accounting and other standards shall be prescribed in order to prevent any fraudulent or inappropriate use of funds under this title.

(4)(A) Appropriate deadlines for each fiscal year shall be established for the submission of applications for funding under this title. The Secretary shall notify any applicant for assistance under this title of acceptance or rejection of its application within ninety days of such submission deadline.

(B) Where such funding has been approved for the establishment of congregate services in existing housing projects, the Secretary may reallocate these funds if the services are not established within six months of the notification date of funding approval.

(C) Where such funding has been approved for the establishment of congregate services for housing projects under construction or approved for construction, the Secretary shall establish rules to assure that these services shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living.

(5) Procedures to assure timely payments to public housing agencies and nonprofit corporations for assisted congregate services programs shall be established, with provision made for advance funding sufficient to meet necessary start-up costs.

(6) Procedures shall be established for the recapture of unused contract authority, the utilization of unused reserve fund moneys from the prior fiscal year, and the reallocation of such unexpended funds to other feasible and effective applications for assistance under this title.

(7) A reserve fund, not to exceed 10 percentum of the funds appropriated in each fiscal year for the provision of services under this title, shall be established by the Secretary; and expenditures from such fund shall be made for the purpose of supplementing grants awarded to public housing agencies and nonprofit corporations under this title when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services of eligible project residents.

(8) Procedures shall be established to insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process and a right of appeal of such determination of eligibility, and shall also assure the confidentiality of personal and medical records.

(9) Procedures shall be established to insure that changes in the membership of the professional assessment committee are consistent with the requirements of section 404(7) of this title.

(b) No more than 1 per centum of the funds appropriated under this Act for any fiscal year may be used by public housing agencies and nonprofit corporations for evaluative purposes as required by this title.

ELIGIBILITY FOR SERVICES; FEE SCHEDULES

SEC. 410. (a)(1)(A) The identification of project residents eligible to participate in a congregate services program assisted under this title, and the designation of the services appropriate to their individual func-

tional abilities and needs, shall be made by a professional assessment committee whose members shall be selected by the local public housing agency or nonprofit corporation.

(B) Any public housing agency or nonprofit corporation receiving assistance under this title shall notify the Secretary of any change in the membership of the professional assessment committee within thirty days of such change. Such notification shall list the names and professional qualifications of new members of the committee.

(2) Each public housing agency and nonprofit corporation shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees.

(b)(1) Other resident elderly and permanently disabled adult households may participate in a congregate meal service program assisted under this title if the local public housing agency or nonprofit corporation determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

(2) Where such service is provided, the local public housing agency or nonprofit corporation shall establish fees which are reasonable and which do not exceed the cost of providing the meal service.

EMPLOYMENT OPPORTUNITIES FOR RESIDENTS

SEC. 411. Each public housing agency and nonprofit corporation shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of local housing projects, but who are not eligible project residents, to participate in providing the services assisted hereunder. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage wihch would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he were not exempt under section 13 thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

Employment provided under this section shall be limited to a maximum of five hours per day and twenty hours per week for each participating resident.

RELATIONSHIP TO OTHER LAWS

SEC. 412. (a) No service provided to a resident of a project assisted under this title, except for wages paid under section 411, may be treated as income for the purpose of any other program or provision of State or Federal law.

(b) individuals receiving services assisted under this title shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 413. To carry out the provisions of this title there are authorized to be appropriated—

(1) for fiscal year 1979, not to exceed $20,000,000;

(2) for fiscal year 1980, not to exceed $25,000,000;

(3) for fiscal year 1981, not to exceed $35,000,000;

(4) for fiscal year 1982, not to exceed $40,000,000; and

(5) for fiscal year 1983, not to exceed $45,000,000.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513(b) of the Housing Act of 1949 is amended by inserting before the semicolon at the end thereof a comma and the following: "and not to exceed $48,000,000 for the fiscal year ending September 30, 1979".

(b) Section 513(c) of such Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and not to exceed $38,000,000 for the fiscal year ending September 30, 1979".

(c) Section 513(d) of such Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and not to exceed $5,000,000 for the fiscal year ending September 30, 1979".

(d) Section 514(d) of such Act is amended by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000".

(e) Section 515(b)(5) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(g) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979";

(2) by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979"; and

(3) by striking out "$10,000,000" and inserting in lieu thereof "$16,500,000".

(h) Section 523(g) of such Act is amended by inserting before the period at the end of the first sentence a comma and the following: "and not to exceed $3,000,000 for the fiscal year ending September 30, 1979".

STUDY OF MIGRANT HOUSING CONDITIONS

SEC. 502. Section 506 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) The Secretary shall conduct a study of the location, numbers, quality, condition, and cost to occupants, of migrant farm labor housing units, and report the results of such study to the Congress within one year after the date of enactment of this subsection, together with recommendations for correcting any deficiencies discovered in location, numbers, or condition of the housing available for migrant farm laborers, and the extent to which existing authority has been utilized and the need for any new authority.".

FORECLOSURE

SEC. 503. Section 510(d) of the Housing Act of 1949 is amended by inserting before the semicolon at the end thereof a period and the following: "In no event may foreclosure or transfer action be initiated against any borrower unless such borrower has been given prior notice and consideration of the provisions of section 505 on the availability of the moratorium on payments under such section".

APPEALS PROCEDURES

SEC. 504. Section 510 of the Housing Act of 1949 is amended by redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j), respectively, and by inserting after paragraph (f) a new paragraph (g) as follows:

"(g) issue rules and regulations protecting the rights of all persons and organizations applying for or receiving assistance under any of the sections of this title over which the Secretary has authority. Such rules and regulations shall provide that, whenever any person or organization has applied for assistance under this title and such assistance is denied for reasons other than the availability of funds, or whenever a decision has been made to terminate or reduce assistance under this title to any person or organization which is already receiving such assistance, such person or organization will be given—

"(1) adequate written notice of the reasons why assistance was denied, reduced, or terminated,

"(2) adequate written notice that such person or organization has a right to appeal the decision to a higher authority,

"(3) an opportunity to appeal any decision denying, reducing, or terminating such assistance to an impartial official who has the authority to reverse such a decision.

"(4) an opportunity to inspect records and data in the possession of the Secretary which pertain to the appeal, and to have the appeals official make his decision in writing, stating the reasons for the decision, and

"(5) an opportunity to have the decision of the appeals officer reviewed by the Secretary.

Such rules and regulations shall also provide that, whenever any person or organization has had assistance reduced or terminated and, as a result of an appeal or otherwise, it is subsequently determined that such assistance was erroneously or improperly withheld, such person or organization shall be entitled to receive all benefits and assistance that have been withheld as a result of the original decision to reduce or terminate such assistance;".

DOMESTIC FARM LABOR HOUSING

SEC. 505. Section 514 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g) The Secretary may waive the interest rate limitation contained in subsection (a)(2) and the requirement of section 501(c)(3) in any case in which the Secretary determines such action is necessary or appropriate to carry out the purpose of this section, except that in no case may the interest rate on a loan insured under this section exceed the average interest rate on notes or other obligations issued under section 511 and having maturities comparable to such a loan.".

SPONSORS PRIORITY

SEC. 506. Section 516(e) of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed.".

HOMEOWNERSHIP ASSISTANCE

SEC. 507. (a) Section 517(j)(4) of the Housing Act of 1949 is amended by striking out "(2)" following "section 521(a)".

(b) Section 521(a) of such Act is amended—

(1) by redesignating paragraph "(1)" as paragraph "(1)(A)" and by striking out all that follows "one-eighth of 1 per centum" and inserting in lieu thereof a period; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) From the interest rate so determined the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate charged the borrower to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing.

"(C) For persons of low income under section 502 or 517(a) who the Secretary determines are unable to afford a dwelling under subparagraph (B), the Secretary may provide additional assistance, for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest,

taxes, insurance, utilities, and maintenance, and 25 per centum of the income of such applicant, pursuant to amounts set forth in appropriation Acts.

"(D) For borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C) the Secretary may provide for the recapture of all or a portion of the assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary may make provisions to provide incentives for the borrower to maintain the property in a marketable condition, and the Secretary in appropriate cases may make provision for the borrower to receive from the sales proceeds a relocation allowance. Notwithstanding any provision of law to the contrary, any assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

"(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public-assistance programs.

"(F) A loan subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources, including assistance under sections 235 and 236 of the National Housing Act.

"(G) The interest rate on any loan under section 502 or 517(a) to a victim of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.".

RURAL AREA

SEC. 508. (a) Section 520 of the Housing Act of 1949 is amended by striking out all that follows "in excess of 20,000" through "area, and (B)" and by inserting in lieu thereof "and".

(b) The amendment made by subsection (a) of this section shall apply to any application filed with the Secretary of Agriculture on or after January 1, 1978, for any assistance under title V of the Housing Act of 1949 or for technical services under such title.

REMOTE TITLE CLAIMS

SEC. 509. (a) The Secretary of Agriculture (hereinafter referred to in this section as "Secretary") shall make a detailed study of the problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims or other remote encumbrances which prevent such persons from receiving the full benefit of the use of such property, including the benefit of assistance provided under this title. The Secretary shall, in making such study, consider and develop findings and conclusions with respect to—

(1) the extent of such problems as they pertain to the lawful rights of such persons;

(2) the location and amount of land affected by such problems;

(3) the nature, extent, and effectiveness of remedies to such problems presently available, or proposed, under State law;

(4) the potential impact (with respect to existing Federal, State, and local laws) of such remote claims and encumbrances and of any reasonable remedies determined necessary for resolving the problems created for persons by such remote claims or encumbrances;

(5) the liability and losses which might accrue to the Federal Government as a result of each of the remedies considered in the study conducted under this section; and

(6) other issues which the Secretary determines shall be considered, after consulting with the Secretary of Housing and Urban Development.

(b) The Secretary shall, not later than March 1, 1979, transmit to the Congress a report containing the findings and conclusions of the Secretary with respect to the study made under this section. Such report shall include—

(1) recommendations for Federal legislative actions necessary to implement reasonable remedies to the problems studied under this section; and

(2) recommendations for legislative actions which may be undertaken by State and local governments for the purposes of providing such remedies.

STUDY OF EMERGENCY POTABLE WATER AND SEWAGE PROGRAM

SEC. 510. (a) The Secretary of Agriculture shall—

(1) carry out a study to determine the approximate number of rural housing units without access to sanitary toilet facilities, potable water, or access to both sanitary toilet facilities and potable water, as defined under regulations established by the Secretary; and

(2) prepare a projection of the cost of implementing an emergency program to provide sanitary toilet facilities and potable water supplies for all such housing units over a two-year period.

(b) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall report to the Congress the results of the study and projection under subsection (a).

## TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION

SHORT TITLE

SEC. 601. This title may be cited as the "Neighborhood Reinvestment Corporation Act".

FINDINGS AND PURPOSE

SEC. 602. (a) The Congress finds and declares that—

(1) the neighborhood housing services demonstration of the urban reinvestment task force has proven its worth as a successful program to revitalize older urban neighorhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present urban reinvestment task force.

(b) The purpose of this title is to establish a public corporation on which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

ESTABLISHMENT OF CORPORATION

SEC. 603. (a) There is established a National Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein.

(b) The corporation shall implement and expand the demonstration activities carried out by the urban reinvestment task force.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

BOARD OF DIRECTORS; ESTABLISHMENT

SEC. 604. (a) The corporation shall be under the direction of a board of directors made up of the following members:

(1) the Chairman of the Federal Home Loan Bank Board who shall be the chairman of the board of directors;

(2) the Secretary of Housing and Urban Development;

(3) a member of the Board of Governors of the Federal Reserve System, to be designated by the Chairman of the Board of Governors of the Federal Reserve System;

(4) the Chairman of the Federal Deposit Insurance Corporation;

(5) the Comptroller of the Currency; and

(6) the Administrator of the National Credit Union Administration.

(b) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

(c) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(d) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation.

(e) The presence of a majority of the board members shall constitute a quorum.

(f) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(g) All meetings of the board of directors will be open to public observation unless a majority of the board of directors votes to close a specific meeting.

OFFICERS AND EMPLOYEES

SEC. 605. (a) The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the nighest rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The directors of the corporation shall appoint an executive director, who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to general policies established by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipi-

ent, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States, and the corporation shall not be considered a department, agency, or instrumentality of the Federal Government.

POWERS AND DUTIES

SEC. 606. (a) (1) The corporation shall continue the work of the urban reinvestment task force in establishing neighborhood housing services programs in neighborhoods throughout the United States, supervising their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered non-profit corporation, working to bring about reinvestment in one or more neighborhoods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at flexible rates and terms to homeowners not meeting private lending criteria.

(2) The corporation shall continue the work of the urban reinvestment task force in identifying, monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable developmental processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the urban reinvestment task force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with grants to expand its national loan purchase pool and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) Notwithstanding any other provision of law, the corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corporation such information as may be necessary to determine compliance with applicable Federal laws. Nothing in this subsection exempts the corporation from compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation is authorized—

(1) to adopt, alter, and use a corporate seal;

(2) to have succession until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 608(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investments as the board of directors may prescribe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

(c) (1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the urban reinvestment task force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

(3) The Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal home loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes of this title.

(d) (1) The corporation shall have no power to issue any shares of stocks, or to declare or pay any dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

REPORTS AND AUDITS

SEC. 607. (a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the annual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the corporation.

AUTHORIZATION

SEC. 608. (a) There are authorized to be appropriated to the corporation to carry out this title not to exceed $15,000,000 for fiscal year 1979, $20,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(d) The corporation shall prepare annually a business-type budget which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by the Budget and Accounting Act, 1921. Amendments to the annual budget program may be submitted from time to time.

## TITLE VII—MISCELLANEOUS

TITLE I MULTIFAMILY LOAN LIMITS

SEC. 701. Section 2(b) of the National Housing Act is amended by striking out "$25,000", "$5,000", and "twelve years" in the third proviso in clause (3), and inserting in lieu thereof "$37,500", "$7,500", and "fifteen years", respectively.

MULTIFAMILY MORTGAGE INSURANCE

SEC. 702. (a) The last sentence of section 207(c) of the National Housing Act is amended by striking out "eight" and inserting in lieu thereof "five".

(b) Section 241(d) of such Act is amended by adding at the end thereof the following: "At any sale under foreclosure of a mortgage on a project or facility which is not insured under this Act but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 207(k), any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this Act, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.".

MORTGAGE INSURANCE FOR NONRESIDENT CARE FACILITIES

SEC. 703. (a) Section 232(a) of the National Housing Act is amended—

(1) by inserting immediately before the period at the end of paragraph (1) a comma and the following: "including additional facilities for the nonresident care of senior citizens and others who are able to live independently but who require care during the day"; and

(2) by inserting immediately before the period at the end of paragraph (2) a comma and the following: "including additional facilities for the nonresident care of senior citizens and others who are able to live independently but who require care during the day".

(b) Section 232(b)(2) of such Act is amended by inserting immediately after

"nursing services;" in the first sentence the following: "(3) a 'nursing home' or intermediate care facility' may include such additional facilities as may be authorized by the Secretary for the nonresident care of senior citizens and others who are able to live independently but who require care during the day;".

CONDOMINIUM MORTGAGE INSURANCE

SEC. 704. (a) The first sentence of section 234(c) of the National Housing Act is amended by inserting immediately after "less units" in the proviso of clause (2) a comma and the following: "or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance,".

(b) The third sentence of section 234(c) of such Act is amended by inserting "(100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)" after "centum" in clause (A)(1).

PURCHASE OF FEE SIMPLE TITLE

SEC. 705. Section 240 of the National Housing Act is amended by adding "($30,000 if the property is located in Hawaii)" immediately after "$10,000" in subsection (c)(2).

HOUSING AND URBAN DEVELOPMENT DAY CARE CENTER FACILITIES

SEC. 706. Section 7(n) of the Department of Housing and Urban Development Act is amended to read as follows:

"(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to three percent of the first year's operating budget, but not to exceed $3,500.".

SALE OF SURPLUS FEDERAL LAND FOR HOUSING

SEC. 707. (a) The first and second sentences of section 414(a) of the Housing and Urban Development Act of 1969 are amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development at the Secretary's request for sale or lease by the Secretary at its fair value for use in the provision of housing to be occupied predominately by families or individuals of low and moderate income, assisted under a Federal housing assistance program administered by the Secretary or under a State or local program found by the Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the Secretary. Prior to any disposition of Federal surplus real property to an entity other than a public body, the Secretary shall notify the governing body of the locality where such property is located of the proposed disposition and no such disposition shall be made if the local governing body, within ninety days of such notification, formally advises the Secretary that it objects to the proposed disposition, unless the Secretary determines (1) that the proposed disposition would be consistent with any approved housing assistance and community development plans developed by such body pursuant to the Housing and Community Development Act of 1974, or (2) in cases where such plans are not available, that there is a need for low- and moderate-income housing, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve any housing proposed in conjunction with the proposed disposition.".

(b) Subsection (b) of section 414 of such Act is amended to read as follows:

"(b) As a condition of any disposition by the Secretary of Federal surplus real property under this section to an entity other than a public body, the Secretary shall obtain such undertakings as the Secretary may consider appropriate to assure that the property will be used, to the maximum practicable extent, in the provision of housing and related facilities to be occupied by families or individuals of low and moderate income for a period of not less than thirty years. If during such period the property is used for any purpose other than the purpose for which it was disposed of, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the Secretary and the Administrator, after the expiration of the first twenty years of such period, have approved the use of the property for such other purposes.".

REPORT ON MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

SEC. 708. (a) The first sentence of section 626(a) of the National Mobile Home Construction and Safety Standards Act of 1974 is amended—

(1) by striking out "March 1 of each year" and inserting in lieu thereof "July 1 of every other year beginning with calendar year 1978"; and

(2) by striking out "preceding calendar year" and inserting in lieu thereof "two preceding calendar years".

(b) The second sentence of section 626(a) of such Act is amended by striking out "such year" in clauses (1), (2), and (5) and "the year" in clause (6) and inserting in lieu thereof "such years" in each such clause.

AMENDMENT OF THE HOME OWNERS LOAN ACT OF 1933

SEC. 709. The eighth undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking "real property located within urban renewal areas as defined in subsection (a) of section 110 of the Housing Act of 1949", and inserting in lieu thereof "real property located in areas in which physical development activities assisted under title I of the Housing and Community Development Act of 1974 are being carried out in a concentrated manner".

STATEMENT OF POLICY AND STUDY ON HOUSING DISPLACEMENT

SEC. 710. The Congress declares that in the administration of Federal housing and community development programs, the utmost care should be taken to minimize the displacement of persons from their homes and neighborhoods. In furtherance of the objectives stated in the preceding sentence, the Secretary of Housing and Urban Development shall conduct a study on the nature and extent of such displacement, and, not later than January 31, 1979, shall report to the Congress on recommendations for the formulation of a national policy to minimize displacement caused by the implementation of the Department's programs, and to alleviate the problems caused by displacement of residents of the Nation's cities due to residential and commercial development and housing rehabilitation, both publicly and privately financed. In carrying out such a study, the Secretary shall (1) consult with representatives of affected public interest groups, government, and the development and lending industries; (2) provide data on the nature and scope of the displacement problem, both past and projected, and identify steps needed to improve the availability of such data; and (3) report fully on the current legal and regulatory powers and policies of the Department to prevent or compensate for displacement caused by its own programs.

REHABILITATION GUIDELINES

SEC. 711. Title V of the Housing and Urban Development Act of 1970, as amended by section 305(b) of this Act, is amended by adding at the end thereof the following:

"REHABILITATION GUIDELINES

"SEC. 510. (a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

"(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

"(3) The Secretary shall publish such guidelines for public comment not later than one year after the date of enactment of this section, and promulgate them no later than eighteen months after such date of enactment.

"(4) The Secretary shall furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

"(b) The Secretary shall report to Congress not later than thirty-six months after the date of enactment of this section regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.".

DEPARTMENTAL REORGANIZATION

SEC. 712. None of the funds available to the Department of Housing and Urban Development may be obligated or expended during the fiscal year ending October 1, 1978, or October 1, 1979, for the reorganization or transfer of any function of any area, field, or insuring office which relates to multifamily housing or community planning or development and related technical services.

ALASKA HOUSING PROGRAM

SEC. 713. (a) Subsection (a) of section 1004 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended to read as follows:

"(a) The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') shall make loans and grants on the basis of need to the regional native housing authorities duly constituted under the laws of the State of Alaska for the purpose of providing planning assistance, housing rehabilitation, and maintaining an adequate administrative structure in conjunction with the provision of housing and related facilities for Alaska residents.".

(b) Section 1004(b) of such Act is repealed.

AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 714. (a) Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended—

(1) by inserting before the period at the end of the first sentence thereof "or from any mortgagee approved by the Secretary of Housing and Urban Development for participation and any mortgage insurance program under the National Housing Act"; and

(2) by adding at the end thereof the following new sentences: "The Corporation may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or services, and for such purposes the Corpora-

tion is authorized to classify sellers or services according to type, size, location, assets, or, without limitation on the generality of the foregoing, on such other basic or bases of differentiation as the Corporation may consider necessary or appropriate to effectuate the purposes or provisions of this Act. The Corporation may specify requirements concerning, among other things, (A) minimum net worth; (B) supervisory mechanisms; (C) warranty compensation mechanisms; (D) prior approval of facilities; (E) prior origination and servicing experience with respect to different types of mortgages; (F) capital contributions and substitutes; (G) mortgage purchase volume limits; and (H) reduction of mortgage purchases during periods of borrowing. With respect to any particular type of seller, the Corporation shall not be required to make available programs involving prior approval of mortgages, optional delivery of mortgages, and purchase of other than conventional mortgages to an extent greater than the Corporation elects to make such programs available to other types of eligible sellers. Any requirements specified by the Corporation pursuant to the preceding three sentences must bear a rational relationship to the purposes or provisions of this Act, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Insofar as is practicable, the Corporation shall make reasonable efforts to encourage participation in its program by each type of eligible seller.".

(b) The provisions of this section shall take effect upon the expiration of two hundred and ten days after enactment of this Act, but not before January 31, 1979, or on such earlier date as the Corporation may prescribe.

AMENDMENTS TO INTERSTATE LAND SALES FULL DISCLOSURE ACT

SEC. 715. (a) Section 1403(a) of such Act is amended—

(1) by inserting "condominium," after "commercial," in clause (3);

(2) by inserting after "adverse claims do not refer to" in clause (10) the following: "United States land patents or Federal grants and reservations similar to United States land patents, nor to"; and

(3) by striking out the matter which precedes "when—" in clause (11) and inserting in lieu thereof the following:

"(11) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions and restrictions which has been recorded in the official records of the city or county in which such real estate is located,".

(b) Section 1403 of such Act is amended—

(1) by redesignating subsection (b) thereof as subsection (c); and

(2) by inserting after subsection (a) thereof the following:

"(b) Unless the method of disposition is adopted for the purpose of evasion of this title, the requirements of sections 1405 to 1408 inclusive, shall not apply to—

"(1) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate or almost entirely intrastate in nature. A sales operation shall be considered 'intrastate or almost entirely intrastate in nature' for the calendar year if not more than 5 per centum of the lots sold in such year were sold to residents of another State, or if not more than five lots sold in such year were sold to residents of another State, whichever is greater, exclusive of sales made under the provisions of clause (2) of this subsection. For the purpose of the exemption contained in the preceding sentence, a lot may be sold to a resident of another State only if—

"(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(B) the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased; and

"(C) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the resident State of the purchaser.

As used in this clause (1), the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee;

"(2) the sale or lease of real estate by a developer to the resident of another State when the principal residence of the purchaser is within a radius of one hundred miles from the property purchased if—

"(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(B) each purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased; and

"(C) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process; and acknowledges that the developer submits to the legal jurisdiction of the resident State of the purchasers; and

"(D) the developer executes a written affirmation to the effect that he has complied with the provisions of clauses (A), (B), and (C) of this clause (2), such affirmation to be given on a form provided by the Secretary, where such form shall include only the name and address of the developer, the name and address of the purchaser, a legal description of the lot, an affirmation that clauses (A), (B), and (C) have been complied with, a statement that the developer submits to the jurisdiction of the Act in regard to the sale, and the signature of the developer. The affirmation is to be kept on file by the Secretary.".

Sales made under this clause shall not be subject to the limitation contained in clause (1) but the number of sales made under this clause will be added to sales made under clause (1) to arrive at the total number of sales made in one year by a developer for purposes of calculation of the 5 per centum out-of-State sales limitation factor contained in clause (1). As used in this clause (2), the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee; or

"(3) the sale or lease of real estate which is located within a municipality or county whose governing body specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(A) the subdivision meets all local codes and standards and is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(B) the real estate is situated on a paved, public street or highway which has been built to a standard acceptable to the municipality or county or a bond or other surety acceptable to the municipality or county in the full amount of the cost of the improvements has been posted to assure completion to such standards, and that authority has accepted or has agreed to accept the responsibility of maintaining the public street or highway;

"(C) at the time of closing, potable water, sanitary sewage disposal and electricity have been extended to the real estate or the municipality or county has agreed to install such facilities within 180 days. For subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round or that the land is approved for the installation of septic tanks;

"(D) the contract of sale requires delivery of a warranty deed to the purchaser within 180 days of the signing of the sales contract;

"(E) a policy of title insurance or title opinion is issued in connection with the transaction showing that at the time of closing, title to the real estate purchased or leased is vested in the seller or lessor, but nothing herein shall be construed as requiring the recordation of a lease;

"(F) each and every purchaser or his or her spouse has made a personal on the lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease;

"(G) there are no direct mail or telephone solicitations or offers of gifts, trips, dinners, or other such promotional techniques to induce perspective purchasers or lessees to visit the subdivision or to purchase or lease a lot.

"(c) Section 1412 of such Act is amended by striking the last sentence and inserting in lieu thereof 'In no event shall any action be brought by a purchaser more than three years after the signing of a contract or lease, not withstanding delivery of a deed to a purchaser on the sale or assignment of the purchaser's contract or agreement to a third party.' ".

(c) Section 1416 of such Act is amended by adding at the end thereof the following:

"(c)(1) In discharging his responsibilities under this title, the Secretary shall conduct all actions with respect to rulemaking or adjudication in accordance with the provisions of chapter 5 of title 5, United States Code.

"(2) The Secretary, by rule, shall prescribe the procedure applicable to every case pursuant to this title of adjudication (as defined in section 551 of title 5, United States Code) not required to be determined on the record after notice and opportunity for hearing. Such rule shall, as a minimum, provide that prompt notice shall be given of any adverse action or final disposition and that such notice and the entry of any order shall be accompanied by a statement of legal authority and other written reasons.".

HOUSING PROGRAM PAPERWORK REDUCTION

SEC. 716. (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs require, approve, use, or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments), as notes secured by those mortgages, and for applications, appraisals, and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs and the Federal agencies with responsibilities involving housing and housing finance programs have made inadequate attempts to reduce unnecessary paperwork and the costs imposed by unnecessary paperwork on participants in those programs;

(3) that both single-family and multifamily programs are affected;

(4) that the Commission on Federal Paperwork has recommended that the agencies reduce the paperwork by adopting the same or substantially similar forms for the same or substantially similar purposes and that the Commission's recommendations will contribute to lower housing costs; and

(5) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Insofar as it is practicable and to the extent permitted by law and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall employ in their respective programs—

(i) uniform single family and multifamily note and mortgage forms;

(ii) a uniform application form for mortgage approval and committment for mortgage insurance;

(iii) a uniform form for computation of the monthly net effective income of applicants;

(iv) a uniform property appraisal form;

(v) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(vi) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and of maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extend permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

TASK FORCE ON HOUSING PROGRAM PAPERWORK REDUCTION

SEC. 717. (a) Within sixty days after the enactment of this Act, the President shall establish an Interagency Task Force on Housing Program Paperwork Reduction (hereinafter referred to as the "Task Force"), which shall be composed of the Director of the Office of Management and Budget, the Commissioner of the Federal Housing Administration, the Administrator of Veterans' Affairs, the Administrator of the Farmers Home Administration, the President of the Government National Mortgage Association, or their designees, and any additional person or persons designated by the President, if such additional person or persons are serving in offices or positions to which appointment is made and with the advice and consent of the Senate. The Director of the Office of Management and Budget shall be Chairman of the Task Force.

(b) Within one hundred and eighty days after enactment of this Act, the Task Force shall transmit to the Congress a plan and timetable for implementing those recommendations of the Commission on Federal Paperwork which have the purpose of reducing the regulatory and paperwork burden of Federal housing and housing finance programs. The Task Force shall in its plan include recommendations for such legislation as may be necessary to remove barriers to full implementation of the Commission's recommendations. If the Task Force finds that any recommendation of the Commission should not be fully implemented, it shall include a full explanation of its fundings and a description of the alternative that will be employed to achieve the goal of the rejected recommendation.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the plan presented pursuant to subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93-556.

(d) The Director of the Office of Management and Budget shall assign such professional and clerical staff full time to the Task Force as may be necessary, until the Task Force completes its duties. The Director of the Office of Management and Budget may, in addition, require any or all of the agencies on the Task Force to assign one person full time to the Task Force, until the Task Force completes its duties. Such personnel assignments should take into account experience in paperwork, records, and reports management and regulation design and implementation.

(e) The Task Force shall to the maximum extent possible consult with the private sector, including but not limited to homebuilders, realtors, financial institutions, mortgage companies, public interest groups, mortgage insurance companies, homeowners, the general public, and any other group or groups that will be affected directly or indirectly by the provisions of this section, and obtain their ideas and views in carrying out its duties under this section.

PAPERWORK CONTROL AND MANAGEMENT

SEC. 718. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall, not later than January 1, 1979, and not later than such date in each year thereafter, publish in the Federal Register an agenda of regulations expected to be considered during the fiscal year in which the agenda is published. The agenda shall describe, to the greatest extent possible, any significant rulemaking activity for that fiscal year, including the creation of new regulations and the revision or repeal of existing regulations.

(b) The Secretary shall, prior to the publication of any proposed regulation for public comment, conduct a thorough regulatory analysis of the regulation under consideration. Such analysis shall include, but shall not be limited to, the following:

(1) A reasonable estimate of the benefits expected to be derived as well as the costs or other inflationary impact which could be expected to result from the rulemaking. In making the estimate required by this paragraph, the Secretary shall (A) consider recommendations which may be made by the Council of Economic Advisers, the Council on Wage and Price Stability, the Office of Management and Budget, or any other executive agency, and (B) give special consideration to the extent to which delays caused by Government review, processing, and general paperwork contribute to the cost of housing, and shall, wherever feasible, modify the proposed regulation to minimize or eliminate such delays.

(2) An assessment of the extent to which the proposed regulation may result in contradiction, unnecessary overlapping, or duplication of other regulations of the Department or of another executive agency.

(3) An assessment of the extent to which the proposed regulation increases the burden of recordkeeping and report filing requirements on individuals, businesses, and State and local governments. In making the assessment required by this paragraph, the Secretary shall use as a basis the "reporting hours burden", as estimated by the Office of Management and Budget.

(c) A summary of the findings of the regulatory analysis conducted under subsection (b) shall be published adjacent to the regulation being proposed in the Federal Register. In emergency situations or cases in which the Secretary must meet immediate statutory or judicial deadlines, there shall be published in the Federal Register a statement explaining why preparation of a regulatory analysis would be impracticable or inappropriate.

NEW COMMUNITY ASSISTANCE PROJECTS

SEC. 719. Section 415(c) of the Housing and Urban Development Act of 1968 is amended to read as follows:

"(c) The term 'new community assistance projects' has the same meaning as the term 'new community assistance project' in section 718(c) of the Housing and Urban Development Act of 1970.".

COST-BENEFIT ANALYSIS OF FIELD REORGANIZATIONS

SEC. 720. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following:

"(o) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of ninety days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

"(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

"(2) an estimate of the additional cost which will result from the reorganization; including, but not limited to, the cost of remodeling and moving into new office quarters, the loss of experienced personnel where such personnel shall be replaced by other personnel, the cost of training new personnel, the cost of moving personnel to new homes, any increase in rental costs (or an estimate of the likely increase in rental costs), and any adverse effects on any existing Federal office buildings;

"(3) a study of the impact on the local economy; and

"(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.".

HOUSING PRODUCTION REPORT

SEC. 721. Section 1603 of the Housing and Urban Development Act of 1968 is amended to read as follows:

"REPORT ON GOALS

"SEC. 1603. Not later than January 20, of each year, the President shall transmit to the Congress a report which—

"(1) reviews the progress made in achieving housing production objectives during the preceding year, and in the event that proposed objectives are not achieved, identifies the reasons for the failure;

"(2) projects the level, composition, and general location of production and rehabilitation activity during the current year, and reassesses the availability of required resources;

"(3) specifies Federal programs and policies to be implemented or recommended in order to achieve the objective;

"(4) updates estimates of the housing needs of lower income families, analyzing these needs, insofar as possible, by type of household, housing need, including households with specialized needs, and general location, and in addition, reassesses the capacity of each Federal housing program to serve the needs identified;

"(5) reviews the progress made in achieving goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs;

"(6) reports on progress made toward developing new methods for measuring and monitoring progress in achieving these goals; and

"(7) identifies legislative and administrative actions which will or should be adopted or implemented during the current year to support achievement of the goals.".

## TITLE VIII—NEIGHBORHOOD SELF-HELP DEVELOPMENT

SHORT TITLE

SEC. 801. This title may be cited as the "Neighborhood Self-Help Development Act of 1978".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress finds and declares that—

(1) existing urban neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote governmental and private programs and activities that further that objective;

(2) to be effective, neighborhood conservation and revitalization efforts must involve the fullest possible support and participation of those most directly affected at the neighborhood level; and

(3) an effective way to obtain such support and participation at the neighborhood level is through neighborhood organizations accountable to residents of a particular neighborhood with a demonstrable capacity for developing, assessing, and carrying out projects for neighborhood conservation and revitalization.

(b) It is, therefore, the purpose of this title (1) to provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low- and moderate-income neighborhoods, or for the benefit of low- and moderate-income residents of other neighborhoods which are in need of preservation and revitalization, and (2) in the process of providing such assistance, to increase the capacity of neighborhood organizations, individually and collectively, to utilize and coordinate resources available from the public and private sectors, and from neighborhoods themselves, for conserving and revitalizing existing neighborhoods.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "neighborhood organization" means a voluntary, nonprofit organization which (A) is broadly representative of the neighborhood in which the project will be located, (B) is accountable to neighborhood residents with respect to the project being proposed, (C) has as an objective the preservation and revitalization of such neighborhood, and (D) is found by the Secretary to have a proven record on demonstrable capacity for developing resources for, and effectively implementing neighborhood conservation and revitalization programs and projects;

(2) the term "neighborhood conservation and revitalization projects" includes but is not limited to (A) locally conceived programs for housing rehabilitation and the creative reuse and improvement of existing housing; (B) revitalization of neighborhood retail business areas and the recycling of vacant industrial sites and public and privately owned businesses for the purpose of creating employment opportunities and promoting neighborhood economic development; and (C) energy conservation and weatherization projects; and

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

AUTHORITY TO PROVIDE ASSISTANCE

SEC. 834. (a) The Secretary of Housing and Urban Development is authorized, in accordance with such regulations as the Secretary may prescribe, to make grants and to provide other forms of assistance to neighborhood organizations for effectively planning and carrying out specific housing, economic and community development, and other appropriate neighborhood conservation and revitalization projects within a particular neighborhood, and to assist such organizations to conduct such projects in partnership with local government and the public and private sector.

(b) Grants and other forms of assistance may be made available under this section only if—

(1) the assistance will be used for a specific project which is related to and supportive of a revitalization strategy for the neighborhood in which the project will be located;

(2) the project will include a self-help component which involves a contribution of time or resources by neighborhood residents;

(3) the project will directly benefit the residents of a low- or moderate-income neighborhood or will primarily benefit low- and moderate-income residents of a neighborhood with an average income above the moderate level;

(4) the project will, to the extent feasible, involve leveraging of resources available from the private sector;

(5) the project will, to the extent feasible, involve the coordination of resources available from the local, State, or Federal Government; and

(6) the applicant demonstrates that the residents of the neighborhood where the project will be carried out, and particularly residents who will be directly affected by the project, have been actively involved in and supportive of the selection of the project, and will continue to be involved in project development, implementation, and evaluation through an effective, on-going neighborhood participation mechanism.

(c) Grants and other forms of assistance made available under this section shall be used primarily for the implementation of specific neighborhood housing, economic, and community development projects. No grant or other assistance shall be made available under this section for—

(1) planning functions which are not combined with project implementation, (2) a public works project such as street repair which is not associated with the specific project being funded under this section, (3) operation of a social service program which is not associated with the specific project being funded under this section, (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located, (5) operating costs of a community group which are not associated with the specific project being funded under this section, or (6) other purposes which the Secretary may determine are not consistent with the purposes of this title.

(d) With respect to any particular application, grants and other forms of assistance may be made available under this section only after the unit of general local government within which the neighborhood to be assisted is located certifies that such assistance is consistent with, and supportive of, objectives of that unit of government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by such unit.

(e) The Secretary shall consult with the heads of other Federal departments and agencies having responsibilities related to the purposes of this title, including the Community Services Administration, with respect to (1) general standards, policies, and procedures to be followed in the administration of this title, and (2) particular assistance actions or approvals which the Secretary believes to be of special interest or concern to one or more of such departments and agencies. The Secretary shall ensure the close coordination of activities assisted under this title with other related Federal, State, and local assistance programs, including the programs of the Community Services Administration, and, with respect to particular assistance actions or approvals, ensure a maximum commitment by the neighborhood organization of its own financial and other resources toward the assisted project.

APPROPRIATIONS

SEC. 805. There are authorized to be appropriated for the purpose of carrying out this title not to exceed $15,000,000 for each of the fiscal years 1979 and 1980. Any amount appropriated pursuant to this section shall remain available until expended.

## TITLE IX—LIVABLE CITIES

SHORT TITLE

SEC. 901. This title may be cited as the "Livable Cities Act of 1978".

FINDINGS

SEC. 902. The Congress finds and declares—

(1) that artistic, cultural, and historic resources, including urban design, constitute an integral part of a suitable living environment for the residents of the Nation's urban

areas, and should be available to all residents of such areas, regardless of income;

(2) that the development or preservation of such resources is a significant and necessary factor in restoring and maintaining the vitality of the urban environment, and can serve as a catalyst for improving decaying or deteriorated urban communities and expanding economic opportunities, and for creating a sense of community identity, spirit, and pride; and

(3) that the encouragement and support of local initiatives to develop or preserve such resources, particularly in connection with federally assisted housing or community development activities or in communities with a high proportion of low-income residents, is an appropriate function of the Federal Government.

PURPOSE

SEC. 903. The primary purpose of this title is to further the efforts of States, urban communities, neighborhoods, and organizations to initiate undertakings to revitalize such communities and neighborhoods, and to provide a more suitable living environment, expand cultural opportunities, and indirectly stimulate economic opportunities, for the residents, and particularly residents of low and moderate income, of such communities and neighborhoods, through the utilization, design, or development of artistic, cultural, or historic resources.

DEFINITIONS

SEC. 904. For the purpose of this title—

(1) The terms "art" and "arts" include, but are not limited to, architecture (including preservation, restoration, or adaptive use of existing structures), landscape architecture, urban design, interior design, graphic arts, fine arts (including painting and sculpture), performing arts (including music, drama, and dance), literature, crafts, photography, communications media and film, as well as other similar activities which reflect the cultural heritage of the Nation's communities and their citizens;

(2) the term "nonprofit organization" includes States and units of local governments (including public agencies or special authorities thereof), regional organizations of local governments, and nonprofit societies, neighborhood groups, institutions, organizations, associations, or museums;

(3) the term "project" means a program or activity organized to carry out the purposes of this title, including programs for neighborhood and community-based arts programs, urban design, user needs design, and the encouragement of the preservation of historic or other structures which have neighborhood or community significance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "Chairman" means the Chairman of the National Endowment for the Arts;

(6) the term "Department" means the Department of Housing and Urban Development; and

(7) the term "Endowment" means the National Endowment for the Arts.

GRANTS TO OR CONTRACT WITH ORGANIZATIONS

SEC. 905. (a) The Secretary is authorized to make grants to, or contract or make other arrangements with, nonprofit organizations (or, in appropriate cases, as determined by the Secretary, to enter into contracts with profitmaking organizations) for the purpose of enabling such organizations to undertake or support in cities, urban communities, or neighborhoods, projects which the Secretary, in consultation with the Chairman, determines will carry out the purposes of this title and which—

(1) have substantial artistic, cultural, or urban design merit,

(2) represent community or neighborhood initiatives which have a significant potential for revitalizing communities or neighborhoods, for enhancing community or neighborhood identity and pride, and for contributing to a more suitable living environment and expanded cultural opportunity for the residents, and particularly low- and moderate-income residents, of the Nation's urban areas, and

(3) meet the criteria established jointly by the Secretary and the Chairman pursuant to this section.

(b) The Secretary and the Chairman shall establish jointly criteria and procedures for evaluating and selecting projects to be assisted under subsection (a) of this section. Such criteria shall address, but need not be limited to, the following factors:

(1) artistic, cultural, historical, or urban design quality;

(2) the degree of broadly based, active involvement of neighborhood residents, community groups, local officials, and persons with expertise in the arts, with the proposed project;

(3) the degree of utilization or stimulation of assistance or cooperation from other Federal, State, and local sources, including private sources and other public or private arts organizations, or the potential for generating such assistance or cooperation;

(4) the feasibility of project implementation, including the capability of the sponsor organization;

(5) the potential contribution to neighborhood revitalization and the creation of a sense of community identity and pride through fostering such activities as preservation of neighborhoods and existing structures;

(6) the potential for stimulating neighborhood economic and community development, particularly for the benefit of persons of low and moderate income; and

(7) the encouragement of utilization of artistic, cultural and historic resources by neighborhood residents, particularly residents of low and moderate income, senior citizens, and handicapped persons.

(c) No financial assistance shall be made to any organization under this section except upon application therefor which is submitted to the Secretary in accordance with regulations and procedures established jointly by the Secretary and the Chairman.

(d) Prior to the approval of any application for financial assistance under this title, the Secretary shall consult with the Chairman and, in accordance with regulations and procedures issued jointly by the Secretary and the Chairman, shall seek the recommendations of State and local officials and private citizens who have broad knowledge of, or experience or expertise in, community and economic development and revitalization, and of such officials and citizens who have broad knowledge of, or expertise in, the arts.

(e) The Secretary, in cooperation with the chairman, shall prescribe regulations to require that a specific portion of the cost of any project assisted under this title shall be provided from sources other than funds made available under this title. The Secretary may reduce or waive such requirement in order to take account of the financial capacity of the applicant.

(f)(1) An organization shall be eligible for a grant under this section only if (A) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (B) such organization is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 by reason of attempting to influence legislation, and does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(2) The Secretary, in cooperation with the Chairman, shall establish, pursuant to regulations, procedures for eliciting the cooperation of local officials and, where appropriate, State officials in assuring that no application will be approved under this title with respect to a project which would be inconsistent with the objectives of the unit of local government within which such project will be carried out, including the cultural or community development and neighborhood preservation and revitalization plans and activities of such unit.

(3) Funds made available under this title shall not be used to supplant non-Federal funds.

(4) No more than 10 per centum of the funds appropriated for any fiscal year under section 907 shall be available for administrative expenses.

COORDINATION AND DEVELOPMENT OF PROGRAM WITH OTHER FEDERAL AND NON-FEDERAL PROGRAMS

SEC. 906. The Secretary shall insofar as practicable, coordinate the administration of the provisions of this title, and encourage the coordination of activities assisted under this title, with existing Federal, State, and local programs and with those undertaken by other public agencies or private groups, including other public or private organizations, and with due regard to the contribution to the objectives of this title which can be made by Federal agencies under other existing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 907. There are authorized to be appropriated for carrying out the puposes of this title not to exceed $5,000,000 for fiscal year 1979, and not to exceed $10,000,0000 for fiscal year 1980. Any amounts appropriated under this section shall remain available until expended.

MOTION OFFERED BY MR. REUSS

Mr. REUSS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. REUSS moves to strike out all after the enacting clause of the Senate bill, S. 3084, and insert in lieu thereof the provisions contained in H.R. 12433, as passed by the House, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing and Community Development Amendments of 1978".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS AND LOAN INSURANCE

SEC. 101. (a) Section 312 of the Housing Act of 1964 is amended—

(1) by striking out the undesignated paragraph which follows subsection (a)(3) and inserting in lieu thereof the following new undesignated paragraph:

"The Secretary shall, in making loans under this section, give priority to applications by low- and moderate-income persons who own the property to be rehabilitated and will occupy such property upon completion of the rehabilitation, including applications by condominiums and cooperatives in which the residents are principally of low and moderate income.";

(2) by striking out "$50,000" in subsection (c)(4)(B) and inserting in lieu thereof "$100,000";

(3) by striking out "and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977" in subsection (d) and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977, and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978"; and

(4) by adding the following new subsection at the end thereof:

"(l) The Secretary may not, after 180 days following the date of the enactment of this subsection, make any loan under this section

with respect to any property unless the Secretary has determined that the improvements to such property, upon completion of the rehabilitation, will meet cost-effective energy conservation standards prescribed by the Secretary."; and

(5) by inserting "(A)" in subsection (c)(3) after "not to exceed" and by inserting in such subsection after "at any time," the following: "or (B) except that where the Secretary finds it appropriate to carry out the purposes of this section, the Secretary may establish such higher rate of interest for loans which will primarily benefit persons who have annual incomes exceeding 95 percent of the median income of the area. Such higher rate shall not exceed a rate determined by the Secretary of the Treasury, taking into consideration the current market yield of outstanding marketable obligations of the United States with remaining periods of maturity comparable to the terms of loans made pursuant to this section, adjusted to the nearest one-eighth of 1 percent. In determining an appropriate rate, the Secretary shall consider the condition, location, and anticipated use of the property, the nature of the proposed rehabilitation, the income of the applicant and such other factors as the Secretary finds relevant;".

(b)(1) Section 203(k) of the National Housing Act is amended to read as follows:

"(k)(1) The Secretary may, in order to order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions on and after 180 days following the date of the enactment of the Housing and Community Development Amendments of 1978. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i), and (j) of this section, except as modified by the provisions of this subsection.

"(2) For the purposes of this subsection—

"(A) the term 'rehabilitation loan' means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

"(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

"(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

"(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

"(B) the term 'rehabilitation' means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project.

"(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

"(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

"(B) bear interest at a rate permitted by the Secretary for mortgages insured under this section; except that the Secretary may permit a higher rate of interest to be applied to the loan with respect to the period beginning with the making of the loan and ending with the completion of the rehabilitation or such earlier time as the Secretary may determine;

"(C) be an acceptable risk, as determined by the Secretary; and

"(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

"(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

"(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the General Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h); except that, where references to 'this subsection' are found in such paragraphs, such references shall be construed as referring to this subsection.".

(2) Section 203(c) of such Act is amended—

(A) by striking out "subsection (n) is" in the first proviso and inserting in lieu thereof "subsections (n) and (k) are"; and

(B) by inserting "or (k)" after "subsection (n)" the second time it appears in such proviso.

(3) The proviso in the first sentence of section 302(b)(1) of such Act is amended by inserting "or section 203(k)" after "title VIII" in clause (3).

URBAN HOMESTEADING

SEC. 102. The first sentence of section 810(g) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" immediately following "fiscal year 1977,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $25,000 for the fiscal year 1979".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AMENDMENTS

SEC. 103. (a) Section 104(a)(4)(B)(i) of the Housing and Community Development Act of 1974 is amended by inserting "including existing units to be upgraded and thereby preserved," immediately following "existing dwelling units,".

(b) Sections 104(a) of such Act is amended by inserting the following after "expected to reside in the community" in paragraphs (3)(C) and (4)(A): "as a result of existing or projected employment opportunities in the community".

(c) Section 104(c) of such Act is amended—

(1) by inserting "and co-equal" after "primary" in paragraph (3); and

(2) by adding the following new sentence at the end thereof:

"The Secretary may not disapprove an application on the basis that such application addresses any one of the primary purposes described in paragraph (3) to a greater or lesser degree than any other.".

(d) Section 105(a)(11) of such Act is amended to read as follows:

"(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate to the community development program;".

(e) Title I of such Act is amended by adding the following new section at the end thereof:

"FAIR ACCESS FOR SMALLER COMMUNITIES

SEC. 120. The Secretary shall not establish requirements that limit or exclude the excess of any community from assistance under this title on the basis of the population of such community except as expressly authorized by statute."

(f) The last sentence of section 107(a)(8) of such Act is amended to read as follows: "The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out its Community Development Program."

EFFECTIVE DATE

SEC. 104. The amendments made by this title shall become effective October 1, 1978; except that the amendments made by subsections (b), (c) and (f) of section 103 shall become effective on the date of enactment of this Act.

## TITLE II—HOUSING ASSISTANCE PROGRAMS

FINANCIAL ASSISTANCE FOR CERTAIN HOUSING PROJECTS

SEC. 201. (a) The purpose of this section is to improve the management of certain housing projects covered by, or formerly covered by, mortgages insured under the National Housing Act, or assisted or approved for assistance under such Act, so that the financial soundness of such projects may be restored or maintained and so that a low- and moderate-income character may be maintained in such projects.

(b) The Secretary of Housing and Urban Development (hereinafter referred to in this section as the "Secretary") may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section.

(c) A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) assisted under section 236 or the proviso of section 221(d)(5) of the National Housing Act, or under section 101 of the Housing and Urban Development Act of 1965; except that, in the case of any such project which is not insured under the National Housing Act, such assistance may not be provided before October 1, 1979; or

(B) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed two years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is

necessary and, in the determination of the Secretary, will restore or maintain the financial soundness of the project and maintain the low- and moderate-income character of the project;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has committed itself to providing assistance to the project;

(4) the project is structurally sound, as determined on the basis of information obtained as a result of an onsite inspection of the project;

(5) the community in which the project is located has evidenced a commitment to provide essential services in keeping with the community's general level of such services;

(6) the real estate taxes on the project are not greater than would be the case if the property was assessed in a manner consistent with the normal property assessment procedures for the community in which the property is located;

(7) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary; and

(8) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which inludes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine; and

(9) the appropriate unit of general local government has been consulted to insure consistency with local plans and priorities.

(e)(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project in any amount which the Secretary determines is consistent with the project's management-improvement-and-operating plan described in subsection (d)(7) and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items; and

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year.

(2) The estimated revenues for any project under paragraph (1)(C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act;

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 221(d)(5) or section 236 of the National Housing Act during such year; and

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii) which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act for such tenant; and

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not more than 6 percent of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first two years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and-operating plan for the project for such year, including, but not limited to, taxes, utilities maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

(f) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments made for the project under this section.

(g) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

(h) There are authorized to be appropriated, for the purpose of providing financial assistance under this section, an amount (in addition to any amount appropriated for use under this section pursuant to section 236(f)(3) of the National Housing Act) not to exceed $74,000,000 for the fiscal year 1979.

(i) Effective October 1, 1978, section 236 of the National Housing Act is amended—

(1) by striking out the third and fourth sentences of subsection (g); and

(2) by striking out subsection (f)(3) and inserting in lieu thereof the following:

"(3) The Secretary shall utilize the fund described in subsection (g) for the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1979.".

HOUSING FOR THE ELDERLY AND THE HANDICAPPED

SEC. 202. (a) Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following new subsection:

"(h) Of the amounts made available in appropriation Acts for loans pursuant to subsection (a)(4)(C) for the fiscal year commencing on October 1, 1978, not less than $50,000,000 shall be available for loans for the development of rental housing and related facilities specifically designed to meet the needs of handicapped (primarily nonelderly) persons. The Secretary shall take steps as may be necessary to assure that—

"(1) funds made available pursuant to this subsection will be used to support innovative methods of meeting the needs of handicapped persons by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(2) housing and related facilities assisted under this subsection will provide handicapped persons occupying units within such units within such housing with an assured range of services specified in subsection (f) and the opportunity for optimal independent living and participation in normal daily activities, and will facilitate access by such persons to the community at large and to suitable employment opportunities within such community.".

(b) The second sentence of section 202(a)(4)(C) of such Act is amended—

(1) by striking out "in any fiscal year" after "under this section"; and

(2) by striking out "for such year" after "authority established".

(c) Section 202(d)(3) of such Act is amended by inserting "the cost of moveables necessary to the basic operation of the project as determined by the Secretary," immediately after "related facilities,".

(d) Section 202(d)(2) of such Act is amended to read as follows:

"(2) The term 'corporation' means any incorporated private institution or foundation—

"(A) no part of the net earnings of which

inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such project is located, and (ii) which is responsible for the operation of the housing project assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.".

LOW-INCOME HOUSING

SEC. 203. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately after "October 1, 1976," in the first sentence;

(2) by inserting immediately after "on October 1, 1977," in the first sentence the following: "and by $1,195,043,000 on October 1, 1978";

(3) by striking out the second and fourth sentences; and

(4) by inserting "and on and after October 1 1978," immediately after October 1, 1976," in the third sentence.

(b) Section 8(d)(1)(B) of such Act is amended to read as follows:

"(B) the owner shall have the right to give notice to vacate, in accordance with State and local laws which the Secretary has determined provide adequate protection for tenants and in accordance with the determination of the public housing authority pursuant to review procedures which the Secretary has determined provide such protection;".

(c)(1) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(i) In entering into contracts under this section with respect to substantially rehabilitated dwelling units, the Secretary shall provide that—

"(1) the maximum monthly rent permitted for the assisted units be not greater than the amount permitted under subsection (c) or a lesser amount which the Secretary determines is appropriate taking into consideration the investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant;

"(2) the assisted units be rehabilitated to a level which meets but does not exceed applicable codes and standards for decent, safe, and sanitary housing which are prescribed by the Secretary;

"(3) all the dwelling units in the housing structure in which the assisted units are located meet applicable codes and standards prescribed by the Secretary for decent, safe, and sanitary housing;

"(4) the term of any such contract does not exceed the maximum term permitted under subsection (e)(1) or a shorter term which the Secretary determines is appropriate taking into consideration the amount of investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant; and

"(5) the assisted units meet cost-effective energy efficiency standards prescribed by the Secretary.".

(2) The amendments made by this subsection shall become effective with respect to contracts entered into on or after 180 days following the date of enactment of this Act.

(d) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary may enter into annual contributions contracts under this subsection for the purpose of assisting lower income families by making rental assistance payments with respect to real property on which is located a mobile home which is owned by any such family and utilized by such family as its principal place of residence. In carrying out this subsection, the Secretary may (A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or (B) enter into such contracts directly with the owners of such real property.

"(2) Contracts entered into pursuant to this subsection shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for each space on which a mobile home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subsection. The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under this subsection.

"(3) The amount of any monthly assistance payment with respect to any family assisted under this subsection shall be the difference between 25 per centum of one-twelfth of the annual income of such family and the sum of—

"(A) the monthly payment made by such family to amortize the cost of purchasing the mobile home;

"(B) monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(C) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its mobile home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(4) Each contract entered into under this subsection shall be for a term of not less than one month and not more than 180 months.

"(5) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.".

(e) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately following "on or after October 1, 1976"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $729,000,000 on or after October 1, 1978".

(f) The amendments made by this section, except the amendments made by subsection (c), shall become effective on October 1, 1978.

PUBLIC HOUSING SECURITY

SEC. 204. (a) This section may be cited as the "Public Housing Security Demonstration Act of 1978".

(b)(1) The Congress finds that—

(A) low-income and elderly public housing residents of the Nation have suffered substantially from rising crime and violence, and are being threatened as a result of inadequate security arrangements for the prevention of physical violence, theft, burglary, and other crimes;

(B) older persons generally regard the fear of crime as the most serious problem in their lives, to the extent that one-fourth of all Americans over 65 voluntarily restrict their mobility because of it;

(C) crime and the fear of crime have led some residents to move from public housing projects;

(D) an integral part of successfully providing decent, safe, and sanitary dwellings for low-income persons is to insure that the housing is secure; and

(E) local public housing authorities may have inadequate security arrangements for the prevention of crime and vandalism.

(2) It is, therefore, declared to be the policy of the United States to provide for a demonstration and evaluation of effective means of mitigating crime and vandalism in public housing projects, in order to provide a safe living environment for the residents, particularly the elderly residents, of such projects.

(c)(1) The Secretary of Housing and Urban Development shall promptly initiate and carry out during the fiscal year beginning on October 1, 1978, to the extent approved in appropriation Acts, a program for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods, concepts and techniques which will mitigate the level of crime in public housing projects and their surrounding neighborhoods.

(2) In selecting public housing projects to receive assistance under this section, the Secretary shall assure that a broad spectrum of project types, locations and tenant populations are represented and shall consider at least the following: the extent of crime and vandalism currently existing in the projects; the extent, nature and quality of community anticrime efforts in the projects and surrounding areas; the extent, nature and quality of police and other protective services available to the projects and their tenants; the demand for public housing units in the locality, the vacancy rate, and extent of abandonment of such units; and the characteristics and needs of the public housing tenants.

(3) In selecting the anticrime and security methods, concepts and techniques to be demonstrated under this section, the Secretary shall consider the improvement of physical security equipment for dwelling units in those projects, social and environmental design improvements, tenant awareness and volunteer programs, tenant participation and employment in providing security services, and such other measures as deemed necessary or appropriate by the Secretary. Particular attention shall be given to comprehensive community anticrime and security plans submitted by public housing authorities which (i) provide for coordination between housing management and local law enforcement officials, or (ii) coordinate resources available to the community through programs funded by the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, ACTION or other State or Federal agencies.

(d) The Secretary shall initiate and carry out a survey of crime and vandalism existing in the Nation's public housing projects. The survey shall include the nature, extent and impact of crime and vandalism and the nature and extent of resources currently available and employed to alleviate crime and vandalism in public housing.

(e) The Secretary shall report to the Congress not later than eighteen months after the date of enactment of this Act. Such report shall include the results of the survey on crime and vandalism in public housing; findings from the demonstration and evaluation of various methods of reducing the level of crime; and legislative recommendations, if appropriate for (i) a comprehensive program to increase security in public housing projects and (ii) increasing the coordination between anticrime programs of other State and Federal agencies that may be used by public housing authorities. Any recommendations shall include estimated costs of such programs.

(f) Of the additional authority approved in appropriation Acts with respect to entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 for the fiscal year beginning on October 1, 1978, the Secretary may utilize up to $12,000,000 of such author-

ity in the fiscal year beginning on October 1, 1978, for the establishment of the public housing security demonstration program authorized by this section.

DEMONSTRATION PROGRAM

SEC. 205. (a) The Secretary of Housing and Urban Development shall conduct a demonstration program, beginning in fiscal year 1979, for the purpose of determining new methods by which the program established by section 8 of the United States Housing Act of 1937 can be improved in order to encourage more owners of new, substantially rehabilitated, and existing housing to utilize such program and thereby provide additional housing for low-income families, particularly families which have more than two children and which reside in market areas with a low-vacancy rate in rental housing. In carrying out this section, the Secretary may utilize the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, under section 5(c) of the United States Housing Act of 1937.

(b) The Secretary shall report to both Houses of the Congress annually, during the duration of such demonstration program, for the purpose of providing a detailed accounting of the results of such program.

## TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1978" in the first sentence and inserting in lieu thereof "October 1, 1979".

(b) Section 217 of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1978" in the fifth sentence and inserting in lieu thereof "September 30, 1979".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1978" in the first sentence and inserting in lieu thereof "September 30, 1979"; and

(2) by striking out "October 1, 1978" in the second sentence and inserting in lieu thereof "October 1, 1979".

(g) Section 245 of such Act is amended by striking out "September 30, 1978" in the third sentence and inserting in lieu thereof "September 30, 1979".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended, is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

COMPREHENSIVE PLANNING

SEC. 304. (a) The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $75,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $75,000,000 for the fiscal year 1978, and not to exceed $65,000,000 for the fiscal year 1979".

(b) The second sentence of section 701(c) of such Act is amended by striking out "biennially" and inserting in lieu thereof "triennially".

(c) Section 701(d)(2) of such Act is amended by striking out "biennially" and inserting in lieu thereof "at least triennially" and by striking out "two" and inserting in lieu thereof "three".

(d) Section 701(m) of such Act is amended by adding the following new paragraph at the end thereof:

"(5) The term 'Indian tribal group or body' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).".

RESEARCH AUTHORIZATIONS

SEC. 305. (a) Section 501 of the Housing and Urban Development Act of 1970 is amended by striking out in the second sentence "and not to exceed $60,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year 1978, and not to exceed $62,000,000 for the fiscal year 1979".

(b) Title V of such Act is amended by adding at the end thereof the following new section:

"EXPANDING HOMEOWNERSHIP OPPORTUNITIES

"SEC. 510. In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas through the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.".

(c) The Secretary of Housing and Urban Development shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a preliminary report at the end of the first year after the date of enactment of this Act and a final report no later than 2 years after such date to both Houses of the Congress with regard to the findings and conclusions made as a result of such study, along with any legislative recommendations which the Secretary determines should be enacted with respect to the subject of such study.

NEW COMMUNITIES

SEC. 306. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 1979".

CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 307. (a) Section 1201 of the National Housing Act is amended—

(1) by striking out, in subsection (b)(1), "September 30, 1978" and inserting in lieu thereof "September 30, 1979";

(2) by striking out, in subsection (b)(1)(A), "September 30, 1981" and inserting in lieu thereof "September 30, 1982"; and

(3) by striking out, in subsection (b)(2) "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(b) Section 1211(b) of such Act is amended by striking out "and" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(11) Notwithstanding any other provision of this section, on and after January 31, 1979, no risk within the plan shall be insured at a rate higher than the rates or advisory rates set by the principal State-licensed rating organization for essential property insurance in the voluntary market; except that this provision shall not be deemed to prohibit the application to any such risk, on a nondiscriminatory basis, of condition charges for substandard physical conditions within the control of the applicant for insurance as set by the principal State-licensed rating organization for the voluntary market.".

(c) Section 1211 of such Act is amended by adding the following new subsection at the end thereof:

"(c) At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 308. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

FLOOD INSURANCE STUDIES

SEC. 309. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $108,000,000 for the fiscal year 1978" and inserting in lieu thereof the following: ", not to exceed $108,000,000 for the fiscal year 1978, and not to exceed $114,000,000 for the fiscal year 1979".

REPORT ON MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

SEC. 310. (a) The first sentence of section 626(a) of the National Mobile Home Construction and Safety Standards Act of 1974 is amended—

(1) by striking out "March 1 of each year" and inserting in lieu thereof "July 1 of every other year beginning with calendar year 1978"; and

(2) by striking out "preceding calendar year" and inserting in lieu thereof "two preceding calendar years".

(b) The second sentence of section 626(a) of such Act is amended by striking out "such year" in clauses (1), (2), and (5) and "the year" in clause (6) and inserting in lieu thereof "such years" in each such clause.

MULTIFAMILY MORTGAGE INSURANCE

SEC. 311 (a) The last sentence of section 207(c) of the National Housing Act is amended by striking out "eight" and inserting in lieu thereof "five".

(b) Section 241(d) of such Act is amended by adding at the end thereof the following:

"At any sale under foreclosure of a mortgage on a project or facility which is not insured under this Act but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 207(k), any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. No bid shall be made under the authority provided in the preceding sentence, unles the Secretary determines that sales proceeds from future disposition of the project or facility can reasonably be expected to equal or exceed the costs of acquiring title, extinguishing any prior uninsured debt or liability, paying the insurance claim on the loan insured, and managing and preparing the property for sale. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this Act, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.".

MORTGAGE INSURANCE FOR NONRESIDENT CARE FACILITIES

SEC. 312. (a) Section 232(a) of the National Housing Act is amended—

(1) by inserting the following immediately before the period at the end of paragraph (1): ", including additional facilities for the nonresident care of senior citizens and others who are able to live independently but who require care during the day"; and

(2) by inserting the following immediately before the period at the end of paragraph (2): ", including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day".

(b) Section 232(b)(2) of such Act is amended by inserting immediately after "nursing services;" in the first sentence the following: "(3) a 'nursing home' or 'intermediate care facility' may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;".

CONDOMINIUM MORTGAGE INSURANCE

SEC. 313. (a) The first sentence of section 234(c) of the National Housing Act is amended by inserting immediately after "less units" in the proviso of clause (2) the following: ", or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance,".

(b) The third sentence of section 234(c) of such Act is amended by inserting "(100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)" after "centum" in clause (A)(i).

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 314. Section 519(f) of the National Housing Act is amended by inserting the following before the period: ", which amount shall be increased by $165,000,000 on October 1, 1978".

PURCHASE OF FEE SIMPLE TITLE

SEC. 315. Section 240(c)(2) of the National Housing Act is amended by adding "($30,000 if the property is located in Hawaii)" immediately after $10,000".

HOUSING AND URBAN DEVELOPMENT DAY CARE CENTER FACILITIES

SEC. 316. Section 7(n) of the Department of Housing and Urban Development Act is amended—

(1) by inserting "or facilities" immediately following "day care center facility" in the first sentence; and

(2) by striking out "such a day care center" in the second sentence and inserting in lieu thereof "any such day care center facility".

SALE OF SURPLUS FEDERAL LAND FOR HOUSING

SEC. 317. (a) The first and second sentences of section 414(a) of the Housing and Urban Development Act of 1969 are amended to read as follows:

"(a) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development at the Secretary's request for sale or lease by the Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low and moderate income, assisted under a Federal housing assistance program administered by the Secretary or under a State or local program found by the Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the Secretary. Prior to any disposition of Federal surplus real property to an entity other than a public body, the Secretary shall notify the governing body of the locality where such property is located of the proposed disposition and no such disposition shall be made if the local governing body, within ninety days of such notification, formally advises the Secretary that it objects to the proposed disposition.".

(b) Section 414(b) of such Act is amended to read as follows:

"(b) As a condition of any disposition by the Secretary of Federal surplus real property under this section to an entity other than a public body, the Secretary shall obtain such understandings as the Secretary may consider appropriate to assure that the property will be used, to the maximum practicable extent, in the provision of housing and related facilities to be occupied by families or individuals of low and moderate income for a period of not less than thirty years. If during such period the property is used for any purpose other than the purpose for which it was disposed of, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the Secretary and the Administrator, after the expiration of the first twenty years of such period, have approved the use of the property for such other purposes.".

INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY AND LIMITS

SEC. 318. Clause (3) of the proviso in the first sentence of section 302(b)(1) of the National Housing Act is amended by striking out "if the original obligation thereof exceeds or exceeded $33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require), for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms)." and inserting in lieu thereof "if the original principal obligation thereof exceeds or exceeded $50,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $55,000 in the case of a two- or three-family residence; or $62,500 in the case of a four-family residence; or, in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use.".

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 319. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting after "1978" the following: ", and any amounts not appropriated for fiscal years 1977 and 1978 shall be available for appropriation through fiscal year 1979".

TITLE I HOME IMPROVEMENT LOANS FOR MULTIFAMILY DWELLINGS

SEC. 320. The first sentence of section 2(b) of the National Housing Act is amended by striking out "$25,000", "$5,000", and "twelve years" in the third proviso in clause (3) and inserting in lieu thereof "$37,500", "$7,500", and "fifteen years", respectively.

AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 321. (a) Paragraph (1) of subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence thereof: "or from any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act".

(b) Paragraph (1) of subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new sentences: "The Corportion may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or servicers, and for such purposes the Corporation is authorized to classify sellers or services according to type, size, location, assets, or, without limitation on the generality of the foregoing, on such other basis or bases of differentiation as the Corporation may consider necessary or appropriate to effectuate the purposes or provisions of this Act. The Corporation may specify requirements concerning among other things, (A) minimum net worth; (B) supervisory mechanisms; (C) warranty compensation mechanisms; (D) prior approval of facilities; (E) prior organization and servicing experience with respect to different types of mortgages; (F) capital contributions and substitutes; (G) mortgage purchase volume limits; and (H) reduction of mortgage purchases during periods of borrowing. With respect to any particular type of seller, the Corporation shall not be required to make available programs involving prior approval of mortgages, optional delivery of mortgages, and purchase of other than conventional mortgages to an extent greater than the Corporation elects to make such programs available to other types of eligible sellers. Any requirements specified by the Corporation pursuant to the preceding three sentences must bear a rational relationship to the purposes or provisions of this Act, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Insofar as is practicable, the Corporation shall make reasonable efforts to encourage participation in its programs by each type of eligible seller.".

(c) The amendments made by this section shall become effective at the end of the two hundred and ten calendar days after enactment of this Act, but not before January 31, 1979, or on such earlier date as the Federal Home Loan Mortgage Corporation may prescribe.

SALE OF ACQUIRED PROPERTY TO COOPERATIVES

SEC. 322. Section 246 of the National Housing Act is amended to read as follows:

"SALE OF ACQUIRED PROPERTY TO COOPERATIVES

"SEC. 246. In any case in which the Secretary sells a multifamily housing project ac-

quired as the result of a default on a mortgage which was insured under this Act to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.".

SECONDARY MORTGAGES ON INSURED PROPERTIES

SEC. 323. Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"SECONDARY MORTGAGES ON INSURED PROPERTIES

"SEC. 528. In carrying out the provisons of title II of this Act with respect to insuring mortgages secured by a one- to four-family dwelling unit, the Secretary may not deny such insurance for any such mortgage solely because the dwelling unit which secures such mortgage will be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by any State or local governmental agency or instrumentality under terms and conditions approved by the Secretary.".

SEC. 324. (a) Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(o)(1) Notwithstanding any other provision of the law, simultaneously with prescribing any rule or regulation, under this Act or any other Act, excluding section 3 of Public Law 90–301, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if within 90 calendar days of continuous session of Congress after the date the rule or regulation is prescribed, either House of Congress adopts a resolution, the matter after the resolving clause of which is as follows: 'That the disapproves the rule or regulation prescribed by the Department dealing with the matter of which rule or regulation was transmitted to Congress on ', the blank spaces therein being appropriately filled.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule or regulation is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately.

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule or regulation involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 60, and 90 calendar-days of continuous session of Congress.".

(b) The amendments made in this section shall apply to any rule or regulation of the Department of Housing and Urban Development in the Federal Register prior to June 30, 1978. If any such rule or regulation becomes final before the date of enactment of this section, such rule shall cease to be in effect and shall be subject to the provision of section 7(b) of the Department of Housing and Urban Development Act, as added by this section.

MORTGAGE LIMITS UNDER SECTION 221(d)(3)

SEC. 325. Section 221(d)(3)(ii) of the National Housing Act is amended—

(1) by striking out "$16,680", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846", respectively; and

(2) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$20,962", "$24,030", "$29,220", "$37,800", and "$41,494", respectively.

## TITLE IV—RURAL HOUSING

AUTHORIZATIONS

SEC. 401. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "September 30, 1978" in clauses (b) and (c) and inserting in lieu thereof "September 30, 1979";

(2) by striking out "not to exceed $105,000,000" in clauses (b) and (c) and inserting in lieu thereof "$150,000,000" in clause (b) and "$115,000,000" in clause (c); and

(3) by striking out clause (d) and inserting in lieu thereof the following: "(d) not to exceed $10,000,000 for research and study programs pursuant to subsections (b), (c), and (d) of section 506 for the fiscal year ending September 30, 1979;".

(b) Section 514 of such Act is amended by striking out "$25,000,000" in subsection (d) and inserting in lieu thereof "$38,000,000 (subject to approval in an appropriation Act)".

(c) Section 515(b)(5) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(d) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(e) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979";

(2) by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979"; and

(3) by striking out "$10,000,000" and inserting in lieu thereof "$16,500,000".

(f) Section 525(c) of such Act is amended by inserting after the first sentence the following new sentence: "There are also authorized to be appropriated for the fiscal year ending September 30, 1979, not to exceed $5,000,000 for the purposes of subsection (a) and not to exceed $5,000,000 for the purposes of subsection (b).".

RURAL HOUSING RESEARCH

SEC. 402. (a) Subsections (b) and (c) of section 506 of the Housing Act of 1949 are amended to read as follows:

"(b) The Secretary is further authorized and directed to conduct research, technical studies, and demonstrations relating to the mission and programs of the Farmers Home Administration and the national housing goals defined in section 2 of this Act. In connection with such activities, the Secretary shall seek to promote the construction of adequate farm and other rural housing, with particular attention to the housing needs of the elderly, handicapped, migrant and seasonal farmworkers, Indians and other identifiable groups with special needs. The Secretary shall conduct such activities for the purpose of stimulating construction; improving the architectural design and utility of dwellings and buildings; and utilizing new and native materials, economies in materials and construction methods, and new methods of production, energy conservation, distribution, assembly, and construction. In addition, the Secretary shall conduct such activities for the purpose of reducing the cost of such dwellings and buildings and adapting and developing fixtures and appurtenances for more efficient and economical farm and other rural housing use.

"(c) The Secretary is further authorized to carry out a program of research, study, and analysis of rural housing in the United States for the purpose of developing data and other information on—

"(1) the adequacy of existing rural housing;

"(2) the nature and extent of current and prospective needs for rural housing, including needs for financing, subsidies, improved design, utility, comfort, and the best methods of meeting such needs;

"(3) the adequacy of the rural housing stock to meet the special needs of the elderly, the handicapped, farmworkers, and Indians and the best methods of meeting such needs;

"(4) problems faced by rural people, including farmers, eligible under section 501 for purchasing, constructing, improving, altering, repairing, and replacing their housing;

"(5) rural growth patterns and the interrelation of rural housing problems and the problems of housing in urban and suburban areas;

"(6) the status of community facilities and services in rural areas, problems resulting from inadequate facilities and services, and recommendations to alleviate such problems; and

"(7) any other matters relating to the provision of adequate rural housing and related community facilities."

(b) Section 506 of such Act is amended by adding the following new subsection at the end thereof:

"(f)(1) The Secretary shall conduct a study of housing which is available for migrant and settled farmworkers. In conducting such study, the Secretary shall—

"(A) determine the location, number, quality, and condition of housing units which are available to such farmworkers and the cost assessed such farmworkers for occupying such units;

"(B) recommend legislative, administrative, and other action (including the need for new authority for such action) which may be taken for the purpose of improving both the availability and the condition of such housing units; and

"(C) determine the possible roles which individual farmworkers, farmworker associations, individual farmers, farmer associations, and public and private non-profit agencies can perform in improving the housing conditions of farmworkers.

"(2) The Secretary shall transmit the results of the study described in paragraph (1) to each House of the Congress within one year after the date of the enactment of this subsection.

"(g)(1) In order to assist in reducing deaths caused by unsanitary water and waste disposal systems in rural areas, the Secretary shall conduct a study for the purposes of determining—

"(A) the approximate number of rural housing units without access to sanitary

waste disposal facilities and potable water or without access to either sanitary waste disposal facilities or potable water; and

"(B) the cost of implementing an emergency program to provide sanitary waste disposal facilities and potable water supplies for such housing units within a two-year period.

"(2) The Secretary shall, no later than 6 months after the date of enactment of this subsection, transmit a report to both Houses of the Congress containing the findings, conclusions, and recommendations of the Secretary with respect to the study conducted pursuant to this subsection.".

NOTIFICATION REQUIREMENT

SEC. 403. Section 510 of the Housing Act of 1949 is amended by redesignating paragraph (i) as paragraph (j) and by inserting after paragraph (h) the following new paragraph:

"(i) provide, and shall provide, to any applicant which has been denied assistance under this title adequate written notice of the reasons for which such assistance was denied; and".

RURAL RENTAL ASSISTANCE

SEC. 404. (a) Section 521(a)(2)(A) of the Housing Act of 1949 is amended by inserting after "rental" the second time such term appears in the first sentence the following: ", congregate, or cooperative".

(b) Section 521(a)(2)(A)(i) of such Act is amended by inserting "or by a loan under section 514," immediately after "section 515 for elderly or handicapped housing".

STUDY OF PROBLEMS CAUSED BY REMOTE CLAIMS

SEC. 405. (a) The Secretary of Agriculture (hereinafter referred to in this section as "Secretary") shall make a detailed study of the problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims or other remote encumbrances which prevent such persons from receiving the full benefit of the use of such property, including the benefit of assistance provided under this title. The Secretary shall, in making such study, consider and develop findings and conclusions with respect to—

(1) the extent of such problems as they pertain to the lawful rights of such persons;

(2) the location and amount of land affected by such problems;

(3) the nature, extent, and effectiveness of remedies to such problems presently available, or proposed, under State law;

(4) the potential impact (with respect to existing Federal, State, and local laws) of such remote claims and encumbrances and of any reasonable remedies determined necessary for resolving the problems created for persons by such remote claims or encumbrances;

(5) the liability and losses which might accrue to the Federal Government as a result of each of the remedies considered in the study conducted under this section; and

(6) other issues which the Secretary determines shall be considered, after consulting with the Secretary of Housing and Urban Development.

(b) The Secretary shall, no later than one year after the date of the enactment of this Act, transmit a report to each House of the Congress. Such report shall contain the findings and conclusions of the Secretary with respect to the study made under this section. In addition such report shall include—

(1) recommendations for Federal legislative actions necessary to implement reasonable remedies to the problems studied under this section; and

(2) recommendations for legislative actions which may be undertaken by State and local governments for the purposes of providing such remedies.

ASSISTANCE TO PERSONS RECEIVING LOANS TO PROVIDE OCCUPANT-OWNED, RENTAL, AND COOPERATIVE HOUSING

SEC. 406. (a) Section 521(a)(1) of the Housing Act of 1949 is amended—

(1) by inserting "(A)" after "SEC 521. (a) (1)";

(2) by striking out everything in the first sentence after "one-eighth of 1 per centum" and inserting in lieu thereof a period; and

(3) by inserting the following at the end thereof:

"(B) From the interest rate so determined, the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing.

"(C) For persons of low income under section 502 or 517(a) whom the Secretary determines are unable to afford a dwelling with the assistance provided under subparagraph (B) and when the Secretary determines that assisted rental housing programs (as authorized under this title, the National Housing Act, and the United States Housing Act of 1937) would be unsuitable in the area in which such persons reside, the Secretary may provide additional assistance, pursuant to amounts approved in appropriation Acts and for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between (i) the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest, taxes, insurance, utilities, and maintenance, and (ii) 25 per centum of the income of such applicant.

"(D) With respect to borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C), the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary shall make provisions to provide incentives for the borrower to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

"(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public assistance programs.

"(F) Loans subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under the National Housing Act and the United States Housing Act of 1937.

"(G) Interest on loans under section 502 or 517(a) to victims of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.

"(H) The aggregate principal amount of loans made to borrowers receiving assistance pursuant to subparagraph (C) shall not exceed $440,000,000.".

(b) Section 517(j) of such Act is amended by striking out "(2)" in paragraph (4).

TITLE V—CONGREGATE SERVICES

SHORT TITLE

SEC. 501. This title may be cited as the "Congregate Housing Services Act of 1978".

FINDINGS

SEC. 502. The Congress finds that—

(1) congregate housing, supplemented by supportive services, offers a proven and cost-effective means of enabling temporarily disabled or handicapped elderly and handicapped individuals to maintain their dignity and independence and to avoid costly and unnecessary institutionalization;

(2) a large and growing number of residents of public housing face premature and unnecessary institutionalization because of deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate public housing units; and

(3) supplemental supportive services, available on a continuing basis, are essential to a viable congregate housing program.

DEFINITIONS

SEC. 503. For purposes of this title—

(1) the term "congregate housing" means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, (i) in which some or all of the dwelling units do not have kitchen facilities, and (ii) connected with which there is a central dining facility to provide wholesome and economical meals for such occupants;

(2) the term "congregate services programs" means programs to be undertaken by a public housing agency or a nonprofit corporation to provide assistance, including personal assistance and nutritional meals, to eligible project residents who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(3) the term "elderly" means sixty-two years of age or over;

(4) the term "eligible project resident" means handicapped elderly individuals, nonelderly handicapped individuals, or temporarily disabled elderly individuals, who are residents of congregate housing projects administered by public housing agencies or by a nonprofit corporation;

(5) the term "handicapped" means an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes an individual's ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions; such impairment may include a functional disability or frailty which is a normal consequence of the human aging process;

(6) the term "personal assistance" means service provided under this title which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term "professional assessment committee" means a group of at least three persons appointed by a local public housing agency or a nonprofit corporation and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons, or both, in relation to the performance of the normal tasks of daily living; and

(8) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than six months' duration, (B) substantially impedes an indivdual's ability to

live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions; and

(9) the term "nonprofit corporation" means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.

AUTHORIZATION TO ENTER INTO CONTRACTS

SEC. 504. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts with local public housing agencies under the United States Housing Act of 1937 (hereinafter referred to as "public housing agencies") and with nonprofit corporations, utilizing sums appropriated under this title, to provide congregate services programs for eligible project residents in order to promote and encourage maximum independence within a home environment for such households capable of self-care with appropriate supportive congregate services. Each contract between the Secretary and a public housing agency shall be for a term of not less than three years or more than five years and shall be renewable at the expiration of such term.

CONGREGATE SERVICES PROGRAM

SEC. 505. (a) Congregate services programs assisted under this title must include full meal service adequate to meet nutritional needs, and may also include housekeeping aid, personal assistance and other services essential for maintaining independent living.

(b) No services funded under this title may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Federal Government or any other public or private department, agency, or organization.

(c) A public housing agency and a nonprofit corporation applying for assistance shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965) in determining the means of providing services under this title and in identifying alternative available sources of funding for such services.

(d) Prior to the submission of a final application for either new or renewed funding under this title, a public housing agency and a nonprofit corporation shall present a copy of a proposed application to the Area Agency on Aging (or, where no Area Agency on Aging exists, to the appropriate State agency under the Older Americans Act of 1965) for review and comment. Such agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this title.

(e)(1) When nonelderly handicapped individuals are included among the eligible project residents, the public housing agency and nonprofit corporation shall consult with the appropriate local agency, if any, designated by applicable State law as having responsibility for the development, provision, or identification of social services to permanently disabled adult individuals, for the purpose of determining the means of providing services under this title and of identifying alternative available sources of funding for such services.

(2) Such public housing agency and nonprofit corporation shall also, prior to the submission of a final application for either new or renewed funding under this title, present a copy of the proposed application to such appropriate local agency for review and comment. The public housing agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this title.

(f) Any nonprofit corporation or public housing agency receiving assistance under this title may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(g) Nonprofit corporations and public housing agencies receiving assistance for congregate services programs under this title shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this title before the date of the submission of the application for such assistance unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency or nonprofit corporation pursuant to subsection (f) of this section provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public agency or nonprofit corporation under the preceding sentence shall be readjusted in the same manner.

(h) Each nonprofit corporation and public housing agency shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees. When meal services are provided to other project residents, fees shall be reasonable and may not exceed the cost of providing the meal service.

(i) The Secretary shall establish standards for the provision of services under this title, and, in developing such service standards, the Secretary shall consult with the Secretary of the Department of Health, Education, and Welfare and with appropriate organizations representing the elderly and handicapped, as determined by the Secretary.

ELIGIBILITY AND SELECTION

SEC. 506. (a) The identification of eligible project residents who may participate in a congregate services program assisted under this title, and the designation of the services appropriate to their individual functional abilities and needs, shall be made by a professional assessment committee utilizing procedures which insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process.

(b) Other residents may participate in a congregate meal service program assisted under this title if the local public housing agency or nonprofit corporation determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

APPLICATION PROCEDURES

SEC. 507. (a) An application for assistance under this title shall include—

(1) a plan specifying the types and priorities of the basic services the public housing agency or nonprofit corporation proposes to provide during the term of the contract; such plan must be related to the needs and characteristics of the eligible project resident and, to the maximum extent practicable, provide for the changing needs and characteristics of all project residents; such plan shall be determined after consultation with eligible project residents and with the professional assessment committee;

(2) a list of the names and professional qualifications of the members of the professional assessment committee;

(3) the fee schedule established pursuant to section 505(h) of this title; and

(4) a statement affirming (A) that the nonprofit corporation or public housing agency has followed the consultation procedures required in subsections (c), (d), and (e) of section 505, and (B) that such application complies with subsection (b) of such section.

(b) The Secretary shall establish appropriate deadlines for each fiscal year for the submission of applications for funding under this title and shall notify any public housing agency and nonprofit corporation applying for assistance under this title of acceptance or rejection of its application within ninety days of such submission.

(c) Within twelve months prior to the submission of an application for renewed funding under this title, each nonprofit corporation and public housing agency shall review the performance, appropriateness, and fee schedules of their congregate services program with eligible project residents and with the professional assessment committee. The results of such review shall be included in any application for renewal and shall be considered in the development of the application for renewal by the nonprofit corporation or public housing agency and in its evaluation by the Secretary.

EVALUATION OF APPLICATIONS AND PROGRAMS

SEC. 508. (a) In evaluating applications for assistance under this title, the Secretary shall consider—

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee; and

(5) the reasonableness of fee schedules established for each congregate service

(b) In evaluating programs receiving assistance under this title, the Secretary shall—

(1) establish procedures for the review and evaluation of the performance of nonprofit corporations and public housing agencies receiving assistance under this title, including provisions for the submission of an annual report, by each such nonprofit corporation and public housing agency, which evaluates the impact and effectiveness of its congregate services program; and

(2) publish annually and submit to the Congress, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this title. Such report and evaluation shall be based, in part, on the evaluations required to be submitted pursuant to paragraph (1).

FUNDING PROCEDURES

SEC. 509. (a) The Secretary shall establish procedures—

(1) to assure timely payments to nonprofit corporations and public housing agencies for approved assisted congregate services programs with provision made for advance funding sufficient to meet necessary startup costs;

(2) to permit reallocation of funds approved for the establishment of congregate services in existing public housing projects and projects assisted under section 202 of the Housing Act of 1959 if the services are not established within six months of the notification date of funding approval;

(3) to assure that where such funding has been approved for the establishment of congregate services for public housing projects and projects assisted under section 202 of the Housing Act of 1959 under construction or approved for construction, these services shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living;

(4) to establish accounting and other standards in order to prevent any fraudulent or inappropriate use of funds under this title; and

(5) to assure that no more than 1 per centum of the funds appropriated under this title for any fiscal year may be used by public housing agencies and nonprofit corporations for evaluative purposes required by section 508(b)(1).

(b) The Secretary shall establish a reserve fund, not to exceed 10 per centum of the funds appropriated in each fiscal year for the provision of services under this title, in order to supplement grants awarded to public housing agencies and nonprofit corporations for evaluative purposes as required termination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible project residents.

MISCELLANEOUS PROVISIONS

SEC. 510. (a) Each public housing agency and nonprofit corporation shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of public housing projects or projects assisted under section 202 of the Housing Act of 1959, but who are not eligible project residents, to participate in providing the services assisted under this title. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(b) No service provided to a public housing resident or to a resident of a housing project assisted under section 202 of the Housing Act of 1959 under this title, except for wages paid under subsection (a) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

(c) Individuals receiving services assisted under this title shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(d) The Secretary may issue regulations to carry out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 511. To carry out the provisions of this title, there are authorized to be appropriated—

(1) for fiscal year 1979, not to exceed $20,000,000;

(2) for fiscal year 1980, not to exceed $25,000,000; and

(3) for fiscal year 1981, not to exceed $35,000,000.

Any sums appropriated pursuant to this section shall remain available until expended.

AMENDMENT TO UNITED STATES HOUSING ACT OF 1937

SEC. 512. Section 7 of the United States Housing Act of 1937 is amended by striking out the second sentence and inserting in lieu thereof the following: "As used in this section, the term 'congregate housing' means (1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title V of the Housing and Community Development Amendments of 1978.".

## TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION

FINDINGS AND PURPOSE

SEC. 601. (a) The Congress finds that—

(1) the neighborhood housing services demonstration of the Urban Reinvestment Task Force has proven successful as a program to assist in revitalizing older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present Urban Reinvestment Task Force.

(b) The purpose of this title is to establish a public corporation which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

ESTABLISHMENT OF A CORPORATION

SEC. 602. (a) There is established a National Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein.

(b) The corporation shall implement and expand the demonstration activities carried out by the Urban Reinvestment Task Force.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

BOARD OF DIRECTORS; ESTABLISHMENT

SEC. 603. (a) The corporation shall be under the direction of a board of directors made up of the following members:

(1) the Chairman of the Federal Home Loan Bank Board;

(2) the Secretary of Housing and Urban Development;

(3) a member of the Board of Governors of the Federal Reserve System, to be designated by the Chairman of the Board of Governors of the Federal Reserve System;

(4) the Chairman of the Federal Deposit Insurance Corporation;

(5) the Comptroller of the Currency; and

(6) the Administrator of the National Credit Union Administration.

(b) The Board shall elect from among its members a chairman who shall serve for a term of two years, except that the Chairman of the Federal Home Loan Bank Board shall serve as Chairman of the Board of Directors for the first such two-year term.

(c) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

(d) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(e) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation and consistent with the provisions of this title.

(f) The presence of a majority of the board members shall constitute a quorum.

(g) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(h) All meetings of the board of directors will be conducted in accordance with the provisions of section 552b of title V, United States Code.

OFFICERS AND EMPLOYEES

SEC. 604. (a) The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the highest rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The directors of the corporation shall appoint an executive director who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to approval by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States.

POWERS AND DUTIES

SEC. 605. (a)(1) The corporation shall continue the work of the Urban Reinvestment Task Force in establishing neighborhood housing services programs in neighborhoods throughout the United States, supervising their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered nonprofit corporation, working to bring about reinvestment in one or more neighborhoods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at

flexible rates and terms to homeowners not meeting private lending criteria.

(2) The corporation shall continue the work of the urban reinvestment task force in identifying, monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable developmental processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the Urban Reinvestment Task Force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with support which may include grants and technical assistance to assist in the development of its national loan purchase pool demonstration and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) The corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corporation such information as may be necessary to determine compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation shall have the following powers:

(1) to adopt, alter, and use a corporate seal;

(2) to have succession until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 607(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investments as the board of directors may prescribe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

(c)(1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the Urban Reinvestment Task Force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

(3) The Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal home loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes of this title.

(d)(1) The corporation shall have no power to issue any shares of stocks, or to declare or pay and dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

REPORTS AND AUDITS

SEC. 606. (a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the annual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the corporation.

AUTHORIZATION

SEC. 607. (a) There is authorized to be appropriated to the corporation to carry out this title not to exceed $8,500,000 for fiscal year 1979.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(d) The corporation shall prepare annually a business-type budget which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by the Budget and Accounting Act, 1921. Amendments to the annual budget program may be submitted from time to time.

APPLICATION OF GOVERNMENT CORPORATION CONTROL ACT

SEC. 608. Section 101 of the Government Corporation Control Act is amended by inserting "National Neighborhood Reinvestment Corporation;" after "Federal Housing Administration;".

## TITLE VII—TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES UNDER CERTAIN FEDERAL HOUSING LAWS

SEC. 701. (a) Notwithstanding any other provision of law, social security benefit increases occurring after May 1976 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1955, or the Housing Act of 1949. For purposes of this subsection, the term "social security benefit increases occurring after May 1978" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program becoming effective after May 1978 pursuant to section 215(i) of such Act, or any other increase in benefits under such program, enacted after May 1978, which constitutes a general benefit increase within the meaning of section 215(i)(3) of such Act.

(b) Subsection (a) of this section shall be effective only with respect to assistance which is provided (under the Acts referred to in the first sentence of such subsection) for periods after September 30, 1978.

## TITLE VIII—HOUSING PROGRAM PAPERWORK REDUCTION

FINDINGS AND AUTHORITY

SEC. 801. (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments), as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multifamily programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Insofar as it is practicable and to the extent permitted by law and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage forms;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(F) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and of maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extent permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93-556.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. REUSS).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 12433, was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3084, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill S. 3084, a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and, without objection, appoints the following conferees: Messrs. REUSS, ASHLEY, MOORHEAD of Pennsylvania, ST GERMAIN, GONZALEZ, MITCHELL of Maryland, AUCOIN, BLANCHARD, LUNDINE, BROWN of Michigan, STANTON, ROUSSELOT, and WYLIE.

There was no objection.

## COMMODITY EXCHANGE ACT EXTENSION AND AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for 4 years.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Arkansas (Mr. ALEXANDER) as Chairman of the Committee of the Whole and requests the gentleman from Colorado (Mr. WIRTH) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10285, with Mr. WIRTH (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10285, a bill which extends and amends the Commodity Exchange Act.

The Commodity Futures Trading Commission was established in 1974 by amendments to the Commodity Exchange Act as a new independent regulatory body, with a much more comprehensive regulatory role than its predecessor agency, which was one of many agencies within the Department of Agriculture.

Under the sunset provision in the 1974 act, authorization for funding of the Commission will expire in September 1978 unless it is extended. In considering legislation to extend the authorization, the Committee on Agriculture began, last December, conducting a serious examination of the proper role of the Commission and the need for changes in its basic mandate. To this end, we held extensive hearings and many markup sessions. The committee also benefited from the review of operations of the Commission conducted by the House Appropriations Committee and the General Accounting Office.

As in 1974, we continue to believe there is a need for a strong, independent regulatory commission and have included in the bill a 3-year extension. The Commission assumed its new responsibilities in the midst of one of the most rapid growth periods the futures industry has ever experienced. The annual volume of futures contracts traded has risen more than 50 percent since 1974 to nearly 43 million contracts traded in 1977. According to the futures industry association, the regulated futures industry exceeded an annual trading volume of $1 trillion in 1977.

The Commission has had several significant accomplishments in its first years of existence despite operating under difficult circumstances. It has issued many of the necessary rules and regulations needed to implement its authority, and it is actively carrying out the job of regulating trading in 62 contracts on the Nation's 10 commodity exchanges. In spite of these accomplishments, the Commission has been the subject of much public controversy. There has also been strong criticism by the General Accounting Office of ineffective management which it claims exists within the Commission.

While the committee is of the view that the Commission's mandate should be extended, it has limited the extension of the appropriation authorization to a 3-year period so that at the end of that period the committee can again review the Commission's performance and the need for changes in its basic authority over this rapidly expanding and often controversial industry. The oversight exercised by the committee during consideration of the reauthorization legislation has proven useful and beneficial. It has brought to the forefront issues confronting the Commission, the public, and the industry.

In H.R. 10285, we have addressed those issues which could be solved through legislation. I would like to highlight a few of the important ones considered by the committee.

Several jurisdictional issues were raised. Both the U.S. Department of the Treasury and the Securities and Exchange Commission supported transferring some of the Commission's jurisdiction and responsibilities to those agencies. In particular, concern was expressed about futures trading in financial instruments and Governments securities. The committee decided, however, that jurisdiction over futures markets should continue to reside in a single agency, such as the Commission, whose regulatory role requires an economic expertise which focuses upon the risk shifting and price determining function that futures trading performs.

We do not believe that the public interest would be served by duplicating regulatory authority over the futures markets. However, the bill would require the Commission to maintain an ongoing liaison with and obtain the views of the Treasury Department, the Federal Reserve System, and the SEC on matters relating to their areas of responsibility. Additionally, it requires that prior to approving a new futures contract on any government security, the Commission must solicit the views of the Treasury Department and the Federal Reserve System. Inputs from these agencies should insure that the final decisions made by the CFTC are financially sound and are not in conflict with the national interest.

In dealing with recommendations from several State Securities Commissioners, the committee adopted an amendment to assist in combating fraud and otherwise protect the public in commodity transactions by allowing the States to supplement the Commission's enforcement activities with their own

resources. Under the amended act, States would have the authority to investigate and prosecute civil actions in Federal District Court for violations of the act or the Commission's rules and regulations to protect their citizens from persons dealing in London options, dealer options, or leverage contracts.

The States could also investigate and whenever authorized to do so as parens patriae prosecute civilly in Federal court any other violation of the act (other than violations by boards of trade). Under this provision, the States should be able to proceed against futures commission merchants and other commodity professionals involved in futures or options activities on domestic exchanges where the State can show that the violation of the act has harmed or is causing harm to the welfare of its citizens.

Finally, H.R. 10285 makes clear that the States may continue to enforce their own anti-fraud and other criminal statutes of general application against improper activities in commodity related transactions.

The committee refused to adopt a provision that would have authorized the States to bring action in State courts under State statutes identical to the Commodity Exchange Act. The committee was concerned that, despite safeguards in the act, the possibility existed that in time there would be separate bodies of State court decisions among the various States that would cause confusion and disruption among the regulated persons. It is the view of the committee that with the added enforcement authority conferred on the States by H.R. 10285, they should have the flexibility necessary to deter fraud and abuses such as were recently experienced in the sale of commodity options.

The most publicized issue which was addressed by the committee was the matter of the sale of London options. Because of continued fraud in this area and because the Commission found it virtually impossible to regulate the sale of London options, it ordered a suspension of options transactions which became effective June 1, 1978. H.R. 10285 backstops the Commission by providing a congressional ban on options transactions, but leaves the Commission with the authority to move ahead with domestic traded options under rules and regulations adopted by the Commission unless either House of Congress disapproves them within 10 days of the receipt of the Commission's rules and regulations.

The committee bill permits the Commission to set different terms and conditions for different markets. Thus, for example, the bill permits the Commission, if it should so elect, to adopt regulations to implement a pilot program for commodity option trading on certain U.S. exchanges.

H.R. 10285 grants the Commission authority to exempt from the suspension trade options and certain grantors of dealer options under rules and regulations issued under expedited procedures. In committee, there was discussion of proposals whereby options on physical commodities would be exempted from the prohibition if the grantor of the options and the futures commission merchant marketing the options could meet specified criteria. However, the committee believes that it is more consistent with the regulatory process for the Commission to determine whether, and under what circumstances, dealer options might be permitted to be offered to the public, rather than for Congress to mandate specific standards in the act.

H.R. 10285 also contains a number of provisions that relate to management and administration of the Commission. Ambiguities in the act have resulted in disagreement regarding the Executive and administration functions of the Chairman and the policy formulation functions of the Commission. Accordingly the committee has clarified the division of responsibility and authority between the Commission and the Chairman. The committee has also made the term of the Chairman subject to the pleasure of the President to bring it into line with the term of service of Chairmen of many other Federal regulatory bodies. Under H.R. 10285, a new Chairman may be designated at any time by the President subject to confirmation by the Senate. Finally, the committee deleted from the act the requirement that the Executive Director be appointed by the Commission with the advice and consent of the Senate to eliminate constitutional questions arising from the required Senate confirmation.

H.R. 10285 also includes a provision clarifying current statutory provisions relating to registration of national futures associations. Title III of the 1974 act authorized the Commission to register national futures associations which would consist of firms that deal directly with the public and have fiduciary duties to the public. At the present time there are industry participants operating largely beyond exchange supervision which are increasing in number. Regulation of any such persons could be achieved through expansion of Commission activities or, instead, through registration of one or more futures associations which would provide a self-regulatory program under Commission oversight. The committee has left the determination of that issue to the Commission. It has, however, included an amendment which provides expressly that the Commission may approve rules for any futures association or associations that would require persons eligible for membership to become members of at least one such association, upon a determination by the Commission that such rules and regulations are appropriate to achieve the purposes and objectives of the act. Use of the authority of this amendment would be completely discretionary with the Commission. The committee was persuaded that such discretion may be useful to the Commission if it should decide that such a provision is necessary for an effective self-regulation program and is otherwise in the interest of the objectives of the act.

An amendment was also included which would enable a contract market to delegate its arbitration responsibilities under the act to a registered futures association if the Commission should determine it desirable and in the interest of the objectives of the act. The effect of such a provision would be to allow the Commission to provide for centralization of the arbitration programs for customer claims.

H.R. 10285 contains many other amendments of a technical nature. Among other things, these include strengthening the penalty provisions of the act, and tightening the provisions against disclosure of market positions and other data relating to individual traders. A provision has also been included in H.R. 10285 which deletes the requirement for making public any information furnished a congressional committee and provides instead for such information to be furnished a committee on a confidential basis. In addition, H.R. 10285 provides for a hearing on the record for Commission refusal, suspension, or revocation of a contract market designation and prior to issuing a cease-and-desist order or imposing a civil money penalty against a contract market for violating provisions of the act or Commission regulations. Several of the more technical provisions were included in a bill which passed the House in the 94th Congress but failed of enactment in the final days of that Congress.

Mr. Chairman, I urge the Members of the House to join me in support of this legislation.

Mr. Chairman, for a further discussion of the basic directions taken in this legislation, I yield now such time as he may consume to the distinguished chairman of the Subcommittee on Conservation and Credit that was responsible for the basic markup of this legislation, the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of H.R. 10285, a bill to extend the life of the Commodity Futures Trading Commission for 3 years and make other amendments to this act. The Senate, on July 12, passed by a vote of 84 to 6, a bill which closely parallels H.R. 10285 except that it would grant a 6-year extension.

The Subcommittee on Conservation and Credit began the "sunset" review last December by contacting the primary parties involved with commodity futures regulation, asking at that early date what changes they felt were needed to update the act. Later we held 3 days of public hearings and held extensive markups in both the subcommittee and full committee.

Additionally, we have closely reviewed the findings of the General Accounting Office and the investigation conducted by the House Committee on Appropriations.

The primary decision, of course, was whether to reauthorize the Commission in its present form or to transfer some or all of its functions to other agencies. Quickly, I decided that an independent regulatory commission was essential to a proper functioning futures trading market in the United States.

I listened to the arguments of the

Securities Exchange Commission and the Department of the Treasury as they tried to make bureaucratic power grabs on the jurisdiction of the CFTC. Quickly it was apparent they were using their well deserved prestige in efforts to usurp the jurisdiction of a new and controversial agency. While the committee bill, which was reported by a 40-to-0 vote, does not grant CFTU's jurisdiction to other agencies, it does provide for formalized and mandated consultations with the Federal Reserve Board, the Securities Exchange Commission and the Department of the Treasury on decisions which impact on their areas of responsibility. I feel it is a prudent and well founded step to require the CFTC to seek from these respected agencies their impact on such matters as futures contracts on Government-backed securities and financial instruments. But, Congress was aware, in 1974, when it passed the Commodity Futures Trading Commission Act that the industry was developing proposals for futures trading in financial instruments and Government securities. Congress then, as now, recognizes the uniqueness of futures trading—its primary functions of risk-shifting and price discovery—and determined that it required regulation by a single, expert agency; an agency without other conflicting mandates to serve.

Much has happened in the futures trading industry since 1974. The futures trading industry has become more accepted and credible, largely through acting responsibly and through the guidance of the CFTC. Last year, futures contracts valued at over $1 trillion were traded on our domestic exchanges. New contracts on new instruments have been developed and more will come. The period of growth is not halting. I feel it will grow even larger as diversified industries learn the benefits of risk-spreading and, for this reason, we must have a strong, independent, and competent Commission. The provisions of H.R. 10285 make some needed changes in that direction.

This bill recognizes one important fact of life that is slowly dawning on us here in Washington. The Federal Government cannot be all things to all men and cannot reserve to itself every task. The CFTC will never have the resources to adequately enforce this law in every community of the Nation. For this reason, H.R. 10285 grants some enforcement, not regulatory powers, to the States. I feel that if the CFTC had had the assistance of State officials in enforcing the act in the past 3 years, the "London Options" scandal might have been brought under control more quickly. H.R. 10285 reflects the attitude that the CFTC should continue to have sole authority for the development of a nationally uniform body of law and standards governing commodity futures trading, but that States have and should play an important role in protecting their citizens against fraudulent and illegal conduct.

Earlier I mentioned the London Options problem. Dealing with the options situation was one of the most time consuming issues we faced. Essentially, H.R. 10285 is an effort to backstop the CFTC suspension on options trading. It recognizes the magnitude of the abuses which have occurred and believes the Commission should have a period of time in which to evaluate fully the terms and conditions under which commodity options might be offered, if at all. The bill does provide that the Commission could permit options trading subject to rules and regulations which would themselves be subject to congressional review. Additionally, the Commission would be authorized to grant exceptions to the ban under certain circumstances to dealers in the physical commodities.

Reviews of the Commission's day-to-day operations have revealed shortcomings in management and administration which have affected the Commission's basic regulatory mission. It is inappropriate to address simple mismanagement through legislative remedy, but H.R. 10285 contains several provisions aimed at clarifying the division of responsibility and authority between the Chairman and the Commission. These four changes, including clarifying that the Chairman shall serve at the pleasure of the President, and deleting the Senate confirmation of the Executive Director should resolve some of the problems.

I recognize the CFTC has been faced with a monumental task in implementing its regulatory mandate and has many accomplishments to its credit. It falls short in the areas of management and administration, but rather than attempt inappropriate legislative solutions, the committee intends to continue to monitor the progress of the Commission in improving its performance in this area.

Mr. Chairman, I want to close by submitting to my colleagues that H.R. 10285 is an excellent, well-balanced bill and one which I urge them to support.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I want to commend the chairman of the subcommittee, the gentleman from Tennessee (Mr. JONES) for his leadership in proceeding to bring this bill to the floor. I know it has been very difficult with so many demands on time to get a quorum of Members at committee meetings, but the gentleman's persistence permitted the committee to develop what I think is a very, very important extension of existing legislation.

The usual procedure in Washington in recent years has been to wait until a crisis develops and then try to deal with after much of the damage has been done. But in 1974 the Congress in its wisdom did not wait for either the administration to act or for a greater crisis to develop. It proceeded to pass this legislation, which I think prevented a very serious crisis from developing. Although some people may criticize some of the things that have occurred in the last 3 or 4 years, had it not been for the 1974 act, we would have had some very, very major commodity futures problems that reach right down to the local level. Those problems would have affected farmers who wanted to contract for the marketing of crops or hedge indirectly so as to qualify for a loan. But for this legislation, many producers might not have been able to find a decent hedge against adverse prices.

So, Mr. Chairman, I just want to commend the gentleman from Tennessee, the full committee chairman, Mr. FOLEY, and the ranking subcommittee member, Mr. MADIGAN for their persistence in developing and bringing this bill to the floor.

Mr. JONES of Tennessee. Mr. Chairman, I thank my friend, the gentleman from Iowa, for those remarks. I also want to take this opportunity to thank the gentleman from Iowa, Mr. NEAL SMITH, for the counsel and the advice that he gave the subcommittee.

Although the gentleman from Iowa is not a member of our subcommittee, he assisted us from time to time in the work that we did on the bill, and it was through his assistance and the hard work that the subcommittee did that we have been able to bring this bill into being.

Mr. Chairman, I will conclude by repeating that I believe H.R. 10285 is an excellent, well-balanced bill, and one which I urge each of the Members to support.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10285. In doing so, I wish to first take this opportunity to commend Chairman FOLEY and Mr. JONES, the chairman of the Subcommittee on Conservation and Credit, for their efforts in putting together a good bill which extends the Commodity Futures Trading Commission for 3 years and adds some needed amendments to the commodity Exchange Act, as amended.

In 1974, the Committee on Agriculture established a new independent regulatory agency, the Commodity Futures Trading Commission replacing the Commodity Exchange Authority, which was part of the U.S. Department of Agriculture—the new agency was vested with broad authority: To affirmatively approve contract markets, contract terms, and conditions as well as exchange rules and to oversee the exchange self-regulatory program; to check the fitness of floor brokers, futures commission merchants, associated persons, commodity trading advisers, and commodity pool operators; to have expanded enforcement responsibility with strong civil and criminal penalties to use in enforcement; to provide for reparations procedures for settlement of claims by customers against persons registered with the Commission; to supervise a reporting and recordkeeping program and undertake research in specified areas of concern. In addition to the foregoing, the CFTC was given oversight authority over other types of trading instruments such as commodity options and leverage contracts.

It was fortunate that the Congress acted when it did in establishing the new Commission, because the commodity fu-

tures industry has seen tremendous growth since early 1975. Volume of futures contracts traded has increased over 50 percent (to nearly 43 million in 1977), and the annual trading value grew to $1 trillion in 1977.

However, the CFTC, as might be expected with a fledgling agency, had trouble in organizing, managing, and regulating its industry during this period of substantial growth. As a result, the CFTC has been subjected to considerable criticism. The General Accounting Office raised a number of questions about the effectiveness of the management of the CFTC.

The default on the Maine potato contracts a couple of years ago, the litigation with the Hunt family over questions of exceeding the speculative limits in soybeans, and the domestic vending of "London" options by unregistered and "boiler room" type traders have all elicited criticism of the actions taken, or the lack of action taken, by CFTC.

The CFTC accomplishments—which also were significant—were overshadowed by some of these more highly publicized controversies which resulted in some CFTC criticism.

The hearings held on H.R. 10285 elicited considerable criticism of CFTC, some considerable praise for its ability to survive despite its many problems, and many suggestions for improvement which took the form of amendments to the Commodity Exchange Act. There were recommendations concerning jurisdiction, such as one to abolish CFTC and split its authority between the Securities and Exchange Commission and the Department of Agriculture. Others recommended a transfer of some of CFTC's authority to the Treasury Department. Indeed, and virtually at the last minute, the administration, through the Office of Management and Budget (OMB), recommended that the Commission structure of CFTC be abolished and replaced by a single administrator-type structure—to use the words of OMB, "a structure like the Environmental Protection Agency."

By far the great majority of testimony supported the CFTC in its current form and structure, but with some changes recommended in its authority, and enforcement powers. What our committee reported is, I believe, a balanced product. It recognizes CFTC can and should do a better job, and it provides what I believe is the legislative prescription to achieve a more effective Commission so that our tax dollars will pay for as much Government regulation as is needed to protect the public interest.

Let me illustrate some of the amendments to the Commodity Exchange Act which were added by the committee. In section 1, we redefined the term "commodity trading adviser" so as to exclude certain entities such as "nonprofit voluntary membership, general farm organizations" such as American Farm Bureau offices, which may provide advice on the sale and purchase of cash commodities.

There is also an amendment which prohibits Commission employees—classified as GS–16 or above—from making an appearance before the Commission or communicating with the Commission on matters before the Commission for 1 year from the date of his or her last service. I do not favor this piecemeal approach to the issue of the revolving door from Government to industry. Moreover, in my opinion the amendment prohibits appearances by former Commission employees whether they affiliate with Common Cause, the Consumer Federation of America, or other groups not identified as in the commodity industry. I believe the amendment goes further than some of those who voted for it intended.

Another amendment requires the CFTC to maintain communications with the Department of Treasury, the Federal Reserve Board, and the Securities Exchange Commission relative to matters before the CFTC that relate to the responsibilities of these other agencies.

On the issue of jurisdiction of States to prosecute violations of the Commodity Exchange Act or fraudulent transactions in futures or options transactions, the committee adopted an amendment that would give States the authority to investigate or initiate actions against violators of the act or section 217 of the CFTC Act of 1974 in Federal courts in which cases the CFTC could intervene as a party. Certain actions against contract markets or boards of trade were excepted from this authority. I believe the committee amendment finally adopted is preferable to other proposals considered and rejected by the committee.

On the issue of options trading, the committee had trouble arriving at a decision; and I am aware of floor amendments to be offered to section 2 of the bill regarding options. The committee adopted a compromise proposal which basically prohibited commodity options transactions "unless expressly permitted under rules or regulations that the Commission, in its discretion, may prescribe subsequent to the date of enactment * * *."

There was an exception written into this amendment which allowed the Commission to provide an exemption for dealer options without regard to the requirements of the Administrative Procedures Act and the procedural requirements of the Commodity Exchange Act—for those who on May 5, 1978, were in the options business and in the business of dealing in the commodity which was the subject of the option. Such option exemptions could not be terminated without a hearing.

I am not entirely happy with the exception on dealers options tied to companies that deal in the commodity, that is, actually have an inventory, if as I believe to be true it grandfathers in only a few companies. I do not favor writing private legislation into public laws.

There was also an amendment limiting public disclosure of information and reports by CFTC. Testimony elicited in the course of the hearings on the bill brought out the dangers of permitting CFTC to disclose market positions, business transactions, trade secrets, or names of customers unless such data had been previously disclosed publicly in a judicial or congressional proceeding. Obviously, such information can be extremely market sensitive; and in at least one case where information was brought out in a judicial proceeding, it had a depressant effect on the market and appeared to hurt the marketing situation for farmers and producers.

I had an amendment in subcommittee which deleted the authority of the Commission to publish full facts concerning any commodity transaction which in the judgment of the Commission disrupts any market or is otherwise harmful to the p blic interest at the time this information is communicated to committees or officers of contract markets. Section 13 of the bill, which amends section 8 of the Commodity Exchange Act, puts limits on disclosure of information which in my opinion could be dangerous to orderly transactions of commodity business.

There were also amendments in the committee to increase certain penalties under the act. One amendment was adopted which unrealistically increased criminal penalties to $500,000 for some infractions which might not be major in effect. This amendment was deleted in the full committee, but left standing in full committee were provisions which raised from misdemeanors to felonies violations of the Commodity Exchange Act which involve fraud and false reporting.

I believe the penalties in the commodity exchange laws are equal to or in most instances in excess of those imposed under the securities exchange laws, and I believe that the committee bill will serve as a deterrent to future violations without further floor amendment.

There are other amendments in the bill—some of which my colleagues Mr FOLEY and Mr. JONES of Tennessee have touched upon—which improve on existing law.

Mr. Chairman, I support the committee's bill as a well-balanced product encompassing considerable work and thoughtuful consideration. I urge you to support it.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to my colleague from Illinois.

Mr. FINDLEY. Mr. Chairman, I would like to add my commendation to members of the committee on both sides of the aisle for what I think is a job well done. It may be that some perfecting amendments can still be added during the amendment process which will make it even better, but I rejoiced when the Commission was first established.

I recognize that its record has not been unblemished, but I feel even more today than when the idea was first launched on Capitol Hill that the Commission fills a very important role. I think the legislation now before this body will improve the Commission; will enable it to serve more adequately the futures activities within this country.

There are people who are very disappointed with the Commission. They feel

that its record has not been adequate. I think the basic legislation may be part of the problem.

In any case, I think the committee has done an excellent job in the quest for better regulation of a very vital part of the private sector.

Mr. MADIGAN. I thank the gentleman for his contribution. Again, as I did in my statement, I say that there has been considerable criticism of the agency but, as the chairman of the committee, the gentleman from Washington (Mr. FOLEY), pointed out, the agency was organized and began its job at a time when considerably more interest was beginning to appear in this type of transaction which they were to regulate. The total dollar volume of those things which they regulate now has exceeded $1 trillion per year, and in the judgment of this Member the Commission is doing the best job it could under the circumstances. I think their record in the next 3 years will be even better.

Mr. FOLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I rise in support of this bill to reauthorize the CFTC. In doing so, I would like to take a few minutes to point out to my colleagues just how important this legislation is, how important it is to the strength of our economy as a whole, and most particularly to the question of capital formation.

One of the things that is strange, being on the Agriculture Committee, to me was finding our authorizing an agency which now regulates perhaps as much as one-half of all capital being spent in this country. Just seeing the lack of Members on the floor indicates that most people probably consider this to be an agency which just deals with commodity issues, farm-related issues, but in fact this agency relates to the very heart of our economic strength and ability to form capital.

One of the things we discovered when we got into the hearings was how little information people really had as to how much money was flowing into the futures markets and flowing out of our securities markets. To be quite frank with Members of this body, we still do not know the answers to all of that information. Nobody seems to have the foggiest idea of how the development of futures on financial instruments which we are now finding developing will affect our capital markets, but the fact remains that commodities on which futures and options can be purchased has expanded so greatly in recent years that there is little doubt that this agency regulates a great matter of importance with respect to the economic strength of this country.

I am convinced that the 3-year authorization contained in this bill, based on an amendment which I offered in subcommittee, is needed to get a handle on just what is involved in terms of the economy in general. The Senate has passed a 6-year bill, and I think we should stick as close to that 3-year period as possible.

I might also mention, on the issue of David Gartner, the new Commissioner of the CFTC who is coming into controversy lately, because of the conflict of interest issue, that irrespective of Gartner's position on the Commission, he throws a further cloud of suspicion on the whole issue of credibility of this agency. That is all the more reason for a 3-year, rather than a 6-year authorization.

I compliment the chairman, the gentleman from Washington (Mr. FOLEY), and the chairman of the Subcommittee on Conservation and Credit, Mr. JONES of Tennessee, for conducting what I consider to be a very, very thorough set of hearings on oversight of the Commission.

I suggest the only way this Commission can go is up, because its credibility is so low, and investors and farmers all over this country need to have confidence in this Commission.

On another matter I strongly support the CFTU jurisdiction over futures on financial instruments as opposed to giving that jurisdiction to the Securities and Exchange Commission. I originally had supported the SEC retaining jurisdiction, but I have changed my mind, because I think there is a difference fundamentally and economically between futures and securities. I hope we will give that authority to the CFTC.

On another point, I think we need to take steps to enhance the enforcement of CFTC antifraud regulations. The bill we have before us was modified at the full committee level to remove language adopted by the Conservation and Credit Subcommittee to authorize the States to enforce the antifraud provisions of the Commodity Exchange Act. My colleague, the gentleman from Wisconsin (Mr. BALDUS), will be offering an amendment to reinstate that language and thereby give the States the opportunity they want to protect their residents from fraudulent schemes within their States. As a former attorney with the Securities and Exchange Commission, I can attest to the fact that most of the fraud that occurs in these kinds of affairs occurs on a small-scale, localized basis, and I believe the citizens of this country would be best protected by giving the States the authority to enforce the antifraud provisions of the Commodity Exchange Act. That is the basis of the Baldus amendment. We will not have to continually be building up and beefing up the staff of the CFTC staff in Washington, because all of these agencies are clamoring for more and more money, and by making the States the people on top of the problems, it will eliminate the need for a significantly expanded CFTC staff.

I urge my colleagues to support the Baldus amendment and final passage of this legislation.

As I said before, this is a very complex piece of subject matter we are dealing with here. It relates to various sophisticated matters concerning the economy of this country. I believe the Commission needs to be reauthorized.

Again I thank the chairman of my subcommittee for his oversight on this matter.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time, and reserve the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I have had the honor of working with the distinguished chairman of the Subcommittee on Conservation and Credit, and we have worked on this legislation for a long period of time. We have had extensive hearings on this issue. It is a complex area of law relating to our commodities. It impacts on our agricultural community. It impacts on our trading community. It impacts on our securities community.

It is most important that we provide this extension and that we provide the necessary authority to the Commodities Exchange Commission so it will be able to deal with the problems in this area. The fact is that in the commodities area today we are talking about almost a trillion dollars that is being annually exchanged in commodities.

That is a fantastic sum, and it has increased and multiplied tremendously over the last few years. This has become the one area in our trading markets in this country where speculation is running rampant. The opportunity for fraud and abuse is prevalent.

It is for this reason that it is most important we give the Commission the power and authority to be able to do a good job. I think that the subcommittee and the full committee in the drafting work that went on in connection with this legislation have done a commendable job. I think the bill does provide the necessary tools. There is one area that I feel should be added which is the area of the distinction between misdemeanors and felonies committed in violation of the laws in this area. At the present time there is no distinction in the penalties provided for those committing misdemeanors and the penalties provided for those committing felonies.

It is my feeling that in violations which are serious and involve embezzlement and fraud, we ought to increase the penalties and bring into accord with the laws in the Securities and Exchange Commission and other commissions which provide a difference between violations for misdemeanors and violations for felonies.

I hope that during the course of the debate and during the course of the amending process, I will be able to offer an amendment in this area to increase the penalties that will be provided for those committing felonies. Otherwise, what happens is that when offenses that are of a serious nature are committed in this area, they are treated as a matter of business expense and nothing more. That is essentially what was testified to by the Commission and by the chairman of the Commission. It is an area that, hopefully, we can remedy on the floor of the House in the amending procedure.

I would conclude by saying that I believe the overall bill is an effective one and I would urge the House to adopt it.

Mr. JONES of Tennessee. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. BALDUS).

Mr. BALDUS. Mr. Chairman, I rise in support of the bill and to call attention to an amendment which I will introduce.

H.R. 10285 is the product of extensive hearings by the Conservation and Credit Subcommittee and of many days of markup by both the subcommittee and the full Agriculture Committee. I intend to support the bill regardless of the outcome of my amendment, and I urge my colleagues to do likewise. Nonetheless, I think it is extremely important that the House act to reinstate my amendment, which was passed by the subcommittee but removed by the full committee by a narrow, two vote margin. I would add that before the subcommittee passed my amendment, the Commissioners voted to accept it.

Mr. Chairman, I do not want to start the debate on my amendment today, but I would like to briefly explain what it would do and why it is being offered.

My amendment would allow the States to pass and enforce their own laws exactly identical to sections 4b, c, d, and o of the Commodity Exchange Act and section 217 of the CFTC Act. In order to avoid conflicting interpretations of the identical law, the State laws would also be required to contain the following:

In any such action, Federal law, including the decisions of the Federal courts and the decisions and published interpretations of the commission, shall be controlling.

In addition, the CFTC must be notified within 3 business days of any action taken, and the CFTC is given the right to intervene in any such action. These two factors put the CFTC in a position to utilize their limited enforcement resources and personnel to monitor and direct the interpretations of State enforcement personnel.

Finally, the majority of the activities of the legitimate futures trading industry are exempted from State enforcement as my amendment would preserve any actions committed on boards of trade or on designated contract markets for enforcement by the CFTC.

This amendment is needed because the CFTC Act of 1974 gave the CFTC exclusive jurisdiction over violations of the antifraud provisions of law. But the CFTC has never been given the resources and personnel which are required to effectively monitor the industry on a nationwide basis and seek enforcement, not is it likely that they ever will be given such resources. The CFTC has been content to rely on injunctive relief actions, a pattern of enforcement which has taken all of the deterrent value out of the antifraud provisions.

In the absence of effective Federal enforcement, the States have actively sought the right to pursue State enforcement. My amendment is supported by the North American Securities Administrators Association (representing all 50 States) and by the National Conference of State Legislators, as well as by the National Farmers Union and the NFO.

The States have demonstrated their capabilities in the enforcement of securities laws, over which they share jurisdiction with the Federal Government, and in the enforcement of insurance laws, over which they have exclusive jurisdiction.

The issue is one of State enforcement as opposed to no enforcement at all. I urge my colleagues to opt for State enforcement by voting for my amendment when it is introduced.

Mr. JONES of Tennessee. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. EVANS of Colorado) having assumed the chair, Mr. WIRTH, Chairman pro tempore of the Commitee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for 4 years, had come to no resolution thereon.

## DEEP SEABED HARD MINERALS ACT

Mr. BREAUX. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3350) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Illinois (Mr. SIMON) as Chairman of the Committee of the Whole and requests the gentleman from Colorado (Mr. WIRTH) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3350, with Mr. WIRTH (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Louisiana (Mr. BREAUX) will be recognized for 15 minutes; the gentleman from Maryland (Mr. BAUMAN) will be recognized for 15 minutes; the gentleman from New York (Mr. BINGHAM) will be recognized for 15 minutes; the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 15 minutes; the gentleman from New York (Mr. BINGHAM) will be recognized for 15 minutes; the gentleman from Illinois (Mr. FINDLEY) will be recognized for 15 minutes; the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes; and the gentleman from New York (Mr. CONABLE) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before the House today contains some of the most important and timely policy decisions which this body could make during this session. We are deciding the fate of issues today which can have a very positive impact on several critical domestic and international policy considerations.

I would first like to explain to you why I think that this bill is important. From an international perspective, the legislation would reiterate some major U.S. policy statements which I believe are necessary in order to correct the present confused status of international law. Among other statements, the bill would include clear statements—

That deep sea mining is a freedom of the high seas which can be conducted by any nation desiring to engage in exploration or exploitation.

That the resources of the deep seabed beyond the limits of national jurisdiction are the "common heritage of mankind," but this common heritage concept can only be properly defined by the text of a future Law of the Sea Treaty.

That any person desiring to engage in deep sea mining should do so in a manner which properly recognized other persons freedoms to also conduct activities upon the high seas.

That any future Law of the Sea Treaty should, at a minimum, contain terms which provide U.S. citizens assured and nondiscriminatory access to deep sea mining sites and that future treaty provisions do not impose substantially different restrictions on U.S. citizens which would materially impair investments made by such citizens.

These statements will put the Congress on record that this country intends to continue to operate under the terms of present internationally accepted law until and if that law is changed by treaty. These policies are consistent with those of our Government, but it is necessary to restate them to those nations of the world who would like to implement the common heritage doctrine as customary international law.

This country must let it be known that it is fully prepared to continue with the development and application of our deep sea mining technology whether or not there is a final Law of Sea Treaty.

We, in the Congress, must also tell our adversaries from the Third World and our own U.S. negotiating team that certain general principles must be maintained in any future treaty. Any treaty concerning the management of resources of two-thirds of the Earth's surface must contain provisions to adequately protect the present rights of U.S. citizens.

The United States has approached these negotiations at the LOS Confer-

ence in good faith for 10 years now. We have given concession after concession without receiving very much, if anything, in return. It is time that Congress indicated the type of treaty which would be acceptable. If we had done this much sooner in the Panama Canal Treaty negotiations, we could have had a treaty which would have been much more acceptable, rather than merely having to accept or reject the final terms. This important statement of congressional intent as to what the LOS Treaty should contain is included as title II of H.R. 12988.

Mr. Chairman, the bill before you today would also address some important domestic policy questions.

In light of this country's alarming dependence on foreign sources of supply for cobalt, nickel, and manganese, the bill would recognize the prudence and necessity for the United States to develop a domestic supply of such minerals—a supply which is abundantly available on the floor of our oceans in the form of manganese nodules.

In order to avail ourselves of this resource it is necessary to establish some legal framework under which domestic mining companies can conduct their exploration and commercial recovery operations. With the LOS treaty negotiations continuing to change the status of international law, these companies need to know the direction of U.S. policy with respect to their rights on the high seas. This bill would clarify some of these important questions, and, at the same time, establish a domestic licensing and regulatory program to begin implementing the necessary regulatory procedures to conduct seabed mining.

The bill requires extensive environmental safeguards to allow for the deep sea mining operations to proceed without creating any adverse effects on the marine environment.

As Chairman MURPHY stated, this amendment to the bill, H.R. 3350, is a consensus developed after extensive discussions with the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, International Relations, and Ways and Means. It represents the best combined thinking of all these committees and I believe it is a responsible piece of legislation.

The administration supports deep sea mining legislation. Ambassador Richardson, head of the U.S. negotiating team, has personally reviewed the compromise bill and supports it. He stated at a hearing before our committee several weeks ago that the legislation should move forward in the Congress whether or not success is achieved at the Law of the Sea Conference.

The U.S. companies which have developed the expensive and complex technology to mine the seabeds are on the verge of determining their future investment actions. If no domestic legislation is adopted by this Congress, I believe that these companies will choose to invest in more secure ventures. This would allow those government-supported competitors in Germany, Japan, and Great Britain to proceed without U.S. participation, and I think that this would be a great loss for the mineral and economic future of the United States.

We are at a crucial stage in deciding on the future of deep sea mining, and this Congress needs to make the choice as to whether or not we should encourage these ventures or leave high seas resource development to the fate of the Third-World-controlled Law of the Sea Conference. The choice is clear to those of us who have observed this conference for years. I urge you to join with us in voting "aye" to H.R. 12988.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I have no requests for time, and I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 3 miles below the ocean's surface lies the most significant untapped source of minerals known to man. The deep seabed's nickel, cobalt, and manganese resources have a value greater than all of the lond-based deposits of these three mtals put together. In addition, the deep seabed holds an amount of copper that could significantly supplement land-based sources of this metal. We have not even begun to investigate the mineral treasures that might be found beneath the surface of the deep seabed.

Advancing technology—which is largely spurred by the rapidly growing offshore oil industry—has now made it possible to recover mineral nodules from the deep ocean floor at costs competitive with land-based sources, and to do this in an environmentally sound manner. Technologically sophisticated U.S.-led mining consortia have already invested over $150 million in the development of this new technology.

At the same time, the United States is now importing 100 percent of its cobalt and manganese—two metals critical in the steel making process. Eighty-three percent of our cobalt imports originate in Zaire—mostly in the politically troubled Shaba Province. We import over 70 percent of our nickel and 15 percent of our copper—a small but not insignificant percentage that is steadily growing.

Deep seabed mining could reduce our dependence on imports to zero for copper, cobalt, and manganese by as early as 1990. By the same date, we could substantially reduce imports of nickel, and reduce our balance-of-trade deficit by over $1 billion. If pursued, deep seabed mining will reduce the concentration of the international mineral market and stabilize world mineral prices. This would not only benefit the industrialized nations, but all the nations of the world who are counting on technology for their economic development. Given this situation, one may logically ask why industry is not vigorously pushing ahead with this new venture. What are we waiting for?

What we are waiting for is a conclusion to the U.N. Conference on the Law of the Sea (LOS), which has dragged on for 10 years with still no end in sight.

In deep seabed mining is to proceed, it is imperative that some degree of predictability about the mining industry's future rights in the ocean be established. Between now and the beginning of commercial recovery on the first few mine sites which will be located in the North Pacific Ocean between Hawaii and the west coast, the companies must acquire and commit more than $2.5 billion.

To the extent that a Law of the Sea Treaty could terminate industry's rights under existing international law, prohibit mining activities, limit production, fix prices, require transference to a new mining site, or raise costs prohibitively, lending institutions will not loan any substantial part of the risk capital needed to move toward commercial operations. The political risks involved in an international agreement must be addressed in legislation so that a reasonably secure investment climate will be created.

Without some clarification of their future access to the ocean, mining companies will be hesitant to proceed with the further technological development and capital investments that will soon be required. Unless this is done, we will stand a strong chance of losing the technological lead we have developed in ocean mining.

I might add that, after witnessing recent developments at the Law of the Sea Conference, I would hesitate, too, if I were on the board of directors of an American mining company. It is unfortunate to have to report that the lack of progress which has characterized a decade of LOS negotiations continues. Despite some inflated and exaggerated reports coming from that last session in Geneva, the fact remains that we are no closer to achieving an acceptable International Treaty than before. In fact, some extremely knowledgeable individuals have argued that the proposed compromise articles would leave us worse off than with no treaty at all.

I think it is highly significant that Richard G. Darman, former vice chairman of the U.S. delegation to the Law of the Sea, has called for a reexamination of the premises on which our position at the Law of the Sea negotiations are based. In his article published in the December 1977 issue of Foreign Affairs, he makes the point that almost any achievable LOS Treaty works to the strategic net advantage of major U.S. adversaries. Further more, he questions the generally unquestioned premise that a Law of the Sea Treaty is so vital to U.S. interests that we should be prepared to sacrifice a number of high seas freedoms we currently enjoy under customary international law in order to achieve its enactment.

From Caracas-to-New York-to-Geneva, I have always supported the fundamental goals of the LOS Conference in general, and the objectives of our U.S.

delegations, in particular. Clearly a balanced treaty with a seabeds article that assures equal and nondiscriminatory access to American citizens under reasonable terms and conditions would benefit the entire world. Such a treaty would help establish a framework of predictability in which investments would be made within a context of some security. It would also promote international institution building to deal with the complex problems of a high technology era.

Yet, the building of such institutions must be carried out within existing international and political realities. Certainly the United States must play an active role in the development of this institutional framework, but it cannot afford to establish precedents for the 21st century that jeopardize its fundamental economic interests.

We should all be aware that we are talking about more than the international structure for the recovery of manganese nodules. We are talking about a structure which could very well form the precedent for the development of other resources—below the seabed—particularly oil and gas, for which deep drilling technology may not be far off.

We simply cannot afford to set back the cause of international cooperation by permitting our diplomats to agree to a treaty that the American people will not support, and the American Congress will not ratify.

It is these potentially tragic consequences that are creating tremendous uncertainty for our mining companies. Therefore, it is imperative that we provide a strong legal framework within which the industry can operate.

At the same time, the Government must establish regulatory and environmental control over the activities of U.S. citizens in international waters. Both purposes—a sound legal framework and administrative control—are accomplished in the deep seabed mining legislation which we bring before you today.

H.R. 3350 is the product of the work of four committees. It represents a consensus on most of the major provisions in the bill, although a few irresolvable issues will be settled here on the floor.

In addition to the overwhelming need for the legislation and the consensus that has been developed by the committees of jurisdiction, I am pleased to note that, for the first time in the history of this issue, the administration supports deep seabed mining legislation. In response to direct questions on this matter upon his return from Geneva, U.S. Ambassador Elliot Richardson indicated that the administration continues to support such legislation and that, in his judgment, there is no linkage between the proceedings of the Conference and the need to establish a domestic legal framework for American mining companies.

Consideration of deep seabed mining legislation began with the Merchant Marine and Fisheries Committee in the 92d Congress. It has taken an extraordinarily long time for this bill to reach the floor of the House but, given the cooperation of many of my colleagues and now the administration, we are pleased to bring this legislation before the entire membership.

H.R. 3350 encourages the further development of a U.S. led technologically sophisticated deep ocean mining capability, creates an interim legal framework with strong environmental provisions which will operate in the absence of an International Law of the Sea Treaty, provides a strong statement of congressional intent that any such treaty should not materially impair the investments made by U.S. permittees in carrying out deep seabed mining operations prior to ratification, and establishes a deep seabed revenue sharing trust fund to be shared by the international community under the provisions of a Law of the Sea Treaty. It is a bill that has been subject to intense scrutiny by four committees, the administration, and the international community. It presents a rational and reasonable interim domestic program for ocean mining and its balance reflects the careful examination which it has received from many different sides.

Mr. Chairman, the international situation is too uncertain, our need for these essential minerals too acute, and the time for major investment decisions too critical, to allow us to delay this important legislation any further.

I urge this body to strongly support H.R. 3350.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

Mr. BAUMAN. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank my very generous colleague, the gentleman from Maryland, for his indulgence.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Mr. Chairman, I am wondering if it is the intention of my colleague, the gentleman from New York (Mr. MURPHY), at a later moment to substitute H.R. 12988 as the vehicle that we would consider for markup, or does the gentleman intend to stay with H.R. 3350?

Mr. MURPHY of New York. When we are under the 5-minute rule on amendments, the first amendment will be offered by the gentleman from Louisiana (Mr. BREAUX), and at that time he will offer that legislation as a substitute for H.R. 3350.

Mr. SKUBITZ. That is the blended bill, so to speak, that the four committees have discussed.

Another question I woud like to ask my colleague: I believe I understood the gentleman to say that there are three times the amount of minerals below the sea which has been discovered, or is known outside of the sea area; is this correct?

Mr. MURPHY of New York. From all known land-based sources that are presently in mining, our reserve estimates on just the seabed floor, that is, the nodules that have been pushed up on the seabed floor, the estimate is that in 200 mining sites worldwide there are three times the known quantities of land-based sites.

Mr. SKUBITZ. Could the gentleman give me the source of that information? It is a rather startling figure.

Mr. MURPHY of New York. The American Mining Congress and the Department of the Interior.

Mr. SKUBITZ. The reason I asked the question is that I was reading from the report of the Commission on Marine Science, Engineering and Resources, and I found this statement which I think places this matter more into its real perspective:

> The hard mineral resources of the shelf and deep sea have assumed public prominence only recently, unlike oil and gas, which have been taken from the continental shelves for more than 30 years. Ocean minerals have been hailed by some as a nearly inexhaustible treasure trove. To others, the inaccessibility of most marine minerals and the expensive technology required for their recovery place them on the far horizon of the future in comparison with minerals from more conventional sources.

The Commission goes on to say this:

> The Commission finds that the truth lies somewhere between these extremes. There is no urgent necessity to develop subsea hard minerals with maximum speed regardless of cost. Nevertheless, an early start in offshore exploration and development of the required technology is warranted to determine reserves and to establish a basis for future exploration.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

Mr. SKUBITZ. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield further, the point I am getting at is that really we do not know how much is there. Really we do not know how much we can actually recover. There is need for more exploration, but the problem that bothers us is in the exploration and the development of it: just how far this Government should get into that particular area.

Mr. MURPHY of New York. Mr. Chairman, I would say in response to my colleague that, considering the costs I just outlined to the gentleman, it is probably fair to state that no more than four sites could be mined between now and the year 2000 based on technology and risk capital; and of the 200 sites which are estimated to be productive sites, I do not think that anyone is intimating that we are going to rush headlong into deep-ocean mining.

Mr. SKUBITZ. The point I am getting at, I say to my colleague, is that during the hearings before our committee and when considering some sections during markup, we were constantly being reminded that we get 90 percent of one mineral from this country and 70 percent of another mineral from another, as if to say that if we do not rush ahead with this bill there is going to be a tremendous shortage.

The fact is, although we do depend upon others, if we are going to mine

only three or four ocean sites at this time, we are not going to actually meet the real requirements of this country overnight; and we ought to take it more slowly. We deliberately determine just how far we want to go in permitting some of the bills—and I think the gentleman's was one of them, as well as ours—to guarantee private interest against all losses if the State Department in some way or another decides that they will have to give up their rights to areas which they have staked out. I just want to make the point that I do not think we should be intimidated by scare tactics and I am pleased the blended bill takes a more reasonable approach.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the chairman for yielding.

Mr. Chairman, the point I would like to address to the ranking member of the committee is that the information he is reading is from the Stratton Commission report, which was presented in 1969. Since then, the use of mineral supplies has drastically changed.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

Mr. BINGHAM. Mr. Chairman, I yield myself such time as I may consume.

I would like to say first that I am here representing Chairman UDALL, who could not be in Washington today but will be present with us for the consideration of amendments on Wednesday.

Mr. Chairman, this bill has had an interesting legislative history, in fact, I think it has one of the most interesting histories that we have experienced under the change of the rules recommended by the Bolling Committee for multiple committee consideration of legislation. The bill was originally referred to the Committee on Merchant Marine and Fisheries and to the Committee on Interior and Insular Affairs, and then subsequently to the Committee on International Relations and to the Ways and Means Committee.

As the members have heard, there have been extensive negotiations as a result of which a compromise bill will be offered as a substitute. It is found in H.R. 12988, and it hopefully will resolve most of the controversies—not all the controversies, but most of the controversies—that remain. Let me take a couple of minutes to summarize the provisions of the substitute bill.

It would establish an interim licensing program to encourage and regulate mining of seabed minerals by U.S. citizens, pending a superseding international agreement. Part of the mining proceeds would go into a special fund to be shared with the international community under the Law of the Sea Treaty now under negotiation. Title I would prohibit any U.S. citizen from exploring or commercially recovering deep seabed minerals unless authorized by a license or permit issued by the United States or a reciprocating state or pursuant to an international agreement. Licenses would be issued only to applicants who: Have the technological and financial capability to mine the seabeds, will adequately protect the ocean environment, and will not unreasonably interfere with freedom of the seas or U.S. international obligations. No license or permit could be issued after an international agreement is in force unless it is consistent with such agreement.

Environmental impact statements for prospective ocean mines would be required. Existing licenses or permits may not be modified for environmental reasons if the national interest in obtaining minerals outweighs the potential injury to the environment. The President may designate any foreign nation as a "reciprocating state," whose mining licenses would be recognized by U.S. licensees, if that nation establishes restrictions similar to those of the United States and contributes to the special international community fund. This title would require antitrust review by the Justice Department and Federal Trade Commission. This is one of the proposals made by the Interior Committee.

Title II would express the intent of Congress that U.S. negotiators at the Law of the Sea Conference should obtain a final treaty that assures nondiscriminatory access to the seabed and does not materially impair the value of U.S. investments. Title III would provide for civil and criminal penalties and authorize necessary sums for administration.

Title IV, which will be handled by the Ways and Means Committee, provides for the funding of the deep seabed revenue sharing trust fund.

Now, the major amendment which was recommended by the Interior Committee and by the Committee on International Relations as well, was an amendment to remove the provision that the gentleman from Kansas (Mr. SKUBITZ) was just referring to, the so-called investment insurance or investment guarantee provision. The Interior Committee also, as I have said, recommended that applications for licenses or permits be referred to the Attorney General and the Federal Trade Commission for review as to the applicability of the antitrust laws and advice as to the effect such license or permit, if issued, might have on competition.

I think that is all I need say at this time, Mr. Chairman, except to note that one of the areas of controversy which I am sure will be debated at length on Wednesday is whether the Secretary in charge of this program should be the Secretary of Commerce or the Secretary of Interior. The Interior Committee of course feels strongly that because of its experience in the regulation of coal, oil, gas, hardrock minerals, and so forth, the responsibility should lie with the Secretary of the Interior.

Mr. Chairman, now I would like to yield 5 minutes, and more if he needs it, to the chairman of the subcommittee concerned, the Mines and Mining Subcommittee, the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, do I understand I am being yielded to on the time of the Committee on Interior and Insular Affairs and not the time of the Committee on International Relations?

Mr. BINGHAM. That is correct.

Mr. KAZEN. I thank the gentleman from New York.

Mr. Chairman, I support enactment of ocean mining legislation. It is needed now.

This Nation is not self-sufficient in many minerals which are critical to our economy. Four of these: nickel, cobalt, copper and manganese, can be mined from the deep ocean floor using technology which the United States now possesses.

Present events have demonstrated how fragile our supply of just one of these minerals—cobalt—may be. I need only to point out that we import 98 percent of our cobalt from Zaire.

The technology which our industry has developed has not been used for a very simple reason. As much as $500 million are required for a total mining and processing operation. In order to commit such amounts to a venture, the investment climate must be one which gives the industry some assurance that it will not be dislocated or have its investments endangered by some future international agreement. This type of investment climate does not exist today.

For over 10 years, the United States has been an active participant in the Law of the Sea Conference in which more than 150 nations are attempting to establish an international agreement to govern, among other things, the exploitation of the hard mineral resources of the deep seabed. Although the United States is the most advanced in deep seabed mining technology, it is disadvantaged at the conference by having only one vote.

The seventh session of the Law of the Sea Conference concluded in Geneva last month. The conference will reconvene in New York in August.

Proposals being given serious consideration at the conference would create an international organization to regulate deep seabed mining. The organization would have its own mining company called the "Enterprise." Private companies would be required to transfer technology to the Enterprise—with which they would be in competition—in exchange for a permit or contract to mine. Companies which agree to enter into joint ventures with the Enterprise would have a priority in the selection of mining sites.

I do not anticipate an agreement being reached this summer in New York. Indeed, in view of the history of the Law of the Sea Conference, agreement, if there is to be one at all, may be many years away. But, the very fact that an international agreement may be negotiated creates uncertainty. Such uncertainty stands as an impediment to development. Sound domestic legislation enacted now will help to remove that impediment.

In all candor, I cannot say that I am thoroughly satisfied with the compromise version of the bill which will be offered as an amendment in the nature of a substitute for H.R. 3350. I would

have preferred a bill which would have offered to citizens of the United States willing to invest the vast amounts of money required for the mining and processing of the hard mineral resources of the deep seabed some insurance against any loss they incur by reason of an international agreement to which the United States is a party.

The administration objected to an investment insurance provision on the ground that it would restrict our negotiators at the Law of the Sea Conference and would be an undesirable precedent.

In place of an investment insurance provision, the compromise bill contains a strong declaration of the intent of the Congress that any agreement entered into by the United States should provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for U.S. citizens. It provides further that it should recognize the rights of the U.S. citizens who have undertaken the exploration for, or commercial recovery of, these resources to continue their operations under substantially the same terms and conditions as are imposed upon them by the act. Also, that such an agreement should provide for the continuation of operations by U.S. citizens in a manner that does not materially impair the investments made by them in such operations.

I hope that the House will approve this declaration of congressional intent without modification.

We must say to our own negotiators that they must protect the interests of our own citizens.

We must send an unmistakable message to the rest of the world that, while we will respect the rights of other countries, we will not be inhibited in employing the technology we have developed to our own benefit.

Finally, Mr. Chairman, the bill we are considering contains many provisions for the regulation of U.S. citizens who engage in deep seabed mining. There are, for example, provisions for strict regulation for the protection of the environment. I would caution against the addition of provisions which might result in over-regulation. The deep seabed is not the same as lands owned by the United States, or lands over which it has unquestioned national jurisdiction, such as the submerged lands of the Outer Continental Shelf. The fact is, that our citizens and those of any other state could now mine the deep seabed without any regulation and that probably would be done were it not for the threat of an international agreement which might disrupt the activity and result in a loss of substantial investments. I hope, therefore, that the bill will not, during the course of our consideration, be encumbered with additional requirements which might discourage deep seabed mining by U.S. citizens. The bill is a good bill as it stands, and I urge its approval.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I rise in support, albeit perhaps less than ecstatic support, for both of the proposed legislative products, H.R. 12988 and H.R. 3350. I will share some preliminary observations with my colleagues who have decided to remain with us here to discuss this vital subject. I am absolutely convinced that to establish some sort of legislative expression is imperative if we are to provide any kind of constructive and informative impetus to the Law of the Sea Treaty. As one of the gentlemen observed, the treaty has been 10 years in the making. It is one of the ships that perhaps never got out of port and that is floundering on the shoals, or perhaps it is just too loaded down to ever get anywhere. The reason is, that we are dealing with one of the most unusual negotiation processes that it has ever been the privilege for this meager-minded Congressman ever to observe, and I am not referring to Alaska, but to the island of Manhattan, and I know there are certain differences with the quid pro quo bargaining, but now listen to what has been proposed in the treaty draft proposal in committee No. 1, dealing explicitly with the issue of recovery of mineral resources from the deep seabed. We, as a Nation, and our contemporaries, are considering giving complete control of these resources to the 150 or so nations alluded to previously by the other speaker, but we are not going to do so just willy-nilly, no, we are providing for certain price controls that would violate any antitrust provisions that this country has never sought to enforce, because it happens to relate to an international entity, and that international entity will protect the producers of the minerals in the emerging Third World nations. We are creating a super international institute, which, as I say, the antitrust division would probably take serious views concerning it if it happened domestically, but because it involves an international agreement it is not subject to antitrust procedures.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I would prefer that the gentleman permit me to complete my statement since I have such little time.

Mr. BINGHAM. I will be glad to give the gentleman additional time.

Mr. SANTINI. We are going to refuse to recognize any and all rights that existed prior to the treaty. Therefore we have to have some kind of legislative protection and I would suggest that the two bills under consideration at least afford some kind of protection, so that we can bring some sort of sanity to this situation before we do any investing in this billion dollar venture in the deep seabeds, and the privilege of giving all of our established technology away.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BINGHAM. Mr. Chairman, I yield 2 additional minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. I thank the gentleman for yielding me the time.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. Certainly I am pleased to yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, it seems to me worth pointing out, and I know the gentleman is familiar with this, that the so-called draft treaty that the gentleman has been summarizing was labeled by the principal U.S. negotiator, and so considered, as totally unacceptable to the United States. That is one reason why negotiations are continuing, because unless the United States agrees to the treaty, there is not going to be any treaty. The provisions that the gentleman outlines are obviously unacceptable, and that has been stated to the other parties to the negotiations.

I am sure the gentleman would agree that that is the case.

Mr. SANTINI. I wish that I had the distinguished Member from New York's wholehearted optimism about the position of our negotiating team with reference to the specific 1 through 6 items contained in that treaty. Some have not been labeled unacceptable. Some have been said to be acceptable. Certain provisions have been rejected, it is true, but the difficulty I see is that we are at a posture now of trying to execute potentially a treaty at all costs, and one of the principal costs, it seems to me, relates to the deep sea mining issue. That seems to be a write-off or a sellout, if you will, in terms of the desirability of trying to establish this international negotiated instrument that is going to reconcile all of the dilemmas and debates of the sea. And committee No. 1, deep sea mining, it has seemed to me from the inception, is the biggest writeoff for the United States. It claims we can afford to give up our technology. We can afford to pay for all the developing world's prospecting costs. We can afford to turnover our future in terms of mineral resources of the sea entirely to the other 149 nations who do not have mutuality of interest in terms of the U.S.A.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, may I say, first, that I am very much in favor of the objectives of the bill before us. I am hopeful that we can get them into shape. I think there are a few amendments that are necessary to this piece of legislation. But the thing that bothers me, Mr. Chairman, is the manner in which we bring bills to the floor using scare tactics in order to try to force them through.

For example, I can recall how years ago we got the desalting bill through on the basis that we were going to make the desert bloom. We needed water to promote agriculture in the West.

Then we came along the other day with a coal slurry bill that was claimed to be a vital energy measure. It could not stand on its own as a transportation bill. I am happy that my colleagues agreed that it was really a transportation bill—and a bad one.

Now we come to a third one. Again let me talk about conditions in some far-off country. We get 92 percent of our cobalt or something from that country, and because of some situation that exists there today, it might endanger the national security of this country. I am sure that,

because I think this bill can stand on its own, we do not have to use that sort of tactic in order to try to get supporters.

Mr. Chairman, as I say, I feel that I shall support this bill, but I would like to spend a few moments to clarify my position regarding the so-called investment guarantee section which was deleted by the Interior Committee.

In the minority views found on pages 34 and 35 of the Interior Committee report, which I signed, some Members might get the impression from the first paragraph that I support, guaranteeing private investment. This is not the case.

My reason for signing these views is found on page 35, which states:

"We do not contend that the formula outlined in the deleted section of H.R. 3350 for compensation of investment loss is inviolable. *What we do deplore, however, is the committee's failure to explore viable alternatives.*" (Emphasis added)

I compliment the chairmen of all four committees concerned with this bill, Mr. UDALL, Mr. MURPHY of New York, Mr. ZABLOCKI, and Mr. ULLMAN, for giving to us the blended bill H.R. 12988 as an alternative.

In title II, we express our intent that the U.S. negotiators at the United Nations Law of the Sea Conference not negotiate away all legitimate U.S. interests, including the preexisting investments which private companies may have made.

This provision without making any guarantee's sends a clear signal that Congress does not want a treaty which allows the underdeveloped countries—the group of 77—to run all over U.S. interests.

In addition, this blended bill provides for a payment of three-fourths of 1 percent of the gross value of any minerals extract to an international fund. While I think the percentage should be higher, I think 10 percent is too high, but this provision at least does recognize the legitimate interests in seabed minerals of underdeveloped nations.

I believe these provisions provide a good balance between United States and international interests without giving anyone a guarantee.

I urge my colleague to support H.R. 12988.

PARLIAMENTARY INQUIRY

Mr. GILMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GILMAN. Could the Chair inform us whether the Committee on International Relations will have separate time?

The CHAIRMAN. That is correct. The gentleman from New York (Mr. GILMAN) will have 15 minutes, and the gentleman from New York (Mr. BINGHAM) will have 15 minutes for the Committee on International Relations.

The Chair at this point will recognize the gentleman from Ohio (Mr. VANIK), a member of the Committee on Ways and Means, for 15 minutes.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Chairman, the mineral resources of the ocean floor are immense, difficult even to quantify, and have the potential to meet much of the world's needs for such critical minerals as cobalt, manganese, nickel, and copper.

The United States is committed to the principle that the minerals of the seabed are the common heritage of all mankind. The right to explore and develop that heritage is the right of every nation.

The legislation before the House recognizes the tremendous potential of the seabed and the common right of all nations to the oceans' resources.

I support H.R. 12988, legislation which will enable development of the seabed to begin in an orderly, efficient manner with necessary safeguards for the ocean environment.

It is interim legislation designed to regulate the activities of American citizens in deep seabed mining until a treaty negotiated by the United Nations Law of the Sea Conference is ratified by the nations of the world.

This legislation has been an enormous undertaking: Hearings conducted over a period of several years, diligent and persistent efforts by the members of four House committees, and the cooperation of three Presidents, their administrations, and Ambassadors to Law of the Sea Conferences.

The leadership of both parties have done an extraordinary job in presenting for our consideration consensus legislation which provides agreement on most major issues.

Where agreement has not been possible, the committee leadership have appropriately presented these areas for resolution by the Whole House.

As an original cosponsor of H.R. 3350 and as a member of the House Merchant Marine and Fisheries Subcommittee on Oceanography, I am very pleased to rise in support of H.R. 12988.

I feel we are very appropriately and properly acting on this much-needed legislation to encourage orderly and efficient exploration and recovery of the mineral wealth of the ocean floor and to provide the proper legal framework for that activity.

No nation can claim exclusive rights or sovereignty over any part of the ocean floor.

All nations have the right to develop that resource.

The United States, however, is the leader among several nations which have the technology and the capability to exercise that right.

I know I speak for many of my colleagues in this House when I say I would have preferred an international agreement governing the development of the ocean floor to have preceded commercial recovery.

The United States has participated fully in the Law of the Sea Conference and has negotiated in good faith towards a Law of the Sea Treaty.

The conference has deadlocked, as it had in previous sessions. The seventh session concluded this March with the participants moving farther apart rather than closer to agreement.

It is unfortunate the conference has been unable to agree on a treaty to provide an international framework for the development of the minerals.

That failure, however, cannot postpone indefinitely the exploration and development of these minerals for which there is such a great need.

The United States is a net importer of 23 of 32 critical minerals to the extent of at least 50 percent of our total consumption. The Soviet Union imports only one mineral to that extent.

We now import more than 98 percent of the cobalt and manganese we use in this country.

We import 70 percent of our nickel and 10 percent of our copper.

As the Representative of a district which produces two-thirds of the Nation's iron ore, I know the critical importance of manganese to this Nation's steel industry.

Recent developments in Zaire underscored the vulnerability of our dependence on imported cobalt. Following the invasion of Zaire by Communist-backed troops, cobalt production in Zaire ceased, and the price of cobalt tripled in 1 month.

A GAO report released last month—"Deep Ocean Mining—Actions Needed To Make It Happen"—stated that the potential benefits to the United States from seabed mining include:

Reducing nickel and manganese imports by more than 50 percent and eliminating all cobalt and most copper imports by 1985, which could reduce mineral import costs by over $1 billion in 1985.

Ensuring U.S. independence of foreign suppliers in meeting national security needs for these metals.

Increasing U.S. employment through deep seabed mining, shipbuilding, the production of mining equipment and the construction and operation of minerals processing plants within the United States.

The benefits of ocean mining are enormous, but the impact of that mining on those resources will be minimal. The same GAO report indicates the deposits are so large that "the first commercial ventures are likely to mine less than 5 percent of the deposits presently identified."

The mineral content of the South Pacific bed is estimated to be between 10 and 500 billion tons.

Any development of these resources must be based on a legal framework which encourages development, avoids conflict with international law, provides a strong mechanism for avoiding negative environmental impacts, and establishes an orderly procedure for mining activities by American citizens.

The capital investment required for mining is enormous. The cost of developing one site ranges from $550 to $700 million.

That kind of commitment requires assurances that any future international agreement to supersede this legislation will recognize the validity of their operations.

H.R. 12988 offers an appropriate compromise between absolute Federal guaranty and development totally at the developer's own risk.

The financial investment involved requires the assurance that our Govern-

ment will make the best effort possible in the law of the sea negotiations to ensure that implementation of the treaty will not affect the integrity of previous investments.

It is in our national interest to offer the incentive and make the commitment made in H.R. 12988.

This legislation represents a strong commitment to ocean mining without an abrogation of the principle that these mineral resources are the common heritage of all mankind.

Under this legislation, we remain committed to management of the resource under an international agreement.

We do not assert a claim of sovereignty which would undermine any law of the sea negotiations.

H.R. 12988 provides the reasonable framework within which American citizens may exercise the common right of exploration of the tremendous potential of the ocean floor.

Mr. VANIK. Mr. Chairman, the Ways and Means Committee agreed to an amendment which has been incorporated as a separate title IV in H.R. 12988, the Deep Seabed Hard Mineral Resources Act. This provision imposes an excise tax on deep seabed mining. It also creates a trust fund into which the taxes are deposited. The amounts in the fund would be available for appropriation for revenue sharing under an international deep seabed treaty.

The excise tax is imposed on the value of the metals or minerals removed from deep seabed nodules containing at least one of the following—manganese, nickel, copper, or cobalt. The rate of tax is 3.75 percent of the imputed value of all commercially recoverable metals or minerals in those nodules. The "imputed value" is 20 percent of fair market value, so that the effective tax rate is 0.75 percent of fair market value.

The tax is payable at the time prescribed by the Treasury Department which generally can be no earlier than the time of commercial use or sale of the metals or minerals. If the taxpayer does not intend to process, use commercially, or sell a metal or mineral within 1 year, the tax on that metal or mineral is not payable unless and until the taxpayer later does process, sell or use the metal or mineral.

The tax is effective on January 1, 1980, and it terminates 10 years after enactment or earlier if an international deep seabed treaty which meets the provision's requirements is adopted by the United States.

Since there is not expected to be any deep seabed mining for at least 5 years, there will not be any tax revenues for that period. Once mining is in full production, it is expected that the tax will raise about $5 million of net revenues annually.

Mr. Chairman, I urge the adoption of title IV of the bill.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Ways and Means Committee amendment to H.R. 3350, the Deep Seabed Hard Mineral Resources Act. It is an interesting measure. We are in virgin territory. We have tried to strike a balance that will bring about the development that is needed, that will give adequate recognition to the communal nature of the resources to be recovered and that will also reflect the current status of negotiations relative to the deep seabed.

The amendment imposes an excise tax on certain hard minerals extracted from the seabed. That is as opposed to the continental shelf. The excise tax is 3.75 percent; that is .0375 of the imputed value of the covered minerals, which in turn is defined as 20 percent of the fair market value of the recovered minerals. Simple arithmetic of 3.75 percent times a 20-percent imputed value figure yields an effective tax rate of 0.75 percent, or .0075, if you express it in decimals. This adjustment is made to approximate the value of the minerals themselves without the added value due to the extraction, handling, and transporting operations. The minerals subject to the excise tax are all commercially recoverable minerals contained in nodules which contain at least one of the following four minerals: manganese, nickel, cobalt, or copper.

The tax will take effect on January 1, 1980. It will terminate either when the United States agrees to an international treaty on this issue, or after 10 years, whichever is earlier.

The proceeds of the excise tax are earmarked for deposit in a Deep Seabed Revenue Sharing Trust Fund. The amounts in the Trust Fund will be available as part of any U.S. contribution to an international revenue sharing fund which may be required by the Law of the Sea Conference, but which has not as yet come to fruition in these negotiations. If there is no international agreement after 10 years, then Congress will determine the disposition of amounts in the trust fund. Remember, it terminates in 10 years, if there is no international agreement prior to that time.

Mr. Chairman, the excise tax and trust fund are straightforward in their operation. The specifics in the amendment address details such as the procedure for determining the minerals' value, the payment schedule of the tax, and certain conditions for suspending payments. However, the House should not lose sight of the more important aspect of this revenue measure. That is, it signals our willingness to share deep seabed revenues whenever an acceptable international treaty can be reached. It shows the world that we are backing up our words with action.

The level of the tax is sufficient to give credibility to our position but not so large as to stifle this emerging industry before it has a chance to get started. An excise tax significantly higher than that recommended by the Committee on Ways and Means will jeopardize the future of deep seabed mineral recovery. If it were lower than that, it would not give, I think, adequate recognition to the fact that this is a common property located on the deep seabed and not within the property of the United States.

Mr. Chairman, the amendment of the Committee on Ways and Means to this legislation is designed to strike a balance between collecting revenue and permitting a new industry an opportunity to establish itself. It is too bad to hold up the development of this industry and this important mineral resource simply because of an inability to bring the Law of the Sea Conference to a prompt conclusion.

Mr. Chairman, I urge my colleagues to support the committee amendment as a sensible first step toward the optimum tax treatment of the deep sea-mining industry.

The CHAIRMAN. The gentleman from New York (Mr. CONABLE) has consumed 5 minutes.

Mr. VANIK. Mr. Chairman, I would like to inquire to the gentleman from New York (Mr. MURPHY) whether he has any further requests for time.

Mr. CONABLE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. VANIK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York (Mr. BINGHAM) is recognized on behalf of the Committee on International Relations for 15 minutes.

Mr. BINGHAM. Mr. Chairman, I yield 5 minutes to the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 12988, which will be offered as a substitute for H.R. 3350 at the appropriate time.

The Committee on International Relations has had a long-standing interest in deep seabed mining legislation. It recognizes the implications that such legislation could have for U.S. foreign relations in general and the Third United Nations Conference on the Law of the Sea in particular. Several members of the committee have been congressional advisers to the U.S. delegation to the Law of the Sea Conference, and the committee has held briefings and hearings on the status of the conference following each conference session.

We have closely followed the related legislation, such as the 200-mile fishery-management zone, and we continue to be interested not only in U.S. fishing and mineral rights but also in such questions as the unimpeded passage of our naval ships through the world ocean as well as a uniform-breadth of the territorial sea.

The world ocean, Mr. Chairman, is the last frontier. Therefore, it is imperative that there be orderly exploration of the deep seabed, and, to accomplish this, a deep sea treaty is necessary.

The Committee on International Relations has been particularly cognizant of the impact that unilateral legislation would have on the Law of the Sea negotiations. In the past the committee has been concerned that U.S. legislation on deep sea mining could impair prospects

for the successful conclusion of a comprehensive agreement that is in our Nation's national interest.

However, the committee now believes that interim legislation could be useful. The committee is impressed by the broad support for this view expressed by witnesses from the Congress, the administration, the ocean mining industry, academia, nongovernmental organizations, and, Mr. Chairman, by past supporters and opponents of such interim legislation.

The committee concurs with the administration that the failure of the sixth session of the United Nations Conference held in the summer of 1977 to make progress on the proposed seabed authority makes its necessary for Congress to establish a legal framework within which U.S. companies can develop deep sea mining technology which is important to the United States.

Mr. Chairman, the substitute bill, H.R. 12988, represents a compromise of the three versions of H.R. 3350 reported from the Committee on Merchant Marine and Fisheries, the Committee on Interior and Insular Affairs, and the Committee on International Relations. There were 19 issues of difference among the 3 versions, one of which was resolved by referral to the Committee on Ways and Means. A great deal of time and effort has been expended by these committees to reach acceptable conclusions, and I congratulate all the participants who have worked so hard to achieve a successful compromise.

Particularly, Mr. Chairman, I wish to pay tribute to the chairman of the Subcommittee on International Economic Policy and Trade of the Committee on International Relations, the gentleman from New York (Mr. BINGHAM).

Mr. Chairman, I urge passage of the substitute bill before us.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I appreciate very much the comments of the committee chairman.

The gentleman mentioned the lack of progress at the sixth session of the United Nations Conference, and I presume his statement refers primarily to that lack of progress. Is that accurate or not?

Mr. ZABLOCKI. That is accurate. There was, unfortunately, a lack of progress at the sixth session in the summer of 1977.

I wish to submit to the gentleman that passing this legislation would serve as an incentive for progress at the future sessions of the conference.

Mr. BEDELL. Through the sixth session the gentleman felt there was inadequate progress. Is that correct?

Mr. ZABLOCKI. Yes, the sixth session was the one I referred to.

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 12988, a bill which will be offered as a substitute for H.R. 3350 and which will promote the orderly development of hard mineral resources, pending adoption of an international regime relating thereto.

Considered by four committees, Merchant Marine and Fisheries, Interior and Insular Affairs, International Relations, and Ways and Means, this legislation has received careful and close scrutiny over a period of many months.

It is a measure enabling deep seabed mining operations to develop and apply necessary technology to the commercial recovery and processing of an abundant storehouse of minerals, particularly nodules of manganese, copper, cobalt, and nickel, all needed by an increasingly industrialized world, while at the same time clearly asserting that the bill is "interim" in nature pending the entry into force of a "superseding international agreement" governing such mining activities.

It is interim, transitional legislation because in 1970 the United States joined with 108 other nations in adopting a United Nations resolution declaring the seabed and the resources thereof beyond the limits of national jurisdiction as the "common heritage of mankind."

The United Nations Law of the Sea Conference, in which over 150 nations are participating, has made noteworthy progress toward, but has not as yet developed a working definition of this common heritage principle in terms of how the deep seabed's natural resources will be administered by an international regime and U.N. member states. Serving, during the last 4 years, as a congressional member of the U.S. delegation to the Law of the Sea Conference, I have joined with others in stressing the critical importance of giving meaning to this common heritage concept so that the deep seabed would be spared the debilitation caused by a modern day gold rush governed only by the rule of "first with the most."

I am confident that the basic framework of the compromise substitute bill, H.R. 12988, would prevent such chaotic exploitation of the deep seabed's mineral resources, and carefully effects a synthesis between the need to develop technology for commercial recovery and processing of the minerals, and the requirement that this Nation engage in ocean mining with the intent that principles of the common heritage concept to emerge from the Law of the Sea Conference will ultimately guide U.S. actions in this area.

Testifying on January 23, 1978, before the Committee on International Relations, Ambassador Elliot L. Richardson, head of the U.S. delegation to the Law of the Sea Conference, stated that "the orderly development of deep seabed mining should not only be continued but also be encouraged." Ambassador Richardson further indicated that "interim domestic legislation" composed of key elements now for the most part contained in H.R. 12988, "will not, as is often charged, negatively affect the prespects for reaching ageement at the Law of the Sea Conference."

Accordingly, I urge my colleagues to support H.R. 12988, and while there remain several additional issues concerning ocean mining to be considered before final passage of this bill, I am hopefull that the House will approve a measure which will both promote in an orderly way the development of deep seabed mining, and maintain the integrity of the concept "common heritage of mankind."

Mr. GILMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, after months of negotiation, we now have before us, a bill that will permit U.S. companies to mine manganese modules from the oceans seabeds. As a cosponsor of H.R. 12988, which my colleague from New York (Mr. MURPHY), will offer in the form of a substitute to the original text of H.R. 3350, I point out that what has finally emerged is the product of those who have taken an active interest in this legislation.

To get where we are today required significant concessions on the part of a number of us. Having made those concessions, we feel obliged to serve notice that we have compromised as much as we can and, therefore, must oppose last ditch efforts to make certain further changes adverse to U.S. interests.

I am naturally disturbed about reports that attempts will be made to alter two very important elements of the compromise bill, title II and title IV.

As Members know, the original bill reported out of the Merchant Marine and Fisheries Committee provided for a federally administered investment insurance program as a means of protecting U.S. deep sea mining companies against the loss of their investments under the terms of any future international oceans accord. I originally favored this idea, primarily because I was impressed by testimony indicating that private insurers would not underwrite deep sea mining ventures at affordable rates. Such insurance is not attainable because private insurers foresee the possibility that some years hence a Law of the Sea Treaty may come into force which would create an international seabed entity with the authority to seriously harm U.S. sea mining investments.

Can anyone recall any previous situation where U.S. industry has been faced with the prospect of having its business activities and investments subjected to the dictates of an international authority comprised of a majority of nations that have a much different perception of the merits of the free enterprise system and what constitutes a fair return on an invested dollar? I think not—it is an unprecedented possibility. Given that reality, a number of us felt it was in the national interest to insure that U.S. companies mining materials vital to our national defense effort be given some kind of needed protection.

During the long negotiations between those most interested in this bill, an acceptable alternative to the investment guarantee proposal was worked out. That alternative has been incorported into title II of the Murphy substitute which stipulates, inter alia, that it is the intent

of Congress that the United States will not accept a treaty which did not provide adequate protection for American mining investments and operations authorized by this legislation. I accepted this so-called grandfather rights compromise language after being satisfied that it would significantly minimize the risk of the United States becoming a signatory to a treaty that would jeopardize an operation's viability.

In view of the foregoing, any effort to weaken title II must be rejected. It would dilute a clearcut expression of congressional intent at a critical juncture in the Law of the Sea Treaty negotiations. The next round of talks is slated to begin in the latter part of August. Consequently, any congressional signal at this time that would encourage other countries to exact further adverse concessions from our negotiators could cause U.S. companies to terminate their plans for further deep seabed investments and operations. That is a turn of events all of us, I am sure, seek to avoid.

I would now like to turn to my concern about amending title IV which imposes a taxation system on deep seabed mining activities and provides for the establishment of a deep seabed revenue sharing trust fund. Evidently the gentleman from California (Mr. STARK) will offer an amendment to this title that would raise the effective rate of the removal tax on deep seabed minerals from three-fourths of 1 percent to 10 percent of gross revenues.

I will have more to say about the demerits of the Stark amendment when we consider it later on in these proceedings. For the moment, however, I would like to leave you with these thoughts to ponder:

This amendment would preclude ocean mining by U.S. industry and thus insures that there will be no revenues in the international fund.

Leaving aside the question whether it is in the national interest to turn over substantial ocean mining revenues to an international seabed authority or the Third World, it is clearly not in the national interest to do so at the expense of prohibiting the development of a U.S. ocean mining capability.

In sum, Mr. Chairman, the Murphy substitute represents a practical political solution to a host of problems that not too long ago seemed irreconcilable. Thanks to the collective efforts of members from the four committees—Merchant Marine and Fisheries, Interior, International Relations, and Ways and Means—exercising jurisdiction over this legislation, those problems have now been resolved. Admittedly, it may not be the complete answer to everyone's concerns, but frankly—how many bills are?

In evaluating the Murphy proposal, Members should bear in mind its passage would accomplish two overriding objectives:

First. It significantly strengthens Ambassador Richardson's negotiating hand at the next session of the Law of the Sea Conference; and

Second. It permits U.S. mining interests to extract resources from the deep ocean which are critical to the preservation of our national security.

In my estimation, these two objectives clearly transcend others. Passage of the Murphy alternative will cause us to realize both and, therefore, I urge its adoption.

Mr. BINGHAM. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, last November H.R. 3350 was subsequently referred to the International Relations Committee for consideration of those aspects of the bill which fall within the committee's jurisdiction. We worked very hard, in the short time available under the terms of the referral, to make the bill acceptable both to the committee and the administration from a foreign policy point of view. Our main purpose was to make the bill contribute to, rather than detract from, the chances for successfully concluding a Law of the Sea Treaty, and to make the bill consonant with the country's general foreign policy objectives. To that end, the amendments the committee reported out in February accomplished the following:

First. Deleted a provision which would have guaranteed the investments of U.S. mining companies against the effects of a treaty entered into by our own Government;

Second. Established a meaningful revenue-sharing provision based on the principle, to which this country has officially subscribed, that the resources of the deep seabed are the common heritage of mankind;

Third. Modified provisions, requiring documentation of mining vessels and location of processing plants exclusively in the United States, which would not only run counter to the principles of American foreign policy but would also actually hurt the mining operations themselves;

Fourth. Strengthened the reciprocating States and environmental protection provisions of the bill, and the disclaimer of extraterritorial sovereignty; and

Fifth. Emphasized that this act is transitional pending the conclusion of a Law of the Sea Treaty, and will be superseded by such treaty to the extent that the bill is inconsistent with the treaty.

For 4 months after we reported the bill, we engaged in complex negotiations with the other committees involved in an attempt to reconcile the 19 differences among the three versions, and produced a substitute, H.R. 12988, which will permit orderly consideration by the House Managers for the three committees agreed that they would neither offer nor support any amendment to the substitute from the floor which would have the effect of altering the agreement we reached on any of the 19 points at issue, with two exceptions.

Mr. Chairman, no party to this agreement is entirely satisfied with it. I myself have some doubts about the wisdom of passing a bill at all, since we have received so much contradictory testimony about the possible effects of the bill on the law of the sea negotiations. But I sense that the will of the House and the administration is to have a bill. In a spirit of compromise, I have cosponsored the substitute, which I am pleased to say contains the substance of the International Relations Committee amendments. I urge the House to pass the substitute without loading it down with harmful amendments.

Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I rise in opposition to H.R. 3350, the Deep Seabed Hard Minerals Act. This bill has far reaching ramifications, and I do not believe we fully realize the potential consequences of passage of this legislation.

I would like to read for you from a declaration adopted by the U.N. General Assembly in 1970.

1. The Seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind.

The area shall not be subject to appropriation by any means, by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

This declaration passed by a vote of 108 to 0, with 14 abstentions. The United States voted for the declaration.

In May, our chief negotiator, Ambassador Richardson reported that:

When the Geneva phase of the Seventh Session ended last Friday, delegates could take deserved pride in the solid record of accomplishment they had built. By common agreement, success with respect to each hard-core issue being considered by the Conference was defined as a text sufficiently improved over the Informal Composite Negotiating Text that it offered a substantially enhanced prospect of consensus. Under this criterion, the list of successes is substantial.

Delegates from the developing world have told me that we should not expect their respective countries to continue to negotiate if the U.S. Government enacts unilateral legislation. Several representatives from landlocked States have stated that they are not concerned with many of the other issues involved in the LOS negotiations, such as right of passage through straits for example, because they do not have a navy. Their botton line is that they are tired of deferring to the neocolonial attitudes and policies of the United States and that passage of unilateral legislation will be the proverbial straw that breaks the camel's back.

Stated simply, many LDC's are tired of being pushed around.

It is important to understand that we are facing a very emotional situation. Many nations will be mad—and you and I would be too—if the United States professed to be negotiating in good faith and then went right ahead and licensed private companies to mine the deep seabed while negotiations were still in progress.

I believe that the delegates are sincere in what they have told me and that certain nations will indeed break off negotiations if unilateral legislation is enacted. But let us assume for the sake of argument that they are only bluffing and they will continue to negotiate at the U.N. I personally do not believe that such

a development materially changes the argument.

Remember, the United States has agreed that the minerals on the ocean floor "shall not be subject to appropriation by any means by states or persons * * *"

Consider the following excerpt from the prepared report by the Congressional Research Service for the House International Relations Committee:

Since over 100 nations are committed to the principle that deep seabed minerals are part of the "heritage of mankind" and thus may be subject to the moratorium on mining, a unilateral decision by the U.S. Government to license mining operations would probably be challenged. These challenges might take the form of protests in international forums, lawsuits both in the U.S. courts and in the courts of foreign countries against the companies engaged in mining the seabed, support of political opposition within the United States against seabed mining on environmental or other grounds, economic or political sanctions, or resort to force. Since the linkage has been made at the Law of the Sea Conference between seabed mining and navigation rights, sanctions or resorts to force might be directed either against the miners themselves or against U.S. maritime commerce generally. Failure to respond appropriately to challenges would have the effect of abandoning the claim to the right to mine the seabed beneath the high seas.

There is no intent to imply that violence is the most likely form challenges to U.S. mining of the deep seabed may take. Legal or political challenges are, in fact, more likely because of the powerful retaliatory capability of the U.S. military establishment. But the history of development of customary law of the sea is filled with resorts to low level violence as a supplement to other measures. Prudence requires that the possibility of violence be considered although its intensity might be very low.

Current concepts for mining the deep seabed involve ships towing deep sea dredges, either bucket or suction operated, at speeds from 2 to 4 miles an hour. With gear working, these ships are vulnerable to various kinds of hostile actions. Few in number and operating in well defined locations, they could be subjected to harassment, seizure or even sinking. The sophistification of the hostile element might range from naval and air units of a Third World power or powers to ordinary commercial craft in the hands of terrorists or other subnational groups. Harassment, the most likely hostile actions, could take the form of close passes to the mining vessel, intended to obstruct movement, deliberate fouling of the dredging equipment, setting off explosive charges in the near vicinity of the mining vessel, deliberate collision and similar actions designed to impede operations. Seizure or sinking, though probably less likely, are equally feasible actions against undefended mining ships should the challenger decide on that course. Harassment and seizure are most easily accomplished from another vessel. Either ships or aircraft could carry out a decision to sink a mining vessel as a challenge to the claimed right to mine the deep seabed. Submarines, available in a number of Third World navies, could sink mining vessels anonymously.

Indeed, one representative from a developing country told me that if the United States unilaterally licenses private companies to start mining deep sea minerals which the world has agreed does not belong to any one nation, we should not be surprised if something happens to their operations.

Mr. Chairman, what would we do if a ship is sunk or damaged while exploiting minerals which we have agreed "shall not be subject to appropriation by any means by states or persons * * *"?

Or suppose Third World countries retaliate by imposing navigation restrictions on U.S. shipping in their economic zones. Let me again read from the House International Relations Committee report on this legislation:

Whether the U.S. Navy has sufficient capability to assert the right of navigational freedoms within the economic zones of dissenting coastal states has not been assessed in unclassified sources and is not further addressed here. *It is a question that should be answered however, as a part of deliberations over whether to license U.S. companies to conduct seabed mining explorations or operations in the absence of an acceptable international agreement.*

Or, suppose certain nations simply expropriate property of U.S. interests within their country in return for what they compute to be their share of the value of the minerals we have taken from the "common heritage."

What would the United States do?

The question is whether it makes any sense for the House of Representatives to pass legislation that could lead us toward these kinds of problems.

Does it make any sense for us, in effect, to say to those who have been trying to negotiate a treaty on the complex issues of the use of the world's oceans that:

Sure we promised that we would negotiate in good faith and after the last LOS session we agreed that "delegates could take deserved pride in the solid record of accomplishment they had built." But since the progress has not been as rapid as we had hoped, we have decided to go ahead on our own and license private firms to take from the common heritage. We have also decided that any future treaty will be expected to conform to the terms established by our domestic legislation. Regardless of what you may think, we believe it is negotiating in good faith for us to take this action.

The fact that most of you believe that unilateral legislation violates the 1970 U.N. Declaration we supported as well as international law doesn't concern us much because mining industry lawyers have assured us that it is OK.

Oh, by the way, we hope that you will negotiate a treaty that guarantees our ships the right of passage through straits and free navigation through your economic zones, because that is important to us. And we hope you will respect us for the good country we are and will continue to furnish us with all the other important raw materials we need from you.

Such rationale is neither rational nor tenable.

Mr. Chairman, I believe a satisfactory Convention on the Law of the Sea is very much in the public interest of the United States and that passing unilateral legislation is very much in the private interest of a handful of mining companies. The two goals are contradictory, not complementary as some have suggested.

There is little doubt that deep sea mining legislation will pass the House and that there will be great celebration in the offices of the mining companies and their lobbyists—and that the change for our children and grandchildren to live in a peaceful world will also be diminished by that vote.

Mr. GILMAN. Mr. Chairman, I yield 5 additional minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, regarding the question of the common heritage doctrine that the gentleman referred to, does the gentleman agree that the proposed legislation clearly states and recognizes that the mineral resources are the common heritage of mankind and further sets up an international revenue sharing fund to distribute some of the moneys that are derived from mining by international concerns?

Mr. BEDELL. The nations of the world believe that whether we say we recognize it or not the passage of this legislation is not only a violation of the 1970 declaration, which we voted for and which was passed unanimously, it is also a violation of the intent of international law. And further, it is doubtful that much of the international community would consider the revenue-sharing provision of H.R. 12988 particularly generous. The mining company tax assessment—0.75 percent of gross receipts—is far too low when considered in comparison to the potential economic benefits which would accrue to private mining companies from exploitation of the ocean floor.

Mr. BREAUX. If the gentleman will yield further, the gentleman referred to the fact that the United States voted for the common heritage doctrine, and that is correct.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 12988, the Deep Seabed Mining Act. This bill, as presently before the House, represents a consensus of the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, International Relations, and Ways and Means.

As a member of two of those committees, and former member of a third, I feel a certain sense of déjà vu regarding this bill. It has taken a long time to reconcile the various interests involved in this subject, stretching as they do from American board rooms and Government offices to literally the heart of Africa.

The implications of this measure are vast. A wealth of minerals awaits at the bottom of the sea, but it requires a massive investment of capital to recover. We are speaking of investments on the order of half a billion dollars and more before a profit is realized. Naturally, no one is going to invest that kind of money without at least some assurances that they will be able to keep a reasonable share of those profits.

Unfortunately, we find ourselves now in a chicken and egg situation. Do we pursue an international treaty in order to guarantee our rights, or do we go ahead in the hopes that our activity will stimulate movement toward a treaty.

Negotiations are now stalled in the U.N. Law of the Sea Conference. In a way, it is a situation similar to that of the 200-mile limit. Everyone argues over what to do until finally someone goes ahead and does it. Treaties usually ratify reality.

This bill expresses the intent of Congress that it will not accept a treaty, which imposes financially impossible conditions on development. It also lays the groundwork allowing U.S. companies to proceed. Without the participation of U.S. companies, it is doubtful whether deep seabed mining will ever become a reality. The "grandfathering" section contained in title II of the bill will assure this participation, and send a signal to the international community of our own conditions for participation.

Finally, in recognition of the principle that the minerals of the deep seabed belong to all mankind, the bill provides for a percentage of the revenues to be placed in a revenue-sharing fund, to be dispersed to the international community whenever a new treaty comes into force.

This bill has had a long genesis, but it is now at the point where a vital new industry can be born. I urge my colleagues to lend their vision to this undertaking and help it become a reality.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I was disturbed to hear the mention of threats. We ought not in this country, it seems to me, act on account of threats or because we are afraid. We ought to act, because we think it is the right thing to do. If we are involved in negotiations then we should not, behind people's backs, take an arrogant and indifferent attitude and pass legislation that rides over the negotiations that are taking place, we hope, in good faith.

I would like to ask the chairman of the subcommittee, the gentleman from New York (Mr. BINGHAM) if it is, indeed, part of our negotiating posture that, for example, the countries which are negotiative in good faith and in cooperation, would understand the spirit of such legislation. Does our Ambassador want a bill so that he can then use it in his negotiations with other countries, or would that, indeed, be regarded as an unfriendly and arrogant action?

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. GILMAN. I yield 1 additional minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, our chief negotiator, Ambassador Richardson, has indicated publicly he feels Congress should proceed in an orderly fashion with legislation. I do not think he has made any statement publicly as to his position on the legislation. But to answer the gentlewoman's first statement, there is the view that the passage of legislation, particularly by the House, would help the U.S. negotiators.

Mr. BEDELL. Mr. Chairman, if the gentlewoman will yield, as a congressional adviser to the Law of the Sea Conference I have talked to a number of delegates from the developing countries, and I can tell you that without exception those delegates look at this action as a violation of our agreement to negotiate in good faith. In all fairness, I am not sure that they look upon passage in the House as such, but if the bill is enacted by Congress, they absolutely would feel that to be the case. And, in my opinion, if the House passes this bill, we will be setting an ominous precedent and, we will be embarking on a dangerous course.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN. The time of the gentlewoman has again expired.

Mr. GILMAN. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, would it be possible in this legislation, to indicate the mood of the House? Could we suggest, by passing in this House alone, a bill that shows we are awaiting, as a final matter, the decision of the Law of the Sea Conference and that we are putting this legislation forward only in that spirit?

Mr. BINGHAM. I think the gentlewoman will find that there are various references to that effect in the legislation and in the committee reports. This is without question interim legislation, and it will have no impact beyond that. If a treaty comes into force, the legisation yieds to the treaty.

Mr. BEDELL. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentlewoman for yielding.

The gentlewoman should also be aware, however, that the legislation clearly states that it is the intent of Congress that the treaty abide by substantially the same terms, conditions, and restrictions that we write into this legislation.

Mrs. FENWICK. Perhaps we could change that to read "hope" instead of "intent."

Mr. BEDELL. If the gentlewoman could, I think that would be agreeable.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SKUBITZ. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. I thank the gentleman from Kansas, my colleague on the Committee on Interior and Insular Affairs, for yielding to me.

Mr. Chairman, the legislation before us deals with many complex and sensitive issues. H.R. 12988 successfully responds to international, economic, technological, and environmental concerns and when passed, will give our country a sound policy for the development of the mineral potential of the ocean floor. As a result of this policy, our country will have a valuable source of manganese, copper, cobalt and nickel and will make great strides in insuring our mineral independence. I congratulate my colleagues who have worked so long and so hard on this matter for successfully resolving the issues that they faced. But while H.R. 12988 does strike to address most concerns, it does neglect certain aspects that this Congress must include in its considerations.

Deep seabed mining is an untested process and the impacts that it could have on the ocean and marine life are mostly unknown. The wealth of the oceans belong to all mankind and we must seek to protect this marine environment as far as possible. For this reason, it is imperative that H.R. 12988 offer the maximum environmental protection.

A key to protecting the oceans is the role of the public in the decisionmaking process. The input of concerned citizens will provide the Secretary with a valuable source of information and will result in rules and regulations that balance environmental concerns with development needs. Public participation will also play a valuable oversight function and will help to insure compliance by the regulatory agencies.

Public participation is an important device for those who wish to develop the ocean's mineral resources. Through this vehicle, industry will be able to contribute to the development of a sound mining policy and will be able to appeal adverse executive decisions.

Mr. Chairman, public input has proven to be beneficial to the development of governmental policy. During this session, Congress has provided for citizen participation in such important legislation as H.R. 2, the Surface Mining Control and Reclamation Act of 1977, and H.R. 1614, the Outer Continental Lands Act of 1977. Such a provision must be included in this legislation of international significance.

During consideration of H.R. 12988, I plan to offer an amendment to provide for such public participation. I believe that this amendment will serve as a further safeguard for this valuable resource and will result in a sound policy for mining the ocean floor.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I would like to take 1 minute to raise one question that has come to mind. I am sure there is an answer to it. We are trying to guarantee to the nations of the world, particularly the landlocked nations, as I understand it, their rights to participate in the benefits that may develop from this program by placing a certain

amount of funds, whether it be three-quarters of 1 percent or 10 percent, into a special fund. Is this not correct?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

The gentleman is correct. We have a provision which the Committee on Ways and Means has presented which does provide exactly that international fund.

Mr. SKUBITZ. That leads me to my second point. Supposing a firm should develop an area, find the resources, and begin removing minerals. What in this bill is there to protect them against poachers from other countries?

Mr. BREAUX. If the gentleman would yield further, the same thing that would protect any fisherman on the international high seas catching fish.

Mr. SKUBITZ. I do not know of anything that protects them; does the gentleman?

Mr. BREAUX. That is the answer.

Mr. SKUBITZ. If one of our countries should develop an area outside of our limits and a ship from some other country says, That is fine. We are glad you found the ore for us.

Now we are coming in and taking over, what would happen?

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

First of all, I say as a practical matter the technology required for this kind of an operation is very sophisticated, and the capital investment is very large. It is true, as the gentleman from Louisiana has just stated, and it cannot be otherwise, that we cannot declare unilaterally that a certain segment of the ocean is the exclusive province of an American company to develop. On the other hand, there is a provision in the bill for us to come to agreement with certain other countries, and they will agree not to license any operations in any areas that we have licensed, and we agree not to operate in any areas they license. But beyond those statements it is subject to the kind of problem that the gentleman raises, and which could not be otherwise because that land and those resources are international.

Mr. SKUBITZ. Mr. Chairman, if I may have back my time, I think I get the gentleman's answer, but that raises this question. Certainly the gentleman is not telling me that if private enterprise can go out and raise the money to develop this, that a nation of the world cannot get enough funds to develop the type of equipment that is necessary today. Any number of nations could develop the equipment, sit idly by and wait for somebody to find a nice rich spot and then find somebody to help develop it. If they reach agreement, from what my colleague says, the undeveloped nations are not willing to accept any agreement.

I am not sure the Russians or anybody else are so willing to accept an agreement that they will not do a little poaching if they see an opportunity to do it and are protected by the fact that the people of the United States have no part in the property they are developing.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, I would say the gentleman has made a very excellent statement as to the reasons for a treaty and why we are trying to negotiate an international treaty to cover this.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman from New York.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I think the gentleman misunderstood me. I think the gentleman thought the underdeveloped countries did not want this developed under any circumstances. On the contrary, I think they are most anxious to have this developed, because they want to see it developed so they can share in some of the profits.

The concern I have is what the gentleman has expressed, that is, that we should know if we license these people to go out and mine these minerals, which we agree do not belong to us, and somebody commits acts of violence against those operations, do we wash our hands of responsibility for whatever is done?

I hope this is settled before we pass the legislation, because I think it is a very important thing for the taxpayers of this country to know.

Mr. SKUBITZ. Mr. Chairman, I yield the remainder of my time to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of the measure.

Mr. Chairman, we are to decide, this week, whether or not we need to set interim guidelines for American mining corporations to follow in mining the deep seabed while the United States and the other nations of the world negotiate an international agreement on the subject. To decide this issue we must answer two questions: First, do we need the minerals that lie at the bottom of the sea; and second, if we determine there is a need for the minerals, is there also a need for guidelines in mining them?

The answer to the first question, "do we need the minerals," is yes. The nodules lying on the floor of the deep seabed contain copper, nickel, cobalt and manganese. We are presently importing almost 100 percent of the cobalt and manganese we use, 71 percent of the nickel, and 15 percent of the copper. Given the fact that the world economy is moving from a buyer's market to a seller's market for most resources—a marketplace where supply no longer exceeds demand, but barely meets it—we must, at least, develop the technology necessary to pull these resources from the sea so that we will be prepared to meet our increasing demand for them, without being subjugated to a cartel similar to the oil cartel we must now deal with.

The answer to the second question, "do we need to establish guidelines for the mining operation " is also, yes. At present, our Government has virtually no control over the present exploratory and development activity of our ocean mining companies. The State Department has acknowledged the fact that the companies may continue to operate under the customary international law within the concept of freedom of the high seas. Consequently, there is no regulatory framework by which any nation may exercise any type of administrative or environmental control over high seas operations. We need such a framework. We need a framework in which the mining industry is provided reasonable investment security and the Government may monitor their practices in light of the international considerations of the situation. But the framework we establish here now should be, and is, interim in nature. The framework will exist only as long as there is no international agreement.

Once such an agreement is reached, ocean mining will then be carried out under the structure of the international treaty. Title II of the legislation we are considering today deals specifically with this transition. This title is essential to the legislation because it answers the argument that our legislation will damage the law of the sea negotiations. Rather than impeding the progress of the negotiations, this legislation will provide a much-needed impetus.

Our special representative at the U.N. Law of the Sea Conference, Ambassador Elliot L. Richardson, agreed with this stance in testimony before the Merchant Marine Committee last July.

Further, I was privileged to be one of several Members of Congress to participate in the Third Ocean Policy Seminar in Tokyo last November, where the Japanese delegates agreed, in our joint summary communique of the seminar, that the Japanese Diet would consider passing its own legislation authorizing deep seabed mining, similar to the legislation now before us. Since that time I have received further indications from the president of the Japanese Maritime League of Diet Members, Matsuhei Mouri, that the Diet seriously intends to deal with deep seabed mining and is following with great interest our progress on this legislation. This will undoubtedly bring additional pressure on the developing nations to come to a reasonable international deep seabed agreement by making clear the intentions of the United States and Japan to mine these resources with or without a treaty.

Therefore, Mr. Chairman, I strongly urge my colleagues to pass this legislation to set the parameters for U.S. corporations to begin mining in international seas.

● Mr. FRASER. Mr. Chairman, the Deep Seabed Hard Minerals Act to establish an interim legal framework for U.S. companies to mine manganese nodules in the deep seabed beyond national jurisdiction in the oceans has been of considerable concern to me for a long time. I was a Member of the House when such legislation was first introduced in 1971 and, since the U.N. Conference on the

Law of the Sea officially opened in 1973, I have been a congressional adviser to the U.S. delegation to that Conference.

There is no question in my mind that a comprehensive treaty on the Law of the Sea is in the U.S. national interest as well as in the interest of the international community. The successful conclusion of negotiations to revise the rules governing the multiple uses of ocean space is critically important to a world of over 150 nation-states. Agreement on a uniform breadth of the territorial sea, on the legal status of the economic resource zone, on the rights of states in that zone, on transit through international straits and on measures to conserve fisheries, protect the marine environment, promote scientific research, and settle disputes all represent major achievements in these negotiations. The big difficulty, however, has been for the developing states and the advanced industrial states to define a mutuality of interest with respect to an International Seabed Authority to govern the exploration and exploitation of the manganese nodes on the sea floor in international waters.

The substitute bill being considered, H.R. 12988, is the result of long hours of consultation among and between four committees of the House that had jurisdiction on the deep seabed mining bill. I have participated in the deliberations of the International Relations Committee when it considered H.R. 3350 as well as in the discussions with those representing the other committees. My purpose all along has been to seek to modify the provisions so as to improve the substantive quality of the bill as well as to make those provisions as compatible as possible with the requirements of the continuing negotiations on the Law of the Sea.

In these respects, I want to make a few points about the substitute bill. First, the substitute provides that ocean mining and processing vessels are to be documented under the laws of the United States or the laws of reciprocating states, which are other industrialized states that have adopted legislation on seabed mining similar to that in the United States. The International Relations Committee approved this provision; I continue to support it for reasons outlined in a letter circulated last week by myself and by my colleagues, Congressmen BINGHAM, WHALEN, MCCLOSKEY, and UDALL. I would urge your favorable consideration of our language on this point.

Second, I have strongly advocated the inclusion in the substitute of a revenue-sharing provision (title IV) whereby companies that get a permit to mine the ocean pay a percent of their profits to an escrow fund to be set up in the Treasury and which in turn would provide U.S. contributions to an international seabed authority when it comes into existence. Such a provision is essential to demonstrate symbolically and substantively U.S. commitment to the principle of the common heritage as set forth in the 1970 U.N. Declaration of principles on the exploration and exploitation of resources beyond the limits of national jurisdiction.

Third, the substitute bill provides that companies are to pay an excise tax of two-thirds of 1 percent into the escrow fund. The source of this figure was the ocean industry. However, it should be pointed out that the U.S. negotiators have been discussing a higher percent in the conference. And U.S. mining companies follow the negotiations carefully and are wholly knowledgeable about the possibility that there will be an agreement internationally on a higher percent than presently exists in title IV of the bill. My point here is that if the negotiations result in an agreement on the higher percent than the three-fourths of 1 percent in this act, U.S. companies should in no way be able to make a claim against the U.S. Government for damages in the amount of the difference between the two percentages.

Fourth, and related to the third point, it is essential to establish a clear understanding of the intent of title II, sections 201 and 202, the so-called grandfather clause. In discussions with the other committees that resulted in the substitute bill, it was agreed that notwithstanding the present language in H.R. 12988 these sections impose no legal or moral obligation on the U.S. Government to compensate mining companies that have permits to mine for any loss of investment they may incur if and when an international agreement on the Law of the Sea comes into force for the United States. This understanding should be made explicit for purposes of the legislative history of the act.

Besides those parts of the substitute that the four committees dealt with, there are provisions of H.R. 12988 that should be improved. For instance, the administration some time ago proposed amending title I to require companies applying for a permit to submit a work plan. Such a plan would provide a useful management tool and I would support adoption of an amendment to incorporate this idea. In addition, the way the legislation now reads, the administering department has to develop regulations before any licenses or permits are issued. There is, however, no clear authority in title I of H.R. 12988 for the Secretary to revise regulations and apply them to existing licensees or permittees when he or she determines such regulations are necessary to protect the environment, to conserve mineral resources, or to insure the safety of life and property at sea. I would support an amendment that gave the Secretary such express authority.

Finally, I would reiterate my initial belief about the importance of a comprehensive treaty on the Law of the Sea. If this legislation is enacted, I am quite concerned that it will strengthen the hand of the antitreaty forces in this country. If the President considers that the industry is in any way obstructing or trying to obstruct the efforts of the negotiators to get agreement on a treaty, I will strongly urge the President to veto the legislation.●

Mr. BINGHAM. Mr. Chairman, I have no further requests for time.

Mr. BREAUX. Mr. Chairman, I have no further requests for time.

Mr. BAUMAN. Mr. Chairman, I have no further requests for time.

Mr. BREAUX. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. EVANS of Colorado) having assumed the chair, Mr. SIMON, the Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3350) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, had come to no resolution thereon.

## GENERAL LEAVE

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3350, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## ECONOMIC OPPORTUNITY AND COMMUNITY SERVICES AMENDMENTS OF 1978

Mr. ANDREWS of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. ANDREWS).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7577, with Mr. OBERSTAR in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. ANDREWS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. ANDREWS).

Mr. ANDREWS of North Carolina. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, H.R. 7577, the Economic Opportunity and Community Services Amendments of 1978, was unanimously reported by the Committee on Education and Labor. It represents more than 1 year of work by many members of the committee and especially the work of many members of the Subcommittee on Economic Opportunity, including Congressman PERKINS, QUIE, GOODLING, HAWKINS, FORD, and CORRADA.

Mr. Chairman, poverty continues to be a persistent condition in the United States. In fact, the period 1974–75 represented the largest single-year increase of poor Americans since 1959, and there are more poor people in this country today than in 1973. Pockets of severe unemployment, substandard housing, and limited educational and vocational training opportunities, among others, are societal elements which perpetuate poverty. These barriers produce human frustration and despair for approximately 25 million Americans evidenced by increasing dependency on drugs and alcohol, the decline of the family structure, and an alarming proliferation of adult crime and juvenile delinquency.

Mr. Chairman, H.R. 7577 would extend for 3 years the Economic Opportunity Act of 1964 and is designed to improve the delivery of social services in the struggle against economic deprivation and strengthen the administration and management of the Community Services Administration, the Federal agency charged with the responsibility to combat the causes of poverty. This bill also extends two vitally important programs administered by HEW, those being the Head Start program administered by the Administration for Children, Youth, and Families, and the Follow Through program, administered by the Office of Education.

Basically, the present structure and philosophy of Federal aid in this area is retained in this bill. However, the bill does amend two important sections of the Economic Opportunity Act of 1964, as amended. These amendments deal with the percentage of Federal aid permissible to programs under title II and the allocation formula for the distribution of Head Start funds among the States. The bill also proposes several amendments designed to strengthen the administration of these programs at the Federal level.

I would like to briefly sketch for the Members the basic provisions of this bill.

TITLE I

Title I of the Economic Opportunity Act of 1964, as amended, provides authority to the Director of CSA to conduct research and demonstration projects designed to test the development of new approaches that will aid in the effort to alleviate the special problems of the poor. Unfortunately, due to the lack of a specific authorization for appropriations for title I, CSA has not been able to assume the leadership role in the development of innovative and experimental programs in this area. This bill specifically provides for the expenditure of funds for the commencement of an active research and demonstration program.

FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS

There are nearly 900 community action agencies providing services to the poor under numerous Federal poverty programs. These agencies administer about $1.6 billion in poverty funds and employ nearly 110,000 persons, many of whom are recruited from low-income communities. It should be noted that 79 percent of these employees earn less than $8,000 per year. For every CSA dollar allocated, community action programs mobilize almost $4 in other funds to serve the poor.

Originally, the Economic Opportunity Act of 1964 provided for a 90-percent Federal share of financial assistance to community action programs. The Federal share was changed to 80 percent in 1967, when poverty programs had achieved significant local acceptance. In 1974 the formula was amended by requiring a reduction in the Federal contribution beginning in fiscal year 1975 with a Federal share of 80 percent declining to 70 percent in fiscal 1976, and finally to 60 percent in fiscal year 1977. A slightly higher Federal contribution was allowed to those agencies receiving financial assistance below $300,000.

It is the committee's judgment that the act should be amended to restore to 80 percent the permissible level of Federal financial assistance to community action agencies. This provision is in response to the overwhelming testimony before the Subcommittee on Economic Opportunity that the current financial assistance formula has created an unnecessary hardship on community action agencies and was forcing numerous agencies to cut back worthy programs and was diverting the time and attention of agency personnel from program development and administration. The fact that CSA granted 160 waivers in 1977 to community action agencies, because of inability to meet the current ratio, as compared to only two waivers in 1975, was further indication of the need to restore a more realistic financial assistance formula.

COMPREHENSIVE HEALTH SERVICES

The bill deletes title IV of the act which provides for comprehensive health services. This program was designed to develop and deliver health services for the poor. It is the committee's opinion that title IV is duplicative of other existing programs administered by HEW. Since title IV has never received an appropriation and has been dormant since its establishment the committee proposes its deletion.

HEAD START

Mr. Chairman, the major amendment reflected in this bill relates to Head Start. These programs of compensatory educational, social, health, and nutritional services for low-income children have proven to be highly successful over the past 12 years. Recent independent studies indicate that participation in these programs produces positive gains in intelligence and achievement of children and significant enthusiastic parental involvement in the education and social development of their children. It is imperative that the Congress continue its active support for Head Start.

The committee proposes a new formula for the allocation among the States of funds for the program. This new formula is the result of extensive and intensive review of the current formula and numerous options for new allocation provisions, and represents a desire on the part of the Committee on Education and Labor to insure that no currently operating program is adversely affected, while at the same time providing that there be an equitable distribution among the States of new money for the program.

Mr. Chairman, specifically, this new formula first provides that up to 13 percent of the funds appropriated for Head Start may be reserved by the Secretary of Health, Education, and Welfare for the territories and discretionary programs. Second, each State will be provided with the amount they received in the previous fiscal year plus 6 percent for cost of living, except for those States [1] which receive more than 200 percent of the amount to which such State is entitled under the formula for any fiscal year. Third, the balance of the funds [2] would be allocated so that equal proportions are distributed on the basis of AFDC recipients in each State as compared to all States and the other half on the basis of children ages 0 to 5 living with low-income families in each State [3] as compared to all States.

This new formula will permit 46 States to receive substantially comparable increases in fiscal year 1979 above their fiscal year 1978 allotment. Without this change, the Congress would be faced with the fact that only seven States would receive 76 percent of the additional $100 million for Head Start projected for fiscal year 1979. This result should be unacceptable, and the new formula represents a reasonable and equitable resolution of a difficult issue.

FOLLOW THROUGH

The committee also recommended a 5-year extension of Follow Through programs with an authorization of appropriations of $70 million for fiscal year 1979 and incremental increases of an additional $10 million for the succeeding fiscal years. These amendments clearly reflect the broad support for this program.

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

This bill provides for greater congressional review of the National Advisory Council on Economic Opportunity. While there is justification for the need of a presidentially appointed advisory council for the purpose of providing the President and the Congress with an independent citizen review of CSA and its programs, the past performance of the Council has been somewhat disappointing. The bill responds to this concern by limiting the budget for the Council and extending its life until the end of 1979, at which time the Congress can thoroughly evaluate its contribution to decide if the Council should be further extended. I am happy to add, however, that the Council has recently acquired new leadership, and the most recent report of the Council represents a thorough, and useful analysis of the current state of CSA and human services programs.

ADMINISTRATION AND COORDINATION

Mr. Chairman, CSA now has a new leadership team of qualified and dedi-

[1] Mississippi, Wyoming, and Alaska.
[2] $16 million.
[3] Survey on income and education report (SIE) using 1975 census data.

cated individuals who appear to be truly exercising their considerable skills in the best interests of the poor. I might add that it has been a pleasure to work with these people over the past 18 months.

The history of CSA and its management difficulties made it imperative that the committee thoroughly review the administration of the agency working toward the goal of proposing amendments to the Economic Opportunity Act for greater efficiency and effectiveness of the delivery of services to the poor. I should point out that the committee relied heavily on oversight reports of CSA prepared by the Committee on Government Operations. The Committee on Education and Labor is particularly grateful to Congresswoman CARDISS COLLINS for her thoughtful contributions in this area.

The bill proposes a number of amendments to the act which relate to management improvement, administration of grant money, and the operation of regional offices.

Specifically, the bill encourages the Director of CSA to streamline and decentralize the management of CSA. I am pleased to report that Grace Olivarez, the Director of CSA, has recently completed a major review of the agency's organizational structure, personnel evaluation, and performance, and supervisory accountability. In support of this effort, amendments are proposed to encourage CSA to annually consult with community action agencies, State economic opportunity offices, and other relevant groups to review all CSA regulations for the purpose of cutting redtape and to simplify administrative rules for those individuals responsible for running programs at the local and State levels. Furthermore, the Director is encouraged to place greater responsibility in the regional offices to eliminate the undesirable dependency on Washington for all administrative and programmatic decisionmaking.

Finally, the bill proposes numerous amendments designed to eliminate duplication of many social service delivery systems, to consolidate CSA program report requirements to the President and the Congress, and to encourage valuable research and demonstration projects while at the same time providing for greater review of project evaluation.

COMMUNITY ECONOMIC DEVELOPMENT

Title VII of the Economic Opportunity Act provides for the Federal funding of community economic development programs designed to stimulate small business ventures in areas of severe economic depression. Currently these grants are provided to community development corporations (CDC's) by the Office of Economic Development with CSA. There are 36 operational CDC's and 7 CDC planning grants in 29 States.

CDC's have proven to be unique institutional vehicles to stimulate economic improvement in depressed areas. They are representative of low-income residents banning together to alleviate special economic problems in their local communities.

While CDC's hold great promise, and while several CDC's have demonstrated remarkable success in stimulating successful business ventures, there is considerable concern over the management of most CDC's, the relatively high rate of unsuccessful business ventures, and the administration and monitoring of CDC's by CSA.

The current administration at CSA has recognized the serious weaknesses within the agency in this area and has stressed the importance of providing strong leadership and improving management guidance of CDC's. In support of this recognition the agency recently contracted with a nationally recognized business consulting firm to assist in developing criteria for the management of CDC's and to help them develop sound business practices.

The Economic Opportunity Act provides that CDC's may qualify for assistance and loans from several Federal programs; namely, the Small Business Administration, the Farmers Home Administration, and the Departments of Agriculture, Commerce, and Housing and Urban Development.

CDC's have encountered problems with these Federal departments and agencies mandated to assist them. Consequently, this bill proposes several amendments designed to minimize these problems and provide greater financial stability for CDC's. First, the bill mandates greater coordination between CSA and SBA in the promulgating of regulations with respect to CDC's. More specifically, the section 8a contract program of SBA helps business concerns owned or controlled by socially or economically disadvantaged persons to obtain subcontracts from suppliers to the Federal Government. Because nonprofit organizations are not eligible for such subcontracts, SBA approves subcontracting to CDC subsidiaries only on condition that the CDC agree to divest itself of ownership and control within 2 or 3 years. The divestiture requirement is unrealistic. While autonomy is the objective for every CDC business venture once it is established as a successful ongoing enterprise, it may take substantially longer than 24 to 36 months to complete this process. This bill would provide that eligible business concerns will not be considered ineligible for these benefits simply because it is owned in whole or in part by a CDC.

Finally, the committee recommends an authorization of appropriations of $50 million for fiscal year 1979 and such sums as may be necessary for the two succeeding fiscal years.

CONCLUSION

Mr. Chairman, the Federal Government still has a vital role to play in supplying the necessary resources to combat the continuing problems of poverty. This bill will strengthen and improve the Economic Opportunity Act of 1964 so that we can permit its full potential to be realized. It is a bill worthy of the support of my colleagues.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 7577 accomplishes four major things. First, it extends the Head Start program for 3 years, and introduces a new formula for distributing the funds. Second, it extends for 5 years the Follow Through program while increasing its appropriations incrementally and expanding eligibility. Third, it sets a termination date for the National Advisory Council on Economic Opportunity, what we might call a sunset provision for the authority for this counsel.

The one part of the bill, the fourth part, I want to address my remarks to primarily. It is, I think, the most important part of the bill. The other portions, I think, are quite noncontroversial.

Mr. Chairman, the legislation before us today is designed to "help" all community action agencies throughout the country. I would like to point out, however, that there is one change that will not help, but actually hurt these agencies, the change made by the Committee on Education and Labor, and may actually hinder the ability of the agencies to function.

As the community action agencies will be hurt, there is one more hurt which will be even greater. That is the hurt for all people that comes with increased Federal spending. Somehow, the taxpayers throughout the country, I believe, deserve better from this Congress. When we reach the amending stage my colleague from Pennsylvania (Mr. GOODLING) will offer an amendment to correct the problem that we see in this legislation. His amendment simply strikes the new formula for community action agencies and reverts back to the existing law for the Federal-State match.

The current formula in the act is 60 percent Federal-40 percent local, and in some circumstances under the existing law 70 percent Federal-30 percent local. The bill for all of the community action agencies will change this formula to 80 percent Federal-20 percent local.

Now, if the Members will looks at the figures, they will see that the facts clearly show that the formula change just is not necessary, and there is nothing, in my opinion, in the hearing record to justify this change. Of the 865 community action agencies presently receiving funds, 705, or 81 percent, were able to meet the full matching requirements of the current law. One may ask, what happens if a community action agency is unable to meet the match? Well, under the provisions of the existing law the Community Services Administration, the agency which administers the program, may grant waivers to any agency which proves it is unable to meet the matching part requirement.

In 1977, 160 community action agencies received such a waiver. I must stress that the Community Services Administration has total discretion as to how and to whom the waiver may be applied. Because of the tremendous flexibility, there is no overwhelming burden on community action agencies.

If we listen to the arguments presented, we get the impression that no program will survive unless the formula is changed. This is certainly not the case, and bears no relation to the facts. All the Members know human nature—if we ask anybody to operate a program or

agency in our districts which is receiving Federal funds, I am sure they would certainly want to receive more money from the Federal Government than they now receive, and would ask for the formula to be changed. In reality, however, I am also sure that they would not be so anxious for this change if they understood that if the matching requirement is changed, although the Federal payment immediately increases slightly, most agencies will lose at least one-half of the support that they presently receive from State and local governments. This means that they will lose buildings, services, supplies, volunteers, called in-kind contributions, as well as money.

Since the Federal funds will not be adequate to replace those items, the community action agencies will have to find the money somewhere in order to purchase them. The net result will be that the loss will actually hinder the ability of the community action agencies to operate, and the poor these agencies serve will receive fewer services.

Possibly the best insight as to why the formula should not be changed comes from our colleague from North Carolina (Mr. ANDREWS), who is chairman of the subcommittee from which this legislation emerged, and manager of the bill today. In speaking to witnesses he described the reason why the formula should not be changed at a hearing in Atlanta last year.

He said:

But the matter of whether to put in 80–20, or 75–25—my point is that the Appropriations Committee probably has no interest * * * I expect what we are going to get for this program is pretty much already destined. I doubt there is much we can do about that. So if we change to 80–20 in this bill, you probably aren't going to get any more Federal money, you are just going to get less total money for the program * * * I believe most all of you are thinking if you get 80–20 you get more money for the program. I think you get less. The Federal share is going to be the same either way. And yet you are going to get less local so you get less total.

A few minutes later, he said:

But I just want you to understand that it is not as simple as some of you think. If you get 90–10, some of you think you automatically have more money. It may be that you have less. Because the Federal share is going to probably be the same, you may not like it, but if it is all you can get, so adding less local money to it means less total money. That's the way I see it.

The gentleman from North Carolina, who is handling the bill for the committee, gives an excellent justification for the Goodling amendment. I think he has analyzed the situation in the hearings extremely well, and in support of his reasoning I hope the Goodling amendment will be adopted.

Mr. PERKINS. Mr. Chairman, I rise in support of H.R. 7577, a bill to improve the Economic Opportunity Act of 1964 and to extend the act for 3 additional years.

Initially I want to compliment the distinguished chairman of the Subcommittee on Economic Opportunity, our colleague IKE ANDREWS. This is a well researched piece of legislation which is designed to strengthen and improve the administration of the Community Services Administration and to insure comprehensive and efficient delivery of social services in our continuing struggle against poverty. Chairman ANDREWS was ably assisted by the majority members of his subcommittee, our colleagues BILL FORD, GUS HAWKINS, and BALTASAR CORRADA, and I want to pay special tribute to them for their untiring efforts.

I would like to commend also the ranking minority member of the committee, the Honorable AL QUIE, and the ranking minority member of the subcommittee, the Honorable BILL GOODLING, for their contributions to and support for this bill. Legislation of this type has frequently been very controversial through the years. This year, however, H.R. 7577 has bipartisan support and Members on both sides of the aisle of the committee are to be commended.

We have worked together to resolve many difficult issues, and while there may be some disagreements with one or another provision of the bill, I am pleased to say that we have before us legislation which is for the most part widely accepted and strongly supported.

Seven days of hearings were held by our subcommittee on H.R. 7577. This bill reflects in many respects the major recommendations of the administration as well as the views of the many witnesses who appeared before us.

Key provisions of H.R. 7577 include the extension of the Economic Opportunity Act for 3 additional years. However, there are two exceptions.

First, the very successful Follow Through program is provided with a 5-year extension. This productive program, which has been enthusiastically received by schools, parents, children, and educational authorities, has frequently been under attack by those who wish to phase it into other educational programs. However, the Committee on Education and Labor has decided that Follow Through should continue on its own, and it is our desire to provide it with as much continuity and stability as we can. Hence a 5-year extension is proposed.

On the other hand, there is concern with regard to the National Advisory Council on Economic Opportunity. Because of our committee concerns and because we feel that greater congressional review of the Council is needed. H.R. 7577 extends the life of the Council only until the end of 1979, at which time the Council will be evaluated to determine if a further extension should be provided.

An important provision in H.R. 7577 is the return to the 1967 matching ratio of 80-percent Federal funding and 20-percent non-Federal funding for community action programs. This provision corrects action taken in 1974 which amended the formula by requiring yearly reductions in the Federal contribution beginning in 1975. The reinstatement of the 80/20 formula is in response to overwhelming evidence provided to the committee which has indicated that the 1974 reduction has caused extreme and unnecessary hardship in community action agencies.

A very strong concern of the committee has been to continue existing programs and to provide for reasonable cost-of-living increases, and provisions for Head Start in H.R. 7577 address themselves to these important concerns. There has been considerable controversy regarding the formula for the allocation of Head Start moneys. I will not discuss the history of this. I do want to point out, however, that this bill contains a new formula which is a reasonable and equitable resolution of the controversy. The new formula recognizes the history of the program and, unlike the current formula, provides for a distribution which will not seriously damage the programs of one State in order to benefit another. The new formula first provides that up to 13 percent of the funds appropriated for the program may be reserved by the Secretary for the territories and discretionary uses. Second, each State will be provided with the amount they received in the previous fiscal year plus 6 percent for cost of living, except for those States which receive more than 200 percent of the amount to which such State is entitled under the formula for any fiscal year. Third, the balance of the funds appropriated for Head Start programs would be allocated so that equal proportions are distributed on the basis of AFDC recipients in each State as compared to all States and the other half on the basis of children ages 0 to 5 living with low-income families in the States as compared to all States. Under this formula all areas of the country—not just a few—will share in any future increases in appropriations.

Mr. Chairman, H.R. 7577 provides for the continuation and improvement of programs which have proven to be an effective and comprehensive weapon in the continuing battle against poverty in our Nation. It is a practical program which works, and which has touched and enriched the lives of many people of all ages who are disadvantaged and in poverty, enabling them in many instances to begin to extricate themselves from the bondages of substandard existences. I urge my colleagues to support this important legislation.

● Mrs. COLLINS of Illinois. Mr. Chairman, I take this occasion to express my support for the continuation of the Community Services Administration and for the legislation now before us. Unfortunately, a field hearing scheduled some time ago as part of my subcommittee's oversight responsibility for manpower training programs has kept me from attending this session. Because of my concern with this legislation, I have filed this statement.

That concern stems from two major causes. First, as a Representative from my district, I have seen firsthand both the devastating effects of poverty and the improvements in the lot of the poor that the local Community Action Agency can bring about. Perhaps more than most Members, I am aware that a few community action agencies are not as effective as they should be and I am also well aware of the instances of waste in the administration of poverty funds. Even so, the Community Services Administration

remains the only designated advocate for the poor and the major source of support for hundreds of effective local agencies whose efforts have resulted in major gains for those whom they serve.

The second reason that this legislation is particularly important to me has been alluded to by the member from North Carolina, Mr. ANDREWS. My subcommittee has conducted a series of hearings on CSA operations, resulting in three committee reports dealing with this Agency over the past 3 years. These reports have pointed out that major reforms were needed in the Community Service Administration.

I summarized my own views at the Economic Opportunity Subcommittee's hearings as follows:

This national network of local agencies represents fusion of community control, including a voice for the poor, and Federal funding and oversight, which together can help break the cycle of poverty. Realization of the full potential of this economic network for service delivery and resource mobilization, depends, however, upon CSA—the Government's sole antipoverty agency—for guidance, oversight and training.

During the past year, the Community Services Administration, under new leadership, has made significant strides toward becoming an effective and efficient antipoverty agency. Many of the recommendations of our reports have been implemented in varying degrees. The long called for management reorganization of CSA is scheduled for completion by the end of next month. Training of agency staff and grantees, as well as review and evaluation of programs, have taken on new meaning at the Agency. Grantees are gaining a new respect for CSA administrators as no-nonsense leaders, and some, who had so openly abused the system, as well as the taxpayer's dollar, have been removed.

The legislation before us recognizes the need for more effective administration. It permits CSA to delegate more responsibilities and duties to its regional offices and thus reduce unnecessary backlogs in the funding process.

I take this occasion to express my appreciation to the gentleman from North Carolina for inviting me to testify at the hearing and for the close cooperation extended by his staff to my own subcommittee. As a member of the Committee on Government Operations and chairwoman of its Manpower and Housing Subcommittee, I am pleased to see that this legislation took careful consideration of our oversight work and I thank the Economic Opportunity Subcommittee for the cooperation we have received from them in our own work.

I support this legislation and the continuation of the Community Services Administration. Though the agency reorganization appears to be in place, it took much longer than our subcommittee or CSA initially anticipated and the improvements that it promises are thus delayed.

Though there is new respect for the agency, morale is still low and productivity still wanting. Though there has been some bandaging to the damaged credibility of this agency, it has not yet attained the status of an effective advocate for the poor. As long as the Inspector General bill remains a bill and not a law, there still remains a question as to whether the corrective effects of audits and inspections within the agency will be maximized.

Finally, violations of the regulations, fraud, and misuse of Government funds, though reduced, still exist within this agency. Consequently, as long as CSA operates below an acceptable standard of efficiency and effectiveness, there remains the need for ongoing congressional oversight and monitoring.

Therefore, though I support this legislation, it is with cautious enthusiasm. The Community Services Administration needs our support and passage of this legislation will provide that needed vote of confidence to spur it on to greater efficiency and effectiveness of operation. It also needs our guidance, our assistance, and our insight, which can only come from continued and ongoing observation and oversight.

Thank you, Mr. Chairman.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7577, the Economic Opportunity and Community Services Amendments of 1978. Although great strides have been made in our battle to eradicate poverty, over 25 million Americans today are deprived of the basic ingredients which constitute a meaningful existence: Health, housing, education, and employment. The rapidly accelerating cost of living, coupled with menacing unemployment, have served to classify an ever increasing number of individuals as poor.

This bill is an effort at providing a more efficient and effective delivery of services to local community agencies that can effectuate change. I am particularly supportive of the committee's decision to return to the 80/20 Federal-State ratio; which was based on repeated testimony from witnesses, recommendations from the National Advisory Council on Economic Opportunity, the fact that 266 waivers were granted in 1976, and evidence that the diminished Federal support was disrupting program services which were curtailed.

H.R. 7577 also extends the Head Start program, which is a proven program aimed at serving the social and development needs of our Nation's preschoolers who come from the disadvantaged backgrounds.

I urge my colleagues to support this piece of legislation, and to renew their commitment to provide a meaningful opportunity for our Nation's underprivileged to extricate themselves from the cycle of poverty.●

● Mr. LEGGETT. Mr. Chairman, I strongly support the Economic Opportunity and Community Services Amendments of 1978, H.R. 7577. This bill contributes to alleviating poverty from our society and encourages greater program efficiency by providing additional funding for research and development programs, increasing the Federal contribution to local programs, consolidating reporting requirements, providing more authority to regional and local offices, and eliminating duplication of social service delivery programs. It also extends the very successful Headstart and Follow Through programs and provides a trial extension for the National Advisory Council on Economic Opportunity.

The war against poverty in 1964 was enthusiastically supported by the enactment of the Economic Opportunity Act. The Office of Economic Opportunity was established to coordinate and administer grants and programs at the local community level. Citizen participation was emphasized as well as involvement by local public officials.

However, in 1969 tackling poverty was not a popular adventure. During the Nixon administration many of the Office of Economic Opportunity programs were fragmented, leaving the responsibility of fighting poverty to the dedicated and committed local community action agencies without adequate Federal support.

The war against poverty began to look brighter in 1975 when Congress established the Community Services Administration (CSA) to administer and coordinate the surviving programs. However, because CSA was hampered by poor management, hostile administration support, and personnel dissatisfaction, poverty continued to increase and today affects 25 million Americans. Certainly, the stagflation the Nation has suffered in recent years has most adversely affected those Americans at the lower rungs of the economic ladder.

To advance the elimination of poverty and the detrimental and stifling effects it has on our economy, I urge my colleagues to support the Economic Opportunity and Community Services amendments as reported by the Committee on Education and Labor without crippling amendments.

This bill reauthorizes and makes numerous changes in Community Services Administration's program. In the past there has been no specific authorization for the appropriation of funds for research and development programs. This bill specifies that Federal funds be used to improve coordination with and prevent duplication of antipoverty research and development programs run by other Federal agencies.

Also, the committee bill would increase the amount of Federal financial assistance to the programs administered by the Community Services Administration from the present ratio of 60-percent Federal–40-percent local to the 1967 ratio of 80-percent Federal–20 percent local. I understand that my colleague, Congressman QUIE, would like to maintain the existing 60–40 ratio. I feel this would be detrimental as several constituent groups in my congressional district deeply involved in antipoverty programs have informed me that presently it is very difficult and sometimes impossible to raise the necessary funds to continue operating viable programs. Also I have received reports that the existing ratio requires devotion of an excessive amount of staff and organizational time to soliciting local funds and inkind contribu-

tions causing them to divert attention from the development and management of programs and the ultimate delivery of services to the poor. For these reasons, I urge my colleagues to support increased Federal financial assistance.

The bill would eliminate duplication of social service delivery programs such as in existing present health programs which duplicate HEW-administered activities.

In addition, it extends the Head Start program which has demonstrated remarkable success by producing positive gains in intelligence and achievement, improvement in health and nutritional practices of participating children, and significant enthusiastic parental involvement in the education and social development of their children.

The new Head Start formula provided in the committee bill would base the amount of funds a State receives on the number of families eligible for aid to families with dependent children and the number of children under age 5 who live with families below the poverty line. No State would receive less than it had received in the previous year, unless it received more than 200 percent of the amount it is eligible for under the new formula. In that case, it would receive the same level of funding it received in the previous year, plus a 6-percent cost-of-living increase.

The bill also extends the Follow Through program for 5 years, with authorization levels of $70 million for fiscal year 1979, $80 million for fiscal year 1980, $90 million for fiscal year 1981, $100 million for fiscal year 1982, and $110 million for fiscal year 1983. Eligibility would be expanded to include children in kindergarten and primary grades, including children enrolled in private nonprofit elementary schools, who were previously enrolled in Head Start programs.

Finally the bill provides a limited continuation of the National Advisory Council on Economic Opportunity. This action is warranted for two major reasons. The first is that there is little justification for the Council's existing operational budget of approximately $301,000. Second, the Council's purpose, value, and function does not support the necessity of the existing five full-time staff personnel at a cost of approximately $115,000 and the services of a professional consultant at a yearly compensation of approximately $5,700. Due to this unsatisfactory performance in the past, this bill provides the Council maximum annual budget of $100,000 to adequately fulfill its responsibilities and provides a trial extension of the Council.

In the past, programs which evolved from the Economic Opportunity Act have had some success in the effort to alleviate poverty. However, poverty continues to be a persistent condition in the United States and recently has been increasing. In fact, the period 1974–75 represented the largest single year increase of poor Americans since 1959, when poverty data was first compiled.

The perpetuation of poverty in the United States can be attributed to factors such as the economic recession of the last several years, as well as several societal elements. These elements include substandard housing, limited educational and vocational training opportunities, the displacement of revenue-generating enterprises from the central cities to the suburbs, and the remaining barriers of racism.

The effects of poverty are widespread, producing human frustration and despair. These effects are obvious in our society with the increasing dependency on drugs and alcohol, the decline of the family structure, and an alarming proliferation of adult crime and juvenile delinquency. The effects of poverty are evident in the home, the school, and the street.

As my colleagues know, the Comprehensive Education and Training Act (CETA), the other manpower training programs under the auspices of the Department of Labor, low-income housing programs administered by HUD, and a variety of social service programs sponsored by HEW are targeted to help that portion of our country's population suffering from the adverse effects of poverty. While it is widely accepted that the Federal Government must continue to play a vital role in supplying the resources needed to combat the continuing problems of poverty, the ultimate effort to reduce poverty must remain at the local level through viable community action, economic development, and innovative educational programs for the children and parents of low-income areas. The problems associated with poverty have not been, or will they in the future be easily cured. However, encouragement of innovation at the local level is an imperative step forward.

I urge my colleagues to support this bill to combat the unacceptable poverty that exists today in a country as wealthy as the United States. Passage of this bill will provide important focus for the Economic Opportunity Act and permit its full potential to be realized.●

Mr. ANDREWS of North Carolina. Mr. Chairman, I yield back the balance of my time.

Mr. ERLENBORN. Mr. Chairman, I yield back the balance of my time.

Mr. ANDREWS of North Carolina. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes, had come to no resolution thereon.

## GENERAL LEAVE

Mr. ANDREWS of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 7577.

The SPEAKER pro tempore (Mr. OBERSTAR). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## ALCOHOL AND DRUG ABUSE EDUCATION AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10569) to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such Act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Alcohol and Drug Abuse Education Amendments of 1978".

SEC. 2. Section 2(b) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1001 (b)) is amended—

(1) by inserting after "encourage" the following: "the prevention of alcohol and drug abuse; to stimulate";

(2) by striking out "curricula on" and inserting in lieu thereof "approaches to";

(3) by striking out "problems of" the first time it appears therein and inserting in lieu thereof "prevention of alcohol and";

(4) by striking out "curricula" the second time it appears therein and inserting in lieu thereof "approaches";

(5) by striking out "curricular materials" and inserting in lieu thereof "successful approaches"; and

(6) by striking out "on drug abuse problems", and inserting in lieu thereof "on alcohol and drug abuse problems".

SEC. 3. (a)(1) Section 3(a) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1002(a)) is amended—

(A) by inserting after "carry out" a comma and the following: "throughout the Nation in rural areas as well as urban areas,";

(B) by striking out "projects" the first time it appears therein and inserting in lieu thereof "programs, including programs of proven effectiveness";

(C) by striking out "projects throughout the Nation" and inserting in lieu thereof "programs to develop local capability to meet problems of alcohol and drug abuse"; and

(D) by inserting at the end thereof the following new sentence: "The Commissioner shall seek equitable distribution of available resources among the various regions of the country and seek to ensure that the special needs of rural areas are appropriately addressed.".

(2) Section 3(b)(5) of such Act is amended by inserting "prevention" after "abuse".

(b) Section 3(d)(1) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1002 (d)) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by striking the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clauses:

"(E) provides assurance that the applicant will coordinate its efforts with the appropriate State and local alcohol and drug abuse agencies, and educational agencies and organizations; and

"(F) provides a proposed performance standard to measure, or research procedure to determine, the effectiveness of the

program or project for which assistance is sought.".

(c) Section (3)(e)(2) of such Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

SEC. 4. (a) Section 3 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002) is amended by redesignating subsections (d) through (f) as subsections (g) through (i), respectively, and by inserting after subsection (c) the following new subsections:

"(d) In addition to the purposes described in subsections (b) and (c), from funds in an amount not to exceed 10 per centum of the sums appropriated to carry out this Act, the Commissioner is authorized to make grants to State educational agencies, local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in alcohol and drug abuse prevention, and to develop exemplary alcohol and drug abuse prevention programs. To maximum extent practicable, funds expended under this subsection shall be used for grants and programs reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(e)(1) In order to carry out the provisions of this Act, there is established in the Office of Education an Office of Alcohol and Drug Abuse Education (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director.

"(2) The Director shall report directly to the Commissioner.

"(3) The Office of Education shall provide the Office of Drug Abuse Education with sufficient staff and resources to carry out its responsibilities under this Act.

"(4) In carrying out the provisions of this Act, the Director of such Office shall consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and shall coordinate the activities of such Office with the activities of such Institutes to the extent feasible.

"(f) The Secretary shall assure cooperation and coordination between the Office of Education (acting through the Office of Alcohol and Drug Abuse Education) and the Alcohol, Drug Abuse, and Mental Health Administration (acting through the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse) to identify and implement successful prevention programs and strategies, to identify research and development priorities, and to disseminate the results of such activities. The Secretary shall further assure that all such prevention programs and strategies which are school-based (assisted or conducted by the Department of Health, Education, and Welfare) shall, to the extent feasible, be coordinated through the Office of Education (acting through the Office of Alcohol and Drug Abuse Education).".

(b) Section 3(h)(1) of such Act (as redesignated by subsection (a)) is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by striking out "not exceeding 1 per centum" and inserting in lieu thereof "of 3 per centum".

(c)(1) The first sentence of section 3(i) (as redesignated by subsection (a)) is amended by striking out "and", and by inserting before the period at the end thereof a comma and the following: ", $10,000,000 for the fiscal year 1979; $14,000,000 for the fiscal year 1980; and $18,000,000 for the fiscal year 1981".

(2) Subsection 3(i) of such Act (as redesignated by subsection (a)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) To the maximum extent practicable, of the amount appropriated in any fiscal year under this subsection, sums shall be allotted for alcohol and drug abuse education projects reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(3) Funds appropriated under this subsection shall remain available for obligation through fiscal year 1981 in order to permit multiple year funding of projects under this Act.".

SEC. 5. Section 8(c) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1007(c)) is amended by inserting "the Northern Mariana Islands," immediately after "the Virgin Islands,".

SEC. 6. (a) Section 420(a) of the Higher Education Act of 1965 is amended by adding after paragraph (3) the following new paragraph:

"(4) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Commissioner determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.".

(b) Clause (1) of section 310(b) of the GI Bill Improvement Act of 1977 (91 Stat. 1446) is amended by inserting at the end of subsection (a) of the new section 246, which was conditionally added to title 38, United States Code, by such clause, a new paragraph as follows:

"(3) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher learning during the same academic year for which the determination is made bears to the number of such recipients in all institutions of higher learning for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Administrator determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.".

(c) The amendments made by this section shall be effective with respect to payments to which institutions are entitled as of June 30, 1978.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana.

There was no objection

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Indiana (Mr. BRADEMAS)?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I will yield to the gentleman from Indiana (Mr. BRADEMAS) for an explanation of the Senate amendment.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the two measures passed by the House and Senate which extend the authorizations for the Alcohol and Drug Abuse Education Act are, in many ways, similar.

AUTHORIZATIONS

Briefly, Mr. Speaker, the Senate amendment to the House bill would extend for only 3 years—2 years less than the House bill—the authorizations for the Alcohol and Drug Abuse Education Act under the direction of an Office of Alcohol and Drug Abuse Education which would have responsibility for coordinating all Federal efforts in school-based alcohol and drug abuse education programs.

The authorizations of appropriations would be as follows: $10 million for fiscal year 1979—$4 million more than the House-passed bill, $14 million for fiscal year 1980—$1.6 million above the House-passed bill, and $18 million for fiscal year 1981—an additional $3.6 million over the authorization for that year in the bill as passed by the House. Mr. Speaker, although the Senate version provides authorizations above those in the House-passed bill for these 3 years, that is fiscal years 1979–81, I should point out that both the House and Senate versions authorize levels for these years that are more modest than those currently authorized.

For instance, Mr. Speaker, the authorization for the Alcohol and Drug Abuse Education Act in fiscal year 1978 is $34 million but only $2 million was appropriated. The authorization levels contained in the House and Senate bills simply reflect a more realistic expectation of the levels of appropriation. These lower authorizations in no way reflect a judgment that the need is any less great. Indeed, it is my hope that the administration will join Congress in our concern for more education on the dangers of the abuse of drugs and alcohol and request additional funds in this area.

PROGRAM EMPHASIS

In addition, Mr. Speaker, the Senate amendment recognizes the need to ad-

dress abuse problems in rural areas, and mandates, to the extent possible, proportional funding for rural areas.

PROGRAM COORDINATION

Mr. Speaker, the Senate amendment also requires applicants for assistance under the Alcohol and Drug Abuse Education Act to coordinate their efforts with State and local alcohol and drug abuse agencies and educational agencies and to include an evaluation measure by which to determine the effectiveness of a program.

DEMONSTRATION PROJECTS

The Senate amendment also authorizes a maximum of 10 percent of the appropriations under the act for model projects to develop exemplary programs in alcohol and drug abuse prevention.

In addition, the Senate amendment also increases to 3 percent of appropriations the amount of funds for evaluation by the Federal Government of the effectiveness of the national alcohol and drug abuse education effort.

VETERANS COST-OF-INSTRUCTION PROGRAM

Finally, Mr. Speaker, the Senate amendment includes an extraneous amendment to provide a hold harmless mechanism for the veterans cost-of-instruction program (VCIP). The VCIP provides payments to eligible colleges and universities to support educational and personal services to veterans attending those institutions.

Because of a reduction in the number of undergraduate veterans receiving educational benefits, many institutions participating in the VCIP are now unable to maintain the enrollments required by law.

In response to this problem, the Committee on Education and Labor adopted an amendment to H.R. 11274, the Middle Income Student Assistance Act, which would hold harmless any institution which the Commissioner of Education determines is making a "good faith" effort to enroll veterans in its programs. This was a stopgap measure until the committee would review the program in depth next year during the reauthorization of the Higher Education Act. The Senate, due to an oversight, failed to include a VCIP hold harmless amendment in the College Opportunity Act, a companion bill to H.R. 11274.

Discovering this oversight and realizing that immediate action was necessary to prevent a disruption of the VCIP, the amendment was attached in the Senate to the alcohol and drug abuse education amendments. The amendment is thus not related to the alcohol and drug abuse education amendments.

CONCLUSION

In conclusion, Mr. Speaker, I would like to express my appreciation to the distinguished chairman of our committee, Mr. PERKINS, for his support of our efforts with this measure.

I would also like to thank the distinguished ranking minority member of the Education and Labor Committee, Mr. QUIE, for his contribution to the legislation.

Mr. Speaker, both majority and minority members of the Subcommittee on Select Education, which I have the honor to chair, have worked hard on this legislation. I would like particularly to thank Mr. BIAGGI and Mr. JEFFORDS for their efforts.

I would be remiss if I did not also compliment the work done on this legislation by the distinguished junior Senator from Maine, Mr. HATHAWAY.

Mr. Speaker, I urge Members of the House to give their support to the alcohol and drug abuse education amendments as amended by the Senate. This bill would continue and strengthen an effective program of alcohol and drug abuse prevention.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I thank the gentleman from Indiana for his detailed explanation of the Senate amendments. I wonder if the gentleman could tell me, does not this change also create a new Office of Drug Education in the Department of Health, Education, and Welfare?

Mr. BRADEMAS. If the gentleman will yield further, yes, it does.

Mr. BAUMAN. I am just wondering whether the members of the White House staff could avail themselves, at some point of that educational expertise on the subject of drug abuse, if the President saw fit to direct them to do so.

Mr. BRADEMAS. I would hope, I may say to my friend, the gentleman from Maryland, that the programs made possible by this act would be available to all Americans.

Mr. BAUMAN. I think the gentleman has, then, by his definition included the White House staff in the coverage of this bill, and perhaps they will avail themselves of this service which they seem to need badly.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I would just like to point out that the placing upon this bill of the amendment with respect to veterans and assistance to college veterans' programs makes it essential that this bill be brought up at this time. If this does not occur, serious disruption will occur in many of our schools as I will explain below. That is the reason for the urgency of this bill here today and the reason for not requesting a conference to deal with such things as attaching the drug abuse program to the Office of Education.

As further explanation of the veteran's problem I will add this:

An amendment was adopted by the Senate on May 23, 1978 which provides a hold harmless mechanism for the Veterans Cost-of-Instruction Program (VCIP). The VCIP provides payments to eligible institutions to support educational and personal services to veterans attending these institutions. Between 1966 and 1976, there was a continuing increase in the number of veterans receiving educational benefits in successive enrollment periods, thus the institutions could meet the maintenance-of-effort requirement established in the 1972 amendments.

With the arrival of the 10-year delimiting date on May 31, 1976, the number of veterans eligible for benefits began to decrease. This reduction in the number of undergraduate veterans receiving educational benefits now makes it impossible for many institutions participating in the VCIP to maintain the veteran enrollments required by law.

In response to this problem, the Committee on Education and Labor adopted an amendment to H.R. 11274, the Middle Income Student Assistance Act, which would hold harmless any institution which the Commissioner of Education determines is making a "good faith" effort to enroll veterans in its programs. This was a stop-gap measure until the committee could review the program in depth next year during the reauthorization of the Higher Education Act. The Senate, due to an oversight, failed to include a VCIP hold harmless amendment in the College Opportunity Act, a companion bill to H.R. 11274.

Discovering this oversight and realizing that the student aid bill would not become law in time to prevent a major disruption of the program, Senator CRANSTON offered the amendment to a noncontroversial bill that could be quickly enacted into law. The bill of course was S. 2539.

Immediate action on the bill is necessary because the cutoff date to qualify for this forward-funded program is June 30, 1978. The Office of Education received applications not later than June 19 which listed the number of veterans at the applying institution. Next week O.E. will determine which institutions are eligible based on these data. If Congress does not act in the next week to soften the impact of the maintenance-of-effort provision in the current law, according to a June 16 opinion by HEW legal counsel, O.E. could only distribute funds to those institutions meeting the more restrictive requirements.

Although the amount of money to be distributed would remain the same under the current law, approximately 53 percent of the currently participating institutions would not be eligible to receive these funds. The result would be to give the maximum $135,000 grant to many small colleges who should not receive that much money. Prior to the Senate consideration of S. 2539, HEW was asked what they would do with the VCIP money should the law not be amended. The bill passed before the Senate got a reply—in fact they still do not have a reply. Margaret Dunkle could not give me any more specific information either. She did say that the administration would not oppose the amendment, but stopped short of saying they would actively endorse the amendment.

The Senate amendment differs from the House amendment to H.R. 11274 in that it provides two methods for an institution to remain eligible for VCIP funds. They are:

First, if the institution has a ratio of decline in veteran enrollment equal to no less than the national decline in veteran enrollment from the period of time since it first became eligible to the present; or

Second, if the Commissioner of Edu-

cation determines that the institution is making "reasonable efforts" to recruit, enroll, and provide necessary services to veterans. (Similar to House amendment.)

The effect of this additional method for determining eligibility would be to simplify OE's job; they could automatically certify many colleges, although I do not know how many, without using the more subjective alternate method.

Thus it is important, in fact necessary, that we thus accept the Senate bill today.

Mr. BAUMAN. I would say to the gentleman I have no doubt that this is the most propitious time to bring up legislation of this character, and I am sure the President will sign it into law expeditiously.

Mr. JEFFORDS. If the gentleman would yield further, also I would like to point out that this is one program where the administration came in and stated vigorously that this was a great program; it ought to be expanded; it was one of the finest programs that we had going; and then asked to reduce the funding—which was the kind of contradictory testimony we are getting used to today.

Mr. BAUMAN. I can assume we can say that is a new high in legislative activity.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## DOES SOMALIA HAVE A FUTURE IN THE WESTERN WORLD?

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. SIKES. Mr. Speaker, a question which undoubtedly is troubling the Somalis is whether they have a future in the Western World. They have sought to be a part of the Western World. They have repudiated their ties with Russia, even ordered the Russians out of their major naval base at Barbera and broke diplomatic relations with that country. Russia had expended considerable funds on Somali armed forces. The Somalis gave up that source of support. They did these things on the assumption that the United States and other Western-oriented nations would provide them with essential assistance, particularly weapons for protection against Ethiopia. Ethiopia holds a part of the historic Somali territory, the Ogaden, on which the Somalis have never relinquished their claim. Ethiopia is 10 times as large in population as Somalia. Naturally, the Somalis are uneasy about the intention of their neighbor, particularly after recent incidents in which Cuban forces, Russian leadership and unlimited weapons defeated the Somalis in the Ogaden.

The United States promise to help Somalia has not been kept. The Somalis lived up to their part of the bargain. They got rid of the Russians. We have not lived up to our commitment. There still exists a promise of $15 million in defense weapons to help update the Somali forces and to replace losses incurred in the Ogaden war. The media report that the United States is now considering reneging on even that minor show of assistance. Apparently Ethiopia is threatening the United States. They say they will break diplomatic relations with us if we help the Somalis. So what? Ethiopa's course will be exactly what Russian and Cuba dictate. They will not be friendly to the United States while there is an overwhelming Russian and Cuban presence in that country, whether or not there are diplomatic relations.

Why we should be concerned at maintaining diplomatic relations at the cost of Somalia's friendship and the risk of losing the very important tip of the Horn of Africa is incomprehensible.

If ever there were a time the United States should show plain, simple guts in dealing with other countries, this is one of them. First, we have not kept our word. Next, we appear timid to the extent that we are willing to risk the loss of one of the most strategic countries in the world to accommodate a country which is formally in enemy hands.

The Russians would welcome an opportunity to return to Somalia and Barbera. Undoubtedly, they will be available at any time the Somalis despair of assistance from us. It must be presumed that only pressure by the Saudis is preventing progress toward a resolution with Russia from Somali at this time. The Saudis are very unhappy with U.S. dawdling, but they are urging the Somalis to continue to bear with us.

Sometimes I wonder whether the courage in dealing with foreign countries is becoming a lost art in the U.S. Department and the administration.●

## REMARKS MADE BY U.N. AMBASSADOR YOUNG CLARIFIED

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, Andrew Young is my personal friend and I know him to be an honest, decent, deeply sensitive man who espouses strong beliefs and has the courage of those convictions. Most foreign affairs observers agree that he has made a profound contribution in service to his country as U.S. Ambassador to the United Nations. This is especially true on the continent of Africa.

Like most other Americans I was confused when my friend reportedly said that there were hundreds of political prisoners in the U.S. jails.

I was so concerned by this report that I picked up the telephone and called Andy. During the discussion he advised that the report was from a lengthy interview which he gave to a leftwing French newspaper; and, that his use of "political prisoners" may have been a poor choice of words, but that his reference originated from a personal experience when he was jailed as a civil rights worker only a few years ago.

I asked for and have received a full transcript of the interview with Le Matin, a Paris-based newspaper. After reading the full text of his interview during which he discussed a variety of contemporary issues, any one of which is subject to debate, it is now clear to me what my friend intended when he used the words that caused such a row.

I enclose the full text of that interview between Ambassador Young and Nina Sutton of Le Matin following these remarks and commend it to my colleagues in the Congress:

Following is transcript of Ambassador Young's interview July 10 with Nina Sutton of Le Matin:

S: How do you feel about the situation now about 18 months after you came into (office)?

Y: Well, I think that when I look at the fact the last nine permanent representatives all together didn't last for ten years, I think that 18 months in this job means that at least now I am beginning to know what it is and I look forward to another 18 months or more. I think that multilateral diplomacy is so complicated it not only depends on countries and events, it depends on knowing the United Nations system and it depends really on knowing the people within the system that make it work. I think in these 18 months, we have gotten to know the people, and I'm beginning to understand the system and how it works.

S: Optimistic, OK. One of your more striking features (as seen from here?) is that you want to be (???) more of the international projects. Now do you feel the situation today is more open, I mean the world situation, I don't mean just the U.N., I mean more especially the East-West relationship and the African situation?

Well, let me say that I wanted my country's foreign policy to reflect the morality and idealism that we think the American people stand for. I think President Carter campaigned on that: A foreign policy as honest and as decent as the American people. And so far, we have worked to make our foreign policy reflective of the wishes and ideals of the American public. I don't know that you ever get foreign policy in general totally subject to morals. The best I think you can hope for is a kind of enlightened self-interest. And maybe that's what we have too. On our Africa policy, on the Panama Canal, and our policies in the Middle East and in Vietnam, these are places in the past where we were under some cloud, not any more wrong than anyone else with their problems in the world, but the nations of the world expect more of America. The Russians can do almost anything, nobody criticizes and yet everybody wants America to be the moral leader of the world. The French can get away with almost anything but I think the world tends to hold us by a higher standard and we don't quite live up to it all the time, but it is the intention of this administration to try.

S: Would you resign if the U.S. Government got involved in something you considered immoral?

Y: I think I would. Well, let me say that I don't know that I'd resign. I think I'd raise so much hell about it, I'd be fired because I don't think I would just jump up and quit quietly.

S: You'd make a fuss about it?

Y: I'd make so much fuss about it that they would ask for my resignation.

S: That hasn't happened so far?

Y: No, it hasn't. But there have been some things that I made a fuss about. One of the things I have learned in the last few months is that it is sometimes necessary to make a public fuss just to get the people of a nation talking about an idea. Other times, it is much better to make a private fuss within the State Department and within the National Security Council.

S: This is new isn't it?

Y: Well, I always did that. But that never gets any publicity. But I frankly have had such a good working relationship with the Secretary of State and with the President and even with the National Security Council Adviser, that almost every time I have gone to them to sit down and say look there is something we need to talk over, we've worked it out.

S: Why did you say "even" with Mr. Brzezinski?

Y: Because everybody puts us in opposite camps, and yet we have a very good friendship. We don't always agree on everything, but we disagree as friends. I think it would be dangerous to have a foreign policy team that everybody was in agreement all the time. I also think that sometimes just for the sake of talking out all the problems, it's necessary to have disagreements, and those disagreements have always been friendly disagreements, but when they come out in the press, they are not.

Y: I think of all relationships that way. I've been married 24 years, but if you'd listen to me and my wife as we argue about something, you'd think that we were very unhappy, because she is a very strong-minded, independent woman, and I am a strong, independent man. The only way we could live together is talking out our differences frankly.

S: It's OK for a married couple to do that, but it's not OK for the U.S. Government.

Y: The U.S. Government has been in most trouble when it has not had a public discussion of ideas, when there was not enough discussion about the Bay of Pigs, or not enough discussion of the Gulf of Tonkin. And I am just determined that rather than have another mistake like that, where you realized it is wrong after 50,000 American men have died and $150 billion have been spent that I'll make a fuss in advance and let the chips fall where they may.

S: OK, let's take one instance of this. Who went to Senator Clifford and said the President would like to resume his aid, or would like the CIA to resume aid to the MPLA?

Y: Senator Clark. Dick Clark. I was in a meeting where everybody agreed that this was not good and where the people who were least enthusiastic and most critical of the idea were the representatives of the CIA. But, at the same time, there were twenty or thirty minor amendments that had been tacked on by Congress that limit the President in his conduct in some aspects of foreign policy. There was a study under review of these aspects including the Clark amendment even before Shaba. I really think that we had two things happening in sequence that were not necessarily related to each other.

S: That can explain what the President said to the Congressional Leaders at the White House, but it doesn't account for what Admiral Turner discussed with Senator Clark.

Y: Admiral Turner and David Aaron, I don't know what they discussed. As I understand it, they went to get a clarification of what Senator Clark thought were the limits of the amendment, what he thought was the continued effect and importance of the amendment. He could not have simply said: Well, I'm willing to drop the amendment. He could not have changed the amendment by himself; it had to be changed by a vote of the Congress. The other thing is Dick Clark is very much a member of the President's team. If you ask which Senators have the best voting record in relationship to the Administration, Senator Kennedy and Senator Clark would be right up at the top of the list.

S: Why did he go and talk to the press and say. . . .

Y: Because in the meantime it leaked out. At the same time, as I tried to track it down, the President, in talking about assistance to Angola, Mozambique, and others, I think that Angola and Mozambique generally want to be non-aligned. There generally are food shortages in Mozambique as a result of the flood. In Angola, because of their inability to get the agriculture sector reestablished and we have never been picayune about food supplies. Almost throughout the entire struggle with Ethiopia and Somalia, we supplied supplies under Public Law 480 to the Ethiopians and Somalians. We don't make food that political, but with some of the criteria, it was difficult to give food even to some of those places, and I think it was in that context in discussing possible ramifications of any kind of assistance to places in Africa that the phrase became public "The President feels his hands are tied". Now that did not come from the President, it came from Congressman John Rhodes, the Minority Leader. He came out of the meeting and said to the press, the President feels his hands are tied, and then a series of press reports emerged. Right in the middle of this, Kolwezi broke, and there was an emotional intensity which we had not had in our foreign policy for a long time. So, how we got that all straightened out was a matter of straightening out in the press. I was in the policy meetings around that period, and there was never any discussion of resuming covert aid to the opponents of MPLA.

S: Nobody asked for it?

Y: No.

S: Not even Brzezinski?

Y: Not even Brzezinski. And during that same period, during the Special Session On Disarmament, we were talking directly with Angola about settling Namibia. And I was instructed by the Secretary of State and the President to meet with the Angolan Prime Minister who was visiting. It was a period where news coverage were speculating as to what we could do and what we should do.

S: You mean it eame more from the press?

Y: I think so, there was also an immediate assumption which we made that the Cubans were to blame. The President said that he thought the Cubans had to share responsibility for the invasion of Shaba. And I agreed with that because they had been involved in that region, they have assumed obligation of military advisers to the govt. of Angola and as such must share some responsibility.

S: Did Castro call Mr. Lane?

Y: But I am saying that before that Castro could have gone to some of the people that were involved in the raid and said "Don't do it" and he didn't do that. One of the reasons is that while I'm not sure the Cubans actually planned and conducted this raid; I think probably the East Germans did.

S: You think so?

Y: Yes, always have.

S: On what sort of information do you say that?

Y: More and more the East German role in Africa while smaller, you don't have any large numbers of East German troops, you do have quite a few East German technical advisers. East Germans are training and equipping people in situations like that. The Germans had a reason. East Germans were worried about missile development project that was going on in Shaba. There is a private West German corporation that leased almost half the land in Shaba to develop low cost and the East Germans are very disturbed about West Germans' capability to have a low cost missile system. And it seems to me they had a vested interest in upsetting things in Shaba in a way that I'm not sure anybody else had.

S: And you mean the Cubans kept quiet because of the East Germans?

Y: Yes.

S: Even though they were not interested in . . .

Y: Yes, they could not betray the East Germans but they tried to make clear to us that they were not the ones.

S: The strongest part of what you say is we don't have to compete with the Russians, we're better, have more to offer so let's not worry about what they do. What if you're right? Aren't you afraid that could lead to a very dramatic confrontation?

Y: No, I think we have been able to successfully avoid the confrontation because our restraint and our reasonable approaches to things have prevailed everywhere so far.

S: But precisely, isn't that dangerous?

Wars have always started by people who are with their back at the wall.

Y: But their backs are not at the wall, except insofar as their own failures. For instance, they were in Somalia and they couldn't handle Siad Barre so they moved out of Somalia and into Ethiopia. Two years ago, they were in Sudan and because of tensions between Sudan and Libya, which they didn't understand, they got thrown out of Sudan.

S: Well exactly.

Y: But it is kind of hard for them to blame that on anybody but themselves.

S: Within the eastern camp, East Germans are doing them in commercial markets. With their traditional allies, they are losing ground. That's obvious with Algeria for instance, since Kissinger signed those contracts, Algeria asked to be paid in dollars by the Russians. In Asia, they had to do what happened recently to make sure their influences remain in control.

Y: I think what they are learning is that they cannot control. And they have also learned that they can compete fairly. I think right now the largest trading partner with Russia in North Africa may be Morocco.

S: Really?

Y: Yes, and it's strictly on the basis of mutual needs. Morocco has large phosphate deposits, the Russians need for fertilizer and it's not as though we are limiting them in any way. What I hope we are doing is limiting the results of their military encounters any time the Russians want to participate in peaceful trade and development assistance. I don't think we have any problem with that. We would encourage that, in fact.

S: But the U.S. has more to offer.

Y: Not necessarily. The truth of it is in terms of natural resources yet to be developed, Russia has a tremendous amount. I think Russia's problems that we don't have are weather, and I think they haven't learned to master their bureaucracy as yet. And I am no authority on Russia, but I think for all the things that are wrong with the free

enterprise system, one of the things that is right about it is it provides for rapid changes in producing things more efficiently.

Our system maximizes efficiency and their system, I guess, gets encumbered with bureaucracy.

S: OK, what you are telling me is the Russians will be OK once they understand our way of doing things and they can catch up with us peacefully, but that in other words, they have to destroy their own society in order to be competitive.

Y: No, they don't have to destroy it because I think that there is a kind of bureaucracy in the Japanese too and the Germans have been very rigid and bureaucratic in the past. They've got to find a healthier mixture just like I think we've got to find a healthier mixture to provide more government response to the problems of unemployment and inflation and more particularly, I think there has got to be more government involvement in our economy as we become more and more export-oriented.

Y: Our free market system was perfectly adapted for the continental United States. But as we start having to compete with the Japanese and the Germans and everybody else, we are going to have to do a little more for our businesses to help them function abroad. We're going to have to do a little more for American citizens working abroad. I resist this competition between systems. The United States as it was prior to Franklin Roosevelt just doesn't exist any more. The trade union movement in the 1930s and 1940s made a radical revolution in American lifestyle. And without the trade union revolution, we wouldn't be able to produce approximately nine million cars. In the 1950s and 1962s, we had a civil rights revolution and that has produced another whole qualitative difference in the American life and politics. In the 1970s, you had women becoming much more aggressive and involved in our economy. We have not yet been able to see the changes that that is going to produce. So, our system is constantly evolving just as their system is constantly evolving. I think the present Soviet dissidents may turn out to be the salvation of Russia.

S: But listen, they are all going on trial, they are being dismantled.

Y: It was just ten years ago that I was on trial. I was on trial in Atlanta, Georgia, for organizing garbage workers and ended up spending fortunately not long in jail. And three years after that, I was the Congressman from the district. Now, in Russia things don't move that fast. In Russia, the dissidents are an intellectual and cultural elite who just happen to be Jewish.

S: What about the trade unions?

Y: They haven't emerged yet as far as the dissident movement. Down South in the 1950s, they used to try to say that we were Communists and that everything the civil rights movement did was communist inspiration. And the Russians are saying it's the influence of the Capitalists and the CIA. That's ridiculous. It's a natural progression in development of Russian society that they don't have sense enough to understand.

S: So, in other words, the present Russian policy is one being pushed against the wall and possibly leading to some very, very big conflict.

Y: I don't think so. Our relations are too good.

S: On what level?

Y: On almost every level except publicly. Vance and Gromyko meet every month.

S: Yes, but what about? Decide to judge Scharansky the day before they meet?

Y: Yes, but judging Scharansky is one thing that is probably an act of defiance and independence on their part but they will continue to negotiate arms limitations and there's no telling what's liable to happen. We still have hundreds of people that I would categorize as political prisoners in our prisons. Maybe even thousands, depending on how you categorize them. During the war in Vietnam, whenever there was domestic pressure, most of these young people who went to jail for conscience were political prisoners. Where they had good legal assistance most of the time they got free. Our political system, especially our court system, does have a great deal more flexibility in it, but you still have to fight for it.

S: OK, but let's say that the American system is much better equipped to deal with changes and to integrate changes. So far, no Marxist regime has proved that it could do that.

Y: Well, I'm not sure. To do that, you have to keep alive the strain of humanism in the revolution and I would say that the Cubans tried to do that.

S: But you would disassociate Cuba from Russia?

Y: Yes, I think even in Poland they try to do that and Romania too. Now and then those things begin to work.

S: But don't you think that's dangerous? When President Carter goes to Warsaw, speaking on human rights and underlines the possibility of Poland leaning more to the West.

Y: I think you shouldn't call it more to the West. I think Poland is going to become more free. But it will probably still remain within the orbit of Soviet influence, but people will be happier.

S: But you think Moscow is going to see its own satellites take their independence?

Y: It depends, I think. It really does.

S: You are not afraid of a World War III?

Y: No.

S: Why did it take so long to make an official gesture toward the Angolan government?

Y: In February of 1977, I met with Neto.

S: But in the US.

Y: Well, I was in the US. I was in Nigeria and I was officially a representative of the US Government. Don McHenry has met with Neto on two occasions prior to this publicly announced one. This is the first time it has been publicly announced. Our Ambassador to Nigeria has been to Angola (Garble) and I think it has taken a long time to get to the point where we thought we could do something, has been as much their problem as it has been ours. I think they would have welcomed normalization of relations but they didn't want to talk about any kind of political settlement of their differences with Savimbi.

And what we have talked about essentially is something we have in common—a need that we have in common—and that is the independence of Namibia. Independence of Namibia would help us in our relationship with South Africa and in our relationships with liberation movements generally. It would help Angola in relationship to its future. And so, by talking about the things that are our common interests, maybe we can evolve toward other things.

S: Is a normal diplomatic relationship feasible in the near future?

Y: I don't know what you call the near future, but I would say that it is certainly something that has to be considered. If you don't have stability in Angola, you don't have stability in Zaire. It doesn't matter whether we want it that way or not. It's just going to be that way.

Y: Tribal groups overlap so much that either those countries will work together to solve their internal problems or their internal problems will spill over into the other country and we have more to lose as a result of that than we do as a result of some working relationship with them.

Y: I would say that Mobutu was just on the verge of beginning to put together some kind of reforms, economic meetings which were scheduled for the 13th of June. They had been scheduled for about six months and Shaba came in between that. That put everything back to where it was.

S: In other words, you are saying that Mobutu could possibly evolve into a decent leader of Zaire?

Y: All I am saying is that he is the leader of Zaire and that the United States Government does not involve itself in replacing or undermining any existing leader.

S: Even propping them up?

Y: Even propping them up. We've been able to give assistance to people. If there is some question as to whether that props up a leader or not when its people are well fed . . .

S: OK, let's be more precise about it. Don't you think that Shaba is a direct consequence of the Franco-Morocco intervention of last year?

Y: No, I don't.

S: You don't?

Y: I think Shaba this year is a direct result of continued attacks on Angola from Zaire territory along with the concern of East Germans and Katangan hostilities. I think that the Luanda tribesmen in Angola are probably as close to being African mercenaries as anything we've had. They fought with the Belgians first, they fought with the Portuguese, then they switched, they fought with the MPLA. They have been on every side.

S: In defense of their own territory?

Y: I don't know what it's in defense of? It might be in response to whomever paid them. Their move into Shaba the way they did wasn't necessarily a sustained guerrilla attack to overthrow the government. Other guerrilla movements that are fighting to claim the land fight all the time. The Katangans seem to fight and then go sleep for a year. And then they rise up again in 18 months and they do one incident again.

S: So what do you put down?

Y: I don't know. I am saying that it could be they fight when somebody else pays them and make it worth their while.

S: You mean in this case, the East Germans?

Y: Possibly.

S: But it's a known fact that the people of Shaba support them, or at least a great majority.

Y: You don't even know that. They do speak the language, they are from that area, they would normally be welcome, but the people of Shaba haven't been conducting any kind of undercurrent against the government. Nothing has happened.

S: They cant' afford to.

Y: Sure, you can always afford to. There's nothing like the repression in Shaba that there is in South Africa and yet there is a constant reaction on the part of even school children. So, I'm saying it's hard to make—hard to know what really is going on in Shaba. Or to blame it all on Mobutu. And say this is just a liberation movement that's trying to overthrow Mobutu. It may be, I don't know. But their patterns don't act like the Patriotic Front, or SWAPO, or any other liberation movement I know. I don't know of any liberation movement that's taken 18 months off and then fought another campaign.

S: Do you really distrust them?

Y: I do. I don't know them and I don't know anything about them. My inclination is to be suspicious of anything I don't know.

S: Six months ago when I spoke to Anne Holloway, she seemed to say that whatever the French had done in Africa since you came into office was with total approval from Washington.

Y: Oh, I don't think she said that.

S: Well totally complimentary she said.

Y: It depends on what you are talking about. If you are talking on our airlifting troops in to preserve order, to give humanitarian relief to the missionaries and the business people that were there, I would say that's true. I don't know what else the French are doing though.

S: Would you say our goals in Africa are the same as the French?

Y: No, I can't.

S: Why not?

Y: Because I think the French are pursuing French economic interests and I think we're not pursuing US economic interest to the same degree. I think the tension between the French and the Belgians in Zaire indicates that I would say we are much closer to the Belgians. The Belgians had a humanitarian concern for what was going on in Zaire; they were concerned about life and the future of their own people, they were of the mining infrastructure.

S: What were the French concerned with?

Y: I don't know. I think the French were concerned with their balance of payments deficit and are having difficulty competing with the Germans and the Japanese, the Swedes and everybody else. The way they have done it traditionally is by developing very successful neocolonial relations. I think some of the most successful countries in Africa are from French-speaking countries.

I would say the classic example would be Ivory Coast and I like Ivory Coast and I think that when you have a leader like Houphcuet—Boigny who consciously decides that the future of his people and the advancement of his country is best accomplished with a close relationship with the French, then I welcome that and I would do anything I could to support it. I think the same thing is true to some extent of Senghor.

S: Don't you think he is going a bit far now though?

Y: I don't know.

S: With the Pan-African Force?

S: What do you think of the Pan-African Force?

Y: I don't think it will ever happen so I never worry about it. There was a lot of talk and what does he come up with—300 Senegalese and 300 from Gabon and maybe 1000 Moroccans. There is too much English-speaking opposition to that. They don't see it as a Pan-African Force at all; they see it as a French-African Force.

S. Right.

Y: So, There is no question in my mind that that will be a big topic of discussion at the Organization of African Unity. I think though that there ought to be some way for countries in Africa to come to each other's assistance.

S: But through the Organization of African Unity?

Y: Well either the Organization of African Unity with some recourse to the UN through the Security Council.

S: But that would involve other countries.

Y: Yes, but it would put a freeze on the military situation and give you a possibility—the Security Council is not going to fight any wars—it's going to freeze the situation in place and push political solution, and where the African states would have the most to say about the politics, about the kind of solution that comes about.

S. What do you think of the French operations in Chad?

Y: I tend to approve the French operations in Chad. The other way to turn that around is what do I think of the Libyan operation in Chad. When somebody else is being an outside aggressor, I don't think you can blame the country for coming to or getting somebody to come to its aid to help them. I think it is very clear what is happening in Chad.

S: Is being stirred by the Libyans? They only came in afterwards. They are using the situation.

Y: In the first place nobody knows where that border is up there. Nobody knows what it is. I would say that all those wars are tragedies in that there is a whole lot of killing and destruction and nobody is winning anything, because there's nothing up there to win.

S: But the French are decimating all those Chadians. I mean that there is no Chadian army, we know that.

Y: We don't get reports on that.

S: Well, I can tell you, we do.

Y: But the thing that has got to happen in Africa and places like that or in places like the Ogaden or in places like Angola and Zaire is people have got to come to their senses and realize that military solutions make matters worse for all sides.

S: But today there are more conflicts, more armed conflicts in Africa than there were two years ago.

Y: Yes, but the conflicts have always been there. People have decided to put in sophisticated weapons, and I think what we have got to try to do at the UN is see if we can't find political solutions to those problems. Now the OAU wants to settle its own problems itself. But there is not the machinery in the Secretariat, the travel problems are too great, and Africa after all is not apart from the rest of the world. That's like saying, for the OAU saying they settle their problems alone, is like the Middle East saying we'll settle our problems alone. Nobody would let the Middle East do that, nobody is going to let Africa do that, but by bringing Middle East problems into the context of the UN, the Arabs and the Israelis, East and West argue them out and I think we've contained somewhat the violence in the Middle East, say in the last few years as a result of pushing for political solutions. And that is what we are going to have to have and one of the things I hope to do when I leave here is spend some time in Algeria, Morocco, Mauritania, the North African areas where you've got problems. I don't know enough about what's going on in Chad and Libya or what the French are doing really.

S: So you are going to see it?

Y: I'm going to try and find out because I think that the Russians should have learned. And the Cubans, I don't know what they lost or how much it cost them to drive the Somalis out of Ogaden but the Somalis aren't gone. And the geography is another factor. I think the big problem that Europeans and Americans have with war in Africa is they tend to conceptualize it in a European sense where in a European sense if you advance a hundred yards from French territory into German territory, you've done something. You can go a hundred miles in the Ogaden and not hit anything worth fighting for. And it's almost not worth the gasoline that you've used up to go the distance. And the Sudan will tell you, somebody can come into our country and they can come 250–300 miles and they can stay 2 or 3 days and we don't worry about it. That gives us time to see what they are up to. And then when we decide what they are up to, we can either cut their supply lines and strand them or we can drive them out. I mean war in Africa is quite different than anything Europeans have thought of before. And one of the reasons we have over-reacted to 20,000 Cubans in Angola is we think that that's a lot but Angola is twice the size of France, and 20,000 anything can't run a country that size.

S: You still think they have a good influence in Angola?

Y: Some, yes. I think in Southern Angola all that group, about 7,000 or so, are given technical assistance. They are providing educational opportunity, they are running the hospitals, they are keeping the plumbing working and the water supplies operating, and they are the only ones who can repair any motors. They keep the fishing fleet going to some extent. All of that is healthy. I think when they go out on search and destroy missions to try and destroy other Angolans who also have a right to be part of the government, I think that has to be condemned.

S: What do you think of the very privileged relationship that France entertains with Savimbi?

Y: Well, I happen to like Savimbi.

S: Yes. So does John Stockwell, but——

Y: But I don't know if it is in anybody's interest to make war on behalf of Savimbi against a government that is involved. I think that insofar as there could be some kind of political rapprochement, I would certainly encourage that.

S: But that's not what the French are doing.

Y: No, and I think their left hand may be destroying in Angola what their right hand is trying to do in Zaire.

S: You mean their left hand is the clandestine hand? Are you trying to do anything, are you trying to put any pressure on the French government against it?

Y: No, because I think that our position is that Savimbi is an authentic Angolan leader and that somehow in the context of Angolan politics there ought to be a place for those forces. Our position about Angolan leadership is pretty much like our position about Rhodesian leadership. We think that Mugabe, Muzorewa, Sithole, all of them have a right.

S: Since we are on Rhodesia, how much chance do you give them for a peaceful settlement?

Y: It depends if we can have a settlement in Namibia in the next month, which is likely. The Western members of the Security Council are in Luanda today. If they are successful in their negotiations and if South Africa withdraws troops and UN troops go in there, I'd say the chances for a similar thing happening in Rhodesia in a few weeks is——

S: In a few weeks?

Y: Yes, it's just going to go one way or the other before the end of the summer, both of those places.

S: Really?

Y: Yes, either we'll make the settlement in Nambia in which case violence will stop in Nambia and the UN troops will move in. When the white Rhodesians and South Africans see how it is working (garble). UN troops have survived and maintained some order in Lebanon where they are located and UN troops have an outstanding reputation.

S: But look what's happening in Lebanon now.

Y: Not where the UN troops are. The UN troops are down along the border; that's happening up around Beirut. There was never a mandate for the UN to occupy all of Lebanon.

S: So you think peaceful solution in Namibia may incline Ian Smith to . . .

Y: Very definitely.

S: But Nkomo and Mugabe will never sit with Ian Smith.

Y: They have been sitting with Ian Smith all the time.

S: What do you mean? Not physically at least.

Y: There is one thing I learned about the Rhodesian situation which is everybody talks to everybody else.

S: Really?

Y: Muzcorewa and Mugabe, Sitole, Nkomo. Smith is always sending messages to every-

body. It's a family feud, much more than anybody realizes and it has been for the last five years.

S: But what about the recent massacres?

Y: I don't know that anybody knows who is responsible for those massacres. It raises questions with me because I know the missionaries. For instance, one of the places that was attacked was the Salvation Army Training School. Almost everybody on Nkomo's Central Committee went to school there.

S: So it couldn't be them?

Y: No. It just doesn't make sense. The other thing is, I know that the missionaries have been of great humanitarian assistance to the guerillas. They have given them food, they have operated on them when they have been wounded. When somebody saves your life you don't come back and kill them. I am awful suspicious of the charges that the guerillas are attacking the missionaries. Mugabe is a devout Jesuit school teacher. When the talks were here in Geneva, Mugabe used to go off on weekends to a monastary. There's nobody at the top of his organization—many of whom are products of Catholic missionary schools. Mugabe taught in the Jesuit schools. At one point you could say that their rebel bands of . . .

S: Of provocateurs from the other side?

Y: I didn't want to charge them with that yet, but the rebel bands that might have gotten out of hand and attacked one missionary operation was pretty soon rounded up by the guerillas. And so I would think that if it's a planned operation to attack missionaries, which it seems to have been in the last few weeks, then it has to be coming from Smith's side.

S: But that shows that even though it may be a family feud it could turn into a massacre.

Y: Oh, it is very definitely. Except there is still a great deal of restraint. Tongogarro who is Mugabe's military commander told me that his mother worked on Ian Smith's plantation.

S: Really?

Y: And that his mother would never forgive him if something happended to Ian Smith's parents because Ian Smith's parents had sent for a doctor when his brothers were sick. He is very careful not to say Ian Smith but it's sort of like the Old South in the United States. There are hostilities along a racial class level but there are some very strong individual ties. And he was saying that Ian Smith's parents put his brother in a wagon in those days and got his mother and his little brother to a hospital. And his mother wouldn't let anybody . . . and those kinds of family ties are still very strong.

S: What do you feel is the change of atmosphere in the U.S.? It seems like a new conservatism.

Y: On the basis of what?

S: Bussing, Bakke.

Y: No, the Bakke case came out perfect considering it was brought by a young man who I think was discriminated against because of his age, frankly. He was 33. But nothing the court did overthrew the affirmative action programs. In fact it probably contributed to further clarifying affirmative action. A couple of days later in a case in relationship to jobs and trade unions, it affirmed everything except quotas. For a Nixon court that was a tremendous victory. Now the Proposition 13 is a California halucination. They think California is heaven. They repeal taxes this year and next year they are going to try to have a referendum repealing death.

S: You are not afraid it could spread?

Y: I think that it's going to spread, but the consequences are going to be felt so quickly that it won't go far.

S: So generally you don't think there is a new mood of (conservatism)?

Y: Not anything that's lasting.

S: What do you feel of Carter's loss of popularity and what do you feel when people say you are Carter's token Liberal or token black?

Y: I don't worry about Carter's loss of popularity because I think he took over when lots of things had been left undone. We had four Presidents trying to get a Panama Canal Treaty for the last fourteen years. He could have put it off another four years until it got more popular. But in the meantime he would have run the risk of a complete breakdown in Panama. So what he's done is do what has to be done regardless of the political consequences. I started in Congress under Nixon trying to pass an energy bill and three years in a row in Congress we couldn't get one passed. He's not doing too much better but at least he is fighting it out and we will get an energy bill. He's taken on all the unpopular causes and by doing it the first two years of his administration he has a chance to succeed. And by the time he comes up for re-election people will be very appreciative of the fact that he did these hard things back when he did. We had a governor in New Jersey, Brendan Byrne, ran on a platform that he would not increase taxes. When he got in the school system was about to close so he introduced an income tax and everybody started calling him one-term Byrne. But he was just re-elected by almost 60 percent of the vote a couple of months ago because by the time people got around to it and they realized had he not done what he did the whole educational system of the state would have fallen apart. So people don't like courageous leadership in the beginning but they appreciate it after a little while.

S: So it's better to get it all over with at the first?

Y: Yes. And in terms of my being the token Liberal and the token black it just isn't true. Just before I left, I asked the White House if they could pull together a list of the black political appointees. There were over a hundred that were in pretty high-level jobs—Assistant Secretary of Labor, in fact two Assistant Secretaries of Labor, the Under Secretary of the Interior, Under Secretary of the Treasury top level assistants in the Office of Management and Budget, Secretary of the Army, the Assistant Secretary of the Civil Rights in the Justice Department. There were so many, I didn't know them. I get maybe too much publicity, but what I was saying to them was that they ought to speak up more and not let me take all the flak by myself.

S: What about the token Liberal, the ideological, LIJE the speech of the administration?

Y: I don't think I'm that much more Liberal than Vance.

S: Why didn't you say Brzezinski?

Y: Brzezinski, on the economic issues, the North/South issues, I would say we agree on that. Brzezinski and I might disagree on Cuba, but even with that it's a healthy one. We would have a tactical disagreement on what to do about Cuba.

S: But not a fundamental one?

Y: No, not really. When I am in a meeting, I am never the only Liberal voice, I don't care what meeting it is. And usually I'm not the most liberal voice on any given issue. I just talk out loud sometimes.

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## H.R. 12052—TURNING DREAMS INTO REALITIES

The SPEAKER pro tempore (Mr. OBERSTAR). Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, a critical problem facing our economy is homeownership. The cost of home financing has risen so rapidly that ownership is beyond the reach of many Americans. This is especially true of young families trying to buy their first home.

Another equally serious problem of homeownership concerns our Nation's older Americans. How can senior citizens, the majority living on fixed incomes, afford to continue living in their homes? Due to increasing costs in real estate taxes, utilities and other maintainance costs, and no rise in their income, millions of senior citizens are being forced to sell their homes. And the most ironic aspect of this is that, in many cases, the mortgage on the home is paid in full.

It has always been the American dream to own your own home. And the culmination of that dream is a comfortable and secure retirement, relatively free of financial concerns. But, for many Americans, that dream is moving farther from rather than closer to a reality.

Mr. Speaker, in January of this year I introduced a bill which addresses the problems of these two groups, a bill I call the American Dream Act. The legislation would allow federally chartered savings and loans to offer two new mortgage plans, the graduated payment mortgage (GMP) and the reverse annuity mortgage (RAM).

The graduated payment mortgage allows monthly payments to begin at a low level and to gradually increase over the life of the loan. Both the rate of increase and the interest rate are fixed throughout the life of the loan. This type of mortgage would be especially beneficial to young couples whose income is not high enough in their early years of marriage to enable them to afford large monthly payments. But, with reduced payments in the earlier years of the mortgage, and subsequently increased payments as the homeowner's income level increases, homeownership would be possible.

The reverse annuity mortgage is designed to allow senior citizens to draw equity from their homes in the form of cash, without being forced to sell their homes. The homeowner retains ownership and draws a monthly check based on the value of their home. When the homeowner dies or decides to sell, the amount, of those monthly checks, is merely deducted from the proceeds of the sale and returned to the lender.

Since I originally introduced this legislation in January, the positive response to the loan plans has been overwhelming. Sixteen members of the House Banking, Finance and Urban Affairs Committee have cosponsored the bill. Hearings began last week in the Financial Institutions Subcommittee and will continue throughout this week.

I have received letters from all parts of the country urging passage of the Dream Act. The majority of this mail has come from senior citizens. Many older Americans see this legislation as

their only hope of keeping their homes. Many have said they will be forced to sell in the upcoming year, if this legislation is not passed.

The letters are heartbreaking in their simplicity. A man from Lewistown, Pennsylvania sums up the frustration of these citizens. He writes: "Why save all your life for your property and do without, and then die and give it all away? I am behind your bill 100 percent."

A couple from Indiana sum up another reoccurring theme in the letters I have received—the senior citizens' desire for independence. They write:

This is the first piece of legislation that is favorable for the financial plight of the older citizens and will be reward for their years of saving and investment in property. Further, it can make us all less dependent on the government for handouts or the fraud of social security.

Consider the plight of these citizens. Years ago, they bought a home as an investment for the future. The theory was—get the house paid for while you are working and when retirement comes, sit back and relax. Of course, there will be taxes, but these can be handled out of social security or pension plans.

But, inflation and property taxes have played a cruel joke on these citizens. It may be nice to know that your home has tripled in value if you plan to sell your home. But, for the retiree, all this increased value means is more taxes. Combine real estate taxes with increased utility costs, and quite often payments exceed the monthly mortgage payments these citizens struggled to make for so many years.

A man from Pipersville, Pa., illustrates how desperately this legislation is needed:

If this bill passed, you will have earned the undying gratitude of thousands, if not tens of thousands, of old people and should deserve a monument as one of the truly great benefactors of the elderly. Only by selling can we keep from eventual disaster and that would be the final blow, since most of us have been living in our houses the best part of our lives.

Another senior citizen writes:

My husband and I are living on Social Security with a paid up home. We do not want to sell, yet we need more income to maintain living in it. Your bill sounds like the answer to all our problems. We do not intend to leave an estate, but would like to be able to afford a few necessities. Please work on it.

Mr. Speaker, the potential for the reverse mortgage is tremendous. It is estimated that homeowners 65 years and older have a net equity of $90 billion in their homes. Why should they have to wait until death to realize the economic fruits of 30 years of mortgage payments.

And, as for the young family trying to buy a first home, the graduated mortgage loan would enable up to 11 percent of current renters under the age of 35 to own their own homes. It is estimated that 2½ million families could afford homes under the GMP loan.

Because this legislation grants permissive rather than mandatory authority to make these loans, I see no reason why we cannot deal with this legislation in a speedy manner. The sooner we get these mortgages on the books, the sooner we can help both the young families and the retired citizens of our country.●

## LEGISLATION AUTHORIZING POSTHUMOUS AWARD OF THE CONGRESSIONAL MEDAL OF HONOR TO WILLIAM JAMES TSAKANIKAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, today I have introduced a bill authorizing the President to award the Medal of Honor posthumously to William James Tsakanikas in recognition of heroism displayed in World War II.

Mr. James, as he was called after the war, was instrumental in stalling a crucial advance by the Germans. Nineteen years old at the time, he warned his platoons of an imminent attack by German paratroopers. Although his selfless deeds saved his platoon, he was captured and nearly killed, spending 5 months in German prison camps before returning to his home in Westchester County, N.Y. By the time of his death last year, he had undergone 36 operations, but the pain of his severe facial wounds never left him.

James' heroism is described in two books by John S. D. Eisenhower, son of former President Dwight Eisenhower. Eisenhower describes James as "one of the most aggressive soldiers in the platoon * * * always anxious to do more than his part in every kind of action, the kind one could count on for any job * * * he was proud of the platoon and even more proud of the confidence Bouck (his lieutenant) had in him. He had resolved to do more than his best to serve his country.

This is the type of courage he continually showed, unwilling to sacrifice the safety of his service buddies for his own. In his last battle he was wounded: "The right side of his face had been shot away, and his right eyeball was hanging limply in the cavern where his cheek had been."

The pain of his wounds never ceased. He was in constant agony yet, upon returning to civilian life, he continued to display the same spirit of self-sacrifice he showed in the war. After earning a bachelor's degree in economics from the Wharton School of the University of Pennsylvania and an engineering degree from Tarleton State University in Texas, he went to law school, worked for the State unemployment office, and was an Oldsmobile salesman. He became active in civil affairs in the Town of Rye, N.Y., and was a deacon in the Presbyterian church and a volunteer in the Port Chester school system. He died, still suffering from his wounds, July 27, 1977.

It is proper that this courageous individual receive the Medal of Honor so many years after his service, for this man indeed performed above and beyond the call of duty.

The text of the bill follows:

H.R. 13580

A bill authorizing the President to award a medal of honor posthumously to William James Tsakanikas

*Be it enacted by the Senate and House of Representatives of the United States of Amercia in Congress assembled,* That, notwithstanding sections 3744(b) and 3752(a) of title 10, United States Code, the President is authorized to award in the name of the Congress a medal of honor posthumously to William James Tsakanikas for valorous acts performed at the risk of his life above and beyond the call of duty while serving as a private first class in the United States Army during World War II, and to present such medal to his family.

## A PLEA FOR ACTION

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, I invite the attention of my colleagues to an important and interesting article by Hon. Paul H. Nitze which appeared in the New York Times Magazine of May 7, 1978.

A PLEA FOR ACTION

(By Paul H. Nitze)

It is characteristic of the American political system that candidates for public office deal with ends rather than means—and, to some extent, continue to do so after being elected. One can always be warmer, more human and more sympathetic when discussing ends than when dealing with the allocation of the scarce means necessary to achieve those ends.

But there is an additional problem if the ends are inherently contradictory. One can't simultaneously favor the young, the old and the middle-aged of both sexes; the blacks, the whites, the Indians, the Mexicans and all other racial minority groups, the Jews, the Catholics, the Protestants and the nonbelievers; the workers, the farmers, the white-collar workers and the business managers. One can't both achieve a rising standard of living and take environmental measures that deny one the means to achieve that standard. By the same token, unless one makes wholly unrealistic assumptions about the nature of Soviet policies, one cannot simultaneously favor abolition of all nuclear weapons, a substantial cut in the defense budget and a national defense second to none.

It was therefore a foregone conclusion that President Carter would not be able to achieve some of the contradictory ends he set for himself during the campaign. But that has been true of many Presidential candidates. The more serious question is whether, since his inauguration, he has adapted his position to a more realistic approach to an imperfect world—whether he has plotted courses of action designed to get some specific and necessary things done for the country as a whole. I will not attempt to deal with the choices he faces on inflation, energy, the environment or the unemployed young; my subject is President Carter and the Russians.

It was Mr. Carter's original intention, in comparison with the preceding Administration, to be firmer with the Soviet leadership, more understanding toward our allies and more successful in negotiating equitable agreements with the Soviet Union. These agreements were to cover a wide range of subjects, including a new strategic-arms

treaty (SALT II), an agreement on mutual, balanced force reductions in Europe, a comprehensive nuclear test-ban treaty, a new codification of the Law of the Sea and an agreement concerning the Indian Ocean. At the same time, he proposed to put less emphasis on East-West relations and more emphasis on North-South relations and the global issues of food, population, energy, economic development and the environment. All this was to be carried out against the background of a vigorous campaign to foster respect for human rights throughout the world, including the Soviet Union.

Today, this agenda looks far less practicable than it did on Jan. 20, 1977. What have been the causes for disappointment?

In my opinion, the principal cause is the President's misreading of the Russians. He shared the view of his chief arms-control negotiator, Paul Warnke, that the Soviet drive for greater military power was a reaction to our programs—limited to catching up—and that it would be reversed if we did not take steps to challenge it. He thought it possible to find solutions that the Russians would find "fair" to themselves and that would also be "fair" to us. His March 1977 SALT proposal went so far to be "fair" to the Russians as actually to be unfair to the United States. As his advisers now concede, the proposal would have guaranteed that, under no circumstances, could we gain from initiating an attack on the Soviet Union's fixed land-based missile silos, while leaving us without any guarantee that the Russians could not gain from such an attack on our silos.

However, the proposal would have also placed restraints on modernization and technological developments that the Russians were not prepared to accept. They were confident that they could improve their position vis-a-vis the United States without such restraints, and subsequent developments have proved them right.

President Carter was shocked by the force of the Soviet rejection. He is still in search of a "fair" solution. But the concept of "fairness" to a potential opponent is simply not seen by Soviet negotiators as a serious approach; they believe that opponents should strive to gain as much as possible from the other side, and give as little as possible.

Mr. Carter had hoped to be able to concentrate on the defense of the NATO front in Europe and the security of Japan, and to downgrade areas of lesser danger such as the Middle East, Africa and Korea. He had also hoped to separate the North-South issues from the East-West issues and give them greater priority. On both counts, he ran up against a reality that did not conform to his hopes.

He found that an important line of Soviet strategy was to outflank the NATO center by putting pressure on Norway and Turkey—particularly Turkey, which is now the largest single recipient of Soviet aid. He also found that the Soviet Union was working toward a position of hegemony in the Middle East designed to outflank Europe and Japan, and a position in Africa designed to outflank the Middle East.

The President thus found that it was not possible to separate North-South issues from East-West issues. It was the North-South issues that were being exploited by the Russians to upset the East-West balance in their favor—and this exploitation was fostered by the Soviet Union's growing strategic nuclear capabilities and its increasing power to project military force, either directly or through client states, to positions distant from Soviet borders. Although Mr. Carter announced that we would "compete" with the Soviets for influence in the third world, he found that the tools of American influence needed for that competition were not strong. Our ability to grant economic assistance is not what it once was. Military aid has been limited both by the Carter Administration's policies and by Congressional restraints. And there is a limit to what words and diplomacy, not backed by the more substantive aspects of power, can accomplish.

With respect to the human-rights part of his program, he has found the world more responsive to this initiative than might have been expected. Those who have suffered under Soviet domination, and who, therefore, know the Soviet regime well, received the White House appeals on behalf of human rights with renewed hope. This audience includes the people of Hungary, Poland and East Germany, among many others. In the Soviet Union itself, the regime has found it necessary to tighten the measures of repression. The regimes in Egypt, Somalia and China have also known the Russians well, but have other reasons for being opposed to the Soviet Union, and emotionally so. But those emotionally opposed to the Kremlin's policies do not, separately or together, command organized power adequate to make their opposition effective. They tend to look to us for more support than we are in a position to give.

In short, I believe President Carter misjudged the current state of the world and the Soviet Union's role in it. It seems evident that he is now having to reassess his policy, and that the issues sketched out above are causing divisions among his advisers.

Clues to the opposing viewpoints may be found in statements being made available to the press. In the New York Times of April 17, for instance, a high-ranking State Department official is quoted as saying that Zbigniew Brzezinski, the Presidents national-security adviser, "believes that only by displaying backbone can the Administration achieve its goals with Moscow," whereas "most people around here [the State Department] think that tough talk and a threatening posture could ruin the chances for working out a more stable relationship."

That comment seems to me to miss the point. It is undeniable that tough talk and a threatening verbal posture not backed by the tools to make it stick are not going to accomplish much; they may, in fact, expose us to the humiliation of a rude rebuff (as the Russians say) or force us into dangerous actions for which we are psychologically or materially unprepared. But neither, in dealing with Moscow, can we achieve our goals without displaying backbone. Accommodation without backbone leads to appeasement. We should talk not "tough" but with constructive reason and with an eye to correcting the continual stream of erroneous and deliberately deceptive propaganda issuing from Moscow. And while speaking quietly, we should urgently be doing those things that need to be done to reverse unfavorable trends in the underlying practical factors of power and influence.

The New York Times news story also reports the suggestion of a close aide to Secretary of State Cyrus Vance that Mr. Brzezinski's unhappiness with second-level State Department officials resulted from "a lack of clear policy direction from the top down." "We don't have a consistent policy toward Moscow," the official is quoted as saying, "and when this is the case, people get into trouble. It's not that the State Department is trying to undercut policy: we are only trying to carry out what we think the policy is."

Normally, a President would replace a Secretary of State whose close aide tells the press that Presidential guidance is so unclear as to lead to serious confusion. Perhaps Mr. Carter does not do so because he himself finds the fundamental issue in Soviet-American relations confusing and difficult to resolve.

What is the fundamental issue? George Kennan, the author of the "containment" doctrine, has in recent years asserted with increasing conviction that our policy must be one of "accommodation" to the Soviet Union's growing new imperial position in the world. Others, including myself, believe that the United States, with backing throughout the world from the host of potential supporters of independence from Soviet direction—if not of national and personal freedom as we understand these concepts—can maintain an effective base for continued widespread autonomy from Soviet pressures. These pressures take the form of propaganda, political action, psychological warfare, K.G.B. operations and moves and threats of a military nature. Despite the rhetoric of détente and accommodation, I believe these pressures will continue to grow if we continue on our present course.

However one interprets it, there can be no doubt about the continuing and mammoth buildup of Soviet military capabilities. Every recent Administration, including the present one, has testified to the magnitude of this buildup, and most Government agencies with competence in the field have stated that it exceeds any imaginable defensive need. Some people, mostly those who were national-security advisers to Senator George McGovern during the 1972 Presidential campaign, assert that this buildup springs from Soviet anxiety, in response to American initiatives, and is basically defensive in character. My own view is that the situation is not that simple, and that one should give weight to what the Soviet leaders themselves say on this subject to their own people.

Their doctrine, which they take most seriously, is that "scientific socialism," as they call their system, will inevitably triumph throughout the world; that they are dutybound to assist this historically determined process by every available prudent means; and that, before succumbing to this inevitable outcome, others will defend themselves and strike back. From that vantage point, everything the Soviet leaders do is basically defensive. As Clausewitz puts it, the aggressor never wants war; he would prefer to enter your country unopposed; those who could defend their independence appear to the aggressor to be the warmongers.

To one who is doctrinally dedicated to achieving world hegemony, anyone else who has or may have the capability to resist that hegemony is a cause for anxiety. In that sense, the United States is a cause for Soviet anxiety. And the shift in the military balance, particularly in the strategic nuclear balance, over the last 15 years, gives the Soviet leaders increased confidence in the validity of their doctrine—confidence that 10 or 15 years ago was badly eroding.

The Soviet leaders do not want a nuclear war with the United States. They do, however, want strategic nuclear superiority (they call it "preponderance"). If at all possible, they would like to have the capability to fight a nuclear war—and to win such a war, in the military sense of ending up in undisputed command of the battlefield and being in a position to dictate the peace. They also propose to survive such a war, whatever the personnel and property losses they suffer, and to emerge as the predominant state in a world of Communist states. I don't think they have, as yet,, the capability of achieving those objectives, but it is my view that unless we take urgent measures at once—not next year or the year after—to reverse current trends, the Russians will have such a capability in a few years' time. At a minimum, the disparity between our force and theirs will be such that we will have no grounds for confidence that the capability is not theirs.

In the Soviet view, preponderance of capability at the highest level of potential violence is the best way to prevent a confrontation at a lower level from escalating to the strategic nuclear level. However, it is also their view that preponderance at the strate-

gic nuclear level can be exploited at lower levels in many forms of political pressure and violence. Strategic nuclear preponderance, they believe, is the fulcrum on which all other levels of pressure and influence depend.

One of their underlying concepts is the "correlation of forces." By that they mean the balance of political, economic, ideological, propaganda and organizational forces, as well as the military balance, at any given time. When that correlation is favorable, their doctrine calls on them to exploit their advantage. When it is unfavorable, it calls on them to be cautions, to retreat if necessary, to buy time in order to regroup and improve the balance so that it again moves in their favor. Associated with this doctrine is the idea that all the forces they control—political, psychological, diplomatic and economic—should be coordinated against the background of the relevant military balance, so as to optimize their gains and minimize their risks and potential losses.

Regarding themselves as being on the historical offensive, the Soviet leaders believe they should use the minimum amount of pressure or violence necessary to achieve their immediate aims. In their view, tactical caution is necessary to assure that, over time, grand strategic aims can be achieved. They follow strategies and tactics aimed at achieving a world controlled by regimes fashioned on the "scientific socialist" model—a world in which they, because of their longer experience, their years of effort and sacrifice on behalf of the Communist movement, and their preponderant power, will be the unchallenged hegemonic leaders.

Their attitude toward the United States has not been one of hatred. They have viewed the United States as being the central power among those nations and peoples who have a different view of the future; who believe that cooperative international arrangements can be made to work, that one country's gains are not necessarily another country's losses, that the actions of government should be responsive to the public will, and that the elemental rights of individuals should be fostered and not suppressed.

They believe the United States must of necessity oppose their basic aims. Therefore, the power and influence of the United States must be diminished by whatever prudent means come to hand. All measures taken must be aimed, directly or indirectly, at assuring that the United States, as the strongest of the Soviet Union's potential opponents, is denied any realistic possiblity of frustrating their ultimate goals.

The Soviet view of the United States has, therefore, been one of cold and respectful opposition. In recent years the component of respect appears to have diminished. Why should this have been so? In part, the reason may be found in President Carter's very virtues.

President Carter has a way with words. His special talent tends toward simple formulations expressed in brief sentences. The results are akin to homilies. His press conferences, for which his skills are superb, abound with sayings fit to be embroidered for a bedroom wall. A companion trait is self-assurance. He is warmed by inner confidence. A third and closely related quality is determination. His amazingly successful thrust for the Presidency two years ago was an object lesson in perseverance, a quality that grows by being used.

Each of those characteristics, favorable as they are to success in politics, has its obverse side. Words, for example, can become addictive. At Notre Dame University a year ago, the President revealingly offered the thought that, "in the spiritual realm, words are deeds." If that were all there is to it, we could all attain salvation on the basis of our New Year's resolutions. A capacity to deal with practical matters, not merely with words, is vital—a point no policy maker should ever forget.

Even self-assurance can become a bad habit. In an extreme form, it may induce political leaders to attribute transformative powers to their own personalities—as if some mysterious radiation of their presence could resolve human differences in the way kings in ancient times were said to be able to alleviate physical infirmities by touch of hand. Many a political project has been undone by this delusion.

One must take pains to be precise. The faith that moves mountains is indispensable; I question only the attitude that classifies all mountains as movable objects, the perseverance that only redoubles its efforts when finding itself on the wrong course, the aspiration that indulges itself by defining every impediment out of existence.

To those of us who entertain more and more doubts about President Carter on these grounds, his shortcomings appear as virtues carried to excess. Has his way with words led him to confuse strength with occasional strong utterances on the necessity of being strong? Has he unconsciously translated equations of power in world affairs into terms more applicable to personal relationships—relationships susceptible of being improved, redeemed, and resolved by his setting an example of patience and grace? Is he too devoted to an array of moral equivalents? Does the President find the ideal ends of policy too congenial to his spirit—to the prejudice of the obdurate factors of means? Has he imaginatively reconstructed the Soviet Union with hypotheses that fit his own hopes?

The Russians appear to believe that they face a confused man; a man who, on the one hand, would like to see a world wholly without nuclear weapons, but who, on the other hand, knows that the Russians are not going to give them up. The Russians are determined that so long as anyone in the world has nuclear weapons, or even the possibility of acquiring them, they are going to have them, too, and more and better ones than anyone else. The President, on the other hand, does not seem to be clear in his own mind whether we can or should fully hold up our end of the nuclear deterrent. I regard that attitude as dangerous, and believe it is high time the United States got on with reversing current trends and assuring that we maintain a strategic posture that can give us confidence in our ability to deter the Soviet Union and avoid nuclear war.

It is my view that the position of that part of the world not dominated by Moscow is more precarious today than it has been for some time. We must move forward with great caution and prudence, but to make "accommodation" the touchstone of our policy is, as Peking never ceases to remind us, the road to appeasement.

This issue—whether our policy toward the Soviet Union is to proceed from accommodation leading to appeasement, or from a rallying of our forces for prudent resistance to any Soviet purpose of world hegemony—must be resolved by the President, and resolved correctly. It must be resolved in that direction of prudent resistance, and without delay.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MARRIOTT (at the request of Mr. ROUSSELOT), for today, on account of official business.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. YOUNG of Alaska (at the request of Mr. BAUMAN), on July 21 and July 24, 1978, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ANDREWS of North Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PRICE, and to include extraneous material.

Mr. SIKES, and to include extraneous matter.

Mr. ALEXANDER, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,149.75.

(The following Members (at the request of Mr. JEFFORDS) and to include extraneous matter:)

Mr. MARRIOTT.

Mr. CORCORAN of Illinois in two instances.

Mr. GILMAN.

Mr. FRENZEL in three instances.

Mr. DERWINSKI in two instances.

Mr. LEACH.

Mr. LAGOMARSINO.

Mr. COLLINS of Texas.

Mrs. HOLT.

Mr. MCKINNEY.

(The following Members (at the request of Mr. ANDREWS of North Carolina) and to include extraneous matter:)

Mr. DE LUGO.

Mrs. MEYNER.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. LAFALCE in two instances.

Mr. MCHUGH in two instances.

Mr. DENT.

Mr. D'AMOURS.

Mr. SANTINI.

Mr. AUCOIN in three instances.

Mr. MOAKLEY.

Mr. BRECKINRIDGE.

Mr. NOLAN.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 85. An act for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza

and Daniel Aivouich Arriaza; to the Committee on the Judiciary;

S. 140. An act for the relief of Dr. Kok Liong Tan, and his wife, Gloria Siao Tan; to the Committee on the Judiciary;

S. 340. An act for the relief of Dr. Belinda A. Aquino; to the Committee on the Judiciary;

S. 613. An act for the relief of Kwok Hung Poon and his wife, Sandra Shau Man Lai Poon; to the Committee on the Judiciary;

S. 1564. An act for the relief of Tomiko Fukuda Eure; to the Committee on the Judiciary;

S. 2061. An act for the relief of Dr. Angelito Dela Cruz; to the Committee on the Judiciary;

S. 2067. An act for the relief of César B. Ibañez II, doctor of medicine; to the Committee on the Judiciary;

S. 2209. An act for the relief of Munnie Surface; to the Committee on the Judiciary;

S. 2243. An act for the relief of Rohini; to the Committee on the Judiciary;

S. 2326. An act for the relief of Anupama Alis Chandrakala; to the Committee on the Judiciary;

S. 2377. An act for the relief of Muradali P. Gillani; to the Committee on the Judiciary;

S. 2509. An act for the relief of Rodolfo N. Arriola; to the Committee on the Judiciary; and

S. 2639. An act for the relief of Mrs. Kerry Ann Wilson and Jason John Barba; to the Committee on the Judiciary.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1751. An act for the relief of Lucy Davao Jara Graham;

H.R. 2555. An act for the relief of Michelle Lagrosa Sese;

H.R. 2945. An act for the relief of Mrs. Amelia Doria Nicholson;

H.R. 3995. An act for the relief of Habib Haddad;

H.R. 4607. An act for the relief of William Mok;

H.R. 5928. An act for the relief of Miss Coralia Raposo;

H.R. 11504. An act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranchers, extend the Emergency Livestock Credit Act of 1974, and for other purposes;

H.R. 12933. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 945. Joint Resolution making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.

## ADJOURNMENT

Mr. ANDREWS of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 25, 1978, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4625. A leter from the Deputy Secretary of Defense, transmitting notice of his authorization of deficiencies to be incurred for this fiscal year in the appropriations for "Operations and Maintenance" for the Army, the Navy, the Marine Corps, and the Air Force, pursuant to section 3732(b) of the Revised Statutes, as amended (80 Stat. 993); to the Committee on Appropriations.

4626. A letter from the Chairman, Federal Election Commission, transmitting notice of various proposed new or changed records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4627. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting a report on a study of the relationship between Federal fiscal policy and State and local governments, pursuant to section 215(b) of Public Law 94–369 and section 145(a) of the State and Local Fiscal Assistance Act of 1972, as amended (90 Stat. 2356); to the Committee on Government Operations.

4628. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Russell and Sons Construction Co., Inc., Eureka, Kans., for a research project entitled "Demonstrate Capabilities of Specialized Reclamation Tools by Conducting Field Demonstrations," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

4629. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Australia for permission to transfer certain U.S.-origin defense articles to the Government of New Zealand, pursuant to section 3(a) of the Arms Export Control Act: to the Committee on International Relations.

4630. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

4631. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to modify the cost-sharing provisions of the Barbers Point Harbor Project, Oahu, Hawaii; to the Committee on Public Works and Transportation.

4632. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title II of the Social Security Act to simplify and improve benefit computation, coverage, and program administration, and for other purposes; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. BENNETT: Committee on Armed Services. H.R. 13255. A bill to approve the sale of certain naval vessels, and for other purposes; with amendment (Rept. No. 95–1385). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 12533. A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes; with amendment (Rept. No. 95–1386). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUMAN:

H.R. 13572. A bill to require foreign persons who own interests in agricultural land in the United States to file with the Secretary of Agriculture a report describing the nature of those interests; to the Committee on Agriculture.

By Mr. BROOKS:

H.R. 13573. A bill to amend the Clayton Act and the Internal Revenue Code of 1954 with respect to punitive damages received by private litigants under the Clayton Act, and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. CONABLE (for himself and Mr. HARKIN):

H.R. 13574. A bill to amend title II of the Social Security Act to make it clear that every beneficiary is entitled to apply the monthly earnings test (under the amendment made by section 303 of the Social Security Amendments of 1977) in at least 1 year after 1977; to the Committee on Ways and Means.

By Mr. CONABLE (for himself and Mr. MOTTL):

H.R. 13575. A bill to amend the Internal Revenue Code of 1954 to allow a retirement savings deduction for persons covered by certain pension plans; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. JONES of Oklahoma, Ms. KEYS, and Mr. BAFALIS):

H.R. 13576. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to certain individual retirement savings plans; to the Committee on Ways and Means.

By Mr. FOWLER (for himself, Mr. BENJAMIN, Mr. MURPHY of Pennsylvania, Mr. FORD of Tennessee, Mr. CHARLES WILSON of Texas, Mr. CAVANAUGH, Mr. STARK, Mr. MINETA, Mr. NOLAN, Mrs. SPELLMAN, Mr. WAXMAN, Mr. FAUNTROY, Mr. BEILENSON, Mr. MCHUGH, Mrs. SCHROEDER, Mr. MIKVA, and Mr. NOWAK):

H.R. 13577. A bill to amend title 23 of the United States Code to provide additional exemptions to States from requirements to make refunds to the highway trust fund by reason of a withdrawal of approval of a route or portion thereof on the Interstate System; to the Committee on Public Works and Transportation.

By Mrs. HOLT (for herself, Mr. ARMSTRONG, Mr. BADHAM, Mr. BAUMAN, Mr. BEARD of Tennessee, Mr. BROYHILL, Mr. BURGENER, Mr. CONABLE, Mr. CORCORAN of Illinois, Mr. CRANE, Mr. CUNNINGHAM, Mr. ROBERT W. DANIEL, JR., Mr. DUNCAN of Tennessee, Mr. EDWARDS of Alabama, Mr. EDWARDS OF Oklahoma, Mr. FRENZEL, Mr. GOODLING, Mr. GRASSLEY, Mr. GUYER, Mr. HYDE, Mr. JOHNSON of Colorado, Mr. KINDNESS, Mr. LATTA, Mr. MCDONALD, and Mr. MICHEL):

H.R. 13578. A bill to limit the growth rate of Federal spending and provide for permanent tax rate reductions for individuals and businesses; jointly, to the Committees on Rules and Ways and Means.

By Mr. MINETA (for himself and Mr. JOHNSON of California):

H.R. 13579. A bill to amend the John F. Kennedy Center Act relating to certain administrative functions, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OTTINGER:

H.R. 13580. A bill authorizing the President to award a medal of honor posthumously to William James Tsakanikas; to the Committee on Armed Services.

By Mr. PICKLE (for himself, Mr. ARCHER, Mr. DEVINE, Mrs. LLOYD of Tennessee, Mr. KINDNESS, Mr. MADIGAN, Mr. HYDE, Mr. CHARLES WILSON of Texas, Mr. BUCHANAN, Mr. SATTERFIELD, Mr. HUGHES, and Mr. WHITEHURST):

H.R. 13581. A bill relating to tax treatment of qualified dividend reinvestment plans; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 13582. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses by establishing a graduated income tax rate for corporations; to the Committee on Ways and Means.

By Mr. BROWN of Ohio (for himself, Mr. ABDNOR, Mr. AKAKA, Mr. ALEXANDER, Mr. ANDERSON of California, Mr. ANDREWS of North Dakota, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ARCHER, Mr. ARMSTRONG, Mr. ASHBROOK, Mr. ASHLEY, Mr. AUCOIN, Mr. BAFALIS, Mr. BALDUS, Mr. BAUMAN, Mr. BEARD of Rhode Island, Mr. BEARD of Tennessee, Mr. BEDELL, Mr. BEVILL, Mr. BIAGGI, Mr. BOWEN, Mr. BRADEMAS, Mr. BRECKINRIDGE, and Mr. BRINKLEY):

H.J. Res. 1073. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. BROOMFIELD, Mr. BROYHILL, Mr. BUCHANAN, Mr. BURGENER, Mr. BURKE of Massachusetts, Mr. BUTLER, Mr. BYRON, Mr. CARR, Mr. CARTER, Mr. CEDERBERG, Mr. CHAPPELL, Mr. COCHRAN of Mississippi, Mr. COHEN, Mr. COLEMAN, Mr. COLLINS of Texas, Mr. CONTE, Mr. CORCORAN of Illinois, Mr. CORNELL, Mr. CORNWELL, Mr. CORRADA, Mr. COTTER, Mr. COUGHLIN, Mr. CRANE, and Mr. DAN DANIEL):

H.J. Res. 1074. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. DAVIS, Mr. ROBERT W. DANIEL, Jr., Mr. DE LA GARZA, Mr. DE LUGO, Mr. DENT, Mr. DERRICK, Mr. DERWINSKI, Mr. DEVINE, Mr. DICKINSON, Mr. DICKS, Mr. DINGELL, Mr. DODD, Mr. DORNAN, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. DUNCAN of Oregon, Mr. EDWARDS of Alabama, Mr. EILBERG, Mr. EMERY, Mr. ENGLISH, Mr. ERTEL, Mr. EVANS of Georgia, Mr. EVANS of Delaware, and Mr. FAUNTROY):

H.J. Res. 1075. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. FISH, Mr. FLOOD, Mr. FLORIO, Mr. FLOWERS, Mr. FLYNT, Mr. FORSYTHE, Mr. FOUNTAIN, Mr. FRASER, Mr. FRENZEL, Mr. FUQUA, Mr. GAMMAGE, Mr. GAYDOS, Mr. GEPHARDT, Mr. GIAIMO, Mr. GIBBONS, Mr. GILMAN, Mr. GOODLING, Mr. GORE, Mr. GRADISON, Mr. GRASSLEY, Mr. GUYER, Mr. HAGEDORN, Mr. HALL, and Mr. HAMILTON):

H.J. Res. 1076. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. HAMMERSCHMIDT, Mr. HANLEY, Mr. HANSEN, Mr. HARKIN, Mr. HARRIS, Mr. HARSHA, Mrs. HECKLER, Mr. HEFTEL, Mr. HILLIS, Mr. HOLLAND, Mrs. HOLT, Mr. HORTON, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HYDE, Mr. JACOBS, Mr. JEFFORDS, Mr. JENRETTE, Mr. JOHNSON of California, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. KASTENMEIER, and Mr. KAZEN):

H.J. Res. 1077. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. KEMP, Ms. KEYS, Mr. KILDEE, Mr. KINDNESS, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEACH, Mr. LEDERER, Mr. LE FANTE, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. LONG of Maryland, Mr. LOTT, Mr. LUKEN, Mr. MCCORMACK, Mr. MCDADE, Mr. Mr. MCDONALD, Mr. MCFALL, Mr. MAGUIRE, Mr. MARRIOTT, Mr. MATHIS, and Ms. MIKULSKI):

H.J. Res. 1078. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. MILLER of Ohio, Mr. MOAKLEY, Mr. MOFFETT, Mr. MONTGOMERY, Mr. MOORHEAD of Pennsylvania, Mr. MURPHY of Pennsylvania, Mr. MURTHA, Mr. JOHN T. MYERS, Mr. NATCHER, Mr. NEDZI, Mr. NICHOLS, Mr. NOLAN, Mr. PANETTA, Mr. PATTEN, Mr. PEPPER, Mr. PERKINS, Mr. PICKLE, Mr. PREYER, Mr. PRICE, Mr. PRITCHARD, Mr. QUIE, Mr. QUILLEN, Mr. RHODES, and Mr. RINALDO):

H.J. Res. 1079. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. RISENHOOVER, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. RONCALIO, Mr. ROONEY, Mr. ROSE, Mr. ST GERMAIN, Mr. SANTINI, Mr. SARASIN, Mr. SAWYER, Mr. SEBELIUS, Mr. SHARP, Mr. SHUSTER, Mr. SIKES, Mr. SIMON, Mr. SKELTON, Mr. SLACK, Mrs. SMITH of Nebraska, Mr. SNYDER, Mr. SPENCE, Mr. STAGGERS, Mr. STANGELAND, and Mr. STEED):

H.J. Res. 1080. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. STEIGER, Mr. STOCKMAN, Mr. STRATTON, Mr. STUMP, Mr. SYMMS, Mr. THOMPSON, Mr. THONE, Mr. TREEN, Mr. TRIBLE, Mr. TUCKER, Mr. VAN DEERLIN, Mr. VENTO, Mr. VOLKMER, Mr. WAGGONNER, Mr. WALGREN, Mr. WALKER, Mr. WALSH, Mr. WAMPLER, Mr. WATKINS, Mr. WHITE, Mr. WHITEHURST, Mr. WHITLEY, Mr. WHITTEN, and Mr. BOB WILSON):

H.J. Res. 1081. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio (for himself, Mr. CHARLES H. WILSON of California, Mr. WINN, Mr. WOLFF, Mr. WON PAT, Mr. WYDLER, Mr. WYLIE, Mr. YATRON, Mr. STEERS, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, Mr. YOUNG of Missouri, Mr. YOUNG of Texas, Mr. ZABLOCKI, and Mr. ZEFERETTI):

H.J. Res. 1082. Joint resolution to designate October 7, 1978, as "National Guard Day"; to the Committee on Post Office and Civil Service.

By Mr. DODD (for himself, and Mr. FORD of Michigan):

H.J. Res. 1083. Joint resolution authorizing the President to proclaim the third week in June 1979 as National Veterans' Hospital week; to the Committee on Post Office and Civil Service.

By Mr. LAFALCE:

H.J. Res. 1084. Joint resolution to establish National Volunteer Firefighters' Day on the second Saturday of August of each year; to the Committee on Post Office and Civil Service.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. WALKER, Mr. LUKEN, and Mr. DORNAN):

H.J. Res. 1085. Joint resolution designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day"; to the Committee on Post Office and Civil Service.

## MEMORIALS

Under clause 4 of rule XXII,

461. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the funding of a national earthquake hazards reduction program; jointly, to the Committees on Interior and Insular Affairs, and Science and Technology.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

520. The SPEAKER presented a petition of the council of the city of New York, N.Y., relative to grants to fund local programs to improve housing and prevent neighborhood deterioration, which was referred to the Committee on Banking, Finance and Urban Affairs.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10285

By Mr. AUCOIN:

Page 12, after line 10, insert the following new section:

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS

SEC. 10. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting after the first sentence the following: "Along with such bylaws, rules, regulations, and resolutions, such contract market shall submit to the Commission projected economic and statistical analyses of any effects such proposed bylaws, rules, regulations, and resolutions would have, including effects on persons who would be subject to such proposed bylaws, rules, regulations, and resolutions and on accounts, agreements, and transactions subject to regulation under this Act. Upon receipt of such bylaws, rules, regulations, and resolutions, the Commission shall publish in the Federal Register a copy of such bylaws, rules, regulations, and resolutions and the accompanying economic and statistical analyses. For a period of 62 days after such publication, the Commission shall give interested persons an opportunity to participate in the approval process through submission of written data, views, or arguments with opportunity for oral presentation at public hearings to be held by the Commission." and

(2) striking out "The Commission shall approve, within thirty days" and inserting in lieu thereof "After consideration of the relevent matter presented, the Commission shall approve, at a public hearing within ninety days".

Redesignate the subsequent sections accordingly.

# SENATE—*Monday, July 24, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Thanks to God whose Word was spoken
In the deed that made the earth.
His the voice that called a nation
His the fires that tried her worth.
God has spoken;
God has spoken;
Praise him for his open Word".
—R. T. BROOKS.

O God our Father, help us to hear and understand Thy Word spoken in the movement of history, in the written Word and in the person of Thy Son. Watch over the President, the Congress, and all in authority in our Government that we may fitly "serve the present age our calling to fulfill." Move us to live more nearly after the pattern of Thy Son, in whose name we make our morning prayer. Amen.

## RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The Senator from West Virginia.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard.

## COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 26, beginning at 10 a.m., to conduct a hearing on Senate Joint Resolution 142, Franklin D. Roosevelt Memorial, and consider other legislative and administration business, including a printing resolution and Senate Resolution 487, providing supplemental funds for the Committee on Finance.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

## RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield 5 minutes of my time under the order to the distinguished Senator from South Carolina.

## BREAKTHROUGH ON PROLIFERATION RESISTANT NUCLEAR FUEL CYCLE

Mr. THURMOND. Mr. President, most Members of the Senate are aware of the Barnwell nuclear fuel plant in South Carolina and the fact that the facility has not been allowed to operate because of President Carter's indefinite deferral of commercial reprocessing. Because the Department of Energy and the administration are now exploring optional uses for Barnwell that are consistent with the President's nonproliferation policies, the highly skilled technical staff has been retained under contract to DOE conducting research and development on proliferation resistant fuel cycles and nuclear safeguards.

I am very happy to announce that this research, as a part of the fiscal year 1978 program at Barnwell, has produced a significant breakthrough. The technical staff at Barnwell has developed a nuclear fuel cycle that is highly resistant to diversion for nuclear weapons purposes. Preliminary analysis by the Department of Energy indicates that the new fuel cycle is indeed a significant step forward and the proposal will be studied further as a part of the international nuclear fuel cycle evaluation (INFCE), a 40-nation, 2-year study to develop more proliferation resistant fuel cycles.

Mr. President, I would briefly like to describe what this new, more proliferation resistant fuel cycle is:

Nonproliferation studies to date have focused on development of methods to complicate the diversion of commercial plutonium by dilution with low enriched uranium, the addition of highly radioactive "spikes" such as cobalt, and partial retention of fission products. In recognition of the fact that the plutonium product from each of these methods can be chemically purified, the staff at Barnwell thought it desirable to evaluate methods by which a denaturant might be added to the fuel cycle which could not chemically be removed and would at the same time render the plutonium unattractive for weapons purposes. What evolved from this evaluation was a fuel cycle which involves using Plutonium-238 ($Pu^{238}$). Because of high heat generation rate of $Pu^{238}$, a level in the range of 5 to 10 percent in spent reactor fuel would add a measure of deterrence such that subnational and national groups would be discouraged from considering reactor spent fuel and the plutonium therein as a source of weapons material. The high heat conduct will prevent the plutonium in spent fuel from being removed and concentrated to the degree necessary to fabricate a crude nuclear explosive. In addition to the heating effect, $Pu^{238}$ cannot be chemically removed from the other plutonium in spent fuel. This nonremoval feature combined with high heat concentration will assure that reactor spent fuel will not be a target for terrorist groups and others interested in seizing and using weapons grade materials.

Allied-General Nuclear Services (AGNS), owners of the Barnwell plant, are putting the details of the new process into the international nuclear fuel cycle evaluation (INFCE) a 40-nation, 2-year study to develop more proliferation resistant fuel cycles. By doing this, it is assured that the process can be examined and used by other nations to control nuclear proliferation.

I am proud that the U.S. Senate, under the leadership of Senator JACKSON and Senator CHURCH, has made the wise decision to use this very talented technical team at Barnwell. That decision has paid off and will continue to pay off.

## NEW FOREIGN POLICY ANNOUNCED BY PANAMA

Mr. THURMOND. Mr. President, just as many of us here in the Senate warned, Panama has fired the first shot to mobilize world opinion for the United States to leave its naval base in Guantanamo Bay.

This position by Panama is hand in glove with the shouts of Fidel Castro, the longtime dictator in Cuba.

I ask unanimous consent that an article headed "Panama Urges U.S. To Quit Guantanamo" in the July 20, 1978, issue of the Washington Star newspaper be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 20, 1978]

PANAMA URGES U.S. TO QUIT GUANTANAMO

PANAMA CITY, PANAMA.—Panama called yesterday for the United States to give up its Guantanamo naval base in Cuba, self-determination for Puerto Rico and return of all occupied Arab lands by Israel.

The government made the points in a 14-page document intended to lay the basis for its future foreign policy.

"The centerpiece of our foreign policy has been the canal. Now that an agreement has been reached with the United States, we felt we needed to redefine our foreign policy," Foreign Minister Nicolas Gonzalez Revilla said in an interview.

The document also supports respect for human rights and condemns all intervention in the affairs of other nations. Gonzalez Revilla said it "also recognizes Panamanian support of some independence struggles that exist in the world."

## ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. JAVITS be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that my time be restored to my control.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ECONOMIC RECOVERY

Mr. ROBERT C. BYRD. Mr. President, the current economic recovery is one of our longest postwar expansions. This achievement owes much to the major economic stimulus program which was proposed by the administration and perfected and enacted last year by Congress to spur consumer demand and business investment.

Real economic growth last year was a healthy 4.9 percent—one of the strongest performances by any of the major democratic industrial powers. The overall level of unemployment dropped to 5.7 percent in June. Since January 1977, almost 6½ million Americans have been added to the jobs roll. Furthermore, the percentage of our population gainfully employed now stands at a record high level.

Recently, I asked the administration to provide me with information regarding the impact of the economic stimulus package. According to preliminary estimates supplied by the Department of Labor—which I am advised have not been previously released, and which are rough figures subject to future revision—the economic stimulus program created over 270,000 jobs in calendar year 1977 and is expected to generate over 1.1 million jobs this year. These figures correspond with the reduction of the unemployment rate by two-tenths of a percentage point in 1977 and an expected additional nine-tenths of a percentage point in 1978.

These accomplishments on the employment front are impressive. Nonetheless, much remains to be done. According to most analysts, we are now at an economic crossroad.

Continuing high rates of inflation and rising interest rates can choke off growth. Indeed, the Congressional Budget Office currently forecasts a slower rate of real growth for the next 18 months.

Prices, as measured by the GNP chain price index, rose at an annual rate of 8.6 percent in the first half of 1978. Consumer prices rose 0.9 percent in May, and the prices of finished goods rose 0.7 percent in June. Clearly, these rates are too high; we must reduce them or risk a slowdown in business expansion and consumer spending that may well turn into a recession.

In order to put our economic house in order, we must take action on a wide range of economic issues, including energy, inflation, and tax reduction.

### I. THE ANTI-INFLATION PROGRAM

The consensus of economists on inflation is summarized by the recent statement made by Barry Bosworth, Director of the Council on Wage and Price Stability: "If inflation keeps up, we're headed straight for another recession." In short, the wage and price spiral must be wound down if we are to maintain the forward momentum of the economy.

I recognize that the administration's anti-inflation program has been in place only for a relatively short time. The success of the program depends upon the pricing and wage decisions that will be made in the coming months by labor and business and by the Government itself.

In the interim we must continue to explore innovative approaches to winding down inflation. I, like other Members of Congress, am ready to give a variety of proposals careful scrutiny. For example, there is the tax-based incomes policy (TIP). Several versions of this policy have been proposed, all of which call for use of the tax system as a carrot or stick to induce—not force—moderation in wage increases.

### II. INTEREST RATES

I am concerned that economic growth and expansion will be endangered if the Federal Reserve continues to tighten credit in an attempt to curb inflation. Raising the cost of money to slow inflation is a double-edged tool, because it makes all other products more expensive, thus contributing to inflation.

In setting the preliminary revenue floor and spending ceiling for fiscal year 1979 in the first concurrent resolution on the budget, Congress opted for a moderate tax cut that would not overheat the economy. It is now important that the Federal Reserve not err in the opposite direction by putting on the monetary brakes too quickly and risking a recession.

### III. THE TAX CUT

The first concurrent budget resolution assumes a net tax cut of $15 billion starting in January 1979. A tax cut on this order will allow for improved economic performance both in real growth and employment.

The Chairman of the Federal Reserve Board of Governors strongly concurs that we need a moderate tax cut this year. He has said that a larger tax cut could well require a further tightening of monetary policy to offset inflationary pressures. This would endanger the continuation of the current economic expansion.

I believe that this may well be the year in which less is more. The consensus of economic judgment is that we would err seriously if we were to support a deeper tax cut such as is proposed under the Roth-Kemp bill. Indeed, only if we continue to act with fiscal restraint, with an emphasis on holding down the deficit, will we be able to continue to steer our economy on an anti-inflationary course.

The American people want lower taxes and reduced inflation. It would be a cruel hoax if we were to give them a large tax cut which would set off inflationary pressures in the economy, thus reducing the purchasing power of the dollar.

### IV. INTERNATIONAL COOPERATION

In order to realize our domestic growth objectives, continued international economic cooperation is essential. This was exemplified by the recently concluded Bonn Summit. As economies have grown more interrelated, consultation and cooperation have become all the more necessary in areas such as domestic programs, trade, monetary matters, and energy. The United States, Japan, and Western European countries share responsibility for helping to insure continued world economic growth.

Most importantly, these nations must continue to work to achieve a freer and fairer trading system in order to bolster the interdependent world economy. Since freer trade can adversely affect sectors of any country's economy, any international trade agreement must come to terms with this problem.

With regard to energy policy, I have long maintained that any revenues raised by energy taxes should be used for the development of alternative energy sources, for spurring an increase in the supply of traditional energy sources, and for promoting fuel-efficient mass transit.

Each step that we take—to combat inflation, hold down interest rates, pass a moderate tax cut, foster international economic cooperation, and to develop our national energy policy—will play an important role in moving us along the path that is economically sound.

Following this path requires that we achieve a balance in Federal monetary and fiscal policy so that growth will not be impeded. The Federal Reserve, the Congress, and the administration must work cooperatively to insure that the specific policies they pursue do not—separately or collectively—overdo restraint and tip the country back into recession. In short, we need moderation—not fiscal or monetary overreaction to inflation. Moderation should be the watchword for fiscal year 1979.

Mr. President, I ask unanimous consent that the table, "GNP and Employment Impacts of the Economic Stimulus Package 1977–78, Preliminary Estimates," which was prepared for me by the Department of Labor, and the accompanying notes be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

GNP AND EMPLOYMENT IMPACTS OF THE ECONOMIC STIMULUS PACKAGE 1977–78, PRELIMINARY ESTIMATES [1]

| | Budgetary impact [2] (billions) | 1977 change in GNP (billions) | Change in employment (thousands) | Budgetary impact [2] (billions) | 1978 change in GNP (billions) | Change in employment (thousands) | Totel change in employment (thousands) |
|---|---|---|---|---|---|---|---|
| A. CETA—PSE [3] | $0.7 | $1.5 | 83.7 | $3.5 | $7.4 | 410.8 | 494.5 |
| B. CETA—Youth and training grants [4] | 0 | ---------- | ---------- | 1.3 | 2.9 | 321.6 | 321.6 |
| C. Personal tax cut | 3.3 | 5.0 | 112.2 | 7.4 | 11.1 | 233.1 | 345.3 |
| D. Employment tax credit [5] (and other business tax incentives) | 1.6 | 2.4 | 54.4 | 2.6 | 3.9 | 81.9 | 136.3 |
| E. Local public works [6] | 0 | ---------- | ---------- | 1.6 | 3.5 | 57.1 | 57.1 |
| F. Antirecession fiscal assistance [7] | .5 | .9 | 19.9 | .6 | 1.0 | 21.9 | 41.8 |
| Total | 6.1 | 9.8 | [8] 270.2 | 16.9 | 29.8 | [9] 1,126.4 | 1,396.6 |

[1] Estimates are based on a spending muliplier of 2.2 and a (personal and corpoarte) tax multiplier of 1.5. Unless otherwise affected by specific program characteristics, the percentage change in employment was equal to 7/15 of the percentage change in real output. Yearly GNP and employment date were used to make these calculations.

[2] Source: Economic Report of the President, January 1978, table 3, p. 52.

[3] Assumes a 20-percent displacement rate and a job slot cost of $8,900. Assume 65 per cent of displaced funds are used for tax reduction, 35 percent for non-PSE expenditure.

[4] Assumes a job slot cost of $4,500.

[5] Assumes that the labor substitution effect was minimal and that the corporate tax multiplier is the same as the personal tax multiplier.

[6] Assumes 1 round employment effects are 50 percent of the usual initial employment effects of Government spending.

[7] Assume revenue sharing funds are distributed as follows: 35 percent goes toward increased expenditures; 65 percent toward tax reduction.

[8] Assuming a 1-percent change in employment lowers the employment rate by 0.71 percentage point; this number corresponds to a 0.22 percentage point lowering of the unemployment rate.

[9] Using the same relation as in footnote 8, this number corresponds to a 0.89 percentage point lowering of the unemployent rate.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that until the hour of 12 noon, there be a period for the transaction of routine morning business only for the purpose of the entry of statements by Senators into the RECORD, the introduction of bills, resolutions, petitions, and memorials and committee reports.

Mr. ABOUREZK. I object.

The PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into recess until the hour of 12 noon.

Mr. ABOUREZK. I object.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER (Mrs. ALLEN). Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. ABOUREZK. Madam President, regular order.

The PRESIDING OFFICER. Regular order is called for.

The clerk will call the roll. The regular order is for the clerk to call the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The objection is heard.

The second assistant legislative clerk continued with the call of the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Use that microphone so that they can hear you.

Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. The objection was made by Mr. ABOUREZK.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. I accept credit for that.

Mr. ROBERT C. BYRD. The Senator is forgiven.

The second assistant legislative clerk continued with the call of the roll.

Mr. ABOUREZK. Madam President, it is 12: 27. May I ask what was the last name that was called?

The PRESIDING OFFICER. Debate is not in order during a quorum call.

Mr. ABOUREZK. I did not hear that.

The PRESIDING OFFICER. Debate is not in order during a quorum call.

Mr. ABOUREZK. SARBANES, was it not?

The PRESIDING OFFICER. A parliamentary inquiry is not in order.

Mr. ROBERT C. BYRD. Debate is not in order, but I want to compliment the gracious lady from Alabama for her excellence in presiding over the Senate.

The PRESIDING OFFICER. There does not seem a lot to preside over.

[Laughter.]

The second assistant legislative clerk continued and concluded the call of the roll.

[Quorum No. 10 Leg.]

| | | |
|---|---|---|
| Abourezk | Byrd, Robert C. | Domenici |
| Allen | Cannon | Durkin |
| Baker | Case | Eagleton |
| Bartlett | Chafee | Eastland |
| Bayh | Chiles | Ford |
| Bellmon | Church | Garn |
| Biden | Clark | Goldwater |
| Brooke | Culver | Gravel |
| Bumpers | Curtis | Hansen |
| Burdick | Danforth | Hart |
| Byrd, Harry F., Jr. | DeConcini | Haskell |
| | Dole | Hatch |
| Hatfield, Mark O. | Lugar | Roth |
| Hatfield, Paul G. | Mathias | Sarbanes |
| Hathaway | Matsunaga | Sasser |
| Hayakawa | McClure | Schmitt |
| Heinz | McGovern | Schweiker |
| Helms | McIntyre | Scott |
| Hodges | Melcher | Sparkman |
| Huddleston | Metzenbaum | Stafford |
| Humphrey | Morgan | Stennis |
| Inouye | Moynihan | Stevens |
| Jackson | Muskie | Stevenson |
| Javits | Nelson | Stone |
| Johnston | Nunn | Talmadge |
| Kennedy | Packwood | Thurmond |
| Laxalt | Pearson | Wallop |
| Leahy | Pell | Williams |
| Long | Proxmire | Young |
| | Ribicoff | Zorinsky |
| | Riegle | |

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. MAGNUSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

## OLDER AMERICANS ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2850, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2850) to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Older Americans Act of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amend-

ment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

ADMINISTRATION

SEC. 101. (a) The second sentence of section 201(a) is amended by striking out "Except for title VI and" and inserting in lieu thereof "Except".

(b)(1) Section 202(a) is amended by redesignating clauses (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), and (16) as clauses (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), and (17), respectively, and by inserting immediately after the dash the following new clause:

"(1) serve as the effective and visible advocate for the elderly within the Department of Health Education, and Welfare and with other departments, agencies, and instrumentalities of the Government by maintaining active review and commenting responsibilities over all Federal policies effecting the aging;".

(c) Section 203 is amended to read as follows:

"FEDERAL AGENCY CONSULTATION

"SEC. 203. (a) The Commissioner, in carrying out the purposes and provisions of this Act, shall advise, and consult and cooperate with each Federal agency or department either proposing or administering programs or services substantially related to the purposes of this Act, with respect to such programs or services. Each Federal agency or department proposing to establish programs and services substantially related to the purposes of this Act shall consult with the Administration on Aging prior to the establishment of such programs and services. Each Federal agency administering any program substantially related to the purpose of this Act, particularly administering any program set forth in subsection (b) of this section, shall, to achieve appropriate coordination, consult and cooperate with the Administration on Aging in carrying out such program.

"(b) For the purposes of subsection (a) of this section, programs related to the purpose of this Act shall include—

"(1) the Comprehensive Employment and Training Act Act of 1973,

"(2) title II of the Domestic Volunteer Service Act of 1973,

"(3) title XX of the Social Security Act,

"(4) sections 231 and 232 of the National Housing Act,

"(5) the United States Housing Act of 1937,

"(6) section 202 of the Housing Act of 1959,

"(7) title I of the Housing and Community Development Act of 1974,

"(8) section 222(a)(8) of the Economic Opportunity Act of 1964,

"(9) the Community Schools and Comprehensive Community Education Act of 1978; and

"(10) sections 3, 5, 9, and 16 of the Urban Mass Transportation Act of 1964.".

(d) Section 204(c) is amended to read as follows:

"(c) There are authorized to be appropriated to carry out the purposes of this section for fiscal year 1979 and fiscal year 1980, such sums as may be necessary.".

(e) Section 205(a) is amended by adding "rural and urban" after "of" the first time it appears.

(f)(1) Section 205(g) is amended to read as follows:

"(g) The Council shall undertake a thorough evaluation and study of programs conducted under this Act. Such study shall include—

"(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes;

"(2) an analysis of the means to identify accurately the elderly population in greatest need of such programs;

"(3) an analysis of numbers and incidence of low-income and minority participants in such programs;

"(4) an exploration of alternative methods for allocating funds under such programs to States, State units on aging, and area agencies on aging in an equitable and efficient manner, which will accurately reflect current condition and insures that such funds reach the areas of greatest current need and are effectively used for such areas;

"(5) an analysis of the need for area agencies on aging to provide direct services with the planning and service area;

"(6) an analysis of the special needs of rural elderly;

"(7) an analysis of the number of nonelderly handicapped eligible for services under part C and the number of nonelderly handicapped receiving services under such part; and

"(8) an analysis of the need for a separate program of legal services under this Act and of factors which may prohibit the funding of legal services under this Act without such a separate program.

The Council shall make an interim report to the President and to the Congress not later than nine months after the date of enactment of this Act and shall make a final report thereto not later than eighteen months after the date of enactment of this Act, on the result of its study under this section. Each such report shall contain such findings and recommendations, including recommendations for changes in the programs studied and for new legislation as the Council deems appropriate. Such reports shall not be submitted to any review outside of the Council before their transmittal to the President and the Congress, but the Commissioner on Aging may make to the Congress such recommendations with respect to the contents of the reports as he deems appropriate.".

(2) Sections 205 (h) and (i) are repealed.

(g) Section 211 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any participant in any program under any title of this Act for the purpose of any other program or provision of State or Federal law.".

(h) Title II is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"SEC. 212. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies designated under section 304(a)(2)(A), and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration on Aging for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the purposes and provisions of this Act.".

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 102. Title III is amended to read as follows:

"TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

"PART A—GENERAL PROVISIONS

"FINDINGS AND STATEMENT OF PURPOSE

"SEC. 301. (a) The Congress finds that—

"(1) approximately 3 per centum of the eligible population is presently served under community services programs authorized under this Act, 17 per centum of whom are minority group members;

"(2) approximately 1 per centum of the eligible population is presently served by the nutrition program authorized under this Act, 21 per centum of whom are minority group members;

"(3) there is program fragmentation at the National, State, and local levels which inhibits effective use of existing resources; and

"(4) coordination and consolidation of services allowing greater local determination to assess the need for services will facilitate achieving the goals of this Act.

"(b) It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older individuals by entering into cooperative arrangements in each such State with State and local agencies, and with the providers of social services, including nutrition services and multipurpose senior centers, for the planning for the provision of, and for the provision of, social services, nutrition services, and multipurpose senior centers, in order to—

"(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive services;

"(2) remove individual and social barriers to economic and personal independence for older individuals; and

"(3) provide a continuum of care for the vulnerable elderly.

"(c) It is the further purpose of this title to combine within a single title, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by this title, title V and title VII of this Act in fiscal years prior to fiscal year 1979, and funds appropriated to carry out this title shall be used solely for the purposes and for the assistance of the same types of programs authorized under the provisions of such titles.

"DEFINITIONS

"SEC. 302. For the purpose of this title—

"(1) The term 'comprehensive and coordinated system' means a system for providing all necessary social services including nutrition services in a manner designed to—

"(A) facilitate accessibility to and utilization of all social services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

"(B) develop and make the most efficient use of social services and nutrition services in meeting the needs of older individuals; and

"(C) use available resources efficiently and with a minimum of duplication.

"(2) The term 'information and referral source' means a location where the State or any public or private agency or organization (A) maintains current information with respect to the opportunities and services available to older individuals, and develops current lists of older individuals in need of services and opportunities, and (B) employs a specially trained staff to inform older individuals of the opportunities and services which are available, and assists such individuals to take advantage of such opportunities and services.

"(3) The term 'legal services' means legal advice and representation by an attorney (including to the extent feasible, counseling or other appropriate assistance, under the supervision of an attorney, a paralegal, or law student) to elderly individuals with economic and social need.

"(4) The term 'planning and service area' means an area specified by a State agency under section 305(a)(1)(E).

"(5) The term 'State' means each of the

several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"(6) The term 'State agency' means the State agency designated by the State under section 305(a)(1).

"(7) The term 'unit of general purpose local government' means—

"(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions, or

"(B) an Indian tribal organization.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 303. (a) There are authorized to be appropriated $467,200,000 for the fiscal year 1979, and $527,200,000 for the fiscal year 1980, for the purpose of making grants under part B (Social Services) of this title.

"(b) There are authorized to be appropriated $375,000,000 for the fiscal year 1979, and $425,000,000 for the fiscal year 1980, for the purpose of making grants under part C (Nutrition Services) of this title.

"ALLOTMENT; FEDERAL SHARE

"SEC. 304. (a)(1) From the sums appropriated under parts B and C for the fiscal year 1979 and the fiscal year 1980, each State shall be allotted an amount which bears the same ratio to such sums as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, shall each be allotted not less than one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (C) no State shall be allotted an amount less than the State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (A) of this paragraph only, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(2) The number of persons aged 60 or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

"(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he shall make such allotment available for carrying out such purpose to one or more other States to the extent he determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year, but shall remain available until the end of the succeeding fiscal year.

"(c) From any State's allotment under this section for a fiscal year—

"(1) such amount as the State agency determines, but not more than 8.5 per centum thereof, shall be available for paying such percentage as the agency determines, but not more than 75 per centum, of the cost of administration of area plans; and

"(2) the remainder of such allotment shall be available to such State only for paying such per centum as the State agency determines, but not more than 90 per centum in fiscal year 1979, and 85 per centum in fiscal year 1980, of the cost of social services and nutrition services authorized under parts B and C provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

"ORGANIZATION

"SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

"(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

"(A) develop a State plan to be submitted to the Commissioner for approval under section 307,

"(B) administer the State plan within such State,

"(C) be primarily responsible for the coordination of all State activities related to the purposes of this Act,

"(D) serve as an effective and visible advocate for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly; and

"(E) divide the State into distinct areas, in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of individuals aged 60 and older in the State, the incidence of the need for social services, nutrition services, and multipurpose senior centers, the distribution of older individuals—

"(i) who have low incomes, and

"(ii) who are members of minority groups, residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State and any other relevant factors; and

"(2) the State agency designated pursuant to paragraph (1) shall—

"(A) determine for which planning and services area an area plan will be developed, in accordance with section 306, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

"(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social services or nutrition services, or multipurpose senior centers provided under such plan;

"(C) develop a formula, in accordance with guidelines issued by the Commissioner for the distribution within the State of funds received under this title, taking into account, to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged sixty and older in the State, the incidence of such low-income individuals, and the number of such individuals who are members of minority groups, and publish such formula for review and comment;

"(D) submit its formula developed under paragraph (C) to the Commissioner for review and comment; and

"(E) provide assurances that preference will be given to providing services to older individuals with the greatest economic and social needs and include proposed methods of carrying out the preference in the State plan. In carrying out the requirement of clause (1) of this subsection, the State may designate as a planning and service area any unit of general purpose local government which has a population of one hundred thousand or more. In any case in which a unit of general purpose local government makes application under the preceding sentence to the State to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of local government. A state may designate as a planning and service area pursuant to clause (1) of this subsection, any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated pursuant to clause (1) of this subsection such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title. The Governor of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, he shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of elderly within the area who will be served by an interstate planning and service area not within the State.

"(b) An area agency on aging designated under subsection (a) of this section shall be—

"(1) an established office of aging which is operating within a planning and service area designated pursuant to subsection (a) of this section, or

"(2) any office or agency of a unit of general purpose local government, which is designated for this purpose by the chief elected official of such unit, or

"(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act on behalf of such combination for this purpose, or

"(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning or provision of a broad range of social services, or nutrition services within such planning and service area,

and shall provide assurance, determined adequate by the State agency, that the area agency will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any local unit of government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

"AREA PLANS

"SEC. 306. (a) Each area agency on aging designated pursuant to section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-year period with such annual adjustments as may be necessary. Each such plan shall—

"(1) provide through a comprehensive and coordinated system, for social services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for social services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes, and minority older individuals residing in such area), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services, or nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such needs;

"(2) provide assurances that at least 50 per centum of the amount allotted to the planning and service area will be expended on the delivery of (A) services associated with access to services (transportation, outreach, and information and referral), (B) in-home services (homemaker and home health aide, visiting and telephone reassurance and chore-maintenance), and (C) legal services, and that some funds will be expended for each such category of the services;

"(3) designate a focal point for comprehensive service delivery in each community to encourage the maximum collocation and coordination of services for older individuals;

"(4) provide assurances that preference will be given to providing services to older individuals with the greatest economic and social needs and include proposed methods of carrying out the preference in the area plan;

"(5) provide that the area agency on aging will—

"(A) conduct periodic evaluations of activities carried out pursuant to the area plan:

"(B) render appropriate technical assistance to providers of social services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

"(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

"(D) serve as the advocate and focal point for the elderly within the community by monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect the elderly;

"(E) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children;

"(F) where possible, enter into arrangements with local educational agencies, institutions of higher education and nonprofit organizations, to use services provided for older persons under the Community Schools and Comprehensive Community Education Act of 1978;

"(G) establish an advisory council consisting of older individuals who are participants or who are eligible to participate in programs assisted under this Act, local elected officials, and the general public, to advise continuously the area agency on all matters relating to the development of the plan, the administration of the plan and operations conducted under the plan;

"(H) develop and publish methods by which priority service is determined, particularly with respect to the delivery of services under clause (2); and

"(I) establish effective and efficient procedures for coordination between the programs assisted under this title and programs described in section 203(b).

"(b)(1) Each State, in approving area agency plans under this section, may, for the fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of centers which such agency cannot meet because of the consolidation authorized by the Older Americans Act of 1978.

"(2) Each State, in approving area agency plans under this section, may waive the requirement described in clause (2) of subsection (a) if the area agency on aging can demonstrate that the agency is already meeting the service needs described in such clause (2).

"(c)(1) Subject to regulations prescribed by the Secretary of Health, Education, and Welfare, an area agency on aging designated under section 305(a)(2)(A), or, in areas of a State where no such agency has been designated, the State agency, is authorized to enter into agreements with agencies administering programs under the Rehabilitation Act of 1973, and titles VI, XIX, and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by title III of this Act.

"(2) Pursuant to an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles VI, XIX, and XX if the Social Security Act.

"STATE PLANS

"SEC. 307. (a) Except as provided in section 309(a) each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-year period with such annual revisions as are necessary which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall—

"(1) provide that the State agency will evaluate the need for social services, nutrition services and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need;

"(2) provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of an individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration;

"(3) provide that the State agency will afford an opportunity for a hearing upon request to any area agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide services under such a plan;

"(4) provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commission may impose to insure the correctness of such reports;

"(5) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract;

"(6) provide that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

"(7) provide that each area agency on aging designated pursuant to section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306;

"(8) provide for establishing and maintaining information and referral sources in sufficient numbers of assure that all older individuals in the State who are not furnished adequate information and referral sources pursuant to section 306(a)(3) will have reasonably convenient access to such sources;

"(9) provide that no social services, including nutrition services, will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such service by the State agency or an area agency on aging is necessary to assure an adequate supply of such service;

"(10) provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to persons aged sixty or over for any staff positions (full time or part time) in State and area agencies for which such persons qualify;

"(11) provide assurances that the State agency will—

"(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization which is not responsible for licensing or certifying long-term care services in the State, a long-term care ombudsman program which will—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents, monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in that State,

"(ii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

"(iii) provide for training volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(iv) and such other activities as the Commissioner deems appropriate,

"(B) establish procedures for appropriate access by the ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order; and

"(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems with provision for submission of such data to the Commissioner on a regular basis.

"(12) provide that with respect to nutrition services—

"(A) each project providing nutrition services will be available to individuals aged 60 or over, to their spouses, and, with respect to home-delivered meals, to home-bound nonelderly handicapped individuals to the extent feasible, and such services to the home-bound nonelderly handicapped are financed to the extent feasible from sources

other than funds made available under section 303(b);

"(B) each project providing nutrition services will provide meals in a congregate setting, except that each such project may provide home-delivered meals based upon a determination of need made by the recipient of a grant or contract entered into under this title;

"(C) a site for such services and for comprehensive social services is furnished in as close proximity to the majority of eligible individuals' residence as feasible with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate transportation to such site is furnished or home-delivered meals are furnished to eligible individuals who are homebound;

"(D) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

"(E) each project will provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals; and

"(F) each area agency will give consideration, where feasible, in the furnishing of home-delivered meals to the use of organizations, such as meals on wheels groups, which (i) have demonstrated an ability to provide home-delivered meals efficiently and reasonably and (ii) furnish assurances to the area agency that such an organization will maintain efforts to solicit voluntary support and that funds made available under this title to that organization will not be used to supplant funds from non-Federal sources;

"(13) provide that with respect to the acquiring, altering, or renovation of existing facilities (or the construction of new facilities where, as determined by the State agency, there are no suitable structures available to serve as a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers—

"(A) the plan contains or is supported by reasonable assurances that (i) for not less than ten years after purchase or construction, the facility will be used for the purpose for which it is to be purchased or constructed, unless for unusual circumstances, the Commissioner waives the requirement of this subclause, (ii) sufficient funds will be available to meet the non-Federal share of the cost of purchase or construction of the facility, (iii) sufficient funds will be available, when purchase or construction is completed, for effective use of the facility for the purpose for which it is being purchased or constructed, and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

"(B) the plan contains or is supported by reasonable assurances that there are no existing facilities in the community suitable for leasing as a multi-purpose senior center;

"(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

"(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractors in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in their locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–(5); commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in reorganization plan number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

"(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation; and

"(14) provide that with respect to legal services—

"(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal services which can demonstrate the experience or capacity to deliver legal services; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) of this subclause will be subject to the restrictions of and regulations promulgated under the Legal Services Corporation Act (other than those governing eligibility for legal assistance thereunder and those governing membership of local governing boards); and (iii) attempt to involve the private bar in legal services activities authorized under this title, including the provision of subsidies to groups within the private bar furnishing services to older individuals on a reduced fee basis;

"(B) the plan contains assurances that no legal services will be furnished to individuals eligible for legal assistance under the Legal Services Corporation Act, unless the provider of services is a recipient of funds under the Legal Services Corporation Act or unless there is no project funded under such Act in the area concerned in which case service may be furnished to such individuals as part of a program designed to provide legal services to all elderly individuals with social and economic need; and

"(C) the plan contains assurances, to the extent practicable, that legal services furnished pursuant to the plan will be in addition to any legal services for older individuals being furnished with funds from sources other than this Act and that existing levels of legal services for older individuals will be maintained.

"(c)(1) The Commissioner shall approve any State plan which he finds fulfills the requirements of subsection (a) of this section.

"(2) The Commissioner, in approving any State plan under this section may, for the fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of centers which such State agency cannot meet because of the consolidation authorized by the Older Americans Act of 1978 or because meeting such requirement would reduce or jeopardize the quality of services under such Act.

"(d) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

"(e) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency, finds that—

"(1) the State is not eligible under section 305,

"(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

"(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 309 will be made to the State (or, in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any such failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotments under section 304 and section 309 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of section 307 and section 309. Any such payment shall be matched in the proportions specified in sections 304 and 309.

"(f) A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

"SEC. 308. (a)(1) Amounts appropriated pursuant to section 303 may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 per centum, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for social services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the conduct of long-term care ombudsman program, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

"(2) Any sums allotted to a State under this section for part of the cost of the administration of its State plan which the State

determines is not needed for such purpose may be used by such State to supplement the amount available under section 304(c)(1) to cover part of the cost of the administration of area plans.

"(3) Any State which has designated a single planning and service area pursuant to section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums allotted under this section or out of sums made available for the administration of area plans pursuant to section 304(c)(1), but shall not pay such costs out of sums allotted under both such sections.

"(b)(1) From the sums appropriated for any fiscal year under section 303 for carrying out the purposes of this section, each State shall be allotted an amount which bears the same ratio to such sums as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $275,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands shall be each allotted no less than one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $75,000, whichever is greater. For the purpose of the exception contained in clause (A) of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(2) From amounts allotted under paragraph (1) of this subsection each State shall receive an amount not less than 6 per centum of the sums allotted for the purpose of carrying out the provisions of section 307(a)(11).

"(3)(A) Any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

"(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of needs, that—

"(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

"(ii) The State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305 in the administration of its State plan in accordance with subsection (a); and

"(iii) the State agency and area agencies of such State designated under section 305 are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this Act.

"(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which he determines has been justified in such application.

"(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 per centum of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

"(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by such State under this paragraph will be used to hire any person to fill a job opening created by the action of such State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

"(4) Each State shall be entitled to an allotment under this section for any fiscal year in an amount which is not less than the amount of the allotment to which such State was entitled under paragraph (1) for the fiscal year ending June 30, 1975.

"(5) The number of individuals aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (b) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sums the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly realloted among the States whose proportionate amounts are not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for that year.

"PAYMENTS

"SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available pursuant to section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan.

"(b)(1) Beginning with fiscal year 1979, not less than 50 per centum of the non-Federal share (pursuant to section 304(c)) of the total expenditures under the State plan shall be met from funds from State or local public sources.

"(2) Funds required to meet the non-Federal share (pursuant to section 304(c)(2)), in amounts exceeding the non-Federal share required prior to fiscal year 1980, shall be met from State sources.

"(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its expenditures from such sources for the preceding fiscal year.

"AVAILABILITY OF SURPLUS COMMODITIES

"SEC. 310. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

"(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

"(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

"(4) In donating commodities pursuant to this subsection, the Secretary of Agriculture shall maintain an annually programed level of assistance of not less than 15 cents per meal during the fiscal year ending September 30, 1976, and 25 cents per meal during the fiscal year ending September 30, 1977, and during the fiscal year ending September 30, 1978, and 30 cents per meal during the two succeeding fiscal years. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities pursuant to this subsection.

"(b) The Secretary of Agriculture in consultation with the Commissioner shall, within ninety days after the date of enactment of the Older Americans Act of 1978, issue regulations clarifying the use of food stamps under this title.

"(c)(1) During each of the fiscal years ending June 30, 1975, and June 30, 1976, and during the period beginning June 1, 1976, and ending September 30, 1976, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this title. High protein foods, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

"(2) High protein foods, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) with respect to the annually programed level of assistance under subsection (a).

"(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established under paragraph (1).

"(d)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its projects. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution facilities.

"(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

"MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

"SEC. 311. If, within ten years after purchase of any facility for which funds have been paid under this title—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

"(2) the facility ceases to be used for the purposes for which it was purchased (unless the Commissioner determines, in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"AUDIT

"SEC. 312. The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"PART B—SOCIAL SERVICES

"PROGRAM AUTHORIZED

"SEC. 321. (a) The Commissioner shall carry out a program for making grants to States pursuant to State plans approved under section 307 for any of the following social services:

"(1) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

"(2) transportation services to facilitate access to social services or nutrition services, or both;

"(3) services designed to encourage and assist older individuals to use the facilities and services available to them;

"(4) services designed to assist older individuals to obtain adequate housing including residential repair and renovation projects designed to enable older indivduals to maintain their homes in conformity with minimum housing standards or to adapt homes to meet the needs of elderly individuals suffering from physical disabilities;

"(5) services designed to assist older individuals in avoiding institutionalization; including preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, letter writing services, and other similar services designed to assist such individuals to continue living independently in a home environment;

"(6) services designed to provide legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older individuals;

"(7) services designed to enable older individuals to attain and maintain phyiscal and mental well-being through programs of regular physical activity and exercise;

"(8) services designed to provide health screening to detect or prevent illness, or both, that occur most frequently in older individuals;

"(9) services designed to provide preretirement and second career counseling for older individuals; or

"(10) any other services;

if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals.

"(b) The Commissioner shall carry out a program for making grants to States pursuant to State plans approved under section 307 for the acquisition, alteration, renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers which shall be community facilities for the organization and provision of a broad spectrum of services, including provision of health, social, nutritional and educational services and provisions of facilities for recreational activities for older individuals.

"PART C—NUTRITION SERVICES

"SEC. 331. The Commissioner shall carry out a program for making grants to States pursuant to State plans approved under section 307 for the establishment and operation of nutrition projects—

"(1) which, five or more days a week, provide at least one meal per day and any additional meals which the recipient of a grant or contract under this title may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council,

"(2) which may be provided in congregate settings or may be home-delivered meals,

"(3) which may include the furnishing of food from mobile units, where appropriate, and

"(4) which may include nutrition education services and other appropriate nutrition services for older individuals.".

TRAINING, RESEARCH, AND SECRETARIAL PROGRAMS

SEC. 103. (a) (1) Section 401 is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 401. (a) The purpose of this part is to develop and implement a national manpower policy in the field of aging. Such a policy shall reflect the present and future needs for adequately trained personnel in all programs serving the elderly recognizing the continual growth of the elderly population of the United States.

"(b) The policy required by this title shall be developed and implemented by the Commissioner in cooperation with other departments and agencies of the Federal Government including the Public Health Service, the Health Care Financing Administration, the Social Security Administration, the National Institutes of Health, and in particular the National Institute on Aging, the Administration for Public Services, the Rehabilitation Services Administration, the Veterans' Administration, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, State employment agencies, State and area agencies on aging, and other appropriate agencies.".

(2) Section 402 is amended to read as follows:

"APPRAISING PERSONNEL NEEDS IN THE FIELD OF AGING

"SEC. 402. (a) The Commissioner shall, in cooperation with representatives referred to in section 401, assess the Nation's existing and future personnel needs in the field of aging, and evaluate all programs serving the elderly at all levels of government recognizing the continual growth of the elderly population. The assessment required by this section shall be conducted in accordance with the national manpower policy developed under section 401.

"(b) The assessment required by this section shall be submitted biennially to the Congress. Each such report shall indicate the impact of the assessment on the national manpower policy and plans for the future.".

(3) Section 403 is repealed.

(4) (A) Section 404(a) is amended—

(i) by striking out "The" and inserting in lieu thereof the following: "In accordance with the demands set forth in the national manpower policy, the",

(ii) by striking out "fields related to the purposes of this Act" and inserting in lieu thereof "the field of aging";

(iii) by striking out "section 304" and inserting in lieu thereof "section 305".

(B) Section 404(a)(1) is amended by deleting "purposes of this Act" and inserting in lieu thereof "field of aging".

(C) Section 404(a) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting the following new paragraph:

"(5) to assess future national personnel needs with respect to the aging with special emphasis on the needs of aged minority group individuals and the need for the training of minority group individuals to meet such needs,".

(5) Section 404 is further amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting the following new subsection:

"(b) The Commissioner may make grants to State agencies referred to in section 305, State or local educational agencies, institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, or other public or nonprofit private agencies, organizations, or institutions, and he may enter into contracts with any agency, institution, or organization for the purpose of—

"(1) publicizing available opportunities for careers in the field of aging;

"(2) encouraging qualified persons to enter or reenter the field of aging; or

"(3) preparing and disseminating materials including audiovisual materials and printed materials, for use in recruitment and training of persons employed or preparing for employment in carrying out programs related to the purposes of this Act.".

(b) Section 412 is amended to read as follows:

"MODEL PROJECTS

"SEC. 412. (a) The Commissioner may, after consultation with the State agency, make grants to any public or nonprofit private agency or organization or contracts with any agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city, or community model projects which show promise of expanding or improving social services or nutrition services or otherwise promote the well-being of older individuals.

"(b) In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

"(1) assist in meeting the special housing needs of older individuals by (A) providing financial assistance to such persons, who own their own homes, necessary to enable them to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards, (B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities, and (C) demonstrating alternative methods of relieving older individuals of the burden of real property taxes on their homes;

"(2) provide continuing education to older individuals designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older individuals, emphasizing, where possible, free tuition arrangements with colleges and universities;

"(3) provide preretirement education information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to individuals planning retirement;

"(4) provide services to assist in meeting the particular needs of the physically and mentally impaired older individuals including special transportation and escort services, homemaker, home health and shopping services, reader services, letter writing services, and other services designed to assist such individuals in leading a more independent life; or

"(5) enable State agencies on aging and other public and private nonprofit organizations to assist in the promotion and development of ombudsman services for residents of nursing homes;

"(6) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, limited-English-speaking individuals and rural elderly;

"(7) assist older individuals to remain within their communities and out of institutions and to maintain their independent living by (A) providing financial assistance for the establishment and operation of senior ambulatory care day centers (providing a planned schedule of health, therapeutic, education, nutrition, recreational and social services at least twenty-four hours per week, transportation arrangements at low or no cost for participants to and from the center, a midday meal, outreach and public information programs, and opportunities for maximum participation of senior participants and senior volunteers in the planning and operation of such center), and (B) maintaining or initiating arrangements (or providing reasonable assurances that such arrangements will be maintained or initiated, with the agency of the State concerned which administers or supervises the administration of a State plan approved under title XX of the Social Security Act, and with other appropriate social services agencies receiving, or reimbursed through, Federal financial assistance, for the payment of all or a part of such center's costs in providing services to eligible individuals; or

"(8) assist older individuals to remain within their community and out of institutions through independent living arrangements by exploring what mix of specific services and facilities including shelter, nutrition, homemaker, and home health services, are appropriate for such older individuals.".

(c) Title IV is amended by adding at the end thereof the following new sections:

"COMMUNITY LONG-TERM CARE MODEL PROJECT

"SEC. 413. (a)(1) The Commissioner is authorized to make grants to selected State agencies designated under section 305(a)(1) and, in consultation with State agencies, to selected area agencies on aging designated under section 305(a)(2)(A), or both, and other public agencies and private nonprofit organizations, associations, and groups to support the development of model projects to demonstrate innovative approaches to comprehensive and coordinated long-term care service delivery.

"(2) A grant under this section may be made to pay part or all of the estimated cost of a program (including start-up cost) for a period not to exceed three years, except that no funds may be used to pay for direct services which are eligible for reimbursement under title XVIII, title XIX or title XX of the Social Security Act.

"(3) A grant made under this section shall be used for the development of programs to provide for innovative comprehensive and coordinated long-term care services which may include but are not limited to adult day care, supported living in public, nonprofit housing, family respite services, home health, homemaker, and other rehabilitative and maintenance in-home services, and geriatric health maintenance organizations, which were previously unavailable to the individuals to be served and which, at a minimum, provide for identification and assessment of the long-term care needs of individual elderly persons, referral of such persons to the appropriate services, follow-up and evaluation of the continued appropriateness of such services with provision for re-referral as appropriate, and manpower training programs as appropriate.

"(b) In awarding grants under this section, preference shall be given to agencies and organizations which demonstrate that—

"(1) the agency possesses the capability to establish community-based long-term care programs,

"(2) a need exists for the establishment of such programs in the area to be served, and

"(3) in the case of a State, the State agency has a plan for statewide or designated regions of the State containing provisions designed to maximize access to elderly individuals for long-term care services.

"(c) Agencies and organizations assisted under this section shall establish procedures for evaluating the program assisted under this section, with respect to the benefits accruing to persons receiving assistance, the feasibility of the administrative model used for comprehensive coordination of services, and the comparative costs and quality of services provided, and shall submit such evaluation to the Commissioner on a periodic basis.

"(d) In carrying out the provisions of this section, the Commissioner shall seek to involve appropriate Federal departments and agencies and shall periodically report to Congress on the impact of grants made, on the experiences of grantees in meeting the requirements of this section, and on the comparative benefits and cost of projects assisted under this section.

"(e) There are authorized to be appropriated $10,000,000 for the fiscal year 1979, and $15,000,000 for the fiscal year 1980 to carry out the provisions of this section. Sums appropriated pursuant to this section shall, to the extent feasible, be used to support programs equitably distributed between urban and rural areas.".

(d) Title IV is amended by adding at the end thereof the following new section:

"SPECIAL DEMONSTRATION PROJECTS ON LEGAL SERVICES FOR OLDER AMERICANS

"SEC. 414. (a) The Commissioner is authorized to make grants to and enter into contracts with public and private nonprofit agencies or organizations in order to—

"(1) support legal research, technical assistance, training, information dissemination, and other support activities to agencies, organizations, institutions, and private law firms that are providing, developing, or supporting pro bono or reduced-fee legal services to elderly individuals; and

"(2) support demonstration projects to expand or improve the delivery of legal services to elderly individuals with social and economic need.

"(b) Any grants or contracts entered into under subsection (a)(2) shall contain assurances that the requireds of section 307(a)(13) are met.

"(c) From the sums appropriated pursuant to section 441 for each fiscal year, not less than $5,000,000 shall be reserved to carry out the purposes of this section.

"NATIONAL IMPACT DEMONSTRATIONS

"SEC. 415. (a) The Commissioner is authorized to carry out, either directly or through grants or contracts, (1) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of social services, nutrition services, or multipurpose senior centers or otherwise promoting the well-being of older individuals, and (2) dissemination of information activities related to such programs.

"(b) Not to exceed 15 per centum of any sums appropriated pursuant to section 441 of this title may be used for carrying out this section.".

(d)(1) Title IV is amended by redesignating part D as part E and by adding immediately after part C the following new part:

"PART D—MORTGAGE INSURANCE AND INTEREST GRANTS FOR MULTIPURPOSE SENIOR CENTERS

"MORTGAGE INSURANCE AUTHORIZED

"SEC. 431. (a) It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for the elderly.

"(b) For the purpose of this part the terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during acquisition, alteration, renovation, or construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the elderly. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Multipurpose Senior Center Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the multipurpose senior center, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by

periodic payments within such term as the Secretary shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

"(4) The Secretary shall not insure any mortgage under this section unless he has determined that the center to be covered by the mortgage will be in compliance with minimum standards to be prescribed by the Secretary.

"(5) In the plans for such multipurpose senior center, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(e) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Multipurpose Senior Center Insurance Fund (established by subsection (h)) issued at par plus accrued interest. In the case of any mortgage such charge shall not be less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during acquisition, alteration, or renovation; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

"(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Multipurpose Senior Center Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Multipurpose Senior Center Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Multipurpose Senior Center Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Multipurpose Senior Center Insurance Fund.

"(3) Moneys in the Multipurpose Senior Center Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare and respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Multipurpose Senior Center Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the funds, shall be credited to the Multipurpose Senior Center Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

"(5) There are authorized to be appropriated to provide initial capital for the Multipurpose Senior Center Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"ANNUAL INTEREST GRANTS

"SEC. 432. (a) To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the acquisition, alteration, renovation, or construction of facilities for multipurpose senior centers, the Secretary may make annual interest grants to such agencies.

"(b) Annual interest grants under this section with respect to any facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the acquisition, alteration, renovation, or construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were 3 per centum per annum: *Provided*, That the amount on which such grant is based shall be approved by the Secretary.

"(c)(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for payment of annual interest grants in accordance with this section.

"(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts.

"(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.".

(2) The heading of title IV is amended to read as follows:

"TITLE IV—TRAINING, RESEARCH, AND SECRETARIAL PROGRAMS"

(e)(1) Section 431 is amended to read as follows:

"AUTHORIZATION

"SEC. 441. There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary for each fiscal year ending prior to October 1, 1980.".

(2) Section 432 is redesignated as section 442.

COMMUNITY SERVICE EMPLOYMENT PROGRAMS

SEC. 104. Title V is amended to read as follows:

"TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Older American Community Service Employment Act'.

"OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

"SEC. 502. (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income individuals who are fifty-five years old and who have poor employment prospects, the Secretary of Labor (hereinafter in this title referred to as the 'Secretary') is authorized to establish an older American community service employment program.

"(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

"(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

"(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities, with special attention to the participation of eligble individuals who are members of minority groups;

"(C) will employ eligible individuals in service related to publicly owned and operated facilites and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

"(D) will contribute to the general welfare of the community;

"(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

"(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

"(G) will not employ or continue to employ any eligible individual to perform work

the same or substantially the same as that performed by any other individual who is on layoff;

"(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

"(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

"(J) will assure that safe and healthy conditions of work will be provided, and will assure that individuals employed in community service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

"(K) will be established or administered with the advice of individuals competent in the field of service in which employment is being provided, and of individuals who are knowledgeable with regard to the needs of older individuals;

"(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

"(M) will assure that, to the maximum extent feasible, such project will serve the needs of minority, Indian, and limited-English-speaking eligible individuals in proportion to their numbers in the State;

"(N) will, if conducted by a national organization, comply with the requirements in paragraph (1) of subsection (d)(1) of this section;

"(O) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan; and

"(P) will assure that, to the maximum extent feasible, such project will experiment with innovative work modes suited to older workers.

"(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

"(3) The Secretary is authorized and directed to develop alternatives for innovative work modes and to provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

"(c)(1) The Secretary is authorized to pay not to exceed 85 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration, or (C) a project located in an area of high unemployment, as designated by the Secretary.

"(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

"(d)(1) Whenever a national organization conducts a project within a State the organization shall submit to the State agency on aging a description of each project to be conducted in that State, (including the location of the project) thirty days prior to undertaking the project, for review and comment. Any comments of the State agency on aging shall promptly be transmitted to the Secretary. Whenever the State agency on aging recommends disapproval of any project the Secretary shall, if he determines that such disapproval is reasonable, withhold payments for the cost of that project. The Secretary shall make a determination under this paragraph expeditiously and in no event later than sixty days after receipt of such comments.

"(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within such State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested persons and make a written determination of his findings and decision.

"ADMINISTRATION

"SEC. 503. (a) In order to effectively carry out the provisions of this title, the Secretary shall, through the Commissioner, consult with the State agency on aging designated under section 305(a)(1) and the appropriate area agencies on aging established under section 305(a)(2)(A) with regard to—

"(1) the localities in which community service projects of the type authorized by this title are most needed;

"(2) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

"(3) potential projects and the number and percentage of eligible individuals in the local population.

"(b) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this Act may not be used to carry out any program under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, or the Emergency Employment Act of 1971.

"(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

"(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

"(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

"SEC. 504. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

"INTERAGENCY COOPERATION

"SEC. 505. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment of any rule or the establishment of general policy in the administration of this title.

"(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"SEC. 506. (a)(1) From sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or private nonprofit organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of the Federal law relating to community service employment programs for older Americans in the fiscal year ending June 30, 1975. Preference in awarding such grants or contracts shall be given to national organizations of proven ability in providing employment services to older individuals under this program and similar programs. In carrying out the preference required by the preceding sentence, the Secretary shall give special consideration to national organizations owned or operated by members of minority groups. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

"(2) The Secretary shall allot for projects within each State the remainder of the sums appropriated for any fiscal year under section 508 so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of individuals aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, the Trust

Territory of the Pacific Islands, and the Northern Mariana Islands shall each be allotted an amount which is not less than one-fourth of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(3) For the purpose of this subsection—

"(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (ii) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands shall be 75 per centum;

"(B) the number of individuals aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him; and

"(C) for the purpose of determining the allotment percentage, the term 'United States' means the fifty States and the District of Columbia.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, the projects within other States in proportion to the original allotments to projects within such State under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within any such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 507. As used in this title—

"(1) the term 'State' means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

"(2) the term 'eligible individual' means an individual who is fifty-five years old or over, who has a low income, and who has or would have difficulty in securing employment, except that (1) payments under title XVI of the Social Security Act shall not be counted for the purpose of determining eligibility under this title, and (2) pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or over shall have priority for the work opportunities provided for under this title;

"(3) the term 'community service' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

"(4) the term 'program' means the older American community service employment program established under this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 508. There are authorized to be appropriated to carry out this title $300,000,000 for the fiscal year 1979 and $350,000,000 for the fiscal year 1980.".

GRANTS FOR INDIAN TRIBES

SEC. 105. The Act is amended by adding after title V the following new title:

"TITLE VI—GRANTS FOR INDIAN TRIBES

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of comprehensive social, including nutritional services, for Indians that are comparable to services provided under title II of this Act.

"ELIGIBILITY

"SEC. 602. (a) A tribal organization of an Indian tribe is eligible for assistance under this title only if—

"(1) the tribal organization represents at least seventy-five individuals who have attained fifty-five years of age or older;

"(2) the tribal organization demonstrates the ability to deliver social services, including nutritional services; and

"(3) individuals to be served by the tribal organization will not receive, for the year for which application under this title is made, services under title III.

"(c) A 'tribal organization' for the purposes of this title is defined as in section 4 of Public Law 93-638.

"GRANTS AUTHORIZED

"SEC. 603. The Commissioner is authorized to make grants to eligible tribal organizations to pay not more than 85 per centum in fiscal year 1979, and 80 per centum in fiscal year 1980, of the costs for the delivery of social services and nutritional services for Indians who are age fifty-five and over.

"APPLICATIONS

"SEC. 604. (a) No grant may be made under this title unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for social and nutritional services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide that the tribal organization or some other nonprofit private organization selected by such tribal organization will conduct periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this title toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate how the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and referral sources to assure that older Indians to be served by the assistance made available under this title will have reasonably convenient access to such sources;

"(7) provide a preference for Indians aged fifty-five and over for full- or part-time staff positions wherever feasible;

"(8) contain assurances that the provisions of sections 307(a)(10)(A) (i) and (iii), 307(a)(11)(B), and 307(a)(11)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers; and

"(9) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purposes of any application submitted under this title, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commissioner shall approve any application which complies with the provisions of subsection (a) of this section.

"(d) Whenever the Commissioner approves an application under this title he shall withhold from the allotment of the appropriate State made under section 303 an amount attributable to the Indians to be served under this application who were also counted for the purposes of allotments under title III. The Commissioner shall reallot sums withheld under this subsection in accordance with the provisions of section 303(b).

"(e) Whenever the Commissioner determines not to approve an application submitted under subsection (a) of this section he shall (1) state his objections in writing to the tribal organization within sixty days after such decision, (2) provide to the extent practicable technical assistance to the tribal organization to overcome his stated objections, and (3) provide the tribal organization with a hearing, under such rules and regulations as he may prescribe.

"(f) Whenever the Commissioner approves an application of a tribal organization under this title, funds shall be awarded for not less than twelve months, during which time, such tribal organization may not receive funds under title III of this Act.

"ADMINISTRATION

"SEC. 605. (a) In establishing regulations for the purpose of this title the Commissioner shall consult with the Secretary of the Interior.

"(b) The Commissioner shall publish final regulations for the administration of this title not later than ninety days after the date of enactment of the Older Americans Amendments of 1978.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 606. (a) Notwithstanding any other provision of law the Secretary of the Interior through the Bureau of Indian Affairs is authorized and directed to make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutritional services, child care services, and other social services.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall apply to the Secretary of the

Interior at such time and in such manner and containing or accompanied by such information as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PAYMENTS

"SEC. 607. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 608. (a) Except as provided in subsection (c), there are authorized to be appropriated $25,000,000 for the fiscal year 1979, and $30,000,000 for the fiscal year 1980, to carry out the provisions of this title.

"(b) For any fiscal year in which less than $5,000,000 is appropriated pursuant to subsection (a) of this section tribal organizations are authorized to receive assistance pursuant to the provisions of section 303 (b)(3).

"(c) There are authorized to be appropriated $3,000,000 for the fiscal year 1979 and for the succeeding fiscal year to carry out the provisions of section 606.".

REPEALERS: CONFORMING AMENDMENTS

SEC. 106. (a) Effective September 30, 1978, titles VII and IX are repealed, except that the Commissioner may complete any project unfinished on that date with funds obligated but unexpended on that date.

(b)(1) Section 201(a) of the Domestic Volunteer Service Act of 1973 is amended by striking out "section 304(a)(1)" and inserting in lieu thereof "section 305(a)(1)".

(2) Section 201(c) of such Act is amended by striking out "section 304(a)(1)" and inserting in lieu thereof "section 305(a)(1)".

(3) Section 212(a)(2)(A) of such Act is amended by striking out "section 304(a)(1)" and inserting in lieu thereof "section 305 (a)(1)".

(4) Section 212(a)(3)(C) of such Act is amended by striking out "section 304(a)(1)" and insterting in lieu thereof "section 305 (a)".

## TITLE II—WHITE HOUSE CONFERENCE ON AGING

SHORT TITLE

SEC. 201. This title may be cited as the "1981 White House Conference on Aging Act".

FINDINGS AND POLICY

SEC. 202. (a) The Congress finds that—

(1) the number of individuals fifty-five years of age or older is now 43,000,000 and will, by the end of this century, be over 57,000,000;

(2) nearly 5,200,000 individuals fifty-five years of age or older have incomes below the poverty level, as determined by the Federal Government;

(3) there is a great need to improve the economic well-being of older individuals;

(4) there is a great need to make comprehensive and quality health care more readily available to older individuals;

(5) there is a great need for expanding the availability of suitable and reasonably priced housing for older individuals, together with services needed for independent or semi-independent living;

(6) there is a great need for a more comprehensive and effective social service delivery system for older individuals;

(7) there is a great need for a more comprehensive long-term care policy responsive to the needs of older patients and their families;

(8) there is a great need to promote greater employment opportunities for middle-aged and older individuals who want or need to work;

(9) there is a great need to develop a national retirement policy that contributes to the fulfillment, dignity, and satisfaction of retirement years for older individuals;

(10) there is a great need for a national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes of the aging process; and

(11) false stereotypes about aging and the process of aging are prevalent throughout the country and policies should be developed to overcome such stereotypes.

(b)(1) It is therefore the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this title.

(2) In developing programs for the aging pursuant to this title, emphasis should be placed upon the right and obligation of older individuals to free choice and self-help in planning their own futures.

AUTHORITY OF THE PRESIDENT, SECRETARY, AND FINAL REPORT

SEC. 203. (a) The President is authorized to call a White House Conference on Aging in 1981 in order to develop recommendations for further research and action in the field of aging which will further the policies set forth in section 202 of this title. The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of the conditions of older individuals, the Conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the field of aging (including researchers on problems of the elderly and the process of aging), and representatives of the general public, including older individuals.

(c) A final report of the White House Conference on Aging, which shall include a statement of a comprehensive coherent national policy on aging together with recommendations for the implementation of that policy, shall be submitted to the President not later than one hundred and eighty days following the date on which the Conference is adjourned. The findings and recommendations included in any report required by this subsection shall be immediately available to the public. The Secretary shall, within ninety days after submission of such report, transmit to the President and to the Congress his recommendations for administrative action and the legislation necessary to implement the recommendations contained in the report.

ADMINISTRATION

SEC. 204. (a) In administering this title the Secretary shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate in carrying out the provisions of this title;

(2) render all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on aging, and to other appropriate organizations to enable them to organize and conduct conferences on aging prior to the White House Conference on Aging;

(3) prepare and make available background materials for the use of delegates to the White House Conference on Aging as he may deem necessary and shall prepare and distribute any such report of the Conference as may be necessary and appropriate; and

(4) engage such additional personnel as may be necessary to carry out the provisions of this title without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) In carrying out his functions under clause (2) of subsection (a) the Secretary shall assure that conferences will be so conducted as to assure broad participation of older individuals.

(c) In carrying out his responsibilities under this title the Secretary shall assure that current and adequate statistical data and other information on the well-being of older individuals in the United States is readily available, in advance of the White House Conference on Aging, to participants in the White House Conference on Aging, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out the requirement of this subsection the Secretary is authorized to make grants to, and to enter into contracts with, public agencies and nonprofit private organizations.

ADVISORY COMMITTEES

SEC. 205. (a) The Secretary is authorized and directed to establish an advisory committee to the White House Conference on Aging which shall include representation from public agencies and private nonprofit organizations as appropriate. The Secretary is authorized and directed to establish such other committees, including technical committees, as may be necessary to assist in planning, conducting, and reviewing the Conference. Each such committee shall be composed of professional and public members and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be fifty-five years of age or older.

(b) Appointed members of any such committee, while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary but not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code (including travel-time); and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons in Government service employed intermittently.

DEFINITIONS

SEC. 206. For the purpose of this title—

(1) The term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Older Americans Act of 1965.

(2) The term "State agency on aging" means the agency designated under section 305(a)(1) of the Older Americans Act of 1965.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "Commissioner on Aging" means the Commissioneer of the Administration on Aging.

(5) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—STUDY OF RACIAL AND ETHNIC DISCRIMINATION IN PROGRAMS FOR OLDER AMERICANS

STUDY AUTHORIZED

SEC. 301. (a) The Commission on Civil Rights shall (1) undertake a comprehensive study of discrimination based on race or ethnic background in any Federal assisted programs and activities which affect older individuals; and (2) identify with particularity any such federally assisted program or activity in which evidence is found of individuals or organizations who are otherwise qualified being, on the basis of race or ethnic background, excluded from participation in, denied the benefits of, refused employment or contracts with, or subject to discrimination under, such program or activity.

(b) As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to racial or ethnic discrimination in programs and activities affecting older individuals receiving Federal financial assistance, and particularly with respect to discrimination among potential participants in, or beneficiaries of, specific federally assisted programs.

ADMINISTRATIVE PROVISIONS

SEC. 302. (a) The Commission is authorized to obtain, through grant or contract, analyses, research, and studies by independent experts of issues relating to racial and ethnic discrimination in aging programs and activities and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b)).

(b) The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by section 301, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

REPORTS

SEC. 303. (a) Not later than eighteen months after the date of the enactment of this Act, the Commission shall transmit a report of its finding and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President. The Commission shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations.

(b) Not later than forty-five working days after receiving a copy of the report required by subsection (a), each Federal department or agency with respect to which the Commission makes its recommendations or findings shall submit its comments and recommendations regarding such report to the President and to the appropriate committees of Congress.

AUTHORIZATIONS AUTHORIZED

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Missouri (Mr. EAGLETON) and the Senator from New York (Mr. JAVITS), with 1 hour on any amendment in the first degree and 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

The Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the time as allocated on the bill, the 2 hours, 1 hour under my control and the other hour under the control of Senator JAVITS, that the control of the second hour, the hour under the control of Senator JAVITS, be assigned to the Senator from Rhode Island (Mr. CHAFEE).

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the following staff members of the Committee on Human Resources be granted privilege of the floor during consideration of S. 2850 and any votes thereon.

Marcia McCord, Steve Roling, Jan Zarro, Ellen Akst, Peter Parham, Jay Urwitz, Birdie Kyle, Peter Harris, Judy Robinson, Craig Polhemus, Jack Wickes, Jack Andrews, Fran Paris, Polly Galt, John Backer, Sherry Kramer, Tim Smith, David Morse, Dave Affeldt, and Debby Kilmer.

The PRESIDING OFFICER. Without objection, it is so ordered, as to S. 2850.

Mr. EAGLETON. Mr. President, S. 2850 extends the authorizations contained in the Older Americans Act of 1965 for an additional 2 years, through September 30, 1980. Moreover, it substantially expands the authorizations for existing programs and provides for a reorganization of the administration of the social service programs contained in the act at the State and local level.

The bill before us today reflects many of the ideas that were contained in the testimony of expert witnesses, the advice and guidance of Administration on Aging officials, as well as suggestions from Senators on both sides of the aisle.

Throughout its work on the bill, the committee has been concerned with fragmentation of Federal programs serving the elderly, both within the Department of Health, Education, and Welfare, and in the various other Federal departments and agencies administering programs primarily designed to serve the elderly. Although some testimony suggested interdepartmental reorganization, the committee determined that such a step would be premature at this time. Thus, the committee concentrated on coordination and consolidation of programs contained in the Older Americans Act.

By way of a brief summary, Mr. President, S. 2850 would:

Extend the Federal Council on Aging with new mandates for a wide range of studies;

Consolidate existing social service programs under titles III, V, and VII, into a single new title, centralizing program administration in the area agencies on aging;

Target local funding on services related to access—transportation, outreach, and information and referrals, in-home services, and legal services;

Substantially expand existing nutrition services with greater focus on home-delivered meals;

Develop procedures to target funds under the act to those most in need of services;

Require the Commissioner on Aging to develop and implement a national manpower policy in the field of aging;

Expand model project authority for community long-term care projects, authority for community long-term care projects, special demonstration projects in legal services, and demonstration projects of national impact;

Significantly expand the community employment program while assuring coordination between the national contractors and the States;

Establish a separate title for services to elderly Amercian Indians;

Authorize a White House Conference on Aging in 1981; and

Mandate a study of racial and ethnic discrimination in Federal programs for the elderly by the U.S. Civil Rights Commission. As I indicated earlier, the heart of the bill is in title III, which consolidates the existing social service programs under the act. As my colleagues will recall, the 1973 older Americans comprehensive services amendments introduced a new concept in Federal programs for the elderly by directing the establishment of a nationwide network of area agencies on aging whose chief objective is to plan and coordinate resources at the area level. With the current network of 563 area agencies on aging across the country, the major goals of the 1973 legislation have now been achieved. The committee viewed the major objective of the 1978 amendments to devise a coordinated approach to the delivery of services under the act.

Thus, S. 2850 consolidates the existing title III—State and community services—and title V—multipurpose senior centers—into a single title with a single authorization, and administratively consolidates the existing title VII—nutrition—within the new title III while retaining for it a separate authorization.

The new administrative framework in S. 2850 will undoubtedly assure more efficient planning and more effective coordination of programs under the act, while at the same time reducing the paperwork burden on State agency and area agency officials.

At the present time, State and community programs for the elderly under title III are the only programs which according to statute must be administered through the area agency network. The multipurpose senior center authority is vested directly in the U.S. Commissioner on Aging, often excluding the center program from the overall planning network, and adversely impacting on the role of senior centers to serve as focal points in communities.

Similarly, the existing nutrition program is not uniformly operated in conjunction with area agency programs, reducing efficient and effective overall planning.

Although S. 2850 consolidates the administration of the nutrition program, it does retain its separate authorization. I would point out that the bill contains one authorization for nutrition services at a level of authorization 50 percent above the current service level. In addition, the committee bill language places far greater emphasis on home-delivered meals as an integral part of nutrition services.

An amendment to create a separate authorization for home-delivered meals, adding an additional $100 million authorization for the coming fiscal year will be offered to this bill. I will comment in more detail on the nutrition provisions of S. 2850 at that time.

Mr. President, S. 2850 revises the existing priority service areas of the Older Americans Act. The 1975 amendments required that each State plan to establish or maintain four priority programs—transportation services, home services, legal and other counseling services, and residential repair and renovation programs. Under a complicated scheme, each State was required to spend at least 50 percent of any appropriation above the 1975 level on the priority services, or, with appropriate assurances to the Commissioner, one-third of its total State allotment, but in no event less than 20 percent of its allotment in one or more of these areas.

Despite this targeting of services in 1975, the committee remained concerned that very few services are provided in depth at the community level. Mr. President, we cannot escape the fact that there are finite Federal dollars to direct toward these vital services to the elderly. Many of us wish that a greater proportion of the Federal budget could be directed toward this effort, but it is a pragmatic fact that there are not going to be enough dollars to assure that all necessary services to the elderly are delivered in depth.

Thus, S. 2850 attempts to concentrate funds on three very necessary services for the elderly—services associated with access to programs—transportation, outreach, and information and referral, in-home services, and legal services. Each planning and service area, as distinguished from each State, must direct 50 percent of its allotment to these three service areas, unless it can satisfactorily demonstrate that it is already meeting one or more of the priority services within the area.

In addition to the revisions of the social service programs, S. 2850 continues the existing title IX, Community Service Employment for Older Americans, for 2 additional years, redesignating this as title V. The bill makes two significant changes in existing law, setting forth procedures to assure that programs operated by the national contractors are coordinated with those operated by the State, and making clear that SSI payments are not to be counted against eligibility in the program.

At the present appropriation level of $196 million, this program provides part-time jobs for 47,000 older Americans. At the authorization level provided in the bill, the number of job slots would increase to 64,157 in fiscal year 1979, and 70,807 job slots in 1980.

I have attached a section-by-section summary of the bill to my remarks, along with a table showing the amounts authorized, Mr. President, so I will not go into further detail regarding the other programs authorized in S. 2850.

Let me conclude by saying, Mr. President, there has been considerable debate in recent years over "income strategy" versus "services strategy" with respect to enabling our senior citizens to live their lives in dignity. I would concur that income maintenance is of primary importance to senior citizens, but in my view, these two approaches must work together, complimenting each other. Over the past 5 years, Congress has enacted social security increases totaling 43.9 percent, with the result that retirement incomes of most older Americans have been substantially increased. Yet, an elderly citizen in need of transportation to medical care, or home health care services, or nutrition services, cannot use his or her increased income to purchase these services if they simply do not exist within that individual's community. S. 2850 will help to strengthen that network of vital services.

I am confident, Mr. President, that this bill will help all older Americans to lead fuller and richer lives, on the one hand, and permit our society to continue to reap the benefit of the contributions and accumulated wisdom of our elderly population, on the other.

I ask unanimous consent to have printed in the RECORD at this point the section-by-section summary of S. 2850 and the table of authorizations to which I have referred.

There being no objection, the material was order to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF S. 2850

TITLE I

Sec. 101(b) amends Title II of the existing Act to expand the duties and functions of the Administration on Aging by requiring that it serve an advocacy function.

(c) This section further amends Title II by expanding the requirement for interagency cooperation, specifically requiring such cooperation for CETA, ACTION, Social Security, HUD, OEO, and DOT.

(d) Extends such sums authority for two additional years.

(e) This section also extends the Federal Council on Aging for two years and requires that the Council undertake a study of the programs under this Act, including an evaluation of the effectiveness of the programs, an analysis of the means to identify the elderly in greatest need, an analysis of low income and minority participation, alternative allocation formulas, the existing direct services, the special needs of rural elderly, and the expansion of services to the non-elderly handicapped under the nutrition program.

(f) Adds a new provision to make clear that no part of the costs for any program under the Older Americans Act can be treated as income or benefits which would adversely impact upon an older person's eligibility under any other federal law (SSI, food stamps, etc.).

(g) Adds a new section requiring that the Commissioner continually review and evaluate all paperwork requests in order to reduce paperwork by eliminating overlap and duplication.

Sec. 102. Rewrites Title III, making the following changes:

(1) Establishes congressional findings relating to the current level of services of the need for coordination and consolidation under the Act.

(2) Consolidates existing Titles III, V, and VII into a single authority under the new Title III, retaining a separate authorization level for nutrition services. $467.2 million for Fiscal Year 1979 and $527.2 million for Fiscal Year 1980 is authorized for social services (or Titles III and V). $375 million for Fiscal Year 1979 and $425 million for Fiscal Year 1980 is authorized for nutrition services.

(3) Amends existing law's 15 percent set aside for area administration to 8.5 percent. Although the percentage is reduced, this is not a reduction in area administration money because of the consolidated authorities.

(4) Amends the existing 90-10 federal/state match for those states with area plans to a 75-25 federal/state match. In 1973, when the AAA concept was initially introduced, a 90-10 matching provision was provided for those states which set up an area network as an incentive to the states. Those states which would not set up an area network are now at a 75-25 level. There are now over 560 area agencies on aging, and there is no longer a need for the higher federal match as an incentive.

(5) Amends the existing intrastate distribution to require that each state devise a formula for such distribution taking into account the number of elderly and their geographic distribution within the state, the number of low income elderly, and the number of minority elderly. The formula must be published for review and comment.

(6) Further requires that assurance be given that services are actually being delivered to those with the greatest economic and social needs.

(7) Provides authority for a governor to apply to the Commissioner to request interstate planning and service areas.

(8) Establishes a two year planning cycle at both the state and area level.

(9) Requires that each area plan assure that 50 percent of its allotment for social services will be expended on services associated with access (transportation, outreach, I&R, and advocacy) and in-home services. Any area agency which can demonstrate that it is already meeting these priority services may have the 50 percent requirement waived by the state.

(10) Expands existing nutrition services to provide specific reference to home delivered meals and to expand the home delivered meal component to the non-elderly handicapped. Each AAA would have to make a determination that those receiving home delivered meals were unable to participate in the congregate setting. AAA would be required to give consideration to existing organizations, such as meals on wheels, which have demonstrated the ability to provide home delivered meals efficiently.

(11) Expands the existing authority for multi-purpose senior centers to allow for construction of new facilities where there are no suitable structures available for renovation.

(12) Amends the existing provision requiring that 25 percent of the non-federal share under this title be from public sources to require that 50 percent of the funds be from public sources.

(13) Provides for a two year waiver on both area and state plans, to allow for an orderly transition into the consolidated program.

Sec. 104. Amends existing Title IV, training and research, by amending the statement of purpose to require the development of a national manpower policy for the field of aging to be developed by the Commissioner and other departments and agencies of the federal government.

The existing requirement for the Commissioner to appraise the personnel needs in the field of aging is amended to require a biannual report to the Congress.

Existing Sec. 403, attracting qualified persons to the field of aging, is incorporated into the basic training authority under Sec. 404.

The model project authority, under Title III in existing law is redesignated as Sec. 412, and is expanded to include new authority for alternative living arrangements.

A new Sec. 413 is added to provide authority for demonstration programs of national importance. In fact, the Administration on Aging is already conducting model projects of national significance and this authority legitimatizes this practice.

The existing Title IX program, part-time community service employment, is redesignated as Title V. The following changes are made from existing law:

(1) The existing 90–10 federal/state match is reduced to 85–15. Existing law already provides authority for the Secretary to waive all or part of the non-federal matching requirement in emergencies or disasters, or in projects located in impoverished areas.

(2) Requires that any contracts with national organizations be coordinated with other projects under this Act within the states.

(3) Provides authority for the Secretary to review on his own initiative, or at the request of any public or private non-profit agency, or the state, the distribution of programs under this title within the state. The Secretary is authorized to reallocate funds within a state, after a hearing and upon his written determination of findings that there is an inequitable distribution.

(4) Extends the authorization for two years, at $300 million for Fiscal Year 1979 and $350 million for Fiscal Year 1980.

Sec. 105. Adds a new title authorizing direct funding for federally recognized Indian tribes and tribal organizations. Direct funding is presently authorized in the Older Americans Act under Title III, but the Commissioner has never exercised the "by-pass" authority. Under the new Title VI the tribes would have the option to apply for direct funding or to continue to receive services under the new Title III.

Existing law, under the by-pass provision bases the funding to tribal organizations on the state's Indian population aged 60 and over. The new Title VI in the bill would reduce the age limitation to 55, because of the reduced life expectancy of the American Indian.

$25 million is authorized for Fiscal Year 1979, and $30 million for Fiscal Year 1980 for this title, however, the title would not be operative until the appropriations level reaches $5 million.

TITLE II

Provides authority for a White House Conference on Aging to be held in 1981, authorizing such sums as may be necessary.

In 1950, the first White House Conference on Aging was held. Since then, Congress has approved measures for a White House Conference on Aging in 1961 and 1971. A conference in 1981 would continue to provide a forum to develop future national policy in the field of aging.

TITLE III

Requires the U.S. Commissioner on Civil Rights to undertake a comprehensive study of discrimination based on race or ethnic background in any federally-assisted programs for the elderly. The 1975 amendments required the U.S. Civil Rights Commission to conduct a study on age discrimination in federal programs. This further study on racial discrimination would expand upon the general age discrimination report recently completed by the Commission.

S. 2850

[Figures in millions]

| | Fiscal year— | |
|---|---|---|
| | 1979 | 1980 |
| OLDER AMERICANS ACT | | |
| Title II: | | |
| Clearinghouse | SS | SS |
| Federal Council | SS | SS |
| AOA role in legal services | | |
| AOA role in ombudsmen program | | |
| Title III: | | |
| Social services | 467.2 | 527.2 |
| Nutrition | 375.0 | 425.0 |
| Home-delivered meals | (1) | (1) |
| Senior centers | (1) | (1) |
| Legal services | (1) | (1) |
| Ombudsman services | (2) | (2) |
| Title IV: | | |
| Training | SS | SS |
| Research | SS | SS |
| Multidisciplinary centers | SS | SS |
| Model projects | SS | SS |
| Long-term care | 10.0 | 15.0 |
| Legal services | (3) | (3) |
| Title V: Community service employment | 300.0 | 350.0 |
| Title VI: | | |
| Direct Indian grants | 25.0 | 30.0 |
| Surplus Indian facilities | 3.0 | 3.0 |
| White House Conference on Aging | SS | SS |
| Civil Rights Commission Study | SS | SS |

[1] These services are included in the overall large authorization for social services under title III.

[2] S. 2850 requires States to use at least 6 percent of its administrative allotment for support of State ombudsman program.

[3] Directs the Commissioner to expend at least $5 000,000 of model projects funds for fiscal years 1979 and 1980 on legal services demonstration projects.

Mr. KENNEDY. Mr. President, today we consider an act whose purpose is to achieve for the older people of this country the health, honor, and dignity to which they are entitled.

Today we consider an act which helps provide the nutrition, transportation, community employment, and legal services that they need.

Today we consider an act which allows us to say to ourselves that we understand the debt we owe to those who have built this country for us and to begin to make good on that debt.

Mr. President, This is a strong act which provides for a pervasive and comprehensive set of services.

There is a clear need for these services. The rapid increase in funding—from $7.5 million in 1966 to close to $700 million in 1978—is only due to the neglect which preceded it. Over and over we have heard about the millions of elderly persons who cannot get around and look to special transportation to maintain a vital nexus with the world.

We know of the people for whom an occasional visit by a homemaker helps them remain proud of their residences.

We have seen the millions of people who are sustained by the nutrition program, which brings them together for meals and companionship—and we have seen the millions more who are waiting to be served but for whom we have not yet provided.

And we know of the tens of thousands of hard-pressed older workers who are again given an income and their dignity while making our communities better places to live in.

Today, this act is beginning to answer many of those needs:

Some 563 area agencies provide services to 11 million people, and over 90 percent of the eligible population is covered by an area agency. Title III of the act, the block grant title, provides for most of the services under the act aside from nutrition, gathering places, and employment. Under this title, transportation, information, legal services, in-home services such as visiting homemakers, and residential repair are all funded in order to insure decency rather than deprivation for older people.

There are now 549 multipurpose senior centers supported under title V of the act. Title VII programs provide over 450,000 meals per day to over 2 million older Americans a year.

Finally, title IX of the act provides job opportunities to people over the age of 55 with low incomes—there are now 47,500 job slots reserved under this program.

Mr. President, the services provided under this act are so necessary, and the people who receive them are so deserving that I expect that my colleagues will warmly reaffirm this act. I would like to expand on some of the improvements that we have incorporated into the act which are of special concern to me:

First. Separate authorization for nutrition services: We have recognized the need for greater coordination and integration of nutrition and other services in this act: Previously there were few incentives and regulations to have the area agencies and the nutrition programs work together.

But, we knew that we had to keep a separate authorization for that purpose and I am most proud that we did so. As was stated in a letter that I sent to members of the Human Resources Committee and the Special Committee on Aging, along with Senators CHURCH, WILLIAMS, JAVITS, PERCY, and RIEGLE:

. . . the nutrition program is too vital to risk with undirected authorizations and appropriations. We know that this program must be expanded for the sake of the people who are now waiting for their sustenance, but for whom there is no room. One authorization, even with a hold-harmless provision, might not meet the real needs in this area.

In testimonial after testimonial, in waiting list after waiting list, we have seen the need and desire for this program. I hope to see it expand in the years to come so that we may more adequately meet the needs that are so evident.

I also hope that we can expand our coverage under this act to provide a nutrition authorization for the homebound elderly and handicapped. I have proposed an amendment to achieve this purpose; Senator HATHAWAY has proposed a perfecting amendment to my amendment and I accept his amendment.

Second. Legal Services: We have greatly expanded the availability of legal services to the elderly. We cannot underestimate these services, for the elderly are especially dependent upon them. First, upon reaching retirement age, older Americans rely increasingly upon Federal programs, such as social security, medicare, supplemental security income, railroad retirement, food stamps, veterans pensions, and other programs. They depend upon these programs for their very livelihood.

The figures point out the extent of that relationship.

Those over 65 represent 11 percent of the population but three times as much of the health costs in this country. Two-thirds of the health costs of those above 65 are borne by the Government. Social security accounts for over half of the income for 7 out of 10 individuals over 65, and half of the couples over 65. Supplemental security income is the sustenance of 2¼ million older Americans.

All too often, the incredible maze of

regulations, applications, certificates and documentation necessary to qualify for benefits or correct errors in benefit rates leave the elderly without their proper benefits.

Second, the elderly are more likely to suffer untoward effects of unsatisfactory dealings with other private individuals. They are more likely to suffer from housing problems or energy disruptions. For instance, they are far more likely to be traumatized when their landlord does not send up the heat, or make repairs, or if they are evicted.

Third, the elderly have been given new rights in recent years which may take court actions to enforce—for instance, transportation systems built with Federal funding have special requirements to meet the needs of the elderly.

And, it is our responsibility to provide legal services through the Older Americans Act. Millions of the elderly cannot afford the fees for such service. Millions of older Americans have incomes below the poverty line. And millions more have incomes that may be above the poverty line but are too low to permit for privately funded legal services.

We have significantly advanced aid for legal services in this reauthorization.

We have not only kept legal services among the priority services, but we have mandated that every area plan must have a legal services program for the elderly—This mandate is contained in the language which requires that the area plan provide for the expenditure of some funds on each of the priority services.

We have greatly increased our national level efforts through the provision of special demonstration projects and back-up centers in a new section of the bill. The Commissioner is authorized to foster legal services for old Americans, and we have reserved $5 million which he must use for this purpose. Currently nationally contracted legal services programs for the elderly are funded at about $2 million.

We have directed the Federal Council on Aging to conduct a study on the need for a separate authorization for legal services for the elderly and on the factors which may cause area agencies to spend less on legal services than should be spent, absent such a separate authorization.

Third. Community service employment: We are trying to meet the economic needs of the older worker through this program: We are trying to meet the social needs of the older worker through this program: And we are trying to meet the needs of communities throughout the Nation for public services through this program.

With this reauthorization we have taken two important steps forward under this title. First, while we have changed the Federal/non-Federal matching ratio for participation in these programs, we have also greatly expanded the waiver provision. This will strengthen this program in communities with high unemployment; these communities have fewer funds to pay for the program but need it all the more. The Secretary has not made much use of the waiver provision under the current law. We must make greater use of matching fund waivers, to best meet the variety of local needs. We have expanded waiver eligibility for this purpose, by allowing for waivers for programs in areas of high unemployment, as well as those which are economically depressed. Eligibility under the "area of high unemployment" standard should be much broader than that under the existing "economically depressed" provision.

Some communities may be relatively better off and we may be able to spread our dollars further through an increased non-Federal match. But we must remember that this is not true of all communities. Many cannot afford such an increased match, or may have a greater need for employment services than the average. For these communities the Secretary should not require a 15-percent match.

In this reauthorization we have also said that supplemental security income payments shall not be counted in determining eligibility for community service employment. SSI payments in some States disqualify recipients under current law: Yet their employment needs are great and they should be allowed to participate in the program on the basis of those needs.

Fourth. Study by Civil Rights Commission on Discrimination: We have required the U.S. Commission on Civil Rights to do a study of race or ethnic discrimination in any Federal program for older Americans. The findings and the recommendations of the commission should help us to act to insure that we put an end to any such discrimination which may exist.

Fifth. Federal Council on Aging: In 1973, Congress established the Federal Council on Aging and charged it to work actively to promote the interests of older people in all Government programs and policies.

With this authorization we are strengthening that role. The reauthorization mandates that the Administration on Aging make adequate staff available to the Council so that it can fulfill its functions. And, we have enlarged its functions by giving it charge over a series of studies directed at getting the most out of the funds and the efforts that we dedicate under this act.

With Nelson Cruikshank at the head of the Council, we can be sure that every move we make to give the Council a larger role will be a move well rewarded. Mr. Cruikshank has long been in the forefront of the fight for the rights of older Americans and has been among the most perceptive in assessing their needs. For many years he was the distinguished president of the National Council of Senior Citizens. This strengthened role for the Council and for its leader is among the greatest of the changes we have made in the Older Americans Act.

Mr. President, today we renew our commitment and expand upon our commitment to older America. It is a commitment which we make and honor for their sake, for it richly adds to their lives. But, too, it is a commitment that we make for our own sake. It is a pact that we are entering with civilization and humanity, a pact which reaffirms our basic principles and our vision of the good society.

Thomas Jefferson wrote:

> The care of human life and happiness and not their destruction, is the first and only legitimate object of good government.

The best way to judge how closely we are coming to this objective is to look at how well Government is caring for the "human life and happiness" of the Nation's elderly. That, Mr. President, is why we must vote to reauthorize the Older Americans Act.

Mr. CHAFEE. Mr. President, as ranking minority member of the Aging Subcommittee, I am pleased to lend my strong support to these amendments.

The Older Americans Act represents an important commitment to improving the quality of the lives of our elderly and providing services which can reduce public and private expenditures associated with institutionalization and medical care for older Americans.

None of us can help but be moved by the plight of many older people, living on fixed incomes, faced with rising inflation, waning physical health, and isolation.

Over the years, the U.S. Congress, and State and local governments have responded to the needs of its older citizens with numerous programs aimed at providing for their special needs. There are now about 50 separate programs in the Federal Govenment alone, administered by approximately 17 different departments and agencies. But the shocking fact is, that with all these programs, so many needs are still not being met. In 1975, 25 percent of the older population was below or near the poverty level, and a staggering number of older Americans are in need of nutritious meals and other basic services, such as transportation, home health aide, chore assistance, information and referral, and legal services. Many are not taking advantage of the existing programs because of confusing Federal, State, and local bureaucratic regulations and redtape. Our attempts to help our senior citizens lead more dignified and independent lives are fraught with fragmentation and duplication which contribute even more to the indignity and dependency they suffer.

When the Older Americans Act first passed in 1965, the objectives of Congress were to provide community-based social services which were badly needed to assist older people to live independently and to provide a central agency to act as an advocate at the national level for the aging. By 1973, when the act was revised, the primary concern was implementing a better organizational scheme at State and local levels to plan and coordinate all resources at the local level.

The network of area agencies which was created at that time provides identifiable offices with responsibilities for a coordinated and comprehensive system of services. But even the direct services authorized by the Older Americans Act are fragmented and confusing, some being administered directly by area agencies, some by States, or directly through the Commissioner on Aging. Area agencies are given the responsibility to plan,

assess the needs, and coordinate services, but the separate funding approach to programs has given them very little flexibility to meet these needs based on local determinations.

The consolidation of the programs under titles III, V, and VII of this act represents an attempt to avoid further fragmentation and to strengthen the network of aging programs. Consolidating these services should provide for better integration of social services with senior centers and nutrition programs.

In addition, the amendments before us today require State agencies to take account of the needs of low-income and minority elderly in developing and implementing their plans. I want to make clear that this is in no way an attempt to make the Older Americans Act a poverty program. But we must face the reality that our resources are finite, and we may not be able to provide all the services we would like. We must use our resources wisely, and help those most urgently in need first. In writing these amendments, we have recognized that the low-income elderly and those elderly who belong to minority groups are usually the neediest. But there are other considerations, such as frailty and isolation which must be included in determining priorities for services.

Mr. President, one of the most important and successful programs authorized by the Older Americans Act is the nutrition program. This program has not only provided many people hot, nutritious meals, but has also offered relief from the isolation and loneliness which has become synonymous with being old in America, by providing meals in social settings. However, most nutrition sites face long waiting lists for both congregate and home-delivered meals. We have increased this program by approximately 50 percent above present services levels because of the serious need which our committee hearings documented.

Although the present title VII programs now heavily emphasize meals in congregate sites, we want to make clear that this expansion is to provide nutritious meals to those who need them most, whether they are attendants of congregate sites or confined to their home. I, for one, am particularly concerned about the needs of the handicapped and homebound elderly. But I strongly oppose the amendment, which we will consider today and which was rejected by the committee, to enact a separate authorization for the delivery of meals to the home-bound, or so-called "meals on wheels." Instead of a separate authorization, the committee has chosen to assure that no quotas are placed on home-delivered meals and to emphasize that appropriated moneys can be used for either congregate or home-delivered meals, based on decisions of local agencies. A separate authorization would place an arbitrary limit on both types of meals. This kind of federally mandated limit is inconsistent with the committee's intention to allow greater local determination of needs. It is unlikely that any two areas of the country would have the same percentages of mobile versus home-bound elderly. Regional differences such as sparse population or availability of transportation would be important considerations in these decisions. A separate funding authorization, while seen by some as a way to expand home-delivered meals, could actually reduce the amount which could be used for such meals in some areas.

I would also like to make clear, in response to some fears that Federal subsidies might erode community volunteer activities and voluntary financial support, that we have added language to assure, inasmuch as possible, that federally funded meals should not supplant or compete with private voluntary efforts. There is certainly room for additional support from all sources, and local agencies could take account of such voluntary support in determining how best to use Federal funds. A consolidated approach will allow area agencies to supplement private voluntary efforts instead of replacing or competing with Federal funds.

Mr. President, I believe that the consolidated approach we have taken in this bill will greatly improve these programs for the elderly and allow many more older Americans to lead more dignified and independent lives.

Mr. EAGLETON. Mr. President, I have been asked by the Senator from California (Mr. CRANSTON), who is the ranking majority member of the Subcommittee on Aging, to state that he is necessarily absent, and has asked me to indicate that tomorrow he will be inserting into the RECORD a statement on this bill.

Mr. President, on behalf of the Senator from Vermont (Mr. LEAHY) I ask unanimous consent that Ken Pierce of his office be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I commend the Senator from Missouri and the Senator from Rhode Island, as our good friend the Senator from New York, the ranking Republican member (Mr. JAVITS), has just done.

I truly believe that the Older Americans Act was landmark legislation. I think we waited many, many years before we recognized this group of Americans needed our help. They were such good Americans that they did not complain as early as other groups, and therefore it was very late when we first passed an Older Americans Act.

I think, after seeing it work for a few years, the Senate committee has done a wonderful job in improving it where it had some very serious stringencies. It has provided flexibility. Where consolidations were in order, it has provided for them. Basically, it was my privilege to have worked with them, and to have introduced S. 2609, with a number of sponsors. I find a number of provisions in that bill incorporated in the committee bill. For that I am most grateful.

So, Mr. President, I am pleased to join with the distinguished chairman of the Senate Subcommittee on Aging (Mr. EAGLETON), and its ranking minority member (Mr. CHAFEE) in urging the Senate to give prompt and favorable consideration to S. 2850, the 1978 amendments to the Older Americans Act.

On February 28 I introduced S. 2609, which was the first comprehensive set of amendments to the Older Americans Act introduced in the 95th Congress. In that legislation, which was cosponsored by Senators PERCY, BROOKE, DOLE, SCHMIDT, BELLMON, and HATFIELD of Oregon, we proposed the consolidation of a number of programs which had previously been part of separate titles in the Older Americans Act. In introducing that legislation I noted that—

As a local office holder in Albuquerque, New Mexico, I gained first-hand insight into the needs of older persons, and I began to seek workable solutions for meeting those needs. New Mexico has a small population, but the number of families who retire to the Southwest is having a profound impact upon the States in that region. As a city official, I soon discovered that the needs were great, the resources limited, and the governmental authority to meet these needs was vague and diffused among numerous agencies. One of my goals on coming to the Senate was to restructure the various aging programs so as to create a comprehensive-coordinated service delivery system which would meet the needs of older persons. For too long we have made people fit programs instead of shaping flexible programs to meet the needs of our people.

Mr. President, I am pleased to note that the Senate Subcommittee on Aging recommended an even more far-reaching program consolidation than we had proposed. I commend Senator EAGLETON and Senator CHAFEE and all the other members of the subcommittee for shaping a bold and innovative approach to the delivery of programs and services to older Americans.

As the ranking minority member on the Special Committee on Aging, I was pleased to see that a number of the proposals put forth in S. 2609 were incorporated into the bill which is now pending before the Senate. I would like to note briefly several of the innovations which can be traced, in whole or in part, to the provisions contained in S. 2609:

Authority to construct senior center facilities in areas where there are no suitable structures available, generally rural areas;

A new title of "Grants for Indian Tribes," which will provide a direct funding mechanism, so funds will flow from Washington, D.C. to tribal governments for the provision of social and nutritional services to elderly Indians;

Authority to convert surplus Bureau of Indian Affairs' educational facilities into extended care facilities, community centers, nutrition sites, job care centers, and delivery points for other social services;

Expansion of home-delivered meals program, and the inclusion of non-elderly handicapped individuals;

Establishment of a mechanism within the Administration on Aging to reduce the paperwork burden on State and local aging offices,

Provision of separate funding for social service programs and nutrition programs authorized under this act;

Authority for the States to do multi-year planning for the delivery of social services to the elderly;

Authorization of the Commissioner on Aging to waive the 10-year leasing requirement for senior centers under special circumstances;

Guarantee the continual flow of agricul-

tural commodities to senior nutrition programs;

Expands the range of services that may be provided under this Act to include health training pre-retirement and second career counseling;

Authorizes community long-term-care model projects designed to explore innovative approaches to the delivery of long-term-care services to the elderly;

Preparation for the 1981 White House Conference on Aging.

Mr. President, needless to say there are many significant differences between S. 2850 and the legislation I introduced on February 28th. While I support the overall thrust of S. 2850, I reserve the right to offer several amendments which I feel will improve the bill and make it an even better vehicle for delivering vitally needed social nutritional services to older Americans.

Mr. President, I considered offering an amendment that would have transferred the Older Americans Volunteer Programs, RSVP, Senior Companions, and Foster Grandparents from the ACTION Agency, which presently administers them, to the Administration on Aging. When these programs were originally authorized they were part of the Older Americans Act. In 1971 they were transferred to the newly created ACTION Agency by an Executive reorganization plan, and they have been administered by the ACTION Agency since that time. I have recently become concerned by several developments which have led me to question the wisdom of retaining the present administrative arrangement.

I believe that one of the great and endearing qualities of the American character is our strong, deep-seated commitment to volunteerism. Foreign observers, dating back to Alexis D'Toqueville, have noted this unique characteristic in the American personality. Throughout my public life I have seen first hand the valuable contributions of countless volunteers. I have sought ways to encourage volunteerism and perhaps no programs better reflect that objective than does RSVP, Foster Grandparents, and Senior Companions. The beauty of these programs is that they benefit everyone involved. The senior volunteer has his or her life enriched by the service they render to their fellow citizen. The community, the retarded child, the homebound citizen all benefit by receiving the services and tender-loving care of a compassionate older person.

My deep commitment to improving the quality of life for our senior citizens, and my strong believe in the value of volunteerism caused me to have an especially negative reaction to the ACTION Agency's fiscal year 1979 budget request. While the Peace Corps, VISTA, and some innovative programs favored by the ACTION national leadership received favorable treatment in the budget process, the Older Americans Volunteer Programs were not allowed to grow and in the case of RSVP, actually cut by almost 25 percent. The RSVP budget in New Mexico would have been reduced from $200,000 to $153,000 and two or three projects would have been eliminated.

I responded to this budget recommendation by immediately writing to Senator WARREN MAGNUSON, chairman of the Senate Appropriations Committee, urging a restoration of this ill-conceived budget reduction. I would note that the administration has agreed to restore this cut and the budget amendment should be transmitted to the Congress in the near future.

I was also concerned by the tone of the ACTION Agency leadership toward RSVP and its future place in their operations. I do not believe that RSVP was envisioned to be a poverty program. The statute does not require that it be a poverty program, and I believe we should resist efforts on the part of the ACTION Agency to administratively convert it into a poverty program.

At the same time the Older Americans Programs were being allowed to stagnate, the leadership of ACTION was asking for vague authority to commit an additional forty million dollars' worth of public funds in ill-defined urban volunteer programs. Mr. President, the urban programs are not at question today, but I think it does reflect the attitudes and thinking of the ACTION leadership, and that attitude is one of indifference toward the existing Older American Volunteer Programs.

Mr. President, I have decided not to offer an amendment transferring the Older American Volunteer Programs from ACTION to the Administration on Aging. I have discussed my concerns with Sam Brown, the Director of ACTION, and he has given me verbal assurances that the OAVP will receive a higher priority within his Agency and its fiscal year 1980 budget. He has also assured me that he will not attempt to convert these programs into poverty programs by administrative action.

Once again, I would like to commend Senators EAGLETON, CHAFEE, and the other members of the Senate Subcommittee on Aging, for their diligence and dedication in shaping this important legislation. I hope, Mr. President, that when this measure reaches the joint conference committee, the House conferees will see the wisdom of the Senate approach and give us a conference report containing the broad, flexible mandate outlined in the Senate bill, rather than the narrow series of categorical programs which will tend to make this program cumbersome and costly to administer at the State and local level.

UP AMENDMENT NO. 1471

(Purpose: To strengthen the long-term care ombudsman program)

Mr. HATHAWAY. Mr. President, I have two amendments I will send to the desk. They are noncontroversial, I think both managers of the bill and the distinguished Senator from Rhode Island have been made aware of them and agree with them.

The PRESIDING OFFICER. Does the Senator wish them taken up en bloc or separately?

Mr. HATHAWAY. Separately.

The PRESIDING OFFICER. The clerk will state the first amendment.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment numbered 1471.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The assistant legislative clerk read as follows:

On page 99, line 24, insert before "commissioner" the following: "State agency responsible for licensing or certifying long-term care facilities in the State and the".

On page 99, line 24, strike out the period and insert in lieu thereof a semicolon.

On page 105, line 9, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 105, between lines 9 and 10, insert the following:

"(15) provide that the State, from funds allotted under section 304(a) for part B, social services, will use an amount equal to an amount not less than 1 per centum of such allotment or $30,000, whichever is greater, for the purpose of carrying out the provisions of paragraph (11) of section 307 (a), except that (A) the requirement of this paragraph shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this paragraph, and (B) the provisions of this paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.".

On page 110, strike out lines 12 through 15.

On page 110, line 16, strike out "(3)" and insert in lieu thereof "(2)".

On page 112, line 10, strike out "(4)" and insert in lieu thereof "(3)".

On page 112, line 15, strike out "(5)" and insert in lieu thereof "(4)".

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY. Mr. President, the first amendment is to improve the provisions which I sponsored in S. 2850 relating to the State long-term care ombudsman programs. The bill requires each State agency on aging to establish and operate an ombudsman program. As the Committee on Human Resources found, such programs conducted under the existing model projects authority in the act have well demonstrated their effectiveness, and argue persuasively that each State conduct such a program. S. 2850 accomplishes this goal.

The amendment I am offering today does not change the responsibilities of the ombudsman program as set forth in section 307(a)(11) of the bill, with the minor exception of requiring the ombudsman to submit to the State agency responsible for licensing or certifying long-term care facilities in the State the data collected regarding significant problems uncovered. Such data is already required in S. 2850 to be submitted to the Commissioner on Aging.

The more important part of the amendment I am offering relates to the way in which the ombudsman program is funded. The current bill requires the States to expend a minimum of 6 percent of State administrative funds to carry out the ombudsman program. This would unnecessarily restrict the States and may pose an unintended burden on those States which have a very limited amount

of State administrative money in the first place. It would also mean that many States would have to spend an amount which is considerably less than the amount that is currently being spent for an ombudsman program in the State. This was not the intent.

The amendment I am offering would provide for greater flexibility in the funding of this program. Rather than requiring States to expend funds from their administrative moneys, the amendment would allow them to use funds from their total social services (part B) allotment. Each State would be required to spend at least 1 percent of these funds or $30,000, whichever is greater, for the ombudsman program. Based on current estimates, this approach should help to insure that each State has a sound program without unnecessarily mandating the expenditure of excessive amounts of money for this important program. Of course, it should be made clear, the money required to be spent is meant to be a minimum—States certainly have the option of using a larger amount of their allotments for the ombudsman program, if they desire to do so.

On the other hand, it should also be made clear that any State which spends from State or local sources an amount equal to the amount required to be spent under this provision need not, but may of course, use Older Americans Act funds as well. My amendment clarifies this point.

I might add here that the approach to funding which I am offering today is preferred to the mechanism incorporated in S. 2850 by all consulted, including the ombudsmen. I think it is a strong improvement and am pleased to offer this amendment. It will insure the continued viability of State ombudsman programs which are performing a very necessary and valuable service to the many residents of our long-term care facilities.

I have discussed this amendment with the floor manager, and I understand he is prepared to accept it.

Mr. President, are we under a time limitation with respect to amendments?

The PRESIDING OFFICER. Yes, we are.

Mr. HATHAWAY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I am quickly trying to find the ombudsman part that is in the committee bill. There is provision made for it.

As I understand, the thrust of the amendment of the Senator from Maine is that instead of funding the ombudsman service out of administrative funds, he would have it funded out of social services. Is that the principal thrust of the amendment?

Mr. HATHAWAY. Yes, that is correct. It would have the percentage, I think it is 6 percent, out of administrative funds. This is just 1 percent of 30,000, whichever is greater.

Mr. EAGLETON. Will the Senator give me the section of the bill?

Mr. HATHAWAY. It is 307(a)(11) which is on——

Mr. EAGLETON. That is at page 98 of the bill.

Mr. HATHAWAY. That is right.

Mr. EAGLETON. It reads:

> Establish and operate, either directly or by contract or other arrangement with any public agency . . . a long-term care ombudsman program . . .

What is it that the Senator is changing, in addition to the funding of it out of administrative funds, transferring that to social services? Is the Senator changing the amount that is to be funded?

Mr. HATHAWAY. Turn to page 110, line 12.

Mr. EAGLETON. The committee bill says "an amount not less than 6 percentum of the sums allotted."

Mr. HATHAWAY. My amendment changes that to 1 percent of the $30,000, whichever is greater, of all the social services money.

Mr. EAGLETON. Will the Senator explain to me what the change in that formula would portend? The 6 percent, if our figures are right in the committee bill, would compute out to about $4 million nationwide. Can the Senator tell me what his formula would cost nationwide? I do not understand why he wants to change the percent.

Mr. HATHAWAY. We found that it was an error in the figuring that was done. It will not come to $4 million nationwide. It will come to only a little more than a million dollars. That was the probem.

I think the program is important enough to have it more heavily funded. If we use the formula at page 110, it is not enough money.

Mr. EAGLETON. The background of this 6 percent, as I understand it, is that it was thought that about $4 million nationwide would be all that should be spent in this regard.

Mr. HATHAWAY. The problem is that it does not come out to that, according to our figuring. It was intended to come out to $4 million, which would be more than enough, because our own formula comes out to about $2.5 million.

According to our figures, the 6 percent comes out only to about a million dollars for funding throughout the Nation.

Mr. EAGLETON. Do I correctly understand, then, that the Senator's formula, in any event, will set the figure at about $2.3 million?

Mr. HATHAWAY. Ours comes out to $2.5 million, which is about $1.5 million more than we figure the committee bill will come to nationwide.

Mr. EAGLETON. I must say that I am not very sanguine about either the Senator's formula or the one in the committee bill, for that matter. But the thrust of the Senator's amendment is that he wants to take that figure down to $2.3 million.

Mr. HATHAWAY. I would like to increase the amount that is going to be available. Our figure evidently is different from that of the Senator from Missouri. If this were correct, we would leave it the way it is. It turns out that it is not correct. The 6 percent comes to $1 million, rather than $4 million. We did not think that was enough money for this program. So, rather than increase the amount that would just come out of administrative money, we changed the formula so that it would come out of regular social services part B money, but it would be a much smaller percentage—1 percent.

Mr. EAGLETON. I am of a mind to accept the amendment. I want to hear from the Senator from Rhode Island.

Mr. HATHAWAY. We can suspend this matter and go to the other amendment, if the Senator wants to check the figures.

Mr. EAGLETON. I do not know whether we can get the figures precisely at this time.

I have in mind what the Senator is seeking to do. If we find, between now and the passage of this bill and when we get to conference, a more efficacious way of doing what the Senator wants to do, we will have some latitude to do it in conference.

Mr. HATHAWAY. Does the Senator want to examine the amendment and wait until he gets to conference?

Mr. CHAFEE. Mr. President, I would like to comment briefly on this amendment.

As a matter of philosophy, I feel very reluctant to have amendments that mandate a certain amount of spending in a certain area. For example, this amendment says that a State must spend 1 percent of the social services part B allotment—I do not know how much that is—or $30,000, whichever is greater.

Take a small State like mine, where one ombudsman could cover the State: $30,000 for one ombudsman is quite a bit, when we pay our Governor only $42,000. I have great reluctance with respect to this. For example, if we look at the first page of the Senator's remarks in this area, we see that the current bill requires a State to expend a minimum of 6 percent of administrative costs. Six percent of administrative costs for a State that is getting the minimum—and many States are getting the minimum, the flat minimum, which is $275,000—is $16,000. That amount for an ombudsman seems to be fair enough. If they want to spend more, they can.

However, under the Senator's proposal, I think a State could be spending a great deal more on an ombudsman than they choose.

There is not much money in this act, anyway, and there are more vital means of spending sums than going for a higher amount for an ombudsman.

Mr. HATHAWAY. Is the Senator saying that $30,000 is too much for Rhode Island?

Mr. CHAFEE. You can go anywhere in our State in less than a day, and $30,000 is quite a bit, yes.

Mr. HATHAWAY. For salary and travel expenses and secretarial help that would be too much?

Mr. CHAFEE. That is not necessarily the minimum, because the Senator says either that or 1 percent of the part B allotment.

Mr. HATHAWAY. But the 1 percent for Rhode Island would be less.

Mr. CHAFEE. Is that so? I have

trouble locating part B State allocations under the new authorizations.

Mr. HATHAWAY. We have a table here—I do not know whether the Senator from Rhode Island has it—which shows what every State would be spending under this amendment.

Mr. CHAFEE. For example, could the Senator just take 1 percent off that social services part B allotment? What would that come to for Rhode Island?

Mr. HATHAWAY. What the 1 percent would come to?

Mr. CHAFEE. Yes.

Mr. HATHAWAY. I can do it in a moment. I do not have it available right here.

Mr. CHAFEE. I wonder if there is some way we could go to the next amendment.

Mr. HATHAWAY. It would be $11,573.

Mr. EAGLETON. Could we set this amendment aside? None of us seems to be too comfortable with it. Perhaps the staff can go over the figures, and we all can understand what the formula would accomplish.

Mr. HATHAWAY. It is my understanding that it has been worked out by the staff ahead of time. I will be glad to set the amendment aside and go to the next amendment. Maybe that will have the same problem. As I mentioned earlier, this was supposedly worked out by all staffs, and it was a matter of having these amendments accepted. If that is not the case, I would just as soon wait.

Mr. EAGLETON. I suggest that the Senator set aside this amendment and to go on to the second one.

Mr. CHAFEE. I suppose we will have to obtain unanimous consent.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that my first amendment be set aside and that we proceed to the second amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATHAWAY. I yield to the Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that John Ramig, of my staff, be accorded the privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. I thank the Senator from Maine.

Mr. EAGLETON. Mr. President, if the Senator will yield for 5 seconds, I ask unanimous consent that Mr. Tom Polgar, of Senator MORGAN's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1472

(Purpose: To clarify the emphasis of the long term care demonstration project provision)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes unprinted amendment numbered 1472.

On page 128, line 7, before the period insert a comma and the following: "with special emphasis upon the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of such long-term care service".

On page 128, line 16, strike out "which" and insert in lieu thereof a comma and the following: "and approaches to the delivery of such services. Such programs and approaches".

On page 130, line 8, after "distributed" insert the following: "throughout the Nation".

On page 128, line 3, after "both," insert the following: "institutions of higher learning,"

Mr. HATHAWAY. Mr. President, the purpose of the second amendment is to clarify section 413 of S. 2850. Section 413, which I was pleased to sponsor in committee, authorizes model projects to demonstrate innovative approaches to comprehensive and coordinated long-term care service delivery. The intent of this provision was to explore how we can best serve individuals in need of long-term care, to foster maximum independence, and prevent unnecessary and costly placement in institutions.

Long-term care for an individual may include any mix of health and social services, including, for example, skilled nursing care, therapy, personal care services, homemaker and chore services, emotional, financial, nutrition, or legal counseling, transportation, and even friendly visiting. To obtain the total package of required services today is not easy. Yet the unavailability of one crucial element of the package may mean the person in need of long-term care may not be able to remain at home.

It is not uncommon for an elderly person to face a bewildering array of fragmented long-term care services and financing arrangements. Mechanisms for coordination of these services are lacking. The purpose of section 413 is to demonstrate how long-term care services can be coordinated so an individual can in fact obtain a total package of services without being bounced from agency to agency in search of a sympathetic ear. The idea is to explore how any of a variety of agencies providing some aspect of long-term care service can take responsibility and insure that the total needs of the eligible individual are evaluated and met.

The amendment I am offering today would clarify this provision by placing greater emphasis on the need for case management, that is, evaluation, provision of services or referral as appropriate, and followup. It would also make clear that institutions of higher learning are eligible to apply for grants. Since this is a research and demonstration program, it is intended to be as flexible as possible. Finally, the amendment would further clarify that the program shall be carried out throughout the Nation. Needs may be different in different parts of the country. I am hopeful that as we explore alternatives to institutionalization, we will uncover a variety of approaches, appropriate for all of our citizens, wherever they may reside.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I have not seen this amendment myself before, but as I have listened to Senator HATHAWAY's explanation thereof, I think it is compatible with what we had in mind in this section on community long-term care, model projects, et cetera, and insofar as I hear it, I think it would be acceptable.

Mr. CHAFEE. Mr. President, it seems to me that this is consistent with what we had in the bill itself. I am not sure just exactly what the amendment does that we have not already provided for.

Will the sponsor of the amendment stress what we are doing differently than we have in the bill before us?

Mr. HATHAWAY. This puts emphasis on the case management rather than just a delivery of services.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, may I have a few minutes here?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I shall simply ask one question of the sponsor of the amendment. In his explanation he says, one, that it makes institutions of higher learning eligible. I think there can be no objection with that. Second is that it is intended to be as flexible as possible.

I wonder if the flexibility is going to be maintained if all these bases have to be touched about which he talks on the first page. Does he see any contradiction or does he believe that the flexibility will be there?

Mr. HATHAWAY. I think the flexibility will be there. It is just that these bases are mentioned to make sure that some attention is given to them. That does not mean in every individual case all of the bases would have to be covered.

Mr. CHAFEE. I have no objections, Mr. President.

Mr. EAGLETON. I have no objections.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1471

Mr. EAGLETON. Mr. President, on my own time let me ask the Senator from Maine would he be amenable to amending his first amendment to read, instead of $30,000, $20,000? In such event, I understand that would satisfy Senator CHAFEE, it would satisfy me, and we could dispose of that.

Mr. HATHAWAY. I will be happy to change it.

Mr. CHAFEE. Mr. President, not only make it $20,000, but this is going to get difficult because the amendment says 1 percent or as of now it would be $20,000, whichever is the most, and I am assured

that the 1 percent comes to only, I believe he said, $11,000 in Rhode Island.

Mr. HATHAWAY. $11,000, that is correct.

Mr. CHAFEE. Would that be true for the other States I guess?

Mr. HATHAWAY. It will count for all the States, that is right. It is not very much.

Mr. CHAFEE. They may always go higher if they so choose?

Mr. HATHAWAY. That is right. They may. The Senator is correct.

I will be glad to reduce it to $20,000.

Mr. CHAFEE. I thank the Senator. That is amenable to me.

Mr. HATHAWAY. I yield back the remainder of my time.

Mr. EAGLETON. Let us call up the amendment and have it stated.

Mr. HATHAWAY. Mr. President, I ask unanimous consent to call up my first amendment.

The PRESIDING OFFICER. The amendment automatically recurs, and the clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes unprinted amendment numbered 1471. On page 2, the modification reads as follows:

On page 105, between lines 9 and 10, insert the following:

"(15) provide that the State, from funds allotted under section 304 (a) for part B, social services, will use an amount equal to an amount not less than 1 per centum of such allotment or $20,000, whichever is greater, for the purpose of carrying out the provisions of paragraph (11) of section 307 (a), except that (A) the requirement of this paragraph shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this paragraph, and (B) the provisions of this paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.".

The amendment, as modified, is as follows:

On page 99, line 24, insert before "Commissioner" the following: "State agency responsible for licensing or certifying long-term care facilities in the State and the".

On page 99, line 24, strike out the period and insert in lieu thereof a semicolon.

On page 105, line 9, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 105, between lines 9 and 10, insert the following:

"(15) provide that the State, from funds allotted under section 304(a) for part B, social services, will use an amount equal to an amount not less than 1 per centum of such allotment or $20,000 whichever is greater. for the purpose of carrying out the provisions of paragraph (11) of section 307 (a), except that (A) the requirement of this paragraph shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this paragraph, and (B) the provisions of this paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.".

On page 110, strike out lines 12 through 15.

On page 110, line 16, strike out "(3)" and insert in lieu thereof "(2)".

On page 112, line 10, strike out "(4)" and insert in lieu thereof "(3)".

On page 112, line 15, strike out "(5)" and insert in lieu thereof "(4)".

Mr. HATHAWAY. With that modification, Mr. President, I understand we are in agreement, and I yield back the remainder of my time on the amendment.

Mr. HEINZ. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HATHAWAY. I yield.

Mr. HEINZ. Mr. President, I ask unanimous consent that Mr. Robert Walkington and Gwen King, of my staff, be accorded the privilege of the floor during deliberations and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I yield back the remainder of my time on the Hathaway amendment.

Mr. HATHAWAY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Maine.

The amendment, as modified, was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1473

(Purpose: To provide disaster reimbursements to certain States)

Mr. MELCHER. Mr. President, I have an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1473:

At the appropriate place in the bill insert the following:

"(c) The Commissioner shall provide reimbursements to any State upon application for such reimbursement, for such funds a State makes available to area agencies in such State for the delivery of social services during any major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

"(d) Each State may receive reimbursement under Section 412 with respect to any major disaster, in amounts which do not exceed 5 per centum of the amount allotted to such State for the fiscal year involved.

Mr. MELCHER. Mr. President, earlier this year parts of Montana were hit with devastating floods. Following a winter of heavy snow, saturating spring rains swept south central Montana.

By mid-May rain began pelting an area crisscrossed with ravines and creekbeds. Between May 16 and 23, 6 to 10 inches of rain fell—five times the normal rainfall for that period.

On May 29, President Carter declared five counties in south central Montana eligible for Federal disaster relief. Six days later, the President declared two more counties disaster areas.

The offices set up by the Federal Disaster Assistance Administration have now closed and the Federal officials have gone home. But the problems caused by the flood remain: 862 individuals applied for Federal assistance; 70 governmental units have applied for help and FDAA officials estimate that total help will be more than $8 million.

The measure of the flood can be seen by the fact that the Yellowstone River, a major tributary of the Missouri, crested at 16.5 feet above flood stage at Miles City, Mont.—the highest flood level ever recorded there.

National Weather Service officials said that the flooding of the Big Horn River was severe enough to be classified as a "200 year flood." That means that under normal weather cycles, the river is not forecast to reach such flood levels, except once every 200 years.

Recovery from disasters of this order are never easy for anyone. The problems, however, are often the most difficult for the elderly. When basic services are interrupted and temporarily rearranged, it is the old who have the hardest time getting back on track. They have transportation problems. They have trouble getting to relief centers. They have trouble dealing with the thicket of confusing procedures that often accompany and aggravate an already unsettling time in their lives.

The amendment I offer today is similar to a provision included in H.R. 12255, the House version of the Older American Act amendments. It would allow the Commissioner on Aging to reimburse any State upon its application for funds that State might have available from model project funds for the delivery of social services during any major disaster declared by the President in accordance with the Disaster Relief Act of 1974. The maximum dollar allotment for this service would be no more than 5 percent of the model projects funds available.

This amendment would not involve a great deal of money. In 1977, for example, $500,000 was set aside under model projects for weather disasters. Seven States used that program and spent a total of $303,785. Thus far in 1978, three States have taken advantage of the program for a total of $120,000 out of $250,000 set aside.

I point this out to the Senate, so that my colleagues will know that my proposal is realistic in utilizing unused funds for disaster purposes for the elderly. No group is more desperate for help in a disaster than the elderly and none more deserving.

This is a simple, relatively inexpensive way of giving the States the opportunity to act quickly in an emergency to aid the elderly. I hope my colleagues will support it.

Mr. EAGLETON. Mr. President, may I ask the Senator from Montana I take it his amendment does not increase the overall authorization in this section of the bill?

Mr. MELCHER. No. The amendment does not increase the authorization.

Mr. EAGLETON. Am I correct that in the House version of the bill there is a provision similar to this but that provision mandates and makes obligatory that such moneys be set aside,

whereas the Senator's amendment makes it purely permissive?

Mr. MELCHER. Mine makes it not mandatory that the money be set aside but mandatory if the money is available that it will be used for this purpose on application.

Mr. EAGLETON. But the Commissioner does have, under the Senator's amendment, discretion on whether to set moneys aside at all.

Mr. MELCHER. I might reply to the Senator by saying that if the money is there in the model program then the Commission shall, but only to the extent that there is unused money available in the model program.

Mr. EAGLETON. Well, Mr. President, the amendment, as we thought we understood it or as it had been verbally described to us, had led me to believe that it was a permissive matter with the Commissioner and not mandatory. If, in fact, it is permissive, I would have no objection to it.

Mr. MELCHER. Will the chairman yield?

Mr. EAGLETON. Yes.

Mr. MELCHER. I so modify my amendment, making it permissive, changing the first "shall" to "may."

The PRESIDING OFFICER. The Senator has that right.

The amendment, as modified, is as follows:

At the appropriate place in the bill insert the following:

"(c) The Commissioner may provide reimbursements to any State upon application for such reimbursement, for such funds a State makes available to area agencies in such State for the delivery of social services during any major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

"(d) Each State may receive reimbursement under Section 412 with respect to any major disaster, in amounts which do not exceed 5 per centum of the amount allotted to such State for the fiscal year involved.

Mr. EAGLETON. The amendment, now modified to read "may," is satisfactory to me.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the Chair.

I agree with the Senator from Missouri. As I understand it now, it is optional on the part of the Commissioner that he may provide reimbursement to any State.

I yield back the remainder of my time.

Mr. MELCHER. I yield back the remainder of my time, Mr. President, and I thank the two distinguished Senators.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. EAGLETON. Yes.

Mr. HATCH. I ask unanimous consent that Sally Rogers and Ed Twilley of Senator THURMOND's staff and Maryann Simpson and Sherri Kramer of Senator STEVENS' staff be granted the privileges of the floor during the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified, of the Senator from Montana.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. EAGLETON. Mr. President, will the Senator withhold that request? We cannot have any rollcall vote until after 3 o'clock.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I am wondering whether the Senator would withhold making the request until we have a chance to talk about this other amendment. Will the Senator withhold?

The PRESIDING OFFICER. Debate is not in order while a quorum call is in progress.

Mr. KENNEDY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objections? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I call up amendment No. 2449——

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Montana, as modified. The question is on agreeing to that amendment.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeds to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I would like to have a rollcall on this amendment, but there are not enough Senators present to give a second at this point, and we cannot have a vote until 3 o'clock. I ask unanimous consent that the amendment of the Senator from Montana be set aside until 3 o'clock.

Mr. DOMENICI. Mr. President, reserving the right to object, I did not hear the request.

The PRESIDING OFFICER. Will the Senator from South Dakota please use his microphone?

Mr. ABOUREZK. I would like to get the yeas and nays on this amendment, but there is an order that we cannot have a rollcall vote until 3 o'clock. Therefore, I ask that it be set aside until 3 o'clock.

Mr. DOMENICI. Reserving the right to object, may I inquire, I think the Senator from Massachusetts has a major amendment. I have three or four minor ones and one major one. Does the Senator intend to ask for the yeas and nays on every amendment?

Mr. ABOUREZK. Yes.

Mr. DOMENICI. So the same request will be made for a vote at that time on the amendment of the Senator from Massachusetts, and that it be deferred?

Mr. ABOUREZK. Yes; because there is an order that we cannot have a rollcall vote until then.

Mr. DOMENICI. And then the Senator will ask for yeas and nays, and when the time arrives have a rollcall vote?

Mr. ABOUREZK. Yes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I note that there are plenty of Senators now on the floor for a second for the yeas and nays, and I do not see any reason not to get that far.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment of the Senator from Montana.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, there may be no rollcall votes until the hour of 3 o'clock, at which time the rollcall will occur.

The Senator from Massachusetts.

AMENDMENT NO. 2449

(Purpose: To provide a separate home delivered nutrition services authorization)

Mr. KENNEDY. Mr. President, I call up my amendment No. 2449, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and others, proposes an amendment numbered 2449:

On page 83, line 17, insert "(1)" after "(b)".

On page 83, line 19, insert before "part" the following: "under subpart 1 of".

On page 83, line 20, before "Nutrition" insert "Congregate"

On page 83, between lines 20 and 21, insert the following:

"(2) There are authorized to be appropriated $100,000,000 for the fiscal year 1979 and $120,000,000 for the fiscal year 1980 for the purpose of making grants under subpart 2 of part C (home-delivered nutrition services) of this title.".

On page 120, between lines 20 and 21, insert the following:

"Subpart 1—Congregate Nutrition Services

"PROGRAM AUTHORIZED".

On page 121, line 10, strike out "or may be home-delivered meals".

On page 121, line 15, strike out the end quotation marks and the period.

On page 121, between lines 15 and 16, insert the following new subpart:

"Subpart 2—Home-Delivered Nutrition Services

"PROGRAM AUTHORIZED

"SEC. 336. The Commissioner shall carry out a program for making grants to States pursuant to State plans approved under section 307 for the establishment and operation of nutrition projects for older persons which, five or more days a week, provide at least one home-delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this part may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.".

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield for that purpose.

Mr. DOMENICI. I ask unanimous consent that Letitia Chambers, Jeff Lewis, and Dave Rust of my staff be granted floor privileges during the remainder of the consideration of this measure.

objection, it is so ordered.

The PRESIDING OFFICER. Without

Mr. KENNEDY. I make a similar request for Mr. Parham and Mr. Urwitz of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, my amendment No. 2449 to S. 2850 provides for a separate authorization for home-delivered meals under the Older Americans Act.

Fifty-four Senators have joined me in sponsoring this amendment—Mr. CHURCH, Mr. MCGOVERN, Mr. DOLE, Mr. PERCY, Mr. CLARK, Mr. BROOKE, Mr. MELCHER, Mr. MCINTYRE, Mr. ANDERSON, Mr. CANNON, Mr. ABOUREZK, Mr. PELL, Mr. BAYH, Mrs. HUMPHREY, Mr. DURKIN, Mr. CULVER, Mr. WILLIAMS, Mr. RIEGLE, Mr. RANDOLPH, Mr. INOUYE, Mr. STONE, Mr. LEAHY, Mr. JACKSON, Mr. MARK O. HATFIELD, Mr. HASKELL, Mr. SCHWEIKER, Mr. HEINZ, Mr. MATSUNAGA, Mr. CASE, Mr. CHILES, Mr. BURDICK, Mr. SASSER, Mr. MORGAN, Mr. DECONCINI, Mr. WEICKER, Mr. PAUL G. HATFIELD, Mr. HART, Mr. FORD, Mr. HUDDLESTON, Mr. EASTLAND, Mr. GRAVEL, Mr. BIDEN, Mr. GLENN, Mr. STEVENS, Mr. BUMPERS, Mr. JOHNSTON, Mr. ZORINSKY, Mr. HOLLINGS, Mr. MATHIAS, Mr. ALLEN, Mr. PACKWOOD, Mr. METZENBAUM, Mr. HODGES, and Mr. STAFFORD.

In 1971, I introduced legislation which created the nutrition program for the elderly under the Older Americans Act. It has become a most effective and popular program. We are all familiar with this nutrition program which provides hot meals 5 days a week in congregate settings such as churches, schools, and senior centers. If you have visited these group sites in your States, you have seen that the program's contribution is not just a good meal but also provides for other services and socialization for the elderly. The program has often been credited with drawing isolated elderly back into active participation within their communities.

The nutrition program for the elderly also supports meals delivered to the homebound. However, these home-delivered meals have been restricted because of the high cost of transporting such meals and because of the program's emphasis on congregate meals. I am told that many States still have waiting lists for the congregate program and the pressures to expand the number of meals served at these sites is great.

Therefore, the congregate program and home-delivered meals program have been forced to compete for funding. My amendment would provide for a separate authorization for home-delivered meals and guarantee this program its own support. This authorization, $100 million for fiscal year 1979 and $120 million for fiscal year 1980, would allow the home-delivered meals programs to support approximately 215,000 meals during fiscal year 1979 and 258,000 meals in 1980. This will allow for a needed expansion of the home-delivered meals under the nutrition program for the elderly which currently only serves about 72,000 meals daily to the homebound.

My amendment would not take away any support from the congregate program. S. 2850 provides for $375 million for fiscal year 1979 and $425 million for fiscal year 1980. This would enable the congregate programs to serve close to 800,000 meals daily in 1979 and 900,000 in 1980. Currently, the group meals are served to only 480,000 persons daily and the expansion of the program is certainly needed and deserving in many of our States.

Mr. President, the Senate Nutrition Committee led by Senator MCGOVERN conducted a survey of the nutrition programs for the elderly and found that there is an estimated 3 to 4 million elderly persons who are homebound. Many of these homebound persons will end up in institutions and nursing homes if adequate care is not provided to them in their homes. Home-delivered meals are a vital part of the home services which are needed to keep them in their homes. A doctor from Nantucket has testified that "the doctors will release a patient on condition he can be enrolled in a meals program."

In-home services not only provide a more dignified form of health care for our elderly, but are also very cost-effective. A recent GAO report reveals that the average public cost of in-home services in 1977—including a meal—ranges from $78 to $172 per month depending on the degree of health care. The average public cost for a nursing home in 1977 was $458 per month. We cannot ignore this difference.

There has been concern expressed that this amendment would reduce the flexibility that States should have in determining their needs for home-delivered and congregate meals. This is not necessarily true. Even with separate authorizations for congregate meals and home-delivered meals, the States have the discretion to fund the areas in accordance with their area plans. These plans specify the particular needs of each community and the State funds the local programs in accordance with these needs. If a certain area's agency's plan calls for more home-delivered meals than another area's plan, the State has the flexibility to fund accordingly. This is the purpose of the area plans which the States review and approve before allocating funding under the Older Americans Act.

Mr. President, we have seen how effective the nutrition program for the elderly has become. It could become even more effective if there is a coordinated effort between the congregate meals program and an adequately funded home-delivered meals program. Our elderly should be assured of a well-balanced meal whether they are ambulatory and can visit their community sites, or homebound due to illness or mobility problems. Peggy Sheeler, R.N., who is President of the National Association of Meals programs, describes it well. "These programs should not be either or, but work in concert with one another. First to lessen isolation and then to lessen institutionalization."

This amendment is supported by the National Council of Senior Citizens, the National Council on the Aging, the American Association of Retired Persons, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, the National Association of Title VII—nutrition program—Directors, the National Association of Meals program, the National Urban League, the National Governors Association, the National Council of Jewish Women, the Community Nutrition Institute, the Food Research and Action Center, the Bread for the World, and the Interreligious Task Force on U.S. Food Policy.

Mr. President, I hope that the Senate will join the House in guaranteeing a home-delivered meals program for the elderly.

Mr. President, at this point, I would like to acknowledge the very substantial leadership of Senator EAGLETON and Senator CHAFEE on the whole nutrition program. They have been tireless in their dedication in pursuit of the program. I am offering this amendment acknowledging their leadership and their strong commitment to the program.

We do have a difference in terms of how we are going to provide home delivered meals. It is my very firm impression, based upon even the additional emphasis that has been given to home delivered meals in the committee bill, that we are talking anywhere from probably 12 to 14 percent of the resources being used for home delivered meals. That has held pretty constantly over the period of recent years. It was as low as 7 percent a few years ago, but it has about leveled off at the 12-percent figure. Given the need and success of congregate sites, what it does effectively say to the local agencies is, "Look, we can provide two or three times as many meals in congregate sites as we do on home delivered meals. We have need in both places."

It presents an absolutely extraordinary dilemma to the local agencies and the local personnel. It seems to me that we ought to fund a program that is going to have allocation of resources with a

separate authorization and then hold Congress accountable. We have 2 to 3 million elderly people who have a need for these programs.

This is going to be a very modest program. We are going to hear complaints that it exceeds the budget and all the rest, but without doing this in a separate authorization and being able to justify and evaluate that program in a separate way, I think we are effectively putting the needy elderly people and the shut-ins in conflict with each other to try and get the scarce resources. I think that is an unjustifiable conflict.

We had a good opportunity to talk about this in the full committee. The members of that committee are aware of these issues.

Finally, I want to say in spite of our division on this particular issue, both the Senator from Missouri and the Senator from Rhode Island deserve great credit from the Members of the Senate for the leadership they have provided in the whole field of nutrition.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Missouri.

Mr. EAGLETON. Mr. President, both Senator CHAFEE and I are very sympathetic to home delivered meals for the elderly. The present programs we believe are very, very good and we see them expanding in the future. We have not been parsimonious in the committee version of the bill with respect to these nutrition sections.

The present authorized amount for nutrition, both for congregate setting and home delivered meals, is $275 million. That is existing law. Of that amount, $250 million is currently appropriated.

In the committee version of the bill we up the authorization to $375 million for fiscal 1979 and to $425 million for fiscal 1980. So our committee recommendation is a 50 percent increase over the current appropriation level, a rather substantial increase to say the least.

If we accept the amendment of the Senator from Massachusetts, which is an additional $100 million for fiscal year 1979 and $125 million for fiscal year 1980, the sum effect of the Kennedy amendment along with the committee bill would be about a 90 percent increase in these items.

When we are talking about nutrition for the elderly, Mr. President, I guess you could have an approach that the sky is the limit. Nothing is more near and dear to the hearts of all of us than adequate care for America's elderly, and adequate nutrition being the key element in that. But there are some limits to these budgets, Mr. President. There are some limits to these authorization bills. I think a 50-percent increase, as the committee has recommended, is justified and about all that I believe this bill can bear.

I do not know when we reach the veto point on some of these bills. I suspect between now and the end of this year President Carter is going to feel constrained to veto some bills because they not only will impose enormous budgetary loads on the fiscal 1979 budget being considered, but in the out years in terms of those enhanced authorizations they will impose even a greater budgetary impact in fiscal year 1980 and beyond.

Let me read briefly an excerpt from a letter from Secretary Califano on this particular amendment, dated July 17, 1978.

> The administration is strongly opposed to the proposed amendment.
>
> The Kennedy amendment—
>
> to the Older Americans Act to establish a separate authorization for home delivered meals. As I indicated to you in my letter of July 3, the administration supports the consolidation contained in the committee bill and endorses the local determination of programs tailored to meet the needs of each elderly community, which such consolidation allows. Adoption of a separate authorization for home delivered meals—
>
> And that is what the Kennedy amendment would bring into being—
>
> would clearly repudiate this philosophy of local control as to what is the best mechanism for serving the nutrition needs of the elderly. The new separate authorization for home delivered meals in the proposed amendment would add $100 million to the cost of the nutrition program authorized in the Older Americans Act amendments, which is an unacceptable increase to the President's budget. In the Department's view, there is already ample funding to expand the home delivery of meals in the increased authorization for nutrition programs in the bill. In addition, the specific prohibition from limiting the amount of funds to be used for home delivered meals insures that local flexibility in planning will prevail.

I think that letter, Mr. President, hits the two key elements: One, the impact on the budget; two, taking away, in essence, the local determination of how best to spend these nutrition moneys.

In some portions of a State, meals in a congregate setting may be the way to go, and after everything is discussed among the local authorities they may operate in that direction. Indeed, most of the nutrition money is spent through meals in congregate settings.

Yet, in another part of the State, meals in congregate settings may not be applicable, and in that area home-delivered meals would be the way to go. By having these two items in one authorization, it is one which affords, in my opinion, the maximum local flexibility to decide what is in the best interests of that particular community.

I would very, very much hope that the Kennedy amendment would not be adopted.

The Senator from Massachusetts has been very kind to Senator CHAFEE and myself insofar as complimenting us on the attention we have given to this bill. Let me say, no other Member of the Senate has spent as much time on matters relating to America's elderly as has the distinguished Senator from Massachusetts. He attended many of the committee hearings on this matter.

In all candor I must say, and it should be part of the record, very clearly on in our hearings he indicated to me and to Senator CHAFEE that he thought home-delivered meals ought to be part of separate authorization. This home-delivered meals amendment of his has not been a late blooming item. It has been very much on the mind of the Senator from Massachusetts. He has vigorously pursued it at every opportunity in the hearing process and in committee. He is to be commended for the attention he has given to this piece of legislation.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I have a unanimous-consent request for personnel to be granted the privilege of the floor during consideration and vote on this measure: Bridget Baker, for Senator STEVENS, and Tom Wasinger, of Senator BARTLETT'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I want to join in the commendation that Senator EAGLETON has made of Senator KENNEDY'S efforts in this entire area. As has been said, no one has shown more consistent concern for the elderly and for their nutrition than has Senator KENNEDY. This amendment that the Senator has brought before us today is truly a difficult one.

I do not think anybody in the Senate would not gladly vote for more money for meals on wheels for the elderly but, as Senator EAGLETON has mentioned, we are in a bind here. Already we have increased the total amount for nutrition for the elderly from the $250 million that was appropriated this year. We are asking, instead of $250 million, for $375 million. That is a $125 million increase, a 50-percent increase, which is very substantial.

I think we all appreciate what difficulty not only authorizations and, more particularly, appropriations have on the floor of the Senate today. It seems to me that not only is this, in my judgment, unrealistic, but also, I want to reiterate a couple of arguments that Senator EAGLETON made.

To me, it seems like big brother in the U.S. Senate or the Congress as a whole saying to the States, "This is the way you have to spend your money. You people cannot withstand the pressures. All the pressures are to give the meals in a congregate setting. Instead, we are going to tell you that we are giving you $100 million more, and maybe you would like to use this for the congregate-setting meals, but you cannot; you have to use it for home-delivered meals. I just do not think that is the way we ought to proceed. In the committee report, we have language urging the area agencies to give deep consideration to home-delivered meals and not to leave that out of their consideration.

Second, I want to say, Mr. President, that there is a subsidiary problem that I am sure Senator KENNEDY has thought about, but I should like to bring it to the attention of the Senate, namely; the program called meals on wheels, which provides meals to the homebound, essentially started in many areas basically as a volunteer program. It is volunteers that do the driving and there is considerable concern that when the Federal Government moves in with its regulations, with its money, with its omnipresence, it is going to take away and

destroy, in many instances, the voluntary aspects of the program.

So it could well be—I am not saying it will occur, but it could well occur that we shall end up getting fewer meals on wheels, fewer home deliveries, than we presently have.

But, Mr. President, it seems to me the key point is that we have increased very substantially the authorization for this program. I hope it sticks. I might say I do not know any other authorization or appropriation, anyway, that has gotten through the Senate recently that is a 50-percent increase. So we shall be lucky if we get that.

More important, I think we ought to leave it to those in the local areas, the area agencies, the people who, day to day, have to wrestle with these problems, to come up with how they think they can feed the most elderly in the most efficient way, but not solely using that criteria; not solely the most or the most efficient, but how they are going to take care, at the same time, of those who are homebound, to serve those who have the greatest need.

I might point out that in my own State, which, of course, I am most familiar with, we do see a combination of the meals on wheels and the meals in the congregate setting. As a matter of fact, those who prepare the meals in the congregate setting, prepare, in many instances, the meals that are then taken out through the meals on wheels. So they are not in competition. The volunteer groups come around and pick up the meals in the congregate setting and take it around to wherever it might be—housing for the elderly, or people living in their own homes. I have seen it in action. So, as tempting as this amendment is, Mr. President, and with as much appeal as it has, I hope that it will be defeated and that we shall proceed with the very substantial increase that we do provide for the total nutritional programs for the elderly.

I thank the Chair.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The arguments that my good friend from Rhode Island makes are similar to the ones he made in the committee. The response that I make to those is that we have to look at what the fact of the matter is. The fact of the matter is, with regard to shut-ins, the program has virtually stabilized over the period of the last 3 years. It is effectively 10 percent. There have not been increases in the delivery of meals to elderly people and to those that are effectively shut in. Those hard and difficult choices are not being made as to the shut-ins as a practical matter today.

I think that, given the fact that the existing congregate-site program is vastly oversubscribed with good-quality programs—and I am sure both the Senator from Missouri and the Senator from Rhode Island would agree with me—rarely do we find a program in which the actual appropriation impacts the local community as this program does. It has been an effectively run program because it is primarily sponsored by nonprofit groups, by church groups, and other groups in local settings that have been blessed, with a great deal of the spirit of voluntarism. The fact of the matter is that we are not getting the meals to those people who are, effectively, the shut-ins—both senior citizens and the handicapped. That is the question that is before us.

We have anywhere from 3 to 4 million shut-ins who are being denied, for one reason or another—the opportunity of being able to participate in this program. This amendment is providing for a very minimal Federal investment in the program. We can talk about the budget considerations, but effectively, with this program, we are talking about 215,000 meals in an eligible population of 3 or 4 million.

I respect, as I indicated earlier, the two leaders in this program, Senator EAGLETON and Senator CHAFEE, for bringing a recommendation to this body with a 50-percent increase. I admire and respect their bravery, particularly given the vote last time. The fact of the matter is that we saved the money on the HMO bill last week and we can apply it to the nutrition program this week. I can give assurance to the Senate that we shall give them an opportunity, on cost containment, to save about $50 billion by 1982 or 1983 if we really want a blockbuster that is going to do something about saving the taxpayers money and inflation.

I appreciate the comments that have been made, but I just think that the need is so critical and the value of this program has been tried and tested so well.

The final point is, if the State is not interested in this program, there is no requirement that they take any of the resources. I believe that they will, obviously, because I think that the program has been such an extraordinary success.

How much time, remains, Mr. President?

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Massachusetts has 19 minutes remaining. The Senator from Missouri has 18 minutes.

Mr. KENNEDY. I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas rises in support of amendment No. 2449 to the Older Americans Act, which he cosponsored originally with the Senator from Massachusetts (Mr. KENNEDY), the Senator from Idaho (Mr. CHURCH), and the Senator from South Dakota (Mr. MCGOVERN). Our amendment calls for separate authorization for the home-delivered meals program for the elderly.

Mr. President, I find myself in agreement with the distinguished Senator from Massachusetts. I hope that will not be disastrous to our amendment because it is an area that is of great concern to some of us who serve on the Nutrition Commitee. Also, I think the point should be made, as the distinguished Senator from Massachusetts just pointed out, that in this amendment, we are reaching another group—not just senior citizens, but also those who are homebound because of some handicap. We are talking about a half million people who fall into that category. We are talking about a total number of between 2 and 3 million Americans who cannot participate in congregate feeding programs.

Certainly, it is not the intent of the sponsors of this amendment in any way to diminish the importance of the congregate program; and certainly, I share the views expressed by the distinguished floor manager of the bill. There has been an increase in funding, and I realize it is very difficult to find enough funds to go around. Last Friday, we just approved the Child Nutrition Act. Then, too, we also had to face up to the fact that in certain programs, cuts had to be made because of constraints on the budget. But as we look at this particular program, the success we have had, and the growth that has been made in the program, it is also necessary to look at the history of the home-delivered meals program to see the need for this change.

It is obvious that home-delivered meals have never been a high priority issue within the nutrition components of the Older Americans Act.

I think the Senator from Massachusetts and perhaps others pointed out that at one time, Federal regulations placed a 15-percent limit on home-delivered meals. Although this restriction has been lifted, the Administration on Aging estimates that only about 14 percent or less of the nutrition funds are now going into home-delivered meals.

It seems to me that understanding all the demands on the budget and understanding the very worthwhile programs that could be increased to take care of any surplus we might have, there is justification for creating a separate authorization for this program. It is a program overshadowed by the popularity of the congregate meal program. Without protection of this sort, I do not see that home-delivered meals will ever be fully operational.

THE PROBLEM

Commonsense tells us that a home-delivered meals program would be more costly to operate. But I think compared to the institutional costs are if we cannot provide for ourselves. As pointed out in a letter sent to all our colleagues, a recent GAO report reveals the Government's average monthly cost providing in-home services, including a meal, ranges from $78 to $172, depending on the individual's health needs. In contrast, the GAO study showed it costs the Government approximately $458 a month to keep the same person in an institution.

So, notwithstanding the very excellent arguments made by the distinguished Senator from Missouri and the distinguished Senator from Rhode Island, I am cosponsoring this amendment, I support this amendment.

In order to serve the greatest number, it is understandable when project directors opt for congregate rather than home-delivered meals. But simply understanding does not improve the diets of the Nation's homebound.

The homebound elderly have little if

any voice in their Government—they cannot easily apply pressure to see that they receive their due benefits under the Older Americans Act, as do their able-bodied neighbors. I think it is a situation where in the past we have left the decision to the local authorities, and the need has gone largely unacknowledged and certainly unanswered. Because of this record, I feel we must create a separately authorized program for home-delivered meals.

COST EFFECTIVENESS

Although this amendment adds to the cost of the bill, our thrust in health care is toward preventive medicine. Authorities now agree that one of the most cost efficient practices of preventive medicine is the maintenance of a good daily diet.

Although this amendment involves an initial outlay of expenses, it holds the promise of future cost savings. This amendment is an investment in the future good health of our homebound senior citizens and homebound handicapped citizens. I think it is an amendment that we cannot afford not to approve.

CONCLUSION

I urge my colleagues to support the amendment No. 2449. It establishes our support in the importance of home-delivered meals to the homebound, as a practice of preventive medicine and as an improvement in the nutrition of homebound citizens.

I will conclude by making the point I started with, that for some time the Senator from Kansas has been concerned about the homebound handicapped. They may be 15 years of age or 35 years of age; they do not have to be senior citizens to benefit from this amendment.

It seems to me that we are depriving persons in real need, because of a handicap, of a right to have the home meal service, and I support the amendment.

Mr. EAGLETON. Mr. President, I have a few brief comments and then I am going to move to table the amendment, we will get the yeas and nays and then the vote will occur some time after.

Mr. CHURCH. Will the Senator permit me to make a short speech in favor of the amendment following his remarks?

Mr. EAGLETON. Mr. President, how much time do I have left on this amendment?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. EAGLETON. I will yield on my time.

Mr. CHURCH. I think perhaps we have time on the amendment itself.

Mr. EAGLETON. Senator KENNEDY is not on the floor. I will yield 5 minutes on my time.

Mr. CHURCH. I need a little more time than that.

Mr. EAGLETON. I will yield the Senator 5 minutes. By that time Senator KENNEDY will be on the floor.

Mr. CHURCH. I thank the Senator very much.

The PRESIDING OFFICER. Who yields time to the Senator from Idaho?

Mr. EAGLETON. He is speaking in support of the amendment, I am opposed. Nevertheless, I will yield 5 minutes of my time to the Senator from Idaho.

Mr. CHURCH. Mr. President, I have just spoken to the distinguished Senator from Massachusetts and he indicated he would yield to me such additional time, if any is needed, that I may require for the completion of this statement.

Mr. President, I urge adoption of the Kennedy-Church-Dole-McGovern-Percy amendment to establish a separately authorized home-delivered meals program under the Older Americans Act.

This amendment has strong bipartisan support. A clear majority of the Senate—55 Members in all—have sponsored this proposal. It also has the strong support of leading organizations in the field of aging, including the National Retired Teachers Association-American Association of Retired Persons and the National Council of Senior Citizens.

As things now stand, the nutrition program for the elderly authorizes meals in group settings—such as senior centers, schools, churches, and other nonprofit settings—and for the homebound.

But as a practical matter, the existing funding level—as well as the projected authorizations under the committee bill—will permit only a modest effort on behalf of the homebound elderly.

Historically, only about 14 to 15 percent of the meals served have been for homebound older Americans.

The nutrition program for the elderly now provides about 480,000 meals daily to aged persons, including 408,000 at congregate or community sites and 72,000 meals on wheels.

The committee bill would authorize approximately 680,000 group meals daily and 120,000 home-delivered meals in fiscal 1979, assuming the existing ratio of congregate to home-delivered meals continues.

Our amendment would authorize more than 1 million meals daily for older Americans in fiscal 1979—about 800,000 group meals and 215,000 home-delivered meals. It would provide almost three times as many meals on wheels as under existing law and 79 percent above the projected level under the committee bill.

As chairman of the Senate Committee on Aging, I have been told repeatedly that many older Americans are unable to participate in a meals program at a senior center or elsewhere because they are confined to their homes.

Quite often these individuals are placed in a nursing home simply because other alternatives—which may include a home-delivered meal—are not available.

A separate home-delivered meals program would help to respond to these problems and provide greater flexibility in enabling these persons to continue to live independently in their homes.

It would also help to complement the congregate meals program by freeing up funds to be used for meals in group settings. The value and worth of the group meals program have been amply demonstrated time and time again. I want to insure that it continues to grow.

Finally, a separately authorized meals-on-wheels program demonstrates that good public policy can be humane and cost effective at the same time.

A recent General Accounting Office report on "Home Health—the Need for a National Policy To Better Provide for the Elderly"—reveals that the public cost to maintain a person with limited income in a nursing home is $458 per month.

In sharp contrast, services to enable older persons to live independently in their own homes, such as home-delivered meals, cost just a fraction of the charge for institutionalization. In-home services typically cost about one-sixth to one-third of the amount for institutionalization, depending upon the type of services needed and the individual's degree of impairment.

Mr. President, before closing, I would like to respond to an argument that will be made during this debate, and indeed, has already been made: Separate authorization would interfere with local discretion in determining how nutrition funds should be spent.

The PRESIDING OFFICER. The 5 minutes yielded by the Senator from Missouri to the Senator from Idaho have expired.

Mr. KENNEDY. I yield whatever time is needed.

Mr. CHURCH. However, State offices on aging will still have discretion in funding congregate and home-delivered meals, whether there are separate authorizations or a single authorization for both programs. If a particular area agency on aging plan recommends more home-delivered meals than another local unit's request, the State agency would still have flexibility to fund accordingly. A major purpose of the area plans is to permit a determination of local priorities. And, this would still be retained under our amendment or the committee bill.

Second, the major service deliverers and providers—the National Association of Area Agencies on Aging, the National Association of State Units on Aging, the National Association of Title VII Directors, and the National Association of Meals Programs—all support our amendment. I personally know of no one better equipped to assess the needs of localities than members of these organizations who work with and serve the elderly every day.

For these reasons, I urge adoption of the Kennedy-Church-Dole-McGovern-Percy amendment.

Mr. McGOVERN. Mr. President, will the Senator from Massachusetts yield me 3 or 4 minutes?

Mr. KENNEDY. I yield the Senator such time as he desires.

Mr. McGOVERN. Mr. President, I am very pleased to rise in support of amendment No. 2449 to S. 2850, the Older Americans Act of 1978.

My interest in the plight of the Nation's homebound elderly dates back to a hearing the Committee on Nutrition and Human Needs held in my home State of South Dakota on March 18, 1974. At that time the committee heard witnesses, many of them long-time friends of mine, describe the successes of the title VII congregate program. But they asked why something was not being done for those senior citizens who were physically unable to make it to the nutrition site. Today we can begin to answer that ques-

tion by doing something for the homebound elderly—our most dependent citizens.

After this problem was brought to my attention, the Nutrition Committee developed a questionnaire designed to determine how well the title VII program was working and what improvements could be made to the program. Grassroots people were asked to design their ideal program. The results of that questionnaire published in November of 1976, in a print called The Homebound Elderly and a followup print, "Title VII Survey," led to the legislation we have before us now. Most of the recommendations made then are incorporated in this amendment.

This amendment is another very constructive part of our efforts to feed America's hungry. We have failed to reach the 3 to 4 million shut-in elderly, who, due to their physical limitations, are confined to their homes and remain largely outside the scope of current feeding programs. It is time to remedy this tragic situation.

The survey of title VII project directors under the Older Americans Act released by the committee highlighted the director's belief that a separate feeding program, operated through and in conjunction with title VII, is essential if we are to extend our agricultural bounties to the homebound elderly.

While persons of all ages share a common need for adequate nutrition, achieving a balanced diet is particularly difficult for the aged. As old age approaches, metabolic changes require a reduction in caloric intake while necessary levels for protein, vitamins, and minerals remain the same.

For the homebound elderly, this is an impossible task. These persons cannot leave their homes to shop; find it difficult to prepare food; and lack the incentives that companionship provides. Quite simply, in their isolation and loneliness, good health is a less compelling pursuit than it is for those of us who are more mobile.

Whether the cause is low income, nutritional ignorance, lack of motivation, poor health, or a wide range of other common afflictions, numerous experts tell us that, even in the general elderly population, millions are malnourished. For the homebound, these diet problems are even more severe and the incidence of malnutrition is higher.

The result has been a disturbingly high level of anemia, mental depression, subclinical pellagra, and protein deficiency, as well as higher rates of illness and longer, less complete convalescence.

In response to these unique nutritional problems of the aged, the Congress in 1972 established a nutrition program for the elderly, title VII of the Older Americans Act. Last year this program provided approximately 480,000 hot meals and various supportive services each weekday in a congregate setting.

Title VII is, by philosophy and structure, committed to providing an environment where the lonely and withdrawn senior citizen can meet with friends and enjoy their company as well as a nutritious hot meal. This idea makes as much good sense today as it did when enacted in 1972. It deserves our continuing support.

Unfortunately, however, the congregate meal philosophy, when combined with severe budgetary limitations, virtually excludes the homebound elderly. These 3 to 4 million Americans by the nature of their condition, cannot realistically attend the congregate meal site. Yet, last year only 13 percent of title VII meals were delivered to homes, a figure roughly equal to 72,000 of the 480,000 meals served.

Under the current congregate approach, feeding the estimated needy homebound would require a title VII program expansion in the area of 800 percent. Attempting to meet the need of the homebound elderly under the present design of title VII without a separate and additional commitment is obviously impractical and highly unlikely.

The evidence clearly indicates that for these several million persons, a home-delivered, nutritious meal often makes the difference between additional years in their own homes or institutionalization in costly nursing homes. When a senior can no longer shop or prepare meals, when hunger becomes a daily experience, there is currently no alternative available other than a nursing home or hospital.

A meals on wheels program would, therefore, reduce spending in the health care sector. Expenditures for nursing homes last year reached $9 billion, an increase of over 20 percent from 1974. In fact, these expenditures have grown steadily and substantially in the past 9 years, with the Government paying a major and increasing share. In 1975, public outlays were over $5 billion, 60 percent of which was paid by the Federal Government.

These costs are much higher than they need be. Studies carried out by gerontologists in numerous localities have consistently shown that from 10 to 40 percent of nursing home residents are not in need of institutional care; many are there simply because they cannot cook for themselves. Yet because of the limited choice of services, and in many cases the lack of home-delivered meals, the aged are often forced to seek an institution even though it may not be appropriate to their needs.

The cost of a nursing home is generally over $20 per day, while a home-delivered meal costs under $2. The studies conducted by the Nutrition Committee demonstrated among other things, that an investment of $80 million to provide from 125,000 to 175,000 home-delivered meals per day will reduce nursing home expenditures from $800 to $400 million.

We have as a matter of national conscience and integrity pledged ourselves to the elimination of hunger in America. We should not take this commitment lightly, nor can we in good faith now abandon our goal, because the days of unlimited prosperity seem to have ended. The fullest measure of a society is not gained during times of great wealth; we reveal our true character only when commitment requires sacrifice.

It should be noted that these figures are extremely conservative estimates. They are associated only with a first year savings of nursing home costs based on an $80 million meals-on-wheels program. They do not include the cost savings expected from reductions in the frequency and duration of hospitalization due to nutrition-related illnesses; nor do they project the potential savings of an expanded meals on wheels program reaching larger numbers of the homebound elderly.

It is true that a substantial portion of the freed funds would probably go to expanding service needs. But it is at least clear that we can take action which will insure a more efficient use of public funds in this year, while minimizing the excessive institutionalization of our homebound elderly.

Up to this time, the Federal Government has largely left the task of feeding the homebound to chance.

While local meals on wheels organizations have done a tremendous job with their limited resources, they cannot without Federal assistance tackle more than a small portion of the need.

The bill which Senators KENNEDY, DOLE, and PERCY, and I are introducing today along with 50 other Senators, starts us in the right direction.

Mr. President, this legislation actually has been in the process of development for several years. It has gone through considerable study and public hearings and analysis over a long period of time. It is an idea whose time not only has come but also is long overdue.

As has been pointed out here by the Senator from Idaho, the Senator from Massachusetts, and others, we have between 3 and 4 million shut-in elderly who, due to their physical limitations, are confined to their homes and remain largely outside the scope of the current feeding programs. Yet, there is a process by which we can reach these elderly shut-in citizens, and that is through the delivery of meals to the home.

As Senators know, we have a small program which is reaching a tiny fraction of our shut-ins in that fashion at the present time. The problem with the way the program is funded presently, aside from the fact that there is not enough money to do the job of taking care of the nutritional needs of our older people, is that we have set up a situation in which those who are participating in the so-called congregate meals program are almost invited to to declare war on those who are shut in and unable to come to the congregate feeding sites.

So we have the unfortunate situation that I think has been invited by the lack of appropriate attention by Congress and the lack of appropriate funding, under which we set up unnecessary hard feelings and divisions among the elderly themselves and among the administrators of the program, who are faced with the impossible situation of making a decision as to whether you are going to use part of too limited funds to take care of a group of people who are homebound and unable to get to the central feeding areas or whether you are going to deprive those who are participating in the con-

gregate program. All in all, it makes for a most unsatisfactory situation for our older people.

It has been argued by some that this is a responsibility that should be met by the States, in an effort to provide more adequate funding and to relieve the conflict that now exists. The fact is that there is nothing in the amendment as now proposed that forces any State to take the funds if they do not want to participate.

What we do offer is an opportunity for more adequate funding. I do not think I need to review the specific provisions of the amendment. They already have been described on the floor by other Senators.

As one who has worked for a number of years in the field of nutrition, I cannot think of any more urgent area right now in which Congress needs to act than to meet this sad and tragic deficiency in the way we respond to the nutritional needs of the elderly citizens who are the most vulnerable, the shut-ins, those who are unable to have the benefit either of companionship or association with others or to have the benefits of the nutritional offerings that this program can bring.

It is my understanding, Mr. President, that approximately 55 Members of the Senate have now joined in cosponsoring this amendment. I think that is some measure of the support the program has. Those groups that speak for our senior citizens are supporting this measure, and I hope the Senate will see fit to adopt it.

I thank the Senator from Massachusetts for yielding me time.

Mr. EAGLETON. Mr. President, is the Senator from Maine going to offer a perfecting amendment?

Mr. HATHAWAY. Mr. President, will the Senator yield me 5 minutes?

Mr. KENNEDY. I yield.

The PRESIDING OFFICER. Another amendment is not in order until all time has been yielded back on this amendment.

Mr. HATHAWAY. The Senator from Maine is not offering an amendment at this time. I simply am seeking a clarification from the Senator from Massachusetts. I have asked him to yield 5 minutes, which he has consented to do.

I understand that the thrust of the amendment is to have another authorization for home delivered meals.

Under the authorization in existence now, the State can use that money for home delivered meals or for meals at congregate sites, but there is a hold harmless provision in there so that they cannot take the amounts unless new money is added.

I am concerned about this: If the amount of money the State actually receives under the Senator's amendment is not sufficient for the individual States to take care of what they consider to be their needs or what they want to spend for home delivered meals, would they be precluded from going into this first part and taking us much additional money as they want and, beyond the hold harmless, any new money that might be appropriated for home delivered meals?

Mr. KENNEDY. I know of no such restriction. I would welcome any comment from the Senator from Missouri. As I understand it, the hold harmless would apply to existing congregate sites at the present time. The increased authorization is new money, and the determination would be made under the existing title, so that they could use it for congregate or for home delivered meals. If a local judgment were to be made that any of those new funds would be used for home delivered meals, I know of no such restriction that would prevent them from using that for home delivered meals. If this amendment is accepted, there would be the other authorization as well.

Mr. EAGLETON. I am not sure that is the case. Under existing law, there is one pot of money, and out of that pot comes money for meals in a congregate site and home-delivered meals.

Under the committee bill, we keep it the same. We increase the authorization from $275,000 to $375,000. There is no hold-harmless provision insofar as that pot of money is concerned.

Mr. KENNEDY. I may be incorrect, but I understood that even with the increase, you could not reduce the amounts on congregate sites below what is being spent. Since there is no hold-harmless clause, the concerns of the Senator from Maine would be relieved; because what he is interested in is to see if moneys can be used in this particular pot from home-delivered meals as well as the amendment I offer, as I understand it.

Mr. EAGLETON. If I understand what the Senator from Maine is trying to do, it is as follows: EAGLETON and CHAFEE think there should be one pot of money for both. KENNEDY, CHURCH, et al. think there should be two pots. The Senator from Maine is for a pot and a half. On the one hand, he said, "I am for two pots; but if I do not like what is appropriated in that second pot, I want to go back a little to pot No. 1."

Mr. HATHAWAY. That is correct.

Mr. EAGLETON. So he wants various pots to look at.

Mr. HATHAWAY. Mr. President, if the Senator will yield, I wish to make sure that the State is not bound by this new amendment to use only the money that comes under that authorization for the meals-on-wheels program. Maybe nothing will be appropriated under that, or maybe a very small amount, nowhere near the amount that the State wants to appropriate for that purpose. In that event, then, after they use up all the money they get under the new authorization of the Senator from Massachusetts they can go back to part 1 and use whatever amount they want in addition to that for the meals-on-wheels program. That is all.

Mr. EAGLETON. I understand what the Senator from Maine is trying to do.

Mr. HATHAWAY. If the Senator from Missouri will yield to me for one quick question, he said there is no hold harmless clause with respect to part I.

Mr. EAGLETON. There is none.

Mr. HATHAWAY. That means as to 100 percent of that money, if the State wished to do this, if the amendment of the Senator from Massachusetts is agreed to, the State could take all the money in part I and part II and use it for meals on wheels. Is that correct?

Mr. EAGLETON. No; it would not. Under the amendment of the Senator from Massachusetts and his colleagues, they want two separate and distinct pots.

Mr. HATHAWAY. That is right.

Mr. EAGLETON. They are willing to take their chances with the Appropriations Committee. Either pot could be appropriated at zero. And if it is, there is no commingling. They want it separate and distinct. EAGLETON and CHAFEE want it together and to give maximum flexibility to the local people to decide how much for congregate and how much for meals on wheels.

But the Senator from Massachusetts and 54 other Senators say, "We want to decide here and now there shall be two separate programs, and if one gets no money too bad." That is what they are saying, because the way they set it up it is two separate and distinct sources of authorization. I think the Senator supports my position.

Mr. HATHAWAY. In light of what the Senator just said, I think when the time expires on his amendment I shall offer an amendment to clarify the position that I made so that a State that wishes to do so can go beyond the amount allocated to it in part 2 for the purposes of meals on wheels.

Mr. EAGLETON. If I may ask the Senator from Maine, he thinks that the State should have some local determination, I take it, in deciding how to allocate these funds. Why does he not support leaving the provision as it is in the committee bill?

Mr. HATHAWAY. I think the problem with respect to the local authorization in this case is because it is cheaper to have congregate meals. So you get the board saying, "Here is your choice," to the board, "three meals in St. Joseph's hall or one meal delivered to this poor invalid down the street." They opt for the three meals so they can serve three people that way.

This amendment of the Senator from Massachusetts sets a certain amount of money they can use only for the invalid down the street, and I think that is a good idea.

But there may be some areas of the country where all of that money that is allocated to them under this second part will not be enough for the invalids and others who they want to take care of through the meals on wheels program, and the amendment I will offer at the end of the debate on this amendment when the time expires will be to allow those States to go into part I for any additional funds they want for meals on wheels.

Mr. CHAFEE. Mr. President, the authorization of Senator KENNEDY says, as I understand it, that $x$ dollars of the amount should be for meals for congregate settings. That is part I. The second authorization is meals on wheels.

So, as I understand it, and I can be corrected by the Senator from Massachusetts, under his proposal we cannot achieve what the Senator from Maine is seeking. As I understand the proposal of the Senator from Massachusetts, you

will not be able to use any of the first part, that is, the meals in the congregate setting money for meals on wheels; is that correct? Certainly that is the way I understand it. So what the Senator from Maine is seeking cannot be done under the proposal of the Senator from Massachusetts and to me it just brings up all the problems of us sitting up here in the Senate and telling people down in the local community who are trying to wrestle with these problems what exactly they can do and they cannot do.

To say that they always will come down on the side of feeding more people in the congregate setting and forget the people at home, the homebound, simply does not acknowledge the facts.

In my State 20 percent of the money is spent on meals on wheels, even though they are not required to spend any of it on that.

I simply wish to support firmly what the Senator from Missouri, Senator EAGLETON, and I are working on here which is to give some latitude to the people locally because if we do not we are liable to have the equations thrown all out of whack here when the appropriations bills come through.

Under the proposal of the Senator from Massachusetts one-fifth of all the money is going to be spent on home meals. I am not sure that is the best way it should be spent. It may be in one place and maybe not in another. But also we have to realize that when you say people are homebound many of them can eventually get out to the congregate settings. I think it is good that they do, and I think every incentive should be for them to get out to the congregate areas as soon as they are able for all the benefits that come, as were so wisely pointed out by the Senator from Massachusetts in his initial remarks. There is much more to this than just meals. There is fellowship and companionship and all that comes with the congregate settings.

So I think there are many flaws in this proposal that there be separate appropriations for each.

Mr. KENNEDY. Mr. President, will the Senator from Rhode Island mind if his final comments are on his time because we are running a little short of time?

Mr. CHAFEE. I do not mind.

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Each side has 4 minutes remaining.

Mr. KENNEDY. Mr. President, basically, what I object to is putting the elderly people in the situation where they are fighting with each other in the local communities, in the local agencies. On the one hand, we have the situation where the one elderly group can say you can have three times as many meals if we do it in the congregate site than if we deliver that meal to the person who is shut in, who is farther down the road. That is the situation that is taking place.

Quite frankly, I would rather have them fighting with the Appropriations Committee than fighting among each other. That is rather basic, because I quite frankly think they will do better in that particular arena. Beyond that, it is interesting that the elderly groups that have been living with this program, breathing with this program, benefiting from this program, want this type of division, because they understand it, because they have seen the heartache and tragedy that is taking place in instance after instance around this country.

I salute the State of Rhode Island for the way they have been able to manage it in his home State.

The tragedy is they are forced and required, because they can serve from three to four times the number of congregate sites and they are hard pressed to allocate the resources.

The Senator from Maine asked in a particular situation, and there are rural situations, would it be objectionable to be able to transfer at least from the first section in terms of home-delivered meals. I have no objection to that particular kind of transfer. There are particular kinds of circumstances. The tragedy is unless we earmark for the home delivered meals in those areas we are going to continue what has been the record for the period of the last 3 years nationwide, and that is virtually stability at 10 percent. Given the kinds of needs that the Senator from South Dakota, the Senator from Kansas and I found in the Nutrition Committee there is a crying need for home delivered meals.

So if the Senator from Maine wants to offer that amendment for the particular needs in rural communities, I will welcome it.

I do not know how much time remains, but I am willing to yield back the remainder.

The PRESIDING OFFICER. Does the Senator from Missouri yield back the remainder of his time?

Mr. EAGLETON. Mr. President, we are about at the conclusion of this debate. Lest Senator CHAFEE and I be considered cruel and heartless, let me emphasize that our recommendation, the committee recommendation, increases the amount appropriated for nutrition by $100 million. It increases it 50 percent over what is currently being appropriated. I sometimes am bemused. Every weekend Senators go back home to their constituents. I read some of the clips around the country where Senators have been home. I hear time and again Senators saying the Federal Government is spending too much money.

I hear time and again Senators saying that the deficit is so large that it is feeding the fires of inflation. But then I find it a bit hard to understand that when it comes to the point in time where you are going to say, "Well, this is about what we can afford on this program at this time," then people say, "Let us take the spending limits off."

So far as the national senior citizens groups are concerned they are for more money being spent on the elderly. I understand that. It is part of their lobbying role to support that more money be spent for elderly services.

When I had the group before my committee I asked how much should be spent on some of these programs, and they came up with some very, very huge figures. I asked is there enough money in the Federal budget? They said, "All we know is what we think should go for the elderly." I asked, "Where do you think we ought to have a cut?" They said, "That is for you to determine. All we want to do is to spend more money for the elderly."

We all want to spend more money for the elderly. Nobody is callous, cruel, or heartless. But a 50-percent increase in one fell swoop when the word "veto" looms in the omnipresent, I think, is a very substantial increase in authorization.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to the Senator from Virginia.

Mr. SCOTT. I appreciate the Senator's yielding. I am looking at the report of the committee. I ask the distinguished floor leader if this is accurate. I notice that in 1971 from the table on page 3 it indicates an expenditure apparently for the overall program of $33 million. Then for 1978 there is an expenditure of $696 million. Now that, as I computed here roughly, just in round figures, is an increase of 21 times the amount of money expended in 7 years. I think that more than supports the position the distinguished Senator is taking on this matter.

When you multiply a program by 21 in a period of 7 years that does not indicate chintziness at all, in my judgment.

I would be concerned, not unconcerned, about the elderly because each year we get a little closer to that status, but if we would increase other budgets, other appropriations or authorizations, by that amount, why our deficit would be far greater than it is today.

I appreciate the Senator's yielding. Am I correct in my statements?

The PRESIDING OFFICER. The time of the Senator from Missouri on the amendment has expired.

Mr. EAGLETON. I yield myself 1 minute on the bill.

The Senator from Virginia is correct. In 1971 the total amount appropriated for the Older Americans Act was $33 million. In 1978 it was $696 million. It has gone up in increments as follows: $33 million; the next year $101 million; the next year—this is small print here—$253 million; then $217 million; $245 million; $354 million; $492 million; $696 million, a not insignificant amount of money.

If the Senator from Massachusetts has completed his statement, I am going to move to table the Kennedy amendment and ask for the yeas and nays.

Mr. HATHAWAY. Mr. President, will the Senator withhold his motion to table?

Mr. EAGLETON. Yes.

Mr. HATHAWAY. When all time is yielded back I would like to offer an amendment to the Kennedy amendment which will only take about 5 minutes of discussion, I am sure, because we have already talked about it.

Mr. EAGLETON. We have exhausted our time.

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes remaining.

Mr. KENNEDY. I will yield back my time so the Senator from Maine can get the floor in his own right. I yield back the remainder of my time.

UP AMENDMENT NO. 1474

(Purpose: Relating to "Meals on Wheels" Program)

Mr. HATHAWAY. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment numbered 1474 to the amendment of the Senator from Massachusetts.

Mr. HATHAWAY. Mr. President, I ask unamimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment 2449 to S. 2850, insert the following:

"On page 112 of S. 2850, between lines 18 and 19 insert:

"'(a) With respect to funds received pursuant to section 303(b) (1) and (2), a State may elect in its plan under section 307(a)(12) regarding part C of this title, to transfer a portion of the funds appropriated for subpart 1 to subpart 2 of part C, as the State considers appropriate to meet the needs of the area served.

"'(b) Notwithstanding any other provision of this title a State may use funds appropriated for subpart 1 of part C for subpart 2 home delivered nutrition services to carry out the provisions of this subsection.

Mr. HATHAWAY. Mr. President, the amendment simply allows the States to take money in addition to that appropriated under the Kennedy amendment for meals on wheels, to what we have been referring to as part 1, the general authorization for nutrition, which provides for congregate meals as well as meals on wheels, and this would prevent the Kennedy amendment from being a ceiling or a cap on the amount of money the State wishes to spend for meals on wheels.

It is discretionary with the State to do this, but I think that option should be left up to the States in case their needs for meals on wheels just happened to be greater than what the amount of money actually appropriated under the Kennedy amendment would provide. Otherwise, the adoption of the Kennedy amendment, it seems to me, would result in—we are going to have two parts: One for congregate meals, the part that is now in existence and which the committee very generously provides for additional authorization, plus the Kennedy amendment, which would be for meals on wheels.

I reserve the remainder of my time.

Mr. EAGLETON. The Senator does believe there should be this amount of discretion at the local level; he believes in local determination?

Mr. HATHAWAY. The Senator is correct.

Mr. EAGLETON. How about the other way, a two-way street?

Mr. HATHAWAY. No, I do not think it should be a two-way street, because I do not believe the discretion exercised by the States has been enough for meals on wheels. I think it needs the extra prodding or incentive provided by the Kennedy amendment to have more of that money spent for the meals on wheels program.

Mr. JAVITS addressed the Chair.

Mr. EAGLETON. Does the Senator from Massachusetts accept that modification?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. Will the Senator suspend? The Chair is informed that the Senator from New York has no time. That was transferred to the Senator from Rhode Island.

Mr. JAVITS. Will the Senator from Rhode Island yield?

Mr. HATHAWAY. I would be happy to yield to the Senator from New York.

Mr. JAVITS. The Senator from Rhode Island has my time, so if he will yield——

Mr. CHAFEE. I would be glad to yield.

Mr. JAVITS. Mr. President, as the ranking minority member of the Human Resources Committee, and as an original sponsor of the landmark Older Americans Act of 1965 and subsequent reauthorizations of the legislation, I am pleased to join with Senator EAGLETON and Senator CHAFEE in urging passage of S. 2850.

S. 2850 reauthorizes programs under the Older Americans Act for 2 years, and will substantially improve the operation of the range of programs serving our older population by consolidating and streamlining the administration of these programs at the Federal, State, and area agency level. This consolidation, of the existing title III, State and community services; title V, multipurpose senior centers, and title VII, nutrition services, of the Older Americans Act into a single title will ameliorate the currently fragmented and occasionally duplicative approach which Federal, State, and local governments have taken in confronting the problems of the elderly.

Moreover, this legislation establishes distinct Federal priorities in the provision of a broad range of services to older persons, and requires that these priorities, which address three of the greatest needs of the elderly—for transportation, in-home services, and legal services—be implemented within each area agency on aging. This will insure that these essential services are provided to those older persons who need them, while simultaneously taking into account the often differing needs of the elderly living in various regions of the Nation.

While the existing title VII nutrition program is administered under the new consolidation, a separate authorization is provided for nutrition services, assuring that funds appropriated for nutrition will be reserved especially for that purpose. Nevertheless, nutrition services are to be provided in conjunction with, not in isolation from, social services mandated by this act and by other statutes. Nutrition sites and multipurpose senior centers have together served for many years as the focus for the effective delivery of a wide range of social services for the elderly. This legislation retains the concept of a central locale for delivery of services within communities, and provides that nutritional and other social services for the elderly are properly integrated.

S. 2850 retains the current Federal/non-Federal matching requirement of 90/10 in the first fiscal year of the bill, and increases the non-Federal match to 15 percent in fiscal year 1980. I have grave concerns about increasing this match even in the second year authorized by this bill, for our States and communities are extremely hard-pressed to come up with matching funds. These concerns are somewhat mollified by the inclusion of a waiver of the match in disaster and economically depressed areas. This extension will now also include waiver authority for areas suffering from higher unemployment.

Mr. President, after careful deliberation, the Human Resources Committee elected not to include in the nutrition program authorization in S. 2850 separate authority for home-delivered meals. It must be reiterated, however, that operators of nutrition projects will retain the discretion to determine what proportions of its funds are to be used for meals in congregate settings and for home-delivered meals. Such project operators may well determine that elderly persons in their communities may better be served through emphasis on home-delivered meals. This determination is best made, however, at the State and local level rather than at the Federal level.

Mr. President, in regard to the nutrition program, I will offer a perfecting amendment to section 331 of the bill to provide that nutrition projects provide daily at least one hot, or other appropriate nutritional meal. This will allow for seasonal or climatic variations in which hot meals may be from time to time inappropriate, but simultaneously insures that recipients of nutrition services are provided diets which have at least an equal nutritional value as a hot meal, while reaffirming the continued focus of Older Americans Act nutrition services upon hot meals.

S. 2850 requires each State to develop a formula for intrastate distribution of funds. This formula will enable each State to best meet its own unique needs under the consolidation, while simultaneously maintaining the Federal purpose of the Older Americans Act by allowing the formula to take into account the incidence of impoverished and minority elderly within the State.

Thus, the intrastate distribution formulae will not necessarily be uniform among the States, but will provide each State aging agency with sufficient flexibility to meet the special needs of particular segments of the elderly population. Furthermore, the review procedures required for the distribution formula will allow for proper public scrutiny of intrastate allocation of funds and will improve the accountability of the activities of State aging agencies.

The Older Americans Act Amendments of 1973 created a nationwide system of area agencies on aging to provide for

better administration and integration of services at the State and local levels. Since the passage of these amendments, the basic administrative units for delivery of services to the elderly has been the area agency. Current law provides that a unit of local government with a population of at least 50,000 elderly, or which contains 15 percent or more of a State's elderly population, be designated as a planning and service area (PSA). S. 2850 amends existing law to allow any unit of local government with a total population of at least 100,000 to apply to the State for designation as a PSA. This will provide smaller urban areas the flexibility to better plan and coordinate services for the aging at the local level.

The 1975 Older Americans Act Amendments sought to better balance the need for national objectives for services to the aging with a flexible and practicable system of services at the local level, taking into account specific community needs. A recent study conducted for the Administration on Aging indicated that despite this effort in the 1975 act to provide greater local focus of services, services continue to be widely dispersed and unfocused at the local level, so as often to render scarce resources diffused and ineffective at meeting the needs of older Americans.

Therefore, S. 2850 attempts to better concentrate this hodgepodge of current services by requiring that 50 percent of each area agency's social service allotment be targeted for access services—transportation, outreach, information, and referral—in-home services—homemaker, home health aide, visiting, telephone reassurance, and home maintenance—and legal services. In hearings on the Older Americans Act held by the Subcommittee on Aging, these services were consistently identified by both providers and recipients as those most frequently required by the elderly. While this legislation mandates priority services, discretion as to what proportion of the 50 percent set-aside is to be targeted to each of the three services remains at the local level.

The legal service priority represents a significant improvement over existing law. S. 2850 mandates area agencies on aging to enter into contracts with current Legal Services Corporation grantees or other equally capable legal service providers. Substitution of funds provided under the new legal services authority for existing projects is prohibited, and existing levels of support must be retained. Furthermore, Mr. President, legal service projects under the Older Americans Act are subject to the same restrictions as to those assisted under the Legal Services Corporation Act, excepting income eligibility tests and composition requirements of Corporation governing boards at the local level.

S. 2850 continues most of the current provisions of the State plan of services for older Americans, and adds to the plan a significant new provision that States establish and operate nursing home ombudsman programs, which has heretofore been operated as a model project by States on an ad hoc basis. This program will provide that the health, welfare, and rights of residents of long-term care facilities are insured, and will afford such residents appropriate administrative action to investigate and resolve complaints made by them or on their behalf.

One of the most critical of Federal programs, Mr. President, has been community service employment programs for older Americans. Title IX, redesignated in this legislation as title V, was an outgrowth of Operation Mainstream, first funded in 1965 under the Economic Opportunity Act. This program has, since its initial enactment, served thousands of low-income persons aged 55 and over who have poor employment prospects. From small beginnings in 1965, the senior employment program, administered by the Department of Labor, has grown to support 47,500 job slots at a funding level of $190 million in fiscal year 1978. S. 2850 increases the authorization level to $300 million in fiscal year 1979 and $350 million in fiscal year 1980.

Currently, 80 percent of funds for the older Americans employment program are channeled through five national contractors. The remaining 20 percent of funds have been allocated to the States. During hearings on the Older Americans Act during the current and past Congresses, State, and area units on aging indicated concern with insufficient coordination between the States and national contractors in the design and implementation of employment projects. To improve such coordination, S. 2850 includes provisions for prior review and comment by the State aging agency on projects conducted in a State by national sponsors.

Finally, Mr. President, S. 2850 authorizes a fourth White House Conference on Aging in 1981 and authorizes the U.S. Civil Rights Commission to undertake a study of racial or ethnic discrimination against older Americans. These two efforts will enable us to plan our national policy on the aging for future decades. This will help insure equal opportunity for all older Americans, and will help us to further enhance the dignity and self-respect with which all older Americans should live.

Mr. President, I urge my colleagues to support S. 2850.

In conclusion, Mr. President, I would be remiss if I did not recognize the diligent and exemplary work of the chairman of the Subcommittee on Aging, Senator EAGLETON, who held 7 days of hearings on the Older Americans Act, and to thank the subcommittee staff, Marcia McCord and Steve Roling, for their tireless work on this bill. The subcommittee conducted 8 days of hearings on the Older Americans Act, during which more than 60 witnesses were heard on a wide variety of problems and issues facing the elderly. These hearings, and the subsequent findings of the committee, were critical to the genesis of this bill. I would also like to thank the ranking minority member of the subcommittee, Senator CHAFEE, for his contribution to the development of this bill.

Mr. President, I should also like to bring to the Senate's attention the substantial contributions to this bill made by Senator PETER V. DOMENICI, the ranking minority member of the Senate Special Committee on Aging, and to thank him for his constructive and cooperative work with our committee on this measure.

I would also like to thank Fran Paris of Senator CHAFEE's staff, Jack Wickes of Senator CRANSTON's staff, Mary Wheat of Senator DOLE's staff, and David Rust and Letitia Chambers of Senator DOMENICI's Special Committee on Aging staff, and David Morse and Mike Hermann—who is interning for the summer—of my staff, for their hard work on this measure.

I want to declare myself as very strongly in favor of the bill. I think Senator EAGLETON and Senator CHAFEE have done a marvelous job on this bill. I know there will be amendments, but I hope the amendments will recognize the fundamental structure which has come here, which include many provisions of the most critical character. I think it is splendid work.

Lastly, Mr. President, I hope that Senator KENNEDY might find it possible, in pursuance of the structure of the bill as brought in, to consolidate what he has in mind with the money in the bill and to require that a certain proportion of it might be spent for the purposes of meals on wheels, something along the idea of Senator HATHAWAY. But I gather that may not be possible for him, and I regret it.

I can only say that as one of the conferees, I will do my utmost, if the amendment does carry. I am going to stand with the committee, I wish to make that very clear, but I would hope we can work something out which will keep the unitary character of this particular fund.

I thank the Chair.

Mr. KENNEDY. Mr. President, will the Senator from Maine yield?

Mr. HATHAWAY. Yes.

Mr. KENNEDY. Just in terms of the comments of the Senator from New York. Basically, the House has two separate items, two separate authorizations. It also includes effectively the amendment of the Senator from Maine. So rather than dividing or going back into one pot in a different form, I would be willing to urge the Senate to accept the proposal of the Senator from Maine. I think it will have application in rural communities and in rural States, and that is where, it seems to me eminently wise it should be for that purpose. Then effectively we will be in agreement with the House except for some difference in the level of authorization.

It will reduce actually the items of difference and really the fundamental issue will be the question of authorization. So I, at an appropriate time, would urge the Senate to accept the amendment of the Senator from Maine. I would have asked consent to move it but, as I understand, since we do have—we have no order, am I right, Mr. President, we have no order, there has not been an order for the yeas and nays yet?

The PRESIDING OFFICER. The motion to table has not been made.

Mr. KENNEDY. But have the yeas and nays been ordered yet?

The PRESIDING OFFICER. No.

Mr. KENNEDY. Then I would move that the Hathaway amendment be accepted.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HATHAWAY. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine (Mr. HATHAWAY).

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the Hathaway amendment.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, at a later time, then, I will move to table the Kennedy amendment.

Mr. KENNEDY. Mr. President, may I inquire of the Senator why he does not move to table the Kennedy amendment and the Hathaway amendment?

Mr. EAGLETON. You can modify yours.

The PRESIDING OFFICER. If Senators will suspend, the yeas and nays have been ordered on the Hathaway amendment to the Kennedy amendment, but the unanimous-consent agreement is that no rollcall votes will be taken before 3 o'clock.

Mr. EAGLETON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAGLETON. If I move to table the Kennedy amendment, and if that motion were to prevail, that would then take in both the Kennedy amendment and the Hathaway amendment?

The PRESIDING OFFICER. If the Senator made such a motion, and it prevailed, then the Hathaway amendment would fall along with the Kennedy amendment.

Mr. EAGLETON. Yes. I move to table the Kennedy amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. EAGLETON. Yes.

Mr. KENNEDY. For the purposes of everyone understanding what our position is, I want the Members to know that, were the amendment not tabled, we would accept the Hathaway amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, could I ask unanimous consent to have the Hathaway amendment accepted as a part of my amendment?

The PRESIDING OFFICER. The Senator from Massachusetts is asking unanimous consent to have the Hathaway amendment accepted as a part of the amendment of the Senator from Massachusetts. Is there objection?

Hearing no objection, the Hathaway amendment is adopted as a part of the Kennedy amendment. Without objection, the yeas and nays on the Hathaway amendment are vacated.

UP AMENDMENT NO. 1475

(Purpose: To authorize a project for transition to private employment of public service jobholders)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1475.

On page 146, between lines 2 and 3——

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 146, between lines 2 and 3, insert the following new subsection:

"(e) The Secretary is authorized, in addition to any other authority contained in this title, to enter into agreements designed to assure the transition of individuals employed in public service jobs under this title to employment opportunities with private business concerns. The Secretary is authorized, from amounts reserved pursuant to section 506(a)(1)(B) in any fiscal year, to pay all of the costs of any agreement entered into under the provisions of this subsection.

On page 149, line 2, insert "(A)" after "(1)".

On page 149, between lines 22 and 23, insert the following:

"(B) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount not to exceed one per centum of the amount appropriated in excess of the amount appropriated for the fiscal year 1978 for the purposes of entering into agreements under section 502 (e), relating to improved transition to private employment.

Mr. DOMENICI. Mr. President, while we are all very proud of the fact that this legislation, both the past language and the new language, authorizes part-time public service employment for senior citizens—in fact we are providing about 47,500 job slots—I am genuinely concerned about the fact that while in most programs similar to this, such as the basic CETA programs, we have made somewhat of an effort to move those that we are training and getting ready for employment through a full-time or part-time employment mechanism for making some effort to try to move them over into the private sector, the fact is that in this particular program for our senior citizens, we are making no such effort. My amendment provides the following: The 1 percent of the new money provided can be used by the secretary to provide demonstration programs for our senior citizens to move out of the public service or quasi-public service employment rolls into the private sector.

We believe such an approach can work if the resources are provided. If it works, what we are doing is providing more opportunities for our senior citizens to fill the part-time slots we provide.

As I have stated, Mr. President, we now have a part-time public service employment program with an authorized strength of approximately 47,500 job slots. This program, which is authorized as part of the Older Americans Act, is administered by the Department of Labor. The older workers are part-time employees who are involved in a number of community-oriented projects across our Nation. Part of the program is adminstered by the State, and part by a number of "national contractors" who have been directly involved in this program since its inception.

This program has been a tremendous boom to those senior citizens who are low income and, for the most part, poorly skilled in terms of our modern and highly sophisticated economy. It has given these individuals added income, self-respect, new skills, and the all-important feeling of being needed, wanted, useful and active in their community. At the present time, however, we are serving less than one percent of the eligible older workers. For those older workers who are fortunate enough to be involved in this program, many opportunities for service have been opened. For those needy individuals who are still on the outside, there is a crying need for a meaningful opportunity to remain useful members of their community.

My amendment would seek to increase the turnover in the title V program. As older workers come into the program and develop jobs skills, improve working habits, and renew self-assurance; the opportunity begins to arise for placement in the private sector. Up until this time, little if any effort was made to take advantage of this opportunity. My amendment would authorize the Secretary of Labor to set aside 1 percent of the new money appropriated for this program above the fiscal year 1978 level. With that money, the Department could operate demonstration programs designed to test various techniques for helping title V employees make the transition from the public payroll to the private sector. This may not be possible in all cases, Mr. President, and in fact it may not be possible in the majority of cases. Where it can be done, I think it will benefit the older worker, the program, and those yet unserved.

Mr. President, I hope that the distinguished managers of this bill would agree with me that the Secretary of Labor should have the flexibility to pursue this avenue for increasing employment opportunities for older workers, and would accept this amendment and work for its retention in the Conference Committee.

Mr. McCLURE. Mr. President, I ask unanimous consent that Merle Cox of the Senate Budget Committee be accorded the privilege of the floor at all stages in this proceeding.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DOMENICI. Mr. President, first, I ask whether the Senator from Rhode

Island and the Senator from Missouri have any objection to this amendment.

Mr. EAGLETON. We have looked at this amendment, which would set aside 1 percent of title V funds above the 1978 funds. This is a provision in the bill that I think Senator DOMENICI introduced late last year and goes along with the Senate CETA bill. On the whole I think it is a commendable idea.

Mr. JAVITS. Will the Senator yield?

Mr. DOMENICI. I yield.

Mr. JAVITS. Mr. President, I might say that I am offering an amendment later on in the discussion which will give the States notice. There is no effective coordination now between the States and the contractors who handle this type of employment. My amendment will bring about such coordination and notice to the States without restricting the contractors so they cannot do their job, but enabling the State to bring about a better coordination than exists today. It will fit in with the amendment which the Senator has just offered.

Mr. DOMENICI. I thank the Senator from New York.

Does the Senator from Rhode Island have any objections?

Mr. JAVITS. I understand he does not.

Mr. EAGLETON. The Senator from Rhode Island spoke to me and he has no objection.

Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time, Mr. President.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PARLIAMENTARY INQUIRY

Mr. EAGLETON. A parliamentary inquiry, Mr. President. The time of 3 o'clock having now arrived, do we now vote on the three amendments: The Melcher amendment, the motion to table the Kennedy amendment, and now the Domenici amendment?

The PRESIDING OFFICER. Since there is no other amendment pending, that is the case.

Mr. DOMENICI. A parliamentary inquiry, Mr. President. Is the present order that we commence voting at this hour?

The PRESIDING OFFICER. It was that we would not vote before 3 o'clock.

Mr. EAGLETON. It would be permissible to go ahead and take other amendments, is that correct, Mr. President?

The PRESIDING OFFICER. The Chair is informed by the parliamentarian that the order was that we would not vote before 3, but would start voting at 3, if no other amendment was pending at that time. The Chair is informed that there is now another amendment upon which a vote has been ordered. So the vote will be in the following sequence: First, the Melcher amendment; second, the motion to table the Kennedy amendment, and, third, the Domenici amendment.

Mr. DOMENICI. Mr. President, a parliamentary inqury.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Would the floor managers object if additional amendments are offered and we back them up after the ones we have agreed upon?

Mr. EAGLETON. I would object to that. We might have 22 votes backed up and we would not know which ones were which.

Mr. President, I ask unanimous consent that the time on the second and third votes be 10 minutes.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that an amendment I had planned to offer, which is acceptable to the manager of the bill, be considered at this time. I have the assurance of the Senator from South Dakota that he will not call for a rollcall vote. This could be handled in just a minute's time.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, how will we make that kind of decision on the other amendments we have pending?

Mr. CHURCH. By unanimous consent.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the Senator from Idaho is recognized.

UP AMENDMENT NO. 1476

(Purpose: To provide for supportive services in the delivery of nutrition projects for a two-year phase-out period)

Mr. CHURCH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 1476.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, line 11, strike out "and".

On page 101, line 22, insert "and" after the semicolon.

On page 101, between lines 22 and 23, insert the following:

"(G) each State agency may, only for fiscal years 1979 and 1980, use not to exceed 20 percent of the amounts allotted under part C to the State for supportive services directly related to the delivery of congregrate or home delivered meals;

Mr. CHURCH. Mr. President, this amendment to S. 2850 continues for 2 years the support for other services under the nutrition program for the elderly.

Current regulations allows States to use up to 20 percent of their nutrition program budgets to support other services which are necessary to operate a nutrition program effectively. These supportive services—transportation, information and referral, nutrition and health counseling, and recreation activities—combine with the well-balanced meal to provide a comprehensive services package for the participants.

The Senate bill, S. 2850, would eliminate this authority because it consolidates the nutrition and social services titles under the Older Americans Act. The bill assumes that the nutrition program will be coordinated with other services which are provided through the area agencies to offer comprehensive services to older persons. But this will take time.

Therefore, my amendment would allow the States a 2-year grace period to permit funding for the nutrition program to be used to support other services directly related to the delivery of congregate and home-delivered meals. During this time, the States can work with nutrition projects to develop a comprehensive service system that will satisfactorily coordinate the nutrition services with other programs.

This coordination was intended by the consolidation of titles under both the Senate (S. 2850) and House (H.R. 12255) bills. This consolidation, though, must be gradual. We do not want to interrupt the delivery of services to the elderly and must allow the States to make these adjustments efficiently and in a timely manner.

Mr. President, the nutrition program would not be as effective if transportation were not available to take the elderly to and from meal sites. Oftentimes, the participants need medical care and other services. The nutrition sites are ideal settings for delivering services or informing the elderly about other programs.

S. 2850 offers other waivers that might be necessary for the State and area programs to use to reach the goals of consolidation. I think a 2-year grace period for the nutrition projects to support other related services is also necessary to assure a smooth transition.

The effect of this amendment would be to permit the 20-percent requirement to continue to be used in the interest of an orderly transition. It would limit the time to a 2-year period. This simply means that we avoid an immediate cutoff of one practice with the substitution of another and allow the agencies sufficient time to make the transition. I understand that the amendment is wholly acceptable to the manager of the bill. I urge the Senate to agree to this amendment.

I ask for the comments of the manager of the bill before moving the amendment.

Mr. EAGLETON. May I ask the Senator from Idaho, in the actual body of the amendment, the exact language of which I have not seen, is there a 2-year expiration clause?

Mr. CHURCH. Yes. That 2-year limitation is included in the text of the amendment itself.

Mr. EAGLETON. So the purpose of the Senator's amendment would be to allow ample time for the kind of transition in these nutrition projects as is set forth in the bill?

Mr. CHURCH. The Senator is correct.

Mr. EAGLETON. I have no objection to the amendment.

Mr. CHURCH. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. Does the Senator from Missouri yield back his time?

Mr. EAGLETON. One minute, if we may, Mr. President.

Mr. CHAFEE. I have no objection.

Mr. EAGLETON. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. DOMENICI. Will the Senator from South Dakota indicate whether he has any criteria in regard to which amendments we will consider?

Mr. ABOUREZK. I have no criteria. I just asked for rollcalls on several amendments.

Mr. DOMENICI. I thought the procedure would be a little different.

Mr. ABOUREZK. So did I. There was a little misunderstanding between Senator CHURCH and myself. I thought he had the Mormon Trail amendment.

I want to explain to my colleagues that I have been informed by the leadership that the chairman of the Energy Committee (Mr. JACKSON) has agreed with the leadership that the natural gas deregulation bill will come up next week. They are holding back, and apparently this is a joint decision between the House and Senate leadership and the administration, the President and Secretary Schlesinger, the major part of the President's energy package to use as some sort of leverage to try to deregulate natural gas. That is a kind of pressure that none of us have any control over, obviously.

The PRESIDING OFFICER. Who yields time to the Senator from South Dakota?

The Senator has no time.

Mr. ABOUREZK. Will the Senator from Missouri yield a couple of minutes?

Mr. EAGLETON. I yield 2 minutes to the Senator from South Dakota.

Mr. ABOUREZK. I just wanted to explain to my colleague that the leadership properly has the prerogative for scheduling and those of us who are Members of the Senate do not have many prerogatives except to create some sort of counterpressure against the pressure applied by the leadership. I do not know any better way to do it than to get us all on record on a lot of these amendments. That is the only thing. I assumed the Senator from Idaho was going to bring up the Mormon Trail bill. I had no idea it was going to be an amendment on the Older Americans Act.

Mr. DOMENICI. I thank the Senator.

MELCHER UP AMENDMENT NO. 1473

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. MAGNUSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—89

| | | |
|---|---|---|
| Abourezk | Gravel | Metzenbaum |
| Allen | Hansen | Morgan |
| Baker | Hart | Moynihan |
| Bartlett | Haskell | Muskie |
| Bayh | Hatch | Nelson |
| Bellmon | Hatfield, Mark O. | Nunn |
| Biden | Hatfield, Paul G. | Packwood |
| Brooke | Hathaway | Pearson |
| Bumpers | Hayakawa | Pell |
| Burdick | Heinz | Proxmire |
| Byrd, Harry F., Jr. | Helms | Ribicoff |
| Byrd, Robert C. | Hodges | Riegle |
| Cannon | Huddleston | Roth |
| Case | Humphrey | Sarbanes |
| Chafee | Inouye | Sasser |
| Chiles | Jackson | Schmitt |
| Church | Javits | Schweiker |
| Clark | Johnston | Scott |
| Culver | Kennedy | Sparkman |
| Curtis | Laxalt | Stafford |
| Danforth | Leahy | Stennis |
| DeConcini | Long | Stevens |
| Dole | Lugar | Stevenson |
| Domenici | Mathias | Talmadge |
| Durkin | Matsunaga | Thurmond |
| Eagleton | McClure | Wallop |
| Eastland | McGovern | Williams |
| Ford | McIntyre | Young |
| Garn | Melcher | Zorinsky |
| Goldwater | | |

NAYS—0

NOT VOTING—11

| | | |
|---|---|---|
| Anderson | Griffin | Randolph |
| Bentsen | Hollings | Tower |
| Cranston | Magnuson | Weicker |
| Glenn | Percy | |

So Mr. MELCHER's amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEBATE ON MOTION TO TABLE KENNEDY AMENDMENT

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senator from Oklahoma be permitted about 2 minutes on the motion to table the Kennedy amendment.

Mr. KENNEDY. Mr. President, reserving the right to object—is it 12 minutes to either side?

Mr. EAGLETON. Mr. President, I ask unanimous consent that there be 4 minutes, equally divided, on the motion to table the Kennedy amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. EAGLETON. I yield 2 minutes to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, I commend the Human Resources Committee for the administrative efficiency and consolidation this bill would achieve. There is no group more deserving of our assistance than our senior citizens. They have given many years of productivity to our country; and they will be best served by a coordinated program delivery system, with a minimum of overlap and a maximum of administrative efficiency. I must, therefore, add my voice to that of the manager of the bill in opposition to the Kennedy amendment.

Senator KENNEDY would have us enact a separate authorization for home-delivered meals. On the surface of it, this sounds like home, hearth, and motherhood. Who can be against home-delivered meals for shut-in senior citizens? But I remind my colleagues that this bill already carries an authorization for home-delivered meals. As presented to us today, the act would allow States to decide the appropriate mix of home-delivered and congregate meal activities, based on the needs of each of their populations. This seems to me the sensible approach and the approach most consistent with the theme of consolidation under this act.

The Kennedy amendment, on the other hand, Mr. President, would fragment the authorization presently in the bill for both congregate and home-delivered meals. (That authorization is $375 million for fiscal year 1979, which represents an increase of $100 million over the fiscal year 1978 authorized level, and $425 million for fiscal year 1980.) The Kennedy amendment, however, would add a separate authorization of $100 million for fiscal year 1979 and $120 million for fiscal year 1980 for home-delivered meals.

The administration regards the level of authorization in S. 2850 as already too high. If all the authorizations included in the bill were fully funded, or even if the past ratio of appropriations to authorization for older Americans programs were to prevail, the appropriations would exceed the assumptions contained in the first budget resolution targets. (The bill authorizes expenditures of $1.1 billion in fiscal year 1979, and $1.2 billion in fiscal year 1980.) Appropriations for programs under the Older Americans Act have increased over 2,000 percent—from $28,360,000 to $696,700,000—between 1970 and 1978.

None of this is to imply that I begrudge 1 red cent we are spending to assist our senior citizens. Nor do I take the position that this authorization breaches the targets in the first budget resolution. The Appropriations Committee has given every indication that it will exercise restraint in this and other appropriations this year.

My point is, Mr. President, that there is nothing that can be done under the Kennnedy amendment that cannot be done under the bill before us; and there is absolutely no justification for, indeed no need for, the increased authorizations included in the Kennedy amendment. If the proponents of the Kennedy amendment want more funding for home-delivered meals, let them argue their case in appropriations. Let us not confuse the issue in debating this authorization; and let us not undermine the Senate position in favor of consolidation in the conference by adding categorical programs of our own. I urge all my colleagues to oppose the Kennedy amendment and to support the committee-reported bill.

The amendment would have the effect only of making the bill more difficult to administer, and in this way it defeats the purpose the committee had in mind when S. 2850 was brought before us.

I feel strongly that we should stay on target and try to write a bill that has the minimum of overlap and the maximum of administrative efficiency; and I believe that the Kennedy amendment goes in the opposite direction.

EXPANDING THE HOME-DELIVERED MEALS PROGRAM FOR OUR ELDERLY

● Mr. CULVER. Mr. President, as a cosponsor of this amendment to provide for a separate increased authorization for home-delivered meals under the Older Americans Act, I wish to express my support of the concept and urge my Senate colleagues to adopt it.

I believe there are few things the Federal Government can do that are more important than providing elderly Americans with well-balanced meals at least once a day. Title VII of the Older Americans Act, the nutrition program, currently provides some 480,000 meals per day. Approximately 410,000 of these meals are served in a congregate setting such as a church or senior citizen center. This highly effective and popular congregate meals program not only furnishes hot meals at least five times a week, but also offers a significant opportunity for many senior citizens to share one another's company. The remaining 70,000 meals per day—or about 15 percent of title VII meals—are delivered directly to the homes of older Americans who are unable to participate in the congregate meals setting.

However, since both congregate meals and home-delivered meals are funded by title VII appropriations, the two programs must compete for the limited funds available. Yet the emphasis in title VII is on congregate meals. The unfortunate result is that the present level of mobile meals delivery falls far short of the need. The U.S. Commission on Aging estimates that about 14 percent of people 65 and older who are not in institutions are either homebound or bedfast. Studies have revealed that some 3 to 4 million elderly Americans are homebound and cannot partake in the congregate meals program.

Many of these people are actually unable to prepare a meal, because they are bedfast or suffer failing health. Others may lack the incentive to cook meals regularly, particularly if they live alone. Still others, willing and able to fix a meal, cannot get to a grocery store because they are homebound.

Mr. President, this amendment is also beneficial from the standpoints of the individual preferences of senior citizens and the savings the public realizes by avoiding institutionalization for many elderly citizens. Most senior citizens would prefer to stay in their homes rather than live in a nursing home. These home-delivered meals, in conjunction with homemaker services and home health care, can perform a vital role in helping thousands of elderly citizens stay in their homes and avoid institutionalization. A recent General Accounting Office study demonstrated that the average public cost of in-home services, including a meal, ranges from $78 to $172 a month, depending on the degree of health care. This contrasts rather sharply with the average public cost for nursing home care of $458 per month. In other words, supportive services delivered in the home cost the public from one-sixth to one-third of the cost of nursing home care.

Mr. President, as reported from committee, this legislation would authorize approximately 680,000 congregate meals and 120,000 home-delivered meals daily in fiscal year 1979. Our amendment would authorize some 215,000 home-delivered meals daily and, by freeing funds for congregate meals, would permit about 800,000 group meals each day. This amendment would create a separate authorization for mobile meals of $100 million for fiscal year 1979 and $120 million for fiscal year 1980, and would eliminate the competition for funds between the congregate meals and mobile meals programs.

Mr. President, I have received numerous communications from responsible Iowa officials in support of this concept of a separate authorization for mobile meals. I urge my Senate colleagues to recognize the unique roles both the congregate meals program and the home-delivered meals program fulfill, and support this amendment to separate and expand the funding for each.●

Mr. EAGLETON. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts, as amended. On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. MAGNUSON), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), and the Senator from Texas (Mr. BENTSON) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 30, nays 60, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—30

| | | |
|---|---|---|
| Bellmon | Hansen | Packwood |
| Bumpers | Hatch | Pearson |
| Byrd, Harry F., Jr. | Hayakawa | Proxmire |
| | Javits | Roth |
| Chafee | Laxalt | Scott |
| Curtis | Long | Stennis |
| Danforth | Lugar | Talmadge |
| Eagleton | McClure | Wallop |
| Eastland | Muskie | Young |
| Garn | Nelson | |
| Goldwater | Nunn | |

NAYS—60

| | | |
|---|---|---|
| Abourezk | Hart | McIntyre |
| Allen | Haskell | Melcher |
| Baker | Hatfield, Mark O. | Metzenbaum |
| Bartlett | | Morgan |
| Bayh | Hatfield, Paul G. | Moynihan |
| Biden | | Pell |
| Brooke | Hathaway | Ribicoff |
| Burdick | Heinz | Riegle |
| Byrd, Robert C. | Helms | Sarbanes |
| Cannon | Hodges | Sasser |
| Case | Hollings | Schmitt |
| Chiles | Huddleston | Schweiker |
| Church | Humphrey | Sparkman |
| Clark | Inouye | Stafford |
| Culver | Jackson | Stevens |
| DeConcini | Johnston | Stevenson |
| Dole | Kennedy | Stone |
| Domenici | Leahy | Thurmond |
| Durkin | Mathias | Williams |
| Ford | Matsunaga | Zorinsky |
| Gravel | McGovern | |

NOT VOTING—10

| | | |
|---|---|---|
| Anderson | Griffin | Tower |
| Bentsen | Magnuson | Weicker |
| Cranston | Percy | |
| Glenn | Randolph | |

So the motion to lay on the table Mr. KENNEDY's amendment No. 2449, as amended, was rejected.

KENNEDY AMENDMENT 2449, AS AMENDED

The PRESIDING OFFICER. The question recurs on agreeing to the amendment, as amended, of the Senator from Massachusetts. (Putting the question.)

Mr. ABOUREZK. The yeas and nays have been ordered.

The PRESIDING OFFICER. Not on the amendment but on the motion to lay on the table.

Mr. ABOUREZK. I will ask for the yeas and nays.

The PRESIDING OFFICER. The Chair states they have not been ordered on the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from South Dakota requests the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SCOTT (after having voted in the negative). Mr. President, on this vote

I have a pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present, and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 59, nays 29, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—59

| | | |
|---|---|---|
| Abourezk | Hart | McIntyre |
| Allen | Haskell | Melcher |
| Baker | Hatfield, | Metzenbaum |
| Bartlett | Mark O. | Morgan |
| Bayh | Hatfield, | Moynihan |
| Biden | Paul G. | Pell |
| Brooke | Hathaway | Ribicoff |
| Burdick | Heinz | Riegle |
| Byrd, Robert C. | Helms | Sarbanes |
| Cannon | Hodges | Sasser |
| Case | Hollings | Schmitt |
| Chiles | Huddleston | Schweiker |
| Church | Humphrey | Sparkman |
| Clark | Inouye | Stafford |
| Culver | Jackson | Stevens |
| DeConcini | Johnston | Stevenson |
| Dole | Kennedy | Stone |
| Domenici | Leahy | Williams |
| Durkin | Mathias | Zorinsky |
| Ford | Matsunaga | |
| Gravel | McGovern | |

NAYS—29

| | | |
|---|---|---|
| Bellmon | Goldwater | Nelson |
| Bumpers | Hansen | Nunn |
| Byrd, | Hatch | Packwood |
| Harry F., Jr. | Hayakawa | Pearson |
| Chafee | Javits | Proxmire |
| Curtis | Laxalt | Roth |
| Danforth | Long | Stennis |
| Eagleton | Lugar | Talmadge |
| Eastland | McClure | Wallop |
| Garn | Muskie | Young |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED

Scott, against

NOT VOTING—11

| | | |
|---|---|---|
| Anderson | Griffin | Thurmond |
| Bentsen | Magnuson | Tower |
| Cranston | Percy | Weicker |
| Glenn | Randolph | |

So Mr. KENNEDY's amendment (No. 2449), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DOMENICI UP AMENDMENT NO. 1475

The PRESIDING OFFICER (Mr. JOHNSTON). The question is on agreeing to the amendment (No. 1475) of the Senator from New Mexico (Mr. DOMENICI). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—89

| | | |
|---|---|---|
| Abourezk | Gravel | Melcher |
| Allen | Hansen | Metzenbaum |
| Baker | Hart | Morgan |
| Bartlett | Haskell | Moynihan |
| Bayh | Hatch | Muskie |
| Bellmon | Hatfield, | Nelson |
| Biden | Mark O. | Nunn |
| Brooke | Hatfield, | Packwood |
| Bumpers | Paul G. | Pearson |
| Burdick | Hathaway | Pell |
| Byrd, | Hayakawa | Proxmire |
| Harry F., Jr. | Heinz | Ribicoff |
| Byrd, Robert C. | Helms | Riegle |
| Cannon | Hodges | Roth |
| Case | Hollings | Sarbanes |
| Chafee | Huddleston | Sasser |
| Chiles | Humphrey | Schmitt |
| Church | Inouye | Schweiker |
| Clark | Jackson | Scott |
| Culver | Javits | Sparkman |
| Curtis | Johnston | Stafford |
| Danforth | Kennedy | Stennis |
| DeConcini | Laxalt | Stevens |
| Dole | Leahy | Stevenson |
| Domenici | Long | Stone |
| Durkin | Lugar | Talmadge |
| Eagleton | Mathias | Wallop |
| Eastland | Matsunaga | Williams |
| Ford | McClure | Young |
| Garn | McGovern | Zorinsky |
| Goldwater | McIntyre | |

NAYS—0

NOT VOTING—11

| | | |
|---|---|---|
| Anderson | Griffin | Thurmond |
| Bentsen | Magnuson | Tower |
| Cranston | Percy | Weicker |
| Glenn | Randolph | |

So Mr. DOMENICI's amendment (UP amendment No. 1475) was agreed to.

UP AMENDMENT NO. 1477

(Purpose: To continue existing law with respect to the State share of expenditures under the State plan)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. CRANSTON, proposes unprinted amendment numbered 1477.

Mr. JAVITS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 113, line 22, beginning with the word "Beginning", strike out through "per centum" on line 23 and insert in lieu thereof the following: "For each fiscal 1 year, not less than 25 per centum".

The following Senators requested and, by unanimous consent, the privilege of the floor throughout debate and votes on S. 2850 was granted in behalf of the following staff members: Mr. DANFORTH: Nancy Altman; Mr. EAGLETON: Terry Swanson; Mr. DURKIN: Bob Lawrence; Mr. HASKELL: Susan Manes; Mr. CLARK: Helen Colvin; Mr. WALLOP: Dale Wheeler; Mr. CHILES: Rick Farrell; Mr. GRAVEL: Hilda Woods; Mr. BUMPERS: Gregg Jones; Mr. CANNON: Bruce Eggers; and Mr. DOLE; Mary Wheat.

Mr. GRAVEL. Will the Senator from New York yield to me? I have a very brief amendment. I do not know what his amendment is. If the Senate is prepared to accept it——

Mr. JAVITS. Mine is brief, too, Mr. President.

Mr. GRAVEL. Then I shall wait.

Mr. JAVITS. Mr. President, I offer for myself and Senator CRANSTON this amendment to continue the public share of the State match at existing levels.

Section 309(b)(1) of S. 2850 doubles to 50 percent the portion of the State-local match which must be met from State or local public sources. Currently the State-local share is 10 percent of the total funds provided for a State under the act, with the Federal share being 90 percent. Of the 10 percent provided by a State, 25 percent must be met from State or local tax revenues.

The increase from 25 percent to 50 percent is counterproductive for several reasons. First, all levels of government work under fiscal limitations; even at the 25-percent level it is difficult for many counties in my home State of New York, and nationwide, to secure matching resources. They are often hard pressed to provide the local matching funds in order to utilize much-needed Older Americans Act allocations which have been reserved for them.

Second, beginning October 1, 1979, non-Federal matching requirements will be raised from 10 percent to 15 percent, with the States being required to provide the increased matching resources. The progressive increase in Federal funds appropriated under the Older American Act, when adjusted to the increase in non-Federal matching requirements, will cause the public share of the State-local matching requirement to increase greater that 50 percent.

For example, in my home State of New York, according to the New York State

Office on Aging, currently operating programs under titles III and VII of the act are now funded at a level of $34,405,986, with the required commitment of local public resources being $1,064,527. Under the provisions of S. 2850 this amount would double almost immediately to $2,129,155. In addition, the same provision would apply to any funds allocated to senior center projects now supported under title V, for which no such requirement now exists. On the basis of current title V allocations, the increased State-local obligations will amount to $566,666 for a total commitment of $2,695,821. This represents an increase of $1,631,294, more than 150 percent above current levels.

New York is not a special case. Many States will be hard-pressed to secure matching funds under this provision of S. 2850, and any projected increased allocations, for any State, will result in comparable increases in public resource requirements.

Third, such a steep increase in the public share would be counterproductive in that it will reduce volunteer involvement in Older Americans Act programs. The aid given by private sources has been invaluable to the program. Private volunteer sources provide much of the equipment and many of the sites for the nutrition program; the increase to 50 percent would act to reduce the share of volunteer activity which contributes so greatly at the community level to these Older Americans Act programs.

The primary reason put forth for doubling of the portion of the State-local match which must be met from public sources is to generate additional funds and activity at the State and local level. However, the unforeseen result of the increase could be to curtail many of the services which most States are able to provide for their older citizens. I, therefore, urge that my amendment to return to the existing 25-percent public share of the State-local match be accepted by the Senate.

Mr. President, the increase, in my judgment, is counterproductive, because at the 25-percent level, it is very difficult for many counties to secure matching resources. The matching here is of 10 percent. That is, the Federal-State program is 90–10 and the State can raise a portion of this money from private sources. But the committee has now required that they raise it only from public sources to the extent of 50 percent. Hence, that is very seriously circumscribing the many counties. It is a very steep increase in the public share and will tend to reduce volunteer and other voluntary organizations and foundations involvement in Older Americans Act programs.

As these volunteer sources not only provide some money, but also provide equipment and other facilities, Mr. President, I hope very much that the managers may see fit to accept the amendment.

Mr. EAGLETON. Mr. President, I am willing to accept the amendment.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Will the Senator yield for a unanimous-consent request?

Mr. EAGLETON. Yes.

Mr. BIDEN. I ask unanimous consent that Paul Laudicina of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I am going to call up a package of four amendments designed to improve and strengthen the Older Americans Act of 1978.

The PRESIDING OFFICER. Until the Senator calls up the amendments, he has no time. The Senator must call up the amendment.

Mr. HEINZ. Yes. I send copies of the amendments to the desk.

The PRESIDING OFFICER. The amendments will be stated.

Is the Senator asking that the amendments be considered en bloc?

Mr. HEINZ. Mr. President, I do so request that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection——

Mr. GRAVEL. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. The consent is not granted. The amendments must be called up one at a time.

The clerk will state the first amendment.

UP AMENDMENT NO. 1478

(Purpose: To strengthen the involvement of the agency administration in long-term care policy alternatives)

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1478.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, between lines 4 and 5, insert the following:

(2) Section 202 is amended by redesignating subsection (b) and all references thereto as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and insure that the development of community alternatives is given priority attention, the Commissioner shall—

"(1) develop linkages with health planning agencies (as defined under the National Health Planning and Resources Development Act of 1974);

"(2) participate in all departmental activities which concern issues of institutional and noninstitutional long-term health care services development; and

"(3) review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.".

Mr. HEINZ. Mr. President, this is the first of four amendments I will be calling up this afternoon.

At the outset, I wish to commend the distinguished members of the Human Resources Committee, particularly Senator EAGLETON and Senator CHAFEE, for the exceptionally fine job they have done in developing this act.

Mr. President, as I reviewed S. 2850, I felt the bill could benefit from certain changes which I believe will make the legislation even more responsive to the needs of our elderly citizens.

I am especially pleased to present these amendments because I think they represent a good example of grassroots democracy.

Let me just say that several weeks ago I had the privilege of participating in the Pennsylvania Fifth Governors Conference on Aging. During the 3 days of the conference, thousands of older Americans and those concerned with the needs of our elderly met to discuss and debate the critical issues faced by our older citizens. I was fortunate to be able to participate in these stimulating and very challenging discussions.

The amendments I offer today result, in large measure, from the discussions and concerns expressed by thousands of my fellow Pennsylvanians.

The amendments are intended to address the problems or fill in gaps in the proposed Older Americans Act of 1978 which were identified by those directly concerned with improving the quality of life of our older citizens.

Mr. President, might I inquire of the Chair which of the amendments has been called up?

Mr. EAGLETON. If the Senator will say which of the amendments it is, I think we can dispose of it. Which amendment is this?

Is there an amendment pending?

The PRESIDING OFFICER. There is an amendment pending. The amendment pending bears No. 1478.

Mr. EAGLETON. Will the Senator from Pennsylvania give us a brief description so I can determine if it is on my list?

Mr. HEINZ. Yes.

Mr. President, this is the amendment to strengthen the involvement of the Administration on Aging in long-term care policy alternatives.

LONG-TERM CARE—ALTERNATIVES FOR THE ELDERLY

Mr. President, this amendment to S. 2850, the Older Americans Act, is designed to strengthen the involvement of the Administration on Aging in long-term care policy alternatives.

Section 202 of the act, as drafted by my distinguished colleagues of the Human Resources Committee, seeks to make the Administration on Aging "the effective and viable advocate for the elderly within the Department of Health, Education, and Welfare and with other departments * * *" My amendment would modify section 202 by adding a new subsection which specifically requires that

the Administration on Aging be involved in developing policy alternatives in long-term care. Specifically the Commissioner shall, first, develop linkages with the health planning agencies (as defined under the National Health Planning and Development Act of 1974); second, participate in all departmental, that is, HEW-wide activities concerning long-term care and third, comment on all HEW regulations and policies regarding health and social services for the elderly.

On the surface this would appear to be a minor administrative point. However, on closer examination, a realistic appraisal of the situation shows that it is essential if the viewpoint of the elderly is to be heard at HEW. The HEW bureaucracy is vast and disparate and no consultation is made unless responsibility is formally directed. A mandatory requirement for comment is essential to insure proper consideration of the views of one of the Nation's significant population groups, the 22,934,000 citizens over 65.

Passage of this measure will insure formal and effective representation of an important and respected group in our society, the elderly. This is critical because of the impact of illness and of the cost of health care on the lives of the elderly. At meetings I have held with senior citizens in Pennsylvania the cost of health care is a recurring theme. In letters which have been received by the Subcommittee on Federal Spending Practices—in preparation for hearings on nursing homes, the cost of paying for nursing home care is the most prevalent theme.

While it would seem logical that those components of HEW making policies on health care and health financing would solicit the views of the parts of HEW reflecting the needs of the most affected group, this is frequently not the case. In the bureaucracy, if a health policy is to be considered, health agencies will be involved—not aging agencies—unless such involvement is mandated.

I urge my fellow Members to support this amendment which would at no cost have the potential to provide an opportunity for the elderly to participate in the discussion of issues which significantly affect their lives and well-being.

Mr. EAGLETON. Mr. President, I am prepared to accept that amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HEINZ. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1478) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1479

Mr. HEINZ. Mr. President, I call up my second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1479.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 122, line 18, insert after "aging" the following: "including as part of such assessment, the needs for personnel in both institutional and non-institutional long-term care settings,".

On page 122, line 18, after "programs" insert a comma and the following: "including institutional and non-institutional long-term program,".

The PRESIDING OFFICER. This is the amendment to assure the study of manpower needs and long-term care which bears No. 1479.

Mr. EAGLETON. I thought that was just passed.

Mr. HEINZ. Mr. President, I ask for a clarification of the amendment just passed.

The PRESIDING OFFICER. The amendment just passed is amendment No. 1478, to strengthen the involvement of the agency administration in long-term care policy alternatives.

Mr. HEINZ. I thank the Chair for that clarification.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRAVEL. If the Senator will withhold that, just briefly, this could be handled in 1 minute's time.

Mr. HEINZ. I believe I have the floor.

Mr. GRAVEL. All I would do is ask unanimous consent to have my amendment brought up without the Senator losing his right to the floor, and that the amendment be in order to an amendment already agreed to.

Mr. HEINZ. I agree to the Senator's request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 1480

(Purpose: To provide for supportive services in the delivery of nutrition projects)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1480 to UP amendment No. 1476 by Mr. CHURCH.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of paragraph (G) immediately following the colon insert the following additional language:

"however, the Commissioner may approve an application from a State or territory to use up to 50 percent of its amount allotted under part C in areas with unusually high supportive services costs;"

Mr. GRAVEL. Mr. President, the purpose of this amendment is to add the corrections to the amendment that passed earlier by Senator CHURCH. There was a limitation placed of 20 percent on the spending for support of services with respect to meals and home-delivered meals.

With respect to Alaska, we have high labor costs and high transportation costs. This would not be terribly meaningful, so I would ask the Commissioner be given the power to waive the 20 percent and as high as up to 50 percent.

The Older Americans Act includes two programs designed to assure adequate nutrition for the elderly—congregate meals and home-delivered meals. These programs have succeeded foremost in providing nutritious meals for the elderly who are low income and/or minority.

The popular congregate meal program has enhanced the life of the elderly by assuring them not only a well-balanced meal but also the companionship of their peers. For those unable to leave their homes, the home-delivered meals program has allowed thousands of elderly to convalesce at home and/or avoid institutionalization. Many communities have responded enthusiastically in adopting this program for the isolated and disadvantaged as part of their title VII meals program.

In Alaska, there is an increasing need for both the congregate meals program and the home-delivered meals program. Our elderly population is rapidly increasing but our efforts to meet their nutrition needs have incurred obstacles.

HEW limits support services under title VII to 20 percent of the State's nutrition program budget. In a State with communities experiencing living costs anywhere from 60 percent to 110 percent above the U.S. average it is difficult to contain support service costs within a strict budget even though that restriction may be reasonable for areas with lower costs and more concentrated population.

To illustrate the dilemma we face in Alaska in administering the title VII nutrition program let me point out the transportation costs in our State are 80 percent higher than the average costs for transportation in the continental United States. Our labor costs are legend as is illustrated by the breakdown of our costs for the title VII program in fiscal year 1977. To serve 126,402 meals in Alaska, $172,599 was spent on food, $306,041 on labor, and $59,673 on other costs. The average program cost per meal was $6.70, or more than 40 percent higher than the average program cost per meal in the lower 48.

We need to expand the program, especially in the area of home-delivered meals, known in Alaska as the trays on sleighs program. However, with our elderly scattered throughout the State it is difficult to perform the outreach and informational services and other supportive services necessary to successfully implement the nutrition program with the budget limitation placed on these services.

I greatly appreciate Senator CHURCH's understanding of our problem. When we brought Alaska's problem to the attention of the Special Committee on Aging they were extremely sympathetic, as has been the Administration on Aging; they agreed that a secretarial waiver would be appropriate to alleviate the restriction on supportive service spending. Therefore, I urge the Senate to accept this amendment which would give the Commissioner of Administration on Aging the discretion to raise spending limits on supportive services to 50 percent of the State's nutrition program budget if necessary to successfully implement the title VII nutrition program. While this amendment will not allocate more funds to Alaska, it will provide us with the flexibility we need to adapt the program to our economic situation and thus, provide better services to our elderly.

I understand the leadership is prepared to accept the amendment and, if so, I am prepared to vote.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Does the Senator yield back his time?

Mr. GRAVEL. I am prepared to yield back my time.

Mr. CHAFEE. I would like to ask the sponsor, how would he amend the Church amendment?

Mr. GRAVEL. Simply by permitting the Commissioner to have the power, where now it is limited to 20 percent, to go from 20 percent to 50 percent if he deemed it in his judgment so warranted.

Mr. CHAFEE. That is what the Church amendment did.

Mr. GRAVEL. No. That only put a limitation of 20 percent.

Mr. EAGLETON. May I ask a question?

Mr. GRAVEL. I am happy to have the Senator ask a question.

Mr. EAGLETON. The Senator's amendment, in essence, perfects the Church amendment and, like the body of the Church amendment, is merely permissive?

Mr. GRAVEL. Very much so.

Mr. EAGLETON. Something may be done, but there is nothing mandated or obliged to be done?

Mr. GRAVEL. No question. That is exactly the interpretation I place on it.

Mr. EAGLETON. I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1480) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. I thank my colleague from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 1479

Mr HEINZ. Mr. President, as I understand it, the pending amendment is to assure the study of the needs of long-time care.

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Mr. President, this amendment will provide for an assessment of current health manpower needs in long-term care. This study is needed to accurately determine the adequacy of current health manpower programs, to define the goals to be met to satisfy these health manpower needs, and to identify the training and development resources needed to meet these goals in the long-term care field.

Section 402 requires the Commissioner to conduct an assessment of existing and future personnel needs in the general field of aging. My proposed amendment would specify that this overall assessment include a major focus on both institutionalized and noninstitutionalized personnel needs in the field of long-term care.

This study on long-term care training is necessary because physicians and other health care providers can get no training in, and have little knowledge of the health problems, particularly clinical health problems, of our elderly. Despite the fact that a significant portion of our population is over 65 there is concurrently only one medical school with a program in geriatric medical practice. It is estimated that there are only a handful of residences nationwide which provide specialty training in geriatrics. In Pennsylvania—a State with a proud tradition in medical education—and more than 1,272,000 residents over the age of 65—there are no programs for medical students which provide training in the medical and social needs of the aged.

Witnesses before a recent grand jury in Philadelphia attested to both the reluctance and inability of family physicians to give meaningful rehabilitative treatment to the elderly. The Commissioner on Aging, Robert Benedict, blamed poor diagnostic procedures in hospitals as a major cause of the misplacement of fully one-third of the entire nursing home population. The present generation of doctors appears simply unprepared to deal with the one universal malady, old age.

A report presented at a 2-day conference on treatable diseases in the elderly at the National Institute of Health disclosed that 10 to 20 percent of the elderly senile are really not senile at all. They are suffering instead from other conditions and diseases that go untreated because they are not properly diagnosed by physicians.

Compounding the problem is the fact that much of the day-to-day care will be provided by attendants who are often characterized as poorly trained and frequently having low morale. Due to the great and increasing demand for long-term health care these attendants are responsible for a great deal of the treatment that an older American receives. Nevertheless there have been no studies made to look into the possible positive effects which increased training might have upon these attendants.

The expanding need and changing population picture have made it a necessity for the development of innovative training procedures and for better uses and allocation of existing personnel. We must begin to evaluate institutionalized and noninstitutionalized long-term care manpower needs as soon as possible. To delay is to doom thousands of elderly citizens in our Nation to a substandard quality of care. We cannot afford to wait if we are to provide an opportunity for the elderly to spend their autumn years in a climate of health, hope, and dignity.

Mr. President, I respectfully ask my colleagues in the Senate to give favorable consideration to this amendment.

Mr. President, I have discussed this amendment with the Senator from Missouri (Mr. EAGLETON) and the Senator from Rhode Island (Mr. CHAFEE). I understand they have no objection to the amendment.

Mr. EAGLETON. This is which amendment?

Mr. HEINZ. This is the amendment entitled "To assure the study of manpower needs in long-term care."

Mr. EAGLETON. It amends title IV. It deals with long-term care both in institutional and noninstitutional centers.

Mr. HEINZ. The Senator is correct.

Mr. EAGLETON. We will accept the amendment.

I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Mary Everest, of Senator BELLMON's staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1481

(Purpose: To insure that area agencies on aging are involved in the development of the State plan)

Mr. HEINZ. Mr. President, I call up my amendment the purpose of which is to insure that area agencies on aging are involved in the development of the State plan.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1481.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 91, line 14, insert after the period the following: "Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1).".

On page 96, between lines 4 and 5, insert the following:

"(1) contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated pursuant to section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306;

"(2) provide that each area agency on aging designated pursuant to section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306.

On page 96, line 5, strike out "(1)" and insert in lieu thereof "(3)".

On page 96, line 10, strike out "(2)" and insert in lieu thereof "(4)".

On page 96, line 20, strike out "(3)" and insert in lieu thereof "(5)".

On page 96, line 25, strike out "(4)" and insert in lieu thereof "(6)".

On page 97, line 5, strike out "(5)" and insert in lieu thereof "(7)".

On page 97, line 11, strike out "(6)" and insert in lieu thereof "(8)".

On page 97, strike out lines 14 through 17.

On page 97, line 18, strike out "(8)" and insert in lieu thereof "(9)".

On page 97, line 24, strike out "(9)" and insert in lieu thereof "(10)".

On page 98, line 5, strike out "(10)" and insert in lieu thereof "(11)".

On page 98, line 10, strike out "(11)" and insert in lieu thereof "(12)".

On page 100, line 1, strike out "(12)" and insert in lieu thereof "(13)".

On page 101, line 23, strike out "(13)" and insert in lieu thereof "(14)".

On page 104, line 1, strike out "(14)" and insert in lieu thereof "(15)".

Mr. HEINZ. Mr. President, the amendment I am offering today to the Older American Act is intended to insure that the concerns of local area agencies on aging are taken into account during the development of the comprehensive State plan required by section 307 of the legislature before us, S. 2850.

The Older American Act provides for the establishment of area agencies on aging to serve as a focal point for planning for the needs of elderly citizens. These AAA's have made great strides in involving the elderly at the local level in the plans and decisions which will affect their lives. Concerned citizens have become active participants in these AAA activities, and have found renewed hope and vigor as they view their concerns being addressed at the local level.

Although many accomplishments can be attributed to this planning process, I believe the original intent of the legislation was to use the AAA's as the building blocks on which the State plan would rest. In actual practice, however, the planning process has been largely "top down," with States developing a State plan and area agencies conforming to that plan once it has been approved by the Administration on Aging in HEW. Although a number of States do involve the area agencies in the development of a State plan, such involvement by sub-State planning units is not required. Thus many local needs and concerns are not taken into account when State plans are developed and sent off for approval.



The amendment which I offer today would provide that the State plans take area agency plans into account as the process for development of the State plans get under way. The intention of my amendment is not that the State plan become limited to a mere compilation of area plans. Rather it is an attempt to right the ship and get things back to the point where the concerns and needs of local AAA's are considered in the formulation of an overall plan. In this way we would hope to avoid the unfortunate situation where AAA's painstakingly define what they perceive to be their most pressing concerns, and those concerns are then either ignored or overlooked by the State plan.

I am convinced, Mr. President, that this change in the planning process will result in service delivery systems that are more responsive to local needs; a greater participation by the aging in the AAA and advisory group activities; and a more effective and efficient use of resources target at areas of greatest need.

We have, I believe, designed a program which makes maximum use of opportunities for people to help themselves; to define and identify their own problems; and then to plan to do something about them. I urge my colleagues to support this amendment which will make a good system of planning even better.

I have discussed this amendment with Senator EAGLETON and Senator CHAFEE, and I understand that they have no objection to the amendment.

Mr. CHAFEE. That is correct.

Mr. EAGLETON. This deals with the area agency on aging?

Mr. HEINZ. The Senator is correct.

Mr. EAGLETON. It requires that the State plans be based on the area plans as prepared by the area agency.

Mr. HEINZ. The Senator is correct.

Mr. EAGLETON. Mr. President, I think it is an excellent amendment, and I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1482

(Purpose: To provide for utility and home heating cost demonstration projects)

Mr. HEINZ. Mr. President, I call up my amendment the purpose of which is to provide for utility and home heating cost demonstration projects.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1482.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, line 17, strike out the end quotation marks and the period the second time it appears.

On page 131, between lines 17 and 18, insert the following:

"'UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

"'SEC. 416. (a) The Secretary may, after consultation with a State agency designated pursuant to section 305(a)(1), make grants to pay for part or all of the costs of developing model projects which show promise of relieving older Americans of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern engaged in providing home heating oil to the public or is a public utility provides home heating oil or utility services to low-income older Americans at a cost which is substantially lower than providing home heating oil or utility services to other individuals.'".

Mr. HEINZ. Mr. President, distinguished colleagues, I am introducing an amendment to the Older Americans Act of 1978 to authorize a program of demonstration projects to explore methods of alleviating the impact of everincreasing utility costs on the elderly. This amendment would add to the model projects authority under the training, research and secretarial programs a new section authorizing the Secretary to support model projects which show promise of relieving older Americans of the excessive burdens of high utility service and home heating costs.

While the Secretary will be encouraged to support a variety of projects, special consideration shall be given to those programs which involve the utility and home heating firms as active participants in the demonstrations.

In such a program, for example, a utility company would determine elderly customers with incomes which are inadequate to meet their daily living needs—that is—at or below the poverty level, and would provide them with a discount on their utility bills. In exchange for providing this reduction in cost to the needy elderly the State or local government unit involved in the experiment would provide a tax credit to the utility. In this way the cost of the reduced rates to the elderly are borne by the general public rather than transferred to other utility users in an arbitrary manner.

Mr. President, I do not believe that anyone in this Chamber is unaware of the increased cost of utilities over the past 10 years. I am concerned today because the cost of fuel oil alone has risen more than threefold since 1967. This increase, together with an unprecedented increase in the rate of inflation, has taken a heavy toll on this Nation's most vulnerable group, the elderly poor. For those living on fixed incomes, the cost of weatherizing their homes has been absorbed by the Federal Government's conservation program. But the monthly cost of utilities has been abated only occasionally during the winter months.

I frankly am motivated to offer this amendment for a demonstration program under the Administration on Aging be-

cause I have been greatly disappointed by the dismal failure of the Community Services Administration's program of assistance to the elderly for utility costs. The relief offered by CSA can best be characterized as "too little too late." Many eligible citizens were unable to take advantage of the program because they were not aware that such a program existed until the deadline for application had passed.

Mr. President, I believe there must be a better way to provide relief for the elderly from the high cost of utilities. They should not have to suffer the anxiety and fear of interrupted service because one Federal agency cannot get its administrative act together. I believe a demonstration program is an efficient and responsible approach to seeking a more rational and effective solution to this problem.

The cost of utilities is still rising and the number of elderly citizens is expected to double in the next 50 years. I believe we must try now to fashion some long term relief for those who are no longer able, because of fixed incomes, to keep pace with the monster of runaway inflation.

Mr. President, I urge adoption of this much-needed amendment. I have discussed this amendment with the managers of the bill, and I understand that they have no objection to the amendment.

Mr. EAGLETON. Is there authority in existing law to do this? To put it the other way, does it expand authority beyond that which exists in existing law?

Mr. HEINZ. My understanding is that this does not add any money to the bill.

Mr. EAGLETON. Mr. President, I have had an opportunity to examine the amendment in brief. It appears to me that it is a purely comprehensive authority under the model projects concept. There is nothing that would be mandated or obligatory. Thus, if my reading is correct, I would not object to the amendment.

Mr. CHAFEE. I concur with the Senator from Missouri and support the amendment.

Mr. EAGLETON. I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1483

(Purpose: To provide for national housing demonstration projects for older Americans)

Mr. HEINZ. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposed an unprinted amendment numbered 1483.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, strike out lines 4 through 14.

On page 125, line 15, strike out "(2)" and insert in lieu thereof "(1)".

On page 125, line 21 strike out "(3)" and insert in lieu thereof "(2)".

On page 126, line 1, strike out "(4)" and insert in lieu thereof "(3)".

On page 126, line 8, strike out "(5)" and insert in lieu thereof "(4)".

On page 126, line 12, strike out "(6)" and insert in lieu thereof "(5)".

On page 126, line 18, strike out "(7)" and insert in lieu thereof "(6)".

On page 131, line 17, strike out the end quotation marks and the period the second time it appears.

On page 131, between lines 17 and 18, insert the following:

"'NATIONAL HOUSING DEMONSTRATIONS

"'SEC. 416. (a) The Commissioner may, after consultation with the State agency, make grants to any public or nonprofit private agency or organization or contracts with any agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city, or community model projects which show promise of expanding or improving the ability of the elderly to remain in their own homes.

"'(b) In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to assist in meeting the special housing needs of older individuals by—

"'(1) providing financial assistance to such persons, who own their own homes, necessary to enable them to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards,

"'(2) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities,

"'(3) demonstrating alternative methods of relieving older individuals of the burden of real property taxes on homes they own or rent, and

"'(4) demonstrating methods of relieving older individuals of the excessive burdens of utility rates through discounts on utility bills.

Mr. HEINZ. Mr. President, I think the managers of this bill, Senator EAGLETON and Senator CHAFEE, have done a marvelous job. This amendment, the purpose of which is to provide for national housing demonstration projects for older Americans, in no way reflects on the wonderful job they have done in this legislation.

The purpose of the amendment is clearly to try to get the Administration on Aging to use the authority to demonstrate new and improved ways for allowing our elderly citizens to remain in their own homes, as a positive alternative to institutionalization.

In brief, the fact is that although under section 308 the first priority of the existing demonstration authority is stated by Congress to be the special housing need for the elderly, there have been little, if any, demonstrations in this area. About all that the Administration on Aging has accomplished, in fact, is that they have stipulated some guidelines and application procedures for applicants for model projects which do not even mention, let alone include, housing demonstrations as program priorities. This, it seems to me, is quite contrary to the intent of Congress, particularly if one reads the act.

AOA has given priority to proposals to develop and demonstrate improved organization structural models within State governments to maximize the efficient and effective administration of programs in aging. I think that is well and good. That is outstanding, and I have no doubt that the organizational linkages are important. But I have difficulty comparing the trauma of organizational linkage failures with the more devastating trauma of what it is like to lose a home. I think that the past performance of AOA clearly demonstrates that it simply has not been true to the stated intent of Congress.

Mr. President, this proposed amendment to the Older Americans Act of 1978 is designed to demonstrate new and improved ways for allowing our frail elderly citizens to remain in their own homes as a positive alternative to institutionalization. Institutionalization is the greatest fear that many older Amercans have—a fear of being taken from friends, loved ones, and familiar surroundings. Institutionalization is also very expensive, taking a toll emotionally and financially on the elderly and their families and on the Government as well. Yet it is frequently forced upon our citizens because the rising rate of inflation makes it impossible for them to remain in their own homes.

My proposed amendment would create a program of national housing demonstrations which would focus on several of the primary causes of older citizens' having to move from their own homes. The amendment would encourage and give priority to projects which assist in meeting the special housing needs of older persons by providing financial assistance to, first, enable them to make repairs and renovations to their homes; second, adapt existing housing, or construct new housing, to meet the needs of older persons suffering from physical disabilities; third, to demonstrate alternative methods of relieving older persons of the burden of real property taxes on their homes; and, fourth, to explore means of reducing the impact of the spiraling costs of utilities.

With the exception of the demonstration of innovative ways to combat the problems of rising utility costs, the other priorities are currently included within section 308, the Model Project Authority. While authority for this type of project would be continued under section 412—model projects in the Older Americans Act of 1978, I am gratefully concerned that it will continue instead to be ignored.

Even though the current Model Projects Authority requires the Commissioner on Aging to give special consideration to the problems of the Americans who own their homes (through demonstrating methods of adapting existing hous-

ing to meet the needs of those with physical disabilities, demonstrating alternative methods of relieving the elderly of real property taxes, and providing methods of helping older Americans renovate their homes to meet required standards) these projects have received little or no support.

I believe the past performance of AOA clearly demonstrates how the intent of Congress has been frustrated as far as the funding of these model projects is concerned. The record is abysmal: over the life of this law, the total number of rehabilitation projects—two projects for a total of $70,000.

To demonstrate construction projects to aid those with physical handicaps, the number is zero, none.

In terms of any projects to find a way to give homeowners or renters, or both, real property tax relief, the total number of experimental projects is none, zero.

So I offer this amendment, Mr. President, in order to make clear our original congressional emphasis and our desire that this kind of effort be supported.

To say that AOA has not given priority to these model demonstrations would be a gross understatement.

In contrast to the performance of AOA in this area, the housing demonstration priority added by this amendment would provide a new and needed impetus for demonstration projects to explore different ways of reducing the impact of soaring utility costs.

It is clear to even the most casual observer that there is an urgent need in America today to provide relief from the cost of fuel and utilities which have more than doubled since 1970. The cost of fuel oil alone is more than triple what it was in 1967. These increased fuel costs have left a large segment of our elderly almost destitute.

These rising utility costs are most burdensome to those elderly who are on limited or fixed incomes. This amendment is and will be even more vital to the elderly as inflation continues to force energy and utility costs skyward. Many of our senior citizens are forced to make a choice between paying the utility bills or purchasing food.

My amendment, in essence, creates a "targeted, selective lifeline program." The concept is much like the one which provides for reduced fares for the elderly on public transportation.

Because of the particular importance to the elderly of being able to maintain their own residences, and with it to maintain their pride, and dignity and independence I urge that you support the amendment to create a program of housing demonstrations under the Older Americans Act of 1978. Let me say that I am sympathetic to the viewpoint of those who argue that their program should be supported under the various housing programs. Yet on balance I am convinced that as demonstration projects it is appropriate to nurture them within the supportive confines of the programs of the Older Americans Act. Clearly if these programs demonstrate the significant impact that I believe is possible, then full programs (as opposed to pilot projects) would appropriately be considered for location within other settings.

I am also sympathetic to the fact that except for the utility demonstrations, the other priority areas are already included within the current model project authority. However, the Commissioner on Aging has elected not to encourage these projects. I hope by identifying these programs for separate consideration, the Congress will be able to motivate the Administration on Aging to seriously reconsider its attitude toward supporting demonstrations designed to assist the elderly to remain in their own homes.

Mr. EAGLETON. Mr. President, I listened attentively to the remarks of my distinguished colleague from Pennsylvania. I understand the point he is seeking to make.

I think the problem is that we expect too much to be accomplished out of one basic piece of legislation, to wit, the Older Americans Act, and we expect too much to be done out of one particular agency, that is, the Administration on Aging.

Not everything that should be done for senior citizens can be done in one bill, nor is there enough money to do it.

What we found when we commenced this year's reauthorization hearings was that the Administration on Aging was trying to do little tidbits of bits and pieces, with a few dollars here, a few dollars there, and truthfully we were doing many, many things terribly cosmetically and not doing too many things very substantially.

We were trying to do too much with too little dollars and two little focus.

So the thrust of our bill that came out of committee, if there is still some thrust left to it after the avalanche of amendments, is that we should try to concentrate on a limited number of things where there is a known and identifiable need and try to spend the finite amount of money we have available for such things as nutrition, transportation, in-home services, and the like. If we were to attempt an in-depth look into the area that is suggested by our distinguished colleague from Pennsylvania, I do not know where the money is going to come from.

Our colleague earlier pointed out the enormous escalation in the spending on this bill in just the past 7 or 8 years.

I wish we had more, but I think the sad truth is that we do not and we have to draw the line somewhere.

Mr. CHAFEE. Mr. President, I wish to just say briefly that I share the concern of the Senator from Pennsylvania on the points he has raised but, as has been mentioned, one of the primary thrusts of this program is to care for the nutritional needs of the elderly and as such we have made very substantial increases and, in fact, the Senate today added to the increase we had already provided, so there are limits in what can be done. As the Senator from Missouri indicated, the costs of this program have gone up far more sharply than the costs of other programs that the Nation supports, and authority needed in the act to achieve the goals that the Senator from Pennsylvania was earlier suggesting he wishes to achieve.

I think what we really need is perhaps a couple of billion dollars more money, but I do not think the act needs any further authority. I think perhaps if the Senator will consider the remarks he has made as an admonition to the administrator, perhaps he might give some thought to withdrawing the amendment and proceeding on with the weight of his remarks appearing in the RECORD, and we will see what happens in the following year or the next year when we come up to renew the authorization here.

Mr. HEINZ. I understand and hear exactly what the Senator from Rhode Island is saying. I appreciate his comments. Indeed, I think it is very important that we do make clear to the Administration on Aging that they do have under section 308 of the present act, which I understand becomes section 412 in this very comprehensive and excellent rewrite, that they do have the authority under the model projects section under this legislation, the amendments of 1978, to do this kind of model demonstration program.

I shall ask the managers of the bill one further question, if I might have either Senator EAGLETON's or Senator CHAFEE's attention just for a moment: Is it not the understanding of the managers of the bill that section 412, the model projects section, which my amendment seeks to expand, shall enable the Office on Aging to make repairs or renovations; shall allow the adaptation of existing housing, or construction of new housing, to meet the needs of older persons suffering from physical disability; shall allow the demonstration of alternative methods of relieving older persons of the burden of real property taxes on their homes; and shall allow the exploration of means by which the impact of the spiraling costs of utilities might be reduced? Will those not be permitted under the bill as it is now written?

Mr. EAGLETON. Yes, they are permitted under the model project authority in the present law and shall also be permitted in the committee bill.

Mr. HEINZ. Then, I think the suggestion of the Senator from Rhode Island is a good one. I do not wish to insist on my amendment. I think it is very important that we make clear to HEW and the Administration on Aging that they do have this authority and I, therefore, will accept this suggestion of the Senator from Rhode Island. I do withdraw the amendment.

Mr. EAGLETON. I thank my colleague.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask the Senator from Missouri: Did he have an amendment that he wanted to present that is noncontroversial?

Mr. EAGLETON. Yes, I have an amendment.

UP AMENDMENT NO. 1484

(Purpose: To strengthen provisions relating to the Federal share for employment and Indian programs, to modify a benefits pro-

vision, and to strengthen provisions relating to nutrition)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) for himself, Mr. JAVITS, Mr. DOMENICI, Mr. BELLMON and Mr. HEINZ proposes an unprinted amendment numbered 1484.

On page 78, beginning with "any" on line 22, strike out through "law" on line 25 and insert in lieu thereof the following:

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk read as follows:

On page 78, beginning with "any" on line 22, strike out through "law" on line 25 and insert in lieu thereof the following: "any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of State or Federal law. No income or benefits received under title XVI, XVIII, XIX, or XX of the Social Security Act or under the United States Housing Act of 1937 shall be treated as income for the purpose of determining eligibility of any individual under title V of this Act".

On page 100, between lines 16 and 17, insert the following:

"(C) each project will permit recipients of grants or contracts to charge participating individuals for meals furnished pursuant to guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or a contract;

On page 100, line 17, strike out "(C)" and insert in lieu thereof "(D)".

On page 101, line 3, strike out "(D)" and insert in lieu thereof "(E)".

On page 101, line 7, strike out "(E)" and insert in lieu thereof "(F)".

On page 101, line 12, strike out "(F)" and insert in lieu thereof "(G)".

On page 144, line 15, strike out "85 per centum" and insert in lieu thereof "90 per centum in fiscal year 1979, and 85 per centum in fiscal year 1980".

On page 154, line 23, beginning with the word "not" strike out through the comma in line 25 and insert in lieu thereof a comma and the following: "in the fiscal years 1979 and 1980, all".

On page 75, between lines 4 and 5, insert the following:

(2) Section 202(a)(15), as redesignated in paragraph (1), is amended by inserting after "discrimination" the following "in employment".

On page 75, line 8 , strike out ", and".

On page 76, line 3, strike out "title XX and insert in lieu thereof "titles XVIII, XIX, and XX".

On page 76, line 20, strike out "Section" and insert in lieu thereof "The second sentence of section".

On page 76, line 21, strike out "the first time it appears".

On page 84, line 16, strike out "persons" and insert in lieu thereof "individuals".

On page 92, line 7, insert "for part B" after "allotted".

On page 93, line 22, strike out "persons" and insert in lieu thereof "individuals".

On page 94, line 10, insert "of" after "priority".

On page 97, line 3, strike out "Commission" and insert in lieu thereof "Commissioner".

On page 98, line 7, strike out "persons" and insert in lieu thereof "individuals".

On page 98, line 9, strike out "persons" and insert in lieu thereof "individuals".

On page 102, line 9, strike out "construction" and insert in lieu thereof "constructed".

On page 105, line 10, strike out "(c)" and insert in lieu thereof "(b)".

On page 105, line 21, strike out "(d)" and insert in lieu thereof "(c)".

On page 106, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 107, line 1, strike out "and section 309".

On page 107, line 4, strike out "(f)" and insert in lieu thereof "(e)".

On page 110, line 13, strike out "received" and insert in lieu thereof "use".

On page 112, line 4, strike out "person" and insert in lieu thereof "individual".

On page 120, line 13, strike out "mobil" and insert in lieu thereof "mobile".

On page 120, between lines 20 and 21, insert

"PROGRAM AUTHORIZED".

On page 124, line 8, strike out "persons" and insert in lieu thereof "individuals".

On page 124, line 12, strike out "persons" and insert in lieu thereof "individuals".

On page 124, line 25, strike out "promote" and insert in lieu thereof "promoting".

On page 125, line 6, strike out "persons" and insert in lieu thereof "individuals".

On page 128, line 24, strike out "persons" and insert in lieu thereof "individuals".

On page 131, line 1, strike out "requireds" and insert in lieu thereof "requirements".

On page 139, line 22, strike out "old" and insert in lieu thereof "of age or older".

On page 145, line 24, and page 146, line 1, strike out "persons" and insert in lieu thereof "individuals".

On page 154, line 19, strike out "(c)" and insert in lieu thereof "(b)".

On page 159, line 17, strike out "(b)(3)".

On page 82, line 14, insert a comma after "including"; on lines 15–18, strike "assistance," through the end of the paragraph and insert in lieu thereof the following: "Assistance by a paralegal or law student under the supervision of an attorney) and may include counseling or representation by a non-lawyer where permitted by law, to elderly individuals with economic and social needs.".

On page 104, lines 15–17, strike beginning with "the" through the end of the paragraph, and insert in lieu thereof the following: "groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;".

On page 104, line 8, strike "the" and insert in lieu thereof "specific"; line 9, strike "of"; and line 13, insert "as determined appropriate by the Commissioner" before the semicolon.

On page 121 (in the language of the Hathaway amendment to the Kennedy amendment), in subsection (d), strike out "subsection" and insert in lieu thereof "section 308(b)(6)".

On page 89, line 5, after the period insert the following: "Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation pursuant to the provisions of subsection (a) of this section, that unit of general purpose local government, region, metropolitan area or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area or Indian reservation an opportunity for a hearing. In carrying out the provisions of this subsection the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Commissioner deems appropriate.".

On page 90, line 5, strike out "(b)" and insert in lieu thereof "(c).".

On page 92, line 18 before the semicolon insert a comma and the following: "and give special consideration to designating multipurpose senior centers as such focal point."

On page 105, line 20, after the period insert the following new sentence: "The Commissioner may not disapprove any State plan pursuant to the provisions of paragraph (1) of this subsection solely on the ground that a State requested a waiver pursuant to the preceding sentence of this paragraph.".

On page 159, between lines 20 and 21, insert the following:

"REPORTS

"SEC. 106. (a)(1) The Comptroller General of the United States shall undertake a study of the relationship between programs set forth in section 203 of the Older Americans Act of 1965 and programs assisted under the Older Americans Act of 1965, together with an examination of the administrative costs associated with programs assisted under the Older Americans Act of 1965. The report required by this paragraph shall consider the extent to which programs assisted under the Older Americans Act of 1965 affect the ability of programs listed in such section 203 to meet the needs of older Americans.

"(2) The report required by paragraph (1) of this subsection shall be submitted to the Congress not later than September 30, 1979, together with such recommendations as the Comptroller General deems appropriate on improved coordination and effectiveness in all Federal programs which serve older Americans; and possible reductions in unnecessary duplication and overlap between Federal programs which serve older Americans; cost savings to be achieved through increased efficiency and elimination of unnecessary duplication; and actual Federal expenditures, in all programs listed in section 203 of the Act, on services to older Americans.

"(b) The Secretary of Health, Education, and Welfare shall prepare and submit a report to the Congress not later than September 30, 1979, describing the action necessary at the Federal and State levels to integrate the planning process and the delivery of services under the Older Americans Act of 1965 and under title XX of the Social Security Act."

On page 159, line 22, strike out "SEC. 106." and insert in lieu thereof "SEC. 107.".

On page 121, line 2, amend section 331(1) by inserting after the word "one", the words: "hot, or other appropriate".

On page 145, line 4, strike out through line 16 and insert:

"(d)(1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State Agency on Aging a description of such project to be conducted in that State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

AMERICAN SAMOA AND MARIANA AMENDMENT

On page 84, line 5, strike "American Samoa"; insert "and" before "the" the second time it appears;

On line 6, strike "and the Northern Mariana Islands,";

On line 9, insert the following after the semicolon: "(C) American Samoa and the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made;";

In line 10, redesignate "(C)" as "(D)".

ADVOCACY AMENDMENT

On page 121, line 23, insert the following after "personnel": ", including personnel involved in advocacy and leadership on behalf of older Americans,".

On page 123, line 17, insert the following after "needs": ", including the need for training of advocates,".

On page 101, lines 14–15, strike "organizations, such as Meals on Wheels groups," and insert in lieu thereof "organizations".

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island has the time.

Mr. CHAFEE. We are waiting for the proponent of the amendment to return. So the Senator may go ahead and speak in opposition.

Mr. DOMENICI. Mr. President, will the Senator from Rhode Island yield a minute to the Senator from New Mexico on the amendment?

Mr. CHAFEE. Yes.

Mr. DOMENICI. Might I ask the Senator from Missouri did he have any remarks he wanted to make on the amendment which I understand, is a composite of a number of sections? Does the Senator from Missouri have any comments on the amendment? If he has none, I would make a few at this point.

Mr. EAGLETON. The amendment pending before us is the amendment sponsored by myself, Senator JAVITS, Senator DOMENICI, and Senator BELLMON.

This amendment, in addition to some technical changes deals with the following items: It deals with disregard of benefits.

First, the amendment would modify the provision in the committee bill which disregards any cost of any project under the Older Americans Act as income or benefits to any participant for the purpose of any other Federal or State program. This amendment would narrow that provision so that wages and salaries under the Older Americans Act would no longer be exempt from being counted against eligibility for the purposes of other Federal and State law. If this provision of the amendment is adopted, the bill will continue to exempt the cost of services received under the act.

A second facet of this amendment would deal with an element of the nutrition program in that it reinstates a provision of existing law allowing nutrition projects to charge participating individuals for a part or all of the costs of the meal, taking into account the income ranges of eligible individuals and other sources of income of the receipients. This provision is not mandatory. It simply allows nutrition project recipients to charge all or part of the cost of a meal to those participants who can afford to make a contribution.

Next, the amendment would also deal with the Federal share in the community service employment program.

This amendment conforms the matching provisions under title V of the older workers community services employment program with the matching provisions adopted in title III of the bill—that is, to retain the existing 90-to-10 Federal, State, local match for fiscal year 1979, and increase the non-Federal share to 15 percent in fiscal year 1980.

There are matters in this amendment dealing with a separate title for Indians. The portion of the amendment sponsored by myself as well as Senators DOMENICI and BARTLETT, provides for full cost of services for elderly Indians under title VI of the bill. The committee bill creates a separate title for funding social services for elderly Indians. As reported from committee, the bill requires tribal organizations applying for funding under the separate title to provide a 15-percent match in fiscal year 1979, and an 80-percent match in fiscal year 1980.

As many of my colleagues know, there are both historical and operational reasons for limited involvement of Indian tribes in Older Americans Act programs. From a historical perspective, many States have long regarded provision of services to Indians as a Federal rather than a State responsibility because of the direct relationship to the Federal Government that Indian tribes have traditionally had. Under these relationships, the Federal Government has exercised responsibility for the provision of community services such as health, education, and public safety, without any assumption of responsibility or involvement by the States in these areas. Thus, the committee included a separate title for social services for elderly Indians.

With regard to matching requirements, the federally recognized Indian tribes occupy a unique position due to the law affecting the terms of treaties signed with the United States. For example, tribal lands are often nontaxable under the provisions of a treaty. Thus, the tribe has no tax base from which to derive the non-Federal match. For this reason, I propose that title VI be amended to allow the Commissioner to pay all of the costs of social services on tribal lands.

The amendment also deals with advocacy training, insofar as it clarifies that training funds under title IV may be used for advocacy and leadership training.

There is also a portion of this amendment that has to do with American Samoa and the Marianas; it modifies the committee bill as it relates to the allotment formula for American Samoa and the Northern Marianas.

S. 2850 includes the Northern Mariana Islands as eligible for funds under the act for the first time. The bill establishes the same minimum percentage amount for the Marianas as it does for the Trust Territories, the Virgin Islands, and Guam. It also continues the inclusion of Samoa at the same percentage level.

Given the small population over 60 in both Samoa and the Northern Marianas, this provision creates substantial inequities.

Under the committee bill, each person aged 60 or over in Samoa would receive $1,151; in the Northern Marianas, $1,520 per elderly person. By way of comparison, the allotment per person in Wyoming is only $46.

I propose to reduce the minimum percentage amount for Samoa and the Northern Marianas from one-fourth of 1 percent of the total allotment to one-sixteenth of 1 percent. This would bring both areas more closely in line with allotments to the States and the Trust Territories. Under the amendment, the allotment per person in Samoa would be $270, and in the Northern Marianas the allotment would be $400.

There is a provision in this amendment that adds emphasis to multipurpose senior centers encouraging that they be given special consideration in the designation of a focal point of service delivery within the communities.

There is a portion of this that deals with the Commissioner on Aging insofar as he may not disapprove a State plan solely because the State applies for a waiver of eligibility.

Likewise a portion of the amendment strengthens the language of the committee bill as it relates to cities of 100,000 or more to receive designation as planning and service areas.

There is a portion of this amendment requiring the General Accounting Office to evaluate the interdepartmental coordination required by section 203 of the bill and to assess whether or not specific age-targeted programs deter serving that population through more broadly based untargeted programs. This is a provision Senator BELLMON is very much interested in.

There is a modification in this amendment to title V of the committee bill requiring national contractors to coordinate their employment programs with State agency allocations.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. EAGLETON. Yes.

Mr. JAVITS. I just wanted to be sure that that amendment substitutes a new section for section (d)(1) on page 145 so that the requirement is for a 30-day notice to the State for review and comment rather than the provision in the bill as reported.

Mr. EAGLETON. If I understand the Senator correctly, this tracks the amendment that the Senator was going to propose——

Mr. JAVITS. That is right.

Mr. EAGLETON (continuing). Requiring each contractor to notify the State in which it proposed a project at least 30 days prior to implementing the project.

Mr. JAVITS. Right, and giving the opportunity to review and comment but not giving the State a veto.

Mr. EAGLETON. That is right. There is no State veto but a State has the right to give a critique.

Let me move on to another portion of the amendment, one which is supported by Senator JAVITS. This portion of the amendment would reinstate the word "hot." It adds language "hot" or other appropriate to modify "meals" under the existing provisions. Existing law requires the serving of one hot meal per day, and Senator JAVITS wants specific attention paid to that. This thus continues the emphasis on hot meals but permits, where appropriate, some degree of flexibility.

Mr. JAVITS. Exactly. I thank my colleague.

Mr. EAGLETON. There is one matter of importance in this amendment that deletes specific reference to the phrase "meals on wheels" in the nutrition program.

I might take a minute or two just on this because it has been a matter of some controversy. In order to meet the objections of many of the meals on wheels groups which believe that specific reference in the statute will adversely affect their efforts to continue voluntary participation, this amendment provides that the specific reference to meals on wheels be deleted. The bill would still require area agencies on aging to give consideration to groups of demonstrated ability to provide home-delivered meals effectively, efficiently, and reasonably.

I believe there is some merit to the concern of some meals on wheels groups, that once written into the statute, the public will receive the entire meals on wheels effort as a Federal program, and once that perception is established they fear private resources will be channeled elsewhere.

Although admittedly this amendment will really not change the substantive provisions of the bill it will serve, I hope, to alleviate some of the fears of meals on wheels people who are very sincere, very well-motivated people, who render excellent service and volunteer a great deal of their time and effort to make sure that meals are delivered to home-bound elderly.

There are also some matters that could be classified as technical changes in this amendment.

I yield to my colleague from Rhode Island.

Mr. CHAFEE. I have no further comments. I think the points that the Senator from Missouri made regarding meals on wheels were important.

We discussed that in our debate on the specific sum of money that goes into the home-delivered meals. Certainly we would want to do everything we can to encourage those volunteers who are presently serving meals on wheels to continue their superb efforts which mean so much to the program.

I have no other remarks.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. EAGLETON. Yes.

Mr. DOMENICI. Mr. President, at this point I would like to offer a composite packet of our amendments. First, I am pleased to join in offering an amendment offered by the distinguished chairman of the Subcommittee on Aging (Mr. EAGLETON) which would achieve a number of objectives.

It would delete the provision requiring Indian tribal organizations to put up local matching funds under the new title VI program—"Grants For Indian Tribes." When I introduced S. 2609 on February 28 it incorporated the concept of a separate, direct funding mechanism for Indian tribes. I am pleased that the Human Resources Committee included this title in S. 2850. In my original proposal, we provided for 100 percent Federal funding of services for elderly Indians. S. 2850 added a local matching requirement which will be deleted by the pending amendment. I support this move and think it will go a long way toward getting much needed services to our neediest older Americans.

A second provision in this composite amendment would add a provision to S. 2850, clarifying the role of multipurpose senior centers in the overall aging network.

As you will recall when I introduced S. 2609, I recommended that we consolidate the social service program and the senior center program into a single title. My objective was to correct what I believed to be a serious deficiency in the 1973 amendments to the Older Americans Act. The Older Americans Comprehensive Services Amendments of 1973 separated senior centers from the remainder of the aging apparatus. Attention was focused on the Administration on Aging, the State offices on aging, and the new area agencies on aging. The multipurpose senior centers were authorized in a separate title—title V—which was, for many years, not funded by Congress. This served to slow the growth of multipurpose senior centers, and prevent them from developing as a logical part of our aging network. In S. 2609, I sought tc correct this oversight by recommending a more direct role in the aging network for multipurpose senior centers. They are a logical community focal point for outreach and other activities involving older Americans, and an excellent place for the colocation of services. I am pleased that Senator EAGLETON and the members of the Subcommittee on Aging reflected that philosophy in S. 2850, and reinforced it in the accompanying report. My amendment is designed solely to clarify that point and to insure that proper attention is given to the role of senior centers by the Administration on Aging, the State units on aging, and the area agencies on aging.

Mr. President, in the annual report of the Senate Special Committee on Aging, the role of senior centers was discussed at some length. I ask unanimous consent that pertinent portions of that report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

PRESENT AND FUTURE IMPORTANCE OF SENIOR CENTERS IN RURAL AREAS

Maurice Endwright, director of the Indiana State Commission on Aging, described (at the Terre Haute hearing) senior centers as "lifesavers to the rural elderly." He asked for changes in Older Americans Act title V regulations to permit the use of funds for center operations.

At the same hearing, Louise Johnson, former university extension agent for the area and now vice president of the State advisory council on aging, gave this acount:

"We have had experience at Greencastle in Putnam County at our senior center and we have several examples of isolated people. One lady was just sitting with something over her shoulder to keep her warm, her thermostat was turned down. She had used all of her money and had bought a little home and she was just sitting there. We did have the nutrition site at our center and we were able to get her to come because she happened to know the director for the nutrition program and she has worked for about 3 years now and that was the thing that she had to look forward to day after day. She was not physically able to do heavy work but she would set the table and put the flatware on the table and this sort of thing, and it has enriched her life tremendously."

Sharon Lindsay, director of the Champaign County Office on Aging, said at the Illinois hearing:

"One method of providing coordination of services for the rural elderly is through multipurpose senior centers. Title V is a welcome funding source to help initiate such centers. There are two problems, however. In some communities, there simply is no suitable structure to be purchased or renovated for a center. Funding for new construction where there is no feasible alternative is needed. Also, after the center is developed, there will be an ongoing need for funding for staff and operating costs. In our State it is unclear what funding units can and should be responsible for local funding."

A third provision in the composite amendment is designed to strengthen the States waiver authority with regard to the consolidation of the programs authorized under the Older Americans Act.

In drafting S. 2850 the Senate Human Resources Committee recognized that a difficult and in some cases delicate transition will have to occur between the way these programs are now administered and the way they will be administered in fiscal year 1981. I am referring in particular to the administrative consolidation of the title III and title VII programs. In many areas this consolidation has already taken place and those States and localities should encounter little if any difficulty in implementing S. 2850. In some States, however, a wide gap exists between the administrative structure of the title III social service program and the title VII nutrition projects. In other States, such as my own home State of New Mexico, there is concern about how this new system will operate and a certain amount of "uneasiness" about the speed with which these changes are being mandated here in Washington.

The Human Resources Committee has wisely granted waiver authority in S. 2850 that would, if fully implemented, alleviate many of these concerns. My amendment does not change the basic language that appears in the Senate bill but it adds to it language which will transfer most all of the decisionmaking process from Washington to the States regarding the exercise of this waiver right.

The language in S. 2850 reads as follows:

(2) The Commissioner, in approving any State plan under this section may, for the fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of centers which such State agency cannot meet because of the consolidation authorized by the Older Americans Act of 1978 or because meeting such requirement would reduce or jeopardize the quality of services under such Act.

My amendment would stipulate that: "The Commissioner may not disapprove any State plan * * * solely on the ground that a State has requested a waiver" as prescribed in the text of the bill. The effect of my language would be to limit the Commissioner's authority for the 2-year life of this bill and vest primary

responsibility for the exercise of this waiver authority with the States.

I was concerned, Mr. President, that in their zeal to implement this consolidation concept the Administration on Aging might not approve any or most requests for waiver during the 2-year transition period. When you grant to a program administrator the authority to allow such a waiver you also grant him the authority to disallow such a waiver request. I wanted the States, who are dealing on a day-to-day basis with the area agencies on aging and the title VII directors, to have greater flexibility in the exercise of this waiver authority.

This language in no way prohibits the Commissioner from disallowing a State plan which is faulty in other respects. Nor, in recognition of Senator EAGLETON's concerns, do I believe that it would totally prevent him from rejecting a State plan if it contained an outlandish or unreasonable abuse of this waiver authority.

Mr. President, I feel that my amendment adds safeguard and I would stress that it would give the States greater flexibility in bringing about the transition from our present administrative arrangement to the new consolidated approach mandated in S. 2850. I would also stress that it is my understanding that the States may use this waiver authority on a nonstatewide basis. If a State can work out the consolidated administrative structure in some or most of its planning and service areas, I see no reason why that waiver authority could not be narrowly used in those areas where difficulties exist. Thus I believe that the State should clearly have the authority to waive certain aspects of the consolidation mandated in this bill, either on a statewide basis or on a selective basis as the circumstances may dictate.

Mr. President, I would hope that the distinguished managers of this bill will agree with me that a more flexible—State oriented approach to this problem is desirable and that they will accept this amendment and work for its retention in the joint conference committee.

A fourth and final provision in this composite amendment would strengthen the language now in S. 2850 regarding designation of area agencies on aging.

When I introduced S. 2609, on February 28, 1978, it contained a provision that would have mandated the designation of municipalities with a population of 250,000 or more as a separate planning and service area. It was my intention to grant to the larger urban areas in this country the right to serve as separate planning and service areas and to establish their offices on aging as the local area agency on aging (AAA). After due consideration the Human Resources Committee has chosen a somewhat different approach. The committee has also expressed its desire not to place mandatory language in the bill which would preempt the right of the States to organize themselves as they deem most appropriate.

As a former elected official in the city of Albuquerque, N. Mex., I have a special sensitivity to the difficulties many larger urban areas have in providing services to their senior citizens. In many cases urban areas are lumped together with a number of surrounding subdivisions in a multicounty area agency on aging. In some areas this system works very well and it is not my intention to split up an existing AAA if all parties are convinced that it is the best possible vehicle for coordinating and delivering the services mandated under this act. But in other areas the cities have tended to be forceably lumped with subdivisions that are often insensitive to the special needs of the urban elderly. In addition, in many areas the multicounty AAA advisory board have tended to reflect a disproportionately low level of representation for the major urban component in the planning and service area. I was seeking to correct these problems by establishing a mechanism that would make it easier for larger municipal areas to establish themselves as separate and independent area agencies on aging. Since this program has traditionally been a State administered program, it can be argued that mandatory language requiring the designation of urban area agencies on aging runs counter to the philosophy of this legislation. I accept the fact that the Senate does not wish to be that restrictive in its shaping of this provision. Thus the amendment that is now pending before the Senate is designed to strengthen the procedure so that a large general purpose local government, whether it is a county or a metropolitan area of greater than 100,000 population, can seek designation as a separate planning and service area. If that designation is denied, they will have an appeal procedure to the Commissioner on Aging. The Commissioner could review the data and decide whether or not the State's decision was appropriate.

I agree that this approach curtails somewhat the State's right to divide itself up in a manner which it deems most appropriate. I believe, however, it would also prevent a State from acting in an arbitrary or capricious manner. This approach is a reasonable and responsible effort to redress a specific problem or grievance that affects a number or larger political subdivisions across this Nation. Mr. President, I would note, for the RECORD, that Senator CRANSTON has expressed to me his concern about the problems underlying this amendment. There are a number of urban areas in California that are seeking designation and this amendment would be of assistance to those areas.

I hope that the distinguished managers of this bill will accept this amendment and join with me in attempting to resolve this matter in a fair and reasonable manner.

Mr. JAVITS. Mr. President, I would like to support that portion of the amendment which amends section 331 (1) of S. 2850, now before us in order to clarify that the Congress intends to maintain its commitment to provide hot, nutritious meals for all older Americans covered by the act.

Section 331(1) of S. 2850 provides that nutrition projects will "provide, 5 or more days a week, at least one meal per day and any additional meals which the recipient of a grant of contract under this title may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Science—National Research Council."

This provision drops from existing law the requirement that meals served be "hot." The word "hot" was deleted simply to provide more flexibility in the program, to allow for those circumstances which effectively preclude ideal services. The committee did not delete reference to "hot" in order to express a preference for, or an approval of, reliance on cold meals in nutrition programs.

I emphasize this point not only because a hot meal program is preferable, but also because a reliance on cold meals would be detrimental to older Americans participating in the nutrition program. A cold meal program would only perpetuate living conditions which often characterize the lives of many senior citizens—for without a hot meal program, many older Americans stay at home, prepare inadequate cold meals, or haven't the resources and, in some cases, the ability, to prepare nutritious hot or cold meals. We must reaffirm our commitment that the Older Americans Act shall provide hot meals. Thus, section 331(1) should be amended by inserting after the word "one", the words "hot, or other appropriate." This amendment will permit flexibility in nutrition programs in order to anticipate any circumstances which might make a solely hot meal service inappropriate.

The amendment utilizes the words "hot or other appropriate" in order to assure that the Older Americans Act nutrition program continues its emphasis upon hot nutritious meals, while permitting flexibiltiy where appropriate.

Mr. President, that portion of the amendment dealing with section 502 (d) (1) now before us will provide greater flexibility with respect to notice to State offices on aging by national organizations conducting older Americans community service jobs programs within a State.

The provision in S. 2850 raised concerns among the national organizations that inordinate delays might result. In order to assure that no such delays result, I propose the following substitute language:

"(d) (1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State Agency on Aging a description of such project to be conducted in that State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

Mr. President, I met Friday with representatives of the national organizations, including Mrs. Ruth Kobel, representing the Farmers Union, which conducts the highly respected Green Thumb program, and William F. Hutton, the executive

director of the National Council of Senior Citizens, who had written to me expressing their concerns with this provision. The amendment I propose will provide State offices on aging 30 days advance notice of jobs programs conducted by national organizations within a State, and directs the Secretary of Labor to establish guidelines to assure efficient coordination of the jobs projects conducted pursuant to the Older Americans Act. This language fully meets the concerns expressed by the national organizations and was agreed to by the organizations with which I met.

I wish to take this opportunity, Mr. President, to recognize the cooperative efforts of the Farmers Union, the National Council on Aging, the National Council of Senior Citizens, and the American Association of Retired Persons, to improve the operation and coordination of the vital job programs undertaken to assist low-income, unemployed, older Americans.

Mr. BELLMON. Mr. President, Senator EAGLETON has kindly included my evaluation amendment in this package of noncontroversial amendments. I would like to thank my distinguished colleague. Unlike the bill passed in the House, the legislation before us today makes a quantum leap toward consolidation and decategorization of programs for older Americans. The 2-year reauthorization, in anticipation of future administration proposals, likewise is evidence of the Senate committee's responsible approach to this legislation. I sincerely hope, Mr. President, that the Senate conferees will be able to persuade the House of the wisdom of this approach, when they go to conference on this bill.

I have long supported consolidation and coordination in Federal programs which serve the same needs and the same constituencies, Mr. President. To that end, and in support of the movement toward consolidation and decategorization embodied in this bill, my amendment requires evaluations of duplication and overlap between the Older Americans Act and other Federal programs which serve older Americans.

First, Mr. President, my amendment requires the General Accounting Office to examine the relationship between and among the programs listed in section 203 of the proposed act—CETA, ACTION, title XX, several pieces of housing legislation, the Economic Opportunity Act, the Community Schools and Comprehensive Community Education Act, and the Urban Mass Transportation Act—as they relate to the purposes of the Older Americans Act, along with the administrative costs of programs under the act, and then report to Congress. The GAO report will also address the extent to which programs under this act affect the response of other programs to the needs of older Americans. It will include recommendation as to how unnecessary duplication and overlap can be reduced or eliminated in Federal programs which serve older Americans; and it will include recommendations for cost savings to be achieved by eliminating unnecessary duplication. My amendment will also require an enumeration of Federal expenditures for services to senior citizens, under all of the programs listed in section 203 of the act.

Second, my amendment will require the Secretary of HEW to submit a one-time report to Congress describing the steps being taken at the Federal and State levels to coordinate planning processes and service delivery operations under the Older Americans Act and under title XX of the Social Security Act. (Title XX requires that at least three social services be provided to senior citizens on a State-wide basis. The identical services can be funded under the Older Americans Act. Both programs involve preparation of detailed State plans which are presently prepared through totally separate planning processes.)

It is my view, Mr. President, that having the results of such evaluations, available before another reauthorization of the Older Americans Act is considered 2 years from now, can further the work of consolidation and decategorization begun in this bill. Moreover, such evaluations can lead to increased administrative efficiency and better service delivery.

I urge the adoption of my amendment, Mr. President.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON).

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. HATFIELD), the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—90

| | | |
|---|---|---|
| Abourezk | Gravel | Morgan |
| Allen | Hansen | Moynihan |
| Baker | Hart | Muskie |
| Bartlett | Haskell | Nelson |
| Bayh | Hatch | Nunn |
| Bellmon | Hatfield, | Packwood |
| Biden | Mark O. | Pearson |
| Brooke | Hathaway | Pell |
| Bumpers | Hayakawa | Percy |
| Burdick | Heinz | Proxmire |
| Byrd, | Helms | Ribicoff |
| Harry F., Jr. | Hodges | Riegle |
| Byrd, Robert C. | Hollings | Roth |
| Cannon | Huddleston | Sarbanes |
| Case | Humphrey | Sasser |
| Chafee | Inouye | Schmitt |
| Chiles | Jackson | Schweiker |
| Church | Javits | Scott |
| Clark | Johnston | Sparkman |
| Culver | Kennedy | Stafford |
| Curtis | Laxalt | Stennis |
| Danforth | Leahy | Stevens |
| DeConcini | Long | Stevenson |
| Dole | Lugar | Stone |
| Domenici | Mathias | Talmadge |
| Durkin | Matsunaga | Tower |
| Eagleton | McClure | Wallop |
| Eastland | McGovern | Williams |
| Ford | McIntyre | Young |
| Garn | Melcher | Zorinsky |
| Goldwater | Metzenbaum | |

NAYS—0

NOT VOTING—10

| | | |
|---|---|---|
| Anderson | Griffin | Randolph |
| Bentsen | Hatfield, | Thurmond |
| Cranston | Paul G. | Weicker |
| Glenn | Magnuson | |

So Mr. EAGLETON's amendment (No. UP 1484) was agreed to.

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Will the Senator yield, Mr. President?

Mr. DOMENICI. I will be pleased to yield.

Mr. ROBERT C. BYRD. Mr. President, I would like to inquire as to how many more amendments will be called up.

Mr. JAVITS. Mr. President, I will have a substitute to the Domenici amendment.

Mr. ROBERT C. BYRD. Senator JAVITS will have a substitute for the Domenici amendment. Are there other Senators with amendments?

The PRESIDING OFFICER. The Chair will remind that Senator BIDEN has requested time.

Mr. ROBERT C. BYRD. And I am advised that Senator DOLE has an amendment.

May I say it is the leadership's intention to complete action on the bill today, and hopefully, to proceed with the supplemental appropriations for the Department of Agriculture. I hope that Senators will stay around.

I also hope that on innocuous amendments, rollcall votes will not be requested so that Senators will not be discommoded by having to stay around too late in order to finish action on this bill and on the supplemental appropriation bill.

As I see it now, there are four amendments—the Domenici amendment, the Javits amendment to the Domenici amendment, the Dole amendment, and the Clark amendment—and the Biden amendment. That makes five.

Could we get an agreement on the rollcall votes, 10 minutes to each rollcall vote?

I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I am sorry that that objection was entered, for that will just cost the Senators about 25 additional minutes on five rollcall votes, if that is what we have.

Mr. ABOUREZK. Will the distinguished Senator yield?

Mr. ROBERT C. BYRD. If the Senator from New Mexico will yield.

Mr. DOMENICI. I yield to the Senator from South Dakota.

Mr. ABOUREZK. I wonder if the Senator will tell them in addition who is costing them the additional 25 minutes? I am happy to take the credit for it.

Mr. BAYH. Will the Senator yield to me?

Mr. DOMENICI. I yield.

## INTELLIGENCE AUTHORIZATIONS, 1979

Mr. BAYH. Mr. President, I ask unanimous consent that the Chair be authorized to appoint conferees on H.R. 12240, as amended.

There being no objection, the Chair appointed Mr. BAYH, Mr. INOUYE, Mr. HATHAWAY, Mr. HART, Mr. GOLDWATER, Mr. WALLOP, Mr. MATHIAS, and Mr. HARRY F. BYRD, JR., conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I am pleased to yield.

## ORDER FOR RECESS TODAY UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. The Chair advises the majority leader that the request has been granted earlier.

Mr. ROBERT C. BYRD. Are there any orders for recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are. Senator JAVITS is scheduled for 15 minutes.

## ORDER FOR RECESS TOMORROW UNTIL 10 A.M. ON WEDNESDAY, JULY 26, 1978

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until the hour of 10 o'clock on Wednesday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. Reserving the right to object, I wonder if I may have about 3 minutes on tomorrow morning?

## ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, Mr. MOYNIHAN be recognized for not to exceed 15 minutes after the two leaders or their designees have been recognized; that Mr. YOUNG be recognized for not to exceed 5 minutes and that Mr. JAVITS be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 9:30 tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Will the distinguished Senator from South Dakota inform Senators as to whether or not he expects to ask for a rollcall vote on the supplemental appropriation bill later today?

Mr. ABOUREZK. No.

The PRESIDING OFFICER. I thank the Senator.

## OLDER AMERICANS ACT

The Senate continued with the consideration of S. 2850.

UP AMENDMENT 1485

(Purpose: To provide expanded services under the Older Americans Act of 1965 to the rural elderly.)

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from New Mexico.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1485.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, line 25, beginning with the word "as" strike out through "States" on page 84, line 2, and insert in lieu thereof the following: "as the product of the population aged 60 or over in such State and the allotment percentage of that State bears to the sum of the corresponding products in all States".

On page 84, lines 10 and 11, strike out "ending June 30, 1973" and insert in lieu thereof "1978".

On page 84, between lines 15 and 16, insert the following new paragraph:

"(2)(A) The allotment percentage of each State shall be 100 per centum plus one-half of that per centum of the population of the State which resides in rural areas in that State.

"(B) For the purpose of this paragraph, the term 'rural area' means any area not included in a standard metropolitan statistical area as established by the Office of Management and Budget.

On page 84, line 16, strike out "(2)" and insert in lieu thereof "(3)".

On page 89, line 18 after the period, insert the following: "The State is encouraged in carrying out the requirement of clause (1) of this subsection to include the area covered by the appropriate economic development district involved in any planning and service area designated under that clause, and to include all portions of an Indian reservation within a single planning and service area, if feasible.".

On page 92, line 19, insert "(A)" after "(4)".

On page 92, line 22 after the semicolon, insert "and".

On page 22, between lines 22 and 23, insert the following new subparagraph:

"(B) provide that the State agency will establish outreach activities designed to assure that needy elderly individuals in rural areas are better served by programs assisted under the plan;".

On page 123, line 15, strike out "as paragraphs (6) and (7)" and insert in lieu thereof "as paragraphs (7) and (8)".

On page 123, line 16, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 123, line 21, strike out the end quote, and the period.

On page 123, between lines 21 and 22, insert the following:

"'(6) to assist in paying the costs, in whole or in part, of special courses of training designed to meet the needs of service providers in rural areas,'".

On page 126, line 7, strike out "or".

On page 126, betwen lines 17 and 18, insert the following:

"'(7) meet the special needs of older individuals residing in rural areas;'".

On page 126, line 18, strike out "(7)" and insert in lieu thereof "(8)".

On page 127, line 15, strike out "(8)" and insert in lieu thereof "(9)".

Mr. DOMENICI. Mr. President, I say to my fellow Senators that I shall try not to take too long, although I do believe this is one of the most significant amendments that will be offered to this bill.

Before I explain it, and I shall try to do that as succinctly as possible, let me list the cosponsors of this amendment: Senators BELLMON, THURMOND, HART, HELMS, SCHMITT, WALLOP, DURKIN, MORGAN, BAYH, HATCH, HODGES, RANDOLPH, CLARK, and ANDERSON.

Mr. President, I think that any Senators that have looked at the problems we are having in delivering the various services under the Older Americans Act to the senior citizens who live in rural areas would quickly acknowledge that what I found in New Mexico is basically what they will find in more than half of the States of the Union. That is as follows: It costs more to deliver the services to those who live in small communities in the rural parts of our respective States, than it does in big cities.

I think it is logical that our country foster a policy of preserving the rural environment for our senior citizens. The only way to do that is to make it as attractive as possible in terms of the services available. To put it another way, if we want our senior citizens to continue to move into and live in rural parts of our respective States, we have to acknowledge the fact that it is going to cost more to deliver the services to them. That is the situation I have found in hearings in my State—I have not found

it different in any State with a substantial rural population. This amendment does not increase the authorizations in the bill. They were increased by the committee. I would take those same dollar figures and reallocate them under my new formula.

First, this amendment would modify the formula for distributing these funds under consolidated title III so as to allow a greater recognition of the special needs of the older Americans who live in rural areas. It would encourage the development of closer links between rural area agencies on aging and the Economic Development Administration district offices which administer a number of programs under the auspices of the Department of Commerce.

Second, what we have found is that in the rural areas, the Economic Development Administration is an extremely good Federal program for the construction of facilities. What we are trying to do here is coordinate, as much as we can, EDA with the Rural AAA's.

Third, this amendment would encourage the States, when they are designating rural area agencies on aging, to include all parts of an Indian reservation in a single area agency. That is a particular problem in my part of the country where we have often subdivided many Indian reservations instead of preserving the homogeneous nature of the reservation. This amendment would say that the unity of Indian reservations should be preserved for purposes of programmatic emphasis.

Fourth, my amendment would increase the outreach efforts in rural areas in an attempt to reach needy elderly individuals with the appropriate services.

Fifth, it would expand the training efforts designed to provide the personnel needed to improve the service delivery mechanism in rural areas of America.

I know that this amendment will be controversial and some of my colleagues who represent the very large States—not large in geography, but with large metropolitan areas—will object. I am sympathetic with the attitude that they will express in this debate, but I think we often overlook the needs of the rural elderly because they are outside of the mainstream of media coverage.

They are a relatively invisible portion of the population. They are more isolated and they are less well served. They simply do not command the Nation's attention in a manner proportionate to their needs.

In the January–February 1978 issue of Perspective on Aging, the publication of the National Council on Aging, there was published a guest editorial by Dr. Louise Gerrard, executive director of the West Virginia Commission on Aging. In this editorial, the clear indication was that the rural elderly are neglected; they are "a neglected minority within a minority—the most disadvantaged of America's elderly population."

> Statistics * * * make it clear that rural elderly persons are more likely to live in poverty than their city cousins, to have substandard housing, to find it difficult to secure needed services, to lack the mobility to get from their homes to health clinics, to Food Stamp offices, to senior centers.
>
> Though they need employment, they may not be able to reach the job site, because there is no public transportation for that either.

Later in the editorial Dr. Gerrard noted that many policymakers—

> * * * continue to talk and act as if older rural residents with their farms and families and fresh air don't need the benefits from government programs as their urban counterparts do.

Mr. President, I ask unanimous consent that the entire text of Dr. Gerrard's editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, in that same issue of Perspective appeared an article by Dr. Joyce Barry, a specialist on the rural elderly with the U.S. Department of Agriculture. Dr. Barry noted that—

> The most common barriers to the delivery of services in rural areas are: Low population density, higher costs of services, lack of an organized communications network, lack of public—or any—transportation system which keeps older people from obtaining services that are available, lack of local monies to match federal funds and/or to finance services on a long-term basis, emigration of rural residents.

Dr. Barry went even further to note that—

> To be elderly in America can be a liability, but to be old and rural can be hazardous. The kinds of services keyed to human survival most often remain invisible in rural areas. Somehow, program efforts have continued to be cosmetic and fail to address older persons' urgent needs in non-metropolitan communities in the United States.

Mr. President, I ask unanimous consent that the entire text of Dr. Barry's article entitled "A Silent Minority Often Unserved," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. DOMENICI. Mr. President, a Washington-based organization known as Rural America has compiled some information on the magnitude of the "discrimination" against rural areas which have existed and continues to exist in most of the major federally funded programs. Rural America has compiled a brief fact sheet showing how this discrimination impacts upon the rural elderly in the fields of housing, health, and transportation. Mr. President, I ask unanimous consent that portions of this fact sheet be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. DOMENICI. Mr. President, in order to be fair to the larger States, I have provided in my amendment a hold harmless provision which will insure that no State will receive less than it received during fiscal year 1978. Thus, there will not be a dimunition of services as a result of the new formula. I would also note, Mr. President, that New Mexico does not gain from this formula change. I say this because it would be easy for opponents of this amendment to say that I am doing this solely to benefit my home State. I am offering this amendment because rural areas are underserved in the distribution of Federal funds. That local services are more scarce. That transportation and service delivery costs are greater. That specially trained personnel are more scarce and that these and other factors all work against the efficient delivery of social and nutritional services to the rural elderly.

The State of New Mexico is a small State and we come under the minimum funding provision in the existing act. New Mexico receives one-half of 1 percent of the funds appropriated for services. That is true under the current act and it is true under the formula containd in my amendment. I think that it is appropriate to incorporate the concept of a rural service delivery mechanism in this bill so that we can rectify the shortcomings of our present system and begin to more equitably meet the needs of our low income and needy rural elderly.

I have prepared a computer printout showing how this new formula would work if we increased the appropriations by 20 percent. I ask unanimous consent, Mr. President, that this table be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. DOMENICI. Mr. President, I would hope that the Senate will act favorably on my amendment and that it will become a precedent for future legislation.

EXHIBIT 1

THE MOST DISADVANTAGED

(By Louise Gerrard)

The rural elderly are a neglected minority within a minority—the most disadvantaged of America's elderly population.

Statistics given elsewhere in this issue of *Perspective* make it clear that rural older persons are more likely to live in poverty than their city cousins, to have substandard housing, to find it difficult to secure needed services, to lack the mobility to get from their homes to health clinics, to Food Stamp offices, to senior centers.

Though they need employment, they may not be able to reach the job site, because there is no public transportation for that, either. I know one determined foster grandparent who in even the foulest weather walks six miles, then hitches a ride by truck to reach the center for retarded children where he works.

Certainly no one today would dare to claim that blacks are happier than whites, that they are content without money, singing spirituals and sitting by the riverbank waiting for fish to catch on their lines. Yet some policy makers—the gatekeepers of our society—continue to talk and act as if rural older residents with their farms and families and fresh air don't need the benefits from government programs as their urban counterparts do.

It is specious to generalize about rural people. Some have been farmers most of their lives, but many more were what census takers term "non-farm": Coal miners, timbermen, employees in stores, on road crews, in food processing plants, teachers, gas station attendants, practical nurses, or carpenters. The older spent few years in jobs covered by Social Security, so what money they have is in or comes from savings, and private pensions are virtually unknown in many rural communities.

Laws passed since the sixties have made a slight difference—though the supreme irony is that Medicare, the Older Americans Act, community mental health centers, Supplemental Security Income, transportation and housing programs were designed to meet urban needs and to avoid duplication of services to city residents. Rural America was not part of the package. Social services in rural areas are minimal—if they exist at all—and urban programs cannot serve as guidelines to span the yawning gap in rural service delivery.

Medicare premiums under Part B are the same for rural as for urban dwellers. But if medical services aren't available, and all too often they are not, the rural policyholder pays for what someone else is getting. He does without. The trained manpower needed to write a proposal for model project funds cannot be found in rural communities. So, even with legislation that should equally benefit urban and rural areas, rural projects receive comparatively few dollars.

In many rural counties, a conscientious outreach worker may be busy eight hours a day, yet see only three or four people. Distances are vast, back-up services sparse. For a meals-on-wheels program, transportation costs more than the food.

Visits from service agency staff—in theory supposed to serve everyone—are infrequent. Social Security workers may be in a county two days a month; the Farmers' Home Administration representative may come one morning a month and leave for another county while people are still waiting in line to see him.

Rural health clinics are opening, but in all too many places the nearest health worker is two hours away, over roads impassable in bad weather, and then only if an older individual can find or persuade someone with a car to drive him there.

Rural counties are hard pressed to pay for water and sewer lines and to maintain their roads. They cannot pick up the costs of programs started with Federal funds, then thrown onto the community as its responsibility after three or four years. "If the community cares, it will pick up the program" is a favorite maxim of guidelines writers. As those of us in rural areas know, the community may care passionately yet lack the economic base to support even the worthiest program. A county receiving $30,000 in revenue sharing funds a year takes heroic measures if it earmarks $5,000 for a senior center or transportation program.

The National Council on the Aging is committed to establishing a new emphasis and a new focus on the rural elderly. At a time when the Administration is preparing its long-promised rural strategy, this special issue of *Perspective* reminds us that America desperately needs a rural strategy, as well.

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EXHIBIT 2

A SILENT MINORITY OFTEN UNSERVED

(By Joyce Berry)

Anyone with a social conscience realizes our Nation's neglect of the older American. To be elderly in America can be a liability, but to be old and rural can be hazardous. The kinds of services keyed to human survival most often remain invisible in rural areas. Somehow, program efforts have continued to be cosmetic and failed to address the older persons' urgent needs in non-metropolitan communities of the United States.

In the past, the elderly people held meaningful roles in the rural community and within the family structure, a pattern rapidly changing due to the emigration of those who seek more gainful employment and better opportunities in the cities. The rural elderly, often with intense, emotional ties to land they have worked and cultivated for most of their lives, are extremely reluctant to join the outward flow.

The inadequate service delivery system for the rural elderly usually means a condition of dispair and isolation. The lack of transportation, home repair services, health care and sufficient incomes prevent them from maintaining independence and dignity in their later years. The most common barriers to the delivery of services in rural areas are:

Low population density.

Higher cost of services.

Lack of an organized communications network.

Lack of public—or any—transportation system which keeps older people from obtaining services that are available.

Lack of local monies to match Federal funds and/or to finance services on a long-term basis.

Emigration of rural residents.

Reports from hearings on the rural elderly conducted by the Senate Committee on Aging indicate that transportation is the major problem. Few would argue that, until social service programs abandon the categorical utilization of vehicles, fragmented systems of transportation will continue to exist. Agencies must work towards actively implementing, on a broad scale, what is put into the interagency agreements.

HOUSING ALSO SERIOUS PROBLEM

Housing is another serious problem. Data show that 60 percent of the nation's substandard housing is in rural America. One out of four such units is occupied by an older individual. Sixty percent of the rural elderly live in homes built prior to 1915. Older persons can no longer rely on family members to fix leaky roofs or put doors back on hinges.

Requests by the rural elderly for home repair services far exceed the program assistance available through the Community Services Administration, Administration on Aging, Farmers Home Administration and other agencies. There is a need for more resources and a redirected or expanded effort in manpower development to assist the elderly in maintaining their homes.

Though it is known that the majority of elderly persons in the nation's rural areas suffer from chronic illness, there is nevertheless an absence or scarcity of physicians and other trained health personnel to attend to them. The gap is crucial, its dimensions only partly bridged now by the Rural Health Clinic bill that helps by providing the elderly with reimbursable medical care.

An expansion of the homemaker home health aide program is needed to provide chore service, as well as health care, to help the elderly remain in their homes as long as possible. A recent study by the General Accounting Office encourages the provision of home health care as a preventive measure to institutionalization. Aside from reducing costs, it is the most responsible and feasible means of caring for the elderly whose condition does not warrant institutionalization.

POVERTY IS APPALLING

The poverty among the rural elderly is appalling, particularly in the South where there is a significant concentration of low-income, minority groups. Close to 60 percent of the older persons who are minority group members live far below poverty levels. Insufficient income affects their total lifestyle and well-being.

It was recently reported that an older woman in Mississippi had lived in a tent for two years because she could not afford to pay the taxes and repair costs for her home.

In the ongoing battle for resources, it should not be necessary to pit the urban elderly against older persons who live in rural areas. A valid policy on aging must reflect integration and encompass planning for the needs of both populations. Factors particular to each group must be scrutinized, understood, fitted properly into a mosaic of services that meet both requirements.

The increased cost of service delivery in rural areas—as well as the widespread inaccessibility of services—must be considered. These elements must be part of the decision-making process in allocating funds to support programs serving older persons.

OUTREACH EFFORT LACKING

An outreach effort is desperately needed in rural America to find elderly persons who never heard of an area agency on aging. Unfortunately, older residents of rural areas are not a vocal group; others must speak on their behalf; others, aware of their dire need for homemaker aid and medical care, must locate them, apprise them of services that do exist and are available—and bring one to the other.

Little effort at present is being made to help the rural elderly organize and become skillful in gaining the attention of those who could hear—and help with—their concerns. We in the field of aging—as we plan, analyze and make legislative recommendations—must begin to think rural as well as urban. It's time we recognized that more than a third of the country's older population is in the rural United States. Their number is rapidly increasing—far in excess of the amount of available services.

A "state of the art" report is not needed to tell us about the condition of the rural elderly. We need a commitment from key officials within the executive and legislative branches of government to develop strategies to implement fully and to institute legislative mandates to provide aid to this target group.

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EXHIBIT 3

THE RURAL ELDERLY

(Prepared by Rural America)

For the rural elderly, the problems of poverty, isolation, poor health, inadequate housing and lack of transportation are compounded. With 40 percent of the nation's elderly population, rural America is home to 60 percent of the nation's elderly poor.

In 1977, 81 percent of the rural elderly had annual incomes below $4,000. Despite these figures, Federal outlay data for 1976 indicates that less than 11 percent of all Administration on Aging (AoA) expenditures went to the rural elderly.

HOUSING

Substandard housing perhaps best illustrates the conditions experienced by the rural elderly. Many of their homes lack even the most basic facilities, thus aggravating health and other problems associated with poor housing.

Fifty-four percent of the 1.2 million substandard elderly dwelling units are located in rural America.

The incidence of elderly-occupied units that lack some or all plumbing facilities is approximately five times greater in rural areas than in metropolitan areas.

Currently there are more than 670,000 substandard housing units occupied by the rural elderly. At the rate FmHA has been financing new units for the last five years, it will take 70 years to replace the units which are substandard now.

HEALTH

Rural America has widespread problems in health care. A serious shortage of qualified health personnel, a scarcity of primary health care services, and a range of other problems including inadequate transportation have resulted in a standard of health among the rural elderly that is deplorable.

Estimates indicate that over 50 percent of the rural aged suffer from continuing poor health, with 87 percent of these suffering from some form of chronic illness and 36 percent of these compelled to restrict their activities.

Only 25 percent of the total funds allocated for health services go to rural areas even though nearly 60 percent of all medically underserved persons reside there.

TRANSPORTATION

In many rural counties there is no public transportation system to meet the needs of its elderly residents. For many of these residents the availability of another mode of transportation other than the private car often means the difference between obtaining necessary services or simply going without.

About 70 percent of the rural poor or near-poor are without adequate transportation.

Nearly half of the rural elderly are not even licensed to drive.

Almost half of persons over 65 living in rural areas have no automobiles.

Of the total funds allocated under the National Mass Transportation Act four years ago, only 4½ percent was allocated to meet the transportation needs in rural areas.

CONCLUSION

Old people have a lot of problems which become problems for all of us who care. This country does not do a very good job on the problems of any of the elderly—but we do far less for those in small towns and rural areas. Federal and state agencies assigned the responsibility for serving the elderly are not giving equity to almost half of our nation's elderly population, and must be required to do so.

Isn't it time somebody spoke up for the rural elderly? We do, and we need your help.

Rural America is a nonprofit membership organization set up to give people in rural areas a stronger voice in Washington. Our membership is made up of concerned and active people who share a common sense of the richness, vitality, and diversity of rural America; people who recognize the economic and social needs of rural people; and people who have come to the belief that, collectively, we can significantly improve the lives of rural Americans—and all citizens.

Rural America has raised the needs of the rural elderly with Congress and with the executive agencies administering programs designed to assist the elderly, while at the same time working with community leaders involved in aging issues. Recently, for example, we presented testimony before Congress on the extension of the Older Americans Act in which we offered specific recommendations—such as new funding for construction of senior centers in rural areas and a more equitable allocation formula—to make the Act more responsive to the needs of the rural elderly.

We are convinced that, through an organized effort, much can be accomplished for the rural elderly. We believe that rural America, working through its membership, can make a substantial contribution in the formulation and implementation of programs and policies affecting the rural elderly. To this end, we have established the Rural Elderly Council, a broad coalition of individuals and organizations interested in working on these issues. This advocacy network will serve to monitor legislative and administrative developments, to publicize current issues and developments, and to exchange pertinent information on aging matters. It will also be used as a means of mobilizing collective resources on matters critical to the rural elderly.

But in order for this to be successful, we will need your help. We urge you to become a member of rural America, and of the Rural Elderly Council. Moreover, we need your assistance in contacting others who share your concerns and would be interested in receiving information about rural America. We are especially interested in contacting people active at the local level who can help provide the guidance and leadership the Council will need if it is to be effective.

Complete the form on the reverse side and send it to us today. Speak up for the rural elderly.

EXHIBIT 4

COMPARISONS OF CURRENT AND PROPOSED OLDER AMERICANS ACT FORMULAS

| State | Current factor | Proposed factor | Percent over current factor | Fiscal year 1973 allocation | Fiscal year 1978 allocation | Current factor fiscal year 1978 plus 21 percent | Proposed factor fiscal year 1978 plus 21 percent |
|---|---|---|---|---|---|---|---|
| 1. Alabama | 0.50 | 0.50 | 0 | 1,179,000 | 2,438,000 | 1,179,000 | 2,438,000 |
| 2. Alaska | .50 | .50 | 0 | 363,000 | 757,000 | 909,000 | 909,000 |
| 4. Arizona | 1.02 | 1.00 | −2.20 | 779,000 | 1,483,000 | 1,847,000 | 1,792,000 |
| 5. Arkansas | 1.13 | 1.31 | 16.68 | 917,000 | 1,686,000 | 2,042,000 | 2,365,000 |
| 6. California | 9.07 | 8.15 | −10.11 | 4,781,000 | 13,463,000 | 16,454,000 | 14,676,000 |
| 8. Colorado | .93 | .92 | −.98 | 805,000 | 1,367,000 | 1,689,000 | 1,680,000 |
| 9. Connecticut | 1.42 | 1.34 | −5.73 | 1,069,000 | 2,123,000 | 2,581,000 | 2,415,000 |
| 10. Delaware | .50 | .50 | 0 | 457,000 | 757,000 | 909,000 | 909,000 |
| 11. District of Columbia | .50 | .50 | 0 | 516,000 | 757,000 | 909,000 | 909,000 |
| 12. Florida | 5.50 | 5.52 | .36 | 2,811,000 | 8,127,000 | 9,981,000 | 9,940,000 |
| 13. Georgia | 1.89 | 2.05 | 8.56 | 1,284,000 | 2,816,000 | 3,421,000 | 3,665,000 |
| 15. Hawaii | .50 | .50 | 0 | 465,000 | 757,000 | 909,000 | 909,000 |
| 16. Idaho | .50 | .50 | 0 | 513,000 | 757,000 | 909,000 | 909,000 |
| 17. Illinois | 4.94 | 4.71 | −4.64 | 3,021,000 | 7,437,000 | 8,959,000 | 8,479,000 |
| 18. Indiana | 2.25 | 2.33 | 3.27 | 1,548,000 | 3,379,000 | 4,091,000 | 4,193,000 |
| 19. Iowa | 1.47 | 1.69 | 14.66 | 1,155,000 | 2,217,000 | 2,675,000 | 3,044,000 |
| 20. Kansas | 1.16 | 1.30 | 11.78 | 972,000 | 1,750,000 | 2,104,000 | 2,334,000 |
| 21. Kentucky | 1.54 | 1.74 | 12.75 | 1,154,000 | 2,321,000 | 2,803,000 | 3,137,000 |
| 22. Louisiana | 1.49 | 1.58 | 6.33 | 1,113,000 | 2,234,000 | 2,704,000 | 2,853,000 |
| 23. Maine | .52 | .63 | 20.74 | 620,000 | 785,000 | 947,000 | 1,135,000 |
| 24. Maryland | 1.54 | 1.44 | −6.47 | 1,113,000 | 2,294,000 | 2,786,000 | 2,686,000 |
| 25. Massachusetts | 2.79 | 2.60 | −6.62 | 1,855,000 | 4,234,000 | 5,062,000 | 4,690,000 |
| 26. Michigan | 3.54 | 3.43 | −3.16 | 2,219,000 | 5,319,000 | 6,425,000 | 6,174,000 |
| 27. Minnesota | 1.80 | 1.90 | 5.43 | 1,294,000 | 2,714,000 | 3,270,000 | 3,421,000 |
| 28. Mississippi | 1.05 | 1.28 | 22.40 | 900,000 | 1,577,000 | 1,903,000 | 2,311,000 |
| 29. Missouri | 2.44 | 2.49 | 2.31 | 1,679,000 | 3,670,000 | 4,421,000 | 4,488,000 |
| 30. Montana | .50 | .50 | 0 | 515,000 | 757,000 | 909,000 | 909,000 |
| 31. Nebraska | .78 | .87 | 11.56 | 759,000 | 1,173,000 | 1,414,000 | 1,565,000 |
| 32. Nevada | .50 | .50 | 0 | 434,000 | 757,000 | 909,000 | 909,000 |
| 33. New Hampshire | .50 | .50 | 0 | 537,000 | 757,000 | 909,000 | 909,000 |
| 34. New Jersey | 3.39 | 3.28 | −3.24 | 2,078,000 | 5,064,000 | 6,146,000 | 5,901,000 |
| 35. New Mexico | .50 | .50 | 0 | 531,000 | 757,000 | 909,000 | 909,000 |
| 36. New York | 8.56 | 7.93 | −7.40 | 5,114,000 | 13,062,000 | 15,542,000 | 14,281,000 |
| 37. North Carolina | 2.21 | 2.52 | 13.92 | 1,017,000 | 3,289,000 | 4,011,000 | 4,534,000 |
| 38. North Dakota | .50 | .50 | 0 | 501,000 | 757,000 | 909,000 | 909,000 |
| 39. Ohio | 4.56 | 4.40 | −3.58 | 2,746,000 | 6,856,000 | 8,280,000 | 7,923,000 |
| 40. Oklahoma | 1.38 | 1.50 | 8.39 | 1,062,000 | 2,073,000 | 2,508,000 | 2,697,000 |
| 41. Oregon | 1.13 | 1.17 | 3.55 | 900,000 | 1,677,000 | 2,045,000 | 2,102,000 |
| 42. Pennsylvania | 5.95 | 5.69 | −4.34 | 3,481,000 | 8,958,000 | 10,799,000 | 10,252,000 |
| 43. Puerto Rico | 1.03 | 1.14 | 11.04 | 814,000 | 1,327,000 | 1,868,000 | 2,059,000 |
| 44. Rhode Island | .50 | .50 | 0 | 598,000 | 757,000 | 909,000 | 909,000 |
| 45. South Carolina | 1.04 | 1.18 | 13.07 | 857,000 | 1,551,000 | 1,888,000 | 2,118,000 |
| 46. South Dakota | .50 | .50 | 0 | 528,000 | 757,000 | 909,000 | 909,000 |
| 47. Tennessee | 1.90 | 2.07 | 8.91 | 1,319,000 | 2,832,000 | 3,442,000 | 3,720,000 |
| 48. Texas | 5.02 | 4.93 | −1.79 | 2,887,000 | 7,487,000 | 9,117,000 | 8,885,000 |
| 49. Utah | .50 | .50 | 0 | 567,000 | 757,000 | 909,000 | 909,000 |
| 50. Vermont | .50 | .50 | 0 | 458,000 | 757,000 | 909,000 | 909,000 |
| 51. Virginia | 1.93 | 1.99 | 3.55 | 1,279,000 | 2,858,000 | 3,496,000 | 3,593,000 |
| 53. Washington | 1.57 | 1.59 | 1.49 | 1,131,000 | 2,334,000 | 2,847,000 | 2,868,000 |
| 54. West Virginia | .91 | 1.06 | 16.55 | 815,000 | 1,365,000 | 1,656,000 | 1,915,000 |
| 55. Wisconsin | 2.16 | 2.27 | 5.14 | 1,463,000 | 3,234,000 | 3,913,000 | 4,083,000 |
| 56. Wyoming | .50 | .50 | 0 | 414,000 | 757,000 | 909,000 | 909,000 |
| Federal total | 99.01 | 99.00 | ---------- | 67,354,000 | 149,955,000 | 179,946,000 | 179,946,000 |

NOTES

All estimates are based on 1977 estimates of the population 60 plus and 1970 census counts for metro and nonmetro population.

Current factor: Current formula without 1973 hold-harmless. Each State receives an amount proportional to its population 60 plus, with a minimum of ½ of 1 percent of appropriation. The column totals to 99 percent since 4 territories each receive a minimum of ¼ of 1 percent.

Proposed factor: Proposed factor without 1978 hold-harmless. Each State's allocation is proportionate to its 60 plus population weighted by 100 percent plus ½ of that percentage of that population living in nonmetro areas.

Percent over current factor: The percent by which the proposed factor exceeds the current factor.

Fiscal year 1973 allocation: State allocation in fiscal year 1973 for title III, area planning and social services.

Fiscal year 1978 allocation: State allocation in fiscal year 1978 for title III, area planning and social services.

Current factor fiscal year 1978 plus 20 percent: Current formula with 1973 hold-harmless at an assumed appropriation level 21 percent above fiscal year 1978.

Proposed factory fiscal year 1978 plus 20 percent: Proposed formula with 1978 hold-harmless at an assumed appropriation level 21 percent above fiscal year 1978.

Mr. DOMENICI. I reserve the remainder of my time.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I rise in opposition to this amendment. I think it is perhaps the most important amendment that will be offered to this bill today. I think it goes to not only the guts of the bill, but, if adopted, may well set a precedent which will apply to a whole host of subsequent legislation wherein a formula may be involved.

I think the motives of the Senator from New Mexico in offering it are very sincere and direct. He is an admirable person. Perhaps if I represented his State I might view it from his context. In fact, I am told that under the Domenici formula, even my State would benefit.

But I am opposed to the Domenici amendment, Mr. President, because it is wrong. It is just dead wrong.

We have had a very simple formula in this bill for the 13 years it has been on the statute books, a formula that everybody in the country can understand, that is fair and equitable across the board. It says, count the number of people in your State 60 years of age and older and that is how the moneys are allocated.

Since 1965 to 1978, 13 years, that has been the formula. Now it is suggested that we scrap that and we build in a rural bias.

I have a large rural area in my State. Based on the computer printout, Missouri would make a few dollars under the Domenici amendment.

But, Mr. President, it is a very expensive proposition to live in a city, not just New York City, or Providence, or Saint Louis, or Kansas City, cities of even more modest size. To see there is to be built in an inherent bias, a tilt, in formula in favor of rural America to the detriment of urban America, I think is to belie the fact of where the great social needs of this country exist today and, Mr. President, will exist for many years to come into the future.

I think at this time when we know that in urban America there is enormous unemployment, incipient bankruptcy in certain cities in the country, great civil unrest, a recession, et cetera, to say at this time, knowing the colossal needs that obtain and exist in urban America, that after 13 years of a neutral formula, an absolutely neutral formula that does not tilt urban or rural and says count everybody 60 years of age and older, that is how the money will be allocated, to scrap that neutral, even-handed formula, a formula with 13 years of precedent, to say now that in this bill we are going to consciously and by design enact a rural bias in this formula and set a precedent thereby for subsequent legislation, Mr. President, I think would be a very serious mistake.

Mr. JAVITS. Will the Senator yield to me?

Mr. EAGLETON. Yes.

Mr. JAVITS. I ask the Senator to yield only for one reason. That is because there is a central fact which has not yet been mentioned. The central fact is that whereas the formula of the older Americans program for years has been based upon the number of people over 60 in a given State, compared to all the people in the United States over 60, the Domenici formula is based not upon age, it is based only upon those who live in rural areas.

He has not got aged in it, though he argues that the elderly cost more to look after in rural areas. But there is no provision respecting elderly in this new formula.

It just says rural people, compared to all the rural people in the United States—they can be 2 years of age.

It simply is a way to dip into the grab bag and take more money.

Now, I offered, I might say to my colleague and to Senator DOMENICI, and the Senator did not join in this, Senator EAGLETON or Senator CHAFEE, I did this myself, and I said, "If you need more money, let's set up a fund of money in which the commissioner can take care of any State where the costs are excess to normal costs."

But my colleague would not have that. So, for this purpose, which does not need this in order to serve it, we are going to prostitute—that is what we are doing—a decent and honorable formula which has worked for 13 years.

That is why I am opposing it just like Senator EAGLETON.

Mr. DURKIN. Will the Senator yield for a question?

Mr. JAVITS. Senator EAGLETON has the floor.

Mr. EAGLETON. I am glad to yield to my colleague from New Hampshire.

Mr. DURKIN. I thank the Senator from Missouri.

When we were in a similar position with respect to the public works funding, there were some problems between the rural areas and the metropolitan areas.

Is the Senator from New York and the Senator from Missouri disposed to follow the pattern set in the public works EDA money and increase the minimum formula from one-half of 1 percent to three-quarters of 1 percent?

Did I detect that in the dialog?

Mr. EAGLETON. I made no mention of the EDA formula. Perhaps my colleague from New York would want to respond.

Mr. JAVITS. Would the Senator restate that?

Mr. DURKIN. As the Senator from New York, I am sure, remembers, the Senator from New York and I and others collaborated here on the Senate floor when we had reached an impasse on the funding formula for the EDA public works money. It was resolved by increasing the formula, the minimum funding formula, from one-half of 1 percent to three-quarters of 1 percent.

I wonder if the same compromise might not be mentioned this afternoon?

Mr. JAVITS. I am going to offer a compromise. The compromise is that we take $5 million, which is roughly one-half of 1 percent of the aggregate appropriation, and make it available to the commission to pay to any State which has excess costs because the elderly live in rural areas.

I am perfectly willing to pay the bill. That is why I used a strong word. If Senator DOMENICI is offended, I apologize.

But I used the strong word because why take this formula which has worked so well and completely distort it without any relation to the aged when what he wants can be done perfectly properly. I agree with the Senator, whether we do it by taking $5 million, which, by the way, is roughly the same amount of money which is involved in his amendment, or whether we do it by his amendment which, if we take it, will simply distort the whole reason for dealing with the elderly.

It has no relation to the elderly. It just deals with the rural population.

Mr. DOMENICI. Will the Senator yield?

Mr. JAVITS. Of course.

Mr. DOMENICI. Was the Senator from Missouri finished?

Mr. EAGLETON. Yes.

Mr. DOMENICI. Let me say, it is rare that I would disagree with the good Senator from New York, however, I really believe, the technical language in this amendment indicates we are considering as the base rural people aged 60 or older. Let me emphasize that there is no attempt in this amendment to base our formula on the rural population at large, but rather, the rural population over 60.

Mr. President, it is my undestanding that the present formula was first enacted in 1973; thus, we are only about 5 years from that point in time. Prior to that this was such a small program it worked more on a grant basis than a formula.

Second, there was a tremendous argument in 1972–73 about this formula, which has now become so nearly perfect that we should not look at it. There was a deep split in the committee over the funding formula. We have not looked at this issue for 5 years. Now we find that it costs more to give exactly the same thing to a senior citizen in a small town in Maine or New Mexico or Missouri as it does in a major metroloplitan area.

Let us not about what is fair on the basis of what we did 5 years ago is going to be fair forever. That to change that formula is going to perpetrate some kind of prostitution on somebody. If it was not working to begin with, we have a chance to look at it. If it was working from the first, we can defeat the Domenici amendment.

The purpose of this bill is to provide services, to senior citizens; and the fair way is the equitable way. The equitable way is to recognize that there is one group of senior citizens in the United States who are being penalized in every way, and it is the rural senior citizens.

Do we know of any program of our national Government that is doing as much in terms of resources to help rural America as we are going to help metropolitan America?

Do we see any new bills since the pass-

age of the legislation which gave the Department of Agriculture all kinds of glorious goals for rural America? What new bills have we seen to help them? They are all for urban Americans, while at the same time rural senior citizens are going without services, without transportation, and so forth because we cannot even afford to deliver it.

Housing is better in the cities than in the rural areas. Social services are better in the cities than in the rural areas. The nutritional services are better in the cities than in the rural areas.

How can it be in absolute fairness that everyone is being treated alike, on a per capita basis, under this bill?

I do not believe my amendment is unfair. We are being fair. I do not believe there is anything sacrosanct about a 5-year formula. If it is not working right, let us change it, and my amendment would change it.

In fact, most States would get a substantial increase—not quite as much as they would on straight per capita formula, but a substantial increase if appropriations were to rise by 20 percent. The State of New York would get a substantial increase, but not quite as much as it would get under the present formula. For those who wonder what it will do to New Mexico, we do not get any more money under the new formula because we receive the minimum allotment to which we are entitled.

It appears to me that as rural elderly populations grow we should provide for it now and give them fair treatment in the formula. That is what this amendment will do. It is trying to be fair, rather than continue an unfair formula for another 2 years.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I will be brief.

The Older Americans Act was passed in 1965. Prior to 1973, there was an allocation made to the States, and the allocation was made on a per capita basis—60 years and older.

The pattern has been the same since 1965: per capita, 60 and older. I do not have all the demographics or the statistics readily at my disposal, but I submit this, and I think common sense will bear it out: If we were to compare the cost of running a nutrition site in a section of the city of St. Louis with the cost of operating that nutrition site in a small city such as Maryville, Mo., I think the facts would bear out that the cost of operating that nutrition site is much more expensive per person in the urban setting than in the rural setting. The cost of everything is more expensive in a city vis-a-vis a rural area.

Although certain transportation costs might be higher in rural America, I think that, on balance, the high cost of operation of a nutrition center in an urban area would about offset what transportation costs there might be in a rural transportation program. That is why I think the formula should be even-handed, and that is why the formula is, and that is why I would not change it.

I cannot think of a more bizarre time to start cranking into Federal formulas a conscious bias in favor of rural America vis-a-vis urban America, when we know that many cities in this country are fighting desperately just to stay alive fiscally, including some of the very biggest. It could only be interpreted as a slap in the face, to urban America, to say the least, that after a formula has been operating basically the same as it has for 13 years—it was a per capita formula prior to 1973—and now has been operating on an even-handed basis, we are going to say to urban America, "We think you are getting too much."

We know it is expensive to live in big cities, that there are problems of poverty, and so forth; but if we are going to take money from urban America and sprinkle it around in rural America, I think it would be a mistake.

Mr. CHAFEE. Mr. President, I support the position of the Senator from Missouri.

So far as my State is concerned, it would not be affected under this formula, anyway.

I do see great dangers in bringing a new formula into effect in this program. How are we going to do it? Are we going to do it as suggested by the Senator from New Mexico, based on rural population? Should we do it based on the cost of living in a State? Under that, it seems to me we could have all kinds of varied programs. One State could get more because it is more expensive to live there. I am surprised that somebody from Alaska does not say that they should get much more than the formula provides, because everybody knows it is far more expensive to live in Alaska.

It seems to me that there are great dangers and difficulties in varying from the formula which has worked with some success for these many years. So I oppose the amendment by the Senator from New Mexico, artful though it may be.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield

Mr. MORGAN. Mr. President, I join the Senator from New Mexico in supporting this amendment.

This amendment, by adding a rural weight to the allocation formula, would allow the millions of elderly persons in rural areas to receive the same level of services now available to senior citizens in urban areas. It is a matter of equity, and will benefit rural elderly in North Carolina and the Nation.

In rural areas, having smaller projects serving larger geographical areas, the cost of operation is much greater than it is in urban areas per person served. The cost of support services, such as transportation, planning, administration, and outreach efforts, are all much higher in rural areas.

At the present time, these additional support costs can only be met by reducing the amount and quality of services available to the elderly. Thus, the present practice of allocating funds simply on the basis of the number of elderly in a given State amounts to discrimination against millions of elderly only because they live in rural areas.

An amendment being offered to this bill by Senator CHURCH highlights the problem. His amendment limits any nutrition project's expenditures for support services, in this case primarily transportation, to 20 percent of the total, but allows the 20 percent ceiling to be waived up to a maximum of 50 percent in areas with unusually high support costs. Senator CHURCH, who as chairman of the Special Committee on Aging is one of the Senate's leading experts in these matters, is giving clear recognition to the fact that some areas in this country must deal with higher transportation costs in their nutrition projects. It seems clear to me that these areas Senator CHURCH is concerned about are rural areas. Now, in these rural areas, simple equity would demand that rural nutrition projects should not have to pay for their extra transportation costs by taking meals away from needy elderly. And this is what is happening now.

The purpose of this amendment is not to take away required services in urban areas, but only to allow rural elderly to receive the same level of services. In order to prevent the reduction of existing services in urban areas, rural areas will only be allowed to bring their services to an equal level at a gradual rate over the next several years. The existing injustice will only slowly be corrected, because we do not want to make any elderly, anywhere in the country, suffer.

Mr. President, I do not think anyone in this body can say that the Senate has made a raid on the urban areas of this country. Many times in the Senate we have voted to shore up the urban areas of this country. I believe this amendment will do what is fair and equitable for the rural people.

This amendment has been carefully constructed to bring about equality in services, and it should be adopted.

Mr. DOMENICI. I thank the Senator from North Carolina.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will run equally against both sides.

Mr. CHAFEE. Who wants time?

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 17 minutes remaining, and the Senator from Missouri has 19 minutes remaining.

Mr. DOMENICI. Mr. President, will the Senator from Missouri yield back his time? I will yield mine back. I understand the Senator from New York will then offer a substitute.

Is that correct?

Mr. CHAFEE. Yes.

Mr. JAVITS. I have an amendment.

Mr. CHAFEE. He is prepared to yield back his time.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. Senators yield back their time.

UP AMENDMENT NO. 1486

(Purpose: Allows up to $500,000 for extra costs of financing elderly in rural areas)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. All time having been yielded back, the Senator's amendment is now in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1486.

At the end of paragraph 4 of Domenici amendment add the following:

"(d) Notwithstanding the foregoing the Commissioner may reallot an amount no greater than up to one-half of one percentum of the amount appropriated pursuant to section 303 of this title for the purpose of making additional payments to any State to meet the excess costs, over and above those costs estimated by the Commissioner for non-rural areas, of providing services under this title to older Americans located in rural areas."

Mr. JAVITS. Mr. President, I modify the amendment to include the figure of "5 million" or one-half of 1 percent whichever is higher, and I send the corrected amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

At the end of paragraph 4 of Domenici amendment add the following:

"(d) Notwithstanding the foregoing the Commissioner may reallot an amount no greater than up to one-half of one percentum of $5 million whichever is greater of the amount appropriated pursuant to section 303 of this title for the purpose of making additional payments to any State to meet the excess costs, over and above those costs estimated by the Commissioner for non-rural areas, of providing services under this title to older Americans located in rural areas."

Mr. JAVITS. Mr. President, if I may be recognized, I am only seeking to prove to the Senate that I am practicing what I preach. One-half of 1 percent will be taken away from many States and given to other States, and we have this classic business always of 22 States will benefit, 14 will lose, and 12 will be unaffected, and there we go—equity, principle, forget it—and that is what we are contending against, both myself and the managers of the bill.

If it costs more money to administer the same equal nondiscriminatory services to residents of rural areas, who are elderly and proper beneficiaries, here is roughly the same amount of money to do it, except that if it costs very much more in South Dakota and costs nothing more in some other State, for example, Georgia, then the Commissioner will give the money to South Dakota that it needs and to Georgia that it needs and not just this across-the-board allocation of one-half of 1 percent based strictly upon rural population having no relation to the elderly and no relation to costs.

In short, there is no element of bad faith here. We want the rural elderly to fare as well as the city elderly, but in order to do that it is not necessary to take this formula and destroy it, as I have just demonstrated by this substitute, which I will vote for gladly and happily. I have no desire whatever to do anything else.

Let us see how this actually works. Take my State, which I know a lot about. We have 9 percent of the rural population of the country. That is a lot of people. But, nonetheless, under this formula of Senator DOMENICI my State will be cut 10 percent of what it would otherwise get. Instead of getting $16 million it would get $14.5 million.

Let us take another look. We heard that these were small sums that did not amount to much. Alabama instead of getting $1,179,000 would get $2,438,000, about $1.3 million more.

Mr. PERCY. What about Illinois?

Mr. JAVITS. The Senator asked me to give the figure on Illinois. Illinois would get $500,000 less under this particular formula. Iowa would get $400,000 more. These are appreciable sums. It is completely arbitrary and has no relationship whatever either to elderly or to costs, and at least what I am offering has a relationship both to elderly and to costs and it is about the same amount of money.

We totaled it all up, and it is about $5 million that would be taken away from some States and given to others. The fund we are giving the Commissioner to pay actual costs—if they are greater he will pay them—is $5 million.

I respectfully submit I offered this amendment—by the way, I suggested it to my friend and colleague—and I really hope he will take it because it represents what I consider to be an honorable resolution of a problem which he has raised and which I am not contesting.

All that I say is at least relate it to the elderly and relate it to costs, and I hope very much the Senate will adopt this amendment.

Mr. DOMENICI. Mr. President, is it fair for me to assume that I have the time in opposition to the amendment to my amendment?

Mr. CHAFEE. Good.

Mr. DOMENICI. I ask the Senator from New York to explain this to me again. First of all, I truly believe that is the same chart that he was reading in terms of who gets what under my proposed formula. I hope that the distinguished Senator from New York believes me that this formula is based upon the percentage of 60-plus in rural areas—not just the rural population.

The PRESIDING OFFICER. If the Senator will cease for a moment, the Senator is in opposition to the amendment. He does not have control of the time. The manager of the bill does have control over the time, unless he favors the amendment.

Mr. CHAFEE. Mr. President, how much time do we have on this side?

The PRESIDING OFFICER. There are 15 minutes in opposition, and in this case if the managers of the bill oppose the amendment or are in favor of the amendment, they may yield to the Senator from New Mexico.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator may control the opposition time.

The PRESIDING OFFICER. Is that agreeable?

Mr. CHAFEE. That is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask the Senator from New York, if he will tell us again what his fund will do? Will it negate my new formula and set up a new fund that will be used by the Secretary?

Mr. JAVITS. It will not deal with the Senator's formula at all. It does not negate it or accept it. It is not included in the bill. It sets up one-half of one percent of this particular appropriation, or $5 million, whichever is more, for the purpose of paying excess costs, that is, over and above what it costs to service nonrural area elderly for any place in any State where those excess costs are incurred.

Mr. DOMENICI. So if the Senate adopts the Senator's amendment because of it, notwithstanding the nature of it, my amendment is defeated.

Mr. JAVITS. The Senator's amendment is adopted with that amendment.

Mr. DOMENICI. So that it is a nullity.

Mr. JAVITS. No. I do not think it is a nullity. We would have accomplished $5 million for the Senator's purpose.

Mr. DOMENICI. I understand.

Mr. JAVITS. It is not a nullity at all.

Mr. DOMENICI. But if we look at the State of Alabama or Idaho or Indiana, where I have indicated that these States would receive more money under my proposed formula that basically is not going to be the case with what Senator JAVITS is proposing. Instead Senator JAVITS would allow rural States to share $5 million or one-half of 1 percent which is greater.

Mr. JAVITS. That is correct.

Mr. DOMENICI. First of all, I construe that to mean that a fair and equitable readjustment of the formula is not going to take place this year but rather that the Javits approach of setting up this fund will be the case. I say, in all deference to my good friend from New York, that I truly do not believe this will do the job. First of all, I do not believe it is only a question of increased administrative costs. I believe the programs themselves cost more. I believe it costs more for rural transportation than it does for transportation in large urban areas, and I believe on a per capita basis, we have evidence that, it costs 150 percent more for transportation in rural areas than in the major cities.

With reference to nutrition, I believe it costs more to try to furnish, whether it is meals on wheels or in the little congregate settings of rural America. It costs more per capita there than it does in the cities.

My formula would give an additional bonus for that cost. Senator JAVITS' amendment in lieu of mine will set up a national block of not less than $5 million or one-half of 1 percent, whichever is greater, to be used by the Secretary if the rural programs cost more to administer than they do in the cities.

I hope the Senate will defeat the Javits amendment and then will express itself on whether or not it is now time to change the formula for the rural elderly of America.

I do not agree with the Senator from

Missouri in terms of the timing. I think this is exactly the time to do it. We do not have very many programs trying to help the rural areas of this country, especially the elderly, and this is not appropriate. It is time to give recognition to the needs of furnishing services to the rural elderly, and develop a policy to reflect this.

Mr. JAVITS. Mr. President, I yield myself 1 minute. All I want to do is have the Senate understand what I am doing. I did not confine it to administrative costs. Any costs, costs of any kind, transportation, anything that goes into servicing the elderly in the rural areas like we service them in nonrural areas, exactly the same. That is what the amendment says, "over and above those costs estimated by the commissioner for nonrural areas of providing services under this title to older Americans located in rural areas."

I cannot see how you can be any plainer than that. It seems to me very honorable. It will deal with costs. Different States will have different costs. Some States may have programs which cost less to administer in rural areas, in which case under the Domenici amendment they would get a windfall.

Under this amendment they would be reimbursed for whatever it cost.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER (Mr. MELCHER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. First of all, I want to thank the Senator from New York for the discussions we have had about this problem and for the consideration he has given to it. However, I am sorry that in this instance we could not work out a compromise.

I do believe the Senator has tried in good faith to provide something in lieu of my proposal and that would, in the Senator's opinion, take care of the situation.

I just do not happen to think it will, but I do appreciate the Senator's consideration.

Mr. JAVITS. I reciprocate all of those sentiments.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Rhode Island yield 2 minutes on the bill?

Mr. JAVITS. I ask unanimous consent that Senator HARRY F. BYRD, JR., may have 2 minutes.

Mr. HARRY F. BYRD, JR. Does the Senator have time remaining?

Mr. DOMENICI. I have time remaining in opposition to Senator JAVITS' amendment.

The PRESIDING OFFICER. The Senator from Rhode Island does have time on the bill which he would be free to yield.

Mr. CHAFEE. I yield 5 minutes.

Mr. HARRY F. BYRD, JR. I thank the Senator. I did not intend to speak at this point, but I am wondering how much longer this Senate is going to continue adding millions of dollars to this bill.

When this bill came out of the committee it already had been greatly—the sum had been greatly—increased over last year.

The bill as it now stands before the Senate provides for a 47-percent increase in funding authorizations over the current year.

The bill as it now stands, without adding Senator JAVITS' amendment, is a whopping 74 percent over the current year's appropriations. How are we going to get this spending under control when we keep on adding these vast sums to these authorization bills? I think the time has come to call a halt.

I supported the Older Americans Act, and I supported the 1972 legislation providing nutritional services for the elderly. I supported the amendments of 1973 and 1975. I think the bill reported from the committee and that is now before the Senate further improves the Older Americans Act.

I favor the Older Americans Act. But I cannot vote to increase in 1 year the authorization by 47 percent and to increase the authorization to a point where it is now, even now, 74 percent greater than the appropriations for the current year.

So I am going to have to vote against this legislation. I am going to vote against the amendment of the Senator from New York because I am not willing to take a bill that is already inflated, already bloated, and add more money to it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. Sure.

Mr. JAVITS. My amendment and Senator DOMENICI's amendment do not add one penny to the bill. It simply reallocates the money which is already provided.

Mr. HARRY F. BYRD, JR. I understood the Senator from New York to say it increased it by $5 million.

Mr. JAVITS. It does not. It is limited to an expanditure of $5 million.

Mr. HARRY F. BYRD, JR. I want to apologize to the Senator.

Mr. JAVITS. It is within the context of the bill. Whatever the Senator does is fine. I do not want him to misunderstand me.

Mr. HARRY F. BYRD, JR. I am delighted that the Senator from New York corrected the Senator from Virginia. I understood him to say the proposal of the Senator from New York would add $5 million to the bill.

Mr. JAVITS. It would not. Neither would Senator DOMENICI's add——

Mr. HARRY F. BYRD, JR. I know Senator DOMENICI's would not, but I was not sure of the amendment of the Senator from New York.

Mr. JAVITS. It would not.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. I yield back the time.

Mr. DOMENICI. I yield back the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York, as modified, to the amendment of the Senator from New Mexico.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 22, nays 70, as folows:

[Rollcall Vote No. 242 Leg.]

YEAS—22

| | | |
|---|---|---|
| Brooke | Javits | Riegle |
| Cannon | Kennedy | Sarbanes |
| Case | Mathias | Schweiker |
| Chafee | Metzenbaum | Stevenson |
| Eagleton | Moynihan | Williams |
| Gravel | Pell | Young |
| Hayakawa | Percy | |
| Heinz | Ribicoff | |

NAYS—70

| | | |
|---|---|---|
| Abourezk | Garn | McIntyre |
| Allen | Goldwater | Melcher |
| Baker | Hansen | Morgan |
| Bartlett | Haskell | Muskie |
| Bayh | Hatch | Nelson |
| Bellmon | Hatfield, Mark O. | Nunn |
| Bentsen | Hatfield, Paul G. | Packwood |
| Biden | Hathaway | Pearson |
| Bumpers | Helms | Proxmire |
| Burdick | Hodges | Randolph |
| Byrd, Harry F., Jr. | Hollings | Roth |
| Byrd, Robert C. | Huddleston | Sasser |
| Chiles | Humphrey | Schmitt |
| Church | Inouye | Scott |
| Clark | Jackson | Sparkman |
| Culver | Johnston | Stafford |
| Curtis | Lavalt | Stennis |
| Danforth | Leahy | Stevens |
| DeConcini | Long | Stone |
| Dole | Lugar | Talmadge |
| Domenici | Matsunaga | Tower |
| Durkin | McClure | Wallop |
| Eastland | McGovern | Zorinsky |
| Ford | | |

NOT VOTING—8

| | | |
|---|---|---|
| Anderson | Griffin | Thurmond |
| Cranston | Hart | Weicker |
| Glenn | Magnuson | |

So Mr. JAVITS' amendment (No. UP 1486) was rejected.

Mr. EAGLETON. Mr. President, I think we are moving along more expeditiously. It is my understanding——

Mr. HANSEN. Mr. President, may we have order?

Mr. EAGLETON (continuing). That Senator BIDEN has an amendment that may be disposed of briefly. We have to conclude on Senator DOMENICI's amendment. I do not know if Senator DOLE's amendment will be pressed to a vote. I think we are moving rather expeditiously.

The PRESIDING OFFICER. Does the Senator concur on the amendment offered by the Senator from New Mexico?

Mr. EAGLETON. I would suggest we voice vote the Domenici amendment and then move on.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. EAGLETON. I would suggest we voice vote the Domenici amendment.

Mr. DOMENICI. Mr. President, I have no objection.

The PRESIDING OFFICER. May we have order in the Senate?

The yeas and nays on the Senator's amendment have been ordered. Does the Senator ask unanimous consent to vitiate the order?

Mr. EAGLETON. I so ask.

The PRESIDING OFFICER. Is there objection?

UP AMENDMENT NO. 1485, AS MODIFIED

Mr. DOMENICI. Mr. President, reserving the right to object, I send to the desk a modification of my amendment which will take care of the point raised by the Senator from New York. This modification clearly indicates that the rural population of 60 or over was the population to be considered. On page 2, line 4, I added four words.

The PRESIDING OFFICER. Does the Senator ask unanimous consent——

Mr. DOMENICI. I ask unanimous consent that I be permitted to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Reserving the right to object, I think the Senator is being very honest with the Senate. I think the Senators who voted for it voted on that assumption. I think the Senator is very correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none and the amendment is so modified.

The amendment, as modified, is as follows:

On page 83, line 25, beginning with the word "as" strike out through "States" on page 84, line 2 and insert in lieu thereof the following: "as the product of the population aged 60 or over in such State and the allotment percentage of that State bears to the sum of the corresponding products in all States".

On page 84, lines 10 and 11, strike out "ending June 30, 1973" and insert in lieu thereof "1978".

On page 84, between lines 15 and 16, insert the following new paragraph:

"(2) (A) The allotment percentage of each State shall be 100 per centum plus one-half of that per centum of the population of the State aged 60 or over, which resides in rural areas in that State.

"(B) For the purpose of this paragraph, the term 'rural area' means any area not included in a standard metropolitan statistical area as established by the Office of Management and Budget.

On page 84, line 16, strike out "(2)" and insert in lieu thereof "(3)".

On page 89, line 18 after the period, insert the following: "The State is encouraged in carrying out the requirement of clause (1) of this subsection to include the area covered by the appropriate economic development district involved in any planning and service area designated under that clause, and to include all portions of an Indian reservation within a single planning and service area, if feasible.".

On page 92, line 19, insert "(A)" after "(4)".

On page 92, line 22 after the semicolon, insert "and".

On page 92, between lines 22 and 23, insert the following new subparagraph:

"(B) provide that the State agency will establish outreach activities designed to assure that needy elderly individuals in rural areas are better served by programs assisted under the plan;".

On page 123, line 15, strike out "as paragraphs (6) and (7)" and insert in lieu thereof "as paragraphs (7) and (8)".

On page 123, line 16, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 123, line 21, strike out the end quote, and the period.

On page 123, between lines 21 and 22, insert the following:

"'(6) to assist in paying the costs, in whole or in part, of special courses of training designed to meet the needs of service providers in rural areas,' ".

On page 126, line 7, strike out "or".

On page 126, between lines 17 and 18, insert the following:

"'(7) meet the special needs of older individuals residing in rural areas;' "

On page 126, line 18, strike out "(7)" and insert in lieu thereof "(8)".

On page 127, line 15, strike out "(8)" and insert in lieu thereof "(9)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico, as modified.

Mr. EAGLETON. The yeas and nays have been vitiated, have they not?

The PRESIDING OFFICER. There was no objection to the request of the Senator from Missouri.

Mr DOMENICI. I reserved the right and the Chair did not rule after my reservation. I have no objection.

The PRESIDING OFFICER. I ask if there is objection. If there is objection, let the Chair hear it.

Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New Mexico, as modified.

The amendment (No. UP 1405), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which my amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

UP AMENDMENT NO. 1487

Mr. BIDEN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware proposes an unprinted amendment No. 1487.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To delete section 306, paragraph (a), subsection 2 which requires each area agency an agency to "provide assurances that at least 50 per centum of the amount allotted to the planning and service area will be expended on the delivery of (A) services associated with access to services (transportation, outreach, and information and referral), (B) in-home services (homemaker and home health aide, visiting and telephone reassurance and chore-maintenance) and (C) legal services, and that some funds will be expended for each such category of services;".

Mr. BIDEN. Mr. President, I will not take more than 5 minutes. I do not expect the managers of the bill will require more than 5 minutes.

The amendment I have offered, Mr. President, will delete from the bill the provision that would require 50 percent of the money to be targeted in the block grant program. Presently the way in which the Older Americans Act works is that there is no requirement that the money be spent in any particular way, but the new provision in this bill would require that 50 percent of the dollars be targeted into three particular areas. I have a number of concerns generated as a consequence of that. I might add, to the best of my knowledge, the House bill does not have such a 50 percent provision in it.

First of all, if the managers of the bill have a moment, we may be able to clear up some of this without having a record vote. I should like to ask the managers of the bill a question.

One of the concerns that I have is that this 50 percent provision would tend to give less money to senior citizen centers in my State and other States than presently they would get—maybe not in absolute dollars, but my concern is that by having a 50 percent provision written in, it takes away a considerable amount of flexibility that presently exists within the law.

The PRESIDING OFFICER. Will the Senator suspend for a moment? It is almost impossible for the Chair to hear the Senator. I think that is true of the other Senators. We shall make better progress if we listen to the explanation of the amendment so that we can reach a conclusion on it quickly.

Mr. BIDEN. To reiterate, Mr. President, my concern is that senior citizen centers will have less money to operate their facilities. I believe that the senior citizen centers are the most useful and most versatile element within this act. They tend to be the providers of care and service for the senior citizens. I am concerned that, by requiring that 50 percent of the money in this bill be spent as a consequence of the direction required in the bill, they will lose flexibility and, in the long run, will end up with fewer dollars with which to operate senior citizen centers.

I wonder whether the manager of the bill could respond to my criticism of both lack of flexibility and a diminishment in the amount of money that would be available to senior citizen centers.

Mr. EAGLETON. Mr. President, under the bill, in title III, Social Services, $467 million would be authorized. Of that $467 million, 50 percent of it—roughly $233 million—would be targeted for services associated with access in-home services, and legal services, which were added on by Senator KENNEDY. That would leave the other $233 million to do a wide-range of other permissible things, including senior citizen centers.

Under title V of the existing law, $40 million nationwide was appropriated for senior centers last year, so there is

considerably more than ample money in that $233 million to encompass the current $40 million figure for senior centers.

Let me explain, for one moment, why we went into this target business. As we were evaluating the effectiveness of the Older Americans Act in recent years, trying to plan ahead for the future, we found that we were doing some things with a little money here and a little money there, a dab here, and so on and so forth. We attempted in this bill to say, "Look, you can do a host of things and let the local people decide what ought to be done. If they need the senior center, fine, let them have it, but in certain priority areas, a substantial effort ought to be made, rather than just a dutiful or a cosmetic one."

Originally, we selected nutrition, transportation and in-home services, in-home services being the particular priority of Mr. Benedict, the new Commissioner on Aging. We then moved nutrition back to its separate authorization, because people wanted it to have a separate focus, it being the most popular of all the older Americans program.

As we moved on, Senator KENNEDY suggested that legal services be made one of the priority items. He prevailed on that in committee.

So senior citizen centers will be permitted. Indeed, there will be an abundant amount of money to take care of them, well beyond the $40 million currently appropriated, because there is still half of that whole title III, half of $467 million, available for a wide range of services, including senior centers. So unless I miss my guess very dramatically, more than $40 million will be spent next year on senior centers.

Mr. BIDEN. The purpose of consolidating the titles, I presume, was to provide more flexibility. Unless I am mistaken in that.

Mr. EAGLETON. The consolidation was intended to provide better coordination. The targeting provision was to say to a local area, "Here are some needs, focus some attention on those." The testimony was almost unanimous that transportation was one of the great unmet needs. In-home services is also an area of great need. We have had some debate on that today because meals on wheels is a type of in-home service. It is without a question one of the great unmet needs.

We tried to focus on some of the major areas of concern, but we left half the social services funds open and unencumbered for any discretionary use, including senior centers, that the local people involved with aging people would deem fruitful.

Mr. BIDEN. In my State, the single most worthwhile, in my opinion, and most popular element of the entire program of aiding senior citizens is the senior citizen centers. It is not so much that people are not able to get to these centers—at least in my State. The problem is that once the urban poor get to the centers, there are not enough services at the centers that are able to be provided for them. My concern with this targeting provision has been—and I acknowledge that I am not sure I am right, and it has been partially answered—my concern is that we burden States by requiring them to spend 50 percent of the dollars available to them on in-home, transportation, and legal services, when, at least in my State, that is not the big problem. Granted, we could spend a great deal more money in every category and use it fairly well with regard to older Americans. But the fact of the matter is that with the limited dollars we have, I was very concerned that, No. 1, senior citizen centers not have less money but more money; No. 2, that flexibility be available to them; and No. 3, that we do not penalize that independent branch, so to speak, the private sector, which, at least in my State, provides an incredible service.

They are much more desired by the senior citizens than the directly State-related programs that are available. They like going in their neighborhoods, they like being with people of their own choice, they like gathering at the senior centers. They like having that as a focus of their life.

Mr. EAGLETON. We do not want to penalize the private sector at all on senior centers. We have some in Missouri and we think they have been very, very useful. I would also point out to my colleagues that there is a waiver authority in the bill. Any State, any area agency on aging can apply for a waiver as to any of the provisions of the bill insofar as unusual circumstances or compelling circumstances in that locale. The waiver would say, "Look, our transportation program is pretty good because of X, Y, and Z, and our legal services are very good because we have a very aggressive bar association and it is being well responded to; our big need in a certain county in Delaware is that we desperately need a senior center." I think they could still get funded out of the unencumbered portion of the funds in the bill in the first place, but if that were not available for some reason I cannot foresee, they can get a waiver from the targeting requirement of the title.

Mr. BIDEN. And they could get into any area that the dispensing agency felt was most necessary?

Mr. EAGLETON. That is right. Absolutely.

Mr. BIDEN. In light of that, Mr. President, and not wanting to take more of the Senate's time, I withdraw my amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator has a right to withdraw his amendment.

The amendment was withdrawn.

UP AMENDMENT NO. 1488

Mr. CLARK. Mr. President, I send to the desk two related amendments and ask unanimous consent that these two amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK) proposes an unprinted amendment numbered 1488.

Mr. CLARK. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 124, line 25, add a new sentence:

"The Commissioner shall give special consideration to the funding of rural Area Agencies on Aging to conduct model projects devoted to the special needs of the rural elderly. Such needs shall include but not be limited to alternative health care delivery systems, advocacy/outreach programs, and transportation systems.

On page 140, line 4.

Delete: a.

Add: The Federal or a.

Will read: including national organizations, agencies of the Federal or a State government . . .

On page 144, line 4, add a new subparagraph (Q)

Paragraph (Q) will read:

"(Q) The Secretary is authorized to join with the Environmental Protection Agency in the establishment of a Senior Environmental Employment Corps, and shall establish, issue, and amend such regulations as may be necessary to effectively carry out such a program."

On page 144, line 14, add a new subparagraph (4).

Subparagraph (4) will read:

"(4) Tht Secretary is authorized to enter into a formal agreement with the Environmental Protection Agency to establish a Senior Environmental Employment Corps."

On page 149, line 11, after 1975, add the following:

The Secretary may reserve such sums as may be necessary for the Senior Environmental Employment Corps.

Mr. CLARK. Mr. President, I shall need only 3 or 4 minutes to discuss my amendment.

Mr. President, today we are considering legislation in which I have a deep interest. I have discussed the Older Americans Act in this Chamber before, and cannot over-emphasize the importance of this bill to the people of Iowa.

As you may know, the State of Iowa has the third highest percentage of senior citizens of all other States in this Nation. The programs authorized by the act are vital to the livelihoods of many elderly citizens, and therefore demand the critical consideration of this body.

First, the amendment which will target model projects moneys to be used for demonstration projects to be developed by rural area agencies on aging. Historically, no model projects funds have been used for projects in rural areas. Because of limited staffs and small administrative budgets, rural area agencies on aging simply cannot compete with large national and regional organizations or with urban area agencies with large support staffs in competitive grant writing. Much of the model projects moneys goes to fund higher education institutions to study aging problems. It is clear to me that we should invest some of this money in providing services in the areas of primary and continuing needs already identified. As was said to me by Mr. G. Richard Ambrosious, executive director of the Iowa Lakes Area Agency on Aging, "we could literally be studying our elderly to death."

It is inexcusable that no model projects money has gone to rural areas. Ac-

cording to the U.S. Department of Agriculture, 65 percent of this Nation's counties fall into the nonmetropolitan classification. As we have learned before, the cost of delivering services in rural areas is often higher than in urban areas because of the problem of accessibility to services. It is clear that there is a real need to target model projects moneys to rural areas.

I propose that the Commissioner on Aging shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly. Such needs shall include but not be limited to alternative health care delivery systems, advocacy/outreach programs, transportations systems, comprehensive planning, and administrative support.

In addition, the amendment will authorize the senior environmental employment corps. This program provides jobs for senior citizens and is currently being conducted as a demonstration project in 10 States. It is administered by the Department of HEW in cooperation with the Environmental Protection Agency. I am pleased to say the House included this program in the bill which they passed.

I hope that the sponsors of the bill can accept this amendment. I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, we have considered the Clark amendment. We think it is a very worthy contribution to the bill.

I am prepared to accept the amendment and yield back the remainder of my time.

Mr. CLARK. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). All time has been yielded back. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP 1488) was agreed to.

UP AMENDMENT NO. 1489

(Purpose: To encourage volunteer meals on wheels programs to continue)

Mr. DOLE. Mr. President, I send an unprinted amendemnt to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1489.

The amendment is as follows:

On page 101, line 17, strike out "and" and insert in lieu thereof a comma.

On page 101, line 22, before the semicolon insert a comma and the following: "and (iii) agree to accept Federal assistance under this Act only for the cost of food".

Mr. DOLE. Mr. President, my amendment is simple and straightforward. It is designed to preserve the volunteer support in meals on wheels programs as they are now run. My amendment would encourage voluntary groups who participate in the home delivered meals program to use, where feasible, Federal money for the cost of food alone.

S. 2850

I have long been supportive of an expanded home delivered meals program. The maintenance of an adequate level of nutrition among our elderly citizens is vital health care. We now accept that a nutritious daily diet is one of the most effective practices of preventive medicine that we know. It is only sensible that we promote good nutrition among our senior citizens.

Through the congregate meal program, we have recognized the importance of nutrition. Now, it is time to recognize that the dietary needs of the homebound are just as important. As S. 2850 is presently drafted, it encourages the area agency on aging to work through existing groups, such as meals on wheels, for the delivery of home delivered meals.

THE PROBLEM

At first reading of the bill, this concept seems harmless. Most of us would prefer seeing a local, volunteer effort take care of a problem, rather than direct the Federal Government to step in. In recent months, though, there has been growing concern that as volunteer groups accept Federal aid, they will forfeit their identity of volunteerism, and become known as just another Government program.

STAR EDITORIAL

I do not think we want to see this important program lose the special identity it now has. In last Friday's Washington Star, an editorial focused on this very issue. It made some pertinent observations concerning Government intervention or helpfulness; "that huge role can distort individual perceptions, and, thus, motivation. Despite massive good intentions, the Feds tend to suffocate motivation, and replace it with a structure that often suffocates itself."

The Star editorial voices a legitimate concern, and it is one shared by hundreds of small, local programs who now serve meals to the homebound. They worry that the availability of Federal dollars will undermine voluntary support.

THE VOLUNTEER PROGRAM

Usually operated by churches and synagogues, meals on wheels has been very successful in communities scattered across our country. The persons with whom I have talked feel that this successfulness is derived from the fact that the programs are staffed with volunteers who bring meaning and commitment to the services they provide. To finance the operation, the volunteers collect money from each recipient, based on his ability to pay. The outreach of the programs is determined by the amount of food the program can purchase.

These volunteer groups now serving meals have demonstrated their concern in helping to meet the needs of homebound citizens. It is understandable that if money becomes available to expand this nutrition service, the volunteers would like to help. Because they already have the equipment, the experience, and the volunteers to deliver the meals, it seems expedient for us to make use of the opportunities at hand. It also becomes necessary that the volunteers support be gained without sacrificing the voluntary element of meals on wheels.

CONCLUSION

Toward this end, my amendment emphasizes that where feasible, voluntary home delivered meals programs may use Federal funds for the cost of food alone. As the bill is now written, Federal money could be used to cover any cost, as long as the organization furnishes assurances that efforts will be made to maintain volunteer support, and that non-Federal funds will not be supplanted. With my amendment, emphasis is given to the use of Federal funds to go for the actual food cost. This would mean that in the future, today's volunteer groups would still be manned by volunteers, but that they would have the opportunity to increase the number of meals served. It seems to me that this amendment would safeguard the volunteer identity in a volunteer program, as well as allow for existing volunteer groups to expand their service and to provide invaluable help in serving meals to our Nation's homebound.

I would urge my colleagues to give this amendment their favorable consideration, for I think it is needed to assure that the volunteer component will be maintained in the future operation of meals on wheels.

Mr. President, I reserve the remainder of my time.

Mr. CHAFEE. Mr. President, I would just like to make clear in the RECORD and hear from the sponsor of the amendment that this does not prohibit funding of voluntary programs which provide home-delivered meals for costs other than food.

In other words, if, per chance. other than the cost of food were covered, that would not prohibit the funding of that program, would it?

Mr. DOLE. That is true. In fact, the present language says it will give consideration "where feasible." We think that takes care of that possibility.

Mr. CHAFEE. That is an acceptable amendment as far as I am concerned.

Mr. EAGLETON. I think the question by the Senator from Rhode Island was a very useful one.

With that response, I am willing to accept the amendment.

Mr. DOLE. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1489) was agreed to.

● Mr. MUSKIE. Mr. President. first of all I support this legislation and commend the committee for its diligent work in behalf of our elderly citizens.

Besides extending the Older Americans Act for 2 years, the bill before us has made significant improvements in current law.

First, the bill consolidates existing programs for State and community services (title III), multipurpose senior centers (title V), and nutrition services

(title VIII). This consolidation will improve administration of the act, provide greater administrative flexibility, substantially reduce the paperwork burden on State and local agencies, and expand nutrition services for the elderly at home and in congregate centers.

Further, the bill increases emphasis on in-home services, legal services, and services associated with access. And the bill authorizes a White House Conference on Aging in 1981. Increases in authorizations will insure continuation of current programs and permit significant expansion of social and nutritional services.

In short, Mr. President, this bill underscores our commitment to improving the lives and circumstances of our Nation's elderly.

Since 1965, the Older Americans Act has provided needed assistance to millions of elderly Americans. It has proven to be a popular and successful program.

This bill would improve upon the excellent groundwork we have laid in previous years.

So I support this bill enthusiastically.

Let me emphasize, Mr. President, that the bill, as reported from committee, authorizes a substantial expansion of the nutrition program. It would authorize $375 million in fiscal year 1979, an increase of $100 million from the 1978 level of $275 million.

The bill as reported would provide for the delivery of 800,000 meals each day in fiscal year 1979, an increase of 320,000 over the current program.

I would also point out that there is sufficient authorization in the committee bill to cover a major expansion of the home-delivered meals program.

I believe all of us would like to do more for our elderly citizens, particularly in the area of nutrition. Nutrition programs for the elderly in Maine have been very popular and successful.

I have visited many of the meal sites and have seen first hand the nutritional and social benefits of this program.

And I congratulate the committee which has provided for a reasonable expansion of the program.●

● Mr. CHURCH. Mr. President, I support S. 2850, the Older Americans Act of 1978. I am especially pleased that the bill includes several provisions which are either identical or similar to measures I advanced in my proposed Older Americans Act amendments, S. 2969.

However, there are some features in S. 2850 which I do not support. But overall, I believe the desirable provisions greatly outweigh the undesirable features. I want to stress, though, that only a few measures in the committee bill cause me concern. A House and Senate conference meeting will provide a further opportunity to improve these provisions in S. 2850.

Special tributes, it seems to me, are also in order for Senator EAGLETON, the chairman of the Subcommittee on Aging, and Senator WILLIAMS, the chairman of the Human Resources Committee, for their leadership in guiding the 1978 Older Americans Act amendments to the Senate for consideration.

In the interest of time, I would like to comment briefly on certain key features in my proposed Older Americans Act amendments, which the Human Resources Committee incorporated in S. 2850.

Mr. President, I ask unanimous consent that a listing of cosponsors of S. 2969 be included at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COSPONSORS OF S. 2969, OLDER AMERICANS ACT AMENDMENTS OF 1978

Kennedy, Chiles, Williams, Clark, Humphrey, Pell, Randolph, McIntyre, Abourezk, Brooke, Cannon, Hatfield (Oregon), Bayh, McGovern, Anderson, Riegle, Durkin, DeConcini, Burdick, Sasser, and Culver.

FEDERAL COUNCIL ON THE AGING

Mr. CHURCH. First, I am pleased that the committee bill continues the Federal Council on the Aging, which was established in 1973 to advise the President and Congress on issues affecting older Americans.

As chairman of the Senate Committee on Aging, I think that it is important for the Congress and the administration to have the input of private citizens in shaping policies influencing the lives of elderly persons.

The Federal Council on the Aging can be further strengthened by giving it independent staff to be appointed by its chairperson, instead of being dependent upon the Department of Health, Education, and Welfare and specifically the Administration on Aging for staff.

My bill and the House-passed version of the Older Americans Act amendments include this provision to enable the Council to be more of an independent advocate for the elderly. I hope that this feature can also be included in the House-Senate conference agreement.

ADVOCACY

S. 2850 spells out the advocacy role for the Administration on Aging, as well as State and local offices on aging. If these units are to be effective focal points at the national, State, and local levels, they must be effective advocates, working wherever possible with other agencies on behalf of the elderly.

The Older Americans Act of 1978 would make it clear that advocacy is a primary function of local, State, and Federal offices on aging.

NURSING HOME OMBUDSMAN PROGRAM

One way to build upon this advocacy function is to strengthen nursing home ombudsman programs. The Senate bill includes authority for the State ombudsman to investigate and resolve complaints made by or on behalf of nursing home residents.

This measure is similar to my proposal but differs in one important respect: It would require a State to use at least 6 percent of its administrative allotment for this purpose.

I am concerned that this provision may dilute State administrative funds even further. A preferable approach, I believe, would be a separate authorization for the nursing home ombudsman program—along the lines in my bill and the House-passed Older Americans Act amendments.

I urge the House and Senate conferees to support this alternative.

CONSOLIDATION

The committee bill would attempt to streamline the administrative responsibilities of State and area agencies on aging by consolidating the services titles—title III Social Services, title V Senior Centers, and title VII Nutrition—into one title.

This would allow title III to have one overall administrative structure which would include one State plan on a 2-year cycle, one allotment formula based on the States' 60-plus population, one State administrative allocation, and one system of channeling all of the new title III authorizations through the State and area aging on aging network.

A 2-year planning cycle would help to streamline the Older Americans Act by reducing the administrative and paperwork burdens for State and local personnel.

The committee bill, though, has one feature which deeply concerns me. It would require that at least 50 percent of the funds allotted to planning and service areas be expended for in-home, access, and legal services. This provision, however, would remove considerable local discretion in making priority judgments about community service needs. Fortunately, this target requirement can be waived if area agencies on aging can demonstrate that they are already meeting these service needs.

I believe the approach in my bill and the House-passed Older Americans Act Amendments is preferable.

Briefly, our proposal would consolidate the service titles into one new title for administrative purposes but with separate funding authorizations for social services, congregate meals, home-delivered meals, senior centers, legal services, and the nursing home ombudsman program.

This would help to retain the separate identity of these programs, while streamlining the administration of these essential services.

Moreover, our approach would provide funding for certain vital services—such as legal and ombudsman services—which may not be as readily supported by local or State governments.

Model projects under the Older Americans Act have amply demonstrated the importance of special legal services and nursing home ombudsman programs for older Americans. We do not need any more proof that these programs work. What is needed is a means to convert them from the demonstration stage to an ongoing, permanent program.

I also urge the conference committee to adopt the approach recommended in S. 2969 and the House-passed Older American Act amendments.

DIRECT FUNDING OF INDIAN TRIBES

S. 2850 would establish a separate title to permit direct funding of nutritional and social services for Indian tribes. Direct funding is available now under limited circumstances, but this provision has never been exercised by the Commissioner.

This measure has proved to be inade-

quate because the existing formula provides a small amount of money—so small in fact, that Indian tribes have difficulty in funding an adequate services program.

A separate authorization would help to correct this problem by enabling the Commissioner to fund a larger scale services effort. Indian tribes have a unique relationship with tne Federal Government. Many other Federal programs—such as Indian health services, the Comprehensive Employment and Training Act, revenue sharing, and others—now provide direct funding to Indian tribes.

The committee bill recognizes this relationship and builds upon it.

LIMITED CONSTRUCTION OF SENIOR CENTERS

Another important improvement in S. 2850 is the provision to permit construction of senior centers in areas where the State agency on aging determines that there are no suitable facilities available to serve as focal points for the delivery of services.

This authority will be especially helpful in rural areas where structures may not exist for use as senior centers. However, the overall emphasis—as it is now—will continue to focus on the acquisition, alteration, and renovation of existing facilities because this will enable the funding for senior centers to have a greater impact.

SENIOR COMMUNITY SERVICE EMPLOYMENT

S. 2850 would also continue and expand the Senior Community Service Employment program. It now provides a wide range of employment opportunities for persons 55 or older, including environmental aides, home repair workers, health aides, legal aides, and others.

This program has proved to be enormously effective in enabling low-income older persons to help themselves while helping others in their communities at the same time.

Nearly 47,500 older Americans are expected to participate in the senior community service corps this year. The authorized funding in S. 2850 would permit enrollment to increase to about 64,000 positions next year and 71,000 in 1980.

WHITE HOUSE CONFERENCE ON AGING

I am especially pleased that S. 2850 includes my proposal to authorize a White House Conference on Aging in 1981. Two prior conferences in 1961 and 1971 have helped to sensitize our Nation to the problems and challenges of older Americans. Both conferences paved the way for important and far-reaching legislative developments, including Medicare, Older Americans Act, the Age Discrimination in Employment Act, the nutrition program for the elderly, the senior community service employment program, several social security increases, and others.

A third White House conference is needed to assure that the momentum generated by previous conferences does not falter and die. Equally important, it would provide a means to take stock of the progress in implementing the recommendations of the 1971 conference. Finally, it would provide a forum for older Americans and others to develop a long-awaited national policy on aging.

OTHER PROVISIONS

Finally, I am pleased that the committee bill includes several other features, either very similar or identical to provisions I advanced in my proposed Older Americans Act amendments, including:

A special study by the Civil Rights Commission on racial and ethnic discrimination in any federally assisted programs and activities affecting older persons.

Allowing area agencies on aging to use up to 8.5 percent of their allotments for administrative purposes.

Requiring State agencies to develop a formula for distributing Older Americans Act funding and to make it available for review and comment. Under the committee bill, the formula must take into account, to the maximum extent feasible, the best available information on the geographical distribution of older persons, the incidence of low-income individuals, and the number of minority elderly.

THE COMPELLING NEED

All Americans—whether they are young or old—have a vital stake in assuring that our commitment in aging is built upon a sound and effective strategy.

Our Nation cannot afford a half-hearted effort concerning policies affecting older Americans. Every Senator, I am sure, is aware of the graying of our population. We are reminded daily of the shift in population and the service needs of older Americans.

It may be difficult now to appropriate the dimensions and implications of these changes for present and future retirees.

Congress enacted the Older Americans Act in response to trends existing in 1965 and projected changes for the future.

Subsequent amendments have helped to update and perfect the act to meet changing conditions and developments.

Passage of S. 2850 will help to build upon these earlier efforts in shaping a comprehensive services strategy for the 1980's.

For these reasons, I urge approval of S. 2850.●

● Mr. HUDDLESTON. Mr. President, since it became law, the Older Americans Act of 1965 has served as the focus of Federal activity on behalf of the elderly. Congress continues to look to new and better approaches to provide for the needs of America's elderly and has therefore amended the act six times. As amended, this act created the Administration on Aging as well as a number of programs for the elderly. The importance of these programs cannot be overestimated since they allow elderly persons to maintain their independence and dignity. I believe the changes called for by S. 2850, the Older Americans Act Amendments of 1978, will streamline and improve these services, thereby allowing for increased participation in them, and making them more responsive to the felt needs of the Nation's elderly.

The nutrition services program is one of the most popular programs provided for under the Older Americans Act. It has been very effective in meeting the nutritional needs of the elderly as well as in providing them with an outlet through which they can enjoy social activities with other senior citizens.

I am deeply concerned that many homebound elderly persons are not receiving the attention they deserve. At present the States, upon receiving nutritional services funds, determine a percentage of that allocation to be used for home-delivered meals. It is my feeling that a separate appropriation for home-delivered meals would do much to improve the problem of meeting the nutritional needs of the elderly and in particular those who are homebound. Further, officials in Kentucky who provide aging services tell me the home-delivered meals program, along with homemaker and medical team services, is keeping people in their own homes and out of nursing homes for about half the money it would cost under medicare.

Amendment 2449 offered by Senators KENNEDY, CHURCH, MCGOVERN, and DOLE would increase the authorization for nutritional services by providing a separate authorization—$100 million for fiscal year 1979 and $125 million for fiscal year 1980—for home-delivered meals. As a cosponsor of this amendment, I feel it will go a long way toward meeting the nutritional needs of and promoting an independent lifestyle for the elderly.●

● Mr. WILLIAMS. Mr. President, the legislation we consider today, S. 2850, the Older Americans Act of 1978, involves a fundamental responsibility of American society: Affording every senior citizen the opportunity for a meaningful life, a decent place to live, and a system of personal services that affords dignity and well-being. The amendments proposed to the Older Americans Act are intended to create more effective and efficient ways of helping seniors have a better life within their families, their homes, and their communities.

The Older Americans Act, originally enacted in 1965, was significantly restructured and expanded in 1973. Through the area agencies on aging and their programs, the Older Americans Act helps focus this country's attention on the unmet, basic human needs of food, housing, transportation, and adequate health care which are not available to many senior citizens.

The act has been an element of the conscience of the Federal Government, urging it to forge a comprehensive, coordinated, and humanitarian national social policy toward its elderly citizens.

S. 2850 would extend the Older Americans Act for an additional 2 years. It would consolidate existing title III—State and community services, title V—multipurpose senior centers, and title VII—nutrition services—into a single title for more efficient administration of the Older Americans Act.

It is important to recognize the significant achievements of the congregate meal site program, as well as the delivery of meals to the homebound elderly.

Title VII, the nutrition program of the OAA currently serves 450,000 meals daily to senior citizens in a congregate meal site or a home setting. This program has demonstrated its effectiveness and should continue to expand. A flexible, viable nutrition program, including an adequately funded meals-on-wheels program, will assist elderly persons to remain in their communities and to function with independence and dignity.

S. 2850 contains two important program initiatives for the Older Americans Act which in the past have proven to be effective model and demonstration projects. One initiative authorizes area agencies on aging to enter into contracts with an exitsing legal services corporation grantee or with another service provider in the community who can competently deliver legal services to the elderly. Legal counseling by an attorney or paralegal specialist can assure a senior citizen of his or her rights and benefits. S. 2850 retains existing model project authority and authorizes the commissioner to provide funds to public and private nonprofit organizations to support legal research, and technical assistance and training to assist in developing or supporting pro bono or reduced legal fees services to the elderly. This authority is included in S. 2850 in an effort to help make the private bar aware of the special legal needs of the elderly.

A second initiative, which was supported by previously successful model projects, is a nursing home ombudsman program. S. 2850 adds a requirement that each State agency on aging establish and operate a nursing home ombudsman program. Such a system, operating effectively, can help to protect the rights of older persons living in institutions.

In addition, S. 2850 adds a new specific model project authority. The commissioner on aging is required to develop demonstration projects to determine the viability of community long term care, especially for the frail elderly. Energy and resources under the Older Americans Act must be committed to developing alternatives to needless institutionalization for the elderly.

The Older Americans Act of 1978 gives the President authority to convene a 1981 White House Conference on the Aging. Such a conference can be an ideal forum for older Americans, experts, specialists in aging, and decisionmakers to participate in the development of pertinent policies affecting the aged. Previous White House conferences on the aging helped generate ideas that were translated into laws to assist the elderly—the Older Americans Act, social security program improvements, and other major statutes. A conference in 1981 would be at an ideal time to assess our Nation's policy toward a citizenry whose average age is rising rapidly.

S. 2850 mandates a comprehensive study by the U.S. Commission on Civil Rights of discrimination based on race or ethnic background in any Federal program which affects older persons. Such an effort can be most helpful in sensitizing Federal programs to increase their opportunities and services to the elderly.

The past achievements of the Older Americans Act clearly warrant that this legislation be extended. Through the amendments of S. 2850, we have addressed the most significant problems facing seniors, and we have made appropriate changes to meet those needs.

I urge my colleagues to support this vital legislation on its passage.●

● Mr. BAYH. Mr. President, today we are considering the first major revision of the Older Americans Act since 1973. The Older Americans Act, first enacted in 1965, was one of the first comprehensive pieces of Federal legislation directed to the needs of the elderly. The Older Americans Act, amended several times, now provides a wide range of services to the elderly through a network of State and area agencies on aging, senior centers, nutrition programs, and a community employment program. Today, the 566 area agencies on aging have sought to provide coordinated services to some 11 million elderly citizens—92 percent of the eligible participants for such programs. Acting as the major planning agencies for services to the elderly, these area agencies assist in coordinating such services as transportation, home health care, homemaker services, escort and shopping services, information and referral services, outreach, home repair, legal counseling, and others. These services provided for through the Older Americans Act make it possible for many of our Nation's elderly to continue to live a full and vital life.

The legislation we are considering today would extend these vital programs for another 2 years. In addition, it will consolidate the administration's many existing older Americans programs which are presently severely fragmented. Under S. 2850, existing title III, State and community services; title V, multipurpose senior centers; and title VII, nutrition services, would be placed in a single title for the purposes of more efficient management and administration. The legislation would also require targeting of at least 50 percent of each area agency's allotment on three priorities: transportation and access, in-home services, and legal services.

While I support the basic thrust of most of the provisions of S. 2850 as reported from the Human Resources Committee, I intend to support an amendment by my distinguished colleague from Massachusetts, Senator KENNEDY, to provide for a separate authorization for the meals-on-wheels program, authorized at present under title VII of the Older Americans Act.

Nutrition programs under title VII are among the most vital and most successful of all the older Americans programs. Over 480,000 meals per day are currently being served to our Nation's elderly under title VII; 85 percent of these meals are being served in congregate or community sites; the remaining 15 percent are served to the homebound through the meals-on-wheels program. While I would not want to see a reduction of the amount we are currently spending on meals being served in congregate settings, I feel that it is increasingly important that we make every effort to reduce the need to institutionalize the elderly. A recent GAO study reveals that the Government's average monthly cost to provide older persons in-home services, including meals, ranges from $78 to $172, depending on the individual's health needs. In contrast, the study shows it costs the Government approximately $458 a month to keep the same person in an institution. With increased services made possible through a separate authorization, I feel that more of our homebound elderly may be able to avoid such institutionalization.

Mr. President, all of us in this body are aware of the "greying of America." By the year 2030, 17 percent of our population is expected to be over the age of 65. The Older Americans Act attempts to give this vital portion of our population the tools with which to achieve the health, honor and dignity to which it is entitled. It is an essential act designed to give older Americans the kind of comprehensive services that they need and, more importantly, that they deserve.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Virginia.

Who yields time?

Mr. EAGLETON. I yield such time as the Senator may desire.

Mr. HARRY F. BYRD, JR. Mr. President, the legislation now pending before the Senate continues several important and worthwhile programs for our senior citizens.

I support the Older Americans Act, and I supported the 1972 legislation providing nutrition services for the elderly, as well as the 1973 and 1975 amendments to the basic act.

I wish to commend the Committee on Human Resources for the excellent work it has done in further revising the basic legislation.

But I feel a 47 percent increase in funding authorization is unreasonable. It is a whopping 74 percent over the current year appropriations.

I agree with the committee that under the law as it now stands, there is excessive fragmentation of effort in Federal programs for the elderly. The consolidation in title III of S. 2850 is a much-needed improvement.

Furthermore, I think the committee is wise in providing for a 2-year authorization, as opposed to the 3-year authorization in the House-passed bill and the even longer terms proposed by some witnesses at the committee hearings. The 2-year extension certainly does not reflect any unwillingness to continue sup-

port for the programs; on the contrary, it is a recognition that frequent review by the Congress is important to their continued vitality and efficiency.

S. 2850 contains other desirable provisions, too, including greater State responsibility for financing over the long term and better coordination of effort in the community services employment programs.

Finally, I think the committee is to be commended for its imaginative suggestion that at a time when many schools are closing because of reduced enrollment, an opportunity is offered for our communities to establish centers for the elderly in these buildings no longer needed for public education.

In short, I think this legislation is altogether desirable from the point of view of policy.

Unfortunately, I cannot say the same for the level of funding which is called for in this bill.

S. 2850 authorizes more than $1.2 billion for fiscal year 1979. The increase in authorization from the current year, fiscal 1978, to next year would be $387 million, or 47 percent.

If we assume that the year-to-year inflation rate from 1978 to 1979 will be in the neighborhood of 8 percent, than this legislation is proposing an increase more than five times the inflation rate.

Furthermore, if we compare the fiscal 1979 authorization with appropriations for the current year, which are $697 million, the year-to-year increase would be a whopping 74 percent.

Such an increase is completely unreasonable. It cannot be justified at a time when the Federal Government is running deficits in excess of $50 billion a year and the cost of living is escalating at a frightening, double-digit rate.

We must keep in mind that large Federal deficits are a major cause, if not the chief cause, of inflation, and that inflation hits with particular force our senior citizens—the very person this legislation is designed to help.

The Federal Government will not serve the interests of our elderly citizens if it adds to inflation with more and more deficit spending. Inflation is a tax: a cruel and hidden tax, and it hits hardest those in the lower and middle income brackets and those who, like so many of the elderly, are on fixed incomes.

I support the policies and programs in this legislation, but I cannot support the inflationary spending which it would authorize.

Therefore, I must reluctantly vote against passage of S. 2850.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the table on page 3 of the committee report showing how Federal funding for this program has grown.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The following table of appropriations under the Older Americans Act since its enactment in 1965 vividly demonstrates the large expansion of Federal funding for programs for the elderly in recent years.

| | |
|---|---|
| 1966 | $7,500,000 |
| 1967 | 10,275,000 |
| 1968 | 18,450,000 |
| 1969 | 23,000,000 |
| 1970 | 28,360,000 |
| 1971 | 33,650,000 |
| 1972 | 101,700,000 |
| 1973 | 253,000,000 |
| 1974 | 217,800,000 |
| 1975 | 245,000,000 |
| 1976 | 354,300,000 |
| 1977 | 492,250,000 |
| 1978 | 696,700,000 |

Mr. EAGLETON. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 12255.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12255) an act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed immediately to the consideration of the bill.

Mr. EAGLETON. Mr. President, I move to strike all after the enacting clause of H.R. 12255 and to substitute therefor the next of S. 2850, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. Presdent, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. ROBERT C. BYRD. Mr. President, the Senate is about to vote on S. 2850, the Older Americans Act of 1978. This is a highly significant piece of legislation. I take this opportunity to thank and to congratulate Senator EAGLETON, manager of the bill and chairman of the Human Resources Committee's Subcommittee on the Aging, and to make a few remarks about S. 2850.

Senator EAGLETON has made numerous contributions to legislation affecting senior citizens. This bill is another excellent example of the careful oversight and review of Federal programs for the elderly which the Subcommittee on Aging has performed under his leadership and that of the subcommittee's ranking minority member, Senator CHAFEE. The Senate is in their debt. The public is in their debt. I commend them for their services.

After 9 days of hearings during which testimony was received from more than 60 witnesses, and after studying this and the written testimony of numerous other witnesses, the subcommittee identified fragmentation and duplication in Federal programs to assist the elderly as a serious, yet resolvable, problem. The subcommittee found, for example, that some 139 different Federal programs affecting the elderly were in existence—in many cases without adequate coordination.

The thrust of the subcommittee's recommendations to the full committee, and to the Senate, as contained in the Older Americans Act of 1978, is to emphasize consolidation and coordination of existing programs. This recommendation is based on the very sound premise that, by reducing fragmentation of effort, we can increase efficiency.

Another thrust of the bill is also designed to produce greater efficiency for each Federal dollar. This is to be achieved by greater emphasis on local determination in the use of Federal funds. The premise, once again, is sound: that those in charge of local programs are in the best position to indentify local problems, and can thus apply Federal funds where they are needed most.

In preparation for this legislation the subcommittee has reviewed the performance of existing programs. It has reported to the Senate that the four priorities emphasized in the 1975 older American amendments have resulted in some improvement in the availability of each of the priority areas: transportation, in-house services, legal services, and residential repair services. It has also noted significant advances in the area of nutrition. The nutrition program for the elderly now serves over 450,000 meals per day, reaching more than 2 million senior citizens. As could be expected, appropriations for the various programs authorized under the Older Americans Act have increased dramatically over the past decade—both in response to new programs, and to the demonstrated success of existing programs.

The legislative recommendations of the Subcommittee on Aging, and the excellent studies and analyses of the Select Committe on Aging underscore an important point: the problems of our elderly citizens are the same problems which face our Nation as a whole—but each of these problems falls most heavily on the elderly. Much of the legislation of the 95th Congress which is not popularly known as legislation for the elderly—such as housing, health, and energy measures—takes this factor into account.

One in every nine Americans is over 65. These citizens, who have helped to build our country, suffer disproportionately from the impact of price inflation, from rising energy, housing, and health costs. Some 3.3 million, or one-seventh of the senior citizen population, now have incomes below the poverty level. Whil this figure represents an improvement compared to a decade ago, it is not good enough.

Women and minorities are heavily

over-represented among the aged poor—those below or at the poverty level. The bill requires the U.S. Civil Rights Commission to conduct a study on racial and ethnic discrimination in Federal programs for the elderly, to hold public hearings on this issue, and to transmit to the Congress and the President a report of its findings. This requirement will, I hope, call this situation to the attention of the Nation and result in meaningful recommendations for action.

Another problem before the Congress, and before the Nation, is that of the spiraling costs of health care. While health costs take an enormous toll on the Nation as a whole—costs in terms of human suffering, and in economic expenditures—the impact is far greater on the elderly than on the population as a whole. Older Americans, representing about 11 percent of the population, account for nearly 30 percent of total personal health care expenditures. The proportion of disposable income devoted to health care is increasing at a faster rate year by year, and this is especially true in the case of the older individual. Between 1974 and 1976, per capita personal health expenditures for the elderly increased by more than 35 percent.

The problem of health care delivery is acute in rural areas—where 27 percent of those 60 years of age and older live. Senator HATHAWAY, a member of the Subcommittee on Aging, has performed an invaluable task by calling attention to this and other special concerns of the rural elderly.

Unfortunately, the list of problems confronted by the elderly in our society goes on and on. During the severe winter of 1977, it was estimated that some older Americans—especially those in the Northeast—were spending up to 50 percent of their disposable income on fuel bills. In all areas of the country, in rural and urban areas, it has been found that elderly people, particularly those on fixed incomes, live in substandard housing.

The legislation is not intended to—and indeed, could not hope to—address and solve each of these pressing concerns. But it does help to bring focus and rationality to many important Fedtral programs which serve the senior citizen. Its emphasis on consolidation, and on coordination will, I believe, result in more efficient operation of ongoing programs.

I applaud the committee's decision to limit the extension of the authorizations under the act to 2 years. The Secretary of HEW has pledged that the administration will, by next year, present major policy decisions to the Congress in the field of aging. Thus the Congress and the executive can work together to tackle the concerns of some 24 million Americans.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, as the ranking minority member of the Human Resources Committee. I join the Senator in those sentiments. We are very proud of the work which has been done here today.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PERCY. Mr. President, I wish to express my fullest support for S. 2850, the Older Americans Act Amendments of 1978. Programs created by the act and its subsequent amendments have provided assistance to millions of older Americans. These, the most current amendments, are aimed at coordinating the various programs, reducing paperwork, and expanding nutrition programs. I am encouraged that, as we incorporate these amendments into the act, we are moving toward the goal of dignity and respect for older Americans and an awareness of their special needs.

Many of the amendments contained in S. 2609, a bill which Senator DOMENICI and I introduced earlier this year, are incorporated in this bill. These include provisions which aid in reducing paperwork. One would allow a State to submit a single comprehensive plan to the Administration on Aging (AOA) which covers all activities authorized under the act. Another would allow the States to do more long-range planning for the delivery of social services to the elderly. Finally, a third provision would establish a review process within AOA which would continually reexamine the nature and frequency of AOA requests for information from the State and local levels. This should greatly help to reduce the incidence of unnecessary regulations and procedures.

As an early proponent of the nutrition programs, I was active in the establishment of the title VII program in 1972. There is a tremendous need for this program both in the form of congregate meals and home-delivered meals. Communal settings provide for both nutritious meals and companionship, while home-delivered meals assist those persons unable to attend a nutrition center or prepare their own meals. This bill would enlarge the home-delivered meals program, one which is so desparately needed by many elderly persons.

This bill would also authorize the AOA to create a number of model long-term care centers. These model projects would be charged with assessing an individual's needs; developing a plan of care; arranging for the necessary and appropriate services; maintaining records on the individual; and constantly monitoring and reevaluating each person's individual needs. These model projects should enable us to determine the viability of various long-term care concepts.

S. 2850 authorizes construction of senior citizen facilities in areas where there are no suitable structures available, generally in rural areas. It also directs preparations to begin on the 1982 White House Conference on Aging. In addition, it provides for a direct funding mechanism so funds would flow from Washington, D.C., to tribal governments for the provision of social and nutritional services for elderly Indians.

I envision a future which allows old age to be purposeful rather than problem filled. Individuals experiencing the failing health which often accompanies advanced age will have the choice of in-home health care or long-term nursing home care. There will come a time when the option of delayed retirement, part-time work, or full retirement will be available to everyone. It is bills such as the Older Americans Act which hasten the arrival of the day when senior citizens will be viewed by all as valued and valuable members of our society.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish to have a rollcall vote on the joint resolution making urgent supplemental appropriations for the Department of Agriculture, which will be taken up at the end of the day? If not, this will be the last rollcall vote today.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CURTIS (when his name was called). On this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. GOLDWATER (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Carolina (Mr. THURMOND), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "yea."

The result was announced—yeas 85, nays 2, answered "present" 1, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—85

| | | |
|---|---|---|
| Allen | Domenici | Hollings |
| Baker | Durkin | Huddleston |
| Bartlett | Eagleton | Humphrey |
| Bayh | Eastland | Jackson |
| Bellmon | Ford | Javits |
| Bentsen | Garn | Johnston |
| Biden | Glenn | Kennedy |
| Brooke | Gravel | Laxalt |
| Bumpers | Hansen | Leahy |
| Burdick | Hart | Long |
| Byrd, Robert C. | Haskell | Lugar |
| Cannon | Hatch | Mathias |
| Case | Hatfield, Mark O. | Matsunaga |
| Chafee | Hatfield, Paul G. | McClure |
| Chiles | Hathaway | McGovern |
| Church | Hayakawa | McIntyre |
| Clark | Heinz | Melcher |
| Culver | Helms | Metzenbaum |
| Danforth | Hodges | Morgan |
| DeConcini | | Moynihan |
| Dole | | Muskie |

| | | |
|---|---|---|
| Nelson | Roth | Stevens |
| Nunn | Sarbanes | Stevenson |
| Pearson | Sasser | Stone |
| Pell | Schmitt | Talmadge |
| Percy | Schweiker | Tower |
| Randolph | Scott | Wallop |
| Ribicoff | Sparkman | Williams |
| Riegle | Stafford | Zorinsky |

NAYS—2

| | |
|---|---|
| Byrd, Harry F., Jr. | Proxmire |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Curtis, against.

ANSWERED "PRESENT"—1

Goldwater

NOT VOTING—11

| | | |
|---|---|---|
| Abourezk | Inouye | Thurmond |
| Anderson | Magnuson | Weicker |
| Cranston | Packwood | Young |
| Griffin | Stennis | |

So the bill (H.R. 12255), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make necessary clerical and technical corrections in the engrossment of the Senate amendments to H.R. 12255.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that S. 2850 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate insist on its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. PAUL G. HATFIELD) appointed Mr. WILLIAMS, Mr. EAGLETON, Mr. KENNEDY, Mr. CRANSTON, Mr. CHAFEE, Mr. HAYAKAWA, and Mr. JAVITS conferees on the part of the Senate.

## URGENT SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 951.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

House Joint Resolution 1024 making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization Service, and for other purposes for fiscal year ending September 30, 1978.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. EAGLETON. Mr. President, this resolution provides $57,145,000 in direct appropriations and $23,391,000 in increased transfer authority for the Commodity Credit Corporation to meet the urgent needs of the Agricultural Stabilization and Conservation Service.

The principal reason for the urgent nature of this supplemental pertains to increased workload resulting from passage of last year's farm bill, which became law after the 1978 Agriculture Appropriations Act passed. Funding is principally for additional non-Federal county office workers to administer the various price support and related programs.

The Appropriations Committee has been advised by the Department of Agriculture that ASCS is basically out of money, but that each of the approximately 3,000 county offices is in a slightly different cash position. The Department has directed ASCS to continue to provide services required by law, pending action on this supplemental.

I urge the Senate to approve this resolution without amendment in order to insure the continuation of the important farm programs of this Nation.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to my colleague from Oklahoma.

Mr. BELLMON. Mr. President, the measure we have before us today is to provide a supplemental appropriation of $57 million for the Agricultural Stabilization and Conservation Service to meet increased administration costs of the farm price support program mandated by the Food and Agricultural Act of 1977. In addition, $23 million is also authorized to be derived by transfer for the Commodity Credit Corporation for the administration of its programs. The need for this appropriation is a direct result of last year's farm bill. Actual program costs are financed through borrowing authority of the Commodity Credit Corporation and are not addressed in this measure.

Following passage of the farm bill last year it was apparent that additional funding would be required to administer the higher workload levels mandated by that act. The Agricultural Stabilization and Conservation Service was granted a deficiency apportionment by the Office of Management and Budget so that it could begin to immediately address the increased workload. The administration, in January, submitted a supplemental request to provide funds to maintain this higher level of activity through the last quarter of the fiscal year.

Unfortunately, the second supplemental was delayed and it now appears that the agency has exhausted all available funds to continue its operations for the balance of the fiscal year. For this reason, an urgent supplemental was passed by the House and I urge the Senate to act expeditiously on the measure.

Mr. EAGLETON. I move the passage of the resolution.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was ordered to be read the third time, and was read the third time.

The PRESIDING OFFICER. The question is, shall the joint resolution pass?

The joint resolution (H.J. Res. 1024) was passed.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NATIONAL TRAILS SYSTEM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 956.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

Calendar 956, H.R. 6900, an act to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after "promote" insert "the preservation of,"; and after "outdoor areas" insert "and historic resources".

(2) In section 2(a) delete "(ii)" and the remainder of the sentence and insert "(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.".

(3) In section 2(b) delete "and scenic" and insert "scenic and historic".

(4) In section 3 redesignate subsection "(c)" as "(d)", and insert a new subsection (c) as follows:

"(c) Historic routes designated as National Historic Trails pursuant to section 5 of this Act, shall follow the original trails or routes of travel as closely as possible and practicable. Such trails shall have as their purpose the identification and marking of an historic route and its historic remnants and artifacts for public use and enjoyment. While such designation shall commemorate an entire route along its historic alinement, only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial components of a national historic trail. The appropriate Secretary may subsequently designate other lands as segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

(5) In the new section 3(d) delete "or national scenic" and insert ", national scenic or national historic".

(6) Change the title of section 5 to read "NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS".

(7) In section 5(a), insert in the first sentence after the word "scenic" the words "and national historic" and change the second sentence to read: "There are hereby estab-

lished the following National Scenic and National Historic Trails:".

(8) In section 5(a)(1), in the first sentence, after the word "Appalachian", insert "National Scenic", and in section 5(a)(2), in the first sentence, after "Pacific Crest", insert "National Scenic".

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

"(3) The National Historic Oregon Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as 'Primary Route of the Oregon Trail 1841-1848', in the Department of the Interior's Oregon Trail study report dated April 1977.

"(4) The National Historic Mormon Pioneer Trail, a trail of approximately one thousand three hundred miles from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary route of the Historic Mormon Trail depicted on a map, identified as, 'Vicinity Map, Mormon Pioneer Trail' in the Department of Interior Mormon Trail study report dated June, 1978.

(5) The National Historic Lewis and Clark Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps, identified as, 'Vicinity Map, Lewis and Clark Trail' study report dated April 1977.

"(6) The National Historic Iditarod Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as 'Seward-Nome Trail', in the Department of the Interior's study report entitled 'The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails' dated September 1977;".

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; delete the third sentence; and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:".

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461);".

(12) In section 5(b)(8) delete the word "and" at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs:

"(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to insure evaluation and preservation of the values that contribute to their national historic significance; and

"(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

"(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernable trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked on-site as segments which link to the historic trail.

"(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

"(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

(13) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secreary as follows:

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(14) In section 5 add new subsections (e) and (f) as follows:

"(e) Within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected States, and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired;

"(3) general and site-specific development plans, including anticipated costs.

"(f) Within two complete fiscal years of the date of enactment of legislation (including this Act) designating a trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation; and

"(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(d) of this Act.".

(15) In section 6 in the first sentence delete "or national scenic" and insert ", national scenic or national historic", and in the second sentence delete "or scenic" and insert ", national scenic, or national historic".

(16) Delete all of section 7 and insert a new section 7 as follows:

"ADMINISTRATOR AND DEVELOPMENT

"SEC. 7. (a) Pursuant to section 5(b), the appropriate Secretary shall select the rights-of-way for National Scenic and National Historic Trails and shall publish notice thereof in the Federal Register, together with appropriate maps and descriptions: *Provided*, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum

benefits from the land. The location and width of such rights-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting rights-of-way for trail purposes, the Secretary shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned.

"(b) After publication of notice in the Federal Register, together with appropriate maps and descriptions, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.

"(c) National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purposes for which such trails were established. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, and which are currently allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail. The use of motorized vehicles by the general public along any national scenic or national historic trail shall be prohibited within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights: *Provided further*, That private lands included in the national recreation, national scenic, or national historic trails by cooperative agreement of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent lands from time to time in accordance with regulations to be established by the appropriate Secretary.

"(d) The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national scenic, and national historic trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriate points along the trails and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies who shall erect and maintain them in accordance with the standards established by the Secretary.

"(e) Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route. No land or site located along a designated national historic trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653 (f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

"(f) Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for the Appalachian National Scenic Trail and the Pacific Crest National Scenic Trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange.

"(g) Where the lands included in Appalachian National Scenic Trail and the Pacific Crest National Scenic Trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of those trails: *Provided*, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interests therein after notice of the selection of the right-of-way is published the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (g) of this section. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired: *Provided*, That if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner or his heirs or assigns shall be offered, by notice given at the former owner's last known address, the right of first refusal at the fair market price.

"(h) The Secretary of the Interior, in the exercise of his exchange authority, may accept title to any non-Federal property within the right-of-way of the Appalachian National Scenic Trail and the Pacific Crest National Scenic Trail and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which is located in the State wherein such property is located and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. The Secretary of Agriculture, in the exercise of his exchange authority, may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(i) For the Appalachian National Scenic Trail and the Pacific Crest National Scenic Trail, the appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to provide passage across such lands: *Provided*, The condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of 125 acres per mile.

"(j) The Secretary charged with the administration of a national recreation, national scenic, or national historic trail shall provide for the development and maintenance of such trails within federally administered areas or on federally owned lands and shall cooperate with and encourage the States to operate, develop, and maintain portions of such trails which are located outside the boundaries of federally administered areas. When deemed to be in the public interest, such Secretary may enter written cooperative agreements with the States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of a national scenic or national historic trail either within or outside a federally administered area. Whenever the Secretary of the Interior makes any conveyance of land under any of the public land laws, he may reserve a right-of-way for trails to the extent he deems necessary to carry out the purposes of this Act.

"(k) The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment.".

(17) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

(18) In section 10, delete "(a)(1)" and insert "(a)"; substitute "subsequent fiscal years" for "the subsequent fiscal year"; and strike paragraph numbered (2).

Mr. CHURCH. Mr. President, I ask unanimous consent that Tom Williams, Daniel Dreyfus, and Laura Beaty of the Energy and Natural Resources Committee staff, and Fred Hutchison and David Litster of my personal staff, and Tony Bevinetto of Senator HANSEN's staff have the privilege of the floor during the con-

sideration of H.R. 6900; and, in addition, Pat Pourchet of Senator GRAVEL's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1490

Mr. CHURCH. Mr. President, I send to the desk an unprinted amendment to the measure now being considered, H.R. 6900.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 1490.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, strike paragraph (18), and insert:

"(18) In section 10, strike '(a)(1)' and insert instead '(a)'; strike 'the subsequent fiscal year' and insert instead, 'subsequent fiscal years'; strike the paragraph numbered '(2)' in its entirety; and add a new 'subsection (c)' as follows:

"'(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a)(3), (4), (5) and (6): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979.'."

EXPLANATION OF AMENDMENT

Mr. CHURCH. Mr. President, this amendment modifies paragraph 18 of H.R. 6900, as reported from the committee. Specifically, it amends section 10 of the 1968 act by providing that no appropriations may be authorized for implementing the provisions contained in H.R. 6900 relating to the new historic trails, prior to October 1, 1979. This amendment is being offered to insure compliance with the Congressional Budget Act and has the approval of the committee.

Mr. President, for the information of my colleagues, and for the legislative history on this measure, I ask unanimous consent that the Congressional Budget Office cost estimate on H.R. 6900, prepared for the committee, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
*Washington, D.C., July 24, 1978.*

Hon. HENRY M. JACKSON,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6900, an act to amend the National Trails System Act of 1968 to establish a National Historic Trails Category within the National Trails System, to designate certain historic routes as National Historic Trails, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
*Director.*

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

JULY 24, 1978.

1. Bill number: H.R. 6900.

2. Bill title:

An act to amend the National Trails System Act of 1968 to establish a National Historic Trails Category within the National Trails System, to designate certain historic routes as National Historic Trails, and for other purposes.

3. Bill status:

As reported by the Senate Committee on Energy and Natural Resources, July 21, 1978, and assuming enactment of a proposed amendment authorizing appropriations beginning in fiscal year 1980.

4. Bill purpose:

This bill establishes a new trail category, national historic trails, within the National Trails System. The bill designates four new trails under this category: the National Historic Oregon Trail, the National Historic Mormon Pioneer Trail, the National Historic Lewis and Clark Trail, and the National Historic Iditarod Trail. The Secretary of the Department of Interior is directed to establish advisory councils for each trail designated. The councils are to assist in the planning, development, and management of the trails.

5. Cost estimate:

[By fiscal years; in millions of dollars]

| | |
|---|---|
| Fiscal year 1980 | 2.2 |
| Fiscal year 1981 | 2.5 |
| Fiscal year 1982 | 0.7 |
| Fiscal year 1983 | 0.8 |
| Fiscal year 1984 | 1.0 |

Estimated cost:

The costs of this bill fall within budget function 300.

6. Basis of estimate:

Assuming enactment of a proposed floor amendment, the bill will authorize such sums as may be necessary for implementation beginning in fiscal year 1980. Therefore, this estimate assumes that funding for this bill will first be available in fiscal year 1980.

Designation of a national trail requires the preparation of a comprehensive plan for the development and management of the trail, the establishment of an advisory council to assist in planning and management of the trail, and preliminary development. Based on information provided by the Department of Interior, these activities will cost approximately $7.2 million during fiscal years 1980 through 1984.

No acquisition costs are included as the bill directs establishment of the trails only on federally-owned lands or lands provided to the government at no cost.

The bill's provision to establish advisory councils for new trails may also result in additional costs, as new trails are designated. Currently, there are 21 trails being considered for addition to the national scenic and historical trail system. The annual cost for each such advisory council is estimated to be approximately $28,000 at 1979 cost levels.

The estimated costs of the bill, by year, are summarized below:

COST SUMMARY

[By fiscal years, in millions of dollars]

| Estimated cost | Fiscal year— 1980 | 1981 | 1982 | 1983 | 1984 |
|---|---|---|---|---|---|
| Planning and development | 1.8 | 1.8 | | | |
| Operation and maintenance | .3 | .6 | 0.6 | 0.7 | 0.8 |
| Advisory councils | .1 | .1 | .1 | .1 | .2 |
| Total | 2.2 | 2.5 | .7 | .8 | 1.0 |

7. Estimate comparison: None.

8. Previous CBO estimate:

On March 29, 1978, CBO transmitted a cost estimate on H.R. 6900 as ordered reported by the House Committee on Interior and Insular Affairs, March 21, 1978. The House version of the bill designated only the Oregon National Historic Trail and authorized $5 million for land acquisition. This version of the bill designates four trails and includes no specific authorization level for land acquisition.

9. Estimate prepared by: Mark Berkman (225-7760).

10. Estimate approved by:

JAMES L. BLUM,
*Assistant Director for Budget Analysis.*

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HANSEN. Mr. President, I would like to join with our colleague from Idaho in urging the adoption of this amendment.

The amendment, as amended, provides for identification and marking. It does not give land acquisition authority. It allows for historic recognition, and also allows present uses to continue.

Two of the trails cross Wyoming. These trails played a great role in the settling of the State.

These trails are still in use in modern ways and historic interpretation. The State of Wyoming and the land management agencies are to be complimented for having gotten together and developed the kind of legislation we have before us now. I welcome it, and join the Senator from Idaho in urging the adoption of the amendment.

Mr. CHURCH. Mr. President, I thank the Senator from Wyoming, the ranking Republican member on the Energy Committee, for his statement of support, and for the assistance he gave to me and others who were interested in this legislation when it was before the committee for consideration.

Mr. President, I move the adoption of the amendment presently pending at the desk.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. Mr. President, the legislation, as amended, that we are now considering would establish within the National Trails System a new category of National Historic Trails and designate four routes as the first historic trails.

When Congress enacted the National Trails System Act 10 years ago, we established a system to identify and protect certain routes of national significance. At that time, two trails, the Appalachian Trail and the Pacific Crest Trail were immediately included in the system due to their spectacular scenic and recreational potential. Fourteen other routes were to be studied by the Departments of Interior and Agriculture to determine if they too should be part of the national system.

Citing increasing demands by the public for outdoor recreation, the original National Trails Act sought to provide high quality scenic and recreational opportunities along specific established trails. The routes selected for study under the 1968 act were thought to be excellent candidates for inclusion within the national system as either na-

tional scenic or national recreational trails. However, once the studies were concluded by the executive agencies on some of these 14 trails, those agencies determined that trails such as the Lewis and Clark Trail and the Oregon Trail did not qualify for addition to the national system under the criteria of the 1968 act. For instance, the Department of Interior's report on the Oregon Trail found that:

The Oregon Trail has national historical significance as one of the best known and most heavily traveled routes in the Nation's westward migration, and was a major determinant in settlement of the American Northwest. Strong public support exists for its commemoration and preservation. It does not, however, qualify as a national scenic trail since approximately 80 percent of the route has been altered or destroyed by highways, utility rights-of-way, agriculture, and other activities. It also does not follow a continuous and scenic corridor suitable for hiking and horseback riding which are qualifying criteria for National Scenic Trails.

Similarly, the conclusion reached in the studies of the Mormon Pioneer, Lewis and Clark, and Iditarod—Alaskan Gold Rush—Trails was that each of these trails is of national historical significance, but does not provide the kind of scenic or recreational opportunities necessary for inclusion in the National Trails System as it is presently structured. However, each of these studies also recommended including the trail in question within the Trails System as a national historic trail if the 1968 act were suitably amended and the necessary category established.

Mr. President, the legislation we are now considering has three purposes. First, it corrects the oversight in the 1968 National Trails System Act by creating a new category of National Historic Trails. Without this new category and the protection it will afford, the heritage of our country's historic migration and transportation routes, with their remaining edifices and artifacts, may be lost forever. And we would be the less for it. Many historic trail remnants have, according to Interior's Oregon Trail report, already been "erased by the bulldozer and the plow." What remains of our historic trails lie "gently on the land, as easily erased as a pencil line on paper."

Second, this bill designates four historic routes, the Oregon Trail, the Mormon Pioneer Trail, the Lewis and Clark Trail, and the Iditarod Trail as the first national historic trails. As I mentioned earlier, each of these trails has been thoroughly studied by the various departments and was found to possess outstanding historical qualities which should be protected through their inclusion within the national system.

Finally, the legislation amends the 1968 act to provide procedures for the study of other routes to determine the feasibility and suitability of their designation as national historic trails. These new procedures are needed to provide a mechanism to study trails which though not available for intensive recreation, are nonetheless vital parts of America's past.

To qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential.

It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along the roadless segments developed as historic trails, and at historic sites associated with the trails. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.

Mr. President, the main thrust of this legislation is to provide for the identification and marking of certain historical routes which are an important part of our national heritage, and which should be appropriately commemorated. The bill has the full support of the administration, and I urge its approval by the Senate.

Mr. President, I ask unanimous consent that certain excerpts from the Department of Interior's study reports on the trails covered by this legislation be printed in the RECORD at this point along with a resolution adopted by the National Trails Council in support of the new historic trails category.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDY REPORT: OREGON TRAIL

FOREWORD

The Oregon Trail was a wagon road stretching 2,000 miles from Missouri to Oregon's Willamette Valley. It was not a road in any modern sense, only parallel ruts leading across endless prairie, sagebrush desert, and mountains to an unknown Promised Land.

A quarter of a million people set out on this faint track, their possessions reduced to what could be carried in a wagon or on the backs of their livestock. Most said goodbye forever to friends, relatives, and familiar places. Many were destined to a shallow grave along the way, and the Oregon Trail often has been called the longest cemetery in the Nation.

To survivors, the 6-month journey was the most important event in their lives. Over 700 of them left diaries and journals. These written accounts, together with remnants and relics of the trail itself, today provide a window to the past.

Many trail remnants have been erased by the bulldozer and the plow. Much of the route today lies under highways and city streets, or traverses farmland where prairie grasses and sagebrush have given way to corn and wheat. Here and there, however, are segments relatively untouched by civilization. Much of the Oregon Trail's potential for public enjoyment lies in these visible remnants, and in the historic sites associated with the trail.

What remains of the Oregon Trail lies gently on the land, as easily erased as a pencil line on paper. If protected, these remnants can provide future generations the opportunity to catch glimpses of our land as it appeared to the emigrants, to relive vicariously their great adventure, and to sense the enormity of its consequence . . .

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STUDY REPORT: LEWIS AND CLARK TRAIL

INTRODUCTION

*Historical background*

In 1803 President Jefferson commissioned two Army officers, Captains Meriwether Lewis and William Clark, and their Corps of Discovery, as the Expedition was commonly known, to explore routes through the newly purchased Louisiana Territory and to secure and extend this claim to the Pacific Ocean. In May of 1804, the group left the preparation camp near Wood River, Illinois, to cross vast regions of the Louisiana Territory and the Pacific Northwest in one of the most important events in Western United States history.

They followed the Missouri River upstream for approximately 2,400 miles to Three Forks in Montana, then the Jefferson River to its headwaters, and thence the Beaverhead River to the vicinity of the Continental Divide at Lembi Pass. Proceeding toward the Pacific, the explorers followed the Salmon River, recrossed the Montana-Idaho border at Lost Trail Pass and continued through the Bitterroot Valley to the vicinity of Lolo, Montana. Again crossing the Montana-Idaho border, this time at Lolo Pass, the group began its westward descent along the Clearwater, Snake, and Columbia Rivers. In November 1805, they arrived at the Pacific Ocean.

On the return trip, the Expedition followed the same general route as far as Lolo, Montana, where they formed into two groups. Captain Lewis followed the Bitterroot, Clarks Fork and the Blackfoot Rivers to cross the Continental Divide at what is now Lewis and Clark Pass. He descended the Sun River and explored the upper reaches of the Marias River before proceeding down the Missouri River. Captain Clark traveled south to cross the Divide at Gibbon's Pass, descended the Beaverhead and Jefferson Rivers and then crossed to the Yellowstone River. He followed the Yellowstone downstream and joined Lewis below its confluence with the Missouri River.

Captain Clark and Captain Lewis together made the remainder of the trip down the Missouri and arrived at St. Louis in September 1806.

NATIONAL SIGNIFICANCE

*Background*

The Lewis and Clark Expedition of 1804—1806 is considered by many to be one of the most important factors in the expansion of the Continental United States. It paved the way for the settlement and development of the Northern Plains, the Rocky Mountains, and the Pacific Northwest. This journey had a profound and lasting effect on the political, economic, and geographic development of the western half of the Nation.

The need for exploration of the western portions of the continent had become apparent to President Jefferson long before Napoleon made his offer to sell the Louisiana Territory. In his address to Congress on January 18, 1803, Jefferson asked for and was granted an appropriation of $2,500 for an expedition across the continent to the Oregon Country.

Later that year, Napoleon offered to sell all of the Louisiana Territory for $15 million. Jefferson took this opportunity and on Oc-

tober 25, 1803, the United States Senate ratified the Louisiana Purchase Treaty.

On May 14, 1804, with the firing of a cannon shot, the Lewis and Clark Expedition set forth from their winter camp at the mouth of Wood River, Illinois, to secure the American claim. The trip lasted 2 years, 4 months, and 9 days and encompassed about 7,500 miles. Few similar journeys were so well managed and so free from errors in judgment, miscalculations, and tragedy. Only an incident with the Sioux Indians at the mouth of the Bad River and another with the Blackfeet which resulted in the deaths of two Indians marred the trip. The only death among members of the Expedition was that of Sergeant Floyd and is presumed to have resulted from a ruptured appendix.

The contacts made with the Indians by Lewis and Clark were of great political importance in the Government's later dealings with the various tribes. By completing a journey up the Missouri River and then down the Columbia to the Pacific Ocean, the Americans strengthened their claim to the Oregon Country.

There were significant economic benefits resulting from the Expedition. Trappers and then traders gradually penetrated this rich land. Lewis and Clark established that beaver were abundant and exploitation began almost immediately. The fur trade was the principal industry of the area until the late 1830's when the price for pelts declined.

Descriptions and specimens of the flora and fauna taken back by members of the Expedition added considerably to the scientific knowledge existing at that time. Birds, small mammals, hides, and boxes of Indian articles were returned to the East. Detailed descriptions of the pronghorned antelope, the Columbia blacktailed deer, beaver, bobcats, foxes, wolves, and squirrels were prepared.

Geographically, the Expedition had more far-reaching effects. Prior to the journey, it was generally assumed that a mere 20 miles separated the Missouri headwaters from the headwaters of the Columbia River which could be followed to the sea. They had not anticipated mountains as extensive as the Rockies. Instead of 20 miles, they were forced to traverse almost 200 miles of rugged territory to reach a tributary of the Snake River. Most significant, however, was the final realization that a northwest water passage to the Orient could never exist.

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STUDY REPORT: THE IDITAROD (SEWARD-NOME ROUTE) AND OTHER ALASKAN GOLD RUSH TRAILS—DEPARTMENT OF THE INTERIOR, SEPTEMBER 1977

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The Seward-Nome (Iditarod) route is composed of a number of trails and side trails developed at different times during the Gold Rush Era. The Iditarod strike began in 1908; it was the last of the major Alaskan strikes and prompted the Alaska Road Commission to improve the Rainy Pass-Kaltag section of the Seward to Nome trail. Because the Iditarod mining district was the most common destination of travelers in this last phase of the Gold Rush Era, the name Iditarod Trail has become a term of convenience to describe the many geographic and historic segments of the Seward to Nome trail. These trails, aggregating 2,037 miles, offer a rich diversity of climate, terrain, scenery, wildlife, recreation, and historic resources in an environment largely unchanged since the days of the stampeders. It is the isolated, primitive quality of this historical environment that makes the Iditarod National Historic Trail proposal unique. No where in the National Trails System is there such an extensive landscape, so demanding of durability and skill during its winter season of travel. On Iditarod, today's adventurer can duplicate the experience and challenge of yesteryear.

Though comprehensive studies of historic resources remain to be done, preliminary surveys have indicated that the Iditarod Trail possesses national historical significance. Rapid erosion of known historic resources, and impending threats to the primitive quality of the trail, are immediate concerns. Should the Congress act favorably on the Iditarod Trail proposal, comprehensive studies and management programs would be initiated to preserve the trail's historic environment and resources.

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RESOLUTION OF THE NATIONAL TRAILS COUNCIL PERTAINING TO THE ESTABLISHMENT OF NATIONAL HISTORIC TRAILS

Whereas, there are many trail routes in the United States which are of national historic significance; and

Whereas, the National Trails System Act does not contain provision for designation of historic trails, and a number of trails having historical significance which are presently under study for designation as national scenic or recreation trails do not meet the criteria for such designation; and

Whereas, it is important that the historical significance of these routes as foundations of the country's development be preserved for the enjoyment, recognition, and understanding of future generations of Americans.

Therefore, be it resolved that the National Trails Council, an organization representing members of the public and government involved in the establishment and use of all types of trails, urges the Congress of the United States to amend the National Trails System Act to provide for the category of National Historic Trails and Travelways; and

Be it further resolved that the National Trails Council urges the U.S. Department of the Interior and the U.S. Department of Agriculture to support such legislation, including the preparation of and immediate submittal of appropriate draft legislation to Congress to accomplish this objective.

THE MORMON PIONEER TRAIL

Mr. CHURCH. Mr. President, the Mormon Pioneer Trail, like the Oregon Trail which it parallels in many places, was one of the most significant migration routes used during the westward expansion of the American people during the mid-19th century. Similarly, the Mormon migration was one of the most dramatic events of this period, for it was the permanent movement of a whole people. Family groups under the leadership of Brigham Young, seeking to avoid religious persecution, left their homes and braved many hardships in order to accomplish their dream of finding a new location and a fresh start.

Except for the segment between Council Bluffs and Fort Laramie, Young's Mormon pioneers did not originate the route they followed. Rather, it was the combination of several existing routes beginning with the earlier trapper, missionary, and Indian trails, and the more widely known Oregon, Overland, and California Trails. Yet, the Mormon emigration differed profoundly from the Oregon and California Westward migrations, and Mr. President, I would like to take a few minutes to detail some of these differences which make the history of the Mormon Pioneer Trail unique.

Unlike other settlers who headed west looking for the lands of golden opportunity on the Pacific coast, the Mormons did not leave their warm and comfortable brick homes in the city of Nauvoo willingly. Instead, they started their migration west under the worst possible conditions in the dead of winter. After they crossed the Mississippi River, they were forced to regroup and for several weeks huddled together in Sugar Creek, Iowa, in their wagons and tents, until the weather changed and they could continue their trip west.

For their journey West, Brigham Young set forth the organization and rules by which the Mormon company would travel. For example, the pioneers were directed to organize themselves into tens, fifties, and hundreds. During 1847, these groups were organized in semimilitary fashion with Brigham Young as general and others serving as company captains, hunters, and scouts.

Unlike most of the California- or Oregon-bound emigrants, the first thoughts of Brigham Young's pioneer company were to improve the journey for the Mormons who were to follow. They took special note of good campgrounds, wood, water, and grass, and the pioneers were careful to measure distances and set up mileposts. In addition, some crops were planted by the vanguard company in the spring on public lands adjacent to their route so that the companies that followed could harvest these crops as they made their trek westward.

The Mormons established semipermanent camps and ferries, graded down the steep approaches to fords, and cleared boulders out of the path. Unlike the Oregon- or California-bound travelers, who did not expect to go that way again, the Mormons not only traveled West, but also eastward to pick up supplies and new converts at the Missouri River, or to meet faltering companies and help them on to Salt Lake City.

Perhaps the spirit of the Mormon migration can be best capsulized by the encampments which occurred at the end of each day's journey. With the first company of Mormon pioneers came a brass band. After the encampment was made and the toils of the day were over, the snow would be scraped away and huge fires built inside the wagoned enclosure. There, to the inspiring music of the brass band, the weary pioneers sang and danced and forgot momentarily their trials and the discomfort of their travel.

And so, with mighty faith in their hearts they pursued their journey across the Great Plains. Tremendous rainstorms overtook them, but they traveled on and on, marking their trail with the graves of their dead. It was during this time that William Clayton wrote the famous soul-stirring song:

Come, come ye Saints, no toil nor labor fear,
But with joy wend your way;
Tho' hard to you this journey may appear,
Grace shall be as your day.
Tis better far for us to strive
Our useless care from us to drive;
Do this and joy your hearts will swell—
All is well. All is well.

Prior to reaching the Great Salt Lake Valley, Brigham Young met with James Bridger, the famous mountaineer and guide. Mr. Bridger was well acquainted with the Rockies and gave the Mormon company much information concerning

the country in general. Says President Young:

Bridger considered it imprudent to bring a large population into the Great Basin until it was ascertained that grain could be raised; he said he would give $1,000 for a bushel of corn raised in that basin.

President Young replied:

Wait a little, and we will show you.

The end of the Mormon Pioneer Trail was the Great Salt Lake Valley. For some it seemed a desolate wasteland, hardly the Zion they hoped for. But for many others it was the refuge which they would make blossom as the rose.

Mr. President, Nelson White has taken some of the journals kept by the pioneers and rewritten them in the book "Westward in '47." Because his colorful story recounts the final days of the 1847 migration more eloquently than I could hope to, I ask unanimous consent that the last two chapters be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, the route followed by the Mormon Pioneers is of national significance for a number of different reasons. Existing national monuments, Federal, State, and local recreation areas, and scenic tour routes provide a full range of outdoor recreation opportunities along or accessible from the Mormon Trail. In addition, many historic points along the 1,300-mile route have high potential for historical interpretation. However, the main significance of the trail is the role it played as a main highway for the development of the West.

While most of the original Mormon Trail has disappeared across Iowa and Nebraska, in Wyoming and Utah much of the environment is little different today than it was in 1847. In these sections, numerous ruts and other trail evidence remain as visible reminders of the courage and determination of the Mormon Pioneers.

My President, in closing, just let me say that the designation of the National Historic Mormon Pioneer Trail will commemorate the experience of a remarkable people. Like their forebears who traveled this historic route, the present generation of Latter-day Saints is sustained by an unquenchable faith in God. They have prospered by the example of thrift, hard work, and good living. They are good neighbors and good people, setting an example both in American communities and as ambassadors of good will in countless countries abroad.

Today, on Pioneer Day, the people of Idaho pause to pay tribute to the pioneers of a century ago. The quest for a new start that led the pioneers to blaze new paths westward—both along the Mormon Trail and the other westward migration routes—and the hardships overcome by these hardy individuals, will be appropriately commemorated by the passage of this legislation. I urge my colleagues to approve the committee substitute to H.R. 6900.

EXHIBIT 1

WESTWARD IN '47

CHAPTER EIGHTEEN

On the twenty-first of July, 1847, Orson Pratt accompanied by Erastus Snow preceded the main part of the vanguard company down the canyon. Taking a single saddle horse they forced a trail through dense thickets and over dangerous boulder-strewn mountain sides. Up steep and dangerous grades to the top of a hill where no wagon could hope to follow, they worked their way.

From this summit the two Pioneers saw for the first time a full view of the broad, open valley that was to become the home of the mighty people of which the Pioneer company was the advance guard.

The blue waters of the Great Salt Lake lay flashing and shimmering in the distance, and the two trail blazers drank in every little detail of the satisfying, inspiring view of the valley below. They thrilled at the sight of its streams, creeks and lakes and its towering snow-capped peaks that ringed this beautiful valley.

A shout of joy broke from their lips and they waved their hats in the air. Then they descended from their hilltop lookout post to the plateau below where the main company, was fast overtaking the vanguard in Emigration Canyon. The rear company, with the sick president, was proceeding down East Canyon. On the twenty-second they camped here; the twenty-third found the president's party in a secluded little birch grove, where, it was hoped, their leader would regain some of his lost strength.

CHAPTER NINETEEN

In the forenoon on the twenty-fourth of July, 1847, the last of the Mormon Pioneer company's rovered wagons rolled out of the enclosing ravines of Emigration Canyon.

Brigham Young, the Leader—the founder of Utah—looked for the first time upon the full glory of the Valley of the Great Salt Lake.

The creaking of wagon wheels came to a stop, each shout to tardy oxen, each crack of whip became suddenly silent as the Leader's searching eyes traveled across the valley. The muted song of a thrush, the chirp of a cricket and the distant roar of a mountain torrent were the only sounds heard, as the Leader's eyes seemed to drink in the whole scene.

A certain inward penetrating power gave a prophetic quality to that inspired gaze as it saw more than any other mortal eye in the Pioneer company.

Brigham Young's voice broke the stillness.

"This is the place."

And indeed it was. The place to which myriads of industrious frugal settlers could flock from afar to turn the unfriendly soil into fertile fields and beckoning orchards.

Forts and dugouts and log cabins were to blossom into pleasant hamlets; villages into towns and cities. Progress would come with the science of agriculture, of mining, of education.

The former realm of the red man would become a hive of industry and progress of which all Utahns, all Americans could be justly proud.

Brigham Young, the Leader, had the insight. He saw, one hundred years ago as clearly as if with mortal eye, the sun-parched valleys of the inter-mountain West blossoming and burgeoning into the lovely spot of beauty and progress of which this mighty nation is justly proud.

"This, indeed, is the place!"

PIONEER DAY: 1978

Mr. CHURCH. Mr. President, I am especially pleased that the Senate has agreed to consider the historic trails legislation—which includes the Mormon Trail—today, because today is the 131st anniversary of the arrival of the Mormon pioneers in the valley of the Great Salt Lake. It is an occasion in which the people of Idaho join with our sister State to the south, Utah, in celebrating each year.

The history of the Church of Jesus Christ of Latter-day Saints in the West is a remarkable story of colonization; of bringing civilization to a vast, untamed wilderness; and of making the deserts bloom and cities grow. But above all, it is the history of a remarkable people who fled persecution in pursuit of a new life where they would be free to worship, live, and prosper.

The Mormon contribution to the history of Idaho is not only significant, it is ongoing. Throughout the past century, Mormons have been leaders in the settlement, growth, and prosperity of the Gem State.

The Mormons were the first settlers in what was to become Idaho. Fort Lemhi was established in 1855, and 5 years later, Mormon pioneers established the first permanent town in Idaho, Franklin. They also established the first permanent school and were the first to practice extensive irrigation, a necessity in an arid land.

From these humble beginnings in the intermountain West, the LDS Church has grown and prospered into an international organization. Throughout the world, young men and women give 2 years of their life, without pay, to serve their church as missionaries. Following the precept that "the glory of God is intelligence," the church supports one of the most extensive educational systems in the world. And in time of emergency, the church—drawing upon reserves of food and clothing purposely put away against a time when it may be needed—is able to move quickly to alleviate suffering. When the Teton Dam broke in Idaho 2 years ago, the first relief workers on the scene were scores of Mormon volunteers, drawn from throughout the West, who fed and clothed and housed hundreds of homeless victims, without regard to faith. Federal disaster relief administrators would be well advised to examine closely this remarkable effort on the part of ordinary citizens, who responded instinctively and without hesitation in a time of great need.

Mr. President, in commemorating Pioneer Day this year, I think it is also appropriate to mention a recent event that took place in Nauvoo, Ill., the 19th century headquarters of the LDS Church before persecution forced the church to move West. On June 27 and 28, the Relief Society of the church dedicated a new monument to women at Nauvoo. The monument consists of a heroic central sculpture of a woman, supplemented by 12 life-size figures which admirably express the multifaceted nature of woman's vital role in society.

In speaking of this monument, Relief Society President Barbara B. Smith said:

This monument is a statement of faith in God and faith in self. It expresses our hope for the future, inspires courage to meet ad-

versity, and offers direction that will lead us to do much good.

The Relief Society is the oldest and largest organization for women in the world. It was founded under the direction of the young prophet, Joseph Smith, on March 17, 1842, in Nauvoo. From the beginning the Relief Society's purpose has been to provide an organization through which women might give compassionate service, continue their pursuit for knowledge, and meet the current needs of the women, their husbands, their families, and their communities.

The Relief Society has been a forerunner in meeting the current needs of its women. For example, the Relief Society played a pivotal role in persuading the Utah Territory to give women the right to vote in February 1870, just 2 months after the Wyoming Legislature gave its women the vote. In 1887, the Congress of the United States took away the right of franchise from Utah women by passage of the Edmund-Tucker Act. Subsequently, prominent leaders in the Relief Society became active in the national women's suffrage movement and founded the Women's Suffrage Association for Utah in 1889.

The Relief Society continues today to encourage and instruct its members to use their talents and capacity for caring for the good of the community.

My wife, Bethine, had the privilege and pleasure of representing the First Lady, Mrs. Carter, at the dedication of the Relief Society monument in Nauvoo to women everywhere.

Mr. President, I ask unanimous consent that the text of Bethine's remarks at the dedication ceremonies, together with Mrs. Carter's message on the occasion of the ceremonies, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY MRS. FRANK CHURCH

Love and the gift of life seem especially close to me this year: a 31st wedding anniversary for Frank and me; a mother who will be 91 years young; a son who becomes 21; and our first grandchild to be born. How touched I am by the words of Mary Louise Young:

"Revolving in celestial circles
In the endless self-repeating spirals of my days . . ."

So it was with a sense of personal joy and thanks that I accepted the kind invitation of Barbara Smith and her sisters to take part in the dedication of this wonderful park.

My husband and I have long enjoyed a close association with the L.D.S. Church. Many dear friends of ours in Idaho are members of the Relief Society.

Who would have thought, here in Nauvoo in 1842, when the Relief Society was first formed, that it was destined to become the largest organization of women in the world! This extraordinary growth, moreover, has never caused the Relief Society to lose sight of its original goal of care and service.

In these difficult years of flux, your contribution to family stability is a sterling example for all. The same may be said of your dedication to the well-being of your brothers and sisters. The true basis of happiness and self-respect is still to be found in the good done for others.

So I am deeply honored to be your guest at this ceremony, and privileged to represent our First Lady, Mrs. Rosalynn Carter, who has sent to you the following letter for this occasion:

THE WHITE HOUSE,
*June 22, 1978.*

MRS. BARBARA B. SMITH,
*President, Relief Society, The Church of Jesus Christ of Latter-Day Saints, Salt Lake City, Utah.*

DEAR FRIENDS: In the year and a half that I have been First Lady, I have been deeply impressed by the pervasive desire of all Americans to live useful lives, to correct the defects of our society and to make our nation even greater than it already is. Through their devotion to human needs and concerns, women have traditionally been the foremost proponents of that spirit.

I salute the Relief Society's long history of leadership in putting women's talent, courage and capacity for caring to work for the good of the community. And I share your deep sense of pride in the beautiful monument you dedicate to all women here today. Please accept my best wishes on this very special occasion.

Sincerely,

ROSALYNN CARTER.

Mr. McCLURE. Mr. President, I will take only a moment of the Senate's time to express my appreciation to the leadership of the Senate for making it possible for us to insure the timing of the passage of this legislation in the Senate on Pioneer Day, because I know that that particular symbolism will add to the pleasure with which the members of the LDS Church greet the passage of this legislation.

Pioneer Day is a matter of great celebration in our State, as the people recount the very great hardships that their ancestors faced as they crossed this Nation seeking religious freedom. It was one of the great political, social, and religious events of the last century when these people completed their migration, found their home, and solidified their home throughout Utah, southern Idaho, and the Intermountain West.

So it is my pleasure to join with my colleague from Idaho in urging the passage of this legislation, and I again thank the leadership for making it possible to take this action on this date of particular significance.

Mr. GARN. Mr. President, I ask unanimous consent that a statement of the Senator from New Mexico (Mr. DOMENICI) be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR DOMENICI:
THE MORMON TRAIL

The truths of religion are never so well understood as by those who have survived great trials of body and spirit with only the strength of their faith to sustain them.

In the violence following the murder of Joseph Smith and his brother Hyrum, the strength of the Mormon faith proved wonderous when Brigham Young led that little band from Nauvoo in the sub-zero weather of February, 1846. They reopened a very old trail to the West when they followed the north branch of the Platte River through the South Pass to Fort Laramie. After crossing Iowa to the banks of the Missouri River, they had established their Winter Quarters, which we now know, of course, as Omaha, Nebraska. Their journey over the old Oregon Trail to Fort Bridger in Wyoming, and the final push by a chosen few over mountains, through Echo Canyon, and finally to camp in Emigration Canyon was a test of strength through faith which we still look upon with awe and the highest admiration.

On July 24, 1847, the group emerged from Emigration Canyon into the vast plain that was the basin of the Great Salt Lake, and for the thousands of emigrants who were to follow them, established the route of the Mormon Trail.

Others have written for their religion, fought for it, died for it, but these men and women of the Mormon faith lived their religion.

Then as now the great hope of society was to be found in the character of individuals. If it is true that you must look into people as well as at them, then one sees the families who walked the Mormon Trail as walking by faith, not by sight, with great community and cooperation to give them strength.

We think to make belief in miracles impossible with science, yet science itself is perhaps only a belief in miracles best authenticated by history and by daily life. For whatever reason, the Mormon Trail stands as testimony to great people, living and working for an even greater good.

Mr. GARN. Mr. President, first let me, as a Senator from Utah, thank our distinguished colleague the Senator from Idaho (Mr. CHURCH) for expediting this matter so that it could be approved on July 24, the anniversary of our Mormon pioneers entering the Salt Lake Valley on July 24, 1847.

I am pleased to join with Senators CHURCH, HATCH, and others in support of legislation establishing a system of historic trails for the Nation, and designating the Mormon Trail as a historic trail. We are happy to see the Mormon Trail move toward official designation by Congress, in tandem with other significant trails from our Nation's history.

I wish to emphasize, Mr. President, that this legislation does not contemplate the taking of land not already in the public domain. Under the legislation, areas already owned by the Federal Government where the original Mormon pioneers trekked would be marked and designated by the Secretary of the Interior. Areas outside the Federal domain could also be designated by the Secretary if the owners of the land, State or local governments or private owners, were willing. We have no desire to create an enormous linear park, which could have serious land use implications. In fact, much of the Mormon Trail parallels segments of the Federal highway system. In my opinion, what would be most appropriate would be historic markers, some interpretive displays, conservation of trail remnants, and so on. To some extent, that has already been done along the Mormon Trail; our bill would simply permit completion of the preservation of this important part of our pioneer heritage.

Such preservation is important, Mr. President. It is impossible to exaggerate the importance of the Mormon exodus on the cultural patterns of the people of the State of Utah. Those whose ancestors died or were born along that trail of tears all experience a unifying feeling, a oneness with forebears willing to undertake any sacrifice for the sake of liberty of worship. Those who live in Utah who are not descended from the original pioneers share a similar heritage, and must stand in awe of the accomplishments of these

simple people of the last half of the 19th century.

As transportation becomes easier, it is harder and harder to communicate to our children the stark reality of the trek West. Now we drive it in a day or two; or we fly it in an hour or two. Unless we preserve the remnants of the trek, it will become impossible for us to identify with those who died pushing handcarts from Missouri, or who walked barefoot in the snow from winter quarters. The trek westward along the Mormon Trail is one of the great unifying experiences in the lives of a people. We want to preserve that experience. This bill will help us do it.

Mr. HATCH. Mr. President, I would like to join my colleague from Utah in thanking the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Wyoming (Mr. HANSEN) for the work they have done on this bill, and also for expediting it so that it could come forward on this particular day, a very significant day to our pioneer folks out there in Utah.

Mr. President, in support of the omnibus trail bill before the Senate today, I would like to extend the following remarks regarding the Mormon Trail.

The Mormon Trail is unique in the annals of American history. It was literally paid for in enormous measures of human sacrifice and death. The trail itself, covers a distance of approximately 1,300 miles from Nauvoo, Ill. to Salt Lake City, Utah, and passes through Iowa, Nebraska, Wyoming, and Utah. It is of major significance in the history of developing the West. It was over this same trail that many of the "gold rush" miners and the settlers of both the Northwest Territory and colorful Southwest traveled. Over this trek 10,000 Morman faithful and tens of thousands of other pioneering Americans left the established boundaries of the United States in a great exodus and carved new homes; new towns, and productive lives out of an unknown and often hostile environment. From the original vanguard led by Brigham Young in 1846–47 until the linking of the transcontinental railroad at Promitory Point, Utah, in 1869, more than 50,000 struggled to make a new life. The results of their efforts are evidenced by the vast metropolitan and rapidly burgeoning areas of the Western United States.

Unfortunately, some segments of that once heavily traveled trails have disappeared or become inaccessible as towns, highways, fences, industry, canals, reservoirs, and the clutter of civilization has spread across the landscape. Many of the precious artifacts and historical landmarks are now gone. Except for a few isolated wagon ruts, most evidence of the trail itself has long vanished.

Dr. Stanley B. Kimball, professor of history at Southern Illinois University and an expert on the trail has said:

> The physical dimension of our pioneer trail heritage is slowly disappearing. We should identify and preserve what is left.

Mr. President, it is left to us to preserve that rich heritage of not only a people, but a nation. By enacting the measure before us we can designate, not only the Mormon Trail, but other historically meaningful trails as part of the National Trails System.

The U.S. Department of the Interior's Bureau of Outdoor Recreation has done a careful evaluation of the trail based on detailed mapping and studies by Dr. Kimball who has traveled over most of the trail nine different times. In describing the significance of this trail, Dr. Kimball explained:

> Even though in most places, little or no physical evidence of the trail is visible, there is powerful impact in being able to see the same ground the pioneers travelled. The experience of the trail, the crossing of the plains, became a great event, not only in the lives of the pioneers, but in the minds of their descendants. It became a rite of passage, a test of faith.

The Mormon experience in crossing the Plains was different from other Americans who came West. The pioneers uprooted and transplanted a whole people, an entire culture.

Existing national monuments, Federal, State, and local recreation areas, and scenic tour routes provide a full range of outdoor recreation opportunities along or accessible from the Mormon Trail. Many historic points along the 1,300-mile route have high potential for historical interpretation and/or recreation. National recognition would enhance the importance of historic values commemorated at these sites and encourage preservation and interpretive facilities for a trail now considered only part of a broad migration corridor to the West.

There are significant segments of the trail and adjacent trail which were used by early-day Indians, ancient cliff-dwelling tribes, explorers, missionaries fur traders, mountain men, and the fabled miners. Ghost towns, mining operations, museums, and reconstructed "boom towns" associated with the Old West are in evidence along the trail corridor.

Many developed geographical regions along the trail provide excellent opportunities for fishing, camping, hiking, picnicking, and historical interpretation. Such areas include rivers, reservoirs, wayside rest areas, historical sites, and recreation developments.

The story of the Mormon Trail and the thousands who experienced hardship on their journey to the valley of the Great Salt Lake have been described in many publications and diaries. Public interest in preserving, commemorating, and interpreting the history of the Mormon Trail has been evident for many years. State and local historical societies in my State of Utah, as well as other States where the trail is located, have erected various markers and memorials along the route.

The National Trails System Act of October 2, 1968, established a policy for a national system of trails and identified the Mormon Trail for future study and possible inclusion in the act. The Department of the Interior has prepared an excellent report pursuant to the National Trails System Act to determine the feasibility and desirability of designating the Morman Trail as a component of the National Trails System. Their findings indicate among other things that this route of the Morman pioneers merits national recognition commemorating its unique place in American history. In addition, 23 segments of the route, totaling approximately 700 miles and approximately 75 morman trail sites were identified as having a high potential for recreation, historical interpretation, and public use. The Department of the Interior has expressed willingness to assist in any way in implementing the recommendations promulgated in the report.

Mr. President, I believe it is important to point out that this bill does not ask for acquisition of any Federal, State, or privately owned lands. It merely provides for a designation of the trail in order to establish and preserve what remains for the enjoyment of those utilizing public highways and facilities along the trail route. Our posterity will be the beneficiaries of a piece of history that will be visibly marked and developed. This will be of immeasurable value as the number of uses for land continue to grow.

I wholeheartedly accept the recommendations of the Department of the Interior study and urge the Senate to vote favorably on the passage of this bill.

PIONEER DAY

Mr. HATCH. Mr. President, first by tradition, and then by State law, the 24th of July has become a holiday in the State of Utah. It was on that day 131 years ago that the first party of Mormon pioneers entered the Salt Lake Valley and established the State of Deseret, later to become Utah. It was on that day that the great Mormon leader, Brigham Young suffering from the exhausting 102-day trip across the Great Plains and over the rugged Rocky Mountains, rose from a carriage bed and declared, "This is the right place."

Thirty-one years ago, on the occasion of the 100th anniversary of the entry into the valley of the Great Salt Lake, a monument unveiled appropriately at the mouth of Emigration Canyon near the place where the Mormon leader made his famous declaration. This Is The Place Monument, at the Pioneer Trails State Park, is a lasting symbol of the westward search by the Mormon party, where they could freely exercise their way of life without outside interference or persecution.

When the pioneers first entered the valley they found a desert wasteland with what was reported to be only one growing tree as far as the eye could see. That wasteland, as predicted by Brigham Young, has been made to "blossom like a rose." One hundred and thirty-one years later Salt Lake City leaves a lasting impression on vistors as clean and open, with wide streets and friendly people.

The Mormon pioneer trek was not unlike the search for a better way of life which has been repeated several times over in the history of the world. With each search, and the resulting new culture, has come the traditional celebration to recognize the struggle of those courageous ones who led the way and found the reward. Today is that day for the Utah pioneers and the people of the Beehive State.

We from Utah like to claim some credit for the lasting heritage of pioneering which this great land enjoys. The westward migration is the essence of the American dream. Here, it was said, is a place where a person who works hard can become anything he wants to become.

I believe it is a privilege to serve in a body of men who, each day, chart new regions, walk new paths, and are pioneering a new era in the American way of life which is taking its first steps into a third century. My mormon pioneer heritage gives me confidence and courage to know that others will face the unchartered course and find the answers for the future generations.

And so, in conclusion, I pause to reflect on that day, and invite my colleagues to join with me in remembering the western pioneer. Let us pay tribute to his contributions to the development of our lands which he boldly settled for our benefit, and the benefit of the United States. Let us remember this Utah holiday—Pioneer Day.

Mr. GRAVEL. Mr. President, I am pleased to join with a number of my colleagues today in strong support of the bill before the Senate which would amend the National Trails System Act to include a new category of historic trails. Of particular interest to me and to Alaskans is the designation of the Iditarod Trail as a national historic trail.

For the past two Congresses I have sponsored legislation which designated the Iditarod Trail in Alaska as a national historic trail. I am delighted to at last see this legislation come before the Senate. The House has already passed a version of this legislation and I hope we can see swift enactment of this legislation this summer.

The Iditarod Trail with its major branches and alternate routes stretches over 2,000 miles between Seward and Nome. Alaska. The various routes were used first by Native peoples and later by those seeking gold during the famous Alaskan Gold Rush days at the turn of the century. Some segments were used in the stampede to the Nome beaches in 1898–1909. However, the name of the trail is taken from the gold fields along the Iditarod River. The rush to the Iditarod in 1910 was the last major gold rush in North America and closed out one of the most colorful eras of American history.

The trail which was blazed through the Alaskan wilderness to Iditarod continued to be used until the mid-1920's when the age of the "bush pilot" came in. Primarily a winter route, the trail served as the only communication and transportation link with the "outside" for Nome, Iditarod and many other gold mining boom towns during the 6 to 8 months when the rivers and seas were frozen.

Today, a few segments near population centers are being used as recreational trails by dog mushers, cross-country skiers, snowmachiners, hikers and other outdoor enthusiasts. Some segments are still used as winter transportation links between remote Alaskan villages. Other segments have been overlain by roads and the Alaskan Railroad, while still other segments remain as faint to nonexistent traces through Alaska's "bush." In commemoration of the historic trail and to the vital role of dog mushing in Alaska's history, a 1,000-mile dogsled race has been held annually since 1973 between Anchorage and Nome. This race remains the supreme test of man and dog with travel conditions and stamina requirements varying little from those experienced by mushers 80 years ago.

With regard to the specific bill before us, I believe that the specific concerns which I expressed before the Energy and Natural Resources Committee have been addressed in this legislation or in the committee report. However, for the purpose of establishing legislative history I would like to discuss several points which conceivably could result in future problems. The first is the question of off-road vehicle uses. It is my understanding that the amendment to section 7 of the National Trails System Act contained in this bill would permit the use of off-road vehicles on segments of historic trails where such use is currently allowed. Off-road vehicle use, especially snowmachine use, is perhaps the primary use of many segments of the proposed Iditarod Trail for basic transportation as well as recreational purposes. Because the Iditarod is primarily a winter trail and because off-road vehicle use under normal use patterns poses no threat to the historic resources or integrity of the trail, any prohibition of this use would be totally unwarranted.

Another concern which I know is shared by others supporting this historic trails legislation is that the designation of a route not be used to impede or prohibit the normal upgrading and work on existing transportation systems which may be designated as part of the historic trail or to block the development of new transportation or utility systems across or along portions of the route. This is especially important in the case of the Iditarod where the route almost bisects Alaska, a State where our surface transportation system is currently minimally developed, and future expansions are as yet unknown but possible. The bill before us addresses this future problem by exempting historic trails from the provisions of section 4(f) of the National Transportation Act which imposes tight restrictions on the construction of transportation projects across park and recreation areas and historic properties. In addition, I understand that the committee report on this bill contains language which clarifies that designation of historic trails is not to prohibit any future construction of utility or transportation systems along or across portions of the trail or route. I would welcome any assurances that the committee managers of the bill could make to me in this regard for the purpose of clarifying the intent of this bill and possibly avoid future problems of interpretation.

I thank the committee members for their careful consideration of this important legislation and their expedition in moving it to the floor. I urge my colleagues to vote positively on this measure.

Will designation of a national historic trail in any way prohibit the use of off-road vehicles along the route or trail where that use is currently permitted?

Mr. CHURCH. No, as long as they do not "substantially interfere with the nature and purposes of the trail."

Mr. GRAVEL. Will designation of a national historic trail in any way prohibit the granting of a right-of-way for a transportation or utility system crossing pursuant to normal regulations governing such rights-of-way across Federal lands?

Mr. CHURCH. Again, the answer to the Senator's question is "No."

Mr. GRAVEL. Will designation of a national historic trail imply that such a route or trail in its entirety be treated as a historic place or site as that term is used in the National Historic Preservation Act or in section 4(f) of the National Transportation Act?

Mr. CHURCH. No, it will not.

Mr. McCLURE. Mr. President, would the distinguished floor manager of the bill yield for a question?

Mr. CHURCH. I would be happy to yield to my colleague.

Mr. McCLURE. In the last Congress, both you and I sponsored legislation which was subsequently signed into law that requires the executive branch to study the desirability of designating the Nez Perce Trail as a national scenic trail. In the hearings on that bill I remember the Senator raising the point that the Nez Perce Trail should really be classified as a national historic rather than national scenic trail. Am I correct?

Mr. CHURCH. The Senator from Idaho is correct. Although the route followed by Chief Joseph and the Nez Perce Indians during their famous retreat of 1877 is one of stunning beauty, it has always been my belief that the deep historical value of the trail should be recognized directly.

Mr. McCLURE. I agree with my colleague. It really should be a national historic trail. By passage of this legislation, we will be establishing a new category within the National Trails System to insure that trails such as the Nez Perce Trail are properly identified and marked, so that their historical significance is not forgotten.

It is my understanding that this bill would make certain changes in the generic language of the 1968 act so that routes suggested for study by Congress be studied for the feasibility and desirability of their future designation as either national scenic or national historic trails.

Mr. CHURCH. The Senator is correct.

Mr. McCLURE. So then the Nez Perce Trail, and other similar routes which are presently under study will be assessed from both a scenic and historical perspective?

Mr. CHURCH. That is the intent of the committee.

Mr. McCLURE. I thank my colleague for yielding.

Mr. CHURCH. Mr. President, I move action on the bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 6900) was read a third time, and passed.

The title was amended so as to read:

An act to establish a National Historic Trails Category within the National Trails System, to designate certain historic routes as National Historic Trails, and for other purposes.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak up to 5 minutes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1751. An act for the relief of Lucy Davao Jara Graham;

H.R. 2555. An act for the relief of Michelle Lagrosa Sese;

H.R. 2945. An act for the relief of Mrs Amelia Doria Nicholson;

H.R. 3995. An act for the relief of Habib Haddad;

H.R. 4607. An act for the relief of William Ok;

H.R. 5928. An act for the relief of Miss Coralia Raposa;

H.R. 11504. An act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranchers, extend the Emergency Livestock Credit Act of 1974, and for other purposes;

H.R. 12933. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 945. A joint resolution making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 1:50 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13467. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

H.R. 13468. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

## HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 13467. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations; and

H.R. 13468. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes; to the Committee on Appropriations.

## COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communication, together with accompanying papers, which was referred as indicated:

EC-4022. A communication from the President of the United States, transmitting a request for supplemental appropriations for the fiscal year 1978 in the amount of $10 million and an amendment to the request for appropriations for the fiscal year 1979 in the amount of $57,500; to the Committee on Appropriations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment, and an amendment to the title:

S. 1423. A bill to establish a Council on Judicial Tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution (together with additional views) (Rept. No. 95-1035).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Lt. Gen. John William Pauly, [redacted], U.S. Air Force, to be general.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 3333. A bill for the relief of Shon Ning Lee; to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 3334. A bill to designate the building known as the Federal Building in Portland, Maine, as the "Frederick G. Payne Building"; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (by request):

S. 3335. A bill to amend the John F. Kennedy Center Act relating to certain administrative functions, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PAUL G. HATFIELD (for himself, Mr. DECONCINI, and Mr. MATHIAS) (by request):

S. 3336. A bill to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner; to the Committee on the Judiciary.

By Mr. CHILES (for himself and Mr. STONE):

S. 3337. A bill to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Florida, and for other purposes; to the committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry, jointly, by unanimous consent.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MUSKIE:

S. 3334. A bill to designate the building known as the Federal Building in Portland, Maine, as the "Frederick G. Payne Building"; to the Committee on Environment and Public Works.

### FREDERICK G. PAYNE BUILDING

● Mr. MUSKIE. Mr. President, I offer legislation today to name the Federal Building at 151 Forest Avenue in Portland, Maine, the "Frederick G. Payne Building."

Fred Payne was a distinguished Governor of Maine and a member of the Senate for 6 years from 1953 to 1958. I am sure that those of my colleagues who

served with him remember him not only as a skilled parliamentarian and Presiding Officer, but as an engaging and friendly man. His interests were wide, the careers he chose were varied, and the accomplishments of his political years continue to benefit the people of his State and the Nation.

He had a keen financial mind, and was a skilled administrator, whose accomplishments as Governor included broadening Maine's tax base, improving the lot of State employees, and accelerating the State's highway construction program.

During his years in the Senate, he took an active interest in the problems of small business, and in the human questions posed by the nuclear age, among mnay other interests.

I know my sadness at Fred Payne's death last month is shared by my colleagues who served with him.

And I hope they will agree with me that it would be a fitting tribute to Fred Payne to name the new Federal Building in Portland the "Frederick G. Payne Building." ●

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By Mr. MOYNIHAN (by request):

S. 3335. A bill to amend the John F. Kennedy Center Act relating to certain administrative functions, and for other purposes; to the Committee on Environment and Public Works.

● Mr. MOYNIHAN. Mr. President, today I am introducing a bill at the request of the John F. Kennedy Center for the Performing Arts. The bill would accomplish two results that the Kennedy Center's Directors consider desirable for the Center's continued support of the performing arts and its presentation of educational programs. The two major provisions are: First, waiver of the Kennedy Center's interest obligation from its bond indebtedness to the U.S. Treasury and the replayment of the $20.4 million principal in equal annual payments; and second, the National Park Service would assume the responsibility of all building services except backstage services.

The Kennedy Center is a monument to a beloved President. We are all indebted to the Center's Directors and staff for the many productions that have been presented there. We need the Center, and we must act to insure its future. I am not, however, prepared to take a position on this bill as the need for the proposals has yet to be established. I want to assure my colleagues and the Directors of the Center that I will give these proposals serious consideration in the Environment and Public Works Committee in my capacity as chairman of the ad hoc Subcommittee on Buildings and Grounds.●

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By Mr. PAUL G. HATFIELD (for himself, Mr. DECONCINI, and Mr. MATHIAS) (by request):

S. 3336. A bill to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner; to the Committee on the Judiciary.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT OF 1978

● Mr. PAUL G. HATFIELD. Mr. President, at the request of the Department of Justice, and on behalf of the members of the Subcommittee on Penitentiaries and Corrections of the Committee on the Judiciary—Senators DECONCINI, MATHIAS and myself—I am pleased today to introduce the "Contract Services for Drug Dependent Federal Offenders Act of 1978," which will assure effective implementation of title II of the Narcotic Addict Rehabilitation Act of 1966, as amended, by consolidating the authority for supervisory care for drug dependent persons in a single agency.

In addition to its recommendation by the Department, the Judiciary Conference of the United States, the General Accounting Office, and the Drug Abuse Task Force of the Domestic Council of the White House, this legislation is strongly supported by the Federal agencies directly affected by it: the Federal Bureau of Prisons of the Department and Division of Probation of the Administrative Office of the United States Courts.

In 1966, Congress authorized supervisory drug aftercare for drug dependent offenders following their release to the community after conviction, or after having served a term of incarceration, in title II of the Narcotics Addict Rehabilitation Act of 1966 (18 U.S.C. 4255). In 1972, aftercare was extended to all Federal offenders with drug dependency problems by Public Law 92-293.

Authorized services that might be provided to such offenders are varied and include vocational guidance, education and training, job placement and skill testing, psychological evaluation, psychotherapy, detoxification, temporary housing, residence in a community center and emergency financial assistance. Under current statutes, the Bureau of Prisons has the contracting, monitoring, and funding authority for drug aftercare. Drug aftercare services are provided by contractors almost exclusively on an outpatient basis, although there is a provision for temporary placement in a residential program. The Bureau of Prisons contracts with public and private agencies and individuals for all aftercare services.

Mr. President, the need for this legislation is demonstrably urgent. The 1972 amendments, which amended the probation of parole laws making probationers, parolees, and mandatory releases eligible for aftercare treatment, also expanded eligibility to include not only those using the so-called hard narcotics, but persons dependent on control substances such as barbituates, amphetamines, hallucinogens, and marihuana. Besides increasing the number of persons under supervision who are placed in aftercare programs, the amendments also increase the probation officer's involvement with aftercare agencies.

As of March 31, 1978, the Division of Probation had a total of 66,628 persons under supervision, 48,981 of those being probationers and 17,647 being on parole. The primary mission of the Division is to enhance the safety of the community people by reducing the incidence of criminal acts by persons under supervision. This is achieved through counseling assistance, surveillance, and restraint of offenders to facilitate their reintegration into society as law-abiding and productive members through the probation and parole process.

As a result of increases in personnel authorized by Congress over the past several years and the establishment by Congress of the U.S. Parole Commission 2 years ago, the probation system now devotes a greater amount of time to the supervision of probationers and parolees than ever before. In a survey conducted in February of this year, the Probation Division identified 15,800 persons under supervision—25 percent of all persons under the supervision of the division—as having a history of drug abuse. Of those 10,457 drug abuse cases were identified as not in treatment because they did not currently need treatment; 463 persons refused treatment, 376 were lacking treatment because a program was not available, and 4,504 persons were identified as being in treatment or in need of treatment according to the survey, the remaining two-thirds of the persons with drug abuse history obviously still demand a greater degree of supervision than do nondrug abusers.

The two most critical components of drug aftercare services for drug dependent offenders are urine surveillance and counseling. Urine surveillance alerts staff to the need for more intensive supervision and also is a means by which an offender can be returned to an institution. Counseling, of course, is crucial if drug dependency is to be reduced and the reintegration process is to be completed successfully. Yet, under existing law, the Division of Probation, which has the heaviest responsibility for the supervision of drug-dependent offenders, has no independent contracting authority to contract for these services, since existing law vests such authority with the Bureau of Prisons.

The Probation Division, then, which executes the bulk of supervisory services for drug-dependent offenders, must depend upon the Attorney General to provide such contract services. An agency providing aftercare service under contract is neither legally nor fiscally responsible to the probation officer supervising the drug addict. The addict can manipulate this division of responsibility. According to the Federal Bureau of Prisons, organizationally, this fact has frustrated effective and functional supervision by the probation officer. Management of the program is cumbersome and leads to confusion and duplication in services and supervision.

To illustrate the problem, under minimum guidelines for surveillance and supervision established by the Division and the Bureau, the Bureau requires agencies under contract to conduct periodic urinalysis in a prescribed manner and to report the laboratory results promptly to the probation officer. The careful and timely execution of these procedures is essential to the management of drug dependent clients. These procedures have, at times, broken down

within the contract agency. The probation officer lacks the authority necessary to remedy these difficulties. When problems with the contracts occur, the probation officer must call in a representative of the Bureau of Prisons who is often located a distance from the scene. Present logistics indicate the enormity of the problem. The probation system is composed of 1,697 probation officers serving in approximately 300 field offices throughout 93 of the 95 judicial districts of the United States. It is these people who supervise the drug dependent or potentially drug dependent offender on probation or parole. Yet, the Bureau of Prisons has only 50 community service officers available nationwide to resolve contract problems.

Mr. President, this legislation would remedy that specific but critical problem. The consolidation of the contracting function was recommended both by the Drug Abuse Task Force of the Domestic Council of the White House, in its 1975 "White Paper on Drug Abuse," and, more recently, by the General Accounting Office in its October 1977 review of the Federal Probation System. When this proposal was brought to the attention of the Judicial Conference of the United States in its April 1976 session, the Conference had this to say about that proposal in its report:

> The Committee is of the view that the provision of drug treatment services seems to be a function more appropriate to the Executive Branch than the Judicial Branch. The Committee recognizes, however, that the responsibility for persons on probation and parole rests with the Federal Probation System and that drug treatment services are necessary for the proper operation of the probation system. Aside from the issue of who provides them, services must be available. The Conference was advised that the Committee has endorsed a policy position that if the Executive Branch does not provide these programs and the Congress transfers the responsibility to the probation system, then the probation system must do its utmost to carry out the intent of Congress.

The major functions that would be assumed by the U.S. Probation Service if this bill is passed include: The identification and contracting for the most effective aftercare services available in all communities where there are drug dependent Federal offenders; monitoring of these contractors to assure that the quantity and quality of services agreed upon are provided; administering and monitoring of the client-oriented data acquisition process and national statistical program managed by the National Institute on Drug Abuse, which gathers quantities of data on all persons receiving drug treatment services; and assisting in the development and participation in workshops between Bureau of Prisons Institutional Drug Unit staff and aftercare contractors.

Mr. President, there are several points I wish to emphasize about this legislation. First, it would not alter the authority of the U.S. courts or the U.S. Parole Commission to release an offender to the community or commit him to prison; rather, it is designed only to alleviate one of the inefficiencies that has evolved in 12 years of administering the aftercare program under the Narcotic Addict Rehabilitation Act.

The act would result in more efficient and effective programs for drug dependent offenders and, in addition, would result in financial savings for the Government. Second, these amendments have no direct bearing upon other related Probation Division services such as presentence investigation and preparation of presentence reports; they relate only to the provision for contracting for aftercare services for drug dependent offenders after their entry into the probation or parole system. Finally, I wish to emphasize that passage of this legislation would have no effect upon the budget currently under consideration for fiscal year 1979. The amendments made by this act would not take effect until the beginning of fiscal year 1980. My colleagues on the subcommittee and I know of no opposition to this measure and urge its swift consideration and enactment.

Mr. President, I ask unanimous consent that the following matter be printed in the RECORD at the conclusion of my remarks: The text of the legislation, and a section-by-section analysis of it; the executive communication to you from the Department of Justice in support of this legislation; testimony in support of this legislation made to the House Judiciary Subcommittee on Administrative Law and Governmental Relations by Norman A. Carlson, Director of the Federal Bureau of Prisons, and Wayne P. Jackson, Chief of the Division of Probation of the Administrative Office of the U.S. Courts; and a letter from William E. Foley, Director of the Administrative Office, to Congressman GEORGE E. DANIELSON, chairman of the House subcommittee.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3336

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Contract Services for Drug Dependent Federal Offenders Act of 1978."

SEC. 2. Section 3651 of Title 18, United States Code, relating to suspension of sentence and probation, is amended by deleting from the second to the last paragraph the colon and everything thereafter, and inserting in lieu thereof a period.

SEC. 3. Section 4255 of Title 18, United States Code, relating to supervision in the community of certain convicted offenders, is amended to read as follows:

"An offender who has been conditionally released shall be under the jurisdiction of the United States Parole Commission as if on parole, pursuant to Chapter 311 of this Title.

"The Director of the Administrative Office of the United States Courts may contract with any appropriate public or private agency or any person for supervisory aftercare of an offender. The Director may negotiate and award such contracts without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5).".

SEC. 4. (a) To carry out the purposes of this Act, there are authorized to be appropriated sums not to exceed $4,006,000 for the fiscal year ending September 30, 1980; $4,246,360 for the fiscal year ending September 30, 1981; and $4,501,140 for the fiscal year ending September 30, 1982.

(b) The amendments made by this Act shall take effect on October 1, 1979.

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SECTION-BY-SECTION ANALYSIS—S. 3336, THE CONTRACT SERVICES FOR DRUG DEPENDENT OFFENDERS ACT OF 1978

Section 1 provides that the Act may be cited as the "Contract Services for Drug Dependent Offenders Act of 1978."

Section 2 strikes from existing law (18 U.S.C. 3651) a provision which accords the Attorney General the authority to certify the availability of suitable drug aftercare programs for probationers and to recommend to the sentencing court termination of status for any program enrollee if he determines that such person can derive no further significant benefits from participation. The provision becomes unnecessary by virtue of the amendments made by Section 3 of the bill, which remand supervisory jurisdiction over drug dependent offenders in contract aftercare programs to the United States Parole Commission under chapter 311 of the Federal Criminal Code (18 U.S.C. 4201 *et seq.*), for whom the Division of Probation, to which is given contracting and monitoring authority for aftercare services through the Administrative Office of the United States Courts, will function as agent.

Section 3 amends chapter 314 of the Federal Criminal Code (18 U.S.C. 4255), relating to supervision in the community of drug dependent offenders on conditional release, to transfer custody of such offenders to the United States Parole Commission in conjunction with its responsibilities under chapter 311 (18 U.S.C. 4201 *et seq.*).

Similarly, existing authority given the Attorney General to contract for supervisory aftercare services is transferred to the Director of the Administrative Office of the United States Courts, whose Division of Probation is charged with the duty of general supervision over Federal offenders who have been conditionally released either as probationers or parolees. As amended, the revised section would permit the Director to negotiate and award contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), which requires competitive bidding on all public contracts. Without such an exemption, the Director could be limited seriously in his ability to consider the quality of a program when selecting treatment services; moreover, the nature of drug aftercare services is such that they must often be procured on an emergency need basis. Competitive bidding procedures are complex and time-consuming, and could delay effective acquisition and delivery of quality services. There is precedent in existing law for exempting similar programs from the competitive bidding process, *see, e.g.*, 28 U.S.C. 624(3).

Section 4 authorizes appropriations of $4,006,000, $4,246,360, and $4,501,140 for fiscal years 1980, 1981 and 1982, respectively. Funds appropriated pursuant to the authorization would be utilized by the Director of the Administrative Office of the United States Courts primarily to procure urine testing and counseling services for drug dependent aftercare clients. To effectively serve the existing client population, the Director estimates that a minimum of $3,600,000 would be necessary for contract authority for urinalysis and counseling. In additon, the Director estimates that a minimum of $180,000 would be necessary to implement a second-level program to evaluate generally the drug treatment modalities provided by contract to persons on probation and parole; such a program would better enable the Director to make informed contract-obligation decisions. Both estimates are predicated upon 1978 dollars. Thus, the Director's estimate was adjusted upward for the initial and each succeeding fiscal year to take into account inflation and uncontrollable costs.

The authorized amounts presume that

funds for administrative expenses and first-level evaluation costs (continuing evaluation of contract services currently available, establishment of contract standards and professional appraisal of contractor capacities) would be requested through the existing appropriations process for the Judicial branch.

Section 5 provides that the amendments made by the Act shall take effect at the beginning of fiscal year 1980.

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DEPARTMENT OF JUSTICE,
*Washington, D.C., April 7, 1978.*

The VICE PRESIDENT,
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. VICE PRESIDENT: Enclosed for your consideration is a legislative proposal, entitled the "Contract Services for Drug Dependent Federal Offenders Act of 1978", that will transfer from the Department of Justice to the Administrative Office of the U.S. Courts the authority necessary to contract for services for drug dependent Federal offenders. This legislation would enhance the ability of the Federal criminal justice system to provide U.S. Parole Commission to release an offender following their release to the community after conviction, or after having served a term of incarceration.

This legislative proposal will consolidate the authority for supervisory care for drug dependent persons in a single agency. It does not alter the authority of the Courts or the U.S. Parole Commission to release an offender to the community, but is designed only to alleviate one of the inefficiencies that has evolved from ten years of administering the aftercare provisions of Title II of the Narcotic Addict Rehabilitation Act.

The aftercare services that are being provided to addicted and dependent persons include, but are not limited to, medical, educational, social, psychological and vocational services; as well as corrective and preventive guidance and urine surveillance. Although the scope of aftercare services has changed somewhat since passage of N.A.R.A. in 1966, the Bureau of Prisons has had the responsibility for the aftercare services provided to offenders.

While a convicted Federal offender is imprisoned, he is under the jurisdiction of the Bureau of Prisons. When paroled or mandatorily released, however, he is under the supervision of a Probation Officer who serves as an agent of the Parole Commission. An offender on probation is also under the supervision of his Probation Officer.

In this context, the U.S. Probation Officer must provide supervision for offenders who receive services from agencies under contract with the Bureau of Prisons. This arrangement has been cumbersome, and leads to confusion and duplication of services and supervision.

To illustrate the problem, the Bureau of Prisons requires agencies to conduct periodic urinalysis in a prescribed manner, and to report the laboratory results promptly to the Probation Officer. The careful and timely execution of these procedures is essential in the management of drug addicted or drug dependent clients. Frequently these procedures break down within the contract agency, but the U.S. Probation Officer lacks the authority necessary to remedy these difficulties. When problems with the contracts occur, the Probation Officer must call in a representative of the Bureau of Prisons who is often located some distance from the scene. If the U.S. Probation Officer could deal directly with the contractor, operational problems would be resolved more expeditiously and more effectively.

In conclusion, we believe this legislation will result in more efficient and effective programs for addicted and drug dependent offenders.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this legislation to the Congress.

Sincerely,

PATRICIA M. WALD,
*Assistant Attorney General.*

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STATEMENT OF NORMAN A. CARLSON, DIRECTOR, BUREAU OF PRISONS

Mr. Chairman and members of the Committee.

I want to express my appreciation, Mr. Chairman, for the opportunity to appear before you today to discuss the importance of drug aftercare and the rationale behind the legislative proposal transferring aftercare from the Department of Justice, where it is administered by the Bureau of Prisons, to the Administrative Office of the U.S. Courts. This legislation would enhance the ability of the Federal Criminal Justice System to provide services to drug dependent offenders following their release to the community after conviction, or after having served a term of incarceration.

Without question, drug abuse is one of the nation's leading social problems. Criminal offenders with drug problems are clearly a high risk group. Drug aftercare services give these persons greater supervision in the community, urine surveillance to detect drug use and needed services to assist them in overcoming their problem.

We estimate that 30% of the inmates in federal prisons, and a substantial number of all probationers have a history of drug use (excluding marijuana.) We presently have 162 contracts (with 183 separate units) providing aftercare services to over 2,300 offenders.

Supervisory drug aftercare was authorized by Title II of the Narcotic Addict Rehabilitation Act of 1966 (18 U.S.C., 4255.) In 1972, aftercare was extended to all federal offenders with drug dependency problems by Public Law 92-293. Drug aftercare services are performed almost exclusively on an outpatient basis, although there is a provision for temporary placement in a residential program. The Bureau of Prisons contracts with public and private agencies and individuals for all aftercare services.

The services that may be provided are varied. Urine surveillance and counseling are required by BOP from each drug aftercare contractor. Urine surveillance alerts staff to the need for more intensive supervision, and also is a means by which an offender can be returned to an institution. For example, if the offender fails his urine test twice, this can serve as a basis to send him/her to an institution.

Examples of other services that can be and are provided depend on individual needs. They include vocational guidance; education and training; job placement and skill testing; psychological evaluation; psychotherapy; detoxification; temporary housing; residence in a community center; and emergency financial assistance.

Under current statute (18 U.S.C. 4255) the Bureau of Prisons has the contracting, monitoring and funding authority for drug aftercare. The offenders in the program, however, are under the supervision of the U.S. Probation Office. An agency providing aftercare service is neither legally nor fiscally responsible to the U.S. Probation Officer supervising the drug addict. The addict can manipulate this division of responsibility. Organizationally, it has frustrated the effective function of supervision by the U.S. Probation Officer. Management of the program is cumbersome, and leads to confusion and duplication of services and supervision.

To illustrate the problem, the Bureau of Prisons requires agencies to conduct periodic urinalysis in a prescribed manner, and to report the laboratory results promptly to the Probation Officer. The careful and timely execution of these procedures is essential in the management of drug dependent clients. These procedures have, at times, broken down within the contract agency. The U.S. Probation Officer lacks the authority necessary to remedy these difficulties. When problems with the contracts occur, the Probation Officer must call in a representative of the Bureau of Prisons who is often located a distance from the scene. If the U.S. Probation Officer could deal directly with the contractor, operational problems would be resolved more expeditiously and more effectively.

The major functions that would be assumed by the U.S. Probation Service if the legislation is passed include the identification and contracting for the most effective aftercare services available in all communities where there are drug dependent federal offenders; monitoring of these contractors to ensure that the quantity and quality of services agreed upon are provided, administering and monitoring of the Client Oriented Data Acquisition Process, a natural statistical program managed by the National Institute on Drug Abuse, which gathers quantities of data on all persons receiving drug treatment services; and assisting in the development and participation in workshops between BOP institutional drug unit staff and aftercare contractors.

In summary, this legislation will consolidate the authority for supervisory aftercare for drug dependent persons in a single agency. It does not alter the authority of the Courts or the U.S. Parole Commission to release an offender to the community, or commit him to prison, but is designed only to alleviate one of the inefficiencies that has evolved from 12 years of administering the aftercare program. It should result in more efficient and effective programs for drug dependent offenders and result in financial savings for the Government.

Mr. Chairman, I appreciate the opportunity which you have given me to talk about the aftercare program and the proposed transfer of this function to the Administrative Office of the U.S. Courts. This concludes my remarks, and I would be happy to answer any questions.

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STATEMENT OF WAYNE P. JACKSON CHIEF, DIVISION OF PROBATION ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Mr. Chairman and Members of the Subcommittee, I am Wayne P. Jackson, chief of the Division of Probation, Administrative Office of the United States Courts. I began my career in corrections in Tulsa, Oklahoma, where I was a police officer from 1954 to 1957. In 1957 I became a probation counselor for the Tulsa County Juvenile Court and in 1959 I was appointed as a United States probation officer in the Northern District of Illinois where I served until 1967. I then joined the Administrative Office as an assistant chief of the Probation Division and became chief of the Division in 1972. In addition to my duties in the Administrative Office, I also serve on the Advisory Corrections Counsel, authorized by Section 5002 of Title 18 of the United States Code, the Board of Directors of the American Probation and Parole Association, and several other boards and committees of correctional organizations. As chief of the Probation Division, and at the request of the Director of the Administrative Office, I appear before you today to address H.R. 12290—The Contract Services For Drug Dependent Federal Offenders Act of 1978.

Perhaps at this point a brief description of the organization and function of the Administrative Office, and the Probation Division, and our unique relationship to the Federal Probation System is in order.

The policy-making arm of the United States Courts is the Judicial Conference of

the United States. Chaired by the Chief Justice of the United States, one of the functions of the 25-member Conference is the supervision and direction of the Administrative Office of the United States Courts.

The Administrative Office is responsible for the administrative functions of the United States Courts. Duties such as Financial Management, Personnel, Recordkeeping, etc., and program management responsibilities for bankruptcy, court clerks, public defenders, magistrates, and probation officers are handled by approximately 500 employees in 13 separative divisions.

The Division of Probation discharges the probation-related responsibilities assigned by statute to the Director of the Administrative Office. The 27 staff members of the division include a chief, 3 branch chiefs, 5 regional probation administrators, 4 probation program specialists, 1 editor, 3 pretrial services specialists, 3 data processors, and 7 secretaries. The 16 professionals in the Probation Division are unique to the Administrative Office in that all served as United States probation officers before joining the Probation Division. The Division investigates, evaluates, and enforces performance standards and makes recommendations concerning the work of the United States probation officers.

The office assesses personnel and budget needs of the Probation System, recommends and reviews legislation affecting criminal law and corrections, coordinates training and research programs with the Federal Judicial Center and administers the operation of ten pretrial services demonstration projects established by Title II of the Speedy Trial Act. The Division also provides staff support for sentencing institutes and for the Judicial Conference Committee on the Administration of the Probation System. The five regional probation administrators are assigned areas of the country which parallel the regional assignments of the Federal Bureau of Prisons and the United States Parole Commission. This regionalization enables the division to coordinate institutional and release programs and policies for the Probation System.

Unlike many Federal agencies, the Probation System is not centralized. The employees are directly responsible to the courts they serve. The system is composed of 1,697 probation officers serving in approximately 300 field offices throughout 93 of the 95 judicial districts of the United States. Personnel also include 40 probation officer assistants and a clerical staff of 1,080. The 154 pretrial services agency employees are located in ten demonstration districts. The professional staff of the Probation System is well trained and highly qualified. Minimum qualifications for appointment include a bachelor's degree and not less than two years professional experience. Approximately 40 percent of the officers hold advanced degrees.

The central goal of the Probation System is to enhance the safety of the community by reducing the incidence of criminal acts by persons under supervision. This is achieved through counseling, guidance, assistance, surveillance, and restraint of offenders to facilitate their reintegration into society as law abiding and productive members.

United States probation officers fulfill two principal responsibilities, preparing presentence investigation reports for the United States district courts they serve and providing supervision services for probationers. In addition, United States probation officers, as the official representatives of the United States Parole Commission in matters relating to parole, provide supervision services for individuals released from Federal institutions.

As of March 31, 1978, the Federal Probation System had a total of 66,628 persons under supervision, (48,981 probationers, and 17,647 parolees). During fiscal years 1977 probation officers completed 101,725 investigative reports for the courts, the Parole Commission, the Bureau of Prisons, and United States attorneys. The bulk of these reports, 32,738, were presentence investigation reports. Despite the large numbers of cases and investigative reports, the Probation System, as a result of increases in personnel authorized by Congress over the past several years, now devotes a greater amount of time to the supervision of probationers and parolees than ever before.

H.R. 12230, the bill under consideration today is related to the work of probation officers and the supervision of probationers and parolees having a history of drug-related problems. At present, probation officers call upon both private and public agencies for services which are rendered to these persons. Through contract authority the Attorney General now provides such services. It is the purpose of the bill to transfer this contract authority to the United States Courts.

The Probation Committee advised the Judicial Conference at its April 1976 session that the Director of the Bureau of Prisons had formally proposed the transfer of responsibility for drug treatment from the Bureau to the United States Probation System. The Committee noted that Congress had expressed policy in this area through the passage of Title II of the Speedy Trial Act extending limited contract authority to the Probation System for drug treatment programs and other supportive services for persons on pretrial release. The Conference report for that session contains this statement:

"The Committee is of the view that the provision of drug treatment services seems to be a function more appropriate to the Executive Branch than the Judicial Branch. The Committee recognizes, however, that the responsibility for persons on probation and parole rests with the Federal Probation System and that drug treatment services are necessary for the proper operation of the Probation System. Aside from the issue of who provides them, the services must be available. The Conference was advised that the Committee had endorsed a policy position that if the Executive Branch does not provide these programs and the Congress transfers the responsibility to the Probation System, then the probation system must do its utmost to carry out the intent of Congress."

The position of the Judicial Conference is that the services now being provided are absolutely essential and perhaps should even be expanded. In this regard the General Accounting Office recently completed a review of the management of the Probation System (October 1977). The study included a detailed review in five districts supplemented by visits to other districts, questionnaires to chief judges, chief probation officers and line probation officers, and an extensive review in the Probation Division. One of the major results of the study was the finding that rehabilitation services from public service or Government programs often were not available in the community. Forty-seven of 91 chief probation officers questioned stated that there were persons under supervision in their districts with various needs that community services could not satisfy. Underlying the GAO finding is the recognition of need for these services.

A study in February of this year conducted by the Probation Division sought to identify the drug abuse treatment needs of those under supervision. A survey was conducted to take a one-time picture of drug use and treatment of persons under supervision. For the purposes of this survey a drug abuse case was defined as a person under supervision who had been or was suspected of being involved in the use of drugs or narcotics. That group of persons may or may not have been convicted of a drug violation. The survey identified those in treatment and types of abusers.

The survey identified 15,800 persons under supervision with a history of drug abuse (25% of all persons under supervision). Ten thousand four hundred fifty-seven of those drug abuse cases were identified as not in treatment because they did not currently need treatment. Four hundred sixty-three persons refused treatment and 376 were not in treatment because a program was not available. Four thousand five hundred four persons were identified as being in treatment with 2,688 of those in treatment programs currently funded by the Federal Bureau of Prisons.

While only 5,343 persons out of the total of 15,800 were either in treatment or in need of treatment, the remaining two-thirds of the persons with drug abuse histories still demand a greater degree of supervision than do nondrug abusers. The nature and characteristics of drug abuse demonstrates a tendency to relapse thereby necessitating closer supervision.

The Probation System first became involved with drug aftercare treatment with the passage of Title II of the Narcotic Addict Rehabilitation Act of 1966, a program administered primarily by the Federal Bureau of Prisons.

In May of 1972, Public Law 92-293 amended the probation and parole laws making probationers, parolees, and mandatory releases eligible for aftercare treatment. Also, the eligibility was expanded to include not only those using the so-called "hard" narcotics, but persons dependent on controlled substances such as barbiturates, amphetamines, hallucinogens, and marijuna. This law not only increased the number of persons under supervision who were placed in aftercare, but also increased the probation officer's involvement with aftercare agencies.

Until 1975 the Probation System was concerned with securing aftercare treatment, but was not involved in directly furnishing treatment services, or in administering treatment programs. At that time Title II of the Speedy Trial Act gave to the United States Courts the ability to procure services for drug offenders. This ability was limited to the Pretrial Services Agencies in ten judicial districts.

Notwithstanding our concern that drug treatment services are indispensable, the Judicial Conference and its Committee on Probation regard the provision of drug treatment services to be more appropriate to the Executive Branch than to the Judicial Branch. This position was taken in full knowledge of the recent General Accounting Office's suggestion to transfer contracting authority to the Judiciary and of the *1975 White Paper on Drug Abuse*, submitted to the President by the Drug Abuse Task Force of the Domestic Council which also recommended this transfer.

The position of the Conference in this regard is based on the realization that the contribution of the Federal courts and the Probation System to the solution of the drug problem, though important, is very small.

Agencies in the Executive Branch, such as the National Institute on Drug Abuse, the Veterans Administration, and the Justice Department's Law Enforcement Assistance Administration have far more extensive programs which the courts could not possibly duplicate. Furthermore, there are extensive state programs, perhaps funded in whole or part by the Federal Government, which are extensive. The Probation System must, in any event, rely on those agencies for assistance.

There is also a potential conflict where courts operating treatment programs of this

type may be faced with legal challenges to their operations on which they would then have to decide. Furthermore, the courts would be directly involved in the administration of such controversial medical programs as "methadone maintenance."

The cost would also be significant since the courts system would have to obtain or retain the expert advice needed to operate a program of aftercare drug services, something not now available to it.

These are some of the considerations which led the Conference to question whether this type of operation is a proper judicial function. The Judicial Conference has also considered the difficulties which have arisen over the present arrangement for aftercare services. In September 1975, limitations of aftercare funds led to a reduction in the level of services provided Federal probationers and parolees. In its Fall meeting that year, the Judicial Conference addressed the problem of the reduction in drug abuse funds and the fact that there was little assurance that a person participating in a drug treatment program as a condition of pretrial release could continue that treatment once placed on probation. The Probation Division was asked by the Conference to explore this matter. Contact with field offices indicated that few other Government treatment resources were available. In addition, many that were available could not meet the standards of treatment expected by the Probation System. Few programs provide the broad range of services demanded by the court or Parole Commission.

Mr. Chairman, while we are very much concerned about the propriety of the Judicial Branch having the responsibility for directly providing drug treatment services through contracts or otherwise, we do have problems in satisfying legitimate needs of persons under supervision. Because the need is great, the Judiciary would be willing to take over this contracting responsibility in the event Congress decides we should have it. In that event, however, we would suggest certain changes in the bill.

"(a) That Section 2 of the bill be changed to further amend 18 U.S.C. 3154 by deleting the period from the last line and inserting a colon to be followed by:

*Provided*, That the Director of the Administrative Office of the United States Courts may negotiate and award such contracts without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5)."

Section 3709 of the Revised Statutes requires competitive bidding which could limit consideration of the quality of a program when selecting treatment services. This would also slow the process of providing immediate service to those who need it. Drug treatmtnt is often crisis intervention where services may be needed on an emergency basis. If this responsibility is assigned to the Administrative Office then we must be free to be able to provide services without first going through a detailed bidding procedure (precedent has been set in this area in 28 U.S.C. 624(3) wherein the Board of Directors of the Federal Judicial Center may contract for services without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5).

(b) *Section 4* of the bill would amend 18 U.S.C. 4255 by providing that an offender conditionally released as if on parole would be governed by the general parole sections of Chapter 311 (18 U.S.C. 4201–4218). In addition, that section is also amended giving the Director of the Administrative Office contract authority for supervisory aftercare of an offender. We recommend that this section be further amended by adding the following language:

*Provided*, That the Director of the Administrative Office of the United States Courts may negotiate and award such contracts without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5).

(c) Regarding the funding of this Act, as set forth in *Section 5*, we would ask that, if this legislation is enacted, sufficient funds be provided to continue the needed services at a level substantially *above* that now authorized for the Federal Bureau of Prisons. Additional funding will also be necessary to increase the Administrative Office staff so that we may handle the added responsibilities of this contract authority. An increase in field personnel would be needed to replace the contract supervision function now performed by the community programs officers of the Federal Bureau of Prisons. We further recommend that any contract funds appropriated to carry out the provisions of this Act remain available until expended. This would enable the Administrative Office and the probation officers involved in supervision to continue treatment services without the need to renegotiate contracts on a year-to-year basis.

Finally, if this transfer is approved, we suggest that its effective date be October 1, 1979. This would allow for an orderly transfer of responsibilities from the Federal Bureau of Prisons to the Administrative Office.

CONCLUSION

In summary, Mr. Chairman, the Judicial Conference views the provision of drug offender treatment services for persons under the supervision of the Federal Probation System to be essential; believes that providing these services is an executive function rather than a judicial function; but would be willing to provide services directly if they cannot otherwise be provided, in the interest of assuring their availability.

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ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
*Washington, D.C., June 19, 1978.*

Hon. GEORGE E. DANIELSON,
*Chairman, Administrative Law and Governmental Relations Subcommittee, Rayburn Office Building, Washington, D.C.*

DEAR CONGRESSMAN DANIELSON: I write in response to a request of your counsel for a cost analysis of operating contract narcotic aftercare programs within the judiciary. This is a proposed transfer of contract authority from the Federal Bureau of Prisons to the Administrative Office of the United States Courts that would be authorized by the passage of H.R. 12290, the Contract Services for Drug Dependant Federal Offenders Act of 1978. I note that at the markup session held on June 12, 1978, your subcommittee voted to limit the funding authorization of the bill to $3 million per year for 3 years following the effective date of October 1, 1979.

I am compelled not only to submit the requested cost analysis but to respond to the above action taken by your subcommittee as well. As I understand it, the intent of the Federal Bureau of Prisons, in proposing the transfer was to effect the placement of financial and supervision responsibilities for drug dependent probationers and parolees in one agency. From the Bureau's standpoint this was merely to be a transfer of an existing program from one agency to another. The subcommittee, however, reduced authorization below the amount the Bureau of Prisons will spend to operate their aftercare programs during fiscal year 1978. This means that the Administrative Office would, in a year and a half, assume responsibility for more than 160 contracts involving 2,000 to 3,000 Federal offenders with less funding. The Federal Bureau of Prisons anticipates it will spend over $3 million for aftercare programs in fiscal year 1978 alone. The Bureau has also projected funding levels for fiscal years 1979 and 1980 at considerably higher levels than that for 1978. (While the anticipated total for fiscal year 1980 is over $4 million, current budget requests for the Bureau of Prisons show lower figures based upon the expectation that the Administrative Office would assume the contract authority for aftercare services.)

COST ESTIMATE

In February 1978, the Probation Division of the Administrative Office surveyed all persons under probation and parole supervision. The survey identified 2,688 persons under the supervision of the Federal Probation System in aftercare treatment programs funded by Bureau of Prisons contracts. There were 376 cases identified as being in need of treatment, but not in treatment because a program was not available. In round numbers, this is a total of 3,100 person either in contract treatment or in need of that treatment.

The Bureau of Prisons and the Probation Division have established minimum standards for counseling and urine testing for clients enrolled in aftercare treatment. Those standards are not less than one 30-minute session per week of counseling and at least two urine tests per week. Based on an average cost of $5.00 per test, the Probation Division estimates that it would cost $1,600,000 per year for urine testing of the 3,100 clients. Using the counseling standard, and an average cost of $25.00 per hour for counseling, the Division estimates an expense of at least $2,000,000 per year for counseling. The total potential treatment cost at the present time would be $3,600,000 per year. It should be noted that urine testing and counseling are 2 of the 14 services now available to clients under the Bureau of Prisons programs. The additional services, while not used in every case, include methadone (detoxification and maintenance), psychotherapy, temporary housing, therapeutic community placement, and others. Further, the draft legislation has made no allowance for cost increases as a result of inflation.

The Administrative Office expects that the assumption of aftercare contract responsibility will result in several additional costs. While not included in the appropriation for contract services, the subcommittee should be aware that if this legislation becomes law, the judiciary will request funds for evaluation. It is our position that the proper administration of this program would require a two-level evaluation component.

Level one is a continuing evaluation of contract services currently available, to facilitate choice between competing bidders. This includes setting minimum standards and a professional appraisal of the capacities of contractors. It is estimated that initially this would require one full time position in grade GS–14 (currently $30,750 per year), and one full time secretary ($11,523 per year), and $15,000 per year for consultant fees. The latter is necessary since frequently the evaluation would require expertise in toxicology, pharmacology, and other related medical areas.

Level two is a capacity to evaluate generally the drug treatment modalities provided by contract to persons on probation and parole. Persons on Federal probation and parole are a unique group and research should be conducted to aid in identifying the best way to spend the contract dollar. This is an important *new* capacity that is essential to the proper operation of the program. Without this evaluation capacity decisions on what contract resources to use are made in the dark.

We estimate that this will require a minimum of 6 percent of the funds spent for contracting, or $180,000 per year under the limit in the present bill.

In addition to evaluation, the Administrative Office would develop, in conjunction with the Federal Judicial Center, an extensive training program for all United States

probation officers. While the Probation System presently has officers with drug abuse expertise, there are many who have had limited experience in identifying the drug abusing offender. This training would include general areas pertaining to drug abuse and treatment, and concentrate on specific topics such as identifying the drug abuser, characteristics of drug abuse, and treatment modalities. All officers would receive basic training in how to identify the drug abuser with an emphasis on developing skills of detecting addiction.

In addition to training in areas of drug abuse some officers will require training in contract management and monitoring. If this legislation is passed, probation officers will be responsible for many of the duties now handled by the Bureau of Prisons community programs officers. The Probation System does not have field personnel who are skilled in the area of contracting.

If the Probation System assumes full responsibility for this program it is anticipated that with expanded training probation officers will be able to identify additional drug abusing offenders and place them in treatment. With closer supervision and with an increased number of drug abusers identified, an increase in probation personnel will be required. In this event the additional personnel costs would be at least partially offset by a reduction in contract expenditures for counseling.

The Administrative Office will require additional personnel to handle the contract process that would be assigned to us. The Bureau of Prisons has estimated that they administer the drug aftercare programs with the equivalent of five full time staff members. The Administrative Office would require at least that number.

To recapitulate, the contract authority, *in 1978 dollars*, that we will need in 1980 is as follows:

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|---|---|
| Contract authority | $3,600,000 |
| Evaluation | 180,000 |
| Total | 3,780,000 |

Further, we estimate that the costs of administering this program will be $220,000. It is our understanding that the authorization for the appropriation, as contained in H.R. 12290, relates only to contract authorization and not to general administration costs. The latter will be budgeted under the existing appropriation process. Please note also that the above figures do not include any reduction in the Bureau of Prisons budget. We do not have any way of estimating what the appropriate offset figures would be.

SUMMARY

Mr. Chairman, I have tried to point out to the subcommittee the anticipated costs of the Judiciary operating drug aftercare programs. The Judicial Conference of the United States views the provision of drug treatment services for persons under the supervision of the Federal Probation System to be essential; believes that providing these services is an Executive function rather than a Judicial function; but would be willing to provide services directly if they cannot otherwise be provided, in the interest of assuring their availability. I have the general feeling that, to date, this program has not been adequately funded. While we are not asking for a lot of additional funding, we do want enough to do the job right, and so that we do not take on a new program with our hands tied. There are few other Government treatment programs which not only meet the high standards of treatment expected by the Probation System, but also provide the broad range of services demanded by the courts or Parole Commission. Therefore, if the Administrative Office receives authority for supervisory aftercare, that responsibility should be accompanied by sufficient funds to provide the first-class level of service expected from the Federal Probation System.

I hope this report will assist you in your future work on H.R. 12290. Thank you for your thoughtful consideration of our concerns.

Sincerely yours,

WILLIAM E. FOLEY,
*Director.*●

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By Mr. CHILES (for himself and Mr. STONE):

S. 3337. A bill to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Fla., and for other purposes; to the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. CHILES, for himself and Mr. STONE, relative to the Cross-Florida Barge Canal project, be referred jointly to the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ADDITIONAL COSPONSORS

S. 224

At the request of Mr. INOUYE, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 224, to amend title V, United States Code, to allow credit for civil service retirement purposes for time spent by Japanese Americans in World War II internment camps.

S. 2128

At the request of Mr. INOUYE, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2128, to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes.

S. 2856

At the request of Mr. MORGAN, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act of 1978.

S. 2910

At the request of Mr. KENNEDY, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act.

S. 2941

At the request of Mr. MATHIAS, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 2941, a bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return may be taxed at the same rate as an unmarried individual.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from New York (Mr. MOYNIHAN) and the Senator from Florida (Mr. STONE) were added as cosponsors of Senate Joint Resolution 65, to provide for representation of the District of Columbia in Congress.

SENATE RESOLUTION 515

At the request of Mr. HUDDLESTON, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of Senate Resolution 515, relating to the transportation crisis of farmers and shippers of agricultural commodities.

AMENDMENT NO. 3135

At the request of Mr. HATHAWAY, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of amendment No. 3135, intended to be proposed to S. 2778, the PCP Criminal Laws and Procedures Act of 1978.

AMENDMENT NO. 3264

At the request of Mr. DOLE, the Senator from Texas (Mr. TOWER) and the Senator from Utah (Mr. GARN) were added as cosponsors of amendment No. 3264, intended to be proposed to S. 3075, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

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## AMENDMENTS SUBMITTED FOR PRINTING

### ANTITRUST ENFORCEMENT ACT OF 1978—S. 1874

AMENDMENTS NOS. 3267 THROUGH 3279

(Ordered to be printed and to lie on the table.)

Mr. HATCH (for himself and Mrs. ALLEN) submitted 13 amendments intended to be proposed by them, jointly, to S. 1874, a bill to restore effective enforcement of the antitrust laws.

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### HEALTH PLANNING AMENDMENTS OF 1978—S. 2410

AMENDMENT NO. 3280

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to S. 2410, a bill to amend title XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development.

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### INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978—S. 3075

AMENDMENTS NOS. 3281 AND 3282

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to S. 3075, a bill to amend the Foreign Assistance Act, and for other purposes.

AMENDMENT NO. 3285

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to S. 3075, supra.

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### INTERNATIONAL BANKING ACT OF 1978—H.R. 10899

AMENDMENTS NOS. 3283 AND 3286

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. STEVENSON submitted two amendments intended to be proposed by him to H.R. 10899, an act to provide for Federal regulation of participation by foreign banks in domestic financial markets.

● Mr. STEVENSON. Mr. President, I am introducing two amendments to H.R. 10899, the International Banking Act of 1978, which will soon be considered by the Senate Committee on Banking, Housing, and Urban Affairs. I first outlined these amendments at hearings on H.R. 10899 on June 21, 1978, before the Subcommittee on Financial Institutions, which is chaired by my distinguished colleague, the senior Senator from New Hampshire (Mr. MCINTYRE). Since that time, I have received comments on these proposals from the Federal banking agencies, interested State bank regulators, and domestic and foreign banks. I believe the amendments are sound and workable and will serve to promote the development of international banking facilities throughout the country, and in so doing, the financing of increased U.S. exports to reduce our trade deficit.

The first amendment I propose is a compromise of the controversial issue of whether foreign banks should have greater interstate banking privileges than our own domestic banks. As Chairman Miller of the Federal Reserve stated in his testimony before the Subcommittee on Financial Institutions, opinions differ widely about the wisdom of the existing national policy that bars domestic banks from operating full-scale offices across State lines.

Yet, whatever one may feel about that policy, it is incongruous as a matter of national policy that the House of Representatives in H.R. 10899 chose to perpetuate the present situation where foreign banks, but not domestic banks, can operate banking offices on a multistate basis. To quote from Chairman Miller's testimony:

> As of this April, there were 65 foreign banks operating banking facilities in more than one State. Thirty-one of these institutions were operating in three or more States, through agencies, branches, and subsidiaries. There can be no doubt that these multistate facilities give foreign banks a considerable advantage over their domestic competitors. Under the House-passed bill, these multistate operations are certain to grow further. Additional States have passed legislation to allow branches or agencies of foreign banks to begin operations, and the foreign banks will take advantage of those opportunities sooner or later.
>
> Another oddity of the present structure is that a domestic banking institution, by changing to foreign ownership, can become part of a banking organization with multistate facilities. This possibility is highlighted by the recent announcements by three foreign banks of proposed acquisitions of large domestic banking institutions. The three foreign banks involved already have multistate facilities.

It is remarkable that in a Nation facing increasing foreign competition in every segment of our economy, we would permit discrimination against our own banks in the United States in favor of their foreign competitors, instead of setting the same ground rules for each. I am afraid foreign governments are not similarly inclined, as there is widespread evidence that other governments continue to discriminate against foreign banks, including our own. This is demonstrated in the following memorandum prepared by the Bankers Association for Foreign Trade, which, Mr. President, I ask unanimous consent to insert in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

JUNE 20, 1978.

To: Robert B. Palmer, BAFT President.
From: Samuel H. Armacost, Chairman, BAFT Committee on U.S. Banks Abroad.
Subject: Treatment of U.S. Banks in Foreign Countries.

The purpose of this memorandum is to provide a quick rundown on several areas in which U.S. banks experience discriminatory treatment in foreign countries. The memorandum is the result of a quick study of this matter by the Committee and is not meant to be a comprehensive discussion of all aspects of this problem. However, it should be sufficient to give you a general overview of some major restrictions which affect the operations of U.S. banks abroad.

At the outset, it is important to note the distinction between the treatment of branches of a foreign bank doing business in the host country and the treatment of locally incorporated subsidiaries. Typically, the locally incorporated subsidiaries are entitled by local law to the same treatment as banking entities which are locally organized and locally owned. However, in actual practice such entities may not receive equal treatment. Furthermore, there are substantial costs and other implications involved in establishing locally incorporated subsidiaries, not to mention the problems of securing Federal Reserve permission for the major capital commitments and organizational structures required to establish a local subsidiary overseas, which make it an impractical operating alternative in most instances.

Where they are permitted, branches of foreign banks are more restricted in their activities by a host government than locally organized subsidiaries of a foreign bank. Several countries either do not permit branches at all, or impose limitations on the number of branches a foreign bank may have. Neither Iran nor Portugal, for example, permit foreign banks to open branches at all, but limit them to representative offices. In Spain, foreign banks may not open more than three branches. Brazil also effectively limits participation of foreign banks in their domestic market. Although there is no restriction by law on such activities, in actual practice, most applications by foreign banks for approval by regulatory authorities for operations in Brazil are simply never processed.

Switzerland will only grant a foreigh bank's application for authority to open a branch if reciprocity requirements are met, i.e., if the parent company's country and the country of domicile of the ultimate controlling shareholder would allow a bank organized in Switzerland to conduct a full range of banking business in their respective countries. Germany and Austria also impose restrictions on the opening of branches.

Japan also limits the number of offices a foreign bank may operate, although it is the result of practice rather than law. New market entrants are generally given approval for only one office.

Canada is finalizing legislation which, although it will substantially liberalize the activities in which foreign banks will be permitted to be involved in Canada, retains significant restrictions on their operations. Currently, foreign banks may only operate as Financial Institutions, not as banks, must be licensed by the provincial governments, and are not permitted to accept deposits. The proposed legislation would permit foreign banks to operate in Canada but would require that they establish separately incorporated local subsidiaries. Foreign banks would be limited to five offices, with maximum capitalization of $25 million (or a leveraged capital amount of $500 million). Furthremore, Canada proposes to limit the aggregate share of all foreign banks to 15% of the total Canadian market.

In many countries, branches are restricted in their actual operations once they are established. For example, in Japan, branches of foreign banks may not be licensed to operate as savings or trust institutions and may not issue loans in foreign currency for less than one year. Although branches of foreign banks may lend in yen, they are restricted in the amount of currency which can be exchanged for yen, and regulatory and operating pressures effectively deter foreign banks from soliciting deposits in the local market. Furthermore, branches are totally prohibited from acquiring any interest in domestic financial institutions.

In Spain, branches are not permitted, without the express authorization of the bank of Spain, to obtain outside financing in the domestic market of more than 40 percent of their total investments in securities and credits to Spanish public and private entities, plus the assets represented by their cash reserve. In addition, branches are required, with limited exceptions, to have their portfolios of securities comprised exclusively of public funds and fixed income securities.

In Iran, although foreign banks are permitted to make limited investments in indigenous banks, they may not acquire total ownership. Foreign banking institutions are also limited by law to a 40% equity investment in banking institutions organized in Nigeria.

Restrictions in other areas are numerous. For example, in the United Kingdom, if a banking entity does not obtain eligible status, it cannot discount acceptances with the Bank of England and, therefore, can only offer discount financing at a higher discount rate. A branch of a foreign bank cannot obtain eligible status.

In another area, pursuant to the Industry Act of 1975, interest relief grants for certain projects in development areas (maximum of 2½ percent towards interest) may be made by the government to any authorized bank. However, in actual practice, such grants are made only to U.K. registered banks, and registration is not available to branches of foreign banks.

Finally, we would note that by law in Germany, banking institutions organized in EEC member states are granted the same privileges as banking institutions organized in Germany. The question has been raised as to whether identical privileges should be granted to U.S. Banks under the U.S.-German Friendship Treaty, although no U.S. bank has yet challenged the disparate treatment experienced by U.S. banks in Germany.

I hope this will be of some use to you. If there is anything further I can do, please let me know.

Mr. STEVENSON. Mr. President, as a matter of national public policy, therefore, I do not believe that it would be wise for the Congress to enact legislation that gives foreign banks greater privileges than we extend our own banks. It would indeed be a curious precedent for us to set in the international trade and financing field.

That such a policy has been seriously considered has been the result of a somewhat unique confluence of interests between State bank regulators and foreign banks who have jointly sought to preserve a status quo which allows States to permit foreign bank entry, but not the entry of domestic banks located in other States. State bank regulators including the distinguished Commissioner from my State of Illinois, Mr. William Harris, want to attract foreign banks to their State to encourage foreign investment and the development of regional international banking centers throughout the country. I commend the State officials for pursuing this policy and believe they are doing an excellent job in this regard. The increased direct investment, deeper credit markets, and more export financing that can result from such efforts, are factors clearly in the national, as well as local interests. The foreign bankers, as is the prerogative of any businessman, seek maximum profitmaking opportunities and advantages, and they cannot be faulted for taking advantage of the multistate opportunities that have been there. In by meetings, I have always been impressed by their intelligence, candor, and willingness to abide by Federal and State policy.

Under my amendment, foreign banks, as now and as under the House bill, would be free to establish branch or agency offices in any State where this is permissible. However, in the case of a branch established outside of a foreign bank's State of principal banking operations, as determined under H.R. 10899, such branch would be limited to maintaining credit balances, as is currently permissible for agencies, and accepting the types of foreign-source and internationally related deposits permissible for Edge Act international banking corporations under section 25(a) of the Federal Reserve Act. The deposit limitations would apply only to branches established after a suggested grandfather date of July 27, 1978—the date of scheduled Banking Committee markup. Deposits subject to such limitation would not have to be insured, conforming to the existing treatment of Edge Act deposits. Agencies, as now, would be unfettered since they cannot accept deposits.

This compromise on interstate branching limitations is intended to reconcile equitably the legitimate concerns of Federal and State bank regulatory agencies, and domestic and foreign banks.

My amendment would affirm the right of States to attract foreign banks and foreign investment by allowing foreign bank branches and agencies to be established in any State where permissible. Such branches and agencies could conduct the full range of banking activities necessary to develop international banking and trade opportunities, and service the international needs of their customers. Local credit markets would be broadened and lending competition stimulated since foreign bank branches and agencies under my amendment would be able, with appropriate State approval, to make both domestic and international loans at locations throughout the country.

I believe this amendment meets the "reverse discrimination" problem by narrowly focusing on the key interstate advantage enjoyed by foreign banks—the ability to accept deposits at locations in several States. Branches established after an appropriate grandfather date, and outside of a foreign bank's home State, would be limited to accepting foreign-source deposits and deposits related to international banking and finance transactions, the same limitations applied to the Edge Corporation internatıcnal banking subsidiaries of domestic banks. Effectively, foreign banks subject to the restriction would not be able to accept retail deposits, corporate certificates of deposit or payroll-type accounts at locations in several States, although they, as U.S. banks, would be able to solicit such deposits for placement at other of their offices. This proposal would thus insure competitive equality but not at the expense of stifling legitimate State initiatives, or limiting desirable foreign bank entry and activities.

My amendment has been supported to date by the administration, the Federal Reserve Board, Comptroller of the Currency, and Bankers Association for Foreign Trade, and though others prefer the existing House bill, I have seen no one claim it is unfair or unreasonable. I can understand the reluctance of State bank regulators to support my provision. They are in a very difficult position, since they are trying to attract foreign banks, and no foreign bank is going to say it will support my amendment as long as a rosier alternative is available. But I think it is clear that my amendment gives foreign banks not only everything they need to do a profitable international banking and finance business at locations throughout the country but also additional tools to compete for domestic wholesale loans as well. The few areas that may be foreclosed to them in the future at nongrandfathered offices—retail deposits, commercial balances unrelated to credit facilities, and, domestic payroll and other accounts, are areas they have generally been uninterested in penetrating on a wide-scale basis, except through purchase of a U.S. bank subsidiary—and my amendment does not affect that opportunity. The success of non-deposit-taking agency offices in California and New York, and the success of similar non-deposit taking commercial lending company subsidiaries in New York, belies the argument that deposit-taking is a sine qua non of successful entry.

Furthermore, by adhering to a model of coextensive State-Federal regulation already in our laws, my amendments strengthen our dual banking system. Presently, a U.S. bank desirous of establishing an international banking subsidiary outside of its home State can do so by organizing a federally chartered Edge Act Corporation under section 25(a) of the Federal Reserve Act or by acquiring a similar State-chartered corporation under section 25 of the Federal Reserve Act, which, under Federal law, has to agree with the Federal Reserve to conduct its activities on the same ground rules as an Edge subsidiary. I have used this model in my amendment which does not in any way prevent States from enacting laws permitting branches of foreign banks; the only requirement is that a branch outside of a foreign bank's home state enter into an agreement with the Federal Reserve to accept only the same types of deposits permissible for an Edge Corporation. States' rights and national interests are each protected and balanced.

My second amendment, Mr. President, is related to the first in that it would seek to equalize competition between domestic and foreign banks in the provision of international banking and financing services by making the Edge Act Corporation a more attractive, flexible and productive vehicle for financing U.S. trade. Section 25(a) of the Federal Reserve Act was enacted in 1919 and in deference to its chief congressional architect, Senator Edge of New Jersey, has long been called the Edge Act, and corporations organized under the section have similarly been called Edge Act Corporations.

My amendment would delete the existing section 3 of the bill, which now focuses only on removing certain provisions that discriminate against foreign banks, and replace it with a more comprehensive proposal that would also define more clearly the national purposes behind such corporations, and would eliminate or modify certain provisions that handicap Edge Act Corporations in providing international banking services.

The first subsection of the new section 3 would state the three principal objectives of my amendment: elimination or modifications of provisions in the Edge Act which discriminate against foreign owned banking institutions; which disadvantage Edge Act Corporations in competing with similar foreign-owned banking institutions; or which impede the attainment of purposes of the Edge Act set forth in a new subsection (b). The Board would be required, within 6 months after enactment, to revise its regulations to eliminate or modify any regulatory restrictions, not required by the statute, which discriminate against foreign-owned institutions, disadvantage Edge corporations in competing with foreign-owned institutions, or impede the attainment of policy objectives.

A new subsection (b) would amend the Edge Act to include a declaration of congressional policy which would serve as guidance to future regulatory interpretations. Such declaration would recognize the importance of establishing international banking facilities throughout the country in promoting international trade, especially U.S. exports; the need to foster Edge Act ownership by regional and smaller banks, in particular to bring trade financing opportunities to small farms and businesses; to stimulate export opportunities and competition in international finance; the need to maintain competitive equality between Edge Act corporations and similar foreign-owned banking institutions in the United

States and abroad; and the need to interpret the act in the light of changing economic conditions and banking environments, with a requirement that regulations be reviewed at least once every 5 years. The emphasis will be on financing exports, and that is where it should be.

Subsection (c) would eliminate the requirement that all Edge Act corporation directors be U.S. citizens. This provision is already in the House bill.

Subsection (d) would eliminate the 10-to-1 leverage ratio in the act. This follows the Federal Reserve Board's own recommendations, except I propose to simply strike the limit from the act, rather than permitting Board waiver. I will also propose that committee report language be included disapproving of the existing leverage limit in section 211.9(c) of regulation K and requesting the Board to consider waiving or modifying regulatory limitations for U.S. export financing transactions.

Subsection (e) would eliminate the mandatory 10-percent reserve requirement and provide instead that Edge Act corporations be subject to the same requirements that apply to member banks. The prohibition on Edge Act corporations becoming members of the Federal Reserve would also be eliminated.

Subsection (f) would modify the Edge Act to permit foreign-owned banking institutions to acquire majority stock control of Edge Act corporations. This would conform to the existing section in the bill.

I believe this second amendment constitutes another step in rationalizing our trade and financing laws, to make them consistent with the exigencies of international trade and finance.●

## SMALL BUSINESS AMENDMENTS—H.R. 11445

AMENDMENT NO. 3284

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

## NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR, AND SUBCOMMITTEE ON PRIVATE PENSION PLANS AND EMPLOYEE FRINGE BENEFITS

● Mr. WILLIAMS. Mr. President, on my own behalf and on behalf of Senator BENTSEN, I wish to announce that my Human Resources Subcommittee on Labor and Senator BENTSEN's Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits will hold 3 days of joint hearings on several bills that relate to the Employee Retirement Income Security Act of 1974. Specifically, the subject of our hearings will be the matters addressed in S. 3017, S. 901, S. 2992, S. 3193, S. 1745, S. 1383, and S. 250.

The hearings will be held on Tuesday, August 15, Wednesday, August 16, and Thursday, August 17, 1978, in room 4232, Dirksen Senate Office Building, beginning on each day at 9:30 a.m.

Further information may be obtained by contacting Steven J. Sacher, special counsel to the Human Resources Committee (202/224-1097).●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance will hold hearings on July 28, 1978, on sections 346, 505, 507, 523, 728, 1146, and 1331 of S. 2266 and H.R. 8200, the Bankruptcy Reform Act of 1978.

The hearings will begin at 9:30 a.m. in room 2221 of the Dirksen Senate Office Building.

The hearings will be limited to those sections of the act which relate to taxation and collection of taxes. In connection with the Judiciary Committee consideration of the act, the staff of the Joint Committee on Taxation has developed certain proposed amendments to the act. I intend to request those proposed amendments be printed in tomorrow's edition of the CONGRESSIONAL RECORD so that comments on those amendments can be received at the hearings.

Witnesses who desire to testify at the hearings should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on July 27, 1978.●

## ADDITIONAL STATEMENTS

### TAKING TO THE INITIATIVE

● Mr. ABOUREZK. Mr. President, 1 year ago I introduced Senate Joint Resolution 67, the voter initiative constitutional amendment. Since then, I have been amazed at the nationwide interest and support this proposal has generated. This amendment, similar to the laws which 23 States and the District of Columbia already have, would permit citizens to place a proposed law on the national ballot by petition of a specified number of registered voters. Once qualified for the ballot, the law would be adopted or rejected by a majority of the Nation's voters at the next Federal election.

In an article in the July 16 edition of the Washington Post, columnist Michael Nelson recounts the fascinating history of the public interest lobbying group Initiative America, whose cofounders Roger Telschow, John Forster, and Bill Harrington originally suggested that I introduce the Voter Initiative Amendment. Recent polls on the subject, plus the ever-increasing volume of inquiries and letters of endorsement I have received, indicate a growing wave of support for the amendment. I commend this excellent article to my colleagues and ask that it be printed in the RECORD.

The article follows:

TAKING TO THE INITIATIVE

"This story is the political story of 1978," a prominent political columnist of my acquaintance said to me recently after returning to Washington from California. He was talking about the Jarvis Initiative, the California law drastically reducing property taxes that voters had just passed by a 2-to-1 majority.

"Until recently, I didn't even know what an initiative was," the columnist confessed. (It is a proposed law that is placed on the ballot by citizen petition and voted up or down on Election Day.) "None of the eastern states have them. But I'm for damn sure going to find out more about it because come November it looks like a bunch of other States are going to do the same thing California did. And after that, who knows what?"

The pundit was right. The Jarvis Initiative is the biggest political story of 1978. As for the "who knows what?" that part may have begun in 1976 . . .

It is shortly after the presidential election, and two bearded guys in their early 20s are speeding through the South in an old Dodge van, wondering what they're going to do next. They have just spent a year as roving $99-a-month initiative organizers, and quite a year it has been—30 States, dozens of State and local initiative campaigns, 40,000 miles on the road. "So what now?" asks Roger Telschow, who is driving. "Later, later," says John Forster. "Look, Texas is going to be 700 miles long. We'll talk about it in Texas.

"Drink now, talk in Texas."

"Right."

Neither John nor Roger are Democrats or Republicans; neither comes from a political family. A year earlier, John had been a student at California Polytechnic State University, where he was "generally intersted in sportscars, camping in the mountains, and getting a great tan." "Bored silly" with classes, he had gotten involved in a local initiative effort to protect a pristine lake from real estate developers. With that victory, he caught the political bug. "I wanted to travel and have a good time, but I also wanted to stay involved with initiatives," he says. When a California organization called Stamp Out Smog (S.O.S.) offered him the national initiative organizing job, he jumped at it.

Roger's story is not unlike John's. A student at Michigan State, "I finally got bored and fed up at the same time. It all came to a head in this one sociology class I was taking. The professor would say here is the problem, and here are some solutions. And I'd always raise my hand and ask why they don't just implement the solutions. And he'd say, 'Well, the A.M.A. is too powerful,' or 'Well, you've got to be realistic'—that kind of thing. I figured who needs that, nothing will ever change with that attitude." Roger got into campus politics, became head of the Nader-sponsored Public Interest Research Group in Michigan, and hooked up with John through S.O.S. soon after graduation.

Similar combinations of boredom, frustration, idealism, energy, and serendipity have been leading people into political life for years, especially since the rise of the civil service and the consequent decline of political patronage made personal ambition a less attractive lure. What sets off people like John and Roger, though, is their commitment to issue politics rather than what John calls "personality politics."

"In personality politics—regular election politics—the higher up you get, the fewer people you ever see, and the more alike those people get. It's like a simple pyramid with Washington on top and isolated. But in issue politics, like with an initiative, you start out with maybe three or four people who have an idea, and the only way you can succeed is to get more and more people involved—to get organized, get the petitions signed, and so on. And if you're ever going to win a majority, you've got to keep on getting still more people and they have to be even more diverse—an upside-down pyramid that is broadest at the point of decision: in other words, a democracy. And it's damned exciting!"

By any standard, 1976 was a bleak year for

"personality politics." Voter turnout in the presidential election barely topped 50 percent, the fourth straight decline since 1960. On the other extreme, one read, '60s radicals were plugging est, selling insurance, or, as John scoffs, "getting into their heads and playing with their stained glass." But the initiative—a device that combines the legitimacy of an election with the directness of confrontation—was thriving as never before in its 80-year-history. And John and Roger, who had gotten directly involved in almost every initiative campaign in the country, knew that better than anyone else. Texas, and it's time to talk about what comes next. The thing to do, they decide, is to go to Washington to set up some sort of clearing-house to spread the word about all that they had seen, to let Washington know that the initiative was what was happening "out there"—that world of Dubuques and Seattles and Buttes that Washingtonians seldom hear about—and to give guidance to those in the states who would form the next wave of initiative organizers. Money? That would have to take care of itself later. For now, they had something better: an address in Washington.

The address, in Southeast, belonged to Bill Harrington, another onetime professional-in-the-making who had been sidetracked into issue politics in his native Seattle. Bill had moved to the District in 1976 when his wife, Melissa Thompson, took a lobbyist job with the National Organization for Women; he ran into John during a June initiative campaign in Ohio and they had stayed in touch ever since. Bill, as it turned out, was interested in what John and Roger were doing and also available to join them; the trio that still forms the core of Initiative America—the name they gave themselves—was complete.

It is hard to recapture the slaphappy, gee-whiz character of all this. The initiative was serious business to be sure, but it was also, well, fun. Take, for example, the problem of simply getting to Washington to launch their crusade. Roger, in Rochester for Christmas, now owned a Volkswagen beetle—sans foot-brakes. No problem there—he simply drove down to Washington using his emergency brake whenever he need to stop or slow down. John, though, was in California, a long way away when you're flat broke. So Roger finagled the Consumer Federation of America into leting John put on an initiative workshop at their February 1977 convention in Washington. The deal was that they would split the airfare: C.F.A. would pay for his flight from California; John, C.F.A was told, would handle the (mythical) return flight out of his own pocket Then, when John and Roger finally got here, Bill was organizing for the Equal Rights Amendment in Nevada. Again, no problem; they simply became couch-campers in the homes of political friends.

Washington is commonly thought of ("out there") as a city whose arteries are clogged with rep tape; indeed, it thinks of itself that way. The smug expressions and bemused winks of bureaucrats and lobbyists when Jimmy Carter and his Georgians came to town proved far more prophetic than the new administration's now-abandoned promises for dramatic change.

But the experiences of John, Roger and Bill, who like Carter set up shop in Washington in late January 1977, illustrate a less obvious truth about the capital: it is the most wide-open town in the country for people with talent and energy. The Washington Monthly's perceptive Nicholas Lemann once observed of Washington: "San Francisco must have been like this in 1849, and Chicago in 1880—there's a feeling of limitless possibility, of gold lying in the streets." John, still wide-eyed, says that "D.C. is really set up so that a normal person with a willingness to work like hell can come in here and have an impact." Political scientist Jeffrey Berry, who made a systematic study of the recent proliferation of public interest groups like Initiative America, found that more than anything else it was the entrepreneurial skills of a few key people in each group that determined its success—this is an era when conventional business entrepreneurship is just about dead.

Entrepreneurship—luck and pluck, in Horatio Alger's more useful phrase—certainly explains Initiative America's success since the couch-camping days. Within two weeks of their arrival in Washington, John, Roger and Bill had stumbled into important roles in Councilman Julius Hobson's effort to amend the District charter to permit initiatives. The three had the solid fund of evidence on the experience of other cities that Hobson, a notoriously weak legislator, needed to get the council to consider his proposal seriously. They also provided the letter-writing, petitioning, and organizing skills he needed to win. Shortly after Hobson's death, the bill cleared the council, and in November 1977, District voters ratified it by a thumping 83 percent. Initiative America, still in its infancy—hell, still in the womb—not only had gotten a quick victory under its belt, but it had done so in the shadow of the Capitol.

Luck and pluck also led them into what was to become their major goal as an organization. John and Roger, though eager to spread the initiative gospel, really had not decided just how to go about it. Realizing that above all the group needed a symbol, Bill proposed that they draft a constitutional amendment to allow initiatives in federal legislation, in the hope that they at least coud get someone in Congress to introduce it.

Like turn-of-the-century inventors sketching their ideas on restaurant napkins, the three drafted their amendment over a few beers. But they drafted carefully: though the basic idea was simple (to let citizens vote directly on laws that they themselves had proposed), John, Roger and Bill wanted to make the amendment as unthreatening as possible to the Congress that would have to initiate it.

Amendment in hand, Initiative America began shopping around for a sponsor. "We really wondered whether we would get anywhere, because we are so young," recalls Roger. "But everybody on the Hill—the staff people, at least—is young too, and they are perfectly willing to listen to you seriously."

Kevin Murray, for example. Kevin is a 29-year-old staffer with Sen. James Abourezk (D-S.D.) who, as it developed, knew the initiative process inside and out from personal experience in California. At the time, he was also a staffer without a project—an entrepreneur without a shop, if you will—and he was looking for an issue he could make his own. After a month or so of browbeating his boss, Kevin got Abourezk to grant an appointment to John, Roger and Bill.

"I didn't need any convincing on the issue itself," recalls Abourezk, "because I got my start in politics with an initiative campaign in South Dakota. But I knew that I would be retiring in January 1979 and I wasn't anxious to take on any big long-term projects."

"Kevin brought them in one day to see me and after that I never doubted for a moment that these boys are dedicated people. They are kind of the epitome of what the public interest person ought to be, but isn't always: totally unselfish, totally committed to the public cause, living on very little, and extremely good political organizers. It's unbelievable, really, how good these fellows are."

While Abourezk, still dubious about taking on a project as large as the amendment, mulled the proposal over, Initiative America embarked on what would be a very strange spring. John remembers that "by day we would be up at the Capitol, talking to Hill people, or trying to smooth out the legal language of the amendment. But we also had to get a bus so that we could travel around the country, spreading the idea at the grass-roots. So in the afternoon we would go prowling around junkyards and depots trying to find out which kinds of brakes were best, and what universal joints were like and stuff like that. And we had to support ourselves, too. So we got hold a printing press and spent a lot of time doing printing jobs."

Summer brought paydirt of a darkest-before-the-dawn variety. John and Roger, exhausted by their constant scrambling, frustrated with their inability to find a good bus, and worried over the possibility that they may have been wrong to stake so much on the amendment proposal, took off for a weekend of camping in Virginia. As they passed through Rappahannock County, they saw, parked in a municipal equipment yard, a 1965 Chevy school bus. "The instant we saw it," says Roger, "we knew it was our bus." They woke up the dozing watchman, asked him if the bus was for sale, and learned that he had been mulling over that possibility in his own mind. The group bought it, fixed it up, and outfitted it with cots and their printing press. "Our paper supplier still thinks we're just a printing business called Initiative America that goes to your house or business and prints the stuff right there. They want to put an article about us in their trade paper."

Then, in early July, Abourezk finally agreed to introduce the amendment in Congress, though he told a staffer to "tell them [Initiative America] that I'll introduce it, but I just don't have the time to push it." On July 11, he and Roger held a joint press conference to make the announcement; shortly after Initiative America got its biggest break yet: a highly critical column about their proposal by George F. Will. "George had us out to his house before he did the column," says Bill. "He knew he was going to oppose the amendment, but he also knew what a big favor he was doing us by giving us the publicity." Indeed, Will's nationally syndicated column not only informed most of his readers for the first time that such a proposal existed, but it also gave Roger a chance to reply with a follow-up article that many of Will's outlets ran. Letters began pouring in to Congress and to Bill's house (still Initiative America's "headquarters") from around the country.

Not every act of pluck was accompanied by such good fortune, however. In early fall, John took the bus out on a tumultuously successful five-week, 5,000-mile tour of the Midwest. The sheer novelty of the by now well-plumed bus drew crowds and local press people in droves; John gave hundreds of television, radio, and newspaper interviews in support of the amendment. "I just couldn't wait to get back to Washington to call a press conference and tell what all was going on out there in the country," he says.

"So we called it for Veterans Day, a slow news day, and brought the bus over to the Capitol. Finally, a wire service guy showed up. He said, 'Where's the rest of the demonstration?' We told him it wasn't a demonstration, it was a press conference. But I guess he figured that if you're not Jimmy Carter or George Meany or somebody, you don't hold press conferences, because he sent out a story saying we had been one of the smallest demonstrations in the history of the Capitol."

However frustrating it was to come back from a 125-city national swing and find an indifferent, even uncomprehending Washington press corps, this setback was minor in comparison to the stroke of good fortune that followed. Abourezk, Initiative America learned, had been amazed at how much mail the initiative amendment had generated, and now was willing to devote a larger chunk of his time and energy to it than he had

planned originally. "It just kind of snowballed," he recalls, "and it's hard to jump off when you get on a rolling snowball."

Abourezk prevailed on Senate Constitutional Amendments Subcommittee Chairman Birch Bayh to hold hearings on the proposal in December. This, even more than Abourezk's original sponsorship, meant that the amendment had arrived, that it had passed through what political scientists call the "gateway" of respectability. It also sparked another outraged column, this time from James J. Kilpatrick, and, in turn, another bararge of favorable mail. Best of all, a Gallup poll found a three-to-one margin of support for the amendment that was uniform across the partisan, class, ideological, regional and other lines of political cleavage that normally divide people on issues.

Then came the Jarvis Initiative. Roger recalls that "we were very worried about Jarvis at first because we were afraid it might be a crackpot idea. But soon we got convinced that it was actually a perfect example of what initiatives can do. For years taxes had been skyrocketing in California and the legislature wouldn't do anything about it, even though they were running a $5 billion surplus every year. So the people took charge of things themselves. Now more people know of the initiative than ever before."

"All this had happened so incredibly fast," says John. "In less than a year we had gone from a hair-brained scheme in Texas to drafting an actual amendment to the Constitution to getting hearings in the United States Capitol. People were writing and calling us from all over the country, asking us what they could do in their states or whether they could come volunteer for us in D.C. And we were still just three guys with no money and no headquarters."

As with small businesses whose sales unexpectedly boom, success bred problems (or, to use the more voguish term—challenges) for Initiative America. Until a few months ago, John, Roger and Bill were running the political equivalent of a lemonade stand; suddenly, they were selling gallons and gallons each day, customers were lining up for blocks, gourmets were debating the merits of their lemonade in the food columns, and friends-in-the-know were advising incorporation. Suddenly, in short, Initiative America realized it had to join the real world. Fortunately, they welcomed this new condition. "In our first year we made a political statement," says Roger. "This year we need to build a political machine." "Our head is fine, but our arms are very short," adds John.

One good break came when, with their parents' help, John and Roger got hold of a house at 606 3rd St. NW. (Incidentally, all three report that their parents support what they are doing, though less with money than with love. Roger's mother, for example, told a reporter that though she doesn't think the amendment will pass, "my son's never discouraged." "When my mother calls," says John, "I tell her about the senator I talked with that day, and she tells me to eat better.") The house, ramshackle as it now is, "gives us what we need—a place to work, a place to live, a place to park the bus (until now we had to keep it in the street and move it every few hours), and a place to print."

But success in getting the initiative idea through the political gateway also means that three guys with luck and pluck—or even 3,000, if their membership drive succeeds—are no longer enough. In the classic mode of American pluralist politics, the support of other groups will have to be enlisted and a coalition built that is strong enough to rally a two-thirds majority in each house of Congress and the legislative approval of three-fourths of the states. Since the Senate hearings in December, John, Roger, Bill and a couple of Abourezk's staffers have been working at building that coalition.

The natural constituency for the initiative, they thought, would be the dozens of public interest groups like Common Cause that proliferated in the past decade. After all, those groups exist for the purpose of challenging the stranglehold that the special interest lobbies have on Washington, and presumably would welcome any proposal to open up the policy-making process to more people. But so far it has been a bitterly disappointing experience.

"These 'people groups' have become little bureaucracies of their own," complains John. "Whenever we talk to them, they tell us that it will take two or three years before they can do anything one way or the other, that they'll take it under advisement, and so on."

"The other thing is that groups like Common Cause and the League of Women Voters see the initiative as a threat to them," he adds. "They thrive on the fact that they can claim to represent people to the government on various issues. If people had an initiative to resort to, two things would happen: one, they could represent themselves, and two, the scene of the action would shift from Washington to the country. That would diminish the public interest groups' importance. They prefer not to change the rules, even if there doesn't seem to be any chance of winning under the status quo." Indeed, free-lance journalist Susan Nelson discovered that lobbyists on both sides of such questions as gun control and the right to life were opposed to the initiative amendment.

Another problem born of Initiative America's success is that now it must worry about protecting its victories. Alarmed by Councilman Doug Moore's rumbles about using the initiative to repeal that gay rights section of the district's human rights law and by the Anita Bryant crusade in other cities, the Gay Activist Alliance has been pushing for a legislative amendment that would prevent voters from using their new initiative powers to change the human-rights law in any way. Initiative America, along with The Washington Post editorial page, the city's general counsel, and Delegate Walter Fauntroy, is fighting the gay effort. "For one thing, gays are wrong if they think their rights are safer in the hands of a city council than in the people," John argues. "But more important, we've got to maintain the integrity of the new process until it's had a chance to work."

As Initiative America grows, can it avoid the ultimate irony—becoming a little bureaucracy like the rest? It won't be easy: organizations tend to take on a life of their own, and even the best-intentioned "entrepreneurs" can find themselves spending far less time pursuing the organization's goals than keeping it alive and happy. Initiative America, which spent only $10,000—for everything—in its first year, now envisions an annual budget of $80,000, to be raised in part through mass mailings. This means it will be able to hire people to lobby in Washington and organize in the field, but also means that one of its major preoccupations forever more will be raising money—budgets, like hot air, only rise.

But, hell, let's be optimistic—if movies can have happy endings, why can't life? John, Roger and Bill are aware that success can breed bureaucracy, and they are being extra cautious to avoid that danger. (They also know that facing the problems of success is better than the alternative.) "Unlike Common Cause," says Bill, "we started out on a shoestring, with no up-front money. We know how much we can do with how little. We're also a one-issue organization; the thing we look forward to the most is disbanding the day after the initiative amendment is passed. And most important of all, we know that the only possible way this thing can succeed is if the pressure comes from out there. We have no choice but to stay open and responsive."

"You're forgetting one thing, Bill," grins John. "If Initiative America ever got too big and bureaucratic, it wouldn't be fun anymore. And as soon as it's not fun anymore, we're moving on."

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HOW THE INITIATIVE AMENDMENT WOULD WORK

Any citizen or group of citizens could start the initiative process by drafting a proposed law and recording it with the United States attorney general. They then would have 18 months to collect petitions with valid signatures equal in number to 3 percent of the votes cast in the most recent presidential election—at present, that would be 2.45 million. In addition, in order to prevent initiatives of purely local concern from getting on the ballot, that 3 percent requirement would have to met in at least 10 states.

Once the signatures were collected, the attorney general would be responsible for checking their validity. Because the requirements for a "valid" petition signature are so technical, initiative proponents probably would have to get an extra 1 or 2 million to be certain; in effect, then the 3 percent requirement really is 4 to 5 percent.

Finally, if the petitions checked out, the proposed law would go on the next national election ballot. If voters passed it by a simple majority, it woud become law in 30 days.

Initiatives would be limited in their legislative scope. They could not be used to declare war, call up the militia or amend the Constitution. Also, like any other law, an initiative law would be subject to judicial review of its constitutionality and to congressional override. (Such overrides would require a two-thirds vote of each house of Congress and presidential concurrence during the first two years after passage, but simple majorities would suffice thereafter.)

"Some people are disappointed when we describe all the difficulties involved in getting an initiative on the ballot," says Bill Harrington. "But the purpose of the amendment isn't to replace Congress with a direct democracy. It is just to add another check to the checks-and-balances system—in this case, the people, who are the ultimate source of political authority anyway." ●

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## SENATOR BILL ROTH

● Mr. DOLE. Mr. President, for the past few years, my friend and colleague from the State of Delaware (Mr. ROTH) has been fighting for tax relief for the overburdened taxpayers of this country. As the coauthor of the Roth-Kemp Tax Reduction Act, he is now leading the fight in the Senate for across-the-board tax cuts for all working Americans.

Mr. George Wilson of the Philadelphia Inquirer has written an article describing Senator ROTH's belief in the need for substantial tax relief, and I ask that a copy of this article be printed in the RECORD.

The article follows:

ROTH IS OUT FRONT IN THE TAX REVOLT

(By George Wilson)

On opening day at Delaware Park last Saturday I overheard a conversation while in line at a betting window. "What do you think of Bill Roth's tax plan?" a man asked. His companion replied, "I'm for any plan that will cut my taxes."

That may not be a very scientific analysis

of this country's tax problems, or of what Sen. William V. Roth Jr. (R., Del.) proposes to do about them, but it goes to the heart of widespread public sentiment. Millions of people think, rightly or wrongly, that they are overtaxed.

California didn't invent the tax revolt. Proposition 13 put into focus and brought to the surface an anger over rising taxes that has been seething for some time and in many places. Soaring costs of wages and fringe benefits for large numbers of public employes is at issue in the strike of Philadelphia municipal workers.

Southern legislators in Southeastern Pennsylvania have been warning of strong voter resistance to higher taxes for some time. And in Delaware, a state that is as small as California is big—where constituents are on a first-name basis with senators and there is no place for public officials to hide—opposition to rising taxes is an especially sensitive matter to people in elective office.

As a former resident of two cities in Delaware, Dover and Wilmington, and having many relatives in that state, I have some feeling for what Sen. Roth means when he talks about the depth of tax-revolt sentiment among voters he has talked to. Mr. Roth has become a folk hero in Delaware because of his demands for greatly reduced federal income taxes.

Some indication of his popularity was evident last week in ceremonies naming a federal building in Dover for former Sen. J. Allen Fear, Jr. Except for the guest of honor, the most enthusiastic ovations from the audience went to Sen. Roth.

A bill co-sponsored by Sen. Roth and a Republican colleague from New York, former pro football quarterback Jack Kemp, would cut federal income taxes for individuals by one-third over a three-year period and also substantially reduced business taxes.

Critics say cuts of such magnitude would be inflationary, without corresponding cuts in government spending, but the Roth-Kemp bill is putting the heat on both houses of Congress to enact larger tax cuts than President Carter has proposed.

I asked Sen. Roth this week about the origin of his tax-cut proposals and his fundamental thinking about them. He told me his ideas originated and crystallized during his election compaign for a second term in 1976 when, in talking to large numbers of people in all walks of life, he became more conscious than ever before of "the pocketbook issue" and the disillusionment of voters trapped between soaring inflation and skyrocketing taxation.

"The vanishing American dream" and "downward mobility" are phrases Sen. Roth uses to describe the consequences of crushing tax burdens on people struggling to make ends meet. He admits "It's corny, perhaps," to talk that way, but he feels deeply about it and is convinced that many others do, too.

Proposals to reduce the capital gains tax are supported by Sen. Roth and he sees no conflict or competition between those proposals and his own. He believes more capital formation is a critical need in the country and that additional capital investment from individuals is essential to create permanent jobs in the private sector, in contrast to temporary jobs in the public sector.

Improving productivity in the private sector is another key requirement, in Sen. Roth's view. He holds that reduced federal taxes on individuals is the key to more capital formation, more jobs in the private sector, and plant modernization to spur productivity.

Testifying before the Senate Finance Committee last Friday, Sen. Roth described the Roth-Kemp Bill as "the only game in town for real relief to the taxpayer."

It may not be the only game in town, but there is no doubt about Sen. Roth wanting real relief for taxpayers—relief that will more than offset the pocketbook effects of inflation and higher Social Security taxes. The senior senator from Delaware, who listened to the voters two years ago and didn't forget, probably won't obtain tax reductions of the magnitude he is seeking, but he is likely to have an impact on the size and substance of whatever tax cut does get through Congress this year. ●

## DESEGREGATION'S QUIET SUCCESS

● Mr. CHILES. Mr. President, these are times when public confidence in public education is at a low ebb. The taxpayers' revolt is becoming a reality, and warnings that the failure of bond issues or a rollback of property taxes will mean closing schools and letting teachers go are being answered with the charge, "It doesn't matter; the public schools aren't educating our children anyway."

It is particularly heartening, at this time when the quality of public education is under attack, to see examples of public school systems that are quietly and steadily providing our children a top-notch education. Too often the positive aspects and achievements of the public schools go unnoticed. A recent article in the Washington Post highlights the accomplishments of Hillsborough County schools in Florida in implementing court-ordered desegregation and bringing about a harmonious learning environment for the students in the Tampa Bay area, who represent diverse racial and ethnic backgrounds.

I thought this article would be of interest to my colleagues and request that it be printed in the RECORD.

The article follows:

DESEGREGATION'S QUIET SUCCESS

(By Ward Sinclair)

TAMPA.—By the time the white family's car had come through the black subdivision and stopped outside the school, the mother was weeping.

The family was new to Hillsborough County and a child in the car soon would be riding a bus into this black neighborhood to attend a desegregated school.

Under the county's court-ordered desegregation plan, there is no choice. A child attends the school to which he is assigned.

So while his wife sat crying in the car, the father went into Progress Village Elementary school to enroll the child. Mrs. Sweetrix Williams, the black principal, showed him the school and gave him assurances. The father left smiling.

"When this started, while parents didn't have much confidence in us," Williams said later. "They felt their children wouldn't make progress. Now the parents are hollering that there is too much homework."

The seventh year of full-scale desegregation has just ended in this humid port city on Florida's west coast. The school program goes on with hardly a flicker of dissatisfaction.

A decade ago, America's front pages were heavy with the stories of violence and friction in schools under court order to desegregate. The occasional example of, say, a Boston still makes the front page, and racial isolation persists in many school systems.

But there is also a quieter side to the desegregation story. In one city after another the pill has been swallowed and children are being allowed to be children, together.

None of which is to say that Tampa has not felt stress since 1971 when U.S. District Judge Ben Krentzman wrote the order for racial balance in every school—80 percent white, 20 percent black, to reflect the population.

Nor would anyone say that the millennium has come to Hillsborough County. Except for isolated cases of fights and racial taunting at the start, the integration plan went smoothly. One reason seems obvious: whites, with a substantial majority in every school, do not feel threatened.

The burden of the plan rests on the blacks. They complain about, but accept, the requirement that they spend more time on buses than whites. There is discontent over what is seen as biased disciplining of black pupils. Some parents still resent their loss of identity with all-black schools. But people get along.

In a way, the vignette of the distraught white mother and the smiling father symbolizes the story of another Southern community accepting change and making a reasonable success of it.

It is a story repeated with variations in dozens of small and medium-sized school districts across the country, where segregated classrooms and second-rate education were synonymous in the recent past. Charlotte, Miami, Nashville, Jacksonville and Indianapolis also have achieved broad-scale desegregation with minimum upheaval.

A reality is that school desegregation just is not the political issue it used to be. A politician can't win enough votes to matter by posing desegregation. The annual flurry of anti-busing amendments in Congress has died to a trickle.

Tampa—22nd largest school district in the country—is not unique.

"Public education here is alive and well—more so than the public believes," commented county Superintendent Raymond O. Shelton. "We have had stability. There was trauma involved, but relative to other places, we came off well. Most of our problems now are young-people problems and not race problems. We spend our summer planning for the school year instead of being in court."

There is another side to this. In Tampa, as in other places where segregation is a part of the past, the talk is now about the meaning of schools. A conversation with anyone—parent, student, teacher—may start off on desegregation. But, also invariably, it ends up as a conversation about learning and discipline and teaching. Maybe this was inevitable—quality cannot be discussed in a sensible framework until the physical separation is ended.

Throughout the Tampa system, basics and remedial work are being stressed. Advanced programs for brighter students have begun. As one of the apparent results, scores on standardized tests are rising steadily—in a county that had been uniformly below national norms. Blacks seem to be staying in school longer and more seem to be going to college, although there are no statistics to prove it.

Actually, Superintendent Shelton said school officials are "prouder" of the intensified educational program than they are of desegregation. Nobody suggests that desegregation per se meant better schools. But they do suggest that it provided the chance to put first things first. "The black students are better off than they were because all students are better off," Shelton said. "At least, it is no longer a valid criticism that there is unequal opportunity."

In Hillsborough County, the old line of separate-but-equal was mostly myth. The stories of inadequate, ill-equipped black schools before 1971 are legion. When desegregation came, and white youngsters were

headed to previously black schools, weekend miracles occurred. Sod was trucked in to green up the schoolyards. Libraries were added. Air-conditioners were bought and plugged in. Fences were erected, science labs installed, vocational facilities expanded.

A LOOK BACK

It is one thing for the superintendent to talk about progress, still another thing for the old-line troublemakers, as the civil rights agitators were known, to pronounce progress.

Robert Saunders and the Rev. A. Leon Lowry, men who got all this started when they began pushing an NAACP desegregation suit in 1958, stand in restrained awe of what has happened. Saunders was state field secretary and Lowry was state president. Their sons broke the color barrier in Tampa schools.

That NAACP suit was fought and delayed by the school board for 13 years. An occasional yielding for token breakthroughs kept full-scale desegregation away for more than a decade. It is lost time that never will be regained.

"As far as the court order is concerned, they have carried it out to a tee. We are now dealing with other types of systemic discrimination," said Saunders, who is now the county's equal-opportunity officer. "But one would be hard put to say that learning conditions have not improved here."

Added Lowry: "We're on our way. . . . Overall, one would have to say there is equality in the classroom, in the basics, in athletics. But there may be a little difficulty in things like cheerleading, perhaps, or in the school clubs. So students say there seems to be a little inequality."

Well, the times change, and so does a person's ability to make an impact. In 1976, Lowry became the first black ever elected to a countywide office when he defeated two white candidates for a seat on the school board. Only 8,000 of his 43,000 votes came from blacks.

But the Tampa story is more than a story about black and white. It also involves a large Latin population, which experienced a more subtle prejudice for years in the white-dominated school system. Few Italians, Cuban-Americans or Spanish-Americans rose to become principals. Latin teachers usually taught in Latin schools. Kids from the Latin neighborhoods went to Latin schools. There were no special programs to ease their difficulties with learning and language.

Beautiful irony. The first Tampa elementary school to undergo largescale desegregation was in Ybor City, the Latin quarter, in 1962. The principal, Joe Yglesias, was thrown to the lions, as it were.

Months before, he had been told he would never go higher than assistant principal because he had a "foreign" name. Yglesias reached out and jerked the necktie of the official who told him that. "You SOB," Yglesias said. "Your parents were only two boats ahead of mine." End of an assistant principal's career, or so it seemed. He got the booby prize at Ybor school, then made it work with no big problems. Today he seeks out and administers the federal grants for the entire system, about $30 million a year.

So the Latino's role has changed, too. Nowhere is the picture of equal opportunity any clearer than at Jefferson High, a multimillion-dollar, air-conditioned school built in 1973 to replace the old Jefferson, a traditional haven for Latins.

THE NEW JEFFERSON

The new Jefferson, built on the edge of a black neighborhood on the west side of Tampa, houses close to 2,000 students, mostly from low- and lower-middle-income families. About 40 per cent of them are white, 25 per cent black, 25 per cent Latino and 10 per cent Oriental. The principal is a Latino. His assistant, a woman, and the dean of boys are white. The head football coach is black.

In the hallways, and at the lunch tables, blacks tend to hang out with blacks, Latins with Latins, whites with whites. The black students are active in sports, but administrators worry that the blacks show little interest in most other after-school activities, despite efforts to encourage their participation.

For most kids in the classrooms of Hillsborough County the memories and agonies of educators and parents who lived a revolution have little relevance to the integrated schools they take for granted.

Nina Reeves, 16 and black, typifies what is happening here. She can't remember what it was like to attend an all-black school. Seven years is a long time. She earns top grades and knows she must work hard. At Thomas Jefferson High, she is Nina Reeves and nothing more.

"Jefferson is the best high school in Tampa for race relations," she said. "Integration eliminates prejudice and gives you a chance to meet other people." She wishes it would take as well on some teachers as it has on students. "I think some of the teachers don't want to give you what you deserve. I got a D in biology, but the teacher changed it to a B after my mother complained about it," she said.

THE BOUNCING BALL

Everyone at Jefferson agrees on another point: A successful sports progrom has had an enormous impact on general school attitude. A key figure is Clarence White, the black football coach, a winner whose team has been a state finalist.

White, too, is representative of another development in the county. Unlike many other districts, which unloaded their black educators, Hillsborough retained black teachers and administrators in top positions when desegregation came. There are 23 black principals today, compared with 19 in 1971. There are more than 1,000 black teachers, compared with 700 before. There are more black coaches and deans. The only black principal in the county's 11 high schools, Sam Horton, was at Jefferson until he was promoted to the county office this year.

In the old segregated system, White was an assistant coach at a black school. Today he is Coach White, heading a staff of three blacks and six whites, roaming the halls between his drivers-education classes, keeping kids on their toes, commanding respect.

Principal Jack Mendendez moved to Jefferson this year after running a tough junior high, where racial tensions kept a parents' human-relations group going at full tilt. At Jefferson, he worries about noninvolvement of parents, although that can be taken also as a sign of normality. "I used to go to the junior high with anxieties each day, but here I have no problems," he said.

"The parents don't come out because things are going so well here," Mendendez said. "It's almost apathy . . ."

A TEACHER'S CONCERN

Nathaniel Hill, a young black teacher of English who came to Tampa in 1970 after teaching in a small, all-black school in Alabama, is articulate on the subject of the way things ought to be. "I wouldn't want to change back to what we had here, but I want a change from what it is," he said. "Something better must happen now."

"The school is too big, and we 'act' with each other. The blacks don't feel wanted and we don't go to the teacher's outings . . . But black teachers also have their hangups, and many black students I just don't reach."

"I think integration was too fast for the black teacher. You had rapport with your students in the black school. You were a mother, a father, you instilled morals. We black teachers have passion, and we can't show it. Here, you can't hug a child. You are not to do it. You'd be annihilated if you did. Students must feel some compassion from their teachers. You're reluctant to even touch a child on the shoulder. I don't have a problem, but this atmosphere has taken the effect out of teaching," Hill added.

They are on different wave lengths, but 16-year-old Steve Facer, a white junior, would agree with Hill in part. "I think the cliques—the blacks staying together, the whites staying together—affect the quality of the school and the quality of spirit. People stay together because they live together," he said.

"I'd like to learn more, but the classes are boring. English is my main gripe—it is fun, but they don't teach anything, just show films. The blacks sit together, and you can't concentrate because they disrupt, but then the whites also disrupt. Yeah, I think desegregation has affected the quality, but for better or worse, I don't know."

BURDEN OF THE BUS

Among Hillsborough schools, Jefferson is unusual in that its white pupils are more apt to be brought in on buses than blacks, many of whom live within walking distance.

Elsewhere in the county, the largest burden of desegregation is carried by the black student with little complaining. The average black will be bused 10 of his 12 years in school; the average white, 2. Blacks have surrendered their identity, the sense of security, success and recognition that their community schools provided. Under the Tampa plan, the black student will remain in the minority no matter what school he or she attends—always outnumbered about 4 to 1.

Actually, the school bus has always played a large role in getting the county's 115,000 pupils to class. Before desegregation, 37,000 rode buses. Now, 60,000 ride.

"The longest bus ride for integration in the county is 13 miles," said E. L. Bing, a black assistant superintendent who drew up the desegregation plan and still oversees it. "We have them riding even farther for nonintegration. To achieve the stability our plan calls for, we have to bus more blacks than whites.

"It is a burden, but a good burden that the blacks have to bear. A vast majority of the blacks accept it because they understand it is necessary. There was no question about the inequality in our schools before."

Albert Davis, the father of nine, is chairman of the Tampa NAACP's education committee, which keeps a watch on school developments. He has some misgivings, but he sees more good than bad coming out of the county school program.

"I have criticisms, but I'm not saying my ideas are a solution. Desegregation has been smooth in Hillsborough County, because of a willingness on the part of the community," Davis said.

He continued, "I try to understand the schools' point of view, but I wish there were a way they could understand the parent—not to protect tradition or special interest, but to assist the parent in a responsible way. The plan has placed a tremendous burden on the black for adjustment, and it hasn't been as demanding on the white student or parent. It seems to me that no sympathy is offered when a black seems to recoil from this social demand."

Living in the same home, Davis has seen his children assigned to four different high schools—the farthest eight miles away, the nearest two miles. "I know all parents don't have this many children, but I wish there were another way," he said.

SINGING "DIXIE"

One of those Hillsborough schools that was "rediscovered" by the school board in 1971 is an elementary school in Progress Vil-

lage, a black subdivision about eight miles from Tampa. The school at Gibsonton, a white community six miles away, was built from the same plan, with only one difference: Gibsonton had a library, Progress Village didn't.

Progress Village has a library today, and if ever a school were a principal's pride and joy, that is what this school is to Sweetrix Williams. Most of her 35 years in the county school system, 18 as a principal, were spent in those "second-rate" black facilities.

Under the desegregation plan, her school, like other black elementaries, became a sixth-grade center. White children from nearby communities are bused there for a year. Blacks from Progress Village walk to the sixth grade, but ride buses to first-through-fifth grade schools elsewhere.

Cumbersome, perhaps, but that's the way it is. There are 550 kids in this sixth-grade center, and Williams considers every one her own. She's had to do a lot of learning and adjusting, and so has every adult connected with the place.

The pupils are too busy to worry about adjusting. A music class is putting on an operetta, a tour of American history. A vivacious black boy sings the lead. The kids hold hands. They sing "Dixie" and "Sing Out for Brotherhood" with equal zest. Black and white kids get equal attention in a small remedial reading class, where a aide assists the teaching specialist. During a special activities hour, five boys—three white, two blacks—can't get into silent reading, so they jump at a chance to go to black history.

Norman Smith, Williams' assistant, is a white who had to adjust. He was assigned to Progress Village eight years ago—a year before classroom desegregation took place. "If an end to busing meant going back to the way it was, I wouldn't want it. In my first year, I was a minority and I know how it feels," he said.

BLACK NICKELS

Smith, who grew up just a few miles from Progress Village, tells a story on himself. When desegregation first came, a white lunchroom worker told him that a black child was discoloring nickels by holding them in his hand. Smith said he didn't know that it could happen, but he would find out. Turned out the boy got the nickels—blackened by phosphate dust—from his father, who worked at a nearby mineral loading dock.

"There I was, a college graduate, and I didn't know about blacks," Smith said. "Early on, we teachers went through a black and white sensitivity program. A serious effort was made here, and we all realized we are humans and Americans, and not red, green or white, or whatever."

E. L. Bing, the man who orchestrated the mechanics of the desegregation plan after a long career as a principal in the county's rural black schools, sees all this as prelude.

"I like to think that there may come a day when our schools here and others in the South will be like super private academies compared to the schools of your northern cities like Philadelphia, Washington and New York," he said.

## PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that five such notifications were received on July 17, 18, and 19, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 17, 1978.*

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 17, 1978.*

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 18, 1978.*

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 18, 1978.*

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 19, 1978.*

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter date 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*●

## INTERVIEW WITH GEN. MORDECHAI GUR, CHIEF OF GENERAL STAFF OF ISRAEL DEFENSE FORCES

● Mr. ABOUREZK. Mr. President, I am submitting for the RECORD a direct translation from the Hebrew language newspaper Al-Hamishmar of an interview with Gen. Mordechai Gur, who is Chief of the General Staff of the Israel Defense Forces. It contains a shocking admission by General Gur of what Israel has done over the past 30 years to civilian populations.

Essentially, General Gur seems surprised that Al-Hamishmar would worry about the killing of Lebanese civilians and the creation of Lebanese refugees when, he says, "we created 1½ million refugees" over the past 30 years and nothing was said about it.

One must wonder how many such admissions against interests appear in the Hebrew language press in Israel but which are not translated into English. The information conveyed by General Gur originally in Hebrew is valuable particularly to those people who have refused to believe the results of Israel's colonialist activities over the past 30 years.

The material follows:

I ISSUED THE COMMAND AND I KNEW WHAT I WAS DOING

(An interview with Gen. (Reserves) Mordechai Gur following his retirement from the position of the Chief of the General Staff of the IDF)

Q. Over the past few weeks, we've been spending a lot of time in Lebanon. The scene that revealed itself there was truly astonishing. IDF soldiers were found looting and breaking into shops and demolishing houses, even when no signs of terrorists could be detected. What has happened to the IDF? What has happened to its renowned ethics of warfare? To its policies eschewing non-belligerent civilians, including women, children and old people? After the experience of so many wars, wasn't it possible to handle the looting that took place? If, for example, a Brigade commander would have told his Battalion commanders that they would personally go to prison if any of their men would be caught looting, we can be sure that they would have done their best to have matters under control. You can't imagine what went on there.

GUR. Why can't I imagine? Wasn't I there?

Q. When you arrive with your high-ranking entourage, everything looks different. They don't show you everything.

GUR. Not only has nothing in the IDF taken a turn to the worse in the realm of ethics, but nowadays, after 30 years of experience there is a greater awareness of these problems, and consequently a greater sensitivity.

When I was a battalion-commander in Golani, in 1962, we raided a Syrian outpost in Nukiyev one Friday, and on Saturday night the guys returned home. They came back on Sunday morning and I had to talk to them. At home, they were apparently brain-washed: "Why does the IDF raid the Syrians, and why did you agree to participate in the raid?" And I, humble servant, went into their hall and said: "Look here, when I was a platoon commander, there were many operations to which I was opposed, but personally, I have always thought that if the government decides to carry out an operation, it would be better if I carry it out even if I don't always approve rather than let someone else do it. Now, you people have the same choice. I am convinced that this raid was necessary. Each of you, as a young man in the service, would do better if he carried out the operation and not sent someone else in his place. However, if anyone rejects my theory he can raise up his hand—and he will be discharged from the unit. He can go and serve somewhere else

But the important thing is not what I said. The main point is that we carried out this raid against a Syrian outpost that was scheming [1] against our free navigation in the sea of Galillee. During that period there were dozens of confrontations with the Syrians and there were people from the kibbutzim who believed that this was contrary to political morality and to the ethics of war.

"During the War of independence I have beaten a soldier who looted".

After the Six Day War, "Siah Lohamim" evolved (the book called in English "The Seventh Day." Tr.). Why? When I have helped with the editing of the book, [2] the section dealing with my brigade of paratroopers contained a very long chapter on looting, which we edited very delicately, because throughout my life I've refused to shut my eyes to this human and military phenomenon. The first time I have beaten a soldier—it was my driver during the War of Independence, in a village near Gaza. During the fighting, he spread a rug—a pillaged rug—on my jeep. I told him, give it back! He did not want to return it and I beat the living hell out of him.[3] In my parachuted Nahal battalion during the Sinai campaign—we took a rest of about half an hour in between the battle of Nachal and the Mitleh—the armored trucks and the command cars were loaded with pillage. And mind you this was a parachuted Nahal unit! Everyone of them subsequently joined the settlements.[4]

When you tell people, who were raised on the ethics of "Thou shalt not kill;": "Go to war and kill the enemy"—then everything else is permitted. The minute you overturn the moral code, what can a man do?

Q. But who overturns this code?

GUR. The very fact of the command. "Thou shalt not kill", is replaced by "Kill the enemy!"

Q. True. But one must first identify the enemy.

GUR. The soldier does not have this problem. The issue is, are we going out to war or are we not?

Q. But in case of a meeting with a civilian population?

GUR. In Jaffa there was once a civilian population or was there not? In Haifa was there a hostile civilian population or was there not? Did they leave one apartment untouched or unlooted?

Q. But this is not enough to justify.

GUR. I am not saying that it can be justified. Every time we grow a new generation of fighters for whom this is the first war. He tastes it for his first time. From the deputy-battalion commanders and down, the soldiers who participated in the Litani operation took part in the Day of Atonement war. That was their first taste of war. And pillage and looting are—I fear—a part of this first taste.[5]

Q. And what are the consequences?

GUR. We are then obliged to take greater notice. But first, the war must be concluded successfully, and the attention of the commanders must be centered on completing the operation from a military point of view. You do not halt an attack to take care of the wounded; you continue attacking. Therefore, you certainly won't stop in order to check the behavior of the soldiers. But what can you do? You wage a struggle—against theft, for more discipline, for a neater appearance, for guarding equipment. And you know very well how much equipment disappears during reserve duty, etc. so that nothing has really happened to the IDF.[6] What has taken place is that during war we are plagued with negative phenomena, against which one must struggle. But it is certainly wrong to think that civilian sort of crime can be put to an end through stricter discipline and harsh punishments. It is a function of human traits, according to my opinion, and there too it was so to a great extent.

Q. Four days elapsed until the military police in Lebanon came into the picture. Four crucial days.

GUR. They were not crucial, because during those four days we did not know whether we were going to remain there or not.

Q. But as far as looting is concerned, they were crucial

GUR. I know that.

Q. Assuming that this was not the last war, how can a young Israeli be prepared for a meeting with civilians during the fighting?

GUR. The men who fought in the Litani operation were prepared on matters of principle, not on details. This civilian population, in the midst of whom we fought, is a population that has been sheltering the terrorists for over 10 years.[7] This is a civilian population that has been known for giving active support to the terrorists. This is a historical fact. It is of no avail to have a beautiful soul and be refined post-factum. I, myself, as a front commander, shelled them for two and a half years. After the slaughter in Avivim I bombed and shelled four villages, with no formal permission! Do you have any idea how many towns and villages we shelled in order to protect Beit-Shean? [8]

Q. Indiscriminately?

GUR. What discrimination? The people of Irbid did nothing when I bombed and shelled them. But then, that was near Beit Shean, near Maoz-Haym, near Beit-Alfa—so you thought it was natural.[9] The IDF retains two fighter-bombers in the air. Someone shoots?—They drop bombs. What has come over you? Are you forgetting your history?

Q. Our official military statements always spoke about retaliations against the sources of fire and reprisals waged only against terrorist targets.

GUR. Come on, really . . . Don't you know that the Jordan Valley was emptied during the War of Attrition?

Q. In other words, when you are talking about a bombardment (by the IDF) you mean we did it indiscriminately?

GUR. I don't have a selective memory. I have been serving in the army for 30 full years. You think I don't know what we did all those years? What we did along the Suez Canal? We created one and a half million refugees! Really, where do you think you are? You arrange things in your minds according to your momentary desires. We shelled Ismailiya, Suez, Port-Said, Port Fuad. One and a half million refugees! What has suddenly happened? For ten years it has been impossible to travel at night along the Lebanese border. How come that this population of Southern Lebanon all of a sudden becomes a righteous one? They knew what the terrorists were doing, they would help them before and after their operations and receive them back as heroes.

Q. Are you saying that the population [10] is punishable?

GUR. Certainly. I have never had any doubts about that. You ask me about the population of Nakura, from where Katyushas were fired at Nahariya, where the terrorists lived among the civilian population? I saw, with my own two eyes, how the terrorists would sit in the main house with the green wall and eat among the locals.

Q. In your instructions to the IDF, did you not state that a distinction has to be made between the population in general and those we want to hit?

GUR. I don't cheat myself. I gave this order to the whole army. And when I issued an order to the IDF to enter a populated area and sanction a fire-doctrine, I knew what I was doing. All I have to beware of is the phenomenon of "Hast thou murdered and also inherited?" that is, against looting. And personally, I have always been scrupulous about it.[11]

We chose a different plan—and paid in blood.

The decision to attack Lebanon with such force was a political-strategical one. When I gave Yanush [12] the OK to use bombers, artillery and tanks, I knew what I was doing. When I said to Yanush: Get the tanks into Maroun A-Ras as fast as you can and hit them from the distance, before the men get close enough for a face-to-face battle, didn't I know what I was doing? I issued that order! Was the Litani Operation the first instance that I gave that order! Thirty years, from the War of Independence till today, we have been fighting a rural and urban population and the question has been following us along: To strike or to hold fire when confronting civilians. We got our best lesson from the unit that carried out the massacre on the bus. I had information, I had a plan. Eventually, we chose a different plan in order to avoid striking against civilian targets. We paid our price. We paid the price of 36 dead and a hundred and more wounded.

Q. When was the decision to go as far as the Litani taken?

GUR. There were two stages. One was in-

Footnotes at end of article.

tended to strike against the infrastructure of the terrorists at a depth of about 10 km. and then reach an agreement, our official partner being the Lebanese government. We weighed the possibility of a UN intervention, because such a solution has been raised many times. The question was whether there is a chance that the UN would agree to station their men on the Litani River. I confess: I thought that if we will reach the Litani, the UN would, in fact station their men there. There were many who doubted this and felt it was an illusion.

The second stage was the actual extension of our attack to the Litani. This was agreed upon only on Saturday night in a meeting with the Prime Minister. The operation began on the night between Tuesday and Wednesday. The first stage was concluded Wednesday night. On Thursday, Friday and Saturday there were meetings, and rumors began circulating about a possible UN intervention. Towards Saturday night, it become clear that there will probably be a decision by the Security Council and the USA President is not waiting for Begin's arrival. I suggested that we go as far as the Litani so as to establish a better foundation for the UN forces.[13]

Q. Was the (Israeli) government surprised that the President of the United States acted without coordination?

GUR. I cannot speak in the name of the government. This possibility was taken into account, and the fact is that we took the decision to go as far as the Litani before everything was clear. There was a feeling that in this case the Americans would make haste towards Begin's visit. Here, of course, we could decide whether Begin was obliged to go or not.

Q. Does Israel need to continue to promote the Christian enclaves? We have been living with the enclaves for over two years.

GUR. Israel is not promoting the Christian enclaves. But as a result of the civil war and the good-fence, a certain obligation developed, and the government made this obligation patently clear on more than one occasion. Both from a moral and from a political point of view we cannot allow these enclaves to disappear. If the Lebanese government renews its sovereignty over the South, and we hope it will, the Christian enclaves will come under Lebanese sovereignty and their military force would be absorbed into the Lebanese army.

Q. The renewed sovereignty by the Lebanese government—at this point is only theoretical.

GUR. O.K. Then the problem will remain open.

Q. But the question is—What about us? Will we continue to maintain that area?

GUR. Don't attempt to adumbrate the development a-priori. We are speaking of years. It may be solved in months. But let's assume it is not—does it bother anyone?[14] We've been co-existing with the enclaves for two years. I agree that this is not a political solution. The only real solution is renewed Lebanese sovereignty. But if it will not be able to do so, we will not have any difficulty in continuing to maintain the enclaves.

Q. The Litani operation, as it now stands, has it frustrated the possibilities of attacks against our Northern settlements?

GUR. Today, no one can give a decisive answer to that. Personally, I believe that there is now a new political infrastructure in South Lebanon, which will bring about a meaningful attenuation in the activities of the terrorists. The main parties would like that: Israel, the United Nations, the Syrians and the Lebanese government. Only the terrorists remain, and they are quite split up. It is not an accident that we have been hearing statements in the style of: "We shall be prepared to negotiate a redrafting of the Cairo agreement at the end of the Israeli withdrawal." The extent of the operation forced everyone to reevaluate his position. If this new situation is dealt with (politically) in the right fashion, a de-facto ceasefire will assert itself.

Q. Except the terrorists, all the parties were prepared to negotiate an agreement prior to the Israeli operation. Did the powerful attack somehow serve the interests of the terrorists? Have we somehow managed to boost up their motivation to provoke us even further?

GUR. That is a permanent question. It has been posed ever since the PLO published its Covenant. The Covenant not only deals with the destruction of the State of Israel, but has also outlined a strategy for achieving that. Their strategy is: Since the Arab states are not interested in all-out war with Israel, we will plot intrigues and arouse strifes that will lead them to war. The danger is permanent. Every (Israeli) government and every Israeli general-staff has been aware of it: Before every operation, it is necessary to take into consideration the risk of an all-out war. During the attack, and prior to it I argued that the operation will not harm the negotiations with the Egyptians and will also put to the test one of the main points of a possible peace treaty, not of the negotiations towards it: Can the Egyptians remain uninvolved when we are engaged somewhere else. But the fact is that we were not dragged into a war. You ask me how many more times will our partners be able to take such a risk?[15] Well, everyone does his own soul-searching and that will be the final criterion. There has been an improvement in the quality of the IDF.

Q. Many have asked you about quantity versus quality. We have here with us the result of a research project carried-out by a military psychologist (two years ago) in regular army units. The figures show that: 30 percent of the soldiers have feelings of hostility towards their direct superiors; 25 percent feel that they do not belong to their officers;[16] 40 percent do not know what is going on around them; only 50 percent feel that they are treated by their commanders with fairness. 35 percent do not know the background to the orders they receive.

GUR. Do you have a similar study carried-out 20 years ago so that you can establish differentials? Carry-out a comparative study! No research project has any validity if it does not have relation-coordinates. In my opinion there has been a qualitative improvement in the IDF, because of a very sad reason: There is now no immigration from backward countries.[17] Nowadays, all the "operational teeth" of the armored force, of the engineering squads, the paratroopers, and the land forces are all men educated above a certain level, and this already is a substantial improvement in quality. In my judgment, the maintenance of the soldiers is much more established today than it has been in the past. The army has developed and learned. Take, for example, the institution of the psychologists: There are very few high commanders who do not work with a team of psychologists and sociologists who sit in during meetings reserved for manpower maintenance and advise them on the correct approach.[18] The educational system, to the best of my knowledge has greatly improved. Has the level of volunteering gone down?—It is not. Do we have more problems (discipline, absenteeism, desertion) than in the past?—We do not. If one can gauge these issues, then we do not have greater problems of motivation and discipline than we have had in the past.

Q. The high-ranking officers are by and large Ashkenazi Jews, and the question is, whether the IDF is conscious of the need to bridge the social gap and accelerate integration?

GUR. The army is achievement-oriented. It is a performance-geared society par excellence. You cannot appoint a batallion commander on the basis of his ethnic origins. He leads men to battle. In this sphere, there is no 'forgiveness' and there can be no understanding, except for his ability to go to battle. It will be many more years until the Oriental Jews, even those who receive a full education, will be able to successfully contest the mentality of the West.[19]

Q. It is difficult to swallow what you are saying about mentality while not mentioning the vector of environmental conditions.

GUR. But I am taking them into account, and how! We hope we shall be able to advance them also in that. We will advance them, because in our schools they learn techniques of thinking, while the Arab schools still stress memorization, and that is an essential difference.[20] That is why in our struggle with the Arabs, I hope that we will lead not only in terms of elites, that have an a-priori opportunity to jump ahead, but also in the wider layers of society if we give them the appropriate education.

The practical question facing the State of Israel and the IDF is how to divide up resources so that, the elite continues to advance and Israel must, under no circumstances lose its prominence in its mental and technological elites, and together with that to persevere in its advancement of the lower layers of society so that the gap does not become too wide.

Q. And your opinion about this?

GUR. The question of allocating resources is a major topic for the government. It is vital that we provide education and I mean the maximum to the wider layers. This is not only a national-social obligation but definitely a military one as well.

Q. How would you carry-out a comparison between a budgetary increment for a long school day and a similar increment towards the purchase of arms, so far as their importance for national security is concerned?

GUR. I cannot answer that on a national basis. It demands very careful considerations. A stereotyped answer such as "education is more important than guns" or the opposite, is not a serious answer.

Q. Is there a need for another headquarters to build up the force? What will be its function during a war?

General Tal was asked to submit a program for a re-organization of the land-forces. Are you opposed to his recommendations, and if so, why? What was the fate of his recommendations?

GUR. Why am I opposed? When I was appointed Chief of Staff, it was after I had served as an officer all my life. I was never an administrative officer and I have never worked in a manpower division. And so it was a subject I was not so well-briefed on. On the other hand, I knew that we must build a large high-quality army, and I had to give an answer on how to do exactly that.

I appointed General Gonnen to carry-out a thorough study of the needs of the land forces, that will promote the doctrine of integrated fighting and will unify the forces.

To the best of knowledge, General Gonnen did a very thorough job. When his work was finished we organized a two-day symposium: We brought in everyone from the high-command and General Gonnen presented his findings. A debate followed. And I confess, the more I looked into the matter the more I realized that there was no real need for that. I saw that it will be disfunctional to the system in a period of rapid expansion, and I did not see any reasons to promote it. Now I am asking a practical question: If we've managed in such a short period to build such a mighty army, why should the structure be altered? Nothing is more successful than success itself. Did I want to implement the doctrine of integrated fighting?—We managed to implement it down to the last soldier. Ac-

Footnotes at end of article.

cording to what method? The Chief of Staff himself simply ratified every exercise in his office, in the company of 30 other persons, who became a forum for doctrinal discussions. We established central exercise boards and through them implemented the fighting doctrine. And since then we have integrated new arms, new equipment and we trained the men—and everything ticked like a watch.[21]

Q. The subject of a land-forces headquarters is new?

GUR. This idea was presented to the IDF in the fifties. All the General Staffs rejected it. I talked it over with Itzhak Rabin, with Haim Bar-Lev, with Dado.[22] They told me that the Chief of Staff has to be a nut to accept it.

The land forces are the most vital forces of the IDF in wartime. The Chief of Staff commands the army through the local headquarters. Is there a need for another headquarters, for manpower? For personnel? What will be its function during wartime?

If the plan was rejected in the fifties, who is going to tell me that it is practical for the eighties? [23] It is simply a deception of the public. But what today, when the IDF is larger, so they tell me that it is necessary? I say: It is useless. The Chief of Staff commands the army very well, through the existing channels. I do not see any reason, organizational or any other for doing that. Even those who recommend it do not say that it is a solution for wartime. It is a method of force-building—a luxury that the IDF cannot afford.

Q. Every officer in the Reserves has the right to express his opinions. How would you advise the public to react to the opinion of former army officers? In your judgment, is there a misuse of ranks in public debates? What is our view of the officers' letter?

GUR. (A) Every officer in the reserves, regardless of his rank, is a citizen and is entitled to express his opinion. (B) When a person has an opinion, and he attaches a rank to it, I see no harm in that. More specifically, regarding the "officers' letter"—they did not sign it as "a group of officers" but each of them wrote down his rank, so that people will know who they are. In other words, so that it will be known that they are not men of beautiful souls and draft dodgers, but persons who carry out their duties. I know that the name "Group of officers" was tacked to them. They were stigmatized, and they wanted to change the name.

If officers, as groups, will utilize their ranks in order to publicize their political views, it is not unacceptable. I know about this group, that this was not their intention.

But aside from that, it is impossible to disregard the fact that there are many military men both in the government and in the Knesset, and when political and security matters are debated, they use their status of ex-generals to give more weight to their statements. Well, why can an ex-general use his rank to promote his views and a simple officer cannot? I worked in complete coordination with the ministry of security.

Q. Would you define the relations between the Ministry of Security and the General Staff—in terms of responsibilities and duties—as a "well-functioning system"? Would this be a realistic definition?

GUR. I can not say whether it operates with maximal efficiency. I can only tell you, that for the four years that I have been serving as the Chief of Staff, the system functioned with complete coordination. There are people in the Ministry who feel that they should have had more authority in the field of purchasing equipment. There are high-ranking officers, today, who think that the involvement of the Ministry of Security is too deep.

I do not know if there is a decisive answer to that question. The answer is one of consideration. All I can note is that there was coordination between the head of the Ministry of Security and the General Staff. There are bureaucratic inefficiencies, there are problems of tenders, there are problems of administration. This doesn't mean that everything ticked—not in the air, not on the sea, and not on the land. And many times when I reviewed complaints against the Ministry of Security I found that the problem was with us, not only with them.

In my general world-outlook, I am not an imperialist.[24] I am opposed to granting the IDF more authority. I am opposed to having the IDF rule the Ministry of Security. I feel that in a democratic state, it is very good if power is decentralized. I am opposed, in principle to granting power to one main body. For example, in domestic affairs, marches, etc. . . . why should the army have to deal with those kinds of things?

Q. How about domestic security?

GUR. Nowadays the police maintain domestic security, but it is lacking in resources.

Q. And in your judgement, this must change?

GUR. Three years ago or more, I made a suggestion to strengthen the police and not to allocate further resources to the IDF. The IDF, today, is stronger. It is a matter of decision making and courage to transfer resources.

Q. In what sense were you too much of a statesman-chief-of-staff?

GUR. I was never a non-statesman-chief-of-staff, so I can not really answer your question.

Q. To what extent should a chief-of-staff be free from political valuation in making his decisions?

GUR. He cannot be. The chief-of-staff has to provide military answers to political questions. As far as the boundaries between the military and the political are concerned, there is no final answer. The chief-of-staff must be an integral part of the system of considerations in the overall strategy of the state. To the best of my knowledge, a Chief-of-Staff in the State of Israel can not be divorced from political calculations. If there is a need for a formal ratification of this, then the statement of the Minister of Security in the press conference can provide that. Why am I emphasizing this? Because 8 months ago the minister [25] spoke a different language. But he has learned from his experience: It just doesn't work, not for a security minister and not for a chief-of-staff.

Q. You have participated in most of the government meetings.[26] In your opinion, are the political considerations in the general-staff similar to government calculations?

GUR. In my opinion, there is a conceptual error involved here; between a political and a policy consideration. The difference between the General Staff and the government is that in the former there are no internal or party considerations. The General Staff does deal with matters of foreign and defense policies. In my judgment, they are identical. The difference lies in the fact that the government considers matters relating to daily politics, and that is also why decisions are taken by the government and not by the General Staff. In the final analysis, the face of the nation is molded both by political decisions and by ideology.

Over the past four years I can hardly recall an instance of a chasm between the political and defense stances of the General-Staff and the outlooks of the various governments. That is a good situation. But it is not a necessity. Quite simply, the situation in Israel demands close cooperation.

Q. But over these four years, the government has changed.

GUR. That's why I am saying that the security situation doesn't change. Only the government can change.

Q. You said that you will "keep an eye" on the Minister of Security. Are you pleased with what he has been doing? Has the State of Israel done enough to move towards Sadat?

GUR. Contacts with the Egyptians must be pursued to the limit. About what the government did or failed to do—I won't answer. I am a citizen, but I'm also an ex-chief of staff, and there are certain things I will not say at this stage. In my opinion, contacts with the Egyptians should be pursued, and what I told the Minister of Security emanated from my full agreement to pursuing the contacts and debating the issues.

As regards the second question: Who wants peace. In my judgment, many Israelis made a crucial error—and I do not mean merely a tactical error—when they said: "Sadat wants peace. I sincerely believe that the Egyptians want peace." What that invokes is that the Jewish people don't want peace. No one is able to read another man's mind, and no one really knows if the Egyptians honestly want peace. I am prepared to say that the way I see things, Israel wants peace much more than any Arab state separately;[27] certainly more than all together. Furthermore, this is the consensus, that the State of Israel is prepared to give more for the sake of peace than any other Arab leader.

In my judgement, the task of proving oneself today, lies with Sadat and not with us.[28] Until today, Sadat has conditioned peace upon a solution for the problems in the Eastern Front, and he knows that they are complex issues, and can not be resolved by mere statements.

Q. The thesis relating to a defence-pact with the U.S. has been publicized in many versions. What will be your position regarding it if it is raised in formal circles? Can we risk accepting it for the price of surrendering territories?

GUR. I am not speaking, at this moment, about the price. I can say that a pact with the US can be healthy, provided that the State of Israel itself is healthy and is in a position to defend itself, even if American interests at some point, will mean non-interference.

Q. And that is the situation today.

GUR. True, and I feel that fundamentally, the State of Israel and the IDF must continue to increase in power so that we shall be able to cope with our problems by ourselves. Only then can we hope for a true pact.

CONCLUDING NOTE

There are in this very important and revealing interview three matters to consider.

(1) The real situation of the IDF. I will deal with this in a coming collection, as I have already dealt with it in the past, however it must be stated that in my opinion, M. Gur and the other Israeli generals, and with their hordes of hired psychologists and sociologists, do not know the situation in their own army at all. This is, by no means a new situation for army generals, and since General Gur was in Israel compared many times, to a typical general of the Austro-Hungarian Army; it is enough to add that the book "The Good Soldier Schweik" could serve as an admirable corrective of M. Gur's opinion.

(2) The question of veracity of the IDF official pronouncements, and of those who still trust them. It is quite clear now, that the official policy of the IDF was simply to lie all the time, specially about the harm done to the civilian population. I think that it should be admitted that General M. Gur, who has finally revealed the truth as it is, and as it was all the time, should be regarded in this respect, more highly than for example General Matty Peled, that fake peace-campaigner, so beloved by the American Quakers, who has never said one word of truth, at least publicly about that subject of the Israeli Army bombardments of civilian population. Nearly all the Zionistic "doves,"

Footnotes at end of article.

are also completely hypocritical on this subject.

(3) Some words are due to the examination of the "doctrine" itself, which is the "accepted doctrine" in Israel (and by all the Zionists before) whatever is lied publicly. According to this "doctrine" civilian population near which activities hostile to Israel are conducted, should be exterminated, expelled, or at least as much of it killed as possible. This is a terroristic doctrine, and the behaviour of the Israeli Army, according to the free admission of its Chief of Staff is the behaviour of a terroristic organization of the worst kind, certainly much worse qualitatively and quantitatively than the terror acts committed by the PLO (or under its name). Let us compare three acts committed by some of the PLO organizations, which are notorious, and which I have myself strongly condemned: Munich, Ma'alot and the recent bus attack (11. 3. 1978). In all of them there was a strong attempt on the part of the Palestinians to avoid bloodshed. Much as I am opposed to the taking of hostages, both morally and politically, one has to say openly and honestly, that an indiscriminate bombardment or shelling of a town or a village, is much worse than taking of hostages in all respects! Also the terms such as "retaliation" or "population which helps terrorists" apply on both sides or on none. I think that they are no justification, but the Zionists (and Jimmy Carter too!) think that they supply to them and not to the others. I Shahak.

FOOTNOTES

[1] All emphases mine. In fact what was in question was the Syrian right to those portions of the lake adjoining their shores. I. Shahak.

[2] This interesting and significant *fact*, that the high officers of the Israeli Army have "helped" to edit this book, was of course not mentioned by the nominal editors, a group of hypocritical propagandists from the kibbutz movement. In consequence of this deception "The Seventh Day"—which is a piece of deception and dishonesty from beginning to the end, is quoted as "an original document" about the "nature of the Israeli army" etc., by many Zionists who want to deceive in a pseudoscholarly way. One of the last cases of such a use is Michael Walzer's "Just and Unjust Wars." I. Shahak.

[3] Private chauffeurs of high officers are for all purposes servants. Beating them is not rare.

[4] That is a kibbutz or a moshav.

[5] Ridiculous nonsense! This "taste" stays!

[6] Some of this will be dealt in a coming collection.

[7] The implications of this doctrine will be dealt in the Concluding Note.

[8] In 1968–1970, East-Jordan is referred to.

[9] Kibbutzim of Mapam hypocrites. Gur is right on this point. When a kibbutz of Mapam is threatened or attacked, Mapam (whose paper Al-Hamishmar is) demands worse retaliations than even Begin, and considers them "natural". I. Shahak.

[10] Emphasis in the original.

[11] Even this is untrue.

[12] The Commander of the North Area.

[13] In my opinion all this is a string of lies. The truth was said by Uri Dan in Ma'ariv (7.5.58). See my West-Bank Collection. I. Shahak.

[14] This is a typical piece of the true Zionistic mentality, which some people have great difficulties to grasp. I. Shahak.

[15] This is also very significant. Egypt of Sadat appears—correctly I think—*as Israeli partner* and the main Israeli strategic thought is how to wage an offensive war *and* to keep this partnership in being. I. Shahak.

[16] The very question of the "military psychologist" is revealing! Apparently the job of the psychologists in the Israeli Army is to help achieve a situation *in which a soldier feels that he belongs to his commander*. However, in my opinion, there does not exist such a group of utter fools in Israel, as the Army psychologists, and in comparison with *them* even General Gur can be thought as—moderately—clever. I. Shahak.

[17] Arab countries, he means.

[18] Apart of the general stupidity of this claim, which is as if one would say that he is healthy for he needs a doctor always, there are strong indications that the psychologists are making things worse.

[19] It is difficult to find a more blatant piece of racism! I. Shahak.

[20] The usual opinion in Israel of what the Israeli school does to its pupils is rather different.

[21] Specifically on parades and exercises organized for the guests of the United Jewish Appeal from the USA.

[22] David Elazar.

[23] And a man who is capable of such "logical" statements speaks about a mentality of Oriental Jews or Arabs! But all racists are like this. I. Shahak.

[24] He means it!

[25] Ezer Weitzman, who has attempted to re-establish the civilian power over the Army as in Ben-Gurion's time. ***He failed completely,*** mainly because of Begin's support to the Army over his head. I. Shahak.

[26] This is one of those little things about Israel, which are of *supreme importance*, and yet almost nobody *outside* Israel knows about them. During Ben-Gurion's time the Chief of Staff, or other official however high, *never* participated in a cabinet meeting. Officials, including Chief of Staff, were very rarely called to give a report and then dismissed, while the cabinet deliberated and decided, and this is the procedure in the great majority of all states. However in Israel, for many years now the Chief of Staff (and others too) actually *fully participates* in very many—maybe even most as stated here—of the meetings of the Israeli government, with the results that can be imagined. I. Shahak.

[27] *Here* he can read minds. But the whole question is nonsense, fit only for the American TV. Everyone wants peace, *his own* sort of peace. The Zionistic peace, is to rule the whole Middle East, peacefully. I. Shahak.

[28] Emphasis in the original.●

## PUBLIC HOUSING IN PASSAIC

● Mr. WILLIAMS. Mr. President, I would like to call to the attention of my distinguished colleagues, the accomplishments of the housing authority of the city of Passaic, N.J. The combined efforts of management and tenants, as demonstrated by the formation of a Tenants Council and a Housing Police Force, have enabled the Passaic Housing Authority to overcome problems which have plagued many public housing projects in other areas of the country.

As a member of our Committee on Banking, Housing, and Urban Affairs, the success of this housing authority gives me great confidence that the aims of public housing can be met, given resourcefulness, determination, and effort. The record of the Passaic Housing Authority is so outstanding that the Department of Housing and Urban Development chose to highlight this authority in the June 1978 issue of its magazine Challenge.

Mr. President, I ask unanimous consent that the text of this article, "Public Housing is Alive and Well in Passaic, N.J.," be printed in the RECORD.

The article follows:

PUBLIC HOUSING IS ALIVE AND WELL IN PASSAIC, N.J.

(By Paul A. Marguglio and Donald Pieri)

Through a combined effort of tenant and management, today there exists a new atmosphere of trust and understanding in the Housing Authority of Passaic.

To foster understanding between tenants and management, the Housing Authority assisted the tenants in forming a Tenants Council, which has become an active, interested and hard working group. It attends board meetings, makes recommendations and, in general, has become the advisor to the Authority. The council brings to the Authority tenant grievances and also sits with the Authority at tenant hearings on complaints initiated by the Authority, when the end result may be eviction.

A key issue which has always concerned tenant's is safety. In 1975, a Housing Police Force was formed through a grant from the State Law Enforcement Protection Agency. The Housing Police received the same training as the City Police, and were given the same powers of authority; however, their sole function was to patrol the Housing Authority projects. Through the introduction of new safety measures, and the Housing Police, together with the Tenants Council and management, we were able to reduce our vandalism and theft.

The Authority has been commended by the New York Regional Office of HUD for its hiring practices and tenant selection policy.

EMPLOYMENT

As of December 31, 1977, the Housing Authority showed that 65.8 percent of its work force consisted of tenants. This high percentage of tenants working for the Authority was not by chance, but by the Authority's belief that hiring tenants is a good economic practice.

Hiring tenants has helped reduce vandalism in some respects. This is because tenants relate well to the tenant employee doing the work and realize that if vandalism should occur, the tenant employee would have to redo his job. A perfect example of this is seen in the case of the laundry room that was operated by a private contractor, who provided laundry equipment for the tenants. The contractor was faced with a high rate of damage to his equipment through vandalism, and so decided to cancel his lease.

In order to continue this service, a tenant from the project, who also happened to be an employee, took out a loan and now operates the laundry room. Now there is a low rate of vandalism, offering proof that tenants relate to this man's investment to assist them. With enough proof to convince management that tenants on the staff are proving to be an asset, the Authority immediately applied for a CETA Grant.

In 1977, a CETA Life Program was approved. It is called Face-Lift. The purpose of this new program was to provide additional services to the tenants, which ordinarily could not be provided with the existing staff. This program also enables the Authority to hire additional tenants, as well as nontenants. Project Face-Lift involves an extensive program, consisting of painting, repairing and cleaning the projects at a more rapid pace than could normally be accomplished with the existing staff.

MODERNIZATION

To supply the existing projects with needed and updated improvements, a Modernization Program was initiated.

In order to maintain, upgrade, and modernize the existing facilities, the Passaic Housing Authority has undertaken a multifaceted and multiphased program of improvement with financial assistance from the United States Department of Housing and Urban Development. The program aims to:

Improve environmental conditions by meeting existing air pollution and solid waste management codes;

Modernize apartment units;

Replace old and obsolete equipment and physical plants to decrease energy demands;

Provide additional safety and security;

Provide additional recreational facilities; and

Improve aesthetics and landscaping.

The modernization program will continue and will be directed at updating the physical plants and improving the quality of life within the individual apartment units, common places like hallways, and on the housing sites.

Faced with a high percentage of delinquent rents in our family housing units, (there are no delinquent rent payers in elderly housing), the Authority was forced to appeal to the tenants for support. The response shown by the tenants was better than anticipated. In November 1977, the Housing Authority experienced a new milestone in its history: for the first time the Authority did not have to go to court for the collection of any delinquent rents. In December 1977, the Housing Authority again experienced further progress, when only 13 tenants failed to meet the deadline for paying the rent. December had been known to be one of the worst months for the collection of rents.

The Housing Authority of the City of Passaic has only scratched the surface of what remains to be done. Gaining the respect of the tenants has given management an incentive to strive for a even greater understanding of tenant needs.

Today in Passaic, the Housing Authority has made its mark. We can say that Public Housing is alive and well in Passaic. You need only ask the tenants who occupy it.

Following are some of the services extended to residents of Passaic Housing Authority projects.

ADULTS

Adult Evening Education.
City Health Clinic Annex.
Home Economics.
Job Placement Center.
Tenants Council.
Mental Health Clinic Annex.
Planned Parenthood.
Police Department Community. Relations Mini-Station.
Police Planning Unit.
Senior Citizen Community. Room Programs.
Urban Insect and Rodent Control. Rat Control.

CHILDREN AND TEENAGERS

Arts and Crafts.
Basketball Competitions.
Bible Classes.
Boys' Club Annex.
Boy Scouts.
City Recreation Program.
Day Camp, Cub Scouts.
Day Care Center, After-School.
Day Care Center, Pre-School.
Get-Up Committee Block Dances.
Little League Baseball Teams.
"Miss Black Passaic" Beauty Pageant.
Narcotics "Hot Line."
PICA Summer Program.
PRIME Program Delinquent Students.

HOUSING UNITS IN PASSAIC

Today the Housing Authority of Passaic manages 600 units of Public Housing, 365 units of Section 23 Leased Housing and 150 units of Section 8 Existing Housing, as shown below: Project N.J. 13–1: Alfred Speer Village, six 8-story buildings consisting of 64 family units in each building, total of 384 units. Project N.J. 13–2: Vreeland Village, 10 3-story buildings consisting of 116 family units. Project N.J. 13–4a: Harry K. Hecht, one 7-story building consisting of 50 units for the elderly. Project N.J. 13–4b: John J. Murphy, one 7-story building consisting of 50 units for the elderly. Project N.J. 13–5: 173 subsidized-dwelling units for the elderly (leased), located throughout the city, in existing privately owned dwellings. Project N.J. 13–6: Subsidized-dwelling units for the elderly (leased), in newly constructed privately owned dwellings. Section 8 Existing Housing—100 subsidized units for the elderly. 50 subsidized units for nonelderly.●

## TUITION TAX CUTS

● Mr. MOYNIHAN. Mr. President, in the controversy over tuition tax credits for elementary and secondary school students, much has been made of the argument that private schools are somehow bad for public schools. Although the facts belie this assertion—nongovernment schools enroll an ever-shrinking proportion of the student population—the major organizations of public school-teachers and administrations have reacted with unaccustomed ferocity to our modest proposal.

Because of the widespread perception that the "public school establishment" is united on this issue, it is worth attending to an important exception. Dr. Frank B. Brouillet, superintendent of public instruction in the State of Washington, submitted a memorandum to the Committee on Finance last January that contains a strong endorsement of this legislation. We have been in touch with Dr. Brouillet just this week, and while he says that he has been criticized by some of his colleagues for his stand on this issue, he stands firmly by what he wrote in January. In view of the importance of this debate, I ask that Dr. Brouillet's memorandum be printed in full in the RECORD.

The memorandum follows:

[Memorandum]

SUPERINTENDENT OF
PUBLIC INSTRUCTION,
*Olympia, Wash., January 5, 1978.*

Re Packwood-Moynihan Tuition Tax Credit Act.

To: Senator Harry F. Byrd, Jr., Chairman, Subcommittee on Taxation and Debt Management of the Senate Finance Committee.

From: Frank B. Brouillet.

I want to thank the Committee for providing me this opportunity to submit a statement for the record in support of the Packwood-Moynihan Tuition Tax Credit Act. While the bill has many merits, I will restrict myself to two main concerns.

Socio-Economic Integration.—The high cost of private education for low-income families is causing a change in the socio-economic status of private elementary and secondary schools. If the trend is not reversed, private schools increasingly will become havens for those who wish to escape the social problems associated with inner-city public schools and those whose main concern is a form of class exclusion or elitism. The tuition tax credit, with the provision for refundability, should stimulate cultural diversity in our private elementary and secondary schools.

And Without Control.—As a chief state officer, I am deeply and increasingly concerned about the federal and state control associated with aid to public schools. These controls generally have a meritorious public policy goal. However, the uniqueness of private education would be substantially harmed by similar controls. Therefore, I favor tax credits as the least destructive form of public aid to private schools.

I am aware that some versions of this proposal would make credits available for higher education purposes only. It is extremely important that elementary and secondary level students be eligible for the very social reasons already mentioned. The ability of private education to maintain integrated programs necessitates comprehensive legislation.

Again, thank you for this opportunity to provide the Committee a written statement.●

## THE WASHINGTON POST AND DECONTROL OF OIL

● Mr. GARN. Mr. President, last week I discussed President Carter's obsession with a crude oil equalization tax or other arcane ways of achieving a price rise in gasoline at the pump. I concluded that he is driven, like the coyote who chases the roadrunner, to the most complicated schemes when there are really very simple answers at hand. In the case of the price rise, I suggested that Mr. Carter simply come out in favor of the decontrol of oil. That would immediately raise the price of domestic oil to the world market prices, as Mr. Carter seems to desire.

On Sunday, the Washington Post, not known as predisposed toward big oil, made exactly the same point, somewhat less jocularly. As the Post noted, the present system "is becoming increasingly irrational and unmanageable." They did not add, though they might have, that the present system also produces short-term gluts in some places, and shortages in others, as oilmen have difficulty circumventing the regulator to meet market needs.

Of course, not being disposed toward big oil, the Post takes a few licks at the oilmen, recommending that Congress enact a severance tax on oil, so as to "scoop up," in their words, most of the $15 billion that might otherwise go to oil companies, if oil were decontrolled. In fact, of course, that $15 billion would, if left to the companies, encourage further production of oil in the United States, thus further reducing our dependence on foreign oil, which I thought was the point of the whole exercise. But we must not expect the Washington Post to move too fast. It is encouraging that they have seen through the President's rhetoric, and come up with a most reasonable proposal. Let us hope that the President is listening.

I ask that the Post editorial be printed in the RECORD.

The editorial follows:

TO RESCUE THE ENERGY PLAN

With the promises that he gave in Bonn, President Carter has changed the politics of oil and energy. One crucial part of his energy program, from the beginning, has been to raise U.S. domestic oil prices to the world level, ending the present enormous subsidy to imports. Until now, Mr. Carter has been urging Congress to push the price up with a tax on domestic crude oil. But Congress refuses. Mr. Carter's crude oil equalization tax bill is a dead duck. It hasn't been passed, and it won't be. But a week ago Mr. Carter told the other major industrial nations in Bonn that he was still determined to bring oil imports under control and get the U.S. price up. How is he to do it?

One possibility is a tariff. Another is an import quota. The President could impose either, without Congress' help, under his emergency powers. But both tariffs and quotas for oil are dangerously bad ideas. Either would set an evil precedent in world trade. Either would be extremely difficult to administer, with infinite possibilities for favoritism and manipulation.

There's a much better and more direct way to do it. U.S. prices are currently held down by mandatory price controls set by law. But by next May, those controls cease to be mandatory. The President can then set them wherever he chooses. We suggest that—after the election, perhaps at the beginning of the next Congress—Mr. Carter announce he is gradually going to take the price controls off crude oil, over a two-year period.

Decontrolling crude oil would raise prices of oil products about a nickel a gallon. The total revenue would be about $15 billion a year. That brings us to the second half of our suggestion. President Carter ought, at the same time, to ask Congress to enact a simple severance tax—a flat amount on each barrel, paid by the producer—to scoop up most or all of that $15 billion a year and send it to the U.S. Treasury.

Mr. Carter's original crude-oil tax would have put Congress in the position of voting a tax that would raise the price, and it was a position that not many people in Congress cared to occupy. The president would do better to raise the prices himself by lifting controls. Congress then gets the much more congenial job of rushing to the public's protection with the tax that will keep that $15 billion a year from flowing to the oil producers. How big a severance tax? Foreign oil is now entering this country at about $14.50 a barrel. New oil production in this country is controlled at about $12 a barrel. The severance tax would be as much of that $2.50 difference as Congress thought the public ought to recapture. There would have to be a higher tax on the pre-1972 oil production, since it is now controlled at a much lower figure. But with that single exception, there would be no variations.

There would be none of the rebates, energy trust funds or production subsidies with which the administration has tried to fan up congressional interest in its original tax bill. There would be none of the dubious dispensations and murky distinctions that are rapidly eating their way, like termites, into the present regulatory structure—the breaks for small refiners, for Caribbean refineries, for certain recovery methods, for small wells, for Alaskan oil, and so forth. The present system is becoming increasingly irrational and unmanageable. It is only a matter of time until major enforcement breakdowns, and perhaps scandal, overwhelm it. It can't be remedied as long as the government keeps trying to maintain several widely differing prices for the same oil.

To come back to the basic question, why raise oil prices a nickel a gallon? Because even small increases make people more careful in using the stuff. Because it is absurd to hold prices down artificially, when Mr. Carter and most other Americans think that the country uses too much oil. If decontrolling oil created social inequities, they would be minor compared with the gross inequities imposed by the general inflation that, as Mr. Carter accurately observed in his press conference Thursday, is being aggravated by the outflow of dollars for foreign oil. Congress won't swallow Mr. Carter's original oil-tax plan. But, as we suggest, there's a better and simpler way to get from here to there.●

## PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, Section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that 21 such notifications were received on July 20 and 21, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4734/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST CRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4919/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-3607/78.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-3608/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible tranmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4633/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: My letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-1350/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals

to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-5673/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4921/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country for major defense articles estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-5668/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, U.S.A.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4918/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-2142/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-5819/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-966/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4761/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNINDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, U.S.A.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-5663/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, U.S.A.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-4565/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*

In reply refer to I-5672/78ct.

Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*
In reply refer to I-3440/78ct.
Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*
In reply refer to I-4917/78ct.
Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 20, 1978.*
In reply refer to I-5669/78ct.
Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNEDIJK. By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES.
*Lieutenant General, U.S.A.*

Attachments.

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 20, 1978.*
In reply refer to I-3272/78ct.
Dr. HANS BINNENDIJK,
*Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*●

Attachments.

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## WHAT THE ECONOMIC EXPERTS ARE SAYING ABOUT ROTH-KEMP

● Mr. ROTH. Mr. President, in the past few weeks, the administration has launched a well-orchestrated campaign against the Roth-Kemp Tax Reduction Act. The administration's claim that a tax cut which offsets its massive new tax increases could be inflationary is a desperate attempt to head off real tax relief for the American people.

The economists who are now claiming Roth-Kemp would increase the budget deficit and increase inflation are the same ones whose policies have produced more spending, more taxes, and more inflation.

Their old-time economics of big spending and higher taxes has slowed our economy down, resulting in high unemployment, rising inflation, and persistent budget deficits.

The only way to get this economy moving again is to remove the straightjacket now strangling real economic growth. It is time for a new economics, based on lower taxes, more jobs, and income growth without inflation.

Mr. President, despite the administration's attack on Roth-Kemp, a growing number of economic experts have endorsed Roth-Kemp, and I submit these endorsements of Roth-Kemp for the RECORD.

The material follows:

WHAT THE ECONOMIC EXPERTS ARE SAYING ABOUT THE ROTH-KEMP TAX REDUCTION ACT

Dr. Alan Greenspan, former Chairman of the President's Council of Economic Advisors: "I support the Roth-Kemp Tax Reduction Act as a vehicle that will help us break away from an economic policy which looks increasingly unlikely to resolve the problems facing this country.

". . . those who label Roth-Kemp as inflationary are assuming the same type of federal expenditure growth which has created our current problems. There is no question that should we continue on the current path, we will be running large deficits and highly inflationary fiscal policies. But this would occur with, or without, Roth-Kemp. Our problem is that we tend to spend whatever we have. The great advantage of Roth-Kemp is that it would restore a significant part of the normal increase in tax revenues coming from the growth in the economy to taxpayers, rather than employing them for new expenditure programs. It is not Roth-Kemp that is inflationary, it is the process of federal outlays which Roth-Kemp may succeed in curbing."

Dr. Norman B. Ture, Economic Consultant: "The Roth-Kemp bills, S. 1860 and H.R. 83333, respectively, constitute one of the most constructive and exciting tax policy developments in the past decade and a half. Enactment of these bills, by reducing marginal income tax rates on individuals and corporations, would materially reduce the existing tax biases against market-oriented personal effort and private saving. The consequences thereof would be substantial increases in employment, production capacity, output, and real wages, and total real income. Assuming the monetary authorities could curb their penchant for accelerating expansion of the money stock, the strong increases in output would significantly dampen both expected and realized inflation. The substantial increasess in private-sector employment which would result would afford a solid basis for decelerating the growth in Federal spending."

Wendell Wilkie Gunn, Vice President, Chase Manhattan Bank: "By cutting marginal tax rates on individuals across the board and on businesses, it (Roth-Kemp) would provide for non-inflationary private sector economic expansion. It would signal abandonment by liberals and conservatives alike that inflation must be fought with unemployment and vice versa. It would release the enormous pool of energy and individual initiative that has characterized our great country since its inception. New employment would result and those Americans who, for obvious reasons, always seem to bear a disproportionate share of unemployment, would be among the greatest beneficiaries. And, believe it or not, it contains the only hope of ever achieving the elusive balance in the Federal budget.

Dr. Milton Friedman, Nobel Prize-winning Economist: "I support this bill since I believe that any form of tax reduction under any circumstances must eventually bring pressure to bear to cut spending."

Dr. Herbert Stein, former Chairman of the President's Council of Economic Advisors: "The case for a large, across-the-board cut in federal income tax rates, individual and corporate, not to be made in one step but to be phased in over the next several years, is simple and strong. If the tax rates now in force or scheduled under present law are continued, Federal taxes in fiscal 1983 would take 22.7 percent of the GNP. This may be compared with 19.6 percent in the present fiscal year and 18.2 percent in the years between the Korean War and the Vietnam War.

". . . the taxpayer is entitled to have his money back. The burden of proof is not on the taxpayer to show why he is entitled to keep more of the money he has earned. It is his money. The burden of proof is on those who would take it away from him in taxes. That burden of proof has not been sustained, and now every one knows it."

Mr. Donald Baldwin, Executive Director, National Taxpayers Union: "The National Taxpayers Union, representing some 70,000 dues-paying members nationally, and affiliated with hundreds of local taxpayers groups, fully supports the Roth-Kemp Tax Reduction Act as a vital part of a national tax reduction plan. . . .

"The average middle class American is losing his stake in the future. He is no longer growing richer. He is being impoverished solely as a consequence of mounting taxes

and the inflation caused by excessive government spending. . . ."

"The squeeze is on the American public. Our economy is sluggish. Inflation and taxes are eradicating the incentives to work hard and get ahead. The average American is becoming poorer every day. We desperately need these across-the-board tax rate reductions which average 33%."

"By slashing tax rates, which have now long since become counterproductively high, we could free the economy to create millions of new jobs and greatly expanded economic activity. For that reason, lower rates would facilitate, rather than impede, progress toward restoring fiscal integrity in Washington and eliminate the massive budget deficits which are largely responsible for our inflation. Critics of major tax cuts, of course, claim that they would aggravate the deficit problem. But history does not sustain them on this score. In every instance in which tax rates have been reduced since 1946, revenue losses projected by tax intellectuals failed to occur. In fact, revenues have increased. In the early 1960's, President Kennedy proposed a bold tax reduction which slashed individual and corporate tax rates. He recognized that such cuts were necessary to 'get this country moving again.' What was true then is even more true today."

Dr. Rudolph G. Penner, Director of Tax Policies Studies, American Enterprise Institute, and former Assistant Director for Economic Policy, Office of Management and Budget:

"The Roth-Kemp bill is really not a very radical bill, in the following sense: inflation is raising the average tax burden at a very rapid rate by pushing people into higher tax brackets, by eroding the real value of basic exemptions, the tax credits, and so on. So that Roth-Kemp's 30 percent reduction in tax rates would only reduce the tax burden back down to what it was in 1976. In other words, that shows how rapidly inflation has been pushing us up into higher and higher tax brackets.

"I do like the structure of Roth-Kemp because it reduces marginal tax rates, and I think at the top of our structure, our very high marginal tax rates are not serving a very effective social purpose, because they are inspiring so much distortion in economic choices and so much tax avoidance and evasion.

"A 30 percent tax cut over three years, given an inflation rate around the seven percent level, and social security increases, is not a very big tax cut, really. So it would not be very inflationary if you lowered the path of spending as projected in the budget . . . But if you can get that path down, as the Administration suggests, then a 30 percent tax cut is not a radical measure and would not have a radical impact on inflation."

Dr. Arthur B. Laffer, Economist, University of Southern California:

"People don't work and save to pay taxes. They basically work and save in order to acquire after-tax income. It is the after-tax incentive that drives production, savings and employment . . .

"The Kemp-Roth bill, armed with the experience of similar, but far more extreme, measures carried out by President Kennedy in the early sixties, addresses the current counter productive constellation of individual factor tax rates. By partially redressing the counterproductive structure of current tax rates it most likely will lead to a substantial increase in output and, in the course of a very few years, will probably reduce the size of government deficits from what they otherwise would have been. Net revenues could well expand even though income tax rates at each and every bracket are reduced. Part of the effect on the deficit, of course, will occur because higher output means less unemployment, less poverty and therefore lower total spending on unemployment benefits and poverty programs." ●

## PROF. JAMES S. COLEMAN SUPPORTS TUITION TAX CREDITS

● Mr. MOYNIHAN. Mr. President, several weeks ago, the Washington Post published an article describing the strong support given to tuition tax credits by Prof. James S. Coleman, the distinguished sociologist whose work on school desegregation has supplied the principal intellectual basis for that important effort since the publication in 1966 of "Equality of Educational Opportunity," for which he was the principal researcher. In view of the high degree of interest that has been generated by the proposal to provide tuition tax credits to elementary and secondary school students, Professor Coleman's views bear close scrutiny. Because I wanted a fuller explication of his reasoning, I wrote Dr. Coleman and last week received his reply. I request that there be printed in the RECORD at this point both the Washington Post article and an excerpt from Professor Coleman's letter to me of July 10, 1978.

The material follows:

DESEGRATION EXPERT BACKS TUITION CREDIT

(By Lawrence Feinberg)

Sociologist James S. Coleman, who headed a massive influential study favoring school desegregation in the mid-1960s, yesterday strongly supported a tuition tax credit to aid parents of private and parochial school pupils.

Coleman, a professor at the University of Chicago, said he favors the tax credit—which has been voted by the House but is bitterly opposed by the Carter administration—because it would "increase the range of choice of low-income black parents."

Particularly in big cities, Coleman said, where large-scale public school desegregation is unlikely, a tax credit "would increase the opportunity of black parents to escape schools that they think hurt their children."

Opponents of the measure have contended it would promote segregation, hurt public schools and mainly benefit middle- and upper-income groups.

But Coleman said that because of the relatively modest size of the proposed credit, $100 to $500 per student, "the principal effect would be on lower-income families" sending their children to relatively low-priced schools.

He said "a very large number of black children" already attend low-tuition Catholic schools in big cities, such as Chicago, New York and Washington, with generally positive educational results.

Coleman spoke at a forum on desegregation attended by about 60 persons at Georgetown Day School, 4530 MacArthur Blvd., NW. The forum was sponsored by the Black Student Fund, which during the past decade has aided more than a thousand black students to attend private schools in the Washington area.

He was introduced warmly by Alice M. Rivlin, director of the Congressional Budget Office, who later asked him to deal with the "accusation" that programs to help blacks attend private schools are "detrimental" to public education.

"That's not a valid argument," Coleman rejoined. "Anything that allows for an individual to have greater opportunity can't be bad for the country."

Besides favoring a tuition credit on federal income taxes, Coleman said he supported proposals to give vouchers to parents to use for tuition at public or private schools.

"Parents and children have a better sense of what's a good school context for them," Coleman said, "than do professionals who must deal with a very large number of children. I trust the parents and children more than the professionals.

"I think the stronger the private schools are the better it will be for the public schools because the public schools will be forced to be better to stay in business."

Overall, Coleman said, school desegregation since 1954 has had "no effect" on educational achievement of black students.

"In the absence of turmoil," Coleman said, "there seems to be an achievement increase." But so far, he said, this has been counterbalanced by reduced black achievement in places where desegregation was accompanied by conflict and fear and "distraction from study."

In general, he said, integration has been most successful in well disciplined schools headed by strong principals.

Coleman stressed that the main finding of his 1966 report, issued by the U.S. Office of Education, was that black students had higher achievement in mostly white schools not because of the skin color of their classmates but because of the middle-class background and "educational resources" that the white children brought from home.

"Increasingly, class is less correlated with race than it was 10 years ago," Coleman said.

Widespread desegregation, he said, has been "enormously beneficial" to the South by aiding its transformation from a backward region to a thriving "Sun Belt."

But he repeated his view, which has attracted controversy for the past three years, that desegragation programs requiring "instant racial balance" through compulsory busing have caused "very serious harm" by speeding the exodus of whites from big cities.

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CHICAGO, ILL.,
*July 10, 1978.*

Senator DANIEL P. MOYNIHAN,
*U.S. Senate,*
*Washington, D.C.*

DEAR PAT: Let me give you my general reactions to tax credits. I start with the premise that a major source of inequality of educational opportunity, and probably *the* major source, is the existence of choice of two kinds for some parts of the population and its absence for others. The two kinds of choice are first, moving residence to find a school or a school district which satisfies parents' educational desires for their children; and second, sending children to private school. Both of these choices are more available to families with higher incomes than to families with lower incomes. And the first of the two choices, moving residence to choose a school, is more available to whites than to blacks. Thus on two counts, blacks have reduced educational opportunity, and on one count, low income whites have reduced educational opportunity.

Yet despite the double disadvantage, many blacks choose not to attend the public school to which they are assigned, and manage to scrape together the money to send their children to a private school. Most often, this is a Catholic school, despite the fact that most blacks who send their children to these schools are not themselves Catholic. This shows two things: first, that blacks are enormously interested in their children's education (polls show this also—that blacks at all income and educational levels are more interested in their children's education than are whites of the same income and education). It shows also the great need of many

blacks to escape the school settings which their children are forced to be in at public school. I'm no more Catholic than those black kids who go to Catholic schools; but it is enormously beneficial for the upcoming generation of blacks that those Catholic schools are there for them to attend as their only escape from what may be a very bad public school.

Too seldom is it possible for persons at any income level, and particularly at low income levels, to use their resources to aid their children's education. If they choose to send their children to a private school, this requires an extensive sacrifice, because they are forced to pay double to do so, once through taxes and once through tuition. This doesn't matter so much to high income persons, because they have the income to do both. But low income persons don't. Thus, there is a great disincentive to use their financial resources (and the motivation that often goes along with it) to aid their children; all the inducements are to use it for personal pleasures. Somehow that's not the right way to run a society.

I think the idea of tax credits is a very good step in the right direction. It will help give low income people some of the educational opportunity for their children that high income people already have. In a sense, it provides an aid to parents to rescue their children from school situations that they find bad; and, as I indicated before, this is especially the case for black parents, who are locked into a given residential location.

Sincerely,

JAMES S. COLEMAN.●

## URGENCY REMAINS FOR DEVELOPMENT OF AIR QUALITY STATE IMPLEMENTATION PLANS

● Mr. MUSKIE. Mr. President, the recent serious smog alert in the Los Angeles Basin should be a reminder to all communities and States that the passage of the Clean Air Act does not guarantee the success of emergency plans to deal with air pollution crises.

Even with an emergency abatement plan to address such predicted smog alerts, many Los Angeles area residents have been subjected to extended health hazards because the plan's execution has not been completely successful.

The Clean Air amendments of 1977 took special steps to insure that States and local areas had the right to develop and implement their own unique plans to control air pollution from stationary sources and to develop their own transportation patterns. The need for States to move forward with a workable implementation plan is clear if we are to to meet clean air goals.

As the District of Columbia enters the second week of an air pollution alert, I would like to bring to my colleagues attention to three newspaper articles which reveal the importance of developing workable air quality implementation plans.

The first article is from the Los Angeles Times and presents an interesting profile of a major city confronting the inherent problems of making emergency control measures work. Two Washington Post articles underscore the urgency of developing air quality plans. One article details the District's attempt to develop such strategies. The second article discusses a study being prepared for the Environmental Protection Agency which indicates that smog levels have a direct correlation to community property values.

Mr. President, I ask that these three articles be printed in the RECORD.

The material follows:

CONFUSION SHROUDS L.A. SMOG ALERT

(By Sandra Blakeslee)

As the worst smog attack in years continued Friday, an emergency plan to reduce emissions and cut back traffic flow greatly confused citizens and government and industry officials throughout the South Coast Air Basin.

Compounding the problem were temperatures of up to 101 degrees, which caused people to retreat indoors and turn on air conditioners and fans. The use of appliances pushed demand for electricity in the Southland to an all-time high.

The second day of heavy smog forced the South Coast Air Quality Management District to implement its Emergency Abatement Plan for the first time, as second-stage smog alerts were both predicted and reached in the basin.

Local air pollution authorities attempted to enforce its plan by issuing notices of violations to more than 40 companies for failing to implement traffic abatement plans among their employes.

State and federal authorities kept an eye on the smog siege and said they will assess how well air pollution authorities—and basin residents—performed in the crisis.

"We are encouraged that at least people in Los Angeles are trying," said Tom Quinn, chairman of the state Air Resources Board.

Tankers in Los Angeles Harbor complied with control measures and nine ships were reported idle in the Los Angeles-Long Beach harbor complex. "This is the first time I've ever seen anything like this," said Harvey Harnagel, Long Beach operations director.

Oil refineries responded by cutting emissions a reported 20 percent.

But, overall, the first test of the SCAQMD plan met with mixed results.

The plan—which was adopted in May 1977—requires the district to take strong measures to cut down on emissions in the air basin when it knows in advance that stage-two smog conditions will occur the next day.

The plan has two parts. Major stationary sources of pollution must cut back their operations by 20 percent or more. The 1,350 companies involved have done this before and generally were able to comply on Friday.

However, these same companies were required to implement a traffic abatement plan for their employes—for the first time—and not all succeeded in doing so.

A requirement that 2,800 other businesses in the basin force their employes to car-pool to work—or in some cases stay home—caused the most confusion.

While 2,000 companies had prepared traffic plans, the district said, a spot check by The Times indicated that many organizations were caught completely by surprise.

District officials said they had left it up to employers to take action after notifying them about the stage-two alert on commercial radio or television.

It was the first time that citizens of the region were given an opportunity—if they heard the news—to reduce smog by forming voluntary car pools or by opting for public transportation to get to work.

During Friday's smog attack, natural gas supplies were plentiful for the Department of Water and Power (DWP) and Southern California Edison Co. Both utilities were required by the emergency rules to burn natural gas, which is much cleaner than fuel oil.

Edison said 60 percent of its power needs Friday were being imported from outside the South Coast Air Basin. Much of it came from hydroelectric sources in the Pacific Northwest and from coal and nuclear plants located outside the basin.

Edison customers demanded the most electricity in the history of the company Friday. Demand peaked at 3 p.m. at 11,429 megawatts. (The previous record was set on September 1977, with 11,247 megawatts.)

The same was true for DWP. Power demand peaked at 2:30 p.m. at 3,912 megawatts. (Their previous high was 3,809 megawatts in June 1976.)

DWP was generating about half of its electricity in the basin and brought in the other half from outside sources.

The current smog problem is a creature of peculiar weather conditions, said James Birakos of the SCAQMD. "We are prisoners of the weather right now. We expect things to improve late Sunday night but right now we are stuck with it."

Birakos explained that smog builds up when a layer of very hot air—called an inversion layer—moves in over the South Coast Air Basin. In recent days, the inversion layer has been at only 200 feet and the winds have been exceptionally light. When strong sunlight is added, these conditions lead to high concentrations of ozone, or photochemical smog.

Ozone is a pollutant that is not emitted directly into the air. Rather it is created when two other pollutants—hydrocarbons and oxides of nitrogen—combine in the atmosphere under the influence of the sun.

The ozone was at its worst in five years Friday. By mid afternoon stage-two episodes were called in the southeastern area (around Whittier), in the West San Gabriel Valley and in the Pomona-Walnut Valley.

A stage-two episode is called when ozone reaches a level of .35 parts per million. At that level, many people notice its smell and feel some eye irritation.

There have been nine stage-two episodes so far this year, Birakos said, although none was predicted. In 1977, there was only one and in 1976 there were four.

During Friday's episodes, companies throughout the basin complied with traffic abatement plans in various ways. Some achieved almost full compliance, some did nothing and many in between were exceedingly confused.

Edison Co., for one, was prepared. Its plan was approved last May and all 2,000 employes were notified in writing that steps to curb their driving might have to be taken.

When the alert was predicted Thursday (Edison Co. officials said they were informed by 2 p.m.) the company's plan went into effect. Emissions were rolled back. Then all employes were told by their supervisors to car pool to work Friday morning. Signs were posted at all exits in the company's two main buildings, reminding them of the rules.

Officials roped off 65 percent of the Edison parking lots Friday morning. When employes came to work, guards turned away every car with less than three persons and herded the complying cars into 35 percent of the available lot space.

Those turned away—and it was only a small fraction the company said—parked on the street and walked.

At the Spectra Strip plant, a small wire and cable company in Garden Grove that employs about 200 people, things did not go quite so smoothly.

The company's plan for a stage-two episode requires that half its employes be sent home for the day—without pay.

However, the company did not enforce the regulation until after all the workers arrived Friday morning. Thus, about 100 people drove to work, turned around and drove home again—to help stop air pollution.

"I am sure many of them went to the beach or went shopping," company spokesman Bennett Brachman said. "The inspector came in and we showed him we are comply-

ing with the plan, but we needed more warning. This was not a realistic approach to the problem. It also cut our production for the day to half the normal amount."

Federal government agencies in Los Angeles have worked out a communications network especially to handle notification of employes in case of an emergency smog alert. But it was not put into effect Thursday because the originator of the network—the chairman of the federal Executive Board—was never notified of the alert by the SCAQMD.

At DWP, confusion reigned. The company switched over to natural gas on Thursday and kept up conservation measures throughout the next 24 hours. However, they did not implement their traffic abatement plan among workers since at least several officials thought the rules did not apply to them. No stage-two episode was called in their exact area, they said.

The SCAQMD said Friday that everyone in the basin—no matter where they live of work—is obligated to help out in the difficult situation.

Some companies did absolutely nothing. The Times-Mirror Co., for example, has formulated an episode plan but it has not yet been approved by the SCAQMD. Also, company officials said, no one from the district notified them of any obligation to participate in Friday's measures.

The SCAQMD was criticized widely Friday for failing to notify the public and companies that they were expected to take action.

Quinn, head of the ARB, said local public health officials, elected officials and hospitals were not notified of the predicted episodes. The radio system that the district uses to notify companies under the rules did not work well.

The district defended itself by saying the regulations are brand new. Plans are to upgrade the system within three months. Radio transmissions will be basinwide and inspectors will have computerized lists on each firm to help with their checking, district officials said.

As the stage-two alerts were being called Friday, the Lung Assn. issued a report on the effects of smog on children.

Because children's lungs are still developing they contain more cells that are especially sensitive to air pollution, the report said. Children exchange a much greater volume of air than adults, relative to body weight, and they breathe more rapidly because of strenuous play.

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[From the Washington Post, July 18, 1978]

AREA MAY GET STIFFER RULES ON AIR POLLUTION

(By Stephen J. Lynton)

Controversial antipollution measures, including a ban on free parking for U.S. employees, are under serious consideration by state and local officials as part of the Washington area's stepped-up efforts to meet new federally imposed clean-air requirements.

Other pollution curbs currently under study would require additional prohibitions against on-street parking for commuters, higher gasoline or other taxes, and mandatory annual auto inspections that would force drivers to pay for repairs if their cars emit excessive pollution.

The proposals, regarded as possible means of complying with last year's amendments to the federal Clean Air Act, are intended to help lessen the Washington area's most severe and intractable air pollution problems—those caused by auto exhaust fumes.

Many of the measures have been vehemently rejected in the past because of stiff political and public resistance, including objections in Congress. The proposals would cost motorists more money, make parking spaces scarce and expensive and probably force many commuters to stop driving their cars to work.

"We're going to get down to some basic issues of life styles," said Dennis R. Bates, health and environmental protection director for the Metropolitan Washington Council of Governments, in a recent interview. "It is one of the most difficult tasks that I can think of." COG is coordinating the area's efforts to comply with the new federal antipollution requirements.

So tough are the obstacles to cleaning up Washington's air that many officials here say they already are certain the Washington region cannot reduce pollution rapidly enough to meet the federal government's clean-air standards by 1982, the initial target date set by last year's Clean Air Act amendments. Some Washington-area officials also express skepticism that the federal standards will be met even by 1987, the final federally prescribed deadline.

Washington's air pollution has prompted more than a decade of regulatory crackdowns, legislation, controversy and court battles. Key environmental officials say that government efforts have failed to bring about any significant reduction in the two forms of auto-exhaust pollution, photochemical smog and carbon monoxide, that plague the Washington area, as they do most major American cities.

Photochemical smog, also known as photochemical oxidants, consists almost entirely of ozone and is most prevalent in summer months when a chemical reaction takes place in sunlight between hydrocarbons and nitrogen oxides, both of which are auto exhaust byproducts. Carbon monoxide is produced directly by automobile combustion and is most pervasive in cold winter weather when car engines take longest to start and warm up.

Since 1970, COG has announced 31 air pollution alerts, several of them lasting a week or longer. Thirty of these were hot-weather alerts caused by photochemical smog. A single two-day carbon monoxide alert occurred in January 1973. The frequency of these alerts, as has been underscored this summer (one of the most pollution free in recent years), has depended largely on the area's sometimes erratic weather patterns.

The extent to which air pollution poses a health hazard is not fully understood by medical researchers, although it is widely believed that some forms of pollution, including those caused by auto exhausts, may be harmful to the elderly, infants and persons suffering from respiratory, heart and other ailments. Whether repeated exposure to polluted air causes permanent damage to normally healthy adults is less clear.

The Washington area's sharpest air-pollution controversy was triggered by a plan announced by the U.S. Environmental Protection Agency in 1973 that would have required a series of harsh measures, including a $2-a-day surcharge on parking in major sections of the Washington area. The plan was intended to deter commuters from driving to work and to reduce auto pollution.

Key members of Congress immediately balked at the parking surcharge. EPA quickly retreated, abandoning the surtax. Other major sections of the EPA plan, including requirements for equipping cars with antipollution devices and inspecting autos regularly to enforce exhaust limits, later were thrown out by the U.S. Court of Appeals.

More recently, the Washington area, like most other metropolitan regions has been required to draw up new plans by Jan. 1 for meeting federal clean-air standards by 1987. This federal mandate was included in the 1977 Clean Air Act amendments. It carries a threat of sanctions, including possible cutoff of U.S. highway funds, for regions that fail to meet the congressional-imposed requirements.

One measure that is considered almost certain to be required here, under current federal regulations, is a system of annual auto inspections that would keep cars off the roads if their exhausts exceed pollution limits. In the past, the Maryland and Virginia legislatures repeatedly have refused to set up such inspection programs.

According to federal and local officials, the 1977 Clean Air Act amendments also will give Washington-area governments broader leverage to impose higher parking fees on federal government employes, thousands of whom now are provided with parking spaces free or at low rates. Moves to get federal employes to pay more for parking have met vehement resistance in the past from federal officials. Environmental planners contend that federal workers should pay prevailing commercial parking rates, currently said to be about $60 a month in downtown areas.

In addition to these and other measures currently under study, COG and other Washington-area officials say they also anticipate significant decreases in auto pollution by the late 1980s as a result of federal regulations requiring auto manufacturers to produce cleaner-burning engines. These expectations prevail despite last year's congressional decision, under pressure from the auto industry and the auto workers' union, to relax previous auto-pollution deadlines.

Under last year's Clean Air Act amendments, such inspection programs will be required by 1981 or 1982 for any severely polluted region that fails to comply with federal clean-air standards by 1982, a deadline most officials believe the Washington area cannot meet.

While Washington's auto exhaust pollution remains severe, sometimes climbing to three times the level prescribed by federal health-protection standards, Washington-area officials note that substantial advances have occurred in reducing other forms of pollution caused by industrial plants and other nonautomotive sources. There have been sharp decreases, they say, in particulate pollution—that caused by miniscule particles of dust, soot and other objects—and in sulfur dioxide.

Sulfur dioxide pollution has been reduced by about 50 percent here since 1972, said John V. Brink, the District of Columbia's air and water quality chief, in an interview. The decrease occurred largely because of regional restrictions requiring low-sulfur fuel. In the early 1970s, Brink said, the area violated federal clean-air standards for sulfur dioxide, but now is safely within these limits.

Downtown Washington still violates federal antipollution ceilings for particulate matter, but Brink noted that major decreases in particulates have taken place since 1968, with reductions approaching 50 percent measured at some downtown locations. Officials attribute these decreases partly to regulations curbing pollution from incinerators, industrial boilers and the open burning of debris.

In addition, the Potomac Electric Power Co. has agreed, after protracted court disputes and negotiations, to carry out substantial, costly modifications at its plants to curb particulate pollution, including a $50 million retooling of its coal-burning generating plant beside the Potomac River in Alexandria, expected to be completed by the end of this year.

Brink contends that the major violator of particulate pollution limits in the Washington area today is the U.S. government itself. The General Services Administration operates two heating plants here that long have been the center of a pollution battle in U.S. Dis-

trict Court. While city and federal officials remain in disagreement over many points in this dispute, GSA officials now say they expect to bring their heating plants into compliance with antipollution requirements by early 1981.

Even in their long-stymied efforts to reduce photochemical smog, Washington-area officials point to at least one breakthrough—a controversial program to reduce hydrocarbon fumes at gasoline storage depots and gas service stations through installation of antipollution devices.

Although Washington-area officials say this program has achieved substantial gains, it also has stirred anger and resentment among retail gas industry officials, who complain that some of the costly new antipollution equipment repeatedly malfunctions.

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WHEN SMOG MOVES IN, AFFLUENT LEAVE—PROPERTY VALUES TIED TO CALIFORNIA COMMUNITIES' AIR QUALITY

(By Joel Kotkin and Katharine Macdonald)

LOS ANGELES.—The smog that has been making life miserable for millions in this metropolis all summer long is a major factor in creating slums out of some once prime residential communities, according to a study being prepared for the Environmental Protection Agency.

Ralph D'Arge, an economics professor at the University of Wyoming, after over a year of work is now completing a survey of communities here, which, he claims, shows conclusively that smog levels can determine whether a commnuity becomes more or less affluent.

"In these really smoggy areas, you are getting a lower value for housing. People with money and a preference for clean air are moving out," says D'Arge, who expects to present his report to EPA in September. "You're getting poorer communities with increasingly more minorities. It really takes a toll."

One of the smog-infested areas studied by D'Arge is the San Gabriel Valley, a suburban area east of downtown Los Angelss that last year suffered more than 120 days of Stage 1 smog alert, meaning that young children and those with respiratory ailments were urged to avoid strenuous outdoor activity. This summer the valley's more than 1 million residents have been treated to a dozen more serious Stage 2 smog alerts in which even the healthiest individuals are urged to avoid breathing much of the putrid air.

Smog, D'Arge maintains, has changed the life and character of such valley towns as El Monte, Alhambra and San Gabriel, which, virtually all middle class and white before the smog reached them in the 1960s, are quickly becoming dominated by poorer, mostly Mexican-American residents. A recent report by the Los Angeles Community Development Department cited the valley as one area changing dramatically from predominantly Anglo to Hispanic.

Donna Crippen, a 48-year-old native of El Monte, says the smog started pouring over the hills from Los Angeles on a regular basis a little more than a decade ago, changing forever the suburban community of 62,000. "You used to be able to go up in this valley and see Mount Baldy 50 miles away," she recalled. "Now you can't even see the stars at night because of the smog."

Before the smog came, Crippen, whose husband Jack is mayor, says El Monte was overwhelmingly a comfortable community of well-kept houses surrounded by walnut groves and fields of strawberries. Today, many once-substantial homes are rundown, littered with trash and scarred by graffiti, and the tide of Mexican-American immigration has risen to the point where Mexican Americans compose almost one-half of El Monte's population.

The EPA study, according to D'Arge, found similar negative effects on communities all along the Los Angeles "smog belt," stretching 40 miles east and downward of downtown. At the same time, D'Arge adds, many once-deteriorated sections in less smoggy areas, particularly near the beaches, are experiencing an unprecedented boom in real estate.

D'Arge found that people who can afford to are willing to spend, on the average, $2,000 a year extra to live in non-smoggy areas.

Bob Lowes, a spokesman for the California Association of Realtors, agreed that there is no question that prices in "clean" areas are skyrocketing above those in residential areas once considered more fashionable but that now are blanketed by smog.

In the working-class Mar Vista area, in the "clean" west side of Los Angeles, for instance, prices for modest homes have risen in the past decade from $25,000 to more than $110,000, according to real estate agent Joe Viestra. The average price for a home in Upland, a suburban area deep in the "smog belt," today is $53,000, or half that in the "clean" areas, according to figures provided by Vernon Riphagen, president of the local realtors association.

"If you were to overlay a map of the areas which have been growing most rapidly with a pollution map, you'd find a very strong correlation," claims Tom Lieser, an economist for Security Pacific National Bank in Los Angeles. "There is no doubt clean air is capitalized into property values."

Despite the smog and the statistics showing spreading barrio, or Mexican-American slum, conditions throughout the "smog belt," many realtors in areas with poor air quality believe their communities thrive even in the face of the smog. "People will live with it, they get used to it, it's like a toothache," Upland realtor Riphagen said.

But Prof. Ward Elliott, who teaches political science at Claremont University in the San Gabriel Valley, has studied the situation and concludes that property values are being kept down by the smog. "Of course the realtors and the property owners have a vested interest in not admitting that their property values are affected by the smog, but the fact is they are," he says.

While they won't publicly admit concern, valley businessmen privately admit that the almost daily reports here about their area's air quality could be chasing away affluent residents and businesses. "They call the valley unhealthful on the radio and Santa Monica and the beaches healthy. Somebody hears that and you've got to admit it's not encouraging them to come to San Gabriel," one businessman said. "Nobody wants to admit it but there's no question it bothers one."●

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## HOW INFLATION IS AFFECTING AMERICANS

● Mr. HARRY F. BYRD, JR. Mr. President, the Washington Post on Sunday, July 23, published an article of how inflation is affecting Americans.

Post staff writer, Bradley Graham, is traveling across the country and his Sunday piece reported on conditions and views in Rockford, Ill. Rockford is a typical American community. Its population of 150,000 makes it the second largest city in Illinois.

Among those participating in a conference to share their views on the high cost of living were: businessmen, labor leaders, educators, and office holders.

One participating in the conference said:

The one and only creator of inflation is the federal government, because they can print the money. They print more and more, create more programs, and yet give us undesired, unproductive services.

Another participant had this to say:

There is a mounting weight of evidence—and very strong evidence—that the Federal Reserve Board is the critical factor in the cause of inflation. In the first six months of this year, the expansion of the money supply was at the rate of approximately 8.75 percent.

The politicans in the conference demurred saying reducing government spending is not "politically palatable to anyone in power . . . You just can't turn around now and cut it (programs) all out."

A labor leader, the business agent for the local carpenters union, summed it up this way:

The American public will pay for the services they demand. And they aren't afraid to ask for services. They know those things are going to cost. But the point is the government has gotten out of hand. It's gotten itself too involved in business and labor.

I ask to insert in the RECORD the article from the Washington Post captioned, "The U.S. Heartland Views the Economy."

The article follows:

THE U.S. HEARTLAND VIEWS THE ECONOMY

(By Bradley Graham)

ROCKFORD, ILL.—It started more than 30 years ago when W. Lloyd Warner, a professor of sociology at the University of Chicago, wrote a book entitled "Social Class in America." In the book, Warner described in detail the social structure of a typical American community which he called Jonesville. He based his hypothetical town on three actual ones, one of which was Rockford.

Ever since, this midwestern industrial community has been a favorite plumbing spot for other sociologists, journalists, pollsters and political strategists trying to sound out what Middle Americans are thinking.

The people here have sort of become used to the idea of playing touchstone for the nation's heartland. They don't mind speaking out. They pay attention to the news. They worry about the way America is going, and how their city compares to others. They know they have made a pretty good life for themselves out here in the cornfields 90 miles northwest of Chicago, and they don't want to see it eroded.

Rockford's population of 150,000 makes it the second largest city in Illinois. It has had many of the problems of larger cities—unemployment, for instance, and an inert downtown business district. But the city has not suffered greatly from poverty, the drain of suburbanization, or the turmoil that often accompanies drastic shifts in racial composition. It has been saved from these in large part by a very industrious manufacturing sector that specializes in machine tools and screws.

The city has a strong tradition of business and industrial leadership. Suspicion of government bureaucracies runs deep here, as does an intent devotion to low taxes. Rockford's blue collar workers—many of whom are highly skilled descendants of the Swedish craftsmen who worked in the city's early furniture industry—are considered as conservative as their bosses. Until the last dozen years, Rockford had the distinction of being a resolutely Republican blue collar town. The local Democratic Party gradually has gained narrow majorities on the city council and the county board.

So it seemed Rockford would serve well

as the site for a panel discussion of sorts on inflation—not by experts, but by a sampling of those of who live here Representatives of Rockford's business, government and labor groups met Thursday afternoon in a conference room at the Rockford newspaper's building to share their views on the high cost of living.

The participants included:

Seth G. Atwood, owner of several local companies involved in banking, real estate and the manufacture of vacuum cleaners.

H. Lewis Blais, business agent for the local carpenters union.

Ken Kieselburg, a Democrat, vice chairman of the Winnebago County board and chairman of the county's finance committee.

Lynn Martin, a Republican and state representative.

Dean Olson, owner of Rockford Acromatic Products, which makes bearings for automobiles, and also chairman of the Illinois Manufacturers' Association.

Sam Parkinson, president of the Rockford Education Association.

Phil Priola, national field representative for the AFL–CIO.

The discussion was lively and revealing, with this reporter asking as few questions as possible hoping the participants would challenge each other. The session began with the question: How worried are you about inflation?

Priola: No question, inflation has become a national crippling problem. We feel in organized labor that it's eroding our system of life. We also feel we're not responsible for this situation. What we call real wages really has shrunk for us. Some in management might say things have gone up for us, but that doesn't square with the facts.

Kieselburg: With us, the greatest impact has been felt in the road department. Practically everything involved there is energy related. I'm speaking of the petroleum used on the roads and in the steel their trucks are made from. As best we can judge, since 1974 the cost of doing the same kind of road work has doubled, which means the dollar is only buying half of what it did previously. We just don't know how to curb this kind of thing.

Olson: Where we suffer—and I can see this right in my plant—we have X pounds of steel at the beginning of a year. So we make this steel into a product, sell it, and make a profit which we give over half of to the government. Then we turn around at the end of the year to buy more steel at an increased price. Our money goes right back into that same damn steel pile, with nothing left for new machines. Inflation gets right down to reducing capital formation.

Blais: I think one thing that contributes to the inflationary spiral that we're in is that we're very mobile. We get into real estate, for instance. We've driven up the cost of land, the cost of construction. People get into housing now and they'll live in one place only a few years. The house will be 30 years old and will have been sold five times. If you start looking at real estate commissions, you are talking about 25 to 30 percent in there, and everyone wants to make a little on that house when he sells it . . .

In our negotiations this year, we're part of it, too. We knew we had to have 6.8 percent this year just to remain even. We contribute to the inflationary spiral, sure. But it's not just unions. All working people do.

Olson: I don't think the working man is to blame. The one and only creator of inflation is the federal government, because they can print the money. They print more and more, create more programs, and yet give us undesired, unproductive services. And that's what's really the bugaboo in the whole thing. All we do is go after a piece of it once the government gets done creating it.

Atwood: There's a mounting weight of evidence—and very strong evidence—that the Federal Reserve Board is the critical factor in the cause of inflation. In the first six months of this year, the expansion of the money supply was at the rate of approximately 8.75 percent. This is clearly in excess of any productivity figure that we expect out of the sector of producing goods and services. The solution to inflation has to lie in slowing the rate of money growth. Now this, of course, would also mean that government services would have to be curtailed. There would be a necessary reduction in expenditures as a result of this action being taken by the Fed.

But those in the group with public-sector experience were not sympathetic with the desire to cut government spending, at least not to the extent the businessmen were suggesting. Nor did they think political realities would allow many deep cuts.

Parkinson: We say government and I think we forget who the heck government is sometimes. Everybody wants more. We're all asking to pay less but I don't think we're asking to get less. I just came back from Milwaukee, I drove 55 miles per hour and almost got run over, and yet that was supposed to be a simple way to cut back on the amount of energy used.

Martin: The solutions you're giving, Seth, are economically sound and philosophically pure. But they aren't politically palatable to anyone in power. There isn't only an economic base for inflation, there's a psychological one, too. We're a society used to being gratified and satisfied. Also, go back to the Sixties when we underwrote the major social legislation of American history. We had a war on poverty—we called it a war. And we put our costs of government skyhigh. At the same time, we also tried to run a real war. The decision was made then: We will not limit the money supply and we will not tax to pay for these programs. We will defer all that, because although everyone liked the idea of an end to poverty, we didn't want to tell the people how much it was going to cost. You just can't turn around now and cut it all out.

Atwood: I just don't agree. I think people are willing to re-evaluate programs and I have a lot of faith in people re-evaluating programs so that those worthy programs are kept in place. Maybe I'm just naive because I'm not in politics, but I'm just too optimistic to believe that we couldn't have a "rolling adjustment," if you want to call it that, in the money supply situation to bring it down to a noninflationary growth.

Blais: The American public will pay for the services they demand. And they aren't afraid to ask for services. They know those things are going to cost. But the point is the government has gotten out of hand. It's gotten itself too involved in business and labor. The communications industry, for instance, has fantastic regulatory problems that add millions of dollars every year. Banking is the same way. Labor unions—the tons of paper we have to put out every year, it's incredible. We'll pay for the subsidies for necessary services, but not the paperwork.

It was noted that American labor's productivity has been declining at the same time its demands have intensified. This brought an excited response from the businessmen in the room—in labor's defense.

Olson: That's a fallacy that the American worker is no longer the best in the world, because he is. I've traveled around the world quite a bit. It would drive an American manager out of his gourd to see how they work in some places. I bought a factory in France and, hell, they closed the whole country down for a month. That isn't our problem. The reason our productivity has dropped goes back to inflation. With inflation eating up capital, we can't buy the faster machines. And how much better can a man get every year by himself. If you're just talking about the muscles in your arm, it's a damn miracle that guys can get even 2 percent a year better with this inflation taking away the damn tools to do the job.●

## THE TUITION TAX RELIEF ACT OF 1978

● Mr. MOYNIHAN. Mr. President, when the Tuition Tax Relief Act of 1978 is considered by the Senate next week, opponents of tax credits for private elementary and secondary school students will contend that providing such aid to individuals favoring nongovernment schools would mark a step backward from this society's commitment to equality of educational opportunity. In particular, it will be alleged that low-income minority group members stand to lose from it.

This line of reasoning appears to assume that whatever educational benefit nongovernment schools may confer on those who are able to pay for them without assistance, no purpose is served by assisting low-income families who seek the same options for their children.

This argument has been eloquently refuted in the spring issue of Policy Review by two distinguished scholars who themselves happen to be black. Prof. Thomas Sowell of UCLA writes that—

> This bill . . . is most important to those who are mentioned least: the poor, the working class, and all whose children are trapped in educationally deteriorating and physically dangerous public schools. Few groups have so much at stake in the fate of this bill as ghetto blacks.

Prof. Walter Williams of Temple University adds that—

> The tuition tax credit bill would create the possibility of school integration in a way that school integration decrees do not—through people voluntarily pursuing what they believe to be in their own best interests.

The pair of articles deserves the closest attention by Senators and others concerned with the relationship between equality of educational opportunity and tuition tax credits at the elementary and secondary level, and I therefore ask that they be printed in full in the RECORD.

The articles follow:

TUITION TAX CREDITS: A SOCIAL REVOLUTION

(By Thomas Sowell)

The Packwood-Moynihan tuition tax rebate legislation is, as Professor E. G. West aptly calls it, "a crucial event in the history of education."[1] Its "revolutionary potential for low-income groups"[2] has been missed by most other commentators and critics and deserves further exploration.

Why is this bill so important—and to whom? It is most important to those who are mentioned least: the poor, the working class, and all whose children are trapped in educationally deteriorating and physically dangerous public schools. Few groups have so much at stake in the fate of this bill as ghetto blacks. To upper-income families

[1] E. G. West, "Tuition Tax Credit Proposals: An Economic Analysis of the 1978 Packwood/Moynihan Bill," *Policy Review*, Winter 1978, p. 62.

[2] *Ibid.*, p. 64.

with children in college, the maximum $500 tax relief is hardly of decisive importance, when annual college costs range up to ten times that amount. The campaign of misrepresentation by the education establishment has depicted the affluent as the chief (or sole) beneficiaries, when in fact the opposite is nearer the truth. There are many times more students in elementary and secondary schools than in college, and among those children enrolled in pre-college private institutions, there are more whose parents earn from $5,000 to $10,000 a year than those whose parents are in *all* the brackets from $25,000 on up.

Even the current enrollees in private education are not primarily the affluent. The average family income of private elementary and secondary school children is about $15,000. But since the whole purpose or effect of the tuition tax rebate is to extend to others the opportuntiy for private education, the question is not so much who *now* goes to private school, but who *could* go after this legislation is in effect. No doubt those who went to college in past generations, before the G.I. Bill and other educational subsidies, were far more affluent than the general population, but to object to the G.I. Bill as aid to the affluent would be to miss the whole point—that it extended a privilege previously enjoyed by a few into an opportunity open to millions more. That is precisely what this bill does. This is precisely why it is being opposed and misrepresented by those whose jobs, pensions, and power derives from the public school bureaucracy.

MOST PRIVATE SCHOOLS LESS EXPENSIVE THAN PUBLIC

While $500 does not begin to cover college costs, it does cover all or most of the cost of sending a child to many private day schools. Most of those private schools are not the expensive Andover or Exeter stereotypes, but rather schools costing a fraction of the tuition they charge—and having costs per pupil that are a half, a third, or a fifth of the per pupil cost in the public schools. It is not uncommon for Catholic parochial schools costing a few hundred dollars a year to have test scores higher than public schools in the same neighborhoods with per pupil cost well over a thousand dollars. One of the misrepresentations by opponents of the tuition tax rebate is that it would cost billions of dollars. They are talking about Treasury disbursements, which may be politically important. What is economically important is that a shift of students to lower-cost private schools can save billions of dollars for society as a whole.

Most of the private schools do not have the runaway pay scales or plush pensions the teachers' unions have extracted from politicians handing out the taxpayers' money. Few parochial schools are surrounded with tennis courts or contain many of the other expensive amenities or status symbols that add little to the education of children, but which have become part of the fringe benefits of public school administrators. Indeed, most private schools have far fewer administrators per hundred pupils, which is no small part of the reason for their lower costs or for the opposition of public school administrators to allowing parents a choice of where to send their children.

The crux of the controversy over this bill is choice and power. If parents are given a choice, public school officials will lose the monopoly power they now hold over a captive audience. That monopoly power is greatest over the poor, but it extends to all who cannot afford to simultaneously pay taxes for the public schools and tuition at a private school. Public schools in affluent neighborhoods where parents already have that option must pay some attention to those parents' wishes and be responsive. But parents in poorer neighborhoods and ghettoes have no such leverage to use to get attention, response or even common courtesy. The mere prospect of being able to remove their children to private schools changes all that. In other words, the benefits of the availability of tuition tax credit do not end with those who take advantage of it, but extend to those who keep their children in the public schools and never collect a dime from the Treasury—but whose children's needs now have to be taken seriously by public school officials no longer insulated or assured of a captive audience.

Much has been made of the fact that most of the enrollment in private elementary and secondary schools is in Catholic parochial schools. Like many other statements about the situation before this bill is passed, it is far from decisive in determining what the situation will be afterwards. The government is constantly overestimating the revenues to be gained from imposing a given tax by assuming that the pre-tax situation will continue unchanged except for the collection of the tax. In the same way, some are now assuming that the social, economic, and religious composition of families with children in private schools will remain unchanged after a subsidy that will put such education within reach of ten of millions of other people. Moreover, not all of the children enrolled in Catholic schools are Catholic. In urban ghettoes, especially, it is not uncommon for many Protestant black families to send their children to Catholic schools, as an escape from ineffective and dangerous public schools. About 10 percent of the ghetto youngsters in Chicago are in parochial schools. In some places, a majority of the enrollees in a Catholic school are non-Catholic. A parochial school can be a social service activity, like a denominational hospital that does not limit its medical care to co-religionists.

THE CONSTITUTIONAL ISSUE

The Constitutional ban on government support for religious establishments raises legalistic issues for legislation whose initial impact may be more pronounced on Catholics. The first Amendment, as written, would not prohibit tax rebates for individuals to do with as they please and the G.I. Bill is used at Catholic colleges and universities, but the Supreme Court has sometimes drawn an arbitrary line between higher and pre-college education and made the Constitution more restrictive on the latter. However, the uncertain course of the Supreme Court in this area in recent years and some evidence of at least a pause in the trend toward judicial policymaking under the guise of interpretation leaves reason to hope that extremist extensions of the "separation of church and state" doctrine will not nullify a bill that offers major benefits to all segments of the population. As things stand now, there is no Constitutional limitation on an individual's choice to donate money received from the government—whether as salary, tax refund, or Social Security benefits—to a religious organization. To say that the individual cannot choose to buy an educational service from the same religious organizations with money originating from the government seems inconsistent at best.

Another red flag to many is the possible effect of parental choice on racial integration. Visions of "segregation academies" are sometimes invoked (even though the tuition tax rebates cannot be used for any institution practicing racial discrimination). Quite the contrary is the case. In most of the nation's largest urban public school systems, there are not enough whites left to integrate, so any further racial integration in such places may be achievable only by the voluntary movement of black children into private schools. But even this is objected to by some "liberals," because blacks who take this opportunity to get ahead and leave the ghetto public schools would leave behind only the children of "the least educated, least ambitious, and least aware."[3] In other words, black parents who want to make a better future for their children must be stopped and their children held hostage in the public schools until such indefinite time as all other people in the ghetto share their outlook. Ethnic minorities in the past rose out of the slums layer by layer, but for blacks it must be all or none! This arrogant treatment of millions of other human beings as pawns or guinea pigs would be impossible when parents have individual choice. That is precisely why both the education establishment and the social tinkerers are opposed to it.

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TUITION TAX CREDITS: OTHER BENEFITS

(By Walter E. Williams)

"Tuition Tax Credit Proposals," by Professor E. G. West, which appeared in Policy Review (Winter, 1978) is an insightful discussion of several important educational problems that could be solved in part by the passage of the Tuition Tax Credit bill sponsored by Senators Packwood and Moynihan. In this note I would like to briefly comment on some other educational issues, not raised by Professor West, upon which the Packwood-Moynihan bill could have a favorable effect.

DIVERSITY IN EDUCATION

People exhibit different preferences for a host of goods and services produced in the United States, preferences influenced by factors such as culture, religion, education and income. In order to resolve or minimize conflict there must be cooperation without conformity; that is, to the extent possible, there must be a variety of goods and services so that people can choose freely in the manner dictated by their preferences. A large, robust private sector increases the likelihood that there will be cooperation without conformity, through the natural evolution of producers of goods and services who specialize in catering to different tastes. In other words, my purchase of an automobile with a rotary engine does not require that I coerce my neighbors to purchase such an automobile.

A state monopoly in the production of a good or service enhances the potential for conflict, through requiring uniformity; that is, its production requires a *collective* decision on many attributes of the product, and once produced, everybody has to consume the identical product whether he agrees with all the attributes or not. State monopolies in the production of education enhance the potential for conflict by requiring conformity on issues of importance to many people. For example, prayers in school, ethnic history, saluting the flag and educational tracking are highly controversial issues which have received considerable court attention and have resulted in street fighting and heightened racial tensions. With a larger non-public education sector and hence more diversity in education, parents who, for example, wanted prayer reading could realize this preference by simply enrolling their child in such a school. They would not be required to either lobby for laws requiring all schools to present prayers or to pay a tariff to opt out of the public school system.[1]

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[3] "Kissing Off the Public Schools," The New Republic, March 25, 1978, p. 6.

[1] Tariff is an appropriate word here because parents who choose to send their children to non-public schools must pay tuition *plus* continue to pay for public schools. This has disincentive effects similar to international tariffs which protect and preserve relatively inefficient producers from competitive forces.

RADICAL DESEGREGATION

One criticism of the Tuition Tax Credit bill is that it will promote racial homogeneity in our school systems. In fact, for the most part, schools across the country are already racially homogeneous and according to the U.S. Civil Rights Commission they are becoming more so. Contrary to the statements made by its critics, the Tuition Tax Credit may reverse this trend not only in education but in other areas of life as well. This result will be achieved through higher quality education in cities which will follow from market competition encouraged through the Tuition Tax Credit. With higher quality education available in cities, middle-class, predominantly white families will have reduced incentives to flee to the suburbs as a way of insuring good education for their children. It is noteworthy to recognize that the flight to suburbia in search of better schooling is becoming less of an exclusively white phenomenon. Blacks are fleeing the cities in unprecedented numbers.[2]

The Tuition Tax Credit bill would create the possibility of school integration in a way that school integration decrees do not—through people voluntarily pursuing what they believe to be in their own best interests. The use of the courts to promote racial heterogeneity and cooperation in our school systems can be called nothing less than a dismal failure.

ENHANCED EDUCATIONAL OPPORTUNITY FOR MINORITIES

Clearer than its impact on school desegregation is the Tuition Tax Credit bill's effect on the quality of education. The fact that a grossly inferior education is received by most black children has been chronicled in the news media, professional publications and elsewhere. Test performance scores show that the great majority of black children are three to five years behind the national norm. These facts make meaningless the argument advanced by the critics of the Tuition Tax Credit, that if it were enacted there would be a ground swell of fly-by-night, poor quality schools which would exploit the poor.

Black parents, educated or not, can discern high and low quality education. This is evidenced by the fact that many black (as well as white) parents have given false addresses so that their children could attend better schools outside of their districts. The recent surge in the number of non-Catholic black parents sending their children to Catholic schools and the increased number of community and Islamic schools in black ghettos all point to the fact that black parents who want higher quality education for their children and have the financial resources seize the opportunity to opt out of the public school system. What the Tuition Tax Credit will do is enable more parents, black and white, who are dissatisfied with public education, to obtain a better and more productive life for their children.

COSTS

Professor West and others have evaluated the costs of the proposed Tuition Tax Credit in terms of its impact on the federal budget—a particularly narrow view of costs and benefits of the proposed legislation. The social cost of education is the amount of resources that the society gives up. The cost is seriously understated if in our general view we exclude state and local expenditures. This everyone knows. However, the social cost has not so far entered the debate on the Tuition Tax Credit.

Many non-public schools educate youngsters at costs that are only a small fraction of the cost of public schools. Many parochial schools charge an annual tuition of $600.00 and there are Islamic and community schools which charge similar tuitions. On the other hand, the per child cost of education in some metropolitan school systems approaches $3,000.00. Old or new mathematics tells us that if we reduce the number of children receiving a $3,000 per year, poor quality education and increase the number of children receiving a $600.00 higher quality education, the nation as a whole will benefit by reduced educational expenditures and better education.[3]

Therefore, a broader assessment of costs would consider the likely reduction of educational expenditures at the state and local levels which would be the ultimate result of fewer children attending public schools. Tax credits will provide freer choice and as Professor West comments, ". . . insofar as choice promotes competition the result will be education that is more effective and less costly."

THE PROSPECTS FOR PUBLIC SCHOOLS

The prediction that Tuition Tax Credits would lower the number of children attending public school has given rise to the argument that this tax measure would contribute to the destruction of public schools. This perhaps is the most revealing confession of the opponents of the Packwood-Moynihan bill, who are mostly members of the public education establishment. This position does not differ from one which says that if parents were given freedom of choice many would opt out of the public school system. In other words, the public education establishment is saying that if their state-granted monopoly powers are reduced, the schools run by them will be destroyed.

Destroyed is obviously too strong a word, because many, many public schools are doing an excellent job of educating America's youth. These are schools which satisfy parents and would not be threatened by increased competition. The schools that would be threatened by the reduction of monopoly powers are those public schools failing to do a job at least as good as their nearby competitors. These schools, for the most part, are those in inner cities that produce a product grossly inferior to their non-public counterparts. If such schools go out of business (become unattended), such an outcome is consistent with market efficiency and enhanced social welfare: the inefficient producers are weeded out and replaced by efficient producers.

CONCLUSION

At the heart of the problem in public education is a system of educational delivery which creates a perverse set of incentives for all parties involved. At the core of the perverse set of incentives is the fact that teachers get paid and receive raises whether or not children can read and write; administrators receive their pay whether or not children can read or write. Children (particularly minority children) receive grade promotions and diplomas whether or not they can read and write.

The individual parent who is poor is helpless in such a setting. It is quite difficult for the individual parent or group of parents to effectively force the public school system to produce a higher quality education. The benefit of the Tuition Tax Credit is that it enhances the possibility for the individual parent to fire the school providing poor services and to enroll his child in some other school providing better services. The Packwood-Moynihan bill promises to give low-income parents at least some of the powers that their higher-income counterparts have, namely a greater role in determining educational alternatives for their children.●

[2] The number of blacks living in suburbs between 1970 and 1974 has increased by 550,000 over 11 percent of the net (4,600,000) migration to the suburbs. See: U.S. Department of Commerce, Bureau of Census, Current Population Reports, Series P-23, No. 55, "Social and Economic Characteristics of the Metropolitan and Non-Metropolitan Population: 1970–1974." (Washington, D.C.: U.S. Government Printing Office, 1975), p. 1.

[3] For an important study of "islands" of black academic excellence, see Thomas Sowell, "Patterns of Black Excellence," The Public Interest (Spring, 1976), pp. 26–58.

## JOHN D. WORTHINGTON

● Mr. MATHIAS. Mr. President, when a community leader dies, his death has reverberations far beyond his local area. This is even more true when an influential community newspaper editor dies. John Worthington's influence in the life of the State of Maryland's extended far beyond the Harford County seat of Belair. For 20 years, as editor of the Harford Aegis, he saw his community grow from rural county seat to a major metropolitan bedroom suburb with all of its attendant problems and advantages. He guided the Aegis through this period with intelligence and sound business sense, so that today the newspaper he inherited from his father has a reach beyond the community of Belair. John Worthington's editorial commentary has fallen on receptive ears in his own Harford County, in the entire northeast corner of the State, in the councils of State government in Annapolis, and in the halls of Congress.

Mr. President, I wish to submit an announcement of his death for the RECORD, and in addition, a column from the Baltimore Sun by Peter Jay.

Peter Jay, himself a Harford County editor as well as a columnist in the Baltimore Sun, broke in as a reporter under John Worthington at the Aegis. He said it well in a recent column: "A Remembrance, With Affection." I would like, Mr. President, to have Mr. Jay's column of July 19 printed in the RECORD.

The articles follow:

J. D. WORTHINGTON, BEL AIR PUBLISHER

BALTIMORE (AP).—John D. Worthington III, 57, Harford County publishing and broadcasting executive, died Friday evening, two days after suffering an apparent stroke while driving to work.

A former president of the Maryland-Delaware-D.C. Press Association, Mr. Worthington was co-owner and publisher of the Aegis newspaper in Bel Air and president and co-owner of Bel Air Broadcasting Inc., which operates radio station WVOB.

He also served as president of the Maryland State Fair and Agriculture Society, which runs the state fair and Timonium Race Track.

Although Mr. Worthington lost control of his car at the time of the stroke, the vehicle came to rest in a field with little damage. He was transported first to Fallston General Hospital and then University Hospital here, where he died of a cerebral hemorrhage.

Survivors include his wife, two sons and a daughter.

A REMEMBRANCE, WITH AFFECTION

(By Peter A. Jay)

John Worthington was my first editor, and news of his death last week, at 57, hit me—and many others who knew him—very hard.

By anybody's standard, he was a kind and decent man, easily amused and gently tolerant. He was a newspaper editor neither by instinct nor by early training, but by circumstance, and he never seemed entirely comfortable in the role.

He had a problem shared by many sons of

strong fathers: People often expected him to be a chip off the old block, and he wasn't. His father edited the weekly Aegis in Bel Air for the better part of a half-century until his death, very much in harness, in 1964; he was the archetypical country editor of his generation—a generally benign autocrat who was always consulted and usually deferred to.

(A former Harford county legislator remembers that he once introduced a local bill in Annapolis without discussing it first with old Mr. Worthington. A friend, horrified, told him he'd better go and see the editor quickly before the measure was denounced in the paper. He did, and the bill was later pronounced, editorially, to be "good legislation, poorly presented.")

Young John, who was really John 3d but whom everyone called Johnny, wasn't like that at all. He was an easy-going, friendly country boy, who in his youth worked not for the family newspaper but breeding and milking pedigreed Guernseys on the family dairy farm. It wasn't until the farm was sold for a housing development that he picked up a pencil and went to work at *The Aegis*. He was 36 at the time.

When his father died seven years later, he and his brother Dick found themselves in charge, and right in the middle of fast-changing times. Bel Air turned almost overnight into a traffic-choked bedroom suburb. Harford county, between 1960 and 1970, grew by 50 per cent. Business boomed. *The Aegis*'s circulation grew and grew, as did its size and its revenues. It was another town, another life, and another paper from the one old Mr. Worthington had known.

But Johnny Worthington coped. He could have retired and lived on the paper's earnings, but he didn't. He was in the office daily, Saturdays too, answering the telephones and patiently enduring the abuse that is any editor's lot in these querulous times.

He wasn't a writer, but he did some writing, because that was part of the job. And his writing, especially a column called "Sitting on the Sidelines" he did in later years, a column full of homely anecdotes and local history, had a large following; it became one of the nicest and most personal features of the newspaper.

He never mastered the typewriter, though, and did his writing in pencil on yellow legal pads, using every other line. His handwriting was very neat, and the typesetters never complained.

Once, I remember, he was writing a letter that had to be typed, and he came into the newsroom where I was working as a reporter to use a typewriter. He rolled his paper carefully in, stared at the machine thoughtfully for a long time, and then carefully raised one finger and hit one key. "Damn it!" he said in exasperation, and everyone watching howled with glee. I never saw him at a typewriter again.

In recent years, with newspapers of all sizes being gobbled up by chains, the brokers were beating a path to his door. But he and his family held out, and *The Aegis* continued to grow. As time went on, John learned much more about publishing, especially its new technology and its economics. He was active in the state press association, and served a term as its president.

He was a community kind of a man. Both because he was John Worthington and because he was the local newspaper publisher, he was constantly asked to serve on this or that board—and he seldom refused. He was on the boards of two schools, the hospital, and (a job he loved) president of the Maryland state fair. He seldom missed a meeting, and in his amiable way helped resolve countless disputes.

A lot of people are going to miss Johnny Worthington, who made his own way as a man and a local newspaper publisher; hundreds of them, all sorts of people from all over the state, came to his funeral here on Monday. His son, John 4th, is working at *The Aegis* now. He probably isn't a chip off the old block either, but if he is, he can be proud of it.●



## CHANGING ENERGY FORECASTS

● Mr. KENNEDY. Mr. President, in March of this year, the Subcommittee on Energy of the Joint Economic Committee held hearings entitled "Energy in the Eighties: Can We Avoid Scarcity and Inflation?" Out of the hearings came forth what was then considered to be a radical idea; namely, that the world was not running out of oil at the pace suggested by the administration.

Since then, the evidence presented by some of the witnesses at our hearing, such as former Federal Energy Administrator John C. Sawhill, Britain's North Sea energy adviser Peter Odell, and geologist Dr. Bernardo Grossling, have come to be recognized as being closer to the truth. Each of the three were more optimistic than the administration, which feared that another severe price jump was likely by 1985.

The Washington Post, in an article which appeared on July 23, has now summarized the studies and opinions which have emerged since our hearings. For example, the Post story quotes a recent Trilateral Commission report, which John C. Sawhill coauthored, as stating:

After analyzing recent forecasts, the authors judge it unlikely that there would be any sharp and sudden upward movement in real prices of oil for at least the next ten to fifteen years—a judgment less alarmist than some others.

Similarly, the Post refers to an article in this month's Guardian in which Peter Odell cites three recent international studies that concluded that world oil reserves are two to six times larger than the conventional wisdom of the past suggested.

I want to draw the Senate's attention to this matter and again emphasize the need for additional exploration activities in the world.

Mr. President, I submit the Washington Post article, "Array of Experts Dispute 'Energy Crisis' Forecasts" for the RECORD.

The article follows:

[From the Washington Post, July 23, 1978]

ARRAY OF EXPERTS DISPUTES "ENERGY CRISIS" FORECASTS

(By William Greider)

President Carter and the Congress have been so busy in the trenches, battling over solutions to the so-called "energy crisis," that they seem to have missed the good news from petroleum experts:

The world is not running out of oil and gas after all, not for a long time.

A substantial array of respectable sources agrees on this much:

The threat of "crisis" is not nearly as imminent as it was originally portrayed in the glooming warnings of the Carter administration. The possibility of an abrupt oil shortage is now considered unlikely for at least 12 to 15 years. The shock of another sudden rice escalation, likewise, will not threaten western nations before the 1990s. Around the world, nations are finding and beginning to produce new oil that was overlooked or undiscovered a few years ago.

In sum, the future energy problems look quite different today—and considerably less menacing—than they did 15 months ago when President Carter proposed his five-part energy package.

This message has emanated from various U.S. and international experts, month after month, for the past year, yet it has not made much impact on official Washington. The implications are so much at odds with the heavy rhetoric of the energy debate that neither the Carter administration nor its adversaries on Capitol Hill seems willing to take these new predictions seriously.

Carter's energy secretary, James R. Schlesinger, is sticking to his original dire forecast—that sometime between now and 1985 the world will suffer a terrible crisis if the United States doesn't adopt the administration's proposals for conservation by tax-and-price increases. Schlesinger dismisses holders of contrary opinion as "energy optimists."

The American public, however, has never taken the "energy crisis" as seriously as do the politicians and technocrats of Washington, who periodically scold the nation for its ignorance or greed. The public skepticism is encouraged, if not fully confirmed, by the optimistic revisions in recent forecasts.

A Schlesinger aide, after arguing vigorously against the competing forecasts, offered a mild concession to the possibility that they are right and the Carter administration is wrong. "These guys may be right," he allowed, "but it's the government's function to do the kind of worst-case planning and prepare for it. Our view is, fine, maybe they'll be right, maybe the crunch doesn't come until the 1990s, in which case we will have more time. That doesn't mean you don't have to set up the machinery."

In the meantime, the world markets are glutted with oil, particularly on the West Coast of the United States. This condition of surplus, which everyone agrees will last at least another year to two, appears to complicate Carter's selling job on Capitol Hill, but no one claims that the current oil glut is the main reason members of Congress are stalled over raising natural gas prices or taxing domestic crude oil up to the world market level.

Rep. Abner Mikva (D-Ill.), who supports the president's program, thinks the oil glut simply gives politicians one more reason to resist measures they don't much like in the first place. "It's hard to explain to people that you're going to raise prices and pretend there's a shortage when there isn't one," Mikva said.

In the long-range future, beyond the next couple of years of surplus, all predictions become less reliable, but outside the Carter administration there is a lengthening list of people who disagree with Schlesinger's forecast of crisis by 1985.

The list includes some people who should know. Ali Attiga, secretary general of the Organization of Arab Petroleum Exporting Countries (OAPEC), assured a group of European businessmen last month that he now sees the world getting through the 1980s without any crisis of oil shortage and, thus, no sudden upward shock in Arab oil prices.

The Trilateral Commission, comprised of corporate leaders and government technocrats from North America, Western Europe and Japan, issued a new energy outlook that gently disagreed with former Trilateralist Jimmy Carter on the shape of the energy problem. "After analyzing recent forecasts, the authors judge it unlikely that there would be any sharp and sudden upward movement in real prices of oil for at least the next 10 to 15 years—a judgment less alarmist than some others," the Trilateral Commission report noted.

One of its co-authors, former federal energy administrator John C. Sawhill, ex-

plained the different outlook as a more reasonable form of persuasion.

"The way to characterize the problem is not to try to scare people into thinking that there's going to be an immediate shortage and long lines at gasoline pumps in the 1980s," Sawhill said, "but rather that by the 1990s we're going to have to develop a new generation of energy technology."

Other "energy optimists" include such conservative organizations as the Petroleum Industry Research Foundation. The industry-oriented foundation concluded that "oil shortage before the end of the century is a possibility but not a probability."

Some independent petroleum experts express their skepticism about a coming crisis in much stronger terms and they worry that political decisions will proceed now on wrong assumptions.

Bruce Wilson, an investment banker who specializes in petroleum, describes a wide variety of new developments, ranging from Canadian natural gas to Mexican oil discoveries, that argue for legislative caution.

"It is less certain now that we need the program drafted in 1977," Wilson said. "A reasonable man would look at the situation today and question whether it makes sense to go ahead."

Peter Odell of the Netherlands, an energy adviser to the British government on North Sea oil development, argues that the long-range future of oil is bright indeed. He predicts that world production should continue to grow for 50 more years—until the year 2025—and the oil industry may triple its size in that period.

"Even using relatively conservative figures for future oil availability," Odell wrote this month in the Guardian, "there are still at least two generations available to us to undertake the necessary research and development on alternative sorts of energy. This gives us time enough to weigh very carefully the pros and cons of different options so that we do not have to be rushed into premature decisions on issues such as the rapid development of nuclear power."

The Dutch expert, incidentally, thinks the American public is on the right track in suspecting that the oil companies invented the crisis for their own benefit. "The so-called generally accepted oil shortage," Odell wrote, "is the outcome of commercially oriented interests rather than a statement of the essential realities of the oil resources of the world. Oil companies are, of course, privileged to try to create the environment in which their own best interests are served, but there is no reason why the whole western world community should accept the companies' evaluation as the last or even the most appropriate word on the subject."

Odell cites three recent international surveys, conducted by institutes in France, Austria and the Soviet Union, that concluded world oil reserves are two-to-six times larger than the conventional wisdom of the past.

In the last year, Mexico has provided the petroleum world with a stunning example of how the old estimates of oil potential can be overtaken by new events. Seven years ago, the oil reserves of Mexico were listed at a piddling 3.6 billion barrels, about one-tenth of U.S. reserves. By 1974, the Central Intelligence Agency reported that Mexico might hold as much as 16 billion barrels.

With more aggressive exploration Mexico is now unofficially listed at somewhere in the range of 100 billion barrels—second only to Saudi Arabia and possibly Iraq—an estimate accepted privately by the Department of Energy.

The U.S. government is negotiating now for a trade and production agreement with Mexico that would insure development of that oil and gas and its delivery to American consumers, which could reduce the U.S. dependence on Middle East oil considerably. Mexico, in any case, intends to become a major exporter by the mid-1980s, selling 3 million to 4 million barrels a day.

Iraq, which used to be listed with reserves of 45 billion barrels, is now considered by experts to have at least 100 billion and is beginning to show greater interest in marketing that oil to the West.

A long list of other concrete changes, less spectacular than the Mexico finds but cumulatively perhaps as important, is cited by petroleum experts to support a more relaxed view of the future. Important natural gas deposits are being developed for export in Canada and Pakistan. Countries like Peru are becoming oil exporters and India is developing self-sufficiency.

Each of these and other developments will take some pressure off the world's prize supply of oil, the Middle East. Some experts like Wilson foresee a continuing period in which there is "tremendous downward pressure" on the Organization of Petroleum Exporting Countries (OPEC) oil price, which in real terms has declined since the price shock of 1973, due to inflation.

The energy outlook also looks modestly brighter in the United States. The first trauma that led to public formulations of an "energy crisis" occurred when U.S. production of oil peaked in 1970 and began to decline. The same thing happened to U.S. natural gas production in 1972. The awareness of "finite resources" suddenly became a very serious issue, followed abruptly by the Arab oil embargo and four-fold price increase.

U.S. oil and gas production has turned around in the last year and increased modestly for the first time in five years. This is due to the new oil from Alaska's North Slope and offshore drilling for natural gas which started in the early 1970s. Meanwhile, imports declined modestly and the domestic problem at the moment is too much oil and gas.

The "energy optimists," as Schlesinger calls them, cite three fundamental reasons for the brighter picture, involving both the market forces of resource economics and the influence of government regulation.

OPEC's sharp price increases five years ago stunned the world and made a lot of companies and nations go looking for new oil and gas. In addition, previously known deposits of natural gas and oil, which were regarded as uneconomic when crude oil was at $2.50 a barrel, became worth developing when oil was at $12.50 a barrel.

Consumers, meanwhile, tried to use less—thus slowing down the natural increase in world consumption—and governments, including the United States, imposed conservation regulations designed to save oil by introducing new technology which is more efficient.

A leading example is the much-maligned American automobiles. Faced with the energy scare, Congress three years ago ordered Detroit to make smaller, lighter cars that are more fuel efficient. That changeover is under way and government energy officials predict that, even if Congress never passes another "gas guzzler" bill, U.S. consumption of gasoline will peak in the next couple of years and begin to decline—even with more cars and trucks, and more miles driven by Americans.

Schlesinger contends that the new optimism is ill-founded and the conflicting projections are all flawed one way or another, either by overstating the production potential of the Arab nations or by assuming a slow-growth economic future that would require less energy but would also be disastrous for the United States and its industrial allies.

"While novel and optimistic estimates of energy supply and demand do add spice to the energy debate," Schlesinger sarcastically told an Ohio audience last month, "the ultimate question comes down to whether the United States should base its policies and our national future on the hope that the prevailing projections might be wrong."

In Congress, Schlesinger is maneuvering to hold the fragile support for the compromise natural gas bill, a gradual schedule for lifting price controls, and he still hopes to revive the measure that nearly everyone else considers dead—the crude oil tax that would fill President Carter's promise to European allies by raising U.S oil prices to the world level.

Rep. Bob Eckhardt (D-Tex.), an administration supporter, thinks President Carter could wisely drop the issue of a crude oil tax until next year because the brighter forecasts give the country more time to settle the issue of oil pricing. Getting a tax bill this year cannot be done, he said, "without making enormous concessions to the oil companies in other ways than pricing."

The Western European nations and Japan are pushing for higher U.S. prices—not necessarily because of oil shortages—but because the lower-priced domestic oil in the United States gives American manufacturers a trade advantage. Cheaper oil means lower prices for U.S. products sold abroad.

"There was a long time in the 1950s," Eckhardt noted, "when our domestic oil was priced higher than theirs and you didn't see the Europeans doing anything about it. The heavens didn't fall nor was there any loud cry that it was destroying the economies of the world. Why should the world fall apart if we have a little manufacturing advantage?"

A handful in Congress have felt from the beginning, that the "energy crisis" was manufactured by the oil industry and they have fought any of the measures to raise prices and taxes on consumers.

One of them, Sen. James Abourezk (D-S.D.) plans to filibuster once more against the natural gas bill when the conference report comes to the Senate floor next month. This time, Abourezk may be joined by some pro-industry conservatives such as Sen. John Tower (R-Tex.) who think the deregulation compromise is worse than no bill at all.

Abourezk argues bluntly that "energy crisis" is a propaganda game to raise oil prices, nothing more.

"Not many understand that the crisis is a phoney," he said. "Even if they do, they don't know what to do about it."●

## HUMAN RIGHTS VIOLATIONS ON CYPRUS

● Mr. SARBANES. Mr. President, in early 1977, the British press revealed a confidential report by the prestigious European Commission on Human Rights concerning Turkish violations on Cyprus during and after Turkey's 1974 armed invasion of that country. The London Sunday Times account of that report appears below. I urge Members carefully to review this report as it details egregious violations of human rights by Turkey's Armed Forces on the tragic Island of Cyprus.

Furthermore, just last week, the European Commission on Human Rights again agreed to hear testimony on Turkish violations of human rights on Cyprus, this time concerning those alleged violations from July 10, 1976, to present. The Commission's decision to review the period since its first report on Cyprus came after 3 days of hearings on complaints by the Cyprus Government and responses thereto by the Turkish Government.

In undertaking this latest review the European Commission on Human Rights

rejected the argument of the Turkish Government that Turkey has no jurisdiction and responsibility in respect of the part of Cyprus presently occupied by her military forces. Matters to be looked into by the European Commission on Human Rights include a wide range of actions by the Turkish forces concerning people under their jurisdiction and concerning the refugees who had been driven from their homes.

Mr. President, I ask that the London Sunday Times account referred to above be printed in the RECORD.

The article follows:

[From the London Sunday Times, Jan. 23, 1977]

TURK ATROCITIES: WHAT SECRET REPORT REVEALS

The Sunday Times has obtained a copy of a secret Council of Europe report which finds Turkey guilty of violating seven articles of the European Convention on Human Rights. It amounts to a massive indictment of the Ankara government for the murder, rape and looting by its army in Cyprus during and after the Turkish invasion of summer 1974.

The politically explosive report by leading jurists on the European Commission of Human Rights is regarded as so confidential that only one copy has been lodged with each of the Council of Europe's 19 member states. Its impact could result in the withdrawal or expulsion of Turkey from the Council.

Allegations made by the Cyprus Government against Turkey covered systematic killings of civilians who were not involved in the 1974 fighting; repeated rape of women aged from 12 to 71, often brutally, in public; the torture and savage and humiliating treatment of hundreds of Greek Cypriots, including children, during their detention by the Turkish army; and charges of extensive looting and plunder which were supported by unpublished United Nations documents.

The Commission said it could reach no conclusion on allegations of forced labour.

The inquiry by the Commission of 17 members, under their British president, James Fawcett, began in May 1975. A delegation visited the island in September 1975, and submissions were received up to May 18, 1976.

The investigators were hampered by Turkey's refusal to participate in the inquiry—they were denied access to the "Turkish Federated State" unilaterally established in the occupied north of Cyprus. They were also hampered by the sheer number of alleged violations of the Convention, and had to restrict their investigation to a limited number of cases "selected as representative."

Copies of the report were sent to member governments as long ago as last August, but it will be next month before the Council's committee of ministers meets in Strasbourg to consider what action to take.

The Turkish government's response to the Commission's report has been to reject it out of hand. A statement issued by the Turkish Foreign Ministry in Ankara said: "The Commission examined the Greek [allegations] in a manner which we don't think is in accordance with the European Human Rights agreement, and in Turkey's absence.

"The Commission has thus based its report on the allegations of the Greek Cypriot Government and the statements of a few Greek witnesses alone which it listened to in four short days in Cyprus. And it prepared it [the report] with unusual haste."

Both the Turkish Foreign Ministry and Prime Minister, Suleyman Demirel, also complained that the Commission had not taken into account "the terrorist activities undertaken by the Greeks against the Turkish community" in Cyprus.

Referring to inter-communal strife on the island between 1963 and 1974, Mr. Demirel said: "Why does nobody see cruelty when it is committed against Turks? For years (Cypriot) Turks were subjected to cruelty but everyone was silent. Turks were pitilessly slaughtered from the baby in the cot to old people of 90. They were evicted from their houses and homes. Nobody saw that. Now they condemn Turks with a report."

Mr. Demirel added that Turks were "extraordinarily civilized people" and "have not committed cruelty or anything against anyone."

Last night a senior official of the Turkish Foreign Ministry said it was "a scandal" that The Sunday Times had obtained a copy of the Commission's report. He blamed "the Greeks."

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TURKEY AND CYPRUS

On page ten of today's issue, we publish some of the details from a report about alleged Turkish atrocities in Cyprus. The report is the work of the Human Rights Commission of the Council of Europe. It is a horrendous indictment against Turkey and its soldiers and civilians sent from the mainland to the Turkish areas of Cyprus. The member Governments of the Council of Europe must decide next month whether or not to accept the report. If they do accept it, and it is difficult to see, on the evidence, how they can avoid doing so, then Turkey will stand condemned before the bar of European and indeed world opinion.

The first thing to be clear about is that these wrongdoings are the work of the Turks from the mainland. Turkish Cypriots harbour a credible sense of past grievance against the Greek Cypriot majority on the island. But they know that they can and must eventually live, as they have done for centuries, in peace with their Greek neighbours. The invaders from the north are another matter altogether. The government in Ankara as well as Turkish public opinion itself, must be brought to see that Turkish behaviour in Cyprus is a blot upon the good name and reputation of the Turkish people themselves. "Turks are extraordinarily civilised people," Mr. Demirel, the Turkish Prime Minister, said last week.

The Prime Minister can, of course, sustain this claim by producing counter evidence for the period of the European Commission report. But there are other steps of immediate relevance to the people in northern Cyprus today. He should issue orders—and see they are obeyed—for the protection of human rights. And he should permit free access (denied even to Turkish Cypriots) to all parts of northern Cyprus. These would be measures of good intent. The new President of the United States, who has pledged himself to defend human rights, should encourage Turkey in this; his moral fervour and humanity will be an important element in reasserting the need for America's NATO allies to observe irreducible standards of conduct.

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THE TERRIBLE SECRETS OF THE TURKISH INVASION OF CYPRUS

(The plight of Cyprus, with 40 percent of the island still occupied by Turkish troops who invaded in the summer of 1974, is well known. But never before has the full story been told of what happened during and after the invasion. This article is based on the secret report of the European Commission of Human Rights. For obvious reasons, Insight has withheld the names of witnesses who gave evidence to the Commission.)

KILLING

Relevant Article of Human Rights Convention: Everyone's right to life shall be protected by law.

Charge made by Greek-Cypriots: The Turkish army embarked on a systematic course of mass killings of civilians unconnected with any war activity.

Turkish Defence: None offered, but jurisdiction challenged. By letter dated November 27, 1975, Turkey told the Commission it refused to accept the Greek Cypriot administration's right to go to the commission, "since there is no authority which can properly require the Turkish government to recognize against its will the legitimacy of a government which has usurped the powers of the estate in violation of the constitution of which Turkey is a guarantor." No defence therefore offered to any other charges either.

Evidence given to the commission: Witness Mrs. K said the powers of the state in violation that on July 21, 1974, the second day of the Turkish invasion, she and a group of villagers from Ella were captured when, fleeing from bombardment, they tried to reach a range of mountains. All 12 men arrested were civilians. They were separated from the women and shot in front of the women under orders of a Turkish officer. Some of the men were holding children, three of whom were wounded.

Written statements referred to two more group killings: at Trimithi eyewitnesses told of the deaths of five men (two shepherds aged 60 and 70, two masons of 20 and 60, and a 19-year-old plumber). At Palekythron 30 Greek Cypriot soldiers being held prisoner were killed by their captors, according to the second statement.

Witness S gave evidence of two other mass killings at Palekythron. In each case, between 30 and 40 soldiers who had surrendered to the advancing Turks were shot. In the second case, the witness said, "the soldiers were transferred to the kilns of the village where they were shot dead and burnt in order not to leave details of what had happened."

Seventeen members of two neighbouring families, including 10 women and five children aged between two and nine were also killed in cold blood at Palekythron, reported witness H. a doctor. Further killings described in the doctor's notes, recording evidence related to him by patients (either eyewitnesses or victims) included:

Execution of eight civilians taken prisoner by Turkish soldiers in the area of Prastio, one day after the ceasefire on August 16, 1974.

Killing by Turkish soldiers of five unarmed Greek Cypriot soldiers who had sought refuge in a house at Voni.

Shooting of four women, one of whom survived by pretending she was dead.

Further evidence, taken in refugee camps and in the form of written statements, described killings of civilians in homes, streets or fields, as well as the killing of people under arrest or in detention. Eight statements described the killing of soldiers not in combat; five statements referred to a mass grave found in Dherynia.

Commission's verdict: By 14 votes to one, the commission considered there were "very strong indications" of violation of Article 2 and killings "committed on a substantial scale."

RAPE

Relevant article: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Charge by Greek-Cypriots: Turkish troops were responsible for wholesale and repeated rapes of women of all ages from 12 to 71, sometimes to such an extent that the victims suffered hemorrhages or became mental wrecks. In some areas, enforced prostitution was practised, all women and girls of a village being collected and put into separate rooms in empty houses where they were raped repeatedly.

In certain cases, members of the same family were repeatedly raped, some of them

in front of their own children. In other cases women were brutally raped in public.

Rapes were on many occasions accompanied by brutalities such as violent biting of the victims causing severe wounding, banging their heads on the floor and wringing their throats almost to the point of suffocation. In some cases attempts to rape were followed by the stabbing or killing of the victims, victims included pregnant and mentally-retarded women.

Evidence given to commission: Testimony of doctors C and H, who examined the victims. Eyewitnesses and hearsay witnesses also gave evidence, and the commisison had before it written statements from 41 alleged victims.

Dr. H said he had confirmed rape in 70 cases, including:

A mentally-retarded girl of 24 was raped in her house by 20 soldiers. When she started screaming they threw her from the second-floor window. She fractured her spine and was paralysed;

One day after their arrival at Voni, Turks took girls to a nearby house and raped them;

One woman from Voni was raped on three occasions by four persons each time. She became pregnant;

One girl, from Palekythron, who was held with others in a house, was taken out at gunpoint and raped;

At Tanvu, Turkish soldiers tried to rape a 17-year-old schoolgirl. She resisted and was shot dead;

A woman from Gypsou told Dr. H. that 25 girls were kept by Turks at Marathouvouno as prostitutes.

Another witness said his wife was raped in front of their children. Witness S. told of 25 girls who complained to Turkish officers about being raped and were raped again by the officers. A man (name withheld) reported that his wife was stabbed in the neck while resisting rape. His granddaughter, aged six, had been stabbed and killed by Turkish soldiers attempting to rape her.

A Red Cross witness said that in August 1974, while the island's telephones were still working, the Red Cross Society received calls from Palekythrou and Kaponti reporting rapes. The Red Cross also took care of 38 women released from Voni and Gypsou detention camps: all had been raped, some in front of their husbands and children. Others had been raped repeatedly, or put in houses frequented by Turkish soldiers.

These women were taken to Akrotiri hospital, in the British Sovereign Base Area, where they were treated. Three were found to be pregnant. Reference was also made to several abortions performed at the base.

Commission's verdict: By 12 votes to one the commission found "that the incidents of rape described in the cases referred to and regarded as established constitute 'inhuman treatment' and thus violations of Article 3 for which Turkey is responsible under the convention."

TORTURE

Relevant article: see above under Rape.

Charge by Greek-Cypriots: Hundreds of people, including children, women and pensioners, were victims of systematic torture and savage and humiliating treatment during their detention by the Turkish army. They were beaten, according to the allegations, sometimes to the extent of being incapacitated. Many were subjected to whipping, breaking of their teeth, knocking their heads against walls, beating with electrified clubs, stubbing of cigarettes on their skin, jumping and stepping on their chests and hands, pouring dirty liquids on them, piercing them with bayonets, etc.

Many, it was said, were ill-treated to such an extent that they became mental and physical wrecks. The brutalities complained of reached their climax after the ceasefire agreements; in fact, most of the acts described were committed at a time when Turkish armed forces were not engaged in any war activities.

Evidence to Commission: Main witness was schoolteacher, one of 2,000 Greek Cypriot men deported to Turkey. He stated that he and his fellow detainees were repeatedly beaten after their arrest, on their way to Adana (in Turkey), in jail in Adana and in prison camp at Amasya.

On ship to Turkey—"That was another moment of terrible beating again. We were tied all the time. I lost the sense of touch. I could not feel anything for about two or three months. Every time we asked for water or spoke we were being beaten."

Arriving at Adana—". . . then, one by one, they led us to prisons, through a long corridor . . . Going through that corridor was another terrible experience. There were about 100 soldiers from both sides with sticks, clubs and with their fists beating every one of us while going to the other end of the corridor. I was beaten at least 50 times until I reached the other end.

In Adana anyone who said he wanted to see a doctor was beaten. "Beating was on the agenda every day. There were one or two very good, very nice people, but they were afraid to show their kindness, as they told us."

Witness P spoke of:

A fellow prisoner who was kicked in the mouth. He lost several teeth "and his lower jaw came off in pieces."

A Turkish officer, a karate student, who exercised every day by hitting prisoners.

Fellow prisoners who were hung by the feet over the hole of a lavoratory for hours.

A Turkish second lieutenant who used to prick all prisoners with a pin when they were taken into a yard.

Evidence from Dr. H. said that prisoners were in an emaciated condition on their return to Cyprus. On nine occasions he had found signs of wounds.

The doctor gave a general description of conditions in Adana and in detention camps in Cyprus (at Pavlides Garage and the Saray Prison in the Turkish quarter of Nicosia) as reported to him by former detainees. Food, he said, consisted of one-eighth of a loaf of bread a day, with occasional olives; there were two buckets of water and two mugs which were never cleaned, from which about 1,000 people had to drink; toilets were filthy, with feces rising over the basins; floors were covered with feces and urine; in jail in Adana prisoners were kept 76 to a cell with three towels between them and one block of soap per eight persons per month to wash themselves and their clothes.

One man, it was alleged, had to amputate his own toes with a razor blade as a consequence of ill-treatment. Caught in Achna with another man, they had been beaten up with hard objects. When he had asked for a glass of water he was given a glass full of urine. His toes were then stepped on until they became blue, swollen and eventually gangrenous. (The other man was said to have been taken to hospital in Nicosia, where he agreed to have his legs amputated. He did not survive the operation.)

According to witness S, "hundreds of Greek Cypriots were beaten and dozens were executed. They have cut off their ears in some cases, like the case of Palekythro and Trahoni. . . ." (verbatim record).

Verdict by commission: By 12 votes to one, the commission concluded that prisoners were in a number of cases physically ill-treated by Turkish soldiers. "These acts of ill-treatment caused considerable injuries and in at least one case, the death of the victim. By their severity they constitute 'inhuman treatment' in the sense of Article 3, for which Turkey is responsible under the convention."

LOOTING

Relevant article: Every natural or legal person is entitled to the peaceful enjoyment of his possessions.

Charge by Greek Cypriots: In all Turkish-occupied areas, the Turkish army systematically looted houses and business premises of Greek Cypriots.

Evidence to commission: Looting in Kyrenia was described by witness C: "* * * The first days of looting of the shops was done by the army, of heavy things like refrigerators, laundry machines, television sets" (verbatim record).

For weeks after the invasion, he said, he had watched Turkish naval ships taking on board the looted goods.

Witness K, a barrister, described the pillage of Famagusta: "At two o'clock an organised systematic, terrifying, shocking, unbelievable looting started * * * We heard the breaking of doors, some of them iron doors, smashing of glass, and we were waiting for them any minute to enter the house. This lasted for about four hours."

Written statements by eyewitnesses of looting were corroborated by several reports by the secretary-general of the United Nations.

Verdict of Commission: The commission accepted that looting and robbery on an extensive scale, by Turkish troops and Turkish Cypriots, had taken place. By 12 votes to one, it established that there had been deprivation of possessions of Greek Cypriots on a large scale.

OTHER CHARGES

On four counts, the commission concluded that Turkey had also violated an Article of the Convention asserting the right to respect for private and family life, home and correspondence. The commission also decided that Turkey was continuing to violate the Article by refusing to allow the return of more than 170,000 Greek Cypriot refugees to their homes in the north.

On three counts, the commission said Turkey had breached an Article laying down the right to liberty and security of person by confining more than 2,000 Greek Cypriots in schools and churches.

Finally, the commission said Turkey had violated two more articles that specify that the rights and freedoms in the Convention shall be secured without discrimination on any ground, and that anyone whose rights are violated "shall have an effective remedy before a national authority."

## GRONSETH ON PROPOSITION 13 AND THE DECLARATION OF INDEPENDENCE

Mr. PROXMIRE. Mr. President, a distinguished pastor in my State, the Reverend Harold Gronseth, has written an article with respect to Proposition 13, the Declaration of Independence, and the remarks by Alexandr Solzhenitsyn at the Harvard graduation. It is a very interesting summary of these important events, and I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROPOSITION 1776

(By The Rev. Harold O. Gronseth)

Abraham Lincoln said it at Gettysburg: "Four score and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." That proposition takes us back to 1776.

For 169 years the 13 colonies had been loyal to their mother country. Repeated abuses of power, by both the Parliament and the king, stirred an exceptional group of angry intellectuals to form a new nation. Pledging to each other their lives, fortunes and sacred honor, they signed a Declaration of Independence which contained 27 charges

of "repeated injuries and usurpations." The result was a long and bloody war for those who wanted—more than gold—life, liberty and the pursuit of happiness.

The Declaration states: "Governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends (inalienable rights) it is the right of the people to alter or abolish it. . . ." Proposition 13 in California is a revolt of taxpaying citizens, not to abolish government, but to alter it. It is being led by Howard Jarvis, who for 16 years has battled for more simplicity and economy in government. Ignored by the "big shots," he took the issue to the people—and they spoke so loudly politicians are running scared. The heart of the protest is just two words: "too much."

Too much taxation. The 1776ers' indictment read: "Imposing taxes on us without our consent." They called it, "Taxation without representation." We have representatives, but too many of them are thinking of news ways to tax. There are 116 different taxes on a loaf of bread.

We have the service tax, the excessive capital gains tax and the double taxation of dividends. And who can afford to die, having dependents, with the present estate tax? The colonist protested the stamp tax and the import tax by dumping the tea into the sea. It has been well said the power to tax is the power to destroy. Ask farmers who have lost their way of life. Ask businesspersons who have been destroyed by taxation. People are tired of those who have the power to raise their own salaries and avoid some of the taxes the common herd has to pay.

Too many payrollers. The proposition of 1776 reads: "He has erected a multitude of new offices, and sent hither a swarm of officers, to harass our people, and eat out their substance." Boy, does that sound familiar! One out of every five workers is employed by government—federal, state or local. Just too much government, with agencies galore investigating and directing nearly every area of your life. Forms and questionnaires, which, according to the Office of Management and Budget, consume 785 million hours of time each year, and drive citizens into near insanity.

It is the citizens who love America who want to alter it before inflation, a depreciated dollar, titanic debts and uncontrolled deficit spending destroy our democracy. They believe in and are ready and willing to be justly taxed for defense, education, police and fire protection, and to meet reasonable human needs. They also believe there are millions of public workers and legislators who are to be commended for their services to the nation. They do want to weed out the loafers and the cheaters. Jarvis may have jarred us into action. Born in protest, we may be reborn the same way.

Where did our nation's founders get their Proposition 1776 ideas? From their practical experience in public life, and from the writings of Aristotle, Thomas Aquinas, Isaac Newton, John Locke, Patrick Henry, Thomas Paine—and the Bible. In the Declaration they left us the words, "Nature's God" and "Divine Providence." On their Liberty Bell, used to announce the Declaration, were the words: "Proclaim liberty throughout all the land unto all the inhabitants thereof." (Lev. 25:10) They must have read Proverbs 29:2 "When the righteous are in authority, the people rejoice: But when the wicked bareth rule, the people mourn"—and also come up with Proposition 13.

Alexander Solzhenitsyn, in his commencement address at Harvard, spoke for an hour on both the sins of the Soviets and of Americans. He accused us of many evils—civic cowardice, immoral legalism, licentious press, Godless humanism. This good, brave and brilliant man is both right and wrong. As an exile he really knows very little of the American character and of the flexibility of our democracy. Our history speaks for itself. It needs no defense. Before next Tuesday, read the Declaration of Independence and on Sunday sing with your congregation:

"America! America!
May God thy gold refine
Till all success be nobleness
And every gain divine."

## THE PLIGHT OF THE KURDS DEMANDS RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, we have recently paid much attention to the problems of the Middle East. The sale of fighters to Egypt, Saudi Arabia, and Israel, the arms embargo against Turkey, and our efforts to achieve peace between Israel and her neighbors have all figured prominently in the public eye. In the midst of so many grave international dilemmas, we seem to have forgotten one small, but important matter, worthy of international concern.

Mr. President, we have forgotten about the Kurds. The 10 million Kurdish people scattered across Turkey, Iran, Iraq, and Syria are right now engaged in a struggle to exist. It is a struggle that has gone on for at least half a century.

Descended from the Medes, who brought down the vast Assyrian Empire 2½ millenia ago, the Kurds possess a long and noble history. With the formation of powerful Middle Eastern States in the first part of this century, the Kurds came under increasing pressure to give up their national identity. Valiant, bloody rebellions by the Kurds in Turkey, Iran, and Iraq were crushed, one after another. Still, the Kurds have refused to abandon their heritage.

Mr. President, this is not the first time that we have forgotten the Kurds. In 1974, when it served our foreign policy interest to have the Arabs fight among themselves, we supplied a Kurdish rebellion against Iraq with arms, by way of Iran. The political climate changed in 1975. Iran and Iraq became reconciled, and we responded by cutting off aid to the Kurds. Since then, the rebellion has been crushed by the Iraqis.

The persecution of the Kurdish people now taking place brings to mind another matter of international concern that seems to have been forgotten. The Convention on the Prevention and Punishment of the Crime of Genocide has awaited ratification by the Senate for 29 years.

Ten million Kurdish people are threatened with the destruction of their culture and their lives. No matter of international concern can be so important that 10 million people can be forgotten. We must ratify the Genocide Convention and recognize the persecution of the Kurdish people for what it is—an international crime.

## AIRLINE MUTUAL AID PACT

Mr. MELCHER. Mr. President, Senate Joint Resolution 149 introduced last week may have given some the feeling that in directing the Civil Aeronautics Board to terminate the Airline's Mutual Aid Pact that it provides only restriction for airline companies with no examination of the pilot's part in this prolonged 85-day strike of Northwest Airlines.

Not so. Read section 3 of Senate Joint Resolution 149. It directs the CAB to report back in 6 months recommendations for better collective-bargaining methods for the airline industry to avoid future long strikes.

The pilot's middle range of pay is $40,000 to $60,000 per year and the senior overseas captains make over $100,000. That is not bad.

I do not feel qualified to determine the right pay range for pilots any more than I feel qualified to gage the proper salaries for some airline executives I know who point out that the pilots are well paid for working only half of the month.

But I do know that over the years in the collective-bargaining process the airlines themselves have created the pilots' pay structure. That is not because there has been or is now a shortage of pilots.

My concern with the Mutual Aid Pact is that during the past 8 years with 5 strikes totaling 348 days Northwest has on 3 occasions had protracted strikes. They bargained tough with pilots or clerks because, in my judgment, they could afford the long strikes with heavy contributions of the pact funds. The record shows Northwest is one of two airlines that have shown a profit each year during the past 10 years. That includes a good profit even in 1970 when Northwest's strike lasted 163 days—almost half the year. The formula of the pact assures a struck airline a percentage of their average daily operating costs that they pay out when actually flying. That percentage paid by the other pact airlines goes to Northwest even though their airplanes are on the ground with no fuel costs and the laid off workers are not costing Northwest. Yet the pact funds flow into Northwest's till.

Currently they have realized $85 million for not flying 85 days.

I believe it is an anticompetitive arrangement, benefiting a strong airline like Northwest at the expense of the weaker airlines draining their finances.

The victims of this strike have my greatest sympathy.

These victims are:

First. Northwest's 9,500 other workers not on strike but who are laid off.

Second. The public dependent upon Northwest for needed travel and air freight, particularly in much of Northwest's territory where alternative air service is not available.

Third. The air terminals and related businesses primarily served by Northwest that are suffering losses because of loss of business.

Fourth. The passengers on the other pact airlines who, through their ticket purchases help subsidize the pact for Northwest's strike which ironically impacts other airlines making reservations tough and seats scarce or not available.

Senate Joint Resolution 149 provides the proper and timely means of opening the discussion of the mutual aid pact and collective bargaining proce-

dures in the airline industry. It is time we do; because the public interest is at stake on both issues—and on both sides—and Congress is the proper forum for public hearings.

I hope my fellow Senators will consider the resolution as a start to avoid future long strikes in this vital industry—a needed part of our transportation system which contributes heavily to a healthy economy.

## ANNOUNCEMENT OF POSITION ON VOTES—S. 3085 AND S. 2534

Mr. STEVENS. Mr. President, on Friday, July 21, the Senate passed two measures, the so-called child nutrition bill, S. 3085, and the health maintenance organizations bill, S. 2534.

I was in Alaska meeting with the Governor and addressing a group of the University of Alaska when these votes were taken. However, I would like the record to show that if present and voting, I would have voted "yea" in favor of both measures.

## LIMITED EMBARGO ON ARMS TO TURKEY

Mr. SARBANES. Mr. President, the Senate will vote tomorrow on amendments to repeal the limited embargo on arms to Turkey. In considering this issue, I hope Members will review the following editorial from Saturday's New York Times, which urges that the Senate maintain the limitations on arms sales to Turkey.

I ask unanimous consent, Mr. President, that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 22, 1978]

CYPRUS AND THE SENATE

The Senate is about to vote on whether to continue the limitations on arms sales to Turkey. They were imposed after Ankara used American-supplied weapons to occupy two-fifths of Cyprus in 1974, in violation of a Congressional prohibition. We have argued in the past that the limits should be kept until Turkey indicates it will withdraw its forces. We still think so.

Few controversies are as vexing as the feud between the half million Greek Cypriots and the 120,000 Turkish Cypriots over how they will coexist on their island. Their centuries-old quarrel has reached into American politics. The Turks and Turkish Cypriots and their American sympathizers contend that national pride forbids concessions on Cyprus so long as the "embargo" stands. Direfully, they predict that maintaining last year's $175-million limit on arms sales will drive Turkey out of NATO, perhaps even into Moscow's arms. But it would be no gain for the West to purchase Turkish good will at the price of Greek resentment.

When Jimmy Carter was a candidate for President he held that the restriction on arms sales should stand until Ankara withdrew the force that enables Turkish Cypriots, with 20 percent of the island's population, to occupy roughly 40 percent of its territory. This spring, however, he urged that the embargo be lifted. Administration spokesmen maintain that once it is lifted, Ankara will make generous diplomatic proposals. But the Government of Prime Minister Bulent Ecevit has so far given no sign that it is prepared to risk the domestic consequences of offering the concessions needed to reach an accommodation. The vague proposal put forward by the Turkish Cypriots on Thursday for resettling some Greek refugees is welcome but scarcely sufficient. The Turkish concessions need to be territorial.

Where Greek Cypriots go wrong is in insisting that their preponderance in numbers also entitles them to the kind of predominance they enjoyed under the island's 1960 constitution. If the Turkish Cypriots would yield significantly on territory, they could more credibly insist on a constitution that provides for virtually autonomous states for the two communities, linking them only for a minimum of such "federal" functions as conducting foreign affairs and issuing currency.

Greek Cypriots denounce this idea as a mere division of the island. Even if this were true, there would be no alternative; nothing except good will can force the two communities to work together. Because ending Turkey's occupation remains an essential first step toward creating an atmosphere of trust, Congress should not yet relax the restrictions on arms sales. It should make clear to the Greek Cypriots, however, that the United States intends to help them reclaim their farms and villages but not to restore their domination of the Turkish population.

## SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the orders for the recognition of Senators previously entered have been consummated, Mr. MCGOVERN be recognized for not to exceed 5 minutes and Mr. DURKIN be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe the lineup of Senators for recognition under orders previously entered is as follows: Mr. MOYNIHAN, 15 minutes; Mr. YOUNG, 5 minutes; Mr. JAVITS, 15 minutes; Mr. MCGOVERN, 5 minutes, and Mr. DURKIN, 10 minutes. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

## TIME-LIMITATION AGREEMENT—H.R. 12935

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the legislative branch appropriations bill, Calendar Order No. 953, H.R. 12935, is made the pending business before the Senate, there be a time agreement thereon as follows: One hour to be equally divided between Mr. SASSER and Mr. SCHWEIKER, 30 minutes on any amendment, 20 minutes on any debatable motion or appeal or point of order if such is submitted to the Senate for its discussion, and with the proviso that there be 1 hour on an amendment by Mr. CHAFEE, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TIME-LIMITATION AGREEMENT—CONFERENCE REPORT, S. 1678

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the conference report on S. 1678, the Insecticide, Fungicide, and Rodenticide Act, is called up, there be a time limitation overall of 1 hour, to be equally divided between Mr. LEAHY and Mr. DOLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXTENSION OF TIME FOR FILING COMMITTEE REPORT ON S. 3077

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works have until July 26 to report on S. 3077, the Export-Import Bank reauthorization amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR JOINT RESOLUTIONS TO BE HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to hold at the desk, pending further disposition, House Joint Resolution 682 and House Joint Resolution 946.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Delaware (Mr. ROTH) as a congressional adviser to the official delegation to the second session of the United States-ASEAN Dialog, to be held in Washington, D.C., August 2–4, 1978.

## ORDER TO CONVENE 9:30 A.M. ON WEDNESDAY, JULY 26, 1978

Mr. ROBERT C. BYRD. Mr. President, the convening hour tomorrow is 10 o'clock a.m. Is the convening hour on Wednesday set for 9:30 a.m. or 10?

The PRESIDING OFFICER. It is now set for 10 o'clock.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening hour on Wednesday be 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR SENATE TO CONVENE AT 9 A.M. ON THURSDAY, FRIDAY, AND SATURDAY OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Wednesday, Thursday, and Friday, it stand in recess until the hours of 9 o'clock a.m. on Thursday, Friday, and Saturday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR SENATE TO CONVENE AT 10 A.M. ON MONDAY, JULY 31, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday of next week, it convene at the hour of 10 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I want to indicate to all Senators that on tomorrow the Senate will come in at 10 a.m.

There will be some orders for the recognition of Senators, and then the Senate will proceed to the consideration of the Foreign Assistance Act. There will be rollcall votes on various amendments to that act tomorrow; and if we do not complete action on tomorrow, the votes will continue into Thursday.

I anticipate that the subject of the repeal of the embargo on arms to Turkey probably will be the first matter to be decided by the Senate. I hope that issue could be resolved before the day is over tomorrow and that perhaps the Senate could get some of the other controversial issues resolved as well.

I thank the Senate for its patience.

## RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to and, at 7:52 p.m., the Senate recessed until tomorrow, July 25, 1978, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 24, 1978:

### IN THE AIR FORCE

The following-named officers under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Howard Mac Lane, xxx-xx-xxxx, U.S. Air Force.

### IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

*To be lieutenant colonel*

Abbott, Rudolph E., xxx-xx-xxxx.
Abernathy, Eugene B., xxx-xx-xxxx.
Ackerman, Donald C., xxx-xx-xxxx.
Acuff, Gerald R., xxx-xx-xxxx.
Adamcik, Merrill T., xxx-xx-xxxx.
Adams, Allen D., xxx-xx-xxxx.
Adams, Donald D., xxx-xx-xxxx.
Adams, James G., xxx-xx-xxxx.
Adamski, Richard G., xxx-xx-xxxx.
Addy, Buford W., xxx-xx-xxxx.
Adkins, Donald V., xxx-xx-xxxx.
Agostini, Victor M., xxx-xx-xxxx.
Akam, George R., xxx-xx-xxxx.
Alexander, Richard, xxx-xx-xxxx.
Alexander, Walter D., xxx-xx-xxxx.
Allanson, Will B., xxx-xx-xxxx.
Allen, Carl J., xxx-xx-xxxx.
Allen, David J., xxx-xx-xxxx.
Allen, Jerry P., xxx-...
Allen, Teddy G., xxx-xx-xxxx.
Allred, Raymond S., xxx-xx-xxxx.
Altom, Gilbert J., xxx-xx-xxxx.
Alvadj, Gordon S., xxx-xx-xxxx.
Amend, William B., xxx-xx-xxxx.
Ament, Robert L., xxx-xx-xxxx.
Anderson, Ronald K., xxx-xx-xxxx.
Antross, Richard C., xxx-xx-xxxx.
Appling, David A., xxx-xx-xxxx.
Apruzzese, Vincent, xxx-xx-xxxx.
Arndt, Terrence L., xxx-xx-xxxx.
Aschettino, Richard, xxx-xx-xxxx.
Aschliman, Edward L., xxx-xx-xxxx.
Atwood, John B., xxx-xx-xxxx.
Avera, John B., xxx-xx-xxxx.
Bacon, Donald D., xxx-xx-xxxx.
Bacon, Stanley, Jr., xxx-xx-xxxx.
Badger, Ralph E., xxx-xx-xxxx.
Bagdanov, James L., xxx-xx-xxxx.
Bagozzi, Donald F., xxx-xx-xxxx.
Bahnsen, Peter F., xxx-xx-xxxx.
Bailey, Clark J., xxx-xx-xxxx.
Bailey, George W., xxx-xx-xxxx.
Baker, John P., xxx-xx-xxxx.
Baker, Robert W., xxx-xx-xxxx.
Balda, Edward J., xxx-xx-xxxx.
Baldwin, Roy G., xxx-xx-xxxx.
Balish, Warren N., xxx-xx-xxxx.
Barber, Larry W., xxx-xx-xxxx.
Barge, Walter S., xxx-xx-xxxx.
Barham, Thomas J., xxx-xx-xxxx.
Barkett, John S., xxx-xx-xxxx.
Barkley, William A., xxx-xx-xxxx.
Barksdale, Lewis B., xxx-xx-xxxx.
Barnebey, Hoyt W., xxx-xx-xxxx.
Barrett, Robert C., xxx-xx-xxxx.
Barry, Joseph A., xxx-xx-xxxx.
Barta, V. William, xxx-xx-xxxx.
Bartlett, William E., xxx-xx-xxxx.
Bartlett, William G., xxx-xx-xxxx.
Basha, Robert T., xxx-xx-xxxx.
Basham, Harold R., xxx-xx-xxxx.
Bauchspies, Richard, xxx-xx-xxxx.
Bauer, Anthony G., xxx-xx-xxxx.
Baxter, Thomas R., xxx-xx-xxxx.
Baxter, Wayne H., xxx-xx-xxxx.
Bay, Charles H., xxx-xx-xxxx.
Beachem, Paul J., xxx-xx-xxxx.
Beaumont, Marion E., xxx-xx-xxxx.
Becker, Ronald C., xxx-xx-xxxx.
Beckman, Charles H., xxx-xx-xxxx.
Belinsky, Howard M., xxx-xx-xxxx.
Bellows, Ronald L., xxx-xx-xxxx.
Bennett, Edward L., xxx-xx-xxxx.
Bennett, Eugene W., xxx-xx-xxxx.
Berdux, Sylvester C., xxx-xx-xxxx.
Berkley, Nathan R., xxx-xx-xxxx.
Berry, Joe D., xxx-xx-xxxx.
Beyer, Alfred H., xxx-xx-xxxx.
Beyer, Lawrence F., xxx-xx-xxxx.
Bibbins, George L., xxx-xx-xxxx.
Biberstein, Billy J., xxx-xx-xxxx.
Bishop, Robert L., xxx-xx-xxxx.
Bivings, Donald E., xxx-xx-xxxx.
Blackham, Richard G., xxx-xx-xxxx.
Blackwell, Cedric L., xxx-xx-xxxx.
Blahna, Gary L., xxx-xx-xxxx.
Blakely, Clyde H., xxx-xx-xxxx.
Blazes, Peter J., xxx-xx-xxxx.
Bledsoe, Edward P., xxx-xx-xxxx.
Block, Thomas R., xxx-xx-xxxx.
Bloedorn, Gary W., xxx-xx-xxxx.
Blume, Geoffrey E., xxx-xx-xxxx.
Boller, Richard R., xxx-xx-xxxx.
Bomar, Hobby J., xxx-xx-xxxx.
Bond, Nelson B., xxx-xx-xxxx.
Bongiardina, Joseph, xxx-xx-xxxx.
Bons, Paul M., xxx-xx-xxxx.
Boothe, Robert S., xxx-xx-xxxx.
Borgman, John D., xxx-xx-xxxx.
Borneman, Frederick, xxx-xx-xxxx.
Bosway, Stephen G., xxx-xx-xxxx.
Bowdan, Melvin R., xxx-xx-xxxx.
Bowen, Cecil R., xxx-xx-xxxx.
Boyd, Leo S., xxx-xx-xxxx.
Boyd, Thomas G., xxx-xx-xxxx.
Boyd, Thomas J., xxx-xx-xxxx.
Boylston, Graves L., xxx-xx-xxxx.
Bradin, James W., xxx-xx-xxxx.
Bradley, Holley D., xxx-xx-xxxx.
Bradley, Robert E., xxx-xx-xxxx.
Bradner, James W., xxx-xx-xxxx.
Bradshaw, Jack O., xxx-xx-xxxx.
Brantley, Danon L., xxx-xx-xxxx.
Braspenninckx, Harold, xxx-xx-xxxx.
Brett, William J., xxx-xx-xxxx.
Brewer, James A., xxx-xx-xxxx.
Bridgwater, Tom W., xxx-xx-xxxx.
Briggs, Bobby G., xxx-xx-xxxx.
Brintnall, Clarke M., xxx-xx-xxxx.
Brister, Delano R., xxx-xx-xxxx.
Brokaw, Francis L., xxx-xx-xxxx.
Brooks, James R., xxx-xx-xxxx.
Brookshire, George, xxx-xx-xxxx.
Brown, Charles L., xxx-xx-xxxx.
Brown, Clyde O., xxx-xx-xxxx.
Brown, George P., xxx-xx-xxxx.
Brown, Harold L., xxx-xx-xxxx.
Brown, Joe M., xxx-xx-xxxx.
Brown, Joseph E., xxx-xx-xxxx.
Brown, Joseph K., xxx-x...
Brown, Noel L., xxx-xx-xxxx.
Brown Oreal L., xxx-xx-xxxx.
Brownfield, William, xxx-xx-xxxx.
Brumbaugh, Larry W., xxx-xx-xxxx.
Brunelle, Pierre V., xxx-xx-xxxx.
Brunkow, Richard O., xxx-xx...
Bruzina, Dennis R., xxx-xx-xxxx.
Bubon, John J., xxx-xx-xxxx.
Buchly, William S., xxx-xx-xxxx.
Buckman, Leroy R., xxx-xx-xxxx.
Bullard, Monte R., xxx-xx-xxxx.
Bunker, Robert M., xxx-xx-xxxx.
Buntyn, James R., xxx-xx-xxxx.
Buono, Daniel P., xxx-xx-xxxx.
Burgdorf, Carl F., xxx-xx-xxxx.
Burke, Allan R., xxx-xx-xxxx.
Burke, Edward J., xxx-xx-xxxx.
Burke, John C., xxx-xx-xxxx.
Burleson, Grady L., xxx-xx-xxxx.
Burns, George K., xxx-xx-xxxx.
Burrell, Raymond E., xxx-xx-xxxx.
Burrow, George D., xxx-xx...
Byars, Harold W., xxx-xx-xxxx.
Byrom, Seymour B., xxx-xx-xxxx.
Caddigan, James L., xxx-xx-xxxx.
Cain, Gene R., xxx-xx-xxxx.
Cain, Moses A., xxx-xx-xxxx.
Calderon, Couvertie, xxx-xx-xxxx.
Callahan, Donald J., xxx-xx-xxxx.
Cameron, Thomas F., xxx-xx-xxxx.
Campbell, Luther U., xxx-xx-xxxx.
Cancienne, Louis G., xxx-xx-xxxx.
Canfield, James D., xxx-xx-xxxx.
Cannon, Edwin E., xxx-xx-xxxx.
Cannon, Robert S., xxx-xx-xxxx.
Carbone, Anthony J., xxx-xx-xxxx.
Carnahan, Ronald J., xxx-xx-xxxx.
Carpenter, Maxey B., xxx-xx-xxxx.
Carpenter, Thomas E., xxx-xx-xxxx.
Carr, Glenn P., xxx-xx-xxxx.
Carson, John W., xxx-xx-xxxx.
Casey, Andrew M., xxx-xx-xxxx.
Catlett, Charles, xxx-xx-xxxx.
Cavoli, Ivo J., xxx-xx-xxxx.
Chandler, Edward V., xxx-xx-xxxx.
Charlton, Daniel P., xxx-xx-xxxx.
Charpentier, Charles, xxx-xx-xxxx.
Chase, Edward L., xxx-xx-xxxx.
Chaudrue, Robert G., xxx-xx-xxxx.
Chavis, Langley J., xxx-xx-xxxx.
Chesney, Ted S., xxx-xx-xxxx.
Chisholm, John J., xxx-xx-xxxx.
Christenberry, James, xxx-xx-xxxx.
Chunn, Don C., xxx-xx-xxxx.
Clark, Richard A., xxx-xx...
Clark, Shannon D., xxx-xx-xxxx.
Clarke, Robert G., xxx-xx-xxxx.
Clary, William P., xxx-xx-xxxx.
Cleaver, Bruce H., xxx-xx-xxxx.
Clement, L. W., Jr., xxx-xx-xxxx.
Clemons, Charles H., xxx-xx-xxxx.
Clewell, Robert M., xxx-xx-xxxx.
Clough, William S., xxx-xx-...
Cobb, Edward R., xxx-xx-xxxx.
Coblentz, William S., xxx-xx-xxxx.
Cochran, Pinckney C., xxx-xx-xxxx.
Cockill, Michael J., xxx-xx-xxxx.
Cockle, Dale S., xxx-xx-xxxx.
Coker, James R., xxx-xx-xxxx.
Cole, John W., xxx-xx-xxxx.
Cole, Leslie W., xxx-xx-xxxx.
Coleman, Lynn F., xxx-xx-xxxx.
Collett, Willis C., xxx-xx...
Collins, Nicholas H., xxx-xx-xxxx.
Collins, Samuel P., xxx-xx-xxxx.
Connell, Terence J., xxx-xx-xxxx.

Conner, Nelson O., [redacted].
Connolly, John D., [redacted].
Cook, Billy G., [redacted].
Cook, Larry J., [redacted].
Cook, Robert W., [redacted].
Cooper, Ted V., [redacted].
Cooper, William T., [redacted].
Corcoran, Gordon G., [redacted].
Cordonnier, David J., [redacted].
Cote, Paul R., [redacted].
Cox, Wallace R., [redacted].
Craig, Joe F., [redacted].
Cramer, Rockwell C., [redacted].
Crandall, John D., [redacted].
Cresci, Anthony B., [redacted].
Creviston, Mark S., [redacted].
Cromartie, Eugene R., [redacted].
Crosby, Benjamin G., [redacted].
Crowle, James L., [redacted].
Crowley, Ronald C., [redacted].
Crum, Raymond H., [redacted].
Crump, Roger L., [redacted].
Cubert, Burleigh M., [redacted].
Culbertson, James E., [redacted].
Cullins, Thomas E., [redacted].
Cummings, George P., [redacted].
Cunningham, Joe N., [redacted].
Curtis, Clarence E., [redacted].
Daines, Guy E., [redacted].
Daley, John M., [redacted].
Dancheck, Leonard H., [redacted].
Daniel, William D., [redacted].
Danner, Billy G., [redacted].
Dantzscher, David D., [redacted].
Darmody, William J., [redacted].
Davis, Bruce H., [redacted].
Davis, David H., [redacted].
Davis, George C., [redacted].
Davis, James M., [redacted].
Davis, Robert E., [redacted].
Davis, Ronald W., [redacted].
Davis, Roy J., [redacted].
Davis, Wayne B., [redacted].
Deamusategui, Joseph, [redacted].
Deboeser, Edward V., [redacted].
DeChristopher, Edward, [redacted].
Delumpa, Felix M., [redacted].
Dembinski, Mark L., [redacted].
Demyanenko, Serge P., [redacted].
Densford, Charles F., [redacted].
Denton, Curtis W., [redacted].
Derr, Edward B., [redacted].
Derr, William R., [redacted].
Detlie, Douglas S., [redacted].
Detrich, Virgil D., [redacted].
Devens, John W., [redacted].
Dey, Robert A., [redacted].
Dickinson, Kenneth, [redacted].
Dickinson, Roy B., [redacted].
Digh, Ned P., [redacted].
Digiacinto, Joseph, [redacted].
Dikes, Billie N., [redacted].
Dillon, Donald D., [redacted].
Dimauro, Philip V., [redacted].
Dishner, Wilbert J., [redacted].
Distefano, Herbert, [redacted].
Dixon, Leon E., [redacted].
Donahue, John C., [redacted].
Donovan, Claude B., [redacted].
Donovan, Robert T., [redacted].
Doster, David A., [redacted].
Douglas, Henry A., [redacted].
Downing, Edward J., [redacted].
Doyle, Bernard K., [redacted].
Dramis, George J., [redacted].
Drew, John B., [redacted].
Drisko, Melville A., [redacted].
Dross, David D., [redacted].
Duker, Robert P., [redacted].
Duncan, Robert D., [redacted].
Dunham, David L., [redacted].
Durham, James A., [redacted].
Eads, Hugh F., [redacted].
Edgar, Charles E., [redacted].
Edwards, William A., [redacted].
Egenmaier, Ralph G., [redacted].
Eisenbarth, Roland, [redacted].
Eldredge, Robert E., [redacted].
Eliot, John H., [redacted].
Ellerthorpe, Donald, [redacted].
Elliott, Charles R., [redacted].
Emacio, William J., [redacted].
Ennis, Harry F., [redacted].
Espin, Howard E., [redacted].
Estep, Ronald C., [redacted].
Esworthy, Bert, [redacted].
Evans, George O., [redacted].
Evans, Jacky R., [redacted].
Evans, James A., [redacted].
Evans, Robert H., [redacted].
Evans, Roy T., II, [redacted].
Fairall, Richard L., [redacted].
Farill, Trent G., [redacted].
Farquharson, William, [redacted].
Farrar, Raymond E., [redacted].
Farris, Jack B., [redacted].
Fee, Gene B., Sr., [redacted].
Felder, Ned E., [redacted].
Ferguson, James C., [redacted].
Fernandez, Claude E., [redacted].
Field, Charles N., [redacted].
Fields, Harvey R., [redacted].
Filer, Robert E., [redacted].
Fisher, Don R., [redacted].
Fitzwilliam, James, [redacted].
Fleming, Thomas E., [redacted].
Flesher, Dale D., [redacted].
Flesher, Franklin A., [redacted].
Flynn, William S., [redacted].
Focer, Samuel W., [redacted].
Foley, Thomas C., [redacted].
Forburger, Thomas V., [redacted].
Ford, Harold L., [redacted].
Forte, Johnie, Jr., [redacted].
Foster, John A., [redacted].
Fowler, Darrell V., [redacted].
Fowler, John G., [redacted].
Foy, William H., [redacted].
Frank, Basil E., [redacted].
Franks, Francis J., [redacted].
Fraunfelter, Edgar, [redacted].
Frazier, Robert J., [redacted].
Freeman, Bobby H., [redacted].
Freeman, Lowell F., [redacted].
French, Uri S., [redacted].
Frick, James A., [redacted].
Friedenwald, Robert, [redacted].
Friend, Bernard D., [redacted].
Friend, Stephen G., [redacted].
Frink, Robert K., [redacted].
Fugh, John L., [redacted].
Fuller, James R., [redacted].
Fyffe, Carroll M., [redacted].
Galbreath, Carlton, [redacted].
Gall, Robert P., [redacted].
Gammons, Vance S., [redacted].
Ganey, William G., [redacted].
Gard, William B., [redacted].
Gardella, John L., [redacted].
Gardner, William H., [redacted].
Garlick, Richard D., [redacted].
Garrison, Darrold D., [redacted].
Gartman, Etric P., [redacted].
Gauntner, Donald E., [redacted].
Gaydar, Leonard E., [redacted].
Geer, William A., [redacted].
Geiger, Peter H., [redacted].
Gell, Richard W., [redacted].
George, John D., [redacted].
Gess, William D., [redacted].
Gesulga, Theodore B., [redacted].
Giallourakis, Bill, [redacted].
Gibbings, Leslie G., [redacted].
Gillem, Richard D., [redacted].
Gingras, Ronald W., [redacted].
Glynn, Michael G., [redacted].
Goetzke, George R., [redacted].
Gongola, Victor J., [redacted].
Goodchild, Gerald B., [redacted].
Goodenough, Fred W., [redacted].
Gordon, Henry J., [redacted].
Gordon, Raymond, [redacted].
Gordy, Terry L., [redacted].
Gourley, Richard M., [redacted].
Grabowski, Norbert, [redacted].
Graf, William S., [redacted].
Grande, Alfred F., [redacted].
Graves, Gary P., [redacted].
Graves, Richard G., [redacted].
Gravette, Thomas R., [redacted].
Gray, Michael K., [redacted].
Greene, Earl M., [redacted].
Greenfield, Bennett, [redacted].
Greenwalt, Randall, [redacted].
Gregg, Noel D., [redacted].
Gregory, David T., [redacted].
Grenier, Donald H., [redacted].
Griffin, Clarence M., [redacted].
Griffin, Lowell B., [redacted].
Griffith, Allen L., [redacted].
Griffith, Warren E., [redacted].
Griggs, Carlvin J., [redacted].
Grim, Charles D., [redacted].
Groh, Peter J., [redacted].
Grove, Robert N., [redacted].
Guglielmo, Eugene M., [redacted].
Guillory, Kenneth R., [redacted].
Haan, Philip J., [redacted].
Hackney, Edward C., [redacted].
Hadjis, John, [redacted].
Hain, Earl L., [redacted].
Hale, Charles A., [redacted].
Hall, Fred W., [redacted].
Hall, Harrell G., [redacted].
Hall, James B., [redacted].
Hall, John M., [redacted].
Hallada, Raphael J., [redacted].
Hamilton, Bruce M., [redacted].
Hamilton, Welton E., [redacted].
Hammond, William D., [redacted].
Harber, Bobby D., [redacted].
Harbuck, James B., [redacted].
Hardman, Richard W., [redacted].
Harman, Walter D., [redacted].
Harmon, Charles P., [redacted].
Harrington, George, [redacted].
Harrington, Regis A., [redacted].
Harris, Donald M., [redacted].
Harris, William K., [redacted].
Hartig, Dale L., [redacted].
Harvey, Thomas H., [redacted].
Haskins, Franklin C., [redacted].
Hawley, Eric B., [redacted].
Hawranick, Theodore, [redacted].
Hayden, Leroy R., [redacted].
Haynes, Ashton M., [redacted].
Heinlein, Joseph J., [redacted].
Heizmann, William A., [redacted].
Helms, Bobby T., [redacted].
Henderson, James M., [redacted].
Hennen, Paul G., [redacted].
Henningan, William J., [redacted].
Henninger, Kermit M., [redacted].
Henry, Malcolm P., [redacted].
Herberger, Kenneth, [redacted].
Herren, John D., [redacted].
Herrmann, Roger W., [redacted].
Herron, Roy H., [redacted].
Hestand, Kenneth D., [redacted].
Hester, Jack W., [redacted].
Hickey, William C., [redacted].
Hidalgo, Peter D., [redacted].
Higgins, Paul J., [redacted].
Higgins, Robert M., [redacted].
Hiland, Bobby A., [redacted].
Hill, Fred L., [redacted].
Hill, Orland K., [redacted].
Hilton, Thomas G., [redacted].
Hitchcock, Walter A., [redacted].
Hock, Neil S., [redacted].
Holck, Roy A., [redacted].
Holland, Gerald R., [redacted].
Hollingworth, Victor, [redacted].
Holloway, Havis L., [redacted].
Hoover, James R., [redacted].
Hornaday, Robert W., [redacted].
Hornor, Jerry D., [redacted].
Hort, John H., [redacted].
Hoyem, Sylvan D., [redacted].
Hruby, Dale E., [redacted].
Hubbard, Robert V., [redacted].
Hudson, Ronald E., [redacted].
Hughes, Robert K., [redacted].
Hummel, Theodore W., [redacted].
Humphrey, Johnny M., [redacted].
Hunnicutt, Roy D., [redacted].
Hunt, John B., [redacted].
Hunt, Larry H., [redacted].
Hurley, Paul C., [redacted].
Hutcheson, Samuel Z., [redacted].

Hutton, Paul C., [redacted].
Hyman, Stanley H., [redacted].
Iori, Richard A., [redacted].
Irwin, Allan S., [redacted].
Iverson, George R., [redacted].
Ivey, George N., [redacted].
Jackson, Raymond L., [redacted].
Jackson, Strube J., [redacted].
Jacobson, Howard C., [redacted].
Jaschen, Daryl G., [redacted].
Jebavy, Henry E., [redacted].
Jeffrey, Henry E., [redacted].
Jenkins, Lester F., [redacted].
Jennings, Gerald R., [redacted].
Jennings, Richard P., [redacted].
Jensen, Blaine P., [redacted].
Jew, Soot M., [redacted].
Johnson, Bradley J., [redacted].
Johnson, David W., [redacted].
Johnson, Donald L., [redacted].
Johnson, Floyd C., [redacted].
Johnson, Gaylon L., [redacted].
Johnson, Henry O., [redacted].
Johnson, Hugh P., [redacted].
Johnson, James O., [redacted].
Johnston, Alexander, [redacted].
Johnston, Carl F., [redacted].
Johnston, Robert L., [redacted].
Jolley, Charles A., [redacted].
Jones, Harold L., [redacted].
Jones, Lincoln III, [redacted].
Jones, Robert P., [redacted].
Jordan, James P., [redacted].
Jost, Leland R., [redacted].
Kahalekulu, Benjamin, [redacted].
Kaine, George R., [redacted].
Kaiser, Samuel E., [redacted].
Kammer, Herman C., [redacted].
Kane, Paul N., [redacted].
Kannady, Donald R., [redacted].
Kanning, James R., [redacted].
Kastenmayer, Walter, [redacted].
Kaufman, Patrick S., [redacted].
Kaufmann, Reynold W., [redacted].
Kavanaugh, Paul F., [redacted].
Kaye, Francis, [redacted].
Keefer, Gary L., [redacted].
Keener, Ross F., [redacted].
Keighler, Howard V., [redacted].
Kelley, John W., [redacted].
Kellom, Bernard K., [redacted].
Kelly, Joseph D., [redacted].
Kelly, Peter P., [redacted].
Kelly, Thomas J., [redacted].
Kennedy, Stanley W., [redacted].
Kernan, James J., [redacted].
Keyes, Joseph D., [redacted].
Kidwell, Walter E., [redacted].
Kierstead, Dana S., [redacted].
Killam, John, [redacted].
King, Jack E., [redacted].
King, Jerry M., [redacted].
Kinzel, Arthur J., [redacted].
Kirshman, Ronald L., [redacted].
Kite, Paul L., [redacted].
Klein, Frank J., [redacted].
Klose, John A., [redacted].
Knippa, Leroy E., [redacted].
Knowlen, Charles B., [redacted].
Koreski, Rolland A., [redacted].
Kosmider, Gary L., [redacted].
Kosmowski, Jerome A., [redacted].
Krahn, Wayne E., [redacted].
Kreulen, Ray H., [redacted].
Krisko, John, Jr., [redacted].
Kronkaitis, John, [redacted].
Kucera, James, [redacted].
Kuehn, Walter, Jr., [redacted].
Kulik, Frederick W., [redacted].
Kusek, Leonrd J., [redacted].
Kvederas, Robert A., [redacted].
Kyle, David S., [redacted].
Laabs, Robert G., [redacted].
Lafayette, Richard, [redacted].
Lagasse, Louis R., [redacted].
Lager, Kenneth E., [redacted].
Landry, Gerard, [redacted].
Lane, David L., [redacted].
Langbein, Edward E., [redacted].
Laningham, William, [redacted].
Largen, Raymond E., [redacted].
Larimer, Charles L., [redacted].
Lasseter, Earle F., [redacted].
Laubscher, Alan L., [redacted].
Lavey, Michael A., [redacted].
Lawton, George C., [redacted].
Leach, James E., [redacted].
Leary, Donald B., [redacted].
Lebourdais, Carl J., [redacted].
Ledford, Jerry G., [redacted].
Lee, Francis G., [redacted].
Lee, Gordon K., [redacted].
Lee, Phillip A., [redacted].
Lehmann, Clark T., [redacted].
Lemere, Charles E., [redacted].
Licht, William R., [redacted].
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Lokay, Fred J., [redacted].
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Longarzo, William L., [redacted].
Lowe, John M., [redacted].
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Lowrey, Austin III, [redacted].
Loyd, David R., [redacted].
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Lucke, David B., [redacted].
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Luisi, Gerard H., [redacted].
Lunde, Henrik O., [redacted].
Lydahl, Gustav T., [redacted].
Mace, Arthur F., [redacted].
Macheledt, Matthew, [redacted].
MacLeod, Albert D., [redacted].
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Maliska, Thomas P., [redacted].
Malloy, Shaun T., [redacted].
Malone, John F., [redacted].
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Manbeck, Jackie L., [redacted].
Manges, Duff G., [redacted].
Marsden, William L., [redacted].
Marshall, Thomas J., [redacted].
Martin, Donald R., [redacted].
Martin, Willard L., [redacted].
Massabni, Fadlo M., [redacted].
Massey, Lee T., [redacted].
Mathis, Robert N., [redacted].
Mattes, Richard W., [redacted].
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Mayes, Floyd B., [redacted].
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McCaffrey, William, [redacted].
McCall, James F., [redacted].
McCann, Thomas P., [redacted].
McCarty, Billy W., [redacted].
McClintic, Patrick, [redacted].
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McDermott, Joseph B., [redacted].
McDonnell, Joseph M., [redacted].
McGee, William H., [redacted].
McGlockton, William, [redacted].
McGlone, Mark E., [redacted].
McGovern, Richard T., [redacted].
McGrath, William B., [redacted].
McGrew, Palmer II, [redacted].
McIntosh, Bernard W., [redacted].
McIntyre, Stephen I., [redacted].
McKay, Lawrence E., [redacted].
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McMullen, Clifford, [redacted].
McVey, Peter M., [redacted].
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Meidl, James L., [redacted].
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Merrill, Bruce W., [redacted].
Merritt, William D., [redacted].
Michael, John D., [redacted].
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Mignano, Bruce F., [redacted].
Miles, Jerry M., [redacted].
Miles, Peter D., [redacted].
Miller, Andrew J., [redacted].
Miller, Billy F., [redacted].
Miller, Charles A., [redacted].
Miller, Howard A., [redacted].
Miller, John D., [redacted].
Miller, Retsae H., [redacted].
Miller, Robert H., [redacted].
Mills, Harry L., [redacted].
Mills, Richard L., [redacted].
Mitchell, Charles H., [redacted].
Mitchell, Gerald C., [redacted].
Mitchell, Sim C., [redacted].
Moentmann, Dwain T., [redacted].
Moller, Carl M., Jr., [redacted].
Montgomery, Kenneth, [redacted].
Monville, John J., [redacted].
Mooney, Robert E., [redacted].
Moore, Charles F., [redacted].
Moore, Olin J., [redacted].
Moot, Harrison J., [redacted].
Moreland, Malcolm E., [redacted].
Morgan, Burford F., [redacted].
Moriarty, Donald P., [redacted].
Morris, David W., [redacted].
Moscatelli, Robert, [redacted].
Moss, Robert E., [redacted].
Mowry, Richard E., [redacted].
Moxley, Thomas T., [redacted].
Muhlenfeld, William, [redacted].
Mulcahey, Francis L., [redacted].
Mulvaney, Merle L., [redacted].
Mulvey, Robert A., [redacted].
Murphy, Charles E., [redacted].
Murray, Lark R., [redacted].
Myers, James A., [redacted].
Myers, Samuel L., [redacted].
Naber, Elmer W., [redacted].
Nabors, William T., [redacted].
Nadal, Ramon A., [redacted].
Najera, Pedro, [redacted].
Nakasato, George I., [redacted].
Napper, John L., [redacted].
Neely, Carl C., [redacted].
Neely, Cecil N., [redacted].
Nelsen, Ronald L., [redacted].
Nelson, Arthur F., [redacted].
Nelson, Richard E., [redacted].
Nelson, Turner L., [redacted].
Nichols, James M., [redacted].
Niemczyk, Theodore, [redacted].
Nishimoto, Masami, [redacted].
Norbo, Gary J., [redacted].
Norris, Kenneth S., [redacted].
Norton, Graham J., [redacted].
Novak, Jerry R., [redacted].
Nowak, John A., [redacted].
Nuffer, Frederick L., [redacted].
Nugent, James, [redacted].
Nulk, Robert A., [redacted].
Nun, John B., [redacted].
Nydam, David A., [redacted].
O'Brien, John A., [redacted].
Odom, Fredwin M., [redacted].
O'Donohue, Paul J., [redacted].
Odonovan, Thomas E., [redacted].
Offield, Nathan A., [redacted].
Ogden, George C., [redacted].
O'Grady, George L., [redacted].
Olson, James H., [redacted].
Olson, Ronald C., [redacted].
O'Neill, Joseph J., [redacted].
Ordway, Roderic E., [redacted].
Oroark, Dulaney L., [redacted].
O'Rourke, Thomas A., [redacted].
Orr, Jerry P., [redacted].
Ostermeier, William, [redacted].
Oxford, Clyde E., [redacted].

Pace, Johnny L., xxx-xx-xxxx.
Pace, Prewitt L., xxx-xx-....
Packard, Bruce S., xxx-xx-xxxx.
Paddock, Alfred H., xxx-xx-xxxx.
Painter, Keith, xxx-xx-xxxx.
Palladino, Donald J., xxx-xx-xxxx.
Palmer, John L., xxx-xx-xxxx.
Parchen, David H., xxx-xx-xxxx.
Parker, Charles E., xxx-xx-xxxx.
Parker, David M., xxx-x....
Parker, Wendell G., xxx-xx-xxxx.
Parks, William R., xxx-xx-xxxx.
Parman, Donald W., xxx-xx-xxxx.
Parmesano, Vincent, xxx-xx-xxxx.
Parsons, Ralph W., xxx-xx-xxxx.
Patrick, Harold L., xxx-xx-xxxx.
Payne, Garth H., xxx-xx-xxxx.
Payne, Moses, xxx-xx-xxxx.
Pearce, William E., xxx-xx-xxxx.
Peate, Laurence R., xxx-xx-xxxx.
Peck, James W., xxx-xx-xxxx.
Pellegrini, Benjamin, xxx-xx-xxxx.
Perkins, Claude D., xxx-xx-xxxx.
Perry, Charles C., xxx-xx-xxxx.
Peters, John W., xxx-xx-xxxx.
Peterson, Henry, xxx-xx-xxxx.
Peterson, John A., xxx-xx-xxxx.
Pfeiffer, Richard W., xxx-xx-xxxx.
Phelan, Arthur J., xxx-xx-xxxx.
Philbrook, Wallace, xxx-xx-xxxx.
Phillips, Don, xxx-xx-xxxx.
Piff, Walter F., xxx-xx-xxxx.
Plasket, Richard L., xxx-xx-xxxx.
Poch, James R., xxx-xx-xxxx.
Pointer, Robert W., xxx-xx-xxxx.
Polk, Paul G., xxx-xx-xxxx.
Pollard, Gordon K., xxx-xx-xxxx.
Polo, Richard J., xxx-xx-xxxx.
Pompa, John R., xxx-xx-....
Pond, Kenneth S., xxx-xx-xxxx.
Ponton, Hector R., xxx-xx-xxxx.
Poole, James R., xxx-xx-xxxx.
Posey, Frank D., xxx-xx-xxxx.
Powell, Albert W., xxx-xx-xxxx.
Powell, Colin L., xxx-xx-xxxx.
Powers, Davies R., xxx-xx-....
Prahm, Byron F., xxx-xx-xxxx.
Press, Donald P., xxx-x....
Price, Robert D., xxx-xx-xxxx.
Priest, William W., xxx-xx-....
Prince, Ted, xxx-xx-xxxx.
Pritz, Robert H., xxx-xx-xxxx.
Pryor, Philip A., xxx-xx-xxxx.
Pugmire, James H., xxx-xx-xxxx.
Puscheck, Herbert C., xxx-xx-xxxx.
Putnam, John D., xxx-xx-xxxx.
Putnam, Sidney F., xxx-xx-xxxx.
Qualtrough, Norman, xxx-xx-xxxx.
Rachels, Ray H., xxx-xx-xxxx.
Raetz, Paul E., xxx-xx-xxxx.
Raffaele, John, xxx-xx-....
Rafferty, James R., xxx-xx-xxxx.
Ramsden, James H., xxx-xx-xxxx.
Rash, Stephen E., xxx-xx-xxxx.
Raunam, George J., xxx-xx-xxxx.
Raupp, Edward R., xxx-xx-xxxx.
Raymond, Charles L., xxx-xx-....
Raymond, John A., xxx-xx-xxxx.
Rector, Zane K., xxx-xx-xxxx.
Reel, Ralph E., xxx-xx-xxxx.
Rees, Warren K., xxx-xx-xxxx.
Reese, Cleland P., xxx-xx-xxxx.
Reese, Thomas D., xxx-xx-xxxx.
Reich, Charles J., xxx-xx-xxxx.
Reidy, Richard F., xxx-xx-xxxx.
Reidy, William D., xxx-xx-xxxx.
Reilly, James J., xxx-xx-xxxx.
Reinen, Robert H., xxx-xx-xxxx.
Reiser, Andre K., xxx-xx-xxxx.
Renzi, Eugene C., xxx-xx-xxxx.
Resa, Philip E., xxx-xx-xxxx.
Revburn, Dwight S., xxx-xx-xxxx.
Reynard, Richard L., xxx-xx-xxxx.
Reynolds, Roger D., xxx-xx-xxxx.
Reynolds, William H., xxx-xx-xxxx.
Reynolds, Willie R., xxx-xx-....
Rhodes, Robert G., xxx-xx-....
Rice, James W., xxx-xx-xxxx.
Rice, Robert C., xxx-xx-xxxx.
Richards, Gene M., x....
Richardson, Celeste, xxx-xx-xxxx.
Riggs, Duane B., xxx-xx-xxxx.
Riley, Paul R., xxx-xx-xxxx.
Rill, Joseph H., xxx-xx-xxxx.
Riscassi, Robert W., xxx-xx-....
Rives, William T., xxx-xx-xxxx.
Rizzo, Peter J., xxx-xx-xxxx.
Roache, Nathaniel R., xxx-xx-xxxx.
Roberson, Richard W., xxx-xx-xxxx.
Roberts, Donald A., xxx-xx-xxxx.
Roberts, Donald J., xxx-xx-....
Roberts, Hollis L., xxx-xx-xxxx.
Robertson, George R., xxx-xx-....
Robinson, Charles A., xxx-xx-xxxx.
Robinson, James C., xxx-....
Robinson, Richard A., xxx-xx-xxxx.
Roche, David, xxx-xx-x....
Roche, William H., xxx-xx-....
Roemer, Richard O., xxx-xx-xxxx.
Rogan, Robert E., xxx-xx-xxxx.
Rogers, Norvel G., xxx-xx-xx....
Roosma, William A., xxx-xx-xxxx.
Root, Duane B., xxx-xx-xxxx.
Roppo, Leo J., xxx-xx-xxxx.
Roscelli, Joseph J., xxx-xx-....
Rose, Harold L., xxx-xx-xxxx.
Rose, Robert S., xxx-....
Rosenberg, David C., xxx-xx-xxxx.
Rosendahl, Richard, xxx-xx-xxxx.
Ross, Carl L., xxx-xx-xxxx.
Ross, Jimmy D., xxx-xx-xxxx.
Rowe, Terry E., Jr., xxx-xx-....
Rowell, Oliver J., xxx-xx-xxxx.
Rubin, George R., xxx-xx-xxxx.
Rundle, Ralph T., xxx-xx-xxxx.
Russell, Richard R., xxx-xx-xxxx.
Ryan, William D., xxx-xx-xxxx.
Ryburn, Glenn O., xxx-xx-xxxx.
Ryker, George C., xxx-....
Saint, Crosbie E., xxx-xx-xx....
Saling, Neil E., xxx-xx-xxxx.
Salisbury, Alan B., xxx-xx-xxxx.
Sampson, John B., xxx-xx-....
Sanders, Paul B., xxx-xx-xxxx.
Sanders, Thomas C., xxx-xx-xxxx.
Sands, Thomas A., xxx-xx-xxxx.
Santoro, John M., xxx-xx-x....
Sargent, Terrence D., xxx-xx-xxxx.
Saunders, Otis H., xxx-xx-xxxx.
Saunders, Richard G., xxx-xx-xxxx.
Savage, Leslie H., xxx-xx-xxxx.
Scanlan, Walter G., xxx-xx-xxxx.
Schaffer, John A., xxx-xx-xxxx.
Scher, Donald M., xxx-xx-xxxx.
Scherman, Francis J., xxx-xx-xxxx.
Schloesser, Kenneth, xxx-xx-xxxx.
Schloesser, Robert, xxx-xx-xxxx.
Schlossberg, Arnold, xxx-xx-xxxx.
Schmanska, Philip G., xxx-xx-xxxx.
Schmith, Albert T., xxx-xx-xxxx.
Schonberger, Richard, xxx-xx-xxxx.
Schott, Joseph D., xxx-xx-xxxx.
Schrader, Frederick, xxx-xx-xxxx.
Schuetze, Raymond A., xxx-xx-xxxx.
Schultz, Norman O., xxx-xx-xxxx.
Schurtz, Gerald P., xxx-xx-....
Schwar, Joseph H., xxx-xx-....
Schwarzbauer, Joseph, xxx-xx-xxxx.
Scott, James M., xxx-xx-....
Scovel, Dennis A., xxx-xx-xxxx.
Sechtman, Paul L., xxx-xx-xxxx.
Sedgwick, Douglass, xxx-xx-xxxx.
Sellers, Roger L., xxx-xx-....
Serchak, William E., xxx-xx-xxxx.
Sewall, John O., xxx-xx-x....
Shanahan, Edward J., xxx-xx-xxxx.
Shea, Joseph A., xxx-xx-xxxx.
Shelton, Hal T., xxx-xx-xxxx.
Shelton, James E., xxx-xx-xxxx.
Shepard, George T., xxx-xx-xxxx.
Shetler, John D., xxx-xx-xxxx.
Shiery, Howard C., xxx-xx-....
Shimerda, John H., xxx-....
Shrader, Cecil L., xxx-xx-xxxx.
Shriver, Louis M., xxx-....
Shuttleworth, Charles, xxx-xx-....
Sibert, George W., xxx-xx-x....
Siderius, Robert R., xxx-xx-xxxx.
Sieck, Robert R., xxx-xx-xxxx.
Siegel, Eugene E., xxx-xx-....
Sigler, James M., xxx-xx-xxxx.
Silvey, Bruce D., xxx-xx-xxxx.
Sinclair, Bobby H., xxx-xx-xxxx.
Singleton, Richard, xxx-xx-xxxx.
Sisak, James C., xxx-xx-xxxx.
Sivert, William D., xxx-xx-xxxx.
Skirka, George W., xxx-xx-xxxx.
Smart, Lee D., xxx-xx-xxxx.
Smith, Anthony A., xxx-xx-xxxx.
Smith, Lee C., Jr., xxx-xx-xxxx.
Smith, Robert B., xxx-xx-xxxx.
Smith, Robert T., xxx-xx-xxxx.
Smith, Stanley L., xxx-xx-xxxx.
Smith, Stephen L., xxx-xx-xxxx.
Smith, Theodore F., xxx-xx-xxxx.
Smith, Walter M., xxx-xx-xxxx.
Smits, Robert G., xxx-xx-....
Snell, Douglas H., xxx-xx-xxxx.
Snell, Robert A., xxx-xx-xxxx.
Snowden, John R., xxx-xx-xxxx.
Solomon, William V., xxx-xx-xxxx.
Sorensen, Gary A., xxx-xx-xxxx.
Sowell, Lewis C., xxx-xx-xxxx.
Sowell, Marks S., xxx-xx-xxxx.
Spaulding, Richard, xxx-xx-xxxx.
Spears, Phillip M., xxx-xx-xxxx.
Spearman, David L., xxx-xx-xxxx.
Spears, Tom C., xxx-xx-xxxx.
Spinner, Charles R., xxx-xx-xxxx.
Spurrier, Robert E., xxx-xx-xxxx.
Squire, John H., xxx-xx-xxxx.
Stahlman, John W., xxx-xx-xxxx.
Stalcup, Billy J., xxx-xx-xxxx.
Stallings, Jimmie L., xxx-xx-xxxx.
Standridge, Lanny, xxx-xx-xxxx.
Stanton, James D., xxx-xx-xxxx.
Staples, Frederick, xxx-xx-xxxx.
Statler, James B., xxx-xx-xxxx.
Stearns, Henry A., xxx-xx-xxxx.
Steinbach, James J., xxx-xx-xxxx.
Stephans, Richard A., xxx-xx-xxxx.
Stevens, Lynn H., xxx-xx-xxxx.
Steverson, Lynn, xxx-xx-xxxx.
Stewart, James T., xxx-xx-xxxx.
Stewart, Robert G., xxx-xx-xxxx.
Stiner, Carl W., xxx-xx-xxxx.
Stone, John B., xxx-xx-xxxx.
Strok, Albert J., xxx-xx-xxxx.
Subrown, James C., xxx-xx-xxxx.
Sullinger, Carl W., xxx-xx-xxxx.
Sullivan, John H., xxx-xx-xxxx.
Sullivan, Robert F., xxx-xx-xxxx.
Sutherland, John H., xxx-xx-xxxx.
Sutherland, John R., xxx-xx-xxxx.
Sutton, Jerry W., xxx-xx-xxxx.
Sutton, William M., xxx-xx-xxxx.
Swanson, David W., xxx-xx-....
Tait, Thomas H., xxx-xx-xxxx.
Talbot, Ralph IV, xxx-xx-xxxx.
Talley, Earl H., xxx-xx-xxxx.
Tannenbaum, David L., xxx-xx-xxxx.
Taurke, Erwin A., xxx-xx-xxxx.
Taylor, Alfred E., xxx-xx-xxxx.
Taylor, Harry, Jr., xxx-xx-xxxx.
Teeter, Charles E., xxx-xx-xxxx.
Tennis, Gayland L., xxx-xx-xxxx.
Terpstra, John J., Jr., xxx-xx-xxxx.
Terrana, Vincent, xxx-xx-xxxx.
Thamasett, Otto J., xxx-xx-xxxx.
Theroux, Gilbert L., xxx-xx-xxxx.
Theuer, Paul J., xxx-....
Thomas, Bruce A., xxx-xx-xxxx.
Thomas, Charles R., xxx-xx-xxxx.
Thomas, Kenneth E., xxx-xx-xxxx.
Thomas, Richard E., xxx-xx-xxxx.
Thompson, Charles A., xxx-xx-xxxx.
Thompson, David E., xxx-xx-xxxx.
Thompson, George H., xxx-xx-xxxx.
Thompson, Michael R., xxx-xx-xxxx.
Thompson, Robert A., xxx-xx-xxxx.
Thompson, Ross E., xxx-xx-xxxx.
Thoreson, Oscar B., xxx-xx-xxxx.
Thornock, John R., xxx-xx-xxxx.
Thrailkill, John R., xxx-xx-xxxx.
Tilley, James N., xxx-xx-xxxx.
Tippin, Garold L., xxx-xx-xxxx.
Tipton, Carl W., xxx-....

Tipton, James A., [redacted].
Tisson, Guenter J., [redacted].
Tomlinson, Raymond, [redacted].
Toomey, Francis X., [redacted].
Torretto, Richard J., [redacted].
Totin, John R., [redacted].
Toye, John E., [redacted].
Traas, Adrian G., [redacted].
Treadway, James D., [redacted].
Tredway, Robert N., [redacted].
Treece, Ausby J., [redacted].
Trevino, Francisco, [redacted].
Trumbull, Hugh H., [redacted].
Tucker, Everette L., [redacted].
Turner, Edwin H., [redacted].
Turner, James E., [redacted].
Turner, Ronald D., [redacted].
Turpin, Robert P., [redacted].
Tuttle, William G., [redacted].
Tyrrell, Edward W., [redacted].
Uhlrich, Theodore W., [redacted].
Ulzheimer, Robert, [redacted].
Valandry, David D., [redacted].
Van Harty, Clifton, [redacted].
Vandevender, Edward, [redacted].
Vanfleet, Townsend, [redacted].
Vanhorn, John T., [redacted].
Vanmeter, Harold C., [redacted].
Vansteenbergen, Albert, [redacted].
Vanture, Paul D., [redacted].
Varallo, Francis V., [redacted].
Victorine, Clifford, [redacted].
Villarreal, Julian, [redacted].
Vinson, Paul H., [redacted].
Volpe, Michael, [redacted].
Waddell, Roger W., [redacted].
Wagg, Robert A., [redacted].
Waggoner, Robert N., [redacted].
Waldack, Albert C., [redacted].
Wallace, Richard C., [redacted].
Walling, James B., [redacted].
Walsh, Raymond M., [redacted].
Walters, Charles C., [redacted].
Walton, Joseph A., [redacted].
Walton, Ronald A., [redacted].
Walton, Warren J., [redacted].
Ward, Wallace W., [redacted].
Warnberg, Harry E., [redacted].
Warren, Peter J., [redacted].
Waskowicz, Francis, [redacted].
Webb, Daniel J., [redacted].
Webb, Richard B., [redacted].
Weber, Victor A., [redacted].
Wecker, Edward C., [redacted].
Weems, Sands S., [redacted].
Wees, George G., [redacted].
Weis, James H., [redacted].
Weisto, John A., [redacted].
Welch, Elliot J., [redacted].
Wellman, William H., [redacted].
Wentworth, Eugene G., [redacted].
Wetzel, Gerald R., [redacted].
Wharton, Terrance D., [redacted].
Whedbee, John S., [redacted].
Wheeler, Edward W., [redacted].
Wheeler, Rock C., [redacted].
White, David J., [redacted].
Whitehead, Dorsey M., [redacted].
Whitmarsh, Donald B., [redacted].
Widmer, Edwin R., [redacted].
Wilkins, Jesse B., [redacted].
Williams, Jack H., [redacted].
Williams, Jimmie L., [redacted].
Williams, John B., [redacted].
Williams, Robert B., [redacted].
Williams, Robert S., [redacted].
Wiliamson, Donald, [redacted].
Williamson, Neil S., [redacted].
Willis, James S., [redacted].
Wilmot, Richard W., [redacted].
Wilson, Donald E., [redacted].
Wilson, Richard A., [redacted].
Winger, Norman, [redacted].
Winslow, Robert A., [redacted].
Winter, Robert G., [redacted].
Winzurk, William F., [redacted].
Wise, Paul E., [redacted].
Wist, Fred C., [redacted].
Withington, Robert, [redacted].
Wittenberg, Kenneth, [redacted].
Witter, Lee F., [redacted].
Wolff, Robert A., [redacted].
Wollerton, Charles, [redacted].
Wood, Robert D., [redacted].
Woodall, Jack D., [redacted].
Woods, Rex J., [redacted].
Works, Richard E., [redacted].
Wuiff, Roy A., [redacted].
Yaun, William W. [redacted].
Zeltman, Ronald W., [redacted].
Zimmer, Gerald H., [redacted].

CHAPLAIN CORPS

*To be lieutenant colonel*

Andrews, Joel E., [redacted].
Bell, Berdon M., [redacted].
Bowers, Curtis R., [redacted].
Boyce, David G., [redacted].
Carey, John C., [redacted].
Chavarry, Richard E., [redacted].
Courtney, Ocie I., [redacted].
Crick, Robert D., [redacted].
Deveaux, John A., [redacted].
Dinkel, Emil L., [redacted].
Einertson, Norris L., [redacted].
Forsberg, Paul O., [redacted].
Galle, Jose¬h E., [redacted].
Grenz, Clinton E., [redacted].
Libby, Billy W., [redacted].
Peterson, Gordon H., [redacted].
Peterson, Wilbur G., [redacted].
Prout, Gordon R., [redacted].
Reswik, George V., [redacted].
Saunders, Robert E., [redacted].
Schmidt, Charles H., [redacted].
Silliman, Edwin T., [redacted].
Whiteside, Billy M., [redacted].
Wilson, David L., [redacted].

WOMEN'S ARMY CORPS

*To be lieutenant colonel*

Heffren, Monica A., [redacted].
Lane, Betty J., [redacted].
Phillips, Charlotte, [redacted].
Pomeroy, Mae E., [redacted].

DENTAL CORPS

*To be lieutenant colonel*

Appleton, Isaac E., [redacted].
Axinn, Sherman, [redacted].
Beasley, Joe D., [redacted].
Belasco, John R., [redacted].
Blubaugh, Edward C., [redacted].
Dayoub, Michael B., [redacted].
Eberhardt, John J., [redacted].
Foster, Richard A., [redacted].
Hansen, Carl A., [redacted].
Haro, David P., [redacted].
Hawley, Charles E., [redacted].
Hennig, Guenther H., [redacted].
Hillis, Robert E., [redacted].
Hipp, Benny R., [redacted].
Hobaugh, Don C., [redacted].
Johnson, Baxter E., [redacted].
Kazlusky, Joseph B., [redacted].
Kirk, George A., [redacted].
Laduzenski, Eugene, [redacted].
Leslie, Donald B. [redacted].
Luther, Wallace W., [redacted].
Mayotte, Richard V., [redacted].
McFatridge, John J., [redacted].
Merritt, Ezra A., [redacted].
Metzger, Floyd D., [redacted].
Overton, Eugene E., [redacted].
Parmer, Dennis E., [redacted].
Perez, Beinvenido, [redacted].
Provant, Delbert R., [redacted].
Schreck, Gerald G., [redacted].
Schwartz, Roy S., [redacted].
Simkins, Benjamin R., [redacted].
Swintak, Edward F., [redacted].
Trawick, Jack S., [redacted].
Wentz, Clarence E., [redacted].

MEDICAL CORPS

*To be lieutenant colonel*

Albright, John D., [redacted].
Anderson, Paul D., [redacted].
Blight, Edward M., [redacted].
Bugay, Glenn L., [redacted].
Campbell, Peter M., [redacted].
Clarke, David A., [redacted].
Cloud, Robert S., [redacted].
Coggin, Julian T., [redacted].
Davia, James E., [redacted].
Gonzalez, William E., [redacted].
Haasweston, Carlos, [redacted].
Hays, Leonard L., [redacted].
Heck, Francis J., [redacted].
Hedlund, Kenneth W., [redacted].
Henderson, Robert L., [redacted].
Hirata, Richard M., [redacted].
Hull, Jan K., [redacted].
Hunt, Keith K., [redacted].
Jarstfer, Bruce S., [redacted].
Kaplan, Burton H., [redacted].
Knapp, Stanley C., [redacted].
Lapiana, Francis G., [redacted].
Lewis, Charles W., [redacted].
Madorsky, David D., [redacted].
Matthews, Marshall, [redacted].
Price, Herman L., [redacted].
Rich, John D., [redacted].
Ruymann, Frederick, [redacted].
See, Donald H., [redacted].
Seitter, Girard III, [redacted].
Smith, William A., [redacted].
Stansifer, Philip D., [redacted].
Stoller, Jerry J., [redacted].
Taylor, John F., [redacted].
Tipton, William R., [redacted].
Top, Franklin H., [redacted].
Tsoulos, Demetrios, [redacted].
Vichick, Donald A., [redacted].
Warren, George III, [redacted].
Watson, Robert L., [redacted].
Weaver, Clyde M., [redacted].

MEDICAL SERVICE CORPS

*To be lieutenant colonel*

Bardill, Donald R., [redacted].
Black, Edward J., [redacted].
Brand, Fred C., [redacted].
Carper, Robert R., [redacted].
Ciccone, Vincent J., [redacted].
Dobson, Benjamin F., [redacted].
Dodd, Edwin N., [redacted].
Dryden, David D., [redacted].
Edwards, Lewis M., [redacted].
Emmons, Bobby B., [redacted].
Fechner, Ruben F., [redacted].
Fields, Robert E., [redacted].
French, George R., [redacted].
Geringer, Gerald G., [redacted].
Giroux, Arthur R., [redacted].
Habeck, Edgar J., [redacted].
Hatfield, Earl P., [redacted].
Hayes, John D., [redacted].
Hembree, Calvin S., [redacted].
Herek, Robert L., [redacted].
Jenkins, William N., [redacted].
Jung, Paul T., [redacted].
Kisel, John G., [redacted].
Kleber, Robert E. [redacted].
Kramer, James S., [redacted].
Laluzerne, Ronald J., [redacted].
Leach, William O., [redacted].
Martinka, Gerald R., [redacted].
McGough, Sammy, [redacted].
McLeod, William R., [redacted].
McMahon, Robert P., [redacted].
Moore, Robert J., [redacted].
Ockert, Carroll A., [redacted].
Posey, William L., [redacted].
Reddy, John J., [redacted].
Redman, David E., [redacted].
Rehusch, Kenneth S., [redacted].
Rengstorff, Roy H., [redacted].
Roberts, John E., [redacted].
Rockwell, John H., [redacted].
Sperandio, John R., [redacted].
Stevenson, Wilbert, [redacted].
Tello, Richard C., [redacted].
Timmens, James M., [redacted].
Trecartin, Edward G., [redacted].

Uemura, Edward H., [redacted].
Vann, Lawrence K., [redacted].
Waller, Donald A., [redacted].
Washington, Charles, [redacted].
Weaver, Joseph U., [redacted].
Webb, Charles L., [redacted].
Wilson, Jack R., [redacted].
Woods, William B., [redacted].
Woodward, William E., [redacted].

ARMY MEDICAL SPECIALIST CORPS

*To be lieutenant colonel*

Bigley, Angela R., [redacted].
Carmona, Louis S., [redacted].
Cover, Joseph D., [redacted].
Elbheri, Barbara R., [redacted].
Hamai, Fay S., [redacted].
Mount, Dorthy M., [redacted].
Pavlis, Patricia M., [redacted].
Stewart, Vivian L., [redacted].

VETERINARY CORPS

*To be lieutenant colonel*

Bellamy, Albert D., [redacted].
Carraway, Claude W., [redacted].
Depaoli, Alexander, [redacted].
Drolte, James E., [redacted].
Godzik, Joseph R., [redacted].
Hagberg, Mylo M., [redacted].
Huxsoll David L., [redacted].
Keefe, Thomas J., [redacted].
Lindquist, Edwin W., [redacted].
Nix, Marvin S., [redacted].
Ottenberg, John C., [redacted].
Riddell, John R., [redacted].
Sims, William M., [redacted].
Stedham Michael A., [redacted].

ARMY NURSE CORPS

*To be lieutenant colonel*

Bradley, George P., [redacted].
Butkiewicz, Edward, [redacted].
Conley Everett W., [redacted].
Crump, Marion E., [redacted].
Davis, Marion J., [redacted].
Ferry, Oswald A. [redacted].
Girvan John B., [redacted].
Hill, Maurine L., [redacted].
Jackson Helen, [redacted].
Jones Addie B., [redacted].
McIntosh Hazel M., [redacted].
Miller, Patricia M., [redacted].
Miller, Teryl R., [redacted].
Murray, John L., [redacted].
Powell, Robert B., [redacted].
Rando, Joseph T., [redacted].
Reddy, Charles J., [redacted].
Reumann Albert D., [redacted].
Romeo, James J., [redacted].
Seufert, Helen J., [redacted].
Silvestre, Patricia, [redacted].
Slewitzke Connie L., [redacted].
Small, Norma R., [redacted].
Storey, Billy M., [redacted].
Swenson, James W., [redacted].
West, Nina, [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298.

ARMY PROMOTION LIST

*To be first lieutenant*

Linde, Herbert M., [redacted].
Podbielski, John P., [redacted].
Zeigler David L., [redacted].

JUDGE ADVOCATE GENERAL CORPS

*To be first lieutenant*

Ellis, John O., [redacted].
King, Michael K., [redacted].

IN THE ARMY

The following named officer for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of Title 10, United States Code, section 1211:

TO BE COLONEL, REGULAR ARMY AND COLONEL, ARMY OF THE UNITED STATES

Abt, Frederick T., [redacted].

The following named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of Title 10, United States Code, sections 3283 through 3294 and 3311:

*To be major*

Kiyomura, Ira I., [redacted].
Rumbaugh, James H., [redacted].
Sachs, Joseph P., Jr., [redacted].
Wilson, Byron L., [redacted].

*To be captain*

Aplet, Robin L., [redacted].
Babigan, Alan E., [redacted].
Bell, Martha R., [redacted].
Berman, Michael B., [redacted].
Black, Jerry W., [redacted].
Bowles, Robert D., [redacted].
Boyle, Dale D., [redacted].
Canino-Cummings, Manuel, [redacted].
Carpenter, Celeste G., [redacted].
Elliott, James M., [redacted].
Farrell, Larry D., [redacted].
Fitzsimons, Bernard J., [redacted].
Geertsema, James J., [redacted].
Hanson, Donald P., [redacted].
Hash, Frank R., [redacted].
Hayes, Cheryl L., [redacted].
Hoffman, Martin L., [redacted].
Hollinger, Jeffrey O., [redacted].
Holman, Dennis J., [redacted].
Jolin Ernest W., Jr., [redacted].
King, Dewitt H., [redacted].
Larson, Randall R., [redacted].
Long, William C., [redacted].
Mauer, Michael B., [redacted].
Melton, Frank L., [redacted].
Mitchell, Kenny D., [redacted].
Modesto, Edward L., [redacted].
McCall, Susan C., [redacted].
McConnell, Carol G., [redacted].
McFarling, David A., [redacted].
McRoberts, Marvin A., [redacted].
Nikolich, Francis M., [redacted].
Noe, Paul E., Jr., [redacted].
Parker, Wilbur D., [redacted].
Peacock, Willie P., [redacted].
Pincine, Gerald P., [redacted].
Rice, Robert M., [redacted].
Rodkey, William G., [redacted].
Seng, Gail E., [redacted].
Sullivan, Thomas A., [redacted].
Torres, Cesar P., [redacted].
Uribe, Rodrigo L., [redacted].

*To be first lieutenant*

Atwell, Sharon L., [redacted].
Barnett, William M., III, [redacted].
Brown, Joanne M., [redacted].
Carter, Charles E., [redacted].
Conry, Kathleen M., [redacted].
Fox, Paul L., [redacted].
Gifford, Robert K., [redacted].
Gilman, James K., [redacted].
Hlavacek, Nanci P., [redacted].
Hodge, Richard M., [redacted].
Jerde, Nancy J., [redacted].
Jones, Myron B., [redacted].
Lucer), John A., [redacted].
Maher, Patrick H., [redacted].
Mozingo, George W., III, [redacted].
Norton, Margaret M., [redacted].
Potyk, Roger P., [redacted].
Reid, David E., [redacted].
San Miguel, George G., [redacted].
Scantlin, Marshall H., [redacted].
Shaw, Carol L., [redacted].
Spires, Timothy D., [redacted].
Stone, Stephen D., [redacted].
Tidwell, Michael A., [redacted].
Vanderhoof, Linda M., [redacted].
Vandewalker, Mark L., [redacted].
Whittemore, Ronald P., [redacted].
Williams, Timothy P., [redacted].
Yasalonis, John W., [redacted].

*To be second lieutenant*

Horna, Frank A., [redacted].
Rosenberger, John D., [redacted].

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

| | |
|---|---|
| Keith E. Burtner | William R. Drake |
| James E. Dixon | Keith A. Townsend |

The following-named (U.S. Navy Reserve Officer) to be appointed a permanent lieutenant in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

LCDR Thomas A. St. John, MC, USNR.

The following-named temporary chief warrant officers to be appointed permanent chief warrant officers, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Elmo L. Bumgarner.
Kerry D. Steele.

The following-named (U.S. Navy Reserve officer) to be appointed a temporary lieutenant commander in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

LCDR Thomas A. St. John, MC, USNR.

The following-named Navy enlisted candidates to be appointed a temporary chief warrant officer, W–2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Dale C. Jung.

The following-named temporary chief warrant officer to be appointed a lieutenant (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Elmo L. Bumgarner—Electronics-surface.

The following-named (ex-USN officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Donald J. Maraist.
*Milton J. Hirshberg.

IN THE NAVY

The following named chief warrant officers, W–2 of the U.S. Navy for temporary promotion to the grade of chief warrant officer, W–2, pursuant to title 10, United States Code, section, 5787c, subject to qualification therefor as provided by law:

| | |
|---|---|
| Boudreau, Denis R. | Johnson, Herbert A. |
| Cain, Robert, Jr. | Johnson, Clarence D. |
| Chrisohon, Christopher M. | Jones, Gerald F. |
| Corder, Fred, Jr., II | Kohler, William G. |
| Decker, Raymond E. | Lockwood, Michael J. |
| Fertig, Norman R. | Loe, Michael M. |
| Finley, Terry R. | Lussier, William A. |
| Forrey, Roderick A. | Schultz, Frederic |
| Garman, Steve M. | Slaton, Malcolm W. |
| Geres, Hans F. | Spangler, Michael J. |
| Hall, David D. | Stalnaker, Charles A. |
| Hart, Joseph M. | Treloar, Alan F. |
| Hogg, Edward E. | Tognazzini, James T. |
| Hill, Jeffry D. | Vance, Jerry W. |

*Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 30 May 1978–2 June 1978.

# EXTENSIONS OF REMARKS

## AMENDMENT TO COMMODITY EXCHANGE ACT EXTENSION

### HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. AuCOIN. Mr. Speaker, I shall be offering an amendment to the Commodity Exchange Act Extension (H.R. 10285) that would tighten up the procedures under which the Commodity Futures Trading Commission oversees rule changes proposed by the numerous contract markets in this country.

Among the many responsibilities assigned to the Commission under the Commodity Exchange Act, section 5(a) places an oversight responsibility on the Commission to review and sanction all changes that are proposed in the rules that govern the operation of contract markets. The Commission currently receives approximately 300 notifications of rule changes per year, about 200 of which are actually presented to the commissioners for approval.

The Commodity Exchange Act and the regulations which accompany it are vague, to say the least, on the administrative procedures which the contract markets and the Commission are required to abide by. There is currently no requirement for the posting of public notice of a proposed rule change. There is no right provided for in the act or the regulations for an aggrieved party to petition for a public hearing before the commissioners.

Although a contract market is currently required to state the purpose of a proposed rule change in its submission for approval to the Commission, there is no requirement that the underlying reasoning or possible impacts of the change be included in the submission.

The purpose of my amendment is to extend to the Commodity Futures Trading Commission similar administrative procedures that apply to other Government agencies under the Administrative Procedures Act. Simply put, I believe that a public agency such as the CFTC charged with oversight functions in the public interest should operate openly and guarantee the right of the public to observe and take part if they so desire in the decisionmaking process.

My amendment calls for the submission by the contract markets of an economic and statistical analysis that would accompany any application to the Commission for approval of a rule change. Ironically, this provision would actually reduce the administrative workload of the Commission. By shifting the burden of proofing the proposed rule change on to the promulgator of the rule—that is, the contract markets—this would serve to reduce the amount of investigative research that the Commission is currently required to undertake.

Other parts of my amendment incorporate similar language to that included in the Administrative Procedures Act. On receipt of a proposed rule change, the Commission would be required to publish notice of the change in the Federal Register and allow a period of 60 days for public comment and participation in the approval process. In addition, my amendment would guarantee the right of a public hearing before the commissioners to an aggrieved party. All decisions of the Commission would be required to be reached at a public hearing within 90 days of receipt of the proposed rule change.

In urging you to support my amendment, I want you to know that I would be the last person to propose unnecessary burdensome regulations on yet another agency. In this case, however, I think the administrative procedures that I am suggesting are fully justified both to protect the rights of the public in decisionmaking and protecting the Commission itself from possible charges of unfair or secretive practices. If the contract markets or the Commission have nothing to hide, there can be no strong objection to this amendment which seeks only to insure that decisions are reached openly and above board.

I urge your support for this amendment.●

## HOUSE SOLAR PROJECT

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. PICKLE. Mr. Speaker, I commend my able colleagues Chairman "Bizz" JOHNSON, Subcommittee Chairman NORMAN MINETA, and the Honorable BILL WALSH for moving ahead in the introduction today of legislation to authorize the installation of solar collectors on certain House Office Buildings.

At the beginning of this Congress I introduced legislation for a feasibility study to determine if solar collectors could be used in a beneficial and cost effective manner on any of the House Office Buildings. This measure passed the House by a vote of 368 to 29 on May 17, 1977. On April 28 of this year the Architect of the Capitol transmitted to the Speaker of the House the completed study.

This study indicated that over 50 percent of the domestic water heating, 13 percent of the building heating, and 34 percent of the air-conditioning needs of House Office Building Annex No. 2 could be supplied with solar energy; and that over 48 percent of the domestic water heating, 33 percent of the winter preheating and 79 percent of the summer reheating needs of the Rayburn House Office Building could be supplied through the use of solar collectors. Translated into a long-range overview, the study indicates the solar collectors would repay their installation costs and begin to reap concrete savings within a reasonable time. The collectors would save over $4.5 million in utility costs for these two structures within the first 20 years even assuming only moderate increases in current fuels costs. Since the buildings have a life expectancy of far more than 20 years, this is a useful and cost-effective step.

The collectors on the Rayburn Building will not be visible from the ground so that the architectural integrity of the Capitol complex will not be disturbed.

A study was made of the Longworth and Cannon House Office Buildings as well, but these buildings do not have enough proper roof space with sufficient structural strength to make the use of solar collectors economically viable given the current State of solar technology.

Accordingly, the legislation being introduced today contains no authorizations concerning these two structures.

This legislation, therefore, does not expect too much, and it does not expect too little. It is carefully thought out, and it is prudent and cost effective.

I think it is a healthy step for the Congress to take. While the experts argue over when, where, how, and at what cost we will face a fossil fuel energy shortage, all are agreed that between now and the early years of the next century we need to be developing alternative energy sources.

The Congress has taken the lead more than once in providing funding for a national effort to improve our alternative energy possibilities. But, as the Good Book says in James 1:22, "Be ye doers of the word and not hearers only;" and that is what we can do here. If every Congressman can go home and say, "We use solar energy in our office buildings in Washington," it will speak louder than a thousand grant and loan programs—and at a very small cost which will be repaid to the taxpayer in a short time.

So I am very pleased that the distinguished chairman of the Public Works Committee and other members of that committee are moving forward on this matter. I thank them for their assistance, their encouragement, and their support.●

## PERSONAL EXPLANATION

### HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. CORCORAN of Illinois. Mr. Speaker, due to a previous commitment in my district, I was forced to be absent

during the consideration of several important issues during part of Wednesday, July 19. In order that my positions on these issues will be a part of the public record, I insert the following voting record for the four recorded votes that I missed in today's RECORD:

Rollcall No. 566: On final passage of H.R. 1609, Coal Pipeline Act of 1978, "nay."

Rollcall No. 567: On ordering the previous question to House Resolution 1172, providing for consideration of H.R. 11983, Federal Election Commission authorization, fiscal year 1979, paired for.

Rollcall No. 568: On final passage of H.R. 11983, "yea."

Rollcall No. 569: On agreeing to House Resolution 1277, providing for consideration of H.R. 13385, temporary increase in the public debt limit, "nay." ●

## CHASING SUBATOMIC PARTICLES AND FERMILAB

**HON. TOM CORCORAN**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. CORCORAN of Illinois. Mr. Speaker, during my nearly 18 months in Congress, I have become acquainted with several national scientific achievements. One such area of expertise is the high energy physics field. In my district in Batavia, Ill., there exists one of the most prestigious facilities in the country where these types of experiments and research are carried out each day—Fermi National Accelerator Laboratory (Fermilab).

It is with a deep sense of reluctance that I announce the resignation last week of Dr. Robert Wilson, the founder of the lab and its "father" since its inception in 1967. Dr. Wilson resigned because of the problems the facility was having with Federal funds, at least primarily. But he was also concerned with the keen competition from Europe in the high energy physics field.

Fortunately, the House of Representatives has increased the appropriations for Fermilab by $13 million over that of the Department of Energy budget for next year; and I thank my colleagues for their assistance in this respect. The Senate hopefully will also increase appropriations for this laboratory. This certainly will help the facility, but the increased competition from Europe will necessitate an awareness on our part that this country must continue to forge ahead in this field or be left behind. At this time, I am including an article from the Tuesday, April 11, 1978 Christian Science Monitor which details some of the problems which are of concern to American scientists. I would ask that this article by Robert C. Cowen be included in the RECORD:

[From the Christian Science Monitor, Apr. 11, 1978]

CHASING SUBATOMIC PARTICLES

(By Robert C. Cowen)

As physicist Robert R. Wilson puts it, in the pursuit of subatomic particles, "something interesting is up."

A confluence of discovery and theoretical insight suggests that the particle hunters are on the verge of a deeper understanding of the basic structure of matter.

New machines, planned or under construction, promise to carry the search into an energy range where some long-standing mysteries should be resolved, and perhaps new puzzles revealed.

Yet, just when his field is poised for this breakthrough, Dr. Wilson has resigned the directorship of the Fermi National Accelerator Laboratory (Fermilab) at Batavia, Illinois—a facility physicists have considered the jewel among American high-energy physics research centers.

This resignation is a dramatic protest against what Dr. Wilson calls "funding . . . below that necessary to operate . . . responsibly." But his gesture has an even deeper meaning. For the American physicist's underlying concern seems to be what he considers an inability to keep up with European scientists. The rise of that competition in this decade marks a historic change for a field of fundamental science that was created in the U.S. and dominated by Americans for 40 years.

"Now we're going to have to be satisfied to compete in this field, rather than dominate it. Now we are learning to live with others, especially the Europeans, as vigorous partners," says Sidney Drell of Stanford University and chairman of the High Energy Physics Advisory Panel (HEPAP) of the U.S. Department of Energy (DOE).

CRITICISM REJECTED

Dr. Drell disagrees with the contention that American high-energy physics is underfunded. Some critics, such as those at Fermilab, feel the present roughly $300 million-a-year level is some $50 million short of what is needed. But Dr. Drell says the administration's fiscal 1979 budget request ($288.1 million for DOE with a few percent more available from the National Science Foundation) is the minimum needed to maintain a "viable level." "In my opinion," he adds, "it provides for a very healthy program."

That, however, is very much a matter of opinion. Milton G. White of Princeton University, who is chairman of the Board of Trustees of University Research Association (URA), says he believes American high-energy physics is not able to fulfill its potential. It is falling behind that of Europe, and this is discouraging many of the bright, able, dedicated people who carry it out. URA is a consortium of 53 universities (52 in the United States, one in Canada) that manages Fermilab for the DOE. While Dr. Drell speaks for a panel whose judgments represents a quasi-official assessment of priorities among senior physicists, Dr. White has a vantage point from which he can discern a wider spectrum of feeling.

Thus it is that American physicists, whose first particle-probing accelerator was invented in 1930, are adjusting uneasily to the fact that others may preempt the laurels of discovery—and this at a time when the promise of major new findings gleams tantalizingly on the horizon.

To appreciate the agony this causes, one must plunge, at least briefly, into the bewildering world of the particles. It is a cosmos where even experts are hard put to find a handy image to help visualize what is going on.

Hit a plutonium atom with the right kind of particle (a neutron) and it "splits," releasing energy in the process. The image is rough, but workable enough to visualize what happens in nuclear fission.

But what do you make of two protons (particles that help make up the nuclei of atoms) banging together? The protons don't "split." There is just a profusion of new particles, including more protons, which appear out of "nowhere" as energy transmutes itself into material mass—according to the famous equivalence of mass and energy deduced by Einstein.

GARBAGE CANS IN COLLISION

It's a situation that Dr. Wilson calls "as complex as two garbage cans in collision." That is perhaps as good an image as you can get to help visualize the interaction. The "true" picture—to the extent that physicists can get at the "truth" about particles—is represented by abstractions that are best handled mathematically.

Nevertheless, physicists have brought a high degree of order to their description of the particles over the past 20 years, and this can be outlined simply.

To begin with, physicists distinguish between what they call matter and antimatter. The latter is a kind of mirror image of ordinary matter. A particle and its antiparticle are alike in all respects except that certain properties, such as electric charge, may be reversed between them. Thus, while a proton has a positive electric charge the antiproton has a negative charge.

Particles and their antiparticles often are created in pairs in subnuclear interactions. A photon (a particle of light) may materialize as an electron and its antiparticle the positron (a positively charged electron). When particle and antiparticle meet, they may annihilate each other, dematerializing their mass into a burst of pure energy. Electrons and positrons can vanish in a flash of light.

Physicists classify particles and their antiparticles into two major families called leptons and hadrons—names that could have come straight out of Tolkien.

Leptons are particles that don't "feel" the so-called strong force that binds together protons and similar but electrically uncharged particles called neutrons to make the nuclei of atoms.

Leptons are the closest thing to an elementary particle that physicists have seen. There is no hint they consist of anything more fundamental. And there is only a handful of them. So far, the existence of four leptons (plus their antiparticles) has been established. They include the electron, a similar but more heavily charged particle called the muon, and two kinds of neutrino, which are electrically neutral particles that have no intrinsic mass but which carry energy.

Hadrons, on the other hand, do respond to the strong nuclear force and are anything but elementary. They include the proton and neutron and hundreds of other particles that may just be different manifestations of something more fundamental. Over the past decade, physicists have convinced themselves that this "something" is a set of elementary particles called quarks—a term originated in James Joyce's novel "Finnegans Wake."

Quarks come in several varieties. They have electric charges that are positive or negative fractions (one-third or two-thirds) of the amount of charge on an electron. At first, there was evidence of three quarks called "up," "down," and "strange." Then indications of a fourth quark appeared, a particle with a property called "charm." Now physicists are in hot pursuit of definitive evidence for what may be two more quarks tentatively called "top" and "bottom" or "truth" and "beauty."

While physicists don't understand in a fundamental sense all the properties that distinguish such particles, they give them whimsical names and can take precise account of them mathematically. Thus hadrons are said to come in different "flavors" while quarks carry well defined "colors." "Particle physicists just seem to like familiar names for their rather abstract notions," observes R. L. Jaffe of the Massachusetts Institute of Technology.

The trouble with quarks is that, no matter how they try, physicists have yet to isolate one. The conviction is growing that quarks cannot appear in isolation. They may be

bound together by a new kind of force so that they only exist in combinations that appear, to the outside world, to be some sort of hadron—say a proton or neutron.

The known basic forces—such as electromagnetism or the strong nuclear binding force—are strongest when particles are close together, weakest when particles are far apart. But the force with which quarks interact, if it exists, would be weakest when particles are closest and grow stronger as two quarks tried to separate. Dr. Jaffe calls this notion of quark confinement a young, radical idea for which "we have no fundamental explanation."

NO PRECISE CALCULATIONS

"Nothing like the permanent confinement of quarks has been encountered before in the study of the structure of matter," he explains in reviewing the situation in the journal Nature. Dr. Jaffe elucidates: "Subnuclear physics is in a rather peculiar state at present. There is wide agreement as to a prospective theory of hadrons. . . . Yet there are no precise, unequivocal, and successful calculations of anything to bolster our faith. . . ."

"Nevertheless," he adds, "the theory which has emerged is very precisely formulated. . . . It offers the hope of explaining hadron properties in precise detail although at present only approximate calculations are possible."

Physicists place even more hope in the next generation of accelerators, which will bang patricles together with energies far higher than any available in the laboratory so far. Then data may emerge that will give theorists the insight they need, or which may prove decisively the value or folly of such things as the quark confinement force.

"It's hard for me to think of anything much more exciting than observing an isolated (quark). . . ." says Dr. Wilson, adding, "and if all that energy doesn't produce a quark, then at some stage we must admit that we have experimentally demonstrated a new force, and that's as interesting as a new particle—or more so!"

Physicists also hope that higher energy interactions will shed new light on the leptons. Recent data suggest there may be a fifth lepton, perhaps even a sixth (plus their antiparticles), in addition to the four already known.

There are Nobel prizes to be won elucidating such things, to say nothing of a host of lesser discoveries. It adds to the sense of frustration of many American high-energy physicists to think that such rewards would be well within their grasp if only they had the money to move ahead at a pace of which they are capable.

For example, Drs. Wilson and White are concerned both with funds to run experiments and with the timetable for building new accelerators. Fermilab now has the most powerful machine, an accelerator that can boost protons to energies of 500 billion electron volts—or 500 GEV, in physicists' shorthand. That's the amount of energy an electron would gain if accelerated by the force associated with 500 billion volts. On the subatomic scale, it's a lot of energy. But to put it in perspective, it's only about a billionth of the energy a 100-watt light bulb uses in one second.

CERN IN COMPETITION

CERN, the European Center for Nuclear Research which 12 countries maintain in Geneva, is a close competitor to Fermilab, with a 400 GEV accelerator. It also has a facility in which beams of protons, each with 28 GEV of energy, circulate in opposite directions to meet in head-on collisions.

This is the route to the highest useful energies. A moving proton (or other particle) hitting a stationary target is like a moving car hitting a stationary vehicle from behind. Much of the energy of the incoming missile goes into setting the target in motion. Thus for a 500 GEV proton hitting a fixed target, only about 31 GEV of energy is available for creating new particles. But when two 500 GEV protons meet head on, all of their combined energy is available to cause events of interest to experimenters. It would take an accelerator 1,000 times more powerful—500,000 GEV—to equal that performance by shooting at a fixed target.

Several such colliding beam facilities for protons or electrons are built or planned in Europe, besides that already operating at CERN.

In the United States, a 4 GEV electron facility at the Stanford Linear Accelerator Center (SLAC) in California will be joined by a 24 GEV electron-positron unit. And at Upton, Long Island, Brookhaven National Laboratory is to build a facility called Isabelle, in which protons can collide at beam energies ranging from 30 GEV to 400 GEV.

While this may seem like healthy progress to Dr. Drell and the HEPAP, it hurts Fermilab officials. Under Dr. Wilson's leadership Fermilab has developed a project to upgrade its accelerator to 1,000 GEV while cutting $5 million or more a year from its electricity bill by using more efficient magnets. This upgrading provides eventually for colliding beam experiments of up to 2,000 GEV total energy. Furthermore, Fermilab is poised to begin construction. Dr. Wilson says he could finish the first phase—upgrading the accelerator—within a year if only there were another $10 million for this purpose in the 1979 fiscal year budget.

But HEPAP advised giving first priority to Isabelle at Brookhaven and stretching Fermilab improvements over a several-year timescale. This will slow research down, Dr. Drell admits. Isabelle won't be ready until about 1986. But, when it is ready, it will ultimately allow a richer spectrum of research to be done than will the Fermilab plan, Dr. Drell explains. Hence the priority given Isabelle.

The Carter budget follows the HEPAP recommendation, subject to congressional approval. Fermilab supporters are lobbying Congress for more money. But at this writing it was hard to assess their likelihood of success.

EXPERIMENTS CANCELED

Dr. White, who does not share HEPAP's view, says the panel paid insufficient attention to CERN-Fermilab competition. Even part from the accelerator improvement project that a number of important experiments have had to be canceled at the laboratory, which, he says, is only operating at a fraction of its potential. Since Fermilab was built as the main national accelerator facility, Dr. White considers this chronic malnutrition a self-defeating policy.

Putting parochial concerns aside, Dr. White goes on to point out that the present budget level for American high-energy physics as a whole won't support new machines such as Isabelle plus those at Fermilab and SLAC and others when these all are upgraded and operating. Yet he senses a desire in Washington for "level budgets" in this field for a number of years.

Here Drs. Drell and White can agree. Dr. Drell says he too would be concerned if present budget levels were to be adhered to in the long run. In that case, American physics might indeed be unable to compete with that of Europe and be in danger of withering.

In the long run, observes Dr. White, it comes down to a question of why society should support high-energy physics anyway. "Why support telescopes or anything else?" he asks rhetorically. "High-energy physics is the cutting edge of fundamental knowledge. When you have the best people in the business, you should support them," he adds. "I don't think high-energy pyhysics in this country is supported at that level."●

## THE AIRPORT AND AIRCRAFT NOISE REDUCTION ACT, H.R. 8729

## HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. JOHNSON of California. Mr. Speaker, H.R. 8729 was reported by the House Committee on Public Works and Transportation on December 13, 1977, and will be considered in the House in the near future. A discussion of the purposes of this important legislation is, therefore, in order.

I am inserting for the RECORD the remarks which I and my distinguished colleagues, Congressman WILLIAM HARSHA, ranking minority member of the Public Works and Transportation Committee, Congressman GLENN ANDERSON, chairman of the Subcommittee on Aviation, and Congressman NORMAN MINETA, chairman of the Public Buildings and Grounds Subcommittee and a member of the Aviation Subcommittee, made this past week in appearing before the House Rules Committee:

TESTIMONY OF CHAIRMAN HAROLD T. "BIZZ" JOHNSON BEFORE THE RULES COMMITTEE, JULY 18, 1978

Chairman Delaney, I want to express my appreciation for your prompt scheduling of hearings today and tomorrow on two bills of great importance: aircraft noise and regulatory reform of the airline industry. My committee colleagues and I here at the table thank you for allowing us to appear today and tomorrow to testify in favor of these two measures.

I would like to proceed with a brief summary of the noise bill reported by the public works and transportation committee, H.R. 8729, and give you my views on the present need of this legislation. I will also discuss the nature of the rule we are seeking. I shall leave for my good friend, aviation subcommittee chairman Glenn Anderson, who has worked tirelessly on the noise problem this entire Congress, to give you a more detailed explanation of the bill's major provisions.

Before I begin I might indicate to you the extent to which the aviation subcommittee studied past, present and proposed federal policy on the abatement of aircraft noise. Over the past two years that subcommittee held 27 days of hearings in Washington and in the field on current and proposed aircraft noise policy. Some 2,000-plus pages of printed transcript were amassed during the hearing process. Truly this represents the most exhaustive look ever undertaken into the noise problem. The results of the effort are before you today.

In summary the bill H.R. 8729, as reported, does the following:

"Title I establishes a new voluntary program to assist airports and surrounding jurisdictions to develop and carry out programs to reduce existing land use incompatible with airport operations.

"Title II makes a much needed increased in authorized funding levels for the airport development program and extends for two more years the 90 percent Federal share for grants to our smaller, non-self sustaining airports.

"Title III finances a program, through a series of charges assessed airline passengers and shippers to assist air carriers to comply with federally mandated noise standards which in effect make obsolete nearly three-fourths of the currently active jet fleet by January 1, 1985.

"Title IV, requested by the Committee on Science and Technology, would provide for an annual authorization process for that portion of the Federal Aviation Administration's budget dealing with research development and demonstration."

Aircraft noise has been and continues to be a national problem. While the greatest impact can be found around our busiest airports, careless local decisions on land development and lack of effective Federal policies on aircraft noise threaten currently and relatively less-impacted airport environs. Aircraft noise poses a real threat to the continued growth effectiveness and vitality of our fine air transportation system. In too many instances fragmented local action threatens to disrupt the system and all too often needed airport development for safety and capacity expansion has been bogged down in costly delays because of aircraft noise. The several millions of Americans daily bombarded with excessive aircraft noise demand and deserve relief.

The legislation you have under consideration is comprehensive. It not only tackles noise at the source effectively, but for the first time provides a mechanism whereby airports and surrounding communities can receive substantial Federal assistance in planning and carrying out programs to abate the noise problem.

And, although the environmental advantages of the bill are paramount and obvious, many other benefits will be derived from passage of the bill. The bill provides substantial energy savings because the new technology aircraft to be generated by this bill will be up to 30 percent more fuel efficient than today's aircraft. This legislation will provide thousands of jobs in the aerospace and related industries as well as thousands of construction jobs connected with airport development. The bill will help reduce current balance of payments deficits by spurring our aerospace industry, which has not developed a new transport aircraft in a decade, to compete more favorably with formidable foreign competition.

In my letter to you of July 3, I noted our request for an open rule on titles I, II and IV of H.R. 8729 and one hour of debate. That is our wish.

It is my understanding that the bill reported by the Ways and Means Committee, H.R. 11986, will be offered as an amendment in the nature of a substitute to title III of H.R. 8729. If such is the case, I would point out that sections 305 and 306 of H.R. 8729 are not contained in H.R. 11986. I would request, therefore, that provision be made in the rule for it to be in order for sections 305 and 306 to be offered on the floor as a separate title.

To conclude, Mr. Chairman, this is very important legislation and it is essential that a comprehensive noise bill be passed by this Congress. We are submitting this legislation only after a very thorough hearing and deliberation process. Again, I appreciate your spirit of cooperation in holding these hearings and I look forward to working with you and your colleagues as the bill moves through your committee and onto the floor.

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RULES COMMITTEE STATEMENT: HON. WILLIAM H. HARSHA—H.R. 8729, THE AIRPORT AND AIRCRAFT NOISE REDUCTION ACT AND H.R. 11986, THE NOISE AIRCRAFT REVENUE AND CREDIT ACT OF 1978

Mr. Chairman, I am very pleased to join Chairman Johnson here today in requesting a rule on H.R. 8729, the Airport and Aircraft Noise Reduction Act. He has ably expressed the views of the Committee on Public Works and Transportation regarding this legislation—and may I say that I concur fully with his remarks.

As Chairman Johnson has stated, we approach the aircraft noise problem along two tracks. First, in title I, we seek to encourage voluntary action by airport operators and local communities to control noncompatible land uses in areas surrounding airports—including authorization of grants from the airport and airway trust fund to assist with the implementation of local noise control programs. Second, in title III, we seek to assist air carriers in meeting the costs of complying with Federally mandated noise standards—a burden which air carriers had no reason to anticipate when they purchased their aircraft.

Mr. Chairman, H.R. 8729 was reported by our committee with the bipartisan support of an overwhelming majority of our members. I would state that most of the concerns expressed by our minority members with respect to major provisions of earlier versions of this legislation were resolved to our satisfaction during the aviation subcommittee and full committee markups. Most notable in this regard was the fact that we sought successfully to eliminate the mandatory land-use provisions which appeared initially in title I. Participation by airport operators and local communities in the title I program to reduce noncompatible land uses in areas surrounding airports now is entirely voluntary—as it should be.

The Committee on Ways and Means has revised certain sections of our title III by placing the financing mechanism in a tax context rather than a surcharge. However, we do wish to retain our section 305 foreign aircraft compliance provision, as well as our section 306 compliance waiver authority provision—both of which were not included in H.R. 11986, the ways and means version of our title III. The issues dealt with in those sections more properly lie within the jurisdiction of the House Committee on Public Works and Transportation, and it is the desire of the committee that these provisions be retained. Therefore, it is my suggestion that the rule granted make provision that H.R. 11986 be considered as a substitute only for sections 301–304 of H.R. 8729, and sections 305 and 306 be allowed to remain in H.R. 8729 subject to an open rule.

I understand that the Ways and Means Committee has requested a closed rule waiving points of order for their bill precluding amendments that may be offered on the floor. Section 305(d) of that legislation provides that no trust fund monies may be spent unless FAA annually consults with the National Transporation Safety Board on unsafe airport or airway operating conditions.

Mr. Chairman, such a limitation is clearly within the jurisdiction of the Committee on Public Works and Transportation and we should not be precluded from taking steps to eliminate this proviso from the Ways and Means bill. The Public Works Committee has not had an opportunity to examine this proposed limitation and we should have that opportunity.

Mr. Chairman, I can and do express my belief that H.R. 8729 is good legislation which is carefully tailored to remedy a serious national problem. It is worthy of prompt and favorable floor consideration—and I request your committee to issue an open rule for all aspects of H.R. 8729 with one hour of general debate making the Ways and Means bill in order as a substitute amendment for sections 301–304 of our bill. Out of monetary deference to my friends on that committee, I would support a closed rule which I understand they have requested. However, since the Ways and Means legislation contains language relating to safety in section 305 which is clearly the jurisdiction of Public Works and Transportation, I urge the committee to grant a rule allowing us to make a point of order against section 305 (d) and if that is not sustained then making an amendment in order to strike section 305(d) from the Ways and Means version.

Thank you, Mr. Chairman.

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TESTIMONY OF CONGRESSMAN GLENN M. ANDERSON BEFORE RULES COMMITTEE, JULY 18, 1978

Mr. Chairman, I want to associate myself with the remarks made by my colleague, Chairman "Bizz" Johnson, and ranking minority member, Bill Harsha. A great deal of credit must be given to them for their fine leadership in bringing this legislation along.

I would like to expand upon their remarks, if I may, and to put in perspective the scope of the aircraft noise problem.

Nearly seven million Americans and nearly a million acres of valuable land are impacted by aircraft noise levels deemed normally unacceptable for new residential construction loan guarantees by the Department of Housing and Urban Development.

Last year the President's Council on Wage and Price Stability estimated that aircraft noise was costing property owners near airports some $3.25 billion annually in decreased property value. This certainly has an erosive effect on local tax bases around the country.

Our nation's airports are spending millions of dollars to acquire noise impacted land. According to a November 1977 survey of its membership, the Airport Operators Council International reports that some $229 million has been spent on land acquisition over the last seven years by U.S. airports. In addition, airports currently have pending against them lawsuits with potential liability which can be measured in the hundreds of millions of dollars. Citizen opposition to aircraft noise has delayed and in many cases prevented needed airport development and expansion and the installation of facilities to improve safety, airport capacity, and efficient utilization of airspace.

During our lengthy hearing process on this bill, it became abundantly clear that comprehensive legislation is required to deal with the noise problem—and it is needed now.

New housing developments and other land uses incompatible with normal airport operations are springing up near our airports as we meet today. Furthermore, the clock is running on compliance with FAA noise standards under which nearly three-fourths of the entire air carrier fleet will have to be replaced or modified with a schedule beginning in 1981 and ending January 1, 1985.

The Federal effort to date has focused on reduction of noise at the source, the aircraft. Based on legislation passed in 1968 and 1972 FAA has, in my view, gone a long way toward carrying out the expressed Congressional mandate to quiet noise at the source. However, source control, we are finding, has technological limits, and no amount of quieting existing aircraft will totally solve the problem. Although making aircraft quieter will shrink the areas of greatest impact significantly, whether through retrofitting or replacing noisy aircraft or a combination of both, incentives must be provided to airport operators and surrounding communities to get on with the long-neglected need to make land surrounding airports more compatible with airport operations. To continue placing sole emphasis on source noise control, to continue talking just about making aircraft quieter, without making significant progress on the land use side will have the effect, in my opinion, of unwisely raising the public's expectations for noise relief. Although we must continue efforts at source noise control unabated, let's face it—normal airport operations involve noise because aircraft do and will continue to make noise—we must start with the assumption that some unacceptable noise will continue in areas immediately adjacent to airports and work from there.

The efforts of the House Public Works and Transportation and Ways and Means Com-

mittees have resulted in the preparation of comprehensive legislation which will expedite the introduction of quieter aircraft into the fleet and will provide incentives to airport operators and the communities they serve to get on with the much too long delayed need to make the land surrounding our airports more compatible with airport operations.

Under the voluntary provisions of Title I, planning grants will be available to airports for developing noise impact maps showing present and projected cumulative noise impacts in areas surrounding the airport as well as present and projected land uses within the impacted areas.

Another part of the planning process will be the development of noise compatibility programs which will consist of those actions which the airport proprietor and surrounding communities will voluntarily take, for example, zoning, land purchase, sound proofing, and airport operations, to lessen the adverse effects of aircraft noise and to prohibit the introduction of noncompatible land uses in the impacted areas.

Programs developed from this planning process are submitted to the Secretary of Transportation for approval if the proprietor wants to receive funding to implement the program. The Secretary may approve a program if the measure set forth in the program provide for safe flight, do not create an undue burden on interstate or foreign commerce and are consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible uses.

Title I, in my opinion, is an essential ingredient of the House effort. As I stated earlier, source noise control alone is insufficient to solve the noise problem. Title I provides an incentive from the Federal Government for local communities to solve essentially local problems, but these incentives do not in any way take from local government the traditional role of making land use decisions.

A unique feature of Title I is that money is made available to carry out the programs which have been approved by the Secretary of Transportation. These 80 percent Federal share grants will be available not only to airport operators but to communities surrounding airports which have been identified as being in the noise impact zone. Money is made available for these grants in Title I, including $165 million for fiscal year 1979 and $250 million for fiscal year 1980.

Title II increases the current authorized funding level for airport development grants for fiscal year 1979 by $260 million; for fiscal year 1980 the current authorized level is raised by $310 million. Significant indicators of national airport system need have identified problem areas requiring review of the funding adequacy of the ADAP program in advance of the anticipated Congressional consideration in 1980 of the future of the Airport and Airway Trust Fund. For example, the revised National Airport System Plan calls for some $10.6 billion in development over the next decade, with three-fourths of that forecast to be needed in the next five years. Also a number of sponsors of smaller airports have communicated their view that current funding levels do not provide sufficient funds distributed at the discretion of the Secretary. Most, if not all, of the new money contained in Title II will go into the Secretary's discretionary fund.

Title III, which is a financing mechanism to assist air carriers to meet Congressionally mandated noise rules adopted by FAA, is based on several assumptions, including the following:

We can no longer delay providing meaningful relief on the noise issue.

2. We cannot count on the regulatory process to provide sufficient returns so that air carriers can meet these deadlines on their own.

3. A Federal program is required to assure that existing aircraft noise standards are met by 1985.

4. The industry and the users of the air transportation system, and not the general taxpayer, should bear the cost of meeting the noise standards.

5. Incentives should be sufficient to make it attractive for carriers to replace noisy aircraft with new technology aircraft which are less noisy and more energy-efficient but not to encourage the purchase of excess capacity.

6. Industry should be able to meet the noise standards in an efficient and economical manner with government involvement in management decisions kept to a minimum.

The bill reported by the Ways and Means Committee, H.R. 11983, which will replace most of the Public Works Committee's Title III, is consistent with these principles. I am sure Chairman Ullman will give a more detailed explanation of these provisions.

This concludes my remarks on the noise bills, Mr. Chairman, and I thank you for your attentiveness. In summary, this is very important legislation, and it is essential that a comprehensive noise bill is passed by the Congress this session. This legislation is important to the nation from the standpoint of the environment, energy conservation, community tax bases, balance of payments, and jobs. We can accomplish a great deal without raising the cost of transportation, without increasing the burden on the taxpayer, without jeopardizing the Airport and Airway Development Program, and without adversely affecting the safety of our airways.

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TESTIMONY OF CONGRESSMAN NORMAN Y. MINETA BEFORE RULES COMMITTEE, AIRPORT AND AIRCRAFT NOISE REDUCTION ACT, JULY 18, 1978

Mr. Chairman, I greatly appreciate the opportunity to speak before your Committee in support of this important legislation dealing with the problem of aviation noise. In associating myself with the remarks of the Chairmen of both the Full Committee on Public Works and the Subcommittee on Aviation, I'd like to point out that it is more than sheer coincidence that we are all representatives of the great State of California.

As you may know, California has been an aggressive pioneer in the field of aviation noise, having itself already established Noise Standards requiring compliance by all airports in the state at the criterion noise level of 65 CNEL (Communist Noise Equivalent Level) by 1985. To a great extent, the effectiveness and success of the California noise law depends on a vigorous enforcement of Federal noise standards, and similarly, the success of enforcement of Federal noise standards depends on the passage of the Airport and Aircraft Noise Reduction Act.

I would like to take a moment of the Committee's time today to discuss the development of the Federal Aviation noise standards; the impact of those standards in San Jose, California; the need for this legislation; and the interrelationship between this legislation and the aviation regulatory reform bill which will be considered by your committee tomorrow.

Ten years ago, Congress recognized the impact which aviation noise has on millions of Americans living and working near airports, and the fact that this noise had seriously interferred with the development and expansion of our air transportation system.

In response to that Congressional action, FAA published a new Part 36 to the Federal Aviation Regulations which required that, effective December 1, 1969, no newly designed aircraft could go into production unless it met the standards established by FAA. The FAA did not at that time require retrofit of existing aircraft which did not comply with these standards, nor did it cover production aircraft which had obtained an FAA type certificate before December, 1969.

In October, 1973, an amendment to Part 36 regulations was finalized which applied the 1969 part 36 standards to *newly Produced* aircraft of older type (or pre-1969) designs.

In December, 1976, the FAA announced the so-called "Fleet Noise Rule" under which the Approximately 1,600 previously exempted older aircraft would be required, under a phased time schedule, to comply with the Part 36 noise level limitations by January 1, 1985.

Through this action the Federal Government, for the first time, required retroactive compliance with standards on planes which it had previously certified as airworthy. In other words, as a result of the fleet noise rule, airlines were required to modify or replace equipment previously certificated by the U.S. Government. I believe that this retroactive compliance requirement, while absolutely essential if we are to reduce aviation noise provides a compelling rationale for support of this legislation.

Finally, in 1977, the FAA published another amendment to FAR 36 which increases the stringency of noise standards for *new* aircraft designs. These 1977 standards will provide a reduction of 20 to 45 percent in the perceived loudness of an airplane's noise. It is important to note that these 1977 standards are encouraged through the formula for assistance established in our legislation.

The Airport and Aircraft Noise Reduction Act provides assistance to our airlines to achieve compliance with the noise standards established by FAA—through retrofit, reengining, or replacement. Clearly, retrofitting alone will not solve the growing problem of airport noise, but it is an essential part of any solution because it will reduce the costs and constraints of other components in that solution by more than it adds to the total cost. Furthermore, the assistance provided through this legislation to airports, while essential, would clearly be less meaningful without this effort to reduce aviation noise at its source.

Although the issue of the benefits to be achieved through retrofitting has been hotly debated, I believe the situation in my own district, at the San Jose Airport, provides conclusive evidence that retrofitting will result in a substantial reduction in the costs associated with noise reduction programs.

Airports in California are required to meet certain State noise standards by 1985. Clearly, their ability to meet these standards depends to a great extent upon our airlines meeting federally established noise standards.

In fact, a study done for the San Jose Airport by Parry Noise Consultants last year showed that compliance with FAR 36 would reduce the 65 CNEL noise footprint by 1,471 parcels (or 1,350 acres). This represents a cost of $110,325,000 which would have to be borne for removal and relocation if the planes using the San Jose Airport are not in compliance with FAR 36. It is my belief, and that of the airport officials in San Jose, that compliance with FAR 36 is dependent upon passage of the legislation before you today.

This bill has been criticized by some as a subsidy to the airline industry. This is simply not accurate. The Airport and Airway Trust Fund was created in 1970 to collect taxes from *users* to support the development of our Airport and Airways System.

In order to facilitate the achievement of aircraft noise abatement by 1985, the Ways and Means Committee reported HR 11986, which temporarily reduced or suspends the

existing passenger and freight excise taxes, and substitutes new excise taxes, continuing the concept of user taxes for meeting FAA-mandated noise rules. Credits are allowed against the taxes for certain percentages of costs incurred in complying with the standards. These funds will, in fact, pay for only a small percentage of the total cost of compliance.

Although the industry's earnings during the past decade were unreasonably low, carrier profits have been making a remarkable recovery in recent months. It is hoped that this recovery will continue into the next decade, but predictions as to the future of this industry are inevitably risky since this is such a dynamic industry and it is so subject to the vagaries of economic regulation. Let me also point out that even if the profits were to continue at their present level (about 90 percent) they would still fall far short of meeting the industry's needs for replacement of equipment and compliance with noise requirements.

When my colleague, Chairman Johnson, spoke in support of this bill, he mentioned his appreciation that your Committee has acted promptly to consider it as well as the equally important aviation regulatory reform bills. I believe it is important for your deliberations to emphasize the interrelation ship between these two bills.

In the first place, one of the major goals of the aviation regulatory reform, legislation is to increase competition, thereby lowering costs and fares and increasing traffic. Increased traffic will, by its very nature, increase the severity of the aviation noise problems and thus the need for enactment of the Airport and Aircraft Noise Reduction Act.

Furthermore, if the Airport and Aircraft Noise Reduction Act were not enacted, there exists considerable potential that achieving our noise abatement goals by 1985 could cause severe financial hardships such as bankruptcies, cutbacks in operations and large-scale lay-offs.

Dr. Alfred Kahn, Chairman of the CAB, recently testified that in the absence of the assistance provided throughout this legislation, compliance with noise standards could actually jeopardized the entire program of regulatory reform. He further stated: "Financial assistance by the federal government could reduce the likelihood of unfavorable development (like bankruptcies and layoffs) and, in this way could conceivable mean the difference between success and failure of not only the noise abatement program, but of restoring this industry to the free enterprise system.

I believe enactment of this legislation is essential for the significant benefits which will be experienced at the local level where the airports are located. This legislation has a national importance in terms of its contribution to the development of our aviation industry, aerospace employment, and balance of payments situation. Finally, I believe it is essential in order to ease the transition of the aviation industry into a less-regulated atmosphere.

I appreciate the opportunity to present these views to the Committee and urge your favorable consideration of the Airport and Aircraft Noise Reduction Act.

Thank you.●

## TAX STATEMENT

### HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. LEACH. Mr. Speaker, in a joint return filed by my wife and myself, we paid $33,160 in Federal and $5,668 in Iowa State income taxes on an adjusted gross income of $108,765 for 1977.●

## I LOVE NEW YORK

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. LaFALCE. Mr. Speaker, the New York State Department of Commerce has gained national attention—and deservedly so—through its imaginative "I Love New York" advertising campaign.

Recently the Washington Star published an article describing this campaign, its origins, and its impact. I would like to share it with our colleagues, and present it for publication in the RECORD at this time:

[From the Washington Star, June 27, 1978]

HOW THE CATCHY NEW YORK JINGLE CAME ABOUT

(By Marcia Gauger)

The phrase is from the newest Steve Karmen hit. The lyrics read: "I . . . Love . . . New York." They pulse through the most arresting commercial in years, a commercial that has become almost inescapable for Washington television watchers. They grin from the bumpers of countless Manhattan taxis, usually with a fat, red heart substituting for the word "love." The phrase stubbornly sticks in the mind and occasionally even leaps from the lips with the insistence of a simple hit tune, "I . . . Lo-o-ove New York."

It is part of a two-year-old campaign by the State Department of Commerce to get the message out that New York is more than an enormous financial problem, that there is more to the state than street crime, debt and taxes. When William Doyle took office as the Commerce Department's deputy commissioner in 1976, it was with a franchise to pinpoint what New York really is, and exploit it.

Doyle, who had been a Chase Manhattan Bank vice president in charge of marketing, brought to the challenge what he knew best: marketing. He ordered a survey. The survey showed, says Doyle, "that people wanted to escape from the hassle of cities to beautiful trees, lakes and mountains—like Switzerland. We have more lakes . . . more mountains in New York State." The survey also indicated that people who travel to New York City do so for the unique cultural opportunities the city has to offer.

Doyle took his challenge to one of the most creative of New York's advertising agencies, Wells, Rich, Greene. For $4.6 million, Wells, Rich, Green's creative director, Charles Moss, translated it into themes of two 60-second commercials: The scenic beauty with the testimonials to the state's outdoors—"I live in New Hampshire, but *love* New York," or "I live in West Virginia, but I *love* New York"—and the celebration of New York City's theater district—"There's only one Broadway, and it's in New York."

Of his inspiration, Moss says earnestly, "It's as simple as having people say, 'I live somewhere else,' but 'I love New York.'" Moss, whose advertising successes include the ubiquitous "Plop, plop, fizz, fizz, Oh, what a relief it is," and "I can't believe I ate the whole thing," put his ideas to composer Steve Karmen. Some of Karmen's hits are "Doublemint Gum" and "When You Say Bud," and he did it again with "I Love New York."

Filming the commercials, which were directed by Stan Dragoti (who also is the husband of model Cheryl Tiegs), took place on location in the great New York outdoors and on a West 54th Street sound stage in Manhattan. With professional actors (who were actually from West Virginia, or North Carolina or Brooklyn) reciting their lines, the outdoor sequences were shot at Glens Falls, Whiteface Mountain or Lake George.

Putting together the Broadway segments took almost as much effort as mounting a show. The theme "I Love New York" was orchestrated into an overture conducted by Milton Rosenstock; the casts of "Grease," "The Magic Show," "Annie," (Sandy had a hard time sitting still and not saying "arf"), "Chapter Two," "The King and I" and "Chorus Line" all sing of their love for New York. The cast of the "Gin Game" loves New York silently, and Frank Langella, as Count Dracula, whips his cape in one of the count's characteristic gestures and says, seductively, "I Love You, New York—especially in the evening." The commercial was shot over three wintry January days of which the third was a snowstorm; the cast of "Chorus Line" straggled through the streets to the studio in a blizzard for their segment. The cast of "Same Time, Next Year" was snowbound in Connecticut and couldn't make it.

Starting the week, to emphasize the state's attributes as a vacation spot and a place to get away from it all will be two new commercials—one with a water theme and one with a wilderness theme. The wilderness spot will stress the state's beauty and its wildness, filmed from an ascending helicopter—it has few people in it. The commercial with the water theme has more action. "I love to surf in it," says a man riding a surfboard, prone, on a breaking wave. "I love to fish in it," says a man in a boat holding up two fish. "I love to canoe in it," says a man shooting the rapids of a Hudson River tributary in a canoe, "I love to sail in it," says a fellow in a sailboat, and "I love to splash in it," shouts an exuberant kid in the middle of a 20-foot drop from a rock into the river. Finally, a misty young couple in black slickers aboard the Maid of the Mist IV hard by Niagara Falls, after an embrace, admit, "I love to kiss in it."

The promotion is working. For years, the state's tourist industry employed 200,000 New Yorkers—it brought $4.6 billion into the state in 1975—but was growing at a pace less than half the national rate and was actually lagging behind inflation. Now New York is enjoying the beginnings of a tourist boom. Statistics for the first year of the commercials indicate an increase of 3.9 percent in constant dollars over 1976. That is nearly 4 percent better than inflation. The commercials increased theater revenues $3 million during the campaign in 1978 over 1977, with a 15 percent rise in hotel and restaurant business during the same period.

For the money, the state is getting a new map, brochures ("I love New York Broadway show tours," New York City and New York State "I love New York travel guides," a new booklet of ski packages, camping packages, fishing packages, white-water canoeing packages, dude ranch packages) all mailed at the drop of a request to an 800-number telephone call and "I Love New York" bumper stickers, T-shirts and buttons. And a disco version of the theme song. And of course that insistently haunting commercial, "I . . . Lo-o-ove New York."●

## UTAHANS CELEBRATE 131ST ANNIVERSARY OF MORMON ARRIVAL IN UTAH

### HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. MARRIOTT. Mr. Speaker, I would like to draw the attention of the House today to the most important State holi-

day in Utah, held on July 24. It was 131 years ago today that the first pioneers from the Midwest arrived in the valley of the Great Salt Lake. When they arrived, there was no one to greet them or note the event. They began planting crops immediately in preparation for the harsh winter. They knew they would have to survive on their own ability to produce. The life there was so rugged that during the first winters most people slept in the wagons in which they had driven across the plains. Many lives were lost in the crossing of the plains in the dangerous conditions of no roads, lack of proper food, and harsh weather. But each year for half a century thousands of pioneers travel to Utah from all parts of the world.

It is not without great admiration and thanksgiving that all Utahans remember the origins of their State. The Mormon pioneers, driven from more than one home, were driven from the State of Illinois under an extermination order signed by the Governor. Tired of the persecution without protection of the law, they sought a place apart from the mainstream of commerce and population centers. In the 1840's the intermountain area of the Rocky Mountains was the emptiest and most undeveloped part of America. The valley of the Great Salt Lake was arid, remote, and unwanted. But the weary Mormon pioneers wanted nothing more than to be left alone.

In the last 131 years, the State of Utah has blossomed like a rose, under the skill and ability of people from around the world. There are substantial numbers of people with Greek, Japanese, Italian, English, Scandinavian, and German ancestry. If recent opinion polls are any guide, Utahans have built a State which ranks very high in interest and attractiveness, both as a place to visit and a place to live.

It is fitting that we remember the great sacrifices these pioneers made for all of us and that we remember the pioneer spirit which is still alive in the hearts of Utahans. The exploits of these pioneers have created legends of honor and courage which continue to inspire our appreciation, particularly in light of the adversity which they faced.●

## TWO MAJOR COPPER CLOSINGS

### HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. SANTINI. Mr. Speaker, this is a Nevada experience but our Nation should know what is happening to our domestic capacity to supply our own copper needs. The voice of concern about our Nation's hardrock minerals needs does not receive a fair hearing within the upper echelon of executive decisionmaking.

A prominent exception to the foregoing conclusion occurred in June 1977 when President Carter, in response to our collective plea directed that there should be a national minerals policy.

That policy is now in the implementation stage. As the author of the plea, it is my fervent hope that the realities of our Nation's mineral needs and problems will not be buried under a mountain of preexisting prejudices within the reviewing agency. This Nation does have significant—in some instances of crisis proportions—mineral problems.

The following editorial provides a vivid and well written insight into Nevada's recent copper closing experience:

COPPER ERA ROLLS TO HALT

"Nevada out of the copper business," reads the headline, and it is like hearing Levi's has quit making jeans—it boggles the mind.

The mining industry is older than the state itself. Minerals, principally gold and silver, are the state's very reason for being. The color, the drama and the glamor of the era still survive today.

After the famous mines of the Comstock Lode had disappeared from the public consciousness and Americans of the 1940s and 1950s learned to identify Nevada as the gambling-sin (synonymous) capital of the nation, mining, in reality, continued to dominate the state's economy.

No one seemed to know in those days that is was mining first, agriculture second and gaming a slow third. It was a question good for stumping contestants on radio quiz shows. The huge Kennecott Copper operation in Eastern Nevada was the main reason residents of then sparsely populated Nevada could piously boast to incredulous visitors that their home state's chief industry was mining and not gaming.

Then came the Anaconda Copper endeavor at Yerington. They cautioned that they would only be around for a decade or so. They stayed for 25 years and their extended run merely lulled Nevadans into a false sense of permanence instead of steadily increasing apprehension of the inevitable.

Scientific progress was a big reason for Kennecott's and Anaconda's long endurance. Improvement of mining skills, development of more efficient equipment and ore processing procedures increased operation efficiencies. Kennecott officials bragged a few years back that the performance of copper extraction procedures had improved to the point they could go back and economically process piles of old overburden and tailings.

At Anaconda, the ore supplies simply petered out. Ore supplies abound in Eastern Nevada but a one-two punch of a sagging domestic copper market coupled with exacting and costly environmental protection demands succeeded in shutting down Kennecott.

The Nevada Mining Association says that copper ore remains plentiful in Nevada but as long as foreign companies can produce copper abroad, ship it to the United States and then sell it at a lower price than can domestic suppliers, Kennecott will remain closed.

A few years ago, when the U.S. Government demonetized silver (or more precisely desilverized money) and removed the price ceiling on gold, everyone in Nevada mining circles got excited. If gold and silver were allowed to flow at true monetary value, the two precious minerals would become profitable to mine in Nevada.

One of the popular rumors abounding in Nevada at the time was that when silver passed $5 an ounce and gold started drawing at least $100 an ounce, then mines would begin opening back up. It was an exciting possibility to contemplate. But silver went as high as $6 an ounce at one point in time and now wallows between $5 and $5.25. Gold quickly shot past the $100 mark and sells readily for $185 an ounce. Despite all that, the hundreds of marginal mining operations around Nevada remained closed and the only activity seen came from the typewriters of mining stock promoters.

What went wrong? Nothing, really. The handsome prices and their fascinating growth patterns were merely reflecting inflation trends. The price of an ounce of gold may have doubled over the past few years—but so has the cost of digging an ounce of gold out of the ground.

The mines that were fallow before the price boom remain fallow today. The ones that were operating and "getting by" back then are today only "getting by." For them, the market rise has meant nothing.

This all goes to show just how untenable Kennecott's situation was. In addition to the problems of inflation and increased costs faced by the gold and silver interests, Kennecott had the problem of a collapsing copper market.

Nevada is apparently shucking the mining image in actuality if not in reputation. The towns of Yerington, Ely and McGill, even though their lord and master, king copper, is dead, have declined to commit suttee on the funeral pyre. That may well be the most important development in the whole sad affair.

Kennecott and Anaconda made important and well-appreciated contributions to their communities which separates them from their rapacious predecessors in such towns as Virginia City and Austin. And their community involvement is the likely reason the towns are showing a propensity for survival.

But if mining ever rebounds as a growth industry, and such an event is quite likely, Nevadans will keep their eggs carefully separated in individual baskets and will avoid the life-and-death situation of total commitment.●

## CALIFORNIA DIRECTOR OF TRANSPORTATION URGES ADOPTION OF H.R. 8729, AIRPORT AND AIRCRAFT NOISE REDUCTION ACT INCLUDING TITLE III, ON PRACTICAL AND HUMANITARIAN GROUNDS AND WARNS OF RESTRICTED AIRCRAFT OPERATIONS AND CURFEWS WITHOUT THE BILL

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. ANDERSON of California. Mr. Speaker, today I was furnished a copy of a telegram which Adriana Gianturco, director of transportation of the State of California, has sent to some Members. It concerns H.R. 8729, the Airport and Aircraft Noise Reduction Act, which is now before the Rules Committee. Director Gianturco takes a strong stand on this bill and its importance to the general public.

Because this important bill is not well understood, I thought I should share Ms. Gianturco's wire.

TELEGRAM

SACRAMENTO, CALIF.,
*July 19, 1978.*

It is my understanding that H.R. 8729 is under consideration by the House Rules Committee. This bill is extremely important to all Californians. It will provide the funding necessary to meet the requirements imposed by federal regulations regarding the reduction of aircraft noise at its source. This is the key to making our airports compatible with their communities.

Without the funding program included in

H.R. 8729 (which is correctly generated from user fees), we will continue to see additional restrictions imposed upon our major air carrier airports. Groups of citizens living near our "noise problem" airports want reduction in aircraft operations at a time when public demand for air transportation is rapidly increasing. Group action to restrict aircraft operations, invoke curfews, and disapprove airport construction projects is a direct result of aircraft noise being imposed upon the communities near our airports.

The effect of these actions is already visible in that the general public is being denied the desired level of air service for at least four of our air carrier airports, and others will likely become affected under status quo. The situation would be greatly improved through the passage of H.R. 8729. It is also my personal belief that a humanitarian viewpoint would agree with whatever action is required to reduce aircraft noise at the source. For these reasons, I strongly urge your favorable action of H.R. 8729.

ADRIANA GIANTURCO,
*Director of Transportation.*●

## VIKTORAS PETKUS—PRISONER OF CONSCIENCE

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. DERWINSKI. Mr. Speaker, the trials of dissidents in the Soviet Union have very properly been given a great deal of coverage and attention. One such "prisoner of conscience" is Viktoras Petkus, a leading spokesman against Soviet repression in Lithuania.

In an attempt to exercise his basic human rights, Viktoras Petkus was recently sentenced to a 10-year term in prison and 5 years in exile. Petkus at various times has already served more than 18 years in prison and exile for speaking out against Soviet oppression in Lithuania.

Petkus, a member of the Lithuanian group to promote the implementation of the Helsinki accords, was first arrested in 1947, for his activities in the Catholic Youth Organization, and after serving 6 years, he was released in 1953. He completed high school and then attended the University of Vilnius where he studied literature.

Petkus was arrested again in 1957, this time for possession of anti-Soviet literature—a collection of poems by Jurgis Baltrusaitis. These poems were published 5 years before the revolution in 1912, and were included among the "Anti-Soviet literature." He was not released until 1965. Since that time, while working as a hospital attendant, and then as a church sextant, Petkus became an expert in Lithuanian literature and had collected a massive bibliography on Lithuanian poets. He attracted a wide circle of young Lithuanians, who were constantly shadowed by the KGB and questioned about Petkus. Several of these young people were forced to sign false statements concerning Petkus, which were later used in the trial proceedings against Petkus.

For the last 38 years, freedom, self-determination, and independence have been denied to the Lithuanian people and others held captive by the Soviets. Soviet repression in Lithuania as well as in other nations under Soviet domination has reached alarming proportions. "Show trials" and harsh sentences as demonstrated in recent weeks are used to intimidate and to silence the widespread nationalistic and religious movements.

It is important for us to remember that human rights not only encompasses personal and civil rights but also national rights. Viktoras Petkus and other dissidents who publicly deplore these violations of human rights deserve our support. The future of the over 100 million people held captive within the U.S.S.R. and the millions of others in Eastern Europe and Asia are at stake.●

## NEED TO ENACT THE FUELS TRANSPORTATION SAFETY AMENDMENTS ACT

### HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. MOAKLEY. Mr. Speaker, today I am inserting in the RECORD an article entitled, "Gas Fireball in Boston? It Could Happen," which appeared in the Boston Globe today, July 24.

This article was written by the Honorable EDWARD J. MARKEY and excellently describes the hazards faced all across our country in the transportation and storage of volatile fuels such as liquefied natural gas (LNG) and liquefied petroleum gas (LPG).

Later this week the House will have an opportunity to pass urgently needed legislation designed to protect the public from these hazards: H.R. 11622, the "Fuels Transportation Safety Amendments Act of 1978." This important bill, sponsored by Congressman JOHN DINGELL and Congressman EDWARD MARKEY is also discussed in this article which I want to commend to the attention of my colleagues.

The article follows:

GAS FIREBALL IN BOSTON? IT COULD HAPPEN

(By Congressman EDWARD MARKEY)

On July 11, in Los Alfaques, Spain, a tank truck swerved out of control, exploded and engulfed a vacation campsite by the road in burning propylene gas, a form of liquefied petroleum gas—LPG. At least 160 men, women and children were killed instantly. Another 230 were so severely burned that more than half are not expected to survive. Then, on July 16, a similar accident occurred on a highway outside Mexico City, again killing and badly wounding scores of people.

Can such an accident happen in Greater Boston? The answer is emphatically yes.

Similar vehicles are traveling through every major city in the United States, delivering fuel of this type. In addition, day and night trucks currently transport liquefied natural gas (LNG)—an equally hazardous energy source—through some of the most congested roads in the Commonwealth to LNG storage facilities from Neponset to the banks of the Merrimack River.

LNG itself is created by super-cooling natural gas to a temperature of minus 259 degrees Fahrenheit. At that temperature, natural gas is compressed in volume over 600 times, thus making possible its storage as well as its marine and truck transportation. LNG is an important energy source for our region, for on cold winter days, LNG supplies up to 40 percent of all home heating gas in Massachusetts.

Earlier this month, representatives of a New England gas company reported to the federal government that they are unable to estimate the number of fatalities which might occur should one of the large LNG trucks serving its Rhode Island facility crash. In the past eight years, trucks from this one facility alone have had 14 serious accidents, three of which included LNG spillage.

It can largely be attributed to luck that we have not yet had an accident in our region of similar or greater dimensions than those which recently occurred in Spain and Mexico.

One would assume that the federal government has been vigorously at work developing policies to protect the public health and safety in the transportation and storage of these extraordinarily hazardous materials. But one would be wrong.

The federal government to date has established no coherent safety policy for either LNG or LPG. The principal agency with responsibility in this area is the Office of Pipeline Safety Operations in the US Department of Transportation. Their irresponsible neglect of these vital safety issues must end.

The General Accounting Office (GAO), the investigative arm of Congress, is expected to publish a major report in a matter of days on the dangers associated with LNG. In a draft of that report, which appeared in the press earlier this year, the GAO singled out LNG shipments through downtown Boston for special criticism. The draft warned that if an LNG truck crashed over the barrier of an elevated roadway such as the Southeast Expressway, it would almost certainly rupture. A cloud of LNG vapor then would hug the ground, go down into sewers, subways and basements through any available opening. Explosions and fires could be ignited, since the vapor is so combustible it could be set off even by the spark generated by an automobile horn.

The GAO report forecasts that LNG accident could result in tens of thousands of deaths, for while a typical LNG tank truck carries about 10,000 gallons, the twin LNG storage tanks in Everett have a capacity of more than a million gallons. While the implications of an LNG truck accident are very serious, an accident at a storage facility could result in a truly major disaster.

In 1944, 128 persons were killed by a series of fires which followed the rupture of an LNG storage tank in Cleveland. Federal studies of that accident led to recommendations that future LNG facilities be located away from populated areas. Thirty-four years later, no such action has been taken and the GAO repeats this same recommendation.

The need for action is clear. Fortunately, action is about to be taken.

This week the House of Representatives is scheduled to consider legislation which will mandate strict new national safety standards for the siting and operation of LNG facilities. This bill, which I co-authored with Rep. John Dingell (D-Mich.), also brings strong new safety regulations to bear on the transportation and storage of LPG and natural gas.

Our bill, the Fuels Transportation Safety Amendments Act, incorporates many of the recommendations contained in the GAO report on LNG hazards. It is the result of many weeks of consideration and hearings in the Energy and Power Subcommittee and the full Commerce Committee.

Under this bill, the Department of Transportation would be required to establish standards regulating the location and de-

sign of any new LNG facility or any construction at an existing facility. These standards would require remote siting to the maximum extent possible. In addition, all LNG facilities would be required to comply with new operating standards covering areas such as security against terrorists and fire prevention capacity. All related facilities, including truck transportation, would be covered by strict new standards.

Many segments of the oil and gas industry have opposed this bill, claiming, like the owners of the Titanic who insisted that their ship was "unsinkable," that we already live in the safest of all possible worlds.

Too many lives are at stake. The battle for significant new safety measures for LNG and LPG must not stop until they are enforced by federal law.

## THE UNHAPPY HISTORY OF TRADE PROTECTIONISM

### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. FRENZEL. Mr. Speaker, our colleague, STEVE NEAL, authored a first-rate piece in the Washington Post last week in which he carefully detailed the disasterous effects of the Smoot-Hawley Tariff Act of 1930.

The history is accurate and Congressman NEAL's conclusions are sound. I invite the attention of all Members to the article, which follows:

THE UNHAPPY HISTORY OF TRADE PROTECTIONISM

(By Stephen L. Neal)

Before we become saturated with 1930s nostalgia, with Little Orphan Annie, "The Waltons" and art deco, we ought to review one of the hard lessons of the Great Depression: Protectionism is not the answer to our economic problems.

At a recent White House meeting, I was surprised to hear one of our leading industrialists suggest that Congress protect American industries from foreign competition by enacting legislation frighteningly similar to the Smoot-Hawley Tariff Act of 1930.

I have since heard that kind of protectionist talk increasingly from businessmen and from an alarming number of my House colleagues, who are under pressure to secure for their home-state industries some quick relief from import competition.

The reasons for this sentiment are clear. Unemployment is still high. Inflation persists. Our industries face strong competition at home and abroad from the aggressive traders of Europe, Japan and the rapidly developing Third World. We are importing more foreign goods than ever, but the demand for American products overseas has been sluggish. As a result, our trade deficit exceeded $3 billion last year, and the dollar's value has been depreciating.

I am keenly aware of how those economic stresses make protectionism seem attractive. I am no purist on this issue. I have supported limited protection when I thought it was justified, particularly for the textile industry, which is highly vulnerable to competition from newly industrializing nations. But I sense that some of my colleagues are tempted to go beyond limited administrative measures that assist distressed industries on a selective basis. They would shove aside the administration's trade negotiations and legislate broader measures reminiscent of Smoot-Hawley.

Like most of those who talk protectionism today, Smoot-Hawley supporters saw themselves as prudent men acting to avert an economic crisis. President Herbert Hoover originally asked only that Congress protect farmers and a few industries. But once the bill started through Congress, the logrolling began in earnest, with members insisting that their home industries be included. No fewer than 1,250 amendments were attached to protect various products. Tariffs were raised by an average of 53 percent.

More than 1,000 economists unsuccessfully petitioned Hoover to veto the bill. So did our world trade partners, who pointed out that they would have no dollars to buy American goods if their own products were shut out here. Even before the bill had cleared Congress, the anticipation of its passage contributed to the panic precipitating the stock-market crash of 1929. Businessmen and investors sensed all too well the potential dangers of high tariff walls. Their instincts proved correct.

Foreign retaliation was swift: Our trading partners erected their own tariff walls. Within three years, our industrial exports had declined by 73 percent and our agricultural exports by 67 percent. The loss of foreign trade, of course, eliminated more jobs, closed more factories and prolonged the Depression. Even worse, the protectionist spirit spread throughout the world and contributed to the economic and political unrest that ultimately led to World War II.

The lesson was clear. President Franklin Roosevelt pushed through the Reciprocal Trade Act of 1934 to get our foreign trade moving again. And ever since, despite an occasional instance of backsliding, the United States has worked toward freer world trade.

If Smoot-Hawleyism didn't work in the 1930s, it obviously won't work in today's interrelated world economy. The United States now exports one-sixth of everything it manufactures and one-third of its farm products. Overall, we exported some $120 billion worth of goods and services last year, and this trade supported at least 4.5 million jobs in the United States. All this is at stake, remember when we play the protectionist game—a game always played by more than one.

Indiscriminate protectionism would have other serious consequences. It would deprive consumers of the wide choices and lower prices made available by imports. It would accelerate inflation by eliminating import competition. It would jeopardize our foreign relations and undermine a generation of efforts to build a peaceful and productive world. In particular, it would poison our relationships with the emerging countries of the Third World, who need trade to survive, to pay debts, to modernize and—significantly—to continue to be able to buy our products.

As I said, I am no purist. Free trade, like world peace, human perfection and the low-calorie banana split, is something we have to keep working toward, not something we have achieved. So long as other countries protect some of their industries, it is only common sense that we do the same—in a selective, painstaking way. We should be tough negotiators, yielding trade concessions only to those who give in return. We should vigorously oppose dubious trade practices such as the dumping of foreign products below the cost on our markets and the predatory financing schemes some countries employ to promote their exports.

If we keep trying, however, many trade barriers eventually can be eliminated by negotiations and by the working of market forces. The important thing is that we continue to move toward freer trade, inch by inch if necessary, and that we not retreat in panic to wholesale protectionism achieved by political logrolling in Congress.

History is a great teacher. We should remember its lesson on protectionism.●

## HOMESELLERS TAX RELIEF: A REPUBLICAN CONCEPT FOR CAPITAL GAINS REDUCTION

### HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. McKINNEY. Mr. Speaker, I support the Steiger proposal for an overall reduction of capital gains tax rates to stimulate capital formation and reward economic risk taking at all levels of wealth. However, I have long felt that such relief was most needed by those seeking to sell a value-added home and I have introduced the Homeseller Tax Relief Act every year since 1975. That bill would grant a one-time exemption to any taxpayer, regardless of age, trying to sell a principal residence and keep the proceeds. In 1976 the Ways and Means Committee saw the need for such relief but took only half a step toward the goal by increasing the cost ceiling for those over 65 using the exemption.

Now, this Congress is on the verge of finishing that half-done job and I urge my colleagues on both sides of the aisle to consider the following Washington Star article before deciding to endorse any so-called new proposals for capital gains relief to homeowners age 59 or over. That analysis clearly points out the benefits of general capital gains rate reduction to the homeowner and argues strongly that arbitrary value and age limits as a condition to capital gains savings will not be acceptable to the taxpayer. The article follows:

HOMEOWNER IS GAINER IN ANY CAPITAL GAINS CUT

(By Lew Sichelman)

The House Ways and Means Committee resumed work yesterday on tax legislation that holds substantial benefits for millions of homeowners. The measure had been stalled since May.

The major obstacle to action on the broad tax relief measure has been the capital gains tax. On the one hand, President Carter wants to remove profits on the sale of homes from an increase in the capital gains tax that was adopted in 1969. On the other is a large, bipartisan effort to cut the tax back to the pre-1969 level on the sale of all long-term assets.

No matter which faction prevails, the clear winner would be the nation's 50 million homeowners, and would-be homeowners as well.

Presently, owners who live in their homes longer than 12 months and then sell them pay the capital gains tax. Under the so-called roll-over provision, however, the tax can be deferred if the profit realized from the sale is reinvested in another principal residence within 18 months.

Under the capital gains tax, only half the profit is taxed as ordinary income. If, for example, a house that was purchased for $50,000 is resold several years later for $100,000 and the gain is not put into another home, the seller would pay taxes on half of the $50,000 gain at his ordinary rate.

Under the Tax Reform Act of 1969, the other half of the profit is taxed at a flat 15 percent if it is more than half of the taxes paid on the homeowner's regular income. That is, if the excluded $25,000 in the above

example is more than half of the taxes paid on regular income, it is taxed, too.

While the capital gains portion of the president's proposal is aimed at giving relief solely to homeowners, the bipartisan effort led by Rep. William A. Steiger, R-Wis., would exclude all investors from the so-called 15 percent "minimum."

President Carter feels the capital gains tax causes undue hardship on homeowners, especially on older individuals who want to sell their homes when they retire.

Given the rapid increase in housing prices, a homeowner wishing to sell his home and not buy another, more expensive home must pay a substantial capital gains tax. In some cases, the "minimum" tax is substantial, too, particularly if the seller's income is relatively modest. There also is some question as to whether the minimum tax was ever intended to apply to the sale of principal residences.

But not only would the president's proposal—and the opposition's, too—save homeowners a considerable sum, it also would add considerably to the nation's available housing stock.

Under the present tax structure, many persons, particularly empty nesters, stay in houses that have become too big for them rather than move to smaller houses or apartments and pay the capital gains taxes on their profits.

If their tax burden were reduced, they might elect to put their houses on the market and move. This, of course, would free more housing for several segments of the market—for growing families who are looking for large houses and for first-time buyers who can afford only those houses growing families move out of.

Steiger's broader proposal would, he says, get the economy out of its present period of "stagflation." But it would accomplish the same thing Carter is trying to do—reduce the rate of taxation on home sellers who have not depreciated their assets to cut taxes.

The only way the nation's homeowners can lose is if the president ends up vetoing the legislation that Congress eventually passes and Congress fails to override him. Then there would be no relief at all.

Footnote: There is talk on Capitol Hill about extending a tax provision applicable to individuals aged 65 and over to all taxpayers.

This provision exempts gains of the sale of homes where the sales price is $35,000 or less. When the sales price exceeds $35,000, the exemption is for a fraction of the gain equal to $35,000 divided by the selling price.

Such an extension, it is said, would give all homeowners a once-in-a-lifetime opportunity to earn tax-free money. It would offer even more of an incentive to present owners to move on.

If you believe, as I do, that the homeowner needs and deserves to keep the accrued value of his or her major investment, I would ask that you review the Homesellers Tax Relief Act and the accompanying Library of Congress analysis and join all those who seek true tax relief, rather than another half step that inflation will soon absorb. The bill and analysis follow:

A bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsection (a) of section 121 of the Internal Revenue Code of 1954 (relating to gain from sale or exchange of residence) is amended to read as follows:

"(a) GENERAL RULE.—At the election of taxpayer, gross income does not include gain from the sale or exchange of property if, during the 8-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 5 years or more.".

(b) Subsection (b) of section 121 of such Code is amended to read as follows:

"(b) LIMITATION.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale or exchange is in effect.".

(c)(1) The heading of such section 121 is amended by striking out "WHO HAS ATTAINED AGE 65".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out (in the item relating to section 121) "who has attained age 65".

(3) Paragraph (1) of section 121(d) of such Code is amended by striking out "the age, holding, and use requirements" each place it appears and inserting in lieu thereof "the holding and use requirements".

(4) Paragraph (2) of section 121(d) of such Code is amended to read as follows:

"(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if the deceased spouse (during the 8-year period ending on the date of the sale or exchange) satisfied the holding and use requirements with respect to such property, then such individual shall be treated as satisfying the holding and use requirements of subsection (a) with respect to such property. An election by the deceased spouse under subsection (a) in effect with respect to a prior sale or exchange shall not limit such individual from the election under subsection (a) with respect to such property.".

(5) Sections 1033(h)(3), 1034(k), 1038(e)(1)(A), and 6012(c) of such Code are each amended by striking out "who has attained age 65".

(6) Section 1250(d)(7)(B) of such Code is amended by striking out "who has attained the age of 65".

(d) The amendments made by this section shall apply to dispositions after the date of the enactment of this Act in taxable years ending after such date.

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THE LIBRARY OF CONGRESS,
*Congressional Research Service,*
*February 19, 1976.*

To The Honorable STEWART B. MCKINNEY,
Attention David Kiernan,
From Economics Division
Subject Analysis of H.R. 11563, a bill to exempt capital gains on sales of a principal resident from the income tax.

H.R. 11563, introduced on January 28, 1976 by Congressman McKinney would exempt capital gains on the sale of a principal residence from the income tax. The exemption would only apply if the property was owned and used by the taxpayer as his principal residence for five of the previous eight years. The provision could only be used once by the taxpayer.

I. IMPACT OF THE BILL

The impact of the bill must be examined in the context of other provisions of the tax law which affect such sales. These provisions are discussed below:

A. One half of any capital gain is excluded from gross income.

B. For individuals age 65 or over the portion of gain attributable to the first $20,000 of basis is excluded from income. (For example, if the residence is sold for $40,000, ½ of the gain will be exempt; if the residence sells for $60,000, one-third ($20,000/$60,000) of the gain will be exempt.)

C. There is a deferral of gain on the sale of a principal residence if a new residence is acquired within a specified period. In order to qualify the taxpayer must purchase a new residence within 18 months before or after the sale of the old. If the residence is newly constructed, construction must begin within 18 months and the taxpayer must occupy the new residence within two years. The new residence then has the basis of the old so that if the new residence is sold gain on the first sale and the second sale will be taxed unless the taxpayer uses the deferral provision again.

Full deferral only applies if the new residence costs as much or more than the sales price of the old. If the new residence costs less, the difference (up to the total amount of the gain) between the sales price of the old residence and the new residence is taxed as a capital gain.

This provision will be retained under the proposed bill.

D. When a taxpayer acquires a residence by inheritance, the gain is not subject to income tax at the time of death. In addition, the basis of the new residence becomes the fair market value at the time of death. Thus if the taxpayer sells the residence immediately little or no gain will occur.

Thus, a taxpayer will be subject to tax on all or part of the gain on a sale of a personal residence under the following circumstances:

(1) When he moves from a more expensive residence to a less expensive residence, if he is under 65.

(2) When he sells his residence and does not purchase a new residence within the time requirements, and is under 65.

(3) When he does either of the above and is 65 or over, but the sales price of the old residence exceeds $20,000.

There may, of course, be a variety of circumstances which lead to a taxpayer desiring to take one of the actions listed above. The $20,000 limit was enacted in 1964 and the value has been eroded by inflation. Thus it may be quite likely that some of the gain on sales by those 65 or over will be subject to tax because of the increase in housing prices.

There may be a variety of reasons that a taxpayer may elect to move to a smaller residence or not to purchase a new residence, including regional variations in housing prices for those who are relocating, changes in family circumstances, the supply of housing, mortgage interest rates and particular circumstances of the individual. Current tax treatment acts to encourage taxpayers to rent under such circumstances and to discourage home sales by taxpayers who might otherwise wish to sell. To the extent that these effects exist, there are distortions created in the housing market. However, there is no data available to estimate the impact on the supply and demand for housing arising from these circumstances.

II. REVENUE LOSS

Because of the lack of up-to-date data on realized capital gains by types of capital assets, it is extremely difficult to estimate the revenue loss from the changes proposed in the bill. However, based on the latest data on the share of gains realized on sales of residences and extrapolating to the present, the revenue loss may be estimated at roughly $150 million. This estimate should be used with care, because of the limitations of the data on which the estimate is based.[1]

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[1] The latest data on capital gains by types of capital assets are for 1962. The estimate assumes that the proportion reflecting gains on the sales of residences remained relatively constant (with adjustments made for changes in the tax law). The resulting base is multiplied by the marginal tax rate to determine revenue loss.

III. ARGUMENTS FOR AND AGAINST THE BILL

A. Arguments for

(1) Capital gains are in large part a reflection of inflation and represent an illusory gain. In addition, the taxation of gain in one lump sum presents problems under a progressive rate structure since all of the gain is taxed in one year.

(2) Even if capital gain on investments is subject to tax, it is not appropriate to subject gains on the sales of personal consumption items such as homes. The purchase of a residence is less of a profit-motivated investment than are other types of investment. In addition, since the tax law does not recognize capital losses on the sales of personal assets, it is not equitable to tax capital gains.

(3) The present treatment in the tax law discriminates against taxpayers who are unable to qualify under other provisions of the tax law. For example, an individual over 65 in an urban area may find the $20,000 base so low as to offer very little relief as compared to a taxpayer in a rural area. A taxpayer moving to a new area may find it difficult to acquire a new residence within the time limits or may not desire to purchase a new residence because of the expectation that he will not remain in the area for a long period of time. Taxpayers may wish to move to a smaller residence or an apartment because of reduction in family size or income.

(4) The $20,000 limitation in the current provision has been substantially eroded by inflation. Elderly taxpayers whose residence represents much of their savings may find that saving reduced by the payment of capital gains tax.

B. Arguments against

(1) This provision will add to the extensive number of tax provisions in the law which favor investment in housing as opposed to alternative types of investments. This favorable treatment has distorted consumer choice and encouraged investment in housing in a substitute for business investment.

(2) Capital gains are already subject to favorable treatment not only because one half of capital gain is exempt but also because the taxpayer does not pay tax on gains as accrued but rather on gains when realized. This deferral of tax constitutes an advantages in itself. In addition, provisions in the law such as income averaging provide relief from excessive high income in one year due to the realization of capital gains.

(3) The present provisions in the law are designed for those particular circumstances requiring relief. The deferral provision recognizes that the sale of one residence and purchase of another is in the nature of an exchange and is something which the taxpayer may find necessary (e.g. due to job changes). The periods for reinvestment are liberal. The exemption for the elderly is designed to provide relief for such taxpayers. The limitation in the base orients the provision more towards the lower income elderly.

JANE G. GRAVELLE,
*Analyst in Taxation and Fiscal Policy.*●

## WE STRUCK OUT IN AFRICA—AGAIN

### HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. SIKES. Mr. Speaker, last week the Organization for African Unity held its summit meeting in Khartoum. Great hopes had been held for a strong stand against Russian and Cuban colonialization in Africa and against obvious intervention by foreign military forces from these and other countries. These expectations came to naught. After days of squabbling on many issues of importance to the continent, much of which accomplished nothing, the conference placed its stamp of approval on the efforts of the Marxist revolutionaries to control Rhodesia and warned the United States against lifting the embargo on Rhodesian chrome. Apparently, that is about all that was accomplished.

If Russia and Cuba had been seated at the conference as voting members, they could not have been more pleased with the result. Whether or not they engineered the result is, at the moment, inconsequential.

I wonder how we will explain to the rest of the world why the U.S. struck out although the wizardry of Mr. Andrew Young is guiding our policies in Africa on items of interest to the United States.●

## SALUTE TO STEVE MIKOSKY, STATE COMMANDER OF THE PENNSYLVANIA AMERICAN LEGION

### HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. DENT. Mr. Speaker, I would like to take this time to recognize an outstanding individual from my congressional district: Steve Mikosky, the newly elected State commander of the Pennsylvania American Legion.

Steve Mikosky, of Jeannette, is a man worthy of the new office he holds. As a World War II Navy veteran, Steve has devoted his time, efforts, and considerable talents to assisting his brothers in the American Legion. Before his recent election to the State commander's post, Steve served as the senior vice president of the Jeannette American Legion Post 344 and had twice served as its commander. In recognition of his service, and his commitment to the goals, ideals, and activities of the American Legion, Steve was elected to the top State position by an overwhelming majority of the delegates at the Legion's 60th annual convention in Philadelphia, July 13–15, 1978.

As an expression of its pride in Steve Mikosky, the city of Jeannette has honored him by proclaiming August 4, 1978, "Steve Mikosky Day." I, too, am proud of Steve Mikosky for devoted service to his country and to the American Legion. I am confident that he will lead the Pennsylvania American Legion with wisdom and effectiveness. Steve Mikosky deserves to be honored by a grateful community and it is fitting and proper that he be recognized by this House of Representatives.

On behalf of the good citizens of Pennsylvania's 21st Congressional District and the U.S. House of Representatives, it therefore gives me a great deal of pleasure to salute Steve Mikosky, the new State commander of the Pennsylvania American Legion.●

## WILSON GERMANY

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. COLLINS of Texas. Mr. Speaker, last week we held funeral services down in Dallas for a great man, Wilson Germany. As I sat in the crowded Highland Park Methodist Church, it was heartwarming to see the love and appreciation that his friends had for his dedicated life.

Wilson was a friend to everyone and worked hard on every project that was good for the community. When you told Wilson there was a job to be done, he rolled up his sleeves and got with it. Whenever he joined an organization, he gave his heart and soul to it. In life we remember our old friends so well and Wilson and I lived together in the Phi Delta Theta House back in my college days at S.M.U. His love for the university actively continued as he served as president of the S.M.U. Alumni Association. He was serving at the time of his death on the S.M.U. board of trustees. Last year he headed up the S.M.U. Sustentation Drive which was the greatest financial success in the university's history.

Wilson lived in University Park and for all of these years he served as the mayor of University Park. There is no salary. It is just complaints and suggestions from every neighbor in town about the garbage, the police, the schools, and the highways. Always Wilson was available to hear their story and to find a way to build a better community.

At the funeral I had a long visit with Mrs. E. G. Germany, who is Wilson's wonderful mother. I remember her friendly hospitality from way back when we were in college. We would always go in the Germany's house at any time and you never rang the doorbell. You just went in the side door. If we were hungry, and we usually were, you could always get a sandwich, a glass of milk, and ice cream. How we all loved and cherished the warm hospitality out at the Germany home.

Wilson Germany was recognized as one of America's greatest independent oilmen. He had developed fields in every part of the country. He fought hard to build all of the oil trade association.

Banking has played a large part in the development of Texas. Wilson Germany was one of the recognized banking pace setters serving as chairman of the Preston Bank in Dallas.

Wilson was a dedicated individual of independent strength. His father, Col. E. B. Germany, had served as chairman of the Democratic Party in Texas. But Wilson had the courage to become a Republican leader of Texas.

When Dr. Layton Farrell delivered his beautiful eulogy, he said there was not a single project of development in the Dallas community that at one time or another in Wilson's life he had not served in its leadership. He worked on every good project, whether it was a high school football team, the United Fund,

YMCA, PTA, or the Scouts. I could name hundreds of organizations because he was part of every one of them.

For a life so rich in service to others, Wilson will always be remembered. His wife, Sis Germany, will carry on the traditions. She has the commonsense, the sense of humor, and the dedication that has made her such a pillar of strength in our community.●

## SPENDING LIMITATION AND TAX REDUCTION

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mrs. HOLT. Mr. Speaker, last spring, when we were deliberating on the first budget resolution for the 1979 fiscal year, I sponsored a substitute budget resolution that would have reduced the growth rate of spending from 11 to 8 percent. My substitute also accommodated the 1st-year tax reductions of the 3-year Kemp-Roth plan.

You will recall that my substitute budget failed by only six votes on the House floor, and then only after the Speaker and majority leader persuaded eight of their Members to change their votes to oppose my amendment. You will also recall that every House Republican except one supported my substitute.

It is also important to note that my budget amendment represented the official policy of the House Republican leadership. The Republican plan announced by JOHN J. RHODES, the minority leader, is to balance the Federal budget in 5 years at lower tax rates. This plan requires limiting the growth rate of Government spending.

To my mind, there is one dominant reason for a large general tax reduction: Income belongs to the people who earn it, and Government is taking an excessive amount of individual earnings for public purposes.

A major tax reduction, phased in over 3 years as provided by the Kemp-Roth plan, would have gratifying results in terms of increasing investment, economic expansion, jobs creation, and rapid recovery of revenues lost initially because of the tax cuts.

I am convinced that tax reduction on the scale provided by Kemp-Roth is critically needed for the future economic health of our Nation. We must restore the American incentives to work, save, and invest that have blessed our country with prosperity never before seen in history.

Nobody knows how much of the initial revenue loss would be recovered, or how quickly. When you hear economists debating these points, you come to realize that we can only speculate as to the revenue effects of Kemp-Roth.

However, we can address the spending side of the fiscal equation. This we can do with considerable certainty as to results. Therefore, I have introduced legislation which would gradually slow the growth rate of Government spending while the Kemp-Roth tax reductions are stimulating growth in the private sector.

My legislation is entitled the "Spending Limitation and Tax Reduction Act of 1978." It totally embraces the Kemp-Roth tax cuts, but it also provides some compensatory limits on Government spending.

The growth rate of new budget authority would be limited to 8 percent in fiscal 1980, 7 percent in fiscal 1981, and 6 percent in fiscal 1982.

My legislation reaffirms the commitment by Kemp-Roth supporters to slow the growth rate of Government spending. It also reaffirms the voting records of many Members of this House.

In July 13 testimony before the House Budget Committee, Federal Reserve Chairman G. William Miller expressed concern that the Kemp-Roth legislation would provide major tax reductions over 3 years without limits on spending.

"The more sensible plan is the one I have been trying to promote," said Mr. Miller. He described it as "deciding where we want to be in 5 to 7 years, beginning to reduce Federal expenditures, and, as we reduce them, cut taxes to give back the reductions to people and to businesses."

I agree with the point made by Mr. Miller. I believe that tax reductions should be accompanied by limitations on spending. That is why I have introduced legislation attaching spending limitations to the Kemp-Roth tax reductions.

Following is a chart comparing the budget authority estimated by the Carter administration with the budget authority allowed by my legislation for the 1980, 1981, and 1982 fiscal years. You will note that the moderate growth rate allowed by my legislation would save approximately $29 billion initially.

BUDGET AUTHORITY

[In billions of dollars]

| | OMB estimate, July 1978 | Holt limitation | Annual changes: OMB increase | Annual changes: Holt increase | Annual changes: Difference, OMB-Holt |
|---|---|---|---|---|---|
| 1979 | 571.4 | | | | |
| 1980 | 625.2 | 617.1 | 53.8 | 45.7 | −8.1 |
| 1981 | 680.6 | 660.3 | 55.4 | 43.2 | −12.2 |
| 1982 | 728.8 | 699.9 | 48.2 | 39.6 | −8.6 |
| Total | | | 157.4 | 128.5 | −28.9 |

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## TRIBUTE TO ED GALLAGHER, PUBLISHER OF LACONIA, N.H., EVENING GAZETTE

### HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. D'AMOURS. Mr. Speaker, the State of New Hampshire and the city of Laconia, N.H., have lost a leader and a friend with the death last Wednesday of Edward J. Gallagher, publisher of the Laconia Evening Citizen.

Ed Gallagher's dedication to journalism and community service was best summed up by Ed himself in an interview several years ago. Asked why he had chosen the name "Citizen" for his newspaper, Ed replied that the name appealed to him because it stands for "public rather than political interests."

During his lifetime Ed Gallagher certainly succeeded in living up to the name of his newspaper. He practiced his citizenship not only by publishing a fine paper serving the needs of Laconia and the entire Lakes Region of New Hampshire, but also by lending his talents and energy to city government in two terms as mayor of Laconia and in service to countless other causes, including the Salvation Army and the Laconia Public Library.

The deep respect and friendship Ed Gallagher earned among his peers has been demonstrated by an outpouring of tributes in virtually every newspaper in New Hampshire since Ed's death last week. Mr. Speaker, I would like to present two of these tributes at this time. The first, which appeared in the Laconia Evening Citizen, was written by Larry Smith, Ed's son-in-law and managing editor of the Citizen. The second appeared in the Concord, N.H., Monitor and was written by Leon W. Anderson, New Hampshire's legislative historian.

[From the Laconia Evening Citizen, July 20, 1978]

MR. GALLAGHER

We will sorely miss Mr. Gallagher.

His many friends throughout the city and State are remembering the wise counsel and inspiration he provided.

In the publishing field he holds a special niche in the minds of a legion of newspaper people throughout the United States who graduated from the Evening Citizen clan. They, like the present staff, remember him not only as "The Publisher", but as a friend and teacher.

They are proud to be known as Gallagher men and women.

We first heard the term as a cub reporter when we were introduced to a public official on a city beat. He referred to us as a Janson man, a trainee of city editor Ebba Janson who had a great part in moulding the policy of the Evening Citizen with Mr. and Mrs. Gallagher. Joining the regular staff you graduated to a Gallagher man.

He contributed greatly to his craft. At an early age he was given a $1 toy typewriter and in his hands it became an extension of his physical being. Though his tool changed over the years to an L. C. Smith and lately to a futuristic electric model he always used it wisely and honestly in his trade.

He chose not to be an opinion maker but a guide in the community and he followed his creed not only in his daily articles and the columns of his newspapers but in his personal life and associations as well.

His favorite theme, explaining the art of journalism to young reporters and older ones as well, was his Bronx angle. He coined the phrase from an early New York paper he came in contact with. It was the ability to tie a national or international story to a local person or event.

The Bronx paper's staff were past masters at it and he brought the concept to his Evening Citizen. An editor one told us "Whenever a big story breaks I watch for the Citizen to see how Ed Gallagher got a local handle on it."

He could always find one.

There were many Evening Citizen trained reporters and editors scanning the wire copy

in newsrooms across the country yesterday when the report of his death was carried.

They had a Bronx angle.

They were fortunate enough to have known him.

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[From the Concord Monitor, July 20, 1978]

EJG—DEVOTED TO NEW HAMPSHIRE'S WELFARE

(By Leon W. Anderson)

Publisher Edward John Gallagher of the Laconia Evening Citizen will long live in Granite State newspaper annals, out of a most unusual origin.

A Concord native of 1890, he was the only child of Irish immigrants and was raised in the Catholic faith by a gracious Protestant family. He was stricken with intestinal tuberculosis, which terminated his education beyond grade school.

We pried details of Ed Gallagher's childhood out of a long personal friendship with this man, whom we came to respect and admire for his graciousness, common qualities of character and friendliness for little people.

Gallagher's father died while he was an infant, and his mother had to work as a domestic to support herself. It was because of such circumstances that EJG, as he liked best to sign himself, learned how to be grateful and thankful for his early lot in life and the loving care of foster-parents.

Editor Ed Gallagher—the manner in which we best liked to address him—will long live in our upcoming history of the 300-year-old New Hampshire Legislature. He is the starry-eyed hero of a chapter on the 1907 Legislature, when the late governor Robert Perkins Bass of Peterboro killed a quarter-century legislative custom of paying newspapermen handsome fees for writing up the lawmakers' doings.

Bass was then chairman of the House Committee on Retrenchment and Reform. He induced his group to recommend abolition of $100 payments to each newspaperman, per session of some 10 weeks, as an undesirable conflict of interest practice. While recovering from his stomach sickness, young Gallagher eyed the $100 gift, set himself up as the "F. P. Gilpin Syndicate," induced a couple of weeklies to pay him 50 cents a week to report legislative life and qualified as a legislative newsman.

Gallagher was then 16 years of age, and he grinningly recalled he was so frail that the reporters would not even permit him a seat at the two long newsmen's tables which then adorned the front of the House Speaker's rostrum. But Gallagher persevered, and a month later he won equal status when he was employed by the Manchester Union to fill in for a reporter who had become suddenly ill.

As the 1907 session drew to adjournment, Bass went into action, and the attractive $100 emoluments went into oblivion for all time. So, Gallagher liked to recall, he had to labor much longer and much harder before enjoying the thrill of his first $100 paycheck.

Friend Gallagher also liked to tell us of an unusual relationship he once had with the Christian Science Church. Before 1910, the Concord Evening Patriot (now part of the Concord Monitor) was for a short time owned by a St. Louis Christian Science leader, and its equipment was used to publish pamphlets for that denomination. This was before the founding of the Christian Science Monitor, which was named after the Concord Monitor.

In 1910, the Concord Patriot's Christian Science ownership was turned over to Ed Gallagher. He paid for it over a period of years, in which the Patriot's circulation grew from 300 to more than 3,000, to exceed that of the Monitor before 1923. In that year, Gallagher sold his Patriot to the late James M. Langley, who also bought the ailing Monitor and merged the two.

After disposing of the Patriot, Gallagher went to the Midwest for a brief period. He then returned to New Hampshire and launched the Laconia Evening Citizen in 1925. The continued success of this daily newspaper, and its unstinting promotion of the welfare of the Lakes Region and its citizenry, reflects Edward John Gallagher's unselfish devotion to his beloved state and his fellow citizens in fitting fashion.

We like to think that many of us are the better from having shared EJG's friendship.●

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## FOR A REDUCED CAPITAL GAINS TAX

### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. FRENZEL. Mr. Speaker, Sunday's lead editorial in the Minneapolis Tribune was a statement in favor of a reduced capital gains tax.

The rationale was the need for increased capital investment and increased economic activity. The President's argument that a reduction is a windfall for the rich was dismissed as not persuasive.

The thoughtful editorial follows:

[From the Minneapolis Tribune, July 23, 1978]

FOR A REDUCED CAPITAL GAINS TAX

President Carter may be looking for a graceful retreat from his opposition to capital-gains tax reduction. There was a hint of that in his press conference Thursday night: He said that he would make his final decision after Congress completes action on the total tax package.

That is a welcome change from Carter's needlessly strident statements last month, when he dismissed a leading proposal on capital-gains tax reduction as one that "underestimates the intelligence of the American people." A lot of intelligent Americans do oppose cutting capital-gains taxes. But other intelligent Americans support cuts, and we think their case is stronger.

Last week, key congressional leaders said the same thing. The chairman of the Senate Finance Committee suggested that a part of capital gains be adjusted for inflation—that is, reduced. And the chairman of the House Ways and Means Committee, joined by the committee's ranking Republican member, announced support for a bill to reduce capital-gains taxes by other means. The administration is studying such proposals, perhaps searching for a compromise with a Congress increasingly committed to reductions.

Administration opposition has been on two grounds: that reductions would create windfalls for the rich and would reduce federal revenues. Neither argument is persuasive.

The United States needs capital investment. A number of studies indicates that the higher capital-gains tax enacted in 1969 has discouraged new investment: People have tended to hold onto assets rather than selling them to reinvest in new industries. Or they have bought tax-exempt securities, or simply have spent their extra money.

If a lower capital-gains tax would benefit the wealthy, it would also benefit the not-so-wealthy—small investors, including homeowners who decide to move to a smaller house or an apartment. And it would probably benefit the economy by increasing stock-market activity, stock prices, industry growth and jobs.

Assertion that federal revenues would drop after a capital-gains tax cut are contested by economists who argue that more people and companies would be willing to sell assets like stocks and houses, which would produce more capital gains to be taxed. A general rise in economic activity would create additional capital gains.

Congress is right to be moving toward lower capital-gains taxes. If the president cannot add his enthusiastic support, he should at least withdraw his opposition.●

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## HOUSE AGRICULTURE COMMITTEE BEGINS MARKUP ON NEW SUGAR LEGISLATION

### HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. NOLAN. Mr. Speaker, on Tuesday, July 25, 1978, the House Agriculture Committee will begin markup on new sugar legislation.

The following letter to President Carter from Irvin L. Zitterkopf, general manager of the Southern Minnesota Beet Sugar Cooperative, clearly explains why U.S. sugar beet growers need at least 17 cents per pound for their production. Mr. Zitterkopf's letter also explains why the 17 cents price objective should be achieved through import fees and quotas. Otherwise, according to Zitterkopf—

Unfair competition from imported sugar will ruin and ultimately destroy domestic sugar production. . . .

Department of Agriculture officials have described the Upper Midwest as one of the most efficient regions of sugar beet production. Yet, the Carter administration has proposed a sugar program which will drive even the efficient sugar beet producers out of business. The administration's sugar bill establishes a sugar price level which is below the cost of production. The administration's low sugar price level, reached through a combination of import fees, import quotas and payments, jeopardizes the livelihood of sugar beet growers in the Upper Midwest and, because of the payment program, will drain the Treasury at the same time.

I urge the President and my colleagues to pay careful attention to Mr. Zitterkoph's letter.

The letter follows:

SOUTHERN MINNESOTA
BEET SUGAR COOPERATIVE,
RENVILLE, MINN., *July 21, 1978.*

Re: Pending Sugar Legislation.

President JAMES CARTER,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: As the new General Manager of Southern Minnesota Beet Sugar Cooperative located in southwestern Minnesota, I believe it is necessary for me to make this relatively new farmer-owned cooperative's position known regarding some of the problems facing the domestic sugar industry. This cooperative was organized in 1972 by approximately 300 farmers who invested $10 million and borrowed another $40 million to build a sugar factory to process sugarbeets from 55,000 acres of the finest farming land in the country.

As a result of low sugar prices over the past three years (after termination of the Sugar Act on December 31, 1974), the $10 million invested by these farmers was lost. While the 300 farmers who produced sugarbeets for their factory have absorbed losses in excess of $10 million over the past three years, they still desire to produce sugarbeets if the impact of foreign sugar production is controlled to the extent that it is fair and equitable competition. The shareholders/producers of this cooperative believes that they are as efficient farmers as there are in the world today, but that unfair competition from imported sugar will ruin and ultimately destroy domestic sugar production unless something is done at the federal level to give necessary protection to the domestic sugar industry.

This cooperative's farmers have a cost of production in the range of $350 to $375 per acre for growing sugarbeets. To enable the farmer to cover his costs and make a small profit, this cooperative needs to be able to sell its sugar for at least 21¢ per lb. in the Chicago-Midwest marketing area. The proposed 17c per lb. base for New York raw is endorsed by this cooperative.

The shareholders/growers of this cooperative are not asking for an unfair advantage over other farmers, laborers, businesses, etc. They are only asking for an opportunity to compete competitively with their fellow American farmers.

To accomplish this objective and to prevent the American farmer from abandoning the domestic sugar industry, it is our recommendation that import restrictions or limitations be established to prevent the "dumping" of foreign sugar in the United States. These import restrictions should be imposed either through import fees that are high enough to keep the price of sugar at a level that will allow the American farmer and the domestic industry to compete for a fair return, or there should be importing quotas that will accomplish the same objective. We also believe that the result of restrictions could bring an increased activity in some segments of the sweetener industry. This increase should be regulated on a pro-rata basis, with equal consideration to the beet, cane and corn growers.

It is our belief that a long term sweetener program that allows for fair competition between the American farmer and the domestic industry is in the best interest of the United States and will enable the American farmer to make his farming decisions based on domestic, competitive forces rather than competing with foreign farmers who are being subsidized by their governments.

We believe this issue to be of extreme importance to the survival of the domestic sugar industry and would appreciate the opportunity to make our views, both those of the cooperative and of the sugarbeet farmer, known to any legislative committee considering these issues. We are available on a moment's notice to make our views known.

Sincerely,

IRVIN L. ZITTERKOPF,
*General manager.*●

## SOLVING CENTER'S DIFFICULTEES

### HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. MINETA. Mr. Speaker, on December 20, 1977, the General Accounting Office reported to the Congress on the long-term financial situation at the Kennedy Center for the Performing Arts. In detailing problems in the financial outlook of the Kennedy Center, the GAO report concluded, "GAO believes the Congress should consider these problems. It alone can make both the value judgments and tradeoffs involved in solving the Center's difficulties."

I fully agree with that conclusion. The Center has been operating for approximately 6 years and it is time for the Congress to review the entire financial picture at the Center and to make such changes as it deems advisable. Our deliberations should include all aspects of the Center's financial situation, because the various problems are unavoidably interrelated.

The two principal problems define the time-frame for our deliberations. First, the existing bonds agreements allow the Kennedy Center Board of Trustees to defer interest payments through calendar 1978, meaning that the first interest payment must be paid by December 31, 1979. Second, the Congress has authorized nonperforming arts funding through fiscal year 1979 under the present maintenance agreement between the Center and the National Parks Service. That agreement is an important part of the Center's financial picture and has been recently renegotiated in principle by the Center and the Park Service. The Congress should consider that agreement in time for fiscal year 1980 authorization as part of its overall review of Kennedy Center finances.

As part of this overall review process, the Kennedy Center has submitted its own proposals. I am today introducing a bill to amend the John F. Kennedy Center Act in the form which is proposed by the Board of Trustees of the Kennedy Center. This bill should be included in the deliberations of the Congress in general and of the Committee on Public Works and Transportation in particular. This bill is not now specifically endorsed by any member of the committee, but is a welcome addition to our comprehensive review of the Kennedy Center financial situation as called for by the GAO report.●

## CAPTIVE NATIONS WEEK

### HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. McHUGH. Mr. Speaker, at a time when many groups throughout our country are commemorating Captive Nations Week, the news has provided us with the sad details about Anatoly Scharansky and Alekandr Ginzburg.

The trials and conviction of these two Soviet dissidents, together with the less-publicized conviction of Lithuanian dissident Viktoras Petkus, have been grim reminders of the continued repressiveness of the Soviet regime.

During the course of these events, our Ambassador to the United Nations, Andrew Young, was widely criticized for a statement made during a foreign newspaper interview, a statement which implied that there is also much political repression in the United States.

Ambassador Young's statement was certainly ill considered. Indeed, his own personal history demonstrates the real differences in the political systems of Russia and the United States. As he himself pointed out, 3 years after being jailed for participating in a demonstration, he was elected to high office in his home State of Georgia. In his celebrated newspaper interview, he was apparently trying to make the point that anything can happen. But in contemplating his own meteoric career he apparently forgot that such dramatic political "rehabilitation" can only occur in a country which respects the individual and by its laws insures freedom of expression in the political process.

Andrew Young and the Soviet dissidents stand in contrast under two very different political systems. Ambassador Young's exercise of free speech may sometimes prove embarrassing to him and his superiors, but it never puts him in danger of imprisonment. The same cannot be said for the Soviet dissidents. Their plight reminds us that for many millions of people across the globe, there is no such thing as free speech or basic human rights. Not only have individual rights been stifled, but whole nations have been robbed of freedom and independence.

Twenty years ago, the U.S. Congress first proclaimed a commemoration of Captive Nations Week. It was designated the third week of July, and is to be commemorated yearly until all the world's captive nations achieve independence and self-determination. Its purpose is to maintain our vigilance against erosions of freedom anywhere, as well as to protest the imperialistic practices which have subjugated over 30 nations throughout the world. It is also an opportunity to express our support for those brave peoples who tenaciously maintain their national identity in the hope of a new day of freedom to come.

Captive Nations Week was initially prompted by our wish to protest the armed takeover by the Soviets in 1940 of the three Baltic States of Estonia, Latvia, and Lithuania. Sadly, these countries remain under illegal Soviet domination to this day and are subjected to systematic efforts to erode the native language and national consciousness. Yet, the native population continues to maintain a fierce sense of identity and resists the Soviet colonizing influences. Within the past 6 years, for instance, there have been two major Lithuanian uprisings in that country's two largest cities, uprisings which were quelled by Soviet troops.

The determination of the native Lithuanian people to be free and independent remains vigorous even after years of alien occupation. It is supported by underground publications and the political and cultural activities of exile populations in free countries. Most importantly, it is supported by the commitment of the American people not to acquiesce to illegal Soviet domination of other countries. To demonstrate that commitment, and to commemorate once more Captive Nations Week, any of us in Congress

have cosponsored House Concurrent Resolution 177, which calls for U.S. efforts to work for freedom in the Baltic States under United Nations auspices. It further reiterates the sense of Congress that it should remain U.S. policy not to recognize in any way the illegal annexation of these countries by the Soviet Union.

Mr. Speaker, Captive Nations Week reminds us of how precious our own freedom is, and of our responsibility to preserve the rights of other peoples to be free. Benjamin Franklin proudly said, "Where freedom is, there is my country." But Thomas Paine's reply reminds us that it is vigilance that preserves freedom: "Where freedom is not, there is my country."●

## BALANCE(S) OF POWER, BOOK IIB (i)—THE UNITED STATES AND THE MARITIME ALLIANCE

## HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, in the previous selection in the strategic balance series, Colin Grey warned that because of the heartland position of the Soviet Union, their strategic parity with the United States becomes tantamount to strategic advantage. We must then turn to examine the U.S. geopolitical strengths and weaknesses to fully understand the options which must be selected and the necessary defenses which must be accepted to maintain our own security.

The "United States and the Maritime Alliance: Defending the Rimlands," is another chapter from "Geopolitics in the Nuclear Age" by Colin Grey. As the title suggests, potential strategic gain to the United States may derive from naval exploitation of our geopolitical position. It is in this context that challenging Soviet naval developments must be viewed with particular alarm, Mr. Grey's article follows:

THE UNITED STATES AND THE MARITIME ALLIANCE: DEFENDING THE RIMLANDS

Her [the United States'] main political objective, both in peace and in war, must therefore be to prevent the unification of the Old World centers of power in a coalition hostile to her own interests.[65]

INSULARITY: GEOPOLITICAL PERSPECTIVES

Depending upon the cartographic projection selected, the Americans can be shown to be surrounded by Eurasia-Africa, to surround Eurasia-Africa, or to be an offshore island. Different map projections imply different geostrategic opportunities and vulnerabilities. For example, a global map centered on St. Louis shows the United States either in a favorable central position, able to project power on what appear to be interior air/ocean lines onto the littorals of Eurasia; or, scarcely less plausibly, the central location of the North American land mass on the map suggests that the United States is surrounded by hostile, or potentially hostile, land areas in the east and the west of the Eurasian World-Island. With the completion of the Panama Canal in 1914, the United States became truly an island of continental proportion, capable of projecting power toward the Eurasian Rimlands to the east and west with an ease that could not be matched by Heartland capacity (for several decades).

The compelling logic of geopolitics has indicated to any American capable of reading a map and drawing fairly elementary policy lessons from recent history that Heartland and Rimlands on the World-Island must never be organized by a single political will. Nonetheless, the shape of post-1945 American policy was dictated far more by events than by geopolitically-educated policy design. The United States anticipated a full-scale military withdrawal from Europe within two years following the surrender of the Third Reich. American forces remained in Europe, first by virtue of occupation rights and duties, and later as a consequence of explicit alliance undertakings, because World War II effected the destruction of the balance of power in Eurasia. For nearly a century (1870-1945), the problem in world (that is, Europe-centered) politics had been the difficulty in accommodating a unified and overly powerful and ambitious German state within a European balance of power system. That problem was not resolved until 1945.[66]

Following World War II, it became clear, by 1947-48, that the problem of Germany had been resolved (perhaps temporarily) only at the cost of the elevation of a state which, in its turn, threatened to destroy any aspirations for a functioning balance-of-power system that would be restricted to Eurasia. Despite the enormous damage that it suffered in the "Great Patriotic War," the Soviet Union (apparently, at least) disposed of a "projectible power" potenital that could not be countered by strictly Eurasian-Rimland resources. In the late 1940s, China was a great power by courtesy rather than power-produced entitlement; (West) Germany could barely feed itself, let alone function in its time-honored role as a bulwark against the Slavs; while Britain and France, nominal victors in World War II, were reduced to penury. In short, in the period (1946-47) when George Kennan was writing his Mackinderesque recommendation of a firm containment policy, the only question of substance that remained to be debated was over just what kind of containing power really was required. . . .

The pro-Soviet coup in Prague in the Spring of 1948 made clear that the presence of Soviet military power in Central Europe was to be a permanent feature of the political landscape. Without fully appreciating what events had thrust upon it, the United States found itself saddled with the defensive Rimland-protective tasks that previously had been borne by the Germans and the Japanese. Leaving aside their more expansive foreign policy ambitions, the Germans and the Japanese had served to check the hegemonial ambitions of the Heartland power. In the 20th century, those peoples had threatened the balance of power in Eurasia by their attempts to conquer the Heartland; but the necessary character of their defensive, checking, roles was inadequately appreciated by many Americans. After 1945, piece by piece, and rarely—if ever—publicly acknowledged in power-political terms, the United States assumed the power-balancing responsibilities of the British Empire,[67] Germany, and Japan.

The events of 1950-51 were most instructive in geopolitical terms. In 1950, the United States assumed the lead in defending South Korea ("a dagger pointing at the heart of Japan"—and also, let it be noted, a natural bridgehead for an eventual contest for control of Northeast Asia); America's China policy, in its strong commitment to the idea of the legitimacy of Chiang Kai-shek's government-in-exile on Taiwan, amounted to a declaration to the effect that the United States considered developments on the Chinese mainland to constitute "unfinished business"; and the United States reversed its policy toward Indochina in favor of the French. These actions in, and policy decisions concerning, the Asian Rimland were linked by a strong thread of internal logic. Specifically, the United States opposed the domination of the Asian Rimland by the Heartland power. It is now customary to deride that logic; with much good reason, it is argued that North Korea, the Chinese People's Republic, and North Vietnam are not compliant clients of the Soviet Union. In other words, the United States foolishly discerned unitary political will where actually there was a diversity of national ambitions.

Over the long run, however, the supposedly naive presumption of the monolithic nature of communism may fare a great deal better than its apparently more sophisticated challengers. If America's capacity for collective action continues to decline, the ability of the CPR to pursue a foreign policy course independent of, let alone in direct and virulent opposition to, Moscow could shrink markedly. As noted earlier in this study, many contemporary strategic-analytical luminaries in the West have virtually no background in history, even very recent history. The geographical location of Indochina renders its harbors and airfields an asset of great importance—particularly for a power totally (otherwise) deficient in forward bases that bear upon the South China Sea and the Southwest Pacific. Vietnam is very much in the Soviet debt. It is not at all implausible to foresee a time when Soviet ships and aircraft will find Vietnames facilities as useful as did the Japanese. (Skeptics are invited to research the use made of Vietnamese territory and harbors by the Japanese Empire, and to reflect upon the Soviet problems of power projection in the Pacific.)

In 1951, responding to the falsely-identified "diversion" in Korea, the NATO allies effectively began to give their political alliance a quasi-unified military backbone. American leadership of NATO was symbolized by the appointment of an American general, Dwight D. Eisenhower, to be the first Supreme Allied Commander, Europe (SACEUR). Although "the Soviet threat" (at least as regards any propensity for taking military action) was vastly exaggerated in the early 1950s, and although the United States—under both Democratic and Republican Administrations—did indulge in unduly indiscriminate alliance-creation, the basic idea driving American foreign policy was entirely sound. Without denying that the United States has aided regimes whose only virtue was that they were overtly and noisily anti-Communist, and that the concept of the integrity of the "Rimland Dike" was, for a long period accepted in an unduly simplistic and total definition, this author would signal a short-list of virtues that permeated what today frequently is called, pejoratively, the "Cold War consensus." The author is not much given to ideological expression, as he has explained elsewhere.[68] He believes that international politics, at root, can be a very rough and nasty business. (Both God-fearing democrats and atheistic totalitarians have been known to drop napalm on innocent or indifferent villagers.) It is appropriate to restate, vary succinctly, the core beliefs of that American Cold War consensus that today is held in such widespread disdain. It was (and is still by some) believed that:

1. The United States is the only power which can balance pressure from the Heartland.

2. Some Rimland allies might be politically odious, but it is a certainty that any Socialist-Communist successor regimes would be no better, and would probably be worse. (In the early 1970s, South Vietnam and Cambodia failed to live up to the ideals of Jeffersonian democracy; their American critics have been

Footnotes at end of article.

less than vociferous on the subject of the fundamentally illiberal regimes that now rule those unfortunate countries. This is yet another case of prejudice triumphant.)

3. In the medium term, Western defeat in one locale will weaken resistance elsewhere. The socalled "domino theory," provided it is not interpreted in too mechanistic a fashion, amounts to little more than common sense. The essential accuracy of domino-theory hypotheses was illustrated, sadly, by the easy way in which many of its more strident critics shifted from talking about the war in Vietnam to discussing the war in Indochina in the period 1970–74.

The United States, as a continental-size island bounded on three sides by oceans (the Arctic, Pacific, and Atlantic), could not exist as a functioning, unruly democracy were the Rimlands of Eurasia-Africa to be organized into a Soviet security system. Physical survival might be ensured, but the geopolitical isolation of fortress status would promote a fortress discipline and illiberal fortress practices. The principal American political objective in world affairs—today as in 1944, when the words introducing this chapter were written—must be the containment of Soviet (Heartland) power well short of its achievement of hegemony over the Eurasian-African World-Island and the adjacent seas. . . .

THE AMERICAN STYLE

It was suggested earlier that American political culture was ill-suited to cope with the long-term task of containing the Heartland power. Geopolitical factors require that the American people defend the Rimlands, and relatively free access to the Rimlands, in their own vital interest; yet those same factors inhibit the quality and scale of American performance of that task. Considered in relation to its ease of penetration by Soviet and American power, most of the Eurasian-African Rimlands are, in theory, protected by the fact that oceanic distance and ocean highways *connect* rather than *divide*. In terms of transportation economics, greater distance has little meaning. Save with respect to peninsular Europe (no small exception!), the world's oceans should still be thought of as the interior lines of communication of a maritime alliance that has its heart in a North America that can project power east, west, and north—in many directions—with comparative advantage over the Heartland power of the Soviet Union.

Unfortunately, this neo-Mahanian perspective, analytically respectable though it is,[69] suffers from several critical weaknesses. First, distance is not solely a matter of transportation economics; it has a very strong psychological dimension. In 1938, Neville Chamberlain could dismiss Czechoslovakia as "a faraway country." The British Prime Minister spoke truly for most of his countrymen; in terms of psychological distance, Czechoslovakia was infinitely, mysteriously "Central European"—vaguely romantic, and totally *foreign* and unknown. Few British politicians in 1938 recalled, or more likely had ever known, that Britain's greatest geopolitical theorist, Sir Halford Mackinder, had insisted in his 1919 book that a strong tier of East European states was required if the 700-mile land gateway to the Heartland was to be protected from German ambition.[70] (*"Who rules East Europe commands the Heartland."*) If the defense of Rimland states is, in essence, a matter of comparative advantage in transportation economics, the United States should have secured victory in Vietnam in very short order. The "loss of strength gradient" hypothesis, that power varies inversely with distance, is sheer nonsense in the context of the communications/transport technology of the second half of the 20th century. But human perceptions lend relevance to that (technically) flawed hypothesis. Barring special ties of an ethnic-religious, or even semi-sentimental historical connection variety, it is not misleading to claim that concern, interest, and knowledge do vary roughly inversely with distance. Our minds carry psychological maps, not ton-mile cost-analysis maps. The ability to project power and the will to project power are not at all synonymous—at least with respect to American insular society in the 1970s.

The proposition that the maritime alliance has an inherent advantage over the Soviet Union in power projection into the Eurasian-African Rimlands ignores the fact that the Heartland has "gone to sea" in a very serious way over the past two decades. Soviet sea and naval air power could not, at present, deny the United States access to the World-Island, but such a burdensome task need not be contemplated. The Soviet Union has no need to secure "command of the sea" in order to bring the World-Island *effectively* under its control. All that it must accomplish is seriously to hinder trans-Atlantic resupply and reinforcement (or to threaten credibly to do so), or to effect substantial attrition of the supertankers that must navigate half way around the world promontory to meet the absolute energy needs of Western Europe or Japan. The Soviet Navy may, and should, be blown out of the water, its forward facilities on African and South Asian littorals also demolished; but time would not be on the side of the maritime alliance. By compelling the maritime alliance to fight hard for unhindered access to Eurasia, the Soviet Navy would be buying time for Soviet conquest of critical portions of the Rimlands (should Blitzkrieg campaigning overrun its timetable). In the world of the 1980s and 1990s, eventual *total* naval victory for the United States would be of little value if in the meantime, the peninsular European bridgehead were lost.

It is often claimed that physical geography is a neutral factor (or set of factors) in its relation to the inclinations of a society. Oceans will beckon some countries to utilize them as highways for profit and power, and will be seen by other countries as wide moats providing security from contaminating foreign influences. The physical circumstances of the island-continent of North America has helped produce, in its people, a seemingly perpetual dialectic between the urge to withdraw into the illusory safety of a Fortress America, and the impulse to exercise that capacity for transoceanic power projection which a central position between the eastern and western littorals of Eurasia (on some cartographic projections) affords, and which the relative power differential between the United States and the Eurasian Rimlands both permits and requires (if it is not to be engulfed in the security system of the Heartland power).

The insular circumstances of America geography, and the oceanic distances which separate North America from Asia and Europe, continue to have major foreign and defense policy consequences—at the level of perception of enduring interests rather than capability for effective local action. North Vietnamese leaders assessed, correctly, that their stake in the future of South Vietnam was far more substantial than was that of the United States. Americans came, and they would go—the North Vietnamese and their Southern sympathizers would always be there, by virtue of physical and cultural geography. Similarly, Europeans of all nationalities are aware of the geopolitical fact that the Soviet Union is a European power, while the United States is a power in Europe; this is a critical distinction. No NATO-European, however friendly his feeling toward the United States, or trusting his response to contemporary American expressions of enduring alliance fidelity, can afford to ignore the historically well-justified presentiment that the American forward military presence in and about Europe is only a phase in American policy (a long phase, admittedly, but still a phase). NATO-Europeans have to take account of the very probable fact that one day a Mansfield-type amendment will succeed, and that it will precipitate a slide of withdrawal that no President will be capable of arresting (even should he so desire). Transoceanic distance may have lost much of its meaning in terms of the economics of transportation and the speed of electronic communication, but the record of American nuclear strategy belies such economic-geographic common sense.

The geopolitical theories of Mackinder and Spykman, translated for the late 1970s, insist that America's security frontiers are on the Elbe and the 38th parallel in Korea (for prominent examples). Since this is the case, why has the *credibility* of the American nuclear commitment been seen by the United States and allied defense communities as a critical problem? Credibility problems do not pertain to defense of the American homeland, or—in suggestive illustration—seriously to defense of Canada and Mexico. American commitments to the defense of, say, West Germany, are viewed by very many people as being sufficiently "unnatural" in terms of psychological geography that extraordinary effort and ingenuity need to be expended to ensure credible strategic "linkage" between the forward area and the American homeland.

Insular geopolitics do not, in and of themselves, direct societies down one as opposed to other possible path in internal development or external relations. As noted above, a geopolitical perspective upon international relations requires the commentator to be very attentive indeed to cultural geography. Great Britain, Japan, and the United States have been/are all "island empires" offshore the dual-continent World-Island of Eurasia-Africa, but the differences between them are at least as significant and interesting as the similarities that are traceable to offshore location.

It is possible, though somewhat perilous, to identify the principal characteristics of a distinctive American "style" in foreign affairs. Moreover, as noted with respect to Russia/the Soviet Union, such a style is really the product of domestic experience (though that domestic experience is molded by impinging "foreign" events, just as domestic forces also project outward). This author has long believed that international politics (or relations, for the more inclusive concept), as an aspiring academic discipline, lacked scholarly integrity. International politics are conducted by the human products of distinctive political cultures, and very often in a manner which reflects the rules, practices, and habits learned in domestic political settings. A distinctive American style in the conduct of foreign and defense policy has been manifest, with particular poignancy, in the context of the Strategic Arms Limitation Talks (SALT).

Many Americans today are unwilling to accept that the Soviet Union is committed to a permanency of political struggle with the maritime alliance led by the United States; and is determined to achieve as substantial a measure of strategic *superiority* as it is permitted. The SALT exercise, as a central strand in the 1970s-styled peaceful coexistence policy, contributes usefully to the psychological disarmament of the West, and encourages manifestations of that apolitical, engineering approach to strategic problems which detracts from American arms competitive performance.[71] The dominant element in the American government seems unwilling, or possibly culturally unable, to take Soviet strategic and arms control (mis) behavior at its face value. Probably because it

Footnotes at end of article.

is a "satisfied" country, deeply wedded to the notion of stability and international order (as a projection of domestic order), and because power accumulation (in readiness for the next crisis and clash of arms) is an idea alien to a society that sees "peace" as the norm. American comprehension of Soviet motives and practices is tenuous at best.

Many American officials and politicians have persuaded themselves that their country and the Soviet Union are committed to a nonviolent search for a *modus vivendi* in the world. The SALT enterprise, in this very popular view, is a mechanism intended by *both* sides to constrain the growth (and perhaps the possible character) of rival strategic-nuclear arsenals. Unfortunately, such a world view, with its focus upon stability and order, is very different from everything that we understand concerning the Soviet world view. To Soviet officials, strategic parity is but a passing phase on the road to strategic superiority. In geopolitical perspective, the American defense community has yet to come to term with the likely consequences of parity, let alone inferiority. Strategic parity means that the United States has no margin of strategic nuclear strength which could be invoked on behalf of endangered friends and allies in Eurasia. One has to presume, on grounds of prudence, that the Soviet Union is devoting (at least) 13 to 15 percent of its GNP to defense for serious political reasons. With an increasingly impressive navy, and with the maintenance of a ground force and tactical air and missile capability that threaten the rapid overrunning of peninsular Europe, the geopolitical implications of the massive Soviet strategic forces build-up become all too clear. That build-up (which even functional apologists for Soviet military power have come to acknowledge as a reality) should secure for the Soviet Union a wide margin of freedom of action against the Eurasian-African Rimlands. Should the United States respond with limited strategic options (LSOs) to calls for help by desperate allies, the Soviet Union could, in the 1980s, reply with a devestating *countermilitary* central riposte that would leave the United States with no sensible strategic options.

A geopolitical perspective upon East-West relations serves to remind Americans that their armed forces have different tasks from those assigned to the armed forces of the Soviet Union. A SALT agreement that plausibly might be defended as a triumph for "the parity principle" should—on very basic geopolitical grounds—be vulnerable to the charge that it licensed roughly equal forces for the support of grossly unequal foreign policy missions. Studies of the Soviet-American or Soviet-NATO naval balance are no less prone to misassessment of the real strength of each side, because the geopolitical asymmetries between the maritime alliance and the Heartland power have not been adequately appreciated. As a consequence of interpretation of its bloody historical experience, the Soviet Union approaches the many questions that bear upon war in what has to be described as a more serious way than does the United States. Both NATO strategy and American strategic nuclear doctrine promise to mesh to the Western disadvantage with what may be inferred, and what is stated by Soviet officials, concerning Soviet approaches to theater conflict and to central war. The United States and its European-Rimland allies are (possibly sensibly) obsessed with the mechanism for providing prewar and intrawar deterrence; a sharp distinction is drawn between deterrence and "war-fighting." In contrast to American practice in Vietnam, the Soviet Union believes that wars should be fought to be won; Soviet "style" was manifest in the interventions in Hungary and Czechoslovakia in 1956 and 1968. Military power on an overwhelming scale was deployed for very rapid results, though for limited purposes.

While the United States, in the best insular strategic style, would be seeking to preserve thresholds and dampen escalation possibilities, the Soviet Union, in the best continental strategic style, would probably be applying massive military force for the end of theater victory. American and Soviet "styles" promise the following character of interaction in conflict. Whereas the United States would be more concerned with limiting military action than securing any outcome definable as victory, the Soviet Union would be more concerned with securing victory than it would with the limitation of military action. The inherent merits in the two distinctive orientations are not at issue here. What is cause for serious concern, if not alarm, is the thought that comparatively few Western officials seem adequately to understand these basic stylistic differences.

In and of themselves, the facts of physical geography in their relation to the political organization of the world are objectively of great importance. But as this chapter in particular has sought to argue, probably of even greater importance are the perceptions of individuals of the political meaning of physical geography, the habits of thought and action that flow from such culturally-bequeathed perceptions, and the policy "lessons" learned (or mislearned) by each society from the assessment and reassessment of its history. The concept of "national style" is clear in outline, yet lends itself to challenge when detail is offered respecting particular nations. Indeed, the difficulty of analyzing style in a rigorous fashion is matched by the importance of attempting such a task.

FOOTNOTES

[65] Spykman, *The Geography of the Peace*, p. 45.

[66] It is possible that this problem is not fully resolved even today. The Warsaw Pact-NATO standoff in Europe has permitted a deferral of the problem of the political future of Germany.

[67] For an historical perspective of the post-1945 power-balancing role of the United States, see Paul M. Kennedy, *The Rise and Fall of British Naval Mastery* (New York: Scribner, 1976).

[68] Colin S. Gray, "Foreign Policy—There Is No Choice," *Foreign Policy*, no. 24 (Fall 1976), pp. 114–126.

[69] See Wohlstetter, *loc. cit.*

[70] Mackinder, *Democratic Ideals and Reality*, pp. 158ff.

[71] See Colin S. Gray, *The Soviet-American Arms Race* (Lexington, Mass.: Lexington Books, 1976).●

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## TERENCE A. TODMAN, AMBASSADOR TO SPAIN

### HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. DE LUGO. Mr. Speaker, I am pleased to share with my colleagues the remarks made by Ambassador Terence A. Todman on the occasion of his swearing-in as our new Ambassador to Spain.

The Ambassador, a native son of the Virgin Islands, has been serving as the Assistant Secretary of State for Inter-American Affairs for the past 18 months. During this time he has been in the forefront of the administration's efforts to better our relations with our South American neighbors.

As always, the remarks of Ambassador Todman reflect his thorough professionalism, his dedication to his country and his sensitivity to the peoples of the world. We, the Virgin Islanders, are justly proud of his significant contribution to diplomacy and wish him again the success that has come to characterize his brilliant career.

I am pleased to insert into the RECORD his remarks as printed in the Virgin Islands Daily News, July 6, 1978:

TODMAN'S SWEARING-IN REMARKS

(By Assistant Secretary Terence A. Todman)

Mr. Secretary, I am deeply grateful to you for being here today and especially for your most generous and gracious remarks.

I know and fully share the admiration, the respect and the goodwill which the president and you have for the Spanish people, and for their efforts to consolidate their democratic system and set their course in international affairs in cooperation with the West. I am also aware of the great importance which the President and you attach to our relations with Spain during this critical period. Thus I am truly honored to enjoy the trust and confidence you have shown in selecting me as Ambassador to Spain. I welcome the assignment and will do everything within my power to strengthen the bonds of friendship and cooperation between our two countries.

The importance and challenges of the Madrid assignment are among the principal reasons I requested it and why, as a professional I am so pleased and honored to have been selected.

This assignment to a major European country also offers an opportunity I simply could not forego, that is, to help the president and you take one more small step toward breaking down the barriers of discrimination and opening up a new area to move our country a little closer to our goal of equal opportunity. I believe we all have a duty to contribute whenever and wherever we can to progress of greater equality in our country.

One more reason for the attraction of this assignment, in all honesty, is the personal pleasure of being able to spend some time in Spain, a country so well known for its beauty, its devotion and contribution to the arts and literature, the history which is everywhere evident and, above all, the warmth and graciousness of its people. Frankly, I don't know anyone who would turn down an opportunity to live and work in Madrid.

Thus, it is with great anticipation that I look forward to my assignment to Spain and to contributing in every way possible to the advancement of the mutual interest of our two countries in what I expect will be very pleasant circumstances as well.

Mr. Secretary, as happy as I am about the Madrid assignment, I must admit that it was not easy for me to decide to leave Latin American Affairs. The broad and direct impact of this area on our lives made the assignment as assistant secretary most challenging and satisfying. The size and resources of the Latin American and Caribbean countries, the dynamism intelligence and resourcefulness of their large and growing populations, and the determination of their leaders to play a greater role in affairs that affect them, ensure that their importance to us will continue to increase. It has been particularly gratifying to serve a president and secretary of state who are so deeply sensitive to these trends, so personally interested in the area and so courageous in mapping out a realistic course for our evolving relations.

The job was all the more enjoyable because of the opportunity it afforded me to deal with people who have so much in common with us, who show the warmest feelings of

friendship and consideration for us and who ask only that those feelings be reciprocated and that their dignity and sovereignty be respected to permit close cooperation in our mutual interests. The people of Latin America share the goals to which President Carter has pledged his administration. I have no doubt that, within the limits imposed by their own histories and particular situations, they want to cooperate with us to find solutions to all the critical problems of our times, including human rights as well as economic, social and political development.

Despite these advantages the task was not always easy as we addressed the challenges to improve communication and to help promote human rights and democracy throughout the hemisphere, without interfering in other societies or trying to remark them according to our special preferences. Matters were not helped by the misinformation and confusion shown by those who, in pursuit of special objectives, misused their positions and leaked distorted information to a few selected journalists eager to report sensationalized stories of conflict while ignoring anything on the other side. In the circumstances, I am proud that we have succeeded in setting a firm and positive course to improve the human condition, strengthen democracy, and increase understanding among our countries.

One regret I have in leaving now comes from knowing that at many of the official and social gatherings in which I have participated, mostly due to my official position, there will often be no visual reminder that ours is a multi-racial society committed to the goal of equal opportunity for all its citizens. This is particularly sad when one considers the many talented individuals from the minority communities and women who are willing and able to make badly needed contributions now as we deal with third world problems and with diffuse sources of power in our interdependent world. I can only hope that my colleagues in the Foreign Service and all others concerned will do whatever they can to help, rather than hinder, the realization of the equal opportunity objectives to which the president and you, Mr. Secretary, are so deeply committed. I am convinced that unless we improve our own record in the State Department and domestically, we will continue to find serious impediments to the achievement of our foreign policy objectives.

I could not end these remarks without saying a word of appreciation to all those who contributed so much to the success, the enjoyment and the stimulation of the ARA assignment.

The Latin American leaders, both in and out of government, have extended extraordinary courtesies as well as understanding and cooperation to me and my staff as we worked with them to advance the cause of human dignity and democracy. I am most grateful to them.

Most of all, I thank the president and you, Mr. Secretary, for your great interest and your strong and consistent support. I am certain that with your continued help, my distinguished successor, Ambassador Vaky, will be able to keep us on course and to sustain the new spirit of cooperation we have created.

I wish to take this occasion to publicly thank my wife, Doris, who with relatively little complaint gave me up almost entirely to the demands of the assistant secretaryship for the last 18 months and who is now being uprooted from her professional role with the important activities of Africare and transplanted to an unpaid though critical semi-government status. Fortunately, this time it will be in Madrid.

I give special thanks to my colleagues in the Bureau of Inter-American Affairs, whose dedication, professionalism and balanced approach insures that the broad interests and goals of the United States as defined by the president and you, Mr. Secretary will continue to be served as well.

In the same vein, I wish to thank all those throughout the department and in other agencies who have so generously shared their time and their knowledge to help me prepare for the challenge and opportunities of the assignment to Madrid.

Finally, my thanks go to all of you present who in one way or another have supported and assisted me so fully not only in my past job but in all of my other assignments. Your understanding and support has enabled me to stay on a sound and positive course in the past and will surely sustain me in the future.

I shall miss being with you here in Washington but I look forward to the pleasure of seeing you in Madrid.

Thank you very much.●

## LOUISVILLE COURIER-JOURNAL OPPOSES FOREIGN AID CUTS

**HON. MATTHEW F. McHUGH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. McHUGH. Mr. Speaker, the foreign assistance appropriations bill will soon come before the House for consideration. As every Member is aware by now, numerous amendments will be offered to reduce funding and to restrict how our assistance may be used in a variety of ways.

I am opposed to these amendments, Mr. Speaker, and I have been encouraged by the fact that so many thoughtful and responsible newspapers across the Nation have indicated their opposition to them as well. For example, the Louisville Courier-Journal in a recent editorial suggested that efforts to cut the bill still further are reckless in view of the manner in which these funds promote our national interest. The Courier-Journal also pointed out that the total funds recommended in this bill are only approximately half of the budget of the State of California.

For the benefit of those Members who may not have seen this editorial, I am including it in the RECORD at this point:

AID CUTS IMPERIL U.S. INTERESTS

It is inevitable, in the politically unsettling wake of Proposition 13, that Congress will make some cuts in President Carter's request for foreign aid this coming year. But nothing could be more short-sighted than the meat-ax reception that many House members have planned when the bill arrives for a vote this week.

Part of the problem, even if this were not the year of California's tax rebellion and of mid-term elections, is that Rwanda and Malaysia are in nobody's congressional district. But the President's $8.4 billion request already has been cut to $7.3 billion by the House Appropriations Committee, and that could be only the beginning.

Even the chairman of the sponsoring subcommittee, Maryland's Representative Clarence Long, backs a further 8 percent slice of $584 million—all of it from the funds for international financial institutions. He argues that his selective pruning is the only way to head off an across-the-board slash of the same amount that would gut some indispensible programs.

NOT A QUESTION OF CHARITY

Mr. Long may be correct in reading the general mood of Congress. Partly because there are so many new members these days, that body seems increasingly unmindful of the fact that foreign aid—for all the loose talk about global charity—is first and foremost in our own national interest. But his own prescription, which is to make further cuts in the U.S. contribution to the World Bank and its affiliated agencies is reckless.

Like much of Congress, the public seems to have lost sight of why our economic aid to poor nations is a crucial investment—both for our own economic well-being and for global peace. The world becomes less dangerous when needy countries become more self-sufficient.

The cost, meantime, is not all that steep. The $7.3 billion to which this year's appropriation has been cut, and which is acceptable to President Carter as an "absolute minimum," is less than 1.5 percent of the federal budget. It's half the size of California's new, slimmed-down budget for the coming year. About one-third of it supplies military assistance and budget support for countries considered essential to U.S. security.

The economic aid also is less than one-fourth of one percent of the nation's Gross National Product (compared to 2.8 percent of our GNP after World War II). Eleven of the world's 17 industrial democracies do proportionately more.

But the argument doesn't have to come down to questions of conscience or what we've done in the past. Our economy and our security are inextricably linked with the economic growth and political stability of the world's 100 less-developed nations. From them we import most of the raw materials on which key domestic industries depend—85 percent of the tin, 85 percent of the bauxite, more than 40 percent of the oil. And we are looking to the developing nations as additional markets for our products.

Already, it is estimated, one of every four American farm jobs and one of eight manufacturing jobs depend on the sale of U.S. goods abroad. In 1976, the non-oil producing developing countries purchased 24 percent of our exports and resulted in over one million jobs in the U.S. Our farm exports to the developing countries now total $7.4 billion yearly.

It's those underdeveloped nations that also face the gravest problems of political stability, as they try to cope with such problems as soaring populations that in many cases continue to outrun gains in national income. Hungry people are an attractive audience for Soviet troublemakers, domestic tyrants and others who seek to foment global instability

In recent years, the industrialized countries have been channeling more of the aid through multilateral development banks. This has the dual effect of sharply increasing the money available and insulating the aid from the political motives of any one country.

The banks use the contributions from member states as backing for bond sales. Thus $10 of aid funds are generated for each $1 contributed. The aid then goes into development loans designed to assure that the needy will directly benefit or that the products they stimulate will find ready buyers, usually within the developing country itself.

CURBS ON DISTRIBUTION SOUGHT

It is these lending institutions, as noted which are coming under the heaviest congressional fire this year. The critics zero in on such points as high salaries and large staffs of these institutions as proof of their irresponsibility. What also galls them is the fact that Congress cannot control the international institutions' distribution of loans. Thus, the House Appropriations Committee cut to $2.6 billion the $3.5 billion asked by President Carter for the World Bank and the smaller regional development

banks. Congressman Long wants to trim this another $584 million.

Both our leading partners and the poor nations are rightfully dismayed at the prospect. The U.S. failure to make payments promised earlier is already crippling development plans. This year's proposals to cut more funds and include restrictions contrary to the banks' charter would compound the disgrace. If the banks cannot assist countries such as Angola and Mozambique just because those governments claim to be Marxist, we give them no option but to turn to Communist sources. And the recurrent tendency to oppose loans which might result in future competition with U.S. products not only ignores the banks sound fiscal policies but is embarrassingly greedy.

In short, foreign aid is far more than a humanitarian gesture. It is a cost-effective way to benefit our own economy and increase national security. If President Carter would take the facts forcefully to the American people there should be no question about the fate of this far-sighted program. If we falter, the cost will be paid first by the world's poor. The ultimate price could well be the world's security.●

## U.S. CONFERENCE OF MAYORS ENDORSES AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. ANDERSON of California. Mr. Speaker, there probably is no group of elected officials in the United States more conscious of the serious environmental problems associated with airport and aircraft noise than the Nation's mayors. This is understandable for the impacts upon people and property values and the costs and potential costs upon local governments and therefore local taxpayers from lawsuits are horrendous.

These problems are not new. Proposals for a rational approach toward solving them have been before us at least since the report of the Doolittle Commission appointed by President Truman. Each year that we procrastinate increases the ultimate cost to the taxpayer.

After 2 years of the most exhaustive study ever undertaken on the problems of airport and aircraft noise our Public Works and Transportation Committee has produced a bill which provides rational solutions. We provide that the costs be charged to the user; even though we propose to do so without any increase in current taxes.

Our largest cities have much at stake in this bill; however they are not alone. Our nonmetropolitan cities increasingly are coming to believe that instead of "communities building airports" that "airports build communities." Perhaps we are witnessing the arrival of that stage in our economic and technological development when aviation will have the same profound effect on development patterns that other modes of transportation have had in the past. The emergence of the corporate jet, the growth of general aviation, and the astronomical development of commuter airline traffic seem to be in concert with the new demographic trends reported by the Bureau of the Census.

Title II of this bill, which provides additional discretionary funds for airport development from the aviation trust fund and extends the more favorable funding ratio for the smaller airports, therefore is of obvious interest to the nonmetropolitan cities. Some of these same cities also need the voluntary airport planning process encouraged by title I and the long-range protection this will provide from the type of development we have allowed around older airports with such disastrous environmental and human cost.

I am pleased that the Conference of Mayors has taken such a realistic and strong stand on this issue and therefore wish to enter the letter I have received from Mr. John Gunther, executive director of that organization.

U.S. CONFERENCE OF MAYORS,
*Washington, D.C., July 20, 1978.*

DEAR REPRESENTATIVE:

The U.S. Conference of Mayors urges your support for favorable Rules Committee action concerning H.R. 8729, the Airport and Aircraft Noise Financing Act and its Ways and Means companion H.R. 11986, the Noisy Aircraft Revenue Act. We believe these measures promise a good start towards alleviating the serious noise pollution problems surrounding our airports, which impair urban health and development.

The 46th Annual Conference of Mayors, held in Atlanta during June, adopted a comprehensive resolution stating the policy of the Conference with respect to airport and aircraft noise, which we have enclosed for your review. This resolution, a matter of strong personal concern to scores of Mayors, noted that noise pollution adversely affects airports, the airline industry, area residents, and land use planning in cities. The resolution endorsed the pending legislation, with specific reference to Title I, planning and implementation grants, and Title III, which provides that two percent of the existing eight percent excise tax on airline passenger tickets be reserved for the purpose of retrofitting plane engines for noise reduction purposes.

Time is growing short for an effective airport and aircraft noise abatement program to be crafted by the 95th Congress. In recognition of this we hope the Rules Committee will move promptly to report H.R. 8729 and H.R. 11986 to the floor of the House.

Sincerely,

JOHN J. GUNTHER,
*Executive Director.*

AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

Whereas, aircraft noise is a most serious problem facing the aviation industry today; and

Whereas, because of aircraft noise, certain airport developments possibly are being affected adversely, airport operations are being constrained and the communities that own and operate public airports are being judged legally liable for millions of dollars of damages in airport noise suits; and

Whereas, in an effort to protect themselves from the rising costs of noise damage lawsuits, communities that own or operate airports have begun to purchase those land areas which are generating these suits, utilizing valuable local and federal resources; and

Whereas, land purchasing is the most expensive solution to noise reduction and does nothing actually to reduce aircraft noise; and

Whereas, existing Federal Aviation Administration Regulations have imposed an excessive requirement on the airline industry by requiring that all existing nonconforming aircraft comply with FAR Requirement No. 35 (noise) by 1985; and

Whereas, the airlines are being seriously financially affected by the cost of bringing the existing non-conforming fleet into compliance with FAR No. 36 by 1985; and

Whereas, after a thorough and exhaustive analysis of aircraft noise, the Federal Aviation Administration has found that a particular retrofit technology, known as Sound Absorbent Material, or SAM retrofit for short, is the most cost effective technology available to bring non-complying aircraft models into compliance with FAR No. 36; and

Whereas, the application of SAM retrofit technology to existing aircraft will result in a substantial reduction in aircraft and airport noise; and

Whereas, sufficient monies currently are being collected through the existing 8% excise tax on airline passengers to fund both airport development projects and the SAM retrofit program; and

Whereas, congressional failure to appropriate fully Airport Trust Fund monies is affecting adversely airport development projects throughout the nation; and

Whereas, the 96th Congress currently is considering an Act entitled the Airport and Aircraft Noise Reduction Act; and

Whereas, Title I of this Act authorizes the U.S. Secretary of Transportation to make grants to operators of airports and to units of local government in the area surrounding such airports for the purpose of planning and developing noise compatibility programs; and

Whereas, Title III of this Act provides that 2% of the existing 8% excise tax on airline passengers be reserved for the purpose of allowing the airlines to bring their non-conforming fleet into compliance with FAR No. 36 (noise) by 1985; and

Whereas, if this legislation were adopted, it would reduce substantially aircraft noise currently impacting our cities with a concomitant decrease in noise damage lawsuits.

Now, therefore, be it resolved that the U.S. Conference of Mayors endorses the Airport and Aircraft Noise Reduction Act provided, however, that 2%of the existing 8% excise tax on airline passengers set aside for the airlines to bring their non-conforming fleet into compliance with FAR No. 36 (noise) by 1985 provided for in Title III of this Act be designated for this purpose for a period of five years only and that Congress provide for full appropriation of Airport and Airway Trust Fund monies to allow for essential airport development projects throughout the nation and the retrofit program.●

## THE 60TH BIRTHDAY OF SOUTH AFRICAN FREEDOM FIGHTER, NELSON MANDELA

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr CONYERS. Mr. Speaker, July 18 was the 60th birthday of South African freedom fighter, Nelson Mandela. The United Nations Special Committee Against Apartheid has called upon the world community to pay tribute to the contributions of this leader to the libera-

tion struggle in South Africa, and to join with the special committee in demanding his release, as well as the immediate release of all political prisoners under the minority regime's control.

Mr. Mandela has been active in the national liberation movement in South Africa since 1944 when he joined the African National Congress and its youth league. As deputy national president of the ANC in 1952, he organized the Campaign of Defiance of Unjust Laws. The imprisonment of over 8,000 volunteers in the campaign led the UN General Assembly to its first consideration of the problem of apartheid in South Africa. In 1961, Mr. Mandela was an organizer of the All-in-Africa Convention which sought to convene representatives of the peoples of South Africa to write a democratic constitution. Forced underground, he led the 1961 nationwide strike to protest the establishment of the so-called Republic of South Africa. Mr. Mandela was arrested in August 1962 and was the principal accused in the infamous "Rivonia Trial," in which he and seven other codefendants (Walter Sisiu, Ahmed Kathrada, Govan Mbeki, Dnnis Goldberg, Raymond Mhlaba, Elias Motsoaledi, and Andrew Mlangeni) were sentenced to life imprisonment. During the court proceedings the United Nations General Assembly condemned the political trials in Resolution 1881, passed October 11, 1963, a day subsequently proclaimed by the General Assembly as a Day of Solidarity with South African Political Prisoners.

Ambassador Leslie O. Harriman, chairman of the Special Committee Against Apartheid and Nigeria's representative at the United Nations, has suggested several actions which organizations and individuals may undertake to support the growing human rights struggle taking place in South Africa: The demand for the immediate release of Nelson Mandela and all South African political prisoners; dissemination of posters and other materials about their unjust imorisonment; contributions to the U.N. trust fund for South Africa; and assistance to the oppressed South African majority.

Mr. John F. Burns of the New York Times has written an excellent and moving account of Mr. Mandela's life in South Africa's Robben Island prison. I hope my colleagues will read this article about the struggle to win the release of political prisoners in South Africa and for freedom and justice for the South African majority. The article on Nelson Mandela follows:

[From the New York Times, July 19, 1978]

KEY BLACK LEADER TURNS 60 ON SOUTH AFRICA PRISON ISLE

(By John F. Burns)

CAPE TOWN, July 18.—Nelson Mandela, the man who would most probably head a black government in South Africa, spent his 60th birthday today on an island in the mouth of Table Bay, within sight of the great sea route that brought the first white men to the southernmost tip of Africa nearly five centuries ago.

Mr. Mandela was not on vacation. For the 16th year he spent his birthday inside the gray stone walls of Robben Island, a prison fortress seven miles offshore, where the white rulers of South Africa have confined more than 350 men convicted of subversion in working for the establishment of majority rule.

Under government rules that make Robben Island as inaccessible as Devil's Island of colonial France, there was no news of how the tall, lightly bearded Mr. Mandela spent his day. Even his wife, Nomzamo Winnie Mandela, herself under restriction in a town in the Orange Free State more than 600 miles away, was denied permission to make a special visit.

It was a day of fasting and prayer for the 43-year-old Mrs. Mandela, interrupted by frequent visits from the mailman, who bicycled up the dusty road to her home with satchels full of telegrams, cards and letters from presidents, prime ministers and other well-wishers all over the world. One, from the United Nations Special Committee on Apartheid, saluted the men on Robben Island as "the authentic leaders of the oppressed people" of South Africa.

LEADER WITHOUT AN EQUAL

Among those leaders, Mr. Mandela is without peer. Born into the royal family of the Transkei, the homeland of South Africa's Xhosa-speaking people, he forsook the possibility of tribal leadership for the rocky road of black nationalism. In 1964, when he was already in jail for activities on behalf of the banned African National Congress, he was sentenced to life imprisonment for conspiracy to overthrow the Government by force.

Today, in the Afrikaner farming town of Brandfort, where blacks at one white-owned grocery still buy their provisions through a hatch in a side wall, Mrs. Mandela spoke of her husband's life in prison.

"Don't believe those stories about a tottering old man you read in some of the pro-Government newspapers," Mrs. Mandela said, smiling and clasping her hands in delight as she sat in the front seat of a visitor's car. "He's as upright and proud as the day he was arrested. Oh, he's just divine!"

From his former fellow inmates, political impressions emerged. "Nelson is exactly the same man who was sentenced on 12 June 1964," said one man who was released after a lengthy term. "He holds precisely the same views, and they are as dear to him now as they were then. What's more, he has had the grim satisfaction of seeing all his predictions fulfilled."

"NO EASY ROAD TO FREEDOM"

Mr. Mandela offered his political testament, which has become a banned document, at his trial in 1964. A distinguished lawyer, he conducted his own defense. In an address to the court that has become known by one of his phrases—"no easy road to freedom"—he forecast increasing violence unless the Government granted equality to blacks.

He explained at length then his decision to go underground and to lead Spear of the Nation, a sabotage arm of the African National Congress, which had previously been committed to peaceful petitioning.

"We have warned repeatedly that the Government, by resorting continually to violence, will breed in this country counter-violence among the people, until, if there is no dawning of sanity on the path of the Government, ultimately the dispute between the Government and my people will finish up by being settled in violence and by force," he said.

Hand-copied passages from the speeches were a common feature of the birthday letters and cards that reached Mrs. Mandela today, many of them from young people in Soweto, the sprawling ghetto outside Johannesburg. For them, Mr. Mandela's forecast has been realized. Since the police opened fire on black rioters two years ago, killing several hundred nationwide, increasing numbers of young blacks have been leaving South Africa for terrorist training abroad, many of them under the wing of the African National Congress.

CONTACTS WITH OUTSIDE WORLD

When Justice Minister James T. Kruger grants permission, Mrs. Mandela flies to Cape Town and boards a police ferry for the 45-minute journey to the island. There, separated by a wall of armor-plated glass and connected only by telephone, she and her husband are allowed to converse for 30 minutes with four white guards listening.

"The whole thing is so humiliating." ●

## LET'S KEEP OUR TRANSPORTATION SUBSIDIES IN PERSPECTIVE

## HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 24, 1978*

● Mr. LaFALCE. Mr. Speaker, we in Congress gnash our teeth every time we have to vote on Federal subsidies for public needs, knowing as we do the impact the overall Federal budget has on the economy and on the private needs of American taxpayers.

But we often fail to compare levels of subsidy to various related matters, and without such comparisons our decisions may well suffer.

George Hamilton Forman, an attorney in Buffalo, N.Y., recently testified at a hearing held by the Interstate Commerce Commission on the preliminary study of rail passenger services in the United States done by the Department of Transportation, and in that testimony Mr. Hamilton cogently compared various subsidy levels to different modes of transportation.

I think his analysis warrants the careful attention of all Americans and particularly that of our colleagues in Congress, Mr. Speaker, so I am hereby submitting it for printing in the RECORD:

STATEMENT BY GEORGE HAMILTON FORMAN

First by way of introduction, I have used railroad passenger service extensively over a period of 30 years for pleasure and vacation travel and in later years for business travel as well. Since the introduction of Amtrak on May 1, 1971 I have made numerous trips on Empire Service and on the Lake Shore to New York City and have extensively used the New York-Florida service. Several trips have been made on the Montrealer, Chicago-Detroit-Chicago-St. Louis as well as the Inter-American. The above list is in no way exhaustive or complete as to my rail travel experience, but is mentioned to show that I have extensively traveled on Amtrak passenger service on a system wide basis.

I have read a transcript entitled a "Preliminary Report to Congress and the Public—A Reexamination of the Amtrak Route Structure" prepared by the United States Department of Transportation, May 1978. DOT proposes to reduce the Amtrak system by 8100 miles, eliminating extensive service to the West replacing it with a "City of Everywhere" train on one route. The Inter-American and Chicago—Florida service as well as several other trains are also to be dropped. According to the DOT study if the new recommended system were adopted in 1980 the projected operating subsidy would be $547 million as opposed to $665 million for the present system, a supposed savings of $122 million. (See page ES–3 of DOT study.)

I have some further misgivings concerning the creditability of this DOT study and the

improper crediting of passenger miles vs. train miles statistics to various trains. An example would be the crediting of the Montrealer with a figure of 99 PM/TM when the more realistic figure should be 215 PM/TM. (See exhibit 1, Mr. Joseph V. MacDonald's comments to Mr. Ullman published in Rail Travel News, Vol. 8 No. 9, first issue of June 1978, page 15.)

Credibility for this DOT study is further eroded by a statement of Brock Adams in the opening pages in which Adams expresses concern over what effect the size of the Amtrak system and subsidy has on the intercity bus industry, which Adams refers to as a private sector competitor. Let's get the record straight. DOT budget 1977–78 is as follows:

DOT BUDGET 1977–78

(*Millions of dollars*)

| | |
|---|---|
| Ground: | |
| Highway construction and safety | $6,251 |
| Mass transit | 2,146 |
| Amtrak | 576 |
| Other railroad | 1,085 |
| Regulation | 61 |
| | 10,119 |
| Air: | |
| Airways and airports | 2,417 |
| Air carrier subsidies | 77 |
| Research and technology | 349 |
| | 2,843 |
| Water: | |
| Coast Guard | 1,203 |
| Shipping | 682 |
| | 1,885 |
| Other | 83 |
| DOT total | 14,930 |

It has been estimated that if the United States were to remove its subsidies to the airlines, a round trip ticket to the East Coast would cost over $1,000 and very quickly the airplane would be threatened as a means of travel. Similarly if these subsidies were removed from the bus industry that means of travel would be sorely pressed to continue in business.

"The current subsidy of the U.S. air traffic control system is $1.8 billion annually, and this represents only a small fraction of public subsidies of airlines. Former Transportation Secretary William Coleman estimated that air travelers pay only ⅓ the cost of their transportation. Amtrak passengers, by comparison, pay almost 40%. The subsidy of U.S. highways by non-highway revenue sources since 1920 totals well over $150 billion, and this does not take into account the social and environmental damages, or the $46 billion we spend annually to import petroleum from the O.P.E.C. nations." (Page 3 from Statement by Adriana Gianturco, Director California Department of Transportation regarding Proposed Cuts in Amtrak Service in California, May 11, 1978.)

In 1971 when Amtrak went into effect over ⅔ of existing passenger train miles were discontinued. One would think here is a golden opportunity for the intercity bus lines to pick up this patronage. On the contrary not only did the bus lines not generate any new business from these train discontinuances but in the 7 years since, their total passenger miles carried have steadily and persistently fallen off. (See DOT report page 7–21, Table 7–6.)

DOT has a built in bias in favor of highways and airlines and against railroad passenger service. This has been amply expressed by William Coleman, former DOT Secretary and now by Brock Adams. For a nation in which the President has stated an energy crisis is imminent and a sound energy policy must be placed in effect, the DOT has contrary to common sense proposed billions for highway and airport projects and a program of cuts for Amtrak, which if realized will capsize this nation's passenger train network.

Is it too much to ask that this nation have a balanced transportation network? Certainly the traveling public should have a choice as to travel on the highways or use of common carrier buses, airlines and railroad passenger service. In fact, various means of transportation can supplement each other. For example, buses providing short distance feeder lines to passenger trains for communities not on rail lines, public parks or tours, etc.

The real competitor is the automobile and DOT's effort should be to build up energy efficient train service as an alternative.

In spite of the growth of private transportation, "Over its entire network, Amtrak has revised the long-term downward trend in intercity rail passenger traffic and has managed to increase passenger trips, train miles and passenger miles." (DOT Report, pages 2–4.)

This has been done in spite of poor equipment and tracks, slow schedules, frequently late trains and the fact on some routes only one train a day each way provides the schedule necessitating "middle of the night" service in some communities. For example, if I want to go to Chicago or Cleveland I must be at Buffalo Terminal prior to the 3:45 A.M. departure of The Lake Shore. Clearly important long distance routes such as this should be served by a minimum of 3 trains each way scheduled throughout the day. Contrary to the DOT study if such were done the economic loss to Amtrak would not increase by 3 times for the route but would significantly drop because increased scheduling has the affect of more than doubling or tripling patronage, because now the trains are more convenient and attract more riders. High fixed charges, terminal expenses, etc. become less per train run and very importantly more feeder revenue is generated for the rest of the system.

This increase in service should not be limited to the Lake Shore Corridor but should be equally applied to route of the National Limited, Broadway Limited, and Chicago-New Orleans services, etc. Western long distance services should have at least 2 trains each way per day per route and especially during the summer season. Winter service should see an increase in Chicago-Florida and New York-Florida service—Not the service cuts proposed for these routes. Tour train concepts should be developed. Passenger service to our parks out West during the summer, ski trips for winter both in West and East would be useful under this approach.

Amtrak has not adequately developed the Florida service. Trains from Chicago-St. Louis-Detroit-Cleveland-Cincinnati and Atlanta should converge on Florida as well as an expanded New York-Florida service.

Mail should again be carried on passenger trains; if this were done additional revenue of over $100 million a year could be generated with but slight additional expenses. On the bottom line this could generate net profit for Amtrak.

An imaginative advertising program and fare system encouraging travel at off peak times should be pursued. Large fare increases tend only to drive people away and are counter productive. Also the removal of dining service and sleeper accommodations have a similar negative affect. If some Amtrak trains carry commuters on part of their route, this should be encouraged and not driven away as the DOT report suggest.

Clearly the Public wants railroad passenger service and has shown that it wants a full system and will support such a system. DOT's "full service" scenario "E" is a start in the right direction and the spending of ¾ of a billion dollars to support and start such service is a bargain compared to the subsidies of other modes.

Respectfully submitted,

GEORGE HAMILTON FORMAN,
*Attorney.*

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[From the Rail Travel News, June, 1978]

(The following is the text of Mr. MacDonald's last comments to Mr. Ullman on the preservation of the "Montrealer":)

I don't intend to comment on the whole preliminary report, since this will be discussed by Congress and the public before anything final is decided.

Of course, I am gratified that the Montrealer and the Lake Shore Limited are both included in the proposed system. These are both strong trains in terms of service rendered to the public.

However, one thing disturbs me about the presentation of figures relating to the Montrealer's productivity. In terms of passenger miles per train mile, the average as shown on Table 5–2, for all long distance trains is 137, while the Montrealer is shown as only 99, with a footnote reading, "Excludes intra-NEC passenger-miles and revenue but includes NEC train miles".

This is the most gerrymandered footnote I have seen since my college statistics courses. The correct figure is 215.

In Appendix C, "Operating Cost Estimating Methodology", by which all the figures in this report were purportedly developed, the formula arriving at the 215 is spelled out. The formula is wildly gerrymandered in the various tables. The formula reads:

"It should be noted that the non-Corridor costs included all the expenses of long-distance trains operating in both NEC and non-Corridor service if the train had a restricted boarding policy. For those trains offering an unrestrictive boarding policy, only the portion of costs incurred in non-Corridor service were charged to non-Corridor operations —the basic assumption being that the NEC would replace the train with substitute service to fill the time slot."

The first category is exemplified by the New York to Florida trains, which do not handle passengers who are not traveling south of Washington, D.C Very properly all passengers, passenger miles and train miles all the way from New York to Florida are assigned to these trains, even though they travel 226 miles on the NEC.

The Montrealer exemplified the second category, in that it handles NEC passengers on an unreserved basis, runs several additional coaches and snack-bar coach between Washington and Penn Station, New York, and the train is prominently listed in the NEC timetables.

Following the formula in Appendix C, the passenger miles (excluding intra-NEC passenger miles) would be as shown in all the tables (5–1, 5–2, D–10 and D–11), namely 48.62 million, which is based on the 309-mile segment extending beyond the NEC from Springfield to Montreal. However, completely contrary to the formula, the train miles shown in the tables include the 361 miles of NEC track as shown as 0.489 million, which cover the 361 miles of NEC track as well as the 309 non-NEC miles. Thus the train's performance is grossly distorted to a ridiculously low 99 PM/TM, whereas following the formula in Appendix C would yield the realistic 215 PM/TM. This distortion occurs in all the tables in the report, each with a sanctimonious footnote.

My fear is that when the subject of whose train is finally to remain in and whose is to be dropped is argued out, opponents of the Montrealer may trumpet the gerrymandered figure of 99 PM/TM as evidence that the Montrealer is a weak train. I want this information in the hands of those who will be defending the MONTREALER and ask that you see that it be placed diplomatically in their hand.●

## SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 25, 1978, may be found in Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### JULY 26

9:00 a.m.

Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To continue hearings on USDA and DOE strategies for conserving energy and developing new energy sources, and on the Administration's proposed gasoline rationing program.
324 Russell Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 2189, proposed Nuclear Waste Management Act.
1114 Dirksen Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To resume hearings on alleged mismanagement of ConRail's personnel and financial resources.
5110 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on auto odometer requirements.
235 Russell Building

Finance
Administration of the Internal Revenue Code Subcommittee
To resume joint oversight hearings with the Select Small Business Committee on operation of the Tax Reduction and Simplification Act (P.L. 95–30), and on Administration proposals for a new jobs tax credit.
2221 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To mark up H.R. 10899, proposed International Banking Act.
5302 Dirksen Building

Budget
To continue hearings on the second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 1592, to terminate further construction of the Cross-Florida Barge Canal project.
4200 Dirksen Building

Foreign Relations
To hold hearings on the nomination of Talcott W. Seelye, of Maryland, to be Ambassador to the Syrian Arab Republic.
4221 Dirksen Building

Rules and Administration
To receive testimony on S.J. Res. 142, authorizing the Franklin Delano Roosevelt Memorial Commission to proceed with construction of the FDR Memorial, and other legislative and administrative business.
301 Russell Building

Governmental Affairs
Business meeting on pending calendar business.
3302 Dirksen Building

2:30 p.m.

Appropriations
To mark up H.R. 13125, making appropriations for FY 1979 for the Department of Agriculture and Related Agencies, and H.R. 12934, making appropriations for FY 1979 for the Departments of State, Justice, Commerce, and the Judiciary.
S–128, Capitol

3:30 p.m.

Conferees
On H.R. 7843, to provide for the appointment of additional Federal circuit and district court judges.
EF–100, Capitol

#### JULY 27

9:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.

Veterans' Affairs
To mark up S. 2828, the Veterans Disability Compensation and Survivor Benefits Act; S. 1643 and H.R. 4341, to eliminate the requirement that the VA inspect the mobile home manufacturing process; and H.R. 12257, to furnish memorial headstones to honor certain deceased veterans.
412 Russell Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
Banking, Housing, and Urban Affairs
that imported meat meets quality standards.
322 Russell Building

Banking, Housing, and Urban Affairs
To continue markup of H.R. 10899, proposed International Banking Act.
5302 Dirksen Building

Budget
To continue hearings on the second concurrent resolution on the Congressional budget for FY 1979.
6202 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 2189, proposed Nuclear Waste Management Act.
3302 Dirksen Building

Finance
Business meeting on pending calendar business.
2221 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

Rules and Administration
To hold hearings on the nominations of John Warren McGarry, of Massachusetts, and Samuel D. Zagoria, of Maryland, each to be a member of the Federal Election Commission.
301 Russell Building

2:00 p.m.

Select Committee on Ethics
To hold an open followed by a closed business meeting.
Room to be announced

Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
3110 Dirksen Building

#### JULY 28

9:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.

Finance
Taxation and Debt Management Subcommittee
To hold hearings on those sections of the proposed Bankruptcy Reform Act (S. 2266 and H.R. 8200) which relate to taxation and the collection of taxes.
2221 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

#### JULY 31

9:00 a.m.

Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
To hold hearings on the nomination of Francis H. McAdams, of the District of Columbia, to be a member of the National Transportation Safety Board.
235 Russell Building

#### AUGUST 1

10:00 a.m.

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2590, to amend P.L. 91–505, relating to land claims by the U.S. in Riverside, California, and S. 2774, to extend the boundaries of the Toiyabe National Forest in Nevada.
3110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To resume markup of S. 2755, the Drug Regulation Reform Act, and S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
4232 Dirksen Building

#### AUGUST 2

9:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee

To hold hearings on the quality of patient care in nursing homes.
3302 Dirksen Building

10:00 a.m.
Judiciary
Penitentiaries and Corrections Subcommittee
To hold hearings on S. 3227, to establish a program of therapeutic communities in Federal prisons.
2228 Dirksen Building

AUGUST 3

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Government Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on the quality of patient care in nursing homes.
3302 Dirksen Building

10:00 a.m.
Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings on S. 3227, to establish a program of therapeutic communities in Federal prisons.
2228 Dirksen Building
Select on Intelligence
To resume hearings on S. 2525, to improve the intelligence systems of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
1318 Dirksen Building

AUGUST 4

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume oversight hearings on the Government in the Sunshine Act (Public Law 94-409).
3302 Dirksen Building

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2475 and H.R. 10587, to improve conditions of the public grazing lands.
3110 Dirksen Building

AUGUST 8

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2533, proposed Gasohol Motor Fuel Act.
3110 Dirksen Building

AUGUST 9

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

10:00 a.m.
Budget
To mark up second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 2533 proposed Gasohol Motor Fuel Act.
3110 Dirksen Building
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed initiatives designed to improve Federal water resource programs transmitted by the President in his message of June 7, 1978.
4200 Dirksen Building

AUGUST 10

8:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2560, to expand the Indiana Dunes National Lakeshore.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
6202 Dirksen Building

AUGUST 11

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
6202 Dirksen Building

AUGUST 14

10:00 am.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2860, proposed Solar Power Satellite Research, Development, and Demonstration Program Act.
3110 Dirksen Building

AUGUST 15

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To hold joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

AUGUST 17

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings on S. 2053, the Deep Seabed Mineral Resources Act, now pending in the Commerce, Science, and Transportation Committee.
4221 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 18

10:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 22

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 24

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

## CANCELLATIONS

JULY 27

10:00 a.m.
Select Intelligence
To resume hearings to receive testimony from former Secretary of State Kissinger on S. 2525, to improve the intelligence system of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
5110 Dirksen Building

# SENATE—*Tuesday, July 25, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. PAUL G. HATFIELD, a Senator from the State of Montana.

PRAYER

The Reverend Dr. Thomas A. Stone, associate pastor, National Presbyterian Church, 4101 Nebraska Avenue NW., Washington, D.C., offered the following prayer:

Let us pray.

Great God and Father of us all: As we pledge allegiance to our flag we pledge allegiance to Thee. In this room we strive to base the laws of our land on Thy laws. Here we want expressed Thy will for citizens' responsibilities, rights, and liberties. We want to be, and to be known as, a people and a nation with a government loyal to Thee.

We place every day many of our overriding problems on the shoulders, minds, and hearts of the Senators who assemble here. Sustain them for such tasks and direct us to uphold them.

Even beyond the borders of our Nation give us to fulfill Thy call in order that our country, insofar as it can, may do for the needs of the nations of the world what we as Thy people would do for individual neighbors who are hungry, sick, and enslaved. Make certain we see those deeds among "the least."

O God, use us as Thy people and use these Senators as the makers of Thy Law for this Nation for today. Keep close to every one of them. For this we pray. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., July 25, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL G. HATFIELD, a Senator from the State of Montana, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. PAUL G. HATFIELD thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## TIME-LIMITATION AGREEMENT—H.R. 12927

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 949, H.R. 12927, the military construction appropriation bill, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: 1 hour on the bill, to be equally divided between Mr. HUDDLESTON and Mr. STEVENS; 30 minutes on any amendment; 20 minutes on any debatable motion, appeal, or point of order, if such is made to the Senate, and that the agreement insofar as the provisions and control of time are concerned be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement follows:

*Ordered*, That when the Senate proceeds to the consideration of H.R. 12927 (Order No. 949), an act making appropriations for military construction for the Department of Defense for the fiscal year ending Sept. 30, 1979, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

*Ordered further*, That on the question of final passage of the bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Kentucky (Mr. Huddleston) and the Senator from Alaska (Mr. Stevens): *Provided*, That the Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

## THE SENATE WORKLOAD

Mr. ROBERT C. BYRD. Mr. President, I think it would be helpful to the Senate to know that I have scheduled a Saturday session for this week. Whether or not we have a Saturday session, indeed, will depend upon the progress that is made during the remainder of the week on the workload that confronts the Senate.

Yesterday, the Senate was delayed for 1 hour in proceeding to the bill, the Older Americans Act, that was scheduled for action beginning at 12 o'clock noon. Several rollcall votes occurred during the day yesterday on innocuous matters, on matters that were unopposed, and could have passed with a voice vote.

The Senate was kept in session later than it otherwise would have been. Apparently the filibuster on the natural gas conference report has already begun, a week or 10 days before it was intended to bring it up.

If this is going to be the regimen that the Senate has forced on it, it simply means we will have to have Saturday sessions. We will have to have longer daily sessions, and some of the high priority legislation that is close to the hearts of all Senators, individually or collectively, may end up not being acted upon this year at all.

PRIORITY LEGISLATION

We have over a dozen appropriation bills yet remaining, 11 of which are the regular appropriation bills; we have the second concurrent budget resolution; we have a tax measure that is important for the continued economic growth of this country, and important to the stimulation of consumer confidence and business investment.

We hope to have hospital cost containment legislation of some kind to aid in the war against inflation. We have numerous conference reports. There are very important pieces of legislation, such as the District of Columbia representation constitutional amendment, the electoral college reform constitutional amendment, and, if the other body passes the ERA legislation, we will have that.

FIFTY DAYS UNTIL OCTOBER 7

A number of Senators will want one or more of these measures called up, and we have only 50 days—50 days—after today, not counting Saturdays or the Labor Day legislative holiday—50 days until October 7.

I have repeatedly said that the only reason I make reference to October 7 is simply because it comes 1 month before November 7. November 7 is election day in this country. I do not want to come back after the Congress adjourns for the election. It may be that the Congress would have to remain in session until October 14, which would leave only 3 weeks, and that is not the best situation for those Members who are running for reelection. I do not happen to be running this year, but for those who are running for reelection, that creates problems for them.

I hope that Senators will see the position that the leadership is being put in, the kind of straitjacket the leadership is being put into, by this epidemic of filibusters that apparently is coming on with the dog days of summer and early autumn.

I would hope that the people of this country realize that the natural gas legislation has been before the Senate for 14 months—14 months—and we have had enough filibustering on the subject. We have had one of the most bitter, bloodletting filibusters that has ever been witnessed on the Senate floor over this very bill.

Now, I think the people ought to know that other important legislation will be backed up if we are going to have de-

lays forced upon the leadership by the kind of tactics we saw yesterday.

I hope all Senators will see this. I hope Senators will understand that if they have to come in on Saturdays and have to stay late evenings and have to come back after the election, that that is the price that is going to have to be paid for this kind of inordinate, unreasonable tactic that we saw practiced on the Senate yesterday.

Any Senator can use the rules; but so can the leadership. I feel that the leadership has a responsibility to act on the energy legislation, to get a vote up or down on it, to act on other high priority legislation before we adjourn this Senate sine die at the close of this Congress.

I merely say these things because I hope to be fair, I hope to be equitable with all Senators, and I hope that what I am saying is received in the spirit in which I offer it. It is a friendly, cautionary note, but it is a friendly, cautionary note that has the proper degree of firmness behind it, and the realism that we just cannot have this kind of delay and expect to complete our work, expect to be out early on Fridays, expect to be out on Saturdays, expect to adjourn sine die on October 7.

As far as I am concerned, October 7 is just a date which I would like to meet. But first we have to do our duty. Let it not be thought that any filibuster on this measure is going to be a one-cloture-vote filibuster, because this measure is just too important to the American people. It is important to the other countries of the world. The other countries of the world are going to hold this country responsible if America cannot reduce its dependence on oil imports. The natural gas bill is a very important factor in reducing oil imports.

So I say this not in any threatening manner, not harshly or in haste, but I realize what my duty is. I realize what we are up against. I realize the kind of workload the Senate has in front of it. I just want all Senators to know what the problem is and what we are all faced with, and I want the American people, as well, to know what we are up against.

The American people expect the Senate to act—with due deliberation, of course, but to act on energy legislation. I do not believe they are in a mood to tolerate continued lengthy filibustering on a piece of legislation that has been before the Senate 14 months and on which the House and the Senate have spent months and months and months in an effort to reach an agreement.

That is all I have to say at this time.

Mr. BAKER. Mr. President, I must say that I listened with great care to the remarks of the distinguished majority leader, not only because of the content and his assessment and analysis of the legislative situation with which we are now faced, but also because of my responsibility to the Members on this side to try to give them as much advance warning as possible on things such as late sessions or Saturday sessions, or even the possibility that this session will extend beyond October 7, on which many people have made plans.

I have listened with great care to the majority leader, and I want to state some of my impressions, so that the majority leader can correct me if those impressions are incorrect.

PROBABILITY OF SATURDAY SESSION

I gather from his statements and the general burden of his remarks that we are on notice that there may be a Saturday session this week. While that is now scheduled, it is not certain, and it depends on the degree of progress we make on the legislative schedule for the remainder of this week.

Mr. ROBERT C. BYRD. The Senator is correct. I do not want a Saturday session, but the Senator is precise.

Mr. BAKER. What I am trying to do is to assess the prospects of the probability of it, because as I said earlier, my responsibility to my members is to help them try to make plans for this weekend.

Based on what the distinguished majority leader has told me and the inferences I draw from it, I think I have no choice except to notify our members that they should plan for a Saturday session.

Mr. ROBERT C. BYRD. All Senators should plan for a Saturday session. I hope we will not have one. However, the progress we made yesterday was not very conducive to our completing our work without having a Saturday session. We may do very well the remainder of the week, and I would say it is 50–50 right now as to whether we will have a Saturday session. If we have more delays such as we saw yesterday, I see no way out other than a Saturday session.

Some Saturday sessions are absolutely useless and futile. We do not accomplish anything, except make a spectacle of ourselves.

If I may continue a little further, Saturday sessions are one thing; but when the crunch really comes, it all boils down to whether or not the Senate has completed its work by October 7. If it has not, we will have to come back after the election. As of now, that can be avoided if filibusters can be brought to an end and the Senate can complete its work on energy and other priority legislation.

Mr. BAKER. Will the majority leader give me as much notice as possible if, indeed, he finally concludes that we will have a Saturday session or that we are not going to have a Saturday session? Based on what I have said now, I am going to advise our Members to plan on a Saturday session. However, if they cancel plans now for Saturday and we do not have the session, it is almost as bad as if we have it. Could the majority leader let me know as far in advance as possible that he does or does not intend to have a Saturday session?

Mr. ROBERT C. BYRD. Yes, I will; and I will let the Senate know. I certainly will let the minority leader know, because he has a great responsibility not only to the Senators on his side of the aisle, but also, he bears joint responsibility with the Democratic leadership for getting the work done.

I would be embarrassed to say that we definitely will have a Saturday session and then not have it. I do not want to say that we definitely will have one unless there is a need for it. I do not want the spectacle of the Senate coming in and doing nothing, just to have a Saturday session or to have a few votes.

So I will be working with the minority leader in this regard. If we have a Saturday session, I want it to be a useful one, a productive one. Otherwise, it only hurts the Senate and impinges upon the arrangements of Senators. I do not want that. I already have secured consent to come in on Saturday morning, and whether or not we come in will depend on the progress we make beforehand.

Mr. BAKER. I thank the majority leader.

I should like to address myself to the substantive part of the majority leader's remarks.

ENERGY LEGISLATION

I think the Congress of the United States should have an energy package this year. I thought that last year, and I thought the year before that the Congress of the United States should have passed the energy package President Ford submitted, upon which no action was taken. I think we are now paying the price for an incoherent absence of an energy policy in the United States.

I had grave reservations about the program submitted by the administration in the first instance. I believe the administration's energy package was fatally flawed and that the deficiencies in that program have contributed to the burden of Congress in trying to rewrite an energy package.

The conferees now apparently have made great progress. I have not yet seen the conference report on the natural gas conference. I have not seen the work product of those conferees, and I will reserve judgment on whether I support that conference report until I can read and study it.

However, I want to be on record as saying that there should be an energy package. I may not vote for cloture if, indeed, a cloture motion is filed early on, because I want to see this very important matter discussed thoroughly; I want to see all the aspects ventilated carefully. But at some point, Congress should address itself to the question of what is the energy policy for the Government of the United States. We have not done it. We should do it. I hope the work product that the natural gas conferees are delivering to us will accomplish that purpose.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

NATURAL GAS CONFERENCE REPORT

Mr. ROBERT C. BYRD. It was my intention, and may still be my mode of operation, once the natural gas conference report is called up, to allow 2 days of debate before offering a cloture motion, which would mean that the Senate would debate the natural gas conference report for 4 days before it even votes the first time on cloture. Four days is a long time, when we have already been on this bill for 14 months and we have argued up the hill and down the hill; and we have fought and shed political blood. I think we should reach a decision on the matter.

All of us have voted. All of us have

made known our positions one way or the other. Everybody knows where each of us stands on this issue. I do not know why we have to continue this internecine warfare indefinitely.

It was my intention to wait 2 days. If we have the kind of tactics we had yesterday, then the filibuster already has started, and I will not be bound by any statement or promise I have made heretofore that I will wait 2 days to offer a cloture motion. We may not get cloture any sooner. But if that is going to be the modus operandi around here for the next few days, I may have to change my viewpoint and offer a cloture motion the very first day when the conference report is called up. We may not get cloture sooner, but will have more cloture votes than otherwise.

I want to be fair, equitable, and just. I want to give ample time for debate on the conference report, because Senators have a right to know what is in it, and only the conferees know. The rest of us do not know. The minority leader and I are not conferees. Senators have a right to study that conference report for 2 or 3 days before a cloture motion is entered.

But by the same token, the leadership is entitled to a little consideration and reasonable flexibility also, in its endeavors to carry out its duty here and move the legislation that has to be disposed of.

I hope I will not feel compelled to offer a cloture motion on the very first day the conference report is called up. I would like to wait a couple of days, a reasonable length of time, and then let Senators have the choice of voting for or against cloture.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. PROXMIRE. I asked the Senator to yield for two reasons.

In the first place, I support the distinguished leaders. I think the majority leader is absolutely correct, 100 percent right, in saying that the Senate has to act. I say that although I strongly oppose gas deregulation and have done so consistently and will vote against it. I am strongly opposed to the crude oil equalization tax. Both, in my judgment, are very inflationary.

The Senator is absolutely correct in saying that we have debated this matter over and over and over again. A day or two, or perhaps three, to consider the conference report may make sense. But I will vote for cloture, and I will do that with reluctance, because I am opposed to the bill.

But I think the majority leader is doing exactly what he should do, what he must do, what he has a responsibility to do in pleading with the Senate to act promptly on this.

It is time that we got it out of the way, and I support the Senator wholeheartedly.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

I respect those who oppose the conference report. I have no feeling about that at all. Vote the conference report down. That is one thing. It would just show that Congress does not intend to act on this question this year. But the idea of just prolonging the debate, holding other important legislation up, delaying Congress in doing its work, discommoding every Senator here, every Member of the House of Representatives is unreasonable and I hope that Senators rebel in their thoughts against this kind of prolongation of a debate that has been going on for 25 years concerning an issue on which every one of us has already established his position. When the conference report comes up, let us vote up or down and have it one way or the other.

Mr. PROXMIRE. I thank the Senator.

Mr. BAKER. Mr. President, I shall use 1 more minute. I wish to make sure my position is clear on the concluding remarks on this subject.

I think there should be an energy package, including a natural gas bill. I have not yet seen this natural gas bill. The report has not been published. In any event, I think it is so important that it deserves careful consideration by the Senate.

I will reserve judgment on whether I support the package, the conference report, as it is finally reported, or oppose it. But in any event, in order to guarantee that all of us have a chance to state our views, it is my intention to vote against cloture the first time.

I thank the Chair.

## PRIVILEGE OF THE FLOOR—S. 3075

Mr. BENTSEN. Mr. President, I ask unanimous consent that my staff members, Steve Ward, Janet Breslin, and Laura Katz, be accorded the privilege of the floor during debate on the International Security Assistance Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. MOYNIHAN) is recognized for not to exceed 15 minutes.

## SEMANTIC INFILTRATION

Mr. MOYNIHAN. Mr. President, shortly now the Senate will have occasion to examine American policy in southern Africa and to consider proposals to end American participation in economic sanctions against Rhodesia.

This is not a matter about which I could claim any special competence. My views have been, I believe, those of most Americans and my knowledge no greater. I have accepted without reserve the efforts of past administrations to impose and to maintain the sanctions ordered by the United Nations Security Council. As United States Permanent Representative to the United Nations I had some part in that effort.

Similarly, I have admired the efforts of the present administration to provide the good offices of the United States in bringing about majority rule in Rhodesia. I have, however, been troubled by what appears to me to be the undisciplined use of language with which American spokesmen and principal officers of the Government have addressed themselves to this problem.

The question of intention is not, to my mind, primary at this point. I rise, not to disagree with policy, but to ask whether the Secretary of State, cannot pursue our efforts in a more orderly and disciplined mode, which I feel he must do if he hopes to succeed.

In particular, Mr. President, I am talking about the phenomenon which Dr. Fred Charles Ikle—formerly professor of political science at MIT, later and most recently Director of the Arms Control and Disarmament Agency—has described as "semantic infiltration."

Some years ago, in a paper on American difficulties in negotiating with Communist countries, he pointed to the process whereby we come to adopt the language of our adversaries in describing political reality. He gave to this process the intriguing term "semantic infiltration."

I quote a passage from the paper he wrote on the matter. He said:

> Paradoxically, despite the fact that the State Department and other government agencies bestow so much care on the vast verbal output of Communist governments, we have been careless in adopting the language of our opponents and their definitions of conflict issues in many cases where this was clearly to our disadvantage. Or perhaps this is not so paradoxical. It might be precisely because our officials spend so much time on the opponent's rhetoric that they eventually use his words—first in quotation marks, later without.

Mr. President, this was a paper prepared by Dr. Fred Charles Ikle and called "American Shortcomings in Negotiating With Communist Powers." It was published originally by Rand.

I ask unanimous consent to have this paper printed at the end of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. These are concepts which are at the heart of today's major political conflicts. It is central to the controversy that attends relationships between the new government in Rhodesia and the rest of the world. For years now, the most brutal totalitarian regimes in the world have called themselves "people's democracies" or "democratic republics."

The term "people's democracies," according to Djilas, was coined by Stalin himself and given as part of the title of the new publication that attended the formation of the Cominform in 1947. Stalin wanted us constantly repeating the fact that the Cominform journal for "A People's Democracy" said such and such. Similarly, organizations in various parts of the world which seek to emulate and institute that manner of

regime have taken to calling themselves "liberation movements."

Now here is the problem.

For some time, the Secretary of State, who is a distinguished and capable American statesman, in referring to the parties to the dispute in Rhodesia, has spoken of "the Patriotic Front," on the one hand, and "the Salisbury group," on the other. I am quoting from notes of a public presentation in which he spoke about "the Patriotic Front and the Salisbury group."

Now, "the Patriotic Front" is made up of forces supplied by and backed by the totalitarian powers, the Soviet Union and China. One from the east and one from the west; one based on Mozambique, and one based in Zambia.

The "Patriotic Front" represents the armed component of totalitarianism, a philosophy which they openly espouse. They are elements of Soviet-Chinese power in that part of the world.

Who would not wish to be with "the Patriotic Front"? What man whose heart is not stirred by the prospect of joining the Patriots? Who, by contrast, would wish to be with "the Salisbury group"? It sounds like a mining concession put together by investment bankers in London.

Do not suppose there are not consequences. Years ago Disraeli, in one of the novels, remarked that "Few ideas are correct ones, and none can ascertain which they are. But it is with words we govern men."

On July 17, in a State Department briefing, the spokesman for the Department of State made the following statement:

> There cannot be a peaceful settlement unless the liberation forces and the Salisbury parties are satisfied. What we are seeking is an agreement by all parties to fair elections under neutral transition arrangements. Should the patriotic front make a demand which is inconsistent with fair elections, we would oppose it just as we would reject demands by the Salisbury parties which would deny fair elections.

Here the Department of State spokesman is referring to the armed guerrillas representing the—whether they represent I will not say, but certainly they are armed by the Soviet Union, certainly they espouse a totalitarian doctrine. The Department of State spokesman said we want "fair elections under neutral transition arrangements."

Mr. President, the use of those terms, the choice of those words, it is fatal to the object of neutrality. I repeat, the choice of such words is fatal to the object of neutrality. When you have described one side as the liberation forces and the other side as a group in the capital, you have summoned all the imagery of political legitimacy of the 20th century and put it on the one side and denied it to another. That is not only fatal to neutrality but, I suggest, it is fatal to clear thinking about this phenomenon.

Mr. President, this is not a trivial matter. For some years, I have been arguing that the West's political culture is endangered by the fact the vocabulary and the symbols of political progress are being expropriated by the opponents of our values. Democracy, as we understand it, is under assault from totalitarians masquerading as democrats—just as democratic socialism is under assault from totalitarians masquerading as socialists in Eastern Europe. Nonetheless, we persist in dignifying these enemies of freedom with the terminology of freedom—such that we persistently misdescribe the political forces arrayed against us.

It is thus important that we convey the impression that we understand the difference between national liberation on the one hand, and the progressive brutalization of politics which is being carried on by the Soviets in the name of national liberation. And, so far as southern Africa is concerned, the administration's policy has become controversial because many feel that it is simply losing sight of these distinctions.

I observe, for example, that this Washington Post refers to the government in the capital, as the "biracial" government in Salisbury. Just think how much more attractive it is just to say "the biracial government" as against the uniracial government. This is my point. Partisan words are not neutral.

I shall have more to say on this question as the debate unfolds. For now, I would add but one thought. The self-determination of peoples as a principle for international settlements—the issue in Rhodesia—is surely an American notion, made prominent by Woodrow Wilson. The very idea of representative government as an issue of statecraft is almost exclusively the result of sustained American policy for over half a century. The charter of the United Nations, which holds that a liberal society is a necessary qualification for states to participate in international life, is overwhelmingly the result not merely of Anglo-American theorizing, but of American political power in the world at large.

We need not be ashamed to express our proprietary interest in the notions of self-determination and representative government. And it is essential to our own well-being in the world that other nations not be permitted to distort these concepts into a shape which would exclude our own democracy from the proper definition.

Mr. President, I would close simply by suggesting, if I could use a term of nautical imagery, that at the very least the Department's acceptance of this language is unseamanlike. It is prejudicial to good order and to semantic discipline. It reveals a carelessness that verges on negligence or, alternatively, it reveals a private agenda that needs to be further explored in public.

I hope the Secretary of State will accept my remarks as a friendly comment on a matter which ought to be one of uniform good practice in the conduct of American foreign policy.

I thank the Chair for this opportunity to address the Senate.

EXHIBIT 1

AMERICAN SHORTCOMINGS IN NEGOTIATING WITH COMMUNIST POWERS

(By Fred Charles Ikle)

(NOTE.—The views expressed in this paper are those of the author. They should not be interpreted as reflecting the views of the RAND Corporation.)

The ability of the United States to negotiate with Communist governments is of great importance, even though new agreements are likely to be few and far between. Negotiations will shape the scope and content of strategic arms limitations (if any explicit agreements materialize), they will influence the implementation of existing arms control treaties (such as the nuclear test ban and the non-proliferation treaty), and they will determine our long-term relationships with China and the Soviet Union as well as the possibility of an agreed settlement to end the fighting in Indochina.

The opportunities for American diplomacy are circumscribed to a large extent by the depth of conflict and the restricted common interest between the United States and the principal Communist powers, as well as by the manner in which Communist governments tend to conduct their diplomacy. Yet, some leeway is left for American diplomacy to manage negotiations more or less skillfully, even though the objectives and tactics of our opponents create enormous difficulties. Or to put it differently, the external constraints—inhibiting as they are—do not preclude that some changes in the American approach could bring better results.

The manner in which we negotiate with Communist powers is conditioned by many factors, such as the training and style of American officials, the way in which our government is organized (permitting many agencies to operate like independent fiefs), and the influence of our news media (with their narrow focus on today's events and high tolerance for inaccuracy). None of these internal factors can easily be changed at will, but some improvement might result from a better understanding of how they influence and constrain our conduct of negotiations.

EXCESSIVE ATTENTION TO EPHEMERAL RHETORIC

The resources of the United States Government are limited, in terms of intellectual energy and attention that senior officials can bring to bear on a subject, in terms of man-hours the bureaucracy can devote to an issue, and of course in terms of budget dollars. Hence, any suggestion that our government should do more of some particular activity ought to be coupled with the realization that another activity will have to be reduced. At least this is true at a time when there are strong pressures to curb the size of the federal budget and the number of government employees. Accordingly, it may be more constructive first to suggest possible savings before recommending new efforts. Savings in this context mean primarily time and energy expended by government officials.

A type of activity that could stand trimming in our conduct of negotiations is the effort devoted to the interpretation or analysis of the opponent's spoken and written word. As a target of our attention, the opponent's verbal output should be contrasted with underlying forces that motivate his government (as well as the forces that do motivate, or ought to motivate our own government). These more basic forces include the domestic interaction and competition between officials and their agencies, military estimates and calculations that influence top decisionmakers, and economic pressures

and incentives. By contrast, the written and spoken word in negotiations with Communist countries consists largely of repetitious rhetoric.

It is perhaps necessary that our delegations at diplomatic conferences cable all this verbiage back to the State Department, and that the State Department, in turn, send copies of it to other government agencies. It seems less necessary, however, for dozens of people within the United States Government to pore over these words and to exchange memoranda back and forth as to what this or that sentence might mean and whether or not some subtle change in the opponent's position might be read between the lines of hour-long speeches.

Two factors might explain why the State Department and other agencies bestow so much tender care and scrutiny on all the written and spoken words that Communist countries tend to inject into negotiations. First, there is a widespread notion that Communist governments announce important changes in their negotiating position through subtle modifications in rhetoric or through slight nuances in the wording of their proposals. It is not clear why this notion has gained such currency. A study would show that changes in Soviet negotiating positions, particularly important ones, were announced to us almost always loudly and clearly and usually in quite short statements, while the undulations in wording and daily rhethoric were misleading as often—*or perhaps more often*—than serving as harbingers of new Communist positions.

For instance, in the Korean war, when the Communists were ready to begin armistice negotiations, Soviet Ambassador Jacob Malik clearly and simply said so in the United Nations, and there were no precursors to his announcement to be discovered between the lines of Soviet or North Korean propaganda statements. Indeed, prior to the Communist proposal for armistice talks, all the rhetoric and verbiage from China and North Korea pointed in the opposite direction: the North Koreans and Chinese kept demanding the total withdrawal of U.N. forces from *all* of Korea and the ouster of the South Korean Government. Our officials could learn nothing relevant to the armistice talks by reading Kim Il Sung's demands for "the complete liberation of all territory of our motherland" and the "complete destruction of the American aggressors and the remainder of the Syngman Rhee puppet forces."

It is true that Malik's initial armistice proposal left unclear whether other Communist demands (such as on Formosa and China's seat in the United Nations) were still linked to it. But this ambiguity was not resolved through some subtle exegesis of Communist rhetoric, but only through additional, rather clear-cut statements from the Communist side.

Again, after two years of these armistice talks at Panmunjom when the Communist side in the Korean war was finally ready to end the fighting, they said so unmistakably; whereas most of their prior rhetoric added little to our information about the Communist position. Similarly, when the Soviet Government was willing to finalize and sign the Austrian State Treaty, it communicated this change in its position to the Western powers and to the world, swiftly and clearly.

A second reason why such disproportionate attention is being paid to words and rhetoric may be the specialization of the State Department—the agency within our government that normally plays the key role in negotiations. What is the "commodity" that the State Department can dispose of? When this question was recently raised by a high ranking Albanian on a state visit in Washington, he was told: "Several government departments contribute to our foreign policy. Treasury and Commerce are concerned with the exchange of monies and goods with foreign countries, the Government Accounting Office sees to it that these monies and goods aren't pilfered (at least not by U.S. officials), Agriculture tries to dispose of surplus foods, and Defense is in charge of the deployment and operations of our military forces abroad." And the State Department? "State is in charge of the exchange of words with foreign governments."

It would, of course, be inaccurate to say all that is left for the State Department is the government-to-government traffic in words. The planning of foreign policy is predominantly (though not exclusively) the concern of the State Department. It is a fact, however, that the enormous volume of cables to and from the State Department deals largely with the verbal output of other governments, on-the-record and off-the-record remarks in conferences, and reports on foreign news media. Moreover, a large fraction of internal State Department memoranda are likewise devoted to the verbal output, particularly in negotiations with Communist countries.

One would like to see the results of a time-study as to how the State Department's staff allocates its working hours. What percentage is focussed on words as such? (E.g., on such questions as: Does the recent Soviet proposal show some flexibility? Did the Polish Foreign Minister by saying "cannot" instead of "will not", indicate that our proposal was unacceptable? Is last week's editorial in *People's Daily* milder in tone? By contrast, what percentage of working time is devoted to incentives and more basic forces (which may or may not be reflected in these words)? For instance: military pressures (have the troops on the Sino-Soviet border increased?); internal motivations and conflicts within the opponent's bureaucracy (is the Polish Army facing a budget cut and putting pressure on the Foreign Ministry?); and economic incentives (is China stepping up its purchases from Western Europe?).

An important qualification must be added here. The point about exaggerated attention to the rhetoric does not apply to negotiations between Communist governments nor to discussions within Communist governments. For these domains it does pay to look for slight changes in language and to search out the hidden meaning of Aesopian expressions. Furthermore, the fact that paying attention to words shows rapidly diminishing returns does not mean that one can afford entirely to ignore what Soviet or other Communist diplomats have to say. It goes without saying that our diplomats must listen carefully to their interlocutors and report the essence back to the State Department. Also, a few specialists within the United States Government might usefully search for signals and clues in the many words that keep pouring in during prolonged negotiations. But these tasks should not become the preoccupation of many people, and above all, they should not be mistaken as the essence in the management of negotiations.

PETTIFOGGERY

Related to the excessive attention to ephemeral rhetoric is the tendency to get lost in tactical detail. The way in which negotiations with Communist powers are managed within the American Government permits small tactical moves to develop a life of their own. If this drift goes on unchecked, small tactics will displace the very objective of the agreement that is under negotiation. A great many capable officials are then forced—or will force themselves—to labor intensively on these details like pettifogging lawyers.

An episode in the test ban conference illustrates how the concentration on tactical detail can divert the United States Government from the main purpose of negotiations. The test ban talks lasted about five years, over four of which were taken up by the question of an international inspection system for detecting underground tests (the Soviets wanted underground tests to be prohibited along with atmospheric ones). The characteristics and organization of this inspection system remained the stumbling block to agreement. While the Soviets had initially consented to accept a verification system based on scientific requirements, they objected to almost any form of neutral or United States inspection within their borders. In face of this resistance, the American negotiating tactics became more and more involved, with one tactical scheme chasing another until the American negotiators kept meeting each other at the back door, instead of confronting the Soviet opponent.

The story is an intricate one with many steps: (1) the United States took the position that an inspection system based on "scientific" requirements ought to be agreed on, in the hope that the Soviet Government would somehow be forced to accept what our scientists could prove to be scientifically correct. (How could Moscow be so uncouth as to disagree with scientific truth?) (2) Hence, the test ban negotiations were started with the Experts Talks, a conference that was to settle, in the spirit of an academic seminar between Eastern and Western scientists, what sort of an inspection system was "needed". (3) After these Experts Talks had produced an agreement on an inspection system, if only in sketchy outline, the U.S. Government discovered to its dismay that more recent technical data necessitated a revision of this system. (4) The Soviets, trying to minimize any inspection, refused to go along with this revision. (5) In the hope of convincing the Soviets, the American negotiators proposed a joint Russian-American research program to get at the bottom of this alleged dispute. (Did the American negotiators really expect to change the Soviet position through research findings, or were they trying to gain a better rhetorical argument?) (6) At last, after prolonged haggling, the Soviets agreed to some undefined "joint" research program. (7) But now, in the American opinion, this research program necessitated tests with actual nuclear weapons, to discover what kind of seismic signals they would generate. (8) At the same time, however, the United States still felt committed to continue the voluntary moratorium on nuclear weapons tests which had been in effect almost since the negotiations began. (9) Given its adherence to this moratorium, the U.S. Government therefore decided that it should obtain Soviet consent to the use of nuclear devices in the seismic research program, lest it be accused of breaking the moratorium. (It may be recalled that Khrushchev defiantly broke this moratorium a year later anyhow.) (10) At this juncture, the U.S. negotiators thought they might obtain such Soviet consent if they could only demonstrate to Soviet technicians that the weapons to be used were actually old ones. (11) Yet, showing to Soviet officials the weapons to be used for seismic tests would have violated the Atomic Energy Act, as long as the design of these weapons constituted classified information. (12) The solution to all this? The design of these nuclear devices was to be declassified.

In July 1960, the Committee of Principals, the high ranking American group in charge of the test ban negotiations, actually labored

on the twelfth link of this chain.[1] Soon thereafter the Soviet Government lost all interest in this "joint" seismic research program and hence, the elaborate American scheme never came to fruition. This was probably fortunate, for the declassification of nuclear weapons—even if only long enough to be shown to Soviet representatives—might have reduced inhibitions against nuclear proliferation to other countries (while the results of the research program would scarcely have changed the Soviet position on inspection). Yet, to strengthen these inhibitions was precisely one of the principal purposes of the test ban treaty. Having established the principle of declassifying primitive weapons designs, other countries in other situation or international bodies might have exerted pressures to turn this principle into a more general practice. The power of such pressures is amply shown by the efforts to broaden the so-called peaceful uses of atomic energy and to promote the Plowshare program (the use of nuclear explosives for excavations).

In an earlier episode in the test ban negotiations, the United States Government likewise pursued subsidiary tactical aspects, at the expense of the more fundamental objective of curbing nuclear proliferation. And in this instance the consequences were far more serious. In 1958, when the test ban negotiations started, the United Kingdom was the only country, apart from the Soviet Union and the United States, that had tested nuclear weapons. At that time, the U.S. Government felt it was important that the United Kingdom participate in the test ban talks. Perhaps this conclusion was reached as if it was a matter of course, without scrutinizing the underlying assumptions. At any rate, the British Government took full advantage of this American desire to have them included by arguing they could not agree to stop testing unless they received American assistance for their weapons development so that they would not be left behind in nuclear technology. Secretary Dulles seemed to accept this argument and urged Congress, for this reason, to revise the Atomic Energy Act so as to permit nuclear weapons assistance to the United Kingdom.[2]

Thus it came to pass that the first contribution of the test ban negotiations was to *enhance* nuclear proliferation. This amendment in the Atomic Energy Act, favoring the British weapons development, became a spur to other countries, in particular France, to move ahead with their weapons development, while exacerbating our strained relations with De Gaulle. Ironically, once the Macmillan government in London had obtained this deal, it began to act as broker between the United States and the Soviet Union, quite often pressing the United States to offer concessions on the inspection issue.

More recently, the negotiations on the Non-Proliferation Treaty led to similar detours in favor of secondary tactical objectives. The United States favored some form of international inspection of peaceful atomic energy programs. But many of the countries without nuclear weapons, yet interested in atomic energy programs, argued such inspection would be discriminatory since it would not apply to countries like the Soviet Union or the United States. The United States Government then chose to counter this argument by offering to let its own non-military facilities be inspected. If the less developed, or other non-nuclear countries hold the United States to this offer, it may turn out that the International Atomic Energy Agency will use up a large portion of its inspection capability and budget for a pro forma inspection of American power and research reactors. From the point of view of discouraging proliferation, such inspection obviously would make no sense at all. The United States, as a nuclear weapons state, is allowed under the Non-Proliferation Treaty to have nuclear weapons facilities; hence it has no incentives whatsoever clandestinely to divert weapons materials from its power reactors to its weapons program.

SUCCUMBING TO SEMANTIC INFILTRATION

[Paradoxically, despite the fact that the State Department and other government agencies bestow so much care on the vast verbal output of Communist governments, we have been careless in adopting the language of our opponents and *their* definitions of conflict issues in many cases where this was clearly to our disadvantage. Or perhaps this is not so paradoxical. It might be precisely because our officials spend so much time on the opponent's rhetoric that they eventually use his words—first in quotation marks, later without.]

Communists have always cultivated the use of slogans, both for domestic purposes and for the purpose of what might be called a "semantic infiltration" of Western countries. That is to say, they try to make us use *their* labels of conflict issues, so that *their* definition of right and wrong will eventually prevail. One of Milovan Djilas' revelations about Stalin illustrates this point. In 1947, when the Soviet Union created the Cominform (a new organization to coordinate Communist Parties) Stalin himself thought up the name for its official publication: *For a Lasting Peace—For a People's Democracy*. Stalin's idea was that the Western press would have to repeat this slogan each time it quoted something from this journal.[3] Although Stalin had the right idea, his expectation in this case was disappointed, probably simply because the name was too long.

While our senior officials and our news media did not repeat "For a Lasting Peace—For a People's Democracy" whenever they discussed some Cominform statement, they now frequently use the label "wars of liberation" when referring to internal wars and campaigns of terrorism aimed against non-Communist governments (never for internal wars against Communist governments, mind you!). Since the early 1960's several Presidents, Secretaries of State, and other United States officials have used this expression. To be sure, always within quotation marks, but the news media tend to dispense with that encumbrance. What is remarkable is not this occasional usage, but that nobody seems to ponder about it.

The issue here is not the merits or mistakes of the current American war effort in Vietnam. Except in the eyes of a minute fringe in American society, the reasons against this war are not that the United States is fighting against liberation. The reasons have to do with the costs of the war, particularly the social repercussions at home, the deaths and destruction inflicted on noncombatants, or the shortcomings of the South Vietnamese Government. Those who oppose the current American involvement in Vietnam on these grounds—at least within the spectrum of opinion reflected in Congress—should find the label "war of liberation" as offensive as those who favor our current Vietnam policy. Indeed, the fact that American officials began to use this label in the early 1960's—with reference not just to Indochina but also to other internal wars or wars of terrorism—may have been indicative of the muddled thinking that found its way into our earlier planning of Vietnam policy. By simply adopting the opponent's term and sticking it into quotation marks, our officials might have avoided thinking through as to what kind of war they were actually getting into and how we should cope with it.

Let us look at another and perhaps even more insidious example of "semantic infiltration." Some ten years ago the State Department inexplicably decided to permit the use of the term "Socialist Countries" to refer to the East European countries under the control of Moscow. Gradually, this expression began to filter into government language and the news media. The official and non-official use of this expression has several deleterious effects:

(1) It is insulting to our Socialist friends in Austria, West Germany, England, Sweden, and elsewhere.

(2) It can be exploited by far-rightist opponents of our Socialist friends, to argue that Socialism and Soviet-controlled Communism are all the same, and to undercut efforts, such as by the more libertarian-minded Italian and French leftists, to rally Socialist forces against neo-Stalinist Communism.

(3) It helps the neo-Stalinists to pretend that their conflict with the United States and other Western countries is all about the choice between Socialism and Capitalism. This makes it harder for libertarian forces in Eastern Europe and within the Soviet Union to work towards a more open and freer political order without giving the appearance of wanting to restore "Capitalism" (by which the young generation in Eastern Europe and Russia usually envisage something out of Charles Dickens).

(4) Worst of all, it seems to sanction the Brezhnev Doctrine, implying that these countries under Moscow's imperial control are all distinguished by the one fact of being Socialist states and that any change in their status could mean only a "return to Capitalism." Where does this leave Yugoslavia, for instance? In the official U.S. Government vocabulary, is Yugoslavia one of the "Socialist Countries"? Hence, does the United States Government signal to Moscow that it would tolerate a 1968-style invasion by Soviet divisions? Or is Yugoslavia not "Socialist"?

Other forms of "semantic infiltration" could be cited, such as President Eisenhower's unfortunate slip of agreeing with Khrushchev that West Berlin's situation was "abnormal." This was later properly corrected by the Eisenhower Administration, by making it clear that what was abnormal about West Berlin was not its free parliamentary institutions and its open links with the West, but the fact that the political order in the area surrounding it was such that these arrangements should be considered threatening.

TREATING SOVIET EVALUATIONS AS IMMUTABLE

Our government, by spending less time pursuing small technicalities and analyzing the flow of words, might be able to devote more energy to the essential aspects of negotiation. On many issues, a strong effort is required to modify the opponent's position so as to reach an acceptable agreement. This must be done not so much through clever tactical tricks, but through a sustained policy of inducements and pressures.

Nearly all agreements between the United States and the Soviet Union were preceded by long negotiations: The Austrian State

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[1] Harold K. Jacobson and Eric Stein, *Diplomats, Scientists and Politicans* (Ann Arbor: University of Michigan Press, 1966) p. 265.

[2] *Amending the Atomic Energy Act of 1954*, Hearings Before the Subcommittee . . . of the Joint Committee on Atomic Energy, 1958, pp. 452–453.

[3] Milovan Djilas, *Conversations with Stalin* (New York; Harcourt Brace, 1962) p. 129.

Treaty was under negotiation for ten years, the nuclear test ban for five to eight years depending on how one counts the beginning, the civil aviation agreement and the consular convention were the subject of intermittent negotiation for ten years, and a simple matter like the hot-line took more than a year to settle if one counts the time from the first U.S. proposal. (The technical talks implementing the hot-line, once the Soviets had agreed in principle, were smooth and swift.) Similarly, the negotiations with North Korea and Communist China to end the Korean war lasted for nearly two years.

During these protracted periods of bargaining, the positions on both sides changed—in many cases quite substantially. After all, one of the most essential aspects of negotiation is the lack of a firm scale for measuring gains and losses. The dividing line between a gain and a loss is not given by Nature, but is the result of partly explicit and partly intuitive evaluations within government bureaucracies. And these evaluations are themselves influenced by the bargaining process. (Changes of evaluations within a government should not be confused with the granting of a concession, although for the opponent they might have the same effect: If a government grants a concession, it decides to reduce its initial position in order to render it more acceptable to the opponent; but if a government undergoes a re-evaluation of alternative outcomes in a negotiation, it changes its views as to what arrangements are good or bad and how the pluses and minuses ought to be weighted in order to draw the balance.)

This fundamental feature of negotiation has never been adequately recognized by our government. All too frequently, the positions of Communist powers are viewed as immutable. During the formulation of the United States negotiating position within the State Department and in interagency groups in Washington, it happens often that a possible American proposal or a Western demand is voted down as being "unacceptable" to the Communist side. But by classifying certain proposals as "unacceptable" to the opponent, our negotiators and policy-planners in fact make them so. Since the positions of Communist governments, much as our own, tend to change only gradually under the influence of negotiation, our abstaining from "unacceptable" demands denies us a possibility of modifying a Communist position.

The Austrian State Treaty is a good example. Here, the United States and its Western allies remained clearly committed to a free Austria and kept pressing the Soviet Union with "unacceptable" proposals. Finally, in 1955, the Russians realized that it would also be to their advantage to end the partition and occupation of Austria. Similarly, a partial test ban (i.e. excluding underground tests) seemed unacceptable to the Soviet Government throughout most of the test ban negotiations. Therefore, our negotiators advanced the proposal for a partial ban only from time to time and almost with a feeling of hesitation. But after the Cuban missile crisis, when the inspection arrangements for underground tests still were deadlocked in disagreements, Khrushchev realized that a test ban confined to atmospheric and outer space tests would have advantages from the Soviet viewpoint as well. Thus, one of the principal postwar disarmament agreements was realized on the basis of what part of American officialdom classified as a proposal "unacceptable" to the Soviet Government.

During Stalin's Berlin blockade in 1948–49, the Western powers tried for many months to repurchase their rights of access (that they had obtained in 1945) by offering a new concession. The Western powers volunteered to compromise on the currency (the new West German mark) that they had planned to use in their sectors of Berlin From the outset, they assumed that Stalin had to be bought off to make him lift the blockade. Even after the airlift had been proven most successful and West Berlin's morale brilliantly withstood Soviet pressures, the Western powers still could not agree to inform Stalin that they would retain full control over the currency in their sectors of Berlin. Western negotiators argued that this would be "unacceptable" to the Soviet Government. A couple of months later, Stalin accepted the "unacceptable" and the Berlin blockade thus came to an end. If, on the other hand, the Western powers had not been saved from their own mistake and had bought off Stalin by giving the Soviets some control over West Berlin's currency, this very compromise would probably have led to new conflicts in no time. How could West Berlin's independence have survived Soviet control over its currency?

Additional instances could be found of Communist governments changing their position only after prolonged negotiation. Yet, these cases might be more numerous had the U.S. Government pursued some good causes with greater perseverance and conviction. We will never know what agreements could have been obtained had we tried harder. The point here is not that we should brusquely confront the Soviet and other Communist governments with all kinds of far-reaching demands. What is needed is that on essential issues we pursue a sustained policy of inducements and pressures to gradually change their position, even if this seems quite unpromising initially.

MISJUDGING CHANGES IN OUR OWN VALUES

Our own evaluations also change under the impact of prolonged negotiation. In many cases, these revisions did not simply lead to Communist gains but actually turned out to be in the American interest, too.

During the prolonged negotiations on the Austrian State Treaty, the United States Government was reluctant to have Austria committed to a permanently neutral status. Yet, today this outcome seems to accord fully with American and NATO interests. Likewise, in the 1950's, the U.S. Government was initially reluctant to develop cultural exchanges and to let trade with Communist countries expand. Today, most American officials would view non-strategic trade and genuinely bilateral cultural exchanges as being to our advantage. Similarly, limitations on nuclear weapons, such as the test ban and nuclear free zones, became only gradually acceptable within the U.S. Government. Today, these limitations are largely viewed with favor, or at least not found to be harmful, in the Defense as well as in the State Department.

It is essential, however, to distinguish two types of shifts in our own evaluations. On the one hand, there are those reevaluations where we have come to see an issue in a different light so that we can accommodate some of the Communist demands without impairing our national interests or those of our allies. On the other hand, American (and more generally Western) evaluations can erode in such a way that Communist powers make long-term gains while we delude ourselves that nothing has changed. And some of these Communist gains in the past have been particularly undesirable in that they brought unhappiness to many people through an expansion of Stalinist repression or in that they increased the dangers of war. (Naturally, these two types of changing evaluations represent a range where various outcomes may fall in between.)

Since this distinction is so important, it seems worthwhile to analyze a few cases from hindsight so as to appraise whether they represent a useful reevaluation of U.S. objectives that facilitated agreement with a Communist power, or whether they represent an erosion of our evaluations that concealed a genuine deterioration in our position. The examples of the test ban and the Austrian State Treaty serve to elucidate the former.

In the mid-1950's, senior U.S. officials believed that arms control agreements restricting nuclear weapons, such as the test ban, would reduce the deterrent inherent in American nuclear superiority, perhaps by hobbling the future development of American nuclear weapons technology while permitting the Soviet Union to move ahead, perhaps by leading to political pressures against American nuclear weapons overseas. Today, these fears do not appear to have been well-founded.

The recent gains in Soviet strategic capability—judging from Congressional testimony—must be primarily attributed to strong Soviet efforts in expanding their delivery capability, not to restrictions on the American development of nuclear weapons technology that could be attributed to the test ban.[4] As to political pressures against American nuclear weapons, the fears of some American officials in the 1950's also have not been borne out. Public concern about nuclear weapons is lessened today, unjustified as this seems. Indeed, some of this public tolerance or apathy (however one looks at it) may be precisely the result of the test ban. That is to say, if it had been Khrushchev's aim in the late 1950's to reduce the effectiveness of the American nuclear deterrent—against attacks on American allies, for instance—his promoting the test ban would have been counter-productive. What American officials feared in the late 1950's was that public pressures against nuclear weapons could restrict the effectiveness of the American deterrent, at least to the extent that it was based on (or thought to be based on) an overseas deployment of nuclear weapons. But as far as can be judged today, had Khrushchev's insistence not led to the nuclear test ban, such limitations on nuclear weapons might have become more, rather than less, widespread.

Another reevaluation of a negotiating position occurred within the U.S. Government regarding the above-mentioned issue of Austria's neutrality. One has to consider the historical background against which the American position on Austria had to evolve. The early 1950's, we must remember, were under the shadow of the Communist takeover of Czechoslovakia in 1948 and the North Korean attack on South Korea in 1950.

Czechoslovakia had never been "signed over" to Soviet control by the Western allies

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[4] It has been argued that the Soviet Union might have gained an advantage by suddenly breaking, with its big test series in 1961, the three-year-old moratorium on nuclear tests (including underground). But this is quite another matter. Under the current test ban treaty, a sudden resumption of atmospheric tests should not give the Soviet Union a major lead, provided the Atomic Energy Commission maintains its research and development program in accordance with the promises given to the Senate when the test ban treaty came up for ratification. The 1961 experience, though, is sobering in connection with the suggestion for a moratorium on MIRV tests.

at the end of World War II, neither at Yalta, nor in Churchill's famous-infamous percentage deal, nor at Potsdam. Czechoslovakia, as seen from Washington and London, was meant to remain "neutral" between the Soviet Union and the Western powers, or, as it was put in those days by the Czech President Benes, it was to become a "bridge between East and West." American forces had liberated part of Czechoslovakia from Nazi occupation—much like in Austria—and for two years a parliamentary and relatively independent government ruled in Prague, wit the Communists in a minority.

Then, on top of the Communist takeover of Czechoslovakia came Korea. Both Soviet and American troops had been withdrawn from Korea, yet the full scale aggression occurred only one year after the last American forces had left the country. Small wonder, therefore, that American officials were reluctant to deny Austria the possibility of protection through an alliance with the West. Anyone could see that, once the Western forces were withdrawn, Austria would be as encircled by Communist territory as Czechoslovakia was in 1948.

Yet, with the benefit of hindsight it can be said that our acceptance of Austria's neutrality was a risk well worth taking. The critical difference between Czechoslovakia and Austria lies precisely in the manner in which the Western powers permitted their evaluations to shift. In Czechoslovakia, the Western powers tolerated a continuing reduction in their influence during 1946 and 1947 and did nothing to discourage the Soviet Union from preparing a takeover. In Austria, the Western powers insisted from the outset that they wanted to have troops in Vienna as long as the occupation lasted, and in their diplomacy continually kept the expectation alive that Austria should become fully independent. When this effort was at last crowned with success in 1955, the United States did not write off Austria as Czechoslovakia was written off by the West after American and Soviet forces had liberated that country in 1945.

Thus we can see that on some issues (such as restrictions on nuclear weapons and Austria's neutrality) the reevaluations that took place within the United States Government turned out to be in the national interests. On other issues, however, our shifting evaluations have camouflaged serious deteriorations in the relationship between the United States and Communist powers.

One such issue is the transition from colonialism to the Brezhnev Doctrine. Since World War II, the Western colonial powers have divested themselves of their colonies at a rapid pace. In the 1950's and 1960's, this divestiture was often a painful process, with the United States frequently getting caught in the sequel through its alliances, as well as for other reasons. At the same time, the Soviet Union posed as the champion of anticolonialism with considerable success.

In the 1950's, American policymakers were looking forward to the day when most Western colonies would be independent, expecting that the pressures against the Soviet version of colonialism would then mount, both internally and externally. Ten to fifteen years later, the colonies of Western powers have indeed shrunk to a few remnants; but Soviet colonialism and imperialism, while subject to internal stresses, has escaped sustained external criticism, let alone more serious pressures from without.

The Soviet invasion of Czechoslovakia made it clear to most nations, at least temporarily, where the world's last big empire was being ruled from. But very quickly thereafter, American diplomacy fell back into its defensive stance. Something happened to the evaluation of colonialism and imperialism within the United States Government. The calibration by some of our own officials of past and present trends shifted, so that what our allies relinquished (partly with American prodding) is not being credited to the West, while what the Soviets captured or recaptured by using overwhelming force is being assigned to them as if it was theirs through Natural Right.

Thus, after we encouraged France to give independence to Tunisia, Morocco, Algeria, and her other African colonies, after we supported the British in granting full independence to their colonies in Africa (some of which became ruled by Marxist governments), and after we did not intervene in Libya despite the coup that led to a proleftist government, we still feel embarrassed that one of our allies, Portugal, is holding on to her African colonies. This is as if the Soviet Union, having permitted Poland, Czechoslovakia, East Germany, Rumania, and Bulgaria all to choose their own road to independent forms of Socialism or Capitalism, still felt embarassed because it continued to exercise control over Outer Mongolia. (For this comparison it is worth recalling that while the Russians expelled Nazi Germany from Poland, Rumania, and parts of Czechoslovakia, the British forces expelled Fascist Italy from Libya, which until then had been an Italian colony.)

The agonizing prolongation of the war in Indochina and mistakes of our past policy on Vietnam, of course, contribute to such reevaluations on the part of American officials that blur and distort the historical record. The fact that the United States Government, or at least a major part of American officialdom, lost sight of the transition from Western colonialism to the new imperialism of the Brezhnev Doctrine naturally tends to produce similar misperceptions among public opinion in the United States and abroad—only more so and with a far greater neglect of historical facts.

More specifically, this distortion and false reevaluation of past and present trends often takes the following form: Some American officials, deeply (and justifiably) concerned about the problems in Vietnam, tend to equate American foreign policy in what they call "our sphere of interest," on the one hand, with Soviet (or Chinese) foreign policy in areas that they allocate to the Soviet (or Chinese) "sphere of interest," on the other. The rules by which these spheres are to be carved up are somewhat unclear: geographic contiguity seems to impress people (nonetheless Iran and Turkey are usually not—or not yet—allocated to the Soviet sphere). All of Indochina is clearly assigned to the North Vietnamese Chinese, or Soviet sphere of interest, or all three. According to these Americans, it seems most natural, and in some sense "just," that the Soviet Union should help North Vietnam in fighting the American effort to support South Vietnam against North Vietnamese encroachments and attacks: Not because an ally of one-half of a country is always justified in helping his side to take over the other half—for that would mean that the United States would be justified in helping South Vietnam to take over North Vietnam or in helping West Germany in trying to take over East Germany.

Valid reasons against the American effort to support the South Vietnamese government might be that it is so terribly costly to us, destructive, and uncertain of success. But for those Americans who want to blur the differences between Soviet and American foreign policy, these weighty reasons are not enough. They argue, we should never have become involved in South Vietnam "because it is not in our sphere of interest." They draw a parallel between Khrushchev's attempt to put missiles into Cuba and the American effort to support South Vietnam, concluding that as Khrushchev was forced to pull his missiles out of "our sphere," so we should pull our forces out of "their sphere." They argue that Latin America is "our part" of the world, exactly in the same way that Eastern Europe is Russia's part of the world or Indochina is the North Vietnamese part of the world.

Given that this view has gained considerable currency in the United States, it may be useful to make plain what it would in fact mean if Latin America were in the United States' part of the world in the same way that Eastern Europe is in the Soviet part of the world, and if the outcome of the Cuban missile crisis was applied—with "spheres of interest" reversed—to South Vietnam.

Leonid Brezhnev, in a speech on November 12, 1968, regarding the Soviet role in Czechoslovakia, explained the rules for Soviet foreign policy as follows:

". . . when the internal and external forces hostile to socialism seek to revert the development of any socialist country toward the restoration of the capitalist order, when a threat to the cause of socialism in that country, a threat to the security of the socialist community as a whole, emerges, this is no longer only a problem of the people of that country but also a common problem, concern for all socialist states."

A translation of this official guideline for Soviet foreign policy into what would be a mirror image of the rules for American policy in "our part of the world," reads as follows:

". . . when the internal and external forces hostile to Capitalism (or parliamentary government) seek to divert the development of any non-Communist country toward the installation of the Communist order, when a threat to the cause of Capitalism (or parliamentary government) in that country, a threat to the security of the non-Communist community as a whole, emerges, this is no longer only a problem of the people of that country but also a common problem, concern for all non-Communist states."

Applied to Cuba, this would mean, not the widely praised outcome of the missile crisis, but the widely attacked Bay of Pigs policy carried out with a vengeance. And applied to South Vietnam, where "internal and external forces hostile to Capitalism seek to divert the development of a non-Communist country toward the restoration (or in this case, rather "installation") of the Communist order" this rule would, of course, support American intervention.

A *Pravda* article (September 26, 1968) shortly after the invasion of Czechoslovakia argued:

. . . the antisocialist forces in Czechoslovakia, through their talk about the right of nations to self-determination, in essence were camouflaging the demands for so-called neutrality and for the Czechoslovak Socialist Republic's withdrawal from the socialist community.

Translated into the spheres of interest language and applied to Cuba, this would read:

. . . the Communist forces in Cuba, through their talk about the right of nations to self-determination, in essence were camouflaging the demands for so-called neutrality and for Cuba's withdrawal from the non-Communist community.

The *Pravda* article then explains the correct policy to be taken in this case:

The fraternal Communist parties of the Socialist countries took measures over a long period with the maximum restraint and patience in order to help the Czechoslovak people to suppress the offensive of anti-Socialist forces in Czechoslovakia by political means. And it was only after they had exhausted all these measures that they began the entry of the armed forces.

Again applied to Cuba, this would mean after the United States had "exhausted all these measures" that it "began the entry of the armed forces."

However, some Americans should be old enough to recall that this was not the outcome agreed to between Khrushchev and President Kennedy in settling the Cuban missile crisis. On the contrary, President Kennedy, in replying to Khrushchev's famous letter of October 26, 1962, offered "to give assurances against an invasion of Cuba," adding "I am confident that other nations of the Western Hemisphere would be prepared to do likewise."

In the spheres of interest imagery of some American spokesmen, a transposition of the Cuban missile crisis and its settlement onto Vietnam would look as follows: The United States puts *nuclear* missiles into South Vietnam. An acute crisis ensues between the United States and the Soviet Union and China. The crisis is settled by the American President withdrawing the nuclear missiles from South Vietnam in exchange for which the Soviet Union and China agree "to give assurances against an invasion of South Vietnam," adding the implied promise of curbing their allies from invading South Vietnam by stating that they are "confident that other nations of Southeast Asia would be prepared to do likewise."

Fudging these fundamental differences will not help international reconciliation in the long run, it will merely reduce the pressures toward greater independence among Communist countries and make Soviet imperialism seem legitimate and accepted.[5] Many American officials ably expound the urgency of discovering and cultivating common interests in negotiations with Communist powers and of healing the fissures of conflict. This is all to the good. Yet, successful long-term bargaining requires not only flexibility but also perseverance, not only conciliation but also counteroffensives, not only understanding for the opponent's fears but also understanding of his bad sides. American negotiators are great conciliators in working with allies (far better than Communist negotiators), but they sometimes lack perseverance in pursuing their cause against a hostile environment. The world is not so kind to us that we are likely to succeed where we lack the will to win. The difference between American behavior in "our sphere of interest" and the Brezhnev Doctrine must not be lost.

[5] Some American officials shrink back from confronting the Soviet Government with its imperialist record for fear that this would be "provocative." Indeed, Soviet spokesmen react vehemently against Western efforts to set the record on colonialism straight. Some years ago, I argued that Western diplomats, in defending themselves against Soviet charges of colonialism, did not frequently enough elaborate on the Soviet manifestations of imperialism and colonialism (*How Nations Negotiate* [New York: Harper & Row, 1964], pp. 240–241). A Soviet writer who appears to be associated with the Moscow Institute for International Relations (which is affiliated with the Soviet Foreign Ministry) became quite excited about my two pages. He argued that it was "unimportant to me, that the raising of these questions has a clearly provocative character and does not in any extent correspond to the actual situation either in Soviet Central Asian Republics or in Socialist Countries in Eastern Europe" (R. A. Tuzmukhamedov, *Otvet Klevetnikam* . . . [A Reply to Slanderers: The Self-Determination of the People's of Central Asia and International Law], Moscow, 1969, p. 14). I had written these pages before official Soviet justifications of the 1968 invasion of Czechoslovakia made the fact of Soviet imperialism so loud and clear. It is precisely because of their factual content that "the raising of these questions" touches a raw nerve among those who have to defend Soviet foreign policy.

WHAT CAN BE DONE?

Improvements in the operations of the United States Government cannot be realized unless they are designed to take account of the incentives and constraints that govern the interaction among the government's branches and agencies as well as among the officials within them. This is true in the national security area as much as in domestic policy areas. Thus, to change the conduct of negotiations with Communist countries one would have to modify such factors as the bargaining process between the State and Defense Departments, career considerations of Foregin Service Officers, and the impact of news media on foreign policy planning.

Even a seemingly simple change, such as reduction or refocussing of the State Department's cable traffic (for instance, to shift away from the emphasis on the opponent's rhetoric) cannot be instituted easily. That is to say, if the Secretary of State desired such a change, he could not simply request it one morning and expect it to last without modifying a number of other practices. Foreign Service Officers expect to get rated, in part, on the basis of their reporting, and might fear that silence would not be rewarded even if there is nothing important to report.

During the formulation of a negotiating position, a certain amount of bargaining among departments and agencies is common within our government; (except during fast-moving crises, such as the Cuban missile crisis, when the bureaucracy may be largely left out of the decision process). The exigencies of this internal bargaining sharply limit the tactics that our negotiators can use externally. As seen from the State Department, they constitute a strong reason against making certain demands that might remain unacceptable to the opponent, or against confronting the opponent with counter-demands that are to be dropped in exchange for the dropping of his demands. It is feared that once such demands had been raised by our negotiators, other government agencies would insist that the demands be maintained even after they no longer serve their purpose. That is to say, to avoid being hemmed in by vetoes from other government agencies, our negotiators sometimes feel they must eschew a bargaining strategy that might pay off against a foreign government.

A promising approach to improve our management of negotiations is to raise the level of discourse in which interagency coordination is being conducted. On the one hand, our officials should no longer feel free to object to an American negotiating position simply by arguing that it would be "unacceptable" to the opponent. And little weight should be given to someone's forecast as to what a Communist opponent would demand or accept, if this forecast is based solely on an exegesis of the opponent's rhetoric without an analysis of his military, economic and political strength.

On the other hand, nobody should get away with the argument that we have to hold on to some bargaining position simply because we have taken that position some years ago. Nor should the State Department or the Arms Control and Disarmament Agency have to put up with the argument from the military side of our government, that we must not negotiate about the discontinuance of some military activity simply because that activity is "vital." If there is any meaning to the importance of such activities, there has to be a price at which it is worthwhile for the United States to give them up. In our policy-making process, the concept "vital" without a price tag should be ruled out of order as sheer metaphysics.

Furthermore, in the policy-making process within our government we must maintain clarity about the ground rules of international conduct, and distinguish desirable from actual constraints on the opponent's behavior. Just because we might think in terms of spheres of interest, for instance, does not mean that our Communist opponents will have to act accordingly.

Our news media are, of course, an important source of domestic opinion that our negotiators have to consider. But sometimes our senior officials subconsciously slip into the tendency to bargain with our news media instead of with the opponent. For instance, if our news media have been arguing that a certain concession by us (such as the cessation of the bombing of North Vietnam) would bring an agreement, our policy-makers should not feel cheated if this does not turn out to be true. Even if the news media sometimes act as if they were the opponent's spokesman, we should not blame the opponent for ignoring the script of our news media.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Dakota (Mr. YOUNG) is recognized for not to exceed 5 minutes.

## SENATE RESOLUTION 525—SUBMISSION OF A RESOLUTION OF DISAPPROVAL OF THE DEFERRAL OF CONSTRUCTION OF THE GARRISON DIVERSION IRRIGATION PROJECT IN NORTH DAKOTA

Mr. YOUNG (for himself and Mr. BURDICK) submitted the following resolution, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources, jointly, pursuant to order of January 30, 1975:

S. RES. 525

*Resolved*, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D78–63) for the Garrison Diversion Unit, Pick-Sloan Missouri Basin Program, Bureau of Reclamation, Department of the Interior, as set forth in the message of May 12, 1978 which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

Mr. YOUNG. Mr. President, I submit for myself and my colleague, Senator BURDICK, a resolution to disapprove the proposed deferral of $17.7 million appropriated to the Bureau of Reclamation of the Department of Interior last year to continue the construction of the Garri-

son Diverison Irrigation Project in North Dakota.

If the administration's proposed deferral of the funds previously appropriated for this project is allowed to stand, it would mean that there would be no construction funds available and that work on this project would come to a complete halt. This is a project which North Dakotans started to work on before I was born and have been working toward since statehood. The project was first authorized as a part of the Pick-Sloan plan for flood control and irrigation in the Flood Control Act of 1944 at 1 million acres. It was reauthorized in 1965, providing for 250,000 acres for irrigation and water for many cities.

To date, the Federal Government has spent in excess of $170 million on the Garrison diversion project. If this project were discontinued, as proposed by the Interior Department, it would cost, according to their own estimates, another $93 million to restore the environment to its condition prior to construction of the project. In addition, the State of North Dakota, with the 500,000 acres of land it gave up for the project plus the millions of dollars it has spent directly, has an investment almost equal to the Federal Government.

If the Interior Department should succeed in having these funds deferred as they requested, there would be no more construction funds and they would thus obtain their objective of killing this project entirely. This is an indirect and despicable means of destroying a project they seem to have disliked, even though it has been approved by seven Presidents of the United States since my time. Construction has now been underway for about 10 years. The appropriate and reasonable and understandable means for the Department of Interior to end this project would be to either ask the Congress to deauthorize it, or if they wanted a modified project to ask for a reauthorization.

Mr. President, it is the intention of the sponsors of this resolution, which is supported by the State of North Dakota, that if this resolution is approved, thus leaving the $17.7 million available for the construction of this authorized diversion project, this money could be spent on that part of the project where the return flows were only to the Missouri River and tributaries basin. Thus, this would be in complete compliance with the recommendations of the International Joint Commission which studied this project for nearly 2 years. The IJC was established years ago to resolve water boundary differences between Canada and the United States.

I yield to my distinguished colleague from North Dakota.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota (Mr. BURDICK).

Mr. BURDICK. Mr. President, the record should be clear as to the meaning of the resolution. If the Senate should disapprove the proposed deferral, there should be no question that the Senate intends that the funds made available by the approval of this resolution shall be used for construction of the Garrison Diversion Unit features which would return water only to the Missouri River and Tributaries Basin.

In other words, the funds made available will be used only for those parts of the project which do not affect Canadian waters—but the funds should be used.

It is possible, of course, to complete many of the works necessary for this project without harm to Canada. Secretary Andrus stated unequivocally at the hearings held by the Public Works Appropriations Subcommittee that portions of the Garrison Diversion project could be built without creating conflict with Canada.

When Secretary Andrus appeared before the Committee on March 1, 1978, I stated, "I want the record to be straight here. There are portions of the project that still can be consistent with Canada's views." Secretary Andrus answered, "That is correct."

I yield to my colleague from North Dakota.

Mr. YOUNG. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred.

Under the previous order, the Senator from South Dakota (Mr. MCGOVERN) is recognized for not to exceed 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, this is without prejudice to the Senator from New York (Mr. JAVITS)?

The ACTING PRESIDENT pro tempore. The Senator is correct.

## COMMENDATION OF PRESIDENT CARTER

Mr. MCGOVERN. Mr. President, in recent days President Carter has experienced some obvious bad breaks. All of us in politics know how easily that can happen. Sometimes our own misjudgments contribute to the creating of bad breaks. Sometimes we are hampered by events over which we have little control.

In any event, as the first President of the post-Watergate, post-Vietnam era, President Carter has been subjected to an unusually rigid standard.

As the president of the Americans for Democratic Action from the spring of 1976 until June 17, 1978, it has been my special responsibility to hold whomever was President to a high and difficult standard of performance. The policies and strategies of the Carter administration have provided legitimate opportunities for what I trust has been tough-minded, constructive criticism. Nevertheless, having recently completed my service as the president of ADA, I think this is an appropriate time to take note that thus far, President Carter has avoided any catastrophic mistakes. During his first year and a half in office, there has been no Vietnam, no Bay of Pigs, no Watergate, and no American is engaged in battle anywhere in the world.

Furthermore, despite enormous political pressures to the contrary, President Carter stood up on the issue of international justice for Panama, he canceled an enormously expensive and unnecessary B–1 bomber, he has pursued an even-handed policy in the highly volatile Arab-Israeli dispute, he has stoutly pursued the course of self-determination and majority rule for Africa, he has opened the way for limited diplomatic representation between Washington and Havana and for Vietnam's participation in the United Nations, he has organized a careful reduction of American ground forces in South Korea, he has pressed for an agreement on strategic arms even while protesting Soviet behavior he found in violation of human and national rights, and now he is calling on us to remove a largely symbolic but self-defeating embargo against Turkey—an embargo which is clearly exacerbating relations involving Greece, Turkey, and Cyprus.

As a sometime critic of the Carter administration—I hope a criticism born of concern for the Nation—I nonetheless have supported the President on these initiatives he has taken to preserve international peace and to protect America's standing in the world. This, of course, is not to say that I approve every aspect of the Carter foreign policy, to say nothing of domestic concerns.

I am aware that words of commendation seldom are considered as newsworthy as are words of criticism. But these few words will at least be printed in the RECORD and will perhaps come to the attention of the President at what we all know is a difficult time for him and for the Nation.

I might add for whatever solace it may bring to the President and his associates that the great historians, Charles and Mary Beard, once observed:

> Sometimes it gets the darkest just before the stars come out.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

## WORLD ECONOMIC CRISIS—DISCUSSIONS WITH BONN SUMMIT PARTICIPANTS

Mr. JAVITS. Mr. President, I have requested this time to report on a visit which I made to the President of France just about 2 weeks ago, roughly a week before the Bonn Economic Summit. I have waited until today to report to the Senate on that visit, which I took in my capacity as a member of the Committee on Foreign Relations, in order to evaluate the results of the summit and especially the lessons that might be drawn from these results.

The international economic problems which compelled the attention of the seven heads of government at the Economic Summit held in Bonn on July 16

and 17 have been of major concern to me for more than a year. My feeling that the gravity of the dangers close at hand if concerted corrective action was not taken by the industrialized nations of the Western trading system—which includes Japan and other nations generally in the Organization for Economic Cooperation and Development (OECD) appreciably participating in this system—prompted me to formulate proposals which I believe can help materially to avoid the abyss of a new recession or even a depression.

In recent months I was able to discuss the problems and present my recommendations to President Carter, as well as to Chancellor Schmidt, Prime Minister Callaghan and Prime Minister Fukuda on their recent visits to the United States. Because of his brief stay and crowded schedule, President Giscard d'Estaing of France was unable to meet me when he was in the United States to address the United Nations Special Session on Disarmament. However, President Giscard subsequently confirmed to meet with me in Paris to discuss these questions. Accordingly, under the auspices of the Foreign Relations Committee, I traveled to Paris during the period of July 9 and 10 for the purpose of meeting the President of France to discuss matters requiring attention at the Economic Summit.

While in Paris, I also took occasion to have discussions with the U.S. Ambassador to France, Arthur Hartman, and with the U.S. Ambassador to the OECD, Herbert Salzman, as well as with leading journalists.

My purpose today is to report to the Senate on my meeting with President Giscard d'Estaing, and to present to the Senate my views of the results of the Bonn economic summit.

I ask unanimous consent to have printed a memorandum on the outcome of the Bonn economic summit, its final communique and the text of a proposal for a Growth Development Fund.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. My meeting with President Giscard d'Estaing took place in the Elysee Palace on Monday morning, July 10, 1978. I have known President Giscard personally for 20 years and have discussed political and economic ideas with him on occasion during all that time. Our meeting on July 10 was the first we had had since the important French parliamentary elections of last May.

In my judgment, those elections had great significance, not only for France but for all the democracies of the West. In the months leading up to the elections, it had been predicted widely in the press that they would be won by the Socialist-Communist coalition of the left and that President Giscard's position might be rendered untenable as a result.

But the French Parliamentary elections resulted in a surprise victory for substantial proportions in terms of seats in the Parliament. President Giscard d'Estaing's position was substantially strengthened by the outcome of the election, and particularly so by the fact that the biggest single gainers in terms of parliamentary representation were the "Giscardist" parties or the victorious government coalition. The neo-Gaullist party under the leadership of the mayor of Paris, Jacques Chirac, remains however the largest bloc within the government coalition. Following the election, the French Government, through Prime Minister Barre, has acted to "free-up" the French economy and to stimulate private investment which had remained stagnant during the months preceding the elections when the dark cloud of prospective broadscale nationalization advocated by the Socialist-Communist coalition loomed on the political horizon.

ECONOMIC CRISIS

My convérsation with President Giscard centered mainly on the international economic situation and the economic summit which took place in Bonn a week after our conversation. I outlined to the President my suggestions for a growth development fund which was to be financed by funds from the OPEC surpluses, the Japanese and German balance-of-payments surpluses, as well as contributions from the United States, France, Great Britain, and other OECD nations.

The purpose of the growth development fund would be to work with those less developed countries (LDC's) which wished to work with the fund for the purpose of accelerating multilateral foreign public and private investment to promote rational agricultural and industrial development and trade. This would lead to the expansion of markets that would be beneficial to all sides to stimulate and stabilize the world economy for at least the remainder of the 20th century.

The fund would leave the "UNCTAD idea" without challenge to it as a trade association, while permitting those nations which wished to move ahead free of the ideological stalemate which prevented the June 1976 Conference on International Economic Cooperation (CIEC) from coming to an agreement on a true "New World Economic Order" which was both nondiscriminatory and effective.

The door to participation in the growth development fund would be open to the U.S.S.R., the Peoples Republic of China, and the East European members of the COMECON to join in, as it was in 1948–49 respecting the Marshall Plan. This time hopefully some of the Communist nations might take up the option to participate. Fuller but still preliminary details of the proposed growth development fund were spelled out in a memorandum which I left with the heads I had talked with and a copy of that memorandum is appended to this report.

I discussed also, other aspects of the international economic scene with the President of France. I stressed the importance of France's influence in bringing about a successful conclusion of the multilateral trade negotiations (MIN) now in progress, and which are so vital to the continued expansion of world trade. Failure of the MIN negotiations could have the effect not only of deepening any vestige of the last world economic recession precipitated by the 1973–74 quadrupling of world oil prices—still lingering on in stagnation and inflation—but of triggering a dangerous new trend toward protectionism in world trade which could itself lead to a deeper recession than the last one, as well as to disruption of NATO and other such security alliances.

The perception in Europe of "recklessness" in the United States respecting the consumption of petroleum came up in the course of our discussions. In explaining U.S. policy in regard to reduction or stabilization of oil imports, I pointed out the deep attachment of the American people to the "family car" as an important element of personal freedom and mobility, and the American people's skepticism as to an energy crisis in view of the apparent glut of oil on the world market. I pointed out that President Carter also has the option of imposing import quotas and could conceivably use this option in view of continued congressional inaction on the administration's key element—price—of the administration's package of energy legislation and congressional opposition to the use of the oil import fee.

President Giscard reflected the view that the role now being played in foreign affairs by the Senate is not easily comprehended or appreciated in Europe. I described the Senate's present attitude generally as being "sectional" in the absence of an adequate perception so far of the world economic crisis. This has led to a certain emphasis on economic "self-interest", as manifested in the struggle between Senators from oil and gas States and those from States without such resources over national policy which spills over into international policy. I considered the Senate well able to take a broader view as its thinking comes abreast of the world's true economic danger.

Much of our discussion related to the need for cooperation and lateral support among the leaders and nations of the Western trading system, in view of our increasing interdependence and the ominous implications of the economic problems which could injure us all. I gathered from President Giscard d'Estaing in this regard, in particular, relations between France and the Federal Republic of Germany have been reestablished on a new basis and that he and Chancellor Schmidt had inaugurated a "new era" in French-German relations, which will develop to the benefit of all Western Europe and the wider Western trading system.

In concluding our discussion respecting the international economic situation, I thanked President Giscard d'Estaing for his views and expressed the belief that those ideas could find a reflection in the discussion and outcome of the impeding Bonn summit.

In our discussion regarding Africa, I feel that President Giscard d'Estaing viewed France's policy as being designed principally to protect democratic opportunities and free institutions in the former French colonies of Africa and not to interfere in indigenous national choices of government leaders or forms

of government. A particular example of this policy was France's approval of the approach embodied in the Anglo-American plan respecting Rhodesia.

MIDDLE EAST

With respect to the Middle East, I urged that France take a new hand in Mideast peace. In this regard, I emphasized France's opportunity with Israel as coming precisely because of the previous pro-Arab tilt in France's policy since 1967 and the historic friendship between France and Israel based on France's centuries old tradition respecting the persecuted peoples of the world. I concluded that Europe questioned whether President Carter's aspiration for a comprehensive Mideast settlement could be realized at this time—though I felt he certainly would like it—that Europe looked rather for further agreement respecting the Sinai, with a statement of principles covering the West Bank and Gaza as an essential element at this time.

EXHIBIT 1

APPENDIX A: MEMORANDUM ON THE BONN ECONOMIC SUMMIT—1978

The Economic Summit was held in Bonn, West Germany on July 16 and 17, 1978. Prime Minister Trudeau of Canada, Chancellor Schmidt of the Federal Republic of Germany, President Giscard d'Estaing of France, Prime Minister Andreotti of Italy, Prime Minister Fukuda of Japan, Prime Minister Callaghan of the United Kingdom and President Carter of the United States participated in the discussions. In addition, Roy Jenkins, the President of the European Commission, attended the discussion of matters within the competence of the European Community.

The Economic Summit sought to reaffirm the resolve of the heads of state to a comprehensive and coordinated strategy covering economic growth, employment and inflation in the industrialized countries, international monetary policy, energy, and trade.

There was an agreement at the Summit on the need to create more jobs and fight inflation and to strengthen international trade, while reducing payments imbalances and achieving greater stability in the exchange markets. The participants acknowledged that they were dealing with long-term problems that would only yield to sustain efforts. As the final declaration stated, "The strategy is a coherent whole, whose parts are interdependent," to which each of the countries could make a contribution and, in turn, could benefit.

The final declaration of the Bonn Summit, which can be found in the Appendix B is an all encompassing document which seeks to provide guidance for the management of the world economy for the coming year.

While the primary focus of the Summit was on matters pertaining directly to the economic health of the industrialized countries, the heads of state also focused on issues tht were of particular interest to the developing countries, the so-called North-South issues.

The following objectives were agreed to by the participants with regard to development issues:

(1) An intensification of national development assistance programs in the energy field and the development of a coordinated effort to bring into use renewable energy technologies to help the developing countries.

(2) A suggestion that the International Bank for Reconstruction and Development (The World Bank) should explore ways in which its activities in the energy field can be made increasingly responsive to the needs of the developing countries and examine whether new approaches, particularly to financing hydro-carbon exploration, would be useful.

(3) A willingness to work even more closely with the developing countries in the Multilateral Trade Negotiations and a pledge to seek to ensure "a sound and balanced result," which would adequately take into account the needs of the developing countries.

(4) A willingness to increase cooperation in the field of foreign private investment flows between them and the developing countries and to intensify work on further agreements in the Organization for Economic Cooperation and Development (OECD).

(5) A call for joint action between the developed and developing countries on the basis of a shared responsibility for the economic performance of the international system. In the trade area, the heads of state recognized the "requirement" to provide better access for the products of the developing countries to the markets of the developed countries. At the same time, they called upon the more advanced developing countries to open their markets to the exports of the industrialized countries.

(6) A pledge to provide financial assistance and other resources for the development of the developing countries. The heads of state indicated their support for providing soft loan funds of the World Bank and of three regional development banks to the poor developing countries while pledging their government's support to the replenishment of the International Development Association on a scale that would permit its lending to rise annually in real terms.

(7) With regard to the more advanced developing countries the heads of state of the industrialized countries renewed their pledge to support the replenishment of the multilateral development banks' resources and agreed to encourage governmental and private cofinancing of development projects with these banks.

(8) A call to the developing countries to cooperate with them in creating a good investment climate and adequate protection of foreign investment in order to let private foreign investment play its effective role in generating economic growth and in stimulating the transfer of technology.

(9) A reaffirmation of their commitment to continue actively the negotiations on the Common Fund, to conclude individual commodity agreements and to complete studies of various ways of stabilizing the export earnings of the developing countries.

Only Japan announced a concrete action with respect to increasing its level of aid, with a pledge "to double (its) official development assistance in three years". The step taken by the Government of Japan should be welcomed by the international community as a positive response aimed at not only turning its continuing large balance of payments surplus around but also at generating economic growth in the developing countries.

Furthermore, the failure of the COMECON countries (Soviet alliance in Eastern Europe) to take their proper part in providing financial assistance to the developing countries was noted by the Summit participants. It is imperative that the Eastern bloc countries be urged not only by the industrialized countries to undertake their responsibilities in this regard but by many of the developing countries, which so often demonstrate their political affinity with the COMECON countries.

The reaffirmation and support for continued foreign assistance to and cooperation with the development countries made at the Bonn Summit are important. Nonetheless, they can only be viewed as a tentative first step in dealing with the issues and problems facing the industrialized countries in their relations with the developing countries. Almost all of these actions, with the exception of the request to the World Bank to examine ways in which its activities in and with the developing countries can help in the energy field, focused on pledges by the individual countries unilaterally to meet certain economic targets. Very little in the form of international, cooperation other than coordination of policy was agreed upon. It would have been highly preferable had the Bonn Summit participants agreed to concerted action on the economic issues before the Summit as they had in undertaking a concerted multilateral program in the non-economic area of international terrorism.

On Wednesday, July 19, President Carter (aided by Henry Owen who had staffed the preliminary work for the Bonn Summit on the part of the U.S.) debriefed a bi-partisan group of Senators and Representatives on the results of the Summit. Based on my analysis of the President's statement, I believe that a far-reaching exchange of views on development issues took place at the Summit, notwithstanding that the Summit's primary focus seemed to have been on the development of coordinated economic action to deal with the internal problems dividing the industrialized countries. It is my understanding that the next Economic Summit, which will take place "at an appropriate time next year" (probably in Japan), will focus on the issue of economic growth and specifically on the relations between the industrialized countries and the developing world respecting accelerated economic developments and markets. During the intervening year the representatives of the participating countries will be reviewing the pledges made at the Bonn Summit in preparation for the next Summit, and the industrialized countries will have to take stock of the role that the industrialized world already has played in accelerating the development of the developing world and in what to do further. This is especially required as one analyzes the total capital flows—public foreign aid as well as private investment—from the North to the South and the transfer of technology and their adequacy to develop broader markets.

While the Growth Development Fund proposal which I have submitted was not officially before the Bonn Summit, it provided, I believe an impetus to the discussions at that Summit by the heads of state and could serve as a take-off point for further discussion in preparation for the next Summit. In this context, the Bonn Summit must be viewed as a first phase, which will be linked inextricably to next year's Summit by a close scrutiny of the decisions taken in Bonn, an in-depth evaluation of the development programs for the transfer of resources that are underway in all fora and very detailed preparatory work for the crucial decisions that must still be taken. The next Summit may come in time to head off a worsening of the world economic situation but the risks are increased by the year's delay.

RECOMMENDATIONS

1. Because the North-South issue is so vital, with views especially divergent between the industrialized and developing countries, it is critical that President Carter and the Bonn Economic Summit heads of state make clear at the earliest time that the focus of next year's Summit will be on development. This will permit adequate preparations, especially in the area of commitments of financial resources, and close consultation with the developing countries. A procedure should be developed currently to bring the representatives of appropriate developing countries into the preparatory process, and perhaps even, into the final deliberations.

2. I believe the Growth Development Fund proposal can serve as a basis for discussions. The chief constraint to such a fund

that I deduced from my talks with the five heads of state was financial: a grave concern that their national budgets were already too strained. Consequently, I recommend that initial attention should be placed on the financial aspects of such an arrangement for productive investment in the developing countries. Particular attention should be paid to (a) suitable participation by the OPEC and industrialized countries in current account surplus; and (b) guarantees of investment, encouragement of private investment and joint ventures.

3. I recommend that future discussion about and justifications for foreign aid, whether bilateral or multilateral, must not be made alone in the context of the humanitarian duty and long-standing commitment of the donor countries to development. Rather we must closely link foreign aid and investment to energy, food and agri-business, markets, rationalization of world production and regional economic cooperation. If we are to beat back the attempts at erecting protectionist barriers to international trade both in the United States and in the other industrialized countries and in advanced developing countries, we must undertake a vigorous effort to demonstrate the benefits of increased economic growth in the developing countries to the industrialized countries, indeed the essentiality of such growth to the latter. Exports mean jobs as much as production for the domestic economy in the already industrialized countries.

4. I note particularly that the Heads of State instructed their "representatives to convene by the end of 1978 in order to review (the) declaration." This is a vital first step in maintaining the continuity between Economic Summits.

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## APPENDIX B

### TEXT OF DECLARATION AT THE BONN SUMMIT

BONN, July 17.—Following is the text of a declaration issued today at the end of the two-day economic summit meeting. It is the official English version prepared and distributed by the West German Government.

The heads of state and Government of Canada, the Federal Republic of Germany, France, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland and the United States of America met in Bonn on 16th and 17 July 1978. The European Community was represented by the president of the European Council and by the president of the European Commission for discussion of matters within the community's competence.

1. We agreed on a comprehensive strategy covering growth, employment and inflation, international monetary policy, energy, trade and other isues of particular interest to developing countries. We must create more jobs and fight inflation, strengthen international trading, reduce payments imbalances, and achieve greater stability in exchange markets. We are dealing with long-term problems, which will only yield to sustained efforts. This strategy is a coherent whole, whose parts are interdependent. To this strategy, each of our countries can contribute. From it, each can benefit.

#### GROWTH EMPLOYMENT AND INFLATION

2. We are concerned, above all, about worldwide unemployment because it has been at too high a level for many years, because it hits hardest at the most vulnerable sections of the population, because its economic cost is high and its human cost higher still. We will act, through measures to assure growth and develop needed skills, to increase employment. In doing this, we will build on the progress that has already been made in the fight against inflation and will seek new successes in that fight. But we need an improvement in growth where that can be achieved without rekindling inflation in order to reduce extremes of balance-of-payments surpluses and deficits. This will reduce destabilizing exchange rate movements.

Improved growth will help to reduce protectionist pressures. We need it also to encourage the flow of private investment, on which economic progress depends. We will seek to reduce impediments to private investment, both domestically and internationally. Better growth is needed to insure that the free world is able to develop to meet the expectations of the citizens and the aspirations of the developing countries.

3. A program of different actions by countries that face different conditions is needed to assure steady noninflationary growth. In countries whose balance-of-payments situation and inflation rate does not impose special restrictions, this requires a faster rise in domestic demand. In countries where rising prices and costs are creating strong pressures, this means taking new measures against inflation.

Canada reaffirmed its intention, within the limits permitted by the need to contain and reduce inflation, to achieve higher growth of employment and an increase in output of up to 5 percent.

As a contribution to avert the worldwide disturbances of economic equilibrium the German delegation has indicated that by the end of August it will propose to the legislative bodies additional and quantitatively substantial measures up to 1 percent of gross national product, designed to achieve a significant strengthening of demand and a higher rate of growth. The order of magnitude will take account of the absorptive capacity of the capital market and the need to avoid inflationary pressures.

The president of the French Republic has indicated that, while pursuing its policy of reduction of the rate of inflation, the French Government agrees, as a contribution to the common effort, to increase by an amount of about 0.5 percent of G.N.P. the deficit of the budget of the state for the year 1978.

The Italian Prime Minister has indicated that the Government undertakes to raise the rate of economic growth in 1979 by 1.5 percentage points with respect to 1978. It plans to achieve this goal by cutting public current expenditure while stimulating investment with the aim of increasing employment in a noninflationary context.

The Prime Minister of Japan has referred to the fact that his Government is striving for the attainment of the real growth target for fiscal year 1978, which is about 1.5 percentage points higher than the performance of the previous year, mainly through the expansion of domestic demand. He has further expressed his determination to achieve the said target by taking appropriate measures as necessary. In August or September he will determine whether additional measures are needed.

The United Kingdom, having achieved a major reduction in the rate of inflation and improvement in the balance of payments has recently given a fiscal stimulus equivalent to rather over 1 percent of G.N.P. The Government intends to continue the fight against inflation so as to improve still further the prospects for growth and employment.

The President of the United States stated that reducing inflation is essential to maintaining a healthy United States economic policy. He identified the major actions that have been taken and are being taken to counter inflation in the United States: tax cuts originally proposed for fiscal year 1979 have now been reduced by $10 billion. Government expenditure projects for 1978 and 1979 have been reduced. A very tight budget is being prepared for 1980. Steps are being taken to reduce the direct contribution by Government regulations or restrictions to rising costs and prices, and a voluntary program has been undertaken to achieve deceleration of wages and prices.

The meeting took note with satisfaction that the common approach of the European Community already agreed at Bremen would reinforce the effectiveness of this program.

#### ENERGY

4. In spite of some improvement, the present energy situation remains unsatisfactory. Much more needs to be done.

5. We are committed to reduce our dependence on imported oil.

6. We note that the European Community has already agreed at Bremen the following objectives for 1985: to reduce the community's dependence on imported energy to 50 percent, to limit net oil imports, and to reduce to 0.8 the ratio between the rate of increase in energy consumption and the rate of increase in gross domestic product.

7. Recognizing its particular repsonsibility in the energy field, the United States will reduce its dependence on imported oil. The United States will have in place by the end of the year a comprehensive policy framework within which this effort can be urgently carried forward. By year end, measures will be in effect that will result in oil import savings of approximately 2.5 million barrels per day by 1985. In order to achieve these goals, the United States will establish a strategic oil reserve of 1 billion barrels. It will increase coal production by two-thirds, it will maintain the ratio between growth in gross national product and growth in energy demand at or below 0.8 and its oil consumption will grow more slowly than energy consumption. The volume of oil imported in 1978 and 1979 should be less than that imported in 1977. In order to discourage excessive consumption of oil and to encourage the movement toward coal, the United States remains determined that the prices paid for oil in the United States shall be raised to the world level by the end of 1980.

8. We hope that the oil-exporting countries will continue to contribute to a stable world energy situation.

9. Looking to the longer term, our countries will review their national energy programs with a view to speeding them up. General energy targets can serve as useful measures of the progress achieved.

10. Private and public investment to produce energy and to use it more efficiently within the industrial world should be increased. This can contribute significantly to economic growth.

11. The further development of nuclear energy is indispensable, and the slippage in the execution of nuclear power programs must be reversed. To promote the peaceful use of nuclear energy and reduce the risk of nuclear proliferation, the nuclear-fuel cycle studies initiated at the London summit should be pursued. The President of the United States and the Prime Minister of Canada have expressed their firm intention to continue as reliable suppliers of nuclear fuel within the framework of effective safeguards. The President intends to use the full powers of his office to prevent any interruption of enriched uranium supply and to insure that existing agreements will be respected. The Prime Minister intends that there shall be no interruption of Canadian uranium supply on the basis of effective safeguards.

12. Coal should play an increasingly important role in the long term.

13. Joint or coordinated energy research and development should be carried out to hasten the development of new, including renewable, energy sources and the more efficient use of existing sources.

14. In energy development, the environment and human safety of the population must be safeguarded with greatest care.

15. To help developing countries, we will intensify our national development assistance programs in the energy field and we will develop a coordinated effort to bring

into use renewable energy technologies and to elaborate the details within one year. We suggest that the O.E.C.D. will provide the medium for cooperation with other countries.

16. We stress the need for improvement and coordination of assistance for developing countries in the energy field. We suggest that the World Bank explore ways in which its activities in this field can be made increasingly responsive to the needs of the developing countries, and to examine whether new approaches, particularly to financing hydrocarbon exploration, would be useful.

TRADE

17. We reaffirm our determination to expand international trade, one of the driving forces for more sustained and balanced economic growth. Through our joint efforts we will maintain and strengthen the open international trading system. We appreciate and support the progress as set forth in the framework of understanding on the Tokyo Round of multilateral trade negotiations made public in Geneva, July 13, 1978, even though within this framework of understanding some difficult and important issues remain unresolved.

The successful conclusion of these negotiations, the biggest yet held, would mean not just a major trade-liberalization program extending over the 1980's but the most important progress yet made in the GATT in relation to nontariff measures. Thus the GATT rules would be brought more closely into line with the requirements of the next decade—particularly in relation to safeguards—in ways which would avoid any weakening of the world trading system and be of benefit to all trading countries, developed and developing alike. A substantially higher degree of equity and discipline in the international trading system would be achieved by the creation of new mechanisms in many fields for consultation and dispute settlement. Uniform application of the GATT rules is vital and we shall move in that direction as soon as possible.

In all areas of the negotiations the summit countries look forward to working even more closely with the developing countries. We seek to insure for all participants a sound and balanced result, which adequately takes into account the needs of developing countries, for example, through special and differential treatment, and which brings about their greater participation in the benefits and obligations of the world trading system.

At last year's Downing Street summit we rejected a protectionist course for world trade. We agreed to give a new impetus to the Tokyo Round. Our negotiators have fulfilled that commitment. Today we charge them, in cooperation with the other participants, to resolve the outstanding issues and to conclude successfully the detailed negotiations by December 15, 1978.

18. We note with satisfaction the renewal of the pledge to maintain an open-market oriented economic system made by the O.E.C.D. Council of Ministers last month. Today's world economic problems cannot be solved by relapsing into open or concealed protectionism.

19. We welcome the statement or positive adjustment policy made by the O.E.C.D. ministers. There must be a readiness over time to accept and facilitate structural change. Measures to prevent such change perpetuate economic inefficiency, place the burden of structural change on trading partners and inhibit the integration of developing countries into the world economy. We are determined in our industrial, social, structural and regional policy initiatives to help sectors in difficulties, without interfering with international competition and trade flows.

20. We note the need for countries with large current account deficits to increase exports and for countries with large current account surpluses to facilitate increases in imports. In this context the United States is firmly committed to improve its export performance and is examining measures to this end. The Prime Minister of Japan has stated that he wishes to work for the increase of imports through the expansion of domestic demand and various efforts to facilitate imports. Furthermore, he has stated that in order to cope with the immediate situation of unusual surplus, the Government of Japan is taking a temporary and extraordinary step of calling for moderation in exports with the aim of keeping the total volume of Japan's exports for the fiscal year of 1978 at or below the level of fiscal 1977.

21. We underline our willingness to increase our cooperation in the field of foreign private investment flows among industrialized countries and between them and developing countries. We will intensify work for further agreements in the O.E.C.D. and elsewhere.

22. In the context of expanding world economic activity, we recognize the requirement for better access to our countries' markets for the products of the developing countries. At the same time we look to increasing readiness on the part of the more advanced developing countries to open their markets to imports.

23. Success in our efforts to strengthen our countries' economies will benefit the developing countries, and their economic progress will benefit us. This calls for joint action on the basis of shared responsibility.

24. In the years ahead the developing countries, particularly those most in need, can count on us for an increased flow of financial assistance and other resources for their development. The Prime Minister of Japan has stated that he will strive to double Japan's official development assistance in three years. We deeply regret the failure of the Comecon countries to take their due share in the financial assistance to developing countries and invite them once more to do so.

25. The poorer developing countries require increased concessional aid. We support the soft loan funds of the World Bank and the three regional development banks. We pledge our governments to support replenishment of the International Development Association on a scale that would permit its lending to rise annually in real terms.

26. As regards the more advanced developing countries, we renew our pledge to support replenishment of the multilateral development banks' resources, on the scale needed to meet the growing needs for loans on commercial terms. We will encourage governmental and private cofinancing of development projects with these banks.

The cooperation of the developing countries in creating a good investment climate and adequate protection for foreign investment is required if foreign private investment is to play its effective role in generating economic growth and in stimulating the transfer of technology.

We also refer to our efforts with respect to developing countries in the field of energy as outlined in paragraph 15 and 16.

27. We agreed to pursue actively the negotiations on a Common Fund to a successful conclusion and to continue our efforts to conclude individual commodity agreements and to complete studies of various ways of stabilizing export earnings.

INTERNATIONAL MONETARY POLICY

28. The erratic fluctuations of the exchange markets in recent months have had a damaging effect on confidence, investment and growth throughout the world. Essentially, exchange rate stability can only be achieved by attacking the fundamental problems which have contributed to the present large balance-of-payments deficits and surpluses. Implementation of the policies described above in the framework of a concerted program will help to bring about a better pattern of world payments balances and lead to greater stability in international exchange markets. This stability will in turn improve confidence and the environment for sustained economic growth.

29. Although exchange rates need to respond to changes in underlying economic and financial conditions among nations, our monetary authorities will continue to intervene to the extent necessary to counter disorderly conditions in the exchange markets. They will maintain extensive consultation to enhance these efforts' effectiveness. We will support surveillance by the International Monetary Fund to promote effective functioning of the international monetary system.

30. The representatives of the European Community informed the meeting of the decision of the European Council at Bremen on 6–7 July to consider a scheme for a closer monetary cooperation. The meeting welcomed the report and noted that the community would keep the other participants informed.

CONCLUSION

31. It has been our combined purpose to attack the fundamental economic problems that our countries confront.

The measures on which we have agreed are mutually reinforcing. Their total effect should thus be more than the sum of their parts. We will now seek parliamentary and public support for these measures.

We cannot hope to achieve our purposes alone. We shall work closely together with other countries and within the appropriate international institutions; those among us whose countries are members of the European Community intend to make their efforts within this framework.

We have instructed our representatives to convene by the end of 1978 in order to review this declaration. We also intend to have a similar meeting among ourselves at an appropriate time next year.

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APPENDIX C

PROPOSAL FOR CAPITAL FUND FOR PRODUCTIVE INVESTMENT IN THE DEVELOPING COUNTRIES

Background: The present recycling of the OPEC financial surpluses has serious implications for the economic prosperity of the oil importing developing countries. While the recycling of these funds may have served the investment needs of the OPEC countries for the placement of their surpluses, the present system has failed to generate the macroeconomic policies in the oil importing developing countries needed to restore efficiently the equivalent purchasing power to these countries.

Objective: The oil importing developing countries require productive investment in order to cover their oil import deficits and to complement the aid and investment of the developed countries in stimulating the noninflationary growth and the expansion of broader markets for the goods and services which the international economy requires so urgently to deal with stagnation and inflation. Such targeted investments would stimulate economic growth in these countries and, most importantly, would expand demand for the exports of the industrialized countries. Such new markets would lead to higher levels of employment and domestic economic activity in the industrialized countries and would effectively counter the escalating demands of protectionist forces in the industrialized countries with respect to imports as well as investment abroad. This need for the stimulation of demand in the developing countries, in addition to sustaining non-inflationary growth levels in the industrialized countries, has been increasingly recognized by leading governmental as well as academic figures in many countries.

Funding and terms: To be effective and have leverage with recipient countries, such an LDC developmental fund should have large sums of money. The initial capitalization of the Fund (capital pool) should be on the order of $25 billion, with investments by the donors of $5 billion per year for an initial five-year period. Half of the funds ($2.5 billion per year) would be used for investment in the poorest countries that meet the criteria for IDA financing; with the other $2.5 billion being earmarked for the acceleration of the economies of the more advanced developing countries that are more credit-worthy, such as Mexico, Brazil, and some countries in Asia and Africa on a loan basis. The key point would be that the donor and the borrower countries operate under terms (including coordinated planning) which are capable of realizing the objectives of the Fund. Also, the Fund could give a priority to that element of development of the LDCs which represents energy exploration and alternative energy sources. In this way, the donor countries (see below) would receive a return on their capital from projects in these more advanced LDCs while the IDA countries could profit from the resultant triangular trade.

Source of Funds: The $25 billion pool of capital could be financed by the industrialized countries (bearing in mind also those in current account surplus, like Japan and the German Federal Republic) as well as the OPEC countries. If necessary, an arrangement could be worked out which would take into consideration the concerns of the donor countries regarding the sustained value of their funds invested in the Fund and the need for liquid assets in the event of unforeseen economic emergencies.

Structure: It may not be necessary to establish a new international institution for the disbursement of the funds from the Fund. The World Bank, which has had extensive experience in providing targeted developmental assistance, could, either alone or in combination with regional development banks, the IMF, and other institutions undertake as agents the detailed design and implementation of the Fund.—JACOB K. JAVITS, U.S.S.

## SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that was allotted to Mr. DURKIN under the order be transferred to the control of Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ANCIENT RABBI'S WORDS COMPEL US TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Madam President, the ancient Jewish Rabbi Hillel once said:

If I am not for myself, who will be for me? If I am only for myself, what am I? And if not now, when?

The Senate would be wise to heed Hillel's words, particularly when we consider U.S. foreign policy. Obviously, our foreign policy must reflect the best interests of this country and the American people; and concurrently, we must strive to formulate just and humane policies. The administration's and the Senate's emphasis on international human rights dramatically illustrates our commitment to our fellow human beings and our willingness to take concrete actions on their behalf.

But, Madam President, in one crucial aspect of our foreign policy we have not followed Hillel's sage advice. We have failed to ratify the United Nations Genocide Convention. What other action would so clearly further our own foreign policy goals and undeniably benefit all of humanity?

By defining and punishing genocide under international law, the Genocide Convention not only protects U.S. citizens from the specter of genocide, it also guarantees that a U.S. citizen's constitutional rights would be protected if he or she were prosecuted for the crime of genocide. More importantly, the ratification of the treaty would strengthen our human rights policy.

We righteously denounce many nations for their flagrant violations of human rights, yet we have failed to guarantee the most basic human right—the right to live—by signing the Genocide Treaty. This glaring contradiction in our foreign policy must be rectified. We must demonstrate to other nations that our support for basic human rights is more than mere rhetoric.

The Genocide Convention will not only be for the American people. The treaty extends beyond our borders and touches the lives of millions of people around the world. When the Senate ratifies the convention we will aid black people in South Africa, Indians in South America, and numerous political dissidents in Uganda, Cambodia, and Rhodesia.

Madam President, the Genocide Convention was unanimously passed by the United Nations in 1946, and 3 years later President Truman transmitted the treaty to the Senate. For almost 30 years we have discussed and debated the treaty while millions of people have been murdered. For ourselves, Madam President, and for the sanctity of life throughout the world, we must ratify the Genocide Convention. The time is now.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, without prejudice to that order, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may be allowed to speak up to 2 minutes therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## SENATE CONCURRENT RESOLUTION 98—RELATING TO ADJOURNMENT TO A DATE CERTAIN DURING THE REMAINDER OF THE 95TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAKER and myself I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

S. CON. RES. 98

*Resolved by the Senate (the House of Representatives concurring)*, That notwithstanding the provisions of sec. 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The concurrent resolution (S. Con. Res. 98) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## PRIVILEGE OF THE FLOOR—S. 3075

Mr. JAVITS. Mr. President, I ask unanimous consent that during consideration of S. 3075, the International Security Assistance Act, Albert Lakeland of my staff be granted privilege of the floor for all purposes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Kip Hawley of my staff be granted privilege of the floor during the Foreign Military Assistance Act and votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that members of the staff of Senator ALLEN, Quentin Crommelin and Richard Gentry, be granted privilege of the floor during consideration and voting of S. 3075.

The PRESIDING OFFICER (Mrs. HUMPHREY). Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

Mr. ROBERT C. BYRD. Madam President, under the order that has been previously entered, I ask that the bill, S. 3075, Calendar Order No. 772, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes, be laid before the Senate and that the clerk state the title of the bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ROBERT C. BYRD. Madam President, would the distinguished Senator yield?

Mr. SPARKMAN. Yes.

Mr. ROBERT C. BYRD. I wonder if we might have a brief quorum so that Mr. CASE might be alerted to the fact this measure is up at this point, and I would ask unanimous consent that the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following Senators requested, and by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. SARBANES: Ann Proctor and Clifford Hackett; Mr. PELL: Geryld Christianson; Mr. CASE: Michael Kraft and Peter Leahy; Mr. SPARKMAN: Norvill Jones, Hans Binnendijk, Frank Ballance, Dick McCall, Gerald Decker, John Ritch, Pauline Baker, Roy Werner, Rudy Roesseau, Ira Nordlich, and Maureen Norton.

Mr. SPARKMAN. Mr. President, it is my understanding that I have 2 hours.

The PRESIDING OFFICER. The Senator is correct.

Mr. SPARKMAN. Mr. President, S. 3075, the International Security Assistance Act of 1978, provides authorization of appropriations of $2,886.4 million for seven international security assistance programs for fiscal year 1979. This authorization is a $306 million reduction from the fiscal year 1978 level.

This is one of three bills that together constitute authorizations for the fiscal year 1979 foreign assistance program. The other two bills are the International Development Assistance bill and the Peace Corps authorization bill. Security assistance is provided primarily to promote U.S. foreign policy and national security objectives, although a significant portion goes for development purposes. The fiscal year 1979 security assistance authorization represents 60 percent of the total authorizations for foreign assistance recommended by the Foreign Relations Committee. In summary, the bill contains the following:

Program authorization of $4,345.1 million for security assistance to more than 50 foreign countries with approximately $1.8 billion for Israel and $750 million for Egypt.

Authorization for $225 million in military and economic aid for Turkey, but no repeal of the Turkish arms embargo.

Authorization of $1,165 million for military transfers, foreign military sales credits, and ammunition stockpiling for the Republic of Korea.

Provisions which strengthen the Arms Export Control Act, including arms sales principles, support for multilateral restraint, fuller executive branch disclosure of arms sales plans, possible extension of the congressional arms sale review period, and greater State Department control over commercial exports with political-military implications.

Creation of an Economic Support Fund and an international peacekeeping program in place of the security supporting assistance program.

Provisions which strengthen human rights considerations in military training programs and which control overseas activities of the Drug Enforcement Agency.

In considering this bill, the Foreign Relations Committee held 5 days of hearings and two markup sessions. All were held in open session to give the public maximum access to the information available to the committee. Provisions of the bill also reflect committee deliberations during the past year on U.S. troop withdrawal from Korea, on the sale of AWACS aircraft to Iran, and on the sale of advanced aircraft to the Middle East.

ARMS EXPORT CONTROLS

During these deliberations, the committee had the opportunity to review the implementation of the President's arms transfer policy first proclaimed in May 1977. The thrust of that policy was consistent with the committee's desire to bring U.S. foreign military sales under some greater and more stringent control.

Unfortunately, however, the policy has not been implemented with the restraint that the committee had hoped would result. During the past year, the President has transmitted to Congress more than $20 billion in foreign military sales proposals. While compelling arguments can be made for many individual sales proposed by the President, one must conclude that, as a whole, the new policy has failed to bring about significant results.

With this in mind, the committee recommends nine provisions designed to strengthen controls over the exports of military equipment. They are:

First. Arms Sales Management Provisions (Section 9)—This section, initiated by Senator BIDEN, states that U.S. diplomatic and military personnel overseas should not encourage foreign countries to purchase U.S.-made military equipment unless properly authorized to do so.

Second. Arms Sales Principles (Section 15)—This section, initiated by Senator CLARK, contains 10 nonbinding arms sales principles designed to be used by both executive branch officials and the Congress as guidelines in making decisions on future arms sales. No such commonly agreed upon principles now exist. The principles are generally consistent with the President's policy but also draw on recent experience with controversial sales.

Third. Multilateral Arms Export Restraint (Section 16).—This section, initiated by Senator CLARK, recognizes that the United States alone cannot be successful in reducing the sale of arms to the developing world. It urges the President to continue his policy of seeking multilateral arms restraint and requires a detailed report on the success of these efforts by December 31, 1979. It puts other arms suppliers on notice that the United States cannot indefinitely follow a policy of arms export restraint without their cooperation.

Fourth. Annual Arms Sale Plan (Section 18).—This section, initiated by Senator JAVITS, requires the executive branch to develop an annual arms sale plan for developing countries and provide it to Congress as part of the Congressional Presentation Material. It would require the executive branch to plan arms sales at least 6 months earlier than it currently does and would allow Congress to provide statutory limitations in annual authorizing legislation for specific sales if it so desires.

Fifth. Military Surveys (Section 19).—This section, initiated by Senator PERCY, focuses on the origin of many arms sales—the military survey. It states that the recommendations of military survey teams do not represent a U.S. commitment to sell particular weapons. The provision would provide Congress with early information on possible arms transfers and would give Congress a greater opportunity to object to sales before commitments are made.

Sixth. Jurisdiction Over Police Equipment Exports (Section 22).—This section, initiated by Senator MCGOVERN, places crime control and detection equipment on the U.S. munitions list, which gives both Congress and the State Department greater control over the export of such items.

Seventh. Full Disclosure Reports (Section 23).—This section, initiated by Senator BIDEN, is designed to enhance the role of the Arms Control and Disarmament Agency in arms sale decisionmaking and to provide Congress with more detailed information on controversial arms sales.

Eighth. Extended Review Period (Section 24).—This section, initiated by Senator CLARK, provides Congress with an additional 30 calendar days to review foreign military sales if requested by two-thirds of the members of either authorizing committee. During consideration of the AWACS and F–15 sales proposals, it became clear to committee members that in controversial cases the current 30 calendar day review period does not always provide sufficient time.

Ninth. Commercial Sales (Section 25).—This section, initiated by Senator CASE, assures that the Department of State will review any export under Commerce Department jurisdiction if that export could have significant political-military implications on any region of the world.

SECURITY ASSISTANCE PROGRAMS

S. 3075 authorizes program authority of $4,345 million for seven ongoing security assistance programs to more than 50 countries. The committee recommendations for each of these programs can be found in the committee report.

FISCAL YEAR 1979 SECURITY ASSISTANCE PROGRAMS

[In millions of dollars]

| | 1978 budget authority | 1979 budget authority recommendations | 1979 program authority recommendations |
|---|---|---|---|
| MILITARY ASSISTANCE | | | |
| 1. Grant military assistance | 222.0 | 133.5 | 180.5 |
| 2. Military education and training | 30.0 | 31.8 | 32.5 |
| 3. FMS credits | [1] 680.8 | 674.3 | 2,085.2 |
| Subtotal, military | 930.8 | 839.5 | 2,298.2 |
| ECONOMIC ASSISTANCE | | | |
| 4. Economic support fund | [2] 2,220.3 | 1,972.0 | 1,972.0 |
| OTHER | | | |
| 5. International narcotics control | 37.0 | 40.0 | 40.0 |
| 6. Contingency fund | 5.0 | 2.5 | 2.5 |
| 7. International peacekeeping | | 32.4 | 32.4 |
| Subtotal, other | 42.0 | 74.9 | 74.9 |
| Total security assistance | 3,193.1 | 2,866.4 | 4,345.1 |

[1] Includes Lebanon supplemental.

[2] Includes Middle East special requirements fund and international peacekeeping.

About 70 percent of the program total is earmarked for the Middle East. The remainder is provided primarily to southern Europe, southern Africa, and South Korea. In addition a special $800 million arms transfer authority is provided to compensate for U.S. troop withdrawal from South Korea and a $5 million fiscal year 1978 supplemental appropriation is authorized for military sales credits to Lebanon.

The four areas of the world that receive most of the security assistance recommended by the committee are among the most volatile in the world. All face territorial or nationalistic disputes that threaten to erupt with important implications for world peace.

The United States has important interests in the peaceful resolution of each of these disputes. The Israeli-Arab territorial dispute involves both superpowers, oil, and an historic relationship between the United States and Israel. The Turkish-Greek dispute over Cyprus and the Aegean threatens the southern flank of NATO. American troops remain vulnerable on the divided Korean peninsula at a time when diplomatic efforts are stalled and North Korean forces are being rapidly modernized. Southern Africa is in transition from minority white to majority black rule, with the everpresent danger of racial war. Violent solution to any of these four problems would have profound implications for the United States.

In the past, the provision of security tended to help stabilize the political-military situation in that area of the world. Aid has strengthened Israel and helped deter her neighbors while providing economic support to Arab frontline states to increase their stake in continued peace. Economic assistance to southern African countries has provided refugee relief and enabled the United States to develop important diplomatic ties with the frontline states. Military and economic assistance to southern European countries has helped bring democracy to Spain and Portugal and strengthen the southeastern flank of NATO. Military assistance to South Korea has helped redress the military balance on the peninsula to deter an attack from the North.

Mr. President, the committee's recommendations for fiscal year 1979 programs to these four areas are generally consistent with the administration's recommendations, but important modifications were made that should be brought to the attention of my colleagues.

The most important modification is with regard to Turkey, while the committee accepted the administration's request for $175 million for foreign military sales credits and $50 million in economic aid to Turkey, it rejected the administration's request to repeal the partial arms embargo on Turkey. The committee made this decision after hearing testimony from Secretary of State Vance, Secretary of Defense Brown, and Acting Chairman of the Joint Chiefs of Staff Jones.

Several modifications relate to Middle East programs. A $25 million Middle East Regional Fund is established to encourage regional technical, economic, and scientific programs, including some programs in the West Bank and Gaza. I urge the Agency for International Development to work with the Congress in developing feasible regional cooperation projects. The committee further recommends that $65 million of the funds authorized for Egyptian economic assistance be used to encourage private enterprise in Egypt and that the entire economic assistance program for Israel be carried out on a cash transfer basis.

Other modifications relate to economic assistance to southern African countries. The committee recommends that $110 million be authorized for these programs rather than the $45 million requested by the administration. United States development-related assistance can have an important impact on this part of the world. In addition, the committee bill would repeal the prohibitions on assistance to Mozambique, Angola, Tanzania, and Zambia.

Finally, a modification suggested by Senator GLENN adds detailed reporting requirements to the Korean arms transfer authorization which will assist Congress in evaluating the continued feasibility of U.S. troop withdrawal from the peninsula.

ECONOMIC SUPPORT FUND AND INTERNATIONAL PEACEKEEPING

During the past several years, the nature and size of the security supporting assistance program has changed dramatically. In the early 1970's, 90 percent of the program was allocated to Indochina, while today 90 percent goes to the Middle East. During the past 3 years funds authorized under the program have tripled. Programs are increasingly becoming development oriented rather than simply balance of payments support. And finally, some peacekeeping operations have been funded by security supporting assistance.

The bill recommended by the committee makes several adjustments in the security supporting assistance program. First, the name of the program would be changed to the economic support fund to stress the economic and development potential of these programs. Policy decisions for the program would, however, remain with the Secretary of State and the national security nature of the programs is retained by keeping the provisions in the security assistance bill.

Second, funds are authorized and justified by region to provide a greater measure of accountability for individual programs.

And third, the bill prohibits the use of economic support funds for military and paramilitary purposes. Instead, a new international peacekeeping and base rights chapter is created which authorizes funds to be used for such purposes. This chapter also states that it is the sense of Congress that in general multiyear authorizations of foreign assistance should not be used to obtain agreements on base rights.

HUMAN RIGHTS

In considering the bill, the committee took a number of actions to further the cause of human rights. Provisions were added to the Foreign Assistance Act prohibiting military training assistance and assistance to law enforcement and intelligence agencies in countries which engage in a consistent pattern of gross violations of internationally recognized human rights. Military training was terminated for Nicaragua and Paraguay and FMS credits were cut for Paraguay, because of human rights violations in those countries. Military training programs in general would have as a new purpose increasing the human rights awareness of foreign students.

In taking these actions, the committee is mindful of the fact that much more work needs to be done to analyze the impact of using foreign aid sanctions to punish human rights violators. Accord-

ingly the committee has commissioned the Congressional Research Service to undertake such a study.

INTERNATIONAL NARCOTICS CONTROL

During the past year it has come to the committee's attention that Drug Enforcement Administration officials still participate in the interrogation of U.S. citizens in foreign countries, often against the will of those U.S. citizens. Therefore, the committee recommends a provision which expands the earlier Mansfield amendment of 1976 and makes such interrogation illegal unless the U.S. citizen involved gives his consent.

It has also come to the committee's attention that international narcotics control funds have in the past been used to purchase weapons for foreign countries. The bill contains a provision prohibiting the use of international narcotics control funds for that purpose.

RESTRICTIONS ON EXECUTIVE BRANCH FLEXIBILITY

During its deliberations, the committee was mindful of the need to maintain a degree of flexibility in Presidential authority, especially in time of emergency. One result is the committee's recommendation for repeal of the economic assistance prohibitions affecting a number of southern African countries.

BUDGET RESOLUTION AND COMMITTEE RECOMMENDATION

The budget authority recommended for security assistance programs in this bill is generally consistent with the assumptions of the first concurrent budget resolution.

The Foreign Relations Committee recommends that the Senate approve the bill.

Madam President, I ask unanimous consent that a table showing the geographic distribution of programs be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

GEOGRAPHIC DISTRIBUTION OF PROGRAMS

| | MAP | IMET | FMS financing | ESF/ peace-keeping | Other | Total | Percent of worldwide total |
|---|---|---|---|---|---|---|---|
| East Asia and Pacific: | | | | | | | |
| Indonesia | 0.3 | 2.5 | 40.0 | | | 42.8 | |
| Korea | 1.0 | 2.0 | 275.0 | | | 278.0 | |
| Philippines | 18.0 | .7 | 18.5 | | | 37.3 | |
| Thailand | .4 | .9 | 30.0 | | | 31.3 | |
| Other | | .6 | 23.0 | | | 23.6 | |
| Regional total | 19.8 | 6.7 | 386.5 | | | 413.0 | 10 |
| Near East and South Asia: | | | | | | | |
| Egypt | | .4 | | 750.0 | | 750.4 | |
| Israel | | | 1,000.0 | 785.0 | | 1,785.0 | |
| Jordan | 45.0 | 2.0 | 85.0 | 143.0 | | 275.0 | |
| Syria | | | | 90.0 | | 90.0 | |
| Other | | 6.0 | 95.0 | 29.0 | | 130.0 | |
| Regional total | 45.0 | 8.4 | 1,180.0 | 1,797.0 | | 3,030.4 | 70 |
| Europe: | | | | | | | |
| Greece | .8 | | 140.0 | | | 140.8 | |
| Portugal | 27.9 | 3.3 | | | | 31.2 | |
| Spain | 41.0 | 2.0 | 120.0 | 7.0 | | 170.0 | |
| Turkey | | | 175.0 | 50.0 | | 225.0 | |
| Other | | .1 | | 15.0 | | 15.1 | |
| Regional total | 69.7 | 5.4 | 435.0 | 72.0 | | 582.1 | 13 |
| Africa: | | | | | | | |
| Sudan | | .5 | 7.5 | | | 8.0 | |
| Kenya | | .4 | 10.0 | | | 10.4 | |
| Zaire | | 2.0 | 17.5 | | | 19.5 | |
| Zambia | | | | 20.0 | | 20.0 | |
| Southern Africa | | | | 90.0 | | 90.0 | |
| Other | | 1.0 | 3.4 | | | 4.4 | |
| Regional total | | 3.9 | 38.4 | 110.0 | | 152.3 | 3 |
| American republics: | | | | | | | |
| Colombia | | .5 | 19.0 | | | 19.5 | |
| Other | .4 | 7.5 | 26.3 | | | 34.2 | |
| Regional total | .4 | 8.0 | 45.3 | | | 53.7 | |
| Other programs: | | | | | | | |
| Peacekeeping (other) | | | | 25.4 | | 25.4 | |
| Military advisory groups | 45.5 | | | | | | 2 |
| Worldwide total | 180.5 | 32.5 | 2,085.2 | 2,004.4 | 42.5 | 4,345.1 | 100 |

Mr. CASE. Madam President, the International Security Assistance Act of 1978, which we are taking up in the Senate today, undoubtedly will be a vehicle for debating broad foreign policy issues as well as a means for authorizing funds for a very important part of our foreign aid program.

The bill (S. 3075) would authorize appropriations totaling $2.8 billion through seven international security assistance programs. This is a reduction of $306.7 million from the authorization for the current fiscal year, fiscal year 1978.

Senator SPARKMAN, the distinguished chairman of the Committee on Foreign Relations, already has presented a fine description of the bill itself. Thus I will not take the time of my colleagues by attempting to duplicate his presentation.

Certain aspects of the bill and the forthcoming debate, however, deserve some emphasis, because they relate to two regional trouble spots—the Middle East and southern Africa. Thus, I would like to take the liberty, in these opening remarks, to call attention to them.

The largest portions of assistance under the pending bill are allocated for the Middle East, scene of one of the world's most prolonged and difficult regional disputes. The security supporting assistance of this bill would authorize $750 million for Egypt, which also is to receive about $200 million in additional food assistance through the Public Law 480 program. The pending bill also would authorize security supporting assistance of $785 million for Israel, $93 million for Jordan, and $90 million for Syria. Under the foreign military sales program, Israel would receive $1 billion worth of credits and Jordan $85 million.

The needs and problems in these countries are great, and in an effort to help solve them, the Senate Foreign Relations Committee bill includes approaches which supplement the more standard AID channels.

Section 532(b)(4) requests the President to provide at least $465 million of the funds authorized for Egypt for the development and encouragement of private enterprise. This is a followup to the amendment last year by the late Senator Humphrey. The intent of the Humphrey amendment and this year's amendment is to help channel some of the assistance for Egypt into medium size and smaller scale projects which could be put into operation more quickly than the more traditional larger projects which often are slowed down by delays in planning and dealing with bureaucracy.

The committee report states:

It is the intent of the committee that AID shall consult closely with the Overseas Private Investment Corporation in developing and implementing these programs, and that the funds shall be used to encourage the Arab members of OPEC to join as active partners in Eygptian private enterprise development. Funds authorized under this subsection may be used for a variety of activities, including lending to the Egyptian private sector, providing necessary services, surveys, and programs to encourage and support private sector development, and contracting for such personnel as are required to carry out these activities.

Another initiative, which I cosponsored, is section 532(b)(5). As the committee report notes:

It earmarks $25 million of the funds authorized for the Middle East to be used to fund regional programs which stress development or scientific and technical cooperation between Israel and neighboring Arab countries, or programs which could be used for Arab-Israeli cooperation once normalization of relations occurs. This would permit the initiation of regional cooperative programs which would include both Israeli and Arab participation.

The basic purpose of this proposed regional development fund is to provide additional incentives to the peace process by encouraging cooperation in the economic, technical, scientific, agricultural, and other fields between the governments and peoples of the Middle East. The cooperation in developing, planning, and implementing projects

could be useful in helping breakdown the distrust and other barriers which have inhibited more peaceful relations.

The phrase "normalization of relations" is used, because we do not want to delay such cooperation until formal peace agreements are signed. The term almost defines itself—it would be useful to begin work on projects as the governments bring themselves to deal with each other, even if it is on the technical and working level rather than on a full-scale diplomatic basis.

The projects are intended to have the participation of both Israelis and citizens of Arab countries. For example, the projects could be such endeavors as joint research efforts in which the laboratories utilized are in Israel or in the Arab countries—or both—and the nationals from the other side participate. Or they could be located on the West Bank and Gaza Strip, with the approval and cooperation of local residents, the Israel Government and whatever Arab country wishes to take part.

But the important thing is that the authorities and citizens of Israel and the Arab countries work together. The program is not intended to be a supplemental to the bilateral American aid for the countries and peoples of the region, rather it is to encourage their cooperation and working together. It may be that there are not enough projects ready to launch before the end of the fiscal year, but I think it would be useful and important to make the funds available to demonstrate, if even in a relatively modest way, some of the benefits which might come from peace and normal relations in the region.

RHODESIA

The matter of Rhodesia, which is involved in this legislation in a very important way, will come up perhaps today. When we deal with this matter, we will be dealing also with the general problem of southern Africa.

Senator HELMS has announced he plans to introduce his amendment to lift sanctions against the Rhodesian Government. Under his proposal, the sanctions would be lifted upon enactment of S. 3075, until January 1, 1979.

This approach, Mr. President, is premature. Although there is a transition government in place, there are questions as to how firmly it is on the road to majority rule. In addition, there is a danger that lifting the sanctions now will reinforce the perception—valid or not—that the United States is backing Ian Smith and this makes it more difficult for the frontline states to resist pressures to go along with the Cuban option of increased military activity which we are seeking to curtail.

A better alternative is the amendment I am proposing along with Senators JAVITS and MOYNIHAN.

The basic condition to the lifting of sanctions would be the formation of a new government following free elections in which persons of all population groups are allowed to participate.

This could take place even before the end of this year if the elections are moved up from the current proposed timetable under which the new government is to take office by December 31 of this year.

The key purpose of our amendment is to underscore our backing for the concept of a peaceful transition to majority rule through free elections open to all, and the recognition and protection of minority rights.

Thus the amendment is intended to provide encouragement for another round of negotiations, at a proposed all-parties conference to involve the transitional government and representatives of the so-called Patriotic Front.

It would require the Rhodesian Government to make a good faith commitment to take part in and negotiate in such a conference. If the conference does not take place, through no fault of the Rhodesian Government, sanctions still would be lifted if free elections are held, open to all population groups obscured by impartial internationally recognized observers.

Our amendment is intended to encourage all sides to resolve their differences and work them out through negotiations and elections through the political process rather than by force.

We believe the amendment provides incentives for this approach and is the responsible way to handle this most difficult area.

UP AMENDMENT NO. 1491

(Purpose: To repeal the limited embargo on arms sales to Turkey)

Mr. SPARKMAN. Madame President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 1491:

On page 18, strike out lines 13 through 16 and insert in lieu thereof the following:

"SEC. 14. (a) Section 620(x) of the Foreign Assistance Act of 1961 is repealed".

Mr. SPARKMAN. Madam President, for more than 3 years the United States has maintained an arms embargo on Turkey. During the past months, I have listened to arguments concerning Turkey made before the Committee on Foreign Relations by various witnesses, including the President's special envoy, Clark Clifford. After reviewing the evidence, I firmly believe that the embargo should be lifted.

I hold this view for two reasons. First, I believe that such action is in the best interest of the NATO alliance. And second, I believe it is the best opportunity that the United States has to help bring a solution to the Cyprus problem.

Let us first consider Turkey's role in NATO. Gen. Alexander Haig, the U.S. Army commander in chief, U.S. European Command, last month told the Senate that Turkey's full and active participation in NATO is "indispensable to our own security as well as the of Greece and other NATO allies." Turkey's geographic position commands the Soviet Union's main access to the Mediterranean Sea. Turkey has one of the largest land masses in Europe and is a gateway to the Middle East. It has one of Europe's largest standing armies and has been a strong American ally.

The embargo, however, threatens Turkey's ability to participate fully in NATO. Turkey's military equipment is nearly obsolete. If the Senate disregards this situation by maintaining the embargo, Turkey might leave NATO's integrated command and permanently close U.S. bases in Turkey. This would be a great defeat for both the United States and all of NATO. If the embargo is lifted, however, Turkey's ability to carry out its NATO obligations will be strengthened.

I am also convinced that lifting the arms embargo on Turkey may lead to progress on the Cyprus negotiations. For 3 years the embargo failed to bring a solution to the Cyprus problem. Since President Carter announced his policy to repeal the embargo, however, the Turkish side has shown its desire to renew the Cyprus talks by presenting a new negotiating position and making some important concessions concerning the city of Varosha.

Last week I received a letter from Ambassador Esenbel, the Turkish Ambassador to the United States. The Ambassador states in his letter that "the embargo has become a stumbling block to a Cyprus settlement." He also describes the Turkish negotiating position as having "inherent flexibility."

Madam President, I ask unanimous consent that the text of the letter be printed in the RECORD as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TURKISH EMBASSY,
*Washington, D.C., July 18, 1978.*

Hon. JOHN SPARKMAN,
*Chairman, Senate Foreign Relations Committee, Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: As Congress moves toward consideration of the 1979 Security Assistance Authorization, and with it lifting the embargo on security aid to Turkey, I wish to convey to you and your colleagues my appreciation for the careful consideration and deep concern that has been evident, especially in the past few weeks.

I cannot stress too strongly the importance of ending the embargo to the future of U.S.-Turkish relations, the positive effect this action will have on the common defense interests of our NATO alliance, and progress toward settlement on Cyprus.

You will kindly note that all initiatives regarding Cyprus have come from the Turkish side:

January 1977: Turkish Cypriot leader Denktash invited Archbishop Makarios to meet to discuss Cyprus; in February they reached their historic agreement on the framework for an acceptable agreement.

September 1977: Denktash reiterated to Secretary General Waldheim his desire to see the Nicosia Airport, located in the demilitarized zone under U.N. control, reopened.

October 1977: Turkish Foreign Minister Caglayangil proposed the reopening of Varosha sector of Famagusta so Greek Cypriots could re-establish homes and businesses.

March 1978: Ecevit and Karamanlis met in Montreux at the suggestion of the Turkish Prime Minister, agreeing to continue their dialogue at the technical level.

April 1978: The Turkish Cypriots offered their proposals for a settlement, as a means of providing concrete suggestions on which negotiations might proceed.

May 1978: Ecevit and Karamanlis renewed their discussions in Washington and Ecevit agreed to enter a non-aggression pact with Greece if that would ease tensions between the two NATO partners.

May and June 1978: Rauf Denktash indicated on several occasions a willingness to meet with his Greek Cypriot counterpart "anytime, anywhere" and with or without an agenda, in order to resume discussions.

Turkey has withdrawn 41 percent of her armed forces to date and will continue this policy as the security aspects of the Turkish Cypriot community improve. Two battalions were withdrawn July 10.

These are highlights of Turkish efforts to get Cyprus talks going again. The record is clear: All Turkish attempts to meet and talk, to demonstrate substantial flexibility in negotiations, and to give evidence of a sincere desire to conclude a just and moral settlement in Cyprus have been foiled because of the other side's unwillingness to progress toward settlement.

Regarding the Turkish Cypriot proposals—called concrete and substantial by the Secretary General of the U.N.—these were offered as a basis for resuming negotiations. In line with the Denktash-Makarios guidelines agreement of February 1977, the proposals comprise the following measures:

Territorial adjustments, of a magnitude to be negotiated, in several areas of the island. In addition, the Turkish Cypriots make no claim to any of the demilitarized buffer zone which constitutes 3 percent of the land area.

The opening of Varosha, the major revenue center of tourism, upon resumption of intercommunal talks, to as many as 35,000 Greek Cypriots for re-establishment of homes and businesses. And, the final political framework of Varosha is open to negotiation.

A draft constitution that does not envision partition of the island as the Greek side claims, but which entrusts to the federal government foreign affairs; external defense; banking, foreign exchange and monetary affairs; federal budget; customs, duties and tariffs; external communications; federal health services; tourism, and other joint-interest functions.

Withdrawal of Turkish forces from the island as bi-communal talks progress. With final agreement and settlement, all Turkish troops will be withdrawn except those which, by mutual agreement, will remain for the security of the island.

All of these constitute a negotiating position with inherent flexibility, as we have attempted to make clear on several occasions. Unfortunately, the Greek side not only declares them totally nonnegotiable, but refuses to meet with the Turkish Cypriot leadership even without an agenda.

Considering that in the past the Greek side has entered negotiations without a prior agenda being established, or proposals submitted, it is clear that the strategy now is to influence Congress to perpetuate the embargo by fostering the image of "non-progress" in Cyprus.

Thus, the embargo has become a stumbling block to a Cyprus settlement in addition to causing serious damage to U.S.-Turkish relations and the common defense interests of the West.

And Turkey genuinely desires to see all impediments to cordial relations and full cooperation between our two countries removed, so that with a strong and democratic Turkey we might once again be full partners in pursuit of common goals.

Sincerely,

MELIH ESENBEL,
*Ambassador to the United States.*

Mr. SPARKMAN. I, therefore, believe that the Senate should vote to remove this stumbling block to the negotiations and encourage the Turkish negotiations to demonstrate their flexibility on the Cyprus question.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Department of State dated June 28, 1978, from Douglas J. Bennet, Jr., together with the attachments, and an editorial from the Washington Post of yesterday, July 24, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
*Washington, D.C., June 28, 1978.*

DEAR SENATOR: You will be voting soon after the July 4 recess on the International Security Assistance Bill (S. 2846) which includes the Administration's programs for Greece, Turkey and Cyprus. The central element in this program is a proposal to lift the arms embargo on Turkey.

The central questions are these: (a) will lifting the embargo improve prospects for a just, lasting settlement on Cyprus and (b) will perpetuating the embargo damage U.S. security interests?

We have put together some materials on both these questions which may be helpful to you in considering the embargo issue and in answering questions from your constituents during the recess.

Attached are brief papers on the following subjects:

Turkey: An important Partner in NATO.

U.S. military Facilities in Turkey.

The Cyprus Problem: New Hope for a Solution.

The Return of Greek Cypriot Refugees to Varosha.

We would welcome an opportunity to review with you personally the complex issues involved in the Eastern Mediterranean prior to this important vote. Please call me or my Deputy, Nelson Ledsky (632-4768), if we may arrange a further briefing or answer any questions you may have.

Sincerely,

DOUGLAS J. BENNET, Jr.,
*Assistant Secretary for Congressional Relations.*

Enclosures: as stated.

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TURKEY: AN IMPORTANT PARTNER IN NATO

Turkey contributes to NATO's strength through its strategic geographical location, its forces, and its Western orientation.

Turkey's geographical location is a key element in discouraging Warsaw Pact and Soviet aspirations toward the Mediterranean and Middle East. Major land, sea, and air routes from the Soviet and Bulgarian Black Sea areas to the Mediterranean lead across Turkey.

Turkey has the largest standing army in NATO—approximately 480,000. Along with the Greek Armed Forces, Turkey ties down approximately 26 Warsaw Pact divisions plus associated air and naval units in the Caucasus, Balkans, and Black Sea areas. Without having to contend with credible Greek and Turkish defenses, a significant portion of these Warsaw Pact forces could be reoriented toward other areas of NATO where significant money and manpower would be required to balance them.

Turkey provides important facilities for U.S. and NATO requirements for peacetime training, forward basing of tactical fighter aircraft, support of the Sixth fleet, and intelligence collection.

Unlike Greece which withdrew its forces from the NATO integrated military command structure in 1974, Turkey remains fully integrated within NATO.

A combination of severe economic problems and the U.S. arms embargo has resulted in a significant reduction in the capability of the Turkish Armed Forces. Most equipment in the Turkish armed forces is of U.S. origin and most is quite old. The effect of the U.S. arms embargo in 1975 and continuing restrictions has been to stop almost completely a modest modernization program within the Turkish armed forces and to prevent the Turks from maintaining aging equipment in working order. Cannibalization to keep some major weapon systems in operation has become widespread, particularly in the Turkish Air Force. Maintenance difficulties have become massive and crew training has suffered.

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U.S. MILITARY FACILILTIES IN TURKEY

In reaction to the 1975 arms embargo, Turkey suspended U.S. operations at five of seven major installations in July 1975. Four were used for intelligence collection (Sinop, Karamursel, Belbasi, Diyarbikir) and the fifth is a long-range navigation station (Kargaburum).

The three-year suspension of U.S. operations in Turkey has degraded our capability to collect information on Soviet weapon systems technology, research, training and operations. Specifically:

Valuable data has been lost on Soviet space, missile, and military systems development and strategic nuclear activities, thereby reducing our level of confidence in our knowledge of these subjects.

Continued loss of information which can be collected from sites now in Turkey hampers our ability to develop countermeasures to Soviet weapon systems under development and could allow these systems to reach an advanced stage without our having a complete understanding of their potential threat.

Certain needed information can be collected only from Turkey. Therefore, all present losses could not be recovered simply by relocating the facilities elsewhere. In any event, relocation to recover partially the capability represented by U.S. intelligence installations in Turkey involves a significant amount of time and money.

The Government of Turkey has informed us that the lifting of the embargo would lead to the reopening of these installations. We intend to work out shortly an interim arrangement followed by negotiations for a permanent basis for operation of these facilities. If necessary, we will also explore with the Government of Turkey immediate reopening upon repeal of the embargo on an interim basis even if new arrangements have not yet fully been worked out.

Two major installations (Incirlik Air Base and Ankara Air Station) are in full operation in direct support of the NATO mission. They provide:

Forward basing of USAF tactical fighter aircraft in support of NATO defense plans. Accommodations are also maintained for wartime augmentation by reinforcement aircraft and NATO strategic reserve forces.

Peacetime training. Konya Range is one of the very few air-to-ground firing ranges east of Spain which is available and adequate for regular use by theater tactical air forces.

Terminal support for intertheater staging of strategic airlift aircraft, including the only U.S. owned and controlled major aircraft refueling facility in the eastern Mediterrean area.

Naval depot services and stocks for the replenishment, refueling, and aviation POL resupply for units of the U.S. Sixth Fleet. Twenty percent of Fleet fuel assets in the Mediterranean are stored in Turkey.

Major contingency storage of war reserve materiels, munitions, and petroleum supplies for use by the U.S. Forces.

Communications in support of logistics requirements, intelligence, and command and control of U.S. and other NATO forces in Southern Europe and the Mediterranean.

THE CYPRUS PROBLEM: NEW HOPE FOR A SOLUTION

INTRODUCTION

When Cyprus gained independence from Britain in 1960, a centralized government was established with checks and balances to protect the Greek-Cypriot majority and the Turkish-Cypriot minority. Cypriot Archbishop Makarios was elected President, and the leader of the Turkish-Cypriot community was chosen as Vice President. Greece, Turkey and the United Kingdom guaranteed the maintenance of this arrangement.

Strains between the Greek and Turkish communities developed immediately after independence. Violence erupted in 1963–64, 1967 and again in 1974. A UN peacekeeping force was introduced on Cyprus in 1967, and under UN auspices talks between Greek-Cypriot and Turkish-Cypriot community leaders were undertaken.

In 1977 the two communities agreed, for the first time, on principles under which a new government might be organized. Both the Greek-Cypriots and the Turkish-Cypriots accepted the idea of two ethnic zones on the island with some kind of central government uniting them. Specific details as to which activities were to be handled in the zones and which at the federal level were not resolved.

The United States played an important role in encouraging the two sides to reach this agreement in principle. It remains an important objective of U.S. policy to insure that follow-on negotiations successfully resolve these fundamental constitutional issues as well as the territorial question of where the dividing line between the two zones shall be established.

THE 1974 CRISIS AND ARMS EMBARGO

The present U.S. arms embargo on Turkey stems from the 1974 crisis. In July, 1974, elements of the Greek Cypriot national guard, supported by the Greek military junta in Athens, deposed President Makarios. In his place, they installed a Greek Cypriot extremist known to be fiercely anti-Turkish and anxious to unite Cyprus with Greece. Five days later the Turkish Government, claiming it was acting under the 1960 guarantees, landed military forces on the northern coast of Cyprus to protect the Turkish Cypriot population and prevent union with Greece.

Shortly thereafter, the coup on Cyprus collapsed, a cease-fire was achieved, and the legitimate government was restored. The Turkish troops did not leave Cyprus, however, and in August the Turkish Government landed additional forces, taking about 36% of the island. These events resulted in bloodshed and displaced a large number of persons. In 1975, a separate Turkish-Cypriot administration was established in the northern part of Cyprus. In succeeding months, Turkish Cypriots moved north and Greek Cypriots moved south to join their ethnic communities. It was in reaction to the second Turkish invasion that the U.S. arms embargo was imposed.

NEGOTIATIONS BEGIN

As a result of diplomatic pressure by the U.S. and other nations, intercommunal negotiations were resumed in 1975 under the aegis of UN Secretary General Waldheim. Some progress was made towards resolving humanitarian problems resulting from the 1974 fighting, but through 1976 the two sides remained deadlocked on the fundamental problems of the structure and functions of a future government and the future geographic division of the island.

Early in 1977, however, President Makarios and Turkish Cypriot leader Denktash meet personally under the aegis of Secretary Waldheim and agreed on a set of principles that would constitute a framework for a comprehensive Cyprus settlement. Cyprus was to be a sovereign, independent, bizonal, bicommunal federal republic; the Turkish Cypriots would withdraw from an unspecified portion of the territory they occupy; and the basic rights of freedom of movement, settlement and property ownership would be respected with certain conditions.

TURKISH-CYPRIOT PROPOSALS

When Turkish Prime Minister Ecevit assumed office in January 1978, chances for a settlement improved. Ecevit's predecessors had all ruled with coalition which made consessions politically difficult, whereas Ecevit commands an actual majority. Ecevit has declared that a Cyprus settlement is in Turkey's own best interest, and a matter of high priority for his government. Turkish Cypriots, with Ecevit's encouragement, submitted fresh constitutional and territorial proposals.

The Turkish Cypriots have amplified the latest proposals to include offers

That the Turkish Government would make further troop reductions as the intercommunal negotiations progress;

That some 30–35,000 Greek-Cypriots could commence returning to their homes and businesses in the city of Varosha as the negotiations progress;

That the Turkish-Cypriots are prepared to discuss the reopening of Nicosia airport for civilian traffic, and to explore the possibility of joint economic ventures between Greek and Turkish Cypriots.

The Greek Cypriots have stated that these proposals are unacceptable as a basis for resuming negotiations, and they have maintained this position despite subsequent assurances that the Turkish Cypriot side is prepared to be flexible and forthcoming as soon as the two parties are back at the table.

The Turkish Cypriot proposals appear to represent a real advance over the positions assumed by Turkish Cypriot negotiators in previous rounds of talks. The constitutional proposal is substantially more developed and the Turkish Cypriots have for the first time clearly agreed to discuss territorial changes. These proposals plus the more favorable political environment in Turkey make this an important and hopeful movement in the search for a solution in Cyprus.

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THE RETURN OF GREEK CYPRIOT REFUGEES TO VAROSHA

Recent declarations by the Turkish Cypriots have moved the problem of resettling a sizable number of Greek Cypriots in the important seaside town of Varosha closer to solution.

Prior to the 1974 hostilities in Cyprus, Varosha (New Famaguta) was a flourishing and prosperous Greek Cypriot resort center of some 40,000 full-time inhabitants, not unlike a small-scale Miami Beach. In August 1974 the population of Varosha fled to the south to escape advancing Turkish forces. Rather than being opened to Turkish or Turkish Cypriot settlement, as were other abandoned Greek Cypriot communities, Varosha remained sealed off under the direct control of the Turkish army.

Varosha is now a ghost town. Yet it is perhaps the single most significant piece of territory in dispute between the Greek and Turkish Cypriots. For the former, the regaining of a major Greek Cypriot town of substantial economic importance has become a *sine qua non* of a settlement. For the latter, Varosha is of crucial significance because of its value to the Greek side and on account of its proximity to Famagusta Harbor, the only deep-water port in the Turkish Cypriot zone.

Varosha has now become a key element in efforts to resume the Cyprus intercommunal negotiations. The proposals submitted by the Turkish Cypriots to Secretary General Waldheim on April 13 include a separate section on Varosha, which provided for the return of some Greek Cypriot inhabitants subject to the laws and regulations of the Turkish Cypriot administration. This latter condition was rejected by the Greek Cypriots. The Turkish Cypriots have now clarified and elaborated on their proposal: They have specified that up to 35,000 Greek Cypriots will be able to return to Varosha; they have conceded that this return need not await conclusion of a settlement but can commence as soon as negotiations are resumed; and they have given assurances that the future political framework of Varosha is open to negotiation, thereby admitting the possibility of a revision to Greek Cypriot control.

These are welcome clarifications. Nevertheless, we understand why Greek Cypriots may well be reluctant to return to Varosha while negotiation are underway, should this mean they will be subject to Turkish Cypriot jurisdiction.

A practical solution would be for the United Nations to assume an interim role in the administration of Varosha, pending arrangements to be worked out in a final settlement. Secretary General Waldheim has tentatively endorsed this approach, noting in his May 31 report on the Cyprus question that, with reference to the status of Varosha, "it would seem natural to envisage United Nations assistance in this connection." Furthermore, the Turkish side has indicated that in the context of a resumption of intercommunal talks it would accept an interim United Nations role in Varosha to facilitate the return of the Greek Cypriot inhabitants.

Progress on the Varosha issue now seems possible. Such progress will be important not only for itself, but also because it could be instrumental in moving towards a resumption of full negotiations.

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LIFT THE TURKISH EMBARGO

Jimmy Carter was right on the mark when he said the forthcoming Senate vote to lift the Turkish arms embargo is the most important piece of foreign-affairs business the Congress has left in this session. It's really quite simple. If the embargo is lifted, diplomacy gets a chance to start healing the wounds in Cyprus, the rent in Turkish-Greek relations, the strain in Turkish-American and Greek-American relations, and NATO's whole sorry disarray in the eastern Mediterranean. If the embargo stays on, everything gets worse.

The argument has been cast in pro-Turkish and pro-Greek terms, but that is misleading. There is a great deal in it for both Turkey and Greece, and for both Turkish and Greek communities on Cyprus, if the stalemate signified by the embargo is broken. The United States has gone to considerable lengths to make that case, explaining the vista that a lifting of the embargo would open, removing the previous administration's pro-Turkish tilt in military aid, and supporting Greece's wish not to be muscled by Turkey in their Aegean Sea dispute. The administration has also labored, successfully, to induce the Turks to offer a new Cyprus position conducive to negotiations. Ankara's position is not yet what Athens and the Greek Cypriots want it to be. The way to improve it is by the talks that would surely follow a lifting of the embargo.

The Greek lobby is hanging tough. That has led Sen. George McGovern (D-S.D.) to offer an imaginative way out. Mr. McGovern can hardly be regarded as someone dominated by the strategic concerns that, for good reason, guide the views of many others who wish to end the embargo. He is sympathetic to the division and hardship on Cyprus. Mr. McGovern suggests lifting the embargo, while linking future Turkish-aid requests (including arms sales) to a presidential certification

of good-faith diplomacy. His amendment is designed to eliminate the stigma that the embargo is for Turkey, but to retain a non-humiliating form of encouragement to the Turks to continue moderating their policy. The administration supports this approach.

Let us underline the essential point. The embargo was at its outset a well-meant, legally mandated protest against the use of American arms for the occupation of almost half of Cyprus. But experience has proven it to be destructive of the purpose it was meant to serve—reducing the occupation—and of much else. The embargo stands now simply as a hostile act against an ally, and one not in the slightest endorsed by any other NATO ally—except for Greece. The Senate should end it in the manner suggested by Mr. McGovern.

Mr. SPARKMAN. Madam President, I ask unanimous consent that Christie Cohagen and Allyn Kreps of Senator CRANSTON's staff be allowed to remain on the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, will the Senator yield? I make the same request, I ask unanimous consent that Mr. Mark Edelman of Senator DANFORTH's staff be allowed the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SPARKMAN. I believe Senator CASE would like to be notified at this time. He is at the Appropriations Committee and he said he would be right back.

I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. SPARKMAN. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Madam President, I ask unanimous consent that Bob Downen and James Styles of Senator DOLE's staff be granted the privileges of the floor during the consideration of S. 3075; and also John Haddon of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HATCH. The same as the prior request.

Mr. ROBERT C. BYRD. Mr. President, that would be under the control of the managers of the bill. Does the manager want time to be charged against his time on the quorum? His side is going to need a lot of time for discussion of this amendment.

Mr. SPARKMAN. May I ask that this quorum be charged?

Mr. ROBERT C. BYRD. I understood that, but the quorum has been called off, has been reinstituted by another Senator under the same conditions, I am just trying to call the Senator's attention to it.

Madam President, will the Senator yield me some time?

Mr. SPARKMAN. Yes.

### LIFTING THE TURKISH EMBARGO

Mr. ROBERT C. BYRD. Madam President, the time has come to lift the embargo on arms to Turkey. Ending the embargo will, I believe, be in the best interests not only of the United States, Turkey, and NATO, but of Cyprus and Greece as well.

I will, therefore, introduce an amendment later today, jointly sponsored by Mr. MCGOVERN, Mr. BENTSEN, and Mr. CHAFEE, which would end the embargo. This amendment would do more than simply repeal the embargo, however. It would also put into law a strong declaration of U.S. commitment to a just solution of the Cyprus problem. Further, it would require that in future requests for military or economic assistance, credits, or arms sales for Turkey, Greece, or Cyprus, the President transmit to Congress his certification that such a solution has been achieved or that such aid would be supportive of a solution.

In order for Congress to continually review progress toward resolution of the Cyprus issue, the amendment would also require reports from the President to the Congress every 60 days on this matter.

The amendment would also provide an additional $35 million in foreign military sales credits to Greece, bringing the total allocation for Greece up to $175 million, equal to the amount authorized for Turkey.

I am very pleased to join with Senators MCGOVERN, BENTSEN, and CHAFEE in sponsoring this amendment, which I will later call up.

I particularly want to express appreciation to the senior Senator from South Dakota (Mr. MCGOVERN) for his efforts in working the language of this amendment.

I also wish to express appreciation to the distinguished Senator from Texas (Mr. BENTSEN) for the efforts he has put forth in helping to work out language that we hope will command the kind of support in the Senate that is needed to resolve this critical issue.

Madam President, when the Senate first voted to apply the embargo in 1974, I was among those who supported it. There was an important point to be made in response to the Turkish use of U.S. weapons in Cyprus. That point has been made—clearly and unmistakably.

Now, we must look forward. The embargo has become counterproductive, an impediment to resolution of the Cyprus issue. For Turkey the embargo has assumed enormous—and highly negative—symbolic significance. As long as the embargo continues in force it is the dominant factor in Eastern Mediterranean relations and it inhibits significant progress toward a lasting solution on Cyprus.

Madam President, the embargo also seriously undermines our collective security arrangements.

Madam President, this is not a case of choosing between two valued allies—Greece and Turkey. We want to have good relations with both nations and believe that such relationships will be in our best interests as well as theirs.

The truth is that while the embargo has done little to resolve the Cyprus issue, it has greatly hampered our relations with Turkey and it has weakened Turkey militarily—and consequently weakened NATO's southern flank.

It is on this issue of Turkey's role in NATO that I want to place particular emphasis, because I believe this is a vital factor.

I recently returned from Europe where I had the opportunity to discuss this question with a number of European leaders as well as NATO officials. There was unanimity from everyone with whom I discussed the issue that the embargo should be lifted as soon as possible. The European leaders see this as a matter of overriding importance.

The Secretary General of NATO, Mr. Joseph Luns, strongly advocated that the embargo be removed, stating that all NATO countries, other than Greece, favor lifting the embargo.

A general European optimism about NATO and its direction was tempered somewhat by concern about the embargo and the problems it poses for the Alliance. German officials told me that while they could understand the original motivation of the Congress in imposing the embargo, Congress should now consider the full political effect it has had in the Eastern Mediterranean. This is not just a matter of Greek-Turkish relations, but of profound stategic consequences.

Turkey is the cornerstone of NATO's vital southern flank. It is not in the interests of the United States, Turkey, Cyprus, Greece, or NATO to permit the southern flank to disintegrate. NATO access to and control of Turkish air and sea space is a key element in NATO strategy. The Turkish ground forces are the second largest within the Alliance.

Our military leaders view lifting the embargo as a matter of great importance. Turkey has remained fully integrated within NATO, although as a result of the embargo, Turkey's defense equipment is becoming increasingly outdated. Without our assistance, Turkey will have great difficulty in modernizing its forces and in carrying out the long-term defense program which is the blueprint for NATO cooperation in the coming years. As Defense Secretary Harold Brown has pointed out, Turkey's ability to adequately maintain its defensive forces is diminishing. In order to keep some of the aging weapons systems in working order, cannibalization of equipment has become widespread, particularly in the Turkish Air Force. Maintenance problems have become serious and crew training has suffered.

As Gen. Alexander M. Haig, Jr., the supreme allied commander in Europe, has stated, the full and active participation of this proudly democratic nation in the Alliance is indispensable. A strong Turkey is an important component of NATO's deterrent capability—all the more so in the face of the build-up of Soviet and Warsaw Pact forces. A strong NATO is essential to U.S. security and to the protection of our interests in the

Eastern Mediterranean. With Turkey sitting astride the maritime access to and from the Black Sea, as well as in a key location between the Balkans and the Middle East, the area's strategic importance is indisputable.

Another important factor to consider is the value of U.S. intelligence installations in Turkey. The loss of these facilities has limited our capacity to monitor Soviet military activities in the area. The intelligence installations in Turkey are needed to effectively monitor Soviet weapons systems technology and military training and operations, including space, nuclear, and missile testing operations.

Madam President, we must not allow the military situation in Turkey to continue to decline. As I stated earlier, our North Atlantic allies, with the exception of Greece, strongly support the ending of the embargo.

Indeed, not only is Turkey the cornerstone of NATO's southern wing, but Greece's own position would be much more precarious without a militarily strong Turkey. As General Haig has stated, so long as Turkey remains fully within the Alliance, any Warsaw Pact attack on Greece would be a highly risky adventure, while without Turkey's support the defense of Greece is vastly more difficult. The fact that the Warsaw Pact forces maintain the capability to deploy more than 50 divisions against Turkey is clear evidence of Turkey's importance to NATO's southern flank.

Thus, the embargo threatens the larger strategic interests of the United States and the Alliance. Further, it places a severe strain on United States-Turkish relations and is an impediment to improved relations between Greece and Turkey and a resolution of the Cyprus issue.

Madam President, since the founding of the Republic of Turkey in 1923 and the Turkish Reformation under the leadership of Mustafa Kemal Ataturk, successive governments have looked to the West for political, economic, and cultural relationships. Despite strong, economic and political pressures, Turkey has maintained its democracy and strengthened its ties with Europe and the United States. Along with Greece, it became a member of NATO in 1952, and is also a member of the Organization for Economic Cooperation and Development—OECD—and has a close relationship with the European Economic Community.

As Prof. Bernard Lewis of the Institute for Advanced Studies has written:

> Within Turkey there has been a gradual, painful but nevertheless genuine development of a western way of life, with a mixed economy and a parliamentary democracy, renewed and sustained despite successive revolutions and upheavals. Despite the continuing crisis resulting from the absence of an effective parliamentary majority for any party in the Assembly, Turkey has retained a commitment to democracy. . . . Turkey has pursued a generally pro-Western alignment in international affairs. Turkey dispatched a brigade to Korea in 1950 and remains firmly committed to the Council of Europe, to NATO, and to CENTO.

But now, Madam President, there is in Turkey a feeling of great disappointment with the West and the United States. Many Turks are embittered and feel increasingly distant from the West. This is a matter about which we should be seriously concerned, even though Prime Minister Ecevit has reaffirmed Turkey's strong commitment to NATO and its desire for good relations with the United States. During his recent visit to Washington, Ecevit said:

> We attach great importance to Turkish-American relations . . . which we would very much like to revitalize, not only in the interest of both countries, but also in the interest of world peace as a whole.

Madam President, the essential first step in revitalizing relations with Turkey is to lift the political and symbolic burden which the embargo represents. This is of paramount importance for NATO and is, I believe, the correct step to take in working toward a solution to the Cyprus question.

The Turkish Government has shown that it has a positive attitude on the Cyprus question. I have commended the Turks for the signs of flexibility which they have shown, and have called on them to do still more in this regard. I have been extremely pleased to see evidence that they are doing more. I think this bodes well for the future if the embargo is lifted.

An example of the Turkish attitude which I find especially encouraging is in regard to the seaside city of Varosha. The Turkish Cypriots have agreed to the creation of an interim administration for the city—under the United Nations—as soon as the negotiations between the Greek and Turkish communities are resumed. The United Nations administration of Varosha, which has been under Turkish control since August 1974, would mean that one of the key issues holding up a Cyprus solution is closer to being resolved.

Turkish and Turkish Cypriot leaders have made other proposals which could serve as a basis for meaningful negotiations on Cyprus. These would include:

Significant territorial readjustments;

Further troop reductions on Cyprus by the Turkish Government as negotiations proceed;

Reopening of Nicosia International Airport to civilian traffic;

Joint economic ventures between both Cypriot communities.

I believe the basis for serious negotiations is there. Prime Minister Ecevit has stated that he regards a solution of the Cyprus problem as being in Turkey's own best interest and that the Turkish Government desires to work actively toward that goal.

In closing, Madam President, I want to make a few more comments about Greece and to reiterate what I said earlier—that approval of this amendment does not constitute in any way a repudiation of Greece or a choice between these two important friends and allies.

Greece and the United States have been partners in NATO for a quarter of a century and Greece, like Turkey, is an important element in the NATO defense structure.

Obviously we value Greece for reasons other than our mutual security interests. Greece also shares our commitment to democracy and freedom. The Greek contribution to our heritage is immeasurably great.

Of all peoples, the Greeks have best dreamed the dream of life, said Goethe.

It was Aristotle, one of those great Greek philosophers who had such an impact on Western thought, who noted that a man is a political animal and that everyone thinks chiefly of his own interest, hardly ever that of the public.

What we need to do here is rise above politics, to recognize the broader public interest.

In adopting this amendment and repealing the embargo on arms to Turkey, we are not choosing between Turkey and Greece, we are acting in the broader interests of those countries and our own. Our goal is to have two strong and friendly nations in the Eastern Mediterranean, to maintain the strength of NATO, and to make possible a just and lasting Cyprus settlement.

I am convinced that the amendment which I shall offer as an amendment to the amendment by Mr. SPARKMAN, on behalf of myself, Mr. MCGOVERN, Mr. BENTSEN, and Mr. CHAFEE, would serve that broader purpose, and I hope that the Senate will adopt it. I yield the floor.

Mr. BENTSEN. Will the Senator yield 15 minutes at this time?

Mr. SPARKMAN. Permit me to have something referred to in the RECORD.

I believe, Madam President, this has already been left at the desk, but in the Washington Post of yesterday there was a very fine and forceful editorial entitled, "Lift the Turkish Embargo."

I simply call attention to the fact that I have already sent it to the desk.

I yield 15 minutes to the Senator from Texas.

Mr. BENTSEN. Madam President, it is not easy for one who fought so hard to impose the Turkish embargo to now stand before this body and say, "Enough. Enough is enough. We have made our point. We have sustained the rule of law. We have proven to the Turks and to the people of the world that we expect the laws of the United States to be maintained in the use of our weaponry."

This, despite the fact that we have had some 26 other instances of questionable use of U.S. arms and possible violations of the law of limitations on that use. This Nation, in most instances, has chosen not to act on them.

But we have reached the point on this embargo where it is not only not productive, but counterproductive—counterproductive to Cyprus; to Greece; to Turkey; and most of all to the United States of America.

Despite some sharp and apparent differences over the future of the embargo, I think it is fair to assert, Madam President, that all participants in this debate share a profound sorrow for the problems of Cyprus and its people, and a common determination to bring an end to their suffering.

We share an awareness of the importance of both Greece and Turkey to the NATO Alliance and to our own national security. We all acknowledge that the problem of Cyprus is at the core of the

complex trilateral relationship among our country, Greece, and Turkey, and the arms embargo is directly relevant to the problem of Cyprus.

It was initiated by Congress for two primary reasons. First, there was general agreement that the second stage, August 1974 Turkish offensive on Cyprus constituted a violation of our laws. Congress concluded that Turkey should be punished, and the embargo became our stick.

To this I respond that Turkey has been punished for over 3 years. The imposition of the embargo—its prolonged application despite its adverse effects on Turkish-American relations and our own security interests, provides concrete evidence of our commitment to the rule of law.

The second rationale for the embargo is the notion that it could be used to pressure the Turkish Government into making concessions on Cyprus that would eventually yield a settlement and the withdrawal of Turkish troops.

On this score, it has become abundantly clear that the embargo has not worked. It has been a major impediment, rather than a spur, to Turkish concessions. It has retarded the prospect of peace. It has punished the people of Cyprus as much as the Turkish Government.

Some would contend that the embargo has not worked as envisioned because it has not been fully or consistently applied.

Some would say that the reason the embargo has not worked is because we have not enforced it in its fullest, that we have not been tough enough; turn it another notch, twist it a little more.

This line of reasoning is vulnerable on two counts. If the embargo is not an embargo, if it is merely a bone that sticks in the craw of the Turks, and if it is generally conceded that it has not worked, why bother to maintain it? What good will it do? Can anyone seriously suggest that it will force the Government of Turkey to withdraw its troops?

More to the point, I submit that a rigidly enforced embargo would be equally ineffective in obtaining the desired result. We could go beyond the embargo, Mr. President. We could sever all diplomatic relations with Turkey. We could treat them as we treat Cuba or Uganda. I doubt very much that we could coerce the Government of Turkey to react positively to that kind of pressure.

If we have learned anything over the past 3½ years of this embargo, it is that the Government of Turkey and the Turkish people are not prepared to knuckle under to the pressure of the embargo.

I think the people of this country can understand that attitude. As I recall, we did not take kindly to expressions of international displeasure over our problems in Vietnam.

Patent ineffectiveness and counterproductive punishment are not the only characteristics of the embargo experience. More significant is the adverse impact it has had on our own national security; on the strength of NATO; and on the Cyprus negotiations.

I heard one of my colleagues say the other day, "I have counted the Turks in my State and I got up to 12." Whether you want to look on that as an expression of cynicism or political reality, I think we ought to take the measure of that kind of allegation. I think we ought to do things for other countries. I think we ought to be international in our outlook. But first and foremost, we ought to look to the best interests of the United States. They should be the determining factor in how we vote. Lifting this embargo, as proposed under the joint amendment of Senator ROBERT C. BYRD, Senator MCGOVERN, myself, and Senator CHAFEE, would accomplish that objective.

Madam President, we hear a great deal these days about the awesome buildup of Warsaw Pact conventional forces facing NATO. We are concerned, and we ought to be. We understand that the strongest possible NATO structure is in the best interests of this Nation's security.

Greece and Turkey are equally important to NATO. They are invaluable allies. The alliance needs them both. Our friendship with Greece is as important as our friendship with Turkey.

Those of us who support lifting the embargo fully appreciate the strategic and military significance of Greece, and we want them back in the alliance. Let me emphasize, Mr. President, that the importance of Greece is fully reflected in this amendment.

I sincerely believe that reintegration into NATO is in the best interests of Greece; clearly it is to the benefit of NATO. Lifting the arms embargo—an issue between the United States and Turkey—should not be interpreted as an unfriendly act toward Greece, because it is not intended as such.

We ought to treat both of these nations equally. Having an embargo on one is not equal treatment. This amendment has been carefully structured to increase the amount of foreign military sales from the $140 million that Greece got last year to $175 million, the same amount that will be available to Turkey.

Madam President, Turkey is also an important partner in NATO. With the exception of this country, the Turks have the largest standing army in the Alliance. Turkish forces dedicated to NATO tie down 25 Soviet divisions and some 800 Soviet aircraft that would otherwise be stationed on other fronts. With its control of the Dardanelles, Turkey can effectively blockade the Soviet Black Sea fleet in the event of hostilities.

The importance of Turey's geographic location, blocking Soviet access to the Middle East and Persian Gulf area while buffering Greece from an attack through Bulgaria, is self-evident and needs little elaboration.

Turkey is the anchor of the southern flank of NATO. Turkey is a nation of supreme strategic importance to this country and to our NATO allies, Greece included. If Turkey were ever to withdraw from NATO, Greece would stand terribly exposed.

The Turkish military is equipped almost entirely with U.S. weapons, many of them verging on obsolescence. It is a well-known fact that the combat readiness of the Turkish military has diminished markedly since 1974, due in part to the embargo. Some 50 percent of Turkish military equipment is nonoperational; perhaps only a quarter is combat-ready. A shortage of American spare parts has led to cannibalization of other weaponry, particularly in the air force.

This situation presents a clear and present danger to the security of the United States; of Greece; and of NATO. Our allies in the Alliance understand the problem. With the exception of Greece, there is no NATO support for the embargo. There is opposition by every other NATO partner.

I received word just a while ago that all nine members of the European community are requesting favorable consideration for lifting the embargo.

Madam President, I do not pretend that all Turkey's military problems are attributable to the embargo. Obviously they are not. Lifting the embargo, however, will help. It will help practically and it will help psychologically.

Absent the embargo, Turkey will be able to take delivery of some $69 million worth of desperately needed spare parts which have been locked up in warehouses since 1974. Lifting the embargo will also make Turkey eligible to receive third party transfers of U.S. equipment from NATO allies.

Some of the equipment, for example in West Germany, is no longer used. But those parts can be used to make some of the weaponry in Turkey effective.

More important, lifting the embargo will eliminate the current psychological barrier to joint planning and cooperation between Turkey and this country. It will enable us to sit down together and determine what we can do, as allies, to turn the situation around. With the embargo in place, the Turks are understandably reluctant to look on us as reliable partners with whom they should do long-term planning.

The question arises as to what the Turks might do if we fail to lift the embargo. Will they leave NATO? Will they opt for neutrality? Will they look increasingly to the Soviet Union?

No one can respond with any certainty, Madam President, but I think there is an excellent chance that continuation of this embargo will create new doubts in Turkey about the reliability of the United States as a long-term ally.

It could raise new doubts about the wisdom of the NATO alliance. It could precipitate a Turkish drift toward neutrality which would greatly please the Russians.

Prime Minister Ecevit is not blackmailing us; he is not threatening to walk out of the alliance over the embargo. But Ecevit is not going to be there forever. He can not necessarily control popular opinion in his country. The Turkish people who have been our staunch allies strongly resent being placed under embargo alongside Cuba.

At the very least, Madam President, continuing the embargo bill will produce further strains in the alliance and a de-

terioration in our bilateral relations with Turkey at a time we should be encouraging tendencies in the opposite direction. It would be a negative contribution to the security situation in the eastern Mediterranean. And it will almost certainly lead to the loss of important intelligence installations located on Turkish territory.

Madam President, I want to talk about Cyprus, because that is the genesis of this problem. If we can get a settlement on Cyprus, the embargo will cease to be an issue.

For 3½ years the embargo has stood as an obstacle to the sort of Turkish concessions on Cyprus that would encourage reciprocal concessions and lead to a settlement. Let us remove that impediment, and let us see how the Turks react.

We have got a new government—a new political situation—in Turkey. Between October 1974 and January of this year Turkey was ruled either by fragile coalition governments or by Prime Minister Demirel who needed the support of ultraconservative nationalist parties to remain in power. Turkey really could not move on Cyprus, and the embargo gave them a good reason not to move.

Today Prime Minister Ecevit has latitude on Cyprus that was denied to his predecessor. He has opened up new channels of communication with the Greeks. He has specifically broken the link between the embargo and Turkish policy on Cyprus. Together with the Turkish Cypriot community, he has placed an offer on the table.

The Turkish offers of April could have been better. We admit that. But the offer was not as bad as the Greek Cypriots contend and it was certainly a vast improvement over what the Turks had put on the table previously. Ecevit and the Turkish Cypriot community have emphasized that this is a first offer, an opening bid, that they are prepared to be flexible, to negotiate in good faith; that they are ready to listen to counter offers. To move forward from the April proposals. They have recently improved on their Varosha proposal.

That proposal was rejected out of hand 2 or 3 days ago, but as of last night I understand the Greek Cypriots have made a counter offer. The Turkish proposals helped to break the logjam.

I have heard it said time and time again the Turks should be more forthcoming. Well, they have been. But both sides must be forthcoming.

The Turks today occupy about 36 percent of the island. Their figures show that they occupied approximately 32 percent of the island before. They are the farmers of the area. The Greeks are the businessmen, the technicians, the more skilled, and they, in turn, occupy more of the urban spaces.

The Greeks have submitted an offer to let the Turks have 18 percent to 20 percent of the geographic area, when they were occupying some 32 percent before.

There is enough blame to go around on both sides on this issue. What we are trying to do is treat all parties evenhandedly.

Madam President, I cannot guarantee that lifting the embargo will provide the key to greater Turkish flexibility. I cannot guarantee that lifting the embargo will bring us a settlement on Cyprus. But I can state with some assurance that failure to lift the embargo will result in renewed intransigence on Cyprus that will doom any prospect for success. The best way to thwart the purpose of the embargo is to keep it in place.

The Turks broke our law in 1974, and the Turks have been punished. The only question that remains is the duration of the punishment and its purpose, if any.

Our 3-year attempt to punish Turkey has poisoned the well of Turksh-American friendship. It has strained the fabric of the NATO alliance. It has contributed to weakness in the southern flank of NATO, it has led to the sacrifice of important intelligence installations at a time we need every bit of intelligence we can muster. It has frozen the situation on Cyprus.

The requirements of the rule of law have been met. The embargo has not worked. It has frustrated, rather than fostered, progress on Cyprus. It has deepened, rather than relieved, the tragedy of the Cypriot people. It has robbed the NATO alliance of vitality and jeopardized our security situation in the eastern Mediterranean.

In conclusion, Madam President, let me make one more point. Lifting the embargo will not give the Turks carte blanche in the eastern Mediterranean. We are not undertaking any long-term commitments of the sort envisioned in the 4-year defense pact and vote them a billion dollars over 4 years. That is no longer an issue. From here on in, we are talking about 1 year at a time. We are removing an obstacle between us and Turkey, standing back, and watching how the Turks react to this gesture. We have no commitments, no promise, for future years. We know, and the Turks know, that progress on Cyprus is going to be an important consideration as we consider the future of our political and security relationship.

This amendment has been carefully drawn to require the President to report back every 60 days to the Congress as to the progress being made and about a Cypriot settlement.

Mr. President, I urge the adoption of this amendment.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Several Senators addressed the Chair.

Mr. SPARKMAN. Mr. President, may I say to the Senator from Rhode Island that I had previously promised his colleague from Rhode Island that I would yield 15 minutes to him, if I may do that at this time.

The PRESIDING OFFICER. The Senator from Rhode Island (Mr. CHAFEE) is recognized for 15 minutes.

Mr. CHAFEE. I thank the Chair.

Mr. President, the matter which we debate today is of extreme importance to the interests of the United States. The President last Wednesday labeled this issue "the most important foreign affairs subject that the Congress will consider the rest of this session."

All sorts of pressure and interests are involved: The attitudes of two major allies, Greece and Turkey, strong ethnic votes in most of our States, the well-being of NATO, U.S. military bases, our ability to gather intelligence of Soviet activity, SALT verification to some extent, the stability of not only the Aegean and Thrace area but also the Middle East and routes to the Persian Gulf. All these interests and others are affected by how we vote today.

Mr. President, little I believe is gained by reviewing history and assessing blame on this party or that. Suffice it to say that there is a long history of bitterness between Greece and Turkey with each nation being able to recount in detail why the other is at fault.

Let us take this situation as it now exists and try to determine what is best for the United States of America.

There are three major reasons that in my judgment make it compelling that we lift the arms embargo on Turkey.

The first point concerns the original reason for imposing the embargo; namely Cyprus. Since the arms embargo was placed on Turkey in February of 1975—over 3 years ago—there has been a virtual freeze on negotiations and progress toward a Cyprus solution. Both Turkey and Greece are inhibited from moving on Cyprus while an embargo is in effect. Any Turkish Government must buck strong domestic pressures if it chooses to be conciliatory regarding Cyprus. Such moves are looked upon as a buckling to foreign pressure. Thus, the embargo hinders, rather than fosters, progress. The annual battle that takes place in this Congress on the subject only serves to remind the Turks that they being uniquely singled out, as Senator BENTSEN previously mentioned and being uniquely punished. No other nation has been so punished.

No other nation has an arms embargo on Turkey. This is something only we do. Ill feelings between the two nations are inflamed by the realization that the Greeks are the principal supporters of the embargo. As for Greece, the embargo has shifted the focus away from the real issues on Cyprus to a concentration on keeping the embargo on Turkey as an end in itself.

The second major point that I would like to briefly touch on is the rule of law which Senator BENTSEN also mentioned. Congress originally imposed the embargo, on Turkey because of Turkish actions in 1974 responding to an attempted coup on Cyprus. While most of us agree with Turkey's point that the 1960 Treaty of Guaranty signed by Greece, Great Britain, and Turkey provided a legal basis for Turkey's initial reaction of sending troops to Cyprus, it was the second major troop movement that has caused Congress to find a violation of U.S. law and impose the arms embargo. One could debate all day long the merits of both Greece's and Turkey's actions back in 1974. The fact re-

mains, however, that Congress found a significant violation on Turkey's part and imposed the sanction of a full arms embargo at that time.

Turkey has not only suffered materially from the embargo, it has also been humiliated. The sting of the punishment has caused the Turks' frustration and bitterness, which gradually is turning to alienation. Their attitude is readily understandable.

Just as in human relationships, so it is with international dealings: Humiliating the other party never leads to permanent harmony. The sanction imposed on Turkey over 3 years ago has outlived its usefulness. We have made our point. It is that apparent our best interests are being damaged. Little is gained by unblindingly justifying our current position as "principle," as if there was involved here some fundamental concept written in permanency, untouched by changing events or the challenges of a less than perfect world.

We will hear the word "principle" raised constantly, as though one side has a monopoly on principle.

Third, and most important of all, the continued existence of this embargo is damaging to the best interests of the United States. We belong to and support NATO because of our own national security. It is not some altruistic thing we are doing in support of NATO. We do it because it is best for us. The well-being of that alliance is a cornerstone of our foreign policy. Both Greece and Turkey are extremely important members of NATO. As Gen. David Jones, Chairman of the Joint Chiefs, stated recently before the Foreign Relations Committee:

> Due to their unique geographic position, their control over sea and air exits from the Black Sea area, and defense arrangements with the United States and NATO, Greece and Turkey constitute a vital link in the western defense system.

Clearly, a strong and friendly Greece and a strong and friendly Turkey are matters of the utmost importance for the United States and NATO. Unfortunately, the events in 1974 have led to a situation where Greek forces are no longer specifically committed to NATO and the Greek military has withdrawn from the NATO-integrated military command structure.

Fortunately, the state of United States-Greece relations has improved to the point where we do have reason to hope that Greece will come back as a full military partner in NATO.

Turkey's military readiness, since the embargo was imposed, has suffered tremendously. The material state of the Turkish Armed Forces has plummeted to the point where very serious deficiencies could prevent Turkey from doing its job in NATO. The problems that Turkish Armed Forces face do, indeed, go well beyond what the arms embargo has caused. We recognize that. Lifting the arms embargo will not be a cure-all for the problems of Turkish military.

The proposal before us today does not increase the amount of military sales over what Turkey received last year—$175 million. However, the lifting of the embargo will have immediate salutary effects on the Turkish military situation: $70 million of aid that was in the pipeline in 1974 will be released. Once again, Turkish officers will attend U.S. military training academies and war colleges—a very important step that yields immeasurable, intangible benefits for both sides

But, most important of all, ending the embargo will start healing the bitterness, humiliation, and alienation that has occurred over the past 3 years. Once again, Turkey can feel that she is a welcomed member of NATO that enjoys the full support and friendship of the United States. She will feel we are dedicated to doing all we can to assist her military forces to become modernized so that she can defend herself and assist the alliance.

As has been mentioned, a friendly Turkey pins down 26 Warsaw Pact divisions that could otherwise go elsewhere and exert greater pressure on NATO. A friendly Turkey provides to the United States and NATO forward basing of U.S. tactical fighter aircraft, peacetime training facilities—particularly at Konya Range, which is of tremendous importance in giving pilots realistic training in air-to-ground activities, major support facilities for the U.S. 6th Fleet, including 20 percent of that fleet's fuel assets in the Mediterranean, important communication facilities, as well as storage sites for war reserve materials. Should the United States elect to continue this policy of humiliating and eventually alienating Turkey, the consequences can only be adverse regarding the very real and important support Turkey now gives the United States and NATO.

Already, as a result of the U.S. action of imposing the embargo, we are losing irreplaceable intelligence information from bases in Turkey that have been closed since 1974. These bases are needed to restore clarity to certain areas of our surveillance of Soviet military activity. I know that some say that these intelligence bases do not mean a whit of difference to the United States. They have nothing to do with SALT verification, some say. Well, let us see what those who are closest to the situation have to state in this regard.

As Adm. Stansfield Turner, Director of Central Intelligence, wrote last week regarding the importance of Turkey to our intelligence mission:

> Turkey's importance ranks very high because of the crucial areas in which its contribution is felt: treaty verification, support of NATO commitments, and indications, warning and crises management. Some of these contributions are unique and not replaceable.

Note that Admiral Turner refers to treaty verification. Some have suggested Turkey is unimportant as a base from which to monitor SALT. May I quote from a dialog that took place on June 28 of this year in the Senate Armed Services Committee hearing involving the lifting of this embargo. Secretary of Defense Brown was testifying. It will be recalled that long before Mr. Brown assumed his present position, he served as one of the SALT negotiators. There are few men in the United States who are more knowledgeable of SALT matters than Secretary Brown. Here is the dialog:

> Senator NUNN. How valuable are the U.S. intelligence gathering activities in Turkey?
>
> Secretary BROWN. They are particularly important both for monitoring Soviet military activity in the southwestern military districts of the USSR, in monitoring development of certain Soviet weapon systems, which are going on in the region of the Black Sea, and in monitoring development tests that are relevant to the strategic arms limitations agreements.
>
> Senator NUNN. How much damage has already been done in that regard?
>
> Secretary BROWN. A fair amount. In some cases we have been able to replace those techniques, the results of collections from those stations by using other methods, although not as effectively. In some cases we have not been able to replace them.
>
> Senator NUNN. You have some irreplaceable intelligence activities in Turkey, is that what you are saying?
>
> Secretary BROWN. Yes, sir.

It seems to me that, in this period of extreme difficulty with the Soviets not only with regard to SALT but all the other weapons problems that exist, this is not the time to cut off any intelligence activities where we might garner additional information from the Soviets.

Some ask "If we end the embargo on Turkey, won't we lose Greece as an ally? Won't the opposition come to power?" Nothing is certain in this world. We do know that Mr. Karamanlis, the Prime Minister of Greece, has the strongest majority—57 percent—of any government in Western Europe, we further know that, no elections in Greece will occur for 3 years.

We also know, as the majority leader pointed out, that we are not choosing Turkey over Greece. We are solely dealing with removing a thorn in our relations with Turkey. I do not believe it should be essential for our friendship with Greece that we have had relations with Turkey. That makes no sense.

If we lift the embargo it is Secretary Vance's opinion, which I share, that while there may be short-term strains in our relationship with Greece, nevertheless, putting behind us the complication of the embargo, which serves as a wedge between us and the countries in the area, will in the long run promote a reconciliation between Greece and Turkey.

It is entirely consistent—and historically true that we have both nations as close and trusted allies. In short, the United States needs a friendly Turkey to carry out extremely important national security functions in that part of the world. Indeed, Greece and Turkey are essential to each other. Turkey without Greece or Greece without Turkey stands to be under a greatly increased amount of Soviet and Warsaw Pact pressure.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. CHAFEE. Mr. President, may I have 3 additional minutes yielded to me? Also it will come from that side.

Mr. PELL. This is on the opposition side, but in behalf of the proponents of the amendment I am glad to accede to the Senator's request.

The PRESIDING OFFICER. The Senator has 3 additional minutes.

Mr. CHAFEE. Not only do Greece and Turkey need each other but the United States needs both of them.

For instance, with Greek and Turkish monitoring stations on land, the warning time for 6th Fleet ships is increased four fold in the event of Warsaw Pact air attack coming from land bases.

Again may I quote Secretary Brown, testifying before the Armed Services Committee, and this is what he said:

For Soviet aircraft overlying or flying near either Greece or Turkey—warning can be provided while these aircraft are over Bulgaria or the Black Sea. The critical warning time to our Sixth Fleet could be over an hour. Without the use of data from these radars, the warning time is cut to about 15 minutes.

In the case of a Middle East or Persian Gulf conflict—

And I stress that Persian Gulf problem.

Turkey can make a substantial difference should the Soviets choose to intervene. If the Soviets can airlift forces over Turkey and sealift them through the Turkish Straits, they would move a division of corps size force into the Mideast or Persian Gulf region in one to three weeks. Without such overflights, airlift equivalent forces would require about three times as long for the Soviets; without use of the Turkish Straits, Soviet sealift would arrive most rapidly from the Pacific, but this would take about five weeks.

In addition, Turkey's critical geographic position, as well as its ties to Iran that include membership in the CENTO Alliance, make it a key obstacle to Soviet attempts to bring military pressure to bear on Iran.

That Greece and Turkey need the protection of NATO and that NATO needs both those countries is the foundation of their 27 years of association with the Alliance. But equally important is that both countries need each other as well. Without Turkey in NATO, Greece would stand exposed practically on all sides.

This is the end of Secretary Brown's statement.

One has only to look at the public record to understand the importance that our professional military and diplomats assigned to the issue before us. For instance: Gen. Alexander Haig, supreme allied commander of NATO, stated:

From the perpsective of . . . vital security interests, the impact of the arms embargo has been grievous.

This position is supported by every living former NATO supreme allied commander.

Deputy Secretary of State, Warren Christopher stated:

We have concluded that continued maintenance of the embargo would be harmful to U.S. Security concern.

Ambassador Clark Clifford, who no one can accuse of being in the pay or being an agent of this administration says:

The current U.S. posture towards Turkey is subjecting our security relationship with this important NATO ally to an intolerable burden.

And, finally, referring to continuing the arms embargo on Turkey, Chairman of the Joint Chiefs of Staff, General Jones:

The implications of such a posture would be grave, not only for Turkey, but for Greece, NATO, the United States, and for our friends in the Middle East as well.

Mr. President, it seems to me that a very clear message is coming through to us here in the Senate. For whatever reasons, the policy of maintaining an arms embargo on Turkey has failed and that policy while far from working toward an agreement on Cyprus, is driving an old and extremely important ally away from us and at the same time jeopardizing very serious American interests.

So let us act to accomplish what is best for our Nation by removing the embargo.

The PRESIDING OFFICER. The Senator's 3 minutes have expired. Who yields time?

Mr. PELL. Mr. President, on behalf of the chairman of the committee I yield 6 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I certainly thank the Senator from Rhode Island for his courtesy in yielding me this time on what I think is a highly important matter.

I am pleased with whatever good the imposition of the embargo may have done, but I opposed the imposition from the beginning.

However, it is very clear that we have in good faith tried the embargo, we have insisted on its application, and we have followed through. The embargo has largely failed its purpose. I think it is generally agreed that something else must be done.

I am impressed with the genuine concern here by every member of this internal matter to NATO. This is a matter of dissent, division, and contention among the members of NATO and those on the other side cannot be more pleased. But now it is up to us to move on a step further, to turn a page, or to try another remedy.

I am impressed with what all the witnesses here said, and all the members of the Foreign Relations Committee who have spoken on this side of the matter. They have stated that this embargo is counterproductive and by its continuation an even graver situation is created.

We held hearings in our Armed Services Committee after the Foreign Relations Committee completed their hearings, and after they had a chance to formulate their views and to file a report. The witnesses who appeared before the Armed Services Committees were those we thought to be the most vital and most knowledgeable on the military aspects of this matter. This is a year, remember, in which we are emphasizing the strengthening of NATO. If we can do anything within the family of NATO nations, we could take a step that would make what we are doing more effective in aiding NATO, more particularly, removing the impediments this embargo has caused.

This brings me down to the specific facts that are undenied and unchallenged to the effect of the ground forces we have in Europe. Certainly there are none superior to the NATO forces. There are none that are more effective and more responsive and ready to go than these Turkish troops.

We are not able and, I hope we will never make the mistake of trying, to furnish all the ground forces for NATO in Western Europe. It is impossible for us to match the manpower of Soviet Russia and her allies, and if we try, the whole matter could collapse.

So this relates to the continued effect on the alliance in cooperation with Turkey in this field of ground troops.

Greece is valuable in more than one way. Do not ever overlook the fact that we must have effective ground troops there far beyond our own.

But we are also dependent on Turkey. It is due to this ban now that we are letting their ground forces be run down and inadequately prepared due to lack of supplies, lack of spare parts, lack of the things that we are most able to supply. This situation is deteriorating day by day, month by month, and year by year. These Turkish ground forces already have had their effectiveness substantially reduced. They are having to cannibalize, it is called in military terms, the equipment that is complete. They are having to take parts from these complete units to repair other equipment in other words, take down the machinery of another vehicle to repair what is unable to go and unable to serve.

That fact of life speaks volumes for itself. It just must not be permitted to happen. The time has come when we must lift this embargo and start in the other direction.

The other highly important major point is that we have been denied for these years the full use of some of our most important and necessary intelligence collectors. This leaves us at a great disadvantage.

This is at a time when we are talking about SALT talks. The big item there in these talks is what kind of surveillance and what kind of disclosure, of just how effective are we and how effective can we be with reference to knowing what the other side is doing and how to detect what the other side is doing.

So we are limping now and we are on a crutch to some degree in this area, including the Black Sea area, which is so important. We are suspicious of the intelligence we gather because we are afraid it is not complete, not reliable and not worth acting on because we are hindered under this handicap due to the lack of use of these bases.

So without trying to assess blame, I think it is a must step for us to take. I believe it will lead to improved relations in getting the Cyprus matter adjusted. I feel it will greatly enhance our military preparedness, and it is in this field that we dare not wait. We cannot safely wait any longer.

I ask unanimous consent that my prepared statement be placed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN C. STENNIS

Continuing or repealing the arms embargo against Turkey is an important decision with far-reaching implications for vital U.S. national security interests. The Committee on Armed Services held hearings on June 28, 1978, to get the facts on the military issues involved in the Turkish arms embargo. During my remarks on this issue, I will outline the key points raised in these hearings.

The arms embargo against Turkey enacted in 1974 has made no contribution to settling the Cyprus issue but has had a detrimental impact on the security of NATO's Southern Flank. The embargo was enacted by Congress to demonstrate U.S. concern over the misuse of U.S.-supplied arms in the invasion of Cyprus by Turkey. It was also the sense of Congress at that time that the ban might also help to settle the Cyprus problem in a manner fair to Cyprus, Turkey, and Greece.

On the first objective, the embargo has produced the desired result. The United States has clearly shown to the world our concern about the use of U.S. arms. The United States took decisive action against a key NATO ally whose geographic position made it important to vital U.S. strategic interests. I fully agree with the statement of Secretary Vance made during the Committee on Armed Services' hearings. He stated that the embargo "has demonstrated to Turkey and the world the seriousness with which we view any unauthorized use of U.S. arms. This point of principle has been made. I believe we should now turn a new page."

With respect to encouraging the settlement of the Cyprus problem, the embargo has been a total failure and has become, in fact, an impediment to progress on this issue. During the hearings, General Haig stated: "my personal view is that the failure to lift the embargo will make progress on Cyprus impossible, as it has for three and a half years, whereas lifting of it will enhance the prospect for such progress." Turkey will not yield to this form of pressure by the United States. It is time to recognize that continuing this pressure will serve no useful purpose but will merely further strain the relationship between Turkey and the United States. In this regard, General Haig stated that:

"The specific consequences, which could be anticipated late this summer if this embargo is not reversed, are some or all of the following:

First, the American military presence would be expelled from Turkey.

Second, there would be a dramatic change in Turkey's own defense orientation, characterized by a reduction in Turkish forces, a reorientation of those forces away from the Soviet threat, toward exclusive focus on perceived difficulties with Greece, and the reduction of Turkey's contributions to NATO by reducing the number of forces allocated to NATO, and a steady erosion of the relationship and influence that the NATO alliance has on the Turkish Government, with all of the attendant consequences.

Should these events occur, the impact on vital U.S. interests would be substantial. In the context of a NATO-Warsaw Pact war, the geographic position of Turkey is extremely important to the defense of both Greece and Turkey and to the outcome of the maritime battle in the Mediterranean. Without the participation of effective Turkish military forces, the defense of Thrace would be much more difficult. Strong Turkish forces are an integral part of Greek security.

Regarding the maritime battle, Turkey controls the Soviet Union's exit from the Black Sea thus constraining the ability of Soviet naval surface forces to engage NATO forces in the Mediterranean. Securing easy access to the Mediterranean would vastly improve Soviet warfighting capabilities in the Eastern Mediterranean and further threaten key sea lines of communication there. Turkey also can reduce the air threat to NATO naval forces operating in the Eastern Mediterranean by providing early warning of Soviet naval air attacks. Without this early warning, NATO naval forces, including the U.S. Sixth Fleet, would be considerably more vulnerable.

There would also be a Soviet threat in Eastern Turkey involving significant Soviet forces. In total, it is estimated that more than 50 Warsaw Pact divisions would be deployed against Turkey in wartime. Should the Soviet Union be able to shift these forces to other conflict areas, the impact on defending NATO would be substantial.

In addition to its importance to defense of NATO's Southern Flank, Turkey is of critical importance to U.S. interests in the Middle East and Persian Gulf. By denying the Soviet Union direct access to Arab lands, Turkey is a vital buffer to Soviet expansionism in these areas. Through control of the most direct air, overland, and naval routes between the Soviet Union and these areas, Turkey constrains Soviet influence and power projection capabilities. The importance to the Western world of the Middle East and Persian Gulf is well understood; we shoud now recognize the important geographic role of Turkey regarding these areas.

The arms embargo has already had a serious impact on the military situation in Turkey. The readiness and effectiveness of Turkish forces has suffered due to maintenance and training problems directly related to the embargo. The ability of Turkish forces to meet their commitments is now being questioned. In addition, the suspension of U.S. activities at five major installations in Turkey in response to the embargo has resulted in the loss of some intelligence and information not available from other sources. But most importantly, the strains in United States-Turkey relations, which have almost reached the breaking point, have lessened the ties and commitment of Turkey to the United States, NATO, and the West.

Our NATO allies have been very concerned about U.S. policy towards NATO. General Haig reported that the arms embargo has "been a source of deep concern to the military authorities of the entire alliance. Their concern increasingly registered to me personally is that a continuation of this embargo would represent for the United States a self-defeating course." These strongly held views of our allies cannot be ignored in making a decision on the Turkish arms embargo.

The importance that I have attached to improving our relations with Turkey in no way diminishes the value of Greece to the United States and NATO. Greece is also a valuable ally with a vital role in the defense of NATO. As Secretary Brown stated during the hearings: "That Greece and Turkey need the protection of NATO and that NATO needs both those countries is the foundation of their 27-year association with the alliance. But equally important is that both countries need each other as well." Our efforts should be directed toward improving relations with both Greece and Turkey.

In conclusion, Turkey is a vital ally of the United States and plays a significant role on the Southern Flank and in the Middle East and Persian Gulf. The arms embargo has clearly weakened Turkish military capability and has substantially reduced Turkish ties to the United States and NATO. Continuation of the embargo could do even greater damage to U.S. security interests. At the same time, the arms embargo has not aided settlement of the Cyprus issue and is now viewed as an obstacle to progress. Secretary Vance stated: "The embargo has become a counter-productive symbol throughout the area, making it impossible for the two sides to get together in a spirit of flexibility and compromise." On the basis, it is in the interest of the United States to lift the arms embargo against Turkey.

Mr. STENNIS. I thank the Senator again for yielding.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I would like to speak in opposition to the amendment, upholding the committee's position.

Mr. CASE. I understand that, and I was just about to suggest that I yield to the Senator for that purpose.

I would like to inquire of the Chair how much, if any, time has been used thus far in opposition?

The PRESIDING OFFICER (Mr. BIDEN). Seventy-one minutes by the proponents have been used, and no time in opposition.

Mr. CASE. No time in opposition.

Since I have the time in opposition, I am happy to yield to the Senator from Rhode Island such time as he may require.

Mr. PELL. Mr. President, I thank my colleague for yielding to me the time, and I am glad to speak.

I have long been interested in the eastern end of the Mediterranean, Greece, Cyprus, Turkey, and Israel; and I have had the experience of visiting in Cyprus both sides of the frontier there, the Greek and Turkish sides.

I wrote a report for my colleagues on the Committee on Foreign Relations in 1975. Also, earlier than that I introduced at various times different amendments suggesting that there be an embargo on arms to Greece during the years Greece was under the junta, and my own view was that it was incorrect policy on our part, adverse to our interests, to make arms available, and I was able to research three different resolutions I introduced in those years.

One of these resolutions was cosponsored by Senator JACKSON, and finally passed. So my thought with regard to the importance of the use of the embargo as a means of carrying out foreign policy objectives is not new, and I have sought to practice it in a very even-handed way. I have supported or introduced just about as many resolutions or more, in fact, bearing down on the Greek junta when it was in charge, as on Turkey.

With that introduction, I would like to express my strong opposition to this amendment. The amendment was considered in the Committee on Foreign Relations, was discussed at some length and was defeated by a vote of 8 to 4.

It can be said that if all members had been there maybe the result would have been different. But that is not correct. The vote would have been different but not the result because even if ther had been a full turnout, and the other four members had voted for the amendment, there would have been an 8 to 8 vote; and that would not have been sufficient to carry the motion to lift the embargo.

In its report, the committee stated:

In recognizing the need to maintain close relationships with two key NATO allies, Turkey and Greece, the Committee nevertheless regrets the lack of any substantial progress in the Cyprus question.

The lack of any such progress continues to be the key issue in judging whether the embargo should be lifted or retained. My own view is that certainly the embargo will be lifted eventually, circumstances will change, but now is not the time to lift the arms embargo against Turkey.

To lift the embargo without requiring a substantially complete withdrawal of Turkish occupation forces from northern Cyprus would undermine the rule of law, would call into question our commitment to human rights, would make a Cyprus settlement more difficult, and would strengthen the anti-U.S. and anti-NATO forces in Greece. My reasons for reaching these conclusions are as follows:

First of all, the Arms Export Control Act limits the transfer of U.S. military equipment solely to "internal security," "legitimate self-defense," and other nonaggressive purposes, and provides that a country violating these provisions shall be ineligible for military aid until the President determines that a "violation has ceased" and "will not recur." The Congress imposed the embargo only after President Ford refused to enforce this law in response to the Turkish invasion of Cyprus in 1974. To lift the embargo while the violation of American law continues and the requirements for restoring military aid have not been met would be a repudiation of our law and would communicate to the world that we are not serious about controlling the use of U.S. arms.

The arguments that the law has been upheld by our having imposed the embargo for 3½ years and that the embargo should be lifted because it has failed to promote a Cyprus settlement do not wash. The embargo has never been rigorously applied or used by any administration as leverage with Turkey. The Ford administration opposed the embargo from the beginning, tried to overturn it after it was enacted, and when all else failed, got congressional approval for sizable exemptions from the embargo based on assurances that they would promote Turkish flexibility on Cyprus. The Ford administration also used a little-known NATO agency to send Turkey over $30 million in military supplies beyond the congressionally approved exemptions.

This was NAMSA, the NATO Maintenance and Supply Agency in Luxembourg—the so-called Luxembourg boutique.

While the Carter administration initially endorsed the embargo, it too has sought exemptions bringing the total to a whopping $600 million since the embargo was imposed.

Moreover, for fiscal year 1979 the Carter administration is asking for more in combined military and economic aid for Turkey than was provided just prior to the embargo. Even before President Carter decided to oppose the embargo, his Ambassador in Turkey, Ronald Spiers, undercut the embargo by stating in an interview in Ankara on January 24, 1978, that "the embargo doesn't serve any American interest," and expressing his "hope that it will be removed." It is no wonder that Turkey has not taken the embargo seriously. It is not the embargo that has failed, but rather the policy of increasingly relaxing it and thereby rewarding Turkish intransigence on Cyprus.

The charge that the embargo has been selectively applied to Turkey rings hollow. Even Secretary of State Vance would not support such a charge when he testified before the Senate Armed Services Committee on June 28. The Congress did nothing when Turkey initially invaded Cyprus in July 20, 1974 and brought about the restoration of the legitimate Cypriot Government that had been overthrown earlier that month by advocates of union with Greece. The Congress acted only after the "second invasion" of Cyprus on August 14, 1974 when Turkey expanded its area of control from less than 10 percent to almost 40 percent of Cyprus. Furthermore, the Congress did not make the embargo effective for another 6 months, by which time it was clear that Turkey would not withdraw even after it achieved its purported objective of protecting Turkish Cypriots. No other case of an actual or suspected misuse of American arms has been as flagrant as Turkey's on any criterion of justification, duration, or extent of use of American arms. A 4-year occupation, with the use of American arms, in violation of the treaty, simply cannot be condoned. I cannot tell you what the psychological effect is when you walk through the Turkish area and see Turkish soldiers occupying, in defiance of law, northern Cyprus, with the use of American weapons. To lift the embargo and say, "Go to it, boys," it seems to me, would be very much in opposition to everything for which we stand.

The second reason for not lifting the embargo relates to human rights. The prestigious European Commission on Human Rights last year found Turkey guilty of violating six articles of the European Convention on Human Rights and cited these violations: systematic killings of civilians, rape, torture, extensive looting, and refusal to allow refugees to return to their homes. Amnesty International and ASME Humanitas of West Germany documented similar violations. While it may be difficult to obtain an ironclad indictment of Turkey, the evidence so far is at least sufficient to warrant the continuation of what has turned out to be a very limited embargo. Also, how could we retain our credibility regarding the sanctions we have imposed in Latin America on human rights grounds, or the Soviet Union through the Jackson-Vanik amendment, if we did not uphold the law with respect to Turkey? Should we tell the world that if violators only hang tough, we will eventually relent?

Third, lifting the embargo now would remove any incentive for Turkey to negotiate seriously regarding Cyprus. If Turkey has not responded to the annual relaxation of the embargo, why should it change if the final vestige of America's tangible expression of interest in a Cyprus settlement is removed? Much is made of Turkey's April settlement proposal, but it is so unresponsive to Greek Cypriot concerns and so damaging in its effort to create, in effect, two separate Cypriot states, that it can only be characterized as a crude propaganda ploy. The offer to reduce from about 40 percent to 39 percent the amount of territory for the Turkish Cypriots, who compromise only 18 percent of the island's population, is particularly outrageous. The Turkish Cypriot's recent offer to allow 35,000 Greek Cypriots to return to Varosha, a suburb of the formerly Greek Cypriot but now abandoned city of Famagusta, is also worth little, as Varosha's ultimate status is unclear, and the basic constitutional and territorial issues separating Greek and Turkish Cypriots have not been addressed in any reasonable manner.

Turkey has already succeeded in insuring that a Cyprus settlement will involve some kind of bizonal arrangement, but the continued presence of its troops can only cause the Greek Cypriots to resist negotiating the terms of this new reality. This idea of a bizonal arrangement is not new. This is what I suggested in 1975, in the body of the Foreign Relations Committee report.

In this connection, why is it wrong for the United States to apply pressure on Turkey through the embargo, but all right for Turkey, through its occupation, to apply much greater pressure on the Greek Cypriots? The sooner Turkish troops are removed, the sooner serious negotiations will take place; but as long as the troops remain, the embargo is ncessary to insure that Cyprus is not bargaining from weakness.

Finally, lifting the embargo would be perceived in Greece as giving Turkey carte blanche for the use of American arms in the Eastern Mediterranean. Greece and Turkey are long-time antagonists, and tensions between the two countries are high because of their dispute over the division of the continental shelf in the Aegean. Greece would, therefore, be understandably disturbed if we lifted the embargo now. Anti-United States and anti-NATO sentiment is already strong in Greece, and lifting the embargo would increase the prospect that the Caramanlis government will be succeeded by an anti-Western one.

In the rush to mollify Turkey and prevent it from breaking with NATO—a possibility that Turkish Premier Ecevit flatly ruled out during his recent visit to the United States—it should be borne in mind that Greece has already severed its military ties with NATO because of the Cyprus invasion. Lifting the embargo would derail the effort to restore those ties.

We ought to bear in mind, also, in connection with the point that was earlier cited concerning the importance of Turkey to Greece and to NATO, that, as Secretary Brown said in the Senate hearings of June 28:

> Without Greek participation in NATO, Turkey would be physically isolated from its nearest NATO ally by 700 miles, and its early warning communications links with NATO, which now pass through Greece, would be weakened. Warsaw Pact forces could assail the Turkish Straits unimpeded by threat of a Greek flank attack. Greek naval forces would not be available to help counter Soviet forces moving in from the Black Sea. A nonalined Greece would complicate allied operations in the Aegean both in peace and wartime.

Both Greece and Turkey are essential to NATO, but what might be gained with Turkey by lifting the embargo is likely to be more than offset by the deterioration of relations with Greece.

In this connection, the recovery of the use of our four intelligence collection bases in Turkey is no longer as important as it was once thought to be, as we have been able to develop alternative sources for most of the information previously collected in Turkey. Former Defense Secretary Laird put it bluntly when he said as long ago as August 1975, that "we don't need Turkey to verify a SALT agreement."

Since the embargo has not significantly slowed the flow of arms to Turkey, it has become largely symbolic; but that symbolism is important as a sign of America's disapproval of Turkey's actions in Cyprus, as a sign of America's seriousness with regard to making sure that the weapons which we make available to other nations are used only for defensive purposes and not used for the occupation of peace loving nations.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article from the Washington Post of July 18, 1978, written by me, and also an editorial from the New York Times of July 22, 1978.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CYPRUS AND THE SENATE

The Senate is about to vote on whether to continue the limitations on arms sales to Turkey. They were imposed after Ankara used American-supplied weapons to occupy two-fifths of Cyprus in 1974, in violation of a Congressional prohibition. We have argued in the past that the limits should be kept until Turkey indicates it will withdraw its forces. We still think so.

Few controversies are as vexing as the fued between the half million Greek Cypriots and the 120,000 Turkish Cypriots over how they will coexist on their island. Their centuries-old quarrel has reached into American politics. The Turks and Turkish Cypriots and their American sympathizers contend that national pride forbids concessions on Cyprus so long as the "embargo" stands. Direfully, they predict that maintaining last year's $175-million limit on arms sales will drive Turkey out of NATO, perhaps even into Moscow's arms. But it would be no gain for the West to purchase Turkish good will at the price of Greek resentment.

When Jimmy Carter was a candidate for President he held that the restriction on arms sales should stand until Ankara withdrew the force that enables Turkish Cypriots, with 20 percent of the island's population, to ocupy roughly 40 percent of its territory. This spring, however, he urged that the embargo be lifted. Administration spokesmen maintain that once it is lifted, Ankara will make generous diplomatic proposals. But the Government of Prime Minister Bulent Ecevit has so far given no sign that it is prepared to risk the domestic consequences of offering the concessions needed to reach an accommodation. The vague proposal put forward by the Turkish Cypriots on Thursday for resettling some Greek refugees is welcome but scarcely sufficient. The Turkish concessions need to be territorial.

Where Greek Cypriots go wrong is in insisting that their preponderance in numbers also entitles them to the kind of predominance they enjoyed under the island's 1960 constitution. If the Turkish Cypriots would yield significantly on territory, they could more credibly insist on a constitution that provides for virtually autonomous states for the two communities, linking them only for a minimum of such "federal" functions as conducting foreign affairs and issuing currency.

Greek Cypriots denounce this idea a mere division of the island. Even if this were true, there would be no alternative; nothing except good will can force the two communities to work together. Because ending Turkey's occupation remains an essential first step toward creating an atmosphere of trust, Congress should not yet relax the restrictions on arms sales. It should make clear to the Greek Cypriots, however, that the United States intends to help them reclaim their farms and villages but not to restore their domination of the Turkish population.

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THE CASE AGAINST LIFTING THE TURKISH ARMS EMBARGO

Now is not the time to lift the arms embargo against Turkey. To do so would undermine the rule of law, would call into question our commitment to human rights, would make a Cyprus settlement more difficult, and would strengthen the anti-U.S. and anti-NATO forces in Greece.

*Rule of law.* The Arms Export Control Act limits military aid to "internal security" and "legitimate self-defense" purposes and provides that aid cannot be resumed until the president determines that a "violation has ceased." Congress imposed the embargo only after President Ford refused to enforce this law in response to the Turkish invasion of Cyprus in 1974. To lift the embargo while the violation of American law continues and the requirements for restoring military aid have not been met would be a repudiation of our law and would communicate to the world that we are not serious about controlling the use of U.S. arms.

The argument that the law has been upheld by our having imposed the embargo for 3½ years does not wash. The embargo has never been rigorously applied or used by any administration as leverage with Turkey. The Ford administration opposed the embargo from the beginning, tried to overturn it after it was enacted and, when all else failed, got congressional approval for sizable exemptions from the embargo based on assurances that they would promote Turkish flexibility on Cyprus.

The Carter administration has also sought exemptions, bringing the total to a whopping $600 million since the embargo was imposed, and is asking for more in combined military and economic aid for Turkey in 1979 than was provided just prior to the embargo. Even before President Carter decided to oppose the embargo, his ambassador in Turkey, Ronald Spiers, undercut the embargo by stating in an interview in Ankara on January 24, 1978, that "the embargo doesn't serve any American interest." It is not the embargo that has failed, but rather the policy of increasingly relaxing it and thereby rewarding Turkish intransigence on Cyprus.

The charge that the embargo has been selectively applied to Turkey rings hollow. Even Secretary of State Cyprus Vance would not support such a charge when he testified before the Senate Armed Services Committee on June 28. Congress did nothing when Turkey initially invaded Cyprus in July 1974, but acted only after the "second invasion" of Cyprus in August 1974 when Turkey expanded its area of control from less than 10 percent to almost 40 percent of Cyprus. Furthermore, Congress did not make the embargo effective for another six months, by which time it was clear that Turkey would not withdraw even after it achieved what purports to be its objective of protecting Turkish Cypriots. No other case of an actual or suspected misuse of American arms has been as flagrant as Turkey's.

*Human rights.* The prestigious European Commission on Human Rights last year found Turkey guilty of systematic killings of civilians, rape, torture, extensive looting and refusal to allow refugees to return to their homes. Amnesty International and ASME Humanitas of West Germany documented similar violations. While it may be difficult to obtain an ironclad indictment of Turkey, the evidence so far is at least sufficient to warrant the continuation of what has turned out to be a very limited embargo. Also, how could we retain our credibility regarding the sanctions we have imposed in Latin America on human-rights grounds, or the Soviet Union through the Jackson-Vanik amendment, if we did not uphold the law with respect to Turkey?

*Cyprus settlement.* Since Turkey has not responded to the annual relaxation of the embargo, there is no incentive to change if the final vestige of America's tangible expression of interest in a Cyprus settlement is removed. Much is made of Turkey's April settlement proposal, but it is so unresponsive to Greek Cypriot concerns and so damaging in its effort to create, in effect, two separate Cypriot states, that it can only be characterized as a crude propaganda ploy. The offer to reduce from 40 percent to 39 percent the amount of territory for the Turkish Cypriots, who constitute only 18 percent of the island's population, is particularly outrageous.

Turkey has already succeeded in ensuring that a Cyprus settlement will involve some kind of bizonal arrangement, but the continued presence of its troops can only cause the Greek Cypriots to resist negotiating the terms of this new reality. In this connection, why is it wrong for the United States to apply pressure on Turkey through the embargo, but all right for Turkey, through its occupation, to apply much greater pressure on the Greek Cypriots? As long as the Turkish troops remain, the embargo is necessary to ensure that Cyprus is not bargaining from weakness.

*Effect on Greece.* Lifting the embargo would be perceived in Greece as giving Turkey carte blanche for the use of American arms in the eastern Mediterranean. Tensions between Greece and Turkey are high because of their dispute over the division of the continental shelf in the Aegean. Greece would, therefore, be understandably disturbed if we lifted the embargo now. Anti-U.S. and anti-NATO sentiment is already strong in Greece, and lifting the embargo would increase the prospect that the Karamanlis government will be succeeded by an anti-Western one.

In the rush to mollify Turkey and prevent it from breaking with NATO—a possibility that Turkish Premier Bulent Evecit flatly ruled out during his recent visit to the United States—it should be borne in mind that Greece has already severed its military ties with NATO because of the Cyprus invasion. Lifting the embargo would derail the effort to restore those ties.

Both Greece and Turkey are essential to NATO, but what might be gained with Turkey by lifting the embargo is likely to be more than offset by the deterioration of relations with Greece. In this connection, the recovery of the use of our four intelligence-collection bases in Turkey is no longer so important as it was once thought to be, as we have been able to develop alternative sources for most of the information previously collected in Turkey. Former defense secretary Melvin Laird put it bluntly when he said as long ago as August 1975 that "we don't need Turkey to verify a SALT agreement."

Since the embargo has not significantly slowed the flow of arms to Turkey, it has become largely symbolic; but that symbolism is important as a sign of America's disapproval of Turkey's actions in Cyprus. As a presidential candidate, Jimmy Carter said that "we would be negligent of the moral issues and courting disaster if we fail to couple the improvement in relations with Turkey with improved progress on the Cyprus issue." That

statement was valid in 1976 and continues to be today.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Is the Senator seeking time?

Mr. EAGLETON. Will the Senator yield 12 minutes to me?

Mr. PELL. I am not controlling time for the amendment. The Senator from New Jersey would have to yield.

Mr. EAGLETON. Will the Senator from New Jersey yield 12 minutes to me to speak in opposition?

Mr. CASE. I am happy to yield 12 minutes to the Senator.

(Mr. HODGES assumed the chair.)

Mr. EAGLETON. Mr. President, as we begin debate on the Turkish arms embargo, the fourth anniversary of the August 1974, Turkish invasion of Cyprus is approaching. At that time, the Turkish army took by force nearly 40 percent of the island, driving some 200,000 Greek-Cypriots from their homes. This status continues unchanged today.

The history of the arms embargo is well-known to most of my colleagues. It was imposed because Turkey—in conscious violation of U.S. law and bilateral agreements between the United States and Turkey—used U.S.-supplied weapons in its 1974 invasion of Cyprus. Provisions of those laws spell out beyond a doubt that such weapons are for legitimate self-defense purposes only and set forth the penalties which will follow if a violation occurs.

That body of law is as follows: The 1947 bilateral agreement between Turkey and the United States; the 1960 London-Zurich agreements; the Foreign Assistance Act of 1961, particularly sections 505 (a) and (b); and the Foreign Military Sales Act of 1968, section 3(c) and section 4.

I would like to quote portions of each of those statutes or laws which apply in this case.

The 1947 agreement on aid to Turkey states in part:

The Government of Turkey will make use of the assistance furnished for the purposes for which it has been accorded. . . . The Government of Turkey will not transfer, without the consent of the Government of the United States . . . the use of any such article . . . for any purpose other than that for which the article . . . is furnished.

The 1960 London-Zurich agreement—I quote from a GAO report on the subject of the illegality of Turkish use of arms in the 1974 Cyprus invasion—provides:

That military assistance furnished by the United States to Turkey [can] not be deployed on Cyprus without the formal consent of the United States Government.

The Foreign Assistance Act of 1961, section 502, specifies:

Defense articles and defense services to any country shall be furnished solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security. . . .

And, finally, the Foreign Military Sales Act of 1968, section 3(c), provides:

Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in substantial violation of any provision of this Act or any agreement entered into under this Act, shall be immediately ineligible for further cash sales, credits or guarantees.

Mr. President, I have not engaged in this recitation of U.S. law for academic purposes, but to set forth beyond a doubt the clear violation that occurred with the Turkish invasion of Cyprus and the subsequent occupation of the island. The compilation of laws and statutes spells out to the letter the obligations undertaken by the recipient government—in this case, Turkey.

If we vote to repeal the embargo, are we not, in fact, sending a message to other countries to whom we supply arms that they need not take U.S. law seriously? If we fail to hold the line on Turkey, what happens somewhere down the line when a similar incident occurs? Do we continue to tape on the wrist those who violate the obligations undertaken in an agreement with us and turn our back on the law?

If we have learned anything in the aftermath of Watergate, it is that disregard for the law is insidious and habit-forming. Our society is only as strong as the foundation of our law. The decision we make on the arms embargo will be a measure of the strength of that foundation.

United States concern with Cyprus is a matter of longstanding. Cyprus has been the subject of four special Presidential missions. In 1964, President Johnson sent George Ball to Turkey to inform the Turks—who were then contemplating an invasion of Cyprus—that such an invasion would violate the previously mentioned body of law, and they would risk losing U.S. assistance and military aid if the invasion were carried off. The same year, President Johnson, delivered the following strong message in a letter to Premier Inonu of Turkey:

I wish . . . to call your attention to the bilateral agreement between the United States and Turkey in the field of military assistance. Under Article IV of the Agreement with Turkey of July 1947, your Government is required to obtain United States consent for the use of military assistance for purposes other than those for which such assistance was furnished. Your Government has on several occasions acknowledged to the United States that you fully understand this condition.

I must tell you in all candor that the United States cannot agree to the use of any United States supplied military equipment for a Turkish intervention in Cyprus. . . .

No clearer declaration of the consequences of Turkey's utilization of American equipment could have been formulated than was done in this very direct and blunt letter from President Johnson to Turkish Premier Inonu in 1964.

Again in 1967, a crisis erupted, followed by a new threat of a Turkish invasion of Cyprus. This time President Johnson sent Cyrus Vance, who warned Turkey that an invasion of Cyprus would trigger the effect of the bilateral agreements and statutes. The crisis was averted.

In July 1974, President Nixon dispatched Joseph Sisco, then Undersecretary of State for Political Affairs, in an effort to forestall a pending Turkish invasion of Cyprus. Sisco's mission came too late, and by the time he arrived in Ankara, the decision to invade was all but finalized.

In response to Sisco's impassioned request that Turkey call off the invasion, Prime Minister Ecevit—fully cognizant of Turkey's obligations under the law—responded:

The United States and Turkey have both made mistakes—the United States by preventing Turkish military action and Turkey by accepting. We should not make the same mistakes again.

As we know, the first invasion occurred on July 20, 1974, followed by another invasion on August 14, 1974, when Turkey expanded further into the northern part of Cyprus. It was the second invasion that put the wheels of U.S. law and bilateral agreements with Turkey into motion, necessitating the action taken by Congress in imposing the embargo.

Critics of the embargo put forth the argument that Congress acted hastily in singling out this ally to chastise, and that the punishment was too harsh. These critics overlook the fact that, in the interest of obtaining a Cyprus settlement—a settlement which Secretary of State Kissinger intimated was forthcoming—Congress delayed the effective date of the embargo until February 5, 1975, to permit Kissinger to pursue settlement efforts. Congress dealt with Secretary Kissinger in good faith during this time; unfortunately, we were not afforded the same courtesy by Mr. Kissinger, who would not make public his own legal department's opinion, which concurred with the opinion of Congress that the invasion did constitute an illegal use of U.S.-supplied weapons.

The critics also overlook the fact that the embargo has always been a partial embargo: During the Ford administration it was eased to permit $125 million in FMS to Turkey; this amount was later increased to $175 million early in the Carter administration. Even with the arms embargo in place, Turkey remains the third largest recipient of U.S. foreign military sales, third only to Israel and South Korea.

The Turks have also benefited from the use of a little-known NATO supply agency called NAMSA—referred to by Columnist Mary McGrory as the "Pentagon's boutique in Luxembourg"—to purchase some $30 million of additional weapons in circumvention of the embargo.

All this considered, it can hardly be said that Congress acted either precipitously or exceedingly harshly in its handling of this situation. To the contrary, I think Congress has taken care to allow the administrations involved a degree of flexibility in their efforts to bring about a Cyprus settlement.

Mr. President, there are several issues of importance at stake in this vote. One

is the principle of law—law which constitutes the fundamental underpinning of our society.

Another is that of the fate of some 200,000 Greek-Cypriot refugees who to this day have not been permitted to resettle in their homes in northern Cyprus. There are currently some 22,000 Turkish troops occupying nearly 40 percent of Cyprus.

I might add, at this point, that the 40 percent of Cyprus held by Turkish troops is precisely what they have held since August of 1974. The Turks have not budged 1 inch from what they took by force 4 years ago.

The Turks have been asked to open the Nicosia airport. They refuse.

The Turks have been asked to open the highway between Nicosia and Famagusta, the two main cities of Cyprus. They refuse.

The Turks have been asked to return the unoccupied portion of new Famagusta to the Greeks so that some of the homeless refugees can be housed. They refuse.

In short, the Turks in 1974 grabbed off as much of Cyprus as they could swallow and have been intransigent, unyielding, and uncompromising ever since.

While I am on the subject of new Famagusta—sometimes called Varosha—I caution my colleagues not to be taken in by the statement made last Thursday (July 20) by the leader of the Turkish Cypriot community, Mr. Rauf Denktash.

Let us examine Mr. Denktash's statement. First, what about its timing coming on the very eve of this Turkish embargo debate? I am very suspicious of "death-bed conversions" and "one minute to midnight" changes of heart. The very timing of the statement's release makes suspect both the intent and the substance of Mr. Denktash's statement.

As to the statement itself, I hope my colleagues will read it closely. It does nothing. It says that Mr. Denktash is "prepared to discuss" new Famagusta. Is that not marvelous? Is that not wonderful? I guess we should say, Hallelujah. After 4 long, tragic years during which 200,000 Greek-Cypriots have been homeless, Mr. Denktash is now "prepared to discuss" new Famagusta.

Mr. President, what I have said repeatedly during these 4 years has been that Turkey and the Turkish Cypriots could not simply talk about doing, a few positive things in order to demonstrate a modicum of good faith in achieving a viable settlement in Cyprus. All of the things I have mentioned earlier—opening the airport, opening the road between Nicosia and Famagusta, returning uninhabitated Varosha—new Famagusta—to the Greek Cypriots for their occupancy and their administration—are things which Turkey and the Turkish Cypriots could have done. For Mr. Denktash now to say, on the even of the Senate's vote on the embargo, that he is willing to discuss the future of new Famagusta is really to say nothing of substance. It is purely and simply a cosmetic ploy to project, on the eve of the Senate vote, a posture of "sweet reasonableness" in the hope that this will erase 4 years of unyielding intrasigence.

Mr. President, by what sense of equity or morality should we remove the embargo against Turkey? The embargo, when finally imposed in early 1975, was a direct consequence of Turkey's willful, conscious, premeditated violation of American law. Do we now knuckle under to Turkey and say that, despite the blatant illegality of the Turkish occupation and Turkey's refusal to make even the slightest of concessions, Turkey now deserves or has in some mystical way earned the lifting of the embargo?

When we vote on this issue, we are not just voting on a question of U.S. foreign policy—we are determining, in part, the future of 200,000 refugees. In a collection of essays entitled "Cyprus Reviewed," Michael Attalides points out that—

> The ultimate [political] reality is that of the people whose lives are dislocated. . . . the price of politics can be human loss—loss of life, loss of material, loss of dignity and loss of meaning.

If the embargo is lifted, absent a Cyprus settlement, it is unlikely that the Turks will find any reason to alter the status quo. If they have not made any movement toward a Cyprus settlement while the embargo is in place, what incentive could possibly remain following its repeal?

Removal of the embargo will imply U.S. sanction of the status quo and will only finalize the displacement of the refugees and legitimize the physical alteration of Cyprus that has occurred since 1974 under Turkish occupation.

Let me relate one refugee's experience:

> We left the village on Thursday, early morning, with nothing, and I sat idle for 2 or 3 months. . . . I wanted to live with more dignity so I kept trying until I found work. . . .
>
> I haven't taken one of the loans to farmers that the government has been offering because I am completely disillusioned by the situation of Cyprus today. I am in complete uncertainty . . . no one knows . . . what will happen each day, or what to expect from the Turkish conqueror. I have neither the courage nor the appetite to find land to cultivate to live.

Mr. President, I visited Cyprus in December 1975, and saw firsthand the tragic plight of the refugees. Their pride and strength has helped them endure the situation, but their spirit is discouraged and they feel increasingly resigned to their situation. I cannot, in good conscience, support repeal of the embargo with the certain knowledge that it means a continuation of the hardships these people have suffered already.

Another consideration in this vote is the impact lifting the embargo could have on Greece. The last election in Greece was a surprise to many. Not only did Karamanlis not receive the margin anticipated, the vote also gave a healthy 25 percent of the vote to Andreas Papandreou, who is not known for his pro-American attitudes.

Papandreou would like to see Greece withdraw from NATO and develop a strong, independent military structure, in addition to developing its own arms industry to make it further isolated from the West. Papandreou was quoted in a recent New York Times interview as saying:

> If [Greece is] exposed to real danger, we could and should arm ourselves with nuclear weapons. And I can assure you we can get them.

If Congress chooses to reverse itself on the Turkish arms embargo, it is possible that we will be sending a signal to Greece that could trigger off strong anti-American sentiment and play into the hands of Papandreou and his supporters. It would not serve the interests of either the United States or of NATO to have Greece isolate herself.

Mr. President, with due respect to my distinguished colleagues from West Virginia and South Dakota, I must say that passage of the Byrd-McGovern amendment would deal a serious blow to the principle of law we have taken such pains to preserve these 3 years the embargo has been in place.

If the amendment passes, the embargo would be repealed under the transparent guise of a "policy statement" alining the United States on the side of progress toward a Cyprus settlement.

Mr. President, there is nothing new in this approach. In point of fact, it is a restatement of the policy we have supposedly been following these 3 years—tying arms sales to Turkey to a Cyprus settlement. The only difference now is that—if the embargo is lifted unconditionally—the Turks will be rewarded for their refusal to budge on Cyprus.

We have consistently encouraged the Turks to take some tangible action on Cyprus in exchange for lifting the embargo. We have shown our good faith by allowing a ceiling of $175 million under the embargo. The Turks have not budged. I fail to see the logic now in handing them another quid without a single quo in return. Removal of the embargo does not just give the Turks license to buy whatever they want in the way of arms, it also removes any prohibition on transferral of arms to Cyprus and on increasing their troop level on Cyprus. For these reasons, I think passage of the Byrd-McGovern amendment would be a grave mistake.

Mr President, we have heard the phrase rule of law invoked so frequently in the recent past that for some it may have become a cliché. This is regrettable. Without the law to bind us as a nation, we run the risk of succumbing to the tyranny of the minority, to any man's will. This runs contrary to the founding principles of our country.

Sir Anthony Eden, at the time of the Suez crisis, made the following observation:

> Drift is the demon of democracy. Democracies should rather consider, in any step they take in world affairs, whether what they do will serve only to relax tension for a while, or whether it is in the true interest of lasting peace. That is the difference between appeasement and peace.

Mr. President, that, it seems to me, is the choice we are confronted with today: appeasement of the Turks or principle. If we lift the embargo, we have decided that it is best to appease the Turkish Government, at the expense of the rule of law, at the expense of 200,000 Greek-Cypriot

refugees, and at the expense, perhaps, of our relationship with Greece.

I hope my colleagues will give careful consideration to the points I have raised. And I hope the choice we make today will favor the principle of law, rather than the expedient of appeasement.

The PRESIDING OFFICER. Who yields time?

Mr. DURKIN. Will the Senator yield me about 5 minutes?

Mr. CASE. Mr President, I yield the Senator from New Hampshire 5 minutes.

Mr. DURKIN. I thank the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. DURKIN. Mr. President, 3 years ago the U.S. Congress took decisive, yet reluctant action against Turkey for its illegal and unwarranted invasion of Cyprus.

Let us not kid ourselves. It was illegal and it was an unwarranted invasion of Cyprus, while our State Department looked the other way.

The invasion, which was against the laws of this country and NATO agreements, to which Turkey was a willing partner, was universally condemned. The decision by the U.S. Congress to impose an arms embargo against Turkey was universally applauded and wholly justified.

Today the administration is asking the Congress to remove that embargo, though Turkey continues to fail to be in compliance with our laws, the NATO charter, and United Nations General Assembly Resolution 3212 of November 1, 1974, calling for removal of all foreign military forces from Cyprus. What has changed, Mr. President, to convince us to change our minds? Regrettably, nothing, Mr. President.

Nothing has changed except the President has gone back on another campaign promise.

Therefore, the administration position should be rejected and the arms embargo retained, certainly until Turkey comes into compliance with our laws and the NATO Charter, and takes the substantive actions necessary under resolution 3212 for achieving a real and lasting peace in Cyprus.

The reasons to continue the embargo are clear, though the administration has tried to obfuscate them. Most fundamentally, 4 years after the illegal invasion of Cyprus, the Turkish Government continues to have illegal occupying military forces on Cyprus, forces which are preventing Greek Cypriots from returning to their homes and their livelihoods. These forces, of course, are using American military equipment during their illegal occupation.

Additionally, the Turkish Government has failed to take significant actions or make significant proposals that could contribute to a peaceful resolution of the Cyprus tragedy. The Greek Cypriots have consistently made good faith efforts to negotiate an end to the dispute which affects not only Cypriots, Greeks, and Turks, but all of the NATO alliance. But the Turkish Cypriots and the Turks have not responded in kind.

Instead we see tens of thousands of Turkish troops with American military hardware occupying almost 40 percent of the island of Cyprus, though the Turkish Cypriots comprise only about 20 percent of the population. We see tens of thousands of displaced Greek Cypriots being denied their fundamental human rights as they exist in temporary homes and struggle to eke out bare livings. We learn of torture and other inhumane treatment by the occupying forces, documented by numerous sources. And we hear of so-called peace proposals by Turkey which are so unrealistic that they cannot even be considered as negotiating positions.

I realize that this Senate has the responsibility to be concerned not only about Greco-Turkish relations and about the suffering residents of Cyprus, but also the importance of relations in the Aegean for world security. The United States must work to insure that contention between Greece and Turkey does not weaken the southern flank of Europe so important to the NATO alliance. Both Greece and Turkey, if its leaders work within a proper international framework, are important to NATO, and very important to us.

But lifting the embargo at this time will not help strengthen the alliance. The opposite will be the likely outcome, for a decision to lift the embargo without moves toward peace by the Turks will undoubtedly anger the Greek Government and its people. That will lead to a further Greek drift away from NATO, especially considering the strong feelings against NATO among the Greek opposition parties. I do not believe that Greek Prime Minister Caramanalis would engage in the type of dangerous flirtations with the Soviet Union that his Turkish counterpart seems to enjoy simply as a result of our lifting the embargo, but certainly he and his government would have a more difficult time convincing their people of the importance of NATO if our country, the leading member of NATO, removes the embargo in the absence of any real peace initiatives by Turkey.

Mr. President, may I have 2 more minutes?

Mr. SARBANES. Senator CASE asked me to stand in and I yield 2 more minutes to the Senator.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. DURKIN. I thank the Chair.

Both Greece and Turkey play an essential role in the southern region, and they complement each other in our overall NATO defense position. Their geographical location makes them the major hindrance to any Warsaw Pact and Soviet aspirations toward the Mediterranean and Middle East. They each provide important facilities for the U.S. 6th Fleet and other military and intelligence activities. That is why it is imperative that a peaceful resolution of the Cyprus dispute and other points of contention between Greece and Turkey be reached at the earliest possible time.

But lifting the embargo that this country imposed in the face of illegal actions by Turkey without necessary action by Turkey is not the way to achieve that aim—in fact, it will produce the opposite result, I am afraid. It is time for the Turkish leadership, not the Congress, to bite the bullet on this matter. The Turks can be assured that this Senator and my colleagues in this Chamber will not hesitate for a second to take actions to lift the embargo when the occupying forces are removed from Cyprus, when the displaced Greek Cypriots are allowed to return to their homes, and when the Turkish Cypriots and the Turks are willing to negotiate a true and reasonable settlement within the context of Resolution 3212.

Until that moment comes, however, the embargo must be maintained. As President Carter stated so eloquently shortly before taking office:

> We would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue.

I could not agree with that statement more, Mr. President, and that is why I will vote to maintain the embargo on arms sales to Turkey that Congress so wisely imposed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Does the Senator wish additional time?

Mr. DURKIN. One minute.

Mr. SARBANES. I yield the Senator an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. DURKIN. I thank the Senator and I will be very brief.

Last week, I submitted for the RECORD President Carter's numerous campaign statements, in which he told the people of New Hampshire, he told the people in every primary State, that he was opposed to lifting the embargo. Now we see a change of heart.

We saw in Bonn last week that he told the European leaders he was going to solve the energy crisis with the stroke of a pen. How can they have any faith in that statement, when the people of this country cannot have any faith in the campaign promises he made the length and breadth of this country?

I agree with the President when he said we should not lift the embargo. I am dismayed and disappointed that he has let the State Department talk him into repudiating that. There is no other word for it. You can dress it up, but there is no other word for it. He is turning his back on numerous campaign pledges to oppose lifting the embargo.

We talk about human rights a lot in the Senate. Those poor people in Cyprus do not have human rights. They can barely eke out an existence. What is all this hullabaloo for human rights if we are going to turn our backs on the people in Cyprus?

If this country is going to stand for human rights, we had better stand for human rights in Cyprus. We are not advancing the cause of human rights in Cyprus by lifting the embargo. For that

and the other reasons I have discussed I will vote against lifting the embargo, and I urge my colleagues to do the same.

I thank the Senator for the time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield 10 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. CHURCH. I thank the distinguished chairman of the Foreign Relations Committee for relinquishing this time to me.

Mr. President, the amendment before the Senate to lift our arms embargo against Turkey is one of the more important foreign policy decisions to come before the Senate this year. The outcome could affect our relations with the countries of the eastern Mediterranean, as well as the future condition of NATO's southern flank.

When the Senate first considered military sanctions against Turkey in the fall of 1974, I supported an embargo for two reasons. First, I felt it was necessary for Congress to firmly indicate its indignation over Turkish violation of its arms transfer agreement with the United States. Second, I hoped that the imposition of an arms embargo would interpose some leverage on Turkey to withdraw its occupying troops from northern Cyprus.

After reviewing the 3½-year history of the embargo, I have concluded that the first point has been made, but that we have failed to realize the second. American objections to Turkey's invasion of Cyprus has been made abundantly clear to Ankara. I seriously doubt that anything further can be gained in this respect by continuing the embargo. On the other hand, the embargo has not helped to produce a settlement of the Cyprus problem. Indeed, it may well have had the opposite effect. It has become an inflamed political issue in Turkey that many regard as an insuperable obstacle to a negotiated settlement of the Cyprus dispute. Under these circumstances, it would seem prudent for the Senate to alter a policy which has failed to bring about its intended objective.

The factors which led to the imposition of the initial embargo should be recalled. First, there was the question of Turkish violation of our bilateral agreement. The initial Turkish military action on Cyprus might have been viewed as consistent with Turkish international obligations to guarantee the Cypriot Constitution and hence, no violation of the agreement. However, the second Turkish offensive took place after the ultranationalist Greek Cypriot Government fell, during a declared ceasefire, and after a U.N. resolution had been passed calling for withdrawal of all Turkish troops from the island. By then, American law clearly required an immediate termination of all further military sales and assistance to Turkey. In October 1974, the Comptroller General of the United States criticized the State Department for failing to make such a determination. Congress had little choice but to enact separate legislation embargoing all military sales to Turkey; 3½ years have now passed. Intervening events have raised serious questions about the wisdom of extending the embargo any further.

Not only must we ask whether our own national interest would be served by such a decision, but we must consider the interests of the NATO Alliance as well. Since 1974, Turkey's military position has deteriorated. Its equipment has grown increasingly obsolescent, much of it having been immobilized due to the lack of spare parts. If the deterioration continues unabated, Turkey will be unable to fulfill adequately its important NATO mission.

Events since 1974 have also demonstrated the futility of the embargo as leverage to extract Turkish concessions on Cyprus. During the first 3 years following congressional enactment of the embargo, the Turkish Government under Prime Minister Demirel refused to negotiate over Cyprus. The Turkish position was against parleying as long as we held a "loaded gun to their heads." Thus, the Turks would not budge until the embargo was removed, while Congress would not remove the embargo until the Turks budged. Negotiations were stalemated.

Given the decision of the Carter administration to urge Congress to lift the embargo, this stalemate over Cyprus was partially broken earlier this year when the newly elected Turkish Prime Minister, Bulent Ecevit, announced his intention to negotiate a solution to the Cyprus problem without waiting for the actual removal of the embargo. Turkish Cypriots subsequently tabled a new negotiating position, containing token territorial concessions along with a proposal for a weak federation. Ecevit also indicated his willingness to allow Greek Cypriots to resettle in the city of Varosha, held by Turkish troops. This initial Turkish negotiating position fell far short of Greek Cypriots' expectations, but it represented at least a move toward reopening the talks.

U.N. Secretary General Kurt Waldheim called the proposals concrete and substantive, while our own administration officials testified that they believe Turkish-Cypriots will show more flexibility as the talks proceed.

Evidence that these forecasts are not farfetched is to be found in the action taken by the Turkish Cypriots' leader, Rauf Denktash, on July 20, 1978, the fourth anniversary of the Turkish invasion. According to the State Department, his "open message" states that:

Turkish Cypriots are now prepared to agree to an interim administration for the city of Varosha under U.N. auspices. Talks could begin "promptly" on the nature of the interim U.N. administration.

The Turkish Cypriots say they wish to facilitate the early return of some 35,000 Greek Cypriot residents to their homes and businesses in Varosha.

This new proposal would seem to be a significant indication on the part of Turkey and the Turkish Cypriots that they are prepared to negotiate seriously. It comes on the heels of other recent actions on the Turkish side:

On July 10, for example, two additional brigades, constituting 1,250 Turkish troops, were withdrawn from Cyprus. The Turkish Government has promised that further reductions will be made as negotiations proceed. More than 17,000 troops have been withdrawn from Cyprus since 1974.

The Turkish Cypriots have publicly stated their willingness to reopen the Nicosia airport under U.N. control.

The Turks and Turkish Cypriots have agreed to the idea of establishing a joint committee to deal with the sensitive humanitarian issue of accounting for missing persons.

Taken together, these initiatives on the part of the Turkish side demonstrate that there is reason to expect an earnest negotiation in search of a solution to the Cyprus problem, as long as the Turkish Government does not feel it is being forced to the bargaining table.

On the other hand, if the American arms embargo against Turkey continues in effect, it will remain such a source of antagonism that, in the view of President Carter, it will hamper rather than encourage fruitful negotiations. Sharing that perspective are Secretary Vance, Secretary Brown, the Chiefs of Staff, and other administration spokesmen who, in advocating the removal of the arms embargo, believe that this action will aid progress toward a successful end to the Cyprus problem. In this regard, of course, none of us can be certain that the administration's judgment is correct, but it is the President and his emissaries who have discussed the Cyprus issue in-depth with Ecevit and with Constantine Karamanlis, the Prime Minister of Greece, along with Spyros Kyprianou, the leader of the Greek Cypriots. After examining the case presented by the administration, I think that the President should be entitled to the benefit of the doubt. Therefore, I will accede to the President's request and vote to lift the arms embargo. If Congress concurs, we must hope that their assessment will be proved right and that movement toward a settlement of the Cyprus problem will be forthcoming.

It is also noteworthy that the nature of the embargo itself has changed substantially since it was first enacted in 1974. Today, the embargo is only partial, being limited to government-to-government sales. No longer are there any restrictions on commercial military sales to Turkey. Moreover, the pending amendment would not increase fiscal year 1979 military aid to Turkey, but would simply permit the Turkish Government to purchase for cash additional military equipment through government-to-government channels.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. CHURCH. May I have 2 additional minutes?

Mr. PELL. Yes, I yield 2 additional minutes to the Senator.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CHURCH. Mr. President, Turkey is in deep trouble economically and cannot afford large cash payments for military equipment. Therefore, the actual

impact of the current embargo is largely symbolic. Practically speaking, Congress has slowly been removing the embargo for several years. This amendment takes the final step.

In these circumstances, the repeal of the arms embargo would not entail a setback for Greece, nor would it mean that Congress is any less concerned about a resolution of the Cyprus dispute. The United States has strong historic, political, cultural, economic, and security ties with Greece. Greek democracy, and the present Greek Prime Minister, Constantine Karamanlis, are held in highest esteem in this country.

Congress will continue to review the progress toward a full settlement of the Cyprus problem.

Senator McGOVERN has language that will make that not only expressly clear but will incorporate it into the action that we take today. In this connection, it is important to note that the administration has not included foreign assistance for Turkey in this bill as part of a 4-year cooperation agreement as originally planned. This change gives Congress the opportunity to review on an annual basis the military and economic assistance proposed for Turkey, in light of the progress made in the Cyprus talks. The aid for Turkey contained in this bill—$175 million in military credits and $50 million in economic aid—is of no small consequence to the Turkish Government. While the arms embargo has proved to be an effective foreign policy instrument, an annual review of Congress of foreign assistance levels to Turkey, bearing Cyprus in mind, might well prove to be a much better instrument.

For all of these reasons, Mr. President, I urge the Senate to support the pending amendment which would repeal the last remnants of the arms embargo against Turkey.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, will the Senator from Rhode Island yield me 15 minutes?

Mr. PELL. In behalf of the Senator from Alabama, the chairman of the committee, I yield 15 minutes to the Senator.

The PRESIDING OFFICER. The Senator from South Dakota is yielded 15 minutes.

Mr. McGOVERN. Mr. President, few issues in American foreign policy have engendered such passion as the dispute over the proper U.S. response to events which began in Cyprus in the summer of 1974.

From the outset, the debate was a curious admixture—building from a deep distrust and disapproval of the Kissinger policy in that region, motivated by an urgently felt need to uphold U.S. law at a time when illegality had become a major theme of the American Presidency, and inspired by an earnest desire to provide American support for a just settlement on that small, tragedy-ridden island in the eastern Mediterranean. From this debate, no clear U.S. policy emerged. An embargo—of sorts—was imposed against Turkey by congressional action, but this statute was from the beginning the target of continuing administration efforts to achieve its repeal, efforts encouraged by our NATO allies and clearly visible to Turkish decisionmakers.

The result, instead of a single strong policy, was two policies, each at odds with the other. One was a congressional policy, favoring the retention of sanctions against Turkey pending productive negotiations and the withdrawal from Cyprus of Turkish forces.

The other was an executive branch policy, opposing the partial embargo as being a practical and symbolic impediment both to the maintenance of NATO strength and also to the progress of Cyprus negotiations which had begun under U.N. auspices.

Attuned to the congressional policy were a variety of supporters: Prominent among them were Greek-Americans, as well as others who believed that a violation of the law should not be overlooked and that Turkish actions on Cyprus had been excessive and brutal in the extreme. Favoring the executive branch policy were those concerned to reopen U.S. intelligence bases in Turkey and to maintain Turkey's role in the containment of Soviet power, together with those who believed that the recent history of Cyprus complicated the question of right and wrong more than commonly understood and that the Turkish Government could never be expected to negotiate on Cyprus while under the humiliating duress of the embargo.

For well over 3 years now, the status quo has prevailed. The two American policies have continued to neutralize one another, and little progress has meanwhile occurred on the island which should be the direct focus of our concern. Turkish forces remain, although in slowly diminishing numbers; Cypriot refugees continue their lives in dislocation; the economy of much of Cyprus stagnates; and the fires of hostility among Cypriots and in Greece and Turkey are rekindled daily—all while negotiations toward a just settlement flounder, subordinated to each side's short term tactics of opposing or defending the embargo.

Were the embargo not a matter concerning immense human suffering and the very future of the sovereign republic of Cyprus, the whole question could perhaps be described as ridiculous. What is at issue is a provision of law—section 620(x) of the Foreign Assistance Act—so loosely drawn as to impose little constraint upon the actual transfer of U.S. arms to Turkey. Yet the argument over U.S. policy in the region continues to center on what is called an "embargo." Let us be clear. This provision is primarly symbolic. At this stage—as even its defenders will acknowledge—its principal purpose and effect is not to curtail Turkey's arms supply but rather to stigmatize that nation for its conduct in Cyprus. The question we are asked to consider, then, is whether to retain in law an essentially symbolic provision.

As to the arguments of those who would defend this provision, I am sympathetic but also somewhat puzzled. Having supported the enactment of 620(x), I understand well its original rationale. To me, the salient feature of that rationale was the argument that only a firm U.S. policy could induce the Turkish concessions necessary for a fair settlement. Also persuasive, of course, was the argument that legislative action was needed to uphold the principle that U.S. weapons may not with impunity be turned to aggressive purposes. But this argument from principle, being somewhat muddied by Turkey's role as treaty guarantor as well as the long-standing grievances of the Turkish Cypriot minority, was for me less compelling than the practical argument that tough U.S. action might foster prompt movement toward a just solution for the Cypriot people.

(Mr. DECONCINI assumed the chair.)

I retain this practical approach—but in so doing I now find myself at variance with certain of my colleagues, who appear to have lost hope that real progress can be achieved on Cyprus and who therefore seem to believe that we must hold fast to the symbolism of our present embargo without regard to its results.

I do not share this view. I believe that our goal must continue to be justice on Cyprus, and I am without doubt that U.S. policy must aggressively pursue this goal, not only in the interests of the people of that nation but in our own interests as well. What happens in future Cyprus negotiations will inevitably bear directly on U.S. relations with both Greece and Turkey and on the relationship of those two countries with each other; thus the outcome in Cyprus will be a central factor in determining the measure of future peace and stability in a region of self-evident importance to the entire Western World.

If justice on Cyprus is our goal, the question at issue is how to pursue it. The answer, I submit, is not to continue a policy which, whatever its association with a principle of law, has not worked. Legal principles derive from experience; they must be applied not in the abstract but in the real world, and such application must always weigh practical consequences, both general and specific.

As to the general consequences in this case, it seems beyond doubt that the point has been made, at least as well as it is going to be made, that the United States takes seriously its prohibitions on using American weapons for aggressive purposes.

Like the Senator from Texas, Senator BENTSEN, who spoke so eloquently on this subject today, I share the necessity of demonstrating our adherence to the American law. But, as to the specific consequences, it also seems beyond a doubt that further application of sanctions—and the continued imposition of a stigma—is no more than a formula for continued deadlock, with no interest on any side truly served.

Nor, on the other hand, do I believe that an effective approach consists in simply repealing section 620(x) on the grounds that it has not worked. Given all that has gone before, it would be all too easy for such an action to be con-

strued in Turkey and elsewhere as a decision to relinquish concern for Cyprus in favor of fortifying the so-called southern flank—the interpretation being, in other words, that military considerations had finally triumphed over moral ones. Such a signal, were it given, could have a perilous consequence—alienating opinion in Greece and dampening Turkey's incentive to participate in constructive negotiations.

Thus, Mr. President, I submit that our approach must be something other than the simple act of retaining the provision in question or the simple act of repealing it. Neither represents a practical and effective policy.

What we need more than anything else, after laboring for better than three years with two mutually destructive policies, is a single, clearly articulated U.S. policy on which Congress and the President can agree and the terms of which strongly declare our unwavering intent to lend our full, active and effective support to the achievement of a just, negotiated settlement on Cyprus. Such a policy, moreover, must make clear that while deleting the embargo provision from our law, we have not deleted a deep concern for Cyprus from our national conscience and that we will examine, through prescribed executive-legislative procedure, our future policies toward each relevant country with a view to whether it has contributed a good faith effort to the process of bringing justice to that island.

What I envision, Mr. President, is embodied in an amendment which is now proposed to the Senate under the sponsorship of the distinguished majority leader (Mr. ROBERT C. BYRD), Senator BENTSEN, Senator CHAFEE, myself which, while repealing the embargo, would equalize the fiscal year 1979 military credits available to Greece and Turkey and, more importantly, place into the Foreign Assistance Act a new section entitled "Policy and Procedure Regarding Cyprus, Greece, and Turkey." This provision sets forth, in its first two subsections, certain findings which shculd form U.S. policy and, in its third section, a number of principles which should govern U.S. policy.

In its fourth subsection, the provision continues the President's periodic reports to Congress concerning Cyprus negotiations. And in its fifth subsection, it establishes a procedure governing future Presidential requests to the Congress for aid and military sales to Turkey, Greece, or Cyprus.

The procedure established is simple in concept, but perhaps deceptively so. It requires the President, in connection with any future request relating to any of the three countries, to transmit with that request a fully justified certification that the goal of a just solution on Cyprus has been achieved or that such future aid would contribute to the achievement of that goal. This, I believe, should provide meaningful incentive to each of the concerned parties to move promptly into good faith negotiations. For if the President is unable, for any of the parties involved, to make this certification a year from now, the question of the President requesting any aid at all to that country would be foreclosed.

We are all aware, of course, that certification procedures have, in past administrations, been abused. But I have confidence that President Carter's integrity would preclude an abuse in this instance. Thus, if Turkey does not make a good faith effort in the Cyprus negotiation, I do not expect this administration to make a disingenuous or false certification.

Moreover, if there were to occur a certification with which the Congress disagreed, adequate remedies would be available through the authorization and appropriations process.

Mr. President, no policy in any area is foolproof and the approach embodied in this provision may probably meet the fate of efforts on Cyprus which have gone before. But I trust that this will not be the case. I am prepared to accept Prime Minister Ecevit's clear indications that he will move constructively on Cyprus once the political straitjacket of 620(x) is removed. I do not do so on blind faith, but in recognition that Turkish interests also require genuine progress on Cyprus and in the belief that Mr. Ecevit can understand, and conduct his nation's future policy according to, those interests.

Assuming the enactment of this proposal, I would sincerely hope that 1 year from now we are not involved in a fight over Turkish aid. With some display of statesmanship on both sides in the Cyprus dispute, that will not occur. But if such statesmanhip is not evidenced, I can assure my colleagues that I for one will not hesitate to draw the appropriate conclusions and to join with those who now favor retaining the embargo in seeking appropriate redress through the budgetary authority which Congress will retain even without the continuation of 620(x).

For now, however, I believe that a positive and constructive outlook is in order. It is time to make a new beginning. If this provision is passed, with the administration's tacit acceptance even if not its open support, the United States can finally have a single policy on this matter of grave importance. If energetically implemented by the administration, I think it can be a successful policy. I know that many of my colleagues feel strongly that our policy toward Cyprus, as elsewhere, should have a strong moral base. I agree. And I believe that this proposal rests on such a base. It is a morality directed at results; and, should this measure be enacted, it is toward the achievement of genuine results on Cyprus that the administration should feel obligated to lend the full power of U.S. diplomacy.

Mr. President, today I have received a letter, dated July 24, 1978, which I understand has also been sent to other Members of the Senate, from Mr. Warren Christopher, the Under Secretary of State, in which he makes several observations that I think are pertinent to the debate today. He says:

Last week I wrote to you concerning an important proposal made by the Turkish Cypriots regarding the city of Varosha. Under that proposal, the Turkish Cypriots offered to permit 35,000 Greek Cypriot refugees to return to their homes and businesses in the city of Varosha under United Nations supervision. As you know, we welcomed this Turkish Cypriot proposal.

Earlier today the Government of Cyprus made its proposal with respect to Varosha which we have also welcomed. Although the Greek Cypriot proposal is different in certain respects from that of the Turkish Cypriots, it is apparent that there is now a solid basis for discussions between the parties of the important humanitarian problem relating to Varosha, and thereafter for resuming the Cyprus intercommunal talks under U.N. auspices.

The coming weeks and months will be crucial in resolving the fundamental questions relating to Cyprus which have troubled the people of that island, and the entire world, for so long. In the period ahead, it is important that the United States be in a position to play an impartial and constructive role. The lifting of the Turkish embargo is an essential step in this process. To do so will, we believe, help accelerate the search for peace in Cyprus.

Mr. President, I ask unanimous consent that the following articles be printed in the RECORD:

An article entitled "Why Should We Lift the Turkish Arms Embargo?" written by Lee Hamilton and published in the Washington Post of June 19, 1978;

An article entitled "Lift the Turkish Arms Embargo," written by Albert Wohlstetter and published in the Wall Street Journal of Wednesday, June 14, 1978;

An editorial entitled "A New Look at Cyprus," published in the Washington Post of March 29, 1978; and

An editorial entitled "The Way Back from Cyprus," published in the New York Times of Friday, March 31, 1978.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHY WE SHOULD LIFT THE TURKISH ARMS EMBARGO

It is time to lift the American arms embargo against Turkey. The present situation is clearly unacceptable. Cyprus talks are deadlocked as both parties continue to politick in Washington rather than negotiate with one another. NATO security has deteriorated. The agony of many Cypriots persists and many Greek Cypriots cannot return to their homes. Our bilateral ties with Greece, Turkey and Cyprus are suffering.

Six strong arguments can be advanced for lifting the embargo:

First, the embargo has failed to achieve its intended objective of promoting a settlement on Cyprus. Rather, it has stiffened resistance to accommodations by encouraging both the Greeks and the Turks, for their own reasons, to withhold necessary concessions.

Turkey, a proud and firmly independent nation, rejects the idea of yielding to pressure. The Turks find the embargo a painful humiliation. Many Greeks want to keep the embargo in place, and they believe that progress in negotiations will lead to its removal.

By lifting the embargo and espousing a policy of even-handedness in negotiations, the United States can contribute to the creation of an environment in which constructive Cyprus talks can occur. Overt American pressure on any one party will at best produce a temporary settlement. In this sense the embargo has reduced, rather than strengthened, our leverage.

Second, the embargo has jeopardized NATO security, the long-range defense interests of Greece, and American capabilities

in the eastern Mediterranean. These damaging consequences are magnified by the unprecedented buildup of Soviet forces on both the southern flank and the central front.

Turkey, with the second-largest standing army in NATO, is of great importance to both the alliance and the United States. The decline of its forces leaves the whole of southeastern Europe more vulnerable to Soviet penetration. Since the embargo began, our loss of intelligence on missile tests and troop movements in the Soviet Union has been significant. We should not lose sight of the fact that the strategically important Turkish land mass separates the Soviet Union from the Middle East and the Mediterranean.

With the exception of Greece, our NATO allies urge an end to the embargo. At a time when we are asking NATO allies to increase their defense commitments, it is unwise for us to neglect the vulnerable southern flank.

Third, the embargo encourages Turkey to rethink both its basic foreign-policy direction and its ties with NATO and the United States. The consequences of the embargo are not only military. Turkey is the developing country with the longest continuous history of democracy in recent times. The Turkish revolution earlier in this century started a process of westernization that was consummated three decades ago when Turkey joined NATO. This history helps to explain Turkey's anguish over its treatment by the United States. The Turks' drift toward neutralism must not be allowed to continue.

There are many counsels of foreign policy reappraisal in Turkey today and none of them suggests a strengthening of Turkey's ties to the West. By ending the embargo, the United States can help to refocus this debate in Turkey, restore balance and stability to a troubled democracy and rekindle the Turks' faith in the West.

Fourth, the principle of the law has been upheld, and Turkey has been punished for its misuse of American arms in Cyprus. We have demonstrated to all countries that we are serious about enforcing the law, which provides for the termination of military aid in cases where U.S.-supplied equipment has been used for aggressive purposes rather than legitimate self-defense.

Is it not reasonable to think that an embargo that has crippled Turkish military capabilities for nearly four years is sufficient punishment for the misuse of American equipment? Is no allowance at all to be made for the complex circumstances surrounding the initial incident, including Turkey's perception of its treaty obligations to ensure the independence of Cyprus and what it sees as its forbearance in the face of violations of the civil and human rights of the Turkish minority on Cyprus? Is the law not now being applied selectively?

Clearly, the time has come to question whether the rule of law is enhanced by unyielding and selective application. There have been other violations of the law that have gone unpunished. Punishment need not be of extended scope and prolonged duration to be useful. Beyond a certain point, it becomes self-defeating.

Fifth, the suffering of the Cypriot people will more likely be ended by negotiations after the embargo is lifted. We all agree that the plight of Greek Cypriot refugees needs to be resolved and that the longstanding grievances of the Turkish Cypriot minority must be treated.

But problems of human and political rights that stem from decades of communal antagonism can better be addressed in the context of negotiation for an overall Cyprus settlement than in the present deadlocked situation. It is apparent that these human- and political-rights problems are not being addressed today.

Sixth, the Turkish government and the Turkish Cypriots have recently shown a willingness to negotiate a Cyprus settlement. While initial Turkish proposals are neither all the Greek side wants nor all it should expect, they should not be viewed with indifference. Turkey has withdrawn 16,000 troops over the months, and the Turkish Cypriots have displayed a willingness to make significant territorial adjustments in six specific areas, reduce troop levels further and allow tens of thousands of Greek Cypriots to return to new Famagusta as negotiations begin, and reopen the Nicosia airport. Furthermore, a detailed constitutional recommendation is on the table for discussion. These initial proposals are promising and constructive. They offer a basis for renewed talks.

Tentative manifestations of Turkish flexibility and compromise will be dissipated if the embargo is kept in place. New and evolving Turkish positions can be drawn out and developed only through negotiation. Prime Ministers Bulent Ecevit and Constantine Karamanlis are meeting. The Cypriot leaders should do likewise.

Of course, there can be no guarantee that lifting the embargo will either resolve problems in our relations with these NATO allies or help achieve progress toward a Cyprus settlement. But there is certainty that the present unacceptable situation will be perpetuated and a Cyprus settlement further postponed if the embargo remains. The reasonable hope is that lifting the embargo would trigger progress in the area.

After three years of impasse and deepening risk to our national interests, it is time to try to break the impasse by lifting the embargo. We must adopt an approach more likely to produce a settlement on Cyprus. We need a policy that is more attuned to American concerns in the eastern Mediterranean.

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### Lift the Turkish Arms Embargo

The United States, Turkey and Greece have very strong mutual interests affecting their security-interests that have been harmed by the behavior of all three nations. The self-destruction pattern can be broken by support for President Carter's initiative to lift the arms embargo against Turkey.

All NATO countries—not only the United States, Turkey and Greece—have an interest in restoring health to the southeastern flank of NATO. That is also of great consequence for the credibility of any American guarantee in the Middle East and for countries such as Japan that depend on oil from the Persian Gulf.

What makes the problem urgent is the worsening of our position on the southern flank of NATO and especially in the eastern Mediterranean, the increase in Soviet ability to project power at a distance, Greece's continued absence from the NATO military command, the increased precariousness of our own and allied reliance on oil from the Gulf area, the deterioration of the Turkish armed forces that remain part of the NATO military structure, and the steady decline in our relations with Turkey.

There are of course endless claims and counterclaims about the rights and wrongs of Greek, Turkish or even American and British behavior on Cyprus. I do not think a fair and accurate picture can be drawn in simple black and white. Nor do I think the legal questions as to the use or misuse of U.S. arms aid present a simple issue, with an obvious answer justifying punitive action in the form of a continuing embargo.

#### THE GAO LETTER

The Greeks as well as Turks are armed predominantly by the United States and both, it is plain, have used these arms to protect what they regard as their legitimate rights and obligations. The usual authority cited on Turkish violations is the General Accounting Office letter to Sen. Eagleton. A careful reading shows that it does not unambiguously claim a Turkish violation. Moreover, I think the GAO would have qualified its judgment on Turkey even further if it had been asked about violations on the other side, which were much less ambiguous.

I am afraid many Americans made moralistic statements about the crisis that strain moral credibility. There is no doubt that the events started with a coup engineered by the military dictatorship then existing in Greece. And there is no doubt in my mind that the Treaty of Guarantee signed by Greece, Turkey and Great Britain was a justifiable basis for Turkish intervention in July. In the subsequent August landing the Turks expanded their very precarious foothold in the face of Greek delays and refusal to agree to a security zone around Turkish forces.

One always hears that 40 percent of the land is occupied by the Turks, who make up only 18 percent of the population. I would point out first of all that the 40 percent seems to be inaccurate; it is more like 36 percent or 37 percent, and the Turks question the 18 percent as well. More important, the Turkish "18 percent" or more of the population, being mainly farmers, always had more than the corresponding 18 percent or so of the land—about 40 percent at the time of the 1960 census, and perhaps 30 percent at the time of the coup. The recent Turkish proposals for voluntary population and land transfers consider the military and economic viability of the transfers, and seem to me as they do to Secretary General Waldheim a substantial advance in the negotiation.

On such complicated disputes between two important allies, the United States had best avoid the pretense that the moral or legal issues are simple black and white ones on which we can sit in judgment. Such pretense does mischief to our reputation for any balanced concern about the rule of law. I would be as deeply opposed to an embargo on arms to Greece as I am to continuance of the embargo against Turkey. We should not be asked to choose; both are of key importance to our own security and to that of our allies.

The security considerations, meanwhile, are essential to the strategic significance of Turkey. While there have been recent claims that new weapons technologies make the Turkish armed forces, facilities and geographical position obsolete, it simply romanticizes technology to suggest that ICBMs or any other sophisticated technology can replace forces that operate from close-in range. Similarly, the Turkish intelligence facilities closed since the embargo were of great value, and substitutes have been only partial, creating deficiencies that become harder and harder to overcome. These facilities provided us with information about the development of Soviet long-range systems, and also, as in the fall of 1973, about movements and concentrations of Soviet forces.

The value of Turkey for the United States and its NATO allies extends far beyond the few installations on which operations have been suspended since the embargo. That value proceeds in the first place from control of the exit from the Black Sea through the Straits of the Bosporus and of the entry to the Aegean through the Dardanelles. Second, from the large number of strategically placed base facilities for combat, communications, navigation and other support functions, including facilities besides those withdrawn from current operation. Third, from the control of the air space above Turkey. And fourth, from the Turkish ground forces themselves, which are the largest in NATO aside from those of the United States, and have a well-deserved reputation for fighting ability.

It is usual to talk of the value of Turkey

for our allied security in rather general terms. That makes it easy to dismiss its value with some vague reference to technology or the like. I would like to illustrate Turkey's importance in some concrete detail.

First, on the importance to Turkey to Greece, which proponents of the embargo tend to think of, if at all, only in passing. Turkey's participation in NATO sharply increases Soviet force requirements for Bulgarian or combined Bulgarian-Soviet attacks on Greece. Turkish control of the Dardanelles blocks the Soviet's sea lines.

NATO planes based in Turkey could interdict Soviet sea and air movements to Bulgaria. The only invasion-supply route into Greece which is not within easy artillery range of Turkish forces is a single-track railroad with a parallel road. With Turkey and Greece cooperating in NATO, this attack would be a much riskier adventure and therefore one much less likely to be attempted or persuasively threatened. And most important, Soviet force would be less likely to cast a political shadow.

On the importance of Turkey for the whole of NATO's southern flank, and consequently for the NATO center, Secretary of Defense Brown has been quite clear. If the flanks are neutralized by political or military action, an adversary can concentrate more massively against the center. The defense of the center cannot be separated from the defense of either flank.

In the defense of the Persian Gulf area, however, the potential role of Turkey deserves concrete illustration. If the Soviets can overfly Turkey at will, they can cut in half the time needed to deploy forces by air over Yugoslavia to an objective near the Gulf. (Roughly the same is true for deployments to Lebanon and Israel.) The availability of Turkish airspace drastically affects what the Soviets can do compared with what the United States can do in the Gulf area. Without substantial overflight over Turkey, the Soviets, for example, might be able to bring into the area a force roughly equivalent in firepower to a U.S. mechanized division and do it in about the same time as it would take the U.S., that is, in about two weeks. With overflights unconstrained the Soviets could get there a week earlier.

For conflict in the Persian Gulf area the Turkish Straits also are plainly important. If the Soviets cannot use the Straits to resupply by sea as well as by air their forces fighting in the Gulf, they might have to rely exclusively on a massive initial airlift until they could, for example, resupply by sea from Vladivostok—a much more distant supply route. Other conceivable routes might be even longer, more complicated or more vulnerable.

In short, when one looks at the grubby details of how the contestants might fare in a struggle in such key parts of the world as the Persian Gulf or Greece, it is apparent that with the technologies available to each side the role of Turkey is likely to be of major importance. No airy references to sophisticated weapon systems should erase that importance from our minds.

TURKEY'S SIGNIFICANCE

Finally, a few words on the significance of Turkey for the Middle East. It would be possible to illustrate in some detail the effects of the availability to one side or the other of Turkish air space, the Straits, bases and materiel in Turkey, or the Turkish forces. The potential effect on conflict between the confrontation states and Israel is large. The stability of settlements now being proposed for the Middle East depends not only on the ability of the parties to defend themselves with only logistic support from outside, but also on external guarantees of possible intervention.

But no guarantee is likely to be accepted if it cannot be backed up, that is, if the risks of backing it up are so large that fulfillment of the guarantee is not believable. And even if a very risky guarantee were accepted, the settlement guaranteed would very likely be unstable. There has been a long history of the importance of Turkey for military operations in the area. Turkey was a key to our successful intervention in Lebanon in 1958. Our intervention at that time exploited the strategic position of Turkey and was greatly aided by it.

To restore the role of Turkey in the alliance we should end the embargo. The embargo in any case blocks compromise on Cyprus. The Turks will not bend to a public humiliation by a major ally. And those Greeks who see Turkey only as a rival and a danger and want it weakened will delay compromise to perpetuate the embargo. For the sake of Cyprus, and for the mutual security of our allies, including Greece and Turkey, we should at long last bring the embargo to an end.

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A NEW LOOK AT CYPRUS

Isn't it time to set the Cyprus issue to one side in the tangled affairs of the eastern Mediterranean and to get on with restoring firm American ties with Turkey and Greece? Does not this approach promise better results in Cyprus itself than four years of direct diplomatic assault have produced?

We think so. We think that few American policies have been more earnestly motivated, and more thoroughly discredited, than the failed effort to force Turkey to roll back its invasion of Cyprus by imposing an arms embargo. Cyprus has received no benefit whatsoever from it. The American position in that strategic corner has steadily deteriorated. Two American presidents have been undercut.

The congressional "Greek lobby," which has dominated successive administrations on this issue, remains unreconstructed. It holds that the best way to pry the Turkish army off the island and bring a settlement is to keep the pressure in Ankara. Increasingly, however, other legislators, including now a House International Relations Committee majority, suspect that the embargo merely humiliates Turkey and that the Turks—curse them as you will—will not budge on Cyprus while this embargo stays in effect. We agree.

Deputy Secretary of State Warren Christopher is in Ankara today. If he is not trying to see whether Turkey, in the event that the embargo were lifted, would move promptly on its own toward a fair Cyprus settlement, he has wasted a trip. Great delicacy is required. The Turks can't countenance being seen to be acting under pressure. The Greek government must not be exposed to opposition charges that, for the sake of NATO, Greek interests on Cyprus are being sold out. But perhaps a bargain can be struck.

Cyprus is not, after all, the issue it was. Greek Cypriots, foresaking the Palestinian example of the open wound, have built a successful new life in the south. They want only some territory in the north, a federal system that would leave the Turkish Cypriot minority well protected, and an end to the Turkish occupation and to the specter it raises * * *.

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THE WAY BACK FROM CYPRUS

Since 1974, when Turkish troops, using American weapons, occupied two-fifths of the island of Cyprus, relations between Ankara and Washington have been sour. Congress has limited the flow of additional arms until Turkey pulled back its forces; successive Turkish Governments have refused to define their conditions for withdrawal under such pressure. Both the United States and Turkey will end up losers if no way can be found to break out of this bind. Turkey could point the way by revealing its proposals for a Cyprus settlement.

Turkey's invasion was scarcely unprovoked. The 18 percent Turkish minority on Cyprus had never been well treated by the Greek majority. And in July 1974, a coup brought to power a hard-line Greek-Cypriot faction that seemed likely to take even less account of Turkish-Cypriot rights. Although the insurgent regime lasted only a few days, that was long enough to precipitate Ankara's invasion.

Ankara has reacted to the limit on arms sales—$175 million this year—by sharply restricting American use of NATO facilities in Turkey. Under steady pressure from Greek-Americans, Congress has remained firm. But the Ford Administration strongly deplored the Congressional restrictions as harmful to NATO—and thus caused the Greek Government to curtail its military cooperation with NATO. The Carter Administration has tried to straddle the issue. It has continued discussions for a defense agreement that would substantially increase American military aid to Turkey. But it has implied that it would not conclude the agreement until there had been progress on Cyprus. Early this month, Secretary of State Vance was explicit: Washington would not move, he told Congress, until it had examined proposals for Cyprus promised by Turkey's new Prime Minister, Bulent Ecevit.

More intolerable "linkage," responded Mr. Ecevit—and this time from the Administration, not merely from Congress. He countered with reverse linkage: no Cyprus proposals until the heat is off. That message, and subsequent hints that Turkey might withdraw its half-million men from NATO's command and even sign a nonaggression pact with Moscow, caused a high-level American delegation to hurry to Ankara this week to attempt to set things right.

That won't be easy. Strong sentiment continues in Congress that Turkish concessions are necessary before normal military relations can resume. That sentiment is justified. Turkey broke United States law and violated the spirit of its alliance when it used American weapons to expel Greek Cypriots from their homes and farms. Having made its point, Ankara should now pull back. Greek Cypriots—and Greece—realize there can be no return to the old arrangements on Cyprus. They acknowledge that Turkish Cypriots should enjoy nearly complete autonomy, including a territorial zone of their own, but one proportionate to the size of the Turkish-Cypriot population.

There is every reason to believe that both Prime Minister Ecevit and the Turkish military leadership would like to pull back. Because the Turkish occupation force is the central issue in contention, the first moves must come from Ankara. Since the issue continues to be the most explosive one in Turkey's politics, such a move would be painful. But Mr. Ecevit is in a strong parliamentary position; unlike his predecessor, he does not depend upon ultranationalists for his majority.

Turkish dissociation from NATO would be costly to the United States. But it is the Turks who should calculate the benefits of full participation in NATO; it is they who face the risks of weakened ties to the West. Meanwhile, those who would support NATO by lifting the restrictions on arms to Turkey should remember that Cyprus is just an emotion-wrenching an issue in Greece. It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece.

The PRESIDING OFFICER (Mr. ANDERSON). Who yields time?

Mr. JAVITS. Mr. President, in the momentary absence of the ranking Republic member, as next ranking member I yield 6 minutes to the Senator from Illinois.

Mr. PERCY. I thank the Senator.

Mr. President, I ask unanimous consent that the following members of my staff be granted the privileges of the floor during the consideration of and votes on the pending bill: Scott Cohen, Alison Rosenberg, Mary Locke, and Fred Tipson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, as much as any Member of this body, I favor good and constructive relations with the Government of Turkey, our NATO ally and friend. Whether we lift the embargo or not—and I hope that we will not—I want the Government of Turkey to hear that all of us on both sides of this issue deeply care about the future of Turkish-American relations, and that we will work in good faith to restore those relations to a normal state.

There are compelling reasons not to lift the embargo, and I would like to restate them now. But Turkey should know that this is not a decision on relations with Turkey. Whatever the decision of the Senate today, we will want to move ahead to improve Turkish-American relations in the interest of both countries and of NATO.

Mr. President, because of this position, the question of whether the arms embargo on Turkey should be lifted is for many of us a difficult question, because we desire nothing more than good and constructive relations with both Greece and Turkey and a fair settlement for the Cyprus problem.

The question is basically which course of action will facilitate these objectives.

We are told by the administration that our relations with Turkey, and Turkey's relationship with NATO, are at stake. We are told that a refusal to lift the arms embargo will so alienate Turkey that serious damage will be done both to Turkish-American and Turkish-NATO relations.

There is a rationale for the Carter administration to take this stand, because Turkey has indicated that negative consequences may follow a refusal to lift the embargo. Such consequences could include the shutdown of U.S. bases in Turkey, expulsion of U.S. military personnel from Turkey, Turkish withdrawal from the military wing of NATO, and closer Turkish-Soviet relations. These steps clearly would harm NATO and further weaken its southeastern flank.

The administration also maintains that a refusal to lift the embargo would not contribute to a settlement of the Cyprus problem because it would stiffen Turkish intransigence there.

I submit that the Carter administration's position is a result of either of Turkish blackmail or a blackmail self-imposed by the Carter administration. It sends a message to Ankara that the United States is prepared to put aside the effects of lifting the embargo on the democratic government of Prime Minister Caramanlis in Greece. It indicates that the United States is prepared to put aside our own law prohibiting the aggressive and unauthorized use of American-supplied military equipment. It indicates that the United States is prepared to tolerate the continued military occupation of nearly 40 percent of Cyprus with American military equipment.

Despite my own strong feeling that we should have good relations with every member country of NATO, and my desire that Turkish-American relations be improved, I cannot accept this rationale for lifting the embargo.

The administration, in taking its position, puts the burden of improving Turkish-American relations on the United States, not on Turkey where it belongs. It is Turkey, not the United States, which invaded Cyprus. It is Turkey, not the United States, which continues the military occupation of Cyprus after 4 years. It is Turkey, not the United States, which violated the U.S. arms transfer law. It is Turkey, not the United States, which contemplates weakening the NATO alliance.

To accept Turkish terms by lifting the embargo would be interpreted as American weakness in the face of Turkish threats. It would solve an immediate problem in Turkish-American relations, but it would not engender the mutual respect which must be at the foundation of Turkish-American relations in the future. It would signal the Turkish Government that we will give them what they want regardless of their actions on Cyprus.

The New York Times has said that "It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece. The St. Louis Post-Dispatch has characterized the effort to lift the embargo as "misguided." The Financial Times of London, referring to the weak Turkish proposals for a Cyprus settlement, said "The responsibility for rebuilding trust has to be with the stronger party—in this case the Turkish side. And it is up to them to show that they can do better and offer more than they have so far."

The arms embargo is often blamed by the Carter administration for the friction in Turkish-American relations. After all it was imposed by the American Congress. But it was imposed because Turkey had violated American law. As a practical matter, however, the United States has not deprived Turkey of American military equipment.

During the period prior to the embargo, 1969–74, the United States transferred to Turkey an average of $125 million in arms annually. Then, despite the embargo, in 1975 through 1977, U.S. arms transfers to Turkey averaged $120 million annually, almost the same as before. For 1978 and 1979, the foreign military sales ceiling for Turkey is $175 million annually. Turkey is the third largest recipient in the world of such U.S. military credits.

In addition, Turkey will receive $50 million in security supporting assistance, which frees up other Turkish funds to purchase additional military equipment from European sources. Everyone should realize that these amounts "ain't just peanuts." A question that should be asked of the administration is how much more military equipment would be envisioned for Turkey if the embargo were lifted, how that would affect U.S. relations with Greece and how that would loosen Turkey's iron grip on northern Cyprus.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. I ask for 2 additional minutes.

Mr. JAVITS. I yield the Senator 2 additional minutes.

Mr. PERCY. At a time when Turkey maintains its occupation of Cyprus with more than 22,000 troops armed with American weapons, at a time when Turkish proposals for a Cyprus settlement are inadequate and unjust, at a time when Turkey threatens the expulsion of American forces, I must and will oppose the lifting of the arms embargo.

Mr. President, I would very much like to address a question to our distinguished colleague the senior Senator from New York, because, though we do support in all our votes the Mideast arms sales, the Senator from Illinois has relied very strongly on the proposition that a law is a law, and is binding, and we will hold those who enter into agreements based upon that law to that agreement.

In the case of the arms sales to the Mideast, the Senator from Illinois took the position that an alternative was available to Saudi Arabia:

They could purchase sophisticated Mirage aircraft, either of the present series or the future 2000 or 4000 series. They could purchase them in unlimited quantities. They would have no restraints whatsoever from France or French law in transshipping those weapons systems to any other country in times of combat, whereas the American law was firm. Saudi Arabia had firmly avowed they would adhere to that law.

I ask my distinguished colleague if the representations made at that time are in a sense null and void if in this case American law was violated and an agreement violated, and we say, "Well, the terms laid down by the Secretary of State, the danger pointed to by the Secretary of Defense, that no movement has been made in Cyprus, and still there has been no significant movement." Would it not establish a dangerous precedent for the future which might say to the Saudis and others that the U.S. law means nothing and an agreement with the United States means nothing? We have these weapons and in the case of need we can transship them to combat areas. May we not be endangering the Mideast situation which I believe to be crucial and highly critical?

Mr. JAVITS. Mr. President, I yield myself 2 minutes to reply to the question.

Obviously, the question is one of consistence. We can change our minds; we can do something else. But, obviously, if we are inconsistent we can hardly expect other powers to be consistent. While I did not join in the Senator's position on the jet aircraft to Saudi Arabia, the majority did. Therefore, anything which would be conducive to cementing the proposition that the Saudis, having made a promise, we expect them to keep it and we act that way, consistently, is

conducive to the policy of our country in having made that deal.

That would be my reply.

While I am on my feet, might I also say that it has been charged that Greece used U.S. arms in this coup which was attempted on Cyprus in 1974, which allegedly brought on the first Turkish incursion to protect Turkish enclaves in Cyprus. The difficulty with that argument is that if they had stopped at the first incursion, it is a good argument, but subsequently they seized a very great part of the island and the accountability for that certainly has never been made to my satisfaction. I will address myself to this subject separately.

I thank my colleague for the statement he has given.

Mr. BIDEN. Will the Senator yield?

Mr. JAVITS. How much time does the Senator wish?

Mr. BIDEN. Ten minutes.

Mr. JAVITS. I yield 6 minutes to start with.

Mr. BIDEN. Mr. President, the U.S. Congress has been asked to lift the arms embargo against Turkey. The administration has claimed that the embargo has not been an effective instrument for bringing about a Cyprus settlement. The line of administration reasoning is, briefly: Since the embargo has not worked, U.S. policy should take a 180 degree about face.

But how are we to measure how well this embargo worked when it was only in effect for a period of 6 months? Under this so-called embargo, Turkey has been the recipient of such increasing amounts of foreign military sales credits that, in point of fact, she has been able to purchase about as much as she could have ever afforded had the United States never imposed an embargo.

What the administration is really asking the Congress is to lift not a real embargo but a symbolic one. Turkey can currently import $175 million in FMS from the United States, which is $50 million more than the average amount it purchased between 1969 and 1977. What Turkey finds humiliating is the embargo as a symbol of a deteriorating United States-Turkey relationship. So much so in fact that Turkey has informed the administration that lifting the embargo is now a precondition of a serious presentation on her part of a Cyprus settlement.

To look at it from the other side of the periscope; Should the United States lift the arms embargo, Turkey then will have achieved all her basic objectives while a Cyprus settlement continues at stalemate.

Let us go back to the very beginning—to the Turkish invasion of Cyprus in the summer of 1974. The intervention of 40,000 Turkish troops in the internal affairs of Cyprus using American arms was a violation of American law which states explicitly that the American arms are to be used strictly for defensive purposes. The embargo imposed on Turkey by Congress for this violation was in effect only a few months when the Ford administration asked that it be at least partially lifted.

The year is 1975—less than 12 months after the Turkish invasion of Cyprus. The administration has convinced a majority of the Congress to partially lift the embargo permitting the sale of $125 million worth of arms. This ceiling figure was repeated in 1976. In 1977, the administration raised the ceiling figure to $175 million. So, despite the so-called embargo, Turkey has been voted $425 milion in arms during the last 3 fiscal years.

Nevertheless, in retaliation for this embargo, Turkey restricted the use of American bases. While these base facilities were not crucial to U.S. security interests, they are a convenient source of intelligence gathering. Unless the United States lifts the arms embargo this year, Turkey threatens to close all these monitoring bases permanently. What precisely is Turkey doing? In retaliation for a total embargo that does not exist, is Turkey in effect blackmailing the United States?

When the new administration took office last year, a new policy was articulated. Already during the campaign for the Presidency, Jimmy Carter recognized that the conflict between Greece and Turkey over Cyprus posed a serious threat to the security interests of NATO. He established an appropriate linkage, coupling the supply of arms to Turkey to concrete progress on the Cyprus problem. It was a new and important policy formulation.

Consistent with this policy, the administration announced earlier this year that Turkey was on the verge of announcing a reasonable negotiating proposal for Cyprus. The administration informally notified the Congress of its intent to lift the embargo from the books just as soon as this plan was made public. To my mind, there was nobody in this Congress who wasn't willing to lift the arms embargo against Turkey upon the emergence of a sincere and realistic plan for troop withdrawal and a peace settlement for Cyprus.

But no Turkish realistic negotiating plan for Cyprus emerged.

Several months later, there was talk again of Turkey presenting a realistic negotiating proposal to the United Nations.

But no such realistic proposal emerged.

But despite the principle established by this administration— implicitly linking the lifting of the embargo to Turkish peace proposals—and despite the fact that apparently twice this year Turkey indicated that proposals would be forthcoming, these so-called reasonable Turkish proposals never emerged, and yet the administration is asking the Congress to lift the arms embargo.

Moreover, the administration is indicating—indicating mind you, not promising—that once the embargo is lifted, then Turkey will produce a realistic peace plan for Cyprus.

Why has the administration reversed itself? Why has the administration reversed its policy principle for Turkey? How can the administration responsibly suggest that placing the cart before the horse will produce more progress?

The explanation given by the administration is that Turkish pride is so deeply affected by the embargo, the principle of the embargo that her government cannot take any political action until the embargo is repealed.

What is the administration telling us? Are they saying that they cannot budge Turkey 1 inch? Or that Turkey is, practically speaking, innately incapable of making a genuine political concession to American security interests—that the only inducement to which Turkey can respond is the erasure of section 620(x) from the Arms Export Control Act?

Let us look at the balance sheet.

In the fall of 1975, the United States partially lifted the embargo to Turkey and then in 1977 raised the ceiling to its present level.

The United States has chosen to overlook the fact that Turkey purchased an additional $30 million of American military equipment in Western Europe last year.

The administration has submitted to the Congress, in addition to the FMS ceiling request, a proposal to authorize $50 million in security supporting assistance.

And how has Turkey responded to the easing of the embargo? She has restricted the use of American intelligence gathering facilities.

She has threatened to withdraw from NATO. And she has threatened to ask the Soviet Union for military and economic assistance.

And should the Congress at this point vote to lift the arms embargo, then I submit that Turkey will have achieved all her objectives, with no assurance to the United States that a peace settlement on Cyprus will ever emerge.

In addition, there is one underlying theme in Turkey's threat to leave NATO as well as in the administration presentation of Turkey's need for additional economic assistance. And that is the precarious state of Turkey's economy. There might be one explanation that this administration as well as the Government of Turkey prefers not to analyze. And that is the possibility that Turkish support of her occupation army on Cyprus is a financial drain on her resources; and that she is only able to afford with American help.

So while the administration presses for a peace settlement on Cyprus which will encompass the withdrawal of the remaining 23,000 Turkish troops on the island, the administration at the same time is asking the Congress for $175 million in military credits plus an additional $50 million in security assistance for Turkey. Is this so Turkey can better afford to maintain this occupying army on Cyprus?

Let me now briefly summarize my reasons for maintaining the principle of the arms embargo.

I believe first and foremost that American security interests are enhanced by the peaceful solution to problems between Greece and Turkey. That American security interests are threatened by Turkey's intransigence, her occupation forces in Cyprus, and her political inability to negotiate a peace settlement. And until sincere and concrete proposals are forthcoming, the arms embargo—pri-

marily a symbolic one—ought to be kept in place.

Second, I deplore the consistent excuses successive administrations have made for Turkey's unwillingness to negotiate. I deplore the lack of firmness in America's position that permits her security interests and her credibility to be threatened by another country's intransigence.

Finally, I ask my colleagues to question the probability of Turkey producing a genuine peace proposal once she has achieved all her objectives. In the 4 years since Turkey violated American law, the United States has easily gone more than half way in encouraging Turkey to redress the situation. To no avail. And there is no indication that a measure of political maturity on Turkey's part will emerge should the last of the constraints be removed.

Mr. President, many of my colleagues who are in opposition to lifting the embargo today are going to make, and make more eloquently than I, the moral argument and the legal argument that the embargo should not be lifted. I would like to speak, in the brief amount of time I have remaining, more specifically to the naked self-interest of the United States of America and discount for the moment the moral and legal implications of lifting the embargo.

Assume for the moment that those in support of lifting the embargo are correct when they say that the legal and moral implications of lifting the embargo are not of any real consequence. This is because the United States has already made its point and nothing more really can be served by continuing the embargo.

The spokesmen for lifting the embargo raise some of the following points: That this has become a test of our relationship with the Turkish Government; that it has great psychological impact; that failure to lift it will seriously damage our relationship with Turkey, especially with regard to the southeastern flank of NATO, and thereby jeopardize U.S. interests.

Administration spokesmen are pursuaded that once the embargo has been lifted, somehow our relationship with Turkey is going to turn around; that once the Turks look again favorably upon their participation in NATO, the southeastern flank is going to be strengthened, and NATO is well on its way to becoming strong again.

But the bottom line of U.S. security is that for the southeastern flank of NATO to be strong again, or stronger, there has to be a better relationship between Greece and Turkey.

I do not know of any one of my distinguished colleagues who has suggested that there is any real likelihood within the next several months or even years of a dramatic change in Cyprus. I would hope that would come about. I would hope that would happen. But I do not know of anyone in this Chamber who is holding out any realistic prospect that the Greek and Turkish Cypriots are going to somehow rectify the situation and live on Cyprus harmoniously in the very near future.

Further, even if the Cyprus situation were to improve as a consequence of this embargo being lifted, I do not see how relationships between Greece and Turkey are going to become measurably better.

A more basic issue than Cyprus, it seems to me, one which would impact significantly upon our security interests in the southeastern flank of the Mediterranean, is the Aegean Sea.

I do not see things improving between Greece and Turkey with regard to their disputes over mineral and air rights. I do not see how, by lifting this embargo, we are going to convince Turkey to become less provocative in its position or to ameliorate any of its demands with regard to the Aegean. And I see the lifting of the embargo as only exacerbating our relations with Greece. I see those in opposition to the pro-American policy of Mr. Karamanlis point with satisfaction to the no-win position of the Karamanlis government. Lifting the embargo sends the message to the present Greek Government that to aline itself with the United States of America and to strengthen relations with us is of really no consequence. They end up getting dealt out rather than getting dealt in.

The point I am trying to make is simply this: If we are to believe that by lifting this embargo our self-interests, the U.S. self-interest, is going to be served, it seems to me it is incumbent upon those arguing in its favor to show us how our total position is going to be better after having lifted this embargo than it is now; not merely to show us that things are not getting better with the embargo remaining.

Do any of my distinguished colleagues here today suggest that by lifting the embargo things are going to so rectify themselves in our relationship with Turkey and, conversely, that no severe damage will occur with our relationship with Greece?

In short, where do we come out? Where does the United States of America come out as a consequence of lifting this embargo?

It seems to me that our self-interest is damaged and in no way enhanced as a consequence of lifting the embargo. It seems to me that lifting the embargo——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. Will the Senator yield 1 additional minute?

Mr. JAVITS. Yes.

Mr. BIDEN. Will not in any way enhance the prospects for a peaceful settlement in Cyprus, will not go down the road to bettering Greek-Turkish relationships. And in the long run, unless the relationship between Greece and Turkey is improved, U.S. interests will not be served. In addition, it seems to me we should not only not yield to Turkish threats of moving into a closer relationship with the Soviet Union, but we should call that card if that is the case.

In summary, to lift the embargo now does not serve the U.S. self-interest, notwithstanding the legal and moralistic arguments that have been offered here on the floor.

My time is obviously up. I yield the floor back to the manager of the bill.

Mr. GOLDWATER. Will the Senator from Alabama yield 3 minutes to me?

Mr. SPARKMAN. I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, when the embargo was first discussed on this floor, I supported it, although I have to admit that I supported it a little bit against my better judgment. However, now, Mr. President, I have to oppose the embargo against the Turkish Government, mainly because it has not worked; but more than that—and the Senator just asked the question—I think we have to ask ourselves in whose interest will this decision be: The interest of Turkey, the interest of Greece, or, more importantly, the interest of the United States?

Mr. President, we formed NATO many years ago for a mutual deterrent against the Soviet Union and it has worked very well. But the Turkish army and the Turkish air force are getting to be in a very bad state of disrepair. In fact, I might say the air force is almost nonexistent, because of the need for new equipment and the need for spares to rebuild the old equipment.

Mr. President, in order to keep the southern flank of NATO intact and keep it strong, I am going to vote against further embargo on Turkey.

The Turkish army today of 27 divisions is the largest ground force we have in NATO. When you study that southern flank and are there, as I have been on two occasions, to travel to the highlands and see what we are doing in the way of collecting electronic intelligence against the Soviets, that fact alone would cause me now to vote against embargo. Without the Turkish outpost, we would be very, very deficient in the intelligence we gather about our probable enemy, the Soviets.

We can gather it in other ways, and we do, but it is not as complete as what we gather off the heights of Turkey.

So, Mr. President, the question, I think, boils down to what is best for the United States and what is best for the world. In my humble opinion, a strong Turkey and a strong Greece are very necessary to both of those items. I see no way that continuance of the embargo is going to bring the Greeks and the Turks any closer together. I think that our constant pressure on both sides to bring about an agreement will do more than relying on this side or that side to solve a very ancient and very critical attitude on both sides that is not being solved today.

I merely wanted to rise for a few moments to express the reason that I am changing my vote from the last time, from one of support of embargo to one opposed to embargo.

I thank my friend from Alabama for yielding.

Mr. CHAFEE and Mr. BARTLETT addressed the Chair.

Mr. CHAFEE. Mr. President, I wonder if I may have 2 minutes to respond to a point the Senator from Delaware made.

Mr. SPARKMAN. I had promised the Senator from Oklahoma that I would yield 5 minutes to him.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, my

overriding concern in this debate is the protection of American security interests in the eastern Mediterranean. At stake here is the viability of the southern flank of NATO, the maintenance of a proper check on Soviet mobility, given their designs in the eastern Mediterranean and northern Africa, and the maintenance and restoration of American military and intelligence gathering facilities in Turkey, which have proven themselves vital.

Turkey currently maintains the largest standing army in NATO. Their presence ties down approximately 26 Warsaw Pact divisions, which would otherwise be diverted to other fronts of potential conflict. Turkey also provides important facilities for United States and NATO uses in the forward basing of tactical fighter aircraft, peacetime training and logistical support of the Sixth Fleet.

Turkey remains fully integrated within NATO at present. Yet economic problems and the arms embargo have forced her to reevaluate her position as active military participants in NATO, with forecasts of impending reductions and withdrawal if assistance is not forthcoming.

Turkey, as well as Greece, has immense strategic value, given their placement on the Mediterranean, Aegean and Black Seas. However, it must be noted here, that their strategic placement is of a complementary nature. Without both participating in NATO, either is left vulnerable to attack by Warsaw Pact forces. Without Greece, Turkey is isolated from her nearest ally by 700 miles. Vital communications could be cut and the Turkish straits could be assailed unimpeded. This further points to the need for resolution of the antagonism caused by the Cyprus question.

As one looks to a map of the eastern Mediterranean, the significance of Turkey's position as governor of sea and air routes and buffer between the Soviets and the Middle East becomes immediately apparent. Turkey's presence denies territorial continuity to Russian access to the Mideast and Africa. Denial of Turkish air space to the Soviets causes a threefold increase in flying time to areas of the Middle East. Denial of the Bosporus Straits and the Dardanelles to Soviet shipping forces a delay of 3 to 5 weeks in supply or resupply efforts to the Middle East.

There has been a general warming of relations between Turkey and the Soviet Union in recent months, due in part to waning U.S. military and economic support.

Turkish Prime Minister Bulent Ecevit visited Moscow slightly over a month ago, at which time he and Mr. Kosygin signed a "Political Document on the Principles of Good Neighborly and Friendly Cooperation." This friendship agreement could well be seen as the preamble to any future nonaggression pact, which would be disastrous to the West. Turkey must not be allowed to slip any further toward neutrality. She should be welcomed back into the Western fold as a partner and an equal.

There remains a final component of national security, the loss of which could well have dire consequences in the decade to come. I am speaking of the intelligence-gathering facilities in Turkey, which are of singular importance in the U.S. intelligence-gathering network.

Loss of information on troop movements and developments in missile technology and other military systems have reduced our confidence in our knowledge of these subjects and retarded our ability to develop countermeasures. In addition, the loss of advanced radar stations reduces the warning time of a Soviet attack against our 6th Fleet from 60 to 15 minutes. Obviously, that time differential could spell the difference between preparedness and annihilation.

In the area of strategic nuclear development, the loss of our information-gathering stations becomes even more critical. The loss of our atomic energy detection stations (AEDS) and other intelligence installations has seriously impaired our ability to verify any present or future SALT agreements or a comprehensive test ban treaty. Our inability to verify future Soviet treaty agreements will put the United States at a serious disadvantage at the negotiating table and prevent our monitoring the tests of Soviet weapons systems. These detection stations are vital and we need them back.

Given the considerable support the Turkish Government has given the United States and NATO toward providing for our security needs in the past, and our dependency upon their providing support in the future, I deem it only fair that we be willing to help provide for their defense requirement in the present. Their military equipment is obsolete and badly deteriorated. It is imperative that we act to remove the arms embargo against Turkey and pledge our future assistance.

There is considerable precedent to suggest that if we do not move in this instance, they will turn toward the Soviets and neutral alinement. This would in itself constitute a serious blow to the security of our friends in the Middle East and to nations of the West.

Mr. President, I strongly urge the immediate removal of the arms supply sanctions against Turkey.

I thank the distinguished Senator.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Rhode Island. I believe it is 2 minutes he wanted.

Mr. CHAFEE. Yes.

I just want to reply quickly, if I might, to the remarks made by the Senator from Delaware in which he said, "What do we get out of this if we remove the embargo?"

Let me say quickly, Mr. President, dealing solely with the matter of intelligence, I quote from Vice Admiral Inman, head of the NSA. This is what Admiral Inman said about our intelligence activities in Turkey:

> In summary, intelligence derived from U.S. bases in Turkey was extensive, important, and often unique. Its greatest value was information on Soviet weapons development and on Soviet force readiness and movement. Unless the U.S. capability is restored, we will continue to lose this valuable information, and U.S. ability to counter Soviet weapons systems under test and development will continue to be hampered, thereby reducing our level of confidence and knowledge of these systems.

In other words, clearly Turkey contributes something to our intelligence gathering.

Now, if the embargo is lifted, what do we get out of it? Secretary Vance before the Armed Services Committee said:

> We have a clear understanding that the lifting of the embargo will lead to the reopening of the installations, and negotiations could commence immediately.

He is referring to the U.S. intelligence installations:

> Indicated we could discuss opening even before the negotiations were completed, and our presence could be put back on those bases again.

So clearly, Mr. President, we do get something out of it—the United States does—if this embargo is lifted; something tangible and something immediate.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CASE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CASE. I yield 6 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, first I ask unanimous consent that Karen Campbell and Claudia Louis, of Senator STEVENS' staff, be granted the privilege of the floor, and the same for Bill Reinsch, of Senator HEINZ' staff, during consideration, debate, and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Will the Senator yield for the same request?

Mr. DOLE. I am happy to yield to the Senator.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that Christopher Lehman of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Will the Senator yield for unanimous-consent request?

Mr. DOLE. Yes.

Mr. BARTLETT. I ask unanimous consent that Tom Gibson of my staff be granted privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

### TURKISH ARMS EMBARGO

Mr. DOLE. Mr. President, without a doubt, as other speakers have said on both sides of this question, this is about the toughest question we are dealing with this year. We have to make a judgment based on what someone suggested very properly is the self-interest of our country.

It is unfortunate that we find ourselves in a position of having to impose, or at least to suggest an imposition of, our will in an effort to settle some very serious and longstanding disputes.

Mr. President, under this foreign assistance authorization bill, we are faced

with one of the toughest foreign policy issues to confront Congress this year. That is, what do we do about the standoff between Greece and Turkey, both NATO allies, and what do we do about the arms embargo of Turkey, which is under consideration now? The mutual interests of the United States, Turkey, and Greece, the future of the unfortunate people of Cyprus, and the security of all the member nations of NATO are involved. Much will depend on the outcome of our deliberations here in Congress. And of particular significance, the credibility of American foreign policy will be seriously tested by the outcome of this decision.

NEED FOR A THAW

The present state of Greco-Turkish relations and the state of affairs on Cyprus are unacceptable from the standpoint of European security, internationally accepted norms of human rights, and our own relations with these three countries. The disagreement and hostility of Greece and Turkey over Cyprus has seriously damaged the southern flank of NATO through the military withdrawal of Greece and the weakening effect of the arms embargo on Turkey. Continuation of this situation will lead only to further damage, to the disadvantage of all concerned. Some middle ground must be found on which the dilemma of Cyprus can be solved, and the question of NATO unity can be approached. Those parties involved must be impressed with the necessity of a quick solution to this damaging stalemate.

BACKGROUND FOR EMBARGO

Many now question the logic of further maintenance of the arms embargo, reasoning that it no longer serves American interests and does serious damage to our relations with Turkey and to the military position of Turkey. The negative effects of the embargo are not to be disputed. But in considering this issue, one must keep in mind the background behind the embargo—that is, the Turkish invasion of Cyprus in 1974, admittedly in response to the aggresive behavior of the pro-Enosis coup d'etat, in which Turkey broke U.S. laws, and bilateral agreements with the United States under those laws, violated the U.N. Charter and the NATO Charter, and violated international law. Cyprus was the main factor behind the embargo, a factor which remains unsolved.

CYPRIOT INSTABILITY THE FOCUS

Given this situation, the proper focus should be on Cyprus and a solution to the problem of demilitarization of the island, of its territorial settlement, and of forming a new government. The present reality in Cyprus is that about 40 percent of the island is under Turkish military control. Thousands of Greek Cypriots have fled from this sector where the Turks have been exercising local authority. The instability of the island has not improved by any means. The sources of this instability still exist: The threat of pro-Enosis Greek Cypriot guerrilla action and the reprisals which would follow, and the economic disruption that has continued as a result of the occupation. Efforts to alleviate these conditions have not achieved much progress from either the Greek or the Turkish side. The present state of negotiations between these countries in the United Nations is now frozen and no thaw appears in sight. The resolution of the situation on Cyprus emerges as the key stumbling block to improving the state of Greco-Turkish relations and our relations with these two countries.

It seems to me, Mr. President, that in this debate that we have had, and further debates, I would say, because it is a matter of record, that I was persuaded by President Ford that we should lift the embargo. That was in 1975 when that passed the Senate by a vote, as I recall, of 47 to 46—one vote.

It was defeated in the House, as I recall, by a vote of 203 to 220-some.

So it was a long festering problem for the Congress and, certainly, for the countries, Turkey and Greece and Cyprus.

ARMS SALES NOT AN APPROPRIATE APPROACH

The embargo has not come near to achieving its initial goal: That of forcing the withdrawal of Turkish troops from Cyprus. In considering why this is so, it is interesting to note that Turkey has actually been receiving military supplies from the United States in the form of annual sales, allowed through a Presidential suspension of the embargo. These sales have totaled some $609.9 million in credits since 1975. This appears to be a substantial amount of aid, when one considers that we are supposed to be prohibiting military assistance to Turkey, according to law passed by this Congress. Nevertheless, some have criticized the embargo as an ineffective approach to solving the situation, and support its repeal. However, given the continued separation and hostility of the two Cypriot communities, and the still unstable nature of Cyprus, it strikes me as unwise to try and seek a solution to a hostile military situation by increasing the military preparedness of the aggressor.

While renewing the sale of arms to Turkey does not necessarily mean that they will use those arms to increase their forces in Cyprus, or will further their own military position on the island—indeed, President Ecevit of Turkey has pledged himself to a peaceful settlement—it would increase their overall military capabilities above NATO requirements, giving them the ability to escalate the situation should it explode again. The possibility of this cannot be excluded without some kind of change in the present status of the Turkish occupation and of the disposition of the displaced citizens and properties of Cyprus. Military assistance is not an appropriate way of trying to alleviate an unstable situation. The prospects of cutting the Cyprus knot by repealing the embargo are not promising.

When Mr. Carter was a candidate for President, he expressed the opinion that the restriction on arms sales to Turkey should stand until that government withdrew its occupation forces from Cyprus. Unfortunately, his opinion changed after he had taken office. It is for that reason, primarily, that we are here today debating this critical issue.

I agreed with that statement made by then-candidate Carter when he was seeking the Presidency. I would say to my colleagues, if we can vote down the pending amendment, that I plan to offer an amendment that would say, in effect, that when the invasion of troops is withdrawn, the embargo be lifted.

That seems to this Senator to be in accord with what was the statement made by candidate Carter, now President Carter, and it is for this reason we are here today debating this issue.

TURKEY IS NOT OUR ONLY SECURITY INTEREST

In debating the repeal of the arms embargo, many have emphasized that our national security interests in Turkey are being jeopardized by withholding military assistance. But Turkey does not represent our only interest in the eastern Mediterranean, either strategically or economically. Greece represents an important part of the Western Alliance system, a front on the Balkan Peninsula, and one of the major positions in the eastern Mediterranean. If concern is expressed over what may happen to Turkey or the internal government of Turkey if the embargo is not repealed, we must also consider what the effects of its repeal would be on Greece. I see very little focus on that particular matter. We cannot forget that more than one type of national security interest is involved here.

The Greeks obviously have a strong interest in the fate of the Greek community on Cyprus, an interest that goes back far into history. These interests are not to be taken lightly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Mr. President, may I have 2 additional minutes?

Mr. CASE. Yes.

The PRESIDING OFFICER. The Senator from Kansas.

NEGOTIATIONS OVER CYPRUS CRUCIAL

Mr. DOLE. Mr. President, with these considerations in mind, a solution to the deadlock on Cyprus again emerges as a key factor. Negotiations between the two communities have remained stalemated over the presence of the Turkish occupation force. We hear a lot about the recalcitrance of the Greek Cypriot negotiators, but when one considers that it is their territory that is occupied by a hostile alien force, this is not all that difficult to understand. While the occupying force remains, Turkey holds them at a distinct disadvantage. This insecurity stands as the main obstacle to progress in the negotiations. It is on this that we must focus when considering the issue at hand.

NEED FOR U.S. INITIATIVE

Mr. President, I oppose this amendment, which would lift the embargo of arms and military assistance to Turkey, as I feel that it is inappropriate for achieving progress toward a peaceful settlement of the situation on Cyprus. We must not lose sight of the importance of Cyprus as the initial reason behind the embargo, nor can we forget the continuing instability on the island. I

feel it is of utmost importance to emphasize the need for a positive, dynamic approach toward progress in negotiations.

Later today, I will propose an amendment which would call upon the President to take an active role in using the power and prestige of his position in office to initiate a more serious approach toward solving the dilemma of Cyprus. This would give an indication of our sincere desire for peace in the area, and of our concern for the defense of Turkey. The sooner the Cyprus dilemma is solved, the sooner we can return to normal relations with Turkey, as well as with Greece. So, as a first step, I believe we should take some initiative in pushing for a quick settlement. The President has taken an active, personal role in efforts to achieve a settlement in the Middle East and South Africa. Why have such initiatives not been taken toward Cyprus? Both of these countries are our allies and NATO partners. Bringing them together at the executive level could very well be the most expedient way of resolving their differences. Through such positive action, all parties involved could actively push toward the inevitable precondition for reaching a settlement—demilitarization.

Once demilitarization of Cyprus is achieved, then the intercommunal talks between the Greek and Turkish Cypriot communities over the territorial and political settlement will proceed much more smoothly. This must be the goal of all parties: To achieve demilitarization of Cyprus as soon as possible. Then perhaps the tension and hostility, within this group that is supposed to be closely allied, can be ended, and a basis created for the ultimate, just settlement of Cypriot problems.

It is in everyone's interest—that of NATO and the West, that of Turkey and above all the people of partitioned and occupied Cyprus—that a settlement is reached, and reached soon. Cyprus has been divided now for 4 years, and for every month that passes the realities that exist there become more real, and more intolerable. The urgent need for a settlement soon cannot be underestimated. The longer the deadlock continues, the more difficult a solution will become, and the more disruptive its consequences. The long-term effects of the occupation and displacement of the citizens of Cyprus have already created problems that will take many years to heal, problems of both an economic and social nature. We must keep this in mind, and take positive action to encourage an end to military occupation of Cyprus, rather than to refuel the volatile situation.

PRESIDENTIAL INITIATIVE

The great need for demilitarization of Cyprus, involving withdrawal of both Greek and Turkish forces, must be stressed. This move should be accompanied by a more positive, affirmative role of the United States in pressing for an initial settlement of the basic problems involved: Those of the future political and territorial arrangements. I will propose that the President actively press for a summit meeting of the leaders of all of those countries immediately interested in a settlement. This includes ourselves and Great Britain, France, West Germany, and Canada as members of NATO, as well as Greece, Turkey, and Cyprus. Demilitarization can be encouraged and arranged through such a summit.

The President should also encourage the strengthening of the U.N. security force on the island, to assist the demilitarization and provide the protection necessary throughout this process. A stronger international police force could most effectively provide the security and stability necessary for serious, effective negotiations on the basic problems confronting us. The President must take the initiative in such a move. Beyond the fact that primary interests of ours and of everyone else concerned are at stake, we have a responsibility to do everything we can to achieve a just settlement to this problem and to put an end to the violence and disruption which those of both sides have suffered.

We do not seek to dilute the role of the United Nations in bringing peace to Cyprus—we seek to strengthen it. That role would be made much more difficult, in my opinion, if we were to resume arms sales and shipments to Turkey before her tens of thousands of forces are removed from the island. By upholding the rule of law, we encourage its application and effectiveness in the future.

I emphasize that it seems to me that if we want to approach this from a realistic standpoint, we will defeat the pending amendment. Then I will offer an amendment which will say, in effect, that we will lift the embargo when the armed occupation forces of Turkey have been removed from Cyprus.

Mr. President, I ask unanimous consent that the New York Times editorial of Saturday, July 22, 1978, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 22, 1978]

CYPRUS AND THE SENATE

The Senate is about to vote on whether to continue the limitations on arms sales to Turkey. They were imposed after Ankara used American-supplied weapons to occupy two-fifths of Cyprus in 1974, in violation of a Congressional prohibition. We have argued in the past that the limits should be kept until Turkey indicates it will withdraw its forces. We still think so.

Few controversies are as vexing as the feud between the half million Greek Cypriots and the 120,000 Turkish Cypriots over how they will coexist on their island. Their centuries-old quarrel has reached into American politics. The Turks and Turkish Cypriots and their American sympathizers contend that national pride forbids concessions on Cyprus so long as the "embargo" stands. Direfully, they predict that maintaining last year's $175-million limit on arms sales will drive Turkey out of NATO, perhaps even into Moscow's arms. But it would be no gain for the West to purchase Turkish good will at the price of Greek resentment.

When Jimmy Carter was a candidate for President he held that the restriction on arms sales should stand until Ankara withdrew the force that enables Turkish Cypriots, with 20 percent of the island's population, to occupy roughly 40 percent of its territory. This spring, however, he urged that the embargo be lifted. Administration spokesmen maintain that once it is lifted, Ankara will make generous diplomatic proposals. But the Government of Prime Minister Bulent Ecevit has so far given no sign that it is prepared to risk the domestic consequences of offering the concessions needed to reach an accommodation. The vague proposal put forward by the Turkish Cypriots on Thursday for resettling some Greek refugees is welcome but scarcely sufficient. The Turkish concessions need to be territorial.

Where Greek Cypriots go wrong is in insisting that their preponderance in numbers also entitles them to the kind of predominance they enjoyed under the island's 1960 constitution. If the Turkish Cypriots would yield significantly on territory, they could more credibly insist on a constitution that provides for virtually autonomous states for the two communities, linking them only for a minimum of such "federal" functions as conducting foreign affairs and issuing currency.

Greek Cypriots denounce this idea as a mere division of the island. Even if this were true, there would be no alternative; nothing except good will can force the two communities to work together. Because ending Turkey's occupation remains an essential first step toward creating an atmosphere of trust, Congress should not yet relax the restrictions on arms sales. It should make clear to the Greek Cypriots, however, that the United States intends to help them reclaim their farms and villages but not to restore their domination of the Turkish population.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I am convinced the Turkish embargo that was mandated by the Congress was as much a product of domestic political considerations as it was of any foreign policy concepts. I opposed this embargo in 1974 because I did not believe that was the way to handle the matter. In retrospect, it was emotion, rather than logic, that brought us to the predicament we face today.

The embargo has not served our best national interest because it has weakened considerably the strong military and political ties we had with Turkey prior to that embargo. Even though, in the interim, a portion of the embargo has been repealed, that is not adequate and it is important that conditions return as they were preembargo. We must recognize the significant contribution Turkey plays in the southern flank of NATO.

Gen. Alexander Haig, in his appearance before the Armed Services Committee, said the present situation places our ability to defend the southern region of NATO in direst jeopardy. He made it clear that any NATO defensive success or failure is inexorably linked with our own vital national security interests.

Mr. President, aside from the basic military hardware requirements that have not been filled, it is also very important that we reestablish good government-to-government relations with Turkey. The Turks have found it difficult to understand our policy in this matter, since they had always been one of our staunchest allies. My colleagues may recall how responsive the Turkish Government was in contributing their forces to

our United Nations effort in Korea in 1950, and the reliable ally they have been to the NATO alliance over all these years.

We must also examine this problem in the overall ongoing struggle between the superpowers and the fact that this struggle requires, if we are to be successful, the establishment and maintenance of strong alliances with as many other nations as possible. We cannot survive in this struggle alone, and we cannot afford to allow schisms to develop that weaken the binding of our various alliances and relationships with other nations.

That is the real issue, Mr. President, and that is why this embargo should be repealed.

It is time we ended this folly of trying to insure the arrival at a solution of the Cyprus problem by an embargo that has not worked, that has been counterproductive, and that now should be removed.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, reference has been made to the letter written by Mr. Warren Christopher, the Deputy Secretary of State. I believe Senator McGOVERN referred to it. I shall not take time to read the entire letter, but I call attention to this portion of the letter, which is dated yesterday:

Earlier today the Government of Cyprus made its proposal with respect to Varosha which we have also welcomed. Although the Greek Cypriot proposal is different in certain respects from that of the Turkish Cypriots, it is apparent that there is now a solid basis for discussions between the parties of the important humanitarian problem relating to Varosha, and thereafter for resuming the Cyprus intercommunal talks under UN auspicies.

He concludes with this statement:

In the period ahead, it is important that the United States be in a position to play an impartial and constructive role. The lifting of the Turkish embargo is an essential step in this process. To do so will, we believe, help accelerate the search for peace in Cyprus.

It is signed by Warren Christopher.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF STATE,
*Washington, D.C., July 24, 1978.*

Hon. JOHN J. SPARKMAN,
*U.S. Senate.*

DEAR SENATOR SPARKMAN: Last week I wrote to you concerning an important proposal made by the Turkish Cypriots regarding the city of Varosha. Under that proposal, the Turkish Cypriots offered to permit 35,000 Greek Cypriot refugees to return to their homes and businesses in the city of Varosha under United Nations supervision. As you know, we welcomed this Turkish Cypriot proposal.

Earlier today the Government of Cyprus made its proposal with respect to Varosha which we have also welcomed. Although the Greek Cypriot proposal is different in certain respects from that of the Turkish Cypriots, it is apparent that there is now a solid basis for discussions between the parties of the important humanitarian problem relating to Varosha, and thereafter for resuming the Cyprus intercommunal talks under UN auspices.

The coming weeks and months will be crucial in resolving the fundamental questions relating to Cyprus which have troubled the people of that island, and the entire world, for so long. In the period ahead, it is important that the United States be in a position to play an impartial and constructive role. The lifting of the Turkish embargo is an essential step in this process. To do so will, we believe, help accelerate the search for peace in Cyprus.

Sincerely,

WARREN CHRISTOPHER.

Mr. CASE. Mr. President, I yield 10 minutes to the Senator from Massachusetts (Mr. KENNEDY).

CYPRUS, NOT TURKISH ARMS EMBARGO, IS THE ISSUE

Mr. KENNEDY. Mr. President, there has been a good deal of talk during this debate over the urgent need to repair our relations with Turkey by lifting the arms embargo.

I fully share the concern of many over the festering problems in the eastern Mediterranean, and the importance of both Turkey and Greece in NATO. But in our efforts to achieve these goals, I believe Cyprus remains the issue at hand. I, for one, am prepared to lend my full support to every effort to restore and to strengthen our relations with Turkey if there is some definitive and concrete progress in the field toward resolving the Cyprus problem.

Whether the administration likes it or not, real progress toward an honorable and just resolution of the Cyprus problem is crucial in repairing and revitalizing our relations with both Turkey and Greece. It was Cyprus that caused the Congress to impose the arms embargo against Turkey, and Cyprus remains the issue today.

But what will give new priority to Cyprus? What is good faith? And what is real progress?

I submit that the answers to these questions do not lie in new expressions of optimism. They do not lie in the rhetoric of new promises. And they do not lie in just lifting the Turkish arms embargo.

The answers lie in giving time and attention to new initiatives to promote concrete actions in the field. And we in Congress should be in no rush to act on legislation affecting the people of Cyprus until such new initiatives produce those concrete developments.

Over 2 months ago, I urged the administration to give Cyprus the diplomatic priority it demands. I suggested that the United States undertake a new diplomatic initiative to get negotiations underway. I suggested that we directly help the parties establish some guidelines and principles to give the negotiations direction and focus. I suggested that if tangible steps were taken in support of a resumption of negotiations—such as, for example, the permission of substantial numbers of refugees to return to their homes and lands in the Famagusta or Morphou areas under United Nations auspices—this would warrant a positive response from Congress on the Turkish arms embargo.

It is interesting that we have been able to outline a statement of principles with regard to a solution and settlement of the Middle East issues and questions, and we have a great sense of pride in the leadership of the United States in fashioning that statement of principles.

It seems to me that if we had been able to exercise some leadership in stating these principles and seeing marked progress in trying to reach these principles on Cyprus, the issue before the Senate today would be different. But we have not, and no real initiatives have been made by the administration in that area.

Last week, the Department of State suggested that the recent proposals of the Cypriot-Turkish representative, Mr. Rauf Denktash, represent such progress. Mr. President, if these proposals by Mr. Denktash represent the kind of progress and good faith the administration says they do—then why do we not wait and allow time for all parties concerned to develop the proposals in a mutually satisfactory way that will allow the resumption of meaningful negotiations? If Mr. Denktash is operating in good faith, then let us give the United Nations an opportunity to work out the modalities of allowing substantial numbers of refugees to return to their homes in Famagusta.

As the manager of the bill, the Senator from Maryland understands, to my knowledge not one refugee family has been permitted the opportunity to return to their home. There has not yet been much opportunity for the reunification of families in the occupied area on Cyprus. And no genuine effort to trace the missing.

That is what we are talking about. As we are talking about human rights and the plight of refugee families, let us recognize that no effort has been made to date to really make progress to help them. It can be done very easily and simply. The refugee subcommittee, of which I served as chairman, in three reports, has outlined recommendations as to how those steps could be taken.

The United Nations is fully aware of the possibilities, and still no progress has been made on some of the most basic and fundamental humanitarian issues.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. KENNEDY. I yield on that point.

Mr. SARBANES. I think it is a very important point. As the Senator from Missouri, Senator EAGLETON, pointed out earlier today in the debate, careful consideration of those proposals that were brought forth by the Turkish Cypriots last week showed clearly that they are nothing beyond a proposal to talk. The fact of the matter is, as a consequence of the aggression committed in the summer of 1974, Turkish forces occupied 40 percent of the island. They are in a position to take concrete action to prove their good faith to return territory, to allow people who have become refugees to actually return to their homes. They have not been prepared to do this.

The New York Times in its editorial on Saturday, arguing that the Senate should maintain the limited embargo which now exists on arms sales to Turkey, went on to say that:

The vague proposal put forward by the Turkish Cypriots on Thursday for resettling some Greek refugees is welcome but scarcely sufficient. The Turkish concessions need to be territorial.

How long are we going to go on allowing the aggressors to completely realize all the fruits of their aggression and come to this body and argue that the embargo which was applied as a matter of American law should be lifted in the absence of any significant and substantial concrete action to remedy the aggression which was committed?

The most clear and dramatic example of that would be a significant return of territory which would allow refugees to go back to their homes and be resettled and quit living as displaced persons in their own country.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. HATCH. Mr. President, I ask unanimous consent that William Haley, of Senator HANSEN's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I wish to engage the Senator from Maryland in a colloquy in a few minutes in developing these points, but as I understand, Mr. President, the recent statements of Mr. Denktash have been labeled by the Department of State as "substantive and significant," and, as I mentioned earlier, I think it is time that we put our diplomacy to work and see if we cannot implement them.

It is unfortunate, Mr. President, that Congress is asked to lift the arms embargo to Turkey just when all parties should be concentrating on working with the United Nations, and Secretary General Kurt Waldheim, in getting the negotiations resumed and implementing concrete proposals for a peaceful settlement of the outstanding issues in the field. If the progress is made, then will be the right time for Congress to consider lifting the arms embargo. In the absence of substantive and significant progress, it is not only premature but potentially damaging to the prospects for a peaceful settlement for us to take the actions proposed today by the administration.

Mr. CHAFEE. Mr. President, I wonder if the Senator will yield for a question?

Mr. KENNEDY. I only have about 4 additional minutes of comments, and then I will be glad to yield.

Last April I wrote to Secretary of State Vance about the importance of new initiatives for peace in Cyprus.

Mr. President, I ask unanimous consent that my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., April 18, 1978.*

Hon. CYRUS R. VANCE,
*Secretary of State,*
*Washington, D.C.*

MY DEAR MR. SECRETARY: As you know, over the past several years I have closely followed developments on Cyprus, and the difficult and complex issues involved in repairing our relations with both Greece and Turkey. I supported the early initiatives of the Administration in this important area of public and Congressional concern, and I want to continue to work with you in the days ahead.

However, I am deeply concerned that the issue of Cyprus has been inadequately considered in the Administration's most recent proposals relative to military assistance to Turkey. And in this connection, I wanted to draw your attention to some proposals I discussed yesterday relative to some new diplomatic alternatives that I believe might contribute to progress in resolving the Cyprus problem.

I would appreciate your comments on my attached statement, and discussing these proposals further with you. Many thanks for your consideration, and best wishes.

Very truly yours,

EDWARD M. KENNEDY.

Mr. KENNEDY. Attached to my letter were concrete proposals for movement on the territorial, constitutional, security and humanitarian issues, that the Senator from Maryland has mentioned, which continue to face us on the island.

In each of these areas, it was my conviction that the United States could work energetically and creatively with the parties to develop at least the outline of a comprehensive solution in any one of those areas, and there was still no progress.

On May 1, Secretary Vance replied to my letter, assuring me of the priority that the administration continues to attach to achieving a just settlement on Cyprus. He looked forward to a "more useful" role for the United States, and cited the proposals made by the Turkish-Cypriot side on April 13.

Mr. President, I ask unanimous consent that the full text of Secretary Vance's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
*Washington, May 1, 1978.*

DEAR TED: I appreciated hearing your views on the Cyprus issue and your suggestions as to possible diplomatic initiatives in the coming months.

I can assure you that this Administration continues to attach a high priority to the achievement of a just settlement on Cyprus that will permit the two communities to live peacefully together in one nation. Our recent proposals to the Congress regarding security assistance in the eastern Mediterranean are not, we believe, inconsistent with this goal and we believe they will indeed facilitate the negotiating process. The United States can play a more useful role in terms of encouraging a return to the negotiating table and the development of sound proposals if we are perceived by all the parties concerned to be even-handed in our approach. An embargo against one side makes it difficult to play that role.

As you know, the Turkish Cypriots presented at least an outline of new negotiating proposals to Secretary General Waldheim in Vienna on April 13. The Secretary General then travelled to Nicosia to consult with the Government of Cyprus, which after examining the new proposals declared them to be unacceptable. In the circumstances, the Secretary General has indicated that he plans to study the matter further before reaching any decisions on possible resumption of intercommunal negotiations.

I agree with you that the next few months may offer a new opportunity to move toward a Cyprus settlement, an opportunity that should not be allowed to pass. For this reason, we have urged Secretary General Waldheim to continue United Nations discussions with the two sides so that negotiations may soon resume, and we have undertaken to approach the parties to impress on them the need for a more flexible attitude.

I would like very much to come over to see you about Cyprus later this week and discuss in detail our discussions with the parties and my several recent conversations with Kurt Waldheim.

Sincerely,

CY.

Mr. KENNEDY. The sad fact, however, is that the United States has not succeeded in bring either Cypriot side substantially closer together.

The Turkish side has failed to make sufficient proposals for forward movement—although we now see the glimmering of what could be achieved if Congress were to withhold action on the administration's request until further efforts are made by the parties concerned. I strongly believe, on the basis of many years of consideration of the issues on Cyprus and in the eastern Mediterranean, that we have a key opportunity for forward diplomatic movement, which we could miss by premature action on arms for Turkey.

Then just a few days ago—last Friday—I received a letter from Deputy Secretary of State Warren Christopher forwarding the latest Turkish proposals, commenting that they were, in his opinion, "substantive and significant."

However, when we look closely at what the Turkish-Cypriot leader proposes, it is unclear as to its intent, and some of the proposals—such as the reopening of Nicosia Airport—should have come earlier to have constructive impact.

The crucial issue of good faith on Turkey's part remains what they are prepared to do to allow a substantial number of refugees to return to their homes under clear-cut terms and under the protection of the United Nations.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, will the Senator yield me 4 additional minutes?

Mr. CASE. I yield the Senator 4 additional minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 additional minutes.

Mr. KENNEDY. Mr. President, in the rush to meet the deadline of the vote on the Turkish arms embargo, these factors remain only tentative and preliminary and, given past action, are open to serious question.

In the rush to meet our vote today, neither the Turks nor the administration have yet marshaled the evidence sufficient to suggest that concrete and substantial steps have or will be taken in resolving the Cyprus problem if we vote to lift the embargo today.

Mr. President, we should all share a concern for peace and a just settlement of the outstanding issues on Cyprus. At the same time, we should share an interest in good relations with our NATO allies, Greece and Turkey, which will in fact facilitate the resolution of these longstanding and important issues. I believe that the best way to achieve this

is for us to give diplomacy time to work, to permit both this administration and the Secretary General of the United Nations to test and bring to fruition the tentative signs we have today of forward movement.

By acting on arms for Turkey before we have the assurances of peace for Cyprus, we do not give ourselves or the people of Cyprus, or our Greek and Turkish allies, the opportunity we deserve to achieve the comprehensive settlement we have all been aspiring and working toward over the past 4 years.

So I must strongly oppose lifting of the Turkish arms embargo at this time. I must remind all of us of the dangers we run in terms of lasting peace in the area, for the sake of short-term advantages with only one of our allies. A decision to lift the arms embargo will unfortunately be a shortsighted choice for Turkey, and not a statesmanlike response to the overall problems we face in the eastern Mediterranean.

Mr. President, I wish to draw attention of the Senator from Maryland to a matter that goes back a number of years. This is relative to the missing Cypriot Greeks who disappeared during the early days of the invasion in 1974. In the third round of intercommunal talks in Vienna in August 1975, at that time the Turkish Government made a commitment and an agreement to respond to the International Red Cross—and it was their finding—the International Red Cross finding about 2,700 missing persons.

We are very concerned about missing Americans in action, as we should be, but here we have the International Red Cross talking about 2,700 missing in Cyprus, and the Turkish Government agreeing in Vienna in August 1975, about accountability, and still, as I understand, there has not been any genuine response or reaction, just on this very basic and fundamental question about missing persons.

It just seems to me, Mr. President, that on a series of humanitarian issues such as the missing in action, the plight of refugee families, small items which many countries are willing to attempt to deal with, in order to respond to requests of civilized nations of the world—on Cyprus we have had virtual silence.

I can remember this year in visiting the People's Republic of China asking about 23 families that were separated, that were of special humanitarian concern. Already this year we see that four have been released to the United States to be reunified with their family here.

We concern ourselves about issues of human rights, and it seems to me that what the Senate is being asked today is to act on the promises of Mr. Denktash—speculative comments of the Turkish leaders—that we should lift this embargo, and I am wondering whether the Senator from Maryland has found in his own study of this situation whether there have been any independent actions to which we could point that would indicate any reflection of progress toward meeting just basic and fundamental humanitarian issues?

Mr. SARBANES. Mr. President, if the Senator will yield, to allow independent bodies, international bodies to undertake through the——

The PRESIDING OFFICER. The time has expired.

Mr. SARBANES. Mr. President, will the Senator yield additional time?

Mr. CASE. I yield an additional 5 minutes.

Mr. SARBANES. To allow international bodies to undertake a careful examination of the missing persons problem have been rejected.

If you want to talk about a human rights issue, this is the issue.

The Sunday Times, the London Sunday Times, on January 23, 1977, published excerpts from the report of the European Commission on Human Rights detailing the violations of human rights which had occurred on Cyprus as a result of the Turkish military forces' occupation of that country.

Mr. President, I ask unanimous consent that the article from the London Sunday Times setting out the excerpts from the European Commission's report on the violations of human rights on Cyprus be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[From the London Sunday Times, Jan. 23, 1977]

TURK ATROCITIES: WHAT SECRET REPORT REVEALS

The Sunday Times has obtained a copy of a secret Council of Europe report which finds Turkey guilty of violating seven articles of the European Convention on Human Rights. It amounts to a massive indictment of the Ankara government for the murder, rape and looting by its army in Cyprus during and after the Turkish invasion of summer 1974.

The politically explosive report by leading jurists on the European Commission of Human Rights is regarded as so confidential that only one copy has been lodged with each of the Council of Europe's 19 member states. Its impact could result in the withdrawal or expulsion of Turkey from the Council.

Allegations made by the Cyprus Government against Turkey covered systematic killings of civilians who were not involved in the 1974 fighting; repeated rape of women aged from 12 to 71, often brutally, in public; the torture and savage and humiliating treatment of hundreds of Greek Cypriots, including children, during their detention by the Turkish army; and charges of extensive looting and plunder which were supported by unpublished United Nations documents.

The Commission said it could reach no conclusion on allegations of forced labour.

The inquiry by the Commission of 17 members, under their British president, James Fawcett, began in May 1975. A delegation visited the island in September 1975, and submissions were received up to May 18, 1976.

The investigators were hampered by Turkey's refusal to participate in the inquiry—they were denied access to the "Turkish Federated State" unilaterally established in the occupied north of Cyprus. They were also hampered by the sheer number of alleged violations of the Convention, and had to restrict their investigation to a limited number of cases "selected as representative."

Copies of the report were sent to member governments as long ago as last August, but it will be next month before the Council's committee of ministers meets in Strasbourg to consider what action to take.

The Turkish government's response to the Commission's report has been to reject it out of hand. A statement issued by the Turkish Foreign Ministry in Ankara said: "The Commission examined the Greek [allegations] in a manner which we don't think is in accordance with the European Human Rights agreement, and in Turkey's absence.

"The Commission has thus based its report on the allegations of the Greek Cypriot Government and the statements of a few Greek witnesses alone which it listened to in four short days in Cyprus. And it prepared it [the report] with unusual haste."

Both the Turkish Foreign Ministry and Prime Minister, Suleyman Demirel, also complained that the Commission had not taken into account "the terrorist activities undertaken by the Greeks against the Turkish community" in Cyprus.

Referring to inter-communal strife on the island between 1963 and 1974, Mr. Demirel said: "Why does nobody see cruelty when it is committed against Turks? For years (Cypriot) Turks were subjected to cruelty but everyone was silent. Turks were pitilessly slaughtered from the baby in the cot to old people of 90. They were evicted from their houses and homes. Nobody saw that. Now they condemn Turks with a report."

Mr. Demirel added that Turks were "extraordinarily civilised people" and "have not committed cruelty or anything against anyone."

Last night a senior official of the Turkish Foreign Ministry said it was "a scandal" that the Sunday Times had obtained a copy of the Commission's report. He blamed "the Greeks."

TURKEY AND CYPRUS

On page ten of today's issue, we publish some of the details from a report about alleged Turkish atrocities in Cyprus. The report is the work of the Human Rights Commission of the Council of Europe. It is a horrendous indictment against Turkey and its soldiers and civilians sent from the mainland to the Turkish areas of Cyprus. The member Governments of the Council of Europe must decide next month whether or not to accept the report. If they do accept it, and it is difficult to see, on the evidence, how they can avoid doing so, then Turkey will stand condemned before the bar of European and indeed world opinion.

The first thing to be clear about is that these wrongdoings are the work of the Turks from the mainland. Turkish Cypriots harbour a credible sense of past grievance against the Greek Cypriot majority on the island. But they know that they can and must eventually live, as they have done for centuries, in peace with their Greek neighbours. The invaders from the north are another matter altogether. The government in Ankara as well as Turkish public opinion itself, must be brought to see that Turkish behaviour in Cyprus is a blot upon the good name and reputation of the Turkish people themselves. "Turks are extraordinarily civilised people," Mr. Demirel, the Turkish Prime Minister, said last week.

The Prime Minister can, of course, sustain this claim by producing counterevidence for the period of the European Commission report. But there are other steps of immediate relevance to the people in northern Cyprus today. He should issue orders—and see they are obeyed—for the protection of human rights. And he should permit free access (denied even to Turkish Cypriots) to all parts of northern Cyprus. These would be measures of good intent. The new President of the United States, who has pledged himself to defend human rights, should encourage Turkey in this; his moral fervour and humanity will be an important element in reasserting the need for America's NATO allies to observe irreducible standards of conduct.

THE TERRIBLE SECRETS OF THE TURKISH INVASION OF CYPRUS

(The plight of Cyprus, with 40 percent of the island still occupied by Turkish troops who invaded in the summer of 1974, is well known. But never before has the full story been told of what happened during and after the invasion. This article is based on the secret report of the European Commission of Human Rights. For obvious reasons, Insight has withheld the names of witnesses who gave evidence to the Commission.)

KILLING

Relevant Article of Human Rights Convention: Everyone's right to life shall be protected by law.

Charge made by Greek-Cypriots: The Turkish army embarked on a systematic course of mass killings of civilians unconnected with any war activity.

Turkish Defence: None offered, but jurisdiction challenged. By letter dated November 27, 1975. Turkey told the Commission it refused to accept the Greek Cypriot administration's right to go to the commission, "since there is no authority which can properly require the Turkish government to recognize against its will the legitimacy of a government which has usurped the powers of the estate in violation of the constitution of which Turkey is a guarantor." No defence therefore offered to any other charges either.

Evidence given to the commission: Witness Mrs. K said the powers of the state in violation that on July 21, 1974, the second day of the Turkish invasion, she and a group of villages from Ella were captured when, fleeing from bombardment, they tried to reach a range of mountains. All 12 men arrested were civilians. They were separated from the women and shot in front of the women under orders of a Turkish officer. Some of the men were holding children, three of whom were wounded.

Written statements referred to two more group killings: at Trimithi eyewitnesses told of the deaths of five men (two shepherds aged 60 and 70, two masons of 20 and 60, and a 19-year-old plumber). At Palekythron 30 Greek Cypriot soldiers being held prisoner were killed by their captors, according to the second statement.

Witness S gave evidence of two other mass killings at Palekythron. In each case, between 30 and 40 soldiers who had surrendered to the advancing Turks were shot. In the second case, the witness said, "the soldiers were transferred to the kilns of the village where they were shot dead and burnt in order not to leave details of what had happened."

Seventeen members of two neighboring families, including 10 women and five children aged between two and nine were also killed in cold blood at Palekythron, reported witness H, a doctor. Further killings described in the doctor's notes, recorded evidence related to him by patients (either eyewitnesses or victims) included:

Execution of eight civilians taken prisoner by Turkish soldiers in the area of Prastio, one day after the ceasefire on August 16, 1974.

Killing by Turkish soldiers of five unarmed Greek Cypriot soldiers who had sought refuge in a house at Voni.

Shooting of four women, one of whom survived by pretending she was dead.

Further evidence, taken in refugee camps and in the form of written statements, described killings of civilians in homes, streets or fields, as well as the killing of people under arrest or in detention. Eight statements described the killing of soldiers not in combat; five statments referred to a mass grave found in Dherynia.

Commission's verdict: By 14 votes to one, the commission considered there were "very strong indications" of violation of Article 2 and killings "committed on a substantial scale."

RAPE

Relevant article: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Charge by Greek-Cypriots: Turkish troops were responsible for wholesale and repeated rapes of women of all ages from 12 to 71, sometimes to such an extent that the victims suffered hemorrhages or became mental wrecks. In some areas, enforced prostitution was practised, all women and girls of a village being collected and put into separate rooms in empty houses where they were raped repeatedly.

In certain cases, members of the same family were repeatedly raped, some of them in front of their own children. In other cases women were brutally raped in public.

Rapes were on many occasions accompanied by brutalities such as violent biting of the victims causing severe wounding, banging their heads on the floor and wringing their throats almost to the point of suffocation. In some cases attempts to rape were followed by the stabbing or killing of the victims, victims included pregnant and mentally-retarded women.

Evidence given to commission: Testimony of doctors C and H, who examined the victims. Eyewitnesses and hearsay witnesses also gave evidence, and the commission had before it written statements from 41 alleged victims.

Dr. H said he had confirmed rape in 70 cases, including:

A mentally-retarded girl of 24 was raped in her house by 20 soldiers. When she started screaming they threw her from the second-floor window. She fractured her spine and was paralyzed;

One day after their arrival at Voni, Turks took girls to a nearby house and raped them;

One woman from Voni was raped on three occasions by four persons each time. She became pregnant;

One girl, from Polekythron, who was held with others in a house, was taken out at gunpoint and raped.

At Tanvu, Turkish soldiers tried to rape a 17-year-old schoolgirl. She resisted and was shot dead;

A woman from Gypsou told Dr. H. that 25 girls were kept by Turks at Marathouvouno as prostitutes.

Another witness said his wife was raped in front of their children. Witness S. told of 25 girls who complained to Turkish officers about being raped and were raped again by the officers. A man (name withheld) reported that his wife was stabbed in the neck while resisting rape. His granddaughter, aged six, had been stabbed and killed by Turkish soldiers attempting to rape her.

A Red Cross witness said that in August 1974, while the island's telephones were still working, the Red Cross Society received calls from Palekythrou and Kaponti reporting rapes. The Red Cross also took care of 38 women released from Voni and Gypsou detention camps: all had been raped, some in front of their husbands and children. Others had been raped repeatedly, or put in houses frequented by Turkish soldiers.

These women were taken to Akrotiri hospital, in the British Sovereign Base Area, where they were treated. Three were found to be pregnant. Reference was also made to several abortions performed at the base.

Commission's verdict: By 12 votes to one the commission found "that the incidents of rape described in the cases referred to and regarded as established constitute 'inhuman treatment' and thus violations of Article 3 for which Turkey is responsible under the convention."

TORTURE

Relevant article: see above under Rape.

Charge by Greek-Cypriots: Hundreds of people, including children, women and pensioners, were victims of systematic torture and savage and humiliating treatment during their detention by the Turkish army. They were beaten, according to the allegations, sometimes to the extent of being incapacitated. Many were subjected to whipping, breaking of their teeth, knocking their heads against walls, beating with electrified clubs, stubbing of cigarettes on their skin, jumping and stepping on their chests and hands, pouring dirty liquids on them, piercing them with bayonets, etc.

Many, it was said, were ill-treated to such an extent that they became mental and physical wrecks. The brutalities complained of reached their climax after the ceasefire agreements; in fact, most of the acts described were committed at a time when Turkish armed forces were not engaged in any war activities.

Evidence to Commission: Main witness was schoolteacher, one of 2,000 Greek Cypriot men deported to Turkey. He stated that he and his fellow detainees were repeatedly beaten after their arrest, on their way to Adana (in Turkey), in jail in Adana and in prison camp at Amasya.

On ship to Turkey—"That was another moment of terrible beating again. We were tied all the time. I lost the sense of touch. I could not feel anything for about two or three months. Every time we asked for water or spoke we were being beaten."

Arriving at Adana—" . . . then, one by one, they led us to prisons, through a long corridor . . . Going through that corridor was another terrible experience. There were about 100 soldiers from both sides with sticks, clubs and with their fists beating every one of us while going to the other end of the corridor. I was beaten at least 50 times until I reached the other end.

In Adana anyone who said he wanted to see a doctor was beaten. "Beating was on the agenda every day. There were one or two very good, very nice people, but they were afraid to show their kindness, as they told us."

Witness P spoke of:

A fellow prisoner who was kicked in the mouth. He lost several teeth "and his lower jaw came off in pieces."

A Turkish officer, a karate student, who exercised every day by hitting prisoners.

Fellow prisoners who were hung by the feet over the hole of a lavoratory for hours.

A Turkish second lieutenant who used to prick all prisoners with a pin when they were taken into a yard.

Evidence from Dr. H. said that prisoners were in an emaciated condition on their return to Cyprus. On nine occasions he had found signs of wounds.

The doctor gave a general description of conditions in Adana and in detention camps in Cyprus (at Pavlides Garage and the Saray Prison in the Turkish quarter of Nicosia) as reported to him by former detainees. Food, he said, consisted of one-eighth of a loaf of bread a day, with occasional olives; there were two buckets of water and two mugs which were never cleaned, from which about 1,000 people had to drink; toilets were filthy, with feces rising over the basins; floors were covered with feces and urine; in jail in Adana prisoners were kept 76 to a cell with three towels between them and one block of soap per eight persons per month to wash themselves and their clothes.

One man, it was alleged, had to amputate his own toes with a razor blade as a consequence of ill-treatment. Caught in Achna with another man, they had been beaten up with hard objects. When he had asked for a glass of water he was given a glass full of urine. His toes were then stepped on until they became blue, swollen and eventually gangrenous. (The other man was said to have been taken to hospital in Nicosia, where he agreed to have his legs amputated. He did not survive the operation.)

According to witness S, "hundreds of Greek Cypriots were beaten and dozens were executed. They have cut off their ears in

some cases, like the case of Palekythro and Trahoni. . . ." (verbatim record).

Verdict by commission: By 12 votes to one, the commission concluded that prisoners were in a number of cases physically ill-treated by Turkish soldiers. "These acts of ill-treatment caused considerable injuries and in at least one case, the death of the victim. By their severity they constitute 'inhuman treatment' in the sense of Article 3, for which Turkey is responsible under the convention."

LOOTING

Relevant article: Every natural or legal person is entitled to the peaceful enjoyment of his possessions.

Charge by Greek Cypriots: In all Turkish-occupied areas, the Turkish army systematically looted houses and business premises of Greek Cypriots.

Evidence to commission: Looting in Kyrenia was described by witness C: "* * * The first days of looting of the shops was done by the army, of heavy things like refrigerators, laundry machines, television sets" (verbatim record).

For weeks after the invasion, he said, he had watched Turkish naval ships taking on board the looted goods.

Witness K, a barrister, described the pillage of Famagusta: "At two o'clock an organised systematic, terrifying, shocking, unbelievable looting started * * * We heard the breaking of doors, some of them iron doors, smashing of glass, and we were waiting for them any minute to enter the house. This lasted for about four hours."

Written statements by eye-witnesses of looting were corroborated by several reports by the secretary-general of the United Nations.

Verdict of Commission: The commission accepted that looting and robbery on an extensive scale, by Turkish troops and Turkish Cypriots, had taken place. By 12 votes to one, it established that there had been deprivation of possessions of Greek Cypriots on a large scale.

OTHER CHARGES

On four counts, the commission concluded that Turkey had also violated an Article of the Convention asserting the right to respect for private and family life, home and correspondence. The commission also decided that Turkey was continuing to violate the Article by refusing to allow the return of more than 170,000 Greek Cypriot refugees to their homes in the north.

On three counts, the commission said Turkey had breached an Article laying down the right to liberty and security of persons by confining more than 2,000 Greek Cypriots in schools and churches.

Finally, the commission said Turkey had violated two more articles that specify that the rights and freedoms in the Convention shall be secured without discrimination on any ground, and that anyone whose rights are violated "shall have an effective remedy before a national authority."

Mr. SARBANES. The Senator is absolutely right. Not only are the territorial concessions we have talked about earlier being made, but there have been significant steps that could have been taken to address the human rights problem which have not been done. Those are good faith manifestations of a desire to bring about a solution of this problem, and to remedy some of the consequences of the aggression, and we have not even been able to attain those steps in the most humanitarian of areas, including the missing persons problem to which the Senator has alluded and to which he has given some careful attention.

Mr. KENNEDY. I thank the Senator. I am going to put in the RECORD excerpts from a report of my Refugee Subcommittee that discusses some of these humanitarian issues where the Turkish side has failed to respond—where there has really been no corresponding action in terms of the recommendations of the international community, whether it has been the International Red Cross or other special pleas by the United Nations in the area of humanitarian concerns.

If there are those here on the floor who have knowledge of this situation and are able to provide any information, I think the RECORD should show it, otherwise it seems to me to be very clear there has not been any action.

I thank the Senator from Maryland and I ask that excerpts from the Subcommittee on Refugees' report of 1976 be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM REPORTS OF SUBCOMMITTEE ON REFUGEES, U.S. SENATE, ON THE CRISIS ON CYPRUS

MISSING PERSONS

One of the most troublesome humanitarian problems on Cyprus is the fate of hundreds of missing Cypriots. Progress was achieved early in the exchange of prisoners, but little has been attained in terms of securing information on those persons still missing subsequent to the Turkish invasion and occupation of the island. This, despite the effective work of the Tracing Agency of the International Red Cross in developing an extensive file and documentation on missing persons.

By all accounts—and as reported in the Subcommittee's Study Mission report in October 1974—the Turkish army conducted widespread and systematic arrests and detainment of Cypriot-Greek men, both during and after the invasion. Most of the Cypriot-Greeks now missing and unaccounted for, date from this period. Their whereabouts is of particular concern, because evidence exists, in several dozen cases, that they were seen alive long after their detainment and, in some instances, after other prisoners were released.

Although detailed information on individual Cypriot-Greeks listed as missing has been transmitted to Turkish authorities by the International Red Cross—a total of some 2,700 Cypriot-Greeks by name—Turkish officials have stated flatly that they hold no further prisoners, and they have offered no information on the fate of the missing. In conversations with high-ranking Cypriot-Turkish authorities in Nicosia, the study team was told that while "some information" was no doubt available on some missing Cypriot-Greeks, there was no sense of urgency in providing it "since they were all dead." These officials emphasized that during the violence and fighting many civilians were killed and summarily buried, and there simply was no easy way to obtain further information.

However, this fails to take into consideration the Red Cross documented cases involving persons seen since the violence ended, and since the ceasefire was implemented. When such cases have been pursued, information has resulted. One celebrated case recently involved a Cypriot-Greek judge known to have been taken into custody by the Turkish military, because it was noted by International Red Cross officials on the scene at the time. After consistently denying it had any information, the Cypriot-Turkish administration subsequently acknowledged, upon investigation, that the judge had indeed been arrested, but was later shot to death. How many more such cases, and how much similar information, could be developed upon investigation is difficult to determine without the cooperation of the Cypriot-Turkish administration. Given the lack of progress on this issue, and the fact that documentation files have been completed on all known cases, Swiss officials from the Tracing Agency of the International Red Cross closed their operation in Nicosia in October, turning all files over to Cypriot authorities and the United Nations.

The Third Round of Intercommunal talks in Vienna in August 1975, officially took note of missing persons problem, its final communique stating:

Although both sides again affirmed that they were not knowingly holding undeclared prisoners-of-war or other detainees, it was agreed mutually to extend full facilities for searches in response to information given by either side.

To date, however, the Cypriot-Turkish authorities have made no facilities available for searches for the missing, despite the extensive information provided to them.

Although most Cypriot-Greeks have reluctantly come to the conclusion that most, if not all, of the missing are probably dead, their family members still believe they have a right to know the fate of their relatives who were in the hands of Turkish military authorities. It has become a serious political issue on Cyprus, and one that threatens to exacerbate tensions and derail negotiations, unless some gesture is made in responding to the legitimate concern over missing persons on Cyprus.

4. PLIGHT OF ENCLAVED CYPRIOTS

As a result of the continuing deadlock over a negotiated settlement, Cyprus has slowly drifted toward a total ethnic separation. Of the 200,000 Cypriot-Greeks who used to live north of the current ceasefire line, no more than 10,000 now remain, mostly in the Karpasia region. Of the 45,000 Cypriot-Turks who formerly lived south of the line, no more than a handful remain today—nearly all old people in the Paphos area.

Whereas the movement of the Cypriot-Greeks south has been the result of the invasion and forcible evacuation and harassment, the movement of Cypriot-Turks north has resulted from the persistent demands of Turkish authorities. This demand was met in the Third Round of Intercommunal talks in Vienna, between Rauf Denktash, representing the Cypriot-Turkish community, and Glafcos Clerides, representing the Cypriot-Greek community. The agreement was a *quid pro quo*: the Cypriot-Turks would be allowed to go north under U.N. auspices, if the Cypriot-Greeks in the north were allowed to stay, and their lives normalized and protected under U.N. auspices. Specifically, the text of the Vienna agreement issued on August 2, 1975 provided:

1. The Turkish Cypriots at present in the south of the island will be allowed, if they want to do so, to proceed north with their belongings under an organized programme and with the assistance of UNFICYP (The United Nations Peace-keeping Force in Cyprus).

2. Mr. Denktash reaffirmed, and it was agreed, that the Greek Cypriots at present in the north of the island are free to stay and that they will be given every help to lead a normal life, including facilities for education and for the practice of their religion as well as medical care by their own doctors and freedom of movement in the north.

3. The Greek Cypriots at present in the north who, at their own request and without having been subjected to any kind of pressure, wish to move to the south will be permitted to do so.

4. UNFICYP will have free and normal access to Greek Cypriot villages and habitations in the north.

5. In connection with the implementation of the above agreement priority will be given to the reunification of families, which may also involve the transfer of a number of Greek Cypriots, at present in the south, to the north.

The question of displaced persons was also re-examined.

Months later, of the five points agreed upon in Vienna, the only one implemented in good faith was the first point, that the Government of Cyprus would permit the movement north of Cypriot-Turks who wished to move under United Nations auspices. In every respect, the Cyprus government has abided by the provisions of the Vienna accord, although in no respect has the Turkish administration fulfilled its obligations toward the Cypriot-Greeks in the occupied areas.

The study team noted that every objective observer on Cyprus has concluded that the Cypriot-Turkish Administration has done tragically little to fulfill its pledge to help Cypriot-Turkish Administration has done cluding facilities for education and for the practice of their religion as well as medical care by their own doctors and freedom of movement in the north." In fact, during the study team's visit on Cyprus, conditions among the enclaved Cypriot-Greeks further deteriorated: (1) the last remaining Cypriot-Greek doctor was expelled; (2) schools were still closed, with parents increasingly anxious that their children would be forced to forego a second year of schooling; (3) freedom of movement was severely restricted; (4) the Cypriot-Greeks from Kyrenia still in the Dome Hotel were expelled and not allowed to return to their homes; and (5) Greek Orthodox priests were still prohibited from conducting services in certain areas. In addition, the obligation to allow freedom of movement to UNFICYP personnel was being honored more in the breech. In short, the Vienna accords which were to normalize the lives of Cypriot-Greeks in the Turkish occupied areas have not only been ignored, they have been followed by a new round of harassment and further expulsions. Officials in the American Embassy explained that this occurred not because of any lack of goodwill on the part of Mr. Denktash; but, rather, "the Turkish Army has constantly pulled the rug out from under him."

Whatever the reason, and no matter the excuses, the plain fact remains that life among Cypriot-Greeks in the north has *not improved*. It has deteriorated since the Cypriot-Turkish Administration solemnly pledged in Vienna to take steps to normalize and protect their lives. This total violation by Turkish authorities of a negotiated agreement inevitably raises questions in the minds of Cypriot-Greeks as to the worth of Mr. Denktash's signature, much less the intentions of Turkish authorities to abide by negotiated agreements. This is particularly painful when the Government of Cyprus has, under international auspices, faithfully fulfilled provisions relating to the Cypriot-Turks in the south—allowing them to move north in an orderly fashion, protecting those who remain, and permitting what they had steadfastly refused to allow: the total ethnic partition of the island. And for this the Cypriot-Greeks have received nothing in return. All of which bodes ill for future negotiations on the fate of Cyprus.

5. HUMANITARIAN PROBLEMS IN OCCUPIED AREAS

Although the Cypriot-Turks inherited some 70% of the economic potential of Cyprus within the line drawn by the Turkish invasion—as well as nearly half the agricultural exports, 50% of the manufacturing production, 65% of the tourist accommodations, 83% of the cargo handling, and 56% of the mining output—nonetheless the economy in the northern half of the island is in disarray and stagnating.

According to the Foreign Economic Trends report prepared by the American Embassy, in the year since the invasion: "The economy in the Turkish-controlled north is in a state of major disruption and is unlikely soon to return to the production level of the pre-war period. So far, the Turk Cypriots living in the north do not have either the managerial or the capital resources necessary to reactivate their economy."

The gloomy economic picture in the north is manifested in the continued depressed living standards among many Cypriot-Turks, which, ironically was one of the grievances held by them against the Cypriot-Greeks. Now, not only are they separate and free from economic domination by the Cypriot-Greeks, they have inherited the largest share of the island's economic potential—but they have been able to do very little with it. This economic stagnation, when coupled with the massive population dislocation that has occurred from south to north, has served to create a number of humanitarian problems which the Cypriot-Turkish administration has only barely begun to grapple with. It is little comfort to note that the mainland Turkish army brought this plague upon the house of the Cypriot-Turks, although they ultimately have the moral responsibility for conditions in the occupied areas—and, under the provisions of the Geneva Conventions, the legal responsibility as well. Nevertheless, a number of humanitarian problems persist in the north, not dissimilar to some of those in the south.

Housing, for example, remains a problem despite the fact that the Cypriot-Turks inherited the houses of some 180,000 Cypriot-Greeks who fled during the invasion or who were later expelled from their homes by the Turkish military. Yet, when Cypriot-Turks move from the south to the occupied areas in the north, they are greeted by nicely built houses that have nothing in them. They have all been looted and damaged, and require considerable repair before they are livable. This is hardly as serious a housing problem as that confronting Cypriot-Greeks, but it has proved to be a hurdle in normalizing conditions in the north.

Food is also a problem in the occupied areas, despite the fact that the northern region represents some 48 percent of the total agricultural resource of the island. But without the labor to plant and harvest the fields, they continue to lie fallow. Without hands to pick the citrus fruit, the oranges rot on the trees. As a result of the disruption of the agricultural sector in the north, Turkish military authorities have been forced to import quantities of food supplies from mainland Turkey.

Health problems have also developed in the occupied areas, with the danger of a malaria epidemic spreading across the island. Mainland Turkish soldiers have apparently introduced malaria to Cyprus which, until last year, was totally free of the disease. In October 1975, a noted Cypriot-Turkish health official, Mr. M. Aziz, warned that unless the Cypriot-Turkish administration took strict preventive measures epidemics would soon spread in Cyprus. The increased passenger traffic between mainland Turkey and Cyprus could import such diseases as malaria, which is rampant in parts of southern Turkey.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, will the Senator yield a minute to reply to some of the comments made?

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. The Senator is speaking in support, and I understand the Senator was in position to yield time.

Mr. SARBANES. On behalf of the chairman of the committee I ask is there time left on the amendment to the chairman?

The PRESIDING OFFICER. One minute is left on the amendment.

Mr. BENTSEN. Then I do not request it.

Mr. SARBANES. I am told they want to reserve that time.

Mr. CASE. I yield 10 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I know of no issue that has caused more vexation than this one. I have been to Greece and Turkey only within the last few months.

Mr. President, could I have order?

The PRESIDING OFFICER. Can we have order? The Senate is not in order.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. JAVITS. I am just in the middle of speaking. I wish to have continuity, but I am perfectly happy to quit and let the Senator speak. I would just as soon quit and then start again because I just do not want to be interrupted in what I have to say.

Mr. BENTSEN. By all means, go ahead.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. As I said, Mr. President, I know of no issue in the foreign policy field that has caused me more vexation than this. For a number of years, I have presided as chairman in an effort to obtain Greek and Turkish economic cooperation, that effort looked extremely promising until it was untracked by the military coup in Greece in 1967.

I believe that Prime Minister Ecevit, of Turkey, and Premier Karamanlis, of Greece, are two of the really outstanding statesmen of the world, comparable in their own countries, on the one side, Karamanlis with Venizelos and, on the other, Ecevit with Ataturk. Those illustrious predecessors concluded an accord in the 1920's which gave peace to Greece and Turkey, for 50 years notwithstanding the centuries-old traditional struggle between the Greek and Turkish people.

It is my judgment, after giving it the most profound consideration, that for this time we ought to stay where we are and, therefore, I shall vote against the amendment. I would like to give my reasons.

It is very difficult for me because I know that anger, antipathy, and anxiety never produce peace, but one has to make a choice in our business, and one has to vote yea or nay.

(Mr. McGOVERN assumed the chair.)

Mr. JAVITS. The reason, Mr. President, is—and it is one thing which has not yet come up in our debate—that there is not only grave strain between Greece and Turkey over Cyprus, but there is grave strain between Greece and Turkey over the Aegean, and the strain in that area could prove even greater than the difficulties over Cyprus.

The fact is that in the Aegean there are Greek islands which are extremely close to the Turkish mainland, and

Greece—and this is not particularly to its credit—allegedly in violation of treaty agreement, has fortified two of those islands which the Turks consider a great threat.

On the other hand, Mr. President, we know very well, although we are arguing it as if it were an embargo, that this is not a real embargo on Turkey.

Turkey has received more credits for foreign military sales aid during the period of this embargo than before. There is $175 million in credits in this bill for it now, as well as $50 million in economic support aid. That is hardly an embargo in the traditional sense, and it compares extremely favorably with what is allowed for Greece under this and previous bills.

We are talking about moral disapproval, that is what is at stake, and the question is not whether we should stay as we are but the McGovern-Byrd amendment seeks to have us change our position.

I feel, Mr. President, that the difficulty is so deep and the dangers are so great, that no matter what we do we should not yet change our position.

When I voted—and the present occupant of the chair was there when I voted and will confirm it—I said that beyond this vote I give no assurances as to where I will stand, because, let us remember, this is a 1-year bill and a 1-year proposition. Therefore, I still feel that for this year rather than incur the danger that we will jump from the frying pan into the fire and that we will exacerbate the strains, the dangers, and the tensions respecting both Cyprus and the Aegean if we make a new move, I would rather stay where we are and give another little amount of time for the United Nations to try to work out a mediation or for NATO to do it or for their influences which are at work, especially the distinction and brilliance of these two prime ministers.

Mr. President, it is interesting to me that responsible journals which have taken pretty much the same line—and the New York Times, of course, is one of the leaders in that regard—pretty much came to the same conclusion. They felt that Greece was at fault in not being forthcoming to these offers of the Turkish Cypriots, but they felt, however, that the Turks were more at fault in remaining in occupation of a part of this island which was unconscionable, and that unless there was some movement there could be no settlement.

The question which we are trying to debate is that if there is this movement, to wit, a lifting of the embargo will there be a settlement? I believe the dangers of this new situation, as I have just described them, of making the Turks feel they now have a clean bill of health and making the Greeks feel that the United States has abandoned them, and their situation is now desperate, would not lessen the dangers.

Mr. President, I would like to read this sentence from this editorial to which I have referred, which confirms in my mind the validity of the position which, although very vexatious and very difficult for me, I have decided to take. It reads as follows:

> Because ending Turkish occupation remains an essential first step toward creating an atmosphere of trust, Congress should not yet relax the restrictions on arms sales.

So I think, Mr. President, we are picking the wrong time, the wrong place, and the wrong occasion to make a change of position.

For those who argue it is essential to our national security, I think we all know by now that the positions we had in Turkey, the bases, so valuable for intelligence, simply had to be replaced because we were essentially ousted from them.

Again I find no fault; that is a fact of life. And that is no longer, in my judgment, the problem that is presented before us.

So, Mr. President, to give the forces of rationality and of peace an opportunity, not to inflate anybody's ego or to satisfy anybody's chauvinistic aspirations, but to keep the situation in status quo, I believe we should allow the matter to stand where it is and give Waldheim, ourselves, and NATO an opportunity to try to make some real progress in the situation.

The real progress, Mr. President, will be announced by the fact—and one can understand this—that when an area is under occupation, and that is what this is, including the proposals which have been made by Mr. Denktash, it still remains an area under occupation, and there are still many thousands of refugees.

The fact is that Turkey is getting very substantial amounts of arms. The fact is that so is Greece. The fact is that Turkey really has no reason for being insulted by the continuance of what has gone on now since 1974, and we ought to give yet a further opportunity to see if some advance cannot be made. If it cannot, I, like every other Senator, reserve my right to change my mind.

So I hope very much that the amendment will be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, I yield 4 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 4 minutes.

Mr. LEAHY. Mr. President, a few weeks ago, the Senate voted in support of the administration's proposal to sell aircraft to Israel, Egypt, and Saudi Arabia. At that time, those of us who supported the sales did so with the knowledge that the United States could exercise controls over the use of these weapons. My own vote was conditioned on this very premise—if the recipients of these aircraft violate the terms of the sale, this Government will impose suitable and effective restrictions. I no not doubt our ability to do so if such action proves necessary.

Today, we asked to lift the embargo prohibiting certain military sales to Turkey. This embargo, unfortunately but necessarily leveled against a NATO ally, constitutes that very type of control that the United States must exercise over arms transfers. Mr. President, there has been a clear violation of the terms under which Turkey acquired American arms. At the time of the Turkish invasion of Cyprus, American arms were used in violation of U.S. arms export laws. That violation holds in force today. Can we lift this embargo without calling into question the controls that this country must at least attempt to retain over all arms transfers? I believe that we cannot. Mr. President, the United States bears the responsibility to prevent, or at least to limit, aggression of any form—and most assuredly, aggression which American arms helped to make possible.

In the absence of a substantial Turkish troop withdrawal from Cyprus, the United States has no real indication that the terms our ally accepted in order to acquire American arms will be honored in the future. Certainly, Turkey has a legitimate interest in the rights of the Turkish Cypriot minority on Cyprus. I fail, however, to see how the true interests of the Turkish Cypriots will be served by continued military occupation. Their true interests can only be served by a fair, negotiated peace settlement. There can be no settlement without Turkish troop withdrawals—there cannot even be meaningful negotiations.

Those who favor lifting this embargo point to the fact that it has not positively influenced Turkish policy. On the other hand, Mr. President, we do not know if lifting the embargo would have this desired positive effect. We do know that it would make Turkey more able to continue the occupation. We do know that our other ally in the area, Greece, would hardly welcome the action that the administration proposes. We do know that there has been, and still is, a clear violation of our agreement with Turkey as well as our own arms control laws.

Supporters of the proposal have argued that Turkey is not alone in real or suspected violations of U.S. arms transfer laws. But how can this be a rationale for removing the embargo? This fact should serve as a warning signal to this government. A warning that the United States must cease selling arms altogether, sell them without restriction, or enforce the terms of our own laws that seek to control those arms sales that we believe to be legitimate and necessary. This last course is, in my mind, the only satisfactory one open to us. It is the only course to use in the Middle East—the only one to use here.

In closing, Mr. President, I can only say that I am not convinced that it is in the best interests of the United States, the NATO alliance, Turkey, Greece, Cyprus, or the world to lift this embargo today. Let us make it clear to the world that we intend to enforce our arms export laws. Let us make it clear to our enemies that we will not follow a policy that pits one ally against another or benefits one at the expense of another. And finally, let us make it clear to both Greece and Turkey that we are willing to offer our good offices to move toward a Cyprus settlement. When progress toward that settlement is evident, when violations of our laws are rectified, we will not hesitate to lift this embargo and provide our ally, Turkey, with whatever assistance we are able to give her.

The ACTING PRESIDENT pro tempore (Mr. PAUL G. HATFIELD). The Senator's 4 minutes have expired.

Mr. LEAHY. May I have 2 more minutes?

Mr. CASE. I am sorry we do not have the time. I grant the Senator 1 minute.

Mr. LEAHY. Mr. President, I hate very much to go against a President who has been willing to make tough choices in foreign affairs, as President Carter has in the cases of Panama and the Middle East—choices that have been necessary, even though they go against popular opinion. If there were any way at all that I could vote with the administration on this matter, I would. For me, Mr. President, it is a matter of conscience; and my conscience says to vote to continue the embargo.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CASE. Mr. President, I yield 4 minutes to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 4 minutes.

Mr. BROOKE. Mr. President, I shall oppose the effort today to lift the partial embargo on U.S. military assistance for Turkey. My decision to do so is based on a belief that such an action, coming at this time, would not contribute to the search for stability on the southeastern flank of NATO and a just resolution of outstanding differences between Greece, Cyprus, and Turkey, and respective ethnic communities.

There are no easy decisions on this matter. U.S. interests demand that we do everything reasonable to maintain effective alliance relationships with both Greece and Turkey. Those interests also demand that our actions be consonant with our values and ideals. The dilemma we face is that past actions of those with whom we desire close relationships have established certain, I hope, temporary incompatibilities between our alliance-related interests and those directly tied to our national value system. In such a situation, we cannot hope to find a completely satisfactory solution. What we must seek is the course of action that will minimize the damage to our interests as much as possible.

There is, I believe, no one in this body who desires to alienate Turkey from the United States. That has never been the purpose of the embargo. Yet, there are many of us who have been convinced that the embargo was and is necessary to indicate to the involved parties that relations with the United States must be predicated upon certain principles and when such principles are violated, as was the case regarding Turkish use of U.S. supplied equipment in the military action on Cyprus, we, as a nation founded on respect for the "rule of law," are compelled to express our displeasure in a forceful manner.

There is a desire on the part of many of us who continue to support the embargo at this time to see it ultimately lifted. But, we recognize that were we to lift it under the wrong conditions or at the wrong time, the net result would likely be an exacerbation rather than an alleviation of the problems to which it is addressed.

I believe that this is the wrong time to lift the embargo for several reasons. First, thousands of Turkish troops continue to be entrenched on Cyprus. They are an intimidating force that inevitably makes Turkish and Turkish-Cypriot actions and policies appear coercive in nature. An ending of the embargo while such an intimidating military presence exists on Cyprus would inevitably be interpreted on the island and elsewhere as U.S. acquiescence, however reluctant, to a coercive Turkish posture. It matters not that such would not be the intent of a lifting of the embargo; the perception would be as I describe it. Such a perception would fan the flames of anti-Americanism in Greece and on Cyprus and could very well set in motion events that could lead to irreparable harm in our relations with both countries.

Second, during the past week, both the Greek Cypriot and Turkish Cypriot sides have tabled proposals designed to break the deadlock, at least in terms of getting the parties back to the negotiating table. I believe the sensible course of action for the United States is to allow a sufficient length of time to pass for the assessment of these proposals and for possible initiatives from the international community before taking any unilateral action on its own. There are times in international affairs when studied inaction is a wise tactic.

Third, many issues regarding human rights are involved in the Cyprus controversy. The administration has elevated concern for such rights to a preeminent position in U.S. foreign policy. It would be a fundamental mistake to take an action that would raise serious doubts about the strength of our commitment to the human rights effort. Lifting the embargo at a time when there are many unanswered questions regarding "human rights" on Cyprus would be such a mistake.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. BROOKE. Will the Senator yield 1 additional minute?

Mr. CASE. I yield.

Mr. BROOKE. Only when a serious attempt is made by the Turkish authorities regarding resettlement of refugees to ancestral homelands and there is a good faith accounting for those whose fate is unknown, could the United States conclude that human rights issues are being addressed in a serious and substantive enough manner to contemplate a total lifting of the embargo.

Mr. President, even though I do not believe conditions are such as to permit the United States to lift the embargo at this time, I fully support continued close associations with Greece, Cyprus, and Turkey and hope that events in the immediate future will permit us to place those associations on a firmer basis than at present. Positive action regarding further removal of the Turkish military presence and a good faith effort to alleviate the physical and mental distress of those who have been dispossessed would do much to promote substantive negotiations which in turn would call for serious consideration of the embargo question. Some movement has taken place. We will be well advised to refrain at this time from unilateral action that promises only to widen the gulf between the involved parties, jeopardize our relations with Greece and Cyprus, and reduce our ability to influence events. The embargo should remain in place at this time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Jersey.

Mr. CASE. I yield 4 minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the Senator from New Jersey.

Mr. President, the substance of my remarks on this occasion is simple. It is, first, to express my admiration for the junior Senator from Maryland, (Mr. SARBANES) who has brought to this debate a wealth of experience and commitment acquired here and in the other body.

I would address myself to this question: What is realism, what is toughmindedness in this matter? In so doing, I do not seek to improve upon the case that has been made for the maintenance of the current law. The so-called embargo on American military assistance to Turkey has already been amended, such that the embargo amounts to a ceiling of $175 million per annum. I should think, therefore, that the proper question—the practical question—is whether that ceiling ought to be raised, and if so by how much.

Those of us who support the existing restrictions on military assistance to Turkey do so because we feel it important that the arms transfer policies of the United States remain associated with this fundamental principle: That U.S. arms ought not to be used for purposes other than genuine self-defense. Whatever the symbolic connotations of the current ceiling on military aid to Turkey, the very symbolism of that measure—as a disapproval and a disavowal of Turkish action—outweighs any other.

There seems to be general agreement that Turkey's Cyprus policy does not yet comport with the principles of our arms transfer statutes. Thus, to announce that we will abandon the attempt to apply those principles to Turkey is such a dangerous precedent. It would convey the impression that in a test of wills with the United States over important points of principle, it is the United States that will acquiesce. It would convey, further, the impression that American foreign policy is departing from its traditional political and ethical underpinnings and has instead become one solely of putatively realistic strategic calculation.

I find, Mr. President, a disturbing tendency to dismiss questions of the political and philosophical content of policy as somehow unrealistic. One finds a certain appeal in being toughminded—to the dismissal of deeper issues. And yet it strikes me that this matter of the future of Cyprus speaks directly to America's image of itself as a great power. It is precisely our willingness to incur a strategic cost as the price of principle which defines the unique

character of our policy. And that same willingness to bear these costs is the quality which acquires for us deep allegiances and profound respect around the world.

In almost every difficult foreign policy decision—in almost every issue that we will be called upon to examine during the course of debate on the military assistance bill—there is a not dissimilar question: Where do the axes of proper realism and proper idealism intersect? I suggest, Mr. President, that in this case it is in continued adherence to the principle that American arms are provided for self-defense.

It is the mark of a great power that it can have choice in foreign policy. Those who would seek a foreign policy based on morality must accept that only a nation able to make choices and willing to do so can, in any meaningful sense, speak of a moral basis for policy. It is that basis which has commanded not only the respect of the world but the support of the American people. It is on the judgment of the American people that a realistic approach must be made to the issue on which we will vote this afternoon.

Today, our deliberations concern the eastern Mediterranean, but surely the issue is the same in the Middle East, in northeast Asia, in southern Africa. And, if the details of the Greece-Turkey-Cyprus relationship are perhaps more complicated than other international issues, if the Cyprus problem seems more intractable, all the more will we gain and hold the allegiance of people around the world if the Senate remains firm in support of its original position on Turkish behavior on Cyprus.

A fair solution to the problems of Cyprus must remain central to our policy. We must continue to exert such pressures as we can. I do not pretend that this will be without cost, or even without risk. I am confident however that the risks are on the right side, on the side of traditional American concerns, on the side of a proper realism in international affairs. For a free and independent Cyprus must remain an important goal of American foreign policy.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? The Senator from Alabama.

Mr. SPARKMAN. Mr. President, I yield 7 minutes to the Senator from Virginia to come out of my time on the bill.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 7 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, conflicts on the Island of Cyprus, and among the nations concerned with Cyprus, pose problems which are particularly difficult for the United States and for Western Europe.

One of the most tragic aspects of the Cyprus issue, from the point of view of our Nation, is the deep division which it has fostered between Greece and Turkey.

Both Greece and Turkey are friends of the United States.

Both are important to the defense of free Europe.

Nearly 4 years ago, following the invasion of Cyprus by Turkey, the Congress banned further military aid to Turkey. I supported the imposition of this embargo, and I remain convinced that the Congress acted properly in 1974.

Today the issue before the Senate is whether this embargo should be lifted or continued.

As the Senate considers this question, I think it is helpful to review the background of events which have led to the present situation.

What prompted the Turkish invasion of Cyprus was a Greek Cypriot coup which overthrew the Makarios government in July of 1974.

The coup was initiated by Greek officers units of the Cypriot national guard and Greek Cypriot factions who supported uniting Cyprus with Greece.

Turkey, which was a coguarantor of the independence of Cyprus, was greatly concerned that the new government would move Cyprus toward union with Greece.

Turkey approached Britain, a coguarantor of the independence of Cyprus. When Britain failed to take any action, Turkey invaded Cyprus on July 20. Turkey justified its actions on the basis of the 1960 Treaty of Guarantee and the Treaty of Alliance between Cyprus, Greece, and Turkey.

The invasion resulted in the fall of the new Cyprus Government and the fall of the ruling military junta in Greece, which had supported the coup.

Peace negotiations were quickly initiated, but when they deadlocked on August 14 the Turkish forces on Cyprus expanded the territory under their control to approximately 40 percent.

As a result of the Turkish invasion, roughly one-third of the island's Greek population was displaced from the Turkish zone into the Greek-held territory.

In protest against alleged American inaction, Greece announced its military withdrawal from NATO and subsequently its abrogation of existing bilateral Greek-United States agreements respecting military basing facilities.

On December 31, 1974, the Congress imposed an arms embargo on Turkey because of its use of U.S. military equipment in the invasion of Cyprus.

Turkey argued that its use of American-supplied equipment was not a violation of the Foreign Assistance Act of 1962, because section 2302 of that act permitted the use of such equipment in "collective or regional arrangements." Turkey argued that as a coguarantor of the independence of Cyprus its actions were lawful and appropriate.

The embargo has now been in effect for almost 4 years—and sadly, little progress has been made toward a settlement of the Cyprus issue.

Turkish forces still occupy a substantial portion of Cyprus and thousands of refugees are still homeless.

At the same time the strength and readiness of NATO forces on the southern flank has declined. Greece has withdrawn from the military structure of NATO. And U.S. military forces have been denied access to bases in both Greece and Turkey.

In general, things are in pretty bad shape.

Almost everyone agrees on that. Where the disagreement comes is on what actions will be likely to bring about an improvement. Will Turkey be more likely to compromise on the Cyprus issue if the embargo is lifted? Will Greek-United States relations deteriorate even further if the embargo is lifted? What effects will a continuation of the embargo have on the military readiness of the southern flank?

These are all important questions to which I have given a great deal of thought. On balance, I have concluded that lifting the embargo will provide a better chance of improving the situation than keeping it in force.

I have discussed this matter with President Carter, and he believes it is more likely that Turkey will be willing to make more meaningful compromises on the Cyprus issue if the embargo is lifted.

The widespread consequences of the Cyprus conflict have had the effect of harming NATO security, weakening Greek, Turkish, and American capabilities in the Mediterranean region.

This weakening of Western capabilities has taken place at the same time that Soviet capabilities in the region have improved. To me, this is cause for alarm.

Turkey is an important member of NATO. With the second-largest standing army in NATO, it has a major role in the defense of NATO's southern flank.

The military readiness of Turkish forces has deteriorated as a result of the embargo and has thus weakened the whole region.

Another problem caused by the continuing embargo is that it encourages Turkey to move toward a more neutralist position.

Of course, it is correct that the law limits use of American-supplied military equipment to self-defense, internal security, and meeting certain regional commitments.

As I stated earlier, I think our Government acted properly when it originally imposed the arms embargo on Turkey, which action I supported.

However, I think that 3½ years of banning military assistance to Turkey constitute sufficient action by the United States to deter subsequent violations.

We should keep in mind, too, the suffering of the people of Cyprus. Surely that suffering will more likely be relieved if negotiations can break the longstanding impasse on the future of the unhappy island.

In turn, it seems probable that negotiations are more likely to occur if the arms embargo against Turkey is removed.

Obviously, there can be no assurance that this is so. But it is demonstrable that present policy—the policy of embargo—has produced no movement toward settlement of the complex political problems of Cyprus.

It is time for a new policy.

This new policy may or may not succeed. But, at least, it should get things off dead center. Should the removal of the arms embargo not prove helpful in

resolving the conflicts of Cyprus and strengthening the southern flank of NATO, the Congress retains the power to act at any time to reimpose the arms ban or to take any other action which it feels is wise in the light of new circumstances.

For one, I am anxious for an appropriate solution to the Cyprus problem. If the embargo on Turkey is lifted, that country assumes an obligation to provide progress toward a fair Cyprus settlement.

Mr. DANFORTH and Mr. RIEGLE addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CASE. Mr. President, I yield 4 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I rise today to strongly oppose the lifting of the arms embargo against Turkey. This policy reversal by President Carter is not in the strategic interests of the United States and I hope it will be rejected by the Senate.

We all know the tragic and dismal facts concerning the Turkish occupation of Cyprus. To date, the Turkish Government has done nothing to end this illegal occupation and help construct a reasonable settlement that can ease the massive human suffering taking place on Cyprus.

The Turkish invasion and continuing occupation of Cyprus violates the U.N. Charter, violates the charter of NATO, and openly and directly violates U.S. law as well.

The arms embargo by the United States was and is a fully justified response by our Nation. Yet the Nixon/Ford administration and now I am sad to say, the Carter administration have never fully implemented the embargo. In fact, the executive branch of our Government, in my judgment, has deliberately destroyed the effectiveness of the embargo by refusing to implement it faithfully, fully, and forcefully. That lack of good-faith implementation, in my judgment, has been improper.

The answer to that is not to remove it altogether, which is what is proposed. We see the results of a failure to implement the embargo effectively in terms of what has taken place on Cyprus itself, the adverse effect on the people there—families split apart, people driven from their homes and land, continuing suffering, with no end in sight.

Frankly, I was astonished to see the administration do a 180 turn on this issue in light of comments made by the President just short months ago. What the administration is proposing, is a reward for aggression, because that is exactly what this will be if we choose to set aside this arms embargo at this time.

What a terrible object lesson that would be for the rest of the world, especially at a time when the United States is attempting to champion the cause of human rights. It seems to me that to set aside the arms embargo now would be an open invitation to other countries to follow Turkey's example with whatever disputes they may have with whatever neighboring countries they are involved with.

I think it would be a tragic mistake for the United States to send that message around the world. I am very disturbed that our administration has decided to make this policy reversal.

It was in my own hometown of Detroit, on May 12, 1976, that Jimmy Carter said:

> We would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue.

I am sorry to say that I do not see any measure of progress on this issue. I frankly doubt that the administration has seen any, either.

I think we need the arms embargo and I think we need an administration that will carry it out with determination. I hope the Senate will decide not to surrender to the illegal actions of Turkey and vote against the lifting of this arms embargo today.

I thank the Senator very much for yielding.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SPARKMAN. I yield 3 minutes on the bill to the Senator from Missouri.

Mr. HODGES. Will the Senator from Missouri yield for a unanimous-consent request?

Mr. DANFORTH. Yes, I do.

Mr. HODGES. Mr. President, I ask unanimous consent that Lynn Boyd of my staff may have the privilege of the floor during the debate on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, will the President yield for a request?

Mr. DANFORTH. I yield.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that Bob Paquin of Senator LEAHY's staff be permitted the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I make the same request for Mark Edelman of my staff and for Tom Carter and John Bacher of Senator HAYAKAWA's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, the arms embargo on Turkey has backfired and should be terminated. It has had the opposite of its intended effect. It has served as a barrier to a just settlement of the Cyprus conflict. It has had a strongly adverse effect on America's national security interests and on the strength and effectiveness of NATO.

A careful analysis has led me to the conclusion that terminating the embargo would serve the defense interests of the United States and Western Europe and would increase the possibility of ending the stalemate on Cyprus.

The military significance of Turkey cannot be exaggerated. Turkey shares a 1,500-mile frontier with the Soviet Union and serves as a barrier between Russia and the Middle East, Africa, and the Persian Gulf. In the event of war, a strong Turkey could deny Soviet access to these areas. Moreover, Turkey is an essential partner in the southern flank of NATO. Supplying more ground forces to NATO than any other nation, Turkey helps tie down 25 Warsaw Pact divisions plus pact aircraft and naval units.

As a direct result of the arms embargo, Turkey shut down American intelligence-gathering bases in 1975. The intelligence installations permitted us to gather vital information on Soviet nuclear, missile, and military systems. If these intelligence facilities remain closed, new generations of Soviet space and missile systems could reach advanced development without our complete understanding of their workings and potential threat. Moreover, a continued shutdown would impair our ability to monitor Soviet compliance with existing and future strategic arms agreements. The Turks have clearly stated that they would allow these bases to reopen if the embargo is lifted.

Historically, the Turkish military has been equipped primarily by the United States. The adverse effect of the embargo on the Turkish military capability has been severe. With little new equipment or replacement parts available since 1975, 40 percent of their tanks and 50 percent of their aircraft have become inoperable. Training has been sharply curtailed. Modernization efforts have been halted. Turkey is no longer capable of meeting minimum NATO standards for training and readiness.

This deterioration in NATO's Southern flank has been viewed with alarm by General Haig, the commander of NATO, and by his predecessors, Generals Goodpaster, Lemnitzer, Gruenther, Norstad, and Ridgway. All these generals and our Joint Chiefs of Staff have urged that the embargo be removed in order to strengthen NATO. Every member of the North Atlantic Alliance, except for Greece, also believes that lifting of the embargo is essential for the security of the alliance.

When the embargo was imposed in 1975, it was hoped that Turkey would be pressured into withdrawing from occupied territory on Cyprus. This has not happened. On May 22, Turkish Prime Minister Ecevit stated that his government does not "consider it a right thing to link the Cyprus issue and Turk or Greek problems to Turkish/American relations." The American embargo, he said, will have no effect on his negotiating position.

Mr. President, I have the greatest respect for Greece and the strongest desire to foster our longstanding close relationship with that country. However, the embargo is a policy which has been tried and which has been found not to work. It has not brought progress toward a just settlement of the Cyprus problem. It has had no positive effect on the position of Turkey. It has seriously weakened the security interests of the United States, and it has threatened the effectiveness of the Southern flank of NATO. When a policy has failed and when it proves injurious to the interests of the United States, it should be terminated.

The amendment which I support not only lifts the arms embargo on Turkey, but it also affirms that the Congress continues to believe that peace in the

eastern Mediterranean must be achieved through "internationally established peaceful procedures." It provides that the United States "shall strongly oppose any attempt to resolve disputes through force or threat of force," and that "the continuing presence of a major Turkish force (on Cyprus) is inconsistent with the legitimate status of Cyprus as a sovereign republic." In addition, the President is required to report to the Congress every 60 days on progress toward reaching a settlement of the dispute and to certify that each request for economic or military assistance to Greece, Turkey, and Cyprus contribute to a settlement.

By ending the embargo and enumerating principles this country should pursue to achieve an end to the conflict, the amendment represents a significant step forward to the goal of strengthening NATO and obtaining a just peace on Cyprus and between two allies.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CASE. I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from New Jersey. I shall probably not even speak the 2 minutes. I want just to make a couple of points.

Almost 3 years ago to the month, the U.S. Senate passed S. 846, the Mansfield-Scott bill, that allowed a temporary continuation of military aid to Turkey.

I, along with 40 of my colleagues, voted for S. 846, because we hoped Turkey would negotiate in good faith, and work toward an immediate resolution of the Cyprus problem. This temporary continuation of aid was based on the premise that the United States, for both national and international security reasons. would exercise every possible effort to maintain both Greece's and Turkey's participation as cooperative members of the NATO alliance.

In retrospect, we initially cut off aid to Turkey to exert influence on her Cyprus negotiations. When we agreed to S. 846 in May of 1975, we were authorizing the President to report every 30 days to Congress on the progress of negotiations between Greece and Turkey. In response to our initiative, we assumed Turkey would comply with our mutual goal. It is obvious that neither of the above actions have been fruitful—there is still no settlement in sight.

My recollection is that that was a very close vote. In fact, I think it was decided by one vote that we would partially lift the embargo and permit the President to report to us everv 30 days on the progress that was so optimistically predicted in terms of the relationship between the Turks, who had occupied Cyprus, and the Cypriots. The whole reason for that seems to me to be the same reason proposed today by those who want to totally lift the embargo: namely, that Turkey, for some reason of their own internally, would not negotiate so long as there was an embargo. Now, it seems to me that, we need not go through the litany of what has occurred in those 3 years other than to say that it is obvious that the 30-day reports by our Presidents from that point in time have indicated little or no progress. In the meantime, although Turkey has not received every kind of military assistance that she wants, she has received substantial millions—in fact, in the hundreds of millions of dollars—in military assistance.

Mr. DOMENICI. May I have 1 additional minute, I ask my friend from New Jersey.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CASE. I will yield on the bill.

Mr. DOMENICI. Do I have an additional minute?

Mr. CASE. Yes.

Mr. DOMENICI. I thank the Senator.

The ACTING PRESIDENT pro tempore. Does the Senator from New Jersey yield 1 minute?

Mr. CASE. Yes.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. I think we did what our national leadership and what the leaders of Turkey wanted us to do then and nothing has happened.

I believe it is sheer folly to assume by lifting the embargo at this point that anything will occur that will benefit the posture of Turkey versus Greece, or Greece versus Turkey, or that the United States will be benefited over the long run in terms of NATO and its allies.

I do not know what will be asked of us next in an effort to resolve this dispute. I think there are far too many negatives in terms of precedent, in terms of the law, that might have long-range implications for us to risk the lifting now when the partial lifting had little or no effect.

I think it is up to Turkey to solve its own internal problems. When they do that, we will be able to lift the embargo.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DOMENICI. I ask for 2 more minutes.

Mr. CASE. Two more minutes.

Mr. DOMENICI. I thank the Senator from New Jersey.

I do not want to further aggravate Turkey to the point where she decides to terminate her relation with NATO; nothing could be further from my mind. However, our temporary resumption of aid has not deterred her from working closely with the Soviet Union, and I question whether or not we can justify further arms agreements when past efforts to appease her have been ineffectual.

We are aware that Turkey violated the terms of the Foreign Assistance Act of 1961 by using U.S. arms to attack Cyprus. The administration repeatedly emphasizes the role this Nation must play in seeking compliance with human rights objectives of the International Security Assistance and Arms Export Control Act; Turkey has consistently violated these provisions. Additionally, Turkey's invasion of Cyprus violated the principles of our NATO charter which states that international disputes will be settled by peaceful means, and participants will refrain from threat or use of force.

We seek normalization of relations with Turkey. We recognize the international security interests are of paramount importance. However, I firmly believe it is time we demand a return of our confidence. The Cyprus conflict can, and must, be brought to an immediate negotiated settlement. Before we decide to permanently lift the arms embargo, I do not think it is too much to ask that Turkey accept her responsibility to her friends. We all have a stake in the outcome. I believe this complex issue can be resolved. I hope the Senate will reject the lifting of the embargo until Turkey meets her obligations.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

The Senator from New Jersey.

Mr. CASE. I yield 7 minutes on the bill to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. I thank the Senator from New Jersey.

Mr. President, it is important in considering this embargo to review history for just a moment.

The embargo was imposed by the Congress in the fall and winter of 1974 in order to implement law that was already on the books and that was not applied by the administration.

We sought to impose it because of the second Turkish military adventure on Cyprus in mid-August of 1974, when, with the parties having arrived at talks, with the United Nations having assumed jurisdiction on Cyprus, with the parties at Geneva engaged in peace talks, subsequent to the first military action in mid-July, when all of that had been stopped, Turkish forces launched a major invasion, took over 40 percent of the island of Cyprus, created 200,000 refugees, one-third of the island's population—in this country it would be 70 million people—one-third of a nation became displaced and were refugees for no provocation.

It was as a consequence of that military action that it was insisted that existing American law which said that military weapons supplied to other countries were to be used for defensive purposes had been violated and that further arms should not be sent to Turkey.

No one has really challenged that those arms were used aggressively.

It was necessary for the Congress to invoke the embargo in order that existing law which had been on the books, as the Senator from Missouri reviewed earlier in this debate, for decades be enforced.

Now, that law carries out very important principles and we ought not delude ourselves that they are not important and that they are being forsaken here today if, in fact, the embargo is lifted. It involves a rule of law. It involves a question of human rights, very basic questions of human rights. It involves a question of the lessons other countries will learn with respect to the use of American arms and their ability to engage in aggressive actions. It involves what we stand for as a Nation in terms of principles we seek to implement, the sort of peace we seek to obtain in the world.

It comes back to, what do we stand for as a country? Why do we have these security alliances if they are not, in fact, to deter aggression?

We now have the argument stood on its head that in order to hold together an alliance designed for security, for peaceful purposes, we should overlook that aggression committed by a member of the alliance. It stands its purpose on its very head.

Furthermore, it has been argued that the embargo has not worked. Let me address that point.

The administration has undercut the embargo. In the previous administration, the Secretary of State was opposed to the embargo. It was constantly being said, "Hold on, we'll reverse the Congress and lift the embargo."

The current administration came in on a commitment to the embargo, on a commitment which linked resuming a normal military relationship between the United States and Turkey, which linked that normal relationship with progress on the island of Cyprus in terms of achieving a settlement.

That linkage was there. That linkage preserved, therefore, the principle we are talking about.

We have made exceptions to the embargo in terms of arms which have been sent, in the name of realism and pragmatism, in the name of the carrot and the stick, to induce a response.

There has been no response. At no point to this date has there been concrete action—concrete action—by the Turkish forces to return any of the fruits of their aggression.

Proposals were talked about, yes, but no concrete action in a situation in which they occupy 40 percent of the country.

It is said they have been punished enough. What does that mean, punished enough? Arms have been flowing.

Now, they say, lift the embargo even though none of the fruits of the aggression have been returned.

Why is not the lesson to draw from that not only with respect to Turkey, but with respect to other countries as well? Why is not the lesson to draw that if you just hold on long enough to the fruits of your aggression, just hold onto them and onto them and onto them, eventually the United States will relinquish and you will realize the consequences of your aggressive actions.

We wrote to the President about this in February and I ask unanimous consent that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 8, 1978.*

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: The recent trip by Secretary Vance to Turkey and Greece, following a visit to those two countries and to Cyprus by United Nations Secretary-General Waldheim, underscores the importance of achieving a just solution to the question of Cyprus. Such a solution is important for Cyprus itself; for American relations with Cyprus, Greece, and Turkey; and for the relationships of those countries with one another.

As you know, we have supported your approach to this matter which, in contrast to the Ford-Kissinger view, recognizes that the re-establishment of the military arms supply relationship between the United States and Turkey requires a just settlement of the Cyprus question. That relationship was upset because of Turkey's use of American arms for aggressive purposes on Cyprus, in contravention of our law.

We believe the linkage you have established between the supply of arms to Turkey and a solution on Cyprus is basic to the principled conduct of American foreign policy which you have urged both before and since assuming office. We understand that for tactical reasons you have chosen not to stress this linkage publicly, but we recall, and have reposed confidence in, your direct assurance at our White House meeting with you that a linkage does indeed exist.

In light of our shared objectives, we feel we must bring to your attention our deep concern over what seems to be a pattern of action on the part of members of your Administration in the handling of the Cyprus question. These actions threaten to undermine the principles to which you have committed your Administration. Furthermore, as a practical matter, these actions make it far more difficult to achieve a just settlement on Cyprus.

We trust that the brief summary that follows of some of those actions will enable you to understand better the basis for our apprehension.

The Administration's first arms request for Turkey, submitted by the State Department last March, sought a level of military assistance many times the level supplied by the previous Administration. This request, you will recall, engendered strong opposition and was ultimately reduced substantially. Nevertheless, Turkey received a 40 percent increased in military sales (from $125 to $175 million) although it had taken no positive action on Cyprus. The hope that this significant increase would serve as an inducement to such positive action on the part of Turkey proved empty.

The Department of Defense has used the NATO Maintenance and Supply Agency (NAMSA), located in Luxembourg, to supply Turkey with weapons beyond the restrictions in American law limiting the amount of military sales. Such circumvention of the military sales limitation makes a mockery of joint Executive-Congressional actions and undermines pressure on Turkey for a Cyprus settlement.

The United States Ambassador to Turkey recently declared in a news interview in Ankara that "the embargo doesn't serve any American interest," that "without changing the law [which prohibits United States arms to aggressor countries] I would like to find some way around it," and that "my only hope is that sanity will prevail and it [the embargo] will be removed." High-ranking U.S. military officers have made similar statements in the past year and have thereby encouraged Turkish intransigence with regard to a just settlement on Cyprus. Obviously, the arms limitation cannot be effective when the Turkish government hears high American officials publicly contradict your own position on this matter.

In an effort to avoid offending Turkey, the United States Mission to the United Nations voted with a very small minority last fall to weaken a General Assembly resolution which called for action on Cyprus. Moreover, the State Department recently submitted a report on human rights in Cyprus which was an unfair and inacurrate report of the tragic events on that island.

The State Department's proposed military aid request for the next fiscal year reduces aid to Greece while maintaining the aid level for Turkey and thereby suggests a basic shift in Administration policy. Repeated press reports that Administration officials are preparing to urge Congress to approve the four year, $1 billion Turkish defense agreement without regard to a resolution of the Cyprus question only heighten our concern.

Our restrained comment in the face of each of these developments has largely been due to the assurances we have received, from you and your representatives, that this Administration is committed to pursuing the policy of linkage. We have, therefore, publicly affirmed the Administration's good faith and urged that you and the Secretary of State be given the time to implement this policy.

Today, we are deeply concerned that actions like those set out above may be placing the Administration on a different path whereby Congress will be asked to approve the Turkish DCA without a just settlement on Cyprus or whereby other approaches will be employed to break the linkage you have expressed to us. Such a changed course would have the most grave consequences for the integrity and principled conduct of our foreign policy and the achievement of a just solution on Cyprus. To reestablish the arms relationship with Turkey without a redress of the aggression on Cyprus would demean the rule of law, contradict your strong commitment to human rights and weaken your call for proper controls on U.S. arms exports. Such action would also erode support for democratic, pro-Western governments in Greece and Cyprus and make virtually impossible the achievement of normal relationships in the eastern Mediterranean.

In this crucial period, citizens in this country and throughout the world look to you, Mr. President, for principled leadership to bring justice and peace to Cyprus and to the eastern Mediterranean.

We stand ready to assist in this endeavor and would welcome the opportunity to discuss this matter with you at a time convenient to you.

Respectfully,

THOMAS F. EAGLETON,
*United States Senate.*
PAUL S. SARBANES,
*United States Senate.*
JOHN BRADEMAS,
*Member of Congress.*
BENJAMIN S. ROSENTHAL,
*Member of Congress.*

Mr. SARBANES. Mr. President, this administration has taken a number of actions which have really undermined the embargo.

In other words, we have sent signals to the Turks that if they just hold on, there is a good chance the embargo will be lifted without forthcoming action on Cyprus to redress the aggression, and that is the issue involved here.

The amendment presented by the chairman and the substitute, which has been talked about, both involve the same fundamental principle, and that is the question of lifting the embargo.

Now, the administration undercut it in a number of ways. Despite its statements of support, controlling U.S. arms sales abroad, it has attempted to significantly increase the amount of military aid going to Turkey. Despite its statements in the rule of law, NAMSA, a little-known agency in Luxembourg that someone called the Department of Defense boutique——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SARBANES. Will the Senator yield me 3 more minutes?

Mr. CASE. Yes; 2 minutes on the bill.

Mr. SARBANES. I thank the Senator.

It has been used to circumvent the restrictions on aid to Turkey.

Despite the administration's statements in support of human rights, it has turned a blind eye to the massive ongoing violations of human rights taking place on the island of Cyprus.

Despite its statements in support of the embargo, leading officials of the administration have declared their opposition to the embargo. In January of this year, when the administration was committed to a policy in support of the embargo, the American Ambassador to Turkey declared in a news interview that the embargo does not serve any American interest and without changing the law he would like to find some way around it.

Obviously, arms limitations cannot be effective when the Turkish Government hears high American officials publicly contradict our Government's own position on the matter.

The contention that the embargo be lifted because it has not worked stands logic on its head.

The embargo has not worked because the administration has been unwilling or unable to make it work. So, pragmatically, it has not been used to work; and if it is lifted, it will constitute a condoning by the United States of the aggression which took place, because it comes in the context of being lifted without a single concrete action to remedy or to rectify that aggression, with all the fruits of the aggression continuing to be realized by the aggressor.

We should not let our country be placed in the position of condoning the aggression which occurred on the Island of Cyprus. We should not lift this embargo.

I urge the Members of the Senate to vote against the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. I suggest we vote on the amendment.

The PRESIDING OFFICER. Are the 3 minutes remaining on the amendment yielded back?

Mr. CASE. I yield back my time.

Mr. SPARKMAN. I understand I have 1 minute. I yield it to the majority leader.

UP AMENDMENT NO. 1492

(Purpose: To provide for a policy concerning Cyprus, Greece, and Turkey)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. McGOVERN, Mr. BENTSEN, and Mr. CHAFEE, I now send to the desk an amendment to the amendment by Mr. SPARKMAN and ask that it be stated.

The PRESIDING OFFICER. All time having been yielded back, the amendment is in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and others, proposes an unprinted amendment numbered 1492.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the language proposed to be inserted by the Senator from Alabama (Mr. SPARKMAN) (UP-1491), insert the following:

"(b) The Foreign Assistance Act of 1961 is amended by inserting, after section 620B, the following new section:

'Sec. 620C. U.S. Policy and Procedure Regarding Cyprus, Greece and Turkey.

'(a) Congress finds that

'(1) events in Cyprus in 1974, precipitated by a coup sponsored by the Greek military dictatorship and resulting in an intervention by Turkish military forces, created an international problem within the authority and responsibility of the United Nations;

'(2) given the presence in Cyprus of a United Nations peacekeeping force mandated to prevent further inter-communal violence, and given the inter-communal negotiating process established under the aegis of the United Nations Secretary General, the continuing presence of a major Turkish force is inconsistent with the legitimate status of Cyprus as a sovereign republic;

'(3) United States policy respecting this problem should continue to accord high priority to supporting the implementation of United Nations resolutions regarding Cyprus and United Nations efforts to restore full Cypriot sovereignty through the negotiation of a just settlement;

'(4) U.S. limitations on arms transfers to Turkey enacted in 1975 represented a strong American desire to support such efforts and to affirm basic U.S. foreign assistance statutes;

'(5) although events in Cyprus have caused bitterness among the people of Cyprus, Turkey, and Greece, the United States continues to have a strong interest in maintaining stable and sound relations with each of these nations;

'(6) the maintenance of such positive relations will inevitably depend on the achievement of a just solution on Cyprus.

'(b) Regarding such solution, Congress finds that—

'(1) the guidelines for inter-communal talks agreed to in Nicosia in February 1977—setting forth the common goal of an independent, sovereign, nonaligned, bicommunal Federal Republic of Cyprus—continue to provide a sound basis for the negotiation of a just settlement in that nation;

'(2) serious negotiations, under United Nations auspices, will be necessary to achieve detailed agreement on, and implementation of, constitutional and territorial terms within such guidelines;

'(3) the United States should actively support efforts to achieve such a just solution, providing full protection for the human rights of all Cypriots.

'(c) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

'(1) the United States shall actively support the resolution of differences through internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force;

'(2) United States arms transfers to Greece and Turkey shall be made solely for defensive purposes and to sustain their strength as North Atlantic Treaty Organization allies, shall be designed to insure that the present balance of military strength among countries in the region is preserved, and shall not signify a lessening of the United States commitment to a just solution on Cyprus;

'(3) the achievement of such a solution shall remain a central concern of United States policy in the region; and

'(4) because future United States relations with the nations concerned must be shaped according to progress toward such a solution, the President and Congress shall continually review such progress and shall determine United States policy in the region, including United States economic and military assistance, accordingly.

'(d) To facilitate such review, the President shall, within 60 days after the enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

'(e) Upon enactment of this Act, the President shall, with any request for funds for military or economic assistance under this Act, or credits or guaranties under the Arms Export Control Act, for countries named in this section, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification (with a full explanation thereof) that the goals set forth in this section have been substantially achieved or that such assistance would contribute to their achievement. Such ceritfication shall also accompany any notification of anticipated arms sales to such countries submitted for Congressional consideration under the provisions of section 36(b) of the Arms Export Control Act.'

(C) Notwithstanding section 26 of this Act, subsections (a) and (b) of this section shall take effect upon the date of its enactment.

(D) On page 26, line 20, strike out $674,-300,000 and insert in lieu thereof $677,800,-000; and on line 23, strike out $2,085,200,000 and insert in lieu thereof $2,120,200,000."

Mr. ROBERT C. BYRD. Mr. President, I have 15 minutes.

The PRESIDING OFFICER. There are 15 minutes to a side on this amendment. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I designate 5 minutes to Mr. BENTSEN, 5 minutes to Mr. CHAFEE, and 5 minutes to Mr. McGOVERN, of the 15 minutes under my control.

The PRESIDING OFFICER. The Senator from Texas (Mr. BENTSEN) is recognized for 5 minutes.

Mr. BENTSEN. Mr. President, the arms embargo against Turkey is now 3½ years old. It has not worked and there is no good reason to suppose that it will work as intended in the future.

If that were not bad enough, the embargo has been counterproductive for the United States, for Cyprus, for Greece, and for Turkey.

We have been told by some that because an offer was made on Varosha, we should not do anything about the embargo now; let us delay it; let us wait and see how that works out. But the offer was made on Varosha because the parties know we are debating this issue today; because they know we are about to vote on it.

At first, the Turkish proposal was rejected out of hand by the Greek Cypriots. As of today, we are told they are making a counter offer.

We have decided, very wisely, that we would set aside the 1976 compact; that we would not go on with that; that we would not make a 4-year com-

mitment; that we would do it year by year, as we reevaluated what kind of progress was being made on Cyprus.

This amendment was carefully structured to accomplish that objective.

If we look back over the last 3½ years, what have we accomplished with the embargo? We have poisoned bilateral relations with Turkey. A key NATO ally.

We have sacrificed access to important intelligence installations located on Turkish territory.

We have created real doubts in Turkey about our reliability as a friend and about our commitment to the NATO alliance.

We have hastened the deterioration of Turkish military capability and inhibited our ability to redress the situation.

We have seen a deterioration of our security position in the eastern Mediterranean.

We have frozen the situation on Cyprus by demanding that the Turks knuckle under to our pressure.

Mr. President, we have done a lot of things for a lot of nations around the world. I think we should take an international outlook and we should help other nations. But we also must remember the best interests of our own country; and our interests lie in the direction of the strongest possible NATO alliance; the strongest possible position in the eastern Mediterranean; and the strongest possible friendship with two very important allies—Greece and Turkey.

Before this amendment, Greece was scheduled to get $140 million in foreign military sales credits. We have raised that now to $175 million, to try to be evenhanded.

When you talk about someone being forthcoming, that applies to both sides. The Greek Cypriots made an offer, a geographic offer, but they were talking about 18 percent to 20 percent of the territory for the Turkish population.

However, we have to remember this: Prior to 1974, the Turkish Cypriots alleged they had 32 percent of the area, because they are essentially farmers, and this was the territory they were occupying at that time. The Turks have made an offer to negotiate in six specific areas with respect to the territory they would be giving up.

Continuation of the arms embargo will make it impossible to repair our bilateral relations with Turkey. It will make it far more difficult for us to work with our allies and help Turkey plan for the future.

Continuation of the embargo could well drive Turkey away from the alliance, with all that would entail for our own security position. It will almost certainly result in the irrevocable loss of intelligence installations on Turkish territory.

Our national interests also lie in the direction of a Cyprus settlement. There is no doubt on this score. The only question—the real question we have been debating today—is whether the embargo helps or hinders progress toward a settlement on Cyprus.

Even proponents of the embargo are hard pressed to suggest that it has worked as intended. Obviously, it has not. They contend, instead, that the embargo has failed because it has not been rigidly enforced. And they suggest more of the same. We could go all the way. We could cut off diplomatic relations with Turkey; we could force them out of NATO. But that does not make sense. They continue to insist on prolonged punishment under rule of law despite the fact that from all available evidence such punishment condemns the people of Cyprus to stalemate and tragedy.

The notion that the arms embargo will be an incentive for Turkish concessions on Cyprus has been thoroughly discredited. We have seen that the very existence of the embargo serves as a barrier to negotiations. I, for one, thought it would do otherwise, and previously supported the embargo. But there are many who have changed their minds through the 3½ years, as they have seen that the embargo will not work. The embargo is a roadblock on the path of peace. It must be removed.

The President of the United States wants the embargo lifted. He has described this as the most important foreign policy issue pending before the Congress, and he is correct. Our NATO allies, with the sole exception of Greece, want it lifted, and they are correct. Six former NATO commanders want it lifted, and they are correct. Over 80 major newspapers in this country have called for lifting the embargo because they have seen that the policy is totally ineffective and contrary to our best interests.

Mr. President, there is no shame in standing up and saying, "here is a policy that seemed right in 1974. We have made our point, but the policy hasn't worked the way we intended. It has outlived its usefulness. It is time to try another approach."

Eliminating the embargo will not open the floodgates of military assistance to Turkey. It does not bind us to a multiyear commitment of the sort envisioned in the defense cooperation agreement. The Turks know we are going to be watching their reaction.

The purpose of lifting the embargo is to remove an obstacle to negotiations on Cyprus and to shore up our security situation in the region.

We can provide no firm guarantee that this new policy will succeed, but we can attest that the old policy—the embargo—has failed. To continue it would be an admission of intellectual bankruptcy.

Lifting the embargo is an overdue initiative that serves our own interests, the strength of the NATO alliance, and the cause of peace on Cyprus.

Mr. President, I urge the adoption of this amendment.

The PRESIDING OFFICER. The Senator from South Dakota (Mr. McGOVERN) is recognized for 5 minutes.

Mr. HELMS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. I yield.

Mr. HELMS. Mr. President, I ask unanimous consent that John Carbaugh and James P. Lucier, of my staff, have the privilege of the floor during the discussion of this measure and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, the first point I would like Senators to keep in mind before they vote on this amendment is that we really have been using a misnomer when we talk about an embargo against Turkey. There is no embargo in the real sense of the word. What there is is a stigma against Turkey, but they are permitted, regardless of how we vote here this afternoon, $175 million in foreign military sales credit.

So the issue of arms to Turkey is sort of phony. The arms are flowing to Turkey, without regard to how Members of the Senate vote on this so-called embargo today.

What we have had for the last 2 or 3 years are two policies that are neutralizing each other, so that we end up without any clear and meaningful policy at all with regard to these issues that separate Greece, Turkey, and Cyprus.

We have had an administration policy that supports the sale, under military credits, of some $175 million to Turkey.

We have had a congressional policy that says it is an embargo but which permits those arms sales to go forward.

And the result is simply an insult to Turkey that has produced nothing but a stalemate on the question that we should be looking at, and that is the question of how we can best encourage negotiations of the issue of Cyprus.

I have heard Senators who have taken the same position that I have in the past, that the so-called embargo might encourage that negotiating process, argue here in the Chamber that we have not had any progress on negotiations and, therefore, we should continue the policy.

It seems to me just the opposite conclusion should be drawn, that we have been pursuing a course that has produced very little in the way of negotiating success on Cyprus and how that leads us to the conclusion that we should continue that ineffective policy in the future escapes me.

I think that those Senators who have argued the intransigence of the Turks over the last 2 or 3 years are simply making the case for those of us who argue that maybe we should experiment with a different more practical and feasible course.

To whatever extent we have had intransigence on the part of the negotiating parties, the argument should be made that a change in American policy is in order.

What is proposed by the amendment now before us is that instead of two contradictory policies that neutralize each other we have one policy in which Congress and the President agree on a statement of principles and procedures that is going to govern our actions henceforth with regard to Turkey, Greece, and Cyprus, and that that policy should be pointed in the direction of results rather than rhetoric on the question of Cyprus.

Just a matter of information, having

conceded the fact that there has been too much intransigence on the part of all sides on this issue for those who are looking for some sign that there could be flexibility on the part of Turkey if we lifted the so-called embargo, I point to the fact that the Turkish Cypriot leader for the first time in recent days has offered the return of some 35,000 Greek Cypriots to the city of Verosha under United Nations supervision. That is the first time that kind of concession has been made, and the Turkish Cypriots have said that will be possible as soon as the intercommunal negotiations take place. He also said that once negotiations get underway the Nicosia airport could be opened to commercial traffic and for whatever it is worth the troop occupation on Cyprus which at one time stood at some 45,000 men is now down to about 25,000.

So there have been some indications that a little more flexibility on our part might encourage a greater degree of flexibility on the part of the Turks.

I just wish to add this final——

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. CHAFEE and Mr. EAGLETON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. Mr. President, it seems to me that much of the discussion on this subject by the opponents of the amendment is directed toward seeing that there is sufficient punishment for Turkey rather than achieving the objective which is a peaceful settlement in Cyprus. It does not seem to me to do any good to wrap one's self in the terms of principle when we are not achieving the goals that are being sought. It is like the ticket holder on the Titanic who bought passage from London to New York and on a matter of principle he is not going to get off until he gets delivered to New York. And that is the situation we are in.

This is absolutely poisoning the relationship of the United States with its ally Turkey and, as a matter of fact, is producing nothing toward assisting the settlement in the area on the island of Cyprus.

So it seems to me in our best interests of settling that matter let us try something different. What we are doing is not succeeding.

Second, Mr. President, I rebut those who say it does not make any difference to the U.S. interests what is taking place in Turkey, that we are not really losing anything. There has been adequate discussion as to whether NATO is suffering or not. I think that is very clear from the statements of General Hague and from every former living supreme allied commander of NATO.

They all say that the effect on NATO, on Turkey's capacity to operate in NATO has been seriously eroded.

But I wish to direct my remarks to the interests of the United States not solely in NATO but our own direct interests outside of NATO.

As Senators know, we are involved in a very difficult situation with the Soviets now that does not appear to be growing any easier. The SALT negotiations are upon us. The whole matter of verification, the whole subject of collecting adequate intelligence on the Soviets is a very pressing problem. It is very clear, Mr. President, that "the intelligence derived from U.S. bases that we had in Turkey was extensive, important, and often unique," and that is from Admiral Inman, head of the National Security Agency. And he said: "Unless the U.S. capability is restored, namely, the bases in Turkey, we will continue to lose this valuable information and U.S. ability to counter Soviet weapons systems will continue to be hampered."

Of course, the Director of Central Intelligence says the same thing: "Some of these contributions from Turkish bases were unique and not replaceable."

So, Mr. President, it seems to me not only toward settling the situation in Cyprus but more especially in the own direct interest of the United States it behooves us to vote for the lifting of this embargo so that we can restore some sort of tranquility with our relations with Turkey and indeed in our relations with Greece.

Mr. SARBANES. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. SASSER). The Senate will be in order.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I yield back whatever time I have remaining to the Senator from Alabama.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, will the Senator from New Jersey yield me 3 minutes?

Mr. CASE. I yield 4 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I rise to speak in opposition to the Byrd-McGovern substitute.

Mr. President, at first blush this is sort of an intriguing little gem, but it does not wear very well on second blush.

The first impression is, well, this is some kind of a halfway compromise. We are really not lifting the embargo, and then again we really are, and we are going to sort of tell Turkey we are going to be looking at them, so on and so forth.

The truth is, Mr. President, stripped of all its coquetry and pious words, the Byrd-McGovern substitute is, pure and simple, a lifting of the embargo. I must disagree with the observations made with respect to the embargo by one of the amendment's principal sponsors, Senator MCGOVERN. He stated that this embargo, or limitation on sales of arms, was an insult to Turkey and that he was going to shed deep tears for this great insult to Turkey.

I say, Mr. President, to lift this embargo is an insult to Congress, because it is Congress that imposed the restrictions on the transfer of arms to Turkey. It is Congress, by the Foreign Military Sales Act, and other legislation, that stipulated that arms that we ship to allies are not to be used for aggressive acts against their neighbors.

It is not only Congress that is insulted, but the Presidency of the United States is insulted because it was President Johnson in 1964, when he sent George Ball to Turkey, and President Johnson again in 1967 when he sent Cyrus Vance to specifically warn the Turks, who were in both of those instances contemplating an invasion of Cyprus, that if they did so with American equipment they would be foreclosed from further arms from the United States.

Turkey was never surprised, Mr. President, when this embargo was imposed. The only thing which surprised them was that it took so long to do it, that it was not until February of 1975 that we finally did it, because they had been warned by Ball, by Vance, indeed by Sisco himself in 1974 when, despite Sisco's warnings and despite his objections, the Turks went ahead with the August invasion in 1974.

So if any insult is to be gleaned from this debate today, if we lift this embargo, then the insult, Mr. President, is heaped upon ourselves, not upon the country of Turkey.

I am a little curious about all of these recent acts of great magnanimity by Mr. Denktash. We learned just a couple of days ago that he was going to say something with respect to Varosha, sometimes called New Famagusta. What did he say? He really did not say anything, Mr. President. He said he was "prepared to discuss" Varosha with the Greek Cypriots. Those are the words from his communique. Is that not marvelous? After 4 long years with New Famagusta under Turkish occupation, Denktash is "prepared to discuss" New Famagusta. I say that is not much concession at all. In fact, I say one has to question its timing just a few days before this debate.

Then it is pointed out, "Well, you know, at one time there were over 40,000 troops on Cyprus, and you know what great progress they are making there now. Why, they have drawn it down to 25,000 troops." Well, goodie goodie. They still occupy close to 40 percent of the island, and 25,000 troops on Cyprus are are equivalent of having about 500,000 troops stationed in Washington, D.C. Twenty-five thousand foreign troops on Cyprus constitutes a massive military occupation.

Turkey has not budged one bit, and we are now being asked to budge, to eat the restrictions in our laws, to tear up the bilateral agreements into which Turkey freely entered, and to go back on what we have done in this Congress in saying that we believe that the rule of law and the principle of law are very important to sustain.

Bear in mind that if we lift this embargo we are saying to all other countries in the world that buy our weapons that hereafter bilateral agreements with the United States and existing U.S. law do not apply. We are saying to the Shah of Iran, who buys a lot of U.S. weapons, and wants a lot more—specifically, the Shah wants a lot of F–14's right now—"Shah, use them any way you want. Use them in any endeavor that you may de-

sire because any restrictions that we have on our arms transfer were repealed when we told Turkey to go on her merry way with respect to Cyprus." The same message could be received by Saudi Arabia which has just purchased 60 F–15's from us. Are we not, by acting to repeal the Turkish arms embargo, saying to all current and prospective arms purchasers, "Take your pick without fear of restriction."

There is a lot involved in this debate, Mr. President, and I hope my colleagues will bear some of these points in mind.

Mr. CASE. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from New Jersey.

I rise in support of his proposition and that of my friend, the Senator from Missouri (Mr. EAGLETON) to emphasize two points, which, in effect, have been made by Senators who do not share our view, but who nevertheless evidently share our information.

The distinguished Senator from South Dakota said that it is a misnomer when we speak of an embargo. He said, and I quote, "Arms are flowing to Turkey."

If that is the case, then what is the urgency of the administration's request for us formally to renounce the principles upon which those arms were provided in the first place?

It is a simple fact that it is precisely our willingness to incur a strategic cost as the price of principle which defines the unique character of American foreign policy. In any given age, Mr. President, there are two, at most three, nations in the world which can presume to define their foreign policy in moral terms—because they have choices. It is the capacity to make choices that is the capacity to make a moral choice.

We are not ruled by necessity, but rather by principle, and the principle we lay down—that American arms are to be used for self-defense only—is what is at issue in this debate.

I would remind the administration of what the Senator from Missouri, in effect, alluded to. We were told the F–15's sold to Saudi Arabia could be used only in self-defense. Will the Saudis conclude we really mean that if they observe a willingness to ignore the same principle in the Turkish instance? Let us consider the larger implications of not taking our own principles, our own declarations of policy, with sufficient seriousness.

This is a moral Nation. We have held the support of the American people for a policy braced upon moral principle. This is the fact we face in this vote today.

I thank the Chair.

Mr. CASE. I yield the remainder of the time to the Senator from Maryland (Mr. SARBANES).

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CASE. Mr. President, I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, it would seem to me that if the administration argues in favor of lifting this embargo against Turkey, why should we not lift the embargo against Rhodesia? Even though circumstances are different, the basic concept is the same. How can the administration argue, on the one hand, with reference to Rhodesia, that by maintaining a total embargo, economic and military, we are neutral, but somehow we are biased and imperiling peace and security by not lifting the embargo insofar as Turkey is concerned?

It would seem to this Senator, as pointed out by others on the floor, by the distinguished Senator from Missouri, that there are 25,000 Turkish troops there, and that one way to make certain that we do address that would be to defeat the so-called Byrd-McGovern amendment, and then the Senator from Kansas would be prepared to offer an amendment which would say, in effect, that we would permit the resumption of sales to Turkey when "the armed occupation forces of Turkey are removed from Cyprus." That would be a step in the right direction.

It would seem to me that the amendment, the perfecting amendment, the so-called compromise, does little to move the parties closer together towards peace or successful negotiations with reference to Cyprus.

So I would hope we could vote down the Byrd-McGovern compromise and then take up an amendment that would have, I think, some merit. It would, in effect, say to the Turks, "If you are sincere you can demonstrate that by withdrawal of troops and then we can resume U.S. arms sales."

I yield back the remainder of my time.

Mr. CASE. Mr. President, I yield the remainder of the time to the Senator from Maryland (Mr. SARBANES).

Mr. SARBANES. How much time do we have?

The PRESIDING OFFICER. Five minutes are remaining.

Mr. SARBANES. I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief. I just wish to reemphasize a point eloquently made by the Senator from New York (Mr. MOYNIHAN). It is a point that has troubled me, as I mentioned earlier this afternoon, very, very much.

A few weeks ago the Senate voted to allow substantial arms sales to the Middle East. I voted with the majority in that case. But we voted for it on the basis that the United States would continue control over those arms, that any time we could embargo their use if they were used contrary to the agreement with the United States.

Mr. President, we cannot stand here today and set a precedent which says that is a most flexible embargo. We cannot say that we are being honest in the Middle East if we are also lifting this embargo on Turkey.

Mr. President, I yield back to the Senator from Maryland.

Mr. SARBANES. I yield 2 minutes to the Senator from Rhode Island (Mr. PELL) who has been such a very articulate spokesman on this issue.

Mr. PELL. I thank my colleague.

We really have four points to remember here. First and foremost in importance is that we allege we are a Nation governed by law, the rule of law. We seek to remedy mistakes we have made in the past, be they with the Indians or anybody else, always referring to law.

Here is a clear violation of the law that it is proposed should be condoned, apparently because it has been continued. It is as if an offender in the lower court said, "Well, I have done it for 4 years, let me do it for the next 14, or the next 20."

The second point is human rights. We are very concerned about human rights in the Soviet Union. We have been through a great deal of discussion about them. We have condemned them, and properly so.

We are concerned about human rights in right-wing countries, too, be they Brazil, Argentina, or Korea. But are we not concerned about human rights also in Cyprus and the fact that there the Turks are being condemned for their abuse of human rights?

The third point is the question of settlement in Cyprus. The last time there was a modification of the embargo, the point of the administration at that time—I do not recall if it was this one or the previous one—was that if they had the modification then there would be movement on the part of the Turks.

What did that movement mean? Nothing, until very recently, when because of this debate, the Turks have offered to give up occupying 40 percent of the land and occupy only 39 percent.

Fourth, and I think most important, is the effect on Greece. If we go ahead with this, we fill find that Greece will move down from its present course of skepticism of America to outright hostility. She may well pull out of NATO and, while we wring our hands as to what would happen if Turkey pulled out of NATO, let us think of what would happen if Greece did, too.

Finally, I would ask my colleagues who may have any doubts on this vote to go to the northern section of Cyprus, as I have done, and see the Turkish soldiers there, enforcing their occupation by the use of American arms, in clear violation of their agreement with us.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. SARBANES. Mr. President, the vote we are about to take, which involves the limited embargo on arms to Turkey which has been in effect since the Turkish aggression, or since the summer of 1975, is a matter of great importance to our interests as a Nation. Members ought not to delude themselves into thinking that a lifting of the embargo can be done without, in effect, condoning that aggression and undercutting very important American commitments and principles as a Nation. The Senator from New York discussed this point very cogently. It really goes to what kind of a country we are, and how we function as a Nation.

The fact is that we have a choice, and the ability to make a moral choice. No one is being stiff necked in this situa-

tion. There have been repeated efforts to come to an accommodation. Some arms have gone through.

But there has not been one relinquishment of the fruits of the aggression committed on the Island of Cyprus—an aggression that took place when the parties were in peace talks in Geneva, when the United Nations had assumed jurisdiction over the island, when a cease-fire had been negotiated, when the military junta had collapsed in Greece and democracy had been restored. It was in that context that this aggression took place, and American law is very clear. That law ought not today to be written off the books of this Nation, with all the foreign policy connotations that will carry with it. We ought to continue to stand for the principles involved in this law, which form the basis of a decent and coherent foreign policy.

The PRESIDING OFFICER. The Senator's time has expired.

● Mr. MATHIAS. Mr. President, we are faced today with the question of whether or not the U.S. arms embargo on Turkey should be lifted. This is one of those very difficult foreign policy issues which lends itself to persuasive arguments on both sides. Moreover, it is widely perceived as a question which requires us to choose between two valued allies—Greece and Turkey. This perception is both untrue and unfortunate.

None can deny the human tragedy which has resulted from the longstanding conflict between Greeks and Turks. It continues today in the Aegean and on Cyprus. I was a member of the U.S. delegation to President Markarios' funeral last year and witnessed firsthand the misery which war between these two peoples has brought.

This misery is a direct result of actions taken by all the participants in the dilemma. The immediate blame for events in July 1974 must be shared by those Greeks and Greek Cypriots who instigated the coup against President Makarios and in favor of enosis or union between Cyprus and Greece. This coup attempt had the support of the then Government of Greece. It put at risk both Greek and Turkish Cypriots. The blame must also be shared by Turkey, which, in responding under the 1960 Treaty of Guarantee to the Greek-instigated challenge, could not curb its military actions once the restraints of peace were withdrawn.

Our judgment on this issue, however, cannot be based on the past. It must be based on a perception of American as well as of Greek or Turkish interests. Plato put it very wisely: "There can be no affinity nearer than our country." We must now demonstrate that affinity in our actions.

What then is the interest of the United States? Clearly, a primary American interest, especially when the climate of United States-Soviet relations appears to be deteriorating, is the strength of NATO's southern flank. Napoleon Bonaparte said almost two centuries ago, "Essentially the great question remains: who will hold Constantinople?" That question remains valid today.

Turkey, a member of NATO and an ally of the United States, controls Istanbul and the exit from the Black Sea. We need a strong friend on the Dardanelles. At the same time, Greece, through its northern border, prevents access by the Warsaw Pact to the Aegean. We must maintain firm ties with this cradle of Western democracy.

Ultimately, NATO's strength in this area depends on Greek-Turkish cooperation. The distinguished Greek Defense Minister, Evangelos Averoff, was certainly right when he observed that NATO is measurably stronger when both Greece and Turkey are active and cooperating members. Together, they tie down approximately 26 Warshaw Pact divisions. Secretary of Defense Harold Brown pointed out in his testimony before the Senate Armed Services Committee in July that—

> Without Greek participation in NATO, Turkey would be physically isolated from its nearest NATO ally by 700 miles.

Similarly, Brown emphasized:

> Without Turkey in NATO, Greece would stand exposed practically on all sides.

Unfortunately, the southern flank of NATO is in disarray. Greece withdrew from the NATO integrated military command structure in 1974. Turkey remains in NATO, but its forces are greatly weakened by the effects of our embargo. Moreover, the United States is denied certain base facilities in Turkey which are of considerable importance to us. We risk losing these facilities permanently. As a member of the Senate Intelligence Committee, I have some real appreciation for what their loss could mean for U.S. national security.

I do not believe that we can deal productively with any of our allies through pressure of the sort embodied in this arms embargo. No one's interest is served by our forcing Turkey to seek alternatives to its American connection. Five former Supreme Allied Commanders of NATO wrote to me recently expressing their fear that—

> Should Turkey, as a result of the embargo, turn away from this country and reduce or terminate its commitment to NATO, the whole of Southeastern Europe and the Middle East would become more vulnerable to Soviet military pressure.

I share their fear. Not only NATO's security, but Greece's as well, would be undermined.

Essentially, we have three choices. We can intensify the embargo on Turkey, removing the exceptions permitted in recent years. I cannot believe that this would be a very productive exercise. Second, we can continue as is—refusing to lift the embargo completely. This, I believe would simply mean continuing a policy which all agree has not worked. We made our point by imposing it. It has not resulted in the actions the proponents of its continuation have sought. The third option, the one I favor, is to work constructively with our allies Greece and Turkey toward a settlement of their outstanding differences. This can only be done in the absence of the threat to Turkey implicit in our continuation of the embargo.

We must, therefore, restore a healthier climate to our relationships and this requires that we lift the embargo on Turkey. At the same time, we must make completely clear that this is a positive action intended to help NATO, not an anti-Greek or anti-Cypriot move. I believe that the amendment initiated by Senators BYRD, MCGOVERN, CHAFEE, and BENTSEN underlines the commitment of Congress to vigorously support a settlement of Cypriot and Aegean issues. Clearly, all the parties to the conflict must be far more forthcoming. I am hopeful that direct negotiations will result in progress. Both Greek and Turkish Cypriots have made some preliminary proposals which must be pursued. If all concerned can be made to realize the community of their interests, a settlement of differences is possible. Such a settlement is a pressing U.S. interest as well as in the interests of Greece, Turkey, and Cyprus.

I submit for the RECORD the text of the letter I received from the five former supreme allied commanders of NATO.

The letter follows:

WASHINGTON, D.C., *June 1, 1978.*

Hon. CHARLES MCC. MATHIAS, JR.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MATHIAS: As former Supreme Allied Commanders of the North Atlantic Alliance, we are deeply concerned by the damaging consequences of the U.S. arms embargo on Turkey for United States and NATO security. We view with alarm the deterioration in NATO's southern flank caused by the sharp decline in Turkish military capabilities and the increasing alienation of Turkey from the United States. Should Turkey, as a result of the embargo, turn away from this country and reduce or terminate its commitment to NATO, the whole of Southeastern Europe and the Middle East would become more vulnerable to Soviet military pressure.

Turkey is vitally important to our Western collective security in that it (1) controls the passage of Soviet war vessels from the Black Sea to the Mediterranean; (2) houses large numbers of strategically important U.S. and NATO facilities, some of which are uniquely situated for collecting intelligence on Soviet military activities; (3) provides an air defense warning critical to the operation of our Sixth Fleet in the Mediterranean; and (4) provides a major contribution of army forces to NATO. The continued adherence of Turkey to the West is particularly important to Greece. If Turkey were detached from NATO, Greece would be surrounded by neutral and Communist states and would be less able to deter or prevent Soviet political or military advances.

It is imperative, therefore, to stimulate a resolution of the differences between our two Eastern Mediterranean allies, Greece and Turkey, and to promote a just and humane Cyprus settlement in a way that does not undermine U.S. and NATO security. Our need for our Western defensive alliance is now greater than ever in light of the ominous Soviet military build-up in Europe of recent years. We, therefore, strongly support the lifting of the embargo on arms for Turkey.

Sincerely,

ANDREW J. GOODPASTER,
LYMAN L. LEMNITZER,
ALFRED M. GRUENTHER,
LAURIS NORSTAD,
MATTHEW B. RIDGWAY.●

● Mr. GLENN. Mr. President, the emergency of Cyprus as a sovereign state in 1960 was but one of many indicators of the end of the colonial period. However,

the problems and historical antagonisms which predate colonialism amongst the Greek and Turkish communities on that island have continued unabated. The artificial institutions established under the treaty of guarantee—1959—have been unable to withstand those strains and violent conflicts have erupted in 1963, 1967, and the summer of 1974. These crises have raised profound difficulties for the United States because of the involvement of NATO allies and have damaged American bilateral relations with each nation.

In November of 1974, Congress passed an arms embargo which was to take effect in 90 days if negotiations were not successful. We remain today at essentially the same point we found ourselves at during that year. Little has changed in the Aegean since the second Turkish invasion of Cyprus in August 1974. Turkey, initially invaded only after Archbishop Makarios' legal government was overthrown by Greek Cypriot forces favoring enosis—union—with the Greek military regime. Such a development was seen as a serious threat by Turkey. The invasion, the emergence of a more moderate Greek Cypriot leader, Clerides, and the formation of Greek civilian government followed one another in rapid order. But after negotiations involving Britain, both Cypriot communities, Greece and Turkey fell apart—Turkey moved to establish control over 36 percent of the island.

It is not my intent here to debate whether the Turkish invasion was justified given earlier actions by the Greek junta, or the wisdom of the imposition of an embargo at that time. What is at question here today is the wisdom of continuing an embargo.

The legal and philosophical issues which have created an impasse in U.S. relations with Greek and Turkish allies remain unabated. Turkey refused to negotiate seriously on Cyprus so long as the embargo is in place. Bilateral relationships with both countries deteriorated. The administration has refused to proceed with a defense cooperative agreement with Turkey. There can be no denying the moral and legal truths that Turkey did invade Cyprus using U.S. arms and that this is a violation of our law.

Previous efforts to relax the embargo have not resulted in the ensuing years in a more flexible Turkish position on Cyprus.

In May 1975, the Senate voted to lift the arms embargo as a gesture toward encouraging peaceful resolution. In July 1975, the House defeated a similar measure and the Turkish Government retaliated against Turkish-American defense installations, from which we received important intelligence information regarding the Soviet Union. Then on October 3, 1975, as an ameliorating measure, Congress approved the resumption of limited commercial military sales and the release of $185 million in military sales contracted prior to the February 1975 cutoff. In fiscal year 1977, the United States provided $125 million in FMS credits. In fiscal year 1978, the United States provided $175 million. Presidential certifications noting these funds were required to fulfill NATO obligations, were received. These measures, however well intended, produced only limited change in the Turkish positions on Cyprus and joint base facilities.

The classic dilemma for American foreign policy, moralism against security interests, is nowhere more apparent today than in this issue and in the continuing debate over the role of human rights in U.S. foreign policy. Should a security relationship override these other issues? The answer to that question must be the result of careful analysis of each situation and country.

To lift the embargo solely because of a perceived need to reopen four bases for intelligence purposes, or to attain greater cohesion in NATO may obscure another point. This is quite simply that Turkey is an important ally of the United States, that Greece is an important ally of the United States, and therefore, that the role of the United States in this matter must be that of an honest broker between these two states, moving them both toward the resolution of their disputes pertaining to Cyprus and the restoring of some sort of agreed upon federated community. For it is only such a solution that will give impetus to the allieviation of other problems which confront both of our allies in the Aegean.

To act, however, solely on the basis of narrow military dictates would be simply to postpone the next crisis over Aegean oil or the next eruption on Cyprus. Such a decision would, in my opinion, be unwise and ultimately bring into play indigenous political forces harmful to our interests of peace and stability in the region.

Prime Minister Ecevit of Turkey has recently finished extensive consultations here in Washington. Yet Turkish proposals for a solution to the Cyprus problem were considered inadequate. We must frankly thank Greek President Kyprianou for avoiding a refusal to return to the conference table. That active statesmanship leaves Dr. Waldheim the United Nations free to continue to search for peace and to reconvene the stalled U.N. peace talks.

It is, after all, in everyone's interest—ours, Greeces, Turkeys, NATO's and above all, the unfortunate refugees of occupied and divided Cyprus—that a settlement be reached soon. For more than 4 years Cyprus has been divided and with every passing month the realities of occupation and zonal divisions become more intractable, more intolerable, and less amenable to change.

The Turkish proposals submitted in February 1977, envisioned the creation of a bicommunal federal republic under a central government. The Turks have proposed to surrender land to the Greeks in six regions along the cease-fire line, but this only 3 percent of the island territory. The Turks have also proposed to open the towns of Famagusta—Varosha—to its former inhabitants once the talks proceeded. It is envisioned that a federal legislature would offer equal representation to both sides and that a presidency might rotate between leaders of the two communities. The federation government would be a creature of minimal powers designed primarily, as the Turks put it, "for the purpose of maintaining common services."

Unfortunately, the flat refusal of the Greek Cypriots to use this as a starting point for discussions has hampered progressive developments. Yet, their refusal is understandable since we are once again dealing with a situation where mutual trust was long ago the victim of violence. More than 50 percent of 190,000 Greek Cypriot refugees come from areas inside the current cease-fire line. Moving that line back a few miles would allow more than 100,000 refugees to return to their homes and live within a Greek area. They understandably do not wish to live as a minority in the Turkish sector. Obviously, there is a possibility of compensating these people and resettling them in the Greek sector. But that is an expensive and perhaps ultimately unsatisfactory proposition. Moreover, given the disparities in populations, there is a reluctance to accept a genuinely federal constitution.

It seems to me, however, that only a bizonal government and constitution is an adequate and acceptable solution to the problem. Yet the current Turkish plan providing for two central banks, two assemblies, which would remain separate except in the event of a constitutional crisis, two defense forces with no joint command, and two states with the authorization to sign separate treaties with outside powers is not a formula for the establishment of a federated nation-state. It might be more properly characterized akin to our early Articles of Confederation which would have established a very weak confederation. Further, Turkish unwillingness to consider the settlement of refugees and their movement across the partition line are not encouraging. Some estimates I have seen indicate that the Turkish proposal would leave 18 percent of the population—Turkish Cypriots—in control of 35 percent of Cyprus. Obviously, the Greek Cypriots are unhappy over such proposals.

### WHY LIFT THE EMBARGO?

In the light of this intransigence the question becomes why should Congress lift the embargo? I have considered that question at great length. Frankly, the only justification for lifting the embargo is the admitted failure of past U.S. policy. It has not worked. It may be true that Turkey has not formally annexed Cyprus or allowed those who desire to do so to seek international recognition. It is true that the Turkish Government habitually and routinely tells us that the progressive "transfer to the federal republic" will occur with further negotiations and the "growth of mutual trust, cooperation and confidence." Prime Minister Ecevit and Turkish Cypriot leader Denktash repeatedly hint that more concessions will come at the negotiating table. Can we rely upon this commitment?

No one knows the answer. Is Turkey stringing us along, or is the proud nation prepared to move toward peaceful negotiations once the political yoke that it now carries has been removed? This also remains unclear, but there are encourag-

ing signs in the last fey days as Turkey has further reduced its military forces on Cyprus and have proposed that Greek Cypriots be permitted increased return to Varosha and Framaguata.

The United States is not omnipotent. We cannot dictate a solution, but only try to establish conditions which are most likely to encourage the immediate parties in the disagreement to negotiate their differences.

Thus, persuasion rather than coercion is the key to the peace table and a federated Cyprus. Turkey has endured an American arms embargo since 1974 and an almost unanimous censure from the United Nations. Yet, Turkey has not given ground on this issue. Peace and stability in the Aegean region depends upon an equitable resolution on Cyprus. Both Greece and Turkey suffer from political and economic strains, and NATO's vital southern flank is in tatters. The crucial question is whether lifting the embargo improves prospects for a just and lasting peace.

If Turkey now is to negotiate in full faith and to move toward the sort of bizonal federated community most analysts agree is necessary, she must be persuaded, not compelled, to do so. To this end I reluctantly conclude the embargo must be lifted. As the Cleveland Plain Dealer editorialized, lifting the embargo with more aid "promised after a settlement" would repair damage to NATO while maintaining pressure on Turkey.

As with so many decisions in international relations, the choices lie between varying degrees of individuality. So it is with this decision, but the hard choice is that this action appears to stand the best chance of moving the parties to the negotiating table and peaceful resolution of the tragedy that has been Cyprus.●

● Mr. SCHMITT. Mr. President, I shall vote to remove the arms embargo against Turkey as the only action which is consistent with our responsibilities to NATO, to Greece, and the free world.

The arms embargo against Turkey is an issue set against the pressures of history, of geography, of strategic and tactical defense, and of friendship.

Our historical and philosophical ties with the people and the civilization of Greece are as deep as between any two nations in the world.

Our alliances with the people of Turkey stem from the more recent but nonethe-less powerful global threats to free nations, the threats of totalitarian expansion by the Red Chinese in Korea and the Soviets in the Middle East.

Because of geography, both Turkey and Greece are strategically and tactically vital to the defense of the free allies and their suppliers of petroleum.

Because of friendship, we are obligated to help both Greece and Turkey survive the threat of Soviet expansion and the threat of their historical animosity toward each other.

The arms embargo issue must therefore be considered against an integrated view of the past, the present and the future. Of these views, the present and near future must be deemed most critical.

The present strategic and tactical situation for the forces of freedom is growing steadily worse. Let us review this situation for a moment.

The new status of "rough equality" between the strategic forces of the Soviet Union and those of the free allies of the world has emboldened the Soviets in their expansion into Africa and Asia. The Soviets know that they no longer need to back down to us as was necessary during the Cuban missile crisis in 1963.

The clear quantitative dominance of the tactical ground and air forces of the Soviet Union arrayed against NATO serves to further intimidate the domestic policies of our NATO allies. The Soviets know and we know that whatever the final outcome, Europe and the Mediterranean nations would be devastated by conflict between NATO and the Warsaw Pact with little damage to the Soviet homeland.

The new size, capability and offensive character of the Soviet naval forces and their distribution across the trade routes of the free allies has added a new strategic threat to the long-term struggle between us. An aggressive "blue water" navy is a major and historically significant departure from the traditionally defensive Soviet naval policy.

The continuing Soviet sponsored efforts to surround the oil-rich Middle East and thus control the free allies' principal source of energy, are reaching crisis proportions with the recent events in Lybia, Ethiopia, South Yemen, Afghanistan, and Turkey. In the absence of a policy to relieve the free allies' dependence on imports of energy and other strategic resources, this Soviet activity will further reduce our policy options.

Against the darkening backdrop of the strategic balance between the free allies and the Soviet Union, there is continuing difficulty between Greece and Turkey; two allies along NATO's critical southern flank and along the equally critical northern flank of the Middle East oil reserves.

Our purpose today is to decide if we can take positive steps toward resolving the difficulties between Greece and Turkey and toward rapidly strengthening the NATO and Middle Eastern position of the free allies.

Our historic ties with both countries carry great weight in this debate in spite of the conflict between them. Whatever our decision today, we must reaffirm our commitment to help these friends find the basis for friendship and accommodation between themselves.

Mr. President, as I view this total panorama of history, of geography, of strategy and tactics, and of friendship, I must conclude that on all grounds it is time to lift the arms embargo against Turkey.

There is no question that Turkey violated their agreement with us on the use of arms supplied them. For this they have rightfully been punished to the point where further punishment will do no one any good.

From a NATO perspective, Turkey has become militarily enfeebled to the point where they must look toward the possibility of accommodations with the Soviets, a circumstance that would undermine NATO, our friends in the Middle East, including Israel, the security of the Middle Eastern oil reserves and free access to the Mediterranean Sea.

Greece, as the NATO partner of Turkey, would find her political as well as her military position untenable if there was an accommodation between Turkey and the Soviets. As bad as the present Greco-Turkish confrontations on Cyprus and in the Aegean may be, it would be much worse if the Soviets became Turkey's partner, however, reluctant such a partnership might be.

The military deterioration of Turkey, and the corresponding estrangement between NATO and Turkey, has seriously threatened NATO defenses elsewhere. By maintaining an alliance with the United States and NATO, Turkey forces the Soviet Union to commit a substantial number of troops to the 1,300 mile border between them. At the present time, this involves approximately 26 Warsaw Pact divisions. Should Turkey become any less of a threat to the Soviets, either by leaving NATO or through a weakening of its military, the Warsaw Pact divisions could be deployed to other areas, particularly the Western European front.

Mr. President, continuation of the punishment of Turkey will only begin to punish ourselves and our allies throughout the world. It will almost certainly force Turkey away from us and closer to the Soviets. Any accommodation between Turkey and the Soviet Union that removed Turkey as a barrier to Soviet expansion would be disastrous.

The geographic location of Turkey has made it a strategic area throughout history. As the crossroads of Europe and Asia and controlling first the sea, land, and now, the air routes into the Middle East, the strategic value of Turkey cannot be overestimated.

Traditionally, the West thought of Turkey as the nation which controlled the Dardanelles and the Bosporus Straits. This is still important and serves to check Soviet activity throughout that part of the world. The Soviet fleet is both limited and exposed to Western intelligence as it moves between the Black Sea and the Mediterranean. In the event of heightened conflict or crisis, constriction on Soviet activity takes on even greater importance.

In today's accelerated pace of events, the air routes over and into Turkey means that Turkey plays a major role in determining the outcome of any new crisis in the Middle East and Africa. Whether the Soviet Union can or cannot overfly Turkey may determine the extent and timing of Soviet influence in a particular situation.

Turkey lies athwart of Soviet ambitions in the Middle East. The loss of Turkey to the cause of freedom would undermine the continued independence of not only Greece, but also Israel, Egypt, Iran, Saudi Arabia and other nations to whose continued free existence we are fully committed. There should be no doubt about the Soviets' strategic designs on the oil and peoples of this region.

Finally, Mr. President, we must not forget the strategic value to all free na-

tions of the intelligence gathering potential that arises from a Turkey that is firmly allied with us. The success of any future arms control agreement, however complete it may be on paper, will only be possible if Soviet compliance can be verified. Future Turkish cooperation will play an important, possibly critical, role in such verification. Since the arms embargo was imposed, such cooperation has been withheld.

Mr. President, I hope we will lift the arms embargo against Turkey. However, I also hope that we will be firm and imaginative in our search for a solution to the Cyprus question. All parties should understand our resolve in this, including the use of the U.S. 6th Fleet as a police force if necessary. The development of friendly relations between Greece and Turkey is as vital to the existence of the free allies throughout the world as is Turkey itself.●

● Mr. LAXALT. Mr. President, I am strongly opposed to lifting the partial embargo on security assistance to Turkey because I feel that we need to enforce our laws pertaining to unauthorized use of U.S. weapons if we are ever to exercise any restraining influence over the skyrocketing conventional arms race. Also, I see little point in lifting the embargo as an inducement for good behavior by the Turks on Cyprus or to encourage a more active involvement on their part in the defense of NATO's southeastern flank. Indeed, I am afraid that if we do raise this embargo, we may not only be giving the green light to any nation wishing to violate U.S. laws pertaining to use of conventional weapons systems, we may even be arming the Turks against the Greeks.

The Defense Department projects that U.S. arms sales overseas will total $13.2 billion in 1978 and increase to $13.5 billion in 1979. In the Third World alone in 1977, more than $8 billion in major arms transfers took place—three times the level of 1970, and more than four times that of 1960.

It is true that some of these figures need to be treated with a certain degree of caution. Dollar values, although credited to the year in which the order is placed, often involve very long lead times. Dollar value figures also frequently ignore currency conversion problems, varying inflation rates and credit terms, particularly when attempts are made to compare U.S. arms sales with those of other nations.

Even so, the overall figures are disturbing. During the campaign and after his election, President Carter rightly expressed serious concerns about the consequences for peace of this spiraling traffic in deadly weapons. Witness his statement on May 19, 1977:

> The virtually unrestrained spread of conventional weaponry threatens stability in every region of the world. Total arms sales in recent years have risen to over $20 billion, and the United States accounts for more than one-half of this amount. Each year, the weapons transferred are not only more numerous, but also more sophisticated and deadly. Because of the threat to world peace embodied in this spiralling arms traffic, and because of the special responsibilities we bear as the largest arms seller, I believe that the United States must take steps to restrain its arms transfers.

But now Mr. Carter is proposing to lift one of the few existing restraints on the uncontrolled transfer and use of U.S. weapons systems: the partial embargo on Turkey. I submit that this administration cannot have it both ways. It cannot simultaneously seek to restrain the conventional arms trade and lift one of the few sanctions which we have imposed against unrestricted use of those weapons.

In 1975, Secretary of State Vance made my point. As a private citizen, he told the House International Relations Committee that lifting the Turkish arms embargo—

> would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available, but would be free to use them in pursuit of its own interests in local conflicts.

As my distinguished colleague from New Jersey, Senator CASE, has noted in the Foreign Relations Committee hearings on this matter, the embargo is more symbol than substance. What is more, it has not hindered Turkey from fulfilling its NATO obligations. In theory, Congress is supposed to be punishing the Turks for using U.S.-supplied weapons in the 1974 invasions of Cyprus. In fact, through a provision of section (620)(x) of the 1961 act which allows Turkey to receive assistance for purposes of fulfilling its NATO obligations, Turkey received $125 million in FMS credits in fiscal year 1976, $125 million in 1977, and $175 million in 1978. All told, if one includes $184.9 million in FMS material trapped by the imposition of the embargo in the pipeline, and subsequently released, and the $175 million in FMS credits requested for fiscal 1979, again to fulfill NATO obligations, Turkey has received $784.9 million in security assistance since February of 1975.

The argument has been offered that concessions on the embargo will entice the Turks to be more conciliatory on Cyprus, but that simply has not happened. The initial imposition of the embargo was delayed from the end of 1974 until early 1975, in hopes of encouraging Turkish moderation. In October of 1975 the embargo was relaxed, commercial sales were allowed, and the FMS material was released to conciliate the Turks. In fiscal 1978 allowable FMS credits were raised 40 percent from $125 million to $175 million, again to entice some concession on Cyprus. Each successive step was billed as an inducement for the Turks to be conciliatory about Cyprus. But have they? Why should we expect that the administration's proposal to lift what little remains of the embargo will succeed where all of these earlier concessions have failed?

Turkey purports to be a close friend and ally of the United States, seeking only access to U.S. weapons in order to become a major obstacle to Soviet expansion into the Mediterranean and the Near East. Yet during the 1973 Mid-East war, Turkey permitted Soviet overflights and land convoys to reinforce Syria and Iraq, but refused U.S. overflights. Turkey has allowed passage of the carrier cruiser *Kiev* through the Dardanelles in 1976, despite a clear violation of the Montreaux Convention and strong protests from NATO officials. Finally, Turkey, by clear admission of Prime Minister Ecevit, sees no threat to security from the Soviet Union and thus deploys its largest corps—the First Army—not against Russia, but against Greece. To a large extent, therefore, lifting the embargo would not only signal our lack of interest in conventional arms restraint, it could also send U.S. weapons to Turkey for use against Greece.

The strategic and political importance of Greece as a NATO ally should not be underestimated as we debate the possible lifting of the embargo on Turkey. Our Sixth Fleet is dependent on bases in Greece which are not easily replaceable. Greece controls the sea lanes of the eastern Mediterranean, which if lost to the West would leave Turkey outflanked both geographically and politically. And while most of this debate has focused on likely actions by Turkey in the event the embargo is not lifted, I believe this body should also be conscious of possible repercussions in Greece if it is.

As the main Greek opposition leader, Mr. Panadreou, put it, the lifting of the arms embargo is a "direct threat to Greece's territorial integrity." He urged that if the embargo were to be lifted, Greece should immediately close all U.S. bases on its soil and put an end to all talks about returning to the military wing of NATO.

Mr. President, whether the Greek Government would actually go this far is impossible to say, and for the United States to be caught in the middle of a hot dispute between two strategically important allies is most regrettable. But if we are at all serious in our desire to restrict conventional arms transfers, and if we are firm in our resolve to keep our allies from one another's throats, then I do not see how any of us can support lifting the partial embargo on Turkey.●

● Mr. NUNN. Mr. President, I support repeal of the Turkish arms embargo. I support repeal for two reasons. First, the embargo has not worked. Second, its continuation threatens United States and NATO security interests in the eastern Mediterranean.

The original intent of the Congress in imposing the embargo on Turkey in 1975 was twofold: to punish Turkey for allergedly violating U.S. arms transfer laws, and to compel Turkey to make concessions on the Cyprus question which would lead to a settlement of the long-standing Greek-Turkish dispute over that troubled island.

Mr. President, the embargo has now been in effect for 3 years. Yet Greece and Turkey are no closer to a Cyprus settlement than they were when the embargo was enacted. Although the Turkish proposals of last April 13 represent a limited advance over the positions that the Turkish Cypriots have assumed in previous negotiating sessions, and al-

though Prime Minister Ecevit and Turkish Cypriot leader Denktash have manifested an increasing flexibility with respect to certain settlement issues, it is clear that a wide gulf continues to separate Greek and Turkish visions of a satisfactory resolution of the Cyprus question.

It is equally clear that our arms embargo against Turkey has not facilitated progress toward a settlement. On the contrary, it can be persuasively argued that the embargo has impeded a settlement because it encourages recalcitrance on both sides of the negotiating table. The Turkish Government is reluctant to make legitimate concessions for fear of domestic popular outcry that it is succumbing to illegitimate American pressure. Greek negotiators, perhaps still confident that the embargo will eventually force Turkey's hand, have little incentive to adopt a more compromising stance. Moreover, as Secretary of State Vance has testified, the embargo is "harmful to our—own—role as a potential contributor to a Cyprus settlement."

Mr. President, the ultimate test of any policy is whether it achieves its objective. As an instrument designed to achieve the objective of a satisfactory settlement of the Cyprus question, the embargo is demonstrably a failure. Indeed, recent representations by Prime Minister Ecevit suggest that Turkey's willingness to entertain more encouraging Cyprus initiatives is contingent upon the embargo's repeal.

Mr. President, I believe that the national interests of Greece, Turkey, and the United States will be served by an equitable settlement on Cyprus encompassing removal of Turkish troops remaining on that island, and the establishment of guarantees for the security and well-being of the Greek and Turkish communities on the island. I look forward to any settlement which once and for all will remove Cyprus as a festering sore in the eastern Mediterranean which for decades has sapped the political and military energies of two of our oldest and most trusted allies. I am convinced that progress toward such a settlement will be enhanced by repeal of the arms embargo which the Congress imposed on Turkey in 1975.

However, there are other reasons for repealing the embargo. The most insidious fruit of the embargo has not been the degree to which it has hindered a Cyprus settlement, but rather the extent to which it has compromised our own national security interests and those of the North Atlantic Treaty Organization.

The embargo has militarily weakened our most powerful NATO ally in the eastern Mediterranean.

The embargo has provoked that ally to suspend our right to conduct many vital military and intelligence fathering activities on her own soil, some of which cannot be conducted from any other country.

The embargo has forced that ally to contemplate removal of all U.S. forces from her territory, to seek increasingly closer ties with other nations—including the Soviet Union, and to consider the possibility of withdrawing from military participation in NATO.

The embargo has also endangered the security of Greece, since that country is indefensible against a Warsaw Pact attack on the absence of a coordinated defense with a strong, militarily resilient Turkey.

Mr. President, at a time of gathering Soviet naval might in the Mediterranean and of increasing political and military disarray along NATO's southern flank, it is inconceivable to me that the Congress could refuse to repeal an embargo which has abjectly failed to foster our interests with respect to Cyprus and which is severely jeopardizing vital Western interests in the region as a whole. As Secretary of Defense Harold Brown recently testified before the House International Relations Committee:

> Unless our security relationship with Turkey is returned to a sound footing, Turkey's sense of isolation will continue to grow, and nationalistic pressures will edge it toward a search for possible non-NATO sources to satisfy its defense requirements. Such an eventuality . . . would not be in Turkey's best interests, nor the U.S. interests, nor the interests of NATO, nor those of Greece.

Mr. President, prudence, commonsense, and loyalty to the best interests of the United States demand repeal of the embargo.●

Mr. CHILES. Mr. President, the issue before us is of critical importance to our national security interests, for its in our own best interests to do all we can to insure a strong NATO force and to get our relations with two valuable allies back on track. I have become convinced that our policy in the eastern Mediterranean over the last several years has severely weakened our defense capabilities on the southeastern flank of NATO, and, therefore, I will be voting today for a change in that policy.

I voted with a majority of my colleagues back in 1974 to impose an arms embargo against Turkey for its illegal use of U.S. arms in its invasion of Cyprus. The embargo was a legitimate response to the illegal use of our arms, and to use as a lever to try and bring about a solution to the Cyprus issue. While there has been some progress in the last 4 years, there has been no substantial movement or concessions by either side. So it seems to me that now is the time for our country to try a different approach to encourage all sides in the dispute to work out a peaceful solution.

The Byrd amendment seems to me a reasonable and effective approach in trying to maintain a strong NATO alliance, while providing inducements for substantial progress on Cyprus. The amendment makes it clear that, "the continuing presence of a major Turkish force is inconsistent with the legitimate status of Cyprus as a sovereign republic" and that the United States will continue to push for the negotiation of a just settlement on Cyprus that includes the restoration of full Cypriot sovereignty, and full protection for the human rights of all Cypriots.

The amendment sets forth certain goals for U.S. policy in the eastern Mediterranean: Opposition to the use of force in settling disputes, the allowance of arms transfers to Greece and Turkey for defensive purposes only and to strengthen our NATO forces, commitment to a just solution on Cyprus, and continuing review of progress toward that goal. To insure that these goals are carried out, the President would be required to report to the Congress every 60 days on progress made on negotiations for a solution to the Cyprus problem, and would condition any future military or economic aid to the region on a presidential certification that these goals have been achieved, or would contribute to their achievement.

So here with this amendment, the United States would be establishing concrete steps to monitor progress on Cyprus, and would provide specific enducements for all sides to reach a settlement.

The bill before us also provides considerable military assistance to Greece and Turkey. The Foreign Relations Committee has recommended $175 million in military sales credits and $50 million in security supporting assistance to Turkey. The amendment would increase the recommended $140 million in military sales credits for Greece to $175 million.

These levels are an indication of our commitment to helping to meet the military need of our allies.

We have tried the embargo. It has not worked. It has not worked on Cyprus, and its continuance would not make for a strong Turkey or a strong Greece. By adopting this amendment, by lifting the embargo and by setting out concrete steps to take on Cyprus, I am convinced that we will have adopted a policy that is fair to all, and that will strengthen our NATO alliance.

I would like to add that I have been encouraged by the progress which has been made in recent days on Cyprus. Last week I was pleased to see that Turkish Cypriot leader, Rauf Denktash, had presented a proposal for the resettlement of Greek refugees in Varosha. An interim administration would be created in that city under the care of the United Nations, and the early return of some 35,000 Greek-Cypriot residents would take place. The Turkish-Cypriots have urged that negotiations on this proposal be initiated promptly. I was further pleased to see in this morning's paper that the Greek Cypriots have agreed to further meaningful negotiations if Turkish troops are indeed withdrawn from Famagusta and the 35,000 residents are allowed to return. These developments, coupled with continuing troops withdrawals by the Turks over the last several months, are cause for hope on Cyprus.

● Mr. THURMOND. Mr. President, the compromise amendment on the Turkish arms embargo offered by the distinguished majority leader, Mr. BYRD of West Virginia, appears to be a reasonable middle ground in meeting this difficult issue.

Rather than lift the arms embargo outright, the Byrd amendment would require that any future economic as well

as military assistance to Turkey be dependent upon that aid contributing to a solution of the Cyprus problem.

Further, the President would have to submit to Congress his certification that such a solution has been achieved or that such aid would be supportive of a solution.

Mr. President, the Byrd compromise is also appealing in that the President would be further required to submit reports to Congress every 60 days on progress towards a negotiated solution of the Cyprus problem. Congress still retains the power to reimpose the embargo if no progress is made toward a settlement on Cyprus.

As a final feature, the Byrd amendment recognizes the needs of the Greek military in that an additional $35 million in foreign military sales credits are extended to the Government of Greece over and above the $140 million already in the bill.

Mr. President, I feel this approach offers the best hope of getting Turkish troops out of Cyprus. After considering all aspects of this issue very carefully, I believe this compromise is the wisest course to follow at this time.●

● Mr. HELMS. Mr. President, after listening carefully to the comprehensive debate that we have heard here this afternoon, I have, with some reluctance, decided to support the substitute amendment offered by the distinguished majority leader.

I think that all of us in the Senate understand more deeply the extent of the legitimate concerns which have passionately aroused the feelings of the people of Cyprus, Greece, and Turkey. We also understand much better the pivotal role which both Greece and Turkey play in the NATO defenses of Europe and the West.

It would be a tragedy, indeed, if the bitterness which has arisen in those three countries should make impossible negotiated settlement of the impasse; for the overall impact of this deeplying fear and animosity would be to weaken their own defenses against Soviet imperialism, as well as those of the Western allies.

What is needed in the present circumstances is a method which will allow the resupply of our NATO partner, Turkey, while at the same time allay the scarred memories of the war now festering on Cyprus. The majority leader's plan is intended to meet both these needs. It permits the President to send the arms to Turkey which are needed for NATO. At the same time, it puts a tight rein on the shipment of those arms, tied to positive improvements toward a negotiated solution to the Cyprus problem. Indeed, regardless of arms shipments, the President must transmit reports to Congress every 60 days concerning such progress. But when the shipment of arms to Turkey is anticipated, then the President must send special notification and justification to Congress, setting forth how the shipment would contribute to the achievement of peace and human rights. Moreover, such shipments will also fall under the general authority of the Arms Export Control Act, which gives either House of Congress a veto over such shipments if the Senate or the House acts within 30 days. Thus not only will the President be making detailed reports of the situation on Cyprus; the Congress too will be keeping a watchful eye, and can cut off shipments to Turkey within 30 days.

Mr. Rresident, it appears to me that this is a humane and at the same time practical solution to a knotty problem. Like all such solutions, both sides will undoubtedly be disappointed at some aspects of this arrangement; yet in the long run, this will contribute to the lessening of emotions, and work toward a stable peace. While I have voted over the past 4 years to sustain the arms embargo against Turkey, I think that the time has come at least to try this good faith attempt to seek another solution to the problem. If it does not prove successful, I will support the renewal of an embargo.●

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Alabama (Mr. SPARKMAN) yield me 30 seconds?

Mr. SPARKMAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have asked that tally sheets be distributed to all Senators. I ask that the Chair keep the well cleared, and I ask that the clerk repeat, after each name that responds, the vote of that Senator so that everyone can hear what happens.

Mr. BENTSEN. Mr. President, have the yeas and nays been ordered?

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Groner of my staff be accorded the privilege of the floor during the debate and rollcalls on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Joseph of my staff have the privilege of the floor during the remainder of the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I make the same request for Mr. Horner of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD) to the amendment of the Senator from Alabama (Mr. SPARKMAN). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—57

| | | |
|---|---|---|
| Baker | Griffin | Nelson |
| Bartlett | Hansen | Nunn |
| Bellmon | Hart | Packwood |
| Bentsen | Hatch | Pearson |
| Bumpers | Hatfield, Paul G. | Ribicoff |
| Byrd, Harry F., Jr. | Hayakawa | Sasser |
| Byrd, Robert C. | Helms | Schmitt |
| Cannon | Hodges | Schweiker |
| Chafee | Huddleston | Scott |
| Chiles | Humphrey | Sparkman |
| Church | Inouye | Stafford |
| Culver | Long | Stennis |
| Curtis | Lugar | Stevens |
| Danforth | Mathias | Thurmond |
| Ford | Matsunaga | Tower |
| Garn | McClure | Wallop |
| Glenn | McGovern | Williams |
| Goldwater | Melcher | Young |
| Gravel | Morgan | Zorinsky |

NAYS—42

| | | |
|---|---|---|
| Abourezk | Eastland | Metzenbaum |
| Allen | Haskell | Moynihan |
| Anderson | Hatfield, Mark O. | Muskie |
| Bayh | Hathaway | Pell |
| Biden | Heinz | Percy |
| Brooke | Hollings | Proxmire |
| Burdick | Jackson | Randolph |
| Case | Javits | Riegle |
| Clark | Johnston | Roth |
| Cranston | Kennedy | Sarbanes |
| DeConcini | Laxalt | Stevenson |
| Dole | Leahy | Stone |
| Domenici | Magnuson | Talmadge |
| Durkin | McIntyre | |
| Eagleton | | |

NOT VOTING—1

Weicker

So amendment No. UP 1492 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question is now on agreeing to the amendment of the Senator from Alabama as amended. The yeas and nays have not been ordered.

The amendment, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The bill is open for further amendment.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I want to say to the Members that it is the hope of the leadership that the Senate will complete action on this bill tomorrow, which means that we shall probably have to go into the evening some today and possibly even tomorrow in order to complete action. I hope that a Senator will call up an amendment at this time.

UP AMENDMENT NO. 1493

(Purpose: Technical amendments)

Mr. SPARKMAN. Mr. President, I send an amendment to the desk and ask for its consideration.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARK-

MAN) proposes unprinted amendment numbered 1493:

On page 2, line 5, of the printed bill delete the word "agent" and insert in lieu thereof the word "officer".

On page 2, lines 5 and 6, delete the words "Drug Enforcement Administration".

On page 2, line 8, add the word "such" before the word "officer".

At the end of section 3, add the following: "The provisions of this paragraph shall not apply to the activities of the U.S. Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements."

On page 3, line 3, after the word "country," add the words "and export licenses for crime control and detection equipment may not be issued to a country."

On page 3, line 14, add the words "to the appropriate committees of Congress" after the word "writing".

On page 6, line 20, add the words, "of Part I of this Act" after the words "Chapter 1".

On page 9, line 1, add the word "that" after the word "provide".

On page 9, line 5, strike the words "subsection 498B(b)(4)" and add in lieu thereof the words "this paragraph".

On page 9, line 24, on page 11, line 19 and on page 11, line 22, add the word "only" after the word "available".

On page 11, lines 18 and 21, and on page 12, line 19, add the words "to be appropriated" after the word "authorized".

Mr. SPARKMAN. Mr. President. these technical amendments correct small imperfections in the bill.

Items (1) through (4) deal with International Narcotics Control. They make the first sentence of the paragraph in section (3) consistent with current law. They also insure that U.S. military police will be able to carry out their normal drug enforcement duties overseas with regard to personnel employed by the U.S. Armed Forces.

Item (5) makes clear the intent of the committee that crime control equipment can neither be given nor sold to countries that display a consistent pattern of gross violations of internationally recognized human rights.

Items (6) through (12) are purely technical.

Item (13) retains a reporting requirement deleted from the Foreign Assistance Act by the International Development Assistance Act. The committee expects to continue to receive reports in the same form as those previously required under section 657 of the Foreign Assistance Act.

Mr. President, I move the adoption of the amendment.

The VICE PRESIDENT. Do all Senators yield back their time?

Mr. SPARKMAN. I yield back my time.

Mr. CASE. Mr. President, I yield back my time on the amendment.

The VICE PRESIDENT. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The bill is open for further amendment.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Illinois.

Mr. STEVENSON. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Robert Russell of the Banking Committee staff be granted the privilege of the floor during consideration of this bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Iowa.

Mr. CLARK. I ask unanimous consent that Bruce Van Voorst of my staff and Pauline Baker of the staff of the Senate Committee on Foreign Relations be granted the privilege of the floor during consideration of this measure.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Kalicke and Mr. Parker of my staff be accorded the privilege of the floor during the remainder of the discussion on this matter.

The ACTING PRESIDENT pro tempore (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I believe unanimous consent has already been granted for Allyn Kreps and Christie Cohagen to have the privilege of the floor. If not, I so request.

I also ask unanimous consent that Ryan Conroy have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I have no other requests for time.

The ACTING PRESIDENT pro tempore. Are there further amendments? If there be no further amendments——

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged to neither side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3264

(Purpose: To express the sense of the Senate with respect to policy changes affecting the United States-Republic of China Mutual Defense Treaty)

Mr. DOLE. Mr. President, I send an amendment to the desk for myself and Mr. STONE, Mr. JAVITS, Mr. GOLDWATER, Mr. MORGAN, Mr. CURTIS, Mr. TALMADGE, Mr. HAYAKAWA, Mr. HATCH, Mr. SCHMITT, Mr. HUDDLESTON, Mr. BELLMON, Mr. LUGAR, Mr. STEVENS, Mr. HELMS, Mr. LAXALT, Mr. TOWER, Mr. GARN, Mr. BROOKE, and Mr. MARK O. HATFIELD and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and others, proposes an amendment numbered 3264.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

SEC. 27. (a) The Senate finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) The Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty;

(4) the United States-Republic of China Mutual Defense Treaty is integral to the broader North Asian security arrangements between the United States, the Republic of Korea, and Japan; and

(5) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Senate that any proposed policy changes affecting the continuation in force of the United States-Republic of China Mutual Defense Treaty shall be a matter for prior consultation with the Senate.

CHINA AMENDMENT TO SECURITY ASSISTANCE AUTHORIZATION BILL

Mr. DOLE. Mr. President, President Nixon's historic visit to mainland China in 1972 set in motion a dynamic series of developments in our China policy. It is a process which is still evolving, and which is still uncertain insofar as an ultimate destination and timetable are concerned.

Many of us in this Chamber maintain an active interest and concern with respect to changes in our China policy. Certainly, there are several critical issues which are called into question when we discuss fundamental changes in our national policy toward the two governments which claim to represent China. One significant issue, of course, is the matter of selecting which of the two contending governments merits formal recognition by the United States. The Senator from Kansas, along with others in this body, has expressed himself on this issue may times. I have indicated that the Republic of China, positioned on the island of Taiwan, continues to merit diplomatic recognition unless and until the People's Republic of China, positioned on the mainland, agrees to certain specific policy preconditions vital to American interests.

There are many in this body who share this Senator's opinion on the recognition issue. Others favor immediate recognition of the mainland government, without any reservations or preconditions. But I suggest that the amendment being offered today by myself and the distinguished Senator from Florida (Mr. STONE), addresses itself to a related—but separate—issue affecting future American policy toward China. It is an issue which must be analyzed and resolved on its own merits, without regard to our differing opinions on the question of diplomatic recognition.

This separate issue—the fate of our mutual defense treaty with Taiwan—is a matter around which a consensus of this body can be built, regardless of the

fact that we disagree individually about where the actual seat of Chinese Government is positioned. I suggest this for two reasons: First, the question of abrogating our mutual defense treaty with Taiwan involves constitutional questions and issues of congressional prerogative that transcend the China matter; and second, the defense of Taiwan and the security of the western Pacific region is itself a matter of general policy agreement within this country and, I think, within this Chamber.

So, for the purpose of this debate, I respectfully suggest to my colleagues that we set aside our differing opinions about diplomatic complexities of the China question, and concentrate instead on the more immediate questions at hand, involving the separation of powers in our own Government and the future security of the western Pacific.

THE TREATY

The mutual defense treaty between the United States of America and the Republic of China was promulgated in 1954, in the wake of the Korean War, when the security and stability of the Asian Pacific region was as much a vital concern of the United States as it is today. Then, as now, a strong and visible American military commitment to the region was seen as the most effective method for curbing the growth of Communist influence in the area. Reaffirming our desire "to strengthen the fabric of peace in the west Pacific area," and to defend the region "against external armed attack," we reached agreement with Taiwan that "an armed attack in the west Pacific area against the territories of either of the parties would be dangerous to peace and safety" and that each of our countries "would act to meet the common danger in accordance with its constitutional processes."

For the purposes of this treaty, the protected territory includes Taiwan and the Pescadores Islands, lying just a few miles to the west of its coast. As negotiated by our two governments, the treaty was to remain in force indefinitely, with the understanding that "either party may terminate it one year after notice has been given to the other party."

THE AMENDMENT

The amendment being offered today by myself and my colleage from Florida, and which is cosponsored by Senators GOLDWATER, MORGAN, CURTIS, and HAYAKAWA, addresses itself to a potential abrogation of the treaty by our Government, at our own initiative and without any violation of the treaty by the Republic of China. We suggest that it is the sense of the Senate that "any proposed policy changes affecting the continuation in force" of the treaty should be "a matter for prior consultation with the Senate." It is designed specifically to correct any misconception that the treaty would automatically "lapse" if the administration recognizes Peking's Government, and to ensure that the Senate will be given an advisory role if the President should decide to abrogate the treaty by a unilateral initiative. By so doing, we can be sure that the security considerations affecting American and Japanese interests in the Western Pacific area—which motivated the 1954 defense treaty and which remain important today—are fully taken into account before any policy changes are undertaken.

TERMINATING THE TREATY

Top-ranking leaders of the People's Republic of China have stated repeatedly that abrogation of our mutual defense treaty with Taiwan is an indispensable "precondition" to normalization of relations between mainland China and the United States. Many of those in this country who favor relations with the mainland openly advocate the unilateral cancellation of the 1954 treaty for that reason. In fact, some in this Chamber have suggested that we break our longstanding security relationship with Taiwan, and rely instead on "creative diplomacy" to guarantee the future security and well-being of Taiwan's more than 16 million people. In my opinion, such conclusions are unfortunately naive.

But what particularly concerns this Senator, and many others as well, is the faulty assumption that the mutual defense treaty with Taiwan would somehow automatically "lapse" once the United States establishes diplomatic ties with the Communist government on the mainland. This conclusion not only denies reality, but ignores the clear constitutional and legal arguments to the contrary.

The scenario, according to those sources, would go something like this: Our Government announces that "we hereby recognize the People's Republic of China; we hereby derecognize the Republic of China; and by the way, since in our eyes the Republic of China no longer exists, it follows that any treaty obligations we happen to have had with it have also vanished from the face of the Earth." A simple scenario—no mess, no fuss, no hand wringing about legal complications.

Fortunately, it simply is not that easy. In the first place, the 1954 Treaty clearly provides, in article X, that "this treaty shall remain in force indefinitely. Either party may terminate it 1 year after notice has been given to the other party." There is no way the U.S. Government can legally or morally circumvent that provision. Significantly, no President of the United States has ever unilaterally abrogated a treaty with any foreign government in violation of the provisions of that treaty.

CONSTITUTIONAL RAMIFICATIONS

The Constitution of the United States makes no specific provision for the abrogation of treaties with other nations. It does, however, declare such treaties to be "the supreme law of the land" and therefore subject to the full support of the President and Congress. Constitutionally, only Congress has the power to repeal Federal laws.

Even though no single procedure for treaty abrogation is clear from historical precedents, the weight of those precedents which do exist lean heavily in favor of Senate or congressional coparticipation. In a detailed "staff report" prepared for the Senate Committee on Foreign Relations in November 1977, which was widely distributed among all Senate Members during the Panama Canal treaty debate, it was determined that:

> Neither practice or opinion give the President exclusive power to terminate treaties . . . most scholars agree that a strong case can be made in principle for the view that treaties should be terminated by the treaty-making power—that is, the President with the advice and consent of the Senate."

Our colleague, Senator GOLDWATER, did extensive historical research into precedents of treaty termination by the U.S. Government. In his recent publication, "China and the Abrogation of Treaties," our colleague notes appropriately that "the first treaties ever to be declared null and void by the United States were cancelled by Congress alone," in 1778, and that after that, "the joint resolution, followed by Presidential notice to the other country, would become the general vehicle for removing our Nation from treaties that we no longer could or wished to enforce." The Senator from Kansas cannot, in a few moments, begin to reiterate the many points of history and constitutionality covered in Senator GOLDWATER'S informative monograph, which supports the congressional advisory role, and I commend it highly to all of our colleagues for additional background on the subject.

However, I do want to reiterate a very crucial point made by our colleague in the study, which I think bears careful reflection:

> The United States has never repudiated a defense treaty with a friendly nation. Nor has any President terminated a treaty that was not breached by the other party, was not in conflict with or supplanted by a later act of Congress or another treaty, or that did not become impossible to perform due to circumstances not of our own making.

This amendment concerning the Taiwan defense treaty, then, seeks to maintain historical consistency, preserve a traditional congressional role, and seeks to clarify uncertainty about the future status of this specific treaty. It does not, however, attempt or pretend to establish a comprehensive edict covering all future treaty termination issues.

SECURITY FOR THE WESTERN PACIFIC

Apart from constitutional considerations, a congressional role in determining the future of our mutual defense treaty with Taiwan is particularly important because of security interests in the western Pacific. The security interests of the United States, as well as those of Japan, the Philippines, and South Korea, are inherently tied to the future of the Taiwan defense treaty. Clearly, our mutual defense treaties with Japan, South Korea, and Taiwan complement each other, and if one leg of this tripod is removed, it will have inevitable effects upon the other two. At a time when it is this administration's announced policy to withdraw all American ground troops from South Korea and to phase out U.S. military bases in the Philippines, any talk of abrogating our treaty with Taiwan must be carefully reviewed by Congress for all its security implications.

It seems likly that treaty abrogation would adversely affect our relations with

Japan. The Japanese Government has become uneasy in recent years about the determination of our Government to remain actively involved in Asian affairs and to continue safeguarding Japan's security. This administration's policies have heightened that concern. There can be no doubt that termination of the 1954 treaty would indicate continued erosion of American strength in the region, causing our allies to reassess their traditional close relationships with us and to look towards new measures to guarantee their security. Major alterations in the balance of power in east Asia are probable. Tension will increase, and aggression and instability will be encouraged.

Of course, the security of Taiwan itself will be placed in immediate jeopardy. Peking's growing nuclear, air, and naval capabilities pose a direct threat of assault against Taiwan, which will increase during the coming years. During the past quarter century, administration after administration has committed itself to guarantee Taiwan's security. During the 1976 Presidential campaign, Mr. Carter himself commented that:

We are bound by a treaty to guarantee the freedom of Formosa, Taiwan, the Republic of China. I would like to improve our relationships—diplomatic relationships with the PRC, mainland China, hopefully leading to normalization of diplomatic relations sometime in the future. But I wouldn't go back on a commitment that we have had to assure that Taiwan is protected from military takeover.

Hopefully, that pledge will be honored.

A number of public opinion polls within the past several months indicate strong popular support for maintaining our defense treaty obligations with Taiwan. A public opinion survey conducted by Potomac Associates, Inc., in April 1977, showed 61-percent opposed to severing military ties with the Republic of China. A survey administered by Brown University during July and August 1977 showed 56 percent of "opinion leaders" in the United States—political leaders, top executives, and mass media specialists—favor maintaining all treaties with Taiwan now in force.

Beyond Taiwan's own interest in her security, her defense serves our own interests as well. Taiwan occupies an important position astride the major communication lanes in the western Pacific and has provided the United States with important bases for military operations in Asia. Important oil supply routes from the Middle East to Japan will be affected by policy decisions.

For all these reasons, Mr. President, we must insist upon our right in the Senate to exercise advice regarding disposal of the Taiwan defense treaty.

Having made those preliminary statements I now yield to the Senator from Florida (Mr. STONE).

Mr. STONE. I thank the distinguished Senator from Kansas.

This amendment has another phrase that deserves attention.

Paragraph 3 states:

The Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty;

Paragraph 4 reads:

The United States-Republic of China Mutual Defense Treaty is integral to the broader North Asian security arrangements between the United States, the Republic of Korea, and Japan; and

What this amendment says is not simply that the Senate should be consulted before any drastic or major change in Asian policy. This amendment asserts and affirms that the Republic of China and the United States of America have been good and faithful allies, each to the other, not for a year but for more than 20 years.

In a very well thought-out and reasoned editorial in the Washington Star of February 11, headlined "What's the Hurry on China?" the editors point out that normalization with the People's Republic of China does not in any way have to be carried on by the abrogation of solemn commitments and faithful performance of treaties between old and trusted and good allies.

I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHAT IS THE HURRY ON CHINA?

There's a touch of "Send in your dollar before it's too late!" psychology in the latest Ted Kennedy-Leonard Woodcock urgings of full diplomatic relations with the People's Republic of China. We're told that time is running out; that there is danger of an opportunity slipping away. The implication is that the United States is a supplicant, with much of value to be gained if we succeed in setting up a full-scale embassy in Peking, much to be lost if we don't.

And why is it so important to normalize Peking? All it costs is a break with Taiwan. Because you can't ignore 900 million people. Because, without full ties, the U.S. might stumble into war with China—over Korean reunification, perhaps. Because China is a counterweight to the Soviet Union.

Besides, why shouldn't we recognize Peking? All it costs is a break with Taiwan.

This, of course, is what it's really all about.

The meaning of diplomatic formalities has changed greatly for all nations in this century. For example, nobody finds it necessary to declare war before starting to fight any more. Similarly, Embassy Row protocol isn't the beginning or the end of relations between governments. There can be both political negotiations and economic trading with a minimum of it—even the military and industrial technology the Chinese would like to have from us could be arranged without an American ambassador in Peking.

Yet as a symbol, our recognition of the People's Republic would have great importance. Mostly negative, from our point of view, since it would look like abandoning an old ally under pressure and withdrawing a step farther from our former influence in Asia. Mr. Woodcock's warning about the danger of an accidental war over Korea is ironic; it is easier to imagine challenges to an American ally in Seoul after our dissociation from Taiwan than before.

Those urging recognition most strongly play down the impact on Taiwan. We could maintain political and economic ties without recognition or a formal defense treaty, they say, and we could come out against forced changes in Taiwan's status while emphasizing that the U.S. will not oppose a voluntary change.

This would presumably make it embarrassing for the Hua government to annex Taiwan by invasion. Besides, sending troops across the Formosa Strait would run the risks of failure and a bad press that any invasion runs.

Still, the Hua government's stated goal is to make the former Chinese province part of the People's Republic; the question is how. Peking has never been much for plebiscites, and it's hard to imagine the Taipeh government volunteering a merger.

What's not hard to imagine is a "war of national liberation" somehow springing up. One the U.S. would stay out of.

There is a little time to contemplate this cost/benefit equation before the big push comes for recognizing Peking and jettisoning Taipeh. Despite their note of urgency, Mr. Woodcock's strong words and the warnings of Sen. Kennedy and Sen. Alan Cranston are preliminary rumblings. It is widely agreed that the real drive won't come until the Panama treaty issue is settled. Presumably a second gesture that could be construed as global disengagement might intensify fears for American security in the international community, to the point where neither the Panama agreement nor the breaking of relations with Taiwan would be accepted.

This is not to say there should never be full diplomatic relations between Washington and Peking. Or cultural exchanges, or trade, or even economic aid.

There is much to be said for all of them. There are practitioners of realpolitik who feel a buildup of Chinese power is vital to American interests as a way of counter the Soviet expansion so conspicuous everywhere in the world. They argue that having the Chinese dependent on the U.S. for technological equipment would be a good idea. Meanwhile, people who feel strongly about human rights hope that closer connections with the West might make the Chinese regime less repressive.

The message is that, however desirable rapprochement may be, it does not have to come on Peking's terms. The Hua government has at least as much to gain from closer ties with the United States as we could possibly have. The courting of influential groups, such as the Kennedy entourage—a show of hospitality reminescent of Fidel Castro's kindnesses to American decision makers—shows how well this is understood in Peking.

There is no real reason why we cannot have every benefit of full relations with the People's Republic of China without giving up anything in Taiwan. It has been said that continued recognition of the Republic of China treats a pretense as a fact. Who really believes the Taipeh government speaks for all Chinese or can hope to control the mainland again? Yet how many untenable situations do keep going! Think of West Berlin.

It is also useful to think of what else there is to be defended in Taiwan besides American prestige and strategic interest: a country that is giving 16 million people a prosperous and relatively free life. Taiwan is no civil liberties utopia compared with the United States. But, compared with the People's Republic of China, it is.

All worth remembering before we yield to the coming hard sell on recognizing Peking.

Mr. STONE. Mr. President, there is a subtle effort being made in double-think, to wash away a country and a government, which is the Republic of China and denominated "the people on Taiwan." The people on Taiwan are citizens of the Republic of China, not merely an entity, not merely an autonomy, but the legal and legitimate government known as the Republic of China, a treaty part-

ner of ours, diplomatically represented in the United States by an able Ambassador, and in which the United States is represented in Taipei by a full embassy and an Ambassador.

Any effort on the floor of the Senate to wish away a nation and a country and a government by referring to something called "the people on Taiwan" is invidious. It short circuits the appropriate constitutional processes which are owed not merely to the Senate, but also to an ally of the United States of America—the Republic of China.

So this amendment states what is an obligation and should be a well-welcomed obligation of the United States to a valued ally—a major trading partner, trading with the United States in the billions every year, and importing as well as exporting—which is that the Senate affirms that before any change be attempted in our relationship with the Republic of China, the Senate be duly consulted.

There is no indirect effort in this amendment to change the existing status and standing of our relationshp. In other proposals that I have seen and which have been circulated to Members of the Senate, there is a subtle but definite attempt to wipe away and wash away a country, a nation, and a government faithfully allied to the United States. That should not be done, and certainly it should not be done by some casual amendment offered not through the processes of the Foreign Relations Committee and the appropriate committees of the Senate, properly staffed out and heard and considered, but, rather, offered ad hoc on the floor of the U.S. Senate as an amendment.

Therefore, in urging support of this amendment and commending it to the Members of the Senate, I suggest that this amendment states the situation as it is and as it should be.

I reserve the remainder of my time. If the Senator from Arizona desires time, I yield to him.

Mr. GOLDWATER. I thank the Senator from Florida. I will not need more than 10 minutes.

I compliment the Senator from Florida for stating his case succinctly.

Mr. President, it is my pleasure to rise in support of the amendment being jointly authored by Senators DOLE and STONE, which I am cosponsoring.

The amendment is simple. It would reaffirm the role of the Senate in deciding upon our Nation's future treaty relations with the Republic of China on Taiwan.

I am disturbed to say that news reports have indicated that some officials in the Carter administration are advising the President he can cancel the defense treaty with the ROC unilaterally, without coming to the Senate for its advice and consent.

One such article appeared in the Washington Post of August 16, 1977, which claimed a State Department legal opinion says the withdrawal of diplomatic recognition from the Taiwan Government would end the defense treaty without need to come to the Senate.

Mr. President, all the Dole amendment would do is to express the opinion of the Senate on this issue.

The Dole amendment says that before any proposed policy change is made affecting the continuation in force of the defense treaty with Taiwan, the matter should be brought to the Senate for its prior consultation.

This means the President should not take any action which he believes changes the effect of the defense treaty, unless he first consults with the Senate.

It means that the Senate will at least be informed of the possible event, before it happens.

By being informed in advance of whatever action is planned, the Senate then will be in a position to take whatever steps it feels is proper and within its constitutional prerogatives.

But, Mr. President, let me clarify that the amendment itself does not subject the status of the defense treaty to the approval of the Senate. It merely calls upon the President to inform the Senate of the possibility that the treaty may be affected, and it asks that we be consulted.

Now, I do not see how anyone in this body can possibly object to that. With all the talk about an imperial presidency in recent years and with the increased preoccupation of the Senate and Congress in protecting our independent powers, I should think that a request for information and prior consultation, on such an important matter as the possible abrogation of a defense treaty, would be universally accepted in this Chamber.

Mr. President, I will say that it is my opinion that the Senate clearly shares a role in the termination of a treaty. The Senate was a partner to the original ratification of that treaty.

Since it is a part of the treatymaking power, it also must play a part in the ending of that treaty.

In other words, the President needs the advice and consent of two-thirds of the Senate, or the approval of both Houses of Congress, to end a treaty. The President cannot himself unilaterally break a treaty.

I might remind you that over 40 treaties that were terminated by our country, came to an end pursuant to authority given by the Senate or Congress. In fact, the first treaties that were ever annulled by the United States, the French-American treaties, were canceled by a public law in 1798. This action reflected the understanding in the 18th century by both Congress and the President that some form of legislative participation is required in order to terminate a treaty.

Now, it is true that Congress has gone along with permitting the the President to consider treaties at an end in certain narrow situations. One of these is the outbreak of war, where changed conditions not of our own action make it impossible to perform a treaty. Another exception is where the other party has already committed a serious breach of the treaty. And a third situation is where Congress enacts a law, or the Senate ratifies a treaty, which the President interprets as having superseded an earlier treaty.

None of these narrow exeptions, which are far outnumbered by the instances where congressional approval was required, apply to the situation of Taiwan.

Nor, might I add, does the President have any basis for asserting power to annul a treaty by virtue of his recognition power. Recognition of a government is one thing. Ending treaties is another.

My office has made an extensive research of this issue, and we have found that it is clear as can be that internanational law does not provide that a treaty ends when a government is derecognized, so long as the same authorities with whom we entered into the treaty continue in control of the particular territory involved.

In this case, should the President ever take the unwise step of switching diplomatic relations from the Republic of China, that would not change the authorities on Taiwan. The Nationalist Government on Taiwan, with whom we concluded the Defense Treaty in 1954, would still remain there. Thus the treaty would continue in effect, unless our Government made the decision to end it.

This decision would be a political one, which under our Constitution would require joint action by the President, together with the Senate or Congress.

Therefore, even the recognition power does not confer upon the President a power to end the defense treaty with the Republic of China, without the advice and consent of the Senate or a new law conferring that authority upon him.

But, Mr. President, I repeat that the pending amendment does not go as far as the concept I have just addressed. The amendment does not reach the matter of whether the approval of the Senate is required. It merely seeks to have the Senate informed and consulted, before such a drastic step would be taken.

If the President should ever attempt to terminate a defense treaty with a friendly ally, without at least consulting beforehand with the Senate, it would be a totally unprecedented grab for power, without any basis in our history or Constitution. I cannot see how anyone in this body would welcome such a development, and I urge support for the Dole amendment.

True, it is the treaty with Taiwan that is involved today; but the principle applies with respect to each and every treaty that we have, and if we do not make our feelings known to the executive branch now, we may not have a chance tomorrow once the precedent is established.

Mr. President, I might say that the paper I referred to as having been developed by my staff, which unfortunately carried my byline, "China and the Abrogation of Treaties," is probably the most thorough work ever done on this, and I know it upset the State Department quite a bit, because they were ready to advise the President that it had the power of abrogation without any question.

So, Mr. President, so that my colleagues might be aware of this paper, and it is not too long, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

CHINA AND THE ABROGATION OF TREATIES

(By BARRY M. GOLDWATER)

INTRODUCTION

Little or no public debate has occurred on the role of Congress in the abrogation of treaties. Yet, this subject is at the forefront of one of the critical foreign policy issues of the 1970's, our government's China policy.

Before Secretary of State Cyrus Vance went to the mainland of China last August for talks with the new triumvirate ruling that territory, he was urged by Senator Edward M. Kennedy to simultaneously recognize the People's Republic of China (PRC) and consider our defense treaty with the Republic of China on Taiwan (ROC) as having lapsed. That President Carter could so terminate the treaty at his own discretion was assumed, the theory being that after the United States cuts diplomatic relations with Taiwan, we can consider the defense treaty at an end because there is no government to deal with.

This was not the first time I had heard of the concept under which the defense treaty would be considered as having died a quiet death upon diplomatic recognition of the Communist regime. A high official has informed me that the Legal Adviser's Office in the Department of State was studying this contingency even before Senator Kennedy's trial balloon, and it is apparently a view held by several subordinate officers at the Department.[1]

Whether Secretary Vance or any of the officials accompanying him to Peking actually broached this contingency in talks with the Communist Chinese is unknown, but the subject requires careful scrutiny because it represents the latest turn in thinking of those persons who are bent upon granting recognition to the PRC on its own terms.

It is known for certain that one of the announced indispensible requirements for a so-called normalization of relations between the PRC and the United States is abrogation of the Mutual Defense Treaty with Taiwan. PRC Vice Foreign Minister Yu Chan and Vice Premier Li Hsien-nien each made it clear to visiting editors of the *Wall Street Journal* in October 1977 that the Communist government is "absolutely inflexible" on this principle. In view of the unyielding position among PRC leaders and the seeming willingness of some American officials to accept the demand, it is urgent that a public debate be initiated on the threshold question of whether or not the President has constitutional authority to do, on his own, what the PRC is demanding.

And, although the immediate question arises in connection with the defense treaty between the Republic of China and the United States, it is also important to explore the principle involved because it touches every one of our nation's treaty commitments. If the President can break the treaty with Taiwan on his own authority, then he can withdraw from NATO or pull out of any other treaty without consulting Congress or getting its consent.

At the outset, it should be clarified that my argument is not intended to cover executive agresments or international agreements other than formal treaties. My concern at this time is only with treaties in the constitutional sense of compacts between nations or other international entities which have been formally signed, submitted for advice and consent to the Senate and ratified after having received the necessary two-thirds approval by the Senate. Since the defense treaty with the ROC is exactly such a constitutional treaty my discussion of the treaty termination power will address only that species of international instrument.

Nor shall I make any brief for the Senate or Congress as possessing the power to compel the President to denounce or abrogate a treaty, although there is strong evidence that such a legislative power exists. Again, that proposition is extraneous to the matter at hand, which is not an effort by Congress to break the treaty with Taiwan, but a proposed assertion of power for the President to arbitrarily force a decision upon the Congress as a fait accompli about which it can do nothing.

Also, let me record my strong opposition to any policy of normalization with Communist China that calls for a break in our relations with the free Chinese on Taiwan and the repudiation of our defense treaty with them. I am convinced such a policy of kowtowing to the PRC would dishonor the United States, increase the risks of a world conflict and run counter to constitutional provisions demanding a role for Congress in the treaty process.

Today, Taiwan has almost 117 million people, more than Ireland, Norway, and 120 other countries of the world. Its economy ranks second only to that of Japan in the Pacific. The ROC is currently America's 13th largest trading partner. Two-way trade between the United States and Taiwan totaled $5.5 billion in 1977, compared with $374 million between the United States and the PRC.[2]

Acceptance of the Communist Chinese demands would be unprecedented in American history. No President of the United States has ever unilaterally abrogated a treaty with any foreign government in violation of the provisions of that treaty. Actually, we have a remarkable record of morality in keeping our treaty promises. The motto that "our word is our bond" has been a matter of faith for the American people and for foreign nations with whom we have dealt. If President Carter were now to accept the proposal of advisors who recommend that we recognize the PRC and abrogate our defense treaty with Taiwan, it would leave a permanent stain on our history.[3]

CHAPTER 1—OVERVIEW: INTENT OF FRAMERS

Admittedly, treaty abrogation is a rather novel subject. There are virtually no court cases and very few academic papers on the subject. What we do have to go on is our history as a Republic, several statements by the Founding Fathers, and common sense.

From these, my own reading of the Constitution is as follows:

No President can terminate a treaty unless he first obtains the consent of Congress.

The Constitution demands a role for Congress in the abrogation of treaties, either in the form of joint action by the President and two-thirds of the Senate, or by the President acting together with both Houses of Congress.

Any President who would violate the Constitution on such a major matter as breaking faith with the nation's treaty obligations would run the risk of impeachment.

In *Foreign Affairs and the Constitution*, one of the few works to consider the question, the noted authority Louis Henkin states:

"In principle, one might argue, if the Framers required the President to obtain the Senate's consent for making a treaty, its consent ought to be required also for terminating it, and there is eminent dictum to support that view."

Yet, Henkin adds:

"In any event, since the President acts for the United States internationally he can effectively terminate or violate treaties, and the Senate has not established its authority to join or veto him." [4]

It is true the President could, under his power of general control over foreign policy, effectively weaken the credibility of our national commitment under a defense treaty, such as NATO, by ordering a withdrawal of most American military forces from the foreign area involved, but he cannot unilaterally destroy the international legal obligations of our country under a formal treaty without the consent of the Senate or Congress. Indeed Henkin does not claim the President can *legally* terminate or violate treaties. He writes only that the President has the ability to "effectively" breach treaties. This distinction would be of critical importance in any impeachment proceedings instituted by a Congress which considered the President to have violated the limits of his constitutional discretion. It also would have overriding weight in any judicial action challenging the legal validity of the President's purported denunciation or abrogation of a treaty.

In observing that the Senate has not "established its authority" to join or veto the President, Henkin is no more than restating the fact that there has not yet been a definitive court decision squarely settling a conflict between the Executive and Senate in the Senate's favor.

Henkin would agree, I presume, that it is for the judicial branch to say what the law is, not for the President to create law by fiat until the courts speak. And, as we shall see, there is no basis in historical practice for claiming the President has established his authority to denounce or abrogate treaties without legislative participation in his decision. To the contrary, the overwhelming weight of precedents supports a role for the Senate or Congress in treaty abrogation.

The records of the Constitutional Convention and the State ratifying conventions contain little discussion of how a treaty is to be rescinded. But it is well-known that the Framers were concerned with restoring dependability to our treaties and were anxious to gain the respect and confidence of foreign nations. It would hardly instill confidence in other nations if a single officer of our government could abrogate a treaty at will without any check from another branch of government.

Also, it is beyond dispute that the Framers were worried the treaty power could be exercised to damage sectional interests. Repeated flareups occurred at the Constitutional Convention in which various delegates expressed fears that their region might be harmed if treaties could be easily made.

In particular, treaties of commerce, peace and alliance were mentioned. Spokesmen for the western settlers were afraid navigation rights on the Mississippi would be given away by a treaty, and George Mason suggested the treaty-making power could "sell the whole country" by means of treaties.

Thus, the Framers sought to give each section of the country an influence in deciding upon treaties because of their possible adverse effect upon strong economic or political interests of particular States or areas. It is logical to assume the Framers were as interested in protecting these same regional interests by making it difficult to revoke useful treaties as they were in protecting those interests by guarding against harmful treaties.[5] George Mason alluded to this situation when he warned against allowing one treaty to abridge another by which the common rights of navigation had been recognized to the United States.

This is not to say that the Framers would have been as excited about a defense treaty with a small republic 6,000 miles away as they were over treaties involving local fishing or boundary rights, but it is to indicate that the 1954 treaty and all other U.S. treaties are protected by the same procedural safeguards as those treaties about which the Framers were especially sensitive. Since the text of the Constitution makes no distinction between different groups of trea-

Footnotes at end of article.

ties—it does not single out those commercial or boundary treaties, which the Framers did not want to have discarded without the check of legislative deliberation, from treaties of all other kinds—the obvious conclusion is that treaties of whatever nature are covered by the same protective mantle before cancellation. If any one group of treaties is secured against repeal without legislative consent, then surely all other treaties enjoy the same security absent any textual or historical evidence to the contrary. All treaties were to be dealt with in the same way.

Proof that the Framers meant for treaties to be kept and not broken at pleasure is found in their emphasis on gaining respect for the new nation among other countries by being faithful to our treaties. James Madison, John Jay and James Wilson each recognized that the ease with which treaties could be and were being broken under the Articles of Confederation was a major defect causing injury both to our respectability and power abroad. Madison, in the preface to his notes on debates in the Constitutional Convention, specifically identifies this failing as being one of the deformities of the Articles which the Constitution was designed to correct. John Jay pinpoints this disease in number 22 of *The Federalist Papers*. Wilson regarded violation of the "sacred faith of treaties" as "wicked" and contrary to our interests in gaining respect among other nations.[6] Thus, the Farmers wanted to make it more difficult to violate treaties, not easier. Surely they would not have attempted to remedy the fault by substituting for the previous system one that was equally susceptible to abuse by a single official as the earlier one had been to the whims of individual states.

Another sign of the purpose of the Framers is in their creation of a system of checks and balances. In this age of concern about what is described as the Imperial Presidency, it is remarkable that anyone would contend the President is unchecked and unaccountable in a matter of such grave importance as breaking our treaties with other countries. We have seen that they wanted the nation to keep its treaties. Therefore, it is difficult to believe that the Framers, who created the President and Senate as checks upon each other in completing a trreaty, did not intend a similar check in the reverse situation, the revoking of a treaty.

As the scholar-jurist, Supreme Court Justice Joseph Story wrote in his *Commentaries on the Constitution of the United States* in 1833:

"It is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties . . . there is no American statesman, but must feel, that such a prerogative in an American president would be inexpedient and dangerous."

Story adds:

"The check, which acts upon the mind from the consideration, that what is done is but preliminary, and requires the assent of other independent minds to give it a legal conclusiveness, is a restraint which awakens caution, and compels to deliberations."[7]

The same fundamental principle that guided the Framers in providing that the President can make treaties only with the added deliberation called for when a branch of the legislature must jointly decide the question applies with equal force to the power of annulling treaties. To use Story's words about treaties, "this joint possession of the power affords a greater security for its just exercise, than the separate possession of it by either [the President or Senate].[8]

In my opinion, the Framers assumed the President would not attempt to break a treaty on his own, since Article II of the Constitution clearly requires that the President "shall take care that the laws be faithfully executed." In other words, the President must uphold the laws because the Constitution tells him to do so.

As we all know, Article IV of the Constitution spells out the fact that a treaty is every bit as much a part of "the supreme Law of the Land" as a statute is. Therefore, the Framers undoubtedly expected future Presidents to carry out treaties in good faith and not to break them at their pleasure.

It is true the President is "the sole organ of the nation in its external relations, and its sole representative with foreign nations." So said John Marshall in 1800 as a member of the House of Representatives. Marshall's quote has been recited by federal courts on many occasions. At most, however, in the context of unmaking treaties this means it is the President who must communicate the message notifying another country that a treaty is void, and, as we shall see, even this much was denied by the 5th Congress which enacted a statute annulling three French treaties without providing for any notice by the President. It does not mean the President alone can make the decision to give that notice. Surely the President's implied power over foreign relations does not give him power to repeal the express provision of the Constitution that requires him to faithfully execute the laws. Nor does it override the system of balance of powers and accountability that the Framers have so carefully imbedded elsewhere in the Constitution. The people would lose the security of deliberation upon the subject of unmaking treaties, no less than they would lose that security in the making of treaties, if no check by Congress or the Senate were put upon the power of termination.

The general rule might be stated as follows: As the President alone cannot repeal a statute, so he alone cannot repeal a treaty. My colleagues in the Senate will find the truth of this expressed in a book that most of us keep on our desks, the *Rules and Manual of the Senate*. Our rules still include a precedent set forth by Thomas Jefferson, who compiled the first manual of rules and practices of the Senate when he was Vice President of the United States.

Jefferson writes: "Treaties being declared equally with the laws of the United States, to be the Supreme Law of the Land, it is understood that an act of the legislature alone can declare them infringed and rescinded."[9]

This also was the belief held by James Madison, who wrote in 1791, less than four years after the Constitutional Convention, of "the same authority, precisely, being exercised in annulling, as in making, a treaty."[10]

Historical practice supports Madison and Jefferson. Far more often than not the Senate, or the whole Congress, has exercised power to approve the termination of treaties. As a matter of fact, Presidents have usually come to Congress for its approval before giving notice of withdrawing from any treaty.

There are exceptions, but none supports a wide open power of the President to annul any treaty he wishes. In particular, the United States has never repudiated a defense treaty with a friendly nation.

Nor has any President terminated a treaty that was not breached by the other party, was not in conflict with or supplanted by a later Act of Congress or another treaty, or that did not become impossible to perform due to circumstances not of our own making.

CHAPTER 2—TERMINATING TREATIES: THE EARLY PRACTICE

It is a little known fact that the first treaties ever to be declared null and void by the United States were cancelled by Congress alone. These were the three French-American Treaties of 1778. Congress, acting through a public law, deemed them to be no longer binding on this country because they had "been repeatedly violated on the part of the French Government."[11]

This step followed attacks by French warships on unarmed American merchant vessels and the infamous X Y Z Affair in which the French sought to extract bribes from American peace negotiators.

The Abrogating Act of July 7, 1798, was approved by President Adams and it is true that to that extent there was presidential consent. However, the statute did not call upon the President to give notice of abrogation and it appears from the legislative debates that Congress assumed no further act was necessary on his part.

In 1887 the U.S. Court of Claims upheld the statute as having terminated both the domestic and the international aspects of the Franco-American treaties. In *Hooper v. U.S.* the court said:

"We are of the opinion that the circumstances justified the United States in annulling the treaties of 1778; that the act was a valid one, not only as a municipal statute but as between nations; and that thereafter the compacts were ended."[12]

This early precedent represents the clear admission by President Adams of a legislative role in the abrogation of a treaty, since he signed the law. It also is a concession by the Senate that, in at least some circumstances, the power to void treaties belongs to Congress as a corporate body, and not exclusively to the President and Senate.

The first instance of terminating a treaty by presidential notice did not occur until 1846, 57 years after the government started operations. The agreement rescinded was the convention allowing Great Britain to share joint occupation with America of the Oregon Territory. In response to strong pressure from the House of Representatives, President Polk recommended to Congress that he be given authority by law to give notice of the convention's annulment. The issue was heatedly debated in 1846, with the majority position being that the abrogation of a treaty is clearly a legislative duty that cannot be performed constitutionally by any other power than the joint power of both Houses of Congress. And so a joint resolution was enacted granting the requested power.

The third time we withdrew from a treaty was by the will of the President and Senate acting together as the treaty making power. In the Resolution of March 3, 1855, two thirds of the Senators present advised and consented to remove our commerce from what we believed were burdensome and oppressive duties under a commercial treaty with Denmark. The resolution authorized President Pierce to give Denmark notice, as required in the treaty for its termination, and it was in response to the expressed wish of the President for such power. President Pierce later publicly acknowledged he had given the notice "in pursuance of the authority conferred" by the Senate resolution.

Curiously, our government used three different methods the first three times it withdrew or denounced treaties as void. While the measures differed, the significant thing is that each approach required some form of legislative participation in the decision to cancel a treaty.

In practice, an Act of Congress would never again be used without anticipating presidential notice as the means of communicating our intention to annul a treaty to the foreign government concerned and a Senate resolution would be used only once more. As we shall see, the joint resolution, followed by presidential notice to the other country, would become the general vehicle for removing our nation from treaties that we no longer could or wished to enforce. On rare occasions, Congress would also consent to

Footnotes at end of article.

adopt and ratify presidential decisions after they had been proclaimed.

*Senate committee claims joint power*

Publicity of the method used in abrogating the treaty with Denmark aroused a storm in Congress. Doubt was even raised in the Senate itself. But the controversy was not over whether the Senate had invaded a presidential prerogative. Rather, the issue was whether the treaty should properly have been annulled by the full Congress.

In response to this debate, the Foreign Relations Committee issued a report on April 7, 1856, strongly claiming for the Senate, acting together with the President, competence to terminate a treaty "without the aid or intervention of legislation" by both Houses of Congress. Pertinent to the Taiwan treaties, the committee asserted that "where the right to terminate a treaty as discretion is reserved in the treaty itself, such discretion resides in the President *and* Senate." [13]

The committee reasoned as follows:

"The whole power to bind the Government by treaty is vested in the President and Senate, two-thirds of the Senators present concurring. The treaty in question was created by the will of the treaty-making power, and it contained a reservation by which that will should be revoked or its exercise cease on a stipulated notice. It is thus the will of the treaty-making power which is the subject of revocation, and it follows that the revocation is incident to the will.[14]

The committee conceded that in certain cases it would be wise to have the concurrence of the House of Representatives in order to make the decision to annul a treaty appear more impressive upon the other government. Thus, the committee took the position:

"Although it be true, as an exercise of Constitutional power, that the advice of the Senate alone is sufficient to enable the President to give the notice, it does not follow that the joint assent of the Senate and House of Representatives involves a denial of the separate power of the Senate." [15]

In May of 1858, the Foreign Relations Committee boldly reaffirmed its position by changing a proposed joint resolution, authorizing the President to give Hanover the notice required for the termination of a treaty, to a mere Senate resolution.

*Congress rebukes Lincoln*

The first time a President openly attempted to terminate a treaty without any prior legislative approval was late in 1864, when President Lincoln notified Great Britain of our withdrawal from the Rush-Baggot Convention regulating naval forces upon the Great Lakes. This episode does not serve as a precedent for unilateral presidential action because Congress rushed to defend its prerogative by passing a joint resolution deeming Lincoln's conduct invalid until ratified and confirmed by Congress. Some persons argue the the Rush-Baggot accord was an executive agreement, not a treaty, since it originated in an exchange of notes between Canada and the United States. This would further deprive the incident of any value it may have as a precedent.

Senate debate was dominated by senators who argued that the act of the President was wholly invalid until adopted by Congress. The prevailing view was expressed by Senator Garrett Davis of Kentucky, who said: "It is indispensably incumbent and necessary, in order to secure the termination of this treaty, that it shall be terminated, not by the action of the President, but by the action of Congress." [16]

Senator Charles Sumner of Massachusetts agreed that "the intervention of Congress is necessary to the termination of this treaty. . . ." He explained that the legislation embodied the conclusion that since a treaty is a part of the law of the land, it is "to be repealed or set aside only as other law is repealed or set aside: that is by act of Congress." [17]

Congress did not wait long to reaffirm its position. The joint resolution of January 8, 1865, charged President Lincoln with the duty of communicating notice of termination of the Reciprocity Treaty of 1854 with Great Britain. The same legislative formula was used in June of 1874, when Congress enacted a law authorizing President Grant to give notice of termination of our Treaty of Commerce and Navigation of 1857 with Belgium.

Two years later, the same President sent a curious message to Congress appearing to acknowledge the need for a legislative role in the termination of treaties while asserting power to decline enforcement of a treaty he thought has been abrogated by the other party.

Grant's message of June 10, 1876, regarding the extradition article of the Treaty of 1842 with Great Britain, said:

"It is for the wisdom of Congress to determine whether the article of the treaty relating to extradition is to be any longer regarded obligatory on the Government of the United States or as forming part of the supreme law of the land." [18]

He added, however:

"Should the attitude of the British Government remain unchanged, I shall not, without an expression of the wish of Congress that I should do so, take any action either in making or granting requisitions for the surrender of fugitive criminals under the treaty of 1842." [19]

At most, this is a precedent for presidential authority to consider a breach of a treaty as having suspended it by making enforcement impossible, *subject to the* correction of the President's judgment by Congress.

*Hayes vetoes law, but concedes legislative role*

In 1879, President Hayes recognized the joint power of Congress in terminating treaties, although it was in the process of vetoing an Act of Congress. The legislature had passed a statute seeking to require him to abrogate two articles of the Burlingame Treaty of 1868 with China. His veto rested on the ground that the legislation amended an existing treaty by striking out selected provisions of it.

The power to amend treaties, he said, is "not lodged by the Constitution in Congress, but in the President, by and with the consent of the Senate. . . ." [20]

Hayes also conceded that the "authority of Congress to terminate a treaty with a foreign power by expressing the will of the nation no longer to adhere to it is . . . free from controversy under our Constitution." [21] Thus, he made no claim of power for the Executive to annual a treaty without legislative approval. but rather upheld the traditional joint role of the President and Senate together to make or modify treaties.

In 1883, Congress passed another joint resolution reaffirming a legislative role in the termination of treaties. This law, the Act of February 26, 1883, flatly directed President Arthur to give notice of the termination of several articles of an 1871 treaty with Great Britain.

*Presidential interpretation of congressional intent*

Occasionally, Presidents have given notice of our nation's withdrawal from a treaty on the basis of their interpretation of congressional intent. This occurs when Congress passes legislation in conflict with a prior treaty, but does not specifically direct our withdrawal from the treaty.

Since the President cannot enforce two equally valid laws which are in conflict, he is compelled to select the one which reflects the current will of Congress. While the President may seem to be using his own power, he actually is fulfilling his duty to faithfully execute the laws by enforcing the latest expression of Congress on the subject.

An interesting example of this principle in practice is found in the events leading up to denunciation of certain parts of the 1850 Commercial Convention with Switzerland. Following enactment of the Tariff Act of July 24, 1897, the United States entered into a reciprocity agreement with France under authority specifically granted to the President by that law. The Swiss government promptly claimed a right under the most-favored nation clause of the convention to enjoy the same concessions for Swiss imports as we had given French products.

We responded that it was our long-continuing policy not to construe the most-favored nation clause as entitling a third government to demand benefits of a special trade agreement purchased by another party with equivalent concessions. In other words, we told the Swiss they could not receive something for nothing. If we made an exception in their case, it would embarrass us in relations with all other trading partners.

Moreover, the 1897 Tariff Act had reaffirmed this historic policy. Section 3 specifically provided that the President is to negotiate commercial agreements "in which reciprocal and equivalent concessions may be secured in favor of the products and manufactures of the United States." The President lacked authority to conclude agreements in which the other country made no concessions, and if he had yielded to the Swiss demand it would have been out of line with the clear policy of the law.

Thus, in the face of Switzerland's refusal to renegotiate the contested articles of the agreement, the State Department notified her that the provisions were arrested. Although the State Department would later claim this action served as a precedent for independent presidential power, it would have been inconsistent with the trade policy set by Congress in the 1897 law if Switzerland had been granted privileged treatment without making any compensating concessions. In any event, President McKinley did not act in the total absence of any pertinent supporting statute as proponents of abrogating the defense treaty with Taiwan are urging President Carter to do.

*Taft seeks ratification*

Another action mistakenly asserted in support of Executive treaty-breaking is the effort of President Taft to head off passage by Congress of what he considered an inflammatory resolution calling for abrogation of the Commercial Treaty of 1832 between the United States and Russia. Disputes had arisen with Russia as early as then over the treatment of Americans of the Jewish faith, and in December 13, 1911, the House of Representatives passed a strongly-worded joint resolution demanding termination of the treaty. In order to beat action by the Senate, President Taft informed Russia on December 15 of our intention to terminate the treaty.

On December 18, the President dutifully gave notice of his action to the Senate "as a part of the treaty-making power of this Government, with a view to its ratification and approval." [22] He openly recognized the need for the Senate and the President to act together in order to end an existing treaty and made no claim that his diplomatic notice would have an validity without legislative approval.

Both Houses of Congress passed a joint resolution, which the President signed on December 21, just three days after his message to the Senate. The House vote was 301 to 1, and the Senate vote was unanimous, proving that the President's advance notice

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Footnotes at end of article.

to Russia was a concession to recognized congressional power, rather than a sign of independent authority of the President.

*Wilson challenges Congress, but concedes joint role*

Congress again asserted its power in the Seamen's Act of March 5, 1915. This law ordered President Wilson to notify several countries of the termination of all articles in treaties and conventions of the United States "in conflict with this act." The notices were duly given and the authority of Congress to impose this obligation on the President was upheld by the Supreme Court in a case discussed below. Twenty-five treaties were affected.

Then, in the Merchant Marine Act of 1920, Congress directed President Wilson to give blanket notice of the termination of all provisions in treaties which imposed any restriction on the right of the United States to vary its duties on imports, depending upon whether the carrier vessels were domestic or foreign. This time President Wilson rebuffed the legislature by announcing that he must distinguish between the power of Congress to enact a substantive law inconsistent with entire treaties and the power to piecemeal call for the violation of parts of treaties. This law was not an effort to terminate treaties, he contended, but to modify them, which Congress could not do.[23]

A memorandum prepared by Secretary of State Hughes for President Harding in October of 1921 also conceded the power of Congress to terminate entire treaties if it so provided in clear and unambiguous language. While Congress had called only for a partial termination in the Merchant Marine Act, the law would have the practical effect of a total termination. If Congress actually intended to abrogate entire treaties, Hughes reasoned, it must say so in plain language.[24]

The positions taken by Presidents Wilson and Harding were a refusal to interpret a law as conveying an intention by Congress to violate numerous treaties outright. There was no presidential denial of the power of Congress to direct the abrogation of treaties when "its intention is unequivocally expressed," and especially absent was any claim for the President of a power to terminate treaties without the shared responsibility of the Congress.[25]

Evidence of President Wilson's recognition of the essential role of Congress in the treaty annulment process is found in the fact that he first sought the advice and consent of the Senate before attempting to withdraw from the International Sanitary Convention of 1903. Only after two-thirds of the Senate present resolved to "advise and consent to the denunciation of the said Convention" on May 26, 1921, by which time Harding had become President, did the United States give notice of its intention to withdraw.

CHAPTER 3—TERMINATING TREATIES: MODERN PRACTICE

This brings us up to more recent practice, some of which at first impression may appear to break with the almost universal prior practice of terminating treaties, and giving notice of intent to terminate, only following legislative approval or ratification. Starting in 1927, there are nine instances in which Presidents have given notice of the termination of treaties without receiving accompanying congressional authority or seeking ratification.

Upon close examination, however, the recent record does not support an untrammeled power of the President to annul any treaty he wishes. In two instances the notice of termination was withdrawn and the United States did not denounce the treaties. Two other treaties were abrogated because they were inconsistent with more recent legislation of Congress and one was plainly superseded by our obligation under a later treaty. The remaining four appear to have been annulled or suspended after it became impossible to effectively carry them out. In addition, there are five recent instances where notice has been given pursuant to Acts of Congress.

The following treaties are involved: In 1927, President Coolidge gave notice that the 1925 Convention for Prevention of Smuggling with Mexico was terminated. At the time, United States relations with Mexico were the subject of emotional debate in Congress regarding alleged religious persecution and the confiscation of American-owned private and oil lands in Mexico. In the disruptive situation of the period, it appears to have been impossible to implement the Convention.

In 1933, President Franklin Roosevelt gave notice of termination of an extradition treaty with Greece. But the notice was withdrawn and the treaty was not abrogated. The incident was triggered because Greece had refused to extradite an individual accused of fraud. Thus, the President's proposed action was based on the fact the treaty had already been voided by breach of the other party.

Also in 1933, President Roosevelt terminated the 1927 Traffic Convention as having a restrictive effect on the National Industrial Recovery Act of 1933. Then, in 1936, he terminated the 1871 Treaty of Commerce with Italy because its provisions would limit the President's ability to carry out the Trade Agreements Act of June 1934. In both these cases the treaties were inconsistent with prevailing legislation.

In 1939, President Roosevelt notified Japan of our nation's intent to terminate the Commercial Treaty of 1911. Although the Department of State argued broadly that "the power to denounce a treaty inheres in the President of the United States in his capacity as Chief Executive of a sovereign state," President Roosevelt's authority clearly stemmed out of acts of war by Japan toward allied nations.[26] In fact, it was persuasively argued in the Senate that the President was compelled to denounce the 1911 Treaty with Japan because of our obligations under a later treaty, the Nine Power Agreement, committing the United States to respect the territorial integrity of China. After the invasion of China by Japan, we would have aided in the violation of that obligation by adhering to the Japanese treaty.[27]

On October 3, 1939, the State Department gave notice of our intention to suspend operation of the London Naval Treaty of 1936. Our stated reason was the changed circumstances resulting from the earlier suspension by several other parties to the treaty. In view of the state of war then existing in Europe it was impossible to carry out a treaty that was supposed to limit naval armaments and promote the exchange of information concerning naval construction.

The next precedent occurred in August of 1941, when the International Load Line Convention governing ocean shipping was suspended by President Roosevelt. He relied on the opinion of Acting Attorney General Biddle that, as in the case of the Naval Treaty, fundamental changes in the circumstances created an impossibility of performance. Accordingly, Roosevelt suspended the convention for the duration of the war emergency because of aggression then being waged by Germany, Italy, Japan and the Soviet Union.

It is interesting that the opinion of the Acting Attorney General declared: "It is not proposed that the United States denounce the convention . . ., nor that it be otherwise abrogated. Consequently, action by the Senate or by the Congress is not required."[28]

From this, it is obvious the incident cannot be considered as support for independent presidential action. To the contrary, it appears to be an admission by the Acting Attorney General that some legislative approval is normally required for the abrogation of a treaty.

A recent, but not the latest, assertion of the abrogation power by Congress occurred in 1951. In that year, Congress enacted the Trade Agreements Extension Act instructing President Truman to terminate trade concessions to Communist countries. Most of them were granted by executive agreements, but two, those with Poland and Hungary, involved formal treaties. The required notices were promptly given by President Truman.

A fundamental change in circumstances resulting in an actual impossibility of performance was again invoked by the United States in announcing our withdrawal in 1955 from the 1923 Convention on Uniformity of Nomenclature for the Classification of Merchandise. The U.S. notice specifically observed that the convention had been "rendered inapplicable" since a fundamental component, the Brussels nomenclature of 1913, had itself "become outdated."

An aborted incident occurred in November of 1965, when the United States announced its planned withdrawal from the Warsaw Convention, relating to recovery of damages by international air passengers who suffer death or personal injury. One day before the effective date of the withdrawal, the United States withdrew its notice. At least two legal commentators reacted with publication of articles condemning the power grab by President Johnson as unconstitutional.[29]

Next, we furnished notice of terminating the 1902 commercial convention with Cuba. This step was an integral part of the U.S. economic embargo of Castro's Cuba, declared on February 2, 1962, in which we were joined by the Organization of American States. The notice, given August 21, 1962, preceded President Kennedy's naval blockade of Cuba by only eight weeks.

The President acted under provisions of the Foreign Assistance Act of 1961 and the Export Control Act of 1948. Also, he had ample authority to impose a trade embargo under the Trading with the Enemy Act and Mutual Assistance Act of 1954, known as the Battle Act. Notice of terminating the commercial convention was a mere formality mandated by a national policy authorized and sanctioned by Congress.

Termination of the convention also was in accordance with the Punta del Este Agreement of January 1962 by which the Ministers of Foreign Affairs of most American nations resolved, by application of the Inter-American Treaty of Reciprocal Assistance of 1947, to embargo trade with Cuba in arms and implements of war of every kind and to study extending the embargo to other items. Article 8 of the 1947 treaty specifically contemplated such a "partial or complete interruption of economic relations."

Finally, Congress may be said to have ratified the decision in September of 1962, if any ratification were needed, by enacting the joint resolution known as the Cuban Resolution. This legislation recognized broad authority in the President to take whatever means may be necessary to prevent Cuba from "exporting its aggressive purposes" in the hemisphere and to prevent establishment of a Soviet military base. Thus, the termination was at one and the same time ratified and authorized by legislation and in accordance with a treaty later in time.

The most recent incidents of treaty termination followed enactment of the Fishery Conservation and Management Act of 1976. This law establishes a 200 mile-limit fishery conservation zone within which we shall exercise exclusive management authority over nearly all fish and extends our exclusive authority even beyond the zone.

Section 202(b) of the law directs the Secretary of State to initiate the renegotiation of any treaty which pertains to fishing within these management areas and is "in

Footnotes at end of article.

any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions." The section also declares "the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment."

Pursuant to this express statement of national policy by Congress, the Department of State has given notice of our withdrawal from the 1949 International Convention for the Northwest Atlantic Fisheries and the 1952 International Convention for the High Seas Fisheries of the North Pacific Ocean. Notice regarding the former convention was given on June 22, 1976, and notice regarding the latter agreement was made on February 10, 1977. These two annulments, the latest on record, may fairly be classified as having occurred pursuant to specific congressional authorization and direction.

A number of other treaties have been terminated by ratification of new treaties on the same subject. This form of treaty abrogation does not have bearing on purported Executive independence, except that it obviously follows affirmative action by the Senate.

None of this type of treaties, usually covering technical subjects, has been included in the above listing and they are mentioned here only to prevent confusion arising from a failure to identify them. In these cases, the Senate in effect advises and consents to the termination of one treaty and its substitution by another in the very act of agreeing to ratification of the new treaty, it being a well settled diplomatic practice that a later treaty supersedes or revises an earlier one on the same subject.[30]

*Historical usage demands legislative participation in abrogation of treaties*

The historical usage described above upholds the general position asserted by the late Professor Edward Corwin, one of this century's foremost authorities on the Constitution, who wrote:

"(A)ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the Executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone."[31]

The only clarification I would add to Professor Corwin's statement is that the abrogation of a treaty also can be made by the exercise of the treaty-making power itself, meaning the President together with two-thirds of the Senate, or possibly if Congress goes along, by prompt congressional ratification of a Presidential initiative.

Also, it may be conceded for purposes of the situation at hand, our treaty relations with the Republic of China, that history indicates the President may, if Congress raised no objection, determine whether or not a treaty (1) has been superseded by a later law or treaty inconsistent with or clearly intended to revise an earlier one, (2) has already been abrogated because of its violation by the other party, or (3) cannot be carried out because conditions essential to its continued effectiveness no longer exist and the change is not the result of our own action.

*Exceptions are not applicable to ROC*

It is important to note that none of the exceptions recorded above applies to the Republic of China. She has faithfully adhered to all our treaties with her and has not given us any cause to consider them void.

Nor could impossibility of performance be raised as an excuse, because we would be the party at fault. As proposed by the sympathizers of Communist China, our break in treaty relations with Taiwan would follow recognition of the mainland regime. The basis for our annulment of the treaty would be our own voluntary action in breaking diplomatic ties with Taiwan.

It is clear international law forbids a nation from raising a change in circumstances as the ground for terminating a treaty where that change results from an action of the party invoking it. This is spelled out in the 1969 Vienna Convention on the Law of Treaties, which the United States has signed, but not yet ratified.

Article 61 of that Convention reads:

"Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty."

Article 62 of the same Convention also provides that a "fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty . . . if the fundamental change is the result of a breach by the party invoking it. . . ."

Thus, it would not only be a dishonor to the United States and a violation of the Constitution if the President should unilaterally break our treaties with Taiwan, but it would be a violation of international law as well.

In the words of the Department of State itself at an earlier time in our history: "Such a course would be wholly irreconcilable with the historical respect which the United States has shown for its international engagements, and would falsify every profession of all belief in the binding force and the reciprocal obligation of treaties in general."[32]

CHAPTER 4—TERMINATING TREATIES: THE NATURE OF U.S.-REPUBLIC OF CHINA RELATIONS

This leaves the question of whether a treaty can be entered into with a government that we do not recognize. If, for the sake of argument, the United States should break relations with Taiwan, can we still have treaties with her?

Yes. We can. Although we have never before withdrawn recognition from any friendly country, we have had dealings in the past with powers whom we have not recognized so long as they have exercised practical control over a particular area. Mainland China is a case in point.

The past international experience of our own and other governments bears out the validity of this practice. For example, the Netherlands at one and the same time recognized the official government of Spain while entering into formal treaty relations with the government of the Franco regime in 1938. And, in the 1950's, Egypt concluded several treaties with East Germany and Communist China without recognizing those countries.

As to the United States, we not only currently have a liaison office in Communist China, but we dealt with the Communist regime once to negotiate the armistice in Korea and again during the 1954 Geneva Conference on the reunification of Korea. Also, in 1962, the United States concluded an international agreement on Laos to which Communist China was an official party.

Other precedents involving the United States include the Postal Conventions of 1924 and 1929 to which both we and the Soviet Union became parties, even though the United States did not then recognize the USSR. Then there is a well-known political treaty, the Kellogg-Briand Pact of 1929 for the renunciation of war. The United States, which did not recognize the Soviet Union, nevertheless agreed to invite her to become a party. We even went so far as to send Russia a diplomatic note reminding her of Russian obligations under the Pact, again prior to having diplomatic relations with her.

Another example is the Nuclear Weapons Test Ban Treaty of 1963, which appoints three depositories for new members in order to enable both Communist China and Taiwan, and East Germany, to become parties along with nations that do not recognize them. The United States, which does not recognize Communist China, extended an invitation to it to come into the agreement.

The question of having dealings with a non-recognized power was examined in the context of our China policy by Stanford University law professor Victor Li in a 1977 study sponsored by the Carnegie Endowment for International Peace. Professor Li concluded that there are no legal impediments to considering Communist China as the de jure government of China, while the Taiwan authorities are regarded as being in de facto administrative control of the territory and population of Taiwan.

If the Taiwan authorities were regarded as having practical power over a territorial entity, whether or not it is called a state, Professor Li writes that international law contemplates the possibility "that treaties applying to territory actually controlled by Taiwan would remain in force even after withdrawal of de jure recognition."[33]

Professor Li concludes his paper by specifically declaring:

International law does not require that treaties affecting only the territories controlled by the Taiwan authorities must lapse. On the contrary, there is strong support for protecting on-going relations, especially those involving commercial affairs and private rights.[34]

In his authoritative book, *Nonrecognition and Treaty Relations*, Dr. Bernard R. Bot agrees that derecognition of a government does not automatically suspend or terminate treaties previously entered into by that government. To the contrary, he argues:

"A nonrecognized state can be a party to international agreements provided that its *de facto* authorities carry on, even if only as agents, the external relations and can avail themselves of the resources of the territory and control the population if necessary, for the purpose of observing treaty obligations assumed."[35]

Moreover, Dr. Bot finds "that nonrecognition of states and governments does not necessarily impede the latter's capacity to conclude bilateral treaties."[36] He adds, "it becomes increasingly clear that the criterion for participation in multilateral treaties is no longer the recognition status, but the issue of political desirability."[37]

Thus no impediments exist in international law which would prevent the United States from dealing both with the People's Republic of China as the legally recognized government of China and with the Republic of China on Taiwan as the separate authorities in control of a portion of the Chinese state.

*The recognition power differs from treaty abrogation*

Another matter to be resolved is whether the recognition power itself gives the President the power to terminate treaties. The one power does not follow from the other, although Alexander Hamilton once argued that in special circumstances they do.

In the course of his famous debates with James Madison over the constitutionality of President Washington's Proclamation of Neutrality among warring France and Britain in 1793, Hamilton, writing as Pacificus, claimed:

"The right of the executive to receive ambassadors and other public ministers . . . includes that of judging, in the case of a revolution of government in a foreign country, whether the new rulers are competent organs of the national will, and ought to be

Footnotes at end of article.

recognized, or not; which, where a treaty antecedently exists between the United States and such nation, involves the power of continuing or suspending its operation. For until the new government is *acknowledged*, the treaties between the nations, so far at least as regards *public* rights, are of course suspended." [38]

Hamilton was writing of a situation where only one government, that of the rebels, survived a revolution. He was not considering the situation where there are two competing powers demanding recognition, one representing the former legitimate authorities and the other the insurrectionists. In particular, Hamilton made no reference to a setting in which the United States had continued recognition of the original authorities following a revolution and had even entered into a treaty with that same government after the revolution, as is true in the case of the ROC.

Far from this being an instance where all treaties between the nations were suspended, as in Hamilton's supposition, here the Mutual Defense Treaty was concluded years after the revolution. For us to renounce that treaty by switching recognition after a quarter of a century's adherence to it would be a new development of our own making, not an immediate and unavoidable result of a revolution. Thus, Hamilton's argument is inapplicable to present Sino-American relations.

It would be sheer legal gimmickry for anyone to argue that the recogition power carries with it the power to abrogate our treaties with the ROC. It might as well be claimed that recognition includes the power to make formal treaties independently of the Senate.

As discussed above, should the United States now decide to drop relations with the ROC, the question of whether treaties and other international agreements with her would continue in effect would be left up to mutual agreement between the United States and the still de facto government of Taiwan.

Thus, it is clear that should we switch embassies from Taipei to Peking, no rule or tradition of domestic or international law would require the President to consider treaties with the authorities on Taiwan as having lapsed. Rather this would become a political decision to be determined by political reasons, not by legal theory or grounds. And since, as we have seen, the Constitution demands a legislative role in such a political decision, a presidential act of derecognition could not annul those treaties absent the separate, concurring decision of Congress or the Senate.

*The removal power cannot be equated with the treaty termination power*

At a recent Washington, D.C. seminar on China, the main speaker, one of the leading proponents of immediate recognition of the mainland China regime, attempted to justify his opinion that the President may terminate a treaty without the consent of the Senate or Congress by drawing a curious analogue to the removal power. Since it is well settled that the President can remove cabinet members and other high officials of the Executive Branch, who have been appointed "by and with the advice and consent of the Senate," without returning to the Senate for its further consent, so it is claimed the President can remove treaties which have been made "by and with the advice and consent of the Senate."

This line of argument is totally unsatisfactory for the following reasons. First, it is nonsense to equate the President's relationship to subordinate officials of his own Administration with the relationship of this country to other sovereign nations. Allowing the President to dismiss officers whom the Constitution has plainly under him is one thing. But allowing the President to discard a formal treaty entered into between our government and our legal peer under international law, another sovereignty, is quite a different matter. There is simply no factual ground on which to make a parallel between the two powers.

Second, unlike the case of the removal power, there is a specific constitutional provision which conflicts with any inference of the power to terminate treaties. As we have seen, the President is directed by the Constitution to faithfully execute the laws. Another provision of the Constitution tells us that a treaty is a law. Thus, the President would run afoul of express provisions of the Constitution if he should attempt to unilaterally terminate a treaty. The novel doctrine that a power to annul a treaty can be implied where it runs squarely into express provisions of the Constitution on the basis that a power to remove officers has been implied where there are no conflicting express provisions of the Constitution cannot be sustained.

Third, the need for application of the checks and balances feature of the Constitution is still acute in the case of the proposed termination of treaties, but is not felt in the case of removing Executive officers. The presidential power of removing officials who are placed under this direction is not surprising. The power aids in the smooth performance of his conduct of the government without the potential sabotage or disruption of his program caused by inferior officers who disagree with his policy or are discovered to be incompetent.

In contrast, his decision to annul a treaty or allow a treaty to lapse is a decision of the highest national importance. Instead of aiding in carrying out the laws, it does just the opposite. It has the effect of breaking or negating a law. Such a decision is surely the kind of public action which the Framers did not want taken until it had received great deliberation. The termination of a formal compact with another sovereign nation is exactly the type of situation where the checks and balances doctrine has its fullest force and effect. The added deliberation called for, if the decision must be sent to the Senate for its advice and consent before its completion, offers security to the people that an action of major consequences will not be taken lightly or without an opportunity for adequate consideration. Thus, the removal power is not comparable to the treaty termination power.

*Lack of judicial precedents*

To this point I have emphasized the clear logic of the Constitution itself and the lessons to be drawn from historical usage. Judicial precedents have not been cited because there simply are no court holdings squarely deciding a conflict between the President and the Senate or Congress over the treaty abrogation power.

What few related cases exist can be discussed briefly. First, there is a 1913 Supreme court decision, *Charleton* v. *Kelly*,[39] which some commentators argue supports a discretion for the President to interpret whether a treaty is void in circumstances where the other party violates it. But the case has no application to the situation where the President, without legislative approval, seeks to declare a treaty void when no breach has occurred. Moreover, *Charleton* involved an extradition treaty with Italy which neither the Executive nor Congress wanted to void. Since the treaty was not denounced, the case is not even a decisive ruling for the single situation where a breach occurs.

A second case is *Van der Weyde* v. *Ocean Transport Company* in 1936.[40] Here, the Supreme Court decided that since Congress had directed the President by the Seamen's Act of 1915 to give notice of the termination of treaty provisions in conflict with that Act, "it was incumbent" upon him to determine the inconsistency between the law and a treaty with Norway.

The Court expressly avoided any question "as to the authority of the Executive in the absence of congressional action, or of action by the treaty-making power, to denounce a treaty. . . ." [41] But it did appear to recognize the power of Congress to require the President to interpret whether a treaty is inconsistent with a statute.

A third case involving treaty abrogation is *Clark* v. *Allen*,[42] where the Supreme Court examined the question of whether the outbreak of war necessarily suspends or abrogates treaties. On its face, this 1947 case involved a construction of national policy expressed in an Act of Congress, the Trading with the Enemy Act.

Although it is *dicta*, the pertinent part of the opinon for our analysis comes from the favorable use by the Court of a statement made by then New York State Court Judge Cardozo: "[The] President and Senate may denounce the treaty, and thus terminate its life. Congress may enact an inconsistent rule, which will control the action of the courts." [43]

By favorably quoting this interpretation of the treaty abrogation power, the Supreme Court seems to have approved the proposition that either the Senate or Congress must participate in the annulment of a treaty.

Two other voices from the bench add weight to the power of Congress in this field. In an opinion he published with the case of *Ware* v. *Hylton* in 1796, Supreme Court Justice Iredell twice emphasized his belief that Congress alone has "authority under our Government" of declaring a treaty vacated by reason of the breach by the other party.[44] Although his statements were *dicta* to the Court's decision, they are significant as an 18th Century understanding of the annulment power by one of the original members of the first Supreme Court.

In his *Commentaries on the Constitution*, Justice Story declared that the treaty power "will be found to partake more of the legislative, than of the executive character." [45] He also explained it is essential treaties "should have the obligation and force of a law, that they may be executed by the judicial power and be obeyed like other laws. This will not prevent them from being cancelled or abrogated by the nation upon grave and suitable occasions; for it will not be disputed that *they are subject to the legislative power, and may be repealed, like other laws, at its pleasure.*" [46] (Emphasis added.)

From what few judicial pronouncements exist, there is no basis for Executive power over treaty abrogation and some, but not definitive, authority for congressional power. Although the issue is ultimately a legal one, the answer lies in history and the Constitution, not in earlier cases.

*Breach of ROC treaties would affect private rights*

Not only the Mutual Defense Treaty is involved in the scheme to allow our treaties with the ROC to lapse. The 1977 Department of State publication *Treaties in Force* lists at least 59 treaties and other agreements now in effect between the two nations. If the United States were to adopt the approach put forward on behalf of the Communist Chinese, every one of these agreements would fall, not just the formal treaties.

It should be observed that this group of international agreements concerns such important subjects as shoe and textile quotas, aviation landing rights, tariffs on imports and exports, guarantees of American investments of private capital in Taiwan, safeguard of nuclear materials, and protection of rights of American citizens located in Taiwan.

It is irresponsible to propose that all these agreements shall be simultaneously extin-

Footnotes at end of article.

guished upon recognition of Communist China, yet this is the logical extension of the policy being urged upon President Carter. As indicated, many of these agreements establish rights for private individuals and businesses. Considering them as having lapsed would create serious political and economic consequences and open a flood of litigation by private parties whose interests are adversely affected by such a government policy.

*Impact upon other treaties*

Another potential implication of presidential discretion to void treaties which has not been considered, publicly at least, by proponents of the concept, is its effect upon the basic meaning of the rule of law to a free people.

If a President can violate any treaty he wants, what becomes of the order and stability in which law is supposed to operate?

If a President, independently of Congress, can withdraw from the Universal Copyright Convention, for example, what happens to private rights that were protected by this Convention?

If a President chooses to violate the Outer Space Treaty, which prohibits our nation from placing in orbit around the earth any objects carrying nuclear weapons, what effect would this have upon world stability?

The fact that the defense treaty with Taiwan includes a provision regarding duration in no way adds to presidential power. A moment's reflection will confirm that judgment. Remember, the defense treaty with Taiwan does not stand alone. Nearly every treaty this nation has with other countries contains a provision similar to the one in our treaty with Taiwan.

It is true that section X of the 1954 treaty states: "Either Party may terminate it one year after notice has been given to the other Party."

It is also true that this provision is repeated in similar terms in nearly all our bilateral or multilateral treaties. For example, NATO, the Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty all contain provisions expressly laying down agreed ways the parties can terminate them with one year's or less notice having been given to the other parties. If the Taiwan defense treaty were interpreted as allowing the President alone to provide such notice, each of the above treaties would be hostage to the sole discretion of the Executive. This news would undoubtedly come as a surprise to the Senate which has advised and consented to each of these documents without being informed of any such design.

Without fear of contradiction, I can predict an uproar among my colleagues, for example, should any President assert power to unilaterally, without giving an opportunity for prior deliberation in the Senate or Congress, violate the Nonproliferation Treaty by transferring nuclear warheads to South Africa.

The truth is that were the shoe reversed, many Americans who are falling all over themselves to give in to every demand by Communist China, would be the first to condemn unilateral presidential action of a kind they do not like. They have not thought through the possible implications of the legal theory they are asking President Carter to adopt, and if they would, the fallacy in their proposal would be obvious.

Moreover, an examination of each of the formal treaties described above which have been denounced or terminated by the United States in the past reveals that nearly all included provisions allowing withdrawal upon notice.[47] The fact that Presidents have generally interpreted provisions regarding duration as still requiring them to seek congressional or at least senatorial approval before giving notice to the other party proves that inclusion of such a provision in a treaty does not change the domestic constitutional arrangement of powers between the Executive and Congress.

As shown above, Congress has heretofore collaborated in the termination of over 40 treaties by enacting a joint resolution, agreeing to a Senate resolution or by Act of Congress. Congress obviously believed it retained a role in the treaty abrogation process in each of these instances, all but three of which involved the annulment of treaties having duration provisions. There is no record to the contrary showing that the existence of such provisions in treaties has any relation to the powers of the President and Congress.

It may belabor the subject to point out the obvious, but treaties never say they can be terminated after notice given by "the President" or "head of state" of any government. Rather the customary phrase specifies that when notice is made it shall be given by one of the "parties" to the treaty.

The term "party" means the government of the state or international personality involved, which compels a reference to the constitutional processes of that government in order to determine the manner in which the decision to give notice shall be made. In our case, this brings us back to the fact that under the Constitution the power is a joint one shared by the President and Senate or Congress.

*Conclusion*

In conclusion, no President acting alone can abrogate, or give notice of the intention to abrogate, our existing treaties with the government on Taiwan. Of course, neither the Senate, nor Congress, will agree to dropping those treaties.

It is the clear instruction of history that the President cannot give valid notice of an intention to withdraw from a treaty, let alone void a treaty in violation of the formalities required by any provision it may contain regarding duration, without the approval or ratification of two-thirds of the Senate or a majority of both Houses of Congress. Any President who would seek to thwart this constitutional mandate runs the risk of impeachment.

This is not a threat. It is a simple statement of fact which those who are unwisely urging this course of action upon the President should understand. They apparently do not know the consequence of what they are asking the President to do.

For it must be clearly understood that the check of impeachment is one of the safeguards provided by the Founding Fathers against political offenses, such as an irresponsible abuse by a President of a constitutional discretion.[48] In fact, a study made by the Library of Congress in 1974 on the abrogation of treaties concludes by observing that where a conflict arises between the President and the Senate or Congress over the question of abrogation of a treaty, and the President acts contrary to the wishes of the Senate or Congress, the President "might be impeached."[49]

This answers the too clever reasoning of the legal adviser of the Department of State which surfaced in a 1936 memorandum to President Roosevelt. His argument contended that the failure of the Congress or the Senate to approve the action of the President in giving notice of intention to terminate a treaty would be of no avail because once the notice is given, the foreign government concerned may decline to accept a withdrawal of such a notice.[50] What the argument failed to note is that even if the foreign government is entitled and wants to rely on such a notice without inquiring into the constitutional authority of the President, this does not change the domestic constitutional situation of the President in relation to the Senate or Congress.[51] The President is still answerable to the Constitution and accountable to the Congress and people.

FOOTNOTES

[1] The *Washington Post* of August 17, 1977 reported that officials of the State Department had assisted in the preparation of Senator Kennedy's speech.

[2] U.S. Bureau of the Census, *Highlights of U.S. Export and Import Trade* (December 1977). Imports based on FAS value.

[3] For a broader analysis of the significance of relations between the U.S. and the Republic of China see Edwin J. Feulner, Jr., ed., *China—The Turning Point* (Washington, D.C.: Council on American Affairs, 1976).

[4] Louis Henkin, *Foreign Affairs and the Constitution* (Mineola, N.Y.: Foundation Press, 1972), p. 169.

[5] For example, C. C. Pinckney, a member of the Federal Convention, explained before the South Carolina legislature during the ratification process that South Carolina, "considering the valuable produce it has to export, is particularly interested in maintaining of sacredness of treaties." J. Elliott, *Debates in the Several State Conventions on the Adoption of the Federal Constitution* (5 vols., Philadelphia: J. B. Lippincott, 1861), IV, 279. [Hereinafter cited as Elliot's *Debates*.]

[6] Robert G. McCloskey, ed., *The Works of James Wilson* (2 vols., Cambridge: Belknap Press of Harvard University Press, 1967), I, 166–167.

[7] Joseph Story, *Commentaries on the Constitution* (3 vols., Boston: Hilliard, Gray & Co., 1833), I, 359.

[8] *Ibid.*, p. 360.

[9] *Senate Manual*, S. Doc. No. 93–1 (1973), p. 560.

[10] Philip R. Fendall, ed., *Letters and Other Writings of James Madison* (4 vols., Philadelphia: J. B. Lippincott, 1865), I, 524.

[11] Act of July 7, 1978; 1 Stat. 578.

[12] 22 Ct. Cl. 404 (1887).

[13] S. Rep. No. 97, 34th Congress, 1st Session (1856). Reprinted in S. Doc. No. 231, pp. 107–108; emphasis added.

[14] *Ibid.*, p. 111.

[15] *Ibid.*

[16] *The Congressional Globe*, Vol. 35, p. 313 (1865).

[17] *Ibid.*, p. 312.

[18] James D. Richardson, *A Compilation of the Messages and Papers of the Presidents* (20 vols., New York: Bureau of National Literature) IX, 4327 (1897).

[19] *Ibid.*

[20] *Ibid.*, pp. 4466–4472.

[21] *Ibid.*, p. 4470.

[22] Reprinted in G. Hackworth, *Digest of International Law* (8 vols., Washington, D.C.: U.S. Government Printing Office, 1940–1944), V, 320.

[23] *Ibid.*, pp. 323–324.

[24] *Ibid.*, pp. 324–326.

[25] *Ibid.*, p. 325.

[26] *Ibid.*, p. 331.

[27] See remarks by Senator Schwellenback, *Congressional Record* (84th Congress, 1939), pp. 10750–10787.

[28] Reprinted in Hackworth, *op. cit.*, pp. 338–339.

[29] Riggs, "Termination of Treaties by the Executive Without Congressional Approval: The Case of the Warsaw Convention," *Journal of Air Law and Commerce*, Vol. 32, p. 526 (1966) and "Presidential Amendment and Termination of Treaties: The Case of the Warsaw Convention," *University of Chicago Law Review*, Vol. 34, p. 580 (1967).

[30] This is not to infer that American territory or property can be ceded by a treaty which abrogates an earlier one under which such land or property was originally conveyed to the United States. In my opinion, Article IV of the Constitution, which confers upon Congress the power to dispose of federal territory or property, requires action by

both Houses of Congress before such a transfer is valid.

[31] Edward S. Corwin, *The President's Control of Foreign Relations* (Princeton: Princeton University Press, 1917), p. 115.

[32] See Department of State press release of September 24, 1920, reprinted in Hackworth, *op. cit.*, p. 323.

[33] Victor H. Li, *De-Recognizing Taiwan: The Legal Problems* (Washington, D.C.: Carnegie Endowment for International Peace, 1977), p. 33.

[34] *Ibid.*, p. 34.

[35] Bernard R. Bot, *Nonrecognition and Treaty Relations* (Leyden, A. W. Sijthoff; Dobbs Ferry, New York, Oceana Publications, 1968), p. 208.

[36] *Ibid.*, p. 104.

[37] *Ibid.*, p. 123.

[38] Reprinted in W. M. McClure, *International Executive Agreements* (New York: Colombia University Press, 1941), pp. 305–306.

[39] 229 U.S. 447 (1913).

[40] 297 U.S. 114 (1936).

[41] *Ibid.*, p. 118.

[42] 331 U.S. 503.

[43] *Ibid.*, p. 509.

[44] 3 U.S. 199, 260, 261 (1796).

[45] Story, *op. cit.*, p. 366.

[46] *Ibid.*, p. 695. *United States v. Pink*, 315 U.S. 203 (1941), upholding Presidential power to enter into an executive agreement assigning certain Soviet claims to the United States incident to recognition of Russia, contains sweeping *dicta* regarding the recognition power, but the case in no way relates to Presidential voiding of formal treaties and has been omitted from the above discussion. *Pink* involved the President's power to conclude an international agreement without the consent of the Senate, exactly the opposite of the present situation where it is proposed he break a treaty which has been ratified after he has received the advice and consent of the Senate. In brief, the Court held that the United States was entitled by the assignment to the New York assets of an insurance company nationalized by the Soviets, thereby protecting claims of American citizens against foreign creditors of the company.

Unlike *Pink*, where Justice Douglas said the "[p]ower to remove such obstacles to full recognition as settlement of claims of our nationals . . . is a modest implied power of the President," here it would be a major action of the gravest international consequences if the President should consider a treaty void where a friendly ally has given no cause and conditions do not render it impossible to perform. Douglas specifically tied his opinion to evidence that it was common practice for Presidents to conclude executive agreements and he also relied on a prior case by the Court which specifically determined that the Soviet assignment was valid. Here, on the other hand, there is no historical record showing that Presidents have routinely abrogated treaties by their own power and there is no prior case recognizing such a power in the President. Also, unlike *Pink*, here a specific provision of the Constitution directs the President to faithfully execute the laws, of which treaties are a part. Surely the President's implied power incident to recognition does not give him the power to repeal an express provision of the Constitution to the contrary.

[47] Only the three 18th century treaties with France entirely lacked any duration provision. One other agreement, the International Sanitary Convention of 1903, did not include such a provision in the text, but the process-verbal of the deposit of ratification conferred a right of denunciation.

[48] Several of the delegates to state conventions on adopting the Constitution argued that the President was to be subject to impeachment and conviction if he abused his treaty or diplomatic power. Elliot's *Debates*, III, 240 (Nicholas); III, 516 (Madison); IV, 124 (Spaight); IV, 276 (E. Rutledge); IV, 281 (C. C. Pinckney).

[49] V. Bite, "Precedent For U.S. Abrogation of Treaties" (Congressional Research Service, Library of Congress, February 25, 1974), p. 107.

[50] Reprinted in Hackworth, *op. cit.*, p. 328.

[51] Of course, in the case of the ROC, it may be presumed the authorities would not consider the defense treaty as void, but rather would continue to hold the United States responsible under international law for adhering to its treaty obligation and thereby preserve the opportunity for restoring the treaty to its full effectiveness at any time.

Mr. GOLDWATER. I yield the floor.

Mr. JAVITS. Mr. President, will the Senator yield me a few minutes?

Mr. STONE. I yield 5 minutes to the Senator from New York.

THE PRESIDING OFFICER (Mr. METZENBAUM). The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I favor this amendment, and I am one of its cosponsors. And I wish to say why, without reiterating the points already very ably made by Senator DOLE, Senator STONE, and Senator GOLDWATER.

Mr. President, a key to my support of this amendment is contained in recital No. 4 of the amendment itself which reads as follows:

The United States-Republic of China Mutual Defense Treaty is integral to the broader north Asian security arrangements between the United States, the Republic of Korea, and Japan.

The point is, Mr. President, that these are peoples, to wit, the Taiwanese, the people of the Republic of Korea, and especially the people of Japan, have done superbly well economically and in the case of Japan have maintained democratic institutions. Japan is the centerpiece of our security position in Asia. And, Mr. President, Taiwan and South Korea are crucial flank positions of the Japan defense perimeter to which we as a Nation are so committed.

While the Taiwanese may have 15 million people, the Republic of Korea may have, let us say, 30 million, and Japan will over 100 million, the fact is that it is the aggregation standing together giving each other lateral support which is critically important for the United States in terms of our own national security and national well-being in the United States. All three nations are examples of true economic miracles achieved through the free enterprise system and all contribute to the collective strength of the western industrial camp.

The fact is that these three countries become critical together and lean on each other, and a very serious change in the condition of Taiwan, in my opinion, would seriously jeopardize the position of the Republic of Korea, and would seriously complicate the defense arrangements and requirement between Japan and ourselves upon which depends the fundamental question as to which way Japan will go in Asia, whether it will feel vulnerable to Russia or Chinese pressure or stay with us.

For that reason, Mr. President, in order to afford that lateral support and all of the considerations which that involves, I favor strongly this amendment and indeed hope that the committee might consider accepting it.

One other point, Mr. President: We cannot lose sight of the successful society in economic terms which the Taiwanese have developed on their island.

I ask unanimous consent that an article from the Washington Post of July 23, entitled "Taiwan's Anxious Boom," analyzing this economic success, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAIWAN'S ANXIOUS BOOM

(By Smith Hempstone)

TAIPEI.—It was, in some respects, an early summer *mei yu* (the plum season marked with showers) much like many others.

The muggy air, heavy with moisture and industrial pollution, smelled faintly of wood smoke, hibiscus, frying garlic and sweat. From the secret interiors of shuttered homes came the blare of television, and the softer but more insistent click of mah-jongg counters.

In this Year of the Horse, "Annie Hall" was playing the Majestic. Platoons of free-swinging (and big-spending) Japanese businessmen jammed the soggy golf courses by day and the discreet brothels of Peitou by night, driving the price of an evening's dalliance up to previously unthinkable highs ($20 for the first hour, $10 for each additional hour).

Security agents at Taipei's Sungshan International Airport, a madhouse which this year will handle an estimated 1.2 million visitors, confiscated $60,000 and more than 10 million Japanese yen (about $50,000) from the nose wheel housings of two China Airlines 707s bound for Hong Kong and Manila.

At the Imperial Book, Sound and Gict Co. on Lin Shan North Road, the pirated edition of H. R. Haldeman's "The Ends of Power," which sells for $12.95 in the United States, was going for $1.75 in hardback. It stood sixth on the nonfiction best-seller list, well behind the appropriate pacesetter, James E. Fixx's "The Complete Book of Running." At the Lincoln Center, Prof. Thomas Wang (M.A., Iowa State) was lecturing in Chinese on the writing of Saul Bellow.

Tourists from dozens of lands jammed Taipei's ornate red-and-gilt Grand Hotel (which deservedly makes many lists of the world's 10 best hostelries), picking over coral and jade at bargain prices in the basement arcade. Down on the Chung Shan North Road, tailors cut and sewed long into the night to turn out, on 24-hour notice, passable men's three-piece suits for $100.

Nearly 100,000 fiercely competitive high school students, aware that only a quarter of them will be accepted at Taiwan's 101 colleges, universities and research institutes, nervously registered for their entrance examinations; anxious parents consulted soothsayers and propitiated the gods at Lung Shan temple. At the drab American Embassy on Chung Shiau Road near the central railway station, U.S. Ambassador Leonard Unger, a Harvard-educated career diplomat, stared morosely out the window at the falling *mei yu* rain and wondered how long his job would last.

Not long, it would seem. Ever since the 1972 Shainghai communique, which committed the United States to "normalization" of its relations with Communist China, Washington has been putting as much distance as possible between itself and Taiwan's Kuomintang regime.

Secretary of State Cyrus Vance visited Peking last August, but until he found a few minutes last Sept. 10 to receive James C. H.

Shen, the Nationalist Chinese ambassador had been unable to wangle an appointment with an American secretary of state for nearly three years. When Vice President Walter Mondale made a 12-day, five-nation tour of Asia in May, Taiwan was omitted from his itinerary.

Two of Taiwan's four American libraries run by the International Communication Agency (successor to the United States Information Agency) closed down this spring for "financial reasons." The number of American military personnel here has shrunk from more than 9,000 in 1971 to fewer than 1,000 today, and more GIs are packing their duffel bags every day. There are long lines of Chinese waiting outside the consular section of the American embassy to complete visa applications, always—like the bank notes hidden in the 707 nose wheel housings—a sign of uncertainty about the future.

That uncertainty is not ill-founded. Since Peking was given the Chinese seat on the United Nations Security Council (and Tapei walked out of the General Assembly) six years ago, the number of nations that recognize Nationalist China has dwindled from more than 100 to 23—including such powers as Nauru, Swaziland, Haiti and El Salvador.

Of the dozen countries that have embassies here, only the United States and Saudi Arabia amount to much. Even the Vatican's nunciature has been manned only by a chargé d'affaires since Australian Archbishop Edward Cassidy went "on leave" in 1971, and somehow failed to reappear (he is in Bangladesh, although officially still accredited to Taiwan). No European nation maintains an embassy here, and South Korea is the only Asian country to do so.

Perhaps the worst recent diplomatic affront to Nationalist China was the timing of the visit of Zbigniew Brzezinski, President Carter's national security adviser, to Peking. Of all the days in the year he might have picked to do so, Brzezinski landed in Peking on May 20, the day 68-year-old Chiang Ching-kuo, elder son of the late Chiang Kai-shek, was inaugurated as third president of the Republic of China. Brzezinski added insult to injury by stopping in Seoul and Tokyo to brief those governments on his visit, but snubbed Taipei.

The most prominent American political figure to attend the low-key ceremony here (fireworks, but no parade) was Meldrim Thompson, New Hampshire's maverick governor, and he may have come to replenish his wardrobe: his testimonial adorns the show window of the tailor in the Grand from whom he purchased five suits.

Yet, worrisome as it obviously is to Nationalist officials, Taiwan's isolation is not as extensive as it appears. The island trades with 140 nations, and many keep in touch diplomatically through *sub rosa* organizations such as Japan's Interchange Association, a nonprofit corporation staffed by a former Japanese ambassador to the Philippines and a dozen "on leave" diplomats. Japan's trade with Taiwan actually has increased since it moved its embassy to Peking in 1972, climbing from $817 million in 1970 to $3.8 billion. Tokyo is in the anomalous position of being the second largest trading partner of a nation whose existence it denies.

But if Nationalist China is Asia's diplomatic pariah, it is rapidly becoming an economic mini-giant.

Under Japanese colonial rule (1895–1945), Taiwan had a backward agricultural economy based largely on sugar. While agriculture remains important today—Taiwan produces more snails than France, more oranges than Florida, more pineapple than Hawaii, more mushrooms than Pennsylvania and more bananas than Guatemala—its burgeoning export industries last year produced a healthy $850-million surplus, making Nationalist China the world's 22nd largest trading nation and the 12th ranking trading partner of the United States.

Foreign trade climbed from $1.4 billion in 1967 to $17.9 billion last year; this Holland-sized island's principal exports are textiles, electrical machinery, metal products, timber and plastics (sugar now ranks eighth). Trade with America in 1977 reached a record $5.6 billion; our trade with the mainland barely topped $300 million.

There seems almost nothing the Taiwanese cannot assemble or manufacture, from F5E jet fighters, color television sets and perky Yue Loong automobiles to luxury yachts, dollhouse furniture and luggage.

While Minister of State K. T. Li concedes light industry probably will remain the most important sector in the economy, Taiwan since 1975 has moved toward the creation of sophisticated capital-intensive industries, complete with the infrastructure to support them.

Of 10 major projects costing $6.6 billion, five have been completed, three more will be finished this year and the last two will come on line by 1981. Completed are the first of three nuclear power plants (oil imports cost Taiwan $1.3 billion annually), the Kaohsiung shipyard (which already has launched two 446,000-ton supertankers), an integrated steel mill capable of meeting the country's annual requirement of 6 million tons, a petrochemical complex and a new port at Taichung. Another port, a north-south superhighway and a new international airport for Taipei will be finished by the end of the year. A railway electrification project and construction of a new rail line will be completed by 1981.

Much of this new construction has been financed by more than $4 billion in external borrowing, most of it from the Export-Import Bank or the 12 American banks that operate here. These institutions, and the more than 200 U.S. corporations that have in excess of $500 million invested here, obviously have a stake in Nationalist China's political survival. More than 5,500 American civilians live here.

All this development has produced an annual growth rate of about 10 percent, with the gross national product climbing from $3.6 billion in 1967 to $19.4 billion last year. Because it has done so well, Taiwan has received no American aid since 1965. And, unlike the situation in most developing countries, much of this new wealth has filtered down to the island's 17 million people.

Largely because of full employment (only 1.4 percent of the country's 6 million workers were jobless last year) and land reform measures that restrict individual holdings to a maximum of 7.5 acres, per capita income has climbed over the past decade from $217 to $1,050. The top fifth of the population, according to a U.S. study, earns only four times as much as the bottom fifth, down from 15 times as much as recently as 1973.

The average Taiwanese's daily intake of 2,800 calories and 77 grams of protein is the highest in Asia, including Japan. Life expectancy has climbed from 58 years in 1953 to 71, and only a few households do not boast an icebox in the kitchen, a television set in the living room and a motorbike outside the front door.

This new prosperity and the passage of time have served to assuage much of the bitterness many of the 15 million Taiwanese once felt toward the 2 million mainlanders who still control the carpetbag Kuomintang government. More than half the members of the ruling party today are Taiwanese, and Chiang Ching-kuo, who appears to be genuinely popular, has gone out of his way to bring islanders forward (the new vice president, Shieh Tung-min, is Taiwanese).

Some political prisoners, estimated by diplomatic sources at "less than 400," remain and CCK, as Chiang Ching-kuo is referred to, tolerates only token opposition. The Kuomintang's most bitter opponents are to be found among Taiwanese living abroad, many of whom are out of touch with recent developments on the islands.

CCK's style is as down-home as his late father's was autocratic. "You can say one thing without fear of contradiction," asserts one diplomat. "He's the most popular mainlander on the island." When all is said and done, CCK will not likely be challenged politically while times remain relatively good.

What the Nationalists fear, of course, is that times will not remain good if the United States withdraws all its military personnel from Taiwan, transfers its embassy from Taipei to Peking, and unilaterally abrogates the 1954 mutual security treaty, all of which Peking demands as the price of "normalization" of relations with Washington.

Whether the Communists would immediately try to invade Taiwan is anybody's guess; probably not, given the bad state of their relations with the Soviet Union and their desire to acquire western military hardware.

Earlier this month, members of a U.S. congressional delegation returned from the mainland asserting that Vice Chairman Teng Hsiao-ping and other top Communist Chinese officials had hinted they were willing to negotiate directly with the Nationalists over the future of Taiwan. But in a Hong Kong press conference, the leader of the delegation, Rep. Lester Wolff (D-N.Y.), emphasized that the Peking officials neither ruled out the use of force to "liberate" Taiwan, nor drew back from their demands that the United States slash all ties with Taiwan.

Under the circumstances, many China watchers regard Peking's shift, if such it was, as tactical rather than substantive. The Nationalists have ruled out the possibility of any negotiations with Peking.

On Quemoy and Matsu, the offshore Nationalist Chinese islands, the defense of which brought Peking and Washington to the brink of war in 1958, a somnolent *sitzkreig* has evolved by unspoken mutual agreement. The Nationalists and the Communists lob leaflet-stuffed shells at each other for an hour on alternate days, launch plastic ducks and beachballs containing tracts and goodies on favorable tides, exhort each other to defect over powerful loudspeakers and float propaganda balloons in each other's direction

Gen. Chiang Wei-kuo, the generalissimo's German-trained younger son (President Chiang Ching-kuo was trained in the Soviet Union), who is president of the Armed Forces University, doubts the Communists are capable of launching a successful invasion at this time.

"They could put four divisions ashore by sea and one by air, but we'd cut them to pieces on the beaches before they could be reinforced," he asserts. With Nationalist China's 600,000 men under arms, backed by 2 million in the reserves, that's probably an accurate assessment.

What the Nationalists really fear is that, particularly if Washington transfers recognition from Taipei to Peking, Communist China's first step will be to use diplomatic and economic pressure to dry up Taiwan's sources of arms and spare parts, now entirely American.

The Nationalists, whose 700-plane air force includes 200 F5Es (a better plane than anything the mainland Chinese have), need a follow-on aircraft. The Carter administration has refused to sell Tapei jets more sophisticated than the F5E, but has indicated it would pose no objection to purchase of the Israeli Kfir. U.S. approval is necessary because the Kfir, an adaptation of the French Mirage, has an American engine.

If Peking can cut Taiwan off from its military supplies, the mainland's next move, the Nationalists fear, would be to seek a U.N. economic embargo, similar to that applied

against rebel Rhodesia, to deny Taiwan access to essential raw materials and markets for its manufactured goods.

For a nation so dependent upon foreign trade for its existence, this could create such economic dislocation and political disorder as to force Taipei to seek an accommodation with Peking. Or bring to power an extremist group that might do one of two things Chiang Ching-kuo has pledged never to do: build nuclear weapons—Taiwan has the capability—or seek an alliance with the Soviet Union.

While it may bring other benefits, "normalization" of relations between the United States and Communist China on Peking's draconian terms, if it comes to pass, clearly could have a destabilizing effect elsewhere in Asia where the United States has treaty obligations that, like those with Taiwan, were freely entered into by the United States and have been scrupulously observed by the other contracting party.

Here in his modest rented home in Taipei, 77-year-old Paul Cardinal Yupin, a Manchurian of immense dignity who concedes he is likely "to see my tomb before I see Nanking, again," raises another point that is seldom discussed:

"I worry more about my second country, America, than I do about the Republic of China. Chinese history teaches that the present tyranny ultimately will collapse of its own weight. But it is not a good thing, morally, to betray an ally. In so doing, you destroy not only the ally but part of yourself. You lose your own self-respect, and the respect of others. Still, it is not my will or Mr. Carter's—and certainly not that of the Communists—that will be done. It is God's will."

To that, at least, one can say amen.

Mr. JAVITS. Mr. President, I shall read one sentence from that article:

The average Taiwanese's daily intake of 2,800 calories and 77 grams of protein is the highest in Asia, including Japan. Life expectancy has climbed from 58 years in 1953 to 71, and only a few households do not boast an icebox in the kitchen, a television set in the living room and a motorbike outside the front door.

What a sensation for Asia, and more power to it.

Mr. CASE. Mr. President, will the Senator yield? Or, else, I shall yield myself time on the bill.

Mr. STONE. How much time does the Senator from New Jersey desire?

Mr. CASE. The Senator from New Jersey has plenty of time on the bill. Who has time in opposition, so-called, to the amendment? I suppose we do have, do we not?

Mr. GLENN. We control that time.

Mr. CASE. May I have 1 minute then yielded to me?

Mr. GLENN. Certainly, such time as the Senator needs.

Mr. CASE. This is only nominally in opposition because I approve the amendment in its broad sweep. I do think it will be desirable to eliminate that subsection 4, which is I think the only real troublesome part of it.

It talks about interrelationship and intertwining of mutual security treaties, and so forth. If that comes out I should think it would be quite a desirable thing.

Mr. JAVITS. Mr. President, if the Senator will yield to me, I can appreciate why the Senator wants it out, although I consider it the central reason why we should adopt the resolution. But the resolution is just as effective without it. The reason does not have to be stated in the resolution, and, so far as I am concerned, I can send it to committee.

Mr. STONE. If the managers of the bill would consent to accept the resolution with the omission of that paragraph, even though it is an important policy reason for those of us who authored and sponsored it, then I would recommend to my colleague, the Senator from Kansas, that that be done and that we get the amendment accepted by voice vote.

But if the managers of the bill are not prepared to make that agreement, then I think we should just go ahead with the amendment.

Mr. CASE. Mr. President, I understand that Senator GLENN and Senator KENNEDY have something in the nature of a substitute which has for its essential purpose the accomplishment of what I had in mind and, perhaps, it would be better, rather than attempting to deal with the managers of the bill at this point, to permit the Senators to make their suggestions and then, perhaps, we can all get together on a single resolution. It would seem to me that would make sense.

Mr. STONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GLENN. I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. On the amendment?

Mr. GLENN. On the amendment that time be equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is os ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that the time during this quorum call be charged against the bill and not against this particular amendment.

The PRESIDING OFFICER. Is there objection? Would the Senator seek to have it equally divided and charged against both sides?

Mr. GLENN. Equally charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3264, AS MODIFIED

Mr. DOLE. Mr. President, I send a modified amendment to the desk and ask that in addition to the cosponsors listed therein the names of the Senator from California (Mr. CRANSTON), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Ohio (Mr. GLENN)——

Mr. STONE. If the Senator will yield, also add the name of the Senator from Massachusetts (Mr. BROOKE).

Mr. DOLE (continuing). Be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And that the name of the junior Senator from Idaho (Mr. MCCLURE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 2 of the amendment, strike section (4) and renumber section (5).

Strike (b), and insert in lieu thereof the following:

(b) It is the sense of the Senate that there should be prior consultation between the Senate and the executive branch on any proposed policy changes affecting the continuation in force of the mutual defense treaty cited above.

The amendment, as modified, is as follows:

At the end of the bill insert the following new section:

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

SEC. 27. (a) The Senate finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty;

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Senate that there should be prior consultation between the Senate and the Executive Branch on any proposed policy changes affecting the continuation in force of the mutual defense treaty cited above.

Mr. DOLE. Mr. President, I think it is fair to say that we have reached an agreement on the amendment, with the cooperation of the distinguished Senator from Ohio, the distinguished Senator from Massachusetts, and the distinguished Senator from New Jersey, and we believe that it states in its present form the purpose and the point that we intended to make with reference to the amendment.

I ask unanimous consent to have printed in the RECORD at this point a fact sheet summarizing the amendment.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET

1. The amendment simply confirms the historical and constitutional role of the Senate with respect to treaties. The Senate must ratify treaties; similiarly it should consider changes in treaties currently in effect.

2. The treaty itself calls for one year's notice before termination by either party, clearly providing time for full consideration of the political and strategic consequences

of such termination by the Congress and the Administration.

3. During the 1976 Presidential campaign, Mr. Carter told a news conference: "We are bound by a treaty to guarantee the freedom of Formosa, Taiwan, the Republic of China . . . I would'nt go back on the commitment that we have had to assure that Taiwan is protected from military takeover." Before any change is made in this commitment, the Senate, having ratified the treaty, should be consulted.

4. Abrogation of this treaty could have serious military and strategic consequences;

a. It would create doubt among our allies, particularly Japan, South Korea, and the Philippines, as to our commitment to honor our obligations.

b. It could encourage the Soviet Union to expand its military influence in this critical region.

c. It could endanger the security of the oil supply route from the middle east to Japan.

d. It would seriously undercut the ability of Taiwan to defend itself against aggression.

In summary, this amendment merely requires prior consultation with the Senate before such a far-reaching step is taken. Your support is appreciated.

Mr. DOLE. I would only state that it seems to the Senator from Kansas that by making the changes we have, in effect, been able to garner unanimous support for the amendment; whereas, as originally drafted, on the other hand, the suport might have been fairly evenly divided. So I think we have accomplished a great deal.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. JAVITS. I think the key word is "prior." Prior consultation; that achieves what we are after.

I agree with the Senator that a resolution like this is important for the unanimity of its support.

Mr. DOLE. I thank the Senator from New York for insisting that the word "prior" be added.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. CHURCH. I just thought I would add a word in commendation to what the Senator has said of Senator DOLE, Senator CASE, Senator GLENN, Senator STONE, Senator GOLDWATER, and everyone who has had a hand in fashioning this compromise. I believe it is far more important for the Senate to show unanimity in expressing our belief that any fundamental change in policy in Asia, any change that would alter or affect an existing commitment, should take place only after close assessment and prior consultation with the Senate. That is proper, and we join hands across the aisle in making that assertion.

I think this has avoided a divisive debate and a divided vote on an issue that we can really agree upon when there is the good will to put together the proper formulation that this amendment now represents.

I simply want to join, as one Senator who has a great interest in this matter, in commending all those who have worked out this compromise and made the unanimity we expect to achieve possible.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, will the floor manager of the bill yield to me?

Mr. GLENN. Mr. President, I yield the Senator from Massachusetts such time as he may require.

Mr. KENNEDY. Mr. President, I ask unanimous consent that my statement commenting on the differences between the approach of the Senator from Kansas and that of those who would have supported the substitute.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, this substitute amendment is cosponsored by Senators Byrd, Cranston, Church, Glenn and myself. It is strongly supported by Secretary of State Vance.

We are all agreed that the Senate should continue to be consulted on policy changes affecting our treaty relationships. In fact, our substitute provides for consultations not only on Taiwan, but on Korea and Japan with which we maintain vital security relationships. We believe that this represents an important improvement over the amendment offered by the Senators from Kansas and Florida, which highlights United States security treaties with Korea and Japan but fails to provide for consultations as far as they are concerned.

We believe that the second improvement in our substitute is that it does not state that our security treaties in East Asia are "inseparable" or integrally linked.

Our most important ally in the region, Japan, has repeatedly rejected linkages of Korea and Taiwan. The Japanese would be disturbed to hear from the Congress that our bilateral security relationship depends on our security relationship with Taiwan, or for that matter any other country. It is important in its own right, and contributes to the peace and stability of all of East Asia.

Moreover, the Communist world is fragmented, and each country in East Asia faces different threats from different sources. For example, Peking strongly supports the U.S.-Japan Security Treaty and is negotiating a Peace and Friendship Treaty of its own with Tokyo. Moscow opposes the Security Treaty and has long-standing territorial disputes with Japan. It would be simplistic, therefore, to suggest that Japan has the same security needs as Taiwan. Each security relationship should be considered in its own right, in terms of its own security environment—which is why a proposed Northeast Asia Treaty Organization failed to reach first base even at the height of the Cold War.

So, in recognition of the desires of our allies, as well as of the complex realities in East Asia, our substitute addresses each security relationship in its own right and finds that the continued peace and stability of the region as a whole is a matter of major strategic importance to the United States.

The third improvement in our substitute amendment is that it does not prejudge the negotiations between the parties on our future relations with Taiwan and the People's Republic of China. It does not suggest, as do the Senators from Kansas and Florida, that the mutual defense treaty with Taiwan must be maintained indefinitely. Nor does it suggest the reverse. It leaves the issue open until the Administration completes the negotiating process and consults with us on the results of that process.

The fourth and final improvement in our substitute amendment is that it makes clear that the United States does have an interest in a peaceful and prosperous future for Taiwan while moving toward normal state-to-state relations with Peking, which has governed the Chinese mainland for almost three decades. Again, we do not prejudge the *form* on our future relationships but reaffirm our interest in peace and prosperity for all of East Asia, including Taiwan.

In sum, we believe that our substitute amendment better reflects the realities of East Asia and better meets the interests of the United States and our allies, than does the amendment offered by the Senators from Kansas and Florida. As I stated at the outset, Secretary of State Vance and the Administration strongly agree, and assure us that they have and will continue to consult on any policy changes affecting our treaty relationships.

Mr. KENNEDY. I think the key understanding represented by our modification of the amendment of the Senator from Kansas is that there will continue to be consultation between the executive branch and the leaders and concerned Members of the Senate. Beyond this, I welcome the deletion of the reference to linkages between the Mutual Defense Treaty and our other security commitments in Asia, which have not existed in the past and should not exist in the future.

It is quite clear, from the letter of the Secretary of State in support of our substitute language—and I ask unanimous consent that it also be printed in the RECORD—that the Administration has every intention to continue to consult with the Congress, as we move toward normal state-to-state relations with the People's Republic of China—an objective explicitly endorsed in the letter from Secretary Vance.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
*Washington, D.C., July 25, 1978.*

Hon. JOHN SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate.*

DEAR MR. CHAIRMAN: Two amendments relating to our security commitments to the Republic of China, as well as to Japan and Korea, have been proposed to the Foreign Assistance Act of 1961 and the Arms Export Control Act, one by Senators Dole and Stone and another by Senators Byrd, Kennedy, Cranston, Church and Glenn. I would like to offer the Department's views on these amendments.

If an amendment is deemed necessary, we would strongly favor the one offered by Senators Byrd, Kennedy, Cranston, Church and Glenn. We take this position for several reasons. Three Administrations have been committed to the effort to improve our relationship with the People's Republic of China while maintaining the many mutually beneficial relationships which link us to the people of Taiwan. This Administration, like its two predecessors, believes that it is important for the maintenance of a stable balance of power and the preservation of world peace that we move to the normal state-to-state relationship with the People's Republic of China, but only in ways which do not endanger the well-being of the 17 million people on Taiwan.

This Administration has consulted and will continue to consult with Congress on developments affecting our security commitment to the Republic of China as well as Korea and Japan.

We are troubled by several aspects of the amendment proposed by Senator Dole. His amendment suggests linkages between the United States-Republic of China Mutual

Defense Treaty and other U.S. security commitments in Asia which were not contemplated at the time these agreements were signed and which have not been agreed to by our allies. The form of our future relationships is best determined in the light of further negotiations rather than being prejudged in advance.

CYRUS VANCE.

Mr. KENNEDY. There has been consultation with previous administrations, with President Nixon and President Ford, and full consultation exists now with President Carter. Moreover, as stated by Secretary Vance, "Three administrations have been committed to the effort to improve our relationship with the People's Republic of China while maintaining the many mutually beneficial relationships which links us to the people of Taiwan."

But I welcome the chance to join with the Senator from Kansas on the understanding we all share—which is really the relevance of this amendment—that there will be consultation with the Congress on proposed changes of policy as they apply to Taiwan, the PRC, or really any of our treaty relationships in East Asia.

I think this is perfectly acceptable. I quite frankly think it would have been the attitude of this administration in any event, but I will vote in support of this amendment, because I think it confirms that particular point of consultation, and that is really the value, as I see it, of this amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, I believe we are prepared to yield back any remaining time and have a vote.

Mr. McCLURE. Mr. President, I ask unanimous consent that Sylvia Castellanos of my staff be accorded the privileges of the floor during all stages of consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Ohio yield back his remaining time?

Mr. GLENN. Mr. President, I think with the unanimity on this on both sides of the aisle, I would hate to further prolong and waste the time of the Senate on a rollcall vote unless the Senator from Nebraska felt it was absolutely necessary. If he wishes, of course, that is his privilege.

Mr. CURTIS. I have no desire to inconvenience the Senate. On the other hand, I think this is a rather important pronouncement and a record vote is in the public interest. I decline to withdraw my request.

● Mr. GLENN. Mr. President, the amendment proposed characterizes the United States-ROC Mutual Defense Treaty as "integral" to our security arrangements with Japan and Korea. Now that terminology gives me three problems.

First, I am not entirely sure what "integral" means. The reader is left with a general impression that the treaty is very important, but in what way and to what extent is not at all clear. One can only speculate. And I do not believe the U.S. Senate should be that indefinite in its language.

My second problem comes when I try to take the next step. That is, when I speculate on just what "integral" does mean. The most reasonable interpretation, Mr. President, seems to me to be that the validity, the strength, the effectiveness of our security arrangements with Korea and Japan depend upon the treaty with Taiwan * * * that without the latter treaty we could not provide effectively for the security of Japan and Korea. But, Mr. President, that is clearly not the case.

Now the treaty with Japan, the productions base, the supply bases, and the overall military backstopping Japan provides our forces in Korea are clearly "integral" (if that means vital) to the security of Korea.

And likewise, geography dictates that the security of South Korea and consequently the treaty that establishes and legitimizes our presence in Korea are both "integral" to the security of Japan.

But, Mr. President, Taiwan is over 700 miles South of Korea, and our major base complex on Okinawa lies between Taiwan and either Korea or the Japanese main islands. Today we have something less than 1,000 military personnel on Taiwan. No matter how hard I look at the facts, I cannot truly characterize our treaty with the Republic of China as "integral" to the security of Korea or Japan.

That treaty is obviously important from the point of view of the Taiwanese. And in case of a war in Korea, there would probably be a certain convenience in having access to Taiwan's ports, airfields, and industry. No one denies that. But this is hardly the same as what is implied by the proposed amendment.

The third problem, Mr. President, is that the amendment oversimplifies the situation in East Asia. It implies that the only threat in the region, the only source of instability is the PRC, but clearly that is not the case. Indeed, today Peking acknowledges the importance of a continued U.S. presence. Our friends and allies recognize the complexity of the international situation. Although they may support the Republic of China, they have never defined the situation in the overly simplified manner reflected in the proposed amendment.

One of our longstanding goals has been to institute normal diplomatic relations with mainland China. The PRC is now reported to have 1 billion citizens. It hardly seems reasonable that the United States should not have normal relations with the government of almost one-third of the human race.

Another long-term U.S. goal has been to provide for a peaceful, prosperous, and secure future for the people of Taiwan. They have worked hard and have been remarkably successful in creating a prosperous community on their beautiful island. These two goals need not be incompatible. But their achievement will require adjustments and flexibility. Change always entails a certain amount of pain, because it involves uncertainty. But change is essential if we are to move ahead, if we are to adapt to new circumstances.

Mr. President, I must oppose the amendment as being of uncertain intent, simply inaccurate in its most likely interpretation, and not in accord with Asian realities.●

Mr. CASE. If the Senator will yield, I ask unanimous consent that Stephen Bryen of the committee staff be granted the privileges of the floor.

The PRESIDING OFFICER. Will the Senator withhold that?

Did I understand the Senator from Nebraska to withdraw his request?

Mr. CURTIS. No.

The PRESIDING OFFICER. Without objection, the request of the Senator from New Jersey is granted.

Mr. GLENN. I yield back the remainder of my time unless any Senator has a further statement to make. If not, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. LAXALT) would vote "yea."

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—94

| | | |
|---|---|---|
| Allen | Goldwater | Melcher |
| Anderson | Gravel | Metzenbaum |
| Baker | Griffin | Moynihan |
| Bartlett | Hansen | Muskie |
| Bayh | Hart | Nunn |
| Bellmon | Haskell | Packwood |
| Bentsen | Hatch | Pearson |
| Biden | Hatfield, Mark O. | Pell |
| Brooke | Hatfield, Paul G. | Percy |
| Bumpers | Hathaway | Proxmire |
| Burdick | Hayakawa | Randolph |
| Byrd, Harry F., Jr. | Heinz | Ribicoff |
| Byrd, Robert C. | Helms | Riegle |
| Cannon | Hodges | Roth |
| Case | Hollings | Sarbanes |
| Chafee | Huddleston | Sasser |
| Chiles | Humphrey | Schmitt |
| Church | Inouye | Schweiker |
| Clark | Jackson | Scott |
| Cranston | Javits | Sparkman |
| Culver | Johnston | Stafford |
| Curtis | Kennedy | Stevens |
| Danforth | Leahy | Stevenson |
| DeConcini | Long | Stone |
| Dole | Lugar | Talmadge |
| Domenici | Magnuson | Thurmond |
| Durkin | Mathias | Tower |
| Eagleton | Matsunaga | Wallop |
| Eastland | McClure | Williams |
| Ford | McGovern | Young |
| Garn | McIntyre | Zorinsky |
| Glenn | | |

NAYS—0

NOT VOTING—6

| | | |
|---|---|---|
| Abourezk | Morgan | Stennis |
| Laxalt | Nelson | Weicker |

So Mr. DOLE's amendment (No. 3264), as modified, was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may I be recognized for 1 minute without the time being charged?

The PRESIDING OFFICER. May we have order in the Senate so the Senator from West Virginia may be heard?

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. GOLDWATER be permitted to lay down his amendment tonight without any time to be charged against it this evening, and then the Senate would proceed to the consideration of the amendment by Mr. GOLDWATER the first thing tomorrow morning, shortly after we come in at 9:30, then, in the meantime, this evening the Senate could take up the amendment by Mr. NUNN and two amendments by Mr. PERCY, which I understand are acceptable to the committee.

If this scenario is agreeable, then there would not be any more rollcall votes today.

Mr. BAKER. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I understand that arrangement is satisfactory and I further understand that the distinguished Senator from Illinois is not gathering up his papers and will be here shortly, so we should be able to proceed.

Mr. NUNN. Mr. President, I have an amendment which will probably only take about 5 minutes. If the managers agree, I will have that called up now.

Mr. GOLDWATER. Will the Senator yield so I might lay down my amendment?

The PRESIDING OFFICER. Is there objection of the Senator from West Virginia's request?

Without objection, it is so ordered.

AMENDMENT NO. 3285

(Purpose: To strike out certain provisions imposing additional license procedures for the export of certain nondefense items having "political-military implications")

Mr. GOLDWATER. Mr. President, I have an amendment at the desk numbered 3285 to S. 3075 and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an amendment numbered 3285:

Beginning on page 30, line 14, strike out all through page 31, line 5.

On page 31, line 6, strike out "SEC. 26." and insert in lieu thereof "SEC. 25.".

Mr. ROBERT C. BYRD. Mr. President, under the order, no time will be charged against Mr. GOLDWATER'S amendment, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And it will be temporarily laid aside for the amendment by Mr. NUNN and two amendments by Mr. PERCY this evening. Is that correct?

The PRESIDING OFFICER. That is also correct.

UP AMENDMENT NO. 1494

Mr. NUNN. Mr. President, I have an amendment I will send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1494.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, S. 3075 is amended to add at the end thereof the following new section:

"The President shall, within 120 days of enactment of this act, report in writing to the appropriate committees of Congress the results of the review conducted pursuant to Section 27 of the International Security Assistance Act of 1977."

Mr. NUNN. Mr. President, more than 1 year ago, the Senate and House passed the conference committee report on the International Security Assistance Act of 1977. This measure contained a provision I sponsored requiring a Presidential review of all arms control regulations. Specifically, section 27 stated that this review be conducted for the purpose of defining and categorizing lethal and nonlethal products and for establishing the appropriate level of control for each category. The conference committee also stated that this report was expected within 120 days of enactment into law.

Mr. President, the 1977 measure was signed into law on August 4, 1977. Three hundred and fifty-five days have passed and no report has ever been submitted by the Carter administration.

This year-long foot dragging by the administration is typical of the lengthy delays experienced by the U.S. firms attempting to sell nonlethal military equipment through foreign military sales channels. The same offices in State and Defense responsible for preparing this report are responsible for the foreign military sales process. It is no surprise that U.S. firms are frustrated and plagued by bureaucratic redtape and costly delays. If these bureaucracies are not concerned about complying with the law, then they certainly do not worry about the adverse economic problems caused by the extensive delays prevalent in 1977 and the genesis for last year's law. These unreasonable delays have not improved and, therefore, I am offering the same provision with one adjustment. That adjustment establishes a mandatory 120-day reporting deadline for complying with last year's law.

Mr. President, my amendment reads as follows:

S. 3075 is amended to add the following new section—"The President shall, within 120 days of enactment of this act, report in writing to the appropriate Committees of Congress the results of the review conducted pursuant to Section 27 of the International Security Assistance Act of 1977."

The basic intent of the Arms Export Control Act of 1976 was to restrain the indiscriminate and often thoughtless transfer of large quantities of highly destructive armaments to foreign countries, many of whom are not allied with the United States.

However, the act itself failed to discriminate adequately between lethal weapons such as artillery, ammunitions, fighter aircraft, and explosives and nonlethal weapons such as unarmed naval vessels, ground vehicles, and trainer, utility or cargo aircraft.

The Congress amended the International Security Assistance Act of 1977 with the aim of resolving these inequities. The law states:

The President shall undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and non-lethal products and establishing the appropriate level of control for each category.

Last year's law did not reduce existing State Department and congressional control over the sale of U.S. military equipment overseas. It was designed to encourage a commonsense approach to those sales and the establishment of a meaningful criterion for distinguishing between those sales which directly contributed to a recipient country's combat capability and those which did not.

My amendment does not change last year's law; it specifies a 120-day deadline for a report that is already about 9 months overdue. I urge my colleagues to accept my amendment.

Mr. SPARKMAN. Mr. President, the committee will accept the amendment by Senator NUNN. The executive branch report requested by the amendment was informally requested by last year's conference report but has never been received. I note that the report is to determine the feasibility of establishing a distinction between lethal and nonlethal products now listed on the U.S. munitions list and on appropriate levels of control for each.

Mr. President, I ask unanimous consent that the text of the language in the conference report be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

REVIEW OF ARMS SALES CONTROLS ON NONLETHAL ITEMS

The House bill contained a provision that directed the President to undertake a review of all arms control regulations for the purpose of defining and categorizing lethal and nonlethal products and establishing appropiate levels of control for each category.

The Senate amendment contained a provision that directed the President to develop definitions of lethal and nonlethal products and to establish procedures for the expeditious consideration of requests to export nonlethal products and to report to Congress within 120 days on the regulations and procedures to be applied to those systems determined to be nonlethal.

The committee of conference adopted the House provision. The committee of conference understands that the purpose of this review is to determine the feasibility of establishing a distinction between lethal and nonlethal product and appropriate levels of control and procedure for each. Further, the explanation of the purpose of the review in

the provision is not intended to presuppose the results of the review. Although the committee of conference dropped the Senate provision with respect to the 120-day reporting requirement, it did so with the expectation that the President would make every effort to submit a report within that time period.

Mr. CASE. Mr. President, the minority is very happy to accept this. It is further evidence of the initiative and sound thinking of the Senator from Georgia.

Mr. SPARKMAN. I agree.

Mr. NUNN. I thank my colleague from Alabama and my colleague from New Jersey.

I hope this amendment will send a strong message to administration that we expect the law to be complied with. We should be able to function without a mandate. This has been completely ignored by the administration.

I thank the Senator from Alabama and the Senator from New Jersey for accepting this amendment.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. NUNN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1495

(Purpose: To limit use of United States funds for the spraying of marihuana with paraquat in Mexico)

Mr. PERCY. Mr. President, on behalf of Senator LEAHY, Senator ABOUREZK, and myself, I offer an unprinted amendment to S. 3075, the Security Assistance Act of 1978.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself and others, proposes an unprinted amendment numbered 1495.

The amendment is as follows:

At the end of the bill insert:

"Section 481 of the Foreign Assistance Act of 1961 is amended to add a new subsection (d) which shall read:

"The provisions of subsection (a) notwithstanding, no funds or assistance authorized in this Act shall be permitted to be used or shall be used, directly or indirectly, in connection with or to assist programs involving the spraying of herbicides to eradicate marihuana plants, if such herbicides are likely to cause serious harm to the health of persons who may use or consume the sprayed marihuana.

"The Secretary of State shall inform the Secretary of Health, Education, and Welfare of the use or intended use of any herbicide to eradicate marihuana by any country or international organization in a program receiving assistance under this Act. The Secretary of Health, Education, and Welfare, on the basis of scientific information and testing and after receiving comments from the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall promptly advise the Secretary of State if such herbicide is likely to cause serious harm to the health of persons who may use or consume the marihuana sprayed with such herbicide. If the Secretary of State is so advised as to any herbicide, the herbicide shall be deemed inappropriate for use in such spraying programs and no funds or assistance otherwise authorized under this Act shall be provided for such programs.

"The Secretary of State shall submit a comprehensive report to the Congress by January 1 of each year explicitly detailing all efforts he has taken to insure compliance with this provision and to prevent the spraying of marihuana with herbicides that may be harmful to human health."

Mr. PERCY. Mr. President, I have worked this language out with Senator CULVER, chairman of the Juvenile Delinquency Subcommittee of the Judiciary Committee which oversees the Federal narcotics law enforcement effort, along with the Permanent Subcommittee on Investigations, on which I serve as the ranking minority member.

The amendment states that no funds authorized in this act shall be permitted to be used or shall be used, directly or indirectly, in connection with or to assist programs involving the spraying of herbicides to eradicate marihuana plants, if such herbicides are likely to cause serious harm to the health of persons who may use or consume the sprayed marihuana. The amendment also spells out a procedure whereby the Secretary of State shall apprise the Secretary of Health, Education, and Welfare of any intended herbicide use in a U.S.-assisted spraying program. The Secretary of HEW, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, is responsible for alerting the State Department as to any risk of serious harm arising from use of that herbicide.

The need for this amendment was prompted by the marihuana eradication program in Mexico and the use of the highly toxic herbicide, paraquat. After over a year of investigation into the effects of the U.S.-assisted marihuana eradication program, the following is clear:

According to U.S. Government estimates, as much as 36 percent of the marihuana entering this country from Mexico may be contaminated with the herbicide paraquat. This figure is even higher in some regions of the country, notably the Southwest.

NIDA tests now conclusively establish that the highly toxic paraquat is found in the smoke of sprayed marihuana which is inhaled into the human body.

Inhalation of paraquat-contaminated marihuana, particularly with prolonged exposure, may seriously impair the ability of the lungs to absorb oxygen, causing an irreparable condition known as fibrosis.

New Government estimates reveal that 16.2 million Americans smoke marihuana regularly and that 46 million have tried it.

Mr. President, I need not even mention the fact that we have had indications from the former highest drug official in the country—in the White House itself—that the use of marihuana, even in higher levels, is a real possibility, now perhaps being investigated by appropirate law enforcement officials. So for us to overlook this problem and just assume that it is not a problem of major proportion—particularly when I have seen the figures indicating the high proportion of our own Armed Forces that have used or are using marihuana—for us not to consider the serious damage we may be doing to the health and well-being of our own citizens would be shocking, indeed.

The U.S. Government has provided the Government of Mexico with millions of dollars—some $40 million over the last 3 years—for equipment and technical assistance related to the spraying of poppies with herbicides. Much of the funds have gone toward the purchase of planes and spraying equipment, the training of personnel, and repair and maintenance expenses—all, in turn, used by the Mexican Government not only for poppy eradication, but also for the spraying of marihuana fields. Mexican marihuana, which comprises about 60 percent of the hundreds of tons of marihuana brought into this country annually, is being sprayed with paraquat.

In May 1977, I requested information from Secretary of State Vance concerning the spraying of Mexican marihuana and the U.S. involvement in such programs. Pursuant to this request, an interagency meeting was held under the auspices of the White House Office of Drug Abuse Policy (ODAP), which included representatives from the National Institute on Drug Abuse (NIDA), the Department of State, the Drug Enforcement Administration (DEA), the Food and Drug Administration (FDA), the Environmental Protection Agency (EPA), and the Department of Agriculture for the purpose of developing a plan for paraquat testing.

As an outgrowth of that session, tests were designed to determine if the smoking or consumption of paraquat-tainted marihuana posed a serious health hazard to a portion of the 16.2 million regular marihuana users in this country.

After 10 months, the National Institute on Drug Abuse released the results of these tests. Given the disturbing conclusions of the study, HEW Secretary Califano issued a warning in March of this year concerning the serious health risk of paraquat-tainted marihuana. He reported that, based upon samples actually seized at that time, approximately 21 percent of the marihuana coming into the country from Mexico was contaminated with paraquat. The maximum level of contamination which EPA currently allows in this country is 0.05 parts per million. Yet, the NIDA reports disclosed that some paraquat residues on Mexican marihuana were above 2,200 parts per million. That figure is 40,000 times the EPA tolerance level. The average contamination of the seized samples was 450 parts per million.

Although the provisions of the National Environmental Protection Act required that an environmental impact statement be prepared before this program became operable, one was never processed or submitted. Now, after 2½ years of noncompliance and considerable pressure from outside groups, the State Department has just begun work on an

environmental impact statement on the domestic effects of this program and an environmental assessment of its effects in Mexico. Had NEPA's procedural requirements been followed from the start, we probably would not be faced with a current dilemma. Yet, even now, as the environmental impact statement is finally being prepared, the spraying of paraquat continues.

Knowing what we now know about paraquat, as a government we have a clear duty to warn the users of the danger. HEW Secretary Califano has done that. But we also have a duty, having provided the means and wherewithal for Mexico's spraying program, to urge Mexican officials to halt the spraying for the time being, while accelerating our own efforts to find a safer herbicide.

The NIDA findings clearly indicated the need for swift action on the part of this Government to insure the health and welfare of a significant number of our citizens. These citizens, mostly American youths, are endangered as a result of our own Government's involvement, however direct or indirect, in Mexico's program to spray marihuana fields with paraquat. The health risk is evident and it is serious: We cannot afford to wait for another protracted period before doing everything possible to induce the Mexican Government to terminate the use of paraquat in its spraying program, or to substitute a safer herbicide.

Such a safer herbicide does not now appear to be available. To wait any length of time before one is identified—without in the interim doing anything to urge Mexico to suspend its current paraquat spraying program—could needlessly endanger a large segment of our population. This administration, through the Department of State, should do everything possible to get the Mexican Government to act responsibly and with dispatch in this respect. Why it has not done so over these last several months utterly defies logic and sound public policy.

Mr. President, some of us who through the years have engaged in the interparliamentary work and meetings with the Mexican counterparts in their parliament have found them sympathetic, desirous of cooperating and working with us in this program. After their last meeting with us, they are much more conversant with the nature of the problem and the grave danger it poses than they were before coming to Washington.

I have been informed by the State Department that they have initiated an experimental program in Mexico to spray marihuana with a compound of paraquat mixed with the red dye, rhodamine-B. If successful, any tainted marihuana entering this country would be recognizable. This seems to be a step in the right direction. However, at the present time, officials do not know whether this red dye can be washed off the contaminated marihuana by devious traffickers and then ultimately peddled, undetected. Also, apparently no tests have been done to determine the health risks that the inhalation of rhodamine-B may involve. Until these questions are answered, red dye does not constitute an adequate solution to this problem.

A year ago, the paraquat spraying program was merely a bureaucratic dilemma. Now, in the face of a proven health risk to millions of Americans, the U.S. failure to urge the Mexican Government to halt this program has become a moral issue: We are using a weed killer to produce a killer weed, presumably on the basis of a distorted logic that we are out to protect young people.

Such a policy is wholly inconsistent with the avowed purpose of our drug eradication program. This program is designed to protect the health of American citizens, not to damage it further. The U.S.-assisted poppy-eradication program in Mexico, to its credit, has met this goal by significantly decreasing the amount of heroin entering this country. However, the continued involvement of the United States in the paraquat-spraying of marihuana can only generate deep distrust on the part of young persons for our public health programs as well as undermine the faith of all our citizens in the ability of this administration to govern wisely.

Since Secretary Califano's appropriate warning in March of this year concerning the serious health risk of smoking paraquat-tainted marihuana, laboratories that test for contamination have sprung up all over the country and are inundated with marihuana samples from concerned and frightened users.

I pay particular tribute to one Illinois company I know of, G. D. Searle & Co., whose chairman of the board and chief executive officer is Donald Rumsfeld, former Secretary of Defense for the U.S. Government, for offering this kind of service. They have been inundated with requests to test samples.

Students are protesting U.S. involvement in the spraying operations. Editorials urging a halt to the program have appeared in major newspapers across the country. The Michigan Legislature overwhelmingly passed a resolution condemning the U.S. support of the paraquat program.

One San Francisco doctor reports that he has treated 40 cases of burning throats, bloody sputum, and various lung problems among marihuana smokers. He attributed these symptoms to paraquat contamination. In Fresno, doctors have referred 37 patients with blisters of the mouth, throat ulcerations, and bloody sputum to the Center for Disease Control in Atlanta for further tests. Forty-six percent of the marihuana tested in Fresno has been found to be contaminated.

Indeed, the west coast is where most of the estimated 15 million pounds of Mexican marihuana smuggled daily into this country is sold. In San Francisco, where reports indicate that 33 percent of the marihuana is tainted with paraquat, former users are reported to be turning to harder drugs, like PCP and heroin, according to the Haight Ashbury Free Clinic, a drug treatment center.

Samuel Alba-Leyva, Mexico's deputy attorney general in charge of the drug eradication program, has charged that the reports of paraquat-tainted marihuana entering the United States from Mexico are merely propaganda generated by groups who are working for the legalization of marihuana. He is very much mistaken. I have been involved in this investigation since its beginning. The facts indicate that paraquat contamination is a real and significant problem. Furthermore, I am not an advocate of marihuana legalization. I oppose the use of marihuana. While for years I have urged the decriminalization for marihuana, I believe it entirely appropriate for authorities to impose up to a $100 civil fine for persons found using marihuana in public places. However, my disapproval of marihuana use does not blind me to the vast number of young Americans who regularly use the drug and whose health is, therefore, threatened by the alarming risks of paraquat poisoning.

I have limited the language of this amendment to the marihuana eradication program so as not to jeopardize the vital poppy-spraying program which is working admirably. That program has substantially diminished the flow of heroin into the United States. This amendment will specifically deal with the existing health risk posed by marihuana eradication, and should prevent its recurrence in the future. It makes clear what actions are required of the State Department and other agencies in the context of any herbicide spraying program on marihuana which this Government may promote or assist, however, directly or indirectly. It also insures that the kind of tests and assessment that recently revealed the dangers of paraquat will be conducted on any future herbicide that may be used in connection with the crop-spraying expenditures for equipment and training which this legislation authorizes.

We cannot afford to wait another year or another several months before responsible action is taken. The adverse effects of paraquat poisoning are cumulative, both to the health of millions of American citizens and to the morale of even more Americans who watch in disbelief as responsible officials in this country refuse to take action to urge understanding and a positive response on the part of the Mexican Government. Hopefully, with the provisions of this amendment, we will approach our drug eradication program with an awareness of the dangers we ourselves can produce, and thereby avoid the senseless poisoning of Americans in the future.

So that the background of this problem is clearly understood, I ask for inclusion in the RECORD my correspondence with the Department of State and the White House Office of Drug Abuse Policy; the warning issued by DHEW Secretary Joseph Califano upon being apprised by NIDA of the new, disturbing test results; and the preliminary report of DHEW, entitled "Contamination of Marijuana with Paraquat."

I also ask to be included: An excellently researched article by Jeffrey Smith, from the February 24, 1978, edition of Science magazine, entitled, "Spraying of Herbicides on Mexican Marihuana Backfires on United States" as well as Mr. Smith's followup article of April 28, 1978. Both these articles give a comprehensive overview of the herbicide paraquat, the history of its use,

and general background information on the subject.

Press reaction to the U.S.-assisted paraquat spraying program has come from across the country. I also ask to be included in the RECORD at the end of my statement Ellen Goodman's syndicated column on this subject, appearing in the Washington Post on April 22, 1978, and editorials from the New York Times of March 18, 1978, the Chicago Sun-Times of March 29, the Boston Globe of April 3, the San Francisco Examiner of April 22, the Northern Virginia Sun of March 29, the Tacoma News Tribune of April 11, the Sacramento Bee on April 2, and from Rolling Stone magazine of June 29.

Finally, many legislators from around the Nation have expressed their concern over the continued involvement of the United States in the program and this Government's unwillingness to act responsibly in this regard. I note that Congressman HENRY WAXMAN and Congressman GEORGE MILLER intend to introduce a similar amendment to the Foreign Assistance Act when it comes to the House floor within the next few weeks.

The inserts follow:

COMMITTEE ON GOVERNMENTAL AFFAIRS, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
*Washington, D.C., May 6, 1977.*

Hon. CYRUS R. VANCE,
*Secretary of State, Department of State, Washington, D.C.*

DEAR MR. SECRETARY VANCE: For the past few years, the Permanent Subcommittee on Investigations has actively monitored the efficiency and effectiveness of federal drug law enforcement. As ranking minority member of this Subcommittee, I have aken a special interest in this subject.

In conjunction with the Subcommittee's continuing oversight of federal efforts to halt the flow of illegal drugs across the Mexican border, the Subcommittee is interested in the joint United States-Mexican program to cut off drug supplies at the source by spraying Mexican marijuana and poppy fields with chemical herbicides. In this regard, I would appreciate your providing me with the following information and any documentation pertaining thereto:

1. Please describe the United States government's oversight of the Mexican spraying operations. What role do American advisers play in the actual spraying operations and in the surveillance of those operations? How often are independent audits of this program conducted and when is the next such investigative trip scheduled? Specifically, does the State Department plan a review of the program by a multidisciplined team of experts, as recommended by Dr. Walter Gentner of the U.S. Department of Agriculture in the report on his Fall, 1976, study of the program?

2. How are the herbicides used for the program selected? What influence does the United States have over the choice of herbicides? Does the United States set standards and specifications for the purchase and handling of herbicides by the Mexican government?

3. Is the chemical herbicide paraquat (also known as gramoxone) still used in Mexico on opium poppy plants? If not, when and for what reason was its use halted?

4. Is paraquat still used for spraying purposes on marijuana plants? If not, when and for what reasons was its use halted?

5. Have any types of herbicides other than paraquat and 2,4-D been used in this program? Specifically, has 2,4,5-T been used on Mexican drug crops? If other herbicides have been used, why was their use halted?

6. Does the EPA currently consider paraquat safe for use in this program? Has the EPA shifted paraquat to its "rebuttable" list, indicating that there may be some reason to believe that it should not be registered for use in the United States? Has the U. S. Department of Agriculture strongly urged the United States and Mexican governments to discontinue use of paraquat on drug crops? If so, what action has been taken or is contemplated?

7. Has the U. S. government considered the toxic consequences of paraquat sprayed (1) on non-target Mexican food crops intended for local consumption or for export to the U. S. or elsewhere? and (2) on marijuana plants which are harvested after spraying, illegally exported into the United States, and subsequently smoked or consumed by American users or the drug?

8. What is the present position of the State Department on the use of paraquat in this program by Mexican authorities? Has the State Department made any effort to stop or urge discontinuance of the use of this chemical by the Mexican government? If so, please describe these efforts and the Mexican government's response to them.

Please transmit all State Department correspondence, cable traffic, agency memoranda, and other documents, from January 1975 to the present, concerning the use of herbicides on drug crops in Mexico. This should include but not be limited to all correspondence with the Department of Agriculture and the Mexican government.

Your prompt assistance and reply by Friday, May 13, 1977, will be greatly appreciated. Mr. Stuart M. Statler, Chief Counsel to the Minority, is available to provide all necessary assistance to your staff and can be reached at 224-9157.

Warmest personal regards,
CHARLES H. PERCY,
*Ranking Minority Member.*

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DEPARTMENT OF STATE,
*Washington, D.C. May 13, 1977.*

Hon. CHARLES H. PERCY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PERCY. Thank you for your letter of May 6 to Secretary Vance in which you asked for specific information and documentation about the Mexican Government's eradication program in which opium poppy and marihuana fields are sprayed with herbicides.

I have been informed that the Office of the Senior Adviser for Narcotics Matters has been in touch informally with members of your staff concerning these questions. While an initial response has been prepared by that office, a few of your questions will require more time to provide a sufficient reply.

The Department of State shares your concern that the means employed to control illicit drug abuse and international narcotics traffic do not result in individual suffering, or ecological damage. President Carter stated in his message to the U.N. Commission on Narcotic Drugs in February . . . We must combine deep compassion for the victims of addiction with a vigorous attempt to eliminate the world supply of illicit drugs through international cooperation . . .

The Mexican narcotics control effort is directed and controlled by the Mexican Government. The United States Government provides the Mexican Government assistance which includes equipment and technical advisory services, since success in the Mexican program will help reduce the supply of illicit narcotics for the United States market.

You requested a description of the U.S. Government's oversight of the Mexican spraying operations. In addition to oversight provided by the U.S. Embassy in Mexico and the Department's Office of International Narcotics under the Senior Adviser for Narcotics Matters, inspection of the program in Mexico is conducted by the General Accounting Office, the Inspector General of Foreign Assistance, the Drug Enforcement Administration, periodic audit by the Agency for International Development and various concerned Congressional committees.

The oversight definition varies from group to group. The Department of State is concerned with the effectiveness of the program as it relates to the use of the U.S. assistance provided to the Mexican Government, i.e., whether the program is helping to reduce the flow of illicit drugs into the United States. The spraying operation is the core of the eradication effort. All supplementary efforts are directed at insuring effective spraying of the poppy fields, which the Mexican Government has given priority over marihuana fields. Spraying of marihuana takes place primarily during the summer period between the normal harvests of poppies.

The role of the American advisers in the actual spraying operation consists of helping identify the location of poppy fields by the Drug Enforcement Administration's TDY personnel flying reconnaissance flights with Mexican pilots and spotters; U.S. contract flight instructors; maintenance and repair instructors; aviation systems advisers; and support advisory services in operation of multi-spectral poppy field identification systems. Concerning your question of surveillance of the operations, American advisers infrequently accompany Mexican spray flights and often accompany Mexican personnel on subsequent verification missions.

Independent audits of the program are conducted frequently and often overlap. At the present time, representatives of the Congressional Budget Office and the Inspector General's Office for Foreign Assistance are reviewing the program in Mexico. The Department's Inspector General's review of the program begins in a few weeks and the A.I.D. audit should begin in June. The extent to which each of the groups may focus on the detailed technical aspects of the type of herbicide used will vary.

Dr. Walter A. Gentner of the U.S. Department of Agriculture visited Mexico in 1976 when the transition phase between the outgoing and incoming administration took place. His recommendations have been passed to the new administration. To date, the new Attorney General has not desired U.S. technical assistance in developing the use of herbicides which he has stated must be effective in eradication, ecologically safe, and safe for the personnel who participate in the spraying.

Herbicides are selected for the program after these criteria have been examined by specialists from various ministries within the Mexican Government. The herbicides presently employed in the program have been approved by the Mexican Department of Agriculture and are used commercially in agriculture in various parts of Mexico. The United States does not have direct influence over the choice of herbicides. We have provided technical advisers to consult with the Mexican Government on herbicides and current planning exercises with the Mexicans may result in additional consultation. The Mexican Government purchases and procures the herbicides used in the program. No reimbursement arrangements exist to cover this cost. The United States cannot and does not set standards and specifications for the purchase and handling of herbicides by the Mexican Government. In response to a Mexican request for guidelines to assure safe handling of herbicides, general instructions were prepared on one occasion by the Narcotics Assistance Unit at the U.S. Embassy in Mexico City.

The U.S. Embassy reports that the chemical, paraquat, has been used in 1976 and 1977 only against marihuana, while 2,4–D is used only against opium poppies. We have been advised that in the future, only 2,4–D will be used against both poppies and marihuana because tests showed it was more effective and safer to handle. We will look into this issue further and will advise you.

We only know of the use of 2,4–D and paraquat in the program. It is possible that other herbicides or chemical variations have been used for limited testings.

We are making inquiries regarding the Environmental Protection Agency's position on paraquat. The U.S. Department of Agriculture has advised us informally that handling paraquat in its concentrated form can be harmful. This advice was passed on to the Mexican Government.

The possible toxic consequences of paraquat being accidentially sprayed on Mexican food crops, appears to be a remote possibility. The marihuana fields are located generally far from food crop fields. Reports from the Embassy indicate that marihuana sprayed with herbicides disintegrates quickly into a fine powder rendering it useless for smoking.

The State Department believes that herbicides used in any eradication effort should be safe for man and environment as well as effective in destroying the illegally grown plants. Some evidence is available that paraquat can be harmful to those who prepare and apply paraquat; therefore, we have supported informally the reported decision of the Mexican Government to use in the future only 2,4—D. We shall make inquiries on the progress of this decision and advise you.

Concerning your request for all State Department correspondence, cable traffic, agency memoranda, and other documents, from January 1975 to the present, covering the use of herbicides on drug crops in Mexico, we will begin the search immediately and provide the documentation within a matter of days.

Sincerely,

DOUGLAS J. BENNET, Jr.,
*Assistant Secretary*
*for Congressional Relations.*

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SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS,
*Washington, D.C., July 18, 1977.*

PETER G. BOURNE, M.D.,
*Director, Office of Drug Abuse Policy, The White House, Washington, D.C.*

DEAR DR. BOURNE: Over ten weeks ago, members of the staff of the Senate Permanent Subcommittee on Investigations, of which I am ranking minority member, called to my attention the possible hazards associated with the use of the herbicide "paraquat" on Mexican marijuana fields. The potential seriousness of this problem was immediately apparent. As you know, thousands of pounds of marijuana cross the Mexican border every month, and there is good reason to believe that a large portion of this marijuana, destined for consumption by U.S. citizens, may be tainted with this highly poisonous chemical. Although I do not condone the use of illegal drugs under any circumstances, I feel that the United States government has a responsibility to ensure that its actions do not foreseeably endanger the health and safety of any of its citizens, drug users included.

I understand that, under your direction, a meeting was held at the White House on May 27, to discuss possible means of resolving the uncertainties of paraquat use on drug crops. The outcome of this meeting was a decision to begin certain tests on paraquat and paraquat-treated marijuana, to be conducted under the auspices of the National Institute on Drug Abuse. On June 10, my office reecived assurances from the Deputy Director of ODAP that these tests would begin "immediately."

On July 8, Subcommittee staff contacted your office to check on the progress of these experiments. Staff was informed that the actual experiments had not yet been started and would not commence for another two weeks, even though six weeks had already passed since the decision to implement this effort.

It is most difficult for me to understand an eight-week delay in such a simple task as the planting of marijuana for test purposes, especially in view of the six to eight-week lead time required to grow the plants to maturity, which is a necessary first-step in this test effort.

I know you share my concern for the health and safety of all Americans. No one should be inadvertently poisoned through the actions or inactions of the United States government. In view of the delays in this project to date, I urge you to do whatever is necessary to expedite the conduct of these important experiments.

Sincerely,

CHARLES H. PERCY,
*Ranking Minority Member.*

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THE WHITE HOUSE,
*Washington, D.C., August 2, 1977.*

Senator CHARLES H. PERCY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PERCY: Thank you for your letter of July 18 concerning research on Paraquat toxicity. Please be assured that we share your concerns and consider this an important research issue. I would like to detail for you the steps which have been taken and are planned to develop this project.

It was decided at our May 27 meeting to attempt to resolve certain questions concerning Paraquat's potential danger to marijuana smokers. To this end, I requested that the National Institute on Drug Abuse (NIDA) prepare a research plan which could be implemented to settle some of these concerns. The plan was presented on June 3, and I subsequently discussed the project with Mr. Dodson of your office on June 6. I decided, in view of the potential danger to U.S. citizens, that the project should be implemented and this decision was communicated to NIDA on June 7.

The research timetable called for an 18-week project to arrive at preliminary conclusions concerning the pyrolysis products of Paraquat on marijuana leaf—those chemical entities which appear in the condensed smoke after a marijuana cigarette is smoked. If safety cannot then be adequately addressed, toxicity studies in rats will be conducted on Paraquat-treated marijuana to access the potential toxic effects. If necessary, these studies would take an additional 12–14 weeks.

The timetable presented by NIDA is the period of time necessary to complete the project after all the individual stages have been arranged. Any delay is an unavoidable aspect of the need to supplement ongoing contract funding to cover this work, coordinate with the U.S. Department of Agriculture (USDA) for plant-growing and treatment aspects of the project, and to work out the exact details of the experimental procedures necessary to carry out the work. If these details and plans are not carefully formulated at this initial stage, more questions than answers will result from such a project.

You might be interested to learn that scientific representatives of USDA, NIDA, and the Environmental Protection Agency have agreed to the type of marijuana to be used on the experiment and the methods of application and quantity of Paraquat to be applied. Initial experimental details have been worked out and sources established for actual homegrown Mexican marijuana which is necessary for the project. It has also been agreed that Chevron Corporation will supply the Research Triangle Institute with radio-labeled Paraquat for the project.

The appropriate contractual proposals have been solicited and the seeds (Mexican varieties), which were obtained from the University of Mississippi after agreement was reached on varieties of plants necessary and numbers of plants required, planted.

Two modifications have been made to the project as originally conceived at our May 27 meeting. The first is that the confiscated material will be analyzed at the University of Mississippi for the presence of Paraquat. Depending on the amount of Paraquat that is detected on this random screening of marijuana samples from all over the United States, the potential of exposure to Paraquat by a U.S. smoker can be assessed in preliminary fashion. Secondly, the pyrolytic experiments to be carried out will be done initially on manicured (harvested) plant material after application of Paraquat to it. This is not growing plant material, but presumably the data collected on its pyrolysis will carry over to the live plant situation. Since this material is available now, initial data can be generated prior to the availability of the mature grown plants.

To summarize where we stand at this moment:

1. Plants are growing which should be ready for harvest by the end of August.

2. Chemical analysis of the confiscated samples at the University of Mississippi will commence as soon as chemical supplies arrive (2 weeks from now), and some data should be available on these analyses by the end of August with a total of 200-300 analyses completed by the end of September.

3. The contractural arrangements with the Research Triangle Institute of North Carolina are in negotiation, and their full efforts should begin in about 2 weeks.

Thank you for your interest in this important project. If I can be of further assistance, do not hesitate to call me.

PETER G. BOURNE, M.D.,
*Special Assistant to the President.*

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SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS,
*Washington, D.C., March 9, 1978.*

Hon. PETER G. BOURNE, M.D.,
*Special Assistant to the President, The White House, Washington, D.C.*

DEAR DR. BOURNE: Recent reports have come to my attention indicating that more than 20% of the samples of marijuana seized at the Mexican border are contaminated with the herbicide paraquat; that when analyzed, these samples are showing increasingly higher amounts of paraquat residues; that tests now conclusively establish that the highly toxic paraquat is in fact found in the smoke of sprayed marijuana which is inhaled into the human body; and that such inhalation, particularly with prolonged exposure, may seriously impair the ability of the lungs to handle oxygen—a condition known as fibrosis.

On July 18, 1977, I wrote urging you to expedite the conduct of tests aimed at determining the health risks associated with paraquat-treated marijuana. By December, your office reported that samples seized at the border showed "about 50 parts per million (ppm)" of paraquat. The White House release further stated "The absolute maximum amount of paraquat likely to be found on plant material is about 500 parts per million." But Dr. Richard Hawks—the official-in-charge of the paraquat study being conducted by the National Institute for Drug Abuse—has recently reported that current samples are showing up to 655 ppm; and that with each batch of new samples, the

amount of paraquat-contamination appears to be increasing. Informally, reports have reached me indicating that government-seized Mexican marijuana coming into this country has been found to contain as high as 2,200 ppm of paraquat contamination.

Surely the hazards of such levels of paraquat in marijuana, and the associated risks involved for a large segment of the American public, merit immediate and high-level response. Yet it has now been more than ten months since I first brought this problem to the attention of Secretary of State Cyrus Vance and almost eight months since my July letter to you urging that the government's inquiry into the paraquat problem be expedited because of the potential for serious harm to American citizens. With each passing day, the matter takes on more distressing proportions.

According to Dr. Hawks, we still do not know of the precise risk such marijuana contamination poses, but the potential risk is serious. My office was informed late last week that toxicity reports on paraquat-treated marijuana, when inhaled through smoking, are not conclusive and a more refined test was required. I have been informed as of today that subsequent testing indicated that paraquat traces are indeed transmitted in the smoke. At the same time, it appears that studies conducted on paraquat-treated marijuana which might be consumed report only what doses would be lethal. Clearly, sub-lethal doses might well cause permanent damage—e.g., to the brain or lungs—to some proportion of the 13 million Americans who, by government estimates, are regular marijuana users. Yet, according to Dr. Hawks, none of the tests currently being conducted or which could be conducted will be able to tell us anything about the sub-lethal risks involved when persons consume marijuana contaminated with the highly toxic paraquat. Whatever information we still do not have, as a result of recent findings, we know that no research will be able to tell us that paraquat is not a hazard to human health.

Whatever the reasons, we now know that more paraquat-tainted marijuana containing increasingly higher levels of paraquat residues are entering the United States and being sold to unsuspecting users and that there exists a clear risk to human health, of our own making. And yet, no action is being taken to induce the Mexican government to halt the use of paraquat in its spraying program, or to substitute a safer herbicide.

In light of recent developments, I believe that the United State Government should undertake immediately to safeguard the health and welfare of a significant number of our citizens who may be endangered as a result of this government's involvement, however direct or indirect, in Mexico's program to spray marijuana fields with paraquat. Without question there is a duty owed to those citizens when our government is acutely aware of hundreds of tons of marijuana crossing the border from Mexico and has lent behind-the-scenes assistance to the spraying effort which causes the marijuana to be a risk to human health.

Parenthetically, I believe that the Government of Mexico may well want to reconsider its paraquat program in view of the possible risks of lung damage to peasant farmers, and to officials in the spraying program itself who are handling this substance.

I would like to meet with you as soon as possible to ascertain why, in the face of an unknown but possibly serious health risk this government has not, to date, acted with reasonable dispatch to eliminate the risk, and what actions you propose to take at this critical time.

Sincerely,

CHARLES H. PERCY,
*Ranking Minority Member.*

SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS,
*Washington, D C., March 9, 1978.*

Hon. CYRUS R. VANCE,
*Secretary, Department of State, Washington, D.C.*

DEAR MR. SECRETARY: Recent reports have come to my attention indicating that more than 20% of the samples of marijuana seized at the Mexican border are contaminated with the herbicide paraquat; that when analyzed, these samples are showing increasingly higher amounts of paraquat residues; that tests now conclusively establish that the highly toxic paraquat is in fact found in the smoke of sprayed marijuana which is inhaled into the human body; and that such inhalation, particularly with prolonged exposure, may seriously impair the ability of the lungs to handle oxygen—a condition known as fibrosis.

I wrote you on May 6, 1977, requesting information on the United States' involvement in the spraying of the toxic herbicide, paraquat, on Mexican mariquana fields. On July 18, 1977, I wrote Dr. Peter Bourne, Special Assistant to the President, urging him to expedite the conduct of tests aimed at determining the health risks associated with paraquat-treated marijuana. By December, the White House reported that samples seized at the border showed "about 50 parts per million (ppm)" of paraquat. The White House release further stated "The absolute maximum amount of paraquat likely to be found on plant material is about 500 parts per million." But Dr. Richard Hawks—the official-in-charge of the paraquat study being conducted by the National Institute for Drug Abuse—has recently reported that current samples are showing up to 655 ppm; and that with each batch of new samples, the amount of paraquat-contamination appears to be increasing. Informally, reports have reached me indicating that government-seized Mexican marijuana coming into this country has been found to contain as high as 2,200 ppm of paraquat contamination.

Surely, the hazards of such levels of paraquat in marijuana, and the associated risks involved for a large segment of the American public, merit immediate and high-level response. Yet it has now been more than ten months since I first brought this problem to your attention and almost eight months since my July letter to Dr. Bourne urging that the government's inquiry into the paraquat problem be expedited because of the potential for serious harm to American citizens. With each passing day, the matter takes on more distressing proportions.

According to Dr. Hawks, we still do not know of the precise risk such marijuana contamination poses, but the potential risk is serious. My office was informed late last week that toxicity reports on paraquat-treated marijuana, when inhaled through smoking, are not conclusive and a more refined test was required. I have been informed as of today that subsequent testing indicated that paraquat traces are indeed transmitted in the smoke. At the same time, it appears that studies conducted on paraquat-treated marijuana which might be consumed report only what doses would be lethal. Clearly, sub-lethal doses might well cause permanent damage—e.g., to the brain or lungs—to some proportion of the 13 million Americans who, by government estimates, are regular marijuana users. Yet, according to Dr. Hawks, none of the tests currently being conducted or which could be conducted will be able to tell us anything about the sub-lethal risks involved when persons consume marijuana contaminated with the highly toxic paraquat. Whatever information we still do not have, as a result of recent findings, we now know that no research will be able to tell us that paraquat is not a hazard to human health.

Whatever the reasons, we now know that more paraquat-tainted marijuana containing increasingly higher levels of paraquat residues are entering the United States and being sold to unsuspecting users and that there exists a clear risk to human health, of our own making. And yet, no action is being taken to induce the Mexican government to halt the use of paraquat in its spraying program, or to substitute a safer herbicide.

In light of recent developments, I believe that the United States Government should undertake immediately to safeguard the health and welfare of a significant number of our citizens who may be endangered as a result of this government's involvement, however direct or indirect, in Mexico's program to spray marijuana fields with paraquat. Without question there is a duty owed to those citizens when our government is acutely aware of hundreds of tons of marijuana crossing the border from Mexico and has lent behind-the-scenes assistance to the spraying effort which causes the marijuana to be a risk to human health.

Parenthetically, I believe that the Government of Mexico may well want to reconsider its paraquat program in view of the possible risks of lung damage to peasant farmers, and to officials in the spraying program itself who are handling this substance.

I would like your immediate response to ascertain why, in the face of an unknown but possibly serious health risk, this government has not, to date, acted with reasonable dispatch to eliminate the risk, and what actions you propose to take at this critical time.

Sincerely,

CHARLES H. PERCY,
*Ranking Minority Member.*

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THE SECRETARY OF STATE,
*Washington, March 15, 1978.*

Hon. CHARLES H. PERCY,
*Ranking Minority Member, Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.*

DEAR SENATOR PERCY: Thank you for your letter of March 9 in which you expressed your concern that Mexican grown marijuana illegally entering the United States and sprayed with the herbicide paraquat in the Mexican eradication program could be harmful for users of marijuana in the United States.

In response to your letter to me of May 6, 1977, on this potential danger to American marijuana users, the Department indicated that it shared your concern that the means employed to control illicit drug abuse and international narcotics traffic do not result in individual suffering or ecological damage.

An interagency inquiry into the problem was authorized by the White House in May 1977. As you know, Secretary Califano released the preliminary findings of the study on March 11. The report concludes that paraquat contamination may pose a serious risk to marijuana smokers. Secretary Califano is sending copies of the report to the Departments of State, Justice, and Agriculture, and the Environmental Protection Agency to determine what action they might take in regard to reducing the health hazard of paraquat being sprayed on marijuana.

In view of the conclusions of the interagency study, the findings will be made available promptly to the Government of Mexico. Additionally, information concerning alternative herbicides which might be substituted for paraquat in the Mexican eradication program and which pose less of a health hazard will be passed to the Mexican Government.

On the basis of the excellent cooperation demonstrated by the Mexican Government in carrying out its international treaty obligation in narcotics control, we can assume that Mexico will examine the results of the new HEW study carefully with appropriate consideration for any health hazards that

may affect its citizens or citizens of any other country.

The Mexican Government's decision in November 1975 to use aerially sprayed herbicides followed a careful study of the herbicides selected, 2–4–D against opium poppies and paraquat against marijuana, with consideration that the herbicides should be safe for man and environment, as well as effective in destroying the illegally grown plant.

As you know, the Governments of Mexico and the United States are parties to the Single Convention on Narcotic Drugs of 1961, which specifies in Article 22 as amended, that a party prohibiting cultivation of the opium poppy or the cannabis plant shall take appropriate measures to seize any plants illicitly cultivated and to destroy them. Thus, Mexico has taken seriously its obligation to destroy narcotics plants, but its Government has made it clear that in attempting to alleviate the harmful effect of illicit drugs, it also intends that its narcotics control efforts would be carried out in a manner that would avoid an adverse effect on the ecology or the health of its citizens.

The primary interest of the U.S. Government in supporting the Mexican eradication program through international narcotics assistance is to reduce the movement of illicit heroin entering the United States. The Mexican eradication effort against opium poppies is showing a significant reduction in heroin in the United States based on declining heroin overdose deaths, increased price levels, and declining purity levels based on heroin seizures. Consequently, the program is reducing drug abuse in the United States. This progress, which is obviously in our best interests, must be maintained along with efforts being made to reduce the health hazard of paraquat contamination of marijuana.

You may be assured that I personally share your concern with this problem and will do everything possible to resolve it.

Sincerely,

CYRUS VANCE.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CONTAMINATION OF MARIHUANA WITH PARAQUAT: PRELIMINARY REPORT

Since 1975, the Mexican Government has operated a marihuana eradication program. The principal herbicide employed in this program is Paraquat 1,1′ dimethyl-4,4′ bipyridinium dichloride), a chemical patented in England and manufactured in this country and in Mexico. Paraquat is sprayed from aircraft onto marihuana plants, and the herbicide interacts with sunlight to cause the plants to die within the course of roughly forty-eight hours. This eradication program is operated and funded by the Mexican Government.

Paraquat has also been used in this country since the early 1960's for agricultural purposes. The most common use of Paraquat is as a means of cleaning the seedbed before planting crops, but it is also employed for such purposes as weed control in fruit orchards and as an aid in harvesting mature plants such as cotton and soybeans. Paraquat does not persist in the soil and presents little hazard when used in prescribed amounts. It is one of 23 herbicides which the Environmental Protection Agency (EPA) is proposing to restrict only to trained farmers and users. The use of Paraquat on food crops as a direct harvesting aid is not recommended by the EPA. Use in orchards for weed control can result in some contamination of the fruit but this contamination must not exceed 0.05 ppm prior to marketing.

Paraquat in concentrated form is highly toxic and has been responsible for at least 25 deaths in the United States due to accidental poisoning. It tends to concentrate in lung tissue whether it is ingested or inhaled. The toxic reaction with the lung produces a condition called fibrosis, which reduces the capacity of the lung to absorb oxygen. Inhalation of Paraquat creates a greater risk of lung damage than ingestion of an identical amount.

During the past year, concern has been expressed about the possibility that Paraquat-contaminated marihuana was entering the United States and might pose a health hazard to marihuana users. Marihuana sprayed with Paraquat can be quickly harvested before the plant dies and in such cases harvested marihuana contaminated with Paraquat may find its way into this country. Roughly 60 percent of marihuana in this country is imported from Mexico.

As a result of this concern, a study was initiated last summer at the National Institute on Drug Abuse to answer two specific questions: (1) Is contaminated material entering the country in any significant amount; and (2) What are the chemical constituents of the smoke from Paraquat-contaminated marihuana which might create health risks beyond those presently associated with marihuana smoking.

STUDY RESULTS

These studies have provided the following data:

1. One hundred samples of marihuana confiscated by the Drug Enforcement Agency have been chemically analyzed for Paraquat. The average weight of the seizures from which these samples were taken was 699 lbs. All of the samples which were tested for Paraquat came from the Southwest United States, the area where contaminated samples are most likely to be found.

Thirteen of these were unambiguously identified as contaminated with Paraquat. All were confiscated after October, 1976, and constitute 21 percent of the 63 samples tested that were confiscated after that date. The contamination ranged from three to 2,264 parts per million (ppm), with an average contamination of 452 ppm. This level far exceeds the 0.05 ppm level that is tolerated for domestic uses.

Since the sampling was not random in a statistical sense, no clear extrapolation of this data can be made to estimate the total amount or distribution of Paraquat-contaminated marihuana in the United States. No attempt was made to design a statistically valid random sample selection since the intent was only to answer the question of whether contaminated material was entering the country and the approximate level of its contamination.

2. Marihuana plant material which was treated with a Paraquat solution in order to produce a "contamination" level of approximately 10,000 ppm was burned in an apparatus designed to collect all the smoke produced. This artificially high concentration was prepared to expedite the analytical procedures. The apparatus is constructed of glass and allows the plant material to burn in an air atmosphere at a temperature similar to that of a marihuana cigarette. Although this method of burning is not exactly the way marihuana burns in a cigarette, it is sufficiently analogous to provide data which can be generally related to the real smoking situation.

The smoke was subjected to chemical analysis and it was determined that the major compound in the smoke resulting from the presence of Paraquat was a compound called bipyridine, which is formed from the chemical breakdown of Paraquat when it is burned. Bipyridine is a compound found in tobacco smoke, and is not itself likely to contribute significantly to the toxic effect of marihuana smoke.

However, it has also been determined that a small amount of Paraquat is carried in the smoke, although the exact amount of Paraquat resulting from the burning of plant material at a specific contamination level has not yet been determined. Efforts to obtain more exact determinations are in progress. However, rough estimates from the data in hand suggest that approximately 50 to 250 nanograms of Paraquat can be expected to be present in the smoke from a single marihuana joint contamined at 450 ppm Paraquat. Analysis is also being carried out on the smoke from Mexican-variety marihuana grown at the United States Department of Agriculture and treated with Paraquat under simulated field conditions. Only when this analysis is complete will be it be certain that the conclusions from the 10,000 ppm material discussed above are completely valid.

PRELIMINARY CONCLUSIONS

1. Considering the low-dose, chronic studies done in animals, it appears that the oral administration of marihuana treated with Paraquat (e.g., in brownies) probably creates little hazard. An individual would have to ingest approximately two full ounces of marihuana every day for two years (at contamination levels of 2,000 ppm) to reach the lowest dose level where cell damages has been observed in animals.

2. Smoking marihuana containing Paraquat presents the greatest potential hazard. Studies of animal inhalation and of agricultural workers engaged in repeated spraying of Paraquat, when combined with other evidence, suggest that there exist certain risks to the marihuana smoker.

First, heavy users of marihuana run a possible risk of fibrosis which could be clinically measurable if the marihuana they smoke is contaminated with Paraquat. A rough estimate can be made that an individual who smokes three to five marihuana cigarettes each day could suffer measurable lung impairment after several months if the marihuana contained at least 450 ppm of Paraquat. It is less likely, though not inconceivable, that clinically measurable damage could be suffered by individuals who consume marihuana in smaller quantities, less regularly, or with lower levels of Paraquat-contamination. These risks of suffering fibrosis—which is an irreversible condition—must be considered against the use patterns of marihuana in this country. Recent surveys conducted by the National Institute on Drug Abuse suggest that nearly nine million Americans have used marihuana over 100 times in their life. Thus, contamination of marihuana with Paraquat may pose a serious additional risk for marihuana smokers.

Second, adverse effects on the lungs from the tar in marihuana smoke have been documented in the scientific literature. It is possible that the effects are increased by the contamination of marihuana with Paraquat, but there are no clear data presently available on this point.

There is no evidence at present that Paraquat is carcinogenic to lung tissue, but studies in this area are incomplete.

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[From Science magazine Feb. 24, 1978]

SPRAYING OF HERBICIDES ON MEXICAN MARIJUANA BACKFIRES ON UNITED STATES

(By R. Jeffrey Smith)

In the mountainous, inaccessible regions of Mexico, over an area that comprises more than one-fourth of the national territory, Mexican farmers carefully cultivate fields of opium poppies and marijuana. Each year, more than 2500 tons of that marijuana and 5000 pounds of heroin, an opium derivative find their way across the border into the hands of pot smokers and heroin addicts in the United States. Customs officials here will admit frankly that they are powerless to prevent it, and authorities in Mexico have fought a notoriously losing battle with farmers who are skilled at locating fertile

ground hundreds of miles from highways—and do not hesitate to shoot at soldiers and narcotics agents. In a country where the average yearly income in rural areas is in the range of $200, the modest farmer of opium and marijuana can have an income of $5000.

In the spring of 1975, the Mexican government and their advisers in the U.S. drug enforcement establishment came up with a bright idea: Herbicides, which where successfully used to defoliate large portions of the Southeast Asian jungle during the Vietnam war, could be sprayed on the opium and marijuana fields by Mexican pilots in sophisticated American helicopters. Infrared aerial photography, another high-technology development of the Vietnam war, could be used by fixed-wing aircraft to track down and pinpoint the location of the fields. By this method, thousands more acres and thousands more fields could be wiped out than through the older, slower, ground method of search-and-destroy by burning.

After a brief period of trials and demonstrations before a variety of Mexican and American officials, the program began with the use of a variety of agricultural herbicides, including 2,4,5-T, 2,4-D, and paraquat (Gramoxone by its trade name). Later, paraquat was accepted as the most effective herbicide to use on marijuana, and 2,4-D was judged the most effective for use on opium poppies. Last year, according to government officials, poppy fields covering 14,000 acres and marijuana fields covering 9500 acres were destroyed by airborne spraying. This prompted one U.S. official to pronounce it "the most effective and cost efficient means of decreasing the flow of drugs such as heroin into the United States."

What has followed this comparative success, however, has been a growing criticism of the program by American environmentalists, an exacerbation of existing tensions between the United States and Mexico, and in the words of an American senator, outrage over the fact that no steps were taken to ensure the health of millions of Americans who might be using marijuana harvested immediately after it had been dosed with herbicide. Concerns about the safety of the paraquat-sprayed marijuana—first expressed in the underground press—have led to a federally funded study of the safety. A warning about paraquat-contaminated pot has been issued by the Office of Drug Abuse Policy in the White House. Dogging the whole affair has been a series of contradictory statements by the State Department, which has tried at nearly every opportunity to minimize the ecological and health risks associated with the program, as well as the American involvement in it.

"What we're dealing with here is a very sensitive issue within the framework of relations between the United States and Mexico," a State Department official told Science. "Right now, they are spending an inordinate amount of their resources on a project [the spraying] that essentially benefits the United States. We don't want to disturb that. Moreover, anything that makes it appear that the United States is in any way controlling or directing the program is damaging to the stability of the Mexican political environment. The closer their government is to the United States, the worse it looks in the eyes of the Mexican people and press."

When the office of Senator Charles Percy (R-Ill.) began inquiring about the herbicide-spraying program in May 1977, after a member of his staff saw references to it in the underground press, the State Department was mindful of the diplomatic problem. In its responses to Percy and to the later inquiries of the National Organization for the Reform of Marijuana Laws (NORML), department officials pointed out that "the Mexican narcotics control effort is directed and controlled by the Mexican government."

The State Department also asserted that the herbicides used in Mexico—after having been selected by the Mexicans with complete independence—do not pose any environmental or human health risks: "Reports from the [American] embassy indicate that marihuana sprayed with herbicide disintegrates quickly into a fine powder rendering it useless for smoking." Even the White House drug abuse office, in a statement released on 9 December 1977, asserted that "while the U.S. has provided both equipment and technical assistance to the Mexican government for the eradication of illegal poppy fields, it is not participating in the marihuana eradication program."

However, these claims appear to be contradicted by the scope of U.S. assistance to the program and by the contents of several State Department documents relating to the herbicide spraying. Although the U.S. claims, for example, that the herbicide program is Mexican-directed and controlled, it seems clear it could not function as it does without American approval: Since 1973, this country has provided $40 million in direct funding for the program, most of which has been used to purchase 41 American-made Bell helicopters and 35 Cessna single- and twin-engined fixed-wing airplanes. Mexican personnel are trained by flight instructors, maintenance and repair instructors, and aviation systems advisers under contract to the United States. Employees of the Drug Enforcement Administration accompany the Mexicans on flights to identify the fields and assure that they have been destroyed. Four government agencies oversee the operation: the State Department, through the U.S. Embassy in Mexico, and its Office of International Narcotics; the Drug Enforcement Administration; the General Accounting Office; and the Agency for International Development.

This participation and oversight, moreover, clearly has extended to the marijuana eradication program: A report filed by John Ford, an employee of the State Department who was sent to help set up the spraying program, contains several references dated October 1975 to observations he made and advice he provided on the spraying of paraquat on marijuana fields.

The importance of the contradictions in the activities and public statements of the government lies in the influence that the State Department's denial of a U.S. role had in delaying an investigation of the environmental and human health effects of the herbicide-spraying program. Concern over those effects first arose simply because of paraquat's inherent toxicity to humans and plants. As the label on it states, "one swallow can kill," and there is no known antidote. Ingestion or inhalation of one-tenth of an ounce is sufficient to damage major internal organs and result in a painful death after 24 hours. In fact, more than 100 persons in the United States have died from ingesting paraquat by accident or to commit suicide. Most of the deaths have occurred in Texas and California, where paraquat has been used to kill weeds and clear land, according to a scientist at the National Institute of Drug Abuse.

Despite its toxicity to humans, paraquat does not persist in the environment—it breaks down when it contacts soil—which made it initially attractive to the Mexicans. To the American critics of its use on marijuana, however, that major attribute is more than offset by the way its acts to destroy plants. When sprayed in the air, paraquat sticks to the leaves of plants, desiccating them through a chemical reaction with the leaves' surfaces, with sunlight as the catalyst. Thus, for the plant to be completely destroyed, it must sit for a day and probably two in bright sunlight. The potential hazard to users of marijuana is created whenever the crop is harvested by the farmer on the same day it is sprayed. Once harvested and pressed into bricks for shipment across the border, the leaves are out of the sun, the plant stops its deterioration, and the herbicide remains largely intact on the marijuana.

STATE DEPARTMENT DENIAL

Initial inquiries from Percy and NORML about the possibility of this occurring or having occurred were deflected by the State Department with a denial of any responsibility for the program. Eventually, in response to persistent inquiries by Percy, the White House drug abuse office convened a meeting in May 1977 of representatives of eight federal drug enforcement and health agencies to discuss the issue. Then a different obstacle arose. Several of the officials balked at the idea of investigating potential risks associated with use of a contraband substance. According to Percy, they said in effect: "So who cares, what responsibility does our government have for dope smokers who might be poisoned by paraquat?" Although Percy himself had carefully expressed his disapproval of "the use of illegal drugs under any circumstances," he firmly expressed his belief that "the United States government has a responsibility to ensure that its action do not forseeably endanger the health and safety of any of its citizens, drug users included."

This view was shared by presidential assistant Peter Bourne, the director of the Office of Drug Abuse Policy, who pointed out that any intake of paraquat-treated marijuana by U.S. citizens would be a direct result of the U.S.-supplied spraying operation. Following the meeting, Bourne directed the National Institute on Drug Abuse (NIDA) to conduct a $35,000 study to determine if marijuana contaminated with paraquat actually was being imported, and if so, whether it could cause injury to those who used it.

To answer the first question, NIDA obtained 71 samples of marijuana confiscated during major drug busts in the southwestern region of the United States and had them analyzed by researchers at the University of Mississippi. Richard Hawks, a chemist at NIDA who is directing the research, makes no claims that the samples are representative of all the marijuana that comes across the border, but he said that researchers found paraquat on 10 percent of the samples, and "by itself, that was positive proof that paraquate-laden marijuana is being imported."

For the second portion of the study, marijuana plants were grown by the Department of Agriculture at a laboratory in Beltsville, Maryland, where they also were treated with paraquat. Scientists at the Research Triangle Institute in North Carolina then burned the marijuana and subjected the smoke condensate to chemical analysis. The researchers already knew that a hazardous amount of the herbicide was unlikely to be inhaled by the user as a part of the smoke, but it was unclear whether or not the heat of the burning converted paraquat into another toxic substance. Tests of the smoke condensate using mass spectrometry have yet to be carried out, but the preliminary results of tests using a slightly less accurate method indicate that the herbicide is broken down into bipyridine, which commonly exists in tobacco smoke and will not hurt the user, according to Hawks.

According to NORML, however, the government cannot be sure that paraquat-laden marijuana poses no health hazard unless a study is made of the effects of eating small amounts of it baked in cookies or brownies—a means of administration employed by a small but essentially unknown proportion of the estimated 15 million regular marijuana users in the United States. Using several rather arbitrary statistical measures of the concentration of the herbicide in im-

ported marijuana and the distribution of marijuana in a batch of brownies, NIDA has calculated that a person would have to consume 32 pounds of brownies—containing 1 pound of the sprayed marijuana—over a short period of time to ingest a lethal dose of paraquat. But the agency does not know whether eating a portion of that amount would have less than fatal but still toxic results, according to Hawks. "We have no plans whatever to look at the effects of ingesting a sublethal dose," Hawks added.

One indication of the potential toxicity of ingesting it may be the fact that the concentrations of paraquat found on the imported samples analyzed by NIDA were between 3 and 650 parts per million. These concentrations uniformly exceed the tolerance levels set by the Environmental Protection Agency for paraquat on foodstuffs, which are in the range of 0.05 to 0.10 part per million. Moreover, "because of paraquat's inherent toxicity and studies that indicate it can cause birth defects," the EPA has placed it on a list of candidates for hearings that may lead to those tolerance levels being reduced, or to a removal of the herbicide from the U.S. market for use in connection with agricultural commodities, an EPA spokesman told *Science*.

Keith Stroup, the director of NORML, believes that NIDA should study not only the hazards of eating paraquat-laden marijuana, but that it should also look into the possibility that heroin may be coming across the border laden with toxic amounts of the herbicide 2,4-D. The chemical works by interfering with the normal growth cycle of a plant, causing it to wither in 36 to 48 hours.

Although it is not considered to be as toxic as paraquat, it also has been placed on a list of candidates for hearings that may lead to use restrictions or to its removal from the market; studies have indicated that it may cause mutations and cancer. So far, NORML has been the only group to express any interest in the possibility that it has contaminated imported heroin; ensuring that addicts do not face such a hazard does not seem to be a popular cause. The State Department responds confidently that "because heroin is already injurious to health, we don't consider that [the possibility of herbicide-laden heroin reaching users in this country] to be a problem."

NORML believes that a first step toward changing State Department support of the herbicide-spraying program would be to force the department in federal court to file an environmental impact statement, placing the ramifications of the spraying program on the public record. Impact statements are required under the National Environmental Policy Act (NEPA) for "major federal actions significantly affecting the quality of the human environment" in the United States. The State Department contends that no statement is required for the herbicide program because it is outside the U.S., under the formal control of the Mexicans, and bereft of any direct U.S. subsidy for the herbicides themselves.

Many Washington environmentalists, on the other hand, believe that such a statement is required. Their view is based partly on a 1975 suit by the Environmental Defense Fund that forced the Agency for International Development to file the statements on its pesticide programs in foreign countries because of their potential impact here. Moreover, the herbicide-spraying program in Mexico appears to be a prime example of the type of issue that impact statements are designed to illuminate. The State Department from the start knew, for example, that marijuana treated with paraquat was likely to be harvested quickly by the Mexicans; reports filed by John Ford noted that some of the plots that had been selected for the initial trials were harvested on the same day they were sprayed. The State Department also knew that paraquat is an extremely hazardous herbicide with which to work. In early 1975, an official of the Agricultural Research Service in the Department of Agriculture wrote to the State Department to express his concern over the intention of the Mexicans to use the herbicide, because of the hazards present for those who administered it. If a statement had been filed at the inception of the program, the State Department would have been forced to consider these ramifications and explain them in a public document, critics have pointed out.

Despite the apparent strength that these arguments would have in court, there is some reluctance by the environmentalists to take the case there. Currently, they are engaged in a running battle with agencies of the federal government that oppose a proposal by the Council on Environmental Quality, a White House office, to extend the NEPA requirements for filing impact statements to U.S.-supported actions that will have an effect only within the environment of a foreign country. Bringing a federal agency to court over an existing NEPA requirement in a case that hinges primarily on concern for the welfare of U.S. pot smokers and heroin addicts, at the same time a battle is taking place over proposals to extend those requirements, apparently is not considered sound strategy. Some groups also feel that the two issues—concern for U.S. pot smokers and the need for broader use of impact statements—should be kept apart.

Whatever the reason, this lack of action leaves unsolved several confusing mysteries that surround the affair. One is whether or not the State Department actually has exerted any pressure on the Mexicans to substitute another herbicide for paraquat. Richard Dugstad, a policy officer in the State Department's Office of International Narcotics, was quoted recently in the Washington Post as saying, "We have done nothing to discourage the use of paraquat by the Mexican government." But this contradicts what the Senate Department, in a letter to Senator Percy dated 13 May 1977, said: "We have supported informally the reported decision of the Mexican government to use in the future only 2,4-D" on marijuana plants. Dugstad now states that he was quoted out of context by the Post. The letter to Percy also states that "we have been advised that in the future, only 2,4-D will be used against both poppies and marihuana because tests showed it was more effective and safer to handle." Dugstad recently told Science, however, that "the Mexicans are staying with the present system of using paraquat on marijuana and 2,4-D only on opium poppies," because of continuing experience that shows each herbicide to be most effective on the plants that are sprayed with it now. He added a rhetorical question that prompts greater uncertainty: "Is it really appropriate for the U.S. to direct another government to use one chemical instead of another?"

Another unanswered question is whether the Mexicans are using herbicides besides paraquat and 2,4-D on opium poppies and marijuana. A report filed in 1976 by Walter Gentner, an employee of the U.S. Agriculture Department who went to Mexico to observe the operation, states that he saw the herbicide 2,4,5-T, a toxic chemical that may cause cancer, in a shed where other herbicides were stored. He suggested then that a special investigation be initiated, but up to now none has been conducted. Dugstad said that "to the best of our knowledge, no herbicides besides paraquat and 2,4-D are being used by the Mexicans."

In a sense, the uncertainty of this statement is understandable. The State Department has been caught between the proverbial rock and hard place in this affair, which is fraught with international political complications and the potential for exposure of an error in U.S. policy. To admit at the start that paraquat-laden marijuana posed a health hazard for users in the United States would have been to admit that the Mexicans had not made the wisest choice of chemicals and, moreover, that despite the best application of American ingenuity and good intentions, heroin and marijuana are continuing to flow across the border in quantities that pose a hazard to U.S. citizens. What seems clear now, however, is that unless the State Department immeditaely places all of its cards on the table for everyone to see, its own credibility and wisdom, and possibly its good intentions, will remain in question.

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[From Science magazine, Apr. 28, 1978]

POISONED POT BECOMES BURNING ISSUE IN HIGH PLACES

(By R. Jeffery Smith)

Following a discovery that Mexican marijuana contaminated with the herbicide paraquat constitutes a major health hazard for pot smokers in the United States, the State Department recently sent a delegation to Mexico City to discuss the issue with Mexican attorney general Oscar Florez.

The visit came on the heels of a warning by the U.S. Secretary of Health, Education, and Welfare (HEW) that the herbicide persists in the smoke of a contaminated marijuana cigarette and may be inhaled by the smoker. The paraquat contamination is so serious that those who smoke as few as one to three contaminated cigarettes daily for several months risk irreversible lung damage.

Members of the U.S. delegation did not—as some American critics have sought—ask the Mexican government to cease the herbicide spraying program, which is aimed at eradicating illicitly grown marijuana and heroin. The program is overseen and heavily financed by the U.S. government (Science, 28 February). "We just wanted to inform them of the dimensions of this problem in the U.S.," said Richard Arellano, a deputy assistant secretary at the State Department.

A major topic of discussion at the meeting, in addition to the health hazards, was a lawsuit recently brought by the National Organization for the Reform of Marijuana Laws (NORML) to force the State Department to stop funding of the spraying until it files an environmental impact statement. Several well-informed officials told Science that the department is extremely nervous about the suit, which is regarded as likely to succeed. If it does, the precedent would destroy the department's claim that projects it funds in other countries are exempt from the impact-statement requirements. "The State Department regards this as the worst case that could come up," said one source, "because the spraying program is having an obvious impact here at home."

At the meeting in Mexico City on 30 March, American officials had a difficult time persuading the Mexicans that the lawsuit could prevent continued U.S. funding for the herbicide program. "The Mexicans couldn't understand how our judicial system could even entertain the suit, considering that marijuana is already an illegal substance," said Arellano.

A team of U.S. scientists is searching for an alternative to paraquat, but the federal court suit will probably be resolved before they are successful. In particular, they have been looking at formulations of the herbicides 2,4-D and glyphosate, but each possibility is said to require additional safety testing that could delay the substitution for months.

Initially, officials of the National Institute on Drug Abuse reported that paraquat posed no particular hazard, because it was thought to be converted entirely into another chemical, bypiridine, when a contaminated cigarette was burned. Bypiridine exists commonly in smoke from a tobacco cigarette

and is not considered to be particularly hazardous. Recently, however, scientists at the Research Triangle Institute in North Carolina were able to analyze the smoke from a contaminated marijuana cigarette with a mass spectrometer. They discovered that roughly 5 percent of the paraquat remains in pure form after burning. Coupled with the discovery that recent samples of marijuana entering the United States from Mexico contained a concentration of paraquat as high as 2264 parts per million, this evidence was alarming. Tests showed, for example, that in a cigarette with a contamination of 1000 parts per million, 0.26 microgram of the herbicide is likely to be inhaled by the user.

An estimate of the dangers to humans of inhaling such an amount was extrapolated from laboratory studies with rats, because most cases of paraquat poisoning in humans have been caused by ingestion, not inhalation, of the chemical. The laboratory studies demonstrated that when an exceedingly small amount of the herbicide was placed directly on the rats' lungs, it caused fibrosis, or a scarring that inhibits the ability of the lung to absorb oxygen. At the low doses in contaminated marijuana, the scarring in humans would build up slowly, and it would be some time before the only probable symptom—extreme shortness of breath—would be noticed.

As yet, no instances of fibrosis attributed to the poisoned marijuana have been reported. However, doctors at the Center for Disease Control (CDC) in Atlanta, which is attempting to serve as a clearinghouse for physicians with patients who have been smoking the poisoned pot, have received reports of other ailments that may be related to the contamination. Specifically, physicians in Georgia, Iowa, and California have reported that several of their patients—who apparently had been smoking paraquat-laden marijuana—have experienced uncomfortable breathing and have been spitting up blood. Both the CDC and the doctors themselves are cautious about attributing the symptoms to paraquat, however, apparently because corroborating tests have not been devised.

Whether or not any poisoning has occurred thus far, users of marijuana appear to be increasingly aware of the potential risks. Charles Becker, a physician associated with the Haight-Asbury Free Clinic in San Francisco, told *Science* that the center has received hundreds of calls from smokers reporting adverse effects potentially related to the herbicide. Testing laboratories in Palo Alto, California, and North Miami, Florida, which guarantee anonymity for their clients, have been doing a brisk business in chromatography (contamination) tests of marijuana samples mailed in from all over the country. G. D. Searle, a pharmaceutical manufacturer, recently organized a testing program—the only free one—in Chicago, Illinois, and found that 39 of the first 40 samples tested were contaminated by paraquat. As the entire affair has received wider publication, the backlog of samples at each testing center has become substantial.

Meanwhile, officials in Washington have remained reluctant to express strong concern over the issue. No formal attempts have been made to seek Mexican cooperation in suspending the spraying. Lee Dogoloff, an official in the Office of Drug Abuse Policy in the White House, noted that the government does feel some responsibility to smokers, but individuals do have some responsibility and choice in the matter—they don't have to smoke." Secretary of State Cyrus Vance, in a letter to Senator Charles Percy (R-Ill.), said that he personally shared Percy's concern about the problem and "will do everything possible to resolve it," but this seems to extend only to notifying the Mexicans of the health hazards and then waiting until a safe alternative to paraquat can be identified.

In a recent statement on the Senate floor, Percy—who has been following the issue closely—expressed his belief that more could be done. "To wait any length of time before [a safer herbicide] is identified—without in the interim doing anything to urge Mexico to suspend its current paraquat spraying program," Percy said, "could needlessly endanger a large segment of our population." Whichever side is correct will undoubtedly become clear as events continue to unfold.

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[From the Washington Post, Apr. 22, 1978]

MARIJUANA OUTRAGE

(By Ellen Goodman)

BOSTON.—Talk about Reefer Madness.

The first issue to stir up the leaden oatmeal of college campus indignation in years is the news of the paraquat poisoning of marijuana.

From Fred Harris' freshman government class at the University of New Mexico to graduate biophysics seminars at M.I.T., the students are angry again. As one jaundiced assistant professor put it: "It's the only thing I've seen them protest in three years—outside of a low grade."

Students everywhere are outraged that "their government" financed the pesticide spraying of Mexican marijuana plants. It has turned into a melting pot (forgive the pun) issue among young people today, into which they've thrown a lot of anger, cynicism and a strong dose of irony.

The irony is simply this: The government that failed over many decades to convince the public that marijuana is dangerous finally has helped to make it dangerous.

In 1975, the Nixon administration gave Mexico $10 million to buy planes and train people to spray herbicides on poppy fields in order to kill off a major supply of heroin. On their own initiative, the Mexicans went on to more fertile fields and sprayed marijuana with the deadly chemical paraquat.

The idea was that paraquat would kill off the plants, the way it helped defoliate Vietnam. But each season, the enterprising Mexican farmers harvest the stuff before it dies, and ship it north.

Since about 50 to 60 percent of the pot smoked in this country comes from Mexico, it is assumed that for the past two or three years, a large number of the 15 million regular marijuana smokers have inhaled a substance that has a slow, cumulative effect on their lungs. Is there any wonder why the Bumper Sticker of the Moment in California reads: "Buy Colombian"?

The question is now whether the Carter administration, which has taken a stance in favor of decriminalization of marijuana, feels any responsibility about the Mexican program. And the answer is mixed.

On March 12, HEW did issue a warning about paraquat to "consumers." But on March 28, the spraying was begun on the spring crop, with our money.

Dr. Peter Bourne, the president's special assistant on health, states the government's position this way: "People are asking the federal government to protect them in a patently illegal act. If it's against the law, the responsibility of the government to protect its quality doesn't exist."

But no one is actually asking the government to roll up 12 neat joints and put them in an FDA-inspected cellophane package. They are complaining that the government is poisoning the stuff.

Bourne makes a second analogy, saying that "the whole area is filled with ambiguity; it gets into questions like 'Should we offer health care to someone who gets into an accident going over 65 miles an hour?' " But, should we, on the other hand, give government grants to manufacture a brake system that fails at 65 miles an hour?

The National Organization for the Reform of Marijuana Law (NORML) has filed a suit against the government, and a hearing is scheduled for April 26, although it may be postponed again. In the meantime, the people doing a boffo biz are the ones running test labs on all the vials of marijuana being sent in by all the worried users.

For once, NORML is raising the health issues of smoking marijuana. As George Franham, the assistant director, put it: "This is total role-reversal."

But the fact is that there are currently 45 million Americans who have smoked marijuana. Right now nine states—inhabited by a third of the population—have decriminalized it. Furthermore, in the latest Gallup polls, 70 percent of the population of those under 30 and those with a college education are in favor of decriminalizing it.

Marijuana has become a gray area of the law and an issue of debate on and off the college campus. But who is in favor of poisoning marijuana smokers? This paraquat punishment just doesn't fit the "crime."

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[From the New York Times, Mar. 18, 1978]

REEFER MADNESS

The Federal Government has finally stumbled on a way to persuade marijuana users that pot is dangerous.

It began several years ago with a Federal program aimed at heroin. The United States gave Mexico $40 million to buy aircraft and train personnel to spray killer chemicals on the poppy fields, the source of much of the heroin that enters the United States. Apparently on their own initiative, the Mexicans, assisted by American advisers and equipment, went on to spray marijuana fields.

The trouble is, the herbicide the Mexicans chose to use against marijuana is paraquat, a substance so toxic, according to the label, that "one swallow can kill." Paraquat is supposed to break down quickly when it hits the soil and present no long-term danger. But it takes two or three days in bright sunlight to kill the plant. The resourceful Mexican farmers now rush to harvest their crops on the day they are sprayed, with the toxic herbicide still on the leaves. Past Federal warnings of the danger of marijuana have been based on slim evidence. But now the Government has fulfilled its own prophecy: The Department of Health, Education and Welfare warns that permanent lung damage could result from smoking three to five heavily contaminated cigarettes a day for several months. Thus, a program designed to protect people from the supposedly harmful effects of marijuana has succeeded in putting them at far greater risk.

The demands for an end to this Government-sponsored "poisoning," the State Department responds that the Mexicans control the spray program, buy the herbicides with their own money, and might resent outside interference. Moreover, some State Department officials see no reason to protect Americans who are using a contraband substance. Just the other day, one of them questioned "whether our Administration has a responsibility to provide an illicit drug in clean, completely healthy condition."

But, in fact, the United States is helping to add a poison to the drug. Fortunately, there are signs that the State Department, under pressure from other agencies, Congress and pro-marijuana groups, will communicate the latest health findings to Mexico and perhaps urge the use of other herbicides. Even State would have to admit that this cure has been worse than the disease.

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UNCLE SAM'S "KILLER WEED"

War has bitter ironies, and the U.S. government's war on marijuana is no exception:

Weed killer may have finally made "killer weed" live up to its deadly nickname.

Under a misguided U.S. drug-eradication program, pot-smokers are being exposed to

Paraquat, a chemical that can cause severe and irreversible lung damage.

The issue has nothing to do with the decriminalization of marijuana. Rather, it centers on whether the U.S. government, wittingly or not, is helping poison U.S. citizens.

And the evidence makes it clear: It's past time for the spraying program—and the resultant health peril—to stop.

The problem arises from a $13-million-a-year heroin and marijuana control effort under which the United States gives the Mexican government aid in spraying herbicides on drug crops south of the border.

U.S. drug officials have estimated that 30,000 to 40,000 Mexican pot fields were sprayed with the plant-killer Paraquat in 1976 and 1977. But there's a dangerous hitch.

Mexican marijuana farmers, fearing the loss of their cash crop, harvest the plants before the herbicide goes to work. Then they sell it on the usual drug market.

Who buys? One federal study late last year found contamination in 9 of 45 samples of Mexican pot seized in California and Arizona. And the danger appears to be spreading: Recent studies have found as much as 50 per cent of some West Coast shipments tainted.

Drug-testing labs in Chicago have found none of the contaminated weed—so far. Yet concern, sometimes panic, persists. The Health, Education and Welfare Department has even issued warnings about the danger.

The government should take one further step: a complete halt to programs that promote the application of highly toxic chemicals to drugs that are likely to end up here. The National Organization for the Reform of Marijuana Laws has taken legal action to force just such a ban.

Citizens concerned about justice—and the long-term effects of chemical poisons—should hope the ban is put into effect.

Discouraging the use of marijuana is one thing; poisioning the supply is another.

Consider the analogy: If "revenooers" find a moonshine still, do they secretly add cyanide to its product?

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[From the Boston Globe, Apr. 3, 1978]

GETTING HIGH ANXIETY

For members of the laid-back generation, marijuana was a product to be trusted like spring water, herbal tea and crunchy granola. It was a way to leave concern behind without damage to brain or liver cells. Users argued that marijuana was nature's way to relieve stress and that it even contained certain medicinal properties. Like raw carrots, marijuana was said to be good for the eyes; like raw clams, marijuana was a spur to the appetite.

But, now, alas, marijuana users find themselves pinned to the edge of the chair, with as much reason for worry as the middle-aged businessman accustomed to three-martini lunches.

The Mexican government, prodded by the Nixon Administration to crack down on drugs, did precisely that. Among other steps, it began spraying marijuana fields with the weed-killer paraquat. The chemical is highly effective in killing marijuana—if the plants are left in the sunshine for two full days after being contaminated. But if they are harvested before that time, the leaves can be salvaged, sold—and smoked. Enterprising Mexican hemp producers, rather than throw away the tainted weeds, simply harvested them before the chemical took visible effect.

The result is that a certain amount of the contaminated weed is now circulating in the pot-smoking world, which is unprepared emotionally as well as technologically to cope with it. In New England, for example, no laboratories are available to the pot smoker. He can't run out and have his cache easily analyzed. He must either abstain, or smoke in the hope that if his marijuana comes from Mexico it is free of paraquat, which can have a devastating impact on human health.

Whether the threat is real or exaggerated seems to be anyone's guess. No one, including Secretary of Health, Education, and Welfare Joseph Califano, who warned against heavy use of the Mexican weeds, seems to know for sure.

What is certain is that a significant number of Americans, perhaps as much as 10 percent of the population, smokes marijuana, and that percentage is significantly higher among young people.

It misses the point to argue, as did one Massachusetts official, that people shouldn't be smoking in the first place because marijuana is illegal. Whether legal or illegal, marijuana is widely used and widely accepted. The possibility that its users could be placing themselves in peril should be a matter of public concern rather than an occasion for moralizing.

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[From the San Francisco Examiner, Apr. 22, 1978]

THE SPRAYING OF MEXICO

About 20 percent of the marijuana in the United States is contaminated with paraquat, a defoliant, thanks to a Mexican eradication program sponsored in part by our government.

Scientists disagree over whether smoking the contaminated pot is dangerous. The National Institute on Drug Abuse announced that it is. The National Organization for the Reform of Marijuana Laws agrees and has filed suit to stop the U.S. government's participation.

We're concerned that the government is helping to make an illegal drug more dangerous. But we're more concerned about what the spraying may be doing to Mexicans and their ecology.

A State Department spokesman said spraying marijuana and poppy plants has been going on for four or five years. (State administers the grant to Mexico for the program.) "Thousands and thousands" of acres have been sprayed, he said. That's a lot of chemicals to pollute the atmosphere.

If, as tests seem to indicate, the chemical is harmful when inhaled on pot, it must be dangerous if breathed directly. Tests seem to show that the paraquat mostly breaks down into a harmless chemical when burned. But what does paraquat do to the people who breathe it as it is sprayed? What does it do to other plants in the area? Paraquat, widely used as a weed killer on California citrus ranches, is under investigation as a probable health hazard to growers and farm workers.

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[From the Tacoma News Tribune, Apr. 11, 1978]

CONTAMINATED MARIJUANA

Smokers of the illegal drug marijuana are being warned their habit may be exposing them to a new danger. There is the possibility the marijuana they use is contaminated with a herbicide that could cause lung damage.

The herbicide is called Paraquat, and it is being used by Mexico to spray marijuana fields in an effort to destroy the crop and thus reduce the drug traffic.

But in efforts to salvage their illegal crops Mexican marijuana growers have been quickly harvesting the sprayed marijuana before the herbicide can do its job.

The result is that much of the marijuana that is being smuggled across the Mexican border, and making its way into Washington state, is contaminated by Paraquat.

No one knows how much of the marijuana used in this area is Paraquat-sprayed, but some have estimated the amount at about 20 percent. It may be more.

Roger A. Roffman, state coordinator for NORML, an organization pushing for decriminalization of the state's marijuana laws, says he knows that "most of the marijuana used here comes from Mexico."

If that is true, then no doubt a large percentage of marijuana smokers here are indeed subjecting themselves to the possible harmful effects of Paraquat.

Roffman and others raise a serious question: Should not the U.S. government persuade the Mexican government to cease the use of Paraquat?

Further, is not the U.S. in its encouragement, financial and otherwise, of Mexico's anti-marijuana campaign at least partially responsible for the health hazard presented by the use of the herbicide?

The seriousness of the questions override the controversies about whether marijuana is safe or unsafe or whether the drug should not be "decriminalized."

The fact is there is the strong likelihood that marijuana users may well be exposed to lung damage.

Since it is difficult to determine quickly whether marijuana has been Paraquat-contaminated, the best advice to users of the substance would be to cease smoking the weed.

At the same time, the government should recognize the validity of the questions being raised about its participation, indirect though it may be, in the Mexicans' use of Paraquat. The least that should be done is to alert Mexico to the health dangers and to urge the use of other, less harmful herbicides.

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PARAQUAT AND MARIJUANA

Most authorities, including the government's own experts, have come to agree that, smoked in moderate amounts, marijuana is a relatively harmless plant. In the past two years, however, the federal government's attempts to curb drug traffic from Mexico have turned marijuana into a truly dangerous substance. The State Department, through its section on International Narcotics Matters, has been encouraging and subsidizing a Mexican spraying program that employs paraquat, a powerful herbicide which according to a number of studies, can cause irreversible fibrosis and other serious damage to the lungs.

Although the government's own estimates indicate that 20 percent of the Mexican marijuana in this country is paraquat-contaminated; although several cases of marijuana-related lung damage have recently been identified (all of them, incidentally, in California); and although the Department of Health, Education and Welfare has issued an official health warning about paraquat, the U.S.-supported spraying program continues. The State Department's attitude is that since marijuana is an illegal substance, it has no official responsibility for the damage its program inflicts. In any case, said a State Department official, the United States cannot control the herbicides the Mexican government uses in its spraying program.

The department's fatuous explanation simply ignores the fact that it was the United States which helped inspire the spraying program in the first place, that it provides most of the planes and helicopters which spot the growing plants and spread the chemical, that it provides technical advisers, and that what it supports it can also stop or modify. But what we find more disturbing and irresponsible is the attitude itself. Spraying marijuana with poisonous chemicals is a dangerous, nearsighted and pernicious practice. The whole point of drug control is to protect health, not to damage it further.

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[From the Rolling Stone, June 29, 1978]

PARAQUAT MUST GO

(By Jarn S. Wenner)

Fifteen months ago, President Carter's adviser on drug policy, Dr. Peter Bourne, was informed that marijuana brought in from Mexico was tainted by the chemical paraquat. Thirteen months later, the Carter administration decided to warn the more than 15

million Americans who smoke the stuff that they may soon be suffering irreversible lung damage for their sins. It is no small irony that an administration that has made reasonable efforts to keep marijuana smokers out of jail has decided that it can tolerate poisoning the same people.

The Carter administration's continued refusal to stop contamination of marijuana is symptomatic of what National Organization for the Reform of Marijuana Laws director Keith Stroup has called their "moral confusion." It was only last year that poor women in need of abortions in America were informed by the president that "life isn't fair." Now this fundamental truth has been extended to high school students, blacks, and anyone else who can't afford more expensive Colombian pot. It is worth noting that the paraquat punishment is something that tends to affect less-important Americans. We can all guess what the political ramifications would be if it were discovered that the fifty-dollar-an-ounce grass that people close to Jimmy Carter smoke were also treated with dangerous chemicals.

The calloused justifications of the spraying spewed out by Peter Bourne, a man previously thought to be enlightened on the subject of drug use, are ludicrous in light of the cruel and unusual punishment to which he's subjecting millions of Americans. Bourne has said that since pot is against the law, the government has no legal responsibility to protect people who smoke it.

Bourne also has contended that to halt the spraying would have implications for international relations. The Mexican government is said to have the State Department over a barrel; they demand paraquat in return for Mexican efforts to control heroin production. There is even conjecture that paraquat spraying is part of an agreement to stop Mexican growers from trafficking arms to Central and South American revolutionaries. Are we now expected to accept that the United States government is allowing Americans to ingest poison in the name of "national security"?

Bourne's recent proposal that paraquat be replaced by the herbicide 2,4–D suggests a trade-off of possible fibrosis of the lungs for possible eye damage or birth defects—yet another morally damnable indication of bureaucratic insensitivity. If the White House can't stand up against the State Department in the defense of the health and welfare of millions of Americans, then a change is due. If such change requires Bourne's resignation, then this should occur immediately.

By backing a project that is clearly an evil relic of the Nixon administration, Jimmy Carter has asked us to see him as little better than the moral equivalent of his recent predecessors.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, this amendment prevents funds authorized in this act from being used in herbicide programs if such herbicides are likely to cause serious harm to the health of persons who may ultimately use the sprayed marihuana. It further requires that any determinations with regard to withholding funds be based on scientific information. The committee accepts the amendment proposed by Senator PERCY.

Mr. CASE. Mr. President. Will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. CASE. The Senator is correct.

I simply wish to say that I think it is a very worthy amendment.

I believe the State Department has advised that it thinks it can operate under the terms of this amendment effectively and also without antagonizing our neighbor to the south. On that understanding, I am perfectly happy to accept it and I do accept it.

Mr. SPARKMAN. Mr. President, I am willing to yield back the remainder of my time.

Mr. CASE. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Illinois yield back all his time?

Mr. PERCY. The Senator from Illinois yields back the remainder of his time.

I thank my distinguished colleagues.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. I thank my distinguished colleagues.

UP AMENDMENT NO. 1496

(Purpose: To amend the Arms Export Control Act to include in letters of offer for the sale of arms appropriate charges for certain inventory losses)

Mr. PERCY. Mr. President, I send an unprinted amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes unprinted amendment numbered 1496.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 16 and 17, insert the following:

SALES FROM STOCK

SEC. 17. Section 21(e)(1) of the Arms Export Control Act is amended—

(1) by striking out in clause (B) "and" immediately after "defense articles";

(2) by adding "and" at the end of clause (C); and

(3) by adding at the end thereof the following:

"(D) the recovery of ordinary inventory losses associated with the sale from stock of such defense articles that are being stored at the expense of the purchaser of such articles.".

Redesignate subsequent sections accordingly.

Mr. PERCY. Mr. President, this amendment regards the recovery of inventory losses when selling items to foreign governments from stock.

Cost recovery in foreign military sales transactions is a complex and technical matter. There is no doubt, however, that, in passing the Arms Export Control Act, Congress intended that all direct and indirect costs associated with foreign military sales be recovered from foreign governments so that the foreign military sales program would not be subsidized by Defense Department appropriations. My amendment does not introduce a new concept for cost recovery. Rather, the intent of Congress is being more clearly stated to include inventory losses as an indirect cost that should be passed on to the foreign consumer.

The General Accounting Office, in its September 8, 1977, report, stated that the Department of Defense is losing millions of dollars on sales of articles to foreign governments because normal inventory losses are not being recovered in full. In the Air Force alone, GAO estimated that such losses approximate $30 million each year.

In addition to such major articles as tanks and aircraft, the Department of Defense sells what are called secondary items including gears, bearings and gaskets or such items as engine motors, manifolds, and generators. It is current DOD policy that inventory losses be recovered on most secondary items. But GAO maintains that DOD's regulations do not cover all items they should and that, in some cases, DOD's own regulations are not implemented by the services.

Department of Defense spokesmen have told me that the Department will not object to my amendment because it is consistent with current DOD pricing policy. DOD has also expressed the view that the amendment is unnecessary. I disagree. A significant difference of opinion between the Department of Defense and GAO exists on whether the current DOD pricing policy is being implemented and whether an even greater effort should be made by the Department to recover inventory losses.

I mention this because in the GAO report it is indicated that $30 million a year from the Air Force alone would be recovered if this policy were implemented. So, therefore, I think the difference between having an agency regulation that is not carried out and having a policy that is embodied in law is quite different. And to paraphrase Everett Dirksen, $30 million here and $30 million there and pretty soon you are talking about real money. This is real money we are talking about. The recovery possibilities could run into $100 million. Foreign governments should pay the full cost—not just the bare bones cost—of the equipment that is being transferred to them.

In these circumstances, I believe that we should have the language in the legislation to make it very clear that congressional intent is on this matter.

In addition to offering this amendment, I also intend to write a letter today to the Comptroller General of the United States to ask GAO to review the matter of recovering inventory losses for sales of nonstock fund items not covered by supply support arrangements. My amendment does not cover these sales because they are not being stored at the purchaser's expense.

The Defense Department objected to charging foreign governments for losses on nonstock fund sales not covered by supply support arrangements, stating that such charges would not be equitable

to foreign governments. Defense Department officials advised my staff that they, in general, do not believe that inventory losses are occurring for nonstock fund items. I will ask GAO to report on this matter by March 31, 1979, and will incorporate in the record at a subsequent date, the copy of my letter to GAO, their response, and my report to the Senate on this matter.

I take just one additional personal moment, while my two beloved and distinguished colleagues are in the Chamber, two colleagues with whom I have worked ever since the Senator from Illinois has been in the Senate, Senator SPARKMAN on the Banking Committee and also on the Committee on Foreign Relations, and Senator CASE on the Committee on Foreign Relations.

I engaged in a debate just a few weeks ago in Illinois during which we in the Senate were charged with being personally and fully responsible for the depreciation of the dollar from $1 when I went in the Senate to 47 cents today. I was charged with having voted for every bill that contributed to inflation. I made the statement that I had made it my objective and goal when I came to the Senate that I would try to set a goal of earning my annual salary every day the Senate was in session.

I do not know what the total salary has amounted to over the period of 12 years, but I can remember we fought the ABM and won that battle, and that was tens of billions of dollars saved in capital expenditures, and several billions a year in operating expenses.

I remember receiving a letter from the distinguished Senator from Wisconsin, Senator PROXMIRE, who indicated that the Senator from Illinois had made possible the killing of the SST, which also was a program that would have run into billions of dollars. A billion dollars here and a billion dollars there does add up to real money when compared to the salary of a Senator who has served over 12 years. I indicate to my distinguished colleagues my gratitude for their support. We have always tried to look at the taxpayers' dollars and spend them as if they were our own.

The amendment, which I understand has been discussed by my two distinguished colleagues and is acceptable to them, is in the spirit of trying to find ways that we can improve the efficiency of Government, save the taxpayers' money, and constantly reduce the kind of unnecessary expenditure that I think has been cause for proposition 13. Taxpayers express righteous indignation when they feel that we are not squeezing the dollar hard and pinching the penny hard, because dollars and pennies are tough to come by for taxpayers hard-pressed by other expenditures.

I appreciate the indication the Senator from Illinois has had ahead of time that this amendment is acceptable and enthusiastically supported by the managers of the present bill.

Mr. SPARKMAN. Let me say to Senator PERCY, and I am sure my friend Senator CASE would agree, that we are very much impressed with not only his amendment but his explanation of it and, of course, we know of the zeal with which he works at all times.

I understood him to say that he had discussed it with Senator PROXMIRE. Facetiously, I ask was he awarded a golden fleece?

Mr. PERCY. I am happy to say the letter I received represented the opposite award, if there were such an award. That was a letter I cherished and I only mentioned it because the credibility of my statement during that debate I mentioned was questioned. We could probably multiply the goal I set out to achieve tenfold, and really, many, many Senators try very hard to spend prudently and wisely. This bill, for example, has been combed and looked at very, very carefully by the committee and great work has been done in connection with this measure that is before the Senate today.

Mr. SPARKMAN. Again I say I commend the very able Senator from Illinois for the good work and for his good explanation of it.

Mr. President, this amendment is the result of a General Accounting Office study of foreign military sales pricing policy. Senator PERCY's amendment has been agreed to by the Department of Defense and could save the taxpaver more than $30 million annually. I compliment my colleague for his efforts to save the taxpayer money.

For my part, I am willing to say the committee accepts the amendment offered by Senator PERCY.

Mr. CASE. Mr. President, will the Senator yield?

Mr. SPARKMAN. Yes, indeed.

Mr. CASE. I join my colleague and chairman in saying that it is a good amendment. It is typical of the kind of work that day in and day out the Senator does. I am astounded at the amount of money he has saved, and I am sure the Senator will find the voters in his State will rush to the polls and return him and assure themselves of his services for another 6 years.

I accept the amendment for my side.

The PRESIDING OFFICER (Mr. (MATSUNAGA). Does the Senator yield back his time?

Mr. SPARKMAN. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Illinois yield back his time?

Mr. PERCY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time, on the Senator's time?

Mr. SPARKMAN. Time not to be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, the Senate is now in session for morning business.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 12:35 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 10569, an act to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such act, and for other purposes.

### ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 785. An act to declare that all right, title, and interest of the United States in 2,700 acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nev., to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes;

H.R. 1420. An act for the relief of Umberto Ruffolo; and

H.R. 10569. An act to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 682. A joint resolution to provide for the designation of a week as "National Lupus Week".

### ENROLLED JOINT RESOLUTION SIGNED

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has

signed the following enrolled joint resolution:

H.J. Res. 1024. A joint resolution making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. EASTLAND).

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At 4:20 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House disagrees to the amendment of the Senate to H.R. 12240, an act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. BURLISON of Missouri, Mr. MINETA, and Mr. ROBINSON, and for intelligence-related activities, Mr. PRICE, Mr. ICHORD, and Mr. BOB WILSON were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12426, an act to authorize the Secretary of the Treasury to provide financial assistance for the city of New York.

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## COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4023. A communication from the Deputy Secretary of Defense, reporting, pursuant to law, authorized deficiencies to be incurred for the necessities of the current year in the operation and maintenance of the Army, the Navy, the Marine Corps, and the Air Force; to the Committee on Appropriations.

EC—4024. A communication from the Secretary of the Army, transmitting a draft of proposed legislation to modify the cost-sharing provisions of the Barbers Point Harbor Project, Oahu, Hawaii; to the Committee on Environment and Public Works.

EC–4025. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Russell & Sons Construction Co. Inc., Eureka, Kans., for a research project entitled "Demonstrate Capabilities of Specialized Reclamation Tools by Conducting Field Demonstrations"; to the Committee on Energy and Natural Resources.

EC–4026. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the final annual report of the Federal Power Commission, covering the fiscal year October 1, 1976, through September 30, 1977; to the Committee on Energy and Natural Resources.

EC–4027. A communication from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title II of the Social Security Act to simplify and improve benefit computation, coverage, and program administration, and for other purposes; to the Committee on Finance.

EC–4028. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1978 program in Bangladesh; to the Committee on Foreign Relations.

EC–4029. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1978 program in Tunisia; to the Committee on Foreign Relations.

EC–4030. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Coordination of International Exchange and Training Programs—Opportunities and Limitations," July 24, 1978; to the Committee on Governmental Affairs.

EC–4031. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Use of Discount Airline Fares and Teleticketing Would Help Save on Government Travel Expenses," July 21, 1978; to the Committee on Governmental Affairs.

EC–4032. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report of new systems and changes in systems already published on August 22, 1975 (40 F.R. 36875) and December 14, 1976 (41 F.R. 54718); to the Committee on Governmental Affairs.

EC–4033. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Department of Agriculture's Beef Grading: Accuracy and Uniformity Need to be Improved," July 21, 1978; to the Committee on Governmental Affairs.

EC–4034. A communication from the Chairman, Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act of 1974 with respect to the computation of certain annuity amounts; to the Committee on Human Resources.

EC–4035. A communication from the U.S. Commissioner of Education, Office of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, Notice of Interpretation: Use of Emergency School Aid Act Funds for Court-Ordered Activities; to the Committee on Human Resources.

EC–4036. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations for part 180, Desegregation of Public Education; to the Committee on Human Resources.

EC–4037. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 345 reports covering the period of July 3 through July 14, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC–4038. A communication from the President of the United States, transmitting a proposed amendment to the request for appropriations for the fiscal year 1979 in the amount of $4,700,000 for ACTION; to the Committee on Appropriations.

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## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–764. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on the Judiciary:

"RESOLUTION NO. 336

*"Be it resolved by the Legislature of the Territory of Guam:*

"Whereas, House Joint Resolution 554 calls for a constitutional amendment to provide representation in Congress for the District of Columbia; and

"Whereas, the goal of House Joint Resolution 554 is to provide full voting representation in both the Senate and the House for a populace which has been historically denied representation; and

"Whereas, the residents of Guam as well as the other residents of the territories of the United States and the District of Columbia carry the same burdens of citizenship as all other Americans yet they have no representation whatsoever in the Senate and one "non-voting" delegate in the House of Representatives; and

"Whereas, this denial of representation is an affront to our democratic ideals and a blight on our record as a free nation to guarantee representative government for all Americans; and

"Whereas, we support and encourage the United States Senate to act favorably on House Joint Resolution 554, we also ask the United States Congress to encourage and promote the initiation and passage of a similar joint resolution granting Guam's citizens voting representation in both Houses of Congress; and

"Whereas, the achievement of full civil libertarianism for all of America's citizens and the elimination of the blight on democracy of a non-represented people will only be accomplished with the granting of full voting representation to the entire American community including America's territories; now, therefore, be it

"Resolved, that the Fourteenth Guam Legislature respectfully requests that the United States Senate act favorably on House Joint Resolution 554; and be it further

"Resolved, that the Congress of the United States is respectfully requested to initiate and support a similar resolution granting full voting representation to America's territories as well; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President Pro Tempore, U.S. Senate; to the Senate Majority Leader; to the Senate Minority Leader; to the Senate Minority Whip; to the Speaker, House of Representatives; to the House Majority Leader; to the House Minority Leader; to the House Minority Whip; to Senator Edward M. Kennedy; to the Delegate from the District of Columbia; to the Delegate from Guam; to the Delegate from the Virgin Islands; to the Resident Commissioner from Puerto Rico; to the Liaison Officer from American Samoa; to the Washington Representative from the Northern Marianas; to the Liaison Officer from Micronesia; to the Governor of Puerto Rico; to the Governor of the Virgin Islands; to the Governor of American Samoa; to the Governor of the Northern Marianas; to the Speaker, Puerto Rico Legislature; to the Speaker, Virgin Islands Legislature; to the Speaker, American Samoa Legislature; to the Speaker, Northern Marianas Legislature; to the Congressional Delegation from Hawaii; to the Secretary of State; to the Secretary of Interior; to the Chairman, National Democratic Committee; to the Chairman, National Republican Committee; to the Executive Editor, Washington Post; to the Executive Editor, Washington Star; to the Executive Editor, New York Times; to the Bureau Chief, Gannett Newspapers, Washington, D.C. and to the Governor of Guam."

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 25, 1978, he presented to the President of the United States the following enrolled bill:

S. 785. An act to declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services (Rept. No. 95-1036).

By Mr. RANDOLPH, from the Commitee on Environment and Public Works, without amendment:

S. 3342. An original bill to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake" (Rept. No. 95-1037).

H.R. 12138. An act to name a certain Federal building in Laguna Niguel, California, the "Chet Holifield Building" (Rept. No. 95-1038).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Eugene Madden, Jr., of New York, to be U.S. Marshal for the Northern District of New York.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Jose A. Gonzalez, Jr., of Florida, to be U.S. District Judge for the Southern District of Florida.

Edward S. Smith, of Maryland, to be an Associate Judge of the U.S. Court of Claims.

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Omi Gail Walden, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

● Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources today favorably reported the nomination of Omi G. Walden to be Assistant Secretary of Energy for Conservation and Solar Applications.

Committee consideration of this nomination has been delayed for an extended period because of a pending investigation of the Georgia State Energy Office. This investigation has focused on alleged irregularities in the State set-aside program. The purpose of the delay was to determine to what extent, if any, the investigation might involve Ms. Walden.

The committee has received a copy of a letter from the Deputy Attorney General, Mr. Civiletti, to the President's counsel, dated June 8, 1978, reporting the FBI's conclusion that Ms. Walden had no responsibility for the Georgia State Energy Office during the period when possible criminal violations occurred, that during her directorship of the successor agency the existing irregularities were corrected and that there is no evidence that she is or is likely to be included as a subject of the criminal investigation.

The committee's hearing on this nomination was held on June 29, 1978. The record of that hearing has been printed and includes letters and testimony regarding Ms. Walden's administration of the Georgia Office of Energy Resources.

Mr. President. I ask unanimous consent that Ms. Walden's sworn financial statement submitted to the committee be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FINANCIAL STATEMENT

ASSETS

Cash on hand and in banks, $12,700.00.
Real estate interests—add schedule.* $207,500.000.
Personal property, $24,500.00.
Life insurance—cash value, $1,500.00.
State retirement, $3,111.00.
Total assets, $249,311.00.

LIABILITIES

Notes payable to banks—unsecured, $1,-660.00.
Notes payable to others, $2,345.00.
Accounts payable, $900.00.
Real estate mortgages payable—add schedule. $118,894.00.
Total liabilities, $123,799.00.
Net worth, $125,512.00.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankrupcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

*Real estate schedule*

| Type | Market value | Mortgages as of Dec. 1, 1977 |
|---|---|---|
| Condominium | $75,500.00 | $58,540.00 |
| Residential property | 100,000.00 | 38,398.00 |
| Commercial property | 32,000.00 | 21,956.00 |
| Total | 207,500.00 | 118,894.00 |

*See Attachment A for Real Estate Schedule.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Walden, Omi Gail.

Position to which nominated: Department of Energy; Assistant Secretary for Conservation and Solar Applications.

Date of birth: December 25, 1945.

Place of birth: Alma, Georgia.

Marital status: Married.

Full name of spouse: Ralph Edward Walden.

Names and ages of children: None.

Education: Coffee County High School-Douglas, Ga., 1968-1963. University of Georgia, 1963-1967, A. B. (Journalism), 1968.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1968-1969, Assistant Director for Public Relations, Georgia Ports Authority, Savannah, Georgia.

1970-1973. Director of Public Relations, U.S. HUD Model Cities Program, Alma, Georgia.

1973-1976, Federal/State Relations Coordinator and Policy Advisor, Georgia Office of Planning and Budget, Office of the Governor, Atlanta, Georgia.

1976-Present, Director Georgia Office of Energy Resources, Atlanta, Georgia (See Attached Resume).

RÉSUMÉ, OMI G. WALDEN

Experience: 1973 to present, State of Georgia: Atlanta, Georgia.

1976 to present, Director, Georgia Office of Energy Resources. Responsible for establishing newly created Georgia Office of Energy Resources, which by law is a division of the Governor's Office of Planning and Budget. Appointed by James T. McIntyre, Jr. Specific duties include: serving as energy advisor to Governor and General Assembly; direction of all programs and activities of the Office of Energy Resources; representing the Governor and the agency with all levels of government, the Congress, academic institutions, utilities, and public interest and professional organizations; representing the Governor and the agency by participating in national, regional, and substate energy-related conferences and commissions; serving as spokesperson for the Governor and agency in giving speeches, testimony, and handling contacts with news media.

1973 to 1976, served as Federal/State Relations Coordinator and Policy Advisor on Energy and Environmental Issues for former Governor Jimmy Carter and Governor George Busbee.

Responsible for liaison activities between the Governor's Office and the Georgia Department of Natural Resources, the Georgia Congressional Delegation, all congressional standing committees and federal agencies relevant to energy and natural resources, and the Energy Program of the National Governors' Conference (NGC). Prepared issue and legislative analyses, testimony, and position papers. Handled special energy assignments.

1970 to 1973, U.S. HUD Model Cities Program; Alma, Georgia, Director of Public Relations: responsible for planning and directing the implementation of a comprehensive Public and Intergovernmental Relations program. Key functions included: advising management on policy and program implications; liaison activities with all levels of government, the Congress, the National League Cities, the U.S. Conference of Mayors, and the National Association of County Commissioners; establishing and maintaining a citizen participation structure and an information/referral system; maintaining effective relations with the news media, civic and educational organizations; preparation or review of information for public distribution; providing technical assistance to city and county governments and other

agencies administering Model Cities funded projects; planning and coordination of conferences and programs of public interest.

From 1971 through 1972, while still acting as Director of Public Relations, also served as Research and Evaluation Coordinator. In this position was responsible for planning and establishment and supervision of the Evaluation and Management Information Division. More specifically involved: the identification of techniques; methodology design; supervising in-depth evaluations of Model Cities funded projects; analysis and interpretation of data; supervising preparation of evaluation reports; and the presentation of evaluation reports to decisionmakers.

In 1970, duties in addition to those as Director of Public Relations, included serving as Citizens Participation Coordinator. In this capacity was responsible for designing citizen participation program which would later be incorporated into the Public and Intergovernmental Relations program. Also, supervised the provision of support services and coordinated the activities of planning task forces and neighborhood development groups.

1968 to 1969, Georgia Ports Authority; Savannah, Georgia, Assistant Director for Public Relations. Responsible for evaluating and revising the Public Relations program; served as Associate Editor of international magazine published by the Authority; performed liaison activities with other State agencies, State Department, and International Trade Offices; planned and coordinated activities for visiting dignitaries.

Education:

1963 to 1967, University of Georgia; Athens, Georgia, AB degree in Journalism, 1967.

Professional and Technical Affiliations:

Present, Governor's representative to Energy Subcommittee of the President's Intergovernmental Science, Engineering and Technology Advisory Panel. Governor Busbee serves as Vice-Chairman of the Panel and is Chairman of the Energy Subcommittee.

Governor's representative to the Natural Resources and Environmental Management Task Force of the National Governors' Conference.

Member of the following three Energy Subcommittees of the National Governors' Conference:

Energy Conservation;

Energy Resource Management; and

Energy Facilities Siting.

Member of the Governor's Task Force on the Transportation of nuclear Materials.

Personal Data:

Birth date: December 25, 1945; Native Georgian;

Married: April 27, 1968; Husband: Ralph E. Walden.

No children.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement. None.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations. None.

Published writings: Various reports, speeches, articles, testimony, and publications on International Trade, Balanced Growth, Rural Development, Environmental Issues, and Energy.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

QUALIFICATIONS

Upon graduation from the University of Georgia in 1969 (A.B. in Journalism), I began a career in public service and have been privileged throughout the past ten years to hold several positions of increasing responsibility.

From 1968–1969, I was with the Georgia Ports Authority in Savannah, Georgia, as Assistant Director for Public Relations. In this capacity, I was responsible for evaluating both the technical and substantive components of the Public Relations program and following through with the development and implementation of new strategies. Two major program areas which received primary emphasis were marketing of the Authority's facilities and services to industrial leaders; and secondly, facilitating trade and economic development and through increased involvement in international State, and local officials.

During 1970–1973, I served as Director of Public Relations for the U.S. HUD Model Cities Program in Alma, Georgia. I was responsible for the planning and implementation of a comprehensive Public and Intergovernmental Relations program. This involved providing management and local officials extensive counseling on the most effective strategy for marketing major programs covering a broad range of complex economic, social, and governmental issues to all levels of government, the business community, and the general public. To carry out this function a thorough understanding of the policies, programs, and funding priorities of various federal and State agencies, as well as their interrelationships was necessary. The goal of establishing the Alma Program as a model for rural development planning and action programs involved especially close coordination with the U.S. HUD Assistant Secretary for Community Development and the Senate Committee on Agriculture and Forestry and its Rural Development Subcommittee. The effectiveness of these activities in policy formulation and program transfer was evidenced by the Subcommittee's visit to Alma and the subsequent development and enactment of the National Rural Development and enactment of the National Rural Development Act of 1972. Another example is the Early Childhood Development Program which served as the model for the State's kindergarten program.

In addition to my duties as Director of Public Relations, I was responsible during 1970 for establishing the citizen participation and outreach network, which served as the focal point for the Model Cities Agency's interaction with various interest groups and the general public. I gained a continuing appreciation for the merits of actively soliciting a broad base of input into each phase of the decision-making process.

While serving as Director of Public Relations, I also served from 1971–1972 as Director of Research and Evaluation; and was responsible for establishing this area as a Division of the Agency. Specific functions included the design and development of a management information system; design of evaluation methodologies; analysis and interpretation of data; supervising evaluations of major Model Cities funded projects; and the presentation of audit findings to federal and local officials. This experience was most significant in that I gained an understanding of the inherent problems in the rapid development and implementation of large programs and the effective deployment of large sums of money from a management standpoint.

From 1973–1976, I served as Federal/State Relations Coordinator and Policy Advisor on Energy and Environmental Issues for former Governor Jimmy Carter and his successor Governor George Busbee. I was responsible for liaison activities between the Governor's Office and the Georgia Department of Natural Resources, the Georgia Congressional Delegation, all congressional standing committees and federal agencies relevant to energy and natural resources, and the Energy Program of the National Governors' Association (NGA). I prepared issue and legislative analyses, testimony, and position papers.

During this period, I served as the Governor's representative to the NGA Energy Steering Committee, and worked with the Office of Management and Budget and subsequently with the Federal Energy Office and the Federal Energy Administration to address a broad range of energy issues. I participated in the development of rules and regulations for the petroleum allocation program and the development of a standby rationing plan. Additionally, I handled special projects for the Governor, such as coordinating the preparation of the State's proposal for the National Solar Energy Research Institute.

In 1975, I authored the enabling legislation for the Georgia Office of Energy Resources. This legislation mandates that priority be given to conservation and the commercialization of alternate energy technologies. I also authored the State's two laws which provide tax incentives for the production and use of solar powered systems. Furthermore, I was instrumental in the development and enactment of legislation to provide the State's Environmental Protection Division the resources to establish and carry out an environmental monitoring and control program for radioactive substances.

In August 1976, I was appointed by James T. McIntyre, Jr., to serve as Director of the Georgia Office of Energy Resources, which by law is a Division of the Governor's Office of Planning and Budget. Specific duties include: serving as energy advisor to the Governor and the General Assembly; directing all programs and activities of the Office; representing the Governor and the agency with all levels of government, academic institutions, utilities, industry, and public interest, trade, and professional organizations; representing the Governor and the agency in national, regional, and substate energy-related conferences and commissions; serving as spokesperson for the Governor and the Agency in giving speeches, testimony, and handling contacts with the news media.

In this capacity, I represent the Governor as chairperson of the Energy Committee of the President's Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP). I am also his representative to the Natural Resources and Environmental Management Committee of the National Governors' Association, and serve on three subcommittees: Energy Conservation, Energy Resource Management, and Energy Facility Siting. Additionally, I serve as a member of the Governor's Task Force on the Transportation of Nuclear Materials.

Through this range of substantive, functional, and managerial experience, I gained an understanding of the process for market-

ing major and sometimes complex programs to key groups within both the public and private sectors. I believe, this combined with my understanding of the energy problem, as well as my knowledge of traditional resources and the opportunities for conservation and alternate resources will be valuable in achieving a more timely and balanced approach for meeting the energy needs of our Nation and the world.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resove any potential conflict of interest that may be disclosed by your responses to the above items. N/A.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON (for himself, Mr. DANFORTH, Mr. SPARKMAN, Mr. PELL, and Mr. HEINZ):

S. 3338. A bill to permit the distribution to charity of profits arising from the advance refunding of State and local obligations before the publication of Treasury News Release WS 1097 prohibiting such distributions and to provide relief to those jurisdictions which have already accounted for such amounts; to the Committee on Finance.

By Mr. HEINZ:

S. 3339. A bill to provide for a study and report on the applicability of the McFadden Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TOWER (for himself and Mr. HATCH):

S. 3340. A bill to establish a National Commission on Immigration Policy to examine and analyze the social and economic impact of the presence of undocumented aliens in the United States, and for other purposes; to the Committee on Governmental Affairs.

By Mr. THURMOND:

S. 3341. A bill to name the Veterans' Administration hospital at Columbia, S.C., the "Wm. Jennings Bryan Dorn Veterans' Hospital"; to the Committee on Veterans' Affairs.

By Mr. RANDOLPH (from the Committee on Environment and Public Works):

S. 3342. A bill to name a lake which has been completed as part of the Papillion Greek basin project as the "Standing Bear Lake." Original bill reported and placed on the calendar.

By Mr. PERCY:

S. 3343. A bill to reorganize and clarify the responsibilities of Federal agencies, Congress, and the States with respect to management of nuclear waste, and for other purposes; to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Governmental Affairs, jointly, by unanimous consent.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for himself, Mr. DANFORTH, Mr. SPARKMAN, Mr. PELL, and Mr. HEINZ):

S. 3338. A bill to permit the distribution to charity of profits arising from the advance refunding of State and local obligations before the publication of Treasury News Release WS 1097 prohibiting such distributions and to provide relief to those jurisdictions which have already accounted for such amounts; to the Committee in Finance.

### TAX CONSEQUENCES OF REFINANCING OF BOND ISSUES

Mr. EAGLETON. Mr. President, today I am introducing, with Senators DANFORTH, SPARKMAN, PELL and HEINZ, a bill to correct a problem created by the Internal Revenue Service's efforts to clarify regulations on refinancing of tax-exempt bond issues.

On September 24, 1979, the IRS issued a press release outlining of new "do's and don'ts" for municipal bond refundings. My colleagues and I certainly do not object to this legitimate exercise of IRS authority. However, we feel that IRS has erred in trying to apply their new interpretation of the law retroactively. In doing so, IRS is changing the rules in the middle of the ball game for the six local governments which are affected by my bill. Furthermore, IRS is taking millions of dollars out of the coffers of some very worthwhile charities.

In a municipal bond refunding, Mr. President, the issuer purchases U.S. Government obligations which are deposited in escrow until the initial bond issue is refunded. Under arbitrage restrictions enacted in 1969, the Government obligations must bear a limited yield rather than a market yield. Prior to the September 24, 1976, news release, issuers could purchase these obligations in either of two ways. One way was to buy them from a private party at a price greater than the market price thereby generating a "windfall" profit which was held in escrow. The other way was to buy them from a private party at a price sued by the U.S. Treasury, thereby generating a "windfall" for the Federal Government.

Jackson County, Mo., was one local government which had chosen to go the first route. In the spring of 1976, Jackson County refinanced $65 million worth of general obligations bonds, and in the process picked up a windfall profit of about $4 million. In order to dispose of the profit in accordance with IRS rules, the county devised a plan to distribute the money to 200 local charitable and civic organizations.

That was the situation on September 24, 1976, when IRS threw a wrench into the works with its press release. The release indicated that such "windfall" profits no longer would be allowed. Furthermore, the IRS indicated that the new interpretation would be effective retroactively. The IRS since has proposed that "windfall" profits accumulated prior to the September 24 release should be allowed to be distributed only to the U.S. Treasury, or to the investment bankers involved in the refundings. It appears that the IRS intends to regard the bonds issued as arbitrage bonds, which will lose their tax-exempt status if the windfall is distributed to charity.

It should be noted, Mr. President, that this whole issue is a matter of IRS interpretation. There is no statute on the books which would prohibit charitable distribution of this type of profit, nor were there any regulations in effect to prohibit this at the time Jackson County and the five other local governments refunded their bonds. In fact, Congress in 1973 had an opportunity to enact legislation very similar to the current IRS policy, and Congress chose not to act on the issue.

I do not quarrel with the Internal Revenue Service's right and duty to interpret the regulations. I do quarrel with the manner in which these regulations are being arbitrarily applied to six jurisdictions which already had completed their bond refundings, and had done so in good faith and in accordance with existing rules. I further find it somewhat ironic that while the IRS will not allow the profits to be given to tax-exempt charities, they seem perfectly content to allow the profits to be given to the investment bankers who consulted on the refundings.

The bill I am introducing today on behalf of my four colleagues would rectify this situation, with the effect of allowing only these six local governments to proceed with the distribution of their windfall profits. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3338

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) notwithstanding any provision of the Internal Revenue Code of 1954 or any regulation, news release, or ruling promulgated or proposed thereunder to the contrary, interest, profits or other amounts arising out of the advance refunding, before September 24, 1976, of one or more issues of obligations of a State, a territory, or a possession of the United States, or any political subdivision of any of the foregoing (hereinafter referred to as the "refund profit"), held in a trust fund or escrow arrangement, or held by an underwriter or other person under an agreement (whether or not enforceable), which contemplates the payment of the refund profit to one or more organizations described in section 501(c) of the Internal Revenue Code of 1954 and exempt from taxation under section 501(a) of such Code, may be paid over to such organizations without causing the refunding obligations to be classified or treated as arbitrage bonds under section 103(c) and without penalty to the issuer. If the refund profit is held in a trust fund or escrow arrangement subject to an agreement (whether or not enforceable) which provides for the payment of the refund profit to such organizations, it shall be paid over in accordance with the terms of such agreement.

(b) In the case of refund profit held under an agreement or arrangement described in (a) which has been paid over to the United States directly, or by purchasing United States obligations which bear an interest rate

lower than the highest rate of interest borne by public debt securities of the United States generally available for purchase at the time such obligations were purchased, the Secretary of the Treasury shall pay, out of any amounts in the Treasury not otherwise appropriated, an amount equal to that portion of the refund profit which has been so paid over to the United States. Moneys so paid shall be distributed within 90 days after receipt in the same manner as if the refund profit had not been paid to the United States.

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By Mr. HEINZ:

S. 3339. A bill to provide for a study and report on the applicability of the McFadden Act; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. HEINZ. Mr. President, the question of interstate branching by national banks has been debated for many years. Those studying the issue and providing comment have included all of the Federal bank regulatory agencies, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Treasury Department. In addition the appropriate committees and sub-committees of Congress have, on occasion, held hearings and studied the issue. Of course, interested parties such as the American Bankers Association and the Independent Bankers Association have also provided comment.

The Federal legislation being debated is the McFadden Act of 1927, which limits the ability of national banks to operate branches on an interstate basis. Proposals to amend this act have been exchanged between the Congress and the bank regulatory agencies for many years; yet no definitive action even towards making preliminary recommendations has been taken. Congress has requested the advice of the bank reguatory agencies, and the bank regulatory agencies have requested congressional direction. This endless circle of discussion continues while our Government succeeds in sidestepping an important issue.

As an example of the feelings of the Federal Bank regulators toward the McFadden Act, I am including the following statements from testimony before the Senate Subcommittee on Financial Institutions during hearings on the International Banking Act of 1978 on June 21, 1978:

Chairman Miller, of the Board of Governors of the Federal Reserve System:

> The national policy of barring interstate banking, as embodied in the McFadden Act, needs review. Banking has changed. The structure of the economy and its financial needs have also changed since the McFadden Act was passed over 50 years ago.

Mr. John Heiman, the Comptroller of the Currency:

> The central problem, of course, arises from the McFadden Act, which restricts branching for national banks and which is the product of another era in the economic and political history of this country. Clearly, domestic branching restrictions require reevaluation.

Mr. Robert H. Mundheim, general counsel of the Treasury Department:

> Interstate branching raises a fundamental competitive question with long-term implications for banking structure in the United States. Technological developments, for example, in the area of electronic funds transfer have increased the urgency of answering that question.

Without the benefit of advice and recommendations from the Federal agencies with respective oversight responsibilities, I have not determined whether changes in the McFadden Act are, in fact, merited. I do believe, in any case, that the applicability of this act should be assessed.

The Congress needs to have the facts along with a definitive set of recommendations put before it by the Federal banking regulatory agencies for further debate and possible legislative action. We do not need to form a multi-year commission to study the issue. There has been an ongoing discussion of the subject within the administration and within the banking community.

Therefore, I am introducing legislation that will direct the President through the appropriate Federal bank regulatory agencies to present a set of recommendations to the Congress with regard to the applicability of the McFadden Act to the current banking structure. These recommendations are to be made within 1 year of the enactment of the bill.●

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By Mr. TOWER (for himself and Mr. HATCH):

S. 3340. A bill to establish a National Commission on Immigration Policy to examine and analyze the social and economic impact of the presence of undocumented aliens in the United States, and for other purposes; to the Committee on Governmental Affairs.

NATIONAL COMMISSION ON IMMIGRATION POLICY ACT OF 1978

● Mr. TOWER. Mr. President, I am introducing today on behalf of Senator HATCH and myself the National Commission on Immigration Policy Act of 1978, a bill to establish a national commission to examine and analyze the social and economic impact of the presence of undocumented workers or illegal aliens in the United States.

This bill addresses problems Texas and other states are facing today as a result of our national immigration policy.

To illustrate briefly, the border school districts in Texas are presently struggling with a problem that stems from the rapidly increasing enrollments of legal children. These legal alien children place added financial burdens on the taxpaying residents of our local school districts due to the additional classroom space needed to serve their educational requirements. Although their presence and subsequent enrollment is the immediate result of this Nation's immigration laws and policy, no Federal assistance is authorized to provide some needed relief for many hard-pressed taxpayers who live in these school districts in my State.

I introduced the first legislation to assist the border school districts of Texas last year and called for a full review of our national immigration policy. In doing so, it was my intention that Congress should examine and publicly identify the numerous ways our national policy creates added burdens for States like Texas. Congress should determine how those burdens could be distributed more evenly and fairly among all Americans, rather than being borne so disproportionately by Texans.

Presently, the social and economic impact of our existing national policy, in this example of increasing enrollments of legal aliens in Texas' border school districts, is not evenly distributed among all Americans. There is no provision in our immigration and naturalization laws that mandates where a newly arrived legal immigrant family must settle and live. Of course, in practice, this often means that legal immigrants increasingly are making their homes in the communities nearest the border in my State.

Unfortunately, as of this date, there has been no sign from the administration that it is sensitive to these needs or that it intends to assist in resolving them. Yet, it has asked Congress to approve its legislation on undocumented workers. If Congress were to approve that legislation, it could only serve to aggravate further the existing problems already created by our national immigration policy. At the same time, it could have a serious social and economic impact on our country as a result of the bill's amnesty and resident alien category provisions.

Mr. President, I am especially concerned over the glaring absence of accurate and pertinent information and data that is seen in the administration's request for legislation to resolve the undocumented worker problem. This concern was underscored time and time again during the hearings held by the Senate Judiciary Committee. Clearly, there does exist a critical need for accurate and verifiable data on undocumented workers or illegal aliens—with a special emphasis on the social and economic impact of their presence in this country.

Congress can hardly enact sound legislation on this national problem if its true dimensions and scope are not precisely known. Nonetheless, Congress and the American people are being asked to give their approval for the administration's bill even though it is based on estimates rather than reliable data.

The National Commission on Immigration Policy established by our bill will develop data that is absolutely essential to a full understanding of this issue and its possible remedies. It will provide for the careful examination of the impact of the presence of undocumented aliens on the social, economic, and political conditions of our country; on our demographic trends; on our current and projected unemployment rates; and on our foreign policy.

In addition, it will mandate the study and evaluation of existing laws, policies, and procedures governing the admission of immigrants to the United States.

The bill also addresses a question that has been avoided by the President's legislation. It is the question of what our Nation can do or must do to deal with the problem of illegal immigration where it originally begins—and this of course means the countries of origin for undocumented workers.

This legislation will create a commission to examine and analyze our country's policies and programs to determine specifically what affect they have or can have, on the economies of countries of origin for undocumented workers. Foreign trade, foreign aid, economic, social, technological, and immigration policies and programs are among those to be analyzed.

Mr. President, legislation to establish a National Commission may be viewed by some as little more than an attempt to delay any decision or action on the issue of illegal immigration. That would be entirely inaccurate; rather, it is very clear, indeed, that the work of a national commission is urgently needed. Unless we have these results and findings and use them, in turn, to determine policy, we will not have a sound basis for legislation or any other alternative designed to reduce the flow of undocumented workers into this country. Equally important, we will not know what the ultimate costs to various elements of our society, such as the Hispanic American community, will be if Congress proceeds to enact legislation that is based on estimates rather than sound data. Nor will the American people have any clear idea in advance just what it may cost in economic and financial terms to reduce this flow.

This bill creates a National Commission whose membership shall include the Secretaries of State, Labor, and the Department of Health, Education, and Welfare. The Attorney General is also a named member. In addition, four members of the Senate and four members of the House of Representatives, equally divided in both cases between the majority and minority parties, would be named to the Commission.

Rounding out the membership of the Commission are four members to be appointed by the President. It is here that the issue of illegal immigration requires a special sensitivity. To accomplish this goal, it is intended that at least two of the four public members named by the President shall be representatives of the major Hispanic organizations, including community-based organizations that are involved with the Hispanic community, such as LULAC, American GI Forum, IMAGE, and SER, Jobs for Progress, Inc.

Mr. President, a national commission will be mandated to gather, examine, and analyze data relating to our national immigration policy; the presence and impact of undocumented workers in our country; and the impact of our country's laws and policies—particularly those involving economic, trade, and investment activities abroad—on the domestic economies of countries of origin for undocumented aliens.

In addition to developing recommendations and options encompassing this broad view of immigration policy and illegal immigration, the Commission will also permit the American people to know in advance what impact, costs or sacrifices, and other considerations may be involved if our Nation truly is going to confront this national issue of illegal immigration.

We welcome our colleagues joining with us on this important legislation, and we urge the Senate's earliest approval for a National Commission on Immigration Policy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3340

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the National Commission on Immigration Policy Act of 1978".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established as an independent instrumentality of the United States a commission to be known as the National Commission on Immigration Policy (hereinafter referred to in this Act as the Commission").

(b) The Commission shall be composed of 16 members as follows:

(1) Four members appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman.

(2) The Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Health, Education, and Welfare.

(3) Four members appointed by the Speaker of the House of Representatives from the membership of the House, two representing the majority and two representing the minority.

(4) Four members appointed by the President pro tempore of the Senate from the membership of the Senate, two representing the majority and two representing the minority.

(c) The term of office of each member and of the Chairman and Vice Chairman of the Commission shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) Eight members of the Commission shall constitute a quorum, but not less than four members may hold hearings.

(e) The Commission may elect a Vice Chairman from its membership to serve in the absence of the Chairman and carry out his duties and responsibilities.

DUTIES OF THE COMMISSION

SEC. 3. (a) The Commission shall study and evaluate, in accordance with subsection (b), existing laws, policies, and procedures governing the admission of immigrants to the United States and make administrative and legislative recommendations to the President and to the Congress as are required under section 7.

(b) In particular, the Commission shall—

(1) conduct a study and analysis of the effect of the provisions of the Immigration and Nationality Act (and administrative Interpretations thereof) and examine and analyze the social and economic impact of the presence of undocumented aliens in the United States on—

(A) social, economic, and political conditions in the United States;

(B) demographic trends;

(C) present and projected unemployment in the United States; and

(D) the conduct of foreign policy;

(2) conduct a study and analysis of the effect of United States foreign aid, foreign trade, economic, social, technological, and immigration policies and programs to determine—

(A) how and to what extent such programs and policies affect the economies of countries of origin of undocumented aliens;

(B) recommendations for new or additional program initiatives;

(C) the feasibility of such recommendations, including possible use of bilateral agreements to implement such recommendations;

(D) projected cost of such recommendations; and

(E) cost-comparisons between such recommendations and the establishment of an effective deterrent to illegal immigration through increases in enforcement resources and personnel; and

(3) review and make recommendations with respect to the numerical limitations, and exemptions from such limitations, of the Immigration and Nationality Act on the admission of permanent resident aliens.

POWERS OF THE COMMISSION

SEC. 4. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the commission or such subcommittee or member may deem advisable.

(b) (1) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or any members. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

(3) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

(c) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

(1) to appoint and fix the compensation of an Executive Director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 52 of such title relating to classification and General Schedule pay rates, but—

(A) in the case of the Executive Director, at a rate equal to that for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) in the case of all other personnel, at rates not in excess of the maximum rate for

GS–18 of the General Schedule under section 5332 of such title; and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(b) (1) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon the Chairman and the Administrator of General Services.

(2) The Commission is authorized to make grants and enter into contracts for the conduct of research and study necessary to implement the provisions of this Act.

(c) (1) Any Federal employee subject to the civil service laws, rules, and regulations may be detailed to the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

(2) Any staff member of any committee of the Senate or of any committee of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Any staff member so detailed shall serve on the staff of the Commission without additional compensation except that he or she may receive such reimbursement of expenses incurred as the Commission may authorize.

COMPENSATION OF MEMBERS

SEC. 6. (a) The Chairman of the Commission shall receive compensation at a rate equal to the daily rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the Vice Chairman shall receive compensation at a rate equal to the daily rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) All other members of the Commission who are not officers or employees of the Federal Government shall receive compensation at the rate of $200 for each day such member is engaged in the performance of the duties vested in the Commission.

(c) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Commission.

REPORTS AND TERMINATION

SEC. 7. (a) The Commission shall transmit a report to the President and to each House of Congress within one year after the date of the enactment of this Act. Such report shall contain the findings and recommendations of the Commission and the progress of the Commission in completing its studies.

(b) The final report shall be transmitted to the President and each House of Congress within two years after the date of the appointment of the last member of the Commission to be appointed.

(c) The Commission shall cease to exist on the ninetieth day beginning after the date of the transmission of its final report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

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By Mr. THURMOND:

S. 3341. A bill to name the Veterans' Administration hospital at Columbia, S.C., the "Wm. Jennings Bryan Dorn Veterans' Hospital"; to the Committee on Veterans' Affairs.

● Mr. THURMOND. Mr. President, today I am introducing legislation to name the new Veterans' Administration hospital at Columbia, S.C., the "Wm. Jennings Bryan Dorn Veterans Hospital." This legislation is identical to S. 878, which I introduced in the Senate in 1975, but which was not acted upon by the Congress.

William Jennings Bryan Dorn was born in Greenwood County, S.C., on April 14, 1916. At the age of 22 he was elected to the South Carolina House of Representatives. At the age of 24 he became a State senator, the then youngest citizen of South Carolina ever to have been elected to that public office. After the bombing of Pearl Harbor, he resigned his seat in the State senate and volunteered for military service. He served for 3½ years in the Army Air Corps and was one of seven brothers in service during that wartime period.

Mr. Dorn was elected to the U.S. House of Representatives in 1946 and served there 26 years. He was a member of the Committee on Public Works and Transportation and the Committee on Veterans' Affairs, serving on the latter committee for 23 years and as its chairman during the 93d Congress. Mr. Dorn retired from the Congress in 1974.

As a member of the House Veterans' Affairs Committee, Mr. Dorn demonstrated an exceptional and creative interest in the health care needs of our Nation's veterans. Without the resourcefulness and industry that characterized Mr. Dorn's many contributions to the development and improvement of the VA hospital system, health care for veterans would not be what it is today. Additionally, Mr. Dorn's efforts in assisting to obtain the new VA replacement hospital in Columbia, S.C. were helpful.

In view of the history of Mr. Dorn's lasting contributions in behalf of our Nation's 30 million veterans, and particularly the veterans of South Carolina, it is exceedingly appropriate that the new replacement hospital in Columbia bear his name. I urge that this measure receive the full support of my colleagues.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3341

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Veterans' Administration hospital at Columbia, South Carolina, shall hereafter be known and designated as the "Wm. Jennings Bryan Dorn Veterans' Hospital". Any reference to such hospital in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the "Wm. Jennings Bryan Dorn Veterans' Hospital."●

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By Mr. PERCY:

S. 3343. A bill to reorganize and clarify the responsibilities of Federal agencies, Congress, and the States with respect to management of nuclear waste, and for other purposes; to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Governmental Affairs, jointly, by unanimous consent.

NUCLEAR WASTE MANAGEMENT ACT OF 1978

Mr. PERCY. Mr. President, the legislation I am introducing today on nuclear waste management has two goals. First is to set the Federal Government on the track of a solution to nuclear waste disposal so that nuclear power is not foreclosed as an energy option. The second is to insure that sound scientific knowledge precedes decisions on technical options, so that final decisions reflect the most environmentally sound mode of storage. I hope that this bill, after 3 days of hearings on it started today, can be molded into the basis for a national decisionmaking process on the nuclear waste issue.

I believe it is important to put the magnitude of the dangers of nuclear waste into perspective. Margaret Maxey of the University of Detroit has written:

> The problem of radioactive waste management is neither unique nor unprecedented.

Nor does nuclear waste represent any sort of present danger. For example, the high level wastes from atom bomb production which have leaked from tanks at the Energy Department's Hanford, Wash., reservation, are the most troublesome in existence. Yet the National Academy of Science concluded in a technical report released this spring that "there has not been in the past, and is not at present, any significant radiation hazard to public health and safety from waste management operations at Hanford."

Opponents of nuclear power are correct when they point out that to safely store nuclear wastes into an indefinite future will require enormously careful technical decisions, and will involve a calculated risk of failure. But the risk is manageable; the remaining technical uncertainties are solvable, if we proceed forthwith to work on them. The President s Office of Science and Technology Policy concluded as follows in a July 3, 1978 draft report:

> The task of accurately predicting the fate of radionuclides emplaced in (an underground) repository over time frames of even several hundreds to many thousands of years is unprecedented. The principal earth science disciplines involved in such a task . . . are relatively young sciences with little experience in making or evaluating predictions that cover time frames even as short as a few decades. Numerous limitations of our knowledge in these fields, pertinent to radioactive waste disposal, are identified throughout this paper. Nevertheless, we believe that such gaps in our current knowledge need not rule out successful underground containment of radionuclides for periods of many thousands of years.

What is needed is a determination by those in policy positions to set themselves on course.

I fear that this determination may have been lacking. The public perceives it that way. Governor James Edwards of South Carolina testified June 20 before Senator Hart's Subcommittee on Nuclear Regulation, "Through I am personally convinced that enormous technological progress has been made, the public perception is that nothing has happened."

The Energy Department, and its predecessors the Energy Research and Development Administration, the Atomic Energy Commission, and the Manhattan project back in World War II, have at various times neglected waste manage-

ment or have shifted tracks. Though it is not fair to say either that DOE and its predecessors ignored waste in its haste to promote nuclear power, or that solutions it has proposed have failed, we are today faced with the need to settle on a technical approach to nuclear waste disposal 25 years after the beginning of the nuclear age.

There is great public fear of alleged dangers of nuclear waste. In a July 14 column in his newsletter Energy Daily nuclear advocate Lewellyn King noted that he is questioned about nuclear waste hazards more than about any other aspect of nuclear power. Many in the nuclear industry see the Department of Energy as irresolute, afraid of taking a stand. It sees the administration's interagency review group on nuclear waste as a paper exercise designed to postpone hard decisions. The National Conference of State Legislatures reports that more than half a dozen States have enacted restrictions on nuclear waste storage in their borders. Concern over disposal operations at Sheffield and Morris in Illinois have made nuclear power controversial in my home State.

The General Accounting Office reached these conclusions about Federal nuclear waste programs in a July 13, 1978, report entitled "Major Unresolved Issues Preventing a Timely Resolution to Radioactive waste Disposal":

> Any comprehensive waste management program will have to address various types of waste—both commercial and Federal—that are now accumulating at disposal ground, facilities, and nuclear power plants. In addition the program will have to delineate the agency(ies) responsible for coordinating activities required in demonstrating successful waste disposal. As of yet, such a comprehensive radioactive waste management program has not been developed . . . Target dates currently envisioned by DOE are optimistic, and it is doubtful that they will be achieved due to public unacceptability.

John Ahearne, now a member of the Nuclear Regulatory Commission, testified before the Subcommittee on Nuclear Regulation on June 13 that:

> The future of nuclear power depends entirely on the next three to five years. It depends on the resolution of the waste disposal issue and on whether the public accepts that solution.

Mr. President, the concepts of eliminating overlapping jurisdictions, setting comprehensive programs, and reforming schedules and priorities are among the most abused buzzwords in this city. They are used whenever a policymaker wishes to justify an action and has no better reasons. I am told that the Washington Post has a standing rule that reporters may not use the word "reform" in stories about Federal Government reorganization. I would instead like to characterize what is needed on nuclear waste, what I hope my bill will provide a first step toward, as giving a sense of direction and encouragement of leadership. Congressional initiative would not be necessary if the concerned agencies were doing their work properly—and if they were, public perception of the waste issue would not be so bad.

Mr. President, I wish to briefly discuss several suggested approaches to waste management which I believe to be inappropriate.

Opponents of nuclear power have suggested that there be a moratorium on nuclear power until an acceptable solution is settled upon. They argue that the way to solve the problem of waste is to stop generating it, and further argue that electric companies should be forced to close down their nuclear powerplants until the waste disposal problem is solved.

I am unwilling to see any existing reactors shut down because of the nuclear waste issue. Nuclear power was a major reason why the factories in my home State kept humming during the coal strike this winter.

It is also my best judgment that a solution to nuclear waste disposal is achievable. I do not perceive the risks are such as to warrant a stop to construction of new reactors. I fear that some of those who favor a moratorium wish to use nuclear waste as a weapon in a guerrilla war against nuclear power.

Finally, there is already a substantial volume of nuclear waste waiting disposal. We will need to demonstrate a disposal method for that waste regardless of whether or not we generate more waste. I expect we will succeed by the early 1990's—and if any utility decided today to build a reactor, it would be the mid to late 1990's before the reactor could operate, irradiate a load of fuel, and allow that fuel to cool in interim storage long enough to be buried in a waste repository.

A second policy option which I reject is to allow States an absolute State veto over waste decisions. States should be fully involved in all aspects of waste planning; I will discuss later how my bill attempts to insure this. Unfortunately if a Governor or legislature had the right to veto the construction of a repository within their borders, there would be inevitable political pressures to veto; a Governor would balance substantial political opposition to a repository against the unprecedented interests of a few thousand construction jobs at some future point. When 50 States have vetoed, or even if the 5 States or 10 States with acceptable sites veto, we would be in an unacceptable situation. Nuclear waste is a national problem, requiring a national solution. I quote the Illinois Commission on Atomic Energy's February report on nuclear waste:

> Illinois is self-sufficient in few ways, and that is what has made the United States a voluntary, effective union of all 50 States of which it is composed. Any restraint of the flow of goods, services, or wastes is inimical to the national welfare.

A third option which I have rejected is to declare that waste storage problems have been solved, and to order the Energy Department to poke a hole in the ground forthwith. Technical problems associated with waste, while neither grave nor intractable, have not yet been resolved. I again cite the Office of Science and Technology Policy report mentioned above. In addition, I cite a panel of Earth scientists headed by Dr. Bruno Giletti of Brown University in their recent report to EPA:

> Our ability to predict in any but the most general way over times of thousands of years is poor, yet this is the interval over which we must forecast if an underground HLW repository is to be safe for future generations . . . We are surprised and dismayed to discover how few relevant data are available on most of the candidate rock types.

The U.S. Geological Survey was even more firm in emphasizing the uncertainties in its report, "Geologic Disposal of High-Level Radioactive Waste: Earth Science Perspectives":

> Some key geologic questions are unanswered, and answers are needed before the risk associated with geological containment can be confidently evaluated.

A fourth and final option which I have considered and rejected is to give the Department of Energy a mandate to solve the problem and then seek to minimize avenues for review and outside input into DOE policymaking process.

Those who wish to close off the process maintain that waste is exclusively a technical issue, and as such should be solved by engineers in isolation from political pressures. I strongly sympathize with the desire to keep waste from becoming a political football. I also believe DOE must be given both the lead role and ultimate responsibility. However, my judgment is that from the perspectives of both open Government and of the self-interest of the nuclear industry in solving this problem, an open policy process is essential.

Jim Muckerheide of Energy Research Group of Cambridge made these points about waste management in a February 21 letter to Secretary of Energy Schlesinger:

> The traditional "project management" structure cannot create a constituency and is therefore always subject to defeat by a small minority. It cannot solve the institutional problem, because it threatens the States and all other institutions and therefore, when constituents demand a role, the program forces that role to be obstructionist . . . The key is to manage issues and processes rather than projects or products.

To follow Robert's Rules or Order and provide for full participation for agencies, States, Congress, and the public will save time in the long run. Those with legitimate concerns will see themselves brought into the process and their concerns answered. Extremists on either side of the issue who wish to derail a solution will be unable to find allies in more mainstream organizations. The bottom line is that we do not want another Seabrook in New Mexico, Utah, or wherever a waste repository is built. We want to deal with legitimate concerns so that we do not have thousands of demonstrators lying down on the railroad tracks that bring waste into the first repository.

Mr. President, let me now briefly describe the policy options incorporated in the Nuclear Waste Management Act of 1978 which I introduce today.

First, the Department of Energy is given the lead role in nuclear waste management planning. Also, nuclear waste programs are elevated through placement in a new Office of Nuclear Waste under a new director. The director will be on the assistant secretary level within the Department. This will give waste programs clout within the agency, and make one person appointed by the Presi-

dent and confirmed by the Senate responsible for waste policy.

In drafting this legislation I considered recommendations that a new agency or corporation be established to handle waste management. My distinguished colleague from Maryland, Senator MATHIAS, follows this approach in his legislation, S. 2189, which will be considered at hearings along with my bill this week. I am moved but not persuaded by the arguments that DOE has failed to date to do a fully adequate job of managing nuclear waste, and that the best way to insure public confidence is to give waste responsibility to an independent entity. DOE has the existing programs. A reorganization would derail waste action for a year or more. Scheduling and planning requirements can get DOE moving, and procedures for public, State, agency and congressional participation can assuage any fears about DOE being more interested in promoting nuclear power than in making the right decisions on nuclear waste.

Second, this new Office of Nuclear Waste in DOE would be given specified procedures to follow to develop high level nuclear waste repositories on an expedited schedule. Along with the DOE budget in January 1979, the office would submit to the Congress plans, including schedules, for research and development work needing to be done, and for construction of both experimental and commercial-scale repositories for high level nuclear waste. A commercial repository would be scheduled for operation no later than January 1, 1993. However, the Director of the Office would be allowed to modify the schedules if technical uncertainties addressed in the research program could not be resolved in time.

I believe it is crucial to hold DOE's feet to the fire on waste scheduling. Political pressures being what they are, the natural temptation of the agency might be to research the waste issue to death; there will always be additional areas to be explored. January 1993 is an outside date for planning purposes; John Deutch, DOE's chief nuclear waste policymaker, expects that a date as early as 1988 is possible. The actual date is for DOE to decide; I ask only that they tell Congress what they believe they can accomplish, and then do their best to stick to that.

It is my intent that DOE put a corral around the uncertainties which need R. & D. work: Their January program would identify what they do not now know, and then give a schedule for R. & D. work necessary to resolve these problems. However, we want the R. & D. to rule the schedule, not vice versa. Gene Varanini of the California Energy Commission expressed my fear before the Nuclear Regulation Subcommittee on April 4:

> The promoters of technology will brush aside the cautious and thorough approach which the development and assessment of nuclear waste technology requires and instead set politically motivated time schedules, rush ahead with engineering approximations instead of sound technical foundation, and commit us to a hasty program of "demonstration."

A cautious program is in the interest of the nuclear industry. In Illinois a great furor arose when slightly elevated levels of radioactive tritium were found in a well near the Sheffield low-level waste site. That site has now been closed as a result of the controversy. A demonstration repository which had minor leaks or other problems would set back waste planning for years, and perhaps provide a death blow to the nuclear industry.

The third key feature of my legislation is to institutionalize input from other agencies through establishment of an interagency Nuclear Waste Review Panel. The panel is charged with coordinating schedules of work by other concerned agencies, such as the Environmental Protection Agency and the Nuclear Regulatory Commission, and with reviewing and assisting in all work of the Office of Nuclear Waste in DOE.

I cannot overemphasize the importance of these functions. Mr. William Kimel, president of the American Nuclear Society, wrote to Senators STEVENSON and SCHMITT in February:

> Each agency is not fully aware either of the impact its individual schedule may have on programs of other agencies or of how such other programs affect its actions. There is no explicit setting of priorities within an agency's programs based upon the requirements of the overall Federal schedule, as opposed to an agency's assessment of its own needs and preferences.

DOE is far from being the source of all expertise on nuclear waste. The Interagency Review Group on nuclear waste has, I am told, reached some different conclusions and perspectives on waste. Though DOE should have final say and responsibility, DOE should be willing to sit down and work with all concerned Federal agencies. Indeed, I see the Nuclear Waste Review Panel as an institutionalized extension of the Interagency Review Group.

Congress must be in on waste planning. Congress alone can properly translate public and State concerns into national policy. Thus, the fourth key feature of my legislation is a congressional veto over nuclear waste plans submitted to the Congress by the Office of Nuclear Waste.

Congress will of course review waste planning through the budget process. I have purposely tied the provisions in the bill for congressional review of waste plans into the budgeting procedures through coincident timetables and submittals. I expect that if Congress chose to modify Office programs, it would do so through budget amendments and report language. However, some decisions, such as those on fee schedules, are outside the budget process. Congress must be able to get a handle on them. Finally, it is important that Congress be able to review waste planning of the Office of its entirety. The waste report provisions will assure this.

The fifth goal of my legislation is to assure full participation of States and of industry, environmental groups, academics, and other members of the general public. State and local officials and other groups have a far better knowledge of local needs and conditions than do planners in Washington. The bill mandates that both DOE and the interagency panel accept these outside groups as full partners in planning. There are provisions for advisory committees, for full disclosure of information, and for participation of technical representatives from State groups in all planning from the start—not just for review and comment of DOE plans after the big decisions have been made. As I noted above, the judicious way to proceed is to bring outsiders in on planning. Exclusion results in dissent.

The bill also provides financial cushions for States and other groups. The Office is authorized to reimburse States and localities for their planning expenses, to make payments in lieu of taxes when it constructs facilities, and to provide what impact mitigating assistance is available once the impact assistance legislation passes the Congress. Intervenor funding is authorized so that DOE will not be denied the input of outside groups for lack of money on their part.

The final goal of the legislation is to set financial arrangements that insure those who generate waste, pay for all costs associated with that waste. There is general agreement that the nuclear industry should shoulder its share of costs for waste management. The taxpayers have a major stake. DOE's Deutch report estimated total waste management costs between now and the year 2000 at $13 to $23 billion. In fiscal 1978 DOE is spending $392 million on waste management, $131 million of which is for commercial waste management. I am reluctant to suggest taxpayer subsidies of nuclear waste management. In addition, I fear that the costs might encourage congressional budget committees to put off major expenditures during the pull and tug of budgeting; after all, Members might reason, since waste does not present an imminent danger, why not postpone expenditures? Assurance of reimbursement for Federal costs for commercial waste will make half-billion dollar waste program budgets easier to swallow. Lastly, the costs are not such as to overwhelm the ability of private firms to pay by any means. The Interagency Subgroup on Spent Nuclear Fuel estimates that disposal of waste will cost 0.093 cents per kilowatt-hour of electricity from nuclear plants. This is no more than a 2-percent increment on the cost of electricity from nuclear plants. It will be invisible on consumers' monthly bills.

The bill creates a Nuclear Waste Management Fund, with separate accounts for each kind of nuclear waste. The Office of Nuclear Waste would set fee schedules for each type of waste, and deposit revenus in the fund. Fees would be designed to recover all costs associated with each kind of waste, including relevant research and development costs.

Several features assure the interest of the industry in equitable fees. The Office would by rulemaking allocate costs of R. & D. among each type of waste, and would properly amortize these plus capital costs over the life of waste repositories. Noncommercial waste, mostly waste from atom bomb programs and from DOE research facilities, is excluded from the trust fund. We do not want the Office to slosh money around between kinds of waste; for example, disposers of

low-level waste should not be charged for disposal of the high-level waste in the tanks at Hanford, Wash. Fees would be certain at the time waste is transported to facilities of the Office; if costs for that waste were greater than anticipated, and Office would recover those costs from future users. It could not add additional charges at a later point to fees already paid. Lastly, the trust fund would be on-budget; Congress would continue to authorize and appropriate funds for programs of the Office.

Mr. President, let me note also that the bill does not neglect waste other than high-level waste, namely low-level waste and uranium mill tailings. DOE would be mandated to develop a policy for these wastes. It would reassess existing technologies and sites, such as the site at Sheffield in my State, and produce a plan for research and other work necessary to assure continued disposal sites for the Nation's hospitals, laboratories, and electric companies.

I do not wish to prejudge the question of whether Sheffield and other low-level sites are unacceptable. I am motivated by the report of the Interagency Review Group subgroup on low-level waste which concluded in their draft report, "Development of alternate disposal methods, which reflect an attempt to match the waste type to the disposal method, appears necessary."

Mr. President, I believe this legislation can provide a starting point for future congressional and Federal action on nuclear waste. I wish to complement rather than to substitute for the efforts now underway in the executive branch. I may note that I am pleased and gratified that the special issues subgroup of the interagency task force concluded in its draft report of June 30:

> The Task Group was aware of Federal legislative initiatives such as the Draft Bill by Senator Percy to establish a national decision-making process. There was no consensus within the group as to the potential effectiveness of legislation in the area of Federal-State relations. However, if it appears that such a procedure would help settle issues between various government levels, legislation of this type should be encouraged.

Mr. President, I am indebted to a number of individuals who have assisted in the preparation of this bill. The thinking of Senator MATHIAS of Maryland reflected in his bill on nuclear waste, and by Representative TOM CORCORAN of Illinois in his, were instrumental in focusing this bill. I am grateful to a raft of individuals who have met with me about the legislation, including representatives of Commonwealth Edison, Illinois Power, General Electric, and Nuclear Engineering of Illinois; the National Governors' Association; the Union of Concerned Scientists, and the Natural Resources Defense Council, among others. I thank those individuals with the Energy Department and the Interagency Review Group who have commented on the bill along with Attorney General Scott of Illinois, the Illinois Commission on Atomic Energy, and the Department of Public Health. I thank as a group those other individuals who aided me and my staff in this endeavor.

I end with an apt quote from an April 28, 1978 paper of the Natural Resources Defense Council:

> Waste disposal is a 500,000 year problem. The process of analyzing that problem should not be infected by a 5 year perspective.

Mr. President, I second that thought.

Mr. President, I ask unanimous consent that the text of the bill, along with a section by section summary be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3343

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—OFFICE OF NUCLEAR WASTE FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. (a) The Congress finds that—

(1) for more than thirty years, nuclear wastes generated in the national defense program have been accumulating;

(2) spent nuclear fuel and nuclear wastes from the commercial industry are increasing rapidly;

(3) nuclear waste has become a major issue of public concern;

(4) although nuclear waste management has to date not adversely affected public health and safety, stringent precautions must continue to be taken;

(5) there is considerable confidence in the feasibility of permanent repositories for nuclear waste disposal, although significant confirmatory research and development remains to be done;

(6) notwithstanding the Federal Government's assertion of responsibility for the disposition of nuclear wastes, it has yet to adopt a comprehensive nuclear waste management program;

(7) failure to provide for disposal of nuclear waste in a timely manner will inhibit the use of nuclear energy;

(8) there is a compelling need to establish a policy framework to coordinate nuclear waste management policy, decision-making and implementation among Federal agencies, provide for full participation by Congress and the States in developing that policy, and afford other interested persons meaningful policy rules; and

(9) the construction of a permanent repository for high level nuclear waste on an expeditious schedule is in the national interest.

(b) Therefore Congress declares that it is the purpose of this Act to—

(1) designate the Department of Energy as the head agency in the management of nuclear waste;

(2) centralize nuclear waste management responsibility in a new Office of Nuclear Waste within the Department of Energy;

(3) clarify and coordinate the policymaking roles of other concerned agencies through the establishment of a Nuclear Waste Review Panel;

(4) set specific procedures and deadlines to establish and implement a comprehensive nuclear waste policy;

(5) provide for an open policy process which includes specified mechanisms for Congressional, State, and public participation; and

(6) establish a Nuclear Waste Management Fund and other financial requirements to ensure that all costs associated with nuclear waste disposal are borne by the activity which produced such waste.

DEFINITIONS

SEC. 102. For the purposes of this Act:

(1) "Office" means the Office of Nuclear Waste established by section 103 of this Act.

(2) "Director" means the Director of the Office.

(3) "Secretary" means the Secretary of Energy.

(4) "Department" means the Department of Energy.

(5) "Fund" means the Nuclear Waste Management Fund.

(6) "Panel" means the Nuclear Waste Review Panel.

(7) "Administrator" means the Administrator of the Environmental Protection Agency.

(8) "Governor" means the Governor of a State, or any other person or instrumentality designated according to the laws of the State as having responsibility for nuclear waste.

ESTABLISHMENT OF THE OFFICE OF NUCLEAR WASTE

SEC. 103. (a) There is established within the Department an Office of Nuclear Waste. The Office shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall report to the Under Secretary of Energy.

(b) All programs, property and staff of the Department pertaining to storage, transport, and disposal of nuclear waste are transferred to the Office.

(c) The Office shall be responsible for—

(1) all research, development, and demonstration activities pertaining to nuclear waste;

(2) assumption of title for the United States of existing nuclear waste facilities and abandoned uranium mill tailings not owned by the United States;

(3) design, construction, operation, and perpetual care of all high-level nuclear waste repositories and processing facilities in the United States, both temporary and permanent (not including storage of spent nuclear fuel at commercial reactor sites);

(4) administration of the Nuclear Waste Management Fund for commercial nuclear waste;

(5) establishment and collection of user fees designed to cover all costs incurred by the Fund;

(6) establishment of a Nuclear Waste Plan; and

(7) provision of interim storage facilities for spent nuclear fuel, should the Director determine such facilities are necessary.

NUCLEAR WASTE REVIEW PANEL

SEC. 104. (a) There is established a Nuclear Waste Review Panel as an independent instrumentality of the United States in the executive branch. The President shall appoint a Chairman from among the members of the Panel.

(b) The Director of the Office, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the Geological Survey, and the Secretaries of Interior, Transportation, State, and Defense shall each appoint representatives to the Panel. The Chairman of the Panel may request other departments, agencies, and instrumentalities of the United States or other persons to appoint representatives to the Panel.

(c) The Panel shall be responsible for the coordination of policymaking and actions of its members in regard to nuclear waste, including the coordination of input into the Nuclear Waste Plan of the Office by its members.

(d) The Panel shall—

(1) identify assistance which its members may provide to the Office in the formulation of nuclear waste management programs;

(2) coordinate schedules for nuclear waste related activities of such agencies, and make recommendations to resolve jurisdictional

disputes and schedule conflicts relating to such activities among such members;

(3) no later than six months after the date of enactment of this Act, submit to the Congress a report which sets forth a coordinated schedule for—

(A) promulgation by the Environmental Protection Agency of environmental criteria and standards for nuclear waste management activities,

(B) promulgation by the Nuclear Regulatory Commission of procedural and substantive regulations for nuclear waste management activities,

(C) programmatic decisions on timing and scope of the research and development and repository programs of the Office, and

(D) issuance of generic and site specific environmental impact statements by the Office and the Nuclear Regulatory Commission, in order to comply with the National Environmental Policy Act in a timely and expeditious manner;

(4) contribute to the preparation of, and review, all plans of the Office prior to the submittal of such plans to Congress; and

(5) report to Congress annually on its activities during the previous year.

(e) The Chairman of the Panel shall be responsible for facilitation of public and State participation pursuant to section 205 of this Act.

(f) The Director shall provide to the Panel all information available to the Office needed for the work of the Panel.

EFFECTIVE DATE

Sec. 105. The provisions of this title shall take effect 90 days after the date of enactment.

## TITLE II—NUCLEAR WASTE PLANNING

NUCLEAR WASTE PLAN

Sec. 201. (a) Concurrent with the submittal of the budget of the Department for fiscal year 1980, but no later than January 30, 1979, the Office shall submit to the Congress a Nuclear Waste Plan. Such Plan shall include—

(1) a program (including schedules) for research, development, and demonstration needed to determine the appropriate method for disposal of high level nuclear wastes, spent nuclear fuel, and non-high level transuranic wastes. Such program shall specifically identify any technological uncertainties which it is necessary to resolve prior to siting and construction of processing facilities, pilot or experimental nuclear waste facilities, and commercial high level nuclear waste repositories;

(2) a program (including schedules) for siting, construction, and operation of pilot or experimental nuclear waste facilities;

(3) a program (including schedules) for construction and operation of a commercial scale permanent repository for high level nuclear waste, transuranic waste, and spent nuclear fuel (hereinafter referred to as "repository"). Such program shall identify a target date for operation of such repository. Such date shall be not later than January 1, 1993, unless the Director makes a finding pursuant to subsection (c) of this section;

(4) financial provisions for the implementation of the Fund authorized under section 301 of this Act, including estimates of any costs associated with assumption of title to facilities now owned by the Department, and criteria for determining fee schedules for the storage and disposal of nuclear waste pursuant to section 302 of this Act;

(5) cost estimates for the programs identified pursuant to paragraphs (1), (2), and (3) of this subsection;

(6) an identification of all generic and site specific environmental impact statements to be issued by the Office in connection with the facilities described in paragraphs (1), (2), and (3) of this subsection, and the schedules for their issuance consistent with the report described in section 104(d)(3) of this Act; and

(7) a report on the need for interim storage facilities for spent nuclear fuel, and on progress in providing such facilities, if the Director determines such facilities are needed.

(b) The Director shall at all stages seek input into nuclear waste planning from, and shall consult closely with, the Nuclear Waste Review Panel established pursuant to section 104 of this Act.

(c) Subsequent to the submittal of a Nuclear Waste Plan, the Director may make a finding that technological uncertainties with respect to nuclear waste management do not permit the completion of a program (as identified pursuant to paragraphs (1), (2), and (3) of subsection (a) of this section) according to the schedules provided by the Office. In the event of such a finding, the Director may revise such schedules, including the target date for operation of a repository (as identified pursuant to subsection (a)(3) of this section).

ANNUAL NUCLEAR WASTE REPORTS

Sec. 202. (a) Concurrent with the submittal of the budget of the Department for fiscal year 1981 and each succeeding fiscal year but no later than January 30, 1980, and each succeeding year), the Office shall submit to the Congress an Annual Nuclear Waste Report. Such report shall describe—

(1) the status of the programs of the Office;

(2) the schedules for such programs, including an explanation of any changes from the schedules set forth in the Plan or in the preceding annual report (pursuant to section 201(c) of this Act); and

(3) the status of the environmental impact statements described in section 201(a)(6).

(b) Upon selection of a site for a commercial scale repository for nuclear waste, the Office shall, in the following Annual Report, include—

(1) identification of the preferred site for such repository and a detailed explanation of the reasons for choosing such site;

(2) progress on the design of such repository, including any contracts let by the Director;

(3) identification of all licenses, permits, and other regulatory requirements of Federal, State, and local agencies required for such repository and for transport of nuclear waste, and plans of the Office to meet such requirements; and

(4) an estimate of the cost of such facility.

AMENDMENT AND VETO OF PLANS AND REPORTS

Sec. 203. (a) The Director may make amendments to any Nuclear Waste Plan or Annual Nuclear Waste Report within the first 90 days after such Plan or Report is submitted to Congress for approval.

(b) Any committee of the Congress to which a Plan or Report is referred shall have until May 15 of the year of submittal to report to its respective House a resolution disappproving any portion of such Plan or Report. If a resolution of disapproval is not passed by either House within 30 days after such date, such Plan or Report shall be considered approved in full.

(c) In the event a Plan or Report or portion thereof is disapproved, the Office shall revise and republish the Plan or Report within 60 days, and resubmit it to Congress. Congress shall have 90 days from the date of submittal to pass a resolution of disapproval.

LOW-LEVEL WASTE AND URANIUM TAILINGS

Sec. 204. (a) The Office shall prepare and submit to the Congress within one year after the date of enactment of this Act a plan that—

(1) defines the need for additional low-level waste sites (with designation of specific sites to be developed, if any), and any need for remedial action at existing low-level facilities;

(2) describes procedures to dispose of or stabilize uranium mill tailings at sites no longer used or licensed for uranium milling activities;

(3) estimates costs for the above; and

(4) provides for performance of additional research and development work, as needed.

(b) Such plans as are submitted to the Congress pursuant to subsection (a) shall not be subject to resolutions of disapproval pursuant to section 203.

PUBLIC AND STATE PARTICIPATION

Sec. 205. (a) The Director of the Office and the Chairman of the Panel shall, at all stages, seek input into nuclear waste planning from, and shall consult closely with, interested industry, environmental, State and local governmental, scientific, and other organizations and persons. The Director and the Chairman shall form an advisory committee or committees to facilitate such input.

(b) The Director and the Chairman shall provide interested persons with any information about the nuclear waste planning of the Office or the Panel as is requested. The Director and the Chairman shall actively seek to keep such persons fully informed at each stage of planning.

(c)(1) The Director and the Chairman may reimburse an interested person for expenses incurred while advising and consulting with the Director or the Chairman, provided that the Director or the Chairman determines such person has made a material contribution to the work of the Office (or of the Panel), and that such person could not otherwise provide effective input.

(2) The Director or the Chairman shall reimburse State and local governments for expenses incurred while advising and consulting with the Office or the Panel from funds appropriated for such purpose.

(d)(1) Upon selection of a potential study area for any permanent repository or a site for any waste facility, the Director shall notify in writing the Governor of the State in which such study areas or facility shall be located, and (at the discretion of the Director) the Governor of any concerned adjacent State, and shall furnish each Governor all relevant information concerning the program of the Office for such area or site.

(2) The Director shall work with any concerned Governor early and fully to analyze and shape economic benefits and problems associated with the siting of a nuclear waste facility, and shall seek to provide such impact mitigating assistance as may be available pursuant to law.

(e) The Office and the Panel shall hold hearings on all plans and reports in the District of Columbia, in any affected State, and elsewhere as determined by the Director or the Chairman in a period of 90 days after the submittal of such plans to Congress. Interested persons shall be provided the opportunity to comment in writing on such plans. The Office and the Panel shall publish and disseminate transcripts and summaries of such hearings.

(f) The Director shall seek information from, and participation by, appropriate agencies of the State in which a potential study area or site for any permanent repository is located, and (at the discretion of the Director) appropriate agencies of any concerned adjacent State. Technical representatives designated by the Governor of each such State shall participate in the technical analyses performed by the Office. The views of such representatives shall be included in reports prepared by the Office, together with an explanation by the Office of how those views were taken into account.

(g)(1) Any Governor designated pursuant to subsection (d) shall have the right to

lodge a formal recommendation with the Director for modification of any aspect of such plans. Such recommendation shall specify the nature of and reasons for the Governor's position. It shall be lodged with the Director not later than the end of the public comment period provided under subsection (e) of this section.

(2) In the event of a formal recommendation to a plan by a Governor, the Office may not implement any aspect of such plan objected to by a Governor unless the Director accepts the Governor's position, or otherwise resolves such matter with the Governor, or unless the Secretary makes a finding that implementation of the plan is consistent with the public health and safety, will protect the environment, and will further the public interest with due consideration to regional, State, and local interests. In the event of such a finding, the Secretary shall notify the Governor in writing of the nature of and justification for such finding.

ENVIRONMENTAL PROTECTION AGENCY

Sec. 206. (a) In addition to other duties, the Administrator of the Environmental Protection Agency shall be responsible for the establishment of standards and criteria for exposure to radiation from nuclear waste facilities.

(b) Concurrent with the submittal of plans of the Office and the Panel to Congress, the Administrator shall submit to the Congress a summary of the views of the Agency with respect to such plans, including any dissenting views.

(c) Within 180 days after the docketing of any license application of the Office of the Nuclear Regulatory Commission, the Administrator shall submit to the Commission and to the Congress an assessment of the public health and safety aspects of such plans. Such assessment shall include, but not be limited to, the health effects of low-level radiation from nuclear waste facilities, and the possibilities of migration of radioactive material into the ecosystem.

EFFECT ON OTHER LAWS

Sec. 207. (a) Nothing in this Act shall affect the authority of the Nuclear Regulatory Commission to license and regulate high level radioactive waste storage and disposal pursuant to section 202 of the Energy Reorganization Act of 1974 or of byproduct, source, or special nuclear material pursuant to section 201(f) of such Act.

(b) The Office may seek Commission licensing of a facility designated in any plan prior to the approval of such plan by Congress. In the event that a plan is amended, applications to the Commission shall be amended accordingly.

(c) Nothing in this Act shall exempt the Office from the requirements of the National Environmental Policy Act.

(d) Nothing in this Act shall affect the authority of States to inspect nuclear facilities as designated pursuant to State law or to section 274 of the Atomic Energy Act.

TITLE IIII—NUCLEAR WASTE MANAGEMENT FUND

ESTABLISHMENT AND POWERS

Sec. 301. (a) There is established in the Treasury of the United States a Nuclear Waste Management Fund. The Fund shall be administered by the Director to carry out the purposes, functions and powers authorized in this Act.

(b) The purpose of the Fund is—

(1) to provide capital and operating expenses which are necessary for nuclear waste research, development, management, transport, perpetual care and maintenance, planning, and such other financial needs of the Office as arise in the implementation of this Act;

(2) to provide for expenses of the Nuclear Waste Review Panel, for State and local participation in planning, compensation to affected States in lieu of taxes, and for participation expenses of other persons in the planning of the Office; and

(3) to amortize over the life of commercial nuclear waste facilities the costs of research and development and capital construction in a manner which ensures that facility users pay all such costs.

(c) In order to achieve the objectives and to carry out the purposes of this Act the Director (acting for the Secretary) may—

(1) make and enforce such rules and regulations and make and perform such contracts, agreements, and commitments as may be necessary to carry out the purposes of this Act;

(2) prescribe and impose fees and charges for services rendered by the Office pursuant to this Act;

(3) settle, adjust, or waive, in whole or in part, in advance or otherwise, any claim or right of, by or against the Director or the Fund;

(4) sue or be sued, complain and defend in any court;

(5) acquire, own, deal with and dispose of any property; and

(6) determine, in accordance with authorizations, the amount to be withdrawn from the Fund and the manner in which such withdrawal shall be effected.

(d) There shall be deposited in the Fund—

(1) income and gains realized by the Fund from any investment of excess funds of the Fund;

(2) income from fees and charges established pursuant to this Act for the use of nuclear waste facilities operated by or for the Office; and

(3) advances or loans from the Treasury of the United States secured by assets of the Fund.

(e) If the Director determines that the amount of money in the Fund exceeds the amount required for current needs, he or she may invest such amounts as is deemed advisable in obligations of or obligations guaranteed by the Government of the United States, or in other governmental agency obligations or other securities of the United States.

(f) The Director may deposit moneys of the Fund with any Federal Reserve Bank, any depository for public funds or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(g) The Secretary of the Treasury is authorized, subject to Congressional authorization, to advance funds or make loans to the Fund for the purpose of subsection (b) of this section, provided that such advance or loan is secured by assets of the Fund and does not exceed 25 percent of the assets of the Fund. Such sums shall be used to cover expenses in current fiscal years which the Director determines shall not be charged solely to current users of an office facility or facilities.

(h) Costs associated with nuclear waste from military programs and any waste other than that from commercial programs shall not be paid for by the Fund.

(i) The Director shall establish within the fund accounts for high level nuclear waste, low level nuclear waste, spent nuclear fuel, transuranic waste, and abandoned uranium mill tailings. Costs and revenues for each type of waste shall be allotted in accordance with section 302(h) of this Act.

(j) Notwithstanding section 170 of the Atomic Energy Act of 1954, the Fund shall be liable for any damages incurred as a result of the activities of the Office.

FEE SCHEDULES

Sec. 302. (a) The Office shall be responsible for adopting criteria for setting fees, establishing fee schedules for each type of commercial nuclear waste identified under section 102 of this Act, and collecting fees from all users of its facilities. Such fee schedules shall cover all costs incurred by the Fund.

(b) Prior to the adoption of any criteria or fee schedules, the Office shall publish proposed criteria for comment, and shall consider any comments prior to adoption of such criteria or fee schedules.

(c) Fees shall be based on—

(1) reasonably expected costs for waste disposal, including contingency and escalation charges; and

(2) an assessment for the costs of research, development, demonstration, and planning (as determined pursuant to subsection (h)).

(d) Fees shall be reviewed no less than annually, and readjusted from time to time at the discretion of the Director.

(e)(1) If the Government of the United States determines that spent nuclear fuel may be reprocessed or nuclear waste may be otherwise used commercially, the Office shall revise its fee schedules to include provisions to compensate facility users whose waste has not been placed in permanent storage in the event the Office itself reprocesses spent fuel or otherwise makes use of or sells nuclear waste and makes a net profit.

(2) Fees may not include a credit for plutonium or other substances in waste except as provided in paragraph (1) of this subsection.

(f)(1) The Office may not impose any additional fee upon a facility user once it takes title to waste.

(2) If the Office determines that ultimate disposal costs will be more than predicted, it shall recover such costs from current and future users.

(g) In the event that operation of a high level repository or other facility is carried out by a person other than the Office, and that such operator has leased such facility for such purpose, the fee shall include a charge to be determined by the Office to cover perpetual care and maintenance and research and development, such charge to be paid into the Fund.

(h)(1) The Director shall determine by rule the allocations of research, development, demonstration, and administrative costs of the Office for each type of commercial nuclear waste. Only such costs as are directly related to each type of waste may be allocated to such waste.

(2) When the Director determines that research, development, demonstration, construction, and administrative costs incurred in a particular fiscal year shall not be charged solely to current users of an Office facility or facilities, the Director shall by rule determine the allocation of such costs among current and future users.

BUDGETING AND AUTHORIZATION

Sec. 303. The Congress shall continue to authorize and appropriate all budgets of the Office of Nuclear Waste. The Office shall compensate the Treasury of the United States out of the Management Fund for the cost of all research, development, and other work performed by the Office and appropriated by Congress for commercial nuclear waste.

ACQUISITION OF FACILITIES AND MATERIALS

Sec. 304. (a) The Office is directed to assume title to any existing waste facility, subject to existing leasehold and contractual interests (including abandoned uranium mills) not presently under United States ownership within 12 months after the date of enactment of this Act. The Office shall provide just compensation to States who own such facilities. Changes in title pursuant to this section shall not affect the licensing or regulation of activities at such facilities.

(b) The Office shall take title to the nuclear waste transmitted by the user concurrently with the physical transfer of such material.

AUTHORIZATION OF APPROPRIATIONS

Sec. 305. There is authorized to be appropriated for fiscal year 1979 such sums as may be necessary for the initial implementation of the Management Fund and for such other purposes as the Director may determine,

such sums to be repaid the Treasury in accordance with section 301.

SECTION-BY-SECTION SUMMARY

TITLE I—OFFICE OF NUCLEAR WASTE

101 Findings and Purposes.

102 Definitions.

103 Establishment of the Office of Nuclear Wastes. Establishes the Office as a DOE program office at the Assistant Secretary level. The Director is to be confirmed by the Senate. Gives to the Office the lead policy role, and the responsibility for construction of waste repositories.

104 Nuclear Waste Review Panel. Establishes a Panel of those Federal agencies involved in waste policy. Gives the Panel authority to coordinate and expedite the schedules of these agencies, to participate in the policymaking of the Office, and to report to Congress.

105 Effective Date.

TITLE II—NUCLEAR WASTE PLANNING

201 Nuclear Waste Plan. Requires the Office to submit a comprehensive plan for high-level waste by January 30, 1979. The plan is to include schedules for research work, and for construction of experimental and commercial waste facilities. The schedules are to provide for a commercial high-level waste facility no later than January 1, 1993 (this may be modified if technological uncertainties force schedule revisions). The report will also contain cost estimates, and recommendations on interim storage of nuclear fuel.

202 Annual Nuclear Waste Reports. Requires annual updates of the Section 201 plan, including details of construction plans when the Office is ready to construct a high-level repository.

203 Amendment and Veto of Plans. Section 201 and 202 plans are to be submitted to Congress and considered along with the annual budget of the Office. The Office may amend a plan once submitted. Congress may veto any portion of a plan.

204 Low-Level Waste and Uranium Tailings. Requires a report on action needed on low-level nuclear waste, and on uranium mill tailings at abandoned mills. The Office may implement this report without separate Congressional review.

205 Public and State Participation. Requires that both the Office and the interagency Panel consult and work closely with state officials, industry, environmentalists, and others. Provides reimbursement for state and local planning expenses, and authorizes intervenor funding. Provides for hearings on plans, and allows for objections from governors of affected states.

206 Environmental Protection Agency. Puts into law EPA's existing authority to set standards and criteria on waste storage, and provides for independent EPA review of plans.

207 Effect on Other Laws. Reaffirms the authority of the Nuclear Regulatory Commission to license waste facilities, and obligates the Office to follow the National Environmental Policy Act.

TITLE III—NUCLEAR WASTE MANAGEMENT FUND

301 Establishment and Powers. Establishes the Fund to pay for all costs associated with disposal, and to collect user fees to cover such costs. Excludes military waste from the Fund. Establishes separate accounts in the fund for each type of nuclear waste.

302 Fee Schedules. Sets procedures for establishment of fee schedules of each kind of waste. The Office is to allocate research costs among the types of waste and over the life of its facilities by a rulemaking. Customers are guaranteed fee certainty at the time they drop off waste.

303 Budgeting and Authorization. Provides that Congress shall continue to authorize and appropriate budgets of the Office as a part of the Department of Energy budget.

304 Acquisition of Facilities and Material. The Office is to acquire existing waste facilities within 12 months of enactment.

305 Authorization of Appropriations.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3343, a bill introduced by Senator PERCY, relating to nuclear waste management, be referred jointly to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL COSPONSORS

SENATE RESOLUTION 515

At the request of Mr. HUDDLESTON, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of Senate Resolution 515, relating to the transportation crisis for farmers and shippers of agricultural commodities.

SENATE JOINT RESOLUTION 149

At the request of Mr. MELCHER, the Senator from Alaska (Mr. GRAVEL) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Joint Resolution 149, to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes.

## SENATE RESOLUTION 526—SUBMISSION OF A RESOLUTION TO OBSERVE THE ANNIVERSARY OF THE SOVIET INVASION OF CZECHOSLOVAKIA

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 526

Whereas in 1968 Czechoslovakia was a peace-loving country whose government, headed by Alexander Dubcek, enjoyed positive support from the vast majority of Czechs and Slovaks; and

Whereas the invasion of Czechoslovakia by the military forces of the Soviet Union in 1968 contravened the independence of a sovereign state and denied its peoples the right of self-determination; and

Whereas such an unprovoked intervention was in violation of the United Nations Charter which stipulates that "All Members shall refrain in their international relations from the threat or use of force against the territorial sovereignty or political independence of any state"; and

Whereas the occupation of Czechoslovakia by a fellow member of the United Nations has continued for ten years and alters the European balance of power; and while opponents of such occupation and defenders of human rights are increasingly subjected to harassment, repression, persecution and incarceration; and

Whereas their continued yearning for freedom has found a new expression in Charter 77, the Human Rights Manifesto which requests of the government of Czechoslovakia the implementation of the principles of the Final Act as well as adherence to the Czechoslovak Constitution; and

Whereas the signers of Charter 77 and other champions of human rights in Czechoslovakia continue to oppose and to expose violations of human rights by the Soviet-imposed government of Czechoslovakia: Now, therefore, be it

*Resolved, by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress that: the President should use his influence and leverage to induce the Soviet Union to withdraw all troops occupying Czechoslovakia and, should such withdrawal not be effected by December, 1978, to—

(1) re-evaluate sales of U.S. commodities and technologies to the U.S.S.R.

(2) reevaluate all licenses for the export to Warsaw Pact countries who participated in the invasion of all paramilitary and other high technology products, including computers and any other products used in the expansion of industrial development and communications systems;

(3) express support for the people of Czechoslovakia (as they commemorate August 21, 1968, as the "Soviet Day of Shame") in their efforts to achieve the withdrawal of the troops of the Soviet Union from Czechoslovakia;

SEC. 2. It is further the sense of the Congress that the President, acting through the United Nations and other international organizations, should take such additional steps as may be necessary to end as quickly as possible the continuing intervention in Czechoslovakia by the Soviet Union.

ATTENTION FOCUSED ON HUMAN RIGHTS

● Mr. DOLE. Mr. President, in the last few weeks we have seen a great deal of attention focused on human rights and their violation in Eastern Europe. I would like to remind everyone now, that this pattern of human rights violations did not begin with the Helsinki agreement and does not affect the Helsinki monitors alone. One of the most unfortunate examples of what the lack of human rights can do to a country can be found in Czechoslovakia.

CZECHOSLOVAKIA—CREATIVITY STIFLED

Czechoslovakia is one of the most creative nations in the world. She has given us the beautiful music and literature of Franz Liszt, Bedrich Smetana, and Karl Capek. Today this beautiful country is stifled in spirit, with its most creative voices stilled. Only 10 years ago, on August 21, 1968, Soviet tanks and troops marched into Prague, and occupied the capital of this country which was in the process of a spiritual and cultural revival.

HISTORY OF INVASION

Czechoslovakia is no stranger to invasion. In 1936, the world stood by and traded Czechoslovakian freedom for "peace in our time." That peace, of course, soon evolved into the worst war in history. After World War II, a war we fought to guarantee freedom for the people of Czechoslovakia and others, the Soviet Union disposed of the Czechoslovak Government under the leadership of Edward Benes and installed a puppet government of its own. Once again freedom was the loser.

PRAGUE SPRING

It took the people of Czechoslovakia a full generation, but the spirit of these great people came through and again in the late sixties their creative powers were able to flourish during the glorious days of Prague spring. The people of Czechoslovakia were able to enjoy their heritage and add to it freely, to their own delight and with the approval of the free world. This example of "communism with a human face" seemed to offer an

alternative to the dull, colorless, often grim life of most citizens who live under communism.

SOVIET INVASION

Unfortunately, communism's true face came through in the form of army divisions that overwhelmed this small country struggling to be free. The world was profoundly shocked, while the Soviets maintained an icy silence about the whole affair, answering charges of imperialism with stock phrases about socialist internationalism.

CHARTER 77

These tragic events happened 10 years ago. The Soviets are entrenched and the people of Czechoslovakia remain enslaved. Their spirit, though stifled, remains alive, however. Scores of brave Czechoslovak citizens risked their careers and comfort to sign the Charter 77 human rights manifesto, expressing their support for the Helsinki agreement, an agreement signed by their own Government and by their masters, the Soviet Union. More names continue to be added despite the repressive measures of the Prague Government to stifle any independent expression.

PAY TRIBUTE TO CZECHOSLOVAKIA

I would like to join my colleague in the House, Congressman DERWINSKI, in paying tribute to the citizens of Czechoslovakia who work so courageously for the realization of the Helsinki agreement within their borders. Just as important is that we remind ourselves of the true nature of the U.S.S.R. and of the commitment we must make to freedom in the world. For if we are to deal realistically with the Soviet Union we must not forget what kind of regime we are dealing with. We must remind ourselves that the U.S.S.R. is led by people who order invasions of small countries whose people want to be free.

CONCRETE ACTION

We must do more, however, than remember and pay tribute to those who have given so much for freedom. This resolution that is being introduced concurrently in the House and in the Senate directs the President to take concrete steps to raise at appropriate forums the issue of Soviet occupation of Czechoslovakia and would lead to the termination of aid and contacts which would help the oppressors of the Czechoslovak people. Now is the time for the United States to remain firm in its commitment to the principles of individual freedom and national self-determination.●

## AMENDMENTS SUBMITTED FOR PRINTING

### ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1978—S. 2090

AMENDMENT NO. 3287

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON (for himself and Mr. NELSON) submitted an amendment intended to be proposed by them, jointly, to S. 2090, a bill to extend for 3 additional years the authorization of titles I, II, III, V, VI, VII, VIII, and IX of the Economic Opportunity Act of 1964, and for other purposes.

● Mr. JOHNSTON. Mr. President, today, I am submitting an amendment to the Economic Opportunity Act Amendments of 1978. The purpose of my amendment is to remove an artificial population barrier now imposed on rural counties by the Community Services Administration. My amendment simply directs the Community Services Administration to disregard population as the sole criteria in designating community action agencies in a county or multicounty unit whenever at least 20 percent of the families and unrelated individuals residing in these areas are poverty stricken. Many impoverished counties do not have the opportunity to obtain the services of a community action agency because of this artificial population barrier.

Let me emphasize several aspects of my amendment. First, it does not prevent the Community Services Administration from utilizing criteria other than population in refusing to recognize or fund a community action agency in impoverished areas. Current law establishes a number of other criteria that must be assessed before a community action agency is either recognized or funded. For example, current law clearly requires that a community action agency have the capability of planning, conducting, administering and evaluating a community action program.

Without such a capacity, a community action agency cannot be recognized. Section 221(e) of the act requires the director of the Community Services Administration to "consider the probable capacity of the agency to carry out an effective program before providing financial assistance." Section 221(d) requires that, as an additional condition of financial assistance, each community action agency must have adopted a systematic approach to provide for basic education, health care, vocational training, and employment opportunities to enable the poor living in rural areas to remain in such areas and become self-sufficient therein. Section 244(7) prohibits the director of the Community Services Administration from expanding financial assistance in any case where the costs of developing and administering programs exceed 15 percent of the total costs, including non-Federal contributions to such costs, of such programs.

Second, my amendment will not result in a proliferation of demands upon the Community Services Administration to recognize new community action agencies. My amendment only addresses the "minimum test" for a community to be served by a community action agency. Currently, a community action agency cannot be recognized in a county or multicounty unit if there are less than 50,000 in the area. This artificial barrier does not give impoverished rural communities even a chance to prove that a cost-effective community action program can be administered. In light of the other criteria that must be reviewed prior to recognizing or funding a community action agency, this arbitrary population limitation is unfair and unjustified. My amendment states that population cannot be used as the sole criteria to deny recognition of a community action agency whenever at least 20 percent of the families and unrelated individuals residing therein have incomes below the poverty line as defined by the Bureau of Census.

Third, my amendment will not split existing county or multicounty community action agencies. My amendment has been drafted so as to lock in those counties currently serviced by an existing community action agency. No new community action agency can be designated in an area of less than 50,000 unless the new community action agency is merely replacing a previously existing one or the area was not previously serviced by a community action agency.

Mr. President, there are those who would argue that a community with less than 50,000 persons of which at least 20 percent are poor lacks local resources and skills which would be utilized for purposes of a community action program. This certainly cannot be true in all such communities. I know of at least two instances in my State where the Governor recognized a community action agency in a rural area only to have the Community Services Administration reject the designation because of the artificial population limitation. In any event, Mr. President, such broad generalizations and stereotypes of rural communities are inappropriate for a Federal agency either to articulate or to base policy.

In conclusion, Mr. President, I believe my amendment is sound and sensitive. It is sound because it provides opportunity not waste or proliferation. It is sensitive because it focuses on the key problem which community action agencies are created to alleviate—poverty. My amendment is well within the policy of the Community Services Act, especially title II which declares self-sufficiency as a goal for the rural poor and views with disfavor the continued migration of the rural poor to urban areas.●

### CIVIL SERVICE REFORM ACT OF 1978—S. 2640

AMENDMENTS NOS. 3288 THROUGH 3301

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted 14 amendments intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

### REHABILITATION, COMPREHENSIVE SERVICES AND DEVELOPMENTAL DISABILITIES ACT OF 1978—S. 2600

AMENDMENT NO. 3302

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to S. 2600, a bill to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a comprehensive services program for the severely handicapped, and for other purposes.

● Mr. BUMPERS. Mr. President, I am today introducing an amendment which strikes section 105(b) from S. 2600.

Mr. President, in 1973 the Congress undertook a major revision of the Federal vocational rehabilitation program. The changes enacted at that time have dramatically improved the delivery of services to the handicapped, but by no means have they adequately addressed every problem. Now the time has come for us to assess the achievements of the 1973 act and make revisions where warranted.

The Senate Human Resources Subcommittee on the Handicapped has done a superb job on S. 2600, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978. I am particularly appreciative of the efforts of my distinguished colleague, Senator RANDOLPH, for the instrumental role he has played in drafting this legislation.

Nevertheless, I am quite concerned about one provision of S. 2600—section 105(b)—which institutes a major revision in the formula by which funds for the State basic grants program are distributed.

Under current law, funds for the State basic grants program are allotted according to the "Hill-Burton formula," which takes two factors into consideration—population and per capita income. Section 105(b) would eliminate the consideration of per capita income for funds appropriated in excess of the fiscal year 1978 level. This means that by 1983, more than 30 percent of the authorized funds would be distributed based solely on population. Such a redirection of the Federal effort will needlessly compromise the advancements achieved in previous years and spell disaster for a majority of the States in the future.

Since 1954, when the Hill-Burton hospital-assistance formula was devised, the Congress has been committed to the elimination of income disparities which inhibit equal access to medical services. By considering per capia income as a factor in determining each State's allotment of a program's funds, the Federal Government has eased the fiscal strain placed on the poorer States in their efforts to serve the disadvantaged. More importantly, the Hill-Burton philosophy has been a blessing to the many thousands of citizens who, by way of vocational rehabilitation programs, have overcome their handicaps and secured employment.

As a former Governor from one of the economically disadvantaged States, I can attest to the invaluable role which this "special consideration" plays. In countless instances, inclusion of the per capita income factor has been the crucial difference between success and failure of my State's programs. A case in point is Arkansas' vocational rehabilitation program.

Arkansas' share of the State basic grants funds is admittedly modest—1.38 percent of the total in fiscal year 1978—but for a State which can boast of outranking only two States in per capita income, the $10.5 million we received this year is a substantial sum. I suppose it is a little difficult for those from the more populous and wealthy States to grasp the significance of our plight. Indeed, the $61.6 million allotment California will receive next year if section 105(b) is adopted easily dwarfs the $4 million Arkansas stands to lose. Translated into the number of Arkansans deprived of treatment, however, the figures tell a sadder and more dramatic tale.

Last year more than 25,000 handicapped Arkansans were enrolled in the State's vocational rehabilitation program. Of this number, nearly 5,000 were successfully rehabilitated and employed. I am proud of this performance record. In part, it was due to the fact that Arkansas exceeded the minimum matching requirement by 75 percent. But even at a combined State and Federal funding level of $16.2 million, 75,000 handicapped Arkansans had to be turned away.

Retention of the present language in S. 2600 will result in the exclusion of an additional 3,100 handicapped Arkansans each year. I cannot believe that this is the committee's intention. Furthermore, I cannot believe that the committee, in all its wisdom, intends to replicate this injustice in 25 other States. The committee speaks of its concern for equity, yet it addresses this concern by robbing Peter to pay Paul. Such tactics do not comport with any notions of equity with which I am acquainted.

In all fairness, the committee raises an interesting point in advocating a change from the existing formula. Subscribing to the central thesis advanced in a 1974 report prepared for HEW by JWK International Corp., it states that:

> The best measure of an allocation's equity is the extent to which the allocation matches the relative size of the population of citizens to be rehabilitated.

It is important to note that the JWK report does not recommend adopting a formula based solely upon population. Instead, it advocates a formula based upon the population of handicapped persons to be rehabilitated. Apparently this fundamental distinction has eluded the committee, for section 105(b) makes no mention of the population of handicapped persons. Rather, a State's overall population is the criterion utilized.

Thus, the committee appeals to the findings of the JWK study in attacking the Hill-Burton formula for its alleged inequities, yet ironically, it disregards those very same findings in proposing its "solution" to the problem. Although there is less than universal agreement over the credibility of JWK's observations, I do believe that if we are to accept them, then apparently the committee's revision is no more equitable than existing law. In fact, I submit that section 105(b) reflects a grossly parochial outlook which goes against the grain of our Federal assistance philosophy.

Assuming that JWK's thesis is correct—that the formula should be designed so as to take into account the population of handicapped persons served by the vocational rehabilitation program—any revision should reward those areas having the highest per capita population of handicapped persons. It is instructive to note that according to the Social Security Administration's Office of Research and Statistics, proportionately more disabled persons live in the South than any other region. At the same time, the lowest rates of disability are experienced in the Northeast region. If we were to accept the JWK thesis and reward those States laboring under the highest rates of handicapped population, logic would dictate that any revision of the formula must favor the southern region. The fact of the matter is, however, that under the committee proposal, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas all stand to lose. Meanwhile, many of the low-disability-rate States will enjoy a windfall.

Thus, in evaluating the committee's appeal to the JWK study in making a case for a formula based upon population only, it is apparent that JWK's findings have been pressed into service for a cause they contradict. In short, the committee's formula change exacerbates rather than ameliorates the problems discussed in the JWK report. Furthermore, by reducing the impact of the per capita income factor, the committee's amendment will stifle the growth of programs in the most underprivileged States. Seen in this light, the committee's amendment represents a retrogression in the Federal effort to aid the handicapped. For this reason, I hope the Senate will reject the committee proposal and reinstate the original formula. I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3302

On page 76, strike lines 5 through 18 and redesignate subsection (c) as subsection (b).●

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## FAIR FUND TRANSFER ACT—S. 3156

AMENDMENT NO. 3303

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to S. 3156, a bill to amend the Consumer Credit Protection Act to provide consumer rights and remedies in electronic fund transfer systems.

● Mr. TOWER. Mr. President, I am introducing an amendment to section 910 of S. 3156, the Fair Fund Transfer Act, to allow for limitations on withdrawals under securities systems.

Section 910 of the bill generally makes a financial institution liable to its customer for all damages proximately caused by its failure to make an electronic fund transfer as instructed by the customer. Although there are a number of exceptions to this and there is a provision that the transfer must be in accordance with the terms and conditions of an account which could provide for security limitations, it is not sufficiently clear that a debit card issuer would be able to protect itself and the cardholder by installing security system limitations. This provision makes clear that such limitations may be

placed on electronic fund transfer accounts.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3303

On page 20, strike out lines 3 and 4, and insert in lieu thereof the following:

"(E) such transfer would exceed limits established for security purposes; ●

AMENDMENT NO. 3304

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to S. 3156, supra.

● Mr. TOWER. Mr. President, I am introducing an amendment to section 907 of S. 3156, the Fair Fund Transfer Act, to provide a workable mechanism to stop payment on preauthorized transfers.

Section 907 of S. 3156 is both unclear and unworkable. For example, there is a question whether a stop payment order under the procedure would be received by the financial institution in such time and in such manner as to afford the institution a reasonable opportuntiy to act on it.

Section 907(a) states that a consumer may stop payment on a preauthorized electronic transfer by "notifying" the financial institution at least 3 business days prior to the scheduled transfer date. The word "notifying" is subject to the interpretation of including the date on which a request for stop payment is placed in the U.S. mail. Thus, if a court adopts such interpretation there is a potential for violation or the delay in the mails may cause the notification to actually be received after the scheduled date of transfer.

The drafters of the Uniform Commercial Code faced a similar problem in framing section 4303 of the Code relating to stop-orders on the receipt of checks. They did not feel that the problem would be solved by the mere insertion of the word "received" in the Code because a reasonable amount of time is necessary after receipt of the notice to communicate to the bookkeeping department the action to be taken. What was done in section 4–303(1) of the Uniform Commercial Code is the inclusion of an effective time which encompasses the notion of receipt plus a reasonable time for the financial institution to act on any such stop payment communication.

The amendment is compatible with the Uniform Commercial Code by providing that a consumer may stop payment on a preauthorized electronic fund transfer provided "the notice or stop-order is received within a reasonable time for the financial institution to act thereon."

Equally unworkable is section 907(b) which requires a financial institution to give notice of a varying amount in a preauthorized transfer prior to the transfer. Since in most cases the institution would have no way of knowing in advance what the varying amount would be until it receives the notification from the creditor, after receipt of the notification it would have to delay payment until it had given its customer the required notice and a reasonable length of time to stop payment. This was pointed out to the Senate Banking Committee in the statement of the Federal Deposit Insurance Corporation of April 25 that:

First, the FDIC believes that Section 907 (b) should be modified to require the designated payee to notify the consumer of the amount of a preauthorized transfer of funds when the amount varies between billing periods. It should not be the responsibility of the financial institution to do so. We agree that such notice must be made far enough in advance to permit the consumer to initiate a stop payment action if the amount is incorrect.

The statement cures this problem by requiring that where preauthorized transfers in varying amounts are authorized the payee or creditor agree to provide the consumer with reasonable notice of the varying amounts before the account is debited.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3304

Beginning with page 12, line 22, strike out all through page 13, line 15, and insert in lieu thereof the following:

"A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, a copy of which must be provided to the consumer. Preauthorized transfers in varying amounts may not be authorized unless the payee agrees to provide the consumer with reasonable notice of the varying amounts before the account is debited. A consumer may stop payment on a preauthorized electronic fund transfer if the notice or stop-order in writing is received by the financial institution within a reasonable time for the financial institution to act thereon."●

AMENDMENT NO. 3305

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to S. 3156, supra.

● Mr. TOWER. Mr. President, I am introducing an amendment to section 921 of S. 3156, the Fair Fund Transfer Act, to provide that the entire title shall take effect 18 months after the date of enactment.

The bill as written provides that the title shall take effect upon expiration of 18 months from the date of enactment except that section 909 concerning consumer liability for unauthorized transfers and section 911 restricting the issuance of debit cards, shall take effect upon the expiration of 90 days after the date of enactment.

The committee's action in providing for an earlier effective date for consumer liability and the issuance of EFT cards is predicated upon its notion that prompt enactment of these sections is extremely important. It, however, ignores the fact that these sections cannot be separated from the compliance problems attaching to the other provisions of the bill. The committee bill elsewhere gives the Federal Reserve Board authority to write regulations to implement and clarify all of the provisions of the bill. Under the pattern of the legislation until the Federal Reserve has issued these regulations financial institutions will not know with certainty what to do. It is unreasonable to expect the Federal Reserve to issue those regulations prior to the expiration of the 90-day period.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3305

On page 33, strike out all after "enactment" on line 16, throught "enactment" on line 18.●

AMENDMENT NO. 3306

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to S. 3156, supra.

● Mr. TOWER. Mr. President, I am today introducing an amendment to narrow and clarify coverage of S. 3156, the Fair Fund Transfer Act.

One of the most serious deficiencies in S. 3156 is that its overly broad coverage could eventually extend its highly complicated disclosure, error resolution, and liability provisions to practically every financial institution—large or small—in the country. This all-embracing coverage is triggered by the definition in section 903(6) of electronic fund transfer as transactions "initiated through—telephonic instrument, or computer or magnetic tape * * *." A literal application of this language would mean that any transaction flowing through an automatic clearinghouse would be covered. An automatic clearinghouse is a facility which utilizes magnetic tapes and computers to clear debit and credit entries for participating financial institutions. Thus any funds cleared through these computerized systems could be construed to be covered by S. 3156. The fact that most small institutions do not have computers interfacing with the system but receive paper entries, would not insulate them from coverage because the transfers have been "initiated through—a computer."

The magnitude of this potential coverage is overwhelming. The automated clearinghouse electronic payments delivery system includes 32 regional ACH sites which will be connected by the end of 1978 to form a nationwide network for the exchange of paperless entries.

Services offered through the ACH mechanism are marketed and serviced by banks, savings and loans, and credit unions of all sizes in virtually all areas of the country. Principal services at this time include automatic deposit of social security and other Federal governmental retirement payments; automatic deposit of private section payrolls; automatic drafting of recurring debits such as mortgage and insurance premium and utility payments.

This coverage could be devastating to small banks, credit unions and savings

and loans which have never considered going into the debit card business and never felt they would have imposed upon them the burdens of this legislation. Although no precise figures are available, because social security payments are delivered to individuals in all regions of the Nation, it may be assumed that even the smallest financial institutions participate in the automatic clearinghouse activity, at least through this program.

Furthermore, the level of automated clearinghouse participation has been projected for dramatic growth among financial institutions of all sizes in study after study. This expectation is based in the simple fact that the purpose for which the automated clearinghouse exists is to provide the capability to deliver payments to all regions of the Nation. One may see, for example, that numerous national corporations, whose employees reside in communities of all sizes, the majority of which are serviced by smaller banks and financial institutions, will have the capability to effect significant cost savings by delivery of credits and debits electronically.

The bill would also cover all telephone transfers; preauthorized bill paying services, and preauthorized transfer from a savings account to cover checking account overdrafts. Also, because of the ambiguous language in section 903(2) of the definition of the term "account," there is a question as to whether credit as well as debit transactions would be covered.

The significance of this overly broad coverage is that it could transform the ordinary checking, savings and share account into an electronic fund account subject to Federal regulation. Where an account receives or might receive incidental transfers covered by the bill, to avoid exposure to calamitous lawsuits under the punitive damages section of the bill, prudent management would probably require that the account be brought into conformance with the disclosure and error resolution provisions of the legislation.

The National Commission on Electronic Fund Transfers did recognize that existing law in the consumer protection area is incomplete or not applicable to some aspects of the new financial service concepts. The purpose of this amendment is to narrow coverage of the bill to an identifiable area where it has been demonstrated that the customers of the financial institutions will actually benefit from a new legal framework. This is done in the amendment by confining the perimeters of the bill to deposits, withdrawals or transfers to or from an account made through a point-of-sale or customer terminal, automated teller machine and cash dispensing machine transactions. In essence, this would be the new debt card service now being marketed by some financial institutions.

This is both a logical and orderly approach to the development of the law in the area. If other amendments we plan to offer are adopted, the bill would extend to debt card holders the same sort of protection now afforded credit card holders. Financial institutions, particularly the smaller ones, would be in a position to avoid the burdens of the regulation by not offering debit cards to their customers. The States would be permitted to continue basic regulation of the payment system by amending the Uniform Commercial Code to regulate electronic funds transfer transactions not presently explicitly covered under the code or the bill.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3306

Beginning with page 3, line 17, strike out all through page 4, line 19, and insert in lieu thereof the following:

"(6) the term 'electronic fund transfer' means a deposit, withdrawal, or transfer to or from an account, other than a transaction originated by check, or bank or share draft, through a network comprised of one or more terminals or automated teller machines, together with any related customer access instruments or devices, communication lines, switches for routing messages, and the messages transmitted through such network. Such term includes, but is not liimted to, any point-of-sale or customer terminal, automated teller machine, and cash dispensing machine transactions. Such term does not include—

"(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account;

"(B) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

"(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

"(D) any trust account or an occasional or incidental credit balance transfer;

"(E) any transfer from a savings account to a demand deposit account, pursuant to the prearranged agreement between a consumer and the financial institution maintaining his savings and checking accounts, for the purpose of covering an overdraft or maintaining an agreed-upon minimum balance in the demand deposit account;

"(F) any preauthorized transaction received by a financial institution in non-electronic form;

"(G) any direct deposit of a payroll, pension, annuity, benefit, or dividend;

"(H) any voice initiated telephone transfer; or

"(I) any transaction covered by chapter 4 of the Truth in Lending Act;"●

## NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, August 8, 1978, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

James Dickson Phillips, Jr., of North Carolina, to be U.S. circuit judge for the fourth circuit vice James Braxton Craven, Jr., deceased.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on S. 2343, Thursday, July 27, at 10 a.m. in 324 Russell. The bill would require USDA to submit quarterly reports to Congress confirming that meat imported into this country has been inspected and approved by USDA personnel. Senator JOHN MELCHER sponsored the bill, and he will preside at the hearing.

Anyone wishing to testify should contact Denise Love, hearing clerk of the committee at 224–2035.●

S. 3227, THE "THERAPEUTIC COMMUNITIES ACT OF 1978"

● Mr. PAUL G. HATFIELD. Mr. President, I wish to announce that the Subcommittee on Penitentiaries and Corrections of the Senate Committee on the Judiciary will hold hearings on S. 3227, the "Therapeutic Communities Act of 1978," on Tuesday and Wednesday, August 2–3, 1978, at 9:30 a.m. in room 2228, Dirksen Senate Office Building.

Persons wishing to testify or submit a written statement for the record should submit their testimony or address their inquiries to the Subcommittee on Penitentiaries and Corrections, room A–407, 116 D Street NE., Washington, D.C. 20510, or telephone (202) 224–5461.●

## ADDITIONAL STATEMENTS

### A LEGACY TO THE GREAT LAKES

● Mr. ANDERSON. Mr. President, since the death of our colleague, Senator Hubert Humphrey, we have missed his voice in this Chamber. To the proceedings of the Senate this session, Hubert would have lent wisdom and unity.

Late in 1977, Hubert agreed to write an article for Seaway Review on the Great Lakes as a shipping center for the upper Midwest. The article, printed in the spring 1978 issue of the magazine, discusses the economic contribution of the Great Lakes States. I am sure that many of my colleagues do not realize that Minnesota, for instance, ranks sixth among the States in the export of agricultural produce, and a good deal of which transit the Great Lakes from the Port of Duluth.

It appears that this article is the last written work of Senator Humphrey. We might all learn from his discussion of the issues, which will determine the growth rate of Great Lakes shipping. The Great Lakes region is an area of great economic potential, which Hubert worked to develop during his years of public service.

Since I believe that my colleagues can benefit from this discussion of an important region of growth in America, I request that it be printed in the RECORD.

The article follows:

A LEGACY TO THE LAKES

(By U.S. Senator Hubert H. Humphrey)

(Last year, Minnesota's Senator Hubert H. Humphrey agreed to do an exclusive story for us to provide our readers with his views regarding some of the nagging problems which seem to perpetually confront our Seaway System. The story was to be handled through our Washington editor, Esther Van Wagoner Tufty With the passing of the Senator, we felt we had lost this great story. However, as Mrs. Humphrey took over the work of her late husband, it became apparent that the Senator had completed the Seaway Review article—and here it is.

(As far as his staff can determine, this is the last piece of writing by Senator Humphrey. It is certainly his last words on the the Great Lakes-Seaway system—The Seaway Review.)

The people of the Great Lakes states have reason to be proud of their contribution to the economy of the United States and to world trade.

With the growing demand for agricultural commodities throughout the world, shipping on the Great Lakes from the "nation's breadbasket" has increased significantly over the past 10 years. The realization by European countries of potential economies in utilization of the Great Lakes has contributed greatly to this trade expansion.

These developments have in turn stimulated interest in improving navigational facilities and have resulted in accelerating efforts to improve all forms of transportation to provide greater access to Great Lakes ports.

With the increasing importance of world trade as a vital element in the economy of the United States, the Great Lakes states have been quick to promote their area as one which is strategically located at the crossroads of our nation. The accessibility of the Great Lakes from these states has enabled them to promote effectively their diversified agribusiness base and compete favorably in the world markets.

The construction and operation of the St. Lawrence Seaway also has been an example to the world, of unparalleled engineering accomplishment and close cooperation between two nations—the United States and Canada. In its first decade of operation, there was a 25 fold increase in cargo exports.

The state of Minnesota alone is exporting over $1.1 billion in agricultural products annually, ranking sixth among all states in 1974. In 1976, the Port of Duluth ranked eleventh among all U.S. ports and second among the Great Lakes ports in total tonnage. Grain related products and general cargo exports totaled over four million tons through September of 1977, with a financial return to Minnesota workers of well over $100 million in spendable income.

Overseas imports increased over 100 percent in 1977. Exports were up over 50 percent—mainly grain and grain by-products. And general cargo was up by 6 percent.

Shipments under our nation's "Food for Peace" program have provided a substantial amount of business for the Great Lakes. An estimated 6.7 billion tons of food will be shipped to poor countries under this program in 1979. A significant portion of this tonnage will be handled by our Great Lakes ports.

What many do not realize is the fact that Minnesota has a highly diversified economy. One fifth of America's 500 largest industrial corporations manufacture or process some portion of their output in Minnesota, and 38 of those 500 companies are headquartered in the state. Minnesota no longer is dependent on agriculture alone, but now derives over one-half of its gross product from manufacturing.

ACCOMPLISHMENTS SPEAK

The people of the Great Lakes states don't have to "blow their own horns." Their accomplishments speak for themselves, and are receiving increasing recognition throughout the world. Foreign manufacturers now are taking a hard look at the economic advantages of investing in plant and equipment in these states, rather than the coastal cities, as has been the tendency in the past. The major reasons for this change include access to raw materials, a highly educated and trained labor force, centralized transportation facilities, a location from which the United States and world markets can be profitably served, and a most attractive quality of life.

While the future of Great Lakes shipping will become continually brighter, there are a number of factors which will determine the rate of increase. I have been a strong supporter of efforts to open the Great Lakes to year-round shipping, through establishing the Winter Navigation Program and obtaining funding for the Army Corps of Engineers to carry out this effort.

I also have pushed hard for the purchase of an icebreaker for use on the Lakes, and I have urged the appointment to the Federal Maritime Commission of a representative from the Great Lakes, as America's fourth coastline.

The Port of Toledo estimates that a single Lake Erie Port would realize nearly $1 million in additional economic benefits for every two days the shipping season is extended. This potential exists throughout the entire Great Lakes system. To keep shipping rates competitive and to continue to attract exporters, it is essential that year-round facilities and operations be provided. I am hopeful that we will make progress this year on this front by appropriating funds for an icebreaker to be used in the Great Lakes.

If the Great Lakes ports received the same degree of federal support as the coastal ports, the transportation network of the Great Lakes could save this nation immense fuel costs, as well as make these states far more attractive for industrial investment.

With high priority being given to energy availability and cost considerations in industrial plant location decisions, the Great Lakes states should become a prime area for consideration by many of our major industries which now find themselves located in geographic areas no longer suitable for efficient and profitable operation.

Energy intensive industries must look for long term solutions to their financial, environmental and energy problems. With the Administration's emphasis on energy alternatives to gas and oil, the vast deposits of coal in the Dakotas, Montana, and other west central states will undoubtedly play a critical role in the future of our nation. Access to these energy alternatives takes on added significance with rising transportation costs due to the increasing price of oil products.

EXCELLENT DEVELOPMENT SITES

Accessibility to these deposits will not only make the Great Lakes states excellent sites for industrial development, but also will increase the tonnage on the Lakes. The new coal loading facility in Superior, Wisconsin, will help facilitate an efficient new means of transferring the coal to Lake Superior for shipment to ports along the Seaway.

Members of Congress from the Great Lakes states must work together, with a watchful eye on pending legislation, to insure fair and equal treatment for our ports. Traditional biases, reflected in various costs related to ocean shipping, must be overcome. We also must support efforts to make the Great Lakes attractive to American flag lines, while being sensitive to the importance of foreign flag carriers.

CONGRESS MUST FIGHT

Our Congressional delegations must assist the Great Lakes ports in the fight for less discrimination and more equal rates. I strongly believe there should be a study of the need for specific import/export rates for our region and an evaluation of the protests against rates based on differing criteria for the Coastal Ports and those on the Great Lakes.

I believe the importance of the Great Lakes ports is finally being recognized in Washington. But we need to do a better job of selling the merits of the Great Lakes area. We should be insisting that our area receive its fair share of federal assistance, guided by the principle that the role of government is to provide responsible incentives and assistance to promote fair and effective competition in our free enterprise system. The potential of the Great Lakes is tremendous. We must assure that the competitive advantages of our ports are not diminished by insensitive governmental policies.

All that the people of the Great Lakes Region ask from the federal government is that they be accorded fair and equitable treatment in the development of the full economic potential of our region.

MRS. HUMPHREY'S STATEMENT

Hubert and I shared a deep interest in developments affecting the future of America's "northern seacoast"—and I will continue his efforts to enhance the competitiveness and the economic value to our people of this invaluable resource.

But if we are to realize this tremendous potential, we must focus our attention in the months and years ahead on several important issues. These include the regulation of American and foreign flag carriers, the review of the Administration's National Water Resources Policy, due to be presented shortly, and efforts to extend the Great Lakes navigation season, including the provision of an icebreaker for service in the Great Lakes.

I fully expect substantial economic growth during the next decade in the Great Lakes region, including Minnesota's Seaway port of Duluth. All indicators point to this fact—the growing wealth and economic diversity of this region, the energy efficiency of transportation on the Great Lakes, the increasing importance of the food and energy resources of the nation's heartland, and the quality of life with which we are blessed.●

## WHAT THE AMERICAN PEOPLE THINK ABOUT SALT

● Mr. CHURCH. Mr. President, in the July 24, 1978, issue of Newsweek, there is a Gallup poll on what the Americans think of United States-Soviet relations. I ask that the poll be printed in the RECORD, and I call the attention of my colleagues to questions 8 and 9. Question 8 asks, "If U.S. efforts to influence Soviet policy regarding human rights threatened a nuclear-weapons agreement between the two countries, which would you feel would be more important?" The results show that 61 percent feel a nuclear-weapons agreement between the two countries is more important. Question 9 asks, "Some people feel that Secretary of State Vance should have put off going to the nuclear-arms talks to protest the trial of dissidents in the Soviet Union. Others feel that the talks are too important to postpone. Which comes closest to your view?" Sixty-five percent of the American people responded that SALT was too important to postpone.

The poll findings follow:

A POLL ON WHO'S WINNING

What do Americans think of U.S.-Soviet relations? The Gallup Organization telephoned a national sample of 515 people for Newsweek last Wednesday and Thursday. The margin of error is plus or minus 5 percentage points.

1. Since President Carter took office, would you say relations between the United States and the Soviet Union have improved, worsened or haven't changed?

| | Percent |
|---|---|
| Improved | 11 |
| Worsened | 44 |
| No change | 35 |
| Don't know | 10 |

2. Do you think there is more chance of war between the United States and the Soviet Union, less chance of war, or that the situation hasn't changed?

| | Percent |
|---|---|
| More chance of war | 26 |
| Less chance of war | 17 |
| Hasn't changed | 49 |
| Don't know | 8 |

3. Since President Carter took office, which country has been more successful diplomatically, the U.S. or the Soviet Union?

| | Percent |
|---|---|
| United States | 40 |
| Soviet Union | 30 |
| Neither | 11 |
| Can't say | 19 |

4. Which country has been more successful in advancing its interests in the developing nations of Africa, the U.S. or the Soviet Union?

| | Percent |
|---|---|
| United States | 31 |
| Soviet Union | 44 |
| Neither | 7 |
| Can't say | 18 |

5. Do you think the President and other U.S. leaders should criticize the Soviet Union for violating the human rights of its citizens, or do you feel that it is none of our business to criticize the Soviets for their treatment of Soviet citizens?

| | Percent |
|---|---|
| Should criticize | 43 |
| Not our business | 49 |
| Can't say | 8 |

6. Would you favor or oppose U.S. efforts to influence the Soviet Union's policy regarding the human rights of Soviet citizens by bringing that policy into negotiations on other issues between the two countries?

| | Percent |
|---|---|
| Favor | 44 |
| Oppose | 41 |
| Can't say | 15 |

7. Do you think U.S. pressure can make a difference on Soviet policy regarding the human rights of Soviet citizens?

| | Percent |
|---|---|
| Can make a difference | 38 |
| Won't make a difference | 54 |
| Don't know | 8 |

8. If U.S. efforts to influence Soviet policy regarding human rights threatened a nuclear-weapons agreement between the two countries, which would you feel would be more important?

| | Percent |
|---|---|
| The human rights of Soviet citizens | 25 |
| A nuclear-weapons agreement between the two countries | 61 |
| Don't know | 14 |

9. Some people feel that Secretary of State Vance should have put off going to the nuclear-arms talks to protest the trial of dissidents in the Soviet Union. Others feel that the talks are too important to postpone. Which comes closest to your view?

| | Percent |
|---|---|
| Put off talks | 17 |
| Too important to postpone | 65 |
| Can't say | 18 |

## MISTAKEN "SENILITY"

● Mr. CHURCH. Mr. President, the National Institutes on Health is performing a valuable service to the American public by identifying specific problems within the health field and making recommendations to overcome them. Specialists are attempting to synthesize research of the NIH and filter out specific knowledge that can be used in everyday medical care.

One of the recent problems to be analyzed is the disease of senility. The researchers agreed that other brain disfunctions are often mistaken for senility and go untreated. According to the specialists at the NIH meeting, many of these misdiagnosed diseases are treatable and often curable. Hopefully, the discussions at this meeting will be developed into recommendations and actions which will increase medical knowledge about these diseases. Dr. Robert Butler, Director of the National Institute on Aging, deserves special recognition for this longstanding concern about this issue.

An article in the Washington Post described the NIH meeting on senile dementia and the discussions that took place. I ask that the Post article be printed in the RECORD.

The article follows:

THOUSANDS DOOMED BY FALSE SENILITY

(By Victor Cohn)

Ten to 20 percent of the elderly senile do not really suffer from dementia—progressive loss of memory and brain function—but from other conditions and diseases that could be treated if doctors only recognized them, a group of experts on aging agreed last week.

This means, it was agreed, that 300,000 to 600,000 of the estimated 3 million Americans who show symptoms of brain failure are mistakenly labeled as "senile," and, as a result, often go untreated in nursing homes and mental hospitals.

"The prospect of 300,000 doomed people in the United States today who could have been restored to useful life by appropriate evaluation and treatment is staggering and demands action," said Dr. Richard Besdine of Harvard Medical School and the Hebrew Rehabilitation Center for the Aged in Roslindale, Mass.

Besdine was author of a draft report made by a six-member task force for discussion by the 30 specialists who attended a two-day Conference on Treatable Diseases in the Elderly at the National Institutes of Health in Bethesda.

One of the largest single causes of false senility, it was agreed, is drug intoxication: that is, reactions to medications. The most commonly guilty medications are tranquilizers, and among these the most common is Valium, the nation's most often used prescription drug.

Among treatable and often unspotted physical diseases that can cause brain dysfunction and mimic truly irreversible senility are heart disease, strokes, infections (including pneumonia), anemia, nerve diseases, brain tumors and blood clots, kidney or liver failure, metabolic diseases such as diabetes or thyroid problems, nutritional deficiencies (sometimes caused by faulty diet), reactions to chemicals and alcoholism.

The experts' consensus on all these points was reached at the conference, which ended last Wednesday.

The gathering was one of a new series of NIH "consensus meetings" that assemble specialists to make recommendations to the medical world in newly emerging, often puzzling areas.

The idea for the meetings—the creation of Dr. Donald Fredrickson, NIH director—came from a 1977 conference on mammography, or breast X-raying. Because such X-rays may sometimes trigger as well as find cancers, the experts recommended limiting mammography to women with a far greater chance of benefiting then suffering any harm, meaning women over 50, women 35 to 49 who have had one breast cancer already and women 40 to 49 who have had mothers or sisters with breast cancer.

The breast conference was one NIH was virtually forced to hold to reassess the controversial X-ray method that NIH itself was widely funding.

But NIH has also been under the fire of critics, including members of Congress, for not doing enough to translate research findings into everyday care. The consensus conferences are one reply.

The specialists on aging and related fields gathered by NIH's National Institute on Aging included Dr. Ernest Gruenberg, chairman of mental hygiene in the Johns Hopkins School of Hygiene and Public Health; Dr. Robert Katzman, neurology head at Albert Einstein Medical College, New York, and Dr. James Baker, the Veterans Administration's associate chief for mental health treatment.

The discussions will be translated into recommendations in coming months. But there was general agreement to tell practicing doctors that:

There are indeed irreversible causes of "chronic brain syndrome," or dementia, such as repeated blood vessel blockages and various brain and nerve diseases.

They would be well advised, however, to spend more time thoroughly and aggressively examining and testing their confused or disoriented patients to exclude reversible causes.

Deep psychological depression, too, can be classed as a common and often treatable, reversible cause or apparent senility.

It is "amazing," said one doctor attending the conference, how often even a heart attack can occur in silence with no outward physical sign other than mental confusion.

"We're talking about a large group of underlying, unrecognized diseases that are usually improvable, often reversible and sometimes completely curable," said Besdine.

To say that 10 to 20 percent of the supposed senility cases have potentially reversible causes does not mean other forms of senility shouldn't be treated too, said Dr. Robert Butler, director of the National Institute on Aging.

"In all cases," he said, "the earlier the treatment, the better. The brain doesn't do very well when it is ignored over a long period of time."

Dementia is not a reason "for locking up the patient and throwing away the key," said Dr. Carl Eisdorfer, University of Washington psychiatry head.

The treatment may sometimes be as simple as withdrawing a drug or giving a drug. But often, said conferees, it must mean finding family or other "societal support" for the patient. Doctors and other health workers must themselves get out of their offices into patients' homes before they can understand their problems, the conferees agreed.

"People fear few things more than losing their minds and being 'put away' in a nursing home," said another National Institution on Aging report. Yet too many conditions are "mislabeled as 'senility'" simply because the patient is old, it said.●

## TUITION TAX CREDITS

● Mr. PACKWOOD. Mr. President, the issue of tuition tax credits has absorbed

a good deal of debate in this Nation and in much of the press over the past several months. Yet, unfortunately, we have also been barraged with an assortment of misinformation, half-truths, and scare tactics delivered by those who feel that this legislation violates the principles of church and State separation that are contained in our Constitution. Even the Attorney General has favored us with his misgivings on the subject in the absence of any consideration by the Supreme Court.

While the merits of this legislation are abundant, I agree that the constitutional issues should be faced openly and honestly. Our bill, offered by Senators MOYNIHAN, ROTH, RIBICOFF, and myself and subsequently approved by the Senate Finance Committee, will provide for an expedited court test to address this very question. I have listened to and read the reservations of our critics. Yet, I will continue to cast my lot on the side of the students and their families. This measure, I am still convinced, is a constitutional one and will survive the most rigorous examination by the Supreme Court.

Recently, Michael Malbin discussed the constitutional issues in an article for the Portland Oregonian. His analysis is both thoughtful and eye opening. He concludes, as I have, that assistance contained in tax credits for tuition does not conflict in any way with the intentions of the framers of our Constitution. I recommend this reading to my colleagues and ask to insert the article in the RECORD.

The article follows:

PAROCHIAL SCHOOL AID CONSTITUTIONAL

(By Michael Malbin)

WASHINGTON.—A major constitutional argument has developed over the proposed tuition tax credit bill which seeks to aid parents of primary and secondary school children as well as college students.

President Carter has announced he will veto any tuition tax credit bill, and Attorney General Griffin Bell has made it clear he thinks the idea, because it would aid parochial as well as other private schools, is unconstitutional.

But whatever the merits of giving such aid to private schools, as so often happens with highly emotional issues, the argument is proceeding along the wrong grounds.

Such aid to church-sponsored schools along with other secular private schools would in no way conflict with the intentions of the Founding Fathers in drawing up the First Amendment clauses which have governed our nation's treatment of religion. A careful analysis of the debates of the First Congress makes that clear.

The basis for the government's treatment of religious matters is contained in a mere 16 words in the First Amendment which state, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ."

Since 1947, the Supreme Court has interpreted the first of the two clauses (no laws respecting an establishment of religion) as requiring Congress and the states to maintain strict neutrality between religion and irreligion in any laws that might conceivably aid private religious organizations.

Legal disputes since then have had to do with the differences between "aid" to religion (prohibited by the court), neutrality (required), and hostility (supposedly prohibited).

Attempts to walk this thin legal tightrope have led to a hodgepodge of conflicting rulings. States may "lend" parochial schools textbooks, but they may not reimburse them for funds spent on the same textbooks. Church-supported colleges may receive construction grants, but lower level parochial schools may not receive maintenance grants.

A speech-by-speech analysis of the debates in the First Congress shows that the amendments' authors did not intend to build the kind of "wall of separation" between church and state that the modern court has erected.

The records available to us demonstrate that the "establishment" clause was meant to have two major purposes: 1) prohibit the federal government from giving any aid to religion if the aid in question could tend to establish a religion; and 2) prohibit Congress from tampering with the state religious establishments.

Federal aid to private schools would thus have been allowed under the original meaning of the establishment clause, and could even have been limited to religious schools, if Congress had a valid secular reason for doing so and if it could somehow manage to define "religion" in a way that did not exclude minor religions.

A return to the original concept would surely alter the basic view of the relationship between religion and government in a way that would affect future legislation and future court cases. Yet it need not change some of the Supreme Court's specific holdings of recent decades, such as the ones prohibiting school prayers.

A return to the original understanding of "free exercise" would work a similarly fundamental change in the way judges view court cases without compelling a reversal of many recent holdings. The framers unquestionably denied that anyone had a right to claim an exemption from a valid, secularly based law because of a religious objection to it.

The modern Supreme Court's free-exercise rulings correctly note that the framers wanted to encourage religion. But the court uses the free-exercise clause to grant religion special favors that the framers never thought were required, while prohibiting the nondiscriminatory assistance the framers actually gave to private and parochial schools in the territories when re-enacting the Northwest Ordinance in 1789 (in which land was granted to any school).

The members of the modern Supreme Court also correctly perceive that our democracy is at its core a secular democracy. But they implement this perception through their reading of the establishment clause, while not permitting a religiously neutral application of civil laws under the reading of free exercise.

The court has permitted religious opinion to stand as judge of the civil realm in free-exercise cases, while preventing the civil realm from helping religion on civil society's own terms in its establishment clause decision. I believe when the political implications of this for a modern secular democracy are understood, the original understanding will seem attractive as a rule for today, and not simply as a curio for antiquarians.●

## CERTIFICATE OF NEED: LET THE STATES DECIDE

● Mr. HATCH. Mr. President, every Member of the Senate can well recall the outcry of his constituents last fall when the first real substantive guidelines to implement the National Health Planning and Resources Development Act of 1974 were published. Communications protesting the HEW Secretary's preemption of local planning self-determination and the feared closing of small rural hospitals—the apparent restrictions on access to care—were too numerous to count. In our first opportunity later this week to legislatively respond to those anxieties, then, we all share a very delicate responsibility.

While there are a number of reservations with the way the Human Resources Committee-reported version of the Health Planning bill serves to answer that challenge, that is, its failure to effectively restructure and balance HSA board composition; to adequately assure that local determination will not be subordinated to Federal directives; and to openly avoid preferential treatment of Government-subsidized modes of health delivery such as HMO's, the one area which arouses the greatest concern—because of its potential impact—is the proposed regulatory entrance into the private ambulatory health care setting. S. 2410 seeks to gain this new foothold by subjecting individual physician's offices, and indeed all private care facilities, to certificate of need requirements for their major medical equipment—a matter which is most disturbing if for no other reason than that it is again attempting to reverse a State trend.

The problem with proposals of this type is that they are so ostensibly innocuous as to be in danger of escaping our attention, a point that should not be lost in the subtle language of the bill designed to accomplish the purpose of the drafters. At the State level, however, the issue has not been quite so shrouded, with already 32 jurisdictions having directly considered the idea and expressly rejected it by a more than 4-to-1 margin. In fact, only 6 States have found it desirable to generally apply certificate of need to private offices in any form, whereas 26 others have chosen to dismiss the notion entirely.

What we would be doing, then, by leaving this type of mandate in the "Health Planning Amendments of 1978." is telling those 26 States and the 18 others which have not moved to enact such a provision—a total of 44—that even though we promised them in the original law that this would be something they should decide for themselves, and even though they gave us the message very clearly last fall that they do not like the Federal Government telling them how to provide for the health of their citizenry, our superior judgment is now going to displace that prerogative. In my view, this is violating the whole spirit of the pledge Congress made back in 1974 to leave these types of essential policy matters to State and local determination—once the basic certificate-of-need concept called for in the law were implemented.

We should not find it surprising that States which have thought they would have until 1980 to design the certificate of need program most suited to their respective needs and objectives are disillusioned over the prospect of further criteria being superimposed on an already complex and administratively overwhelming law. Since most of the 39 States CON laws are relatively new anyway—only four before 1970—and the remaining 11—Delaware, Idaho, Indiana, Louisiana, Mississippi, Missouri, Ne-

braska, New Hampshire, Pennsylvania, Utah and Vermont—are still debating how to deal with current certificate-of-need requirements, it is understandable that they should wonder why the Senate would even consider instructing them to branch out to ambulatory providers as well.

In addressing this matter during the markup of S. 2410, the effort was made to simply retain the present State option to extend certificate of need to major equipment expenditures by other than hospitals; that is, to keep it discretionary rather than precipitiously require it as a matter of Federal statute. In that way, it was felt, States which wanted to take that dramatic first regulatory step into private offices would be free to so experiment, but those which were reluctant to breach that barrier would be equally free to so refrain.

There were essentially two arguments advanced in response to justify the universal expansion of certificate of need laws to major medical equipment in private office settings. One was that there have been abuses of existing requirements by hospitals which, having been denied a certificate for an item such as a computed tomography (CT) scanner, engage a group of physicians practicing "across the street" to purchase one for them anyway—and use it to serve the hospital's inpatients. The other was that as a matter of equity all equipment acquisitions should have to clear the same authorization procedures, that is, that there should be no distinction between hospitals and doctors.

To support the first contention there were cited three examples of CON circumvention involving CT scanners—hardly demonstrative of a systematic pattern of abuse necessary to warrant an across-the-board legislative mandate, even if true. Since as of December 31, 1977, only 4.5 percent or 41 of the 921 scanners installed nationwide were in private physicians' offices, it would seem rather tenuous to try to rationalize a compelling case for comprehensive regulation on that basis. Moreover, if indeed there is a problem, the States are certainly capable of identifying and resolving it—as at least three of them—Minnesota, Florida, and North Carolina—have already done. The more instructive observation, however, may be that the offer in committee to insert appropriate modifying language to insure against any such possible "loophole" was greeted only with silence.

On the matter of the "What's good for hospitals is good for doctors" thesis, only the most basic comparison between methods of reimbursement and the legitimate government "strings" attached thereto is necessary. Very simply put, hospitals are paid on a cost basis for services provided under Federal programs whereas physicians are reimbursed through a fee system administered by third party payors. The distinction from this is clear: cost reimbursements contemplates a Government share in all expenditures made by a hospital—including capital investment in equipment—but with doctors the Government is paying only for a professional service—and has no direct interest at all in the acquisition of office equipment itself.

The Supreme Court just this spring upheld the constitutionality of the planning law on the new almost commonly accepted basis that Federal conditions may accompany the use of Federal funds. Applying that theory to the immediate situation, Congress would certainly have a justifiable reason for placing CON limitations on the purchase of hospital equipment—for which they help pay—to be placed in a facility which they helped built, but would not be so at liberty to restrict the mere acquisition of similar private office equipment in which they have no stake. Instead, the appropriate interest with respect to the latter would be in evaluating the necessity of the Government-paid-for service performed with the equipment—a function already the responsibility of carrier utilization review and professional standards review organization activities.

The whole objective of certificate of need regulation of major medical equipment—it should be noted—is to curtail its proliferation, and thus its availability, in the name of cost containment. Health planners seem to fear, that is, that expensive resources such as the CT scanner will be unnecessarily overutilized in order to pay for themselves and that, accordingly, they should be limited in number or "rationed" on the basis of estimated "need." So rather than having to go to all the trouble of deciding whether scanning procedures were medically necessary and reasonable—and paying for those which were—they theorize that it would be easier and cheaper to just limit the number which could be done by controlling the availability of the equipment. In essence, it amounts to sacrificing quality and convenience of medical care for the sake of economy.

It is difficult to understand why the committee would want to go on record as favoring the restraint of new medical technology such as the CT scanner—which has the most promising life-saving, time-saving, pain-saving, and indeed cost-saving diagnostic potential since the X-ray. For when one scanning procedure on this equipment can detect disease earlier and faster—with greater accuracy and considerably less hazard—while replacing a whole series of arduous tests such as pneumoencephalograms, contrast ventriculograms, and arteriograms at a combined lower charge, one would naturally expect us to be promoting their growth—to be making them readily accessible to all patients who might benefit from their amazing capabilities.

But apparently that is not the case and the committee wants to regulate the number and location of CT scanners by saying that HSA boards are better qualified to decide whether physicians need such equipment for their patients than are the physicians themselves. In the process, however, it is going to be guilty of generating a circumstantial monopoly which will force patients into more expensive medical care settings and produce the very result it is supposedly out to prevent. We are all familiar with what happens in the shelter of legally restricted competition, and when the same CT scan which can be performed as an outpatient in a doctor's office for $275 could cost more than $1,000 as a hospital inpatient, one has to wonder about the logic of this type of anticompetitive "cost-saving" program.

At least two of us on the Human Resources Committee thought it was about time we consider the inconsistency of advocating a policy of improved access to quality medical care at a lower cost through an emphasis on ambulatory delivery alternatives on the one hand—while legislating policies like this which can only limit access and lower quality while generating higher costs and inducing institutionalized services on the other. Indeed, Profs. David Salkever and Thomas Bice of Johns Hopkins and Washington Universities, respectively, must have been thinking the same thing when they concluded in their HEW-commissioned study of the impact of certificate of need—the only one done to date—that the concept may very well be counterproductive and that at a minimum, "the presumption of its effectiveness is clearly not warranted by the available evidence."

I agree with the majority of the committee that there should be restraint in the certificate of need area, but disagree as to its placement. If any restraint is to be applied, that is, it should be against expanding the concept beyond its current scope—based on pure conjecture—before we even have a handle on what we have got. With it now being tested in the noninstitutional setting in Colorado, Hawaii, Iowa, Rhode Island, Virginia, and Wisconsin, it makes every bit of good sense to benefit from their experience and wait to see whether it is a practice worthy of thrusting upon the other States as well. If it is ever proven workable or cost-effective for ambulatory facilities, surely we can expect the other 44 States to pick it up without the hand of the Federal Government becoming involved and telling them they have to.

It also makes every bit of good sense, it would seem to me, to wait until after we have the results of HEW's newly commissioned study is supposed to determine whether certificate of need is, after all, a successful regulatory concept. Since they have just spent over half a million dollars—$535,000 to be exact—contracting with two Boston area consulting firms to evaluate the effectiveness of CON as a cost containment mechanism, it would be not only illogical but irresponsible for us to start expanding something about which there is so much uncertainty before we know the product of our investment.

As the National Conference of State Legislatures properly recognized in a resolution adopted earlier this month calling for a vote of confidence from the Senate in their ability to decide the CON extension issue, this is a classic case of State pre-emption, Mr. President. It should be in each Senator's interest, therefore—regardless of his attitude on the relative merits or deficiencies of the CON concept—to protect the rights of his respective State and preserve the basic thrust and local character of the original planning law. While there is no

suggestion that any nonhospital entities should be mandatorily excluded from certificate-of-need requirements, neither should they be mandatorily included—as S. 2410 in its present form would do.●

## STRESS AND FAMILIES RESEARCH PROJECT HOLDS CONFERENCE IN ASPEN, COLO.

● Mr. HASKELL. Mr. President, I would like to draw the attention of my colleagues to the important work of the stress and families project, which was recently the focus of a conference hosted by the Aspen Institute for Humanistic Studies in my home State of Colorado.

This research, initially entitled "Women and Mental Health Services," set out to study the many women who enter mental hospitals, use outpatient psychiatric services, and live in psychiatric or alcoholism halfway houses. It was discovered that such experiences were more common among some groups of women than others. Women who are separated or divorced, low-income women who head families with young children, children in female-headed families—all are overrepresented in mental health facilities. In particular the low-income mother with young children was found to be a dramatic risk for depression.

In response to these findings, Dr. Howard Davis, Chief of the Mental Health Services Development Branch of the National Institute of Mental Health, initiated a second study—the stress and families project—to investigate the stresses which lead to high rates of depression among low-income mothers of young children, and to study the effect of stress and of maternal depression on young children. This study, directed by Marcia Guttentag of Harvard University and Susan Salisan of the National Institute of Mental Health, has begun an intensive field investigation of 40 low-income mothers with at least one child in the age range from 5 to 7 in the Boston area. Four groups are included: Black married women, black single women, white married women, and white single women.

The purpose is to test the relationships between life stress, coping styles, social networks, mental health, family interactions, and child adjustment, to develop a new understanding about these relations and to develop interventions to improve mental health and family functioning based on what seems to help the most.

The findings of this research will have important implications for public policy, which increasingly touches the lives of all American families. As legislators, we must be more sensitive to the impact which our decisions have on family structure and the ability of families to cope with stress, particularly families headed by single women. We must exercise greater care in assuring that we do not inadvertently increase these stresses, through legislation designed to help women, their children, and the communities they live in.

I would also like to take this opportunity to commend the National Advisory Committee for the stress and families project and particularly its chairperson, Jeanette Williams, for their outstanding contributions and leadership. The advisory committee is composed of an impressive and dedicated group of experts, including Liz Carpenter of ERA America, Frances Lear of Women's Place, Inc., Carol Weiss of Harvard University, Carol Creedon of Reed College, Amitai Etzioni of Columbia University, Dr. Thomas Kiresuk of the University of Minnesota, and John Brandl of the Hubert H. Humphrey School of Public Policy of the University of Minnesota. This committee has dedicated itself to raising public consciousness and affecting needed public policy change, based on the findings of the stress and families project. I am sure that my colleagues will join me in extending our appreciation for their important contribution to American families.

I ask that a recent column by Ellen Goodman in the Washington Post commenting on the stress and families proj-ect be printed in the RECORD.

The article follows:

GOOD ATTITUDES, ALTITUDES FOR PROBLEM-SOLVING

ASPEN, COLO.—I arrived here suffering from a mild case of Jarvisitis, an epidemic that has spread out of California like some flu of depression.

"In the wake of Proposition 13" is an expression that sounds like the name of a bad summer movie, a "Jaws II." But I, too, had read the billboard as a message of conservatism in the country. It seemed that people had put a ceiling not only on taxes, but also on any willingness to make changes, to support public policies that would help others.

As I bumped over (or, rather, between) the Rockies, it occurred to me that this was as bad a time to hold a conference on Stress and Families—especially low-income families—as I could imagine. Furthermore, I assumed that the people invited into as rarified an atmosphere as the Aspen Institute for Humanistic Studies would either be idealistic and therefore impractical, or practical and therefore hopelessly hopeless.

But the mountain air turned out to be a good prescription for despair.

The conference was built around the first in-depth study of stress and depression among low-income mothers of pre-school children. It is the sort of study that would usually end up with three paragraphs in Psychology Today and a place in the dusty archives of some Ph.D. library.

But the all-woman team at the Harvard Graduate School of Education had done their work—not just to find out what was wrong, but also to find out what could be changed. With funding from the National Institute of Mental Health, they studied "43 women and 5,000 variables."

Their data showed how much stress came to poor families from the catastrophic events of their lives and the everyday conditions of poverty. And also, how much stress came from their own encounters with the government programs set up to "help."

Their data didn't include new revelations. But this jaded observer was impressed over the next three days watching three dozen high-powered academics, mental-health people, government bureaucrats and political activists—in the ironically plush atmosphere of Aspen—trying to create the links from research to public policy.

They, and perhaps the rest of us, have had enormous experience in massive social trials and errors. Now they were intent on learning from these mistakes. In order to help change the lives of people in pain, they knew that they had to change the tactics and methods in their own fields.

The academics, like Harvard's Dr. Deborah Belle, seemed intent on avoiding the one-night-stand kind of research that used the poor as "subjects" and then dropped them.

The sociologists seemed determined to do what Columbia's Amitai Etzioni reminded them: to take the Hippocratic oath: First, do no harm. And the government people from HEW and NIMH were the first to acknowledge how many government programs contributed to the problem instead of the solution.

One mental-health expert, Dr. Thomas Kiresuk of Minnesota, suggested a kind of consumer-protection plan, written into any new social program to protect people from "experts" . . . like himself. Others kept reminding the group that, this time, public policy should be a response to the needs of the people, rather than a program imposed on the poor from above.

The people from Washington were the most conscious that any new social legislation had to be small scale—not an expensive war, but a limited "cost-effective" action.

It seemed that at this lofty "think-tank" in the mountains, people were remarkably, determinedly, down-to-earth. Even Betty Ford, who came to share her experiences with family stress, looking far healthier and more relaxed than a few months ago, didn't talk about her "cure," but about her first steps.

The conference didn't come up with The Solution, just an intriguing list of directions. But I saw people who believe in the value of change and are willing to work hard for limited but real goals.

I wonder if what happened here isn't indicative of something larger—a regrouping by caring, activist people in their places who are also under equally few illusions about the problems of government; who are cautious about master plans to overhaul society, but who still want to help. People who are willing to work within the ceiling of "lowered expectations" and within the structure of "cost-effective" planning.

Maybe I became too optimistic, or maybe the wake of Proposition 13 just hasn't covered the tops of these mountains yet. But the altitude was good for the blues.●

## OLDER AMERICANS ACT AND HOME-DELIVERED MEALS

● Mr. PACKWOOD. Mr. President, during floor debate yesterday on the Older Americans Act of 1978, I voted against an amendment for a special authorization for home-delivered meals to the elderly. While I had originally cosponsored this amendment, I came to realize that the act itself provides a better means of assuring increased meals for senior citizens in their homes.

The bill's most important aspect regarding home meals is its provision for flexibility and local control. It leaves to local government the decision concerning money to be spent on home-delivered as well as congregate meals. This means that Oregonians may determine such needs in their communities, and act accordingly. The amendment would have arbitrarily dictated how much money a community must spend on home-delivered meals.

The bill's authorization for such meals is 50 percent higher than the current level and will provide sizable additional funds for this particular need of our senior citizens.●

## FEDERAL FUNDING OF ABORTIONS

● Mr. JAVITS. Mr. President, we are rapidly approaching that time of year when the Congress takes up the annual debate on the issue of Federal funding for abortions.

The ethical and legal issues involved in this matter are always hotly debated and rarely have we ever had any objective analysis of the effects of restrictive funding.

I ask that a recent article by Lawrence R. Berger, M.D., which reviews approximately 39 recent studies on the impact of restrictive funding, be printed in the RECORD. The article appeared in the June 29, 1978, issue of the New England Journal of Medicine.

I would suggest that my colleagues review Dr. Berger's work as it provides us with objective studies on the effects of our actions.

The article follows:

### ABORTIONS IN AMERICA: THE EFFECTS OF RESTRICTIVE FUNDING

In 1976, an estimated 1.1 million abortions were performed in the United States.[1] Some characteristics of the women undergoing abortion are shown in Table 1.[2] Between 260,000 and 275,000 of these abortions were paid for under Title XIX (Medicaid) and Title XX (Social Services) of the Social Security Act.[3] Eighty-five per cent of Medicaid-recipient women of childbearing age are mothers receiving assistance from AFDC (Aid for Dependent Children).[3] It is these women who will be most directly affected by the Supreme Court ruling in June, 1977, allowing states to refuse to pay for abortions under Medicaid. These women are also affected by the Hyde amendment to the Labor-H.E.W. appropriations bill, passed by Congress on December 7, 1977. The amendment provides that ". . . none of the funds contained in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians."

The ethical and legal issues surrounding the abortion controversy have received exhaustive attention in both professional journals and the public media. Many of the articles on the medical and social implications of abortion, however, are scattered in the public health, family planning, gynecologic and psychiatric literature. These studies are reviewed here in an attempt to predict the potential effects of restricting access of low-income women to abortion.

TABLE 1—PERCENT DISTRIBUTION OF CHARACTERISTICS OF WOMEN HAVING ABORTIONS, UNITED STATES, 1972 AND 1975

| Characteristic | 1972 | 1975 |
|---|---|---|
| Age (yr): | | |
| Less than 19 | 32.6 | 33.1 |
| 20 to 24 | 32.5 | 31.9 |
| Greater than 25 | 34.9 | 35.0 |
| Race: | | |
| Nonwhite | 23.0 | 32.2 |
| White | 77.0 | 67.8 |
| Marital status: | | |
| Unmarried | 70.3 | 73.9 |
| Married | 29.7 | 26.1 |
| Number of living children: | | |
| 0 | 49.4 | 47.1 |
| 1 | 18.2 | 20.1 |
| 2 | 13.3 | 15.5 |
| Greater than 3 | 19.1 | 17.3 |
| Gestation (weeks): | | |
| Less than 13 | 82.2 | 87.9 |
| 13 to 20 | 16.6 | 11.1 |
| Greater than 21 | 1.3 | 1.0 |

Footnotes at end of article.

### EXCESS MATERNAL MORTALITY

Denial of public monies for legal abortion will result in excess maternal deaths no matter what alternatives women choose.[6] Mortality in pregnancy and childbirth is greater than that of legal abortion regardless of maternal age or race (Table 2). Delays in obtaining legal abortion (occurring while a woman attempts to raise money, or to convince two physicians that she will suffer "long-lasting physical health damage" by carrying her pregnancy to term), mean exposure to the increased risks of death associated with advancing gestational age: there is a 50-fold difference in maternal mortality between abortions performed before nine weeks' gestation and those performed at 16 weeks or later (Table 3). For women who resort to illegal abortions, mortality will vary depending on maternal characteristics, the skills of the abortionist, and the accessibility of qualified medical care to handle complications, particularly sepsis and hemorrhage. Tietze[7] notes that his estimate of 40 maternal deaths per 100,000 illegal abortions is "very low" and yet represents a 100-fold increased risk as compared to early legal abortions.

TABLE 2.—MATERNAL MORTALITY RATES ACCORDING TO AGE

| Maternal age | Legal abortions [1] | Pregnancy and childbirth [2] |
|---|---|---|
| Less than 19 years | 2.2 | 12.7 |
| 20 to 29 years | 4.3 | 12.6 |
| 0 to 39 years | 5.3 | 33.3 |
| Greater than 40 years | 9.3 | 71.4 |
| Overall | 3.9 | 16.7 |

[1] Deaths per 100,000 procedures, United States, 1972–74.
[2] Deaths per 100,000 live births, United States, 1972, exclusive of all abortions.

### THE SEVERELY DEFECTIVE FETUS

Abortion is often recommended or requested when the fetus has a severe malformation or biochemical defect, or is at increased risk of such problems. A documented exposure to rubella in the first trimester carries with it, for example, a 10 to 20 per cent risk of malformation in the fetus.[8] Prenatal studies can detect many inborn errors of metabolism, central-nervous-system malformations and chromosome abnormalities. Advanced maternal age is the commonest indication for amniocentesis: about 2.2 per cent of pregnant women 35 to 39 years of age will be found to be carrying a chromosomally defective fetus.[9]

During the Amniocentesis Registry Project of the National Institutes of Child Health and Human Development between 1971 and 1975, 1040 women receiving amniocentesis suffered no major complications or increased fetal loss. Forty-five of the women were identified as carrying an abnormal fetus; 35 elected abortion.[10] Reviewing the project's findings in 1975, Dr. Theodore Cooper, then Assistant Secretary for Health, urged wide dissemination of amniocentesis: "What we must do is assure that financial barriers to access to this procedure do not exist. Because of both the human considerations and the financial advantages of prevention of disability, we shall attempt to assure coverage for this procedure by both the private and public medical insurance programs."[10] One year later, the Department of Health, Education, and Welfare announced its commitment to reducing the burden of genetic disease and congential anomalies through amniocentesis coupled with elective abortion in its Forward Plan for Health.[11]

However, the Hyde amendment does not provide funds for abortion when a woman is at risk for delivering a severely defective infant. To the ranks of women who forgo prenatal diagnostic studies because of religious convictions must therefore be added those who are denied abortion because of inability to pay.

TABLE 3.—MATERNAL MORTALITY RATES [1] FOR LEGAL ABORTIONS ACCORDING TO WEEKS OF GESTATION, UNITED STATES, 1972 TO 1974

| Gestational age | Number of deaths | Number of cases | Rate | Relative risk [2] |
|---|---|---|---|---|
| Less than 12 weeks | 29 | 1,659,089 | 1.7 | 4.3 |
| Less than 8 weeks | 3 | 747,550 | .4 | 1.0 |
| 9 to 10 weeks | 13 | 581,002 | 2.2 | 5.5 |
| 11 to 12 weeks | 13 | 330,537 | 3.9 | 9.8 |
| 13 to 15 weeks | 12 | 129,536 | 9.3 | 23.3 |
| Greater than 16 weeks | 35 | 177,442 | 19.7 | 49.3 |
| Total | 76 | 1,966,067 | 3.9 | |

[1] Deaths per 100,000 procedures.
[2] Relative risk based on index rate for less than 8-wk gestation of 0.4/100,000 abortions.

### TEEN-AGE CHILDBEARING

Childbearing for young women carries with it an increased risk of obstetric complications, poor pregnancy outcome and social disruption. The obstetric problems have been reviewed elsewhere [12,13] and include a higher incidence of toxemia, prolonged and precipitate labor, post-partum infection and hemorrhage. The association of young maternal age and low-birth-weight infants is revealed most recently for United States births in 1975 (Table 4).[14] In contrast to women in their twenties, multiparous adolescents show with each succeeding pregnancy an increase in prematurity and perinatal loss.[15]

Low-birth-weight infants provide a disproportionate share not only of perinatal deaths but also of developmentally impaired children. The results of the United States Collaborative Perinatal Study, summarized in the Journal in 1973, document this point (Table 5).[16] Intellectual and behavioral deficits associated with low birth weight are also apparent on follow-up examinations at eight to 10 years of age.[17]

TABLE 4.—PERCENT OF INFANTS OF LOW BIRTH WEIGHT ACCORDING TO AGE OF MOTHER AND RACE, 1975 [1]

| Race | Age of mother (years) | | | | | | |
|---|---|---|---|---|---|---|---|
| | <15 | 15 | 16 | 17 | 18 to 19 | 20 to 25 | 25 to 29 |
| Total | 14.9 | 13.0 | 11.6 | 10.3 | 9.3 | 7.1 | 6.1 |
| White | 12.0 | 10.6 | 9.5 | 8.3 | 7.6 | 6.0 | 5.4 |
| Black | 16.9 | 16.2 | 15.3 | 15.1 | 14.4 | 12.8 | 11.3 |

[1] Percent of infants is proportion of births weighing <2500 g

Carrying an unwanted pregnancy to term has the potential for disrupting a teen-ager's schoolwork, personal relations and parenting ability. Young parental age has been associated with decreased educational attainment,[18] marital instability [19] and child abuse.[20] The role of early childbearing per se in causing these adverse social outcomes, however, remains to be clarified.

To what extent will programs for pregnant teenagers and family-planning services blunt the effect of restricting abortions? Adolescent

women who receive early prenatal care have shown marked improvements in obstetric outcome and rates of prematurity.[21] Comprehensive programs for school-age parents, however, have not been widely available. Those that do exist often function in isolation from other social services, have funding that is usually "piecemeal, uncertain and short-term," and show no uniformity in the services that they provide.[22]

The outlook for preventing teen-age pregnancies is not optimistic. In 1975, only two out of five women at risk for unwanted pregnancy were estimated to have received family-planning services.[23] Even when such services are made available, they are often not used by those who would benefit most.[24] Shelton's study in Georgia of births to women under 15 years of age showed that a decline in their fertility corresponded (temporally, demographically and geographically) not to the availability of contraceptive services but rather to increased numbers of abortions.[25] Even the best comprehensive programs for teen-age parents have had a limited long-term effect in the area of family planning. In a study of adolescent parents in Baltimore, all the women had attended programs offering contraceptive information and services.

However, among those who began to practice contraception after the birth of their first child, more than one-third had abandoned birth control after one year; nearly two-thirds by two years. By the five year follow-up, only about one woman in five had used contraception continuously during the entire study.[19]

Similarly, a follow-up study of adolescents served by Yale's well established and widely respected young mothers' program showed that about 40 percent of women subsequently used abortion to control fertility, an experience no different from that of young mothers not enrolled in the comprehensive program.[26]

ADVERSE CONSEQUENCES OF ABORTION

As in clinical medicine, public-policy decisions should rest on the balancing of risks and benefits in matters affecting health. Although many of the risks involved in restricting access to abortions have been discussed, some net benefit might accrue if elective abortions were associated with frequently occurring adverse sequelae. This inference is not true for maternal mortality, as noted above. Concern has been expressed, however, regarding possible adverse affects of abortion on future pregnancy outcome, and on psychologic adjustment.

TABLE 5.—PREGNANCY OUTCOMES OF SINGLE-BORN INFANTS OF KNOWN BIRTH WEIGHT, 20 WEEKS OR LONGER GESTATION (COLLABORATIVE PERINATAL STUDY)

| | Perinatal mortality [1] (rate/1,000 births) | | Neurologic abnormality (rate/1,000 examinations) definite at 12 mo | |
|---|---|---|---|---|
| Birth weight (grams) | Number | Rate | Number | Rate |
| White (18,779 births) | | | 14,662 | |
| Less than 2,500 | 364 | 236.9 | | 52.1 |
| Greater than 2,500 | 157 | 9.1 | | 14.6 |
| Totals | 521 | 27.7 | | 17.0 |
| Black (19,877 births) | | | 17,123 | |
| Less than 2,500 | 532 | 184.0 | | 41.1 |
| Greater than 2,500 | 198 | 11.7 | | 12.4 |
| Total | 730 | 36.7 | | 16.0 |

[1] Perinatal mortality includes stillbirths and neonatal deaths from 20-week gestation through 27 days after birth.

Many of the early studies of pregnancy outcome after abortion suffered from a failure to control for important confounding variables, and showed conflicting results. In the well controlled anaysis of the subsequent pregnancy experience of women undergoing abortion in the United States that appeared in the Journal last December,[27] 571 women with a history of abortion were matched for maternal age, socioeconomic status, pregnancy order, history of previous fetal death, marital status and religion. It was found that a history of prior induced abortion was not related to low birth weight, premature delivery, stillbirth, neonatal death, miscarriage or congenital malformations in subsequent pregnancies. This study's results confirmed those of a previous matched-pair analysis involving 12,588 births in Taiwan.[28] Additional controlled studies will undoubtedly appear in the near future.

In its review of the literature on the mental-health effects of abortion in 1975, the Institute of Medicine of the National Academy of Sciences concluded that "the feelings of guilt, regret, or loss elicited by a legal abortion in some women are generally temporary and appear to be outweighed by positive life changes and feelings of relief." [29] The incidence of major psychiatric complications was cited as 0.2 to 0.4 cases per 1000 abortions, as found by the Joint Program for the Study of Abortion.[30] Recent studies from Great Britain, where abortion was liberalized in 1967, support the Institute's findings. A population-based study of post-abortion psychosis found an incidence of 0.3 cases per 1000 legal abortions, as compared to an incidence of post-delivery psychosis of 1.7 cases per 1000 deliveries.[31] In structured interviews with 360 women who underwent first-trimester abortions in 1971–1972, Greer et al. found marked improvement in ratings of psychosocial adjustment at a mean of 18 months after, as compared to ratings before, abortion. The improvements occurred not only in psychiatric symptoms, but also in relief of guilt feelings, interpersonal adjustment, and sexual responsiveness.[32]

CONCLUSIONS

Soon after abortion laws were liberalized in the United States, reports appeared noting dramatic declines in infant mortality,[33] deaths and complications from illegal abortions,[34,35] numbers of newborns abandoned for adoption [36] and rates of illegitimate births.[37] Certainly, other factors—such as improved access to and quality of medical care and an increased use of family planning services—were operative. Abortion services, however, played an important part. The extent to which a reversal of these trends will accompany restrictive funding of abortions will partly depend on the alternatives chosen by women with unwanted pregnancies. Undoubtedly, many will find ways of paying for legal abortions, even though "the average cost of an abortion in the United States—$280—is $42 higher than the average monthly welfare payment *for an entire family* for food, clothing, shelter and all other necessities." [3] Savings for the welfare system, however, are unlikely to occur. The costs of pregnancy and childbirth, hospitalization of low-birth-weight infants and women with complications from illegal abortions, and support for additional and larger families by AFDC and foster care may far exceed previous expenditures for abortions.[3,38]

Even before last year's restrictions, there was a large unmet need for abortion services, particularly among poor, rural and teen-age women.[39] Until every conception results in a wanted pregnancy, many women will choose abortions as their least undesirable alternative. Rebuilding barriers to access can only add to the medical and social burdens of the poor. At the same time, denial of abortions to low-income women jeopardizes their availability to all women. Private insurers may now decide to not reimburse for abortions. Anti-abortion forces will be encouraged to pursue further means of undermining the Supreme Court rulings of 1973, now that Congress has led the way.

What is to be done? It is still possible to advocate unrestricted abortion funding at the state level. Where restrictions are impassable, expediting the process of determining eligibility for Medicaid funding will reduce morbidity and mortality of delayed abortions. Finally, the issue will inevitably resurface in Congress. Concerned physicians must not again forgo an opportunity to influence a legislative decision of such profound human dimensions.

LAWRENCE R. BERGER, M.D.

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## EMPLOYEE EDUCATION ASSISTANCE BILL, S. 2388

● Mr. PACKWOOD. Mr. President, the support is growing steadily for the employee education assistance bill, S. 2388, which will allow employees to use employer-provided education assistance without the burden of having to pay tax on the tuition aid they receive.

A number of concise, well-argued statements in favor of employee education assistance have been made recently by several of the highly regarded professional engineering societies in our country. For the benefit of my colleagues I ask unanimous consent that these statements and letters of support be printed in the RECORD.

The material follows:

STATEMENT OF THE NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS AND THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS

The National Society of Professional Engineers and the American Society of Mechanical Engineers appreciate the opportunity to offer comments on S. 2388, the amendments to the Internal Revenue Code of 1954 which provide for the exclusion of employer-provided educational assistance from gross income.

NSPE, a nonprofit organization headquartered in Washington, and the ASME represent an aggregate membership of more than 156,000 individual members engaged in virtually all disciplines of engineering and are particularly concerned with the subject of tuition aid exemptions since professional engineers must continuously upgrade and increase their educations in order to remain current with the rapidly changing nature of modern technology. Many states, in fact, currently require professionals in all fields to continue classroom studies as a requisite for practicing their profession. Professional engineers, therefore, are profoundly affected by recent interpretations by the Internal Revenue Service which make certain educational and training tuition payments taxable.

Specifically, tuition payments for training or education intended to prepare an employee for a new position or occupation, and training for which a continuous service agreement is required, have been ruled by the Internal Revenue Service to be taxable income. NSPE and ASME are concerned that present and projected costs of education already prevent many Americans from obtaining the education necessary to qualify for present or future positions in the job market. The IRS rulings on employer-assisted tuition make that education even more unobtainable.

Further, the IRS has ruled that employers must withhold taxes from salaries of employees when they provide continuing education assistance. As a result, an employer who might otherwise provide part or all of the cost of continuing education will be discouraged from helping professional employees update their knowledge. NSPE and ASME are concerned that such a situation will result in a decrease of the educational levels for engineers and other employees.

Our societies believe that such a situation cannot be permitted at a time when the tradition of American technological superiority is being challenged constantly. This challenge comes not only from modern-day problems but also from foreign competition which threatens our Nation's standing as the worlds most innovative country and largest exporter of high-technology goods and services.

We strongly feel that any loss of tax revenue due to exempting tuition aid would be more than offset by the additional tax revenue derived from increased earnings of employees advancing their careers and by the increased productivity and social effectiveness of better educated Americans.

It is clear that legislative relief is needed from the IRS rulings and for this reason, NSPE and ASME urge the members of the Committee to support S. 2388. In doing so Congress can restructure a misguided tax situation which currently penalizes individuals for improving themselves and at the same time preserve and encourage our Nations competition in the international marketplace.

NSPE and ASME wish to assure the Committee of our continued interest in this subject and of our willingness to be of assistance to the Committee in any way possible.

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MAY 12, 1978.

DEAR SENATOR: The presidents of the undersigned, professional engineering societies representing over half a million members urge you to support and co-sponsor Senator Packwood's S. 2388, which provides for the exclusion of educational assistance from gross income.

The legislation is necessary because of recent interpretations of IRS regulations. The IRS has been taking an increasingly restrictive view as to what constitutes job related education. The effect has been to require employees to pay income tax on any educational support received from their employers which advances their careers, prepares them for a new job or enhances their skills or knowledge of their profession. Further, employers must withhold taxes from the salary of an employee when he does provide such continuing education opportunities.

The ruling profoundly affects the entire working public from unskilled workers to professionals. An unskilled, entry level worker is less likely to be able to afford training courses that his employer might provide—training that could determine his future and status in life. As presently interpreted, an apprentice could have to shoulder the burden of his own apprenticeship program. An employer who might otherwise provide part or all of an entry level workers education is less likely to assume the additional bookkeeping entailed in withholding taxes—and an entry level worker is less likely to be able to afford the courses on his own. Clearly, the consequence will be to stifle initiative and to keep the worker at a lower economic and social level.

The professionals, including engineers, must continually update their skills and knowledge in order to keep pace with rapidly changing technology. Indeed, many states now require professionals to take a certain number of classroom courses to maintain their legal right to practice. The IRS regulations, as presently interpreted, would discourage employers from aiding engineers in the update of their skills. This will almost certainly mean a decrease in educational levels for engineers—something we cannot afford in an era when American technology will be meeting its greatest challenge from both domestic problems and from competition for technical superiority from abroad.

We further believe that the amount of revenue expected to be gained by the IRS actions is insignificant, especially when compared to the additional revenues from workers who earn more because of enhanced capabilities.

For these reasons we strongly support S. 2388 which clarifies congressional intent regarding support for continuing education. We urge you to support this important bill. Further, we ask you to lend your name to the legislation in co-sponsorship. For we feel that it is only with widespread, bipartisan support that this most important piece of legislation can be enacted in this session of the Congress.

Sincerely,

S. Peter Kezios, President, The American Society of Mechanical Engineers; Otis E. Lancaster, President, The American Society for Engineering Education; F. A. Cleveland, President, The American Institute of Aeronautics & Astronautics; W. A. Clevenger, President, The American Consulting Engineers Counsel; and Edward S. Roth,

President, The Society of Manufacturing Engineers.

William Gibbs, President, The American Society of Civil Engineers; Ivan A. Getting, President, The Institute of Electrical & Electronics Engineering; Wm. H. Corcoran, President, The American Institute of Chemical Engineers; and D. A. Schmand, President, The National Society of Professional Engineering.

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JUNE 19, 1978.

Senator BOB PACKWOOD,
*U.S. Congress,*
*Washington, D.C.*

DEAR SENATOR PACKWOOD: The American Institute of Chemists views with considerable concern interpretations of the Internal Revenue Code which could make certain employer sponsored continuing education activities subject to a personal tax liability by recipients. As we understand these rulings, chemists and other participants in such programs would have to pay income tax on any educational support which is judged by the Internal Revenue Service to (1) advance their careers, (2 enhance their skills or knowledge of their profession, or (3) prepare them for a new position. We further understand that the IRS has ruled that employers must withhold from an employee's salary taxes equivalent to the value of a given educational program.

Such rulings if consistent with current taxing authority, strike at the very fiber of professionalism and serve as a deterrent to the effective rendering of competent services by chemists and all others in professional callings. The Institute, since its founding in 1923, has endorsed the concept of continuing education, a precept still to be found in the second of its ten objects. It is fostered further by a program of professional certification which officially recognizes and credentials chemists and chemical engineers who regularly attend continuing eduaction programs and take other steps to assure their ability to render competent service.

It can be argued that virtually every continuing education program in which the chemical scientist participates meets one if not all three of the taxability criteria noted above—whether that program is within the discrete area of competence of the practitioner or whether it is in a closely allied field which can broaden his knowledge. Clearly, these rulings strain credibility, and corrective action seems imperative to assure that a more balanced perspective towards reasonable professional development can be restored.

It is clear that you and your associates on the Senate Finance Committee perceive the need for action through your bill, S. 2388. This matter has been discussed by our Executive Committee which, under appropriate emergency legislative authority of our Board of Directors, has asked that our views in support of your measure promptly be conveyed to you and your associates. Failing adoption of such a measure, we predict that a chaotic condition will overtake the professions, inhibit orderly professional development of our members and other chemists, and ultimately have a deleterious impact on the technological growth of our country.

This letter is written on behalf of the more than 5,000 chemists and chemical engineers who comprise our membership, the vast majority of whom have been awarded Fellow status by virtue of their accomplishments and leadership in chemical science.

Sincerely yours,

O. A. BATTISTA, FAIC, CPC.

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WASHINGTON, D.C.,
*June 19, 1978.*

Hon. BOB PACKWOOD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PACKWOOD: The Institute of Electrical and Electronics Engineers (IEEE) wishes to express to you its concern regarding the taxation of employer educational assistance as a part of gross income of the employees. We feel that this taxation policy is an encumbering and unnecessary deterrent to self-improvement; therefore, we support legislation efforts to exclude such employer educational assistance from taxation as gross income.

In this regard, please find attached the IEEE position in support of your Senate Bill (S. 2388) as well as HR 11509 and HR 12421 for the exclusion of employer educational assistance from the gross income of employees for tax purposes. We enthusiastically endorse your efforts and the efforts of Senators Javits, Nelson and Moynihan, and Representatives Steiger and Lloyd. If I can be of assistance to you and your committee in this regard, please contact the IEEE Washington Office without hesitation.

Sincerely,

BRUNO O. WEINSCHEL.

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IEEE POSITION IN SUPPORT OF SENATE BILL S. 2388 AND HOUSE BILLS H.R. 11509 AND H.R. 12421 PROVIDING FOR THE EXCLUSION OF EMPLOYER EDUCATIONAL ASSISTANCE FROM THE GROSS INCOME OF EMPLOYEES FOR TAX PURPOSES

IEEE supports and recommends passage of the Senate Bill S. 2388 sponsored by Senators Packwood (R-OR), Javits (R-NY), Nelson (D-WI) and Moynihan (D-NY), and the House of Representatives Bills H.R. 11509 sponsored by Representative Steiger (R-WI), and H.R. 12421 sponsored by Representative Lloyd (D-TN).

The IEEE, founded 1884, is the world's largest technical professional engineering society. One hundred and fifty thousand of our members reside in the United States. Our members are volunteers with expertise in the engineering aspects of power, energy, communications, transportation and biomedicine, as well as numerous related fields. The purposes of the Institute, as defined by its constitution, are scientific, educational, and professional. Historically the IEEE has promoted electrical engineering, electronics, and related fields within engineering, arts and sciences. In 1973, the Institute established the United States Activities Board (USAB), a mechanism through which the IEEE provides its perspective on socioeconomic, political and professional interests.

The IEEE believes this legislation is necessary because the present Internal Revenue Service regulations requiring employees to pay tax on any educational support they get from their employers which advances their career or prepares them for a new job, is not only a broad scale deterrent to employer-supported continuing education, but is also an especially significant hindrance for lower income employees and minorities who may need more education to advance themselves. These employees must pay tax on the education "income" which they never actually receive as compensation.

We believe the current regulations are not only inadequate and vague, but discriminatory as well. The present Federal government tax regulations conflict with the Federal government's affirmative action initiatives.

The proposed new law would eliminate the obvious inequity for educational opportunity and the widespread confusion in tax withholding practices. Recent studies have confirmed that employer withholding practices vary widely; however, it has also been confirmed that many more employees participate in tuition aid programs when the employer does not withhold income tax for educational expenses.

Learned Societies such as IEEE endorse and sponsor Continuing Education programs designed to enhance the value of the engineer and scientist to the employer, and to further the career development of the individual. The growth of Continuing Education programs, and subsequent increased participation in them has been inherently dependent upon employer funding and the freedom of these costs from taxation to the individual. In turn the benefits derived from the increased productivity of those individuals are of immeasurable value to our nation.

The IEEE, therefore, endorses passage of S. 2388, H.R. 11509 and H.R. 12421, and solicits other support for passage in order to ameliorate this hinderance to Education in the United States.●

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## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

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## TIME-LIMITATION AGREEMENT—S. 2234

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 720, S. 2234, the Bureau of Land Management authorization, is called up and made the pending business, that there be a time agreement thereon of 1 hour to be equally divided between Mr. BUMPERS and Mr. HANSEN; 30 minutes on any amendment; 20 minutes on any debatable motion or appeal, and that when the bill has been advanced to third reading, the Senate proceed to the consideration of Calendar Order No. 907, the companion House bill; that the Senate then proceed to its immediate consideration, and that all after the enacting clause be stricken and that the Senate language be inserted in lieu thereof, and the bill be advanced to third reading without further amendment or debate or motion, and the Senate then proceed with final passage, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## TIME-LIMITATION AGREEMENT—S. 2820

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when Calendar Order 741, S. 2820, Federal reclamation dams, is called up and made the pending business before the Senate, that there be a time limitation thereon of 1 hour to be equally divided between Mr. JACKSON and Mr. HANSEN; that there be a time limitation on any amendment of 30 minutes; that there be a time limitation of 15 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## TIME-LIMITATION AGREEMENT—S. 2474

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 791, S. 2474, the public health assistance bill, becomes the pending business before the Senate, there be a 1-hour time limitation on debate to be equally divided between Mr. KENNEDY and Mr. JAVITS; that there be a 30-minute time limitation on any

amendment, with the proviso that 1 hour be allotted to an amendment by Mr. KENNEDY; that there be 15 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday to hold a hearing on the nomination of John McGarry of Massachusetts and Samuel D. Zagoria of Maryland, each to be a Commissioner of the Federal Elections Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination under U.S. Air Force on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, I rise only to advise the majority leader that this nomination is cleared on our executive calendar, and we have no objection to proceeding to its consideration and confirmation.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, the Senate is now in executive session.

## U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Lt. Gen. John William Pauly, U.S. Air Force, to be a general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the confirmation was confirmed.

Mr. BAKER. I move to lay that motion on the table.

Tho motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the Senate is now in legislative session.

## INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the minority leader, I ask unanimous consent that upon disposition of the amendment by Mr. GOLDWATER tomorrow, and any amendment thereto, if such is offered and adopted, the distinguished minority leader be recognized to call up his amendment. I make this request so that it will allow some time for other Senators to complete the preparation of their amendments. The Senate will also be informed as to what the program is for tomorrow up to circa noon.

Mr. BAKER. Mr. President, if the majority leader will yield——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I would be happy to do that. I might say this is an amendment on which the order provides for an hour and a half under my control.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9:30 tomorrow morning. After the two leaders have been recognized under the standing order, the Senate will resume consideration of the pending business, the Foreign Assistance Act, S. 3075.

The pending question at that moment will be on the adoption of the amendment by Mr. GOLDWATER, on which there will be a 1-hour time limitation.

It is my understanding that an amendment will likely be offered to that amendment, probably by Mr. STEVENSON, and if that be the case there is 30 minutes allotted to the amendment in the second degree.

Upon the disposition of the amendment by Mr. GOLDWATER, the Senator from Tennessee (Mr. BAKER) will be recognized to call up his amendment, on which there is a time limitation of 1½ hours, and at the time that amendment is disposed of I assume that Mr. PERCY would probably be prepared to call up his amendment, and Mr. GLENN would be prepared to address the amendment on this side of the aisle. On that amendment there is a 4-hour limitation.

I think the prospects look very good now, Mr. President, for completing this bill tomorrow. As a matter of fact the leadership intends to complete the bill on tomorrow, and I hope the Senate will not have to be in session too late to complete action on the measure. I hope that some of the amendments that have been coming out of the woodwork will crawl back in the woodwork overnight.

## RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 6:41 p.m. the Senate recessed until tomorrow, Wednesday, July 26, 1978, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 25, 1978:

THE JUDICIARY

Patricia J. E. Boyle, of Michigan, to be U.S. district judge for the eastern district of Michigan, vice Damon J. Keith, elevated.

Julian A. Cook, Jr., of Michigan, to be U.S. district judge for the eastern district of Michigan, vice Lawrence Gubow, deceased.

Harry E. Claiborne, of Nevada, to be U.S. district judge for the district of Nevada, vice Bruce R. Thompson, retiring.

## CONFIRMATION

Executive nomination confirmed by the Senate July 25, 1978:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be general*

Lt. Gen. John William Pauly, [redacted], U.S. Air Force.

# HOUSE OF REPRESENTATIVES—*Tuesday, July 25, 1978*

The House met at 12 o'clock noon.

Rabbi A. Aaron Segal, B'Nai Israel Congregation, Wilmington, N.C., offered the following prayer:

Lord, Supreme Creator, we praise, magnify, and sanctify Thy name: With gratefulness, we feel unshakeable commitment to Your divine decree from the sacred Biblical text of Leviticus: "Proclaim ye liberty throughout the land, to all the inhabitants thereof."

This message etched upon our Liberty Bell in Philadelphia is the reminder of our country's unswerving, unyielding ideology, as a guide to America and all mankind.

May our blessed U.S.A. forever serve as an enlightened example throughout the world for the fullest freedom from oppression, servitude, injustice, and dictatorial caprice.

May all the deliberations, discussions, debates, and decisions of our esteemed U.S. Representatives this day again reflect the ideals and principles of our democracy, from Pilgrim Fathers to our present citizenry. Amen.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 1024. Joint resolution making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8336. An act to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes; and

H.R. 12240. An act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12240) entitled "An act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. INOUYE, Mr. HATHAWAY, Mr. HART, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, Mr. WALLOP, and Mr. MATHIAS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1484. An act for the relief of Michael Bruce Holland;

S. 1951. An act for the relief of Jozef Swiderski;

S. 2248. An act for the relief of Susanna Shu-hui Jean;

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley;

S. 2534. An act to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations;

S. 2617. An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes;

S. 3069. An act to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members;

S. 3085. An act to extend and amend the special supplemental food program and the child care food program, and for other purposes; and

S. Con. Res. 32. Concurrent resolution relating to broadening the observance of Thanksgiving to an occasion of sharing our plenty with the hungry of other lands.

## RABBI A. AARON SEGAL

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker and my colleagues, it has been our privilege to welcome to our midst today for purposes of opening this session with prayer, Rabbi Aaron Segal from my congressional district in southwestern North Carolina and rabbi of the B'Nai Israel Congregation in Wilmington, N.C.

Rabbi Segal was born in Jerusalem, Israel, in 1916. He came to the United States in 1923. He studied at the Hebrew Theological College.

Among his many honors, he has served as chaplain at the Mayo Clinic in Rochester, Minn.

Rabbi Segal is a great friend of the United States of America. He is a fighter for freedom and an opponent of injustice wherever it may occur in this world.

Mr. Speaker, it has been our pleasure to have him, and I thank the House for receiving him.

## TV SPECIAL MALIGNS CALIFORNIA'S MARIN COUNTY

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, last Thursday night NBC television had a special on what was purported to be the lifestyle in Marin County, Calif. The program was a total distortion of the people who live within the county of Marin, which I am pleased to represent.

By focusing on the lifestyles of a small segment of that population, the television program would tend to give the American people the idea that everyone in Marin County lives some kind of hedonistic existence. It would be not unlike having a television special focusing on San Francisco but conducting only interviews of the people of the Maltese community in San Francisco, giving the people throughout this land the impression that the entire county of San Francisco is made up of hard-working Maltese Americans.

Mr. Speaker, I will have more to say about this television special in the future. I think it really is an example of how the media can distort things and give a false impression throughout this land, in this case besmirching one of the most beautiful counties in this Nation.

## PRESIDENT URGED TO MAKE APPOINTMENTS TO NATIONAL COMMISSION ON SOCIAL SECURITY

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, 7 months and 5 days ago the President signed into law the social security bill. In that bill there was a provision creating, by statute, the National Commission on Social Security, which has the statutory mandate to consider and review for the first time in 36 years the entire social security system and make recommendations for its fundamental change to serve our Nation's needs for the future.

To date the President has failed to name the members that he is required by law to name to that Commission. Our Speaker has already named his appointees. The Commission cannot begin its work until the administration names its appointees.

Mr. Speaker, I take this occasion, which I hope will not have to be repeated, to urge President Carter to make his appointments promptly so this important National Commission on Social Security can commence its work. There really is no good reason why it has taken this long to implement this law.

## RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF HOUSE SELECT COMMITTEE ON AGING

The SPEAKER laid before the House the following resignation as a member of the House Select Committee on Aging:

WASHINGTON, D.C.,
*July 18, 1978.*

Hon. THOMAS P. O'NEILL, JR.,
*Speaker, House of Representatives, H-205, The Capitol, Washington, D.C.*

DEAR MR. SPEAKER: I hereby submit my resignation as a Member of the House Select Committee on Aging.

Respectfully submitted.

WILLIAM F. WALSH,
*Member of Congress.*

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to clauses 6 (e) and (g), of rule X, the Chair appoints as a member of the select Committee on Aging the gentleman from Washington, Mr. CUNNINGHAM, to fill the existing vacancy.

## APPOINTMENT OF CONFEREES ON H.R. 12240, INTELLIGENCE AND INTELLIGENCE-RELATED PROGRAM AUTHORIZATION ACT

Mr. BURLISON of Missouri. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12240) to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central In-

telligence Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROBINSON. Mr. Speaker, reserving the right to object, I do so only for the purpose of saying that, as a designated conferee on this important legislation, the minority does not have any objections to going to conference with the waiver, and I hope there will be no objection in order that we may get on with this important business.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri? The Chair hears none, and appoints the following conferees: Messrs. BOLAND, BURLISON of Missouri, MINETA, and ROBINSON, and for consideration of differences with the Senate on intelligence-related activities, Messrs. PRICE, ICHORD, and BOB WILSON.

## CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 589]

| | | |
|---|---|---|
| Ambro | Fraser | Patterson |
| Andrews, N.C. | Frey | Pritchard |
| Armstrong | Garcia | Quie |
| Ashley | Giaimo | Reuss |
| Badham | Goldwater | Rosenthal |
| Burton, Phillip | Hagedorn | Santini |
| Cederberg | Harrington | Sarasin |
| Clawson, Del | Harsha | Scheuer |
| Clay | Heckler | Shipley |
| Cochran | Howard | Shuster |
| Collins, Ill. | Ireland | Sikes |
| Conyers | Kasten | Sisk |
| Cotter | Kastenmeier | Stokes |
| Danielson | Le Fante | Teague |
| Dellums | Leggett | Thompson |
| Dent | McDade | Tsongas |
| Diggs | McKinney | Tucker |
| Dodd | Maguire | Udall |
| Early | Mann | Vander Jagt |
| Eckhardt | Meeds | Waxman |
| Edwards, Ala. | Michel | Whalen |
| Edwards, Calif. | Mikva | Whitten |
| Fenwick | Milford | Wiggins |
| Flowers | Moffett | Wirth |
| Flynt | Moorhead, Pa. | Young, Alaska |
| Ford, Mich. | Murphy, N.Y. | |

The SPEAKER pro tempore (Mr. SHARP). On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

## COST-OF-LIVING ADJUSTMENTS FOR RETIRED COMPTROLLERS GENERAL

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12196) to provide for cost-of-living adjustments in the annuity of a retired Comptroller General and for other purposes.

The Clerk read as follows:

H.R. 12196

*Be in enacted by the Senate and House of Representatives of the United States of America in Congress asembled,* That section 319 of the Budget and Accounting Act, 1921, is amended—

(1) in subsections (b) and (c) by striking "3" wherever it appears and inserting "4½" in lieu thereof:

(2) in paragraph (2) of subsection (e) by striking everything following "equal to", and inserting in lieu thereof, ": (i) $1,548; or (ii) $4,644 divided by the number of children, whichever is lesser; or";

(3) in paragraph (3) of subsection (e) by inserting ": (i)" immediately after "equal to" and by striking everything following "survived," and inserting in lieu thereof "divided by the number of children; or (ii) $1,860; or (iii) $5,580, divided by the number of children; whichever is the smallest.";

(4) in subsection (n) by striking "the last five years of such service" and inserting in lieu thereof "those three years of service in which his annual salary was greatest", and by striking "37½" and inserting "40" in lieu thereof.

SEC. 2. The Budget and Accounting Act, 1921, is amended by adding after section 319 a new section as follows:

"SEC. 320. The annuities authorized by sections 303 and 319 of this Act shall be increased as follows:

"(1) The Comptroller General shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the Consumer Price Index published for December of the preceding year over the Consumer Price Index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the Consumer Price Index published for June of such year over the Consumer Price Index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the Consumer Price Index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable under sections 303 and 319 of this Act having a commencing date not later than such March 1 shall be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable under sections 303 and 319 of this Act having a commencing date not later than such September 1 shall be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum.

"(3) The per centum increase authorized by the Comptroller General under this section shall not exceed the per centum increase as authorized from time to time by the Civil Service Commission under section 8340(b) of title 5, United States Code.".

SEC. 3. The provisions of the first section and section 2 of this Act shall become effective upon the date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will simply bring up to date the retirement and survivorship benefits provided for the Comptroller General. At the time those benefits were first enacted in 1953, they were patterned on retirement and survivorship provisions that applied to Federal judges. In 1959, the law was amended to provide benefits for the widow and dependent children of a deceased Comptroller General on the same basis as those provided to widows and dependent children of Federal judges. Since then, there have been no adjustments, and there has been no change of any kind in the Comptroller General's benefits since 1953. Former Comptroller General Lindsay Warren drew the same annuity from the time of his retirement in 1954 until his death in 1976.

The principal change that has been enacted during that time for Federal judges was a 1976 law authorizing cost-of-living adjustments to their annuitants. Cost-of-living adjustments are also provided for annuitants under the Civil Service Retirement Act and other retirement laws. H.R. 12196 would apply that same cost-of-living adjustment to the annuity of the Comptroller General. It would also update the annuities of dependent children and widows to make them similar to the judges' program. At the same time, the bill would increase from 3 percent to 4½ percent the amount of contribution a Comptroller General makes for survivor benefit coverage.

Mr. Speaker, this bill would affect only three individuals—the current Comptroller General, one retired Comptroller General, and one surviving spouse. The Congressional Budget Office estimates its cost at less than $10,000 a year for the next 5 years.

This is simply a matter of equity—a matter of carrying out congressional intent—and I urge approval of the bill.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill H.R. 12196 is a simple but justified bill in its purpose, which is to provide cost-of-living adjustments in the annuity of a retired Comptroller General. The Legislation and National Security Subcommittee as well as the full Government Operations Committee examined the bill and unanimously reported it.

As we discovered during subcommittee hearings, the Comptroller General is the only official of GAO who does not have a cost-of-living adjustment in the retirement annuity. This bill remedies that shortcoming. It also brings the Comptroller General's retirement annuity in line with the retirement and survivorship benefits of Federal judges. Congress decided in 1953 that the Comptroller General's benefits should be keyed to the retirement program of judges in the Federal courts. Federal judges, however, receive the benefit of subsequent increases in the salary of the office after they retire. The Comptroller General does not. This bill seeks to remedy that unfortunate oversight.

The Congressional Budget Office, in its cost estimate of the bill, confirmed in a letter to our committee chairman, Mr. BROOKS, that H.R. 12196 will affect only three individuals: the current Comptroller General, one retired Comptroller General, and one surviving spouse. The Budget Office further estimated that the cost of this legislation will be less than $10,000 per year over the next 5 years.

Mr. Speaker, this is a reasonable and worthy adjustment, so I recommend the approval of H.R. 12196 here today.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Speaker, I take this opportunity just to ask the chairman a couple of questions. I realize that the $10,000 a year seems very insignificant, but as I sense the mood of the country, they are most upset with a lot of State, local, and Federal Government retirement programs, and I think they are telling us they would like to have us bring them down, not to bring others up. The questions I would pose to the chairman are the following:

First of all, am I right that his term is limited to 15 years?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. GOODLING. The judge's lifetime term might be 18, 20, 30 or 40 or more years, but the Comptroller General is 15 years. Second, am I correct that he receives as his retirement benefit whatever he made as his salary when he retired?

Mr. BROOKS. Correct.

Mr. GOODLING. Is that at the present time $45,000?

Mr. BROOKS. That is not correct.

Mr. GOODLING. Is it more than that?

Mr. BROOKS. Yes.

Mr. GOODLING. Then my arithmetic will be wrong because, as I figured, in 15 years, if one multiplies that by the 3 percent he pays in, the most he can possibly pay in is $20,000, and the very first year in retirement he receives more than double what he paid in.

I guess my concern is that we may decide then to model the congressional retirement system after that, or maybe every other federal system. I just think we should be working toward bringing down some of these ridiculous retirement programs rather than trying to bring those that are down up to some other program. I think, really, when we look at the Comptroller General's retirement program it is a most desirable program that we would all like to be a part of.

Does the gentleman know what the salary is?

Mr. BROOKS. I think it is about $57,500. I would further bring to the gentleman's attention that the Comptroller General, just like Federal judges, does not pay anything into that retirement program. The only contributing sum that they pay is for their dependent widows and surviving children, and that would be raised from 3 to 4.5 percent.

Mr. GOODLING. That even makes it a much more beneficial program. The gentleman and I are paying in 8 percent and not doing nearly as well.

Federal judges pay none, just like the Comptroller General. This is under the previous law Congress has already passed.

Mr. GOODLING. The only point is that the nonpublic employees in this country would like for us to reduce the judges' retirement program, rather than bringing everybody else up to the judges.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 12196.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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## RESERVISTS' RETIREMENT ELIGIBILITY

Mr. NICHOLS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11823) to amend section 1331(c) of title 10, United States Code, to allow certain otherwise ineligible reservists to become eligible for retired pay, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11823

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1331(c) of title 10, United States Code, relating to retired pay for nonregular service, is amended by striking out "unless he" the first place it appears and all that follows in such section and inserting in lieu thereof "unless—

"(1) he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947; or

"(2) he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, after August 13, 1961, and before May 31, 1963, or after August 4, 1964, and before March 28, 1973.".

SEC. 2. The amendment made by this Act shall apply with respect to retired pay payable for months beginning after September 30, 1978, or the date of the enactment of this Act, whichever is later.

The SPEAKER pro tempore. Is a second demanded?

Mr. MITCHELL of New York. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. NICHOLS) will will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 11823 is to extend eligibility for Reserve retirement benefits to certain individuals who participated in the Reserve prior to August 16, 1945, but who are presently barred from receiving those benefits because they did not serve on active duty during World War I, World War II, or Korea, if they served on active duty (other than for training) during the Berlin or Cuba crises or during Vietnam.

Chapter 67 of title 10, United States Code establishes retired pay for reservists and national guardsmen who meet certain age and service requirements. In general, individuals who have reached age 60 and have accumulated 20 years of creditable service are entitled to retired pay. However, current law prohibits the payment of retired pay to any person who, prior to August 16, 1945, was a member of the nonregular military service (that is, Army Reserve, Army National Guard, and so forth) and who had failed to serve on active duty during either World War or the Korean War.

H.R. 11823 would extend eligibility for retirement benefits to those who had served on active duty (other than for training) during the Berlin or Cuban crises or Vietnam. Such an extension would continue the intent of the Congress when it previously extended eligibility to members of the pre-1945 group who served during Korea. This provision extends benefits to those who have removed any shadow of doubt of their willingness to place themselves in a situation of potential risk in service to their Nation.

However, recognizing that there may be other members of the pre-1945 group who are justly deserving of benefits, the Department of Defense has been asked to provide an indepth report regarding the circumstances surrounding the nonutilization of individuals who participated in the Reserve before and after World War II but who did not serve on active duty during World War II. In addition, the Department has been requested to assess its capability to evalu-

ate claims of individuals regarding their specific circumstances during World War II.

The Congressional Budget Office estimates the first-year cost at only $620,000. This cost would rise to $775,000 by the fifth year. The Department of Defense has estimated that approximately 100 additional reservists would be eligible for retirement upon enactment of this legislation.

These members have served their Nation for over 20 years. They have served on active duty during a period of conflict. They have indicated their willingness to incur the risk involved in military service. They deserve the benefits afforded by this bill.

Mr. Speaker, I ask the Members to support my motion.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I add my support to the motion of the gentleman from Alabama (Mr. NICHOLS).

Congress' principal purpose in establishing a retirement benefit for reservists was to maintain and enhance the Nation's combat readiness by inducing new recruits to enlist in the Reserve and National Guard after World War II and to provide an incentive for such reservists to serve a full 20 years. In addition, Congress wished to show the Nation's gratitude to those reservists and National Guardsmen who had served on active duty during wartime, and its need of their continued services, by providing retirement benefits upon completion of satisfactory service.

There are undoubtedly individuals who participated in the Reserve or National Guard prior to August 16, 1945, who through no fault of their own—and perhaps even in spite of efforts on their part—did not serve on active duty during World War I, World War II, or Korea. Many members of the Reserve and National Guard today have not and will not be provided the opportunity to serve on active duty during a period of hostilities. On the other hand, some individuals undoubtedly purposefully avoided coming to the aid of the Nation in its time of greatest need. The present law insures that most, if not all, of those in the latter category do not receive any benefit. However, it also probably bars receipt of retired pay by those who do justly deserve the benefits.

Extending Reserve retirement benefits to those presently barred but who served on active duty—other than for training—during the Berlin or Cuban crises or during Vietnam represents an action that has a precedent in the extension of retirement benefits to those who served during Korea. In addition, individuals who were on active duty—other than for training—during these latter crisis periods have indicated their willingness to serve the Nation in time of need.

Mr. Speaker, I urge my colleagues to support the motion.

● Mr. OBERSTAR. Mr. Speaker, I strongly support H.R. 11823 to grant retirement benefits to those pre-World War II reservists who did not serve during World War II or the Korean Conflict, but who later were called up and served on active duty during the Berlin blockade or the Cuban missile crisis.

I do feel we are remiss, however, in not facing at this same time the merits of the retirement claims of those reservists ineligible under present law who were precluded from entering on active duty service during World War II. My reference is to two specific groups; one, those who were physically disqualified from active military duty even though they met the physical standards of the National Guard and, two, those whose World War II occupation was so essential to the war effort that they were not permitted to relinquish their civilian occupation.

I recognize and share the concern of those of my colleagues who wish to withhold retirement annuities from those few pre-World War II reservists who deliberately, through whatever ruse they could devise, avoided meeting their obligation to their Nation. At the same time, we should not arbitrarily and vindictively refuse to look at these cases one by one to insure ourselves that we are not unjustifiably depriving honorable men of benefits they are due through long years of service to their State and country.

My attention was called to this issue by a constituent who served nearly 30 years in the National Guard and learned when he reached his 60th birthday this June that he was ineligible for retirement. He wrote to me to ask for an explanation of his exclusion from benefits and in researching his military record, I learned he fits both categories I described above.

My constituent was a member of the National Guard before World War II, but when his unit was called up, he was classified IV–F because he was totally deaf in one ear. However, he was not content to sit out the war in the relative safety of the Midwest.

To find a way to serve his country, this man traveled to the west coast, worked nights in defense shipyards and went to maritime school during the day. When he completed his schooling, he signed onto a merchant vessel and served 11½ months in the Pacific theater. His vessel then moved to the Atlantic Ocean and he served out the balance of the war transporting supplies and troops across the English Channel as a member of the War Department's Transport Service.

As a member of the Transport Service, his occupation was classified essential and even if armed services medical standards were modified, he would not have been drafted. As I am sure my colleagues remember, under Executive order, in order to insure that defense industries had the manpower they needed, all entrants to the Armed Forces were processed by the Selective Service System and no individual over age 18 was allowed to enlist.

A further irony is involved in this man's case. That is, he was given a medical examination during the time he served in the European theater and when his physical problem was discovered, he was relieved of his deck duties. Rather than accept a discharge while the war was going on, he elected instead to take a two-grade demotion with a reduction in pay and work below decks in an assignment where perfect hearing was not considered essential.

He did not return to this country until the war was over and his vessel was decommissioned in 1946. He then rejoined his National Guard unit and served until his 60th birthday.

Earlier in this Congress, we enacted legislation (Public Law 95–202) requiring the Secretary of Defense to review the civilian service of certain categories of persons such as members of the women's air force (WASP) to determine if these persons were entitled to veterans' benefits. To implement that law, proposed regulations are now in final drafting stages prior to publication in the Federal Register. It is my understanding a Civilian Military Service Review Board, chaired by a representative of the Department of the Air Force, will be assigned the responsibility of reviewing records and making a recommendation as to whether or not the civilian service performed should be accepted or rejected as comparable to the military service performed by members of the Armed Forces.

This Board, of course, has not yet been constituted, but because of the similarity of the problem, I feel it would be appropriate for this Congress to write strict criteria and assign to this same or to a similarly constituted Board the additional task of judging the character of the alternative occupation performed by prewar reservists who failed to enter on active duty during World War II.

While this issue is before us, I would hope that we could reach a final resolution and end any present injustice to those individuals who have justly earned retirement benefits by their long years of service to their country.●

Mr. NICHOLS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MITCHELL of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill, H.R. 11823.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## DUNOIR BASIN ADDITION TO WASHAKIE WILDERNESS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12349) to provide for the DuNoir

Basin addition to the Washakie Wilderness, as amended.

The Clerk read as follows:

H.R. 12349

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in accordance with section 3(b) of the Wilderness Act (16 U.S.C. 1132(b)) certain lands in the Shoshone National Forest, Wyoming, which comprise approximately thirty-four thousand five hundred acres, as generally depicted on a map entitled "DuNoir Basin, Washakie Wilderness Additions—Proposed", dated June 1978, are hereby designated as wilderness, and shall be incorporated in, and deemed a part of the Washakie Wilderness as designated by Public Law 92-476.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the enlarged Washakie Wilderness with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such map and description shall have the same effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. The Washakie Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is legislation mandated by our earlier action of some 6 years ago in Public Law 92-476, in which we asked the Forest Service to study a 28,000-acre area in Wyoming that had at that time ended up as a problem which was unable to be solved by either putting it into a wilderness designation then or opening it to timber harvest. Those who were involved some 5 years ago agreed to maintain the area as a special management unit, and the administration has now recommended wilderness for the entire 28,800-acre study area.

We are now proposing that the 28,800-acre DuNoir Special Management Unit, which is one of the truly lovely areas of my State of Wyoming, plus some 5,700 acres of contiguous roadless lands which pose no resource conflicts, be put into a permanent wilderness designation. Before doing this, however, we took out of the proposed 43,000 acres originally in H.R. 12349 about a 9,000-acre area that has some oil and gas potential and also a proposed timber salvage sale. This enabled us to make sure there would be enough in the coming timber salvage sale to add some yield to the timber operations in Wyoming.

I would recommend to the Members, if they have an interest in this legislation, to read the report. It is an excellent report, and it was prepared by Mr. Andy Wiessner of my staff.

He visited the area just recently, and I have visited the area on several occasions, and I am very proud of it. I want to do my part in seeing that it gets the wilderness protection it so clearly deserves.

On page 2 of the report, the Members will find that we list there the fact that this is the last area of the entire upper Wind River Valley where there has not been clearcutting. I think one such area should be preserved. That is the reason we advocate this truly spectacular basin.

The Wyoming Game and Fish Department is very hopeful that we will pass this legislation because there are something like 1,000 or 1,200 elk which migrate through this basin annually, and there is a resident herd of some 300 to 400 animals in this relatively small area.

In addition, there are bighorn sheep, moose, mountain lion, mule deer, bear, and other big game.

Using field glasses, I have seen several hundred baby ducks on some of the lakes in the area.

It is also our opinion that this comprises a pristine watershed and presents outstanding opportunities for outdoor recreation activity. The watershed is important to the many ranches of the lower DuNoir Creek Valley, and it provides a year-round clean water supply. These values could be jeopardized, and certainly the elk habitat would be seriously jeopardized by logging.

There is a possibility that this legislation will go now here in the Senate, but I hope very much that they will accept this bill, which strikes a reasonable compromise between resource development and the preservations of the DuNoir Basin's incomparable values. I urge a favorable vote for the bill.

Mr. Speaker, one more item deserves mention before we end our discussion on H.R. 12349, and that is the matter of public access to the DuNoir Basin. To facilitate public access, the committee deleted approximately 60 acres at the very southern boundary of the proposed wilderness between Esmond Creek and the East Fork of DuNoir Creek. As is noted on pages 5 and 6 of the committee report, this acreage was deleted "to accommodate a trailhead and parking facilities to serve hunters and other recreational visitors to both the east and west forks of DuNoir Creek." It should be made clear, however, that by the use of the word "trailhead" the committee means only limited facilities such as parking, trash receptacles, and ramps for the unloading of horses.

In short, the trailhead should be designed as a jumping off point for those wishing to enter the wilderness, and not as a destination in and of itself. It should be emphasized, therefore, that the type of facilities envisioned by the committee do not include picnic tables, developed campgrounds or other improvements for overnight camping. These types of improvements are already present at Brooks Lake and other locations in the Upper Wind River Valley, and would be completely inappropriate for a remote and primitive area such as the general vicinity of the proposed trailhead.

I would also note that the committee report on H.R. 12349 instructs the Forest Service to establish the trailhead in a manner that will protect adjacent private lands from trespass and unauthorized use. Limiting the trailhead facilities to the minimum facilities discussed above will help insure that these private lands are not adversely impacted.

In addition, I would reiterate the committee report's expression of gratitude—and add my personal thanks—to the adjacent private landowners who have been understanding and cooperative in the committee's attempts to locate a trailhead—and right-of-way to the trailhead—that will be the least disruptive to wildlife. I am confident the Forest Service will operate and maintain the trailhead, and right-of-way to the trailhead, so that these private lands will be clearly identified as such, and the public will be aware that they are not part of the wilderness and not authorized for public use without specific permission from the landowners involved.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just briefly urge my colleagues to vote for this wilderness bill. This is one that the gentleman from Wyoming (Mr. RONCALIO) has been working on and has been urging passage for sometime.

I think it is appropriate that, as the gentleman leaves the Congress, this bill should be passed overwhelmingly as a tribute to the gentleman from Wyoming, who has served so long and faithfully as the sole Member of the House of Representatives from that State.

Mr. Speaker, the gentleman has been, indeed, a friend to the whole Rocky Mountain West, and, in most every instance that I know of, has tried to reconcile the conflicting values of wilderness, timber, and multiple-use concepts, and has in almost every instance worked out a kind of compromise that would allow these conflicting interests to wind up supporting the various wilderness bills which have been passed under his aegis.

Mr. Speaker, this is another example of the gentleman's eagerness to try to work out the conflicting interests and solve these kinds of problems.

The Congress is going to sorely miss TENO RONCALIO.

Mr. Speaker, I rise in support of H.R. 12349. This bill would designate 34,500 acres of the DuNoir Basin in the Shoshone National Forest, Wyo., as an addition to the existing Washakie Wilderness.

The DuNoir Basin is a unique and beautiful area that includes the last re-

maining nonclearcut drainage in the Upper Wind River Valley. It offers a haven for wildlife as well as outstanding opportunities for outdoor recreationists to enjoy the wilderness. Elk migrate through the basin each year, and there is a resident elk herd of about 400 animals. Bighorn sheep, moose, cougar, mule deer, and other big game share the habitat. Trail Lake, near the southern boundary of the proposed wilderness, has rare nesting trumpeter swans, as well as a thriving duck population.

As introduced by the distinguished chairman of the Subcommittee on Indian Affairs and Public Lands, Mr. RONCALIO, H.R. 12349 provided for 43,760 acres of wilderness. After considering testimony regarding potential resource conflicts, the subcommittee deleted 9,200 acres encompassing lands covered by oil and gas leases, a salvage timber sale area with some 8 million board feet of fire-damaged timber, and several hundred acres of standard timber. Another 60 acres was deleted for a trailhead facility.

As amended and reported by the committee, the bill is supported by the Carter administration, the Wyoming Department of Game and Fish, and a clear majority of the citizens living in the DuNoir area. According to the Congressional Budget Office, enactment of H.R. 12349 will result in no additional cost to the Federal Government.

Mr. Speaker, I would like to commend the sponsor and principal force behind this legislation, the gentleman from Wyoming, who retires from the Congress at the end of this session. This DuNoir Wilderness Act should stand as a monument to his diligent efforts to provide the citizens of his State and of the Nation with wilderness areas through legislation that balances fairly the often competing needs and concerns of economic and environmental interests. By accommodating legitimate concerns of affected parties and interests in evaluating relative resource values involved with wilderness, Mr. RONCALIO has brought to the floor a bill essentially without controversy or opposition. It is a pleasure to express my support for H.R. 12349 and to urge the House to approve it without delay.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 12349, as amended.

The question was taken.

Mr. BEARD of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## SOCIAL SERVICES AMENDMENTS OF 1978

Mr. CORMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12973) to amend title XX of the Social Security Act to increase the entitlement ceiling and otherwise provide for an expanded social services program, to promote consultation and cooperative efforts among States, localities, and other local public and private agencies to coordinate services, to extend certain provisions of Public Law 94–401, and for other purposes as amended.

The Clerk read as follows:

H.R. 12973

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Social Services Amendments of 1978".

INCREASE IN AMOUNTS ALLOCATED TO STATES

SEC. 2. (a) Section 2002(a)(2)(A) of the Social Security Act is amended by striking out "$2,500,000,000" and inserting in lieu thereof "the dollar figure determined under subparagraph (E) for such fiscal year".

(b) Section 2002(a)(2) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(E) The dollar figure in effect under subparagraph (A) for any fiscal year beginning on or after October 1, 1978, shall be equal to the dollar figure in effect under such subparagraph for the preceding fiscal year, increased—

"(i) in the case of any fiscal year to which clause (ii) does not apply, by an amount equal to 16 percent of the dollar figure which would have been in effect under such subparagraph for the fiscal year ending September 30, 1978, if section 3(a) of Public Law 94–401 had not been enacted, or

"(ii) in the case of any fiscal year immediately following a fiscal year for which the dollar figure in effect under subparagraph (A) exceeded the dollar figure referred to in clause (i), by an amount equal to 75 percent of the amount specified in such clause (62.5 percent of such amount in the case of the first such year);

except that in no case shall the dollar figure in effect under subparagraph (A) exceed $3,450,000,000 for any fiscal year.".

CONSULTATION WITH LOCAL OFFICIALS

SEC. 3. (a) Section 2004 of the Social Security Act is amended by inserting "(a)" after "SEC. 2004.", and by adding at the end thereof the following new subsection:

"(b) A State's comprehensive services program planning does not meet the requirements of this section unless, prior to the publication of the proposed comprehensive services program plan in accordance with subsection (a), the State official designated under paragraph (2) of that subsection gives public notice of his intent to consult with the chief elected officials of the political subdivisions of the State in the development of that plan, and thereafter provides each such official with a reasonable opportunity to present his views prior to the publication of the plan.".

(b) Paragraph (2) of section 2004(a) of such Act (as so designated by subsection (a) of this section) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out "; and" at the end of subparagraph (J) and inserting in lieu thereof ", and"; and

(3) by adidng at the end thereof the following new subparagraph:

"(K) a description of the process of consultation that was followed in compliance with subsection (b) of this section, and a summary of the principal views expressed by the chief elected officials of the political subdivisions of the State in the course of that consultation; and".

(c) Section 2007 of such Act is amended—

(1) by striking out ", and" at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and" and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'political subdivisions of the State' means those areas of the State that are subject to the jurisdiction of general purpose local governments.".

MULTIYEAR PLAN

SEC. 4. (a) Paragraph (1) of section 2004(a) of the Social Security Act (as so designated by section 3(a) of this Act) is amended to read as follows:

"(1) the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's services program period, and the end of such fiscal year or the succeeding fiscal year is established as the end of the State's services program period; and".

(b) Section 2004(a) of such Act (as so designated) is amended by adding at the end thereof (after and below paragraph (5)) the following sentence:

"In any case where a State's services program period extends for two fiscal years (as permitted under paragraph (1)), such State's services program planning meets the requirements of this section only if its comprehensive services program plan also provides that additional public comment on such plan will be accepted for a period of at least forty-five days immediately preceding the beginning of the second such fiscal year.".

(c) Section 2004(a) of such Act (as so designated) is further amended—

(1) by striking out "services program year" each place it appears and inserting in lieu thereof "services program period";

(2) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4); and

(3) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "during that period".

EXTENSION OF SPECIAL PROVISIONS RELATING TO CHILD DAY CARE SERVICES AND PROVISIONS RELATING TO ALCOHOLICS AND DRUG ADDICTS

SEC. 5. (a) The amount of the limitation which is imposed by section 2002(a)(2)(A) and (E) of the Social Security Act as amended by section 2 of this Act, and which is otherwise applicable to any State for the fiscal year ending September 30, 1979, shall be reduced to the extent necessary to assure that the amount of such limitation (for such fiscal year) does not exceed an amount equal to (1) the maximum dollar amount of the limitation (imposed by such section 2002(a)(2)(A)) which would be applicable to such State for such fiscal year (without regard to the amendments made by section 2 of this Act) if section 3(a) of Public Law 94–401 had been extended so as to apply in the case of such fiscal year, plus (2) an amount equal to the sum of (A) the total amount of expenditures (i) which are made during such fiscal year in connection with the provision of any child day care service, and (ii) with respect to which payment is authorized to be made to the State under title XX of such Act for such fiscal year, and (B) the aggregate of the amounts of the grants, made by the State during such fiscal year, to which the provisions of section 3(c)(1) of Public Law 94–401 are applicable.

(b) Section 3(b) of Public Law 94–401 is amended by inserting after "the provisions of such subsection" the following: ", or which become payable to any State for the fiscal year ending September 30, 1979, by reason of section 2 of the Social Services Amendments of 1978 (but not in excess of the amount described in section 5(a)(2) of such Amendments),".

(c)(1) Section 7(a)(3) of Public Law 93-647 is amended by striking out "October 1, 1978", and inserting in lieu thereof "October 1, 1979".

(2)(A) Section 3(c)(1) of Public Law 94-401 is amended by inserting after "fiscal year specified in subsection (a)," the following: "or during the fiscal year ending September 30, 1979 (but not in excess of the amount described in section 5(a)(2) of the Social Services Amendments of 1978),".

(B) Section 3(c)(2)(A) of Public Law 94-401 is amended—

(i) by inserting "(i)" after "the amount, if any, by which"; and

(ii) by inserting after "such fiscal period or year," the following: "or (ii) the aggregate of the sums (as so described) granted by any State during the fiscal year ending September 30, 1979, exceeds the amount by which such State's limitation for that fiscal year is increased pursuant to section 2 of the Social Services Amendments of 1978 (but not in excess of the amount described in section 5(a)(2) of such Amendments),".

(3)(A) Section 3(d)(1) of Public Law 94-401 is amended by inserting before the period at the end thereof the following: ", and during the fiscal year ending September 30, 1979 (but not in excess of the amount described in section 5(a)(2) of the Social Services Amendments of 1978).

(B) Section 3(d)(2) of Public Law 94-401 is amended—

(i) by striking out "either such fiscal year" in the matter preceding subparagraph (A) and inserting in lieu thereof "any such fiscal year"; and

(ii) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the amount by which the limitation (imposed by section 2002(a)(2) of such Act) which is applicable to such State for such fiscal year is increased pursuant to subsection (a) or pursuant to section 2 of the Social Services Amendments of 1978, over".

(4) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 (definition of Federal welfare recipient employment incentive expenses) is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

(5) Section 5(b) of Public Law 94-401 is amended by striking out "September 30, 1978" and "October 1, 1978" and inserting in lieu thereof "September 30, 1979" and "October 1, 1979", respectively.

(6) Section 4(c) of Public Law 94-120 is amended by striking out "only for the period" and all that follows and inserting in lieu thereof "from and after October 1, 1975.".

EMERGENCY SHELTER

SEC. 6. Section 2002(a)(11) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) any expenditure for the provision of emergency shelter, for not in excess of thirty days in any six-month period, provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.".

SOCIAL SERVICES FUNDING FOR TERRITORIAL JURISDICTIONS

SEC. 7. (a) Section 2002(a)(2) of the Social Security Act is amended by striking out subparagraphs (C) and (D) and inserting in lieu thereof the following new subparagraph:

"(C)(i) From the amounts made available under section 2001 for any fiscal year beginning with the fiscal year 1979, the Secretary shall allocate to the jurisdictions of Puerto Rico, Guam, the Northern Mariana Islands, and the Virgin Islands for purposes of payments under sections 3(a)(4) and (5), 403(a)(3), 1003(a)(3) and (4), 1403(a)(3) and (4), and 1603(a)(4) and (5) with respect to services, in addition to any amounts available under section 1108, the applicable dollar amounts specified in or determined under clause (ii).

"(ii) The dollar amounts to be allocated to the jurisdictions of Puerto Rico, Guam, the Northern Mariana Islands, and the Virgin Islands under clause (i)—

"(I) in the case of the fiscal year 1979, shall be $15,000,000, $500,000, $100,000, and $500,000, respectively;

"(II) in the case of the fiscal year 1980 or any subsequent fiscal year, shall be amounts each of which bears the same ratio to the corresponding dollar amount specified in subdivision (I) of this clause as the dollar amount in effect under subparagraph (A) for that fiscal year (as specified in subparagraph (D)) bears to $2,900,000,000.".

(b)(1) The last sentence of section 2001 of such Act is amended by inserting before the period at the end thereof the following: "(and to territorial jurisdiction as described in subsection (a)(2)(C) thereof)".

(2) Subparagraph (E) of section 2002(a)(2) of such Act (as added by section 2(b) of this Act) is redesignated as subparagraph (D); and such subparagraph as so redesignated is further amended by striking out "except that in no case" in the matter following clause (ii) and inserting in lieu thereof "except that the dollar figure determined under the preceding provisions of this subparagraph for any fiscal year shall be reduced by the sum of the amounts to be allocated to the territorial jurisdictions for that fiscal year under subparagraph (C), and in no case".

(B) The first sentence of section 2002(a)(2)(A) of such Act (as amended by section 2(a) of this Act) is amended by striking out "(E)" and inserting in lieu thereof "(D)".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 2002(a)(3)(B) of the Social Security Act is amended—

(1) by striking out "annual"; and

(2) by striking out "2004(2)(B) and (C)" and inserting in lieu thereof "2004(a)(2)(B) and (C)".

(b) Section 2003(b) of such Act is amended by striking out "services program year" each place it appears and inserting in lieu thereof "services program period".

The last sentence of section 2003(d)(1) of such Act is amended by striking out "2004(1)" and "services program year" and inserting in lieu thereof "2004(a)(1)" and "services program period", respectively.

(d) Section 2003(e)(1) of such Act is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (d)".

(e) Section 2005 of such Act is amended by striking out "service program year" and inserting in lieu thereof "services program period".

(f) Section 1108(a) of such Act is amended by striking out "2002(a)(2)(D)" in the matter preceding paragraph (1) and inserting in lieu thereof "2002(a)(2)(C)".

EFFECTIVE DATE

SEC. 9. This Act and the amendments made by this Act shall be effective with respect to fiscal years beginning after September 30, 1978; except that the amendment made by section 3 shall be effective, in the case of any State that has published a proposed comprehensive services plan for the fiscal year 1979, only with respect to its next succeeding comprehensive service plan.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12973 is critically important legislation to insure the continuation and further expansion of social services programs affecting over 5 million people in this country. The bill provides for reasonable increases during the next 3 years in the ceiling of funds for the title XX social services program under the Social Security Act.

The $2.5 billion ceiling on funding for social services under the Social Security Act was originally established in 1972. Since then there has been only a $200 million or 8-percent increase in the ceiling on title XX funds. The result has been that States have cut back on services and limited eligibility for services. Examples of these essential services are:

Child day care services which enable low-income families to work and at the same time insure that essential services are provided for their children;

Homemaker services are provided to over 400,000 individuals, including the aged and the disabled. This enables them to continue to live in their own homes and prevents the need for costly institutional care.

Title XX funds also provide for counseling and training services for welfare recipients to enable them to increase their employment potential and assist them in obtaining employment.

The physically and mentally handicapped are provided services in their own community to enable them to have meaningful lives and oftentimes live with their own family as compared to an institution.

Many senior citizen centers are funded with title XX funds.

H.R. 12973 also provides for important improvements in the title XX planning process. These include recommendations made by the President as part of his urban policy initiative. It will involve greater cooperation between States and local officials and enable States to do longer range planning under the title XX social services program. The bill also contains a 1-year extension of a number of temporary provisions related to day care which expire on September 30.

H.R. 12973 will also provide States with greater flexibility in the use of title XX funds. It will allow States to use title XX funds for emergency shelter for adults who are in need of protective services as is now allowed in the case of children in danger of abuse or neglect. It also makes permanent certain temporary provisions of law which provide States greater flexibility in serving drug addicts and alcoholics.

The bill provides a separate title XX authorization for oscial services in

Puerto Rico, Guam, the Virgin Islands, and the Northern Marianas.

The following is a more extensive explanation of the provisions of H.R. 12973:

Section 2 raises the statutory ceiling on Federal title XX funds for fiscal 1979, the permanent ceiling would be increased to $2.7 billion plus an additional amount, not to exceed $200 million, that is to be used by States for day care services as provided under section 5 of this bill. The ceiling would be further increased to $3.15 billion in fiscal year 1980 and $3.45 billion in fiscal year 1981. The $200 million of nonmatched Federal funds for day care services would be in effect only through fiscal 1979. The following table shows estimated increases in State allocations under this bill for fiscal 1979:

TITLE XX SERVICES: ESTIMATES INCREASES IN STATE ALLOCATIONS UNDER H.R. 12973 (FISCAL YEAR 1979)

| | Full allocation if current $2.5 billion ceiling remained in effect[1] | H.R. 12973 full allocation of $2.9 billion | Amount of allocation earmarked for child care |
|---|---|---|---|
| Alabama | 42,683,000 | 49,524,000 | 3,415,000 |
| Alaska | 4,450,000 | 5,162,000 | 356,000 |
| Arizona | 26,437,000 | 30,674,000 | 2,115,000 |
| Arkansas | 24,562,000 | 28,498,000 | 1,965,000 |
| California | 250,630,000 | 290,790,000 | 20,054,000 |
| Colorado | 30,083,000 | 34,903,000 | 2,407,000 |
| Connecticut | 36,302,000 | 42,119,000 | 2,905,000 |
| Delaware | 6,779,000 | 7,864,000 | 542,000 |
| District of Columbia | 8,176,000 | 9,486,000 | 654,000 |
| Florida | 98,074,000 | 113,789,000 | 7,848,000 |
| Georgia | 57,883,000 | 67,158,000 | 4,632,000 |
| Hawaii | 10,330,000 | 11,986,000 | 827,000 |
| Idaho | 9,679,000 | 11,229,000 | 774,000 |
| Illinois | 130,778,000 | 151,733,000 | 10,464,000 |
| Indiana | 61,750,000 | 71,644,000 | 4,941,000 |
| Iowa | 33,425,000 | 38,781,000 | 2,675,000 |
| Kansas | 26,903,000 | 31,214,000 | 2,153,000 |
| Kentucky | 39,924,000 | 46,321,000 | 3,195,000 |
| Louisiana | 44,734,000 | 51,902,000 | 3,579,000 |
| Maine | 12,462,000 | 14,458,000 | 997,000 |
| Maryland | 48,263,000 | 55,996,000 | 3,862,000 |
| Massachusetts | 67,654,000 | 78,494,000 | 5,413,000 |
| Michigan | 106,030,000 | 123,018,000 | 8,484,000 |
| Minnesota | 46,178,000 | 53,577,000 | 3,695,000 |
| Mississippi | 27,416,000 | 31,809,000 | 2,194,000 |
| Missouri | 55,646,000 | 64,563,000 | 4,453,000 |
| Montana | 8,770,000 | 10,175,000 | 702,000 |
| Nebraska | 18,087,000 | 20,985,000 | 1,447,000 |
| Nevada | 7,104,000 | 8,243,000 | 569,000 |
| New Hampshire | 9,573,000 | 11,107,000 | 766,000 |
| New Jersey | 85,439,000 | 99,128,000 | 6,836,000 |
| New Mexico | 13,603,000 | 15,783,000 | 1,089,000 |
| New York | 210,613,000 | 244,361,000 | 16,852,000 |
| North Carolina | 63,694,000 | 73,900,000 | 5,097,000 |
| North Dakota | 7,490,000 | 8,689,000 | 599,000 |
| Ohio | 124,500,000 | 143,869,000 | 9,922,000 |
| Oklahoma | 32,214,000 | 37,376,000 | 2,578,000 |
| Oregon | 27,124,000 | 31,471,000 | 2,170,000 |
| Pennsylvania | 138,149,000 | 160,286,000 | 11,054,000 |
| Rhode Island | 10,796,000 | 12,526,000 | 864,000 |
| South Carolina | 33,170,000 | 38,484,000 | 2,654,000 |
| South Dakota | 7,989,000 | 9,270,000 | 639,000 |
| Tennessee | 49,079,000 | 56,942,000 | 3,927,000 |
| Texas | 145,428,000 | 168,731,000 | 11,637,000 |
| Utah | 14,302,000 | 16,593,000 | 1,144,000 |
| Vermont | 5,544,000 | 6,432,000 | 444,000 |
| Virginia | 58,605,000 | 67,995,000 | 4,689,000 |
| Washington | 42,067,000 | 48,807,000 | 3,366,000 |
| West Virginia | 21,208,000 | 24,606,000 | 1,697,000 |
| Wisconsin | 53,679,000 | 62,279,000 | 4,295,000 |
| Wyoming | 4,542,000 | 5,270,000 | 364,000 |

[1] Published Federal Register, vol. 42, No. 168, Aug. 30, 1977.

Source: Department of Health, Education, and Welfare.

These increases are essential to maintain the current level of social services provided under title XX and to allow for some expansion of certain essential services. Even with the temporary $200 million increase which has been in effect since October 1, 1976, because of inflation, title XX funds can only purchase three-fourths of what they bought in 1972 when the $2.5 billion in Federal funds was established. A number of States which have been at their ceiling for several years have been compelled to cut back important services. Some States have responded to the limited funding by lowering the income level which families must meet in order to be eligible for services, thereby reducing the eligible population.

It is intended that increases in Federal title XX funds provided by this bill go toward service expansion or offsetting cost increases resulting from inflation after fiscal 1978; and that States will not reduce non-Federal expenditures that could currently be used as a match to claim Federal title XX dollars as a result of the additional funds provided by this legislation. Such action by a State would defeat the purpose of this legislation, which is to assist States in maintaining current levels of services during a period of inflation and also to expand needed social services.

Under current law title XX requires that a State publish a proposed comprehensive annual services plan at least 90 days prior to the beginning of the services program year and receive comments on the proposed annual plan for at least 45 days. Section 3 requires States to give public notice of intent to consult with local elected officials and provide them the opportunity to present their views prior to publication of the proposed title XX plan. The principal views of the local officials are to be summarized in the proposed title XX plan. This provision was included in the President's urban policy initiative.

Section 4 provides the option for a State to establish a title XX program period for 2 years, rather than just 1 year as under current law. If a State opts for a 2-year program plan, it must provide a 45-day period prior to the beginning of the second year of the program period during which the State will receive comments on its title XX plan. Current law requires annual publication of a proposed title XX plan 90 days prior to the beginning of the services program year; receipt of comments on the proposed plan for at least 45 days, and publication of a final title XX plan prior to the beginning of the program year. The purpose of this modification in the title XX planning process is to enable a State to engage in longer term planning for social services, but at the same time allowing for annual comments on the State program from affected and interested parties.

Section 5 provides that in fiscal year 1979, in addition to the $2.7 billion provided under the ceiling, an additional $200 million in Federal funds would be available, with no matching requirement, to be used for child day care services as provided in Public Law 94-401. To qualify for this funding, States must spend for day care under title XX an amount equal to their share of $200 million.

This section also extends for another year, through September 30, 1979, other provisions of Public Law 94-401 relating to child day care services. These provisions include: First, grants to hire welfare recipients for child care services; second, the delay in implementation of certain Federal child care standards; third, modification in standards for family day care homes; and fourth, tax credits for hiring welfare recipients to provide child care services.

Included in the legislation which established the title XX social services program was a requirement that the Department of Health, Education, and Welfare submit a report with recommendations on the appropriateness of the Federal interagency day care requirements (FIDCR). On July 11, Secretary Califano submitted the appropriateness report to the Congress. I include at this point in the RECORD, the letter from Secretary Califano to the Speaker transmitting the report to the Congress:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
*Washington, D.C., July 11, 1978.*

HON. THOMAS P. O'NEILL, JR.,
*Speaker of the House of Representatives,*
*Washington, D.C.*

DEAR MR. SPEAKER: I have the honor to transmit herewith the Report on the Appropriateness of the Federal Interagency Day Care Requirements (FIDCR), pursuant to the provisions of the Social Services Amendments of 1974 (Public Law 93-647).

Support of child care arrangements for working parents and for other parents in need of day care for their children is one of the many important activities carried out by the Department of Health, Education, and Welfare. HEW-supported day care is important because it affects the care of millions of youngsters in the critical formative years of their lives.

The regulation of day care is one of the more controversial aspects of HEW administrative responsibilities. The FIDCR impose Federal regulations on certain federally funded day care programs, thus raising classic issues of the proper uses of regulatory power and the proper relationship of the Federal Government to States and municipalities. The quality of day care varies enormously across regional lines and across economic strata. Day care is fraught with subjective judgments about what is best for the child. In addition, day care has not been a target of major academic research until recent years and the amount of knowledge on the subject is still comparatively small. This report explores those issues and relationships, and proposes directions that revised Federal regulations might take.

The process of revising the FIDCR has already begun in this Department. That process, as described in this report, will involve widespread involvement of Congress, the day care community, and the public. This report pulls together and systematically investigates available material on day care. The report lays the groundwork for public discussion of the difficult choices in this area and of the trade offs that inevitably accompany those choices. The report should facilitate decisionmaking as the FIDCR revision process goes forward.

A major deficiency in the development of the original FIDCR in 1968 was the lack of public involvement. This Department intends to avoid that pitfall in the revision of the FIDCR, and to produce regulations that result from, and are worthy of, public support. This report should make that process better informed and more effective.

Department staff working on this report have attempted to respond positively to criticism and suggestions from the professional community and from the public. Congress generously and wisely granted a statutory extension of the deadline for this report, thereby greatly enhancing the quality of the report by giving the staff more time to as-

similate and include preliminary data from the National Day Care Study and by enabling the Department to hold public panel meetings around the Nation on a draft of the report and to respond to public concerns.

Clearly written new Federal regulations that enjoy broad public support can go far in bettering the conditions of day care for millions of children in this country, while dealing intelligently with the legitimate concerns of providers and other levels of government. I look forward to working with the Congress, with day care providers, administrators, and consumers, and with the public during the FIDCR revision process.

JOSEPH A. CALIFANO, Jr.

WASHINGTON, D.C., *June 1978*.

On July 12, the Department of HEW issued a press release which discussed some of the findings of the FIDCR appropriateness report. It also included a description of the future plans of the Department related to revisions of the FIDCR. The following is an excerpt from the press release:

HEW found that regulation of Federally supported day care is appropriate and suggested that consideration be given to extending the revised requirements to all day care supported with Federal funds. The Department also found that the requirements can be rewritten, based on 10 years of experience, to improve their ability to further the well-being of children.

The report sets forth several considerations which the Department will address in making revisions. They include:

Recent research findings that child development is best promoted in small groups of children and caregivers.

The importance of caregiver training in child-related fields.

The integral role of educational and developmental services in day care.

The need for different standards in different kinds of care: for in-home, family home, group home and center care; for children of different ages; for children with special needs; for different administrative agencies.

The need to clarify roles and responsibilities of providers of care, and state and local administrators.

The importance of ongoing communications between parents and providers.

Federal support for States in implementing the revised requirements.

The report cautions that enforcement of more stringent day care requirements could increase costs to providers and purchasers of day care services. HEW plans to evaluate costs and benefits of the revised requirements.

Secretary Califano announced on April 26 that HEW intends to revise the FIDCR after extended consultation with individuals and organizations involved in day care services, including those who provide, license or use such services.

After drafting proposed revisions, the Department will seek extensive public participation in the development of a final set of revised regulations. Plans include the following:

A public forum in every state.

Publication of a Notice of Proposed Rulemaking (NPRM) in the Federal Register.

Nationwide dissemination of the NPRM through mailings and through placement in publications of organizations concerned with day care.

Public hearings after publication of the NPRM.

Field briefings of representatives of the day care community about the proposed regulations.

A preliminary draft of the Department report was reviewed at public hearings in Washington, D.C., Dallas, and Seattle earlier this year. The final report incorporates many of the comments made at those hearings.

Section 5 makes permanent certain temporary provisions of law which expire on September 30, 1978, related to the use of title XX funds for services to alcoholics and drug addicts.

Section 6 allows title XX funds to be used for the payment of emergency shelter, for not in excess of 30 days in any 6-month period, provided as a protective service to an adult in danger of physical, mental injury, neglect, maltreatment, or exploitation.

Under the present title XX program, funds may be used to provide emergency shelter for a child, but not an adult. This would provide additional flexibility to States in the use of title XX funds to enable them to meet the needs of adults for emergency shelter as a protective service in accordance with State determined needs.

Section 7 establishes a separate $16.1 million social services entitlement program within the Federal title XX ceiling for offshore areas in the following amounts:

| | *Million* |
|---|---|
| Puerto Rico | $15.0 |
| Guam | 0.5 |
| Virgin Islands | 0.5 |
| Northern Marianas | 0.1 |

These amounts would be increased by the same ratio as the Federal statutory ceiling is increased beyond the fiscal 1979 funding level.

Under the title XX social services program, Puerto Rico, Guam, and the Virgin Islands receive an allotment for social services only from amounts that the States and the District of Columbia certify, after the beginning of the program year, they will not need from the formula allotments for that year. Such an allotment cannot exceed $15 million for Puerto Rico and $500,000 each for Guam and the Virgin Islands. The actual amount available to the territories is not known until approximately 3 months after the beginning of the fiscal year. The uncertainty of this procedure has seriously hindered the efforts of these areas to effectively plan their social services activities.

I want to commend Representatives DON FRASER and MARTHA KEYS for their leadership in initiating the legislation to provide for the increase in the title XX ceiling. The provisions of that legislation are now incorporated into H.R. 12973. On February 8, Representatives FRASER and KEYS introduced H.R. 10833 to provide for increasing the title XX entitlement ceiling over the next 3 years until it would reach $3.45 billion beginning in fiscal year 1981. They then urged Members of the House to join them in cosponsoring legislation to provide for such increases and has resulted in over 130 Members of the House cosponsoring legislation identical to H.R. 10833.

Mr. Speaker, I urge passage of this important legislation.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Kansas (Ms. KEYS).

Ms. KEYS. Mr. Speaker, title XX of the Social Security Act provides block grants to States on a 75/25 match basis for social service programs. The grants enable States to determine their unique needs and spending priorities and then structure their social service programs to meet those needs.

In 1972, the Congress imposed a $2.5 billion ceiling on this program. In the 6 years since the establishment of the ceiling, the value of that $2.5 billion has shrunk to $1.7 billion.

The legislation before us would provide for a modest increase in the ceiling over the next 3 years. This gradual increase will offer some small portion of relief from the past effects of the ceiling and it will permit States to adopt longer range plans for their social service programs. The bill provides for an increase of $200 million in 1979, $250 million in 1980, and $300 million in 1981. The first year's increase has already been approved by both the House and Senate as part of the 1978 budget resolution.

I joined my colleague, Mr. FRASER, in sponsoring this legislation because of the severe impact which the 1972 ceiling is having upon 1978 programs for children, the elderly and the handicapped. My own State of Kansas is a typical example of the cuts in services which have occurred as a result of the outdated ceiling. Last year programs in my State faced nearly a 50-percent reduction in services as a result of inflationary pressures. Around the country costs at the administrative level are increasing leaving fewer dollars for direct services. At the same time, both the cost of and the demand for direct services is on the rise.

Long waiting lists for title XX programs are indicative of the many needs which are going unmet. In Kansas, nearly 1,000 elderly are awaiting homemaker services, 335 handicapped are in need of residential services and 113 handicapped children are waiting for day care openings.

Kansas is not the only State which finds itself in this position. Forty-eight States have now reached their ceiling. Congressman FRASER and I have polled the States and 46 of them have written to us saying that the cap has forced them to cut back on services and to limit eligibility. According to HEW, 14 States have already reduced their eligible population.

Further reductions have occurred in many States as a result of shifts in population. Between 1977 and 1978, 24 States suffered such a reduction. In the last several years, we have been shifting the same inadequate pot of money between the 50 States—with some winners and many more losers.

I was pleased when my colleague, Senator DOLE, introduced this bill with 11 other Senators. The legislation has become a bipartisan effort to respond to the genuine needs of the elderly, children, and the handicapped.

The bill has been endorsed by 24 organizations—

Children's Defense Fund.

Child Welfare League.

Society for Crippled Children and Adults.

AFL–CIO.

National Association for Retarded Citizens.
Family Service Association of America.
National Association of Social Workers.
American Public Welfare Association.
National Association of Counties.
American Association of Retired Persons.
Urban Elderly Coalition.
United Way of America.
National Association of State Mental Retardation Program Directors.
National Governor's Association.
American Parents' Committee.
Catholic Charities.
National Council of Senior Citizens.
National Council on Aging.
Goodwill Industries.
League of Women Voters.
Easter Seal Society.
Epilepsy Foundation.
National Council of State Legislatures.
U.S. Conference of Mayors.

The legislation also provides for a number of changes which strengthen the title XX program. The bill—

Requires State officials to consult with elected city, county, and local officials during the development of the State's comprehensive social services plan;

Allows States to adopt a comprehensive services plan for a 2-year period to coordinate with State budgeting if there is a 45-day public comment period each year;

Extends for 1 year the Public Law 94–401 provisions which target $200 million for day care on a nonmatching basis;

Makes permanent the present temporary provisions allowing States to use title XX funds for certain services to alcoholics and drug addicts;

Allows States to use title XX funds to provide up to 30 days of emergency shelter for adults;

Establishes an entitlement of $16.1 million for social services in the territories.

Many States have accepted the responsibility of providing for social services and aiding in the efforts to meet inflation. We fully expect the States to maintain their efforts in these areas. The funds in this bill are not to be used by the States to replace funds already being spent, but must be used to expand current services and offset new inflation.

Mr. Speaker, I hope my colleagues will support this increase in the title XX cap. Without such a measure we will surely see more elderly denied homemaker services, children denied day care, mentally retarded turned away from sheltered workshops and abused children without protective services. This legislation will help us fulfill our commitments to children, the elderly and the handicapped—all those most in need of assistance.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although this bill was reported from committee by a voice vote, it is not an insignificant bill, and it should be considered very carefully by the House. I think those of us who were here in 1972 recall the reasons why it was necessary to put a lid on the expenditures for social services. That particular part of the welfare law, the title XX part, is subject to 75 percent Federal matching. Cash welfare is subject generally to about 50 percent Federal matching.

Some very distinguished Governors, including Ronald Reagan, the former leader of the chairman of the subcommittee, discovered that by converting cash welfare into social services they could get considerably greater matching funds. Other Governors, including my former leader from New York, Nelson Rockefeller, discovered eventually that emulating Governor Reagan would also ease some of the welfare budget of their States. The result was that there was a sudden rush for this 75 percent money, and it became necessary for the Congress to put a ceiling on the amount of Federal money which could be expanded for social services. This was done in 1972. The ceiling was placed at $2½ billion, substantially below the requests for that particular year.

There has been some stabilizing in social services since that time, but in October 1976 we started giving an additional $200 million for day care as a social service that we felt at that time and in that environment required some special available funds.

The result of all this, Mr. Speaker, is that we have had a very restricting limit on the amount of money available for social services for some time, and this bill represents a modest beginning of, in effect, cost-of-living increases on the very expensive part of the States' budgets. I think it is a reasonable adjustment. I think it is due at this time since we have had a very rigid lid on social services for some time.

I urge the enactment of the measure.

I would like now to yield to my distinguished colleague, the gentleman from Ohio (Mr. GRADISON), who is a member of the subcommittee.

Mr. GRADISON. Mr. Speaker, H.R. 12973 was reported to the House by a voice vote in the Ways and Means Committee. However, this strong consensus should not be regarded as an indication of insignificance; to the contrary, this measure would make some important changes in the program of grants to the States for social services.

The changes embodied in H.R. 12973 include the following:

First. An increase in the ceiling for Federal title XX funds to a total of $2.9 billion in fiscal year 1979, $3.15 billion in the development of a State's comprefiscal year 1981;

Second. A requirement that State officials consult with local elected officials in the developmentof a State's comprehensive social services plan;

Third. Authority for States to adopt a 2-year planning cycle for the title XX service plans rather than the current 1-year time frame;

Fourth. A 1-year extension of certain temporary provisions which target $200 million of title XX funds for day care services on a nonmatching basis, provide grants and tax credits to encourage the hiring of welfare recipients for child care services, and delay the implementation of certain Federal child care standards;

Fifth. Permanent rather than the current temporary authority for States to use title XX funds for certain services to alcoholics and drug addicts;

Sixth. Allowance for States to use title XX funds to provide up to 30 days of emergency shelter for adults;

Seventh. Establishment of a separate entitlement authorization of funds, within the overall title XX ceiling, for social service programs in Puerto Rico, Guam, the Virgin Islands, and the Northern Marianas.

The committee believes that each of these changes will assist States to make social services programs more effective in fulfilling the important goal which these grants serve. Of the proposed changes, perhaps the most noteworthy is the increase in the permanent funding ceiling, which since 1972 has been fixed at $2.5 billion. The need for this arises from the fact that in spite of a temporary additional $200 million entitlement for day care that has been in effect since October 1, 1976, inflation has taken a considerable toll upon social service programs in the States that have been at their ceilings. Confronted with a fiscal pinch, 14 States, according to the Department of Health, Education, and Welfare, have decreased the maximum eligibility level for services since fiscal year 1976. Ninety-two percent of the States are now charging fees for designated services provided to families with incomes below 80 percent of the States median family income level.

The committee expects the increased funds in this bill to be used by States to offset inflationary cost increases or to meet expanded or changing service needs.

It should also be remembered that these social service programs are developed in a publicized, open planning process that is founded upon the concept of public participation. One of the real strengths of this program is its reliance upon a State and local planning process rather than upon directives from Washington. We believe that the changes proposed here will increase the responsiveness of social service plans to local needs and interests.

Mr. Speaker, I urge the adoption of this legislation by the House of Representatives.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from New York, (Mr. CONABLE) for yielding me this time.

Let me say, Mr. Speaker, that I think it is highly unfortunate that this legislation is being brought up today under the suspension of the rules procedure—and that comment does not necessarily go to the merits of the legislation—undoubtedly it can only be fully comprehended by the expert members of the Committee on Ways and Means. However the magnitude of this legislation compels me to say that I think that the leadership of the House should be severely criticized for continuing what has now become a parliamentary trend over the last 2 years.

If the Legislative Digest that is published by the House Republican Conference headed by the gentleman from Illinois, Mr. JOHN ANDERSON, is correct, this bill increases the permanent ceiling for funding of title XX to roughly $9 billion over the fiscal years between now and including fiscal year 1981, assuming that all of the money authorized would be spent by the Federal and State Governments involved. It is also estimated by the Congressional Budget Office, that this bill will add to the title XX costs, in addition to the present authorizations, in excess of $3 billion.

Mr. Speaker, it seems to me that despite the fact that this bill is brought to us from the committee by a voice vote, without any significant opposition, that its consideration under suspension of the rules is part of a larger trend that is definitely harming the ability of those Members who may wish to make responsible changes in legislation on the House floor. For instance, during this year we have seen the Comprehensive Rehabilitation Services Amendments of 1978 brought before this House under suspension of the rules containing at least a $7 billion expenditure. We have seen the Comprehensive Older Americans Act amendments authorizing more than $4 billion taken up under suspension of the rules.

We have seen an attempt by the leadership to bring before us an increase in Federal assistance for college tuition payments in a manner that would have prevented the offering of amendments by those Members of the House who wished to either expand or redirect the tuition credit program. That was prevented because a majority of the Members were aware of what was happening and voted down the ordering of the second on that suspension.

Further, Mr. Speaker, I am indebted to a minority member of the staff for calling my attention to an article by Elizabeth Drew that appeared in the New Yorker Magazine detailing the abuses of the suspension system in the present Congress.

Until only a few years ago Congress only considered suspensions twice a month on the first and third Mondays. Then Tuesdays were added and recently the number of suspension days were increased to Monday and Tuesday of every week. Then the rules were changed again to allow votes on suspensions to be postponed until the end of all the suspensions in order to accommodate the late arriving Members from the hinterland, who were not here at the time the votes were originally requested. This gives late arriving Members the opportunity to vote on all of the suspensions in the late afternoon, even though they have heard none of the debate. And now here we are, discussing a bill of this magnitude with exactly 29 Members on the floor of the House, although there may be now 30 or 32 Members who are now present since I rose to speak.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONABLE. I yield 2 additional minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for the additional time.

Further, Mr. Speaker, I understand that the Speaker says that the suspension calendar should be used on only noncontroversial, nonexpensive legislation. Other leaders on both sides of the aisle have spoken of the necessity to treat legislation in a more serious manner. The fact that notwithstanding that this bill may pass later today by a wide margin, I still think we owe it to our constituencies to discontinue the serious abuse of the suspension procedure.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding. Since I am extensively described in Miss Drew's article, I certainly do not quarrel with the gentleman when the gentleman says that the growth of the suspension process may be an abuse, and I agree also with the gentleman's statement that this is a significant bill and requires serious consideration by the House. I, however, do wish to take some issue with the figures the gentleman mentioned about the magnitude of the increase that is involved, and I am not familiar with the comments of the Republican conference report on it.

The entitlement increase, actually the net cost of which would be somewhat less than the ceiling figure, is $200 million for 1979, $650 million for 1980, $950 million for 1981, $950 million for 1982, and $950 million for 1983. In other words, I suspect what the gentleman is talking about when he is talking about a $10 billion additional cost is he is adding the total entitlements for the next 3 years, which, however, in the past have been $2,500,000,000 and, therefore, would be in any event $7.5 billion for those 3 years.

Mr. BAUMAN. The gentleman from Maryland is referring to the increases in the permanent ceiling for title XX funding, which, according to the gentleman from Illinois, Mr. ANDERSON'S legislative digest—and perhaps the gentleman would like to discuss that with him—is in excess of $9 billion in permanent ceiling, and the CBO estimate of the actual increased costs of the legislation before us, which is in excess of $3 billion.

Mr. CONABLE. Yes. It is the CBO cost estimate I am referring to, and I believe, unless I am incorrect, that the increments are as I have stated them.

Will the gentleman agree, however, that this is significant legislation and should be very seriously considered?

Mr. BAUMAN. In any case, the gentleman's comments, I think, have not in any way detracted from my concern that legislation of this magnitude and importance be treated in somewhat less cavalier fashion than the Suspension Calendar permits. I believe this kind of legislative abuse should stop and fully one-fourth of all House legislative activity now is down under suspension of the rules.

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I rise in support of H.R. 12973, a measure which will provide a 3-year increase in the ceiling of title XX of the Social Security Act and provide funding for social services at the State and local levels.

The present title XX ceiling was established in 1972 and has not been increased, except for $200 million earmarked for day care in 1976. Because of continuing inflation, the $2.5 billion provided in 1972 is now worth $1.7 billion in 1978 dollars.

In the State of New York, the ceiling has been exceeded every year since 1973. These excess expenditures were made out of State and county funds so that the erosion caused by inflation would not cut to the bone the vital programs serving the poor, the elderly, the mentally retarded, the abused and neglected children.

However, despite these expenditures of strictly State and local funds, it has been necessary for New York to reduce all essential social services to some extent. For example:

Day care was virtually eliminated for persons enrolled in non-WIN training programs throughout much of the State.

Homemaker/housekeeper services have been curtailed.

Preventive services, too, were curtailed.

In New York, the ceiling on title XX, coupled with the State and local fiscal crisis, has resulted in social services planning focused too much on cost-containment and reduction of services, instead of realistic planning for the provision of innovation and essential services.

For my State, the increase in the title XX ceiling we are considering today will mean an additional $63.75 million dollars over the 3-year period of the bill: $17 million in fiscal year 1979; $21.25 million in fiscal year 1980; and $25.5 million in fiscal year 1981.

This bill provides significant increases for all other States and territories for critically important social services programs such as: child care; health services for alcoholics and drug addicts; emergency shelter for adults; homemaker chore services; and transportation and training for the handicapped.

I urge my colleagues to support this measure and vote overwhelmingly for its passage.

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Speaker, I would like to express my strong support for the bill H.R. 12973, the Social Services Amendments of 1978. Some States, including the State of Michigan, have reached their Federal spending ceiling for title XX. It is imperative that the ceiling be raised so that services to those with a greater need are not reduced.

The increases provided by this bill are essential for the States if they are to maintain an effective program of services under their title XX program for low-income people. The ceiling on title XX funds was increased temporarily from its $2.5 billion level to $2.7 billion, but the effects of inflation have meant

that even at the temporary $2.7 billion level, States can only purchase three-fourths of what they could purchase in 1972 when the program was implemented. Several States have been required to cut back their services or reduce their eligible population because of insufficient funds. It is intended that the increases provided by this legislation will go toward the expansion of services or offsetting cost increases resulting from inflation.

Some of the services offered under title XX include:

First. Day care for children: This program would receive $200 million in Federal funds to encourage continued expansion of day care services in the States.

Second. Emergency shelter: This program is to aid persons who have been physically or mentally abused. It also would assist in reuniting broken families.

Third. Services for the elderly: Many services are offered to the elderly including hot meals, counseling, senior citizen centers and many others. Without these services, many senior citizens may find it very difficult to live independently which may result in their being admitted to institutions which would be very costly to their families or to the Government.

This bill would also provide the States with the option of establishing a 2-year title XX program period rather than just 1 year. This would enable States to plan longer-term social service programs.

I would like to congratulate my colleagues Mr. FRASER and Ms. KEYS for introducing this bill. It is my hope that the House of Representatives will pass this much-needed bill by a large vote.

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 12973. One of the first problems I encountered as a freshman Congressman in 1977, was a myriad of social service programs in my district which were severely limited by the 1972 ceiling, and while properly imposed, in 1972 under title XX, it does not address current needs.

I am pleased to note that the gentlewoman from Kansas (Ms. KEYS) and the gentleman from Minnesota (Mr. FRASER) introduced a bill, which I have cosponsored, that the chairman and members of the Committee on Ways and Means have had the good judgment to act upon, and we have this legislation before us today, to provide a response to the severe inflation problems and special needs that title XX is designed to meet. This innovative program does provide services not just to welfare recipients and those receiving social services, but also to those who fall within the income guidelines that are outlined in the initial law. This provides important services in Minnesota and throughout the country.

I hope that we can maintain this flexibility that has been a hallmark of title XX. If there is any doubt, I remind my colleagues that the States and political subdivisions that have had these title XX programs in effect, have undergone a reordering of their priorities, with an introspective look at the nature of the programs and services that they are funding and endeavored to leverage the most benefit for consumers and clients in these jurisdictions as was possible. I hail the optional 2-year program plan that has been proposed here as a good measure, and the local participation, and especially the increase in funding as necessary and justified.

This legislation increases the ceiling on Federal title XX funds and will be a great benefit to my State of Minnesota and my district. The current $2 5 billion ceiling combined with the inflation has been a continuing problem in Minnesota. These two factors have resulted in many problems which remain unresolved even though we have the ability and the willingness to solve them.

In May of 1977 I testified before the Subcommittee on Public Assistance and Unemployment Compensation in favor of this legislation. At that time I described the problems facing Ramsey County. The situation has not improved since that time. Minnesota received $46.35 million in title XX funds last year. We have been at this level of funding since 1973. As with many other States, Minnesota moved quickly to implement title XX programs. As a consequence we have not been able to rely on expanded Federal support to achieve increases in programs. Indeed, the $2.5 billion ceiling has resulted in considerable reduction in programs from previous levels.

Local effort in the form of property taxes has been increased to support social service programs in Ramsey County. It is doubtful that this local support can be increased any further. The State has increased its funding commitments to general relief and indigent assistance.

Without the increase in the ceiling Ramsey County will be forced to eliminate many social service programs. Passage of H.R. 12973 will insure the continuance of many excellent programs such as day care services, senior citizens activity centers, community services for the mentally and physically handicapped, homemaker services and protective services.

Mr. Speaker, I urge my colleagues to support this legislation. Title XX is a successful program in our area, and I hope that this success is replicated and perpetuated in other jurisdiction. With the new authorization and commitment that is included in this measure today, the needs of many low income people can be effectively addressed.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise in support of H.R. 12973, the Social Services Amendments of 1978. This bill will raise the Federal ceiling on social services funded under title XX of the Social Security Act and make some technical changes in program operations under title XX.

The principal feature of the bill is that it increases the statutory ceiling on Federal title XX funds. For fiscal 1979, the permanent ceiling will be raised to $2.9 billion, including $200 million to be used by the States for day care services. The measure further provides that the ceiling will be increased to $3.15 billion for fiscal 1980 and to $3.45 billion for fiscal 1981.

These are the same increases provided in a bill which I cosponsored, H.R. 11238. This, incidentally, was the first bill I cosponsored when I became a Member of Congress.

In May, I conducted a senior citizens' workshop for residents of the 18th Congressional District in New York City. At this workshop I received testimony from representatives of senior citizens' organizations and groups actively involved in social services concerning legislation and other action at the Federal level that would improve the quality of life for our senior citizens. I was impressed that so many of those testifying emphasized the importance of raising the ceiling on Federal funding for title XX.

Title XX of the Social Security Act provides block grants of funding from the Federal Government to the States at a 75/25 matching rate. It is a general revenue sharing type program that enables the States to determine their own needs and to structure their social service programs accordingly.

The general emphasis of these programs has been to improve the self-sufficiency of low-income people. Among the services States have provided with title XX funding are: child day care services; counseling, education and training services aimed at increasing employment of welfare recipients; senior citizen activity centers; homemaker services to enable senior citizens to remain in their own residences; community services for the mentally and physically handicapped; protective services; and family planning services.

Those who spoke at the senior citizens' workshop in the 18th Congressional District pointed out the vital services that are provided at the local level for senior citizens with title XX funding. They noted the impact of inflation on these programs and the urgent need to increase the Federal title XX contribution to meet rising costs and to sustain current services. In this regard, their comments were underscored by the Ways and Means Committee's report to accompany H.R. 12973, which noted that title XX funds today can only purchase three-fourths of what they bought in 1972 when the $2.5 billion ceiling on Federal funds was established.

Title XX Federal expenditures for the State of New York under the $2.5 billion ceiling are estimated to be $212.5 million for fiscal year 1978. With the cap in place, New York State's allocations for fiscal year 1979 would be $210.6 million. With the ceiling raised from $2.5 billion to $2.9 billion in fiscal 1979, New York State's allocation would rise to $244.4 million. In addition, the ceiling increases provided in H.R. 12973 will allow New York to receive $49 million more in fiscal 1980 and $71 million extra in fiscal 1981. These increases should help to restore some of the purchasing power which social services programs have lost in New York as a result of rising costs hitting the current title XX ceiling.

Under the title XX ceiling now in effect, States like New York are finding that they must cut back essential senior-citizen and social services programs. The hardships imposed by such reductions have led an impressive array of national organizations to support legislation to raise the ceiling on title XX Federal expenditures. Among these groups are: American Association of Retired Persons, American Parents' Committee, Catholic Charities, Child Welfare League of America, Easter Seal Society, Epilepsy Foundation, Goodwill Industries, Family Service Association of America, League of Women Voters, National Association of Retarded Citizens, Society for Crippled Children, Urban Elderly Coalition, and the United Way of America.

The legislation before us today is unlikely to fund a host of new social services programs. However, it will enable many successful locally oriented programs for senior citizens and lower income citizens to continue their valuable contributions to improving the quality of life in this country.

I urge my colleagues to allow these efforts to move forward by voting in favor of H.R. 12973, the Social Services Amendments of 1978.

Mr. CONABLE. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, there should be absolutely no opposition to the passage of the Social Services Amendments of 1978. As the Representative of an urban district where there is a significant poverty population and as a cosponsor of this legislation, I feel it is essential that the Members vote to increase the ceiling on title XX funds. The present fund ceiling has caused many problems nationwide. In Tennessee, for example, social service contracts had to be cut 20–30 percent last year, not even allowing any allocation for cost-of-living increases in any respect whatsoever.

This has severely hurt these federally funded programs and has affected the level of service delivery. Unless Tennessee and other States can get an increase in title XX money, services will be cut even more during a period when expansion is needed as well as the initiation of new services. As responsible legislators, we cannot allow such a stalemate to persist in this country.

I urge passage also because title XX dollars have been used to employ a large number of AFDC mothers to work at day care centers. This employment has been beneficial in several respects including the obvious one of putting able-bodied human beings to work, and also the not so obvious one of upgrading the standards in day care centers. Title XX Federal regulations require that day care centers meet specific staff-child ratio standards, and certainly the employment of AFDC mothers is a realistic means in helping to meet these standards. Of the AFDC mothers in the State of Tennessee employed with title XX funds, 50 percent come from my district.

One also must consider the need for a continuation of vendor day care programs which have been cut back as of July 1 because of the uncertain future of this legislation. These centers must be restored to operation immediately and the only way this can be done is through the passage of the social services amendments.

The 1978 amendments give a positive and economic approach to program planning. The provision which allows States to adopt a comprehensive title XX social services plan for a 2-year period would save time and dollars. Needs accessments, program priorities, and other planning factors do not change to any great extent every year. This makes the annual plan an exercise which could easily be readapted into a 2- or even 3-year planning period.

And, finally, I urge my colleagues to pass this legislation because of the many other human needs programs title XX dollars fund and address. Some of these programs, which were started in Tennessee such as the emergency shelter program, would not continue to exist if the ceiling is not increased.

I strongly ask you to vote favorably on the Social Services Amendments of 1978.

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I take the well today to congratulate the Committee on Ways and Means for reporting out this legislation. I specifically want to call attention to one aspect of the bill that I think is a very important step in terms of our Government's efforts to stem the tide against child abuse and spouse abuse in this country, and that is in connection with section 6, which would allow the title XX funds to be used to provide emergency shelter for adults.

I think it is important to remember that what has happened in the past is that when trauma and crisis has struck a family in terms of child abuse or in those cases where the abuse has been rained both upon the child and upon the spouse, because of the existing law, we took the child to one shelter and we forced the adult to either stay home or to be with friends because title XX would not allow shelter in that situation to be funded.

Under the provision of this law, if it is adopted, we can be sure that the mother and child or the father and child will stay together, and for the first time we can use the Federal Government to reduce the trauma surrounding the crisis in a family that comes about as a result of abuse rather than to increase the trauma suffered by the child or by the family.

The many thousands of women who are victimized every year by their spouses will for the first time have the ability to know that they can seek shelter, they can bring their children with them, and they can hold on to what little is left of the integrated family.

I think this is an important step forward, and I certainly want to commend the gentlewoman from Kansas (Ms. KEYS) for the leadership she has shown, as well as the gentleman from Ohio (Mr. GRADISON) and the gentleman from California (Mr. CORMAN) in this effort. This has been a discriminatory policy that has existed far too long in the law, and hopefully it will be rectified with the passage of this legislation.

Mr. Speaker, again I say that I think for the first time this shows an element of humaneness in our policy toward the family in this country.

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York (Mr. CONABLE) gave us some interesting history of this program which was most accurate. But there is one other bit of information that I thought my colleagues might be interested in.

The original $2.5 billion ceiling was suggested in 1972 by then Gov. Jimmy Carter of Georgia and then chairman of the Committee on Ways and Means, Wilbur Mills. We believe that that ceiling fit the needs of the States in 1972, but it does not fit the national needs in 1978. I urge a yes vote on passage of the bill.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 12973, the Social Services Amendments of 1978. I think it is time that this House lifts the $2.5 billion ceiling on services funded by title XX of the Social Security Act. This ceiling has been in place since 1972 and as well all know, since that time inflation has been eating into the purchasing power of these funds.

In addition, the bill provides for a $15 million entitlement under title XX for Puerto Rico. As many of my colleagues are aware of, Puerto Rico's participation in this program is limited to making use of those funds which are not used by the rest of the States. This has historically limited the availability of these funds to Puerto Rico and in addition has hampered our planning for the use of the available funds since our Department of Social Services is notified too late in the fiscal year in order for them to plan for the maximum and most efficient ways in which to utilize the available funds.

Mr. Speaker, for these reasons I fully support H.R. 12973 and urge my colleagues to vote aye on this piece of legislation.●

● Mr. BIAGGI. Mr. Speaker, while a cosponsor of this legislation I rise only in qualified support of the bill. While I certainly applaud its main provision—to lift the 6-year-old ceiling placed on title XX expenditures, I do feel we have missed an important opportunity to make other urgently needed reforms in the program which would make it more responsive to those in the population it was designed to serve.

My main concern is the failure of title XX to fully serve the needs of the elderly of this Nation. On October 27, 1977 the Subcommittee on Human Services of the House Select Committee on Aging conducted an oversight hearing on title XX to determine its effectiveness in serving the elderly. As chairman of the subcom-

mittee I authorized a study be conducted among the social service directors of the 10 largest States and other selected communities. A total of 24 responses were received to the question: How effectively does title XX bring services to the elderly? Of those responding, 63 percent were critical of XX citing mediocre service delivery, insufficient data collection and insufficient funding levels.

I am pleased that we have addressed the most commonly cited shortcoming of the program—the $2.5 billion ceiling. The failure to have this ceiling be adjusted simply to accommodate 6 years of inflation, not even increased service demand, was quite serious. The National Association of Counties stated that the $2.5 billion provided in 1972 is now worth only $1.7 billion in 1978 dollars. They add "this decrease in real dollars coupled with increasing caseloads has forced counties to eliminate services."

Under H.R. 12973, title XX funds would increase by $200 million in fiscal year 1979, $250 million in fiscal year 1980 and by $300 million in fiscal year 1981. This increase is welcome in many of the larger States like New York who have traditionally spent all their allotted Federal title XX funds and have provided additional services with their own funds.

This legislation will provide important relief to hard pressed localities in California. My Subcommittee on Human Services recently conducted 2 days of hearings in California to measure the impact of proposition 13 on services to the elderly. We were especially concerned about the impact of proposition 13 on State and local governments' abilities to provide the necessary matching funds for some 215 Federal programs. One program which was mentioned quite often was the title XX program which California has been "overmatching" for a number of years to compensate for the lack of increase in Federal funds. Facing reductions in State revenues of some $8 billion by the next fiscal year, this legislation will help cushion some of the blow.

For my home State of New York which has actively participated in title XX, H.R. 12973 will mean at least $27 million in new funds to provide a myriad of services to the needy of the State. New York like a number of other States has traditionally spent its full amount of XX funds. I had hoped to have been able to amend this legislation to provide a mechanism by which those States which did not fully expend their title XX allotment would return their money so it could be distributed to those States which spent their limit.

However even the funding increase in the title XX program does not eliminate all the problems which the elderly have confronted in terms of acquiring benefits and services. As long as the elderly are not defined as a specific target population they will continue to be underserved by the program. Presently the target groups are broadly defined as children and adults without any real specification about what constitutes an adult. As a result it is far too difficult to determine what percentage of XX funds go to the elderly. A combination of a more specific definition of service target groups and accurate data on moneys provided are essential for the integrity of this program.

We are aware of the strong interest which the elderly have in title XX. It is a good program which does provide valuable services to the aged including home-delivered meals—homemaker services and protective services. Yet more is needed as Nelson Cruikshank, Chairman of the Federal Council on Aging recommended at my subcommittee hearing of September 27:

> Basic social services should be available to the frail elderly as an entitlement without any means test.

We are taking an important step today but by far it is not the ultimate in improving the title XX program. I have concentrated on the elderly being underserved, other groups are as well. Title XX in 1973 was hailed as an innovation in social services delivery. Let us hope what we do in 1978 and beyond will continue to make this program better for the elderly and all those it was intended to serve.●

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to join in support of raising the ceiling on Federal title XX funds, allowing States to restore many of the necessary and crucial social service programs such as child day care services; homemaker services, counseling, education and training services, senior citizen activity centers and community services for the mentally and physically handicapped, which have been cut back as a result of the effects of inflation and the present ceiling. The unfortunate results of the ceiling have included a cutback in available services, lowering the eligibility income limit so as to reduce the number of recipients, and an increase in fees for social services. As is the case in so many Federal programs, the people most in need of a particular services are being priced out of the market for such services. Those individuals cannot afford to pay more for social services, and those served—the elderly, handicapped and mothers and children—cannot and must not go unserved.

By raising the ceiling on title XX funds by $200 million in fiscal year 1979, $250 million in fiscal 1980 and $300 million in fiscal year 1981, the social service programs will be more responsive to the needs of those citizens who are most in need of these social services.

Governor Carey of New York has stated that unless the ceiling on title XX were lifted, many of our State's disadvantaged would be forced to remain unserved. He states:

> In many areas of the State, services have been reduced to a minimum, because of State and local fiscal problems. Even with these reductions, the continuing decline in both the allocation available to New York and in the value of the service dollar is adversely impacting our ability to provide even basic services.

Many States in our Nation are facing similar problems in the area of social services. Each State will benefit from the raised ceiling. The original legislation which proposed to raise the ceiling on title XX funds had 129 cosponsors, indicating its wide support among Members of the House.

Such significant groups as the National Association for Retarded Citizens, the National Association of Retired Persons, Catholic Charities, the Epilepsy Foundation and the Family Association of America, to name a few, have expressed their desire to see the title XX ceiling raised. Without these necessary funds groups such as these would no longer be able to provide the quality services that they have been providing for so many years.

I urge my colleagues to join with me in supporting this worthy legislation, and in assuring that our underserved receive the services that they so desperately need and deserve.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill, H.R. 12973, as amended.

The question was taken.

Mr. BEARD of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## INCREASE PENSION FOR CONGRESSIONAL MEDAL OF HONOR RECIPIENTS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11889) to amend title 38, United States Code, to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor.

The Clerk read as follows:

H.R. 11889

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 562(a) of title 38, United States Code, is amended by striking out "$100" and inserting in lieu thereof "$200".

SEC. 2. The amendment made by the first section of this Act shall take effect January 1, 1979.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on H.R. 11889, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reported bill would increase the benefits payable to recipients of the Congressional Medal of Honor. The amount payable has not been increased for a number of years. I strongly support the bill and yield such time as he may consume to the gentleman from Mississippi, chairman of our Subcommittee on Compensation Pension, and Insurance, who will briefly outline the merits of the proposed legislation.

Mr. MONTGOMERY. Mr. Speaker, H.R. 11889 would increase the special pension benefits payable to holders of the Congressional Medal of Honor. Under current law, the Veterans' Administration pays this special pension to those heroic individuals who have been accorded our country's highest military award.

Our hearings disclosed that many of the receipients of the Congressional Medal of Honor are living on fixed and limited incomes. Some are reported to have incomes at or below the poverty level. Sixty percent of these beneficiaries are now 60 and above. One is 100 years of age.

The current benefit of $100 per month has not been increased for 17 years. The bill before you will provide a payment of $200 monthly to some 269 individuals currently receiving the pension.

The bill would cost about $300,000 during the next fiscal year. The increase is supported by the Administration in its report to us and in testimony at our hearings. In his report to the committee dated March 27, 1978, the Administrator said:

> Although the principal object of decorations is to provide recognition of distinguished service and heroism and the Medal of Honor itself carries this recognition without a cash value being attached, we consider this to be an appropriate time to again add to the amount of this pension, in light of the lengthy period which has elapsed since the previous increase and the general increase in the cost of living in the interim. We do not believe that an increment to the specal pension would diminish the symbolic significance of the Medal of Honor.

The reported bill, if enacted, would not be inflationary and is well within our budgetary allocations.

I am sure my colleagues agree with me that the proposed increase is a reasonable indication of our Nation's gratitude to those who fought so bravely in defense of our country and whose outstanding and distinguished service was recognized with the Congressional Medal of Honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11889, a bill that would increase the amount of special pension awarded to recipients of the Congressional Medal of Honor.

Mr. Speaker, of the almost 30 million veterans now living in this country, only 283 hold this most distinguished award—fewer than 1 out of very 100,000 veterans. This statistic alone points to the uniqueness of the award, and the special nature of the valorous acts that have earned it. Americans hold their Medal of Honor winners in awe. These men have performed feats of courage under extraordinary conditions, and are the very symbol of what has made our country strong and great.

It is entirely fitting, in my opinion, that we raise the monthly amount of pension from $100 to $200. The $100 pension became effective in 1961. In 1978 $200 are, sadly, not even the equivalent of $100 in 1961.

Mr. Speaker, our Government doles out hundreds of dollars a month to virtually any person in this country who decides he or she does not want to work. Surely we can reward the sort of extraordinary service that begets the Medal of Honor with the amount contained in H.R. 11889.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE), the distinguished ranking minority member of the subcommittee.

Mr. WYLIE. Mr. Speaker, H.R. 11889 is a bill which warrants our support. The previous speakers have outlined what it does. It simply increases the pension awarded to recipients of the Congressional Medal of Honor from $100 to $200 a month. I will not dwell on the history of the pension, because it has already been discussed I would, however, note the uniqueness of the Congressional Medal of Honor. Today, there are only 283 living recipients. No price tag can be put on the contribution these individuals have made to our country and its freedoms. Their actions in combat were way above and beyond the call of duty. At the time of their actions, they could not have been thinking of the benefits they would reap. It is fitting that Congress has honored their contribution with this special pension. It certainly is merited. I urge you to join me in voting for this bill.

● Mr. TEAGUE. Mr. Speaker, I rise in support of H.R. 11889. This bill would increase the special Congressional Medal of Honor pension now being paid to the few most outstanding heroes of our country living today.

The Congressional Medal of Honor has been reserved for the bravest who have served in the Armed Forces. The law provides today that there shall be in the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Department of Transportation, respectively, a roll designated as the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll."

Each surviving person who has served on active duty in the Armed Forces of the United States and has been awarded a Medal of Honor for distinguishing such person conspicuously by gallantry and intrepidity at the risk of such person's life above and beyond the call of duty while serving upon written application to the Secretary shall have his name on such roll. It is these persons that the special monthly Medal of Honor pension recognizes by offering a tangible addition to this honor. Currently, the program is fixed at a monthly payment of $100. This benefit has not been increased for 17 years.

The bill proposes a monthly pension rate of $200. It would go to fewer than 270 holders of our country's highest decoration.

I am aware that many of the men who have received this medal are living on very limited incomes. Most of the beneficiaries are above age 60 and many are much older than that. The cost of the bill is estimated at some $300,000 during the next fiscal year.

I urge each of you to support this modest expenditure for these outstanding defenders of our Nation.●

● Mr. ABDNOR. Mr. Speaker, I rise to voice my support for H.R. 11889. This bill calls for increasing the rate of special pension paid to Congressional Medal of Honor recipients from $100 to $200 monthly. I would like to give some brief background information if I could to explain why I support this bill. I do not have to explain the significance of the honor bestowed upon recipients of this award. A monetary stipend has been paid to recipients since 1916, although at that time the Medal of Honor winner had to be over age 65. The stipend totaled $10 in 1916 and has been increased only once since that time. In 1961, the Congress increased it to $100. The special pension is intended to recognize valorous and heroic service, over and above any other compensation which might be payable on account of service with our Armed Forces. One does not come by winning this honor easily. I believe that it is the appropriate time to increase the pension. I hope you agree with me and vote for H.R. 11889.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I ask my colleagues to support the bill unanimously.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 11889.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## BENEFITS FOR SURVIVORS OF PERMANENTLY DISABLED VETERANS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11890) to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as

though the veteran had died from a service-connected disability, as amended.

The Clerk read as follows:

H.R. 11890

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 410 of title 38, United States Code, is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection (b):

"(b) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies from natural causes and was in receipt of or entitled to receive compensation at the time of death for a service-connected disability permanently and totally disabling and so rated for ten or more years immediately preceding death or continuously from the time of discharge, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents in the same manner as if the cause of death were service-connected except that this subsection shall not apply so as to entitle a surviving spouse who was married to such veteran less than five years preceding such veteran's death.".

SEC. 2. This Act shall take effect on October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 11890.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, under current law, dependency and indemnity compensation benefits are payable to the widow and children of veterans who die from service-connected causes. The reported bill would extend entitlement for such benefits to the survivors of a few veterans who, at the time of death, had a permanent and total disability rating due to service-connected disability, even though the cause of death may have been from natural causes.

Many of these veterans are blind due to service injuries and because of their blindness, have been unable to accumulate an estate for their widows and children. Many are amputees whose service-connected disabilities may not have been the primary cause of death. It is a good bill and I now yield such time as he may consume to the gentleman from Mississippi, the very able chairman of our Subcommittee on Compensation, Pension and Insurance, SONNY MONTGOMERY, for an explanation of the bill.

Mr. MONTGOMERY. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, the bill we have under consideration, H.R. 11890, responds to a long-time recommendation of a number of the major national service organizations.

During the hearings conducted March 21 and 22, the point was made that those who are totally disabled from service-incurred disease or injury over a long period of time must not only rely upon their Veterans' Administration compensation to meet the needs of their families but face the problem of being unable to accumulate an estate to care for their families after death.

The widows and children of those veterans who die of service-connected causes are entitled to receive monthly DIC payments from the Veterans' Administration. A few long-time permanently and totally disabled veterans whose deaths cannot be related to their service-connected disability have no such assurance.

While pensions usually are available, the reduced circumstances facing families of these service-connected veterans are of concern to your committee.

The reported bill has sufficient safeguards to protect against the possibility of turning the DIC program into just another form of nonservice-connected pension.

The bill requires that the veteran have suffered total service-connected disability for 10 or more years immediately preceeding death, or, if a lesser time, to have been so disabled continuously since discharge from service.

The life expectency of totally disabled veterans is considerably less than the normal life expectancy. The committee does not feel that providing dependency and indemnity compensation (DIC) benefits to such survivors would dilute the honor and tribute to those killed in action. The committee believes that the longtime spouse of a deceased totally and permanently service-connected disabled veteran deserves to receive DIC benefits for the contribution made in helping the veteran live with a long and severe disability. To that end, the bill requires that the veteran's widow have experienced with him a good part of that loss. This is achieved by requiring the marriage to have existed for 5 or more years.

This bill will primarily benefit the survivors of veterans who are either blinded or paralyzed from service-connected causes and over the years have not been in economic situations whereby they could provide adequate resources for their survivors.

The bill would become effective on October 1, 1978. The first year cost would be about $700,000.

I urge the adoption of the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11890, a bill to provide an automatic presumption of service-connected death for certain veterans rated permanently and totally disabled at the time of death.

Current law requires that the VA adjudicate the cause of death of a veteran with a service-connected disability, to determine whether or not his death was the result of that disability. If an affirmative determination is made, then the widow, children, and in some cases surviving parents, are entitled to dependency and indemnity compensation and other benefits. These benefits are justified as much on the basis of the deceased veteran's lack of ability to accumulate an estate as they are on the disability itself. Presently we are unintentionally playing a cruel game with the veteran's spouse and family, where they must be forced, in his declining years, to hope that he dies of precisely the right reason in order to qualify them for benefits.

This bill eliminates that injustice, and at the same time will not significantly alter the final determination. The administration, while opposing H.R. 11890, pointed out that the Veterans' Administration "compassionately and liberally" applies present law in its adjudications. Studies show the rate of favorable adjudications varies from 75 to 87 percent. In my opinion, Mr. Speaker, taking the uncertainty out of the process is well worth any small number of additional cases that might be resolved in favor of a survivor.

There is one portion of this legislation that I disagree with, Mr. Speaker, and while I intend to vote for the bill, it is my hope that we can eventually eliminate this language. I refer to the requirement that a veteran's death be from "natural causes" in order to qualify the survivors for service-connected benefits. In other words, once a veteran has been completely and totally disabled for 10 years, or continuously from the date of his leaving the service, he must also die of "natural causes" in order for his wife to claim DIC benefits. Such a requirement flies in the face of the express intent of this bill, which is to eliminate the uncertainty of an eventual adjudication, and to make up for a veteran's inability to accumulate an estate. We are creating yet another anomaly, although we are solving a part of the problem.

What we are now saying is that the wife of a veteran totally disabled for more than 10 years can eliminate one worry—she does not have to worry about death from natural causes—but she still has to worry about an accidental death, for instance from a car accident. I fail to see how an accidental death affects a veteran's earlier inability to accumulate an estate, and I hope my colleagues on the Veterans' Affairs Committee will join me in eliminating this provision in future sessions of the Congress.

For now, though, Mr. Speaker, I believe this bill goes a long way toward remedying a problem that has caused a great deal of grief and uncertainty to many families. We should remember that these are the families of those who have given a great deal in the service of our Nation. I will be proud to vote for H.R. 11890, and I hope my colleagues will join me.

Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the subcommittee, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank the distinguished gentleman from Arkansas, my good friend, Mr. HAMMERSCHMIDT, for yielding this time to me.

Mr. Speaker, I would like to express my unequivocal support for this measure, and return the compliment by thanking Mr. MONTGOMERY for his leadership in promoting this legislation; and also to thank the chairman of the full committee, the gentleman from Texas (Mr. ROBERTS) for bringing it to the House floor so expeditiously. Mr. ROBERTS and Mr. MONTGOMERY have already explained the provisions of the bill, so I will not be repetitious here except to say that I feel that this action is relatively easy to justify.

To be specific, let me note two reasons. A totally disabled veteran's life expectancy is known to be considerably shorter than nondisabled individuals. The disability oftentimes leads to dependency on the veteran's family. That often precludes the veteran from establishing an estate of any type for his dependents.

The current DIC program is intended to provide partial compensation for those veterans who have died from service-connected causes. I would say, Mr. Speaker, that the veterans, organizations have long advocated a bill such as this. I believe the time is now. I think the bill is important, and I hope that all my colleagues will join in support of it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, H.R. 11890 is a bill which I am more than happy to voice my support for. The proposed legislation is more than equitable. I think that it alleviates a problem which has caused what could be termed as less than appropriate through the years. Existing law requires that a direct causal relationship be established between the service-connected disability and the cause of death, despite the fact that the veteran was totally disabled as the result of service-connected injuries prior to death. The law makes no room for flexibility. I think you will agree with me when I say that this statute required reconsideration. The Veterans' Affairs Committee looked very closely at the question of presumption of service connection. Testimony indicated that service connection may not be the reason for death; however, death can result as an indirect result of the disability. To illustrate this point, I would like to cite two examples the Paralyzed Veterans Association related when they testified in support of this bill. First. "A PVA member recently died after an automobile accident and was thrown into the ditch by the impact of the crash. Although the bruises he sustained were considered minor, this veteran was a quadriplegic. He had been traveling in a sparsely traveled area, so no one saw him there or assisted him. The veteran froze to death as a direct result of his inability to move." Second, "Another PVA member in New Mexico was robbed and beaten by a taxi cab driver who had known that the PVA member had just cashed his compensation check. After beating the veteran he threw him out of the cab. Again, no one noticed the veteran and he was unable to go for help by himself. This veteran died of exposure, whereas he might have survived if he had not been disabled." I could cite more examples. Under current law, the survivors of the deceased veteran would not be eligible for DIC because the death was not caused directly by the disability. Yet, the disability was directly responsible for the death.

I think you will agree with me when I say that we need to correct this unfortunate situation. This bill proposes to do just that. I urge you to join me in voting for this bill.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 11890.

This bill provides that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability.

I have received various letters from veterans residing in Puerto Rico requesting my support and endorsement for this legislation. Besides their sincere requests, I believe in the merits of this legislation. The House Committee on Veterans' Affairs is correct in stating that veterans who are totally disabled from service-incurred disease or injury must not only rely upon the Veterans' Administration compensation benefits to meet the needs of their families, but they face the problem of being unable to accumulate an estate to care for their families at death.

This legislation is geared to make justice and I urge you to vote for its approval.●

● Mr. TEAGUE. Mr. Speaker, I rise in support of H.R. 11890. I would like to commend the distinguished gentleman from Texas (Mr. ROBERTS), chairman of the committee, and my good friend, Mr. MONTGOMERY of Mississippi, who chairs the Subcommittee on Compensation, Pension and Insurance before moving forward with this bill.

We have long heard from the surviving widows and children of a few severely disabled veterans who have died of causes which we were unable to connect with their period of military service. As a result, these survivors of veterans who were permanently and totally disabled because of service-connected disability for many years have not been entitled to receive dependency and indemnity compensation. Some have received pension benefits at much lesser rates.

The reduced circumstances of the families of these service-connected veterans who have suffered long-time disability because of their service has been a concern to me and I am sure to other Members.

This bill would appear to be an equitable solution to our problem. The bill requires that the veteran have suffered total service-connected disability for at least 10 years immediately preceding death or continuously from the time of his discharge from service. A further protection offered by the bill is the requirement that death be from natural causes and the last safeguard which seeks to prevent turning the service-connected dependency and indemnity compensation program into just another pension bill is the requirement that the veteran's spouse have suffered with him his reduced circumstances for not less than 5 years. I believe this is a good bill, and I urge my colleagues to vote for it.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 11890, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 11823; H.R. 12349; H.R. 12973; H.R. 11889; and H.R. 11890, all by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

## RESERVISTS RETIREMENT ELIGIBILITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11823, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill H.R. 11823, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 8, not voting 34, as follows:

[Roll No. 590]

YEAS—390

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|---|---|---|
| Abdnor | AuCoin | Boland |
| Addabbo | Badham | Bolling |
| Akaka | Bafalis | Bonior |
| Alexander | Baldus | Bonker |
| Ambro | Barnard | Bowen |
| Ammerman | Baucus | Brademas |
| Anderson, Calif. | Bauman | Breaux |
| | Beard, R.I. | Breckinridge |
| Anderson, Ill. | Beard, Tenn. | Brinkley |
| Andrews, N.C. | Bedell | Brodhead |
| Andrews, N. Dak. | Bellenson | Brooks |
| | Bennett | Broomfield |
| Annunzio | Bevill | Brown, Calif. |
| Applegate | Biaggi | Brown, Mich. |
| Archer | Bingham | Brown, Ohio |
| Ashbrook | Blanchard | Broyhill |
| Ashley | Blouin | Buchanan |
| Aspin | Boggs | Burgener |

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| Burke, Calif. | Hammer- | Murphy, Ill. |
| Burke, Fla. | schmidt | Murphy, N.Y. |
| Burke, Mass. | Hanley | Murphy, Pa. |
| Burleson, Tex. | Hannaford | Murtha |
| Burlison, Mo. | Hansen | Myers, John |
| Burton, John | Harkin | Myers, Michael |
| Burton, Phillip | Harris | Natcher |
| Butler | Harsha | Neal |
| Byron | Hawkins | Nedzi |
| Caputo | Heckler | Nichols |
| Carney | Hefner | Nix |
| Carr | Heftel | Nolan |
| Carter | Hightower | Nowak |
| Cavanaugh | Hillis | O'Brien |
| Cederberg | Hollenbeck | Oakar |
| Chappell | Holt | Oberstar |
| Chisholm | Holtzman | Obey |
| Clausen, | Horton | Ottinger |
| Don H. | Howard | Panetta |
| Clay | Hubbard | Patten |
| Cleveland | Huckaby | Patterson |
| Cohen | Hughes | Pattison |
| Coleman | Hyde | Pease |
| Conable | Ichord | Pepper |
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| Conyers | Jacobs | Pettis |
| Corcoran | Jeffords | Pickle |
| Corman | Jenkins | Pike |
| Cornell | Jenrette | Poage |
| Cornwell | Johnson, Calif. | Pressler |
| Coughlin | Johnson, Colo. | Preyer |
| Crane | Jones, N.C. | Price |
| Cunningham | Jones, Okla. | Quayle |
| D'Amours | Jones, Tenn. | Quillen |
| Daniel, Dan | Jordan | Rahall |
| Daniel, R. W. | Kastenmeier | Railsback |
| Davis | Kazen | Rangel |
| de la Garza | Kelly | Regula |
| Delaney | Kemp | Reuss |
| Dellums | Keys | Rhodes |
| Dent | Kildee | Richmond |
| Derrick | Kindness | Rinaldo |
| Derwinski | Kostmayer | Risenhoover |
| Dickinson | Krebs | Roberts |
| Dicks | Krueger | Robinson |
| Dingell | LaFalce | Rodino |
| Dornan | Lagomarsino | Roe |
| Downey | Latta | Rogers |
| Drinan | Leach | Roncalio |
| Duncan, Oreg. | Lederer | Rooney |
| Duncan, Tenn. | Leggett | Rose |
| Early | Lehman | Rosenthal |
| Eckhardt | Lent | Rostenkowski |
| Edgar | Levitas | Rousselot |
| Edwards, Ala. | Livingston | Roybal |
| Edwards, Calif. | Lloyd, Calif. | Runnels |
| Edwards, Okla. | Lloyd, Tenn. | Ruppe |
| Eilberg | Long, La. | Russo |
| Emery | Long, Md. | Santini |
| English | Lott | Satterfield |
| Erlenborn | Lujan | Sawyer |
| Ertel | Luken | Scheuer |
| Evans, Colo. | Lundine | Schroeder |
| Evans, Del. | McClory | Schulze |
| Evans, Ind. | McCloskey | Sebelius |
| Fary | McCormack | Seiberling |
| Fascell | McDade | Sharp |
| Fenwick | McDonald | Shuster |
| Findley | McEwen | Sikes |
| Fish | McFall | Simon |
| Fisher | McHugh | Sisk |
| Fithian | McKay | Skelton |
| Flippo | McKinney | Skubitz |
| Flood | Madigan | Slack |
| Florio | Mahon | Smith, Nebr. |
| Flowers | Markey | Snyder |
| Flynt | Marks | Solarz |
| Foley | Marlenee | Spellman |
| Ford, Mich. | Marriott | Spence |
| Ford, Tenn. | Martin | St Germain |
| Forsythe | Mathis | Staggers |
| Fountain | Mattox | Stangeland |
| Fowler | Mazzoli | Stanton |
| Frenzel | Metcalfe | Steed |
| Fuqua | Meyner | Steers |
| Gammage | Michel | Steiger |
| Garcia | Mikulski | Stockman |
| Gaydos | Mikva | Stratton |
| Gephardt | Milford | Studds |
| Giaimo | Miller, Calif. | Stump |
| Gibbons | Miller, Ohio | Symms |
| Ginn | Mineta | Taylor |
| Glickman | Minish | Thompson |
| Goldwater | Mitchell, Md. | Thone |
| Gonzalez | Mitchell, N.Y. | Thornton |
| Gore | Moakley | Traxler |
| Gradison | Mollohan | Treen |
| Grassley | Montgomery | Trible |
| Green | Moore | Tucker |
| Gudger | Moorhead, | Ullman |
| Guyer | Calif. | Van Deerlin |
| Hagedorn | Moorhead, Pa. | Vander Jagt |
| Hall | Moss | Vanik |
| Hamilton | Mottl | Vento |
| Waggonner | Whitehurst | Wylie |
| Walgren | Whitley | Yates |
| Walker | Wilson, Bob | Yatron |
| Walsh | Wilson, C. H. | Young, Alaska |
| Wampler | Wilson, Tex. | Young, Fla. |
| Watkins | Winn | Young, Mo. |
| Waxman | Wirth | Young, Tex. |
| Weaver | Wolff | Zablocki |
| Weiss | Wright | Zeferetti |
| White | Wydler | |

NAYS—8

| | | |
|---|---|---|
| Benjamin | Goodling | Stark |
| Collins, Tex. | Myers, Gary | Volkmer |
| Devine | Rudd | |

NOT VOTING—34

| | | |
|---|---|---|
| Armstrong | Harrington | Sarasin |
| Clawson, Del | Holland | Shipley |
| Cochran | Kasten | Smith, Iowa |
| Collins, Ill. | Le Fante | Stokes |
| Cotter | Maguire | Teague |
| Danielson | Mann | Tsongas |
| Diggs | Meeds | Udall |
| Dodd | Moffett | Whalen |
| Evans, Ga. | Pritchard | Whitten |
| Fraser | Pursell | Wiggins |
| Frey | Quie | |
| Gilman | Ryan | |

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Gilman.
Mr. Shipley with Mr. Frey.
Mr. Tsongas with Mr. Pursell.
Mr. Cotter with Mr. Quie.
Mr. Danielson with Mr. Whalen.
Mr. Diggs with Mr. Kasten.
Mr. Dodd with Mr. Cochran of Mississippi.
Mr. Harrington with Mr. Pritchard.
Mr. Moffett with Mr. Wiggins.
Mr. Stokes with Mr. Holland.
Mr. Meeds with Mr. Armstrong.
Mr. Fraser with Mr. Del Clawson.
Mr. Mann with Mr. Sarasin.
Mrs. Collins of Illinois with Mr. Teague.
Mr. Ryan with Mr. Evans of Georgia.
Mr. Udall with Mr. Whitten.
Mr. Smith of Iowa with Mr. Maguire.

Messrs. SYMMS, STUMP, and KELLY changed their vote from "nay" to "yea."

Mr. GOODLING changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

## DU NOIR BASIN ADDITION TO WASHAKIE WILDERNESS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12349, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 12349, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 22, not voting 38, as follows:

[Roll No. 591]

YEAS—372

| | | |
|---|---|---|
| Abdnor | Downey | Krueger |
| Addabbo | Drinan | LaFalce |
| Akaka | Duncan, Oreg. | Lagomarsino |
| Alexander | Duncan, Tenn. | Leach |
| Ambro | Early | Lederer |
| Ammerman | Eckhardt | Leggett |
| Anderson, | Edgar | Lehman |
| Calif. | Edwards, Ala. | Lent |
| Anderson, Ill. | Edwards, Calif. | Levitas |
| Andrews, N.C. | Edwards, Okla. | Livingston |
| Andrews, | Eilberg | Lloyd, Calif. |
| N. Dak. | Emery | Lloyd, Tenn. |
| Annunzio | English | Long, La. |
| Applegate | Erlenborn | Long, Md. |
| Archer | Ertel | Lott |
| Ashbrook | Evans, Colo. | Lujan |
| Ashley | Evans, Del. | Luken |
| Aspin | Evans, Ind. | Lundine |
| AuCoin | Fary | McClory |
| Bafalis | Fascell | McCloskey |
| Baldus | Fenwick | McCormack |
| Barnard | Fish | McDade |
| Bauman | Fisher | McEwen |
| Beard, R.I. | Fithian | McFall |
| Beard, Tenn. | Flippo | McHugh |
| Bedell | Flood | McKay |
| Beilenson | Florio | McKinney |
| Benjamin | Flowers | Madigan |
| Bennett | Flynt | Mahon |
| Bevill | Foley | Markey |
| Biaggi | Ford, Mich. | Marks |
| Bingham | Ford, Tenn. | Marlenee |
| Blanchard | Forsythe | Marriott |
| Blouin | Fountain | Martin |
| Boggs | Fowler | Mathis |
| Boland | Frenzel | Mattox |
| Bolling | Fuqua | Mazzoli |
| Bonior | Gammage | Metcalfe |
| Bonker | Garcia | Meyner |
| Bowen | Gaydos | Michel |
| Brademas | Gephardt | Mikulski |
| Breaux | Giaimo | Mikva |
| Breckinridge | Gibbons | Milford |
| Brinkley | Gilman | Miller, Calif. |
| Brodhead | Ginn | Miller, Ohio |
| Brooks | Glickman | Mineta |
| Broomfield | Goldwater | Minish |
| Brown, Calif. | Gonzalez | Mitchell, Md. |
| Brown, Mich. | Gore | Mitchell, N.Y. |
| Broyhill | Gradison | Moakley |
| Buchanan | Grassley | Mollohan |
| Burgener | Green | Montgomery |
| Burke, Calif. | Gudger | Moore |
| Burke, Fla. | Guyer | Moorhead, |
| Burke, Mass. | Hagedorn | Calif. |
| Burlison, Mo. | Hamilton | Moorhead, Pa. |
| Burton, John | Hanley | Moss |
| Burton, Phillip | Hannaford | Mottl |
| Butler | Harkin | Murphy, Ill. |
| Byron | Harris | Murphy, N.Y. |
| Caputo | Harsha | Murphy, Pa. |
| Carney | Hawkins | Murtha |
| Carr | Heckler | Myers, Gary |
| Carter | Hefner | Myers, John |
| Cavanaugh | Heftel | Myers, Michael |
| Cederberg | Hightower | Natcher |
| Chappell | Hillis | Neal |
| Chisholm | Hollenbeck | Nedzi |
| Clausen, | Holt | Nichols |
| Don H. | Holtzman | Nix |
| Clay | Horton | Nolan |
| Cleveland | Howard | Nowak |
| Cohen | Hubbard | O'Brien |
| Coleman | Huckaby | Oakar |
| Conable | Hughes | Oberstar |
| Conte | Hyde | Obey |
| Conyers | Ichord | Ottinger |
| Corcoran | Ireland | Panetta |
| Corman | Jeffords | Patten |
| Cornell | Jenkins | Patterson |
| Cornwell | Jenrette | Pattison |
| Coughlin | Johnson, Calif. | Pease |
| Cunningham | Johnson, Colo. | Pepper |
| D'Amours | Jones, N.C. | Perkins |
| Daniel, R. W. | Jones, Okla. | Pettis |
| Davis | Jones, Tenn. | Pickle |
| de la Garza | Jordan | Pike |
| Delaney | Kastenmeier | Poage |
| Dellums | Kazen | Pressler |
| Dent | Kelly | Preyer |
| Derrick | Kemp | Price |
| Derwinski | Keys | Pursell |
| Dickinson | Kildee | Quayle |
| Dicks | Kindness | Quillen |
| Dingell | Kostmayer | Rahall |
| Dornan | Krebs | Railsback |

| | | |
|---|---|---|
| Rangel | Sisk | Vanik |
| Regula | Skelton | Vento |
| Reuss | Skubitz | Volkmer |
| Rhodes | Slack | Walgren |
| Richmond | Smith, Nebr. | Walker |
| Rinaldo | Snyder | Walsh |
| Roberts | Solarz | Wampler |
| Robinson | Spellman | Waxman |
| Rodino | Spence | Weaver |
| Roe | St Germain | Weiss |
| Rogers | Staggers | White |
| Roncalio | Stangeland | Whitehurst |
| Rooney | Stanton | Whitley |
| Rose | Stark | Wilson, C. H. |
| Rosenthal | Steed | Wilson, Tex. |
| Rostenkowski | Steers | Winn |
| Roybal | Steiger | Wirth |
| Runnels | Stockman | Wolff |
| Ruppe | Stratton | Wright |
| Russo | Studds | Wydler |
| Santini | Taylor | Wylie |
| Scheuer | Thompson | Yates |
| Schroeder | Thone | Yatron |
| Schulze | Thornton | Young, Fla. |
| Sebelius | Traxler | Young, Mo. |
| Seiberling | Treen | Young, Tex. |
| Sharp | Trible | Zablocki |
| Shuster | Tucker | Zeferetti |
| Sikes | Ullman | |
| Simon | Vander Jagt | |

NAYS—22

| | | |
|---|---|---|
| Badham | Hammer-schmidt | Rudd |
| Burleson, Tex. | Hansen | Satterfield |
| Collins, Tex. | Jacobs | Stump |
| Crane | Latta | Symms |
| Daniel, Dan | McDonald | Waggonner |
| Devine | Risenhoover | Watkins |
| Goodling | Rousselot | Young, Alaska |
| Hall | | |

NOT VOTING—38

| | | |
|---|---|---|
| Armstrong | Frey | Sawyer |
| Baucus | Harrington | Shipley |
| Brown, Ohio | Holland | Smith, Iowa |
| Clawson, Del | Kasten | Stokes |
| Cochran | Le Fante | Teague |
| Collins, Ill. | Maguire | Tsongas |
| Cotter | Mann | Udall |
| Danielson | Meeds | Van Deerlin |
| Diggs | Moffett | Whalen |
| Dodd | Pritchard | Whitten |
| Evans, Ga. | Quie | Wiggins |
| Findley | Ryan | Wilson, Bob |
| Fraser | Sarasin | |

The Clerk announced the following pairs:

Mr. Baucus with Mr. Armstrong.
Mr. Le Fante with Mr. Frey.
Mr. Shipley with Mr. Maguire.
Mr. Stokes with Mr. Cochran of Mississippi.
Mr. Cotter with Mr. Brown of Ohio.
Mr. Danielson with Mr. Findley.
Mrs. Collins of Illinois with Mr. Mann.
Mr. Dodd with Mr. Fraser.
Mr. Evans of Georgia with Mr. Del Clawson.
Mr. Diggs with Mr. Quie.
Mr. Udall with Mr. Sarasin.
Mr. Van Deerlin with Mr. Sawyer.
Mr. Meeds with Mr. Holland.
Mr. Harrington with Mr. Kasten.
Mr. Moffett with Mr. Pritchard.
Mr. Ryan with Mr. Wiggins.
Mr. Teague with Mr. Whalen.
Mr. Tsongas with Mr. Whitten.
Mr. Smith of Iowa with Mr. Bob Wilson.

Mr. BADHAM changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## SOCIAL SERVICES AMENDMENTS OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12973, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill H.R. 12973, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 346, nays 54, not voting 32, as follows:

[Roll No. 592]

YEAS—346

| | | |
|---|---|---|
| Abdnor | Downey | Kazen |
| Addabbo | Drinan | Kelly |
| Akaka | Duncan, Oreg. | Kemp |
| Alexander | Duncan, Tenn. | Keys |
| Ambro | Early | Kildee |
| Ammerman | Eckhardt | Kindness |
| Anderson, Calif. | Edgar | Kostmayer |
| Anderson, Ill. | Edwards, Ala. | Krebs |
| Andrews, N.C. | Edwards, Calif. | Krueger |
| Andrews, N. Dak. | Eilberg | LaFalce |
| Annunzio | Emery | Lagomarsino |
| Applegate | English | Leach |
| Ashley | Erlenborn | Lederer |
| Aspin | Ertel | Leggett |
| AuCoin | Evans, Colo. | Lehman |
| Bafalis | Evans, Del. | Lent |
| Baldus | Evans, Ind. | Levitas |
| Baucus | Fary | Lloyd, Calif. |
| Beard, R.I. | Fascell | Lloyd, Tenn. |
| Bedell | Fenwick | Long, La. |
| Beilenson | Findley | Lujan |
| Benjamin | Fish | Luken |
| Bevill | Fisher | Lundine |
| Biaggi | Fithian | McClory |
| Bingham | Flippo | McCloskey |
| Blanchard | Flood | McCormack |
| Blouin | Florio | McDade |
| Boggs | Flowers | McEwen |
| Boland | Foley | McFall |
| Bolling | Ford, Mich. | McHugh |
| Bonior | Ford, Tenn. | McKay |
| Bonker | Forsythe | McKinney |
| Bowen | Fountain | Madigan |
| Brademas | Fowler | Mahon |
| Breaux | Frenzel | Markey |
| Breckinridge | Gammage | Marks |
| Brodhead | Garcia | Marlenee |
| Brooks | Gaydos | Marriott |
| Broomfield | Gephardt | Martin |
| Brown, Calif. | Giaimo | Mathis |
| Brown, Mich. | Gibbons | Mattox |
| Broyhill | Gilman | Mazzoli |
| Buchanan | Ginn | Metcalfe |
| Burgener | Glickman | Meyner |
| Burke, Calif. | Goldwater | Mikulski |
| Burke, Fla. | Gonzalez | Mikva |
| Burke, Mass. | Goodling | Miller, Calif. |
| Burlison, Mo. | Gore | Mineta |
| Burton, John | Gradison | Minish |
| Burton, Phillip | Grassley | Mitchell, Md. |
| Butler | Green | Mitchell, N.Y. |
| Byron | Gudger | Moakley |
| Caputo | Guyer | Mollohan |
| Carney | Hagedorn | Moore |
| Carr | Hamilton | Moorhead, Pa. |
| Carter | Hammer-schmidt | Moss |
| Cavanaugh | Hanley | Mottl |
| Cederberg | Hannaford | Murphy, Ill. |
| Chisholm | Harkin | Murphy, N.Y. |
| Clausen, Don H. | Harris | Murphy, Pa. |
| Clay | Harsha | Murtha |
| Cleveland | Hawkins | Myers, Gary |
| Cohen | Heckler | Myers, John |
| Coleman | Hefner | Myers, Michael |
| Conable | Heftel | Natcher |
| Conte | Hightower | Neal |
| Conyers | Hillis | Nedzi |
| Corcoran | Holland | Nichols |
| Corman | Hollenbeck | Nix |
| Cornell | Holtzman | Nolan |
| Coughlin | Horton | Nowak |
| Cunningham | Howard | O'Brien |
| D'Amours | Hubbard | Oakar |
| Davis | Huckaby | Oberstar |
| de la Garza | Hughes | Obey |
| Delaney | Hyde | Ottinger |
| Dellums | Ireland | Panetta |
| Dent | Jeffords | Patten |
| Derrick | Jenrette | Pattison |
| Derwinski | Johnson, Calif. | Pease |
| Dickinson | Johnson, Colo. | Pepper |
| Dicks | Jones, N.C. | Perkins |
| Dingell | Jones, Okla. | Pettis |
| Dornan | Jones, Tenn. | Pickle |
| | Jordan | Pike |
| | Kastenmeier | Pressler |
| | | Preyer |
| | | Price |
| | | Pursell |
| | | Quillen |
| | | Rahall |
| | | Railsback |
| | | Rangel |
| | | Regula |
| | | Reuss |
| | | Richmond |
| | | Rinaldo |
| | | Risenhoover |
| | | Roberts |
| | | Rodino |
| | | Roe |
| | | Rogers |
| | | Roncalio |
| | | Rooney |
| | | Rose |
| | | Rosenthal |
| | | Rostenkowski |
| | | Roybal |
| | | Runnels |
| | | Ruppe |
| | | Russo |
| | | Santini |
| | | Sawyer |
| | | Scheuer |
| | | Schroeder |
| | | Schulze |
| | | Sebelius |
| | | Seiberling |
| | | Sharp |
| | | Sikes |
| | | Sisk |
| | | Skubitz |
| | | Slack |
| | | Smith, Nebr. |
| | | Solarz |
| | | Spellman |
| | | Spence |
| | | St Germain |
| | | Staggers |
| | | Stangeland |
| | | Stanton |
| | | Stark |
| | | Steed |
| | | Steers |
| | | Steiger |
| | | Stratton |
| | | Studds |
| | | Thompson |
| | | Thone |
| | | Thornton |
| | | Traxler |
| | | Trible |
| | | Tucker |
| | | Ullman |
| | | Van Deerlin |
| | | Vander Jagt |
| | | Vanik |
| | | Vento |
| | | Walgren |
| | | Walker |
| | | Walsh |
| | | Wampler |
| | | Watkins |
| | | Waxman |
| | | Weaver |
| | | Weiss |
| | | White |
| | | Whitehurst |
| | | Whitley |
| | | Wilson, Bob |
| | | Wilson, C. H. |
| | | Wilson, Tex. |
| | | Winn |
| | | Wirth |
| | | Wolff |
| | | Wright |
| | | Wydler |
| | | Wylie |
| | | Yates |
| | | Yatron |
| | | Young, Alaska |
| | | Young, Fla. |
| | | Young, Mo. |
| | | Young, Tex. |
| | | Zablocki |
| | | Zeferetti |

NAYS—54

| | | |
|---|---|---|
| Archer | Fuqua | Quayle |
| Ashbrook | Hall | Rhodes |
| Badham | Hansen | Robinson |
| Barnard | Holt | Rousselot |
| Bauman | Ichord | Rudd |
| Beard, Tenn. | Jacobs | Satterfield |
| Bennett | Jenkins | Shuster |
| Brinkley | Latta | Simon |
| Brown, Ohio | Livingston | Skelton |
| Burleson, Tex. | Long, Md. | Snyder |
| Chappell | Lott | Stockman |
| Collins, Tex. | McDonald | Stump |
| Cornwell | Michel | Symms |
| Crane | Milford | Taylor |
| Daniel, Dan | Miller, Ohio | Treen |
| Daniel, R. W. | Montgomery | Volkmer |
| Devine | Moorhead, Calif. | Waggonner |
| Edwards, Okla. | Poage | |
| Flynt | | |

NOT VOTING—32

| | | |
|---|---|---|
| Armstrong | Harrington | Sarasin |
| Clawson, Del | Kasten | Shipley |
| Cochran | Le Fante | Smith, Iowa |
| Collins, Ill. | Maguire | Stokes |
| Cotter | Mann | Teague |
| Danielson | Meeds | Tsongas |
| Diggs | Moffett | Udall |
| Dodd | Patterson | Whalen |
| Evans, Ga. | Pritchard | Whitten |
| Fraser | Quie | Wiggins |
| Frey | Ryan | |

The Clerk announced the following pairs:

Mr. Cotter with Mr. Del Clawson.
Mr. Le Fante with Mr. Kasten.
Mr. Shipley with Mr. Quie.
Mr. Moffett with Mr. Pritchard.
Mr. Evans of Georgia with Mr. Frey.
Mr. Fraser with Mr. Armstrong.
Mr. Harrington with Mr. Cochran of Mississippi.
Mr. Smith of Iowa with Mr. Maguire.
Mr. Stokes with Mr. Teague.
Mr. Danielson with Mr. Whalen.
Mr Dodd with Mr. Wiggins.
Mr. Diggs with Mr. Mann.
Mrs. Collins of Illinois with Mr. Udall.
Mr. Tsongas with Mr. Sarasin.
Mr. Meeds with Mr. Ryan.
Mr. Patterson of California with Mr. Whitten.

Mr. POAGE and Mr. LONG of Maryland changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## INCREASE PENSION FOR CONGRESSIONAL MEDAL OF HONOR RECIPIENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 11889.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 4, not voting 34, as follows:

[Roll No. 593]

YEAS—394

| | | |
|---|---|---|
| Abdnor | Collins, Tex. | Gradison |
| Addabbo | Conable | Grassley |
| Akaka | Conte | Green |
| Alexander | Conyers | Gudger |
| Ambro | Corcoran | Guyer |
| Ammerman | Corman | Hagedorn |
| Anderson, Calif. | Cornell | Hall |
| | Cornwell | Hamilton |
| Anderson, Ill. | Coughlin | Hammer-schmidt |
| Andrews, N.C. | Crane | |
| Andrews, N. Dak. | Cunningham | Hanley |
| | D'Amours | Hannaford |
| Annunzio | Daniel, Dan | Hansen |
| Applegate | Daniel, R. W. | Harris |
| Archer | Davis | Harsha |
| Ashbrook | de la Garza | Hawkins |
| Ashley | Delaney | Heckler |
| Aspin | Dellums | Hefner |
| AuCoin | Derrick | Heftel |
| Badham | Derwinski | Hightower |
| Bafalis | Devine | Hillis |
| Baldus | Dickinson | Holland |
| Barnard | Dicks | Hollenbeck |
| Baucus | Dingell | Holt |
| Bauman | Dodd | Holtzman |
| Beard, R.I. | Dornan | Horton |
| Beard, Tenn. | Downey | Howard |
| Bellenson | Drinan | Hubbard |
| Benjamin | Duncan, Oreg. | Huckaby |
| Bennett | Duncan, Tenn. | Hughes |
| Bevill | Early | Hyde |
| Biaggi | Eckhardt | Ichord |
| Bingham | Edgar | Ireland |
| Blanchard | Edwards, Ala. | Jacobs |
| Blouin | Edwards, Calif. | Jeffords |
| Boggs | Edwards, Okla. | Jenkins |
| Boland | Eilberg | Jenrette |
| Bolling | Emery | Johnson, Calif. |
| Bonior | English | Johnson, Colo. |
| Bonker | Erlenborn | Jones, N.C. |
| Bowen | Ertel | Jones, Okla. |
| Brademas | Evans, Colo. | Jones, Tenn. |
| Breaux | Evans, Del. | Jordan |
| Breckinridge | Evans, Ind. | Kastenmeier |
| Brinkley | Fary | Kazen |
| Brodhead | Fascell | Kelly |
| Brooks | Fenwick | Kemp |
| Broomfield | Findley | Keys |
| Brown, Calif. | Fish | Kildee |
| Brown, Mich. | Fisher | Kindness |
| Brown, Ohio | Fithian | Kostmayer |
| Broyhill | Flippo | Krebs |
| Buchanan | Flood | Krueger |
| Burgener | Florio | LaFalce |
| Burke, Calif. | Flowers | Lagomarsino |
| Burke, Fla. | Flynt | Latta |
| Burke, Mass. | Foley | Leach |
| Burleson, Tex. | Ford, Mich. | Lederer |
| Burlison, Mo. | Ford, Tenn. | Leggett |
| Burton, John | Forsythe | Lehman |
| Burton, Phillip | Fountain | Lent |
| Butler | Fowler | Levitas |
| Byron | Frenzel | Livingston |
| Caputo | Fuqua | Lloyd, Calif. |
| Carney | Gammage | Lloyd, Tenn. |
| Carr | Garcia | Long, La. |
| Carter | Gaydos | Long, Md. |
| Cavanaugh | Gephardt | Lott |
| Cederberg | Giaimo | Lujan |
| Chappell | Gibbons | Luken |
| Chisholm | Gilman | Lundine |
| Clausen, Don H. | Ginn | McClory |
| | Glickman | McCloskey |
| Clay | Goldwater | McCormack |
| Cleveland | Gonzalez | McDade |
| Cohen | Goodling | McDonald |
| Coleman | Gore | McEwen |
| McFall | Pepper | Spellman |
| McHugh | Perkins | Spence |
| McKay | Pettis | St Germain |
| McKinney | Pickle | Staggers |
| Madigan | Pike | Stangeland |
| Mahon | Poage | Stanton |
| Markey | Pressler | Stark |
| Marks | Preyer | Steiger |
| Marlenee | Price | Stockman |
| Marriott | Pursell | Stratton |
| Martin | Quayle | Studds |
| Mathis | Quillen | Stump |
| Mattox | Rahall | Symms |
| Mazzoli | Railsback | Taylor |
| Meyner | Rangel | Thompson |
| Michel | Regula | Thone |
| Mikva | Reuss | Thornton |
| Milford | Rhodes | Traxler |
| Miller, Ohio | Richmond | Treen |
| Mineta | Rinaldo | Trible |
| Minish | Risenhoover | Tucker |
| Mitchell, Md. | Roberts | Ullman |
| Mitchell, N.Y. | Robinson | Van Deerlin |
| Moakley | Rodino | Vander Jagt |
| Mollohan | Roe | Vanik |
| Montgomery | Rogers | Vento |
| Moore | Roncalio | Volkmer |
| Moorhead, Calif. | Rooney | Waggonner |
| | Rose | Walgren |
| Moorhead, Pa. | Rosenthal | Walker |
| Moss | Rostenkowski | Walsh |
| Mottl | Rousselot | Wampler |
| Murphy, Ill. | Roybal | Watkins |
| Murphy, N.Y. | Rudd | Waxman |
| Murphy, Pa. | Runnels | Weaver |
| Murtha | Ruppe | Weiss |
| Myers, Gary | Russo | White |
| Myers, John | Santini | Whitehurst |
| Myers, Michael | Satterfield | Whitley |
| Natcher | Sawyer | Wilson, Bob |
| Neal | Scheuer | Wilson, C. H |
| Nedzi | Schroeder | Wilson, Tex. |
| Nichols | Schulze | Winn |
| Nix | Sebelius | Wirth |
| Nolan | Seiberling | Wolff |
| Nowak | Sharp | Wright |
| O'Brien | Shuster | Wydler |
| Oakar | Sikes | Wylie |
| Oberstar | Simon | Yates |
| Obey | Sisk | Yatron |
| Ottinger | Skelton | Young, Alaska |
| Panetta | Skubitz | Young, Fla. |
| Patten | Slack | Young, Mo. |
| Patterson | Smith, Nebr. | Young, Tex. |
| Pattison | Snyder | Zablocki |
| Pease | Solarz | Zeferetti |

NAYS—4

| | | |
|---|---|---|
| Bedell | Mikulski | Miller, Calif. |
| Harkin | | |

NOT VOTING—34

| | | |
|---|---|---|
| Armstrong | Kasten | Smith, Iowa |
| Clawson, Del | Le Fante | Steed |
| Cochran | Maguire | Steers |
| Collins, Ill. | Mann | Stokes |
| Cotter | Meeds | Teague |
| Danielson | Metcalfe | Tsongas |
| Dent | Moffett | Udall |
| Diggs | Pritchard | Whalen |
| Evans, Ga. | Quie | Whitten |
| Fraser | Ryan | Wiggins |
| Frey | Sarasin | |
| Harrington | Shipley | |

The Clerk announced the following pairs:

Mr. Evans of Georgia with Mr. Del Clawson.

Mr. Le Fante with Mr. Frey.

Mr. Cotter with Mr. Wiggins.

Mr. Shipley with Mr. Armstrong.

Mr. Danielson with Mr. Teague.

Mrs. Collins of Illinois with Mr. Fraser.

Mr. Dent with Mr. Sarasin.

Mr. Harrington with Mr. Cochran of Mississippi.

Mr. Meeds with Mr. Kasten.

Mr. Metcalfe with Mr. Steers.

Mr. Udall with Mr. Quie.

Mr. Tsongas with Mr. Pritchard.

Mr. Stokes with Mr. Steed.

Mr. Smith of Iowa with Mr. Ryan.

Mr. Mann with Mr. Whalen.

Mr. Maguire with Mr. Whitten.

Mr. Diggs with Mr. Moffett.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## BENEFITS FOR SURVIVORS OF PERMANENTLY DISABLED VETERANS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 11890) to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) to suspend the rules and pass the bill H.R. 11890, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 9, not voting 30, as follows:

[Roll No. 594]

YEAS—393

| | | |
|---|---|---|
| Abdnor | Carney | Findley |
| Addabbo | Carr | Fish |
| Akaka | Carter | Fisher |
| Alexander | Cavanaugh | Fithian |
| Ambro | Cederberg | Flippo |
| Ammerman | Chappell | Flood |
| Anderson, Calif. | Chisholm | Florio |
| | Clausen, Don H. | Flowers |
| Anderson, Ill. | | Flynt |
| Andrews, N.C. | Clay | Foley |
| Andrews, N. Dak. | Cleveland | Ford, Mich. |
| | Cohen | Ford, Tenn. |
| Annunzio | Coleman | Forsythe |
| Applegate | Collins, Tex. | Fountain |
| Archer | Conable | Fowler |
| Ashbrook | Conte | Frenzel |
| Aspin | Conyers | Fuqua |
| AuCoin | Corcoran | Gammage |
| Badham | Corman | Garcia |
| Bafalis | Cornell | Gaydos |
| Baldus | Cornwell | Gephardt |
| Barnard | Coughlin | Giaimo |
| Baucus | Crane | Gibbons |
| Bauman | Cunningham | Gilman |
| Beard, R.I. | D'Amours | Ginn |
| Beard, Tenn. | Daniel, Dan | Glickman |
| Bennett | Daniel, R. W. | Goldwater |
| Bevill | Davis | Gonzalez |
| Biaggi | de la Garza | Goodling |
| Bingham | Delaney | Gore |
| Blanchard | Dellums | Gradison |
| Blouin | Dent | Grassley |
| Boggs | Derrick | Green |
| Boland | Derwinski | Gudger |
| Bolling | Devine | Guyer |
| Bonior | Dickinson | Hagedorn |
| Bonker | Dicks | Hall |
| Bowen | Dingell | Hamilton |
| Brademas | Dodd | Hammer-schmidt |
| Breaux | Dornan | |
| Breckinridge | Downey | Hanley |
| Brinkley | Drinan | Hannaford |
| Brodhead | Duncan, Oreg. | Hansen |
| Brooks | Duncan, Tenn. | Harkin |
| Broomfield | Early | Harris |
| Brown, Calif. | Eckhardt | Harsha |
| Brown, Mich. | Edgar | Hawkins |
| Brown, Ohio | Edwards, Ala. | Heckler |
| Broyhill | Edwards, Calif. | Hefner |
| Buchanan | Edwards, Okla. | Heftel |
| Burgener | Eilberg | Hightower |
| Burke, Calif. | Emery | Hillis |
| Burke, Fla. | English | Holland |
| Burke, Mass. | Erlenborn | Hollenbeck |
| Burleson, Tex. | Ertel | Holt |
| Burlison, Mo. | Evans, Colo. | Holtzman |
| Burton, John | Evans, Del. | Horton |
| Burton, Phillip | Evans, Ind. | Howard |
| Butler | Fary | Hubbard |
| Byron | Fascell | Huckaby |
| Caputo | Fenwick | Hughes |

| | | |
|---|---|---|
| Hyde | Mollohan | Scheuer |
| Ichord | Montgomery | Schroeder |
| Ireland | Moore | Schulze |
| Jacobs | Moorhead, Calif. | Sebelius |
| Jeffords | Moorhead, Pa. | Sharp |
| Jenkins | Moss | Shuster |
| Jenrette | Motti | Sikes |
| Johnson, Calif. | Murphy, Ill. | Simon |
| Johnson, Colo. | Murphy, N.Y. | Sisk |
| Jones, N.C. | Murphy, Pa. | Skelton |
| Jones, Okla. | Murtha | Skubitz |
| Jones, Tenn. | Myers, Gary | Slack |
| Jordan | Myers, John | Smith, Nebr. |
| Kastenmeier | Myers, Michael | Snyder |
| Kazen | Natcher | Solarz |
| Kelly | Neal | Spellman |
| Kemp | Nedzi | Spence |
| Keys | Nichols | St Germain |
| Kildee | Nix | Staggers |
| Kindness | Nolan | Stangeland |
| Kostmayer | Nowak | Stanton |
| Krebs | O'Brien | Stark |
| Krueger | Oakar | Steed |
| LaFalce | Oberstar | Steers |
| Lagomarsino | Obey | Steiger |
| Latta | Ottinger | Stockman |
| Leach | Panetta | Stratton |
| Lederer | Patten | Studds |
| Leggett | Patterson | Stump |
| Lehman | Pattison | Symms |
| Lent | Pease | Taylor |
| Levitas | Pepper | Thompson |
| Livingston | Perkins | Thone |
| Lloyd, Calif. | Pettis | Thornton |
| Lloyd, Tenn. | Pickle | Traxler |
| Long, La. | Pike | Treen |
| Long, Md. | Poage | Tribble |
| Lott | Pressler | Tucker |
| Lujan | Preyer | Ullman |
| Luken | Price | Van Deerlin |
| Lundine | Pursell | Vander Jagt |
| McClory | Quayle | Vanik |
| McCloskey | Quillen | Vento |
| McCormack | Rahall | Waggonner |
| McDade | Railsback | Walgren |
| McDonald | Rangel | Walker |
| McEwen | Regula | Walsh |
| McFall | Reuss | Wampler |
| McHugh | Rhodes | Watkins |
| McKay | Richmond | Waxman |
| McKinney | Rinaldo | Weaver |
| Madigan | Risenhoover | White |
| Mahon | Roberts | Whitehurst |
| Markey | Robinson | Whitley |
| Marks | Rodino | Wilson, Bob |
| Marlenee | Roe | Wilson, C. H. |
| Marriott | Rogers | Wilson, Tex. |
| Martin | Roncalio | Winn |
| Mathis | Rooney | Wirth |
| Mattox | Rose | Wolff |
| Mazzoli | Rosenthal | Wright |
| Metcalfe | Rostenkowski | Wydler |
| Meyner | Rousselot | Wylie |
| Michel | Roybal | Yates |
| Mikva | Rudd | Yatron |
| Milford | Runnels | Young, Alaska |
| Miller, Calif. | Ruppe | Young, Fla. |
| Miller, Ohio | Russo | Young, Mo. |
| Minish | Santini | Young, Tex. |
| Mitchell, Md. | Satterfield | Zablocki |
| Mitchell, N.Y. | Sawyer | Zeferetti |
| Moakley | | |

NAYS—9

| | | |
|---|---|---|
| Ashley | Benjamin | Seiberling |
| Bedell | Mikulski | Volkmer |
| Bellenson | Mineta | Weiss |

NOT VOTING—30

| | | |
|---|---|---|
| Armstrong | Harrington | Sarasin |
| Clawson, Del | Kasten | Shipley |
| Cochran | Le Fante | Smith, Iowa |
| Collins, Ill. | Maguire | Stokes |
| Cotter | Mann | Teague |
| Danielson | Meeds | Tsongas |
| Diggs | Moffett | Udall |
| Evans, Ga. | Pritchard | Whalen |
| Fraser | Quie | Whitten |
| Frey | Ryan | Wiggins |

The Clerk announced the following pairs:

Mr. Udall with Mr. Frey.
Mr. Teague with Mrs. Collins of Illinois.
Mr. Le Fante with Mr. Armstrong.
Mr. Cotter with Mr. Evans of Georgia.
Mr. Danielson with Mr. Cochran of Mississippi.
Mr. Diggs with Mr. Kasten.
Mr. Fraser with Mr. Mann.
Mr. Moffett with Mr Pritchard.
Mr. Maguire with Del Clawson.
Mr. Harrington with Mr. Quie.
Mr. Tsongas with Mr. Sarasin.
Mr. Smith of Iowa with Mr. Stokes.
Mr. Shipley with Mr. Whalen.
Mr. Ryan with Mr. Whitten.
Mr. Meeds with Mr. Wiggins.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## WELCOME BACK MR. MICHEL

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to remind the House that just 3 days ago we were all profoundly shocked by a wanton attack on one of our Members by two people who were bent upon robbery and mayhem, apparently. That gentleman, of course, is the Republican whip, the gentleman from Peoria, Ill., Mr. BOB MICHEL. As we know, they grow them pretty tough in Peoria, and the gentleman from Illinois has shaken off the whole effect of the wanton attack. He is not quite as good as new, and one might not recognize him unless introduced to him first, but, nevertheless, he is on the floor today. I am so pleased to announce the return of BOB MICHEL to the House of Representatives.

## GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 12973.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON CEMETERIES AND BURIAL BENEFITS OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. CARNEY. Mr. Speaker, I ask unanimous consent that the Subcommittee on Cemeteries and Burial Benefits of the Committee on Veterans' Affairs be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, is this for hearing purposes only?

Mr. CARNEY. Mr. Speaker, if the gentleman will yield, we probably will not need the time. We are meeting at 9 o'clock, and we have five witnesses coming in from out of the district, coming some distance. We want to give them each 10 minutes. We should be done, but we may run over a little bit, and this is to protect ourselves.

Mr. ROUSSELOT. Can the gentleman assure us that there will be no markup?

Mr. CARNEY. There will be no markup. It is strictly hearings.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON COMPENSATION AND HEALTH AND SAFETY OF COMMITTEE ON EDUCATION AND LABOR TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Compensation and Health and Safety of the Committee on Education and Labor be permitted to sit during the 5-minute rule tomorrow at 10 o'clock a.m., July 26, to hear appropriate testimony.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that there will be no markup of any legislation and that it is just for hearing purposes?

Mr. GAYDOS. Mr. Speaker, if the gentleman will yield, there will be no markup at all.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION, AND INSURANCE OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance of the Committee on Banking, Finance, and Urban Affairs, be permitted to meet tomorrow morning during the 5-minute rule for the purpose of hearing witnesses only. There will be no markup.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the distinguished chairman assure us they will not markup any bill?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, definitely not, there will be no markup.

Mr. ROUSSELOT. I appreciate that. That is good enough.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I am so happy to see that our friend, the gentleman from California, is now immersed in the business of the Committee on Banking, Finance and Urban Affairs.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I say to the gentleman from California (Mr. PHILLIP BURTON), welcome to our side.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island (Mr. ST GERMAIN)?

There was no objection.

## REQUEST TO CONSIDER SENATE AMENDMENT TO H.R. 2777, THE NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "National Consumer Cooperative Bank Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasing the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. The Congress also finds that consumer and other types of self-help cooperatives have been hampered in their formation and growth by lack of access to adequate cooperative credit facilities and lack of technical assistance. Therefore, the Congress finds a need for the establishment of a National Consumer Cooperative Bank which will make available necessary financial and technical assistance to cooperative self-help endeavors as a means of strengthening the Nation's economy.

TITLE I—NATIONAL CONSUMER COOPERATIVE BANK

CREATION AND CHARTER OF BANK

SEC. 101. There is hereby created and chartered a body corporate, the National Consumer Cooperative Bank, hereinafter referred to as the "Bank", as an instrumentality of the United States, and until otherwise provided, shall be a mixed ownership Government corporation. The Bank shall have perpetual existence unless and until its charter is revoked or modified by Act of Congress. The right to revise, amend, or modify the charter of the Bank is specifically and exclusively reserved to the Congress. The principal office of the Bank shall be in Washington, District of Columbia, and, for the purpose of venue, shall be considered a resident therof. It shall make loans and offer its services throughout the United States, its territories and possessions, and in the Commonwealth of Puerto Rico. The Bank shall—

(1) encourage the development of new and existing cooperatives eligible for its assistance by providing specialized credit and technical assistance;

(2) maintain broad-based control of the Bank by its voting stockholders;

(3) encourage broad-based ownership, control, and active participation by members in eligible cooperatives;

(4) assist in improving the quality and availability of goods and services to consumers; and

(5) encourage ownership of its equity securities by cooperatives and others as provided in section 104, so that the date when all of the Bank's class A stock owned by the United States has been fully redeemed (the "Final Government Equity Redemption Date") occurs as early as practicable.

GENERAL CORPORATE POWERS

SEC. 102. The Bank shall have the power to make and service loans, commitments for credit, guarantees, furnish financially related services, technical assistance and the results of research, issue its obligations within the limitations imposed by section 107 in such amounts, at such times, and on such terms as the Bank may determine, and to exercise the other powers and duties prescribed in this Act, and shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) elect by its Board of Directors a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, and define their duties in accordance with regulations and standards adopted by the Board, and require surety bonds or make other provisions against losses occasioned by acts of employees;

(4) prescribe by its Board of Directors its bylaws not inconsistent with law, which shall establish the terms of office and the procedure for election of elective members; provide in a manner not inconsistent with this Act for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; and prescribe the manner in which its officers, employees, and agents are elected or selected, its property acquired, held and transferred, its loans, commitments, other financial assistance, guarantees and appraisals may be made, its general business conducted, and the privilege granted it by law exercised and enjoyed;

(5) enter into contracts and make advance, progress, or other payments with respect to such contracts, without regard to the provisions of section 3648 of the Revised Statutes;

(6) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property and sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary or convenient to its business: Provided, That any such acquisition or ownership of real property shall not deprive a State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights of inhabitants of such property under Federal, State, or local laws;

(8) obtain insurance against loss in connection with property and other assets;

(9) modify or consent to the modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or has an interest pursuant to this Act;

(10) utilize and act through any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with such agency, instrumentality, or organization for furnishing or receiving technical services and benefits of research, services, funds or facilities; and make advance, progress, or other payments with respect to such contracts without regard to section 3648 of the Revised Statutes;

(11) within the limitations of section 107, borrow money and issue notes, bonds and debentures or other obligations individually or in concert with other financial institutions, agencies or instrumentalities, of such character and such terms and conditions and at rates of interest as may be determined;

(12) issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it;

(13) participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this Act on terms as may be agreed upon;

(14) accept guarantees from other agencies for which loans made by the Bank may be eligible;

(15) establish one or more branch offices and one or more advisory councils in connection with any such branch offices, as may from time to time be authorized by the Board of Directors;

(16) buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the final Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors;

(17) approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but, except as otherwise provided in this Act, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired; and

(18) have such other incidental powers as may be necessary or expedient to carry out its duties under this Act.

The stock or other securities or instruments issued by the Bank shall, to the same extent as securities which are the direct obligations of the United States, be "exempt securities" within the meaning of the laws administered by the Securities and Exchange Commission.

BOARD OF DIRECTORS

SEC. 103. (a) The Bank shall be governed by a Board of Directors (hereinafter referred to as the "Board") which shall consist of thirteen members. Subject to the provisions of subsection (b) of this section, all members of the Board shall be appointed by the President, with the advice and consent of the Senate, for terms of three years or until their successors have been appointed and

qualified. The President shall appoint seven members of the Board from among the officers of the agencies and departments of the United States Government: Provided, That at any one time no more than one member shall be from any one agency or department. The remaining members shall be from the general public (and not from the officers or employees of the United States Government) but shall have extensive experience in the cooperative field representative of the following classes of cooperatives: (1) housing, (2) consumer goods, (3) low-income cooperatives, (4) consumer services, and (5) all other eligible cooperatives, and for these appointment the President shall consider nominees submitted by national associations of cooperatives. Any member appointed by the President may be removed at any time with or without cause by the President. If a vacancy occurs on the Board for any reason other than a resignation pursuant to subsection (b) of this section, a new member shall be appointed by the President to serve until the next annual meeting of the Bank, at which time the vacancy shall be filled for the remainder of the unexpired term by the President or the holders of class B and class C stock, as provided in this section 104.

(b) At the first annual meeting occurring after the time when the amount of paid-in capital of the Bank attributable to the shares of class B stock and class C stock equals or exceeds $3,000,000, three members of the Board appointed by the President from the general public shall resign. Similarly, when the amount of paid-in capital attributable to the shares of class B and class C stock equals or exceeds $10,000,000 the terms of the other three members appointed by the President from the general public shall terminate. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at each of the annual meetings occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds seven-thirteenths and eight-thirteenths of the total amount of paid-in capital of the Bank. As members of the Board resign in accordance with the foregoing provisions, the directorships vacated shall be deemed shareholder directorships and shall be filled by the holders of class B stock and class C stock in accordance with the provisions of subsection (c) of this section. Five remaining members of the Board appointed by the President shall resign on the Final Government Equity Redemption Date. Thereafter, one member of the Board shall continue to be appointed by the President from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers.

(c) At all elections of Directors by holders of class B stock and class C stock, nominations shall be made by the classes of eligible cooperatives specified in subsection (a). Vacant shareholder directorships shall be filled, whether by appointment or election, so that at any time when there are three or more shareholder directors on the board, there shall be at least one director representing each of the classes of housing cooperatives, low-income cooperatives, and consumer goods and services cooperatives. Each nominee for shareholder directorship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented. No one class of cooperatives specified in subsection (a) shall be represented on the Board by more than three directors.

(d) When all five remaining members of the Board appointed by the President have resigned pursuant to subsection (b) of this section, their successors and the successors to shareholder directors shall thereafter be elected pursuant to such rules as the Board may from time to time prescribe in the by-laws of the Bank.

(e) No director shall be eligible to be elected for more than two consecutive full three-year terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank. The Bank shall give adequate advance notice to all voting stockholders of nominees and of the procedures for nominating other candidates. Each voting stockholder shall make the information required in this paragraph available to its members.

(f) The Board shall annually elect from among its members a chairman and vice chairman and select a secretary who need not be a member. The Board shall establish the policies of the Bank governing its funding, lending, and other financial and technical assistance, and shall direct the management of the Bank.

(g) The Board shall meet at least quarterly. Its meeting shall be open to members or representatives of all eligible cooperatives and other eligible organizations, as observers only, and to persons or representatives of groups who identify their interest in the Bank and who are invited to attend a meeting, subject to such rules as the Board may establish for the conduct of such meetings. Those rules shall include the manner of giving notice of meetings, the procedure for the conduct of meetings, the manner of submitting topics for the agenda, the allocation of time of presentations, and debate. The chairman, when sustained by the majority of the Board present, may adjourn the open meeting into an executive session on motion of the chairman, any Board member, or at the request of any applicant, borrower, officer, or employee when the matter under discussion involves an application, a loan, a personnel action, or other matter which might tend to impinge on the right of privacy of any person.

(h) Members of the Board appointed by the President from among the officers of the agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. Until the Final Government Equity Redemption Date, members of the Board appointed by the President from among the general public or elected by the holders of the class B and class C stock shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5, United States Code, for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code, for each day that they are away from their homes or regular places of business in the performance of their duties on the Board.

CAPITALIZATION

SEC. 104. (a) The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, and by the United States. Beginning with the fiscal year ending September 30, 1979, the United States shall purchase class A stock and for that fiscal year there are authorized to be appropriated $100,000,000 for such purposes, and there are authorized to be appropriated for the next four succeeding fiscal years an amount not to exceed $200,000,000 in the aggregate. Any amounts so authorized but not appropriated or not utilized to purchase such stock of the Bank in any such fiscal year is authorized to be appropriated or reappropriated and so used in subsequent fiscal years.

(b) The capital stock of the Bank shall include class A, class B, and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank. Class A preferred stock held by the United States shall be a preferred stock with first preference with respect to assets and dividends over all other classes of stock issued by the Bank. So long as any class A stock is outstanding, the Bank shall not pay any dividend on any other class of stock at a rate greater than the statutory dividend payable on the class A stock. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of other classes held, except as provided in subsection (g) of this section.

(c) Class A stock with a par value of $100 per share shall be issued by the Bank to the Secretary of the Treasury on behalf of the United States in exchange for capital furnished pursuant to subsection (a) of this section. The holder of class A stock shall be entitled to dividends at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity: *Provided*, That until October 1, 1990, such dividends shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such dividends shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative. Any such dividend payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, but any dividend payment so deferred shall bear interest at the same rate as the rate at which dividends accumulate on the class A stock. Without the approval of the Secretary of the Treasury, the Bank shall not pay any dividend or distribution on, or make any redemption or repurchase of, any other class of stock at any time when the cumulative dividends of the class A stock shall not have been paid in full (together with any unpaid interest thereon). Upon any liquidation or dissolution of the Bank, the holder of class A stock shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any other class of stock of the Bank, an amount not less than the aggregate par value of all class A stock outstanding, plus all accrued and unpaid dividends accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A stock shall be redeemed and retired as soon as practicable consistent with the purposes of this Act (such redemption to be at a price equal to the par value of the class A stock so redeemed plus cumulative dividends accrued thereon to the date of redemption): *Provided*, That beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of shares of class A stock having an aggregate par value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year.

(d) Class B stock shall be held only by recipients of loans under section 105 of this Act, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to

own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers.

(e) Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 105 of this Act or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank. Such dividends shall be payable only from income, and, until all class A stock has been retired, the rate of such dividends shall not exceed the rate of the statutory dividends on class A stock.

(f) Nonvoting stock of other classifications and other priorities may be issued at the discretion of the Board, to other investors, except that so long as any class A stock is outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A stock as to dividends or upon liquidation or dissolution.

(g)(1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 103(c) of this Act; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

(h) The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board. For the purpose of accepting such contributions, the Bank will be a governmental unit within the meaning of section 170(b)(1)(A)(v) of the Internal Revenue Code of 1954.

(i) After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds for reserves for losses, for cumulative dividends on class A stock and dividends on class C stock and for any redemption of class A stock in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

ELIGIBILITY

SEC. 105. (a) For the purpose of all titles of this Act, subject to the limitations of subsection (d) of this section, an eligible cooperative as an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such goods, services, or facilities, or a legally chartered entity entirely owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank, or mutual savings and loan association.

(b) No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

(c) As used in this section, the term "net savings" means, for any period, the borrower's gross receipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

(d) An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Rural Telephone Bank, the Banks for Cooperatives or other institutions of the Farm Credit System, or the Farmers Home Administration may receive the assistance authorized by this Act only (1) if the Bank determines that a request for assistance from any such source or sources has been rejected or denied solely because of the unavailability of funds from such source or sources, or (2) by agreement between the Bank and the agency or agencies involved.

(e) Notwithstanding any other provision of this section, a credit union serving predominantly low-income members (as defined by the Administrator of the National Credit Union Administration) may receive technical assistance under title II.

ANNUAL MEETING

SEC. 106. The Bank shall hold an annual meeting of its stockholders which shall be open to the public. At least 30 days' advance notice of the time and place of the annual meeting shall be given to all stockholders. Borrowers from the Bank shall also give notice of the meeting to their members, who shall be entitled to attend. At such meeting the Bank shall give a full report of its activities during the year and its financial conditions and may present proposals for future action and other matters of general concern to borrowers and organizations eligible to borrow from the Bank. Members and representatives of borrowers may present motions or resolutions relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda.

BORROWING AUTHORITY

SEC. 107. (a) The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine after consultation with the Secretary of the Treasury: *Provided, however,* That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed five times the paid-in capital and surplus of the Bank.

(b) The Bank is also authorized, but not required, and only as long as any of its class A stock is held by the Secretary of the Treasury, to issue its obligations to the Secretary of the Treasury, in amounts not to exceed in the aggregate such amounts as are provided in appropriations Acts and the Secretary of the Treasury may in his discretion purchase any such obligations. Each purchase of obligations of the Bank under this subsection shall be upon such terms and conditions as to yield a rate of return not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine any of the obligations of the Bank acquired by him under this subsection.

(c) The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(d) Obligations issued under this section shall not be guaranteed by the United States and shall not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Bank.

LENDING POWERS

SEC. 108. (a) The Bank may make loans and commitments for loans under this subsection to any organization determined by the Bank to be eligible under the provisions of section 105 of this Act, and may purchase or discount obligations of members of such organizations if the Bank, to the exclusion of all other persons, entities, agencies, or jurisdictions, also determines that the applicant has or will have a sound organizational and financial structure, income in excess of its operating costs and assets in excess of its obligations, and a reasonable expectation of a continuing demand for its production, goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions. Commencing on October 1, 1983, the Bank shall not make any loan to a cooperative for the purpose of financing the construction, ownership, acquisition, or improvement of any structure used primarily for residential purposes if, after giving effect to such loan, the aggregate amount of all loans outstanding for

such purpose would exceed 30 per centum of the gross assets of the Bank. The Board of Directors shall use its best efforts to insure that at the end of each fiscal year of the Bank at least 35 per centum of its outstanding loans are to—

(1) cooperatives at least a majority of the members of which are low-income persons, and

(2) other cooperatives, if the proceeds of such loans are directly applied to finance a facility, activity, or service that the Board finds will be used predominantly by low-income persons.

The Board shall adopt and publish in the Federal Register rules defining the term "low-income persons" for purposes of this subsection. The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any other person or organization.

(b) Loans under this section shall be repayable in not more than forty years and, except for loans with final due date not longer than five years from the date of the loan, shall be amortized as to principal and interest. In setting the terms, rates, and charges, it shall be the objective of the Bank to provide the type of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the Bank, necessary reserve and expenses of the Bank, and the technical and other assistance attributable to loans under this section made available by the Bank, but so long as the Bank makes loans from the proceeds of the sale of class A stock, the interest rate shall not be less than the rates generally prevailing in the area from other sources for loans for similar purposes and maturities, taking into consideration the cost to the borrower of required purchase of class B stock in the Bank. The loan terms may provide for interest rates to vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Bank for new loans at such times. The proceeds of a loan under this subsection may be advanced by the borrower to its members or stockholders under circumstances described in the by-laws or rules of the Bank.

(c) Subject to section 102(13), the Bank may guarantee all or any part of the principal and interests of any loan made by any State or federally chartered lending institution to any borrower if such loan is to an organization that would be an eligible borrower from the Bank for a direct loan and is on terms and conditions (including the rate of interest) which would be permissible terms and conditions for such a direct loan. The Bank may impose a charge for any such guarantee. No loan may be guaranteed by the Bank if the income therefrom to the lender is excluded from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

(d) Any loan guaranteed under subsection (c) shall be assignable to the extent provided in the contract of guarantee as may be determined by the Bank. The guarantee shall be uncontestable, except for fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan. The Bank in lieu of requiring such lender to service such guaranteed loan until final maturity or liquidation, may purchase the loan for the balance of the principal and accrued interest thereon without penalty, if it determines that (1) the liquidation of the loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation, and (2) the loan will be repayable with revision of the loan rates, terms, or payment periods or other conditions not inconsistent with loans made by the Bank under subsection (a) of this section, which revisions the lender or other holder of such guaranteed loan is unwilling to make.

(e) As long as any of the class A stock of the Bank is held by the Secretary of the Treasury, the aggregate amount of commitments by the Bank to make or guarantee loans shall not exceed such amounts as may be specified in annual appropriation Acts.

TAXATION

SEC. 109. Until the Final Government Equity Redemption Date, but not thereafter, the Bank, including its franchise, capital, reserves, surplus, mortgages, or other security holdings and income shall be exempt from taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, but any real property held by the Bank shall be subject to any State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

QUARTERS AND SPACE

SEC. 110. Until the Final Government Equity Redemption Date, space for the principal office and any branch offices of the Bank shall be provided by the General Services Administration. Thereafter, the Bank may lease, construct, or own quarters and provide for the space requirements of its principal and other offices.

REPORTS TO CONGRESS

SEC. 111. The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

AUTHORIZATION

SEC. 112. In addition to appropriations specifically authorized in this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, ending September 30, 1980, and September 30, 1981, such sums as may be necessary: Provided, That none of these appropriated sums shall be used to retire any indebtedness of the Bank incurred pursuant to section 107 of this Act. Any sums so appropriated shall remain available until expended.

APPEALS

SEC. 113. (a) If an application for assistance under this Act is denied in whole or in part, the applicant shall be informed within thrity days in writing of the reasons for the denial or restriction.

(b) Any applicant for assistance under this Act receiving notice of denial or restriction of the application may, within thirty days of receipt of such notice, request the Board of Directors to review the application and notice of denial or restriction for a determination of whether the action of the Bank was correctly within the terms of the Act, the regulations, and the policy of the Board. The Board shall consider the request for review at its next meeting and promptly inform the applicant of its determination and the reasons therefor.

CONFLICT OF INTEREST

SEC. 114. The Board of Directors shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the Federal Executive conflict of interest rules contained in Executive Order Numbered 11222 in prohibiting participation or action or the use of inside information for personal advantage on any matter involving a corporation, trust, partnership, or cooperative organization in which a board member, officer, or employee holds a substantial financial interest or holds a position as board member or senior officer, the activities of which organization might be relevant to, be competitive with, or be inconsistent with the objectives of any bank created under this Act. These rules shall require—

(1) each nominee for elected membership on the Board established under this Act to make public and file with the election official before the date of election a statement of his financial interest and position, if any, such organizations; and

(2) each senior executive officer and appointed member of the Board to file with the appointing officer, before entering that office a statement of his financial interest and position, if any, in such organizations, which shall be available for inspection upon request.

The provisions of this section shall remain in effect until the Final Government Equity Redemption Date.

EXAMINATION AND AUDIT

SEC. 115. Until the stock of the Bank held by the United States has been fully retired, the operations of the Bank shall be examined annually under the direction of an agency or instrumentality of the Federal Government designated by the President, including the General Accounting Office, and reports of such examination shall be forwarded to the Congress. The President shall, no later than the date that 66⅔ per centum of the class A stock is held by others than the Secretary of the Treasury, establish an Office of Supervision and Audit which shall be responsible for audits and examinations of the Bank, shall assure that the objectives of this title are carried out, and shall review and comment on the bylaws of the Bank and the general policies of the Bank and shall make an annual report to the Congress.

TITLE IV—OFFICE OF SELF-HELP DEVELOPMENT AND TECHNICAL ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established within the Bank an Office of Self-Help Development and Technical Assistance (hereinafter the "Office").

(b) The Office shall have a Director who shall be appointed by the President, with the advice and consent of the Senate, and who shall not be a member of the Board. Subject to review by the Board, the Director shall promulgate and publish in the Federal Register policies and procedures governing the operation of the Office.

AUTHORIZATION

SEC. 202. There are hereby authorized to be appropriated to the Office $10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act. Any amounts appropriated to the Office shall be deposited by the Office in a separate account in the Bank (hereinafter the "Account"), and shall remain available until expended. Repayments of capital investment advances made pursuant to section 203(a) and interest supplement advances made pursuant to section 203(b) and payments of interest thereon pursuant to section 203(c) shall also be deposited in the Account. No other funds of the Bank shall be transferred into the Account. The Account shall be used by the Office only as authorized in section 203.

CAPITAL INVESTMENTS AND INTEREST SUPPLEMENTS

SEC. 203. (a) The Office may make a capital investment advance out of the Account to any eligible cooperative, either in conjunction with or without a loan if the Office determines that—

(1)(A) the applicant's initial or supplemental capital requirements exceeds its abil-

ity to obtain such capital through a loan under section 108 or from other sources; or

(B) the membership of the applicant is, or will consist, substantially of low-income persons, as defined by the Board of Directors, or the applicant proposes to undertake to provide specialized goods, services, or facilities to serve their needs; and

(2) the applicant cannot obtain sufficient funds through a loan under section 108 or otherwise, and the applicant presents a plan which the Office determines will permit the replacement of a capital investment advance out of member equities within a period not to exceed thirty years.

(b) The Office may make advances out of the Account to pay all or part of the interest payable to the Bank or any other lender by an eligible cooperative applicant which the Office determines cannot pay a market rate of interest because it sells goods or services to, or provides facilities for the use of, persons of low income: *Provided*, That such advances will not exceed an amount equal to 4 per centum of the principal amount of the indebtedness of such applicant to the Bank or such other lender for any year in which the net income of the cooperative is insufficient to meet scheduled interest payments.

(c) Capital investment advances made by the Office pursuant to subsection (a) and interest supplement advances made by the Office pursuant to subsection (b) shall bear interest at a rate determined by the Board of Directors of the Bank, and the Board of Directors may authorize an interest rate applicable to such advances lower than the rate applicable to loans by the Bank pursuant to section 108.

ORGANIZATIONAL ASSISTANCE

SEC. 204. The Office shall make available information and services concerning the organization, financing, and management of cooperatives to best achieve the objectives of this Act and to best provide the means through which various types of goods, services, and facilities can be made available to members and patrons. The Office may enter into agreements with other agencies of Federal, State, and local governments, colleges and universities, foundations, or other organizations for the development and dissemination of such information, and services described in this title. The Office may make or accept grants or transfer of funds for such purposes.

INVESTIGATION AND REVENUES

SEC. 205. The Office may undertake investigations of new types of services which can more effectively be provided through cooperative not-for-profit organizations and make surveys of areas where the increased use of such organizations will contribute to the economic well-being of the community.

FINANCIAL ANALYSIS AND MARKET SURVEYS

SEC. 206. The Office may, at the request of any eligible cooperative, provide a financial analysis of the applicant's capital structure and needs and its cost of operations, survey the market for the goods or services the cooperative makes or desires to make available to its members or patrons or the users of its facilities.

DIRECTOR AND MANAGEMENT TRAINING AND ASSISTANCE

SEC. 207. The Office shall develop and make available, alone or in concert with other organizations, a program for training directors and staff of eligible cooperatives to improve their understanding of their responsibilities; the problems of and solutions for effective and efficient operation of their organizations or of cooperatives in general; and may by any means it deems appropriate, conduct membership studies, provide membership education programs, and programs for informing consumers and the general public of the advantages of cooperative action. Management supervision, review, and consultations shall be available from the Office to any eligible cooperative.

GOVERNMENT ASSISTANCE PROGRAMS

SEC. 208. The Office shall work closely with all United States Government agencies offering programs for which consumer cooperatives may be eligible to assure that information concerning all such programs is made available to eligible cooperatives.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated to the Office $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this title. Any sums so appropriated shall remain available until expended.

FEES FOR SERVICES

SEC. 210. The Office may make the technical assistance services under this title available for such fees as it may establish, except that such services as the Office may determine may be made available without charge to eligible cooperatives depending on the nature of the services or on ability to pay. Any fees collected shall be accounted for separately and be available for expenses of the Office.

TITLE III—GENERAL PROVISIONS

AMENDMENTS TO EXISTING LAW

SEC. 301. (a) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by redesignating paragraph (6) the second time it appears therein as paragraph (7), by striking out "and" immediately before "(9)" and by inserting ", and (10) the National Consumer Cooperative Bank" immediately before the period at the end thereof.

(b) Section 302 of the Government Corporation Control Act (31 U.S.C. 867) is amended by striking out "or" before "the Federal Land Banks" and inserting immediately after "the Federal Land Banks," the following: "or the National Consumer Cooperative Bank,".

(c) The second sentence of subsection (d) of section 303 of the Government Corporation Control Act (31 U.S.C. 868(d)) is amended by inserting "National Consumer Cooperative Bank," immediately before "Rural Telephone Bank".

SEC. 302. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) President, National Consumer Cooperative Bank.

"(123) Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.".

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Rhode Island (Mr. ST GERMAIN)?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I take this reservation for the purpose of asking a question. If the gentleman's motion should prevail, would not the bill be passed and go to the White House?

Mr. ST GERMAIN. The gentleman is absolutely correct.

Mr. ASHBROOK. The speaker, further reserving the right to object, I think there is a principle involved here. I do not think under a unanimous-consent request that we should pass new legislation to spend hundreds of millions. We should be drawing in not expanding. For that reason, Mr. Speaker, I object.

Mr. ST GERMAIN. Mr. Speaker, would the gentleman withhold temporarily and yield?

Mr. ASHBROOK. I am glad to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, the reason for asking to do it in this manner is that, indeed, the Senate amendment does cut the authorizations back for the self-help fund. That is entirely in keeping with the tightening of the budget.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, my reason for objecting is that I would hope the bill would get lost somewhere and not get passed.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the gentleman knows this particular legislation only passed by one vote here in the House.

Mr. ASHBROOK. What day was that?

Mr. ROUSSELOT. About July of last year.

Mr. ST GERMAIN. In July.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I opposed the bill and still do now. I must say, the Senate version, if that is possible, is substantially better than the House-passed version. It is far less money.

It is really the Ralph Nader bank. That is what it will be known as. It is a whole new banking system which I do not think we need; but if we go to conference, my point is that we will come back with a much worse bill.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I still feel, as one opposing this, that to not object would be to assent. I do not want to agree to this.

Therefore. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

## PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT BEYOND 10 A.M. ON WEDNESDAY, JUNE 26

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, be permitted to sit beyond 10 a.m., on Wednesday, July 26, 1978, to conduct a hearing only on the administration's anti-inflation program.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## CONFERENCE REPORT ON H.R. 12426, NEW YORK CITY FINANCIAL ASSISTANCE ACT OF 1978

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I call up the conference

report on the bill (H.R. 12426) to authorize the Secretary of the Treasury to provide financial assistance for the city of New York, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 18, 1978.)

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. MCKINNEY will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield to the gentleman from Wyoming (Mr. RONCALIO).

(By unanimous consent, Mr. RONCALIO was allowed to speak out of order.)

IN SUPPORT OF CLARIFICATION OF REMARKS OF AMBASSADOR YOUNG

Mr. RONCALIO. Mr. Speaker, I thank my gracious friend from Pennsylvania for yielding to me.

This is an out-of-order 1 minute I take to advise my colleagues of the fact that yesterday morning our good friend, the gentleman from Arkansas (Mr. ALEXANDER) introduced into the RECORD the verbatim interview of Ambassador Young. He telephoned him the morning of the incident, and asked for the transcript so we could all read it firsthand. I commend BILL ALEXANDER for that.

Mr. Speaker, I think we have a duty to read that verbatim account. It is a tremendous contribution to better understanding of America in Africa. It is an excellent defense of our policy in Africa. It is must reading for all 535 of us.

Mr. Speaker, I hope all of us, every Member of the House, including my good friend, the gentleman from Illinois, who discussed this matter, will read this interview word for word. It illustrates a lot of the heat of passion and the frustration all of us feel once in awhile when they take a word or two out of context from a long hour-and-a-half debate and throw it in the headlines the next morning.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the chairman of the full Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS), who also served so ably as chairman of the conference committee.

Mr. REUSS. Mr. Speaker, the conference report on H.R. 12426 represents a genuine compromise between strong conflicting views of the two Houses. It was arrived at after quite a few hours of hard debate and bargaining. As usual in the case of compromise, both Houses gave something in order to get something, and I believe we have here a good, workable program which will do the job of getting New York City back on its fiscal and financial feet.

The conference report provides for $1.65 billion in guarantees of city-related securities over the 4-year period beginning July 1 of this year; the guarantees can be issued only for securities purchased by the city and State employee pension funds; some seasonal assistance is provided for this year only; the $1.65 billion is to be available in annually specified amounts, which will provide the opportunity for close monitoring of compliance by New York City and State with the various conditions which the program imposes, which incidentally are expanded beyond what the House bill required.

Mr. Speaker, this conference report contains tighter, more stringent provisions than were in the bill which we passed in this House in early June. But if New York City follows the prudent fiscal and financial course it has set for itself and does the things it has promised it will do in the next 4 years, this bill which the conferees have developed will work, and New York should be back in the public credit markets by June 30, 1982.

Mr. Speaker, I urge my colleagues to support the conference report on H.R. 12426, the New York City Loan Guarantee Act of 1978.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report on the bill H.R. 12426. I agree with the chairman of the full Banking Committee, who also served very ably as chairman of the conference committee, that the conference report represents a genuine compromise. Even though the two bills passed each house by nearly 2-to-1 margins, there were strong conflicting views between the two houses.

Title I of the conference can be divided into five basic headings: (A) Total Amount of Guarantees and Their Duration; (B) Conditions for Eligibility; (C) Division of Guarantees into Slices, Eligible Purchasers, and One-House Veto; (D) Remedies in the Event of Default; and (E) Inspections, Audits and Reports. Title II of the conference covers matters under the jurisdiction of the Committee on Ways and Means.

A. TOTAL AMOUNT OF GUARANTEES AND THEIR DURATION

The conference agreement would provide for up to $1.65 billion to New York City (instead of the $2 billion in the House bill and $1.5 billion in the Senate bill) for up to 15 years (instead of 10 years in the Senate bill), except that $325 million may be used for short-term debt issued before January 1, 1979, and maturing not later than July 1, 1979 (the Senate had no provision for any short-term financing and the House had no special limitation thereon). Authority to issue guarantees would terminate on June 30, 1982.

B. CONDITIONS FOR ELIGIBILITY

The conferees agreed to make the guarantees contingent upon the following:

First. A finding that State, private and public credit sources would meet the remainder of the city's unguaranteed debt through June 30, 1982, in amounts sufficient to assure financing of all city debt after that date in the public credit markets;

Second. Reasonable prospects that obligations will be repaid and that the interest rate is reasonable;

Third. The maintenance of an independent fiscal monitor for the entire period the guarantees are outstanding;

Fourth. That the city's budget will be balanced by 1982 and thereafter, and plans for maintaining balanced budgets for the entire guarantee period;

Fifth. Annual independent audits of the city's financial statements and the establishment of an independent audit committee;

Sixth. Maintenance of the 1979 level of State financial assistance through 1982;

Seventh. The establishment of a State reserve fund of 5 percent of the principal outstanding and of 1 year's interest, to be used in the event of default;

Eighth. The establishment of a Productivity Council to enhance productivity of city employees;

Ninth. A requirement that the city offer short-term notes to the public in 1980, 1981, and 1982 and long-term bonds in 1981 and 1982, unless the Secretary determines that any such offer would be inconsistent with the financial interests of the city; and

Tenth. A requirement that 15 percent of the city's long-term borrowings in 1982 and thereafter be used to repay guaranteed obligations subject to waiver or modification by the Secretary.

C. DIVISION OF GUARANTEES INTO SLICES, ELIGIBLE PURCHASERS AND ONE-HOUSE VETO

The conferees accepted a modified Senate provision limiting the $1.65 billion loan guarantee authority to debt held by city and State employee pension funds and apportioning the guarantees as follows: $500 million each in fiscal 1979 and 1980, and $325 million each in 1981 and 1982, all long-term and cumulative. The $325 million for 1979 short-term (seasonal) guarantees could be used only to the extent that city pension fund debt purchases would impair the funds' tax-exempt status (the effect is to permit guarantees of seasonal purchases by State pension funds). Amounts for fiscal 1980 and 1981 could be vetoed by either house of Congress before the start of the city's fiscal year; the $325 million for fiscal 1982 would be available only if the city presents a balanced budget; if the balanced budget is presented earlier than 1982, the $325 million would be available then. The Secretary of the Treasury must assess a guarantee fee of

at least one half of one percent of outstanding principal.

D. REMEDIES IN THE EVENT OF DEFAULT

In the event of default, the Secretary is required to withhold Federal payments to the city or the State. In the event of insolvency, the United States has priority claim over other creditors. The Secretary may waive this right if necessary to help the city meet its financing needs. The Secretary may bring civil action to enforce compliance.

E. INSPECTIONS, AUDITS AND REPORTS

Finally, full authority would be provided for inspection, audits and reports by the Treasury and the General Accounting Office. Appropriations must precede issuance of guarantees.

Title II, which is under the jurisdiction of the conferees from the Committee on Ways and Means, would provide for Federal taxation of interest on guaranteed obligations and prohibit their acquisition by the Federal Financing Bank.

Mr. Speaker, your conferees have produced legislation which will reestablish the financial position of New York City, will not establish a precedent for other cities, and will not cost the taxpayers one thin dime.

Mr. Speaker, I urge adoption of the conference report.

Mr. McKINNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. STANTON), the ranking minority member on the Committee on Banking, Finance and Urban Affairs.

Mr. STANTON. Mr. Speaker, I favor adoption of the conference committee report on H.R. 12426, the New York City Financial Assistance Act of 1978.

Mr. Speaker, I am philosophically opposed to long-term loan guarantees for New York City. But I am also firmly convinced that New York City must have Federal help if it is to avoid bankruptcy. And since H.R. 12426 as revamped by the conference committee is the only vehicle at hand to help New York City, I am supporting the conference committee report.

The House and Senate conferees labored diligently on this legislation and produced a bill which I fervently hope will not only enable New York City to avert bankruptcy but to get back into the financial markets and solve its basic problems. Of course, the only permanent solution to New York City's problems rests not with Washington but with New York City itself and its municipal administration.

Mr. Speaker, I think the House-Senate conference on H.R. 12426 served a highly useful purpose because the resulting product is superior to that which emerged from the individual Houses of the Congress.

The House bill was overgenerous in its treatment of New York City—too loosely written.

The Senate measure was a more restrictive package and was an improvement over the House legislation in its monitoring of New York City finances. But the Senate bill lacked the option of short-term loan guarantees—an option which, in my view, New York City definitely must have.

The result of the conference was to bring before the House and Senate a New York City assistance bill which gives the city $1.65 billion in long-term loan guarantees—hedged around with carefully drawn restrictions—and also up to $350 million in short-term guarantees to be used in the first 6 months of the first fiscal year.

Let me call the attention of the House to the tightening up of New York City financial monitoring which is provided for in the conference committee report. The guarantees will be spaced out over 4 years. To forestall a parade of distressed cities seeking loan guarantees in Washington, the guaranteed securities can be sold only to New York City's municipal pension fund and the State of New York pension fund. There will be opportunities for Congress to exercise a one-House veto in the second and third years. And the fourth-year guarantees would be forthcoming only if New York City achieves a balanced budget according to generally accepted accounting principles.

Mr. Speaker, this legislation is needed and I therefore support it.

Mr. McKINNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think probably the only good thing that I can find in this conference report, as a supporter of New York, is that it does not have an abortion or human rights amendment on it.

I have a feeling that the House of Representatives totally sold out to the Senate and I think in selling out to the Senate on many points that we lost sight of our overall objective.

Of course, I am going to vote for this conference report. Of course, I am going to support it because I support the city of New York; but it seems to me that the expressions that have been made by those who favor helping New York City, have been put in great jeopardy by the conference report which we have in front of us. We have come perilously close to making an insufficient amount of guarantees available to New York City, guarantees that are not going to cost the Federal taxpayer one single dime because we have the collateral of all of the Federal transfer programs to the city and of all of the Federal transfer programs to the State; we have made the city a person under the bankruptcy laws for the first time in the history of the United States; we have set aside a reserve fund; we have provided for a one-House veto; and we have cut the funds drastically.

Mr. Speaker, I have questioned who was elected to office during the conference, but I have acquiesced because I did not have the cards. I suppose it is bad enough that The New York Times has quoted me as saying to the Senate conferees that I would hope they would send back my underwear and socks after the conference because I certainly lost both of them. However, I did not have the cards.

Mr. Speaker, I think the only reason I am up here complaining about the conference report on which I worked long and hard and which I am going to vote for is that, in true conscience, I want to say something is going on in this House today which disturbs me beyond comparison.

Mr. Speaker, I used to think that it was my friends from the farm belt who were putting it to the cities; but I have turned around now and I help my farm friends whenever I can because I realize they have their problems; but now it is the very constituency which lives in half of my district that is taking from the cities.

Mr. Speaker, I have a very vociferous opponent, but I hope he will go back to my district and say that this is what I said in the House.

Mr. Speaker, the lack of concern for the basic problems of the cities of this country bothers me greatly. This Congress refuses to realize what it has historically done for almost 150 years to these cities—that we have taken the tax money from the cities in this country at a faster rate and returned it at a lesser rate than in the case of any other part of our population—all of these are facts which bother me.

Mr. Speaker, in the stripping and stripping and pin-cutting which went on in this conference on New York City, I found an attitude which was not, "Let us do what is best for New York City; let us make New York City healthy; let us make it again part of the economic mainstream." Rather, I found an attitude underlying the conference which I find underlying most of our thoughts on urban problems in this House; and that is, "Let us put it to the urban centers. Let us make them continue to pay."

Mr. Speaker and my colleagues, I am going to tell the Members simply this: I do not intend to spend the rest of my life in the House, but I do intend to spend long enough in this country, alive on this Earth, to know that the problem of America today is coping with its urban centers which have supplied most of the money that built the South, the West, and the rest of the country, as well as other parts of the world. If we cannot cope with those urban problems, if our attitude is going to be continually, "Let us put it to the urban dweller and the urban government," we are going to have a tremendous problem because 70 percent of the people in this country are urbanists. They live in the suburbs and in the great cities of this Nation.

Mr. Speaker, as any housewife knows, one always squeezes a melon before he or she buys it because, most assuredly, if the melon's core is rotten, the melon is no good.

Mr. Speaker and colleagues, I would simply say that if we do not face that problem in this Nation, if we continue with the same attitude which I saw at this conference, then our core is most certainly going to stay rotten; and we as a Nation will fall with it.

Mr. Speaker, I imagine the reason for my speech today is one more try to plead somehow on the record that this legislative body realize what we as a nation have done to the economics of the urban centers of this country and that we know now that we must undo what we have done or else we surely will not survive.

Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD of Pennsylvania. Mr.

Speaker, I yield 4 minutes to the distinguished gentleman from Minnesota (Mr. VENTO), a member of the subcommittee and a member of the conference committee.

Mr. VENTO. Mr. Speaker, we faced a difficult task on this conference report. The attitude on the part of the Senate was that they had, in essence, adopted the body of legislation that was passed by the House, and then acted to improve upon it. Indeed, they had taken some of the very restrictive requirements that were embodied in the House legislation and added to them such provisions as one-House veto, prohibited use of seasonable financing, which has, of course, been the vehicle which was utilized the last 3 years in terms of meeting the city's financial need with tough restrictions.

Now, the fact that we faced a deadline, or the fact that we were beyond a deadline, obviously was very much in the minds of all the conferees. The deadline, of course, was the seasonal bonding authority terminated July 1 and realization that the plight of the city was going to become worsened, we believed, by the lack of resolution with regard to the conference and a policy of whether or not Congress was going to authorize seasonal financing or long-term bond guarantees for the city of New York.

To frame the issue remember that the Senate position was $1.5 billion plus interest, with a 10-year limitation on some of the bonds and 15-year on others. There was the legislative veto and the seasonal bond prohibition. Our position was $2 billion inclusive of interest, which our colleague from Connecticut (Mr. MCKINNEY) had been successful in placing into the legislation in committee, and which I think was a proper limitation, and no seasonal bond limitations.

The conferees are presenting a figure of 1.65 in terms of bond plus interest, and of course we recognize that this is a compromise depending on what the interest rates are.

The other types of compromises that were made here, I think, were necessary, and I think they were reasonable.

Mr. Speaker, I think this legislation will permit New York to attain the type of autonomy and health which we all desire it to have. I rise in support of the conference report to accompany H.R. 12426, the City of New York Financial Assistance Act of 1978.

I am especially mindful of the national costs that have occurred because of indecisive congressional action and the increased costs that many sound political subdivisions experienced when no resolution existed for New York City fiscal soundness.

The conferees had the task, as I have mentioned, of reconciling some differences in the House and Senate bills, but led by our distinguished chairman, the gentleman from Wisconsin (Mr. REUSS), and our good chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD), we were able to agree on the legislation which I believe is better than either of the original bills that were brought into the conference.

It is my understanding that New York City and New York State banks see this legislation as capable of achieving the purpose of helping the city to be restored to sound fiscal health. Salient features of the conference report have been fully reported. It is not necessary to further belabor the objectives which have been resolved.

Mr. Speaker, I commend all the conferees who participated in the work, and this reasonable agreement. I especially want to pay tribute to the staff people, both of the House and the Senate, who were so helpful to me as a freshman Member serving on this conference for the first time. I strongly urge my colleagues to vote in favor of the conference committee report and provide the fiscal stability that the city and State need to continue its recovery.

Mr. MCKINNEY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, it can only be hoped that the impressive success which New York City has scored in making its case to Congress will now be repeated as it begins to do battle with an even more fearsome fiscal situation. The war is far from over, and far from won. It will require heroic measures of intelligence, honesty, and willpower for the city to overcome its wanton past and earn the confidence Congress has chosen to place in it by the present legislation.

In coming to the aid of New York City, it has not been the intention of Congress to provide what some have called a "bailout," simply enabling the city to continue living beyond its means. This would be entirely unproductive and shameless. To the contrary, our response has been a limited and highly structured one; and it has been meant only as the last best hope to pull the city to its own feet so that one day soon the Federal Government will no longer be needed as a crutch.

It should be clear for all to see that the city is so beleaguered by deficit, deteriorating capital plant, and the flight of tax base and investment, that the alternative to our action would be the spectacle of our largest city teetering on the brink of financial collapse and all the legal, political, and social chaos that could ensue. It is argued in some quarters that only a formal bankruptcy will permit the discipline to be imposed that elected governments sometimes do their best to avoid. But the consequences of such an unprecedented action for New York's flesh-and-blood citizens, for the municipal bond markets that other cities depend on, and for our image and economic situation abroad, would make such an action seem Draconian and vengeful.

Moreover, it is not as if the city has now been let off scot-free. The legislation that has emerged from conference has, to a large extent, combined the most restrictive conditions in the individual House and Senate bills. The result has been a type of Federal assistance that other cities will not easily be tempted to seek.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I would like to take this opportunity to compliment the gentleman from Pennsylvania (Mr. MOORHEAD) for the extraordinary leadership he has shown on this legislation to provide loan guarantees to New York City and to thank the members of the conference committee, the members of the Committee on Banking, Finance and Urban Affairs, and the Members of the House who supported efforts to allow New York City to stand on its feet financially speaking.

That is all New York City has asked for and that is what this conference report is designed to do.

I do share some of the concerns, however, suggested by the gentleman from Connecticut (Mr. MCKINNEY); namely, that with all the restrictions, limitations, and inhibitions placed on the guarantees by the Conference Report, we may be suffocating the city as it tries to get to its feet. I hope that does not happen. I hope the city gets on its feet.

Again I express my gratitude to the Members of the House and the conference committee.

Mr. MCKINNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in opposition to the conference report on H.R. 12426, which provides for another Federal bailout of New York City. The citizens of our Nation should not be expected to subsidize the excesses and mismanagement of this city forever.

As my colleagues will recall, in 1975 Congress approved an emergency piece of legislation designed to help New York City avert bankruptcy. The bill as enacted provided $2.3 billion in Federal loans.

At that time we were told by New York officials that the legislation was for one time only. We were told on the House floor by supporters of the legislation that New York City only wanted the opportunity to "put its own house in order," a chance to "work its way back to fiscal solvency" and "work itself out of its difficulties."

Two and a half years have now gone by and the emergency legislation is expiring. Not surprisingly, officials from the "Big Apple" are back before Congress, hat in hand, seeking renewed aid. I will vote against this $1.65 billion bailout just as I did the $2.3 billion bailout in 1975.

The Federal Government is on the verge of becoming a permanent guarantor of New York City's finances. The taxpayers of our Nation are in danger of perpetually loaning their money to pay one city's bills.

Congress should call a halt to this nonsense. Ohioans should not be required to bankroll the profligate policies of New York City politicians.

It is hard to feel much sympathy for New York City. Its problems are self-

inflicted. The simple truth is that the city has acted as if there were no tomorrow, spending more, taxing more, and borrowing more than any other city in the country.

Look at the facts. This city, which wants Federal help, outspends the average city on a per capita basis by 46.5 percent. This city, which is asking for another bailout, pays the averag city employee a wage package in excess of $26,700.

Approximately 7 years ago I voted against the Federal bailout of the Lockheed Aircraft Corp. As I stated in my August 4, 1971, Washington Report:

> Increasing reliance on the Federal Government as an inexhaustible, bottomless pit of funds is a trend I have frequently deplored. This dependency has eroded individual initiative, as well as local and State Government initiative.

This trend is continuing today, with New York City once again before Congress seeking Federal assistance. I oppose the practice of putting failing cities on welfare just as I oppose the practice of putting failing corporations on welfare. Residents of the 17th District of Ohio should not have to subsidize the mistakes and extravagance of New York City.

Mr. McKINNEY. Mr. Speaker, I yield 2 minutes to my good friend on the committee, the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Speaker, I thank the gentleman from Connecticut.

Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I think that the issue is unchanged. Those Members of the House who believe that it is perfectly all right to mismanage Government and then in a tidy package send the bill to the taxpayers will think that the committee report is a good solution. Those Members of the House who believe that the only solution to New York's problems is for the New York City government to quit spending so much money and be responsible to the people will think the committee report is a bad solution.

Mr. Speaker, I suggest that the Members of this body can take no pride in the fact that but for the sense of responsibility and leadership of the chairman of the full Banking Committee in the other body we would probably be melting down the Capitol dome for transmission to New York to further finance the mismanagement there.

Mr. Speaker, it is patently wrong to take the view that a vote against financing New York City is an effort to punish New York City for past mistakes.

The current management of the city is basically the same as the old. The general practices and policies of living beyond what the taxpayers can afford that drove New York to the brink of bankruptcy in 1975 continue unabated under the present administration, despite protestations that a "new spirit" has taken hold in the management of city affairs.

As an example, the present administration is still giving pay raises when it is bankrupt. In the real world, raises are not available to the employees of a bankrupt company, particularly if those employees already enjoy the highest salary and fringe benefit packages in the land.

Given the city's precarious financial condition, wage cuts—not increases—should have been the order of the day. But nobody in the new city administration suggested this course of action by calling on the people of New York to make sacrifices to save their city.

If we are at a point where government must save the city from its people, then we are at a point in our history beyond which we cannot survive much longer.

The people of New York can and must save New York.

The Senate Banking Committee concluded in its February report that New York could meet its financial needs without additional aid from the Federal Government.

Since the House voted $2 billion in aid to New York City, disclosure of a $1 billion cash surplus on hand at the start of the city's new fiscal year simply underscores that finding.

Without the projected multimillion dollar pay raise, and with additional funds raised locally, New York City can do exactly what the Senate Banking Committee said it could do.

A recent poll in my district found Congressmen had a minus 51 job rating. Since that time proposition 13 has been passed. Responsibility in the Congress requires that we not ignore either one of these urgent indicators.

In approving a second Federal bailout for New York City, Congress is acting irresponsibly by not requiring the people of New York to solve their own problems, and by leaving the door open for future bailouts of other cities that have mismanaged their affairs.

The New York bailout is a sad commentary on our times when, increasingly inefficiency is rewarded, and those that do for themselves are left out in the cold.

I will not go into the litany of what New York City could, or should, have done to help itself. It fell on deaf ears during consideration of the bill.

The hope and salvation of New York City lies in the ability of the people of New York to regain control of their city from the special interest groups that have been bleeding it to death.

Federal loan guarantees—by subsidizing ongoing mismanagement—represent a setback for those who would set the city on the right track.

But taxpayers' patience is running thin. Proposition 13 made it to California last month. It is only a question of time before it, or a similar concept, reaches New York City's shores.

The taxpayers of New York City have been footing the bill for the city's mismanagement during the last decade. It is high time they got some relief. And they will, the U.S. Congress notwithstanding.

The question is will this Congress have the courage to require New York City to live within its means or will the people have to do it themselves.

The mood of the people, as demonstrated by proposition 13, establishes that if the duly elected officials of Government will not act in a responsible way to protect the taxpayers, then the people will take control. It is a sad commentary on the stewardship of Government when this is necessary.

The Federal Government's financing New York City in this fashion encourages continued mismanagement by allowing public service unions to extract more pay raises from an already overburdened people.

New York City taxpayers are the most taxed people in our Nation. Because we will not protect the people we set the stage for more revolt by taxpayers from unreasonable taxation.

We make it necessary for the people to seek leadership among volunteers rather than to depend upon those elected to the responsibility.

Where will it end?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the chairman for yielding.

First I would like to commend the gentleman from Pennsylvania (Mr. MOORHEAD) for his commitment, for his tenacity, and for this final product, as well as thank the gentleman from Connecticut (Mr. McKINNEY) and the other members of the committee. The distinguished chairman of the full committee, Mr. REUSS, also demonstrated exemplary leadership on behalf of this bill.

This was not an easy undertaking. At the outset it was hopeless. We had advocates and adversaries. There was hostility. But only the good will and the thoughtful considerations of our colleagues of New York City's fiscal plight and genuine effort to reform is responsible for the success of this legislation at this juncture.

The Congress is to be congratulated for its thoughtful deliberations over a very critical issue.

The gentleman from Florida (Mr. KELLY) just mentioned that it is a question of extending mismanagement. The analogy to his comment would be: Let the sick child die and wait for another to be born.

We concede there has been mismanagement in the city of New York. I have been one of the foremost critics of previous administrations. This is a new administration with evidence of genuine commitment to changing the direction of the city of New York and its management. The evidence of this has been substantial. There has been improved management coupled with great sacrifice by the people of New York.

What this legislation does is save a city. Save a city that, had it collapsed, would have impacted negatively on this entire Nation and its economy.

As far as guarantees are concerned, it does not establish a precedent because Congress guarantees loans to the tune of $300 billion. This legislation is minor by comparison. This legislation, I am certain, is salutory and I am confident that,

notwithstanding the restrictions, and I believe that they are proper, that it is a good conference report. It is important that the management of the city keep its feet to the fire and hew to the line in its commitment to the Members of this Congress.

An examination of this bill would bring one to the inescapable conclusion that New York City is not getting this aid without stringent conditions. Far from being an unconditional bailout, the final version of this legislation contains the kind of requirements which if applied to all programs under which we made loan guarantees would radically restructure Federal spending policies.

This conference report is definitely the product of compromise, and in some eyes even concession. We have reduced the total amount of the guarantee down to $1.65 billion. An option is provided although limited for long- and short-term loan guarantees. The city can be subjected to inspections and audits from the Treasury Department as well as the GAO.

I have reservations about the one-House veto provision contained in the report for the guarantees provided in fiscal year 1980 and 1981. However, on balance the objection does not merit opposition to the report.

The gravity of the problem made it essential that Federal assistance be provided. We did so in 1975. Progress was made but regrettably insufficient to satisfy the private credit markets which in turn froze the city out in their most recent bid for financing. Thus we arrive at this point today.

Of the $300 billion in loan guarantees which have been provided by this Nation—none has been as important to as many people from this Nation. The survival of New York is not just a local necessity for her 8 million citizens but also for the Nation as a whole. This conference report deserves your support today.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just want to say, speaking for this Member, that besides the invincible leadership of the gentleman from New York (Mr. BIAGGI) that my vote for this package is solely because of the persuasiveness of the gentleman from New York (Mr. CAPUTO) and the gentleman from New York (Mr. GREEN).

Mr. BIAGGI. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) for his comments.

I might add that, as chairman of the task force for the lobbying effort for this legislation, that the gentlemen from New York (Mr. GREEN, Mr. CAPUTO, and Mr. MITCHELL) were members of that task force, and they applied themselves diligently and relentlessly as did all members of the New York congressional delegation in helping produce the overwhelming vote in the House which to my way of thinking spoke of the future of this legislation.

I thank the gentleman for yielding to me.

Mr. McKINNEY. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman from Connecticut (Mr. McKINNEY) for yielding me this time, and I rise in opposition to the conference report.

Mr. Speaker, I have no doubt that this conference report will be approved today, but I cannot in good conscience let this moment pass without asking once again, "Is it proper and is there any need for the U.S. Government to become involved in insulating New York City from the natural economic forces which it has brought upon itself?"

I would like to call the Members' attention to an article in the New York Times on July 18, 1978. This article states that New York City began this fiscal year with $997 million in the bank. That means that the city had on hand cash enough to meet nearly two-thirds of the obligations which this bill is going to guarantee. This brings us to the question which a number of us have been raising now for 3½ years. That is, Why should the Federal Government step in to guarantee the obligations of a city whose spending and taxing policies are clearly so far out of line with fiscal responsibility that the capital markets remain closed to the city?

Are we in Congress "fools rushing in where wise men fear to tread"? We were told that this bill was vital to the solvency of the city, and we were told, furthermore, that unless this bill was law by June 30, when the last fiscal year was over, immediate bankruptcy would result. We were told the need was $2.3 billion. We were told that only a combination of short- and long-term financing would do. Then we were told the transit workers sacrificed, the pension funds sacrificed, the banks sacrificed, and so forth. I expected to see every New Yorker walking around with a bullet in his teeth. And what do we see?

A city with nearly a billion dollars in the bank. Responsibility and blame have been passed around like an old shoe, but when the city felt the time was right to pass the hat, it came straight to the Federal Government, and now we pass it back full. Today, this body will no doubt be praised for saving a great city. Our humanity and concern will be extolled. But I still cannot help wondering if we have let ourselves become caught up in another area in which we have no legal or moral place to be.

I am going to vote against this bill because it simply is a piece of legislation which the local interests, not the facts, have called for. I do not doubt that New York City needs help, financial and otherwise, but I am convinced that New York still can do much for itself. That it has done so in the past and continues to do so now is perhaps the best indication that it has the capacity for helping itself so in the future. But given politics and the state of our economy, I wonder if a city which a few short weeks ago had nearly a billion dollars in its bank accounts needs the help of the Federal Government. Local financing, we are told, will be available to the city sometime in the future, perhaps 4 years hence. Of course, by that time there will be a new Congress, and perhaps a new hat to be passed.

Before you vote on this conference report, look at the facts, look at the Constitution, and then decide.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, at this time I have no further requests for time.

Mr. McKINNEY. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from New York (Mr. CAPUTO).

Mr. CAPUTO. I thank the gentleman from Connecticut.

Mr. Speaker, I will be leaving the House in a few months, and one of the memories I shall take with me is the support my hometown of New York City received in this moment of need. I shall appreciate that for a long time to come.

I wonder if I could engage the Chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD) in brief colloquy on one matter. As the subcommittee chairman knows, the severability language was not in the House version. I just want to be sure I understand what it means. It uses the word "provisions," stating that if any provision is held invalid by a court of competent jurisdiction, the balance of the provisions will be valid. "Provisions" is not a self-explanatory word. I want to be sure that if the one-House veto provisions that appear in section 104 are ruled invalid by a court of competent jurisdiction, the balance of the language in that very same section would continue to be valid. That is what we intend; that is what this language means; and that is the interpretation we expect the courts will use, if that becomes necessary.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. CAPUTO. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding.

Yes, sir. As the gentleman has stated, the severability clause was not in the House bill and, in my judgment, is not necessary because the courts would rule on that anyway. I think that when Congress passes a bill, it intends, with or without the severability, but certainly with the severability clause, that the courts should maintain all of the rest of the bill that can possibly be maintained, despite the fact that one provision, such as, for example, the one-House veto, might be declared unconstitutional.

Mr. McKINNEY. Mr. Speaker, I yield 2 minutes to my alternate, the gentleman from Ocean City, Md., and that great supporter of New York (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for part of his characterization.

Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, when future historians view the sincerity of the collective congressional will to restrain spending and to end deficits, I am sure they will look back on this episode today. This bill is only the second act and not the third act of a multiact play. I predicted in 1975

when this bailout proposition was first put to Congress that New York City would be back. They are back again today, and they will be back again in the future. However technical and however carefully circumscribed the content of the legislation so as to protect the interests of the Federal Government, the basic issue that is avoided is the fiscal irresponsibility of the politicians of New York City which has brought Congress to this position today. That irresponsibility continues today. This bill is literally a copout on their part. It avoids the real issue. Perhaps maybe we should not be too hard on them because certainly they learned from examples set at the Federal congressional level and Federal executive level where living beyond one's means have become a way of life. But that is no reason why today we should put our imprimatur on more of this same insane fiscal policy that has gotten our Nation into the economic predicament we face today.

I would like to save New York City, too, but like a stern parent, the better way to instill discipline is not to indulge the child further but to try to teach it new ways and to mend its old ways. That is not what this legislation does, and whether we love New York or not, we are not going to help it in the long run by acceding to this kind of bailout, and that is just what it is.

Mr. Speaker, it is particularly distressing to me as a conservative to see the Members of the Republican Party in this House providing the margin of victory for the passage of this legislation. Without their votes the bill would fail. This is another reason why the party has failed to present the American electorate with a clear choice on the issue of deficit spending. I include as part of my remarks a recent Gallup Poll which undoubtedly was influenced by the public perception that there are far too many liberals in both parties who care little about inflation and spending. The passage of the bill before us may be yet another proof that the public perception is sadly correct.

The article follows:

[From the Washington Post, July 24, 1978]

REPUBLICANS LOSING EDGE ON KEY ISSUE OF SPENDING

PRINCETON, N.J.—One of the principal reasons for the GOP's relatively poor showing to date in the race for Congress is its failure to gain the advantage on key voter issues, including an issue on which Republicans have traditionally held an edge over their Democratic rivals—that of reducing federal spending.

The latest Gallup Poll report on the race for Congress shows that if elections for the House of Representatives were being held now, the political composition of the House would remain pretty much as it is today—more than 2-to-1 Democratic.

The proportion of voters who currently credit the Republican Party as better able to reduce federal spending (26 percent) is matched by the proportion who say the Democrats would perform better in this respect (28 percent). The balance either say they see no difference in the ability of the two parties to deal with this problem (31 percent) or do not express an opinion (15 percent).

Following is the question on federal spending:

"Which political party—the Republican Party or the Democratic Party—can do a better job of reducing federal spending?

| | Percent |
|---|---|
| Democratic | 28 |
| Republican | 26 |
| No difference | 31 |
| No opinion | 15 |

Mr. McKINNEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. I thank the gentleman from Connecticut for yielding.

Mr. Speaker, I rise in support of the conference report on H.R. 12426, the New York City Financial Assistance Act of 1978. At the outset, let me extend to the gentleman from Illinois and the gentleman from New York my thanks for their kind words on my efforts on behalf of this legislation.

I am pleased that the House-Senate Conference Committee has recommended to us a bill to provide up to $1.65 billion in Federal guarantees on New York City municipal bonds.

The guarantees, for securities with a maturity period of up to 15 years, will be provided in four annual installments. For fiscal year 1979, the city of New York will be authorized to receive up to $750 million in guarantees. Of that amount, no more than $500 million can be used for long-term obligations. The remaining $250 million, plus up to $75 million in unused long-term guarantees, can be used for short-term, seasonal financing. The total $325 million for seasonal financing will be available to the extent that the Department of the Treasury determines: first, that guarantees will be applied to obligations issued prior to January 1, 1979, and maturing prior to July 1, 1979; and second, that the city's pension funds are unable to provide sufficient seasonal financing without failing to meet Internal Revenue Code requirements. The intent of this provision is to permit guarantees of seasonal purchases by New York State pension funds.

For fiscal year 1980, $250 million in new long-term guarantees would be made available in addition to the repaid $250 million in seasonal loans, for a total long-term guarantee authority of $500 million. It is significant to point out that the amounts available in this second year under H.R. 12426 could be vetoed by resolution of either House of Congress before the beginning of the city's fiscal year.

In the third year covered by this legislation, fiscal year 1981, $325 million in new long-term guarantees would be provided. Unused guarantee authority from previous years could also be carried forward and made available. The one-House veto provision would continue to be in effect during this year.

For the final year, fiscal year 1982, up to $325 million in new long-term guarantee authority would be provided if the city presents a budget balanced according to generally accepted accounting principles. The one-House veto would not be available during this last year of the act's authority.

While this legislation, now entitled the "New York City Loan Guarantee Act of 1978," is not the optimum approach sought by New York City officials, it will enable the city to help itself to recover financially by regaining access to the private credit markets.

Reentry into private credit markets is the most important feature of long-term Federal guarantees and the most salient issue during the course of the debate on New York City financing legislation. An extension of the seasonal loan program of 1975 would not have permitted the city to raise necessary capital and restore investor confidence to allow it to return to the municipal bond market.

That is why the legislation before us today, the conference report on H.R. 12426, is so essential. For the first time, long-term Federal loan guarantees will be available—guarantees which will back up the city's municipal bonds and permit private support of the city's efforts to move onward.

The reason that we have the opportunity to give final approval to a long-term Federal loan guarantee measure is largely attributable to the strong House vote against a 3-year continuation of seasonal financing. The 92 votes by which the House endorsed the original long-term guarantee bill, coupled with the nearly 3-to-1 rejection of the short-term substitute proposal, set in motion momentum for a long-term guarantee approach that was reflected in the votes in the Senate Banking Committee and on the Senate floor.

The 44 Republican votes in favor of passage demonstrated the bipartisan appeal of long-term Federal loan guarantees and contributed substantially to making the vote margin as significant as it was. Especially noteworthy was the fact that 14 of my Republican colleagues who opposed the Seasonal Financing Act of 1975 voted in favor of this year's long-term guarantee bill.

I believe that the votes in favor of H.R. 12426 were influenced by the tough action that New York City has taken to reduce expenditures and by the strict conditions of eligibility and penalties contained in the bill. My colleagues should note that the rigorous conditions set forth in H.R. 12426 have been made even tougher by the conferees. Permit me to take a moment to highlight some of the conditions of eligibility in the New York City Loan Guarantee Act of 1978.

Under the conference measure, the city must balance its budget according to accounting principles set by New York State for the years prior to fiscal year 1982. Beginning in fiscal year 1982, it must balance its budget according to generally accepted accounting principles. It would have to continue to meet this standard for all subsequent years that the guarantees are in effect. In addition, the Department of the Treasury could impose even stricter standards. Moreover, the city will have to submit a 4-year fiscal plan each year for the duration of the guarantees.

The city must bring expenditures other

than capital expenses into balance with revenues. Operating expenses and capital expenses will have to be maintained separately. Further, the city must establish a Productivity Council to review and implement methods to improve the productivity of the city's labor force.

Federal guarantees can be provided only if the remainder of the city's long- and short-term financing comes from the private market. In addition, to test the private market, the city must offer to sell short-term notes on the private market in fiscal years 1980 through 1982 and long-term bonds in fiscal years 1981 and 1982.

As in H.R. 12426, the city will pay a guarantee fee of at least one-half of 1 percent of the principal of the guaranteed obligations. The conference bill provides that 15 percent of the city's long-term borrowings in 1982 and the years following is to be used to repay the federally guaranteed loans. The Department of the Treasury could waive or modify this provision.

The conference measure also places new conditions on the State of New York. Federal guarantees can be issued after June 30, 1979, only if State assistance to the city does not fall below the fiscal 1979 levels. The State also must establish a reserve fund consisting of 5 percent of the principal amount outstanding and 1 year's interest on the guarantees to be used in the event of a default.

These are some of the additional conditions imposed by conference committee version of the New York City Loan Guarantee Act. I can imagine very few cities—or States—that would submit to such rigorous Federal oversight and intervention in exchange for loan guarantees.

With respect to remedies, it should be kept in mind that the Department of the Treasury can withhold "any payment from the United States to the city or State which may be or may become due pursuant to any law" as an offset against any default by New York City. In addition, in the event of default or bankruptcy, the United States has a priority claim over other creditors. The Treasury Department also is authorized to bring civil action to enforce compliance with the provisions of the act.

What we have before us is a strict blueprint for the application of Federal long-term loan guarantees which will support the self-help initiatives taken by New York City. I commend the efforts of all the House conferees in working to bring such a measure from the conference committee.

The conference report on H.R. 12426 deserves a strong vote of approval from both Houses of Congress. I urge my colleagues to vote in favor of this conference report so that New York City can continue the work it has undertaken to regain its financial health.

Mr. McKINNEY. Mr. Speaker, I have no further requests for time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GRASSLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas, 244, nays, 157, not voting 31, as follows:

[Roll No. 595]

YEAS—244

| | | |
|---|---|---|
| Addabbo | Fowler | Myers, Michael |
| Akaka | Fuqua | Natcher |
| Alexander | Garcia | Neal |
| Ambro | Gaydos | Nedzi |
| Anderson, Calif. | Gephardt | Nix |
| Anderson, Ill. | Giaimo | Nolan |
| Andrews, N.C. | Gilman | Nowak |
| Annunzio | Glickman | O'Brien |
| Applegate | Gonzalez | Oakar |
| Ashley | Gore | Oberstar |
| Aspin | Green | Obey |
| Baldus | Guyer | Ottinger |
| Barnard | Hamilton | Panetta |
| Baucus | Hanley | Patten |
| Beard, R.I. | Hannaford | Patterson |
| Bedell | Harkin | Pattison |
| Beilenson | Harrington | Pease |
| Benjamin | Harris | Pepper |
| Biaggi | Hawkins | Perkins |
| Bingham | Heckler | Pike |
| Blanchard | Hefner | Preyer |
| Blouin | Heftel | Price |
| Boggs | Hillis | Pursell |
| Boland | Holland | Rahall |
| Bolling | Hollenbeck | Rangel |
| Bonior | Holtzman | Reuss |
| Bonker | Horton | Rhodes |
| Brademas | Howard | Richmond |
| Brodhead | Hubbard | Rinaldo |
| Brown, Calif. | Hughes | Roe |
| Brown, Ohio | Hyde | Rogers |
| Buchanan | Jacobs | Roncalio |
| Burke, Calif. | Jeffords | Rooney |
| Burke, Mass. | Jenrette | Rose |
| Burlison, Mo. | Johnson, Calif. | Rosenthal |
| Burton, John | Jones, N.C. | Rostenkowski |
| Burton, Phillip | Jones, Tenn. | Roybal |
| Caputo | Jordan | Russo |
| Carney | Kastenmeier | Ryan |
| Carr | Kemp | Santini |
| Cavanaugh | Keys | Scheuer |
| Chisholm | Kildee | Seiberling |
| Clay | Kostmayer | Sharp |
| Conable | Krebs | Sikes |
| Conte | LaFalce | Simon |
| Conyers | Lederer | Sisk |
| Corman | Leggett | Smith, Iowa |
| Cornell | Lehman | Solarz |
| Cornwell | Lent | Spellman |
| Coughlin | Lloyd, Calif. | St Germain |
| Davis | Long, La. | Staggers |
| Delaney | Long, Md. | Stanton |
| Dellums | Lundine | Stark |
| Dicks | McCloskey | Steed |
| Dingell | McEwen | Steers |
| Dodd | McFall | Stratton |
| Downey | McHugh | Studds |
| Drinan | McKay | Thompson |
| Duncan, Oreg. | McKinney | Thornton |
| Early | Madigan | Tucker |
| Eckhardt | Markey | Ullman |
| Edgar | Marks | Van Deerlin |
| Edwards, Calif. | Martin | Vander Jagt |
| Eilberg | Mathis | Vanik |
| Erlenborn | Mazzoli | Vento |
| Ertel | Metcalfe | Volkmer |
| Evans, Colo. | Meyner | Walgren |
| Evans, Ga. | Michel | Walsh |
| Fary | Mikulski | Waxman |
| Fascell | Mikva | Weaver |
| Fenwick | Miller, Calif. | Weiss |
| Findley | Mineta | Wilson, Tex. |
| Fish | Minish | Wirth |
| Fisher | Mitchell, Md. | Wolff |
| Fithian | Mitchell, N.Y. | Wright |
| Flood | Moakley | Wydler |
| Florio | Moorhead, Pa. | Yates |
| Foley | Moss | Young, Mo. |
| Ford, Mich. | Murphy, Ill. | Young, Tex. |
| Ford, Tenn. | Murphy, N.Y. | Zablocki |
| Forsythe | Murtha | Zeferetti |
| | Myers, John | |

NAYS—157

| | | |
|---|---|---|
| Abdnor | Flippo | Murphy, Pa. |
| Ammerman | Flynt | Myers, Gary |
| Andrews, N. Dak. | Fountain | Nichols |
| Archer | Frenzel | Pettis |
| Ashbrook | Gammage | Pickle |
| AuCoin | Gibbons | Poage |
| Badham | Ginn | Pressler |
| Bafalis | Goldwater | Quayle |
| Bauman | Goodling | Quillen |
| Beard, Tenn. | Gradison | Railsback |
| Bennett | Grassley | Regula |
| Bevill | Gudger | Roberts |
| Bowen | Hagedorn | Robinson |
| Breaux | Hall | Rousselot |
| Breckinridge | Hammer-schmidt | Rudd |
| Brinkley | Hansen | Runnels |
| Brooks | Harsha | Ruppe |
| Broomfield | Hightower | Satterfield |
| Brown, Mich. | Holt | Sawyer |
| Broyhill | Huckaby | Schroeder |
| Burgener | Ichord | Schulze |
| Burke, Fla. | Ireland | Sebelius |
| Burleson, Tex. | Jenkins | Shuster |
| Butler | Johnson, Colo. | Skelton |
| Byron | Jones, Okla. | Skubitz |
| Carter | Kazen | Slack |
| Cederberg | Kelly | Smith, Nebr. |
| Chappell | Kindness | Snyder |
| Clausen, Don H. | Krueger | Spence |
| Cleveland | Lagomarsino | Stangeland |
| Cohen | Latta | Steiger |
| Coleman | Leach | Stockman |
| Collins, Tex. | Levitas | Stump |
| Corcoran | Livingston | Symms |
| Crane | Lloyd, Tenn. | Taylor |
| Cunningham | Lott | Thone |
| D'Amours | Lujan | Traxler |
| Daniel, Dan | Luken | Treen |
| Daniel, R. W. | McClory | Trible |
| de la Garza | McCormack | Waggonner |
| Derrick | McDade | Walker |
| Derwinski | McDonald | Wampler |
| Devine | Mahon | Watkins |
| Dickinson | Marlenee | White |
| Dornan | Marriott | Whitehurst |
| Duncan, Tenn. | Mattox | Whitley |
| Edwards, Ala. | Miller, Ohio | Wilson, Bob |
| Edwards, Okla. | Mollohan | Wilson, C. H. |
| Emery | Montgomery | Winn |
| English | Moore | Wylie |
| Evans, Del. | Moorhead, Calif. | Yatron |
| Evans, Ind. | Mottl | Young, Alaska |
| | | Young, Fla. |

NOT VOTING—31

| | | |
|---|---|---|
| Armstrong | Kasten | Sarasin |
| Clawson, Del | Le Fante | Shipley |
| Cochran | Maguire | Stokes |
| Collins, Ill. | Mann | Teague |
| Cotter | Meeds | Tsongas |
| Danielson | Milford | Udall |
| Dent | Moffett | Whalen |
| Diggs | Pritchard | Whitten |
| Flowers | Quie | Wiggins |
| Fraser | Risenhoover | |
| Frey | Rodino | |

The Clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Teague against.

Mr. Tsongas for, with Mr. Risenhoover against.

Mr. Moffett for, with Mr. Kasten against.

Mr. Cotter for, with Mr. Milford against.

Until further notice:

Mr. Dent with Mr. Armstrong.

Mr. Diggs with Mr. Frey.

Mr. Danielson with Mr. Cochran of Mississippi.

Mr. Stokes with Mr. Pritchard.

Mrs. Collins of Illinois with Mr. Quie.

Mr. Flowers with Mr. Wiggins.

Mr. Udall with Mr. Whalen.

Mr. Meeds with Mr. Del Clawson.

Mr. Fraser with Mr. Whitten.

Mr. Shipley with Mr. Sarasin.

Mr. Maguire with Mr. Mann.

Messrs. SKUBITZ, TRIBLE, GOLDWATER, and MAHON changed their vote from "yea" to "nay."

Mr. FINDLEY changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON THE CITY OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT DURING 5-MINUTE RULE JULY 26, 1978

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the House Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs be permitted to sit tomorrow, Wednesday, July 26, 1978, on nonlegislative business, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, JULY 26, 1978

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries be permitted to sit tomorrow, Wednesday, July 26, 1978, during the 5-minute rule, for the purpose of holding hearings on the bill, H.R. 10371.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, will the gentleman explain the purpose of the meeting?

Mr. BIAGGI. Mr. Speaker, we have 3 days of hearings on the bill H.R. 10371, to provide the Coast Guard with additional jurisdiction so that it can fully deal with drug interdiction.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## CONFERENCE REPORT ON H.R. 11877, PEACE CORPS ACT AMENDMENTS OF 1978

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the bill (H.R. 11877) to authorize appropriations for fiscal year 1979 for the Peace Corps and to make certain changes in the Peace Corps Act, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of June 29, 1978.)

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 11877, the Peace Corps Act amendments of 1978.

The conference report on H.R. 11877, which authorized $112.4 million for fiscal year 1979 and $3.7 million in supplemental funds for fiscal year 1978, includes the major provisions of the bill passed by the House in May.

The authorizations contained in the conference report represent a fair compromise between the amounts initially authorized by the House and Senate. Although the authorization recommended by the conference committee is an increase over the House passed figure, it is well below the $125 million which the Senate recommended, and I believe it will prove to be a worthwhile investment. As I indicated when the House initially considered H.R. 11877, the new emphasis Peace Corps is being placed on improvements in training, programing and volunteer support—all areas where committee oversight has noted deficiencies in the past—are encouraging. The agency's growing attention to basic human needs and to recruitment of qualified personnel are also positive indications of a stronger and more responsive program.

The new Peace Corps management appears to be moving cautiously and carefully in devising effective new programs to respond to requests for assistance from a growing number of countries. This authorization gives the Peace Corps necessary support to train volunteers to perform needed jobs in assisting the people of developing countries. The committee will be overseeing the activities of Peace Corps, particularly in the areas I mentioned, for indications of progress and results. We expect, and indeed will demand, that the Peace Corps live up to its stated purpose—to promote peace and friendship by providing qualified volunteers to give direct help to the people of other countries.

With these thoughts and expectations in mind, I urge my colleagues to adopt the conference report.

Mr. BROOMFIELD. Mr. Speaker, I yield mself such time as I may consume. I rise in support of the conference report on H.R. 11877. This legislation authorizes funds for the Peace Corps for fiscal year 1979. The conference agreement also contains a small supplemental authorization for fiscal year 1978, a provision requested by the administration and passed by the Senate.

The total authorization for the fiscal year 1979 programs agreed to by the conferees is $112,424,000. The amount of the supplemental fiscal year 1978 authorization is a modest $3,713,000, which includes $69,000 for increases in salary, pay, retirement, and other such employee benefits authorized by law. .

The Peace Corps has certainly had its ups and downs, and I have not hesitated to criticize its operations or management whenever I felt the situation justified it. Nevertheless, I continue to believe that the Peace Corps has generally done a good job in fielding motivated and hard-working American volunteers willing to immerse themselves in the grass roots development problems, in remote areas where the peoples' needs are great, in more than 60 countries. Always an essentially humanitarian endeavor, the Peace Corps has been increasing its emphasis on helping the poorest people in host countries to improve their ability to meet their basic human needs. This emphasis is reflected in the growing concentration of volunteer manpower in the program areas of health, food production and storage, and nutrition as opposed to the traditional emphasis on providing English teachers.

It has often been noted, but it bears repeating, that one of the most attractive aspects of the Peace Corps is its direct people-to-people nature. The fact that individual Americans will voluntarily live and work side by side with the people of host countries in an effort to help them realize their own development goals is a persuasive expression of the fundamental values and principles of American society.

I supported this bill when it originally passed the House by a wide margin on April 25. The compromises agreed to in conference on the relatively small differences between the House and Senate texts are satisfactory with respect to both funding levels and policy language. I continue to support this legislation, and I urge the House to adopt the conference report on H.R. 11877.

Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I rise in support of the conference report on H.R. 11877, a bill authorizing funds for the activities and programs of the Peace Corps. I join the distinguished chairman of the committee in urging the House to adopt this conference report.

This legislation authorizes funds to enable the Peace Corps to continue its programs for people-to-people, self-help assistance to many needy persons in developing host countries. In 64 countries around the world, individual Americans are serving as Peace Corps volunteers. They are living in local communities

among the people of these host countries, and they are trying to provide appropriate, practical training and technical assistance which the people of those communities can use to improve their own living conditions.

The bill as originally passed by the House authorized $96.1 million for fiscal year 1979. The Senate bill provided for $125 million. The conference committee agreed upon a compromise level for fiscal year 1979 of $112.4 million. The conference report also includes a small supplemental authorization for fiscal year 1978 of $3.7 million, which was contained in the version of the bill passed by the Senate.

The conference agreement retains a provision of the House bill to strengthen the requirements for the Peace Corp's annual report to the Congress by requiring information on Peace Corp's efforts to improve coordination with other international volunteer service agencies and with host country voluntary organizations. On the whole, however, the differences between the House and Senate on nonbudgetary issues were not serious ones.

Certainly there is room for improvement in the programing, operations, and management of the Peace Corps. But, it is generally a fairly effective program, and I feel its performance has, for the most part, shown some improvement over the last year.

On April 25, the House originally passed H.R. 11877 by a significant 195-vote margin, expressing our continuing basic belief in the unique concept which the Peace Corps represents. The compromises embodied in this conference report are satisfactory, and in light of the considerations I have just briefly touched upon, I urge the House to adopt the conference report.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on H.R. 11877, the Peace Corps Act Amendments of 1978.

As a member of the conference committee, I believe that the report before the House represents the best efforts on the part of the House conferees to uphold the House's position. The result of our efforts also represents the best interest of the Peace Corps.

Under the terms of the conference report, $3,644,000 in supplemental appropriations for fiscal year 1978 are authorized for Peace Corps programs and activities. In addition, $142,424,000 is authorized for fiscal year 1979 with 1 million earmarked for a U.S. contribution to the United Nations' volunteer program.

The conference report further provides for $69,000 in supplemental appropriations for fiscal year 1978 for salaries and for employee benefits as authorized by law.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield at that point?

Mr. GILMAN. I am pleased to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I have asked the gentleman to yield, because I am wondering about that amount of $69,000 the gentleman has mentioned. The Members will recall that last year we were advised by Mr. BROWN that the Peace Corps spent some $47,500 to pay for abortions for Peace Corps volunteers. These were the very same volunteers who were in the field in these countries supposedly to teach poor women how not to get pregnant. I am wondering if the $69,000 is for the fund that will be used for that purpose in 1979?

Mr. GILMAN. In response to the inquiry by the gentleman from Florida (Mr. YOUNG) I am informed by our staff that $45,000 was expended last year, primarily for medical evaluation of Peace Corps personnel being transported to hospital facilities.

Mr. YOUNG of Florida. For abortion purposes?

Mr. GILMAN. I am informed that some of that expenditure included transportation costs for patients seeking health care, birth care and abortions care.

Mr. YOUNG of Florida. The gentleman will remember that the $47,500 was the figure that we received from Mr. BROWN in which he specifically stated that the money was used for abortions for the Peace Corps volunteers. I have wondered if that is where the funds showed up in the bill, because I could not find any authorization for that and I just wondered if that was it.

Mr. GILMAN. I have been informed that the $69,000 figure is not the specific expenditure about which the gentleman inquires.

Mr. YOUNG of Florida. It might be someplace else in the bill, then?

Mr. GILMAN. I would assume that the gentleman is correct.

Mr. YOUNG of Florida. I thank the gentleman.

Mr. GILMAN. Mr. Speaker, the committee also agreed upon the need for annual reporting on efforts to coordinate Peace Corps activities with the activities of international service organizations and host country volunteer organizations. Finally, the conferees agreed that the Peace Corps, in its efforts to encourage countries to develop their own volunteer service programs, may devote a minimal portion of its funds to furnish technical assistance, materials, tools, supplies, and training, and may conduct demonstration projects.

The Peace Corps continues to represent the true "volunteer" spirit of our Nation and remains an essential part of the overall U.S. development assistance effort. This conference report represents the best efforts of both Houses of Congress to continue this worthy tradition. The Peace Corps deserves your support. Accordingly, I urge my colleagues to vote in favor of the conference report, No. 95–1333.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I thank the gentleman for yielding to me and I rise in support of the conference report.

Mr. Speaker, the subcommittee on International Development of the Committee on International Relations has been conducting hearings on the reorganization of the Peace Corps and finding ways in which we can make the Peace Corps a more vibrant expression of our policies abroad. The committee has now voted out a bill which would, in effect, make the Peace Corps a public corporation. As I understand it, Mr. Speaker, the full committee is going to schedule at least 1 day's hearings so that we can have an opportunity to fully consider the reorganization of the Peace Corps. Is that true?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, the gentleman is correct. The full committee intends to hold hearings on the gentleman's proposal which now being considered by the Committee on International Relations.

Mr. BONKER. I thank the chairman.

I would also like to note at this time that the reorganization proposal that is incorporated in that legislation would in effect cost $12.4 million less than the amount that is provided for in the conference report.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

Mr. BROOMFIELD. I have no further requests for time.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 120, not voting 36, as follows:

[Roll No. 596]

YEAS—276

| | | |
|---|---|---|
| Addabbo | Breaux | Conte |
| Akaka | Breckinridge | Conyers |
| Alexander | Brodhead | Corcoran |
| Ambro | Brooks | Corman |
| Ammerman | Broomfield | Cornell |
| Anderson, Calif. | Brown, Calif. | Cornwell |
| | Brown, Mich. | Coughlin |
| Anderson, Ill. | Brown, Ohio | D'Amours |
| Andrews, N.C. | Broyhill | De'aney |
| Annunzio | Buchanan | Dellums |
| Applegate | Burgener | Dent |
| Aspin | Burke, Calif. | Derrick |
| AuCoin | Burke, Mass. | Derwinski |
| Baldus | Burlison, Mo. | Dicks |
| Baucus | Burton, John | Diggs |
| Beard, R.I. | Caputo | Dingell |
| Bedell | Carney | Dodd |
| Bellenson | Carr | Downey |
| Bingham | Carter | Drinan |
| Blanchard | Cavanaugh | Duncan, Oreg. |
| Blouin | Chisholm | Early |
| Boggs | Clausen, Don H. | Eckhardt |
| Boland | | Edgar |
| Bolling | Clay | Edwards, Ala. |
| Bonior | Cleveland | Edwards, Calif. |
| Bonker | Cohen | Ellberg |
| Bowen | Coleman | Emery |
| Brademas | Conable | English |

| | | |
|---|---|---|
| Erlenborn | Levitas | Rangel |
| Ertel | Lloyd, Calif. | Reuss |
| Evans, Colo. | Long, La. | Rhodes |
| Evans, Del. | Long, Md. | Richmond |
| Evans, Ind. | Lundine | Rinaldo |
| Fary | McCory | Roe |
| Fascell | McCloskey | Rogers |
| Fenwick | McCormack | Roncalio |
| Findley | McDade | Rooney |
| Fish | McFall | Rose |
| Fisher | McHugh | Rosenthal |
| Fithian | McKay | Rostenkowski |
| Flood | McKinney | Roybal |
| Florio | Madigan | Ruppe |
| Foley | Markey | Russo |
| Ford, Mich. | Marks | Ryan |
| Ford, Tenn. | Martin | Santini |
| Forsythe | Mattox | Sawyer |
| Fowler | Mazzoli | Scheuer |
| Frenzel | Metcalfe | Schroeder |
| Garcia | Meyner | Schulze |
| Gibbons | Michel | Seiberling |
| Gilman | Mikulski | Sharp |
| Ginn | Mikva | Simon |
| Gonzalez | Miller, Calif. | Sisk |
| Goodling | Mineta | Skubitz |
| Gore | Minish | Smith, Iowa |
| Gradison | Mitchell, Md. | Solarz |
| Green | Mitchell, N.Y. | Spellman |
| Gudger | Moakley | St Germain |
| Hagedorn | Moffett | Stangeland |
| Hamilton | Moorhead, Pa. | Stark |
| Hanley | Moss | Steers |
| Hannaford | Murphy, Ill. | Steiger |
| Harkin | Murphy, N.Y. | Stratton |
| Harrington | Murphy, Pa. | Studds |
| Harris | Murtha | Thompson |
| Hawkins | Myers, Michael | Thone |
| Heckler | Natcher | Thornton |
| Heftel | Neal | Traxler |
| Hightower | Nedzi | Trible |
| Holland | Nix | Tucker |
| Hollenbeck | Nolan | Ullman |
| Holtzman | Nowak | Van Deerlin |
| Horton | Oakar | Vanik |
| Howard | Oberstar | Vento |
| Hughes | Obey | Walgren |
| Jacobs | Ottinger | Walsh |
| Jeffords | Panetta | Wampler |
| Johnson, Calif. | Patten | Waxman |
| Johnson, Colo. | Patterson | Weaver |
| Jordan | Pattison | Weiss |
| Kastenmeier | Pease | Whitehurst |
| Kemp | Pepper | Wilson, Tex. |
| Keys | Perkins | Winn |
| Kildee | Pettis | Wirth |
| Kostmayer | Pickle | Wolff |
| Krebs | Pike | Wright |
| Krueger | Pressler | Wylie |
| LaFalce | Preyer | Yates |
| Leach | Price | Yatron |
| Lederer | Pursell | Young, Mo. |
| Leggett | Quayle | Zablocki |
| Lehman | Rahall | Zeferetti |
| Lent | Railsback | |

NAYS—120

| | | |
|---|---|---|
| Andrews, N. Dak. | Gaydos | Marriott |
| Archer | Gephardt | Mathis |
| Ashbrook | Glickman | Milford |
| Badham | Goldwater | Miller, Ohio |
| Bafalis | Grassley | Mollohan |
| Barnard | Guyer | Montgomery |
| Bauman | Hall | Moore |
| Beard, Tenn. | Hammer-schmidt | Moorhead, Calif. |
| Benjamin | Hansen | Mottl |
| Bennett | Harsha | Myers, Gary |
| Bevill | Hefner | Myers, John |
| Brinkley | Hillis | Nichols |
| Burke, Fla. | Holt | O'Brien |
| Burleson, Tex. | Hubbard | Poage |
| Butler | Huckaby | Quillen |
| Byron | Hyde | Regula |
| Cederberg | Ichord | Roberts |
| Chappell | Ireland | Robinson |
| Collins, Tex. | Jenkins | Rousselot |
| Crane | Jones, N.C. | Rudd |
| Cunningham | Jones, Okla. | Runnels |
| Daniel, Dan | Jones, Tenn. | Satterfield |
| Daniel, R. W. | Kazen | Sebelius |
| Davis | Kelly | Shuster |
| de la Garza | Kindness | Sikes |
| Devine | Lagomarsino | Slack |
| Dickinson | Latta | Smith, Nebr. |
| Dornan | Livingston | Snyder |
| Duncan, Tenn. | Lloyd, Tenn. | Spence |
| Edwards, Okla. | Lott | Staggers |
| Evans, Ga. | Lujan | Stanton |
| Flippo | Luken | Steed |
| Flynt | McDonald | Stockman |
| Fountain | McEwen | Stump |
| Fuqua | Mahon | Symms |
| Gammage | Marlenee | Taylor |
| Treen | Walker | Wilson, Bob |
| Vander Jagt | Watkins | Wydler |
| Volkmer | White | Young, Alaska |
| Waggonner | Whitley | Young, Fla. |

NOT VOTING—36

| | | |
|---|---|---|
| Abdnor | Frey | Sarasin |
| Armstrong | Giaimo | Shipley |
| Ashley | Jenrette | Skelton |
| Biaggi | Kasten | Stokes |
| Burton, Phillip | Le Fante | Teague |
| Clawson, Del | Maguire | Tsongas |
| Cochran | Mann | Udall |
| Collins, Ill. | Meeds | Whalen |
| Cotter | Pritchard | Whitten |
| Danielson | Quie | Wiggins |
| Flowers | Risenhoover | Wilson, C. H. |
| Fraser | Rodino | Young, Tex. |

The Clerk announced the following pairs:

Mr. Phillip Burton with Mr. Abdnor.
Mr. Danielson with Mr. Frey.
Mr. Cotter with Mr. Sarasin.
Mr. Le Fante with Mr. Whalen.
Mr. Stokes with Mr. Cochran of Mississippi.
Mr. Tsongas with Mr. Kasten.
Mr. Shipley with Mr. Wiggins.
Mr. Jenrette with Mr. Teague.
Mr. Giaimo with Mr. Skelton.
Mr. Biaggi with Mr. Maguire.
Mr. Ashley with Mr. Pritchard.
Mrs. Collins of Illinois with Mr. Del Clawson.
Mr. Flowers with Mr. Armstrong.
Mr. Meeds with Mr. Mann.
Mr. Udall with Mr. Whitten.
Mr. Charles H. Wilson of California with Mr. Risenhoover.
Mr. Young of Texas with Mr. Fraser.

Messrs. LUKEN, BOB WILSON, and GAMMAGE changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## REQUEST FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT FOR 2 HOURS TOMORROW MORNING

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may be allowed to sit for 2 hours tomorrow morning while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us if this is for markup of a bill.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, yes, it is for markup.

Mr. ROUSSELOT. Further reserving the right to object, it is a markup of what?

Mr. STAGGERS. No-fault insurance.

Mr. ROUSSELOT. No-fault insurance? Mr. Speaker, I am constrained to object, and I object.

The SPEAKER pro tempore. Objection is heard. The Chair will state it takes 10 Members to object.

A sufficient number having arisen, objection is heard.

## COMMODITY EXCHANGE ACT EXTENSION AND AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for 4 years.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10285, with Mr. MCHUGH (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Monday, July 24, 1978, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will read the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 10285

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

COMPOSITION AND FUNCTIONS OF COMMISSION; CONFLICT OF INTEREST; LIAISON WITH OTHER AGENCIES; CONFORMING AND TECHNICAL AMENDMENTS

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out "and (vi)" in paragraph (1)(7 U.S.C. 2) in the definition of the term "commodity trading advisor" and inserting in lieu thereof "(vi) dealers, processors, brokers, and sellers of cash commodities and products thereof, (vii) nonprofit, voluntary membership, general farm organizations which provide advice on the sale and purchase of cash commodities, and (viii)";

(2) inserting "(A)" immediately after the designation of paragraph (2)(7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out "(A)" and "(B)" in the last sentence of paragraph (2) and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman who shall serve at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman

shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. The President may, in his discretion, at any time appoint a different Chairman, by and with the advice and consent of the Senate, and the Commissioner previously appointed as Chairman shall complete his term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting in subparagraph (6)(A) (7 U.S.C. 4a(e)(1)) after "use and expenditures of funds" the words "according to budget categories, plans, programs, and priorities established and approved by the Commission,";

(8) striking out in subparagraph (6)(B) (7 U.S.C. 4a(e)(2)) "of the Commission" and inserting in lieu thereof ", plans, priorities, and budgets approved by the Commission";

(9) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a(f));

(10) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employee of the Commission classified as a GS–16 or higher shall, for a period of one year beginning on the last day of service as such Commissioner or employee (i) make any appearance before, or (ii) make any written or oral communication to, the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission if such last day of service is more than four months after the date of enactment of this subparagraph: *Provided*, That this restriction shall not apply to an appearance or response to a subpena or any matter of an exclusively personal and individual nature.";

(11) inserting "(A)" immediately after the designation of paragraph (8) (7 U.S.C. 4a(g));

(12) striking out in the first sentence of paragraph (8) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(13) adding at the end of paragraph (8) a new subparagraph (B) as follows:

"(B)(i) The Commission shall maintain communications with the United States Department of the Treasury, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, and for the purpose of seeking the views of those agencies on such activities.

"(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate such board of trade as a contract market based on such application until forty-five days from the date the Commission delivers the application to such agencies or until such time as the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies will be included as part of the public record of the Commission's designation proceeding. In approving, refusing, suspending, or revoking the designation of a board of trade as a contract market involving transactions for future delivery of any security referred to in this section or in considering possible emergency action under section 8a(9) of the Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the impact that designation, suspension, revocation, or emergency action might have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.";

(14) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(15) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 1 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 1?

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: H.R. 10285 is amended by striking the "and" on page 5, line 9, deleting the period at the end of line ten on that page, and inserting in its place the following: ", and for considering the relationship between the volume and nature of investment and trading in futures contracts under the jurisdiction of the Commission and in securities and/or financial instruments under the jurisdiction of such agencies."

Mr. GLICKMAN. Mr. Chairman, the amendment I am proposing is not, in my view, a controversial amendment. It is primarily a clarifying amendment, but I am convinced that the issue addressed in my language is important to the economy. Therefore, I thought it needed to be addressed by the language in the amendment.

Mr. Chairman, my concern relates to something I expressed in the committee, and that is the relationship between futures contracts on commodities and investments in securities in general. There is no question that the activity in the futures markets over the last 5 years has expanded dramatically and that vast amounts of capital, in my judgment, have flowed out of the traditional avenue of investment, which has been the securities market, into the futures markets, primarily because there is more speculative activity there.

Mr. Chairman, during our consideration of this bill we discussed in depth the role of the CFTC and the SEC in the whole issue of futures on securities and futures on indexes.

Mr. Chairman, I came to the conclusion that the CFTC, the Agency we are reauthorizing, should keep its jurisdiction over futures, whether they be futures or aggregates in securities or futures on financial instruments; but I do believe that during the period this Agency is authorized, the agencies having jurisdiction over financial instruments, whether it be the SEC, the Treasury, the GAO, or the Commodity Futures Trading Corporation, should specifically have the obligation to consider the relationships between futures generally and futures on financial instruments, and that the jurisdiction of these matters that are under the authority of the Department of the Treasury and the CFTC should remain there.

I might close with one thing: Earlier this year I wrote to the Chairman of the CFTC, Mr. Bagley, and Chairman Schultze of the Presidents Council of Economic Advisers asking for their thoughts about the economic impact of expanded activity in the futures markets. Both made clear that they did not have any definitive, comprehensive information in this area. For example, Mr. Schultze commented:

> While these markets affect one another, there is very little information on the significance of developments in one market for performance in the other.

Both indicated the increase in volume in futures. Nobody knew what impact either one of them had on each other.

Mr. Chairman, I put this amendment in to give the agencies a little more competence in finding out during the period this Agency is being authorized what effect it will have on our capital markets.

Therefore, Mr. Chairman, I urge the adoption of this amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have no personal objection to this amendment. As far as I know, there is no objection on this side of the aisle.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to section 1?

If not, the Clerk will read.

The Clerk read as follows:

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) amending subsection (b) to read as follows:

"(b)(1) It shall be unlawful for any person subsequent to the date of the enactment of this subsection to offer to enter into, enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, unless expressly permitted under rules or regulations that the Commission, in its discretion, may prescribe subsequent to the date of enactment of this subsection after notice and opportunity for a hearing: *Provided*, That this subsection shall not apply to any commodity option transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date

of enactment of this subsection, to be offered to be entered into, entered into, or confirmed, to or by, a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof: *Provided further*, That if the Commission allows commodity option transactions the Commission may set different terms and conditions for different markets.

"(2) As used in this subsection, 'commodity option transaction' means any transaction or agreement which is, is held out to be, is of the character of, or is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'.

"(3) Nothing contained in this subsection shall affect any rights and obligations arising under any commodity option transaction entered into before the effective date of this subsection.

"(4) Notwithstanding the foregoing provisions of this subsection, the Commission, in its sole discretion and subject to such rules and regulations as it may prescribe without regard to the requirements of the Administrative Procedure Act or any other provision of this Act, may permit any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise utilizing that commodity to continue to grant or issue options on that commodity. Such rules and regulations, among other things, may restrict the distribution of such options to, and the offer and sale of such options by, such futures commission merchants as may be specified by the Commission. Any permission granted pursuant to this subsection may be terminated only after a hearing including a finding that the continuation of such permission is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings the Commission may suspend the right to offer and sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

"(5) No rule or regulation issued or promulgated pursuant to this subsection (b) shall become effective until (i) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a copy of such rule or regulation, and (ii) the expiration of ten calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving such rule or regulation.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 2?

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MIKVA: Page 8, lines 18 and 19, strike out "an option on a physical commodity" and insert in lieu thereof "options on physical commodities".

Page 8, line 20, strike out "that commodity" and insert in lieu thereof "physical commodities".

Page 8, line 21, strike out "that commodity" and insert in lieu thereof "physical commodities".

Mr. MIKVA. Mr. Chairman, I am reluctant to interfere in the work of the distinguished Agriculture Committee, but since this affects the business community that has a larger center in my community, in Chicago, I thought it proper to do so; and also, since my concern transcends the Commodity Exchange Act and transcends the jurisdiction of the Agriculture Committee and deals with something that concerns every other Member of the House, which is that we ought not by legislation mandate monopolies.

I think that section 2, without my amendment, does just that. As I understand the language, subsection 4, section 2, page 8, allows to continue in business a company engaged in the sale of physical commodities options. One company is given a grandfather provision to stay in business, and everyone else must stay out. That is wrong.

I could have been persuaded if the act had said that everyone shall get out of the futures business of commodities altogether I could have been persuaded if there had been no grandfather clause, but if there is going to be a grandfathering, it seems to me that it ought to be spread broadly among those companies now doing business in any commodity.

My amendment says that companies now engaged in the options of physical commodities, one of them or any of them, may continue to so engage until such time as the Commission by general rules provides otherwise. I understand and sympathize with the thrust of section 2, which seeks to reverse the practice and which says that from here on in, in order to engage in these transactions, people will have to be authorized by the Commission. But, since there are people engaged in that business, it seems to me that if we are going to legalize and continue and grandfather in one such company, we ought to grandfather in all such companies. That is what my amendment does.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I have a hard time in my mind finding what purpose the dealing in options serves. I was a little bit surprised at the gentleman's amendment. I have no argument with the fact that everybody should be treated equally, but I have some question on whether to open this up, as the amendment will do.

Mr. MIKVA. Let me say that the committee decided in its wisdom not to ban this activity altogether. They could have done so, and I gather that in the deliberations of the Agriculture Committee there was some expression to ban all such activities. They did not. They decided to permit the continuation of options in physical commodities, and they grandfathered in one company to be allowed to continue until such time as the Commission determines otherwise.

That is the part at which my amendment is aimed. If they decided to ban them all, fine, but I cannot see the public policy served in allowing one company to continue to engage in the sale of these commodity options.

Mr. BEDELL. Does the gentleman's amendment permit the Commission to ban these for all?

Mr. MIKVA. That does not change the general thrust of section 2, which allows the Commission, by hearing, to take away from any existing dealer the opportunity to continue in that business. It does not change that at all.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am heartily in favor of what my colleague has just said, but I do not see how his amendment does it. In other words, suppose there is only one person doing this particular business of granting options on May 1, 1978. If there is only one, there will only continue to be one.

Mr. MIKVA. The fact is there are five or six, but there is only one engaged in the sale of more than one physical commodity and that is the only one who will be allowed to continue.

Mrs. FENWICK. But the gentleman changes the word "option" to "options."

Mr. MIKVA. But until the Commission decides otherwise, it broadens opportunities for those now in the business. This way only one company would be allowed to continue.

Mrs. FENWICK. But only one company is dealing with a lot of commodities.

Mr. MIKVA. There is only one company dealing with a lot of commodities and that is the only company that will be allowed to continue to sell a lot of commodities.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, the gentleman from Illinois deals with one of the things that bothers me, because, as he points out, the bill as written and reported from the committee may grant an exclusive franchise to one firm to continue to do business in one commodity as it relates to the options business.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MIKVA) has expired.

(On request of Mr. MADIGAN, and by unanimous consent, Mr. MIKVA was allowed to proceed for 30 additional seconds.)

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield further, the amendment of the gentleman from Illinois does address that and does provide these five or six firms which were all in business on May 1 would be allowed to continue to be in business if the Commission determines them to be of the proper character and fitness. The amendment does not mandate that decision. The Commission has the broad discretion to number of firms in this business, as of May 1, that may be allowed to trade not in only one commodity but more than one commodity.

It is a good amendment. I congratulate the gentleman on offering it.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. MIKVA was allowed to proceed for 3 additional minutes.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I would like to ask the gentleman from Illinois: Does this grandfather in those firms or does this simply mean they will be treated equally and the Commission can indeed prohibit dealer options as it sees fit?

Mr. MADIGAN. Mr. Chairman, if the gentleman from Illinois will yield to me, I would say it is my understanding the Commission will be empowered to make a decision whether or not anybody would be in this business; moreover, the Commission would be able to consider applications from any of the firms. As the bill is written, to extend the number of commodity options they could trade. The Commission would be able to consider an application from a firm only if that firm was doing business in that particular underlying commodity as of May 1 this year. There were firms doing business in some but not all of the commodities. Those firms would be limited. Those firms dealing in several commodities would continue to have Government franchise to so deal if the Commission granted their petition.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the distinguished chairman, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I would just interrupt to say I do not think that is a correct interpretation of the bill, as the Chair understands it.

As I understand the amendment, it would allow anyone who is trading in options of one physical commodity on May 1 to be permitted to deal with any physical commodity. The bill provides that if they are dealing with a commodity on May 1 they are entitled to deal only with that commodity and no others.

The statement has been made many times, on the floor that this grants one company a monopoly to engage in options trading. To my knowledge that is not correct. At least one if not two other companies would be able to deal with a specific commodity under the terms of this act. That is my understanding.

Mr. MIKVA. But may I say to the chairman, as I read section 4, this has to do with having the authority to request permission. The Commission can still ban such activity. It says:

> Notwithstanding the foregoing provisions of this subsection, the Commission, in its sole discretion and subject to such rules and regulations as it may prescribe . . . may permit any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity—

May continue in that business.

What I object to is a statute which says only one company can apply. That is what my colleague, the gentleman from Illinois, was saying. If one company was in the gold business it can continue in the gold business. If some company was in the silver business, it cannot even apply to deal in the gold business as the other company did. It grants an exclusive franchise, and that is I think wrong.

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield further, the discretion as to whether or not to allow the person to do business does rest with the Commission under the terms of the amendment being offered by the gentleman from Illinois. The Commission could limit participation as provided in the bill as it now reads, but what is important is that if circumstances change the Commission could broaden the participation it grants to certain dealers.

Mr. BEDELL. I would like to address a further question to the gentleman from Illinois (Mr. MIKVA). Is it true that the Commission could ban all dealer options if they wanted to, or could ban any individual firm from dealer options if they want to, regardless of whether or not this is passed?

Mr. MIKVA. Yes. The section reads:

> Such rules and regulations, among other things, may restrict the distribution of such options to, and the offer and sale of such options by, such futures commission merchants as may be specified by the Commission.

Mr. BEDELL. Is that the understanding of the chairman of the Committee on Agriculture?

Mr. FOLEY. Yes; that is correct.

Mr. MIKVA. Mr. Chairman, I ask for support of the amendment.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment offered by my friend, the gentleman from Illinois (Mr. MIKVA), touches a very sensitive and controversial aspect of futures trading. It is one that has troubled the Commission since it was established. I am sure it has troubled everyone who has had anything to do with the legislation dealing with futures trading, and it certainly troubles me.

It is difficult to read the mind of the Commission as of this moment. I do not know whether they would elect to permit any options trading if they were to sit down and decide the question today. A few months ago it was quite true that a majority of the Commission did not favor options trading.

During the consideration of this bill a number of suggestions were made to mandate, in the language of the bill, the right to establish by statute the right of certain traders to continue their business indefinitely, or for a shorter period of time. This compromise was made to recognize that at least one firm had been in the options trading business, had apparently abided by standards of prudence and good conduct, and during the interim period in which the Commission would make a further study of this question of options trading, that particular firm and other firms who would meet the criteria set forth in law should not be denied the right to continue in business. Naturally an interruption of their business would seem unfair if at a later moment the Commission would decide to authorize options trading.

I thought the compromise was a reasonable one provided some competition did actually exist in the realm of trade conducted by the firm in question. I am not sure of the situation today. I heard the chairman of the committee say there was competition in this field. I hope so.

It may well be next spring the Commission will decide this type of trading should not be authorized and will outlaw it totally. In the meantime what is our responsibility?

I have an amendment at the desk. I am not sure I will offer it. It depends on the way in which the committee deals with the Mikva amendment.

I drafted the amendment with one purpose in mind and one only, and that was to permit, not to require, but to permit the Commission to create a field of competition in options trading. I wanted it to be clearly restricted. I did not want it to open the door wide.

I certainly do not support the language that is now in the Senate version of this bill. At some place the House conferees are going to deal with the language that is in the Senate version and that language would require—require—that the Commission authorize this type of trading.

I would like to hear from the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), who I assume will be the manager of the conferees from the House, as to his attitude on the Senate language which mandates that the Commission permit this type of options trading.

According to a letter that I received from the Commodity Futures Trading Commission, dated July 24, directed to the chairman, they interpret the Senate bill as creating a mandatory exemption on the options prohibition if the persons satisfy a certain criteria.

In my opinion, that would be a most unfortunate step to take. I wonder if the chairman has settled in his own mind how he will react to the Senate language when the time comes.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I do not like to prejudge a conference committee. I think the gentleman has served on a number of conferences with great distinction and knows it is impossible to anticipate all the circumstances that might occur; but I will tell the gentleman that my general philosophy is that this matter should lie in the discretion of the Commission. I would be uncomfortable with a situation where the House was directly legislating in an area which would normally be a matter for Commission judgment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FINDLEY was allowed to proceed for 3 additional minutes.)

Mr. FINDLEY. I am reassured by

what the gentleman says. I do not know the extent of pressure brought to bear on the Senate side in behalf of mandatory language. I know that some very substantial interests are involved in this. That is natural: it is big business. What the Congress does on this matter can affect the fortunes of quite a number of people. I think it is absolutely essential that we leave discretion in the hands of the Commission and that we not go any further than necessary in authorizing more interim options trading. That is the concern I have, and it is a concern that causes me at this stage to voice opposition to the amendment offered by the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for yielding.

I think the gentleman is very lucid in his explanation of the concerns that have been expressed by various and sundry people on different sides of this argument. What I do not understand, though, is that my amendment does exactly what the gentleman said he thought ought to be done, and that is broaden the discretion of the Commission. Under the language without my amendment, only one firm can apply. The Commission has no discretion. That is the only firm that can continue doing business in all of the commodities.

Mr. FINDLEY. If we can clarify that point, I think it would help this committee to make a decision. I believe I am correct in understanding that the chairman of the House Committee on Agriculture contends that there is not just this one but that there are two or three firms who would qualify and are functioning in this field.

I wonder if the chairman of the Committee on Agriculture could elaborate on that. I think it would be very helpful.

Mr. FOLEY. If the gentleman from Illinois would yield again, it is my understanding that under the language of the bill as reported, one or two firms which have been dealing in dealer options on single commodities, would be able to deal in those particular commodities. If, for example, a firm on May 1, 1978, had been dealing in dealer options on gold and otherwise met the terms of this act, they would be able to continue to deal in gold options at the discretion of the Commission.

What the two gentlemen from Illinois are asking is, whether a firm which qualifies under the terms of the bill to deal in one commodity, should have its rights extended to any physical commodity that they may wish to deal in; such as cocoa, sugar, and silver.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. FINDLEY was allowed to proceed for 2 additional minutes.)

Mr. FINDLEY. But I certainly cannot support an amendment that has that effect, and I hope the Mikva amendment does not have that effect.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman.

Mr. MIKVA. I thank the gentleman for yielding.

I am dealing with words that other people wrote as far as the basic language of the bill, but I wrote the amendment, and I can assure my distinguished colleague, the chairman of the Committee on Agriculture, that that is not what it does. What it does is allow such firm to apply, and it would not be allowed to apply without my amendment.

Mr. FOLEY. If the gentleman from Illinois would yield further, I may have mispoken myself in the discussion. I did not intend to say that there was an automatic permission to deal in any commodity, but rather they would be allowed to apply to the Commission for such right. Let me go back and state it again. If on May 1 company X was dealing in options on gold, they would be allowed to apply under the bill to continue to deal in options on gold. They would not be allowed to apply for an exemption on cocoa or silver.

Mr. MIKVA. All right.

Mr. FINDLEY. Is that a correct interpretation of the gentleman's amendment?

Mr. FOLEY. If they are dealing both in gold and silver, they can deal in both.

Mr. MIKVA. We are not getting to what the amendment is about.

Mr. FINDLEY. Is the chairman's interpretation of the gentleman's amendment correct?

Mr. MIKVA. Yes; if a company is engaged in the sale of one commodity on May 1, they would be allowed to apply for other commodities, because, without this amendment, one company—we might as well put their name in the bill—has been given a grant to deal in all those commodities while the Commission makes up its mind; so you will have no competition in most of those commodities.

Mr. FINDLEY. I can say to the gentleman, if the gentleman could redraft the amendment to narrow it down so it would open up only options trading dealing with the commodities served by the uniquely situated trading company, then I could enthusiastically support the amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I will try again to go back and explain this matter to the members of the committee who were not involved in the markup of this bill. I know this is a confusing and technical area; but, in effect, what we said was that dealing in certain types of options will be barred, except to the extent provided for by the Commission in appropriate rules and regulations. The discretion will lie with the Commission, which will ultimately decide what they want to do in this area. If the Commission decides to promptly issue rules and regulations after notice and hearings, then whatever the Commission's limitations are in this field will be, in effect, the law.

Now, in the meantime, in order to prevent some hardships to domestic companies that were already dealing in these commodities on the date this amendment was considered in the committee, we authorized the Commission to allow the continuation of dealer options trading for those companies. It was intended to be a relatively narrow exemption at the discretion of the Commission in order to prevent those companies from being automatically forced out of business during the time that the Commission was holding public hearings.

It is true that a relatively small number of companies were dealing in dealer options, in selling physical commodities of that kind on May 1; but I do not think it is correct to say that there is only one company that was involved in any dealer options. There was one company that was involved in several commodities and there were one or two others that were involved in one. What the committee preserved was the status quo for those particular companies that were actually dealing in a particular commodity as of May 1, again at the option of the Commission.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, as I understand the situation, this amendment was adopted as an interim measure until such time as the Commission made its final rulemaking decision whether to permit the dealer options or not.

Mr. FOLEY. That is correct.

Mr. GLICKMAN. And this was a concern of protecting people against boiler jobs and that kind of thing; but during the interim, this was promised to us in the committee, legitimate operators would be permitted to operate, but not on a permanent franchise basis. The final rules and regulations would open the whole ball of wax for whatever options the Commission permitted.

Mr. FOLEY. That is correct.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, does the gentleman feel that the firms that were dealing in these commodity options on May 1 had a competitive situation as of that date which could and probably would be renewed under this authority?

Mr. FOLEY. I understand that the Commodity Futures Trading Commission has published proposed interim standards which would include at least two companies that would be covered under these interim standards.

Then if the gentleman will, he can take his guidance from this committee bill.

Mr. FINDLEY. Mr. Chairman, in light of that assurance and after reading the letter from the Commission of July 24, in which they set forth very clearly their opposition to having this widened range of authority, I will support the committee chairman's opposition to this amendment, and I will not offer the amendment I had intended to offer.

The CHAIRMAN pro tempore (Mr. McHUGH). The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Mr. Chairman, the gentleman from Illinois (Mr. FINDLEY) has mentioned a letter from the Commission which was directed to me as chairman of the committee. I would like to read a portion of it to the Members:

For generally similar reasons, the Commission opposes this amendment. As we understand it, the Mikva amendment would allow persons to petition the Commission for an exemption from the options prohibition in order to be able to grant options on any physical commodity, despite the fact that as of May 1, 1978, the business of these persons had been limited to options on a single commodity. In other words, this amendment would allow persons who on May 1, 1978, were in the business of granting only gold options to petition the Commission for permission to grant cocoa options, silver options or coffee options. We understand that your Committee had adopted the narrow exemption in Section 2(4) of H.R. 10285 only to permit certain businesses to continue their ongoing commercial enterprises. We agree with your Committee's attempt to make the potential exemption as narrow as possible. By permitting firms to expand their activities, it would appear that this amendment is contrary to your Committee's intent to control options trading. We believe that this amendment could have serious implications on the Commission's ability to regulate options trading in the future. Accordingly, we urge the House to reject this amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

The point is that this amendment would result in doing exactly the opposite of what the committee intended. Our intent was to draw a very narrow exemption here, because in subcommittee we considered the possibility of stopping all options trading in certain commodities because of the fact that rules and regulations had to be developed to cover this area. Because of that, what we tried to do, recognizing the problems presented by these dealer options, was to create a very narrow exception for those who were in the business of dealer options as of May 1.

However, if we adopt this amendment, it opens it up completely and does the very opposite of what we intended to do in subcommittee.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has again expired.

(On request of Mr. MIKVA, and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Mr. Chairman, I will yield to the gentleman from Illinois, but I will say ahead of time, in case the gentleman wants to make this point that his amendment does not automatically result in any expansion of the dealer options trading. That would occur only if the Commission, after being petitioned, would grant such an exemption.

Mr. MIKVA. And the class of applicants is brought not to everybody in the world but only to those people who are dealing in one or more commodities as of May 1.

Mr. FOLEY. Yes, as of May 1. And it permits them to apply for other exemptions in addition to the commodity in which they were trading, but it does qualify the Commission's authority to accept or reject any such application.

Mr. MIKVA. That is right. So it broadens the class to one or perhaps five or six who could apply, and from long practices, not just in the agriculture field, we have found it is always a mistake to, by law, give only one company the right to do anything. It is that to which I object in the present language of the bill, and that is why I offered the amendment.

I do not seek to undo the limitations of the committee. As I have told the chairman, if someone offered a motion to strike the exception altogether, I would vote for it. But if you are going to except it for one company, it seems to me, Mr. Chairman, that that is too narrow a class to legislate into existence.

Mr. FOLEY. Mr. Chairman, in whatever time I have remaining, I will point out that the committee's judgment was to leave this matter to the discretion of the Commission, to give them the opportunity to protect the ongoing business of firms which were dealing in particular options as of May 1, and put upon the Commission the ultimate judgment of what rules and regulations should apply in this field. The real question is whether we want to keep just the protection of those ongoing businesses that were dealing in commodities as of May 1, or do we want to expand it to allow the greater opportunity to petition, which the amendment offered by the gentleman from Illinois would permit.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not use the 5 minutes that is allotted to me. I will say what I have to say very briefly.

What the Chairman has said is absolutely correct. It was the sense of the committee. We thought it best to leave this ultimate decisionmaking with the Commission. The Mikva amendment does not in any way change that. What the Mikva amendment says is that the decision that the Commission will make shall be broad enough so as to not create the possibility that there will be one firm in the United States which will be able to do business which no other firm would be able to engage in. That is all the Mikva amendment does. It merely broadens the authority that the Commission has. It is merely consistent with what the full Committee on Agriculture did in that sense, and it leaves all of this to be resolved by the Commission; but it saves the Commission of being in the business of granting an exclusive franchise to one firm to do business in the United States. I think it makes sense to avoid putting them in that position, and I support the amendment.

Mr. Chairman, I urge my colleagues to do likewise.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it appears to me that the gentleman from Illinois (Mr. MIKVA) has brought up a very legitimate concern, and having served on the committee I see why this problem has developed. In our deliberations on the committee, this part of the bill was considered to be interim legislation. It was the desire of the committee to not increase the dealer options trading, but simply not to eliminate the people who are now doing it until such time as the Commission came up with a ruling as to whether or not all dealer options would be banned, or what sort of a rule would apply.

So I think the problem is that in our bill there is no indication of how long that interim period will last. And I think the gentleman brought up a good point, that if the Commission does not do anything, then indeed exactly what we are doing is grandfathering in some people, at the exclusion of others, over such a period of time until the Commission acts. And at least it appears to me that if we are going to stay with what is in the bill, there is some need to put some limitation on the period during which we require the Commission to act. Otherwise I think the gentleman from Illinois has a legitimate concern.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I want to point out that nobody is grandfathering under this language. Nobody.

Mr. BEDELL. We do understand that. That right to apply is grandfathered.

Mr. SMITH of Iowa. Originally, this was H.R. 685, which was my bill, and it simply outlawed all options trading until such time as they could get things under control and stop the court cases which are going to go on for 2 or 3 years if we had not done this. But then the complaint was, "Well, you should not put people out of business which they are already in—and which was legal when they went into it—if they are not doing something wrong."

And that was the reason for giving the Commission the discretion to permit those who were not embarrassing the industry to continue selling only those contracts they were selling at the time, and permit them to take away from them that right any time they did not perform adequately.

It just seems to me that when we talk about grandfathering, nobody is grandfathered. The Commission, in its sole discretion, can permit somebody to continue to sell what he has been selling, and nothing more. Then they can take that right away from them, too, without a hearing of record. It is just a hearing, but not of record.

Mr. BEDELL. However, the bill as it is

worded says that nobody else can apply to enter that field until such time as the Commission does issue its regular rules and regulations; does it not?

Mr. SMITH of Iowa. That is right. We did not want to expand and get people into a new business. Otherwise we are going to have to get 100 of them in.

Mr. BEDELL. I think we all agree to that.

I think the legitimate problem which the gentleman has raised is that if the Commission does not act for 5 years, then there is no possibility for anybody else; if they continue to let those who are in it operate, there is no opportunity for anybody else to get in and compete with them.

That would seem to me to be wrong.

Mr. SMITH of Iowa. The Commission could act before that. Anyway, the legislation expires before that.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I think on that point alone, that is a legitimate concern, whether the Commission is going to come up with rules and regulations. However, when we allow this kind of discretion on an interim basis for those companies and then make a decision, there will be a legitimate excuse not to come up with rules and regulations because they already have the power to exercise that discretion.

We want rules and regulations. This amendment would simply give them the room to maneuver without acting.

Mr. BEDELL. It would seem to me, at the very least, that if the Mikva amendment is defeated, we should have some wording in the report indicating that we expect the Commission to come up with rules and regulations in a reasonably short period of time.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the report is already prepared. I believe we should decide whether or not it is wise to force the Commission to a decision. If it is, then we have to arrive at a period of time in which to demand that they act.

I know there are probably arguments for or against that. I personally oppose the Mikva amendment procedure, but I do believe that we should seriously consider whether or not there should be a limitation of time in which these interim companies can operate and then cut it off and say, "You cannot operate."

If the Commission cannot come up with reasonable rules and regulations to regulate this industry, then we should not have it.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I do want to point out that the subcommittee worked long and hard on the option sections of H.R. 10285.

For that reason, I do oppose the Mikva amendment.

Mr. Chairman, I want to point out that the purpose of the committee bill is to limit the trading in options. The gentleman from Washington (Mr. FOLEY) has well explained the intent of the bill and the reasons we should not have this amendment.

The gentleman from California (Mr. PANETTA) did a very splendid job in pointing out that we have not grandfathered anyone in this bill, and we have left it to the Commission to do so, to make their own decisions.

Mr. Chairman, this amendment represents an effort to broaden the exceptions to the ban on trading in commodity options. The committee did intend that dealers in certain types of options be allowed to continue in their present business, but not to expand into new option endeavors.

The Commission has contacted the chairman of the committee in opposition to this amendment, for they believe that, as has already been pointed out, it would have serious implications with respect to the Commission's ability to regulate the options trading.

Mr. Chairman, I would hope that the Members of the House would agree with the committee that trading options have presented innumerable problems, and I urge my colleagues to defeat this amendment.

I would point out again that the committee has not grandfathered anything in, but has left it to the wisdom of the Commission to make whatever decision might be made.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I am glad to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, there has been concern stated here during the debate on this amendment as to whether or not the Commission has a time frame in which it can operate to adopt rules and regulations as to whether or not to permit options trading.

Does the gentleman from Tennessee have any positions on that?

Mr. JONES of Tennessee. In answer to the gentleman's question, Mr. Chairman, the committee did not decide on any time frame. It was not discussed. There is actually no reason why there could not be a time frame.

Mr. VOLKMER. If we could work something out, the gentleman would have no objection to a time frame so as to give the Commission sufficient time in which to operate; is that correct?

Mr. JONES of Tennessee. I have no objection, as the chairman of the subcommittee, to any practical time frame.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The question was taken, and on a division (demanded by Mr. MIKVA) there were—ayes 8; noes 21.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 8, line 16, after the word "permit" add the following: "for a period not to exceed nine months".

Mr. FINDLEY. Mr. Chairman, I think many of us dealing with this legislation were under the impression that the language of the bill actually established a time certain by which the Commission must settle the question of options trading. In authorizing this interim period of limited character I, for example, expected that this interim period could not extend beyond March 31 of next year. In examining the bill, that deadline, that expectation, is not clear.

For that reason, I have offered this amendment, which would create this interim period authority for the Commission only for a 9-month period following enactment of the bill.

This amendment will limit to a period ending sometime in the spring of 1979 the time during which the Commission may authorize options trading under the interim conditions specified in section 2(4). The 9-month period would begin with the enactment of this legislation and, of course, would not be renewable.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, speaking only for myself, I have no objection to the gentleman's amendment. I would personally accept it.

Mr. FINDLEY. I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to my colleague, the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I think it is an excellent amendment.

Mr. FINDLEY. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any other amendments to section 2?

Mr. FITHIAN. Mr. Chairman, I ask unanimous consent to offer an amendment to the bottom of page 2, which would be at the end of title I, the preceding title.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment to title I.

The Clerk read as follows:

Amendment offered by Mr. FITHIAN: Page 2, after line 20, insert the following new paragraph.

(4) adding a new sentence at the end of subparagraph (A) of paragraph (2), as follows: "Each person nominated for appointment to the Commission by the President (and the spouse and dependent children of such person) shall not have received, during the three-year period preceding such nomination, gifts of any significant value (excluding gifts of less than $25 in value and including gifts of transportation, lodging, food and entertainment) from any person who is subject to regulation by the Commission or who has interests subject to regulation by the Commission."

Mr. FITHIAN. Mr. Chairman, the gentleman from New York (Mr. RICHMOND),

the gentleman from Iowa (Mr. BEDELL), and myself had originally intended to offer a much more comprehensive amendment to this section dealing with the qualifications of members of the Commission. Upon lengthy consultation today with the distinguished subcommittee chairman, the gentleman from Tennessee (Mr. JONES) and the full committee chairman, the gentleman from Washington (Mr. FOLEY) and others, it was decided that it would probably be a waste of our time to attempt such a comprehensive writing into the legislation of what the qualifications should be.

Therefore, I offer what I believe to be a very simple amendment, and for which I apologize to the House for its not being more comprehensive, for those of us on the subcommittee worked long and hard, and I am sure those preceding this particular subcommittee have worked long and hard to try to establish the Commodity Futures Trading Commission as a viable body, an important regulatory body.

I would remind the House that this Commission regulates $1 trillion worth of business and it is going to be an exploding amount in the next 5 years. We have had a particularly unfortunate situation develop in which a Commissioner has recently been appointed, the most recent appointment, and so far as we can determine he is not only not qualified for the position but also he brings to the Commission a cloud of suspicion because of the acceptance of $72,000 in gifts for his children, from a major commodities trader.

It is not the kind of thing in my judgment that will enhance the Commission's work. It is not the kind of thing that will cause the Commission to be widely respected throughout the United States.

We on the subcommittee have very serious questions about the confirmation of this gentleman. More recently the President and Vice President have reversed their support and have called for his resignation, joining those of us who called for his resignation earlier. We have however the constitutional principle established that this is an independent regulatory Commission, and therefore, we can only remove a member by the process of impeachment. Quite frankly no one believes Mr. Gartner committed an impeachable offense, for he concealed nothing from the administration and he concealed nothing from the Senate which would have prevented his confirmation or prevented them from judging his confirmation differently.

But it seems to me, Mr. Chairman, we can at least as one-half of the legislative body stand up and say at this time that in all future confirmations and appointments we do not need to appoint to the Commodity Futures Trading Commission a person who has accepted gifts from organizations or firms or individuals who will be subject to the regulations of this Commission.

Therefore, the amendment I now offer is a relatively simple amendment prohibiting a person from being confirmed who has accepted a gift of significant amount in the 3 years preceding his nomination to the Commission.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Utah.

Mr. SYMMS. Mr. Chairman, will the gentleman clarify for my edification this point. Did he say all this information came out before the gentleman he has referred to was confirmed?

Mr. FITHIAN. Yes. It is my information that the White House was informed in advance, a conflict of interest search was made by the attorney for the White House and for the Vice President, and this was then discussed with the prospective Commissioner, and they decided to send the nomination forward and to allow the Senate to render its best judgment.

It was, however, for a series of reasons rushed along in the Senate in their confirmation proceedings and only one question I believe was raised about the gift, and the prospective Commissioner agreed to ask the trustee to sell the stock in Archer-Daniel-Midland, which was the subject of the gift to the four Gartner children.

The Senate did have the information at the time they had confirmation hearings. Subsequent to that members on our subcommittee raised some questions about this, and the Senate, acting in its own wisdom, decided to recall Mr. Gartner for a subsequent postconfirmation session, which they did. There was then an attempt by our own distinguished colleague, a former member of this committee, Mr. MELCHER of Montana, to offer an amendment on the floor of the Senate which would essentially remove the Commissioner. This failed.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 3 additional minutes.)

Mr. FITHIAN. Mr. Chairman, now comes the question: Can this House say anything about the qualifications of persons who are nominated to the Commodity Futures Trading Commission? I believe this House can and I believe this House should. I do not intend that the House intrude itself into the jurisdiction or domain of the Senate for the confirmation hearings. But I do believe that those of us who want to see a viable and strong Commodity Futures Trading Commission which can deal with the giants of our economic world should raise a voice in terms of qualifications, and this is a very minimal step.

I would also point out that this position of the Commissioner is in my judgment one of the most important, most sensitive economic appointments in the U.S. Government.

Barring possibly the Chairman of the SEC, the Federal Reserve Board and the Secretary of the Treasury, no one makes economic decisions that are equal to these Commissioners. I would plead with the House, therefore, to accept this very humble and very small amendment to this bill which would simply say that no one having received gifts during a 3-year period, gifts of significant value should be nominated or confirmed to that position.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I will be happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I understand the concern the gentleman has and I appreciate his being concerned. I think we should all be concerned about these kinds of situations. But, if I read the amendment correctly, it seems to me that anyone who has ever been taken to lunch by anyone who trades on the Chicago Board of Trade or the Mercantile Exchange, or anywhere else, where the bill for that lunch might run more than $25, that that person would be, for a period of 3 years, ineligible for appointment to the Commission. Therefore, if the best lawyer in this kind of work in the whole country was up for consideration, if he had ever been a guest at a luncheon within the previous 3 years, he could not be considered. Is that correct?

Mr. FITHIAN. I would hope the phrase "significant value" would be interpreted by the Senate, and by any future administration differently. Is the gentleman objecting to the $25 section?

Mr. MADIGAN. If the gentleman will yield further, the language is all contained within the parentheses, it says gifts of $25, including lodging, transportation, food, it would seem to me that that is all inclusive and would cause a person not to be eligible for a period of up to 3 years.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. I would be amenable to any other suggestions by the gentleman from Illinois, but perhaps in the days of the three martini lunch question we should have a tight definition of "gift."

Mr. FINDLEY. Mr. Chairman, would the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I have read the amendment. It would disqualify from consideration for appointment anyone who had ever accepted an airline ticket to attend a convention and make a speech at a convention.

Mr. FITHIAN. No, if I may interrupt, I do not believe that construction could be placed on that. If you were to go to make a speech somewhere, the cost of getting there and back are certainly not gifts, costs, and honorariums are supposedly for work performed so that would not be covered.

Mr. FINDLEY. The amendment, I must say, is not too clear on that point. That is why I raised the question.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have asked for this time for the purpose of asking my colleague, the gentleman from Indiana (Mr. FITHIAN), a couple of questions.

The thought occurred to me, and I know the gentleman has had quite a lot of experience in the study of the separation of powers. I do not argue with the

gentleman whatsoever that it casts some light that would have been better not cast on the Commission by having this presented, but the fact is, does the gentleman really question or wish to take away the decisionmaking ability from the executive branch? Whether they used good or bad judgment, maybe they did use good judgment. I am not trying to pass judgment on that, but does the gentleman want to take that authority away from them where they could have to exclude people who might be qualified for consideration to appointment?

Mr. FITHIAN. If the gentleman will yield, I thank the gentleman for the question. It just seems to me that we ought to, as a legislative body, do those things which we can to strengthen the credibility of one of the most powerful agencies in the U.S. Government, and so, in answer to your question, yes. I think it is perfectly legitimate for the House to specify that. Perhaps one would argue with the amount, but the principle is whether we want to specify that we will not appoint people to the Commission who have accepted gifts?

Mr. SYMMS. Could I ask the gentleman a further question. The gentleman told me all the things that he considered distasteful about the appointment of a certain commissioner, but were there some positive factors to this commissioner? Was there some reason why the administration did want to appoint him? Did he have some experience that they thought might be helpful on the Commission?

Mr. FITHIAN. I must say I have this appointment on only two grounds. One is, was this person qualified in the sense of experience to deal with the enormously complex and taxing and responsible position? I had to say no. The second was, was there anything else about this nomination which would cause us to be concerned about the credibility of the Commodity Futures Trading Commission? I said yes. Anyone who has accepted $72,000 from Archer-Daniels-Midland, the third largest commodity traders in the United States, whether there is anything wrong with it or not, I am not really making that judgment. I am simply saying that in this day and age, looking at that kind of gift, I raise this question as to whether that is the best we can do. My answer is no, it is not. So I found not only a potential conflict of interest which brought a cloud to the Commission but no compensating offsetting qualities which would lead anyone to say, but he is so eminently qualified to be commissioner that he ought to be commissioner in spite of having accepted $72,000 in gifts. I am sure that gentleman, from my investigation, is absent the qualifications for this position.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

I sense the outrage that the author of this amendment has expressed with relation to the latest appointment to the Commission. I can see why he is embarrassed about his President making this appointment, but I think the amendment goes too far. If we start to analyze the effects of the amendment, it would probably prohibit any Member of Congress or the Senate who had received campaign contributions in the previous 3 years from being appointed to the Commission. That is obviously not one of the intended effects. I think any person who has been involved with farmers, a practicing attorney who had received a gift from a farmer, could not receive a nomination as a result of this. I think that the Securities and Exchange Commission has operated very well over the last 40 years, and it does not have this kind of rule, regulation, or law governing it. I think we have to accept the fact that perhaps a bad appointment has been made. The Senate perhaps made a bad decision, but this amendment will not probably cure the situation that the gentleman is trying to.

Mr. SYMMS. I thank the gentleman very much. I am sorry he compared the Commodity Futures Commission with the Securities and Exchange Commission. If we are going to use that as a touchstone, we are in trouble.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I cannot understand the objections to this amendment. It seems to me so obviously clear that we must do something to say in the House of Representatives that a mistake was made and that we hope very much it will not happen again. That is what this amendment is doing.

Mr. SYMMS. I thank the gentlewoman. I have not meant to raise an objection to the amendment. I have just been enjoying hearing my friend, the gentleman from Indiana (Mr. FITHIAN) be critical of his own administration.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The question was taken; and on a division (demanded by Mr. FITHIAN) there were—ayes 5, noes 16.

So the amendment was rejected.

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to engage the distinguished gentleman from Washington (Mr. FOLEY), the chairman of the committee, in colloquy with reference to the language on page 4, section (10)(B):

> No Commissioner or employee of the Commission classified as a GS–16 or higher shall, for a period of one year beginning on the last day of service as such Commissioner or employee (i) make any appearance before, . . .

The reason I am engaging the gentleman from Washington in this colloquy is for some guidance with reference to a similar problem which we have had in the Committee on Banking, Finance, and Urban Affairs. I am referring now to the Bank Regulatory Act which we recently reported out of that committee. We have provided that any member of the FDIC, Federal Reserve Board, Federal Home Loan Bank Board, and so forth, cannot appear before any of those boards or commissions within 3 months after the termination of service on the Board on the theory that there might be some conflict of interest.

I would ask the gentleman from Washington (Mr. FOLEY), what is the rationale for this language? Have there been abuses?

It seems to me that some of these persons might be denied the opportunity for employment in their area of expertise and unless they are independently wealthy it might limit the people who might be appointed to these commissions or be appointed as employees of the Commodity Exchange Commission.

I know we are trying to get at the problem of the so-called revolving-door employee; but I would just, if I might, like some guidance as to why that language is included in this bill and if we should include it in other bills which come before this House?

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I would be glad to yield.

Mr. FOLEY. Mr. Chairman, I thank the gentleman for yielding.

I might in a moment ask the gentleman from Ohio to yield to the author of this amendment, the gentleman from Indiana (Mr. FITHIAN), who can perhaps offer a more persuasive exegesis of the rationale for the amendment than I can.

I personally have some reservations, some rather strong reservations, about how far this amendment goes. I think it goes too far. I opposed it when it was offered in the committee, because I think it has the effect that the gentleman described of perhaps denying to the Commission some very talented, able people, who might otherwise accept employment with the Commission, but who may determine that the restrictions upon their future appearance before the Commission as lawyers, for example, are so great that they prefer not to perform public service. At least, I think this is a concern we ought to attend to in writing these so-called revolving-door restrictions.

It is very important, in my judgement, that these Commissions have the best available people. I do not think it serves that purpose if we put too heavy a mortgage on the future activities of members of the Commission in their subsequent private employment. However, I am constrained to point out that I was not on the prevailing side when this amendment was adopted.

The gentleman from Ohio may want to yield time to the gentleman from Indiana (Mr. FITHIAN) in order that he might express concerns he expressed in the committee.

Mr. WYLIE. Mr. Chairman, I would submit that this might extend to representation by many consumer groups before the Commodity Exchange Commission. I will say, this is a problem which has caused me considerable anxiety. Of course, I do not want to put the stamp of approval on conflicts of interest. I do not want to put the stamp of approval on a situation where a member of the Commodity Exchange Commission, or an employee, might be spending his last 3

to 6 months looking for somebody to work with after he leaves his employment with that Commission who will be appearing before the Commission; but on the other hand, I do not want to make employment so restrictive that otherwise qualified people might not want to serve.

I might say, I received a letter from Mr. Ralph Lazarus, who is the chairman of the so-called Business Roundtable, and he suggested what we might do in the case of bank regulatory agencies is to provide compensation for 3 months after the end of a Commission's term, so they would not have to be looking for work or employment or trying to line up something during the last few days before their termination to avoid a conflict of interest.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. WYLIE) has expired.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, in this additional time, I would like to yield to the gentleman from Indiana (Mr. FITHIAN), who I understand is the author of this amendment.

Mr. FITHIAN. Mr. Chairman, I thank the gentleman for yielding.

The amendment which was offered in our subcommittee, as drafted by the gentleman from Iowa (Mr. BEDELL) and carried over into the full committee, is an attempt on the part of the gentleman from Iowa and myself to attempt in some small way to close the revolving door which seems to spin freely here in Washington.

The amendment does not say that this GS–16 or above could not go to work for a commodities firm. It simply says that he could not, after leaving the Commission, go to work for a commodities firm and represent that firm before the Commission. In other words, he could not return and present to his former colleagues on the Commission advice, recommendations, or whatever on behalf of the firm

Mr. WYLIE. Mr. Chairman, I take it, then, that the gentleman found there were some abuses in this area?

Mr. FITHIAN. This is certainly the case, Mr. Chairman. On agency after agency, I might say, I have sponsored a revolving door bill, and that is pending in the Committee on Post Office and Civil Service.

For example, not long ago, about 2½ or 3 years ago, someone who was in the process of prosecuting for one of the commissions was hired away by that firm in the midst of the period when her division was actually prosecuting the firm. Now, that is the most egregious violation that I know anything about, but it goes on to some extent throughout the Government.

The problem that I think the gentleman from Ohio (Mr. WYLIE) and the chairman of the committee, the gentleman from Washington (Mr. FOLEY) referred to—and it is a problem which is very real—is this: How do we close the door enough that we do not get this running back and forth and create advantages to those who hire people away from the agencies, whether it is the EPA or the CFTC or whatever and still not discourage them entirely?

I think this compromise does that. It says:

> You can go to work for them, but you yourself cannot come down and represent the firm before your former colleagues.

Mr. WYLIE. Mr. Chairman, I am not sure I am entirely satisfied, but I thank the gentleman for his explanation.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. WYLIE) has expired.

Mr. FOLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. MCHUGH, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for 4 years, had come to no resolution thereon.

## GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 10285, which has been under consideration today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## APPOINTMENT OF CONFEREES ON H.R. 2777, NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island? The Chair hears none and, without objection, appoints the following conferees: Messrs. REUSS, ST GERMAIN, ANNUNZIO, and DERRICK, Ms. OAKAR, and Messrs. PATTERSON of California, STANTON, ROUSSELOT, and WYLIE.

There was no objection.

## THE GROWING PROBLEM OF OBSOLETE NUCLEAR REACTORS

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RYAN. Mr. Speaker, in April, the Government Operations Committee filed a report with the House entitled "Nuclear Power Costs," which was prepared by the Environment, Energy and Natural Resources Subcommittee which I chair. The report has been highly controversial. In fact, it has been the subject of unusually harsh comments in Congress and by the nuclear industry.

In relation to that controversy, I noticed in the San Francisco Chronicle of July 5, an article on Andre Cregut, who happens to have built most of the important nuclear powerplants in France. I highly recommend Cregut's comments to my colleagues, since they validate the conclusions drawn by my subcommittee report on the problems of nuclear powerplants. Andre Cregut notes that nobody has been able to dismantle a commercial atomic reactor—and with dozens of nuclear plants reaching obsolescence soon, scientists and governments are now beginning to face up to the immensely serious problems involved. Monsieur Cregut has decided to spend the rest of his life finding a way to dismantle these plants he has erected.

When so many sides are presented on such a controversial issue as nuclear power, the average person in America is left with the difficult decision of whom to believe. And on an issue as terribly serious as nuclear power, accurate information is vital. The contents of this article, which is printed below for my colleagues' benefit, present the best evidence available that this one area of the nuclear power issue has not been resolved yet—and that it must be. Outdated reactors cannot be dismantled—yet. We simply must face up to this fact before we continue to spend billions of the taxpayers' dollars on this type of energy.

The article follows:

THE GROWING PROBLEM OF OBSOLETE NUCLEAR REACTORS

MARCOULE, FRANCE.—For the last 20 years. Andre Cregut has built most of the important nuclear power plants in France, including the controversial Phoenix breeder reactor that rises amid the vineyards and medieval villages here on the bank of the Rhone river.

But Cregut, a robust 50-year-old engineer, has now decided to spend the rest of his active years figuring out how to dismantle the nuclear plants he has erected. This is not a case of a conscience-stricken scientist converted to environmentalism. Quite the contrary, Cregut is as convinced as ever that nuclear power plants will continue to grow as an essential source of energy for the foreseeable future.

But nobody has yet been able to dismantle a commercial atomic reactor. With dozens of nuclear plants reaching obsolescence throughout the world, scientists and governments have begun facing up to the troubling problems of ridding the landscape of these dangerously radioactive structures, and estimates for the clean-up operations are running into the billions of dollars.

Reactors usually have a life-time of 20 to 40 years. Like any other machine, they may wear out from use, suffer irreparable damage from accidents, undergo repeated breakdowns that become too expensive to repair, or simply be rendered obsolete by new technological breakthroughs.

Already 20 nuclear power plants have been closed in the Western industrialized world—15 in the United States and five in Western Europe, including two in France. By the year 2000, there will be more than 100 inactive atomic plants.

In addition, there are hundreds of smaller nuclear installations—research accelerators, fuel enrichment and reprocessing plants, navy ship reactors, nuclear medicine facilities—that have ceased to operate.

All of them will remain radioactive, for hundreds or even thousands of years. In many cases, these closed nuclear installations pose a greater threat than when they were in use. Their security systems—the anti-radiation shields, alarms, ventilation and detection devices—have been largely removed. Even if they are guarded perpetually by security personnel, they are bound to deteriorate and eventually leak radioactivity.

"Even if we entombed these plants, there is no way to be certain that after 500 or 600 years the protective casing will be physically maintained or guarded," said Cregut, who heads the French government's program to deal with obsolete nuclear installations. "Do we have the moral right to leave these plants in place knowing that it will take hundreds, perhaps thousands of years before they cease to be dangerously radioactive?"

This question is being asked by other governments as well. Last year, in a report to Congress, the Comptroller General of the United States criticized nuclear agencies and private industry for ignoring the "problem of protecting the public from the hazards of radiation lingering at nuclear facilities which are no longer operating."

In May, the European Economic Community proposed a five-year research program on the problems involved in dismantling nuclear reactors. And the International Atomic Energy Agency in Vienna has been calling attention to the hazard at least since 1975.

In France, it was Cregut who first proposed to the government in 1974 that it start a program to deal with obsolete atomic plants. He had just completed directing the construction of the Phoenix breeder, a type of reactor that is the focus of a controversy between West European governments and President Carter, who opposes it because it uses and produces plutonium, which can be used for weapons.

"My boss congratulated me for handling the construction of Phoenix so well," said Cregut. "I told him that I hoped he would congratulate me again when I figured out how to take it apart safely."

Cregut then set about amassing studies of the Phoenix plant during the next four years. The fruit of his labors is in a room next to his office that has aisles of shelves from floor to ceiling and that he hopes includes the data necessary to dismantle the breeder reactor.

Cregut's plan follows roughly the lines proposed by other experts—mothballing, entombment and complete dismantlement. In the United States, nuclear plant owners are given an option of any one of these methods to deal with their obsolete installations. Cregut does not believe that the hazard ends until complete dismantlement takes place.

In mothballing, the reactor is welded shut with steel and the facility is placed under permanent guard. This has been done at the Marcoule G1 plant, a military reactor that produced plutonium for French nuclear weapons until it was shut down ten years ago. But Marcoule G1 has developed cracks, leaks, radiation and, according to Cregut, will have to be dismantled eventually.

Entombment involves encasing the reactor in concrete. But it also requires permanent monitoring and security for centuries.

Dismantling involves the complete removal of the reactor and the rest of the plant, and the restoration of the site for other activity. No one has yet attempted it with a commercial-size nuclear reactor, and even in the few cases involving smaller installations, it has proved a difficult and expensive task.

"I think in this respect France has an advantage over the United States or West Germany," said Cregut. "Here the government owns the nuclear plants and has clear responsibility to deal with them when they become obsolete. In the United States and West Germany, a private company can always go bankrupt, and then what happens with its obsolete reactors?

"How can they be monitored for future generations?"

Nuclear experts in the United States and Western Europe have suggested that new atomic plants be designed with their eventual dismantling in mind. But no one knows yet what this would mean in terms of building material and added costs.

Meanwhile, it will still take years of research on dealing with existing plants before it will be known at what point radiation levels are low enough to permit dismantling. Then the equipment needed to take the plant apart can be designed. It will take additional years to carry out pilot experiments with smaller installations to build a reservoir of experience for use on larger commercial plants.

"I feel we're at the same stage now in our knowledge of dismantlement that we were with Phoenix, say, back in 1958, when it was first conceived," said Cregut. "Phoenix appeared impossibly difficult to carry out 16 years ago, and now it seems easy. At this point, dismantlement also seems just as difficult. I'll have more confidence when the budget exists to let us do what we want to do.

"By the time I retire, I want to have a clear conscience that everything I built can be taken apart properly," Cregut said. "I don't want people to think of me like that genius who invented the plastic bottle and never figured out how to get rid of the damned thing."

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## HEARINGS ON DOD'S MORALE, WELFARE, AND RECREATION PROGRAM

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, for over a year now I have chaired the nonappropriated fund panel of the Subcommittee on Investigations, House Armed Services Committee, which has been conducting hearings on the morale, welfare, and recreation program within the Department of Defense. Our hearings are not yet completed, but I feel that I should bring to your attention and the attention of the distinguished Members that there has been a great deal of misunderstanding about the DOD MWR program and the nonappropriated funds which help support it. I hope to clear up some of this confusion.

An MWR program can be a gymnasium where our military people can keep physically fit—a library where they can find materials for self-education purposes or purely for pleasure—a hobby shop where they can repair their own TV or car—a child care center where military parents can be assured of adequate care for their children while working to make ends meet—a youth center where dependent youth (ages 6–16) can spend their leisure time in professionally planned social, civic, sports, and outdoor activities—a recreation center where alternatives can be found to undesirable elements often found near military installations. And these are just a few of the programs. In a nutshell, the DOD MWR program is designed to maintain and improve the mental and physical well-being of our Armed Forces personnel; to give them a feeling of belonging and esprit; to maintain high morale, which in turn, increases productivity; and to meet the competition of private and public businesses for recruitment and retention of personnel.

I am firmly convinced that the MWR program plays a vital role in the defense of our Nation. We need only look at our Military Establishment to realize why. Our uniformed people are scattered throughout the world. Many are in places that once were considered as good assignments and were attractively advertised in recruitment brochures. Today, in most of these locations, there are rampaging increases in the cost of living due to the devaluation of the dollar—in fact, some of our military members are receiving food baskets from their hosts and are going deeper in debt as the days roll by. Inflation is also taking its toll in our own country. At home and abroad, we see more and more cases where both parents of the military family have to work, not because they want to, but because they must. A well-rounded MWR program within the DOD is an absolute necessity, not something just nice to have. To begin with, military families are often separated for extended periods of time. The military member is on call 24 hours a day, 365 days a year, and we have a much younger grouping than in the civilian sector. For example, the Air Force reports that over half of its enlisted force is below 26 years of age, and over 40 percent are on their first enlistment. MWR programs provide alternatives to drugs, alcohol, and other undesirable pursuits for these men and women. Over 60 percent of the enlisted members are married. Also, the number of women in uniform and the number of military couples are expected to double between now and 1983.

We have to meet the MWR needs of these people to recruit and retain a professional military force, for recently published information indicates a growing recognition on the part of industrial leaders for recreational and social programs for their employees. For example, consider the recent comments of the chairman of the board for Goodyear Tire and Rubber Co.

All of this costs money, but we consider it money well spent because it lets our employees know we care about them over and beyond what they produce on the job. Recreation becomes a key factor in productivity by giving the individual status and recognition as well as improivng his or her morale.

In other words, industry is saying that recreational and social programs are a cost of doing business.

All in all, the amount of money being spent by American industry on recreational and social programs is growing yearly. Understandably, most programs in the civilian sector are not completely free to the employee—but they are supported by dollars consciously spent out of corporate income. I also hasten to add that military personnel, likewise, do not expect these programs to be provided them free. They do, however, expect the Government to pay its fair share. Well, what is a fair share? Historically, the philosophy for funding this program in

our military has been based on the concept that it is the Government's obligation to provide for the welfare of the troops with appropriated funds, supplemented with nonappropriated funds if and when necessary. But, according to information provided by DOD, the facts do not track with this philosophy. Instead, only about 25 percent of the total support cost for the DOD-wide MWR program is provided by appropriated funds.

For a better idea of how the funding of this program actually breaks out, let us return to the Air Force for just a moment to see who pays for what. Of the approximate $176 million of appropriated fund support of MWR received by the Air Force in fiscal year 1977, over $100 million was expended for programs such as sports/physical fitness, hobby shops, libraries, child care and youth activities, and outdoor sports and recreation. Another $18½ million was expended for officer and consolidated open messes which provide required dining facilities as a substitute for messhalls or field ration messes. Also, $16 million supported enlisted open messes. The balance, $41½ million, supported essential command and supervisory staff, maintenance and supply functions, and so forth. I believe that all of these are legitimate Government expenses. On the nonappropriated fund side, Air Force members, through purchase at exchanges and the payment of fees and charges in MWR activities, provided over $345 million to support the program.

While on the subject of funding, I would be remiss if I did not address an area of the program which overrides all other funding considerations. I refer to the people cost of operating and managing MWR activities. Again, I would like to look at the Air Force which had an MWR work force of a little over 45,000 in March 1978. Of these 45,000 employees, about 89 percent were nonappropriated fund types—in other words, their salaries were paid from self-generated income. Only 11 percent of the individuals involved in MWR management and operations were paid for with funds appropriated by the Congress. Over 70 percent of these appropriated fund people are utilized in those activities previously mentioned such as physical fitness facilities, libraries, hobby shops, dependent youth programs, and open messes, and are used primarily for executive control and essential command supervision.

As you know, we in Congress arbitrarily placed a ceiling on the number of military personnel that could be used in this program in the fiscal year 1978 DOD Appropriations Act. I submit that we all must be mindful that such arbitrary limitations may significantly diminish the ability of the services to provide an adequate MWR program for their personnel at locations where it is needed most; that is, at remote sites and overseas locations. While our motives were sound, our methodology was not. This action on our part was announced at the last minute in the budget review process. It did not permit adequate leadtime for orderly adjustments and resulted in personnel turbulence and in significant increases in nonappropriated fund costs. In the Air Force alone, the signed to it MWR program could very well reach $5.1 million, which was not budgeted for because of inadequate leadtime. And, with inflation eating up both appropriated and nonappropriated fund dollars at a rapid rate, increased fees and charges and program adjustments are becoming necessary.

We are all familiar with the financial problems our younger military members are having overseas. Increased MWR costs to them and a reduced program cannot help but make them wonder if we care. A recent study by the Air Force, in response to a request by the Congress, revealed that between 1975 and 1977, fees and charges in MWR increased by 14 percent, the Consumer Price Index increased by 12.5 percent, yet base pay increased by only 10 percent. I don't think we should continue to ask the military member to bear the brunt for actions over which he has no control.

The last minimum wage increase will cost the Air Force alone over $5½ million in NAE's. The annual "white collar" pay raise for NAF employees, which is coupled with the Civil Service annual raises, costs the Air Force over $1 million per year. Additionally, the Randolph-Sheppard Act Amendments of 1974 have a great potential for reducing the NAF income in DOD. Estimates indicate this impact could be as high as $50 million per year, depending upon how actual implementation takes place.

What are the alternatives for the future? I see, basically, three. We can continue our present level of support, we can increase the level of support, or we can require additional reductions. This is a decision we must make. When we make this decision, we must consider all the factors and impacts.

I submit, Mr. Speaker, that further reductions in MWR support are not in order. This program is very important to our military people, to our national defense posture, and to our Nation. The men and women serving our country deserve our conscious and careful consideration of this issue. As for me, I feel that the MWR program and the benefits we, the Nation, derive from it deserve our full continued support.

## A BAD SETTLEMENT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, I was shocked by the President's statement at his news conference last week that, in his opinion, public employees have the right to strike.

He made his statement in response to a question by the Arizona Republic's Washington bureau chief, Ben Cole.

The Presidents' position is intolerable. The danger of public employee unionization and collective bargaining was highlighted by the threatened postal strike, which was averted only by the Postal Service decision to continue its bad policy against laying off unneeded workers.

The ban against layoffs is being continued by the taxpayer-funded Postal Service at the point of a gun being held by a public employee union, which is not acting in the public interest.

I would like to include Ben Cole's question to the President on public employee strikes, and the President's response, at this point in the RECORD.

I would also like to include an editorial about the bad postal settlement from Mr. Cole's newspaper, the Arizona Republic.

This situation of public employee union blackmail tactics needs congressional attention and a legislative remedy.

The material referred to is as follows:

[From President Carter's nationally broadcast news conference on Thursday, July 20, 1978]

BEN COLE (of The Arizona Republic and The Indianapolis Star). Mr. President, the City of Washington is vexed right now by a subway strike. We're facing a possible mail strike. Philadelphia has had a sanitation strike, Louisville a police strike. There've been fires accompanying a fireman's strike in Memphis. How long do you think the people are going to stand for this, and what are your thoughts about strikes by public employees?

PRESIDENT CARTER. Well, I deplore the circumstances that finally result in a strike. We obviously prefer through regular legal bargaining procedures that disputes can be settled without disruptive strikes. This evening, for instance, we are waiting with great interest the outcome of the postal workers' negotiations, and we hope that they will be resolved successfully before midnight, which is the deadline. If they're not, then the legal procedures provide a mechanism by which some extension can be granted.

But I deplore strikes, but recognize the right of workers to conduct labor negotiations. If they aren't successful, sometimes strikes are advisable. But I prefer, of course, to see their disputes settled without strikes.

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[From the Arizona Republic, July 22, 1978]

A BAD SETTLEMENT

The settlement the U.S. Postal Service reached with the postal workers' unions averted a strike that would have snarled the economy, but only at the cost of making another boost in postal rates or the postal subsidy, or both, inevitable.

The wage increases provided for in the new contract are not the reason. They will amount to 2 percent the first year, 3 percent the third, plus annual cost-of-living raises.

This is more than the 600,000 postal workers deserve, for they already are by far the best-paid semiskilled workers in the country, earning an average of nearly $16,000 a year, which is about 50 percent more than the average for all non-farm workers.

Moreover, taking into account the cost-of-living raises, the increases exceed the 5.5 percent ceiling set by President Carter for civil service workers.

The really bad feature of the settlement is that it continues the ban on layoffs. The Postal Service could absorb the wage increases by cutting the number of people it employs. And it could easily do that if the ban were abolished.

The amount of mail the Postal Service handles is declining. And automation also has made it possible to operate with fewer workers.

Wages consume 85 percent of the cost of delivering the mail. That cost is bound to increase each year unless the Postal Service is able to pare its force.

The unions were more concerned about

maintaining the ban on layoffs than about wages, because they know the Postal Service is overstaffed. They threatened to strike unless the ban were kept, and the Postal Service yielded.

It should have stood fast. A strike would have disrupted the economy and caused incalculable inconvenience, but it could have been broken.

There's no hope for the Postal Service unless it can keep its costs from rising.

## INTRODUCTION OF HOUSE JOINT RESOLUTION ON FEDERAL JUDGES

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I take this time to announce that I am today introducing a House joint resolution proposing a constitutional amendment dealing with the tenure of the hierarchy of Federal judges.

There is something drastically and basically wrong with the posture of the Federal judiciary within the framework of our Federal Government under our Constitution as it has developed up to this point. The general principle of the separation of powers still purports to hold true, but the practice has become something different. The Federal judiciary is more and more invading the province of both legislative and executive branches with impunity. The examples of judicial arrogance and complete disregard for the proper role of the courts are too numerous to bear repeating in detail. A casual reading of the daily newspapers would bring such cases to light with dreadful regularity.

There are the instances in which Federal courts make decisions which require the administrative execution by State, county, or municipal governments. Not content with burdening these governmental entities with chores which defy accomplishment, the courts have many times taken over as the executive-in-charge. Communities are ordered to submit the plans for compliance and then told time and again to go back to the drawing board until the court—that is, the individual judge—is satisfied with it. Courts have summarily ordered State governments to cough up funds to help subordinate echelons to do exactly what the judge decides best, regardless of other fiscal or budgetary problems of the affected State government.

There are examples of judicial pressures of the most uncalled for kind. For example, local officials have been told flatly that to exercise their legal right to appeal would bring contempt action down upon them. This sort of judicial bullyism cannot be tolerated.

How can such things occur? Clearly because of one factor alone. Some judges appointed for life tenure develop an attitude of power which brooks no interference and no dissent. The realities of life as lived by you and me seem to fade from sight. Untouchability, or the feeling of it, leads to the loss of respect for others. There is no need to consider the opinions or even, at times, the rights of those who have no legal way to restrain such quirks and excesses. Ask the attorney who must appear and practice before these imperious lords who seem to enjoy embarrassing witnesses and subjecting counsel to the pillory. They are no longer people, and judges should, of all the many so-called servants of the people, be the most understanding, the most humane.

There is nothing sacred about life tenure for judges. State governments did not succumb to the Federal precedent and many have outstanding trial and appeal courts. And, while there does not seem to be an argument for the advantages of life tenure, there certainly are numerous examples to illustrate its disadvantages. No branch of government should ever be placed completely out of the reach of those for whom it was created.

The bill I am introducing is not either a first-of-a-kind or one-of-a-kind. Other bills have been introduced from time to time on this same subject, and some of them are quite similar to mine. I do think, however, that it behooves the members of the legislative branch to recognize this problem and start the machinery in motion which will result in the necessary change in the U.S. Constitution. The process takes a long time at best, and the State legislatures should be given the opportunity to express themselves on this subject without more delay.

The bill I have introduced would require a renomination by the President and a reconfirmation by the U.S. Senate of each and every Federal judge after he has served 10 years and each 10 years thereafter. Although this system does not subject Federal judges to the vagaries of the polling place, it still should constantly remind them that they are not completely immune to the realities of the political system.

I urge my colleagues to join me in sponsoring this legislation, and I urge the appropriate committees to act promptly to bring it to the floor of the House for its consideration and passage.

## BAN THE "BLACKOUT" OF TV SPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN of Illinois. Mr. Speaker, everyone is aware of the effect that "big money" has had on professional sports over the past several years. The free agent phenomenon, exorbitant salaries and lucrative television contracts have thrown the professional sports world into a cost-increase spiral the likes of which has never been seen before in this country.

One disturbing result has been the promulgation of the so-called blackout of televised professional games to audiences within 75 miles, if the game is not sold out at least 72 hours before game time. This situation has resulted from franchise owners' concern about selling every available seat in the arena to meet the costs of operation. The legislation which I am introducing today would eliminate the blackout rule entirely, except where a college game is being played within 75 miles of the location of the professional game, a situation which rarely occurs, since the respective schedules seldom conflict.

The need for this measure can be illustrated by the following example: A family of four wants to see a postseason playoff game between the Chicago Bears and the Green Bay Packers. The game is being played in Chicago, and because all seats have not been sold by the deadline, it is announced that the game cannot be carried by media centers within the prescribed 75-mile radius. Since the relevant media center for this family is Chicago, they will not be able to see it unless they attend in person. This family lives just within the blackout area, so when they climb into their car Sunday morning, they are looking forward to a 75-mile, 2-hour trip to the stadium in Chicago.

But this family's problems have just begun. With no way to reserve four of the remaining tickets beforehand, they are taking a chance that, by the time they reach the ticket window, the seats will all be sold. So, with luck, Dad is able to purchase four of the remaining seats, the view from which is comparable to watching the game from the Capitol dome.

By the time the family finally takes its seats, Dad has already spent well over $60 for playoff tickets and parking, not including the cost of transportation, or cokes and hot dogs.

Mr. Speaker, agreements between the National Football League and the major television networks will place $5 million in the coffers of each NFL team this season, whether or not the team appears on a regional or national broadcast during the course of the season. When a game is blacked out, it usually means that a few hundred seats out of 70,000 or so were not sold—about 2 percent. Surely, with today's high ticket prices and lucrative television contracts, it is not necessary to deprive large television audiences the pleasure of seeing their team, just to attempt to guarantee the receipt of revenue from a relatively small number of tickets. The American sports spectator is a dedicated and loyal person, and deserves credit in large part for the huge success (financial and otherwise), enjoyed by professional sports. Certainly, the cost of a few hundred tickets is a small price for franchises to pay in order to "ban the blackout" and bring sports excitment to millions of deserving citizens.●

## MORAL OUTRAGE ALONE WILL NOT HELP ANATOLY SCHARANSKY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN. Mr. Speaker, on Thursday, July 13, the Soviet Government sentenced Anatoly Scharansky to 13 years imprisonment and hard labor. The charges: Spying for the United States and anti-Soviet agitation. The actual crime: Seeking to emigrate to Israel and

helping to monitor, internally, the Soviet observance of the Helsinki agreement.

Mr. Scharansky's conviction has provoked the indignation of the Western World. We are particularly outraged in the United States because our President has given his solemn word that the first charge is false. As to the second, it is difficult for us to view as a crime the desire to seek out one's roots and to aid others who share the same dream. Since Jews are not free to practice their religion in Russia, migration would appear to be the opposite of agitation.

I think, however, that it is important not to dwell on the illogic of Soviet justice (or injustice) and lose sight of the very special significance of the Scharansky case to the United States. As noted, in spite of assurances from President Carter that Anatoly Scharansky has no connection with our intelligence activities, a Moscow court found him guilty. By implication, that same court found our President guilty of making a false statement to the world.

By finding internal monitoring of their compliance with the Helsinki agreement as anti-Soviet agitation, the Russians have forced us to question their sincerity and trustworthiness on the eve of important negotiations aimed at an arms control agreement.

For the millions of Americans who care about Anatoly Scharansky and the others also unjustly sentenced recently, such as Aleksandr Ginzburg and Yuri Orlov, there is a great sense of anger and frustration. How can we help them? How can we break through the closed doors of the closed Soviet society which has allowed this to go on? Anatoly Scharansky has risked his life to call attention to the plight of the refuseniks in the hope that his courage would make things better. We can honor this man through our actions as a nation by adding forceful action to our moral outrage.

We can no longer assume that "sensitivity to public opinion" is a force that will move the Soviet Union. We have an unfortunate tendency to project upon the Russians our own values and assume that they are equally responsive to world opinion. If they can continue to sign agreements guaranteeing human rights while violating those very rights, I believe they will continue to do so.

And, if we continue to supply the Soviet Union with our technology and our agricultural products in the face of this repression, we must recognize the moral significance of our actions. In short, we should apply the type of pressure to which the Soviet Union might respond.

President Carter has now placed American exports of oil technology on an export control list which this administration can use to stop the sales of equipment the Russians want. He can and should use this authority. In addition, the administration will cancel a computer sale by Sperry Univac. There can be other similar actions taken.

I also firmly believe that the 1980 Olympics should not be held in Moscow. The recent trials and the overall campaign against human rights are in clear violation of the 1975 Helsinki accords. By 1980, when all the world would be watching Moscow at the games, human rights movement leaders may totally be muzzled. I have written to Lord Killanin, president of the International Olympic Committee urging the committee to reconsider its permission for Moscow to hold the 1980 games and move them out of the Soviet Union, as well as to Robert Kane, president of the United States Olympic Committee asking his support. I am circulating a letter to all my House colleagues urging them to join me in this effort.

Anatoly S haransky still has some time before his 30 days for appealing his unjust sentence are over. That means the Soviet Union has time to reconsider its action. But they won't act if we do nothing. Let us draw on the reservoirs of resolve and courage that exist in this country and put teeth into our indignation. Surely Anatoly Scharansky has set us a high standard in his response to the harsh sentence imposed upon him. He declared:

I am happy that I lived honestly and in peace with my conscience, * * * I am happy to have helped people.

## PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

● Mrs. MEYNER. Mr. Speaker, I was unavoidably absent for the final votes on Friday, July 21, 1978. Had I been present, I would have voted as follows:

Rollcall No. 584, "yea"; Rollcall No. 585, "yea"; and Rollcall No. 586, "yea."●

## TESTIMONY OF HON. W. MICHAEL BLUMENTHAL BEFORE THE HOUSE COMMITTEE ON THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAMO) is recognized for 5 minutes.

● Mr. GIAIMO. Mr. Speaker, as I indicated to the House previously, the Budget Committee has recently completed a week of stimulating and rewarding hearings on the state of the economy and the U.S. budget.

On July 19 and 20, I placed the testimony of Chairman Charles Schultze of the Council of Economic Advisers in the RECORD. Today, I include the statement of Treasury Secretary W. Michael Blumenthal in the RECORD at this point:

STATEMENT OF THE HONORABLE W. MICHAEL BLUMENTHAL

Mr. Chairman and Members of this distinguished Committee:

I am pleased to have the opportunity of discussing with you this afternoon the results of the Administration's mid-session Budget review, particularly as they relate to the future course of the economy and the President's program for reducing inflation and unemployment. As you requested, I will also discuss the economic implications of the proposed changes in the size and timing of the President's tax program. Information about each of these issues should be helpful in the Committee's consideration of the Second Concurrent Resolution on the Budget for Fiscal Year 1979.

Your review comes at a time when the economy is settling down to a more reasonable rate of growth, after the clearly unsustainable pace in early spring when the economy was catching up from the winter weather and the coal strike. While figures for the second quarter are still several days away, it appears that economic activity was fast enough to bring the rate of expansion in real GNP over the first half of the year to about 4 percent.

We expect a pace close to this to continue over the balance of the year and, given some success in containing inflation without further intensification of monetary restraint, and given enactment of the Administration's revised tax program, there is no reason to expect marked deviation from this pace in 1979.

Admittedly, it is unusual to anticipate growth to continue into the fifth year of an economic recovery. But we have been fortunate in avoiding some of the excesses that in past recoveries have forced the economy to pause and often to reverse direction. Production and sales have been kept in good balance; we are not suffering from inventory imbalances that often have been the cause of production cutbacks and swelling unemployment rolls. Indeed, the unemployment rate has dropped sharply this year, from 6.4 percent last December to 5.7 percent in June; 2 million new jobs have been created in the past six months.

Although our forecast is for continued economic progress at a sustainable rate somewhat in excess of the economy's long-run potential—appropriate for an economy still operating with some slack in utilization of its plant and labor resources—we cannot afford complacency. There are significant risks in the economic outlook, most of them on the downside. We will not be able to achieve or maintain a satisfactory rate of growth unless we encourage a faster rate of investment in new productive facilities, unless we restrain inflation and unless we redress the serious imbalance in our foreign trade.

To increase productivity and offset rising labor costs, and to create jobs for the future, we need to create the tools of production at a faster rate. Real business fixed investment has lagged in this recovery. At this stage in previous expansions, investment had exceeded its previous peak by a margin of almost 18 percent; at present, investment has barely reached its prerecession peak. We are devoting less than one-tenth of our real output to investment in new plant and equipment, a smaller share than in the late 60's and early 70's, and well below the share needed to insure the rate of capital formation necessary to support a full-employment economy in the 1980's.

The need for accelerating capital formation in this country is well documented. The slowing in the rate of growth in our capital stock parallels the slowing in the growth of productivity, and is a major contributor to the inflationary pressures from which we suffer. In the past four years, our manufacturing capacity has increased at an annual rate of less than 3 percent, down 1½ percentage points from the growth rate in the postwar period through 1973. Similarly since 1973, productivity growth in manufacturing has fallen by almost 50 percent as compared to its average for 1948–1973.

This need for enlarging our capital stock is addressed in the tax proposals submitted by the Administration, which would directly encourage capital formation by increasing the after-tax profitability of business investment. It is essential, for both short- and long-term needs of the economy, that we move rapidly to establish effective incentives for business outlays for new plant and equipment.

Another potential obstacle to achievement of the projected growth path of the economy is the imbalance in our foreign trade. To be sure, there are some encouraging signs of improvement in our foreign trade picture, as we shake off the effects of winter

weather and as our exports increasingly respond to changed foreign exchange relationships. The rise in our exports in recent months is welcome. But much of the increase is in agricultural exports; our exports of manufactured goods are improving very modestly. At the same time, our imports of manufactured products have been rising very rapidly. And oil imports, while below last year's rate, still represent the major element in our trade deficit. Until we act decisively to reduce oil imports, and to improve the competitive efficiency of American industry by encouraging new investment, progress in correcting the trade imbalance will be painfully slow. Hence, it is essential to enact the tax measures proposed by the President, including the removal of subsidies that encourage oil imports and lower the cost of energy below its true replacement cost.

Finally, our ability to maintain growth depends heavily on our ability to contain inflation. Our progress on this objective continues disappointing—the latest consumer price data indicate a third month of increase at double-digit rates. Of course, food prices are chiefly responsible for the unpleasant developments, but there is hope for some moderation as increased supplies reach the market.

But the underlying rate of inflation—even after discounting the contribution from volatile food prices—is still running at an unacceptably high rate. And the continued rise in wages, as smaller unions and the less-organized workers try to catch up with the large increases achieved by the more powerful unions, threatens to keep up the pressure on price levels, particularly in light of the poor performance of productivity.

The persistence of inflation is the major threat to achieving the goals of adequate economic growth and increased employment opportunities. Inflation impacts adversely on real incomes and on consumer confidence and willingness to spend, and on interest rates and mortgage credit availability. It deters business investment, and foreshortens the time-horizon in making capital outlay decisions.

The Administration's Budget proposals are carefully framed to avoid exacerbating inflationary pressures. Outlays for the current fiscal year are now projected at $452 billion, some $11 billion less than was estimated in January. This reduction is the result primarily of smaller-than-planned spending by government agencies, and we have, as a matter of deliberate policy, refrained from any effort to force spending to the original higher levels. For FY 1979, we now estimate outlays at $497 billion, $4 billion less than our January estimate, and implying an increase for the '79 fiscal year which is $5 billion smaller than for the current fiscal year. Moreover we are aggressively seeking areas in which spending can be reduced further. It is our belief that improvements in efficiency are possible which would permit us to deliver the desired level of public services at less cost to the taxpayer.

Even with a tax cut (it is expected that Federal revenues will rise more than projected outlays. As a result, the estimated budget deficit for next fiscal year, at about $48½ billion, is moderately below that expected for FY 1978, and some $12 billion less than was estimated in January.

This scaling back in the size of the FY 1979 deficit reflects the delay and reduction in the proposed tax cut as well as somewhat lower outlay projections.

The revised tax program differs from the President's original program for calendar year 1979 in three respects:

1. The January budget proposal to repeal the tax on telephone services and to reduce the federal unemployment insurance tax rate would be deleted;

2. The amount of proposed individual income tax reduction would be reduced.

3. A modest amount is included to reflect the start-up costs of those elements of the President's urban initiatives that would be implemented through tax credits.

The size and composition of the proposed tax reductions reflect the very high priority that the President places on encouraging business investment, increasing productivity, and fighting inflation.

The calendar year 1979 cost of this revised tax program is estimated to be about $20 billion. Since the effective date for the program would be January 1979, rather than October 1978 as initially proposed, the fiscal year 1979 cost would be under $15 billion.

The decision to reduce the size of the tax cut, while reflecting our willingness to be flexible and responsive to economic developments, does not mean that we are ready to abandon other objectives such as tax equity. The Administration, therefore, continues to support its program for long-overdue reform of our unfair and complicated tax laws.

These new budget outlay and revenue recommendations reflect a careful balancing of the need to keep the economy on a steady growth path with a recognition of the importance of containing inflationary pressures. President Carter is determined to use the full powers of his office, including the veto, to ensure that spending increases and tax cuts stay within the limits of his budget proposals. Moreover, he is determined to move toward a balanced budget as fast as economic conditions permit.

The fiscal posture depicted by the 1978 and 1979 estimates in the mid-session review is what we believe to be sufficient and appropriate to support economic growth at the moderate rate now anticipated through 1979. At the present stage of the recovery, and because of the threat to continued economic growth that would be precipitated by a further acceleration of inflation, this degree of budgetary restraint is essential. To depend too heavily on monetary restraint risks distorting the composition of growth and eventually aborting the expansion. Even the present degree of monetary restraint is already being reflected in a tightening in mortgage markets and declines in indicators of future residential construction activity.

In view of the need for continued inflation restraint, and the need for an appropriate balance between monetary and fiscal policies, it is surprising that there is serious advocacy in Congress of massive tax reductions, reductions that would increase the Federal deficit by incredibly large amounts over the next few years. Instead of working toward budget balance, as does the President's program, large tax reductions such as those proposed in S. 1860 and H.R. 8333 (Kemp-Roth) would, on the basis of the analyses submitted by their advocates, increase the deficit by $12 billion in the first year and by $38 billion by the time the full round of tax reductions was completed.

We do not quarrel with the proposition that tax reductions can, in an underemployed economy, stimulate economic activity and thereby ultimately return some of the foregone revenues to the government. But massive tax reduction in an economy already suffering from inflationary pressures is sheer waste. We do not have the financial or physical resources to absorb such stimulus without adding to inflationary pressures, and whatever benefits might be envisioned would be quickly negated by the rise in prices and in interest rates.

Advocates of major tax reductions frequently cite the success of the Kennedy-Johnson tax reductions in support of similar action now. What is overlooked, in these presentations, is the difference in the economic environment between that of the early 1960's and that in which we live today. In the early 1960's, inflation was running at less than 2 percent per year; this year we fear that the consumer price index will rise by more than 7 percent. In the early 1960's, the Federal deficit averaged only $5 billion; even with exceptional restraint, the deficit for this fiscal year and next will average almost ten times that. Interest rates currently are already double the levels prevailing at the time of the Kennedy-Johnson tax cut. To impose on our financial markets the burden of massive increases in an already large deficit would result in either inflationary expansion of credit or—more likely—a preemption of financial resources that would curtail private spending and investment. There is no basis in the evidence of previous tax reductions that capacity and productivity would increase sufficiently rapidly to accommodate the increased demands flowing from such large, abrupt reductions in taxes.

The Administration tax and budget program is designed to lower the burden of taxation and unleash the forces of the private sector. But it is of a magnitude appropriate to the needs and capacity of the economy. As in most things in life, moderation is a virtue; too much of a good thing will produce economic indigestion, not improved economic health.●

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## PERSONAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, the following is how I would have voted on seven rollcall votes had I been present:

Rollcall No. 581, a motion to resolve into a Committee of the Whole. This motion was passed by a vote of 268 to 6. I would have voted in favor of the motion.

Rollcall No. 582, an amendment to H.R. 12433, the Housing and Community Development Amendments of 1978, prohibiting use of funds for the reorganization of any office dealing with community planning and development. This amendment was defeated by a vote of 160 to 133. I would have voted against this amendment.

Rollcall No. 583, an amendment to H.R. 12433, striking provisions requiring FAIR insurance rates to be no higher than those set by the principal State-licensed rating organization. This amendment was defeated by a vote of 185 to 119. I would have voted against the amendment.

Rollcall No. 584, an amendment to H.R. 12433, prohibiting social security benefit cost-of-living increases from being treated as income to determine eligibility for public housing assistance. This amendment was passed by a vote of 256 to 38. I would have voted in favor of the amendment.

Rollcall No. 585, a vote on the final passage of H.R. 12433. The bill passed by a vote of 268 to 6. I was paired on this vote and would have voted in favor of the bill.

Rollcall No. 586, a vote on H.R. 13468, making appropriations for the government of the District of Columbia. This bill passed by a vote of 215 to 32. I was paired on this vote and would have voted in favor of the bill.

Rollcall No. 588, a vote on House Joint Resolution 946, to designate October 7, 1978, as "National Guard Day." This joint resolution passed by a vote of 264 to 10. I was paired on this vote and would have voted in favor of the resolution.●

## ONE OF JIMMY CARTER'S CAMPAIGN PLEDGES ON CYPRUS: SUPPORT FOR U.N. RESOLUTION 3212

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, during his successful campaign for the Presidency, Jimmy Carter publicly stated that efforts toward achieving a peaceful settlement on Cyprus must be based upon the United Nations General Assembly Resolution 3212 of November 1, 1974, calling for, among other things the removal of all foreign military forces from Cyprus.

Mr. Carter went on to say that:

The widely reported increase in colonization of Cyprus by Turkish military should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greek and Turkish-Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

Mr. Speaker, in light of the Carter administration's efforts to end the Turkish arms embargo—without the achievement of any of these objectives—it is imperative that we keep carefully in mind the text of the General Assembly resolution to which Mr. Carter pledged his support. It should be obvious that Turkey has not taken the substantive actions necessary to comply with the provisions of this resolution. There is, therefore, no justification for an end to the arms embargo at this time.

Mr. Speaker, I insert in the RECORD, and commend it to attention of my colleagues, the full text of U.N. General Assembly Resolution 3212:

RESOLUTION 3212 (XXIX)

The General Assembly adopted on the evening of 1st November, 1974, Resolution 3212 (XXIX) by 117 votes in favour, none against, no abstentions.

The Resolution reads as follows:

"The General Assembly,

Having considered the question of Cyprus,

Gravely concerned about the continuation of the Cyprus crisis, which constitutes a threat to international peace and security,

Mindful of the need to solve this crisis without delay by peaceful means, in accordance with the purposes and principles of the United Nations,

Having heard the statements in the debate and taking note of the Report of the Special Political Committee on the question of Cyprus,

1. Calls upon all states to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus and to refrain from all acts and interventions directed against it;

2. Urges the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus, and the cessation of all foreign interference in its affairs;

3. Considers that the constitutional system of the Republic of Cyprus concerns the Greek-Cypriot and Turkish-Cypriot communities;

4. Commends the contacts and negotiations taking place on an equal footing, with the good offices of the Secretary-General between the representatives of the two communities, and calls for their continuation with a view to reaching freely a mutually acceptable political settlement, based on their fundamental and legitimate rights;

5. Considers that all the refugees should return to their homes in safety and calls upon the parties concerned to undertake urgent measures to that end;

6. Expresses the hope that, if necessary, further efforts including negotiations can take place, within the framework of the United Nations, for the purpose of implementing the provisions of the present resolution, thus ensuring to the Republic of Cyprus its fundamental right to independence, sovereignty and territorial integrity;

7. Requests the Secretary-General to continue to provide United Nations humanitarian assistance to all parts of the population of Cyprus and calls upon all states to contribute to that effort;

8. Calls upon all parties to continue to cooperate fully with the United Nations Peace-Keeping Force in Cyprus, which may be strengthened if necessary;

9. Requests the Secretary-General to continue to lend his good offices to the parties concerned;

10. Further requests the Secretary-General to bring the present resolution to the attention of the Security Council".●

## CRACKDOWN ON HELSINKI MONITORS CONTINUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, last week in the U.S.S.R., the Soviets put the finishing touches on their masterpiece of repression. The fourth Helsinki watcher to be tried in 2 weeks, Levko Lukyanenko, was convicted of "anti-Soviet agitation and propaganda and sentenced to 10 years of hard labor and 5 years, internal exile.

The Lukyanenko trial, which took place in the Ukrainian town of Gorodnya, received little attention in the Western press mostly because it was timed to coincide with the more publicized Moscow trials of Helsinki watchers, Anatoly Scharansky and Aleksandr Ginzburg. The Soviet authorities attempted to level the Helsinki monitoring groups in one fell swoop by bringing to trial Ginzburg, Scharansky, Lukyaneko, and the Lithuanian group member, Viktoras Petkus, at the same time. These four trails, however, were not the only acts of suppression aimed at the members of the public groups to promote observance of the Helsinki agreement in the U.S.S.R. Instead, they mark the final stages of a well-orchestrated, systematic campaign designed to destroy the groups which began shortly after the first group was formed in Moscow in 1976. To date, 13 other Helsinki watchers have been convicted and sentenced for their participation in the groups, two have been stripped of their Soviet citizenship and thus banished from their homeland, and three others are presently imprisoned awaiting trial.

The sentencing of Lukyanenko is particularly harsh in light of the fact that he has already served a 15-year term, after having a death sentence commuted in 1961. As a result of his lengthy imprisonment, Lukyanenko suffers from chronic stomach ailments. Another 10 years will certainly be difficult for the Ukrainian human rights advocate who is 51 years old. I heartily protest this latest injustice and urge my colleagues to do the same. The Soviet Union must be made to understand that the United States expects no less than complete compliance with the pledges made at Helsinki. The treatment of the Helsinki monitors is, and will continue to be, a barometer for the Congress to determine the future climate of all aspects of United States-Soviet relations.●

## TURKEY AND HUMAN RIGHTS

(Mr. FINDLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, some characterize Turkey as a violator of human rights and contend that Congress should not, therefore, lift the U.S. arms embargo against Turkey.

A series of documents which I have compiled, however, shows that Turkey does not pursue a policy of human rights violations either in Turkey or on Cyprus. Indeed, these documents further reinforce the many compelling reasons for lifting the arms embargo.

Violations, tragic violations, did occur during the fighting of 1974. At that time, Turkish soldiers committed human rights violations against the civilian Greek Cypriot population. Violations were also committed by Turkish Cypriot against Greek Cypriot, by Greek Cypriot against Turkish Cypriot, and by Greek Cypriot against Greek Cypriot. These latter took place during the internecine struggles between proenosis and antienosis factions following the coup against Archbishop Makarios. The human rights violations of 1974, however, were the acts of individual men, moved by fear and hate. They were not the result of the policies of any government.

And the events of 1974 did not occur in a vacuum. Rather, they were part of a complex web of historical circumstances involving great intercommunal conflict on Cyprus. Memories of the Greek Cypriot massacres of the Turkish Cypriot minority population in the 1960's were still fresh in 1974. Enosis was a continuing threat which the Greek-led coup of July 15 made real by placing in power a man dedicated to the union of Cyprus with Greece. Given the troubled history of Cyprus, it is thus not easy to move quickly to condemnations of one group or another.

The important goal now is to achieve a settlement on Cyprus. The embargo, tested during these past 3½ years, has failed to promote a settlement. It is time to try another approach—one which will benefit Cyprus and soothe rather than inflame ethnic hostilities.

For the information of my colleagues, I submit the following documents which, I believe, give an accurate picture of the Turkish observance of human rights.

TURKEY AND HUMAN RIGHTS ON CYPRUS

The first document is a letter of June 20, 1978 addressed to me from Assistant Secretary of State Doug Bennett. This letter excerpts from United Nations Sec-

retary-General Waldheim's report on the United Nations operation in Cyprus from December 1, 1977 to May 31, 1978 in its discussion of the Turkish treatment of Greek Cypriots in northern Cyprus.

DEPARTMENT OF STATE,
*Washington, D.C., June 20, 1978.*

HON. PAUL FINDLEY,
*House of Representatives.*

DEAR MR. FINDLEY: In light of the interest you have previously expressed in the status of Greek Cypriots living in the Turkish Cypriot-administered area of Cyprus, I thought you might want to read the following excerpts from Secretary General Waldheim's report on the United Nations operation in Cyprus covering the period December 1, 1977 to May 31, 1978:

G. Humanitarian and normalization functions in the North.—

27. UNFICYP continues to discharge humanitarian functions and to promote normalization of the living conditions of the Greek Cypriots remaining in the north. Since my last report, UNFICYP has ascertained that the living conditions of these people have improved, particularly as far as their freedom of movement is concerned. Transfers to the south have remained at the same low level which has been in evidence since February 1977. All transfers continue to be monitored by UNFICYP to ensure that they have been undertaken voluntarily. The Greek Cypriot population in the north is now 1,731.

28. Medical care available to Greek Cypriots in the north is as good as that provided to Turkish Cypriots in the same area. Greek Cypriots may obtain permission for temporary visits to the south in order to obtain medical treatment, provided that a Turkish Cypriot medical board certifies that such treatment is not available in the north.

29. Two Greek Cypriot primary schools are operating in the north. Both are in the Karpas area: one in Ayia Trias and the other in Rizokarpaso. The school in Ayia Trias operates with one teacher for 62 pupils. In Rizokarpaso there are five teachers and 155 pupils. Since there are still no Greek Cypriot secondary schools in the north, some children were transferred during the current year in order to attend such schools in the south. Through UNFICYP's good offices, permission was granted to by the Turkish Cypriot authorities for 122 Greek Cypriot schoolchildren who are attending schools in the south to spend the Christmas holidays in their homes in the Karpas; however, boys over 16 and girls over 20 were excluded. At Easter, permission was granted to 154 children, but on this occasion girls over 18 were also excluded. During the Easter holiday period, the visiting Greek Cypriot children were allowed access to beaches in the Karpas area and to Cape Andreas, a previously restricted area at the north-western point of the peninsula.

30. The same opportunity was granted over the Christmas and Easter periods to Maronite children attending school in the south whose families live in the north. Furthermore, Maronite adults residing in the south visited their relatives in the north in significant numbers over the Easter holidays. Maronites in the north may travel to markets in the larger cities, such as Kyrenia and Nicosia, for business and domestic purposes. Contacts between members of the Maronite group residing on opposite sides of the ceasefire lines are frequent.

31. In regard to agricultural activities, the recent relaxation of restrictions on freedom of movement in the Karpas area makes it possible for Greek Cypriots to have access also to some fields which lie at a distance from their villages.

32. As indicated in my last report, there appears to be no restriction on freedom of worship in the north wherever the services of a priest are available.

Sincerely,

DOUGLAS J. BENNET, Jr.,
*Assistant Secretary for Congressional Relations.*

The second document is the 1978 human rights report on Cyprus prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act, as amended.

CYPRUS

Perhaps more so than elsewhere, human rights questions in Cyprus cannot be treated in isolation from political considerations. As a consequence of past intercommunal troubles and the events of 1974, they constitute an integral element of the Cyprus problem and will no doubt figure largely in any settlement ultimately reached between the two Cypriot communities.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Torture.—There are no indications that torture is currently permitted or practiced by the Government of Cyprus, the Turkish-Cypriot administration, or Turkish forces in northern Cyprus.

b. Cruel, inhuman or degrading treatment or punishment.—

There have been no recent instances of large-scale or politically-inspired cruel or inhuman treatment of persons on Cyprus. It is generally accepted, however, that violations of human rights in the form of cruel and inhuman treatment of civilians and prisoners were committed in the course of the Greek-led coup against President Makarios in July 1974 and during the subsequent Turkish military intervention. These were less a reflection of deliberate governmental policy than a consequence of the scale and intensity of the fighting and of the longstanding antagonisms within and between the two communities on the island. Turkish-Cypriot enclaves not occupied by Turkish troops were reportedly attacked by Greek-Cypriot forces; subsequently mass graves of executed Turkish-Cypriot villages were discovered.

For their part the Greek-Cypriots have charged that the Turkish troops who intervened in 1974 engaged in massive and systematic murder, rape, and inhuman treatment of prisoners. As a consequence of the world-wide attention that these charges attracted, and in response to a Greek-Cypriot petition, the Council of Europe instructed its Commission on Human Rights to undertake an investigation of Turkish actions in 1974. The Commission's report, completed early in 1977, found Turkey responsible for six violations of the European Convention on Human Rights.

The Turks subsequently submitted a lengthy rebuttal that claimed that Greek-Cypriots violated Turkish-Cypriot rights on a massive scale during the 1963–64 period. The Council of Europe has declined to endorse the Commission's findings against Turkey, simply noting in a recent statement that violations of human rights did occur in Cyprus in 1974.

c. Arbitrary arrest or imprisonment.—Arbitrary arrest or detention is not currently being practiced in Cyprus. Charges that these practices occurred were frequently leveled by both Greek and Turkish-Cypriots during the 1974 crisis and its immediate aftermath.

d. Denial of fair public trial—.The authorities in Cyprus respect the right to a fair public trial.

e. Invasion of the home.—Many thousands of Cypriots—both Greek and Turkish—were displaced from their homes during the 1974 fighting. Over the next two years practically all Turkish-Cypriots remaining in the south moved, whether voluntarily or involuntarily, to the north. Similarly, in the course of 1975 and 1976 all but a few thousand of the Greek-Cypriots remaining in Turkish-controlled northern Cyprus moved to the Greek-administered south. According to the Greek-Cypriots, many of these persons were evicted from their homes as a deliberate act of policy; according to the Turkish-Cypriots, they moved southward voluntarily and subsequently claimed they were forced out in order to qualify for refugee benefits. The report of the European Commission on Human Rights supports the former view. If there was in fact a deliberate eviction policy, it appears now to have been dropped. U.N. representatives have verified that those Greek-Cypriots who moved from the north to the Greek-controlled sector in the course of 1977 clearly did so of their own accord.

2. Governmental policies relating to the fulfillment of such vital needs as food, shelter, health care and education:

The Government of Cyprus has responded promptly and effectively to the plight of the many thousands displaced as a consequence of the 1974 crisis. Housing, employment, education and health programs have been designed and implemented—funded in large part by outside (principally U.S.) sources. The Turkish-Cypriots were confronted with substantially less pressing refugee problems after 1974, but they have likewise been attentive to resettlement needs (benefiting also from U.S. assistance).

3. Respect for civil and political liberties, including:

a. Freedom of thought, speech, press, religion and assembly.—Freedom of the press and of assembly exists in both sectors of Cyprus. Minority groups, e.g. Greek-Cypriots in the north and Maronites in the south, practice their religions without hindrance.

b. Freedom of movement within the country, foreign travel and emigration.—Turkish and Greek-Cypriots enjoy normal freedom of movement within their respective sectors. The Turkish—Cypriot authorities continue to impose certain restrictions on the movement of Greek-Cypriots residing in the north. Movement between the two sectors is permitted only under exceptional circumstances.

c. Freedom to participate in the political process.—The Government of Cyprus is organized under the 1960 constitution in accordance with Western representative models. Suffrage is universal. Labor unions are free of governmental control. The Turkish-Cypriot regime in the north is democratically elected and controlled.

4. Government attitude and record regarding international and non-governmental investigation of alleged violations of human rights.—The Turkish-Cypriot administration has consistently refused to permit international bodies—including the ICRC and the European Commission on Human Rights—to conduct on-the-spot investigations into cases of persons reported missing and unaccounted for since the events of 1974. Other investigatory bodies, however, have been allowed to work in northern Cyprus without hindrance, and U.N. officials are at present free to pursue humanitarian activities there on behalf of the remaining Greek-Cypriot residents.

There are approximately 120,000 Greek-Cypriot refugees in the south and about 65,000 Turkish-Cypriot refugees who fled from the south to the north in 1974. This totals close to 200,000 refugees, the figure frequently quoted.

Both Greek- and Turkish-Cypriot refugees have been unable to return to their homes evacuated in 1974. A solution to this situation, however, will only be pos-

sible within the context of a final agreement on Cyprus. Our greatest concern, therefore, should be to stimulate a settlement. It should be obvious to all of us now, however, that the embargo has impeded a settlement. It is thus in the interests of no one—least of all the Cypriot people—for the U.S. Congress to perpetuate a stalemate on Cyprus.

During the past 4 years the United States has not been indifferent to the plight of refugees on Cyprus. We have considerably helped the human rights situation by providing $87.5 million in aid to Cyprus in the years between fiscal year 1975 and fiscal year 1978. This makes Cyprus the recipient of more U.S. aid per capita during that period than any other nation.

Inserted for the record is the testimony of Joseph C. Wheeler, Assistant Administrator, Bureau for Near East, Agency for International Development, before the Committee on International Relations on April 6, 1978.

STATEMENT OF JOSEPH C. WHEELER

I am pleased to be with this committee today to talk to you about a success story. The economic recovery of Cyprus has been outstanding. As a result of the July 1974 coup and the subsequent Turkish military intervention about 200,000 Cypriots—almost one third of the total population—were displaced and the economy was in disarray. In these few intervening years Cyprus has made significant progress in overcoming the terrible human and economic costs of the earlier events. The United States can be justly proud of our contribution toward this dramatic and gratifying recovery.

The United States contributed $87.5 million to Cyprus in the years between FY 1975 and FY 1978. Initially funds went to the International Red Cross for emergency relief of displaced people. When the United Nations High Commissioner for Refugees (UNHCR) became the coordinator for relief efforts at the behest of the Secretary General, we programmed our funds through the UNHCR and worked with that organization and the local Red Cross to design and implement effective projects. As basic emergency needs were met the program emphasis gradually changed from relief assistance to longer range recovery and rehabilitation projects in such fields as housing, health, reforestation and agricultural and technical education.

In the south, the U.S. contributed $33.7 million to the government's housing program, which according to a statement in January by the Minister of Interior will provide 27,246 units of new or refurbished houses by the end of 1978. Additional units will be built during 1979. Using the Department of Town Planning's standard factor of 4.5 people per unit, the 27,246 units will provide housing for more than 122,000 people. Additional housing units were also built in the private sector.

Working through the UNHCR, the U.S. also provided funding for (a) special housing for orphans and the aged; (b) special facilities for retarded children; (c) new and improved medical facilities, including village health clinics and medical supplies and equipment; (d) schools and educational materials; (e) agricultural supplies and reforestation equipment; (f) a handicraft promotion program and other types of vocational training and (g) community and day care centers.

In the north we supplied training equipment, educational supplies, medicines, medical equipment, and we financed construction of a mental health wing. In the agricultural sector we provided technical skills training, insecticides, baby chicks, and support for reforestation efforts.

In the north, despite limitations in trained manpower, living standards since 1974 have greatly improved. Although per capita income in the north is probably between one-third and one-half of that in the south, agricultural production is increasing and basic infrastructure is in place and operating.

In the south, real GNP grew at a rate of nearly 15 percent in 1976 and another 10 percent in 1977 bringing per capita income to the Government's target of $1,725 in 1977 and $1,853 in 1978. This compares with the 1973 level of $1,659 for the whole island. Unemployment dropped from a 1974 high of over 28 percent to less than 4 percent, and labor shortages now exist in several skill areas. Tourism revenue in 1977 exceeded the 1973 level for the whole island, the number of tourist arrivals have reached the levels of the early 70s. Foreign exchange reserves rose to $323.6 million by November 1977 compared to $306.8 million for the whole island at the end of 1973.

The Cyprus Government reports that as of the end of December no displaced persons were still living in tents while about 10,000 displaced persons were still in temporary wooden shelters. With over 2,000 additional housing units due to be completed by the end of May, the emergency need for public housing is now nearing an end. However, the Cyprus Government affirms that there are still displaced persons in unsatisfactory accommodations.

The Administration is requesting $5 million for FY 1979 to demonstrate our continued concern for the humanitarian needs of the people of Cyprus and an active interest in promoting a just and lasting settlement on the island. Specific projects will be identified in consultation with the UNHCR working with the local Red Cross organizations and governmental representatives and are expected to be in housing, health and vocational education.

HUMAN RIGHTS IN TURKEY

The human rights situation in Turkey is described in the several documents that follow. As we read these documents, we should keep in mind these facts: Turkey is a democracy. The Turkish people enjoy free elections, freedom of speech, and freedom of the press. We cannot say that of many countries whose per capita gross national product is only $750.

The first two documents concern the alleged Turkish mistreatment of minority groups and of the Greek Orthodox Church and community, in particular. One is a State Department briefing paper which dates from March of this year. The second is an excerpt from a May 22, 1978 press conference given by Prime Minister Ecevit of Turkey during his visit to Washington. At that time, he was asked what difficulties were encountered by religious and other institutions in Turkey and his government's policies. The question and Prime Minister Ecevit's answer are both submitted for the record.

DOCUMENT

The American Consulate General in Istanbul has been monitoring the situation of the Greek Orthodox minority in Istanbul and has recently reported that current issues in the Greek Orthodox Church's relations with the Turkish Government primarily center on: (a) taxation of property of Greek Orthodox private schools and (b) denial of passports to Church officials.

With regard to taxation of property of Greek Orthodox private schools, the Consulate General reports that all private schools in Istanbul, including those giving instruction in French and English as well as in Greek, are concerned over the property tax question. Because of the large size of Greek Orthodox property holdings, many of which are highly desirable commercial sites in high tax areas, such taxation poses a particularly difficult problem. The reduced population of the Greek community in Istanbul—now numbering around 10,000 persons—has also impaired its financial ability to maintain its extensive but underutilized institutional properties. We understand, for example, that there are 35 private Greek schools in Istanbul, but the Greek community's student population is only about 1,000. As of February 8, the Consulate General was not aware that any of these institutions has recently closed. Some of the smaller schools are apparently kept open in order to maintain their status as private non-profit organizations entitled to preferential tax treatment. Although all private schools in Turkey are required to pay property tax, we understand that some Greek schools nevertheless have been exempted from such tax.

Concerning the issue of restrictions on foreign travel by members of the Greek community, the Consulate General reports that with the exception of a few members of the church hierarchy, freedom of travel for the Greek minority in Turkey is in general unrestricted. Turkish citizens of Greek origin appear to travel in and out of Turkey and to emigrate with no apparent distinction drawn between them and other Turks. There are reports, however, that in recent months the Government of Turkey did not issue travel documents to certain Greek Orthodox Church prelates. While Metropolitan Meliton, a ranking prelate who was one of several Patriarchate officials who had been unable to obtain permission to travel, received a passport late last fall, it has been reported that three other Greek Orthodox Metropolitans have not been given passports. It appears, however, that this matter may now be on the way to resolution.

On February 9, while enroute back to Istanbul, Metropolitan Meliton made the following statement to the Athens press:

"The Ecumenical Patriarchate is not in danger. As far as I know, the Turkish state has no intention of endangering the position of the Patriarchate because that would not serve Turkey's interests. Of course, there are serious problems between the Patriarchate and the Turkish Government. Problems also exist between the Greek minority and the Turkish Government. However, we wish to solve such problems by means of a dialogue with the Turkish Government without foreign interference. Our wish as a Patriarchate, and a mother church, is to see Greek-Turkish contact bear fruit in order to serve the more substantive interests of both peoples."

Prime Minister Ecevit has indicated that he seeks to resolve outstanding issues between Greece and Turkey and has shown concern for the problems of the Greek Orthodox Patriarchate in Istanbul. On March 8 he met with three Greek Orthodox representatives, including Metropolitan Meliton, for a discussion of the current problems of the Greek community. In his welcoming statement, the Prime Minister was quoted in the Istanbul press as saying: "All citizens enjoy freedom of religion and thought in the secular republic of Turkey, and it is our constitutional duty to be concerned with their problems." Metropolitan Meliton responded, "We are here to establish a direct dialogue with our government. We do not want third parties to come between us." The following day, before departing for the March 10–11 summit meeting with Greek Prime Minister Caramanlis in Montreux, Switzerland, Prime Minister Ecevit announced an end to government delays in issuing travel documents to Greek Orthodox clergymen in Turkey and said the

Turkish Government would cooperate with Greek community leaders in solving the financial problems of Greek schools in Turkey. Prime Minister Ecevit also announced that he had set up a ministerial committee to deal with the problems of the ethnic Greeks in Turkey.

The American Consulate will continue to follow this matter closely.

March 10, 1978.

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INTERVIEW

Question. We almost always get questions with assertations and editorial comments. The questioner says that he or she has heard of difficulties encountered by Armenian, Greek and other religious, educational, social and cultural institutions in Turkey, and then the questioner asks a question about discrimination and harassment and if you are taking steps to correct them? In other words, did you stop beating your wife?

Prime Minister ECEVIT. Thank you for that question. Soon after we took over governmental responsibility, or, rather, to be more precise, from March on, in March, April, or May—in March and in April, delegations from the Greek Orthodox and Armenian community visited me. They told me about their problems and we promised them to solve all their problems and we started doing so. I followed them up personally with some members of the Cabinet, because we know that the bureaucracy has the habit of sometimes carrying on in its own way in spite of political decisions. In fact, after I left Turkey, this time I had to make a stop for a few days in Brussels and I heard that some of my promises were being a little waived by the bureaucracy, and I established telephone contact and I had them corrected.

I am convinced I can tell you that all these problems will be solved within a few weeks. They are parts of the Turkish nation; our concept of nationality does not depend on or is it based on racial differences anyway. And, it is our national duty to try and solve the problems of all minorities.

The last document is the 1978 human rights report on Turkey prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act, as amended.

TURKEY

Turkey's Constitution, penal code and administrative regulations provide safeguards which approximate due process as understood in Western European countries and afford protection from arbitrary arrest and detention. Torture or degrading treatment of prisoners is illegal under Turkish law. Turkey's free press and competitive political system have served as additional safeguards. The new Turkish government which took office in January 1978 has enunciated protection of human rights as one of its primary concerns.

1. Respect for the integrity of the person, including Freedom from:

a. Torture.—An amnesty in 1974 released all political prisoners, and other legislation restored political rights to all those previously deprived them. In 1976 and 1977 scattered allegations of torture were reported in a few newspapers and in individual witness statements made to Amnesty International; conclusive proof is lacking. While incidents of torture may occur, there clearly is no systematic policy of torture directed by the government.

b. Cruel, inhuman, or degrading treatment or punishment.—There is no verified evidence of cruel, inhuman, or degrading punishment being practiced in Turkey.

c. Arbitrary arrest or imprisonment.—Occasional allegations that the prescribed detention period has been exceeded are not supported by significant evidence.

d. Denial of fair public trial.—Trials in Turkey are open, and defense lawyers are available under all circumstances.

e. Invasion of the home.—Privacy of the home is protected by law, the requirements of which are met.

2. Governmental policies relating to the fulfillment of such vital needs as food, shelter, health care and education:

Governmental policies relating to the fulfillment of basic needs for food, shelter, health care and education are good and limited only by the economic resources of the country.

3. Respect for civil and political liberties, including:

a. Freedom of thought, speech, press, religion, and assembly.—Freedom of thought, religion and assembly are respected in Turkey. Government notification and approval are necessary for large public meetings, but such meetings, including those of a political nature, are freely held.

Freedom of worship is protected under both the Turkish Constitution and the 1923 Treaty of Lausanne. The Armenian Patriarch of Istanbul stated in 1977 that "we enjoy complete freedom of worship."

The small Greek, Christian, and Jewish populations also enjoy freedom of worship.

Charges have been made that various minorities, for example, the Armenians, Greeks and Kurds, suffer from cultural and economic, although not religious, discrimination. As for the Kurds, the Turkish Government has prohibited publication in, or teaching of Kurdish since 1925 when a series of Kurdish revolts threatened the stability and unity of Eastern Turkey. However, there does not appear to be any official discrimination against individuals belonging to minority groups, some of whom are prosperous and are leaders in the professions. Minority institutions have encountered problems in such areas as permits to maintain or expand existing churches and other facilities. Such actions appear to be haphazard in nature and do not appear to be the result of deliberate government policy.

b. Freedom of movement within the country, foreign travel and emigration.—There is freedom of movement, foreign travel and emigration.

c. Freedom to participate in the political process.—The ability to participate in the political process is extensively protected in Turkey. Turkey enjoys a vibrant political process, with parties reflecting all parts of the political spectrum. Elections are well contested and honest.

4. Government attitude and record regarding international and non-governmental investigation of alleged violations of human rights:

We are not aware of any obstacles to outside investigation and members of Amnesty International, for example, operate freely in Turkey.

In light of the Turkish military intervention in 1974 and the continued presence of Turkish armed forces in northern Cyprus, Turkey to some extent shared with the Greek community responsibility for the human rights situation on the island. The report relating to Cyprus takes up charges and counter-charges relating to human rights violations on the island.

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## BRZEZINSKI AND THE NATION'S SECURITY: A PORTRAIT BY ELIZABETH DREW

(Mr. CONYERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. CONYERS. Mr. Speaker, of the institutions of the Federal Government that are not subject to regular congressional oversight or the scrutiny of citizens, the National Security Council surely stands in the front rank. During the Nixon era its decisions were concealed from public view by the doctrine of executive privilege, a notion that spread from the area of national security to engulf other key areas including economic, trade, and budgetary policy. It has been a leading factor in virtually every major foreign and military disaster, chief among them the bombing of Cambodia and the Vietnam war. Its head, the Special Assistant to the President for National Security Affairs, is the only major appointed official not subject to Senate confirmation. In a profound sense the National Security Council has functioned during the past quarter-century as an extralegal, para-constitutional body that has permitted all types of excessive, adventurist, and arbitrary action.

The council has proved dangerous precisely because of its lack of accountability as well as its role as guardian and diviner of the mysteries of "national security," itself one of the least examined and most costly concepts in the history of this country. Today it is hard to imagine, but necessary to contemplate, the dismantling of the National Security Council, just as in 1945 President Truman abolished the Office of Strategic Services, the forerunner of the NSC and the CIA, on the ground that it was not necessary in peacetime.

The case against the National Security Council becomes even stronger when we consider that at the present time an extra-constitutional agency is joined with an unsteady director whose past views and behavior have been marked by an intemperateness and ideological zeal that raises serious questions of conduct.

The New Yorker magazine of May 1, 1978, published an extraordinary portrait by Elizabeth Drew of the workings of the National Security Council and its present head, Zbigniew Brzezinski. This account goes to the heart of the dangers of the national security system and ought to be required reading for all citizens. The article by Elizabeth Drew entitled, "Brzezinski," follows:

BRZEZINSKI

When a President makes foreign policy, only a handful of people are directly involved: the Secretary of State, the Secretary of Defense, and the Assistant to the President for National Security Affairs. Under Jimmy Carter, this group also includes the Vice-President, certain trusted domestic advisers, and, occasionally, another Cabinet officer, such as the Secretary of the Treasury. At the center of the system for making foreign and defense policy is the Assistant to the President for National Security Affairs, Zbigniew Brzezinski. Brzezinski is the person who spends the most time with the President on the broad range of questions this group must deal with, and is the one who most often presents the policy alternatives to the President and interprets the President's directives to the others.

The job of formulating foreign policy these days is complicated by the historical setting. The Vietnam war shattered old assumptions about American influence and power and the uses to which that power could be put, and left no generally accepted guide for our fu-

ture behavior. Within our government, even among this small group of men, there are differences over what, exactly, the lessons of Vietnam are. At the same time, the issue of how to conduct our relations with the Soviet Union remains very much in question and under debate among these men. Also at the same time, there are other forces to contend with, in the form of new, assertive movements and nations, and of new kinds of world influence—in particular, the power of those who hold commodities that are in demand. The old "bipolar" struggle and the new "multipolar" world combine in complex and sometimes confounding ways. The people now struggling with these problems are dealing with a world that is no less dangerous and far more complicated than any that their predecessors had to deal with.

Zbigniew Brzezinski's personality and style embrace a number of contradictions. He can be a man of charm, graciousness, cheerfulness, and vivacity, and he has a deep streak of fun in him. He has, for his sophistication, a certain childlike quality that can be appealing. He can also be cold, arrogant, insensitive, peremptory with others; he has a combative nature, and, according to the testimony of a number of people who have observed him, he is often inclined toward debate rather than discussion, and enjoys putting people down and making jokes—sometimes unkind ones—at others' expense. People have observed him to be patient, controlled, and decent, and also impatient, mercurial, and a bit mean. He is described as a person who can show equanimity and can be temperamental, as one who can be both stubborn and flexible. His taut, compact body and angular features give him a look of energy and alertness. Brzezinski has high cheekbones, a sharp nose, narrow blue eyes, arched eyebrows, and sandy hair that sweeps in a large wave in front and is short on the sides, and shoots straight up in back, making it reminiscent of the fifties. He was born in Poland of an aristocratic family, and in 1938, when he was ten, they moved to Canada, to which his father was posted as a diplomat. They stayed in Canada after Poland was taken over by the Communists at the end of the Second World War. His wife, Emilie, or Muska, is a grandniece of Eduard Benes, who was the President of the last free government of Czechoslovakia. Muska Brzezinski is an attractive woman and, like her husband, a strong and spirited personality. The Brzezinskis are practicing Catholics, and have three children. Though Brzezinski is protective and private about his family life, and despite all the pressures of his job, he manages to be present at parties of the powerful in Washington.

Brzezinski is often described by his associates as an "aristocrat," by which they mean not just his breeding but his manner in dealing with his colleagues. At the office, one of his associates said to me recently, he is "the *fonctionnaire*," the official; he doesn't form deep relationships through his work. It seems that, in fact, he has always been a bit on his own: he went from McGill University, in Canada, to Harvard, where he did graduate work and taught for a while; when he did not receive tenure, he went on to Columbia, where he set up his own institute, the Research Institute on Communist Affairs. He operated within the academic community but always as a sort of seperate state, maintaining contacts with people who could help his career along. Similarly, according to several of his associates and many people throughout the government, he is essentially a loner in this Administration. He is described as without allies in the bureauracy and also as without much sense of how to develop allies. Even those who defend him say that he simply isn't very good at dealing with people. They say that he often gives offense without realizing it; that, for all his emphasis on "collegiality"— a word he often uses to refer to his relations with his staff and with Secretary of State Cyrus Vance and Secretary of Defense Harold Brown—he demonstrates little sense of the need to cultivate relationships that would help him in his present job. Collegiality, of course, is, as some people from the academic world point out, a fiction: the pretense of camaraderie among highly rivalrous people. One of Brzezinski's friends has suggested to me that his childlikeness has its charm but is a questionable quality for the job he is in. He said that Brzezinski has a freshness—in the good sense—about him and a taste for simple things, such as taking a walk; that he likes fresh ideas; that he is a person of enthusiasms. It is the enthusiasms that can cause difficulty. This person went on to say, explaining why Brzezinski is not very popular in this Administration, "Zbig rubs people wrong because he's a smart-assed intellectual. So are others around this town, but he's more so." To many, he seems to have the cocksureness of someone who was always the brightest kid in the class. (Interestingly, the characteristic of having been the brightest kid in the class is one that the President shares.) He is generally described as bright and quick, but by several as a bit too bright, too quick. Of the many people I have discussed the subject of Brzezinski with, hardly any have used the word "thoughtful."

Brzezinski's childlike quality, his friend said, produces an awkwardness in his dealings with people. I pointed out that Brzezinski often seemed to try hard at friendliness, and this person laughed and said yes, but that was the problem—he seemed so often to be making an effort. Brzezinski retains an accent, which gives a certain staccato quality to his speech. When one enters his office, he will say, "Hi! How's life?" or even, "Howdy!" He doesn't just take pains to point out how collegial things are with Vance and Brown; he talks of his relationships with—landing on the words like a cymbal clash—"Cy!" and "Harold!" Once when I was interviewing him—shortly after I had seen a brief display of his temper—he paced about the office playfully tossing a pillow in the air. I had the impression that he was the sort of fellow who enjoyed tossing a pillow in the air and also that he wanted me to know that he was the sort of fellow who enjoyed tossing a pillow in the air. He gets a kick out of the machinery in his home and in his office which indicates how close he is to the most sensitive secrets, the most fateful decisions. Early one evening, I was talking with him as the President was arriving back in Washington from a brief vacation in Georgia. Brzezinski has in his office a machine, rather like a small television set that tells him where the President is at any moment. When the President moves from one place to another, the machine lets out a small beep. As we talked, the beeps indicated that the President had landed at Andrews Air Force Base, the President had boarded his helicopter, and so on, until the President's helicopter landed on the White House lawn. Each time the machine beeped, even though it was fairly clear what the beeps indicated, Brzezinski raced over to see what the machine was saying. Perhaps this was because Brzezinski was rather keyed up: as soon as the President landed, there was to be a meeting of Carter, Brown, Vance, Brzezinski, and Vice-President Walter Mondale on, I later learned, the neutron weapon.

No one questions that Brzezsinki has a talent as a synthesizer or that he is creative. Brzezinski is a conceptualizer, who has made his way by means of the use of words. His career has been marked by an outpouring of books, articles, columns. He is a skilled entrepreneur of ideas, and, as one of his former colleagues at Columbia says, "sometimes it comes off and sometimes it doesn't." He is often described as articulate, and he can sound brilliant, dazzling. It is sometimes not clear to people afterward how much he has actually said. Articulateness takes various forms. Some people are articulate in that they can express a thought clearly and succinctly. Brzezinski tends to be wordy. Moreover, many see his style as one that employs inflated words and thus inflates the thought. He likes big words, and he likes to coin terms and striking phrases. One of his books is titled "Between Two Ages: America's Role in the Technetronic Era." A "technetronic society," according to Brzezinski, is "a society that is shaped culturally, psychologically, socially and economically by the impact of technology and electronics." In a speech in 1977 before the Trilateral Commission, of which he was director before he joined the government, he said:

In some regards, the crisis of the spirit in recent years has been specifically American; in a larger sense, it has been part of the broader malaise of the West; in some respects, it is related to the political awakening of mankind, which has had the effect of transforming heretofore seemingly universal Western values into an apparently parochial perspective. As a crisis of historical confidence, and of international relevance to a world that seemingly rejects Western values, its essence has been well expressed by Hermann Hesse writing "Steppenwolf" . . .

One of his aides says that Brzezinski's mind is so quick that it sometimes gets out ahead of him. Sometimes the words do, too. During an appearance on "Face the Nation" early this year, Brzezinski suggested that the border clash between Vietnam and Cambodia was the first case of a "proxy war" between China and the Soviet Union. Asked if there were any intelligence reports that Chinese or Soviet advisers were involved, he replied that there were not. In fact the intelligence reports indicated that China, being weaker than the Soviet Union and allied with the weaker of the two warring nations (Cambodia), did not want a war between those nations to take place. When I asked him recently about the statement, he offered this explanation: "I probably should not have used the word 'war.' I should have said 'proxy conflict.' The war between the two countries has deep-seated historical roots. But the conflict between the two major countries is a proxy conflict." I asked him if he thought that the two major countries were promoting the war, and he replied, "The two major countries are not necessarily promoting it, but both are interested in the outcome, because it can determine how Indo-China is organized. If Hanoi emerges, that enhances the Soviet role."

Brzezinski was one of the first of the contenders for a foreign-policy position in a Democratic Administration who paid attention to Carter. They met through the Trilateral Commission, an organization started by David Rockefeller in 1973. The idea behind the commission, which was developed when John Connally, then Secretary of the Treasury, was applying economic shock treatment to our allies, was that economic and foreign policy should be made in cooperation with our European and Japanese allies. A number of lawyers, businessmen, academics, and others who move in and out of the foreign-policy field were invited to become members. Several politicians were also invited to join, and the story goes that those forming the commission thought it should include a Southern governor, and that the choice came down to Carter, then governor of Georgia, or Reubin Askew, governor of Florida. Brzezinski was one of those who were instrumental in selecting Carter for the commission (an idea that has several claimants). Through the commission, Carter got

exposure to foreign-policy questions, and came to know Brzezinski. They spent a good bit of time together at a meeting that the commission held in Japan in May of 1975, where Carter made a foreign-policy speech of which he was said to be quite proud. Brzezinski reviewed and discussed the speech with him before it was given, and following the speech Brzezinski praised Carter from the rostrum as a candidate who was not afraid to speak out on the issues. Brzezinski, not unlike other ambitious people in the foreign-policy field—or, for that matter, the domestic field—was known to be on the lookout for a Presidential candidate whose success could bring him a high government position. The main difference between Brzezinski and most of the others was in the degree of effort he put into the enterprise; he had gained something of a reputation for sending his writings around, with notes attached, and making himself available to various potential candidates. He had served from 1966 to 1968 on the policy-planning staff of the State Department and had been one of the most public of the defenders of the Vietnam war, participating—using his debating skills—in the "tech-ins" that took place during those years. Gradually, he modified his views.

(On a "Face the Nation" appearance late last year, he described the Vietnam war this way: "What started off as an act of counter-intervention against a foreign intervention became a national-liberation struggle, and we got bogged down in it.") He directed Hubert Humphrey's foreign-policy task forces during Humphrey's 1968 Presidential campaign, and in subsequent years made himself available to Humphrey, Henry Jackson, Walter Mondale, Edward Kennedy, and Birch Bayh. Politicians, busy people, are attracted to the good briefing officer—the person who can sum up a problem in a way that seems intelligent, clear and useful. People who are hesitant, who suggest too many dilemmas and shadings, do not do so well. Brzezinski often impresses people as a good briefing officer. To Carter, as other Carter aides see it, Brzezinski came on as a man with a world view, a global thinker. Kissinger and Brzezinski are said to have been rivals for years—during a luncheon at the State Department for outside academics and others in 1973, at the time Kissinger was national-security adviser and Secretary of State, Kissinger turned to Brzezinski and said, "Zbig, you want this job"—and the irony is that Kissinger, for all the unpopularity of his policies, helped pave the way for Brzezinski. Some think even the accent was a factor.

One word that is frequently used in descriptions of Brzezinski by people in the government is "impulsive." Members of his own staff say that they have learned not to act at once on some of his instructions but to wait awhile and then try to get him to change his mind. He is an activist, and he works for an activist President, whom he briefs at the beginning of each day. Some staff members say that Brzezinski, who tends to combativeness in any event, often seems particularly feisty after these morning meetings, and comes back with ideas or instructions that are best allowed to cool. An official of the State Department who is in a position to know about these things says that the Department also feels it necessary to deflect some ideas that come from the President by way of Brzezinski: "It's part of Brzezinski's makeup to react quickly," says one official. Brzezinski is often described as a less settled personality, as a person with less ballast, than his principal counterparts, Brown and Vance, as more eager to assert himself and demonstrate his—and this country's "toughness." For all the rhetoric in Carter's speeches, and Brzezinski's own writing and speeches about there now being a new kind of world, Brzezinski's essential reaction to events, according to many witnesses, is to see them in terms of the rivalry of the Soviet Union and the United States. They add that Brzezinski, for his part, is frequently eager to take actions that challenge—test—the Soviet Union. One official has told me, "His first, flash-point reaction usually has an anti-Soviet tone, but after discussion, when there is time to get other opinions, it turns out that that may be his first reaction but not necessarily his final reaction. That's a good quality. But it puts a high premium on there being time for subsequent reactions." When I asked the official what context this comes up in, he replied, "It would be too much to say it comes up everyplace—but only a little."

Staff members say that Brzezinski is not inflexible, and tell of times when they were able to persuade him to change his mind. "His mind can be changed when you can pin him down," one aide says. They say that he invites discussion and disagreement, does not mind dissent from his opinions, and is also willing to turn around and go in and try to change the President's mind—and has succeeded in doing so. "Of all of the people in this Administration," says one foreign-policy official, "Zbig is the one most able to do something strikingly good and the most likely to do something strikingly bad." He explains that Brzezinski is capable of an original insight, of making a connection between things that no one else could see, and that he is also capable of the greatest mistake in judgment. A number of people stress the point that, in addition to the numerous times Brzezinski, Vance, and Brown meet, they spend a great deal of time on the phone with each other. Also, Brown and Vance do have their own access to the President. But they must decide how often they want to use it. Moreover, Vance spends a great deal of time out of the country. There is no question that, of them all, Brzezinski spends by far the most time with the President. George Ball once said, "Nothing propinques like propinquity." It is Brzezinski's role to present the views of the others to the President, but he and his associates make it clear that he does not hestitate to press his own views as well. This gets to the question of how the national-security system is supposed to and does work.

The way the national-security system of any Administration works is inevitably a reflection of the President as well as of the major officials involved. Every President has to have some kind of apparatus for coordinating the making of foreign policy, because so many parts of the government have a claim on that policy. The State and Defense Departments are the most obvious ones, but other departments, even the Agriculture Department, take actions that affect our relations with other nations. The State Department and the Defense Department are bound to view several important questions from different perspectives, and over the years there have been towering arguments between them. Someone has to help the President sort all this out, and has to coordinate the execution of his policy decisions. That was the original idea of having a National Security Council. The whole thing gets a bit more complicated when, as has happened in recent years, the N.S.C. weighs in with a voice of its own. When people speak of the National Security Council and of the N.S.C., they are actually talking about two somewhat different things: the formal group of top-level officials which helps the President make and carry out foreign and military policy, and the substantial staff that works under the Assistant to the President for National Security Affairs. Increasingly, the term "N.S.C." is applied to the latter.

The National Security Council was created in 1947 as a reform of the way national-security policy was made, and it was charged by statute with advising the President "with respect to the integration of domesic, foreign, and miliary policies relating to the national security." The statutory members of the National Security Council are the President, the Vice-President, and the Secretaries of State and Defense. Listed as official advisers are the director of the C.I.A. and the chairman of the Joint Chiefs of Staff. Others who might be called in are the Secretary of the Treasury, the chairman of the Council of Economic Advisers, the director of the Office of Management and Budget, the Attorney General and the director of the Arms Control and Disarmament Agency. President Eisenhower, who believed in tidy organization, relied heavily on the National Security Council, but the dominant foreign-policy figure of his Administration was Secretary of State John Foster Dulles. During the Nixon Administration, by contrast, Henry Kissinger dominated foreign policy while he was serving as national-security adviser (in 1973, he became both Secretary of State and national-security adviser, and then, in 1975, just Secretary of State, with his former deputy in the national-security job). The National Security Council structure began to reach its modern form under John F. Kennedy, who ordered a revision after the Bay of Pigs.

The national-security adviser can play a number of roles: the presenter to the President of the options developed in consultations with the relevant agencies; personal adviser to the President; coordinator of the management of foreign and military policy. Some men who have held the job have seen it more in terms of presenting the options, some more in terms of presenting their own advice. Brzezinski represents himself as doing both, and this dual capacity causes some mistrust and some confusion elsewhere in the government. It is also said by a number of people that Brzezinski lacks understanding of the coordinating function, of how to make the machinery of government work. The national-security adviser and his staff may also have to spur action, head off action, guide diplomatic negotiations. "I'm a synthesizer, analyzer, coordinator," Brzezinski said to me recently. "I might also be alerter, energizer, implementer, mediator, even lightning rod. All of these roles I play at different times, depending on the issues."

Just as President Carter has preferred not to have a chief of staff on domestic affairs, he has preferred to have no dominant figure on questions of foreign policy. And just as he would be criticized for having one person through whom everything concerning domestic policy had to be filtered, he would be criticized for having such an arrangement for foreign policy. But it is one thing, especially when it comes to foreign policy, to have a number of ideas flowing in to a President and another to have a cacophony of voices flowing out, speaking to the world about what our policy is.

Vance, Mondale, and Brzezinski—along with, in recent months, Hamilton Jordan, the President's chief domestic adviser—meet with the President for breakfast each Friday morning; and Brown, Vance, and Brzezinski meet for lunch almost every week. "The National Security Council is a handful of people whom the President gathers when he choses," says one foreign-policy official. The official National Security Council itself is divided into two committees: the Policy Review Committee, to deal with special issues, in which one department has the principal role, such as arms for the Middle East (which Brown chaired), Southern Africa, or the Far East (which Vance chaired); and the Special Coordination Committee, which deals with questions, such as the Strategic Arms Limitation Talks (SALT) or the Horn of Africa, that cut across agency jurisdictions and which Brzezinski always chairs. Officials these days make much of the

fact that the chairing of some of these meetings is shared, in contrast to Kissinger's time, when he chaired almost all committee meetings. Since so many people made a point of telling me recently that the chairing of the committees was shared, I asked what difference it made. One of the more straightforward officials said that since the draft paper is drawn up by the agency whose representative chairs the meeting, that agency has some advantage. These things are taken very seriously. One member of the N.S.C. staff said to me recently that the questions usually asked by outsiders—"Who's ahead?" or "Who is more powerful?"—aren't the right questions. "The real question," he said, "is 'Who's got the running on this issue?' That's what we look at."

The N.S.C. staff is composed of thirty professionals, whose responsibilities are divided among the regions of the world—reflecting the regional divisions in the State Department—and among intelligence and defense matters. As a symbol of new emphases, Brzezinski also created staff positions to handle what have come to be called "North-South" questions—economic issues between the developing and the developed nations—and "global" issues, which include arms transfers, human rights, and nuclear proliferation. N.S.C. jobs are valued by people on the rise in the fields of foreign policy and national security, and the present staff members are, by and large, highly intelligent and capable people. Relations between the members or the N.S.C. staff and their counterparts at the State Department vary. The people at the N.S.C. and the State Departmen who handle the Middle East, for example, are said to work together smoothly, whereas there has been considerable friction between the man who handles Latin America policy for the N.S.C. and the people at the State Department who deal with the region, the State Department's Latin America bureau being relatively traditional and resistant to change.

Great mounds of paper move from the agencies to the N.S.C. staff, which communicates by phone or memo, or at meetings, with counterparts throughout the government. A State Department official estimates that less than five percent of the information that goes from the Department to the N.S.C. actually goes from Vance to Brzezinski. The N.S.C. staff sees the intelligence reports that are received by the State Department. Even the N.S.C. staff has difficulty keeping up. One staff member told me recently, "I spend all my time on one area, and I realize that I skim off only a tiny percentage of what I should know. There are at least two or three hundred items a day in my 'in' box. I have to sort out what it's essential for Zbig and the President to know. When I think of how hard it is for me to stay on top of things, I have to believe that it's impossible for the President, Vance, and Brzezinski." An aide to Brzezinski estimates that some three hundred and fifty pages reach Brzezinski's desk each day, and that about a fourth of what reaches Brzezinski will reach the President. Memos to the President from the agencies that are concerned with national-security affairs go through Brzezinski, who will put his own covering memo on them—which the other agencies do not see. This too is the kind of thing that is taken seriously in the government. One State Department official says, "As a practical matter, if I worked in the White House, I wouldn't want to have to clear that covering memo with the department. It would take too much time. But that memo is tremendous power, as is anything the N.S.C. staff wants to put on top of what comes from State and Defense." In addition, every evening Vance sends a report directly to the President which Brzezinski later sees. However, if it suggests any action, Brzezinski has a chance to comment on it before it reaches the President. And, in addition, staff members send Brzezinski nightly reports on what they did that day, intelligence matters they think he should be aware of, and even which journalists they spoke with and what sorts of questions the journalists were asking.

Brzezinski is said to be quick with paperwork, but some staff members say he is so quick that they sometimes wonder how much he has absorbed. Others complain that from time to time the paperwork can get quite backed up. But people who worked for Kissinger say that often they didn't know what happened to the papers they sent in. Kissinger was secretive with his staff; Brzezinski vowed to be open with his, and he has been fairly so. He has kept his promise to hold weekly staff meetings—some of which are routine, some of which are spirited debates about, say, what to do in the Horn of Africa, or about the dollar. He has tried to remain accessible to the staff, but, as the pressures and the papers mount up, this has become more difficult. And some issues, particularly the most sensitive ones, are closely held among the principal participants. An argument could be made that these are just the ones that should receive the most airing within the government, but the theory is that this runs the risk of disclosure.

After some leaks last year, particularly on matters relating to SALT—leaks that might well have come from any number of places—the N.S.C. staff was questioned severely by its senior members, and its access to information about what was going on within the N.S.C. was cut down. Once a week, the staff members prepare reports on items that might be of interest to the President; Brzezinski selects from them, adds his own views, and sends a memo to the President. Within the White House, much is made of the fact that memorandums by the staff of Stuart Eizenstat, the President's Assistant for Domestic Affairs and Policy, go to the President, via Eizenstat, with their own signatures on them, while memorandums by Brzezinski's staff go in with Brzezinski's signature. It is also widely noted that Eizenstat's staff has more direct dealings with the President than Brzezinski's does. In places occupied by people of ambition, these things count for a lot.

What with all the paper flow and all the meetings, one wonders how these people get much time to think, and, according to their own testimony, they don't. One N.S.C. staff member says, "In these jobs, we work off of our intellectual capital. We don't have the time to think new thoughts." The pressures on Brzezinski are even greater. He has to be responsive to the President, to his own counterparts, to the press, to the public, and to a highly articulate staff. Each day begins early—sometimes at seven—with preparations for his morning briefing of the President. For that, he goes over the intelligence reports that have come in overnight and been forwarded to him by the people in the Situation Room, in the White House basement. He makes notes to himself on a small white pad, in small, neat handwriting, of points he wants to bring up with the President. Then, on any given day he may have to make decisions on a range of subjects which includes the Middle East, the neutron weapon, the Horn of Africa, Rhodesia, SALT, economic questions. He will deal with the press (he gives a fair number of interviews these days), with the President's domestic advisers. He may have to help with the preparations for a Presidential trip abroad, a Presidential speech, or the visit of a foreign leader. He may also deal with questions concerning our intelligence capabilities (a matter in which he has a great interest), with a dispute over the size of the Navy. Meanwhile, a State Department official in Mogadishu, Somalia, may be asking for reaction to discussions with Siad Barre, the leader of Somalia; our ambassador to Saudi Arabia or an ambassador from a foreign country may come in to see him. He sees the President, on the average, four times a day—and once, Brzezinski told me, as many as eleven. He lunches with journalists, with Soviet Ambassador Anatoly Dobrynin; he tries to keep up old contacts in the academic world. He also makes it clear that he spends a lot of time talking with Vance and Brown. One staff member says, "He moves so quickly he's damn hard to get to concentrate on issues sometimes. The point is, he's very, very quick, and all his life he's been quick. He thinks he knows the end of your sentence when he's heard the first three words. He does have a thing about having pretty much an open-door policy. That means that people are hanging around the door ready to dive-bomb him with a question, and usually they catch him on the way to something else. You have to recognize when you're not going to be able to get him to focus."

I asked Brzezinski once how he can handle all that he must do. "There is too much paperworks," he replied. "The President thinks so, too. It's terrible. It's a continuous rush against time. You have to make quick decisions. People want you on the phone all the time. It's a continuous race, really. You come in in the morning and until you leave it's go, go, go, go, go, go, go, go, go, go. It doesn't give you much time for reflection or banter or amusement—although I occasionally send memos to the President with jokes and get such memos from him. What you have to be able to do is concentrate on whatever comes up and also at times detach yourself and ask what else you should be doing. That's the most troubling part. I have to cope. Either I cope or it becomes a bottleneck in here or things get dumped on the President. You don't have enough time to reflect on long-term issues. You're continually responding to things that come to you. It's a continuous race. It really is. Just one endless race."

Every new Administration attempts to set itself apart from its predecessor in certain ways. When the Carter Administration began, great emphasis was placed on the President's intention that decision-making in the national-security area would be a "team effort." Not only was no one to be dominant—as Henry Kissinger had been during the preceding eight years of Republican Administrations—but everyone was to get along. But behind the facade of "collegiality" between Brzezinski and his counterparts in the departments, and despite initial efforts by Brzezinski, Brown, and Vance to keep strains to a minimum, serious strains did develop—based in part on personal styles, in part on policy—especially between the N.S.C. and the State Department. Moreover, the amount of infighting has been growing steadily. Vance is a far more strong-willed, determined man than his modest public self would make it appear, and people at the State Department insist that it is mainly Vance's enormous self-discipline, together with his determination to make the relationship with the N.S.C. work, which has kept that relationship from deteriorating further. The N.S.C. staff, for its part, has had some critical things to say about Vance—for instance, that he is too cautious. And, increasingly, news stories that have obviously emanated from the N.S.C. have suggested that the N.S.C. feels that Vance and some of his associates are not capable of dealing with the Soviets in a sufficiently firm manner. One difference in approach between Brzezinski and Vance, says a State Department man, is that "Brzezinski reacts 'Don't just sit there, do something, while Vance reacts 'don't just do something, sit there—until you understand the consequences of what you want to do.'"

A White House aide who is close to the President says, "Vance is a tougher man than he seems to be. And he's less inclined to be concerned with day-to-day events than Zbig is." Vance is described by associates as feeling that an eye must be kept on Brzezinski, and as having had to check some of his moves—or try to. For example, Brzezinski has been wanting for some time to take a trip to China. (Kissinger made a famous trip to China in 1971.) Brzezinski is described as wishing to use relations with the People's Republic of China the way Kissinger did, as a means of tweaking the Soviet Union; that is, of wishing to do what policymakers call "playing the China card." The question of a trip arose out of a luncheon that Vice-President Mondale gave at the White House in November of 1977 for Huang Chen, the chief of Peking's liaison office in Washington, who was ending a four-year tour in the United States. At the luncheon, Huang told Brzezinski that he hoped he would visit China sometime, and Brzezinski smiled, pulled out his calendar, and asked when would be a good date. The Chinese representatives at the luncheon suggested sometime this spring. Later, Vance and others, including some at the White House, opposed the idea of the trip and worked to put it through the policy system, but Brzezinski did not give up. For another example, at the conclusion of the visit of Israeli Prime Minister Menachem Begin to Washington in March of this year, Vance went to the White House and persuaded the President—contrary to the advice of Brzezinski and other members of the President's staff—not to issue a statement outlining in tough terms the differences between Carter and Begin which emerged from their meetings. The view at the White House was that Begin should not be permitted to gloss over the differences; Vance's argument was that the differences should not be exacerbated, and that some Israelis had argued that such a statement would undercut those in Israel who wanted to take issue with Begin's bargaining position. In the end, Vance prevailed and no statement was issued (but, through briefings of members of Congress and the press, the President and his aides took pains to emphasize the depth of the differences). By March, during a bitter controversy over policy in the Horn of Africa, the sniping in the press at the State Department by members of the N.S.C. staff—indicating that the State Department wasn't being sufficiently "tough"—so exasperated Vance that he phoned Brzezinski and told him to tell his staff to cut it out. One N.S.C. staff member said to me during the debate over the Horn, "There is more realpolitik in our shop." But Brzezinski is regarded as far more sensitive than Vance to criticism that comes his way via the press.

As for Harold Brown, he is described as conducting himself within the National Security Council as a very self-assured man, convinced of his brilliance and unpersuaded of his need to convince others of it. It is said by those who have witnessed meetings of the principals that Brown is a very forceful presence—sometimes the most forceful. Brzezinski is described as the one most eager to say bright, clever things; Vance as fairly quiet, Buddha-like, stating his position directly and with little adornment; and Brown as a man who states his position and when he is disagreed with is inclined to rely sardonically—and to good effect—to the opponent's argument. There have been occasions when Brown, too, has checked an impulse of Brzezinski's—an example being the issue of the Horn of Africa. One man who is close to the President says that at these meetings the President's immersion in paperwork—about which, this man said, some of the criticism is valid—comes in handy. "When we have a meeting," this man told me, "Carter's ready. So the question becomes not who's toughest or cleverest but who's got the best argument."

One of Brzezinski's liabilities, according to a number of people, including some of his defenders, is a lack of political feel. One State Department official says, "People who sit in that job and don't have a sense of the political process are at a great disadvantage."

One of Brzezinski's staff members says, "He's a political blank." As numerous people describe his lack of political sense, it involves dealing with people—his own staff, others in the White House, officials in other parts of the government, foreign diplomats, members of Congress—understanding how to get policy executed, and judging the implications of policies. It was in an effort to insure more consideration of domestic political implications that Hamilton Jordan got into the process of decision-making on foreign policy—at first on an informal basis, then on a more systematic basis. So now he attends the Friday-morning breakfasts of Brzezinski, Vance, Mondale, and the President, and Brzezinski attends meetings of the White House senior staff, which are now held three times a week. However, Brzezinski may have felt about Jordan's intrusion on his jurisdiction, he has, according to several people, made an effort (which would, of course, be the only wise thing to do) to behave at the breakfasts as one of the team. Still, there are tensions with the domestic staff. Some, again, are inevitable; the chemistry between the quick-talking, conceptualizing, sophisticated, aristocratic Brzezinski and the earthy Georgians around the President is not likely to be good. And on the domestic side of the White House, others besides the Georgians share something of the suspicion that many feel about those who dwell in the world of foreign policy—a suspicion that such people regard themselves as something apart, experts, people who deal in matters that others cannot possibly understand.

Not only within the White House but in much of Washington, a good deal has been made of the fact that Hamilton Jordan is known to refer to Brzezinski—in a description apparently based on looks as well as style—as Woody Woodpecker. (Jordan enjoys making irreverent comments, but no other such appellation for a member of the Administration has come to light.) Some of those on the White House staff complain, as do some people at the State Department, that matters they thought were settled between them and Brzezinski have a way of resurfacing. Within the White House, this complaint has applied to such matters as the number of foreign visitors the President would receive this year—the domestic aides were trying to keep the number down—and the return of the Crown of St. Stephen to Hungary, which caused an uproar in the Hungarian-American community in this country, and which the domestic aides thought they had prevented. It was after the President, in March of 1977, in a town meeting in Clinton, Massachusetts, said that the Palestinians should have a "homeland" that some domestic aides thought they had better keep an eye on foreign policy. And it was after the release of the joint statement by the United States and the Soviet Union calling for a reconvening of the Geneva Peace Conference on the Middle East, and saying that one of the conference's purposes would be to insure "the legitimate rights of the Palestinian people," that they decided to move in. The authorship of the joint statement, which caused an uproar in the Jewish community, has few claimants. The President's domestic political aides were quick to say that they had never seen it before it was issued. A couple of Brzezinski's aides told me that Brzezinski, who was in Europe just before it was issued, had not seen it. Brzezinski does say that he saw it, but points out that, while he supports it, Vance initiated it. Vance does not disclaim it. (Actually, the discussions of the joint statement were deliberately confined to a few people, for fear of leaks. It is not clear that the reaction would have been any milder if more outside people had been prepared for it.) The domestic aides held Brzezinski responsible for the original concept of the President's trip abroad last year—a trip that was to have covered eight nations in eleven days—and they say that Jordan and Powell did not learn of it until shortly before it was announced. One of the President's advisers said to me at that time, "There are only two people who think that trip is a good idea—Brzezinski and the President." After a while, the original trip was divided in two, but the first one was still almost beyond human endurance.

Despite the fact that among the principals most policy disagreements are openly and candidly discussed, the fact is that Brzezinski has not built a reservoir of trust or good will among members of the Administration. Perhaps it is inevitable that when the head of the N.S.C. is a strong personality with his own strong views, there will be suspicions about how accurately others' views are represented. One hears of instances in which Brzezinski is thought to have pressed his advantage of access. But since no one sees all the memorandums that Brzezinski sends to the President or is in on all their meetings, no one can know for sure. Brzezinski did not help himself in others' eyes when he began to cultivate increased press attention to his views. He indicated at the outset that he understood this danger. He had been a bit of a celebrity before he joined the Carter Administration, but he was careful during the first few months not to appear to be seeking publicity. In October of 1977, Brzezinski said in an interview that appeared in the *National Journal*, "I was sensitive to the fact that if I started running around being the object of numerous interviews and television programs [the impression that he sought to undercut the Secretaries of State or Defense] would be abetted and people would simply thrive on it." He continued, "Moreover, I do think that [in avoiding this] I can be more effective in influencing what is of central importance, namely the direction of things." Then in the course of the next few months Brzezinski gave numerous interviews, and between October 30th and January 8th appeared on "Issues and Answers" once and "Face the Nation" twice. He is the first national-security adviser to have his own press assistant. In a recent talk with me, Brzezinski said, "The fact that there is genuine trust between the Secretary of State, the Secretary of Defense, and this place is very important. This would be an easy place to intrigue from. But that trust is something I worked very hard at in the course of the last year." He added, smiling, "Occasionally at some cost to my ego." But whatever trust there was has been dissipating. Of late, Brzezinski has increasingly developed a public persona, set himself forward as a shaper of policy, publicly placed himself apart in his views from other policymakers. He has let himself go, acted more openly on his own deepest instincts—and, by his own testimony, had more fun. One symptom of mistrust is that the domestic aides sometimes take care, when the White House issues some official explanation for a foreign-policy matter, that Brzezinski's name gets attached to the explanation so he will be held responsible for it. Brzezinski is blamed for an inability to deal well with members of Congress which can in fairness also be attributed to several people at the White House, including the President, but still there appears to be something to the charge as it applies specifically to the national-security adviser.

Here the contrast with Kissinger cannot be escaped. For better or worse, Kissinger had a talent for cultivating and charming members of Congress—even ingratiating himself at the height of the Vietnam war with some of those who opposed the war. Recently, I asked a senator who is very important to the Administration on foreign policy and is a sophisticated man what sorts of dealings he had had with Brzezinski. He replied, "Virtually none," adding, "He doesn't seem to know how to deal with senators."

Earlier this year, Brzezinski held two meetings on Middle East policy with people representing Jewish organizations. One, by all accounts, went smoothly enough; the other was marked by an eruption of temper on Brzezinski's part. At the second one, according to a couple of witnesses, Brzezinski, feeling provoked by some of the questions, let loose his scrappy side. The result, according to witnesses, was to fuel fears in the Jewish community, a process that was helped along by Brzezinski's evident satisfaction that the confrontation had taken place. He expressed this satisfaction to his staff, and also told a *Times* reporter that he almost welcomed the opportunity to respond on the record to the resentment and the charges that had been directed at him by some Jewish leaders. Though there is little disagreement between the State Department and Brzezinski over Middle East policy, Brzezinski is the target of more attacks—apparently because of the difference in style between him and Vance, because Brzezinski is seen as the initiator of policies that displease some Jewish leaders, and because they don't want to attack Carter directly, and consider Brzezinski the next best thing. Yet even people within the Administration who share the view that pressure had to be brought on Israel to change its policy felt that a confrontation such as took place at the second meeting was unnecessary. "When he gets angry questions, he feels justified in responding in angry tones," one says of Brzezinski. "It's a luxury to be able to lash back." Another says, "He simply doesn't understand how to massage people."

The members of Brzezinski's staff who say that he's flexible also say that views he developed in his academic career guide much of his current thinking and advice. Brzezinski himself has said, "On the whole, my views are strategically consistent, tactically very fluid." In an interview recently, I asked Brzezinski what his strategic views were. "The ones I've been outlining in my books since 1960," he replied. "I see the U.S.-Soviet competition as deep-seated. On the other hand, the world has entered a phase of political awakening and some disorder. So that the real danger is not Soviet domination but anarchy.

"The United States has to play an active world role, because if it doesn't, I think, there is a high danger the world will fragment in a way that is chaotic." Brzezinski is a collector and sprinkler of ideas, and sometimes they don't fit together. Someone who has worked with him says, "He doesn't think through issues he doesn't understand as well as he might. He reacts in areas he dosen't understand. Sometimes the reactions are good, sometimes they're not. It goes back to the academic environment, where people put a premium on coming up with sometimes controversial ideas and then seeing how others react and then formulating a theory. The trouble is, when you're sitting as the head of the N.S.C. staff and you offer an idea, people may think you've thought it through and they should act." The "trilateral" idea—the Trilateral Commission's idea that the United States should formulate policy in conjunction with our European allies and Japan—appears to have hit the floor soon after the Administration took office. Other Pacific nations—the Philippines, Australia, and so on—let it be known that Japan could not speak for them on international questions. As for Europe, relations with Germany gradually deteriorated, over a number of questions—including economic ones—to such a degree that some in the Administration believe they are at the lowest point in decades. "The trilateral idea is dead," says one foreign-policy official. "It was just rhetoric." (People within the Administration say that there is a lack of coordination between economic and foreign policy.) Some policy ideas—inevitably, perhaps—run into other policy ideas. The push for human rights has collided at times with the Administration's interest in maintaining or securing good relations with certain nations. So has the desire to stop the spread of nuclear power and the sale of conventional arms.

There is no question that Brzezinski has helped to steer our foreign policy in some new directions. He clearly feels that the United States must seek to ally itself with the nations that he refers to as "the new influentials." He oulined this approach in a talk to the White House senior staff and the Cabinet—with the President in attendance—in the early days of the Administration, and has pursued various policies, including the President's travels, to put it into effect.

In the briefing, Brzezinski explained major shifts that have taken place in the world since the Second World War—in population, economic power, and technology. He said, picking up on a theme of the Carter Presidential campaign, that the United States had traditionally supported the status quo in nations undergoing social conflict, and that now we should make a greater effort to identify the social forces of the future and align ourselves with them. "The new influentials" include Saudi Arabia, Nigeria, Brazil, Venezuela, Iran, India, and Indonesia. Five of them (Saudi Arabia, Nigeria, Venezuela, Iran, and Indonesia) are major oil exporters, and three (India, Brazil, and Indonesia) are among the most populous nations in the world. All of them but Indonesia were visted by the President. (And the Vice-President is scheduled to go there.) The previous Administration was often criticized for paying some of these countries little attention (not including Iran and Saudi Arabia). Moreover, Brzezinski has shown a greater sensitivity than his predecessor did to North-South questions, though efforts to deal with some of those questions have been hampered by economic realities in the United States. Those who believe that we must address the concerns of the developing nations say that Brzezinski's instincts on these questions are enlightened and progressive. The strategies on cultivating "the new influentials" and aligning ourselves with the correct social forces posit, of course, that officials can predict with accuracy which will be the intiuential countries and the correct social forces. They also posit a high degree of activism on our part.

What has happened in our foreign policy is that this new, "multipolar" awareness has been combined with the old "bipolar" struggle between the United States and the Soviet Union. In fact, Brzezinski has believed for some time that this would happen, and that it would lead to a clash of the two superpowers. During one of my conversations with him, he urged me to read an article that he had written for *Encounter* in 1968. In the article, entitled "Peace and Power," he argued that the end of the Vietnam war and the recent rise in Soviet military capability would lead to a situation in which there would be "two overlapping global military powers pursuing conflicting global policies in a dynamic setting of Third World instability." This new, "overlapping fluid (or mobile) imperial power," as Brzezinski termed it, was bound to lead to a collision somewhere. "Indeed," he wrote, "apprehension over this possibility could increase the inclination of each of the major powers to move in first, in the hope that by 'staking out' a claim it will discourage the other from moving. But the implicit premium on preëmption would mean a spiral of intervention." He said that the likely prospect was for some anarchy and social fragmentation in the Third World, and added, "Sporadic violence, in the context of a premium on preëmption, may have a suction effect on U.S. and Soviet intervention forces, resulting by the '70's in some unprecedented confrontations." He referred to the "Fashoda" incident, in 1898, in which English and French colonial expeditionary forces contended over control of the Upper Nile region. The French got there first, but backed down, without a fight, under pressure from the British. Brzezinski wrote, "At the minimum, at least one 'Fashoda' is to be expected." He continued, "The question is, of course, whether in the context of the new nuclear equation an American-Soviet 'Fashoda' will work out as peacefully as the Angola-French one did in the late 19th century."

In our conversation, Brzezinski said that his thesis that the two powers would come into conflict in a third place was being borne out. "This is going to put a premium on preemption, because who gets there first has command of the situation," he said. (In the Fashoda incident it was the nation that got there first that backed down.) "This Fashoda business no one has picked up," he went on. "Fashoda is very germane to our current concerns."

I asked him if this meant that he contemplated situations in which we might have to get there first.

He replied, "Yes, if it's vital enough. Yes, we ought to contemplate getting there first—or we will have to get there second and become first." He smiled.

I asked if there was an intersection between the new, multipolar reality and the bipolar reality.

"Yes," Brzezinski replied. "There are many different axes of conflict in the world: the traditional conflict between Soviet and American powers; the new conflicts with emerging countries; racial conflicts; North-South conflicts. They intersect, and the more they intersect, the more dangerous they become. What makes the South African conflict so dangerous is that it is racial, North-South, nationalistic, and ideological—all four rolled into one."

I asked him what he believed the Soviets' ultimate goal to be.

He said, "I don't think they have sat down and made a blueprint, a master plan for world conquest. I don't think they even have a plan for world revolution. As in the case of a lot of human behavior, they are driven by psychology, bureaucratic impulse, history, ideology, and nationalism. But this does not mean they will not act to exploit revolutions. In the end, it gets down to a simple proposition: they would like to become number one, like we did. It's better to become number one from the number-two position than to be toppled from number one. That's why there is such a serious problem. It's much more destabilizing for our self-esteem, for our role in the world; there's no way of knowing where you will stop once you start going downhill. Besides, there is the moral, religious context. If the West stands for anything in terms of values, it's for spiritual values and the spiritual identity of the individual. It would be a pity if that became less central in human affairs."

Brzezinski's emphasis on the rivalry between the United States and the Soviet Union sets him apart from many of the people

he works with, both on his own staff and in other parts of the government. One who works in the national-security apparatus says, "Zbig has thought about the Soviets during much of his academic life. He thinks of them as more central and key than Vance does. Brzezinski's own instinct is to stand up, be tough, outproduce them economically and militarily. His view is that we are coming out of a bad time and they have to be shown some things. There is an almost systematic toughness in Zbig's writing and thinking. Vance believes that the Soviets are vital, but he is more likely to take other questions into consideration." A State Department official says that the difference in outlook between Brzezinski and State is one not so much over policy as over emphasis. Vance is described as not wanting to cause unnecessary abrasions in relations between the United States and the Soviet Union.

Officials offer a number of examples of Brzezinski's preoccupation. One is that he has brought up the idea from time to time that perhaps the United States should cause trouble for Agostinho Neto, the leader of Angola, who has Cuban backing—perhaps by giving some support to Jonas Savimbi, who had South African backing during the struggle over who would control Angola when it gained independence from Portugal. In 1975, Neto was backed by the Soviets and the Cubans, while the United States at first supported Holden Roberto and then, after he dropped out, joined South Africa in supporting Savimbi. At the end of 1975, the Ford Administration tried to increase our aid to Neto's opponents, which was mainly channelled through the C.I.A., and Congress not only balked but also tightened the restrictions on C.I.A. activity so that they would apply specifically to Angola. During the 1976 campaign, Jimmy Carter was critical of the Ford Administration's action. Also in 1976, Neto's forces prevailed. In recent months, Brzezinski has raised the question of whether the congressional restrictions are still applicable; the C.I.A. has told him that they are. I remarked to an Administration official who told me about this that I thought the matter of Angola had been settled before this Administration took office. He replied, "So did I. That's why I'm confused."

Brzezinski's concern about the Soviet Union came up in the context of the elections in France and Italy—what to do if the Communists gained power, what to do to prevent them from doing so. In the case of Italy, our ambassador was called back, and the State Department issued a statement toughening our earlier positions. The theory was that our statement of non-involvement but concern had been taken by some in Italy to mean that we were not concerned. Some Administration officials said privately that they did not want to be the ones to "lose" Italy. There are some within our government who feel not that it is unimportant who comes to power in these countries but that our issuing such statements does not affect the electorate at which they are aimed, except, perhaps, in precisely the opposite direction from what was intended.

Brzezinski's concern about the Soviet Union also comes up in the context of questions about our policies toward Eastern European nations—about how much emphasis should be given to encouraging some of those nations, such as Poland, Hungary, and Rumania, to distance themselves from the Soviet Union. Thus the President's visit to Poland, the first stop on his trip late last year. In Warsaw, at a press conference, he praised the "great religious freedom and otherwise" of the Polish people, and Brzezinski and Mrs. Carter made a publicized call on Stefan Cardinal Wyszynski, the Primate of Poland's Roman Catholic Church. It comes up in the context of whether to play to China in order to twit the Soviet Union. It comes up in regard to questions of intelligence-gathering methods. Brzezinski has been pressing for a revision of our intelligence-gathering methods, to move them from dependence on technological "hardware"—a dependence that developed during the nineteen-fifties, when the Soviet Union and other parts of the world were more difficult to penetrate than now—and back to more traditional espionage methods. He has also expressed concern about the restrictions that have been placed on C.I.A. activities as a result of the disclosures and investigations of recent years. He is troubled by the number of reviews to which some activities have to be subjected before they can be undertaken. He apparently believes that the United States should be able to use a wide range of techniques to influence the course of events in other countries. The Senate and the House, in creating intelligence-oversight committees, and President Carter, in issuing an executive order in January, took the position that whatever actions are proposed should be worked through a system that includes informing appropriate members of Congress and also the acceptance of responsibility by the highest executive leaders. The executive order requires that the President must "sign off" on any activity of any importance. Brzezinski is known to believe that the President should have broad flexibility, including "deniability"—that is, that it should be possible to carry out operations in a way that would enable the President to deny he knew about them. The question of accountability for such operations was one of the basic issues raised in the recent examination of our intelligence activities. The argument for it was that since any major intelligence activity could cause us great damage, it ought to be decided upon by our highest officials, who ought to take responsibility for it.

The differences over how we should conduct relations with the Soviet Union, over how we should conduct policy in the post-Vietnam era, came to a head on the issue of our policy concerning the Horn of Africa. The specific question was what was to be done about the presence of Cuban and Soviet advisers in Ethiopia, which was involved in a border war with Somalia. While no one liked the idea that those foreign troops were in the region, there was strong disagreement over what was to be or could be done about it. Some dramatic actions were considered, and some strong internal debates took place. In recent years, the relationships among the United States and the Soviet Union and Ethiopia and Somalia have begun to resemble a grand right and left in a square dance. The United States had been a strong backer of the Ethiopian regime headed by Haile Selassie, who was overthrown by the military in 1974, and even in the first years thereafter we tried, by selling the new government F-5 airplanes and other military equipment, to prevent it from turning to the Soviet Union for help. But then, as the Ethiopian regime became increasingly radical, we reduced our military assistance, and Ethiopia did turn to the Soviet Union for help—which in 1976 the Soviets agreed to give. Until then, the Soviets had been closely involved with Somalia, Ethiopia's historic enemy, and had built up its military capability. The United States, toward the end of the Ford Administration, decided to end military-grant aid to Ethiopia (though it would continue military sales), but did not announce this step. The Carter Administration did announce it, early in 1977, indicating that it was part of the new human-rights policy. By summer, relations between the United States and Ethiopia were very nearly broken off. Meanwhile, the Somalis, seeing that the Soviets were arming the Ethiopians, turned to the United States for help. Carter and Brzezinski were attracted to the idea of befriending the Somalis, as a way of countering the Soviets. In April of 1977, Carter allowed *Time*, which was reporting "With Jimmy from Dawn to Midnight," to hear him instruct Mondale to "tell Cy and Zbig that I want them to move in every possible way to get Somalia to be our friend." But the idea of arming the Somalis collided with the President's stated goal of reducing our role as an arms supplier and also with a policy enunciated in a speech by Vance in July. In that speech, Vance said that our policies in Africa "should not be reactive to what other powers do, nor to crises as they arise"—that "daily headlines should not set our agenda for progress."

He went on, "A negative, reactive American policy that seeks only to oppose Soviet or Cuban involvement in Africa would be both dangerous and futile. Our best course is to help resolve the problems which create opportunities for external intervention." In the end, the government made an agreement in principle to provide "defensive" arms to the Somalis. As these deliberations were going on, however, Somalia was encouraging guerrilla activity in the Ogaden region of Ethiopia, which is inhabited by ethnic Somalis, and on July 23rd, eight days after the United States decided, and informed the Somalis, that it would discuss supplying them with weapons, Somalia attacked Ethiopia (and we held off providing arms). Now the issue was one of "territorial integrity"—a very sensitive one in Africa, where all sorts of boundaries were drawn in the colonial era in such a way as to divide tribes. The Ethiopians called for help. The Soviet Union agreed to supply weapons, and in November it began to airlift Cuban troops, provided them with large amounts of military supplies, and increased the number of its advisers in Ethiopia.

Brzezinski felt strongly that the United States should react. There were two issues: what could be done about the military situation, and how the Soviets and the Cubans could be got out of Ethiopia. Moreover, there was concern that the Cubans and their allies, once they reconquered the Ogaden, might move into Somalia. While much was made in the press of reasons that the Horn is strategically important—that it lies abreast the oil routes from the Persian Gulf, that it is close to the mouth of the Red Sea, that it is near the Middle East oil states—some officials say that in the course of the internal debate hardly anyone in the government, including Pentagon representatives, argued that the Horn was very important strategically. For Brzezinski, it was a matter of the Cuban and Soviet presence in the area. Also, the President is described by some within the government as being much more bothered by the Cubans than some of the other officials are; it's said that to him as well as to Brzezinski they seem to represent some sort of challenge that sets off a visceral reaction. And Brzezinski is described as reacting viscerally to various stimuli. Within the N.S.C., there was talk of how, after all, Ethiopia was where the Second World War began. There were expressions of concern that the establishment of a Soviet footing in the Horn could cause serious problems for President Carter in the 1980 election. N.S.C. staff people say that concern was also expressed because a number of countries in the Middle East—Iran, Saudi Arabia, Egypt, and the Sudan—were said to be worried about whether we took with sufficient seriousness Soviet meddling in Africa.

(We tried to get some African nations to object to the Soviet and Cuban presence, but since the intervention was in behalf of "territorial integrity," there was no response.) Brzezinski is described as having felt that we should make some gesture to show that we understood the Middle East nations' concerns. And one of Brzezinski's associates said to me as the debate over the Horn was proceeding that while no one believed in a dom-

ino theory for Africa, it was a fact that if the Soviets settled down in Ethiopia, and Siad Barre, the leader of Somalia, turned around and made a deal with them, then Kenya (wealthy, pro-Western, and capitalist), bordering both Ethiopia and Somalia on the south, and Djibouti, an enclave between Ethiopia and Somalia, would be in trouble. "It's just a fact," he said. The difficult question, he said, given the circumstance that the American people are by and large very uninterested in foreign policy, is how our government can deal vigorously enough with an incipient problem to prevent it from becoming a very big problem. He continued, "We're learning that the absence of involvement is dangerous and can lead you to more serious involvement. Nobody argues that we have to fight over every square inch in the world, but we're beginning to learn that there are clouds no larger than a man's hand which cannot be ignored."

Some people in the government, even within the N.S.C. staff, argued that to call attention to the Horn would be precisely the way to make it more of a domestic political issue. And they also asked what the point was in calling attention to it, since there was so little we could do about it. Moreover, some officials pointed out, Ethiopia had invited the Cubans and the Soviets in, and the Somalis were the aggressors. Nevertheless, it was Brzezinski's inclination to call attention to it—and to act. And although some in the government argued that in the long run the Soviet Union would be no more welcome in the area of the Horn than it had been in other countries outside its immediate sphere—for example, Egypt and the Sudan and even Somalia—people who make policy often find it difficult to think in terms of the long run. One foreign-policy official says, "My experience tells me that Communist countries, left to themselves, will mess things up in these ventures. It's easy for me to say that in ten years it's not going to matter, but ten years is not the life span of Presidencies." On February 24th of this year, when Brzezinski was giving a briefing on the President's forthcoming foreign trip, he took the opportunity to announce that there were ten or eleven thousand Cubans in Ethiopia, that substantial Soviet equipment was involved, and that a Soviet general was directing some of Ethiopia's armed forces.

On the same day, State Department officials were citing lower figures, and they were surprised that the Soviet general was mentioned. (The previous November, a map had appeared in the *Times* indicating the number of Cuban military personnel, advisers, technicians, and military aides in various countries in Africa. It had accompanied a story saying, "The Carter White House is seriously disturbed by the steadily expanding Cuban military presence in Angola, Ethiopia, and other African countries." A packet of material on which the chart was based had been prepared for the N.S.C., unbeknownst to State Department officials. Department officials believe that it was prepared by the C.I.A.) The State Department was not pleased by the White House pronouncements. Its policy had been to issue, in response to inquiries by the press, conservative estimates, partly for policy reasons—to avoid making the situation into a great U.S.-Soviet crisis, and in the hope of winning support of a settlement by the Organization of African Unity—and partly to protect intelligence sources. "We're over here talking about the Horn in one way, and Zbig is over there giving his briefing," says a State Department official. "A lot of people were trying to tell him that what we could do about the Horn was very limited, and therefore if we made a big commotion it would only make things worse. It would also make it look like more of a Russian success story. That was the consensus here. But he went ahead and did it anyway."

Brzezinski was not convinced that what we could do was so limited. A number of discussions of what we might do took place beginning in February, when the Administration began to focus on the possibility that Ethiopia might cross the Somalia border. One of the ideas he backed was that the United States should send in a naval task force. On this Brzezinski was opposed not only by Vance but also by Harold Brown. What, Brown asked, was the task force going to do after it got there? Brown's question was never successfully answered, and that idea was headed off. Brzezinski also suggested that if the Sudanese and the Egyptians, or, conceivably, the Saudis and the Iranians, were to send troops to Somalia, they might need equipment, and we should consider ways to help out. This suggestion ran into legal restrictions on the supplying of arms, and, in addition, it raised political questions about the effect of supplying, say, Egypt with infantry arms.

He was also interested in giving assurances to the Somalis and others that if Somalia should be invaded by Ethiopia, and if in that case Arab countries should send in troops to help Somalia and the troops should be interfered with by the Cubans or the Soviets, we would somehow come to the aid of those troops by military means. Questions were raised about what, exactly, we would or could do to help, and the preponderance of opinion was against our getting militarily involved. Even the Pentagon, it is said, drawing on recent experience, was not disposed to see us get into a situation in which we would not be able to follow through. Earlier, the Administration had considered the possibility that American military supplies given or sold to other countries might be transferred by those countries to Somalia. There was a legal problem with this: the law says that we cannot permit the transfer of weapons that we would not be prepared to supply directly. During these deliberations, Brzezinski raised once again the possibility of "playing the China card."

A State Department official says, "I think Zbig feels there is an inexorable push that comes from the Soviets. Most of us agree. But he feels you have to take a strong position, so that you can dramatize your position and build strong support. Others will say, O.K., but what are you going to do about it? We haven't got the tools we used to have: the use of covert activity, or even military and economic assistance, is incredibly circumscribed by legislation now. Besides, large covert activities don't stay covert any longer. Other people are more sensitive to these things than he is." One high official who was in on these deliberations says, "Sometimes raising the question of whether we will be 'tough' or 'weak' is a reaction people have when they don't understand the complexity of an issue—it's an emotional response." Another official says of the deliberations, "To try to publicly assert national anger in the absence of a remedy may lead to precisely the opposite of what is intended—to an appearance of impotence. The more we escalated the issue of the Horn, the more the question was asked what we were going to do about it. Since there was no way of getting withdrawal of the Russian and Cuban troops, pressing the issue made that more obvious. Brown was very helpful here. He asked, How do you answer that problem? He's lived through a period where we asserted our power and didn't have an answer, and he saw what happened to our nation. He wants a strong nation and a strong defense, but he understands what's a bluff and what isn't."

As our own government's battle over the Horn was going on, Brzezinski called attention to it around Washington, telling people that it was the first major foreign-policy battle within the Administration, and that he was winning. He saw it, he told people, as an embodiment of a theory he had developed about how Vietnam had created generational differences over foreign policy: In one group there is a generation of people in their fifties and early sixties who were influential ten years ago and were involved in decisions about Vietnam (this would apply to Vance and Brown) and are deeply affected by that experience, and another generation of people in their thirties who were emotionally opposed to the war at that time (this would apply to some of the younger officials at the State Department) and who remain marked by that experience. In the other group, his theory goes, are those in their forties who are too young to have been decision-makers about Vietnam, and those in their twenties who are too young to have had any involvement at all. Therefore, people in their thirties and people in their fifties and sixties are those most affected by Vietnam, and others are less inclined to think about it when considering, say, Ethiopia or Yugoslavia. (Brzezinski just turned fifty.)

I asked him recently if he thought that, in general, America was too strictly bound by post-Vietnam attitudes.

"Yes," he replied. "There is a tendency in America to be traumatized by international difficulties. The generation of the nineteen-forties was always thinking about the failure of the League of Nations. I'm talking about leadership groups now. The leadership of the sixties was always thinking about Munich. Now there is a generation worried by Vietnam, with consequences of self-imposed paralysis, which is likely to be costlier in the long run."

The other great issue that came up in the course of the Administration's internal debate over the Horn—and it will come up in other contexts—was what to do about "linkage." "Linkage," or making a connection between one aspect of the United States-Soviet relationship and another aspect of it, was selectively employed by Kissinger over the years, depending on the circumstances and on whether it was seen to be in our interest. When the Carter Administration took over, it explicitly rejected the concept of "linkage." Vance said that negotiations with the Soviet Union would not be linked to all Soviet actions—that each issue "should be discussed on its own footing."

The Administration position on the Horn had been to say that the Soviet involvement there could affect the political atmosphere in the United States. This was, State Department officials concede, a statement of the obvious—that, especially given all the attention that was being called to the situation, the activities of the Soviets in the Horn might make it more difficult to gather the necessary political support to win Senate approval of a new SALT agreement. Then, on March 1st, Brzezinski, speaking to a group of reporters, said that events in the Horn could affect not only the atmosphere in which a SALT treaty would be considered but also the negotiation process itself. This was seen as an implied threat that if the Soviets did not behave we might not negotiate such an agreement. The State Department was caught off guard, and the State Department press spokesman, Hodding Carter at his regular noon briefing of the press, tried to pull the matter back within the boundaries of "atmosphere." Vance felt strongly that Brzezinski's language suggested that there was some definite linkage between the Horn and moving ahead on the SALT negotiations, a position with which he vigorously disagreed. The next day, he used the opportunity of a congressional hearing to say "There is no linkage between the SALT negotiations and the situation in Ethiopia." Finally, President Carter, at his press conference the same day, said that the Soviets' action "would make it more difficult to ratify a SALT agreement" and that "the two are linked because of actions by the

Soviets. We don't initiate the linkage." These verbal acrobatics by no means settled the matter, for they were only a symptom of the deep differences that caused them in the first place.

Just after it all happened, I asked Brzezinski why the Horn was a major policy issue.

"The major point I would like to make at this stage is that the Horn is important because it gets to the heart of the question of what is the meaning of détente," he replied. "Behind the smoke of the Ogaden battle in the White House and State is the question of how do we structure the United States-Soviet situation so that it is less dangerous and doesn't present a threat to United States interests. In some ways, I suppose there are two different concepts of détente. There is the concept that the President has articulated, which is that détente ought to be comprehensive, reciprocal, and based on mutual restraint, and there is the concept that détente is a good thing and somehow leading to something more comprehensive; thus something to be nurtured in itself.

I belong clearly to the first school. In the nuclear age, we can't have stability unless détente is general and reciprocal. What we have to establish is that the rules of the game have to be the same for both sides. I think that the Horn is a basic test of that. I think if we don't establish some reciprocity and some mutual restraint and don't make it binding, especially in its military flavor, then we're going to get a reaction against détente that is going to make some things that are desirable impossible to achieve—such as SALT. I think there is a real danger that if we pursue détente in a manner that gives the Soviets the impression that they can do what they're doing in Ethiopia, then it's destructive to the relationship. Ethiopia is an expansion of what they did in Angola, except that this time they are present themselves; in Angola they only used Cubans. Each time, it becomes more costly, more dangerous. That's why in my judgment we should respond forcefully, make clear their action is not cost-free."

He continued, "Others feel that if we respond too strongly we will not be effective anyway, and a lot of the good things going on would become unravelled. Connected with all this is a sort of mini-debate on SALT. The President says we're not creating linkage but the Soviets are imposing one. I say there is no linkage, because SALT is in our mutual interest, but that the negotiations and ratification can get complicated by what's happening. Cy says there is no linkage. We all agree on that starting point. The question is what existential judgment we make. We're not saying, 'Get the hell out of Ethiopia or no SALT'—that's linkage. I'm not saying that. But there is some sort of connection, that's the point. So the debate about the Horn is really about the more fundamental question of what is the nature of détente. It's a much more sophisticated and much more complicated and much more muted debate. It's about one's view of the world: should there be rules, or is the relationship an end in itself?"

A few days later, I asked Vance about this debate.

"There are different views about the Soviet Union," he replied. "My view is that the relationship with the Soviet Union is of central importance in our foreign policy. It can't be so consuming that it results in our neglecting other critical matters that must be dealt with, yet at the same time it must be recognized as one of a handful of critical foreign-policy issues. It's my view that it is in our interest and in the interest of the Soviet Union to manage the relationship in a way that seeks to reduce tension and to find broader areas of common understanding.

I recognize that the relationship is very complex, that there is a mixture of matters where we do have differing views—sometimes ideological, sometimes practical. Having said all that, we have to come back to what we are trying to do. My view is that we should try to increase the common ground or manage the differences in a way that doesn't lead to the danger of conflict. It all has to be put in the perspective of what is more important and what is less important. That's why I come to SALT as the most important item in our relationship. It's life or death, and it's very much in our interest to find agreement and put ourselves on the way to the next SALT agreement. And it's also my view that this sets the tone for the rest of the relationship."

Brown's view about linkage, as it is described by one of his associates, is that the first thing our policymakers should ask themselves is, Whom does it help or hurt more? Brown is said to believe that a general policy of linkage is meaningless, or even bad; that we should "link" where there is a high degree of relevance between what we object to and what it is being linked with; and that we should look for areas where linkage would hurt the Soviets more than it would hurt us, or where the impact would be at least equal. Given the importance to us of achieving a SALT treaty, therefore, Brown does not believe that linking the Horn and SALT is the right thing to do.

One of the problems, it is widely agreed, is that Kissinger sold détente as more than it was. When the United States and the Soviet Union signed a joint statement of principles in 1972, the Soviet Union did not forswear competing with the United States or supporting governments and revolutionary movements. According to an argument that is made by some people in State, what the Soviets did in the Horn violated not détente but a view of détente that Kissinger sold. Brzezinski believes that in urging a strong reaction to such Soviet ventures he is in fact acting to preserve détente. "We have moved into a phase where old systems are crumbling and there is a new turbulence, and that turbulence must not be exploited," he said to me recently. "If it is, it is bound to re-create the Cold War. We want respect for diversity in the world; we want respect for local forces—for the countries concerned about their place in the world. I argue with people that I am far more for détente by arguing this, that to acquiesce in this kind of interference is to set the stage for a public reaction in the United States and a reaction by the United States that will be strong and destabilizing. So in the long run the other course will be far more destabilizing. When I say that I argue that, it's not just with State, it's also the Hill and within my own staff."

The "soft"-"tough" construction of the debate over how to deal with the Soviet Union has been a dominant force in our political life since the end of the Second World War. There are those who say that not only is it unfortunate—carrying implications of an unpleasant earlier era—but also it interferes with thought and, moreover, those who make it have it backwards. One government man who has thought about these things for a long time says, "The maintenance of some sort of useful relationship with the Soviet Union is in the security interests of the United States. Therefore, it is not 'soft' but actually the hardheaded thing to do to work at ways to maintain that relationship. The alternative is to engage in useless conflict with them on unimportant issues. What you have to decide is where the Soviets are apt to impinge on your vital interests and not let them impinge on them, and not pick a quarrel when they're not impinging on your vital interests. To pick a quarrel with them every time you can is softheaded. Also, to do that gives them the wrong impression—because they're not going to know when you really mean it." It is argued that we should limit the number of times our prestige is put at risk, and the number of unnecessary gambles we take. This man went on, "A 'proxy war' is precisely what we ought to avoid. We shouldn't set everything up as an opportunity to wage a gladitorial contest by proxy.

"Just because the Soviets get themselves involved with the Ethiopians, why should we have to find a government to act as our proxy—in any area of small importance?"

He continued, "What's wrong with looking at the world that way is that that's not the way the world is. What's happening now in Africa would be happening if there were no Soviet Union. As in Vietnam, where we intervened to bring 'stability' to that part of the world, we think of the continuing hostilities in Africa as a great-power struggle, which it need not be. The Soviets are mucking around in Africa because they want to have more influence. It's not that I think that Soviet influence is benign or their motivation is benevolent. But we shouldn't react in every instance, because not all of them make that much difference, and we could make a bad situation worse."

There is very little disagreement within the government that what the Soviets and the Cubans are doing in Africa is deplorable; the differences are over how deplorable, and what is to be done about it, and how it affects other policy questions concerning Africa. In the case of Rhodesia, the State Department and the White House agreed that the United States should try to find a negotiated political solution that would deny the Cubans and the Soviets another opportunity to exploit. And bit by bit the United States government has got itself into the position of assuming responsibility for this admittedly difficult achievement.

In one of our recent conversations, Brzezinski cited Rhodesia as an area of great danger.

"The risk is that the Soviets and the Cubans will try to put us in an even more awkward position than in Ethiopia," he said. "In Ethiopia, they were defending territorial integrity. In Rhodesia, they would be opposing white racism and apartheid. That gives added urgency to implementing the Anglo-American plan." That plan would supplant the "Salisbury agreement," reached by Rhodesian Prime Minister Ian Smith and some Rhodesian black leaders, which provides for a transition period and for elections administered essentially by Smith and his security forces. The Anglo-American plan calls for Smith to relinquish power to a British administrator, and for elections supervised by the United Nations.

In the view of some in the government, there is a danger of producing a premature polarization of forces in Southern Africa. What Africans see as a liberation movement, this argument goes, we might view as an East-West struggle and thus help to make it one. There is also the danger that in our eagerness to ally ourselves with the "forces of change," and to keep the Soviets and the Cubans out, we can end up in an indiscriminate bidding contest for the favor of whoever seems to be on the march. And, as a matter of fact, the square dance over the Horn continues. The decision our government made was that we could be of no help to the Somalis while they were in the Ogaden, and that diplomatic representations should be made to the Soviet Union about the risks (whatever they were) if the Ethiopians crossed over into Somalia. On March 8th, the Somalis announced that they were withdrawing from the Ogaden, mainly because they were being badly beaten. Since then, officials have tried to keep a line open to the Ethiopians—have even told them we would permit the shipment of "non-lethal" military equipment that they had already purchased—in order to prevent them from

allying themselves too closely with the Soviet Union, and at the same time have tried to work out arrangements with the Somalis whereby we would supply them with arms if they would forswear their irredentist policy (which as yet they have not agreed to do). One of the reasons for wanting to arm the Somalis is to keep them from turning to the Soviets once more. This leaves the questions of why a Soviet-Somali marriage would be any more successful than it was the first time; how the Soviets could sustain a relationship with both Ethiopia and Somalia; and what grounds we have for assuming that the Somalis, given more arms, would behave, whatever they said. And then the Kenyans are fearful of an increasingly armed Somalia, because Somalia has historically claimed some Kenya territory, and the two countries are old enemies. And on it goes.

I talked with one of the President's domestic advisers as the first Horn crisis settled down and the rearranging of positions began. He said, "When the Russians start moving in there, the President feels we cannot fail to let them know that they can't do that without some risk to themselves. At the same time, we're keeping in touch with the Ethiopian government and seeing how they look at it. We can't be forced into letting the Cubans and Russians put us in a situation where we are backing people with untenable views. Then we can take a run at opposing outside interference from a higher ground. With bumps and starts, that's where the thing is sort of headed. It's also a damn good realpoltik way to look it at."

I asked this man if the President felt we needed to face the Soviets down somewhere.

"He doesn't feel that that's a foregone conclusion," he replied. "He recognizes it as a possibility, but he'll be damn sure that if we face someone down it will be on firmer ground than we were on in the Horn."

The strains within our government over the specific instance of the Horn did not end with the Somali retreat. As the President flew from Brazil to Nigeria in late March, Brzezinski, aboard Air Force One, gave a background briefing for the press—allowing himself to be identified only as "an Administration official"—in which he gave a new, highest-yet estimate of the number of Cuban troops in Ethiopia (sixteen to seventeen thousand), and on the same day the State Department released a more conservative estimate (at least fifteen thousand). And before the President left on his trip, there was a terrific battle between the State Department and the N.S.C. staff over the tone of the speech that the President was to make in Lagos, Nigeria. The President was leaving on a Tuesday, and on the preceding Saturday drafts were going back and forth between the two groups. Vance was trying to moderate the President's remarks warning against outside interference in the affairs of the continent. He had some success. At one point, I'm told, the N.S.C. draft had the President saying that we say to the "ideological scavengers" of the world, "Hands off Africa." The final draft of the speech was not agreed upon until the morning of the President's departure.

Since speeches are a device for establishing policy, the drafting of them frequently becomes the arena for struggles over a particular policy. It is a law of governing that he who makes the speech makes the policy; at least, he tries to. When the President makes a speech, policymakers compete to affect what he says. Inevitably, some maneuverings marked the preparation of the speech that the President gave on defense policy on March 17th at Wake Forest University. The speech was Brzezinski's idea, and it was drafted by an N.S.C. staff member. Brzezinski let it be known in the press that he was putting "bite" in it, that he had "toughened up" the speech, as part of his effort to, as he put it, "help stiffen the back of the Administration." The speech said, among other things, "Our strategic forces must be—and must be known to be—a match for the capabilities of the Soviets." It said, "We do not desire to intervene militarily in the internal domestic affairs of other countries, nor to aggravate regional conflicts. And we shall oppose intervention by others." It did talk about our desire for a mutual arms-limitation agreement, but it also said that "we must take other steps to protect the strategic balance."

To many minds, including some within the government, it had the tone of early Kennedy ("We shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty".) Around the White House, some people later told me they realized that it was the sort of speech that might spur the military to seek increases in the defense budget. There was some worry within the Administration that the speech in fact provided argument for the opponents of SALT. One of the President's associates said, "The Russians are building advanced missilery, building forces in Europe, playing games in Africa. Their efforts are not to be disregarded. They should not proceed on the theory that we won't respond. It was important to Presidential leadership for Americans to see that their President is aware of these things. But we have to be careful not to exaggerate it, and then have to live with the apprehensions that build up. That speech did not do so, I think, but some people might want to run with it for that purpose."

When I asked Brzezinski about the speech, he volunteered that it was reviewed twice, by both Vance and Brown. Vance did see an early version of the speech and had a brief opportunity to go over the final draft. (The State Department did suggest a number of changes. It wanted the language about Soviet intervention in local conflicts toned down, and it was, but not to the degree that State sought. And Vance suggested that language about parity in weapons be changed to "essential equivalence." In the speech, this became "functional equivalence." Brzezinski says that "functional equivalence" is a new phrase and a new concept. He says, "I thought 'essential equivalence' didn't convey the point. The term 'functional equivalence' means that our weapons need not be identical or similar.") Brzezinski says he suggested early this year that the President give a defense speech, because he had given speeches outlining his other foreign-policy views and "what was missing was a speech about his role as Commander-in-Chief," adding, "It wasn't so tied to our recent problems with the Soviet, but in some way the timing was felicitous."

Others explained to me that the speech was also designed to counter an impression that might have been caused by various actions the President had taken: the cancellation of the B–1 bomber (there is some consternation in the N.S.C. that people failed to notice that at the same time he cancelled it he approved the deployment of the Cruise missile); the postponement of development of a mobile missile (MX); the pursuit of a strategic-arms-limitation agreement and also negotiations for a Comprehensive Test Ban and for the demilitarization of the Indian Ocean; the discussions of anti-satellite arms control.

One N.S.C. person said to me recently, "The people at the Arms Control and Disarmament Agency understood the number of initiatives to mean that this would be the heyday of arms control. The speech was to correct that impression." Brzezinski apparently persuaded the President that because of the kinds of questions the President had dealt with he was in danger of being seen at home and abroad as too easygoing about questions of national security.

I asked Brzezinski not long ago how great he felt the danger was that we might appear to be weak.

He replied, "My own view is that we probably do not appear weak to those who have to think about it seriously. But we might appear ambivalent. We haven't sent unambiguous signals that we're weak, but we may have sent signals that there is a disjunction between our will and our power. However, if we wish to continue to send Pollyanna-ish signals, then they might conclude that we're weak."

"We've sent a number of signals—the B–1, negotiating on the Indian Ocean, not embarking on a defense buildup. If that continued, it could be misunderstood. The speech helps."

In the spring of 1977, in fact, Hamilton Jordan identified a list of actions taken by the Administration, including some of those mentioned by Brzezinski and also the negotiation of the Panama Canal treaties and the proposal to withdraw troops from Korea, that could make the President appear too "dovish" and cause him domestic political problems. The defense speech is said to have been well received by Jordan and some other domestic political advisers.

I asked Brzezinski about the statement "We shall oppose intervention by others" in the Wake Forest speech.

He replied, "That's a reaffirmation of something that has been taken for granted and perhaps has been assumed as no longer relevant."

"That at some point we may have to take strong action to oppose intervention?" I asked.

"Yes," he replied. "We could take strong action ourselves, including intervene, unless we can do it indirectly, by giving the countries concerned the means to deal with this intrusion."

I asked him about a statement in the speech that the United States was "improving and will maintain quickly deployable forces—air, land, and sea—to defend our interests throughout the world."

"That is a contribution we have made from here," Brzezinski replied. "More than a year ago, we were stressing the need for greater independence from the need for foreign bases, and the need for rapid deployment, so that we should not be dependent on a Maginot Line—the need to have forces that could be rapidly deployed to the Mideast, Africa, Asia. The President accepted this concept formally—that we should develop this capacity—and Harold Brown has been developing it for a year. The troops withdrawn from Korea will be restructured and retrained to be used with other divisions." In Brzezinski's mind, this is connected with his theory about overlapping imperial power and "Fashodas" and his concern about our being preempted.

I asked Brzezinski then about something I'd read that he had said in an interview. He had said that the proposition that a nuclear war would mean the end of humanity was "baloney."

He replied, "It's inaccurate thinking to say that the use of nuclear weapons would be the end of the human race. That's an egocentric thought. Of course, it's horrendous to contemplate, but, in strictly statistical terms, if the United States used up all of its arsenal in the Soviet Union and the Soviet Union used all of its against the United States it would not be the end of humanity. That's egocentric. There are other people on the earth. I don't know if it's a good thing or a bad thing to say that this notion is wrong, but I know it is wrong factually."

A number of people within the Administration worry about the way foreign policy is made, and they are also concerned that an impression is being given to the nation and the world that the policy is not guided by steady hands. Some fluctuation is inevitable as policymakers respond to actions taken by

other nations, but even within the Administration many people believe that the conduct of our foreign policy has been marked by a lack of equilibrium. Some of this is laid to early enthusiasms: plunging into policies that had not been thought through. Among the examples given of this are human rights, limitations on arms sales (of which it is now said that the early goals were "unrealistic"), and the first SALT proposals. In the case of SALT, the President, before his negotiators went to Moscow in March of 1977, announced at a press conference that we would offer a dramatic proposal for "substantial reductions" in the arsenals of both sides; he added that, as a "fallback," we would propose an agreement along the lines of that arrived at in Vladivostok in 1974, which set outer limits on both sides—limits that required neither side to make cuts. But the attention was on the more dramatic of the two proposals—the one for "substantial reductions"—which in fact, when it got to the details of which weapons were to be cut, asked that the Soviets make substantially more drastic cuts than the United States. Then, after holding fast to that proposal for a few weeks, the Administration changed course and went for something along the lines of the "fallback" position. Several people—inside the Administration and out—believe that the Administration set itself up for appearing to "back down" from a bold position, and that when it is time to seek Senate approval of a new SALT agreement the Administration is going to pay for having invested so much public capital and prestige in the proposal for substantial reductions. Carter believes in deep cuts in the weapons held by both sides; Brzezinski was apparently attracted by the political aspects of the proposal—both as a challenge to the Soviet Union and as a proposal that would win the approval of arms-control conservatives, which it did. The problem is that they did not think through the implications of announcing the proposal and then having it turned down and then retreating to the "fallback" position.

In the internal debating over both the nature and the timing of the SALT negotiations, Brzezinski was characterized by a number of people as being less inclined than Vance to try to reach an agreement by this spring or summer. The State Department view was that the negotiations should proceed to their conclusion, because of the precarious state of health of Leonid Brezhnev, the leader of the Soviet Union; because the Soviets were developing a new generation of weapons systems that a SALT agreement might keep them from deploying; and because there were any number of other reasons that postponement could result in the loss of an opportunity. Brzezinski was reported by several people to be unwilling to give the same emphasis to SALT, and Brown was said to be somewhere between Vance and Brzezinski. Brzezinski has been described by people who observed the process closely as seeing SALT not just as an end in itself but as a device for bringing pressure on the Soviets to do things we wanted them to. Brown's view was that if we could get a good SALT agreement it would be beneficial for us, because it could keep the arms race from proceeding and could free up funds that would otherwise have to be spent on strategic weapons. One of the considerations of the White House, of course, was that, given the length of time it was taking to complete Senate action on the Panama Canal treaties, and given other constraints on the agenda of Congress this year, an election year, this was no year to ask the Senate to approve a SALT treaty. But at a White House meeting on March 2nd the President gave officials firm instructions to proceed to try to reach an agreement. (As it happens, Brzezinski made his "linkage" statement on the previous day.) The timing of the Senate debate on approval would be decided later, and Vance would go to Moscow to push the agreement toward conclusion. Then the internal argument became one over the instructions he would take with him. All this time, there was consternation within the government over the reluctance at the White House to come to grips with difficult decisions—decisions with both political and strategic implications—about our final positions. Shortly before Vance's trip to Moscow, the *Times* reported, "In recent days, some White House officials have been privately complaining to some journalists about the ability of Mr. Vance and some of his aides to deal with the Russians." The story went on to say that the "officials'" main concern is that Vance and his aides "are overly concerned about achieving a strategic-arms accord and are not prepared to press the Russians hard enough about their military involvement in the Horn of Africa and about other new Soviet moves."

Uncertainty seemed to guide the decision-making about whether to proceed with the production of the neutron warhead, and the President seemed to come out in the worst of all possible positions. This was his own doing. First, he agreed to go ahead with its production, and then, against the advice of the Defense and State Departments and the N.S.C., he decided this spring to halt its production, and then, when that decision came under attack within the Administration and in Congress and from some of our NATO allies (whose support for the warhead the Administration had been seeking), he announced that its production would be delayed and that the weapon would be a "bargaining chip" in the negotiations with the Soviet Union. Besides giving a public picture of uncertainty, the episode worked the President into a corner: if the Soviets chose not to trade, he would have to proceed with the production of a weapon that the world now knew he had earlier decided against, or he would have to appear to "back down."

A man in one of the departments, speaking about the fairly widespread worry in the government that foreign-policy decisions are made in an ad hoc, sporadic way, said to me recently, "There is a tendency over at the White House to fly into things and take spot initiatives without thinking things through." He continued, "You should understand how you got into the situation." Some in the Administration express concern that decisions are made without much thought being given to the connections between a certain move and larger foreign-policy goals. Even those who concede that it is difficult to formulate consistent policy in a complicated world, where a number of powers can change the terms, say that there has been excessive confusion. One man who is in a high position in the government, and who has had prior government experience, says, "It's hard for people in the bureaucracy to carry out policy if they don't know what it is." High officials of both the Defense Department and the State Department say that they are often surprised by pronouncements that come either from Brzezinski or from the President. In order to govern, the President and his top associates need a certain degree of understanding and support of their policies by the bureaucracy. But the problem goes beyond even that. A number of those I have spoken with in the government talk of the need not just for the bureaucracy but also for the American people and other peoples of the world to have a clearer view of our goals.

One man who understands a great deal about government says, "You don't get a policy through a speech, or even through the first actions following that speech, but from consistent-minded people taking a series of consistent actions." The failure to establish clear policies is attributed not just to the style of Brzezinski but also to that of the President. One official said to me, after expressing his worry about the apparent "thrashing around" in foreign policy, "Carter and Brzezinski have a similarity in outlook and temperament. Instead of being able to hold conflicting thoughts in their heads about a given subject and come out with a blend, they hold all those conflicting thoughts, but what comes out is not a blend but a leaning this way and leaning that way. That explains the shifts in policy." One man who is quite close to the foreign-policy decision-making said to me, "I still can't read the President on foreign policy."

Several people, inside the Administration and out, express concern that the Administration speaks with too many voices on foreign policy, that often it seems that there are two Secretaries of State. They are quite troubled when, on the eve of the Secretary of State's trip to Moscow to negotiate an arms-control agreement, "White House officials" publicly suggest that he is not up to dealing with the Russians. They are given pause by the picture of a national-security adviser who goes about letting it be known that he is putting "bite" in and "toughening" the Administration's policy. Of course, advertising oneself as the one who is "tough" on the Communists can be a way of establishing political security. (Brzezinski also tries to deflect criticism of the way he is handling his job by suggesting that it comes from "ideological" motives.) There are other "hardline" voices within the Administration. And, in any event, the old "hardline"/"soft-line" dichotomy is misleading. The real issue, as it has been described to me over and over again, is between two kinds of "toughness": combative toughness as against measured toughness, and the latter is not to be confused with uncritical acceptance of Soviet moves. It is not a question of Brzezinski's views; it is a question of his temperament and of his judgment. One longtime observer of foreign policy says, "We need officials who are firm and wary in dealing with the Soviet Union; the last thing we need is an official who is impulsive and excitable in dealing with them." Brzezinski is not the first national security adviser to step into a public policymaking role.

There will always be divisions among a President's advisers, and some will become public, but when it comes to questions of foreign policy the implications can be quite serious. Others, who do not wish us well, are taking our measure. Several observers have reservations about the way the role of the national-security adviser has developed. The role has been shaped as much by the way Presidents have conceived it as it has by the men who have filled it. Many of those who are concerned about the nature of the job say that whoever holds it should be an "honest broker"—someone who communicates the views of the departments to the President and presents alternatives to him—and also that he should not be a separate public spokesman on foreign policy. A President does need someone to help mediate among the conflicting interests of the State and Defense Departments, each of which has its own clients (countries, military services); to see to it that the President's interests are represented in policy considerations; and to offer the President independent judgment. These people argue that the person who holds that job should not be an intellectual neuter, a clerk, but neither should he have strong views—irrespective of what they are—which he presses upon the President and which predispose him to give a certain response to most situations. A President, it is argued, does not have the time to sort out all the factors that may be feeding what his key adviser is telling him. This is one of those areas in which it is impossible to draw a line but it is possible to know when one has been crossed.

Even some of the President's advisers feel that the Administration is trying to do too

much in foreign policy, that it is being drawn into the very chaos that Brzezinski describes and says it is our role to prevent. They are disturbed by what they see as impatience, an inability to let some things just happen. People who are inclined to react suddenly and strongly can lead their governments into situations that those governments need not get into. History tells us that nations can cause themselves to be drawn into confrontations that they did not seek or that were not necessary. Some people in the Administration wonder, on the basis of the record so far, how well equipped this Administration will be to handle a fast breaking foreign-policy crisis. They are aware that we haven't had to face a real crisis yet.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RISENHOOVER (at the request of Mr. WRIGHT), after 3:30 p.m. today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GRASSLEY) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 15 minutes, today.

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. GREEN, for 5 minutes, today.

(The following Members (at the request of Mr. BALDUS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. STOKES, for 5 minutes, today.

Mrs. MEYNER, for 5 minutes, today.

Mr. GIAIMO, for 5 minutes, today.

Mr. WEISS, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FINDLEY, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $903.38.

Mr. CONYERS, to extend his remarks in the body of the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,613.50.

Mr. GILMAN, to revise and extend his remarks during debate on H.R. 12973.

(The following Members (at the request of Mr. GRASSLEY) and to include extraneous matter:)

Mr. MCCLOSKEY.

Mr. FORSYTHE.

Mr. FISH.

Mr. HAGEDORN.

Mr. ANDERSON of Illinois in three instances.

Mr. EMERY.

Mr. DORNAN in three instances.

Mr. CONABLE in two instances.

Mr. ASHBROOK in two instances.

Mr. CRANE.

Mr. STOCKMAN.

Mr. DEVINE.

Mr. PRESSLER.

Mr. RUPPE.

Mr. MCCLORY.

Mr. KELLY.

Mr. DERWINSKI in three instances.

Mr. CARTER in 11 instances.

Mr. GRASSLEY.

(The following Members (at the request of Mr. BALDUS) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BAUCUS.

Mr. DE LUGO.

Mr. MCHUGH.

Mr. MAZZOLI in three instances.

Mr. BINGHAM in 10 instances.

Mr. LEHMAN.

Mr. FORD of Michigan.

Mr. ERTEL.

Mr. FARY in two instances.

Mr. RODINO.

Mr. SOLARZ.

Mr. CORRADA.

Mr. EDGAR in two instances.

Mr. BYRON.

Mr. DAVIS in two instances.

Mrs. MEYNER.

Mr. CONYERS.

Mr. BONKER.

Mr. DINGELL.

Mr. NOLAN.

Mr. EILBERG.

Mr. MINETA.

Mr. LAFALCE.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 785. An act to declare that all right, title, and interest of the United States in 2,700 acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nev., to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1420. An act for the relief of Umberto Ruffolo;

H.R. 10569. An act to amend the Alcohol and Drug Abuse Education Act to extend the authorization and appropriations for carrying out the provisions of such act, and for other purposes; and

H.J. Res. 1024. Joint resolution making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.

## SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1484. An act for the relief of Michael Bruce Holland; to the Committee on the Judiciary;

S. 1951. An act for the relief of Jozef Swiderski; to the Committee on the Judiciary;

S. 2248. An act for the relief of Susanna Shu-hui Jean; to the Committee on the Judiciary;

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley; to the Committee on the Judiciary;

S. 2534. An act to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations; to the Committee on Interstate and Foreign Commerce; and

S. 3069. An act to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members; to the Committee on Interior and Insular Affairs.

S. Con. Res. 32. Concurrent resolution relating to broadening the observance of Thanksgiving to an occasion of sharing our plenty with the hungry of other lands, to the Committee on Post Office and Civil Service.

## ADJOURNMENT

Mr. BALDUS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, July 26, 1978, at 10 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4633. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-229, "To amend the Standards of Assistance of the District of Columbia relating to payments to persons residing in community residence facilities," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4634. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-230, "To establish the District of Columbia Commission for Women," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4635. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-231, "To amend the Condominium Act of 1976 relating to the advertisement of condominiums," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4636. A letter from the Secretary of Treasury, transmitting the annual report and audit of the Student Loan Marketing Association for calendar year 1977, pursuant to section 439(k) of the Higher Education Act of 1965, as amended (90 Stat. 2140); to the Committee on Education and Labor.

4637. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting notice of an interpretation of regulations governing the use of Emergency School Aid Act funds for

court-ordered activities, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4638. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing awards made under title IV of the Civil Rights Act of 1964 to promote desegregation of public education, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4639. A letter from the Assistant Secretary of Agriculture for Administration, transmitting notice of proposed changes in existing records systems, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4640. A letter from the Director, Management and Organization Division, U.S. Environmental Protection Agency, transmitting notice of various records systems maintained by the Agency, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4641. A letter from the Records Officer, U.S. Postal Service, transmitting notice of five proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4642. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4643. A letter from the Secretary of Health, Education, and Welfare, transmitting the fifth annual report of the National Institute on Alcohol Abuse and Alcoholism, covering fiscal year 1976 and the transition quarter, pursuant to section 102(1) of Public Law 91-616; to the Committee on Interstate and Foreign Commerce.

4644. A letter from the Chairman, Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act of 1974 with respect to the computation of certain annuity amounts; to the Committee on Interstate and Foreign Commerce.

4645. A letter from the Comptroller General of the United States, transmitting a report on the coordination of international exchange and training programs (ID-78-37, July 24, 1978); jointly, to the committees on Government Operations and International Relations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITE: Committee on Armed Services. H.R. 7161. A bill to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program (Rept. No. 95-1390). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 13243. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval (Rept. No. 95-1391). Referred to the Committee of the Whole House on the State of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 2656. A bill for the relief of Caroline M. Babcock; with amendment (Rept. No. 95-1387). Referred to the Committee of the Whole House.

Mr MOORHEAD of California: Committee on the Judiciary. H.R. 8428. A bill for the relief of Gail Williamson (Rept. No. 95-1388). Referred to the Committee of the Whole House.

Mr. WHITE: Committee on Armed Services. H.R. 3307. A bill for the relief of Anthony Casamento; with amendment (Rept. No. 95-1389). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Ohio (for himself, Mr. ANDREWS of North Dakota, Mr. ARCHER, Mr. BENNETT, Mr. BRINKLEY, Mr. CEDERBERG, Mr. D'AMOURS, Mr. FLIPPO, Mr. FLORIO, Mr. FRENZEL, Mr. GUYER, Mr. HANSEN, Mrs. HOLT, Mr. HORTON, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JEFFORDS, Mr. JOHNSON of California, Mr. JONES of Oklahoma, Mr. KEMP, Mr. LEVITAS, Mr. MADIGAN, Mr. MILLER of Ohio, and Mr. MURPHY of Pennsylvania):

H.R. 13583. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. MURTHA, Mr. PICKLE, Mr. PIKE, Mr. PREYER, Mr. RAHALL, Mr. REUSS, Mr. RUNNELS, Mr. SATTERFIELD, Mr. SAWYER, Mr. SIKES, Mr. SIMON, Mr. SKELTON, Mr. SKUBITZ, Mr. SPENCE, Mr. STAGGERS, Mr. STEIGER, Mr. TEAGUE, Mr. UDALL, Mr. VAN DEERLIN, Mr. VENTO, Mr. WAMPLER, Mr. CHARLES WILSON of Texas, Mr. YATRON, and Mr. YOUNG of Florida):

H.R. 13584. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. SEBELIUS, and Mr. DORNAN):

H.R. 13585. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. CORCORAN of Illinois:

H.R. 13586. A bill to amend the Communications Act of 1934 to establish requirements with respect to the television broadcasting of certain professional sports clubs' games; to the Committee on Interstate and Foreign Commerce.

By Mr. CRANE (for himself, Mr. GUYER, Mr. KINDNESS, Mr. MCDONALD, Mr. MADIGAN, and Mr. THONE):

H.R. 13587. A bill to amend the Metric Conversion Act of 1975 to provide that the functions of the Federal Government with respect to the metric system shall be limited to coordinating the conversion to such system in areas or industries which desire it, and keeping the public informed thereon, without encouraging in any way the adoption or use of such system; to the Committee on Science and Technology.

By Mr. FLOWERS:

H.R. 13588. A bill to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the S. W. Taylor Memorial Park; to the Committee on Public Works and Transportation.

By Mr. JOHNSON of California:

H.R. 13589. A bill to designate the Mount Shasta Wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York:

H.R. 13590. A bill to amend the Merchant Marine Act, 1936, to prohibit the shipment of classified information or material on vessels of Communist countries; to the Committee on Merchant Marine and Fisheries.

By Mr. PURSELL:

H.R. 13591. A bill to provide for payment of National Service Life Insurance benefits with respect to members of the Armed Forces who were killed in action during 1942 without having life insurance in effect and after the expiration of the period provided for gratuitous life insurance benefits for members of the Armed Forces; to the Committee on Veterans' Affairs.

By Mr. ROSTENKOWSKI (for himself, Mr. VANDER JAGT, Mr. CONABLE, Mr. COTTER, and Mr. WAGGONNER):

H.R. 13592. A bill to amend the Internal Revenue Code of 1954 with respect to employer's duties in connection with the recording and reporting of tips; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 13593. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act; to the Committee on Education and Labor.

By Mr. SYMMS (for himself, Mr. EVANS of Georgia, Mr. MCDONALD, Mr. DEVINE, Mr. GEPHARDT, Mr. KEMP, Mr. EDWARDS of Oklahoma, Mr. FRENZEL, Mr. WHITEHURST, Mr. GUYER, Mr. KINDNESS, Mr. HANSEN, and Mr. BOB WILSON):

H.R. 13594. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide that drugs will be regulated under the act solely to assure their safety, to promote the efficient and fair treatment of new drug applications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST (for himself, Mr. PATTERSON of California, and Mr. PEPPER):

H.R. 13595. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. CARTER:

H.R. 13596. A bill to amend the Public Health Service Act to authorize funds for school based fluoride rinse programs; to the Committee on Interstate and Foreign Commerce.

By Mr. MINETA (for himself, Mr. JOHNSON of California, Mr. WALSH, Mr. PICKLE, Mr. HOWARD, Mr. CLEVELAND, Mr. ROE, Mr. GOLDWATER, Mr. AMBRO, Mr. EDGAR, Mr. RISENHOOVER, Mr. BONIOR, Mr. OTTINGER, Mr. ROSE, and Mr. BAUCUS):

H.R. 13597. A bill to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DEVINE:

H.J. Res. 1086. Joint resolution proposing an amendment to the Constitution relating to the continuance in office of Justices of the Supreme Court and judges of inferior courts; to the Committee on the Judiciary.

By Mr. QUILLEN:

H.J. Res. 1087. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or threat

of war as determined by the Congress; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. KEMP (for himself, Mr. BUCHANAN, Mr. COUGHLIN, Mr. CUNNINGHAM, Mr. D'AMOURS, Mr. DERWINSKI, Mr. DEVINE, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mrs. FENWICK, Mr. GILMAN, Mr. GUYER, Mr. HALL, Mr. HANLEY, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. LEHMAN, Mr. LENT, Mr. PURSELL, Mr. QUAYLE, Mr. RINALDO, Mr. STUMP, Mr. THONE, Mr. WAXMAN, and Mr. WHITEHURST):

H. Res. 1283. Resolution expressing the sense of the House of Representatives with respect to selecting a site other than the Soviet Union for holding the 1980 summer Olympic games; to the Committee on International Relations.

By Mr. KEMP (for himself, Mr. HANSEN, and Mr. WALSH):

H. Res. 1284. Resolution expressing the sense of the House of Representatives with respect to selecting a site other than the Soviet Union for holding the 1980 summer Olympic games; to the Committee on International Relations.

By Mr. ROSTENKOWSKI:

H. Res. 1285. Resolution to provide for the printing of the proceedings incident to the presentation of a portrait of the Honorable Al Ullman; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois:

H.R. 13598. A bill for the relief of Dr. Eugene L. Vickery; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of Alabama:

H.R. 13599. A bill for the relief of Corazon Medrano Hernandez; to the Committee on the Judiciary.

By Mr. FOWLER:

H.R. 13600. A bill for the relief of Tsai Yuan and Tsai Huang Wen-Chen; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 13601. A bill for the relief of Loraine Smart and Robert Clarke; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of the XXII,

521. The SPEAKER presented a petition of Mrs. Dolores Flores, Seattle, Wash., relative to designation of January 8, as "National Elvis Presley Day"; which was referred to the Committee on Post Office and Civil Service.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

### H.R. 3350

By Mr. KREBS:

(Amendment to the amendment in the nature of a substitute of Mr. MURPHY of New York.)

—Page 27, strike out lines 10 through 25, inclusive, and insert the following:

(2) DURATION OF LICENSES AND PERMITS.—(A) Duration of a license. Each license shall be issued for a period of ten years. If the licensee has substantially complied with the license and the work plan associated therewith and has requested extensions of the license, the Secretary shall extend the license on terms, conditions, and restrictions consistent with the Act and the regulations promulgated pursuant thereto for periods of five years each.

(B) Duration of a permit. Each permit shall be issued for a term of twenty years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the work plan associated with the permit applies. The permit of any permittee who is not recovering the hard mineral resources in commercial quantities at the end of ten years shall be terminated; *Provided*, That the Secretary shall extend such time period for good cause shown, including force majeure, adverse economic conditions, unavoidable delays in construction, major unanticipated vessel repairs that prevent the permittee from conducting commercial recovery activities during an annual period, or other circumstances beyond the control of the permittee.

—Page 31, between lines 23 and 24 insert the following:

(10) CONSERVATION OF NATURAL RESOURCES.—For the purpose of conservation of natural resources, each license and permit shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity to commercially recover the unrecovered balance of the hard mineral resources. In establishing these terms, conditions, and restrictions, the Secretary shall consider the state of the technology, the environmental effects of the exploration or commercial recovery activities, economic and resource data, and the national need for hard mineral resources. As used in this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision by which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

Page 31, line 24, strike out "(10)" and insert "(11)".

### H.R. 3350

(Amendment to the amendment in the nature of a substitute of Mr. MURPHY of New York.)

By Mr. VENTO:

—Page 35, between lines 20 and 21, insert the following:

SEC. 109. PUBLIC NOTICE AND HEARINGS, CITIZEN CIVIL ACTIONS AND JUDICIAL REVIEW.

(a) PUBLIC NOTICE AND HEARINGS.—(1) The Secretary may promulgate rules and regulations; establish and modify the terms, conditions, and restrictions of licenses and permits; issue, transfer, and renew licenses and permits; and deny, suspend, and revoke licenses and permits only after public notice and public hearings in accordance with this subsection. Any interested person may present relevant material at any hearing.

(2) If the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5 of the United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Secretary's decision to take any action referred to in paragraph (1). Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. The Secretary shall by regulations prescribe the time period for holding public hearings.

(b) CITIZEN CIVIL ACTIONS.—(1) Except as provided in paragraph (2), any person may commence a civil action for equitable relief on his own behalf, whenever such action constitutes a case or controversy, against any person, including the United States, and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act, any regulation promulgated under this Act, or any term, condition, or restriction of a license or permit issued under this Act. In suits brought under this subsection, the district courts shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or to order the Secretary to perform such act or duty, as the case may be.

(2) No civil action may be commenced under paragraph (1)—

(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary and any other appropriate Federal official and to any alleged violator; and

(B) If the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter of right.

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.

(3) In any action under this subsection, the Secretary or the Attorney General, if not a party, may intervene as a matter of right.

(4) Any district court, in issuing any final order in any action brought under paragraph (1), may award costs of litigation, including reasonable attorney's and expert witness fees, to any party whenever the court determines that such an award is approprtiae.

(5) Nothing in this subsection shall restrict any right which any person or persons or class may have under any statute or common law to seek enforcement of any provision of this Act, any regulation issued thereunder, or any term, condition, or restriction of any license or permit; or to seek any other relief.

(c) JUDICIAL REVIEW.—Any person suffering legal wrong, or who is or may be adversely affected, by the Secretary's decision to issue, deny, transfer, modify, renew, suspend, or revoke a license or permit may, not later than 60 days after any such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. Any person shall be deemed to be aggrieved by the Secretary's decision within the meaning of this subsection if the person—

(1) participated in the administrative proceedings before the Secretary, or did not participate but can show that the failure to do so was caused by the Secretary's failure to provide the required notice; and

(2) is adversely affected by the Secretary's action.

### H.R. 7308

By Mr. DRINAN:

—Page 40, line 5, insert "(A)" after "2".

Page 40, after line 8, insert the following new subparagraph:

(B) As part of such minimization procedures—

(i) Government shall use means, whenever practicable, to access the wire communications system at a single subscriber terminal circuit point identified in the authorization and in a place wherein the authorized agent and his circuits, interception equipment, electronic, mechanical, or other devices have and will have exposure and general access to the least number of other circuits, wire

communications, or messages not specified in the authorization for interception;

(ii) the Government shall not use interception techniques wherein random or systematic scanning among wire communications circuits or channels is employed in order to discover, identify, acquire or otherwise intercept possible foreign intelligence information among other private messages or wire communications; and

(iii) the Government shall neither intercept wire communications nor maintain access to the subject wire communication circuit during periods of time when there is no reasonable expectation of the interception of the foreign intelligence information described in the authorization.

Page 50, strike out lines 1 and 2 and insert in lieu thereof the following:

(A) that the minimization procedures be followed and that such procedures include provisions to ensure that—

(i) the Government uses means, whenever practicable, to access the wire communications system at a single subscriber terminal circuit point identified in the order and in a place wherein the authorized agent and his circuits, interception equipment, electronic, mechanical, or other devices have and will have exposure and general access to the least number of other circuits, wire communications, or messages not specified in the order for interception;

(ii) the Government does not use interception techniques wherein random or systematic scanning among wire communications circuits or channels is employed in order to discover, identify, acquire or otherwise intercept possible foreign intelligence information among other private messages or wire communications; and

(iii) the Government neither intercepts wire communications nor maintains access to the subject wire communication circuit during periods of time when there is no reasonable expectation of the interception of the foreign intelligence information described in the order;

—Page 40, strike out lines 9 through 23 and insert in lieu thereof the following:

(3)(A) The Attorney General may not require any communication common carrier to provide the Government with any information, facilities, or technical assistance with respect to any electronic surveillance authorized under this subsection.

(B) Any communication common carrier voluntarily providing any such information, facilities, or technical assistance—

(i) shall maintain any records concerning the surveillance or any such assistance which such common carrier wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence; and

(ii) shall be compensated for providing such information, facilities, or technical assistance by the Government at the prevailing rate.

Page 50, strike out lines 3 through 21 and insert in lieu thereof the following:

(B) that any communication common carrier, supplier of communications facilities or devices, landlord, custodian, or other person voluntarily providing to the Government any information, facilities, technical assistance, or access to premises with respect to the electronic surveillance shall maintain any records concerning the surveillance or any such assistance which such person wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence; and

(C) that any such communication common carrier, supplier of communications facilities or devices, landlord, custodian, or other person voluntarily providing to the Government any information, facilities, technical assistance, or access to premises with respect to the electronic surveillance shall be compensated therefore by the Government at the prevailing rate.

Page 55, after line 22, insert the following new subsection:

(h) An order under this section authorizing electronic surveillance may not require any communication common carrier, supplier of communications facilities or devices, landlord, custodian, or other person to provide the Government with any information, facilities, technical assistance, or access to premises to accomplish the authorized surveillance.

—Page 40, after line 23, insert the following new paragraph:

(4) If in the course of a surveillance authorized by this subsection any conversation of any individual not a target of such surveillancce is overheard or recorded and if such conversation is not relevant to the investigation, the Attorney General shall notify such individual that such conservation has been so overheard or recorded and shall, upon the request of such individual, furnish such individual with a transcript of such conversation.

Page 50, after line 2, insert the following new subparagraph (and redesignate succeeding subparagraphs accordingly):

(B) that if, in the course of the surveillance, any conversation of any individual not a target of such surveillance is overheard or recorded and if such conversation is not relevant to the investigation, the Attorney General shall notify such individual that such conversation has been so overheard or recorded and shall, upon the request of such individual, furnish such individual with a transcript of such conversation;

—Page 68, after line 15, add the following new section:

SUNSET PROVISION

SEC. 302. The provisions of this Act and the amendments made by this Act shall expire at the end of the five year period beginning on the date of the enactment of this Act.

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H.R. 7308

By Mr. MURPHY of Illinois:

—On Page 38, after line 24 add the following:

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

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H.R. 10285

By Mr. SMITH of Iowa:

—Page 19 between lines 12 and 13, insert the following: Section 8 of the Commodity Exchange Act is amended by inserting after subsection c the following:

"SEC. 8d. The Commission shall revoke the registration of any futures commission merchant, associate of any futures commission merchant, commodity pool operator or floor broker—

"(1) who accepts or places either directly or indirectly any order of the purchase or sale of any commodity for future delivery on any contract market from any person who has been found in violation of the provisions of section 19; or

"(2) who, himself, is a person who has been found in violation of the provisions of section 19.

Any such person whose registration is revoked in accordance with this section shall not be eligible to reapply for registration until twelve months after the date of revocation.".

The Commodity Exchange Act is amended by adding the following new Section:

"SEC. 19. Any person who sells any commodity (as defined in section 2 of this Act) for export shall, within forty-eight hours after such sale, inform the Commission of (1) the date of such sale, (2) the name and full identity of the commodity sold, (3) the quantity of the commodity sold, (4) the name of the buyer and the country or countries to which the commodity is to be shipped, (5) the sale price, and (6) such other information as the Commission may by regulation require. The Commission shall by regulation prescribe the manner in which the above information shall be transmitted. On the first working day following its receipt, such information shall be made available by public announcement and shall remain available for public inspection for a reasonable time thereafter. The Commission shall prescribe regulations to assure that such information shall be disclosed simultaneously to the public and to protect against any person or firm gaining from premature disclosure.".

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H.R. 11711

By Mr. CLEVELAND:

—Page 11, after line 19, insert the following:

SEC. 107. REIMBURSEMENT OF STATES FOR UNEMPLOYMENT INSURANCE PAYMENTS.

(a) Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended by adding at the end thereof the following new subsection:

"(g)(1) If unemployment insurance is paid under a State law to an adversely affected worker for a week for which—

"(A) he receives a trade adjustment allowance, or

"(B) he makes application for a trade readjustment allowance and would be entitled (determined without regard to subsection (c) or (e)) to receive such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payment under Federal law, be reimbursed from funds appropriated pursuant to section 245 (b)(1), to the extent such payment does not exceed the amount of the trade readjustment allowance which such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary on the basis of reports furnished to him by the State agency.

"(2) In any case in which a State agency is reimbursed under paragraph (1) for payments of unemployment issuance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduced rate of contributions permitted by the State law.".

(b) Section 241(a) of the Trade Act of 1974 (19 U.S.C. 2313(a)) is amended by adding at the end thereof the following new sentence: "Sums reimbursable to a State pursuant to section 232(g) shall be credited to the account of such State in the Unemployment Trust Fund and shall be used only for the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.".

(c) Paragraph (3) of section 3302(c) of the Internal Revenue Code of 1954 (relating to credits against Federal unemployment tax) is repealed.

Redesignate sections 107 through 112 as sections 108 through 113, respectively.

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H.R. 12514

By Mr. STARK:

—Page 19, immediately after line 14, insert the following new section 21 and redesignate existing section 21 as section 22:

ARMS SALES TO IRAN

SEC. 21. (a) No defense articles sold or licensed for export to the Government of Iran

under the Arms Export Control Act after the date of enactment of this Act may be used in the performance of any domestic surveillance or police or other law enforcement function or in any activity carried out for internal security purposes which involves the violation of internationally recognized human rights or the suppression of political expression.

(b) Whenever a sales agreement is entered into or an export license is issued under the Arms Export Control Act involving the sale to the Government of Iran of any defense articles which could be used for internal security purposes, the President shall submit a report to the Congress which describes—

(1) the defense articles to be sold or licensed, including the quantity and value of such articles;

(2) the intended recipient and the intended users of the defense articles; and

(3) the assurances provided by the Government of Iran that the defense articles will not be used for domestic surveillance or police or other law enforcement purposes, will not be used to violate internationally recognized human rights, and will not be used to suppress political expression.

(c) The President shall promptly report to the Congress any information obtained by the executive branch which indicates that the Government of Iran may have used defense articles sold or licensed under the Arms Export Control Act contrary to the assurances described in the report submitted pursuant to subsection (b) with respect to those articles.

—Page 19, immediately after line 22, insert the following new section:

TERMINATION OF DELIVERIES OF DEFENSE ARTICLES TO CHILE

SEC. 22. Section 406(a)(2) of the International Security Assistance and Arms Export Control Act of 1976 is amended by adding at the end thereof the following new sentence: "After the date of enactment of the International Security Assistance Act of 1978, no deliveries of defense articles or services may be made to Chile pursuant to any sale made before the date of enactment of this section.".

# EXTENSIONS OF REMARKS

## TRUE FEDERAL PAYROLL EXCEEDS 6 MILLION


## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES


*Tuesday, July 25, 1978*

● Mr. ASHBROOK. Mr. Speaker, the true number of employees on the Federal payroll is staggering. An estimated 6 to 7 million people are being paid with taxpayers' dollars.

Approximately 2.8 million persons are on the official civilian payroll. Another 3 to 4 million more are paid indirectly through government contracts, research grants and matching payments.

Taken together, this means between 6 and 7 million people depend on the U.S. Government for their paychecks. Note that these figures include only those who are being paid for services to the government. They do not include those receiving social security, pensions or welfare.

One area particularly striking is that of the Department of Health, Education, and Welfare. HEW has 144,256 regular employees. In addition, however, the department is paying salaries of another 980,217 people who work at such things as "private think tanks," universities and State and local government agencies. This brings the overall HEW total to more than a million.

As I have said again and again on the House floor, it is time to cut big government down to size. The taxpayers of our Nation should not have to carry such a heavy load. We need less Federal spending and fewer governmental bureaucrats.

Following is an article from the July 18 Washington Post which discusses the true U.S. payroll.

U.S. PAYROLL EXCEEDS 6 MILLION

(By Spencer Rich)

The federal government, which has 2.8 million persons on its official civilian payroll, actually pays the salaries of at least 3 million to 4 million more, according to data gathered by The Washington Post.

The additional workers' salaries are paid indirectly through government contracts, research grants and matching payments for the wages of local government officials.

The federal government has only the vaguest idea of exactly how many such workers there are but, taken together, the figures mean that 6 million or 7 million workers are directly dependent on Uncle Sam for their paychecks.

These figures do not include the approximately 50 million people being supported by federal welfare, Social Security, pensions or public service job programs. They include only those performing some service for which the government is footing the bill.

The extent of these outside programs was underlined recently when Health, Education and Welfare Secretary Joseph A. Califano, Jr., reported to the Senate Appropriations Committee that in addition to the 144,256 regular HEW employees the department is paying the salaries of 980,217 people who work for private "think tanks," universities, state and local government agencies and the like.

"Paid for out of federal funds?" asked an incredulous Sen. Thomas F. Eagleton (D-Mo.)

"That is the point," answered Califano.

Committee Chairman Warren G. Magnuson (D-Wash.), staring at Califano in astonishment, declared, "This is the best public service job program I have ever heard of."

Sen. Ernest F. Hollings (D-S.C.), adding the 144,256 direct HEW employees to the 980,217 figure cited by Califano, shot out, "My God, we are over 1 million."

Experts said later that these 980,217 HEW-funded "outside-the-walls" jobs average "somewhere between $10,000 to $20,000 each" in annual salary.

The Defense Department, which has 1 million civilians (and 2,049,000 military personnel) directly on its payroll, estimated that an added 2,050,000 people "outside the walls" receive salaries funded by DOD through research and service contracts and DOD procurement and construction activities.

Most other federal agencies didn't have similar precise figures worked out, but conceded that research contracts and grants help finance the salaries of hundreds of thousands of persons not directly employed by the departments.

A source at the Department of Housing and Urban Development took a "top of the head" guess that the figure for HUD would be at least 100,000. The Department of Energy said that 104,000 persons employed by outside contractors run government laboratories such as Argonne and Oak Ridge, and that "a whole bunch more" people are employed by contractors performing other services or research for DOE but that the exact number isn't known.

The Labor Department said it funds the salaries of 135,000 persons employed in administrative and related jobs by state and local government agencies—about three-quarters of them work in state employment services for which the United States pays 100 percent of costs.

These figures illustrate how the federal government, without appearing to be enlarging its labor force, is actually swelling the rolls of those dependent on it for jobs and is obtaining extra services without officially adding to its payrolls.

"They are shipping the money out through the state and local government and private research firms and having the work done there," a Senate Appropriations aide said.

A breakdown provided by Califano of the 980,217 figure illustrates how this is done.

His figures show that 87,777 persons in universities and 32,383 in nonprofit research institutions, plus 113,919 at private businesses had their entire salaries financed by HEW research grants, research contracts and service contracts.

The biggest share of these were medical researchers to whom the National Institutes of Health pumped out $1.4 billion in research contracts and grants in fiscal 1977.

But this group also included employees of "think tanks" like the Urban Institute and the Rand Corp., which received federal grants or contracts to perform social sciences research. These two organizations and dozens of others get the vast bulk of their income from HEW, HUD and other federal research contracts, and they employe thousands of persons.

This is also the case with the Medicare program, in which the federal government pays Blue Cross/Blue Shield and other nonfederal health groups to help run the program. HEW said that 26,537 persons in Blue Cross/Blue Shield and similar groups acting as Medicare "intermediaries" were paid with money from HEW.

A huge bloc of state and local government officials and private individuals under state and local contracts have their salaries funded by HEW through grants specifically designated to cover such salaries. For example, the United States helps the states pay for personnel to administer the local welfare and Medicare programs. Califano said HEW payments for this purpose cover the salaries of about 160,000 persons on state and local payrolls on a full-year basis.

Moreover, Califano reported, it gave states and local governments and other entities the money to pay the salaries of about 350,000 teachers and educational administrators and well over 100,000 social workers and other personnel in childcare, child welfare and related children's services.

In all these cases, HEW doesn't pay the salary directly. It simply gives the money to various research organizations and to state and local agencies and they in turn pay salaries for the services HEW wants financed. Technically, these people aren't HEW employees, but in reality HEW is buying their services.

The swelling tide of federal money helps explain the apparent slow growth of federal employment and the skyrocketing growth of state and local government payrolls.

Federal civilian payrolls rose from 2.1 million in 1950 to only 2.8 million persons in 1978—a jump of about a third. But state- and local-government payrolls, fueled by federal money, tripled to over 12 million persons in the same period.●

## A TRIBUTE TO GENERAL PULASKI

### HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. FARY. Mr. Speaker, the United States is properly called "A Nation of Nations." From its beginnings, people came to our shores from all parts of the globe. During the Revolution which we were engaged in at this time 201 years ago, men from many nations came to participate in our war. Among these countless individuals are a number of outstanding names. France gave us the Marquis de Lafayette and Admiral d'Estaing. Scotland gave us John Paul Jones, Ireland gave us John Barry, Poland gave us Thadeusz Kosciuszko and Count Casimir Pulaski.

Two hundred and one years ago Count Pulaski, age 30, debarked from a ship at Marblehead, Mass., to make his contribution to our revolution.

Before coming to our shores, Count Pulaski since he was 20 had already made a name for himself as a revolutionary in his Polish homeland. In 1769, in protest against the growing foreign domination of Poland, he joined his father and brothers in an uprising against King Stanislav II. When he failed to kidnap the king, he was declared an outlaw in his homeland and eventually went to France where he was penniless and unemployed.

In Paris his fame as a revolutionary soon secured for him an introduction to the American representatives—Benjamin Franklin and Silas Deane. He offered his services to the American insurgents.

Around that time he wrote:

I would rather live free, or die for liberty. I suffer more because I cannot avenge myself against the tyranny of those who seek to oppress humanity. This is why I want to go to America.

On May 29, 1777, Franklin wrote a letter from Paris to General Washington introducing Count Casimir Pulaski. On June 5, Deane advanced him the necessary funds for his voyage to America.

A month after he arrived in Massachusetts, he met with General Washington, who accepted Pulaski's services in the American Revolution. Washington wrote to the Continental Congress suggesting that Pulaski be given the command of all the cavalry.

The Continental Congress commissioned him with the rank of brigadier general. Later they made him chief of the cavalry.

In Washington's army he served in the battles of Brandywine and Germantown. In 1778 he formed the Independent Corps of Light Cavalry and Infantry—known in history as Pulaski's Legion—at the head of which he tried to exploit his experiences in guerrilla warfare.

After complaining personally to the Congress that he blushed to find himself "languishing in a state of inactivity," he was sent to protect American vessels operating against British shipping at Egg Harbor, N.J. There, on October 15, 1778, through information given by a deserter, the British surprised and cut up Pulaski's Legion.

After this defeat, he gradually became restless and disappointed at the way the Revolution was going. He even expressed the wish of returning to his native Poland. He complained again on November 26 to the Continental Congress that there was "nothing but bears to fight."

After 3 months he was ordered to support General Lincoln in South Carolina. He suffered another defeat in Charleston, S.C.

Later, in Georgia, he joined forces with General Lincoln. Assisted by the French fleet under Admiral d'Estaing, they prepared to attack Savannah. On August 19, before the battle, he wrote a long letter in which he detailed the disappointments that he had encountered in the American military service "which ill treatment makes me begin to abhor." He expressed the hope that he might still find the opportunity of proving his devotion to the American cause.

On October 9, 1779, at the siege of Savannah, General Pulaski bravely and impatiently charged the British lines at the head of his cavalry and fell with a mortal wound.

He was removed to the American ship *Wasp*, where surgeons were unable to remove the bullet. He died on board that ship, probably on October 11, on its way back to Charleston. He was only 31 years old.

General Pulaski is still remembered in the history of our Nation. Monuments exist in many cities to keep his memory alive. In my hometown of Chicago a plaque commemorating the memory of Casimir Pulaski is at the new John C. Kluczynski Federal Building, where I have a district office. In Washington here in the U.S. Capitol Building General Pulaski's statue stands in recognition of his services to the American Revolution.

Casimir Pulaski's service to the cause of the American Revolution was not unlike those of our other great leaders, including George Washington. History records that the 7 years of the Revolutionary War were years of disappointment, discouragement, and despair for these leaders. Money was scarce, desertion was high, and the defeats were discouraging. Yet, history also records the victory at Yorktown.

Washington and Lafayette lived to see the final victory, but unfortunately Pulaski joined the ranks of other heroes who lost their lives in battle. Pulaski was fortunate in his last days for his gallant charge served to ennoble him in the eyes of posterity despite his mistakes.

He won for himself the title of "Father of the American Cavalry." He also saved Washington's army twice from disruption. He was willing to make the necessary sacrifices for his ideals—both in his native Poland and here in the United States. He abandoned the wealth and comfort that one associates with the nobility of Europe to help win independence for Poland and for the United States.

And so, Mr. Speaker, I join with my fellow Polish-American colleagues in the House of Representatives as well as my fellow Americans of Polish heritage, in paying tribute to Count Casimir Pulaski, who won a place in the history of both Poland and the United States.●

## CAPTIVE NATIONS WEEK

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. DERWINSKI. Mr. Speaker, last week, as the Members know, was Captive Nations Week, which was appropriately observed in the Congress as well as across the country. This commemoration also received attention throughout the free world as evidenced by the article in the July 16, China Post, published in Taipei, Taiwan, Republic of China. I insert this commentary at this point:

THE CAPTIVE NATIONS WEEK OBSERVANCE

Beginning today, Captive Nations Week will be observed by the people of the Republic of China. A series of colorful events is scheduled for the week from July 16 to July 22. Anti-Communist leaders from six continents and more than 30 youth leaders will take part in these events.

The observance of Captive Nations Week is in accordance with the Captive Nations Week Resolution passed by the U.S. Congress and signed into law by the late U.S. President Dwight Eisenhower in 1959. Since then, Captive Nations Week has been commemorated by the people of the free world to remind themselves of the plight of captive peoples behind the Iron Curtain.

As the resolution clearly stated that "the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds between the United States and other peoples," and "since 1918 the imperialistic and aggressive policies of Russian Communism have resulted in the creation of vast empire which poses a direct threat to security of the United States and of all the free peoples of the world," it calls for keeping alive the desire for liberty and independence on the part of the people of these conquered nations.

There is indeed a sharp contrast between those days of calling for liberation for the people behind the Iron Curtain and the present period of abject appeasement adopted by the free world's leaders. The Eisenhower-Dulles policy of containment and resistance to Communism has been re-

placed by the Nixon-Ford-Carter policy of negotiation and compromise if not surrender. As a result, more nations have been put behind the iron curtain and countless millions of free people were enslaved and persecuted. Thus in addition to the list of countries subjugated by Communism in 1959, three Indochinese nations and several nations on the African continent have succumbed to Communist conquest increasing the total number of captive nations to 32.

The Communist rulers also resorted to unprecedented reign of terror in the occupied territories. On the Chinese mainland, the Peiping regime has slaughtered more than 85 million innocent people during its reign of terror. The campaign to liquidate its opposition goes on unabated as the inhuman authorities are conducting an incessant purge against the "gang of four" remnants. The recent murder of three human rights fighters by the pseudonym of Li I Chi proves that its wanton violation of human rights is even more cruel and despicable than the Soviet trial of Shcharansky and Ginzburg.

In the Indochinese peninsula, the number of people indiscriminatorily slaughtered by the captors runs into millions. In Cambodia alone, it was estimated that more than 2.5 million people have been killed. The number of people killed in South Vietnam after the Communist take-over remains inestimable. But it must also run into millions. It was reported that more than 73 million people have been killed or sent to the concentration camps behind the Iron Curtain.

In view of the recent stepped up activities of the Soviet and Chinese Communists, this year's observance of Captive Nations Week will have special significance. The outcries of the enslaved people behind the Iron Curtain countries are growing louder with every new move of appeasement by the short-sighted leaders of the free world who try to seek temporary detente with the inhuman Communists which will only lead to phoney peace and fleeting security. Their hope of pitting the Chinese Communists against the Soviets will end up in their own destruction.

It is high time for free people everywhere to rededicate their efforts in relieving the plights of the captive people behind the Iron Curtain countries and fortify their resolve not to snub "the captive people's aspiration for the recovery of their freedom." They should indeed act in accordance with the theme of Captive Nations Week observance to "promote human rights and liberate enslaved peoples."●

## EXPLANATION OF VOTES MISSED JULY 21, 1978

### HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. EDGAR. Mr. Speaker, on Friday, July 21, 1978, I had business with the Select Committee on Assassinations that required my absence from Washington. Therefore, I was unable to vote during session that day. Had I been in Washington, I would have voted as follows on those votes missed:

Rollcall No. 581. For the House to resolve into the Committee of the Whole; "yes";

Rollcall No. 582. Amendment to H.R. 12433, Housing and Community Development Amendments to 1978, to prohibit use of funds for the reorganization of or transfer of any function of any area, field, or insuring office relating to multifamily housing or community planning or development; "no";

Rollcall No. 583. Amendment to H.R. 12433 to strike provisions requiring that FAIR insurance rates be no higher than those set by the principal State-licensed rating organization for essential property insurance on the private market; "no";

Rollcall No. 584. Amendment to H.R. 12433 to prohibit social security increases occurring after May 1978 from being considered as income for purposes of determining eligibility for, or amount of assistance available to, any recipient under public housing laws; "yes";

Rollcall No. 585. Final passage of H.R. 12433; "yes"; and

Rollcall No. 586. District of Columbia appropriations, fiscal year 1979, H.R. 13468; "yes."●

## REPRESENTATIVE BENNETT'S REMARKS AT NCOA CONVENTION

### HON. MENDEL J. DAVIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DAVIS. Mr. Speaker, a few weeks ago our colleague, the Honorable CHARLES E. BENNETT, First District of Florida, was presented the Non Commissioned Officers Association of the U.S.A. (NCOA) "L. Mendel Rivers Award for Legislative Action." The presentation was made by the association's president James O. Duncan at the 17th Annual NCOA International Convention held in the Dunes Hotel and Country Club, Las Vegas, Nev.

In accepting the handsome plaque, Mr. BENNETT offered some thought-provoking words to his audience. I feel they should be brought to the attention of all of us involved in setting the priorities for this great Nation. As he suggests:

Our "Common Cause" in America today should be to see that our priority is the security of the United States.

"Why?" is explained in the text of his speech. It reads as follows:

REMARKS OF REPRESENTATIVE CHARLES E. BENNETT

Mr. President, members, distinguished guests, ladies and gentlemen, I am grateful that there is a fine organization like the noncommissioned officers association and its official effective leadership.

I am deeply grateful for the honor you give me on this occasion. I accept it humbly, in a Representative capacity in behalf of all in Congress who made possible the things that you are considering in this award.

Let us consider for a few minutes the reasons why your great organization is so important to our country and to freedom in the world today. The struggle to protect our Nation and to gain and preserve freedom for mankind is perhaps the most important thing that mankind pursues today. Your organization is an important force for these important objectives and I congratulate you on your objectives and your work in this direction. It is in the best traditions of America.

When French Huguenots seeking religious freedom came to Florida's St. Johns River in 1564 they not only began the permanent European settlement of what is now the United States, but they were the first to arrive here in a search for liberty. Our English roots date from the 1607 settlement at Jamestown, Virginia, and the American free enterprise system may be said to stem from that settlement, since it was a business venture and a successful one. Everyone knows of the spirit of freedom and independence which motivated the 1620 Plymouth colony up in Massachusetts.

Many of those who came to our shores were fugitives: Fugitives from a feudal system which denied them individual rights and democratic liberties.

They came to America looking for freedom—for the kind of life European tyrannies made impossible.

They were "free" spirits and they built a "free" land and a new concept of citizenship.

George Washington knew the nature and character of these frontier Americans and articulated the new design of national defense when he stated: "Every man who enjoys the blessings of a free government owes his service in defense of it."

In the days of the revolution there was a phrase "the common cause", often used, and it had a special meaning.

There were many reasons for discontent with the mother country England—many causes which were not the common cause. There were excessive taxes and taxes without representation; impressment of seamen into the naval service; and the legal inability to be tried by one's peers and neighbors.

There were many different points of view as to what was desired in the new world. There were abolitionists who opposed slavery and others who advocated it.

There were those who thought that only property owners or the wealthy should be allowed to vote. Some favored an autocratic type of government.

There were people who felt that the government should see to it that religion fluorished; others were aetheists.

There were a myriad of different points of view among our founding fathers but there was only one "common cause", and that cause, common to all, was a strong independent nation, a nation in which the people could set new goals in new times but always protecting individual liberties.

That was the common cause of 1776 and it should be our common cause in 1978.

Today there are many points of view as to what the Federal Government should do. Almost every problem that is nationwide is considered a prime target for national legislation and financial support despite restrictions of the Federal Constitution designed to keep governmental power at grassroots level.

Today there are different points of view about abortion, welfare programs, bussing, equal rights for women, revenue sharing, foreign aid, affirmative action programs and a host of other proposals already adopted or being considered for adoption.

But should not our "common cause" in America today be to see that our first priority is the security of the United States so that our freedoms and liberties can be protected and good new ideas have a chance to flourish? If, in fact, we spend so excessively of the national tax income for things other than national defense, isn't it possible that all of the other benefits which our society enjoys may be imperiled?

We should not spend one cent more than we need for national defense. We should not spend one cent less than we need for national defense.

For two centuries, Americans have died on the battlefield to keep our country strong

and free. Their sacrifice challenges us to ensure the survival of this great country they died for. We can best do this by maintaining a defense powerful enough to deter potential aggressors. Therefore, it is appropriate on this occasion to examine the progress of defense legislation in Congress so far this year.

We must make certain that our men and women in uniform have the necessary resources to protect and defend the cherished freedoms and liberties that we possess. To do otherwise would surely invite disaster, destruction and defeat of all the ideals that we hold so dear.

These resources include people-programs and benefits. They may not be the most glamorous aspects of our defense budget as compared to new weapons systems and hardware, but they are essential to the well being and morale of our military forces.

As such, we must not lose sight of their importance in our discussions and consideration of our national defense posture.

Our military personnel should not be treated like second class citizens, performing as they do the foremost duty of citizenship—the protection and defense of their fellow Americans' security. America's attitude toward the military man must be improved. In spite of all of the sacrifices that are made by those in the services, there is constant nitpicking about the commissaries, medical benefits, double-dipping, and the civil service practice of giving veterans a five-point advantage on examinations. A little gratitude would be a good substitute for such carping.

I am proud that the House Armed Services Committee has stood by our enlisted personnel. We have rejected a number of efforts that would have the effect of eroding earned benefits. In addition, the committee is taking action to maintain and improve many existing benefits.

The committee has strongly endorsed appropriation of funds for travel and transportation entitlements for dependents of junior enlisted personnel. In addition, we have initiated a series of hearings on the plight of junior enlisted personnel stationed overseas. Testimony of servicemen most directly affected has been obtained by calling in junior enlisted personnel who have recently returned from overseas and who are stationed in the Washington, D.C., area. The committee's deliberations are not intended to remove all the privileges of rank, but to reflect the desire to ease, in the most equitable manner possible, the financial strain experienced by those members who are least able to bear the burden of high overseas cost.

We clearly recognize the value of incentives. Enlistment and reenlistment bonuses, for example, have proven to be valuable elements of compensation for attracting and retaining qualified enlisted members in the most critical skills.

The house, as part of its deliberations on the Department of Defense authorization bill, has passed a two-year extension of the present authority for providing these bonuses. Without this action no new enlistment or reenlistment bonuses could be offered after September 30 of this year. This action, initiated by the committee, will result in the timely extension of these helpful bonuses.

A word about the president's commission of military compensation is in order. The commission has submitted its recommendations to President Carter who has asked the Department of Defense for comments on these recommendations. There is no consensus yet within the Department of Defense on the specifics of these recommendations. I do not know at the present time what the final recommendations of the administration will be in this area. It is understood, in fact, that the proposals will not be submitted to the Congress until much later this year or not even until next year.

At this point, neither I nor any other Member of Congress can forecast with any certainty what changes, if any, may eventually be made in the military compensation and retirement system. I can assure you, however, that before any change is made, full and deliberate consideration will be given to the effect of any change on the ability of the Armed Forces to attract and retain the personnel with the qualifications required and in the numbers necessary to provide adequately for the Nation's defense.

In addition, I can assure you that particular attention will be given by the Congress to those career members of the Armed Forces who have been serving with the understanding that they are building an equity in the retirement system as it is now constituted. In the case of individuals who have devoted a substantial number of years of service to the Nation in the Armed Forces, I believe I can assure you that special provisions would be included to protect that equity in the present system.

Another issue that is of concern to the committee and one in which the members have been very active is the fight to maintain the commissary subsidy. Action has been taken in the Senate recently to phase out the subsidy but this shortsighted effort has been defeated so far.

Of interest to you also is the fact that the House has passed legislation that would substantially improve the current survivor benefit plan, particularly for enlisted members. This bill, passed by a 391–0 vote in the House last September, has been referred to the Senate Armed Services Committee. We are still hopeful of final action on this bill this Congress and the support of associations such as yours is critically important in attaining this end result.

Another matter that I have watched with some concern is the number of first term enlistees in the Department of Defense who do not complete their enlistment. At present, almost 40 percent of enlistees fall in this category.

Attrition of this magnitude is very serious, and there are many causes. One major contributing cause has been the number of personnel discharged under the trainee and expeditious discharge programs. These programs are, of course, useful management tools to permit an accelerated release of individuals not suited to military service. On the other hand, it appears they are becoming a substitute for leadership. Clearly, a percentage of the marginal performers can become productive if given the proper direction, and the services have an obligation to do this.

It is an extremely unfortunate situation when up to 40 percent of the 400,000 individuals enlisted each year are released as unsatisfactory. Further, the effect on recruiting that results when these individuals return to their neighborhoods could be a problem with long-term consequences for the all volunteer force.

I think that the key to the solution in this area lies with the NCO. You have the most contact.

You have the most influence. You can turn this situation around; and turn it around we must. A declining male youth manpower base means that every effort must be made to stabilize our personnel pool.

I realize that the Department of Defense is seeking to deal with this problem by reducing the amount of unplanned attrition, particularly during the first enlistment; increasing the use of women in the military, and attempting to substitute civilian manpower for military manpower wherever possible. Nonetheless, in my view the bottom line remains that we must make certain that our military have the wherewithal to do their job.

As one who has been involved intimately through the years with our Navy shipbuilding program, I believe firmly that our people come first. There is no question that we must continue to modernize our fleet. Yet, even with the most modern fleet in the world our Navy cannot do its job without well-trained and well-qualified personnel. People are the first line of our national defense. But I would also like to discuss some other aspects of the recently House passed $38 billion military procurement bill in the context of the challenges of these times.

Today America is more at an important crossroads in defense matters than at any time in the last three decades. This is so because, assuming we are equal to our potential enemies in defense strengths today, this will not be so several years from now if the Soviet current increasing military strengths are not met by at least a 5 percent increase over inflation in our own efforts. This is not a large figure but a failure to meet it could encourage a Soviet initiated world war or a requirement by them that we make major concessions not in our national interest.

In January, President Carter unveiled his FY 79 defense budget. Although his budget does represent a modest increase in defense spending, the public has been given the erroneous impression that this budget is generous to defense objectives.

The defense request went up this year 9.4 percent (including projected inflation) while health expenditures went up 12.2 percent, education 10.7 percent, energy 23 percent, and international affairs 14 percent. You will note that all of these went up a larger percentage than defense did. The biggest dollar increase in the fiscal 79 budget was not for defense but for income security—a whopping $12.4 billion increase.

While in the past 15 years we have been cutting the defense percentage of expenditures in half, we have doubled the direct payments to individuals item. Direct payments to individuals now greatly exceed the defense outlay in dollars.

The Brookings Institute tells us that in the last 15 years the Soviets have pushed rapidly forward in defense: That they have, for example, increased their strategic nuclear power five fold; and expanded their ground forces from 140 divisions to 170. We have today our smallest navy since 1939.

This year the Presidential defense budget is passing up the B–1 bomber, passing up a nuclear or non-nuclear carrier and is cutting all forces by 20,000 men in uniform and 13,000 in civilian jobs. Naval reserves are recommended to be cut from 94,100 to 51,400.

If carried out, the 1979 national defense budget would be a calamity, grossly inadequate for our country's security requirements.

General Brown, the chairman of the joint chiefs of staff said to our committee earlier this year:

"In looking back over my previous (four annual) reports to you, I am struck by the fact that in nearly every area of military strength there has been a relative decline over the years in relation to the Soviet Union."

I am glad to report that the house, following the lead of its armed services committee, has two weeks ago approved important and greatly needed increases in defense spending over the President's budget.

The President had requested $35.5 billion for weapons procurement, research and development, and civil defense. However, the House by a vote of 319 to 67 approved a defense authorization bill providing $37.9 billion for these activities.

The President's inadequate shipbuilding budget ignored the recommendations of top level Navy officials and naval experts for an accelerated shipbuilding program. Admiral

James Holloway, Chief of Naval Operations, recently stated that the size of today's Navy does not realistically represent a two-ocean navy.

The increased defense spending comes mainly in the Navy's shipbuilding program. The additional funding will provide for a new nuclear aircraft carrier and a nuclear strike cruiser, neither of which were requested by the President.

The Navy has dropped from a high of more than 900 ships in 1970 to a low of 459 ships this year.

Last May, President Carter offered hope that this trend would be reversed when he presented a new five-year shipbuilding program that included 30 ships and $8.5 billion for FY 79. However, the President's actual budget for FY 79 requested only 15 new ships at a cost of $4.7 billion. In less than a year, 15 ships and $3.8 billion disappeared from the President's shipbuilding request.

In 1978 it will take a real fight in Congress to obtain the national defense that this country needs to prevent war; or to win if war should come. We cannot shirk that responsibility.

George Washington in the darkest hours of the Revolution once received a long listing of troubles from one of his subordinate generals and wrote back, "When is the time for brave men to exert themselves in the cause of liberty and their country if this is not it?" Thomas Paine once said, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

I believe the American people are not fatigued with the defense of our country. They support the "common cause" to see that our defenses are adequate to protect the security of our country.

They and you give this "common cause" top priority. And in you lies our best hope for the achievement of our "common cause"—the protection of our country; and the securing for ourselves and generations yet to come, the blessings of democracy and individual liberty.●

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## THE SOVIET UNION IS REPROCESSING SPENT FUEL AND CONTROLLING NUCLEAR PROLIFERATION AT THE SAME TIME

### HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. ANDERSON of Illinois. Mr. Speaker, several weeks ago I wrote a letter to President Carter expressing my deep concern over the implications of his indefinite deferral of commercial reprocessing and the fact that other nations are moving ahead to develop this needed technology irrespective of U.S. policy. Other nations need not only the energy values in reactor spent fuel, but also view reprocessing as a better means to manage radioactive waste.

Our distinguished colleague from New York, JACK WYDLER, visited the Soviet Union in March to review that nation's nuclear energy programs. Mr. WYDLER's report on that trip has just been released by the Committee on Science and Technology, of which he is the ranking minority member. In that report, he clearly states the Soviet position on reprocessing and why they view a positive forward program as a greater deterrent to proliferation than withdrawal from the field, as President Carter has done. I am inserting that part of Mr. WYDLER's report dealing with reprocessing policy in Russia:

The Soviets are strong proponents of nonproliferation. However, their approach to this issue differs somewhat from ours. In some respects they are more restrictive than we are in others they are more liberal. For example, they require that all spent fuel of Soviet origin in foreign reactors be returned to the U.S.S.R. for storage and/or reprocessing. At present, we have no such requirement with respect to fuel elements of U.S. origin. On the other hand, the Soviets look favorably toward reprocessing as a means of increasing their nuclear fuel supplies and have no intention to halt work on plutonium cycle breeder reactors. Their approach to nonproliferation is to improve safeguards rather than to seriously consider alternative fuel cycles. The Soviets indicated that they are doing R&D on a fuel cycle similar to the diversion-proof CIVEX process. In spite of these views, they participate in the International Fuel Cycle Evaluation (INFCE).●

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## MEAT IMPORTS—PRESIDENTIAL DECISION SHOWS NEED FOR A SANE IMPORT POLICY

### HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. BAUCUS. Mr. Speaker and fellow colleagues, early in June the President announced his intention to increase meat imports by 200 million pounds, or roughly 15 percent, in 1978.

The ill-advised, short-sighted decision has had a terrible impact on cattle markets. As soon as the increase was announced, my office received reports that cattle buyers were cancelling major livestock orders in Montana.

Cattle prices fell $10 per hundredweight after the announcement was made. In Montana, the demand for feeder calves virtually disappeared.

But consumer beef prices increased 2½ percent during June. The President's decision was a blow to cattlemen that has yielded no relief to consumers.

The only thing cattlemen want from their Government is a fair deal. They have never asked for supports or subsidies.

They are not getting that fair deal. When prices climbed to a level this spring that would give cattlemen their first profit in 4 years, an administration spokesman announced that prices "have gone up too far, too fast."

The increase in imports that soon followed effectively destroyed cattlemen's confidence. At a time when this Nation needs expanded herds to satisfy its demand for beef, many cattlemen tell me that they are selling out. They fear that the administration will take additional steps to keep beef prices below costs of production.

They have good reason to be wary. Beef import quotas were suspended by the administration every year from 1970 through 1974. Only after the beef market crashed in 1974—largely because of President Nixon's decision to freeze prices—did administration interference stop.

The Senate has passed a bill to eliminate weaknesses in our current beef import policy. The Senate legislation, H.R. 5052, is similar to a bill I introduced—H.R. 12612.

The legislation establishes a countercyclical formula to stabilize beef prices. It extends import quotas to cover cooked, canned, and processed meats and sharply curtails the President's authority to arbitrarily expand imports.

My bill also includes language—not in the Senate version—to limit live cattle imports. Such imports can severely disrupt local markets in border States like Montana.

The countercyclical formula would adjust beef imports depending on the supply of domestic beef available. Thus, when domestic supplies were high and prices low, imports would be reduced. In periods when domestic supply was small, imports would increase.

The countercyclical formula provides for about the same average imports as current law. But the imports would be timed to provide minimal disruption of domestic markets and contribute to price stability.

If the proposed countercyclical formula had been in effect this year, import quotas would have increased somewhat. But cattlemen could have planned for the increase, and they would have been assured that in future years if prices had decreased, imports would have been curbed.

A countercyclical formula for beef imports provides benefits for both consumers and producers. The opposition comes from foreign countries that export beef.

In fact, a USDA official recently told one of my staff members that "foreign cattlemen have more influence in the administration than our own producers."

That situation is deplorable. I would urge this House to act now to cut back administration authority to meddle with the livelihoods of thousands of domestic cattlemen.

It is high time we establish a meat import policy that assures consumers a steady supply of beef at reasonable prices while providing cattlemen adequate incomes.●

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## PERSONAL EXPLANATION

### HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. FORSYTHE. Mr. Speaker, on June 28, 1978, I was unavoidably absent from the House for three votes. On these measures I would have voted as follows:

Rollcall No. 500, demand for a second on the motion to suspend the rules and pass H.R. 11886, veterans disability compensation: "aye."

Rollcall No. 504, demand for a second on the motion to suspend the rules and pass the bill to provide for accelerated Federal research on developing energy

cells to convert sunlight to electricity, H.R. 12874, solar power research: "aye."

Rollcall No. 512, amendment to waive the Davis-Bacon Act prevailing wage requirements for housing rehabilitation projects, H.R. 12433: "aye."

On June 29, 1978, I was unavoidably absent for a vote. I would have voted "aye" on rollcall No. 514, a motion that the House resolve itself into the Committee of the Whole for consideration of H.R. 12433, housing and community development.

On July 12, 1978, for unavoidable reasons, I was unable to vote on a measure before the House. I would have voted "aye" on rollcall No. 537, an amendment to allow local education agencies to qualify for special matching Federal grants.

On July 19, 1978, I was unavoidably absent from the House for one vote and would have voted "aye" on rollcall No. 572, a move to order the previous question on the motion to recommit the conference report on the Agricultural Credit Act to the Committee of Conference.●

## A DISASTER—FOREIGN INTELLIGENCE SURVEILLANCE ACT

### HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. ERTEL. Mr. Speaker, revelations of past abuses by the intelligence community have incensed the public to the point of demanding greater safeguards against intrusions into their privacy. In addition, prosecutions of former FBI officials, accusations of questionable CIA activities and a general revulsion for tactics that violate civil rights have aroused an effort to fashion "standards" or "guidelines" to govern the behavior of intelligence agents. These upheavals in the intelligence community have converged with such a force that Congress has taken far-reaching steps to correct these defects.

Unfortunately, the steps reach too far. There is no doubt that attitudes have changed and in so changing label as abuse those actions formerly countenanced by the Government and the public. It is also apparent that the outcry against past tactics and the new expectations have cast a pall over the intelligence community, which now balks at assignments that may later subject agents to reprisals.

No doubt the absence of statutory regulations or guidelines has contributed to an uncertainty that might impair our foreign intelligence operations. However, the procedures established by this bill for securing warrants to authorize electronic surveillance for foreign intelligence-gathering purposes do little to respond to the concerns that have surfaced. Instead, they perpetuate the lack both of accountability for agency actions and of guarantees against abuse. Rather than establish standards subject to careful scrutiny, the legislation blurs the constitutional delineations between functions of the Government and leaves the public with no, not greater, recourse against abuse.

This legislation is riddled with so many defects that its passage would further damage, rather than improve, the conduct of foreign intelligence operations. The legislation is a compromise, the worst of all worlds—a compromise of our intelligence community, our civil liberties, our judicial system, and our form of government.

I. COMPROMISE OF THE INTELLIGENCE COMMUNITY

The creation of a special court to rule on warrant applications for electronic surveillance in foreign intelligence activities poses a serious threat to the integrity of those activities.

Security problems would only be exacerbated. The existence of one court in one location increases the vulnerability of its proceedings to infiltration by foreign agents. The infiltration of this court would jeopardize all of our electronic surveillance of foreign agents. We would have effectively put "all of our eggs in one basket." By this legislation, we have helped foreign agents to isolate the one spot where all the information on our electronic surveillance is concentrated. We have unwittingly helped them solve one of their problems—the location of the information. The only problem left for them is to infiltrate the court.

Furthermore, the circle of people with access to information on foreign intelligence operations through this court, or to that information actually gathered through the electronic surveillance, widens far beyond those who need to know, thus increasing the risk of leaks and comprising national security.

The combination of these problems give foreign intelligence agencies reason to concentrate on this one court in our judicial system in their counterintelligence activities. Despite the requirement, under title I, section 103(d), that the chief judges of the special courts consult with the Attorney General and the Director of Central Intelligence in setting up security measures, the judiciary's lack of experience in the area of protecting national security interests will invite attempts to break down its security entirely.

This bill further undermines foreign intelligence operations by requiring a criminal nexus to justify the surveillance of a U.S. person. An application for a warrant must certify that the target of the surveillance is either a foreign government or an agent of a foreign government. To target a U.S. person, there must be a determination that his intelligence activities on behalf of a foreign power "involve or may involve a violation of the criminal statutes of the United States."

As Robert H. Bork noted in his testimony before this subcommittee:

> If a United States person is knowingly engaging in clandestine activities on behalf of a foreign power, that person ought to be under surveillance whether or not there is reason to believe that a crime may be committed. It is important to know who is working undercover for foreign governments and to know what networks exists.

The assembly of a complete picture of an intelligence operation is much like completing a jigsaw puzzle. Small pieces are joined together to constitute an entire picture; however, this legislation prevents the completion of that picture. The mechanism of court-issued warrants necessitates either that the intelligence community hope that the court defers to its expertise in determining the value of the information sought and the application's adherence to the standards, or risk subjection to the whims of a judge who may consider himself to be a foreign affairs expert. How is the judge to know the picture in order to make the judgment when only the total accumulation of knowledge, with which the judge has no experience, can develop that overall picture? This defies the establishment of any uniformity with respect to what is acceptable and unacceptable in foreign intelligence surveillance. The possibility of differing constructions of the standards, rendered in secret, does little to promote consistency or protect against abuses.

Judges' philosophies vary radically, and our intelligence communities will have no way to determine what a judge will authorize. It may be argued that because of the appeals process, we will establish when a warrant has been refused incorrectly. After all, if a judge refuses the warrant, an appeal lies to the appeals court. However, the delay in instituting an appeal (and getting a decision) may cause the intelligence opportunity to pass.

II. COMPROMISE OF THE FEDERAL JUDICIARY

This legislation proposes to thrust the judiciary into a foreign policy role under the guise of exercising traditional warrant powers. The argument that the authority to issue warrants for foreign intelligence surveillance is no different from the authority to issue warrants in criminal investigations is specious for a number of reasons.

To require a court to approve or reject applications for warrants for foreign intelligence surveillance is to involve the judicial branch in a managerial function belonging to the executive branch. The bill deliberately assigns to the judiciary the actual administration of a law and serves to aggravate a growing movement toward "judicial imperialism," wherein the judiciary has become overinvolved in legislative and executive activities. As Prof. Robert Bork of the Yale Law School testified:

> No one should underestimate the strength of the tendency displayed by the judiciary in recent years to take over both legislative and executive functions.

By dragging the courts into the foreign intelligence arena, this bill blurs the constitutional boundaries between the judicial and the executive and legislative branches of Government. This poses a problem of no lesser proportions than the ones the bill purports to solve. The authority the court would exercise under H.R. 7308 is one envisioned by the proponents of the legislation, not by the Constitution, and certainly is not a prop-

er function of the court. If the court is to exercise the supervisory powers envisioned by this bill, the judge will have to become a foreign intelligence expert, a function which is hardly judicial in nature.

The article III judicial power extends to cases or "controversy to which the Unite States shall be a party." This legislation, broadening the judicial power to include warrants for foreign intelligence surveillance, is absent the required element of a case or controversy to give rise to Federal court jurisdiction; therefore, this can hardly be regarded as a legitimate judicial function. Generally, this particular warrant procedure will never be part of a case or controversy, whereas, in the criminal law, a warrant is issued based upon a criminal case. I would seriously doubt that this legislation would pass constitutional muster.

The determination to issue a warrant under this bill includes policy determination on questions of foreign affairs. For instance, under title I, section 105(a), the judge may "enter an ex parte order as requested *or as modified* (emphasis added) approving the electronic surveillance based on his judgment of the data submitted by the applicant. To modify the request most certainly would involve independent assessments by the judge of the need for and propriety of the surveillance. Foreign policy judgments would have to be made to establish any modifications. Judicial supremacy in this Nation does not mean that judges are so infallible that they should oversee our foreign affairs.

What qualifies a judge to make such independent assessments? How can this legislation presume to protect the national security in its foreign intelligence activities while granting to persons with no expertise or experience in such matters the power to evaluate our need for and to regulate the conduct of foreign intelligence surveillance. Not only does this place the integrity of such operations in serious jeopardy, but it also makes a mockery of judicial decisionmaking.

These are hardly the appropriate circumstances for judges to receive on-the-job training, but the alternative is no more attractive. The presiding judge may decide to plunge right into the thick of things, seizing upon this as an opportunity to become a foreign affairs expert. If he choses to develop such an expertise, he would have to be drawn deep into foreign intelligence operations; in the meantime, how are we to gage the damage done to our intelligence operations while the judge goes through such a learning process. In addition, this is a never-ending process; because the judges are rotated periodically, none ever really has the opportunity to develop the background needed to make such judgments of the issues involved.

Conversely, a judge may defer to the expertise of the intelligence community and the Attorney General. This situation is equally undesirable because it totally defeats the purpose of this special court as an agent for impartial review and provides no protection at all against abuse. The knowledge that a particular judge is predisposed to defer to the applicant presents all too great a temptation to misrepresentation or deceit, especially in borderline requests. This is especially true, because the factual situation will never be adjudicated. The warrant, once issued and utilized, is never expected to be subject to an adversary proceeding. Only the court and the applicant will know of the warrant's existence unless an oversight committee sees it, but it can reasonably be predicted that the committee will defer to the judge's decision.

This arrangement has glaring defects. First of all, there is no one to challenge the warrant prior to its issuance; second, there is no mechanism for contesting it once it has been exercised. Warrants issued in criminal investigations are not so flawed; it is fully anticipated that they will become known and will figure into ligitation. As an element of a criminal investigation, these warrants may be challenged.

Third, this procedure stamps the imprimatur of judicial sanction on the warrant, cloaking it in a presumption of legality. How, then, can an individual or a group ever contest the legality of its use? How could an accusation of abuse be seriously entertained? The ability to deal with such a possibility has been precluded. As noted, even the oversight committee will offer no challenge to the judge's determination. As a result, the oversight committees and the executive branch get the protection of a judicial order which has no real factual basis for a court's decision but which absolves them of any responsibility for the actions.

Through its involvement in the approval of the electronic surveillance, the court loses its character as a forum for resolving controversies. It has forfeited its role, its duty, to serve as an impartial body for rendering decisions in cases or controversy. This is certainly a corruption of the constitutional mandate for the judiciary.

Finally, the bill totally misconstrues the nature and scope of the traditional judicial warrant. Proponents of the bill have argued the logic of requiring warrants for foreign intelligence surveillance by noting that they are the traditional means utilized by the legal system for assuring citizens that the government adheres to "strict legal processes" when it must engage in "intrusive activities." As I have demonstrated throughout these remarks, the comparison between traditional warrant powers and those created by H.R. 7308 is specious, because of the nonjudicial role foisted upon the judges of the special court.

If this is such a "strict legal process," why is there no provision to inform the subject of the surveillance, after its completion, as there is under criminal warrants? This could be done without jeopardizing the intelligence operations or national security if confined to instances where no information results from the surveillance of a U.S. person. If this is so strict a process, why does the bill attempt to take the warrant process, utilized in securing information for criminal investigations and prosecutions, and extend it to cases of foreign intelligence, whether or not there is a violation of criminal law, no prosecution is intended or anticipated, and there will be litigation over the warrant's use?

Not only has this legislation presupposed the similarity of the warrants it requires and presently existing warrant procedures, but it also perceives no differences between the situations that give rise to both. In either instance, it is insisted, warrantless surveillance would constitute a violation of the fourth amendment and that only a warrant would legitimize the activity. To impose the formality of a meaningless warrant is to place form over substance; we are merely deluding ourselves.

The power to conduct warrantless electronic surveillance for foreign intelligence purposes has been asserted by every President since FDR. This same power has been upheld by three out of four appeals courts to rule on the question. In *United States* v. *Brown*, 484 F. 2d 418 (Fifth Circuit, 1973), the Fifth Circuit Court made a strong statement asserting the powers of the President in foreign intelligence matters. They declared:

> As (the Keith case) teaches, in the area of domestic security, the President may not authorize electronic surveillance without some form of prior judicial approval. However, because of the President's constitutional duty to act for the United States in the field of foreign relations, and his inherent power to protect the national security in the context of foreign affairs, we reaffirm what we held in *United States* v. *Clay*, supra, that the President may constitutionally authorize warrantless wiretaps for the purpose of gathering foreign intelligence. Restrictions upon the President's power which are appropriate in cases of domestic security become artificial in the context of the international sphere.

It is particularly ironic that one of the judges who presided in the above-cited case and was instrumental in formulating such a powerful reaffirmation of the President's power in foreign intelligence matters, now serves as Attorney General of the United States and has lent his most ardent support to the present legislation.

In further arguing for the need for warrants in foreign intelligence operations, supporters have insisted that courts have held that foreigners in the United States are protected by the fourth amendment. As an example, they cite the Humphrey-Truong case, in which the court ruled that much of the surveillance against Truong, a nonresident alien, was unconstitutional, because a warrant was not obtained. However, they fail to point out that the court had a great deal of difficulty in reaching such a decision. The court determined that the Government, during its surveillance for purely informational purposes, had decided to prosecute Truong, at which point the Government should have obtained a warrant for continued surveillance for criminal investigatory purposes. It is expected that this ruling will be appealed on the basis of the conten-

tion that only when prosecution is the sole purpose of the surveillance is a warrant required.

Legislation enacted by Congress in 1968 makes a distinction between warrants for criminal investigations and warrants in national security matters—a distinction that proponents of this bill are unwilling to make. Title III of the Omnibus Crime Control and Safe Streets Act established procedures for the judicial authorization of electronic surveillance for the investigation and prevention of specified types of serious crimes and the use of such information in criminal proceedings. That same title, however, denied any intention of extending its prescribed limitations on electronic surveillance to the "constitutional power of the President to take such measures as he deems necessary to * * * obtain foreign intelligence information deemed essential to the security of the United States."

III. COMPROMISE OF THE RULE OF LAW

One of the distinctions between a civilized, democratic nation, and others is an adherence to the rule of law. In America, we have established a written, open law to which Americans adhere. Beginning with our Constitution, we have established an open judicial system which, in interpreting the law, must rationalize its legal interpretations in writing, which are subjected to public scrutiny.

This legislation, for the first time in our history, will develop a hidden, secret body of law which will be available to only a very few people (whom we do not know) which is to guide the intelligence community. Personal liberties, the right to privacy and to some extent, the right to free speech, will be denied to certain American citizens by the judicial system of the United States, based upon no legal standards whatsoever. If, by some chance, legal standards are established in this secret body of law, no one will know what they are.

H.R. 7308 proposes that the special court shall grant warrants for foreign intelligence surveillance, but does not establish the standards the court should apply in granting them. In the event that the court denies the warrant request, the Government may appeal the denial to a special appeals court and even to the Supreme Court. These decisions are all secret, thus developing a secret body of law. The opinions are not open to the public and, in fact, one has to ask whether judges of the specially designated courts are entitled to review the previous decisions to attempt to determine what standards are to be applied.

The development of this secret body of law by our judicial system is alien to any theory of the rule of law. If we do not know what the law is, how do we make it better, how do we change it, and how do we monitor it? One has to ask, is it not better to have guidelines promulgated by statute for the authorization of electronic wiretapping for foreign intelligence-gathering purposes, allowing the Congress to exercise closed-doors oversight on a periodic basis? At least in this case, we have a group of people from tual basis for such activity. In addition, various walks of life examining the facthey have already formulated standards by which to judge and are policy makers, not judicial officers.

IV. CONCLUSION

There is no doubt a crucial need for demanding adherence to standards that will provide safeguards against abuses in the course of foreign intelligence operations. The executive branch responded to this need by formulating internal guidelines to regulate the conduct of electronic surveillance in foreign intelligence-gathering operations. However, shortcomings of such an approach have surfaced and the consensus agrees that statutory standard would provide the most effective check on these activities.

If this is the intent of the legislation before us, then it has failed miserably. Instead of improving accountability on the parts of those who are responsible for the conduct of those operations, this bill grants immunity to everyone. The judiciary cannot be held responsible for acting in good faith on information provided to it by the warrant applicants; the executive cannot be held accountable for acting on a warrant that the court has sanctioned.

According to the report of the Intelligence Committee, the purpose of H.R. 7308 is to "provide legislative authorization for and regulation of all electronic surveillance conducted in the United States for foreign intelligence purposes." If this is the case, then the mechanism for a judicial warrant is counter-productive to this very purpose. In issuing the warrant, the court makes the decision, without any legislative guidelines, as to which intelligence-gathering operations may be conducted. The oversight role of the Congress in foreign affairs has been emasculated and the constitutional functions of the court are recast beyond recognition.

Accountability for actions in foreign intelligence operations and prevention of abuses are unlikely to improve under the procedures of this legislation. The dissenting views to the Intelligence Committee's report described the conditions best suited to achieving these goals:

Aggressive oversight will let the Executive know that, should abuses occur, they will not go undiscovered, undisclosed or unpunished.

This preserves our constitutional separation of powers, meets the need for which this bill was designed by resting accountability with those directly answerable to the public, and strengthened the role of the court as an impartial arbiter should abuses occur.

One of the basic liberties we have is the right not to be exposed to star chamber proceedings, yet through this legislation, we are going to deny basic freedoms to U.S. citizens by court actions that will always be secret. For what purpose do we jeopardize the rule of law and our judicial system? To placate the critics of the intelligence community with a meaningless exercise of bureaucratic paperwork is surely a poor reason.●

## SOVIET UNION'S VIOLATIONS OF HUMAN RIGHTS CANNOT BE IGNORED

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. MAZZOLI. Mr. Speaker, the Soviet Union's total disregard for its obligations under the Helsinki accords—which guarantee basic human rights to the 38 signatory nations and specifically require adherence to provisions relating to freer movement of citizens—has recently manifested itself in a number of staged trials in which leading dissidents have been given the severest sentences.

These dissidents have faced trial conditions where only handpicked audiences are present, where they have been unable to introduce witnesses or documents in their defense, where spectators and judges incessantly interrupt and heckle them, and where their supporters have been harassed and intimidated.

The legal system of the Soviet Union has trampled the basic human rights of dissidents:

DISSIDENTS' SENTENCES

Yuri Orlov.—Convicted and sentenced to 7 years internal exile for "anti-soviet agitation and propaganda."

Victoras Petkus.—Convicted and sentenced to 3 years imprisonment, 7 years labor camp, 5 years internal exile for activities with the Lithuanian Helsinki monitoring group.

Ida Nudel.—Convicted and sentenced to 4 years internal exile for "malicious hooliganism."

Vladimir Slepak.—Convicted and sentenced to 5 years exile for "malicious hooliganism."

Alexander Ginzburg.—Convicted and sentenced to 8 years hard labor for his activities as a Helsinki monitor and administrator of relief fund for families of political prisoners.

Anatoly Scharansky.—Convicted and sentenced to 13 years at hard labor in a prison and labor camp on charges of "treason."

Now, two American newsmen, Craig Whitney and Harold Piper, have been brought to court by the Soviet Government which is unhappy about the reports these writers have filed on dissident activities in Russia.

Citizens of the world are horrified and indignant over the Soviet Union's unconscionable violations of basic human rights.

The U.S. Congress and the American people must send a loud and unmistakable message to the Soviet Union: its continuing disregard of the terms of the Helsinki accords, its continuing harassment of its citzens, and the deprivation of their human rights will bring about a worsening of the relations between our two countries—relations already strained because of earlier efforts by the Soviets to repress and oppress its dissidents.

The U.S. Congress intends to stand by the victims of Soviet hypocrisy and repression. The U.S. Congress will not remain silent.●

## CARTER ADMINISTRATION EMBRACES TERRORISTS

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. ASHBROOK. Mr. Speaker, U.S. policy toward Rhodesia is absolutely ridiculous. The Carter administration has thrown its support behind the pro-Communist terrorists and guerrillas while turning its back on the moderate biracial regime.

President Carter talks about the importance of human rights. At the same time, however, he has allied the United States with terrorist forces that engage in hit-and-run raids to kill innocent civilians. This was most vividly demonstrated by the recent massacre of a dozen British missionaries.

I call on President Carter to end his support for the terrorists. We should immediately remove the trade embargo against Rhodesia and give our support to the moderate internal settlement.

Following are editorial comments on U.S. policy toward Rhodesia by Kevin Phillips and M. Stanton Evans which were broadcast on CBS Radio Network's "Spectrum."

EDITORIAL COMMENTS

I'm Kevin Phillips.

"Barbarous" is the best word to describe unofficial United States support of Rhodesia's Popular Front guerrillas—barbarous and unbelievable. Two hundred years ago, during the Revolutionary War, Americans bitterly condemned the British government for using Indians to terrorize the colonial frontier, butchering and mutilating women and children. Massacres like that at New York's Cherry Valley in 1778 still live in infamy.

But now, in Rhodesia, the United States has allied itself with similar terrorism. We do not support the moderate bi-racial regime which has scheduled democratic elections later this year. Oh, no. Instead, we quietly embrace terrorism. In the words of The Washington Post, and I quote, "American policy is tipped towards the guerrillas. The United States funnels aid to the front-line states sponsoring the guerrillas and enforces no-trade sanctions against Rhodesia."

The guerrillas, of course, are the people who have been making news recently with such good-hearted political frolics as the massacre of a dozen British Pentecostal missionaries. The women were raped and bayoneted. Lesser outrages are a daily occurrence. Moderate, responsible black Rhodesians simply can't believe what is going on. The Reverend Sithole, one of the bi-racial coalition leaders, said in a recent interview that U.S. economic sanctions against Rhodesia help keep the guerrilla war going. He expresses concern that the West is "coming to a state of moral bankruptcy."

There are other disturbing theories, too. One liberal newspaper columnist suggests that Carter Administration Africa policy has come under the influence of black power radicals—black Americans, unconcerned about bi-racialism or democracy, who want to implement black power goals in Africa that they were unable to achieve in the United States civil rights revolution.

Whatever the explanation, though, there is no excuse. It is absolutely intolerable that the United States is allied, even unofficially, with murdering pro-Communist guerrillas against the forces of multi-racial democracy. I don't know whether the West can still win in Rhodesia; it may already be too late. But let us, at least, remove the counter-productive trade embargo, proclaim our support for the multi-racial internal settlement, and end our gruesome association with pro-Communist guerrillas whose daily atrocities make a macabre joke of President Carter's human rights rhetoric.

This is Kevin Phillips for Spectrum.

EDITORIAL COMMENTS

I'm M. Stanton Evans.

The brutal terror that is occurring in Rhodesia these days begins to resemble what happened earlier in Vietnam. This time, however, the situation is potentially much worse, since the American government now is on the side of the terrorists. We are lending our support to the Soviet-equipped forces of Joshua Nkomo and Robert Mugabe, who conduct hit-and-run raids across Rhodesia's borders to slaughter innocent civilians.

The degree to which our policy is responsible for the debacle in Rhodesia is discussed by Allan Ryskind in the current issue of "Human Events." Ryskind has just returned from Rhodesia and his discussion makes it plain that President Carter and Andrew Young are the parties chiefly to blame for the success of terrorist warfare against that country.

The key to everything else, Ryskind reports, is the system of economic sanctions imposed by the United Nations and honored by the United States. The embargo prevents exports, denies Rhodesia materials from the outside world, and causes unemployment and general discontent. And it isn't, of course, just the embargo.

In addition to this attack we have also permitted the terrorist Nkomo into this country but barred the moderate black Rhodesian leaders; we have tried to silence the tiny Rhodesian information office; and we have denounced the internal settlement pointing to eventual black majority rule. Our government says it won't go for a settlement unless it is acceptable to the terrorists, who want Rhodesia handed over to them on a silver platter, without the formality of a vote.

Against that backdrop, it's apparent that a solution to the Rhodesian problem is within our grasp: All we have to do is change sides. We need merely give support to the forces of anti-Communism and majority rule and remove it from the forces of Marxist terror and dictatorship. Since that is more or less what our official policy is supposed to be, why haven't we done it? The answer it seems, is Andrew Young's conviction that anyone who has been a Marxist-supported terrorist can't be all bad.

Ryskind concludes that the simplest and best thing we could do to change the situation in Rhodesia is to lift the embargo. That is exactly what the Congress ought to do, and at the earliest possible opportunity.

This is M. Stanton Evans with Spectrum.●

## PLUTONIUM FROM CIVILIAN NUCLEAR FUEL REPROCESSING PLANTS WILL NOT BE USED FOR NUCLEAR WEAPONS

### HON. MENDEL J. DAVIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DAVIS. Mr. Speaker, there has been a great deal of concern expressed by the administration and Congress during the past year on the matter of nuclear weapons proliferation. Administration efforts have focused on controlling plutonium and its spread beyond the so-called weapons nations. A part of this effort has involved the indefinite deferral of commercial reprocessing in the United States, with an urging that other nations have, however, refused to follow the President's deferral and their reasons for not following were succinctly stated recently on the House floor by Representative MIKE MCCORMACK. During the course of House debate on House Concurrent Resolution 599, on July 12, which sought to disallow the export of low enriched uranium to India, Representative MCCORMACK differentiated between plutonium from civilan nuclear programs and military production programs and noted that plutonium from civilian nuclear fuel reprocessing programs is a very poor weapons grade material. If other nations want weapons grade plutonium, they will look at other sources for that plutonium rather than the civilian nuclear fuel reprocessing plants. Representative MCCORMACK also stated that other nations are committing to nuclear fuel reprocessing development for their economic survival. Because Representative MCCORMACK is a recognized expert on this matter, I have compiled his July 12 remarks on the House floor for the benefit of my colleagues. Those remarks are as follows:

We must understand that India has a very large amount of fuel which it must reprocess. It would be both misleading and foolish to suggest that there is any significant relationship between reprocessing this nuclear fuel from nuclear powerplants, on the one hand; and nuclear weapons, on the other. This is the fallacy of our trying to stop reprocessing. No nation, including India, has ever made a nuclear weapon from plutonium produced in a nuclear power reactor. India did not divert nuclear fuel to make its weapon, it clearly indicated what it was doing, and many nations knew what it was doing for many years. The plutonium was produced in a small Canadian heavy-water research reactor, not in any nuclear powerplant.

While I deplore this 1974 action by India, and I wish that they would sign the NPT, and I wish they would subject themselves to inspection by the IAEA (the same as I wish the United States would be so subject to inspection by the IAEA), it must be recognized there is a fundamental difference between what the Indians did and what we are talking about preventing.

There is a fundamental difference between the plutonium for weapons and that which is produced in a powerplant. Weapons-grade plutonium is composed of less than 6 percent plutonium-240. When we make plutonium for weapons, this is what we use. The Indians made plutonium of only about 1 percent plutonium-240, which is just about perfect for weapons.

However this is the opposite extreme from the plutonium which is produced in nuclear powerplants. It is 20 to 25 percent plutonium-240, and is almost worthless for weapons production. We made a test explosive from it once, and we found that it is extremely poor material for weapons.

No nation is interested in using nuclear fuel for weapons because weapons-grade plutonium can be produced more cheaply and quickly than the low quality material produced in powerplants. About three dozen nations can make weapons-grade plutonium today if they wish to do so, and it can without any nuclear powerplants at all. No per-

mission or materials or secrets or any technology from the United States is required. It would only cost about $50 million to build a small nuclear reactor, such as the Indians used, and a couple of hot cells for processing special small fuel elements into weapons-grade plutonium. It would take about 5 percent of the cost of one conventional nuclear powerplant to make these weapons, and only half the time required to build one nuclear plant. It is important to understand this. The reason nuclear weapons are not being made is because the countries that can make them understandably do not want to make them, not because they are not reprocessing nuclear fuel.

It is useless to try to control weapons production by trying to prevent nuclear fuel reprocessing. If we undertake policies which have the effect of reducing the potential for energy production among the nations of the world, especialy nuclear energy which is so critical in many countries, this would create a far greater destabilizing factor than trying to stop the reprocessing of nuclear fuel.

We must be realistic in this matter, and deal in facts. We can minimize the potential for nuclear proliferation from production fuel elements by establishing regional reprocessing centers under the control of the IAEA, and have them regionally controlled, so that the countries involved can police themselves. We cannot control other nations to their disadvantage. They are telling us this.

The rest of the world is moving ahead of us. The most certain way to promote nuclear weapons proliferation is to try to stop nuclear energy production in the world. Nations without adequate supplies of energy may turn to military adventurism or threats, and may make nuclear weapons without having any nuclear energy plants.

Mr. McCORMACK concluded by reviewing the Russian policy on reprocessing and how it is a model other nations should follow in controlling nuclear proliferation:

The Russians are implementing the policy on an international scale that the Western World should adopt in order to minimize proliferation. The Russians simply lease nuclear fuel to many nations, on the condition that the fuel is sent back for reprocessing under Russian control. The Russians do not pretend, as we do, that running a nuclear powerplant creates a threat from nuclear weapons, because they know that the fuel will be reprocessed under their controls. If we would establish a similar program in the Western World, with international controls, would take a big step toward controlling potential proliferation. It would be much more realistic than attempting, as the sponsors of this resolution would do: Attempt to forbid other nations from doing what they must do for the economic survival, that is, reprocess their nuclear fuel.

In summary, Representative McCORMACK states that other nations have not followed President Carter's indefinite deferral of reprocessing because they do not view the separated plutonium product from civilian reprocessing plants to be of a significant weapons threat. Those nations that desire plutonium for weapons production can use means other than reprocessing which are quicker, cheaper, and less easy to detect. Another reason given by Representative McCormack for other nations' development of reprocessing technology is for economic survival. Nations simply cannot afford to throw-away the in-hand energy that exists in spent reactor fuel. Each spent fuel assembly contains the energy equivalent to 80,000 barrels of oil.

Regarding the Russian position on reprocessing, the Soviets have not forsaken reprocessing, but are proceeding under international controls to prevent any diversion of plutonium. Representative McCORMACK's remarks provide yet another reason for keeping the Barnwell Nuclear Fuel Plant in South Carolina available for possible reprocessing of spent reactor fuel in the United States.●

## FORGETTING OUR HERITAGE

### HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. EMERY. Mr. Speaker, the Carter administration does not seem to enjoy a very good relationship with our veterans community. Many of the veterans I have spoken to in the State of Maine have expressed a real disappointment with the President. They often cite, as the cause of their frustration, the inadequate Veterans' Administration budget submitted by the President, the lack of support given by the administration for the programs designed to help Vietnam-era veterans find employment and the proposed civil service reform measures which would effect the veterans preference.

I, too, share the feelings of those veterans who feel that the administration has displayed an unusual insensitivity to those to whom this Nation owes so much.

Aside from the larger, more visible, issues confronting the veteran, there are many other smaller, less public, issues which seem to emerge every now and then. One of those issues was brought to my attention recently by the State adjutant of the Maine American Legion.

The following article, written by the State adjutant, Daniel Lambert, represents the position of the department of Maine American Legion on the subject dealing with the attempts to place seven World War I military cemeteries in France under the supervision of foreign nationals.

Mr. Speaker, I commend this article to my colleagues:

FORGETTING OUR HERITAGE

Those who served America in the Armed Forces during dangerous days when war and destruction threatened our nation are today the forgotten ones.

They were cheered into battle by the same editorialists who now write essays against veterans benefits. The veteran learns quickly upon returning to civilian life that he does not remain a hero for long. In fact, to our politicians and some of his fellow citizens, the veteran becomes an embarrassment as danger recedes. It seems that God is also treated the same way.

The American Legion's struggle to codify into law a system of veterans benefits is the answer one veterans group gives to the scoffers. Although, The American Legion deplores the fact that some policitians and citizens have forgotten the needs of the veterans, widows, and orphans, it does not surprise us.

It is one thing to attack and attempt to destroy veterans benefits for sick and disabled veterans, reduce widows pensions, and forget the obligation to living veterans. The Carter Administration has now begun to set its sights on the honored dead of our nation.

Taking a cue from the U. S. Ambassador to France, the Carter Administration now proposes that the seven World War I American military cemeteries in France now maintained by the American Battle Monuments Commission be turned over to the supervision of foreign nationals rather than being maintained by American personnel. It seems that the Carter Administration, continuing its anti-veteran thrust, now wants to heap insult on our aging veterans of World War I.

In the name of economy, and to assist in the balance of payments, the Carter Administration proposes to turn over the care of the seven WW I cemeteries in France to those who do not understand what these cemeteries mean to us. The proposal calls for the replacement of American personnel without requiring English speaking personnel.

As one who has visited all the military cemeteries abroad including the seven WW I cemeteries proposed for turnover to foreign nationals for care, I have tender memories of these shrines of honor.

The beauty and serenity that envelopes the visitor to our military cemeteries is long remembered. Seeing the host of visitors coming with flowers to pay tribute to our honored dead reminds the visitor of long journeys, expressions of love and gratitude, and people remembering our heroes.

The Carter Administration is testing the waters of public opinion, and if the seven World War I military cemeteries in France can be turned over to the care of foreign nationals, then only time will tell the full story of turnover of all military cemeteries abroad to foreign nationals.

The American Legion of Maine can only feel pity and wonder for an administration in Washington so devoid of reverence for our heritage that such a recommendation would be made.

In keeping faith with our honored dead, The American Legion of Maine urges all citizens to speak up and be heard on this issue.

DANIEL E. LAMBERT,
*State Adjutant.*●

## CONGRATULATIONS TO PUERTO RICO—26 YEARS A COMMONWEALTH

### HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. FARY. Mr. Speaker, on July 25 Puerto Ricans, both in the United States and in the Commonwealth of Puerto Rico will celebrate their 26th anniversary of the founding of Commonwealth status within the United States. I would like to take this opportunity to congratulate Puerto Ricans everywhere on this Constitution Day for their social and economic progress, growing prosperity, and well-earned reputation as a successful and workable form of self-government within the Federal structure of the United States.

On this date in 1952, the Governor of Puerto Rico proclaimed the establishment of the constitution, which describes the Commonwealth as "a permanent

union between the United States and Puerto Rico on the basis of common citizenship, common currency, free market, and a common loyalty to the value of democracy."

The Commonwealth was established after Congress adopted the Puerto Rican Federal Relations Act in 1952, which changed the status of Puerto Rico from that of an unincorporated territory to a Commonwealth freely governing itself and associated with the United States.

It is an important celebration, not only for the Puerto Ricans, but also for the history of the United States. The Commonwealth Day celebration not only recalls the birth of the Puerto Rican Commonwealth, but it also salutes the Puerto Rican leaders and the Congress who formulated this unique relationship between the United States and the island.

With the help of the great political figure and founder of the Commonwealth, Luis Munoz Marin, and Gov. Rafael Hernandez Colon, who continued the statesmanlike tradition of Luis Munoz Marin, Puerto Rico has maintained strong mutual interests with the United States. Governor Colon, on recent visit to Washington, D.C., commented that we have a common commitment to individual freedom and to the tradition of democratic, representative government. We share a common concern for the economic growth and political development of the Caribbean region. Above all, we are bound together by the ties of common citizenship we enjoy.

Citizens of Puerto Rican heritage have played an important role in America's progress, and, at the same time, have maintained their own identity. Today Puerto Ricans can be found in every walk of life. In business, education, science, commerce, and at all levels of government, we find Puerto Ricans are good leaders. As a nation of immigrants, the United States takes great pride in its commitment to uphold the rights of all peoples who aspire to freedom and greater opportunity.

Under the 1950 law, Puerto Ricans enjoy the rights of American citizenship, except that they do not pay Federal taxes or vote in Federal elections. Puerto Rico has a delegate in Congress who, although he has no vote on the floor, may vote in committee and propose legislation. Puerto Ricans are free to migrate to the mainland United States and establish residence, thereby gaining voting rights.

This successful experiment today is celebrated by Commonwealth Day, which reflects opening new vistas of freedom, self-identity, and interdependence. It does so in a world desperately in need of new political structures, approaches, and initiatives that may render possible the preservation of eternal values in the face of continuous change. In commemorating this event, I acknowledge the contributions Americans of Puerto Rican descent have made to the cultural diversity and growth of American society.

Mr. Speaker, I would like my colleagues to join with me in extending to the peoples of Puerto Rico on this 26th anniversary our best wishes.●

## BAYOU BODCAU PROJECT REMAINS A POOR INVESTMENT DESPITE REEVALUATION

### HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. EDGAR. Mr. Speaker, on June 15, the full House defeated my amendment to delete funding for eight water resource projects from the Public Works-Energy Research appropriations bill. During consideration of my amendment, it was pointed out that there had been a reevaluation of the economic benefits of one of these projects, the Bayou Bodcau project in Louisiana.

A White House-prepared fact sheet on this project documented that 60 landowners would benefit from the $15.5 million project, a Federal investment of $240,000 for each landowner after taking into account a local funding share. A reevaluation turned up 150 farms which would benefit by the project.

As the following exchange of letters indicates, this project remains economically unjustifiable despite the reevaluation of economic benefit. Also, the increase in economic benefit fails to overcome adverse environmental impact:

JUNE 13, 1978.

Hon. ROBERT W. EDGAR,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. EDGAR: The purpose of this letter is to provide Department of the Army views on five Civil Works projects of the Army Corps of Engineers for which resumption of construction funding in FY 1979 has been recommended by the House Appropriations Committee. The five projects at issue are: Yatesville Lake, Kentucky; La Farge Lake, Wisconsin; Lukfata Lake, Oklahoma; Bayou Bodcau and Tributaries, Louisiana; and Meramec Park Lake, Missouri. The economic, environmental resources. Indeed, three of these projects were analyzed in great detail as part of the Presidentially-directed Departmental review of ongoing water resource projects in the spring of 1977. The Corps of Engineers subscribed to the criteria which were used in the evaluation. Subsequent to completion of this review, Congress and the President agreed last year to not continue construction funding for these five projects.

None of these projects, in the view of the Department, has economic benefits which outweigh its adverse impact on the nation's environmental resources. Indeed, three of them—La Farge Lake, Lukfata Lake and Meramec Park Lake—would have specific adverse effects on the habitat of endangered plant or animal species. These three reservoirs, along with Yatesville Lake, would inundate thousands of acres. Much of this land is either prime farm land or land which contains important natural values. The remaining project, Bayou Bodcau and Tributaries, which consists of extensive levee and channel work, would adversely affect some 1560 acres of game and water-fowl habitat.

The Department of the Army believes that completion of these projects would not represent a good use of public funds and thus recommends that no FY 1979 construction funding be made available for these projects.

Sincerely,

CLIFFORD L. ALEXANDER, JR.

HOUSE OF REPRESENTATIVES,
*Washington, D.C., June 28, 1978.*

Hon. CLIFFORD L. ALEXANDER, JR.,
*Secretary of the Army, The Pentagon,*
*Washington, D.C.*

DEAR MR. SECRETARY: I appreciated receiving your letter to me of June 13th commenting on five authorized Corps of Engineers projects. You state that the "economic, environmental, and safety aspects of each of these projects were analyzed in great detail as part of the Presidentially-directed Departmental review of ongoing water resource projects in the spring of 1977."

During testimony today before the Senate Public Works Subcommittee of the Appropriations Committee, representatives of the Corps testified that the cost-benefit ratio for the Bayou Bodcau project had been reevaluated. Approximately 150 farms would benefit instead of the 60 or so previously identified.

I would like to know if this new information changes in any way the statement in your letter that "none of these projects, in the view of the Department, has economic benefits which outweigh its adverse impact on the nation's environmental resources."

Cordially,

ROBERT W. EDGAR.

JULY 14, 1978.

Hon. ROBERT W. EDGAR,
*House of Representatives,*
*Washington, D.C.*

Dear Mr. EDGAR: Thank you for your June 28, 1978 letter to the Secretary of the Army regarding the Bayou Bodcau, Louisiana, Project. I am enclosing a copy of my June 21, 1978 memorandum to Kathy Fletcher which addresses the issue of limited beneficiaries.

In my memorandum I point out that with 150 farms benefitted by the project, the average subsidy per farm amounts to almost $100,000. Moreover, it is important to recognize that the magnitude of the economic benefits claimed for the project is not affected by the number of beneficiaries. Accordingly, the updated information on beneficiaries in no way affects the Department's view that the Bayou Bodcau Project does not have ". . . economic benefits which outweigh its adverse impact on the nation's environmental resources."

Sincerely,

MICHAEL BLUMENFELD,
*Deputy Under Secretary.*●

## MORATORIUM ON SACCHARIN BAN RIGHT DECISION

### HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DEVINE. Mr. Speaker, last year, much to the regret of Commissioner Kennedy of the Food and Drug Administration, as well as a number of other regulatory zealots, the Congress placed an 18-month moratorium of the ban on the use of saccharin. This was done in order to provide time for further study; to determine whether the rat tests in Canada were credible or inconclusive, and to prevent another premature regu-

latory edict affecting the lives of millions of Americans.

The Wall Street Journal of July 24, 1978 reported the findings in the journal of American Medicine, based on a Baltimore study of over 1,000 human patients. The article follows:

MODERATE USE OF SACCHARIN, CYCLAMATES UNLIKELY TO CAUSE CANCER, STUDY FINDS

(By Joann S. Lublin)

Ordinary amounts of artificial sweeteners such as saccharin and cyclamates don't appear to cause bladder cancer in humans, scientists reported in a study released today. The study is sure to fuel the long-simmering controversy over the safety of these sweeteners.

The U.S. Food and Drug Administration banned cyclamates in 1970, after a study suggested they caused cancer in laboratory animals. Abbott Laboratories, a North Chicago, Ill., health-care products maker, has been fighting to get cyclamates back on the market since 1973. Abbott had been a major cyclamates producer. Last year, the FDA proposed a ban on saccharin after studies indicated that large amounts cause bladder tumors in rats.

Congress has postponed the ban for 18 months while further studies are made. In the meantime, saccharin-sweetened beverages, foods and other products carry a label warning of the possible health hazard.

STUDY OF 1,038 PATIENTS

"Neither saccharin nor cyclamate is likely to be carcinogenic in man, at least at the moderate dietary ingestion levels reported" by patients studied, concluded the latest report, which appears in this week's issue of the Journal of the American Medical Association. The conclusion was based on a Baltimore study of 1,038 patients, evenly divided between those with bladder cancer and those hospitalized for other reasons.

The study doesn't answer the question of whether there is any risk at all of developing bladder cancer from use of saccharin or cyclamates, conceded Dr. Irving I. Kessler, one of two authors, in an interview. Dr. Kessler is chairman of the University of Maryland School of Medicine's Department of Epidemiology and Preventive Medicine.

But regulators considering a ban an saccharin should consider "the totality of the evidence, the weight of the evidence and the biological consistency of their evidence before making their decision," he added.

Dr. Kessler also noted that if either cyclamates or saccharin did cause bladder cancer, then the bladder cancer patients should have used the sweeteners in greater amounts or for more years than the control group. "Almost always in human cancer, the risk of cancer . . . increases as the dose or length of exposure increases. We carefully analyzed that and could find no relation," he said. This was true, he added, even when such variables as age, sex, occupation, race and smoking habits were controlled.

For the study, Dr. Kessler and his colleagues extensively interviewed the patients about their use of artificial sweeteners in tablet, powder and drop form, as well as in diet beverages and foods. Patients reported how often, how much and how long they had consumed the substances.

CANADIAN FINDINGS DISAGREE

The JAMA article noted that these findings disagree with a recent Canadian investigation of hospitalized cancer patients. Researchers there concluded that bladder-cancer risks rose 60 percent among men who used saccharin tablets, but not among those who drank dietetic beverages or ate dietetic foods with saccharin. Women didn't seem to have similar increased risk.

Such conclusions don't make sense, the JAMA report suggested. "The divergence in relative risk between men and women observed in Canada would be extraordinary for human carcinogen . . . an equally puzzling, if not biologically inconsistent finding" was the lack of risk for men who consumed saccharin-containing drinks or foods, the report said.

The Calorie Control Council, an Atlanta-based group of diet-food manufacturers and others, praised the Baltimore study as support for its argument "that saccharin should remain available," a spokesman said. Noting that Congress has asked the National Academy of Sciences to investigate saccharin further, he added: "This (study) will be an important contribution to their assessment of saccharin's safety."

A recent FDA report also supports the council's viewpoint. Morris Crammer, director of the FDA's National Center for Toxicological Research, said in a report released earlier this month that health hazards posed by saccharin may be outweighed by its possible benefits.

While saccharin may, indeed, cause cancer—either directly or by "promoting" the effect of some other substance—"the cancer risk of the carbohydrates that saccharin replaces are several times greater than the cancer risk for saccharin," Mr. Cranmer asserted in his study.●

## OAHE AUTHORIZATION NEEDED

### HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. PRESSLER. Mr. Speaker, recently, I introduced a resolution in Congress calling for preservation of the existing Oahe authorization and expressing the sense of Congress that it would welcome modification to the Oahe plan.

It has been my strong belief that we should preserve the Oahe authorization, but make modifications and changes in it to make it more acceptable to our people. It cannot, of course, be acceptable to everybody, but the original Oahe plan had problems which many of our people objected to—particularly farm people along the area where the basic ditch would be dug. There were also problems with the land mitigation program and other parts of the project.

I know that this plan has been studied for years, and I know that many Members of Congress have faithfully supported it. I believe it is well worth preserving the authorization and making a major effort at coming up with a modification before we lose it.

Next March and April, we will be considering appropriations again. I am very excited about the possibility that the Governor, the legislature, the local boards, and the congressional delegation can come up with a major new plan by next March or April. I certainly am willing and eager to participate in that planning. I have been meeting with the different local boards, and I have been discussing possibilities. No one person will be able to do this, but I shall certainly continue to work and continue to assist.

A chief objection to any modification must be to get water to our eastern cities—such as Aberdeen, Redfield, Huron, and Mitchell. If we are unable to agree to commence with a canal, it has been suggested that the possible use of one or two large pipelines alongside railroad rights-of-way that run from the Missouri River eastward and westward; the possibility of using the existing pumping plant at Blunt to fill the canal to Medicine Creek, and from there transferring into one or two large pipelines running alongside the railroad right-of-way to Huron; of modifying the land mitigation program; of a Lower James addition; of canalside and alongside the Missouri irrigation; and other possible modifications—all these are needed in our State and probably could be done within the existing authorization or with slight variations in that authorization. I am sure that there are other possible modifications, and I would like to have them suggested. But, by next March or April, we must have an acceptable plan.

Mr. Speaker, at this point I insert a copy of the resolution I have introduced:

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of Congress—

(1) that the Oahe unit, James division, Missouri River Basin project, South Dakota, is a worthwhile project but the authorized plan is in need of modifications;

(2) that Congress welcomes a modification plan from the State of South Dakota;

(3) that, although certain modifications of such project are desirable to facilitate the future development of such project, the authorization of such project under the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 887), as modified by the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the initial stage of the Oahe unit, James division, Missouri River Basin project, South Dakota, and for other purposes", approved August 3, 1968 (82 Stat. 624), should remain in effect.●

## CAPTIVE NATIONS WEEK

### HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. CONABLE. Mr. Speaker, in our observation of Captive Nations Week it is important to let the world know that America still cares about the fate of human liberty throughout the world. We must let the world know that the ideals of liberty and respect for the principle of national self-determination are still as strong in the United States as ever. The desire to enjoy the blessings of liberty is embodied in the American dream and it is a dream that we want all peoples to be able to share in.

I want to join with my colleagues in expressing continuing concern for the peoples who are seeking mastery of their fates, free from the yoke of foreign domination. As Americans we seek universal respect for the principles of human rights, as embodied in the Helsinki Declaration so that all may enjoy the basic human freedoms.●

## REOPENING INQUIRY INTO MURDER OF VIOLA LIUZZO

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. CONYERS. Mr. Speaker, on March 25, 1965, Viola Liuzzo, a mother of five children and a civil rights activist, was shot to death while driving between Selma and Montgomery, Ala., after participating in a civil rights march. Her assailants pursued her for approximately 20 miles on highway 80. One of the occupants of the vehicle from which the fatal shot was fired was Gary Thomas Rowe, who at the time was an employee of the Federal Bureau of Investigation and allegedly an undercover agent in the Ku Klux Klan.

Rowe's testimony after the murder worked to convict three Klansmen of conspiring to violate Mrs. Liuzzo's civil rights. In court he maintained that while traveling in the car, he only pretended to shoot at Mrs. Liuzzo, but that the actual shooting was done by the others. Not until a 1975 hearing before the Senate Select Committee To Study Government Intelligence Operations did it become known that Rowe worked for the FBI and was communicating with them concerning his activities. Two years later, a reopened Alabama investigation into the 1963 bombing which killed four children in a Birmingham church disclosed that Rowe, while employed by the FBI, engaged in numerous violent activities, which the FBI had knowledge of.

The Justice Department has recently undertaken an investigation of Rowe's relationship to the FBI. This and other investigations will be necessary to answer a great many questions that go to the heart of the corruption and lawlessness which the FBI was a party to during the ferment of the 1960's. Whether undercover agents, recruited by the FBI to monitor Klan activity, operated as agents provocateur; whether the FBI had information that such employees engaged in violence against civil rights activists; whether the FBI instructed such employees to conceal such information from official investigatory bodies and itself covered up the information; and, if the FBI had knowledge of violence against civil rights activists, why it did nothing to avert it. Gary Thomas Rowe's responsibility in the murder of Viola Liuzzo has yet to be disclosed.

It is a sad commentary on the Justice Department and the FBI that it had to be prodded into action after numerous journalistic investigations and news reports disclosed evidence of a pattern of wrongdoing on the part of the FBI. One of the news reports that has led to Justice Department action appeared in the New York Times on July 17. The article, "Inquiries Link Informer for FBI to Major Klan Terrorism in the 1960's," written by Howell Raines, follows:

[From the New York Times, July 17, 1978]

INQUIRIES LINK INFORMER FOR F.B.I. TO MAJOR KLAN TERRORISM IN THE 1960'S

(By Howell Raines)

ATLANTA, July 16.—Renewed investigations into the activities of Gary Thomas Rowe, Jr., the Federal Bureau of Investigation's chief paid informer in the Ku Klux Klan, have produced a portrait of Mr. Rowe as a man who "loved violence" and who could be linked to most major incidents of Klan terrorism that occurred in Alabama while he was on the bureau's payroll.

While receiving F.B.I. money, Mr. Rowe, by his own account, was directly involved in racial violence beginning with the assault on the Freedom Riders in Birmingham, Ala., in 1961 and extending to the shooting of Viola G. Liuzzo, a participant in the Selma-to-Montgomery march in 1965.

Federal pay records introduced in a trial at which Mr. Rowe testified 13 years ago showed that the bureau paid him over $12,000 from 1960 to 1965 for undercover activities that are now the subject of a Justice Department inquiry. He has also said that the F.B.I. gave him $10,000 more to finance his relocation under a new name.

The Justice Department's formal inquiry will seek to determine if Mr. Rowe, who has made many conflicting statements about his activities while on the F.B.I. payroll, functioned as an agent provocateur in the Klan, helping to plan and carry out the violence he was paid to monitor.

The inquiry was ordered last week following reports in The New York Times that the Alabama authorities, in their renewed investigation of the racial killings of the 1960's, had found information linking Mr. Rowe to the 1963 bombing that killed four black children at the 16th Street Baptist Church in Birmingham.

The Times also reported that Alabama investigative files showed that he told a state investigator that he killed a black man in a race riot in Birmingham in 1963 and was told to keep quiet about it by his F.B.I. "control" agent. The agent has denied the charge.

The Justice Department inquiry, ordered at the request of two members of the Senate committee that is drafting a new legislative charter for the F.B.I., will also seek to determine if agents in Alabama condoned and helped cover up violence by Mr. Rowe.

Investigators for both the State of Alabama and the Birmingham Police Department have concluded that Mr. Rowe probably helped provoke violent acts by other Klansmen.

"Rowe was a guy who loved violence," said a detective who interrogated him for more than six hours last fall.

QUESTION OF CONDONING

But city and state investigators are at odds over whether the F.B.I. condoned such behavior. Birmingham detectives take the harsher view of the Federal role, perhaps because of Mr. Rowe's allegations that the Birmingham Police Department had many Klan sympathizers in its ranks.

"The files are full of people telling the F.B.I., 'Check Rowe, check Rowe, check Rowe,'" said a detective who has seen some bureau field reports on Mr. Rowe's activitis. "But I've never seen anything in the files showing that they checked him."

Such disputes aside, it is possible at this point to draw together accounts of Mr. Rowe's financial dealings with the bureau and of his activities in the Klan, which he joined in 1960, apparently at the urging of the F.B.I.

Sources for these accounts include previously ignored court documents, his public and preliminary testimony to the Senate Select Committee on Intelligence Operations in 1975, his book about his adventures in the Klan and, most importantly, information developed in the recent investigations by Birmingham and Alabama authorities.

In the trial of the Liuzzo case in 1965, the F.B.I. confirmed that it had paid Mr. Rowe $6,971.50 for information and $5,404.27 for expenses over a five-year period.

$10,000 REPORTED DELIVERED

He has also told a Senate investigator that Federal agents promised him an additional $30,000 to $50,000, but actually delivered only $10,000 in cash after he testified against the three Birmingham Klansmen accused of killing Mrs. Liuzzo.

In a statement to a lawyer for the Senate intelligence committee, he said that an F.B.I. agent had told him that the $10,000 was being paid on behalf of J. Edgar Hoover, then the bureau director. He said that the agent said the money reflected Mr. Hoover's view that Mr. Rowe was the best undercover agent "we've ever seen."

Mr. Rowe's statement about receiving $10,000 could not be confirmed or denied immediately by the F.B.I., nor did it rule out the possibility that the money could have come from other sources in the Government.

James L. McGovern, the former agent said by Mr. Rowe to have mentioned the $30,000 to $50,000 figure, said yesterday that he did discuss "relocation" money with Mr. Rowe, but never in such large amounts.

PAYMENTS USUALLY LOWER

Mr. McGovern said such payments usually were "considerably lower" than the figures used by Mr. Rowe. However, the bureau is reported to have paid $25,000 to the informer who led agents to the graves of three civil rights workers murdered in Mississippi in 1964.

Neither Mr. Rowe, who lives at an undisclosed location uder a new identity assumed with the help of the F.B.I., nor his attorney could be reached to comment on payments to him or on the racial incidents in which he was involved.

The first major incident of racial violence to which Mr. Rowe has been linked was the Mother's Day beating of Freedom Riders at two Birmingham bus stations on May 15, 1961, about a year after he joined the Klan. He has told a Senate investigator that a photograph showing him beating a black bus passenger led to the first effort by Federal agents to cover up his violent activity, according to a document of the Senate Intelligence Committee.

He asserted that his control agent instructed him that even if Mr. Hoover asked whether he was the man in the picture, "You're going to look at him, straight in the eye, and say 'No, sir, that's not me.'"

FOUND HIM RELIABLE MEMBER

A former Klansman who was with him that day said in an interview recently that Mr. Rowe's behavior at the bus station established him in the Klan as a reliable and "true-blue" member of the Klan "action squads." The former Klansman, who asked not to be named, said Mr. Rowe personally directed the white mob to shift from the Greyhound to the Trailways station to intercept the first busload of civil rights activists.

"I can hear him now, saying, 'Come on, come on, we're going to be late. They're going to be there before we get there,'" said the former Klansman. "He was the commando. That's how he got those other boys to follow him."

In his book and Senate testimony, Mr. Rowe claimed an active role in the Freedom Rider incident as liaison between the Klan and the Birmingham police in devising a plan whereby Klansmen would be allowed ample time to beat the Freedom Riders before the police moved in.

Among the other incidents to which Mr. Rowe has been linked are the following:

The transporting of guns to Tuscaloosa, Ala., in June 1963, when Gov. George C. Wallace was preparing to make his "stand in the schoolhouse door" at the University of Alabama. Mr. Rowe, who had then been on the F.B.I. payroll for over three years, was arrested along with several Klansmen later identified by Alabama law enforcement sources as suspects in racial bombings.

The fire-bombing of the home of A. G. Gaston, a black millionaire. In interviews with Alabama authorities and in his book, "My Undercover Years With the Ku Klux Klan," Mr. Rowe told in detail about an unsuccessful foray he and other Klansmen made against the Gaston residence. Investigative documents show, however, that he failed a lie-detector test in which he denied involvement in a fire-bombing that "actually damaged" the Gaston home.

The bombing of the 16th Street Baptist Church on Sept. 15, 1963. In reopening the investigation into the deaths of four children there, the Alabama authorities reached Mr. Rowe in the hope that he could help them. But investigative files show that he failed a polygraph test about his own involvement in the incident. As a result, key investigators said that he was suspected of having been with Robert E. Chambliss, the 74-year-old Klansman convicted of murder in the case last November.

A double bombing in a black neighborhood on Sept. 25, 1963. The investigative files show that Mr. Rowe also failed a lie-detector test in which he denied direct involvement in planting these bombs, the second of which contained shrapnel. It was apparently intended to maim spectators drawn to the area by the first explosion. Investigative records indicate that Mr. Rowe was spotted by the Birmingham police in a telephone booth four blocks away at the time of the twin explosions.

The 1965 shooting of Mrs. Liuzzo on Highway 80 between Montgomery and Selma. Mr. Rowe's testimony helped convict three Klansmen of conspiring to violate Mrs. Liuzzo's civil rights by killing her on the night after the march. In court, he testified that he was in the car that chased Mrs. Liuzzo's automobile. He said he only pretended to shoot at her, however, leaving the killing to his companions.

STATEMENTS TO POLICE CITED

Investigative files in Alabama contain statements from police officers who contended that Mr. Rowe had made incriminating statements about his own involvement in that killing. And ABC Television recently broadcast a polygraph test that indicated that he gave deceptive answers when he denied a role in the killing.

A Senate intelligence committee document that came to light last week added still another confusing footnote to the Liuzzo case.

In 1975, Mr. Rowe told a committee lawyer that a black man was killed along with Mrs. Liuzzo and that government lawyers, including John Doar, then the Deputy Attorney General, forced Mr. Rowe to mold his testimony to fit the case the Government wanted to present.

Yesterday, Mr. McGovern confirmed one aspect of Mr. Rowe's account of his feud with Mr. Doar. Mr. McGovern said he recalled hearing that Mr. Rowe did tell investigators that Leroy Motan, a key prosecution witness, was not the black man Mr. Rowe saw in the car with Mrs. Liuzzo. According to the Senate document, Mr. Rowe said that Mr. Doar forced him to keep quiet about his misgivings about Mr. Motan's identity. Mr. Doar, reached at his law office in New York Thursday, refused to comment on Mr. Rowe's allegations.

MAY BE ATTEMPT AT IMMUNITY

Mr. Rowe's description of shooting a black man in 1963 came to light unexpectedly while he was being questioned last fall about the church bombing. Alabama investigators' files contained speculation that he might have brought up a previously undisclosed shooting in an effort to win immunity for all capital offenses, should he agree to return to Alabama to testify in the church bombing case.

Birmingham detectives have since found reports that Mr. Rowe boasted to a fellow Klansman and another man in 1963 that he had shot rioting blacks. A Birmingham police officer has also recalled seeing Mr. Rowe in a riot zone with a pistol tucked in his belt. However, city investigators have not yet found a specific unsolved killing that fits the circumstances described by Mr. Rowe.

Investigative sources indicated that it was possible that a racial killing in Birmingham in 1963 could have gone unrecorded or have been covered up in some other way.

In his public testimony before the intelligence committee in 1975, Mr. Rowe insisted that the F.B.I. had approved his participation in violence. The bureau gave the committee a memo of April 1964 in which Mr. Rowe was ordered to give up leadership of a Klan "action squad."

"Nevertheless," the committee's final report stated, "even those instructions did not extend to ruling out Rowe's participation in violence, but rather only leading or directing violent acts. The essential characteristic of Rowe's status was expressed by the following testimony of his F.B.I. handling agent: If he happened to be with some Klansmen and they decided to do something, he couldn't be an angel and be a good informant." ●

## MISSING IN ACTION: LINGERING DOUBTS

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DORNAN. Mr. Speaker, the stories of live sightings continue. On the horizons, appear, now and then, small glimmers of light against the black night of despair. For far too many mothers and fathers, brothers and sisters, friends and relatives, the agony of the Vietnam war continues. They do not know. They do not know whether their brothers and sons are still alive. This awful uncertainty gnaws at them day and night.

I know it will be objected from several quarters that these sightings and reports of American prisoners living in Southeast Asia are nothing more than the normal aftermath of an emotionally trying war. I know that there are some who firmly believe that no American is, or can be, living in Southeast Asia under the guard of Communist authorities. But can anyone in the administration say—with absolute moral certainty—that these Americans are dead; that they do not exist; that these live sightings of U.S. personnel are a hoax? Of course, not.

Mr. Speaker, the fact remains. We do not know. Therefore, every effort should be made by the Defense Intelligence Agency, among others, to investigate each and every case of a "live sighting." There ought to be no hesitation on this matter. Investigations should include, at the very least, the employment of the most sophisticated polygraph equipment available, accompanied by the most thorough expert cross-examination and analysis.

The most recent case is the report of a Vietnamese refugee, Mr. Ngo Phi Hung, who claimed to see 49 American POW's in jails after the Vietnam war had ended. Mr. Hung said other sources indicated to him that anywhere from 200 to 250 other Americans were still being held captive. I ask that every Member of this House give the articles by Mr. Jack Anderson of the Washington Post and Mr. Roger Showley of the San Diego Union, of July 16, his or her undivided attention:

[From the San Diego Union, July 16, 1978]

BUSINESSMAN LOSES NAME LIST—AMERICANS REPORTED IN VIET PRISONS

(By Roger Showley)

A 48-year-old Vietnamese businessman, who arrived in the United States within the past two weeks, claimed yesterday to have seen forty-nine American prisoners held in Vietnamese jails after the Vietnam war ended.

Ngo Phi Hung, who has just rented a house here for himself, his wife and 11 children, told the annual meeting of the National League of Families of American Prisoners and Missing in Southeast Asia that three of the men died during the time he had access to the prisons from May 1975 to April 1977.

Speaking through an interpreter, Hung said he compiled a list of names of the prisoners but lost it to pirates as he was fleeing to Thailand this past February.

However, league officials said the list could have been copied by members of the underground resistance movement in Vietnam. They said they hope to obtain the names so they can be released.

Hung's account had not been given to U.S. government officials prior to yesterday's disclosure before 300 league delegates meeting at the U.S. Grant Hotel.

Frank Sieverts, representing the State Department at the meeting, promised to interview Hung and determine if the story is correct.

"I think we will follow up on this information and we are glad to have it brought to our attention here," Sieverts told the audience, some of whom booed Sieverts because of reports that government officials have failed to interview all Vietnamese refugees about Americans who may still be in Vietnamese prisons.

The Vietnamese government has consistently denied that any more Americans are being held or that there is any more information about persons who were killed or missing in action during the Vietnam war.

Hung said he saw an advertisement in a weekly news magazine aimed at Southeast Asia refugees asking for information about Americans still in Vietnam. The ad was placed by Le Dhi Anh, a resident in the United States since 1964 who acts as a liaison between refugee groups and organizations seeking information about POWs and MIAs.

Anh, who lives in Cheverly, Md., a suburb of Washington, flew to San Diego Friday and interviewed Hung for 6½ hours along with officials of the National League of Families, which will conclude its ninth annual meeting today. Hung had written out as much as he could remember and Anh said she was in the process of translating his account into English.

Hung said that after the North Vietnamese and Viet Cong took control of South Viet-

nam April 30, 1975, he volunteered to continue operating a 100-unit truck transfer service, which included periodic visits to jails.

Hung said he first saw Americans in Vietnamese jails at the end of May 1975. He said he was participating in the interdenominational resistance movements and was passing information to that group's leaders.

During the nearly two years he tracked the prisoners, Hung told the audience, he learned through the prison warden that three of the 49 men were civilians, three officers had died—two by suicide and one from illness—and six were in very poor health.

"The treatment was not harsh. It was nice," Hung said, as translated at the podium by Anh.

During a lengthy question-and-answer session with reporters and delegates, Hung was asked why the men were still being held.

"I didn't dare ask (the prison warden) and he never told me," Hung replied. "If I ever hinted at that, I would never have been able to set foot in the compound again. But other officials I talked to said, 'We're keeping the prisoners in exchange for aid for reconstruction, because the United States agreed to give us $2 billion.' I think it was difficult for them to admit they were keeping the men alive."

Hung was referring to a post-war claim by the new Vietnamese government that then-President Richard Nixon had agreed to give $2 billion in aid once the war was over and POWs had been exchanged and MIAs had been accounted for.

The U.S. has so far refused to grant any aid, claiming that the accounting of POWs and men missing in action has been unsatisfactory.

Hung said the prisoners were held in five different prisons, including the former headquarters of the U.S. Agency for International Development in Saigon.

Hung escaped on a fishing boat to Thailand with his family and moved to San Diego because a nephew lives here.

Anh said Hung was a wealthy businessman in Saigon and lost all his possessions when he escaped—including a briefcase with 175 ounces of gold and the list of the 49 prisoners.

In response to another question, Hung said he gathers from other sources that there are between 200 and 250 Americans still being held captive.

Before Hung spoke, Rep. Bob Wilson, R-San Diego, addressed the gathering. He urged that President Carter pressure Vietnam through the United Nations to reveal what it knows about American prisoners.

"It is the obligation of the Congress—and its responsibility—to state the demand again and again that an accounting must be forthcoming," said Wilson, the ranking Republican member of the House Armed Services Committee. "This final accounting will never be gotten until the U.S. government, as personified by our American diplomatic delegation to the U.N., decides to put severe political and economic pressure on the Vietnam Communist regime.

"We have a duty to our missing servicemen, to their families and to the nation as a whole not to allow them to be used as pawns in a brutal game of diplomacy."

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[From the Washington Post, July 16, 1978]

THOSE REPORTS OF MIA'S

(By Jack Anderson)

On May 2, 1975, the fleeting shadow of a sampan slipped through the marshy Vietnamese waterways. It scooted up one of the myriad tributaries past the village of Xeo Ro. Huddled in the back of the boat were two Americans—a gaunt white man and a huskier black man—with their hands lashed behind their backs. Curious villagers hurried to a dock to stare.

Five months later, two other emaciated Americans were seen in the same vicinity. Both were white, both "very thin." Reported a witness: "They lay in a motorized sampan. Their heads were shaven like monks'. Their wrists were tied with ropes behind their backs."

Similar haunting reports—here, two scraggly Americans begging for cigarettes, there, a scrawny white man with a faraway stare—have been brought to us. The stories can't be verified, but neither can they be disproved. They linger as an ugly memory of a war America would like to forget.

The fate of 697 Americans, missing in action, still nags the Pentagon, which is trying to close the books on the Vietnam War. Many of those men were definitely alive in communist prison camps. They were seen by comrades or spotted in photographs. But where are they now? No one has explained what happened to them.

To find out, President Carter established the Woodcock commission in February 1977. Its members traveled to Vietnam to take up the case histories of the MIAs with the Vietnamese. After a painstaking review, the commission concluded: "For reasons of terrain, climate, circumstances and passage of time, it is probable that no accounting will ever be possible for most of the Americans lost."

A House select committee conducted its own separate investigation of the missing Americans. Chairman G. V. Montgomery (D-Miss.) told us sadly: "I wish it weren't true, but I know no Americans are still alive."

Yet whispered reports continue to drift out of Vietnam. They are brought out by refugees who furnish tantalizing fragments of information that often seem authentic. Three of the 10 members of the House Committee refused to accept the conclusion that no Americans would be found. Even Montgomery admitted to us: "It is conceivable we might make one or two mistakes. But this can't go on forever."

An unofficial delegate, who toured Indochina with the Woodcock commission, also disagreed with its findings. He is Dr. Roger Shields, the deputy assistant defense secretary in charge of MIA affairs from 1973 to 1976. He wrote a scathing letter to Defense Secretary Harold Brown, informing him, in effect, that "the Vietnamese sold us a bill of goods. I did not believe what I was told."

The State Department's MIA expert, Frank Sieverts, has dismissed most refugee sightings as inaccurate. Yet he acknowledged: "Of course, there is the possibility of collusion by Vietnam. We are ultimately at their mercy."

We have tried in vain to verify the refugee reports. W have carefully extracted details from letters that the refugees have written. Our reporter Josh Levin has questioned a dozen refugees directly. A Vietnamese woman in Cheverly, Md., placed an ad in a Vietnamese-language newspaper. She has received 12 responses, with details about MIAs. Some offered to provide more information if their identities and security could be protected.

But Sieverts is still skeptical. "Refugees often want to make a good impression on us," he said. "We can't deal with imagination in a subject as important as this."

The Defense Intelligence Agency has analyzed some of the refugee reports. It found the story of the two Americans with shaven heads "quite doubtful" and another account suspect because of the witness's "obvious desire to call attention to [a] request to be allowed entry into the United States."

But the DIA cancelled an interview with Trinh Hung, now living in Philadelphia, who told about seeing the shorn Americans. His written account was rejected because it mentioned that the pair were on their way into the U Minh forest. The DIA claimed that American prisoners in South Vietnam "were transferred north for detention," so Hung's story was "contrary to known events."

But we have received other accounts of prisoners being led into U Minh forest. According to one report, 15 cinderblock prison cells were located in this forest in the spring of 1975. Fifteen American soldiers, "probably officers," five black and 10 whites, were reportedly held there.

Nor do all the reports we have seen appear contrived to impress American authorities. Many of them, in fact, appear hauntingly legitimate. We have also interviewed several refugees who, contrary to official statements, were never questioned about MIAs by American officials.

It also seems as if the Pentagon is overeager to close the files on the MIAs. That was recommended, in fact, by the House select committee. The Pentagon's four service secretaries subsequently mulled over the folders of 286 MIAs. All of those reviewed have been reclassified "presumed dead."

The military brass may be correct to believe there is no hope of recovering any more MIAs alive. Certainly, the families of MIAs shouldn't have their hopes raised unwarrantedly.

But the Pentagon should not close the files on those men prematurely. There are still reports that haven't been analyzed. The generals, who were so willing to send young men to fight in Vietnam, owe it to them to wait until the last possible minute before pronouncing them dead and forgotten.●

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ARIAS' RETURN—II

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DORNAN. Mr. Speaker, on July 20, 1978, I inserted the first portion of an address by former President Arnulfo Arias to the people of Panama. It was an emotional occasion for the Panamanian people, for it was the first time they had a chance to hear this leader since his enforced exile 10 years ago.

It has been said that the dictator Torriios has been loosening up his domestic control over the political life of the Panamanian people. I sincerely hope that this recent "thaw" in Panama's political life is long term, and not simply a set of tactical maneuvers on the part of the dictatorship to divert the attention of the world away from the true character of the regime. I sincerely hope that the absence of intense repression is not a quiet prelude to another round of Torrijos police-state crackdowns. We will see.

In the meantime, I offer to my colleagues the second portion of former President Arias' speech. It is a document to be pondered by this Congress and historians concerned with the future, as well as the past, of our great canal in Panama:

ARIAS' SPEECH

Be patient. [shouts in background] We remind the Panamanian public that several important articles on implementing the treaty still have to be approved and that the treaty is not yet finished. [shouts, applause] These articles on implementation are required for the treaties to enter into effect. It is necessary to refer to a reservation to the text of the treaties proposed by Senator Edward Brooke, which specifies that the articles

for the ratification of the treaties must be drafted [hacerse] after 31 March 1979 and that this deadline may be extended until 31 October 1979, that is, until next year. [shouts, whistles]

In the House of Representatives there is also a resolution presented by Representative George Hansen, which establishes that no property within the Canal Zone may be transferred until both U.S. congressional chambers, that is, the Senate and the House of Representatives, have approved such a transfer. [shouts, applause]

Those who go around proclaiming a short-range economic orgy to be derived from the canal are wrong. It is high time we Panamanians dedicated ourselves to work, and develop our own country in order to depend more on our own efforts and less on the rivers of gold flowing from the Canal Zone. Our privileged geographic position [applause, shouts] should contribute to the integrated development of our nation's fertile territory, from Darien to Chiriqui.

This afternoon, the Panamanian people are showing that they continue to be loyal to a deeply felt and deep-rooted ideal. The desire for important and undelayable moral, social and economic achievements is linked to this ideal.

In this welcome today there is a reaffirmation of patriotic principles and an evidence of our indomitable faith in our redeeming efforts, in which all Panamanians, regardless of race or class have joined. [applause, shouts]

The struggle against the merchant policeman currently infesting the fatherland's temple with his [word indistinct] has begun and the challenge is there for all to see. This great movement for the reestablishment of democracy in Panama and the forgotten masses' desperate cry for redemption will find in Panamenism and our call for national unity the only hope for the country's renewal. [applause]

In these historic efforts, we are accompanied by the Republican Party, Christian Democracy [applause] and the new Social Democratic Party. We are also accompanied by the old members of Communal Action, Democratic Action and the Third Nationalist Party [applause, shouts, whistles] our friends from the patriotic coalition and the independent liberals. We are also very interested in the sincere adherence to this undeniable cause by the members of the National Liberal Party and the Agrarian Labor Party [shouts, applause]. We also have the enthusiastic participation of civic organizations, which have before them the edifying example of the movement of independent lawyers [applause, shouts, whistles], the national studies group and the new Democratic Independent Movement [applause]. Let me know if you are tired [repeated shouts of "no!" and "presidency!"]

The Panamenists have made an apostolate of their lives, an altar of their duties and a sacrifice aimed at the creation of a great, noble, free and just fatherland of the present.

Men and women, firm of heart and principles, old friends who have been tested in much remembered previous campaigns, and new members full of energy and firm determination are now swelling our ranks. All of them together, in a harmonious task force, are carrying out missions, endorsing goals, making decisions and disseminating our undying doctrine.

For this reason, as we have upheld our ideals and sought the unity of our followers, as have we maintained our enthusiasm for the worthiness of our cause and expanded the creed which has created confidence in the innermost hearts of Panamanians, we have never practiced deception, with illusory promises. For this reason, the voice of the people resounds in the galleries of the fatherland today. [applause, shouting]

Students and youths, instead of being taught the history of the fatherland and receiving guidance in line with their ancestors' principles of hard work and honesty, are being indoctrinated with communist lies. The poisonous [shouting] educational reform program is fulfilling its task of causing alienation. In educational terms, however, it is a total failure.

Today, more than ever, the young people here in Panama demand participation in keeping with the free and democratic ideals that they hold. They wish to be free of all venal ties, of all muzzling, and are prepared to play their legitimate role in these dangerously critical times we are experiencing, times they understand better than anyone because, in the final analysis, they will have to occupy the posts which we occupy today. [shouting]

Thanks to Almighty God, I studied in the best universities and I graduated as a surgeon from Harvard, where I learned to alleviate and cure the illnesses that afflict us. With budding intuition I felt it too was my duty to take an interest in the political and social evils that afflicted our underdeveloped people instead of devoting myself solely to malaria, typhoid, gonorrhea or syphilis. And for this reason, I have worked since 2 January 1931, not only trying to cure those illnesses, but also to remove tumors through surgical procedures.

However, to remove the cancer which corrodes our society, a contribution is necessary from all the inhabitants of our land—men, women, children, the elderly, adolescents, natives and foreigners. This is not a job solely for individuals or civic associations or political parties. It is a job for the entire nation, and it requires a common front against the dictatorship.

The call from our people, who were represented at the meeting in Hallandale, Florida, on 12 February of this year by several parties and civic associations, and the call from the leaders of the Panamenist Party issued in Miami on 6 May 1978, which I could not refuse, have convinced me of the need to unite the people, from Darien to Chiriqui, from the Pacific to the Atlantic, in order to correct the evils which afflict us now and in order to be able to participate in the great battle of Armageddon that began in the Middle East, is underway in Africa, and now threatens Nicaragua and El Salvador, and even us. Only God knows when it will end. I refer to the imminent world war.

The legitimate U.S. legislators of both chambers and President Carter himself, as the world champion of human rights, must be appalled to see that on the coasts of the isthmus the use of force and threats is increasing. This implies the existence of secret pacts with the bitter enemies of democracy, who, in bombing the canal in the future, will also be bombing thousands upon thousands of Panamanians in the neighboring cities of Panama: Colon, Arraijan, Chorrera, Pacora and Chepo. This is the near future that the bossman [mandamas] was predicting for us when he said that he would blow up the Panama Canal. [applause, shouting]

A few cheap political mercenaries are unable to sacrifice their positions and aspirations, and are confused by the voracious merchants who seek quick profits. The total renunciation of personal gain out of pure love for our land is difficult. The altruistic ideals and lack of pettiness that characterize the great majority of Panamanian political parties and Panamanian civic groups, united as brethren in a genuine national unity, is an eloquent and noble contrast to those who seek to legitimize a new electoral force that has as its purpose the perpetuation of the tyrannical and traitorous regime.

The inexorable force of the present situation in Panama is increasing the scrutinizing capacity of the Panamanian, who despises and repudiates electioneering politicians and the supreme traitor, who clings to his ill-gotten power. [applause, shouting]

Today, 11 June 1978, we announce to the people that we are back, [applause, shouting] without weapons or bullets [words indistinct]. Nor have we come with little soldiers in uniform to frighten you. [shouting and chanting: president, president] We have come with our souls and hearts filled with patriotism and love to occupy the place which you, our beloved people and the will of God have appointed for us [applause, shouting: president, president, president] to contribute with projects and institutions, as we did in 1941 and in our other truncated presidential terms. At those times we gave land, tools and seeds to the farmers, who received 45,000 titles to land. We have come to contribute with projects such as the social security institute, whose beneficiaries would live like paupers today if they had not paid their dues. We have contributed to Panama the security of its homes; we have contributed women's right to vote, which at least helps to check political abuses. We contributed with the law recognizing children born out of wedlock, trying to save them from the inferior status that still affects many of them. [shouting, applause] The provincial hospitals would still not be built if it had not been for the herosim of the community action boys. The Bridge of the Americas would still not be built if we had not had the support of the Panamanian people when we presented the 12 points to the United States.

In the construction of public buildings we did not give commissions or bribes. However, there have recently been many bribes in the commissions from loans of doubtful origin. [applause, shouting]

Yes, we have returned to you to promote education in kindergarten and vocational, drama, music and ballet schools; to promote the university in the four languages of our Americas; to improve hospitals with the best medical technology; to help shops and small factories, to insure that we benefit from what is produced in Panama and that banks give loans to men and women with creative ideas whose greatest guarantee will be their honesty and that these men and women will have capable technicians to guide them in their endeavors. [applause]

Yes, we have returned. [shouting, applause] We have returned to help our people strive for a better Panama through democratic methods and constitutional governments, in order to insure that Panama will never be the first Soviet colony on the American mainland. [shouting, applause] Remember that the communist fifth column is among us with the greatest budget in its history. [applause]

On 30 November 1940, during my first term, Jephta B. Duncan, an illustrious and venerable man, in the swearing in ceremony at the national university said the following: "Weapons by themselves are no longer sufficient to defend the sovereignty and territory of free peoples. People need an intelligent awareness of the needs and risks which expose them to the loss of their freedom or the crisis of the institutions which protect them. The defense of a nation is made stronger and more efficient when one knows what one is defending and when one is aware of the extraordinary importance for a society of the social, economic and political principles which make up the most important aspects of the system under which it operates." [applause, shouting]

This is not the time for personal ambitions, sectarian activities or petty politics. We need activities and movements that promote national unity. Civilians and military, merchants and industrialists, workers and government employees, clergy and civic leaders full of patriotism are needed to put an end to the institutional crisis and save our language, our religion and the traditions taught

us by free men like Bolivar, San Martin, Washington, Marti, Juarez, Moraza, Duarte and our own Urraca and patriots like Justo Arosemena, Belisario Porras, Harmedio Arias and Juan Demostenes Arosemena.

We await the precise moment when St. Michael, the great archangel, will arrive with the great demolishing sword of justice in his hands to exterminate the evils which afflict Panama because of the unworthy conduct of its unworthy sons.

We are here, ready for dialog with anyone who is concerned about the fate of the great majorities and who honestly wishes to contribute to the reconstruction of the country and its genuine welfare. We are ready for action at all times, in conformity with the mandates of the fatherland. [applause, shouting]

During our 47 years of public life, we have desired no other title than that of servant of the fatherland and brother of the Panamanians. For this reason, we are here, prepared to sacrifice—as we have done on other occasions—our personal peace for the sake of defending the national interests which represent the sacred destiny of our fatherland. Thank you very much.●

## LETTER FROM AN ECONOMIST WITH SOUND ADVICE

### HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. STOCKMAN. Mr. Speaker, Prof. George W. Trivoli, the chairman of the Department of Economics and Business Administration at Hillsdale College, recently published an "open letter" to President Carter that presents in succint terms the source of our current economic problems.

I would like to share Professor Trivoli's comments with the Members of this body because, although his comments were directed to the President, the Congress must share equal responsibility for misguided policies of constantly expanding deficits, costly regulations, and other inflationary forces.

Hillsdale College is one of the few institutions of higher learning in our country that is blessed with an economics department capable of perceiving that an expanded Federal Government is not the solution to every problem. If we were to follow Professor Trivoli's advice instead of the advice emanating from the advocates of big Government—whose policies produced our current problems—we could avoid entering another cycle of double-digit inflation and economic contraction.

[From the Lima (Ohio) News, Apr. 9, 1978]

ARE YOU LISTENING, MR. PRESIDENT?

An open letter to the President of the United States:

There are several important and urgent economic problems facing the nation. These are: (1) an acceleration in the already historically high inflation rates; (2) the continued impasse on energy policy; and (3) the precipitous decline of the dollar in foreign exchange markets. As a result of these and other problems, the general mood of business and investors seems to be negative as evidenced by the continual depressed state of the stock market and business investment.

The increased pace of inflation, which I contend is the root cause of most of the present problems, has been generated by the constant increases of federal spending throughout the present recovery since 1974–75. With the growth of federal spending proceeding at the pace in recent years of between 8 and 10 percent, the total size of the federal budget within 10 years will more than double the current projected $500 billion level. That would place the federal budget at $1 trillion or between 38 and 40 percent of nominal GNP, assuming continued economic growth of between 3 and 4 percent per year. Surely something must be done to stop runaway growth of federal spending, regulation and control of every aspect of American lives.

The evidence from the experience of other nations, as well as our own, clearly shows that as the size of the public sector grows, the private sector necessarily shrinks. A recent Wall Street Journal report indicated that as a percentage of GNP, government spending and taxes among major Western nations were the highest in the U.S., exceeded only by Great Britain.

The growth of federal spending has been matched by accelerating deficits throughout the present economic recovery, but the proposed administration budgets for fiscal 1978–79 call for back-to-back $60 billion–plus deficits. Continual budget deficits, as you are well aware, lead inevitably to large additions to our already horrendous national debt and also generate increased inflationary pressures. Since the combined refunded national debt plus the new budget deficit must be financed in the private capital market each year, private borrowing and business investment necessarily must bid for increasingly scarce savings.

In addition, the Federal Reserve is forced to support all new federal debt issues (adding last year almost $10 billion to its permanent holdings of federal debt). When the Fed buys Treasury debt, we have a simple process of monetization of the debt, which is purely inflationary. The growth of banking reserves upon which banks can create ever-increasing amounts of money and credit has been accelerating at a rate of 9 to 10 percent per year. Increased reserves to the banking system inevitably lead to inflation. Hence, it comes as no surprise that both wholesale and consumer prices now appear to be currently rising at near double digit rates.

The answer to accelerated inflation is not more restrictions and controls on American labor and business, since they simply are trying to keep pace with the inflation. The president must order immediate and decisive reductions in federal spending, amounting this year to between $25 and $50 billion.

Impossible you say. Between the beginning of 1975 and the end of 1976, more than $60 billion was added to the federal budget. Surely $25 to $50 bilion can be cut within a commensurate time.

Please don't ask me what programs to cut. Ask instead the bureaucrats running your agencies to justify what programs should remain, given the current crisis of gargantuan government.

Our domestic inflation, along with our nation's increased dependence upon foreign oil, has driven our balance of payments into an unprecedented deficit approaching $25 billion in 1977 and projected to be at least that level again in 1978. Foreign holders of U.S. dollars have become increasingly weary of this nation's inflationary policies and are becoming less willing to hold U.S. IOU's. The excess dollars in foreign exchange markets, with fewer demanders to purchase U.S. merchandise or financial assets, is the main cause of the dollar's decline in value vis-a-vis major world currencies.

Instead of prodding our allied and major trading partners such as West Germany and Japan to accelerate their domestic inflation rates, as administration officials have been doing in recent years, we should be taking drastic steps to reduce or eliminate our own inflation.

How can this be done? You, Mr. President, must take decisive action! No, not wage-price controls. We have seen an example of how effective they can be in the administration's inability to deal with the coal miners' union. By the way, wasn't it a bit short-sighted for the administration to advocate, and the House-Senate Energy Conference to suggest, increased dependence upon coal in production of energy during the coal negotiations? Surely the miners read that as a signal to gain as much as they possibly can from this contract.

Which brings us to what appears to be left of the administration's original energy proposal. It has become apparent to you, as it has to most Americans evidenced by the dealock in the House-Senate conference, that the original plan was ill-conceived. What the U.S. energy industry needs is disintervention by the federal government in the case of petroleum and deregulation by the Federal Power Commission for the natural gas industry.

The evidence is overwhelming (much of it supplied by ERDA, now part of the vast new Energy Department bureaucracy) that there is plenty of petroleum and natural gas right here in the U.S. With the world price of petroleum at about $14 per barrel, do you really think it pays domestic producers to go to the expense of enhancement of existing wells—in which as much as 60 to 75 percent of the oil still remains in the ground—to sell it at the government regulated price of between $5 and $9 per barrel? A former peanut grower should know better than that!

Under the regulation of the Federal Energy Administration, our current energy program has the effect of a direct transfer from domestic oil producers and refiners to foreign oil refiners in order to enforce a lower petroleum price in the U.S.—discouraging domestic production and encouraging domestic consumption—while our nation's dependence on OPEC supplied oil increases.

If all Americans knew that since 1974 U.S. oil producers and refiners were being taxed so as to subsidize the importation and refining of OPEC oil, what do you think they would say? As you know, this is precisely what the FEA policy has accomplished. Adding yet another tax on domestic oil producers, as your proposed crude oil tax would do, is hardly the way to solve our domestic petroleum crisis.

An immediate elimination of price ceilings on U.S. petroleum—the only remnant of the Nixon era price controls—accompanied with a temporary quota on OPEC imported oil, would cause several important actions. Our domestic petroleum industry would be immediately revitalized; the slightly higher price of petroleum products would cause Americans to conserve in their consumption. But the price of oil would not rise to the OPEC level. The OPEC cartel, already facing the prospect of tremendous excess oil reserves, would be forced to break the world price of oil or face the prospect of widespread cheating among cartel member nations seeking to maintain sales.

Space limits a consideration of the natural gas problem, except to say that under the FPC gas prices have been controlled at such a low level that in real purchasing power terms, natural gas is cheaper than in the early 1950's. Only a few lucky Americans are still able to get natural gas because at the lower regulated price there are no longer incentives to search for and produce new gas. Yet natural gas is potentially our most abundant, cleanest fuel. Moreover, it is a major feedstock for our vast petrochemical business.

Surely, you don't wish to be remembered as the president who administered policies

that resulted in the total collapse of the dollar in international markets, runaway inflation and total wage-price controls, with commensurate loss of freedom and the destruction of our domestic petroleum and gas industries (to be taken over by whom, our new Department of Energy?).

Please forgive me for such stark revelations, but someone had to tell the emperor that his underwear is showing!

Respectfully,

GEORGE W. TRIVOLI, Ph.D.,
*Professor and Chairman, Division of Economics and Business Administration, Hillsdale College.*●

## DEEP SEABED APPLICANTS SHOULD HAVE WORK PLAN

### HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. McCLOSKEY. Mr. Speaker, tomorrow during consideration of H.R. 12988, I intend to offer a series of amendments which will require that an applicant for a license or permit submit a "work plan" along with his application.

I am offering these amendments to remedy a particularly undesirable aspect of the bill, as presently drafted. This is the language which would appear to claim sovereign rights by the United States over a specific area of the seabed.

Under international law we can claim access to seabed minerals, but there is no basis for claiming jurisdiction over the seabed itself. While this may be argued to be a mere legal distinction, the issue is a very real one in the minds of other nations.

As Ambassador Elliot Richardson pointed out:

> I think it is important . . . to get across as clearly as possible that the United States is not purporting to establish a claim of sovereignty over a portion of the seabed. If that impression were to be created, no matter how slight a foundation, it could trigger comparable claims by other countries. And, we could end up seeing the whole seabed carved up among competing national claims in the way the continent of Africa was once carved up.

The work plan mechanism avoids an assertion of jurisdiction by the United States over a specific area of the seabed. As stated by Secretary of Commerce Kreps before the Merchant Marine and Fisheries Committee, a work plan will make it clear that:

> Neither the United States nor the miner would have any territorial or property right in an area. U.S. jurisdiction would be purely in person, that is, over the licensee, not the area subject to the license.

In addition to the international law protection, the work plan mechanism supports strong environmental protections and facilitates the administration of the bill.

The environmental policy center lists the incorporation of a work plan as a "key amendment which must be included in final passage of the bill if Congress is going to pass a strong ocean mining bill."

The administration also supports the inclusion of a work plan amendment stating that it is the "centerpiece of the management plan" and that the diligence requirement in the work plan is "critical and provides the Secretary the necessary authority to insure that the exploration and development plan proposed by the applicant and approved by the Secretary will be carried out in a reasonable manner."

The majority of the amendments are technical and bring the language of the bill in conformity with the establishment of the work plan.

The key amendment is as follows:

On page 14, after "applications." add "Each application shall contain a work plan describing—(A) the location of the area of the seabed proposed to be explored or where commercial recovery activities will be conducted;

"(B) a schedule of exploration or commercial recovery activities, and a description of the system to be employed, such information to be used by the Secretary in determining whether the applicant is carrying out such activities with due diligence;

"(C) a schedule of expenditures for exploration or commercial recovery activities; and,

"(D) proposed measures to protect the environment and to monitor the environmental impact of the operations.".

The remaining amendments are as follows:

On page 9, at line 22, delete "with respect" and insert in lieu thereof, "based on a work plan referring".

On page 12, strike lines 10–25 inclusive and insert in lieu thereof, "(D) any license for exploration or any permit for commercial recovery if the work plan for such license or permit describes an area of the deep seabed the same as that described in a work plan for a license or permit previously issued to that applicant which has been surrendered, relinquished or revoked under section 104 within the preceding 3 years;

"(E) any license for exploration or any permit for commercial recovery if the work plan for such license or permit would conflict with: (i) any work plan for any pending application for a license or permit to which priority of right for issuance applies; (ii) any work plan for any existing license or permit; or (iii) any equivalent authorization which has been previously issued by a reciprocating state.".

On page 15, after line 15, insert "(D) the applicant's proposed work plan meets the requirements of this Act and the regulations promulgated pursuant thereto."

On page 18, at line 8, delete "area which is" and insert in lieu thereof, "activities".

On page 26, line 9, after "permits" insert, ", or modification of work plans,".

On page 26, strike lines 14–25 inclusive, and on page 27, strike lines 1–9 inclusive, and insert in lieu thereof:

"(1) WORK PLAN.—(A) The area for exploration shall be of sufficient size to allow for intensive exploration activities.

"(B) The area for commercial recovery shall be of sufficient size to meet estimated production requirements.

"(C) The areas of exploration or commercial recovery shall be reasonably regular in shape.".

"(D) When a licensee obtains approval of a work plan associated with a permit for commercial recovery, the work plan with his license shall be relinquished.".

On page 27, on lines 12 and 13, delete "the license" and insert in lieu thereof "its work plan".

On page 27, on lines 18 and 19, delete "which is authorized to be recovered under the permit" and insert in lieu thereof "covered by its work plan".

On page 28, at line 5, delete "the license" and insert in lieu thereof "its work plan".

On page 29, starting on line 5 through line 6, delete "area of the deep seabed" and insert in lieu thereof "right to conduct any deep seabed activity".

On page 29, at line 8, delete "area of the deep seabed" and insert in lieu thereof "such right".●

## CAPTIVE NATIONS WEEK 20TH ANNIVERSARY COMMEMORATION

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. BIAGGI. Mr. Speaker, this week we observe a most solemn event, the 20th anniversary of the first Presidential declaration of Captive Nations Week. It is a time to reflect over the tragic fact that there has been so little progress made in 20 years to improve the plight of the captive peoples of the world.

The people in the captive nations have had great hopes in America during these 20 years and more often than not our policies have caused these hopes to be dashed. Captive nations have been betrayed by détente and have yet to see the benefits from the present human rights policies of this administration.

We should make as a national foreign policy goal to reinforce our solidarity with those in captive nations who seek freedom. The spirit of captive nations' many freedom fighters is inexhaustible and hopefully they will triumph in the end. In addition to working for improved freedoms in captive nations we must be wary of any further Communist adventures in Third World nations especially in Africa. They are vulnerable and must be protected.

On Sunday an important demonstration was conducted by the Captive Nations Committee of New York. I was proud to participate in the observance and was very much impressed with the opening remarks delivered by the chairman of the committee Horst Uhlich. Perhaps the most salient of his many relevant remarks was his recognition that freedom is by no means a static entity to be taken for granted. As Uhlich said "Freedom like friendship continues only when we work at it—dream about it, wish for it with all our hearts because freedom is very difficult to win and to keep, but very easy to lose." Words of wisdom indeed. Let us renew our pledges of support to those in captive nations and continue to serve as the beacon of freedom shining on around the world.

Mr. Uhlich's speech and the program from the New York Captive Nations Week rally follow:

OPENING DAY OF CAPTIVE NATIONS WEEK

Distinguished guests . . . members and friends:

In the name of the Captive Nations Committee, of New York—it is a pleasure to welcome all of you—on the occasion of this 20th Annual Captive Nations parade and commemoration.

We are honored by your presence, here. We know that you have made a special sacrifice, during vacation time, to join us here, today. And we are well aware that those who

still remain inside captive territory are making the greatest sacrifice of all—because the loss of man's freedom is the greatest sacrifice of all.

We are all, indeed, honored to have with us our distinguished guests who bring us strength—and who raise our spirits with their presence. We would also like to take this opportunity to thank our committee members whose efforts and encouragement have been the support of our organization. And all of you who have helped in your own special ways: many, many thanks! And our special thanks to our honorary chairman, Dr. Ivan Docheff, for his good advice and guidance. . . .

We are here today, to honor those who have died at the hands of the Communist party—and those who are living their lives in Communist concentration camps, or who are detained, for reasons of mental health.

We are the fortunate ones, to be living in this great country, the United States of America—to have the freedom to meet, here, today. And it is only a few days after the celebration of our Independence Day on July 4th, a reminder that freedom, like friendship, continues only when we work at it—dream about it—wish for it with all our hearts—because freedom is very difficult to win and to keep, but very easy to lose. We have, in our own experiences learned many hard lessons.

We have suffered—and many of us still have relatives, families and friends who are weeping, starving, and suffering at this very moment. And they only ask for a word of encouragement from us—to assure them that they are not forgotten—to let them know that we are gathering together, as we are doing today, to send them a message of hope.

But above all—we must send our stern message to the Communist slaveholders ruling the captive countries, that we will never, never stop demanding freedom for all nations—and that we will never give up, until all peoples who are living under Communist slavery are liberated.

One visible activity is the pressure that the United States has been putting on the Communists, demanding human rights. This country is, in principle, attempting to remind the Communists that the human rights issue . . . one of the vital agreements which they signed during the Helsinki conference in 1975 . . . has been disregarded by them. The news coming out of Moscow, even today, shows only too clearly what the Bolsheviks understand by human rights. President Carter we understand is just visiting Berlin. When he looks at the Berlin Wall, it is like seeing the face of death . . . he should have the truest possible understanding of what Bolshevism means by human rights.

In 1945, when I was only a boy of 9 years, I was one of 17,000,000 East Germans who were expelled from our homeland of East and West Prussia, Pomerania, Silesia, and Sudetenland . . . and many people are not aware of the fact that 2,280,000 East Germans, mostly helpless women and children, were massacred after World War Two. And we know that the Crimean Tatars had almost half of their entire population killed off. And all the other captive nations of every culture have suffered similar disasters. Therefore, it is the duty of those of us who have survived to tell the truth about Communism. So that those who have not lived through the horrors of Communism, as we have, will understand more clearly what is to be expected from Communism . . . the madness of Communism . . . the murderous ambition of the Communist Party to conquer the entire world. These may be the final hours in history for us to alert the people who yet remain free . . . to wake up to the danger of the Communist Party International, which has conquered three quarters of the world, and having succeeded in Vietnam, immediately transferred their military operations to Africa.

And finally, on this occasion, today, we cannot afford to sleep peacefully until the cause of the captive nations has been made popular before the eyes of the American people and the entire free world . . . equally popular with the cause of the two Russian dissidents.

Albania, Armenia, Azerbaijan, Bulgaria, Byelorussia, Cambodia, China, Crimean Tatars, Cossackia, Croatia, Cuba, Czechia, East Germany, Estonia, Georgia, Hungary, Idel Ural, Karatchays, Laos, Latvia, Lithuania, Mongolia, North Caucasus, North Korea, North Vietnam, Poland, Romania, Serbia, Slovakia, Slovenia, South Vietnam, Tibet, Turkestan, Ukraine.

These nations must live . . . they have the right to live . . . to exist just as other nations to exist!!!

Until these nations are free again . . . let us all work and pray for them.

May God be with us!!●

## A TENDENCY TO LEGISLATE

**HON. JOHN B. ANDERSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. ANDERSON of Illinois. Mr. Speaker, a while back one of our colleagues sent out a "Dear Colleague" letter in which he referred to a bill which was coming up under the "suspense calendar." While in fact there is not even such a thing as the suspension calendar—the procedure is simply known as "suspension of the rules"—our colleague may have been closer to an accurate description of the process in referring to it as the "suspense calendar." Given the excessive use of this procedure, the perfunctory debates, the absence of amendments, and the delayed votes, most Members are left in suspense over what they are voting on.

An excellent article on the abuse of the suspension procedure appeared in the June 26, 1978, issue of the New Yorker magazine. Written by the Washingtonwise columnist, Elizabeth Drew, and entitled, "A Tendency To Legislate," the article describes the proceedings on a typical suspension day and the reactions of Members to the procedure. Most Members interviewed agreed that the procedure was being overused and abused.

The justification for the increased use of this legislative, short-circuit process is that there are just too many bills to pass nowadays and too little time to consider them under normal procedures. The irony in this, of course, is that the more bills we take up under the suspension procedure, the more we tend to extend and expand existing programs without adequate oversight or revision, and the more we make way for the creation of new programs to pile on top of the old.

Mr. Speaker, without getting partisan I would point out that we on this side of the aisle did warn about the inevitability of abuse of the suspension procedure and lackadasical legislating both when the days for suspensions were increased and when the provision for delayed voting was under consideration. I would hope that the increased bipartisan disquiet in the House over the excessive use of the suspension procedure would produce greater restraint in scheduling bills under suspension as well as some further guidelines or House rules changes which would relieve the Speaker of the constant pressure put on him to permit all manner of bills to be brought up under suspension. I, for instance, along with some 53 cosponsors, have introduced House Resolution 178–180, which would amend House rule XXVII to prohibit any bill from being brought up under suspension unless specifically authorized by majority, rollcall vote of the committee, or the written request of the chairman and ranking minority member of the committee of jurisdiction. I think we might also consider a dollar limit on bills which can be brought up under suspension.

At this point in the RECORD, Mr. Speaker, I insert the article from the New Yorker by Elizabeth Drew to which I referred earlier in my remarks. The article follows:

A TENDENCY TO LEGISLATE

On Monday, May 22nd, the House of Representatives, in approximately one hour and forty-five minutes, passed six pieces of legislation. The debate on these bills took about forty minutes altogether, and the rest of the time was consumed by roll-call votes on them. When a bill is considered on the House floor under regular procedures, hours, or even days, can be required to complete work on it, but these six bills were considered under what is known as the suspension calendar—a process that has come into increasing use. About a fourth of all House legislation of any consequence—that is, excluding private bills and routine matters that carry by unanimous consent—is handled this way.

The normal rules of legislating are suspended, debate is limited to twenty minutes for each party, amendments from the floor are prohibited, and a bill needs the approval of two-thirds of those voting. The theory is that this is an efficient way of clearing noncontroversial proposals, but the suspension procedure is also used for other purposes: to slip bills through or to deny members an opportunity to amend them, under the pretense that if a bill is on the suspension calendar it is by definition noncontroversial.

The speed of the process causes members of the House to cast their votes in even more ignorance than usual of just what it is they are deciding. Of late, members of the House, their docility on this particular Monday notwithstanding, have been growing increasingly wary of the suspension process, and that wariness is a symptom of a deeper unease—an unease about the sheer amount of legislation that comes before them.

As government grows, so does the number of bills to reauthorize old programs, to change them, to tinker with them, to find flaws in the way the executive branch is administering them. A program, once enacted, rarely dies. And, at the same time, members of Congress keep coming up with new ideas for things for the government to do.

There being many more members of the House than of the Senate, many more bills get pushed onto the House calendar. At the end of each session, the congressional leaders put out a list of bills passed that year, and the presumption is that the more bills that have been passed the more has been accomplished.

As the volume of legislation rises, so does the pressure to get bills on the suspension calendar; otherwise, a bill's sponsors must

take their place in the long line of those waiting to bring legislation to the House floor under the regular procedures, and, because of the limited time, many bills don't make it. (This year, because it is an election year, the House plans to adjourn by the first of October.) In late May, a staff member of one of the House leaders said to me, "Everybody and his dog are trying to get on the suspension calendar." Technically, the Speaker of the House decides what goes on the suspension calendar, but most of this work is done by members of his and the Majority Leader's staffs.

A committee chairman simply writes a letter to the Speaker asking that a bill be put on the suspension calendar, and, if possible, he is obliged. Speaker Thomas P. O'Neill has set "guidelines," which include stipulations that bills on the suspension calendar should be neither controversial nor expensive, but although the guidelines help to establish an appearance of orderliness, they are not necessarily followed.

In mid-May, for example, two of the bills on the suspension calendar were the Comprehensive Rehabilitation Services Amendments of 1978, a large piece of legislation authorizing at least seven billion dollars in spending over the next five years and initiating a number of new programs for assistance to the handicapped; and the Comprehensive Older Americans Act Amendments of 1978, authorizing more than four billion dollars over the next three years and also initiating a number of new programs.

Under the rules, members had little opportunity to study the bills and no opportunity to offer amendments, and were faced with the choice of voting for or against the aging and the handicapped. (They voted for them, by 361–6 and 382–12, respectively.) Earlier, the leadership brought up under the suspension rules an Administration proposal to increase federal assistance for college-tuition payments.

The idea was to ward off a proposal, popular in Congress but opposed by the Administration, for tuition tax credits, but House members saw through the stratagem and it flopped. Generally, the idea is to not bring up bills that might fail to get the necessary two-thirds vote, because, from the point of view of the chairman of the sponsoring committee, that prejudices a bill's chances if it is brought up again, under the regular rules, and, from the leadership's point of view, a defeat reflects on its expertise in reading the mood of the House.

At twelve-twenty-five on May 22nd, the first bill on the day's suspension calendar is brought up. Putting bills on a given day's suspension calendar is, of course, a way for the leadership to do favors for the members sponsoring them. Of the six bills to be considered under the suspension rules today, four, all having to do with the subject of timberlands, are sponsored by Representative Jim Weaver, Democrat of Oregon, who is facing a challenge in a primary tomorrow. Dan Rostenkowski, Democrat of Illinois and Chief Deputy Whip, is in the chair.

About forty of the four hundred and thirty-five House members are present, and of those a high percentage are reading their mail or the newspapers or chatting with each other as the "debate" proceeds. Only about a half-dozen members are listening to the first speaker—Representative Carl Perkins, Democrat of Kentucky, the chairman of the House Education and Labor Committee.

The press gallery is virtually empty. Perkins brings up a resolution blocking the consolidation of several advisory committees by the Office of Education. (Such consolidations can be blocked by a vote of either the Senate or the House.)

In recent years, Congress has got in the habit, when it establishes new programs, of requiring the creation of executive-branch advisory committees, particularly in the fields of health, education, and welfare.

The high-minded reason given is that the advisory committees bring independent judgment to the administration of the programs, but in reality the committees become creatures of the programs, of the bureaucracies that administer them, and of the client groups that benefit from them.

In any event, memberships on them are considered prestigious and useful, and they provide opportunities for members of Congress to push for appointments of their friends and benefactors. Jimmy Carter, as a Presidential candidate, it will be recalled, pledged again and again that he would reduce the number of government agencies from nineteen hundred to two hundred. Of the nineteen hundred or so, about twelve hundred turned out to be advisory committees, almost a third of them attached to the Department of Health, Education, and Welfare.

The Department was directed by the new Administration to eliminate a hundred such committees, and so the Office of Education proposed to consolidate the National Advisory Council on Equality of Educational Opportunity with the National Advisory Council on the Education of Disadvantaged Children, and to consolidate the Community Education Advisory Council and the National Advisory Council on Adult Education with the National Advisory Council on Vocational Education. But these changes were opposed not only by some of the client groups, which lobbied against them, but also by members of some of the advisory committees that were to be merged and by members of their staffs, who stood to lose jobs.

The Education and Labor Committee, protective of legislation it has spawned and sympathetic with the programs' client groups, has unanimously approved a bill, which Perkins is now bringing up, to block the merging of the advisory committee.

He routinely reads a statement giving lofty reasons for the legislation. John Buchanan, Republican of Alabama, who is also a member of the Education and Labor Committee, speaks in behalf of the bill; there is no further discussion, and ten minutes after the "debate" on this issue begins, it is over. Harold Volkmer, a freshman Democrat from Missouri, who has made a habit of demanding roll-call votes on suspension bills, does so now; a sufficient number of members agree, and, in accordance with custom, the vote is postponed until all of the day's suspension bills have been considered.

Next, Jim Weaver brings up H.R. 11777, the first of his four bills—this one to consolidate and also to expand several programs that provide federal assistance to private owners of forestland (the coöperative tree seed-and-plant program, the coöperative forest-management program, the coöperative tree-improvement program, the forestry-incentives program, the urban forestry technical-assistance program, the insect-and-disease-control program, the rural-community fire program, the cooperative forest-fire program, and the white-pine blister-rust-protection program).

Weaver quickly and sketchily explains what the bill would do, and says that it represents the efforts of the United States Forest Service and the Extension Service of the Agriculture Department, and also of ten private organizations, including the American Forestry Association and the National Forest Products Association—that is, of the bureaucracies that administer the programs and the interest groups that benefit from them. William Wampler, of Virginia, the senior Republican on the Agriculture Committee, says he supports the bill, and three minutes after the debate on H.R. 11777 began, it is over.

Representative Ronald Mottl, a Democrat from Ohio who is in his second term, demands, as has become his practice, a roll-call vote. Weaver's next bill, also backed by the two federal agencies and the ten private organizations, would expand the Forest Service program of research into forest and rangeland "renewable resources." The existing limit on spending for the program—twenty million dollars a year—would be removed. In five minutes, the debate on the bill is concluded.

The debate on the next bill, which would authorize spending of up to fifteen million dollars a year for ten years to provide extension services to private owners of forestland, takes two minutes, and the debate on Weaver's fourth bill, which would expand a program that supports volunteer work on forestlands, takes seven minutes.

Then ten minutes is spent on a bill to extend and expand a program that provides special training and employment opportunities in the federal government for veterans of the Vietnam era and certain other disabled veterans. At five minutes past one, the debate on all six bills is concluded, and the voting begins.

Under the suspension system, the first vote is allotted fifteen minutes—giving members time to reach the House chamber from their offices and committee rooms in the adjacent House office buildings—and each one after that is given five minutes. (Under regular legislative procedures, every vote is allowed fifteen minutes.)

During roll-call votes, the names of members of the House appear in lights along the wall behind the press gallery; the members insert a card in one of a number of electronic machines scattered around the floor and push a button to indicate how they are voting, and a green light next to the name indicates a "yes" vote, a red light indicates a "no" vote.

On each side of the chamber is a scoreboard that gives a running tally of how the vote is going and how many minutes on that vote remain. What these pieces of machinery say is often more important in helping members make up their minds on how to vote than is the content of the proposal they are voting on.

The system that has evolved for voting on the suspension calendar contributes to the members' relative ignorance of what they are deciding, and is an example of the kind of logic that determines so much of what happens on Capitol Hill. Until not many years ago, the suspension process was used only every other Monday, and in 1973 Tuesdays were added.

Last year, the number of days was increased again, to Monday and Tuesday of each week. In earlier years, by and large the bills were approved simply by voice vote. Since many members do not make it back to Washington from their home states until late on Monday, in 1974 the practice of postponing any roll-call votes on the day's suspension calendar until all of the bills had been debated was instituted.

When legislation is being considered under the regular procedures, members might be inclined to hang around the House floor between votes on amendments, and therefore learn what the amendments—and the bills—are about, but there is little incentive to be present during the debate on the suspension bills. And, increasingly, roll-call votes, rather than just voice votes, are being demanded on suspension bills. (The rules stipulate that a roll-call vote must be taken if one-fifth of those present ask for it—a number that, given the attendance during consideration of bills on the suspension calendar, is not difficult to achieve.)

Some Republicans began demanding roll calls because they were angry over recent changes in the rules which prevent them from demanding quorum calls at will—both as a tactic for delay and as a means of

harassing the Democratic majority. Most members are concerned, for fear of what election opponents might say, about keeping their roll-call voting records high, regardless of how unimportant some of the votes may be.

Therefore, some Democrats, annoyed because last year the House leadership began holding more frequent Friday sessions during which roll-call votes were taken, began (particularly if they had missed the Friday sessions) to demand roll-call votes on Mondays, so that they could improve their voting records.

And therefore the House leaders, for their part, in order to protect those members who do not return to Washington on Monday in time for the votes, if at all, this year limited to six the number of bills that could come up under suspension of the rules on any one day, with some exceptions. (As each session of Congress nears its end, all kinds of odd things happen in the final rush, and the number of bills brought up under suspension on any one day increases.) At one point, Rostenkowski proposed holding all suspension votes on Tuesday, but that was apparently going too far, and the idea failed.

The fact that there are more roll calls may inconvenience the members, but it does make them take more responsibility for bills passed under suspension; otherwise, just a few people could (and, in the past, often did) approve them. A high-minded reason given for limiting the number of suspension bills to six is to allow the members more opportunity to study them, but one learns to look beneath politicians' high-minded reasons.

In the Speaker's lobby, off the House floor, a member on his way to vote on the first of today's six bills says to me, "I'll be glad to tell you what I think about the suspension system after I vote. Of course, I don't know what I'm voting on." There are available weekly and daily notices from the Democratic Study Group, an organization of House liberals, explaining what is in each of the bills that will come up. There are also Democratic "Whip Advisory" sheets on each bill and similar information sheets for Republicans. But apparently few members have, or take, the time to read these.

When legislation is being considered under regular procedures, members with a particular interest in it station allies at the doors leading into the chamber to tell the incoming members what the question is and how they would like them to vote.

On suspension bills, generally nobody bothers. As the members stream in for the first vote, the official doorkeepers enlighten them only to the extent of saying, "First of six." In the Speaker's lobby, Representatives Edward (Ned) Pattison, of New York, and Christopher Dodd, of Connecticut, both Democrats in their second term and both among the more thoughtful members of the House, talk to me, after voting on the first bill, about the process I have been witnessing.

Says Pattison, "This is a symptom of the incredible overload that we deal with every day. There's no way that a member of this body can honestly say that he fully understands what he's voting on."

Says Dodd, "There's a bill up; there's a presumption it's noncontroversial."

Says Pattison, "If there's any place in this body where you almost completely rely on the system, it's this. As I stuck my card in, I asked the guy in front of me how he had just voted. He said, 'Yes.' I asked him, 'What's it about?' He said, 'Damned if I know.' "

Says Dodd, "I asked someone what it was about. He said, 'It's all right. They're all noncontroversial.' "

Pattison explains, "I go over the weekly D.S.G. report on Monday morning. That's one time when you have a chance to read those things. But if nobody's lobbying me on one of the bills or raising hell, then I tend to go along. The first thing people do is look at the tally board. If the vote is two hundred and seventy-five to one, they vote 'yes.' "

Dodd, who is a deputy whip, says he has raised objections in whip meetings that too many bills are brought up under the suspension system. "They just don't get scrutiny this way," he tells me. "Taking them up under the regular system would consume more time, but it would also give them more scrutiny. Clearly, we should have a suspension system, but there should be tighter constraints on how it's used."

In a few minutes, the resolution objecting to the consolidation of the advisory committees is approved. The next votes come quickly: the timberland bills are passed by votes of 373–2, 373–3, 377–7, and 378–5, and the veterans' bill passes 388–0.

A little later, in the House dining room, a member who does not wish to be quoted by name, a progressive Democrat, lists some of his complaints about the suspension system "I think it's being abused," he says. "Look at the consideration last week of the Rehabilitation Act amendments under the suspension rule. That's a program a lot of us support strongly in total, but it also has some very controversial aspects, and its has dozens of sections.

Among other things, it contains a formula that Perkins and some of its other sponsors did not want to see tampered with by an amendment on the floor. There is a special vice in using the suspension process on a bill like that—one that has strong general support. Members have a choice only of voting it up or down, and very few are going to vote against the handicapped."

He goes on, "The dynamics of a vote on suspension are not entirely complimentary to the House. If a bill is rolling up a substantial majority, they'll support it. On the other hand, if there starts to be a number of votes against it, then members will start to inquire around, or simply vote against it. They'll look at the board to see who's opposing the bill. If it's one of the more respected Democrats, they may wonder why, and they'll oppose it, too.

The process is like a teeter-totter, with everyone jumping on one end or the other. And it's not true that costly bills are kept off the suspension calendar. There has been too much of a tendency to use it to accommodate committee chairmen. The leadership ought to examine the bills more and see if they're being brought up under suspension simply to avoid amendments.

It's not unknown for the leadership itself to bring up a bill under suspension in order to avoid troublesome amendments. Some of us argue that we should be reexamining programs every few years. But when you bring up something like the Rehabilitation Act under suspension, you're boxed in.

There's an increasing feeling that we're just passing a lot of laws—that the machine grinds out some jerry-built proposals, that the committees are the sausage machines of legislation. Members feel that they're voting on too much, that there are too many bills. You hear more talk about how maybe it would be better if we just passed the annual appropriations bills and quit."

One of the results of the various ways in which the House has been "democratized" in recent years is that more legislation comes to the House floor. Committee chairmen used to exercise more control over their committees, and the House Rules Committee, which approves bills for floor debate under the regular rules, used to exercise independent authority, but all that has changed.

Moreover, the committees tend to be self-selecting, and are not as much divided along ideological lines as might be supposed. In large part, members go on committees because they favor the things that those committees can do. People representing rural areas go on the Agriculture Committee, and so forth.

Once they get on the committees, they pursue legislation to further the interests that they went on the committees to further. Interest groups suggest legislation—or sometimes a member even gets an idea on his own—and hearings are held, and then, the case for the legislation having been made, like as not there is a bill.

The Democrat I have been talking to says, "The subcommittees push out legislation, the full committees pass it on, and the Rules Committee sends it on to the floor. We're swimming weakly against a tide of legislation. Some of the younger members are so disturbed about the amount of legislation we're passing that they're starting to sound like old curmudgeons. You can sense a weakening of the old liberal faith.

More people are raising questions, asking, 'Are we really going to help matters if we pass that bill?' There is a growing resistance among Democrats to some of the programs the Administration and the committee leadership are pushing. Once in a while, it erupts. I have a feeling on bill after bill that if someone on the majority side would take up the cudgels the outcome would be different.

But there is still a tradition that you stay within your own garden. Your colleagues on other committees are not happy if you suddenly come out of nowhere and oppose their bills. If you really wanted to oppose a bill under suspension you'd have to organize people to work the doors, and it's a major project. Besides, it's part of the culture of this place that if you take that aggressive a role you have to have a better reason than that you just thing it's a bad idea.

They understand if it affects your district—that's OK. Otherwise, members say, 'What's Joe doing opposing this bill?' You risk being typed as a gadfly."

He continues, "Members are increasingly nervous about suspensions. They don't want to walk in and feel that they're being snowballed and the five-minute vote cuts short the consultative process—the time to ask their colleagues what they think. There are just too many votes, too many issues, too many meetings, too many attention-demanding situations.

We're going to committee meetings, subcommittee meetings, caucuses—a caucus of the class with which you were elected here, the rural caucus, the steel caucus, you name it—and we're seeing constituents and returning phone calls and trying to rush back and forth to the district, and then we're supposed to understand what we're voting on when we get to the House floor. It gets madcap from time to time."

Later in the afternoon, I talk with some other members, as they go back and forth to the House chamber to vote on other legislation. John Anderson, Republican of Illinois and chairman of the House Republican Conference, says when I ask him about the suspension process, "It's a terrible way to legislate. Last week, we took up a three-year authorization of the Older Americans Act, with a total authorization of over four billion dollars. We couldn't amend it.

The excuse was that we have so much to do that we can't handle the volume under the regular rules. Maybe that suggests we're overlegislating. The suspension process is totally bad, unless it's done under some very rigid rules, like allowing it only for proclaiming National Pickle Week and things like that."

Barber Conable, Republican of New York says, "One of the abuses is the system of taking the suspension bills up all at once and postponing the votes until the end. The theory of that is that it keeps us from having to run back and forth. But everyone knows that while the suspensions are being debated you can go to lunch or do an errand downtown.

Members cynically take advantage of the fact that they won't have to vote for a specified time. Chances are that those will be the least informed votes on the floor of the House. We tend to stay around and listen to the debate on amendments.

The assumption is that the bills on the suspension calendar are 'noncontroversial.' But the controversial part is the amendments the leadership is preventing debate on. I say that even if we have to run back and forth a lot, it would be preferable to do that, rather than vote on a laundry list in the most uninformed way. A lot of members would stay and hear the debate rather than do a lot of running. And toward the end of the year there's real abuse.

The Rules Committee, with great fanfare, announces that after a certain date it won't send any more bills to the House floor. At that point, the leadership will bring up all sorts of things under suspension, for resolution under pressure. That leads to all kinds of frustrations and resentments."

Another member, who is close to the House leadership, expresses apprehension over my questions about the suspension process. When I comment that I have the feeling that the day's bills had rather whizzed by me, he smiles and says, "That's the idea."

On the following day, some of the uneasiness about the nature and amount of legislation to be considered bursts through, and the House rejects two of the bills on the suspension calendar. The first is a bill entitled "Establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for Other Purposes."

Though the bill would only establish a commission, the end result could be paying descendants of the original natives of Hawaii the value of land including Honolulu, plus interest. (An official of the Office of Management and Budget has told me that the Hawaiian claims could end up costing the government thirty-five billion dollars.)

Moreover, there has been a growing rebellion against bills coming out of the House Committee on Interior and Insular Affairs—as this one did—that endorse Indian or other aboriginal claims to certain areas. When the roll is called on today's bill, it is clear at once that it is in trouble.

The lights next to the names indicate that such members as Robert Giaimo, Democrat of Connecticut and chairman of the House Budget Committee and Thomas Foley, Democrat of Washington and chairman of the House Democratic Caucus, along with a number of other progressive Democrats, are voting against it.

The tally boards on the sides of the House chamber show that the vote against the bill is strong, and as the members come into the chamber they look at the boards, sniff the breeze, and, seeing that the bill is going to fail to get the necessary two-thirds vote, eagerly join in the kill.

At the end of each roll call, members are given the opportunity to change their votes, and now a number of them, not wanting to pass up the chance to vote against something change their vote from yes to no. In the end, the bill fails by a wide margin to get a two-thirds vote. Bills considered under the suspension rules seldom fail by a narrow margin.

Next, the members, acting on similar group instincts, vote down a bill that would have established a new Office on Domestic Violence in the Department of Health, Education, and Welfare and authorized appropriations of a hundred and twenty-five million dollars over the next five years to make grants for local programs establishing shelters and services for victims of domestic violence. (The bill defined "domestic violence" as "any act or threatened act of violence, including any forceful detention of an individual, which results or threatens to result in physical injury, and is committed by a person against another person to whom such person is married or has been married or with whom such person is residing or has resided.")

The bill would also have established a new advisory committee—a Council on Domestic Violence. The early voting on this bill, too, shows that some certified liberals are going on record against it, and the herd follows. Whatever the merits of the bill, here is an excellent opportunity to cast a vote against a new federal program and additional federal spending. And, again, a number of members, when they see which way the vote has gone, change their votes from yes to no.

This bill not only fails to get a two-thirds vote but doesn't even get a majority. The four other bills on today's suspension calendar pass with no difficulty. One of them, backed by members from California, calls on the Administration to press the European Economic Community to ease import restrictions on dried prunes and certain processed fruits and vegetables—something that the Administration says it is already doing. Another would permit working parents to take a tax credit for grandparents who babysit with their children.

After the votes, one member says to me of the grandparent baby-sitting tax credit, "It's dumb. We shouldn't pay a relative to baby-sit and then take a tax credit for it. It's so easily abused. But we didn't think it was worth the fuss to try to beat it."

Representative Fortney Stark, a liberal Democrat from California and a member of the Ways and Means Committee, which reported this bill, had—as rarely happens on suspension bills—filed a statement in the committee's report giving his objections to the bill, but he did not bother to argue against it on the House floor. In a conversation later, I ask him why. He replies, "It would have been like trying to beat motherhood."

Today, following the votes, Ned Pattison, talking about the two bills that were voted down, says to me, "That's the psychology of it. If the vote starts to look close, people start questioning. You assume there's controversy, and if there's controversy it's not something you want to vote for."

Morris Udall comes off the House floor to the Speaker's lobby and explains to me, "There's no logic to why these votes go the way they do. There's a momentum that starts. Some bills will go roaring through, and on other days if some start to get in trouble they'll go down. Members are always looking for an excuse to vote no, and so if they see that one of these bills is going down, everybody jumps to join the pack."

Another member tells me, "I'm just so tired I could cry. The pace is so damn heavy around here. We waste so much of our time racing back and forth having roll calls on bills that pass three hundred and sixty-three to three."

Another member says of the bills that have been defeated, "You have just seen a good indicator of the mood of the House these days."

Says another, a liberal Democrat, "I just think we're passing too much damn legislation."●

## LEGISLATION TO AMEND LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

### HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. RUPPE. Mr. Speaker, today I am introducing for discussion purposes, legislation which would make a number of significant amendments to the Longshoremen's and Harbor Workers' Compensation Act. These proposed amendments to the act are intended to benefit both employer and employee. Their primary thrusts are:

To make the liability of the employer insurable, predictable, and affordable;

To expedite the payment of compensation to workers entitled to it by streamling the administrative processes and modernizing an act which has not been fully reviewed for over 50 years;

To assure fair and adequate compensation to workers who suffer from industrial injuries, but also to establish compensation payments at levels which will encourage the prompt return of an injured and able worker back to the work force;

To improve the medical treatment and diagnosis available to injured workers by restoring greater control to deputy commissioners over medical services; and

To reduce substantially the nonbenefit costs of the act caused by extensive litigation and uncertainty by clearly defining those who are eligible for benefits and levels of benefits to be paid and by expediting the fair administration of the act.

These amendments are the result of long and careful study of the entire Longshoremen's and Harbor Workers' Compensation Act by affected employers and insurance companies, and represent a certain consensus of those parties.

I hope this leigslation receives prompt consideration.●

## PERSONAL EXPLANATION

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district, I was absent on Friday, July 21, 1978.

Had I been present, I would have voted "aye" on rollcall No. 581 on agreeing to resolve into the Committee of the Whole House; "nay" on rollcall No. 582, an amendment to H.R. 12433, housing and community development amendments, that sought to prohibit the use of funds for the reorganization of HUD; "nay" on rollcall No. 583, an amendment to H.R. 12433 that sought to strike provisions requiring that FAIR insurance rates be no higher than those set by the principal State-licensed rating organization for essential property insurance on the private market; "aye" on rollcall No. 584, an amendment to H.R. 12433 that prohibits social security increases occurring after May 1978 from being considered as income for the purposes of determining eligibility or amount of assistance available to any recipient under public housing laws; "aye" on rollcall No. 585, final passage of H.R. 12433, housing and community development amendments; and "aye" on rollcall No. 586, final passage of H.R. 13468, fiscal year 1979 District of Columbia appropriations.●

## JOHN D. WORTHINGTON III

### HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. BAUMAN. Mr. Speaker, Maryland lost one of her leading citizens last week with the death of John D. Worthington III, publisher of the Aegis weekly newspaper in Harford County. For those of us who knew and respected "Johnny" Worthington, his passing is an especially sad occasion because, as one of his newspaper competitors said last week in an editorial tribute, "this man knew only friends." He had no enemies because it was impossible not to like him.

He was a good and kind man. He was also one of the finest examples of a rapidly fading breed of journalist—the publisher of a locally owned country weekly newspaper. When John first took over the Aegis in 1964, Harford County was still very much a rural area. During the next decade, the county became suburbanized as thousands moved out from Baltimore. As the county changed, so did the Aegis. John was always particularly proud of the mechanical and technological changes he initiated for his newspaper. The Aegis is today one of the finest weekly newspaper published in America. Through all the changes, the improvements and the growth, John guided his newspaper and its staff just as he would a member of his family. It was my privilege on a number of occasions to sit with John in his office comparing notes about people and politics, gaining insight from a man who knew men and events.

Because he was personally and professionally such an outstanding man, John was also a well-know and respected community leader. He was on the boards of two schools, a hospital and, the job he most loved, board president of the State Fair of Maryland. People asked John to serve on their boards both because they knew he would rarely miss meetings and because they knew he always took such responsibilities seriously and contributed substantially to the progress of the organization involved.

We will all miss John Worthington. His colleagues in the press put our loss into words as well as anyone. I join them in expressing to the Worthington family my deepest sympathy.

I include with my remarks articles and columns from the Aegis of Bel Air, Md., the Baltimore Sun, the Baltimore News-American, the Harford Democrat of Aberdeen, and the Havre De Grace Record.

[From the Bel Air (Md.) Aegis, July 20, 1978]

SERVICES HELD FOR PUBLISHER JOHN DALLAM WORTHINGTON, III

John D. Worthington, III, died at 6 p.m. on Friday, July 14, at University Hospital, Baltimore, after a brief illness.

Mr. Worthington was stricken while driving from his farm in Aldino to The Aegis newspaper on Wednesday morning, July 12, and did not regain consciousness. He was taken to the Fallston General Hospital and then transferred to University Hospital for surgery for a cerebral hemorrhage.

A native of Harford County, Mr. Worthington, 57, was coowner and publisher of The Aegis.

He was also President and coowner of radio station WVOB in Bel Air.

Mr. Worthington is survived by his wife, Gray Norton Worthington of Aldino; a daughter, Elizabeth Gray Worthington Barnes of Bel Air; two sons, John D Worthington, IV, and Randall P. Worthington, both of Bel Air; one granddaughter; his mother, Mrs. Annie McC.Worthington of Bel Air; and two brothers, James McC. Worthington of near Darlington and Richard W. Worthington of Churchville.

He was a graduate of Bel Air H.S. and attended the University of Maryland.

Mr. Worthington had been a member and chairman of the Board of Directors of Harford Memorial Hospital; a member and former President of the Maryland-Delaware-D.C. Press Association; a member of the Board of Trustees of John Carroll School; a member of the Board of Trustees of Harford Day School; a member of the Advisory Board of the Equitable Trust Bank in Bel Air; a member of the Advisory Board of the Small Business Administration; a member of the Maryland Conference on Handicapped Individuals; and was the President of the Maryland State Fair and Agriculture Society, Inc.

Mr. Worthington had served as a Town Commissioner in Bel Air for two terms from 1954 to 1958, including a term as Mayor of the Town.

Funeral services were conducted Monday afternoon from the First Presbyterian Church in Bel Air, with Rev. Richard W. Shreffler and Father Charles K. Riepe officiating. Burial was held in the Darlington Cemetery.

Serving as pallbearers were: Charles H. Boarman, Judge Brodnax Cameron, Jr., Corey C. Gary, Jr., Harry E. Mitchell, Jr., Phillip St. C. Thompson and W. Robert Wallis.

Honorary pallbearers included: G. Herman Albright, Brodnax Cameron, Sr., William K. Connor, Charles C. Hudson, Jr., Edwin H. W. Harlan, Jr., Carroll G. Josselyn, Benjamin W. LeSueur, William M. Linton, Harry E. Mitchell, Sr., Robert L. Sarkisian, Theodore Sherbow, George W. Wills, Jr., Brig. Gen. (Ret.) George W. White and William O. Whiteford.

VARIOUS THOUGHTS BY OUR WRITERS

Advertising journals tell us that weekly newspapers in the U.S. are where it's at these days.

But the weekly newspaper of the Seventies is not what many people recall from an earlier era. Newcomers to Harford County frequently express amazement at The Aegis—its sheer size, its news coverage, and the like.

Publishers of weekly newspapers in America today are of two breeds, it seems. There are those young, affluent English and Journalism majors who take a fling at the glamorous life on a daily and then retire to put their views in print into their own publication. Along with them are the veteran owners of the small weeklies of often a dozen or so pages, which have hit boom days and are now ten times as large and much more sophisticated than they had ever dreamed.

We lost one of the latter people last week when death claimed John D. Worthington, III, who published this newspaper and who for many years was a successor to his father at the active news helm of The Aegis.

There is good to be said about both types of publishers, and their readers usually benefit from their products.

For John Worthington, III, there was some of both traits to be found. He was, to some extent, the latecomer into the weekly field, for he had not begun life breathing the aroma of printer's ink, but rather the smell of freshly cut hay. And yet, as a native of Harford County and one who had been familiar with the family's newspaper operations, his final twenty odd years with The Aegis were based with familiarity of the area and of the newspaper and the people involved on both ends of its production, the workers and the readers.

With each of them he displayed a consistent air of compassion. Workers here came to realize that few people are ever fired. The toughest part of his job was often to approve the printing of a story or an editorial which he knew might offend someone.

But we can never recall cancelling any editorial or story simply on the grounds of the damage it might do to an individual, no matter who they were. Truth, accuracy, fairness and the people's right to know were factors which dictated his decisions, no matter how unpleasant.

Because of this, he often had difficulity understanding how longtime friends and acquaintances would, not only be upset, but would hold a grudge. He would go out of his way to say or print something nice about them before or after the story had run, but he wouldn't back off from printing it if it should be published.

The smell of that freshly cut hay never left John Worthington, III. Only recently, he succumbed to the affection he had for dairy cattle and purchased a prize cow. He named it Petunia and told the readers of his "Sitting On The Sidelines" column about it. Many old-time and weekend farmers called to let him know they enjoyed sharing that experience with him.

He loved horses too, but could go to the track often without ever betting a dime. We travelled with him to Louisville two years ago to watch the Kentucky Derby and last year went to Belmont Park to see Seattle Slew wrap up the Triple Crown. He enjoyed those days, just as he did an afternoon at Delaware Park, particularly when the steeplechase events were held. A regular attendee at Fair Hill, he found his interests in racing and agriculture combined in recent years when he was called upon to serve as an official at Timonium, where he found pleasure in the track's beautification and expansion and the development of the State Fair.

But he would marvel more at the ability of one jockey or trainer or of the champion bull than he would over the size of a daily double payoff. In fact, he found it difficult to understand the psyche of the inveterate track-goer who spent his afternoon under the stands studying a Racing Form and then making his wager, seldom to glance at the horseflesh involved in what he always regarded as the Sport of Kings.

John Worthington, III, was a part of The Aegis and he was a part of this country. He shared with many of us the mixed emotions of seeing growth and good people moving into our county, while removing some of the area's heritage.

To compensate for his satisfaction over seeing landowners prosper and the area develop, he took an interest in the preservation of our beautiful countryside and some of the structures by which future generations will judge us. His own home was one of these historic places and, while grumbling about the work involved on occasion, was delighted with the efforts his wife, Gray, took to make it a showplace.

John Worthington, III, once actively covered news events for The Aegis. In fact, he came on board here as a cub reporter under his father, in the days when the Courthouse Crowd reverently referred to the much smaller publication as "The Gospel According to John D."

He grew to be a fixture at meetings of the old County Commissioners and, for a time, was regarded as "the fourth Commissioner" and later on, "the sixth Commissioner" because he was usually with them whenever they met or dined together.

But he fell seriously ill about the time Harford went through its transition to Charter Government and never again returned to those reportorial duties; in fact, his writing time was greatly diminished after that illness.

He spent the past half dozen years in some degree of pain which he seldom allowed his fellow workers or family to know about. But he shared with the staff the delight in putting out a good edition and despair over getting scooped or making mistakes.

Around our office, he will be sadly missed for a long time. Everyone here has an anecdote or two to tell about him. Many are about his irreverance for certain established customs and we shan't go into them.

He had difficulty in the pronunciation of long names and we chided him about that. Once, in presenting a trophy to a winning jocket at Timonium, he goofed. He knew the name Hinojosa was oriental sounding and it came out over the P.A. as "Hiroshima"—something we never let him forget.

We have a Christmas Party around here and one of the highlights was always the extemporaneous speech he would give. He wasn't above using the occasion to needle some of the gals who needed to lose a couple of pounds or those of us who didn't always make it into the office on time. But, he was one of those people who didn't have it in his heart to hurt anyone's feelings intentionally and he would go out of his way not to do that.

John Worthington, III, used to like to lift a glass or two at Christmas parties and other times, but after his brush with death a few years ago, he became a teetotaler. He often liked to talk about drinking in recent years and was quick to point out how alcohol could easily destroy someone's mind and abilities.

He would caution about the reliability of heavy drinkers; about the wisdom of attorneys in matters outside the law; about bureaucrats whose empires kept growing at the expense of the taxpayer; and about people who borrowed beyond their ability to repay.

He worried about government, about high taxes, about inflation, about declining morals, about judicial leniency, about the plight of the farmer, and the general direction being taken by this nation. He was like a lot of us.

But in many ways, John Worthington, III, was a shade apart. He had an inner contentment which most of us struggle so hard to achieve we never make it.

He enjoyed watching the world and the life in it. He enjoyed the outdoors and the freshly plowed field; he marvelled over the rapid advancements of science and was proud of the technical advances made in the publication of this newspaper; he was comfortable with old-timers and new faces in the community and always had a story to tell to let them know that he liked living in this world with people like them.

He liked to travel and visited many countries and usually came back more impressed with the people, the farms, and the industry than he did with the many rulers and officials whom he met along the way.

He felt compassion for the little guy if he was working hard to try to make a living. And he shared the worries which the governing officials and corporation presidents have in the never-met role of attempting to satisfy others.

John D. Worthington, III, enjoyed the world and the people in it. He took great pride in his column, which was aptly titled. Regular readers of it would note that he did not use it to criticize, but to comment favorably on what he could and to report on his observations of life.

In many ways, he gave of himself to the community, to the people who lived in the world with him. He took no bows for this, but regarded his actions as man's duty to his neighbor. He wasn't openly religious, I suppose, but what greater measure can there be of a man?

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[From the Baltimore Sun]

A Remembrance, With Affection

(By Peter Jay)

John Worthington was my first editor, and news of his death last week, at 57, hit me—and many others who knew him—very hard.

By anybody's standard, he was a kind and decent man, easily amused and gently tolerant. He was a newspaper editor neither by instinct nor by early training, but by circumstance, and he never seemed entirely comfortable in the role.

He had a problem shared by many sons of strong fathers: People often expected him to bo a chip off the old block, and he wasn't. His father edited the weekly Aegis in Bel Air for the better part of a half-century until his death, very much in harness, in 1964; he was the archetypical country editor of his generation—a generally benign autocrat who was always consulted and usually deferred to.

(A former Harford county legislator remembers that he once introduced a local bill in Annapolis without discussing it first with old Mr. Worthington. A friend, horrified, told him he'd better go and see the editor quickly before the measure was denounced in the paper. He did, and the bill was later pronounced, editorially, to be "good legislation, poorly presented.")

Young John, who was really John 3d but whom everyone called Johnny, wasn't like that at all. He was an easy-going, friendly country boy, who in his youth worked not for the family newspaper but breeding and milking pedigreed Guernseys on the family dairy farm. It wasn't until the farm was sold for a housing development that he picked up a pencil and went to work at The Aegis. He was 36 at the time.

When his father died seven years later, he and his brother Dick found themselves in charge, and right in the middle of fast-changing times. Bel Air turned almost overnight into a traffic-choked bedroom suburb. Harford county, between 1960 and 1970, grew by 50 per cent. Business boomed. The Aegis's circulation grew and grew, as did its size and its revenues. It was another town, another life, and another paper from the one old Mr. Worthington had known.

But Johnny Worthington coped. He could have retired and lived on the paper's earnings, but he didn't. He was in the office daily, Saturdays too, answering the telephones and patiently enduring the abuse that is any editor's lot in these querulous times.

He wasn't a writer, but he did some writing, because that was part of the job. And his writing, especially a column called "Sitting on the Sidelines" he did in later years, a column full of homely anecdotes and local history, had a large following; it became one of the nicest and most personal features of the newspaper.

He never mastered the typewriter, though, and did his writing in pencil on yellow legal pads, using every other line. His handwriting was very neat, and the typesetters never complained.

Once, I remember, he was writing a letter that had to be typed, and he came into the newsroom where I was working as a reporter to use a typewriter. He rolled his paper carefully in, stared at the machine thoughtfully for a long time, and then carefully raised one finger and hit one key. "Damn it!" he said in exasperation, and everyone watching howled with glee. I never saw him at a typewriter again.

In recent years, with newspapers of all sizes being gobbled up by chains, the brokers were beating a path to his door. But he and his family held out, and The Aegis continued to grow. As time went on, John learned much more about publishing, especially its new technology and its economics. He was active in the state press association, and served a term as its president.

He was a community kind of man. Both because he was John Worthington and because he was the local newspaper publisher, he was constantly asked to serve on this or that board—and he seldom refused. He was on the boards of two schools, the hospital, and (a job he loved) president of the Maryland state fair. He seldom missed a meeting, and in his amiable way helped resolve countless disputes.

A lot of people are going to miss Johnny Worthington, who made his own way as a man and a local newspaper publisher; hundreds of them, all sorts of people from all over the state, came to his funeral here on Monday. His son, John 4th, is working at The Aegis now. He probably isn't a chip off the old block either, but if he is, he can be proud of it.

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[Editorial from the Baltimore News-American]

J. D. Worthington III

Harford County readers of The Aegis will miss John Dallam Worthington III and his weekly column, Sitting On The Sidelines."

Mr. Worthington's last column appeared Thursday in the editorial section of the newspaper he helped to become rated among the top five weekly newspapers in the Nation. He died Friday in University Hospital in Baltimore. He was 57.

A strong believer in the importance of maintaining traditions, loyalty, friendship and family ties, Mr. Worthington was a proud man without being obnoxious. And he was a listener. He believed it was better to spend some time to hear a person's problem—big or small—before offering his advice or solution.

Mr. Worthington was a gentle and open man who was willing to spend thousands of hours of his time attending meetings to make Harford County and the State of Maryland a better place in which to live.

It was during his tenure as president of the Maryland State Fair and Agriculture Society that many improvements were made at the fair and Timonium Racetrack.

He also served as president of the Maryland-Delaware-D.C. Press Association. In this position, he provided strong leadership to protect the rights of the public and media against those who would impose restrictions to the freedom of information.

But his first love was agriculture and his 155-acre home place, Aquila Hall, near Churchville in the heart of the county in which he was born. He majored in animal husbandry at the University of Maryland and was actively engaged in farming until the mid-1950's when circumstances dictated that he become part of the staff of The Aegis, which was then published by his father.

It was his interest in agriculture as well as his basic fondness of young people that made him a big booster of FFA and 4–H programs.

Mr. Worthington was a successful businessman and actively engaged in many civic endeavors. He was the confident of many people in all walks of life.

But we will remember John Dallam Worthington III as a man of grace and style who made difficult tasks look easy and a man a 4–H kid currying a sheep or tugging a cow could con out of his socks any time and any place

We will miss him.

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[From the Harford Aberdeen, (Md.) Democrat]

John D. Worthington 3d.

(By William Cronin)

Harford has lost the services of a valuable citizen, whose friendship and advice were prized by the many who came in contact with him.

He was a member of a family, which for several generations has left an imprint on the affairs and programs of County and State.

A few citizens living today can recall his Grandfather who was not only "a respected editor", but was also, for some years, a Superintendent of Schools. In our boyhood, we can still remember the electrifying news in the classrooms, when the teacher announced that the Superintendent was coming in to visit. Later, it was a privilege, as a young man to talk with him on his experiences as a newspaper owner and editor, and particularly his earlier days when he and Joseph M. Streett, then editor of the Harford Democrat, would exchange some "verbal shots". I remember his chuckle when he was accosted by Mr. Streett one day with the salutation, "John, let's stop this shooting at each other"; then John replied "We can't do that, no one would read either of our newspapers".

When he passed on, his son, John D. Worthington, II, became the editor, and the friendship continued between the editors of the two papers, both published only in Bel Air. "Young John" as he was called by those who had known his father, was an aggressive editor, deeply interested in the politics and affairs of his County, frequently consulted on matters of government and selection of the best candidates for County offices and appointments.

While John, the second, never sought public office, he filled many important positions, such as a director and officer of the new Harford Hospital, a leader in local farm organizations. His editorials urged the accomplishment of things that would improve the community and make it a better place in which to live.

During his day, a new editor appeared, John A. Robinson, a practicing attorney and later a Judge of the Circuit Court, who edited a third newspaper in the Bel Air area. It was largely devoted to promoting the growth of the Republican Party (needed perhaps, because both of his competitors leaned toward the Democratic Party). He also departed leaving an imprint on the affairs and history of the County.

And now, John the third has left, much too early in his useful life, and a living senior editor can look back over their accomplishments with a high degree of appreciation that he was permitted to know these three Johns; and with the hope there may be a fourth and fifth to carry on the programs of their ancestors.

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[From the Havre de Grace (Md.) Record]

JOHN WORTHINGTON

We've had our squabbles over the years, both neighborly and not-so-neighborly ones, with The Aegis over in Bel Air. But we never had a squabble with John D. Worthington III. Nobody did.

Mr. Worthington, who died last week, quite literally hadn't an enemy. His newspaper, like most papers, made plenty of people furious, and he was usually the one who took the angry telephone calls or received the apoplectic visitors. He didn't enjoy the abuse, but from a public-relations standpoint there couldn't have been a better person to represent the newspaper under such circumstances because nobody could be mad at him very long.

In fact, it seems strained to write of him as Mr. Worthington. His father, who preceded him as editor and publisher of The Aegis, was Mr. Worthington; but John, who ran the paper with his brother Richard after his father died in 1964, was John or Johnny to almost everyone who knew him.

Newspaper people, especially those who work on larger papers, ofter have the idea nowadays that their lives ought to be almost monkishly removed from the life of their community. To serve on a board, or belong to a civic organization, they often say would compromise their independence.

But John Worthington was the product of a different school. He saw community service as community service, whether performed through the newspaper or through more direct, personal participation. As a result, he served willingly in numerous capacities outside of The Aegis. He was on the board of Harford Memorial Hospital, the Harford Day School, John Carroll School, and the Timonium Fair, and his work for these organizations, rather than reducing his effectiveness as a publisher, probably increased it.

Any newspaperman meets a lot of people, and is likely to be sought out by those whose interest in him is really nothing more than a desire for access to his newspaper. But John Worthington was liked more for his personality—friendly, helpful, low-key—than for his position.

At his memorial service in Bel Air on Monday, all sorts of people came together to remember him. There were farmers (he had been one himself, before he became an editor) and politicians and lawyers and laborers and military people; horsemen and real estate brokers; journalists and pharmacists and surgeons; small businessmen and government officials. They weren't there because they had to be, or because they thought attending might be in some way advantageous; they were there because they had known John Worthington and liked him as a man.

We'll miss him a lot. He brought a kindness and humanity to our sometimes cold-hearted business, and showed that local journalism can be successfully practiced by nice guys as well as tough ones. Our sympathies are extended to his famly, his employees, and his many friends.●

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## GOLDEN AND SILVER JUBILARIANS OF MISSIONARY ORDER

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. EILBERG. Mr. Speaker, I am proud to inform my colleagues in the House that on this coming Saturday, July 29, a truly inspiring event will take place in Northeast Philadelphia.

Seven Sisters of the Order of the Missionary Servants of the Most Blessed Trinity will commemorate their 50th anniversary in the Order, and 12 Sisters will celebrate their 25th year in the Order.

I find it heartening that in a world sometimes characterized as cynical, these remarkable women have devoted their lifetimes to the service of their fellow human beings.

Mr. Speaker, the Missionary Servants of the Most Blessed Trinity are an American congregation founded by an American Vincentian priest. The Motherhouse of the Order is located in Philadelphia, and serves as the headquarters for an order whose services encompass a variety of fields—from social services to religious education.

The Sisters carry out their mission in every type of areas, from rural counties to the inner city, in the United States and Puerto Rico.

The Sisters who are celebrating special anniversaries this week have been involved—and for the most part, still are—in the fields of education, social services, parish ministry, youth work, health services, ecumenical projects, retreat work and community research.

Celebrating their 50th year in the Order are Sr. Mary McGeady, Sr. Mary Ruth McPhilliamy, Sr. Anne Marie Minken, Sr. Agnes Mary Comer, Sr. Maria Antonia Alicea, Sr. Maria Teresita Gonzalez, and Sr. Mary Rosalia Grommes.

Celebrating their 25th year of service are Sr. Catherine Francis Lamb, Sr. Elizabeth M. O'Brien, Sr. Michael Mary Sullivan, Sr. Mary of the Holy Spirit O'Halloran, Sr. Carmen Teresa Rivas, Sr. Ann William Publicover, Sr. Rose Philip Mercurio, Sr. Marilyn Salamone, Sr. Patricia Cronin, Sr. Catherine McCarthy, Sr. Grace McGuire, and Sr. Mary Ignatius Kerrigan.

I am proud to count the Sisters as members of my constituency, and I extend to them my congratulations on this occasion and my deep thanks for the invaluable contributions they have made to the needy of our Nation.●

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## SOME SECURITY PLEASE?

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DORNAN. Mr. Speaker, some of the information that comes to our attention staggers the mind. We recover and try to maintain our balance. But it takes a long time for the initial shock to wear off.

Mr. Jack Anderson of the Washington Post has brought to our attention something that the folks back home will have a terribly difficult time absorbing: We have no strict security regulation guarding the transshipment of defense-related materiel to our NATO allies. Mr. Anderson reports that F–16 Falcon jet aircraft parts destined for our NATO partners may have already been transported in Soviet ships, stopping along the way at Cuba, a regular port of call for Soviet merchant ships in the Western Hemisphere. Our newest top secret fighter aircraft. How did this happen? The almighty buck. Soviet merchant shipping is cheaper.

Mr. Speaker, the officials of General Dynamics deny this charge. I sincerely hope that they are sincere. And I know that Mr. Jack Anderson hopes that this "startling story * * * told in hushed tones on the docks and inside maritime union halls * * *" is pure nonsense.

Mr. Speaker, I insert this item from the July 24, 1978, Washington Post into the RECORD:

SOVIET SHIPS MAY CARRY F–16 PARTS

(By Jack Anderson)

Lurking in the dockyards of America's port cities may be a spy story, with a James Bond twist. Out of pure greed, American defense contractors may be exposing the Air Force's most secret fighter plane, the celebrated F16, to Soviet scrutiny.

The startling story is told in hushed tones on the docks and inside maritime union halls, but word of the disturbing allegations has leaked to congressional investigators. They have been quietly tracking down reports that that F16 parts may have been shipped to our NATO allies in Soviet ships.

The preliminary findings are found in a confidential memo prepared for House Merchant Marine Chairman John Murphy (D–N.Y.). The memo states ominously that "U.S. maritime unions and rank-and-file dock workers in Houston, Texas, . . . have knowledge that the classified F16 parts are already being shipped on Soviet or bloc-country merchant ships."

Industry sources, the investigators add, are also "convinced" that classified parts for the F16 are being transported on Soviet ships. These ships allegedly stop in Cuba, where the hot cargo could be examined. "It's most certainly known to the government," the memo suggests, "that Soviet ships arriving or leaving the U.S. East Coast make a port of call in Cuba."

The F16 shipments are supposed to comply with stringent secrecy requirements of the Air Force and North Atlantic Treaty Organization. Among the four NATO allies helping produce the U.S. fighter planes for mutual defense, an "eyes only" agreement strictly forbids the "release of information to non-participating states."

But the Soviets have lured American businessmen to use their merchant ships by offering drastically cut rates. Huge Russian cargo ships roam the western shipping lanes and take shipments out from under the hobbled US maritime fleet.

By slashing rates up to 40 percent, the Soviet cargo hunters have been able to make phenomenal inroads on American shipping.

At least 37 percent of all cargo coming to the United States from West Germany, for example, is first hauled eastward 6,000 miles across Russia where it is "picked up by Soviet merchant carriers at inferior rates and shipped to the US."

Most scotch whiskey, distilled in Scotland, also "takes a 6,000-mile ride across Russia," the memo reports, before it "tickles the American palate." The Soviet merchant fleet obviously is losing money on these shipments, but the Kremlin makes up the difference in order to strengthen the fleet.

The major F16 contractor, General Dynamics, vigorously denies that any Soviet ships have been used to transport F16 parts. "It hasn't happened. There's no chance," a spokesman told our associate Jack Mitchell.

But behind closed doors, General Dynamics officials conceded to congressional investigators that "there is nothing in the contract that . . . precludes shipping by the U.S.S.R."

Top Commerce Department experts have also acknowledged in secret testimony that Russian carriers could be transporting "completely classified equipment" for the F16.

Footnote: The alarmed Murphy is preparing legislation to prohibit the transport of F16 parts aboard Soviet ships.

Forgotten Fuel—The use of "gasohol"—gasoline mixed with alcohol made from garbage and other waste matter—has met with opposition from the giant oil companies, whose enthusiasm for solving the energy crisis sometimes takes second place to their thirst for profits.

Despite proof that gasohol works, federal energy czar James Schlesinger and his aides have pooh-poohed the use of waste to ease the oil shortage, denouncing it as a "myth."

It's a pleasure, therefore, to find support from a scientist of unchallenged authority: Alexander Graham Bell. The remarkable Bell, whose genius was not limited to invention of the telephone, had this to say to a high school graduate class here in Washington, according to the February 1917 issue of National Geographic Magazine:

"Alcohol makes a beautiful, clean and efficient fuel, and . . . can be manufactured very cheaply . . . Wood alcohol, for an example, can be employed as a fuel, and we can make alcohol from sawdust, a waste product of our mills.

"Alcohol can also be manufactured from corn stalks, and in fact from almost any vegetable matter capable of fermentation . . . growing crops . . . weeds . . . even the garbage from our cities. We need never fear the exhaustion of our present fuel supplies so long as we can produce an annual crop of alcohol."●

## PUERTO RICAN DAY PARADE

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. RODINO. Mr. Speaker, I want to call my colleagues' attention to a very special event that will be held in my home city of Newark this Sunday, July 30. It is the statewide Puerto Rican Day parade, which tops a week of activities recognizing the proud heritage of Americans of Puerto Rican descent.

I am fortunate to count among my circle of friends many of the Puerto Rican families residing in New Jersey's 10th Congressional District, and it gives me a great deal of satisfaction and pleasure to participate in this celebration with them.

The Puerto Rican Day parade, now in its 16th year, is the result of the combined efforts of many hard-working leaders of the Puerto Rican community. The parade's proceeds will go toward a college scholarship fund. This year's queen, Lorraine Alemany, is an example of the beauty and charm of Puerto Rico. The president of the parade committee is Luz Miriam Hernandez, the grand marshal is Jack Horta, and the general coordinator is Miguel Sanabria. They have done an excellent job in preparing for the event, and they have received outstanding support from Jose A. Lugo, who is the parade's first vice president, and Dimas Montalvo, the second vice president.

Since the first Puerto Rican Day parade, my good friend Marie Gonzalez has been on the scene as an integral part of the event. Marie is a member of the Newark Human Rights Commission, and she is serving as the liaison between the commission and the parade.

The work of these people and many others, and also the events leading up to the parade, are very important reminders of the contributions of Puerto Rican Americans. This week in New Jersey is Puerto Rican Heritage Week, and on Monday, Newark Mayor Kenneth A. Gibson signed a special proclamation designating Puerto Rican Week in the city of Newark. The Spanish Repertoire Co. will perform at Essex County College in Newark on Friday night, and on Saturday, the parade committee will hold a banquet with the keynote speaker being Maurice Ferre, the mayor of Miami, Fla.

Mr. Speaker, I am delighted that the city of Newark is carrying on the important tradition of the Puerto Rican Day parade because I believe it will heighten the appreciation for Puerto Rican culture in America. These citizens are mindful of the value of their heritage and I am very proud to represent them in Congress. I am sure that the 16th annual Puerto Rican Day parade will be another memorable event in the celebration of the resplendent tapestry of America's ethnic heritage.●

## FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

### HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. McCLORY. Mr. Speaker, among the other commentaries regarding the deficiencies of the administration's proposed foreign intelligence electronic surveillance bill is an article from the May 3, 1978, issue of the Knoxville, Tenn., Journal entitled, "Excess Power for Judiciary." The article calls attention to the folly of delegating to a special district court composed of seven judges (now 11), decisionmaking authority to engage in electronic surveillance of foreign powers and foreign agents. The article from the editorial page of the Knoxville, Tenn., Journal follows:

EXCESS POWER FOR JUDICIARY

On Feb. 8, 1978, a statement on electronic surveillance for national security purposes was made before the U.S. House of Representatives Permanent Select Committee on Intelligence by Laurence H. Silberman, senior fellow of the American Enterprise Institute who has been undersecretary of labor, deputy attorney general of the United States and ambassador to Yugoslavia. His testimony was of striking interest because of his concern about the constantly tightening hold our federal courts have on America.

The question then before the committee was a choice between a Carter administration bill which would require obtaining judicial warrants before electronic surveillance could be carried out and proposed legislation by Rep. Robert McClory, R.-Ill., which would leave the matter in the hands of the executive branch, reporting regularly to Congress. Silberman favored the latter method.

There is not space here to go into the merits of that issue at length. What may be of most interest to the general public is Silberman's anxiety about legislating more power to the federal courts. Here are some excerpts from his testimony on that score:

"Much of the discussion about this kind of electronic surveillance has assumed that the interests at stake are only the privacy of individuals on the one hand, and the protection of national security on the other. The question of the appropriate distribution of power and authority within our government . . . has not been given the explicit attention it deserves. . .

"Since I believe the judiciary's role in national security electronic surevillance should

be circumscribed, I strongly support the thrust of Congressman McClory's bill. . .

"If one believes, as I do, that the so-called imperial presidency was actually in decline almost from the time it was discovered (in some respects, the most recent executive abuses were actually precipitated by that decline), and that today the chief threat to American democracy is the imperial judiciary, one views any new delegation to the judiciary with apprehension. . .

"Courts do, in truth, deal regularly with many of the most difficult issues in our society—but they should not. They are . . . not responsive to the democratic political processes, and the most difficult issues are political. . . And since judges are not politically responsible, there is no self-correcting mechanism to remedy their abuses of power.

"The administration's bill would limit jurisdiction to seven 'superjudges' appointed by the chief justice. This interesting device was chosen, I assume, to counter concerns for maintaining security as well as to develop judicial expertise in foreign affairs. But I find it troubling. Is the chief justice to appoint only those judges he believes to be 'sound' on national security matters? . . . The need for this special device suggests the impropriety of the entire delegation to the judiciary; when matters cannot be entrusted to any federal judge they should be entrusted to no federal judge.

"Even more troubling is the secrecy with which judicial deliberations are to be encased. As I have emphasized, (federal) judges are not elected; the legitimacy of their actions depends—even more than do actions taken by either the executive or the legislative branches—on PUBLIC decision making. . . Here virtually an entire phase of judicial activity will go underground. Those of us not in government will never know how the judiciary exercises the supervisory authority over national intelligence gathering which the administration bill grants it."

The principal thrust of Silberman's objections, we think, may be paraphrased thus: The federal judiciary already has too much to say about our lives. Let us not now allow it to acquire authority in foreign affairs.●

## FOOD PRICE ISSUE

### HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. GRASSLEY. Mr. Speaker, today the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the House Agriculture Committee is holding hearings on food prices. Price increases in food during the first half of this year have been dramatic and are a concern to all of us who have to go to the grocery store each week. The food price issue is complex, and it is very difficult to place the blame on anyone. Everyone has arguments as to why he should not be blamed for the price increases.

I would like to point out to my colleagues that consumers spend only about 16.8 percent of their disposable income for food, and based on 1974 spending it can be shown that the United States and Canada allocated the lowest proportion of private consumption expenditures to food, beverages, and tobacco. I feel that consumers are getting a good buy at the grocery store, especially when you consider that they spend a smaller percentage of income for food than consumers in any other country. Farmers play a vital role in providing the citizens of this country a food supply at what I consider a bargain price. The text of my statement regarding this issue follows:

Mr. Chairman, there is no doubt that food prices are important to everyone. Food is a necessity and is purchased often. Consequently, when the price of food increases, it is noticeable. Since we are having these hearings today, it will provide those of us who represent the agriculture community an opportunity to place things in perspective as far as food prices are concerned. Farmers are helping the American consumer get a "good buy" in food. The American farmer, who represents the last bastian of free enterprise in this country, cannot legitimately be blamed for the current or anticipated rise in food prices.

Several statistics illustrate that consumers are better off than ever before. First, food expenditure as a percentage of disposable income has been on a steady decrease. As recently as 1947 the percentage of disposable income spent on food was nearly 26 percent whereas in 1976 it was 16.8 percent, a drop of nearly 10 percentage points in the last 30 years. During this same time period food expenditures as a percentage of total consumption expenditures decreased from around 27 percent to approximately 18.2 percent in 1976.

Another very important point to keep in mind is how much of their income consumers are having to pay for food items in this country compared to other countries. For example, based on 1974 spending, economists have found that the U.S. and Canada allocated the lowest proportion of private consumption expenditures to food, beverages, and tobacco. In Western Europe spending for nondurable goods ranged from 26 percent in France to 47 percent in Portugal. Experts estimate that individuals in the Soviet Union spend 35 percent of their income on food alone. Although data are not available to permit an accurate evaluation, it is estimated that most developing countries probably spend 60 to 70 percent of their income for food, beverages, and tobacco. Another example, in 1976, the U.S. spent 15.0 percent of the national income for food. This compares to 16.7 percent in Australia, 19.2 percent in Denmark, 26.5 percent in Italy, 21.5 percent in the United Kingdom. Recent figures indicate that of the 15 major countries surveyed by USDA's Foreign Agriculture Service, food prices in the United States have risen less since the beginning of this decade, except for West Germany, the Netherlands, and Belgium.

Inflation is a constant source of worry for all of us, and farmers are no exception. In May 1978, wage rates paid by farmers was up 2.46 times what they were in 1967. For livestock producers, the cost of feed had increased 1.88 times during this time period. Interest payable per acre on real estate debt increased an astronomical 3.84 times what it was in 1967. Overall prices paid by farmers have increased 7.44 times what they were during the period of 1910–1914. Prices received by farmers since the period 1910–1914 to May 1978 had increased 5.38 times. Obviously, prices paid have increased much more than the prices received by farmers.

Over the last several decades farmers have found it more and more difficult to make a living on the farm. Farmers have had to turn to second jobs or their spouses have had to start work in order to keep the family income high enough for the family to maintain an adequate standard of living or a standard of living comparable to their urban neighbors. In 1955 personal income of the farm population from nonfarm sources was about 35 percent. In 1965 this had increased to about 47 percent, and 1976 it had reached an astounding 57 percent. This in effect reflects the difficult time farmers are having in making a living solely from farm income, and I can assure you that most of them would prefer to be able to just farm.

As is the case for all Americans, farmers have seen the federal government continually become more involved in their lives and farming operation. One estimate places the cost of government regulations at about $102.7 billion for FY 79, of which $4.8 billion are direct expenses by the federal regulatory agencies and $97.9 billion are the costs of compliance with federal regulations.

There has been changing conditions on the demand side of food purchases. In more families, there is a greater incidence of more than one person working. This has resulted in both a higher family income and a demand for food in a "ready to eat" form to be eaten at home or for food to be eaten away from home in restaurants, etc. Families are eating more of their meals away from home than ever before. All of these additional services must be paid for.

Most of you here today will probably agree that farmers are not the major cause of higher food prices, and, more importantly, have the least control of their situation than any other of the factors or element of food costs. Consequently, we must look again to the "middleman" or to those factors involved in the processing and distribution of food—the farm-retail spread. The spread between the retail cost and the farm value represents an accumulation of costs involved in moving the products from the farmer to the consumer, such as labor, transportation, costs of other intermediate goods and services, and corporate profits. We must lock to the factors and try to assess their effects on food prices.

One matter which concerns me when there is a lot of public discussion about food prices is the possibility that the government will attempt to keep prices down through controls. I see that Mr. Bosworth, Director of the Council on Wage and Price Stability will be testifying later and I look forward to what he has to say. I feel that price controls never works and only serve to distort the market. There is ample evidence that the price freeze on meat in the early 70's resulted in higher meat prices instead of steady or lower prices.

Although we may think food prices are high, in my opinion consumers are getting a "pretty good deal" when they buy food. They have to spend less of their income for food than ever before and they spend a smaller percentage of their income for food than consumers in most other countries.●

## AMENDMENT TO DEEP SEABED MINING BILL

### HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mrs. FENWICK. Mr. Speaker, I plan to offer the following amendment to title II of the deep seabed mining bill:

AMENDMENT TO H.R. 12988

On page 36, at line 7, delete "recognize the rights of" and insert in lieu thereof, "allow".

On page 36, at lines 12 and 13, delete "substantially the same" and insert in lieu thereof, "similar".

On page 36, at line 17, delete "materially" and insert in lieu thereof, "unreasonably".

On page 37, at line 23, after the word "extent" add the word "reasonably".

On page 38, at line 15, delete "substantially the same" and insert in lieu thereof "similar".

On page 38, at line 17, after the word "been" add the word "unreasonably".●

## CAPITAL GAINS TAX CUT AND THE FARM SECTOR

### HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. NOLAN. Mr. Speaker, according to a recent CRS study, the Steiger and Jones amendments to reduce the maximum capital gains tax will not provide family farmers and the rest of the agricultural economy with the increased incentives for capital investment needed to create jobs and sustain growth. The Steiger and Jones proposals will further threaten the family farm system by accelerating the spiral in farmland prices currently plaguing this country.

Since farmland has been an attractive investment during the last 10 years, because of the high rate of appreciation and the high rental value, a capital gains tax cut would further inflate farmland prices. The Steiger and Jones plans would provide increased incentives for nonfarm investors to purchase farmland, thereby creating unnecessary competition for beginning and existing family farmers in obtaining needed acreage. The current farmland market is already being pushed past its productive value without aggravating the situation by reducing capital gains tax.

If a reduction in the capital gains tax resulted in an increased value of land holdings and stimulated nonfarm investment in farmland, the inflationary pressures would affect the land already in use. The CRS study states that no new jobs would be created from the tax cut, nor would any additional farm acreage be cultivated or farm productivity advances realized. Furthermore, the study suggests that instead of the Steiger and Jones proposals, capital investments in agriculture might better be stimulated with increased depreciation or investment credit allowances.

The CRS study also reveals that increased farmland values would "translate into increased production costs through higher real estate taxes, rental rates or interest charges." A rise in production costs, therefore, would be traded for higher consumer food prices or would be made up for out of taxpayer's pockets.

In addition, the Treasury Department estimates that "80 percent of the benefits of the Steiger plan would go to only 1 percent of the taxpayers," according to the CRS study. Other sources predict about $17 million would be reduced from the farmer's taxes, but when considering that most of the 1 million farmers sell some capital assets during the year, $17 million is quite small.

The CRS study follows:

CAPITAL GAINS TAX REVISIONS: THE IMPLICATIONS FOR THE STRUCTURE OF THE FARM SECTOR

(By A. Barry Carr, specialist, Food and Agriculture Section, Environment and Natural Resources Policy Division)

For many years Federal tax legislation has granted preferential status to income from capital gains—the profit from the sale of capital assets such as stocks, bonds, or real estate. Prior to 1969 only 50 percent of the gains from assets held for 6 months or longer were included in a taxpayer's gross income. In addition pre-1969 law provided for a maximum tax rate of 25 percent on the net capital gain and allowed full deduction of any long term capital loss.

Legislation since 1969 has gradually increased the taxation of capital gains. The qualifying period has been increased to one year. The 25 percent tax ceiling now applies only to the first $50,000 of net gain with the taxpayer's regular rate applying to the remainder. A 15 percent tax is levied against the excluded 50 percent of the capital gain which exceeds $10,000. Only one-half of any long term capital loss can be deducted from capital gains in computing net capital income.

During his election campaign, President Carter pledged to seek an end to all special treatment of capital gains, thereby proposing to tax capital gains in the same manner as ordinary income. However another school of economic thought contends that capital gains taxes should be reduced. Advocates of capital gains tax cuts believe that these cuts would provide increased incentives for capital investment needed to create new jobs and keep the economy growing.

The Administration's tax reduction package, as presented to the Congress this spring, contained no capital gains revisions. Representative William Steiger has proposed an amendment which would, in effect, reduce the maximum tax rate on capital gains to 25 percent, compared to the 49 percent now in effect. A second proposal, sometimes referred to as a compromise, has been put forth by Representative James Jones. The Jones proposal would establish a maximum tax rate of 35 percent on capital gains.

Critics of the Steiger and Jones proposals have called them tax cuts for the wealthy. The Treasury Department has estimated that 80 percent of the benefits of the Steiger plan would go to one percent of the taxpayers. Some economists have argued that capital gains tax cuts are an inefficient tool to spur business investment when compared with other fiscal tools such as accelerated depreciation allowances or investment tax credits. Representative Henry Reuss, Chairman of the House Banking Committee, has said the Steiger plan would be inflationary and would drive up the prices of homes and farmland.

In evaluating the possible effects of capital gains tax reductions on farmland prices and the ownership of farmland, it is important to consider both the sellers and the buyers of farmland.

The sellers of farmland determine the supply of land coming onto the market. According to U.S. Department of Agriculture surveys in recent years, active farmers sold 39 percent of the farmland acreage, retired farmers 16 percent, estates 19 percent, and nonfarmers sold 26 percent. In some cases the potential capital gains tax on farmland with large capital appreciation could be a powerful disincentive against the voluntary sale of farmland. This disincentive might be especially relevant in the active and retired farmer class—about 55 percent of the supply of farmland. Estate sales and sales by nonfarmers, a group largely made up of investors who expect capital gains, are less likely to be influenced by capital gains taxes. However on balance it can be reasonably postulated that a lowering of the capital gains tax rate might encourage more owners of farmland to place their acreage on the market.

The buyers of farmland determine the demand for farmland in the real estate market. According to USDA surveys active farmers purchase 63 percent of the farmland acreage sold. In general these purchases are for enlargement of existing farms, although in some cases these purchases may include a farmer converting from renter to owner status. Retired farmers, nonfarmers and other categories of investors purchased the remaining 37 percent of the acreage. In most cases these purchases can be assumed to be for investment, rather than farming, purposes.

The value of farmland as an investment is due to several factors. Rental fees and farm program benefits provide a modest return in terms of current income. Farm real estate has offered a consistently high rate of capital appreciation averaging 10.4 percent per year over the past 10 years; this return will be taxed as capital gains rather than as regular income. With skillful accounting certain operating expenses can be charged as an operating loss against regular income and at the same time increase the capital value of the farm. Under some conditions farmland may receive preferential treatment with respect to death taxes and therefore may be a desirable asset to transfer wealth from one generation to another. Nonfarm investors may obtain some recreational use or other psychological benefits through farm or ranch land ownership. On balance it can be reasonably postulated that a lowering of the capital gains tax rate might encourge more interest in farmland as an investment, particularly an investment for nonfarm capital.

Should the increased demand for farmland, resulting from a reduction in capital gains tax rates, exceed the increased supply of farmland in the market place, the impact on farmland prices would be inflationary. Higher farmland prices would be the likely result of lower capital gains tax rates.

Increasing farmland prices affect different groups in different ways. Retiring farmers and beneficiaries of farm estates would be enriched. Nonfarm owners of farmland would find the value of their investment increased. On the other hand those who are beginning a farm career would find the capital requirements increased and the entrance hurdle made more difficult. Those farmers who are already established and own part or all of their farms would see the value of their holdings increased. However, these increased land values also translate into increased production costs through higher real estate taxes, rental rates or interest charges. Eventually these increased production costs would be passed on to consumers in the form of higher food prices or on to the government in terms of higher farm program outlays benefits.

There is disagreement as to whether a capital gains tax cut would benefit the general economy. However, it is difficult to see how a capital gains tax decrease, and the resultant increase in farmland prices would produce any benefits in the farm economy, such as the creation of new jobs. More farm production would not result and additional acres would not be farmed. In short the additional value of farm assets would be inflationary, not real. As such the increased capital appreciation which might take place would largely represent a transfer of wealth from one holder to another and not the creation of new wealth per se.●

## UKRAINIAN HELSINKI MONITOR LUKYANENKO SENTENCED

### HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. BINGHAM. Mr. Speaker, the recent crackdown on Soviet Helsinki monitors has struck Ukraine with ruthless severity. The new sentence of Levko

Lukyanenko follows those of his fellow Ukrainian group members, Tykhy, Rudenko, Marynovych, Matusevych and Vins. Fifteen years of Mr. Lukyanenko's life—10 in hard labor camps and 5 in internal exile—have been extracted as punishment for his activities to promote the implementation of the Helskinki Final Act in his native Ukraine.

Lukyanenko has spent much of his life suffering for the attempts he has undertaken to qualitatively improve the lives of his fellow citizens in Ukraine. The resulting persecution at the hands of authorities moved him to renounce his Soviet citizenship in August of 1977, an act he thought would facilitate his emigration from the Soviet Union. Instead, many more years of forced detention face him now. I firmly protest the unjust harassment of this Ukrainian Helsinki group member who was found guilty for monitoring his country's compliance with the humanitarian provisions of the Helsinki Final Act.●

MICHAEL A. POLLACK

## HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. MINETA. Mr. Speaker, I would like to call the attention of my colleagues to an individual who lives and works in my congressional district, and whose business, civic, and community achievements deserve special recognition.

Mr. Michael A. Pollack has been awarded the "Outstanding Young Man of America" for 1978 for Santa Clara County from Fuller & Dees in Washington, D.C., an independent marketing firm. The award was based on outstanding professional achievements, superior leadership ability, and exceptional service to the community.

A resident of San Jose for 23 years, Mr. Pollack has contributed to developments which have benefited the Santa Clara business community with several million square feet of industrial and commercial complexes, as well as multiple dwellings and single family residences throughout Santa Clara County.

He has been instrumental in bringing San Jose an attractive, richly landscaped garden apartment community known as Shadowbrook Garden Apartments, that was awarded "Apartment of the Year" for 1978 in northern California. The award was based on professional supervision of construction, details, location and design, and presented by the Construction Council of California.

Mr. Pollack has been active in civic and community affairs including contributions and time devoted to the Crippled Children's Society and the Heart Fund Association of Santa Clara County.

Mr. Speaker, I ask you and all of our colleagues to join me in commending Mr. Michael A. Pollack, who has done much to improve the overall quality of life, as well as providing hundreds of employment opportunities for the people in Santa Clara County.●

CONSEQUENCES OF A THOUGHTLESS CHINA POLICY

## HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. McDONALD. Mr. Speaker, there are many in this Congress and in the country at large who argue that the United States should sever its ties with one of its oldest and firmest allies, the Republic of China on Taiwan. They claim that this action is necessary if we would "normalize" our relations with the Communist regime in Peking, since, they say, it will not accept our recognition on any other terms.

The advocates of this policy argue that such a step would be in the interests of the United States itself, and that it would promote stability in the Western Pacific.

However, before we take such a drastic—and in my view, utterly mistaken—step, we should seriously consider what the possible results of such a policy shift would be. In June Senator BARRY GOLDWATER delivered a speech in the Senate in which he conjectured that the Republic of China on Taiwan, once abandoned by the United States, might reach a limited agreement with the Soviet Union which would provide the Soviets a hold in the Western Pacific which they do not now have. This certainly would not encourage stability in the relations between Communist China and the Soviet Union, and it most definitely would not be in the interests of the United States. What would it benefit us if we gained an Embassy compound in Peking in compensation for the possible loss of our naval supremacy in the Pacific?

However, Mr. Speaker, the scenario which Senator GOLDWATER envisions is not the only possible one. The Chinese on Taiwan have learned much more from their experience with communism than we have, and it may be that they will wish to make no accommodation whatever with the Communists, whether of the Russian or Chinese variety. Under such circumstances, what options would the leaders of the Republic of China feel were available to them?

First, they face what is in effect a declaration of war from the Communist regime in Peking: The Communists have announced their intention to "liberate" Taiwan by force, and although they are not yet able to carry out that intention, the Chinese on Taiwan have every reason to believe them. Second, after their abandonment by the United States, the Republic of China faces the prospect of economic and military decline, so that they are unlikely to be stronger in the future than they are now. If there then should occur a period of instability in mainland China, it might be entirely rational for the leaders of the ROC to launch a military invasion of the mainland, since this offers them their best hope of long-term survival.

Mr. Speaker, I do not assert that such a thing will happen, but I do believe that it is a possible scenario for the future if the United States should abandon its faithful ally. It is one that we should consider carefully before we decide upon an unfortunate course of action. And it is for that reason that I bring to my colleagues' attention an editorial published in the English-language China News for June 27 as reproduced in The Free China Weekly for July 2, 1978. I hope we will give sober consideration to the thoughts set forth in it:

The Chinese ambassador to the United States, James Shen, remarked last week that U.S. 'normalization of relations' with the Chinese Communists on Peiping's terms could lead to war in East Asia. This is a warning we have sounded off and on ever since the Shanghai communique.

Understandably, it is not a danger that we like to stress in our relations with the United States. Some Americans think we are exaggerating. Others find it unpleasant to be reminded of Asian wars after the Vietnam experience. At least a few would prefer not to have any obligations in the Taiwan Straits.

But this country has to be honest and realistic. If the U.S. relationship with the Chinese Communists were 'normalized' in accordance with the demands of Peiping, there would be no Mutual Defense Treaty. The American military presence would be removed from this island. The United States and the Republic of China would have no official relationship.

The Americans who are here to trade and operate industries have told the U.S. government that the maintenance of a commercial office in Taiwan would afford them no protection. They want security, not an unofficial consulate. That security is provided by the Defense Treaty and the U.S. Taiwan Defense Command stationed here to implement military cooperation in the event of Communist aggression.

The American Chamber of Commerce in the Republic of China has implied that many of its members would terminate their Taiwan operations if their government decided to break with this country. How can we blame them? The Chinese Communists have made no bones about their intention to attack Taiwan in the wake of 'normalization.' It might take them a while to get ready but their intention is unmistakable.

To invade is the only way they could get their hands on this island province—and this is a goal they cannot renounce or, once the United States were out of the way, postpone indefinitely.

Because of this inevitability, the Republic of China would not be disposed to wait for Communist attack. Why should it? If the United States were to desert a friend and ally, this country would no longer be under any obligation to keep the peace in the Taiwan Straits.

Counterattack is sometimes the best defense. In our case, millions of people on the Chinese mainland are awaiting the chance to strike at their oppressors. Our chances of victory would be enhanced by opening up the strategic and tactical opportunities inherent in returning the struggle to the Chinese subcontinent.

This is not a war we would welcome at this particular moment. We are aware that the United States wants peace in the Taiwan

Straits and hopes for the eventuality of a peaceful settlement. But if war is inescapable, it might as well be fought on the best terms we can get. If the United States leaves us on our own, war is inevitable. The American people ought to know that. It is right that Ambassador Shen should give them the facts, however unpalatable these may be to some Americans.●

## JUDGE LOUIS HOFFMAN

### HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DE LUGO. Mr. Speaker, a few weeks ago one of the most respected members of the Virgin Islands legal community, Judge Louis Hoffman, passed away while visiting friends in Iran.

For many years, Judge Hoffman served as the backbone of our local court system. He had the vision to realize that our courts must grow in both size and sophistication as the population grew and the practical knowledge to accomplish it. This rare combination, combined with his compassion, made him an invaluable asset to our community.

Judge Hoffman's goodness is stated very well in the accompanying editorial from the June 28 Virgin Islands Daily News. I commend it to my colleagues.

LOUIS HOFFMAN

Louis Hoffman was buried Tuesday afternoon in a ceremony that had as little pomp and ceremony as the man himself.

Hoffman died June 20 while visiting a friend in Tehran, Iran. As usual, he was on the move, living an active life. Retirement did not mean just sitting around for Louis Hoffman, he was on an around the world trip when he died.

Death, according to the friend, came suddenly and painlessly for him. It would have had to because, if he saw it coming, he would have fought it.

For many years, Hoffman was one of the best known members of the Virgin Islands legal community, both as a distinguished attorney and as a judge of the Municipal Court until it underwent the changeover to the Territorial Court.

As both attorney and judge, Hoffman was never known to shrink from controversy. While he could be a cheerful and entertaining conversationalist and raconteur, he could also be a tenacious and vigorous foe.

Two things stood out about Louis Hoffman as a public figure. His deep and abiding interest in court reform and his awareness of the juvenile problem in the islands.

On the former subject, he was always ready to talk. He fought long and hard in favor of upgrading a court system that, in its structure, had failed to keep up with the growth and increasing complexity of the community.

He was fully aware of the need to enlarge the local court system, provide it with better resources and to see that it focused special attention on particular problem areas, such as juvenile and family law.

On the subject of juveniles, Hoffman was seeing a problem emerging before almost anybody else. After all, he saw them daily from the bench—the youngsters who had been picked up by the police a dozen times by age 15, the ones who were bounced from foster home to foster home, the ones who were skilled burglars at 12.

He understood the complexity of the problem. He knew that most youngsters that came before him only needed a decent environment but he also knew that some were no longer children but veteran criminals. He saw the threat to the community if proper facilities and rehabilitative resources were not provided.

To the end of his days, Louis Hoffman, though "retired" kept abreast on what was going on in these fields and was a perceptive commentator on them. He maintained his interest and his vigor because he cared for this, his adopted home, where he was buried.

We need more like him.●

## A TRIBUTE TO NOISE REDUCTION EFFORTS

### HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. ANDERSON of Illinois. Mr. Speaker, nationwide concern over environmental issues has grown considerably in recent years. Positive and decisive measures have been commenced in our efforts to combat air and water pollution, erosion, and wasteful or harmful use of this Nation's dwindling resources. However, there is a more subtle pollutant which has been all too often ignored by Government and citizens alike.

Noise indeed has been labeled an invisible enemy. Unlike other pollutants, it usually leaves no lasting physical manifestations. Nevertheless, it poses a significant hazard to our Nation's health. According to the Environmental Protection Agency, 10 million Americans suffer from hearing loss due to excessive noise. Approximately 14.7 million more are exposed to levels of sound while on the job which present serious threats to their hearing. Another 40 million people are susceptible to harmful noise levels without their knowledge from airplanes, trucks, lawnmowers, hi-fi's, kitchen appliances, and motorcycles.

Unfortunately, the effects of this pollutant are not limited to these statistics. Evidence also exists suggesting a link between noise and increased cholesterol levels with accompanying high blood pressure. In the brain's arteries, veins and capillaries, noise has the opposite effect, causing enlargement which can lead to headaches. Scientists believe that it may change the secretion of acid by the stomach, the secretion of endocrine hormones, affect the functioning of the kidneys, and increase susceptibility to viral infection. Noise obviously takes its toll on the nerves and emotions as well, intruding on periods of rest, recreation, reading, and relaxation.

Presently emission limits do exist for motor vehicles and other sources of excessive noise. However, many vehicle owners associate noise with power and performance (assertions which have been proved untrue). As a result, a California study indicates that 78 percent of all motorcycles and cars have been modified and over 10 percent of each are being operated with defective exhaust systems. Some modified motorcycles generate 100 to 110 decibels, not much below a jet plane takeoff.

Mr. Speaker, in light of the preceding, I believe that we should recognize the individuals and organizations who are working to diminish the level of noise Americans are subjected to. At this time I would especially commend Frank L. Einsweiler, mayor of scenic and historic Galena, Ill.

Mayor Einsweiler has long been concerned about noise pollution and its impact. This concern has been expressed to me through our correspondence and has been demonstrated by his actions. After studying various types of community noise control regulations and observing some existing programs, Mayor Einsweiler determined that local regulations were unenforceable in Galena and that he needed an ordinance to suit the conditions of his town. As a result of his efforts, such an ordinance was passed unanimously by the city council on October 10, 1977, which limits the noise emission of light motor vehicles to 80 decibels in any area within the corporate limits of Galena.

A crucial role in the shaping of this ordinance was played by the Environmental Protection Agency's region V office located in Chicago, Ill. This office has assisted Galena and other communities in developing noise programs by providing technical assistance in ordinance development, noise measurement and enforcement training, and the loaning of equipment for measuring noise levels. Of additional note, the region V noise program sponsors environmental noise workshops for public officials involved with starting community noise control programs.

Mr. Speaker, noise, as a pollutant, needs to be taken seriously and dealt with accordingly. The actions of the Environmental Protection Agency, Mayor Einsweiler, and the Galena City Council should serve as positive examples of noise control and reduction to other communities and government agencies.●

## EPA REGULATIONS AND BUSINESS INVESTMENT

### HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. KELLY. Mr. Speaker, Government regulation costs industry an estimated $96.7 billion a year. But these direct costs, in paperwork and nonproductive capital investment, are only one part of the problem. The second part is the uncertainty created by constant revisions in environmental laws and regulations.

This growing problem was the subject of a July 22 New York Times op-ed col-

umn written by environmental consultant Robert N. Rickles. I commend it for your careful consideration.

The article follows:

[From the New York Times, July 22, 1978]

ENVIRONMENTAL RULES MESS

(By Robert N. Rickles)

Debate has raged over the economic impact of our national environmental improvement program. But the debate has failed to deal with the real and unspoken fears of the private sector concerning the Environmental Protection Agency's regulatory programs. And the problems associated with its approach to cleaning up the environment are more likely to prevent environmental clean-up and cause economic decline than any of the scare stories one hears about factory shutdowns and job loss.

As a former control official and environmental consultant to both industry and government, I hear these private doubts whispered by many industrialists and Government officials. Ignored, they mean continued warfare between environmental control officials and industry. Applied soundly, they could mean rapid improvement in the environment with the minimum of economic disruption.

Privately, many industrial leaders will tell you that they will meet environmental standards without fuss and fury, if only three conditions are met by E.P.A. and Congress.

The first is fairness. Most businesses are competitive. They cannot spend large sums of money to construct and operate pollution control facilities, if their competitors are not forced to adhere to the same standards. Too often, the E.P.A. and Congress have set standards that vary from state to state. These differences, that frequently penalize plants in areas of high industrial activity, are worrisome to industrial managers who must watch the profit line as well as the sewer line.

The second concern is time. Most industries can meet tough environmental standards if they are given enough time to plan and finance them. However, financing can be of considerable concern to small, undercapitalized concerns. There is a substantial likelihood that environmental laws will lead to further industrial concentration as smaller firms sell out because they lack the capital to finance environmental facilities.

However, the key complaint that industrialists make about the E.P.A. and the environmental laws that it administers is the agency's lack of consistency. We have witnessed an unending crescendo of new Federal laws. It seems as though Congress feels obligated to pass either a new air or water-pollution control law each year. If these regulations simply expanded the areas of pollution control, congressional action would be understandable. But each set of rules has generally dealt with new regulatory approaches, standards and timetables for problems already handled by previous legislation. That means that, just as an industry moves to solve its pollution problems, it must meet new guidelines. Municipalities have had the same uncertain present with which to deal.

Many cities and industries have simply given up trying, certain that, before long, the E.P.A. approach will change. Furthermore, those companies that procrastinate have generally been able to save money and avoid penalties. Retaining current legislation for a decade or so would permit local governments and industry to plan abatement programs with the assurance that pollution control systems will be measured by the same standards when they begin operation as when they are planned. That will remove an important barrier to municipal and industrial action.

Congress is not alone to blame for the environmental regulation mess. With each new law, the E.P.A. has produced a barrage of new regulations, most unintelligible to ordinary minds, some contradictory and others unreasonable. And with each new regulation—the requirements for public comment, for agency review and for litigation—comes more delay in cleaning the environment. There is no question that some environmental regulations—not all designed by the E.P.A.—are so complex and burdened with paperwork that they totally preclude the activities that they are meant simply to regulate. The conflict between state and local environmental control agencies and their Federal counterparts—often more concerned with their own turf than with environmental improvement—causes industry to bounce from agency to agency in order to gain construction and operational permits, without any clear direction about the appropriate pathway to approval.

We have now gotten to the point where there is general agreement about the need to clean up the environment and even about the specifics of a program to do so. But the bureaucratic mess that exists threatens the environmental movement. It is time for the E.P.A. and Congress to clean up their acts so that we can clean up the country.●

## THE VANISHING SPECIES

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. DINGELL. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial which appeared in the Washington Post on July 23. The article examines in a most articulate manner an oftentimes-overlooked aspect of the vital importance of fully protecting the genetic diversity of plant and animal species.

I wholeheartedly urge my colleagues to seriously consider the long-term consequences to the evolution of all living species if we allow the extinction of particular animal and plant types in order to facilitate successful project development. The Endangered Species Act is designed to serve as a protective mechanism for those endangered or threatened species that would otherwise be rendered extinct.

The article follows:

THE VANISHING SPECIES

(By Erik Eckholm)

To most people, talk of "endangered species" evokes images of tigers under siege in Asia and cheetahs losing ground in Africa, of whales hunted to scarcity in the Antarctic and whooping cranes clinging to life in North America. For those who follow such matters, it may also bring to mind recent positive preservation development: whaling quotas, restrictions on trade in rare-animal pelts, DDT bans and international save-the-tiger campaigns, among others.

Even as such salvaging operations finally get under way, however, many leading biologists have begun sounding the alarm about an unsolved, unsung species problem of vaster proportions and wider implications. At risk, the scientists say, are not just hundreds of familiar and appealing birds and mammals. Examination of the survival prospects of all forms of plant and animal life—including obscure ferns, shrubs, insects and mollusks as well as elephants and wolves—indicates that huge numbers of them have little future. Not hundreds, but hundreds of thousands of unique, irreplaceable life forms may vanish by the century's end.

Should this biological massacre take place, evolution will no doubt continue, but in a grossly distorted manner. Such a multitude of species losses would constitute a basic and irreversible alteration in the nature of the biosphere even before we understand its workings—an evolutionary Rubicon whose crossing Homo Sapiens would do well to avoid.

Estimates of the number of plant and animal species living on earth range from 3 million to more than 10 million, with recent findings on the diversity of insects in particular supporting the higher approximation. Yet to date only about 1.5 million species—about 15 to 50 percent of the presumed total—have been recorded in the scientific literature. It is likely that several million insects and plants—along with far fewer members of other animal classes—await discovery, mainly in the tropics. If current patterns of human activity continue, a good share of the unrecorded majority of species will vanish before their existence, much less their biological importance or economic utility, is established.

Currently, estimates the International Union for the Conservation of Nature and Natural Resources (IUCN), an average of one animal species or subspecies is lost each year. However, although endangered animals receive the greatest public attention, plant extinctions are often more significant ecologically; according to Peter Raven, director of the Missouri Botanical Garden, a disappearing plant can take with it 10 to 30 dependent species such as insects, higher animals and even other plants. Estimates of the past and current rates of plant extinctions are not available, but the IUCN's Threatened Plants Committee finds about 10 percent (20,000 to 30,000) of the world's flowering plants to be "dangerously rare or under threat."

These estimates of species at risk greatly understate the true problem, for they deal only with known life forms. All evidence indicates that sizable, if unknown, numbers of unnamed species are disappearing in scientifically uncharted areas in the tropics. In his forthcoming book, "The Sinking Ark," wildlife specialist Norman Myers concludes that, right now, probably at least one species is disappearing each day in tropical forests alone—and that in a few more years there may well be a species lost each hour.

Biologist Thomas Lovejoy of the World Wildlife Fund, extrapolating current trends in population, land use and the pollution of air and water, finds plausible a reduction in global diversity of at least one-sixth by the year 2000, which would mean the obliteration of 500,000 species based on the lowest estimates of total species numbers. If this projection is even remotely close to correct, then no one can accuse the many alarmed scientists of crying wolf. The fabric of life will not just suffer a minor rip; sections of it will be torn to shreds.

THE THREATENED TROPICS

Humans destroy fellow species in numerous ways, including excessive hunting and collection and the release of toxic chemicals into the air and water. Over the next few decades, however, by far the biggest single cause of extinctions will be the destruction of habitats. As both populations and economies grow and human settlements sprawl, undisturbed natural areas shrink. Essential wildlife breeding zones, migration routes and browsing and hunting domains are paved, inundated with water, grazed or plowed. Forest lands are denuded by farmers, timber companies and firewood gatherers and then are given over to cattle, crops or non-native tree species.

The problem of habitat destruction exists on every continent, but it is particularly serious in the humid tropics, which is where

the major species losses are predicted. Suffused with exceptional amounts of light, warmth and moisture, the tropical rain forests house a remarkable variety of ecosystems and species—and large areas, particularly in the Amazon Basin, remain *terra incognita* to scientists.

But the blunt truth is that huge, perhaps inexorable pressures to exploit the remaining virgin territories of the tropics are building. Many tropical forests lie within poor countries whose governments are not inclined to value abstract, long-term ecological goals above immediate economic gains. Unequal land tenure and rapid population growth cause additional encroachments into the forests even in more prosperous tropical countries. Affluent people in faraway lands, who demand wood and agricultural products, add to the pressures on tropical ecosystems, and international corporations are well equipped to facilitate the extraction and international transfer of tropical goods.

Because of this combination of powerful social forces contributing to the settlement or disruption of hitherto unexploited tropical lands, many scientists fear that little untouched rain forest will be left by the year 2000. Certainly not all the forest lands will be inhabited or treeless—and some remote regions may remain pristine. But, once disturbed, the original balance of rain-forest species in a given area may be forever lost. Large tropical areas must be set aside as biological reserves if massive extinctions are to be avoided.

THE HUMAN COSTS

Do the projected species losses matter? For a wide range of reasons, a decline in the diversity of life forms should be of concern to everyone. The biological impoverishment of the earth will certainly contribute to the economic, let alone the esthetic, impoverishment of humans.

Probably the most immediate threat posed by the loss of biological diversity arises from the shrinkage of the plant gene pools available to agricultural and forestry breeders. While crop genetic diversity can be largely preserved through seed collection and storage, wild relatives of crops may have properties of enormous potential value and are less apt than domestic strains to be collected. Moreover, despite recent international initiatives, existing seed banks are still badly incomplete.

In an age of plastics and moonshots, few people appreciate the extent to which humans remain dependent on natural products. Wild plants and animals provide the basis for life of many traditional peoples in Africa, Asia and Latin America—reason enough for their preservation. But in even the most technologically advanced societies, products derived from plants and animals serve a variety of crucial industrial, medical and other purposes.

Perhaps the greatest social costs of species destruction will stem from future opportunities unknowingly lost. Forty percent of the modern pharmacopoeia has originated in nature, yet only a small fraction of the earth's plant species have been screened for medically useful ingredients. Nearly all the food humans eat comes from only about 20 crops, but thousands of plants are edible and some will undoubtedly prove useful in meeting human food needs. It is certain that socially significant uses will be discovered for many tropical plants as more are studied.

No one can confidently say that products of comparable significance to rubber or quinine remain to be discovered. But no one can confidently say they don't, either.

AN "EVOLUTIONARY ETHIC"

Beyond particular economic or scientific losses caused by species destruction lies a more basic threat: the disruption of ecosystems on which human well-being depends. No matter how sophisticated modern technologies may seem, human livelihoods are ultimately grounded in biological processes, enmeshed in ecological webs so intricate that the consequences of destabilization cannot often be foreseen. Crushed by the march of civilization, one species can take many others with it, and the ecological repercussions and rearrangements that follow may well endanger people.

One common result of environmental degradation, for example, is an increase in the prevalence of small, hardy, fast-reproducing plants and animals of the sorts usually considered pests. Events such as the overrunning of crops by pests or the sudden spread of a disease may easily be perceived as matters of chance when in fact they are the direct result of ecosystem degradation.

No one could claim that all existing species are ecologically essential to the viability of human culture. But scientists cannot yet say where the critical thresholds lie, at what level of species extermination the web of life will be seriously disrupted. Identifying and protecting those species whose ecological functions are especially important to human society are crucial tasks facing both scientists and governments. In the meantime, prudence dictates giving existing organisms as much benefit of the doubt as possible.

In the long run, philosophical considerations may prove as potent as economic considerations as a force for species preservation. Australian geneticist Otto Frankel has urged the worldwide adoption of an "evolutionary ethic"—a determination to "try to keep evolutionary options open so far as we can" without forcing "undue deprivations on those least able to bear them." The alternative to living by such a creed is destroying many of those habitats and species that do not seem immediately useful; humans would appoint themselves as the ultimate arbiters of evolution and determine its future course on the basis of short-term considerations and a great deal of ignorance.

CONSERVATION NEEDS DEVELOPMENT

The descent from the airy summit of evolutionary ethics to the everyday human landscape of the tropical world is a jarring one. To be rich in birds, insects, trees and fungi is not necessarily to be rich in food and consumer goods. Far from it: Many of the countries in which the great species wipeout will soon unfold are burgeoning with the destitute.

When nations are poor, the temptation to choose short-term material benefits regardless of future ecological costs often proves irresistible. Besieged by restless legions of the jobless and the landless, governments are naturally inclined to transform remaining pristine areas into agricultural settlements—and, in fact, often lack the ability to prevent such transformations even when they want to.

Despite the countervailing pressures, a few tropical countries, including Colombia, Costa Rica, Peru, Thailand and Venezuela, have already established sizable, if not yet adequate, natural reserves. Leaders in wildlife-rich Kenya and Tanzania have also initiated far-sighted conservation policies; Kenya has gone so far as to ban all sales of animal-derived souvenirs. Encouraged and assisted by private international conservation organizations and United Nations agencies, other Third World countries have taken first steps toward the preservation of their biological heritages by designating limited areas for protection.

Yet even in countries with excellent conservation laws and ample nature reserves—let alone in countries where political leaders lack enough appreciation of biological diversity to act on its behalf—the permanent protection of large natural areas will be feasible only if the deeper socioeconomic forces that imperil them are dispelled. Whatever the proclamations from national capitals, and whatever the economic progress registered in aggregate GNP accounts, as long as large numbers are denied the means to make a decent living the nature reserves will be in jeopardy.

Beyond hand-wringing about the population explosion, many conservationists distraught over Third World species losses have paid little attention to the socioeconomic structures and human plights underlying these losses.

Accustomed to perceiving species-protection battles in North America and Europe as battles against mindless development, many may find it hard to devote attention and energy to the Third World battle for rapid economic development—albeit development of an ecologically sustainable, socially sensitive sort. However, the ultimate fates of thousands of plant and animal species will turn not only on what happens in the comparatively tidy worlds of scientific research and presidential decrees, but also on what happens in the confused, conflict-ridden arenas of social and economic change.

Unless national and international economic systems provide many more people with land or jobs, the dispossessed will naturally covet and molest "legally protected" lands, trees and animals. Similarly, if rapid population growth in tropical countries is not soon slowed, human pressure to exploit virgin territories will overwhelm even the most stalwart conservation efforts.

Success in bringing down birth rates, however, is also at least partly dependent on more general social progress. Immediate human survival needs will always take precedence over long-term environmental goals. Clearly, the struggle to save species and unique ecosystems cannot be divorced from the broader struggle to achieve a social order in which the basic needs of all are met.

"In wildness is the preservation of the world," sermonized Henry David Thoreau in 1851, encapsulating a philosophy that has suffused western nature-conservation efforts since then. Reflecting on the psychic anomie of an acquisitive society estranged from its natural roots, he observed that "the mass of men lead lives of quiet desperation."

Today's Third World, of course, bears little resemblance to booming 19th-century America; the quiet desperation suffered by hundreds of millions is of a more basic sort, one not much salved by the contemplation of turtles and ants. Even so devout a nature disciple as Aldo Leopold—a patron saint of modern wildlife conservation—admitted that "wild things had little value until mechanization assured us of a good breakfast." Present circumstances necessitate a complement to Thoreau's dictum: In broadly shared economic progress is the preservation of the wilderness.●

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## A CHILD'S JOURNEY

## HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. FISH. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues a new book—"A Child's Journey"—a definitive work about children. One of the authors, Herbert C. Yahraes, Jr., of Stanfordville, N.Y., lives in the 25th Congressional District, which I am privileged to represent. This book is receiving acclaim on all sides and is already into its second printing. According to several reviewers, "Segal and Yahraes have produced a monumental book about Americans' children. This book must be recommended to

everyone in the field as well as to all informed laypersons. An enormous work."

At this time, I would like to insert a review of "A Child's Journey" that appeared in the Barrytown Explorer in Barrytown, N.Y. I commend it to your reading.

The review follows:

[From the Barrytown Explorer]

A CHILD'S JOURNEY

(By Jules Archer)

The definitive work about children, and what makes them the way they are, has been written. A Child's Journey makes most previous books on child development superfluous for parents, teachers and child psychologists. A product of three intensive years of research, encompassing almost every important study in the field, old and new, the book offers an easily read, fascinating yet scholarly blueprint for producing happy, secure and fulfilled children, and rescuing those who have been damaged by mishandling.

Without so much as a footnote, the authors have managed to pack their book full of important, documented information that is totally persuasive. I have never read a work so helpful to parents in answering the problems and difficulties and frustrations common in all families. Parents doing a good job will learn how they can do an even better one. In the hands of neurotic or troubled parents, the book may prove the equivalent of a year of counselling.

A Child's Journey provides a clear picture of how childrearing theories have changed from earliest times, and why. Fascinating case histories offer important clues to parents and teachers for mistakes to avoid in handling children. The reader will learn much that is new and mind-jolting.

Segal, a psychologist and writer, is director of the public and scientific information programs of the National Institute of Mental Health. Yahraes is a distinguished author noted for thirty years of writing in the field of mental health research and other scientific subjects. As a team they have produced a work which is bound to become a classic, as popular with parents and teachers as respected by scholars. It was no mean trick to present so valid a work in so readable a form.

I, for one, learned many facts and concepts which were new to me. Segal and Yahraes, for example, reveal that over-protection of a child can be as bad as rejection, making the child feel inadequate and worthless. Their insights into the role of genetic influence will relieve parents who blame themselves for mistakes in training for everything that happens to their children. At the same time the authors encourage parents by showing that environmental factors can work toward influencing the behavior and achievements of "difficult" children.

Segal and Yahraes stress the importance of understanding children's temperamental differences in preventing behavioral problems. Such understanding offers the clue to fine-tuning stresses placed on children to help them reach their potential, while at the same time not causing discouragement, depression and rebelliousness.

A Child's Journey also examines the mental health aspects of children with physical disabilities in a chapter which is indispensable for any parents or teachers of handicapped children. Another vital chapter examines the importance of the earliest hours after birth to the future development of the child and to parent-child relationships.

Working mothers will find a wealth of guidance in the chapter which points out that the absence of the working mother from the home is not nearly as important as the question of family stability in influencing child behavior. A mother satisfied by her work, and who provides adequate alternative care for her children, need have no guilt feelings. New studies show that children thrive well in good day-care centers.

One eye-opening disclosure for mothers may influence how they regard their new babies—the finding that their own concept of the newborn child has much to do with the likelihood that it will or will not develop an emotional disorder.

Writing of the effect of violence on TV on children, Segal and Yahraes reveal that this issue is largely a cop-out on the real problem—which is violence in the home. They present astonishing evidence of widespread brutality toward children in the United States, brutality which is the source of much child pathology as well as of violent crime in our streets. The book also documents beyond question the fact that the children beaten in their homes today will beat their own children tomorrow.

They quote a father in suburban Washington who declared confidently, "I don't believe in injuring a child or doing him permanent harm, but I know that when I beat the hell out of my kid, it sure clears the air." That same parent, undoubtedly, was part of the chorus of protest against showing violence on TV as a bad influence on his child.

Segal and Yahraes point out that abusive parents often fall into a rage of disappointment because of unrealistic expectations of their children. The authors also found a surprising correlation between the low birth weight of an infant and its likelihood of being beaten.

Abusive parents will find help with their problem in the list of resources given by Segal and Yahraes, who point out, however, the danger to children when clinicians who are too trusting of abusive parents before they are really helped.

One important field of research documented by *A Child's Journey* is the role of the teacher's expectations of a child. Recent studies have proved that children tend to live up—or down—to such expectations. The teacher who feels she's wasting her time with a ghetto child will find her attitude reinforced by the child's failures. But the teacher who makes such a child feel that he *can* do the work, and has what it takes to succeed, can create dramatic miracles. All too many teachers, Segal and Yahraes reveal, believe in the necessity of corporal punishment, which only teaches kids the value of violence.

The book also warns against pinning labels on youngsters—anything which marks them as deviant from the norm, physically or intellectually. The label tends to become a self-fulfilling handicap, with tragic results in maturity. By the same token, children who are helped to become competent in school-related skills enjoy a better self-concept and are much more likely to escape damage to their mental health.

One of the most valuable chapters of *A Child's Journey* deals with the importance and impact of a child's peers. It reports studies showing that as early as the first year of school, a child who has difficulty establishing good peer relationships may have serious mental health problems later unless his difficulty is recognized and he is given early assistance.

Parents, teachers, child psychologists and social workers have reason to be grateful to Segal and Yahraes for the brilliant research and analysis that went into the making of *A Child's Journey*, which I predict will now become the standard work in its field. But even more grateful should be the children, who will benefit immeasurably from this spread of knowledge that will take the guesswork out of how to help open the world to them and rejoice in the results.●

## YOUNG: A RESIGNATION IS IN ORDER

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## HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. McDONALD. Mr. Speaker, in my continuing effort to point out that the 82 votes my resolution of impeachment against Andrew Young received are not indicative of its real popular support, I would like to include in the RECORD, at this time, a very fine editorial from the Marietta Daily Journal of Sunday July 16, 1978, on this topic. The editorial follows:

[From the Marietta Daily Journal, July 16, 1978]

YOUNG: A RESIGNATION IS IN ORDER

For someone who says, "I'm trying to help, not to hurt," U.N. Ambassador Andrew Young certainly seems to have his priorities misplaced.

In fact, he "helped" so much last week that Tass, the official Soviet news agency, released the following statement about one of Young's replies to a French reporter: "These words are noteworthy, since they come from a member of the cabinet and therefore signify an official admission that political persecution is widespread in the United States."

The words referred to by Tass came from Young as a reply to the question. "How do you explain the opening of the trials of Shcharansky and Ginsburg on the eve of a Vance-Gromyko meeting?"

Since the ambassador has complained that his reply was taken out of context, we hereby quote the entire answer as printed by the Paris Socialist daily, Le Matin.

Young said, "Oh, it's certainly a challenge, a gesture of independence on their part. But that will not prevent them from pursuing the SALT negotiations.

"And then, one doesn't know, what can happen to the dissidents. After all, in our prisons too there are hundreds, perhaps even thousands of people whom I could call political prisoners. Ten years ago I myself was tried in Atlanta for having organized a protest movement. And three years later I was a Georgia representative.

"It's true that things do not change that quickly in the Soviet Union, but they do change," Young's comments concluded.

According to one U.S. official, Secretary of State Cyrus Vance's reaction to Young's statement was understandably "unprintable." Vance has already called Young on the carpet for the remarks, and as usual Young blamed the press for "distorting" his answer to the questions.

If Andrew Young has been really misrepresented in the press as often as he claims, it seems to us he would begin to stop and think before he makes a comment on anything. But the ambassador continues to speak off the top of his head without thinking through the consequences of his words.

We do not think Young's latest statements—even added to his breaches of administration policy in the past—are "high crimes and misdemeanors" deserving of impeachment.

But we do agree with Seventh District Rep. Larry McDonald who said, "U.N. Ambassador Andrew Young in no way represents the people of the United States."

And, on a more practical level, Young's outspoken manner is not doing Jimmy Carter a bit of good. If Carter thought Bert Lance was a political headache, he must be finding Young to be a continuing migraine.

Sen. Barry Goldwater in effect, has told Young to "put up or shut up" when he de-

manded that Young either provide a detailed list of America's so-called "political prisoners" or be discharged from his office.

We would hope that Andrew Young will soon realize that he is an albatross around the neck of Jimmy Carter and that his continuing mistakes are costing not only the administration but the entire country loss of esteem in the eyes of the world. We would like to see his resignation.●

## NIE DIRECTOR VIEWS TITLE I AND HEAD START IN ACTION

### HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. FORD of Michigan. Mr. Speaker, last May the new director of the National Institute of Education, Patricia Albjerg Graham, visited a Head Start program and a program funded under title I of the Elementary and Secondary Education Act in the Wayne-Westland and Westwood Community School Districts of the 15th Congressional District of Michigan, which I am privileged to represent.

Both programs are models of the manner in which dedicated local educators can use Federal assistance to improve the quality of schooling for low-income children.

During her visit to the Westwood Community School District, Pat Graham talked to Nolan Finley of the Detroit News about the need for educational researchers to stay in touch with the real world of schools, teachers, and children. And, she spoke also of the NIE's new research emphases on examining student achievement, teaching, urban schools and high school students.

I am delighted that Dr. Graham, who is a distinguished historian of education, took time from her busy schedule to visit these programs and the Wayne County Intermediate School District in my congressional district. Because I know her views on research at the NIE will be of interest to my colleagues, I ask unanimous consent to insert Nolan Finley's story from the Detroit News at this point in the RECORD:

EDUCATOR "GETS IN TOUCH" WITH PUPILS

(By Nolan Finley)

Patricia Graham, director of the National Institute of Education, got in some pupil-level research during a visit to Inkster's Westwood Community School District.

Bending to her knees, Mrs. Graham chatted with 6-year-old twins Lori and Lisa Petrimoulx, kindergartners, who attended the district's Head Start program.

"What did you like best about Head Start?" she asked the girls.

The youngsters, who were more interested in showing Mrs. Graham their purses, giggled and replied that they liked the toys.

"It's refreshing to talk with children," she said later. "Too often education researchers lose touch with the students."

The education specialist stopped briefly at the Westwood and Wayne-Westland district offices en route to Boston from her Marquette home. While waiting for a flight from Detroit Metropolitan Airport, she said, she wanted to review Head Start classes in the nearby districts.

Head Start is a federally funded program designed to prepare pre-schoolers in low-income and minority areas and help minimize disadvantages.

While touring Westwood, she discussed the national institute she has headed for one year and expressed pleasure over Congress' latest allocation.

"Last year we received $70 million," she said. "This year we will get $90 million. I think that's a good indication of the importance the administration and Congress places on education research."

The institute, based in Washington, was formed in 1972 under the Department of Health, Education and Welfare to study education questions.

"I feel that we can take on crucial educational issues," said Mrs. Graham. "And we are able to address those issues more clearly."

She outlined four areas of focus for next year's research. The first project will examine achievement-testing methods, which have drawn heavy criticism.

"No matter how dissatisfied we are with achievement tests, we appear to be stuck with them," Mrs. Graham said. "We have to realize the limits of the tests, and use them to improve the student's potential."

Researchers also will tackle the problem of revitalizing teachers.

"How do you intervene with a 40-year-old teacher, who has been teaching for 20 years and will teach for another 20 years, but who has lost some of her enthusiasm?" she said. "We have to find a way to give her a shot in the arm. It is a messy question. but it's important."

The third research area will involve urban education. Mrs. Graham said the institute will study successful urban schools and try to spread their gains to other inner-city schools.

Finally, the institute will attempt to help low-achieving high school students. She said those youths have been neglected by past programs, which emphasized reaching pre-schoolers and elementary pupils.

Mrs. Graham said she is optimistic about the outcome of her staff's research, and predicted the educational system faces "great changes." But she cautioned that results will come slowly.

"The research will take a long time," she said. "We expect the results to come in dribbles, but we will try to build on those bits of information and new discoveries."

She said the institute already has made great strides in researching school violence. Eliminating attacks in schools, she said, depends on a strong administration.

"The principal does make a difference," she said. "We found that if the principal is firm, fair and consistent, he could control the students. And it didn't matter if he was a white in a black school, a black in a white school, young, old or female.

"He could be a friend or a tough guy, but he had to treat the students equally and stand by his policies. We also found that security guards and physical punishment were not significant factors in controlling disruptive behavior."

Mrs. Graham said violence occurs mostly in urban schools, while vandalism is a greater problem in suburban districts.●

## INTERRUPTION OF MAIL TO THE SOVIET UNION

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. LEHMAN. Mr. Speaker, political dissidents within the Soviet Union have consistently been subjected to social, economic, physical, and psychological harassment. In its campaign to suppress criticism of the Soviet political system within its borders, the Soviet Union has violated the Helsinki Agreement by denying political dissidents, refuseniks, and prisoners of conscience, the basic human right of freedom of communication. The Soviets have attempted to isolate the dissident community by interrupting and intercepting the flow of mail between the United States and the U.S.S.R. The Subcommittee on Postal Operations and Services, under the chairmanship of the distinguished gentleman from New York (Mr. HANLEY) today held hearings to discuss the Soviet Union's failure to abide by international postal agreements through the nondelivery of mail in the Soviet Union.

I would like to share with my colleagues the text of my statement to the Subcommittee on Postal Operations and Services:

STATEMENT OF HON. WILLIAM LEHMAN

Mr. Chairman, I would like to commend the members of the Subcommittee on Postal Operations and Services, and its chairman, the distinguished gentleman from New York, Mr. Hanley, for holding these hearings to discuss the problem of Soviet interference with the delivery of mail between the United States and the U.S.S.R.

The interruption and interception of mail is part of the Soviet campaign to suppress political dissent within the Soviet Union. The Soviet Union's failure to abide by international postal regulations constitutes a violation of international postal agreements and a blatant contravention of the 1975 Helsinki Agreement which guarantees freedom of communication between citizens of Western countries and the Soviet Union.

Despite the vigilance of Soviet officials, the Soviets have not been foolproof in their methods of totally isolating activists and refuseniks from critical Western eyes. Several of my South Florida constituents have brought to my attention individual cases of Soviets' consistently thwarting attempts to communicate with Soviet dissidents. The case of Dr. Seymon Gluzman, a prisoner of conscience, illustrates the extent to which the Soviets have gone to seal off leaks of truth. The Soviet psychiatrist was imprisoned six years ago for defying KGB orders to certify critics of the Soviet government as mentally ill. Dr. Harry Graff, a South Florida psychiatrist, has on many occasions tried to contact Dr. Gluzman in prison. After each attempt the registered letter was returned with the usual "retour inconnu" stamped on the letter. I have also tried to communicate with Dr. Gluzman to assure him that many concerned individuals are actively working for his release and an exit visa to emigrate from the Soviet Union to Israel. More than five months had passed before the undelivered letter was returned to my office. I have since learned that Dr. Gluzman was transferred from Perm 36 prison camp to an unknown destination.

Our attempts to contact other refuseniks have met with similar results. The South Florida Conference on Soviet Jewry sponsors a program in which Americans can adopt a Soviet Jewish family wishing to emigrate to Israel, and has kept me informed of its experience with the non-delivery of mail to the Soviet Union.

Judith Matz, Chairwoman of the Adopt-A-Family Program, explains the nature of the problem:

"The Soviets appear to have successfully developed a means of withholding mail while preventing documentation of this interference . . . All correspondents participating in our Adopt-A-Family Program are advised to send their letters registered with a return receipt requested. The 'pink card,' Form Number 2865, is then attached to the letter to be signed by the recipient and returned to the sender . . . The Soviet Union apparently has no provisions for sending mail with a restricted signature on the receipt. Thus, any

postal clerk in the U.S.S.R. may scrawl an unreadable mark on the pink card. When such a card is returned to the sender, there is no further avenue for obtaining proof that the letter was undelivered."

The Soviet scheme has effectively blocked most correspondence between refuseniks and their American sponsors. Soviet Jews who have been allowed to emigrate have verified claims of Soviet impropriety in postal operations, for both incoming and outgoing mail. When Soviet Jews do receive mail from sponsors in the United States, they will often sign the cards in Hebrew. The returned cards and letters I am submitting with my testimony today clearly do not have any Hebrew markings, indicating that the letters were never received by the addressee.

Deliberate disregard of international postal standards is not an internal matter of the Soviet Union. I urge that Congress adopt H. Con. Res. 579 calling for Soviet compliance with prescribed international postal standards.●

## "REPUBLICAN EAGLE" OPPOSES RESTRICTIONS ON AID TO WORLD BANK

### HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. McHUGH. Mr. Speaker, the foreign assistance appropriations bill will soon come before the House for consideration. As every Member is aware by now, numerous amendments will be offered to reduce funding and to restrict how our assistance may be used in a variety of ways.

I am opposed to these amendments, Mr. Speaker, and I have been encouraged by the fact that so many thoughtful and responsible newspapers across the Nation have indicated their opposition to them as well. For example, the Republican Eagle of Red Wing, Minn., in a recent editorial suggested that congressional threats to restrict World Bank funding would be unwise. The Republican Eagle pointed out that the United States should work to keep the World Bank nonpolitical and immune from pressures seeking to divert it from its primary goals.

For the benefit of those Members who may not have seen this editorial, I am including it in the RECORD at this time.

DON'T CHOP THE WORLD BANK

Both morality and enlightened self-interest argue that the United States should do its full share for the World Bank, says a Washington Post editorial here today.

That's a view the R–E, too, would heartily urge on Congress. The threats to be resisted there are several.

One comes from domestic economic interests which want to knife any potential competitor. Last year an amendment was offered that would require U.S. representatives at the World Bank to oppose financing any poor people's project abroad which might subsequently compete with U.S. citrus or sugar producers.

Earlier, U.S. soybean interests mounted the same kind of assault on World Bank palm oil financing.

Another Congressional threat has a different motivation: to require that the World Bank attach human rights strings to its loans.

This is high-minded but unwise. Definitions of human rights vary around the world. It's better if the World Bank concentrates on helping poor nations raise living standards without getting into political matters. The U.S. may attach human rights conditions to its own direct aid.

Still another Congressional threat is a hangover from America's unhappy Vietnam war. Some congressmen would like to subvert any World Bank loan to Communist-run Vietnam.

Again, the enlightened U.S. self-interest is to keep the World Bank nonpolitical. That's the best defense against any would-be political interference with the World Bank by communist countries or others unfriendly to America.

But the greatest threat to the World Bank as Congress comes to appropriate this month is pure and simple economy, born out of the Proposition 13 bandwagon.

But, as the Post put it in a follow-up editorial, this Prop–13 budget-cutting passion "does not extend to dams and highways . . . or the multibillion-dollar schemes roaring around Congress to help middle-class parents pay college tuition.

"Instead, the new thrift is focused with dreadful intensity on foreign aid . . . (It) recalls the story about the family that responded to a sermon on the virtue of thrift by cutting off its contributions to the church."●

## BARLOW GHOST STILL HAUNTS OSHA

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. HANSEN. Mr. Speaker, the Occupational Safety and Health Administration (OSHA) has again been dealt a devastating blow in a Federal court—this time in a July 3, 1978, decision in the U.S. District Court of Eastern Wisconsin.

OSHA had forced an inspection of a Weyerhaeuser facility with only an administrative warrant which came under legal challenge. The resulting decision bolstered in a big way the fact established by the recent landmark Barlow case in the Supreme Court that a businessman does not have to settle for anything less than a warrant based on probable or reasonable cause.

Thus the Barlow decision continues to assume an increasing importance in American history because it sets a constructive precedent for necessary protective guidelines for citizen rights in the face of Government activities. Heretofore, the businessman and farmer have been the victims of a recent trend in reverse justice where the citizen is assumed guilty until he can prove his innocence.

The Barlow court ruling places the burden of proof back on the Government where it belongs. OSHA can now come to inspect as before but the businessman can demand that they have a search warrant properly obtained from a magistrate, and the warrant itself can be challenged by the citizen if he wishes to question the grounds upon which the warrant was issued and the scope of the proposed search—thus the burden of proof rests on the Government as was previously stated.

All citizens and especially those vulnerable to Government inspections should know their rights and not allow themselves to be improperly victimized by an overly aggressive bureaucracy no matter how well meaning its intentions.

A small businessman, Bill Barlow, blazed the way with his landmark case and now the giant Weyerhaeuser Co. has successfully challenged the Department of Labor's contention that a magistrate must have only the Labor Secretary's claim—through a compliance officer—that probable cause exists before issuing a search warrant.

The Weyerhaeuser decision has upheld my hopes and contentions and significantly reinforced the Barlow ruling. For the benefit of my colleagues and many interested citizens across the land, I insert for the RECORD the opinion of the court in this latest victory over the still defiant bureaucrats of OSHA:

[U.S. District Court, Eastern District of Wisconsin, No. 77–C–781]

WEYERHAEUSER COMPANY, A CORPORATION, *v.* PLAINTIFF, RAY MARSHALL, SECRETARY OF LABOR, ET AL., DEFENDANTS

DECISION AND ORDER

This action is before me on the plaintiff's motions for a preliminary injunction and for an order quashing an administrative inspection warrant and suppressing evidence obtained thereunder. The defendants have filed a motion to dismiss or alternatively for summary judgment.

In this action, the plaintiff seeks declaratory and injunctive relief because of an allegedly improper administrative inspection conducted by the defendants under section 8(a) of the Occupational Safety and Health Act (OSHA), 29 U.S.C. § 657(a). The defendants are the Secretary of Labor, an Assistant Secretary of Labor responsible for enforcement of OSHA, the Occupational Safety and Health Administration and three of its compliance officers, an OSHA area director, and the Occupational Safety and Health Review Commission.

According to the complaint, on June 30, 1977, the defendant compliance officers appeared at the plaintiff's corrugated box manufacturing plant in Manitowoc, Wisconsin, to conduct a safety and health inspection of the premises. They were refused entry. On July 7, 1977, one of the compliance officers returned with a warrant issued by a United States magistrate, and the plaintiff "under protest" allowed the officer to enter and inspect the entire premises. Under the same warrant, the compliance officers continued to inspect the premises on July 8, 11, and 12, 1977. On July 25, 1977, and August 5, 1977, citations were issued to the plaintiff for conditions discovered during the inspections. The plaintiff is presently pursuing administrative review of these citations before the defendant Occupational Safety and Health Review Commission.

The plaintiff claims that the warrant issued by the magistrate was invalid under the Fourth Amendment because there was no probable cause for its issuance. Furthermore, it is alleged that the prosecution of the plaintiff over the citations in question constitutes harassment in violation of the due process and equal protection guarantees of the Fifth Amendment. Accordingly, the plaintiff seeks, inter alia, (1) a declaration that its Fourth and Fifth Amendment rights have been violated; (2) a preliminary injunction enjoining any further actions or proceedings by the defendants against the plaintiff regarding the citations in question and staying further administrative proceedings pending this court's determination

whether the evidence obtained by the defendants during the inspections should be suppressed; (3) an order quashing the inspection warrant and suppressing the evidence obtained thereunder; (4) an order quashing the citations and penalty notices; (5) a permanent injunction enjoining any further actions with respect to the subject citations; (6) a declaration that section 8 (a) of OSHA, 29 U.S.C. § 657(a) is unconstitutional under the Fourteenth Amendment; and (7) an order directing the defendants to return all evidence obtained through the search of the plaintiff's premises.

THE DEFENDANTS' MOTION TO DISMISS

The defendants' claim that this action must be dismissed for failure to state a claim upon which relief may be granted. Such claim is based on the plaintiff's alleged failure to have exhausted its administrative remedies. Much authority is cited by the defendants for the general proposition that administrative remedies must be exhausted. However, in the context of OSHA warrant cases, courts have held that the propriety of an administrative inspection warrant may be challenged in district court without first exhausting administrative remedies. Hayes-Albion Corporation v. Marshall, case no. C 77–205 (N.D. Ohio memorandum and order dated October 14, 1977); Morris v. United States Department of Labor, case no. 77–5068 (S.D. Ill. memorandum and order dated September 20, 1977; Barlow's, Inc. v. Usery, 424 F. Supp. 437 (D. Idaho 1977), *reversed on other grounds sub nom.* Marshall v. Barlow's, Inc., 46 U.S. L.W. 4483 (May 23, 1978). I agree with these decisions that no significant interest would be furthered by requiring the plaintiff to present the issue of the warrant's validity at the administrative level.

In its reply brief, the defendant Occupational Safety and Health Review Commission urges that it must be dismissed because the complaint fails to state a claim upon which relief can be granted against it and because the venue is improper in this district. Since the plaintiff has had no opportunity to respond to these arguments, I decline to rule on these contentions.

The defendants also argue that an injunction may not be granted enjoining inspections at the plaintiff's other plants throughout the country since there is no actual case or controversy concerning the other plants. Although the complaint does make reference to irreparable harm allegedly suffered by the plaintiff in its business operations throughout the United States, the complaint's demand for relief makes no request for injunctive relief directed at any facility other than that in Manitowoc, Wisconsin.

I find no persuasive basis for dismissing this action for any of the reasons advanced above. I have examined the defendants' other arguments and find none of them amenable to resolution without reference to matters outside of the complaint. Accordingly, the motion to dismiss will be denied and the remainder of the defendants' arguments will be treated as supportive of the defendants' alternative motion for summary judgment and considered together with the plaintiff's motion for a preliminary injunction.

THE PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION AND THE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The defendants argue that summary judgment must be granted in their favor because the plaintiff consented to the inspection in question. The plaintiff disagrees, explaining that when the defendant compliance officers exhibited the inspection warrant, the plaintiff allowed the inspection only "under protest." The defendants' affidavits, including the notes of the compliance officers, show beyond doubt that the plaintiff's version of the facts is correct. Thus, it appears that the defendants' consent argument is legal rather than factual in nature.

I find that the defendants' argument is contrary to well established precedent. In Bumper v. North Carolina, 391 U.S. 543 (1968), the Court faced the issue "whether a search can be justified as lawful on the basis of consent when that 'consent' has been given only after the official conducting the search has asserted that he possesses a warrant." 391 U.S. at 548. The Court held that "there could be no consent under such circumstances" and further that "[a] search conducted in reliance upon a warrant cannot later be justified on the basis of consent if it turns out that the warrant was invalid." *Id.* at 549. Thus, as a matter of fact and law, it is clear that the plaintiff did not consent to the inspection in question.

In its motion for a preliminary injunction, the plaintiff argues that section 8(a) of OSHA is violative of the Fourth Amendment because it purports to authorize warrantless inspections of business establishments. Although a warrant was applied for and obtained before the defendants conducted the inspection of the plaintiff's plant, the plaintiff urges that the constitutional infirmity of section 8(a) cannot be cured by implying a warrant procedure into the act. The plaintiff contends that only Congress may cure section 8(a) by supplying a warrant procedure.

The parties submitted their briefs prior to the Supreme Courts' decision in Marshall v. Barlow's, Inc., 46 U.S.L.W. 4483 (May 23, 1978), which speaks to several of the disputed issues in this case. In *Barlow's*, the Court held that insofar as section 8(a) permits warrantless inspection of employment facilities, it is unconstitutional under the Fourth Amendment. However, the Court noted that inspections under section 8(a) would not be unconstitutional if performed "pursuant to regulations and judicial process that satisfy the Fourth Amendment." 46 U.S.L.W. at 4487, n.23 Thus, the Court foreclosed the plaintiff's argument that a section 8(a) inspection conducted with a proper warrant is impermissible

The second ground advanced in support of the plaintiff's motion is that the search warrant obtained by the defendants failed to comply with the Fourth Amendment because there was no probable cause for its issuance and because the scope of the warrant left to the unfettered discretion of the OSHA inspectors the places in the plaintiff's plant that could be searched and the things therein which could be seized. The defendants' motion for summary judgment asserts that the warrant was based on probable cause and complies in all respects with the Fourth Amendment.

The warrant was obtained from the magistrate on the basis of an "application for inspection warrant" supplied by Everett W. Shisler, one of the defendant compliance officers. The application stated, in part:

"On June 24, 1977, the Occupational Safety and Health Administration ("OSHA") received a written complaint from an employee of Weyerhaeuser Company, a corporation. The complaint alleged, in pertinent part, that violations of the Act exist which threaten physical harm or injury to the employees, and an inspection by OSHA was requested. Based on the information in the complaint, OSHA has determined that there are reasonable grounds to believe that such violations exist, and desires to make the inspection required by section 8(f)(1) of the Act."

The application further stated:

"The desired inspection is also part of an inspection and investigation program designed to assure compliance with the Act and is authorized by section 8(a) of the Act."

Judge Warren has found that language nearly identical to this was insufficient to provide a basis from which a magistrate could determine whether a search would be reasonable. In the Matter of Establishment Inspection of Northwest Airlines, Inc., 437 F. Supp. 533 (E.D. Wis. 1977) The defendants counter with several unpublished decisions in which similar language has been found sufficient.

I turn first to the guidance provided by *Barlow's:*

"Whether the Secretary proceeds to secure a warrant or other process, with or without prior notice, his entitlement to inspect will not depend on his demonstrating probable cause to believe that conditions in violation of OSHA exist on the premises. Probable cause in the criminal law sense is not required. For purposes of an administrative search such as this, probable cause justifying the issuance of a warrant may be based not only on specific evidence of an existing violation but also on a showing that 'reasonable legislative or administrative standards for conducting an . . . inspection are satisfied with respect to a particular [establishment].' *Camara* v. *Municipal Court, supra,* at 538. A warrant showing that a specific business has been chosen for an OSHA search on the basis of a general administrative plan for the enforcement of the Act derived from neutral sources such as, for example, dispersion of employees in various types of industries across a given area, and the desired frequency of searches in any of the lesser divisions of the area, would protect an employer's Fourth Amendment rights." 46 U.S.L.W. at 4486 (footnotes omitted).

The warrant application in this case sought to demonstrate probable cause on the basis of an existing violation on the premises (as evidenced by the employee complaint) and on the basis of an "inspection program designed to assure compliance with the Act."

In my judgment, the second basis does not provide probable cause under the guidelines set forth in *Barlow's.* Neither the application nor the warrant show that the defendants' inspection program is derived from neutral criteria of the type specified in the Court's decision. Accordingly, there was no basis from which the magistrate could determine whether "reasonable legislative or administrative standards for conducting an . . . inspection are satisfied with respect to" the plaintiff's premises. 46 U.S.L.W. at 4486, *quoting* Camara v. Municipal Court, 387 U.S. 523, 538 (1967).

The first basis—the employee complaint of violations of OSHA standards on the premises—is also insufficient. Under section 8(f)(1) of OSHA, 29 U.S.C. § 657(f)(1), upon receipt of an employee complaint requesting an inspection because of a violation the employee believes exists on the employer's premises, the Secretary of Labor is required to make an inspection if he finds reasonable grounds to believe that a violation exists. It is not enough, however, that the Secretary of Labor be satisfied that grounds for an inspection exist. Under *Barlow's,* a magistrate must also be so satisfied The question is whether the reporting by the defendant compliance officer to the magistrate that an employee had made a complaint is sufficient to establish probable cause for the magistrate's issuance of the inspection warrant.

In my opinion, the answer must be in the negative. I am mindful that "probable cause in the criminal law sense is not required." *Barlow's, supra,* at 4486. Nevertheless, if the warrant procedure is to be anything more than a rubber stamp proceeding, the defendants must be required to do more than read the statute to the magistrate. Yet, the defendant compliance officer's application did little more here. The application stated that an employee complaint was received which alleged, paraphrasing the words of section

8(f)(1), "that violations of the Act exist which threaten physical harm or injury to the employees." The application also expressed the agency's belief that there are reasonable grounds to believe that violations exist. The actual employee complaint was not presented to the magistrate, and the nature of the alleged violation was not described in any form.

The defendants urge that the magistrate should not second guess the agency's determination that a particular condition on the premises "threatens physical harm, or that an imminent danger exists" within the meaning of section 8(f)(1). However, this does not relieve the defendants from showing probable cause to believe that the condition exists. Thus, I agree with Judge Warren's conclusion in *Northwest Airlines, Inc.* that language such as that found in the warrant application in this case does not establish probable cause.

Although the plaintiff's motion is for preliminary injunctive relief, I am convinced that no triable issue remains with respect to the plaintiff's Fourth Amendment claim. The parties agree that the question of probable cause is to be determined solely on the basis of the application presented to the magistrate. Since I find that the application fails to establish probable cause for the warrant which issued, there is no issue of material fact as to the impropriety of the warrant. The plaintiff is therefore entitled to partial summary judgment: (1) quashing the search warrant and suppressing the evidence obtained thereunder and quashing the citations and penalty notices arising from the inspections conducted under the unlawful warrant; (2) declaring that its Fourth Amendment rights were violated; and (3) enjoining any further actions or proceedings by the defendants against the plaintiff regarding the citations in questions. It also follows that the defendants' summary judgment motion should be denied.

Since the plaintiff's request for injunctive relief has been granted on Fourth Amendment grounds, the plaintiff's Fifth Amendment argument in support of its claim for injunctive relief need not be considered. However, such claim remains viable as to the plaintiff's claim for declaratory relief.

Therefore, it is ordered that the defendants' motion to dismiss or, alternatively, for summary judgment be and hereby is denied.

It is also ordered that the plaintiff's motion to quash the inspection warrant and to suppress all evidence obtained thereunder be and hereby is granted.

It is further ordered that the citations and penalty notices issued as a result of the inspections of the plaintiff's premises under the warrant be and hereby are quashed.

It is further ordered that the plaintiff's motion for a preliminary injunction, treated as a motion for partial summary judgment, be and hereby is granted. The defendants are permanently enjoined from conducting any further proceedings to enforce the citations issued as a result of the inspection conducted under the inspection warrant issued on July 7, 1978, In the Matter of Establishment Inspection of Weyerhaeuser Company, case no. 77-15M, and the defendants are ordered to return to the plaintiff all evidence obtained through the search conducted at the plaintiff's premises under the warrant dated July 7, 1978.

It is further ordered that the plaintiff is entitled to a declaration that the warrant application and warrant for inspection dated July 7, 1978, are null and void under the Fourth Amendment.

Dated at Milwaukee, Wisconsin, the 3d day of July, 1978.

MYRON L. GORDON,
*U.S. District Judge.*●

## EQUALIZING ELECTRIC RATES IN NEW YORK STATE IS NONSENSE

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. LAFALCE. Mr. Speaker, last year an obscure, two-sentence provision entitled "Prohibition Against Special Nonaggregate Inclusions" was added to the national energy bill during subcommittee consideration. Neither the existence of the provision nor its implications were brought to the attention of the House before the entire 500-page bill was passed.

When it did become known, it was learned that this section might have required the New York State Power Authority to radically change its rate structure. And those changes would have resulted in a serious threat to thousands of jobs in western New York and other parts of the upstate area.

We organized a coalition to fight against this shortsighted and parochial measure, and to keep decisionmaking on this issue where it belongs: on the State level. That coalition succeeded in convincing all three of the State's top elected officials—both U.S. Senators and the Governor—that the interests of the State as a whole required killing this section. Pennies a month downstate were simply not worth the risk to thousands of jobs in other regions of the State.

Today a hearing was held in Niagara Falls, in my congressional district, by a State legislative subcommittee which is reviewing a number of proposals at the State level to accomplish the same or very similar ends. I applaud the State legislators who are holding the hearings, not because I agree with them, but because they at least have the courage to bring their ideas into the light of day where they can be debated thoroughly.

I feel that this issue is so important that I prepared and submitted a statement on it at today's hearing. I would like to share that statement with my colleagues, so I ask that it be printed in the RECORD at this point.

The statement follows:

STATEMENT OF HONORABLE JOHN J. LAFALCE

Mr. Chairman, the beauty of Niagara Falls has been a source of wonder to mankind ever since, eons ago, human eyes first saw this marvel of nature.

The bounty of the Falls came initially from its draw as a tourist attraction. The United States, the State of New York, and the Western New York region all derive benefits from tourism at Niagara, an industry that will remain in this region, no doubt, for centuries to come.

Yet the Falls are bountiful in other ways, too, the most significant of which is their capacity to provide energy. The waters of Niagara constitute one of the greatest natural sources of hydro-electric power in the world. And we all know how important energy has become in today's world.

Today's hearing centers on how best to allocate the bounty of Niagara's energy—or, put another way, how to allocate the major cost savings which result from natural hydro-electric power as opposed to other means of generating electricity. I fully understand the reasons why questions like these are raised periodically, and I do not question the motives of those who believe the present situation should be changed.

With all due respect, however, I believe they are wrong.

I believe that spreading Niagara's cost savings to all customers of the State Power Authority, whatever the specific source of those customers' power, would hurt the United States of America.

I believe that doing this would hurt the State of New York.

Lastly, I know it would seriously hurt the Western New York region.

But my purpose today is not to be narrow and parochial. Rather, I want to devote this statement to the broader issues—to those longer-term questions that sometimes get overlooked—and to appeal to you to join me in assessing the real impact of these proposals on the State as a whole, as well as the nation, rather than on particular regions within the state.

We New Yorkers are famous for our downstate-upstate quarrels. Such quarrels hurt us; they should stop.

We New Yorkers are perceived as being selfish and parochial—we're not, and we must quash this perception.

As one who has been deeply involved in Congress helping assure the continued financial health of New York City, I've faced the questions I'm asking today. And the answers were obvious. I knew I had to put aside short-term political considerations and act, instead, as I best saw the long-term interests of the State of New York and the United States.

My purpose today, Mr. Chairman, is to welcome those of you who hail from other regions to the Niagara Frontier. As the representative from the 36th Congressional District, which includes Niagara Falls, I am, to a degree at least, your host. I try not to be an ungracious host.

So I do welcome you here. I hope you have enjoyed your stay thus far, and that you had an opportunity to tour the magnificent plant the legendary Robert Moses built when the old generating plant fell into the gorge in the 1950's.

But my role as a host would be far from fulfilled if I left you with that alone. Mr. Moses built a powerful machine, to be sure, but you must look not only at the machine but also at what it produces.

To do that, you have to move away from the mists of Niagara; you have to tour the industrial might of the Niagara Frontier. You have to stand at plant gates at 7 o'clock in the morning and watch the shifts change at the chemical plants in this region. There, and only there will you see the real product of Mr. Moses' accomplishment. And that product is *jobs*. Jobs for Americans and for New Yorkers.

It is that central fact that tends all too often to be overlooked in this debate. We are talking about jobs, and I submit that the one single most significant impact of the cost sharing proposals before you today is the fact that jobs—thousands of them—would be lost forever to the State of New York.

In one stroke such an action could wipe away all the gains of the last few years.

I'm not new to this debate. I dealt with this issue when I served in the Assembly and in the State Senate. And it has even come up in the U.S. Congress. The battle there last year is worth remembering and retelling, for it contains elements of both views: the narrow and short-sighted approach, against which I caution you today; and the statewide and nationwide perspective, which I urge you to adopt. I'll try to be brief in relating the 1977 story.

During consideration of the 500-page national energy bill at the Subcommittee stage in Congress two sentences of obscure legislative language were proposed and inserted into the bill. Only one member of the Subcommittee, I am convinced, knew what far-reaching consequences those two sentences might have had if they had become law. Unfortunately, however, this Congressman chose not to make known what he had done.

So this time bomb, under the innocuous title: "Prohibition Against Special Non-Aggregate Inclusions," ticked away and was not discovered until the bill reached the U.S. Senate. Upon discovery of the infamous Section 515, I helped organize and coordinate a bi-partisan coalition of Congressmen to bring out the facts about this provision, analyze its impact, and fight to eliminate it.

The facts, concisely put, were these: enactment of the provision might have required PASNY to equalize its rates, rather than base rates on the source of the power used, as it does now. Such equalization of rates would have meant pennies a month—usually less than a dime—of savings to consumers downstate. Few of those benefited would even have noticed; none, I venture, would have even considered relocating from the State for lack of a dime saved on a monthly electric bill.

But look at the effects in this region. Here many prime consumers of PASNY power are industries—firms that provide employment for hundreds of thousands of New York State citizens. Enactment of Section 515 would have meant higher utility bills for these major employers. And their bills wouldn't increase by pennies—they would have gone up by thousands of dollars a month.

Many economists predicted that if Section 515 were enacted a good number of industries would relocate from the Niagara Frontier. Estimates ranged as high as 10,000 jobs jeopardized by this provision. Let's look at what such a loss would mean to the State and to the nation.

First, the nation suffers because existing investments—both private and public—would be left idle or underutilized. This is an efficient use of resources, drawing capital away from opportunities for real growth. And to the extent the nation suffers from such inefficiencies, the State would suffer even more.

Second, workers do not follow jobs as readily as some theoretical economic models might pretend. Workers are people—people with problems, with ties, families, roots. Relocation is never easy, even when job opportunities are better in other places.

So, many families remain. Unemployment goes higher, meaning loss of revenue (the unemployed don't pay taxes) and costs to the federal government for unemployment benefit programs, job training and re-training programs, welfare, health costs, etc.

And again, these burdens do not fall exclusively on the nation—they fall at least equally, and usually more, on the State as a whole.

Third, energy efficiency alone was the major consideration. The most efficient—the least costly—way to use energy is to use it as close as possible to the source; it takes energy to transmit it from one place to another. Niagara Falls, the source of the bountiful energy, can't be moved. Therefore, having higher than average energy consumers in close proximity to this major source is efficient. Just as logically, adopting policies which might drive such users away is inefficient, for should that happen Niagara's energy would have to be transmitted greater distances to the remaining users.

All these reasons led us to conclude that Section 515 pennies in savings downstate would cost far more, over time, to the State and its taxpayers as a whole. And we presented our findings to all who would listen.

We told Senator Moynihan, who agreed that the State's overall interests required the elimination of Section 515.

We told Senator Javits; he joined those of us fighting the provision.

And we told Governor Carey, who also concluded that the State's overall interests required elimination of this section of the bill.

All three of the State's top elected officials agreed.

And Section 515 was ultimately dropped in the House/Senate Conference Committee as a result.

The facts today are the same as they were then. The pennies to be saved are the same; so are the jobs. The impact of any action, at either the federal or the state level, to equalize PASNY's rates will be exactly the same. The reasons that led all of our State's top elected officials to oppose such a move last year remain just as valid today as they were then.

I have concentrated my remarks, Mr. Chairman, on the economic ramifications of the proposed actions before you today, because I find the arguments that I have presented to be extremely compelling, and I hope you and your colleagues concur by the end of this hearing.

But I would be lax in my duty if I did not raise another point which warrants your attention. That is the strong probability that measures designed to require equalization of PASNY's rate structure would be found to be unconstitutional.

As you know, the U.S. Constitution specifically bars states from enacting laws which "impair the obligations of contracts." This very sensible provision is intended to assure certainty in the marketplace and, therefore, permit commerce to flourish. Without so basic a protection anarchy would reign.

Are not PASNY's contracts with its bondholders entitled to this protection?

Are not PASNY's contracts with private utilities entitled to this protection?

Are not the long-term contracts with major industrial users of PASNY's hydro power entitled to this protection?

In my judgment, all these contracts and others threatened by these proposals are indeed entitled to such protection.

To summarize, then, I urge you to complete your tour of this part of New York. Look at the factories; look into the faces of those who work in them. Consider, please, the economic impact on the State as a whole, and on the nation. Finally, review the Constitution of the United States as it applies to these proposals.

Having done all that, I hope and trust you will join with me in concluding that these proposals, while undoubtedly well-intentioned, would be counter-productive to those goals we all share: the enhancement of the United States and of the State of New York.●

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## THERE IS NO NATIONAL COMMITMENT TO CONVERT TO METRIC, BUT——

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. CRANE. Mr. Speaker, there is no national commitment to convert to the metric system, but as evidenced by the debate on my amendment to strike appropriations for the metric board (see pages 21862–21866), there are Members of Congress who believe the Metric Conversion Act of 1975 provides for "the orderly conversion of this country to the metric system."

Section 3 of the Metric Conversion Act of 1975 states:

It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

Some Members are carried away with the word "plan" and it was obvious that others who opposed my amendment were somewhat nervous with that aspect of the debate and kept emphasizing the word "voluntary." To eliminate any confusion in this regard, I have introduced H.R. 13451 to amend the Metric Conversion Act.

My bill eliminates the costly and unnecessary Metric Board and permits the Department of Commerce to continue the coordination of the metric program. In my bill I describe the "plan" as a broad program of coordination and public education.

That program shall be initially submitted by the Secretary to the President and the Congress no later than 1 year after the date of the enactment of my bill. That program will not become effective or be carried out by the Secretary unless incorporated in or approved by a law enacted within 60 legislative days.

Mr. Speaker, at this point I include the text of H.R. 13451:

A bill to amend the Metric Conversion Act of 1975 to provide that the functions of the Federal Government with respect to the metric system shall be limited to coordinating the conversion to such system in areas or industries which desire it, and keeping the public informed thereon, without encouraging in any way the adoption or use of such system.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3 of the Metric Conversion Act of 1975 is amended by striking out "to coordinate and plan" and all that follows and inserting in lieu thereof "to coordinate the increasing use of the metric system in the United States and to publicize the effects and ramifications of such use.".

SEC. 2. Section 4 of the Metric Conversion Act of 1975 is amended by striking out paragraphs (1), (2), and (3).

SEC. 3. The Metric Conversion Act of 1975 is further amended by striking out sections 5 through 11, by redesignating section 12 as section 7, and by inserting after section 4 the following new sections:

"SEC. 5. In support of the policy set forth in section 2—

"(1) the Secretary of Commerce shall devise and carry out (subject to section 6) a broad program of coordination and public education with respect to the metric system and its adoption or use, and shall collect, analyze, and publish information about the extent of usage of metric measurement; and

"(2) the Comptroller General shall analyze the costs and benefits of metric usage, and publish reports on any adverse effects resulting from increasing metric usage.

"SEC. 6. The program described in paragraph (1) of section 5 shall be initially submitted by the Secretary of Commerce to the President and the Congress no later than one year after the date of the enactment of this section, and subsequent revisions of or changes in such program may be submitted

by the Secretary to the President and the Congress at any time; but no such program, revision, or change shall become effective or be carried out by the Secretary unless incorporated in or approved by a law enacted within 60 days after its submission (excluding in the computation of such 60 days any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain).".

Mr. Speaker, I now have nine cosponsors and suggest to my colleagues that those interested in being added to the list need only contact my office. The present cosponsors are: Hon. ROBERT BADHAM, Hon. THAD COCHRAN, Hon. TENNYSON GUYER, Hon. SAM HALL, Jr., Hon. THOMAS KINDNESS, Hon. LARRY MCDONALD, Hon. ED MADIGAN, Hon. DAN MARRIOTT, and Hon. CHARLES THONE.

Mr. Speaker, much more attention and concern is being focused on the creation of the Metric Board whose new executive director was recently the chief lobbyist for metric conversion. I can assure you that a lot more surprises are in store for the Members when the 2-year, self-initiated GAO study is released this fall.

As an example of the growing concern, at this point I include an editorial by John Smoot appearing in the July 10 issue of the Washington Star, "Today Celsius, Tomorrow—What? The editorial follows:

TODAY CELSIUS, TOMORROW—WHAT?

Just what we needed: another plot. And this one, probably international in scope, is surfacing in time to keep the mind off-balance through what otherwise might have been the leisurely days of summer.

It's based on the simple principle: There's money in metric.

The first warning signs appeared some time ago when television weathermen began saying things like, ". . . 54 degrees, 12 Celsius." It was casual, but persistent. "Celsius" was being presented in what appeared to be the broadcasting industry's usual pattern—it seemed to be innovative without really informing or educating.

The success of the move to include temperature measurement in the talk of conversion to the metric system depends on the public's neglect of one fact: There is no direct connection. While the Celsius scale is a decimal system based on the freezing and boiling points of water, it is not related at all to weights and measures, which is what the metric system is supposed to be about.

Obviously, this whole matter is linked to a late-blooming public relations effort on behalf of Mr. Celsius. In high school and college physics classes, the centrigrade scale was good enough for me, and it's good enough for my children; but suddenly, after 235 years, we must learn to refer to it by its developer's name. Certainly, Celsius' descendants, jealous of the continued recognition of his predecessor, Fahrenheit, and envious of the Hertz clan who succeeded in replacing kilocycles with kilohertz, have launched a campaign to uplift the family name and wipe out any trace of competition.

But, while it's conceivable that the Celsius involvement in the conspiracy is a simple matter of family pride, television has much more at stake and its aim will become evident as soon as we see the first commercial for the new Celsi-Therm indoor-outdoor thermometers: "Only $5.95. Call right now. Operators are standing by. Call 555–H-E-A-T. Or to save COD charges, send check or money order to Temp . . . T-E-M-P . . . Temp, Box 212, Cold Harbor, Va."

This will be followed by the Wel-Dun Meat Thermometer (which I had expected to be ". . . the perfect Mother's Day gift." Presumably it is being held back for Thanksgiving marketing).

Supermarkets will be able to offer the new C-Method Cooking Library: "Volume one . . . only 39 cents this week at A&P."

Power companies, of course, will launch revised conservation-oriented ad campaigns instructing you to set thermostats at 20 degrees in the daytime, 18.3 degrees at night. Those thermostats, incidentally, will be installed by your friendly neighborhood heating contractor so that you can "bring your home environmental system up to date."

The frightening fact is that these stomach-churning probabilities will be only the beginning: As the Titanic's passengers learned, there is much below the surface.

At this point, broadcasters in particular will claim that what I envision is paranoid nonsense; that their only purpose is a gradual phasing-in of the metric system. Balderdash!

To give credence to their argument is to ignore a glaring inconsistency and, obviously, television is counting on a public nurtured on inconsistency to do just that: To overlook the fact that up to this point only temperature readings have been affected. Never is there a mention of wind velocity in kilometers per hour or barometric pressure in meters or centimeters.

To view this as an oversight, to accept the argument of "Golly, we just plumb forgot all about using those," is to fall into the trap, for conversion in those cases shapes up as phases two and three of the scheme. What we face is planned obsolesence on a massive, dollar-gobbling scale.

We have seen the circle of conspirators widen to include the advertising media and their associated leeches, scientific instrument manufacturers and publishers, and the ripples are still spreading. One German newspaper has said of the move to metric, "The suspicion that the pocket calculator industry lies behind the changeover has yet to be finally proven." It is small comfort to know the jury is still out on that one. And what is the involvement of the U.S. Weather Service? Or the entire scientific community?

To ask Ralph Nader to probe the issue would be unfair to the consumer, diverting the attention of the Raiders from the vital and, I assume, continuing examination of professional sports.

What is required is a long and thorough investigation; the type that can be launched only by Congress. Reaffirming their dedication to the American public, the men on Capitol Hill must for the moment, put aside their consideration of inconsequential matters. Energy, the economy, and other such affairs must wait their turn. The fate of generations yet unborn may rest on their determination to do what must be done. Today, Celsius. Tomorrow, what?

Some, conspirators and sketpics alike, will class me as an irrational alarmist. But I say to you, as would those who stand on the shores of Loch Ness, "There's something out there."●

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## MONDALE EXPRESSES U.S. SUPPORT FOR ISRAEL

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**HON. STEPHEN J. SOLARZ**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent speech that Vice President WALTER MONDALE gave in Israel on July 2, 1978, during his recent trip to the Middle East.

This speech is a moving an eloquent reaffirmation of the American commitment to Israel, not only fitting within the traditional ambit of American foreign policy, but going much further to equisitely detail why Israel is important to the United States and why Israel's continued well-being is the cornerstone of our interests in the Middle East.

Mr. Speaker, in my view, Vice President MONDALE is one of Israel's best friends in the United States. He is deeply committed to the establishment of peace in the Middle East and to developing a set of arrangements for a Mideast peace that will allow Israel to look after its own interests. In this regard, I believe that the Vice President's statements indicating that the Arab States must "be prepared to accept carefully constructed security arrangements" and that the United States will "not fail to provide Israel with essential and crucial military assistance, nor will we use that assistance as a form of pressure," are particularly meaningful.

Mr. Speaker, I ask permission to insert the Vice President's speech at this point in the RECORD:

SPEECH BY VICE PRESIDENT WALTER F. MONDALE

JERUSALEM, July 2.—Here is the transcript of the speech delivered by Vice President Walter F. Mondale at a State Dinner at the Knesset here:

Mr. Prime Minister, Mrs. Begin, Mr. Speaker, Mrs. Shamir, honored guests and friends. There was one part of public life that I always feared the most in America, and that was on those rare occasions when I was directed to follow Hubert Humphrey. Tonight I found another orator that I very much find it difficult to follow. I know I speak for everyone here, for all the people of my country when I say your words are words that we endorse fully and your plea for peace is as eloquent as any of us have ever heard. Thank you so much.

I bring to the people of Israel the best wishes, the affection, and the congratulations of the President and the people of my country.

It is a special joy to me to return to Israel, and it is a special joy for my wife and for my daughter to visit Israel for the first time, to represent the President and to have the honor to speak in this historic hall of democracy, the Knesset.

Thirty of my fellow citizens and I have come to Israel as representatives of a young nation, to join an ancient people in the celebration of a common dream. In your 30th anniversary year, we rejoice with you. We share your pride. We honor your achievements and on behalf of the American people we say to the people of Israel: Congratulations, Mazel Tov.

Mr. Prime Minister and Mr. Speaker: We are especially grateful to you for your warmth and your gracious hospitality. My consultations with the Prime Minister have been warm, helpful, and have strengthened our friendship even more, and I look forward to our meeting tomorrow.

In my office in the White House, in an honored place, is a gift presented to me by the Prime Minister on his first visit to the White House: an oil lamp and clay pitcher from the period of the Patriarchs.

I thought about that gift this morning when I visited Beersheba where Abraham lived. One cannot visit Israel; one cannot walk these hills; or stand in the city of David, Jerusalem, without a profound sense of the history that echoes from this land.

Israel is a new nation but it's the fulfillment of an age-old dream. On Israel's independence day this year Americans celebrated

in the streets of New York with banners that said, "It is great to be thirty after 5,000 years."

Franklin Roosevelt once said that:

"Lives of nations are determined, not by the count of years, but the lifetime of the human spirit. The life of a man is three-score years and ten, a little more, a little less. But the life of a nation is the fullness of its will to live."

No one who was witness to the struggle to found this nation; no one who has seen your courage through four bitter wars; no one who has visited a kibbutz such as I did this morning, and feels the deep commitment within the hearts of the Israeli people to this land, can ever doubt that Israel will live forever.

In our lifetime there has been no more profound symbol of man's commitment to freedom, to dignity and to justice than the history of the Jewish state. For thirty years, Israel has kept alive an ideal—first proclaimed by the prophets—which remains the most revolutionary belief today of our time: that the right of human beings to be free is not a privilege granted by a state, but is a gift from the hand of God.

From the moment of your founding, Israel has never known a day of genuine peace. If there ever was a nation that could have rationalized suspending civil liberties because of an external threat; if there ever was a government that could have justified suppressing dissent—and I must say Mr. Prime Minister you do not suppress dissent—in the name of the national security, it was this embattled nation. Yet this very building in which we meet, your free press, your open debate, and the elections held last year, all proclaim that Israel is a flourishing democracy today.

People talk about the miracle of the Jewish State. They cite deserts transformed into forests and farms. They point to the cities, carved out of bedrock and swamp. They speak of a nation, thirty years old, but already a world leader in the sciences, and the arts, and technology. And all those accomplishments are wonderful and all are reasons for pride.

But the true miracle of the Jewish State is the unyielding determination of the people—no matter what the threat, or the burden—to live as free men and women in a free and independent State.

For two billion people in other developing nations who are struggling to break the bonds of mass misery, Israel is proof that a free society can best meet human needs. In thirty years, a nation of refugees has built a civilization. Israel's example shows that freedom is not an abstract theory, but the most effective instrument ever devised for advancing the welfare of man.

It is especially fitting that in this very week Americans are preparing to commemorate our own Independence Day. For we are the heirs to a common tradition of freedom and our two nations are joined by a unique historic bond.

The early Puritans, who came to America in the 1600's seeking religious freedom, viewed themselves as the ancient Israelites in search of the promised land. They called their new country, "Canaan," and spoke of the covenant that they had made with God. In 1776, when Thomas Jefferson, and John Adams and Benjamin Franklin were asked by the new Congress to design a seal for our country, they suggested the Hebrew people crossing the Red Sea, with Moses standing on the other side.

My country was founded nearly two hundred years before the modern Jewish State. But the people of America owe Israel an ancient debt. As one historian put it, "The Hebraic mortar cemented the foundation of American democracy."

As Americans watched the struggle for Israeli independence, we saw our own history as a people unfolding again. For Jew and non-Jew alike, the creation of the Jewish State was a victory in our lives as well. And for all Americans it was a moment of pride when President Truman recognized the new state of Israel just eleven minutes after its birth. It was my privilege to bring with me from the people of America the original, handwritten statement of recognition drafted by President Truman which will remain on display in Israel for the next year.

I told the Prime Minister today I did it for two reasons; first because of its historic significance, and secondly, Harry did it in three simple declarative sentences. And somehow diplomacy has lost the ability to just state things directly, and it's a good example for the future if we would follow it.

We stood together and we stand together today. Our support for Israel carries on a fifty-six year commitment by our Congress to the justice of a Jewish homeland; sustained by the deeds and pledges of seven Presidents; and ratified in the hearts of American people. No other cause, no other concern can sever the special bond that unites Israel and America today.

There have been moments during this relationship when we have disagreed over how to achieve the objectives we share. But every time, we have emerged from these times of testing with our friendship even stronger, firmer, and more secure. The special relationship between Israel and my country will always endure.

For thirty years Israel has been a stronghold of democracy; and an unshakeable friend and ally. The United States is stronger today because of the existence of the Jewish State.

And I would like to repeat to you the words President Carter spoke to Prime Minister Begin and nearly a thousand Americans at the White House celebration of your Independence Day. He said this:

"For thirty years we have stood at the side of the proud and independent nation of Israel. I can say without reservation, as the President of the United States, that we will continue to do so, not just for another thirty years, but forever."

Ours is not just a friendship between two governments, but between two peoples; two democracies; two cultures; learning from each other with mutual respect.

We are joined by the ties of history, of kinship, and love that touch millions of citizens in both our nations and most of us in this hall.

Our common values and common ideals unite us in their defense today.

We are nations of refugees. We are the children of the disposed. And we do not forget our past. No two nations in the history of the world have welcomed more immigrants to their shores than our two countries. And in Israel we cannot forget that so many of them are survivors of the Holocaust.

"Only the Jewish people," Golda Meir once said, "have had so much intimate knowledge of boxcars, and of deportation to unknown destinations." That memory keeps us from ever being indifferent to the plight of the exiled, and the refugee, today. We are not neutrals in the struggle for human rights.

After 2,000 years of exile, there is no more compelling claim on the conscience of the world than that of Jews in other nations denied their right to emigrate to Israel today. This is not only a Jewish issue. It is a moral issue as old as the Scriptures; and it is a legal issue as clear as the Helsinki Accords. Together with the people of Israel, we call on all nations in the world which deny Jews and others the right to emigrate and other basic human rights, to "unloose the heavy burdens and let the oppressed go free."

And no people who believe in human rights and the dignity of man can stand silent in the face of terrorism. We condemn the atrocities we saw in this city four days ago. This morning I visited the victims of last week's bombing. They are innocent people, but it does not tell the story. Older ladies, many of them burned mercilessly, will bear those scars for life. Young men in their prime, one badly shattered with his brother dead. An eleven-year-old Arab boy, fighting to save one of his legs, totally innocent, punished apparently for playing in the street. No purpose or goal can justify their suffering. Nothing can justify the loss of those who loved ones were killed. Those who make war on innocents commit a crime—not just against their victims—but against decency itself. There is only one possible response by civilized people to terrorism, and we condemn PLO terrorism totally and absolutely. We also condemn those responsible for these acts of terror and those who claim credit for them.

Of all the values and the commitments we share, none unite us more today than the hope for a lasting peace in the Middle East. No people in the world yearn for peace more than you do.

I know from my hours with the Prime Minister that no leader will work more tirelessly to seize this moment when it may be possible to bring peace to the people of the Middle East than your Prime Minister. On November 20, he spoke to the world from this building and said:

"We have one aspiration at heart, one desire in our souls, to bring peace; peace to our nation, which has not known it for even one day since the beginning of the return to Zion; and peace to our neighbors, to whom we wish all the best."

No theme runs through Jewish teaching more than a hatred of war. I had the privilege of joining in a Seder this year. And I was struck that even in the middle of a celebration of Israel's freedom ten drops of wine were spilled, for as the Haggadah said: "How can we fully rejoice as we celebrate Israel's freedom, when we know that our redemption involved the suffering of the Egyptians?"

And I thought of an interview I had with an Israeli soldier following the Six Day War, surely one of the most remarkable passages ever written about a war. The Israeli soldier said:

"When the fighting began and the mountains around Ein Gev began to spit fire, a group of our reconnaissance troops on one of the hills next to the Syrian border was busy putting out a fire in a little field belonging to an Arab farmer. 'A field is a field,' said one of the boys."

In that story is expressed the tragedy, and the hope of the Middle East. For Israeli and Arab alike, too many sons and daughters have been lost in too many wars. For Israeli and Arab alike, peace in the Middle East, as the Prime Minister observed can bring a joyous harvest of enrichment and advancement.

We are at an historic turning point today in the search for peace in the Middle East. Never have the prospects for peace been so favorable. Never have the dangers of failure been so great. But time is not on our side. We cannot afford to delay. We must not minimize the urgency of the moment. For as President Carter said: "The opportunity for peace may be slipping away. Statesmanship and courage will be required on the part of all of us who seek peace. The moment cannot be lost without the greatest risks for the future."

If we do not move forward with courage; if all sides simply advance maximum positions; if this opportunity slips from our hands; who can say that it can ever be re-

claimed? Who can accept the terrible price of failure?

Time and events have brought peace in the Middle East within our reach for the first time in 30 years.

First, because Israel, by its own fortitude, has proven that as a nation it is here to stay.

Second, the interim security arrangements negotiated after the 1973 war have proved workable; they remain intact today; and they've helped to keep the peace.

Third, the United States has built new relationships in the Middle East that allow us to better bring the weight of our influence to bear on behalf of moderation and peace. Those relationships are in the interest of all our friends in the Middle East.

Fourth, seven months ago, the leader of the largest Arab nation came to this city at your invitation. He was warmly received by your President, your Prime Minister, and your people. He spoke, in this very building of acceptance, recognition, and security for Israel; of a Middle East in which Jews and Arabs would co-exist as neighbors, instead of enemies. And after the talks between the Prime Minister and the President, the world heard the historic promise from both these great leaders of "no more war."

Direct negotiations have begun. Yes, they've been tentative, and they've been full of ups-and-downs. But the peace process is underway. And it must continue. The "Spirit of Jerusalem" must prevail. Negotiations must assure that the promise of "no more war" will be fulfilled.

We believe that the best way to make peace is through direct negotiations, as the Prime Minister has said this evening, between the parties to the conflict. We are bending all our efforts to resume negotiations between Egypt and Israel.

When necessary, the United States is willing to be a helpful, mediating party.

We have made, and will continue to make, constructive suggestions where they may be helpful in bridging a gap between the negotiators, themselves. As we have agreed, any suggestions will only be made after consulting with you and with the other parties.

Negotiating is a difficult, challenging, frustrating process. It can only succeed with a spirit of give and take, and compromise.

Israel put its proposals on the table several months ago. Detailed talks have taken place between Egypt and Israel. When Israel presented its views, the Israeli government made clear its readiness to consider counterproposals and to negotiate with an open mind. We hope and expect the government of Egypt will soon offer further proposals. And we hope that Egypt will continue the negotiations in this same constructive spirit. It is essential that each side seek in the other's proposals common elements from which agreement can be built. I am confident that the negotiations can be resumed in an atmosphere of mutual respects.

Fortunately, we have a powerful advantage in this process. For the essential basis for agreement has already been achieved. And that is UN Resolution 242 which was unanimously adopted by the Security Council, and agreed to by all nations in this conflict. It provides a common touchstone to guide the nations.

Resolution 242 is an equation. On the one hand, it recognizes the right of every state in the area to live in peace within secure and recognized borders free from threats or acts of force. We believe such a peace must include binding commitments to normal relations. In return, Israel would withdraw from territories occupied in the 1967 war. We believe the exact boundaries must be determined through negotiations by the parties themselves. They are not determined by Resolution 242.

But these principles of 242 cannot be viewed in isolation, or applied selectively. Together, they form a fair and balanced formula and still the best basis for negotiating a peace between Israel and her neighbors.

We understand the difficulties these issues pose for Israel. And I am reminded of a story by Martin Buber in which the Maggid of Mezritch described how he learned the secret of love by overhearing the conversation of two peasants. One turned to the other and said, "Do you love me?" And the second replied, "Of course I do. We have been friends for years."

"Tell me then," the first peasant asked, "What is it that is hurting me now?"

"The second replied, "How can I know, if you don't tell me?" And the first answered, "How can you say you love me if you don't know what causes me pain?"

The people of Israel confront painful decisions in this process. They involve negotiating the future of territories which have been occupied for a decade and which, in the absence of peace have provided a sense of security. But no one of us can forget the history of the Middle East. For six years after the 1967 war, there was no progress towards peace. And another tragic war followed in 1973.

As we have often said, we are convinced that without eventual withdrawal on all fronts, to boundaries agreed upon in negotiations and safeguarded by effective security arrangements, there can be no lasting peace. Only Israel can be the final judge of its security needs. Only the parties can draw the final boundary lines. But if there is to be peace, the implicit bargain of UN Resolution 242 must be fulfilled.

In the Sinai, Israel has proposed a peace treaty in which there would be negotiated withdrawal and security would be achieved while relinquishing claims to territory. This approach can be applied in the West Bank and Gaza as well.

The Arabs also face difficult and painful decisions. They must be prepared to accept carefully constructed security arrangements. There should be strong links between the West Bank and Gaza, and Jordan. They must accept permanent peace and Israel's right to exist in peace within secure and recognized borders. We believe that a solution based on this approach—not an independent Palestinian State—will provide the stability and security essential for peace. Such an agreement will take time to negotiate and to test. And that's why we believe a period of transition is needed.

Real peace will clearly serve Israel's security interests. But both during the transition period, and after a peace settlement, Israel's need for concrete security arrangements must be met. Any peace settlement must include continued, assured, permanent protection for Israel. The United States and Israel are completely united on this point.

The agreements of the past four years in the Middle East have demonstrated that difficult security problems can be resolved. We can draw on this experience in future agreements. Demilitarization and limited force zones have helped to keep the peace in the Sinai and on the Golan Heights; they can help keep the peace in other strategic areas as well. The possibility of surprise attacks can be reduced by early warning systems and surveillance.

International forces and observers can help maintain integrity of peace agreements and ensure stability. Technology may help solve some problems. A continuing military presence in strategic areas might solve others. The United States has helped with these arrangements in the past. We are prepared to assist again. Agreements between our countries could ensure Israel's security, and we're prepared to explore all the possibilities.

To achieve and guarantee lasting peace, Israel's strength must never be in doubt. Israel's ability to defend itself must be clear. Israel must be so strong that no nation will ever be tempted to test its strength. And America is committed to a strong Israel.

Since the war in 1973, the United States has agreed to over $10 billion in military and economic support for Israel. Under the Carter Administration, one fifth of all our economic and military assistance around the world has come to this nation. In next year's budget, nearly half of all our sales credits and grants for military equipment will go to Israel. This is an unprecedented amount, but we have no regrets.

On behalf of the President, I pledge to you tonight that aid from the United States will continue. I pledge to the people of Israel that the United States will not permit your security to be compromised in the search for peace. And I pledge to you that my country will not fail to provide Israel with essential and crucial military assistance, nor will we use that assistance as a form of pressure.

In the final analysis, "Peace," as Albert Einstein once said, "cannot come through force, it can only come through understanding." That is a profound challenge for all peoples in the Middle East.

Ancient rivalries must be overcome. Fears and suspicions on all sides, bred from the hostilities of the past, must be transformed into new visions of understanding and sympathy. And the long-standing problems of the Palestinian people must be resolved.

We have no illusions about the difficulty of that challenge. We have no smugness about the problems it entails.

But more than 5,000 years of history have shown that the Jewish people are a people of understanding and vision and sensitivity. Through exile, and persecution, and even genocide, you have never abandoned your commitment to justice and the dignity of all mankind.

And I am confident that a people of those traditions understands and accepts that the Palestinians—like all people—have the right to participate in the determination of their own destiny. We are convinced that a solution can be found which will provide stability and security for everyone in the Middle East.

The peace we seek is not a mere absence of war, or simply the end of belligerency. True peace must transform, not just the nations, but the peoples of the Middle East. It cannot be written in documents alone. It must be woven into the fabric of everyday life.

President Carter has stated that such a peace must include: open borders; diplomatic relations; normal trade, and commerce and tourism; free navigation; and an end of all boycotts. The cornerstone of normal relations must be a formal recognition by the neighboring Arab states of Israel's nationhood.

For 30 years peace has eluded the nations of the Middle East. Some say it's beyond our reach.

There are those who say no formula can be found. Others say the problems of the Palestinians are intractable. Some say that the Middle East is destined by its history to know only war, and the threat of war, for generations. Real peace they say, is nothing but a dream.

But to all the peoples of the Middle East, in the 30th year of Israel's independence, the words of Theodore Herzl still ring true today: "If you will it, it is not a dream."

For 30 years, the peoples of the Middle East have had to bear the crushing burden of ever more costly military needs. War has robbed this region, not only of its sons and its daughters, but of too much of its future. True peace can unlock the resources, the

talents and the imaginations of two ancient peoples.

No nation has more to gain from peace than Israel. When I visited your country in 1973, I was moved by the fact that every leader I talked to spoke in terms of meeting the real needs, the human needs of (Israel's) people.

This morning I presented to President Navon a gift from the American people in honor of your 30th anniversary: it was a copy of the first Bible ever printed in Hebrew in the United States. It is a symbol of the friendship, respect and love we feel for the people of Israel today.

But the gift we hope for Israel most in this anniversary year is the gift for which you have prayed for 30 years—the gift of peace.

For 30 years, we have shared in the joys of this great nation; we have taken pride in your achievements; and we have felt your losses and your pain. Now, more than anything else, we hope to share with Israel in the fulfillment of a lasting peace.

America will stand with you in the search for peace and we will rejoice when peace is won. And when that day comes, in the words of Isaiah, "The work of righteousness shall be peace . . . and the effects of righteousness, quietness and assurance forever."

Shalom.●

## YOU CANNOT GET EVEN

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. McDONALD. Mr. Speaker, contrary to their commonsense instincts, many persons are talked into supporting various Government programs on the basis that they ought to get their fair share since they pay taxes. This motive of "getting what is rightfully ours" leads to some dire consequences, because, as an extension of the idea of private ownership, it becomes bizarre in the context of big government reaching out to supposedly confer benefits on more and more groups. Dr. Hans Sennholz of the Department of Economics at Grove City College, wrote a short article in the Freeman for June 1978, which I feel ought to be required reading in that regard. The article follows:

YOU CANNOT GET EVEN

(By Hans F. Sennholz)

Government affects individual incomes by virtually every decision it makes. Agricultural programs, veterans' benefits, health and labor and welfare expenditures, housing and community development, federal expenditures on education, social insurance, medicare and medicaid programs, and last but not least, numerous regulations and controls affect the economic conditions of every citizen. In fact, modern government has become a universal transfer agency that utilizes the political process for distributing vast measures of economic income and wealth. It preys on millions of victims in order to allocate valuable goods and services to its beneficiaries. With the latter, transfer programs are so popular that few public officials and politicians dare oppose them.

The motive powers that drive the transfer order are as varied as human design itself. Surely, the true motives are often concealed, and a hollow pretext is pompously placed in the front for show. And yet, man is more accountable for his motives than for anything else. A good motive may exculpate a poor action, but a bad motive vitiates even the finest action. Conscience is merely our own judgment of the right and wrong of our action, and therefore can never be a safe guide unless it is enlightened by a thorough understanding of the implications and consequences of our actions. Without an enlightened conscience we may do evil thoroughly and heartily.

An important spring of action for the transfer society is the desire by most people to get even in the redistribution struggle. "I have been victimized in the past by taxation, inflation, regulation, or other devices," so the argument goes, "therefore I am entitled to partake in this particular benefit." Or the time sequence may be reversed: "I'll be victimized later in life," pleads the college student, "and therefore I want state aid and subsidy now."

This argument is probably the most powerful pacifier of conscience. It dulls our perception and discernment of what is evil and makes us slow to shun it. After all, we are merely getting back "what is rightfully our own." With a curious twist of specious deduction the modern welfare state, which continually seizes and redistributes private property by force, is defended by the friends of individual liberty and private property. "Man is entitled to the fruits of his labor," they argue, "we are merely getting back that which is rightfully and morally our own." They borrow the arguments for the private property order to sustain the political transfer order.

Surely getting back that which is rightfully and morally our own is a principle that is rooted in our inalienable right to our lives. It is a property right that springs from our human rights and from the right to life itself. It is the right to restoration of the fruits of our efforts and labors of which we are deprived by deceit, force, or any other immoral practice. It is a specific right to recovery or compensation from those who are wronging us or have injured us in the past.

This right to restoration does not beget the right to commit the very immoral act from which we seek restoration to imitate others in acting immorally, or to seek revenge against the trespassers or innocent bystanders. But this is precisely what the "get-even" advisors urge us to do.

In an unfortunate automobile accident we are hurt or injured, or our vehicle may be damaged, because of the negligence of another driver. This gives us the right to demand restoration and compensation from the guilty party. But it does not give us the right to seize another car parked in the neighborhood, or return to the road and injure another driver. Or, our home is burglarized and we suffer deplorable losses in personal wealth and memorabilia. This does not bestow upon us the right to do likewise to others. But the "get-even" advocates are drawing this very conclusion.

He who is desirous of "getting even" in the politics of redistribution longs to join the army of beneficiaries who are presently preying on their victims. They would like to get their "money back" from whomever they can find and victimize now. Like the victim of a burglary who becomes a burglar himself, they are searching for other victims. But in contrast to the new burglar who may be aware of the immorality of his actions, the "get-even" advocate openly defends his motives while he is pursuing his political craft.

We cannot get even with those individuals who deprived us of our property in the past. They may have long departed this life or may have fallen among the victims themselves. We cannot get even with them by enlisting in the standing army of redistributors. We merely perpetuate the evil by joining their forces. So we must stand immune to the temptations of evil, regardless of what others are doing to us. The redistribution must stop with us.

The redistributive society has victimized many millions of people through confiscatory taxation, inflation, and regulation. Government acting as the political agency for coercive transfer, seized income and wealth from the more productive members and then redistributed the spoils to its beneficiaries. Although many millions of victims and beneficiaries were involved, which often obscures the morality of the issue, the forced transfer took place between certain individuals. It is true, the beneficiaries, who used political force to obtain the benefits, cannot easily be recognized in the mass process of transfer. But even if we could identify them, and establish a personal right to restoration, our property has been consumed long ago. A vast army of beneficiaries, together with their legions of government officials and civil servants, consumed or otherwise squandered our substance. There is nothing to retrieve from the beneficiaries who probably are poorer than ever before having grown weak and dependent on the transfer process.

When seen in this light, the get even argument is nothing more than a declaration of intention to join the redistribution forces. It may be born from the primitive urge for revenge against government, state or society. But it is individuals who form a government, make a state and constitute a society. By taking revenge against some of them for the injuries suffered from the hands of others, I am merely reinforcing the evil.

Revenge is a common passion that enslaves man's mind and clouds his vision. To the savage it is a noble aspiration that makes him even with his enemies. In a civilized society that is seeking peace and harmony it is a destructive force which law seeks to suppress. But when the law itself becomes an instrument of transfer, the primitive urge for revenge may burst forth as a demand for more redistribution. It becomes a primary force that gives rise to new demands or, at least, reinforces the popular demands for economic transfer. The common passion for revenge, no matter how well concealed, undoubtedly is an important motive power of social policy that leads a free society to its own destruction.

No wealth in the world and no political distribution of this wealth can purchase the peace and harmony so essential to human existence. Peace and harmony can be found only in moral elevation that reaches into every aspect of human life. A free society is the offspring of morality that guides the actions and policies of its members. To effect a rebirth of such a society is to revive the moral principles that gave it birth in the beginning. It is individual rebirth and rededication to the inexorable principles of morality that are the power and the might. The example of great individuals is useful to lead us on the way, for nothing is more contagious for greatness than the power of a great example.

To spearhead a rebirth of our free society let us rededicate ourselves to a new covenant of redemption, which is a simple restatement of public morality. In the setting of our age of economic redistribution and social conflict it may be stated as follows:

No matter how the transfer state may victimize me, I shall seek no transfer payments, or accept any.

I shall seek no government grants, loans or other redistributive favors, or accept any.

I shall seek no government orders on behalf of redistribution, or accept any.

I shall seek no employment, or accept any, in the government apparatus of redistribution.

I shall seek no favors, or accept any, from the regulatory agencies of government.

I shall seek no protection from tariff barriers or any other institutional restrictions of trade and commerce.

I shall seek no services from, or lend support to collective institutions that are creatures of redistribution.

I shall seek no support from, or give support to associations that advocate or practice coercion and restraint.

We do not know whether our great republic will survive this century. If it can be saved, great men of conviction must lead the way—men who with religious fervor and unbounded courage resist all transfer temptations. The heroes of liberty are no less remarkable for what they suffer than for what they achieve.●

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## FLUORIDE RINSE INTRODUCTORY STATEMENT

## HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. CARTER. Mr. Speaker, it is well known that the most prevalent chronic health problem among our children is tooth decay. Indeed, decay is nearly universal among children. At age 2, half of the children in this country have decayed teeth. Surveys show an average of one cavity a year in children aged 6 to 11 and one and one-half cavities in children aged 12 to 15. Decay is insidious. It begins soon after the primary teeth appear in early childhood and can continue throughout adult life. Almost nobody escapes dental caries, the leading cause of tooth loss before age 35.

Of course, Mr. Speaker, there are known ways to reduce tooth decay. Obviously good oral hygiene practices are extremely important. The most effective cavity preventive mechanism known today is the flouridation of drinking water. However approximately one-half of the citizens of this country, for a variety of reasons, are not drinking flouridated water.

One of the more exciting possibilities in decay prevention has just been announced by the National Institute of Dental Research. Spokesmen for the Institute say that demonstration projects during the last 2 years in 17 parts of the country show that a fluoride mouth rinse for schoolchildren is reducing tooth decay in those areas by an average of 35 percent. Fluoride rinse is a proven preventive measure. It is safe and it is available at a low cost.

For approximately 50 cents a child a year elementary schoolchildren have been rinsing with the fluoride solution once a week in participating school systems with the blessing of the local dental societies and the voluntary concurrence of their parents. The improvement in the dental health of these children has been dramatic according to Dr. James Carlos, head of the Institute's national caries program. Dr. Carlos has said, "We now have a method for partial prevention of caries that is effective, costs very little, is easily administered, and is readily accepted by the public."

Mr. Speaker, I would ask what better endorsement a preventive care public health effort could have, but there are other benefits as well. Most of the participating communities experienced important ripple effects. People became more aware of the importance of dental health. More people were going to dentists and the general level of dental health was increased according to the sponsors of these projects.

This worthy pilot project—preventive, low-cost, and locally endorsed—was supported with $2.5 million in Federal research funds during more than 3 years of operation But the Federal support ends next February when these contracts expire. The communities are then on their own for support and Dr. Carlos assures us that support is likely from local sources. However, he also tells us that we have the potential to make tooth decay a lesser problem for as many as 20 million children in communities lacking fluoridated water by continuing this fluoride rinse effort.

In addition to the obvious benefits of healthier teeth, regular school-based fluoride mouth rinsing can save parents several billions of dollars a year in dental bills. The benefits are uniform across income, social, racial, and community lines. Big city schoolchildren and rural children likewise can enjoy better teeth as a result of this excellent procedure.

I should emphasize that the fluoride rinse project is compatible with water fluoridation, it can add to the benefits of water fluoridation while providing significant new benefits in unfluoridated areas. The rinse is not swallowed by children who participate in the program. This is a safe and effective procedure.

I am, therefore, proposing an amendment to the disease control provisions of the Public Health Service Act to extend the benefits of this worthy effort to make it possible for additional schoolchildren to receive the benefits of the fluoride rinse program. This is a low-cost, effective program, and I urge its approval.

Without objection, I include the recent articles which have appeared in the Washington Post and New York Times concerning the fluoride rinse projects in the RECORD at this point:

[From the Washington Post, July 18, 1978]

FLUORIDE RINSE HELPS SAVE TEETH

(By Victor Cohn)

A weekly one-minute mouthwash with mildly fluoridated water to prevent tooth decay was recommended yesterday to the half the nation that does not fluoridate its drinking water.

The National Institute for Dental Research—a unit of the National Institutes of Health—urged schools and health departments to start regular programs as the result of several new demonstrations showing that the rinsing can reduce children's tooth decay by 35 percent, on the average.

Meanwhile, dentists or doctors can prescribe pills to make the required mouthwash to parents who want to have their children use it once a week—or for any adults who want to try it.

Tooth decay is the leading chronic disease of childhood, and in all, costs the nation $5 billion a year, Dr. James P. Carlos, associate director of the government research institute, estimated. Ideally, all decay is preventable, so wider use of fluoride could save the country billions, he said.

The dental institute recommended the rinsings primarily for children partly because they are in school and can be easily reached, and partly because decay usually tapers off after young adulthood.

"But many adults can probably benefit too, just as they benefit by using fluoridated toothpaste," Carlos said. "They just won't benefit as much, and we can't put a specific number on adult benefit."

Most cities, including Washington, fluoridate their drinking water. But in the Washington area, large parts of Fairfax and Prince William counties do not. And, nationally, Los Angeles, San Diego, San Antonio, Portland, Ore., Phoenix, Birmingham, Newark, and Honolulu are among cities that don't.

Some areas, mainly suburban or rural, don't fluoridate because they lack suitable central water treatment plants at which to add the antidecay chemical. But in many communities there has been successful opposition so far by people who think fluoridatio may cause cancer or other illness or destroy their liberty to drink unmedicated water.

"There is absolutely nothing to the claims that fluoridation causes any illness—those claims have been thoroughly refuted by the National Cancer Institute," Carlos said.

Where water is fluoridated, decay is reduced by 50 to 65 percent by the early teens for youths who have drunk the water since birth, according to Carlos, and by less for those who drank it part of the time.

Periodic application of fluoride solution or gel by dentists typically cuts childhood decay by 35 percent, but is costly, he said. But only half the population goes to a dentist each year.

Use of fluoride toothpaste cuts childhood decay by 15 to 20 percent, Carlos estimated. "And we think over 80 percent of the population now uses it," he added.

But the weekly rinsing can effectively be added to daily fluoride brushing, he said. Children in 17 federal projects demonstrating the rinsing included both fluoride toothpaste users and nonusers.

For two years, 75,000 children through sixth grade in Alabama, California, Colorado, Connecticut, Guam, Massachusetts, Michigan, Missouri, Montana, New York, Ohio, Texas and Wisconsin—and Charles City County, Va.—have rinsed for a minute a week with a 0.2 percent sodium fluoride solution.

Various groups have so far shown reductions in decay from 46 percent to nothing, for the 25 percent average benefit.

"If everyone got enough fluoride and got rid of sugary snacks and drinks and chewing gum between meals, decay in this country would approach zero," Carlos said. "I say 'between meals' because you can tolerate sugar occasionally during the day without damage. It's the repeated use that does the harm."

He also advises thorough enough brushing to remove plaque or tartar deposits on teeth, but you should be taught how to do it by your dentist."

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[From the New York Times, July 19, 1978]

SCHOOLS URGED TO USE FLUORIDE MOUTHWASH TO CUT TOOTH DECAY

WASHINGTON, July 18.—A school program that would require students to use fluoride mouthwash once a week could cut tooth decay by about one-third, according to Government scientists.

The National Institute of Dental Research said yesterday that three years of testing with more than 70,000 children showed that weekly use of a fluoride mouthwash could be a good substitute for a communitywide fluoridated water system.

Dr. James P. Carlos, associate director of the institute, said that half the population lived in communities without fluoridated water. "We estimate there are at least 20

million children in nonfluoride communities who could be helped," he added.

He said that dental decay affected more than 90 percent of children, even though the nation spent more than $10 billion in 1977 on dental services.

The three-year project, which focused on elementary schoolchildren in 17 communities that do not have fluoridated water, found that it costs only 50 cents a student to supply mouthwash, cups and paper towels for the 32-week school year.

The average reduction in tooth decay was 35 percent, the scientists said. But the results from the $2.5 million demonstration program varied widely from community to community, based on a random sampling of the children involved.

In seven of the communities, reduction of decay was from 22 percent to 27 percent. In one community, the reduction was 34 percent and in another reached a high of 46 percent.

One test area showed no added reduction of decay after two years, and several others showed only 1 percent to 8 percent. The extremely low figures were attributed to sampling errors and active local dental programs.●

## QUANTIFYING INDECENCY

### HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mrs. MEYNER. Mr. Speaker, I would like to call to my colleagues attention the following column by Howard Rosenberg, a staff writer with the Los Angeles Times. It seems inevitable that the Congress and the courts will continue to police the type of language that the public may be exposed to. We are deluding ourselves and our constituents if we maintain that it is the language only—and not the thoughts that they express—that we are regulating. In light of this, I believe that all of us must carefully examine our priorities and our personal standards of violence and obscenity.

I have never heard the now famous George Carlin routine on the "Seven Dirty Words." Moreover, I have no desire to hear this routine, or even those words. I certainly do not condone the use of that type of obscenity. I did, however, hear and see the atrocities espoused by the Nazis in Chicago on July 9. Again, I do not condone that type of obscenity. That was a violent and indecent display, in my mind.

My difficulty is squaring a condonation of the indecency of the Nazis with a condemnation of the indecency of Mr. Carlin. Which is the lesser obscenity? And, are we prepared to quantify indecency? I ask my colleagues to read Mr. Rosenberg's thoughts on this difficult question, and to examine their own.

NAZI: ACCEPTED 4-LETTER WORD

WASHINGTON.—It is bitterly ironic that Frank Collin, who wears a swastika and preaches hate, can shout his message on the nation's airwaves while comedian George Carlin's words against hypocrisy are all but stifled.

On July 9, Collin, the snarling neo-Nazi anti-Semite and white supremacist, denounced Jews and blacks at a rally in Chicago's Marquette Park that was recorded by the media army, including the nation's three commercial television networks.

If failure of the sound system made it almost impossible for Collin to be heard there by his handful of followers and others drawn to the park that day, at least he had the satisfaction of knowing some of his words were broadcast later that day by CBS News.

And coverage by NBC, ABC and the nation's print media ensured that the face of the 33-year-old Collin, until recently an anonymous nobody, would be known in most of America's households.

Six days earlier, the U.S. Supreme Court upheld the authority of the Federal Communications Commission (FCC) to act against broadcast media airing a Carlin comedy monologue that recited, in hilarious and devastating detail, the "seven dirty words" banned for broadcast.

The court emphasized that it was acting primarily on behalf of the nation's children. No telling what harm could be done if these words (which one can assume most children have heard and maybe even used) reached the ears of youngsters. After all, as Carlin points out, these words "curve your spine, grow hair on your hands."

The Justices thus affirmed the FCC's definition of the Carlin monologue as indecent. But how can Carlin's monologue be considered indecent compared with the violence-charged preachings of a Frank Collin? At a June 24 rally in Chicago, also given the big media treatment, Collin said about Jews: "In a Nazi America, we would put every one of these creatures in the gas ovens where they belong."

Any station may broadcast that type of obscenity without fear of government sanctions, while Carlin's words are virtually taboo.

Carlin's language is barbed but harmless. There is nothing in his 12-minute monologue that preaches or condones violence or hatred. He is foremost a comedian but also a social satirist whose routine is comprised of short sketches poking fun at contemporary mores. He uses "dirty words" to make us laugh at our own silliness about language. He dissects the words, turns them inside out, wrings them dry until nothing is left. That's the point. There are no dirty words. The words are merely symbols.

"America has always taken pride in its ability to laugh at itself, but it just isn't true," contends Norman Lear, "Bob Hope or Johnny Carson making a joke about President Ford falling down isn't America laughing at itself. America laughing at itself is being able to listen to Lenny Bruce and understand its own foolishness. George Carlin tries to make us do that."

But the most esteemed legal minds sometimes work in wondrous ways. Children tuned to radio or television can hear Collin, the brown-shirted promoter of genocide, but not Carlin, the gentle social satirist.

And the Nazi philosophy has been there for the hearing. Last year, public television's "Black Perspective on the News" aired an outrageous segment in which Collin and David Duke, leader of a splinter Ku Klux Klan group, were allowed to rant virtually at will about Jews and blacks in what was supposed to be a calm and reasoned discussion of their philosophies—as if there were pros and cons to hate.

However, the show's black host and two guests, purportedly on hand for balance, were so unprepared and inept that the hour became a showcase for racism.

Of course, that was not indecent.

The Supreme Court also emphasized that its ruling applied to only repeated use of specific indecent words, not ideas. After all, the chief apprehension about the court decision is that it ultimately will lead to censorship and squelching of free discussion of ideas in broadcasting, which courts have held to be outside the traditional First Amendment guarantees of free speech given other media.

However, the court is perpetrating a double standard of morality and indecency. You won't find in this space a rationale for denying Nazis or anyone else, no matter how odious, an opportunity to be heard on the air and quoted by the rest of the media. However, cutting through all the legalese, you can't have one without the other. You can't say yes to Collin and no to Carlin.

There is a word for Collin and the ideas he represents. But, unfortunately, you can't hear it on the air—or read it here.●

## AMERICAN/ANGOLAN DIPLOMACY IN SOUTHERN AFRICA PROMISING

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. BONKER. Mr. Speaker, a few weeks ago, the administration was perilously close to becoming embroiled in the Angolan civil war. The National Security Council, anxious to stir up trouble for the Cubans in Angola, convinced CIA Director Stansfield Turner to explore with Senator DICK CLARK and others ways of circumventing, or even repealing, existing laws which prohibit our financial and material support of factions in that beleaguered country. This, in my judgment, would have been a recipe for disaster for U.S. policy in Africa.

However, the administration wisely eschewed the counsel of newly resurgent cold warriors, who are willing to work with the Communist Chinese, but had become mortified when faced with the presence of Cubans in countries few knew existed a few years ago.

To President Carter's credit, the United States took a different course, sending an envoy to Luanda to reevaluate our relations and explore ways of ameliorating our differences. Once reason was allowed to prevail over rhetoric, an accord was reached on Namibia, and steps were taken to bring about a rapproachment between Zaire and Angola, including a commitment to improve diplomatic relations, reopen the Benguela railway, exchange refugees, and cease aiding each other's dissident groups.

Much of the responsibility for this policy victory should go to Ambassador Andrew Young and his staff, whose painstaking efforts in cooperation with the Angolan Government are paving the way for peace in the region.

It is instructive to analyze the likely outcome had the NSC prevailed and the United States pursued a policy of confrontation with Angola, a policy that would have focused on the symptoms rather than the causes of conflict. The recent crisis in Zaire stems from displaced Katan-

gans, located in Northern Angola, who periodically attempt to reclaim the Shaba Province. President Mobutu's corrupt government and neglect of the people living in Shaba have done little to help secure the area. In Angola, the civil war is rooted again in tribal factions, two of which have been challenging the Neto government. By supporting each other's dissidents, Zaire and Angola were fueling an endless cycle of violence; actions on one side of the border simply resulted in recriminations on the other. By engaging in precipitous reactions, funneling support to whomever the Soviets and Cubans were not supporting would have placed the United States strongly on the side of South Africa, which is known to be helping the UNITA faction, headed by Joseph Savambi. In short, by aiding UNITA and FNLA, the United States would have simply escalated the level of violence in a war of proxies between the United States and the Soviet Union, while increasingly vitiating our position with the rest of Africa.

By pursuing an alternative course of cooperation rather than confrontation with key "front-line" states, however, the United States has shown that the presence of Cubans is extraneous to America's primary interest in bringing a peaceful end to the conflicts which beset southern Africa. Instead of growing confrontation and perhaps covert involvement in Africa, the United States, in a bold diplomatic move, successfully negotiated with the Neto government an accord that: First, secured a resolution of the Namibia question; second, put an end to border disputes that were dangerous to Zaire, and thus Western interests, and third, paved the way for Angola to be less, not more, dependent on the Russians and Cubans.

Mr. Speaker, at this time I would like to insert in the RECORD an article by Professor Bender which questions many of the fatuous assumptions being made about the Cuban presence in southern Africa, as well as a recent piece by David Ottaway about the potential for peace in southern Africa. The Soviet Union has a poor record in Africa. Let us not help the Russians by adopting the shortsighted policies of the cold warriors in this country.

[From the Washington Post, July 14, 1978]

NAMIBIA ACCORD KINDLES HOPE FOR REST OF SOUTHERN AFRICA

(By David B. Ottawa)

DAR ES SALAAM, TANZANIA.—The agreement reached Wednesday in the Angolan capital of Luanda between militant Namibian nationalists and five Western powers represents a major diplomatic victory for the West and a breakthrough in its search for negotiated settlements to the burning racial conflicts of southern Africa.

For the first time, there is now some hope that the deteriorating situation throughout this tense region of the continent, scarred by escalating warfare and dotted by massacres of blacks and whites, can be halted and even reversed.

With an internationally acceptable solution to the Namibia dispute now in sight, one of the first consequences of the accord will be to isolate further Rhodesia's recalcitrant transitional government and perhaps force it now to attend a Western-sponsored general peace conference wih its guerrilla adversaries.

For the Soviet Union, the accord can only be a blow to its hopes for increasing its influence in this region through the backing of guerrilla warfare at the West's expense, for it has brought closely together the five major Western powers and the five so-called front-line African states, including the two Marxist ones in Angola and Mozambique, in a combined diplomatic offensive that has finally borne fruit.

The front-line states, whose chairman is Tanzanian President Julius K. Nyerere, played a crucial role in pressuring the Southwest African People's Organization (SWAPO) into accepting the Western plan despite SWAPO's strong objections to several key provisions. Nyerere was reported yesterday to be delighted upon hearing of the agreement.

The same front-line approach toward the nationalist guerrillas in Rhodesia, plus increased South African pressure on the transitional government there, could well now lead to some progress on the deadlocked British-American peace plan for that war-exhausted country, though the situation there remains far more complex.

There is still a rocky road ahead in Namibia for the Western plan. South Africa regards SWAPO president Sam Nujome as an outright "communist," while the Namibian nationalists are convinced the South Africans are out to do them in at the elections.

The agreement is a major personal triumph for U.S. Ambassador Donald McHenry, who for 15 months has practiced a unique style of quiet diplomacy, persisting in his unthanked efforts despite multiple obstacles, repeated setbacks and dire threats from both South Africa and the Namibian nationalists.

McHenry has served as chairman of the so-called Western "contact group" made up of the United States, Britain, France, Canada and West Germany.

The Western proposals provide for United Nations-supervised elections for a constituent assembly in Namibia at which a new constitution will be drawn up. The assembly would also prepare the country for its independence under a black majority government by the end of this year.

About 5,000 U.N. soldiers and 1,000 administrative personnel are to be brought into the country to supervise the transition period jointly with the South African-appointed administrator general, Justice Martinus Steyn.

South Africa is to withdraw all but 1,500 of its more than 20,000 troops now stationed in Namibia before elections are held and then the remainder one week after a U.N. certification of the results.

The South Africans had insisted upon the right to keep those last 1,500 troops in northern Namibia while SWAPO was demanding that they be removed to the far south. It appears the Namibian nationalists were forced to give in to the South African position on this issue at Luanda.

Another key sticking point was the status of Namibia's only deep water port, Walvis Bay, which South Africa insists is a part of its own republic historically and legally. SWAPO is reported to have accepted a formula under which the five Western powers and the U.N. Security Council will recognize Walvis Bay as an integral part of Namibia despite the South African claim to it.

The issue however will be left to later negotiations between South Africa and an independent Namibian government.

South Africa has been ruling the mineral-rich, but sparsely inhabited former German colony since the end of World War I under an old League of Nations mandate. But in 1966, the United Nations ceased to recognize this mandate and began demanding that South Africa give the territory independence.

After more than a year of periodic negotiations, South Africa agreed to the Western plan in late April, but the Namibian nationalist organization broke off talks with the five Western powers after a South African raid May 5 at one of their refugee and guerrilla camps in southern Angola, in which around 800 persons were killed.

With South Africa now committed to a Western-backed plan involving the deployment of a U.N. peacekeeping force, it is thought possible here that Pretoria may now be willing to step up pressure on Rhodesia's transitional government to negotiate a similar internationally acceptable solution there.

The Tanzanian theory is that South Africa can ill-afford to back an internal settlement in Rhodesia, such as is being tried now, once it has accepted a totally different approach to Namibia. This view is shared by many American and other Western diplomats in the region.

However, South African Prime Minister John Vorster has publicly come out in support of the new biracial transitional government in Rhodesia and even criticized the United States and other Western countries for not doing the same.

The Patriotic Front, representing guerrilla now fighting in Rhodesia, has appeared to have adopted a position lately that there is little need to negotiate since it is apparently winning against the transitional government. But the front-line states, which have supported the British-American peace plan, could, if they wished, force the guerrillas to take the diplomatic route. These states supply most of the guerrillas' African backing, especially Zambia and Mozambique, from which the guerrillas operate.

The agreement in Luanda has come after months of tedious negotiations.

McHenry, as the Western group's chairman, traveled tens of thousands of miles between New York, where he is deputy head of the U.S. Mission to the United Nations and seven African capitals. At times he was on the road a month or six weeks at a stretch crisscrossing the continent. Much of the time was spent tracking down SWAPO president Nujoma, possibly the most slippery nationalist leader the West has to deal with in Southern Africa.

South African provocations and threats to "go it alone" were another major hazard along the way, but McHenry was once again heard to remark in a state of exhaustion in Lusaka, "I've got more patience than they have and I'm going to outlast them all until they agree."

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SOUTH AFRICANS ARE PLEASED BUT SUSPICIOUS OF SWAPO

JOHANNESBURG.—South African Government officials and political leaders yesterday welcomed SWAPO's acceptance of a Western proposal for independence in Nambia but expressed suspicion about what assurance the Western powers have given the black nationalist movement to get its agreement to the plan.

Foreign Minister Pik Botha said the latest development "could herald a new era in southern Africa," but added that the "South African government accepted that no qualifications of any nature—direct or by implication—would be added to the proposals."

South Africa is especially concerned about what the Western countries have told SWAPO will be their position on the disputed territory of Walvis Bay.

Commenting on the SWAPO acceptance, political leaders in Namibia also were anxious to know about the "still unknown details of the deal struck between the Western powers and SWAPO," the South African Press Agency reported. The Afrikaans-language newspaper, Die Suidwester, which supports

the South African-backed party in the territory, commented that "it would be dangerous to assume that SWAPO would play the game to the end."

The Western proposals provide for United Nations-supervised elections for a constituent assembly in Namibia at which a new constitution will be drawn up. The assembly would also prepare the country for its independence under a black majority government by the end of this year.

About 5,000 U.N. soldiers and 1,000 administrative personnel are to be brought into the country to supervise the transition period jointly with the South African-appointed administrator general, Justice Martinus Steyn.

South Africa is to withdraw all but 1,500 of its more than 20,000 troops now stationed in Namibia before elections are held and then the remainder one week after a U.N. certification of the results.

The South Africans had insisted upon the right to keep those last 1,500 troops in northern Namibia while SWAPO was demanding that they be removed to the far south. It appears the Namibian nationalists were forced to give in to the South African position on this issue at Luanda.

Another key sticking point was the status of Namibia's only deep water port, Walvis Bay, which South Africa insists is a part of its own republic historically and legally. SWAPO is reported to have accepted a formula under which the five Western powers and the U.N. Security Council will recognize Walvis Bay as an integral part of Namibia despite the South African claim to it.

SWAPO then began hardening its demands to include a revamping of the police force in Namibia as well as insisting on South African acceptance of Walvis Bay as part of Namibia before its independence and the removal of all South African troops to the southern part of Namibia.

But a summit of the front-line states in early June in Luanda broke the impasse and led to their decision to force SWAPO into stopping its demands.

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[From the New York Times, June 5, 1978]

U.S. POLICY ON CUBANS IN AFRICA

(By Gerald J. Bender)

The presence of Cubans in Africa has stymied both the Ford and the Carter Administrations. Under Gerald R. Ford, Henry A. Kissinger's globalist approach actually contributed to an increase in the number of Cuban troops in Southern Africa; Zbigniew Brzezinski's similar influence on President Carter's policy would have the same effect. Obviously it is time for the United States to rethink its entire approach to the issue of Cubans in Africa.

This reappraisal should begin by differentiating the Cuban presence in one African country from another, just as the United States commonly does when considering the presence of the Russians, Chinese, French or British in various African countries.

For example, the United States generally does not view the Soviet presence in Ethiopia in the same way that it views any Soviet involvement in Nigeria. It follows that a distinction should be made between Cuban activities in Ethiopia, on the one hand, and in Sierra Leone, Tanzania or even Angola on the other. The issue should not be the mere presence of Cubans in Africa, but, rather, where and when do the Cubans represent a threat to American or African interests or security?

The key to making this distinction is the clarification and articulation of precisely what Americans find objectionable about the Cuban involvement. Does the United States object to the presence of all Cubans, including doctors and engineers, or only soldiers, does it object to all Cuban soldiers, including noncombatant instructors (U.S. intelligence classifies as "troops" Cubans from the regular army or reserves who perform civilian functions in Angola), or only those who fight?

Should the United States protest when Cuban soldiers fight in any part of Africa (such as against South Africans in Angola), or only when they help crush self-determination movements, as in Eritrea? Finally, do the more than 1,000 Cuban teachers scattered throughout nearly every province represent a genuine threat to American goals and interests? Does the United States oppose the presence of several thousand Cuban soldiers in Cabinda who help to protect the vulnerable Gulf Oil installations? Is it agitated about Cubans who help provide security for the teams of Boeing technicians installing radar in seven Angolan airports? Are U.S. interests threatened when Cuba assists the M.P.L.A. regime in thwarting a bloody coup attempt by extreme leftists and black racists?

Thus far, Mr. Carter and Mr. Brzezinski have raised blanket objections to the Cubans in Angola, with no public recognition of their multifaceted and often constructive role in that country.

The Administration must spell out precisely what it finds objectionable about the Cuban-Angolan relationship. A coherent, practical policy on this issue is especially important today, since it also affects the normalization of U.S. relations with the Angolan and Cuban Governments, it ties with many other African nations, and, most important, U.S. relations with the Soviet Union.

To most African nations, the American attitude toward the Cubans in Angola smacks of hypocrisy and of an arrogance that Mr. Carter pledged to eliminate from foreign policy. This is generally the attitude of the Nigerian leaders whom he recently visited (and with whom, ironically, both the United States and Angola closely coordinate their African policies).

How does the United States' claim that its presence in these (and other) countries is legitimate because we were invited by sovereign governments differ from the Cuban's claim that they were invited by the People's Republic of Angola? There are more Americans, military and civilian advisers, working in Iran and Saudi Arabia than there are Cubans, Russians and other Eastern Europeans in Angola.

Moreover, what difference does the Carter Administration see between the rationale and nature of the French and Cuban presence in Africa?

Today there are over 2,000 French nationals living in French-speaking Africa, many of whom work as advisers and technicians for their host governments. In addition, France has over 10,000 troops stationed throughout the continent, engaged in wars in Chad and Mauritania as well as Zaire. There are more than 1,600 French officers serving directly in African armies.

Therefore, if the National Security Council estimated the number of French in Africa using the same categories that it applies to Cubans, the French presence would turn out to be considerably larger than Cuba's.

One obvious difference noted by many Africans is that Cuba apparently seeks no direct economic stake in Africa's future. By contrast, French interests control over 50 percent of the modern economic sector of the Ivory Coast, Senegal, Gabon and Camèroon. Thus, criticizing the Cubans while condoning and even assisting the French may not only strain American cerdibility in Africa but leave our fledgling African policy vulnerable to the charge that the Carter Administration is primarily interested in assisting French neocolonialism.

Mr. Carter claimed that his trip to Africa last spring was intended in part to assist in the transition to majority rule in the southern part of the continent. Yet his Administration has refused to recognize the Angolan Government, one of the key front-line states designated by the Organization for African Unity to assist in that transition in Namibia and Rhodesia (and whose cooperative attitude has been cited privately by one of the American negotiators as having greatly facilitated the Namibian discussions).

The United States faces an enormous task in breaking down African suspicions and distrust, given the legacy of past American policy in Southern Africa. The U.S. refusal to recognize the Agostinho Neto's regime only serves to nourish these suspicions further and thus undermines Washington's efforts to play the role of an honest broker.

Mr. Carter has argued that "the establishment of relations does not involve approval or disapproval (of a government), but merely demonstrates a willingness on our part to conduct our affairs with other governments directly."

Every close American ally has recognized the Luanda Government, confident that there is something to gain from conducting face-to-face relations. Every major American corporation currently operating in Angola—including Gulf, Mobil, Texaco, Boeing, Cities Service and others—favors immediate recognition.

Some corporate representatives complain that it is difficult to find American technicians who are willing to work in a country where they have no diplomatic protection. Moreover, most of these businessmen do not support the Administration's position on the withdrawal of the Cubans. In fact, they privately hope that the Cubans remain, to provide security and to continue their vital role in keeping the country's modern sector functioning (from fixing elevators in the cities to repairing bridges in the hinterland).

The State Department sponsored a symposium on Angola last February that was attended by academics, representatives from major American corporations, journalists, Congressional staff members and a cross-section of officials from the department itself. At the end of a day and a half of discussions, all agreed to the proposition that it is in the best interests of the United States to establish diplomatic relations with the People's Republic of Angola as soon as possible. Noticeably absent from the symposium was a representative from the National Security Council, which holds a contrary view that it has apparently been able to impose on the President.

If Carter continues to view Angola through Mr. Brzezinski's narrow globalist perspective, then the President may be the one to undermine his own 1976 campaign hope that the United States would "be a positive and creative force for good in Angola." If the United States misses that opportunity in Angola, its prospects may also suffer in the rest of Southern Africa.●

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## TERRORISM IN SPAIN

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

Mr. McDONALD. Mr. Speaker, the recent period of escalating violence marked by 5 days of rioting in the Basque region of northern Spain and the assassination of two Spanish military officers last Friday—July 21—has brought to attention the activities of Spanish terrorist organizations attempting to undermine that important Western nation.

The most active of the Spanish terrorist organizations operates principally in the Basque provinces and is called ETA, an abbreviation for the Basque phrase "Euzkadi ta Azkatasuna" which means "Basque Nation and Freedom." In general the U.S. press reports have confused the ETA terrorist organization with the Basque Nationalist Party from which it split in 1959 and have characterized ETA as a "nationalist" or "separatist" rather than as "terrorist."

ETA is a Marxist revolutionary organization which seeks the formation of a separate Basque Marxist state from territory in northern Spain and southern France. ETA has a number of factions that compete with each other in demonstrating their militancy and the "correctness" of their particular lines by assassinating moderate Basque leaders who have publicly expressed their opposition to the ETA's terrorism, as well as by carrying out sabotage and terrorism against Spanish business and government targets. ETA's recent record of violence includes an attack on a nuclear powerplant under construction, blowing up sections of railroad track, and shooting Basque leaders supporting the recent transfer of major powers of autonomy to the elected Basque General Council.

One faction of the ETA, the ETA(VI), is a Trotskyite Communist group officially affiliated with the Fourth International and its Spanish section, the Liga Comunista Revolucionaria (LCR). The LCR's Basque division, LKI, forms the overt political cover for the ETA(VI) terrorist group.

The Spanish Trotskyists took a leading role in provoking the street fighting in which two rioters were killed and several hundred were injured. The initial rioting stemmed from a disruption of a bullfight in Pamplona on July 8 by LKI/LCR members who climbed down into the bull ring with a banner demanding independence for the Basque provinces. Fist fights broke out as those opposing the Balkanization of Spain rushed into the melee. Thirty Spanish riot police rushed in firing rubber bullets and throwing smoke bombs in an attempt to clear the arena.

At that point, due to a number of factors including polarized political passions and the general aura of excitement around the weeklong Pamplona "running of the bulls" festival that attracts thousands of tourists, many of the spectators joined in the melee which quickly spread to the surrounding streets. Mobs moved through the streets setting cars afire, breaking the windows of shops and restaurants, and looting. Some police, failing to stop the rioting in the bull ring with rubber bullets, were seen to use their pistols. One person, LCR member German Rodriguez, 27, was shot to death. The LCR/LKI used his funeral on July 10, to instigate additional rioting. Some 3,000 LCR/LKI supporters marched from the cemetery back to the center of Pamplona, sang the song used by the Fourth International as its theme, "the Internationale." Baiting of the riot police was followed by street fighting. Agitators in other Basque cities used the Pamplona disturbances to provoke rioting.

During the disturbances, it should be noted that Basque extremists and Basque moderates held separate demonstrations, and that in at least one case in San Sebastian, fought with each other in a street riot.

All in all, the extremists, spearheaded by the LCR/LKI action in Pamplona, has served to further polarize Spanish society. The ETA is continuing with its campaign of extortion of businessmen, bombings and terrorism of Basque moderates. The Basque Nationalist Party appears to have moved toward rejecting the regional autonomy granted in Spain's new draft constitution in favor of its old "non-negotiable demand" of total independence which still further encourages the ETA terrorists; and assorted anti-Marxist vigilante groups are pursuing courses of street thuggery and intimidation which are actually helping the Marxists accomplish the destruction of the government in Spain. Unprofessional police conduct during the disorders has brought stern criticism and reprimands to members of the national police. At the present time they are not the high morale, professional, well-trained modern force needed to cope effectively with street disturbances.

The revolutionary terrorists recognize the opportunity presented to increase disorder in Spain and are trying to take advantage of it. In Madrid on July 21, three terrorists assassinated two Spanish Army officers in an action of the sort carried out previously by the West German Red Army Faction—Baader-Meinhof Gang—and the Italian Red Brigade. Brig. Gen. Juan Sanchez Ramos, 64, and his aide, Lt. Col. Juan Perez Rodriguez, 59, were shot to death by a man and a woman, apparently armed with automatic pistols or small machineguns, as they waited to be driven to the Defense Ministry. The general was not known to be involved in politics and was in charge of the armaments supplies section of the artillery.

The two terrorists escaped in a stolen taxi, apparently driven by an accomplice. A police sergeant who arrived at the assassination site as the two were escaping fired and may have wounded one of the killers.

Shortly after the assassinations, a spokesman for the Proletarian Armed Groups, a previously unknown organization, called a Spanish news magazine to take responsibility for "executing" what he termed "two fascist soldiers." Later a woman called a Spanish newspaper to claim responsibility for the killings on behalf of GRAPO, the Revolutionary Anti-Fascist Group of the First of October, a Maoist terrorist group named after the date of their first murder of police officers in 1975. GRAPO has been linked with the pro-Peking Communist party in Spain.

This country has important defense interests in Spain, which is strategically situated on both the Atlantic and Mediterranean. Since the change of government in Spain, the various Marxist-Leninist factions have been trying for major positions of influence. The strongest of these is the Spanish Communist Party which is going through an elaborate maneuver of "eurocommunization" in order to appear less subservient to Moscow, and less totalitarian that it is. The Soviet Union also has a strong interest in Spain and recently tried to gain the right to build a naval base along the Mediterranean. In Italy, where there is also a strong Communist party seeking to enter the government, there is also a strong terrorist movement working to disrupt the social order and undermine the existing government.

One of the Italian terrorist groups, the Red Brigades, has had training in Czechoslovakia and has had the use of sophisticated Czech and Soviet machineguns in some of its terrorist actions.

The ETA also has recently been linked to the Soviet bloc's network of terrorist training camps. An Associated Press report on July 6, 1978, stated that Spanish police sources had revealed that several members of the ETA had confessed they received 3 months of terrorist training in an Algerian Army camp outside Algiers. The report stated that the ETA terrorists had been trained by instructors who spoke Spanish with a Cuban accent and that other camp instructors had confirmed that those instructors were Cubans. Cuba has as many as 500 civilian and military advisers in Algeria, some of which are assigned to the terrorist training camps for Middle Eastern, African, and European terrorists.

Reports from the Western intelligence agencies state that the ETA has longstanding contacts with both wings of the Irish Republican Army (IRA), with the Palestine Liberation Organization (PLO), with African and Latin American terrorist groups, and with the allegedly "separatist" groups in Brittany and Corsica. Obviously the Communist strategists are capable of taking advantage of the small groups of "separatists" and giving them the training, contacts and explosives needed to sow choas.

The rise in terrorism in Spain at this critical time is yet one more example of the Communists' plans for the capture of the Western world.

## FEDERAL REGULATIONS INTERFERES WITH NURSING HOME CARE

### HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 25, 1978*

● Mr. HAGEDORN. Mr. Speaker, if President Carter truly wants to reduce the cost of health care in the United States, he would do well to put the brakes on the unrestrained growth of Federal regulation.

As a nursing home administrator from my district pointed out in a recent letter to me, the rampant Federal and State regulation that exists today is interfering with the quality of care the nursing home is able to provide.

During a 25 working day time period, the nursing home had representatives

from some government regulatory agency in the facility for 12 of those days. The representatives from the five regulatory agencies spent a total of about 24 working days at public expense in the nursing home. They took up between 75 and 80 hours of nursing home staff time that should have been used to care for the residents.

The nursing home in my district is just one of the countless examples throughout the country of the negative effects Federal regulations can have as they continue to grow out of control. While regulations and inspections can serve a useful purpose, their usefulness is drastically diminished by the duplicated efforts of Government regulators paid out of hard-earned tax dollars.

I offer for the CONGRESSIONAL RECORD a letter from Charles E. Carlson, administrator of St. Luke's Lutheran Home in Blue Earth, Minn. His letter serves as another notice to those of us in Congress of the need for regulatory reform.

The letter follows:

ST. LUKE'S LUTHERAN HOME,
*Blue Earth, Minn., June 15, 1978.*

Hon. THOMAS HAGEDORN,
*U.S. Representative,*
*Washington, D.C.*

DEAR MR. HAGEDORN: Nursing homes have been the target of regulatory agencies for several years now, and nursing home administrators would be the first to say that some good has come from regulations and inspections. The time has come, however, when regulation and inspection have reached the point of harassment and are doing little to upgrade the quality of care given in nursing homes; but they are increasing costs of providing quality care for our senior citizens. Let me tell you what has led me to plead for your assistance in calling a halt to these unnecessary expenditures of both public and private funds.

On May 11, 1978, two surveyors arrived to begin the annual inspection by the Minnesota Department of Health. In case you are not familiar with the system, their duty is to check for compliance with the rules and regulations of MHD relating to licensure. At the same time, they are looking for compliance with Federal regulations covering certification for skilled and intermediate care under title XIX. These two ladies spent the entire day in the facility again on May 12. May 15 they returned with a third member on their team and spent the entire day. On May 16 the three-person team conducted their exit interview, at which time they discussed with department supervisors some of their recommendations. Their final report was very fair and reasonable, also very helpful. Also on May 15, we were visited by an inspector from the Veterans Administration with whom we have a contract for nursing care for certain eligible veterans. May 17 a two-person team employed by the Quality Assurance and Review Program of the Minnesota Department of Health arrived. Their arrival, unlike the earlier team, had been announced in advance and we had been asked to fill out a three-page form on each of 67 residents under the Medicaid program. When this team arrived the morning of May 17, they set up their exit interview for 11:15 a.m. on May 23, making the arrangements with the Medical Director without consulting the administrator or anyone else. This team spent May 17, 18, 19, 22 and 23 in the facility and during that time they reviewed charts and visited with residents and staff. On the last day of their visit they were accompanied by a doctor for the exit interview. At the time they discussed their recommendations regarding a number of residents and procedures. They emphasize at all times that they are not regulatory, but can only make recommendations. Today those recommendations arrived in writing and we are expected to respond to them within 30 days.

June 1 we received a call from a representative of the United States Department of Labor inquiring about a certificate authorizing special minimum wage rate for a handicapped worker. He announced that he would be arriving that afternoon to look at the file on that worker. When he arrived, he looked at that file and from that launched into a complete review of the entire payroll, challenging our right to have department supervisors on monthly salary and exempt from overtime pay. He has interviewed employees and requested information from payroll records for the past two years and our staff has spent many hours in compiling this information. He is expected back again this week and we are waiting to see what orders will be received from the Department of Labor.

Today we expect a visit from a Utilization Review Control Unit of the Department of Public Welfare. They, like the Quality Assurance Team, will be looking at records of residents under Title XIX. Our paper work will again be scrutinized.

I think you can well appreciate that all of these inspectors are taking a great deal of our staff time which should be spent in providing care to our residents. While they are in the facility telling us that they are here to help us improve the quality of care we are providing, they are in fact interfering with that care. Out of the last 25 working days, we have had representatives from some regulatory agency in the facility 12 days. With from 1 to 3 people here on various days this amounts to about 24 working days paid for with public funds. We estimate that it has taken 75 to 80 hours of our staff time away from their regular duties. This time is paid for by our residents.

Please don't misunderstand me. I am not opposed to inspection to meet reasonable standards, but this past month has made us aware of the duplication of effort that exists. Health Department Surveyors, who have regulatory power, have told us they feel their inspection assures quality of care; yet that same department sends a second team which is not regulatory, but can only make recommendations, and they spend even more time and deal only with the residents being paid for under the Medicaid program. They talk about being guardians of the public funds that pay for these residents care, but we see huge expenditures of public funds to pay their salaries to do a job that has already been done. Utilization Review has been looked at by the Health Department Surveyors, the Quality Assurance Team and now a representative of the Department of Public Welfare and when it comes to a final decision on level of care, it is the residents's doctor who has the last word in spite of all the inspectors.

As the administrator of a non-profit home dedicated to meeting the physical, social and spiritual needs of 175 residents, I am asking you to use your influence to eliminate some of this duplication and thereby allow us to devote our time and efforts to provide the best possible care for these residents at the lowest possible cost to the taxpayers as well a those who pay their own bill.

Sincerely yours,

CHARLES E. CARLSON,
*Administrator.*●

# SENATE—*Wednesday, July 26, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

Mr. LEAHY. Senator HODGES will offer the prayer.

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PRAYER

The Reverend KANEASTER HODGES, JR., a Senator from the State of Arkansas, offered the following prayer:

Almighty and most merciful Father, we turn to You at the opening of this legislative day. Be present in this hallowed and historic Chamber, as You accept us, despite our limitations, so we may accept one another; as You forgive us, despite our mistakes, so may we forgive one another; as You offer us new hope and new opportunity each day, so may we offer renewal one to another.

These who serve in this Senate are leaders of this Nation and of all the world. May we rise to new heights. Let us match the eloquence of our words with the integrity of our actions. Stimulate our minds to draw wisdom from the past; to draw sustenance and strength from the present; give us broad vision and new dreams for the future. Make the contributions of today positive, uplifting, of service to mankind. Make us restless and unhappy with anything less than our best efforts, individually or collectively.

We pray that what is done in this Senate this day be pleasing in Thy sight. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., July 26, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

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Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time and I yield it back.

ANNOUNCEMENT PERTAINING TO EULOGIES TO THE LATE HONORABLE JAMES B. ALLEN, OF ALABAMA, HONORABLE CLIFFORD R. ALLEN, OF TENNESSEE, AND THE HONORABLE WILLIAM M. KETCHUM, OF CALIFORNIA

● Mr. PELL. Mr. President, this announcement is to advise the membership that the closing date for printing the eulogies and encomiums to the late Senator James B. Allen, of Alabama, Representative Clifford R. Allen, of Tennessee, and Representative William M. Ketchum, of California, has been set for Friday, August 4, 1978. All copy for insertion must be submitted before this cutoff date so as to be included in the compendium of eulogies.●

COMMITTEE MEETINGS

(During the consideration of S. 3075 the following requests were made:)

Mr. STEVENSON. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Commerce, Science, and Transportation Committee be authorized to meet during the session of the Senate today to hold an oversight hearing on the Motor Vehicle Information and Cost Savings Act.

I make this request on behalf of the majority and minority leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a hearing on S. 3043, legislation amending the Navajo-Hopi Relocation Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3075, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

AMENDMENT NO. 3285

The ACTING PRESIDENT pro tempore. The pending question is on the amendment of the Senator from Arizona (Mr. GOLDWATER), amendment No. 3285, on which there is a time limitation of 1 hour.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes amendment numbered 3285.

Beginning on page 30, line 14, strike out all through page 31, line 5.

On page 31, line 6, strike out "SEC. 26." and insert in lieu thereof "SEC. 25.".

Mr. GOLDWATER. Mr. President, I ask unanimous consent that Terry Emerson, my assistant, be granted the privileges of the floor during the debate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I yield myself such time as I may require.

Mr. President, the amendment strikes section 25 of the bill, which imposes new and broad export controls on items which have what is called "political-military implications."

I would like to read that section. It is short:

COMMERCIAL SALES

SEC. 25. Section 38 of the Arms Export Control Act is amended at the end thereof by adding the following:

"(f)(1) Any item the export of which would have significant political-military implications for any region of the world and which item is not otherwise designated as a defense article pursuant to subsection (a) of this section shall be approved for export by the Department of Commerce only pursuant to validated license procedures rather than pursuant to general licenses.

"(2) Any proposed exports of items described in paragraph (1) of this subsection shall be referred to the Secretary of State for review prior to approval for export by the Department of Commerce.

"(3) The provisions of this subsection shall not apply to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand.".

Thus, section 25 would create a new category of export items for which businessmen must get a validated license, instead of a general license, in order to sell abroad. The committee bill further provides that the covered item shall be referred to the Secretary of State for review prior to approval for export by the Department of Commerce.

The only exceptions which the provision gives are to countries in NATO or to Japan, Australia, or New Zealand. So what this means is that the Department of Commerce or the Secretary of State, or both, or the President, can impose embargoes on any items purchased or intended to be purchased by nearly any country in the world, including friendly countries like Mexico, some of our friends in South America, and so forth and so on.

Iran is another country which has been very friendly to us.

We will give this new power, which I do not believe is needed, which, in effect, Mr. President, is transferring the power to make foreign policy to the Department of Commerce and directly to the Department of State, circumventing the person who is responsible for foreign policy, the President of the United States.

This means that there would be a new bureaucratic structure set up whereby the State Department could exercise control over the export to most foreign countries of U.S. goods and products.

Mr. President, in my opinion, the language of section 25, which uses the term "political-military implications," would allow the Government to prevent the sales of almost any item it wants to virtually any country of the world. There is no definition of what "political-military implications" means. Nor is any guidance given in the committee report on S. 3075 to help explain what criteria shall be used in finding that any item proposed for export will have these implications.

This would give the State Department enormous control over what is sold to countries with which the United States has long and friendly ties. For example, Israel would be covered by the committee language. Iran would be. Taiwan would be. Mexico would be. And so on.

Do we really want to give the President, through the State Department and the Department of Commerce, such a broad power to control exports from this country to the rest of the world? I thought that we had just recently passed laws repealing much of the extraordinary authority which Congress had earlier vested in the President for use in time of national emergency, but which had been lingering on and on, long after the circumstances for which such powers were given had changed.

Have we already forgotten the enactment on December 7 of Public Law 95–223, which restricts the authority of the President to impose international economic controls during peacetime? Have we already forgotten that Congress enacted Public Law 94–412 in 1976, which terminated four existing states of emergency dating back to 1933 that had remained in force, although the relevant crisis had long passed?

Now, it is proposed that we start the process all over again and resume vesting a tremendous new power in the President, which he does not now have, at a time when we are not at war around the globe.

Mr. President, I am not speaking about controls on the sale of what is recognized as a defense article.

I am not speaking of powers which the President possesses to block the sale, for example, of advanced computers to the Soviet Union.

The President already has ample authority to do this. The Export Administration Act of 1969 and the Arms Export Control Act give the President extensive powers right now to restrict exports when it is in the national interest.

The Export Administration Act allows the President to prohibit exports for reasons of, first, short supply in the United States; second, foreign policy; and third, national security.

These three grounds for denying exports are so broad that the Government already has great power in the field. By adding a new power in addition to the present authority, it is my concern and the concern of many exporting industries in this country that virtually unlimited embargo power will be given to the President.

It is ironic, Mr. President, that this amendment would be offered at a time when the United States is suffering a record trade deficit. For the first half of 1978, our trade imbalance is running at a projected annual rate of approximately $40 billion in the red. Now, along comes the Senate with a proposed new restriction on exports. Even if a business is successful in obtaining a validated license as required by section 25, it will have to go through a great deal of administrative expense and a delay of weeks, if not months, to get a favorable decision. I suggest, Mr. President, that this is no way to promote trade.

Let me give a specific example—and mind you, this is only one. I refer my colleagues to the fact that the reason we are operating so much in the red in our trade balance is mostly due to our slipping position in the manufacture and sale of airframes, engines, and avionics, something we have been going through now for quite a few years. However, the General Aviation Manufacturers Association—these are people who make small private-type aircraft or corporate-type aircraft that weigh generally under 12,000 pounds—these people sell a tremendous amount of aircraft around the world. I quote directly from a statement that appeared in Aviation Week & Space Technology just last week—a statement made by Mr. Robert Lair of the Cessna Aircraft Co. He said of Carter's human rights policy regarding export sales:

> We are having increasing difficulty conducting business overseas. It is not possible to determine one day to the next what countries are on what list for export. A human rights group in the State Department, the office of Patricia Derian, Assistant Secretary for Human Rights and Humanitarian Affairs, passes on each export application with the right to veto. No approved or disapproved list of countries is published, and the whole matter rests with a select group of individuals who are unapproachable. Because we must accept orders many months in advance of requirements for an export license, we have been placed in a position of having completed aircraft orders involving hundreds of thousands of dollars, and then having the license refused or interminably delayed. It is a mess.

I cite that remark by the president of one aircraft company in this country making small aircraft that are sold literally around the world.

Many of these aircraft are sold to South Africa. I have a hunch that South Africa probably buys as many aircraft from U.S. manufacturers as any country. Yet even in South Africa, manufacturers cannot get a clear decision as to just how to interpret human rights. They have a hard time getting a decision as to whether the particular item might come under "political-military implications," because, as I said, there is no definition of this term at all.

What is a political-military implication? I happen to know in one case of one airplane, a Cessna 180, that is said to have political-military implications, because it is an airplane. Now, it is a very small airplane; it is not armed. It could be used for observation purposes, but no political-military implications as I understand the term. And certainly we have had no help from the committee or the administration in telling us what "political-military implications" really means. In the absence of that, Mr. President, I do not think it is proper or necessary for a committee of this Congress or a body of this Congress to load down the already overloaded American businessmen with further restrictions when they are having such a hard time getting along as it is.

I also point out that section 25 is unclear as to whether or not agricultural products are to be controlled as well as manufactured goods. If so, this would only increase the ominous and potentially harmful effect of the provision—again, Mr. President, without any understanding of what "political-military implications" means. An army marches on its stomach and, certainly, food would have to be considered, in my understanding of "political-military implication" as an article that would fall under this definition. I would not be surprised to see the Department of Commerce or the State Department deny food to a certain country, because they were not recognizing human rights in the way that the State Department or the Department of Commerce felt they should.

I merely cite food, because we are hearing more and more of our great responsibility in this country to feed the rest of the world. Yet, if we have the wrong person in the State Department or the wrong person in the Department of Commerce, we, in effect, can say that we deny food to large parts of this Earth on the implication that it could have political-military meaning.

The only explanation that the committee report gives as to the reason for section 25 is a brief description of two cases. First, the report mentions the proposed sale to Libya of trucks which, it was discovered, could carry tanks as well as oil equipment.

I have a hunch that took a lot of intelligence to discover. But this is no reason for expanding the existing law. What happened is that after the potential military character of the trucks was known, the administration announced its intention to deny the sale under the foreign policy authority of the Export Administration Act. In other words, the very example which is given in the committee report shows that there is sufficient authority under present law for controlling the export and that no other authority is needed.

Mr. President, the second example given in the committee report is the sale of helicopters to Uganda in 1971. I contend that the sales were allowed, not because of any lack of control or authority in the law, but because our Government did not recognize at the time just how intolerable the Amin regime would be. He took power, I believe, in early 1971, shortly before the sale was made. I have not heard anyone contend that the laws are not broad enough today to prevent that sale, knowing what we do about Amin.

Finally, Mr. President, I suggest that if the Senate feels that changes should be made in the procedure by which export items can be controlled by the President, we should address this next year. The Export Administration Act expires on September 30, 1979. This guarantees that extensive hearings will be held early in 1979 and Congress could, at that time, weigh carefully the costs and benefits of changes in export control.

By acting hastily now, we could do irreparable damage to our foreign trade at a time when the dollar is declining on world markets and our trade deficit is growing. We also could give almost unlimited power over exports to the State Department and the President in time of peace. Congress should at least have hearings on this before granting it.

Before I conclude, Mr. President, I have this question: Will embargoes really have an influence on a particular country that we do not feel is practicing human rights the way we would like to see them practice them? If we had used embargo under our great economic powers that we had at the end of World War II, I think this instrument of exerting power would have been very, very effective. But we are no longer the only dominant power in this world economically. We have countries standing in line hoping that we shall continue to be stupid enough to put on embargoes, opening up the markets for countries overseas. We no longer have a corner on aircraft manufacturing or engines or avionics or computers.

We no longer have a corner on high technology needed to develop these items where 25 or 30 years ago we did.

Today, if we say to a country that we are not going to ship anything to them that might have military implications, there are countries standing in line to sell this type of thing to the same countries that we are embargoing.

I will have to say that economically I cannot see where this embargo in Rhodesia, for example, has had any bad effect on them economically. I think now they are probably suffering because of the war. But the last time I was over there, I found the embargo did one thing, it forced the Rhodesians to diversify and, instead of being just an agricultural nation, they were becoming a nation interested in many other facets and their economy was on the go.

I visited South Africa this last Easter and I was told, as I have remarked before, by the Prime Minister that—

> You chaps think that we can't live without you. To the contrary, we can, but you can't live without us.

I think that is true.

I would just like to make a statement here and then have this article printed in the RECORD that appeared in Government Executive.

If we force our concepts of government on foreign governments, concepts that might be foreign to them at this time, concepts that we all believe in, if we try to make them change, particularly where we are trying to help the black people, Mr. President, I can say

that we will never help the blacks anyplace in Africa by chasing the whites out, because they are a long, long way from being able to conduct the business of South Africa, for example, where the whites have been for many, many years and have created good economies.

Some day, I think the blacks can take over, but, if we suddenly remove all the whites from South Africa, this does not mean we are helping the blacks. But it means we are denying them jobs and denying them education.

Mr. President, I ask unanimous consent that an article that appeared in Government Executive entitled "Why Black Development Will Be Separate or Not at All" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY BLACK DEVELOPMENT WILL BE SEPARATE OR NOT AT ALL

(By C. W. Borklund)

The majority of white South Africans are convinced, says Rand Afrikaans University Professor Gerritt Viljoen (one of their leading spokesman), that "nothing we do politically, except capitulate, apparently will satisfy world opinion or even the leaders of the Western countries. We have no hope of satisfying the world by concessions or corrections."

Even if they thought it was possible, U.S. demands, for one, have been, while noisy and insistent, so ambiguous and imprecise it's doubtful if the South African government would know where to begin. In addition to U.S. "human rights" pontifications violating, in effect, the natural order of independent nation-States, a long-standing governmental habit of listening almost entirely to African black radicals—plus an habitual suspicion of free enterprise, anyway—has resulted in a grotesque misreading of southern Africa's political and economic environment.

Thus, South Africans, trying to make some sense out of U.S., let alone United Nations. pronouncements about South African policies have concluded:

A—The U.S. political leadership believes—"wrongly," say South African whites—that a violent, revolutionary black takeover in Southern Africa is inevitable;

B—The U.S. is anxiously building what it thinks, "again, wrongly," are friendships with the radical leaders most likely to lead that bloody overthrow so that, in the end, the "new leadership" will lean to the West and not to communism.

In addition to that being a dismal philosophy for a democracy to be pursuing—supporting terrorism and rule by a minority—ancillary U.S. actions and threats would, if successful, assure the continued existence of the very things the self-appointed "spokesmen" decry, namely segregation and a low standard of living.

FREEDOM FOR ALL

South African whites, says Viljoen, "accept that one group of people cannot always remain politically subservient to another." But, he adds, equality "cannot be achieved by making the more developed White politically subservient to the less-developed Black. South African Whites are not prepared to buy freedom for Blacks at the cost of their own freedom."

"The only alternative," he sums up, "is the concept of separate freedoms which will give Blacks political freedom without asking Whites to give up their own." Further, says Professor of Economics at Stellenbosch University, S. J. Terreblanche, "Political development can't take place in a vacuum. It has to have economic development to support it" because, if for no other reason, "every new class, when it gets the vote, uses it to exact demands" of a nation's economy.

In short, whether or not separate freedoms is the "only solution," as Viljoen insists, U.S. and United Nations threats of imposing economic sanctions (and to some extent the U.S., at least, is already applying them which, at the moment means only penalizing itself) will perpetuate apartheid.

Notes Anglo American Corp. Chairman Harry Oppenheimer, "The apartheid policy really only becomes plausible to the extent that a shortage of investment capital makes it impossible to provide jobs in the advanced sector (of South Africa's culture) for the numbers who would wish to enter it."

Thus, "the main effect of a shortage of investment capital will not be to reduce wages in European-controlled industry but to perpetuate the dual nature of the economy; and, on account of the absence of sufficient job opportunities in the advanced sector, to increase the size of the primitive subsistence sector."

By contrast, he points out, historically in South Africa the country's economy has grown "through the process of drawing Black peasants from the subsistence sector into the cash economy, first to do unskilled, repetitive jobs at very low wages in an economy which was, itself, relatively small and undeveloped; and, more recently, to take a growing part in a developed, sophisticated system."

In short, the U.S. "human rights" zealots, and others, are attempting to impose a political solution on what is, today at least, essentially an economic problem. Laws preventing social interaction are being abolished rapidly.

SYSTEM EMERGING

Thus, the political program that is shaping up in South Africa is explainable, if not indeed defendable, viewed from an economic perspective. And, says Martin Spring in his South African Newsletter, "Absence of international recognition (for Transkei and Bophuthatswana) won't halt this process. In fact, it could speed it up."

Genuine, viable administrations run by moderate blacks already are emerging in southern Africa, he claims. "If Moscow continues to promote subversion among educated young Blacks and the West persists in its deepfreeze treatment of moderate Black leaders, the latter will be forced into an ever-closer relationship with African Whites to ensure their survival and the political stability of the areas they rule."

The new political system shaping up in southern Africa will become clearer over the next five years, he says. Among the key building blocks already:

"Speedy negotiations with leaders of the Coloured people and Asians," says Viljoen, "to create as soon as possible and with the greatest possible degree of consensus, the planned framework within which they will share political responsibility."

For now, in which some observers speculate is an interim step (which "Coloureds" and "Indians" alike resent because, they say, they can't afford the cost and don't think will result in any significant political authority for them, anyway), a separate parliament is being set up for each of the three ethnic groups; they will jointly elect a U.S.-style executive president and he will serve with a top policymaking council consisting of ministers from all three groups.

The introduction of a program for accelerated development of the homelands, consolidating some of them—including some urban Black conglomerates—in White areas.

An "urgent program," Viljoen calls it, to accommodate the urban Black in White South Africa including (an) effective Black local city council government; "improved facitities to turn townships into full-fledged cities;" but, he adds, "A categorical denial of (national) political rights to urban Blacks except as citizens of the homelands (since) including them politically would disturb the balance of power."

And, as the homelands become more viable economically and more of their citizens become trained and experienced in running the machinery of government, creation of some sort of confederacy of these independent nation-States "for economic, technical and eventually military cooperation among them."

That will not sit well with those in the U.S. who persist in comparing the "South Africa problem" to the Black civil rights movement in the U.S. (when, except for the so-called "Coloureds" and "Indians," there's very little similarity at all.) But, says Spring, Western refusal to recognize the homelands' independence "won't stand up to analysis." Notes he:

"Western powers deny the concept of ethnic sovereignty in South Africa while trying to force it on Israel. They charge that homelands are 'puppets' while accepting representation of the Soviet provinces of Byelo-Russia and Ukraine as separate States at the United Nations."

"They claim homelands aren't truly independent because they're not economically viable, but don't apply this principle to countries like Lesotho, Botswana and Mozambique which also are economically dependent on South Africa. They jeer at the homelands' lack of territorial cohesion—but Alaska's separation from the Lower 48 States never seems to have been a problem."

"They say that allocation of only 13 percent of South Africa to the homelands (some of the richest land, incidentally) is unfair, inventing a new principle of land/population balance that they've never applied to the rest of the world."

"They suggest that it's dishonest to deny full political rights to Black workers in the White-primacy area on grounds that they're citizens of homelands; but never level this criticism at Kuwait (where 74% of the workers are foreign and they can't acquire citizenship) or Switzerland (almost one million foreigners with only a token number allowed to naturalize.)"

EMOTIONALLY BIASED

Reporting in the Western Press, and even in some of the South African Press, is hardly notable for its balanced fairness. They banner-headline Transkei's "declaration of war" on South Africa, for instance, but don't report one week later that, in the aftermath of a disastrous flood, she asked South Africa for rescue aid.

They applaud the "tough stand against apartheid" taken by the dictator-run central Black African States; but fail to mention that South Africa ignores the insults and goes right on providing trade and technical assistance to those same States—South Africa being in several cases about the only support that's keeping those States from total economic ruin.

They eulogize a black radical named Steve Biko into international martyrdom, though he was little-known in his own country beforehand, hang on every word of an "expert" named Donald Woods, who was really a flack for Black radical movements in South Africa before the Government let him get out of the country; and denigrate the "stubborn Afrikaner" for "keeping Blacks in virtual slavery."

But they don't report that the White South African taxpayer is spending $12 per capita in aid to the homelands from an economy with a gross national products of only about $40 billion annually. (U.S. foreign aid per capita is only about $1.76.) Nor do they mention that while the United Nations was spending, between 1962 and 1972, $261 million on underdeveloped countries, South Africa spent $486 million on Blacks, alone.

Some examples of the results:

An 11-year, $550 million housing develop-

ment for "Coloured" (racially mixed) people in Mitchell's Plain outside Capetown which, when completed in 1983, will provide houses for 250,000 persons. Since 1950 to date South African authorities have built nearly 450,000 brick and prefabricated homes for Blacks throughout South Africa, an achievement unmatched anywhere else on the continent.

A tripling over the past 20 years in the number of trained teachers being educated for the Black communities and the equivalent of four new schools being opened for Blacks every working day last year—and a commitment to up that to about seven a day in the future to keep up with the population explosion.

A physician-per-population ratio in the homelands that is sixth best in Africa and a ratio for blacks outside the homelands (in places like Soweto) that is third best on the continent—and, like housing, the cost is nearly all subsidized by the White taxpayer.

A multi-million-dollar investment in agricultural development such as the Keiskamaha irrigation project in Ciskei to teach Blacks how to grow enough food not only for their own populations but for export. (South Africa's farmers produce about 25% of Africa's total food. The central Black African States, once food exporters, mostly now have to import food since they kicked the "white colonial" expertise out of the country.)

The development of a multi-million-dollar seaport complex at Richard's Bay on South Africa's eastern shore which could provide thousands of jobs, including skilled ones, to Blacks (mostly Zulus) in the area—if the Nation's economic growth could be speeded up.

Notes American newspaper publisher John McGoff, "I've been going there (to South Africa) for many years; and I've seen dramatic changes in the economic status of the Black man, changes in his opportunity for education."

Adds Allegheny Ludlum Steel Corporation President Richard Simmons, "We're particularly pleased that (South African corporations) have moved to employ Blacks in such large numbers, and for a total range of positions within plants. We think this is a constructive approach to the problems of upgrading the economic status of all of the citizens of South Africa. We think it is the only approach to the ultimate resolution of some of the problems that face South Africa today."

Sums up Father Kenneth Jadoff, Catholic Archdiocese in New York, "When we talk about moral principles, we have to be very careful to distinguish that, yes, racism is wrong; but to be quite practical, some of the things we're doing are a lot better than just removing ourselves completely from the situation.

"Strides are being taken to incorporate the Blacks much more into the political process. And I think you'll find out that it's because the multinational (corporations) are there that this is happening."

Concludes Anthony de Crespigny, professor of political science at the University of Cape Town, "Democracy is radically inhibited when inequalities, especially of wealth and status, are widespread and severe; when societies are markedly diverse with respect to language, race, religion and culture, and the differences . . . mutually reinforcing; when there are distinct permanent minorities whose legitimate interests can be safely disregarded; when there is no strong tradition of commitment to such democratic values as tolerance and respect for individual liberties; when the armed forces are wholly loyal to a government which is hostile towards a one-man, one-vote competitive system (as it is in most of Black-run Africa.)

"Those who want South Africa to become a democracy would scarcely be happy with the kind of one-party state regime which, while granting everyone the right to vote, proceeds to render this right worthless by insuring that it constitutes neither a source of influence nor a restraint on government."

More succinctly, says one South African "Indian community" leader, "They've got one-man, one-vote in Bombay—and two million people go to sleep on the sidewalks, hungry, every night." Unfortunately, maybe even tragically for the U.S. if it continues, current Federal perceptions of what's really happening in South Africa, and the policies derived in reaction seem roughly equivalent to what President Jimmy Carter might do "for the people of the United States" if he spent most of his time learning about their "needs" by talking to the Weathermen, the Black Panthers and the American Nazi Party.

Mr. GOLDWATER. Also, Mr. President, I would like to have printed at this point in the RECORD a list of about 60 or 65 large and small American concerns coming under the title of Emergency Committee for American Trade, who are supporting the amendment I have offered.

There being no objection. the list was ordered to be printed in the RECORD, as follows:

EMERGENCY COMMITTEE FOR AMERICAN TRADE

MEMBERSHIP

William M. Agee, President, Chairman and Chief Executive Officer, The Bendix Corporation.

William O. Beers, Chairman of the Board and Chief Executive Officer, Kraft Inc.

James F. Bere, Chairman and Chief Executive Officer, Borg-Warner Corporation.

James H. Binger, Chairman of the Executive Committee, Honeywell, Inc.

J. Fred Bucy, President, Texas Instruments Incorporated.

James E. Burke, Chairman of the Board and Chief Executive Officer, Johnson & Johnson.

A. W. Clausen, President, Bank of America, N.T. & S.A.

C. R. Dahl, Chairman and Chief Executive Officer, Crown Zellerbach Corporation.

Justin Dart, Chairman and Chief Executive Officer, Dart Industries Inc.

H. Robert Diercks, Vice Chairman of the Board, Cargill, Inc.

Walter A. Fallon, Chairman of the Board and Chief Executive Officer, Eastman Kodak Company.

Joseph B. Flavin, Chairman and Chief Executive Officer, The Singer Company.

William H. Flynn, Chairman, President and Chief Executive Officer, Zapata Corporation.

Richard M. Furlaud, Chairman and Chief Executive Officer, Squibb Corporation.

Richard L. Gelb, Chairman and Chief Executive Officer, Bristol-Myers Company.

Edward F. Gibbons, Chairman and Chief Executive Officer, F. W. Woolworth Company.

Pierre Gousseland, Chairman and Chief Executive Officer, AMAX Inc.

J. Peter Grace, President and Chief Executive Officer, W. R. Grace & Co.

Harry J. Gray, Chairman and President, United Technologies Corporation.

Vincent L. Gregory, Jr., Chairman and Chief Executive Officer, Rohm and Haas Company.

Edgar H. Griffiths, President and Chief Executive Officer, RCA Corporation.

Robert S. Hatfield, Chairman and Chief Executive Officer, The Continental Group, Inc.

H. J. Heinz. II, Chairman of the Board, H. J. Heinz Company.

Raymond H. Herzog, Chairman of the Board and Chief Executive Officer, 3M Company.

William A. Hewitt, Chairman and Chief Executive Officer, Deere & Company.

William R. Hewlett, Chief Executive Officer, Hewlett-Packard Company.

Melvin C. Holm, Chairman of the Board and Chief Executive Officer, Carrier Corporation.

John V. James, Chairman, President and Chief Executive Officer, Dresser Industries, Inc.

Gilbert E. Jones, IBM World-Trade Corporation.

Howard C. Kauffmann, President, Exxon Corporation.

Donald M. Kendall, Chairman of the Board and Chief Executive Officer, PepsiCo, Inc.

E. Robert Kinney, President and Chief Executive Officer, General Mills, Inc.

Edward J. Ledder, Chairman and Chief Executive Officer, Abbott Laboratories.

James A. Linen, Director, Time Incorporated.

J. Paul Lyet, Chairman and Chief Executive Officer, Sperry Rand Corporation.

William A. Marquard, President and Chief Executive Officer, American Standard, Inc.

C. Peter McColough, Chairman and Chief Executive Officer, Xerox Corporation.

Brooks McCormick, Chairman of the Board, International Harvester Company.

Harold W. McGraw, Jr., Chairman, President and Chief Executive Officer, McGraw-Hill, Inc.

James McKee, President and Chief Executive Officer, CPC International, Inc.

Ruben F. Mettler, Chairman and Chief Executive Officer, TRW, Inc.

J. I. Miller, Chairman of the Board, Cummins Engine Company, Inc.

Ross R. Millhiser, President, Philip Morris, Incorported.

Paul S. Mirabito, Chairman, President and Chief Executive Officer, Burroughs Corporation.

David W. Mitchell, President and Chief Executive Officer, Avon Products, Inc.

Colman M. Mockler, Jr., Chairman of the Board and Chief Executive Officer, The Gillette Company.

Lee L. Morgan, Chairman and Chief Executive Officer, Caterpillar Tractor Co.

T. A. Murphy, Chairman and Chief Executive Officer, General Motors Corporation.

Merlin E. Nelson, Vice Chairman, AMF Incorporation.

Edmund T. Pratt, Jr., Chairman and Chief Executive Officer, Pfizer, Inc.

Richard A. Rilev, Chairman and Chief Executive Officer. The Firestone Tire & Rubber Company.

David Rockefeller, Chairman of the Board, The Chase Manhattan Bank, N.A.

Robert M. Schaeberle, Chairman and Chief Executive Officer, Nabisco, Inc.

David C. Scott. Chairman, President and Chief Executive Officer, Allis-Chalmers Corporation.

Harold A. Shaub, President and Chief Executive Officer, Campbell Soup Company.

J. Stanford Smith, Chairman and Chief Executive Officer, International Paper Company.

Colin Stokes, Chairman and Chief Executive Officer, R. J. Reynolds Industries, Inc.

O. Pendleton Thomas, Chairman of the Board and Chief Executive Officer, The B. F. Goodrich Company.

Charles B. Thornton, Chairman of the Board, Litton Industries, Inc.

Ralph A. Weller, Chairman of the Board and Chief Executive Officer, Otis Elevator Company.

George H. Weyerhaeuser, President and Chief Executive Officer, Weyerhaeuser Company.

T. A. Wilson, Chairman and Chief Executive Officer, The Boeing Company.

Walter B. Wriston, Chairman Citicorp/Citibank, N.A.

Robert L. McNeill, Executive Vice Chairman, ECAT.

Raymond Garcia, Vice President, ECAT.

Mr. GOLDWATER. In other words, Mr. President, what we are doing if we

pass this section 25 in the bill and do not amend it out is to just say to Commerce and State, "You have one more power that, if used in the reckless way you have used it in the past, can just add to the economic problems of our own country."

I recall being in Africa the day that Mrs. Kreps of Commerce placed an embargo on all replacement parts for any equipment that had been sold to the police departments of South Africa.

Well, that caused them some consternation, but it caused more consternation to the American companies over there, who called and said, "What is going on in our country when they tell us we cannot sell things to our friends down here, when we are in business down here, paying taxes not only to them, but paying taxes back in the United States?"

These were not items that can be used in war. They were items to try and keep peace and quiet, from police action, just as we do in this country.

So the embargo list could be enlarged and enlarged and enlarged and, in my humble opinion, it is not going to do any good at all. The great harm it will do will further diminish the economic power of the United States, diminish the value of the dollar around the world, and hasten the day, Mr. President, and we are on that path and we are going much faster than any of us want to admit, that we are going to become a socialized America, an America whose economy will not be the strong, stable one it has always been.

Mr. President, for the time being, that is all I have, and I will yield the floor, but reserve the remainder of my time.

EXPORT LICENSE REQUIREMENTS

● Mr. DOLE. Mr. President, I support this amendment to revise that section of this bill which requires the U.S. Government to subject export items having "significant" political-military implications to validated license procedures and to refer them to the Secretary of State for review prior to approval by the Department of Commerce. Such a provision, in my opinion, is unneeded and unwise.

It is unneeded because the Export Administration Act already authorizes the control of U.S. exports for foreign policy reasons. Indeed, in one of the two cases cited in the committee report that gave rise to the amendment—the proposed sale of tank-carrying trucks to Libya—the administration has a procedure for controlling such exports and has announced its intention to deny the sale under the foreign policy authority of the existing Export Administration Act. In the other case, the sale of helicopters to Uganda took place in 1971, before we became aware of the intolerable behavior of the Amin regime.

The expansion of validated export license requirements is unwise for several reasons. First, no guidance is given on what is meant by the term "significant" political-military implications, who is to make that determination or how. Experience under the Export Administration Act demonstrates that the bureaucracy invariably errs on the side of expanded controls and would include as many items as possible in that category. These could include agricultural products as well as manufactured goods. Decisions as to whether they should be exported could take weeks if not months. In some cases the Government has taken more than a year to decide. American exporters—manufacturers and farmers alike—already burdened by an increasingly array of U.S. Government restrictions and indecisions on their overseas business would likely lose the sales to foreign competitors whose governments are far more supportive of their exporters than our own.

Second, do we really want to impose an additional unnecessery burden on our export trade at a time when the dollar is declining on world markets, our trade deficit is growing, and protectionism is on the rise throughout this nation?

Third, the amendment does not differentiate treatment among countries to which we sell our exports. What foreign policy purpose is served by putting export items in a category that would delay shipments to Israel, for example, or to other countries with which the United States has close and friendly relations?

RECONSIDER NEXT YEAR

In short, the proposal is ill-considered. It was tacked on the bill in committee without hearings and without sufficient time to consider its implications.

If experience suggests that changes should be made in the procedures by which export items are controlled for foreign policy reasons, then let them be proposed next year. The Export Administration Act expires on September 30, 1979. The Banking Committee will hold extensive hearings early in the year. The Congress, in considering renewal of the act, could at that time weigh carefully the costs and benefits of changes affecting foreign policy controls. By acting hastily now, we could do irreparable damage to our foreign policy as well as our foreign trade.●

Mr. ROBERT C. BYRD. Mr. President, it is the intention of the leadership to complete action on this bill today. Therefore, I would suggest that Senators who have amendments be prepared to call them up promptly.

A good many amendments have to be disposed of and I hope it will not have to be too late, but if it takes until 9 or 10 o'clock, we will be here.

So I just thought Senators should be informed by the cloakrooms accordingly.

The PRESIDING OFFICER. (Mr. ZORINSKY). Who yields time?

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

Mr. GOLDWATER. Mr. President, I ask that the time be charged against the time of the Senator from Alabama, not mine.

The PRESIDING OFFICER. The time for the quorum call will be charged to the Senator from Alabama.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Robert Paquin and Susan Branigan, of my staff, have the privilege of the floor throughout the remainder of the day, during votes and debate on the pending measure or any other measures or amendments that come up today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GOLDWATER. With the same provision, Mr. President, that the time be charged against the other side.

Mr. LEAHY. I understand that the time will be charged against the Senator from Alabama.

Mr. SPARKMAN. Mr. President, my time is being used up fast. Could we have unanimous consent that the time not be charged to either side?

The PRESIDING OFFICER. Does the Senator make that request?

Mr. SPARKMAN. I make this request.

Mr. GOLDWATER. Mr. President, I am ready to proceed. We are waiting here for somebody to oppose this or accept it. I do not want to waste my time with quorum calls, if we cannot get the opposition here to oppose this amendment.

The PRESIDING OFFICER. Does the Senator from Arizona object?

Mr. GOLDWATER. I do.

The PRESIDING OFFICER. Objection is heard.

Mr. SPARKMAN. Mr. President, I renew my request for a quorum call, and I ask that the time be charged to my time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, the request that I am going to make has been cleared with——

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. ROBERT C. BYRD. Mr. President, the Senator is going to make a unanimous-consent request. Go ahead.

Mr. GOLDWATER. Mr. President, the Senator from Virginia has asked me if it will be all right to set my amendment aside because the opposition is deliberating over my amendment and this will give them more time to deliberate, and we can take up the amendment of the Senator from Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not need anyone to yield for a unanimous-consent request.

I ask unanimous consent that the amendment of Mr. GOLDWATER be temporarily laid aside and Mr. HARRY F. BYRD, JR., may proceed to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1497

(Purpose: Strike $40 million for Southern Africa)

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, Jr.), for himself and Mr. HELMS, proposes an unprinted amendment numbered 1497.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 13, strike "$1,972,000,000" and insert in lieu thereof "$1,932,000,000."

Mr. HARRY F. BYRD, JR. Mr. President, this amendment is straightforward. If adopted it would eliminate $40 million from the bill. It would cut by $40 million the amount of funds authorized for aid to the countries surrounding Rhodesia.

This money was not requested by the administration. It was added in committee.

The administration requested roughly $70 million for the purpose of providing support to the countries which surround Rhodesia and which are taking some economic losses because of the on-going conflict in that region.

I do not believe it is appropriate to add to the funds requested.

More than that, Mr. President, it is my understanding that roughly 50 percent of the funds authorized and appropriated last year are not even committed at this time. How foolish is this Congress going to get? In the first place, it seems to me a very foolish proposal to appropriate tax funds to alleviate the damage being done by the Communist guerrillas operating outside of the borders of Rhodesia. But if the Senate insists on such use of tax funds, certainly it ought not to go beyond the amount requested by the administration.

I think this extra $40 million put in by the committee, not requested by the administration or the State Department, should be eliminated.

I would hope that the committee would accept this amendment, knock out this $40 million, which still leaves $70 million in the bill for the purposes stated.

I reserve the remainder of my time, but, before I do so, I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Senator and I thank the Chair.

I commend the Senator for his amendment and I would be honored if he would add me as a cosponsor.

Mr. HARRY F. BYRD, JR. I would be delighted.

I ask unanimous consent that the Senator from North Carolina be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, we have asked Senator CLARK be present to discuss this matter. Senator CLARK is the chairman of the African Subcommittee, and he was instrumental, as I recall, in approving this particular amendment.

I am told he is on his way.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. Yes.

Mr. HARRY F. BYRD, JR. It is correct, is it not, that approximately 50 percent of the funds authorized and appropriated last year is not yet obligated?

Mr. SPARKMAN. That is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. JAVITS. Mr. President, under the circumstances, I ask unanimous consent that we may call for a quorum and that the time be charged to both sides.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, will the Senator from New York amend his request so that the time will not be charged to either side?

Mr. JAVITS. That is fine with me. I meant my request to call for time not be charged to either side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so orderd.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may lay aside temporarily the amendment of the Senator from Virginia and return to the amendment of the Senator from Arizona and that the Senator from Illinois (Mr. STEVENSON) be recognized for the purpose of submitting either an amendment or a substitute, if that is agreeable to the Senator from Arizona because it deals with the time question.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Illinois is recognized.

UP AMENDMENT NO. 1498

(Purpose: To clarify the authority to control exports under the Export Administration Act)

Mr. STEVENSON. Mr. President, I send to the desk an amendment in the nature of a substitute for the amendment offered by the Senator from Arizona.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment in the nature of a substitute numbered unprinted amendment 1498.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out sections 22 and 25 of S. 3075 and insert at the end of the bill the following new section:

Section 4 of the Export Administration Act of 1969, as amended, is amended by adding at the end thereof the following new subsection:

(m)(1) With respect to any country engaged in activities which are detrimental to important political/military interests of the United States, any item which could have direct military application and could significantly assist such activities shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(3) The Secretary of Commerce shall determine, in consultation with the Secretary of State, the types of transactions which shall be reviewed by the Secretary of State for the purposes of this subsection. The Secretary of State shall have 30 calendar days to conduct the reviews referred to in this subsection and at the the end of such period of time shall state his recommendation or his reasons for not making a recommendation.

(4) The provisions of this subsection shall not apply to NATO, Japan, Australia and New Zealand.

Mr. STEVENSON. Mr. President, section 25 of S. 3075 would require validated licenses for any export "which would have significant political or military implications for any region of the world except the NATO countries, Japan, Australia or New Zealand." That section in 3075 would require each such validated license application received by the Department of Commerce to be referred automatically to the Department of State for review.

The provision, section 25, was prompted by concern that the Department of State might not have adequate opportunity to review commercial exports of items which could directly support the military forces of foreign countries and, thereby, bear political, as well as military, implications inconsistent with U.S. foreign policy interests.

The amendment offered by the Senator from Arizona deletes that section.

The amendment which I offer as a substitute for his amendment would restrict the applicability of section 25 to exports.

Its main purpose is to involve the State Department in the process for the control of exports which could have serious military or political implications for the United States.

This substitute would require, with respect to any country engaged in activities which are detrimental to significant political-military interests of the United States, validated licenses for exports of any item which could have direct military application and could assist such activities.

The Department of State and the Department of Commerce would consult and cooperate both in the determination of which exports should be subject to validated license control and which license applications should be reviewed by the Department of State as well as the Department of Commerce.

The substitute amendment would address only items which could have direct military application and could significantly assist activities detrimental to important U.S. political-military interests.

The purpose, Mr. President, is not to encourage more controls of exports or

more delays in the processing of export license applications. On the contrary, the purpose is to rationalize this process and involve the State Department only when there are significant political or military considerations to take into account.

Mr. President, it is not intended that this amendment would require any validated license procedures with respect to exports of agricultural commodities or most consumer goods and capital goods. It would apply only to such items as could have direct military applications, such as trucks, helicopters, jeeps, and aircraft. The purpose of the substitute is to clarify the intent of Congress in the Export Administration Act that potential exports which could be damaging to U.S. foreign policy and security interests be screened by the appropriate departments of the Federal Government before the transaction is completed.

The Department of State, together with the Departments of Commerce and Defense, should review such transactions. They presently have the authority, under the Export Administration Act, to require validated licenses for such exports and to review applications to export such items; but this amendment would make clear the intent of Congress that such authority should be exercised with diligence in screening potential exports to countries which may be engaged in activities which are detrimental to significant political or military interests of the United States.

Finally, Mr. President, the Export Administration Act is under the jurisdiction of the Committee on Banking. That act expires next year. Consequently, this whole subject will receive serious consideration——

The PRESIDING OFFICER. The Chair would interrupt the Senator from Illinois for a moment to notify the Senator from Illinois that his substitute amendment is not in order for that of the Senator from Arizona, inasmuch as the amendment hits a section in the bill not covered by the amendment of the Senator from Arizona.

Mr. STEVENSON. Mr. President, I modified the amendment to strike out the reference on the first line to section 22, and also to strike out subparagraph (2) and renumber subparagraph (3) as (2) and subparagraph (4) as (3).

I believe with that modification the amendment is in order as a substitute; am I not correct?

The effect of this modification, Mr. President, is to confine this substitute amendment to section 25, which is the section to which the amendment by the Senator from Arizona is addressed.

Mr. President, I send the modification in writing to the desk.

The PRESIDING OFFICER. The Senator is correct. He may modify his amendment, and the amendment will be so modified.

The Senator from Illinois may proceed.

Mr. STEVENSON. Mr. President, is the amendment now in order?

The PRESIDING OFFICER. The amendment of the Senator from Illinois is now in order.

The amendment, as modified, is as follows:

Strike out section 25 of S. 3075 and insert at the end of the bill the following new section:

Section 4 of the Export Administration Act of 1969, as amended, is amended by adding at the end thereof the following new subsection:

(m)(1) With respect to any country engaged in activities which are detrimental to important political/military interests of the United States, any item which could have direct military application and could significantly assist such activities shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The Secretary of Commerce shall determine, in consultation with the Secretary of State, the types of transactions which shall be reviewed by the Secretary of State to carry out the purposes of this subsection. The Secretary of State shall have 30 calendar days to conduct the reviews referred to in this subsection and at the end of such period of time shall state his recommendation or his reasons for not making a recommendation.

(3) The provisions of this subsection shall not apply with respect to countries which are members of the North Atlantic Treaty Organization, or to Japan, Australia or New Zealand.

Mr. STEVENSON. Finally, Mr. President, the Export Administration Act and the subject of exports and export controls generally is within the jurisdiction of the Committee on Banking, and the Export Administration Act expires next year. Consequently we will, in the Banking Committee, give this whole subject of export controls for political and national security as well as economic reasons through study, and we intend to begin that study with hearings this year.

So it is probable that we are addressing ourselves to proposals which, if approved, will be of short duration, and speaking only for myself—and I offer this amendment on behalf of myself and the Senator from New Jersey (Mr. CASE)—the provisions of this amendment can, I believe, be improved upon, and will be, with further attention by Congress and by the Committee on Banking.

But in the meantime, this amendment, if approved, would, without involving the State Department in the review of virtually all exports, give that Department, the appropriate Department, an opportunity to get involved in the review of exports which could have important political or national security implications for the United States.

It will probably make very little difference in existing packages; the State Department and the Department of Defense are already involved. But it would give expression to congressional intent in that respect, and, where the political implications are important, it seems appropriate to me that the political departments, that is to say the Department of State in this case, should be involved.

For those reasons, Mr. President, I am very hopeful that the distinguished managers of this bill will support the substitute amendment, and that the Senate will as well.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I might say to my friend from Illinois that if his intent is merely to get the Secretary of State to act, he could do this——

The PRESIDING OFFICER. If the Senator from Arizona wants to speak in opposition to the amendment of the Senator from Illinois, he has 15 minutes in which to speak.

Mr. GOLDWATER. I call to the attention of the Senator's staff that he could get the Secretary of State into this merely by amending a provision on military articles which is in the existing law. It also includes the 30-day provision mentioned by the Senator from New York.

My objection to this whole approach, and the reason I want to strike section 25, is that I do not think it is needed, but if the Senator wants to expand the review power to include the Secretary of State, because the language I am referring to already includes review by the Secretary of Defense and other provisions of the law includes the Secretary of Commerce, we could do it in a much more simple way by having either the committee or the Senator from Illinois offer an amendment to include the Secretary of State in one of these existing provisions.

I will just say I appreciate the efforts of the Senator. I believe this compromise amendment is a substantial improvement over the present provision. However, it still has bad weaknesses. No matter how narrow the amendment is drafted, it clearly adds a new and expanded review authority to the very broad powers which the President already has to withhold exports. I do not know why we have to give the President any new power at this time.

If we happen to be in a war, that would be an entirely different thing. He has the authority, for example, to stop selling computers to Russia. He has the authority to actually stop selling armament to any country he wants to. Under the very vague definition of political-military implications, I think we could very easily cover food by that because it is an old axiom of war that an army marches on its belly. The very first thing that any military effort being planned has to take into cognizance is the availability of food.

We thought the Senator from Illinois was going to exclude food, but it is not exempted on the face of his amendment. I merely point that out as one of the untidy parts of this whole approach.

Most importantly, the Senator's amendment would subject numerous export products to a validated license procedure which now can be exported with what is called a general license.

I might say, Mr. President, that the complaint I am receiving from businessmen in this country, large and small, is the juggling act that goes on about these

licenses. I hate to keep referring to aircraft, but I am more acquainted with that field. Where the license exists one day it does not exist the next day, and they even go so far as to penalize the pilot who is ferrying the aircraft for violations which might have been brought about through decisions of the company.

Also, I am still troubled by great uncertainty as to what the term "political-military interest" means. I think I know but it is not spelled out. It is so broad that, again, food certainly can get into this. I cannot think of one solid thing that Commerce, the Secretary of State, or the Secretary of Defense could not say has a political-military interest. As I mentioned earlier, light aircraft, which are bought in great numbers by countries in South Africa, can be indicated as having military interests only because they fly. This is under "national security" provisions of existing law. I imagine they could be used for observation and you might call it a military aircraft, but that is stretching it all over hell's half acre.

The same law that I am talking about authorizes the President to deny exports of any items "to further significantly the foreign policy of the United States."

We do not argue with that.

This is certainly broad enough to cover the political aspects of the Senator's amendment.

Thus, both political and military interests of the United States can be taken into account under present law.

I repeat, I do not see any need to go through the drill of having a whole new section of this act made into law when we already have a strong law. I will agree that it expires on September 30 of next year, but I think next year is the time to talk about these things. I think the whole world will be a different picture next pear. We may want to change some of the language of existing law when it comes up for renewal, if it does.

I get back to one complaint of mine. It is that we only except coverage of countries in NATO, Japan, Australia, or New Zealand. We export a lot of things to Mexico, and they are friendly to us. We export a lot of things to Latin countries which are friendly to us—not all of them, but some of them. Panama certainly must be called a friendly country. If they are not, I do not know what we have to do to make friends. But the amendment does not exclude Panama. We cannot ship certain items to them without the consent of the Secretary of Commerce or the Secretary of State, under the substitute.

So, Mr. President, I get back to my basic argument that we do not need section 25. If the Banking Committee or the Foreign Relations Committee wants to include the Secretary of State, all they have to do is to modify the existing language which will accomplish, I believe, everything that the Senator wants to accomplish.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I am hopeful that the next Congress, after hearings by the appropriate committee, will take action to rationalize the strict line of export control procedures giving the Departments of Defense and State an appropriate role, along with the Department of Commerce, where there are political and military implications. I agree with most if not all of the concerns which have been expressed about the present procedure by the distinguished Senator, my good friend from Arizona.

In the first place, the existing law to which he referred cannot be amended to include the Secretary of State to accomplish the purposes sought to be accomplished by this substitute amendment. I do not believe it can be because the provision to which he is referring applies, I believe, to only those countries to which all exports of strategic commodities are controlled. That is to say, only Communist countries. And then only if the exports would prove detrimental to the national security of the United States.

Here the reach is global. It recognizes the political and military implications can be significant in non-Communist countries, and that they may go beyond the traditional scope of national security considerations.

As for food, we certainly do not intend this to apply to food, but, as the Senator pointed out, an army does march on its belly. If an army is marching against the United States or against allies of the United States, if Iraq should attack Israel, the Congress should not be in the position of having deprived the President of the opportunity to control exports to that hostile country or to imply that such is the intent of the Congress. But such circumstances in which the authority might be used with respect to agricultural commodities are very difficult for this Senator, at least, to conceive. I do think it would be wrong to imply that in no circumstances could the United States resort to what could be a strong political weapon.

Mr. President, I have no more to add on this subject. I do hope that the Senate will approve this substitute, bearing in mind that the law is not in a satisfactory condition and recognizing the concerns which the distinguished Senator from Arizona has expressed. There will be a review of the law and there will be an opportunity to make further changes in the next Congress.

Mr. SCHMITT. Will the Senator yield for a question?

The PRESIDING OFFICER. The time of the Senator from Illinois has expired on this amendment.

Mr. SCHMITT. Will the Senator from Arizona yield to me for 5 minutes?

Mr. GOLDWATER. Yes; I yield to the Senator from New Mexico.

Mr. SCHMITT. I have anticipated with the distinguished Senator from Illinois a number of hearings relating to national trade policy or, in some cases, the lack of a national trade policy. This issue is further related to that.

As the Senator from Arizona has indicated, the business community and the manufacturing community have, again and again, felt that legitimate sales of nonmilitary significance have been lost because of the process by which evaluation of the sale and, in some cases, licensing of the sale takes place. Would the Senator from Illinois indicate who would make the decision on whether the Secretary of State would get involved in the particular sale? Would that be the decision of the Secretary of State, or would the Secretary of Commerce make that decision under this amendment?

Mr. STEVENSON. Mr. President, under this amendment, the Secretary of Commerce and the Secretary of State would cooperatively determine which countries are engaged in activities which are detrimental to important political-military interests and, also, the categories of export commodity which could have direct military application. Having made those determinations, the Department of Commerce would implement them.

Mr. SCHMITT. So between the two Secretaries, some guidelines would be established that would trigger the Secretary of State's review; is that correct?

Mr. STEVENSON. Yes; the Secretary of State, under this amendment, as modified as the result of a suggestion from the Senator from Illinois (Mr. PERCY), would have 30 calendar days to conduct his review. At the end of that period of time, he would have to make his recommendation or, if no recommendation, explain why. That provision is intended to expedite this process. I think that by clarifying the role of the Secretary, this amendment could expedite the process.

As the distinguished Senator from New Mexico knows, the Secretary of State is already involved and, as a matter of fact, there are growing indications that other agencies, including the National Security Council, are getting involved, sometimes bypassing the Department of Defense and the Department of State. So this amendment could help to focus the responsibility for assessment of political and military implications and not only make that assessment more wise, but also accelerate it.

Mr. SCHMITT. Would the Senator from Illinois expect that, at the conclusion of the 30-day period, if no action has been taken and no explanation has been forthcoming, the sale could proceed?

Mr. STEVENSON. No; recognizing that it might be in the interest of the United States to leave the decision in abeyance pending actions by the recipient country, the Secretary could decide not to approve or disapprove. But if he makes such a decision, he would have to give the reasons. The reason for giving him that option is a fairly obvious one, I believe, that foreign countries only have to wait a fixed period of time. That is all they have to do, wait a fixed period of time and then engage in whatever action is offensive to the United States. For whatever leverage there is in export controls, it seems to me it behooves us to preserve this option, this carrot, by not insisting on a premature decision by the Secretary of State, but to bring pressure to bear on the Secretary of State, his reasons for not acting would have to be explained.

Mr. SCHMITT. Finally, it is the Senator's intent that the guidelines that would be developed for the two Secretaries would be applied on a case-by-case basis and he would review the cir-

cumstances. I believe he indicated that, in some circumstances, food might come under the definition of political or military implications, whereas in some cases it might not. In some cases, an airplane might, in others not. Is that correct?

Mr. STEVENSON. Well, by "case by case," we assume the Departments will establish categories of countries; then, for those countries, categories of commodities; and that in that two-step procedure, very few countries would be taken up and very few commodities. Of course, if they were, the export could still go ahead. It would just require a validated license.

Mr. SCHMITT. I thank the Senator.

Mr. GOLDWATER. Mr. President, I believe I may offer an amendment to the substitute amendment offered by the Senator from Illinois.

The PRESIDING OFFICER. The Chair at this time would like to clarify the parliamentary situation. The amendment offered by the Senator from Illinois is a substitute for the section of the bill proposed to be stricken by the amendment of the Senator from Arizona. As such, it is a first-degree amendment and may be amended.

The Chair would also like to point out that, under the circumstances, the Senator from Illinois was to have 1 hour of debate. At this point, 30 minutes of that 1 hour remain for that debate. The substitute may be offered, as the Senator from Arizona had the parliamentary inquiry, at the expiration of the additional 30 minutes, or at this point, by unanimous consent.

Mr. GOLDWATER. In the absence of unanimous consent, I could amend my own amendment that is intended to be amended.

The PRESIDING OFFICER. The Senator may not amend his own amendment because a motion to strike is not amendable.

Mr. GOLDWATER. I see. I have to get unanimous consent to attach an amendment to the substitute amendment?

The PRESIDING OFFICER. At this point, he would have to have unanimous consent, as time remains, 30 minutes, on the amendment.

Mr. GOLDWATER. I see.

I have time left, do I not?

The PRESIDING OFFICER. The Senator from Arizona proposes to strike a section of the bill.

Mr. GOLDWATER. Or add a section—no, my amendment is to strike the section, yes.

The PRESIDING OFFICER. Under the precedents of the Senate when an amendment is offered to substitute for a section that is proposed to be stricken, if the substitute is agreed to, the amendment to strike is not acted on.

Mr. GOLDWATER. Mr. President, I am going to offer the amendment and I will ask the Chair to rule.

At the end of the substitute amendment add: The provisions of this subsection shall not apply with respect to any agricultural commodity, including fats and oils or animal hides or skins.

The PRESIDING OFFICER. If the Senator wishes to propose that as an amendment to the amendment of the Senator from Illinois, such an amendment will be in order at the expiration of the additional time of 30 minutes, or by unanimous consent at this point in the debate.

Mr. GOLDWATER. What is the time situation now? I thought we were out of time.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The amendment of the Senator from Illinois is a first-degree amendment and is limited to 1 hour of debate rather than the 30 minutes which the Chair stated originally.

Mr. STEVENSON addressed the Chair.

Mr. GOLDWATER. I get half of that; is that right?

The PRESIDING OFFICER. No; the manager of the bill gets half, unless he favors the amendment.

Mr. GOLDWATER. I ask unanimous consent that the Senator from North Carolina (Mr. HELMS) may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent it be in order for the Senator from Arizona to offer his amendment at this time, if there is no objection by the distinguished managers of the bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none; it is so ordered.

UP AMENDMENT NO. 1499

(Purpose: To exclude certain agricultural commodities from export countries.)

Mr. GOLDWATER. Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes UP amendment number 1499 to the Stevenson UP amendment number 1498, as modified:

At the end of the substitute amendment add:

"(4) The provisions of this subsection shall not apply with respect to any agricultural commodity, including fats and oils or animal hides or skins."

Mr. GOLDWATER. I might say to my friend from Illinois that if he will accept this amendment, I would be very favorably inclined toward accepting his amendment, as modified, to my amendment.

Mr. STEVENSON. Mr. President, I sense a sound compromise in the making, although I have not had an opportunity to discuss it with the distinguished managers of the bill.

There is one point I think should be clarified about this amendment to the substitute amendment.

As I understand it, it applies only to the export control provisions in the substitute amendment. That is to say, it would not affect other export control authorities in the law, as in the case already postulated of hostilities between a friendly country and an unfriendly country; the United States would not, under some other provision of the law, be prevented from controlling exports of foodstuffs to an enemy.

If the amendment offered by the Senator is, as I believe he indicated, confined to the export control authorities that would be established by this amendment, I think it would be a sound amendment and I would have no objection to it.

But I think it should be made clear, indeed, it is the intent, that it does not go beyond the substitute amendment to imply or deprive the President of, for example, his foreign policy and short supply export control authorities that are elsewhere in the law.

Mr. GOLDWATER. I might call my colleague's attention to his amendment. It covers:

Any item which could have direct military application and could significantly assist such activities shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

I do not think any of us can argue against the idea that food in time of war—I am not speaking of in time of peace; that in time of war—becomes one of our great weapons because we are the world's greatest producer.

I think, for example, Russia would starve without our wheat, and I cannot think of a faster way to stop military exploits by the Soviets against us than to deny her our wheat.

But I think it could be done under the powers of the President now, with special safeguards for review by the Secretary of Agriculture. I think under the powers of the President we do not even need this additional section. That is what I am debating about.

But as long as the new section is to be in there, I would hope the Senator would accept the language I suggest.

So I would agree with him that my amendment applies only to the language in his amendment.

Mr. STEVENSON. Mr. President, that would be the understanding, that this amendment to my amendment does not go beyond the amendment to affect the other export control authorities of the President in the law.

I have no objection to the amendment. I think it is a sound amendment.

Mr. GOLDWATER. I do not want to prolong things; we will have a long enough session without this. With that understanding, I will accept the amended substitute and ask that we vote on it.

Mr. STEVENSON. Mr. President, I am prepared to yield back my time.

Mr. GOLDWATER. I yield back the remainder of my time.

Mr. CASE. The Senator does not want a record vote?

Mr. GOLDWATER. Not now.

The PRESIDING OFFICER. The Senators having yielded back their time on the Goldwater amendment to the Stevenson amendment, the question is on agreeing to the amendment to the amendment.

So UP amendment No. 1499 to the amendment of the Senator from Illinois was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Illinois, as amended.

Do Senators yield back their time?

Mr. GOLDWATER. I yield back my time.

Mr. STEVENSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois, as amended.

The amendment, as amended, was agreed to.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The motion of the Senator from Illinois, to strike and insert a section of the bill that the amendment of the Senator from Arizona attempted to strike, having been adopted, the question will now recur on the amendment of the Senator from Arizona to strike that section.

The question now recurs on the amendment of the Senator from Virginia.

The Senator from Virginia is recognized.

Mr. STEVENS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HARRY F. BYRD, JR. I yield.

Mr. STEVENS. Mr. President, I ask unanimous consent that Ann Curry, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1497

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 5 minutes for the purpose of addressing questions to the manager of the bill. Will the distinguished Senator from Alabama take the floor so that I may ask several questions?

Mr. SPARKMAN. Yes. I am making an effort to get Senator CLARK here.

Mr. HARRY F. BYRD, JR. I just want to ask a few questions.

Mr. SPARKMAN. Very well.

Mr. HARRY F. BYRD, JR. How many countries are involved in this fund which the administration has recommended of $69 million, which the committee increased by $40 million? I ask the manager of the bill how many countries are involved in the use of that fund?

Mr. SPARKMAN. I have just been checking the record, and it appears that there are five countries for which the administration requested the aid. Those five countries are included in the committee's bill.

In addition, there are emergency increases for regional programs. I intend to put this in the RECORD.

Mr. HARRY F. BYRD, JR. Will the Senator put in the RECORD the names of the five countries involved?

Mr. SPARKMAN. Yes; we can do that.

Mr. HARRY F. BYRD, JR. Perhaps he will read the five names.

Mr. SPARKMAN. Botswana, Lesotho, Mozambique, Swaziland, Zambia.

Mr. HARRY F. BYRD, JR. Under the current law, is it not prohibited to distribute funds to Mozambique?

Mr. SPARKMAN. I believe there was an amendment to that effect accepted on the floor last year. But the President has the power to waive that.

Mr. HARRY F. BYRD, JR. I understand. But including Mozambique in this legislation, as the committee proposes to do is a departure from current law.

I read from the current law which was approved last year:

No assistance may be furnished under this section to Mozambique, Angola, Tanzania or Zambia, except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to that country would further the foreign policy interests of the United States.

Mr. SPARKMAN. The administration has indicated half a million for Mozambique, and that message, I understand, is coming to Congress; and he will exercise his right to waive the provision.

Mr. HARRY F. BYRD, JR. He has the right; but if the proposal by the committee is accepted, then it is Congress that is waiving it. If the President wants to waive it, it is one thing; but it is another thing if Congress waives it.

There is a definite prohibition in today's law which prevents the use of funds for Mozambique as well as three other countries, unless the President waives it.

Mr. SPARKMAN. The President has indicated his intention to waive it, and we are expecting such a waiver notice from the President.

Mr. HARRY F. BYRD, JR. Would the distinguished manager of the bill not be inclined to go along with the same proposal that is in the law now and incorporate that?

Mr. SPARKMAN. Unless and until the President waives it.

Mr. HARRY F. BYRD, JR. Yes; that is in the law now.

Mr. SPARKMAN. The indication is that he is going to waive it and is going to send us a notice to that effect.

Mr. HARRY F. BYRD, JR. But would the distinguished Senator from Alabama be willing to incorporate in the new bill the precise language of the current bill?

The PRESIDING OFFICER (Mr. BURDICK). The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. I yield myself 5 additional minutes.

Mr. SPARKMAN. There would be no objection if the Senator wishes to offer that. There would be no objection on the part of the committee.

Mr. HARRY F. BYRD, JR. I appreciate that.

Mr. SPARKMAN. As I said, we assume that that is what is going to happen.

Mr. HARRY F. BYRD, JR. I appreciate that.

May I, then, do it this way: I ask unanimous consent to set aside the pending amendment temporarily, so that I may offer the precise language that is in the current bill as an amendment to this bill.

Mr. SPARKMAN. My understanding is that the Senator has this language already in the current law.

Mr. HARRY F. BYRD, JR. Yes.

Mr. SPARKMAN. And it seems to me if he would simply offer that as an amendment to the pending proposal it would clear the decks.

Mr. CASE. Mr. President, reserving the right to object, does the Senator intend to offer this now?

Mr. HARRY F. BYRD, JR. I thought it might clear the atmosphere a little bit to offer it now. It is the same language as current law.

Mr. SPARKMAN. We have the current law. In fact I have it here.

Mr. CASE. We are still on reservation of an objection.

Mr. SPARKMAN. We are perfectly willing to accept the amendment with that understanding.

Mr. HARRY F. BYRD, JR. Then I ask unanimous consent——

Mr. CASE. Mr. President, reserving the right to object, can we deal with this whole thing right now?

Mr. SPARKMAN. I see no reason why we cannot.

As I understand the Senator's amendment it does nothing to interfere with the right the President has now under the current law.

Mr. HARRY F. BYRD, JR. That is correct. That is precisely the language in the current law.

Mr. President, I ask unanimous consent to set aside temporarily the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPARKMAN. Mr. President, reserving the right to object.

Mr. HARRY F. BYRD, JR. Then I plan to offer this amendment that the Senator has agreed to.

Mr. SPARKMAN. That is all right.

Mr. HARRY F. BYRD, JR. I must set aside the other one first.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1500

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. Without objection, this amendment will be in order notwithstanding the order recognizing the Senator from Tennessee.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes unprinted amendment numbered 1500:

On page 7, after line 18, insert the following:

"(d) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines (and so reports to the Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States."

Mr. HARRY F. BYRD, JR. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HARRY F. BYRD, JR. I yield back my time.

Mr. SPARKMAN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I

move to reconsider the vote by which the amendment was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1497

Mr. HARRY F. BYRD, JR. Mr. President, as I understand it the pending business is the original Byrd amendment?

The PRESIDING OFFICER. The question recurs on the original amendment of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I have a couple of additional questions I wish to ask the manager of the bill at this time.

How are these funds distributed and to whom are they distributed? I know the countries. But what are the mechanics of distributing the funds?

Mr. SPARKMAN. During the past 2 years the funds were used with great effectiveness to support fundamental economic development in southern Africa. That is one.

Mr. HARRY F. BYRD, JR. My question is, How are the funds distributed?

Mr. SPARKMAN. I will come to that question.

Mr. HARRY F. BYRD, JR. All right.

Mr. SPARKMAN. We do have a detailed list as to the various projects that we will put in the RECORD.

Mr. HARRY F. BYRD, JR. But what the Senator from Virginia is anxious to know is this: The funds are turned over to one of these five governments; is that it?

Mr. SPARKMAN. If we can wait until we get that—I understood we are getting a copy of that.

Mr. HARRY F. BYRD, JR. Then another question is, How is the use of these funds monitored? Who monitors the use of the funds?

Mr. SPARKMAN. I think that would be included in the statement. It is the AID program, the Agency for International Development.

Mr. HARRY F. BYRD, JR. How much has been distributed to each of the five countries during this past year?

Mr. SPARKMAN. I am told that the distribution has been very low due to the fact that it is the first year and just getting started.

Mr. HARRY F. BYRD, JR. If it were possible I think it is important to know what countries have benefited from these tax funds, to what extent, what monitoring has been done, and to whom has it been turned over in these countries. I am not convinced that all this foreign aid that we spend gets down to helping the people whom we claim we are trying to help. I do not know how much has been siphoned off.

Mr. SPARKMAN. I am told it is being used—the principal objectives of the program have been transportation, rural roads, refugees—I would say those are the principal ones. But the paper that I do propose to furnish will list all of them, the amounts, and show how they do comply with the existing law.

Mr. HARRY F. BYRD, JR. I thank the Senator from Alabama.

Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. HARRY F. BYRD, JR. I reserve the remainder of that time, and with the approval of the Senator from Alabama, may I ask unanimous consent for a short quorum call with the time divided equally between the Senator from Alabama and the Senator from Virginia?

Mr. SPARKMAN. I wonder if we might withhold that since I have a list, the list that I mentioned to the Senator a while ago which we would furnish you, and we will have it printed in the RECORD.

We do have that list covering Botswana, Zambia, Lesotho, Malawi, Namibia, Swaziland.

Mr. HARRY F. BYRD, JR. How much money is involved in each of these countries?

Mr. SPARKMAN. The one I just mentioned is $5 million.

Mr. HARRY F. BYRD, JR. Which one?

Mr. SPARKMAN. Swaziland. Refugee program $5 million; animal disease prevention $4 million.

Mr. HARRY F. BYRD, JR. Is all of this in Swaziland?

Mr. SPARKMAN. That is regional, I moved to regional, animal disease prevention, and regional transportation.

In Botswana there is a transport sector grant.

Mr. HARRY F. BYRD, JR. How much was involved in that?

Mr. SPARKMAN. Nineteen million dollars.

Mr. HARRY F. BYRD, JR. Well, $19 million this past year?

Mr. SPARKMAN. These are proposed programs for next year.

Mr. HARRY F. BYRD, JR. I am speaking of the current year, the year we are in right now.

Mr. SPARKMAN. That is for the proposed programs. We do have the others though, and we can furnish it.

Mr. HARRY F. BYRD, JR. As I understan. the situation—and we are on the Senator from Alabama's time. as I understand it—of the funds which were appropriated last year for this current year, only half of those funds have been obligated. What I am trying to find out is which countries are involved in those funds and to what extent.

Mr. SPARKMAN. The Senator is speaking of the current year?

Mr. HARRY F. BYRD, JR. Yes.

Mr. SPARKMAN. The amount for 1978 is estimated at $115 million, and the country breakdown for Botswana is about $16 million; Lesotho is $4.9 million. Those are AID funds.

Mr. HARRY F. BYRD, JR. I am looking at the law here. The law says:

> Of the funds authorized to be appropriated by section 532 for the fiscal year 1978, $80 million shall be available.

It did not authorize $115 million. Also Botswana was limited to $15 million and not the figure the Senator from Alabama mentioned.

Mr. SPARKMAN. The limitation that the Senator speaks of was the regional limitation. There are additional items beyond the regional; in other words, certain specific programs, all of which are AID programs for individual countries.

Mr. HARRY F. BYRD, JR. Let me see now, if we could take it step by step that would be helpful. As I understand it, reading from the law here, the total amount authorized to be appropriated was $80 million. Now, of that $80 million how much has been obligated?

Mr. SPARKMAN. The total authorized was $115 million. There are different programs. There are the regional funds and then there are funds for specific countries or specific programs.

Mr. HARRY F. BYRD, JR. We are talking about the southern African special requirement funds, are we not?

Mr. SPARKMAN. As of May, let me say to the Senator, $42 million had been obligated.

Mr. HARRY F. BYRD, JR. Which is roughly half of the $80 million authorized.

Mr. SPARKMAN. Correct.

Mr. HARRY F. BYRD, JR. The Senator mentioned a larger figure than $80 million. What was that figure?

Mr. SPARKMAN. That would include regional and certain specific programs. That was a special regional fund of $80 million, and then $35 million for specific country programs.

Mr. HARRY F. BYRD, JR. I am looking at the law here, and the law says there shall be a maximum of $80 million, of which $45 million will be for regional programs.

Mr. SPARKMAN. Some of these funds are allotted to different programs in different countries and may involve two, three, or four different countries in the region.

Mr. HARRY F. BYRD, JR. The way I read the law, and if the Senator from Alabama reads it differently I wish he would let me know, I have the law in front of me:

> Southern African special requirements funds. Of the funds authorized to be appropriated by section 532 for the fiscal year 1978, $80 million shall be available only for the countries of southern Africa.

Then it has a breakdown on that. Section 2 says:

> Of the funds made available under this section, not more than the following amounts may be made available for the following: Botswana $15 million; Lesotho $15 million; Swaziland $5 million; regional programs for education, training, and refugee assistance $45 million.

Are there other sections of the bill which incorporate additional funds for these programs?

Mr. SPARKMAN. These funds that are listed as being regional may actually apply to certain programs which affect more than one country, such as transportation or such as education, and refugees that I mentioned a while ago.

Mr. HARRY F. BYRD, JR. Well, Mr. President, I would like to get back to this matter at a later time. It can be done either by my presenting another amendment and discussing it, or by yielding on the bill. But at the moment, I am glad to yield back my time on this amendment if the Senator from Alabama would care to do so, and we could have a vote on it and get on with the bill.

Mr. SPARKMAN. Mr. President, let me say just one thing. I believe that if the Senator would go into this more carefully—and we will supply him with a full

statement as to the different countries and different amounts—he will find that what might seem to be a certain amount of confusion here growing out of the fact that some programs may apply to two or three different countries and two or three different categories would be cleared up.

I think we can supply you with the actual information that will show clearly what goes to what country, and projects in each specific country.

Mr. HARRY F. BYRD, JR. I thank the Senator from Alabama.

Mr. President, I ask for the yeas and nays on my amendment, and I am willing to yield back the remainder of my time if the Senator from Alabama is prepared to do likewise.

The PRESIDING OFFICER (Mr. CLARK). Is there a sufficient second? There is not a sufficient second.

Mr. HARRY F. BYRD, JR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I ask for the yeas and nays on the amendment of the Senator from Virginia.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALMADGE). Without objection, it is so ordered.

Does the Senator from Alabama yield back the remainder of his time?

Mr. SPARKMAN. I do.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Virginia.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CLARK. I yield to the Senator from New Jersey.

UP AMENDMENT NO. 1501

Mr. CASE. Mr. President, I offer an amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE) offers an unprinted amendment numbered 1501 to the unprinted amendment (No. 1497) of the Senator from Virginia (Mr. HARRY F. BYRD, Jr.)

The PRESIDING OFFICER. The amendment proposed by the Senator from New Jersey is not properly drafted as an amendment to the pending amendment.

Mr. CLARK. Mr. President, I ask unanimous consent that the amendment be considered in order as drafted.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. It is to a different part of the bill.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I would like to know what the unanimous-consent proposal is.

Mr. CASE. I should think you would. I will be glad to tell you.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HARRY F. BYRD, JR. Temporarily, I object.

Mr. CASE. You reserve the right to object?

Mr. HARRY F. BYRD, JR. I object. You can make your request later on.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CASE. Mr. President, I just want to say it is perfectly proper that we know what this proposed amendment would be, and I would like to have a chance to read it, or have the clerk read it.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The clerk will state the amendment, and then the Senator will be recognized on his parliamentary inquiry.

The assistant legislative clerk read as follows:

On page 7, after line 18, insert the following:

"(d) Of the funds authorized to be appropriated for assistance to the countries of southern Africa $10 million shall be earmarked for humanitarian assistance to the people of Rhodesia and $10 million shall be earmarked for the establishment of or support for educational and vocational training programs for Rhodesia."

Mr. CASE. Mr. President, I intend to offer that in a proper way to the proper time, and if technical changes have to be made, they will be made. I do not press it at this time, but I want the Senate to know before it votes on this amendment of the Senator from Virginia; Senator CLARK and I intend to offer it.

Mr. JAVITS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Virginia wanted to make a parliamentary inquiry. The Senator from Virginia will state it.

Mr. HARRY F. BYRD, JR. Mr. President, I think the parliamentary inquiry has already been answered. The Senator from New Jersey did not press the amendment.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. The yeas and nays have been ordered.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK. At what point would a quorum call be in order?

The PRESIDING OFFICER. A quorum call is in order at this point.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CASE. I yield time on the bill for the quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. BURDICK). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on the amendment by Mr. PERCY be reduced from 4 hours to 2 hours. I have discussed this with him earlier and he said that it was agreeable to him.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on the amendment which will be offered by the minority leader on which there is a 1½ hour time limitation, I ask unanimous consent that that time be reduced to 1 hour, and on another amendment by Mr. BAKER, on which there was to be a 1-hour time limitation, I ask that the time be reduced to 30 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1502

Mr. CASE. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE) for himself and Mr. CLARK, proposes an unprinted amendment numbered 1502:

In lieu of the language proposed to be inserted by the Senator from Virginia, insert the following:

"(b)(1)(a) $1,972,000,000. Of the funds authorized to be appropriated for assistance to the countries of southern Africa $10 million shall be earmarked for humanitarian assistance to the people of Rhodesia and $10 million shall be earmarked for the establishment of or support for educational and vocational training programs for Rhodesia."

Mr. CASE. Mr. President, I ask that the RECORD show that the amendment is offered jointly by Senator CLARK and myself. I yield such time as he may desire to Senator CLARK on the amendment.

Mr. CLARK. Mr. President, I want to speak briefly to the amendment that is

being amended, namely, the Byrd amendment cutting $40 million from southern Africa. Then I shall speak to the pending amendment in terms of trying to clarify exactly what I understand the amendment would do.

First, I wish to speak to the whole issue. I want, above all, to express great concern about the proposal to reduce the authorization for security supporting assistance for southern Africa.

I can think of few actions which the Senate might take which could do more to undermine our long-term commitment to peaceful, constructive change in that part of the world.

During the past 2 years, SSA has been used with great effectiveness to support fundamental economic development in southern Africa.

In Botswana, which, I might say, is a full-blown democracy, a large but sparsely populated and vulnerable country surrounded by South Africa, Namibia, and Rhodesia—the Government, despite turmoil and instability on its borders has maintained its deep commitment to human rights, constitutional democratic government, and nonracialism. We have, through SSA, sought to buttress Botswana's independence, build up its transportation and communications infrastructure, and help with the critical demands of development.

Lesotho, one of the poorest nations on Earth, is entirely surrounded by South Africa. It seeks to reduce its dependence on its giant neighbor and address the urgent needs of its people. Through SSA, we have helped Lesotho to do so, notably by assisting with a major road project which, when completed, will link remote parts of the country together as never before.

In Swaziland, which borders South Africa and Mozambique, Security Supporting Assistance has helped the Government promote economic development in the poor rural areas and maintain independence from two large and mutually suspicious neighbors.

Zambia is a nation whose cooperation has already proven of great importance in working toward a resolution of the Namibian impasse and whose assistance in peaceful resolution of the Rhodesian conflict will be even more essential. Here, through SSA, we seek to make a major contribution to the nation's economic stability. Zambia now faces a economic crisis due largely to the depressed price of copper in world markets. While we have at times had differences with Zambia, we are convinced that SSA—which will be used, through budget support, to address critical economic problems—are essential U.S. contribution to political stability in Zambia, and relate directly to that nation's ability and willingness to play a constructive role in the region.

The conflicts of southern Africa have led, finally, to refugee problems of enormous dimensions. The countries of the region have shown a determination to deal constructively with these tremendous human problems but, without our assistance, they would have been and will be much less able to do so. Here again, SSA is the key.

The amendment by the Senator from New Jersey addresses itself specifically to issues of refugees with regard to Rhodesia.

This program has given us the capability to respond quickly and constructively to the urgent development needs of Botswana, Zambia, Lesotho, and Swaziland, and to support their economic and political independence. SSA has permitted us, despite rapidly changing circumstances, to respond to human need of the most fundamental kind. Losing this capability would tie our hands in responding to these kinds of problems; it would also reduce our ability to influence recipient nations to carry out sound economic development programs and spread the benefits of progress to their people. The situation in southern Africa is particularly volatile: The countries of the region face special problems brought about by the continuing conflict in Rhodesia, the hopeful but still unsettled situation in Namibia, and the pervasive difficulties which flow from South African apartheid. SSA has been the U.S. response to this special set of problems.

For all of the above reasons, Mr. President, I must strongly urge my colleagues to oppose any effort to reduce the security supporting assistance program for southern Africa. The situation in this part of the world has changed rapidly; it will continue to be unpredictable and volatile. SSA will reduce the chances that external forces will succeed in exacerbating the situation. Only security supporting assistance will permit the United States the flexibility to respond quickly to new situations as they arise, in partnership with the governments of the area. Our commitment to this program is an investment in peaceful change in one of the most dangerous parts of the world. We have a creative and important role to play there. Only with SSA in my judgment, can we play that role.

I also wish to point out that the $110 million for southern Africa is less than the level appropriated last year for that region—$115 million. We should, at the very least, maintain the same general level of assistance, especially in view of the rapidly changing situation in the area.

Finally, we should look ahead to the time when Namibia and Zimbabwe are independent next year. We have reached a breakthrough in Namibia and if the western proposals are implemented the United States should have in reserve, funds which can be immediately made available to help that country get a start. The same applies to Rhodesia. The $40 million in SSA is a small amount to assist these two countries.

By way of clarification, Mr. President, let me say that, under the U.N. Participation Act, the United States cannot transfer any funds for use in Rhodesia. By that, I mean to the Government of Rhodesia or to groups within that country. That would be illegal under existing law. The $20 million could be used for Rhodesian refugees—I think that is the intent of this amendment—for refugees, for educational training of Rhodesians, or if an agreement is reached and a settlement is implemented. The money could be used in Rhodesia by the new government after sanctions are lifted.

The other $20 million in Security Supporting Assistance could be used for the other countries in southern Africa, including Namibia if the western proposals are implemented.

I want to make particularly clear that we are not talking about providing funds to the Rhodesian Government or to the Patriotic Front or some other group of that kind. We are talking about using the money for refugees and for educational purposes for Rhodesians, including people who live inside Rhodesia. It is not excluded to people outside. It can be Rhodesians wherever we find them. We are looking at the humanitarian aspects of this question wherever these people may live.

Mr. HELMS. Will the Senator yield?

Mr. CLARK. I do yield.

Mr. HELMS. The Senator is saying that any disbursement of funds under this amendment in the nature of a substitute, direct or indirect, to the Patriotic Front, would be unlawful.

Mr. CLARK. It would be unlawful, in my judgment, because that is not the intent of this amendment.

Mr. HELMS. That is the intent?

Mr. CLARK. That is correct.

Mr. HELMS. In that case, Mr. President, the Senator from North Carolina asks to be made a cosponsor of this amendment.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. CLARK. I yield back the floor.

Mr. CASE. Mr. President, I do not believe anybody else wants to be heard on this. I am prepared to yield back the time if the opposition is prepared to do the same.

On behalf of the committee, I am prepared to yield back the committee's time and ask for a voice vote.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CASE. I move to reconsider the vote by which the amendment was agreed to.

Mr. CLARK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CASE. I understand, Mr. President, that the Senator from Virginia is prepared to vacate——

Mr. HARRY F. BYRD, JR. Mr. President, I move to vacate the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CASE. I move the adoption of the amendment as amended.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Virginia as amended.

The amendment as amended was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CASE. Mr. President, I ask unanimous consent that the order for recognition of Senator BAKER at this time be vitiated at his request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, I ask for recognition.

The PRESIDING OFFICER. The Senator from New Jersey.

UP AMENDMENT NO. 1503

(Purpose: To lift Rhodesian sanctions following free elections of a new government)

Mr. CASE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE), for himself, Mr. JAVITS and Mr. MOYNIHAN, proposes unprinted amendment numbered 1503.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

"SEC. 26. Section 5 of the United Nations Participation Act of 1945 is amended—

"(1) by striking out the second and third sentences of subsection (a) and inserting in lieu thereof the following: no Executive Order which was issued under this subsection before the date of enactment of the Foreign Assistance Authorization Act, fiscal year 1979 and which applied measures against Rhodesia pursuant to any resolution of the United Nations Security Council may be enforceable before the beginning of fiscal year 1980: *Provided*, That the President of the United States determines that: (a) the Government of Rhodesia has committed itself to participate in, and negotiate in good faith, at an all-parties conference held under international auspices on all relevant issues, including the terms of majority rule and the protection of minority rights, the Anglo-American plan and the terms of the Salisbury Agreement, and (b) a Government has been installed, chosen by free elections in which all population groups have been allowed to participate freely, with observation by impartial internationally recognized observers.

"(2) by striking out subsections (b) and (c)."

On page 31, line 6, strike out "Sec. 26." and insert in lieu thereof "Sec. 27.".

Mr. CASE. Mr. President, I withdraw the amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

Mr. JAVITS. Will the Senator yield me I minute?

The PRESIDING OFFICER. The Senator from New York is recognized.

Who yields time?

Mr. JAVITS. One minute?

Mr. CASE. Yes.

The PRESIDING OFFICER. The Senator from New Jersey yields to the Senator from New York?

Mr. JAVITS. Yes, He has yielded me 1 minute.

Mr. President, we are on the threshold of dealing with the Rhodesia situation. We felt that the orderly way to deal with the Rhodesia situation was for the Senator from North Carolina, because it has been brewing for a long time, to have the opportunity to present his amendment which raises the situation. Then Senator CASE and I wish to present our amendment as the alternate, as a substitute to that, and those matters within the debate.

That is the way in which we understood the matter was going to be handled and in which it was visualized.

Therefore, Mr. President, I ask unanimous consent that Senator HELMS may at this time, if he is ready, submit his amendment and that at the appropriate time Senator CASE may be recognized to submit our substitute amendment.

Mr. HELMS. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. HELMS. What was the Senator's observation as to an understanding reached with me?

Mr. JAVITS. That the Senator would present his amendment and that we would present our amendment as a substitute, if the Senator is ready.

Mr. HELMS. My friend is mistaken, I have made no such agreement. I am not ready at the present time.

Of course, as the Senator is aware, I am not particularly interested in risking an amendment in the nature of a substitute in the present parliamentary situation. So I am still thinking about the problem.

I would be glad to enter into a time agreement, thereby reducing the time, I might say to my friend from New York, if the Senator from North Carolina could be assured the opportunity for a vote, even a tabling motion, on my amendment. But my concern, of course, as the Senator knows, is that there may be an amendment in the nature of a substitute and my amendment will never be voted on, even to the extent of a tabling motion.

That is my concern at the moment.

Mr. JAVITS. Well, I cannot assure the Senator of a vote because, after all, that is the nature of a substitute.

Mr. HELMS. It is up to the Senator from North Carolina to do the best he can in that regard—and that is precisely what I am doing under the circumstances.

Mr. JAVITS. So we will just have to depend on the matter of recognition and the alertness of recognition.

Mr. HELMS. I simply wanted to make the point that I have discussed with the Senator from New Jersey and others my willingness to take my lumps if I am defeated on a vote. But I do want my amendment voted on, either by a tabling motion or an up-or-down vote, preferably the latter, but opponents of my amendment have not been willing to make such an agreement.

But if we can reach such an agreement, I say to the Senator, I am prepared to go right ahead, and save the Senate a great deal of time.

Mr. JAVITS. Will the Senator yield me 1 more minute?

Mr. CASE. Yes; on the bill.

Mr. JAVITS. On the bill.

Mr. President, would the Senator yield enough time for a quorum call?

Mr. CASE. I yield for that purpose on the bill.

Mr. JAVITS. Mr. President, on our time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. JAVITS. Mr. President, I object

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1504

(Purpose: To amend the Foreign Assistance Act of 1961 to condition the furnishing of assistance to southern Africa)

Mr. HAYAKAWA. Mr. President, I send to the desk an unprinted amendment under the 1-hour time limitation and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1504:

UP AMENDMENT NO. 1504

On page 11, line 6, before the period insert a comma and the following: "except that none of the funds under this section may be available for the purpose of furnishing assistance to any country in southern Africa engaged in a civil war unless such assistance is furnished to all of the contending forces in such war on the basis of the population controlled by such forces and on the basis of the needs of such population".

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CASE. Mr. President, will the Senator yield for a parliamentary inquiry before beginning his statement?

Mr. HAYAKAWA. I am happy to yield.

Mr. CASE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE. Mr. President, it is my understanding there is an hour on this amendment, one-half hour for the sponsor, and one-half hour for the manager of the bill. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CASE. And that no amendment to this amendment can be offered in the way of a perfecting amendment until the expiration or yielding back of the time by both the Senator from California and the manager of the bill. Is that correct?

The PRESIDING OFFICER. That is correct, except by unanimous consent.

Mr. CASE. Except by unanimous consent.

I thank my colleague.

Mr. HAYAKAWA. I thank the Senator from New Jersey.

Mr. THURMOND. Mr. President, will the distinguished Senator yield for 10 seconds, because I have to go to another location?

Mr. HAYAKAWA. I am happy to yield to the Senator from South Carolina.

Mr. THURMOND. I wish to thank the able Senator.

Mr. President, I ask unanimous consent that Mr. Ken Fish, of the Armed Services Committee staff, be accorded the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I thank the Senator again.

Mr. HAYAKAWA. Mr. President, this amendment is very simple on its face. It calls for even-handed distribution of funds earmarked for Southern Africa from the economic support funds in section 533. Perhaps it would be best, first of all, to read the section of the committee report dealing with this section:

Section 533 earmarks $110 million of the funds authorized under this chapter for the countries of southern Africa to address problems caused by the economic dislocation resulting from regional conflict and for education and job assistance. These funds may be used to provide humanitarian assistance to African refugees and displaced persons, to improve transportation links disrupted or jeopardized by regional conflicts, and to provide economic support to the countries in the region.

The committee adopted an amendment by Senator Clark which raised the total amount of funds earmarked under this section to $110 million. This represents a net increase of $40,909,000, as $24,091,000 had been programed for countries in southern Africa in the development assistance account. The functional development assistance accounts have been reduced by a corresponding amount because of the prohibition against providing both development assistance and security assistance to the same country.

The committee agreed on the importance of maintaining southern Africa programs at very near last year's levels in view of the mounting economic and humanitarian needs of this rapidly changing and volatile region. The possibility of internationally recognized solutions to the conflicts in Namibia and Zimbabwe require a flexible U.S. policy in the area and the availability of economic assistance to provide for a satisfactory transition to genuine independence for those countries. The congressional presentation documents identified three major uses of these funds: $20 million for balance of payments assistance for Zambia, $14 million for refugees and $11 million for the transportation sector in Botswana.

Mr. President, these words of the committee report must give us pause. For underneath the humanitarian-sounding phrases there lurks the opportunity to use these funds to favor one side or the other in the civil wars now in progress in Southern Africa. Although the general language of the bill prohibits the funds from being used for military or paramilitary activities, the same groups are engaged in political activities for which "developmental" aid can be decisive.

For example, the report specifies $20 million for Zambia, and another $14 million for refugees. Just exactly what is a refugee? Is it someone who has crossed the border, received military training, and is now awaiting assignment? Is it his wife, or his child? Does the provision of medical assistance to such "refugee" camps constitute a military activity? Or the education of children who have been forcibly kidnaped to be indoctrinated into Marxism and trained as guerrillas?

We know perfectly well that such events have taken place and are taking place. If such support were given to the camps of the Patriotic Front in Zambia, to use just one example, we would be decisively intervening on the side of avowed antidemocratic forces, seeking to impose a one-party dictatorship on Rhodesia, and against the blacks who are seeking peaceful, democratic solutions.

Now some of my colleagues might doubt that such intervention might ever happen. That might very well be the case. But look what has happened to the funds which the United States contributes to the United Nations. These funds have been used shamelessly to support the Patriotic Front, to support SWAPO, and to support other so-called "liberation movements."

Let me be specific. Between 1974 and 1978, the U.N. development program—a fund whose rationale is identical with that of the economic support fund—contributed $4,889,370 to support the Patriotic Front and similar groups in Zambia and Mozambique. The UNDP, for example, provided $261,898 for 3 years to Nkumbi College in Zambia, which reserves one-half of its capacity for national liberation movement students. It provided $404,595 for "educational assistance" to ZANU and ZAPU, the chief component of the Patriotic Front. It provided $964,000 for a school for "Zimbabwean refugees" in Lusaka, Zambia. It provided $1,684,000 for a school for Zimbabwean refugees in Mozambique. It provided $5,040 for scholarships for two Patriotic Front students in the United States. It provided $1,570,838 for "training for middle-level manpower of Namibia and Zimbabwe"—that is for the Patriotic Front and SWAPO. The so-called training will be given by the Communist-dominated ILO.

Yet no training or assistance is being given by the U.N. to black moderates such as Bisoph Muzorewa's UNAC.

Moreover, there is more of this sort of thing planned. Right now the U.N. is talking about setting up a "Zimbaewe Institute" in Mozambique for an estimated $3 million "to train future Zimbabwean civil servants in public administration and government." Of course, such an institute in Mozambique under the present regime will have nothing but Maoist or Marxist instructors. The U.N. also wants to set up a $550,000 health center for Zimbabwean refugees in Mozambique. Is it really for civilians, or is it intended to do double duty as a military field hospital? And the $584,300 "agricultural project" for the Patriotic Front in Mozambique—is that to teach agriculture, or is it to produce food for the guerrillas?

Indeed, in addition to the projects I have just mentioned, the U.N., out of its regular budget, has appropriated $7.5 million to aid SWAPO, the Patriotic Front, the PLO, and other revolutionary movements.

Now I realize that these examples are all from the U.N., where the United States has surrendered direct control over its contributions, whereas the funds in this bill will be administered by the State Department. Yet we have only to examine the State Department's current obsession with the merits of the Patriotic Front, with Secretary Vance's announced desire to normalize relations with Angola, and with its rejoicing over the acceptance by SWAPO of a peace plan to realize that the United States cannot claim to be an "honest broker" in Africa.

There is every reason to believe that these funds will be used to strengthen the Marxist terrorist groups and to provide nonmilitary support activities for them. In Angola, for example, it is well known that the avowed Marxist dictator, Neto, controls only about half the country; the rest is controlled by pro-Western rebels who have been spurned by the West, yet fight valiantly on. Nevertheless, Secretary Vance has decided to "tilt" toward Neto. Will the ESF money go to support Neto and his Cuban mercenaries, at the expense of Holden Roberto and Savimbi? Will the "transportation assistance" go to repair the railroads that UNITA guerrillas keep destroying?

It is, of course, too much to hope for that the United States would actually aid the forces in these countries which are pro-Western and anti-Marxist. The best that we can hope for is for the ideologues in the State Department to remain neutral. If they give aid at all, they should give it evenhandedly to both sides. If they cannot give it evenhandedly, they should not give it at all.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. What is the pleasure of the Senate? Who yields time?

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. I would like to reserve the time in case it is necessary.

Mr. CASE. Mr. President, the managers of the bill do not have any desire to debate this at length.

On the other hand, we do not want to yield back all our time until such time as the Senator from California is prepared to yield it back on his behalf. So I would ask the Senator from California if he wants to use some more time now.

Mr. HAYAKAWA. I would be happy to yield back the remainder of my time.

Mr. CASE. The Senator is prepared to yield back the rest of his time?

Mr. HAYAKAWA. Yes.

Mr. CASE. I understand that upon the conclusion of the time a perfecting amendment to this amendment may be offered?

The PRESIDING OFFICER. That is correct.

Mr. CASE. With that understanding, I yield back the remainder of the time for the managers.

Several Senators addressed the Chair.

UP AMENDMENT NO. 1505

(Purpose: To lift Rhodesian sanctions following free elections of a new government)

Mr. CASE. I offer a perfecting amendment.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. HELMS. I was seeking recognition.

The PRESIDING OFFICER. He was, too.

Mr. HELMS. An effort is being made here to block a vote on my amendment, and I want this to be perfectly clear to all of the Members of the Senate and to the press gallery and all the visitors.

The Senator from North Carolina has maintained from the very beginning that all he wanted was a vote up or down or a tabling motion on his amendment, and I think we have gone to a pretty low level when we go to tactics like this.

Mr. CASE. I do not care to debate low level or high level with by beloved colleague, who speaks out of deep conviction, as do I. But there is no particular reason why we should not have the issue between him and our amendment drawn and debated in that context and voted on in confrontation. If the Senator wants now to have such a vote he can have a prior vote by offering, as I understand, his amendment as a substitute.

Mr. HELMS. I will accept the Senator's offer.

The PRESIDING OFFICER. There is an amendment pending which the clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE), of himself, Mr. JAVITS, and Mr. MOYNIHAN, proposes an amendment to amendment numbered 1504, which will be unprinted amendment numbered 1505:

On page 1, line 3, strike all after the word "for" and insert "other than the purposes specified in this section."

Mr. CASE. Mr. President. I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with his reading of the amendment as follows:

Section 5 of the United Nations Participation Act of 1945 is amended—

"(1) by striking out the second and third sentences of subsection (a) and inserting in lieu thereof the following: no Executive Order which was issued under this subsection before the date of enactment of the Foreign Assistance Authorization Act, fiscal year 1979 and which applied measures against Rhodesia pursuant to any resolution of the United Nations Security Council may be enforceable before the beginning of fiscal year 1980, provided that the President of the United States determines that: (a) the Government of Rhodesia has committed itself to participate in, and negotiate in good faith, at an all-parties conference held under international auspices on all relevant issues, including the terms of majority rule and the protection of minority rights, the Anglo-American plan and the terms of the Salisbury Agreement, and (b) a Government has been installed, chosen by free elections in which all population groups have been allowed to participate freely, with observation by impartial internationally recognized observers.

"(2) by striking out subsections (b) and (c)."

Mr. CLARK. Mr. President, there seems to be some disagreement about whether a Member is guaranteed an up-or-down vote or a tabling motion vote on his particular amendment. I know of no rule in this body that guarantees any Member, including myself, or any other Member the right to be guaranteed an up-or-down vote or a tabling motion vote on his amendment.

Each of us takes his own chances on that, as the Senator from North Carolina does. It does not seem to me proper that the Senator from North Carolina says that this is a railroad simply because he is not entitled to the first vote. The person who is entitled to the first vote is the person whose amendment is pending, and I do not see that as denying someone a vote on his amendment. Each one takes his own chance.

I would be happy to yield.

Mr. BAKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr BAKER. Who has control of the time on this amendment?

Mr. CASE. I understand the Senator from New Jersey, as the proponent, and the Senator from California in opposition. The Senator from New Jersey yielded to the Senator from Iowa.

The PRESIDING OFFICER. The proponent of the amendment has control of time in favor of the amendment, and the manager of the bill has control of the time in opposition, in which case, the minority leader or his designee has control of the time of the opposition, unless he favors the amendment.

Mr. BAKER. Mr. President, a further parliamentary inquiry at this time.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. At this time I gather from the sponsorship of the amendment, the managers of the bill favor the perfecting amendment. Therefore, do I have control of the time of the opposition?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. I thank the Chair.

I might say for the benefit of those who may be interested that at some point when it is appropriate procedure I will make a motion to table the perfecting amendment.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. President, I saw this coming, and I suggested to all parties that nobody take advantage of anybody else and that, therefore, Senator HELMS should submit his amendment and we would submit ours as a substitute, which was the way in which I thought matters were going to go after considering it yesterday. Nobody made any promises or commitments to anybody, but it was just my surmise. That would have been the orderly course.

Now, as to the opportunity for a vote, let us understand the procedure. There is adequate opportunity for a vote according to the rules of this Chamber. We have submitted a perfecting amendment to the amendment of Senator HAYAKAWA. A substitute, as I understand it, will lie to the entire amendment with the perfecting amendment in it. The vote will come on the Case-Javits-Moynihan amendment to perfect the Hayakawa substitute.

If that fails, the Hayakawa substitute will remain exactly as it is, and the Senator from North Carolina can submit a substitute to that; or if that succeeds, it is only a perfecting amendment, and his substitute will still lie and he has the vote. So in any case, he has the vote.

Finally, if I can give him parliamentary advice, you can always add to the end of the bill anything you please, and say, "Notwithstanding anything else that came before, this is what I want," and, if the Senate is with you, you have it.

So I cannot see where unfairness is charged. Somebody has to come first, that is all, and the maneuvering for position around here about who comes first does not decide the issue unless you have a majority of the Senate. We all know that. We are not children.

So, frankly, I do not see why there is any big deal about it. You will have your vote, Senator, and you should. No one can deny it to you, except that it may come after or before. In our effort, we come before. It is not such a big event, as we all know around here.

Mr. CLARK. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I designate the Senator from North Carolina (Mr. HELMS) to control the time in opposition.

Mr. HELMS. I thank the Senator.

Mr. President, I appreciate the lesson in parliamentary procedure. Needless to say, I am fully aware of all that the distinguished Senator from New York has said. But notwithstanding that, it is quite interesting that on at least three occasions, and I think four, during the last 24 hours, I have made an offer to cut the time for debate down to 1 hour, to save the time of the Senate, if the opponents of my amendment would simply give me a vote up or down, or on a motion to table my amendment.

This perhaps indicates a certain nervousness on the part of Senators who oppose lifting the sanctions on Rhodesia. It may be that they are worried about whether they have the votes, despite the fact that the administration and the State Department have pulled out all of the stops in trying to defeat the so-called Helms amendment. There have even been telephone calls from the administration to North Carolina, seeking to promote fear among the tobacco farmers, saying, "Oh, Senator HELMS is going to hurt the tobacco industry in North Carolina if his amendment prevails." Such a suggestion is nonsense, and the tobacco people were amused that the

administration would resort to such tactics.

Those are tactics which I resent, Mr. President, because what we are talking about in this matter is human rights. This is a moral question. We are talking about a situation where the United States is now in the posture of siding with the so-called Patriotic Front and against at least 80 percent of the black and white population of Rhodesia. They are pleading with us to lift these sanctions so that they can begin to pull their country together, create jobs, and start the wheels of production rolling again.

So that is what this is really all about, Mr. President. The administration apparently has been fearful that it might not have the votes to defeat the Helms amendment. Therefore there is an effort being made to move in first, so that they can perhaps pick up votes essential to defeating the Helms amendment before a vote can be conducted on the Helms amendment. The parliamentary situation is very clear.

No one is more aware of the parliamentary situation than the Senator from North Carolina. I have studied the rules as carefully as the Senator from New York. I think I know what is afoot, and I think most Senators do.

Mr. President, so that we can proceed, I am willing to yield back the remainder of my time on my side.

Mr. DANFORTH. Mr. President, will the Senator withhold that?

Mr. HELMS. I certainly will, and I yield the distinguished Senator as much time as he may desire.

Mr. DANFORTH. Let me ask the Senator—I would like to speak, not at great length, but for somewhat over 15 minutes on the subject of the Case amendment as well as the subject of the Helms amendment. I wonder if the Senator will yield me such time as I may require, whether it comes from the time that is allocated on this perfecting amendment or on the forthcoming Helms amendment.

The PRESIDING OFFICER. The Senator from North Carolina has 10 minutes remaining.

Mr. HELMS. I did not understand the Chair. Would he repeat?

The PRESIDING OFFICER. I said you have 10 minutes remaining.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. On the assumption that I will be calling up a substitute amendment, is it possible for me to yield the Senator time from the time allotted for that amendment at this time?

Mr. BAKER. Who has control of the time on the bill?

Mr. CASE. I have control of the time on this side.

The PRESIDING OFFICER. It would require unanimous consent.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Missouri be accorded such time as he may require, with the understanding that I will be glad to deduct that from any time I have left on these amendments.

Mr. CASE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, the Senator reserves the right to object.

The PRESIDING OFFICER. The Chair cannot hear. I wish all Senators would speak up.

Mr. CASE. If senators will try to be quiet, this is a most interesting request, it seems to me. It is based on the hypothesis that he is going to create time out of something that may or may not happen in the future.

Mr. HELMS. I will withdraw my request.

Mr. CASE. I am not against an opportunity for debate, but I am against people in opposition to this amendment having 3 or 4 hours, when we have 10 minutes left.

Mr. HELMS. I will withdraw the request. However, I am sure the Senator knows that I had nothing of the sort in mind.

Mr. DANFORTH. Mr. President, will the Senator from New Jersey yield?

Mr. CASE. I do not have the floor, since the request was withdrawn, and I was speaking on a reservation to the request.

Mr. DANFORTH. All right. Will the Senator from North Carolina yield so I may direct a question to the managers of the bill?

Mr. HELMS. Mr. President, I yield such time as I may have left on the amendment to the able Senator from Missouri.

Mr. DANFORTH. I have a speech about 15 or 20 minutes long. I wonder if I may have, either from the bill or from some other source, sufficient time to read my speech.

Mr. CASE. Mr. President, the Senator from New Jersey has control of the time on the bill. I would like to know how much time there is left on the bill.

Mr. BAKER. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. CASE. After I find out the answer to my inquiry, then I will yield.

The PRESIDING OFFICER. The Senator from New Jersey has 66 minutes remaining on the bill.

Mr. CASE. And how much does the chairman have?

The PRESIDING OFFICER. Eighty-two minutes.

Mr. CASE. Sixty-six and eighty-two?

The PRESIDING OFFICER. Sixty-six and eighty-two.

Mr. BAKER. Mr. President, I see the majority leader on the floor, and the managers on behalf of the bill on both sides of the aisle. I wonder if the most equitable solution of this is not just to create another 10 minutes on each side.

Mr. ROBERT C. BYRD. Mr. President, there are 148 minutes left on the bill; 66 and 82, that is 148 minutes. I wonder if the Senator cannot yield the Senator from Missouri enough time to make his speech from the time on the bill.

Mr. CASE. It is not quite as simple as that, Mr. President, because there is a 4-hour operation permitted on the amendment of the Senator from North Carolina, if he should want to use it.

Mr. ROBERT C. BYRD. Mr. President, I think the minority leader is right. If the managers of the bill are not in the notion to use the time on the bill, if the Senator from Missouri wants a little time I think we should accede to his request, much as I hate to do it. We should be fair and equitable to the Senator.

Mr. CASE. What is the request?

Mr. DANFORTH. For 25 minutes.

Mr. BAKER. Mr. President, I would ask unanimous consent that in addition to the 10 minutes the Senator from North Carolina has yielded to the Senator from Missouri, he gave an additional——

Mr. ROBERT C. BYRD. Most of which is now gone.

Mr. BAKER. Most of which is now gone, that he have an additional 15 minutes, and that there be an additional 15 minutes on behalf of those in opposition.

Mr. CASE. That is understood. It is an equal situation.

The PRESIDING OFFICER. Yes.

Mr. DANFORTH. Mr. President, may I inquire how much time I have?

The PRESIDING OFFICER. The Senator from Missouri has 4 minutes from the time of the Senator from North Carolina, and 15 minutes that has just been yielded.

Mr. DANFORTH. Mr. President, I thank the Senator from West Virginia, the Senator from Tennessee, and the Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I oppose the amendment offered by the distinguished Senators from New Jersey and New York, I oppose it for two reasons.

First, the main legal function is to give discretionary authority to the President to lift sanctions if he determines that the Rhodesian Government has made good faith overtures to the Patriotic Front, and if he determines that a new government has been installed as a result of free elections open to all peoples. Yet the President already has such discretionary authority under law.

Under section 2 of the so-called Rhodesia resolution—that is, the repeal of the Byrd amendment on Rhodesian chrome passed last year on March 18—the President has full power to suspend the enforcement of sanctions against Rhodesia whenever he thinks that it would encourage the peaceful transfer of governing power to majority rule. The exact text says:

> Upon the enactment of this Act, the President may suspend the operation of the amendments contained in this Act if he determines that such suspension would encourage meaningful negotiations and further the peaceful transfer of governing power from minority rule to majority rule in Southern Rhodesia. Such suspension shall remain in effect for such duration as deemed necessary by the President.

Clearly, therefore, the Case-Javits amendment is superfluous. It adds nothing to the President's authority that he does not have already by specific legislation, passed only last year.

So what we are doing, therefore, is going through a rhetorical exercise. We

would be putting forward a strong expression of the sentiment of the Senate, but we would be doing nothing practical to support the democratic forces in Rhodesia. Indeed, the rhetoric of the amendment is nothing more than a restatement of the present State Department position. What we would be doing is endorsing the State Department policy that has already raised so many doubts in this body.

If we examine the text, we see that it puts the internal agreement back on square one. It ignores the progress that has been made so far. It even puts the so-called Anglo-American plan back on the table for discussion.

Mr. President, is this body really aware of what the Anglo-American plan is? It is nothing else than colonialism in its most brutal and inane form. It calls for an appointed British High Commissioner who would have the powers of a dictator. He would be responsible to no one in Rhodesia, white or black. He would write the constitution, and impose it upon everyone, white or black. There would be no guarantees for the white citizens at all, except that one-sixth of the parliament would be elected by the black parliament to represent the whites. White Rhodesians would have no say in the political process. Moreover, the security forces would be made up principally of the Cuban-trained guerrillas from Nkomo's armies—men of notoriously poor discipline who have already engaged in premeditated acts of terrorism against innocent civilians.

This is what the Case-Javits amendment would put back on the table for discussion. In my opinion, the internal agreement ought to be accepted as a given fact, and methods found to induce the Patriotic Front to compromise.

The second objection to the Case-Javits amendment is that it offers little hope to the democratic forces. Everything in the amendment depends upon a Presidential determination. We all know that such determinations mean, in fact, the determinations of the State Department and the National Security Council. Neither the white Rhodesians nor the moderate black nationalists can place much hope in such determinations. There has been a lot of talk about the United States being the "honest broker" in this problem. But an honest broker does not go back on his word. We promised the Rhodesians that if they accepted the Kissinger plan and reached an agreement based on transition to democratic majority rule that we would lift sanctions during the transition. But now we say that they have not done enough.

What reason do the Rhodesians have to expect that the determination to lift sanctions actually will be made? None whatsoever, Mr. President. In the opinion of the leaders of the majority of all Rhodesians, black and white, the conditions called for in the amendment have already been met. An all-party conference was called, open to all. An agreement was reached. The Patriotic Front is still invited to participate in elections, invited even to have cabinet posts in the transitional government. Free elections open to all are planned. International observers are welcome. What more can the President be waiting for?

The Rhodesians are not being unreasonable in their belief that the United States is deliberately favoring the parties which wish to impose a one-party totalitarian dictatorship.

If the President can be expected to make the determination required, he could be expected to make it right now. He could suspend sanctions right now. He has the authority. He does not need this amendment. But his actions to date give hope to no one that he will actually make the required determination, no matter what the facts are in reality.

That is why sanctions need to be lifted immediately, with clear certainty. I believe that the President has been poorly advised in this matter. I believe that if the Senate legislates a change, it will break the logjam in our African policy, and help restore peace and order in Africa. I fully trust the President's discretion after December 31. But by then a new government, selected by majority rule, will be in place, and the situation ought to be considerably different than it is now.

The Rhodesians must have a date certain if there is to be hope, if there is to be change. Even the Patriotic Front must be confronted with a date as an accomplished fact. When they see that the United States has dropped its bias toward them, they will come to the conference table to which they have been invited.

I therefore will vote against the Case-Javits amendment.

Mr. DANFORTH. Mr. President, the immediate issue before us is whether to lift economic sanctions against Rhodesia. The more fundamental issue is one of principle. What does the United States stand for in the community of nations, and how do we exhibit that stance in specific foreign policy decisions?

America stands for majority rule. It also stands for the protection of minority rights. For this reason, I supported repeal of the Byrd amendment a year ago last March. It seemed to me important at that time to give our national principles concrete form—to leave no doubt that our country would never support the repressive and racist minority government in Rhodesia.

Since March of 1977 when we voted to repeal the Byrd amendment, remarkable events have occurred in Rhodesia. Prime Minister Smith has joined with the leaders of an estimated 80 percent of the black population to form an interim government. Free elections have been promised in which even the guerrillas have been invited to participate. A new constitution will be written. The white minority, instead of being driven from the country will be encouraged to stay. They will be given a role in the government and will be assured the right to own property. Majority rule, minority rights, the orderly transfer of power, and the internal resolution of disputes are being advanced in Rhodesia.

These are basic values. They are values America stands for. The question before us is whether to continue economic pressure in light of these new circumstances in Rhodesia.

It is said that the administration's policies are neutral as between the leaders of the interim government and the Patriotic Front. That statement is simply not true. Economic sanctions are not a neutral policy. Economic sanctions are used to punish an existing regime, to bring a change in leadership or policy, to damage the economy of another country.

The guerrilla leaders suffer no harm from the continuation of sanctions. They have shown little concern for the economy and people of Rhodesia. Only those seeking a peaceful transition to majority rule are damaged, because sanctions undermine the economic and legal support of their government. Sanctions, in this case, therefore, only favor the forces of violence rather than those of moderation.

The administration is not being venal in persisting in sanctions. It is only being what it believes to be practical. Its reason for opposing the internal settlement is its belief that adverse consequences would follow if we were to support the internal settlement. It argues that if we do not take it upon ourselves to create a role for the Patriotic Front, the guerrillas will continue the bloodshed. We are told that the Russians and the Cubans might get involved. We are told that we would lose our standing with the so-called frontline states if we were to support the internal settlement.

Mr. President, my point is very simple. These practical arguments, however serious, are no justification for abandoning our principles. They are no justification for failing to stand for our beliefs. They are no reason at all why America should stop being itself.

The administration believes that the guerrillas must be accommodated because they "have the guns." That the Patriotic Front is armed and militant is a matter of deep concern. But, surely that is no justification for us scuttling an agreement reached by leaders representing the large majority of black Rhodesians. To say that the guerrillas "have the guns" does not give license to the United States of America to use its economic muscle for the purpose of wrecking the internal settlement and transferring power from a white minority to an armed black minority.

Similarly, the presence of Russians and Cubans in Africa should be of acute concern to our country. But the threat of Russians and Cubans is no reason for America to reject the efforts of Rhodesians who are working to bring about majority rule. It is not consistent with our role as a great country and a champion of human rights for America to exert pressure against the transitional government out of fear that if we do not thwart the internal settlement the Soviets and the Cubans might become involved.

Nor is the state of our popularity with Mozambique or Zambia or Tanzania a suitable justification for our opposition to the internal settlement. If principles are to guide our foreign policy, they must be our own principles, not policies fashioned for us by some other country. We cannot delegate to any other nation responsibility for the formation of our set of values nor can we doctor those values once established for the benefit of others or for the sake of our own popularity.

There are many countries in the world that do not share our system of values. There are many countries that do not believe in majority rule or in the protection of minority rights. Undoubtedly, if we were to lower our own standards, we might gain supporters in many corners of the world. But, then, we would abandon our principles. We would betray our own heritage.

The fact is that Mozambique does not share our values; nor does Zambia; nor does Tanzania; nor does Angola. They would welcome our support for the guerrillas. They would feel quite at home with the position that a minority which has the guns should dominate Rhodesia. But the opinion of these third parties does not justify us abandoning the majority of Rhodesians, black and white, who support the peaceful and democratic transfer of governmental power. If America is to be an effective champion of human rights, we must not bend to the wishes of those who care nothing about our values. We must stand firm in support of those values, even at times and places where they have no political support.

I do not argue that the internal settlement meets any test of perfection. It does not. But I do argue that the internal settlement is consistent with our fundamental principles and that a role for the Patriotic Front, other than through the electoral process, is inconsistent with our fundamental principles.

The internal settlement does not exclude a role for the Patriotic Front. It invites the guerrillas to participate fully in the interim government and in the coming election. But this is not sufficient for the guerrillas. It is not enough for them to take their chances with the democratic process. What they seek is absolute control of Rhodesia through control of the police and military forces, and this they cannot attain by free elections.

The guerrilla leaders whom our administration would impose on Rhodesia have rejected the internal settlement for obvious reasons. The Patriotic Front is supported by only a small minority of black Rhodesians, and it would certainly lose any election. In addition, Robert Mugabe, the Marxist guerrilla leader based in Mozambique, has rejected the concept of multiparty government as a luxury he cannot afford. Mugabe has further said that if given power he would hold the biggest trial since Nuremberg, with whites condemned for numerous supposed crimes, including what Mugabe has called "land holding."

Unlike the administration's position, the amendment offered by Senators CASE, JAVITS, and MOYNIHAN does not reject the internal settlement or brand it "illegal." In this respect, the Case amendment is substantially preferable to the policy advanced by the administration.

However, the Case amendment has two flaws which make it unacceptable to this Senator.

First, the amendment conditions American trade policy on Rhodesia's acceptance of a procedural requirement. willingness to attend an all-party conference held under international auspices. This condition raises the question of when trade restrictions are an appropriate instrument of American foreign policy. When is their use justified, and when does their use amount to meddling in the internal affairs of another country?

(Mrs. HUMPHREY assumed the chair.)

Mr. DANFORTH. Assuming that trade sanctions do cause damage to other countries, under what circumstances should the United States attempt to cause such damage?

The problem with the Case amendment is that it conditions lifting sanctions against Rhodesia on that country's agreement to a procedural approach advocated by the United States. Perhaps, under some circumstances, trade embargoes may be justified where matters of great substance are at issue.

An example is when another country poses a military threat to the United States, or where human rights are involved, sanctions may be in order.

But the Case amendment goes further than that. It conditions the lifting of the sanctions not only on the movement to majority rule, but on Rhodesia's willingness to: First, attend an all-party conference, and second, discuss the Anglo-American plan. This means that the United States is telling Rhodesia it must not only adopt our values, but it must be willing to attend a specific conference suggested by the United States and discuss a specific plan suggested by the United States, a plan which really means the end of the internal settlement.

Therefore, the questions raised by the Case amendment are two: Should the United States try to use economic sanctions to break the government of another country for refusing to attend a specific conference? Should the United States try to use economic sanctions to break the government of another country for refusal to discuss a specific plan we suggest to it? My answer to these questions is no. If there are to be any limitations on America's involvement in the internal affairs of other countries, surely we should be willing to stand aside when matters of procedure are at issue.

My second concern with the Case amendment concerns timing. The amendment provides that sanctions may be lifted only after elections are held. There is a certain appeal to this provision since the purpose of the sanctions in the first place was to achieve majority rule.

However, if the lifting of the sanctions will come only after elections are held. the United States will have provided an enormous incentive for the guerrillas to intensify their efforts to disrupt the elections. The Case amendment amounts to notice to the Patriotic Front that elections are the key to the economic future of Rhodesia, and therefore to the stability of any Rhodesian Government.

Moreover, I do not understand the purpose to be served by inflicting economic injury on Rhodesia during the transitional period prior to the coming elections. It would seem to me that during the time of transition to majority rule, the interim government, already under pressure from the guerrillas, deserves to be supported and not penalized by the United States.

There should be no misunderstanding. We do not propose lifting sanctions for the benefit of Ian Smith. We abhor the policies he has represented in the past. We propose lifting sanctions to show our support for the 6 million black Rhodesians whose leaders are now participating for the first time in their own government.

Madam President, last week the leader of some 70 percent of Rhodesian blacks, Bishop Abel Muzorewa, visited me in my office. He visited me to urge my support for the Helms amendment. He urged America, in his words, to "give democracy a chance" in Rhodesia. I was honored by the Bishop's presence. But in retrospect, how wrong that visit seems.

How wrong it seems for a proud leader of his people to have to travel half way around the world to entreat our support of majority rule. How wrong it seems that he should feel compelled to walk the corridors of our Capitol, to visit our Senators in their offices to plead for the future of his country. How extraordinary it seems for him to come to this country to ask us not to hurt the cause of democracy in Rhodesia.

Madam President, are there no limits to our interjecting ourselves into the affairs of other countries? Must we endlessly demand that they do things on our terms and in our way? Are we so anxious to convene conferences, and to engineer compromises, and to placate the implacable that we stand for nothing at all? Have we become so complex in our machinations, so convoluted in our reasoning, that basic values are ignored and dreams of democracy become nightmares of guerrilla warfare and economic sanctions?

Madam President, the fundamental issue is one of principle. It is not the number of guns the guerrillas have. It is not our anxiety over the Russians and the Cubans. It is not our popularity with Mozambique and Zambia and Tanzania.

In a distant corner of the world, a small country is struggling on a pilgrimage from repression to democracy. It asks our support in this effort. It asks us to stand for democracy—not for conferences, not for a role for guerrillas, not for popularity with front line states—to stand for democracy. That is a very basic value—there is nothing complicated about it. That is the issue before us today.

Mr. TOWER. Will the Senator yield?

Mr. DANFORTH. I yield.

Mr. TOWER. I want to commend the distinguished Senator from Missouri for a splendid statement. It was a very closely reasoned statement, a very temperate statement, one that I think should be recommended to all Members of this body to pay close attention to. I think it is one of the best analyses of the situation that I have heard and certainly puts forth one of the strongest arguments, I think a really irrefutable argument, for the rejection of the Case amendment and the ultimate adoption of the Helms amendment. I want to express my thanks and my congratulations to the Senator.

Mr. DANFORTH. I thank my distinguished colleague.

Mr. BAKER. Madam President, I too, commend my colleague from Missouri for his statement and his position in this matter. I know it is a position he has

not reached without great concern and careful examination. I commend him for an excellent presentation and, I believe, for making the right judgment on this issue.

Mr. DANFORTH. I thank the distinguished minority leader.

Mr. BAKER. Madam President, I support the Helms amendment which will suspend temporarily the U.S. participation in the economic sanctions imposed on Rhodesia. I commend the Senator from North Carolina for his persistent pursuit of this objection in bringing, for a second time, this issue before the Senate.

I have not reached this decision to support this amendment lightly, knowing full well the implications of removing, however temporarily, our compliance with the sanctions imposed by the United Nations and agreed to by the United States. Although I long have felt that the sanctions were a reflection of a hypocritical, double standard and an ineffective means to achieve a desirable goal, I supported last year the repeal of the Byrd amendment. I did so in the belief that the Smith government had waited too long and that the time available for any hope of a peaceful transition to majority rule was rapidly evaporating.

Since that vote and the full compliance of the United States with the sanctions, the economy of Rhodesia has significantly deteriorated. Possibly as a result of that, possibly as a result of his realization that the inevitable alternative to a peaceful transition was a tragic and bloody escalation to war, extending possibly throughout southern Africa, the Smith government reached an interim agreement with the moderate black leaders. He reached this agreement with those who had the courage to return and negotiate. Many did not; although invited to participate, a significant element of Rhodesia's black population and two principal nationalist leaders decided not to participate, choosing instead a transition to an uncertain government by the force of arms.

I believe that we should give this settlement a chance to work. Although I am under no illusion that lifting the economic sanctions guarantees the life or success of the transitional government and ultimately majority rule, I believe this is the course most likely to encourage that result. Moreover, I would be more sympathetic to those who oppose our failure temporarily to comply with U.N. sanctions if those who would impose their own rule on Rhodesia were not being equipped, trained, and supported by the Soviet Union. I find it difficult to worry about the moralistic criticisms of some when weighed against the carnage made possible, if not inevitable, by Soviet arms.

Finally, Mr. President, I would argue against the thoughtful but ill-advised compromise amendment which would lift the sanctions only in the event that the elections and the transition to majority rule actually occur. However, well intended, I believe that course will only provide the Patriotic Front that much more incentive to insure that the elections do not occur and that the interim agreement collapses in chaos.

I am hopeful that given this signal of encouragement those participating in the interim settlement can encourage others to join them. I see no reason why the United States cannot continue to encourage broader participation and solicit support for broader participation from the Front Line states.

No one, least of all the black population of Rhodesia, has anything to gain by continued violence. I ask earnestly for the support of my colleagues for this amendment.

Mr. CASE. Madam President, may I ask how the time stands?

The PRESIDING OFFICER. The Senator from New Jersey has 28 minutes remaining.

Mr. CASE. And the Senator from Missouri?

The PRESIDING OFFICER. The Senator from Missouri has 2 minutes remaining.

Mr. CASE. I thank the Chair.

Mr. CRANSTON. Will the Senator yield to me at this point?

Mr. CASE. I am happy to yield to the Senator from California.

U.S. POLICY TOWARD RHODESIA

Mr. CRANSTON. Madam President, the amendments offered today to lift the sanctions against Rhodesia have raised serious and important questions about U.S. policy in southern Africa. This is an area in which the United States is presently involved in critical negotiations in both Rhodesia and Namibia. Actions taken here today will have a profound impact on these talks, so we must weigh our decisions very carefully.

I think we all agree that it is in the interest of the United States to promote a peaceful transition to majority rule in Rhodesia. This action is consistent with our own principles of democratic government and human rights. It is in our interest to promote peace in the world. And it is in our interest to prevent an escalation of the conflict in Rhodesia into a full-scale civil war that could be exploited easily by the Soviets and Cubans, whose presence in Africa is already of such deep concern to all of us.

This administration is to be commended for its efforts to achieve a peaceful settlement of this conflict. Notable gains have been made. All parties have agreed to the principles of independence, majority rule, and universal suffrage. However, there are still important points that remain unresolved. And it will require further negotiations to find an acceptable compromise.

I do not think anyone here is under the illusion that a successful outcome can be guaranteed by these negotiations or that they will be easy. I do believe that further talks are the only hope for a peaceful transition. Without this hope, the chances increase exponentially that a violent, bloody conflict will ensue in which many innocent victims, both black and white, will die.

The United States is continuing to look for a peaceful resolution. With the United Kingdom, it has proposed an all-parties conference to bring together the Patriotic Front and the transitional government in an attempt to resolve their differences.

The U.S. role in these talks is critical. It is seen as an honest broker. This is a position of trust that has only been gained slowly and through a great deal of effort. The sanctions imposed by the Senate last year served to underscore the seriousness of our intent and bolstered substantially our credibility. To be effective, the United States must preserve its neutral image. Otherwise, there will be little chance of success for these negotiations, making war the likely alternative—the probable alternative.

The issue before us today is whether any of these amendments to lift sanctions against Rhodesia will promote the interest of peace and assist in finding a workable solution.

I support the Case-Javits amendment because I feel that it does assist our efforts in finding a peaceful answer. It clearly states that U.S. interest is in free, open election in which all parties are given the opportunity to participate. On the other hand, I believe that the Helms amendment will damage the gains we have made. Passage of the Helms amendment will encourage the transitional government's intransigence and discourage further negotiations. The Case-Javits amendment corrects any misperception that our Government favors one faction over another. The Helms amendment puts us firmly on the side of the transitional government, destroying our carefully-nurtured position as a neutral and effective mediator. The Case-Javits measure allows the President the necessary flexibility to pursue the policy of encouraging a peaceful resolution. The Helms amendment locks the President into the position of supporting the transitional government and thus could convince the Patriotic Front that war is its only alternative.

Madam President, negotiations to achieve a peaceful transition to majority rule have been long and, at times, frustrating. It is an issue which we all want resolved as quickly and peacefully as possible. But as in any situation that is as complex and demanding as this one, we must not in our eagerness to resolve the problem, destroy all the achievements we have gained thus far. The Case-Javits amendment is a tempered, well considered one, and as such I urge my colleagues to support it.

Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CLARK. Madam President, I yield myself 15 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CLARK. Madam President, I strongly oppose the Helms amendment, as it has been printed. And it would seem that the Helms amendment is the alternative to the pending Case-Javits amendment, if I understand the situation correctly. The lifting of economic sanctions would be a grave mistake. But, before I explain why, I would like to point out to my colleagues that the Helms amendment goes far beyond Rhodesia itself. Among other things, it calls for the suspension of subsection (B) of sec-

tion 5 of the U.N. Participation Act. This deals with the President's ability to prosecute any person who violates any sanctions regulation issued in compliance with the Security Council. This goes to the very essence of our institutional relationship with the U.N. It vitiates the statutory mechanism that has been established by the United States to carry out sanctions it is called upon to implement. For example, it could prevent the United States from prosecuting offenders who violate the arms embargo against South Africa. (This interpretation has been checked with two legal authorities.)

If this is not bad enough, the Helms amendment would create very serious problems for U.S. policy in Africa as a whole. It would jeopardize very delicate negotiations dealing not only with Rhodesia but with Namibia as well, and it would represent a great setback for U.S. influence in the Third World.

Madam President, much of the Nation's attention has focused in recent weeks on the difficulties of reaching a negotiated settlement in the Middle East and on the frustrations of promoting human rights in the Soviet Union, and appropriately so. Yet the problems of Africa are at least as difficult and every bit as serious. Very little mention is made of the human rights violations in Africa where, in Rhodesia alone, hundreds of blacks have been killed or executed in secret, scarcely noticed by the rest of the world.

However, we now stand on the threshold of turning around the course of events in southern Africa. An agreement has been reached on Namibia, but it requires the continued support of Africa, and of the U.N., to make it work.

As Secretary Vance pointed out in his televised interview last Sunday, the lifting of Rhodesian sanctions would seriously affect the Namibian talks, at a particularly sensitive moment—before the matter was even brought to the United Nations. If we succeed, we would be removing one of the flashpoints which could spark a race war in southern Africa.

Negotiations on Rhodesia have not yet reached the same stage. Indeed, the parties are not even talking to one another. But we have good reason to believe that the internal leaders—and indeed, even South Africa—see the need for a broader-based government. Ian Smith announced just a few days ago that the internal agreement cannot possibly work without a cease-fire. I see nothing in the Helms amendment that would assure or even encourage a cease-fire, and he criticized the black members of the internal government for failing to achieve this goal—the one thing he said he expected of them.

The lifting of sanctions will not bring about a cease-fire. Indeed, it will probably make one virtually impossible to attain because it will harden both sides. On the one hand, the internal leaders will gain a false sense of security, thinking that because we lift sanctions, we may, in the last analysis, go further—perhaps even, as many whites hope—come in and militarily defend them. That is the only thing that will save them at this moment, if they fail to negotiate.

I do not think that the American people want the United States to get involved in another overseas war. I do not think that the American people want us to back a government representing white minority rule. I do not think that the American people want us to get directly involved in a conflict in which our only ally would be South Africa. And to encourage the whites to think otherwise would be cruel and irresponsible.

On the other side, the patriotic front and the front line states would conclude, if the United States lifts sanctions, that we have chosen sides. How can we possibly maintain our neutrality, how can we possibly be the kind of honest broker we were during the Namibian talks, if we go against world opinion and lift sanctions? The answer is, we cannot.

I fail to see the reasoning behind Senator HELMS' amendment. If the internal leaders deserve support, if they are genuine in saying they will hold elections, if they really have the loyalty of the guerrillas that they claim, then let them show it. If—by December 31 this year—they do all that they say they can do, then we can support them. That is only 5 months away. We in this country do not need to rush to judgment and that is precisely what we would be doing today if we vote to lift sanctions.

We would be saying, in effect, we do not care if you negotiate or not; we will support you before you even do these things. And we would be telling the whole world that we are scrapping our own Anglo-American plan, we are cancelling any hope of reaching a peaceful settlement, and we are unilaterally lifting an embargo voted by the United States. We would also be telling Great Britain, the legally constituted authority in Rhodesia, that we are abandoning her in this matter.

Great Britain held out for 13 years, even though her stakes in the country are far greater than our own. Compare her record with ours. We violated the U.N. embargo until March 1977. Nearly 1½ years later, we are seriously debating whether we should bail out now, 5 months before the internal solution set its own date for completion of the goals of independence, elections, and majority rule.

That is why I think the Case-Javits-Moynihan amendment is a reasonable compromise. We ought to at least encourage elections and negotiations.

Let there be no mistake about what we would be supporting, if we lifted sanctions. The internal leaders say they represent democracy. I fail to see where either side in this conflict has demonstrated a commitment to democracy. The internal settlement gives each white about 10 times the weight of each black vote. There is no majority presently governing Rhodesia. Ian Smith is still prime minister. The white parliament is still functioning and must approve of any change, including the new constitution. The black members of the internal government have been unable to control the conduct of the war, even though they have complained bitterly about the mass killing of civilians.

The black ministers acting as coministers with the whites are also powerless. When one black minister of justice suggested publicly that more blacks should be recruited at higher levels, he was fired—simply for the suggestion. Is that majority rule? Is that democracy?

I am not saying that the patriotic front would necessarily be any better. I am saying that it is not for us to preempt the decision of those who would properly decide who is to lead an independent Zimbabwe. The people of that country have not had the opportunity to decide for themselves. There is no objective evidence of national support for the internal agreement because there has not been any election and the guerrillas have certainly not been attracted to the plan. Each side claims it is the real representative of the masses. Let them put it to a test through neutral elections, as called for by the Anglo-American plan. It has been agreed to in Namibia. Why should it be any different in Rhodesia? If South Africa accepted such a plan for its territory, why then should such a plan not be implemented in Rhodesia?

All of Africa is watching what we do here today. And although the continent is divided by many issues, there is one they agreed upon: The lifting of Rhodesian sanctions would be a serious mistake. The 34 nations attending the OAU summit in Kartoum last week warned that this would be regarded as "an unfriendly act" and "a particular affront to the dignity and aspirations" of the African people.

The 34 nations took such a position. On that they are unified. It would, in one stroke, wreck what this administration has done through careful, patient diplomacy. It would alienate Nigeria, our second largest overseas oil supplier. It would choke the brief breathing spell we have had with Angola in recent weeks—the beginning of a period which has already produced concrete results. I am referring not only to the Namibian accord, but to the disarming of the Katangan gendarmes who attacked Zaire, and the emergence of a reconciliation between those countries.

Most important, however, the lifting of sanctions would overturn a general drift toward the West in recent times. Despite the presence of large numbers of Cuban troops in 2 of the continent's 50 countries, there has been a consistent moving away from the Soviet bloc. The U.S.S.R. has been expelled from Egypt, Sudan, and Somalia. She has suffered setbacks in Nigeria, Ghana, Mali, Guinea, and Congo (Brazzaville). She has been stymied in her efforts to gain bases in Mozambique, and to gain a strong foothold in Zambia.

However, Moscow would be delighted to see the United States lift Rhodesian sanctions. Nothing could be better from the Soviet point of view. This would have the effect of smearing the name of the United States in Africa, undoing all that has been done to show that this country is as interested in black freedom as in white. The lifting of economic sanctions would play straight into the hands of the Soviet Union.

On the grounds of sheer self-interest, on the grounds of opposing Soviet efforts

to gain influence in Africa, on the grounds of human rights and freedom, I urge my colleagues not to support the alternative to this amendment, the Helms, to lift sanctions against Rhodesia in defiance of world opinion, to remove the President's authority to prosecute anyone who violates any sanctions imposed in compliance with Security Council resolutions, and which would place the United States once again, in violation of our treaty obligations under the U.N. Participation Act.

I mentioned earlier the position of the Organization of African Unity which is identical to that of the Commonwealth. All 36 Commonwealth members expressed themselves last month as being solidly opposed to the internal settlement.

In their statement they reaffirmed that "the United Nations sanctions policy should remain in force and be rigidly applied until an acceptable agreement has been achieved." In addition, the British Conservative Party also continues to support sanctions against Rhodesia. John Davies, the shadow foreign secretary, after visiting Rhodesia recently, made a statement on this subject. In a letter issued by his office, Mr. Davies said:

> The problem of sanctions is a severe one. They are undoubtedly harming the country and reducing its ability to de-escalate the level of violence. Their removal at this stage would, however, in my judgment, inhibit any prospect of a reconciliation between the conflicting parties. Moreover, it could only serve at the present juncture to increase the level of terrorism, to make more difficult the prospect of an election and to accentuate divisions within the country and outside it.

Worldwide opposition to the lifting of sanctions, then, is evident. It cuts across ideological, national, and racial lines.

Finally, Madam President, I want to emphasize the damage this vote could have on negotiations. I am reliably informed that the chances of holding a conference could be as close as a month or 6 weeks away. We must not extinguish the small candle of hope at the end of a very long tunnel of war. We must hold firm and press hard to make all sides negotiate. If negotiations fail, due to no fault of the internal leaders, and their internal agreement is implemented, then we can still lend our support at the appropriate time. But to lift sanctions now would be politically irresponsible and morally indefensible. As the New York Times stated succinctly in its editorial of July 24th,

> Americans * * * do not like standing by while a cruel war escalates. If reason is to fail in Rhodesia, as it may well have failed already, let it at least be clear that the United States tried to do right. Having brought his country to this tragic pass, Mr. Smith has no claim on American policy or sympathy.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The time of the Senator has expired.

Mr. CLARK. I yield myself 5 additional minutes from the bill.

Mr. President, I am opposed, as I have said, to the lifting of sanctions on Rhodesia. Frankly, I would prefer to have no amendment at all, even with conditions. My view is that the U.S. role is one of an honest broker, as it has been in Namibia, and we should press for a negotiated settlement. If we lift sanctions, we should do so through the United Nations, the original authority from which sanctions were levied in the first place.

However, I recognize the mood of the Senate, and I feel that the Case-Javits amendment is a genuine attempt to steer a middle course. As a result, I am prepared to go along with it and vote for it, albeit reluctantly.

The Case-Javits amendment conditions the lifting of sanctions on negotiations and elections. It does not deprive the executive branch of its authority over foreign policy, since it provides for a Presidential determination to certify that the conditions have been fulfilled. At the same time, however, it does require the President to lift sanctions when first, negotiations are held and the internal leaders participate in them in good faith, and second, when free elections are held with impartial international observers. This is a reasonable and fair compromise between the Helms position, which would lift sanctions immediately, and the administration's position, which is totally opposed to any legislative lifting of sanctions.

Other points need to be clarified in this amendment. First, it does not require the internal leaders to repudiate what they have already done. What we are saying is that the Rhodesian Government need do no more than what South Africa did in Namibia—namely, to continue to pursue an internal solution if they want, but to negotiate with the external leaders at the same time. They have nothing to lose at all by following this course. If the negotiations fail, they are still free to conduct their own elections, and if it is determined by impartial international observers that these were free elections in which all population groups were allowed to participate freely, then we may lift sanctions.

Second, it must be stressed that if an all-parties conference is held, the internal leaders must participate in it and must negotiate in good faith. They cannot simply state that they are willing to attend. They must participate in the conference and, as much as can be determined, they must demonstrate that they are negotiating in good faith. All relevant issues may be discussed, including the terms of majority rule as laid down in both the Salisbury agreement and the Anglo-American plan.

Third, elections must be held. Now, this would preferably occur with all parties participating and the arrangements for conducting the elections should be worked out by the Rhodesian parties at the all parties conference. But if the conference does not produce results, the internal government may conduct elections on their own. However, for sanctions to be lifted, impartial international observers—whether they be from the UN (the most likely source), the OAU, the International Commission of Jurists, or any other representatives designated by the President as impartial—must be present. This is mandatory. Sanctions cannot be lifted without elections that are conducted with these observers. How else can the President determine whether the elections are free? The only way to legitimize the elections, if they are held by one side only, is to have these impartial international observers.

These are the primary requirements of lifting sanctions. I must admit that I would prefer that we be more even handed. This amendment does favor the internal leaders. There is no question about it. Nothing is required from the external leaders. I fear that it may be misinterpreted by Africans and it may even possibly harden the positions of both sides. For these reasons, I would prefer not to have it. However, I do favor negotiations, and this amendment offers an incentive to the internal leaders to go to the conference table. I hope that the African leaders note this point well. Also, I have always stated that elections are necessary. The leaders of the Patriotic Front have been in disagreement on this point at various times, as have the front line states—in disagreement as to the necessity of holding elections, and the arrangements for holding them, and the timing. I have always said, however, that I believe that elections are the only way to settle the matter of who ultimately leads an independent Zimbabwe. These two points—negotiations and elections—are tied to the lifting of sanctions and therefore I support it.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, by authority of Senator CASE, I yield myself 10 minutes in respect to this particular amendment.

The PRESIDING OFFICER. The Senator from New York (Mr. JAVITS) may proceed.

Mr. JAVITS. Mr. President, I think it has been very useful and very interesting to have had the really fine presentations of our colleague, Senator DANFORTH, who is one of our rising young stars, and of our colleagues Senator CRANSTON and Senator CLARK, I think these presentations pose the issue very well for this reason.

The question is, Shall we be polarized on Rhodesia policy or shall we try to find a moderate, middle course?

Senator CASE and I are suggesting to the Senate a moderate, middle course.

The polarization occurs on position of the two sides. On the one hand, we have Senator DANFORTH's argument: "Go ahead right now, lift the sanctions and, in essence, recognize and accept the internal settlement which has now been made." On the other hand, Senator CLARK has said most vividly, and he is certainly identified strongly with his position: "Frankly, I would prefer to have no amendment at all." But, if an amendment has to be, because of the realistic situation in the Senate, then he would certainly rather have ours than have the Helms amendment. So even though the Helms amendment has not yet been presented—we know it will be—he chooses ours but prefers nothing, which is the present administration policy. The Case-Javits amendment is not an endorsement of current administration policy as we perceive it, but a "corrective amendment" to it.

Mr. President, my position, and I think that is also the position of Senator CASE, is that we first determine a policy and then write an amendment to suit that policy.

I do not agree with the Helms policy of lifting the sanctions, and I do not agree with the Clark policy of leaving the sanctions on until the United Nations takes them off. I believe that we should adopt a course which will aid the coming of democracy and of peace to Rhodesia. I am very encouraged by the fact, that this technique has worked in respect of Southwest Africa or Namibia which was just as sticky a problem, lasting just as long, and seemingly just as insoluble, and also had the parallel of a guerrilla force. Indeed, a much more vested and longstanding guerrilla force with a pro-Communist state to harbor it, to wit, Angola. Nonetheless, the technique of bringing the parties together first and then trying for an agreement worked in that instance. We want to give it a chance in this instance, too, with all the parallels.

What I am saying is this: This is a 1-year bill. It only goes until the beginning of the fiscal year 1979, October 1, 1979. Encompassed within this period is the December 31, 1978, date upon which the internal settlement hinges. The transitional government, which is very temporary, from March to December, prepares for elections by December 31, 1978. So the whole drama must be played out within the period of time which is the period of this bill. We see the lines of possible settlement emerging. So we have written an amendment, which encourages the effort to settle the Rhodesian problem in the Namibian style. That is really what we are doing. We will promote the effort to settle the difficulty according to the way it was settled in Namibia.

How do we do that? We provide that the Government of Rhodesia, the interim government corporate in good faith to join in a conference which will include those on the outside, the so-called guerrillas, and will negotiate in good faith at an "all-parties conference" held under international auspices, on all relevant issues including the terms of the internal settlement and the Anglo-American plan.

Those issues are by no means pleasing to the guerrillas, either because they insure discussion of the interim agreement, the Salisbury agreement, but they also include the Anglo-American plan which we and the British have been advocating for a long time.

Whether the guerrillas will come or not to such a conference we, as yet, do not know, and we have no such assurance.

What we require is that the Government of Rhodesia show it is willing to negotiate in good faith at such a conference. If the guerrillas refuse to negotiate within the context of an international conference under international auspices, then the condition is excused so far as the Rhodesian transitional government is concerned.

That does not end the situation. We provide that if a conference does not take place, but if elections take place then the sanctions are lifted. We mean elections of a character which suit the policies of our country and of Britain, and generally of the free countries of the world; to wit, a government has been installed chosen by free elections in which all population groups have been allowed to participate freely, which means the blacks, with observation by impartial internationally recognized observers.

If such a government is installed and that finding is made by our President, then but only then will the sanctions be lifted.

Mr. President, I started, in the first instance, very strongly favoring this internal settlement, and I still do. But there must be performance and not just promise.

My attention is called to a debate on an amendment submitted by Senator CASE and myself last month relating to this matter. I take the liberty, and hope it will not be presumptuous, to quote myself:

> I think it takes the right attitude of sympathy and commitment for peaceful settlement.

That is, the terms of the internal settlement.

I think Senator CASE has served us all immensely in this particular area. He essentially included a finding in the bill which we were discussing last month, and I joined him in that amendment, as did Senators DOLE and BROOKE, in which generally speaking, supports the type of solution which had been made. That is, an election which would be one in which the black majority could elect and effectuate majority rule by the end of 1978, with protection of minority rights.

The black majority of Rhodesia is very sharply divided. Bishop Muzorewa and the Reverend Sithole are the most important black leaders on the side of the internal settlement. They are in the Rhodesian Government now, and, two, to wit, Mugabe and Nkomo, are out; they are the guerrillas who call themselves the "patriotic front."

I think it is fair to say that there is very unlikely to be a peaceful solution in Rhodesia unless some way is found of coping with the guerrilla menace. Either the country unites under the existing government, and there is an election, and that election gives the government legitimacy, which it does not yet have, and a unification of the country under a government which can then fight the guerrillas as enemies of the country. Or, if that is not the alternative, the guerrillas will win because you cannot stand against them in any other way. There must be a legitimate government, with or without them, and an effective resolve not to allow a settlement imposed by guns.

Therefore, to bring peace and stability it is necessary to have legitimacy. The aim of our amendment is to bring about that legitimacy.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. JAVITS. I yield myself 10 minutes on the bill, with the permission of the Senator from New Jersey. Mr. President, will the Senator yield?

Mr. CASE. What is the situation as to time, Mr. President?

Mr. JAVITS. We have used up the time on the amendment.

Mr. CASE. You have?

Mr. JAVITS. Yes, I have used up 10 minutes.

The PRESIDING OFFICER. There are 12 minutes remaining on the amendment.

Mr. CASE. I yield 10 minutes on the bill.

Mr. JAVITS. We are trying to bring about a situation of legitimacy for the government so that either it is unified against the guerrillas or by the conference technique an agreement has been reached, as in Namibia, which includes the guerrillas. Both the contingencies are fully covered in our amendment. If the present Rhodesian Government says, "We are willing to negotiate in good faith everything, including the Anglo-American plan and the Salisbury agreement," and the guerrillas are willing to go to a conference on that basis, fine, then that condition is fully satisfied.

If, however, the guerrillas say, "No, we will not go to a conference, notwithstanding the agreement of the government," then, nonetheless, if elections are carried through, and there is majority rule as called for by the internal settlement, and an elected government, under the Salisbury agreement is installed in office, then the sanctions are lifted just the same, whether or not there is a conference.

Really thinking it through it is hard for me to imagine a fairer proposition. I think this is very intelligently drafted. I did not have the sole doing of it. Senator CASE has been working on this for a long time. It is fair because it takes account of all relevant contingencies. The guerrillas cannot frustrate us; the internal government cannot frustrate us. Really this is self-operative and sets out what should be the policy of the United States.

I do not know whether this is or is not the policy of the United States. I rather suspect it has not been up until now. From the declarations of the various officials of our Government including Andrew Young, the Ambassador of the United States to the United Nations, I felt a "tilt," toward the guerrillas. I would not sponsor this amendment unless I were confident—and I am—that this tilt is corrected by the amendment and that the United States is truly put in the position to be the honest mediator, the honest broker, and that its actions are conditioned upon the factors established in this amendment.

One last point: To those who would oppose us I would point out that this is the truly moderate course because we are providing for a lifting of the sanctions. This is something that the most ardent proponents of the opposite side are against. Senator CLARK has made that very clear. He believes that sanctions should only be lifted by the United Nations.

The fundamental thrust, and the reason why this is an honest compromise, is that we are adopting the proposition that the United States itself should lift the sanctions, as one of the central themes of our amendment. But, that should follow from the fulfillment of two basic conditions.

I yield.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. JAVITS. Of course.

Mr. CHURCH. I thought I would speak separately on behalf of this amendment, but the Senator makes such a good argument I prefer just to ask a question or two to emphasize the major premise.

Is it not the case that this amendment, if adopted, would have the effect of lifting economic sanctions against Rhodesia once a legitimate government has been established in that country?

Mr. JAVITS. Yes.

Mr. CHURCH. Whatever that government may be?

Mr. JAVITS. Yes, yes, yes.

Mr. CHURCH. Is it not also a fact that first, the amendment is drafted in such a way that we favor neither the existing government, which does not rest upon popular election, nor the guerrilla groups that contest that government, and second, the adoption of this amendment would in no way tilt American policy in one direction or the other but properly would leave this to the Rhodesians themselves?

Mr. JAVITS. Again the answer is flatly yes, and I will not say any more because there are no qualifications.

Mr. CHURCH. I think the case the Senator has made for the amendment cannot be embellished by any further remarks on my part. I commend him for his argument.

I think that clearly we would make a very serious mistake if we were to intervene now and lift this embargo prior to the time that the Government of Rhodesia has been legitimatized either by bona fide negotiations bringing all parties together or by elections by which the people themselves have an oportunity to select the government in Rhodesia.

I think the Senator's argument is quite persuasive and I do hope that the Senate will approve the Case-Javits proposal.

(Mr. MOYNIHAN assumed the chair.)

Mr. JAVITS. I thank my colleague very much.

My argument, just to sum it up, is based on two solid propositions: First, the need for legitimatizing a government before we lift sanctions; and, second, the willingness to negotiate by the government with the guerrillas if they, too, will negotiate in good faith.

But the guerrillas have no veto. If they do not agree to negotiate, if the negotiation fails because of them, if the conference has no result, and if these internal fellows go through with their election and install a government, we will lift the sanctions.

Our good faith is shown by the fact that we are not waiting for the U.N. We will lift them upon conditions which cannot be frustrated by either party, acting in good faith. If the guerrillas come to the conference, OK. If they do not, OK, too. If there is no agreement, OK, too. So long as there is an election, even under the Salisbury agreement, and a government is installed where the black majority has voted and international observers have seen it is an honest election, off go the sanctions.

It seems to me, Mr. President, that that is eminently fair, eminently reasonable, intelligent policy. If our policy has not been that up to now, that is what it ought to be, and that is why I believe this amendment is a sound solution to a very, very difficult situation.

I thank my colleague for yielding me time.

Mr. CASE. Mr. President, I am enormously gratified by the cooperation that we have had in this effort. The Senator from New York (Mr. JAVITS) has given the full measure of his enormous ability. His explanation of the amendment now, and the circumstances arising in connection with its development, have been completely lucid and clear. His colleague from New York (Mr. MOYNIHAN), our cosponsor, cooperated fully in this matter, and it has been a pleasure and a joy for me to be associated with them in this project.

Mr. President, I yield such time as he may desire on this amendment to the Senator from Iowa (Mr. CLARK).

Mr. CLARK. Mr. President, there is an interesting announcement today out of Salisbury, stating that elections have been scheduled for December 4 to 6, with observers invited from the OAU, the U.N., and Western countries.

I think this underscores the wisdom of the Case amendment. We seem already to have pushed the Rhodesian Government closer to these goals of negotiations and elections, and we welcome this further indication of the willingness of Mr. Smith and his copartners in the Salisbury agreement to go forward with free and fair elections.

The amendment proposed by Senators CASE, JAVITS, and MOYNIHAN would give the President authority to acknowledge this development by lifting our sanctions, after determining that elections have been freely held in Rhodesia. We would hope that in the interest of peace in Rhodesia and the region, the Salisbury parties will also agree to attend a meeting of all the parties in an effort to end that conflict.

If the external parties then refuse to attend such a conference, or to engage in serious negotiations based on compromise, the onus for the continuing conflict will then be clear, as will the responsibility of our Government in lending its full support to those who are committed to peace and democracy.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. I have 3 minutes and the other side has none, is that correct?

The PRESIDING OFFICER. The other side has 9 minutes.

Mr. HELMS. I yield my time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from North Carolina yields his time to the Senator from New Jersey. The Senator from New Jersey has 9 minutes remaining.

Mr. CASE. Mr. President, do I understand, then, we have 12 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. CASE. I do not expect to take any large share of that time, myself, at all.

The statements that have been made on the floor, and the explanations, have been excellent. My job here has been largely one of working in the development of a solution, and not for the sake presenting, expounding, or orating about great issues in philosophy or policy. But I think I would like to say just a couple of things.

The Senator from North Carolina, in his amendment as it is offered now and as it was offered on an earlier occasion, is not an utterly unreasonable person. He is responding to concerns that many Americans—including many Members of the Senate, and I myself am one of them—have had about occasional twists and turns in our policy in regard to Africa. Thus, I was pretty sure that he would get enormous support for his amendment, as a protest and as a caution to the executive branch not to go too far in the direction of trying to bring all parties together and forcing the lamb to lie down with the lion for ideological purposes; and I think there was some tendency on the part of certain people in the administration to do that.

But I think on the whole the administration's purpose is probably the sound one of seeing if, by the exercise of great patience and as much skill as can be brought to bear on this difficult situation, we can get solutions which will be supported by the majority of the Africans themselves, at least of those Africans who are reasonable minded and who are not driven by hatred of white people, by hatred of democracy; even by love of communism, if you will, although that is probably not a major part, in most cases, of the motivations that are disturbing that continent.

The concern that our Government at times was yielding in a somewhat oversentimental fashion to that sort of thinking, was what gave to the Helms amendment the strength that it had.

Recognizing that, and agreeing with much of it, it still seemed to me most desirable—at the same time as we register a protest or a warning againt overindulgence in wishful thinking along the lines that some people in the administration have indulged in—that we not go so far as to take away the proper degrees of flexibility that the administration ought to have and needs to have in dealing with situations that are very difficult indeed.

And so Senator JAVITS, his colleague from New York, Senator MOYNIHAN, I, Senator CLARK, and many of us have joined together in this effort. We worked, we hammered, we changed a phrase here and a word there, we put a little more emphasis on one part compared to another, but in the end, what we want to accomplish is a clear statement that we agree with the Helms purpose, favoring majority rule, yes, protecting minority rights, yes. But we do not agree that it is necessary, in accomplishing that objective, to give up the kind of flexibility that the administration, or any administration, would need in these circumstances.

With some reluctance, I think we have got perhaps not active but tacit approval from most of the professionals in the field that we have accomplished basically that. I hope that the Senate will take that position, and I hope that it will support this amendment, it was offered not in anger, in any sense, at any of the positions taken by my friend from North Carolina or any of his colleagues or people on the other side, either, but because it seems to us to be the best solution of a very difficult situation.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, will the Senator yield me 1 minute?

Mr. CASE. I yield.

Mr. HELMS. Mr. President, I simply want to thank my friend from New Jersey for his statement. He and I do not agree entirely on this matter, but he has made a gentlemanly comment, and I want him to know I appreciate it.

Mr. CASE. I appreciate that, too; and I thank my colleague.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment.

Mr. BAKER. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

The result was announced—yeas 39, nays 57, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—39

| | | |
|---|---|---|
| Baker | Hansen | Randolph |
| Bartlett | Hatch | Schmitt |
| Bellmon | Hayakawa | Schweiker |
| Bentsen | Heinz | Scott |
| Byrd, Harry F., Jr. | Helms | Stennis |
| Cannon | Hollings | Stevens |
| Curtis | Johnston | Talmadge |
| Danforth | Laxalt | Thurmond |
| Dole | Long | Tower |
| Eastland | Lugar | Wallop |
| Garn | McClure | Weicker |
| Goldwater | Morgan | Young |
| Griffin | Nunn | |
| | Packwood | |

NAYS—57

| | | |
|---|---|---|
| Bayh | DeConcini | Hathaway |
| Biden | Domenici | Hodges |
| Brooke | Durkin | Huddleston |
| Bumpers | Eagleton | Humphrey |
| Burdick | Ford | Inouye |
| Byrd, Robert C. | Glenn | Jackson |
| Case | Gravel | Javits |
| Chafee | Hart | Kennedy |
| Chiles | Haskell | Leahy |
| Church | Hatfield, Mark O. | Magnuson |
| Clark | Hatfield, Paul G. | Mathias |
| Cranston | McIntyre | Matsunaga |
| Culver | Pell | McGovern |
| Melcher | Percy | Stafford |
| Metzenbaum | Proxmire | Stevenson |
| Moynihan | Ribicoff | Stone |
| Muskie | Roth | Williams |
| Nelson | Sarbanes | Zorinsky |
| Pearson | Sasser | |

NOT VOTING—4

| | | |
|---|---|---|
| Abourezk | Anderson | Riegle |
| Allen | | |

The motion to lay on the table the Case amendment, UP amendment No. 1505, was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from New Jersey. The yeas and nays have been ordered.

Mr. CASE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the yeas and nays on my amendment be vitiated.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), would vote "yea."

The result was announced—yeas 59, nays 36, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—59

| | | |
|---|---|---|
| Bentsen | Hart | Metzenbaum |
| Biden | Haskell | Moynihan |
| Brooke | Hatfield, Mark O. | Muskie |
| Bumpers | Hatfield, Paul G. | Nelson |
| Burdick | Hathaway | Pearson |
| Case | Hodges | Pell |
| Chafee | Huddleston | Percy |
| Chiles | Humphrey | Proxmire |
| Church | Inouye | Ribicoff |
| Clark | Jackson | Roth |
| Cranston | Javits | Sarbanes |
| Culver | Johnston | Sasser |
| Danforth | Leahy | Sparkman |
| DeConcini | Magnuson | Stafford |
| Domenici | Mathias | Stevens |
| Durkin | Matsunaga | Stevenson |
| Eagleton | McGovern | Stone |
| Ford | McIntyre | Williams |
| Glenn | Melcher | Zorinsky |
| Gravel | | |
| Griffin | | |

NAYS—36

| | | |
|---|---|---|
| Baker | Hatch | Randolph |
| Bartlett | Hayakawa | Schmitt |
| Bellmon | Heinz | Schweiker |
| Byrd, Harry F., Jr. | Helms | Scott |
| Byrd, Robert C. | Hollings | Stennis |
| Cannon | Kennedy | Talmadge |
| Curtis | Laxalt | Thurmond |
| Dole | Long | Tower |
| Eastland | Lugar | Wallop |
| Garn | McClure | Weicker |
| Goldwater | Morgan | Young |
| Hansen | Nunn | |
| | Packwood | |

NOT VOTING—5

| | | |
|---|---|---|
| Abourezk | Anderson | Riegle |
| Allen | Bayh | |

So Mr. CASE's amendment (UP No. 1505) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CLARK. Mr. President, I ask unanimous consent that Anthony Mazzaschi, of Senator MCINTYRE's staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question occurs on the amendment of the Senator from California, as amended.

UP AMENDMENT NO. 1506

(Purpose: To amend the United Nations Participation Act of 1945 with respect to Southern Rhodesia)

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1506, in lieu of language proposed to be inserted by unprinted amendment numbered 1504, as amended.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by unprinted amendment no. 1504, (as amended) insert the following: "provided further that

(a) Section 5 of the United Nations Participation Act of 1945 is amended—

(1) by striking out the second and third sentences of subsection (a) an inserting in lieu thereof the following: "In recognition of the settlement of March 3, 1978, reached by leaders representing a majority of Southern Rhodesians, no Executive order issued under this subsection and applying measures against Southern Rhodesia pursuant to any resolution of the United Nations Security Council may be enforceable through December 31, 1978."; and

(2) by striking out subsections (b) and (c).

(b) Notwithstanding any other provisions of law, the amendment made by subsection (a) shall take effect on the date of enactment of this Act.

The PRESIDING OFFICER. The Chair asks the Senator from North Carolina whether this is the amendment on which there are to be 4 hours of debate.

Mr. HELMS. That is correct. I thank the chair.

The PRESIDING OFFICER. The Chair thanks the Senator.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. HELMS. I gladly yield to my good friend.

Mr. ROBERT C. BYRD. Would the Senator be agreeable to a limit of 2½ hours, to be equally divided?

Mr. HELMS. As the majority leader and I have discussed, that will be entirely agreeable.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I would like to be protected to the extent of 20 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield 20 minutes to the Senator from Virginia (Mr. HARRY F. BYRD, JR.)?

Mr. HELMS. I included 20 minutes for the distinguished Senator from Virginia in my agreement with the majority leader.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the time is limited to two and a half hours.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. This amendment, as I understand it, is an amendment in the nature of a substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. If it is agreed to, it will eliminate what has just been voted on and will insert what Senator is moving as a substitute.

The PRESIDING OFFICER. If this amendment is adopted and then the amendment of the Senator from California, as amended, is adopted, that would be the case. The Senator is correct.

Mr. JAVITS. I thank my colleague for yielding.

Mr. CASE. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. CASE. The Senator from New York was the most appropriate man of whom to make the inquiry because it was his ingenuity, his mastery of our parliamentary procedures that made it possible for the Senator from North Carolina to continue on with his nefarious work. Is that correct?

Mr. HELMS. The Senator from North Carolina would not necessarily agree to the latter part of that statement. [Laughter.]

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HELMS. The rules protect the Senator from North Carolina in everything except the order of votes on this proposal.

Mr. JAVITS. That is right. That was the only point I made. I am pleased now that things are squared away on procedure.

Mr. HELMS. Yes. I see no problem.

Mr. JAVITS. I thank the Senator.

Mr. HELMS. Mr. President, under the unanimous-consent agreement of July 19, the Senator from North Carolina was granted 4 hours, equally divided, on an amendment. This amendment, proposing the lifting of sanctions by the United States against Rhodesia, is that amendment, and as the distinguished occupant of the Chair knows, by unanimous consent time agreement the 4 hours have now been reduced to 2½ hours.

Mr. President, on June 28, the Senate voted 48 to 42 to table an amendment to the Foreign Policy Authorization bill which would have lifted U.S. sanctions against Rhodesia until the end of fiscal year 1980. Despite the strong showing, some maintained that the period proposed for the lifting of sanctions was too long, too open-ended with regard to the situation in Rhodesia.

The present amendment chooses as the terminal date for the lifting of sanctions December 31, 1978. Thus no executive order dealing with sanctions for Rhodesia could be enforceable from the date of enactment of this bill until December 31, 1978.

The date of December 31 was chosen because that is the date agreed upon by the leaders of Rhodesia for the proclamation of independence under a democratically elected, multiracial government. By that date, the world will know whether the internal agreement has indeed been successful.

The President of the United States will then be in a position to reappraise the U.S. attitude toward sanctions. On January 1, 1978, the executive orders imposing sanctions will automatically be enforceable once more. Under existing law, passed in 1977:

> The President may suspend the operation of the amendments contained in this Act if he determines that such suspension would encourage meaningful negotiations and further the peaceful transfer of governing power from minority rule to majority rule in Southern Rhodesia. Such suspension shall remain in effect for such duration as deemed necessary by the President.

Thus the President has full power and authority to suspend sanctions if he determines that such action will bring about the transition to majority rule desired. On the other hand, he can completely withdraw the Executive order if the situation warrants it.

Thus my amendment now pending leaves wide latitude to the President's discretion in reassessing the situation. It is true that it does establish a time certain for the initial suspension of enforcement of sanctions. But if the President were of a mind to suspend sanctions, he would have done so by now. It is perfectly obvious that he does not intend to do so. In some respects, he is doubtless trapped in his own rhetoric, and that of Secretary Vance and Ambassador Young. In suspending sanctions by congressional action, the President would be able to withdraw gracefully from an untenable policy position.

On September 24, 1976, Prime Minister Ian Smith announced at the end of his discussions with then Secretary of State Henry Kissinger that he had accepted the Kissinger proposals for transition to majority rule. These include a transitional government to consist of a Council of State with equal black and white membership, a Council of Ministers with a black majority, and the security forces under control of the Ministers of Defense and Law, who would be white Rhodesians.

These key provisions should be compared with the internal agreement reached after negotiation with the black moderate leaders, representing a majority of Rhodesians. Instead of a Council of State with equal representation, the present transition government has an Executive Council which is 4 to 1 black. Instead of a Council of Ministers with a black majority, and the army control by a white minister, the present Ministerial Council has blacks participating equally in all cabinet posts, including those controlling the army and the police. It should be fully recognized that Prime Minister Ian Smith went far beyond the requirements of the Kissinger Plan in reaching the internal agreement with the moderate black leaders.

It was only a little over a year ago that the distinguished chairman of the Africa Subcommittee, the senior Senator from Iowa (Mr. CLARK), spoke about the necessity for Mr. Smith to negotiate. He said:

> In retrospect, it may well be that historians will evaluate the political effect of this bill as being more meaningful now than at any other time since the Byrd amendment was enacted. It comes after the collapse of the Geneva talks and in the wake of the assertion by Prime Minister Ian Smith that he expects assistance and sympathy from the West because he accepted the so-called Kissinger Plan, although he refused to negotiate beyond it. This legislation represents, in effect, an answer to that assertion. It shows that the U.S. Congress is in accord with the statement announced by Secretary Vance in early February that Rhodesians could not count on any form of American assistance in their efforts to prevent majority rule or to enter into negotiations which exclude leaders of the nationalist movements.

Mr. President, the desire of the distinguished Senator from Iowa has now been fulfilled. As a result of the repeal of the Byrd amendment last year, and other international pressures, Prime Minister Smith did move to negotiate with the leaders of the nationalist movements. The negotiations were open to all. No one was excluded. Even today, even after the Smith government has given way to a black majority transitional government, no nationalist leader has been excluded. The only leaders not participating are those who have refused in principle to agree to a Democratic government. Both the external leaders seek to establish one-party Marxist states, with confiscation of all property and "liquidation of the present regime."

Therefore, the Senator from North Carolina cannot see how anyone can fault the present agreement. Even today, the external leaders are welcome to participate in the transitional government and in the elections for the new government, if they agree to lay aside violence and adopt democratic principles. There is a limit beyond which decent men cannot go.

The former Smith government has therefore done everything that it is supposed to do. It adopted the Kissinger plan. It negotiated on the basis of the Kissinger plan to reach an agreement at a conference open to all nationalist leaders. And now a multiracial government is already in place to prepare for free and democratic elections to be monitored by international observers.

Yesterday morning, Dr. Kissinger met with Bishop Abel Muzorewa, the most prominent among the black moderates who have participated in the internal agreement. After the meeting Dr. Kissinger made a ringing endorsement of the internal settlement and Bishop Muzorewa's efforts to work out a democratic transition. If Dr. Kissinger himself has said that the requirements of the Kissinger plan have been fulfilled by the internal agreement, who can say it is not so? The United States made a commitment to the Rhodesians, and America

must keep it by lifting sanctions against the transitional government.

Let me be blunt, Mr. President. If I understand the senior Senator from Iowa and his words of a year ago, sanctions were applied against Rhodesia to compel the original Ian Smith government there to concede the principle of democratic majority rule, one person one vote.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. HELMS. The distinguished Senator from Iowa intended that the sanctions should gradually cripple the economy of Rhodesia sufficiently to put pressure on the decisionmakers to yield that principle.

For whatever reasons—and we must assume that the sanctions were a significant contributory reason, the principle of democratic majority rule has now been conceded, and a constitutional agreement has been concluded between black and white Rhodesians that will lead the country to genuine independence at the end of the year on the basis of free and open elections in which every Rhodesian over the age of 18 will be able to participate. So that this may happen in an orderly way, a transitional government has assumed office that consists of Mr. Smith and the leaders of three black political groups which between them have the support of something like 80 percent of the Rhodesian people.

As I indicated earlier, Bishop Abel Muzorewa, of the United Methodist Church, is the leader of the largest of these political groups, and the man who is likely to emerge from free elections as the first Prime Minister of Zimbabwe—which is the name by which Rhodesia will be known after independence.

Parenthetically, Mr. President, I might say that the bishop went to North Carolina this past Saturday, and I was deeply touched by a visit that he paid to an 83-year-old former missionary, a delightful lady, who now lives in a Methodist home in Asheville, N.C.

I do not think I will ever forget the scene of the bishop embracing and being embraced by this gracious lady who not only taught him to speak English but converted him to Christianity.

Here is a man of good will, a widely respected leader in his country, who has come to the United States to plead with this Senate to lift the sanctions now for his government so that jobs can be created, and so that his transitional government, in which he is such a leading participant, can begin to function effectively.

That is why the Senator from North Carolina is on his feet at this moment pleading with the Senate not to dismiss the dreams, the hopes, and wishes of 80 percent of the Rhodesian people in order to try to placate a violent external group to appease so-called front-line states whose philosophies and friendship toward the United States are certainly in question.

Those of us who have been privileged to hear the bishop have heard his eloquent plea for American recognition of the very profound political change that has taken place in his country, for acknowledgment that the purpose of sanctions has been accomplished, and for immediate relief from the burden of them, since they now serve only to impede his transitional government in its earnest pursuit of the objective of a prosperous multi-party Rhodesia having close ties with the western world.

Biship Muzorewa was once a staunch supporter of sanctions. He came to the United States in 1974 to plead for the imposition of sanctions. He has persuaded many of us that now—not later, now—is the time to lift sanctions, so that the economy of his country may begin to make the recovery that will allow the first elected black government of the new Zimbabwe to inherit a going concern, thus enabling it to get away to a confident and promising start.

After all, the lifting of sanctions was promised not as a reward for holding elections, but as a reward for establishing a transitional government leading to elections. Unless we vote to lift sanctions, we will be defaulting on that promise. It is a necessary tool for the black moderates who have staked their lives and political futures on democratic procedures. It is a tool which will help make a climate where free elections are possible. To deny that tool is to throw the weight of U.S. policy toward the supporters anti-democratic, one-party, totalitarian dictatorship. As we vote on the pending amendment, I hope Senators will bear that in mind.

There are some immediate, and I believe, compelling reasons for lifting sanctions now. An appeal has gone out to the men with the guns to lay them down and be rehabilitated into civilian life, because the purpose for which they took up arms has been accomplished. There has been some response to this appeal, and I understand it is gathering momentum, but it is a slow process, bedevilled by suspicion that it is a trap. These fears need to be removed and it would be helpful if the transitional government could be given access to resources that would enable it to set up resettlement and rehabilitation programs rather than have its available resources diverted primarily to the conduct of a war with Soviet-backed guerrillas.

I believe that there are also important political and psychological reasons why we should lift sanctions now. The Soviet-backed guerrillas represent minority political groups in Rhodesia. They have rejected participation in the recent constitutional processes because they have little expectation of winning at the ballot box, and they therefore pursue their political aspirations out of the barrel of a gun. Of course the Soviets give them unstinted support, and they will continue their armed struggle for supremacy as long as the west withholds support from Rhodesia's transitional government. We have put ourselves in the unedifying position of holding the victim down while the neighborhood muggers beat him around the head. It is not too late to give him an even chance to defend himself.

It has been said by some that the only way to keep the Soviets and the Cubans out of the Rhodesian situation, is by forcing the Patriotic Front to come into the settlement. But the only reason why the Patriotic Front has a position of power is because of the massive support which Nkomo and Mugabe are receiving from the Soviets, the Cubans, and the Chinese. If the Patriotic Front is included without a guarantee that such participation will be on a democratic basis, the Front will bring in the Soviets and the Cubans for reprisals and suppression against the democratic groups. The inclusion of the Patriotic Front under such circumstances will guarantee the establishment of a militaristic police state, and the suppression of freedom. It will also guarantee that the Soviets will have complete control of the heartland of Africa—unless the components of the Patriotic Front war against each other for the prize of ultimate control.

In theory, the inclusion of the Patriotic Front should be a desirable objective. But it is not desirable as long as the Patriotic Front rejects democratic principles and continues to receive total support from the Soviets. We merely encourage the Patriotic Front to win a battlefield victory—and recent statements made by its leadership, including some made here in the United States in recent weeks, leave little doubt that that is their intention. The leaders have indicated that they will not allow an electoral process to proceed. Quite obviously we gain nothing in these circumstances by deferring the lifting of sanctions until elections have taken place. We merely increase the risk that there will be no elections. We give an advantage to a Soviet-backed force that is neither moral nor prudent. If, on the other hand, we show early and tangible support for the constitutional agreement, I believe that we provide a powerful incentive to the Patriotic Front to take its chance at the ballot box.

In talking to Bishop Muzorewa, I have been much impressed by his concern that white Rhodsians, while yielding to majority political power, should remain in Rhodesia to make their continuing contribution to the country's prosperity. It is very necessary to preserve their confidence, and especially to do so during this period of political flux. Nothing is more likely to do so than an early indication of western support for the new political course on which they are embarked.

Thus the so-called guarantees, which are often attacked by persons with little knowledge of the situation, ought to be held up as a major benefit to the black people, rather than as some sort of a trick to perpetuate white rule. As the Bishop has pointed out many times, it is absolutely imperative to retain present standards of technology and management, if the prosperity of all the people of Rhodesia is to be maintained and increased. The Rhodesians have taken to heart the lessons of Mozambique, Angola, and Zambia, and they do not want to repeat those tragic tales of mismanagement and emotional destruction of functioning economies. The new government will be controlled by blacks and have a predominantly black legislature; but the white Rhodesians are welcome to stay, welcome to participate in the political process, and welcome to keep and develop their financial interests for the benefit of all.

Mr. President, I submit that the lifting of sanctions now is the course best

calculated to protect and encourage the forces of democracy and moderation in Rhodesia, and needless to say, I do hope that the Senate will approve my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CLARK. Mr. President, I yield myself such time as I may need.

I want to make clear at the outset that I am in disagreement with the Senator from North Carolina over the nature of the so-called internal government. I do not see the sitting government in Salisbury as a democratic government, ruling by majority rule, as the Senator has indicated.

Why not? Because there has been no election. You cannot have a democratic government without there ever having been a vote. The only votes that have occurred in Rhodesia in several years are those of the very limited voting rolls which are almost exclusively white. Only 3 percent of the population of Rhodesia is white, and that means that anyone who is in office there, in terms of a legitimate government in Rhodesia as we would view its legitimacy, were put there by that white minority and a handful of black voters who are included in the voting rolls. Thus Ian Smith is Prime Minister, not out of any election other than the election of this limited voting roll. So there is no democratically constituted government in Rhodesia, unless one considers that blacks do not have any right to vote.

Yes, there has been an agreement between that government of Mr. Ian Smith on the one hand and three black leaders on the other, Bishop Muzorewa, Senator Chief Chirau, and Reverend Sithole, but that is an agreement between those four parties. It is not democratically arrived at. There have been no agreements, there have been no elections, there has been no basis upon which one could say that this is a democratic, majority ruled government. Indeed, Ian Smith remains prime minister. But who elected him prime minister, other than the white minority?

What indication is there that even the black ministers who sit together in the council and who sit in the various positions of the cabinet alongside white ministers, by this Salisbury agreement, have a voice in what is happening?

We remember when the black minister of justice was so bold as to suggest that the new government, this new government, ought in fact to recruit more blacks in government. He was immediately dismissed, summarily dismissed. Bishop Muzorewa and others objected to that. Their objections did not mean much; he was dismissed.

So to say that this government which now sits in Salisbury is a democratic government, representing majority rule, is in my judgment quite a stretch of the imagination. It may be a popular government; that is yet to be tested. I can tell you, just as one brief observer going to Rhodesia, that I happen to be under the impression that if there were free elections, Bishow Muzorewa is probably the most popular member of that government. But that is my impression. Certainly you cannot create a government in Salisbury out of my impressions or anyone else's. There is one way to know whether this internal government has majority support or democratic support, and that is to hold an election.

That is all the Case-Javits proposal does, in addition to saying "You have got to go negotiate."

Why should we lift sanctions without even having an election, and just assume that the internal government is a democratic government? What kind of basis for assumption is that? A public opinion poll? I do not think we can put a government in and say it is a democratic government because of a public opinion poll.

I can tell you that this time of year, when I was first up for election, I was behind 60 to 19. I got elected. Elections decide, not public opinion polls at some stage.

All I am saying is that this agreement between three black leaders and Ian Smith is just that; it is an agreement. There is no sanction other than their own agreement.

That is all right. I am not condemning that agreement. I am simply saying that is what it is; it is not a democratic government. There have been no elections. There have been suggestions for elections, and today the government in Salisbury has said they are going to set elections, and they have set elections for December 4th through 6th. Fine, let us have them. But why should we lift the sanctions before we have a democratic government, democratically elected, in Salisbury?

Let me talk a little bit about what I think the Helms amendment would do.

I will try to keep my remarks as brief as possible. As far as I am concerned, I will not need a great deal more time on this side, although I am sure others wish to speak as well.

First of all, if we were to adopt the Helms amendments I think it is not too much to say that it would destroy our relationship with the United Nations. I know there are people here who would not mind seeing that happen, who are opposed to the United Nations in principle. That is their privilege. But I think the majority of the people in this country and in this body have expressed themselves in favor of the United States continuing to participate and work with the United Nations.

This amendment, in my judgment, would destroy that relationship. Why? Because we would have to violate the U.N. Participation Act, in effect. We would have to say we are no longer going to participate in this process. Indeed, we would, if we adopted this amendment, go further than that. In fact, if we were to actually adopt this amendment, we would be saying that we were repealing the U.N. Participation Act and, indeed, we would not be able to even ask for sanctions on any other ground.

I think the amendment would destroy the relationship with virtually every country on the African continent.

Again, I know there are people here who say we should not have any interest in Africa; that we do not care what our relationship is with that continent; never mind that it contains 50 countries, one-third of all the countries in the world being on that continent. Some do not care that much about our relationship there.

I think it is important. If there is one thing that all of the countries of Africa, with the possible exception of South Africa, agree upon, it is not to lift these sanctions. We saw last week at the OAU meeting in Khartoum all the members voted unanimously, took the position unanimously, that they did not want to lift sanctions.

We can fly in the face of every one of those nations and say, "We do not care what you want." I do not think that is an advisable kind of policy for the United States to follow.

This amendment would seriously damage our entire relationship with the Third World, many of whom are located on the African Continent. If we are going to say that we are uninterested now in what happens in the Third World, if we are going to destroy the development of dialog between the north and the south, all right, but let us be aware of the fact that we are doing that when we take actions of this kind.

Furthermore, I should say violations of human rights in Rhodesia are of the same level as we have decried in the Soviet Union, and should decry in the Soviet Union.

We have made a number of speeches on this floor about the recent trials, and appropriately so. I wish there had been the same kind of interest and concern for the trials of people in Rhodesia because many of the people in Rhodesia who are involved in this were themselves in jail without trial, without any opportunity.

It means, it seems to me, that human rights ought to be considered in black Africa as elsewhere; that their human rights are important.

I remember very well when Steve Biko in South Africa was murdered in a prison cell, not even given an opportunity for a trial. There was very little discussion of it. It seems to me that black human rights ought to be just as important as white human rights.

I think this amendment would place a peaceful diplomatic solution of the Namibian problem in serious jeopardy. That is exactly what the Secretary of State said last Sunday on Issues and Answers.

We are very close to a successful conclusion by having the five major powers of the Security Council, the Western powers, working with Namibian people as well as the South African Government. We are now very close. Indeed, both sides have agreed to the general principles. What happens if we go ahead now and lift sanctions? I think the Secretary of State is right: We would be running a great risk that those negotiations would no longer go forward.

Why should we, when we finally put together a great program, a program arrived at through negotiations and diplomacy, now be thrown over by an amendment of this kind?

Furthermore, it will be impossible to have a peaceful negotiated settlement in Rhodesia if this amendment is passed. I suppose that is the major single point.

Does anyone seriously believe that if we lift sanctions here today, and the

House of Representatives does the same, that there will be a ceasefire; that the war will end; that somehow this will resolve itself? Of course it will not. It will harden both sides. The war will continue. And, as many observers have pointed out, there is every risk that we run if that war continues that we get deeper Soviet, deeper Cuban, involvement in it. The war is not going to end as a result of these sanctions.

That is what we want. We want an agreement that will bring all the parties in, that gets the ceasefire, that ends the war, and then that has democratic elections. That is what the Anglo-American plan is all about. It does not favor one side over the other. I have no more interest in taking sides with Mr. Nkomo or Mr. Mugabe than Bishop Muzorewa or Reverend Sithole or anyone lese. That is not our business. We are not to take sides. We are to be honest brokers and bring these sides together to have free elections. It is not for us to decide which of these men or women, or which of these forces, are the most popular. It is for us to work to try to get objective, internationally observed elections, and that is what it is all about.

Mr. Smith himself last week said, "Without a ceasefire the Salisbury agreement cannot work."

What is there about this amendment that would bring a ceasefire? By what stretch of the imagination can we believe that this is what is needed for a ceasefire?

The Helms amendment would place us on the side of Ian Smith and the internal leaders. It would make it impossible for us any longer to credibly be the honest broker and to work with Great Britain to negotiate peaceful diplomatic solutions.

The passage of the Helms amendment would lift sanctions regardless of whether this announced election were even held. Sanctions would be lifted regardless of the election. There is no condition that these elections have to go forward, or that they be free elections, none whatsoever. We are killing whatever incentive there may be in the Case-Javits-Moynihan amendment to have elections.

In the amendment we have adopted we have said we are going to have an election, that we are going to attempt a negotiated settlement, and if that occurs, we are going to lift sanctions.

Why would we want to throw that away simply in favor of saying, "We will lift sanctions whatever you do, regardless of whether you want to negotiate, regardless of whether you ever hold an election, regardless of the nature of that election."

Passage of this amendment, lastly, Mr. President, would, in my judgment, play directly into the hands of the Soviet Union and Cuba. There is no one who has spoken out more clearly or more loudly against such an action than the distinguished Senator who sponsors this amendment, and I respect him for that. I do not mean to say by any means that that is the intent of the amendment. Obviously, it is not. But what is its effect? If the United States at this point lifts sanctions and we are condemned by the entire African continent for having done that, by the moderate states of Africa, like Botswana, Zambia, Nigeria, others, what position then do we have in Africa? None whatsoever. We have no influence, no effect, in Africa. It is an open field for the Soviet Union and for the Cubans. From that point on, what leverage do we have, what position do we have, in Africa?

It seems to me that it would be doing the Soviet Union and Cuba the greatest favor imaginable if we were to say we are going to lose whatever influence we have, whatever relationship we have developed.

You know that the President of the United States has worked very hard over the last year and a half with the Secretary of State and others to try to develop a closer relationship. We have had Tanzanian President Nyerere in this country; we have had President Kaunda, of Zambia, in this country; we have had leaders from Senegal, Nigeria, and many, many others. We finally established some rapport with these governments. Now, if we are to say, "No, we want to lose whatever contact and rapport we have had," it seems to me that that could have only one result. That is a tremendous advantage for our adversaries, the Soviet Union and Cuba.

I hope that my colleagues will join with me in defeating this very, very important amendment that the distinguished Senator from North Carolina has offered.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. CLARK. I yield for a question.

Mr. HARRY F. BYRD, JR. The Senator from Iowa mentioned earlier in his comments that the pending amendment by the Senator from North Carolina would—again I paraphrase—fly in the face of the United Nations or be detrimental to the United Nations——

Mr. CLARK. Our relationship with the United Nations.

Mr. HARRY F. BYRD, JR. Would be detrimental to our relationship with the United Nations.

Does not the amendment just approved by the Senate, offered by the Senator from New Jersey and the Senator from New York, do what the Senator from North Carolina seeks to do, except in a different time frame?

Mr. CLARK. I do not think it does, because it does not strike the same sections of the United Nations Participation Act. That is the point I was trying to make. Let me find the amendment.

The point I was making is that the Helms amendment actually strikes the subsection—if I could have a copy of the Helms amendment. Let me read it:

Section 5 of the United Nations Participation Act of 1945 is amended by striking out the second and third sentences of subsection (a) and inserting in lieu thereof the following.

What I am suggesting is that if we actually did that, we would be striking a section of the U.N. Participation Act which makes it impossible for us to even ask for imposition of sanctions on any other issue.

Mr. HARRY F. BYRD, JR. It is correct, is it not, that the Case-Javits amendment lifts the embargo on trade with Rhodesia?

Mr. CLARK. It would lift the embargo on trade with Rhodesia if the President found that certain conditions were met.

Mr. HARRY F. BYRD, JR. So by congressional act, it would lift the embargo regardless of the attitude of the U.N.

Mr. CLARK. I think the President would make that decision and would participate in that. It would not—I stand to be corrected if I am wrong on this, but I think it would not be by congressional action. I think it would be by Presidential decision.

In other words, the Case amendment says——

Mr. HARRY F. BYRD, JR. I note the able Senator from New York is on his feet. I happened to jot down a statement he made on the previous amendment. He said: "We are providing for the lifting of the sanctions."

The Senator from Idaho (Mr. CHURCH) put an inquiry to the Senator from New York (Mr. JAVITS). He said, "Is it not, in fact, the case that the pending amendment would lift the embargo on trade with Rhodesia?"

The Senator from New York answered, "Yes, yes, yes."

Mr. CLARK. I think the Senator is correct, but it would be by Presidential determination.

Mr. JAVITS. Will the Senator yield to me?

Mr. HARRY F. BYRD, JR. The Senator from Iowa has the floor.

Mr. CLARK. I do yield.

Mr. JAVITS. To Senator BYRD, I say, the measure provides for lifting of the sanctions, but it lifts them upon two conditions. One condition is that the Government of Rhodesia has committed itself to negotiate in good faith; second, that there has been an election. A finding of fact as to whether those two conditions have been met is made by the President. When the President finds those two conditions to have been met, the sanctions are automatically lifted.

Therefore, the answer to the question whether this amendment lifts the sanctions is "yes." That is why I said what I did.

Mr. HARRY F. BYRD, JR. That is correct. I thank the Senator from New York and that is——

Mr. JAVITS. That is right. We do not have to wait for the U.N. That is clear. We do not even wait for the President to speak. All he has to do is find that these two conditions have been met.

Mr. HARRY F. BYRD, JR. That is a very important point that the Senator from New York just made.

Mr. JAVITS. Sure it is.

Mr. HARRY F. BYRD, JR. It is a vitally important point which I want to address later on.

Mr. JAVITS. Sure it is.

Mr. HARRY F. BYRD, JR. It is of great significance, because the sanctions would be lifted regardless of the attitude of the United Nations.

Mr. JAVITS. That is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. CLARK. I agree with that statement, but it would be done with Presidential action.

Mr. JAVITS. All he does is find the two

facts. He does not lift the sanctions. That is lifted by virtue of this act.

Mr. CLARK. That is correct.

Mr. HARRY F. BYRD, JR. Will the Senator from New York yield 2 minutes to me?

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. I shall be glad to follow the distinguished Senator from Virginia if he has some remarks prepared.

Mr. HARRY F. BYRD, JR. Go right ahead.

Mr. HAYAKAWA. I thank the Senator very much.

Mr. President, I should like to propose some replies to the statement of the distinguished Senator from Iowa, in which he made a number of statements about the present situation in the transitional government in Rhodesia.

He has pointed out correctly that it is not a democracy. I should like to point out that it does not claim to be as yet. What we have in Salisbury is a transitional government struggling toward a democracy, toward elections, toward majority rule. At the present time, the people running the government, including the executive council and the ministers—one of each race in each ministry—are pretty much self-appointed. They are not there, because of the democratic process.

The Senator from Iowa is very critical of the fact that they have had no elections. The transition to a democratic government has been made virtually impossible by the fact that the terrorists of the Patriotic Front are doing their best to prevent any election from taking place and the Government is so busy fighting terrorist attacks upon outlying areas of Rhodesia that it is almost impossible to conduct elections. I need not go over the shocking stories of very, very recent terrorist attacks, when, for example, very recently, the Patriotic Front terrorists massacred 12 whites at the Anglican Emmanuel Mission School, 18 miles southeast of Umtali. These were totally random murders committed against women, children, and missionaries, who are totally unarmed, totally unable to help themselves, totally unable to defend themselves.

These attacks are made not only against whites but against blacks. Subsequent to the Emmanuel Mission massacre on July 1, Patriotic Front terrorists butchered 14 black civilians on a black farm compound in the Headlands area 140 kilometers east of Salisbury.

A few days later, two more missionaries were slaughtered by terrorists. Then, just a few days ago, a convoy of civilians traveling south from Kariba were killed by the "Freedom Fighters" of the Patriotic Front.

I have been told by members of the Patriotic Front that they are not Communists just because they use Communist weapons. However, my informants in Rhodesia have told me the political training notebooks taken from Mr. Robert Mugabe's soldiers shows quite clearly the Communist indoctrination; Communist sources of those handbooks show very, very clearly, that these people are trained, nurtured, supplied by the Communists.

Another important point that the distinguished Senator from Iowa makes is that the dismissal of Byron Hove, a black from the ministry, indicates that whites are very much still in charge.

I wonder if the Senator from Iowa is aware of the fact that Byron Hove, a black London lawyer, arrived in Salisbury on February 13, 1978, and on February 14 he began to announce how the whole Department of Justice was going to be reorganized without having taken the trouble first to find out what reorganization plans were cooking, without finding out what the present state of affairs was within that department, and his dismissal, therefore, is not the act simply of Mr. Ian Smith, but certainly, completely backed up by Chief Chirau and Reverend Sithole.

How can an election be held under conditions now prevailing; and to lift the sanctions is not under the amendments proposed by the Senator from North Carolina.

The first one asks they be lifted for 1 year only and the present amendment asks that they be lifted only until the end of this year, until December 31.

At the end of that time, the sanctions can be reimposed. The moment we discover they cannot hold elections or have been unable to do so, or for any other reason that we are not satisfied with their progress, we could reimpose those sanctions—and we are not talking about lifting them permanently, without putting conditions on the lifting of those sanctions.

I am amused always by those who worry upsetting our relations with the United Nations by taking some course of action which the United Nations would not approve of. It seems to me, Mr. President, that this amendment does not violate our relationship with the United Nations. The United Nations has itself violated that relationship with the United States long ago and many, many, many times.

I have been for a long time an enthusiastic supporter of the United Nations. When the United Nations met to organize itself in San Francisco in 1945, no one was happier about it than I was.

But in recent years, the United Nations has become a forum of anti-American propaganda and of ganging up on any American desire and any American interest.

Why we continue to support it under those changed conditions and court their good will, I simply cannot understand.

I am not at all sure that the distinguished Senator from Iowa is correct in saying that an amendment of this kind will destroy our relationships with all African nations. A number of nations that permitted the unanimous resolution on the part of the Organization of African Unity to pass unanimously, they simply do not vote or raise their voice when they are in a conference surrounded by people with louder voices than their own.

The Senator from Iowa is perfectly familiar with this phenomenon among all of us who tend to keep quiet among noisy spokesmen of other points of view.

Let me call attention to the fact that Botswana, Liberia, Gabon, the Ivory Coast, a number of African nations, Senegal, and so on, are not at all enthusiastic about the Patriotic Front, at the same time as they are not all that enthusiastic about the internal settlement, either.

But to say that we shall permanently alienate these nations by any actions we may take, seems to me to me highly inferential.

The important thing about our relations with Africa is that we have permitted Communist influence to spread itself in Angola, Communist takeovers in Ethiopia and Namibia and elsewhere, and we have never raised a finger to protest. We have never raised a voice in protest in all this takeover of Africa by Communists from Russia and Cuba.

This very small measure of resistance to this takeover simply by temporarily lifting of sanctions to give the Government of Rhodesia a chance to organize itself seems to me to be a very mild and modest way of saying, "You just can't go on this way forever."

The important thing, however, the fear I have about the Case-Javits-Moynihan amendment, is to look at it from the point of view of the Patriotic Front.

This amendment makes the lifting of the sanctions conditional upon their holding elections in Rhodesia.

The Patriotic Front has announced already that it will prevent elections from taking place, will make every polling place a target for terrorist attacks.

So if you were a member of the Patriotic Front, or a leader of it, what would you do in order to prevent the sanctions from being lifted? You would see to it that those elections could never be held. You would see to it that every polling place is so surrounded by terrorists that everybody would be afraid to go and vote. So there would be no election.

We are, by the Case-Javits-Moynihan amendment, almost inviting the Patriotic Front to come in and not let them have elections and then they will have nothing more to worry about our lifting sanctions.

This particular consequence of the wording of this amendment, in this form, does not seem to have been thought out by the proponents of it.

Mr. President, we are actually assisting totalitarian forces that could not conduct their campaign of massacre against innocent black Rhodesians if they were not given a safe haven and supported by neighboring states. We offer subsidies to these neighboring states.

I, personally, in the first days of June this year, had an audience with President Kenneth Kaunda of Zambia. I asked him in all seriousness how it was that he, who had won the Martin Luther King Nonviolent Peace Prize, is harboring terrorists of the Patriotic Front within his own borders. He said that there are limits to nonviolence.

I was perfectly willing to grant that, but to go beyond those limits, how does one get the Martin Luther King Nonviolent Peace Prize?

Well, he got it and he had no answer to that question.

The impression I got, Mr. President, is that President Kenneth Kaunda, with all his protestations of Christianity, with all his protestations of being a lover of peace, with the hymns he sings and and the spirituals he loves to lead in song, is a pious fraud.

He is really a believer in violence. I did not say these things to him, of course, but I asked him further, "Why do you permit the Patriotic Front troops within your own country to murder and pillage your own citizens and rape your own women?"

He said, in effect, "Well, soldiers will be soldiers, as boys will be boys."

It seemed that he was unwilling to lift his hand to protect his own population from the violence of the terrorists, the foreign terrorists, he was harboring within his own country.

So Kenneth Kauda is no prize. He is not a person we can take any pride in allying ourselves with. There is no need to court his good will.

His country is suffering desperately economically and can only be propped up by us, by aid from the World Bank, or by military aid from the Communist nations. These are the people we are supporting.

I am not opposed to assisting nations with economic difficulties, but we should at least make our assistance conditional upon their refraining from encouraging armed bands to go marauding across a neighbor's border. This is very deeply true of Mozambique as it is of Zambia. If we were to conduct ourselves in that way, we would be serving two important principles—a principle of international law and a principle reflecting our national dedication to nonviolence in the settlement of disputes.

There is no indication in either branch of the patriotic front, that led by Nkomo or that led by Mugabe, that there is any dedication whatever to nonviolence. Indeed, the evidence is entirely to the contrary. They are terrorists from both wings of the Patriotic Front. They are determined to have their way by terrorism, not simply with the barrel of a gun but with chopping people up, scattering their remains over the fields, in order to create terror, in order to intimidate people, in order to create in them such fear that they will not dare raise their voices in protest of any kind.

We hear from the policymakers expressions of concern that the Patriotic Front has to be brought into the agreement. I wonder whether people realize that leaders of the Patriotic Front wander around Salisbury with complete freedom.

I had dinner with the vice president of the Patriotic Front, the ZAPU forces, Mr. Chinamano, in the Michael's Hotel in Salisbury. One would think that the enemy of Rhodesia would not be free to wander around in Salisbury. But Mr. Chinamano brought three of his staff members into the dining room of the Michael's Hotel. They were not frisked; they were not searched; they were not queried by the security officers, if there were any security officers, because the Salisbury Government has lifted the ban on them and said, in effect, "This is a country with free speech and civil rights."

So the only questions that were asked of these Patriotic Front leaders—it was true of Chinamano and his guests that day; it was true of Mr. Albert Mugabe and his wife. Mr. Albert Mugabe is the brother of Robert Mugabe. They, too, came to Michael's Hotel, and they were not searched or frisked in any way. The only questions asked of them were, for example, "Will you have your roast rare, medium, or well done? Will you have red wine or white?"

These are the kinds of civil liberties they enjoy there.

So there is a very important respect in which Rhodesia is developing, a nation in which there are all kinds of civil liberties already available, despite the dangers they are under, and those civil liberties are likely to be expanded.

So, Mr. President, what I am saying is that to make the lifting of sanctions contingent upon the holding of elections is to encourage an intensification rather than a reduction of conflict. The Patriotic Front has declared publicly that it will not allow elections to take place.

If we say that we will lift the sanctions against the transitional government when elections have taken place, all we are doing is encouraging the Patriotic Front to determine that that never happens. This means a permanent state of bloodshed, a permanent state of civil war within Rhodesia; and after that, if the Patriotic Front has prevailed, the likelihood is that that forces led by Nkomo will fight the forces led by Mugabe. In one way or another, we are dooming Rhodesia to continued bloodshed if we continue in our present course.

I thank the Senator from North Carolina.

Mr. HELMS. I thank the Senator for his most enlightening remarks. I wish we had even more time for him to describe his personal observations when he was in Rhodesia, experiences which the rest of us have not had. The distinguished Senator from California is exceedingly well informed on the subject, and I am honored that he is supporting my amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 29 minutes remaining on his amendment, of which 20 minutes have been reserved for the Senator from Virginia.

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina. I yield myself 10 minutes.

Mr. President, the Senator from North Carolina has done a magnificent job over a long period of time in attempting to have the embargo on trade with Rhodesia lifted. I hope the Senator from North Carolina can succeed. He is fighting a worthy battle against great odds.

The United States has been totally unfair, in my judgment, over a long period of time to that little country of Rhodesia.

There is every reason in the world why the trade embargo on Rhodesia should be lifted now. The Rhodesians themselves, by an internal settlement with the three moderate black leaders on the one side and Prime Minister Ian Smith on the other, have gotten together among themselves and have worked out plans for elections to be held before the end of this year.

Mr. President, the problem that Rhodesia faces is not internally in Rhodesia. The problem Rhodesia faces more than anything else is the United States. The extremists in the State Department are demanding that the Russian oriented guerillas be brought into the Rhodesian Government.

The extremists in the State Department are demanding that the guerrillas who are killing Rhodesians—guerrillas operating from outside the borders of Rhodesia—be brought into the new Rhodesian Government.

Mr. President, if the State Department has its way, and it appears that it will, I am confident that Rhodesia will be the next African country to fall under the domination of the Soviet Union. I would think that our country would feel that we already have enough African countries being dominated by Communist Russia. But apparently that is not the case with an extremist element in the State Department who has control of our African policy.

The assertion has been made time and again on the floor of the Senate today that the role of the United States is that of an honest broker, that it is not up to the United States to take sides. I wish the State Department would adhere to that. The State Department has taken sides. The United States is not an honest broker. The United States is trying to force the three black moderate leaders in Rhodesia and Ian Smith to accept, in the new government Russian-oriented guerrilla leaders.

I support wholeheartedly the amendment offered by the Senator from North Carolina. I commend him for the valiant fight that he has made previously and is making today. I deplore the action and the attitude of our own State Department in its handling of the affairs of Southern Africa.

There is, however, one redeeming feature about what is happening in the Senate today, and I watched with great interest and some amusement the last rollcall vote which had voting for the amendment which was approved by the Senate, the Case-Javits amendment, most of the Senators who through the years have been saying that the United States cannot unilaterally lift the embargo.

I shall read what one Senator said several years ago, when he led the fight to repeal the then Byrd amendment dealing with permitting trade with Rhodesia insofar as the purchase of chrome is concerned. The Senator said at that point:

> The United Nations charter as adopted by the Congress of the United States and ratified by the Senate has the same standing as a provision of our Constitution. It is a supreme law of the land.

It was that argument which more than any other brought about the repeal of

the Byrd amendment which did permit the purchase of chrome from Rhodesia.

But today I am happy to say that there has been a change of sentiment in the Senate, and I am delighted at that. I am just delighted, and I want the word to go back to the United Nations just what is happening here today because I think it is a very happy day for the American people. The Senate is changing its attitude. The Senate has by recorded vote taken steps which one of the authors of the amendment, the distinguished Senator from New York, says that by the amendment "We are providing for the lifting of the sanctions." And then the Senator from Idaho (Mr. CHURCH), the ranking member of the Foreign Relations Committee, queried the Senator from New York and said, "Is it not a fact that this amendment would lift the embargo on trade with Rhodesia?" And the able Senator from New York answered in three words, yes, yes, yes.

So I think that sets at rest the assertion that has been made on the floor of the Senate year after year and year after year, that the United States unilaterally cannot lift that embargo. Of course, it can.

I took issue with that assertion going back 5 and 6 and 7 years ago and year before last and last year, but today is the first day that the Senate has had a statement from those who in the past have favored an embargo on Rhodesia, that the Senate itself, Congress itself, can by its own action repeal the embargo.

So while I fear that the amendment offered by my friend from North Carolina, Senator HELMS, may not prevail today, nevertheless I think what is happening in the Senate today because he presented this amendment will have significant and far-reaching implications, and I am very delighted with the assertions which have been made several times that the amendment just adopted by the Senate does provide for the lifting of the sanctions. I hope that the Senate, having recognized that Congress can lift the sanctions, which of course it seemed to me to be obvious from the start, will go one step further and adopt the amendment offered by the Senator from North Carolina (Mr. HELMS) and lift the sanctions now rather than delay that action until it may be too late to keep that little country of Rhodesia from falling under the domination of Communist Russia.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has consumed 10 minutes of his time.

Who yields time?

Mr. HELMS. Mr. President, I commend my able colleague from Virginia (Mr. HARRY F. BYRD, JR.). He has been in the forefront of the fight long before I came to the Senate in trying to see that justice is done to the people of Rhodesia.

I commend him on his remarks today and I assure him that I am honored to have his support for this amendment.

Mr. President, do I understand I have approximately 8 minutes remaining of my time?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair, and I yield the remainder of my time to the distinguished Senator from New Mexico and the distinguished Senator from Kansas.

How much time do the Senators desire?

Mr. DOLE. Two minutes.

Mr. SCHMITT. I appreciate that. I will take 6 minutes.

Mr. HELMS. I yield to the Senators in whatever order they wish.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, as my colleagues may recall when we debated this issue last year I spoke generally in the context of the national interest of this country, particularly with respect to the imports of chrome.

Today, I will let that discussion stand in the RECORD and call my colleagues' attention to it. But today I shall speak more with respect to the economic ties that we must have with Rhodesia.

Mr. President, since I last spoke in favor of continued economic ties with Rhodesia, the developing situation has only confirmed my support of such ties. The embargo has done nothing but make the search for majority democracy more difficult.

During the past few days I have reviewed the Senate debate on the Rhodesian trade embargo which took place in March of 1977. The remarks of a number of my colleagues who voted to impose the embargo are worth further consideration. While numerous arguments were presented in support of the embargo, the major point seemed to be that the embargo would bring pressure to bear on the Smith government to move toward majority rule.

One of my colleagues stated that the embargo in itself would not be sufficient to bring about majority rule but that it would aid in that effort. Mr. President, if majority rule was the purpose of the embargo, then with the Salisbury agreement the purpose of the embargo has been achieved. Whether it was achieved because of or in spite of the embargo is another question. If, in fact, the embargo was responsible, then the results were beyond the expectations of this Senator, and maybe beyond the expectations of its proponents.

Another argument presented in last year's debate was that the embargo would let the white minority government know that the United States would not support it in its continued policy of denying political rights to the black majority. Major steps toward majority rule have been taken since that argument was presented to this body. The transition government is composed of blacks, highly respected black leaders. A constitution is now a reality. Elections are planned. Rhodesia is rapidly moving toward a democracy which will be based on majority rule and the protection of minority rights.

An argument presented by another colleague was that the United States must make it clear to the world that we favor majority rule in Rhodesia. Rhodesians now have majority rule, true democracy, within their reach. If we desire to make it clear to the world that we favor majority rule then we must lift the embargo. We must first reward the steps which have been taken toward democracy. We must give that infant democracy the protection it requires so that it can grow strong. We must make majority rule a reality.

Mr. President, one Senator, though supporting the imposition of the embargo last year, correctly pointed out that great care must be taken with embargos lest they become counterproductive. He felt, however, that in this case the embargo should be used to pressure the Rhodesian Government to accept changes.

Changes have occurred. The governmental structure mentioned in that statement no longer exists. A transition government is in place. Should we continue the embargo, we will cause the situation to worsen. We are being told that by the most respected black leader in Rhodesia. Why do we refuse to believe what Bishop Muzorewa is telling us? He and other black leaders must contend with the results of their work and the interference of others, yet we seem to feel that we know what is best for Rhodesia, and they do not. This, it seems, is the height of arrogance and counter to the American tradition and belief in self-determination.

One statement made in last year's debate was that "we act in defense of majority rule; we act in defense of racial equality." That statement is appropriate today in the lifting of the embargo. Majority rule is being achieved. Racial equality is in sight. The government which will take office next year will be one elected by the people in an election in which all people, black and white, will be allowed to participate.

Mr. President, I find it disturbing that the United States is unwilling to remove an embargo which has achieved its stated purpose—that of forcing the Rhodesian Government to accept majority rule. Now, we are being asked to lift that embargo by the black leaders of Rhodesia. Why are we not willing to allow Rhodesians the economic base upon which will be determined their destiny? Why are we denying them this economic base at the same time we insist that they take unto their bosom the guerrillas that will destroy a free Rhodesia?

These guerrillas forces do not want majority rule. I think that is clear. What will it take to convince us of that fact? Another Vietnam? I certainly hope not. There are many who will help stir up trouble for the majority in Rhodesia. That we can count on their aims are not so pure as those who sincerely felt an embargo was necessary, in the first place, their aims are our destruction and the destruction of freedom on this planet.

Mr. President, I find it extremely disturbing that the United States is insisting that majority rule can only be achieved if guerrillas who have stated that they are not interested in democracy are included in the Government. I fear that unless the United States changes its policy, stops supporting the

position of the guerrilla forces, and lifts the embargo as an endorsement of democracy, we will compromise our position in the world as the leader of free nations, and do absolutely nothing to help the people of Rhodesia.

The PRESIDING OFFICER (Mr. GLENN). The Senator's 6 minutes have expired.

Mr. SCHMITT. Mr. President, finally, I would like to compliment the distinguished Senator from North Carolina on his efforts and to say that I give him my full support.

Mr. HELMS. I thank the Senator from New Mexico.

I yield the remainder of my time—I understand it is 3 minutes—to the Senator from Kansas.

The PRESIDING OFFICER. There are remaining 2 minutes.

Mr. DOLE. Mr. President, I support the amendment offered by Mr. HELMS, to lift the trade embargo against the biracial Government of Rhodesia. The leaders of Rhodesia, both black and white, achieved an internal agreement on March 3, 1978, after years of difficult bargaining, which provides for a peaceful transition to majority rule in that country and protects the rights and interests of all of its citizens. It is a great achievement, and an opportunity for self-determination which must not be allowed to deteriorate.

FRAGILE OPPORTUNITY

But this opportunity has been jeopardized by two factors: The failure of the United States to recognize the legitimacy of the agreement, and our refusal to loosen the economic embargo against Rhodesia. Allowing the Rhodesians a chance to try and make their own solution work should be the primary concern. But the serious economic straits they are experiencing threaten to overcome this chance for peaceful transition—an economic crisis which has been caused and maintained by the trade embargo. At the very least, the interim leaders deserve a chance to overcome their perilous situation, to resist the violence and chaos which are certain to follow if the internal settlement fails.

Despite the almost universal trade and arms embargo against Rhodesia, the interim transition government has so far managed to withstand the pressures of Marxist insurgency. It has managed to withstand the pressures of internal differences, as well, and is moving steadily toward a nationwide referendum, in which all black and white Rhodesian citizens over the age of 18 will be able to vote for a new government of their own choice. That government, under the new constitution, will take office on the first day of 1979.

As the conflict in Ethiopia winds down, and as the State Department tries to defuse the Angolan-Zaire confrontation, we must confront the very real possibility that Soviet and Cuban forces will decide next to involve themselves directly in Rhodesian affairs. Developments in this regard will affect the peace of all southern Africa. With the Soviets arming and the Cubans training Rhodesian guerrillas in the area, this prospect is certainly not out of question.

Last March, I introduced Senate Concurrent Resolution 69, endorsing the interim biracial government in Rhodesia. I believed then, and I believe now, that the internal settlement was a positive step toward resolving internal differences in Rhodesia, and a repudiation of the violence encouraged by external Marxist forces. That resolution has 12 cosponsors.

Mr. President, I ask unanimous consent that the text of Senate Concurrent Resolution 69 be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 69

Whereas, the present constitutional situation in Rhodesia has led to armed conflict within Rhodesia and from neighboring territories;

Whereas, the United States, in concert with its allies, has lent its efforts during the past several years towards a resolution of conflict in Rhodesia through transition arrangements for Majority Rule;

Whereas, on March 3, 1978, delegates of the Rhodesian Government, African National Council, United African National Council, and the Zimbabwe United People's Organization reached agreement on fundamental principles to be embodied in a new constitution for Rhodesia, and designated December 31, 1978, as independence day: Now, therefore, be it

Resolved by the Senate (House of Representatives concurring), that it is the sense of the Congress of the United States that—

(1) the agreement reached in Salisbury, Rhodesia, on March 3, 1978, relating to transition to Majority Rule for Rhodesia, is a positive step towards settlement of internal differences and towards peace within the region; and

(2) the agreement is a vindication of the principle of peaceful settlement of local disputes by local parties, and a repudiation of the path of violence encouraged by certain external Communist powers; and

(3) the agreement merits the strong endorsement and the support of the American People and the United States Government; and

(4) the President of the United States should instruct the United States Ambassador to the United Nations to lend his dedicated efforts towards gaining international support for the internal agreement.

WESTERN SUPPORT CRUCIAL

Mr. DOLE. Let there be no mistake about it: Our continuing indifference toward the internal settlement does not signal neutrality. It works only to the favor of the rebels. Further delay in Western support for the biracial, interim settlement only courts disaster. Would it not be better to endorse and insure the success of the multiracial government, which is committed to peaceful transition, rather than allow it to fall at the hands of Cuban-trained terrorists? When one considers the possible alternative to this effort to build a majority government through peaceful means, made even more difficult through the great economic and political pressures which have been brought to bear on Rhodesia, the wisdom and fairness of continuing the embargo as it stands must be seriously doubted.

For this reason, I feel compelled to support the amendment offered by my colleague from North Carolina. Such a step could give the democratic regime the stability and support, both economic and moral, which it needs to help it through this difficult period. I supported a similar proposal offered by Mr. HELMS on the 28th of July, under the Defense Department authorization bill. I still am of the opinion that it is a worthy motion, which takes into account the gravity of the situation and the special needs of Rhodesia at this time. During this period when the transitional government is struggling to provide the economic and social stability for the free elections coming up in December of this year, it is vital that we do not undermine that effort.

Mr. President, in 2 minutes you cannot possibly restate all the arguments that have been made. I think they have all been made. They are all very good. Some of them I can agree with and some I cannot.

But we were on this floor yesterday saying, "Lift the embargo. It will bring peace, lift the embargo."

We are on the same floor today saying, "Don't lift the embargo and bring peace."

You have the administration running in two different directions at the same time, which is probably an understatement. Maybe consistency is not a virtue, but I think there should be some consistency here.

I believe now, as I did last March when I introduced a resolution cosponsored by 12 Senators, that the internal settlement was a positive step toward resolving internal differences in Rhodesia and a repudiation of the violence encouraged by the external Marxist forces.

It would seem to me that the distinguished Senator from North Carolina has given us an opportunity to try to encourage some settlement in Rhodesia. That is all we want is a settlement. It just seems to me we can talk and display the rhetoric all we want to, but the facts are the facts.

I earlier heard today the distinguished Senator from Virginia speak with great eloquence about the situation in Rhodesia today and how we failed to respond properly. It just seems to this Senator that we have that opportunity now. I certainly support the amendment and urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CASE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 54 minutes.

Mr. CASE. Let it go for a couple of minutes.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, I do not believe we have further requests for time in opposition. The arguments, it seems to me, have all been made. The issues are quite clear, and I am prepared to

have the chairman of the subcommittee and myself yield back the remainder of our time in opposition.

Has the Senator used his time?

Mr. DANFORTH. Mr. President, will the Senator withhold that?

Mr. CASE. Of course, I withhold it. I suggest the absence of a quorum.

The PRESIDING OFFICER. On the same basis as before, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 4 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, in view of the significant action taken by the Senate today in adopting the Case-Javits amendment which, according to the Senator from New York (Mr. JAVITS), provides for the lifting of sanctions against Rhodesia, I think it well to read into the RECORD at this point assertions by U.S. courts on the subject as to whether Congress can unilaterally lift the trade embargo with Rhodesia.

On June 19, 1972, in the U.S. District Court for the District of Columbia, and in the U.S. Court of Appeals for the District of Columbia on October 31, 1972, the proposition that the United States has somehow surrendered its sovereignty to the United Nations was soundly rejected. Upon appeal, on April 16, 1973, the lower court decisions were let stand by the Supreme Court.

In its dismissal of the suit which sought to declare the Byrd amendment illegal the district court wrote:

> Congress has the Constitutional authority to abrogate in whole or in part, the treaty obligations of the United States. . . . This was a political, economic, and foreign policy determination. It is not for this Court to strike down . . . The voters of our country are the only ones in this case who may judge the actions of their representatives.

In upholding the district court's decision the U.S. court of appeals wrote:

> It is settled constitutional doctrine that Congress may nullify, in whole or in part, a treaty commitment.
>
> We think that there can be no blinking the purpose and effect of the Byrd Amendment. It was to detach this country from the U.N. Boycott of Southern Rhodesia . . .
>
> . . . Under our constitutional scheme, Congress can denounce treaties if it sees fit to do so, and there is nothing the other branches of government can do about it. We consider that this is precisely what Congress has done in this case; and therefore the District Court was correct to the extent that it found the complaint to state no tenable claim in law.

On April 16, 1973, the Supreme Court denied certiorari, in effect upholding the previous court decisions.

So when the Senate today took action as it just did which provides for the lifting of the embargo on Rhodesia under certain conditions, the Senate acted fully within its constitutional rights. I say again, I hope the Senate will go one step further, and approve the amendment offered by the Senator from North Carolina (Mr. HELMS).

● Mr. BAYH. Mr. President, the adoption of the Helms amendment to the International Security Assistance bill we are considering today would provide the Soviet Union and its Cuban allies in Africa with a propaganda coup more damaging to U.S. diplomacy than any event I can imagine at this time.

In March of last year, the U.S. Congress sent a strong signal to the Rhodesian regime. By repealing the Byrd amendment which had allowed this country to import Rhodesian chrome and other minerals in violation of U.N. resolutions, we placed ourselves once again in compliance with our international obligations and let it be known that the United States would deepen its active commitment in the search for a negotiated end to minority rule. The removal of the Byrd amendment also dealt the President a strong hand which he has used in gaining acceptance of America's credentials as an honest broker in the effort to find a peaceful and lasting settlement to the conflicts in Rhodesia and Namibia. We have already witnessed how working in this fashion the United States, our allies, the participants to the conflict and other interested parties can achieve a political solution which holds the promise of reducing the loss of human lives and the amount of human misery which a military solution can never hope to do.

The South West African People's Organization (SWAPO) on July 12 accepted the proposals put forward by the United States and four other members of the U.N. Security Council already accepted by South Africa for a peaceful settlement of the Namibia question. We are on a similar track with respect to the Rhodesian conflict. The key, of course, is to assure that all parties are given an opportunity to compete peacefully in impartially held elections agreed upon by the "internal" and "external" nationalists.

This is the essence of the diplomatic effort now underway by the United States and Great Britain. Its aim is to save lives and prevent a tribal and racial war from erupting in southern Africa. Only Soviet and Cuban purposes would be well-served by such an event.

I know my colleagues share with me the great sense of sadness and disgust over the atrocities which have already occurred in fighting between the Rhodesian regime and forces of the Patriotic Front. This is why I repeat that the aim of our efforts to maintain U.S. compliance with U.N. Security Council sanctions is to sustain our credibility with the so-called black confrontation states bordering Rhodesia persuading them that we are serious about facilitating a peaceful transition to majority rule. Without such credibility we will see the option of a negotiated settlement foreclosed leaving only resort to full-scale civil war and the bloodbath which will follow.

As much as we may disapprove of the public statements of the ZAPU and ZANU representatives and welcome the long overdue decision of Ian Smith to step down, we cannot in clear conscience deny the reality of the disaster which is likely to ensue if our diplomatic efforts fail. The present "internal" settlement is just not enough. That is why we have a deep moral obligation to persist armed not with weapons of war but with the political strength stemming from our Nation's determination to live up to our U.N. obligations and live by the rule of international law.●

### TOWARD PEACE AND MAJORITY RULE IN RHODESIA

● Mr. KENNEDY. Mr. President, I am strongly opposed to the proposal of the Senator from North Carolina to suspend U.S. participation in the United Nations sanctions on Rhodesia for the remainder of this year.

The United States and United Kingdom have been making important efforts to convene an all-parties conference, with a view to impartially supervised elections and peaceful transition toward early majority rule in Rhodesia. The administration has been right to press for fair participation in the transition government by the principal parties—those in the Salisbury Government and those in the External Patriotic Front.

We have fresh evidence of the success of this approach in nearby Namibia. As a result of agreement by South Africa, SWAPO, and five western members of the U.N. Security Council, Namibia is on its way at long last to a cease-fire and peaceful transition to independence and majority rule. This is the continuation of 15 months of patient U.S. negotiations, working within the U.N. framework and obtaining the support of all parties and key black African states. Indeed, the same African states who supported our efforts so strongly in Namibia will be even more critical in our efforts to achieve peace and majority rule in Rhodesia or Zimbabwe.

But the Senator from North Carolina would dispense with the United Nations framework—flouting our treaty obligations to adhere to sanctions sponsored and voted for by the United States and approved by the Security Council, in which of course the United States has veto power as a permanent member.

He would undermine our joint efforts with our British allies, abandoning the even-handedness of the Anglo-American plan and infusing dollars, oil and the machinery of war to Ian Smith and his confederates. He would have us share with South Africa the dubious distinction of being the only nations in the world to trade openly with Rhodesia.

Under the Byrd amendment which the Senate repealed (66 to 26) last year, the United States had imported Rhodesian chrome and other minerals. Now Senator HELMS would have us lift the floodgates to trade entirely, providing material and moral support to one side to the conflict.

If we were to adopt the Helms amendment or its equivalents, the damage to our relations with Africa would dwarf that of the Byrd amendment. We would forfeit, in one stroke, our crucial position as honest broker among all parties. We would alienate the frontline states and our many other friends and allies in Africa—all of whom have been impressed with our evenhandedness and commitment to peace and majority rule

in Rhodesia. We would rebuff the Patriotic Front, which has agreed to attend an all-parties conference—and embrace the Salisbury Government, which has not agreed to do so.

Mr. President, the key to peace in Rhodesia is the inclusion of all major parties—internal and external—in a cease-fire, in an all-parties conference, in fairly and impartially administered elections, and in rapid transition to majority rule. A settlement without the Patriotic Front or a settlement without the Salisbury Government will lead only to more bloodshed and more chaos.

Let us not destroy our capacity as peacemakers by favoring one side over the other. Let us not set back our negotiations in Rhodesia, and possibly in Namibia as well, by discrediting ourselves before Africa and the world. Let us not back ourselves into a glass house and invite others to throw stones.

Instead, let us adhere to the course adopted by the last administration as well as the current one, the course confirmed by our repeal of the Byrd amendment last year. This is the course of peace and majority rule in Rhodesia—the conditions which will make it possible for all United Nations members, including the United States, to resume trade with a peaceful, free, and united Zimbabwe.●

Mr. CASE. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Is the Senator specifying time on the bill?

Mr. CASE. Is there any other time?

The PRESIDING OFFICER. On the amendment.

Mr. CASE. Put it on the amendment.

The PRESIDING OFFICER. The time will be on the amendment. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered Who yields time?

Mr. CASE. Mr. President, I yield back the remainder of my time. I understand Senator HELMS has no time remaining.

The PRESIDING OFFICER Does the Senator from Virginia yield back the remainder of his time?

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time is yielded back.

UP AMENDMENT NO. 1507

(Purpose: To amend the United Nations participation Act of 1943 with respect to Southern Rhodesia)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1507.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the end of unprinted amendment No. 1504, as amended, add the following: *Provided further*, That section 5 of the United Nations Participation Act of 1945 is amended—

By adding at the end of subsection (a) the following: "Except that in recognition of the settlement of March 3, 1978, reached by leaders representing a majority of Southern Rhodesians, no Executive order issued under this subsection and applying measures against Southern Rhodesia pursuant to any resolution of the United Nations Security Council may be enforceable through December 31, 1978.";

Mr. DANFORTH. Mr. President, this is a perfecting amendment to the Hayakawa amendment as amended. This amendment is very similar to the Helms substitute.

It would lift sanctions until December 31. But there is a very important difference, one that should be of great importance to the Senate.

My amendment is not a substitute. It would amend the Hayakawa amendment by adding language to the end of the language of the Case-Javits amendment. In other words, it would not repudiate the action which the Senate has already taken this afternoon; instead, it would add to the concerns expressed in the amendment of the distinguished Senator from New Jersey.

The practical effect of my amendment would be to insure that sanctions would be lifted for a definite period, from October 1 to December 31. It would not take anything away from the discretionary authority which the Senate has already approved this afternoon.

Thus the Senate has spelled out its concerns—for negotiations with the Patriotic Front, for free elections, for international observers at those elections, for Presidential discretionary authority. My amendment would leave all of that language in place. It would put all Rhodesians on notice that this is what the Senate expects.

At the same time, it would reward those first bold steps which the Rhodesians have taken with the internal agreement. It would offer a time certain for the Rhodesians.

The effect of this amendment, therefore, would be to suspend the enforcement of sanctions for 3 months, from October 1 to December 31. This is the most critical period for the success of the agreement. By lifting the sanctions on a date certain, it could give positive encouragement to the democratic groups. But by delaying the lifting of sanctions for 2 months, it gives the administration time to point out to the guerrilla groups that a democratic Zimbabwe is in the making, and that they had better join the electoral process if they want to continue to have the diplomatic support of the United States.

Although, from an economic standpoint, it would be better to lift sanctions immediately to get the economy going again, it is perhaps more important to make a last-ditch effort to bring in the parties who seem to fear the effects of the democratic process. At any rate, with a date certain, Rhodesia can begin planning and negotiating for trade and investment. On October 1, sanctions would be lifted, and the actual event would provide a shot in the arm for the morale of the country, and have a beneficial impact on confidence in the elcctoral process.

December 31, however, provides a failsafe terminal date. On that date, sanctions would go back in force technically. However, what it really does is to provide an opportunity for the President and the Secretary of State to review the situation. If Prime Minister Smith, Bishop Muzorewa, the Rev. Mr. Sithole, and Senator-Chief Chirau have not kept their promises—if they have not maintained an openness to the guerrilla leaders on democratic terms and they have not held fair elections in which all can participate—then the President need do nothing.

The pressure would be back upon the transitional government. On the other hand, we have every reason to expect that they will keep their promises, and that a democratic, multiracial government will be installed on December 31. If that happens, I am fully confident that the President would exercise his authority to suspend sanctions, authority already existing in the law. He could use his discretion to suspend sanctions for another temporary period, if there was some doubt over conditions then existing, or he could suspend them permanently.

Thus, this amendment, unlike the Helms substitute, goes further to preserve the President's discretion, and gives him an opportunity to work for peaceful transition. On the other hand, it also would demonstrate the desire of the Senate to offer meaningful, concrete assurances to the democratic forces in Rhodesia.

Mr. CLARK. Will the Senator yield for a question?

Mr. DANFORTH. Yes.

Mr. CLARK. So that we are clear, how does the pending amendment differ from the Helms amendment, other than putting in the sanctions 6 or 7 weeks late?

Mr. DANFORTH. Well, it differs from the Helms amendment in two respects. First of all, it keeps intact all the language of the Case amendment.

Mr. CLARK. I understand.

Mr. DANFORTH. Second, instead of the lifting of the embargo taking place on the signing of the bill into law by the President, it would take effect on October 1, which is the beginning of the next fiscal year.

Mr. CLARK. So the effect of the Senator's amendment would be to lift sanctions October 1 through the end of December.

Mr. DANFORTH. That is correct, for 3 months.

Mr. CLARK. And the effect of the amendment of the Senator from North

Carolina would be to lift sanctions immediately and end on December 31.

Mr. DANFORTH. And also the Senator from North Carolina has a substitute for the Case amendment, thereby wiping out everything in the Case amendment.

Mr. CLARK. I understand that distinction, and it is an important one.

Mr. DANFORTH. I think the major difference, as a matter of fact, between this proposal and the Case proposal is that under this proposal the sanctions would not be in force at the time of the election. It would be merely a 3-month hiatus in the existence of the sanctions, the theory being that if the sanctions are in force at the time of the election, and if only the free and open election would trigger the sanction, that provides a tremendous incentive for the patriotic front to increase its guerrilla activity for the sake of preventing the kind of elections which are envisioned by the Case amendment.

Mr. CLARK. I believe I understand the Senator's amendment. I would oppose it on the ground that it does very much the same thing as the Helms amendment only somewhat later. Obviously, if the Helms amendment were passed, there would be no such pressure with regard to the Patriotic Front's activities. It seems to me that the only substantive difference is when the Senator is going to do it. If the Helms amendment passed the House of Representatives and was signed by the President, it would probably go into effect in mid-August; this would go into effect the first of October, notwithstanding the Senator's explanation about the Javits-Case amendment continuing to stand. It would mean, in effect, that we were going to lift the sanctions against the government before they had an election and without their committing themselves to negotiating in good faith in an all-parties conference, would it not?

Mr. DANFORTH. That is correct.

Mr. HELMS. Will the Senator yield?

Mr. DANFORTH. I yield.

Mr. HELMS. While I would much prefer to see the sanctions lifted immediately, I say to the Senator that if his perfecting amendment is approved, I shall withdraw my amendment. I commend the Senator.

Mr. CLARK. Will the Senator yield for one further question?

Mr. DANFORTH. I yield.

Mr. CLARK. It seems to me that even though the Senator's amendment were adopted, even though it simply tags on language to the already passed Javits-Case-Moynihan amendment, it has the effect of negating that, because the Javits-Case-Moynihan amendment requires that elections are observed and requires the Government to commit itself to participate in negotiations. The amendment of the Senator from Missouri lifts sanctions so that neither of those conditions would have any opportunity to be met. So it is in contradiction to what we have already passed. Is that correct?

Mr. DANFORTH. No; I would not say that because the sanctions would only be lifted for a period of 3 months. If the purpose of sanctions is to insure free, fair and open elections and the orderly transfer of power to the majority, and even the willingness to negotiate, as a matter of fact, with the so-called Patriotic Front, if those conditions are not met then the sanctions automatically would be reimposed under the terms of the Case amendment. So the full force and effect of the Case amendment, the full pressure of that amendment, for the holding of open elections, internationally supervised, and for the willingness to negotiate with the Patriotic Front would be in effect because if those conditions were not met then on January 1 automatically the effect of the Case amendment would be felt by Rhodesia.

Really, the only effect of this is to say that it is a very dangerous tactical mistake to have with the Case amendment the sanctions to be in effect necessarily until the date of the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CLARK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Will the Senator yield?

Mr. CLARK. I yield.

Mr. HELMS. Mr. President, I ask that it be in order that I may ask for the yeas and nays on my amendment at this time.

The PRESIDING OFFICER. Is there objection to a request for the yeas and nays at this time? Without objection, it is in order.

Mr. HELMS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CLARK. Mr. President, if I might, I would like to ask the Senator from Missouri where in his amendment as it is drawn could one conclude that the sanctions would be lifted on October 1? I read the entire amendment. It says:

At the end of unprinted amendment No. 1504, as amended, add the following: *Provided further*, That Section 5 of the United Nations Participation Act of 1945 is amended—

By adding at the end of subsection (*a*) the following: Except that in recognition of the settlement of March 3, 1978, reached by leaders representing a majority of Southern Rhodesians, no Executive order issued under this subsection and applying measures against Southern Rhodesia pursuant to any resolution of the United Nations Security Council may be enforceable through December 31, 1978.";

Mr. DANFORTH. The answer to that is section 46 of the bill on page 31. It provides for an effective date for the bill and provides that the amendments made by the act shall take effect on October 1, 1978.

Mr. CLARK. I thank the Senator.

Mr. CASE. Mr. President, I yield myself such time as I may require.

Mr. HELMS. Will the Senator yield 1 minute?

Mr. CASE. I yield 1 minute to the Senator from North Carolina.

Mr. HELMS. Mr. President, earlier today I sent a "Dear Colleague" letter to all Members of the Senate which disclosed that elections will be held between December 4 and December 6 in Rhodesia. This announcement was made by Mr. Rowan Cronje and Mr. Gibson Magaramombe, cochairmen of Rhodesia's Ministerial Committee. It is clear that the Rhodesians are doing everything possible to fulfill their promises. They need and deserve for the sanctions to be lifted. I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., July 26, 1978.*

DEAR COLLEAGUE: Mr. Rowan Cronje and Mr. Gibson Magaramombe, the co-chairmen of Rhodesia's Ministerial Committee on Electoral Process, today laid out a program for Rhodesian elections on the basis of one-person-one-vote.

Elections will be held between December 4 and December 6.

The Co-chairmen said that the Transitional Government hopes that the United Nations, the Organization of African Unity and "indeed any organization from any country" will send observers to the elections. Observers would be given a completely free hand and allowed to go where they liked. They said the Transitional Government was determined to show the election was free, fair and impartial.

Sincerely,

JESSE HELMS.

Mr. CASE. Mr. President, I continue to yield such time as I may require.

I believe, Mr. President, that the argument that has gone on this afternoon sufficiently deals with this proposal. It is perfectly possible to imagine an infinite variety of different ways of handling this situation. I think this is not sufficiently different from the Helms proposal to warrant any extended debate on it. In effect, as I understand it, it would give the people of Rhodesia and the present government a little peek at the promise land in the hope that they would be so enchanted by it, perhaps, that they would be quicker to embrace the provisions and fulfill the conditions which would result in a longer lifting of the embargo and perhaps its permanent lifting.

I think we have dealt with this question, Mr. President. I do not believe that this is sufficiently different from what we have already passed upon to warrant any extended discussion. I should be content to yield back the remainder of our time.

I understand the Senator's time has finished?

The PRESIDING OFFICER. The time of the Senator from Missouri has expired.

Mr. CASE. Mr. President, I move that the vote occur as stated.

The PRESIDING OFFICER. Does the Senator from Alabama yield back his time?

Mr. SPARKMAN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN),

the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that if present and voting, the Senator from New Hampshire (Mr. DURKIN) and the Senators from Minnesota (Mr. ANDERSON and Mrs. HUMPHREY) would each vote "nay."

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—42

| | | |
|---|---|---|
| Baker | Griffin | Randolph |
| Bartlett | Hansen | Schmitt |
| Bellmon | Hatch | Schweiker |
| Bentsen | Hayakawa | Scott |
| Byrd, Harry F., Jr. | Heinz | Stennis |
| | Helms | Stevens |
| Byrd, Robert C. | Hollings | Stone |
| Cannon | Johnston | Talmadge |
| Curtis | Laxalt | Thurmond |
| Danforth | Long | Tower |
| Dole | Lugar | Wallop |
| Domenici | McClure | Weicker |
| Eastland | Morgan | Young |
| Garn | Nunn | |
| Goldwater | Packwood | |

NAYS—54

| | | |
|---|---|---|
| Abourezk | Haskell | Metzenbaum |
| Bayh | Hatfield, Mark O. | Moynihan |
| Biden | | Muskie |
| Brooke | Hatfield, Paul G. | Nelson |
| Bumpers | | Pearson |
| Burdick | Hathaway | Pell |
| Case | Hodges | Percy |
| Chafee | Huddleston | Proxmire |
| Chiles | Inouye | Ribicoff |
| Church | Jackson | Riegle |
| Clark | Javits | Roth |
| Cranston | Kennedy | Sarbanes |
| Culver | Leahy | Sasser |
| DeConcini | Magnuson | Sparkman |
| Eagleton | Mathias | Stafford |
| Ford | Matsunaga | Stevenson |
| Glenn | McGovern | Williams |
| Gravel | McIntyre | Zorinsky |
| Hart | Melcher | |

NOT VOTING—4

| | | |
|---|---|---|
| Allen | Durkin | Humphrey |
| Anderson | | |

So Mr. DANFORTH's amendment (UP No. 1507) was rejected.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment in the nature of a substitute by the Senator from North Carolina (Mr. HELMS). The yeas and nays——

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. May we have order in the Senate, please, so the Senator from North Carolina can be heard?

Mr. HELMS. Mr. President, I think the Senate has expressed its will and, while I am disappointed that sanctions will not be lifted immediately, the Senate has spoken on the lifting of sanctions and endorsed the principles of the internal agreement and the transitional government. I see no purpose in further delaying the Senate on this question. Therefore, I ask unanimous consent to vitiate the order for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. By unanimous consent, I may withdraw the amendment, is that correct?

The PRESIDING OFFICER. Yes.

Mr. HELMS. I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Since there was a specific time limit on the amendment, it would require unanimous consent.

Mr. HELMS. Mr. President, I ask unanimous consent that I be allowed to withdraw the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from California, as amended.

Mr. ROBERT C. BYRD. Mr. President, has all time been used up?

The PRESIDING OFFICER. All time has expired or been yielded back and the yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to be recognized after the disposition of this vote.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia will be recognized after the vote.

The question is on agreeing to UP amendment No. 1504, as amended, of the Senator from California (Mr. HAYAKAWA). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Minnesota (Mrs. HUMPHREY) would each vote "yea."

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—90

| | | |
|---|---|---|
| Baker | Domenici | Huddleston |
| Bartlett | Durkin | Inouye |
| Bayh | Eagleton | Jackson |
| Bellmon | Eastland | Javits |
| Bentsen | Ford | Johnston |
| Biden | Garn | Laxalt |
| Brooke | Glenn | Leahy |
| Bumpers | Gravel | Long |
| Burdick | Griffin | Lugar |
| Byrd, Harry F., Jr. | Hansen | Magnuson |
| | Hart | Mathias |
| Byrd, Robert C. | Haskell | Matsunaga |
| Cannon | Hatch | McGovern |
| Case | Hatfield, Mark O. | McIntyre |
| Chafee | | Melcher |
| Chiles | Hatfield, Paul G. | Metzenbaum |
| Church | | Morgan |
| Clark | Hathaway | Moynihan |
| Cranston | Hayakawa | Muskie |
| Curtis | Heinz | Nelson |
| Danforth | Helms | Nunn |
| DeConcini | Hodges | Packwood |
| Dole | Hollings | Pearson |
| Pell | Sasser | Talmadge |
| Percy | Schmitt | Thurmond |
| Proxmire | Schweiker | Tower |
| Randolph | Stafford | Wallop |
| Ribicoff | Stennis | Weicker |
| Riegle | Stevens | Williams |
| Roth | Stevenson | Young |
| Sarbanes | Stone | Zorinsky |

NAYS—6

| | | |
|---|---|---|
| Abourezk | Goldwater | McClure |
| Culver | Kennedy | Scott |

NOT VOTING—4

| | | |
|---|---|---|
| Allen | Humphrey | Sparkman |
| Anderson | | |

So Mr. HAYAKAWA's amendment (No. 1504), as amended, was agreed to.

(Later the following occurred:)

Mr. STEVENSON. Mr. President, before I yield back my time, I ask unanimous consent that the record reflect to show that I voted "yea" on the Hayakawa amendment, as amended, and not "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote has been adjusted to reflect the above order.)

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. METZENBAUM). Under the previous order, the majority leader is now recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask that Mr. KENNEDY be recognized to call up an amendment, and then I will ask him to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 1508

(Purpose: To require reports concerning certain bank loans)

Mr. KENNEDY. Mr. President, I send an amendment to the desk, and ask the clerk to withhold consideration of it so I may yield to the majority leader.

I so yield.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

TIME-LIMITATION AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask whether or not it will be possible to reduce the time on this amendment, which I ask Mr. KENNEDY and the managers of the bill. Will it be agreeable?

Mr. KENNEDY. Certainly, as far as I am concerned. This amendment will be for myself and Senator CHURCH, Senator CRANSTON, and Senator SARBANES. I think we could present our position in maybe 15 minutes, a half-hour evenly divided.

Mr. ROBERT C. BYRD. So the time is an hour, if it could be reduced to 30 minutes. Mr. KENNEDY has suggested 30 minutes equally divided.

Is that agreeable with the managers?

Mr. SCHMITT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CASE. That is agreeable.

Mr. ROBERT C. BYRD. The managers have indicated it is agreeable to them, so I make that unanimous-consent request

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will continue to yield, without the time being charged against him, there is an amendment by Mr. SCHMITT. Is it possible that we might be able to reduce the time on that amendment also?

Mr. SCHMITT. I am sure it is. The amendment will probably be satisfied by discussion, and that is being worked out now. At the appropriate time we can most certainly reduce the time.

Mr. ROBERT C. BYRD. Is the Senator saying it will not be possible at this point to reduce the time?

Mr. SCHMITT. We have not completed our discussion with committee staff. I should be able to give the Senator that kind of agreement, though, within the near future.

Mr. ROBERT C. BYRD. All right.

Does the Senator have an idea how long it may take on his amendment once it is called up?

Mr. SCHMITT. I have a suspicion that a half hour will be more than adequate. Again, I reserve final decision until the committee has responded.

Mr. ROBERT C. BYRD. I thank the Senator.

Does Mr. STEVENSON have an amendment he is going to call up?

Does Mr. ROTH have an amendment he is going to call up?

Mr. ROTH. Yes, I have an amendment.

Mr. ROBERT C. BYRD. Mr. ROTH has an amendment. Is there a possibility of reducing the time on his amendment? It is now, I believe, 1 hour under the agreement. Can it be reduced?

Mr. ROTH. I am happy to reduce that 30 minutes.

Mr. ROBERT C. BYRD. Is that agreeable?

Mr. JAVITS. Let us see what it is.

Mr. CASE. Yes. It is the report on the Soviet Union.

Mr. ROBERT C. BYRD. The managers indicate that is agreeable.

I ask unanimous consent that the time on Mr. ROTH's amendment be reduced to one-half hour to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I understand that after Mr. KENNEDY's amendment Mr. PERCY will be ready to call up his amendment. There is at present a 2-hour limitation on that amendment which has been reduced from 4 hours. So, the Senate will be in a while. I thank the distinguished Senator.

Mr. SCHMITT. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield for a unanimous-consent request?

Mr. KENNEDY. Yes.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Gene Iwanciw of my staff have the privileges of the floor during the remainder of the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I ask unanimous consent that Mark Lubbers of my staff have the privileges of the floor; and that Charles Morrison of the staff of Senator ROTH have similar privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk has not reported the amendment of the Senator from Massachusetts.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. CHURCH, Mr. CRANSTON, and Mr. SARBANES proposes an unprinted amendment numbered 1580.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

REPORTING REQUIREMENT

SEC. 26. (a) The Secretary of the Treasury shall prepare and transmit to the President of the Senate, Speaker of the House of Representatives, Chairman of the Senate Foreign Relations Committee and House International Relations Committee, and the Chairman of the Senate Banking, Housing and Urban Affairs and House Banking, Finance and Urban Affairs Committee—

(1) Not later than June 1 of each year, a report containing the total value of both commitments to advance loans and loans advanced (including letters of credit, trade credits short and long term loans) by domestic banks during the six-month period ending December 31 of the preceding year, and the names of all domestic banks participating in such loans, and

(2) Not later than December 1 of each year, a report containing the total value of loans both commitments to advance loans and loans advanced (including letters of credit, trade credits, short and long term loans) by domestic banks during the six-month period ending on June 30 of such year, and the names of all domestic banks participating in such loans, to the government, all government agencies, entities or government-owned or controlled enterprises in each country, the name of which is on a list provided by the Secretary of State under Subsection (c)(1) and covering the six-month period of such report.

(b) The Secretary is authorized and directed to obtain from the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency information necessary to enable him to carry out this section. Upon request of the Secretary, the head of each such agency shall furnish such information to the Secretary.

(c)(1) The Secretary of State shall provide to the Secretary a list of countries to which economic or security assistance has been reduced or denied by the United States during the period covered by the next report to be transmitted under subsection (a) primarily because the governments of such countries engaged in gross violations of internationally recognized human rights. For purposes of this paragraph, the term "gross violations of internationally recognized human rights" shall have the same meaning as under section 502B(d)(1) of the Foreign Assistance Act of 1961.

(2) Not later than December 15 and June 15 of each year, the Secretary shall notify all domestic banks lending to such countries of the names of the countries on such list.

(d) The Secretary may prescribe regulations to carry out the provisions of this section.

(e) For purposes of this section, the term—

(1) "domestic bank" means any bank the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, and any branches and subsidiaries of such bank and provided that such bank has at least one foreign branch and at least $20 million in total claims on foreign residents; and

(2) "Secretary" refers to the Secretary of the Treasury, except where otherwise indicated.

On page 31, line 6, strike out "Sec. 26." and insert in lieu thereof "Sec. 27."

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

I offer this amendment on behalf of myself, the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), and the Senator from Maryland (Mr. SARBANES).

Mr. President, this amendment is a rather simple amendment, but even though it is simple, it is extremely important in the whole area of human rights.

Basically, under the current situation the Comptroller of the Currency has available to him the amounts of loans that are going from private banks in this country to governments all over the world. The Secretary of State has available to him where there have been findings of violations of human rights, so this information is available within both the Treasury Department and the State Department.

This particular amendment would make such information available to the Congress which, at the present time, does not have specific information on the particular banks and the amount of loans to human rights violators——although obviously we have information on where there have been terminations of economic and security assistance.

Over the period of recent years, the Congress has taken action to terminate military assistance to Chile. It has also made a finding about the violations of human rights in Chile, and we have terminated economic aid to Chile.

However, we have also seen over just 1 year a 500-percent increase in the amount of loans by American banks to the Chilean Government. So, on the one hand, we see aid reductions on the basis of a consistent pattern of gross violations of human rights, reductions mandated by the people's representative in the Congress of the United States. On the other hand, we see an explosion of loans to the Chilean Government and other human rights violators.

What we are trying to do with this amendment is to make this information available to the Congress of the United States: the aggregate number of loans by country and also the banks which are involved in making those loans.

What we do not ask for in this amendment, although I think it is desirable, is to know how much is being loaned by each bank to human rights violators. I had initially favored a proposal that would have made available to the appropriate committees in the House and in the Senate, which would be the Banking Committee and the Foreign Relations Committee, the names of the banks and the amount of their loans. These committees, acting as the instruments of the House and of the Senate, would be able to use that particular information in the

formulation and development of the foreign policy of this country. But this amendment only seeks the aggregate amounts and the names of the banks.

The question has been raised whether a particular bank doing business over a long period of time with a particular country, in which there is a revolution in that country and the new leaders violate human rights, would be adversely affected by this amendment. The answer is no, it would not. The amendment is drafted in such a way that the information disclosed would be on the basis of new commitments following aid cutbacks based on serious violations of human rights.

It seems to me, Mr. President, that this is important information that ought to be available to the House and to the Senate. It does not prejudge what actions would be taken by the House and the Senate. But I do believe that if the Congress has limited economic or security assistance, it should know whether that particular decision is being undermined by the explosion of lending by banks, which may be against our national interest.

That is really the purpose and spirit of this amendment, and it is the reason why the Senator from Idaho, the Senator from California, and the Senator from Maryland have joined me in offering it.

Mr. President, I request unanimous consent that the full text of my prepared remarks be inserted at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

COMMERCIAL BANK DISCLOSURE

The purpose and effect of this amendment are really very simple and very modest. It will simply require that the Secretary of the Treasury keep the Congress informed of the total value of loans granted by private banks, and the names of those banks, to countries whose economic or military assistance has been terminated or reduced for human rights reasons.

The banks already report this information to the executive branch and will not be subject to additional paperwork or reporting requirements. This amendment simply requires the Secretary of the Treasury to report it, in aggregate form by country, to the Congress.

It does not require disclosure of bank loans to private recipients—only to governments and government-owned or controlled corporations, at the Federal, State or municipal levels.

Nor does this amendment in any way prevent or hinder the extension of commercial credits to any country, but simply gives the Congress the means to determine whether the banks are filling the financial gap created by our limitation of official aid for human rights reasons.

Up to the present time, recipients of U.S. aid have had their assistance terminated or limited because of violations of human rights. United States policy on human rights has already made important progress, particularly in Latin America, and will make more progress as it is pursued seriously, consistently, and with due regard for the special factors of a given relationship.

There exists the possibility, however, that this policy is being undercut by American dollars. For according to the few figures available to the Congress, there are countries in which outgoing American private capital may more than offset the funding lost through administration or congressional terminations or cut-backs.

Chile, widely regarded as a key test of our human rights policy in Latin America, presents an important example. It is a country where a long-standing democracy was forcibly overthrown, and where a dictatorial junta has maintained its rule through mass jailings, political "disappearances" and even the arrangement of political assassination within the United States.

In response to violations of human rights and an end to democracy in Chile, all United States assistance to the Pinochet government has ended.

Yet, while United States economic and military assistance between 1975 and 1977 has been cut back for a net loss of $63 million per year, during the same period private lending has expanded by more than 500 percent to $520 million, thereby more than replacing reductions authorized by the Congress and the administration. And the flow of private capital to Chile is rapidly swelling, with commercial credits for 1977 totaling $858 million, and with 1978 credits expected to exceed $1 billion.

I do not believe that the Congress should make a substantive judgment now on private lending to any particular country. Many loans are of direct benefit to masses of poor people in these countries. Some may be essential to the economic development that will break the poverty cycle.

It may well be that a proposed cut-back of official U.S. aid will be foregone because it will be seen to be ineffectual in the face of extensive private loans.

On the other hand, other loans may instead perpetuate dictatorial and repressive regimes. It would be tragic if private lending would associate the United States with repressive regimes, in those cases which the Congress or the administration have disassociated us by reducing or ending our assistance to those regimes. The fact remains that the Congress simply does not have the access to all the information it needs and deserves to answer this question.

The amendment I am proposing today will remedy this problem.

In essence, we are directing the transmittal of data already held in large part by Federal agencies to the Congress so that we may assess the full U.S. role in countries that violate human rights.

The disclosure requirement will apply only to countries that have already had their assistance reduced or terminated. Thus it is the congress and the administration who have already determined which countries are violators for the purposes of disclosure.

Once again, this amendment in no way affects existing or future loans to any country. It does not require the disclosure of specific bank loans or terms that may be sensitive from the competitive viewpoint. It only gives the congress the basic facts—the total amount by country and the names of the banks—relevant to an assessment of their impact on our foreign policy.

The bottom line is very simple. In some cases, our foreign aid policies may be undermined. The congress and the administration should have the ability to make findings of such fundamental importance to our foreign policy objectives.

Mr. KENNEDY. I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I yield myself 5 minutes.

First of all, I commend the Senator from Massachusetts for his continued efforts in the field on human rights, and for speaking out consistently and forcefully, as he has, on this issue.

Acting for the chairman of the committee, the distinguished Senator from Alabama (Mr. SPARKMAN), who is a member of the Banking Committee and the chairman of the Foreign Relations Committee, the two committees that would have jurisdiction over the amendment offered by the Senator from Massachusetts, I would simply like to say that while I endorse the thrust of the Senator's amendment, and I am sure that is true with other members of the committee, including the chairman, we are not familiar with all the implications that the amendment might raise.

However, I have been instructed by the chairman to assure the Senator from Massachusetts that the Banking Committee and the Committee on Foreign Relations will move to look into this matter very quickly and to review thoroughly the implications of the Senator's amendment.

Under those circumstances, I would hope that perhaps the Senator would withdraw his amendment now, with the assurance that it will get serious committee attention in the very near future.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. McGOVERN. Yes, I yield.

Mr. KENNEDY. In addition to the particular amendment, would the Senator look into the other points which have been raised in my earlier comments about the advisability of making available the exact numbers to the appropriate committees? There are several alternatives we have discussed here. One is to make the aggregate loan amounts and the names of the banks available to Congress: A second alternative is to give the loans per bank to Congress or to the appropriate committees of Congress, possibly on a confidential basis, to be used for foreign policy considerations and judgments.

The second alternative, I think, is actually the preferable one. The amendment we have proposed today is basically more of a compromise, although it would still be enormously useful and valuable. I am just wondering whether the committee would consider these items as well in its review?

Mr. McGOVERN. I will say to the Senator that all of these questions he has raised are reasonable, and I personally am in full sympathy with what he is trying to do. I think I can give him assurance that, while Senator SPARKMAN is not on the floor at the moment, there is no question that the committee will go into these various things he has raised here on the floor today.

I see the Senator from Idaho here.

Mr. KENNEDY. Just a final point on this and then I will yield.

Would the Senator also give consideration, in addition to the bank-to-government situation, to disclosure of bank loans to private companies or individuals as well?

Mr. McGOVERN. Absolutely. Absolutely.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. First, I yield 5 minutes to the Senator from Idaho.

Mr. CHURCH. I thank the Senator very much.

First of all, let me say I am proud of the amendment. I am one of the cosponsors. I recognize the sensitivity involved when information is sought concerning private bank loans. I remember that 2 years ago the Foreign Relations Subcommittee on Multinational Corporations was very much concerned about the amount of Arab money that might be coming into American banks on short-term deposits, then lent in a long-term fashion to other foreign governments, and the possible instability that this might pose.

When we sought the information from the banks, we were unsuccessful in getting it because of the concerns about confidentiality and the resistance of the Federal Reserve Bank to the disclosure of such information without elaborate precautions being taken. It took us some time to work out a special arrangement with the Federal Reserve Bank in order to obtain the information in an aggregate form, which would protect the individual banks and also not cause a run on a given bank, which might have been possible.

For these reasons, it might be well for this amendment to be considered more carefully by the Foreign Relations Committee, and I would have to acknowledge that the Banking, Housing, and Urban Affairs Committee might have a jurisdictional claim that needs to be explored.

But if we do not press the amendment at this time, then I would hope that the Foreign Relations Committee would take up the matter, and confer with the chairman of the Banking Committee. I have privately talked to him and he assures me that he is fully sympathetic with the objective sought in this case, but he would like to have a look at the particulars as well.

I think this would not occasion undue delay, but would constitute the more responsible way to proceed. For that reason, if we can have such assurances, I would recommend to the distinguished Senator from Massachusetts that we proceed in that fashion.

Mr. HEINZ. Mr. President, will the Senator from Idaho yield for a question?

Mr. CHURCH. Yes, I am happy to yield.

Mr. HEINZ. If I correctly understand the amendment, which deals with banks, I would agree with the Senator's assertion that there are jurisdictional questions touching on the Banking Committee.

But going beyond that for the moment, would it be a logical extension of the intention of the authors of this amendment that, beyond seeking to develop a reporting system involving the banks and countries which might have human rights shortcomings, the Senator from Idaho or the Senator from Massachusetts would also want to apply the same logic to grain exports by the Commodity Credit Corporation? Would that also be a similar kind of objective that would be consonant with the ones stated here?

Mr. CHURCH. I do not think there is any particular problem involving grain exports and the Commodity Credit Corporation. But information relating to the extent of private bank loans to the Chilean Government, for example, is not readily available to Congress, nor to either committee charged by Congress with the primary responsibility in the field of foreign relations.

We have a foreign policy objective of either cutting back or eliminating entirely economic and military aid from the United States to a government that we feel is engaged in gross violations of human rights. If this is a valid policy, and I think it is, then it follows that Congress should at least be informed as to whether any gap created by our own refusal to extend public aid is being filled by private credit from American banks, thus circumventing the national policy.

Mr. HEINZ. From my point of view, what about private credit supplied by an exporter directly?

Mr. CHURCH. What we are seeking here is information that has to do with private bank loans to foreign governments that we have found to be engaged in a gross and systematic denial of human rights, not private credit extended to foreign companies.

Having cut off official governmental aid to a particular foreign government, we would like to know whether or not private banks merely step in, fill the gap, and furnish the government with the very credit that has officially been withheld.

Mr. HEINZ. I thank the Senator for yielding. I think our colloquy perhaps demonstrates the need for additional study of these issues.

Mr. JAVITS. Mr. President, will the Senator yield on the time of the opposition?

Mr. CHURCH. I yield.

Mr. JAVITS. I hope very much that Senator KENNEDY and his associates will do what seems indicated now. It is a very dangerous matter, involving a possible run on the banks, as the Senator himself has indicated. I would like to put into the RECORD, in addition, a colloquy between the President of the United States and a questioner at a press conference which he held in Brasilia on March 30 last.

Will the Senator from New Jersey (Mr. CASE) yield me 2 minutes from the time in opposition for this purpose?

Mr. CASE. Yes.

Mr. JAVITS. The colloquy is as follows. The questioner asked:

> The American commercial banks are the main Brazilian source of external credit. It seems to some people in Washington that sooner or later a Congressman may try to establish a link between the commercial banking loans and the human rights policy. I'd like to know your opinion about this subject.

The President answered:

> Brazil is a major trading partner of the United States in commercial goods and also in loans and, I might say, timely repayments. The debt of Brazil is very manageable. The loans of the American banks to Brazil are sound. Additional loans are being pursued by the American banks as an excellent advantage for their future investments in Brazil, based on the strength of your country. It would be inconceivable to me that any act of Congress would try to restrict the lending of money by American private banks to Brazil under any circumstances. This would violate the principles of our own free enterprise system, and if such an act was passed by Congress, I would not approve it.

Mr. President, that does not bind us yes or no, but I think it should weigh in the consideration of the opponents as to any suggestion about restricting any loans.

Mr. CHURCH. Mr. President, let me respond by saying, as the Senator from New York knows, this amendment does not propose a restriction of any kind upon private bank lending. It seeks only to inform Congress as to the extent of private bank lending to a foreign government which has been cut off from official aid by reason of gross denial of human rights.

Mr. KENNEDY. I would like to add here that, of course, our amendment also provides the stockholders of the banks concerned the kind of information which is certainly of assistance to the free enterprise system.

Mr. CHURCH. Let me say that when we encountered this problem before, at the time my subcommittee was attempting to obtain information relating to Arab deposits in American banks, we did find a way to solve it, a way that protected against all of these concerns. With the cooperation of the Federal Reserve Bank, we obtained the necessary information in a form that was acceptable to the individual banks and acceptable to the Federal Reserve Bank. I think if the two committees address the question they can find an acceptable method for securing the information in this case.

Mr. MOYNIHAN. Will the Senator yield for a statement?

Mr. CHURCH. I am happy to yield the floor.

Mr. MOYNIHAN. Will the Senator from New Jersey yield 5 minutes?

The PRESIDING OFFICER. The Senator from New Jersey only has time on the bill.

Mr. McGOVERN. Mr. President, I control the time on this side. I yield 5 minutes to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator from South Dakota.

Let me first declare which will be obvious, my interest in this matter. A very large number of the banks which would be affected by this amendment are New York banks. They are, in a sense, my banks, as I represent New York.

Mr. President. I would have to say that it was a not altogether agreeable surprise to learn that this matter was to be proposed: without hearings, without consultation with the committees directly affected. The Senator from South Dakota has suggested the Finance Committee might have jurisdiction. I believe it does. As a member of the Finance Committee I certainly would want to have this matter before us.

Mr. President, I would hope no one would question, I know few would even

presume to doubt, the complete and honorable and effective commitment to human rights of the sponsors of this amendment. Yet I would like to suggest that they are of course, not alone. They would not suggest otherwise. I speak as someone who was a member of the platform drafting committee of my party, who drafted the human rights amendments on which our candidate for President ran, which our party stood for, and which the present administration seeks to carry out.

Mr. President, I find this an alarmingly statist proposal, an alarming illiberal proposal. If there is one disease of the modern age, and it is virulent in this Nation, it is the proposition that all institutions have to be miniatures of the polity; that they have to reflect the composition of a polity, and have to assume the purposes of the polity. There could not be a more profoundly illiberal idea; the idea that private persons and private institutions must behave as the State behaves.

Should we enact a measure such as this, when will we wish to know from the universities what research they are doing and where and by whom? When will we next wish to know who is traveling for tourist purposes, where, when, and with what sources of funds?

The policies of the U.S. Government do not determine the choice of individual American persons, be they individuals or corporate persons.

The idea that the purposes of the state are the primary purposes of the whole of society is profoundly dangerous and is pervasive.

Mr. President, I offer one other thought, not in any sense meant to denigrate the purposes of this amendment. I wish to say there are often somehow hidden agendas in these affairs. We have heard twice on the floor today the instance of Chile. Well, Chile assuredly does no great credit to the democratic traditions of the Western Hemisphere at this moment. We hear General Pinochet may be on his way out and good riddance. At the United Nations and elsewhere I have arrayed myself as much against that brutal regime as anyone. I do not at all question that we should talk about Chile.

But why do we never talk about Afghanistan? Mr. Allende was murdered, brutally, and some persons with him. In Afghanistan 5,000 persons, every member of Daoud's family to the lateral three generations have been slaughtered. We never hear about Afghanistan. Is it because it was succeeded by a government of the totalitarian left as against a government of the authoritarian right?

We hear so much about the inequities of governments of the right when they abuse the responsibilities of statehood. When have we heard a word in this Chamber about the butchering of the Lebanese democracy by clients of the Soviet Union?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MOYNIHAN. The Senator's remarks are completed.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. As indicated earlier in the exchange with the Senator from South Dakota and with the Senator from Idaho, we are prepared to withdraw the amendment, on the assurances that we have received from the chairman of the Foreign Relations Committee and the chairman of the Banking Committee that their committees would review our proposals and the alternatives fully and sympathetically. At this time, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. SPARKMAN. Mr. President, I would like to say to the Senator from Massachusetts and to the Senator from Idaho that I shall be very glad, as far as I can as chairman of the Foreign Relations Committee, to see that adequate attention is given to both matters. I believe we can work out something.

Mr. KENNEDY. I thank the chairman, and I appreciate his assurances. I look forward to working with the Foreign Relations Committee in this matter.

Mr. SPARKMAN. I am sure the Senator from Idaho, who will be in the Foreign Relations Committee on that occasion, will be quite capable of taking care of the matter there.

The PRESIDING OFFICER. The Senator from Delaware.

UP AMENDMENT NO. 1509

(Purpose: To express the sense of the Congress that the President should review United States-Soviet relations.)

Mr. ROTH. Mr. President, I send to the desk my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 1509.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

SEC. 26. (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.

(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy towards the Soviet Union and report to the Congress. Such review should cover, but not be limited to—

(1) an over-all reevaluation of objectives and priorities of the United States in relations with the Soviet Union;

(2) the evolution of and sources of all bargaining power of the United States with the Soviet Union and how such bargaining power might be enhanced;

(3) what linkages do exist and should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

(4) the policies of the United States toward human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

(6) the current status of other arms control negotiations between the United States and the Soviet Union;

(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet such challenges more effectively;

(8) the impact of the relations of the United States with the People's Republic of China on relations with the Soviet Union;

(9) the impact of strategic parity on the relations of the United States and the Soviet Union and the ability of the United States to meet its obligations under the North Atlantic Treaty;

(10) the identification of economic, technological, scientific, and cultural relations with the Soviet Union and whether such relations are desirable and should be continued expanded, restricted, or linked to other aspects of the relations of the United States and the Soviet Union;

(11) the evolution of Soviet domestic politics and the relationship between domestic politics and foreign policy behavior, especially towards the United States; and

(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

On page 31, line 6, strike out "Sec. 26." and insert in lieu thereof "Sec. 27.".

Mr. ROTH. Mr. President, this amendment urges the President, in cooperation with Congress and nongovernmental experts, to make a full-scale review of American-Soviet relations and report. I believe a reassessment of our relationship is very much needed—needed to give a signal to the Soviet Union, needed to develop a coherent, consistent, and effective American policy toward the other superpower, and needed to help provide a better understanding of some important shifts in the nature of the Soviet challenge. I believe a report will provide a clear, public statement of our policy.

I am certain there is no Member in this Chamber nor any informed American citizen who is not deeply concerned by the present state of our relations with the Soviet Union. We are witnessing harassment and intimidation of American newsmen, businessmen, and even diplomats in Moscow.

We are seeing massive Soviet intervention, through Cuban mercenaries, in Africa. There is a new wave of Soviet repression, unprecedented since Stalin's time, against dissidents and against those who wish to emigrate. We have been unable so far to secure an acceptable SALT II arms control agreement. For these reasons, a reappraisal of our policy toward the Soviet Union is very timely.

It would send an important signal to the Soviet Union that the United States is seriously concerned about recent Soviet behavior, so seriously concerned that

we find it necessary to review the basic premises on which past policies were constructed.

A review is desperately needed to help develop a sound and consistent American policy—one understandable to the Soviets, understandable to our allies, and, most importantly, acceptable and understandable to the American people. The President has spoken very eloquently in the past on the need for broad public support as the basis for an effective foreign policy. Today, our foreign policies, especially our policies toward the Soviet Union, enjoy neither the support of our people nor the confidence of our friends, nor the respect of our adversaries and competitors.

It is very clear that our Soviet policies are not working. We are at a crucial juncture in our relations with the Soviet Union. The rapid deterioration of relations over the past few months threatens a full-scale return of the cold war. Part of the reason for the present problems, I am convinced, lies in a failure of the United States to set realistic priorities in its Soviet policies and to speak firmly, consistently, and with a single voice. A review of our policies, in which the Congress and private experts participate, should help develop the kind of consensus on our priorities and the means of implementing them that is now so much needed. A report will help make our policies understandable to the public.

I also believe the review called for in this amendment is needed to develop appropriate strategies to deal with new dimensions to the Soviet challenge. In contrast to the past, the Soviet Union is able to project conventional military power, either directly or through Cuban mercenaries, into the developing world. As we have seen in Africa, it is also willing to do so. The United States has not yet found an effective response to Soviet adventurism in Africa. Can we deal with it by applying pressure in Moscow, or is the only effective means of dealing with it in the developing countries themselves? This should be carefully assessed.

In contrast to a decade ago, there is now strategic parity between the United States and the Soviet Union, and many experts believe the U.S.S.R. will be clearly ahead in the next decade. In the past, the United States has relied in part on its strategic superiority to help counterbalance Soviet conventional superiority in Europe. The impact of strategic parity and possible further worsening of the strategic balance on our ability to met our treaty obligations in Western Europe, therefore, also needs careful assessment.

The amendment also specifies numerous other aspects of our Soviet policies that are much disputed and require careful study and clarification. For example, on the issues of linkages, we find one major administration official has one position, and another has another position. On the question of bargaining leverage, there appears to be a fairly substantial number who believe that the expansion of economic and cultural ties have strengthened our bargaining power, but some experts believe American leverage has been substantially reduced by shifts in the military balance. We need a careful assessment of what bargaining levers we have, how to make the best use of them, and how to strengthen our bargaining position.

On the question of human rights, there has been a great deal of rhetoric, but the situation of dissidents in the Soviet Union has worsened rather than improved. We should be examining alternative approaches in this area.

There are a host of questions relating to the SALT negotiations. Should they be explicitly linked to other aspects of American-Soviet relations or should they stand apart? Can the present negotiations lead to a beneficial, verifiable, and genuinely significant SALT agreement, or have we locked ourselves into a framework from which little useful can possibly emerge? Is there an alternative approach to help assure a mutually beneficial result?

There is also the controversial question of "the China card." Is there a China card, and if there is one, how can it be best developed and used?

What is of most concern to me is that although we have many specialists on Soviet affairs in the Department of State, Department of Defense, and other agencies, no clear and definable strategy has emerged for dealing effectively with the many important issues in American-Soviet relations. The painstaking steps made over the past few years to try to establish a sound basis for American-Soviet relations appear to be fast crumbling. Soviet adventurism abroad and suppression at home are increasing. The American people, according to recent polls, are rightly deeply distrustful of the Soviet Union. They rightly believe the United States must pursue a firm, tough policy toward the Soviet Union. They also are very hopeful that some sound and constructive arms control agreements can emerge from SALT that will be in the interests of both powers.

Mr. President, I believe the review and report contemplated in this amendment would provide an opportunity to develop a sound policy reflecting the desires and good sense of the American people. It will provide an opportunity to make a clear, firm statement of our interests to the Soviet Union. I very much hope the amendment will be enacted and the President will proceed with the kind of review contemplated.

I yield back the floor.

Mr. SPARKMAN. Mr. President, I listened with great interest to the presentation by the author of this amendment. I have looked over the amendment. I think his suggestions in his presentation were very good. I think the amendment is good. For my part, I am willing to accept the amendment.

Mr. CASE. Mr. President, will the Senator yield?

Mr. SPARKMAN. Yes, indeed.

Mr. CASE. I think the chairman has been very right and wise. I concur in the action. We heartily congratulate the Senator from Delaware.

Mr. ROTH. I thank both the chairman and the ranking member of the committee for accepting the amendment and for their interest and support.

Mr. SPARKMAN. May I say this is consistent with the Foreign Relations Committee's own determination when we instructed our professional staff to conduct a detailed study of United States-Soviet relations. I am very glad to accept the amendment.

Mr. ROTH. My understanding is that the Foreign Relations Committee is making a careful review. I hope that the administration, the President and his key advisers, will work with the Foreign Relations Committee, as well as the other committees who have jurisdiction, in bringing about the results contemplated by the study.

I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SPARKMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. SPARKMAN. Mr. President, earlier the Senator from Virginia asked about the $80 million authorization for the southern African special requirements fund in fiscal year 1978. That total was not intended to be a limit on total economic assistance to southern Africa. It was an earmark, not a ceiling. In addition, the total 1978 authorization for security supporting assistance of $1,830,000,000 includes $35 million for specific country programs in southern Africa. The total country allocation for the fiscal year 1978 has been placed in the RECORD.

It is true that of the $80 million earmarked for the southern Africa special requirements fund, only about $42 million had been obligated by May. I would note that the fiscal year is not yet over.

The Senator also asked for lists which include the projects in the special requirements fund. I submit those lists for fiscal year 1978 for the RECORD.

SOUTHERN AFRICA SECURITY SUPPORTING ASSISTANCE

[In millions of dollars]

| | Amount |
|---|---|
| Administration request for SSA | 45.0 |
| Transferred from development account | 24.1 |
| Added in committee to SSA | 40.9 |
| Total | 110.0 |

DISTRIBUTION

| | 1978 | 1979 request | Development transfer | 1979 (S. 3075) |
|---|---|---|---|---|
| Regional | 41.6 | 14.0 | 3.3 | 58.2 |
| Botswana | 16.6 | 11.0 | 6.2 | 17.2 |
| Lesotho | 4.9 | | 8.6 | 8.6 |
| Mozambique | | | .5 | .5 |
| Swaziland | 11.9 | | 5.0 | 5.0 |
| Zambia | 30.0 | 20.0 | .5 | 20.5 |
| Zaire [1] | 10.0 | | | |
| Total | 115.0 | 45.0 | 24.1 | 110.0 |

[1] In development account in fiscal year 1979.

SUMMARY OF ACTIVE AND PROPOSED PROJECTS

PROGRAM: SOUTHERN AFRICA REGIONAL

[In thousands of dollars]

| Project title | Project No. | Fiscal year of initial obligation/ date of loan authorization | Grant: Through fiscal year 1977 Obligations | Grant: Through fiscal year 1977 Expenditures | Grant: Estimated fiscal year 1978 Obligations | Grant: Estimated fiscal year 1978 Expenditures | Grant: Proposed fiscal year 1979 Obligations | Grant: Proposed fiscal year 1979 Expenditures | Grant: Future year obligations | Loan[1]: Through fiscal year 1977 Amount authorized | Loan[1]: Through fiscal year 1977 Amount disbursed | Loan[1]: Through fiscal year 1977 Principal repayments | Loan[1]: Through fiscal year 1977 Interest collected | Loan[1]: Estimated fiscal year 1978 Authorization | Loan[1]: Estimated fiscal year 1978 Expenditures | Loan[1]: Proposed fiscal year 1979 Authorization | Loan[1]: Proposed fiscal year 1979 Expenditures |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Examination Council of Botswana, Lesotho, and Swaziland | [2] 690-0060 | 1978 | | | | | | | | | | | | | | | |
| Education and human resources development | | | | | | | (850) | (500) | (3,412) | | | | | | | | |
| Security supporting assistance | | | | | 800 | 750 | | 50 | | | | | | | | | |
| Development training for southern Africans | [3] 690-0063 | 1976 | | | | | | | | | | | | | | | |
| Education and human resources development | | | (1,000) | (552) | (1,647) | (1,448) | | (647) | | | | | | | | | |
| Security supporting assistance | | | 3,393 | 25 | 2,621 | 3,300 | 8,000 | 6,689 | (4) | | | | | | | | |
| Southern Africa academic and skills training | [2] 690-0083 | | | | | | | | | | | | | | | | |
| Education and human resources development | | | | | | | (2,455) | (1,500) | (8,923) | | | | | | | | |
| Security supporting assistance | | | 598 | 2 | 2,524 | 1,800 | | 1,320 | | | | | | | | | |
| Southern Africa program development and support | 690-0104 | 1978 | | | | | | | | | | | | | | | |
| Security supporting assistance | | | | | 2,200 | 2,000 | | 200 | | | | | | | | | |
| Southern Africa development analysis and planning | 690-0105 | 1978 | | | | | | | | | | | | | | | |
| Security supporting assistance | | | | | 1,000 | 1,000 | | | | | | | | | | | |
| Southern perimeter road | 690-0076 | 1978 | | | | | | | | | | | | | | | |
| Security supporting assistance | | | | | 25,000 | 5,000 | | 10,000 | | | | | | | | | |
| Refugee Support | [3] 690-0201 | 1978 | | | | | | | | | | | | | | | |
| Security supporting assistance | | | | | 5,070 | 4,200 | 6,000 | 5,000 | (4) | | | | | | | | |
| Private voluntary organizations (PVO) | 690-0202 | 1978 | | | | | | | | | | | | | | | |
| Security supporting assistance | | | | | 2,000 | 1,600 | | 400 | | | | | | | | | |
| Self-help | 690-0203 | 1978 | | | | | | | | | | | | | | | |
| Security supporting assistance | | | | | 400 | 300 | | 100 | | | | | | | | | |
| Security supporting assistance, total | | | 3,991 | 27 | 41,615 | 19,950 | 14,000 | 23,759 | (4) | | | | | | | | |

[1] Loan terms: repayment period varies from 20–40 yr, 7–10 yr grace; interest 2 percent during grace, 3 percent amortization; repayable in U.S. dollars. Loans repayable in less than 40 yr are noted.

[2] Detailed project narrative—See Activity Data Sheet, sec. I.

[3] Detailed project narrative—See Activity Data Sheet.

[4] Future year obligations to be determined

SOUTHERN AFRICA PROGRAMS—SECURITY SUPPORTING ASSISTANCE, ESTIMATED OBLIGATIONS FISCAL YEAR 1978

[In thousands of dollars]

| Country, project No. and title | Estimated obligation | Obligated to date |
|---|---|---|
| Botswana | 15,842 | 2,774 |
| 633-0015, range management and livestock development | 552 | 552 |
| 633-0056, crop production and marketing | 600 | 600 |
| 633-0067, agricultural planning | [1] 1,145 | 1,145 |
| 633-0074, agricultural training school | [2] 815 | |
| 633-0032, maternal/child health and family planning | 174 | 174 |
| 633-0078, health services development | [2] 1,400 | |
| 633-0030, Southern Africa development personnel and training | 303 | 303 |
| 633-0069, Southern Africa manpower development | [1] 1,843 | |
| 633-0202, program grant | [1] 9,000 | |
| Lesotho | 5,398 | 2,369 |
| 632-0031, Thaba Bosiu Rural development | 554 | 554 |
| 632-0048, land and water resources development | 641 | 641 |
| 632-0065, farming systems research | 995 | 536 |
| 632-0101, produce marketing corporation | [2] 727 | |
| 632-0066, nutrition planning | [1] 189 | 189 |
| 632-0058, rural health development | 147 | 147 |
| 633-0030, Southern Africa development personnel and training | 302 | 302 |
| 632-0069, Southern Africa manpower development | [1] 1,843 | |
| Swaziland | 12,380 | 3,534 |
| 645-0055, cooperatives amd marketing | 516 | 516 |
| 645-0068, rural development area infrastructure | [3] 7,477 | |
| 645-0062, health manpower training | 592 | 592 |
| 645-0009, curriculum development | 621 | 621 |
| 645-0081, University College of Swaziland | [1] 1,684 | 1,684 |
| 645-0030, Southern Africa development personnel and training | 121 | 121 |
| 645-0069, Southern Africa manpower development | [1] 1,369 | |
| Zambia: 611-0070, commodity imports | [1][4] 30,000 | 30,000 |
| Southern Africa regional | 41,380 | 2,110 |
| 690-0063, development training for Southern Africans | [1][5] 1,998 | |
| 690-0083, Southern Africa academic and skills training | [1] 1,740 | 800 |
| 690-0076, Southern perimeter road | [2] 26,000 | |
| 690-0105, Southern Africa development analysis and planning | [1][6] 1,000 | 522 |
| 690-0201, refugee support | 6,626 | |
| 690-0104, Southern Africa program development and support | 1,805 | 590 |
| 690-0202, private voluntary organizations | [2] 1,811 | |
| 690-0203, self-help | 400 | 198 |
| Zaire | 10,000 | |
| Grand total | 115,000 | 40,787 |

[1] Advices of program change submitted.

[2] Advices of program change to be submitted.

[3] Of which $2,077 grant and $5,400 loan.

[4] Loan.

[5] Plus $1,647 from the education and human resources category.

[6] $876 notified to date; balance requires additional advice of program change.

Note: All projects are grants unless otherwise noted.

ZAIRE SSA

| Project | Fiscal year 1978 OYB level | Obligations to date | Planned obligations: June | Planned obligations: July | Planned obligations: August | Status of advice of changes |
|---|---|---|---|---|---|---|
| Agriculture economic development planning | 800 | 762 | | | | |
| National Agricultural Research Institution (INERA) | 500 | 500 | | | | |
| Grain marketing | 860 | | 860 | | | (1) |
| Fish culture expansion | 375 | | | | 375 | (2) |
| Endemic and communicable disease control | 490 | 490 | | | | (2) |
| Development manpower training | 1,000 | | | | 1,000 | |
| Nonformaled. staff development (CIDEP) | 350 | | | 350 | | |
| Program/sector loan | 5,625 | | | | 5,625 | (2) |
| Total | 10,000 | | | | | |

[1] Submitted.

[2] To be submitted. ●

UP AMENDMENT 1510

(Purpose: Strike $40,000,000 for southern Africa (40 million))

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.), on behalf of himself, Mr. HELMS, and Mr. RANDOLPH, proposes an unprinted amendment numbered 1510.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 22, strike "$110,000,000" and insert in lieu thereof "$70,000,000."

Mr. HARRY F. BYRD, JR. Mr. President, under the bill as it came to the Senate, the committee added $40 million for the southern African program. This $40 million was not sought by the administration. It is $40 million over the amount requested by the administration for these activities. It seems to me it is very unwise to increase these amounts over and above what the President requested.

One reason I am presenting this amendment, yesterday, the Carter administration urged Congress to cut $5 billion from the upcoming budget. That is the budget that Congress is now working on.

This proposal presented to the Senate by the Foreign Relations Committee goes in the opposite direction. The committee increases the President's proposed budget and my amendment would reduce the amount for this southern African program from the $110 million in the bill to the $70 million recommended by the President.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, will the Senator give me his attention?

Mr. HARRY F. BYRD. JR. Yes.

Mr. CASE. We have already dealt with the question of earmarking $20 million for Rhodesia. This was done without a record vote.

I also think it was on the general understanding that the amount in question was going to stay as the committee put it in.

Mr. HARRY F. BYRD, JR. There was no such understanding on the part of the Senator from Virginia. The Senator from New Jersey might have had that understanding.

Mr. CASE. The Senator from New Jersey had that understanding. He certainly does not question the Senator from Virginia's statement that he did not understand it.

But I will certainly urge my colleague not to accept the amendment of the Senator from Virginia because the action we have taken already as a body is predicated upon the larger amount.

I hope that there will be no real difficulty in defeating the amendment of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. There will not be, because this body likes to vote more and more funds.

If the Senate is determined to further increase the President's recommendations, it has got the right to do it. But, somehow or another, we are going to have to get some spending under control and we cannot get it under control by increasing an already swollen budget.

I would hope the Senate would approve this. I would hope the committee would accept this.

Mr. SPARKMAN. May I ask the Senator from Virginia a question?

Mr. HARRY F. BYRD, JR. Yes.

Mr. SPARKMAN. As it stands, is it a question of earmarking, or not?

In other words, is it not the understanding that the $20 million is the amount that will be used?

Mr. HARRY F. BYRD, JR. The Senator from Virginia's amendment proposes to reduce the total amount from $110 million to $70 million for this particular budget item.

Mr. SPARKMAN. But as it stands now, is it not a fund that is more or less earmarked?

Mr. HARRY F. BYRD, JR. I did not understand it that way. But if the Senator from Alabama, the manager of the bill, understands it that way and if he wishes to reduce the total amount by $20 million, I would take that under consideration.

But I think the entire $40 million should be cut out.

Mr. CASE. Will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. Yes.

Mr. CASE. My understanding—I had not quite understood the exact purport of the amendment until now—is that the total figure authorized is not being changed or reduced?

Mr. HARRY F. BYRD, JR. At the moment, but if this carries, it will be.

Mr. CASE. Does the Senator mean he will follow with another amendment to do that?

Mr. HARRY F. BYRD, JR. Let me put it this way. The first amendment that I drew and had planned to submit at this point was in two parts. It changed the total figure by $40 million and changed this item figure by $40 million.

Mr. CASE. Changed the earmarking figure?

Mr. HARRY F. BYRD, JR. Changed the earmarking figure, yes.

Mr. CASE. And the total, as well?

Mr. HARRY F. BYRD, JR. And the total, as well.

Mr. CASE. But the Senator has only offered one now?

Mr. HARRY F. BYRD, JR. I have only offered one now because the other would have been subject to a point of order in that it amended two parts of the bill in one amendment which cannot be done.

So if the Senate were to approve this, then the logical thing for the Senate to do, and I assume it would if it approves this, is to approve this other amendment which would reduce the total figure.

Mr. CASE. Would the Senator think it out of order to ask unanimous consent to do the whole thing in one amendment so we can defeat it in one amendment?

Mr. HARRY F. BYRD, JR. I would be delighted to have one amendment.

Mr. CASE. What does the chairman think?

Mr. SPARKMAN. It is agreeable to me.

Mr. CASE. Dispose of it in one motion.

Mr. HARRY F. BYRD, JR. I think that would be desirable.

Mr. CASE. Mr. President, I ask unanimous consent that may be done.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

Mr. CASE. Will the Senator do it and then we can go to work on it?

The PRESIDING OFFICER. Would the Senator send the modification to the desk?

Mr. HARRY F. BYRD, JR. Mr. President, I send another amendment to the desk and ask that the two be considered en bloc.

The PRESIDING OFFICER. Without objection, they will be considered en bloc.

The amendment, as modified, is as follows:

On page 10, line 22, strike "$110,000,000" and insert in lieu thereof "$70,000,000."

On page 7, line 13, strike "$1,972,000,000" and insert in lieu thereof "$1,932,000,000."

Mr. HARRY F. BYRD, JR. I say again, what this does is to reduce the amount to the amount requested by the President. It cuts out the $40 million added by the committee. That is all it does.

Mr. CASE. That is now before us?

Mr. HARRY F. BYRD, JR. That is right.

Mr. CASE. Mr. President, I do not believe we need to argue it more.

Mr. HARRY F. BYRD, JR. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CASE. On behalf of the chairman, I yield back our time.

Mr. HARRY F. BYRD, JR. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to UP amendment No. 1510 of the Senator from Virginia (Mr. HARRY F. BYRD, JR.). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Mississippi (Mr. STENNIS), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The result was announced—yeas 69, nays 25, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—69

| | | |
|---|---|---|
| Baker | Byrd, Harry F., Jr. | DeConcini |
| Bartlett | Byrd, Robert C. | Dole |
| Bayh | Cannon | Domenici |
| Bellmon | Chafee | Eastland |
| Bentsen | Chiles | Ford |
| Biden | Curtis | Garn |
| Bumpers | Danforth | Glenn |
| Burdick | | Goldwater |

| | | |
|---|---|---|
| Griffin | Laxalt | Roth |
| Hansen | Leahy | Sasser |
| Haskell | Long | Schmitt |
| Hatch | Lugar | Schweiker |
| Hatfield, Mark O. | Magnuson | Scott |
| | McClure | Stafford |
| Hatfield, Paul G. | Melcher | Stevens |
| | Morgan | Stevenson |
| Hayakawa | Muskie | Stone |
| Heinz | Nelson | Talmadge |
| Helms | Nunn | Thurmond |
| Hodges | Packwood | Tower |
| Hollings | Pell | Wallop |
| Huddleston | Proxmire | Weicker |
| Jackson | Randolph | Young |
| Johnston | Riegle | Zorinsky |

NAYS—25

| | | |
|---|---|---|
| Brooke | Hart | Metzenbaum |
| Case | Hathaway | Moynihan |
| Church | Inouye | Percy |
| Clark | Javits | Ribicoff |
| Cranston | Kennedy | Sarbanes |
| Culver | Mathias | Sparkman |
| Durkin | Matsunaga | Williams |
| Eagleton | McGovern | |
| Gravel | McIntyre | |

NOT VOTING—6

| | | |
|---|---|---|
| Abourezk | Anderson | Pearson |
| Allen | Humphrey | Stennis |

So the amendment of Mr. HARRY F. BYRD, JR. (UP No. 1510), as modified, was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1511

(Purpose: Amend Export Administration Act to control certain exports of crime control and detection instruments and equipment)

Mr. STEVENSON. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. STEVENSON. Of course, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Will the Senator be willing to reduce the time on this amendment?

Mr. STEVENSON. This amendment should not take more than 30 seconds.

Mr. ROBERT C. BYRD. Fine.

Mr. President, I thank the Senator.

ORDER THAT ROLLCALL VOTES BE OF 10-MINUTE DURATION

Mr. President, I ask unanimous consent that after the next rollcall vote, any rollcall votes after the next rollcall vote be 10-minute rollcall votes for the rest of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes unprinted amendment numbered 1511:

Strike out section 22 of S. 3075 and insert at the end of the bill the following new section:

Section 4 of the Export Administration Act of 1969, as amended, is amended by adding at the end thereof the following new subsection:

"(n)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

"(2) The provisions of this subsection shall not apply to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand."

Mr. STEVENSON. Mr. President, the bill contains a provision which affects export controls administered pursuant to the Export Administration Act, a matter within the jurisdiction of the Banking Committee. Rather than hold up floor consideration of the bill while it is referred to the Banking Committee for the purpose of reviewing the provision in question, section 222 of S. 3075, I have prepared an amendment which I understand is acceptable to the members of the Foreign Relations Committee who sponsored section 22.

The amendment would replace section 22 of the bill. Section 22 would place crime control and detection instruments and equipment on the munitions list administered by the Department of State under the Arms Export Control Act and require quarterly reports on sales of such items to foreign police or intelligence services. The provision was prompted by concern that crime control equipment made in this country was readily available for purchase by police and internal security forces in foreign countries with records of torture and abuse of prisoners and repression of human rights. Such items could be exported under a general license issued by the Department of Commerce pursuant to the Export Administration Act, except to Communist country destinations. Exports of such items to Communist countries require a validated license.

The validated license procedure provides an opportunity for the executive branch to review the facts in each case and determine whether the proposed export is in the national interest. The Department of State and Defense may review export applications to determine consistency with our national security and foreign policy, including human rights considerations.

The amendment would extend the validated license requirement for the export of crime control and detection instruments and equipment to exports of such items to all destinations except NATO countries, Japan, Australia, or New Zealand. Applications to export such items to countries where police or internal security forces engage in a consistent pattern of gross violations of human rights would be closely scrutinized. The reporting requirement in section 22 of the bill would be deleted; instead the Department of Commerce will include in its semi-annual reports to Congress on export controls information on validated licenses issued and applications to export crime control and detection instruments and equipment.

The Department of Commerce has already acted to extend validated license control for such exports to all countries except the NATO countries, Japan, Australia, and New Zealand. The amendment to S. 3075 will amend the Export Administration Act to make the validated license requirement statutory rather than subject to administrative discretion.

The amendment adds a new subsection to the Export Administration Act, which is the basic export control statute and will be subject to reconsideration and extension next year.

Mr. President, this is a technical amendment. The bill in section 22 places exports of crime control equipment on the munitions list administered by the Department of State. This amendment would extend the validated license requirement for the export of crime control and detection instruments and equipment to exports of such use to all destinations except the NATO countries, Japan, Australia, and New Zealand.

It replaces the munition list procedure for the validated license procedures under the Export Administration Act which is the proper, appropriate procedure.

I have discussed the amendment with the distinguished managers of the bill and know of no opposition to it and hope they will accept it.

Mr. SPARKMAN. Mr. President, has the Senator concluded?

Mr. STEVENSON. Mr. President, except for unanimous consent request, that concludes it.

I hope, having discussed this with the managers of the bill, they will accept the amendment.

Mr. SPARKMAN. Mr. President, let me say I have looked over this amendment.

Mr. President, the amendment offered by Senator STEVENSON retains the basic intent of section 22 of the committee bill. The intent of this provision was that crime control and detection equipment be reviewed as necessary by the Department of State from a human rights point of view. The amendment proposed by Senator STEVENSON would move crime control and detection equipment onto the Commerce Department's validated list and makes provision for the State Department review.

It is a good amendment. I am perfectly willing to accept it, and I am advised by Senator CASE that he also will accept it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. STEVENSON. Mr. President, I am prepared to yield back my time on the amendment.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1512

(Purpose: To strike extended review period from Act)

Mr. SCHMITT. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes unprinted amendment numbered 1512.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, beginning with line 1, strike out all through line 13 of page 30.

On page 30, line 15, strike out "Sec. 25.", and insert in lieu thereof "Sec. 24.".

On page 31, line 6, strike out "Sec. 26.", and insert in lieu thereof "Sec. 25.".

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. SCHMITT. I am happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, it is my understanding that Mr. SCHMITT will not require long on this amendment. I hope Mr. BAKER will then be able to call up his amendment and that his amendment will be followed by Mr. PERCY's amendment.

It is our intention to stay in this evening and to finish the bill. Saying that, I hope Senators will reduce time on amendments where possible.

I thank the Senator.

Mr. SPARKMAN. Amen.

Mr. SCHMITT. Mr. President, this amendment goes to the question of congressional modification of arms sales.

Mr. President, cooperation between the President and the Congress in the conduct of American foreign policy is essential for an effective foreign policy. I support the efforts of consultation and cooperation between these two branches of Government. In recent years, Congress has enacted legislation establishing procedures for this cooperation. These procedures, I believe, will remove some of the problems encountered in the past although occasionally we may have created others. It must, however, be remembered that the President is still primarily responsible for the conduct of the foreign policy of the United States. He must have some flexibility and Congress must take great care not to tie the President's hands with procedures that are too inflexible or cumbersome.

Congress has recognized that the sale of arms to other nations is an important part of our foreign policy. Under the provisions of the Arms Export Control Act, Congress has 30 days in which to consider a proposed arms sale. If Congress does not act within those 30 days, the arms sale may proceed.

It is the feeling of this Senator that this involvement by Congress has been constructive to date. It is also my feeling that the administration has cooperated with Congress in this issue.

The bill before us would amend section 36(b)(1) of the Arms Export Control Act to permit an additional 30 days for Congress to consider a proposed arms sale if the Senate Foreign Relations Committee or the House International Relations Committee votes by a two-thirds vote for such an extension.

Mr. President, this provision of S. 3075 may unnecessarily delay action on the arms sale. My amendment would strike this section of the bill.

The Senator from New Mexico does not completely understand the necessity of this provision. The Senate report accompanying the bill states:

The committee wishes to note the full cooperation it has received from the executive branch regarding advance consultation on arms sales. In adopting this section, the committee does not wish to indicate displeasure with executive branch performance on sales notifications.

Not only has the administration complied with the letter of this law, but it has complied with the spirit of the law. In addition to the 30 days required by law, Congress has been aware of every major arms sale, especially the controversial ones, for months before it has been officially submitted to the Congress. The committee does not point to any problems which could have prompted the adding of this provision to S. 3075.

I am certain that the administration has timetables which it is attempting to adhere to. To delay a final vote on an arms sale for an additional 30 days under the history of this provision of the Arms Export Control Act may be unreasonable. The fact is that this provision has been complied with. I am not sure there is reason to further complicate and prolong the procedure.

Let me state that in the future, should any administration attempt to circumvent the intent of this law, I would consider further restricting executive action. At this time, however, there seems to be no good reason to do so.

I would like to pose five questions to the distinguished members of the committee in the hope that in their answers then we can reach some accommodation on this issue.

My first question to the committee is what problems with regard to time, notification time, that is, have been encountered by the committee?

Mr. SPARKMAN. May I say, in answer to that question, that normally the 30-day review period provides adequate time to review an arms sale. Only in special cases is more time needed.

We have had three such cases. One of them was the sale of the AWACS to Iran, and another was the sale of F-15's to Saudi Arabia. And Hawk missiles. Sales to Jordan. Those are the only cases we have here. Ordinarily there is plenty of time to take care of the situation.

Mr. SCHMITT. Well, I presume that by the Senator's answer my second question is has the law or spirit of the law been circumvented in any of these cases?

Mr. SPARKMAN. The law has not been violated. The President first presents to us an informal notification. Then he follows that up with a formal notification and the law is set as to the time that can be used in the consideration of this, and we have had no trouble on that score.

Mr. SCHMITT. Following up on those answers, and then I will ask three more questions, is the problem that becomes awkward in the implementation of an arms sale when this delay occurs and the President must resubmit it in order to get another 30 days? Is that part of the reason for this provision to avoid that kind of awkard situation?

Mr. CASE. I think it is fair to say, if I may intervene, that is very much a part of the intent here. It would make it much easier, I think, to adjust the situations without a confrontation, and that is the hope of the Committee.

Mr. SCHMITT. The Committee then would not foresee, and certainly would not encourage, a delay between the consummation of the sale and notification of the committee. They are just trying to take care of those examples that, for some reason or other, tend to be more controversial; is that the case?

Mr. CASE. That is exactly right. In those cases this additional time can, I think, more easily be obtained than by use of the pressures that sometimes have to be exerted.

We think it is probably going to result in a smoother operation, and it will facilitate the relations between the executive branch and Congress in this matter.

Mr. SCHMITT. My third question would be, in order to set this record straight, what has been the average time period between the conclusion of an arms sale and its submission to Congress?

Mr. SPARKMAN. The time period varies, but usually an informal notification is sent to Congress 20 days before the formal notification is forwarded for our consideration.

Mr. SCHMITT. The fourth question is, Have the Senate and House committees been consulted during the negotiation process, as a rule?

Mr. SPARKMAN. I am not sure I understand the impact of that question.

Mr. SCHMITT. Well, prior to the consummation of the sale, has the Senator's committee generally been consulted in a systematic way about the sale before it is necessary to act on it?

Mr. SPARKMAN. Does the Senator mean with reference to the notification?

Mr. SCHMITT. Yes, prior to notification has there been a spirit of consultation between the committee and the administration?

Mr. SPARKMAN. Yes. As I said a few minutes ago, the President sends us an informal notification. The time between his sending that and sending the formal notification, we work in the committee trying to find out just what the situation is. We have had no trouble on that except in a couple of instances which I mentioned.

Mr. SCHMITT. Is it clearly the intent of the committee chairman and the distinguished ranking member that the process would not be changed in any way, and that you would expect to have a timely alert to the impending formal notification and then a timely submission of the formal notification so that in all ordinary cases all of this would happen within approximately a 30-day period? I would not want the administration to sort of stretch out now and assume that they have got more time for an ordinary arms deal; is that correct?

Mr. SPARKMAN. That is right. As I say, we have not had but a couple of instances where that did not work out. They were, I might say, peculiar situations. Ordinarily we are informally told in the committee that a notification will be coming up, and then shortly thereafter the President submits an informal notice. There is a legal period of time in which he must submit it, and the Senate has a limited time in which to act on it.

Mr. SCHMITT. Well, I appreciate the courtesy of the committee in answering these questions. I feel that they feel as I do that the time should not be prolonged as a result of this provision in the bill.

But I also hope that if it appears as if we are being taken advantage of, so to speak, and if the time stretches out to be ordinarily 60 days, the Senator would come back to Congress and say, "I think we better go back to the 30-day period, because we are being taken advantage of." I anticipate that is what the committee would do, but I just want to be assured that that is true.

Mr. SPARKMAN. The Senator is correct. Let me say that there were only two instances, I believe, in which we had to ask for extra time.

Mr. SCHMITT. Mr. President, with those assurances, I will withdraw the amendment, and thank the committee again for their assurances.

Mr. SPARKMAN. I thank the Senator.

The PRESIDING OFFICER. The amendment of the Senator from New Mexico is withdrawn.

Mr. HAYAKAWA. Mr. President, will the Senator from New Mexico yield for a unanimous-consent request?

Mr. SCHMITT. I yield.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that Mike Pillsbury of my staff and Jan Olson of the Budget Committee staff be accorded the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1513

Mr. BAKER. Mr. President, I call up my amendment at the desk, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1513:

On page 31, line 8, add the following new section:

NONIMMIGRANT VISAS

SEC. 27. Section 21 of the Act entitled "An Act to provide certain basic authority for the Department of State" is deleted.

Mr. BAKER. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Mr. BARTLETT, Mr. BELLMON, Mr. BROOKE, Mr. CURTIS, Mr. DANFORTH, Mr. DOMENICI, Mr. GARN, Mr. GRIFFIN, Mr. HANSEN, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. LUGAR, Mr. MCCLURE, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SCOTT, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. LAXALT, Mr. ROTH, Mr. TOWER, Mr. BENTSEN, Mr. HUDDLESTON, Mrs. HUMPHREY, Mr. JACKSON, Mr. MOYNIHAN, and Mr. STONE.

The PRESIDING OFFICER. Without objection, it is so ordered. Is this the amendment on which the Senator from Tennessee has a time limitation of 1½ hours?

Mr. BAKER. This is the amendment on which a period of 1 hour is provided. I might advise my colleagues that I think it will take substantially less than 1 hour. I yield myself such time as I may utilize.

Mr. President, this amendment which I have offered to the International Security Assistance Act of 1978 is designed to delete the requirement that the Secretary of State automatically recommend approval of an application for a nonimmigrant visa to a member of a Communist organization seeking to enter the United States.

As most of my colleagues know, Mr. President, entry into the United States by members of Communist organizations is proscribed by law unless the Secretary of State recommends that the Attorney General grant a waiver to such applications for a nonimmigrant, temporary visa. The Foreign Relations Authorization Act for fiscal year 1978 removed the discretion vested in the Secretary of State and required that he recommend approval of such applications automatically. I believe that discretion should be returned to the Secretary.

The reason is simple. Last year, in the afterglow of the Helsinki Accords, we made it easier for Communist officials and party members to enter the United States, a gesture that facilitated our compliance with the final act of Helsinki. It was our hope that this gesture would encourage the Soviet Union and members of the Warsaw Pact to comply with the obligations those nations voluntarily assumed in becoming signatories to the Helsinki Accords, especially those obligations pertaining to the free movement of people and ideas.

As we are all too well aware, Mr. President, that hope was in vain. The Soviet Union has made no attempt to honor its commitments under the final act and in fact its contempt of the ideals expressed at Helsinki appears unending. That contempt—for the freedom of Soviet citizens, for the principals expressed at Helsinki, and for the United States and the other signatories to the final act—was dramatically illustrated in the trials of Anatoly Scharansky and Alexandr Ginzburg. We should also remember that those trials are merely the tip of an iceberg of institutionalized repression of basic human freedoms represented by the Soviet state.

Unfortunately, Mr. President, this amendment and its impact do not merit comparison with the plight of Anatoly Scharansky and the thousands of other victims of Soviet repression. It will constitute, however, one more visible reminder to the Soviet Union that we are willing to hold them to account for their cynical rejection of basic human freedoms.

It will be particularly visible, Mr. President, in the visa applications of so-called labor leaders in the Warsaw Pact nations. Labor organizations in Communist countries bear no relationship to the labor movements in this country and others of the free world to which the principle of the voluntary association of free men and women is fundamental. This country, therefore, has historically made the distinction between the visa applications of purported Communist labor leaders and those of other professions. We have long considered it an insult to the free labor movement of this country to accord the leaders of forced labor official U.S. recognition of a status they in no way deserve.

For these reasons, Mr. President, I urge my colleagues to support this amendment as a symbol of our continuing disagreement with the denial of human rights in the Warsaw Pact countries. In the unlikely event that at some point in the future these practices improve, we can reconsider this question. But for now, I am willing to impose this modest inhibition on entry into the United States in response to the absolute prohibitions on the exercise of basic human freedoms in the countries that will be affected.

Mr. JACKSON. Mr. President, will the Senator yield me 5 minutes?

Mr. BAKER. I am happy to yield to the distinguished Senator from Washington for 5 minutes.

Mr. JACKSON. Mr. President, I commend the minority leader (Mr. BAKER) for sponsoring this amendment. I am pleased to join as a cosponsor of the amendment, which I believe makes eminent good sense. It simply restores to the Secretary of State the discretion he ought to have to grant or withhold visas to foreign visitors to the United States who are members of proscribed organizations, including Communist organizations. As matters now stand, the Secretary is required to recommend that visas be granted, regardless of the circumstances of the visa request, the state of relations with the country involved, or other factors that any sensible and flexible policy would surely take into account.

Nothing in the Helsinki Final Act dictates the internal deliberative procedures by which we decide whether or not to grant visas to enter the United States. In any event, the blatant record of Soviet violations of the Helsinki Final Act does not argue for a totally undiscriminating policy on our part. On the contrary: We need discretion in the granting of visas to members of proscribed organizations if we wish to have leverage in securing visas for Americans who desire to visit the Communist countries. If we are in a position, as necessary, to trade visa for visa—a situation that requires discretion on a case-by-case basis—we are more likely to expand the flow of people across international borders in a manner consistent with the spirit and letter of the Helsinki Final Act.

Mr. President, it makes no sense to give a blank check to overseas members of the Communist Party, to members of terrorist organizations, and to others whose entry to the United States ought to be subject to careful deliberation.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Washington for his remarks, for his cosponsorship, and for his support of this amendment. I have no further requests for speakers on this side at this time, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

UPHOLDING A VALUABLE SYMBOL

Mr. McGOVERN. Mr. President, it is a curious coincidence that in considering this Security Assistance bill, the Senate has been asked to deal with two provisions which, though of substantial importance, are largely symbolic. The first, of course, was the so-called Turkish embargo. The second, now the subject before us, is a provision enacted last year—a so-called McGovern amendment relating to visa applications by prospective visitors to the United States.

In the case of the almost nonexistent embargo against Turkey, I argued earlier my strong belief that symbolism was proving to be counterproductive—that by retaining a provision the primary purpose of which was to stigmatize Turkey, the United States was foregoing its opportunity and duty to foster constructive negotiations on Cyprus. With regard to the visa provision enacted last year, however, my purpose now is to defend symbolism—because the result of altering this provision of law, rather than serving U.S. interests, would be instead to seriously damage those interests by undercutting American leadership in the international fight for human rights.

This may sound like an overstatement. What, after all, do visits to the United States have to do with human rights around the world? The answer, Mr. President, arises from the Helsinki Final Act and the U.S. effort to push for compliance with the provisions of that agreement relating to the freer international movement of people and ideas.

Before that agreement was signed—on August 1, 1975—the United States already had a solid record in this field. Our American policy, however, flawed that record, and was used regularly by our adversaries as evidence of U.S. hypocrisy. This was our policy, embodied in law, with regard to prospective visitors to the United States belonging to organizations adhering to philosophies not approved of in this country, organizations such as the Communist Party. All nations, to be sure, should and do reserve the right to exclude from their boundaries persons constituting a threat to national security. Our law, however, created a presumption against prospective visitors on the basis of ideological affiliation alone—imposing a negative presumption, for example, even against an Italian Communist who espoused peaceful, democratic change.

The implementation of this law, it should be noted, was not nearly as rigid as its appearance. A waiver procedure allowed the Secretary of State to recommend to the Attorney General the granting of a visa, notwithstanding the negative presumption; and in many cases—indeed almost routinely—this method was used. Nonetheless, in the aftermath of the agreement at Helsinki, this law stood as a U.S. liability, for it seemed to say that we were afraid of ideas, of what a visitor to our country might have to say.

This liability was recognized, I would point out, by the U.S. Commission on Security and Cooperation in Europe in its 1977 report on implementation of the Helsinki Act, the relevant pages of which I ask unanimous consent to have printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McGOVERN. The liability was recognized, too, by the Carter administration, which made clear its intent to use the waiver procedure on a regular basis, so as to show our genuine commitment to implementation of Helsinki principles.

What was really needed, however, was a change in the law itself. It was for this reason that last year I sponsored a provision designed to strengthen the position of the United States in the international fight for human rights by showing, through legislative action, that we are a Nation unafraid of the free flow of ideas and that we have an affinity for the principles of Helsinki not because they have value as a tool for disparaging our adversaries but because they have value in themselves and deserve to be implemented.

The provision I sponsored was intended, in its own words, to achieve "greater United States compliance with the provisions of the final act" and to encourage "other signatories to comply with those provisions." It sought to do so by removing the negative presumption against a prospective visitor whose only possible reason for exclusion was organizational affiliation. It accomplished this by mandating the Secretary of State to act automatically, in such cases, making an immediate waiver recommendation to the Attorney General so that a visa might be issued. No change was made.

I should emphasize, with regard to any person subject to other grounds for exclusion, such as persons who might be involved in advocating or engaging in violence or who might in some other way pose a threat to the national security. Nor was any change made in the ability of the Attorney General or the President to deny the Secretary of State's waiver recommendation with regard to any prospective visitor, even one falling under the terms of the McGovern amendment.

The provision was, in that sense, entirely symbolic, in that it left to the executive branch full flexibility to determine what persons will and will not come to the United States. On the other hand, by making automatic the Secretary's favorable recommendation in cases relating to ideology alone, the provision created a useful symbol, demonstrating a certain maturity and magnanimity on the part of the U.S. Government which might strengthen U.S. leadership in the field of human rights.

Indeed, this was precisely the result. At the Helsinki followup conference held at Belgrade, the U.S. delegation repeatedly found it useful to refer to the new provision as exemplifying the U.S. practices to the principles of the Helsinki agreement. For example, in his opening statement at the Belgrade Conference, Ambassador Goldberg highlighted the effort to conform its own policies and congressional action, in a passage which I shall read for the RECORD at this point:

> Let me comment first on what my own country has done to implement the Final Act. In general, the Act codified standards which reflect American policy in dealing with other nations and with our own citizens. Nevertheless, in response to the Final Act we have looked closely at our own behavior and—where we have found the need and the means—have acted to improve our conduct. In particular, we took two steps regarding the Final Act pledge to "facilitate freer movement and contacts." First, President Carter this year removed all restrictions on travel abroad by American citizens. Second, with President Carter's support, Congress recently relaxed our visa requirements, so that people wishing to visit the United States will not be excluded because of political affiliation or belief, except in the rarest instances.

The change in U.S. law was noted by our allies as well as our adversaries. For example, at its September 1977 session, the North Atlantic Assembly, consisting of parliamentarians of all the NATO countries, passed the following resolution, which in effect formally congratulated the United States on its action:

RESOLUTION ON THE HELSINKI PRINCIPLES AND VISA POLICIES

> The Assembly,
>
> Recognizing the fundamental validity of the principles set forth in the Final Act of the Conference on Security and Cooperation in Europe, signed in August 1975 at Helsinki, and in particular those principles relating to the free movement of people and ideas;
>
> Noting with approval the steps taken by NATO member countries to comply more fully with the principles of the Final Act, and in particular the recent legislative initiative of the United States in removing from United States visa policy exclusion solely on the basis of political or organizational affiliation;
>
> Expresses hope that such exemplary efforts at compliance with the Helsinki principles by the NATO and other Western countries will promote increased compliance by Warsaw Pact signatories of the Final Act.

What we are now asked to consider, Mr. President, only a few months later, is a proposal that would alter this valuable symbolic provision, and thereby undercut U.S. prestige. It can only be asked, Why? The answer can perhaps be found in an editorial from Sunday's Washington Post entitled "Chief Visa Officer George Meany?" which I ask be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHIEF VISA OFFICER GEORGE MEANY?

> Sen. Howard Baker (R-Tenn.) gave his colleagues fair warning the other day that he was about to submit an amendment restoring the old cold-war way of processing the visa applications of communists who wanted to visit the United States. The old way was simply to keep communists out unless the State Department requested a waiver to let them in. That approach was

changed last year, in an amendment offered by Sen. George McGovern (D-S.D.), to let communists in unless the State Department requests a waiver to keep them out. That's the proper way, expressing this country's traditional openness and hospitality to foreigners and establishing the presumption that they're welcome to come.

Mr. Baker justifies his request for a rollback on grounds that the communist countries have defaulted on their Helsinki pledges to allow "freer movements and contacts" among signatory nations. In fact, though the communists' performance has been far from fully satisfying, the Helsinki Accords have provided a standard by which communist performance could be judged. The United States, in passing the McGovern amendment last year, was responding precisely to the letter and spirit of the Helsinki Accords. That amendment has been a useful piece of diplomatic ammunition to the United States since its passage. Mr. Baker and many others are currently protesting against Moscow's falling away from various pledges it made at Helsinki. This is no time for the United States to fall away from its own.

There is really only one serious opponent of the McGovern amendment—the AFL–CIO, which has been carrying on its own private anti-travel war with Soviet-bloc countries for many years. George Meany evidently has a heavy personal investment in the position that to let communist trade unionists into this country is to give them a political seal of approval. We find the argument unpersuasive and the policy designed to support it retrogressive. George Meany is not the country's chief visa officer, and Mr. Baker should not offer him the post.

Mr. McGOVERN. Today there has been circulated in the Senate a letter from George Meany, who is the man behind this amendment and who has written to Senators calling upon them to support it.

Let me be blunt, Mr. President. Mr. Meany's letter is a preposterous fabrication—nothing less, a preposterous fabrication. In it, he points the picture of the McGovern amendment having opened the borders of the United States to a horde of Soviet KGB spies, who have supposedly traveled here disguised as trade union leaders and committed unspeakable acts of espionage against our country. This is plain, unadulterated baloney, to put a charitable word on it.

Mr. President, I asked the State Department to prepare a list of the persons who have come to the United States over the past year who might be said to have come in under the terms of the McGovern amendment. I should emphasize that a precise figure is impossible to select because the McGovern amendment does not require the administration to let anyone in. It does, however, encourage the administration to adopt a more tolerant attitude toward prospective visitors who are members of so-called "proscribed organizations." Since the administration was inclined to adopt a more tolerant attitude anyway—so as to be able to assume international leadership in the fight for implementation of the Helsinki principles—it is difficult to trace causation precisely. But it can be said that in the past year approximately 40 persons have come to the United States who, in past years, according to past policies, would not have been allowed to come to the United States.

The number, Mr. President, is 40. Not 40,000. Not 4,000. Not 400. But 40. And of this number, a high percentage are not even from Warsaw Pact countries. Some of them are from Australia, some from Italy, some from Finland, others are from other countries. So what we are talking about does not have anything to do with a horde of foreigners—but rather a very small number who might have been let in anyway even without the McGovern amendment, which as I explained earlier is almost entirely symbolic.

Now what about the allegation that they are spies? That is very easy to answer, Mr. President. Anyone judged to be coming to the United States for purposes of espionage does not even fall under the terms of the McGovern amendment. And therefore that allegation is irrelevant and immaterial—nothing more than a scare tactic used as a part of this campaign of misinformation. The McGovern amendment relates only to persons who fall afoul of the category of excludability having to do with organizational affiliation. That is category No. 28 out of a total of 32. Category No. 29 has to do with espionage. Any persons known or thought to be coming to the United States for purposes of espionage would fall into category No. 29 and would therefore not receive the automatic favorable recommendation mandated by the McGovern amendment. So the whole assertion that what we are talking about here is a provision opening the United States to espionage is ridiculous.

Let me again be blunt, Mr. President. What is at issue here is one man's war against Communist trade union leaders. Mr. Meany believes that the phrase "Communist trade union leader" is a contradiction in terms—that communism and trade unionism do not have anything to do with each other and are indeed mutually exclusive. In that, Mr. President, I can agree with Mr. Meany: trade unionism, as we know it in the Western democratic countries, could not exist in a Communist society. But that is as far as my agreement with Mr. Meany goes.

I do not draw the conclusion, as he does, that because I do not approve of a person's system I should not talk to him. I think I have a little more confidence in the United States than that. I do not believe that this country is placed in danger by the beliefs, even if they are articulated, of a handful of foreigners who may come here for a brief visit. On the contrary, I think the odds are that, while they are here, they may learn something—and perhaps go home a little less certain of any dogmatic beliefs they may have brought with them.

Mr. Meany's letter wraps itself in expressions of great concern about human rights. It was precisely a concern for human rights that caused the enactment of the McGovern amendment in the first place, with the open support of the Carter administration. This amendment put this country on record as taking a leadership position in the international fight for implementation of the Helsinki principles. I am proud that we did it, and I think we should hold to it and continue the fight.

Everyone knows that the Soviet Union has not fulfilled its obligations under the Helsinki Final Act. Only a dreamer would have expected that they would. But the Helsinki Act sets standard. And it is now our duty—a long-term duty—to adhere to that standard and to continue to press, month after month, year after year, in every effective way we can find, for other nations, including the Soviet Union, to move toward that standard. It is either that or we start moving toward the standard they have set—of hypocrisy and repression and fear. This is what Mr. Meany asks us to do. I propose that his effort to conduct this Nation's foreign policy be rejected. President Carter and Secretary Vance are making a strong effort to press for implementation of the Helsinki principles. It would be sad indeed if, while pretending to show concern for human rights, the Senate undercut that effort.

We do not make the United States stronger by copying the worst features of the Soviet system. I deplore the trials of Scharansky and Ginsburg. But we will not save either them or others by duplicating the paranoia of the Soviet Union.

I also ask that there be printed in the RECORD at this point a letter from Secretary of State Vance in which he warns that a successful effort to reverse this provision, "when we are criticizing the Soviet Union and Eastern European countries for violations in human rights field, would be to rob our efforts of force and credibility." The Secretary reminds us also that—

Not only the Soviets, but also many of our friends in Western Europe would wonder about the sincerity of a Government and Congress which urge progress on others while at the same time moving backwards in the administration of its own legislation.

I hope strongly that the Senate will defeat the proposal to change existing law.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
*Washington, D.C., June 27, 1978.*

Hon. GEORGE MCGOVERN,
*U.S. Senate.*

DEAR SENATOR MCGOVERN: I have been informed that there may be an effort to remove the "McGovern Amendment" from the State Department authorization bill. This proposal, if adopted, would be extremely detrimental to U.S. efforts to further respect for human rights and to persuade other nations to permit freer movement of persons.

Since last year the U.S. has been able to use the McGovern Amendment both as a tool to allow a fuller interchange of ideas between journalists and political officials of Western and Eastern countries alike and as an example which we hope others will emulate of our determination to implement the letter of the Helsinki Final Act. This commitment was highlighted at the recent Belgrade follow-up meeting of the Conference on Security and Cooperation in Europe, during which members of our delegation referred several times to the McGovern Amendment as the type of provision which other countries should adopt as a means of stimulating a freer flow of persons and ideas. In its report on implementation of the Helsinki

Final Act, issued on September 23, 1977, the CSCE Commission specifically criticized the U.S. immigration practices which were later amended by the McGovern Amendment as being inconsistent with the Helsinki accord.

For the United States to repeal the McGovern Amendment at this point, when we are criticizing the Soviet Union and Eastern European countries for violations in the human rights field, would be to rob our efforts of force and credibility. Not only the Soviets, but also many of our friends in Western Europe would wonder about the sincerity of a Government and Congress which urge progress on others while at the same time moving backwards in the administration of its own legislation. Public commitment to the goals of the Helsinki Final Act in the United States could also be weakened by this example of American disregard for the spirit of this undertaking.

The careful discussions which led to adoption of the McGovern Amendment a year ago were to my mind a prime example of the way in which the Administration and the Congress can work together to achieve practical progress on complicated technical issues. It would be very unfortunate if the benefits which have already been gained from this cooperation were to be lost by removal of the McGovern provision from the books.

Sincerely,

CYRUS VANCE.

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EXHIBIT 1

EXCERPT FROM THE AUGUST 1, 1977, REPORT OF THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

UNITED STATES

The United States has taken action—under the stimulus of the Final Act—to bring its passport and visa issuance practices more nearly into compliance with implicit Helsinki standards. In March 1977, President Carter ordered the removal of what he called "the last remaining restrictions" on foreign travel by Americans, provisions which had made U.S. passports invalid for travel to Albania, Cuba and North Korea. He also announced that the United States "will move to liberalize travel opportunities to America." [44]

More precisely, Secretary of State Vance told the Commission in early June, "the whole visa question is under consideration in the Executive Branch right now." [45] The Executive review, however, has so far produced no notable changes in the cumbersome and controversial procedures by which U.S. officials are bound in determining whether or not to admit an alien for a temporary or permanent stay in the United States. Action by the Congress and the President in August may result in a marked simplification of the visa-issuance process in 1977, but the United States will nonetheless be open to justifiable criticism at the Belgrade conference for failures fully to honor the Final Act provisions "to improve conditions in this [human contacts] area."

Cumbersome U.S. visa policies affect visitors from all countries, as an Industry-Government Special Task Force reported in 1968:

"Entry procedures for vacation and business visitors to the United States are outmoded. They serve only to project an adverse image of this nation's willingness to receive foreign guests. They are overly defensive and bespeak an unfriendly attitude based upon feelings of suspicion. . . .

"In order that the United States rid itself of this stigma, a dramatic new policy of simplified procedures must be adopted, specifically geared to the short term visitor." [46]

Visa procedures have not changed significantly since the issuance of the report.

U.S. compliance problems originate in the 1952 (McCarran-Walter) Immigration and Nationality Act, establishing 32 categories of aliens considered ineligible to receive entry visas. While many of the categories are unexceptional, one definition does proscribe entry by aliens who are or have been members or affiliates of a Communist organization. The proscription can be lifted by a waiver from the Attorney General, and 96 percent of those initially refused visas in fiscal year 1975 under the terms of section 212(a) 28 did, in fact, receive such waivers.

One class of applicants—Communist trade unionists intending to meet with labor union groups in the United States—has been, before and since Helsinki, systematically denied those waivers. Although, at the insistence of U.S. negotiators, the Final Act makes no mention of encouraging trade union contacts, the practice of denying them admission to the country can scarcely be reconciled with the overall thrust of the Helsinki accord.

Nor do such practices gibe with the specific Basket III subsection under which signatories committed themselves to "facilitate wider travel . . . for personal and professional reasons" and registered their intention "gradually to simplify and to administer flexibly" existing visa procedures. The pledge to make conditions easier for temporary travel applies across the board. Conditions are to be eased for all travelers—butchers, bakers, candlestick-makers and trade union representatives.

It can certainly be argued that Communist unionists travel on false pretenses, representing a political affiliation rather than a commitment to the labor movement. In the open American marketplace, however, that argument can best be made in direct confrontation of opposing views. The argument is not served by an a priori exclusion of spokesmen for one side of it.

In recent months, for instance, an Australian Communist labor leader and environmental expert was barred from attending a union-organized discussion of environmental protection issues, although he had previously been admitted to the United States to lecture to Sierra Club audiences. Three Soviet trade unionists, invited to a longshoremen's union convention in Seattle this April, were also denied visas. On occasion, U.S. consular officials in Moscow have found themselves in the embarrassing position of issuing visas to U.S.S.R. unionists, but conditioning the visas with written instructions to the Soviets not to make contact with American unionists during their visit.

U.S. practice, in short, is discriminatory. The grounds for the discrimination—that Communist unionists are government agents and neither free nor true representatives of workers—reflect a mind-set the Final Act does not condone.

Every nation, of course, has the right to bar entry to individuals whose presence could jeopardize its security, but that standard does not appear to be the one applied at present to Communist trade unionists seeking visas to the United States. The difference between American rhetoric and practice on the issue of expanding travel opportunities is one which exposes this country to telling criticism from other signatories, including those whose practices in the same field are profoundly at variance with Helsinki standards.

That same divergence also undermines otherwise sound U.S. protests against Communist restrictions on professional travel of Warsaw Pact state subjects. Americans are right to seek freedom for Prof. Benjamin Levich to attend an Oxford colloqium in his honor, for Pavel Kohout to see the Broadway opening of his play or for Andrei Sakharov to receive his Nobel Peace Prize in person. But right or wrong, Americans cannot be effective while vulnerable to charges that their own restrictions on similar travel are in violation of the Final Act.

FOOTNOTES

[44] President Carter's address to the United Nations as quoted in the Washington Post, Mar. 18, 1977.

[45] CSCE Hearings, Basket III, Vol. IV, pp. 21–22.

[46] Report to the President of the United States from the Industry-Government Special Task Force on Travel (Washington, D.C.: U.S. Government Printing Office, 1968), p. 27.

Mr. McGOVERN. Mr. President, I hope strongly that the Senate will defeat the proposal to change existing law.

Mr. President, I reserve the remainder of my time.

(Mr. NUNN assumed the chair.)

Mr. BAKER. Mr. President, I have only a few brief words; then I wish to yield to the distinguished Senator from New York.

I have served with the distinguished Senator from South Dakota for some years now in the Senate and for a shorter time on the Committee on Foreign Relations, as a colleague on the other side of the aisle in that committee and in this Chamber. I have high regard and respect for him. I do not challenge his motives or his motivation in offering this amendment in the first place.

But for the life of me, I cannot understand how we improve the cause of human rights or implement the principles of the Helsinki Accords by robbing the Secretary of State of the discretion to decide who should be issued a visa and who should not. This is not an effort to serve the single purpose and cause of a labor leader or a labor organization but, rather, to try to repair a serious mistake in the skein of the foreign policy of this country.

Mr. President, I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the distinguished minority leader.

Mr. President, I rise to support the amendment of the Senator from Tennessee, of which I have the honor to be a cosponsor. I wish to speak first to the matter just alluded to which is, what does the amendment do?

It gives to the Secretary of State discretion with respect to admitting to the U.S. persons that were formerly, by their most avowed and explicit ideological political concerns, adversaries of our political system. It is a discretion which the Secretary of State ought properly to have at a time in our relations with the Soviet Union when the President, himself, has demonstrated the uses of and the need for such discretion.

Mr. President, it is surely understood in this Chamber that the relationship between our democracy and the Soviet Union has undergone a great strain from the time, a year ago, when the distinguished Senator from South Dakota, in what surely must have seemed to this whole Senate as a wholly appropriate, open, attractive gesture to the rulers of the Soviet at a time when a new President had come to office in our Nation, was reaching out, speaking of human rights, speaking of cooperation. We changed a long-established policy as a gesture of good will, as an act of bona fides, if you will. And what have we had in return? Was the measure interpreted

as one of willingness to go forward together or was it interpreted as, somehow, another evidence of retreat?

It was intended as nothing of the kind. No one could ever suggest such a thing of the Senator from South Dakota. But what was the response of that dense and difficult and yet, somehow, predictably perverse Soviet mentality, the mentality of the Central Committee, other than to say, "Now, they are falling back; push harder."

And what did they do to President Carter in his efforts to be open and understanding? They became more closed and more opposed to the things that we have stood for than ever they have been in this decade.

Just recently, in a quite extraordinary act in the course of this year, a Soviet dissident was arrested and charged with being an agent of the American intelligence system, of the CIA. The President of the United States did something no chief of state should ever have to do. He said, "This is not so. I say to you, leaders of the Soviet Union, no, Mr. Scharansky is not."

And what did they do in response to that openness, that involvement in issues which any head of state ought to be spared in public?

They convicted him and they sent him to Siberia for 13 years. In so doing, they said that the President of the United States is a liar, his human rights policy is one of subversion, and his efforts have failed and will fail.

They have done the same thing in response to this equally earnest and understandable and, in the circumstances, quite reasonable measure. They have thrown it in our face.

Mr. President, there is a connection here between the external behavior of the Soviet Union and its internal purposes. There can be no question that the simultaneous trials of the Soviet dissidents just 2 weeks ago were intended to establish in the mind of Soviet citizens that what the President of the United States may say about human rights is said for the internal consumption of his own people and would have no consequences in the relations between the two nations.

The message being that those dissidents who might hear what we have to say, who hope for some improvement, would be doomed to complete disappointment and frustration, that they would go to prison as inexorably, they would disappear as completely, as ever before, and perhaps more so.

The Soviet people know full well what it is to have a government saying things for internal consumption and not meaning them, and they were told the United States does not mean it. The most brutal sentences were imposed in this case, publicly imposed sentences, in order that all the rest should know what they had to expect without the small benefit of the Western World knowing.

Then, Mr. President, what did the President do? As urged by the distinguished Senator from Washington, who I see is on the floor, the President was urged by Senator JACKSON to do something specific, to withhold some ongoing program, to make a gesture at once substantive and symbolic and, in the particular case, not to sell to the Soviet Union a Univac computer, to say to the Soviet Union that we connect technology with human rights, we know if you send your computer scientists to Siberia you will have to import your computer science from us and we will not cooperate, we will not let you escape the cost of punishing and oppressing your own people and just wasting their creativity.

And the President did it. There are few of us in this Chamber who have not congratulated him for doing so. He used the discretion he had.

Now, Mr. President, this measure restores to the Secretary of State a comparable level of discretion to be used for the same purposes, and in the same spirit of wishing to cooperate, we can withhold our cooperation in the face of hostility and contempt.

In particular, I would like to draw the attention of the Senate to the fact that dissent in the Soviet Union is not confined to intellectuals. It is not a matter of unique minorities only. It is not an affair of scientists who live in an international world, who inevitably have outside contacts, of religious groups that are part of a worldwide religious community that have outside contacts.

Mr. President, the workers of the Soviet Union are as oppressed as any citizens of that vast darkness and they, too, are trying to be heard. They, too, are making their voices heard. Their names somehow never come forward, but their voices have been heard.

I have here, Mr. President, a random collection of newspaper articles from the New York Times over the last year by some of the distinguished correspondents in Moscow, David K. Shipler, Craig R. Whitney, recently hauled into a Soviet court for the presumption to suggest that there might be something not altogether impeccable in the reporting of Soviet television.

I would read the headlines: "Soviet Workers Tell of Hazards of Complaining."

Complain about your work and off you go to jail in the Soviet Union.

"Dissident Unionists in Moscow Pledge Continuing Struggle."

A continuing struggle, Mr. President, that they ought to know that we know about.

"Soviet Seizes Miner Who Took Criticism to U.S. Reporters. More Soviet Workers Air Protests. Disgruntled Workers in Soviet Decide To Form Unofficial Union."

I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOVIET WORKERS TELL OF HAZARDS OF COMPLAINING

(By David K. Shipler),

Moscow, December 1.—What happens when a Soviet worker asks for a raise, or complains about safety violations on the job, or uncovers corruption among his employers.

The chances are he will be insulted, reprimanded, or dismissed and, if he persists, confined to a mental institution, according to a group of workers who say they have been persecuted for exercising what they call "the right of complaint".

Half a dozen of these workers gathered the other day in a small apartment on the southern edge of Moscow to tell their stories to American correspondents. It was a rare event in this country, for these were not dissidents seeking political freedom or Jews trying to emigrate to Israel.

They were ordinary workers—among them a waitress, a coal miner, a locksmith and a housing-maintenance man—who seemed basically loyal to the Soviet system and who had dutifully reported wrongdoing to every conceivable agency of the Government and the Communist Party before turning, as a last resort to the Western press.

What they had to say revealed a pervasive contempt in Soviet society for workers' safety and interests, a widespread tolerance of embezzlement and corruption and intense friction at times between employees and their bosses.

Their stories cannot be verified because of the Soviet Union's practice of refusing to comment on criticism. But the workers insisted that their experiences were common, and that the places where they all first met each other—the reception rooms of the Central Committee of the Communist Party, the prosecutor's office and the Supreme Soviet, the nominal parliament—were filled every day with at least a hundred people who had come to Moscow in the faulty belief that higher authorities might listen to them sympathetically.

The leader of the growing group is Vladimir A. Klebanov, a 45-year-old coal miner from the Donets Basin who found trouble when, as a shift foreman, he became concerned about the safety of his men.

Because of what he called his mine's "unrealistically high plan" of coal production, miners often had to work 12-hour days instead of the normal six hours, he said. As a result, they became tired and careless, he said, and accidents took the lives of 12 to 15 people a year and injured 600 to 700 in his mine alone.

The authorities kept the deaths and injuries as secret as they could, he charged, and refused to investigate the causes. For his complaints, he said, he had been dismissed after 16 years in the mine and then had been sent to a psychiatric hospital for four and a half years.

Nadezhda V. Kurakina, worked for 25 years as a waitress in a Volgograd restaurant run by the local party organization.

"Fidel Castro was in our restaurant," she said. "Comrade Brezhnev, Kosygin—I served all of them."

Mrs. Kurakina said she had discovered that the restaurant administrators were stealing crockery by reporting it broken and then docking the salaries of waitresses they accused of breaking it. She said she had first written letters but had not gotten any response, so she had complained at an open meeting of restaurant workers.

She had been dismissed, she said, and her husband had also lost his job. The party secretary of the Volgograd region, whom she had served for 20 years, would not even see her, she said. Nor did higher officials in Moscow want to hear her complaints.

She lost her pension and was unable to find other jobs, she said. As in all these cases, her dismissal was noted in her "work booklet," a passport-like document she must show wherever she applies for work. As a result, no agency, factory, office or retail outlet will employ her or anyone else who had been dismissed on such grounds.

Anatoly N. Poznyakov, a thin, bespectacled epileptic, worked as a locksmith for 75 rubles, about $103, a month at Moscow's Institute of Biochemistry. When he asked for

a raise, "they insulted me crudely," he said. When he appealed to the local party organization, he reported, he was told that he had apparently forgotten that his destiny in life was to eat from a pig's trough.

Angry, he continued his protests and was dismissed from his job. At the age of 39, he receives only about $28 a month for his disability, and lives on his mother's small pension of about $62 a month. It is not enough, but when he asked for help from the Academy of Sciences, which oversees the institute, an official told him: "If you can, live. If you can't, die."

Valentin T. Poplavsky, 44, worked for a factory in Klimovsk, near Moscow, as a supervisor of maintenance in workers' housing. He said that officials had used factory funds to finance drunken parties, and when a woman employee complained, he had been ordered to write a false criticism of her in her record.

When he refused, he said, the factory's party organization admonished him, the county prosecutor warned him that if his accusations could not be proved "we'll take the strongest possible measures against you" and he was finally dismissed from his job. Because of the entry in his work booklet, he said, he cannot find another position.

Shagen A. Oganesyan, a 37-year-old Armenian, was an engineer at an agency in Yerevan that repaired and renovated electrical plants. Elected to the People's Control Commission to guard against corruption, he took his job a bit too seriously, checking to see that work paid for had actually been done.

He found that about half of it had not been, that the money had simply disappeared. His insistence in reporting the irregularities, he said, had caused rejection of his application to go to Poland on a job and his transfer to a lesser post. He had then quit in protest.

According to case histories compiled by the group, psychiatric hospitals are often used as a weapon by the authorities against stubborn complainers. Picked up by the police, workers are frequently subjected to "conversations" with psychiatrists and sometimes given jail sentences of 10 to 15 days for "hooliganism," they said.

Sitting around the living room, they were fired with an outrage seldom seen in political dissidents, many of whom abandoned faith in the system long ago. By contrast, these are people who still seem startled by the emptiness of the rhetoric they have heard from the country's leaders.

"Our unions don't defend our rights," said Mr. Klebanov, the miner.

"Our unions aren't like Western unions," said Mr. Poznyakov, the locksmith.

"Our unions have no power," said Mrs. Kurakina, the waitress.

In all these voices there ran the sound of amazement.

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### Dissident Unionists in Moscow Pledge Continuing Struggle

(By Craig R. Whitney)

Moscow, February 27.—Supporters of an unofficial labor union that was organized here last month said today that five members, including its leader, had disappeared after being arrested and that the authorities had committed two others to psychiatric hospitals.

"But we don't intend to stop now," said Valentin T. Poplavsky, one of the organizers. He said Vladimir Klebanov, a former coal miner who is the union leader, had not been heard from since he was seized by the security police in Moscow on Feb. 7.

Mr. Poplavsky, a former consumer engineer from the Donets coal district in the Ukraine, told foreign reporters in a Moscow apartment that he could not confirm a report from another dissident group that Mr. Klabanov was being held in a psychiatric hospital in Donetsk, his home town.

#### UNION CHARTER IS DRAFTED

A union charter, which Mr. Poplavsky said was drawn up by 43 members on Feb. 1, was made available to the reporters. He said members had been receiving letters of support from Soviet citizens, and he put the membership of the group at 200.

Although some of the charter's aims are similar to those of other rights groups, the labor union seems to have arisen at least in part as a result of class divisions and personality clashes between disaffected workers and dissident intellectuals. Despite tentative approaches over the past year, Mr. Poplavsky said, there is no coordination between his group and the dissidents.

Speaking at a recent meeting of a human rights group, Yelena Bonner, wife of Andrei D. Sakharov, the physicist, expressed support for the principle of a free union. But Mr. Poplavsky and another member, Varvara I. Kucherenko, were disdainful of that support today.

"Those people are swindlers," Mrs. Kucherenko said. "We're a union of free workers." She said she was arrested Feb. 6 and kept in a psychiatric hospital for observation until Feb. 10.

The text of the union charter says membership is open to anyone "whose rights and interests have been unlawfully violated by administrative, governmental party or judicial agencies." It declares that the group, calling itself "Free Trade Union of the Soviet Union," is a legal entity and it expresses confidence that it will be supported by the International Labor Organization, a United Nations agency, and by foreign labor unions.

Although some of the union members are workers who lost their jobs after having complained about injustices or safety violations, the group is not concerned mainly with working conditions and higher wages, Mr. Poplavsky said. "We don't have such a narrow goal," he declared. "We want to help people whose rights have been violated."

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### Soviet Seizes Miner Who Took Criticism to U.S. Reporters

(By David K. Shipler)

Moscow, December 20.—A former coal miner who organized a group of workers to protest corruption and hazardous job conditions was reported today to have been seized by the police and placed in a psychiatric hospital. Other members of his group were said to have been detained for short periods since they conducted an unusual news conference three weeks ago with American correspondents.

The miner, Vladimir A. Klebanov, 45 years old, was apparently arrested yesterday, taken to a police station and then committed to Moscow's Psychiatric Hospital 7, according to Aleksandr Podrabinek, who heads a group monitoring psychiatric abuses.

Mr. Podrabinek said that this was a hospital for transients, and he assumed Mr. Klebanov would be transferred out of Moscow. The miner has already spent a total of four and a half years in mental institutions.

#### PUBLIC WORKERS DISSENT IS UNUSUAL

Dissent by ordinary workers is unusual in the Soviet Union. Most human-rights activists are scientists and writers who have little contact with the working class and have not dealt with workers' grievances relating to living standards, food shortages and the like.

This contrasts with the link between workers and human-rights advocates in Poland, for example, where events have apparently been watched with some trepidation by the Soviet authorities.

Such a link was nearly established here when Mr. Klebanov approached Andrei D. Sakharov, the physicist who won the 1975 Nobel Peace Prize for his defense of human rights. Dr. Sakharov told some reporters he had refused to get involved because he feared that some of the workers who had signed protests did not understand the risks of open dissent. He told others that he doubted Mr. Klebanov's commitment to individual liberty.

In fact, neither Mr. Klebanov nor the other workers who gathered in a Moscow apartment three weeks ago to talk with reporters seemed to share the views of the human-rights activists. They are not trying to change the system, but are simply outraged at what they saw as injustice.

Mr. Klebanov was a shift foreman in a coal mine, where he worked for 16 years, he said. The men had to work shifts of 12 hours instead of 6 to meet production plans, and their fatigue caused accidents. In this mine, 12 to 15 people a year were killed and 600 to 700 injured, he said. Officials tried to keep the incidents secret and declined remedial action, he said.

His protests brought him dismissal and then commitment to mental institutions, a common fate of those who complain, he said.

Others in his group were a Volgograd waitress who said she had been dismissed for complaining about superiors' stealing crockery, a Yerevan engineer who was reprimanded and demoted for reporting payment for fictitious work, a Moscow locksmith who was dismissed when he persisted in asking for a raise, and a Klimovsk housing maintenance man who lost his job when he sought to expose the use of factory money for drinking parties.

The workers said they had met in the reception rooms of the Central Committee, the Supreme Soviet and the Prosecutor's Office. They said a hundred or more people visited these offices, which are viewed by citizens with grievances as courts of last resort after other avenues of redress fail.

By the end of November, Mr. Klebanov had collected the signatures of 38 workers from 24 cities on an open letter denouncing "the groundless repressions" and "the plundering of people's dignity, the measures of terror used in an attempt to frighten honest citizens."

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### More Soviets Workers Air Protests

(By David K. Shipler)

Moscow, Jan. 10.—A small group of disgruntled workers held a second news conference for Western correspondents today to press their protests against alleged persecution of those who complained about corruption and other wrongdoing on the job.

Vladimir A. Klebanov, a former coal miner who was placed in a psychiatric hospital and then removed from Moscow after having set up the first meeting six weeks ago, returned to arrange today's session.

Among the workers airing grievances publicly, a new phenomenon in the Soviet Union, was Tamara M. Manakova, head bookkeeper at a Crimea resort, who ran into trouble when she discovered that the manager's wife was taking bribes and selling counterfeit vouchers to prospective vacationers who did not want to wait their turn.

Miss Manakova said resort executives were ordering expensive food, such as cavair and coffee, and keeping it for themselves. They took new sheets and blankets from the hotel rooms and replaced them with their own worn ones, she said.

Once, ordered to sign a requisition for 400 rubles ($560) worth of dishware that had been stolen and falsely reported broken, she refused. She was dismissed three times, and each time reinstated by a local court. The fourth time, last May, a prosecutor intervened against her and she reported jobless.

Valentina V. Chetverikova, who is Mr. Klebanov's wife, said she had been dismissed as a driver for a tuberculosis dispensary be-

cause she objected to the use of the official car for personal trips.

Aleksandr P. Barchugov said his Leningrad metal factory had transferred him to lighter work after an injury, but had refused to pay workmen's compensation because it did not want to spoil an accident-free record that insured year-end bonuses. He, too, was dismissed when he persisted in protests.

Venera G. Kashapova, a nurse from Ufa, said she had lived with her mother in an apartment building that was managed by a school where her mother worked. When her mother died, the school principal evicted her, Miss Kashapova said. She applied to her own place of employment, a hospital, for housing, but none was available. When she kept appealing, writing to the Central Committee and the newspaper Pravda, her superior grew angry and dismissed her.

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### Disgruntled Workers in Soviet Decide to Form Unofficial Union

Moscow, January 26.—A group of protesting workers anounced today that they were forming an unofficial labor union to defend rights allegedly left unprotected by the Government-controlled unions.

The workers, all without jobs after complaining about corruption of safety violations, said they had collected 200 names of those in similar straits who wanted to join the union. The figure could not be verified.

Vladimir A. Klebanov, a former Ukrainian coal-mine foreman, said the step was being taken after attempts to find justice within the system had failed. Following the usual practice of citizens with grievances, the workers had taken their appeals to party and Government authorities and to the Soviet press.

"It is true that there is criticism in the Soviet press," he said, "but it is only propaganda, an exception to the rule. So we need new channels." The new channel, he said, was an appeal through foreign correspondents for support in the West.

"We are unemployed people, basically," he asserted, "and our unions don't defend us."

The formation of an unofficial union, which may incidentally be illegal, can have little practical effect in Soviet society, especially if its members are unemployed. But the act carries symbolic weight in a country that prides itself on maintaining an image as a workers' state founded on workers' interests.

Workers have traditionally shunned dissident activities, and when Mr. Klebanov and his group came to light about two months ago, they stimulated interest among Westerners and a few ordinary Russians. "Troublemakers," was the way one Muscovite described them contemptuously. Another called their emergence "potentially very significant."

Mr. Klebanov, who was accompanied today by four other workers, said the new union, to be named something like the Union for the Defense of Workers Rights, would apply to the International Labor Organization in Geneva for recognition.

The agency, which is affiliated with the United Nations, seeks to promote decent living standards, satifactory conditions of work and pay and adequate employment opportunities. Its main conference is made up of national delegations consisting of people representing government, labor and management. In the case of the Soviet Union, all three are under Communist Party control.

Mr. Klebanov said he hoped that George Meany, president of the A.F.L.-C.I.O. would give moral support to the new labor union.

"Many people are indignant," he declared. "But you know what it means to give statements to American correspondents. How this will end we don't know."

Some Russians believe that the kind of official high-handedness and abuse of authority that these workers are protesting is so common throughout Soviet society that their cause can elicit broad sympathy. How many will dare to act on their feelings is another question.

#### BROADCAST BY VOICE OF AMERICA

Mr. Klebanov said that since news about the group was broadcast in Russian by the Voice of America, about 30 people have written to him at his home address in Donetsk to voice similar complaints. He has no permission to live in Moscow, where residence is restricted, and is in constant danger of being expelled from the city.

Last month, after he gave his first interview to American correspondents, he was seized by the police, placed in a Moscow mental hospital and then freed in his hometown of Donetsk with instructions not to return to the capital. He came back anyway.

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### I.L.O. Says It Cannot Aid Dissident Soviet Workers

Geneva, April 14.—The International Labor Organization said today it could not respond to a call for help from 200 workers in the Soviet Union who were trying to establish a trade union free of government control.

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### Soviet Miner Who Was Seized After Complaint to Press Is Freed

Moscow, January 3.—A miner who told Western journalists that abuses of workers' rights by management were widespread in the Soviet Union, spent a week in psychiatric detention but is now free, dissident sources said today.

Vladimir Klebanov, 45 years old, was released near his home in the Ukraine's Donets Basin on Wednesday after being picked up by the police on Dec. 20 in Moscow, the sources said.

He was one of a group of workers who said just over a month ago that they had been dismissed from their jobs and barred from other employment after standing up for workers' rights. Their accounts were published in several Western newspapers.

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### Police in Moscow Arrest Five Founders of Union

Moscow, February 7.—The police arrested five founders of an independent union organized last month to protest alleged violations of workers' rights, said Nikolai Ivanov, a spokesman for the group, today.

He said the five may be sent to their home cities rather than being imprisoned.

They met in Moscow after coming individually to complain to central authorities about job conditions in their home cities. When they received no satisfaction, they helped found the Trade Union for the Defense of Workers. The leader of the group, Valdimir A. Klebanov, a former coal miner from the Ukraine who went underground to escape arrest, said the movement would seek recognition from the International Labor Organization in Geneva.

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### Disaffected Workers Publicly Defend Their Rights

(By Elizabeth C. Scheetz)

(Summary: In recent months a number of unemployed workers have met with Western newsmen in Moscow. They allege that they are the victims of official persecution: their "offense" being the persistent criticism of wrongdoings at their places of work. Having received no redress of their grievances within the system, they decided to "go public"; they also announced the formation of an independent trade union. This article reviews the recent activities of these disaffected Soviet citizens. It attempts to place their expression of purely worker-related grievances within the framework of worker participation in the general phenomenon of Soviet dissent. Finally, the paper suggests certain parallels between the workers' initiative and the development of dissent among the Soviet intelligentsia.)

The phenomenon of dissidents in the USSR openly airing their grievances to foreign correspondents has become a familiar one, and nowadays such encounters are more likely to be dramatic for what they reveal than for the fact that they take place. Yet when a group of disgruntled Soviet citizens decided to hold a series of news conferences in Moscow in recent months, their initiative caused a stir. The reason is clear: the individuals involved in these meetings are neither intellectuals nor representatives of particular faiths or national minorities. In short, they do not come from those segments of the public most often associated with dissent. Rather, they are workers, the stuff of Soviet society, and they voiced working-class concerns.[1]

Official Soviet propaganda conspicuously tries to portray dissidents in the USSR as an insignificant group of intellectual renegades, isolated and ineffectual not only because their numbers are small but also because their cause is alien to the overwhelming majority of their fellow citizens. Not long ago, Yurii Andropov, the head of the KGB, claimed that dissidents in the Soviet Union "dare not speak at any factory, kolkhoz, or enterprise; they would have to clear out as fast as their legs could carry them."[2] Since workers and kolkhozniks comprise two-thirds of the entire economic, social, and political life of the country,[3] Andropov's remarks certainly portray the official view of the way things should be. The extent to which his remarks are also a statement of fact remains to be seen. At any rate, open and coordinated action by blue-collar workers with bread-and-butter complaints is bound to be cause for apprehension among Soviet leaders, and the authorities did not lose much time in moving to stifle the initiative.

#### RECENT ACTIVITIES OF DISAFFECTED SOVIET WORKERS

The complaints surfaced three months ago when a small group of jobless Soviet workers met with Western correspondents in Moscow and turned over to them an open letter signed by dozens of unemployed workers who alleged that they were victims of official persecution. "We are a vast army of Soviet unemployed, thrown out of the gates of Soviet enterprises for attempting to exercise the right to complain, the right to criticize, the right to freedom of speech," the document reads. "We undertook to offer publicly critical remarks against the plundering of Socialist property, bad conditions of work, low pay, high injury rates, the raising of production norms leading to waste and low-quality production." Instead of being praised for their efforts, the signatories maintain, they were insulted, reprimanded, and eventually fired. Some were even confined to mental institutions when they persisted in their criticism.

According to the workers, the reception halls of the Central Committee of the Communist Party, of the Procurator's office, and of the Supreme Soviet are filled with persons who, having exhausted the possibilities on the local level (including complaints to the press, appeals to the trade unions, and actions in the courts), have come to Moscow to seek redress from such injustices. It was in these rooms that they met one another. Only when all their attempts to obtain satisfaction through official channels had failed did they, in frustration, decide to turn to the Western press to air their grievances.[4] They

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Footnotes at end of article.

emphasized that they were not "dissidents" (the open letter notes that the signatories have no political objections to the Soviet system) but merely working people hoping to correct specific wrongdoings.

Three weeks after the first press conference, Vladimir Klebanov, the workers' spokesman, was picked up. Taken first to a police station, the former coal miner and shift foreman was then brought to a Moscow psychiatric hospital.[5] After spending a week in psychiatric detention, he was released near his home in the Ukrainian Donbass region.[6] He returned to the Soviet capital for a second meeting (on January 10) with Western newsmen. On this occasion Klebanov was one of several workers who made new information public on cases of persecution of workers.[7]

The activities of the workers gained perceptible momentum when, on January 26, they announced the establishment of an official trade union for the defense of workers' rights. In Klenbanov's words, he and four others had taken this remarkable step because the government-controlled unions fail to protect people from injustices at their jobs. He said that the new union—which is open to skilled and unskilled laborers—would undertake to issue public appeals on behalf of workers who have been treated unfairly. It would also seek recognition from the International Labor Organization. Already about 200 persons are said to want to join the unofficial union.[8]

On February 7, Soviet authorities detained the men who had announced the formation of the independent trade union, reportedly on the pretext that they did not have permits to reside in Moscow.[9] In all, five members of Klebanov's group are unaccounted for and presumed to be in custody; two others are in psychiatric hospitals.[10] This action by the authorities constitutes an obvious attempt to silence the workers' protests, and it also lends a special credibility to their stories. The response of the workers to repression of this kind has been to reaffirm their commitment to their cause.[11]

### THE PHENOMENON OF DISSENT AMONG SOVIET WORKERS

To an observer of the developments outlined above, the inevitable question arises: to what extent do workers figure in Soviet dissent? While it is largely held that dissent is the domain of intellectuals in the USSR, it must be recalled that the term "dissent" is a broad one that includes a variety of outlooks and causes. Within this spectrum it is possible to identify various manifestations of worker participation. Perhaps the most obvious example of this is the case of workers defending workers' rights. In this respect, Klebanov and his group are especially significant. Though individual *samizdat* documents in the past have included some discussions of labor issues in the Soviet Union, Klebanov and his group offer the most coordinated and articulate expression of purely worker-related grievances to date.[12]

Workers in the USSR have also been known to participate in the defense of nonlabor issues. In such cases they are generally united (and identified) by an affiliation other than that of class. This involves primarily workers who are members of religious or national groups like the Pentecostals or the ethnic Germans.[13] A few Soviet workers have come to embrace issues that extend beyond workers' rights on the one hand and national or religious issues on the other. Such prominent personalities as Anatolii T. Marchenko, a long-time political prisoner and the author of *My Testimony* (an exposé of Soviet penal institutions), and Vladimir E. Borisov, one of the founders of the Action Group for the Defense of Human Rights, number in this group. Both men may be considered members of what is called the Soviet democratic movement.[14] Traditionally, working-class participation in the democratic movement has been minimal.[15] To some extent this reflects the fact that the interests of workers tend to be much narrower than those of Soviet human rights activists and, in the absence of an energetic pursuit of the workers' cause by dissident intellectuals, this situation is likely to remain unchanged.

However this may be, it is evident from the pronouncements of Klebanov and his fellow workers that they feel they have little in common with the more intellectual political dissidents. According to the coal miner, he had met well-known Soviet dissidents, but, in his opinion, "they consider themselves above us."[16] It had been reported earlier that Klebanov had approached Andrei Sakharov for assistance, but at the time the human rights activist did not wish to become involved with the workers: he feared that some of those who had signed letters of protest did not fully understand the risk of open dissent. Sakharov also doubted Klebanov's commitment to individual liberty.[17] Later, the unofficial Moscow group monitoring Soviet implementation of the Helsinki accords issued a statement to the effect that it had registered the announcement of an independent trade union "with interest."[18]

### CONCLUSION

Workers' criticism of deficiencies in enterprises is a well-established part of the Soviet system. Newspapers in the USSR are filled with criticism—spontaneous and otherwise—that is designed to help improve working conditions. It would appear, however, that such an "escape valve" sometimes provides little relief for those who have been wronged. and, to judge from the experiences of Klebanov and his comrades, for some Soviet citizens internal avenues for redress of grievances are blocked.

The recent initiative of disaffected Soviet workers is significant because in their frustration they have found it necessary to go outside the system in order to make known their complaints. In this they are repeating a phenomenon that has characterized the development of dissent among the intellectuals. Most of the better known dissidents among the creative intelligentsia today were originally no more than sympathetic to the views of the rebellious writers of the early and mid-1960s. Their own contribution, they felt, could best be made by working for reform, for liberalization within the system. For them, the act of signing a petition was one that was taken only after long and frustrating efforts to obtain official publication of what they considered to be good literature. For many members of the scientific intelligentsia, the evolution of a dissident posture followed much the same route. "Dissident" in many cases grew out of their inability to prevent Party interference in their scientific work, and public action on their part usually followed by months or years their first attempts to obtain redress from within the system. Another interesting parallel recommends itself. Just as the dissidents have sought to avoid such term as "oppositionist" in describing themselves, the workers are now anxious to avoid having the term "dissident" applied to them. It would be wrong to call "dissident" a euphemism for "opposition," but Soviet propaganda has tried to reduce it to that. The newcomers to the search for ways of correcting the Soviet system—that is, the disaffected workers—make it clear that matters, even semantical ones, are not all that simple.

### FOOTNOTES

[1] See David K. Shipler, *The New York Times*, Moscow, datelined December 2, 1977, and January 10, 1978; David Satter, *Financial Times*, December 8, 1977; David Willis, *Christian Science Monitor*, January 11, 1978; Kevin Klose, *The Washington Post*, January 27, 1978; and Leopold Unger, *International Herald Tribune*, February 8, 1978.

[2] Andropov's speech on the occasion of the centenary of the birth of Feliks Dzerzhinsky, the founder of the Cheka. *Radio Moscow*, Russian Service, September 9, 1977.

[3] "Sotsial'naya osnova sovetskogo gosudarstva," *Pravda*, January 20, 1978.

[4] See Shipler, *The New York Times*, Moscow, datelined December 2, 1977, and Satter, *Financial Times*, December 8, 1977. The Shipler article puts the number of workers at the first press conference at six, while Satter says that seven workers met with foreign correspondents.

[5] *Reuter*, Moscow, December 20, 1977, and Shipler, *The New York Times*, Moscow, datelined December 21, 1977.

[6] *Reuter*, Moscow, January 3, 1978. It was also reported that other members of the group were detained for short periods of time after the first news conference. See Shipler, *The New York Times*, Moscow, datelined December 21, 1977.

[7] Shipler, *The New York Times*, Moscow, datelined January 10, 1978.

[8] *Reuter*, *Agence France-Presse*, and *UPI*, Moscow, January 27, 1978; Shipler, *The New York Times*, Moscow, datelined, January 27, 1978; and Kevin Klose, *The Washington Post*, January 27, 1978.

[9] *UPI* and *Reuter*, Moscow, February 7, 1978, and *AP*, Moscow, February 9, 1978.

[10] Craig Whitney, *The New York Times*, Moscow, datelined February 27, 1978, and *Reuter* and *UPI*, Moscow, February 27, 1978.

[11] Craig Whitney, *The New York Times*, Moscow, datelined February 27, 1978. It should be noted that the claims by Klebanov and his comrades that, in order to silence disaffected workers who persist in their complaints, Soviet authorities even resort to incarceration in mental institutions were also reflected in the testimony of Soviet psychiatist Avtandil Papiashvili who defected to the West several months ago. See *Le Monde*, September 1, 1977.

[12] The discussion of labor issues that can be found in *samizdat* includes such themes as the right to strike, the length of the working day, the independence of trade unions, and the pegging of pensions and wages to the cost of living. See, for example, AS 80, 363, 368, and 602.

[13] Significant numbers of Pentecostals have sought to emigrate from the USSR in recent years on the grounds that they are subjected to religious persecution in that country, while many ethnic Germans have done so for reasons of family reunification. Since emigration from the Soviet Union is in general only sanctioned on grounds of family reunification, the efforts of the Pentecostals have been unsuccessful to date. See, for example, RL 284/77, "The Quest of Believers in the USSR for Religious Freedom in 1977," December 16, 1977.

[14] Theodore Friedgut provides the following definition of the democratic movement: "those who advocate general political change in the Soviet Union and express their opinions outside the framework of the Communist Party." He notes that this definition "distinguishes the democrats from reform Communists acting only within the Party, on the one hand, and those interested in primarily in specific changes—freedom of emigration for Jews, specific national or religious rights, etc.—on the other hand. There are, of course, some overlaps in which persons campaigning for particular rights also press for general political reform." The Democratic Movement: Dimensions and Perspectives," *Dissent in the USSR*, edited by Rudolf L. Tokes, the Johns Hopkins University Press, Baltimore, 1975, p. 116 n.

[15] The democratic movement in the USSR has been largely the domain of members of the Soviet intelligentsia. In his essay *Will the Soviet Union Survive until 1984?*, Andrei

Amalrik provides a breakdown of the social composition of this group. While the results of such a study can only be considered tentative (it is based on the occupations of persons who signed letters of protest against the Ginzburg-Galanskov trial in January, 1968), it is nonetheless interesting to note that of the 700 workers involved in the analysis, only forty (six percent) were workers. Andrei Amalrik, *Will the Soviet Union Survive until 1984?*, Harper and Row, New York, 1970, pp. 15–16.

[16] Klose, *The Washington Post*, January 27, 1978.

[17] Shipler, *The New York Times*, Moscow, datelined December 21, 1977, and Klose, *The Washington Post*, January 27, 1978.

[18] *Agence France-Presse*, Moscow, February 10, 1978.

Mr. MOYNIHAN. Now, Mr. President, these people speak for human rights as much as do the physicists and the computer scientists and the poets and the novelists.

We are agreed on the floor of the U.S. Senate by adopting this amendment and would say we have heard their voices and we have given to the Secretary of State the discretion he ought to have to respond to brutality and affront and challenge, just as the President did in the face of the same treatment of the better known dissidents, whose heartbreaking trials took place a fortnight ago.

To sum up my judgment, Mr. President, it would be this; we are challenged by the Soviet Union to back off from the decent commitments our President made. He has shown he can respond to this challenge by exercising discretion he has with respect to export licenses.

We are giving the Secretary of State the further capacity in restoring the discretion he ought to have about the Soviet exports of nominal trade union leaders. If ever there was or will be an inversion of truth, it is that the trade union leader to the instruments of state oppression which are sent to the United States, paraded around and returned, to have the Soviet people hear of the tumultuous reception they have received.

The final word, and only this, it has been suggested the American trade unionist movement is interested in this legislation. Well, we may be sure, Mr. President, it is.

It is the trade union movement that has been interested in the indignity of the words, trade union movement and trade union leader, for 60 years in the face of the debauchery of the meaning of those words by the rulers of the Soviet Union, in a trade union movement that has earned the right to speak.

When Alexander Solzhenitsyn came to the United States for the first time, he came as a guest of the AFL–CIO. He was not, I am sorry to say, received in the White House, but he was welcomed in the house of labor and he felt welcome and he said so, and he said something fundamental about the amendment we have here today.

He said that in 1947 when all the world was silent about the Gulag Archipelago, the American Federation of Labor published a map of the place. They published the map with the names of the camps and details of the people living death inside them.

He said that was a commitment that is not to be forgotten. It is a commitment sustained not over the past 6 weeks or 6 months or 6 years, but 6 decades.

When those men come to us to ask, in the name of free trade unionism, that we do something, they have earned the right to be heard. I would say that the American people should expect that the Senate would feel that it has incurred a responsibility to listen.

I congratulate the principal sponsor of the amendment. I hope it will be adopted.

Mr. BAKER. Mr. President, I will take 1 minute to express my gratitude to the distinguished Senator from New York for his eloquence for his support, for his contribution to this effort.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I have listened to the debate and the statements of all Senators, and I certainly cannot quarrel much with anything that has been said. However, as a member of the Commission for Security and Cooperation in Europe, I would like to point up two or three matters that are of some concern.

Having been to Belgrade on two occasions and having visited Ambassador Goldberg, and knowing how the Soviets have used this one item in their discussion of the Helsinki Final Act, it seems to me that if we restore the law to bar Soviet officials and Warsaw Pact officials from obtaining visas unless they get a waiver, we are discriminating against certain people, because of their political beliefs, which is a violation of the Helsinki Agreement, the so-called Basket I. It goes against the clause encouraging human contact, which is Basket II.

In 1977, we urged repeal of these restrictions; and I am wondering now, if we do what is suggested by the distinguished minority leader and more than half of the other Members of the Senate, we are not in fact inviting the Soviets to go on a rampage, suggesting that, in effect, we are trying to match them noncompliance for noncompliance.

The present law allows the State Department to bar those they feel are security risks or agents of the KGB. I think the letter received today from Mr. Meany might overstate the case.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BAKER. Mr. President, at the beginning of this colloquy, I believe I had 8 minutes remaining and the distinguished Senator from South Dakota had 14 minutes remaining. I am perfectly willing to yield part of my 8 minutes, but I wonder if the Senator from South Dakota might yield.

Mr. McGOVERN. The Senator from Kansas is making a case so eloquently, that I would be happy to yield to him.

Mr. BAKER. After listening to the Senator from Kansas, it seems that he might belong to the Senator from South Dakota. [Laughter.]

Mr. McGOVERN. How much time does the Senator want?

Mr. DOLE. On this amendment, I am not certain there is enough time. In any event, 5 minutes.

Mr. McGOVERN. I yield 5 minutes to the Senator.

Mr. DOLE. Mr. President, it seems to me that we should encourage human contacts and discourage transfer of technology and science as benefits to the Soviets.

I have suggested, in the posttrial rhetoric of Ginzburg, Scharansky, Petkus, and others, that perhaps we should reevaluate our participation under the Helsinki Agreement. Perhaps we should reconvene a special session of the 35 signatory countries and take a look at some of the violations of the Soviets. I suppose they can take a look at some of the violations in this country, if there are any. I do not know of any.

However, it seems to me that if we are prepared to receive what probably will be used by the Soviets as a propaganda effort to indicate that we have somehow closed the doors to Soviet officials, if we talk about the right to emigrate and the right to visit, and all the rights that are in the Helsinki Agreement, we have made every effort to comply—Congress even set up a Commission for Security and Cooperation in Europe, of which this Senator is privileged to be a member. We have tried to undertake a most comprehensive review of the compliance of various nations with the Helsinki Agreement, and we have published volumes showing conclusively that human rights are violated systematically and routinely in the nations of Eastern Europe, most frequently in the Soviet Union. But the Commission for Security and Cooperation in Europe did not confine its review to the other nations that signed the agreement. It also examined our compliance. In its report of September 23, 1977, containing its findings and recommendations, one of the few American violations of the Helsinki Final Act that the Commission could find was in our policy toward the processing of visa applications for Communist labor union representatives.

This procedure in no way points to a policy of human rights violations in our country. It was one of only a few instances in which we were less than perfect in our compliance, and Congress acted last year to correct it.

It seems to me that if we place ourselves in a position of matching them in noncompliance, unless and until we consult with our allies with whom we signed the agreement, in effect, we may be undermining our support of the Helsinki Final Act. In fact, we may be charged with a violation of the act itself. Certainly, it is a politically expedient thing to do, from the standpoint of our own domestic political situation: Prolabor, anti-Communist. But in a broader sense, it may be antihuman rights. I would like to pose this question to the distinguished minority leader: Does he understand

the amendment to diminish in any way the impact and the support of this Nation and the support of former President Ford for the Helsinki Final Act, signed in August 1975? Despite all the criticism of that act and despite the frustration with the Soviets, and despite the frustration with other Warsaw Pact countries, it seems to some of us—at least, those of us who serve on that Commission—that it has served a purpose. The distinguished Senator from New Jersey is the senior Republican member of that Commission.

I certainly understand the good intentions of the distinguished minority leader. If he is convinced that this will not do violence to our participation or our intentions under that agreement, it would have an impact on how the Senator from Kansas might vote.

The PRESIDING OFFICER. The 5 minutes of the Senator from Kansas have expired.

Mr. BAKER. I yield myself 2 minutes, in order to have this colloquy with the distinguished Senator from Kansas.

It is a very good question, and the one most often put. Does this, in fact, represent a retreat from or a running away from the Helsinki Final Act? To me, it does not. Obviously and clearly, this deals with a procedural matter. That is to say, under the law as it existed before the McGovern amendment, the Secretary of State had the authority, in his discretion, to decide to grant or to refuse to grant a temporary visa for a member of a Communist labor organization or any other category of classification. Under the McGovern amendment, the discretion of the Secretary of State is removed, and that application must automatically be granted by the Secretary of State, subject to the discretionary approval of the Attorney General.

The key and operative aspects of this issue are whether or not there is some discriminatory effort against the free movement, free travel, free emigration of people from one country to the other. The answer is that we are giving more discretion rather than less. We are simply reinstituting the procedural step allowing the Secretary of State to make a discretionary judgment, not just the Attorney General on his own.

I do not believe this represents a retreat from our commitment to the Helsinki Final Act. I think it represents an improvement in the procedural aspects of dealing with temporary visa applications.

Mr. DOLE. It seems to me that we have to adhere to our bargain. It may be distasteful; it may be unpopular. We signed the agreement.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. BAKER. Mr. President, will the Senator from South Dakota contribute to this colloquy?

Mr. McGOVERN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. McGOVERN. I yield 2 additional minutes.

Mr. DOLE. The only point the Senator from Kansas makes, as a member of the Commission for Security And Cooperation in Europe, is that we have had a lot of discussion in the past 3 or 4 weeks.

We have had meetings with Mrs. Scharansky. We tried to figure out some way we might have an impact on Soviet thinking. There are even talks now even of some exchange of prisoners. I do not want to do anything that might upset that possibility. I have completely disapproved of the Soviet actions, and I feel that the Senator from Tennessee is willing to send them a message to at least let them understand that we understand in this country the severity of the trials of Ginzburg, Scharansky, Petkus, Orlov, and all the others.

But I wish to make certain we are moving in the right direction. That is why I have taken this time to raise the question, because it seems to me that we are in some ways at least stretching the limits of the Helsinki Final Act. Maybe we should. Maybe it is time for a reevaluation. Maybe it is time that we pull out. Maybe it is time we abandoned the Commission on Security and Cooperation set up by Congress.

But I am not certain whether now is the time to make that judgment.

I appreciate the Senator's yielding.

Mr. McGOVERN. Mr. President, I yield myself 5 minutes time.

Mr. President, I think the best way for me to reply to the contention that has been made here by several Senators, that what they want to do in repealing the amendment adopted by Congress last year is to give the Secretary of State more discretion, is to remind them that they are trying to give the Secretary something he does not want and to restore a provision of law that he thinks handicaps his performance as Secretary of State in holding the standard to human rights as effectively as possible.

Let me just read to Senators two or three sentences from Secretary Vance's letter of June 27, just about 30 days ago. He said:

> Since last year the U.S. has been able to use the McGovern Amendment both as a tool to allow a fuller interchange of ideas between journalists and political officials of Western and Eastern countries alike and as an example which we hope others will emulate of our determination to implement the letter of the Helsinki Final Act. This commitment was highlighted at the recent Belgrade follow-up meeting of the Conference on Security and Cooperation in Europe, during which members of our delegation referred several times to the McGovern Amendment as the type of provision which other countries should adopt as a means of stimulating a freer flow of persons and ideas.

And then he reminds us:

> In its report on implementation of the Helsinki Final Act, issued on September 23, 1977, the CSCE Commission specifically criticized the U.S. immigration practices which were later amended by the McGovern Amendment as being inconsistent with the Helsinki accord.

And the Secretary concludes on this note:

> For the United States to repeal the McGovern Amendment at this point, when we are criticizing the Soviet Union and Eastern European countries for violations in the human rights field, would be to rob our efforts of force and credibility.

So, Mr. President, the Secretary of State is not asking for the kind of discussion that is being forced on him against his will be the proposal of the Senator from Tennessee.

I wish the distinguished Senator from New York were here in the Chamber. He spoke to us eloquently about all of the human rights violations in the Soviet Union, and I fully subscribe to practically everything he said. But how that leads to the strange conclusion that because the Soviet Union is violating human rights we are going to weaken our own stance on human rights is beyond my comprehension.

The action of the Senate last year was no concession to the Soviet Union. We were not trying to please anyone in the Soviet Union when we struck down a provision in our own law for which we were being criticized all over the world as a feature of our law that was against the free movement of peoples and ideas. And while it may be difficult to influence the course of human rights in the Soviet Union the worldwide competition is still on, and the language that we are talking about here today, as well as our immigration laws as a whole, were not written for the Soviet Union. They were written to deal with the problems that face us worldwide in some 150 different countries.

To listen to some of the debate here in the Chamber today one would think that American immigration laws relate only to our relations with the Soviet Union. If one looks at the 40-some people who have visited the United States under the terms of the so-called McGovern amendment during the last year, and only 40 have come in under the authority that it provides, only 7 of them came from the Soviet Union. The remainder of them represent countries all over the globe with which we have enjoyed very good relations.

In my judgment, to undo the constructive work we did last year, which was within the spirit of the Helsinki Agreements, is to make ourselves look foolish in the eyes of the world, and I very much hope, Mr. President, that we will not be so insecure in this country and so lacking in confidence in the value of our own ideals and our own commitment to freedom that we are afraid to test that with an immigration policy that says to the Secretary of State he should not deny a visa purely on the grounds of the applicant's affiliation with a political organization.

As I said here earlier in the Chamber, the only way I can think for the Soviets, if that is the main concern here, to counter that kind of provision would be for them to automatically deny visa applications of anyone from the outside who is a capitalist, a Democrat, or a Republican, in other words, a purely ideological decision that a visa applicant should be denied the opportunity to visit another country, because we object to his political affiliation.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McGOVERN. Mr. President, I yield myself 1 additional minute.

Mr. President, under our immigration laws, there are still 31 criteria under which the Secretary of State and the Attorney General can reject visa applications. Anyone who is perceived as a threat to the security of the United States, for whatever reason, can be denied a visa. Anyone who is identified as a spy, a criminal, or a terrorist, or anything is in his background that constitutes any conceivable threat to the security interests of the United States, can be denied a visa without regard to what we do on this so-called amendment.

I hope the Senator's amendment will be rejected.

The PRESIDING OFFICER. The additional 1 minute of the Senator has expired.

Mr. MATSUNAGA. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. I yield myself 1 additional minute for the purpose of responding to the Senator.

Mr. MATSUNAGA. As I understand it, the Secretary of State does not wish to have this discretionary power restored to him; is that correct?

Mr. McGOVERN. That is correct. He says it undercuts our efforts in holding the standard for human rights up to the rest of the world.

Mr. MATSUNAGA. And there was a resolution adopted, as I understand it, by the North Atlantic Assembly praising the United States at the time that the McGovern amendment was adopted. Is that not so?

Mr. McGOVERN. That is correct. All of our NATO allies joined in praising the action here in the Senate and in the House of Representatives and signed by the President last year.

Mr. MATSUNAGA. I think for the benefit of the Members I should read from that resolution. Has that resolution been introduced into the RECORD?

Mr. McGOVERN. I did ask it be printed in the RECORD, but I think it might be useful for the Senator to read it.

Mr. MATSUNAGA. I think it would be helpful. This is a resolution adopted by the North Atlantic Assembly. It is a resolution on the Helsinki principles and visa policies. It says:

The Assembly,

Recognizing the fundamental validity of the principles set forth in the Final Act of the Conference on Security and Cooperation in Europe, signed in August 1975 at Helsinki, and in particular those principles relating to the free movement of people and ideas;

Noting with approval the steps taken by NATO member countries to comply more fully with the principles of the Final Act, and in particular the recent legislative initiative of the United States in removing from United States visa policy exclusion solely on the basis of political or organization affiliation;

Expresses hope that such exemplary efforts at compliance with the Helsinki principles by the NATO and other Western countries will promote increased compliance by Warsaw Pact signatories of the Final Act.

So here we find a recognition on the part of the NATO Assembly that the act on the part of the United States in removing the discretionary power of the State Department was an act in compliance with the Helsinki Agreement. So I think what the Senator from South Dakota is trying to say is looked upon and agreed to by the NATO countries that to try to restore this discretionary power to the Secretary of State would be a step backward indeed. I support the Senator in his position.

The PRESIDING OFFICER. All time of the Senator from South Dakota has expired.

Mr. SCOTT. Mr. President, will the distinguished Senator yield 2 minutes?

Mr. BAKER. How much time remains to me?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. BAKER. I yield 2 of those 3 minutes to the Senator from Virginia.

Mr. SCOTT. I appreciate the courtesy of the distinguished Senator from Tennessee.

Mr. President, I am a cosponsor, and am pleased to be a cosponsor of the amendment by the Senator from Tennessee. It would restore discretion in the Secretary of State in determining whether officials of the Soviet Union or the Warsaw Pact nations should be recommended for entry into the United States.

Today I had the privilege of having a discussion at some length with one of the high-level officials in the executive branch of the Government, an official who has been in a field where he has had close contact with the Soviet Union for the past 20 years.

I posed the question to him as to whether the Soviet Union still had the desire and the intention of communizing the entire world. He replied without hesitation that, yes, they did intend to do that if they could by peaceful means.

He had some reservations as to whether they would face the threat of atomic warfare in order to dominate the world.

I say we should consider the type of nation we are dealing with and should grant the discretion to our Secretary of State to make a determination as to whether a Soviet official should be permitted entry into this country.

● Mr. STONE. Mr. President, I support this amendment by the distinguished minority leader which will restore to the Secretary of State the duty of approving or disapproving the application for non-immigrant visas by any alien who is excludible from the United States by reason of membership in or affiliation with a proscribed organization. The McGovern amendment to the 1977 State Department authorization bill was passed by the Senate Foreign Relations Committee with the clear understanding, as written in the committee report, that the purpose of this section was to apply to visits by Euro-Communist leaders and Communist labor leaders in order to facilitate U.S. compliance with the Helsinki Agreement. The effect of this amendment was to shift the presumption in these cases from inadmissibility to admissibility and the Secretary of State was effectively removed from this process of determining admissibility unless there was a threat to the security of the United States caused by the admission of any nonimmigrant.

One example of the abuse which this amendment has caused to its original intent is the fact that members of the Palestine Liberation Organization have been admitted to the United States specifically because of the so-called McGovern amendment. The head of the PLO's Washington office was admitted to this country even though he is a member of a proscribed organization specifically because the McGovern amendment allowed a presumption of admissibility to every person affiliated with any proscribed organization, including the PLO.

I wish to insert for the RECORD a copy of the press briefing paper of the Bureau of Near Eastern Affairs of the State Department which specifically confirms this fact.

Even though the McGovern amendment has been modified this year, the modification still allows members of proscribed organizations who have no criminal record or participation in terrorist activities to be admissible into the United States. I do not believe that this was the intent of the original law and this aberration needs to be eliminated. The best way to handle this is to restore to the Secretary of State the duty of justifying the admission into this country of members of proscribed organizations. I urge the passage of this amendment.

The press briefing follows:

PLO MEMBERS ENTRY INTO UNITED STATES

Q. Do you know whether a PLO office is to be opened in Washington?

A. We have no information that the PLO is planning to open the information office which was registered with the Justice Department last year.

Q. Have any PLO officials made an attempt to come to the United States?

A. One request was pending at the time the President signed into law August 17 the State Department Authorization Bill, which includes an amendment mandating changes in the way we deal with visa cases of persons ineligible for visas solely because of their affiliation with a proscribed organization. (Exact language of the amendment is available in the office).

A decision has not been reached on whether to recommend a waiver to allow the travel of this person to the United States.

I have no more details to give you at this time.

Q. Did he apply to come to Washington to open the PLO office in Washington?

A. No.

Q. It is true that PLO members can now be admitted to the United States under the new law, regardless of their membership in this "terrorist" organization? (OR ANY SUCH QUESTION ABOUT THE NEW LAW)

A. The State Department Authorization Bill, which the President signed August 17, includes an amendment mandating changes in the way we deal with visa cases of persons ineligible for visas solely because of their affiliation with proscribed organizations. (Exact language of the amendment is available in the office.)

As the amendment makes clear, this new law is aimed at fuller U.S. compliance with the Helsinki Accord. In that spirit, it was aimed at allowing others with whose views we disagreed more open access to our society.

The law, however, does not change the fact that there are proscribed organizations, including the PLO. As in the past, all requests by members or representatives of such organizations for visas to travel to the United

States will be examined on a case-by-case basis.

No terrorists or persons bent on sabotage will be allowed into the United States under this law.

There is a presumption in the new law that the Secretary of State will recommend to the Attorney General that a waiver be granted to persons affiliated with proscribed organizations, including the PLO, unless it is determined that their admission "would be contrary to the security interests of the United States."

As I have said, all visa applications will be carefully examined on a case-by-case basis.

Q. Isn't the State Department interpretation a clear political signal to the Israelis which comes on the heels of the Department's willingness to talk to the PLO if the PLO accepts 242?

A. No, the new law was a Congressional initiative and it enjoyed wide support on the Hill. In the spirit of the Helsinki Accords, it was aimed at allowing others with whose views we disagreed more open access to our society. Visa applications from members of the PLO will be treated the same as those from members of other proscribed organizations.

Q. Does this mean you will allow the PLO to open an Information Office in Washington?

A. Under our law, a foreign organization can register with the Justice Department its intention to open such an office, and it can operate such an office in Washington as long as it observes our laws and makes periodic reports of its activities and financial disbursements.

The PLO in fact registered its intention to open an office with the Justice Department last year, although we understand an office has not yet been opened.●

The PRESIDING OFFICER. The Senator from Tennessee has 1 minute.

Mr. BAKER. Mr. President, I have nothing further to say. I thank those who have cosponsored and supported the amendment, and I hope it will be adopted.

I yield back the remainder of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I move to table the amendment.

Mr. BAKER. Were the yeas and nays ordered on the amendment?

The PRESIDING OFFICER. There was a sufficient second and the yeas and nays were ordered.

Mr. HELMS. I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion of the Senator from South Dakota to lay on the table Mr. BAKER's amendment (UP 1513). The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. EAGLETON assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 42, nays 50, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—42

| | | |
|---|---|---|
| Bayh | Hart | Muskie |
| Biden | Haskell | Nelson |
| Bumpers | Hatfield, | Pell |
| Burdick | Paul G. | Proxmire |
| Cannon | Hathaway | Ribicoff |
| Case | Hodges | Riegle |
| Chafee | Inouye | Sarbanes |
| Church | Javits | Sasser |
| Clark | Kennedy | Sparkman |
| Cranston | Leahy | Stafford |
| Culver | Matsunaga | Stevenson |
| Dole | McGovern | Williams |
| Eagleton | McIntyre | Zorinsky |
| Ford | Melcher | |
| Gravel | Metzenbaum | |

NAYS—50

| | | |
|---|---|---|
| Baker | Griffin | Moynihan |
| Bartlett | Hansen | Nunn |
| Bellmon | Hatch | Packwood |
| Bentsen | Hatfield, | Percy |
| Brooke | Mark O. | Randolph |
| Byrd, | Hayakawa | Roth |
| Harry F., Jr. | Heinz | Schmitt |
| Byrd, Robert C. | Helms | Schweiker |
| Chiles | Hollings | Scott |
| Curtis | Huddleston | Stevens |
| Danforth | Jackson | Stone |
| DeConcini | Johnston | Talmadge |
| Domenici | Laxalt | Thurmond |
| Durkin | Long | Tower |
| Eastland | Lugar | Wallop |
| Garn | Magnuson | Weicker |
| Glenn | McClure | |
| Goldwater | Morgan | |

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Humphrey | Stennis |
| Allen | Mathias | Young |
| Anderson | Pearson | |

So the motion to lay UP amendment No. 1513 on the table was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion to lay the amendment on the table was rejected.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the yeas and nays on the passage of the amendment be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The order is vitiated.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1514

(Purpose: To express the sense of the Congress with respect to the withdrawal of United States ground forces from the Republic of Korea)

Mr. PERCY. Mr. President, I send an amendment to the desk on behalf of myself and Senators GLENN, NUNN, BAKER, DANFORTH, JAVITS, LUGAR, GRIFFIN, SCHMITT, MORGAN, GOLDWATER, BARTLETT, JOHNSTON, HAYAKAWA, STEVENS, GARN, TOWER, BROOKE, THURMOND, CANNON, CHILES, CASE, McINTYRE, and HELMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself and Mr. BAKER, Mr. DANFORTH, Mr. JAVITS, Mr. LUGAR, Mr. GRIFFIN, Mr. SCHMITT, Mr. MORGAN, Mr. GOLDWATER, Mr. BARTLETT, Mr. JOHNSTON, Mr. HAYAKAWA, Mr. STEVENS, Mr. GARN, Mr. CANNON, Mr. GLENN, Mr. NUNN, Mr. TOWER, Mr. BROOKE, Mr. THURMOND, Mr. CHILES, Mr. CASE, Mr. McINTYRE, and Mr. HELMS, proposes an unprinted amendment numbered 1514.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

POLICY ON THE REPUBLIC OF KOREA

SEC. 26. It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

The PRESIDING OFFICER. May the Chair ask the Senator from Illinois a question? Is this the amendment on which there is a 2-hour time limitation?

Mr. PERCY. That is correct, Mr. President. Because Senators JAVITS, NUNN, GLENN, and myself have worked out a uniform amendment, I would think we could cut that time to a minimum of an hour, and hopefully less than that.

The PRESIDING OFFICER. There is a 2-hour limitation on this amendment.

Mr. PERCY. Mr. President, in March 1977, President Carter announced his decision to withdraw 28,000 U.S. ground forces from South Korea by 1982. The first elements are already being withdrawn.

Over the past year I have come to doubt very seriously the wisdom of the President's decision. Because the Carter administration's troop withdrawal plan threatens to upset the precarious military balance on the Korean peninsula, and because the current withdrawal program undermines the credibility of U.S. security commitments in the eyes of our Asian allies, I have concluded that the present policy is unwise. I therefore, offer an amendment to the International Security Assistance Act of 1978 expressing the sense of the Congress that the further withdrawal of U.S. ground troops from South Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

In May of this year, Secretary of Defense Harold Brown warned in testimony before the Senate Foreign Relations Committee that "North Korean military capabilities pose a real threat to South Korea." North Korean President Kim Il-Sung on many occasions has called for national reunification, and a careful reading of his statements

shows that he unmistakably means reunification under the Communist North. In 1975, Kim Il-Sung stated in Peking:

If revolution takes place in South Korea, we as one and the same nation, will not just look at it with folded arms, but will strongly support the South Korean people. If the enemy ignites war recklessly we shall resolutely answer it with war and completely destroy the oppressors. In this war we will only lose the military demarcation line and will gain the country's reunification.

Could anyone doubt the sincerity, the clarity, the straightforwardness, and the intention of Kim Il Sung in the North when he makes those statements?

Is there anyone who can point to the slightest bit of evidence that the intentions of the North Koreans to unite under communism the entire Korean Peninsula has changed one iota?

I doubt it.

In fact, there is not any evidence, not a shred of it.

Moreover, Kim Il Sung has made clear his intent by actions as well as words. Over the last decade the North Koreans have committed numerous provocative acts endangering peace and stability in Korea. From 1966 to 1969, the North infiltrated hundreds of agents into the South with the aim of fomenting an insurgency. In early 1968, North Korean commandos attempted to assassinate South Korean President Park Chung Hee. Soon after, North Korean forces illegally seized the *Pueblo* in international waters. In 1969, the North Koreans shot down a U.S. EC–121 reconnaissance aircraft. In late 1974 and early 1975, two tunnels, intended to facilitate the infiltration of North Korean troops behind South Korean defensive lines, were discovered in the demilitarized zone. In August 1976, two U.S. officers were brutally murdered by North Korean soldiers while trimming a tree at the Panmunjom truce site. Just a year ago, North Korean gunfire downed a U.S. helicopter which had unintentionally strayed across the demilitarized zone. Three Americans were killed and one survivor was returned to the United States.

In adidtion to repeated expressions of aggressive intent and a history of provocative acts, the growth in North Korean military capabilities over the past 10 years constitutes the most ominous threat to the security of South Korea's borders. Presidential Review Memorandum (PRM) 10, a comprehensive interagency study which has been widely discussed and quoted in the press, concludes that—

The level of forces which could be brought to bear at the front of D–Day would generally favor North Korea over the ROK (Republic of Korea) in all categories.

That is from a press report directly quoting the Presidential Review Memorandum No. 10.

Indeed, North Korea's continued buildup and modernization of its forces has shifted the Korean military balance from parity in firepower in 1970 to a definite advantage for the North today. North Koreans maintain a 2-to-1 advantage in armored forces, artillery, and tactical aircraft. They enjoy a favorable margin of 4 to 1 in navy combat vessels. In addition, they possess significant advantages in air defenses and commando forces. Finally, North Korea has almost overcome the South's advantage in active duty manpower.

Compounding this quantitative superiority in the static indicators of offensive capabilities are the structure and positioning of the North Korean army and air units which give it the ability to attack the South with a minimum of warning. And, according to Presidential Review Memorandum 10:

If the North Koreans were to achieve tactical surprise, it is possible that they could at least temporarily attain their most likely major objective—the capture of Seoul.

Seoul is just some 24 miles from the DMZ.

If, in a relatively few hours, Seoul should fall after a surprise attack, is there anyone who would maintain that South Korea could stand up against the fall of its capital? We know the problems involved in that country. The best assessment the Senator from Illinois can get is that with the fall of Seoul, so goes South Korea.

As stated above, the military balance on the Korean Peninsula is precarious. What, then, stabilizes the military situation in Korea? Certainly the presence of the U.S. 2d Infantry Division between the demilitarized zone and Seoul must be counted as a critical deterrent to North Korean aggression. Many believe that the stationing of U.S. ground combat forces in Korea has been the single most important factor in preventing war in Korea. Gen. John Vessey, Commander of U.S. Forces Korea, believes that a military balance today exists on the Korean Peninsula because of the U.S. troop presence there. At the most fundamental level, U.S. ground forces bolster deterrence by augmenting the firepower of South Korean forces. Even more important, though, they create a significant psychological deterrent by demonstrating that a U.S. response to North Korean aggression would be automatic.

Besides deterring North Korean attack, U.S. ground forces also serve to restrain South Korean response to provocative incidents engineered by the North, thus dampening tension on the peninsula. A recent report on U.S. troop withdrawal policy written by the late Senator Humphrey and Senator GLENN concludes that without U.S. ground forces in Korea, deterrence would be weakened and the risk of war increased. I strongly agree with that assessment.

I would say that any Member of the Senate who has any doubt about that should read what both Senators NUNN and GLENN have said about this matter—both of them extraordinarily knowledgeable, both of them penetrating in their questions of State and Defense Department witnesses and other representatives of the administration. And certainly the late Senator Humphrey was very, very articulate in the way he enunciated his deep concern about the possibility of a risk of war once again in Asia over South Korea.

Should war in Korea break out, the consequences for peace and stability would extend beyond the shores of the Korean Peninsula. The security and political interest of four major powers—the United States, the Soviet Union, the People's Republic of China, and Japan—converge in Korea. Most commentators agree that while the Soviet Union and China publicly support Kim Il-Sung's call for the withdrawal of U.S. troops, the two powers are, in fact, favorably inclined toward the U.S. security commitment and troop presence as a stabilizing factor in a volatile region. Although the Soviet Union and China apparently favor continued relaxation of tensions with the United States over support for Kim Il-Sung's more aggressive designs, it is difficult to see how either nation could avoid siding with North Korea in the event of war.

Furthermore, should the Soviets or Chinese conclude that the U.S. commitment to South Korea's defense had significantly weakened, their interest in stability and preservation of the status quo on the peninsula might diminish. This might be especially true in the case of the Soviet Union. Relations between the Soviet Union and North Korea have improved over the last 18 months. Early this year, North Korean President Kim Il-Sung received the Order of Lenin, one of the Soviet Union's highest decorations. Given an improvement in relations, and given recent Soviet behavior elsewhere in the world (for example, Africa), U.S. ground force withdrawal from South Korea now might be conducive to Soviet-supported North Korean adventurism later.

United States troop withdrawal, then, by increasing the risk of war in Korea, concomitantly raises the larger danger of great power confrontation.

Similarly, North Korean attempts to reunify Korea by military means would threaten Japan. A unified, Communist Korea would give new meaning to the old cliché that the peninsula is a "dagger pointed at the heart of Japan." Japanese trust in the U.S. commitment to the defense of their country would be drastically diminished. Japan might even feel sufficiently threatened to initiate a massive rearmament program. A rearmed Japan, with offensive capability might cause concern in East Asia.

Mr. President and my distinguished colleagues, I have been so concerned about this matter for the last 3 or 4 years that I have spent some time at the U.N., talking with diplomats there. The Senator from Illinois has talked with representatives from Japan, Indonesia, New Zealand, and Australia. There is no shadow of doubt that there is a feeling on their part that this symbol may be a symbol to the rest of the world and to the Pacific that the United States is lessening its interest. It was necessary for the Secretary of Defense, at a very critical time in many of the relationships and problems confronting a new administration, to take time out to go to the Pacific to attempt to reassure our allies and friends. Try as he could—and certainly, Harold Brown's capacity and capability is highly regarded by the Sen-

ator from Illinois—I did not feel that the assurance was adequate. The assurance that we intend to maintain a deep interest in this area is symbolized by the presence of our Armed Forces. And certainly, the deep concern of the many sponsors of this amendment is that there may be a risk so serious and so great that consultation with the Congress of the United States prior to further withdrawals is required in the national security interest of the United States.

It is clear that from a military perspective, the proposed U.S. policy of withdrawing ground troops from South Korea is fundamentally unsound. To add to its flaws, we should note that its grave shortcomings are to some extent attributable to the manner in which the policy was conceived. Extensive hearings recently held by a subcommittee of the House Armed Services Committee revealed that the President's decision to withdraw troops from South Korea was largely the result of a pledge made in the heat of the 1976 campaign. The House subcommittee found that the President did not seek the advice of senior military officials on the wisdom of withdrawal per se, but instead required only that they devise the best possible arrangements for withdrawal.

In addition to the dangerous military implications of a U.S. ground troop pullout from Korea, the current withdrawal policy undermines the credibility of our security commitments to our other Asian allies. No serious consultation with our Asian allies, particularly the South Koreans and the Japanese, preceded announcement of the President's decision to withdraw troops.

When the plans met with substantial criticism in East Asia, administration officials sought to reassure our allies that the United States would remain a power in Asia and the Pacific and maintain the defense commitment to South Korea. But, to these nations, our actions speak louder than our words.

Many Asian leaders express uncertainty and continued anxiety with regard to U.S. Asian policy. Some fear that withdrawal from Korea may signal a larger U.S. withdrawal from Asia as a whole. South Korean officials continue privately to oppose the withdrawal policy. Their confidence in the U.S. commitment is low. The Japanese now reluctantly accept the President's decision as a fait accompli, while hoping that the "compensatory measures" promised the South Koreans by the United States, coupled with U.S. diplomatic initiatives in the area—promotion of bilateral talks between the north and south and action to obtain a commitment to peace on the peninsula by the major powers—will preserve stability in northeast Asia.

Inconsistencies in the troop withdrawal policy have been especially damaging to continued Japanese and South Korean trust in U.S. security guarantees. One of the administration's publicly enunciated rationales for withdrawal of U.S. ground troops is belief that the South Koreans could defend themselves from a North Korean attack. Yet PRM 10 argues that the North, under the right circumstances, is capable of launching a surprise attack and capturing Seoul. The President has sought to substitute reaffirmation of the U.S. commitment to South Korea's defense for the deployment of U.S. ground troops on Korean soil. PRM 13 also quoted in the press argues that a major advantage of withdrawal is that it precludes the danger of U.S. forces being brought automatically into any eventual fighting. This indicates to free Asia that the U.S. commitment is by no means assured. Such inconsistencies between public pronouncements and reality create a "credibility gap" which corrodes good relations between the United States and its Asian allies.

Clearly, then, the adverse military and political effects of U.S. ground troop withdrawal from Korea do not commend current policy. For the reasons I have detailed, I urge that the Senate express the opinion that further troop withdrawal may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

Mr. President, in order to save the time of my colleagues this evening at this late hour, I ask unanimous consent to have printed in the RECORD at this point quotations from my distinguished colleagues who are the principal cosponsors of this amendment, Senator GLENN and Senator NUNN.

Also, a discerning comment and commentary made by the distinguished Senator from Mississippi (Mr. STENNIS).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FROM SENATE FOREIGN RELATIONS COMMITTEE MEETING, MAY 1, 1978

Senator GLENN. I fully support congressional action, as you know from our private conversations in this regard, Mr. Secretary. I will work to see that we live up to what I look upon as being reneging on our part at the present time.

This whole view that somehow we are maintaining a balance when we are so unbalanced already, as your statement indicates, is peculiar, especially since we are further unbalancing that, even if we withdraw only one battalion.

Mr. Secretary, the threat is on the ground, down the Kaesong Corridor, primarily, with which you are familiar, of course.

I grant you that is good defensive terrain.

With the massive fire power and tank massing capability of the North, with their river crossing equipment, with the tunnels they have dug under the Demilitarized Zone—I don't know that we even know for sure how many might have been dug which we have not yet located—these all put a real premium on that area. I think you very correctly state that you cannot equate one type of weapon system directly with another.

I know there has been much comment from the Department of Defense about our assigning 12 additional F-4's to that area. But with the primary threat being down the Kaesong corridor, I am sure we would all agree we cannot park F-4's in the Kaesong corridor and have them do any good. In any period of bad weather when they would not be brought to bear in that area, they would not be very useful against a massed attack down that Kaesong corridor.

This is particularly crucial, too, in that this is not the usual type of situation we would run into in Europe, for example, or some other place in the world where we might be involved in combat, in that the enemy is only some 26 miles away. It doesn't take much of a move to put Seoul within the range of artillery.

Our defense posture in that area has been changed drastically in the past few years. At one time, before Seoul became the major metropolitan center it now is, the plan in Korea was to withdraw down the peninsula in any major attack, regroup, reattack, and come back north again. After Seoul got much of its population and became the heart of the manufacturing and the economy of almost all of Korea, we decided to change that, as we are all aware, and make the defense of Seoul the military posture for all of the forces, including ours, in South Korea. Seoul could not be allowed to fall.

BASIS FOR WITHDRAWAL QUESTIONED

That is the reason why this very short distance and the balance of forces should play such an important role in our thinking. When most of us view the preponderance in military power as already being in favor of the North, to start withdrawals because of some previous promise is not right to me. I think we should be making these withdrawals strictly on the basis of combat capability of the South to take over.

I have yet to hear anything that would refute that. I think to set up some arbitrary time schedule on our part and say, yes, we are now going to adhere to this time schedule, but as time goes along, we will withdraw fewer numbers, perhaps, as those due dates come up, does not make any sense in a military situation. We should be making our withdrawals on the basis of the ability of the South Koreans to take over and maintain that military balance.

I have yet to hear anything, either this morning or at any other time in the recent past since the decision at the White House, that would refute that. It is commonsense to me that we maintain a combat balance there. Anything short of that would encourage the North to go adventuring.

LOGIC OF WITHDRAWAL QUESTIONED

It is difficult for me to see, Mr. Secretary, how it is met when we say the North has military superiority now and yet we are withdrawing some of our defense capability in the South and that somehow we are thereby improving our posture in Korea. That rather defies logic.

POSSIBILITY OF ENCOURAGING SOUTH KOREAN NUCLEAR WEAPONS DEVELOPMENT

Do you think this will encourage South Korea to develop its own nuclear weapons?

Secretary BROWN. I think the South Koreans are aware that they remain under the nuclear umbrella of the United States and therefore this action will not precipitate any such action on their part.

Senator GLENN. I certainly hope you are right.

However, on March 29, the National Unification Board urged the development of "nuclear strength" to change North Korean policy to peaceful coexistence.

I think that would be an extremely dangerous development in Northeast Asia if they move ahead with that.

Why was our withdrawal and the announcement of it and our execution of it not tied to some reciprocal action from the North?

Why did we peremptorily decide this was the way we were going to go? Could we not have used this as leverage to get the North at least to talk to South Korea or to get some meeting at whatever levels of government would have been appropriate as a quid pro quo to what we were doing?

Secretary BROWN. That is a matter of judgment, Senator Glenn. I think that the existence of this overall plan for withdrawal does provide a framework which, in its own way, puts some pressure on the North Koreans. I think that one value of working toward a situation in which the South Koreans depend

less on what will still be a very firm commitment by the United States to maintain South Korean security in conjunction with South Korea, is that the prospect of a South Korean situation less dependent upon the presence of U.S. forces does have a chance—though I am not saying it will happen—of making the North Koreans think about whether they don't want to get involved in discussions now. Whether they will, I don't know. But it does move the situation forward and does put some pressure on the North Koreans to engage in discussions with the South Koreans and ourselves.

Senator GLENN. I would tend to think of it in somewhat the opposite vein: the more we go ahead with our own preset schedule with our No. 1 emphasis not being on combat capability, the longer they wait, the better posture they will find themselves in. So why talk? Why negotiate now? Why try to get both sides together so long as they are getting an advantage by our reducing the combat capability in the South?

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FROM DEBATE ON DEFENSE PROCUREMENT BILL, JULY 10, 1978

Mr. NUNN. I say to the distinguished Senator from Kansas that the Armed Services Committee does not have jurisdiction over all those matters. We try to pinpoint primarily the military analysis, but the only way that military analysis can be arrived at is by considering the items that the Senator from Kansas has enumerated in terms of our foreign policy.

I anticipate that DOD would be ready to answer those questions or, if not, the State Department would be ready to answer those questions when the report is submitted, or at the appropriate hearings of the Armed Services Committee or the Foreign Relations Committee.

Let me add that I am particularly concerned, as an individual Senator, as to the North Korean reaction to the announced U.S. withdrawal plans.

I am interested in the North Korean reaction to the withdrawal which has already occurred and the withdrawal which will occur this year.

As the Senator from Georgia has already enumerated, approximately 2,600 troops have been withdrawn.

I am not personally opposed to withdrawing some troops from South Korea, but I am gravely concerned there is no quid pro quo involved in this situation. I am gravely concerned that the North Koreans may not react as we would hope they would react. If they, for instance, were to undertake a military buildup while we were withdrawing, then I certainly think that is a relevant matter for Congress and hopefully the executive branch to consider in determining whether the plans will be completed and carried out. If they were to begin a reduction of their military forces, then that would put the matter in an entirely different light.

So all these matters certainly are very relevant in terms of making a rational determination of the future as to a congressional response to whatever the administration's plan may evolve into.

As I have said before, Mr. President, we have been far more successful in our post-World War II alliances, as I see it, in the NATO and European area of the world than we have in the Pacific, though that is no discredit to what we have done there. But the outcome of success has certainly not been equal to what it has been in the NATO area.

KOREA

Last year the President announced that he intended to withdraw U.S. ground combat troops from Korea over a period of years. The Armed Services Committee in its report has recommended that no further withdrawals be made until the Secretary of Defense provides a report detailing the effects of such withdrawal on the delicate deterrent balance in Korea and on the political and military situation in the Far East. There are a number of unresolved problems in the President's withdrawal plan, and the committee is greatly concerned that they have not yet been fully analyzed. It therefore recommends that a very cautious approach be taken.

This is an executive function, but it is also a highly important legislative function, particularly as it pertains to a treaty that has been made years ago and approved by this body. And when we say Korea, I am thinking in terms of the entire Pacific area—the entire Pacific problem, so to speak—where we have found that, with the situation being left open, the Communists very rapidly come in, and we have had these two wars, now, since the end of World War II, in that area of the world. Unless we intend to really quit, withdraw, and come out and stay out, I am not willing, in my judgment, to go to withdrawing our troops until some provision is made to have the effect, the deterrent effect of our presence there, and in other areas of the Pacific also. Personally, I do not know of a better place to keep them now than in Korea. We have limited this matter and about whittled it down to that point. I have not been shown any facts whereby we could better our position or save any money, really, by withdrawing those forces from Korea.

Mr. PERCY. Mr. President, I ask unanimous consent that further hypothetical questions that might be placed on this policy and answers be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Q. The Senate just debated Korea troop withdrawals during debate on the defense procurement bill. Do we need to pass this amendment as well?

A. Yes. The section on Korea in the Committee report on the defense bill requires that the Secretary of Defense provide an analysis to the committee before any future withdrawal of ground combat troops. The analysis must discuss a number of points including the effect of any proposed withdrawal plan on preserving deterrence in Korea; the reaction anticipated from North Korea; and the effect of the plan on increasing incentives for South Korea to develop an independent nuclear deterrent. Essentially, the section is a reporting requirement. And I think it is a good reporting requirement—the Armed Services Committee and the Senate should have these facts reviewed. That is why I have agreed to accept Senator NUNN's modification to my amendment.

The Security Assistance Bill that we have before us today also contains reporting requirements on the South Korean troop withdrawals. A section added by Senator GLENN requires the President to transmit 120 days prior to each planned phase of troop withdrawal a report evaluating the feasibility of continued U.S. withdrawal. This is also an excellent addition and I support it wholeheartedly.

My amendment expresses the sense of the Senate that the troop withdrawal policy may seriously risk upsetting the military balance in that region The Senate Foreign Relations Committee has received reports. It has heard testimony. Two of its members wrote an excellent analysis of the troop withdrawal policy. On the basis of these reports already received, I can say without reading one more report that the troop withdrawal policy is wrong.

Q. Didn't President Carter recently announce a slowdown in the troop withdrawals? Was this a significant change in the policy?

A. Yes to the first question. No to the second. The administration postponed until next year withdrawing some combat troops that were intended to come out this year. The administration, however, has *not* announced a change in the overall plan of withdrawing the remaining ground combat groups over the next four to five years.

On December 31, 1977, there were about 40,000 U.S. military personnel in Korea, including 32,000 Army troops. The original plan proposed the withdrawal of 6,000 ground troops by December 1978 and the withdrawal of the remaining ground combat units over the next four or five years. Of that 6,000, about 2,600 are in service or support activities and have already been withdrawn or are scheduled to be withdrawn this summer or fall. The principal concern was over 3,400 troops including mostly combat troops scheduled for withdrawal in December 1978. Last April, the President announced his decision to defer the scheduled withdrawal of U.S. combat troops in Korea except for one battalion. This meant that only 800 combat troops would be withdrawn by the end of this year. Current plans call for those troops previously scheduled for withdrawal this year to be withdrawn in 1979.

Q. The administration argues that the South Korean economy is strong and that South Korea should take over fully its own defense burden. The administration also believes that with military aid and equipment transfers, a military balance between the North and the South can be achieved. How do you answer these arguments?

A. My answer to those arguments is—why take the risk? Troop withdrawal saves the U.S. no money. It probably does not buy us any flexibility either, because about 12,000 U.S. personnel are scheduled to remain in South Korea after the ground combat troop withdrawal according to the President's plan—virtually guaranteeing immediate and substantial U.S. casualties in the event of another conflict on the Korean Peninsula. The withdrawal reduces the deterrent to the North, it weakens the firepower of the South, and it has brought into question the U.S. commitment to stability on the Korea peninsula. The policy achieves nothing for the United States. It could cause great damage. My question is why take the risk?

Q. An amendment was passed to the State Department Authorization Act last year calling for consultation on this issue. What has changed since last year?

A. In June 1977, the Senate did debate the troop withdrawal question. Some Senators wanted to pass an amendment approving the troop withdrawals. Other Senators wanted to pass an amendment opposing the troop withdrawals. Senator Byrd introduced—and obtained a majority of those voting—for a compromise statement. The legislation that finally passed declared that U.S. policy toward South Korea should "continue to be arrived at by joint decision of the President and Congress." It also stated that the implementation of the President's policy should be "carried out in regular consultation with Congress."

The administration has consulted with us during the past year. I congratulate the administration for its frank and open consultation with the Senate Foreign Relations Committee.

The material and information I have seen since last year's debate, much coming from the administration, has reaffirmed my belief that the troops withdrawal policy is ill-advised. Since we considered this issue last year we have seen the following:

In his May 1, 1978, testimony before the Senate Foreign Relations Committee, Secretary of Defense Harold Brown said the following:

"Despite its growing economic superiority, South Korea has not yet caught up militarily with the North. North Korean military

capabilities pose a real threat to South Korea."

According to a State Department report received by the Senate Foreign Relations Committee late last year:

"North Korea continues to threaten the stability of the region . . . The North Koreans are well equipped for an offensive war. The proximity of Seoul to the Demilitarized Zone would be an advantage for the Northern forces, particularly if they were able to achieve surprise."

Seoul is approximately 24 miles from the DMZ and the North Korean divisions along the DMZ are in an offensive posture, allowing them to attack almost without warning. The fall of Seoul could precipitate the fall of South Korea.

Senators Humphrey and Glenn wrote a report issued in January 1978 to the Senate Foreign Relations Committee in which they stated:

"The presence of U.S. ground forces in South Korea helps to stabilize the military situation in three ways: it provides considerable firepower; it provides for an automatic U.S. response that serves as an important deterrent; and the United States is able to orchestrate trucekeeping operations and restrain any overly zealous South Korean reactions to incidents. Removal of U.S. ground forces will weaken deterrence and to some degree increase the threat of war."

The Congressional Budget Office in a May 1978 report has estimated that we can expect either only modest savings or actual additional expenditures if the troops withdrawn are stationed elsewhere as currently planned. In other words. we get less deterrence at about the same or even greater cost.

Q. Why should we continue to lend security assistance to a regime whose human rights record is so poor?

A. Some human rights groups I have talked with fear that, rather than improving human rights conditions in South Korea, U.S. troop withdrawals would actually make matters worse. I agree.

The withdrawal of American troops is likely to accentuate the atmosphere of crisis in South Korea and lead to still greater tightening of domestic controls. Moreover, by withdrawing our combat presence in the country, we actually would reduce our influence with the government and our opportunities to improve the climate for civil and political freedoms.

Q. The military balance today favors the North. The possibility for future improvement in that balance should not be overlooked. The South Korean government is undertaking a force improvement plan, and the $800 million equipment transfer contained in this bill will go a long way toward righting the balance. Moreover, the United States intends to maintain its Air Force capabilities in South Korea and its naval capabilities offshore. Don't you think this improvement in the balance will allow the United States to withdraw its ground forces?

A. I have seen classified information on the force improvement plan as well as the equipment transfer package. I cannot mention any specifics because they are classified, but I can say that in 1982 when the President plans to withdraw the last U.S. ground combat forces, the firepower imbalance could remain. Even if the North *does not improve* its forces over the next four years—an assumption that we cannot in reality make—neither the South Korean force improvement plan nor the equipment transfer will right the imbalance in tanks or artillery multiple rocket launchers. The North would still have a significant lead in those two areas, according to current plans.

There are also questions as to the capability of South Korean forces to assume certain functions now performed by U.S. troops. To quote the Humphrey-Glenn report:

". . . in military terms U.S. forces play a relatively larger role now than they did before 1974 in the defense of Seoul, thus making ground troop withdrawal more difficult."

The South Korean forward defense strategy instituted in 1974 under U.S. leadership includes a principal role for U.S. combat forces. While the Administration apparently feels that some of the qualitative differences between U.S. and South Korean forces can be overcome during the four or five years of the withdrawal program, others close to the scene have expressed serious doubts. I am concerned that in the performance of certain defense functions, South Korean troops cannot simply be substituted for Americans.

Moreover, we know that the military balance must take into account more factors than hardware and personnel comparisons. The deterrent provided by U.S. troops cannot be over-estimated in evaluating the current military balance between the North and the South. It may be the one single factor that has prevented North Korea from invading the South during the last 25 years. The administration seems to be willing to concede that factor without gaining anything in return.

Q. What is the present military balance in Korea?

A. As recently as 1970 there was rough parity in the North-South military balance. But the balance has shifted, decidedly in favor of the North Korean forces. The North presently leads in firepower, and the margin of superiority is increasing rapidly. The rough military force comparison is as follows (statistics from the Humphrey-Glenn report):

| | 1970 | | 1977 | |
|---|---|---|---|---|
| | SK | NK | SK | NK |
| Personnel: | | | | |
| Active forces | 634,000 | 400,000 | 600,000 | 520,000 |
| Reserve forces | 1,000,000 | 1,200,000 | 2,800,000 | 1,800,000 |

We see that the active forces of South Korea have actually decreased by 6 percent over the 7 year period, while the size of the North Korean active army has grown by 30 percent.

| | 1970 | | 1977 | |
|---|---|---|---|---|
| | SK | NK | SK | NK |
| Ground balance: | | | | |
| Tanks | 900 | 600 | 1,100 | 1,950 |
| APC (armored personnel carriers) | 300 | 120 | 400 | 750 |
| Assault guns | 0 | 300 | 0 | 105 |
| Shelling capability: | | | | |
| Artillery/multiple rocket launchers | 1,750 | 3,300 | 2,000 | 4,335 |
| Air balance: | | | | |
| Jet combat aircraft | 230 | 555 | 320 | 655 |
| Other military aircraft | 35 | 130 | 200 | 320 |
| AAA guns (anti-aircraft artillery) | 850 | 2,000 | 1,000 | 5,500 |
| Navy combat vessels | 60 | 190 | 90 | 450 |

With firepower we find the same ominous trends. The tank force of the ROK has grown 22%, while that of the North has increased by 225%. The growth rate differential is even more pronounced in the acquisition of armoured personnel carriers.

The North also enjoys a two-to-one advantage in combat jet aircraft, although the two sides have roughly equal numbers of modern fighters. The North has a more than four to one advantage in anti-aircraft guns and navy combat vessels.

North Korea has committed far more resources to developing military-related industries. The North Korean army is structured and positioned to be capable of delivering a massive firepower and shock attack on South Korea. North Korean forces are largely deployed along the DMZ so that a surprise attack could be mounted with little warning.

According to the Humphrey-Glenn report, one particularly worrisome factor is North Korea's significant special warfare capability. Deployed by difficult-to-detect airlift, special forces can infiltrate South Korean rear areas and attack airfields, logistic depots, lines of communications, and command centers. In this event, South Korea will have to divert forces from their primary mission of repelling an attack on the DMZ to counter the special warfare activities of the North.

In short, with the ominous growth of North Korean military capabilities, the presence of U.S. forces becomes ever more important to maintain a rough military balance on the Korean peninsula.

Q. Won't U.S. troop withdrawals produce substantial economic savings?

A. No. Withdrawal of these forces will not save money and will probably result in even greater expenditures than if we left them in Korea.

The Administration has said it intends to reassign the 2nd Division to a different role in our force structure. President Carter indicated in January that the 2nd Division would be used as a reserve for a posssible conflict in the NATO theatre. The Secretary of Defense Annual Report for fiscal 1979 suggests that the 2nd Division would be maintained for possible redeployment to Korea in the event of conflict there. In either case, the need to base, reequip and possibly retrain these troops would require greatly increased expenditures, probably more than a billion additional dollars over the next five years according to the Congressional Budget Office. And these figures do not even include the cost of the compensatory aid package for South Korea already requested by the Administration. The current proposal is to give the South Koreans $800 million worth of arms and equipment that would be left behind by U.S. forces. In addition, the cost of providing additional foreign military sales credits over the next several years would be over $200 million. Coupled with increased technical assistance and the need to add to the capabilities of our remaining forces in Korea, the costs of withdrawing troops are significant indeed.

Q. Are you suggesting that we must keep U.S. troops in South Korea forever? What would have to change for you to support the withdrawal of American forces?

A. Since the Korean War twenty-five years ago, American forces have been playing a peacekeeping function on the Korean peninsula: first, by helping to deter another attack from the North, and second, by acting as a restraining influence in situations that might otherwise have escalated to conflict. I am persuaded that these roles are still crucial. Indeed, the ominous buildup of offensive forces in North Korea in recent years suggests that our presence is required now more than ever.

Several things should happen before the U.S. can safely withdraw forces from South Korea. First, a pull-back or other adjustment of North Korean forces should occur to reduce their potential for a sudden attack on the South. Whether this occurs as a result

of negotiations between North and South or by some other means, the dangerous posture of North Korea should be changed. Second, the defensive capabilities of the South should be increased through existing programs of aid and technical assistance in tandem with ongoing South Korean efforts to improve their force structure. Simply handing the entire task back to the South Koreans at this time would be premature. Finally, the general climate or relations between North and South Korea should improve before we remove our immediate military presence from the peninsula. Precipitous withdrawal under present circumstances will only increase the anxieties on both sides and might even lead the South Koreans to seek a nuclear capability to guarantee its security.

In short, I do not favor a neverending U.S. combat presence in South Korea. But I do believe that any change in our posture there should be keyed to favorable developments in the overall military equation. The Administration seems to be ignoring the facts of the situation.

Mr. PERCY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I have an amendment to the Percy amendment that I would ask if the Senator would accept, really, as a modification.

We have talked about this. First of all, I would like to say I commend the Senator from Illinois for bringing this very serious matter to the attention of the Senate. For some time now, I have been concerned about the proposed withdrawal. I have been particularly concerned about whether the military balance could be upset in that very crucial region of the world.

Although I am not opposed to eventual withdrawal of some or perhaps all American ground forces from South Korea, I believe that the withdrawal must be contingent on the South Koreans being able to maintain the military balance on the ground and in the air and in the coastal areas surrounding that important part of the world.

I think that contingency not only will have to reflect their military power, but also their ability to supply and support their military forces.

So I feel that is a condition precedent to further withdrawal, and I believe the Senator from Illinois has also expressed that sentiment.

I also feel that when we are dealing with crucial areas of this nature we ought to be very careful to see that we do not throw away the opportunity of perhaps getting some concessions from the North Koreans in exchange for American withdrawal.

I am concerned about the lack of that kind of effort in terms of getting a quid pro quo in having North Koreans reduce the military forces which pose, as the Senator from Illinois already expressed, a very serious threat.

There are a good many other things I am concerned about, including the effect of this withdrawal on our relationship with Japan, the effect on the relationship with China, the Soviet Union, and on the powers whose interests converge in that very important part of the world.

Mr. President, I will not make further remarks. I will simply ask the Senator from Illinois if he would be willing to accept an amendment which does not in any way change—could I have the attention of the Senator from Illinois?

The PRESIDING OFFICER. May we have order in the Chamber, please?

Mr. NUNN. I ask the Senator from Illinois if he would be willing to accept a modification of his amendment which does not in any way change his amendment, but would simply add the following words at the end of his language, and I will read my proposed modification:

Prior to any further withdrawal the President should report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea; the reaction anticipated from North Korea; a consideration of the effect of the plan on increasing incentives for South Korea to develop an independent nuclear deterrent; the effect of any withdrawal on our long-term military and economic partnership with Japan; the effect of any proposed withdrawal on the United States/Chinese and United States/Soviet military balance; and, the possible implications of any proposed withdrawal on the Soviet/Chinese military situation.

I would like to add that to the Senator's amendment, if he would accept that as a modification.

Mr. PERCY. Mr. President, the Senator from Illinois not only accepts the modification to the amendment, but also wishes to express deep appreciation to my distinguished colleague for adding this language which I think adds specificity and strengthens the amendment.

The Senator from Illinois also, at the same time, would like to express deep appreciation to the distinguished Senator, the floor manager of the bill, the Senator from Ohio (Mr. GLENN), and my distinguished colleague, the senior Senator from New York (Mr. JAVITS), who, as always, has been extraordinarily helpful in bringing parties together so that we have a strong unified voice.

I think it is a strong amendment and will serve its purpose.

The PRESIDING OFFICER. Is there objection to the modification of the Senator from Illinois' amendment by the modification of the Senator from Georgia?

The Chair hears none.

Mr. NUNN. Mr. President, this amendment is being offered on behalf of myself, Senator GLENN, and Senator CHILES.

The PRESIDING OFFICER. The Senator will please send the modification to the desk.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 31, between lines 5 and 6, insert the following:

POLICY ON THE REPUBLIC OF KOREA

SEC. 26. It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress. Prior to any further withdrawal the President should report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea; the reaction anticipated from North Korea; a consideration of the effect of the plan on increasing incentives for South Korea to develop an independent nuclear deterrent; the effect of any withdrawal on our long-term military and economic partnership with Japan; the effect of any proposed withdrawal on the United States/Chinese and United States/Soviet military balance; and, the possible implications of any proposed withdrawal on the Soviet/Chinese military situation.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

Mr. GLENN. Mr. President, the Senator from Illinois has had a long concern about the problems of Korea. We have had numerous discussions on the subject.

I, too, have been very concerned about this, and I wrote a letter to the President on April 4, 1978, which I will read portions of, to let the Senator from Illinois know exactly how I feel about this, also. This letter has not been made public until this time:

DEAR MR. PRESIDENT: I am writing to express my reservations about proceeding with the proposed withdrawal of the first 6,000 troops from the Republic of Korea in late 1978.

In the current Korean scandal investigation climate, it is highly doubtful that Congress will approve the full transfer legislation this year.

We may wind up doing that, but at that time it looked very doubtful:

Even the consideration of a less than total package this year as an indication of good faith could have the reverse effect in East Asia of inducing even greater skepticism with regard to our reliability for a long-term U.S. commitment.

As you are well aware, the military and political balance on the Korean peninsula and in northeast Asia is fragile. Doubts persist regarding U.S. intentions, not only in Korea, but among other East Asia allies in general, and a precipitous reduction of ground combat personnel in the absence of a Congressionally-approved transfer package will only exacerbate these uncertainties, particularly with regard to Japan.

In other words, I believe it is critical that we not tie our Korean reductions to a no-matter-what, rigid timetable, but rather tie withdrawal to the actual ability of the South Koreans to assume a larger defense load. To do otherwise could invite military action by North Korea, with remaining American forces involvement being minutes, or at best hours, away in an area where advance intelligence information is most inadequate.

It is unfortunate that the Korean scandal investigations in the Congress have occurred at this time, but that could not have been foreseen when withdrawal plans were made. Congressional attempts to force Korean cooperation by threats to withhold the proposed military aid package or deny Export-Import Bank loans for energy development projects, are indeed deplorable and can only work to the long-term detriment of our East Asian policy.

What will be interpreted as U.S. reneging on the promised military aid package is of intense interest not only to Korea, but also to our other East Asian allies who too often put their own erroneous interpretation on our Korean moves as part of a larger general disengagement of American interest from East Asia in the wake of Viet Nam.

In a recent report to the Senate Foreign Relations Committee titled "U.S. Troop

Withdrawal from the Republic of Korea", my principle recommendation was:

"1. The Senate should review the military transfer authorization based upon the political-military needs of the area and avoid linking it to the bribery scandal. Long-term U.S. political alignments in the whole East-Asian region must not be jeopardized for the short-term objectives of the scandal investigation."

But that is our current situation.

In his speech to the Asia Society last June, Secretary Vance noted three goals in our Korean policy:

The renegotiation of the truce agreement;

Dual admission of the two Koreas into the United Nations; and

Normalization of relations between the two Koreas.

Obviously, such steps take time, and little or no progress has been made on these goals. Thus, it is possible that a deferral of the withdrawal could be used as minimal leverage to return the two Koreas to a negotiating table. I frankly doubt that anything more could be expected in the present environment.

Deferral of the withdrawal would also allow time to pursue this issue with the Chinese. Clearly, the PRC may be the key to unlocking a truculent North Korea. Thus, any improvements in Sino-American bilateral relations may enable us to obtain greater Chinese assistance with the Korean problem.

In closing, let me reaffirm my support for the basic policy. It is a justifiable position over time, given our desire to minimize the prospects of involvement in another Asian war on the ground, given the potential power of the South with its economic and population advantages over the North, and the need to enable the ROK to militarily and psychologically stand by itself.

But I feel withdrawal must be tied to the actual, in-place ability of the South Koreans to take over, and not to a timetable set prior to what has developed into a different and unforeseen situation.

For the reasons indicated above, my major concern is that 1978 is not the year to begin the drawdown.

Best personal regards.

Sincerely,

JOHN GLENN,
*Chairman, Subcommittee on East Asian and Pacific Affairs.*

Mr. President, I ask unanimous consent that my letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., April 21, 1978.*

THE PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I am writing to express my reservations about proceeding with the proposed withdrawal of the first 6,000 troops from the Republic of Korea in late 1978.

In the current Korean scandal investigation climate, it is highly doubtful that Congress will approve the full transfer legislation this year. Even the consideration of a less than total package this year as an indication of good faith could have the reverse effect in East Asia of inducing even greater skepticism with regard to our reliability for a long-term U.S. commitment.

As you are well aware, the military and political balance on the Korean peninsula and in northeast Asia is fragile. Doubts persist regarding U.S. intentions, not only in Korea, but among other East Asia allies in general, and a precipitous reduction of ground combat personnel in the absence of a Congressionally-approved transfer package will only exacerbate these uncertainties, particularly with regard to Japan.

In other words, I believe it is critical that we not tie our Korean reductions to a no-matter-what, rigid timetable, but rather tie withdrawal to the actual ability of the South Koreans to assume a larger defense load. To do otherwise could invite military action by North Korea, with remaining American forces involvement being minutes, or at best hours, away in an area where advance intelligence information is most inadequate.

It is unfortunate that the Korean scandal investigations in the Congress have occurred at this time, but that could not have been foreseen when withdrawal plans were made. Congressional attempts to force Korean cooperation by threats to withhold the proposed military aid package or deny Export-Import Bank loans for energy development projects, are indeed deplorable and can only work to the long-term detriment of our East Asian policy.

What will be interpreted as U.S. reneging on the promised military aid package is of intense interest not only to Korea, but also to our other East Asian allies who too often put their own erroneous interpretation on our Korean moves as part of a larger general disengagement of American interest from East Asia in the wake of Viet Nam.

In a recent report to the Senate Foreign Relations Committee titled "U.S. Troop Withdrawal from the Republic of Korea", my principal recommendation was:

"1. The Senate should review the military transfer authorization based upon the political-military needs of the area and avoid linking it to the bribery scandal. Long-term U.S. political alignments in the whole East-Asian region must not be jeopardized for the short-term objectives of the scandal investigation."

But that is our current situation.

In his speech to the Asia Society last June, Secretary Vance noted three goals in our Korean policy:

the renegotiation of the truce agreement;

dual admission of the two Koreas into the United Nations; and

normalization of relations between the two Koreas.

Obviously, such steps take time, and little or no progress has been made on these goals. Thus, it is possible that a deferral of the withdrawal could be used as minimal leverage to return the two Koreas to a negotiating table. I frankly doubt that anything more could be expected in the present environment.

Deferral of the withdrawal would also allow time to pursue this issue with the Chinese. Clearly, the PRC may be the key to unlocking a truculent North Korea. Thus, any improvements in Sino-American bilateral relations may enable us to obtain greater Chinese assistance with the Korean problem.

In closing, let me reaffirm my support for the basic policy. It is a justifiable position over time, given our desire to minimize the prospects of involvement in another Asian war on the ground, given the potential power of the South with its economic and population advantages over the North, and the need to enable the ROK to militarily and psychologically stand by itself.

But I feel withdrawal must be tied to the actual, in-place ability of the South Koreans to take over, and not to a timetable set prior to what has developed into a different and unforeseen situation.

For the reasons indicated above, my major concern is that 1978 is not the year to begin the drawdown.

Best personal regards.

Sincerely,

JOHN GLENN,
*Chairman, Subcommittee on East Asian and Pacific Affairs.*

Mr. GLENN. Mr. President, in a letter of July 20 of this year from the President to Senator ROBERT BYRD, the President expressed his concern about our phasing our withdrawal of U.S. ground combat forces from South Korea, and he expressed his concern about Congress placing restraints on his ability to redeploy the force. He stated:

Apparently that concern results largely from the incorrect impression that withdrawal will follow a rigid timetable not subject to modification in the light of changing circumstances. This has never been the case.

I skip a couple of sentences in the President's letter.

He indicated that it is natural and appropriate that South Korea assume a greater share of the burden of its own defense. He stated:

However, that burden must be assumed prudenty and carefully. For this reason, I decided last April to defer a significant portion of the first phase of U.S. troop withdrawals until next year in order to give the Congress sufficient time to deal with the important question of equipment transfer authority.

It is my view that withdrawal phased over a four- to five-year period will be sufficiently flexible to accommodate developments on the peninsula.

He expects our program to be carried out in a manner which will maintain a military balance.

I read another paragraph in its entirety because I think it is important to our discussion here today:

Reports issued by the Senate Foreign Relations Committee, the House International Relations Committee and the Senate Armed Services Committee propose that the Administration undertake full reviews of the impact of our plans, the force balance, and the international environment in connection with further ground force withdrawals from Korea, and report to the Congress on the results of these reviews. I endorse the Committees' aim and look forward to sharing our assessments with the Congress.

That is a direct quotation from the letter of the President.

Mr. President, I ask unanimous consent to have the President's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
*Washington, D.C., July 20, 1978.*

Hon. ROBERT BYRD,
*Majority Leader, U.S. Senate,*
*Washington, D.C.*

*To Senator Robert Byrd:*

I understand that concern about the program for careful and phased withdrawal of U.S. ground combat forces from South Korea has prompted some in the Congress to propose placing restraints on my ability to redeploy these forces. Apparently that concern results largely from the incorrect impression that withdrawal will follow a rigid timetable not subject to modification in the light of changing circumstances. This has never been the case.

The withdrawal policy should be seen in the context of the international environment in Northeast Asia and the rapidly growing economic strength of the Republic of Korea. It is natural and appropriate that South Korea assume a greater share of the burden of its own defense. However, that burden must be assumed prudently and carefully. For this reason, I decided last April to defer a significant portion of the first phase

of U.S. troop withdrawals until next year in order to give the Congress sufficient time to deal with the important question of equipment transfer authority.

It is my view that withdrawal phased over a four- to five-year period will be sufficiently flexible to accommodate developments on the peninsula. I expect the withdrawal program to be carried out in a manner which preserves a military balance and thus protects the security of the Republic of Korea. Should circumstances affecting the balance change significantly, we will assess these changes in close consultation with the Congress, the Republic of Korea and our other Asian allies. Our plans will be adjusted if developments so warrant.

Reports issued by the Senate Foreign Relations Committee, the House International Relations Committee and the Senate Armed Services Committee propose that the Administration undertake full reviews of the impact of our plans, the force balance, and the international environment in connection with further ground force withdrawals from Korea, and I report to the Congress on the results of these reviews. I endorse the Committees' aim and look forward to sharing our assessments with the Congress.

Meanwhile, it is most important that I have the necessary authority to begin equipment transfers and training operations which will safeguard the military balance on the peninsula. I hope the Congress will promptly enact the equipment transfer authority and foreign military sales credit authorizations already recommended by both the Senate Foreign Relations and House International Relations Committees.

Sincerely,

JIMMY CARTER.

Mr. GLENN. Mr. President, I am very happy to see the President indicating that he will cooperate in making these assessments, that he is not committed to a rigid timetable, and that he will share his views, after this assessment, with the appropriate congressional committees; namely, the Senate Foreign Relations Committee, the House International Relations Committee, and the Senate Armed Services Committee.

I think the President has indicated that he is going along exactly the route of the requirement that will be laid down if the amendment by the Senator from Illinois, as amended by the Senator from Georgia, is agreed to in a few moments.

Mr. President, Northeast Asia is the most volatile region in the world, a place where the interests of all four major powers intersect. This situation makes even more dangerous the fragile balance now existing between the two Koreas. This interaction between North and South Korea occurs along two fronts: First, a military confrontation; second, a political confrontation. I want to briefly discuss both aspects.

We all share a deep concern that our withdrawal program not endanger peace in Northeast Asia. As Members on both sides of the aisle know, I have been critical of the administration in the past on this matter. The issue posed by the amendments now before us is not how best to implement a withdrawal of U.S. troops from Korea or the timetable for such a program. The President in his letter to Senator BYRD has reassured us on both accounts:

The withdrawal will be implemented only after consultation with the Congress;

The timetable is flexible;

And can be adjusted in the light of external events or changing circumstances.

President Carter clearly states his intention to preserve a military balance on the Korean peninsula an thus protect the security of the Republic of Korea. This was a judicious and welcome decision by the President.

THE MILITARY BALANCE AND DETERRENCE

At issue here is what constitutes deterrence. There is no quantitative answer. Because of the North Korean firepower advantage and the proximity of Seoul to the DMZ, the rough equivalence, mentioned by President Park in his 1978 New Year's press conference, requires the strengthening of ROK forces to achieve a successful forward defense of Seoul without the presence of the 2d Infantry Division. Over time these additional military capabilities will exist in South Korea. It has always been my position that the timing of phased withdrawals must coincide with the ability of South Korean forces to assume the defensive role of departing American troops. To do otherwise is to endanger a precarious peace and risk military adventuring by the North. President Carter's letter makes clear his personal commitment to a prudent and balanced withdrawal process.

One cannot be sure what motivates Kim Il-Sung, and I do not think deterrence has yet been lessened sufficiently to tempt him to aggression. Unlike 1950, there is no pitifully weak South Korea or an American policy stating that South Korea is outside the American defense perimeter. Indeed, the reverse is the case. South Korea is strong, with the potential for eventually being far stronger than North Korea, and the United States is on record through words and deeds as committed to the defense of South Korea. I doubt that Kim Il-Sung misunderstands this commitment; his propaganda machine certainly makes clear that we remain committed to upholding our Mutual Defense Treaty. Given the firm U.S. commitment to the defense of the Republic of Korea (ROK), any North-South comparison of a military balance is somewhat artificial. Although it is true that, when U.S. forces are excluded, North Korea is superior in firepower and mobility, the combined U.S.-ROK forces on the peninsula have rough equivalence with the North. More significantly, when U.S. reinforcement capabilities in the Western Pacific are added to the balance, the scale tips decisively in favor of the U.S.-ROK alinement.

Mr. President, this whole concept of withdrawing troops from Korea while providing additional equipment to South Korean forces is complex, but can be viewed as evolving around two central questions. Will the defensive position of South Korea be weakened? And, does North Korea view these changes as advantageous to its position?

These two questions can largely be answered by reciting the same facts—counting uniformed soldiers on each side of the 38th parallel, comparing the numbers and the quality of their weapons and equipment, and generally making a military assessment of the two sides. But numerical comparisons alone ignore significant military aspects. Intangibles such as combat experience, quality of leadership, and morale, are all important and imprecise variables which can decide battles. To the extent one can judge these subjective variables, I believe South Korea has the superior military forces. The key to continued peace in Korea lies with the intent of Communist leadership. The South will not first attack the North, and I believe the North will not dare attack the South if it believes the United States remains committed to the defense of the Republic of Korea.

One signal we can send to Pyongyang that we are so committed would be to pass the legislation before us and provide authorization for transferring equipment to South Korean forces as we begin to withdraw our own ground forces. This will demonstrate that we are fully prepared to continue to support South Korea in its determination to bear its full responsibilities for its defense as it builds its economy toward the goal of joining major developed countries of the world. For South Korea that goal is within reach, but only if its economy and society are allowed to develop in peace.

With respect to military balance, the numbers of ground forces in the two Koreas are roughly comparable. Although the South holds a slight numerical advantage and possesses recent combat experience, the North holds a substantial margin in firepower and mobility over the South. It is clear that the North achieved this numerical superiority in weapons by disregarding the welfare of its own people and conducting a long-term buildup of military forces at the expense of other segments of its economy and society. At the same time, the leadership of South Korea chose to emphasize overall economic development, with dramatic results on that front.

Our combat troop withdrawal from Korea must be conducted in a way that will insure that stability is maintained on the peninsula. If we pass the legislation currently consideration, as U.S. ground troops leave, we will turn over $800 million in military equipment to bolster South Korean forces, in addition to continuing assistance to Korea's military modernization program. Further, the residual U.S. air and naval forces make clear the automatic involvement of U.S. forces in the event of overt aggression. It is therefore unlikely that the withdrawal of ground combat troops substantially lessens deterrence. Is Kim Il-Sung anxious to commit national suicide? I doubt it. Exercise Team Spirit, these statements of Secretary Brown, Ambassador Mansfield, and the Commander on the spot, General Vessey, make clear our continuing commitment to the defense of South Korea. Given that commitment, our residual forces and our reinforcement capabilities, it is difficult to argue that North Korea is not genuinely impressed by the combined military power of the United States and South Korea. A continuing U.S. military presence makes unlikely an unpromising North Korean invasion. Moreover, I doubt that Pyongyang has forgotten the

devastation of North Korea during the Korean war. As a pilot in that conflict, I can assure you the North Korea capital was rubble. They guessed wrong in 1950 and paid a heavy price including the creation of a confirmed anti-communist majority in South Korea. They are unlikely to repeat that error so long as we are determined.

I am frankly less optimistic than our President that South Korea will be able to replace all our ground forces without some loss of combat capabilities in only 5 years. Thus, until now I have been skeptical of the program, but with the removal of arbitrary timetables. I am not skeptical. I do not question that there will come a time—and I do not think that time is far off—when South Korean forces, with the equipment we have provided, will be able successfully to defeat any North Korean attack with support from U.S. air and sea power. Moreover, to insure that our compensatory program is adequate, I have asked the Comptroller General to investigate these efforts and report back to Congress.

POLITICAL REALITY

Mr. President, my second point of discussion is the political reality, specifically the views of our Asian allies regarding U.S. troop withdrawals. The amendment presented by my friend from Illinois states flatly that our withdrawal program is dangerous. The second, I will propose for myself and Senators NUNN, GOLDWATER, and MATSUNAGA, calls for our withdrawal program to be implemented in a sensible and prudent manner.

What impact will our program have on our friends and allies in Asia? At this time, I would like to address this second significant question.

Mr. President, we are in a critical period when our allies in Asia look to us for actions to give credibility to our words. We must demonstrate to them that the United States is serious about its commitment to the defense of South Korea. In particular, we must assure them we will provide military assistance to the Koreans as our troops are withdrawn.

Japanese leaders have frequently said that they see the security of the Republic of Korea as essential to their own security. There was some initial apprehension in Japan when we announced our troop withdrawal plan. I believe, however, that in the 18 months since the withdrawal was announced, the Japanese Government has been reassured both by the gradual and responsible manner in which the withdrawal is being carried out, and by our firm intention to accompany the withdrawal with military assistance to the Korean forces not in place yet. The Japanese understand, as do others in Asia, that the phased troop withdrawal is not a sign of changing U.S. resolve. This assessment is buttressed by the absence of any noticeable Japanese rearmament program. Thus, the Japanese have been reassured and will share, I believe, my welcome of the President's unequivocal intent to relate the withdrawal to developments on the Korean peninsula.

Although we often view United States–Korean relationships as a bilateral security matter, our role in Korea is meaningful to friends and allies all over East Asia. Here, as nowhere else, we face both a challenge and an opportunity. The challenge is to assure peace and stability and the continued prosperity of a major ally with whom we have a mutual defense treaty. The opportunity is that afforded by South Korea's own emergence as a major force in Asia, a viable and confident nation willing and able to shoulder more of the burden of its own defense with our support.

Mr. President, the administration belatedly recognized the need to give visible proof of our intention to maintain a role in Asia and to honor our commitments. Last spring Vice President MONDALE discussed with foreign leaders in Tokyo, Manila, Canberra, and elsewhere our firm intention to support Korean stability and security. Japan's Prime Minister Fukuda exchanged views with the President during his visit to Washington of this year. Secretary of State Vance and Secretary of Defense Brown consulted with Japanese leaders last summer and have made it clear, in several major addresses, that we are not abandoning and cannot abandon, our traditional role in assuring a strong and prosperous Republic of Korea. Mr. Brzezinski has visited Tokyo and Seoul, and among other subjects discussed our Korean policy with leaders of those countries.

In short, we are not quitting. We are not bugging out. Our plan, Mr. President, is to gradually and prudently withdraw American ground forces while providing the assistance necessary to bolster the defensive capabilities of the South Korean forces. And as has been stated, U.S. air and naval forces will still be deployed in Korea. Today's Republic of Korea is a strong and confident nation, but its strength depends on our continued support. Fully honoring that commitment is the only way to deter aggression from the North and it is also the best assurance we can give our other allies of the credibility and continuity of the words of our Government, our Nation, and our people.

There is, however, one point regarding potential adversaries which I think should be raised at this time. I point particularly to the existence of some hostility between the Soviet Union and the People's Republic of China.

There is no evidence that either the People's Republic of China or the Soviet Union has any interest in disturbing the stability of the Korean peninsula. Both regard a renewed North Korean aggression as a highly undesirable and complicating factor in the tense and explosive relationship between the two great powers themselves. In this light and for their own interests, each would want to restrain any inclination the North Koreans may have toward military adventure against South Korea.

There is no evidence that either the People's Republic of China or the Soviet Union has any confidence that North Korea would win a quick or even easy victory over South Korea. Both know U.S. forces would quickly become involved in the conflict, thereby raising the prospects of wider hostilities.

The Soviets and Chinese know, Mr. President, that we are not abandoning Korea. They should know that we have the resolve to provide military assistance in the interests of security, that our phased withdrawal of ground troops will be carried out responsibly, and that our air and naval presence in the area will remain. We continue to have a strong interest in South Korean security, and we should leave no doubt in the minds of Moscow, Peking, or Pyongyang that we possess the will to support that commitment.

Our best hope for peace is a limited reconciliation between the two Koreas. Prudently phased withdrawals and the President's policy insure a continuing U.S. security commitment to South Korea while offering an opportunity to break the diplomatic impasse of the past 25 years. Only if Kim Il-Sung is convinced of U.S. determination and of the South Korean resolve as an independently capable state—not a U.S. "puppet" as he charges—will Kim negotiate. The President's policy when carried out as stated, will provide deterrence, help to create South Korean legitimacy, and will preserve peace and stability.

Mr. President, I am prepared to yield back the remainder of our time, unless others have statements to make.

Mr. NUNN. Mr. President, I have one question, if the Senator will yield.

Mr. GLENN. I yield.

Mr. NUNN. I pose this question to the Senator from Illinois and the Senator from Ohio.

The President has announced certain withdrawal of troops, mostly support troops, a few combat troops, during calendar year 1978. He has presented, through his witnesses from the State Department and the Department of Defense, testimony to both the Foreign Relations Committee and the Senate Armed Services Committee on that proposal.

My question to the Senator from Illinois is whether the amendment he has proposed will basically require the prior consultation and no further withdrawal—whether that begins in calendar year 1978 or whether it will be his intent to begin that after calendar year 1978, and exempt those troops that the President already has indicated he would be withdrawing this year.

Mr. PERCY. I thank my distinguished colleague for asking that question which the Senator from Illinois has already discussed with the Senator from Georgia, the Senator from Ohio, and the Senator from New York.

There is no intention by the sponsors of this amendment to interfere with the program of the President and the administration for fiscal year 1978.

But it is our intention that there shall be full advance consultation with Congress for any troop withdrawals planned by the administration for fiscal year 1979.

Mr. NUNN. When the Senator ties it to the fiscal year now that does not really begin until October 1, 1978, and some of these troops are already being talked about and already being fully represented to Congress will be withdrawn from October 1, 1978, to January 1, 1979,

so my question is whether those troops are contemplated by this amendment or whether they would really be exempt from this amendment.

Mr. PERCY. The Senator from Illinois asks this question of our distinguished colleague. As a member of the Armed Services Committee, what are the figures for troop withdrawal in calendar year 1978? How many are we talking about?

Mr. NUNN. Overall, it is my understanding, 2,600 support troops and approximately 800 combat troops. I am not certain as to the precise number of those who have already been removed from Korea. I do not know whether any member of the staff here is aware of exactly the number that have been withdrawn now. But it would be the understanding of the Senator from Georgia that during calendar year 1978 it is contemplated there will be about 3,400 troops withdrawn from Korea, about 2,600 will be support troops and about 800 will be combat troops.

My point is that I believe that part of this contingency of troops will probably be withdrawn between October 1 and January 1 of calendar year 1978.

Mr. PERCY. The judgment of the Senator from Illinois is that that will not materially affect the security of the United States, and the security of South Korea and will not have any adverse effect on our allies in the Pacific.

The position taken by the Senator from Illinois is really no different from the position taken over a period of many, many years, ever since he has been a Member of the Senate with respect to troop withdrawals in Europe. There have been modest troop withdrawals there on occasion and shifts which had no effect on the balance of power. The Senator from Illinois vigorously opposed the Mansfield amendment to withdraw U.S. troops from Europe, and regretfully so because of his affection and love for our distinguished majority leader through the years. I believe that effective diplomacy is possible only from a position of strength and that many times wars are created through unnecessary risks that are taken and false signals that are sent out. But the small number of troops to be withdrawn this calendar year would be acceptable to the Senator from Illinois.

From that point forward, however, this sense of the Congress resolution would require full advance consultation with Congress for any further troop withdrawals.

Mr. NUNN. I thank the Senator from Illinois.

Mr. GLENN. Mr. President, that is my understanding also of what we intended with this. It was certainly my intent that we not try and undo anything that is already being accomplished now but that the withdrawals that the Senator from Georgia refers to, that were to be accomplished by the end of this year, would not be interfered with by the amendment that we are passing here today.

Mr. NUNN. That also is my understanding. I thank the Senator from Ohio.

Mr. GLENN. Mr. President, I ask unanimous consent that a letter I have sent to the Comptroller General be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., July 24, 1970.*

Hon. ELMER B. STAATS,
*Comptroller General of the United States, Washington, D.C.*

DEAR MR. STAATS: I am writing to request that the General Accounting Office conduct an investigation of the adequacy of U.S. compensatory measures now underway in conjunction with the withdrawal of ground combat forces from the Republic of Korea (ROK). In particular, the analysis should examine the logistical support capabilities of the ROK, the training program being conducted for ROK personnel, the sufficiency of emergency facilities should the United States redeploy ground combat forces in the future, and the effectiveness of the Defense Audit Service in monitoring the withdrawal and associated U.S. compensatory measures.

Obviously, the nature and adequacy of U.S. assistance to the ROK armed forces is critical in preserving a military balance and in hopefully insuring deterrence. Your assistance in this undertaking is appreciated.

Best regards.

Sincerely,

JOHN GLENN,
*Chairman, Subcommittee on East Asian and Pacific Affairs.*

Mr. GLENN. Mr. President, this letter requests:

that the General Accounting Office conduct an investigation of the adequacy of U.S. compensatory measures now underway in conjunction with the withdrawal of ground combat forces from the Republic of Korea (ROK). In particular, the analysis should examine the logistical support capabilities of the ROK, the training program being conducted for ROK personnel, the sufficiency of emergency facilities should the United States redeploy ground combat forces in the future, and the effectiveness of the Defense Audit Service in monitoring the withdrawal and associated U.S. compensatory measures.

The letter further states:

Obviously, the nature and adequacy of U.S. assistance to the ROK armed forces is critical in preserving a military balance and in hopefully insuring deterrence.

The GAO, Mr. President, has indicated that they would be capable of taking that on, and they are happy to assume the task.

I think this once again can give us an independent assessment of what is truly adequate without relying just on our own defense people over in the Pentagon.

Mr. NUNN. I certainly agree with the Senator from Ohio, and I congratulate him on this initiative.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. PERCY. The Senator from Illinois is happy to yield 2 or 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I am pleased to join with my colleagues in having worked out this problem in terms of language, purpose, and timing. My contribution to this debate, which I wish to make, is attributable to the fact that I visited the Republic of Korea last December and I can affirm to my colleagues the validity of the concern that there could be a very grave erosion of morale not only among the people of the Republic of Korea, who are being so successful economically, but also among their armed forces. Hence it is critically important that Congress be intimately associated in any action taken which might be considered premature to reduce our Armed Forces, and that is our Armed Forces upon which they depend very heavily, and also to coordinate that not only with consultation with Congress but with the equipment and readiness of the Korean forces.

Finally, let us remember that there is a critically important triangle in the Pacific in terms of security. It consists of Taiwan, the Republic of Korea, and Japan, and that is a very big one.

It is my convinced judgment when I visited all three countries last December with Mr. Lakeland, my foreign policy assistant, that they lean on each other very heavily and that if one of those parts comes unstuck through lack of confidence, erosion of morale, or subjugation, and certainly that is the most awesome possibility, there is grave danger that they could come unstuck.

Hence I consider this sense of Congress resolution one of the most critical that we are adopting in this particular bill.

Mr. DOLE. Mr. President, may I have 2 minutes yielded to me?

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield 2 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I certainly commend the distinguished Senators from Illinois, Ohio, Georgia, and New York for working out a compromise. I think many of us have been concerned about this and certainly those who have just spoken have spent a great deal of time on it. They understand it fully.

Last year when the President and we were asked to endorse the President's program I submitted an amendment which was eventually watered down, but I think it did indicate there would be a consultation by the President of any decision with respect to reduction of troops in Korea.

I am not aware of any consultation, but I understand now there has been and will continue to be, and I think that is a step in the right direction.

So I support the amendment as modified and as worked out by my distinguished colleagues.

SOUTH KOREAN TROOP WITHDRAWAL

Mr. President, I support this amendment proposed by my colleague, Mr. PERCY. This is an issue which has occupied my concern and attention for quite some time. I feel that Mr. PERCY's amendment, as modified, is a valuable opportunity to actively express the concern of the entire Senate on this matter.

GROWING OPPOSITION TO WITHDRAWAL

The troop withdrawal program proposed by the President last year has come under increasing critcism. Intelligence reports reveal that the current military balance between North and South Korea is not nearly secure enough to allow the withdrawal of the majority of the American troops as the President has proposed to do by 1982. Despite the growing economic superiority of the Republic of Korea, they have not maintained the wartime footing that the

North Koreans have, which has enabled them to gain a numerical advantage. That the North Korean dictator, Kim Il Sung, is quit willing, indeed, anxious to use this advantage cannot be seriously questioned.

U.S. INTERESTS STILL IMPORTANT

The United States has maintained significant interests and commitments in South Korea over the years. It is important to remember that the United States is in Korea because of its importance to our national security and strategic interests, as well as to the security of the Pacific. These interests are being threatened now by a program which fails to give proper consideration to potential adverse consequences.

CONCERN OVER THE PROGRAM NOTHING NEW

Concern over this program is not something new. It has been questioned and disputed almost from the moment it was proposed, and more recent developments—troop reductions in Taiwan, base reductions in the Philippines—have heightened valid concerns about U.S. commitments to the security of the western Pacific region. Last year I submitted an amendment which opposed Senate endorsement of the President's program, which was countered by the majority leader. We were assured that Congress would be consulted by the President, and any decision with respect to the reduction of troops from Korea would be arrived at "by joint decision of the President and Congress." So far, I am not aware of any input of Congress on this important issue, much less any mandate to proceed with the withdrawal. Until such a provision for joint consultation is insured by the Executive, and until all potential consequences have been thoroughly studied, further implementation of the program should be halted. The amendment proposed by the Senator from Illinois warrants serious consideration and the support of the Senate.

DOLE COLLOQUY

Two weeks ago, during Senate consideration of the Defense Department authorization bill, I engaged in a related colloquy with Senator NUNN, chairman of the Subcommittee on Manpower and Personnel. At that time, we discussed the possible risk to the current military balance in the area of withdrawing American ground forces, particularly if this appears to encourage aggression from North Korea. The Senator from Kansas specifically inquired as to whether the "power vacuum" which would result might be too much of a temptation to the North Koreans. We discussed the present progress of the withdrawal program and the anticipated withdrawals for the coming year and we emphasized the importance of a directive from the Armed Services Committee to the Defense Department, to provide a thorough analysis of the impact of the troop withdrawal.

I think that the Senator from Georgia's responses to those questions were revealing and significant. We agreed that removal of the troops clearly involves risks and concerns, and that the detailed analysis requested of the Defense Department was a minimum precondition to further reductions in Korea. The administration's plans to remove 3,400 troops by December 1978 has been deferred. Now only 800 troops in 1 combat division will be removed during this calendar year. The remaining 2,600 in this group would be removed during 1979, but only after the analysis directed by the committee has been submitted. I think it is fair to say, as well, that the Senate may wish to advise against further troop reductions after that report is submitted.

In the meantime, the amendment offered today seems wise, from this Senator's viewpoint. I feel it would send a proper message to the administration, to our allies in the Pacific region, and to potential aggressors.

Mr. President, I ask unanimous consent that a portion of my colloquy with Senator NUNN on July 10 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTIAL EXCERPT FROM THE DOLE-NUNN COLLOQUY ON U.S. TROOP WITHDRAWAL FROM SOUTH KOREA

Mr. DOLE. First, the committee report states clearly that committee members are "concerned about possible risks to the current military balance of any further withdrawal of American ground forces, particularly if it appeared to encourage aggression by North Korea." That is certainly a concern which the Senator from Kansas shares, and which I think troubles a good number of Americans. Would the chairman of the subcommittee agree that the complete withdrawal of all American ground forces from South Korea within the next 5 years creates a "power vacuum" in the area that might well tempt aggression from the north?

Mr. NUNN. That certainly is a concern of the Senator from Georgia.

Different people might well define a "power vacuum" in different ways. It is clear that there are serious risks and concerns involved in a troop withdrawal.

One of the principal reasons for the proposed withdrawal is to eliminate the prospect of automatic U.S. involvement in a future Korean conflict. But even after the proposed withdrawal, some 14,000 U.S. troops would remain—virtually guaranteeing immediate and substantial U.S. casualties in the event of another conflict on the Korean peninsula.

It is also true that South Korea faces a substantial military threat by a country hostile to the United States and with a history of military adventurism.

To assure that any withdrawal does not encourage aggression and is considered in the light of other U.S. policies, it is important that the relevant issues be addressed. That is why the committee, in its report, directs the Secretary of Defense to provide an analysis to the committee before any future withdrawal of ground combat troops. That analysis should consider at least:

The effect of any proposed withdrawal on preserving deterrence in Korea;

The reaction anticipated from North Korea;

A consideration of the effect of the plan on increasing incentives for South Korea to develop an independent nuclear deterrent;

The effect on our long-term military and economic partnership with Japan;

The effect on U.S.-China and U.S.-Soviet military balance; and

The possible implications on the Soviet-Chinese military situation.

The committee is not trying to prevent any withdrawal at any time in the future but is trying to raise the issues that need to be analyzed before any additional withdrawals are made.

Mr. DOLE. The second question:

How many U.S. ground forces have already been withdrawn from Korea under the President's "phased withdrawal" program? What is the present force level? What is the anticipated force withdrawal during calendar year 1979?

Mr. NUNN. The latest information the committee has indicates that on December 31, 1977, there were about 40,000 U.S. military personnel in Korea, including 32,000 Army troops.

The original plan proposed the withdrawal of 6,000 ground troops by December 1978 and the withdrawal of the remaining ground combat units over the next 4 or 5 years. Of that 6,000 about 2,600 are in combat service support activities and have already been withdrawn or are scheduled to be withdrawn this summer or fall. The principal concern was over 3,400 troops scheduled for withdrawal in December 1978, including a brigade of ground combat Army troops of the 2d Division.

In April of this year, the President announced his decision to defer the scheduled withdrawal of U.S. combat troops in Korea except for one battalion. That means 800 troops in one combat battalion will be withdrawn by December 1978. DOD current plans would have the withdrawal of the 2,600 troops in the two combat battalions, the brigade headquarters and miscellaneous other units withdrawn during 1979. However, the analysis directed by the committee would be submitted before any future withdrawal, including any in 1979.

The administration has not announced a change to the overall plan of withdrawing the remaining ground combat troops over the next 4–5 years.

Mr. DOLE. Question 3:

In its report on the military procurement authorization bill, the committee directs the Secretary of Defense to provide an analysis of likely strategic and political consequences of the force reductions, before any further withdrawal of ground combat troops is undertaken.

I certainly agree with that approach, as I think the entire program needs to be more carefully evaluated for all its potential implications. Is the chairman confident that the executive branch will comply with that directive from the committee without a more specific legislative mandate such as an amendment to this bill?

Mr. NUNN. I say to my colleague from Kansas that I am confident that the Department of Defense will comply with the committee directive. I do not know what they will come back with in terms of the words of the report.

I am not certain that our committee or the subcommittee or the Senator from Kansas or the Senator from Georgia, will be entirely satisfied with the report, but I am confident that they will at least comply with the directive and give us an answer.

As part of its recommendations on active duty military personnel strength, our committee must review overseas troop deployment plans, and the committee is indicating that this analysis is essential if any of these plans include a withdrawal of ground combat troops from Korea.

Mr. DOLE. I think it should be clear on the record that the Senate as a whole expects the executive branch to comply with the directives, insisting upon a thorough analysis before additional troops are withdrawn.

The Senator from Kansas would be prepared to offer a specific amendment to this effect; and I believe—although I am not certain—we would have the votes to approve it. Based on the assurance of my colleague, who is chairman of the subcommittee, I believe such an amendment will be unnecessary.

Mr. GLENN. Mr. President, I wish to respond very briefly. I have been very, very critical of the administration in this area of what has happened in Korea. But I must say that in recent months there has been a decided improvement, and I wish to point that out. There has been a great deal more consultation and I think with the President's letter that I put into the RECORD a short time ago the commitment of the President to further consult and in committing himself to that to me is a real step forward.

I think that has been one of the major difficulties with the administration in the area of foreign policy, which is they have not consulted sufficiently. We are not a parliamentary system where the President speaks with final authority on foreign policy. We are a system of checks and balances, and we share that responsibility with the President of the United States. I think that has been overlooked, perhaps, in the past, and has caused some difficulties.

I think some of this prior consultation and getting people on board in a cooperative working out of problems in advance of some of our commitments is probably the most constructive thing the President of the United States and this administration can do.

So I am particularly happy that he has seen fit to write the letter to Senator BYRD that he has, committing himself to doing exactly that with regard to Korea, prior assessment of things and prior consultation with the Senate and with appropriate committees of the Senate and of the House.

When we look at Korea, it is a very critical situation. I do not think most people in this Nation, perhaps most people in the administration even, fully appreciate the critical nature of these military alinements in Korea.

The intent of the North Koreans cannot be misinterpreted. The military deployment of their forces is in an offensive position. They have tunnels dug under the front. I was down in one of those tunnels when I was there, as I imagine Senator Javits was, too, in his trip out there.

They have combat bridging ready to cross the rivers. The South Koreans have nothing of that type. The artillery is forward in an attack mode in North Korea, and some of that artillery is able to reach almost into the northern suburbs of South Korea from its present positioning.

So we certainly cannot overestimate the criticality of this situation. That is the reason why every movement we make out there must be very, very carefully considered. I certainly welcome the President's commitments to share that burden with us.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. JAVITS. I just wish to point out that it is 25 miles from the front line to Seoul. That is critical of the whole situation.

Mr. GLENN. It certainly is.

We are alined with American forces in that approach channel, that Kaesong corridor, and we are in a tripwire position there, reserve position, true, and I will not go on describing the situation there this evening.

I am prepared to yield back our time and get on with the vote here this evening. But we are glad to see the President committing to prior consultation with us before any further moves. I think that is a real step forward.

The PRESIDING OFFICER (Mr. STONE). Is all time yielded back?

Mr. PERCY. Mr. President, in the comments of the Senator from Illinois earlier this evening, he referred to the attitude of our allies, particularly Japan which is vital to U.S. policy in the Pacific.

The Senator from Illinois has alluded to conversations he has had with high officials in Japan over the years, as well as many intimate friends he has had over a quarter of a century. There is no better authority than my distinguished junior colleague from California, Senator HAYAKAWA, and I yield 5 minutes to Senator HAYAKAWA and I would specifically ask our distinguished colleague to tell us what his attitude is toward the security position of the United States and our Asian allies, and what it would be if we were to go forward with a proposal for the withdrawal of ground forces from South Korea.

Mr. HAYAKAWA. I thank the distinguished Senator from Illinois.

I would like to submit for the record a number of articles written in the past 2 years concerning Japanese defense policy. They suggest that President Carter's decisions to withdraw our ground forces from Korea have affected the debate in Japan about Japan's future defense policy.

It seems to me that recent events give added significance to these articles and also some perception to remarks made last year by my distinguished colleague from Ohio, Senator GLENN, who is chairman of the Subcommittee on East Asia of the Foreign Relations Committee.

Senator GLENN pointed out that it is difficult to tell the American people why the United States should have a major imbalance in our trade relationship with Japan with a current accounts surplus running into billions in Japan's favor while the Japanese rely almost completely on the American nuclear umbrella and our conventional forces in the Western Pacific for the defense of Japan. It is at least curious that the second largest nation in terms of GNP in the free world should spend less than 1 percent of its GNP on its own defense while the United States and the members of the NATO alliance spend between 4 and 5.5 percent. The "Defense White Paper" issued by the Japanese Government in 1977 describes this ceiling on defense spending as "a Cabinet decision for the interim future." Senator GLENN's statement to which I referred raises a point which to me is relevant today and likely to be relevant for many years. He said:

> It is difficult for many of our people to see why Japan cannot assume at least some (burden) greater than 1 percent of the GNP . . . Arbitrarily setting a 1-percent limit without regard to what that would buy is unrealistic. If there are certain legitimate defense needs, those needs have to be met.

We have heard a great deal this year about the needs of NATO and about the Soviet threat to NATO. And the Senate has welcomed the pledge from the NATO Defense Ministers to increase the real level of defense spending in their countries by 3 percent a year for the next 5 years in order to improve NATO's defense capabilities to meet the growing Soviet military buildup in Eastern Europe. Unfortunately, in my view, there has been too little attention given to the Asian dimension of our defense policy, particularly with respect to the regional role of Japan in Asia in the context of the administration's decision to withdraw ground forces from Korea.

I have previously associated myself with an important statement by my distinguished colleague from Oklahoma, Senator BARTLETT, on Japan's defense policy, and today I wish to call attention to the concerns that he has raised which have apparently been met only by silence from the administration. Senator BARTLETT'S impressive study of Japanese defense policy contained these comments:

> A. "Because of logistical shortages, Japanese forces could not fight for even a month to protect the country against a serious conventional attack."
>
> B. "Japan should conduct its air and naval activities—particularly in patrols and intelligence—with more efficiency and assertiveness. It should discourage Soviet penetrations and harrassment of its waters and air space, in particular, it needs a more effective antisubmarine capability in an area encompassing several hundred miles around the home islands."
>
> C. "Going a big step further, Japan must protect its vital energy sea lanes through the Indian Ocean to the Mideast, the source of 74% of its energy requirements and its food sea lanes."
>
> D. "A fourth point concerns a role for Japan in Korean security."
>
> D. "A Japanese decision, in conjunction with the U.S., to help underwrite the security of South Korea in the present circumstances can have only beneficial effects. This step could be contingent upon some U.S. forces remaining in Korea. The Japanese undertaking could begin with a diplomatic commitment, the development of trilateral air defense contingencies and intelligence endeavors, and some military assistance credits."

Mr. President, I believe Senator BARTLETT'S suggestions merit consideration, and I too am concerned about the need for Japan to play a larger role both in international security affairs and in its own defense. I understand that many Japanese have the impression that the U.S. Government, particularly the present administration, wishes to continue the so-called 1 percent ceiling on Japanese defense spending. I sincerely hope this is not the message that our Embassy in Japan is conveying to the Japanese leadership. In this regard, may I bring to the attention of the Senate several examples of the new attitudes in Tokyo toward Japan's future defense policy? I believe these are healthy trends at work in Japan which will lead to a more enlightened approach to Japan's defense which can only benefit our own country as well. I am sure that our Embassy and our distinguished Ambassador in Tokyo are following these changes in Japanese defense attitudes and would do nothing to interfere with the natural process of debate and decisionmaking in this sensitive area of internal politics.

Let me mention only a few examples. To illustrate new Japanese attitudes toward defense policy.

First, in sharp contrast to the acrimonious defense debates of a decade or more ago, this year's Japanese Diet discussion of the defense budget revealed many new ideas and plans which appeared almost daily in the newspapers, but generated surprisingly little or no adverse reaction. In earlier years, outbursts and protests would have been expected at the news that the Japanese Government:

Has considered a plan to construct small aircraft carriers, if necessary for naval defense;

Has been successfully testing new precision guided weapons;

Has been studying mobilization planning for the first time this decade;

Intends to retain the capabilities to refuel in midair and to engage in close air support bombing when it purchases the new American F–15 Eagle jet fighter in the 1980's;

Intends to send Japanese pilots to the United States for combat training;

Plans to establish the first "institute for strategic studies" that Japan has ever had to examine the security needs of Japan and debate these issues openly; and

Finally, the Japanese press has featured stories which defend the necessity of reaching agreements for defense cost-sharing with the United States in order to change Washington's opinions that the Japanese are receiving a "free ride" for defense.

In conclusion, Mr. President, let me state that I share the concern with Japan's future defense policy that has already been expressed by Senators GLENN and BARTLETT on earlier occasions, and I am looking forward to receiving soon the staff report from the Budget Committee, which, under the able leadership of our distinguished chairman from Maine and Senator HENRY BELLMON of Oklahoma, has looked into the relationship between our own defense budget and the future role that Japan may be playing in international security. I understand that the staff report is based on a recent trip to Japan and contains information gathered there which will be useful, in a number of ways, to the Committee on the Budget. It will also help us to understand the significance of the dismissal of General Kurisu, chairman of the Japanese military staff, yesterday. I would like to insert for the RECORD two articles from this morning's New York Times and the Washington Post about the unfortunate incident which seems to have implications for the shaping of new defenese attitudes in Tokyo.

It seems to me that the United States and Japan must leave behind the outdated rhetoric of the past and work together to find a more realistic division of responsibility for our mutual security. The days of American nuclear superiority are gone and the implications for Japan of this shift in the global balance of military power have got to be faced, squarely. The withdrawal of American ground forces from Korea, as proposed by the Carter administration, simply raises the larger issue of Japan's future role in Asia and in Korea.

I will be speaking about this subject again, and welcome the chance to discuss it with my colleagues, in the future.

I ask unanimous consent that a number of articles concerning Japanese defense policy be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Aug. 12, 1977]

JAPAN DEBATES SECURITY AS U.S. PULLS OUT OF KOREA

(By Scott Thompson)

TOKYO.—President Carter's decision to withdraw U.S. ground troops from South Korea has set off a profound national debate in Japan on two questions:

1. Will this country be forced into an accommodation with the Soviet Union (and a break in its security ties with the United States)?

2. Or, will it move rapidly now to increase its armaments to ensure its own defense under the cover of a continued U.S. nuclear umbrella?

The security concerns of the Japanese are real enough. From their northern islands, Soviet territory is plainly visible, as are submarines and surface ships whose purpose seems to be to remind the Japanese of the proximity of Soviet might.

But most worrisome is the buildup of Soviet strategic and tactical power in the region as a whole. The Soviet Pacific fleet long since has outstripped the tonnage and firepower of the U.S. 7th Fleet. The buildup of bases on the Kamchatka peninsula and on the nearby island of Sakhalin, along with the construction of new ice-breaking ships that will keep northern waters navigable yearround, concern Japanese defense planners deeply. So does new technology for coping with frozen soil.

The question of the four Kurile islands seized by the Soviets in the last few days of World War II only makes matters worse for the Japanese. The islands, in the "correct" view here, have never been anything but Japanese. Four years ago, the Soviets were saying that the issue of possession was negotiable, now they say it is not.

The Japanese resent the fact that President Franklin D. Roosevelt at the Yalta Conference in 1945 overlooked the advice of his own State Department to refuse the Soviets a green light to occupy the Kuriles. But today control of the entire Kurile chain is less a matter of territory for Moscow than it is of sea control: The islands give the Soviet Navy control over egress from the Sea of Okhotsk.

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[From the Baltimore Sun, June 12, 1978]

JAPAN MAY PAY MORE OF U.S. MILITARY EXPENSE

(By Bradley K. Martin)

TOKYO.—A reinterpretation of official policy appears to have cleared the way for Japan to contribute more to the rising costs of the United States military presence here.

The reinterpretation came in the Diet last week, as officials prepared for a coming visit to Washington by the chief of Japan's defense agency. It was not clear immediately what additional amounts, if any, Japan would pay.

While U.S. officials for several years have urged the Japanese to take over a larger share of the costs of the defense "umbrella" that the United States provides, the recent drastic devaluation of the dollar in terms of the yen has made the matter appear more pressing to officials of both countries.

A U.S. dollar is worth roughly 20 per cent less in yen than it was a year ago, and the cost of maintaining U.S. forces here has risen correspondingly to an estimated $1 billion. A newspaper here, the Yomiuri Daily News;, reported Wednesday that U.S. forces had reduced their training maneuvers as a response, but a U.S. military spokesman said he could not immediately confirm or deny this.

The Japanese contribution is substantial already. The amount this fiscal year is estimated at $619 million. The Japanese note that their share is nearly as large as the amount West Germany contributes to the U.S. defense effort there, about $730 million.

There are only 46,000 U.S. troops here, while there are about 220,000 in Germany. But the Germans spend more than 3 per cent of their gross national product on their own defense, U.S. officials note, while the Japanese, with a constitution officially outlawing armies and war, limit their defense spending to 1 per cent of the GNP.

A large portion of the money Japan spends on behalf of the U.S. forces is in rental payments for privately owned land included in U.S. bases. Japan also pays for the bases to meet Japanese standards, and last year it agreed to a $25 million program of labor cost-sharing.

A program involving hundreds of millions of dollars in Japanese contributions has been the consolidation of facilities formerly scattered at several small bases around Tokyo into one facility, Yokota Air Force Base. Japan has paid the replacement and relocation costs.

Operation and maintenance expenses for U.S. bases are borne by the United States, as is required by the "status of forces agreement," a document similar to a treaty that governs the military relationship.

One area where the United States could use some help is in housing its military personnel, many of whom now live off base. Housing allowances for U.S. servicemen and their families, reflecting the reduced value of the dollar, have had to be increased in many cases.

Japanese who believed it was important to bear more of the burden had been stymied by a stated official policy that seemed to limit the ways in which this could be done.

In 1973, Masayoshi Ohira, who was foreign minister, stated in the Diet what became known as the Ohira principle. It was that Japan would not provide the U.S. forces facilities and land exceeding the size of those being returned to Japanese control and hence being replaced.

The Ohira principle was seen until this week as implying that Japan would not provide any facilities and land except as replacements for those the United States might relinquish.

The forces seeking to increase the Japanese share, led by Shin Kanemaru, directer-general of the defense agency, were faced with the need to find a way around this implication without making a frontal assault on the Ohira principle as a whole.

The solution finally devised was to interpret the implication right out of the principle. This was done on Tuesday, when Akira Watari, director of the Defense Facilitation Administration agency, was being questioned by Dietmen.

Mr. Watari said the 1973 Ohira statement "did not include new facilities or additional items."

In other words, the principle applies only in cases where facilities are being relinquished by the United States and replaced by the Japanese. If a housing complex with 500 units is being replaced, it can have no more than 500 units.

Mr. Watari's interpretation appears to mean that Japan has no official policy that would prevent it from providing new housing units or other facilities or tracts of land of any size and number if they were not intended as replacements of existing facilities.

[From the New York Times, Sept. 1, 1977]

JAPAN SHOULD SPEND MORE ON ARMS, SEN. GLENN SAYS

(By Sam Jameson)

TOKYO.—Sen. John Glenn (D-Ohio), chairman of the Senate foreign relations subcommittee on East Asia, Wednesday called Japan's decision to limit its defense spending to 1 percent of its gross national product "unrealistic."

The former astronaut linked the issue of a growing American trade deficit with Japan with what he called the paucity of Japan's defense spending. He said the U.S. deficit with Japan could reach $5 billion to $7 billion this year and added:

"It's difficult to go home and tell our people that (even though) we are being outcompeted in some areas by Japanese industry and some of our own people are being put out of jobs, that we're willing to spend a lot more money for a nuclear umbrella and for (American) military forces here into the indefinite future.

"That lays it out very bluntly," Glenn said in a speech.

He said that American allies in the North Atlantic Treaty Organization were spending between 4 percent and 5.5 percent of their gross national products on defense to "carry their share of the burden."

"It's difficult for many of our people to see why Japan cannot assume at least some (burden) greater than 1 percent of the GNP," he added.

"Arbitrarily setting a 1-percent limit without regard to what (weapons and equipment) that would buy is unrealistic. If there are certain legitimate defense needs, those needs have to be met. You can't just set an arbitrary budget level and say, 'Well, we'll just have a few little guns here."

The Ohio Senator, who spent three days in South Korea, will participate in a four-day conference of American and Japanese politicians, businessmen, scholars and government officials, beginning today, before he returns home.

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[From the Christian Science Monitor, July 1, 1977]

JAPANESE REARMAMENT DEBATE REVIVED

(By Frederic A. Moritz)

TOKYO.—Is Japan going to rearm when U.S. troops leave South Korea?

Observers here in Tokyo, both Japanese and Western, who are busy pondering with this question tend not to come up with quick, one-word answers. But they do concede that, with security-conscious Japan only 30 miles from the shores of South Korea at the closest point, the withdrawal policy is a powerful argument for those who favor rapid rearmament.

According to this line of reasoning, concern here over the security of the Korean peninsula may be a politically more compelling reason for building a strong new Japanese defense than the old arguments for countering the Chinese and the Soviet Union.

But the pace with which Japan rearms, it is expected, will continue to be limited by the longstanding and still widespread anti-militarism here, along with economic and strategic considerations.

BASIC BUDGET AT STAKE

For Japan to counter the massive Chinese and Soviet forces, for example, would require a vast increase in defense spending beyond the present level—not less than 1 percent of the gross national product. Thus, it has been opposed by business groups and consumers who want the resources used in other ways.

Such a buildup also would require a change in the anti-military provisions of the Constitution and a major increase in ground troop strength—politically the most unpopular kind of defense buildup.

But with a changed military situation in Korea, advocates of rearmament will have a respectable argument for a more limited build-up that is not anti-Chinese or anti-Soviet in nature, according to analysts here.

Such a buildup probably could be sold politically to the general public because it would not require a major increase in the size of the Army, the branch of service most closely identified with the World War II militarist regime.

SLOW BUILDUP MORE LIKELY

Instead, supporters of rearmament are expected to call initially for a gradual Air Force and naval buildup to prepare for the contingency that Korea might be reunified under Communist rule. It is thought that they want improved radar, defenses, surveillance aircraft, fighter and missile defense capacity, and perhaps an increased number of flighter-bombers.

All of this is not expected to happen overnight. For one thing, the ruling Liberal Democratic Party, the only major grouping relatively open to rearmament, is showing itself to be increasingly weak at the polls and may soon be forced into a coalition government with other parties.

But it is thought in some quarters that as U.S. troop withdrawals proceed over the next few years, other Japanese parties, especially those to the left of the political spectrum, increasingly will accept the idea of at least limited rearmament—just as they gradually have moved toward acceptance of the U.S.-Japanese mutual security treaty.

Even without the catalyst of a new U.S. policy on Korea, the Japanese self-defense forces gradually have grown. Today there are some 266,000 men and women in ground, air, and naval units. The defense budget for 1977 totals $9.15 billion, 11.8 percent higher than for the previous year.

Japan also makes more than 90 percent of its own arms.

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[From the Washington Post, July 26, 1978]

JAPAN REMOVES RANKING OFFICER IN DEFENSE ROW

(By William Chapman)

TOKYO.—Japan's highest-ranking uniformed military officer was abruptly dismissed yesterday for making controversial remarks about civilian control of the country's defense forces.

Gen. Hiroomi Kurisu, chairman of the Joint Staff Council, was removed from office because he had said that the military might have to take "supralegal" actions to defend Japan in the event of a surprise attack or in other circumstances.

Shin Kanemaru, director general of the Japanese Defense Agency, rebuked the general publicly and said that his comments had created a misunderstanding about civilian control of the armed forces.

It was the first dismissal in Japan's postwar history of such a high-ranking military official and underscored the unusual public debate over defense issues that has arisen this year.

Kurisu has been a leader of those advocating a reappraisal of Japan's defense posture, which was fixed in the early 1950s. Generally, it provides only for self-defense forces. The constitution prohibits offensive weapons.

Kurisu has publicly challenged several of the underlying assumptions, asserting at one point that it is difficult to distinguish between defensive and offensive weapons. He has tried to upgrade the status of his own office and of the military generally, once seeking direct access on a regular basis to the prime minister.

For the past three decades, public discussion of such issues has been rare in Japan. Since last January, however, the government of Prime Minister Takeo Fukuda has seemed to encourage the defense debate and it was assumed by many observers that Kurisu's outspoken remarks had tacit approval at the highest levels. There were those who felt he may have been floating trial balloons on behalf of the administration.

In the latest confrontation, however, Kurisu implied a challenge to the fundamental rule of the military by civilian officials.

In an interview with a weekly magazine, Kurisu said that commanders might have to take "supralegal" actions on their own authority in certain events. As examples, he mentioned protecting a Japanese fishing boat or responding to the approach of an aircraft from a potential enemy.

The law governing the Japanese self-defense forces states that only the prime minister can order a military action.

In announcing Kurisu's removal yesterday, Kanemaru said that no "supralegal" action could be permitted by military officers even in the event of an enemy surprise attack.

In a news conference later, Kurisu defended his remarks and said he had been prepared to resign if Kanemaru disagreed with them.

"I have said what I thought was right since I became chairman of the Joint Staff Council," he told reporters. Field commanders should have the power to repel a surprise attack without waiting for orders from civilian officials, he said.

He said he was not challenging the rule of civilian control over the military, but was merely discussing powers that commanders should have before civilian leaders can exert that control in an emergency.

A veteran military officer who is said to be popular with many uniformed colleagues, Kurisu, 58, has been in trouble since the day he was appointed chairman of the council which oversees ground, sea and air forces.

On his appointment last October, he announced that the post of chairman should be attested by the emperor as are those of Cabinet ministers and said he would go to the imperial palace to write his own name in the registry of high-ranking public officials. He was refused permission to do so.

Later, Kurisu insisted that the Joint Staff Council chairman should have direct access to the prime minister instead of making reports through civilian ministers. His civilian superior said he should not have that right.

In a subsequent controversy, he declared that Japan should have the right to "attack the other side's bases" to defend itself if attacked, a position many felt violated the premise that Japan can have only defensive weapons.

Kurisu is a graduate of Tokyo University and a veteran of service in the Imperial Navy in World War II. In 1951, he joined the police reserve force, predecessor of the self-defense forces, and later was military attache in Paris.

In October 1976, he was promoted to chief of staff of the ground self defense forces and elevated a year later to the council chairmanship.

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[From the New York Times, July 26, 1978]

JAPAN'S STAFF CHIEF IS FORCED TO RESIGN

TOKYO.—Gen. Hiroomi Kurisu, chairman of the Joint Staff Council, was dismissed today for having said that the Japanese armed forces might act on their own in case of a surprise attack.

Shin Kanemaru, the civilian head of the Defense Agency, said the general's statement had created misunderstanding regarding civilian control of the armed forces. Unauthorized action, he said, would not be permitted even if Japan were under a sudden attack. Under Japanese law, only the Prime Minister can order troop deployments.

In the statement, made in an interview

with a weekly magazine, General Kurisu had said:

"I do not believe that the first-line Self-Defense Forces will sit idly by if the country comes under surprise attack. I believe the Self-Defense Forces would without hesitation take prompt supralegal action if Japan were attacked by surprise."

GENERAL DEFENDS HIS REMARKS

Today, at a news conference, he said that the remark had been misunderstood and that he had not questioned civilian control. He added:

"I have said what I thought was right since I became chairman of the Joint Staff Council. I was ready to quit if my remarks were not welcomed by the director general of the Defense Agency."

General Kurisu explained that there would be a time lag between a surprise attack and authorized defense action. In theory, he said, forces might be instructed in advance to retreat when attacked, but training is not possible on that basis and, moreover, under present law, not even officers are empowered to order a retreat in case of an attack.

Officers expressed shock over the forced resignation of General Kurisu, whose position is comparable to that of chairman of the Joint Chiefs of Staff in the United States. A senior council member said General Kurisu had been made a scapegoat, adding that "we should speak out more" about defense policy. A colonel said the general had merely stated the legal obstacles that might prevent prompt reaction in case of a surprise attack.

General Kurisu will be succeeded as chairman by Gen. Takehiko Takashina, chief of staff of ground forces.

Mr. HAYAKAWA. I thank the Chair.

● Mr. HATCH. Mr. President, "He who fails to heed the errors of History is destined to repeat them." It would appear that we are on the verge of revalidating this truth by following the same path in Korea that gave us a legacy of 50,000 coffins in the 1950's. The fact that we are here today to debate whether or not the Congress will give its approval to the administration's plan to withdraw ground forces from South Korea demonstrates the truthfulness of the aforementioned statement.

I think that it can be safely said that there is no more strategic territory in all of Asia than the Korean Peninsula. Standing as both a bridge and a barrier between the oceanic and continental Pacific worlds, its importance has been appreciated by Asian powers for over 100 years. This is what concerns me so greatly. President Carter, hardly in office, decided in early 1977 that the United States should withdraw its remaining ground forces from South Korea. In a press conference on May 26, 1977, the President stated:

I think it is accurate to say that the time has come for a very careful, very orderly withdrawal over a period of four to five years of ground troops, leaving intact an adequate degree of strength in the Republic of Korea to withstand any foreseeable attack and making it clear to the North Koreans, the Chinese, the Soviets, that our commitment to South Korea is undeviating and is staunch.

I do not see this decision as "making it clear * * * that our commitment to South Korea is undeviating and is staunch." What I see is a show of weakness, a demonstration of a lack of American resolve to uphold our commitment to our allies. I am concerned that this move may become the norm as opposed to the exception. It may be Korea now, but Europe may be the next victim. For many years, former Senator Mike Mansfield argued to bring home our troops from abroad, that the cost was more than we could afford, and throughout those years the Congress and the administration refused to listen to this demand. But now, when there is no voice in Congress crying out for such action, we find it is the President who initiates the call.

Let us ask our military leaders about such a decision. It was only a little over a year ago that Maj. Gen. John Singlaub, then Commander of U.S. forces in Korea, spoke out against the President's decision. We all know the fate of General Singlaub, he is now retired from the military, forced out because he refused to remain quiet in the face of actions that may well prove to be deleterious to the future security of the United States. Other military leaders learned quickly from the Singlaub affair. Criticism was stifled, even though in a letter to me, the President indicated his administration "would not stifle dissent."

If he failed to receive advice from the military, where did this policy originate? It appears that the genesis of the idea came from the now famous document, PRM–10. While most of the focus was on PRM–10's recommendations for Western Europe, it also recommended that the United States withdraw from Korea. This would then afford the United States the luxury of deciding how much involvement we would commit to, in the event of an attack by North Korea. Lest you doubt the intentions of North Korea and its leader Kim Il Sung, I refer you to Senator GLENN's and Senator HUMPHREY's report on this subject. On page 31 of this report, they list some of the buildups the North Koreans have made in recent years:

1. North Korea's decision to produce and import massive numbers of offensive weapons, such as tanks, APC's and mobile artillery.

2. North Korea is thought to store enough supplies to sustain an attack on the South for from 30 to 90 days without resupply from the U.S.S.R. or China, depending upon the duration and intensity of the war.

3. North Korean divisions along the DMZ are in an attack posture.

4. North Koreans make major efforts to keep their tactical communications impenetrable.

5. Forward hardened airfields have been built.

6. Large bunkers have been built well forward along the DMZ to house long-range artillery capable of hitting ROK radar and defensive positions.

7. North Korea now has significant amounts of river crossing equipment.

Each of these points alone would be enough to cause concern, but together they point to a single unmistakable fact, North Korea plans to invade South Korea and as soon as the U.S. ground forces withdraw, they will be free to do so.

As I mentioned earlier, Korea is an important strategic position. The security of all free Asia hinges on the Koreans checking the Communists. The Japanese, while soft-spoken on an issue that they have no real say in, realize that withdrawal will have an adverse effect upon Japan. For this reason they are quietly expressing their concern. In 1975, the Ford-Miki communique called South Korea's security essential to peace in Northeast Asia. In 1977, when Vice President MONDALE visited Tokyo, Prime Minister Takeo Fukuda said the "Korean situation deeply affects the peace and stability of East Asia, including Japan."

What many of our allies in Asia see is a weakening of U.S. commitment to this area of the world. Since the end of the Vietnam war, there has been a growing tendency to move away from any reminders of the U.S. experience in Asia, hence, a movement now to withdraw U.S. forces from Korea. This feeling is being felt by nations all over the world. They perceive a rather weak United States, lessening its resolve, and in reality, abrogating its responsibility as a world power. Time and again, the Carter administration has fueled this feeling:

First. Decision to withdraw from Korea;

Second. Virtual payment to Panama to take the canal off our hands;

Third. The information made available about PRM–10;

Fourth. Lack of a strong negotiating position at SALT;

Fifth. Neutron bomb decision; and

Sixth. Cancellation of the B–1.

All of these add up to show an America that is receding from the world spotlight. An America that is shirking its duty. Now is the time to take a stand and halt this foolishness. Mr. President, I urge all of my colleagues to support Senator PERCY's amendment for the good of the Nation and the free world everywhere.●

Mr. GLENN. Mr. President, due to the hour and due to the fact that we did work out a compromise on this in which we all can join, I wonder if the Senator from Illinois has been asked and urged by vitiating the order for the yeas and nays?

Mr. PERCY. No; the Senator from Illinois has been asked and urged by several of his colleagues to have a rollcall vote on this. I think it is important that we have as strong a rollcall vote as we possibly can, and I want to go ahead with it. The Senator from Illinois is quite willing to yield back the remainder of his time. I think there are no further Senators on this side who wish to speak.

Mr. GLENN. The Senator from Ohio is willing to yield back his time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment, as modified, of the Senator from Illinois. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and

voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 81, nays 7, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—81

| | | |
|---|---|---|
| Baker | Glenn | Moynihan |
| Bartlett | Gravel | Muskie |
| Bayh | Griffin | Nelson |
| Bellmon | Hansen | Nunn |
| Bentsen | Hart | Packwood |
| Biden | Haskell | Pell |
| Bumpers | Hatch | Percy |
| Burdick | Hathaway | Randolph |
| Byrd, Harry F., Jr. | Hayakawa | Ribicoff |
| | Heinz | Riegle |
| Byrd, Robert C. | Helms | Roth |
| Cannon | Hodges | Sarbanes |
| Case | Hollings | Sasser |
| Chafee | Huddleston | Schmitt |
| Chiles | Inouye | Schweiker |
| Church | Jackson | Sparkman |
| Clark | Javits | Stafford |
| Cranston | Johnston | Stevens |
| Culver | Kennedy | Stevenson |
| Curtis | Laxalt | Stone |
| Danforth | Leahy | Talmadge |
| DeConcini | Lugar | Thurmond |
| Dole | Magnuson | Tower |
| Domenici | Matsunaga | Wallop |
| Durkin | McClure | Williams |
| Eagleton | McIntyre | Zorinsky |
| Ford | Metzenbaum | |
| Garn | Morgan | |

NAYS—7

| | | |
|---|---|---|
| Hatfield, Mark O. | Long | Weicker |
| | McGovern | |
| Hatfield, Paul G. | Melcher | |
| | Proxmire | |

NOT VOTING—12

| | | |
|---|---|---|
| Abourezk | Eastland | Pearson |
| Allen | Goldwater | Scott |
| Anderson | Humphrey | Stennis |
| Brooke | Mathias | Young |

So Mr. PERCY's amendment (No. UP 1514), as modified, was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. BAKER. Mr. President, I understand the distinguished chairman of the Foreign Relations Committee has an amendment he would like to call up.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 1515

(Purpose: To amend the Mutual Security Act of 1954 with respect to the use of foreign currency)

Mr. SPARKMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 1515.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

USE OF FOREIGN CURRENCY

SEC. 26. (a) Section 502(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1754(b)), is amended to read as follows:

"(b)(1) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, local currencies owned by the United States, which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961, as amended, and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President (and any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance for employees of the United States Government while traveling in a foreign country established under authority of subchapter I of chapter 57 of title 5, United States Code, whichever is greater, exclusive of the actual cost of transportation) shall be made available to Members and employees of the Congress for their local currency expenses when authorized by the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, or the chairman of any committee of the House of Representatives or the Senate or of any joint committee of the Congress. Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

"(2) Within the first sixty days that the Congress is in session in each calendar year, the chairman of each committee of the House of Representatives and the Senate and of each joint committee of the Congress shall prepare a consolidated report itemizing the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, together with the purposes of the expenditures, including per diem (lodging and meals), transportation, and other purposes, and showing the total itemized expenditures during the preceding calendar year of such committee, and of each Member or employee of such committee, and shall forward such consolidated report to the Committee on House Administration of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after it is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intellignce of the House of Representatives, such consolidated report may, in the discretion of the chairman of such committee, omit such information as would identify the foreign countries in which Members and employees of such committees traveled.

"(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall, within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Clerk of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such report shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or, if the group does not include a Member, by the senior employee in the group.

"(B) Within the first sixty days that the Congress is in session in each calendar year, the Clerk of the House of Representatives and the Secretary of the Senate shall prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding calendar year by each Member and employee, or by each group, in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.".

(b) The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

On page 31, line 6, strike out "Sec. 26. Effective Date. The" and insert in lieu thereof "Sec. 27. Effective Date. Except with respect to the amendment made by section 26,".

Mr. SPARKMAN. Mr. President, in an opinion dated May 11, 1977, the Comptroller General advised that certain procedures for funding congressional travel under section 502(b) of the Mutual Security Act of 1954, as amended, were not legally authorized. As a consequence, on May 25, 1977, the Senate approved Senate Resolution 179 which authorized payment from the contingent fund of the Senate for transportation costs and travel expenses incurred by Members and employees of the Senate when engaged in authorized foreign travel.

Since Senate Resolution 179 was a temporary measure, the leadership and the chairmen of committees having jurisdiction over this matter directed appropriate staff to draft language which could be incorporated into law.

Mr. President, the amendment I am submitting today is designed as a permanent measure to govern the use of appropriated funds and U.S.-owned local currencies for Senators and employees engaged in authorized foreign travel. It has the support of the Senate leadership and I am prepared to accept it on behalf of the Committee on Foreign Relations.

I understand that the amendment is acceptable to Senator CASE also.

Mr. JAVITS. Mr. President, I am authorized to state that the amendment is acceptable to the ranking minority member.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1516

Mr. BAKER. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself, Mr. CHURCH, Mr. CRANSTON, Mr. JAVITS, Mr. STONE, Mr. CHAFEE, Mr. GRIFFIN, and Mr. THURMOND, proposes an unprinted amendment numbered 1516.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 5 and 6, insert the following:

SEC. 26. (a) The Congress finds that:

1. A lasting settlement of the Arab-Israel conflict is vital to United States' national interests as well as to the interests of the states of the region; and

2. Support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy; and

3. Direct, face-to-face negotiations between Israel and Egypt without preconditions is an historic opening for peace, and the support of such negotiations by other moderate Arab states, can best promote a peace settlement based on mutual concessions and accommodation; and

4. The establishment of secure, recognized and defensible borders between Israel and its neighbors will discourage hostilities; and

5. Full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue as mediator to promote direct negotiations between Israel and Egypt and to encourage other Arab states to enter into negotiations leading to peace treaties with Israel; and that the United States should be responsive to Israel's economic needs and defense requirements including the provision of additional advanced aircraft, to maintain Israel's defense capability which is essential to peace.

On page 31, line 6, strike out "SEC. 26" and insert in lieu thereof "SEC. 27".

The PRESIDING OFFICER. May the Chair ask, is this the amendment on which there is a time limitation of 30 minutes?

Mr. BAKER. That is correct. I will say for the benefit of my colleagues that I do not expect to require 30 minutes, but I will ask at this time for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, this amendment is offered on behalf of myself and Senators CHURCH, CRANSTON, JAVITS, the distinguished occupant of the Chair, Mr. STONE, and Mr. CHAFEE. I ask unanimous consent to add Senators BROOKE, MATHIAS, METZENBAUM, WALLOP, LUGAR, SCHMITT, HEINZ, ROTH, PERCY, HAYAKAWA, MUSKIE, and DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I believe it is appropriate to amend S. 3075 in order to incorporate a resolution that reaffirms the sense of the Senate that the interests of the United States will be best served by continuing to encourage direct negotiations between the Governments of Israel and Egypt in their search for a lasting peace in the Middle East. This resolution reemphasizes once more our commitment to the survival of an Israel protected by defensible and recognized borders. It also reaffirms our belief that the only peace that can be a lasting peace will be a peace based on an agreement between the parties after negotiations that are free of pressure, preconceptions, and imposition of anyone except the parties to the conflict. The role of the United States is to bring the parties together in an atmosphere conducive to mutual agreement. And this resolution supports the President and the Secretary of State in their efforts to do just that.

This resolution, Mr. President, is also designed to encourage both parties to be forthcoming, generous, and innovative in their efforts to arrive at a settlement. This resolution should encourage the Government of Israel to take whatever realistic steps are necessary to assure accommodation of the parties, in the realization that the U.S. Government has once again recorded its commitment to her survival in peace and integrity. Our increasingly close ties to Egypt and our endorsement of President Sadat's peace initiative should also encourage the Government of Egypt to do her part in revitalizing fruitful negotiations between the parties.

Mr. DANFORTH. Will the Senator yield?

Mr. BAKER. I am happy to yield.

Mr. DANFORTH. Mr. President, I think this is a very useful amendment in that it states quite clearly what I believe to be our interests in the Middle East, furthering face-to-face negotiations, defensible borders between Israel and its neighbors, and reiterating our country's strong support for the State of Israel.

There are only two words in this amendment that give me pause. That is that in the amendment it states that it is the sense of the Senate that the Government of the United States should continue as mediator to promote direct negotiations between Israel and Egypt.

The words that bother me are the two words "as mediator."

It would appear to me, Mr. President, that these two words really add nothing to the sense of the amendment and perhaps detract from its import. I think that while the United States should be promoting direct negotiations between Israel and its Arab neighbors, we should not insist that in those negotiations we serve a third-party role, constantly serving as mediator, constantly interposing our position between that of Israel and Egypt.

I think that the danger of serving as a mediator in those negotiations is that frequently the parties that are most directly involved would tend not to negotiate with each other but through each other in making appeals to the United States.

Therefore, I wonder if the minority leader would consider deleting from the resolution the two words "as mediator." I might say I have checked this with each of the signers of the "Dear Colleague" letter, and the unanimous view is that either they would have no objection to deleting those two words or they think the deletion would be a positive step.

Mr. BAKER. Mr. President, if I may respond to the distinguished Senator from Missouri, I think his observation is accurate and his conclusion is correct. I think the words are superfluous and that simple deletion of those two words would improve the meaning and the clarity of the resolution.

If it is agreeable to the distinguished manager of the bill (Mr. CHURCH), I shall be glad at this time to ask unanimous consent that, since the yeas and nays have been ordered, the two words appearing on line 2 of paragraph (b) on page 2, to wit, "as mediator", be stricken from the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 31, between lines 5 and 6, insert the following:

SEC. 26. (a) The Congress finds that:

1. A lasting settlement of the Arab-Israel conflict is vital to United States' national interests as well as to the interests of the states of the region; and

2. Support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy; and

3. Direct, face-to-face negotiations between Israel and Egypt without preconditions is an historic opening for peace, and the support of such negotiations by other moderate Arab states, can best promote a peace settlement based on mutual concessions and accommodation; and

4. The establishment of secure, recognized and defensible borders between Israel and its neighbors will discourage hostilities; and

5. Full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab states to enter into negotiations leading to peace treaties with Israel; and that the United States should be responsive to Israel's economic needs and defense requirements including the provision of additional advanced aircraft, to maintain Israel's defense capability which is essential to peace.

On page 31, line 6, strike out "SEC. 26" and insert in lieu thereof "SEC. 27".

Mr. DANFORTH. Mr. President, on that basis, I ask unanimous consent that

I be listed as a cosponsor of this amendment.

I see Senator JACKSON is on the floor. We spoke about this earlier and he stated to me at that time that if these two words were deleted from the resolution, he, too, would like to be included as a cosponsor.

Mr. JACKSON. Mr. President, I ask unanimous consent that I be added as a cosponsor, with the same understanding.

The PRESIDING OFFICER. If there is no objection, the Senator from Missouri and the Senator from Washington are added as cosponsors.

Mr. CHURCH. Mr. President, when the Senate refused to disapprove the $4.8 billion package sale of modern warplanes to Egypt, Israel, and Saudi Arabia, and by that act put its imprimatur on a new U.S. policy of selling planes to both sides of the Middle East conflict, it raised fears and heightened insecurities in the State of Israel that the U.S. commitment to the security of that country might not continue.

Not only were we now selling weapons to both sides of this conflict, but, also, Congress had been advised that unless it approved of the Saudi and Egyptian sales, President Carter would withdraw the proposed sale of new aircraft to Israel, thus converting what previously had been an unconditional American commitment to Israel security into a highly conditional one.

This change in American policy was totally unexpected, particularly, in view of Israel's prior territorial concessions.

In 1975, pursuant to the Sinai II agreement, Israel yielded back its side of the Suez Canal, restored to the Egyptians the Abu Radis oilfields, and withdrew its army to the Gidi and Mitla passes, with the understanding that the United States would attend to its weapons needs in the future.

No one then suspected that the United States would adopt a policy of arming Egypt or selling F–15's to Saudi Arabia, let alone placing future sales to Israel in an Arab package. It is easy to understand, therefore, why the Israelis are deeply troubled and how this may complicate further concessions from them at the bargaining table.

This amendment resolves that it is the sense of the Senate that the United States should continue as a mediator to promote direct negotiations between Israel and Egypt and to encourage other Arab States to enter into negotiations leading to peace treaties with Israel. It further resolves that the United States should be responsive to Israel's economic and defense needs in order to maintain Israel's defense capability which is essential to peace.

An amendment of this kind will be reassuring to Israel, shaken as it is by that Mideast arms sales package. It will help remind them that the United States views Israel as a valuable ally, one whose security is in our own national interest. It will help to encourage further face-to-face negotiations at a time when much encouragement is necessary. As such, it might help promote the prospects for peace in the Middle East.

So I hope that the Senate will see fit to adopt the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that the distinguished Senator from Maine (Mr. MUSKIE) and the distinguished Senator from New Mexico (Mr. DOMENICI) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Will the Senator yield?

Mr. BAKER. I yield.

Mr. JAVITS. Mr. President, I think the Senator has done a fine thing in giving many, many Senators who took differing attitudes to the jet aircraft deal with Saudi Arabia and Egypt an opportunity to express themselves and associate themselves again with what has frequently been called a fundamental tenet of the foreign policy of the United States, the security and the national integrity of Israel. I think this is a fine service.

There are so many confused currents. I think this is a clear, pure stream of 30-plus years of history through that confusion. It is very helpful. I am extremely pleased that the Senator has taken this action and I am honored to be associated with it.

Mr. BAKER. Mr. President, it is a particular pleasure to me to acknowledge my debt of gratitude to the distinguished Senator from New York for his assistance in this matter, and for his advice and counsel, not only on this matter but in a range of matters on foreign policy and domestic policy. I want to say once again it is a distinct honor and pleasure to be associated with him.

Mr. MAGNUSON. Mr. President, will the Senator from Idaho yield for a question?

Mr. CHURCH. Yes.

Mr. MAGNUSON. I am very interested. We have had a lot of amendments. We have authorized a lot of things backwards and forwards. What is the total of the bill now?

Mr. CHURCH. The latest tabulation shows the total to be approximately $2,900 million.

Mr. MAGNUSON. I merely want to warn Members of the Senate that it is nice to have all your amendments and authorize a lot of this money, but the Committee on Appropriations is going to take a good, long look at a lot of these items. I want to warn also that I think they will be cut considerably.

Mr. BAKER. Mr. President, with regard to the remarks of the distinguished chairman of the Committee on Appropriations, I observe that this amendment does not cost anything and that, pursuant to his suggestion that it may be cut, since there is no money here, he is not talking about this, but others.

Mr. MAGNUSON. I said we are going to look at this very, very carefully.

Mr. BAKER. We always listen very carefully to the distinguished chairman.

Mr. President, I have no further use for my time. I yield it back.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHURCH. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Mississippi (Mr. STENNIS), the Senator from Colorado (Mr. HASKELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Alabama (Mr. SPARKMAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 87, nays 0, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—87

| | | |
|---|---|---|
| Baker | Griffin | Melcher |
| Bartlett | Hansen | Metzenbaum |
| Bayh | Hart | Morgan |
| Bellmon | Hatch | Moynihan |
| Bentsen | Hatfield, Mark O. | Muskie |
| Biden | Hatfield, Paul G. | Nelson |
| Bumpers | Hathaway | Nunn |
| Burdick | Hayakawa | Packwood |
| Byrd, Harry F., Jr. | Heinz | Pell |
| Byrd, Robert C. | Helms | Percy |
| Cannon | Hodges | Proxmire |
| Case | Hollings | Randolph |
| Chafee | Huddleston | Ribicoff |
| Chiles | Inouye | Riegle |
| Church | Jackson | Roth |
| Clark | Javits | Sarbanes |
| Cranston | Johnston | Sasser |
| Culver | Kennedy | Schmitt |
| Curtis | Laxalt | Schweiker |
| Danforth | Leahy | Stafford |
| DeConcini | Long | Stevens |
| Dole | Lugar | Stevenson |
| Domenici | Magnuson | Stone |
| Durkin | Mathias | Talmadge |
| Eagleton | Matsunaga | Thurmond |
| Ford | McClure | Tower |
| Garn | McGovern | Wallop |
| Glenn | McIntyre | Weicker |
| Gravel | | Williams |
| | | Zorinsky |

NAYS—0

NOT VOTING—13

| | | |
|---|---|---|
| Abourezk | Goldwater | Sparkman |
| Allen | Haskell | Stennis |
| Anderson | Humphrey | Young |
| Brooke | Pearson | |
| Eastland | Scott | |

So the amendment (No. UP 1516), as modified, was agreed to.

UP AMENDMENT NO. 1517

(Purpose: Technical correction of Case-Javits perfecting amendment to Hayakawa amendment)

Mr. CASE. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE) proposes an unprinted amendment numbered 1517.

The PRESIDING OFFICER. The Senate is not in order.

Mr. HELMS. Mr. President, may we have order? I would like to hear the amendment.

The PRESIDING OFFICER. The Senator from North Carolina is correct. The Senate is not in order. The Senate will kindly come to order. Will Senators conversing show courtesy to our colleagues and take their conversations to the cloakrooms so that business can proceed?

The Senator from New Jersey.

Mr. CASE. Mr. President, I call up the amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk has stated the amendment.

Mr. CASE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. The Chair was trying to get order. The clerk will state the amendment again.

The assistant legislative clerk read as follows:

At the end of the bill, adopt a new section——

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will state the entire amendment.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

"SEC. 27. Notwithstanding any other provision of this Act, subsections (b) and (c) of section 5 of the United Nations participation Act of 1945 shall remain in force."

Mr. CASE. Mr. President, I move the adoption of the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I certainly intend to cause the distinguished Senator from New Jersey, my good friend, no grief on this amendment, but I want to point out that for about 5 hours the Senate is on record as having reinstated the Byrd chrome amendment and that correction is what is involved in this so-called technical amendment.

I have no objection to the amendment, but I want to call the attention of the Senate to what we are doing here and what we did.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CASE. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to UP amendment No. 1517 of the Senator from New Jersey.

The amendment was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### THE UNITED STATES' ARMS EMBARGO AGAINST TURKEY

Mr. NELSON. Mr. President, the Senate voted yesterday to lift the United States' arms embargo against Turkey. I joined the majority in approving this action 57–42.

The various problems surrounding the issue of lifting or retaining the Turkish embargo are by no means simple. While there are compelling arguments on both sides of the controversy, there are too many imponderables for one to speak with any degree of certainty on either side.

After extensive consideration of all the major arguments on each side, I reached the conclusion that the best interests of the United States and the NATO alliance would be served by lifting the embargo and at the same time a resolution of the differences between Greece and Turkey would more likely be achieved.

I am not unmindful of the strong, thoughtful and sincere arguments on the other side. It comes down to a judgment call over which perfectly reasonable people can differ.

In my judgment, the arms embargo was a proper and effective response to Turkey's invasion of Cyprus when enacted in 1974. However, in 1978 it has become an obstacle to United States and allied security interests, stable relations between the United States, Greece, and Turkey, and a negotiated settlement on Cyprus.

The strength and cohesion of the NATO alliance have suffered because of the disarray in its southern flank. Greece left the NATO military umbrella altogether in the wake of the Turkish invasion, and the arms ban has contributed to a crippling of Turkey's military capabilities, notwithstanding its partial lifting in 1975–78. Allied security needs require the effective participation of both countries, but that will not come before frictions between Greece and Turkey are substantially reduced.

Congress central purpose in imposing the embargo was to put pressure on Turkey to end its military occupation of Cyprus and bargain in good faith for a negotiated settlement. It has not worked. No progress has been made in resolving the Cyprus question, and there are no prospects for a settlement. It is clearly time for a new approach, and removing the embargo presents the best opportunity available for breaking the impasse. Moreover, resolution of other conflicts between Greece and Turkey—at least as important in their effect on bilateral relations—awaits a Cyprus settlement. Chief among these is their quarrel over continental shelf rights in the Aegean.

Fears have been raised, however, that the United States will lose any real influence over a Cyprus solution once the linkage between U.S. arms and Turkish concessions is broken. This, I think, is not the case. Security assistance funding must be authorized and appropriated by the Congress each year. Indeed, the legislation approved by the Senate yesterday directs the President to provide Congress with 60-day reports on the Cyprus question, and requires that he accompany any future funding requests for the region with a detailed certification that substantial progress toward a settlement has been achieved, or that the proposed assistance would contribute to its achievement.

The majority in the Senate voted to lift the embargo on assurance that Turkey will proceed to negotiate fairly and in good faith.

If Turkey fails to be forthcoming in her negotiations, the Congress has the power, which I am satisfied we will exercise, to cut off military aid to Turkey.

I urge that an editorial from the Washington Post be printed at this point in the RECORD.

The editorial follows:

#### LIFT THE TURKISH EMBARGO

Jimmy Carter was right on the mark when he said the forthcoming Senate vote to lift the Turkish arms embargo is the most important piece of foreign-affairs business the Congress has left in this session. It's really quite simple. If the embargo is lifted, diplomacy gets a chance to start healing the wounds in Cyprus, the rent in Turkish-Greek relations, the strain in Turkish-American and Greek-American relations, and NATO's whole sorry disrray in the eastern Mediterranean. If the embargo stays on, everything gets worse.

The argument has been cast in pro-Turkish and pro-Greek terms, but that is misleading. There is a great deal in it for both Turkey and Greece, and for both Turkish and Greek communities on Cyprus, if the stalemate signified by the embargo is broken. The United States has gone to considerable lengths to make that case, explaining the vista that a lifting of the embargo would open, removing the previous administration's pro-Turkish tilt in military aid, and supporting Greece's wish not to be muscled by Turkey in their Aegean Sea dispute. The administration has also labored, successfully, to induce the Turks to offer a new Cyprus position conducive to negotiations. Ankara's position is not yet what Athens and the Greek Cypriots want it to be. The way to imorove it is by the talks that would surely follow a lifting of the embargo.

The Greek lobby is hanging tough. That has led Sen. George McGovern (D-S.D.) to offer an imaginative way out. Mr. McGovern can hardly be regarded as someone dominated by the strategic concerns that, for good reason, guide the views of many others who wish to end the embargo. He is sympathetic to the division and hardship on Cyprus. Mr. McGovern suggests lifting the embargo, while linking future Turkish-aid requests (including arms sales) to a presidenial certification of good-faith diplomacy. His amendment is designed to eliminate the stigma that the embargo is for Turkey, but to retain a nonhumiliating form of encouragement to the Turks to continue moderating their policy. The administration supports this approach.

Let us underline the essential point. The embargo was at its outset a well-meant, legally mandated protest against the use of American arms for the occupation of almost half of Cyprus. But experience has proven it to be destructive of the purpose it was meant to serve—reducing the occupation—and of much else. The embargo stands now simply as a hostile act against an ally, and one not in the slightest endorsed by any other NATO ally—except for Greece. The Senate should end it in the manner suggested by Mr. McGovern.

### THE RULE OF LAW AND THE ARMS EMBARGO AGAINST TURKEY

Mr. BAYH. Mr. President, 1978 has been a year in which the Senate has played a key role in foreign policy un-

paralleled by any other single year during my 16 years of service in this Chamber. Never before has the Senate participated more fully or forcefully in shaping the future course of our Nation's diplomatic efforts in Latin America, Africa, and the Middle East. This process has not been an easy one, nor has its importance been fully understood. As the result of legislative initiatives we have reassumed the responsibility which comes from being a full partner with the President in formulation of foreign policy. That responsibility has not been an easy one and no one said it would be.

Our own heritage—our Constitution, the Bill of Rights, the legal underpinnings of due process of law and reliance on the rule of law—have imbued our own diplomatic efforts with a distinct character. Upholding the rule of law in an essentially lawless world has been a never-ending and frustrating task. Nor should we believe that it is a uniquely American one. Other nations properly judge our own commitment to the rule of law by the effort we make to fully apply our own laws in pursuit of justice at home and abroad. We see the pursuit of this goal continue today on the floor of the Senate. Whether this involves the United States continuing to abide by the international obligations stipulated by the United Nations Security Council's economic sanctions against Rhodesia or lifting the partial arms embargo we are imposing against Turkey because of her violation of section 620(x) of the Foreign Assistance Act, the desire of the American people to live by the rule of law takes on an enduring character transcending the expediency of the moment.

On the face of such considerations there should be little question but that Turkey should remain subject to the arms embargo Congress has imposed. Nevertheless, my decision to vote to continue the partial embargo was not an easy one. It was not easy because the tragedy of Cyprus is not a simple story and the proposal which the President has made in an effort to facilitate a fair settlement of this problem and strengthen the NATO alliance was not without considerable merit.

On the issue of Cyprus, I think all fairminded observers agree that neither side to the dispute can claim "clean hands." The Greek junta's coup against Archbishop Makarios in 1974 in order to realize the dream of "enosis"—union of Cyprus with Greece—prompted a military response by Turkey in order to provide for the protection of the Turkish Cypriot community on the island republic. Unfortunately, Turkey undertook a second invasion of the island in August 1974 in the midst of negotiations and in violation of article I of the NATO Charter calling for the settlement of disputes by parties to the alliance through negotiations. Turkish forces remain on the island today in violation of United Nations Resolution 3212 calling for the withdrawal of foreign military forces. This reckless action by Turkey, made possible by the use of American weapons, left Congress no choice in 1974 but to impose an arms embargo against a NATO ally. Because Turkey is a vital member of the alliance, this decision was a painful one, as was the vote of yesterday. However, the military adventure embarked upon by Turkey resulted not in a political settlement of the Cyprus problem but only further atrocities, bloodshed, and, most important from the United States security perspective, a destabilization of NATO's southeastern flank.

In 1975, my colleagues will recall that the Senate voted to partially lift the arms embargo by allowing limited foreign military sales credits to be extended to Turkey. I opposed that relaxation of the embargo because it sorely undercut the firmness of our commitment to the rule of law. At that time, we were told that such a display of flexibility on our part would permit the Turks and Turkish Cypriots to make the concessions necessary in order to solve the massive refugee problem on the island, pave the way for withdrawal of Turkish military forces, and promote a fair and lasting settlement on the island. However, today thousands of Turkish military forces remain. The Turkish Cypriots, who account for 18 percent of the population, occupy 36 percent of the island and 200,000 Greek Cypriots cannot return to their homes in once-thriving communities such as Varosha. While there has been a recent proposal by the Turkish Cypriots to talk about Greek Cypriot return to Varosha under U.N. auspices, the fact is that Cyprus remains a partitioned island.

Mr. President, I agree with many proponents of the proposal to lift the embargo against Turkey who state that we must do all in our power to facilitate an end to the political stalemate on the island in order to reduce the human suffering and remove this dangerous dispute with the assistance of U.N. Secretary General Waldheim. But I do not believe it is either necessary or desirable to lift the rule of law embargo in order to achieve this result. Nor do I believe that continuation of the partial embargo will drive the Turks into the arms of the Soviet Union despite the recent visit to the U.S.S.R. by President Ecevit. Turkey has wisely indicated that it has no desire to withdraw from NATO and pursue a relationship with an historic enemy. Greece and Turkey both realize that the Warsaw Pact is a common threat and that Cyprus continues to be a problem which prevents both of these NATO members from becoming full-fledged members of the Common Market. Such common interests argue ever forcefully that the Turkish force of occupation on Cyprus would be more wisely deployed to reinforce Turkey's borders with the Soviet Union and Bulgaria.

Mr. President, the NATO alliance is a security organization of free nations dedicated to defend themselves collectively against attack and to use the rule of law to serve the cause of justice. The United States is the world's most powerful country and the leading member of this alliance. As such we have special responsibilities. And because we are a great power we must be able and willing to incur temporary strategic disadvantage in order to sustain our credibility as a leader.

Lifting the arms embargo against Turkey at a time when that country remains in violation of the NATO Charter, U.N. Resolution 3212, and section 620(x) of the Foreign Assistance Act, can only damage the credibility of our public commitment to uphold the rule of law. For surely, if we are unwilling to enforce our own laws how can we expect others to do it for us? How can we be sure that Saudi Arabia or Egypt or Iran or any other nation receiving U.S. weapons will scrupulously abide by the prohibitions and limitations we have prescribed as a condition for the receipt of those weapons?

Mr. President, I have concluded that if we do not continue the partial embargo a disturbing and negative signal will be transmitted to those countries now heavily armed by the United States. This situation is not desirable because it effectively reduces the control which we have and should have after those weapons are transferred. The maintenance of U.S. credibility regarding arms restrictions is essential to reducing the level of conflict not only in the eastern Mediterranean, but around the world. Simply put, we should uphold the rule of law until justice is won. To do otherwise may cause even greater problems than Cyprus in the future for this Nation and the world.●

### DOD ACCOUNTING PROBLEMS

● Mr. SPARKMAN. Mr. President, last week Business Week magazine published an article on the Defense Department's accounting problems with foreign military sales. According to the article, Defense may have lost track of up to $30 billion in undelivered foreign orders for weapons. After reading the article, I asked the Director of the Defense Security Assistance Agency for a response. In his letter to me of July 21, 1978, DSAA Director, Lt. Gen. Ernest Graves, concludes that the Department of Defense recognized and acted to correct such accounting problems some time ago.

I ask that both the Business Week article and General Graves' response be printed in the RECORD.

The material follows:

THE CASE OF THE MISPLACED $30 BILLION

A major scandal may soon be erupting out of the Defense Dept.'s management of the U.S. foreign-military sales program. Defense officials, it appears, have lost track of up to $30 billion in undelivered foreign orders for weapons, equipment, and U.S. support services. What they do not know, because their books are so fouled up, is whether the unaccounted for money is the result of a series of ghastly accounting errors, whether they have spent a lot of it for something else, or whether they have been undercharging foreign customers—or a combination of all three.

"This has all the lethal potential of a loose cannon rolling around our deck," confesses Clifford J. Miller, the Defense Dept.'s deputy comptroller for plans and systems and the man in charge of a belated attempt to try to straighten out the mess. Miller has a tough job—the Pentagon housecleaning follows mounting pressure from Congress, the General Accounting Office (GAO), and the White House to bring some order to the sys-

tem. And he has to corral records as they exist in bits and pieces in the unkempt and apparently inadequate books of the Army, Navy, and Air Force, and then organize them, for the first time ever, into a coherent, single accounting system. In the process, he admits, he may find not only serious problems but also illegalities in some of the services' transactions.

TO THE LAST GUN

There is no question that all three services are guilty of sloppy bookkeeping. They have, for years, fuzzed the distinction between the contracting authority they have been given through the U.S. Foreign Military Sales Trust Fund to buy weapons for foreign governments and the authority that they annually receive from Congress to purchase weapons for themselves. In some cases, they cannot even distinguish whose money is buying which weapons—and for whom.

"The sad fact is that we don't really know how big this [confusion] really is," says Miller. "It probably will be five years before we'll be able to sort [it all] out." The Defense Dept., he charges lacks data not only on what arms each of the services has been shipping overseas in any given year but also on what they have been letting out in contracts to U.S. weapons producers on behalf of foreign arms buyers.

In addition, the department cannot tell precisely what the services have been spending and collecting their money for, or whether they have been accurately billing arms buyers. Miller says he does not even know "whether we can tell the difference all the way down the line between foreign money and our money in the [military's procurement] system."

GAO EVIDENCE

According to Miller, the Defense Dept. is forcing the services to try to give details on at least 16,000 foreign sales that they have made over the past five or six years. "We want them to account for those transactions right down to every last tank gun and airplane engine that's still in the contracting pipeline," he says. But he wonders if they can. And he confesses to worrying about what they may turn up in the process.

In this concern, he has supporters at the GAO who have already turned up evidence that the Pentagon has defaulted on collecting millions of dollars as a result of not having billed, or of underbilling foreign governments for training troops to use U.S. weapons, for transporting military goods, or for the prorated cost of U.S. personnel and U.S. plants and machinery used to make weapons for foreign distribution.

"It wouldn't surprise me," Miller concedes, "if we find we've been giving away a lot of stuff that we should have been selling. On the other hand, we may also find that our foreign weapons buyers may have to ante up for huge contractor-cost overruns that they—and we—aren't even aware of."

The management failure that lies at the root of the arms-sales shambles apparently stems from the fragmented way in which the Defense Dept. is structured to serve as contractor go-between for foreign arms buyers and U.S. weapons manufacturers. The way it works is that, under the loose supervision of the Defense Security Assistance Agency (DSAA), each military service handles its own foreign military sales requests and makes its own purchases. For example, the Army may get an order from the DSAA for 50 Chrysler-manufactured tanks for sale to Israel. It takes that order to Chrysler Corp. and draws against its account of contracting authority with the foreign sales trust fund to make the tank purchase. The Navy does the same thing when it buys ships for U.S. allies, and the Navy and Air Force use the system when they buy fighter aircraft for foreign governments. All three services also use the process in getting money to purchase missiles for foreign buyers.

THE ARMY'S MIX-UP

The U.S. Treasury Dept., as custodian of the actual money in the trust fund, keeps tabs on the fund's fluctuating total. But each service is supposed to keep track of how it disposes of its own contracting authority and also of the cash that it siphons from the fund to pay for weapons.

This is where the breakdown has apparently taken place. The accounting task is gargantuan and seems to have swamped the military. Foreign orders for U.S. arms have topped $10 billion in each of the last five years, and this year they will come to more than $13.2 billion.

"The orders just grew too big too fast," explains one congressional defense budget analyst who is sympathetic to the services' problems but feels that the Pentagon must receive a better accounting of where the money is now. "Before the services could catch their breath," he says, "they had let all those orders get tangled up in their own procurement accounts. The worst offender has been the Army."

Jack E. Hobbs, the Army's Deputy Assistant Secretary for financial management, admits that this may be true. "It has been difficult," he says, "because our foreign weapons-buying business now is almost as big as our own."

The gross figures bear this out. From 1974 through 1977, the Army contracted to buy some $22 billion of military hardware, and of that total, $9 billion was transferred to foreign governments. In 1973, in fact, the Army entered into its books some $600 million of foreign contracting authority to buy helicopters. In that same year, Congress authorized it to spend only $100 million to buy helicopters for its own use.

"Unfortunately," says Hobbs, "all that contracting authority got mixed in together." And as a result, the Army overdrew on its congressional account to pay for helicopters ordered by Iran.

PERIODIC PAYMENTS

In the investigation that followed, it was discovered that many foreign buyers, including Iran, had not been advancing cash into the U.S. trust fund fast enough to cover serial payments to arms manufacturers. This troublemaking situation has now been fixed. All Pentagon contracts written with big weapons buyers now require them to make periodic cash payments to cover all before-delivery outlays. This reserve now totals $4.6 billion and has solved the services' cash-flow problems.

Getting this straightened out, however, did not inspire the Army to end its practice of jumbling foreign and congressional contracting authority. And the resultant mess is now so bad that it probably explains why Army officials are stubbornly resisting pressure to square their service's sales accounts. "The Army wants to cooperate with Miller's office," says one Pentagon official, "but its books are so botched up I doubt if it knows where to begin."

The bleakness of this appraisal is reflected in a recent GAO report that describes the Army's financial management system as approaching "a general breakdown," with considerable emphasis on the chaos in its foreign military sales accounts.

The Army, however, is not the only service in trouble. The Navy, too, acknowledges that it has dumped more than $1 billion of authority given it to buy Litton Industries Inc.'s DD–963 destroyers for Iran into the appropriations pot that Congress gave it to buy destroyers for the U.S. fleet. "We don't expect to find any overwhelming problem getting this straightened out," maintains the Navy's associate budget director, Charles P. Nemfakos. "But we're very concerned, and we're watching things closely."

The Air Force professes little worry about its ledger books. "I don't think we've let anything fall through the cracks in foreign sales," insists Ronald E. Failor, chief of the Air Force's Security Assistance Div. "We could see what was coming back in 1972, so since then, we've kept our foreign orders strictly separate and on a case-by-case basis." The Air Force's only concern about the Pentagon's order to come clean on foreign arms sales transactions, according to Failor, "is that it has meant a mountain of additional work."

RECORD TRANSFER

Defense officials are less sure that the Air Force's ledger books will be able to pass muster, however. "I doubt if any of the services come out unscathed," says one official.

Unlike the Army, which one official describes as being "desperately behind schedule," the Navy and Air Force will probably be able to meet the Sept. 30 deadline that the Defense Dept. has set for them to transfer all their records to a centralized accounting center for foreign military sales—a center set up in Defense two years ago when Congress and the Office of Management and Budget began probing some $13.1 billion in contracting authority for foreign arms that the Pentagon was not spending that year. Why, Congress asked, was the money lying idle at a time when the U.S. economy could have profited from extra cash pumped into it?

The Pentagon explained that the $13.1 billion in question was not unspent cash. Instead, it was contracting authority that it had accumulated for weapons orders, mainly from the Middle East, that would show up in its cash outlays a portion at a time, in future years. Privately, however, Pentagon authorities said they knew that such a sum of unspent money looked bad. So they indulged in some accounting sleight of hand—they wrote the $13.1 billion off their books. When the Pentagon's budget went before Congress for the fiscal 1978 year, it listed only $800 million of contracting authority that the military expected to pay out in cash to fill foreign orders in the 12 months ending this September.

Such will be the practice from now on. The contracting authority that the Air Force got for its recent $4.8 billion order of jet aircraft for Saudi Arabia, Egypt, and Israel, for example, will never show up on the books in one lump sum. Instead, it will appear in annual fractions—in the amounts that the Pentagon expects that it will pay to buy these weapons each year. This will enable the Administration to claim that it is staying under its self-imposed yearly dollar ceilings on such deals and will provide a simpler means of keeping arms-purchase accounts separate.

TERRIFIC INFIGHTING

The task of unsnarling what has gone on is another matter. "Trying to tie the services' old accounting back to the trust fund is a case of 'follow the dancing bear,'" says one OMB spokesman. No one knows that better than Defense's Miller. "The infighting over all this has been terrific," he says. "We're all snarled up."

Then, leaning back in his desk chair, the 54-year-old official muses about life inside the Pentagon—and about those who watched and waited while the foreign arms snafu grew and grew. "You know," he says a trifle wistfully, "no private business would have tolerated this kind of thing. In the business world, everyone involved in anything like this would have been beheaded."

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 21, 1978.*
Hon. JOHN J. SPARKMAN,
*Chairman, Committee on Foreign Relations, United States Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is to give you the comments of the Department of Defense on the article about the Foreign Military Sales Program which appeared in the July 24th issue of *Business Week* magazine.

At the outset, I would like to make clear that the Department has not "misplaced" $30 billion as the headline implies. That figure apparently refers to the total value of undelivered foreign military orders, which amounted to $38 billion on May 31, 1978. Those orders are not misplaced in any sense of the word; the total simply reflects the value of outstanding foreign orders accepted but not yet filled by the Department.

Two years ago, the Department did identify a weakness in the accounting techniques for foreign military sales. The services often combine foreign orders and their own requirements into a single contract. The services' own acquisitions are paid out of Congressional appropriations, while the obligational authority for the foreign goods is the FMS Trust Fund. Unfortunately, the procuring agency has not always kept track of which portions of the contract should be allocated to appropriations and which to the FMS Trust Fund. Consequently, there have been some "paper" accounting errors as the result of charging items to the wrong source of funding.

Such accounting errors have no effect on the amount of money actually collected from a foreign government. The DoD Security Assistance Accounting Center in Denver, Colorado, independently bills foreign customers, manages the trust fund of payments received and disburses progress payments to the Military Departments. The errors did, however, confuse the financial picture of the Military Departments because they could not accurately allocate costs between their two sources of obligational authority.

Several steps have been taken to improve the accounting system for foreign military sales. On June 17, 1977, the Assistant Secretary of Defense (Comptroller) directed the establishment of a uniform accounting system for all Foreign Military Sales transactions on the basis of individual Foreign Military Sales agreements, or cases. The Military Departments have increased their staffs to implement and operate this system, which should be fully operational by next year. Implementing actions are being coordinated with the General Accounting Office to assure that once the system is fully operational it will be in full compliance with all GAO standards governing accounting systems. "Case accounting" will assure proper identification of the source of funding both at the time of contracting and when progress payments are made. In addition, the centralized billing and disbursement activities of the Denver Security Assistance Accounting Center assure proper accounting of the funds available from foreign sales agreements and availability of cash from foreign customers in advance of disbursements for services performed.

One further change in accounting practice is relevant to the situation. Prior to the Fiscal Year 1978 budget presentation the Department followed the practice of picking up as contracting authority the entire value of a foreign military sale in the year the order was signed—even though it was likely that the order would take years to complete. This practice results in overstating annual unobligated funds (by $13.1 billion in FY 1977) and contracts with the appropriations process, where budget obligational authority is normally extended year by year. Accordingly, with the full support of the Office of Management and Budget and the Congressional Committees, the Department in the fall of 1976 revised its budget presentation to give a more accurate and meaningful picture of the planned use of contracting authority in a given year.

This revision had nothing to do with President Carter's ceiling on arms transfers. The Defense Security Assistance Agency has a totally separate accounting system to assure that Foreign Military Sales agreements concluded in Fiscal Year 1978 do not exceed the President's ceiling for non-exempt countries. Under that system, the weapons and weapons-related portion of each Foreign Military Sales "case" agreed to in a fiscal year is charged against the ceiling.

In summary, the Department of Defense recognized and acted to correct accounting problems in the Foreign Military Sales program some time ago. We believe that we have instituted procedures which will correct any remaining deficiencies and will assure sound and effective financial management.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA, Director, Defense Security Assistance Agency.*●

## THE VOTES ON RHODESIA

● Mr. KENNEDY. Mr. President, I stated earlier today my reason for opposing the Helms amendment which would lift United Nations sanctions against Rhodesia for the remainder of this year.

In essence, I believe that we should strongly support the administration's efforts to bring all the parties together in an early ceasefire, in a diplomatic conference; in full, open, and impartial elections; and in an independent, peaceful Rhodesia under majority rule.

In this context, I could not support the compromise introduced by the Senators from New York and New Jersey (Messrs. JAVITS and CASE), or their equivalents. This compromise would still provide for the lifting of sanctions, even in the event of failure to bring all the major parties together. Such a failure would virtually guarantee a continuation of the violence which has beset Rhodesia, and I believe that the United States should have no part in moving that strife-torn nation from the prospect of peace to the likelihood of war.

Not least, we should always bear in mind that the United States sponsored and supported the sanctions adopted by the U.N. Security Council—of which we are a permanent member and in which we enjoy veto power. It ill behooves us to provide for a unilateral lifting of sanctions that were multilaterally adopted, and to which we will continue to be bound until they are multilaterally rescinded.

Therefore, not only the Helms amendment, but even the compromise adopted by the Senate runs counter to our overriding interest in a peaceful settlement and in upholding the integrity of decisions by the Security Council of the United Nations.●

## INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978, S. 3075

● Mr. MUSKIE. Mr. President, the international security assistance authorization bill, S. 3075, includes a fiscal year 1979 authorization of $2.9 billion. This legislation, along with other authorization legislation in the international affairs category, needs to be addressed in the context of the budget process for fiscal year 1979.

The fiscal year 1979 first budget resolution targets for the international affairs function are $12.8 billion in budget authority and $6.9 billion in outlays.

If fully funded, the five authorization bills reported by the Committee on Foreign Relations, including S. 3075, would exceed these functional totals by about $350 million in budget authority and up to one-half billion dollars in outlays. This takes into account the 5-percent reduction in the International Development Assistance Act, agreed to by the Senate on June 26.

I want to point out to my Senate colleagues, however, that historically the Appropriations Committee has made significant cuts from the authorized levels for most international programs. This process will most likely take care of all the possible budget authority overrun and about $200 million of the possible outlay overage this year as well.

The remaining $300 million of the possible outlay overage would result from a recent administration decision to disburse the fiscal year 1979 economic support for Israel authorized by S. 3075 within the year rather than over several years as proposed in the January budget request and assumed in the first budget resolution.

I will not, therefore, object to the levels authorized by S. 3075. But I am prepared to vote for lower levels this summer when the foreign assistance appropriation bill comes before the Senate.

Up to this point I have discussed the fiscal year 1979 implications of this legislation. There are also future year effects.

If the international development assistance bill, which was passed earlier, and sent to conference, is taken as an example, we can readily see how this year's decisions limit future year spending choices for Congress. Development spending in fiscal year 1979 at the levels authorized in S. 3074, as reported by the Committee on Foreign Relations, exceeds the mission totals by about $235 million in budget authority and $55 million in outlays. Over 5 years, however, the cumulative spending recommended for authorization by this bill plus annual reauthorizations at the levels recommended by the Committee on Foreign Relations in its March 15 report could exceed the projections accompanying the first budget resolution by $1.5 billion in budget authority and $900 million in outlays.

The administration's projection for international development assistance is even higher. The administration is considering 5-year spending for these programs which exceeds the Committee on Foreign Relations totals by $3 billion in budget authority and $700 million in outlays.

I do not bring this information to the attention of the Senate, because the development assistance bill is the major threat to fiscal planning. It is not. Foreign assistance bills are seldom funded at the authorized levels. This is just one example of how relatively small spending increases in fiscal year 1979—$235 million over the first budget resolution mission budget authority totals and $55 million over mission outlay totals in this

case—could over 5 years require $1.5 billion in budget authority and $900 million in outlays more than was contemplated in the congressional budget.

During the next 2 years Congress will be considering, in addition to annual reauthorizations such as this bill and the International Development Assistance Act, several multiyear proposals for international development banks and for international financial programs like the seventh quota increase of the International Monetary Fund. At that time the Senate must carefully examine each proposal for its future year spending implications, as these multiyear authorizations are the major threat to the 5-year totals accompanying the first budget resolution for fiscal year 1979.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I am sorry to impose on my colleagues, but I have good reason.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning, rather than 9 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR CONSIDERATION TOMORROW OF CONFERENCE REPORT ON FINANCIAL AID TO NEW YORK CITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow morning, after the two leaders have been recognized, the Senate proceed to the consideration of the conference report on financial aid to New York City, which can be called up without unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR CONSIDERATION OF CERTAIN MEASURES ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report tomorrow, the Senate proceed to the consideration of Calendar No. 776, the health planning bill, on which there is a time agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of that bill, the Senate proceed to the consideration of Calendar No. 720, the Bureau of Land Management authorization, on which there is a time agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate disposes of that bill, it proceed to the consideration of Calendar No. 741, the Federal reclamation dam bill, on which there is a time agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, reserving the right to object, is there a time agreement on amendments on the last item?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. How much time on the amendments?

Mr. ROBERT C. BYRD. Thirty minutes.

Mr. DOMENICI. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of that bill, the Senate proceed to the consideration of Calendar No. 640, the International Monetary Fund bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VITIATION OF ORDER FOR CONVENING ON SATURDAY; ORDER FOR RECESS FROM FRIDAY UNTIL MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the convening of the Senate on Saturday, at 9 a.m., be vitiated; and that when the Senate completes its business on Friday, it stand in recess until the convening time already ordered for Monday.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I only observe that on the list that the majority leader has gone through, and on which we have conferred, the last two items, Nos. 4 and 5, have been reversed, so that Calendar No. 741, the dams bill, will be the fourth item, and Calendar No. 640 will be the fifth item, which is at variance with the way in which I conferred with Members on this side.

There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators for their consideration and patience.

This means that we will have votes tomorrow, we will have votes Friday, and there will be no session Saturday.

I ask unanimous consent that there be no rollcall votes on Monday prior to 3 p.m., with one exception, that being rollcall votes that may be necessary to secure a quorum of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

## INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

The Senate continued with the consideration of S. 3075.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Alabama (Mr. SPARKMAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 73, nays 13, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—73

| | | |
|---|---|---|
| Baker | Griffin | Metzenbaum |
| Bartlett | Hansen | Morgan |
| Bayh | Hart | Moynihan |
| Bellmon | Haskell | Muskie |
| Bentsen | Hatch | Nelson |
| Biden | Hatfield, Paul G. | Nunn |
| Bumpers | Hathaway | Packwood |
| Byrd, Robert C. | Hayakawa | Pell |
| Cannon | Heinz | Percy |
| Case | Hodges | Randolph |
| Chafee | Huddleston | Ribicoff |
| Chiles | Jackson | Riegle |
| Church | Javits | Roth |
| Clark | Johnston | Sasser |
| Cranston | Kennedy | Schmitt |
| Culver | Laxalt | Schweiker |
| Danforth | Leahy | Stafford |
| DeConcini | Lugar | Stevens |
| Dole | Magnuson | Stevenson |
| Domenici | Mathias | Stone |
| Eagleton | Matsunaga | Tower |
| Ford | McClure | Wallop |
| Garn | McGovern | Weicker |
| Glenn | McIntyre | Williams |
| Gravel | | |

NAYS—13

| | | |
|---|---|---|
| Burdick | Hatfield, | Melcher |
| Byrd, | Mark O. | Proxmire |
| Harry F., Jr. | Helms | Talmadge |
| Curtis | Hollings | Thurmond |
| Durkin | Long | Zorinsky |

NOT VOTING—14

| | | |
|---|---|---|
| Abourezk | Goldwater | Scott |
| Allen | Humphrey | Sparkman |
| Anderson | Inouye | Stennis |
| Brooke | Pearson | Young |
| Eastland | Sarbanes | |

So the bill (S. 3075), as amended, was passed, as follows:

S. 3075

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "International Security Assistance Act of 1978".

CONTINGENCY FUND

SEC. 2. Section 551(a) of the Foreign Assistance Act of 1961 is amended by striking out "for the fiscal year 1978 not to exceed $5,000,000" and inserting in lieu thereof "for the fiscal year 1979 not to exceed $2,500,000".

DRUG ENFORCEMENT AGENCY OVERSEAS ACTIVITIES

SEC. 3. Section 481(c)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c)(1) Notwithstanding any other provision of law, no such officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts. No such officer or employee of the United States may interrogate or be present during the interrogation of any United States person without the written consent of such person arrested in any foreign country with respect to narcotics control efforts. The provisions of this paragraph shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements."

INTERNATIONAL NARCOTICS CONTROL

SEC. 4. (a) Section 482 of the Foreign Assistance Act of 1961 is amended by striking out "$39,000,000 for the fiscal year 1978", and inserting in lieu thereof "$40,000,000 for the fiscal year 1979".

(b) Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following: "Funds authorized under this section shall not be made available for the procurement of weapons or ammunition for the purposes of this section.".

HUMAN RIGHTS PROVISIONS

SEC. 5. (a) Section 502B(a)(2) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentence: "Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country and export licenses for crime control and detection equipment may not be issued to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President in writing certifies that exceptional circumstances exist warranting provision of such assistance.".

(b) Section 502B(a) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"(4) No assistance under chapter 5 of part II of this Act may be provided to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the appropriate committees of Congress that extraordinary circumstances exist warranting provision of such assistance.".

MILITARY ASSISTANCE

SEC. 6. (a) Section 504(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $133,500,000 for the fiscal year 1979. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1979:

| "Country: | Amount |
|---|---|
| Portugal | $27,900,000 |
| Spain | 41,000,000 |
| Jordan | 45,000,000 |
| Philippines | 18,100,000 |

The amount specified in this paragraph for military assistance to any such country for the fiscal year 1979 may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this chapter.".

(b) Section 516(a) of the Foreign Assistance Act of 1961, is amended by inserting immediately before the period at the end thereof a comma and "until September 30, 1981, to the extent necessary to carry out obligations incurred under this chapter with respect to Greece, Indonesia, and Thailand between October 1, 1977, and September 30, 1978".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 7. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$270,000,000 for the fiscal year 1978" and inserting in lieu thereof "$90,000,000 for the fiscal year 1979".

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

SEC. 8. Section 515 of the Foreign Assistance Act of 1961 is amended:

(1) in subsection (a) by adding the following sentence after the first sentence: "It is the sense of Congress that its authorization of military assistance advisory groups to any country under subsection (b)(1) is contingent upon the submission by the Executive Branch of sufficient justification that continuation of such group(s) is essential to United States foreign policy or national security interest.";

(2) in subsection (b)(1)—

(A) by striking out "the fiscal year 1978" and inserting in lieu thereof "the fiscal year 1979"; and

(B) by striking out "Brazil" and inserting in lieu thereof "Greece, Turkey, Indonesia, Thailand";

(3) by adding the following sentence at the end of subsection (b)(3): "Such personnel serving on a reimbursable basis shall be counted as part of the ceiling for the purposes of subsection (d).";

(4) in subsection (d)—(A) by deleting "865" and inserting in lieu thereof "775"; and (B) by striking out "the fiscal year 1978" and inserting in lieu thereof "the fiscal year 1979";

(5) in subsection (f), by striking out "1976" and inserting in lieu thereof "1977";

(6) In subsection (g) by inserting "for fixed" before "periods of time"; and

(7) Adding at the end thereof the following:

"(h) The President shall continue to instruct United States diplomatic and military personnel in United States missions abroad that their actions should not be intended to encourage, promote or influence foreign countries to purchase United States-made military equipment, unless such personnel are specifically instructed to do so by appropriate authorities of the executive branch.".

ECONOMIC SUPPORT FUND

SEC. 9. (a) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended to read as follows:

"CHAPTER 4—ECONOMIC SUPPORT FUND

"SEC. 531. AUTHORITY.—(a)(1) The Congress recognizes that under special economic, political, or security conditions the national interests of the United States may require support for countries or in amounts which could not be justified solely under chapter 1 of Part I of this Act. In such cases, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. In planning assistance intended for economic development under this chapter, the President shall take into account, to the maximum extent feasible, the policy directions of section 102.

"(2) The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering this part.

"(b)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1979, $1,932,000,000. Of the funds authorized to be appropriated for assistance to the countries of southern Africa $10,000,000 shall be earmarked for humanitarian assistance to the people of Rhodesia and $10,000,000 shall be earmarked for the establishment of support for educational and vocational training programs for Rhodesia.

"(2) Amounts appropriated to carry out this chapter are authorized to remain available until expended.

"(c) Amounts appropriated to carry out this chapter shall be available for economic programs only and may not be used for military or paramilitary purposes.

"(d) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines (and so reports to the Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States.

"SEC. 532. MIDDLE EAST PROGRAM.—(a) The Congress recognizes that a peaceful and lasting resolution of the divisive issues that have contributed to tension and conflict between countries in the Middle East is essential to the security of the United States and the cause of world peace. The Congress declares and finds that the United States can and should play a constructive role in securing a just and durable peace in the Middle East by facilitating increased understanding between the Arab countries and Israel and by assisting the nations in the region in their efforts to achieve economic progress and political stability, which are the essential foundations for peace. It is the sense of Congress that the United States assistance programs in the Middle East should be designed to promote mutual respect and security among the countries in the area and to foster a climate conducive to increased economic development, thereby contributing to a community of free, secure, and prospering countries in the Middle East.

"(b)(1) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $785,000,000 shall be available only for Israel, not less

than $750,000,000 shall be available only for Egypt, and not less than $93,000,000 shall be available only for Jordan.

"(2) Of the amounts earmarked for Israel, the total amount may be made available as a cash transfer: *Provided*, That the President shall ensure that the level of cash grants does not cause an adverse impact on the total amount of United States nonmilitary exports to Israel.

"(3) Not less than 67 percent of the assistance furnished to Israel and Egypt under this chapter for the fiscal year 1979 shall be provided on a grant basis.

"(4) The President is requested to provide that at least $65,000,000 of the funds authorized under this chapter for Egypt shall be made available for the development and encouragement of private enterprise in Egypt. Programs authorized under this paragraph shall be developed in close consultation with the Overseas Private Investment Corporation. It is the intent of Congress that these funds, to the maximum extent feasible, should be used to encourage other donors, especially the Arab countries that are members of the Organization of Petroleum Exporting Countries, to participate in private enterprise development in Egypt. Funds made available under this subsection may be used, inter alia, for lending to Egyptian private business enterprise, to provide necessary surveys, services, and programs to encourage and support private enterprise development, and to contract for personnel to assist such programs.

"(5) It is the sense of Congress that programs which stress regional development or regional scientific and technical cooperation between Israel and its Arab neighbors can contribute in an important way for the mutual understanding that must serve as the basis for permanent peace in the Middle East. Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $25,000,000 shall be available only to fund regional programs which stress development or scientific and technical cooperation between Israel and its Arab neighbors or programs which would be used for Arab-Israeli cooperation once normalization of relations between Israel and the Arab nation occurs.

"(6) (A) Funds appropriated to carry out this chapter for the fiscal year 1979 may not be expended for construction of the proposed potash production facility in Jordan until the President has determined (and has reported his determination to the Congress) that Jordan has obtained firm commitments from other sources for the financing which will be required for that project in addition to the proposed United States contribution.

"(B) Funds appropriated to carry out this chapter for the fiscal year 1979 may not be expended for construction of the proposed Maquarin Dam and Jordan Valley Irrigation System until the President has determined (and has reported his determination to the Congress) that Jordan has obtained firm commitments from other sources for the financing which will be required for that project in addition to the proposed United States contribution.

"SEC. 533. SOUTHERN AFRICA PROGRAM.—Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, $70,000,000 shall be available only for the countries of southern Africa to address the problems caused by the economic dislocation resulting from the conflict in that region and for education and job training assistance. Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts, and to provide economic support to countries in the region, except that none of the funds under this section may be available for other than the purposes specified in this section.

"(b) Section 5 of the United Nations Participation Act of 1945 is amended—

"'(1) by striking out the second and third sentences of subsection (a) and inserting in lieu thereof the following: no Executive order which was issued under this subsection before the date of enactment of the Foreign Assistance Authorization Act, fiscal year 1979 and which applied measures against Rhodesia pursuant to any resolution of the United Nations Security Council may be enforceable before the beginning of fiscal year 1980: *Provided*, That the President of the United States determines that: (a) the Government of Rhodesia has committed itself to participate in, and negotiate in good faith, at an all-parties conference held under international auspices on all relevant issues, including the terms of majority rule and the protection of minority rights, the Anglo-American plan and the terms of the Salisbury Agreement, and (b) a government has been installed, chosen by free elections in which all population groups have been allowed to participate freely, with observation by impartial internationally recognized observers.

"'(2) by striking out subsections (b) and (c).'.

"SEC. 534. TURKEY AND CYPRUS PROGRAMS.—(a) It is the sense of Congress that the continuing dispute involving Cyprus is a major threat to the long-term stability of the southern flank of the North Atlantic Treaty Organization. The Congress, therefore, urges all parties to that dispute to recognize that an expeditious and just settlement of their differences is in the best interest of all parties concerned. The Congress further recognizes that continuation of the reconstruction efforts on Cyprus and measures to stabilize the Turkish economy can contribute to a just and lasting settlement to the Cyprus dispute.

"(b) Of the funds authorized to be appropriated in this chapter, not less than $15,000,000 shall be available only for refugee relief and reconstruction on Cyprus.

"(c) Of the funds authorized to be appropriated in this chapter not less than $50,000,000 shall be available only for Turkey.".

(b) (1) Part VI of the Foreign Assistance Act of 1961 is repealed.

(2) Section 115 of such Act is amended by striking out "(security supporting assistance or) under part VI (assistance for Middle East Peace)" and by inserting in lieu thereof "(economic support fund)".

(3) Section 502(B)(d)(2)(A) of such Act is amended—

(A) by striking out "(security supporting assistance)" and inserting in lieu thereof "(economic support fund)"; and

(B) by striking out "or part VI (assistance to the Middle East)".

(4) Section 669(a) of such Act is amended by striking out "security supporting assistance" and inserting in lieu thereof "economic support fund assistance";

(5) Section 670(a) of such Act is amended by striking out "security supporting assistance" and inserting in lieu thereof "economic support fund assistance"; and

(6) Section 653 of such Act is amended by striking out "security supporting assistance" each place it appears and inserting in lieu thereof "economic support funds".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 10. Section 542 of the Foreign Assistance Act of 1961 is amended by—

(1) striking out "$31,000,000 for the fiscal year 1978" and inserting in lieu thereof "$31,800,000 for the fiscal year 1979"; and

(2) by adding at the end thereof the following: "None of the funds authorized to be appropriated under this section may be used to train military officers or civilian personnel from Nicaragua or Paraguay.".

INTERNATIONAL MILITARY EDUCATION AND TRAINING AND HUMAN RIGHTS

SEC. 11. Section 543 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "and" at the end of the first paragraph;

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.".

SEC. 12. Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"CHAPTER 6.—INTERNATIONAL PEACEKEEPING, BASE RIGHTS, AND RELATED PROGRAMS

"SEC. 551. INTERNATIONAL PEACEKEEPING.—(a) The Congress finds that under special circumstances the introduction of United Nations Forces or other peacekeeping personnel into a region can provide a great measure of stability in a region and thus promote the cause of world peace.

"(b) There are authorized to be appropriated $8,700,000 in the fiscal year 1979 to help support United Nations Forces in Cyprus.

"(c) There are authorized to be appropriated $11,700,000 in the fiscal year 1979 for the Sinai Support Mission.

"SEC. 552. BASE RIGHTS POLICY STATEMENT AND AUTHORIZATION.—(a) It is the sense of Congress that in general multiyear authorizations of foreign assistance should not be used to obtain agreements on base rights.

"(b) There are authorized to be appropriated $7,000,000 for the fiscal year 1979 for Spain to carry on programs of nonmilitary cooperation with the United States in the fields of education, culture, science and technology, pursuant to the Treaty of Friendship of Cooperation between the United States and Spain, signed at Madrid on January 24, 1976.

"SEC. 553. SPECIAL REQUIREMENTS FUND.—(a) There are authorized to be appropriated to the President $5,000,000 for the fiscal year 1979 for special requirements related to international peacekeeping in the Middle East. Such funds are authorized to remain available until expended.

"(b) The President may not obligate or expend, for any foreign country or international organization, funds authorized under this section—

"(1) unless he has reported to the Speaker of the House of Representatives and the Chairmen of the Committee on Foreign Relations and the Committee on Appropriations of the Senate concerning—

"(A) the name of such foreign country or international organization;

"(B) the amount of such funds to be made available to each such country or organization;

"(C) the purpose for which such funds are to be made available to such country or organization; and

"(D) the reasons why it is in the national interest to use funds appropriated under this section for such purpose rather than—

"(i) using other available funds; or

"(ii) if no funds are available for such purpose, awaiting the enactment of legislation making funds specifically available for such purpose; and

"(2) if the Congress, within thirty calendar days after receiving any report under

paragraph (1), adopts a concurrent resolution stating in substance that it does not approve the provisions of the report required by paragraph (1).".

SEC. 13. Part II of the Foreign Assistance Act of 1961, as amended by section 12 of this Act, is further amended by adding at the end thereof the following:

"CHAPTER 7—ARMS TRANSFER AUTHORIZATION FOR THE REPUBLIC OF KOREA

"SEC. 561. ARMS TRANSFER.—(a)(1) The President is authorized, until December 31, 1982—

"(A) to transfer to the Republic of Korea, without reimbursement, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

"(B) to furnish to the Republic of Korea, without reimbursement defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

"(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under the Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

"(b) In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

"(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

"(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

"(3) a comparable defense capability could be provided by less advanced defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

"(c) The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

"(d) The President shall also transmit to the Congress a report on the viability of troop withdrawal one hundred and twenty days prior to each phase of the withdrawal. This report shall include assessments of the military balance on the peninsula, the impact of withdrawal on the military balance, the adequacy of United States military assistance, the impact of withdrawal on the United Nations and the Republic of Korea command structure, Republic of Korea defensive fortifications and defense industry developments, the United States reinforcement capability, and the progress of diplomatic efforts to reduce tensions in the area.".

TURKEY ARMS EMBARGO

"SEC. 14. (a) Section 620(x) of the Foreign Assistance Act of 1961 is repealed.

(b) The Foreign Assistance Act of 1961 is amended by inserting, after section 620B, the following new section:

"SEC. 620C. UNITED STATES POLICY AND PROCEDURE REGARDING CYPRUS, GREECE AND TURKEY.—(a) Congress finds that—

"(1) events in Cyprus in 1974, precipitated by a coup sponsored by the Greek military dictatorship and resulting in an intervention by Turkish military forces, created an international problem within the authority and responsibility of the United Nations;

"(2) given the presence in Cyprus of a United Nations peace-keeping force mandated to prevent further inter-communal violence, and given the inter-communal negotiating process established under the aegis of the United Nations Secretary General, the continuing presence of a major Turkish force is inconsistent with the legitimate status of Cyprus as a sovereign republic;

"(3) United State policy respecting this problem should continue to accord high priority to supporting the implementation of United Nations resolutions regarding Cyprus and United Nations efforts to restore full Cypriot sovereignty through the negotiation of a just settlement;

"(4) United States limitations on arms transfers to Turkey enacted in 1975 represented a strong American desire to support such efforts and to affirm basic U.S. foreign assistance statutes;

"(5) although events in Cyprus have caused bitterness among the people of Cyprus, Turkey, and Greece, the United States continues to have a strong interest in maintaining stable and sound relations with each of these nations;

"(6) the maintenance of such positive relations will inevitably depend on the achievement of a just-solution on Cyprus.

"(b) Regarding such solution, Congress finds that—

"(1) the guidelines for inter-communal talks agreed to in Nicosia in February 1977—setting for the common goal of an independent, sovereign, nonaligned, bicommunal Federal Republic of Cyprus—continue to provide a sound basis for the negotiation of a just settlement in that nation;

"(2) serious negotiations, under United Nations auspices, will be necessary to achieve detailed agreement on, and implementation of, constitutional and territorial terms within such guidelines;

(3) the United States should actively support efforts to achieve such a just solution, providing full protection for the human rights of all Cypriots.

(c) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

"(1) the United States shall actively support the resolution of differences through internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force;

"(2) United States arms transfers to Greece and Turkey shall be made solely for defensive purposes and to sustain their strength as North Atlantic Treaty Organization allies, shall be designed to insure that the present balance of military strength among countries in the region is preserved, and shall not signify a lessening of the United States commitment to a just solution on Cyprus;

"(3) the achievement of such a solution shall remain a central concern of United States policy in the region; and

"(4) because future United States relations with the nations concerned must be shaped according to progress toward such a solution, the President and Congress shall continually review such progress and shall determine United States policy in the region, including United States economic and military assistance, accordingly.

"(d) To facilitate such review, the President shall, within 60 days after the enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

"(e) Upon enactment of this Act, the President shall, with any request for funds for military or economic assistance under this Act, or credits or guaranties under the Arms Export Control Act, for countries named in this section, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification (with a full explanation thereof) that the goals set forth in this section have been substantially achieved or that such assistance would contribute to their achievement. Such certification shall also accompany any notification of anticipated arms sales to such countries submitted for Congressional consideration under the provisions of section 36(b) of the Arms Export Control Act."

(c) Notwithstanding section 37 of this Act, subsections (a) and (b) of this section shall take effect upon the date of its enactment.

ARMS SALE PRINCIPLES

SEC. 15. Chapter 1 of the Arms Export Control Act is amended by adding at the end thereof the following:

"SEC. 6. ARMS SALE PRINCIPLES.—(a) It is the sense of Congress that specific principles set forth in legislation will assist both the executive branch and the Congress in their stated desire to control the sale of arms from the United States to foreign countries and organizations. The executive branch is directed to consider the principles listed below while making an arms sale decision to any country except Japan, Australia, New Zealand, and those countries which are members of the North Atlantic Treaty Organization The principles, however, are not intended to conflict with existing treaty obligations or with our historic interest in the security o. the State of Israel.

"The principles that are to be used as a standard of judgment are as follows:

"(1) Arms sales should be approved only if they clearly and demonstrably enhance United States national security interests and are consistent with United States foreign policy interests. Arms sales should be used only as an exceptional foreign policy implement. In determining the national security impact of an arms sale, account should be taken of the impact of the sale on United States defense readiness; and the sale of advanced weapons should not be approved unless the weapons system is operationally deployed by United States forces.

"(2) Arms sales should not substitute for diplomacy in bringing stability to areas experiencing regional strife. No arms sale should be approved for a region if such arms are likely to disrupt ongoing diplomatic efforts to achieve regional stability.

"(3) The United States should not be the first supplier to introduce into a region newly developed, advanced weapons systems

which would create a new or significantly higher combat capability.

"(4) The sale of advanced weapons should not be approved if less advanced existing weapons systems are available which have roughly comparable capabilities. In addition, development of advanced weapons systems solely for export should not be permitted unless such systems can substitute for a more advanced system.

"(5) In general, weapons systems should be sold only if they can be utilized effectively by indigenous forces without large and long-term commitments of United States personnel in training, advisory, or maintenance capacities.

"(6) If a weapons system being considered for sale includes highly sophisticated technology which could damage United States national security interests when acquired by unfriendly states, the sale should be approved only after special arrangements are made to guard against espionage, theft of equipment, and defection of key personnel. Similar precautions should be taken for weapons that are especially useful to international terrorists.

"(7) Coproduction agreements for significant weapons, equipment, and major components should be approved only if the coproduced items are solely for the coproducer's own security requirements.

"(8) The sale of expensive weapons systems or related services should not be approved for less-developed countries if the impact of such sale would cause serious harm to such country's economic development prospects, unless such sales are vital for that country to deter a significant threat of external attack.

"(9) The human rights situation in recipient countries should be taken into account in all arms sales decisions.

"(10) Arms sales should not be approved simply because other arms suppliers might make the sale, unless it is determined that the sale of United States weapons is necessary for United States national security or foreign policy reasons.".

MULTILATERAL RESTRAINT

SEC. 16. Chapter 1 of the Arms Export Control Act, as amended by section 15 of this Act, is further amended by adding at the end thereof the following:

"SEC. 7. POLICY STATEMENT ON MULTILATERAL RESTRAINT.—(a) The Congress finds that—

"(1) worldwide control over arms transfers can be achieved only if other major arms suppliers cooperate in a multilateral effort to reduce arms exports; and

"(2) such other suppliers are more likely to cooperate to reduce the flow of arms to developing countries if the United States policy of restraint in arms exports is clearly evident.

"(b) It is the sense of the Congress that—

"(1) the President maintain adherence of the United States to a policy of restraint in arms exports;

"(2) the President increase participation of the United States in multilateral efforts to gain the cooperation of such other suppliers; and

"(3) the results of multilateral efforts to restrain arms exports should be taken into account in periodic evaluations of United States arms export policy.

"(c) Not later than December 31, 1979, the President shall prepare and transmit a detained report to the Congress—

"(1) assessing the results of the multilateral approach of the United States to arms export controls; and

"(2) commenting on the implications of these results for United States arms export policy.",

SALES FROM STOCK

SEC. 17. Section 21(e)(1) of the Arms Export Control Act is amended—

(1) by striking out in clause (B) "and" immediately after "defense articles";

(2) by adding "and" at the end of clause (C); and

(3) by adding at the end thereof the following:

"(D) the recovery of ordinary inventory losses associated with the sale from stock of such defense articles that are being stored at the expense of the purchaser of such articles.".

RENEGOTIATION ACT OF 1951

SEC. 18. Section 22 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(c) Contracts for the procurement of defense articles and defense services heretofore or hereafter entered into pursuant to this section or predecessor provisions of law shall be exempt from the provisions of the Renegotiation Act of 1951, as amended.".

ANNUAL ARMS TRANSFER PLAN

SEC. 19. Section 25 of the Arms Export Control Act is amended to read as follows:

"SEC. 25. ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM.—(a) The President shall transmit to the Congress, as part of the presentation materials for security assistance, programs proposed for countries other than the members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand for each fiscal year, a report which sets forth—

"(1) the estimated dollar value of all weapons and weapons related sales intended to be made to each such country under section 21 or 22 of this Act;

"(2) an estimate of the amount of all weapons and weapons related credits and guarantees requested for authorization to each such country under section 23 or 24 of this Act;

"(3) a detailed country by country list setting forth a best estimate of the identity and value of each weapons or weapons related major defense equipment sale, credit, or guarantee to be made to each such country under section 21, 22, 23, or 24 of this Act;

"(4) a detailed statement explaining the foreign policy and United States national security considerations involved in determining each country's sales credit, or guarantee level and weapons or weapons related major defense equipment list and how such sales would promote world peace;

"(5) a list of all findings which are in effect on the date of such transmission made by the President pursuant to section 3(a)(1) of this Act, together with a full and complete justification for each such finding;

"(6) an arms control impact statement for each purchasing country, including (A) an analysis of the relationship between expected sales, credits, or guarantees to each country and arms control efforts relating to that country, and (B) the impact of such expected sales, credits, or guarantees on the stability of the region that includes the recipient purchasing country; and

"(7) a best estimate of the number of United States Armed Forces and civilian personnel required to be stationed in each such country in connection with such sale, credit or guarantee for training or any other purpose.

"(b) Not later than thirty days following the receipt of a request made by the Committee on Foreign Relations of the Senate or the Committee on International Relations of the Senate or the Committee on International Relations of the House of Representatives for additional information with respect to any estimate submitted pursuant to subsection (a), the President shall submit such information to such committee.

"(c) The President shall make every effort to submit all of the information required by this section wholly in unclassified form. In the event the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

"(d) Any proposed sales which exceed the aggregate country total reported in section (a)(1) or which involves the sale of major defense equipment not identified in section (a)(3) may be made in compliance with section 36(b)(1) of this Act if the President determines that such sales are in the national security interests of the United States.

MILITARY SURVEYS

SEC. 20. Chapter 2 of the Arms Export Control Act is amended by adding at the end thereof the following:

"SEC. 26. FOREIGN MILITARY SURVEYS.—(a) The Congress finds that in the past military surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of military surveys conducted by the United States in no way represent a commitment by the United States to provide, any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

"(b) As part of the quarterly report required under section 36(a) of this Act, the President shall include a list of all defense requirement surveys proposed for the following quarter.

"(c) The President shall, upon the request of the Chairman of the Senate Foreign Relations Committee or the Chairman of the House International Relations Committee, provide the respective committee with a complete copy of any foreign military survey.".

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

SEC. 21. Section 31 of the Arms Export Control Act is amended—

(1) in subsection (a), by striking out "$677,000,000 for the fiscal year 1978" and inserting in lieu thereof "$677,800,000 for the fiscal year 1979";

(2) in subsection (b), by striking out "$2,102,350,000 for the fiscal year 1978" and inserting in lieu thereof $2,120,200,000 for the fiscal year 1979";

(3) in subsection (c), by striking out "the fiscal year 1978" and inserting in lieu thereof "the fiscal year 1979"; and

(4) in subsection (d), by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

FISCAL YEAR 1978 FOR LEBANON

SEC. 22. In addition to amounts otherwise authorized, there are hereby authorized to be appropriated to the President to carry out the Arms Export Control Act in the fiscal year 1978, not to exceed $5,000,000, to be available for obligation without regard to the limitations of section 31 (b) of such Act.

FULL DISCLOSURE REPORTS

SEC. 23. Section 26(b)(1) of the Arms Export Control Act is amended—

(1) by amending clause (D) to read as follows:

"(D) an evaluation, prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense, of the manner, if any, by which such offer to sell will—

"(i) contribute to an arms race;
"(ii) increase the possibility of an outbreak or escalation of conflict;
"(iii) prejudice the negotiation of any arms controls: or
"(iv) adversely affect the arms control policy of the United States.";
(2) by striking out "and" at the end of clause (L);
(3) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and
(4) by adding at the end thereof the following:
"(N) the projected delivery dates of the defense articles to be offered;
"(O) a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and
"(P) an analysis of the relationship of the proposed sale to projected procurements of the same item.".

EXTENDED REVIEW PERIOD

SEC. 24. Section 36(b)(1) of the Arms Export Control Act is amended by adding at the end thereof the following: "The period of thirty calendar days referred to in the preceding sentence shall be extended for an additional period of thirty calendar days if the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, by two-thirds vote of the Members present, requests such an extension and the chairman of the respective committee so notifies the President before the date of expiration of such period of thirty calendar days. Not more than one such extension may be requested for the proposed issuance of any letter of offer.

ANNUAL REPORT

SEC. 25. Not later than February 1 of each year the President shall transmit to the Congress an annual report, for the fiscal year ending prior to the fiscal year in which the report is transmitted, showing the aggregate dollar value and quantity of defense articles and defense services, and of military education and training, exported to each foreign country and international organization, by category, specifying whether the export was made by grant under chapter 2 or chapter 5 of part II of the Foreign Assistance Act of 1961, as amended, by sale under chapter 2 of the Arms Export Control Act, by commercial sale licensed under chapter 3 of that Act, or by other authority.

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

SEC. 26. (a) The Senate finds that—
(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;
(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;
(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and
(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.
(b) It is the sense of the Senate that there should be prior consultation between the Senate and the Executive Branch on any proposed policy changes affecting the continuation in force of the mutual defense treaty cited above.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1977 REVIEW REPORT

SEC. 27. The President shall, within 120 days of enactment of this Act, report in writing to the appropriate committees of Congress the results of the review conducted pursuant to section 27 of the International Security Assistance Act of 1977.

MARIJUANA, USE OF HERBICIDES TO ERADICATE

SEC. 28. Section 481 of the Foreign Assistance Act of 1961 is amended to add a new subsection (d) which shall read:
"(d) The provisions of subsection (a) notwithstanding, no funds or assistance authorized in this Act shall be permitted to be used or shall be used, directly or indirectly, in connection with or to assist programs involving the spraying of herbicides to eradicate marijuana plants, if such herbicides are likely to cause serious harm to the health of persons who may use or consume the sprayed marijuana. The Secretary of State shall inform the Secretary of Health, Education, and Welfare of the use or intended use of any herbicide to eradicate marijuana by any country or international organization in a program receiving assistance under this Act. The Secretary of Health, Education, and Welfare, on the basis of scientific information and testing and after receiving comments from the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall promptly advise the Secretary of State if such herbicide is likely to cause serious harm to the health of persons who may use or consume the marijuana sprayed with such herbicide. If the Secretary of State is so advised as to any herbicide, the herbicide shall be deemed inappropriate for use in such spraying programs and no funds or assistance otherwise authorized under this Act shall be provided for such programs. The Secretary of State shall submit a comprehensive report to the Congress by January 1 of each year explicitly detailing all efforts he has taken to ensure compliance with this provision and to prevent the spraying of marijuana with herbicides that may be harmful to human health.".

CLARIFY AUTHORITY TO CONTROL EXPORTS

SEC. 29. Section 4 of the Export Administration Act of 1969, as amended, is amended by adding at the end thereof the following new subsection:
"(m)(1) With respect to any country engaged in activities which are detrimental to important political/military interests of the United States, any item which could have direct military application and could significantly assist such activities shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.
"(2) The Secretary of Commerce shall determine, in consultation with the Secretary of State, the types of transactions which shall be reviewed by the Secretary of State to carry out the purposes of this subsection. The Secretary of State shall have thirty calendar days to conduct the reviews referred to in this subsection and at the end of such period of time shall state his recommendation or his reasons for not making a recommendation.
"(3) The provisions of this subsection shall not apply with respect to countries which are members of the North Atlantic Treaty Organization, or to Japan, Australia or New Zealand.
"(4) The provisions of this subsection shall not apply with respect to any agricultural commodity, including fats and oils or animal hides or skins.".

REVIEW OF UNITED STATES-SOVIET RELATIONS

SEC. 30. (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.
(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy towards the Soviet Union and report to the Congress. Such review should cover, but not be limited to—
(1) an over-all reevaluation of objectives and priorities of the United States in relations with the Soviet Union;
(2) the evolution of and sources of all bargaining power of the United States with the Soviet Union and how such bargaining power might be enhanced;
(3) what linkages do exist and should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;
(4) the policies of the United States towards human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;
(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;
(6) the current status of other arms control negotiations between the United States and the Soviet Union;
(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet such challenges more effectively;
(8) the impact of the relations of the United States with the People's Republic of China on relations with the Soviet Union;
(9) the impact of strategic parity on the relations of the United States and the Soviet Union and the ability of the United States to meet its obligations under the North Atlantic Treaty;
(10) the identification of economic, technological, scientific, and cultural relations with the Soviet Union and whether such relations are desirable and should be continued, expanded, restricted, or linked to other aspects of the relations of the United States and the Soviet Union;
(11) the evolution of Soviet domestic politics and the relationship between domestic politics and foreign policy behavior, especially towards the United States; and
(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to insure a coherent and effective policy toward the Soviet Union.

NONIMMIGRANT VISAS

SEC. 31. Section 21 of the Act entitled "An Act to provide certain basic authority for the Department of State" is deleted.

CRIME CONTROL AND DETECTION INSTRUMENTS, CONTROL OF EXPORTS

SEC. 32. Section 4 of the Export Administration Act of 1969, as amended, is amended by adding at the end thereof the following new subsection:
"(n)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.
"(2) The provisions of this subsection shall not apply to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand.".

POLICY ON REPUBLIC OF KOREA

SEC. 33. It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress. Prior to any further withdrawal the President should report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea; the reaction anticipated from North Korea; a consideration of the effect of the plan on increasing

incentives for South Korea to develop an independent nuclear deterrent; the effect of any withdrawal on our long-term military and economic partnership with Japan; the effect of any proposed withdrawal on the United States/Chinese and United States/Soviet military balance; and, the possible implications of any proposed withdrawal on the Soviet/Chinese military situation.

USE OF FOREIGN CURRENCY

SEC. 34. (a) Section 502(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1754(b)), is amended to read as follows:

"(b)(1) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, local currencies owned by the United States, which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961, as amended, and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President (and any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance for employees of the United States Government while traveling in a foreign country established under authority of subchapter I of chapter 57 of title 5, United States Code, whichever is greater, exclusive of the actual cost of transportation), shall be made available to Members and employees of the Congress for their local currency expenses when authorized by the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, or the chairman of any committee of the House of Representatives or the Senate or of any joint committee of the Congress. Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

"(2) Within the first sixty days that the Congress is in session in each calendar year, the chairman of each committee of the House of Representatives and the Senate and of each joint committee of the Congress shall prepare a consolidated report itemizing the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, together with the purposes of the expenditures, including per diem (lodging and meals), transportation, and other purposes, and showing the total itemized expenditures during the preceding calendar year of such committee, and of each Member or employee of such committee, and shall forward such consolidated report to the Committee on House Administration of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after it is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of such committee, omit such information as would identify the foreign countries in which Members and employees of such committees traveled.

"(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall, within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Clerk of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such report shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or, if the group does not include a Member, by the senior employee in the group.

"(B) Within the first sixty days that the Congress is in session in each calendar year, the Clerk of the House of Representatives and the Secretary of the Senate shall prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding calendar year by each Member and employee, or by each group, in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.".

(b) The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

NEGOTIATIONS BETWEEN ISREAL AND EGYPT

SEC. 35. (a) The Congress finds that:

(1) A lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the states of the region; and

(2) Support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy; and

(3) Direct, face-to-face negotiations between Israel and Egypt without preconditions is an historic opening for peace, and the support of such negotiations by other moderate Arab states, can best promote a peace settlement based on mutual concessions and accommodation; and

(4) The establishment of secure, recognized and defensible borders between Israel and its neighbors will discourage hostilities; and

(5) Full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab states to enter into negotiations leading to peace treaties with Israel; and that the United States should be responsive to Israel's economic needs and defense requirements including the provision of additional advanced aircraft, to maintain Israel's defense capability which is essential to peace.

SECTION 5 (b) AND (c) OF THE UNITED NATIONS PARTICIPATION ACT OF 1945

SEC. 36. Notwithstanding any other provision of this Act, subsection (b) and (c) of section 5 of the United Nations Participation Act of 1945 shall remain in force.

EFFECTIVE DATES

SEC. 37. Except with respect to the amendments made by sections 14 and 34, amendments made by this Act shall take effect on October 1, 1978.

Passed the Senate July 26 (legislative day, May 17), 1978.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3075.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, security assistanace is an important element in U.S. foreign policy and the International Security Assistance Act is the guiding legislation for our security assistance policies and programs. The importance of this legislation has been reflected in the intensive debate in the Senate over the past 2 days.

I want to express appreciation to the Committee on Foreign Relations for its careful consideration of this bill and to the leadership of the committee—the chairman, Mr. SPARKMAN, and the ranking minority member, Mr. CASE—for their roles in management of the bill on the floor.

I also want to thank other members of the Committee on Foreign Relations for the contributions they have made. Many of the committee members as well as other Senators have taken a very active role in the debate.

I would particularly like to express my gratitude to those who worked with me on behalf of the amendment relating to lifting the Turkish embargo and U.S. policy toward Cyprus, Greece, and Turkey. I refer to the other cosponsors of the amendment, Senators MCGOVERN, BENTSEN, and CHAFEE, as well as Mr. SPARKMAN, who joined in sponsoring the amendment lifting the embargo.

At the same time I would pay special tribute to the distinguished Senator from Maryland, Mr. SARBANES, and the distinguished Senator from Missouri, Mr. EAGLETON, for their valiant efforts in opposition to lifting the embargo.

In the case of the debate concerning sanctions on Rhodesia, Mr. HELMS made a notable contribution by helping to focus Senate attention on this important matter. Additionally, Mr. CASE, Mr. JAVITS, Mr. CHURCH, and Mr. CLARK from the Foreign Relations Committee should be commended for their efforts.

Other particularly valuable contributions to the Senate's consideration of this bill were made by Senators GLENN, NUNN, and PERCY on Korean policy, and, of course, by the distinguished minority leader, Mr. BAKER.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators be allowed to speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 11877, an act to authorize appropriations for fiscal year 1979 for the Peace Corps and to make certain changes in the Peace Corps Act.

At 11.24 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to H.R. 2777, an act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. ST GERMAIN, Mr. ANNUNZIO, Mr. DERRICK, Ms. OAKAR, Mr. PATTERSON of California, Mr. STANTON, Mr. ROUSSELOT, and Mr. WYLIE were appointed managers of the conference on the part of the House.

At 2:09 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 11823. An act to amend section 1331 (c) of title 10, United States Code, to allow certain otherwise ineligible reservists to become eligible for retired pay, and for other purposes;

H.R. 11889. An act to amend title 38, United States Code, to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor;

H.R. 11890. An act to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability;

H.R. 12196. An act to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes;

H.R. 12349. An act to provide for the Du-Noir Basin addition to the Washakie Wilderness; and

H.J. Res. 946. A joint resolution to designate October 7, 1978, as "National Guard Day."

At 3:51 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, with an amendment; that the House insists upon its amendment and requests a conference on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. ASHLEY, Mr. MOORHEAD of Pennsylvania, Mr. ST GERMAIN, Mr. GONZALEZ, Mr. MITCHELL of Maryland, Mr. AUCOIN, Mr. BLANCHARD, Mr. LUNDINE, Mr. BROWN of Michigan, Mr. STANTON, Mr. ROUSSELOT, and Mr. WYLIE were appointed managers of the conference on the part of the House.

### ENROLLED BILL SIGNED

At 7:54 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the Speaker has signed the following enrolled bill:

H.R. 11877. An act to authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act.

## HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 11823. An act to amend section 1331 (c) of title 10, United States Code, to allow certain otherwise ineligible reservists to become eligible for retired pay, and for other purposes; to the Committee on Armed Services.

H.R. 11889. An act to amend title 38, United States Code, to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor; to the Committee on Veterans' Affairs.

H.R. 11890. An act to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least ten years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability; to the Committee on Veterans' Affairs.

H.R. 12196. An act to provide for cost-of-living adjustment in the annuity of a retired Comptroller General, and for other purposes; to the Committee on Governmental Affairs.

H.R. 12349. An act to provide for the Du-Noir Basin addition to the Washakie Wilderness; to the Committee on Energy and Natural Resources.

## HOUSE JOINT RESOLUTION HELD AT DESK

The following joint resolution was read twice by its title and held at the desk:

H.J. Res. 946. A joint resolution to designate October 7, 1978, as "National Guard Day."

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CULVER, from the Committee on Environment and Public Works, with amendments:

S. 3077. A bill to amend and extend the Export-Import Bank Act of 1945, and for other purposes (Rept. No. 95-1039).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 527. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3279. Referred to the Committee on the Budget.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HAYAKAWA:

S. 3344. A bill for the relief of Rolf Erik Tibblin; to the Committee on the Judiciary.

By Mr. NELSON:

S. 3345. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies; to the Committee on Finance.

By Mr. HART:

S. 3346. A bill to amend the Fair Labor Standards Act of 1938 to exempt full-time students serving as resident assistants and resident counselors in private nonprofit institutions of higher education from that act, and for other purposes; to the Committee on Human Resources.

By Mr. THURMOND (for himself and Mr. CRANSTON):

S. 3347. A bill relating to the employment of cemetery superintendents and assistant superintendents by the American Battle Monuments Commission; to the Committee on Veterans' Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON:

S. 3345. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies; to the Committee on Finance.

● Mr. NELSON. Mr. President, I am introducing today a bill to provide a "deficiency dividend" procedure for companies which invest in smaller businesses under the Small Business Investment Act of 1958.

### ROLE OF SMALL BUSINESS INVESTMENT COMPANIES

There are several types of corporations which are created as investment vehicles for the purpose of investing in other businesses. Among the familiar examples are mutual funds, real estate investment trusts, and personal holding companies. Less familiar are the "Small Business Investment Companies" (SBIC's) which were created pursuant to 1958 congressional legislation for the purposes of providing risk or venture capital for investment in new and small businesses. SBIC's have since proven their worth by making 40,000 investments totaling $1.5 billion since they were authorized in 1958. They are one of the only sources of capital for many new, young, and growing small businesses which are not large enough to reach public securities markets. They are, thus, a source of strength, not only for the small businesses, but the entire economy.

All of these four types of corporations serve as a conduit for the collection and transmission of income to the ultimate shareholders.

### PURPOSE OF THE BILL

The law provides that as long as 90 percent of the income in any year is paid

to the shareholders, the conduit company need not pay a corporate tax on the income realized at the corporate level. Of course, this income is fully taxable to the shareholders at their individual income tax rates. However, if the 90-percent figure is not reached by the investment company, the corporate tax is imposed upon the full income of the conduit, in addition to the tax on the individual shareholders. However, this harsh result can be avoided in the case of REIT's and personal holding companies, because existing law provides that if the 90-percent level is missed, these companies may later go back and pay a "deficiency dividend" to bring them up to the 90-percent level and, therefore, avoid the double taxation.

In fairness, this procedure ought to be extended to SBIC's.

This bill would accomplish a result for SBIC's which is similar to that already in the law for personal holding companies and REIT's.

LEGISLATIVE HISTORY

This bill was first introduced in the Senate in 1976 (amendment No. 2077 to H.R. 10612) in connection with consideration of the Tax Reform Act of 1976.

It was not considered on the floor at that time, because hearings had not been held on the measure, and there was the large number of pending floor amendments.

In 1978, the bill was reintroduced in the House as H.R. 6877. On June 14, 1978, it was the subject of testimony before the Subcommittee on Miscellaneous Revenue Measures, along with 10 other minor technical proposals.

The subcommittee has now marked-up this legislation and has reported it favorably to the full Ways and Means Committee.

It is significant that the Treasury Department has expressed support for the extension of the deficiency dividend principle to SBIC's and mutual funds. (Description of technical and minor bills listed for hearing before the Subcommittee on Miscellaneous Revenue Measures, June 14–15, 1978, Subcommittee Print, June 13, 1978 p. 9.)

WHAT THE BILL WOULD ACCOMPLISH

This bill will relieve a cloud of uncertainty which is inhibiting the formation of new SBIC's and the actions of the 32 existing small business investment companies having one-half of all the assets in the industry and which are subject to the Investment Act of 1940.

It is doing so, because of the fear that any company could be judged to be out of compliance with the 90-percent rule and, thus, subject to a large tax bill, even when it has intended in perfectly good faith to observe the 90-percent payout rule.

An example has, in fact, occurred with one of the leading publically held SBIC companies. This company happens to be the first SBIC licensed under the act. It was founded in 1959, and had never been cited by any Federal agency for any compliance problem.

How could such a shortfall occur? Recently the IRS, in a controversial administrative and technical decision, disallowed a loan loss reserve of the company in the amount of $37,552.86. A "loss reserve" is an amount deducted from income and set aside in case loans might fail. There has been a continuing controversy about what methods should be used to calculate the amount of such a reserve. In this instance, IRS insisted on its version of calculating the reserve. The Revenue Service also disallowed a profit-sharing plan deduction of $8,595. The result was that this SBIC missed paying out 90 percent of its income by the sum of $243.22.

As a consequence, IRS is now trying to collect corporate level taxes in the amount of $190,271.54. If this company were an REIT or personal holding company, it could declare a "deficiency dividend" and resolve the problem, according to its original intent to pay out at least 90 percent of its income. But under present law, no SBIC, no matter how well intentioned, has a legal right to do this.

This legislation would permit such a procedure in the future and also would apply to one company currently affected, as to which no question has been raised on the basis of the good faith of the company which is involved.

As a safeguard, the bill prohibits any such deduction if fraud is involved, with penalties prescribed which are comparable to those applying to real estate investment trusts under these circumstances.

SUMMARY

This bill would accord to SBIC's a relief provision which has already been enacted by Congress twice—for real estate investment trusts and personal holding companies. It is only equitable that the same procedure be available to the comparable type of investment company that exists to serve new and small businesses.

The proposal is acceptable to the Treasury Department and has been recently approved by a subcommittee of the House Ways and Means Committee without controversy.

I urge that the Senate act favorably upon this measure for the good of the small business investment industry and the small business community in general.●

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By Mr. HART:

S. 3346. A bill to amend the Fair Labor Standards Act of 1938 to exempt full-time students serving as resident assistants and resident counselors in private nonprofit institutions of higher education from that act, and for other purposes; to the Committee on Human Resources.

FAIR LABOR STANDARDS ACT AMENDMENT

● Mr. HART. Mr. President, the Department of Labor has determined that students serving as college dormitory counselors or resident advisors are "employees," to be paid in accordance with the minimum wage provisions set forth in the Federal Fair Labor Standards Act. Although some schools pay minimum wage, most award resident assistants with free room and board, academic credit, or a reduction in tuition. The position of many colleges is that resident assistants are primarily engaged in activities educational in nature and that the value received by these persons for their activities as resident assistants is more appropriately viewed through an analogy to athletic scholarships and grants-in-aid.

The Department of Labor intends to take legal action against schools not paying minimum wage to resident advisors in their dormitories, and will ask courts to require back-pay penalties. Legislation I am introducing today will eliminate the need for such lawsuits and resolve this situation by exempting full-time students serving as resident assistants from the minimum wage provisions of the Fair Labor Standards Act of 1938.

Although the resident assistant programs of many colleges are primarily for the benefit of outstanding students selected to serve as resident assistants, these programs also provide a means of liason between the school's administration and the residents in each resident hall. In addition they assist in fostering a living and learning climate which offers each student an opportunity to grow in a variety of directions while enjoying the values of an undergraduate college community.

The colleges and universities that are now, or shall soon become, involved in litigation with the Department of Labor, have no desire to violate the Fair Labor Standards Act or any other law. Their policy that the relationship between the school and the resident assistant is not an employment relationship, but is rather a fellowship award, is a just and logical one and should be upheld.

I hope Congress will act expeditiously in its consideration of this legislation. It provides a fair and equitable resolution to a problem confronting a large number of institutions of higher education. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3346

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 3 (e) (1) of the Fair Labor Standards Act of 1938 is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(b) Section 3 (e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Such term does not include any individual certified by a private nonprofit institution of higher education to be a full-time student at that institution and employed by that institution as a resident assistant or resident counselor living in a resident hall or dormitory of such an institution.".●

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By Mr. THURMOND (for himself and Mr. CRANSTON):

S. 3347. A bill relating to the employment of cemetery superintendents and assistant superintendents by the American Battle Monuments Commission; to the Committee on Veterans' Affairs.

● Mr. THURMOND. Mr. President, today I am introducing legislation which would require that personnel employed as superintendents and assistant superintendents of military cemeteries and memorials located on foreign soil be citi-

zens of the United States. I am pleased to have joining me as cosponsors of this measure the distinguished chairman of the Senate Veterans' Affairs Committee, Senator CRANSTON.

These cemeteries and memorials are under the supervision of the American Battle Monuments Commission (ABMC) which was established by Congress in March of 1923. This Commission is responsible for the construction and permanent maintenance of all military cemeteries and memorials which are located outside the United States. The Commission also controls the design and provides regulations for the erection of monuments, markers, and memorials in these foreign countries by other U.S. citizens and organizations. When a visitor attends one of these cemeteries—often an American who has traveled thousands of miles to pay tribute to a fallen kinsman or friend—the superintendent will provide information concerning place of interment; best routes and modes of travel; and arranges for the placement of floral decorations at gravesites. Escort services within the cemetery plus other pertinent information are provided to the visitor by the superintendent and his staff.

Mr. President, there is currently a proposal before the Department of State that these cemeteries be turned over to the supervision of foreign nationals rather than being maintained by American personnel. I believe that such a proposal is most unwise and irresponsible.

American supervisors are essential to maintaining the beauty of the final resting place of the thousands of Americans who gave their lives for their country and are interred in or memoralized on foreign soil. These cemeteries are dear to the hearts of the relatives and friends of the dead and to numerous veterans' organizations.

By having these memorials and cemeteries maintained by American superintendents, we are demonstrating to not only concerned friends and relatives, but to all Americans and the world, that America does care for its fallen, and sometimes unknown, patriots.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3347

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by inserting immediately after the last sentence thereof the following new sentence: "Personnel employed as cemetery superintendents and assistant superintendents by the Commission shall be citizens of the United States.".●

## ADDITIONAL COSPONSORS

S. 1393

At the request of Mr. BAYH, the Senator from Utah (Mr. HATCH), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 1393, a bill to authorize actions by the Attorney General to redress deprivations of constitutional and other federally protected rights of institutionalized persons.

S. 1783

At the request of Mr. ANDERSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1783, the Homemaker Retirement Act.

S. 2400

At the request of Mr. BAYH, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2400, a bill to establish a National Alcohol Fuels Commission, and for other purposes.

S. 2778

At the request of Mr. BENTSEN, the Senator from Missouri (Mr. EAGLETON), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 2778, to provide for increased criminal penalties for the unauthorized manufacture and distribution of PCP and to provide for piperidine reporting.

S. 3017

At the request of Mr. WILLIAMS, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 3017, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 for the purpose of simplifying, clarifying, and improving Federal law relating to the regulation of employee benefit plans, to foster the establishment and maintenance of plans, and for other purposes.

S. 3087

At the request of Mr. DURKIN, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 3087, a bill to amend the Bank Holding Company Act of 1956 to prohibit bank holding companies and their subsidiaries from selling property and casualty insurance as principals, agents, or brokers.

S. 3111

At the request of Mr. MOYNIHAN, the Senator from California (Mr. CRANSTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Alaska (Mr. GRAVEL), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 3111, to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 3176

At the request of Mr. LAXALT, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 3176, to clarify Federal tax treatment of contributions in aid of construction received by regulated electric and gas utilities.

S. 3320

At the request of Mr. HATHAWAY, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 3320, the Small Business Investment Act.

SENATE RESOLUTION 519

At the request of Mr. ANDERSON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Resolution 519, expressing the sense of the Senate that the 1980 Olympics should be held at a site outside the Soviet Union.

SENATE CONCURRENT RESOLUTION 92

At the request of Mr. GOLDWATER, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of Senate Concurrent Resolution 92, to see the resurrection of the Ukrainian Orthodox and Catholic Churches and other religions in the Ukraine.

AMENDMENT NO. 2176

At the request of Mr. DURKIN, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of amendment No. 2176 intended to be proposed to S. 1500, a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

## SENATE RESOLUTION 527—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 527

*Resolved,* that pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of S. 3279, a bill to provide assistance to aircraft operators to aid them in complying with Federal aircraft noise standards, to amend the Airport and Airway Development Act of 1970 to provide assistance to airport operators and aircraft operators to aid them in complying with noise standards, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority (as detailed below) to become effective in a fiscal year for which the first concurrent resolution on the budget has not been agreed to. Specifically, the new spending authority for which this waiver is needed arises from the authorization of additional funds from the Airport and Airway Trust Fund, as contained in Titles I and II of S. 3279, for a future fiscal year not yet considered by the Budget Committee. The total amount of the additional funding for fiscal year 1980, is $295 million.

Compliance under section 303(a) of the Budget Act was not possible because of the multiyear nature of airport development projects under the Airport and Airway Development Act. These projects are for airport development and construction that may take several years to complete and call for assurance that federal funding will be committed to that project in order to permit the airport operator to sell municipal bonds to raise the local authority's share of the project costs. This need for future commitment for planning purposes has been recognized by the Congress since the creation of the trust fund in 1970.

The entitlements contained in S. 3279 represent both renewals and extensions of existing spending programs under the Airport and Airway Development Act. The need for action on future year spending is clearly demonstrated by the increased appropriations for these programs contained in the Department of Transportation appropriations legislation for fiscal year 1979, which appropriated funds in excess of those authorized in the ADAP program for that fiscal year.

Because Congress anticipated possible modification and review of the ADAP program, the legal basis for expenditures of trust fund monies for discretionary programs expires at the end of fiscal year 1979, leaving no authority to spend discretionary funds in 1980. Yet the need for continued and increased discretionary funding for 1980 has been clearly demonstrated and is documented by a backlog of over $900 million in accumulated requests for ADAP funds of which over $600 million have been identified by the Federal Aviation Administration as high priority programs. Without the renewed and increased discretionary level for 1980, many airport safety programs will not be funded. The Airport and Airway Trust Fund, from which these needed projects are in major part sponsored, is currently running a surplus of nearly $2 billion which will not be significantly reduced by either the additional spending programs and authority contained in S. 3279 or by the proposed reductions in the ticket and freight weighbill taxes contemplated by S. 3279.

The comparable legislation pending before the House of Representatives contains substantially similar spending programs for fiscal year 1980 as are contained in the Senate bill, S. 3279. Yet the funding levels are higher than those contained in the Senate measure. The possibility therefore exists that the conference committee agreement will contain slightly higher figures than those contained in S. 3279. While this possibility exists, it should be noted that the Senate version incorporates a somewhat different approach than the House bill to solve the current funding crisis, which if accepted by the conference committee, will either reduce or eliminate the increases that might otherwise be expected in reaching a compromise on the two pieces of legislation.

Finally, as the Airport and Airway Development Act was created in 1970 and reviewed in 1976, it expires at the close of fiscal year 1980. The levels of authorization written in 1976 to run through 1980 could not have anticipated the dramatic growth in air traffic which has not only increased the pressures on airport development and construction but also created a significant surplus in the trust fund.

● Mr. CANNON. Mr. President, I am reporting on behalf of the Committee on Commerce, Science, and Transportation, a budget waiver resolution for S. 3279, the Aircraft and Airport Noise Reduction Act of 1978. The resolution requests a waiver from section 303 of the Budget Act to permit authorization of airport development funds for fiscal year 1980.●

## AMENDMENTS SUBMITTED FOR PRINTING

### ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS—S. 1753

AMENDMENTS NOS. 3307 THROUGH 3309

(Ordered to be printed and to lie on the table.)

Mrs. HUMPHREY submitted three amendments intended to be proposed by her to S. 1753, a bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

● Mrs. HUMPHREY. Mr. President, I wish to offer, for the consideration of the Senate, three amendments to S. 1753, a bill to extend the Elementary and Secondary Education Act of 1965.

I would like to call the attention of my colleagues to the fact that on July 13, the House of Representatives considered and passed a similar series of amendments, en bloc, to H.R. 15, the House version of the measure.

These amendments provide for broader language in both title IV, and the Special Projects Act to cover early childhood and family education programs.

I feel confident in speaking highly of these programs, because for several years, Minnesota has had very successful pilot/demonstration projects directed toward children who have not yet entered kindergarten, and are below age 6.

My amendments provide authority for special service components which provide educational and counseling services to parents of pre-school-age children. More specifically, they would identify potential barriers to learning, educate parents in child development, provide programs in child development, and support education programs on parenthood for students in secondary schools. The amendments would also make way for referral services, which enable these pilot programs to reach out and direct participants to other sources of Federal, State, and local funding, which might be of assistance. Public, private, and nonprofit agencies would be eligible to apply for program moneys.

These programs are based on the concept that learning begins at birth; and, that, while classroom instruction is important, early learning is crucial. They provide not only service, but also support to parents in educating their children.

These programs already have been established in Minnesota. The program activities include: discussion groups for parent, facilitated by an educator; programs for children, including supervised play and learning activities; coordination with libraries and other learning facilities outside the school, which provide materials that may be used in the home; and, programs for adolescents exploring that unique phase between childhood and parenthood. It must be pointed out that these efforts are non-duplicative of those that other agencies, such as Headstart or daycare perform. The projects are equally distributed to urban, suburban, and rural areas of the State; and, each program is geared to meet the specific needs and interests of its locality * * * perhaps this is the most important component of the project.

Support is particularly extended to the single, male, and working parent, with evening and Saturday sessions being provided, many times with the children in adjacent rooms under the supervision of an early childhood education teacher. This is not a nursery program; it is a socialization mechanism, and an opportunity for parents to see how the educator works with the child.

This activity has been well received in Minnesota, and I feel that it is time for Congress to implement programs of this nature throughout the country.●

### FEDERAL PUBLIC TRANSPORTATION ACT OF 1978—S. 2441

AMENDMENT NO. 3310

(Ordered to be printed and to lie on the table.)

Mr. HASKELL submitted an amendment intended to be proposed by him to S. 2441, the Federal Public Transportation Act of 1978.

● Mr. HASKELL. Mr. President, today I am submitting an amendment to S. 2441, the Federal Public Transportation Act of 1978. This amendment acknowledges the substantial contributions public transportation can make toward reducing air pollution. Specifically, my amendment would direct the Department of Transportation, in consultation with the Environmental Protection Agency, to conduct a study to determine the feasibility of including the nature and extent of an area's air pollution as a criterion in the distribution of mass transit funds. In conducting the study, the Department of Transportation and the Environmental Protection Agency would be required to determine the most appropriate and reliable means of defining and measuring air pollution, to determine those mass transit programs which most easily and appropriately lend themselves to using air pollution as a factor, and to consider the relative weight which such an air pollution criterion should be given in devising any revised funding formula. The study additionally directs the Department of Transportation to identify any alternative approaches to modifying the criteria for allocating Federal mass transit funds which would assure full recognition of the vital role mass transit has to play in combating air pollution.

Mr. President, the Senate has frequently expressed its concern over the plight of our cities. Our cities are plagued with the problems of pollution and congestion, and the problems grow worse each day. The quality of life in our cities is deteriorating, they are no longer healthy places in which to live.

As a case in point, I would like to share with my colleagues the situation surrounding the capital city of my home State of Colorado.

Denver's air pollution problem is a complex one which does not lend itself to easy or simplistic solutions. Like most western and southern cities, Denver is a sprawl city. Its population density is comparatively low. Because the population is spread out over a larger area, the use of the private automobile becomes an attractive alternative, often the only alternative, much to the detriment of the environment. This situation is compounded by Denver's high altitude, for automobiles burn less efficiently in higher altitudes. This is the impasse that Denver faces, a land use pattern that encourages the use of the automobile which, because of high altitude, runs inefficiently, emitting lethal fumes into unusually thin air.

Mr. President, part of the rationale for funding and developing mass transit is to reduce reliance on the automobile and thereby make headway in ridding our urban areas of unhealthy air. The automobile is presently the major cause of air pollution, even in urban areas of heavy industrialization. According to the EPA, the amount of automobile related pollution is as high as 90 percent in some cities and accounts for at least 50 per-

cent even in those areas with major sources of stationary pollution.

It is because of the automobile that 103 out of 105 urban areas—populations greater than 200,000—do not meet the National Ambient Air Quality Standards (NAAQS) for ozone, as mandated in the Clean Air Act and established by the EPA—only Honolulu, Hawaii, and Spokane, Wash. met the photochemical oxidant standard. These 103 urban areas, where over 100 million people reside, consistently experience oxidant levels above the NAAQS. In addition, 59 urban areas are now non-attainment areas with respect to the carbon monoxide NAAQS. Carbon monoxide is of course just as dangerous a health hazard as ozone. Mass transit programs which will reduce hydrocarbons, and therefore ozone levels, are imperative if we are to truly commit ourselves to resolving the problems of air pollution in our cities.

Currently, most public mass transit moneys are derived from two sources, section 3 discretionary programs and section 5 formula funding programs. Section 3 discretionary programs, which are under the Secretary's control, are provided to State and local agencies for bus purchases, rail modernization projects, and construction of new transit systems. In fiscal year 1977, these projects totaled $1,399,337,237. The other source of funding is the section 5 formula grant program. This section provides for Federal funds to assist in financing capital projects and operating expenses. Section 5 moneys are allocated according to a population/population density formula. In fiscal year 1977, these expenditures totaled $557,049,173.

S. 2441, the Federal Mass Transportation Act of 1978, makes a number of important changes in the way mass transit funds are distributed. This bill would simplify and consolidate the numerous funding categories into a more manageable number, while at the same time allowing for a greater degree of flexibility in the use of public transportation funds. It will provide for a more predictable funding mechanism for capital and operating expenses by transferring these costs out of the section 3 discretionary grant program into the section 5 formula grant program. Although population and population density would still play the major role in the distribution of section 5 formula moneys, factors such as the extent of commuter rail, fixed rail, and bus operating miles have also been included in the committee's bill. Additionally, this bill would create a comprehensive transportation planning program by consolidating the planning requirements for highway and transit programs. The House has recently passed a bill which also calls for major changes in the manner in which Federal mass transit funds are allocated.

I applaud the revisions made in the committee's bill as a necessary element of an effective transportation policy. However, none of these funding formulas—those in the bill reported by the committee, those in the House bill, or those in present law—directly take into account the significant contributions an effective mass transit system can make toward reducing urban air pollution. Mr. President, my amendment would provide the Congress with the factual information necessary to intelligently discuss this possibility.

Originally, it was my intention to devise a funding formula using air pollution as one factor in distributing funds, which could be adopted by the Congress this year. As I explored possible avenues to achieve this end, however, I became aware of a host of unanswered questions as to the most reliable, accurate air quality standards for such a purpose, the most reliable and standardized means of measuring air quality, and the relative weight which air pollution should be given in any revised funding formula. The study called for in my amendment will provide answers to these questions and lay the necessary groundwork for the Congress to devise a funding scheme which directly takes into account the role of mass transit in combating air pollution.

Mr. President, we can no longer afford to allow our cities to deteriorate. We, as a nation, must identify the causes and formulate the solutions to remedy this situation. The development of an effective mass transit system is one tool which must be utilized to curb the decline of the city. It is not the total answer, but it can and must play a part in the overall solution. My amendment will be the first step that will move us in that direction. My amendment is a sound and responsible approach to a problem that, if left unattended, will literally choke our cities. This amendment would create the necessary empirical foundation on which to address the growing problem of air pollution within the urban environment. It would allow us to intelligently explore the possible avenues that could lead to its correction. It is my hope that both bodies of Congress will recognize the severity of the problem and set our Government on a course to correct it. I invite my colleagues to join me in initiating this needed action.●

## FAIR FUND TRANSFER ACT—S. 3156

AMENDMENT NO. 3311

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 3156, a bill to amend the Consumer Credit Protection Act to provide consumer rights and remedies in electronic fund transfer systems.

● Mr. GARN. Mr. President, I am today submitting an amendment to delete the $100 minimum civil penalty from section 918 of S. 3156, the Fair Fund Transfer Act. This leaves intact the provision for the award of a civil penalty within the discretion of the court up to $1,000.

Where actual damages cannot be established in litigation under the bill, section 918 imposes a civil penalty in an amount of not less than $100 nor greater than $1,000 plus costs of the action and attorney's fees. The imposition of a $100 minimum civil penalty is objectionable because it has been a source of frivolous litigation under the Truth in Lending Act which has a similar provision. The problem with the minimum civil penalty is that it leaves the courts with very little discretion even though they find that a violation is technical and nonwillful. In such cases some courts have felt they must award a $100 civil penalty plus attorney's fees. Attorney's fees even in small cases can run into thousands of dollars.

The truth in lending experience under this minimal liability provision has been a horror story. Over 9,400 suits were filed under the Truth in Lending Act during fiscal years 1972 through 1977, and new suits are now being filed under it at a rate of over 2,000 per year in Federal district courts alone.

This litigation benefits no one other than the lawyers. The consumer receives a $100 award and the lawyers several thousand dollars in legal fees.

Because of the potential for abuse in this provision, Congress eliminated it from the Fair Debt Collection Practices Act. I urge that the same wise course be taken with regard to the Fair Fund Transfer Act.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3311

On page 24, lines 6 and 7, after the word "action," strike out "an amount not less than $100 nor greater than" and insert in lieu thereof "such additional damages as the court may allow, but not exceeding".

On page 24, lines 9 through 11, strike out "(1) as to each member of the class no minimum recovery shall be applicable, and (ii)".●

AMENDMENT NO. 3312

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 3156, supra.

● Mr. GARN. Mr. President, I am submitting an amendment to section 917(c) of S. 3156, the Fair Fund Transfer Act, to exclude from the Federal Trade Commission's enforcement powers the right to enforce the provisions of the bill by using the authority granted under sections 18 and 19 of the recently amended Federal Trade Commission Act.

Section 18 of the FTC Act provides rulemaking procedure under which the Commission may promulgate and enforce trade regulation rules. Specifically, under it the Commission has the authority to seek civil penalties of up to $10,000 per violation without even notifying the alleged violator of the action in advance.

Section 19 of the FTC Act gives the Commission the authority to order many forms of consumer redress, such as restitution, contract reformation, and avoidance of parts or all of consumer contracts.

In view of the civil penalty provisions of this bill, particularly those which specifically sanction class action proceedings, the invocation of sections 18 and 19 of the FTC Act is not only unnecessary, it is unnecessarily harsh.

In legislation which provides its own civil penalties, each consumer is his or her own "private attorney general" with authority to enforce his or her own rights. Suits brought under those automatic civil penalty provisions (or the right to bring such suits) under the Truth in Lending Act have proved to be an important enforcement tool. More than 10,000 suits have been filed under the Truth in Lending Act in U.S. district courts alone, not including those filed in State courts and the use of truth in lending claims or defenses raised by way of set-off or counterclaim. The civil penalties provided in section 917 of this bill will have the same salutary effect so that enforcement under sections 18 and 19 of the Federal Trade Commission Act is unnecessary.

The amendment will also add the Civil Aeronautics Board and the Securities Exchange Commission as agencies to enforce the provisions of the bill with regard to airlines and stockbrokers who are beginning to issue debit cards to their customers.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT 3312

On page 30, line 5, strike out "and".

On page 30, line 8, strike out the period and insert in lieu thereof "; and".

On page 30, between lines 8 and 9, insert the following:

"(4) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act; and

"(5) the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker or dealer subject to that Act".

Beginning with page 30, line 19, strike out all through page 31, line 10, and insert in lieu thereof the following:

"(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act (except sections 18 and 19) are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act".●

## NOTICES OF HEARINGS

SUBCOMMITTEE ON MILITARY CONSTRUCTION AND STOCKPILES

● Mr. HART. Mr. President, during Senate floor action on the fiscal year 1979 military construction authorization bill, I announced my intention to hold early hearings to look into Defense Department policy on base realinements.

I have scheduled the opening session of these hearings to begin at 10 a.m., in room 212, Russell Building, on Thursday, August 3, 1978.

The purpose of these hearings is to look into policy questions. The hearings will not explore details of specific proposed realinement actions. This is a hearing on base realinement policy.

I know many of my colleagues are affected by the recently announced round of proposed base realinements and I extend an open invitation to any Senator who would like to participate in these hearings to do so.

Staff contact on this hearing is Mr. Jim Smith, 224–3871.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary will hold 3 days of hearing, August 2, 3, and 4, 1978, on extending the deadline for the ratification of the equal rights amendment, Senate Joint Resolution 134. The hearings will commence at 9 a.m. and will be held in room 318, Russell Senate Office Building, on all 3 days.

Anyone wishing to submit testimony for the record, contact Mary Jolly, staff director of the Subcommittee on the Constitution, 102–B Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

● Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs, of the Committee on Banking, Housing, and Urban Affairs, will hold an oversight hearing, on Monday, August 7, 1978, on the problem of property insurance in urban America.

The hearing will begin at 10 a.m. and will be held in room 5302, Dirksen Senate Office Building.

The subcommittee would welcome statements for inclusion in the hearing record.●

## ADDITIONAL STATEMENTS

### RHODESIA

● Mr. DANFORTH. Mr. President, the Richmond Times-Dispatch recently published an editorial about the perceptive observations made in this Chamber by the Senator from California, Senator HAYAKAWA, concerning his visit to Rhodesia. I ask that this editorial be printed in the RECORD.

The article follows:

VOICE OF REASON

From May 25 to June 6, Sen. S. I. Hayakawa, R-Calif., visited South Africa, Rhodesia, Botswana, Zambia and Kenya in an effort to gain a perspective on the Rhodesian internal settlement between moderate blacks and whites. What he saw he reported to his Senate colleagues on June 28. It was a speech well worth listening to, because Mr. Hayakawa did gain some startling insights.

He saw the country being run by an Executive Council, with power shared equally by three blacks and former Prime Minister Ian Smith, who has frequently been stereotyped and castigated as a white racist.

He saw every ministry of government being occupied by two persons, one black and one white. He witnessed the co-ministers of foreign affairs, for example, working out their disagreements in an atmosphere of cooperation.

Perhaps most remarkably, he saw the leaders of the Patriotic Front organizations, the black nationalists who are trying to sabotage the internal agreement, walking the streets of Salisbury, Rhodesia's capital, without being bothered by government authorities.

Mr. Hayakawa said of the revolutionary leaders with whom he met: "We could invite them to breakfast in our hotel. No one said anything. They were not searched. They were not frisked by guards, not watched over. They had free access to any place they wanted to go in Salisbury."

Breakfasting with Albert Mugabe, the senator asked the whereabouts of his brother, Robert, the head of one of the PF grounds. The answer was that Robert Mugabe was in North Korea. (Mr. Hayakawa said he could only surmise that Mr. Mugabe was there taking an advance course in Marxism since he is on record as being a Marxist-Leninist who wants only one political party in Rhodesia/Zimbabwe—his own.)

Later, Mr. Hayakawa had supper at the same Salisbury hotel with Joshua Nkomo, the head of the other terrorist group in the PF. Again, the hotel staff asked no questions, save one: "Will you have white wine, sir, or red?"

The senator was struck by the difference in attitude between Mr. Nkomo and the Rev. Ndabaningi Sithole, one of the three blacks serving on the Executive Council, the transitional government that is supposed to lead to free, one-man-one-vote elections by the end of this year. Mr. Sithole, like Mr. Nkomo, had been imprisoned by the Ian Smith government in the past for "revolutionary" activities. But whereas Mr. Sithole had put the past behind him and was trying to make biracialism work, Mr. Nkomo and his associates continued to be consumed by bitterness over past injustices.

Mr. Hayakawa came away with the feeling that the United States government ought to be giving moral support to the whites and blacks who are trying to make interracial harmony and democracy function rather than giving comfort to those who are working from within—often through violence—to bring about one-party, one-race rule.

Toward that end, Mr. Hayakawa endorsed a proposal by Sen. Jesse Helms, R-N.C., to lift economic sanctions against Rhodesia so as to give the struggling interim government a better chance to survive the terrorist assaults and implement its plan for multiracial democracy. Sanctions could be reimposed, he pointed out, if Rhodesia reneged on its majority-rule promises.

Unfortunately, not enough senators were swayed by his appeal. The Senate passed by a 48–42 vote a motion by Sen. George McGovern, D-S.D., to table the Helms-Hayakawa move. We are pleased, however, that both of Virginia's senators, Harry F. Byrd Jr. and William L. Scott, were on the side favoring the lifting of sanctions. Senator Byrd praised Mr. Hayakawa's speech as "perhaps the most objective presentation on the situation in Rhodesia that I have heard in this chamber over a period of years."

Mr. Hayakawa spoke with the voice of reason. Maybe on another day, enough senators will heed that eloquent voice.●

### RURAL AMERICA

● Mr. HASKELL. Mr. President, I have recently received from one of my constituents, Mr. Thorrel B. Fest of Boulder, Colo., a copy of an article by Glenn S. Pound of the University of Wisconsin, College of Agricultural and Life Sciences. Dean Pound briefly explains exactly what rural America and the agricultural community have added to the spirit of our great country. He then asks an extremely relevant question in light of the

present cost-price crunch faced by American agriculture, "Is the farmer an endangered species?"

I highly recommend this article to each of my colleagues and ask that it be printed in the RECORD.

The article follows:

FARMER HAS BEEN DENIED HIS FAIR SHARE OF AFFLUENCE

Rural America gave us a great legacy. We should remember that:

Agriculture paced the economic development of America.

The family farm provided much of the cultural and economic greatness of our society.

a. It deployed people widely in terms of utilization of our resources as contrasted to our present intense urbanization.

b. It created a work ethic that became the hallmark of productivity and a prime characteristic in agriculture and industry alike.

Rural America provided a vast reservoir of morality and of political stability of our country, both of which we now have about lost.

Now, is this heritage lost? Is the farmer an endangered species?

The answer is yes. The farmer today is caught up in an economic situation in which surplus production weakens and erodes his market, but which provides no relief to him in his production expenses. Historically, during depressions commodity prices fell; unemployment increased with a resultant increase in personal services and a general deflation helped distribute equity in purchasing power.

This is not true now. The depression in farm products has not resulted in general deflation but rather inflation has continued unabated. Thus, the farmer is cast in a no-win role.

Compare the farmer's plight with that of the public utilities. Utility rates are highly regulated and public service commissions almost invariably grant price increases to permit a pass through of the costs to consumers. Consumers complain about utility increases, but ultimately, they pay them!

Consider the consumer and the automobile industry. Here, also, consumers are aghast at the high cost of new automobiles but they buy them in ever increasing numbers.

If consumers do not develop an acceptance of higher food costs, then the farmer is indeed an endangered species.

We have heard much about the level of parity appropriate for agricultural income. I think the parity formula is counterfeit for, by its definition, it implies that agriculture was equitably placed in our economic structure in the period 1910–1914.

I contend that the American society has never accorded agriculture a fair share of the affluence it has created. As a meaningful statistic in point, I cite that the average net income per farm in Wisconsin in 1973, the year of the exploding grain prices, was less than $7,500!

How many carpenters, plumbers, schoolteachers or bank employes have had so little income per family? One doesn't have to be very smart to see that there is something wrong with our economic system.

Why don't food prices come down in the presence of deflated farm prices? It is obvious that between the field and checkout counter there are add-on prices for other than raw product costs and that this sector of the food system uses the weakened product costs to relieve stress from other directions.

The farmer is not privileged to price out his own products. The market does this for him. Until he can establish on farm storage facilities that will give him some measure of control of marketing his products, he will always be at the mercy of the merciless system.

If America wants to preserve the family farm, then something has to happen where a family can make a living on the farm. The low income to the farming sector has been, in my judgment, perhaps the prime determinant of the structural changes in agriculture. The consumer is interested primarily in a dependable supply of good food at bargain prices. Our food supply, the dependability of supply, and our food quality are the best any nation has enjoyed in all of history.

In relation to the costs consumers pay for food at the supermarket, we generally do not factor in the costs of the taxpayer's support of agricultural research, government subsidy and price support programs, and so forth. So, in all fairness, we should admit that the grocery store costs do not represent the total food costs.

But how significant are these other costs in terms of payout and value received? They amount to only $5 per capita for each $1 billion of program costs. The industrialized countries of the Western world have a higher pay-out of food costs at the retail level than does America, but their governments also subsidize their food production system. So the comparatively cheaper food in the United States is real and significant.

Certain consumer groups frequently question, in relation to costs and a quality diet, the high degree of processing and packaging of American food products. We should recognize that diets can be very simple but yet high quality. In terms of nutrition we could forego much of the processing and packaging of foods without great loss.

But does the consumer want this? If so, we must face up to the sacrifices of convenience and variety and to hundreds of thousands of jobs that would be lost.

Our insatiable demand for more and more, for better and better more more food, more leisure time, more social program benefits of this or that), with lower taxes and lower productivity is certainly basic to today's problems.

The costs of social governance at all levels are so great as to be like a volcano rising from the desert floor to spew its hot lava on us all. If the demands for more and more governance costs are not turned aside, then our problems today will be minuscule compared to those of the next generation.●

## UKRAINIAN HELSINKI MONITOR QUIETLY DISPATCHED TO THE CAMPS

● Mr. DOLE. Mr. Presient, for weeks now the free world has been expressing its indignation over the severe sentences that Soviet courts have recently meted out to Anatoly Scharansky, Aleksandr Ginzburg, Yuri Orlov, and Vladimir Slepak of the Moscow group to promote observance of the Helsinki accords. And rightly so—for the lifeline of the Soviet monitoring groups is Western public opinion. It is therefore of serious importance that the Western public be informed about the equally reprehensible sentencing of Ukrainian nationalist and Helsinki rights activist Levko Lukyanenko.

LUKYANENKO'S TRIAL FOLLOWS PATTERN—MERCILESS SENTENCE

Equal to his above mentioned colleagues in courage and dedication to their common cause, Lukyanenko's story is no less compelling than theirs, even though it is rarely told in the West. The 4-day trial of Lukanenko took place in the Ukraine, virtually unnoticed by the Western public. The court proceedings were conducted with a disregard for fundamental principles of justice equal to that displayed during the Scharansky, Ginzburg, Orlov and Slepak trials in the environs of Moscow—the courtroom was barred to all but close relatives, and Lukyanenko's final statement was interrupted by the court all of 49 times. Charged under article 62 of the Ukrainian criminal code, "anti-Soviet agitation and propaganda", Lukyanenko received the maximum penalty provided for under Soviet law—10 years at hard labor to be followed by 5 years of internal exile. When one considers that Lukyanenko has already spent 15 of his 51 years in the Gulag, the sentence is merciless.

LACK OF PUBLICITY—CALCULATED STRATEGY

Lukyanenko's fate received little comment in the West for several reasons, not the least of which being a calculated strategy on the part of the Soviet authorities to deflect attention away from the potentially dangerous issue of national rights in the Ukraine and other republics by encouraging the Western press to focus on the Moscow dissidents. Another factor that contributes to the lack of extensive reporting afforded Lukyanenko is geography—the trial took place in the Ukrainian town of Gorodnya, where communication with the outside world is severely limited, and Western correspondents' accessibility is quite restricted. These same unfavorable circumstances prevailed during the recent trial of Lithuanian Helsinki monitor Viktoras Petkus, to whom the court delivered a draconian sentence of 15 years (consisting of 3 in prison, 7 in labor camp, and 5 in internal exile) for "anti-Soviet agitation and propaganda," while hardly any note was taken in the West.

DEEP RESPECT FOR LUKYANENKO AND OTHERS

Levko Lukyanenko stands shoulder to shoulder with Scharansky, Ginzburg, Orlov, and Slepak as an outstanding leader in the struggle for human rights in the U.S.S.R. together with them, he has sacrificed his freedom. It is with deep respect for Levko Lukyanenko that I vehemently protest his conviction, the latest of 17 convictions of Helsinki watch group members to date.●

## THE MINNESOTA LEGISLATURE HONORS MIKE OUSDIGIAN

● Mr. ANDERSON. Mr. President, during its 1978 session, the Minnesota State Legislature passed a resolution honoring O. M. (Mike) Ousdigian for his many years of public service.

For 40 years, Mike has served as secretary of the Minnesota Public Employees Retirement Association. In this capacity, he has shown himself to be a dedicated and conscientious public servant, performing his duties tirelessly and with a spirit that could serve as an example to many public servants.

But Mike did not rest at being one of the best State government workers in Minnesota. Having experienced the indignities of forced servitude during his youth in Armenia, he was one of those many immigrants who were truly "yearning to breath free." Mike has always had an enthusiasm for America and the American way of life that could put

many of us who call ourselves "patriots" to shame. Mike used this love of his adopted land ably in his second career: public speaking. He has won countless awards for speaking on America for attempting to share with others his love for America.

Mr. President, I request unanimous consent that the text of Minnesota Senate Resolution No 34, honoring Mike Ousdigian be printed in the RECORD.

I am sure that I am joined by all the Members of the Senate in honoring Mike Ousdigian.

The text of Minnesota Senate Resolution 34 follows:

SENATE RESOLUTION No. 34

Whereas, O. M. (Mike) Ousdigian was born in Armenia of Armenian parentage and was subjected to the horrors of slavery as a prisoner of the Turks as a youth; and

Whereas, Mike arrived in the United States as an immigrant in 1921 bearing the scars of mis-treatment in the slave camp and possessing little other than a keen mind and a sincere desire to succeed in his new homeland; and

Whereas, Mike subsequently became an American citizen in 1926, and was graduated from the University of Pennsylvania in 1931; and

Whereas, Mike has served as Secretary of the Minnesota Public Employees Retirement Association since May 1, 1938; and

Whereas, the experiences of Mike's youth, viewed in contrast with the opportunities of his adult life as an American citizen has instilled in Mike an appreciation of America and the American way of life which has not, and indeed probably cannot, be matched in any native born American; and

Whereas, Mike's avocation as a public speaker on subjects generally relating to America and the American way of life have won him wide acclaim and public speaking awards, including the George Washington Medal of Honor from the Freedom Foundation at Valley Forge, Pennsylvania on two occasions and the Second Americanism Medal from the Daughters of the American Revolution; now, therefore,

Be it resolved, by the Senate of the State of Minnesota, the House of Representatives concurring therein, that the sincere appreciation of the Minnesota Legislature go out to O. M. (Mike) Ousdigian for his long and untiring efforts and achievements as a public servant of the state of Minnesota and as a full time booster of America and the American way of life.●

## WAYS AND MEANS ADOPTS INDEXING

● Mr. DOLE. Mr. President, the House Ways and Means Committee voted yesterday to adjust the taxation of capital gains caused by inflation. The Senator from Kansas believes this is a significant action.

TAXFLATION

Mr. President, inflation is our No. 1 tax problem. During periods of inflation, the net effect of the current tax system is to push low- and middle-income taxpayers into higher tax brackets without any corresponding increase in their real purchasing power. Indexing the tax system to the rate of inflation would help neutralize the impact of inflation by maintaining the effective rate of taxation for any given income level at the rate originally legislated.

Mr. President, the House Ways and Means Committee has taken an important step toward solving this problem. A recent study concludes that in 1973 individuals paid nearly $500 million in excess tax on capital stock capital gains because of the distorting effect of inflation. That is one-half of a billion dollars collected on nominal fictitious, capital gains. Mr. President, these were not gains—they were not a profit. And the capital gains "tax" was a capital levy, and not a tax.

TAX INDEXATION ACT

Mr. President, on March 13, I introduced S. 2738, the Tax Indexation Act of 1978. That legislation provides for adjustments to the tax rate tables, the zero bracketing amount, the personal exemption, the corporate surtax exemption, individual retirement accounts and Keogh contributions, the gift exclusion, the unified estate credit, the general tax credit, the earned income tax credit, tax credit for the elderly, the child care tax credit, the limitations on investment tax credit, the minimum tax threshold, the current exempt amount for the exchange of personal residence by individuals over age 65, and the basis of assets. The inflation adjustment would be made annually at a rate equal to two-thirds of the increase in the Consumer Price Index.

INDEXING IS REFORM

Mr. President, there is no tax reform that is more important to achieve, easier to accomplish, and fairer in its impact than income tax indexation. The concept is not new. Pension provisions, found in the Tax Code, imposing limits on the amount of employee contributions, are presently indexed. The energy tax bill, pending in conference, contains an index tax on the business use of oil and gas. According to a Congressional Budget Office study, approximately 63 percent of all Federal expenditures are completely indexed or quasi-indexed. Tax indexing is used successfully in a number of Western countries, including Canada.

APRIL 24 HEARINGS

The Subcommittee on Taxation and Debt Management has held hearings on S. 2738, the Tax Indexation Act of 1978. This legislation cosponsored by Senators GRIFFIN, MCCLURE, LUGAR, SCHMITT, LAXALT, DOMENICI, HAYAKAWA, and GARN provides a rational, equitable approach to indexing our tax system.

Mr. President, I am encouraged by the statement of the chairman of the Finance Committee (Mr. LONG) that he would support at least a partial inflation adjustment of capital gains. It is too early to tell whether the bill the House reports will contain a measure indexing capital gains. But regardless, the Senator from Kansas intends to press for indexing of capital gains, and every other provision of S. 2738, when the tax package reaches the Senate.

TAX RELIEF

Mr. President, the American taxpayer has had enough. They have enough of big Government—inflation—and high taxes. Congress has enacted yearly tax reductions for the past 3 years, and still the Congressional Budget Office estimates that taxflation will rob Americans of $45 billion in 1983.

Mr. President, indexing is the answer to this problem. The House Ways and Means Committee is showing us the way. The Senator from Kansas would urge all his colleagues to lend their support. Tax indexing is an idea whose time has come.●

## ALASKA: THE WILDERNESS HERITAGE OF ALL AMERICANS

● Mrs. HUMPHREY. Mr. President, I am joining today as a cosponsor of the "Alaska National Interests Lands Conservation Act," S. 1500—substitute amendment 2176.

We have an obligation, it seems to me, to recognize the unique importance of this Alaska lands issue. It has quite rightly been called the conservation challenge of the century.

Throughout our history, Americans have generally approached the ever-receding western frontier with a single-minded determination to open the wilderness for development. In Alaska, on our federally owned domain, we have a last chance to avoid that pattern. We can identify and preserve the great natural wonders, the critical wildlife habitat, and the wilderness before the land is parceled out and the resources exploited.

The wilderness of Alaska is a special legacy for all Americans. It is vast, expansive, remote, and wild. It has immense values for our people—values which are fundamental to our culture, to our national character, and to our well-being. It is clear that the people understand this value, and that there is overwhelming public support for preserving our natural heritage of wilderness in Alaska.

I consider S. 1500 to be a "must" bill for the Senate. It is essential that we act, and this bill includes the kind of strong provisions which are required to truly meet the dimensions of this challenge.

Several weeks ago, I wrote to the majority leader to express my hope that the Senate would take up this legislation yet this year. For the information of my colleagues, I ask that the text of my letter be printed in the RECORD.

The letter follows:

U.S. SENATE,
*Washington, D.C., June 29, 1978.*

Hon. ROBERT BYRD,
*Majority Leader,*
*U.S. Capitol,*
*Washington, D.C.*

DEAR MR. MAJORITY LEADER: It is my special hope that the Senate can proceed with final action this year on the House-passed Alaska national interest lands legislation.

This is a truly national issue which concerns the natural heritage of parklands, wildlife, and wilderness which every American shares on the federal lands in Alaska. The Congress has done much to expedite the rapid development of much of Alaska, through generous land transfers to the State and through special legislation setting aside or speeding up environmental reviews on the existing oil pipeline and the forthcoming natural gas transportation system.

The Alaska lands legislation presents us

the opportunity to bring some balance back into this picture. The areas it proposes, as much refined in the House consideration and now being further refined by the Energy and Natural Resources Committee, have been identified through a thorough study process. We are ready to complete this job and I believe the American people expect us to do so, with this national interest clearly in mind.

The wilderness that would be preserved under this legislation is of particular personal interest to me. It will be given immediate statutory protection within our National Wilderness Preservation System, under the policies set forth in the Wilderness Act of 1964. My husband was the original sponsor of the Wilderness Act, beginning in 1956, and considered it among his proudest legislative accomplishments. In Alaska, we can now apply that landmark conservation law to areas of truly great wilderness protected in advance of the usual process by which such areas get nibbled away and diluted by inconsistent development.

The scale of this legislation is large, but it has fired the imagination of a growing number of our people. I believe the Senate has an obligation to act, and I earnestly request that the scheduling of business during the remainder of this Session include this legislation.

Sincerely,

MURIEL HUMPHREY.●

## TRIBUTE TO BAYLOR'S DRAGOONS

● Mr. WILLIAMS. Mr. President, on September 28, the people of River Vale and Bergen County, N.J. will gather to pay tribute to the memory of a handful of loyal soldiers who were killed in their sleep at River Vale during the Revolutionary War.

On this day in 1778 between 11 and 15 members of Colonel Baylor's Third Continental Dragoons were bayoneted by British soldiers and hastily buried in nearby abandoned taning vats.

They were forgotten for about 189 years. Then in 1967 the bones of six of these men were unearthed during an archeological dig in 1967. Their remains were reinterred in a monument erected at the site, and September 28 was designated as "Baylor Memorial Day" in the State of New Jersey. I would like to join the residents of River Vale and the entire State in paying homage and tribute to these men in order to acknowledge the sacrifice made by the members of Baylor's Dragoons. Forgotten for so many years, their deaths will no longer go unnoticed—their patriotism will no longer go unrecognized.

With this bicentennial memorial to the Dragoons' deaths, we will insure that these and all men who lost their lives fighting for the independence of this country will always be remembered and their contribution to our heritage applauded.●

## THE DESTRUCTION OF LEBANON

● Mr. MOYNIHAN. Mr. President, over the past 2 years I have attempted to call public attention to the implications to the accelerating pace of destruction in Lebanon. A conflict in Lebanon has raised up enormous physical and human casualties; yet these are no less important than the veritable destruction of the Lebanon democracy.

It strikes me that the Western World at large has been startlingly oblivious of the onslaught against the Lebanese democracy.

Put plainly, what the totalitarian powers have achieved with their arms, with their surrogates, in Lebanon is paradigm of what they have in store for other nearby democracies and for democracy in general. Israel is most immediately affected but surely other democracies might well take note. And yet there continues a tendency to describe events in Lebanon in a manner which seems to exclude Lebanon from the arena of democracy's concern. In October 1977, I spoke in New York City and said:

Permit me just a moment to recall the events of June, 1976, when the American Ambassador to Lebanon Francis Meloy and Robert Waring, our Embassy's economic counselor, were murdered in cold blood and broad daylight in circumstances that clearly implicated—the PLO. PLO spokesmen in Beirut, joined by the PLO's representative at the United Nations, announced that an investigation would be conducted into the killings. They would round up the usual suspects.

The charade continued: The PLO announced that three suspects were in custody, the PLO spokesmen in Beirut this time expressing the view that the three had been working for some outside power, perhaps even the Central Intelligence Agency! And in July of 1976, it was announced to our evident satisfaction and relief that American diplomats in Beirut would henceforth receive PLO protection. I repeat: this was the American government's response—its apparent response—to the destruction of the Lebanese democracy by the arms and the clients of the Soviet Union—of which the PLO is surely among the more prominent.

The American Catholic community chose not to identify itself with its more than one million fellow communicants in Lebanon, while the media, by labeling them "right wing Christians," in effect excommunicated them from the liberal society. Surely a triumph of Newspeak, for their struggle concerned the preservation of a liberal policy, not the creation of an authoritarian one.

In this morning's Wall Street Journal there is a valuable editorial which reviews the background of the violence in Lebanon. I ask that the text of that editorial be printed in the RECORD.

The editorial follows:

[From the Wall Street Journal, July 26, 1978]

THE VIOLENCE OF LEBANON

(NOTE.—For the violence of Lebanon shall cover thee, and the spoil of beasts, which made them afraid, because of men's blood, and for the violence of the land, of the city, and of all that dwell therein.—Habakkuk 2:17.)

The open wound that is Lebanon is noticed only when the bleeding is especially profuse. The Syrian bombardment of Beirut is merely the latest horror. Judging from everything from official statements to journalistic accounts, few American opinion leaders are equipped to understand the Lebanese situation, let alone resolve it.

When the precarious balance of internal Lebanese political power collapsed in 1975, the weak forces of public order went down with it. All that remains are armed gangs—the natives barely controlled by their own chiefs, and the foreigners stirring the pot for their own purposes. Americans, apparently incapable of comprehending the kind of politics driven by religious and dynastic loyalty, frantically try to grasp the situation by sorting out "leftists" and "rightists."

Yet consider the "Progressive Socialist Party," actually Druse (an Islamic heresy) who follow the Jumblatt family. They have been allied to the Moslems and Palestinians. Another Druse group, hereditary enemies of the Jumblatts, have been neutral; the Druse clans in Israel support the Jews against the Palestinians, Christian or Moslem.

Or take the Franjiehists, adherents of an ex-president, the murder of whose son and heir set off the latest round of fighting. In 1976 the Syrians intervened to prevent them from overrunning predominantly Moslem Tripoli in the north, and they were identified as the most extreme right-wing Christians; now allies of Syria, a thoroughly fascist dictatorship, the Franjiehists have become "liberals" to the Western press.

The international aspect is almost equally devoid of ideological content. The Syrians, who were introduced to Lebanon with U.S. blessings, are ruled by a clique of Alaouite Moslems, a small and well-despised minority. Syrian objectives in Lebanon are transparently obvious, once we shake the American convention of viewing international boundaries as representing real frontiers between nations. Until 1944 Lebanon was part of Syria, and the Syrians would like it back, as they would other Syrian territory sliced off by the European imperialists—most of what is now Israel and Jordan.

In 1970, Syria supported the Palestinians against Jordan, but in 1976 the Palestinians were the strongest faction in Lebanon so Syria helped the Christians break them. Now the Christians are dominant, so the Syrians have turned artillery on them in order to enforce their de facto protectorate over Lebanon. This is how an imperial power demonstrates to the natives that it intends to be obeyed.

From the south, Israel is also applying an ancient strategm—divide et imperum. Never adverse to helping the Arabs fall out among themselves, the Israelis eagerly embraced the opportunity to support the Maronite Christians against the Palestinians and to wipe out the PLO bases in south Lebanon, and is now sustaining a Christian "militia" along the border.

The Lebanese situation has some special features. Incredible as it sounds, some in the Israeli-linked force are paid by the Lebanese government, as are a good part of the Christian, Moslem and Druse fighters. Although the Lebanese army broke up three years ago, paymasters wend their way through the rubble to remunerate troops on all sides. With what, you ask? Well, taxes are being collected. The fiscal apparatus of the Lebanese state is still intact. In fact, during the last two years, the Lebanese pound has appreciated 10% relative to the dollar.

The State Department has declared its determination "to take whatever steps we consider necessary to help establish peace and necessary to help establish peace and security in Lebanon." Well, does the situation described above sound like anything Messrs. Vance and Young can understand, much less control? The official U.S. response is depressingly predictable—just stop the fighting, without noticing why the fighting broke out in the first place; form a pluralistic government, forgetting that the civil war is the result of a failure of pluralistic government, and foreigners keep hands off, ignoring the fact that the most unsettling foreign element, the Palestinian refugees, have no place to go.

Lebanon was created in 1944 to be a Christian-dominated state; it broke down because of the higher birth-rate of the Moslems and the introduction of half a million well-armed Palestinians. A democratic Lebanon would be Moslem-ruled and would not be strong enough to control the Palestinians.

Many Maronite leaders are advocating a partition, leaving them in control of a rump Lebanon, but this would require an enor-

mous, and probably bloody, relocation of peoples. Worse, the Maronites are in the center of the country; the south adjoining Israel is inhabited by pro-Palestinian Shiite Moslems. Only Syria could restrain the PLO there, and the Israelis are not about to permit a Syrian presence on their northern frontier.

We're afraid that it's naive to talk of peace in Lebanon, and basing our policy on abstract principles of justice is singularly inappropriate. Who is right in Lebanon depends on which side you are on. The U.S. will best serve its own interests by following the primitive rule of supporting its friends. In the convoluted politics of the Levant, our friends have been the Saudis, the Hashemites of Jordan, the Maronites and the Israelis.●

## NOMINATION OF RUTH CLUSEN FOR DOE POSITION

● Mr. BAYH. Mr. President, I applaud the recent nomination by the President of Ruth C. Clusen for the position of Assistant Secretary for Environment in the Department of Energy. The new Secretary for Environment will be responsible for assuring that all departmental programs are consistent with environmental and safety laws, regulations, and policies. She will review and comment upon environmental impact statements from other agencies, prepare policy and legislative EIS's, act as a link to environmental agencies and the environmental community, and assure adequate health and safety measures in DOE programs.

I have known Ruth Clusen for a number of years because of her outstanding work with the League of Women Voters. She has been affiliated with that fine organization for over 26 years. Ruth is a graduate of the University of Wisconsin and taught history for a period of time. She and her husband, David, are residents of Green Bay, Wis.

Since 1952 she has been active in the league in both the local and national scene. It is significant to note that she has held every possible elective office within that civic organization, including membership on the national board. In 1974 she was elected national president of the league, and her term was so successful she was elected for a second term in 1976.

It was in 1976 that she gained national prominence as the person responsible for arranging the televised debates between President Ford and then candidate Carter and Vice Presidential hopefuls Mondale and Dole. The debates helped citizens gain important insights to the positions and character of the candidates.

Ms. Clusen has fought for changes in many areas where reform has long been needed. She has consistently endorsed and worked for programs to improve our environment, provide full employment, reform our welfare laws, improve access to the Government for all citizens, and provide equal rights for women. In 1977 she was one of Ladies Home Journal's women of the year.

I have had the opportunity to know of Ruth's effective leadership because of her strong support for reform of the electoral college. This has been one of my major goals during my years in the Senate, and having Ruth as an ally has been a great asset.

There is no doubt in my mind that Ruth Clusen's education, experience, concern for people, and years of leadership with the league make her an especially well-qualified nominee. She will make an excellent Assistant Secretary for Environment in the Department of Energy. I am sure my colleagues join me in welcoming this fine nomination.●

## HMO'S IN THE TWIN CITIES

● Mrs. HUMPHREY. Mr. President, just last week the Senate voted to extend the HMO program and this week we shall soon be considering the Health Planning Act Amendments of 1978.

With both of these pieces of legislation in mind, I would like to call to the attention of my colleagues an article which was printed in the National Journal of July 22. The article is entitled "HMO's Are Alive and Well in the Twin Cities Region," and it points out that the Twin Cities appear to be the first large-scale health care market in which there is active price competition involving a majority of the area's hospitals and doctors.

The success of HMO's in the Twin Cities was attributed to a number of reasons. Historically, Minnesotans have favored an open and progressive government; corporate leaders are seriously concerned about social issues; and, the physicians, although strongly independent, have undertaken many innovative programs in health care services.

What this article makes clear is how well the HMO program can function. Such innovative approaches should continue to be considered and encouraged so that health care in the United States will truly become the best and least costly in the world.

Mr. President, I ask that the text of this article be printed in the RECORD.

The article follows:

HMOs ARE ALIVE AND WELL IN THE TWIN CITIES REGION

(By John K. Iglehart)

MINNEAPOLIS-ST. PAUL.—Here in the Twin Cities region the marketplace seems to be working for medical care.

In an era when government preaches more competition as an answer to rising health costs while relying in practice on new regulatory controls, doctors and purchasers of health care here are demonstrating that medicine is indeed susceptible to economic incentives.

Consider these developments:

Seven health maintenance organizations (HMOs) now compete for customers against conventional health insurance plans on the basis of price, convenience of service and benefit coverage.

The HMOs now serve 190,000 people, or almost 10 per cent of the area's population, and all have experienced substantial growth in the past year as an increasing number of employers offer their employees a choice between HMOs and traditional insurance coverage.

HMOs have stimulated competitive responses from organized medicine and from Blue Cross and Blue Shield of Minnesota. The Hennepin County Medical Society, a local affiliate of the American Medical Association, has established its own HMO, as have the Blues, to counter the loss of patients.

With their emphasis on keeping the rate at which they hospitalize patients to an absolute minimum, the Twin Cities HMOs are bolstering the number of "surplus" hospital beds in the area. (See box, p. 1161.)

HMO was the label President Nixon attached to his Administration's move to inject the principles of the marketplace into health care. The Carter Administration has picked up on the theme and Health, Education and Welfare (HEW) Secretary Joseph A. Califano, Jr. has given the concept a high priority.

Health maintenance organizations provide a comprehensive set of medical services no matter how costly they may turn out to be—to voluntarily enrolled members for a predetermined monthly premium. This prepaid feature, as Nixon noted when he first promoted HMOs in 1971 as an answer to soaring medical costs, reverses the "illogical incentive" of fee-for-service medicine: that is, "the more illnesses [doctors] treat and the more services they render, the more their income rises."

Back in 1971, HEW Secretary Elliot L. Richardson testified that by 1976, the department expected 1,700 HMOs to be in operation, serving 40 million members. But today, there are only 175 of the facilities, serving 6.5 million members. The number of people served by HMOs has doubled since 1971, but still represents only 3 per cent of the population.

The Nixon and Carter Administrations emphasized the importance of the HMO concept as a way to infuse medicine with the economic principles consumer choice and price competition that are supposed to discipline any market and the impact of the HMOs is evident in Minneapolis-St. Paul.

But the phemonenon has by no means transformed the Twin Cities into a marketplace mecca, where supply matches demand for medical services with any precision. The area has an acknowledged surplus of hospital beds, more doctors than the medical society's executive director, Thomas W. Hoban, says it needs and a prestigious health complex at the University of Minnesota that has all but ignored the competitive struggle.

Nevertheless, the presence of seven HMOs, competing among themselves and with fee-for-service doctors, is making a difference here.

"The idea of a competitive medical care environment where consumers have a real choice and where most providers are competing with each other on price and other considerations has until now been an attractive but largely theoretical goal," said Dr. Paul M. Ellwood Jr., the physician who sold the HMO concept to the Nixon Administration and who continues to work with HEW to nurture it.

"Selling it to health policy makers has been a difficult task. But the Twin Cities appears to be the first large-scale health care market in which one could say there is active price competition involving a majority of the area's 20 hospitals and approximately 1,700 doctors. If this community is a fair test, then the competitive market strategy appears to work."

Ironically, the federal government has had relatively little to do with HMO growth in Minnesota, and doctors, hospitals and major employers who purchase the bulk of medical care here prefer it that way. Richard T. Burke, acting director of the HMO sponsored by the medical society, said in an interview, "The success of HMOs here has been in direct proportion to the relative lack of government involvement and red tape."

Only one of the seven HMOs here has sought federal qualification, but the Carter Administration is very much interested in HMO developments in the Twin Cities. HEW undersecretary Hale Champion delivered the keynote address on April 29 at the 20th annual meeting of the oldest and largest HMO in the area. Group Health Plan Inc.

Champion discussed the "remarkable growth in HMO enrollment in the Twin Cities

from 2 to 10 percent of the population enrolled in just seven years. . . . HMO competition inspires healthy change leading to the formation of more HMOs. This area now has seven. And third-party insurers. Blue Cross particularly, are instituting cost controls and offering fuller benefit packages. Also, physicians are changing their behavior—in some cases moving voluntarily to mandatory cost controls such as preadmission certification, length-of-stay reviews and limitations on fees and charges per visit."

ENVIRONMENT

Minnesota has been a shining light among the states in many respects. And most things of note within the state are concentrated in the Twin Cities orbit.

The environment of Minneapolis-St. Paul, which historically has favored an open and progressive government, a conservative but constructive private sector and a medical care industry willing to innovate, has been instrumental in fostering HMOs.

Time and again, individuals involved in the development and promotion of HMOs here cite the importance of these ingredients. "Corporate leaders are reasonably liberal on social issues here," said Paul L. Parker, executive vice president of the Minneapolis-based General Mills Inc. "They don't raise the spectre of Communists around every corner."

Physicians in the Twin Cities have displayed more tolerance for innovation than their counterparts in most other sections of the country, though they remain a fiercely independent breed. Fee-for-service doctors long have practiced in group settings in Minnesota, for instance. But the climate for development of group practices operating on the basis of fixed premiums and with a consumer-dominated board was chilly when the first HMO was established here in the mid-1950s.

Group Health Plan, now the largest HMO in the Midwest with 108,000 members, was conceived originally in 1939 by a group dedicated to the consumer cooperative movement. It was not until 1955, however, that a favorable ruling by Minnesota's attorney general made the HMO concept a viable alternative to fee-for-service medicine.

In that opinion, Attorney General Miles W. Lord declared that a corporation may organize on a nonprofit basis to provide "means whereby the members of this corporation may secure for themselves and their families and dependents comprehensive prepaid medical and dental care."

Organized medicine fought vigorously to block creation and development of the Group Health Plan. The Minnesota State Medical Association's House of Delegates, in May 1956, resolved to be "officially and specifically opposed to the practice of medicine by corporations of any character or purpose because such practice is opposed to the best interests of physicians and the public and because such practice does not conform to the law governing medical practice in the state of Minnesota."

The Federal Trade Commission, in an August 1977 stag report on the competitive impact of HMOs, reported that during the early years of its existence, "Group Health Physicians were denied access to hospitals, were socially ostracized and were subjected to professional ridicule.

A physician who works in one of the HMOs that is more directly linked to traditional medicine conceded in an interview, "Group Health Plan was not seen as legitimate by most doctors here until recently." In the early 1970s, almost 15 years after Group Health Plan was created, a number of forces converged that led not only to a doubling of the plan's enrollment but to the formation of six more HMOs, including one established by medical society physicians who once denounced the concept.

Nixon's early pronouncements on behalf of the HMO concept formed a foundation for later developments. The leading salesman of the idea was Ellwood, president of InterStudy, a Minneapolis-based health policy research organization. "Paul doesn't get the credit he deserves for pushing HMOs here because by the time they caught on, he had already moved into other things," said the medical society's Burke, one of three former InterStudy employees who today directs HMOs in the Twin Cities region.

The corporate community also became involved. "Back in 1971 and 1972, our company was pursuing the concept of what we call 'alternatives to conventional philanthropy,'" Parker of General Mills told an HEW conference on HMOs on March 10.

"Like every other good corporate citizen, we were writing checks for the United Way, various colleges and universities, social agencies and the arts. We were thinking out loud as to whether business with its presumed managerial skills might do more for society if it concentrated less on check writing than on managing and operating in the nonprofit area, with the bottom line being social gain, not earnings per share.

At this fortuitous time, Parker said, Dr. Leon Warshaw, an officer of the Equitable Life Assurance Society of the United States, asked General Mills and other local firms if they would like to look into HMOs. "Dr. Warshaw wanted us to join him in a three-year project to study the feasibility of an HMO central services organization, and our only quarrel with his proposal was that we felt it was time not for study but for action."

General Mills, 10 other large corporations and eight insurance companies banded together to promote the HMO concept in a new organization they called the Twin City Health Care Development Project. The project was reconstituted in 1976 as the National Association of Employers on Health Maintenance Organizations. The association remains headquartered in Minneapolis but has a national membership of 160 corporations, most of which are of the Fortune 500 variety. An association brochure says it is "for those companies who are interested in containing health care costs and exploring alternative health care delivery systems."

EVOLUTION

The diversity of origin and organizational structure of HMOs in Minneapolis-St. Paul is striking. All are nonprofit organizations, as required by Minnesota's state law, and six of them were created within the past five years.

Since 1971, total HMO enrollment has increased from 1.9 percent of the area's population to 9.8 percent, an increase of 153,189 enrollees. "Since total population grew very little [2.9 percent] during this time period, increases in HMO enrollment took place primarily at the expense of Blue Cross-Blue Shield and private insurers," according to Jon B. Christianson, an economist at InterStudy who published a report last April entitled, *Do HMOs Stimulate Beneficial Competition?*

The vast majority of HMO members in the Twin Cities, Christianson said, are "a very desirable category of consumers from the standpoint of both fee-for-service physicians and insures the employed, middle-income family".

The second largest HMO in the area is MedCenter, formed in 1972 by the St. Louis Park Medical Center, a previously fee-for-service multi-specialty group practice of 107 physicians based in suburban Minneapolis.

St. Louis Park doctors became enamored of the HMO concept in 1970. "Group Health was killing them" by taking patients away, according to Burke, who served as the first staff director of MedCenter. But the activity of General Mills also played a key role because most of its corporate employees were fee-for-service patients at St. Louis Park. Ellwood also was instrumental in helping MedCenter get started.

"Most of our doctors would have preferred that nothing happen," said one of them. "But if HMOs were going to become an important new dimension in medicine, we wanted a piece of the action."

Today, 30 per cent of the income and patient visits of the St. Louis Park facility come from its 32,000 enrolled HMO members. The fee-for-service and HMO concepts operate compatibly at the medical center and its staff is aggressively seeking new business.

The Ramsey Health Plan, a hospital-based HMO also created in 1972, initially served only the employees of Ramsey County (St. Paul). But in 1976, the organization began marketing to other groups and now counts 4,000 members.

The SHARE Health Plan was sponsored originally by a mutual benefit association for railroad employees. It was reorganized and became operational in 1974. SHARE is the only HMO in the area to apply for and win federal certification, but ironically, the government's stamp of approval probably has been more beneficial to other HMOs than to SHARE.

The 1973 federal HMO law requires employers of 25 or more workers to offer the option of HMO benefits if a federally certified plan operates in the area. But when SHARE approaches an employer to request that its employees be given a choice between a traditional health insurance plan and an HMO, the employer invariably offers its workers access to more HMO plans than simply SHARE's.

"Federal certification has been very helpful to our competitors," SHARE's medical director, Dr. Richard Webber, said in an interview. "Its real advantage to us was it enabled SHARE to receive a $850,000 federal start-up loan." SHARE now has 18,000 members and is regarded by HEW as one of the most successful HMOs launched with federal subsidies.

The Nicollet-Eitel Health Plan is a product of a joint commitment by the Nicollet Clinic and Eitel Hospital, a 144-bed institution in downtown Minneapolis. The clinic is a well-established multi-specialty group practice with 45 doctors, all of whom have staff appointments at Eitel Hospital.

Jack Rivall, Eitel's administrator, conceded in an interview that his institution's interest in the HMO concept involved only a "bit of altruism. The major incentive was to guarantee a future for our institution, which is the smallest acute care hospital in Minneapolis—3 per cent of the patient days."

Nicollet-Eitel's 6,500 HMO members have helped stabilize the patient base at Eitel Hospital. In a city where patient days declined 10 per cent in 1977 compared with the previous year, "Eitel is holding its own in a declining market," Rival said.

HMO in Minnesota is a network of independent physician groups throughout the state that contract with Blue Cross and Blue Shield to provide medical care to an enrolled population on a prepaid basis. After opening in September 1974, HMO in Minnesota experienced a period of slow growth because the Blues initially lacked "a total corporate commitment to make the HMO work," George Halvorsen, director of affiliated services for Blue Cross and Blue Shield of Minnesota, said in an interview.

The erosion of the Blue's conventional business in Minnesota forced the organization to upgrade its HMO activities. HMO in Minnesota now has 13,500 members, an increase of 10,000 in the past 18 months, but the Blues continue to lose business. The first time Honeywell Inc. offered its Twin Cities employees an option in 1977, one-third of its workers, or about 4,000 people, dropped the conventional Blue Cross coverage and chose an HMO plan.

"The growth of our traditional insurance

program would have been a lot higher without the HMOs here, there's no doubt about that," Halvorsen said. Some of the Minneapolis-Honeywell employees switched to the Blues' HMO network, but most opted for the newest HMO in Minneapolis-St. Paul—the Physicians' Health Plan, incorporated in December 1974 under the sponsorship of the Hennepin County Medical Society.

The Physicians' Health Plan (PHP) is based on an HMO model known as the independent practice association, in which individual physicians continue to practice in their own offices and bill the plan directly, but agree to seek prior approval from the plan before hospitalizing a patient and to submit their claims to review by other physicians.

Physicians' Health Plan has grown to 15,000 members, but its early years have been accompanied by financial shortfalls that have required the doctors to impose upon themselves the kinds of controls that most had associated only with the government.

SIGNS OF COMPETITION

The American health care system offers consumers of medical services few real opportunities to shop for care in the same way that they might for an automobile on the basis of price, range of options or ready access to treatment or repair.

"In the system of fee-for-service, cost reimbursement and third-party intermediaries that dominate health care financing today, the question of efficient use of resources does not even arise," Professor Alain C. Enthoven of the Stanford University Graduate School of Business told the Massachusetts Medical Society on May 22.

"The problem of how best to spend a given amount of money for the health care of a population is not posed. Providers are not required to set priorities, look at alternatives and make hard choices," Enthoven said. "From the point of view of the provider, there is an apparently unlimited amount of money. This system rewards cost-increasing behavior with more revenue; it punishes cost-reducing behavior with less revenue."

Christianson said in his HMO report that under the current medical care system, "consumers have little reason for price-consciousness in their choice of providers. Consequently, health care costs grow at a 12 percent annual rate, with yearly increases in insurance premiums of 50 per cent not uncommon."

He noted that "business has borne much of this cost increase. While the average weekly salary of an employee increased 85 per cent between 1964 and 1975, employer contributions for health-related benefits rose by over 180 per cent during the same period."

Despite the growth of HMOs, 90 per cent of the two million residents of metropolitan Minneapolis-St. Paul continue to be insured through traditional private health insurance plans or government-sponsored programs such as medicare and medicaid. Thus, the majority of citizens there remain oblivious to the growing struggle for health dollars that now engages doctors, hospitals and those who pay for medical care.

But signs of competition are emerging for two primary reasons: 57 local employers now offer their employees a choice between HMOs and conventional insurance coverage and most health care providers are vying for this business. "The employers have created a competitive environment in medical care here," said Ted Kolderie, executive director of The Citizens League, an influential civic organizations in the Twin Cities.

Among major employers offering their employees a choice are General Mills, Control Data Corp., Minnesota Mining and Manufacturing Co. (3M), Pillsbury Co., Cargill Inc., International Multifoods Corp., Dayton Hudson Corp., Honeywell Inc., and the Prudential Insurance Co. Significantly, more than half of the Minneapolis-St. Paul employees of Prudential, a major indemnity insurer, have opted for HMO coverage.

The first step in the competitive struggle for HMOs, though, is to convince employers to offer their workers this alternative form of health care delivery. Once offered, the attitude of the employer plays a critical role in determining an HMO's success in penetrating that market.

"HMO administrators and marketing agents identify the enthusiasm of the employer as a primary factor determining the ability of HMOs to enroll employees," Christianson said in his report. "They believe that when employers allow HMOs to market directly to employee groups, the HMO enrollment share is substantially increased for initial enrollments. . . . Businesses with a significant employee enrollment in HMOs emphasize convenience of HMO access points as the major factor in determining employee willingness to choose HMO care. Those businesses with extremely low initial employee enrollments point to the magnitude of the additional employee contribution required for HMO membership as the determining negative factor."

In striving to market their services, HMOs in the Twin Cities have sought to differentiate their products. Physicians' Health Plan markets itself as distinct from the other plans because enrollees can retain their family physicians in virtually all instances. Blue Cross-Blue Shield emphasizes its long-standing experience in health insurance when it tries to sell HMOs in Minnesota to potential enrollees who are uncertain about the concept.

The five "group practice" HMOs emphasize the integrated nature and presumably high quality of care rendered in a multi-specialty group setting. And both SHARE and the Ramsey Health Plan, lacking multiple locations, stress that all medical care, outpatient as well as hospital services, is provided conveniently at one location in a personalized manner by a relatively small staff.

Group Health Plan and MedCenter market their extensive satellite facility networks and their financial stability and membership size, while the Nicollet-Fitel Health Plan sells the stability and reputation of its medical group and the convenience of its two satellite facilities.

HMO benefits are more comprehensive and sometimes more expensive than those marketed by conventional insurance plans. The major items covered by HMOs, but not by indemnity plans, are routine visits to a physicians office, physical examinations, immunization and other preventive services.

"HMOs are most often in the position of trying to sell more benefits at a higher price when competing with standard insurance plans, with many of these benefits mandated by Minnesota state law," Christianson said.

The precise role of price competition in the struggle between HMOs and indemnity insurance is difficult to pin down. Competition has forced all of the health plans here to keep their monthly premiums within about $15 of each other, with HMOs generally higher because of the more extensive coverage.

No single price comparison would accurately depict the relative cost of each plan because of the variables involved, but in general, the difference between HMO and conventional insurance costs has diminished because the cost of the latter has risen more rapidly.

In selected instances, HMOs that once were more expensive are now less so, compared with indemnity coverage. At General Mills, for example, the corporation first offered its employees an HMO option in March 1973. Family HMO coverage cost the worker $9 a month, while the regular insurance plan required no employee contribution. Today, General Mills foots the entire bill for both forms of coverage, $103 per family per month for indemnity coverage and $93 for HMO membership but eventually, Parker said, the company would have to decide whether it should permanently subsidize the employee who selects the more expensive health insurance coverage or require the worker to pay the extra cost. (*For another example, see box, p. 1165.*)

In calculating their rates, HMOs are no more altruistic than the private insurance business. They are able to offer their members more health care per dollar because they aggressively control the rate at which they hospitalize their members, a lesson that Physicians' Health Plan doctors learned only after flirting with bankruptcy.

HMOs in Minneapolis-St. Paul have hospital utilization rates that range from 375 to 650 days per 1,000 members a year. The annual hospital bed rate for the metropolitan population is 1,350 days per 1,000 individuals, but this includes the elderly. The vast majority of HMO members in the Twin Cities are employed individuals and their families. In their number are few elderly persons whose hospitalization rate is high.

DOCTORS

When individual fee-for-service doctors decided in 1974 to join the HMO movement here, they had no idea that the result would be fiscal chaos and the ultimate imposition of strict cost controls to save the Physicians' Health Plan from failure.

The physicians, under the aegis of the medical society had created the independent practice HMO plan to counter the loss of patients to competing organizations.

But after two years of operation, PHP faced a deficit of $700,000, the result of start-up costs and a gross miscalculation of how many days of hospitalization HMO members would require. HMO premium rates had been calculated on the basis of 575 bed days a year per 1,000 enrollees, but from March through December 1976, the actual rate was 643 bed days per 1,000. And, once maternity benefits took effect, hospital use exceeded 700 days per 1,000. Use of outpatient laboratory and x-ray services also exceeded projections.

"We kept telling doctors they could practice medicine as they always had," said Dr. Richard Simmons, chairman of the PHP board, "but we found out we were wrong."

Voluntary sanctions were imposed, including a hospital pre-admission notification program and an agreement that PHP would pay doctors only 70 cents of every dollar in billed claims. But the controls had little impact. In the first quarter of 1977, bed days per 1,000 members rose to 744. In June 1977, the plan's board informed the 1,200 member physicians that "drastic measures are necessary to get medical costs under control, or go out of business."

The doctors opted for controls to wipe out their mounting deficit, including a closely monitored pre-admission hospital certification and length-of-stay review program. A doctor must now call PHP for advance approval of all but emergency admissions. At that time, a length of stay is agreed upon.

Other mandatory controls include more stringent limits on mental health and chemical dependency services (for one quarter of 1977, mental health and chemical dependency—drug abuse and alcoholism—cases accounted for 30 per cent to 35 per cent of total bed days) limitations on physicians' fees and charges for office visits and controls on pharmacists' fees and review of their services.

Thomas Hoban, the county medical society's executive dirctor, said in an interview: "Without the competition, we could

not have imposed those controls. The doctors would not have tolerated those controls, but they're willing to go along with the system because they feel it is important to have a stake in the HMO market. Nearly every major industry in town has made a commitment to offer the HMO option."

To remain price competitive, PHP may have to limit hospital stays to the more efficient institutions in the area. This could lead to substantial physician disenchantment because doctors today are free to select the hospitals of their choice, regardless of their rates.

"One of the weaknesses of the independent practice model is that we cannot tell doctors which hospitals to use," PHP director Burke said. "But we do have some leverage by pointing out to doctors that if they limit their practices to the most efficient hospitals, they are more likely to receive 100 percent of their billed charges."

THE FUTURE

The medical care market in Minneapolis-St. Paul clearly is in a state of ferment. The presence of HMOs has shattered long-standing relationships among patients, physicians and hospitals, and predicting future developments is a shaky exercise.

Major parties with a stake in the economics of health care, including government and organized labor, still have not been heard from or at best have played only limited roles in the struggle here.

Federal and state laws helped shape the competitive environment by requiring employers to offer their employees, on request, a choice between HMO and indemnity insurance coverage. But neither level of government has nurtured the HMO movement by purchasing services directly from these facilities, a shortcoming that afflicts HMOs throughout the country.

HMOs in the Twin Cities virtually have no members who receive care under medicare or medicaid. Medicare, the federal program that provides care to some 25 million elderly citizens, reimburses HMOs on a basis that gives the HMOs no financial incentive to enroll patients who generally need health care about twice as often as younger people.

The state of Minnesota has not aggressively pressed HMOs to enroll beneficiaries of medicaid, a federal-state program that underwrites the health care of poor families. Without the enrollment of a segment of society's most vulnerable citizens, HMOs can hardly lay claim to being the answer to the health cost problem.

The HMOs are apprehensive about potential government regulatory actions that could impede their operations. For example, a state-sponsored hospital rate review program administered by the Minnesota Hospital Association takes a dim view of price discounts that some HMOs have negotiated with selected hospitals. (For a report on state regulation of hospital costs, see NJ, 7/1/78, p. 1045.)

Group Health Plan and Fairview Hospital, to which it sends most of its patients, currently are embroiled in a debate with state regulators over the discounted hospitalization rate the HMO pays.

"If Group Health is prevented from negotiating a discounted rate, such an action would protect hospitals from effective price competition, and I submit that would be counter to efforts to contain costs," said Dean A. Lund, assistant to the general manager of Group Health Plan.

The state regulators question whether such discounts represent unfair subsidization of HMO patients. Ironically, the two individuals in the rate review program who are involved in the debate and leaning against discounts that are not strictly "cost justified" are two former InterStudy employees Gary Appel and Fred Sattler.

Howard Veit, director of the federal HMO program, said in an interview two weeks after he visited Minneapolis-St. Paul and discussed developments with its HMO directors. "Our basic view of that area is that it represents in many ways the prototypical community for the future development of HMOs.

"With 10 per cent market penetration, the HMOs there have demonstrated that this form of health delivery is very, very marketable in many communities, despite significant physician resistance in some quarters. HMO development there, though, has not been well coordinated, but rather ad hoc. One could argue that if several of the smaller HMOs pooled their resources, even greater economies could be achieved."

The Twin Cities HMO saga hardly is complete, but as it unfolds, it will give the federal government an opportunity to observe what happens when the forces of marketplace competition are applied to the practice of medicine.●

## BALLET FOLK

● Mr. CHURCH. Mr. President, the Wall Street Journal, on July 21, carried an article by Ted Stanton, the managing editor of the Daily Idahonian in Moscow, Idaho, on Ballet Folk, an Idaho dance company begun on a shoestring a few years ago which has now prospered, with a schedule that takes it from small towns in Idaho to large cities on the east coast.

A major part of the success of this innovative dance company has been the availability of Federal funds from the National Endowment for the Arts, which has made it possible for audiences, which would not otherwise have such an opportunity, too see fine performances by talented performers.

Mr. Stanton's article demonstrates how worthwhile the National Endowment program has been to small companies, such as Ballet Folk. Mr. President, I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, July 21, 1978]

THE PUBLIC ARTS DOLLAR: IT HAS THEM DANCING IN IDAHO . . .

(By Ted Stanton)

Moscow, IDAHO.—The boom in professional dance has reached across the country to the woods and plains of Idaho. Dance superstars such as Nureyev and Baryshnikov don't penetrate the Idaho backwoods, but Ballet Folk does and the crowds love it.

The rapid growth of Ballet Folk of Moscow—based in north Idaho, not central Russia—reflects the surge in popularity of dance in America. The company, started eight years ago, now tours from Oregon to the Midwest, South and East Coast. It also goes down past Hells Canyon to Riggins, deep into the woods at Orofino and St. Maries, Idaho, and to many more Northwest towns and cities.

In Enterprise, Ore., Ballet Folk sold 1,500 tickets to enthusiastic adults and children for two performances. The town's population is 1,700. A Lewiston, Idaho, third grader wrote her school newspaper, "It was beautiful, modern, exciting and far out."

The company's shows draw loggers and farmers, townspeople and students, with dress ranging from jogging suits to jeans to evening gowns. At around $3, a ticket is out of almost nobody's range.

"Many of our audiences are unfamiliar with dance," says Joan Muneta, business manager of Ballet Folk. "They're surprised to see quality dancing in, say, a small logging town, and surprised to find they are enjoying it."

Ballet Folk and other professional companies face a critical point this summer: The first-come, first-served approach to federal funding of dance, which fueled the past decade's boom, is about at an end. The change, to financing based largely on judgments of quality, will cut off funds for some companies. Those surviving the cut will benefit, however, because fewer companies will share the pot.

"In part, it was a question of having many companies existing or having fewer companies making a pretty good living," says Nello McDaniel, the National Endowment for the Arts' Dance Touring Program Coordinator for the West and head of the Western States Art Foundation in Denver. Federal dance funding comes from the National Endowment for the Arts through its Dance Touring Program. It filters down to the companies principally in the form of subsidies to organizations sponsoring dance programs. The endowment will pay the sponsor up to 30% of the company's fee.

The subsidies began in 1965, with companies that met bookkeeping and other quantitative requirements qualifying. Requests came in and the money went out, until the year's allocation had been distributed. Each year more companies qualified; 189 were on the books this year, up 38 from last season. Last weekend they were all being reviewed by a 23-member national panel. Next week the National Endowment's council will act on the panel's recommendations of which companies to support. Quality will be paramount, but money won't be cut off if that would wipe out a company, says Arlene Shuler, dance program administrator. "We'll look at other things. Certainly, the company's importance to the region will be a factor." She notes that Ballet Folk, for example, "plays to audiences that otherwise would never see a ballet."

"Without the program," says Ballet Folk cofounder Carl Petrick, "we couldn't maintain a company to tour Idaho. The state could support a company for maybe three months, but not a year. With a three-month season, we couldn't keep high-quality dancers here."

In 1971, Mr. Petrick and his wife, choreographer Jeannette Allyn, then both in their 20s, started with a few ballet classes in a ramshackle Moscow store. They taught youngsters and some of the children's parents, lived in the back of the store and went to classes at the University of Idaho. The store offered space, a hotplate and a cold-water shower. The classes caught on quickly; in the second year the Petricks got hot water. They incorporated in 1972, got an Idaho Arts and Humanities grant and with a $17,000 budget toured Idaho. Six dancers, all from Idaho, earned $25 a show, and had outside jobs in order to eat.

By 1975, the budget was at $190,000 with Ballet Folk's reputation growing and the Petricks and Mrs. Muneta proving deft in getting grants and encouraging local donations. In 1976–77 it spurted to $282,000 as the Dance Touring Program embraced the company. Last season Ballet Folk had 11 dancers, all with professional experience around the country. They worked on nine-month contracts at $425–$475 a month and did 82 performances from coast to coast.

The company uses classical ballet techniques to express and interpret American themes. Its repertoire has ranged from an exuberant "Hoedown," to "The Rainmaker" done to Aaron Copland music, to a jazz ballet, to lyrical choreography accompanied by the music of Judy Collins, Jim Croce and other modern artists. Traveling by bus, the company carries its own lights, floor covering and sound system to play the recordings. It often has workshop and performance residencies of two to five days at colleges, but over half its performances are one-night

stands in big and small communities. These are usually in high school gyms, Mr. Petrick notes, because "while some schools have stages, all schools have gyms."

Is the company good enough to meet the endowment's quality test? Western coordinator McDaniel notes that Ballet Folk has a "good reputation throughout the West," and sponsors almost always ask it back. Touring Program officials saw Ballet Folk in Washington, D.C., this year and cited it favorably in asking Congress for funds.

Ballet Folk hasn't been reviewed by leading critics, however, and that might be a reason to play major cities, says Mr. Petrick, who was recently named director of the state arts and humanities commission, leaving company direction to Miss Allyn and Mrs. Muneta.

However, he adds, "New York doesn't need us nearly as much as they do in St. Maries, Idaho."●

## SUGAR PRICES

● Mr. ANDERSON. Mr. President, the soils of southern Minnesota and the Red River Valley are rich and productive, a valuable gift to Minnesota and its people. But for the sugar beet farmers there, the soil might as well be solid rock, because sugar prices have reached "rock-bottom" and Minnesota sugar beet farmers are actually losing money to work the long, hard hours necessary to grow their crops. They are going further into debt, some are going broke, and there will be fewer sugar beet farmers in Minnesota next year.

These family farmers are confused and, frankly, so am I. The on-again, off-again attitude of the administration toward implementation of a fair sugar program has them frustrated and unsure of their future and the future of the sugar industry in this country.

One year ago President Carter assured our Nation's sugar growers that he was committed to maintaining a "viable" domestic sugar industry. Yet, last autumn, we were still waiting for the USDA to initiate the import management program specifically asked for by Congress months before the 1977 farm bill. Cheap imports continued to flood our domestic market, undercutting the American sugar grower.

Due to the delays in implementing this program, when these import management fees were finally imposed, they were too little; and since then, the USDA has been sluggish in raising them to congressionally mandated levels.

Minnesota commissioner of agriculture, Bill Walker, has shared with me a letter he wrote to Secretary of Agriculture Bergland regarding the problems these low duties have caused Minnesota sugar beet growers. Mr. President, I feel it would be valuable for all my colleagues to read this letter, and I request unanimous consent that it be printed in the RECORD.

The letter follows:

STATE OF MINNESOTA,
DEPARTMENT OF AGRICULTURE,
*Saint Paul, Minn., July 3, 1978.*

Hon. BOB BERGLAND,
*Secretary, U.S. Department of Agriculture, Washington, D.C.*

DEAR SECRETARY BERGLAND: On June 19, 1978, you announced and caused to be published in the Federal Register on June 21, 1978, a request for comments on sugar imports and the imposition of import fees, expressing your own intention to make specific recommendations to the President of the United States in this regard.

As Commissioner of Agriculture for the State of Minnesota, I am extremely concerned about the continuing impact of imports upon our distressed domestic sugar industry. As you know, our region of the country (Minnesota and North Dakota) over the last five years has provided this nation with a substantial increase in domestic beet sugar production; the most dramatic increase in decades. This increase was brought about as a result of a tremendous commitment of money by our farmers, both directly and indirectly.

Of increasing concern to us is the competition from foreign suppliers of sugar to the United States. We are not afraid of competition in and of itself; however, we understand that the tentative findings by the Treasury Department indicate that at least two of the countries in the European Economic Community (Belgium and France) are heavily subsidizing their export to this country.

This kind of competition is impossible for the domestic sugar industry to deal with on its own. It requires a commitment from Washington similar to the one made by our farmers when they invested in sugar production.

To that end, import fees must be established and enforced in such a way as to recognize our domestic sugar industries costs and its importance. In order to be realistic they should be calculated quarterly so as to reflect changes in costs. Fees on imported sugar should at least fully offset any cost advantage over domestic sugar; based on a 17 cent minimum national price support.

It is important, I feel, that the President understand that the sugar import fee and sugar support price issues are inseparable; they are not merely of vital consequence to domestic sugar producers, but equally vital to the world sugar industry. The United States, to a greater degree than any other nation, sets the world sugar prices because of its import dependency.

Sincerely,

BILL WALKER,
*Commissioner.*

Mr. President, this letter concerns adjustments in the current sugar program resulting from the de la Garza amendment to the 1977 farm bill. This program will expire at the end of the 1978 crop year.

Most of us here today agree about the importance of and the need to keep our domestic sugar industry alive and healthy. The current program has helped, although not enough to guarantee the health of our sugar industry through the coming years. To replace this program, my distinguished colleague, Senator FRANK CHURCH, has introduced S. 2990, the Sugar Stabilization Act of 1978, which I have been honored to cosponsor. This bill will authorize U.S. participation in the International Sugar Agreement, require a sugar price support program at an initial 17-cent-per-pound level, and mandate the use of import fees to balance imports with any domestic demand our home industry cannot meet.

Mr. President, a long-range, responsive domestic sugar policy is long overdue. Everyone—farmers, consumers, sugar field, and factory workers—are getting tired of roller-coaster, boom-and-bust cycles and prices. One year the farmer suffers from drastically low prices, and the next year the consumer is burdened with high prices at the retail counter because farmers have cut back or gone broke. One year the sugar field or plantworker has a job, and the next year he is laid off with no income. It is in everyone's best interest to seek dependable and stable prices for sugar. The best way to do this is to have a healthy sugar industry in this country.

Allowing our sugar producers to receive the price they have earned and deserve will keep them in business and will avoid forcing the American consumer to pay cartel prices later. If this Nation wants to reduce inflation and keep it under control, we must set long-range goals. Making sure that the American consumer will have the opportunity to buy from U.S. sugar beet and cane producers at reasonable prices in the future is such a goal.

S. 2990 would go a long way toward reaching this goal. The Sugar Stabilization Act of 1978 is the type of long-range program a responsible and concerned government should implement. I urge my colleagues in the Senate to support this important and long overdue legislation.●

## GIVE RHODESIA A CHANCE

● Mr. MORGAN. Mr. President, the following article presents the feelings of many Americans. I ask that the article be printed in the RECORD.

The article follows:

GIVE RHODESIA A CHANCE

(By Sir Robert Thompson)

On New Year's Eve, if all goes according to plan, a white-settler minority that has ruled Rhodesia for more than half a century will turn the government over to the country's black majority. A new Central African nation, to be called Zimbabwe—after an extinct civilization of that area—will be born. Zimbabwe (Zim-'bäb-we) stands a good chance of becoming a showplace of democracy, prosperity and interracial harmony. It also is one place where Soviet expansion into Africa can be stopped dead in its tracks.

During the last two decades, 40 or so African countries have received independence from European rule. Although born in high hope, most soon become one-party systems, some ruled by bloodthirsty military tyrants such as Uganda's Idi Amin. Often white racism has been replaced by black racism. The economies of many of those new nations have stagnated, and some have gravitated into the Soviet orbit.

Zimbabwe, however, promises to be the exception. As I found during a recent visit, the black leaders who will take over on December 31 are committed to moderate, reasonable policies and friendship with the West. Despite racial discrimination in the past, they want whites to remain and assist in Zimbabwe's development. Unlike some dictators in Africa, Zimbabwe's new leaders have—in the opinion of experts I talked to—the support of a substantial majority of the country's six million blacks, as well as most of its 270,000 whites.

Problem Child. Rhodesia, as the country will continue to be known until the changeover to black rule, is one of Africa's most prosperous countries. Its farms produce far more food than needed and, with further irrigation, agricultural production could be quadrupled. Rhodesia also has extensive deposits of the world's best-quality chrome ore as well as of other valuable minerals. Its

fledgling industries are the envy of many of its neighbors. And it has one of the best black educational systems in Africa.

Nevertheless, this year's settlement between the whites and the moderate black leaders is a surprising development. From its formal establishment in 1923, Rhodesia had been a self-governing British colony, and the white minority ran the government pretty much to the exclusion of the black majority. During the early 1960s, while European governments were granting freedom to their African dependencies, Britain pressed Rhodesia's whites to turn control over to the blacks gradually. The whites responded by declaring their independence in 1965.

Not a single country recognized the rebel regime. At Britain's behest, the United Nations imposed a trade ban on Rhodesia to force the whites to capitulate. Black guerrilla movements sprang up, aimed at toppling the white regime. And, Moscow stepped in to manipulate the guerrilla movements to its advantage.

Now, because of international isolation and guerrilla pressures, the whites are relinquishing control, and the settlement is bound to have important international consequences. If Zimbabwe can show that whites have nothing to fear from black rule, the experience could help to solve the explosive racial problems of neighboring South Africa, where 4.3 million whites dominate 19 million increasing restive blacks.

Zimbabwe, moreover, may turn out to be a roadblock in the Soviet drive into Africa. One of Moscow's aims is to bring the vast mineral deposits of the southern half of Africa under its political control. It has thus been supplying arms to the Rhodesian guerrilla, and Cuban instructors have been training them.

The Rhodesian guerrillas, who now call themselves the Patriotic Front, are based in neighboring black countries and have waged their struggle for more than ten years. Some of their leaders openly proclaim that they want to turn the future Zimbabwe into a one-party Marxist state, aligning the country with the Soviet Union.

Time and again, the Patriotic Front has been offered the chance to participate in free elections if it renounces violence. But, knowing full well it would be defeated, the front has spurned the ballot box—unless it is allowed first to take control of the army and police, thus enabling it to assure the outcome.

U.S.-British Role. Zimbabwe needs full political and economic support. It cannot go it alone. Washington and London should take the lead in lifting the Rhodesian trade sanctions, now that black majority rule is being achieved.

Yet, incredibly, the American and British governments have refused the support Zimbabwe so richly deserves. Instead, U.S. Secretary of State Cyrus Vance and British Foreign Secretary David Owen have been trying to reconcile the Patriotic Front and the moderates. Vance and Owen argue that if the front is left out of the settlement, Zimbabwe will never have peace and may not be accepted by neighboring African governments. At the same time, there is the fear that, if the front is not placated, it will invite Cuban troops into the conflict.

Rubbish, I say. Attempts at reconciliation of the two sides simply will not work. Guns and votes, like oil and water, do not mix. Many of the guerrilla leaders are terrorists, who can't be coaxed into gentlemanly give and take. They are out to destroy the moderates, not to share power with them.

As a student of guerrilla movements, I realize that the hard core of the Patriotic Front will try to keep up the struggle. I am convinced, however, that many of the rank and file will desert the cause once they see that what they have been fighting for—a black government—has been achieved. With that, the fighting will be reduced to a manageable nuisance and, eventually, die out.

If Zimbabwe succeeds, I think other African states will accept it. Immediate neighbors Zambia and Mozambique stand to benefit from Zimbabwe's food surpluses, its manufactured goods and the reopening of its borders. If, on the other hand, various African regimes refuse to accept Zimbabwe for the time being, so what? Most are dreary one-party states or military dictatorships. And some, notably Angola and Mozambique, are client states of the Soviet Union. There is no reason why Washington and London should curry their favor.

The Cubans may be a real threat, but resolute action—and not spineless appeasement—is the only way to deal with Castro's marauding legions. As former Secretary of State Henry Kissinger stated recently: "We must make clear to other countries that we will not be blackmailed by Cuban troops or by Soviet arms."

Civil-War Menace. If America and Britain continue to withhold their backing, Zimbabwe's new government will be sorey weakened and could collapse. Should the whites leave Rhodesia, a million blacks, now employed in largely white-owned business firms, factories, farms and mines, will be left jobless.

A collapse of the moderate government would be followed by a Patriotic Front takeover—and full-scale civil war. The front consists of two guerrilla movements based largely on tribal lines, which are ancient rivals. One, led by Robert Mugabe and based in Mozambique, is called the Zimbabwe African National Liberation Army. It is formed mostly of Mashona tribesmen who account for about 75 percent of Rhodesia's black population although only a fraction of them are part of the front. The other movement, commanded by Joshua Nkomo and operating from Zambia, is known as the Zimbabwe People's Revolutionary Army. It consists mostly of Matabele tribesmen. An offshoot of the warlike Zulus of South Africa, the Matabeles comprise only about 15 percent of the black population, but they dominated the Mashonas in pre-colonial times.

One of the reasons the forces of Mugabe and Nkomo are based hundreds of miles apart is that this keeps them from killing one another. The two movements have on occasion turned their guns on each other—with hundreds of guerrillas killed in training-camp battles. A takeover by the Patriotic Front thus adds up to a sure recipe for civil war.

In view of this, the white settlers, who are led by Prime Minister Ian Smith, were not about to hand the country over to the Patriotic Front. Instead, Smith struck a bargain last March with three black moderate leaders, bringing them into the government as a prelude to black majority rule. The three are Bishop Abel Muzorewa, an American-educated Methodist clergyman, the Rev. Ndabaningi Sithole, a Congressional preacher, and Jeremiah Chirau, a tribal chief.

The Patriotic Front and its supporters portray the three blacks as "puppets" of Smith. This is not true. Muzorewa has an immense following, far greater than any other black leader. He and Sithole are committed black nationalists. Sithole spent ten years in jail because of his political activities. Chirau commands considerable respect among older and more traditional blacks because of his chieftainship.

The transfer of power, moreover, is irreversible. Smith and the three blacks have formed an executive council, which makes all major decisions by consensus. Black and white co-ministers head each of the government's nine ministries. Elections are to be held later this year to form the black government that will take over on New Year's Eve.

What Future? Safeguards for the white minority have been written into the agreement. The whites will have 28 of the 100 seats in Zimbabwe's parliament for ten years—or the duration of two parliaments, whichever is longer. As a bloc, the whites cannot be part of future governments in any kind of coalition. Nor will they have any direct say in national policy. Yet they will be able to hold up fundamental constitutional amendments, which will require at least 78 votes.

Before arriving in Rhodesia, I wondered what future the whites will have. More than one beautiful constitution has been torn up in Africa—and elsewhere. But in talking with black and white leaders, I found a refreshing change in the country's racial politics.

To a man, the black leaders are mindful of the disastrous experiences of Angola and Mozambique, whose economies utterly collapsed after the flight of the Portuguese, and want the whites to stay in Zimbabwe.

Many whites are prepared not only to accept black rule but to cooperate in making a success of it. Here again economic considerations prevail. If the settlement breaks down, all that the whites have built will be swept away in violence, looting and chaos.

Race relations, I found, are remarkably harmonious. White and black politicians are on a first-name basis with each other, and businessmen of both races lunch together in leading restaurants. The University of Rhodesia has long been integrated, and 53 percent of its students are black. Meanwhile, the expected exodus of whites has not reached alarming proportions, and some whites are returning.

The settlement is actually quite close to what Henry Kissinger proposed in 1976. Obviously, it may not be perfect—what political compromise ever is? But the wonder is that there could be any agreement at all after 13 years of white recalcitrance. Now it needs official recognition from America and Britain and a lifting of the trade sanctions.

The hard-core element in the Patriotic Front will try to keep the political-violence pot boiling. But, as it becomes increasingly evident that they are fighting not white racists but freely elected black government, the black populace will cease to support them. Without such support, no insurgency can succeed.

The issue in Zimbabwe is clear cut: are votes or Soviet guns going to triumph? The decent people of Zimbabwe, black and white, will do what they can. It is in the best interests of the United States and Britain to give them a chance.●

## JUSTICE—SOVIET STYLE

● Mr. PELL. Mr. President, once again, recent events in the U.S.S.R. compel me to protest Soviet violations of the Helsinki Final Act. Repression of the Soviet Helsinki watchers culminated last week in the trial of Ukrainian human rights activist Levko Lukyanenko who was convicted and given the maximum sentence of 10 years in labor camp to be followed by 5 years in exile. The charge was the all-too-familiar "'anti-Soviet agitation and propaganda" leveled at so many Helsinki monitors. In this case, as in the others, the only "crime" was, in fact, an effort to promote compliance with the provisions of the Helsinki Agreement which the Soviet Union signed willingly in August 1975.

The trial of Lukyanenko was, unfortunately, but one in a long series of actions aimed at annihilating the Helsinki monitoring groups. The week before, three other group members were tried,

convicted, and sentenced: In Moscow, Anatoly Scharansky, anwd Aleksandr Ginzburg; and in Vilnius, Viktoras Petkus. These 4 convictions bring the total number of Helsinki watchers who have been convicted, since the first group's formation, to 17. Three others remain in prison awaiting trial while two others were stripped of their Soviet citizenship while abroad and are, thus, banished from their country. Yet, despite this concerted crackdown on the Helsinki monitors, new members are taking the place of those imprisoned. During the trials of Scharansky, Ginzburg and Petkus, for example, it was announced that Sergei Polikanov, physicist, had joined the Moscow group.

That Lukyanenko and Petkus received the maximum sentences, while Ginzburg and Scharansky were meted out less severe—though still strict—terms is not insignificant. Soviet authorities have always been more fearful of Lithuanian and Ukrainian nationalists than Jewish refuseniks or Russian democrats and, therefore, deal with them more harshly. In addition, the Soviet authorities apparently hope that the trials of Petkus and Lukyanenko—held far from the watchful eyes of Western correspondents stationed in Moscow—would go unnoticed if conducted during the much publicized and closely followed trials of Scharansky and Ginzburg.

Lukyanenko has already spent 15 years in the Soviet Gulag—over 4 of them in the dread Vladimir prison. During that lengthy imprisonment, Lukyanenko developed a stomach ailment from which he still suffers. He will by 65 years old when he finishes this term and will have spent nearly half his life in Soviet prisons and camps. I urge my colleagues to join me in protesting this recent example of justice—Soviet style.●

## KILLERS IN RHODESIA

● Mr. GARN. Mr. President, in a recent interview in Salisbury, Rhodesia, Josiah Mushore Chinamano, a follower of the Joshua Nkomo, president of the Communist-backed Zimbabwe element of the African Peoples Union (ZAPU), said that—

Until certain goals and objectives on both sides are met at the negotiating table, one might expect there to be an increasing threat to life across the countryside of Rhodesia, the loss of 50 a day or more.

He said that—

Until meaningful changes are brought about then the war will continue to escalate.

Mr. President, this interview was conducted on the morning of July 14. Later that evening, Chinamano's ominous prediction was implemented in a bloody massacre that killed 17 Africans—including 9 children. This atrocity is characteristic of the horror the Communist guerillas are committing while insisting on the complete surrender of all blacks and whites inside Rhodesia who support the so-called internal settlement.

Since the signing of the Salisbury Agreement on March 3, 1978, the Communists have stepped up their support to Joshua Nkomo and his ZAPU forces. The Patriotic Front has found the murder of Africans to be a useful and irresistable method of exerting political pressure. It is clearly seen that Joshua Nkomo and Robert Mugabe lack the popular support inside Rhodesia to achieve victory in a free election; thus, his answer is to take power through a brutal bloodbath of innocent people.

Mr. President, I have received a very graphic review of this violence as reported in the regional press and I attach these newspaper articles for the RECORD.

The articles follow:

[From the Sunday Mail, July 16, 1978]

TERRORISTS BUTCHER 17 IN REMOTE KRAAL

In a mass killing that virtually wiped out a whole village, 17 Africans—including nine children—were murdered by two terrorists who walked into the kraal, raked two huts with gunfire, shot and bayoneted women and their families, and finally burnt to death nine of the villagers.

There were only five survivors—four of them badly wounded with gunshot and burns.

The massacre—the fourth in three weeks—happened on the borders of the Zwimba Tribal Trust Land and lands of Chief Jeremiah Chirau, a member of the Executive Council and president of the Zimbabwe United People's Organization. It is about 60 km south of Sinoia.

In the atrocity 17 men, women and children were chased into a hut which was set on fire. Some of the victims were shot as they crawled for safety.

The dead included the kraal head, named by security forces as Mr. Makanza (55), two of his wives, his father aged 75, and, among his children, a son, Alfred (5), and another (21) and the son's wife (18).

Also among the dead were two girls (11), others aged five, 13 and eight, and a four-year-old boy.

The massacre by ZIPRA terrorists following Joshua Nkomo happened on Friday night and was discovered yesterday by security forces. A communist-made grenade and 70 spent bullet casings were found at the scene.

Mr. P. K. van der Byl, the co-Minister of Information, who visited the kraal with troops and newsmen, described the grisly scene: "It is too appalling to express one's horror and condemnation adequately."

The deaths came to the bleak flat land at about 7 p.m.

Some families were in their huts; women, children and some men were near the cooking hut; and the kraal head was sitting close by.

HEART JUMPED

The only warning was the barking of a dog. The kraal head's third wife, Mrs. Nhama Gushongo, looked up . . . and her heart jumped in panic.

"There were two young men carrying guns and the guns burnt," she said.

She fled for her life into the bush . . . the only villager to escape unscathed.

Already, behind her as she stumbled across the half-tilled fields, the killing had begun. One terrorist went to a hut, flung open the door, and raked it with machinegun fire.

Five villagers died immediately from gunshot and bayonet wounds.

Outside this hut yesterday were placed the bodies of two men, three children, and a women with a child, who died then or in the later terror.

The second terrorist circled the cooking hut where a group of villagers were gathered. He came across the kraal head and opened fire.

Screaming women and children made the fatal mistake of running inside the hut. The terrorist followed and fired into the huddled, terrified families.

Then he set the roof on fire. The blazing grass collaped almost immediately.

Several tried to crawl away. Two people died at the front of the hut. Another victim, a girl of 11, crawled 200 metres before dying.

Nine charred bodies, mostly children, lay outside the hut yesterday. Some were hideously contorted, features and sexes unrecognisable.

The horror provoked an angry reaction from Mr. van der Byl: "Death at the end of a rope is too good for those who caused the terror and indescribable pain to these people."

Of those who managed to get out, four villagers all suffering from burns and gunshot wounds, were taken to Sinoia hospital, where they were in a serious condition last night.

A security force spokesman said at the scene: "The terrorists are hardcore. It is pitiful to see this sort of thing done to their own kind."

The same two terrorists are believed to have murdered a Mr. Felix, from the same kraal, a few days earlier. His wife, Mabel, was one of Friday's victims.

The massacre was the worst of a growing number of terrorist actions in the area. The two killers were identified as ZIPRA terrorists by speaking Sindebele.

Since July 5, the gang they belong to have been responsible for four murders, and two villagers have been seriously hurt, a security force spokesman said.

Another security force officer said: "The killings here have gone up tenfold in the past month.

"Some of the incidents have been indiscriminate, where someone has been 'fingered'. Someone says a person has a certain political affiliation and these bandits act unmercifully."

Both ZIPRA and ZANLA forces—the latter loyal to to Robert Mugabe, co-leader with Joshua Nkomo of the Patriotic Front—operate in the area, Mr. van der Byl described clashes between these forces as "incipient civil war".

Troops and Police at the massacre scene said that the terrorists followed the dying kraal head to a hut where he had fled and accused him of being a "sell-out"—although security forces said he had no connection with them.

Although the kraal is close to Chief Chirau's homeland, the area is predominantly in support of the United African National Council.

Just a month before the attack on the village it had changed its support from the UANC, led by Bishop Abel Muzorewa, to the Rev. Ndabaningi Sithole's ZANU.

The decision to change, said kraal head's widow Mrs. Gushongo, who had four of her 15 children—one boy and three girls—murdered, was taken at the suggestion of her husband.

She said that before the attack there was no warning it would happen.

After visiting the kraal, Mr. van der Byl said of the children who were "deliberately and mercilessly" killed: "It is a most tragic case."

He attacked world leaders, such as Mr. Andrew Young, the U.S. Ambassador to the United Nations, for trying to justify "actions of this sort by so-called liberation movements and freedom fighters."

"If this is freedom fighting, the world has come to a sorry pass."

He said the civilised world had a duty to recognise the present Government, to "put down this sort of thing", and not to back external terrorists. He went on to criticise the support of countries which harboured terrorists and those which provided money to them.

Mr. van der Byl said that Mr. Young had said that the external leaders were fighting for personal power.

"One thing they don't want is the internal settlement to work, so they can use the country as a battlefield to fight for personal power.

"The world must realise this."

There was one last poignant note as newsmen left the ravaged village. Alongside them rode the third wife, clutching a baby.

"I don't know what to do now," she said. "I must wait to see my other children to decide what to do with my life."

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[From the Rhodesian Financial Gazette, July 14, 1978]

CHANCES OF CEASEFIRE DIE AS TERROR ACTS CONTINUE

Most observers now believe that the chances of a ceasefire being achieved by representatives of the internal parties are becoming increasingly remote. Virtually every political pronouncement by those claiming to have control of the terrorist forces have been met with further acts of violence.

The UANC recently sent four envoys into the Fort Victoria district: they were murdered. A similar fate is said to have befallen emissaries from Mr. Sithole's ZANU, sent to negotiate with groups loyal to Mugabe's ZANLA.

Recruits are still said by ZAPU to be leaving Rhodesia via Botswana to join Mr. Nkomo's Zambia-based ZIPRA which, with the aid of Cuban training, appears to be intensifying its efforts along the Northern border and in the South West—an area that was, apparently, relatively quiet until recently.

Mr. Nkomo has repeatedly commented in recent weeks that he plans an intensification of the war, with an increasing concentration on urban targets. Although efforts to mount concentrated campaigns in major urban centres appear to be unlikely to materialise in view of the stringent security arrangements in force, an increased effort in the rural areas is felt probable.

Experienced observers now believe that, in the absence of a negotiated ceasefire at an all-party conference—a possibility they consider remote—the future reduction in the level of terrorist activity will be due more to the continued efforts of the Security Forces than to any response to calls from Executive Council members.

In spite of a casualty toll that has risen sharply since the signing of the Salisbury Agreement on March 3rd, Mr. Sithole's ZANU maintains that the terror war "is dying down".

"We do not think it—we know it" said a spokesman. Asked why ZANU's predictions of a ceasefire had not materialised, the spokesman said that recent intensified attacks on civilians were "the work of isolated dissidents trying to wreck the Salisbury Agreement."

The ZANU attitude contrasts with that of Prime Minister Ian Smith, who a few weeks ago commented that the ceasefire "was not going as well as we had hoped"; in an interview with the Sunday Express this week he said that "the killing, the maiming, the torture and the rape will continue and possibly increase in intensity as the British government continues to sit on the fence in true Munich fashion."

And this week's attack on the Kariba-Elephant Walk convoy was said by one of those present to be "well planned and executed" and not, apparently, the work of an untrained and poorly armed force.

Anger over this and other recent incidents is known to be growing among both civilians and military personnel.

Furthermore, although ZANU has also repeatedly claimed that the "safe return" arrangement is creating a flow of returning terrorists, they are not believed to come from the main body of either ZIPRA or ZANLA.

However, recent reports of internal disagreement in Mugabe's ZANU/ZANLA may indicate that the main offensive is passing to Mr. Nkomo.

Mr. GARN. In an interview by the London newspaper, the Times on May 22, 1978, Andrew Young responded to a question on the Patriotic Front by saying:

Non-violence is in many ways being practiced by the Patriotic Front. . . . I asked one of their commanders, Tongogara, what they actually do in Rhodesia, and he said they're not doing much fighting, except when they are fired upon, or when the Rhodesian forces find them and try to run them out. Basically, what they're doing is moving around the villages and conducting political seminars and singing songs.

Ambassador Young's reference was to Josiah Tongogara who is ZANU leader Robert Mugabe's "Secretary for Defense." Following the murder in Lusaka in March 1975, of Herbert Chitepo, a leading member of ZANU, an International Commission of Enquiry was established by the Zambian Government to investigate the murder. The commission's report concluded that Tongogara, and others, had been responsible for the murder. The report made the following remarks about Tongogara:

There was evidence before the Commission that Tongogara had openly remarked that he saw no reason why he should not be the first President in an independent Zimbabwe through the barrel of a gun.

Robert Mugabe, the leader of the other faction of the Patriotic Front, ZANU, holds six university degrees, three of which were obtained while he was in detention in Rhodesia. Mugabe, an avowed Marxist who is ideologically incapable of compromise, is on record as having said that he wants a one-party Marxist state in Rhodesia. As quoted in the Rhodesia Herald in April of this year, Mugabe said:

We have a duty before us to prosecute the war to the finish. We are fighting because we want to spill the blood of the people, not because we are bloodthirsty, not because we like suffering, but because we want peace.

The Times of London reported that when questioning Andrew Young on Mugabe, Young was asked did he find a tension between himself and Mugabe because of a difference in attitudes and methods. Ambassador Young is reported to have replied:

Not at all. I find that I'm fascinated by his intelligence, by his dedication. The only thing that frustrates me about Robert Mugabe is that he is so damned incorruptible. He's inflexible. It's very difficult for him to make those practical political compromises that frankly I would like to see in the interest of a settlement. . . . He's a very gentle man. In fact, one of the ironies of the whole struggle is that I can't imagine Joshua Nkomo, or Robert Mugabe ever pulling the trigger on a gun to kill anyone. I doubt they ever have.

Mr. President, in a recent interview with the British News of the World, Robert Mugabe stated that the Smith regime must be crushed, destroyed, and overthrown if necessary. I recommend this article to my distinguished colleagues in order to provide important insight on this Communist leader and his solution on the Rhodesian settlement.

The article follows:

"THE BLACK-HITLER" STATES HIS AIMS IN BRITISH PAPER

The Executive Council brought to trial as traitors and criminals . . . the Smith regime crushed and destroyed . . . a one-party Marxist-Leninist State of Zimbabwe. This is the immediate plan of action of Patriotic Front leader Mr. Robert Mugabe should he come to power. In an interview with the British News of the World, appearing under the bold black headline "The Black Hitler", Mr. Mugabe puts the trial of Bishop Abel Muzorewa, tho Rev. Ndabaningi Sithole and Senator Chief Chirau first on his list of demands.

"They must be brought to trial. If the judgment is that they hang, then hang they will.

"We have appealed to Muzorewa, Sithole and Chirau to retract. If they do not they will be overthrown.

"They will become enemies of the people. They would be tried for atrocities. They have become Mr. Smith's accomplices."

Mr. Mugabe denied he was fighting a racialist war. It was a war for freedom. Once it was over white Rhodesians would be welcome to stay to take part in the economic and political life of the country.

"UNJUST"

"Once the present system is overthrown anybody at all, regardless of colour, race or creed, will be free to stay in the country as long as they comply with the rules set by the State and government of the day."

Mr. Mugabe emphasised that while there would be no seizure of personal property, nationalisation of industry and land would be a major factor in the destruction of the capitalist system and the implementation of a socialist system.

"At the moment the majority have very little land on which they eke out an existence. The minority has more land than they require. That is unjust. It must be corrected."

White settlers would be "freed" from the concept that they were superior merely because they were white.

"We will teach the whites that it is wrong for them to seek a privileged position. They will undergo a psychological reconditioning."

Mr. Mugabe said ZANU was anxious to have further talks with the British Government and was pressing for a constitutional conference to be held.

Previous attempts to get agreement and an end to the bloodshed had failed because Britain could not bring herself to proceed without Mr. Smith accepting any agreement.

He rejected any part of the internal agreement.

"We want genuine independence, not some phoney neo-colonial stuff. Total power to the people. That means unrestricted political sovereignty for our Government and State plus the military instruments that go with it.

"In short it is not just a majority in Parliament that we want but also the acceptance of our armed forces as the forces of our country.

"If these two are acceptable then we will proceed to elections."

Mr. GARN. Finally, Mr. President, since the earliest permanent residents of Rhodesia were missionaries and clergy, it is significant that the lives of these people were respected by the most warlike people. But now the terrorists of the Patriotic Front find the clergy a vulnerable target and irresistible prey for their well-armed cowards.

Prior to the killing of any Rhodesian missionaries there were isolated instances of individual terrorist leaders demonstrating antireligion views. A piece of rhetoric left at the scene of an unsuccessful bridge demolition in June of 1977

closed with the words "down with Christ."

Other missionaries were told by terrorists not to mention Christ and His resurrection in the course of preaching. It has been pointed out that this restriction is ominously akin to similar impositions made upon the Russian churches. In another incident, the Roman Catholic Church was described as representing the evils of capitalism.

The deliberate selection of missionaries as targets may have many origins, but the availability of defenseless victims in remote areas, and therefore, the susceptibility to murder, rape, and extreme brutality of the most vicious kind imaginable is significant. Tragically, these clergymen have persisted against the cowardice of the so-called Freedom Fighters of the Patriotic Front, but not without paying a significant price. In a recent article in the June 30, 1978, of the To the Point International, the bloodthirsty savagery of Robert Mugabe's forces against undefended missionaries was tragically highlighted.

This article follows:

MUGABE'S MEN MASSACRE MISSION WHITES

The massacre and mutilation of 12 British white missionary men, women and children in Rhodesia last week tragically highlighted failure of the Rhodesian transitional government to stop the terrorist war which has ravaged the country for the past six years. It also brought home to the whites in Rhodesia that even those carrying the word of God are not immune to attack from those whose cause many of them support.

For nine adults and four children, the daily threats of sudden death became a reality as a party of guerrillas reportedly from the Zimbabwe African National Liberation Army (ZANLA) of Robert Mugabe's Zimbabwe African National Union (ZANU) herded them from their mission school 25kms outside of Rhodesia's fourth largest city Umtali. Only one, Mary Fisher, escaped, and she is critically injured in Salisbury's Andrew Fleming Hospital.

The full horror of the brutal murders at the Elim Pentecostal Mission nestling in the often mist-shrouded Vumba mountains—Rhodesia's tourist paradise—became apparent only as on the spot investigations began.

A To The Point correspondent flew to the scene and saw for himself the pathetic evidence of the final struggle for life by the 12. Some had raised their arms to defend themselves from axes and bayonets. Joyce Lynn beaten to death, lay with her three-week-old baby Pamela. Their arms were stretched out to each other, their fingers centimetres apart. The mother had squeezed one hand tightly around her wedding ring as she reached for her baby in her dying moments.

The victims were beyond help when found by the Rhodesian security forces. Axe wounds scarred their bodies, bayonet thrusts were deep into their backs and skulls crushed by lengths of thick wood. One man had his hands tied behind his back and one woman an axe still embedded in her neck. All five women had been sexually assaulted. All the dead children were under five years old, near the bodies were blood-covered lengths of rough wood which the guerrillas had used to bludgeon their victims to death.

Shocked black and white Rhodesian troops carried the bodies away, tears in their eyes.

Students at the mission school said that while the killings were taking place another group of guerrillas, who identified themselves as members of ZANLA, rounded them up and ordered them to the dormitories. "They said they were from ZANLA," said William Shayangwako, 17. Black staff members at the school, who were not injured, said that the guerrillas denounced the Rhodesian internal settlement and singled out for criticism the Reverend Ndabaningi Sithole, who disputes the leadership of ZANU and ZANLA with Mugabe. (See interview).

Speaking to To the Points Barry Baxter by telephone from Maputo, Mugabe's aides denied that ZANU was responsible for the killings.

"It is the work of those three fear-ridden puppets, Muzorewa, Sithole and (Senator Chief Jeremiah) Chirau; and Rhodesian Prime Minister Ian Smith," ZANU lieutenant Charles Ndhlovu told Baxter. "They seem to have a new extended licence to embark on a bloody terrorist rampage. Hundreds of innocent civilians have been massacred by them and their (Rhodesian) forces.

"On Thursday last week (the day before the massacres) the Salisbury regime's troops unleashed an unprovoked murderous assault upon civilian workers at an agricultural station in Mocambique. Seventeen people including two Belgian nationals were killed.

"Then, to cover their own bloody footprints as they realised the eyes of the world were upon them, they once again let loose their soldiers and had the 12 British people assassinated."

There were few takers for Ndhlovu's stand. Already many white missionaries in Rhodesia have been forced to take up arms to defend themselves against what they consider a Marxist onslaught against Christianity by Mugabe, "It's a war for hearts and minds," one told To The Point. But an increasing number of missionaries feel they are left with no choice but to pack their Bibles and pull out—and leave thousands of black children without education and black peasants without medical care.

Smith initially refused to comment when Baxter telephoned him from Johannesburg. Later a spokesman for the Rhodesian government declared that it was not so much a need for condolences for the relatives of the massacred 12 whites—it was too late for that—but to ask if Britain and the U.S. still expected Rhodesia to negotiate with the people responsible for the outrage.

Commented a white woman in Salisbury: "It's disgusting . . . and these are the people Owen and Young want to let rule us."

Mr. GARN. The intensification of pursuing the elimination of religious conviction was recently told by Bishop Paul Burrough as reported by the London Bureau of the Sunday Mail on July 16, 1978:

BURN BIBLES, CLERGY TOLD

African clergymen in a large part of the Diocese of Mashonaland have been told by terrorists to burn their Bibles and this is driving them underground.

This was revealed when their bishop, the Rt. Rev. Paul Burrough spoke to a congregation at Ripley Parish Church, Surrey.

He said the ruling applied mostly in the border areas between Rhodesia and Zambia and Mozambique where missionaries and their congregations lived in fear of their lives from marauding terrorists.

The bishop, here for the Anglican Lambeth conference which is due to take place at the end of the month, said there was a campaign of persecution of Christians in these areas and the Roman Catholic Church, which had the greatest number of converts in the area, was also being forced to take similar measures.

Some missions and schools in the more sensitive areas had been forced to close down, he said.

The bishop said that members of congregations in his diocese were determined to keep their faith.

"Some have walked more than 60 km to receive confirmation under a tree. Then they received holy communion."

After that, the bishop had told them that from then on, they could only expect to make spiritual communion.

The persecution of Christians, he told his listeners, was a "necessary precursor of the establishment of a Marxist state" but it was only in the most extreme cases that people had been told to go underground and burn their Bibles.

He traced the history of Rhodesia from the beginning of the century when the first whites had settled there and explained what the settlers had tried to do and how the "present tragic situation" had arisen.

He could no longer enter a large part of his diocese. This situation had arisen over the past 12 months, he said.

Bishop Burrough spoke at the church where his father had been vicar between 1911 and 1917.

While the Carter administration pays lip service to the fact that Soviet activities in Africa appear to be directed toward exploiting some of that continent's difficulties, it is ironic that the Communist-backed Patriotic Front is encouraged by this administration to reject an agreement worked out in Rhodesia by leaders of all races in that country. There is little doubt that the violent hostility of the Patriotic Front to the internal settlement proved that neither Nkomo nor Mugabe are really motivated by the democratic ideals they proclaim, but merely by their personal ambitions to seize total power through the barrel of a gun.●

## OPEN LETTER TO ANATOLY SCHARANSKY

● Mr. RIBICOFF. Mr. President, we are all painfully aware of the great injustice which has resulted in the imprisonment of Anatoly Scharansky. It is especially unfortunate that one part of the "evidence" which Soviet authorities presented at Scharansky's trial to support the charge of "anti-Soviet agitation" was the fact that he met with a delegation of U.S. Senators visiting Moscow in 1975. I was a member of that delegation.

Last week, together with Senators ROBERT BYRD, BAKER, and JAVITS, I had the privilege of sponsoring a reception for Anatoly Scharansky's courageous wife, Avital Scharansky. At the reception, I had a long discussion with her about what could be done to help her husband. I informed her of the circumstances surrounding the meeting of U.S. Senators with dissidents in Moscow in 1975.

The meeting was attended by eight U.S. Senators and 18 Soviet dissidents. Anatoly Scharansky was at the meeting. There was, however, nothing secretive about the meeting.

It was planned before we left Washington. Soviet authorities knew in advance that the meeting would take place. The meeting was held in a suite in the Hotel Rossiya. Neither the fact of the meeting nor the substance of what was discussed was secret.

I told Mrs. Scharansky when she was here that I would write an open letter to her husband publicly stating for the record the facts surrounding that meeting.

I have today written such a letter which has been cosigned by each of the

eight Senators who attended the meeting in qeustion. It is our hope that Soviet authorities will reconsider their actions in the Scharansky case and permit him to emigrate from the Soviet Union.

Mr. President, I submit for the RECORD the open letter to Anatoly Scharansky.

COMMITTEE ON GOVERNMENTAL AFFAIRS,
*Washington, D.C., July 26, 1978.*

DEAR MR. SCHARANSKY: Your trial and imprisonment are of great concern to many Americans. The denial of your freedom is an affront shared by free people everywhere.

We are writing to you as members of the Senate delegation which met with you on June 29, 1975. We were pleased to have the opportunity to meet many citizens of the Soviet Union including yourself, exchange views, and have a discussion as American legislators do regularly all over the world. We were outraged that the Soviet authorities used the fact that we met with you as "evidence" to support the charge of "anti-Soviet agitation." We are writing to state for the record the nature of our meeting and to affirm that it was our privilege to have met with you.

The meeting took place at the request of Senators Ribicoff and Javits on June 29, 1975, in the Rossiya Hotel in Moscow with an official Senate delegation. The Soviet authorities knew in advance that this meeting would take place openly in a Moscow hotel suite. Neither the fact of the meeting nor its substance were secret.

Members of the Senate delegation and a number of activists in the Soviet Jewish community attended the meeting. We discussed how to assist Soviet Jews who desired to emigrate from the Soviet Union. A detailed summary of the meeting was published as part of the official report the delegation filed with the Senate. That summary is attached to this letter.

The use of such an open meeting which took place three years ago as evidence against you of criminal conduct is tragic and unjustified. We shall continue to urge Soviet authorities to reconsider their actions in your case and permit you to emigrate from the Soviet Union.

Sincerely,

ABE RIBICOFF, ROBERT MORGAN, GARY HART, PATRICK J. LEAHY, JACOB K. JAVITS, CHARLES H. PERCY, CHARLES MCC. MATHIAS, and PETE V. DOMENICI, *U.S. Senators.*

Attachment.

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[Excerpt from Report of a Conference Between Members of the U.S. Senate and Delegates to the Supreme Soviet of the Soviet Union]

G. SUMMARY OF THE DISCUSSION AT A MEETING BETWEEN MEMBERS OF THE SENATE DELEGATION AND SOVIET JEWISH ACTIVISTS

MEMORANDUM OF CONVERSATION, MEETING OF SOVIET JEWISH ACTIVITIES WITH U.S. SENATE DELEGATION

*Participants*

*Jewish Activists.*—Anatoly Scharansky, Lev Ovsischez, Alexander Lunts, Efim Davidovich, Elias Essas, Vladimir Slepak, Dina Beylina, Vladimer Prestin, Prof. Benjamin Levich, Vitaly Rubin, Ida Nudel, Alexander Lerner, Vladimir Lasaris, Benjamin Fain, Victor Brailovsky, Pavel Abramovich, Mark Azbel, and Mrs. Levich.

*Senators.*—Senator Javits, Senator Ribicoff, Senator Humphrey, Senator Scott, Senator Percy, Senator Mathias, Senator Morgan, Senator Leahy, Senator Hart, and Senator Domenici.

*Others.*—Peter Lakeland (Sen. Javits), Ken Davis (Sen. Scott), Scott Cohen (Sen. Percy , Al Saunders (Sen. Humphrey), Mrs. Javits, and Mrs. Ribicoff.

*Place.*—Rossiya Hotel, Moscow.

*Date.*—June 29, 1975.

*Senator Javits* opened the meeting by explaining the nature and purpose of the visit of the Senate delegation to the USSR and introduced individual members of the delegation present at the meeting. He emphasized the interest of the individual Senators in the cause of the Jewish activists and other dissidents in the Soviet Union who were making a stand on moral grounds in support of basic human rights and dignity. He explained that the group, by its nature was not on a negotiating mission, negotiations being the exclusive prerogative of the Executive Branch. Nonetheless, the Senate Delegation had official status from both the American and Soviet points of view. In this connection, no statement would be issued respecting the meeting with the activists while the delegation was in the USSR, but the exchange of views with them would be most valuable for the official discussions to follow with the Soviets and would be most valuable with respect to any follow-up actions that might ensue upon the return of the delegation to the United States

*Senator Ribicoff* joined Senator Javits in welcoming the activists, assured them of the sympathy and knowledge of the delegation members respecting their plight. He stressed the potential usefulness of the discussion being commenced and asked the dissidents to be free and frank in expressing any advice they had for the Senators.

*Senator Scott* joined in greeting the activists and assured them that their views would be conveyed to all members of the delegation. He said that what the activists had to say would be very important to members of the delegation and that the Senators wanted to hear the views of the activists first-hand. He said that a serious deadlock had now developed respecting trade and emigration and that President Ford, just before the Delegation's departure, had written to the Chairman and Ranking Members of the Senate, and House Banking Committees, the House Ways and Means Committee and the Senate Finance Committee requesting that they explore ways to reopen the emigration question and see if some new legislative flexibility may be possible to help break the deadlock.

*Senator Mathias* said that the members of the delegation want to hear from the activists; the Senators know some part of their struggle and their coming to meet with the activists was evidence of their deep personal concern.

*Prof. Lerner* expressed the thanks of the activists to the Senators and to the U.S. Congress for the Jackson amendment which he characterized as "tremendous work". He wishes to dispel any idea that such activity by the Congress could bring harm to the activist of their movement. "We think we have benefited; one hundred thousand Jews have been able to leave for Israel as a result of the Jackson amendment struggle and many more will leave. We are grateful to the Senators, the U.S. Congress and the American people who have sacrificed their own material interests in support of their concern for our plight. We are deeply moved."

*Senator Scott* said that the Soviets state that the decline in emigration is due to a decline in applications. Is this so, or is it due to harassment?

*Prof. Lerner* said that they brought a letter with them addressed to the Senators describing what has happened since enactment of the Jackson amendment.

*Senator Javits* said that he had the letter and would circulate a copy to all members of the delegation. (Text of the letter is attached.)

*An activist* said that the KGB is trying to destroy the dissident movement in two ways: a) by harassment of the 'refuseniks' and b) by intimidation of potential applicants for permission to emigrate. He said there had been an increase in anti-Semetic propaganda and noted a recent article published which attempted to justify the programs of Czarist days.

*Senator Ribicoff* said "Let's talk conclusory realities; some say the Jackson amendment has hurt. What is your view?"

*Dr. Lasaris* said that pursuant to the understandings reached in the Fall of 1974 Soviets were supposed to allow Jews to emigrate but instead they have entered a campaign of repression. After the Stevenson amendment, the campaign of repression became more forceful and more open. The campaign begun in the provinces against Jews reached Moscow. The campaign became more systematic, the methods of refusal, discouragement and harassment became more open and more coordinated. He said that this was not due to the Jackson amendment but due to the Stevenson amendment which caused the Soviets to break the agreements they had entered into in the Fall of 1974.

*Prof. Lerner* said that the Jackson amendment has been helpful. It was the Stevenson amendment which turned the Soviets off on the compromise agreement.

*Senator Scott* said that at his request, President Ford has writen a letter asking the Chairman and Ranking Minority Members of the four involved committees of the Senate and House to reexamine the legislative restrictions concerning Export-Import Bank Credits for the Soviet Union, as effected by the Stevenson amendment and the Jackson amendment. He was hopeful that something would be done on the credit issue which might also be helpful on the emigration question.

*Prof. Lerner* said that the fact of the Jackson amendment compromise which the Soviets had agreed to proved that the Soviets were willing to accept the Jackson amendment.

*Mr. Fain* said that the worsening of the situation for Soviet Jews was due to the Stevenson amendment limits on credits. This led to more severe harassment by the KGB.

*Mr. Davidovich* said the Jackson amendment had been a very positive development for Soviet Jews. They had benefited from it. He said the main principles for the activities were (a) a close connection between Jewish emigration and foreign policy cooperation by the U.S. such as trade with the USSR; and (b) the presence of a juridical obligation on the part of the Soviets on emigration policies and procedures, tied to trade benefits sought by the USSR. He said ideology and prestige are especially important to the USSR. A way out of the present situation of stalemate will be easier if the two principles he mentioned are adhered to. There should be a way out for the Soviets to save face. Let the Soviets know that they can gain, or lose, on such matters as trade, credit, scientific exchanges and technical cooperation. The objectives of the principles he mentioned could be gained not only through state to state agreements, but also by the attitudes of individual scientists in the U.S. who are being asked to engage in scientific and technical exchanges. Such individuals in the U.S. and the West can convey the principles, and the advantages and disadvantages entailed, to Soviet scientists who desire cooperation and this can help the pressure through official government channels.

*Senator Javits* said he had been personally involved in the negotiations of the Jackson amendment compromise and wished to point out that the Soviets had never promised a figure or a quota of persons who would be permitted to leave. In the exchange of letters between Senator Jackson and Secretary Kissinger, the Congress told the U.S. President that it would expect an emigration rate of 60,000. But, the Soviets never promised any figure and therefore never broke any promise in that regard. He then asked whether the activists felt that Soviet dignity must be maintained to get a

resolution of the stalemate. (They answered in the affirmative.) He asked whether they felt that it would be necessary for the Soviets to get some benefit out of the agreement. (They answered in the affirmative.)

*Prof. Levich* said the important question was what should be done after the compromise agreement on the Jackson amendment was broken by the Soviets. The more timid Jews had stopped and are now watching to see what happens. The KGB is carrying on a big campaign of intimidation. Many letters are being circulated by the authorities from Jews who emigrated to Israel and are having some difficulties in adjusting. He said that he agrees that it is impossible to have some piece of paper that is only for Jews. The most important emigration issue he feels is the "government clearance" requirement. This has a very hard effect on intellectuals. Every intellectual, every educated person needs to get a clearance sometime. A clearance is required for instance, just to do research in the library. Every educated person learns some "secrets" sometime in his career. There must be some agreement on the clearance requirement; since clearances are indispensable for all intellectuals, the emigration of intellectuals is made more difficult by the Soviet refusal of emigration permission to persons who have clearances. There must be some formal agreement on the clearance question.

*Senator Humphrey* said that he would be most interested to learn the views of the activists as how to satisfy Soviet pride which has been wounded by the Jackson amendment, and how to get some emigration results. The present situation is one of stalemate with emigration down and the Soviet's feelings wounded. Is some revision of the Jackson amendment legislation required to break the stalemate? Soviet officials constantly say the Jackson amendment is unacceptable as explained publicly by Senator Jackson in his press conference. He asked whether the same results might be achieved by some modification or revision of the present law. Would it be possible to use language which ties MFN and credits to observation of the Declaration on Human Rights, which the USSR had signed, if combined with a monitoring device by Congress to assure actual and continuing compliance? He said the Senators needed practical suggestions. The Senators could leave the Soviet Union saying the Jackson amendment should remain as is; is there something else they should be saying? We, as Senators are interested in how best we can help human rights and Jewish emigration.

*Dr. Slepak* said the Jackson amendment showed that the Soviets are ready to compromise. But after the passage of the Stevenson amendment the Soviets couldn't say that $300 million was too little in exchange for the Jews. Thus, they have maintained officially that the Jackson amendment is the reason for breaking the trade agreement. However, the activists think it was the Stevenson amendment which caused the Soviets to break the trade agreement. Now after, stating this officially so many times, the Soviet government cannot retreat without some modification of the Jackson amendment.

*Senator Percy* said he had made a specific suggestion to the Soviets. He proposed that in the delegation's meetings with their Soviet counterparts that it could be put forward that emigration in 1975 should equal the 1973 figure of 33,000 and that the Soviets be told that the trend established in 1971–73 be reestablished and maintained. The U.S. is interested in action, not words. If the Soviets keep to their policy of 1971 to 1973, the U.S. can change the Jackson amendment.

*Mr. Brailovsky* said that acceptance of such a proposal by the Soviets could be dangerous to the activists because it would allow the Soviets to choose who is allowed to go with no objective criteria covering emigration principles. This would allow the KGB too much room to operate against individuals. The activists would have no objective criteria to appeal to.

*Senator Percy* asked if the same objection would remain if the percentage of Jews among those permitted to emigrate would have to be maintained.

*Mr. Brailovsky* said that would not solve the problem because the KGB could block the emigration of all intellectuals.

*Senator Javits* said that the Senate delegation could not negotiate an agreement with the Soviets on these matters. Only the President and Secretary of State can negotiate on behalf of the United States.

*Senator Humphrey* noted that the Soviet Union was a signatory to the Declaration on Human Rights. He suggested that perhaps the Jackson amendment could be modified to say that the United States would extend MFN and credits to all nations which are signatories to the Human Rights Convention, with a requirement that the President must certify annually that nations receiving MFN and credits under this provision are fulfilling their obligations under the Convention.

*Several activists* commented that this was an excellent suggestion.

*An activist* pointed that the Declaration of Human Rights was only a statement of intent and was not obligatory in the Soviet Union. He stressed the importance of linking MFN and credits to provisions of Soviet law that are binding. He said that an important aspect of the present situation is that Soviet laws are not being observed by the Soviet authorities. The Jackson amendment does not contradict the various present laws of the USSR. Much of the present campaign against Jewish activists is in violation of present Soviet laws. Nobody is holding the KGB to account for its violations. He noted the viciousness of some current propaganda which alleges that Zionist ideas influenced Hitler, who got his idea of being Fuhrer from Herzl. Therefore, it is said in propaganda, all Jews applying for emigration are Zionists and are breaking Soviet law by encouraging ideas used by Hitler.

*Senator Ribicoff* said that no solution to the problem could be settled in this meeting. However, it will be very useful to get the ideas of the activists and their suggestions. He plans to tell the Soviets that under the U.S. Constitution, the Congress has authority over trade agreements. All the Senators present at this meeting are in full sympathy with the activists.

*Alexander Lunts* commenting on Senator Percy's suggestion said that it isn't just a question of the rate of emigration. Discussion of numbers per se can be set aside. Three things are needed: a) no harassment or intimidation on applicants for emigration; b) no arbitrary refusals of applications, 'ungrounded' in law; c) emigration permission should be granted first to 'refuseniks' who had been denied emigration arbitrarily and 'groundlessly" and to 'prisoners of Zion.' An agreement with the Soviets on these three principles would be enough. The agreement must have provisions for violations.

*Prof. Levich* said we are not politicians and it is hard for us to give precise answers to politicians' questions, but we will try. The starting point for an agreement with the Soviets on the 'essence of the problems' should cover all points mentioned in the discussion. He doubted that any such agreement would be published by the Soviets in any form in the USSR. Therefore, it would lack status and legal prestige. In any written agreement, the main point should be the Declaration of Human Rights, suggested by Senator Humphrey. The Declaration is not a law, but there could be an agreement between the U.S. and the USSR to fulfill or implement the moral obligations of the Declaration. That would be very important. The U.S. Congress would have the responsibility to decide whether there was conformity and to monitor compliance by the USSR.

*Senator Leahy* said he has talked with some of the activists present on other occasions over the phone. He emphasized that basic human rights transcend any single ethic group and stressed that he was very devoted to their cause although he is not personally Jewish and he has a very tiny percentage of Jews among his constituents.

*Senator Hart* said he agreed with what Senator Ribicoff had expressed very well. In the U.S., Jews and non-Jews both are very concerned with the basic human rights issue. We will do all we can to help you.

*Senator Morgan* said that the people of North Carolina know of the plight of the activists and are very concerned. The Jewish community in North Carolina is not very large, but has been active in making everyone aware of the problem and getting their sympathy and support. As a new Senator, he would look for guidance in handling this problem from Senators Humphrey, Javits and Ribicoff.

*Senator Javits* summed up the discussion to this point. We have come as Senators and as friends of human rights from the freest country in the world to hear from you what we can do to advance human rights here. We have given some of our individual ideas frankly to you to see if they would fit into your situation. But, they are only ideas not negotiations. We appreciate receiving your views and suggestions. He asked if their views could be summarized as follows: a) the Jackson amendment gave hope and brought results in getting 100,000 Jews out of Russia; b) there has been a serious deterioration in the situation since the breakdown of the Trade Agreement; c) the dignity of the Soviet Union must be preserved in any solution; d) a new solution should concentrate not on numbers but on rights. The obligations under the Declaration of Human Rights, and existing Soviet law, are two starting points; e) the importance of timely action to resolve the stalemate is implied from the discussion.

*Senator Ribicoff* added that it seems to be the view of the group that it was the Stevenson amendment, not the Jackson amendment that caused the breakdown of the Trade Agreement.

*Mrs. Levich* said the importance of the concern of Congress and individual Senators should be included in any summary of the discussion.

*Several Activists* reiterated that the essence of the Jackson amendment should be preserved. Congress must retain a mechanism for monitoring and control because Soviet practice and Soviet words are often not the same. An example was given of amnesty and release from prison for war veterans, in connection with the twenty-fifth anniversary of the victory over Hitler, being denied to a Jewish activist. Under the regulations he is entitled to amnesty and release from prison but, it is not being accorded. A number of individual cases for presentation to Soviet authorities are contained in written material presented to the Senators at the outset of the meeting.

*Prof. Lerner* said we have placed a hard responsibility on the U.S. Senate and the American People for the fate of Soviet Jewry. We are profoundly grateful to them for assuming the burden of our fate. We trust our fate to your true hands. But for this support, many of us would not be here this evening, but rather would be in camps and prisons at this moment. We shall do our part in this struggle. We know the Americans help those who help themselves.

*Senator Javits* replied by saying the Senators understand and appreciate the courage

shown by the activists, including the courage required to come to the meeting tonight.

*Senator Humphrey* said the presence of the activists and the presence of the Senators was the most important thing. Both the U.S. and the Soviet authorities know we are here and that you are here with us. We are all strong supporters of civil rights and human rights. It is important to get your counsel.

*Dr. Slepak* closed the meeting by thanking the Senators on behalf of all those present and on behalf of those they represent. He asked that the Senators please tell all their colleagues in the Congress about the meeting this evening.●

## THE NEED FOR COMPREHENSIVE LEGISLATION AS A RESPONSE TO ZURCHER VERSUS STANFORD DAILY

● Mr. BAYH. Mr. President, some time ago, the Supreme Court handed down its decision in the case of Zurcher against Stanford Daily. In that opinion the Court stated that the Government could forcibly and without notice search a person's home or business for evidence of a crime even if that person is in no way suspected of criminal activity.

While we would all agree that prosecutors should have access to evidence of criminal activity, I cannot agree that this is an appropriate standard for gaining evidence which happens to be in the possession of innocent Americans. Moreover, the practice of surprise police searches would pose a particular problem to the first amendment functions of the news media. As we all know, part of their task in our society is to uncover and report on criminal activity whether it is being committed by governmental officials or private citizens. In the course of this work, therefore, a newsroom would almost routinely be in the possession of some type of "evidence" of criminal activity.

Mr. President, as a response to the need created by Stanford Daily, I introduced the Citizens Privacy Protection Amendment of 1978 (S. 3164). This bill would allow the police to gain access to evidence through a subpena rather than through a surprise search when the evidence is in the possession of an innocent party. The bill contains an exception to the subpena requirement if there is probable cause to believe the evidence would be destroyed.

One of the important features of the citizens privacy protection amendment is that it applies to Federal, State, and local officials. As chairman of the Subcommittee on the Constitution, I have held 2 days of hearings on this legislation and received testimony from a variety of sources. It is interesting to note, however, that a significant number of associations and organizations which have testified have endorsed the comprehensive approach of S. 3164. They include the American Civil Liberties Union, the Reporters Committee for Freedom of the Press, the American Society of Newspaper Editors, the American Newspaper Publishers Association, the Radio and Television News Directors Association, and the Society of Professional Journalists Sigma Delta Chi Freedom of Information Committee.

Mr. President, if we do not have an approach that applies equally to Federal, State, and local authorities we will very likely find ourselves in the situation described in a recent article in the New York Times. If Federal and State authorities adopt different standards citizens will of necessity be forced to accept the set of standards which afford the least privacy. It will do little good for one governmental entity to adopt strict standards if another entity with concurrent jurisdiction has less stringent ones. It is of little consequence to a citizen or a news reporter if the police searching your home or office happens to carry a Federal or State badge.

Mr. President, I would like to have printed in the RECORD a copy of the New York Times story.

The story follows:

[From the New York Times, July 24, 1978]

CONNECTICUT AND UNITED STATES DIFFER ON NEWSPAPER SEARCH

(By Robert E. Tomasson)

STAMFORD, CONN.—In the wake of the United States Supreme Court ruling that newspapers may be searched for evidence of a crime without warning, Federal and state officials in Connecticut have adopted strikingly different guidelines governing such searches.

While the United States Attorney for Connecticut has established procedures for his staff that all but exclude such unannounced searches, the chief state's attorney has told his assistants that such searches would not be discouraged.

The divergent Federal and state procedures went into effect as the Department of Justice was preparing guidelines for all Federal prosecutors following the May 31 court ruling that news organizations, like other groups and individuals, were not entitled to prior notice of a search or to an opportunity to contest such a search before it occurred.

The Federal guidelines, set by Richard Blumenthal, the United States Attorney in Connecticut, are the only ones set by a United States Attorney on his own volition, according to a spokesman for the Justice Department. And while the guidelines were reviewed by "the highest officials" of the department, there was no other indication that Mr. Blumenthal's rules were a preview of the forthcoming guidelines from Washington.

Barring new Federal legislation, however, the 50 state prosecutors are expected to go their own way in setting search guidelines in state investigations.

SEVEN CONDITIONS FOR SEARCHES

Mr. Blumenthal's guidelines included the following conditions to be met before seeking a Federal warrant to search a news organization:

"All reasonable attempts" must be made to obtain information from nonmedia sources.

"Vigorous efforts" including "negotiations" must be made to obtain voluntary disclosure from news organizations.

"If negotiations fail," any warrant must be approved by Mr. Blumenthal, who would seek "express authorization" from the Attorney General of the United States.

There must be reasonable grounds for believing that evidence of a crime was in jeopardy of being destroyed.

The evidence sought must be essential to "a successful investigation, particularly with reference to directly establishing guilt or innocence."

There must be reasonable grounds from nonmedia sources for believing that "a crime has actually occurred."

In the event a search is made, the news personnel must be permitted to make copies of any documents seized.

In a memo to his assistant attorneys, Mr. Blumenthal said that unless such searches were strongly curtailed, if not barred, "the fear of such searches may deter or dry up reporters' confidential sources, create reluctance to preserve notes and other materials . . . and interfere in numerous other ways with legitimate activities of the press."

DIFFERENT APPROACH BY THE STATE

Joseph T. Gormley Jr., the chief state's attorney, said in a statement that while guidelines were necessary, "they should not be construed to govern or discourage the use of valid search warrants to discover contraband, fruits and instrumentalities of crime or other evidence of crime that may have been purposefully or unintentionally left in the possession of someone not involved in the criminal activity."

In setting the Federal guidelines, Mr. Blumenthal cited a section of the recent court ruling that "where presumptively protective materials are sought to be seized, the warrant requirement should be administered to leave as little possible to the direction or whim of the officer in the field."

Mr. Gormley said in setting guidelines for state law-enforcement officers that the court ruling "fully supports the search of news media organizations under Fourth Amendment safeguards."

Mr. Blumenthal gave a strong indication that he foresaw no circumstances in which Federal agents would search a news office unannounced. Mr. Gormley, on the other hand, indicated that he would approve such searches if they were considered relevant to a criminal investigation.

And while Mr. Blumenthal said that he would have to personally approve requests for the search warrants, Mr. Gormley left it up to the discretion of the chief prosecutors in the state's 11 judicial districts.

STATE AND U.S. ATTORNEYS CONFER

At a meeting last week with Mr. Gormley and the various chief prosecutors in the state, Mr. Blumenthal urged that his guidelines be applied to state searches.

According to one participant in the meeting, the state prosecutors expressed concern about being "bulldozed" into setting limitations on an investigative tool that had been sanctioned by the Supreme Court.

While adopting some of the milder Federal guidelines, the state prosecutors rejected the two main recommendations, while others were altered.

In adapting the Federal rule that "a search warrant should not be used to obtain peripheral, non-essential or speculative information," the words "peripheral" and "speculative" were dropped from the state's guideline.

There have been indications that Mr. Blumenthal and Mr. Gormley have had a cool professional relationship.

Mr. Blumenthal, a former reporter for The Washington Post, is investigating municipal corruption in the Stamford area after Mr. Gormley had declined to investigate some aspects of the alleged corruption.

Much of the Federal investigation has been based on information from anonymous sources supplied by a reporter for a local newspaper.●

## IAM AND THE GUIDING EYES

● Mr. CRANSTON. Mr. President, this year the International Association of

Machinists & Aerospace Workers celebrated its 90th anniversary in a well-deserved tribute dinner to my friend, William W. Winpisinger, the international president. The proceeds from this dinner went to benefit the International Guiding Eyes—an organization close to the hearts of IAM members. They are proud that the IAM is the only union to have founded an organization of this kind in response to the need of a blind IAM member.

Bill Winpisinger's remarks at the anniversary dinner tell the story far better than I. And I think this simple story gives splendid witness to what the men and women of organized labor can do when they set their minds to it.

Mr. President, I submit for the RECORD Mr. Winpisinger's address.

The address follows:

ADDRESS BY MR. WINPISINGER

Tonight we're having a double celebration. We're celebrating the 30th anniversary of International Guiding Eyes and the 90th anniversary of the Machinists Union.

Just 90 years and a little over one month ago today 19 railroad machinists gathered in a locomotive pit at the end of a long working day in the city of Atlanta, Georgia and founded the union that has become the International Association of Machinists and Aerospace Workers.

I wonder what those 19 founding fathers would think if they could see us now. Certainly they would never have believed the prices that were paid for the tickets that got you in here tonight.

In order to get this union started each of those 19 railroad machinists dug deep down into their overalls and came up with a grand total of $1.50 apiece.

That was a helluva lot of money in those days.

In 1888, $1.50 was most of a day's wages.

And the working day was not eight hours, but ten and even twelve.

So this union of ours was started by men who were willing to sacrifice for an idea:

The idea that labor has dignity and deserves a just return.

They knew that to give this idea meaning and substance they had to have a union.

But there was no way that they could foresee that this idea and their inspiration would one day be carried into every kind of industry in every part of the United States and Canada.

They could not foresee that from their little meeting would grow an organization that would touch and better the lives of millions of people in their work places, in their homes and in their communities.

NINETY YEARS OF SERVICE

Now, 90 years later, we can see what has come out of that small beginning, out of the idea and the inspiration that motivated these 19 otherwise ordinary, everyday, workingmen in 1888.

Because out of that first meeting has come one of the great unions on the North American continent.

This greatness is measured not only by contracts that are negotiated, not merely in terms of wages, hours, working conditions, pensions and other benefits that are secured at the bargaining table.

It is measured more significantly by the ways in which Machinists' locals and districts help to enrich the lives of others in their communities.

In cities, towns and villages throughout the United States and Canada the Machinists Union supports and works closely with Red Cross and United Fund Agencies.

Our members sponsored senior citizens club, little league baseball, scouting and midget football.

They contribute generously to the City of Hope and the IAM College Scholarship Fund.

Many locals sponsor training which enables members to counsel those in need of personal and family help from social agencies.

Yes, IAM members support, sponsor, donate and contribute time and money and service to many good causes.

But if there's one cause that is especially close to the hearts of Machinists Union members it is the International Guiding Eyes whose 30th anniversary we are concurrently celebrating here tonight.

This is, as far as anyone can determine, the only organization of its kind that was directly founded by a single union in response to the need of a single member.

INTERNATIONAL GUIDING EYES

Like the IAM itself, International Guiding Eyes grew from a small beginning.

It's a fascinating story and one that I think is worth telling.

This story began with a long-time Machinists Union member named Joseph W. Jones.

He was born in 1885 and in 1893, at the age of eight, he came down with a fever that left him temporarily blind.

Fortunately, by the time he was 16 he had regained enough of his sight so that with the aid of glasses he was able to learn the machinist trade and join the union.

He worked at the trade for more than 20 years but then, at the age of 38, his sight became so bad he had to give up his job as a machinist.

Despite his handicap he struggled along for 20 more years, supporting himself at odd jobs here and there.

Eventually he lost more than 90% of his vision, but he still refused to give up.

He started to look around and make inquiries about getting a guide dog.

At this point he was told he was too old.

He was 57 and was regarded as ready for the scrap heap.

Everywhere he asked he was turned down because of his age.

He tried all over the country, but everywhere the answer was the same.

He couldn't get a guide dog because he was too old.

At this point I think many people would have given up.

But Joe Jones was a true machinist.

He had what some people call bulldog tenacity and others call being as stubborn as a mule.

He decided that if he couldn't find an organization that would provide him with a guide dog he'd start one of his own.

And it damn well wouldn't discriminate against blind people because of their age or color or sex or religion or anything else.

As a good machinist of long-standing membership Joe took his idea to the Executive Council of his union in Washington, D.C.

On the basis of the presentation he made the Council endorsed the idea and International Guiding Eyes Incorporated was born.

That was in 1948.

That's the kind of thing that makes me proud to be International President of the Machinist Union.

Joe Jones died in 1957 at the age of 72, but the work he inspired lives on.

Joe Jones' dream has been given form and shape and reality by a host of dedicated men and women.

Originally they came from the ranks of the Machinists Union.

Now they come not only from the Machinists but from the entire labor movement, from management and from all parts of our society.

The task of building an organization like International Guiding Eyes hasn't been easy.

It has faced many obstacles and has suffered its share of setbacks.

But under the leadership of a Grand Lodge representative of the Machinists Union, who serves as its president, it is today a growing and flourishing institution.

Right now it is building a new $2½-million school which will more than double the number of its graduates to 18 per month.

Weather and money permitting this new school will be completed by the end of the year.

And I'm happy to say that the money that has been raised here tonight will help to make that completion possible.

I want to take this opportunity to pay tribute to Duke Lee who is the Grand Lodge representative who doubles as president of International Guiding Eyes.

Duke, you and your board of directors and your staff deserve a lot of credit.

Because of what you are doing, blind people from all over the world have been given mobility, independence and dignity.

It is indeed fitting that an organization that grew out of men's need for dignity has helped to create and support independence and dignity for others.

Keep up the good work.

Because of your efforts every member of the Machinists Union can walk a little taller.

That's what those 19 railroad machinists in Atlanta, Georgia, were seeking in 1888.

That's what Joe Jones was after in 1948.

And that's what the Machinists Union and the rest of the American labor movement are still all about in 1978.●

## TUITION TAX CREDITS

● Mr. MOYNIHAN. Mr. President, the proponents of tuition tax credits have previously introduced into the RECORD the results of public opinion polls and surveys showing the overwhelming support of the American public for such aid with educational expenses and the strong preference for tax credits as opposed to further grants and loans.

On Monday, July 24, the New York Daily News published the results of the first such poll known to me that specifically included elementary and secondary education in the question pertaining to tuition tax credits. Although not surprising, it is nonetheless noteworthy that two thirds of those responding favor that provision. I need hardly remind my colleagues that the Daily News opinion poll is renowed for its accuracy. I therefore submit the article containing the results of this poll for the RECORD.

The article follows:

Six out of 10 residents of the New York metropolitan area favor a measure approved by the Legislature to let tenants deduct from their federal income taxes the portion of their rent that goes to pay property taxes, according to the Daily News Opinion Poll.

Also, two thirds of the respondents said they favor a proposed federal income tax credit or deduction for tuition paid to colleges and private schools.

And half of those polled said they would like to see Congress cut the maximum capital gains tax from 50% to 25%.

The Daily News Poll, a random telephone survey of 400 adults in the city and Westchester, Rockland, Nassau and Suffolk counties, was conducted July 10, 11 and 12. Dr. Richard F. Link of Artronics Information System Inc. was the consultant.

In an effort to give renters the same tax advantages as home owners the Assembly and Senate last month passed a bill that would entitle tenants to a new federal tax deduction based on the property taxes paid by their landlords.

The measure was sent to Gov. Carey, who is expected to sign it.

WILL IRS ALLOW IT?

However, a major question concerning the legislation is whether the Federal Internal Revenue Service will allow it.

Metropolitan-area residents were even more in favor of federal tax credits for college tuition.

Last month, the House of Representatives approved a bill providing federal income tax credits of up to $250 for college tuition and $100 for tuition of pupils in private or parochial elementary and secondary schools. President Carter has threatened to veto the bill if it passes Congress.

HOUSE ACTION BACKED

The House action was hailed by supporters, including Catholic groups, as a step toward providing some measure of tax relief to middle-income Americans.

Opponents, including the United Federation of Teachers and major black organizations, viewed the action as a first step toward possible destruction of the public school system.

Poll respondents were asked: "Do you favor or oppose a measure approved by the State Legislature to let tenants deduct from their federal income taxes the portion of their rent that goes to pay property taxes?" They replied:

| | Percent |
|---|---|
| Favor | 61 |
| Oppose | 22 |
| Don't know | 17 |

They also were asked: "Do you favor or oppose the proposed federal income tax credit or deduction for tuition paid to colleges and private schools?" They responded:

| | Percent |
|---|---|
| Favor | 66 |
| Oppose | 24 |
| Don't know | 10 |

The final question was: "Do you favor or oppose a proposal in Congress to cut the maximum capital gains tax from 50% to 25%?" They answered:

| | Percent |
|---|---|
| Favor | 50 |
| Oppose | 23 |
| Don't know | 27 |

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## BUSINESS AND THE ENVIRONMENT

● Mr. WALLOP. Mr. President, in recent years we have become increasingly aware of the conflicts that arise as our country attempts to reverse a trend of environmental degradation and also address a serious energy crisis. It is in this light that I was quite interested in a recent survey of business attitudes toward the environment. It revealed a growing corporate awareness that energy development and environmental protection are not two mutually exclusive concepts.

The survey, which analyzes the responses of 50 corporations operating in the Rocky Mountain West, was authored by Prof. James S. Bowman of the University of Wyoming and published by the Michigan State Graduate School of Business. I would like to share this survey with my colleagues and ask that it be printed in the RECORD.

The survey follows:

BUSINESS AND THE ENVIRONMENT: CORPORATE ATTITUDES, ACTIONS IN ENERGY-RICH STATES

(By James S. Bowman)

In recent years the business community has become increasingly aware of environmental issues and alert to its political interest in ecology U.S. commerce and industry have many reasonable grounds for concern with pollution policy. The private sector is a prime resource consumer and environmental restrictions on resource availability are likely to affect its operations. It is also a major source of many pollutants and as such bears much of the responsibility for pollution control. Finally, a concern for capital investment, long-range industrial growth, corporate social policy, the economics of waste recovery, employee safety, and antipollution legislation all have led companies to formulate policies toward the environment. There are, in short, few large firms that do not have an interest in the development and conservation of the natural environment.

With the blossoming of ecology into national prominence came the painful recognition among industrial leaders that the public often regarded them as among the country's principal polluters. Since business tends to be more visible in its pollution than other segments of society, it presents a vulnerable target for environmental regulations. It is far easier, and more popular, for government to try to regulate corporate activities than it is to control the environmental behavior of individual voters. Yet, in its efforts to do something about pollution, government can never be truly effective without the widespread cooperation of industry. Public officials can set standards and can enforce them against particularly recalcitrant firms, but a high degree of voluntary compliance in the private sector is needed if there is going to be significant progress toward environmental quality.

Given the strategic role of industry in ecology, the attitudes and actions of business people are especially important. Although much has been said about industry's views toward the environment in recent years, there is surprisingly little systematic research on the topic. This study seeks to determine the contemporary corporate response to environmental issues. What is the state of environmental awareness in business today? What are the current implication of ecological problems for the private sector? What do industrialists see as the cause of environmental degradation? What programs and actions do executives feel are appropriate to deal with pollution? Finally, what are managerial attitudes toward social and political solutions to the nation's ecological problems? The objective of this analysis, then, is to ascertain whether environmental concern in today's society is being translated into revised corporate behavior.

THE RESEARCH STUDY

Since the U.S. business community is large in size and diverse in scope, it is unlikely to have uniform views toward the environment. In some cases, environmental concern may be of secondary importance to the firm (advertising and packaging for an electronic company); in others, ecological considerations may be of central significance (pollution abatement for a copper company). Similarly, a petroleum firm is very apt to have a conservation program, while a bank may have no compelling reason for one.

It seems desirable, therefore, to survey a select group of industries rather than to attempt to sample all pollution control situations. Accordingly, the data for this project were gathered from companies listed in the state mining and manufacturing directories for Colorado, Utah, Wyoming, and Montana. These industries, which are located in a region directly involved in today's energy crisis, are likely to encounter environmental problems in their daily operations. The firms participating in this study, therefore, provide an excellent opportunity to assess corporate environmental views.

Questionnaires were administered to the 50 largest concerns in each of the four states. These included chemical, electric utility, food products, paper, coal, petroleum, primary metal, rubber and plastics, and transportation equipment companies. The survey was based upon selected questions from several earlier studies, all of which either (1) sampled a cross section of U.S. businesses, (2) received a very low, and perhaps unreliable, response rate, (3) did not collect attitudinal information or, (4) are now outdated.[1] The questionnaire was mailed to the 200 firms in the Rocky Mountain states in the summer of 1976; it was returned by 137 companies, or 68.5 percent of the sample.

BUSINESS IMPLICATIONS OF ENVIRONMENTAL AWARENESS

A series of questions were asked the respondents in order to determine their views toward environmental problems and the implications of these problems for business. As the data in Table 1 indicate, attitudes are divided concerning the seriousness of ecological issues. While nearly one-half of the sample (48.2 percent) agreed that "pollution is one of the most serious problems facing the nation today," a full 40 percent disagreed. (The remainder were undecided or did not respond.) It seems that although a substantial number of industrialists regard pollution as an important issue, other problems (such as inflation, recession, energy development, and unemployment) are more important to a large portion of business people. A major oil company executive stated: "Pollution is a problem in our nation, but we need a proper perspective if we are to achieve a beneficial balance between environmental benefits and social-economic penalties." *Fortune*'s national survey of 270 business officials in 1969 also showed that the environment is just one of a host of contemporary issues facing corporate America.

These findings do not necessarily mean that executives are not concerned about ecology. Despite speculation that the energy crisis and economic problems have dampened support for antipollution programs, over 85 percent of the sample agreed or strongly agreed with the second statement in Table 1, that "protection of the environment should be a major concern when we develop new energy resources." Similarly, a majority of managers rejected the notion that "we should be willing to accept more air and water pollution in order to ensure more plentiful supplies of energy." New issues, then, have attracted industry's attention, but ecology remains a very important factor in the development of natural resources. These views are summarized by responses to the following statement in Table 1: "All the concern about 'Ecology' is just a passing fad." More than 85 percent of the executives disagreed. It should be noted, however, that many business leaders feel that pollution issues have been exaggerated; over half of the respondents endorsed this view, and only 10.2 percent disagreed. In short, these findings suggest that business people are well aware of this serious, if overpublicized, problem and recognize that it is an issue that is here to stay.

Footnotes at end of article.

TABLE 1.—ENVIRONMENTAL CONCERN AMONG BUSINESS PEOPLE

| | Strongly agree | Agree | Undecided | Disagree | Strongly disagree | No response |
|---|---|---|---|---|---|---|
| Pollution is one of the most serious problems facing the Nation today: | | | | | | |
| Percent | 6.6 | 41.6 | 9.5 | 34.3 | 6.6 | 1.5 |
| Number | 9 | 57 | 13 | 47 | 9 | 2 |
| Protection of the environment should be a major concern when we develop new energy resources: | | | | | | |
| Percent | 16.1 | 70.8 | 4.4 | 6.6 | 1.5 | 0.7 |
| Number | 22 | 97 | 6 | 9 | 12 | 1 |
| We should be willing to accept more air and water pollution in order to insure more plentiful supplies of energy: | | | | | | |
| Percent | 5.1 | 21.9 | 18.2 | 50.4 | 2.9 | 1.5 |
| Number | 7 | 30 | 25 | 69 | 4 | 2 |
| All the concern about ecology is just a passing fad: | | | | | | |
| Percent | 0.7 | 2.9 | 8.0 | 78.8 | 8.8 | 0.7 |
| Number | 1 | 4 | 11 | 108 | 12 | 1 |
| Environmental problems facing this State have been greatly exaggerated: | | | | | | |
| Percent | 13.1 | 46.0 | 27.0 | 10.2 | 0 | 3.6 |
| Number | 18 | 63 | 37 | 14 | 0 | 5 |

Note: N=137. Several of the questions used in this survey are the courtesy of Riley E. Dunlap, Washington State University.

This approach to ecology is supported by the answers to questions regarding the implications of conservation issues for business practices (see Table 2). These questions dealt with judgments executives might make when environmental restrictions affect basic corporate operations. Specifically, respondents were asked: "should environmental problems be taken into consideration if it means (1) slowing the introduction of new products, (2) forgoing an increase in production, and (3) reducing profits? While executives showed a willingness to consider environmental protection even if it conflicts with product innovation (72.3 percent of the sample), not as many were prepared to forgo production (58.4 percent) or reduce profits (57.7 percent) in the name of ecology. Similar findings were also detected in the 1974 Kefalas and Carroll cross-section survey of 142 of the nation's business leaders. These results can be contrasted to *Fortune's* 1969 countrywide study of executives, who were united in their answers with respect to these three issues—with all responses centered at about 85 percent. Nonetheless, the data show that U.S. business, including a majority of mining and manufacturing firms in a heavily impacted section of the nation, is willing to consider environmental problems even if the environmental goals conflict with fundamental corporate goals.

In summary, the evidence reveals that industry leaders regard the environment as a significant issue with potentially important implications for business management. While they are divided over whether or not pollution is one of the most serious problems facing the nation, large majorities agree that ecology is not a fad and that environmental protection is a legitimate concern in the development of energy supplies. Although environmental problems may be considered exaggerated, this does not mean that they are dismissed by corporate management as irrelevant. Indeed, most companies are prepared to take ecological considerations into account in basic decision making. Skeptics will no doubt question the sincerity and effectiveness of these expressions of concern, but the fact remains that environmental issues have stayed on the corporate agenda long after Earth Day, 1970.

TABLE 2.—ENVIRONMENTAL RESTRICTIONS AND CORPORATE OPERATIONS

| | Yes | | | No | | | Uncertain/no response | | |
|---|---|---|---|---|---|---|---|---|---|
| | Percent | 1974 Kefalas and Carroll study | 1969 Fortune study | Percent | 1974 Kefalas and Carroll study | 1969 Fortune study | Percent | 1974 Kefalas and Carroll study | 1969 Fortune study |
| Should environmental problems be taken into consideration if it means: | | | | | | | | | |
| 1. Slowing the introduction of new products | 72.3 | 83.6 | 88 | 10.2 | 8.6 | 8 | 17.5 | 7.8 | 8 |
| 2. Forgoing an increase in production | 58.4 | 79.3 | 84 | 11.7 | 16.4 | 9 | 29.9 | 13.3 | 7 |
| 3. Reducing profits? | 57.7 | 64.6 | 85 | 15.3 | 22.3 | 9 | 27.0 | 13.1 | 6 |

Note: Figures are given in percentages; N=137.

CAUSE AND RESPONSIBILITY

We have seen that mining and manufacturing officials in the Rocky Mountain West place considerable importance on environmental issues in business management. What do they see as the cause of ecological problems? Who do they believe should have the primary responsibility for protecting our natural surroundings? In an attempt to specify the origins of environmental pollution, respondents were asked the following question.

In your opinion, which one of the following statements best describes the basic cause of environmental degradation?

| | Percent | N |
|---|---|---|
| Our society is preoccupied with economic growth and pays too little attention to environmental quality | 7.3 | 10 |
| The public is more concerned with convenience and comfort than with preservation of resources and prevention of pollution | 40.1 | 55 |
| As a socio-economic system capitalism inevitably leads to exploitation and degradation of the environment | 3.6 | 5 |
| Any society of 200 million with a high standard of living will face severe problems in avoiding environmental degradation | 43.1 | 59 |
| No response | 5.8 | 8 |
| | 100.0 | 137 |

Over 40 percent of the sample believe that any society with a high standard of living and a large population inevitably will have pollution problems. Perhaps a major reason for this is suggested by the second most frequently chosen response—that the public is more concerned with personal convenience than environmental impact. Interestingly, very few business people (7.3 percent) said that ecological degradation is the result of an emphasis on economic growth. This belief is not shared by many environmentalists. Even fewer business people endorsed the claim that U.S. capitalism leads to the exploitation of nature.

These executives, then, view the environmental crisis as the unfortunate consequence of a modern industrial society that caters to the material desires of its population. A petroleum company executive wrote: "We are a nation of pampered people. America has about 6 percent of the world population, yet it uses about one-third of the world's energy." Managers do not believe, however, that environmental pollution is a result of fundamental business goals and institutional behavior patterns, such as industrial expansion or the socioeconomic system itself. For example, the respondents were asked to what extent they agreed or disagreed with the statement that "American beliefs and values have been a basic cause of our present environmental problems." Although about one-third of the sample agreed with this item, a plurality (46.0 percent) rejected it, and the rest were undecided. These findings, taken in the aggregate and coupled with the evidence presented below, suggest that the cause of environmental degradation is essentially human oversight, carelessness, and neglect.

If any mass, consumer-oriented society is likely to experience ecological problems, who should deal with these problems? Executives were asked: "Do you feel that environmental protection and pollution control are primarily the responsibility of government, industry, or the private citizen?" Most respondents (52.6 percent) indicated that industry should shoulder the burden; about one-fourth selected government, and one-sixth the private citizen. Respondents not only feel that environmental protection is the responsibility of business, but also believe that business is not doing enough. In this matter they seem to agree with Robert W. Fri's view that "from my observations, few companies have yet moved out as aggressively or imaginatively as they might."[2] Nearly 60 percent of the sample disagreed with the statement that "industry is doing everything possible to prevent pollution;" 24 percent agreed. (The rest were undecided.)

This concern for social responsibility on the part of business was foreshadowed when it was found that environmental problems play an important role in corporate decision making. This finding, however, is at odds with the cross-industry survey by the *Wall Street Journal* in the early 1970s. In that

Footnotes at end of article.

study, as well as the 1969 *Fortune* poll, substantial majorities of executives said that environmental protection should be the responsibility of government. Perhaps this reversal of opinion, at least among mining and manufacturing concerns in the Rocky Mountain states, is due to the fact that as governmental regulatory activity has increased in recent years, it has been looked upon as an infringement on private enterprise. Companies reported, for example, that environmental restrictions have affected their business in nearly all areas, including product cost, production, investment, corporate image, sales, and labor relations (data not shown in the tables). In short, the willingness of business leaders to act as "good corporate citizens" stems from their concern for the environment as well as industry self-interest; thoughtful executives realize that the failure to deal with ecological problems will subject them to even greater regulation in the future.

POLLUTION: A CONCERN FOR GOVERNMENT AND CITIZEN TOO

The readiness of industry to play the major role in environmental clean-up deserves closer examination. Perhaps the results reported in the last section can be explained in light of respondents' views of government regulation and citizen action. Not unexpectedly, over 85 percent of the managers agreed that "in its efforts to protect the environment, government interferes with business and industry too much." One plywood manufacturer in Montana said that the term environmental quality was "nothing but a scare word used to increase governmental power." More specifically, although most executives believe that the federal government's approach to environmental protection is acceptable in terms of timeliness, most find that its approach is unrealistic (see Table 3). A Utah cement plant executive said: "I don't believe environmental deterioration is continuing—it's improving. Let's not go overboard with more and more governmental control to the point that we're all out of business."

Thus, when asked what they would like to see the federal government do in the area of environmental protection, 54.7 percent sought reduced regulatory activities, 16.1 percent supported the status quo, 5.1 percent advocated increased governmental activities, and the remainder were undecided. Compared to the 1969 *Fortune* poll, the managers in this study generally see governmental action as more timely but also less realistic than do their colleagues in other businesses around the country. This analysis and the 1974 Kefalas and Carroll national survey show that there is substantially less enthusiasm for a major governmental role in environmental quality than was true at the turn of the decade.

The concern over governmental control is complemented by managerial attitudes toward citizen activists in environmental affairs. More than 80 percent of the sample agreed that the "antipollution movement tends to base its activities on emotions rather than facts." A spokesman for a Montana lumber company warned that citizens must "become much better informed about the relationship of economics to environmental improvement." Similarly, the president of a well-servicing company in Wyoming advised environmentalists to take a "non-emotional, economical approach since the nation cannot undo overnight that which took centuries to create." A large percentage of the respondents also believe that environmentalists "do not represent the interests of most people in our society." Instead, most managers regard conservation organizations "as simply pressure groups [that] do not represent public opinion." These views appear to be pervasive throughout the business community, as the 1974 Kefalas and Carroll study also revealed that executives had negative opinions about such organizations.

TABLE 3.—REALISM AND TIMELINESS OF FEDERAL ENVIRONMENTAL PROGRAMS

| | Highly unrealistic | Unrealistic | Adequate | Realistic | Highly realistic | No response |
|---|---|---|---|---|---|---|
| Realism: | | | | | | |
| Percent | 28.8 | 51.8 | 12.4 | 5.8 | 0 | 5.1 |
| Number | 11.4 | 62.1 | 11.4 | 6.1 | 0 | |
| | Highly premature | Premature | Appropriate | Timely | Very timely | No response |
| Timeliness: | | | | | | |
| Percent | 5.8 | 29.2 | 32.1 | 21.9 | 2.9 | 8.0 |
| Number | 18.8 | 39.1 | 39.9 | 9.4 | 3.6 | |

Note: N=137. Number line figures refer to the 1974 Kefalas and Carroll national survey.

These findings stand in contrast, however, to the 1969 *Fortune* study and the 1971 *Wall Street Journal* survey, which showed that business people across the nation held comparatively favorable views of these groups. Indeed, the situation has become so polarized in recent years that nearly one-half of the present sample endorsed the view that "the 'Ecology Movement' represents a serious threat to our society." A Utah manufacturer emphasized that his major concern regarding environmental matters was not product design, investment in new equipment, or low profits, but "minority rule activists." Similarly, the president of a mining machinery firm stated that industry leaders should "educate the so-called environmentalists to the fact that almost every aspect of their lives is dependent upon industry" and that "those who are ignorant of the importance of industry are against the future of this country." In short, companies prefer to assume the responsibility for pollution control because of their concern about big government and citizen groups, both of which may be regarded as obstructive, uninformed, and/or dangerous.

While this concern for social responsibility is welcomed and holds true for specific issues (for example, two-thirds of the sample agreed that "mining companies should be required to restore strip-mined land to its original state"), a question remains. Is the apparent antagonism of industry toward government and pressure groups in the best interest of the environment? Just as there is no one villain in the environmental crisis, it is unlikely that any single institution in society will be able to cope effectively with the problem. The go-it-alone approach may be useful in specific cases, but it is unlikely to be productive in the long run. People cannot attempt to solve a problem if they cannot agree upon the basic facts about the problem they are trying to solve.

If it is true, for example, that environmental issues tend to be exaggerated (see above), it is also true that business people have overstated the effect of pollution controls on the economy. Executives were asked the following question:

Pollution control laws have caused—

| | Percent | N |
|---|---|---|
| A few companies to close in the last five years (less than 100 nationwide) | 36.5 | 50 |
| A "moderate" number of companies to close (approximately 500) | 23.4 | 32 |
| Many companies to close (over 1,000) | 36.5 | 50 |
| No response | 3.6 | 5 |
| Total | 100.0 | 137 |

*least* 500 companies have been forced to close due to environmental considerations. According to the *New York Times*, 81 plants (involving 17,600 workers) have been put out of business as a result of federal enforcement actions since 1970.[3] While several closures have received national publicity, most plants that shut down were marginal profit makers with obsolete equipment. Furthermore, the displaced workers found employment in other firms that expanded their share of the market as a result of their competitors' unwillingness to invest in pollution abatement equipment. In fact, there has been a net increase of more than one million jobs due to increased expenditures on water and solid waste pollution clean-up efforts.

The business leaders surveyed also overestimate the effect of antipollution programs on economic inflation. When asked the question shown below, most industrialists felt that such activities had at least a 3 percent effect on inflation. Less than one of every seven respondents knew that the impact of these programs has been in the realm of one-half of one percent.[4]

In your opinion, antipollution programs in this country have—

| | Percent | N |
|---|---|---|
| No effect on the rate of inflation | 1.5 | 2 |
| Little effect on the rate of inflation (for example, one percent or less) | 10.9 | 15 |
| Some effect on the rate of inflation (for example, 3–5 percent) | 59.1 | 81 |
| A major effect on the rate of inflation (over 5 percent) | 24.8 | 34 |
| No response | 3.6 | 5 |
| Total | 100.0 | 137 |

In summary, the objective here has not been to offer praise for industry's determination to assume responsibility for pollution control nor to criticize its exaggerated views of the negative economic effects of conservation programs. The point is that since nearly everyone agrees that the environment is an important problem, government, citizens, and industry might be able to lay the groundwork for a more comprehensive and constructive approach if they were more willing to listen to one another and agree on basic facts. As the 1970 Conference Board Record report on pollution control emphasized, the renewal and protection of the environment are costly and complex tasks that require

Footnotes at end of article.

the cooperative effort of both the public and private sectors. Evidence of an improved dialogue between all concerned is beginning to appear (see Industry Week, April 7, 1975, and company policy statements shown in the next section), but the attitudinal data reported here show that there is still a long way to go.

ENVIRONMENTAL PROGRAMS IN INDUSTRY

Given industry's concern for ecology and its interest in tackling environmental problems, in what antipollution actions does it participate? What is the general purpose of these activities? How many corporate resources are invested in such programs? Finally, what do executives believe are the best incentives to strengthen these policies?

Nearly 70 percent of the businesses surveyed indicated that they were actively involved in an internal, industrywide, or community based environmental program. Most companies had a formal or implicit policy on social responsibility and the environment. Some policies were more comprehensive than others, reflecting management philosophies that ranged from progressive environmental improvement to reluctant compliance with the law. Representative examples of formal and informal policies are displayed below.

We are dedicated to protecting and improving the physicial environment and therefore are committed to controlling environmental pollution in all forms. In addition to strict compliance with all laws . . . it is the policy of [this company] to cooperate with civic, professional, industrial, and research agencies . . . to solve environmental problems [formal statement].

Our company has used pollution control devices since 1929, though perhaps not as effective as those used today. While we have no written policy, all existing plants are equipped to surpass all antipollution standards [informal policy].

In general, these findings, which are similar to the 1972 and 1974 American Management Association (AMA) national surveys as well as the earlier Fortune study, suggest that the proportion of U.S. corporations involved in environmental activities probably has not declined in recent years and that businesses in heavily impacted industries are not necessarily more likely than other firms to have such programs. It should be noted that participation in these activities does not always mean that there is a connection between the company statement and effective pollution control. Yet, such policies are a record of the position to which management has committed the organization. As the 1972 AMA research report on business and ecology pointed out, such policies enable individuals in organizations to focus on environmental problems—a process that encourages meaningful action.

A follow-up question was asked the respondents in order to ascertain the general approach of these programs.

In general, what is your company's aim with regard to environmental pollution problems?

| | Percent | N |
|---|---|---|
| Prevent or minimize future danger of pollution | 47.4 | 65 |
| Eliminate or reduce present danger of pollution | 18.2 | 25 |
| Remedy the effects of past pollution | .7 | 1 |
| Our company does not face significant environmental problems | 31.4 | 43 |
| No response | 2.2 | 3 |
| | 100.0 | 137 |

Like the 1969 *Fortune* and 1971 *Wall Street Journal* studies, the results here show that most corporations are future oriented in their antipollution efforts. Nearly half of the firms indicated that their primary aims is to prevent or minimize future pollution. About one company in six stated that its main objective is to cope with current pollution dangers. Only one of the 137 corporations surveyed said that its primary objective is to remedy the effects of past environmental degraduation.

An especially interesting finding was that almost one-third of the largest mining and manufacturing firms in the four states indicated that "our company does not face significant environmental problems." On the one hand, this suggests that even though a large minority of corporations say that they do not have pollution problems, they are still environmentally concerned (see Table 1). On the other hand, it is difficult to believe that 30 percent of these pollution prone industries in this part of the nation do not face important environmental issues.

In addition to the existence and purpose of conservation programs, an effort was made to ascertain the amount of resources invested in environmental protection. The executives were asked: "What percentage of your last annual budget was spent on pollution control?" The responses were as follows:

What percentage of your company's last annual budget was spent on pollution control?

| | Percent | N |
|---|---|---|
| 0 to 4 percent | 48.9 | 67 |
| 5 to 9 percent | 17.5 | 24 |
| 10 to 14 percent | 12.4 | 17 |
| 15 to 19 percent | .7 | 1 |
| Over 20 percent | 5.3 | 8 |
| No response | 14.6 | 20 |
| Total | 100.0 | 137 |

While it might be expected that many companies would regard such information as proprietary, nearly 85 percent of the firms supplied these data. Furthermore, earlier studies (such as the 1974 AMA survey) revealed that independent checks agreed closely with budgetary figures reported in business surveys. It is with some confidence, then, that it can be reported that approximately half of the firms spent 4 percent or less on pollution control. As shown, a substantial number invested between 5 and 9 percent (17.5 percent of the sample) and 10 and 14 percent (12.4 percent) on abatement expenditures. Only one company spent up to 20 percent of its annual budget on environmental activities. Eight firms spent over 20 percent of their budgets on pollution control, which reflects the fact that even in pollution prone industries, the burden is unevenly distributed. In general, the comparative data from earlier nationwide, cross-industry surveys suggest that there are relatively more companies paying small amounts for environmental protection in the Rocky Mountain states than was the case for the entire business community several years ago. Arguments continue over whether or not such expenditure levels are enough to cope effectively with the situation. Suffice it to say that there is little debate over the need for environmental protection; it is the pace and thoroughness of environmental restoration that is at issue. These problems are likely only to be solved in the political arena.

Finally, what do executives think about pollution control incentives for business?

What do you think would be the most effective incentive to business to do something more about pollution?

| | Percent | N |
|---|---|---|
| Tax credits for pollution controls costs | 57.7 | 79 |
| Industrywide action | 7.3 | 10 |
| Government grants matching company expenditures | 5.1 | 7 |
| Government subsidies | 2.2 | 3 |
| Passing the costs to consumers | 14.6 | 20 |
| Improvement in the working environment | 7.3 | 10 |
| No response | 5.8 | 8 |
| | 100.0 | 137 |

As shown, most industrialists regard governmental assistance in the form of tax credits as the best stimulus to environmental improvement, a finding comparable to the 1969 Fortune survey. Although executives indicated earlier that the private sector should bear the prime responsibility for pollution control, this apparently does not mean increased costs to consumers, accepting government monies (grants or direct subsidies), or self-initiated action by industry (improving the work environment or industrywide action). Thus, while tax credits are quite acceptable, business people are very reluctant to accept direct governmental assistance to encourage investment in environmental protection programs.

In summary, more than two-thirds of these companies are involved in antipollution efforts. The purpose of these activities is to minimize future environmental degradation more than to deal with the effects of current or past pollution. Most companies are investing what the Fortune survey referred to as "small" (less than 4 percent) proportions of their budgets in pollution controls. Executives believe that the most effective incentive for further environmental improvement is the use of tax credits to offset pollution abatement costs.

CONCLUSION: SOLVING POLLUTION PROBLEMS IN AMERICAN SOCIETY

This study has documented that mining and manufacturing corporations in a heavy impacted section of the nation regard the protection of the environment as a major concern in business operations. Reference to earlier cross-industry and nationwide surveys permitted rough comparisons with respect to the causes of ecological deterioration, the roles and responsibilities of business vis-a-vis government and the private citizen in environmental activities, and the nature of pollution control programs in the private sector. Changing societal values are being integrated into corporate environmental practices either as a consequence of government prompting or of the redefinition of business self-interest.[5]

Concern for the environment does not necessarily override other important societal and business goals. More than 75 percent of the sample, for example, agreed that "economic growth is nearly always good for any community" (see Table 4). More specifically, a similar proportion of the managers supported the statements that "a certain amount of environmental damage . . . will have to be tolerated as a price for economic stability" and that "we cannot afford to let policies claiming to promote environmental quality prevent the continued economic development of this state." A Montana paper company executive said pollution "should be controlled if it is significant and can be economically handled."

Industrialists believe that a balanced approach to the development and conservation of the nation's resources is the most responsible way to meet the needs of U.S. society.

Footnotes at end of article.

Most executive supported the statement that "pollution is a waste, and [if we can] put it to productive use we are safeguarding economic development and environmental protection." Nearly 90 percent of the executives agreed that "it is possible to have both industrial growth and a quality environment." A senior official in a petroleum company said: "We think considerable progress has been made in reducing pollution. Vehicle emissions have been reduced by a factor of 80–90 percent. . . . This progress indicates that the nation can protect and improve the environment and maintain economic growth." In short, business leaders see the necessity to keep a perspective on environmental issues and to act with restraint in dealing with these problems.

TABLE 4.—ENVIRONMENTAL AND ECONOMIC GOALS: SOLUTIONS AND COSTS

| | Strongly agree | Agree | Undecided | Disagree | Strongly disagree | No response |
|---|---|---|---|---|---|---|
| Economic growth is nearly always good for any community: | | | | | | |
| Percent | 11.7 | 65.7 | 7.3 | 12.4 | 1.5 | 1.5 |
| Number | 16 | 90 | 10 | 17 | 2 | |
| A certain amount of environmental damage in this State will have to be tolerated as the price for economic stability: | | | | | | |
| Percent | 7.3 | 62.0 | 12.4 | 16.1 | 0.7 | 1.5 |
| Number | 10 | 85 | 17 | 22 | 1 | 2 |
| We cannot afford to let policies claiming to promote environmental quality prevent the continued economic development of this State: | | | | | | |
| Percent | 21.9 | 57.7 | 10.2 | 9.5 | 0 | 0.7 |
| Number | 30 | 79 | 14 | 13 | 0 | 1 |
| Pollution is a waste, and to the extent that we can prevent waste and put it to productive use, we are safeguarding economic development and environmental protection: | | | | | | |
| Percent | 14.6 | 57.7 | 8.8 | 13.1 | 1.5 | 4.4 |
| Number | 20 | 79 | 12 | 18 | 2 | 6 |
| It is possible to have both industrial growth and a quality environment: | | | | | | |
| Percent | 20.0 | 60.6 | 7.3 | 0.7 | 0.7 | 3.6 |
| Number | 37 | 83 | 10 | 1 | 2 | 5 |
| Scientific research and technological development can solve environmental problems: | | | | | | |
| Percent | 29.9 | 51.1 | 8.8 | 7.3 | 1.5 | 1.5 |
| Number | 41 | 70 | 12 | 10 | 2 | 2 |
| American society really does not have the option of not paying envrionmental costs: | | | | | | |
| Percent | 17.5 | 56.2 | 8.0 | 15.3 | 0.7 | 2.2 |
| Number | 24 | 77 | 11 | 21 | 1 | 3 |

Note: N = 137.

These views are summarized in the responses received to the following question:

Which one of the following statements best describes your attitude regarding the solution of environmental problems in our society?

| | Percent | N |
|---|---|---|
| Environmental problems can be solved within our present political-economic system if enough people become involved | 76.6 | 105 |
| Environmental problems can be solved only if significant changes are made in our present political-economic system | 15.3 | 21 |
| Environmental problems can be solved only if our present political-economic system is replaced by a radically different system | 1.5 | 2 |
| No response | 6.6 | 9 |
| | 100.0 | 137 |

Over 75 percent of the managers believe that environmental problems can be solved within the existing political-economic system. Although approximately one-sixth of the sample admitted to the need for significant change in present institutions, no more than 1.5 percent entertain the idea of radical departures from the status quo. A representative comment of the majority viewpoint was made by a Utah manufacturer: "Environmental protection is possible with the present economic structure and need not seriously penalize our economic progress."

The method by which the current system can solve environmental problems is through science and technology. Over 80 percent of the executives in the four states agreed that "scientific research and technological innovation can solve envirnomental problems" (see Table 4). A steel company executive stated: "We have solved our pollution problems in this plant; industry cannot do it all at once. Pollution control is not instant. Technology needs time." A concrete plant manager indicated that "there must be a balance between existing conditions and the present state of technology. Industry must move in this direction, but should not be pushed so hard as to cause economic hardship." In a similar vein, a majority of the respondents believe that economics and technology are the most neglected areas of environmental knowledge as opposed to human behavior, politics, or law (data not shown in tables).

This evidence reinforces the earlier findings that most executives believe environmental degradation is not caused by basic behavior patterns as reflected in present institutions, but instead is a consequence of societal oversight. While this may not be the view of most environmentalists, who believe that the modern industrial state requires considerable reform, it is significant that this key sector of the economy is concerned about environmental disruption and that no less than 70 percent believe that "American society really does not have the option of *not* paying environmental costs" (see Table 4.)

In conclusion, for 200 years the private sector of the U.S. economy has tried to provide the goods and services needed by society under conditions that seemed acceptable to all. In recent times, however, business people have been challenged to reexamine past practices and objectives. Industrial growth, for example, has come to mean serving the economic needs of society with the least environmental damage. Since industries in the Rocky Mountain states occupy a vital position in today's economy, it is encouraging that they say they are ready to deal with environmental problems.

FOOTNOTES

NOTE: The author wishes to express his appreciation to the Graduate School of the University of Wyoming for its financial support.

[1] The studies referred to include the following: Robert S. Diamond, "What Business Thinks about the Environment," in *The Environment: A National Mission for the Seventies*, edited by the Editors of *Fortune* (New York: Harper and Row Publishers, 1969, 1970), cited hereafter as the *Fortune* study; Asterios G. Kefalas and Archie B. Carroll, "Environmental Concern and Business Organizations: A Survey," *Georgia Business* 35 (January-February): 2–10; *Wall Street Journal, A Nationwide Survey of Environmental Protection* (New York: Erdos and Morgan, Inc., 1972); Frederick D. Buggie and Richard Gurman, *Toward Effective and Equitable Pollution Control Regulation* (New York: American Management Association, 1972), hereafter cited as the 1972 AMA study; Harold W. Henry, *Pollution Control: Corporate Responses* (New York: American Management Association, 1974), hereafter cited as the 1974 AMA study; Richard A. Hopkinson, *Corporate Organization for Pollution Control* (New York: Conference Board Record, Inc., 1970), hereafter cited as the 1970 Conference Board Report; and Leonard Lund, *Corporate Organization for Environmental Policymaking* (New York: The Conference Board Record, Inc., 1974). Also see Steven C. Wheelright, "Developing a Corporate Response to Pollution Control," *European Business* 39 (Summer 1973): 64–72; Keith Davis and Robert L. Blomstrom, *Business, Society, and Environment*, 2d ed. (New York: McGraw-Hill, 1971); and Robert W. Ackerman, *The Social Challenge to Business* (Cambridge, Mass.: Harvard University Press, 1975). For a recent discussion of pollution control costs, see the articles in the April 1976 issue of *Conference Board Record*.

[2] "Facing Up to Pollution Controls," *Harvard Business Review* 52 (March-April 1974): 26.

[3] Gladwin Hill, "Industry Is Finally Cleaning Up after Itself," *New York Times*, 17 October 1976, Section E, p. 4.

[4] Russell Train, "Ecology and Economy: Two Household Words," an address to the New York Chamber of Commerce and Industry, New York, New York, 3 October 1974.

[5] See John H. Sheridan, "Which Pollution Answers Are Winning?" *Industry Week* 187 (13 October 1975), especially p. 29.●

## ACTIONS AGAINST INTERNATIONAL TERRORISM

Mr. PERCY. Mr. President, on Monday, July 17, the leaders of the seven major noncommunist industrial nations agreed to take assertive action against air piracy. President Carter and the leaders of Britain, Canada, France, West

Germany, Italy, and Japan reached an agreement to cut off commercial airline service to or from any country that harbors airline hijackers. I applaud this action as a long-awaited and much-needed first step toward increased international cooperation against hijackers and terrorists of all kinds.

Fortunately, this country has been relatively free from internal incidents of terrorism. Domestic measures to counter this threat have proven fairly effective so far. In the case of hijackings, during the 5 years prior to 1972 there was one successful hijacking attempt every 20 days. Since initiating electronic searches of air passengers and luggage 5 years ago, the FAA reports only two successful hijackings in the United States.

However, despite the progress made in this country, citizens of the United States continue to be threatened by acts of international terrorism when they travel in countries with less thorough security measures. During the first half of 1977 there were 14 attempted airline hijackings in other parts of the world, seven of which were successful.

Between 1968 and 1975, there were 330 incidents of international terrorism which directly affected U.S. citizens, corporations, or institutions, including 59 kidnappings, 136 bombings, and 15 assassinations.

We have also witnessed during the past few years an increasing degree of cooperation among international terrorist groups. Palestinians, members of the Japanese Red Army, and West German urban guerrillas have trained side by side in camps in the Middle East. The situation is aggravated by countries which harbor and aid terrorist groups.

The appropriate response to this threat seems to be a response in kind—a banding together of peace-loving nations to take action which will show that we will not condone violent political coercion by small groups of terrorists. Monday's agreement in Bonn can be more meaningful if it is followed by a sincere effort by the seven nations to join a mutual campaign against international terrorism.

S. 2236, an act to combat international terrorism, was reported out of the Governmental Affairs Committee on May 15, 1978. This bill urges the President to place a high priority on international agreements such as the one reached on Monday. This legislation would also promote technical assistance in aviation security to foreign governments by the United States, and would allow strong unilateral U.S. action against countries which support terrorist activities. I am hopeful that this bill will become law, as it represents a significant contribution on our part to the fight against international terrorism.

Mr. President, I ask unanimous consent to include in the RECORD an article from the Washington Post in which the text of the Bonn agreement against hijacking is printed.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 18, 1978]

HIJACK AGREEMENT—MOVE TO COMBAT AIR PIRACY IS VIEWED AS TOUGHEST YET

(By Michael Getler)

BONN.—An unprecedented antiterrorism agreement that would cut off commercial airline service to or from any country that harbors airplane hijackers was agreed on here yesterday by the seven major noncommunist industrial nations.

Although the hastily developed accord raises many unanswered questions and has several potential loopholes, the immediate reaction of airline specialists was that the new accord was by far the toughest stand ever taken in this field.

Officials here said it was the first time that such a powerful group of governments—that together virtually dominate commercial air travel and the airports used to connect with international flights—had acted together to try to combat air piracy.

The accord, if it works, would go well beyond various U.N. conventions that condemn hijacking but carry no penalties or binding pledges of action. It would also be in line with longstanding boycott demands of the International Airline Pilots Association.

The agreement among the leaders of Britain, Canada, France, West Germany, Italy, Japan and the United States was announced at the close of a two-day economic summit meeting here.

"The heads of state and government," the brief statement says, "concerned over terrorism and hostage taking, declare that their governments will intensify their common undertaking to fight international terrorism.

"In cases in which a country refuses to extradite or legally prosecute airplane hijackers and/or to give back such airplanes, the heads of state and government are unanimously agreed through their governments to take immediate action to cease all flights to that country.

"At the same time, their governments will implement steps to ban incoming flights from that country as well as flights by airlines of that country flying from any other country."

The signers said they would also urge other governments to join them in this commitment.

The unanswered questions about the accord's effectiveness are technical and political.

How long, for example, will the seven nations wait before they jointly decide that a country has refused to extradite or legally prosecute a hijacker? How will they coordinate their decisions and what happens if a radically oriented country agrees to prosecute hijackers and then gives them a little more than a slap on the wrist?

In addition, the use of the "and/or" terminology raises questions whether the countries would act if the plane is returned, even though a country harbors the hijackers.

Politically, there are doubts among diplomats that France, for example, would join in economic action against its former colony Algeria, or that others with oil connections to Libya would take action against that country. These countries, along with Iraq and South Yemen, are major targets of the antihijack measure, although no countries were named.

Officials here had no immediate answers for the technical questions. U.S. officials told reporters that the leaders at the summit here are expected to go back to their respective governments to figure out what needs to be done to carry out these pledges.

Nevertheless, an experienced European airline specialist said, "Just the fact that these countries have openly identified themselves as intent on doing this is of major importance."

Inclusion of the antihijack measure at the economic summit was unexpected. The matter, according to U.S. officials, was first raised informally by Japanese Prime Minister Takeo Fukuda and then pursued in detail by Canadian Prime Minister Pierre Elliott Trudeau to the point where a document was developed in the course of the short meeting.

## THE COSTS OF FEDERAL REGULATION: CATERPILLAR TRACTOR CO. CITES BURDEN

Mr. PERCY. Mr. President, the Caterpillar Tractor Co. has just completed a study of the effects of Federal regulation. The firm found that it spent an estimated $67.6 million in 1976 to comply with regulations.

This is a startlingly high figure—it is almost one-fourth as much as the firm spends to buy rough steel. Caterpillar's study dramatizes the urgency of the need to reform Federal regulation.

I wish to commend Caterpillar for its initiative in preparing this important study. It has added measurably to the hard facts upon which we can rely. I urge other firms to undertake similar analyses of their own regulatory costs.

Because of the contribution which the Caterpillar study makes to regulatory reform, I ask unanimous consent that the findings and observations section of the study may be printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

*The Caterpillar study: Findings and observations*

The cost to Caterpillar, during 1976, of complying with U.S. government regulation is estimated at $67.6 million, including:

| | *Million* |
|---|---|
| Administrative and operating costs | $21.5 |
| Capital costs | 22.0 |
| Product costs | 24.1 |

A breakdown of these costs follows:

*Regulatory costs for 1976: Caterpillar Tractor Co. (U.S. Regulation Only)*

| Agency or department: | *Total costs due to regulations* |
|---|---|
| Environmental Protection Agency (*) | $32,168,709 |
| Occupational Health & Safety Administration (**) | 31,090,895 |
| Equal Employment Opportunity and Affirmative Action | 1,198,334 |
| Federal Trade Commission and Department of Justice | 821,973 |
| Department of Transportation | 768,164 |
| Interstate Commerce Commission | 306,635 |
| Department of Defense | 259,841 |
| Department of Commerce | 220,740 |
| Department of Treasury | 197,787 |
| Civil Aeronautics Board | 150,243 |
| Department of Labor | 91,618 |
| Securities & Exchange Commission | 84,891 |
| Department of the Interior | 74,356 |
| National Labor Relations Board | 41,627 |
| Federal Communications Commission | 32,943 |
| Federal Energy Administration | 19,986 |
| Federal Power Commission | 13,751 |
| Consumers Product Safety Commission | 10,301 |
| All Others | 52,554 |
| Total | $67,605,348 |

(*) Of which $10,258,709 is Administrative/Operating cost; $21,800,000 Capital cost; and $110,000 Product cost.

(**) Of which $6,936,445 is Administrative/Operating cost; $167,450 Capital cost; and $23,987,000 Product cost.

Of the $67.6 million cost, it may be seen that over 90 percent resulted from regulations imposed by two agencies (EPA and OSHA) which didn't exist prior to 1970.

Comparisons with corporate goals provide a degree of perspective on these statistics. (The comparisons do not imply that productive investment in the company was decreased because of the $67.6 million expenditure to meet government regulation.) Comparing the $67.6 million to other costs, in 1976 Caterpillar:

Expended almost one-fourth as much on government regulation as for the purchase of rough steel.

Expended almost as much on government regulation as for worldwide energy needs.

Expended more for government regulation than for Social Security: and about the same on government regulation as on all medical benefits in the U.S.

Expended more than one-third as much for government regulation as the company paid in U.S. federal income taxes.

Expended half as much on government regulation as for dividends paid to shareholders.

International trade is extremely important to the nation as well as Caterpillar. Though we lack adequate comparative data about impact of regulatory costs on non-U.S. competitors, there is reason to believe Caterpillar's cost of regulation is higher than non-U.S. competitors. Thus the cost of regulation could impair our ability to sell products abroad.

There is currently much concern that the U.S. is losing some international competitive advantage because of reduced corporate expenditures on research and engineering. Yet a rising share of the U.S. technology effort is going into compliance with government regulation. Thus, regulation could siphon off funds and skills needed to maintain U.S. technical competitiveness.

Obviously, Caterpillar as a company does not absorb all regulatory costs. Most of these costs are passed on to users of our products and ultimately to the consumer in many forms. Higher utility bills and higher costs of highway construction are two examples. The objective, however, is not to reduce regulatory costs indiscriminately. It is rather to establish, through study and analysis, a factual basis for eliminating unnecessary regulation and improving the administration of necessary regulatory programs.

## PLANNING FOR A UNITED NATIONS ALTERNATE ENERGY CONFERENCE

Mr. PERCY. Mr. President, on April 18, 1978, Senator McGOVERN and I sent a letter to the Congressional Research Service requesting that it examine the advisability of convening a United Nations Conference on Alternate Energy Sources and establishing a new International Alternate Energy Commission. This request stemmed from the introduction of Concurrent Resolution 62 by Senator Hubert Humphrey, later reintroduced by Senator McGOVERN as Concurrent Resolution 71.

The initial paper done for us by CRS provided an analysis of why a conference would be an effective means of launching a new international commission. The paper also forcefully brought out the need for this country to undertake a serious effort to utilize alternative energy sources in order to demonstrate to Third World nations our own commitment to these energy sources.

However, since we wrote this letter and received CRS' report, events have moved quickly. The United Nations Economic and Social Council decides this month whether to accept a proposal for such a conference done at its request by Secretary-General Kurt Waldheim's office. The State Department has already agreed to support and push for the acceptance of the Waldheim proposal.

As a result of these developments, Senator McGOVERN and I decided that CRS should turn quickly to the specific issues involved in organizing this conference. Therefore, we wrote a second letter requesting that CRS examine among other items, what the actual preparatory process for this conference and commission should entail, how the conference should be structured, what the specific focus should be, where it should take place, and how long it should take.

Senator McGOVERN and I believe that the final paper CRS produces could be extremely helpful to all those concerned with planning this conference. The paper could be disseminated widely and used as a means to get concrete preparations underway.

The developed and developing nations need to sit down together and seriously discuss the world energy problem and the ability of alternative energy sources to help solve this problem. This proposed United Nations conference would provide an appropriate forum to hold this discussion. Therefore, Senator McGOVERN and I are determined to do what we can to assure that this conference takes place.

Mr. President, I ask that excerpts from the CRS paper on the United Nations Alternate Energy Conference and Commission and the two letters to CRS be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., April 18, 1978.*

Dr. GILBERT GUDE,
*Director, Congressional Research Service, Library of Congress, Washington, D.C.*

DEAR GIL: Senator Humphrey, in one of his last official acts as Senator, introduced Concurrent Resolution 62 (recently reintroduced by the undersigned as Concurrent Resolution 71) requesting the United Nations to convene a World Alternate Energy Conference in 1980. The goal of this conference, as expressed in the Resolution, would be the establishment of an International Alternate Energy Commission comparable to the International Atomic Energy Agency.

Since the Arab oil embargo and the subsequent five-fold increase in oil prices, many developing nations, unable to pay these prices, have had to forego their development aspirations. Those developing countries which have continued to import oil have done so at the risk of international bankruptcy as their debts to international lending institutions have mounted precipitously.

The United Nations General Assembly has discussed on innumerable occasions ways in which nations can be relieved of the high oil price burden. One possible means suggested by the General Assembly is the establishment of an International Energy Institute. The Secretary General, Kurt Waldheim, was delegated the responsibility of proposing specific functions for such an organization. He recommended that it:

Monitor resources.

Analyse and exchange information on alternative energy sources.

Advance global planning to avoid shortages in the future.

Promote cooperation between those who have financial and technological resources and those who do not.

Orient research and development towards meeting the requirements of widely differing situations.

Assist in the transfer and adaptation of energy technology.

Encourage development of indigenous or regional energy capacities.

Train personnel.

Unfortunately, little visible progress toward implementation of this idea has occurred. Moreover, while the United Nations has held very successful Conferences on Food and the Environment, and is now preparing for a Conference on Science and Technology Transfer, it has not yet convened a major conference focusing on global energy problems.

We believe that such a conference, followed by the establishment of an International Energy Commission, could have substantial benefits for both the developing and the developed world. There does not appear, however, to be sufficient momentum at this time to begin substantive planning for either a conference or an International Commission. We are hopeful that the introduction of Senator Humphrey's Resolution could provide the necessary catalyst to begin generating momentum to move these ideas into the planning stages.

Planning for such a conference and commission requires a great deal of thought. We believe that the Congressional Research Service can contribute many helpful ideas. We would like CRS to prepare a concept paper on the idea of a UN energy conference and commission.

With respect to the idea of a Conference on Alternate Energy Sources, we would like CRS to:

Examine the concept proposed in Senator Humphrey's Resolution, and analyse whether such a conference would be worth holding.

Examine past United Nations Conference to determine the most appropriate format for this conference.

Determine ways in which the support of LDC leaders for this conference could be enlisted.

Determine which international and foreign agencies might provide valuable planning assistance for this conference.

Determine what, if anything, the U.S. Congress could do to assist in the planning for this conference.

Determine the best process and mechanism by which American public support could be assured for this conference.

With respect to the idea of an International Energy Commission, we would like CBS to:

Examine past UN preliminary proposals for an International Energy Institute, paying particular attention to ways in which the emphasis on renewable energy technology can be strengthened.

Suggest ways in which the support of LDCs can be generated to push these UN proposals out of the preliminary planning stages.

Suggest ways in which the Congress and the relevant departments and agencies of the Federal government may assist the United Nations in the development of these proposals.

In addition to the work done by CRS, we hope there might be an opportunity to use outside consultants under CRS guidance, especially in connection with a possible CRS workshop following the completion of the concept paper.

In carrying out this project, we should like to continue working with the Energy section and the Natural Resources section of the Environment and Natural Resources Division. Preliminary discussions have already taken place with Dr. Frances Gulick and Dr. Denis Little.

We appreciate your assistance and cooperation.

Sincerely,

CHARLES H. PERCY,
*U.S. Senator.*
GEORGE MCGOVERN,
*U.S. Senator.*

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U.S. SENATE,
*Washington, D.C., June 21, 1978.*

Mr. GILBERT GUDE,
*Director, Congressional Research Service, Library of Congress, Washington, D.C.*

DEAR GIL: On April 18, 1978 we requested that the Congressional Research Service examine the advisability of holding a United Nations Conference on Alternate Energy Sources and establishing a new International Alternate Energy Commission. We also asked CRS to suggest means by which sufficient momentum could be generated in developing nations and in this country to bring these ideas to fruition and how the actual planning process could be implemented. This request stemmed from the introduction of Concurrent Resolution 62 by Senator Humphrey (reintroduced by the undersigned as Concurrent Resolution 71) urging the United Nations to convene a World Alternate Energy Conference in 1980.

We commend Dr. Gulick for her useful analysis of why such a conference and new international commission are both advisable and necessary. In addition, Dr. Gulick forcefully brought out the importance of a comprehensive domestic effort to utilize renewable energy technology as the best means of enlisting Third World support and enthusiasm for this conference.

However, the CRS concept paper failed to address some of our other questions. We understand Dr. Gulick's feeling that the development and refinement of conference plans should not be addressed before the broader issues are examined. Nonetheless, we believe that the specific questions concerning the preparation and structure of the conference and commission should not be postponed. Therefore, we would like CRS to examine the other topics listed in our April 18 letter.

In examining these other topics, it might be useful for CRS to pay attention to the following questions:

(1) What should the actual preparatory process entail? Should panels of known experts be convened as a first step? If so, what topics should they examine and what factors should they take into account in arriving at their conclusions?

(2) How could the findings of these panels be most effectively utilized for this conference?

(3) Should the "National Paper" concept now being used for the forthcoming United Nations Conference on Science and Technology for Development be used again for this conference? If so, what should these papers include and who should be responsible for producing them?

(4) How can non-governmental organizations (e.g. The International Solar Energy Society) be most effectively used?

(5) Would regional intergovernmental meetings be necessary as a prelude to this conference?

(6) Does the United Nations system presently have the capabilities and staff to prepare for this conference or would additional staff need to be hired?

(7) How should the actual conference be structured, where should it be held, and how many days should it take?

(8) Other than through the creation of an International Alternate Energy Commission, what methods can be devised to assure that the technical information gathered and the policy decisions made at the Conference will have a lasting effect on the energy paths chosen by the participating nations?

It was determined, during discussions on this project between CRS staff and Ms. Sandra Masur of my staff, that John Jimison would be the coordinator of this project. The possibility of CRS contracting out to Mr. Robert Blum to do part of the work on this project was also discussed. It is my hope that Mr. Jimison will continue as coordinator of this project and that Mr. Blum's vast experience and expertise can also be effectively utilized by CRS.

Thank you very much for your cooperation and assistance.

Sincerely,

CHARLES H. PERCY,
*U.S. Senator.*
GEORGE MCGOVERN,
*U.S. Senator.*

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EXCERPTS FROM A CRS REPORT ON A U.N. CONFERENCE ON ALTERNATE ENERGY AND AN INTERNATIONAL ALTERNATE ENERGY COMMISSION

Examine the concept proposed in the Resolution, and analyze whether such a conference would be worth holding, and/or an International Alternate Energy Commission should be established.

The primary conceptual goals of the resolution are clearly stated:

The United States should encourage the United Nations to hold a World Alternate Energy Conference in 1980 to consider ways to meet the world's energy needs through the development and use of alternate energy sources.

The goal of the Conference should be the establishment, under the auspices of the United Nations, of an International Alternate Energy Commission, comparable to the International Atomic Energy Agency, which would encourage the worldwide use of alternate energy sources by assisting in the dissemination of information and by other appropriate means

The first issue posed is perhaps crucial to the others: should a separate World Conference on Alternative Energy be encouraged at all?

A U.S. Conference on Science and Technology for Development is already formally endorsed and scheduled to be held August 1979, a conference which includes the topic of energy on its agenda. Preparatory work is well under way, including inventories of resources in each of the participating countries. Since attention will be given in this conference to alternative energy strategies, Congress may wish to use this forum, including the preparatory exchanges of information and ideas, to sound out the degree of interest on the part of other countries in a separate conference such as is proposed in the subject resolution.

Second, the U.S. and its allies and the LDC's recently concluded an extended series of confrontations in the forum of the Conference on International Cooperation (CIEC), which included discussions on energy held in Paris over a period of two years. The discussions, often acrimonious, produced a residue of ill will not easily dispelled, which any future conference involving the LDC's and energy would inherit as remembered history, unless a major turn of North-South Relations occurs between 1978 and the convening of such a conference.

Third, the United States has by no means resolved what is at best an ambivalent policy position regarding the role and deployment of alternative energy sources within its own economy. Until this ambivalence is resolved, U.S. initiatives encouraging other nations to use alternate energies could be viewed with suspicion or could otherwise negatively influence U.S. foreign economic and other foreign assistance policies.

On the other hand, assuming the desirability of creating an International Alternate Energy Commission, a case can well be made that launching it at a world conference would give every nation and group of nations a full and public opportunity to present facts, central interests, and organizational preferences. This would presumably create some additional trust and participation with respect to the eventual works of such commission. Further, a conference would serve as a world forum and attention magnet for the concepts of alternative energy.

It should be remembered that the conference was not intended to be an end and in itself; rather it was to serve as the means by which a new International Alternate Energy Commission would be established, a goal which could be pursued in other forums and by other means.

The key concept to be examined, therefore, would seem to be whether creation of a new international agency is the most appropriate or effective way to encourage and further the use of alternate energy sources.

The resolution language invokes the argument that:

[N]o international agency presently exists which assists countries to exchange information and technical assistance concerning energy-related problems, which disseminates information relating to alternate energy sources, or which promotes the use of alternate energy sources:

In point of fact, there are several international agencies which are currently engaged in assisting countries to exchange information and technical assistance, to provide capital and otherwise to promote the use of alternate energy sources, as a perhaps limited but expandable part of their respective missions. Among them are the International Energy Agency (IEA), the International Bank for Reconstruction and Development (IBRD), and the International Development Association (IDA).

Congress recently authorized and required the U.S. foreign assistance agency (Agency for International Development) to give increased attention and support to "appropriate" technologies, including related alternative energy sources.

Any, or all of these assistance agencies could serve as the institutional channel for much stronger and more effective programs promoting accelerated use of energy alternative to fossil fuels and nuclear power.

These existing organizational options notwithstanding, a substantial case exists for establishing an entirely new international agency devoted to the purpose of promoting, developing, and expanding the use of alternate fuels.

Although the missions of these existing international organizations could be expanded to include promotion of alternate fuels, the orientation of their assistance programs up to now have been strongly aligned with large and capital intensive industrial and power producing projects and with economic programs designed to rely increasingly on fossil and nuclear fuels, fuels which are very unevenly distributed geographically and are owned and controlled by comparatively few of the nations of the world. Additionally, they all contribute in varying degrees to increasingly pollution of the air, water and the crop carrying capacity of the land.

In contrast, alternate energy sources intended to be promoted under the terms of the subject resolution—the sun, the wind, the natural processes of photosynthesis, and the tides and temperatures of the oceans and the seas—are less subject to national ownership and control. They appear relatively benign, nonpolluting, more evenly accessible to most of the nations of the world, are most efficient when decentrally deployed, used close to the energy consumption point.

The effective promotion and spread of the use of these particular fuels thus provides unique opportunities for more equitable and diversified distribution of alternative forms of energy and power. Depending on how the technologies and industrial capability to produce the equipment enabling their use

are managed and deployed, the promotion of expanded use of these fuels may also bring about a more equal and diversified distribution of political and strategic power as well.

The international availability and the essentially non-political nature of these fuels serve to provide a quite substantial case for the creation of some wholly new international institutional focus and framework within which international public policies and programs can be jointly developed for their promotion and diffusion. They arguably offer the U.S. and the rest of the world a timely opportunity for fresh and even bold new energy strategies for peace.

## THE NUCLEAR WASTE MANAGEMENT ACT OF 1978

Mr. PERCY. Mr. President, yesterday I introduced legislation to establish a national policy on nuclear waste management, S. 3343. This legislation is being considered at hearings Tuesday through Thursday of this week before the Energy, Nuclear Proliferation, and Federal Services Subcommittee of Governmental Affairs.

I wish to thank Senator GLENN, chairman of the subcommittee, for his excellent work in arranging these hearings. I also wish to thank Senators MATHIAS and JAVITS for their support. I owe a special debt to Senator MATHIAS, who has pioneered in the area of nuclear waste disposal with his own legislation, S. 63. I am confident that Governmental Affairs can report out nuclear waste legislation this session based on the common efforts of those members interested in the topic.

Mr. President, a number of individuals in the Senate and the House, in the Federal Government, in industry and environmental groups, and elsewhere have contributed immeasurably to the preparation of my legislation. Of course, they do not all necessarily endorse this legislation. But I want to express my heartfelt thanks for their efforts on my behalf. I ask unanimous consent that a list of these individuals be printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

SENATE AND HOUSE STAFF

Leonard Weiss, Subcommittee on Energy, Nuclear Proliferation, and Federal Services.
Sandy Spector, Subcommittee on Energy, Nuclear Proliferation, and Federal Services.
Donna Lavigne, Subcommittee on Energy, Nuclear Proliferation, and Federal Services.
Kent Steinkamp, Senator Mathias.
Joe DiGenova, Senator Mathias.
Gene Rouleau, Senator Mathias.
Scott Sklar, Senator Javits.
Allen Bennett, Senator Javits.
Fred Davis, Representative Corcoran.
Carl Behrens, Congressional Research Service.
Warren Donnelley, Congressional Research Service.
Dan Murray, Office of Legislative Counsel.

FEDERAL OFFICIALS

William Bishop, Assistant Director for Nuclear Waste Management, NRC.
Dr. John Deutch, Director of Energy Research, DOE.
Mr. Roger LeGassie, Nuclear Waste Task Force, DOE.
Mr. William Romatowski, Office of Nuclear Waste Management, DOE.
Dr. William Rowe, Director of Radiation Programs, EPA.

ILLINOIS STATE OFFICIALS

Governor James Thompson.
Bill Schilling, Office of the Governor.
Honorable William Scott, Attorney General.
James Cahan, Attorney General's Office.
Frank Beal, Institute of Environmental Quality.
James Blackburn, Division of Nuclear Safety.
Dr. Paul Peterson, Department of Public Health.
Gerald Day, Director, Illinois Commission on Atomic Energy.
Dr. Donald Eggen, Illinois Commission on Atomic Energy.
Dr. Philip Gustafson, Illinois Commission on Atomic Energy.

OTHER

John Abbotts, Public Interest Research Group.
Maurice Axelrad, Utility Waste Management Group.
Eloise Baker, Associated Citizens to Protect the Environment.
Gerald Charnoff, Nuclear Waste Management Group.
John O'Neil, Nuclear Waste Management Group.
Tom Cochran, Natural Resources Defense Council.
Tony Roisman, Natural Resources Defense Council.
Art Tamplin, Natural Resources Defense Council.
James Cubie, Union of Concerned Scientists.
Harold Deakins, Illinois Power Co.
Charles Eason, Nuclear Engineering.
James Neel, Nuclear Engineering.
Bernard Fox, Northeast Utilities.
Ed Helminsky, National Governor's Association.
Janet Hieber, Environmental Policy Center.
Rob McDougal, National Conference of State Legislators.
Fr. William Millard, Interfaith Coalition on Energy.
David Molton, Congress Watch.
James Muckerheide, Energy Resources Group.
James Murphy, Energy Resources Group.
Cindy Praul, California Energy Commission.
Emilio Varanini, California Energy Commission.
Catherine Quigg, Pollution and Environmental Problems, Inc.
David Rossin, Commonwealth Edison.
David Toll, National Association of Electric Companies.
Carl Walske, Atomic Industrial Forum.
Mason Willrich, Rockefeller Foundation.

## EXPORTING SOLAR TECHNOLOGY EQUIPMENT TO THE THIRD WORLD

Mr. PERCY. Mr. President, recently I requested the Congressional Research Service to compile a list of alternative means by which the Congress could assist U.S. business to export renewable energy technology equipment to developing nations. I believe the CRS study includes some valuable suggestions which I would like to share with my colleagues.

We have, in this country, developed, over the past several years, a small but significant solar industry which has begun to meet the energy needs of a growing number of homes across the country. This industry has not, however, even begun to tap the vast and lucrative markets which potentially exist in the Third World.

I believe that the expansion of our domestic solar industry into foreign markets is of vital importance to the domestic growth of this industry as well as the development aspirations of the Third World. Therefore, I requested CRB to do this brief paper.

In addition, earlier this year I introduced two pieces of legislation designed to encourage American solar technology exports. One bill (S. 2835) requires the Export-Import Bank to designate an officer to promote exports of renewable energy technology equipment. I am very pleased that the Senate Banking Committee saw fit to include this provision in its markup of the Export-Import Bank authorization (S. 2520). The other bill, (S. 2731), authorizes the Commerce Department to undertake a global market survey for American solar technology equipment. Unfortunately, this legislation has not, thus far, met with success. My distinguished colleague from Vermont, Senator LEAHY, is presently trying to assure that this survey gets sufficient funding in the Appropriations Committee; $460,000 is all that is needed. I intend to join my colleague on the Senate floor to fight for this funding.

Mr. President, our solar industry will inevitably take on greater importance as this country rethinks and reshapes its future energy needs. At the same time as this industry grows domestically, it can also develop into an important export industry. However, without the help of the Congress, this process could be slow and arduous. With our help, this important American industry could be a leader within the next few years in supplying solar equipment to rural and urban areas throughout the Third World. Mr. President, I call on all my colleagues to join with me in devising means to help this vital industry to export.

Mr. President, I ask that the "Ideas List" from CRS be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IDEA LIST FOR SENATOR CHARLES PERCY: THINGS HE AND CONGRESS COULD DO TO GET U.S. BUSINESS TO DEVELOP AND EXPORT PRODUCTS AND SERVICES TO PROVIDE DEVELOPING COUNTRIES WITH ATTRACTIVE ALTERNATIVE SOURCES OF FUELS AND ENERGY

PREFACE

At a meeting with W. H. Donnelly, G. Holliday and W. Schacht of CRS, Christopher Palmer requested the preparation of a check list of ideas that might be considered by Senator Percy in addressing the question of what he and Congress could do to get U.S. businesses, particularly small ones, to develop and export products and services to provide developing countries with attractive alternative sources of fuels and energy. The following list responds to that request. It reflects the views and ideas of the three CRS participants.

I. THE RANGE OF CONGRESSIONAL ACTION

The range of action options open to Senator Percy and to the Congress include:

(1) Congressional inquiry through hearings that could look into the following:

(a) The present state of such exports, volume, trends, principal items, major recipients, method of financing.

(b) Obstacles and discouragements to business investment and venture in this field.

(c) Assessment and commentary upon proposals to do something to substantially expand these exports.

(2) Legislation to:

(a) Establish national goals and policy to this end.

(b) Assign responsibilities and authorities within the executive branch, and create or modify Federal organization.

(c) Authorize programs.

(d) Appropriate funds.

(e) Provide tax incentives.

(f) Remove or reduce legal deterrents, e.g., antitrust restrictions and discouraging patent policies.

(3) Oversight to:

(a) Get U.S. participants in the U.N. Conference to emphasize development and use of alternative energy sources.

(b) Make sure agencies quickly and effectively follow out any new congressional directions.

II. THE "BIG PICTURE", OR TOP-DOWN APPROACH

*(1) Goals and purposes*

Decide what are to be the goals and purposes of any government venture to foster U.S. exports of products and services for development of alternative energy sources. Questions to be answered in setting these goals include:

(a) Is the purpose mainly to increase U.S. exports, or is it to use these kinds of exports to some other end? If so, what is that end? Is it to be the goal to:

Help U.S. small business get into markets not available in the United States?

Help small business generally and increase U.S. jobs?

Reduce or limit the demand for oil by developing countries so the United States will face less competition for it in world markets?

Reduce developing country dependence on imported oil for the benefit of U.S. foreign policy objectives such as reduction of regional tensions, offset of Soviet influence, reduction of the risk of nuclear proliferation?

Provide a foreign testing ground for products and services that might sell in the United States?

(b) What is to be the role of big business? Will it be excluded or will it be permitted to take part?

(c) Would the goal apply equally to all developing countries, or more to some and less to others? If so, what be the basis for differences?

(d) Who would be the intended beneficiaries in the developing countries: the "dirt-poor" impoverished (the AID approach) or the existing industrial and commercial community (the Ex-Im Bank approach)?

*(2) Financing*

(a) How would financing of this project be divided between business and the Federal Government?

(b) Considering the present inflation, how much public subsidy would be justified, through tax incentives which would reduce Treasury income, or through direct or indirect benefit from appropriated funds?

(c) How effective are the ways of financing? What would be the most effective combination of them?

(d) How would the costs to the public purse compare with anticipated benefits: (i) financial, (ii) other? In particular, if alternative energy sources could be made more attractive than nuclear energy, to what extent would any unrecovered government outlay be justifiable as a non-proliferation premium? Would it be worth the cost?

*(3) Factors to be considered*

(a) The probable attitudes of key developing countries and the influence of these attitudes on other developing countries.

In particular, how likely are developing countries to feel that such a U.S. venture is intended to push them out of the world oil market so the United States can have easier access to it? Will the products and technologies be considered as second rate if they are not used in the United States?

(b) The ability of developing countries to pay for these imports.

(c) The timing. What results are desired, by when?

(d) The potential effect of GATT as limiting U.S. measures to promote such exports.

(e) The potential dampening effect of U.S. antitrust laws upon collaborative action by small business in developing and marketing these products. Is the goal worth a change in or exception to U.S. antitrust policy?

(f) The discouraging effect of U.S. patent policies upon those businesses that may receive Federal funds to develop such products and services.

(g) The nature and extent of present exports relating to alternative energy sources; their suppliers, the goals and plans of these suppliers.

(h) The ability of small business to quickly expand supply of a successful product or service.

(i) The ability of small business to provide adequate after-the-sale service to importers.

(j) The extent to which development and new product production could be carried on in the developing countries.

(k) The cost-effectiveness, for developing countries, of using alternative energy supply technologies rather than current ones.

*(4) Some options affecting individual agencies*

(a) The Department of Commerce

1. Provide special incentives to only this category of businesses, e.g., establish commercial energy agencies agents in the target developing countries; provide market analyses and trade intelligence; establish a Government Energy Trading Company to market and represent U.S. small energy business abroad; provide special consultation and training for small businesses wishing to engage in these exports.

2. Include or emphasize alternative energy technologies in current marketing assistance and information programs, e.g., foreign trade centers, trade and industrial exhibits, and trade missions.

(b) The Department of Energy

1. Establish energy experiment stations in developing countries, in collaboration with the host governments, to provide training, local research and development, and to represent small business exporters.

2. Establish a specific program to develop and demonstrate alternative energy sources attractive for developing countries.

(a) Designate one national laboratory as a focal point.

(b) Analyze pros and cons of making the DOE's Puerto Rico research center into a regional energy experiment station for Latin and South American participation.

(c) Emphasize contracts with those small businesses that show real intention and effort to enter into this export field, avoid spending Federal money in businesses that are simply job shopping with no plans to engage in exports.

3. Establish substantial prizes to small businesses that successfully develop and market such products or services in developing countries.

4. Authorize specific funds for these and related activities.

*(c) The Department of State*

1. Establish special energy attaches and supporting teams in developing countries both to provide market information to the United States and to help small businesses compete in foreign markets.

*(d) The Department of the Treasury*

1. Provide special tax incentives to small business engaged in developing and marketing in developing countries products and services for supply of energy from alternative sources. (Note, these incentives would not be available to other businesses.

*(e) Export-Import Bank*

1. Provide comparatively small loans, guarantees, etc., on a scale suitable for small business exports of these products and services. (Note, this may require congressional agreement to higher overhead costs of Ex-Im Bank.)

2. Fund projects more risky than it now will approve, if they are for alternative energy sources.

*(f) Interagency coordination*

1. Establish a strong, vital means of coordinating U.S. departments and agencies the function and programs of which support or affect development and export of products and services for alternative energy sources: Commerce, Ex-Im Bank, Justice, AID, etc.

III. THE GRASS ROOTS, OR BOTTOM UP APPROACH

Seek to stimulate interest in such exports through:

(1) Scheduling private meetings with business leaders and their associations.

(2) Sponsoring, promoting and organizing committees and conferences of the business community in support of the goal.

(3) Helping to obtain private funds (business, foundations) for workshops of academics, developing-country representatives, businessmen, U.S. financial interests, etc., to test out and promote support for this export idea.

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## HALTING CONSTRUCTION ON THE SEABROOK NUCLEAR PLANT

Mr. THURMOND. Mr. President, recently, construction on the Seabrook Nuclear Plant in New Hampshire was halted by an order of the Nuclear Regulatory Commission. I think that the action taken in this matter was a mistake for two reasons. First of all, I feel it is detrimental to our Nation as a whole not to go ahead with the building of nuclear powerplants and the development of nuclear technology. I firmly believe that atomic energy is a part of our future. Through research and development of nuclear technology, we are making nuclear energy safe for future generations. For example, I recently announced on the floor of the Senate a technological breakthrough developed at Barnwell Nuclear Fuel Plant in South Carolina. This breakthrough concerned a new method of making the nuclear fuel cycle less susceptible to the threat that subnational groups could fashion crude nuclear explosives from the end products of that fuel cycle.

Mr. President, there is a second and very important reason why I am concerned about the halting of construction at Seabrook and that is the impact which this NRC order has on the jobs of a number of innocent people. Many workers went to New Hampshire expecting 8 solid years of work and were bitterly disappointed. The hardships which these people and their families are facing should not be ignored. An article published on July 24, in the Evening Post of Charleston, S.C., describes the impact which the stop-work order has had on employees of the Seabrook plant. The article tells of their frustration over the Federal Government's apparent inabil-

ity to resolve what should be done with this new facility at Seabrook.

Mr. President, I ask unanimous consent that this article from the Evening Post be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR PLANT CLOSING LEAVES MANY JOBLESS

SEABROOK, N.H.—Hundreds of construction lamps still blaze through the night at the Seabrook atomic plant. But this week, many of the project's 1,800 workers, laid off when the site was closed, will crowd New England union halls looking for scarce jobs.

In the statehouse and in the offices of Public Service Co., other groups will gather to search for some way to overrule a federal order halting construction at the sprawling plant.

An eleventh hour attempt by labor unions to postpone a Nuclear Regulatory Commission stop-work order failed Friday just before the 6 p.m. deadline, when a U.S. District Court judge ruled the injunction was being sought in the wrong court.

Judge Louis Oberdofer dismissed the complaint, saying the matter should have been brought before the U.S. Court of Appeals.

The commission ordered the shutdown so a re-evaluation of the plant's location and of the system used to cool its twin-reactors could be made without the pressures of continuing construction.

Union and Public Service officials have told the workers repeatedly that the layoffs will be brief, but most workers say they are preparing for the worst.

"I'm like most of the other guys, I live from one paycheck to the next, and if that paycheck doesn't come, my family is in big trouble," said Tony Petre, a marine welder with three children.

"My wife and I talked about it all night. So I'll go down to the hall tomorrow and if there aren't any jobs, we'll pack up and move somewhere else."

Petre can afford to move from his Dover home. He has a highly skilled job that he says is "always in demand somewhere." He is living in a rented house with no lease.

Hundreds of others are not as lucky.

Workers who flocked to New England three years ago when the Seabrook project was announced came expecting eight solid years of work, many bought houses.

A large number, such as laborers, electricians and carpenters, say the job market is flooded with their skills and there is no place for them to go.

"I pour concrete, but so do a thousand other guys who are out of work," said a 34-year-old man from Manchester. "I've got a $44,000 mortgage on a house I just bought. I'll lose that house next month if Seabrook doesn't reopen because I know I can't find another job."

One worker who had heard the Nuclear Regulatory Commission had scheduled a prehearing conference Tuesday on alternative New England sites for the Seabrook plant said he was sure the plant would never be built.

"Hearings, appeals, law suits—all they do is talk," he said bitterly. "The country's out of oil, New England needs energy, I'm out of a job and instead of letting us build Seabrook and solve those problems, the government would rather talk."

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## RIGHT-OF-WAY PERMIT FOR PAC-TEX OIL PIPELINE

Mr. STEVENS. Mr. President, the Secretary of Interior has today approved the BLM right-of-way permit for the so-called "Pac-Tex" oil pipeline from Long Beach, Calif. to Midland, Tex.

This pipeline, the Senate will recall, was proposed by SOHIO several years ago as a means of transporting the Alaskan North Slope crude oil from the west coast to refineries in the central States. Completion of the Alaska pipeline has resulted in more oil being available to the west coast than the west coast refineries can process. This is due to increased production in California, from Elk Hills, and the Outer Continental Shelf, increased exports from Indonesia, and decreased demand in that State. The result is a surplus of oil—an excess over the refinery capacity for oil of the quality of Alaskan oil.

At present Alaskan oil is shipped in tankers through the Panama Canal, or around the southern tip of South America. This tanker shipment adds millions of dollars a year to our national energy cost.

I am very pleased by the Bureau of Land Management's granting of this permit. Any major project these days requires numerous Government approvals and the grant of the right-of-way is a major step in the approval of this pipeline. There are only two Federal permits remaining for this proposal. One is a Corps of Engineers water crossing permit and the other is an air quality permit from the Environmental Protection Agency. This EPA permit is dependent on approval of the State of California, since the law provides that it shall not issue until the more strict State laws have been complied with.

The delay in approving this much needed project must be laid on the officials in California, who have failed to approve this project. I understand that the permitting process in California is moving forward. I hope so and I hope it will be completed promptly. The importance of the SOHIO project cannot be understated. It is not only the first West to East oil transportation route but its completion will permit full production of the Prudhoe fields.

Until this "Pac-Tex" pipeline is built Alaskans face few alternatives. We can continue to sell our oil to the lower 48 and have the high transportation costs reduce its value. We can decrease production until the west coast surplus disappears, or we can arrange for exchanges of Alaskan oil with Japan. The exchanges would work as follows: Alaskan oil would be sold to refiners on our east coast, but would be shipped to Japan; Middle Eastern oil would be sold to Japanese refiners but delivered to our east coast refiners. The result would be no decrease in the oil available for our Nation and a transportation savings which ranges into about $100 million a year. Our dependence on foreign oil would not be increased, since we could reroute all the tankers in the event of a decrease in the supply from the mid-East. I have long advocated this solution—as a short-term answer to the present surplus of oil in California.

In short, Mr. President, I am pleased by the decision to grant the BLM right-of-way permit and I hope the other permits, including those from California, will be forthcoming soon. As required by the Pastore amendment, the benefits of Alaskan oil should be distributed throughout the country but not at a cost of economic waste. Without the West to East pipelines, the most economical and most sensible solution is a crude oil exchange with Japan. A recent New York Times editorial pointed out the logic of exporting Alaskan oil and, although I disagree that the law must be changed, it does present some point that I urge the Senate to consider. I therefore ask unanimous consent that it and the Secretary's press release be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANDRUS APPROVES SOHIO PIPELINE RIGHT-OF-WAY GRANT

Secretary of the Interior Cecil D. Andrus announced today that he has approved issuance to the Standard Oil Company of Ohio (SOHIO) of the Federal right-of-way grant for 50 miles of new pipeline construction across public lands in California, Arizona, and New Mexico.

SOHIO's proposed 1,026-mile crude oil transportation system from Long Beach, California, to Midland, Texas, includes 238 miles of new pipeline construction. Some 50 miles of the system, in various segments, cross Federal public lands east of Whittier Narrows, California. All of these segments are covered by the right-of-way granted today.

Ed Hastey, California State Director for the Bureau of Land Management and Interior's authorized officer for construction compliance and monitoring of the pipeline system, will sign the grant today in Sacramento in the presence of company executives after receiving agreement on the stipulations.

"The SOHIO pipeline proposal is the key to an effective response to the buildup of crude oil surplus on the West Coast," Andrus said. "We need to move ahead as rapidly as possible to provide for west to east transport of oil to refineries with the capacity to handle it. Our intensive studies of the SOHIO proposal have shown that the pipeline is in the national interest. It can serve as conduit for oil coming not only from Alaska but expected to come on stream from Elk Hills production; from the California Outer Continental Shelf; and from California state tidelands leases."

"Stipulations accompanying the right-of-way grant in the new construction areas," Hastey said, "specify that the Federal authorization is contingent upon SOHIO's compliance with all necessary State and local regulations and permitting requirements."

No notice to actually proceed with construction would be issued to SOHIO until the company had complied with all necessary requirements of all permitting agencies, whether Federal, State, or local, Hastey said.

SOHIO's proposed marine terminal in Long Beach, California, where ocean-going American tankers would offload Prudhoe Bay crude oil from Valdez, Alaska, requires Federal authorization from the U.S. Army Corps of Engineers and several other Federal agencies, as well as State and local permits which are still being processed.

Today's authorization covers one of three separate phases of the pipeline system: a right-of-way grant across Federal public lands within the 238 miles of new construction in California, Arizona, New Mexico and Texas. Permits for change in use from natural gas to oil on 120 miles of existing Southern California Gas Company pipeline right-of-way and 669 miles of existing El Paso

Natural Gas Pipeline Company pipeline right-of-way would be granted at a later date. SOHIO would be owner and operator of the new pipeline construction portions, while Southern California Gas and El Paso Natural Gas Companies would retain ownership in their respective lines, with SOHIO as the designated operator.

Hastey said Interior approval of the project had been based on an extensive environmental and economic study of the proposal and the geographic area which it would affect, as well as all feasible and reasonable alternatives. A Federal Environmental Impact Statement prepared by BLM was released in May 1977, and approved by the Council on Environmental Quality. In preparing the EIS, BLM requested and received comments from many agencies of Federal, State and local government, as well as private citizens and organizations.

BLM found that most of the direct environmental impacts of the project on Federal resources would be short-term, or could be mitigated through special stipulations which have been placed in the Federal grant. The Department and the Bureau both recognize that most of the controversial issues surrounding the project were based on projected air quality impacts in the Los Angeles Basin from the proposed Long Beach Marine Terminal and should, therefore, be dealt with specifically by State and local governments, not Federal land management agencies.

Hastey said today's action was the first step in project implementation, but that construction would not and could not begin until he had issued a Notice to Proceed to SOHIO. This will not be done, he said, until all operating agreements and stipulation requirements have been met to the Bureau's satisfaction.

Project implementation is now expected to deliver 500,000 barrels a day of crude oil to the West Coast with the bulk of its being shipped eastward and to the midwest and the remainder to the Los Angeles market.

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HOW TO GET OIL BY SELLING OIL

Imports now account for about 40 percent of the oil consumed in the United States. That is slightly less than last year, but enough to put our international trade balance deeply in the red and—more important—leave us vulnerable to another Arab embargo. A tough energy program to reduce consumption remains the only long-term response to this dependence. However, as recent reports of the disappointing oil production in Alaska suggest, minor changes in Federal regulations could sharply increase domestic production and reduce the trade deficit within a few years. A shrewd program for greater self-sufficiency begins, paradoxically, with oil exports.

The key to the paradox lies in the West Coast's current oil glut. Completion of the Alaska pipeline last year greatly increased the amount of domestic oil available, but there is no market for much of it on the West Coast and no pipeline to send the excess to needy refineries in the Midwest. Instead of paying the exorbitant cost of shipping excess supplies eastward through the Panama Canal, producers are leaving it in the ground. At the present rate, oil production in Alaska and California by the early 1980's will be at least a million barrels a day below capacity.

The quickest, most effective means of stimulating that production would be to offer the oil companies a lucrative new market: the Far East. By changing the law to allow oil *exports*, the United States could sell its extra oil to Japan, then turn around and use the foreign currency thus earned to pay for some of the necessary imports to the East Coast. Japan, which is now heavily dependent on Middle East oil supplies, would be delighted, not only by the alternate source of supply but also by the opportunity to even out its trade accounts with the United States. The United States would not only reduce a huge trade deficit with Japan through the next decade or two but would also reduce its dependence on the oil of the Middle East. The total American oil imports would not be affected, but the available domestic supply in case of emergency would have been enlarged. In the event of an Arab embargo, Japan-bound oil could, if necessary, be diverted to higher-priority use.

If exporting oil is so desirable, why has the White House been reluctant to ask Congress for permission? Primarily because the President expects opposition from House members who suspect the motives of the oil companies. A ban on exports was written into the Alaska pipeline law to allay Congressional fears that the new oil would be diverted to more profitable markets overseas. The export plan would indeed induce production precisely because foreign sales would be profitable. But the oil companies' gains are not, in this case, the consumer's loss. We all stand to benefit from a reduced trade deficit and a greater capacity to withstand an embargo.

There is always the danger that O.P.E.C. would reduce production to offset the added flow of Alaskan oil. In this sense, however, Alaskan oil is no different than oil from the North Sea or the coast off New Jersey. Every move toward stimulating greater production among O.P.E.C.'s customers can be interpreted as a threat to the cartel. Considering the alternatives, we have little choice but to strive to reduce our dependence on O.P.E.C. while also using political and economic influence to contain its power.

A more significant objection has been that exports might discourage pipeline construction to the Midwest. It is not clear that a brand new pipeline should in fact be built; the national interest is well served by selling oil to Japan. But if we did choose this expensive project, it would be easy enough to guarantee the pipeline a good supply of oil by limiting the exports to surpluses beyond its capacity.

Self-sufficiency in energy is going to be hard to achieve with the best of efforts. With real sacrifices still to be made, it would be folly to bypass so simple and painless a step toward that goal.

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## APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STONE). The Chair, on behalf of the Vice President, appoints the Senator from Florida (Mr. STONE) as a congressional advisor to the official delegation to the second session of the U.S.-ASEAN Dialog, to be held in Washington, D.C., August 2–4, 1978.

The Chair, on behalf of the Vice President, appoints the following Senators to the delegation to the U.S.S.R. parliamentary visit, to be held in Moscow, Union of Soviet Socialist Republics, November 1978: The Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Illinois (Mr. STEVENSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. NUNN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), the Senator from Arizona (Mr. DECONCINI), the Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Nevada (Mr. LAXALT), and the Senator from Rhode Island (Mr. CHAFEE).

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## AMERICAN ACTIVISM SPEAKS TO THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, this summer thousands of Americans have demonstrated their concern for human rights. In June, college students on campuses across the country held demonstrations and rallies denouncing apartheid in South Africa. Early in July, over 60,000 people marched from the Washington Monument to the Capitol calling upon the Congress to extend the ratification date for the equal rights amendment. Just last week, thousands of native Americans and their supporters completed "The Longest March," an historic cross-country journey to demonstrate and rally nationwide support for American Indians. And, of course, in recent weeks, unprecedented numbers of our constituents wrote to us of their outrage at the trial of Anatoly Scharansky in the Soviet Union.

Through these actions, the American people have clearly proved that their concern for humanity is more than mere rhetoric. Americans are sending a clear message to Congress, and as U.S. Senators we must listen and act responsively. Mr. President, Americans strongly support universal human rights, and they are demanding immediate action.

But what has the Senate done to further human rights this summer? While we continually denounce foreign regimes that callously disregard human rights, have we translated our words into actions? We have passed numerous resolutions, but are they worth much more than the paper they are printed on? I do not think so, and it is certainly time for action.

Some have questioned what the Senate can actually do for universal human rights. We can begin, Mr. President, with the most fundamental right—the right to live—and we can act immediately by ratifying the United Nations Genocide Convention. First transmitted to the Senate in 1949, the convention outlaws and punishes the crime of genocide under international law. It guarantees to every citizen of the world the right to live securely regardless of their race, ethnicity, nationality, or religious beliefs.

By ratifying the Genocide Treaty the Senate will demonstrate to the American people, and to the world, that we are deeply committed to international human rights, and, more importantly, that we are willing to act on our convictions. Mr. President, I urge my fellow Senators to fulfill their obligations as the elected representatives of the American people, and as concerned human beings, by ratifying this crucial human rights document.

## NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2777.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PROXMIRE. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. MCINTYRE, Mr. BROOKE, and Mr. TOWER, conferees on the part of the Senate.

## HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3084.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

(The amendment of the House is printed in the RECORD of July 24, 1978, beginning at page 22306.)

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the amendment of the House, agree to the conference requested by the House on the disagreeing votes of the two Houses thereon, and that the Chair, be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. MCINTYRE, Mr. BROOKE, Mr. TOWER, and Mr. GARN conferees on the part of the Senate.

## PRESERVING ALASKAN WILDS—NO LOCK-UP

Mr. PROXMIRE. Mr. President, the Energy and Natural Resources Committee is now reviewing one of the most important and far-reaching environmental bills ever to come before the Senate: the Alaska National Interest Lands Conservation Act.

This measure deserves the overwhelming support it won when it passed the House of Representatives on May 19 by a vote of 277 to 31. It is a reasonable, balanced bill that will protect Alaska's greatest natural resources while insuring ample opportunity for economic growth in that State.

I am concerned about the often repeated criticism by opponents of this bill that it will "lock-up" Alaska's vast energy and mineral resources and prevent their future development. A careful analysis of the Alaska lands legislation reveals that nothing could be further from the truth. According to data compiled by the U.S. Geological Survey, fully 95 percent of Alaska's most favorable oil and gas deposits lie completely outside of the conservation boundaries proposed by this bill. Nothing in this bill would prohibit potential development of such reserves not included in the proposed national interest lands withdrawals.

The Alaska lands bill will also have a negligible impact on hard rock mining. Here again, most potential mineral lands have been excluded from the carefully drawn withdrawal proposals. It must be kept in mind that there has been no significant hard rock mining in Alaska for the past four decades simply because extraction costs are so high and the distance from commercial markets is so great. Even in areas of potential future conflict, economic realities preclude the likelihood of serious mining activity. This situation is not likely to change in the foreseeable future.

Mr. President, more than two-thirds of Alaska, including State and Native selections and other Federal lands outside the proposed conservation units, will remain open to possible development following enactment of this legislation. There is no justification for opposing the Alaska Lands Act as a "lockup" of Federal energy and mineral resources. According to a recent analysis by the Joint Federal-State Land Use Planning Commission for Alaska, passage of this legislation "would not have a significant impact on the availability of timber, oil, and gas, and mineral resources to the Nation." With regard to the economic impact of this bill, the Commission concluded that:

> The overall impact of H.R. 39 and S. 1500 on the State and national economies would be at most relatively minor.

I consider it a privilege to be one of the original cosponsors of the Senate version of the Alaska Lands bill now pending in the Committee on Energy and Natural Resources. This legislation has received strong editorial support in my home State of Wisconsin. A May 24 editorial in the Sheboygan Press underscores the reasons why my colleagues should join me in support of this outstanding measure to preserve Alaskan lands for the future generations of Americans.

Mr. President, I ask unanimous consent that the Sheboygan Press editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESERVING ALASKAN WILDS

The bill to create millions of acres of federal park land in Alaska was passed Friday by the House on a 277 to 31 vote. The two Alaskan senators, however, threaten a filibuster when the bill reaches the Senate.

Their threat, and the opposition of mining and timber interests, building trades unions, and state government leaders in Alaska, make Senate passage of the bill this year uncertain.

The strong House support, including six of the Wisconsin delegation, may counter some of that opposition.

Also, there is optimism because the bill excludes 70 percent of mineral lands from the park system and leaves all of the highly potential oil and gas lands open to development.

This fact should weaken the opposition of special interest groups that are hoping to exploit Alaska's natural resources.

The bill is consistent with national park policy initiated when Yellowstone Park was created in 1872, and the national forest system created by President Theodore Roosevelt in the early 1900s. It is unthinkable that any U.S. citizen would want to undo those actions.

The parks, wildernesses, refuges and preserves designated in the Alaska bill are scattered throughout the state, from the rain forests in the southeast to the frozen tundra in the far north. Existing parks are expanded in some cases. The state is so large and has so many resources outside the proposed parkland that Alaskans will have countless opportunities to improve their economy. There appears to be no need to exploit the areas designated for preservation.

Plans have been made by the Senate Energy and Natural Resources Committee to mark up the House-passed bill in June or July. The hope is that in the meantime opponents will see the need for preserving Alaska's resources.

## SENATE RESOLUTION 528—RESOLUTION COMMENDING LARGO, FLA., SENIOR HIGH SCHOOL'S WORLD MUSIC CONTEST AWARD

Mr. STONE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 528) commending Largo, Florida Senior High School's first-place award in the World Music Contest in The Netherlands.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the immediate consideration of the resolution? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the resolution.

Mr. STONE. This resolution is a resolution which salutes a Florida band which has just won a world championship in The Netherlands in musicianship and for its skills and talents.

This resolution has been fully cleared on both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 528), together with its preamble is as follows:

Whereas the Largo Senior High School "Band of Gold" has just returned to Florida from Kerkrabe, the Netherlands, after capturing first place in the World Music Contest;

Whereas this was the first time in the 28-year history of the contest that a final overall award has been presented, and the first time that a single band has won three separate gold medals, in concert, show and marching categories; and

Whereas this is a competition of the highest international reputation, bringing together the most talented and disciplined musicians from over 250 bands representing 26 countries: Now therefore be it

*Resolved,* That the United States Senate commends the unparalleled accomplishments of these gifted young people; recognizes the efforts and support of their Director Robert R. Cotter, their parents and their school in making these achievements possible; and expresses its appreciation for the inestimable service this band has provided in so honorably representing its community, its state and its country.

The PRESIDING OFFICER. The motion to reconsider is laid on the table.

The Senator from Montana (Mr. MELCHER).

## NORTHWEST AIRLINES FINANCIAL POSITION IN THE CURRENT STRIKE

Mr. MELCHER. Mr. President, I salute the present occupant of the chair and regretfully report to the Senate at this late hour of 10:05 p.m. the most recent developments in the regrettable Northwest Airlines strike which affects so much of the Northwest of the United States.

The strike has been going on for 85 or 86 days. It has had a serious impact on my State of Montana and all the other States served by Northwest Airlines.

(Mr. STONE assumed the chair.)

I must also acknowledge that Northwest Airlines is a first-class airline, of major magnitude and of great strength in relationship to other airlines in this country. It is an airline of great importance to Montana and the Northwest. It has contributed significantly to our economy.

However, under the airlines mutual aid pact formula, Northwest Airlines on strike since April 29, has as of today collected $90.4 million from the pact member airlines for not flying its scheduled routes while on strike. And that hurts.

During the past 8 years when Northwest Airlines has had five labor disputes, five strikes, the carrier has historically made a profit during these strikes because of the financial crutch available to the carrier through the mutual aid pact.

The Civil Aeronautics Board computes the mutual aid payments by the other MAP pact carriers to Northwest Airlines during the current strike to be $6.5 million per week and currently $927,000 per day.

In the first quarter of 1978, Northwest Airlines reported a $16.6 million net profit compared with $12.2 million for the same same period in 1977.

I point this out to the Senate to make the comparison between the years of 1978 airline earnings, specifically Northwest earnings, as compared to 1977 and this year.

Under the Civil Aeronautics Board requirements of reporting tentative net profits on a monthly basis which are updated and reconfirmed by a carrier in its quarterly net profit statement, Northwest Airlines has reported for the month of April 1978 a tentative net income of $8.3 million compared with a $6.2 million net income for the same period in 1977. The net income for May of 1977 was $4.7 million, and that, Mr. President, becomes critical in consideration of the following:

It should be noted that the Northwest Airlines strike began April 29, and only 2 days of the April report are days covered when the carrier was on strike. The May net profit figure can be anticipated to be in the millions of dollars, even though the strike was on all during the month, although Northwest flies only a few flights with management pilots and pilots not observing the strike.

The profits for the month of May will probably be substantial, and will be derived from the mutual aid fund.

Mr. President, what I now have to report is very disturbing to me and I am certain will be disturbing to my colleagues.

Under Civil Aeronautics Board rules, a carrier is required to report its financial and traffic figures within 30 days from the end of the reporting month.

Northwest Airlines is now overdue, since July 1, in reporting its financial figures to the Civil Aeronautics Board for the month of May.

These figures are very important as they are the first full month of the current Northwest Airlines strike. The June figures will be due August 1, only a few days from now.

Because the May figures have not been reported, the Civil Aeronautics Board has turned over this noncompliance, this violation of law based on CAB rules, to its Bureau of Enforcement, requesting that Northwest Airlines take steps to collect the overdue May figures and submit them to the CAB as required by law.

Mr. Donald Nyrop, chairman of the Board, Northwest Airlines, states that the May report is not ready because they do not have enough people on board during the strike to compute the May earnings. He further states that he expects to file the normal 2nd quarter report in the first part of August.

Mr. President, I point out that this is a violation of law, that the CAB is attempting to enforce the law to get the report, and that there is obviously a reluctance on the part of Northwest to submit their proper earnings during that particular month of May, on which they were on strike during the entire month, to perhaps avoid demonstrating that their profits are substantial. It will be important to note for the CAB and for the Senate, for the House, and for the public to ascertain whether those profits are indeed as great as or greater than those profits received during the identical month of May in the year 1977 when the airline was not on strike. Obviously, if the amount is greater, it is the result of the mutual aid pact, the agreement between airlines to pay each other while they are on strike and not flying, and which I believe, Mr. President, is contrary to the public interest.

I yield back the remainder of my time and I thank the Chair.

## COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation, and Federal Services of the Governmental Affairs Committee be authorized to meet on Tuesday, August 1, 1978, at 2 p.m., in room 3302, for the purpose of marking up S. 3229, the Postal Service Amendments Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, all of which, I believe, have been cleared.

Mr. STEVENS. Mr. President, all of the nominations have been cleared on our side.

The PRESIDING OFFICER. The clerk will state the nominations.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Edward S. Smith, of Maryland, to be an Associate Judge of the U.S. Court of Claims.

Jose A. Gonzalez, Jr., of Florida, to be U.S. district judge for the southern district of Florida.

DEPARTMENT OF JUSTICE

Eugene Madden, Jr., of New York, to be U.S. marshal for the northern district of New York for the term of 4 years.

DEPARTMENT OF ENERGY

Omi Gail Walden, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move, en bloc, to reconsider the votes by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be im-

mediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

### LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECOGNITION OF SENATOR DOMENICI TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized, the Senator from New Mexico (Mr. DOMENICI) be recognized for not to exceed 15 minutes before the Senate proceeds to the consideration of the conference report on the New York City bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

### RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, at this moment, 16 minutes after 10 o'clock on the evening of Wednesday, July 26, 1978, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning, July 27, 1978.

The motion was agreed to; and at 10:16 p.m. the Senate recessed until tomorrow, Thursday, July 27, 1978, at 10 a.m.

### CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 1978:

DEPARTMENT OF JUSTICE

Eugene Madden, Jr., of New York, to be U.S. marshal for the northern district of New York for the term of 4 years.

DEPARTMENT OF ENERGY

Omi Gail Walden, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Edward S. Smith, of Maryland, to be an associate judge of the U.S. Court of Claims.

Jose A. Gonzalez, Jr., of Florida, to be U.S. district judge for the southern district of Florida.

# HOUSE OF REPRESENTATIVES—*Wednesday, July 26, 1978*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
*July 26, 1978.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Lord, Thou hast been our dwelling place in all generations. Before the mountains were brought forth, or ever Thou hadst formed the Earth and the world, even from everlasting to everlasting, Thou art God.*—Psalms 90: 1, 2.

Eternal Father, who hast been our dwelling place in all generations, our fathers called unto Thee and Thou didst hear them and delivered them from their fears. Give us to know that as Thou wast with them so art Thou with us to guide us on our way and to lead us in Thy way. Strengthen us in the hour of temptation, sustain us in the time of trouble, support us in periods of trial, and lead us in the ways of peace. Uphold us in our efforts to make this a better world and to bring good will to all Thy children.

In the midst of this day's work assure us of Thy presence and let the light of Thy wisdom fall upon our pathway: for Thy name's sake. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6900. An act to amend the National Trails System Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3153. An act to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes; and

S. Con. Res. 98. Concurrent resolution relating to adjournment to a date certain during the remainder of the 95th Congress.

### REREFERRAL OF H.R. 10189, PERMITTING SUITS UNDER SECTION 1983 OF TITLE 42, UNITED STATES CODE, TO COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that H.R. 10189, to permit suits under section 1983 of title 42, United States Code, be rereferred to the Committee on the District of Columbia.

If this bill had been reported by the House Committee on the Judiciary, it would have been subject to a sequential referral. Without establishing a precedent for future referrals, I ask that it be rereferred to the Committee on the District of Columbia.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

### COMMODITY EXCHANGE ACT EXTENSION AND AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for 4 years.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 2, answered "present" 1, not voting 67, as follows:

[Roll No. 597]

YEAS—362

| | | |
|---|---|---|
| Abdnor | Bafalis | Bowen |
| Addabbo | Baldus | Brademas |
| Akaka | Barnard | Breaux |
| Alexander | Baucus | Breckinridge |
| Ammerman | Bauman | Brinkley |
| Anderson, Calif. | Beard, R.I. | Brodhead |
| | Beard, Tenn. | Brooks |
| Anderson, Ill. | Bedell | Broomfield |
| Andrews, N.C. | Benjamin | Brown, Calif. |
| Andrews, N. Dak. | Bennett | Brown, Mich. |
| | Bevill | Brown, Ohio |
| Annunzio | Biaggi | Broyhill |
| Applegate | Bingham | Burgener |
| Archer | Blanchard | Burke, Fla. |
| Ashbrook | Blouin | Burke, Mass. |
| Aspin | Boggs | Burleson, Tex. |
| AuCoin | Boland | Burlison, Mo. |
| Badham | Bonker | Burton, John |

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|---|---|---|
| Burton, Phillip | Heftel | Oberstar |
| Butler | Hightower | Obey |
| Caputo | Hillis | Ottinger |
| Carney | Holland | Panetta |
| Carr | Holt | Patten |
| Carter | Holtzman | Patterson |
| Cavanaugh | Horton | Pattison |
| Cederberg | Howard | Pease |
| Chappell | Hubbard | Perkins |
| Clausen, Don H. | Huckaby | Pettis |
| Clay | Hughes | Pickle |
| Cleveland | Hyde | Pike |
| Cochran | Ichord | Poage |
| Cohen | Ireland | Pressler |
| Coleman | Jacobs | Preyer |
| Collins, Tex. | Jeffords | Price |
| Conable | Jenkins | Pritchard |
| Conte | Johnson, Calif. | Pursell |
| Corcoran | Johnson, Colo. | Quayle |
| Corman | Jones, N.C. | Quillen |
| Cornell | Jones, Okla. | Rahall |
| Cornwell | Jones, Tenn. | Railsback |
| Coughlin | Jordan | Rangel |
| Crane | Kastenmeier | Regula |
| Cunningham | Kazen | Reuss |
| D'Amours | Kelly | Rhodes |
| Daniel, Dan | Kemp | Richmond |
| Daniel, R. W. | Keys | Rinaldo |
| de la Garza | Kildee | Roberts |
| Delaney | Kindness | Robinson |
| Dent | Kostmayer | Rogers |
| Derrick | Krebs | Roncalio |
| Derwinski | Krueger | Rooney |
| Devine | Lagomarsino | Rosenthal |
| Dickinson | Latta | Rostenkowski |
| Dicks | Leach | Rousselot |
| Dodd | Lederer | Roybal |
| Downey | Lehman | Rudd |
| Drinan | Lent | Runnels |
| Duncan, Tenn. | Levitas | Ruppe |
| Eckhardt | Livingston | Russo |
| Edgar | Lloyd, Tenn. | Ryan |
| Edwards, Ala. | Long, La. | Satterfield |
| Edwards, Calif. | Long, Md. | Sawyer |
| Eilberg | Lott | Scheuer |
| Emery | Lujan | Schroeder |
| English | Luken | Schulze |
| Erlenborn | Lundine | Sebelius |
| Ertel | McClory | Seiberling |
| Evans, Colo. | McCloskey | Sharp |
| Evans, Del. | McCormack | Shuster |
| Evans, Ga. | McEwen | Sikes |
| Evans, Ind. | McFall | Simon |
| Fary | McHugh | Sisk |
| Fenwick | McKay | Skelton |
| Findley | McKinney | Slack |
| Fish | Madigan | Smith, Iowa |
| Fisher | Mahon | Smith, Nebr. |
| Fithian | Markey | Snyder |
| Flippo | Marks | Solarz |
| Flood | Marlenee | Spence |
| Florio | Marriott | St Germain |
| Flynt | Martin | Staggers |
| Foley | Mathis | Stangeland |
| Ford, Tenn. | Mattox | Stanton |
| Forsythe | Mazzoli | Stark |
| Fountain | Metcalfe | Steers |
| Fowler | Meyner | Steiger |
| Frenzel | Michel | Stockman |
| Fuqua | Mikulski | Stokes |
| Gammage | Mikva | Stratton |
| Gaydos | Miller, Calif. | Studds |
| Gephardt | Miller, Ohio | Stump |
| Gibbons | Mineta | Symms |
| Gilman | Minish | Taylor |
| Ginn | Mitchell, N.Y. | Thompson |
| Glickman | Moakley | Thone |
| Goldwater | Moffett | Thornton |
| Gonzalez | Mollohan | Traxler |
| Goodling | Montgomery | Treen |
| Gore | Moore | Tucker |
| Gradison | Moorhead, Calif. | Udall |
| Grassley | Moorhead, Pa. | Ullman |
| Green | Moss | Van Deerlin |
| Gudger | Mottl | Vander Jagt |
| Guyer | Murphy, Ill. | Vanik |
| Hagedorn | Murphy, Pa. | Vento |
| Hall | Murtha | Volkmer |
| Hamilton | Myers, Gary | Walgren |
| Hammer-schmidt | Myers, John | Walker |
| Hanley | Natcher | Walsh |
| Hannaford | Neal | Wampler |
| Hansen | Nedzi | Watkins |
| Harkin | Nichols | Waxman |
| Harris | Nix | Weaver |
| Harsha | Nolan | Weiss |
| Hawkins | Nowak | White |
| Hefner | O'Brien | Whitehurst |
| | Oakar | Whitley |
| | | Whitten |
| Wilson, C. H. | Wydler | Young, Mo. |
| Winn | Wylie | Zablocki |
| Wirth | Yates | Zeferetti |
| Wolff | Yatron | |
| Wright | Young, F.a. | |

NAYS—2

| | |
|---|---|
| Lloyd, Calif. | Wilson, Bob |

ANSWERED "PRESENT"—1

Waggonner

NOT VOTING—67

| | | |
|---|---|---|
| Ambro | Fascell | Myers, Michael |
| Armstrong | Flowers | Pepper |
| Ashley | Ford, Mich. | Quie |
| Bellenson | Fraser | Risenhoover |
| Bolling | Frey | Rodino |
| Bonior | Garcia | Roe |
| Buchanan | Giaimo | Rose |
| Burke, Calif. | Harrington | Santini |
| Byron | Heckler | Sarasin |
| Chisholm | Hollenbeck | Shipley |
| Clawson, Del | Jenrette | Skubitz |
| Collins, Ill. | Kasten | Spellman |
| Conyers | LaFalce | Steed |
| Cotter | Le Fante | Teague |
| Danielson | Leggett | Trible |
| Davis | McDade | Tsongas |
| Dellums | McDonald | Whalen |
| Diggs | Maguire | Wiggins |
| Dingell | Mann | Wilson, Tex. |
| Dornan | Meeds | Young, Alaska |
| Duncan, Oreg. | Milford | Young, Tex. |
| Early | Mitchell, Md. | |
| Edwards, Okla. | Murphy, N.Y. | |

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10285, with Mr. McHUGH (Chairman pro tempore) in the chair.

The CHAIRMAN pro tempore. When the Committee of the Whole House on the State of the Union rose on Tuesday, July 25, 1978, the Clerk had read through line 16 on page 9. Are there any further amendments to section 2?

If not, the Clerk will read.

The Clerk read as follows:

CUSTOMER FUNDS AND PROPERTY

SEC. 3. Section 4d(2) of the Commodity Exchange Act (17 U.S.C. 6d(2)) is amended by inserting after "*Provided further,*" in the first paragraph the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *And provided further,*".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 3?

If not, the Clerk will read.

The Clerk read as follows:

REGISTRATION OF FUTURE COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 4. Section 4(f)(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by striking out in the third sentence "All registrations shall expire on the 31st day of December of the year for which issued" and inserting in lieu thereof "Each registration shall expire on the 31st day of December of the year for which issued or at such other time not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe".

TECHNICAL AMENDMENT

SEC. 5. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATED PERSONS

SEC. 6. The third sentence of section 4k(2) of the Commodity Exchange Act (7 U.S.C. 6k(2)) is amended to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided,* That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 4, section 5, and section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 6?

If not, the Clerk will read.

The Clerk read as follows:

REGISTRATION OF COMMODITY TRADING ADVISERS AND COMMODITY POOL OPERATORS

SEC. 7. Section 4n of the Commodity Exchange Act (17 U.S.C. 6n) is amended by—

(1) striking out in subsection (2) "thirty days" and inserting in lieu thereof "six months";

(2) striking out "All registrations" in subsection (3) and inserting in lieu thereof "Each registration"; and

(3) inserting after "year," in subsection (3) "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 7?

If not, the Clerk will read.

The Clerk read as follows:

PROHIBITION OF FRAUDULENT TRANSACTIONS

SEC. 8. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 60(1) is amended by striking out "registered under this Act".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 8?

If not, the Clerk will read.

The Clerk read as follows:

ARBITRATION BY REGISTERED FUTURES ASSOCIATION

SEC. 9. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting in subsection (11) after "otherwise" the following: "(such as by delegation to a registered futures association having rules providing for such procedures)".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of Illinois: On page 12, after line 10 add the following section and renumber subsequent sections accordingly:

CLARIFICATION OF INDEPENDENT CLEARING ORGANIZATIONS' STATUS

SEC. 10. Section 5a(12) of the Commodity Exchange Act is amended by adding at the end of the section:

A clearinghouse established as a separate legal entity from a contract market shall submit to the Commission for approval its by-laws, rules, regulations and resolutions relating to the clearing of trades for its contract market. Such approval shall be subject to all of the provisions of this paragraph pertaining to Commission approval of the by-laws, rules, regulations or resolutions of contract markets. However, such a clearinghouse shall not be considered a contract market for any purpose under this act.

Mr. MURPHY of Illinois. Mr. Chairman, the Commission has asserted that clearing organizations, even though they may be separate entities from the exchanges which they serve, are "contract markets" for purposes of section 5a(12) of the Commodity Exchange Act. This section provides for the Commission approval of all bylaws, rules, regulations, and resolutions of contract markets relating to futures contracts or other trading requirements.

Of the 10 contract markets currently designated by the Commission, 6 have independent clearing organizations. Their record has been remarkably trouble free. Indeed, no loss has ever been suffered as a result of a default in a trade cleared through such an organization.

While Commission review of clearinghouse rules and bylaws does not by itself pose an insurmountable problem, the other implications of being treated as a contract market threaten the orderly functioning and objectivity of independent clearing organizations. For example, the Commission could require such a clearing organization to duplicate all of the costly surveillance, auditing, and enforcement procedures currently required of the exchanges.

It is unnecessary to expose each independent clearing organization to additional regulation as a contract market. Clearing organizations efficiently perform an extremely valuable mechanical function for the futures markets by clearing all trades on a daily basis and guaranteeing performance of all futures contracts, both to the buyer and to the seller. They do not, however, play a role in the matters which are subject to the Commission's regulations, such as the manner of trading, the segregation of customer funds, and the terms of futures contracts.

For these reasons, Mr. Chairman, I am asking that my amendment to exempt the clearinghouse organization from Commission regulation be adopted.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield to me?

Mr. MURPHY of Illinois. I am happy to yield to my colleague, the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity on this side to review the amendment being offered by the gentleman from Illinois (Mr. MURPHY) and find no objection to it whatsoever.

As the gentleman has pointed out, there is no history of any difficulty with the clearing corporations, and in fact we understand that at a future date the Commission may choose to exempt them by regulation of the Commission anyway.

So, Mr. Chairman, I think it is a good amendment, and I will support it.

Mr. MURPHY of Illinois. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the clearinghouse function is an essential function in the contract market, and the Commission has issued regulations which extend its scope of remedial authority over clearinghouses, whether they are an integral part of the contract market or separated into a separate corporation.

In 41 Code of Federal Regulations, 40093, the following statement appears:

[t]he Act imposes a basic duty upon contract markets to insure the integrity of the contracts for which they are designated and gives the Commission broad regulatory power to oversee contract market efforts in this area. . . . As mentioned above, the clearing of trades is the essence of the integrity of a futures contract and a necessary prerequisite to designation as a contract market. A contract market cannot avoid Commission regulation of this or any other essential contract market function by delegating that function either directly or indirectly, to separate organizations. . . .

Mr. Chairman, what the gentleman from Illinois (Mr. MURPHY) would do is allow those clearinghouses, which are separate organizations, to be exempt from any regulatory authority of the Commission, other than the approval of rules and regulations. That seems to me to create a dangerous precedent. I do not reflect in this statement any criticism of a particular clearinghouse in Chicago, but the problem will arise if essential contract functions can be spun off into separate corporations, thus allowing those corporations to be exempt from Commission regulation.

It is important that the Commission not only approve the rules and regulations of the clearinghouses, as they do for contract markets generally, but also that they have the remedial authority to take care of any problems which may arise.

Mr. Chairman, I strongly urge my colleagues to reject this amendment.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would like to ask the committee chairman this question: The clearinghouses are subject to the rules and regulations of the exchanges which they serve, are they not?

Mr. FOLEY. Yes.

Mr. MURPHY of Illinois. And those exchanges in turn will be subject to the regulation of the Commission. So there will be a supervisory role played by the Commission through the exchange over these clearinghouses.

Mr. FOLEY. It would be an indirect one, though.

Mr. Chairman, I think the purpose the gentlemen seeks to accomplish is to provide that a clearinghouse, which is a separate corporation, would be subject to Commission approval of its rules and regulations, but not be subject to the same degree of regulation by Commission as an exchange, while another exchange which included the clearinghouse function in its own corporate scope would be subject to direct Commission regulation.

Mr. MURPHY of Illinois. Mr. Chairman, if the gentleman will yield further, what the gentleman from Illinois attempts to do is this:

We have heard a lot lately about the duplication of effort and paperwork imposed upon industry by Washington. What we are doing here by transferring these clearinghouse regulations to the individual exchanges is eliminating the duplication of providing regulations and submitting duplicative audits and inspections to the Commission, because the same supervisory effort is conducted by the exchanges which the clearinghouse serves.

So we are really duplicating efforts. I think the cry has gone up around the country that there is enough paperwork and regulation emanating from Washington. All we are doing here is duplicating another function that is already taken care of by the exchange which in turn is regulated by the Commission.

Mr. FOLEY. I do not want to be sarcastic, but this particular clearinghouse

is not exactly a struggling small business overburdened with Federal regulations to the point that it has difficulty clearing a profit. The fact of the matter is that six of the clearinghouses are separate corporations and four of them are operated by existing exchanges. There seems to be no reason for us to provide that, if a decision is made to set up a separate clearinghouse corporation, that corporation should be treated differently than a clearinghouse which is part of the clearinghouse exchange. I think it is a bad precedent, and I hope the committee members will reject it.

The Commission strongly opposes the adoption of this amendment, and I would like to quote, briefly, from the Commission's letter to me, signed by Gary L. Seevers, Vice Chairman:

We understand that the proposed amendment would provide that clearinghouse rules be submitted to the Commission for its review and approval under Section 5a(12) of the Act but that the Commission would have no further regulatory jurisdiction over clearinghouses. Thus, while the Commission could review rules of such an association, the Commission would not have the express power to take remedial action against contract markets or clearinghouses for failure to enforce these rules.

Since clearinghouses perform vital functions, and have a substantial impact upon the financial integrity of contract markets, it would be inappropriate to carve out an exemption for these entities which would make it impossible for the Commission effectively to regulate the performance of clearinghouses with respect to those matters other than review of clearinghouse rules. Preservation of the Commission's authority over the activities of clearinghouses is consistent with Congress' desire, as expressed in 1974, that the CFTC exercise strong oversight and monitoring with respect to all activities involving a board of trade.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, the gentleman has indicated the particular exchange in Chicago is a successful exchange and thereby should have no hesitation about being regulated. I really do not think that is a sound reason. But I would like to ask the gentleman, if it is within his knowledge, this question: Has there ever been a default or any threat of scandal from any clearinghouse that the gentleman knows of?

Mr. FOLEY. I am not personally aware of any. If I can respond to the gentleman, I do not think that this would indicate that regulatory authority should be removed. The presence of regulation is always a healthy inducement to any organization to comply with the law.

Mr. MURPHY of Illinois. Mr. Chairman, might I also ask the gentleman this question: The Commission would have power if, down through the years, they may, by their own regulation, exempt these clearinghouses if, after custom and practice, they find that the clearinghouses are adhering to the regulations. Might they exempt them on their own order?

Mr. FOLEY. Yes. The Commission has full authority under the act to exempt a clearinghouse from any rules that it makes with respect to these contract markets, and the Commission is authorized to treat different exchanges in different ways as they determine the needs of enforcement require.

Mr. MURPHY of Illinois. Mr. Chairman, I thank the gentleman.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. The clearing operation is one of the most critical functions involved in a futures trade. Clearinghouses perform vital functions which have a substantial impact on the financial integrity of the contract markets they serve. This is true whether the clearing organizations are separate, independent corporations, or whether they are part of the exchange.

This amendment would leave the CFTC without sufficient authority to regulate all the aspects of a futures trade. The CFTC would have the ability to rievew clearinghouse rules but its power to take remedial action against contract markets or clearinghouses for failure to enforce these rules could be questioned. The CFTC has not acted irresponsibly with this authority and has recommended against the amendment.

For these reasons I urge my colleagues to oppose this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MURPHY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. A'COIN

Mr. AUCOIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AUCOIN: Page 12, after line 10, insert the following new section:

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS

SEC. 10. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting after the first sentence the following: "At least 30 days before approving any such bylaws, rules, regulations, and resolutions of economic significance, the Commission shall publish in the Federal Register a copy of such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through submission of written data, views or arguments; and

(2) striking out "the Commission shall approve, within thirty days" and inserting in lieu thereof "after consideration of the relevant matter presented, the Commission shall approve within sixty days".

Redesignate the subsequent sections accordingly.

Mr. AUCOIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AUCOIN. Mr. Chairman and Members of the Committee, this amendment is designed to clarify the powers of the Commodity Futures Trading Commission in overseeing the various rules and regulations submitted to it for approval by contract markets across the country.

It would simply require that a 30-day public notice be given in advance of adopting rules that involve major economic significance.

Mr. Chairman, this is necessary in order to bring openness and adequate public knowledge to the Commission's major rulemaking and decisions. I think it is important in all major decisions that the public and all parties affected by those decisions have full knowledge of those rules as they are proposed and in advance of their adoption.

That is a fundamental premise behind sound regulation. It is a fundamental premise behind sound government.

Mr. Chairman, among the many responsibilities assigned to the Commission under the Commodities Exchange Act, section 5(a) places an oversight responsibility on the Commission to review and to sanction all changes that are proposed in the rules, the regulations, and the bylaws which govern the operation of contract markets. Many of the notifications approved by this Commission are technical and rather noncontroversial.

However, there are a number of proposed rule changes that are controversial because of their expected impact on the way a particular commodity is traded or on the broader effects that a change may bring about in the production and distribution of that commodity. It is to these more controversial rule changes that my amendment is addressed.

Despite the permissiveness of the current law, neither the Commodity Exchange Act itself, nor the regulations that accompany it, have in practice provided for adequate public involvement, participation, or surveillance in the administrative procedures that govern the Commission's oversight function. Under current procedures, there is no requirement for the posting of public notice of a proposed rule change or an opportunity for an aggrieved party to offer views or arguments on the effect of proposed rules.

This situation is disturbing when one considers that the Commission is a public agency charged with insuring that the public interest is adequately served and protected in rules and regulations promulgated by the private contract markets. It is quite certain, for instance, that some of the rule changes considered by the Commission may impact in some way questions of competitive advantage having antitrust implications. That consideration, along with my belief that a public decisionmaking should be open and fair, leads me to offer this amendment.

This amendment would provide that within 30 days before approving a proposed rule change of economic significance, the Commission would be required to give public notice of the change in the Federal Register and allow a reasonable period of time for public comment. All

decisions of the Commission would be required to be reached within 60 days of receipt of the proposed rule change. I do not believe these time limits are onerous.

Mr. Chairman, my amendment does not impose additional unnecessary administrative burdens on the Commission. My amendment seeks only to clarify the authority already permitted in the Commodity Exchange Act. It would insure that the congressional intent of the act is spelled out clearly. My amendment will support the Commission in its oversight function, not detract from it. I urge my colleagues to support the amendment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I am happy to yield to the gentleman from Washington, the distinguished chairman of the committee.

Mr. FOLEY. Mr. Chairman, we have examined the public notice amendment offered by the gentleman from Oregon (Mr. AuCoin); and speaking for myself I have no objection to its adoption.

Mr. AuCOIN. I appreciate the comments of the chairman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

I want to be certain that I understand the extent of what is proposed in the amendment.

Is my understanding correct that all that is required here is that the Commission publish in the Federal Register those new regulations which they have agreed to adopt and enforce? Is that the only requirement which the gentleman is making here?

Mr. AuCOIN. The intent behind the amendment—and I think the language in the amendment makes it clear—is that prior to approval of any rule of major economic significance, that proposed rule would be published in the Federal Register so that adequate public notice would be given; and a 30-day period is allowed so that public comment can be reserved and so that parties affected by such a rule would have an opportunity to bring forward their views, their arguments, or any facts that they may have. This is to assure that no one is caught by surprise or sandbagged or affected by a rule that has been proposed and approved without his knowledge.

Mr. MADIGAN. If the gentleman will yield further, my concern is that within the course of a 12-month period of time, the Commission might consider 300 suggestions for new rules and not, in the end, actually adopt more than 50 of those rules or 75 of them.

I wonder how the gentleman distinguishes between what is suggested to the Commission in the way of new regulations and what the Commission actually and ultimately adopts.

Mr. AuCOIN. This is important to bring out for the record. I think clearly we would expect, in adopting this amendment, that a regulation or a rule that is not being contemplated seriously for approval would not be published in the Federal Register, nor would a rule that is of routine nature.

Obviously, we do not want to clutter the Federal Register unnecessarily. What I do want in the Federal Register are proposed rules that the Commission is seriously considering and which do have major economic significance, which do have a major impact upon parties who are involved. Those parties should have an opportunity to bring forth information that the Commission needs to understand in order to make a wise decision on the final approval or disapproval of such a rule.

Mr. MADIGAN. Then would it be the gentleman's understanding that the total amount of time that would represent a delay in the Commission being able to enact a regulation so that it could be enforced, would be 30 days?

Mr. AuCOIN. Yes.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(At the request of Mr. Madigan and by unanimous consent, Mr. AuCoin was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. Current law lays out, as the gentleman knows, a requirement that within 30 days the Commission shall take action on such approvals. This amendment would simply say that there shall be, first, a 30-day period in which public comment is invited by the publication of the proposed rule in the Federal Register. So, in that sense there would be an additional 30 days up front.

In addition to that, after the input has come in from the public, the language that now is in the statute that says that the Commission shall, within 30 days, make a decision, still pertains. So, conceivably, it could allow up to 60 days.

However, I would want to make the additional point that this amendment does not touch that portion of section 5a(c) of the act, which allows emergency procedures on the part of the Commission to take immediate action if it finds that there is a practice that is being engaged in in some contract market which results in skullduggery and crookedness. That provision in the law allows very timely, swift and speedy action to overcome such practices. This amendment does not touch that existing provision of law.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

(At the request of Mr. Glickman and by unanimous consent, Mr. AuCoin was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. Mr. Chairman, I would like to finish the point I attempted to make, that I have made a deliberate attempt not to involve every single rule that is proposed—housekeeping changes, routine changes, and the like. This surely is clear from the floor colloquy on the amendment, and from the language of the amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman for yielding to me. As I understand it, the gentleman is talking about Board of Trade of Exchange Rules, as opposed to new regulations promulgated by the Commission itself, in which case notice already has to be given under the rule and under the Administrative Procedures Act.

Mr. AuCOIN. Correct. This tries to track as closely as possible on the principles embodied in the Administrative Procedures Act.

Mr. GLICKMAN. Mr. Chairman, I support the gentleman. It turns out that in many cases the Board of Trade rules are more significant than those the Commission promulgates. I know of people who practice under the securities laws, and I find that the Securities Exchange Commission requires comparable notice and approval in the New York Stock Exchange, the American Stock Exchange, or other regional stock exchange rules. I am glad the gentleman has indicated that he is talking about significant rules changes as opposed to date changes or something fairly minor.

Mr. AuCOIN. Absolutely. I have no interest in the latter.

What I am interested in is fair play. If one is affected by some proposed rule it is only fair that one ought to know what is being proposed—rather than be left in the dark until after the rule affecting him has gone into effect.

Mr. GLICKMAN. If the gentleman will yield further, we are going to provide that the public ought to have knowledge of all these rules, and maybe the exchanges can offer competitive rules.

Mr. AuCOIN. I agree. I appreciate the gentleman's support.

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

I would like to ask the gentleman a question or two. Could the gentleman tell us if an administration position has been announced on his amendment? Was the administration asked for comment on the amendment he has proposed?

Mr. AuCOIN. No.

Mr. FINDLEY. How about the Commission itself?

Mr. AuCOIN. I have been in contact with the Commission on a different version of this amendment, which I must say in candor went far beyond the simple requirement of public notice. On that amendment, the Commission felt there was an overloading of the requirements that were unnecessary for the execution of its functions.

I do not know as of this specific moment whether the Commission approves the simple requirement of public notice. I would say this to the gentleman: If it disapproves, then I think the Commission puts itself in a very interesting position. It puts itself into a more privileged position than the House of Representatives of the United States.

Mr. FINDLEY. I am not troubled by the public notice provisions of the amendment, and in all candor I do not have the amendment before me. I have a summary of it supplied by the committee staff. There is one part that troubles me, and that is the No. 1 item which says that any proposed rule affecting contract markets—and here I think a word is omitted—must be accompanied by a de-

tailed economic analysis. Is that in the amendment?

Mr. AuCOIN. No. That is a feature of the original amendment I have indicated has been pared.

Mr. FINDLEY. So that is not in the amendment?

Mr. AuCOIN. It is not in the amendment.

Mr. FINDLEY. Because that would be a very troublesome provision of law that could lead to endless litigation and really delay the rulemaking procedure.

So there is no requirement for an economic analysis in the amendment now pending. Is that correct?

Mr. AuCOIN. That is correct. There is a copy of the amendment at the desk. It comes down to simple notice, so that the public will have an opportunity to know what is going to happen and will have an opportunity to bring forward information the Commission should have at hand before making a decision. I do not see how that can be argued against.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon (Mr. AuCOIN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to this section of the bill? If not, the Clerk will read.

The Clerk read as follows:

HEARING ON THE RECORD FOR REFUSAL, SUSPENSION, OR REVOCATION OF CONTRACT MARKET DESIGNATION; COMMISSION SUBPENA POWER

SEC. 10. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence;

(2) inserting "on the record" after "hearing" in the second sentence of subsection (a);

(3) striking out the third sentence of subsection (b) and inserting in lieu thereof the following new sentences: "For the purpose of securing effective enforcement of the provisions of this Act, and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Commission deems relevant or material to the inquiry.

Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commisison, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or conducts business or wherever such person may be found.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 10? If not, the Clerk will read.

The Clerk read as follows:

HEARING ON THE RECORD FOR CEASE AND DESIST ORDERS AND IMPOSITION OF CIVIL PENALTY

SEC. 11. Section 6b of the Commodity Exchange Act (17 U.S.C. 13a) is amended by inserting in the first sentence "on the record" after "hearing".

The CHAIRMAN pro tempore. Are any amendments to section 11?

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: On page 14, immediately after line 8, insert the following new section 12 and redesignate the remaining sections accordingly:

SEC. 12. Section 6c of the Commodity Exchange Act (7 U.S.C. 13 a–1) is amended by adding at the end thereof the following: "Upon the institution of any action under this section by the Commission or the Attorney General subsequent to the effective date of these amendments, the court shall have the power to impose all such sanctions and remedies as the Commission could have imposed pursuant to its authority under the provisions of this chapter including, but not limited to, sections 6, 6(a), 6(b), and 6(c) (7 U.S.C. §§ 8, 9, 13a, and 13b); and, (during the pendency of that action) or subsequent to a final determination on the merits, the Commission shall have no further jurisdiction to initiate administrative proceedings pursuant to its authority under the provisions of this chapter including, but not limited to, sections 6, 6(a), 6(b), and 6(c) (7 U.S.C. §§ 8, 9, 13a, and 13b), regarding the acts or practices complained of in such judicial proceeding unless the court in its discretion remands the matter to the Commission".

Mr. SYMMS. Mr. Chairman, this amendment is a double jeopardy amendment. I think that many members of the committee are well aware of the much celebrated soybean case, or whatever you wish to call it, last year, that took place when the Commodity Futures Commission made accusations against the Hunt family that they were speculating in too large holdings in the soybean market, in other words held more contracts than the rules allowed.

The concern I have had over this is that the farmers of the United States were the ones who were the losers, when the Commission went public the soybean market broke and exports were also hurt because of uncertainty from overseas.

I do not think we need to go into whether or not it was effective for the Commission to make a public exposure of the Hunt family or not. In my opinion CFTC was dead wrong. What happened was that the CFTC filed action against the Hunt family. They had a press conference, after which the soybean market went down immediately because of all the ballyhoo in the press and the soybean prices went down so that the farmers were hurt.

But I think since then what happened is the critical point.

The court was called in, the CFTC requested them to hold a court case on it. The court case was held. There was an appeal that is taking place. And, since the CFTC did not get their way, in other words they lost their case, and there were no charges brought against the people who were accused of wrongdoing, in other words they—the Hunts—were acquitted, then the CFTC filed an administrative action.

I think that this is something we do not want any regulatory agency to be doing in this Government of ours. If a person goes to court and that person is acquitted, that should end the case, they should not have to stand trial again on the same set of facts.

What happened here is that we had the defendants taken to court and they were acquitted. There is an appeal in process, but that is being handled by the courts, and then there is an administrative charge being processed now, side by side with the court action.

So, in other words, as I say, this is double jeopardy.

I would like to tick off some of the points that I think make this amendment important and why it should be adopted, because this should not take place in every agency of the Government. However, we are not dealing with every agency of the Government, we are dealing with the Commodity Futures Commission. The CFTC brought the case, and it is an attempt to put speculative limits placed on individual speculators who are financially solvent, realizing that this was what the case was all about, how many contracts on soybeans are permitted or limited to any person in order to trade in.

Now they are talking about removing those administrative requirements they had in the past, and this case is still going to the courts and the taxpayers are literally paying hundreds of thousands of dollars a month to be trying cases like this through administrative review.

Some of the points we are trying to make are as follows:

The CFTC has powers not available to comparable agencies, if we allow them to do this.

In this case there would have been no violation if members of one family had not been singled out. No individual was ever in violation.

The CFTC did not charge any manipulation of the market occurred or was attempted by any or all of the parties here charged.

It has never been the intention of the Congress to give any agency of the Government powers not granted under the Constitution.

The amendment only requires the CFTC to adhere to findings of the court when it goes to court.

This amendment does not deprive the CFTC the right of going to court when

it does not achieve its desires in administrative actions.

To summarize my remarks I would make the following 14 points.

POINTS THAT NEED TO BE MADE IN DEBATE

First CFTC is placing Hunt in double jeopardy, if not by letter of the law then certainly the spirit of the law.

Second. If not double jeopardy, then harassment of persons over minor regulations they (CFTC) are proposing to abandon.

Third. By assessment of the chairman of the Commission in an administrative proceeding the Commission is the cop on the beat, prosecuting attorney, jury, and judge.

Fourth. CFTC now has powers not available to comparable agencies.

Fifth. This amendment is not just against CFTC, but the first step against an overwhelming growing power of bureaucracy to invade the powers of the judiciary reserved under the separation of powers concept in the Constitution.

Sixth. In this case, there would have been no violation if members of one family had not been singled out for special treatment or the issue of aggregation of holdings. No individual was ever in violation.

Seventh. The CFTC did not charge that any manipulation of the market occurred or was attempted by any or all of the parties charged.

Eighth. It has never been the intention of the Congress to give any agency power not granted under the Constitution.

Ninth. The amendment only requires the CFTC to adhere to findings of the court when the CFTC elects to go to the courts on any matter.

Tenth. This amendment does not deprive the CFTC the right of going to court when it fails to achieve its desire in administrative action.

Eleventh. Prevents appropriated funds from being used in simultaneous actions on the same issue.

Twelfth. The amendment does not require the CFTC to go to court on any matter.

Thirteenth. Most other agencies are required to go to court on certain issues.

Fourteenth. There is a growing concern in the country over the excessive powers of bureaucracy. If this kind of "double jeopardy" is tolerated for the purposes of CFTC, then where do we draw the line? Once the precedent is set and goes unchallenged then it will be possible for other Government agencies to use similar tactics.

It will prevent appropriated funds from being used in simultaneous actions on the same issue. That is the key to the whole thing. Do we want to have a double case going on where we have an administrative judicial process taking place and the courts taking care of them? The amendment does not require CFTC to go to court on any matter, and most agencies are required to go to court on certain issues. I think the growing concern is the excessive powers of bureaucracy of this country. I think it is essential that we tie down regulatory agencies with constitutional law in principle. The separation of powers doctrine certainly is at stake here. Any American citizen, whether rich or poor, should, I think, have equality under the law. If they are acquitted in the court case, or if the court would acquit them in this case and there is an appeal being filed it should be handled by the judical system and not interfered with by the regulatory agency.

I think if there are any questions, I would be happy to try to answer them. It is a rather complex matter, but I do hope that the committee would accept this amendment and tie down this regulatory agency so that in the future we will not run the risk of having a political witch hunt or something else take place where it costs the farmers of this country.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. HARKIN, and by unanimous consent, Mr. SYMMS was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

We have got a lot of amendments here on the floor, and I have been trying to find the gentleman's amendment and read it.

Mr. SYMMS. It is at the desk. This is the same amendment that was offered by the gentleman from Florida (Mr. KELLY) in the committee.

Mr. HARKIN. Is this what is otherwise known as the "bail-out-of-Hunt" amendment?

Mr. SYMMS. No, it is not the bailout. This would have no effect on the Hunt case. What has happened has already happened. I know the gentleman would like to use that as an excuse. It would have no effect on anything that has happened in the past. Only in the future would it say we cannot have double jeopardy. It is a bail-out-the-taxpayers amendment because the gentleman and I as taxpayers are probably paying lawyers now in excess of $100,000 a month to go out and try to prosecute certain individuals for something that the Commission itself is already changing the regulations on, that limitations on numbers of contracts that any person can trade are no longer to be limited by CFTC. So what we are seeing here is a case of proposition 13 in reverse. In other words, let us go out and spend the taxpayers' money, raise havoc. We take them to court. They are acquitted in court, so we will go out and get them in a double jeopardy case by using administrative review.

Mr. HARKIN. Thank you for the clarification, this is not the "bail-out-of-Hunt" amendment; it is the "bail-out-of-the-Hunts-in-the-future" amendment.

Mr. SYMMS. No. The gentleman can throw the word around if he wants to, but I think he is missing the point. I think the gentleman will agree that in the courts if one is acquitted, one is innocent; is that correct? Would the gentleman agree if one is acquitted in court, he is innocent? So what happened here is there was a court case; it was adjudicated in the court; and there is an appeal taking place presently. But then when the Futures Commission did not get the result they wanted in court, they started an administrative battle process, going back over administrative argument, and it is all water under the bridge. But the people who suffered are the farmers of the United States who grow soybeans in Iowa and Illinois and places like that, because the exposure of this whole thing to the press presented a picture to people in foreign countries who read our newspapers that something was going on here that really might be wrong or innocent.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for 1 additional minute.)

Mr. SYMMS. I think that what we need to do in the Congress is to try to limit the scope of the regulatory agency, the CFTC, properly so we would be the referee to see that everyone is treated equitably on the floor of the Board of Trade, the New York Mercantile Exchange, the Chicago Mercantile Exchange, and other Futures Commissions. That is what I would like to achieve so that people can be treated equitably. What happened was that I think a misjudgment on the part of the Commission to interfere in something where they made a big deal in the press cost the American people exports of soybeans because something appeared to be happening that was wrong, and it was adjudicated in the courts and proven there was no wrongdoing, and no manipulation of the market. The only thing that happened is our farmers—yours and mine—suffered because exports went down. I would like to avoid that in the future.

What happens in the case now? I think the Hunt family will survive. They, at great expense, are fighting and winning their case. The farmers are the ones who were hurt. I think we can limit this now. We can say a mistake was made, but we can correct a future mistake in the Commodity Futures Commission by saying no more double jeopardy.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, I have some sympathy with the amendment being offered, but it relates to a fundamental problem in the administrative process, whereby what is the function of the courts and what is the function of an administrative agency in dealing with, let us say, fraudulent conduct?

The way the Administrative Procedures Act is administered and the way it is implemented by most Federal agencies, the courts have the power to provide equitable relief, let us say, in an injunctive action preventing future behavior or a temporary restraining order, or in some cases an order compelling restitution; whereas the administrative agency is generally the body of government that has the expertise to decide basically the

nitty-gritty of the fraudulent conduct or the alleged fraudulent conduct that occurred and to decide whether the person or persons alleged to have committed that conduct should be or should not be removed from office, or should be debarred or not debarred from office. Generally the courts do not have that expertise whatsoever. Therefore, I believe that this amendment, if adopted, would deprive a proper execution of the laws of the Commodity Exchange Act, inasmuch as it would deprive the agency from going further and deciding all the aspects of a case, relying on a Federal judge, and also this would treat this agency entirely different from every other Federal agency that is permitted to go into court to stop alleged fraudulent practices, which the agency cannot do administratively, and then to proceed administratively on a separate issue.

I will admit to the gentleman that in some cases there has been some abuse. clearly, and there needs to be some administrative law reform to prevent that abuse; but this amendment would unfairly single out this agency and all the other agencies would not have this type of restrictive provision and it is something that is not wise in protecting the customers of this country in the purchase of commodities.

So, while I have some sympathy with the problems involved, I urge rejection of the amendment.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, is the gentleman suggesting that we knock out all laws that provide for the criminal prosecution of fraud and that we abolish all fraud prosecutions?

Mr. GLICKMAN. No.

Mr. KELLY. Because the courts, obviously, cannot handle it, based on what the gentleman just said. They just are not equipped. They do not have the expertise. They do not have the machinery; so the idea of prosecuting people in these courts that lack the ability to handle the cases probably does not sound very just and we should abolish all fraud prosecutions.

Mr. GLICKMAN. Mr. Chairman, I would disagree with the gentleman. The concept is one of function.

Mr. KELLY. Mr. Chairman, if the gentleman will yield further, that is not my suggestion. It is the suggestion of the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. No.

Mr. KELLY. So the gentleman is disagreeing with himself?

Mr. GLICKMAN. No; what I said, they are separate functions of the administrative process and the Federal judiciary and not functions of the administrative process, which administrative process can fully on a long and detailed case analysis determine whether the laws of the country have been violated and determine whether brokers should be suspended, barred, fines paid, and that sort of thing. That is clearly not a function of the courts. The gentleman is talking about something else. The courts clearly have jurisdiction under existing law to prosecute criminal cases.

Mr. KELLY. Mr. Chairman, if the gentleman will yield further, would the gentleman agree that the regulating agency has the power to impose a penalty just by the ability to bring an individual into court, because this immediately imposes tremendous delays and tremendous expense and if an individual does not have the money to combat the agency in court, then great injustice can be accomplished.

Mr. GLICKMAN. There is no question these agenies can wreak havoc; but when I am talking about administrative reforms, it is across the board and restriction of the power initially in the administrative agencies with respect to bringing the cases.

Mr. KELLY. Mr. Chairman, if the gentleman will yield further, that is exactly what the Symms amendment is trying to do, is to avoid a double jeopardy proposition.

If the matter is taken to court, then they will handle the matter in court, and I think the fact that the courts do handle so many fraud cases of great complexity indicates clearly that they have the ability to do so.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the discussion between the gentleman from Kansas (Mr. GLICKMAN) and the gentleman from Florida (Mr. KELLY) has elucidated most of the issues here, but I think it would be extremely unwise for this Committee to accept the Symms amendment.

There are circumstances where an emergency requires the Commission to go to court for injunctive relief. These circumstances only occur in situations which the Commission regards as most urgent.

Under the Symms amendment, once the court's jurisdiction had been invoked, even by an application for injunction, all further administrative actions by the Commission would be suspended until the resolution of that particular court determination. This might take weeks or months.

We have had situations, of course, as the gentleman from Kansas (Mr. GLICKMAN) suggested, where some regulatory agencies have in the opinion of many overreached or abused their authority, but there have also been very prominent cases in recent years and months where this particular Commission has been helpless to block significant cases of fraud because of legal delays and other difficulties which the Commission faced. As a result, one celebrated swindler was permitted to bilk citizens of tens of millions of dollars and, indeed, that led to a whole new question about whether options would be permitted at all in the future as an instrument of trade.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Mr. Chairman, I will yield to the gentleman in just one moment.

It seems to me extraordinary, with all the complaints that have been raised against this Commission regarding its failure to take more effective action on the so-called options scandals, that we would now find Members of the House saying to the Commission, "After we have given you authority to go to court for an injunction, the moment you do that, you can do nothing else."

Mr. Chairman, it seems to me that would invite some extraordinary abuses.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the committee chairman if it is not so that under the present law an individual could be taken into court for injunctive relief, and that that procedure would be subject to a series of appeals, and then that individual could be taken into an administrative procedure, the results of which then could be subject to a series of appeals? And is it not true that that same individual taxpayer, who is trying to make our economy go, could be subject to two appeals at the same time, possibly one that he had instituted and one that the Commission had instituted, plus having to go into the administrative hearing plus the court hearing, and that much of what would go on in the appellate courts, in the trial court, and in the administrative proceedings would be all on the same facts, and there would be tremendous overlapping?

So would not the Symms amendment just simply say that the administrative agency would have an opportunity to make its choice? Once having made its choice, then the Government could not beat a taxpayer to death with oppressive repetitions of court proceedings and expenses.

Mr. FOLEY. Mr. Chairman, the gentleman suggests that this amendment is only going to operate to prevent honest taxpaying citizens from being abused by the overreach of regulatory authority.

But let us take an example of the type of case that this language involves; for example, the infamous Carr case. This is the case of a person who is reported to have carried on bucket shop operations in options around the country fraudulently taking millions of dollars away from individual citizens. In a case like this, it would be extraordinary if the gentleman is suggesting that Mr. Carr should not be subjected to regulatory restraint merely because the Commission had applied to court for an injunction.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I will yield in just a moment to the gentleman.

First, Mr. Chairman, I want to make it clear to the other Members here that this action would prevent the Commission from doing what it should be doing—coming down very heavily and very dramatically where there is strong evidence the public interest is being abused, as it has occurred in this case.

The fact of the matter is that the Commission had great criticism that it did not stop this man in his tracks, who with enormous arrogance, continued carrying on this activity while court cases were pending.

I do not want to see the taxpayers subjected to unfair tactics. But, on the other hand, I do not want to tie this Commission's hands behind its back when it is dealing with a flagrant violator of the law. What the gentleman's amendment would do, unfortunately, would be to largely dissipate the Commission's authority to deal with that type of offender once they had gone into court and asked for a preliminary injunction.

Mr. KELLY. Will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman.

Mr. KELLY. I think that the chairman misunderstands the Symms amendment. The Symms amendment does not in any way preclude giving the ax to a crook. But what the Symms amendment does is provide that you give them the ax after they have been found to be guilty, and not before.

This is actually what the Symms amendment is trying to accomplish.

Mr. FOLEY. I understand that we are talking about civil remedies and criminal remedies and, so far as the gentleman is concerned, I agree with him that criminal penalties should never be imposed until the person is found to be criminally liable. But if there is evidence that administrative procedures can prevent abuses which exist in the trading of securities or the trading of commodities or instruments of trade under the jurisdiction of this Commission, it seems to me extraordinary that we would not want the Commission to carry out those administrative responsibilities. And to bar them from doing so simply because they have asked for an injunction would be most unfortunate.

Mr. KELLY. If the gentleman will yield further, I would like to point out this one additional proposition: The Symms amendment is not going to in any way prevent them from stopping the crook that the gentleman described. They have to go into court anyway. So that provision is still protected under the Symms amendment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(On request of Mr. SYMMS and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Chairman, one of the reasons that brought on my interest to this issue is the fact that I thought the Commission should have been working on the Carr case. Instead they are going into the established, well operated exchanges, such as the Chicago and New York Mercantile Exchanges and the Chicago Board of Trade, where they have these problems under control. It was my understanding and in my opinion it appeared that the Commissioners were interested in headlines when they should have been after the people involved in a swindle; and there was not too much done about the Carr case, if anything.

I think this amendment would just simply say that the Commission from now on will have to generate its efforts after the bona fide criminals, they will not have the ability to just take after one person, just go after them in some sort of witch hunt, so to speak.

Mr. FOLEY. I do not think that is what the amendment says at all. The amendment says that, once the Commission goes to court——

Mr. SYMMS. It goes to court and the person is acquitted.

Mr. FOLEY (continuing). To seek any court action, their administrative authority is suspended.

Mr. SYMMS. On the same set of facts.

Mr. FOLEY. On the same set of facts.

I think that poses a violation of the Commission's rules and regulations which will create serious dangers of risk or other loss by the public if they apply for a court injunction to stop them.

Mr. SYMMS. The chairman himself just mentioned the Carr case, where the person was an outright crook. If they had taken that to court I do not think there would be a problem. There would not need to be administrative review. But when they take them to court and the person is acquitted, why should they go back and go over the same ground?

Mr. FOLEY. I think the taxpayers have lost more, those unfortunate taxpayers who apparently were the victims of this individual, Mr. Carr, than it probably cost the Commission for much of its activity.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(On request of Mr. KELLY and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. If we want to be concerned about the taxpayers, we ought to be concerned with whether the Commission is able to effectively carry out the duties that have been imposed upon it by the Congress.

To create an agency and give it a mandate to enforce proper dealing in commodities futures and then turn around and deny them effective enforcement is a real waste of the taxpayers' money.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. KELLY. I thank the chairman for yielding.

My question is this: My understanding of the Symms amendment is that it provides that once the agency goes into court, the agency is not precluded in any way from having whatever regulatory impact that it would otherwise have. The only difference is that they will then have to stay with the court as a fact-finding body rather than permitting the agency itself to then take over this function. The reason for that is to prevent the duplication in the presentation of evidence to accomplish an economy and to remove the agency itself from the factfinding responsibility when it has interposed itself in the case as an advocate. Under the committee bill, 1 minute you are in the position of arguing with the agency in court as an opponent, and the next moment you are before the agency, and they are the judge. This would be logically an uncomfortable situation.

That is what I understand the Symms amendment is providing a remedy for. It does not in any way limit the agency power. It does not in any way limit the law. It just simply prevents duplication of effort.

Mr. FOLEY. Mr. Chairman, if I can regain the time the gentleman so generously provided me, I would say again that we have attempted to give some very extensive responsibilities to this Commission to control and regulate activities in an ever-growing area of commerce where a trillion dollars worth of contracts were traded last year.

It seems to me that we have the duty of assuring the protection of those hundreds of thousands of people who are dealing in futures contracts and in options.

Mr. Chairman, this amendment goes too far, in my judgment, in limiting the authority of the Commission. The losers will be the taxpayers, who will have an ineffective enforcement procedure, and who may be subject to serious losses.

Mr. Chairman, I ask that the amendment be rejected.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 6, noes 24.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

JURISDICTION OF THE STATES

SEC. 12. The Commodity Exchange Act is amended by adding after section 6c a new section as follows:

"SEC. 6d. Notwithstanding any other provision of this Act, in order to promote effective enforcement, curtail or prevent fraud, protect the public interest, and effectively utilize the resources available to State agencies, any State agency or official may—

"(1) investigate or prosecute in a civil action violations of this Act (except violations set forth in subsection (2) hereof), of section 217 of the Commodity Futures Trading Commission Act of 1974, or of the rules or regulations thereunder in any district court of the United States which would have jurisdiction thereof, if such action had been brought by the Commission, and that court shall have jurisdiction to entertain any such action brought under this section, and the Commission shall be entitled as of right to intervene in any such action as a party thereto: *Provided, however,* That a State agency or official may not investigate or prosecute any violation of the Acts or the rules and regulations thereunder committed or alleged to be committed by a designated contract market or a board of trade licensed by the Commission (or committed or alleged to be committed by the organization clearing transactions thereon);

"(2) investigate and prosecute in a civil action, whenever authorized as parens patriae, any such violation committed or alleged to be committed by any person with respect to any account, agreement, or trans-

action (including the solicitation thereof) involving contracts of sale of a commodity for future delivery traded or executed on such designated contract market or licensed board of trade; and

"(3) investigate and prosecute violations of the criminal statutes of such State.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERFECTING AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. FOLEY: On page 14, lines 18 and 19, strike out "(except violations set forth in subsection (2) hereof)";

On page 15, line 8, insert "and" at the end thereof;

On page 15, strike out lines 9 through 16; and

On page 15, line 17, strike out "(3)" and insert in lieu thereof "(2)".

Mr. FOLEY. Mr. Chairman, my amendment simplifies the procedure whereby a State may enforce the provisions of the Commodity Exchange Act.

The committee bill authorizes the States to prosecute in Federal courts violations of the act relating to options contracts and leverage contracts. States can also take action against violations of the act involving futures contracts, except for violations by boards of trade, if they first establish in Federal court that they are authorized to do so under parens patriae.

Mr. Chairman, there is some confusion in court decisions about the meaning of parens patriae. Generally it means a State must show the violation causing harm to the general welfare of its citizens. There is sufficient lack of clarity in this standing concept to create the possibility of some extended litigation in the event a State did go into Federal court; under the bill as reported a State can only enforce the Federal statute by first establishing that it was acting under parens patriae.

To make abundantly clear that the States can bring their resources to bear to prevent violations or continued violations on the part of any person subject to the act, my amendment would delete the necessity of demonstrating that the State is acting under the parens patriae doctrine. Under this amendment, it would be sufficient for the State to demonstrate that a violation occurred, and that the Commission would have authority to come in and to take civil action in the same jurisdiction under the same circumstances.

At the same time, I hope that the adoption of this amendment would lead the committee to reject an amendment which I know my distinguished colleague from Wisconsin (Mr. BALDUS) is about to offer. The Baldus amendment seeks to strike this entire section, and say that if the States adopt statutory language identical to that contained in the Commodity Exchange Act, they could then enter State courts and enforce their State statutes. It seems to me that this approach creates two serious problems.

One is that it risks the possibility of varying decisions in the States and Federal courts. The Baldus amendment will of course, as the gentleman will tell the committee shortly, say that Federal court decisions shall control, that regulations and decisions of the Commission shall be binding, and that the State courts must recognize them. But, even though the language of the State and Federal statutes may be identical the possibility of different results when different agencies enforce different statutes, one in Federal court and the other in a State court, troubles me. Second, the Baldus amendment has a heavy precondition, that the States adopt the Federal language exactly. I think only a few States are likely to do that. My amendment on the other hand would facilitate a very broad reach of State participation in all States by eliminating the parens patriae requirement and removing the requirement that the States first adopt statutory provisions identical to those contained in the Commodity Exchange Act.

I think both Mr. BALDUS and I agree, and the committee bill expresses the sense of the committee, that we want some additional enforcement in addition to that which the Commission is able to generate; but I think it is preferable to have that State enforcement through the Federal courts rather than through the courts of the several States, the District of Columbia, et cetera.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to make sure that I understand exactly what the chairman is offering. If I understand the amendment correctly, it clarifies the circumstances under which a State can bring an action. It stipulates that action would have to be brought in a Federal court, and as a consequence of doing that, the Commission would have a right to intervene in the action. Is my understanding essentially correct?

Mr. FOLEY. Yes, the gentleman is correct. What the committee bill authorizes the States to do is to prosecute in Federal court violations relating to options contracts and leverage contracts. They are not authorized to take action against violations involving boards of trade, but other futures contracts violations they could take into Federal court. However, since under the bill reported by the Agriculture Committee, since the State must first establish that it is acting under parens patriae, which is a confusing doctrine, the resolution of that issue could give rise to a great deal of litigation. My amendment would remove that preliminary requirement and the attendant litigation.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. MADIGAN. Mr. Chairman, I want to congratulate the chairman for offering this amendment. As he knows, the subcommittee and the full committee worked quite a while with this particular problem, and finally agreed on the language offered by the gentleman from Oklahoma (Mr. ENGLISH) as a substitute for the provision that had previously been offered by Mr. BALDUS of Wisconsin.

I think that the area of clarification required as a result of the adoption of the English amendment is addressed well by the amendment offered by the gentleman from Washington (Mr. FOLEY) and that it now provides what I judge to be the best possible product, and therefore I urge the committee to adopt the amendment.

Mr. FOLEY. I thank the gentleman for his comments.

Mr. BALDUS. Mr. Chairman, I move to strike the last word.

I am not rising in opposition to the amendment, Mr. Chairman. Rather I think it goes in the right direction but it is an inch in the right direction and not a giant step at all.

The problem still lies in what the States' attorneys general say is the problem of the States through their mechanism of getting into Federal court. Although we may have eased that somewhat, it certainly does not resolve the problems the State securities commissioners and the State legislators and the attorneys general say is their problem.

I know as a State legislator that we frequently adopted securities laws—not futures trading, but security laws—that were identical to Federal laws. There was the way we did it—except as they take exception. They do occasionally take exception

I understand that the futures traders do not want to have that problem of exceptions, and we have dealt with that in my amendment by saying the State can only adopt identical—that is an inelastic term, identical is identical—and the laws pursuant to that must be identical and the decisions by the court must conform to the regulations of the CFTC.

So although I do not oppose the amendment I do want to say it is not a substitute for the amendment I offer.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Foley amendment. The chairman has well explained the amendment and its purpose. Although I am not sure he goes far enough, it is what we need at this point.

I was not in support of the provision in the committee bill and consider this amendment to be a much needed improvement.

The committee bill would not provide effective State enforcement assistance to the CFTC. Under the committee bill a State could only investigate or prosecute civil violations involving futures transactions only under an ambiguous legal doctrine. If we are going to ask for State enforcement assistance, it should apply across the board to exchange traded futures contracts as well as off-exchange traded leverage and options contracts.

The Foley amendment corrects this shortcoming in the committee bill and I plan to support it.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the upcoming Baldus amendment.

Mr. Chairman, today the House will consider H.R. 10285, a bill to reauthorize appropriations for the Commodity Futures Trading Commission (CFTC) for a period of 3 years, which contains a number of other substantive amendments to the Commodity Exchange Act.

Mr. BALDUS, my colleague from Wisconsin, has printed in the CONGRESSIONAL RECORD for June 7, 1978, an amendment which he plans to offer to section 12 of this bill. The Baldus amendment would provide that "any State agency or official may investigate and prosecute violations of State laws which are identical to sections 4b, 4c, 4d, and 40 of this act (Commodity Exchange Act) and section 217 of the Commodity Futures Trading Commission Act of 1974" subject to certain conditions, such as that State courts must follow the precedents and interpretations of the CFTC and the Federal courts.

While it is argued that States should be given broad enforcement authority in the trading of commodity futures, et cetera, this is not an amendment which would be characterized as fostering States' rights. For State legislators to be forced to rubberstamp Federal legislation and enact identical laws is hardly my idea of the exercise of States' rights. Moreover, a requirement that State courts follow the precedents and interpretations of a Federal agency and Federal courts can hardly be held to give much in the way of "rights" to a State.

It is also worth noting that the strongest support for the Baldus amendment appears to come from State securities commissioners and often the attorney general or Governor of the same State may be found to oppose the amendment.

The provision in the committee bill was thoroughly debated and adopted in the full committee markup after the Baldus amendment had been adopted in the subcommittee.

I urge you to oppose the Baldus amendment as an amendment which has the potential, if not the reality, of causing regulatory chaos with 50 States and the CFTC attempting to enforce 51 identical—if such is possible—laws.

The CHAIRMAN pro tempore. The question is on the perfecting amendment offered by the gentleman from Washington (Mr. FOLEY).

The perfecting amendment was agreed to.

AMENDMENT OFFERED BY MR. BALDUS

Mr. BALDUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BALDUS: Strike out all of section 12 beginning on page 14, line 10 through and including page 15, line 18, and insert in lieu thereof the following:

"SEC. 12. The Commodity Exchange Act is amended by adding after section 6c a new section as follows:

"SEC. 6d. (1) Notwithstanding any other provision of law, in order to promote effective enforcement, curtail and prevent fraud, protect the public interest, and effectively utilize the resources available to State agencies, any State agency or official may investigate and prosecute violations of State laws which are identical to sections 4b, 4c, 4d, and 4o of this Act and section 217 of the Commodity Futures Trading Commission Act of 1974 or the rules and regulations of the Commission under those sections: *Provided*, That any civil and criminal penalties provided for under such State laws do not exceed the civil and criminal penalties provided for violation of the identical sections of this Act and of the Commodity Futures Trading Commission Act of 1974 Any such State law shall include the following language: 'In any such action, Federal law, including the decisions of the Federal courts and the decisions and published interpretations of the Commission, shall be controlling.' Notwithstanding the foregoing, a State agency or official may not investigate or prosecute any violation committed or alleged to be committed by a designated contract market or a board of trade licensed by the Commission or any violation committed or alleged to be committed by any persons if said violation occurs solely on such designated contract market or licensed board of trade. Any agency bringing an action under authority of this section shall give notice of the action to the Commission by mailing a copy of the original pleadings or of the original indictment to the Commission no later than three business days after the action is filed, and the Commission may intervene of right in any such action at any time.

"(2) Nothing contained in this Act shall affect the authority of any State to seek alternative enforcement remedies which are consistent with the Commission's jurisdiction granted under this Act, including actions as described in subsection (1) of this section, actions under a State's general criminal or civil antifraud statutes, its general consumer protection laws, or other similar laws of general applicability."

Mr. BALDUS (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. BALDUS)?

There was no objection.

Mr. BALDUS. Mr. Chairman, when in 1974 the Congress passed into law the Commodity Futures Trading Commission Act which created the CFTC and gave it exclusive jurisdiction over the enforcement of the antifraud provisions of the commodity trading laws, thus preempting the States from any enforcement role. This was done in spite of the fact that the States have demonstrated their enforcement and regulatory capabilities in the area of securities law, over which they share jurisdiction with the Federal Government, and insurance laws, over which they have exclusive jurisdiction.

The problem has been that, regardless of one's opinion as to the effectiveness of the CFTC, the resources and manpower required to monitor the industry on a nationwide basis have never been provided to the CFTC, nor is it likely that they ever will be provided. The CFTC's enforcement staff numbers only around 120 people, and that includes clerical personnel. Because of this manpower shortage, no one has been effectively monitoring the industry and no one has any real idea of the extent of fraud which may be occurring. I do know that the North American Securities Administrator's Association (representing all of the administrators, not just a few) and the National Conference of State Legislators feel strongly enough about the need for expanded enforcement that they have actively sought State enforcement and have specifically endorsed my amendment, as has the National Farmers Union and the NFO.

My amendment would fill the current enforcement void by allowing the States to pass and enforce identical State laws. In recognition of the concern of the futures trading industry that State enforcement might subject the industry to contending with 50 different bodies of law, the amendment would only allow the States to pass laws which are identical to five sections of Federal law. Not "similar to," Mr. Chairman, but "identical to."

Because of the possibility that in applying the identical law to specific actions there may be a difference of interpretation. My amendment further requires the State laws to include the following: Please listen.

In any such action, Federal law, including the decisions of the Federal courts and the decisions and published interpretations of the Commission, shall be controlling.

In those rare cases where the State may make an interpretation with which the CFTC does not concur, the CFTC need only publish an interpretation which will be controlling on the decision of the court.

In addition, the CFTC must be promptly notified within 30 days of any State action and is expressly granted the right to intervene in any such action at its own discretion.

I would like to point out that the majority of activity conducted by legitimate trading companies is exempted from State prosecution. The amendment states:

Notwithstanding the foregoing, a State agency or official may not investigate or prosecute any violation committed or alleged to be committed by a designated contract market or a board of trade licensed by the Commission or any violation committed or alleged to be committed by any persons if said violation occurs solely on such designated contract market or licensed board of trade.

The States may not prosecute violations of futures trading companies or their employees which are committed on the boards of trade or in designated contract markets.

It may be oversimplifying to say that is everybody but the crooks.

Mr. Chairman, my amendment was originally passed by the Conservation and Credit Subcommittee after holding extensive hearings on the CFTC. The Commissioners of the CFTC voted to accept my amendment at that time. The amendment was then taken out of the bill in the full committee by the narrow margin of 20 to 18 at a time when debate was extremely limited so that the bill could be reported in time to meet the April 15 deadline.

Mr. Chairman, the five sections of Federal law which I would allow the States to pass do not empower the States to subject the industry to additional regulations. If we can subject securities companies to the concurrent jurisdiction of State governments, I can see no

reason why we should exempt the futures trading industry from State review identical to that of the CFTC.

Mr. Chairman, the Congress has already passed a law prohibiting fraudulent activity. The question before us is whether we are going to have State enforcement. I urge my colleagues to vote for expanded enforcement by voting for my amendment.

Mr. GLICKMAN. Mr. Chairman, I support the amendment offered by the gentleman from Wisconsin (Mr. BALDUS) but I think the thing we need to do is not to deal with the legal reasons for it, but rather the practical reasons why this was precipitated.

In the first place, vast amounts of capital which used to flow into the securities markets are now flowing into the futures markets, and while nobody, not the GAO, the CFTC, the Securities and Exchange Commission, nor the Treasury knows how much, we do know that it is gigantic.

One of the reasons for this is because there is more speculative activity in the futures market than in the securities markets, and that is where the gambling is and that it where the action is. As a result, the futures business have been spreading all over the country, and in many cases a majority of the business formerly of a securities nature is now in the futures markets because there is more chance of making a quick buck, not just futures in farm commodities, but futures in Treasury bills, FNMA, GNMA, mortgages, even futures on indexes and aggregates, like a proposed future on the Dow-Jones industrial average. Along with this goes the natural phenomena of fleecing of customers in the form of boilerplate operations. Most firms are honest, and most firms do not engage in this kind of conduct.

But historically where that activity occurred in some places in the securities business, it has moved over in the futures business. If we wait historically until the CFTC has taken action with their limited manpower to prevent the fleecing, the wool will already have been pulled over everybody's eyes in the State. So, therefore, what this amendment does is to provide States with the opportunity to enforce fraudulent violations of futures laws in the same manner that they have been able to enforce fraudulent violations of securities laws, which has worked very well over the last 40 years, which has provided an additional arm to prevent our constituents from being bilked by those few but very, very tenacious fraudulent operators.

In the Lloyd Carr case we heard testimony in committee where the Michigan Securities Commissioner became aware of that case. It transferred that to the CFTC. The State could not take any action on their own because they were precluded from doing so under State law, and the CFTC did not act because they did not have the necessary manpower and perhaps did not have the inclination. I submit that this is one way in our Federal system where we can bifurcate that manpower by permitting those local officials who can stop the fraud faster in your town or my town, U.S.A., to get a handle on it, and get those State officials to go into State court to enjoin that activity, or to prevent its commission until such time as the CFTC can get involved.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Did the gentleman mean to say that they could not enforce it because they did not have a State law? Is that what the gentleman said?

Mr. GLICKMAN. I said historically they could not enforce commodities futures violations because they were precluded under Federal law.

Mr. COLEMAN. The gentleman said "State law."

Mr. GLICKMAN. I am sorry; no, Federal law.

What has happened in the securities business is that these fraudulent activities develop on a localized basis, and the people who are going to find out about them first are the local law enforcement authorities. Are they going to contact the CFTC? The answer probably is no. What has happened is they have contacted the State securities commissioner or State attorney general who has brought some action to prevent it from recurring until the CFTC is involved. That is the same kind of thing we propose in the Baldus amendment to provide the flexibility to get the fraud stopped first on a State basis, and then to permit the CFTC to decide if they think the case is big enough to prosecute it, or that it has national implications.

The amendment that my chairman has offered eases that procedure some, because it provides that the States' securities commissioners or the States' attorneys general can enforce actions in Federal court without relying on a complicated legal doctrine called parens patriae, but it still does not deal with the problem that in many States' attorneys general and securities commissioners by law cannot go into Federal court. As I understand it on information supplied by the National Association of States' Attorneys General, 33 States in this country are either partially or fully restricted from ever going into Federal court on these types of matters. So what we are really dealing with here is, what is the most practical way of enforcing fraud cases? What is the most realistic way of enforcing a case where your constituents are being bilked in Hutchinson, Kans., Peoria, Ill., or Dallas, Tex.?

Is it waiting until an understaffed and in many cases questionably competent CFTC comes in and investigates the case after $50 million are stolen from the people? Or is it letting that fraudulent conduct be stopped first at the State level and then giving the Federal level, the CFTC, the power to decide if it wants to proceed on a big case?

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 1 additional minute.)

Mr. GLICKMAN. Let me tell you one final thing that has happened in the securities area. In most Federal fraud securities cases, the States go ahead and retain jurisdiction if the case does not involve gigantic jurisdictional problems or gigantic implications. If it is a small fraud, they give it to the States. If it is a big fraud, they give it to the SEC.

Mr. Chairman, I urge adoption of the Baldus amendment.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, getting back to my question, because of State law they were precluded. The gentleman did say "State" and then the gentleman said he meant to say "Federal," but then the gentleman said State, because under the amendment 33 States are precluded from going into Federal, because of State laws; is that not correct?

Mr. GLICKMAN. That is correct.

Mr. COLEMAN. We are talking about State policy, because there are 33 States that have a policy not to do that which the gentleman is trying to force down their throats; is that not correct?

Mr. GLICKMAN. No, no. They cannot go into court. It does not replace the CFTC in the case.

Mr. COLEMAN. It is either a hesitancy on their part from the enforcement standpoint, or the law on the State books which precludes them, or something else.

Mr. GLICKMAN. It is something else.

Mr. COLEMAN. Let us find out what the something else is, because we are trying to force something else on 33 States.

Mr. GLICKMAN. No. Under the Baldus amendment, we are trying to get States to do what many or most of them have done under the security laws.

Mr. COLEMAN. The gentleman is saying they have done it with security laws, but they have not done it in this area of concern. Is it as a hesitancy on their part, is there a Federal rule or something else; let us find out what it is.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, the reason they have not done it, the Federal commodities laws have precluded them from doing it and we prevented the States from enacting State commodities statutes. We preempted them. We did not do it in the securities laws, because the history of the development of the law did not deem that advisable.

Mr. COLEMAN. If Federal preemption is the issue, we ought to discuss the issue of Federal preemption, not why 33 States are ready to go on this and feel they cannot. I suggest if the Baldus amendment passes, we will see chaos develop in the court system and it will continue, because we are really cloning State courts, making them little Federal junior courts, giving them Federal laws to pass in the State legislatures, giving them Federal law to follow. Even the State legislatures must pass a law which is identical to Federal law. We are cloning

the State courts and making them junior Federal courts and making the legislatures little junior Federal legislatures.

Mr. GLICKMAN. That is a nice red herring to throw out. We have State securities laws and they have worked well. The gentleman is familiar with the securities laws.

Mr. COLEMAN. You used to work with the SEC. The State laws are not identical to the Federal laws.

Mr. GLICKMAN. Some are, some are not.

Mr. COLEMAN. They differ considerably. Let us take the State of Delaware, for example, which has historically been a place where a lot of people like to incorporate, because of different securities laws; is that not correct?

Mr. GLICKMAN. No, that is not correct, because the State corporation laws are much different in Delaware; but generally the State security laws, particularly the fraud laws, parallel the Security Exchange Act of 1934. They have to follow that law.

Mr. COLEMAN. But they do not have to follow Federal law. They do not follow Federal case law.

Mr. GLICKMAN. That is correct.

Mr. COLEMAN. I understand we have a two-tiered judicial system in this country, one with Federal jurisdiction and one with State jurisdiction.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. GLICKMAN) his expired.

Mr. GLICKMAN. Mr. Chairman, I urge approval of the Baldus amendment.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes with regard to this issue. I think it is one that is very simple and one that most of the members of the Committee understand.

The difficulty that we are facing with regard to the Baldus amendment is not one of the question of the enforcement of the law. I do not think there is any question that every member of the Committee wants to see strong enforcement of these laws. They certainly want to see those who are violating the law removed from it.

The issue comes down to a question of developing a system by which the industry can survive without chaos. The difficulty with the Baldus amendment and the reason I offered my amendment in the full committee to make this change is one that is very simple.

Even though every State—and the Baldus amendment requires that each State adopt laws identical to the Federal laws—has the same statute, it comes down to the problem of how those laws are interpreted by the State courts. I think we are all aware of the difficulties that can arise with regard to court interpretations of laws, and I think there is little question that, with 50 different courts making interpretations of the same laws, it is very doubtful we are going to end up with a uniform law.

This is the reason I made a provision and a requirement that the States prosecute through the Federal courts, as opposed to prosecuting in the State courts. It is that simple.

With regard to the issue pertaining to the State's opportunity to prosecute, much has been said about the fact that today the Federal law precluded the States from taking action in this area. However, up until 1974, when the CFTC was created, the States had a virtual blank check with regard to this matter. States were allowed to pass their own laws, to bring about their own prosecutions, and to effect their own enforcements of those State laws. However, the reason why we have a CFTC is due to the fact that most States had not done so. Therefore, the Federal Government stepped into the breech and filled the gap to bring about a uniform law under which the industry could live. This is the reason we have the CFTC.

Mr. Chairman, under these circumstances I would think it would be obvious to all that we need a uniform enforcement. The only way we are going to get that kind of enforcement is through the Federal courts, with one Supreme Court making the interpretation of this law.

I would also suggest that we have in effect a new streamlined regulatory agency to regulate a giant industry. It is not one that has had 40 years to develop and evolve from a hodgepodge of State laws and Federal laws along with their interpretations. Without uniform enforcement through this new agency, we could face total chaos throughout the industry.

Mr. Chairman, I urge the defeat of the Baldus amendment.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I certainly want to associate myself with the remarks of the gentleman from Oklahoma (Mr. ENGLISH).

I would just like to say that the reason the CFTC came about in the first place, as I understand it, and the reason exclusive jurisdiction was given the Federal Government was that we did have this plethora of interpretations of enforcements, not only in State supreme courts but even down in the local courts.

I think any reasonable reading of the committee bill would indicate that there is nothing in the bill that is going to keep a State from enforcing its fraud laws or its antifraud laws.

The additional argument that I think ought to be made here would simply state that, first of all, the States may be able to prosecute violations of the Commodity Exchange Act related to any transactions of commodities that are not traded on the exchanges. So we are talking about these other things, including the horror stories we have heard about this morning, such as the Lloyd, Carr case and the others, and the States would be able to prosecute in those situations in any event.

The second point is that the States may also be given authority to prosecute actions involving conventional trading on exchanges if the States can show that the general welfare is affected. That is provided in the bill.

Third, the bill makes it clear that the States may enforce their own criminal statutes in these areas. All those things are left to the States in any event.

The bill makes a real effort to preserve exclusive jurisdiction, while it does open up the opportunity and it actually frees up somewhat the opportunity for the States to enforce certain activities in their boundaries.

I think we should not get into a system of allowing the States to sue in State courts when we are talking about an exclusive Federal jurisdiction. There is nothing particularly wrong in suing and enforcing in the Federal courts, and I think the Federal law provides a guideline. The question is that some States are not permitted to do that by their own law and by their own constitution.

If that is the case, I would ask the gentleman from Wisconsin (Mr. BALDUS) if it would not be just as easy for the State to pass a law allowing it to do that, as it would for the State to get a law through its legislature such as the gentleman's amendment would mandate. It would seem to me it would be just as easy.

Finally, Mr. Chairman, the bill modifies a bit the CFTC's exclusive jurisdiction to allow the State to assist in the prosecution of commodity fraud. That is really what I think the gentleman from Wisconsin (Mr. BALDUS) is driving at.

Finally, I would argue that the Baldus amendment would in fact and in practice result in a plethora of State prosecutions, and even if they pass, as the Baldus amendment mandates, a law that is in the same wording of the Federal law, it would not keep the attorney general or the individual State's supreme court from interpreting it according to their own interpretation.

Commodity trading by nature is multi-State; that is, few commodity boards and few commodity transactions are restricted to within a single State. So we would have this multiplicity of interpretation even with regard to the transactions of a single company.

Mr. Chairman, I would urge the defeat of the Baldus amendment. This was something that was throughly discussed in both the full committee and in the subcommittee, and it has been a very technical area. I believe that the committee bill is the very best possible way to proceed to have a uniform enforcement, which I think is absolutely essential in this technical field.

Therefore, I urge the defeat of the Baldus amendment.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Baldus amendment.

I would just very briefly state that this is an enforcement-of-the-law issue, and I do not think we ought to ignore the fact that one of the great weaknesses of the CFTC has been in strong and vigorous enforcement of these laws.

The testimony before the subcommittee continually reiterated the fact that they are undermanned, that they do not have sufficient capability of getting out and enforcing and administering these laws. For that reason there was a consensus in the subcommittee, and I think there

is a consensus among the members of the full committee that there is a need for strong enforcement in this area.

How do you improve that enforcement? The best vehicle available for expanding and improving the enforcement is to use the States' attorneys general. This is essentially what is done in the securities area. It is done by the States in insurance laws. I think there is no reason why we cannot expand it to the Commodity Futures Trading Commission and its laws. That is the purpose of the Baldus amendment, to allow the States to take these matters into State courts.

The second point is that it does not create chaos because indeed we are requiring that it be uniform, that the States adopt uniform laws reflecting the Federal law and that they enforce those laws.

Third, and most importantly, there have been comments here that this can result in chaos and differences in interpretation.

Anyone who has practiced law knows that there are judges and there are judges. Judges make different decisions based on the same law, whether it is at the State level or at the Federal level. Those decisions can be appealed. There are appeal rights that can be exercised. But just because it is reserved to the Federal area does not mean you are not going to get different interpretations. Federal judges differ as to how they interpret Federal law. State judges may also differ. But that is the very nature of our process.

The main point is to try to maximize the enforcement of the law itself. I think the Baldus amendment helps in that direction, and that is why I support it.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to spend very long in debating this amendment.

I just want to urge my colleagues again to reject this amendment.

By the adoption of the amendment which I offered a few minutes ago, we have given the States the opportunity to go into Federal court and enforce provisions of the Commodity Exchange Act in Federal court. They cannot act against boards of trade, but they can act with respect to other violations of the statute in Federal court.

In order to avoid unnecessary complication, I think we ought to reject the Baldus amendment. The gentleman from Kansas (Mr. GLICKMAN) said that 33 States are effectively prevented from going into Federal court. If that is correct—and I take the gentleman at his word—it is because of State law. The States would have to enact very complicated statutory provisions in order to conform to various parts of the Federal statutes. It would be easier for them to enact a simple provision relieving the Attorney General of any restraint that he has under State law which forbids going into Federal court.

Mr. Chairman, 17 States now have authority to go into Federal court, according to the gentleman's statistics, and they could act as soon as this statute is enacted to immediately begin to enforce Federal law in Federal courts.

Frankly, I think that there are not too many States of the 33 which will rush in and reenact the Federal statute. Maybe there are a number which will, but it seems that the simpler thing is merely to remove any statutory limitation on the Attorney General or any present legal obstacles to entering Federal court so as to enforce the Federal statutes.

Mr. Chairman, the amendment simply does not do what we all want to do.

Mr. BALDUS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Wisconsin.

Mr. BALDUS. Mr. Chairman, on the point of a certain amount of the States having difficulties in getting into Federal court, I rely on what the States' securities commissioners said with respect to their difficulty in getting into Federal court. I presume it might be State law; but, in many cases, it is also the State constitution which prohibits them from doing that. That is a very difficult thing to overcome.

On the other hand, the States' securities commissioners are accustomed to going to State legislatures and saying, "The Federal law has changed. We can do better by having our State laws conform so that we do not have two different laws."

That is something which goes on in State legislatures regularly. That is why the National Association of State Legislatures said that this is a preferable way to do it, allowing them to make their law identical to ours.

Mr. FOLEY. Mr. Chairman, I thank the gentleman for his comments.

I am sure that we ought to and will give due weight to the opinion of the National Association of State Legislatures as to how the Federal law should be drafted; but the final responsibility for drafting it lies with us.

While I say we should take respectful notice of their opinion, I am concerned that we might have some situations in which there would be unnecessary duplication and possible conflict in interpretation.

Mr. Chairman, some Members have said that this same language is going to be interpreted in different ways. We have appeals courts constantly making judgments that lower courts of the same system have misinterpreted the language of the law. This amendment creates the very real possibility of several different courts examining and interpreting the same language and arriving at different interpretations of identical statutes. Certainly, that will raise some serious problems with respect to regulatory enforcement.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Kansas.

Mr GLICKMAN. There is another point: Pragmatically and historically, States attorneys general and securities commissioners have not and do not go into Federal court to enforce these kinds of statutes. That is because of history, policy, or law, they feel much more comfortable in going into State courts to seek the immediate kind of relief necessary to enjoin the kind of action taking place.

Mr. FOLEY. Mr. Chairman, I hope my remarks are not taken as being disrespectful. I used to be an assistant State attorney general. However, I am puzzled by this constant repetition of the statement that there is somehow a cultural hangup on the part of State officials which keeps them from going into Federal court, that in addition to legal restraints, they just cannot bear to get inside a Federal courtroom, and that somehow a kind of historic reticence or confusion occurs when a State official gets into the Federal courts. They obviously go into Federal courts all the time as defendants.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Mr. Chairman, no State would hesitate, for one moment, in sending its legal officers into Federal court when the State's interests were deemed to be adversely affected by some action in Federal court.

Why is it, that we are asked to have such a great concern for the historic reluctance of these States to enter Federal court, while at the same time we are told that they are energetically seeking a role in enforcement? They want enforcement of the same kind of statute, but they say, "We do not want to do that in Federal court." Apparently, they just do not feel comfortable.

Mr. GLICKMAN. If the gentleman will yield further, Mr. Chairman, I do not know the answer to the question, but I would submit that the historic practice has led to a situation in which they feel that they cannot go into the Federal courts. They feel they can get faster and more expeditious, more equitable relief in the State courts.

Mr. FOLEY. The gentleman is saying they prefer to go into State courts.

Mr. GLICKMAN. That may be their way to get faster and more equitable relief.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 4 additional minutes.)

Mr. GLICKMAN. It has worked reasonably well in the Federal securities area to prevent that kind of fraudulent conduct from mushrooming. At least, they stop there in an earlier inception of the proceedings. I just think the Baldus amendment offers a better opportunity to prevent it from mushrooming before it gets out of my county and into my Nation.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from yielding to me.

No. 1, assuming the gentleman's statistics to be correct, is it not the case,

then, in the 33 States to which he has made reference, that an act of the legislature in those 33 and in the other 17 States would be necessary in order for those States to have State laws comparable to the Federal law?

No. 2, is it not also true that an action of the legislature, then, in those 33 States could remove the prohibition that keeps them from going into Federal court? The same legislative bodies would have to take an action in either case.

Finally, No. 3, is it not true that by taking that action then, the State legislatures could empower their attorneys general or security commissioners or whoever to enforce security violations if, in fact, they want them to do that—which apparently they have not been up to this point. Are those conclusions in error?

Mr. FOLEY. I share those conclusions. I think the gentleman is correct.

Mr. MADIGAN. I thank the gentleman.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would just like to point out that there could be consequences. The problem and difficulty we have had is that up until 1974 the States had sole authority. They could do anything they wanted to in this area. They could pass all kinds of laws and have all kinds of enforcement. The fact of the matter is that they did not do it. That is the reason we are standing here with this legislation.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield, that is not really a fair statement, because the futures markets in terms of the broad ramifications really did not begin to mushroom until the early 1970's.

Mr. ENGLISH. That is exactly the point. We are getting it now. We have an enormous industry. It is not the one that was back in the 1930's, whenever we had the Securities Exchange Commission, when we allowed the involvement of law in a very small industry group. It is a giant industry now. We are dealing with a giant industry and the gentleman is suggesting that we go back to the same problems we had. But, we do not have 40 years. We cannot allow irreparable harm to this industry.

Mr. GLICKMAN. Regardless of which way we go on this amendment, giving the States the power to enforce fraudulent violations of commodities futures laws is not going to be irreparable harm to the industry, because they are not able to be involved in the rulemaking process. There may be a policy judgment, but I do not think anybody can successfully contend that this will involve irreparable harm to the industry.

Mr. ENGLISH. I believe the chaos that would be created as a result of 50 different laws would certainly work damage on the industry. I do not think there is any question about that.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the American investor deserves more protection against fraud than the CFTC provides. I rise in support of the Baldus amendment to H.R. 10285, the Commodity Exchange Act Extension. This amendment would allow States to enforce the antifraud provisions of the act now loosely enforced at the Federal level. State jurisdiction is necessary to combat dealer fraud.

The need for State enforcement authority stems from current CFTC activities. The Commodity Exchange Act, enacted in 1974, gave exclusive jurisdiction for antifraud violation enforcement to the CFTC. But, enforcement has been lax and States have been prevented from filling the void. The absence of Federal interest has fostered the growth of a commodities trading subculture directed by unprincipled operators in search of a fast buck.

The Lloyd, Carr & Co. case involving the sale of London options is the most well-known case of widespread fraud. Its Massachusetts history illustrates the scope of the problem.

James A. Carr, later identified as a convicted felon and escapee from a New Jersey prison, successfully operated a commodities trading company in Boston for 18 months prior to its shutdown late last year. While skirting Federal law and defying the U.S. courts, Carr bilked 45,000 Massachusetts investors out of $12 million. The Massachusetts securities division finally shut down Lloyd, Carr & Co. based on two legal technicalities—failure to register with the secretary of the Commonwealth as required of any Massachusetts business and parens patriae injunctive relief.

The existence of 12 branch offices of Lloyd, Carr & Co. guaranteed nationwide repercussions for the large boilerroom shop marked by high-pressure sales tactics, false promises and exorbitant fees. Carr's lawyer estimated nationwide sales at $25 to $27 million in 1977. Carr faces proceedings in 12 States and Federal courts based on fraudulent and deceptive sales practices.

The Commodity Futures Trading Commission neither has nor has sought the staff and means to effectively enforce the CFTC Act. Enactment of the Baldus amendment, giving States authority to pass and enforce State laws identical to Federal commodity statutes, would result in increased enforcement capacity by State securities administrators.

Opponents of the Baldus amendment claim this would lead to differing State interpretations of the law. States would only be permitted to pass language identical to that in the Federal statute. In addition, State law must include the following sentence:

> In any such action, Federal law, including the decisions of the Federal courts and the decisions and published interpretations of the commission, shall be controlling.

And, the CFTC must be promptly notified of any action and given the right to intervene in any proceedings.

Similar overlapping jurisdiction in securities antifraud law illustrates implementation with the Baldus amendment in force. All States have antifraud laws identical or nearly identical to section 10(B) of the Securities Exchange Act of 1934 which states that it is illegal to engage in manipulative or deceptive actions contrary to SEC rules. Though there is no mandate in the SEC statute that Federal law would be controlling, State interpretations have been nearly identical without the mandate the Baldus amendment enacts. In the view of the Security and Exchange Commission's Assistant Director of Enforcement, the State and Federal interpretations of identical or nearly identical antifraud provisions are a model.

Mr. Chairman, the Baldus amendment has been endorsed by the North American Securities Administrators Association and was accepted by the five CFTC commissioners during subcommittee consideration. I urge my colleagues to vote for this amendment. With its enactment, commodities exchange laws will be enforced. Without the Baldus amendment, Federal enforcement will remain haphazard and commodities options scandals are likely to continue.

The purpose of this act is to protect the public from the type of fraud that has occurred across the Nation and has reached scandalous proportions and caused innocent investors to lose millions of dollars. In fairness to industry their point of view has been considered in our deliberations and a single standard of interpretation has been set by the Baldus amendment and in fairness to the public we should give the States the same option to enforce the law and protect the product which has been so sorely needed and has been requested by the State legislators across the country.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. BALDUS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BALDUS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 260, not voting 31, as follows:

[Roll No. 598]

AYES—141

| | | |
|---|---|---|
| Addabbo | Burton, John | Emery |
| Ambro | Burton, Phillip | Evans, Ga. |
| Anderson, Calif. | Carr | Fenwick |
| | Carter | Fish |
| Andrews, N.C. | Cavanaugh | Florio |
| Applegate | Chisholm | Ford, Mich. |
| Ashley | Clausen, Don H. | Ford, Tenn. |
| Aspin | | Forsythe |
| Badham | Clay | Fountain |
| Baldus | Cleveland | Garcia |
| Barnard | Cohen | Gephardt |
| Baucus | Conte | Gilman |
| Bauman | Conyers | Glickman |
| Bedell | Cornell | Gore |
| Beilenson | Cornwell | Green |
| Benjamin | D'Amours | Harkin |
| Bennett | de la Garza | Harrington |
| Biaggi | Dellums | Hawkins |
| Bingham | Diggs | Heckler |
| Blanchard | Dingell | Heftel |
| Blouin | Dodd | Hollenbeck |
| Bonior | Dornan | Holtzman |
| Brinkley | Downey | Howard |
| Brodhead | Drinan | Hughes |
| Broomfield | Duncan, Tenn. | Jeffords |
| Burke, Calif. | Edgar | Jenkins |

| | | |
|---|---|---|
| Jones, Tenn. | Minish | Santini |
| Kastenmeier | Mitchell, Md. | Satterfield |
| Keys | Moakley | Skelton |
| Kildee | Moffett | Solarz |
| Kostmayer | Mottl | Studds |
| Lagomarsino | Murphy, Pa. | Stump |
| Leggett | Nolan | Traxler |
| Lent | Oakar | Tucker |
| Levitas | Oberstar | Udall |
| Lloyd, Tenn. | Obey | Van Deerlin |
| Long, Md. | Ottinger | Vento |
| Lundine | Panetta | Waxman |
| McHugh | Patterson | Weaver |
| Mann | Pattison | Weiss |
| Markey | Pease | Wirth |
| Marks | Pressler | Wolff |
| Marlenee | Rangel | Wydler |
| Mathis | Reuss | Yatron |
| Mazzoli | Richmond | Young, Alaska |
| Mikulski | Rinaldo | Zablocki |
| Miller, Calif. | Roncalio | Zeferetti |
| Mineta | Rosenthal | |

NOES—260

| | | |
|---|---|---|
| Abdnor | Fowler | Mitchell, N.Y. |
| Akaka | Frenzel | Mollohan |
| Alexander | Fuqua | Montgomery |
| Ammerman | Gammage | Moore |
| Anderson, Ill. | Gaydos | Moorhead, Calif. |
| Andrews, N. Dak. | Giaimo | Moorhead, Pa. |
| Annunzio | Gibbons | Moss |
| Archer | Ginn | Murphy, Ill. |
| Ashbrook | Goldwater | Murphy, N.Y. |
| AuCoin | Gonzalez | Murtha |
| Bafalis | Goodling | Myers, Gary |
| Beard, R.I. | Gradison | Myers, John |
| Beard, Tenn. | Grassley | Myers, Michael |
| Bevill | Gudger | Natcher |
| Boggs | Guyer | Neal |
| Boland | Hagedorn | Nedzi |
| Bonker | Hall | Nichols |
| Bowen | Hamilton | Nix |
| Brademas | Hammer-schmidt | Nowak |
| Breaux | Hanley | O'Brien |
| Breckinridge | Hannaford | Patten |
| Brooks | Hansen | Pepper |
| Brown, Calif. | Harris | Perkins |
| Brown, Mich. | Harsha | Pettis |
| Brown, Ohio | Hefner | Pickle |
| Broyhill | Hightower | Pike |
| Burgener | Hillis | Poage |
| Burke, Fla. | Holland | Preyer |
| Burke, Mass. | Holt | Price |
| Burleson, Tex. | Horton | Pritchard |
| Burlison, Mo. | Hubbard | Pursell |
| Butler | Huckaby | Quayle |
| Byron | Hyde | Quillen |
| Caputo | Ichord | Rahall |
| Carney | Ireland | Railsback |
| Cederberg | Jacobs | Regula |
| Chappell | Johnson, Calif. | Rhodes |
| Cochran | Johnson, Colo. | Risenhoover |
| Coleman | Jones, N.C. | Roberts |
| Collins, Tex. | Jones, Okla. | Robinson |
| Conable | Jordan | Rogers |
| Corcoran | Kazen | Rooney |
| Corman | Kelly | Rostenkowski |
| Coughlin | Kemp | Rousselot |
| Crane | Kindness | Roybal |
| Cunningham | Krebs | Rudd |
| Daniel, Dan | Krueger | Runnels |
| Daniel, R. W. | LaFalce | Ruppe |
| Delaney | Latta | Russo |
| Dent | Leach | Ryan |
| Derrick | Lederer | Sawyer |
| Derwinski | Lehman | Scheuer |
| Devine | Livingston | Schroeder |
| Dickinson | Lloyd, Calif. | Schulze |
| Dicks | Long, La. | Sebelius |
| Duncan, Oreg. | Lott | Seiberling |
| Eckhardt | Lujan | Sharp |
| Edwards, Ala. | Luken | Shuster |
| Edwards, Calif. | McClory | Sikes |
| Edwards, Okla. | McCloskey | Simon |
| Eilberg | McCormack | Sisk |
| English | McDonald | Skubitz |
| Erlenborn | McEwen | Slack |
| Ertel | McFall | Smith, Iowa |
| Evans, Colo. | McKay | Smith, Nebr. |
| Evans, Del. | McKinney | Snyder |
| Evans, Ind. | Madigan | Spellman |
| Fary | Mahon | Spence |
| Fascell | Marriott | St Germain |
| Findley | Martin | Staggers |
| Fisher | Mattox | Stangeland |
| Fithian | Metcalfe | Stanton |
| Flippo | Michel | Steed |
| Flood | Mikva | Steers |
| Flynt | Milford | Steiger |
| Foley | Miller, Ohio | Stockman |
| Stratton | Waggonner | Wilson, Bob |
| Symms | Walgren | Wilson, C. H. |
| Taylor | Walker | Wilson, Tex. |
| Thompson | Walsh | Winn |
| Thone | Wampler | Wright |
| Thornton | Watkins | Wylie |
| Treen | White | Yates |
| Ullman | Whitehurst | Young, Fla. |
| Vander Jagt | Whitley | Young, Mo. |
| Vanik | Whitten | Young, Tex. |
| Volkmer | Wiggins | |

NOT VOTING—31

| | | |
|---|---|---|
| Armstrong | Frey | Rose |
| Bolling | Jenrette | Sarasin |
| Buchanan | Kasten | Shipley |
| Clawson, Del | Le Fante | Stark |
| Collins, Ill. | McDade | Stokes |
| Cotter | Maguire | Teague |
| Danielson | Meeds | Trible |
| Davis | Meyner | Tsongas |
| Early | Quie | Whalen |
| Flowers | Rodino | |
| Fraser | Roe | |

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Shipley against.

Mrs. Meyner for, with Mr. Teague against.

Mr. Fraser for, with Mrs. Collins of Illinois against.

Messrs. LENT, BLANCHARD, ASHLEY, and FOUNTAIN changed their vote from "no" to "aye."

Messrs. MICHEL, DUNCAN of Oregon, and ROUSSELOT changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there further amendments to section 12? If not, the Clerk will read.

The Clerk read as follows:

LIMITATION ON DISCLOSURE TO THE PUBLIC OF NAMES AND POSITIONS OF TRADERS ON BOARDS OF TRADE

SEC. 13. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by—

(1) inserting in the first sentence "but subject to the limitations set forth below," after "discretion";

(2) striking out in the first sentence ", except data and information which would separately disclose the business transactions of any person and trade secrets or names of customers" and inserting in lieu thereof ": *Provided, however,* That, nothwithstanding the foregoing, the Commission shall not disclose publicly or publish any data or information which would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person unless such data or information has been previously disclosed publicly in a judicial or congressional proceeding";

(3) striking out in the first sentence ": *Provided further,* That the Commission in any report may include facts as to any actual transaction";

(4) striking out in the second paragraph "from time to time" and inserting in lieu thereof "but only after such information has otherwise been publicly disclosed in a judicial or congressional proceeding,";

(5) striking out in the second paragraph "and make public" the second time that phrase appears and inserting in lieu thereof "on a confidential basis."

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHMOND: Page 16, lines 10 and 18, insert "an administrative proceeding pursuant to the Commodity Exchange Act, as amended," immediately before "a judicial" in each such line;

Page 16, strike out lines 12 through 14 and insert in lieu thereof:

"(3) inserting in the first sentence", except that any facts that are subject to the restrictions on public disclosure hereinabove set forth may be included in such report only after such facts have otherwise been publicly disclosed in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or Congressional proceeding" after ": *Provided further,* That the Commission in any report may include facts as to any actual transaction";

Mr. RICHMOND. Mr. Chairman, this amendment seeks to clarify the intent of an amendment I added to the committee bill, which is now before us.

In that amendment I specified that the Commission be prohibited from disclosing confidential, market sensitive information or identifying traders or their customers until such information has been publicly disclosed in a judicial or congressional proceeding.

However, other kinds of proceedings exist which are quasi-judicial or official in some capacity, where such information must be disclosed during the course of the proceedings. The first part of my amendment addresses this issue by adding a third category of proceeding to those covered already: Formal administrative procedures pursuant to the Commodity Exchange Act, as amended.

An example of this kind of procedure would be a disciplinary hearing by the Commission, or other hearings for the purpose of imposing civil penalties for violations of the act. Certainly, where confidential information must become public during the course of this kind of procedure, CFTC should have the ability to fully disclose all the facts of the case, while protecting other persons about whom information does not need to be publicly disclosed.

This language is supported by the Commission, which feels that this authority is necessary if it is to fully participate in the various regulatory and other official proceedings involving this act.

The second part of the amendment further clarifies my committee amendment by authorizing the CFTC to make public the facts of the case after any proceedings are completed, where such information has been disclosed, while prohibiting the Commission from making confidential materials public when they have not been disclosed during such hearings or proceedings.

I might say, Mr. Chairman, that this amendment is not a blanket authority for the Commission to disclose confidential information about persons outside the scope of any judicial, administrative or congressional proceedings. My amendment is designed to operate solely within the context of these proceedings.

I urge my colleagues' support for these clarifications, which, I believe, will make the CFTC's procedures more effective, and give the public necessary information about the Commission's activities.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, we have reviewed the gentleman's amendment on this side. I think it is consistent with the purpose of the amendment which he offered in the full committee and which was adopted in that committee.

Mr. Chairman, we have no objections to the amendment on this side and urge the committee to support it.

Mr. RICHMOND. Mr. Chairman, I thank the gentleman.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Washington, the distinguished chairman of the committee.

Mr. FOLEY. Mr. Chairman, we have no objection to the gentleman's amendment on this side.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. RICHMOND).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 13?

AMENDMENT OFFERED BY MR. COHEN

Mr. COHEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COHEN: Page 16, after line 21, insert the following new section:

POTATO FUTURES STUDY

SEC. 14. Section 8 of the Commodity Exchange Act is amended by adding at the end thereof the following new undesignated paragraph:

"Within one year after the date this paragraph becomes effective, the Comptroller General of the United States shall—

"(1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts for the purchase or sale of Irish potatoes for future delivery, including rules and regulations pertaining to such trading issued by the Commission or any board of trade; and

"(2) submit to each House of Congress a detailed report on the results of such study. Such report shall also include any proposals the Comptroller General may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by the Commission or any board of trade.".

Redesignate the subsequent sections accordingly.

Mr. COHEN. Mr. Chairman, I have followed the deliberation on H.R. 10285 with a great deal of interest. As many of my colleagues know, Maine potato futures have been traded extensively on the New York Mercantile Exchange for better than two decades. In 1976 and 1977, just under 1 million potato futures contracts were traded on the exchange. The estimated "value" of these contracts is in the neighborhood of $1.7 billion.

A properly regulated futures market can offer many advantages for the potato industry. In addition to providing an added marketing option, futures trading provides an opportunity for potato growers, shippers, processors, and retailers to protect margins, establish costs, and reduce the risk of unfavorable price fluctuations. Prudent use of the futures market can also open up new avenues of credit for the producer as well as strengthen his bargaining leverage with those he does business with.

Despite its theoretical advantages, many Maine growers remain dubious of the value of futures trading. On several occasions in recent years, a substantial percentage of Maine growers have voiced their support for a permanent ban on trading. This view reflects the belief that futures trading disrupts orderly marketing, adversely affects prices in the cash market, and generally puts at a disadvantage the small grower who does not use the futures market. Equally important, many growers feel that market manipulation and abusive trading practices are commonplace, and that the Commodity Futures Trading Commission and the New York Mercantile Exchange have done little to check such activities. Still others blame the CFTC for the 1976 potato futures default, and are critical of the exchange for failing to enforce its rules in a manner which is fair to all with positions in the market.

At the same time, there are others in the industry who vigorously defend the practice of trading potatoes on the futures market. In general, these individuals believe that the existence of an alternative marketing mechanism is of proven economic value to the industry. Additionally, proponents argue that without the price protection afforded by futures trading, many producers would have been driven out of business in recent years due to depressed prices.

Let me add at this point that I do not believe that all the ills facing the Maine potato industry can be fairly placed on the doorstep of the Commodity Futures Trading Commission or the New York Mercantile Exchange. Problems of quality and overproduction are matters which only the industry can superintend. Moreover, the CFTC and the futures market bear little or no blame for the increasingly serious transportation problems facing the Maine potato industry. To make the CFTC the focal point for criticism ignores other equally relevant factors which have led to the loss of markets over the years and fostered lower prices for growers. I am not suggesting that the futures market is perfect. No market is. To the contrary, I believe that the concerns that the grower community in Maine has raised for years deserve the immediate attention of the Congress, the CFTC, and the exchange. As many Members know, the General Accounting Office recently issued an extensive report which was highly critical of the program activities and management functions of the CFTC. Certain concerns expressed by Maine potato growers over the years are validated by the Comptroller General's report. For those unfamiliar with the report, the GAO found that:

The CFTC's initial market designation reviews were not comprehensive enough to insure that only contract markets meeting statutory and Commission requirements were designated;

There is an overriding need on the part of the CFTC to improve its rule enforcement procedures;

The Commission's registration program is not as effective as it could be in preventing unfit and unqualified individuals and firms from being registered and reregistered;

There is possible underrepresentation of the interest of the general public and possible overrepresentation of the industry in the appointment of outside advisory committees;

A need exists to intensify efforts especially in the areas of regulating dual trading, trading standards, and time stamping of transactions;

The Commission's market surveillance activities are inadequate to detect and prevent disruptions such as price manipulations;

The CFTC has not strictly enforced its requirements that exchanges pass an economic purpose test by providing that proposed contracts can reasonably be expected to be used for pricing or hedging purposes;

The CFTC may not be fully implementing the section of the law which specifically requires that exchanges must demonstrate before market designation that futures trading in proposed contracts would not be contrary to the public interest; and

The Commission's audits have not been sufficiently frequent and may not be complete enough to insure that customers' funds are adequately protected.

Without question, these troubling findings will only further fuel the dispute over potato futures trading. To a considerable extent, they serve to confirm the fact that the 1976 potato futures default resulted from management and program deficiencies at the CFTC and the New York Mercantile Exchange. Until corrective measures are taken—and H.R. 10285 represents a positive effort in that direction—the possibility of a recurrence of the 1976 refault cannot be ruled out.

In recent weeks, I have spent considerable time reviewing the arguments for and against potato futures trading. Last week, I dispatched a member of my leglislative staff to Maine to meet with potato industry officials on the question. Based on these efforts, I am convinced that a full-scale review of potato futures trading is both necessary and warranted.

Originally, I had intended to offer an amendment to H.R. 10285 which would have suspended trading pending the outcome of a GAO study of potato futures. The Parliamentarian's Office has informed me that such an amendment would not be germane to the purposes of H.R. 10285 and therefore subject to a point of order.

The ruling does not, however, in any way diminish the need for a thorough and impartial study of the practice of

trading Maine potatoes on the futures market. As long as the practice is viewed with grave suspicion by a substantial number of Maine growers—and that remains the case today—the issue will continue to divide the industry and deflect attention and energy away from other equally serious problems.

It is time that we lay to rest the festering controversy over potato futures trading by commissioning a credible and unbiased report on the practice. Therefore, I am hopeful that my efforts to secure a GAO study of potato futures trading will be strongly supported by the chairman of the Agriculture Committee. Such interest on the part of the committee will clearly demonstrate to the members of the Maine potato industry that Congress is truly interested in resolving this most complex and controversial question in a manner which is fair to all.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think there is any enormous harm in having a GAO study, but on the other hand I dislike setting a precedent which would statutorily direct the General Accounting Office to do the study on a contract market when, to my knowledge, there has been no direct request to the General Accounting Office from any Member of Congress to conduct the study. The gentleman, I am sure, is concerned, as are other colleagues from the delegation from Maine here and in the other body, about the Irish potato futures contracts and the operation of those contracts in the State of Maine. Indeed, there has been an historic concern, as the gentleman knows, of producers in the State of Maine, many of whom are opposed to futures trading.

But again, there is nothing to prevent the General Accounting Office from responding to a request from a Member of Congress to conduct such an investigation if the Comptroller General feels it is appropriate. I hesitate to instruct the Comptroller General by statutory language to conduct this survey or investigation when he has not been asked to conduct it or given a chance to review the need for such an investigation.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I simply point out that the law already provides that the Comptroller General of the United States shall conduct reviews and audits of the Commission, and make reports thereon. It would simply expand that to deal with a specific segment of the industry. As I indicated, a bill has been filed to ban trading altogether. I think before we go forward, we ought to have some facts established by an impartial, unbiased investigative unit.

This seems to me to be the appropriate way to proceed.

Mr. FOLEY. I certainly agree that before a proposal to ban trading should go forward, it certainly should be subjected to analysis and review.

I share the gentleman's respect for the Comptroller General and the General Accounting Office. All I am saying is that we are jumping in with a mandate to the Comptroller General to make a study he has not previously been requested to do. The present law authorizes study and review and perhaps we might indicate this is an appropriate subject for study.

Mr. COHEN. Would the chairman agree to request such a study by the General Accounting Office?

Mr. FOLEY. The gentleman can do that himself. Of course if the Committee on Agriculture asks for it, I will transmit that request to the Comptroller General.

My only concern is establishing a precedent of statutorily directing the Comptroller General to conduct investigations and studies when he has not been given an opportunity to review and act upon a request. The normal way of initiating a General Accounting Office investigation would be to make a request.

Mr. COHEN. Mr. Chairman, if the gentleman will yield further, it seems to me it is a serious matter and it is entirely appropriate for the GAO to conduct a study, and before proceeding with legislation which has been introduced in the other body that we should have the facts. If the committee would request such a study, it seems to me it would be quite appropriate and in accordance with the legislation.

Mr. FOLEY. The General Accounting Office has undertaken investigations on many occasions on request of individual Members of Congress, not just on the request of committees.

I am not aware of any such request having been made. Until the Comptroller General has had an opportunity to review such a request, I question the propriety of directing such a study in the statute.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

I wanted to clarify with the gentleman from Maine that his amendment in no way would make any inference toward suspending of trading in potato futures.

Mr. COHEN. That is true. The only purpose would be to have the General Accounting Office make a study during the next year and file its findings with the Congress. Then when we consider the legislation next year, their findings will be before the Congress.

I would be happy to request such a study if we had the agreement of the committee. If we pass such an amendment, if the General Accounting Office indicates it will be willing to conduct such a study in accordance with the request of any individual member, that would be fine, but it seems to me this is the only proposal we have before us now.

Mr. SYMMS. I would say to the gentleman and members of the committee that in my State and the gentleman's State the trading in potato futures is a very emotional issue, witnessed by the legislation introduced in the other body. I personally think the legislation introduced to ban trading in potato futures would only hurt the small farmers who could use the futures as a hedge in their marketing of potatoes and it is the only alternative to the processor or fresh market the farmer has as a market. If the General Accounting Office would come out with a study which would be fair and shed some light on the matter, there might be less emotionalism on this subject, and I think the gentleman is on the right track. I support his amendment.

Mr. COHEN. I thank the gentleman.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a colloquy with the author of the amendment, the gentleman from Maine (Mr. COHEN).

First of all, for the record, will the gentleman clarify the use of the term "Irish potato" as used in his amendment?

Mr. COHEN. It is a generic term.

Mr. FOLEY. Mr. Chairman, if the gentlewoman would yield, let me just say that it means the best kind.

Mrs. HECKLER. I thank the gentleman and I would have assumed as much.

Further, concerning the unhappiness of the Maine potato growers in the gentleman's State, as a result of their lengthy experience with futures trading in potatoes, I would appreciate further details on this question.

Mr. COHEN. If the gentlewoman will yield, there have been a number of surveys taken of the growers, and a majority of the growers have indicated that they are opposed to a continuing of futures trading, because they feel that the market has been subject to manipulation, and that there have been gross fluctuations in the market itself and a great many abuses have occurred in the past to their detriment. There are those who have been quite successful in the use of the futures trading in order to hedge their potato crops, and protect their investments. But there is a continuing controversy, as I indicated during the general statement I made, and because of the continuing controversies, various measures have been introduced to ban trading altogether. Initially I proposed to suspend trading during the course of the study, but I found out that this would not be permissible in this bill, so I thought that a reasonable alternative would be to have the GAO, which is a highly respected body, make their recommendation to this Congress within 1 year from the enactment of the law and, therefore, we would have a proper foundation to make an intelligent assessment when the matter comes to the Congress.

Mrs. HECKLER. With reference to the problems experienced by the Maine potato growers, I understand that the Idaho potato growers have raised the same concerns, is that correct?

Mr. COHEN. That is right.

Mrs. HECKLER. Therefore this is a national problem.

Mr. COHEN. That is correct.

Mrs. HECKLER. Mr. Chairman, frankly I am persuaded by the gentleman's statement and believe that there is great merit to his proposed amendment. I congratulate the gentleman from

Maine (Mr. COHEN) for bringing this important issue to the floor of the House. I intend to support the gentleman's amendment, because I feel that rather than supporting a total ban on futures trading in this particular commodity, the Congress would be better advised to proceed on the basis of an objective study which would be forthcoming from the GAO as the result of this mandate.

Mr. COHEN. I thank the gentlewoman from Massachusetts (Mrs. HECKLER) for her comments.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maine (Mr. COHEN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 13 of the bill? If not, the Clerk will read.

The Clerk read as follows:

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; LIMITATION ON PUBLICATION OF CERTAIN INFORMATION

SEC. 14. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended by—

(1) inserting in subsection (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing".

(2) striking out in subsection (6) "and to publish".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 14 be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 14?

If not, the Clerk will read.

The Clerk read as follows:

CRIMINAL PENALTIES

SEC. 15. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) inserting before the period at the end of subsection (b) the following: ", or to knowingly violate the provisions of section 4, section 4b, section 4h, or section 40(1) of this Act, or to knowingly make any false or misleading statement of a material fact in any registration application or report filed with the Commission".

(2) striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosection, for any person to violate any provisions of section 4a, section 4c, section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 15 be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 15?

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 17, line 19, delete "(2)" and insert in lieu thereof "(3)"; and

Page 17, delete lines 13 through 18, and insert in lieu thereof the following:

(1) in subsection (a), by striking out "$100,000" and inserting in lieu thereof "$500,000"; and by inserting immediately after the first sentence the following new sentence: "Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a futures commission merchant, or any employee or agent thereof who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution.";

(2) in subsection (b), by striking out "$100,000" and inserting in lieu thereof "$500,000"; and by inserting before the period at the end of subsection (b) the following: ", or to knowingly violate the provisions of section 4, section 4b, section 4h, or section 4o(1) of this Act, or to knowingly make any false or misleading statement of a material fact in any registration application or report filed with the Commission. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual the fine shall not be more than $100,000, together with the costs of prosecution "; and

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, this amendment will bring the criminal penalties enforced by the Commodities Trading Commission in line with those of the Securities and Exchange Commission, by increasing the maximum criminal penalty for a felony committed by an organization from $100,000 to a maximum of $500,000.

Testimony before the subcommittee confirmed that futures trading industry has expanded tremendously so that trading now exceeds something like a trillion dollars, and much of this trading is highly speculative. Obviously, the potential for fraud and abuse in this area has increased as a result.

The impact of fraud in the futures trading industry can be felt not only in agriculture but in our national economy as a whole. The CFTC itself has confirmed through testimony before the subcommittee that there is a need to differentiate between the penalties for misdemeanors and felonies; otherwise there is no deterrent; there is no difference between the two.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding. Just speaking for myself, I have no objection to the gentleman's amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding.

Am I correct in assuming that the only change that the gentleman is making is to increase to $500,000 the penalty where a criminal violation has occurred?

Mr. PANETTA. That is correct.

Mr. MADIGAN. And that fine would be assessed only against an organization? If it were an individual, the fine would not be escalated to $500,000?

Mr. PANETTA. That is correct.

Mr. MADIGAN. Am I also correct in assuming, then, that that provision is the same as the provision in the Securities and Exchange Commission laws?

Mr. PANETTA. It is in line with exactly what the Securities and Exchange Commission now requires.

Mr. MADIGAN. I do not feel we have any objection.

Mr. PANETTA. I thank the gentleman.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. I thank my good friend, the gentleman from California, for yielding.

Mr. Chairman, I rise in support of the amendment. I have been visited by a number of industry officials about this amendment and not all of them are concerned that the Panetta penalties are too high. In fact, this amendment is more limited than the legislative recommendations of the CFTC.

It appears to me that we should make some distinctions in penalties between misdemeanors and felonies. Another important distinction the Panetta amendment makes is that between individuals and organizations. I submit that, as a deterrent, a $500,000 fine is not out of line for some of the wealthy firms, exchanges, and contract markets in this industry.

I believe this is a fair and just, and balanced amendment and urge my colleagues to support it.

Mr. PANETTA. I thank my good friend, the gentleman from Tennessee, chairman of the subcommittee.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments to section 15 of the bill? If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION FOR APPROPRIATIONS

SEC. 16. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the pe-

riod beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years beginning October 1, 1976, and ending September 30, 1981, and not in excess of such sums as may, after the date of enactment of this subsection, be authorized by law for any subsequent fiscal year.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 16 be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 16?

If not, the Clerk will read.

The Clerk read as follows:

REPARATIONS PROCEEDINGS

SEC. 17. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out "registered" in subsection (a) and inserting in lieu thereof "who is registered or should be registered";

(2) striking out "$2,500" in subsection (b) and inserting in lieu thereof "$5,000"; and

(3) striking out "$2,500" in subsection (c) wherever it appears and inserting in lieu thereof $5,000".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 17 be dispensed with, and that it be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 17? If not, the Clerk will read.

The Clerk read as follows:

REGISTERED FUTURES ASSOCIATIONS

SEC. 18. Section 17 of the Commodity Exchange Act is amended by adding a new subsection (n) as follows:

"(n) Notwithstanding any other provision of this Act, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 18 be dispensed with and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to section 18 of the bill?

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: Page 19 between lines 12 and 13, insert the following: The Commodity Exchange Act is amended by adding the following new section:

"SEC. 19. Any person who sells any commodity (as defined in section 2 of this Act) for export shall, within forty-eight hours after such sale, inform the Commission of (1) the date of such sale, (2) the name and full identity of the commodity sold, (3) the quantity of the commodity sold, (4) the name of the buyer and the country or countries to which the commodity is to be shipped, (5) the sale price, and (6) such other information as the Commission may by regulation require. The Commission shall by regulation prescribe the manner in which the above information shall be transmitted. On the first working day following its receipt, such information shall be made available by public announcement and shall remain available for public inspection for a reasonable time thereafter. The Commission shall prescribe regulations to assure that such information shall be disclosed simultaneously to the public and to protect against any person or firm gaining from premature disclosure.".

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, first of all, I want to commend the committee for this legislation. I think the Commodities Exchange Act, passed in 1974, has avoided some major scandals and major abuses that would have occurred. It is not easy to prove that which did not occur, but I am sure that that is a safe statement. This extension is needed, and I think the committee has done a very good job on this bill.

However, I think there are three areas in which potential for great harm still exists; one is in the area of options. I think the committee in the section 2 dealt with options as good as they can be dealt with at the present time. The other is an area of leverage, and I am hopeful before the conference report is passed that perhaps something will be done about leverage contracts.

The other has to do with a continuing problem with regard to double hedging. There are speculative limits and speculative limits for most grain is 3 million bushels, but international traders have ways to avoid speculative limits. They can, for example, fail to hedge their cash positions. Most of them own country elevators and they can simply not hedge their cash positions. They can, on the other hand, uncover some cash positions which they had previously hedged.

They have other ways that are really disturbing. One is that a big grain company with a subsidiary in a foreign country can merely say they are selling some grain and that the buyer is a foreign subsidiary. Then without regard to the speculative limits, they cover the entire amount and call it a hedge.

There is almost no limit to the amount they can hedge in this manner.

If they have some secret information that only they and the state trading company in Russia or somewhere has, they have information that others do not have indicating a change in the market. In that way, if they are getting a 2- or 3-week period to cover the sale, they can "hedge" and transfer back on to the American market at enormous cost the results from selling grain for less than it was really worth, due to the fact that only they and the state trading company in the country knew the real demand and the real value of the grain at that time.

In other words, what they really do, and it has been done several times, they enter into a contract with a state grain company in another country and before Americans know the real demand and the real value of the grain, they go on to our board of trade and hedge there at the lower price than what the grain is really worth, an enormous amount of grain.

In the case of the big Russian wheat sale, they bought 30 million tons, when they knew they only needed 20 million. It was the greatest bargain there ever was. They "hedged" it on our Boards of Trade and the cost was paid by our industry and consumers and then they dumped the excess the next year and hurt our market. But in the end they bought 30 million tons for less than it should have cost them to buy 10 million tons; so after using 20 million tons and selling the excess, they had food in their stomachs and their pockets lined with gold.

This amendment says:

Look, an exporter claims it is hedging, and is able to avoid the speculative limits and put it onto the traders in our country, then they must within 48 hours tell us who their customer is in that foreign country.

I do not think that is an unreasonable requirement.

Now, I will submit, because the information is released a day later, it still gives them about 3 days in which to hedge these sales. They can still hedge a substantial amount of grain in 3 days, but at least it will not be the present situation where they get a chance to hedge, cover, and speculate for about 20 days and transfer great costs onto our markets for about 20 days before Americans know about it.

This kind of provision passed once before in the House. It went to conference in the Senate and was knocked out in the conference. Since then they tried voluntary late reporting, but it is not adequate.

I think the least we can do is reduce the damage that can be done. Just as sure as I am standing here, abuses will occur again and again until we at least let the traders in this country know what the real demand is for the product within 3 days and give them the opportunity to partially reduce the damage that can be done.

A country can have a drought. They can just simply, if they want to, enter into a plan with an exporter trading on our futures market to make some money. The violation would be unprovable or would be in a foreign country, and we could not do anything about it. In one way or another, they could transfer the cost on to people who are using the markets in this country for legitimate purposes.

Mr. Chairman, I urge adoption of the amendment.

Mr. MADIGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand the concern the gentleman from Iowa (Mr. SMITH) is expressing, and it is a concern that I share.

As I understand it, what the gentleman would do is he would actually protect the farmer who is not in a position to engage in all of the speculation that other people are, people who have knowledge that the average farmer does not have. The gentleman from Iowa is ambitious to see that all of this information is made public so that farmers do not sell their commodities for less than what they might actually be worth if the public was aware of what was going on. I think that is a proper concern, and I think there is a proper place in which to express that concern.

However, I suggest to the gentleman from Iowa (Mr. SMITH) and to the members of the committee that this is not that place. The problem that we have presently with the Commodity Futures Trading Commission is that it is already understaffed to do the jobs it has already been charged with the responsibility of doing.

The greatest problem expressed by the representatives of the Commission when they appeared before our subcommittee and our committee is their problem with the Committee on Appropriations in getting adequate money and adequate staff to enforce the laws they are already required to enforce.

Providing them with an additional responsibility is not going to assist the Commission in becoming a good functioning agency.

I would also like to point this out to the gentleman from Iowa and to the members of the committee: The kinds of reports that the gentleman would require to be filed with the Commodity Futures Trading Commission are already required to be filed with the U.S. Department of Agriculture. The proper way to approach this and accomplish what the gentleman would like to do would be, in my opinion, to offer an amendment to a bill dealing with the U.S. Department of Agriculture that would require that Department to release the information that is already being provided to it. That would accomplish the objective the gentleman from Iowa (Mr. SMITH) seeks to accomplish. That would be the proper place in which to engage in this debate.

Mr. Chairman, I respectfully submit that this is not the place to consider this amendment, and that this Commission does not have adequate manpower to engage in a further responsibility such as the gentleman would assign to it.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. First of all, Mr. Chairman, on the question of manpower, we did put the manpower into the appropriation bill which passed the House. They are going to have the manpower.

Second, the CFTC is the agency that needs this information in order to adequately perform the other duties it has. To file the information with the Department of Agriculture and have it become known 20 days later is nice for historical purposes, but it does not do much to remedy the problem that grain traders as well as farmers have with getting information too late that a foreign country and one of our big grain companies already have.

So this, I think, is the appropriate place for the amendment. We could abolish the requirement to file down in the Department of Agriculture, and all it would do would be to deny them a little of their historical data they print, but that would not do much else.

Mr. MADIGAN. Mr. Chairman, I appreciate the gentleman's suggestion, but I continue to believe that the proper course of action would be to discuss whether or not the Department of Agriculture should be required to release that information which it is already collecting and which is already required by law to be reported to it.

Mr. FOLEY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I have the greatest respect for the distinguished gentleman from Iowa (Mr. SMITH). There are many issues involving agriculture on which we agree, but there are instances in which we do not.

I do agree with the gentleman from Illinois (Mr. MADIGAN) that H.R. 10285 is not a proper bill on which to attach this amendment. The Department of Agriculture has under way a study of the need to revise the reporting requirements of sales of agricultural commodities, and it is required under other legislation recently reported by the Committee on Agriculture to conclude that study promptly and submit its report to the Congress.

Mr. Chairman, I would hope we would not place this particular requirement in the bill at this time, and I urge my colleagues to vote "no" on the amendment.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. GRASSLEY. Mr. Chairman, I hope the Members will consider the content of the rhetoric regarding this amendment, not just the specific language of the amendment, because nobody seems to really find any fault with the language of the amendment. The same thing can be said about other amendments which tried to accomplish the goals this amendment seeks that have been brought up in the Committee on Agriculture earlier this year.

Mr. Chairman, we constantly hear sympathy expressed for what we are trying to do or we constantly hear, "Well, it ought to be done, but not now. We ought to have a study and see how that study comes out." Or that it ought to be done on some other bill or with some other agency. That is all we ever hear about this amendment. Nobody ever attacks what the gentleman from Iowa (Mr. SMITH) is trying to do or what anybody else tries to do along this line, but the opposition always tries to delay it or they have some other objection. That tells me that what the gentleman from Iowa (Mr. SMITH) is trying to do is good and that he is on the right track.

Although I did not hear it myself because I was not a Member of Congress then, I have read the history of the previous attempts to do this sort of thing, and 4 or 5 years ago the same rhetoric took place, particularly, "Let the Department of Agriculture study it."

The Department of Agriculture said in 1973, when present reporting requirements were put on the books, "Well, let us wait awhile."

And then the bill was passed anyway, and they started to do it. Now attempts to close loopholes have been met with the same argument: "Well, let's wait a little while before we do it."

Mr. Chairman, the time has come. In May 1977, there was a General Accounting Office report that went into great depth recommending some of these things be done that the gentleman from Iowa (Mr. SMITH) is trying to accomplish.

If for no other reason, if you talk to your farmers back home about this amendment, you should support it. You cannot talk to very many until you find out that they are just filled with the intuition that people who are connected with the big grain companies or with the Department of Agriculture know more of what is going on in the grain trade than the individual farmer does. The producers and marketers of their products feel they ought to have this information, the same way that the insiders with the grain companies and the insiders of the Department of Agriculture have it. All the gentleman from Iowa (Mr. SMITH) is trying to do with this amendment is to get this information out—maybe not solely for the reason to make it public even though that is a worthy goal, but more importantly so the impact of those sales is made on the market more immediately.

So I suggest to the Members that they just ask their farmers back in their district what those farmers think about getting more of this information out, and the Members will find that the farmers think they are as much entitled to this information as anybody connected with the grain trades or the Department of Agriculture.

Mr. Chairman, the only people in opposition to this, as was brought out in the hearings which were held by the Department Operations subcommittee, are those connected with the big grain companies. I would assume, although they did not testify, probably the speculators are opposed to it because they are the people today who profit when the farmers do not have this information.

Mr. Chairman, the reporting principle has been established since existing law was enacted in 1973. The only question to decide today is whether we want to make reporting work, whether we want to make it effective, and whether we want to make it meaningful. That is what the Smith of Iowa amendment does to the existing law. The practical effect is to make reporting timely and to make

it complete. The problem is, as the gentleman from Iowa (Mr. SMITH) said, the foreign subsidiaries of American domestic corporations do not have to report their export sales, nor do American subsidiaries of foreign grain companies, and that makes a big loophole in existing law and hence we do not have a complete picture of export sales. Either we ought to make the existing reporting requirements effective, or we should wipe them all off the books. But nobody is suggesting that, not even the Department of Agriculture which four or five years ago objected to what is now on the books.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GRASSLEY) has expired.

(By unanimous consent, Mr. GRASSLEY was allowed to proceed for 2 additional minutes.)

Mr. GRASSLEY. Mr. Chairman, last January, February and the early part of March we had large numbers of farmers in Washington, D.C.; and they wanted many things, but one of the concerns that was commonly heard from those farmers, and not one that they were really asking us to respond to immediately, was the general feeling that there just is not adequate information available on export sales of grain.

They referred to the Russian wheat sale. The Members remember what happened last year. The Russians knew that they were going to be 30 million metric tons short in production because of dry weather. They bought in August when our prices were at the lowest level possible. They borrowed Eurodollars at a low level to pay for those grain purchases.

Then when they finally had their sales made, they reported they were 30 million metric tons short. That, of course, impacted on the market too late, and the farmers in America who had sold at those low prices just did not know the facts timely and thus suffered financially.

Mr. Chairman, the farmers are entitled to that which this amendment makes possible more accurate information; but most specifically, we are talking about closing a loophole so as to make existing law effective. There is no better way in which to do it than through the Commodity Futures Trading Commission and through the approach suggested by the gentleman from Iowa (Mr. SMITH) here today.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided, and there were—ayes 14, nos 7.

RECORDED VOTE

Mr. FOLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 125, not voting 34, as follows:

[Roll No. 599]

AYES—273

| | | |
|---|---|---|
| Abdnor | Flynt | Neal |
| Addabbo | Ford, Mich. | Nedzi |
| Ambro | Fountain | Nichols |
| Ammerman | Fowler | Nix |
| Andrews, N. Dak. | Frenzel | Nolan |
| Applegate | Fuqua | Oakar |
| Archer | Gammage | Oberstar |
| Aspin | Garcia | Obey |
| Baldus | Gaydos | Ottinger |
| Baucus | Gephardt | Panetta |
| Bauman | Gibbons | Patten |
| Beard, R.I. | Gilman | Patterson |
| Beard, Tenn. | Ginn | Pattison |
| Bedell | Glickman | Pease |
| Beilenson | Goodling | Pepper |
| Benjamin | Gradison | Perkins |
| Bennett | Grassley | Pickle |
| Bevill | Green | Pike |
| Biaggi | Gudger | Pressler |
| Blanchard | Hamilton | Preyer |
| Blouin | Hanley | Price |
| Boland | Harkin | Pursell |
| Bonior | Harrington | Rahall |
| Breaux | Harris | Railsback |
| Breckinridge | Hawkins | Rangel |
| Brinkley | Heckler | Regula |
| Brodhead | Hefner | Reuss |
| Broomfield | Heftel | Richmond |
| Brown, Calif. | Holland | Rinaldo |
| Brown, Mich. | Holt | Robinson |
| Broyhill | Holtzman | Roe |
| Burgener | Horton | Rogers |
| Burke, Calif. | Huckaby | Roncalio |
| Burke, Fla. | Hyde | Rosenthal |
| Burke, Mass. | Ichord | Rostenkowski |
| Burlison, Mo. | Ireland | Runnels |
| Burton, Phillip | Jacobs | Russo |
| Byron | Jeffords | Santini |
| Carney | Jenkins | Satterfield |
| Carr | Jones, N.C. | Scheuer |
| Carter | Jones, Okla. | Schroeder |
| Cavanaugh | Kastenmeier | Schulze |
| Cederberg | Kelly | Sebelius |
| Chappell | Keys | Seiberling |
| Chisholm | Kildee | Sharp |
| Clausen, Don H. | Kindness | Sikes |
| Cleveland | Kostmayer | Simon |
| Cohen | Lagomarsino | Skubitz |
| Coleman | Leach | Slack |
| Collins, Tex. | Lederer | Smith, Iowa |
| Conte | Lehman | Smith, Nebr. |
| Cornell | Levitas | Snyder |
| Cornwell | Livingston | Solarz |
| Coughlin | Lloyd, Tenn. | Spellman |
| D'Amours | Long, La. | Spence |
| Daniel, Dan | Long, Md. | St Germain |
| Daniel, R. W. | Lujan | Staggers |
| de la Garza | Luken | Stangeland |
| Delaney | Lundine | Steed |
| Dellums | McCloskey | Steers |
| Dent | McDade | Stratton |
| Derrick | McEwen | Studds |
| Derwinski | McFall | Taylor |
| Dickinson | McHugh | Thone |
| Diggs | McKinney | Traxler |
| Dingell | Mann | Treible |
| Dornan | Markey | Tucker |
| Drinan | Marks | Udall |
| Duncan, Tenn. | Marlenee | Van Deerlin |
| Eckhardt | Marriott | Vander Jagt |
| Edgar | Martin | Vanik |
| Edwards, Ala. | Mathis | Vento |
| Edwards, Calif. | Mattox | Volkmer |
| Edwards, Okla. | Mazzoli | Walgren |
| Eilberg | Mikulski | Walker |
| Emery | Mikva | Watkins |
| English | Miller, Calif. | Waxman |
| Ertel | Miller, Ohio | Weaver |
| Evans, Colo. | Minish | Weiss |
| Evans, Ga. | Mitchell, N.Y. | Whitehurst |
| Evans, Ind. | Moakley | Whitley |
| Fary | Moffett | Wilson, Bob |
| Fascell | Mollohan | Wilson, C. H. |
| Fenwick | Moorhead, Calif. | Wolff |
| Fish | Moorhead, Pa. | Wydler |
| Fisher | Moss | Yates |
| Fithian | Mottl | Yatron |
| Flippo | Murphy, Pa. | Young, Alaska |
| Flood | Murtha | Young, Fla. |
| Florio | Myers, Gary | Young, Mo. |
| | Myers, Michael | Zablocki |
| | | Zeferetti |

NOES—125

| | | |
|---|---|---|
| Akaka | Ashley | Bolling |
| Anderson, Calif. | AuCoin | Bonker |
| Anderson, Ill. | Badham | Bowen |
| Andrews, N.C. | Bafalis | Brademas |
| Annunzio | Barnard | Brooks |
| Ashbrook | Bingham | Brown, Ohio |
| | Boggs | Burleson, Tex. |
| Burton, John | Johnson, Colo. | Risenhoover |
| Butler | Jones, Tenn. | Roberts |
| Cochran | Jordan | Rooney |
| Conable | Kazen | Rousselot |
| Corcoran | Kemp | Roybal |
| Corman | Krebs | Rudd |
| Crane | Krueger | Ruppe |
| Cunningham | LaFalce | Ryan |
| Devine | Latta | Sawyer |
| Dicks | Lent | Shuster |
| Dodd | Lloyd, Calif. | Sisk |
| Downey | Lott | Skelton |
| Duncan, Oreg. | McClory | Stanton |
| Erlenborn | McCormack | Steiger |
| Evans, Del. | McDonald | Stockman |
| Findley | McKay | Stokes |
| Foley | Madigan | Stump |
| Ford, Tenn. | Mahon | Symms |
| Forsythe | Metcalfe | Thompson |
| Goldwater | Michel | Thornton |
| Gonzalez | Milford | Treen |
| Gore | Mineta | Ullman |
| Guyer | Montgomery | Waggonner |
| Hagedorn | Moore | Walsh |
| Hall | Murphy, Ill. | Wampler |
| Hammer-schmidt | Murphy, N.Y. | White |
| Hannaford | Myers, John | Whitten |
| Hansen | Natcher | Wiggins |
| Harsha | Nowak | Wilson, Tex. |
| Hightower | O'Brien | Winn |
| Hillis | Pettis | Wirth |
| Hollenbeck | Poage | Wright |
| Hubbard | Pritchard | Wylie |
| Hughes | Quayle | Young, Tex. |
| Johnson, Calif. | Quillen | |
| | Rhodes | |

NOT VOTING—34

| | | |
|---|---|---|
| Alexander | Flowers | Mitchell, Md. |
| Armstrong | Fraser | Quie |
| Buchanan | Frey | Rodino |
| Caputo | Giaimo | Rose |
| Clawson, Del | Howard | Sarasin |
| Clay | Jenrette | Shipley |
| Collins, Ill. | Kasten | Stark |
| Conyers | Le Fante | Teague |
| Cotter | Leggett | Tsongas |
| Danielson | Maguire | Whalen |
| Davis | Meeds | |
| Early | Meyner | |

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Shipley against.

Mrs. Meyner for, with Mr. Teague against.

Messrs. MADDOX, COLEMAN, ENGLISH, BEARD of Tennessee, and GAMMAGE changed their vote from "no" to "aye."

Mr. LATTA and Mrs. BOGGS changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE

SEC. 19. Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1978.

Mr. FOLEY (during the reading). Mr. Chairman, was the Clerk reading section 19?

The CHAIRMAN pro tempore. Yes, he was.

Mr. FOLEY. Mr. Chairman, I ask unanimous consent to return to section 1.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LEVITAS. Reserving the right to object, Mr. Chairman, I would like to find out the purpose, if this unanimous consent request is granted.

Mr. FOLEY. Mr. Chairman, I ask unanimous consent to return to section 1 for the purpose of considering an amendment which is at the desk.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Reserving the right to object, Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. LEVITAS. Mr. Chairman, if the unanimous-consent request is granted and the amendment is considered and disposed of, would it then be in order for a Member to seek recognition either for the purpose of offering another amendment at the end of section 19 or to make an offer of a pro forma amendment?

The CHAIRMAN pro tempore. An amendment at the end of the bill will still be in order.

Mr. LEVITAS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ASHBROOK. Reserving the right to object, Mr. Chairman, I make a reservation of objection. Just as a matter of standard operating procedure a request of this type, this rarely happens. I know I have requested it on occasion. I have never been granted permission to return. I do not know why the rules ought to be set aside in this particular instance.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield. I made no objection, as bill manager, to the reconsideration of sections. In the case of the request of the gentleman from Indiana (Mr. FITHIAN) there was no objection.

Mr. ASHBROOK. Further reserving the right to object, I wonder what pearl we have uncovered late in the day that we did not know at the time this section was open for amendment.

Mr. FOLEY. If the gentleman will yield further, I will be glad to inform the gentleman. The committee bill contains a provision that prohibits any official of the Commission, or any commissioner, from appearing for a period of 1 year before the Commission if that employee had a grade level of GS–16 or higher, except in matters where he is under subpena or matters relating to personal circumstances. I was informed during the course of this bill—in fact, I was not aware of it—that the Senate passed bill has a very similar provision barring any GS–15 or above from appearing before the Commission for a year.

My personal judgment is that these restrictions, so-called revolving door restrictions, are too severe and will inhibit the Commission from obtaining qualified personnel.

The amendment I would offer would bar for one year any person holding a confidential or policy position for that Commission, but would not go so far as the language of the bill and thus allow the matter to be considered in conference.

Mr. ASHBROOK. Mr. Chairman, further reserving the right to object, because of the explanation of my colleague and because I know the gentleman is not the type of colleague who in other times and places has objected to similar requests, I will forego my inclination to object.

Mr. Chairman, I withdraw my reservation of objection.

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Ohio.

Mr. Chairman, I might say, I took some effort to notify those who might be particularly interested in this amendment so they could be on the floor at the time of the unanimous-consent request.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

There was no objection.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, since the unanimous consent request has been granted, I now offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY: Amend section 1(10) of H.R. 10285 by adding on page 4, line 6, after the word "higher," the following: "in a position excepted from the competitive service by reason of being of a confidential or policymaking character".

Mr. FOLEY. Mr. Chairman, the committee adopted a subcommittee amendment which, in effect, says that if any employee has a GS–16 rating or above, that employee cannot appear before the Commission in any representative capacity for a year following the termination of employment, except appearances in response to a subpena or of a purely personal nature.

The Senate apparently has a provision in the Senate bill which is almost exactly the same, except it is slightly more rigorous. It says GS–15 or above.

Mr. Chairman, this is a Commission that is dealing with some of the most complicated economic transactions that are carried on in our economy and in an area of economic activity which is expanding at an exponential rate, with contracts in a value of more than $1 trillion having been negotiated last year. The Commission is struggling to develop a competent, responsible, regulatory program. In that context, they need the most able assistance in terms of technical employees that they can obtain. People of ability in this field are not obtained on every street corner. Indeed, I think I would just state the obvious, that all members of our committee and Members of the House have struggled to understand some of the complications of this legislation. We know that the field is complicated. Lawyers, economists, statisticians, accountants and others are needed to carry on its highly sophisticated and important work.

The committee amendment seeks to avoid the so-called revolving door, but in the process of denying for a year the opportunity of an employee who has left the Commission, to represent another employer before the Commission, we place a special mortgage on the ability of this employee to earn a living in his field of expertise. This amendment creates the danger that the most competent and available people, particularly young lawyers and young economists, will not want to accept employment with the Commission for fear they will be too heavily encumbered later on when they are ready to make a change and go into a private career. In that case the Commission and the public will lose by being denied the services of the most able people.

For example, if we had rules that assistant attorneys general or assistant deputy prosecutors could not appear in criminal or civil cases involving a public body for a year after their service, we would have a great deal of difficulty getting the competence that we have in public law today.

What I would like to do by this amendment is to provide that if someone held a confidential or policymaking position excepted from the competitive service that person would be barred for a year; but those who are in the same pay class who do not have any such policymaking responsibility should not be excluded for a year simply because they are economists or statisticians or members of some other related profession.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman's amendment is an excellent one. I have had an opportunity on this side to review it, and I urge that the committee support the amendment.

Mr. FITHIAN. Mr. Chairman, it is with reluctance that I rise to oppose the amendment offered by the distinguished chairman of the Committee on Agriculture, but I do feel it is absolutely imperative that the House understand what is at stake here.

The subcommittee has debated this matter long and hard. The subcommittee carried this provision in the bill. It was then taken to the full committee, where it was discussed thoroughly, and the full committee carried this provision.

We may be criticized because we did not go far enough. The other body went much beyond where the House went in terms of prohibiting a person who has had knowledge and has worked in a sensitive agency like this from going back to work for a company and then returning to represent that company before the agency.

The distinguished committee chairman raises the question of whether one who is so encumbered would be hired. I would point out to my colleagues that the essence of the provision that is in the bill does not provide that they cannot be hired. It simply says that they cannot return to the Commission and represent their company before their former colleagues, either in written or oral form. That is the essence, that is the context of it.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield to the committee chairman.

Mr. FOLEY. Mr. Chairman, I think the gentleman misunderstood my concern. My concern is that someone who faces an inhibition of this kind will not join the Commission in the first instance, and that he or she will decide to go into the

private firms to begin with. My concern is that they would not want to give their public service and then have to suffer for it later on.

Mr. FITHIAN. Mr. Chairman, I thank the gentleman for his comment, but I thoroughly disagree with it.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, it seems to me that is exactly what we are getting at. It seems to me we do not want a person to go to work for the CFTC with the idea that after the service is completed, that person can then go back and represent people before the CFTC. If what we are doing by this provision is discouraging people who would do that from joining the CFTC, it seems to me that is exactly what we would like to do.

It is my feeling that we would not want to hire attorneys who are going to work for the CFTC, expecting that this experience will help them secure future clients who desire favorable treatment from the CFTC.

Mr. FITHIAN. Mr. Chairman, if I may proceed, let me explain how pernicious this kind of revolving door practice really is in our Government today.

Of the 11 regulatory agencies studied, 48 percent of the commissioners who left Government during the fiscal years, 1971 to 1975, went to work for the very industries they regulated or the law firms of the industries they regulated. Five of the six FTC commissioners appointed to the FTC, for example, came from companies that were regulated by the FTC, 11 out of 12 lawyers who left the General Counsel's Office at the Federal Drug Administration have gone to work for the regulated companies or the law firms of those regulated companies.

Obviously, then, those enterprises which hire a person who comes from the inner sanctum of one of these sensitive agencies do have an advantage over companies that do not hire such people.

Obviously, if you wanted to really close the door, you would say they could not take employment. We have not gone that far. We have said you cannot take employment and return to the Commission, before your former colleagues. That is all. You can take employment, you can sit down and counsel junior colleagues, and all of the rest. You simply cannot appear before the Commission to argue your case verbally.

Mr. FOLEY. Mr. Chairman, I would point out that my amendment would bar a former commissioner from appearing before the CFTC for 1 year. Those in the inner sanctum who do hold positions of a confidential or policymaking character which are excepted from the competitive service would be barred. But my amendment would not bar a lawyer who does not have a policymaking role. We do not want to discourage such a person.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(On request of Mr. FOLEY and by unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, let me just say—because I think this ought to be clearly stated in the record—that I could not disagree more with my distinguished friend, the gentleman from Iowa (Mr. BEDELL). I think we ought to understand that most public agencies are able to get the high quality talent they enjoy because young professionals enter Government service confident that if they do not want to continue in Government service until they retire they are free to leave. What the gentleman from Iowa proposes is that nobody should be hired unless he pledges to remain until retirement and not to go back to private enterprise or private professional life. We could not get the high caliber people we presently have serving the public as assistant attorneys general, as U.S. attorneys, deputy prosecutors in State government and in the other professions, if we had a rule that barred them for any appreciable time from using their professional talents in private enterprise. The concern that I have is that, if we adopt such a rule, we will not get the talent which is so important to the competent and effective conduct of public business.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, it seems to me that I should have a chance to explain to the chairman of the committee, because I think the chairman of the committee has misunderstood my intention.

The bill really says that for a period of 1 year certain employees of the CFTC will not appear before the Commission or furnish written testimony directly to the Commission.

My opinion is that if people are coming to the Government with the idea that when they do they are going to serve for a while with an eye toward enhancing their chances of subsequently serving clients for whom they can get special consideration from the Government, we are better off if we hire people who do not take jobs for that reason. I do not believe for 1 minute that we should try to say, as the chairman has indicated, that we believe people should have to permanently stay with the Government when they come, or that they should not come to the Government if they do not ever expect to go back to private industry.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(On request of Mr. FOLEY and by unanimous consent, Mr. FITHIAN was allowed to proceed for 1 additional minute.)

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, I think what I want the gentleman to understand is that many people go not only into Government service but also into private corporations or business in order to gain expertise that they may use in a different way. All I am saying is that there is nothing wrong with that. There is nothing wrong with people developing and becoming better professionals as a result of experience gained either in public service or private employment so long as there is no conflict of interest.

But the gentleman's amendment does not deal with conflict of interest. What the gentleman's amendment does is to bar people simply because they happened to hold a particular pay grade. That has nothing to do with whether they had responsibilities of a confidential or policymaking character. And that is the reason I am trying to amend this amendment to deal more directly with situations in which there is a potential or possibility of conflict of interest. I might note at this point that my amendment may have been construed by some to bar appearance of former CFTC employees before the Commission merely because they held supervisory positions with the CFTC. That is not the intent of the amendment. My amendment would bar for 1 year appearance before the Commission of a former CFTC employee who held a position at grade GS–16 or higher which was excepted from the competitive service by reason of being of a confidential or policymaking character. Such positions might or might not be supervisory positions. A former CFTC supervisor would not be barred unless he or she held a position of grade GS–16 or higher which was excepted from the competitive service by reason of being of a confidential or policymaking character.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(On request of Mr. BEDELL and by unanimous consent, Mr. FITHIAN was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. Mr. Chairman, if I may engage the distinguished chairman in a colloquy in order to ask a question, does not the bill now simply provide that for only 1 year after their departure, they cannot return and represent their new employer before the Commission, in writing or orally?

Mr. FOLEY. If the gentleman will yield, Mr. Chairman, that is what bothers me.

Mr. FITHIAN. If I may add, let me explain the understanding of the gentleman from Iowa and my understanding when we put this in the bill. It was our thought and the thought of the majority of the subcommittee and of the full committee that during 1 year after one's departure as a GS–14, a GS–15, or whatever, he might carry information with him that would be to the enormous economic advantage of his prospective employer, and that probably within that 1 year, that sensitive information would be of economic usage, and then they could continue to represent the new employer before the Commission. That is the whole

thought behind the amendment as I understand it.

Mr. FOLEY. I will just tell the gentleman that if the thought is that a Commission employee is going to carry out secrets, State secrets, so to speak, and tell them to somebody outside of the Commission, then the gentleman's amendment does not have anything to do with that. It has to do with representation before the Commission at public hearings.

If they are going to deal in secrets, whether they are working for the Commission or in private business, this amendment is not directed to that problem.

Mr. FITHIAN. I would remind the chairman, a distinguished lawyer himself, that one would much better represent his client if he had that kind of information. This is exactly what this amendment is trying to do away with.

Let me make one more point. I would remind the House that late yesterday afternoon a discussion of this section of the bill occurred. I did not object to returning to this because the distinguished chairman allowed me to return to an earlier section; but I do want to remind the House that this was discussed with the gentleman from Iowa in a colloquy among him, myself, and the distinguished chairman.

I would now like to explain why we are coming back to this matter. We are coming back, in my judgment, because the Senate has passed a more strenuous measure. We have now passed or are about to pass the House version. Therefore, the conference which the chairman will preside will have to decide between those two versions, so we are now attempting here to back away from the restraints we put into our bill so that in conference with the Senate, we will not be restrained with respect to any of those matters.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the key issue here is weighing the public interest to be served by the prohibition against the revolving door versus the right of individuals to pursue their careers.

Obviously there is some interest in preventing some people from going right out of Government into either a law practice or into private enterprise in which they can use their information to work miracles for their clients.

Mr. Chairman, at what level should an employee be prevented from doing this? Is that a GS–11, a GS–12, a GS–13, a GS–14, a GS–15, or a GS–16?

The Senate has said it is GS–15. The House has said it is GS–16.

I think the point made by the chairman of the committee is that none of these figures is any criterion at all. The key issue is, At what level is policymaking, and what level influences the activities and policies of the Commission?

The chairman has chosen to say that it is the GS–16, providing there are these policymaking and confidential functions accompanying that job.

By the way, Mr. Chairman, I think the language the chairman proposes to offer is roughly comparable to the language in H.R. 1, which is the Ethics in Government Act.

Mr. Chairman, that is the second point I wish to make. There is no reason to make the CFTC entirely different from every other agency in Government. What I am saying is that we need to have some consistency in the process and some fairness in the process, too.

Mr. Chairman, let me add one more point. Let me tell the Members what the effect of all this is. The effect of the bill is to prevent anybody from going into a law firm or a business in which they will have any dealings with the Commission for 1 year. That is pretty straight—any dealings with the Commission for 1 year.

Mr. Chairman, I call this the Arnold and Porter or Covington and Burling amendment, because what this essentially means is that an individual who is a GS–16, with no policymaking role, could go to work for Arnold and Porter, and they could shove him back into some corner where he would not have to have any contact with the Commission, but he could not go back to Wichita, Kans., to Peoria, Ill., or Albuquerque, N. Mex., and immediately open up his own law practice and represent people on commodities issues, the livelihood he has dealt with all of his life.

Mr. Chairman, my point is that at some level we ought to prevent that person from even doing that.

I think the level which the chairman has proposed, which is a GS–16 with policymaking or confidential roles, is the appropriate fair level to do it, rather than just an absolute prohibition against some arbitrary figure of GS level.

I would like to mention one more point. The gentleman from Indiana talks about the Senate bill, which says in effect, "At GS–15 you are stuck. You have to abide by it." Our bill says GS–16. I am saying that in terms of the conference, if we go with GS–16, with the language the chairman submits, I think that is a much more responsible place from which to deal in the conference committee.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to agree entirely with the gentleman in the well and with the chairman of the committee. I think it is the most misconceived idea in the world to block talented young persons from moving into the private sector after being in the public sector. The policy discourages talented people from going into Government at all. It completely defeats the basic intent of these kinds of measures.

What they were really intended to do is to stop top policymakers who had received confidential information and who had special influence from moving from Government to business. These measures do not work toward this goal if they discourage talented young people of character and ability from going into Government in the first place.

Suppose we had this sort of rule with respect to Supreme Court law clerks; how many young men and women of top caliber from our law schools would ever serve as law clerks for Supreme Court Justices if they could not thereafter for a period of 1 year practice in an area dealt with by the Court during their tenure? This absolutely reverses the purpose that has been enunciated as the justification for such provisions.

Mr. GLICKMAN. I thank the gentleman.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, reading in this section, I would like to know if the gentleman could tell me what the penalty is, for instance, if I am a former employee, a GS–16 or above, and I have sent a letter to the Commission within that year—what is the penalty?

Mr. GLICKMAN. I do not see any.

Mr. VOLKMER. I do not see any at all. So, what are we really arguing about? We do not have anything here.

Mr. GLICKMAN. That is not true, because it will probably become part of the Commission's own rules and regulations.

Mr. VOLKMER. The Commission could make rules and regulations, but this does not.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas has expired.

(At the request of Mr. FOLEY and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 1 additional minute.)

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I would advise the gentleman from Missouri (Mr. VOLKMER) that the criminal penalty section of the bill provides that there shall be a misdemeanor penalty for violating section 8(b), which is the section involved. It is a misdemeanor punishable by 1 year in jail or a $1,000 fine.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment offered by the distinguished chairman of the committee, the gentleman from Washington (Mr. FOLEY). I am not a distinguished trial lawyer, as most of the participants in this debate are, but I feel very strongly that we are moving too far in the direction of restricting the career options of our best people in government. I object to that very strongly. This amendment will help to correct that tendency in the current bill. I therefore urge its approval.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY).

The amendment was agreed to.

● Mr. FRASER. Mr. Chairman, I supported Representative BALDUS' amendment to the Commodity Exchange Act Extension legislation we are considering today, H.R. 10285.

In 1974, Congress passed the Commodity Futures Trading Commission Act which gave exclusive jurisdiction to the Commodity Futures Trading Commission over commodities and related transactions and preempted any meaningful State enforcement rights. The intent was to prohibit State securities administrators from enforcing securities antifraud provisions under state law. The result has been that many fraudulent schemes in the commodities area are being pushed on the public since the Commission lacks the adequate staff and other resources needed to enforce the existing Federal law.

Since the law was passed, the CFTC has had a poor record of enforcement due to the lack of staff and other resources to monitor the industry to uncover fraudulent activity and to seek arrests and prosecutions in a timely manner. Also, in light of current budgetary constraints, it is unlikely Congress will ever give the CFTC the resources it requires to protect the public and prosecute violators of the 1974 act.

We have the remedy for the problem in our midst. The States not only already possess the ability to uncover fraudulent activity and seek prosecution through their attorneys general and securities commissioners, they have actively sought the authority to do so.

The Baldus amendment would rectify the situation by allowing States to enforce all of their antifraud laws, including securities laws, against fraud involving commodities or related transactions. The States want the authority so they can effectively protect their residents from illegal commodity option schemes. We should not expand the Federal sector when States are willing and capable of doing the job.

Under the amendment before us, States would be allowed to pass and enforce laws identical to four subsections of the CFTC Act—4b, c, d, and o—and to section 217 of the act. It requires that State civil and criminal penalties cannot exceed those provided for by the Federal law. The futures industry will be protected under the amendment by requiring that Federal example will be controlling, by giving the CFTC the right to intervene in cases, and by exempting violations on the boards of trade and on contract markets.

The amendment is supported by the National Farmers Union, the National Farmers Organization, the National Conference of State Legislatures and the North American Securities Administrators Association.

I urge that my colleagues support the Baldus amendment.

The telegram that follows was sent by John Larson, Minnesota Commissioner of Securities, in support of the amendment:

ST. PAUL, MINN., *July 20, 1978.*

Congressman DONALD FRASER,
*Rayburn Office Building,*
*Washington, D.C.:*

H.R. 10285, concerning the reauthorization of the Commodity Futures Trading Commission, will be considered on the House floor shortly. Congressmen Baldus and Heckler will propose an amendment which would allow State officials to assist the CFTC in enforcement matters only. Such assistance is consistent with the Federal law and is vital to a legitimate commodities market. For reasons communicated previously, I urge your support of the Baldus-Heckler amendment.

JOHN R. LARSON,
*Commissioner of Securities, Department of Commerce, State of Minnesota.*●

The CHAIRMAN pro tempore. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. MCHUGH, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10285) to extend the Commodity Exchange Act, as amended, for 4 years, pursuant to House Resolution 1221, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 401, nays 6, not voting 25, as follows:

[Roll No. 600]

YEAS—401

| | | |
|---|---|---|
| Abdnor | Anderson, Calif. | Annunzio |
| Addabbo | Anderson, Ill. | Applegate |
| Akaka | Andrews, N.C. | Archer |
| Alexander | Andrews, N. Dak. | Ashbrook |
| Ambro | | Ashley |
| Ammerman | | Aspin |
| AuCoin | Ertel | Livingston |
| Badham | Evans, Colo. | Lloyd, Calif. |
| Bafalis | Evans, Del. | Lloyd, Tenn. |
| Baldus | Evans, Ga. | Long, La. |
| Barnard | Evans, Ind. | Long, Md. |
| Baucus | Fary | Lott |
| Bauman | Fascell | Lujan |
| Beard, R.I. | Fenwick | Luken |
| Beard, Tenn. | Findley | Lundine |
| Bedell | Fish | McClory |
| Beilenson | Fisher | McCloskey |
| Benjamin | Fithian | McCormack |
| Bennett | Flippo | McDade |
| Bevill | Flood | McEwen |
| Biaggi | Florio | McFall |
| Bingham | Flynt | McHugh |
| Blanchard | Foley | McKay |
| Blouin | Ford, Mich. | McKinney |
| Boggs | Ford, Tenn. | Madigan |
| Boland | Forsythe | Mahon |
| Bolling | Fountain | Mann |
| Bonior | Fowler | Markey |
| Bonker | Frenzel | Marks |
| Bowen | Fuqua | Marlenee |
| Brademas | Gammage | Marriott |
| Breaux | Garcia | Martin |
| Breckinridge | Gaydos | Mathis |
| Brinkley | Gephardt | Mattox |
| Brodhead | Giaimo | Mazzoli |
| Brooks | Gibbons | Metcalfe |
| Broomfield | Gilman | Meyner |
| Brown, Calif. | Ginn | Michel |
| Brown, Mich. | Glickman | Mikulski |
| Brown, Ohio | Goldwater | Mikva |
| Broyhill | Gonzalez | Milford |
| Burgener | Goodling | Miller, Calif. |
| Burke, Calif. | Gore | Miller, Ohio |
| Burke, Fla. | Gradison | Mineta |
| Burke, Mass. | Grassley | Minish |
| Burleson, Tex. | Green | Mitchell, Md. |
| Burlison, Mo. | Gudger | Mitchell, N.Y. |
| Burton, John | Guyer | Moakley |
| Burton, Phillip | Hagedorn | Moffett |
| Butler | Hall | Mollohan |
| Byron | Hamilton | Montgomery |
| Caputo | Hammer-schmidt | Moore |
| Carney | Hanley | Moorhead, Calif. |
| Carr | Hannaford | Moorhead, Pa. |
| Carter | Harkin | Moss |
| Cavanaugh | Harrington | Mottl |
| Cederberg | Harris | Murphy, Ill. |
| Chappell | Harsha | Murphy, N.Y. |
| Chisholm | Hawkins | Murphy, Pa. |
| Clausen, Don H. | Heckler | Murtha |
| Clay | Hefner | Myers, Gary |
| Cleveland | Heftel | Myers, John |
| Cochran | Hightower | Myers, Michael |
| Cohen | Hillis | Natcher |
| Coleman | Holland | Nedzi |
| Conable | Hollenbeck | Nichols |
| Conte | Holt | Nix |
| Conyers | Holtzman | Nolan |
| Corcoran | Horton | Nowak |
| Corman | Hubbard | O'Brien |
| Cornell | Huckaby | Oakar |
| Cornwell | Hughes | Oberstar |
| Coughlin | Hyde | Obey |
| Cunningham | Ichord | Ottinger |
| D'Amours | Ireland | Panetta |
| Daniel, Dan | Jacobs | Patten |
| Daniel, R. W. | Jeffords | Patterson |
| de la Garza | Jenkins | Pattison |
| Delaney | Johnson, Calif. | Pease |
| Dellums | Johnson, Colo. | Pepper |
| Dent | Jones, N.C. | Perkins |
| Derrick | Jones, Okla. | Pettis |
| Derwinski | Jones, Tenn. | Pickle |
| Devine | Jordan | Pike |
| Dickinson | Kastenmeier | Poage |
| Dicks | Kazen | Pressler |
| Diggs | Kelly | Preyer |
| Dingell | Kemp | Price |
| Dodd | Keys | Pritchard |
| Dornan | Kildee | Pursell |
| Downey | Kindness | Quayle |
| Drinan | Kostmayer | Quillen |
| Duncan, Oreg. | Krebs | Rahall |
| Duncan, Tenn. | Krueger | Railsback |
| Eckhardt | LaFalce | Rangel |
| Edgar | Lagomarsino | Regula |
| Edwards, Ala. | Latta | Reuss |
| Edwards, Calif. | Leach | Rhodes |
| Edwards, Okla. | Lederer | Richmond |
| Eilberg | Leggett | Rinaldo |
| Emery | Lehman | Risenhoover |
| English | Lent | Roberts |
| Erlenborn | Levitas | Robinson |

| | | |
|---|---|---|
| Roe | Solarz | Walgren |
| Rogers | Spellman | Walker |
| Roncalio | Spence | Walsh |
| Rooney | St Germain | Wampler |
| Rose | Staggers | Watkins |
| Rosenthal | Stangeland | Waxman |
| Rostenkowski | Stanton | Weaver |
| Roybal | Stark | Weiss |
| Rudd | Steed | White |
| Runnels | Steers | Whitehurst |
| Ruppe | Steiger | Whitley |
| Russo | Stockman | Whitten |
| Ryan | Stokes | Wiggins |
| Santini | Stratton | Wilson, Bob |
| Satterfield | Studds | Wilson, C. H. |
| Sawyer | Stump | Wilson, Tex. |
| Scheuer | Taylor | Winn |
| Schroeder | Thompson | Wirth |
| Schulze | Thone | Wolff |
| Sebelius | Thornton | Wright |
| Seiberling | Traxler | Wydler |
| Sharp | Treen | Wylie |
| Shuster | Trible | Yates |
| Sikes | Tucker | Yatron |
| Simon | Udall | Young, Alaska |
| Sisk | Ullman | Young, Fla. |
| Skelton | Van Deerlin | Young, Mo. |
| Skubitz | Vander Jagt | Young, Tex. |
| Slack | Vanik | Zablocki |
| Smith, Iowa | Vento | Zeferetti |
| Smith, Nebr. | Volkmer | |
| Snyder | Waggonner | |

NAYS—6

| | | |
|---|---|---|
| Collins, Tex. | Hansen | Rousselot |
| Crane | McDonald | Symms |

NOT VOTING—25

| | | |
|---|---|---|
| Armstrong | Fraser | Quie |
| Buchanan | Frey | Rodino |
| Clawson, Del | Howard | Sarasin |
| Collins, Ill. | Jenrette | Shipley |
| Cotter | Kasten | Teague |
| Danielson | Le Fante | Tsongas |
| Davis | Maguire | Whalen |
| Early | Meeds | |
| Flowers | Neal | |

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Armstrong.
Mr. Jenrette with Mr. Whalen.
Mr. Howard with Mr. Sarasin.
Mrs. Collins of Illinois with Mr. Quie.
Mr. Shipley with Mr. Kasten.
Mr. Teague with Mr. Frey.
Mr. Danielson with Mr. Del Clawson.
Mr. Cotter with Mr. Maguire.
Mr. Meeds with Mr. Neal.
Mr. Davis with Mr. Tsongas.
Mr. Fraser with Mr. Early.
Mr. Flowers with Mr. Buchanan.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to extend the Commodity Exchange Act, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes, a similar bill to H.R. 10285, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2391

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

COMPOSITION OF THE COMMISSION; CONFLICT OF INTEREST; CONFORMING AND TECHNICAL AMENDMENTS

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out in the first sentence of paragraph (1) (7 U.S.C. 2) "section 217 of the Commodity Futures Trading Commission Act of 1974" and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out in the last sentence of paragraph (2) "(A)" and "(B)" and inserting in lieu thereof "(i)" and "(ii)", repectively;

(5) adding at the end of paragraph (2) a new subparagraph (B) as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. Subject to the provisions of the first sentence of this subparagraph, the President may, from time to time, designate a different Chairman, and the Commissioner previously appointed as Chairman shall complete his term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a(f));

(8) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employee of the Commission classified as a GS–15 or higher of the General Schedule under section 5332 of title 5, United States Code, may, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(i) make any appearance before the Commission; or

"(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission.

The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.";

(9) striking out in the first sentence of paragraph (8) (7 U.S.C. 4a(g)) "established a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(10) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(11) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) Notwithstanding the provisions of subsection (b) of this section, it shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section, except where both parties to such transaction are either a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or by-products thereof, and offer to enter into, or enter into, or confirm the transaction solely for the purposes of their business as such, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade, at such time as the Commission deems appropriate. Nothing in the preceding sentence shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978.

"(d) Notwithstanding the provisions of subsections (b) and (c) of this section or section 8a(5) of this Act, a registered futures commission merchant may offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section if—

"(1) the grantor in the transaction is a person who—

"(A) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

"(B) at all times has a net worth of at least $10,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

"(C) agrees to notify such futures commission merchant if the grantor has reason to believe the grantor's net worth has fallen below $10,0000,000;

"(D) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

"(E) provides an identification number for each transaction; and

"(F) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

"(2) the futures commission merchant has evidence that the grantor meets the requirements set forth in clause (1) of this subsection; and

"(3) the futures commission merchant—

"(A) treats and deals with an amount of money, exempted securities (within the meaning of section 3(a)(12) of the Securi-

ties Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from its customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expiration or liquidation of those transactions;

"(B) records each transaction in its customer's name by the transaction identification number provided by the grantor; and

"(C) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction.

"(e) The provisions of subsections (c) and (d) of this section shall be effective for the period beginning October 1, 1978, and ending September 30, 1984.".

CUSTOMERS' FUNDS AND PROPERTY

SEC. 3. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

(1) inserting in the first paragraph after *"Provided further,"* the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further,";* and

(2) adding at the end thereof a new sentence as follows:

"Notwithstanding any other provision of law, no such person, nor any trustee or receiver of such person, shall assert any rights with respect to such money, securities, and property or with respect to customer accounts held by such person, or any trustee or receiver of such person, which would prohibit, delay, or condition a transfer of such money, securities, property, or customer accounts to another futures commission merchant: *Provided,* That such a transfer is required under the rules, bylaws, or regulations of any contract market or clearinghouse organization of which such person is a member or under the rules and regulations of the Commission.".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 4. Section 4f(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by—

(1) striking out in the third sentence "All registrations" and inserting in lieu thereof "Each registration"; and

(2) inserting in the third sentence after "issued," the following: "or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe,".

TECHNICAL AMENDMENT

SEC. 5. Section 4g(3) of the Community Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATION PERSON; AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PERSONS BY A TITLE III ASSOCIATION

SEC. 6. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended by—

(1) amending the last sentence of subsection (2) to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than year from the date of issuance thereof, as the Commission may by rule, regulation, or order precribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided,* That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof."; and

(2) adding at the end thereof a new subsection (3) as follows:

"(3) The Commission may authorize a registered futures association to perform the registration functions of this section, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission,".

REGISTRATION OF COMMODITY TRAINING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 7. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively;

(2) striking out in subsection (3) "All registrations" and inserting in lieu thereof "Each registration"; and

(3) inserting in subsection (3) after "year," the following: "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION ON FRAUDULENT TRANSACTIONS BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 8. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out "registered under this Act".

ARBITRATION

SEC. 9. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting before "provide" the following: "unless available under the rules of a registered futures association,".

REFUSAL, SUSPENSION, OR REVOCATION OF "CONTRACT MARKET" DESIGNATION—HEARING ON THE RECORD; COMMISSION SUBPENA POWER

SEC. 10. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence;

(2) inserting "on the record" after "hearing" in the second sentence of paragraph (a);

(3) striking out the third sentence of paragraph (b) and inserting in lieu thereof the following: "For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.".

ISSUANCE OF A CEASE AND DESIST ORDER OR IMPOSITION OF A CIVIL MONEY PENALTY AGAINST A CONTRACT MARKET—HEARING ON THE RECORD

SEC. 11. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting "on the record" after "hearing" in the first sentence.

JURISDICTION OF THE STATES

SEC. 12. The Commodity Exchange Act is amended by adding after section 6c a new section 6d as follows:

"SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

"(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint.

"(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, administrator of the State securities laws, or other duly authorized State officials, from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) For purposes of this section, the word 'State' means any State of the United States, the District of Columbia, or any territory or possession of the United States.".

DISCLOSURE OF TRADERS AND THEIR POSITIONS ON BOARDS OF TRADE TO THE PUBLIC

SEC. 13. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by striking out in the second paragraph "and make public" the second time that phrase appears.

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; DISCLOSURE OF IMPROPER TRANSACTIONS

SEC. 14. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting in subsection (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing"; and

(2) striking out "and to publish" in subsection (6).

DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS

SEC. 15. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by amending the last sentence to read as follows: "An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission: *Provided*, That the restriction on disclosure of evidence in this sentence shall not apply to criminal investigations or proceedings.".

CRIMINAL PENALTIES

SEC. 16. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) inserting before the period at the end of subsection (b) the following: ", or to violate the provisions of section 4, section 4b, section 4c, section 4h, section 4o(1), or section 19 of this Act, or to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or to omit to state in any application or report any material fact that is required to be stated therein";

(2) amending subsection (c) to read as follows:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b of this Act, or fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.";

(3) striking out in subsection (d) "$10,000" and inserting in lieu thereof "$100,000"; and

(4) striking out in subsection (e) "$10,000" and inserting in lieu thereof "$100,000".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years during the period beginning October 1, 1976, and ending September 30, 1984.".

REPARATIONS

SEC. 18. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out in subsection (a) "registered" and inserting in lieu thereof "who is registered or required to be registered";

(2) striking out in subsection (b) all after "*Provided*," and inserting in lieu thereof the following: "That in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing limited to the basic or novel issue or issues of the case shall be held, and additional proof in support of the complaint and respondent's answer may be supplied in the form of depositions or verified statements of fact."; and

(3) amending subsection (c) to read as follows:

"(c) After opportunity for hearing has been waived or a hearing is held on a complaint filed under this section, the Commission shall determine whether the respondent has violated any provision of this Act or any rule, regulation, or order of the Commission thereunder."; and

(4) adding at the end thereof a new subsection (j) as follows:

"(j) Notwithstanding any other provision of this section or Act, a futures association registered under section 17 of this Act may, with the Commission's approval, adopt rules establishing a procedure whereby persons complaining of a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder by a member of the association who is registered or required to be registered under section 4d, section 4e, section 4k, or section 4m of this Act, may obtain an adjudication of such claims by the association, and the rules of the association shall govern all such claims that are or could be brought thereunder, in lieu of the procedures set forth in this section: *Provided*, That the decisions of the association shall be subject to subsections (f), (g), and (h) of this section to the same extent as reparations orders entered by the Commission.".

REGISTERED FUTURES ASSOCIATION

SEC. 19. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) striking out in subsection (b)(3)(B) "(7 U.S.C. 9)";

(2) striking out in subsection (b)(10) "5,000" and inserting in lieu thereof "$15,000";

(3) striking out in subsection (1)(2)(A) "title" each time that word appears and inserting in lieu thereof "Act"; and

(4) redesignating subsection (m) as subsection (n), and inserting after subsection (l) a new subsection (m) as follows:

"(m) Notwithstanding any other provision of law, the Commission may approve rules of a futures association or of a contract market that, directly or indirectly, require persons eligible for membership in such association to become members thereof, if the Commission determines that such rules are necessary or appropriate to achieve the purposes and objects of this Act.".

LEVERAGE TRANSACTIONS; FORWARD CONTRACTS

SEC. 20. The Commodity Exchange Act is amended by adding at the end thereof new sections 10 and 20 as follows:

"SEC. 19. No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract. Notwithstanding any other provision of this Act, the Commission may prohibit or regulate any such transactions involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

"SEC. 20. (a) The Commission shall, for the period beginning October 1, 1978, and ending September 30, 1984, monitor forward contracting for domestic agricultural commodities and maintain records of defaults on any such contracts.

"(b) The Commission shall include in its annual reports to Congress information concerning its monitoring activities under subsection (a) of this section, any defaults on forward contracts for domestic agricultural commodities during the immediately preceding fiscal year, and any observations, recommendations, or comments on forward contracts for domestic agricultural commodities and the regulation of those transactions or the need for legislation in this area as the Commission deems appropriate.

"(c) Of the sums appropriated annually to carry out this Act, not to exceed $75,000 may be used to carry out the provisions of this section.".

REPEAL OF LEVERAGE TRANSACTION PROVISION IN THE 1974 ACT

SEC. 21. Title II of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is amended by repealing section 217.

USE IMMUNITY

SEC. 22. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

NATIONAL COMMISSION ON THE EFFECTS OF FUTURES MARKETS ON FARM INCOME

SEC. 23. (a) There is hereby established a National Commission on the Effects of Futures Markets on Farm Income (hereinafter referred to as the "Commission").

Organization

(b)(1)(A) The Commission shall be composed of nine members, appointed by the President, none of whom may be employees of the Federal Government or Members of Congress. One of the members of the Commission, who, by background, experience, and education, is particularly suited to the position, shall be designated as Chairman at the time of his or her appointment.

(B) At least four of the Commission members shall be agricultural producers. The other Commission members shall represent, insofar as practicable, the interests of processors and distributors of agricultural commodities and their products, economists, commodity exchanges, national agricultural organizations, and consumers.

(C) A vice chairman shall be selected by a majority vote of the Commission.

(2) A vacancy in the Commission shall not affect its powers, except for the selection of a vice chairman. Any vacancy in the Commission shall be filled in the same manner as the original position.

Compensation of Members

(c) Each member of the Commission may receive compensation at the highest rate of pay for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized under section 5703 of title 5, United States Code.

Duties of the Commission

(d)(1) The Commission shall study and appraise—

(A) the relationships between the prices established on futures markets and the cash prices of the commodities;

(B) the concentration and magnitude of trading by foreign individuals, corporations, or governments on United States futures markets;

(C) the actions necessary to stimulate greater use of futures markets by American farmers, if advisable;

(D) the reasons for the differentials in the prices farmers receive for their crops and the futures prices for the same commodity;

(E) the effect of increasing the number of delivery points under a futures contract on the prices received by producers of that commodity; and

(F) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder.

(2) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings, conclusions, and legislative recommendations to the President and Congress by October 1, 1981, and shall cease to exist not later than ninety days thereafter.

(3) All books, papers, reports, memoranda, and all the documents collected, produced, obtained or in the custody or possession of the Commission shall, prior to the termination of the Commission, be transmitted to the Commodity Futures Trading Commission.

Powers of the Commission

(e)(1) The Commission, or any three members thereof authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith, the Commissioners may—

(A) require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe and within such reasonable period and under oath or otherwise as the Commission may determine;

(B) administer oaths;

(C) require by subpena the attendance and testimony of witnesses in the production of all documentary evidence relating to the execution of its duties;

(D) invoke the aid of any district court of the United States in requiring compliance with such subpena or order in the case of disobedience of a subpena or order issued under this subsection;

(E) order testimony to be taken in any proceeding or investigation by deposition before any person who is designated by the Commission and who has the power to administer oaths, and in such instances to compel testimony in the production of evidence in the same manner as authorized under clauses (C) and (D) of this paragraph; and

(F) to pay witnesses the same fees and mileages as are paid in like circumstances by the courts of the United States.

(2) Any district court of the United States within the jurisdiction of which an inquiry under this section is conducted may, in case of refusal to obey a subpena or order of the Commission issued under this subsection, issue an order requiring compliance therewith; and failure to obey the order of the court may be punished by the court as contempt thereof.

(3) Notwithstanding any other provision of law, the Commission may require from the head of any executive department, agency, or independent establishment of the Federal Government available information deemed useful in the discharge of its duties, and all such departments, agencies, and establishments shall cooperate with the Commission and furnish all information requested by the Commission.

(4) The Commission may enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(5) Subject to the provisions of section 552 of title 5, United States Code, when the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, the Commission may publish such information in the form and manner deemed best adapted for public use, except that information that would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held in confidence and shall not be disclosed by the Commission.

Administrative Arrangements

(f)(1) The Commission shall appoint and fix the compensation of an executive director and a chief economist without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, except that no individual so appointed shall be paid at a rate in excess of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The executive director, with the approval of the Commission, is authorized to obtain the services of experts and consultants as provided under section 3109 of title 5, United States Code.

(3) The head of any executive department, agency, or independent establishment of the Federal Government may detail, on a reimbursable basis, any of its personnel to assist the Commission in conducting its work.

(4) Financial and administrative services (including those relating to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services.

Authorization of Appropriations

(g) There are hereby authorized to be appropriated to the Commission such sums, not in excess of $1,000,000 for each year of its existence, as may be necessary to carry out the provisions of this section.

PLAN FOR USERS FEES

SEC. 24. Notwithstanding any other provision of law, the Commodity Futures Trading Commission is authorized to develop, and implement a plan to change and collect reasonable fees to cover the estimated cost of regulating the transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. The plan described herein shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

EFFECTIVE DATE

SEC. 25. The provisions of this Act shall become effective October 1, 1978.

MOTION OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of Tennessee moves to strike out all after the enacting clause of the Senate bill, S. 2391, and insert in lieu thereof the text of the bill, H.R. 10285, as passed by the House, as follows:

COMPOSITION AND FUNCTIONS OF COMMISSION; CONFLICT OF INTEREST; LIAISON WITH OTHER AGENCIES; CONFORMING AND TECHNICAL AMENDMENTS

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out "and (vi)" in paragraph (1) (7 U.S.C. 2) in the definition of the term "commodity trading advisor" and inserting in lieu thereof "(vi) dealers, processors, brokers, and sellers of cash commodities and products thereof, (vii) nonprofit, voluntary membership, general farm organizations which provide advice on the sale and purchase of cash commodities, and (viii)";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out "(A)" and "(B)" in the last sentence of paragraph (2) and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman who shall serve at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. The President may, in his discretion, at any time appoint a different Chairman, by and with the advice and consent of the Senate, and the Commissioner previously appointed as Chairman shall complete his term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting in subparagraph (6)(A) (7 U.S.C. 4a(e)(1)) after "use and expenditures of funds" the words "according to budget categories, plans, programs, and priorities established and approved by the Commission,";

(8) striking out in subparagraph (6)(B) (7 U.S.C. 4a(e)(2)) "of the Commission" and inserting in lieu thereof ", plans, priorities, and budgets approved by the Commission";

(9) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a (f));

(10) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employee of the Commission classified as a GS–16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character shall, for a period of one year beginning on the last day of service as such Commissioner or employee (i) make any appearance before, or (ii) make any written or oral communication to the Commission or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission if such last day of service is more than four months after the date of enactment of this subparagraph: *Provided*, That this restriction shall not apply to an appearance or response to a subpena or any

matter of an exclusively personal and individual nature.";

(11) inserting "(A)" immediately after the designation of paragraph (8) (7 U.S.C. 4a(g));

(12) striking out in the first sentence of paragraph (8) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintan";

(13) adding at the end of paragraph (8) a new subparagraph (B) as follows:

"(B)(i) The Commission shall maintain communications with the United States Department of the Treasury, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in futures contracts under the jurisdiction of the Commission and in securities and/or financial instruments under the jurisdiction of such agencies.

"(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate such board of trade as a contract market based on such application until forty-five days from the date the Commission delivers the application to such agencies or until such time as the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies will be included as part of the public record of the Commission's designation proceeding. In approving, refusing, suspending, or revoking the designation of a board of trade as a contract market involving transactions for future delivery of any security referred to in this section or in considering possible emergency action under section 8a(9) of the Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the impact that designation, suspension, revocation, or emergency action might have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.";

(14) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(15) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) amending subsection (b) to read as follows:

"(b)(1) It shall be unlawful for any person subsequent to the date of the enactment of this subsection to offer to enter into, enter into, or confirm the execution of any commodity option transactions involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, unles expressly permitted under rules or regulations that the Commission, in its discretion, may prescribe subsequent to the date of enactment of this subsection after notice and opportunity for a hearing: *Provided*, That this subsection shall not apply to any commodity option transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of this subsection, to be offered to be entered into, entered into, or confirmed, to or by, a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or by-products thereof: *Provided further*, That if the Commission allows commodity option transactions the Commission may set different terms and conditions for different markets.

"(2) As used in this subsection, 'commodity option transaction' means any transaction or agreement which is, is held out to be, is of the character of, or is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'.

"(3) Nothing contained in this subsection shall affect any rights and obligations arising under any commodity option transaction entered into before the effective date of this subsection.

"(4) Notwithstanding the foregoing provisions of this subsection, the Commission, in its sole discretion and subject to such rules and regulations as it may prescribe without regard to the requirements of the Administrative Procedure Act or any other provision of this Act, may permit for a period not to exceed nine months any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise utilizing that commodity to continue to grant or issue options on that commodity. Such rules and regulations, among other things, may restrict the distribution of such options to, and the offer and sale of such options by, such futures commission merchants as may be specified by the Commission. Any permission granted pursuant to this subsection may be terminated only after a hearing including a finding that the continuation of such permission is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings the Commission may suspend the right to offer and sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

"(5) No rule or regulation issued or promulgated pursuant to this subsection (b) shall become effective until (i) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a copy of such rule or regulation, and (ii) the expiration of ten calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving such rule or regulation.".

CUSTOMER FUNDS AND PROPERTY

SEC. 3. Section 4d(2) of the Commodity Exchange Act (17 U.S.C. 6d(2)) is amended by inserting after *"Provided further,"* in the first paragraph the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *And provided further,*".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 4. Section 4(f)(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by striking out in the third sentence "All registrations shall expire on the 31st day of December of the year for which issued" and inserting in lieu thereof "Each registration shall expire on the 31st day of December of the year for which issued or at such other time not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe".

TECHNICAL AMENDMENT

SEC. 5. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATED PERSONS

SEC. 6. The third sentence of section 4k(2) of the Commodity Exchange Act (7 U.S.C. 6k(2)) is amended to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.".

REGISTRATION OF COMMODITY TRADING ADVISERS AND COMMODITY POOL OPERATORS

SEC. 7. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out in subsection (2) "thirty days" and inserting in lieu thereof "six months";

(2) striking out "All registrations" in subsection (3) and inserting in lieu thereof "Each registration"; and

(3) inserting after "year," in subsection (3) "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION OF FRAUDULENT TRANSACTIONS

SEC. 8. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out "registered under this Act".

ARBITRATION BY REGISTERED FUTURES ASSOCIATION

SEC. 9. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting in subsection (11) after "otherwise" the following: "(such as by delegation to a registered futures association having rules providing for such procedures)".

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS

SEC. 10. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting after the first sentence the following: "At least 30 days before approving any such bylaws, rules, regulations, and resolutions of economic significance, the Commission shall publish in the Federal Register a copy of such bylaws, rules, regulations, and resolutions. The Commission

shall give interested persons an opportunity to participate in the approval process through submission of written data, views, or arguments."; and

(2) striking out "The Commission shall approve, within thirty days" and inserting in lieu thereof "After consideration of the relevant matter presented, the Commission shall approve within sixty days".

HEARING ON THE RECORD FOR REFUSAL, SUSPENSION, OR REVOCATION OF CONTRACT MARKET DESIGNATION; COMMISSION SUBPENA POWER

SEC. 1. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence;

(2) inserting "on the record" after "hearing" in the second sentence of subsection (a);

(3) striking out the third sentence of subsection (b) and inserting in lieu thereof the following new sentences: "For the purpose of securing effective enforcement of the provisions of this Act, and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Commission deems relevant or material to the inquiry.

Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officers designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or conducts business or wherever such person may be found.".

HEARING ON THE RECORD FOR CEASE AND DESIST ORDERS AND IMPOSITION OF CIVIL PENALTY

SEC. 12. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting in the first sentence "on the record" after "hearing".

JURISDICTION OF THE STATES

SEC. 13. The Commodity Exchange Act is amended by adding after section 6c a new section as follows:

"SEC. 6d. Notwithstanding any other provision of this Act, in order to promote effective enforcement, curtail or prevent fraud, protect the public interest, and effectively utilize the resources available to State agencies, any State agency or official may—

"(1) investigate or prosecute in a civil action violations of this Act, of section 217 of the Commodity Futures Trading Commission Act of 1974, or of the rules or regulations thereunder in any district court of the United States which would have jurisdiction thereof, if such action had been brought by the Commission, and that court shall have jurisdiction to entertain any such action brought under this section, and the Commission shall be entitled as of right to intervene in any such action as a party thereto: *Provided, however,* That a State agency or official may not investigate or prosecute any violation of the Acts or the rules and regulations thereunder committed or alleged to be committed by a designated contract market or a board of trade licensed by the Commission (or committed or alleged to be committed by the organization clearing transactions thereon); and

"(2) investigate and prosecute violations of the criminal statutes of such State.".

LIMITATION ON DISCLOSURE TO THE PUBLIC OF NAMES AND POSITIONS OF TRADERS ON BOARDS OF TRADE

SEC. 14. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by—

(1) inserting in the first sentence "but subject to the limitations set forth below," after "discretion";

(2) striking out in the first sentence ", except data and information which would separately disclose the business transactions of any person and trade secrets or names of customers" and inserting in lieu thereof ": *Provided, however,* That, notwithstanding the foregoing, the Commission shall not disclose publicly or publish any data or information which would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person unless such data or information has been previously disclosed publicly in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or congressional proceeding";

(3) inserting in the first sentence ", except that any facts that are subject to the restrictions on public disclosure hereinabove set forth may be included in such report only after such facts have otherwise been publicly disclosed in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or Congressional proceeding" after ": *Provided further,* That the Commission in any report may include facts as to any actual transaction";

(4) striking out in the second paragraph "from time to time" and inserting in lieu thereof "but only after such information has otherwise been publicly disclosed in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or congressional proceeding,";

(5) striking out in the second paragraph "and make public" the second time that phrase appears and inserting in lieu thereof "on a confidential basis".

POTATO FUTURES STUDY

SEC. 15. Section 8 of the Commodity Exchange Act is amended by adding at the end thereof the following new undesignated paragraph:

"Within one year after the date this paragraph becomes effective, the Comptroller General of the United States shall—

"(1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts for the purchase or sale of Irish potatoes for future delivery, including rules and regulations pertaining to such trading issued by the Commission or any board of trade; and

"(2) submit to each House of Congress a detailed report on the results of such study. Such report shall also include any proposals the Comptroller General may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contacts by the Commission or any board of trade.".

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; LIMITATION ON PUBLICATION OF CERTAIN INFORMATION

SEC. 16. Section 8a of the Commodity Exchange Act (7 U.S.C 12a(1)) is amended by—

(1) inserting in subsection (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing".

(2) striking out in subsection (6) "and to publish".

CRIMINAL PENALTIES

SEC. 17. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) in subsection (a), by striking out "$100,000" and inserting in lieu thereof "$500,000"; and by inserting immediately after the first sentence the following new sentence: "Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a futures commission merchant, or any employee or agent thereof who is an individual, the fine shall not be more than $100,000, together with the cost of prosecution.";

(2) in subsection (b), by striking out "$100,000" and inserting in lieu thereof "$500,000"; and by inserting before the period at the end of subsection (b) the following: ", or to knowingly violate the provisions of section 4, section 4b, section 4h, or section 4o(1) of this Act, or to knowingly make any false or misleading statement of a material fact in any registration application or report filed with the Commission. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual the fine shall not be more than $100,000, together with the costs of prosecution"; and

(3) striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) Except as provided in subsection (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4c, section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years beginning October 1, 1976, and ending September 30, 1981, and not in excess of such sums as may, after the date of enactment of this subsection, be authorized by law for any subsequent fiscal year.".

REPARATIONS PROCEEDINGS

SEC. 19. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out "registered" in subsection (a) and inserting in lieu thereof "who is registered or should be registered";

(2) striking out "$2,500" in subsection (b) and inserting in lieu thereof "$5,000"; and

(3) striking out "$2,500" in subsection (c) wherever it appears and inserting in lieu thereof "$5,000".

REGISTERED FUTURES ASSOCIATIONS

SEC. 20. Section 17 of the Commodity Exchange Act is amended by adding a new subsection (n) as follows:

"(n) Notwithstanding any other provision of this Act, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for mem-

bership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

SEC. 21. Any person who sells any commodity (as defined in section 2 of this Act) for export shall, within forty-eight hours after such sale, inform the Commission of (1) the date of such sale, (2) the name and full identity of the commodity sold, (3) the quantity of the commodity sold, (4) the name of the buyer and the country or countries to which the commodity is to be shipped, (5) the sale price, and (6) such other information as the Commission may by regulation require. The Commission shall by regulation prescribe the manner in which the above information shall be transmitted. On the first working day following its receipt, such information shall be made available by public announcement and shall remain available for public inspection for a reasonable time thereafter. The Commission shall prescribe regulations to assure that such information shall be disclosed simultaneously to the public and to protect against any person or firm gaining from premature disclosure.

EFFECTIVE DATE

SEC. 22. Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1978.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 10285, was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2391 COMMODITY EXCHANGE ACT

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and, without objection, appoints the following conferees: Messrs. FOLEY, JONES of Tennessee, POAGE, DE LA GARZA, RICHMOND, BALDUS, BEDELL, ENGLISH, PANETTA, HARKIN, FITHIAN, GLICKMAN, BROWN of California, WAMPLER, MADIGAN, JEFFORDS, KELLY, COLEMAN, and MARLENEE.

There was no objection.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12514, INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

Mr. MURPHY of Illinois, from the Committee on Rules submitted a privileged report (Rept. No. 95–1392) on the resolution (H. Res. 1286) providing for the consideration of the bill (H.R. 12514) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979 and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT OF RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9486, AUTHORIZING UNITED STATES CONTRIBUTION TO INTERNATIONAL TIN BUFFER STOCK

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1393) on the resolution (H. Res. 1287) providing for the consideration of the bill (H.R. 9486) to authorize a contribution by the United States to the tin buffer stock established under the Fifth International Tin Agreement, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION ON H.R. 11711, TRADE ACT OF 1974

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1394) on the resolution (H. Res. 1288) providing for the consideration of the bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, which was referred to the House Calendar and ordered to be printed.

## DEEP SEABED HARD MINERALS ACT

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3350) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3350, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, July 24, 1978, all time for general debate on the bill had expired.

Pursuant to the rule, it shall be in order to consider by titles the text of H.R. 12988, if offered as an amendment in the nature of a substitute, as an original bill for the purpose of amendment. No amendment to title IV of said substitute which would change title IV, shall be in order except amendments recommended by the Committee on Ways and Means and an amendment printed in the CONGRESSIONAL RECORD of June 5, 1978, by Representative STARK of California, which amendments shall not be subject to amendment, but it shall be in order to debate said amendments and title IV by the offering of pro forma amendments.

The Clerk will now read section 1 of the original bill H.R. 3350, and the Chair will then recognize the gentleman from Louisiana (Mr. BREAUX) to offer the amendment in the nature of a substitute.

The Clerk will read.

The Clerk read as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Act".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment in the nature of a substitute, the text of which is contained in the bill, H.R. 12988, a copy of which is at the desk.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BREAUX: Strike out all after the enacting clause and insert:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Section 1. Short title.

Titles I, II, and III of this Act may be cited as the "Deep Seabed Hard Mineral Resources Act".

Sec. 2. Findings and purposes.

(a) FINDINGS.—The Congress finds that—

(1) the United States requirements for hard minerals to satisfy national industrial needs, will continue to expand and that the demand for such minerals will eventually exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and that the acquisition of such minerals from foreign sources is a significant factor in the national balance-of-payments position;

(3) the present and future national interest of the United States requires the availability of hard mineral resources which are independent of the export policies of foreign nations;

(4) there is an alternate source of supply of certain hard minerals, including nickel, copper, cobalt, and manganese, which are significant in relation to national needs contained in the nodules existing in great abundance on the deep seabed;

(5) major deposits of such nodules have been proven to exist in areas of the deep seabed which are seaward of the limits of national resource jurisdiction recognized by international law;

(6) various mining companies are engaged in developing the technology necessary for the commercial recovery and processing of such nodules;

(7) given the necessary investment climate, United States mining companies are prepared to undertake programs for the commercial recovery and processing of hard minerals from the deep seabed;

(8) it is in the national interest to establish a program to encourage the exploration and commercial recovery activities of United States citizens and that such activities be regulated in a manner to protect the quality of the environment;

(9) the United States supported (by affirmative vote in the General Assembly) United Nations General Assembly Resolution 2749 (XXV) declaring the principle that the mineral resources of the deep seabed are the common heritage of mankind but recognized, however, that this principle would be legally defined under the terms of a comprehensive

international Law of the Sea Treaty to be agreed upon in the future;

(10) since the parties currently attempting to negotiate a comprehensive international Law of the Sea Treaty have been unable to come to a final agreement, and since their failure to reach agreement may slow the development of the technology necessary to develop the hard mineral resources of the deep seabed, interim domestic legislation is required to encourage the development of such technology to continue; and

(11) deep seabed mining is a freedom of the high seas, subject to a duty of reasonable regard to the interests of other States in their exercise of that and other freedoms recognized by the general principles of international law.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to establish an interim program to encourage and regulate the development of hard mineral resources of the deep seabed by United States citizens, pending the entering into force with respect to the United States of a superseding international agreement relating to such activities;

(2) to insure that the development of hard mineral resources of the deep seabed are conducted in a manner which will encourage the orderly and efficient development of such resources, will protect the environment, and will promote the safety of life and property at sea;

(3) to encourage the successful negotiation of a comprehensive international Law of the Sea Treaty which will give legal definition to the principle that the mineral resources of the deep seabed are the common heritage of mankind; and, pending the entering into force of such a Treaty, to provide for the establishment of a special fund the proceeds of which shall be used for sharing with the international community pursuant to such Treaty; and

(4) to allow the continued development of technology necessary to develop the hard mineral resources of the deep seabed as soon as possible.

Sec. 3. Definitions.

For purposes of titles I, II, and III—

(1) The term "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate (without regard to profit or loss) for the primary purpose of marketing or commercially using such resource; and, if such recovered resource will be processed at sea, such processing.

(2) The term "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of two hundred meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

(3) The term "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of, and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

(4) The term "development" means exploration and commercial recovery.

(5) The term "exploration" means—

(A) any outside observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, and tenor of a hard mineral resource, and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, installation, and testing of equipment which is intended to be used in the commercial recovery of such resource.

(6) The term "hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

(7) The term "international agreement" means any Convention, which may be adopted by a United Nations Conference on the Law of the Sea, relating to (among other matters), and establishing an international regime for the regulation of, the development of hard mineral resources of the deep seabed.

(8) The term "licensee" means any United States citizen who is issued a license under title I to engage in exploration.

(9) The term "permittee" means any licensee who is issued a permit under title I to engage in commercial recovery.

(10) The term "reciprocating state" means any foreign nation designated as such by the President under section 107.

(11) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(12) The term "United States citizen" means—

(A) any individual who is a citizen of the United States; and

(B) any corporation, partnership, association, or other entity organized or existing under the laws of any of the United States.

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

Sec. 101. Disclaimer of extraterritorial sovereignty.

By the enactment of this Act, the United States—

(1) exercise its jurisdiction to regulate United States citizens in the carrying out of development of hard mineral resources of the deep seabed; but

(2) does not thereby assert sovereignty or sovereign or exclusive rights over, or the ownership of, any area of the deep seabed.

Sec. 102. Prohibited activities by United States citizens.

(a) IN GENERAL.—No United States citizen may engage, directly or indirectly, in exploration or commercial recovery unless authorized to do so—

(1) under a license for exploration or permit for commercial recovery issued under this title;

(2) under a license, permit, or equivalent authorization issued by a reciprocating state; or

(3) pursuant to an international agreement which is in force with respect to the United States.

(b) EXISTING EXPLORATION.—Subsection (a)(1) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the date of the enactment of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license under section 103(d) with respect to such exploration within such reasonable period of time, after the date on which initial regulations to carry out section 103(d) are issued, as the Secretary shall prescribe; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of the issuance of such license.

The timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license under section 103(e). In any case in which more than one application referred to in paragraph (1) is filed with respect to all or part of the same area of the deep seabed, the Secretary shall, in taking action on such applications, apply principles of equity based on the date on which the applicants commenced exploration activities and the amount of funds expended with respect to such activities by each applicant regarding the area concerned.

(c) INTERFERENCE.—No United States citizen may take any action to interfere physically with any activity authorized by a license or permit issued under this title or by a license, permit, or equivalent authorization, which is issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources.

(d) EXCEPTIONS.—The prohibitions of subsection (a) shall not apply with respect to any of the following activities carried out by any United States citizen:

(1) Scientific research with respect to hard mineral resources.

(2) The taking of any geophysical or geochemical measurements, or random bottom samplings, of the deep seabed; if such taking does not significantly alter the surface or subsurface of the deep seabed.

(3) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing is conducted on shore.

(4) The furnishing of machinery, products, supplies, services, or materials in support of any exploration or commercial recovery operation engaged in by a licensee or permittee.

Sec. 103. Licenses for exploration and permits for commercial recovery.

(a) AUTHORITY TO ISSUE.—Subject to the provisions of this title, the Secretary shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery.

(b) NATURE OF LICENSES AND PERMITS.—(1) A license or permit issued under this title shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of titles I, II, and III, the regulations issued by the Secretary to carry out such provisions, and the specific terms, conditions, and restrictions applied with respect to the license or permit by the Secretary.

(2) Any license for exploration or permit for commercial recovery issued under this title shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national, or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(c) STATUTORY RESTRICTIONS AND CONDITIONS.—(1) The Secretary may not issue—

(A) any license for exploration or any permit for commercial recovery after the date on which an international agreement enters into force with respect to the United States, except to the extent that issuance of such license or permit is not inconsistent with such agreement;

(B) any permit authorizing commercial recovery within any area of the deep seabed to other than the licensee for such area;

(C) any permit which authorizes commercial recovery before January 1, 1980;

(D) any license for exploration of, or any permit for commercial recovery within, any area of the deep seabed if, within the 3-year period before the date of application of such license or permit, the applicant therefor sur-

rendered or relinquished such area under a previous license or permit isssued to him or such area was covered under a license or permit previously issued to such applicant and such license or permit was revoked under section 104; or

(E) any license for exploration of, or permit for commercial recovery within, any area of the deep seabed which is covered by any pending application to which priority of right for issuance applies under section 103 (e); any existing license or permit; or any license, permit, or equivalent authorization issued by a reciprocating state.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing of such resources at sea unless the vessel is documented under the laws of the United States or the laws of a reciprocating state.

(3) The Secretary shall issue regulations with respect to the locations in which any permittee may process hard mineral resources recovered by such permittee pursuant to a permit for commercial recovery. In issuing such regulations the Secretary shall take into account—

(A) the multinational nature of deep seabed mining operations;

(B) in consultation with the Secretary of State, the foreign policy interests of the United States;

(C) the necessity of maximizing employment opportunities in the United States; and

(D) the national interest in maintaining an adequate domestic supply of such resources.

(d) APPLICATIONS.—(1) Any United States citizen may apply to the Secretary for a license for exploration.

(2) Any licensee may apply to the Secretary for a permit for commercial recovery.

(3) Applications for such licenses and permits shall be made in such form and manner as the Secretary shall by regulation prescribe, and shall contain such relevant financial, technical, environmental, and other information, as the Secretary may by regulation require as being necessary or appropriate to make determinations under subsection (f) with respect to applications.

(e) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 102(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements prescribed under subsection (d)(3), are filed with the Secretary. Priority of right shall not be lost in the case of any application filed which is not in full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Secretary shall provide.

(f) ACTION ON APPLICATIONS.—(1) Before the Secretary may approve any application for a license or permit, the Secretary must determine that—

(A) the applicant is financially responsible to meet all obligations which may be required to engage in exploration or commercial recovery, as the case may be, proposed in the application;

(B) the applicant has the technological capability to engage in such exploration or commercial recovery; and

(C) the exploration or commercial recovery activity proposed in the application will not—

(i) unreasonably interfere with the interests of other States in their exercise of the freedoms of the high seas, as recognized under the general principles of international law,

(ii) conflict with an international obligation of the United States, established by any treaty or convention in force with respect to the United States, and

(iii) pose an unreasonable threat to the quality of the environment, and in making such determination the Secretary shall take into account any applicable programmatic environmental impact statement prepared under section 105(a).

(2) Upon making the determinations required under paragraph (1) with respect to any applicant and the exploration or commercial recovery proposed by such applicant, and payment by the applicant of the fee required under subsection (h), the Secretary shall approve the application.

(g) TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After approving any application for a license or permit under subsection (f) and after publication of the final environmental impact statement prepared on the license or permit application pursuant to section 105(b), the Secretary shall establish terms, conditions, and restrictions that are consistent with the criteria set forth in section 106(b) with respect to the carrying out of the exploration or commercial recovery proposed in the application for the license or permit.

(2) The Secretary shall provide to each applicant a written statement of the terms, conditions, and restrictions established by the Secretary under paragraph (1). The applicant shall be deemed to have accepted such terms, conditions, and restrictions if the applicant does not notify the Secretary, before the close of the 60-day period beginning on the day on which the written statement is provided to the applicant, of each term, condition, or restriction with respect to which the applicant takes exception. If the Secretary and the applicant are thereafter unable to resolve their differences with respect to any term, condition, or restriction to which the applicant has taken exception, the applicant is entitled to an adjudication on the record after opportunity for agency hearing with respect to such terms, condition, or restriction. Any determination made by the Secretary pursuant to such adjudication is subject to judicial review as provided for in chapter 7 of title 5, United States Code.

(3) Upon acceptance by the applicant for any license or permit of the terms, conditions, and restrictions established by the Secretary under paragraph (1) (which terms, conditions, and restrictions shall be incorporated as a part of the license or permit), the Secretary shall, subject to the subsection (j), issue the license or permit to the applicant.

(h) FEES.—(1) No application for a license or permit may be approved under this section unless the applicant pays to the Secretary an administrative fee. The amount of the administrative fee imposed by the Secretary on any applicant shall, to the extent ascertainable, reflect the reasonable administrative costs incurred by the Secretary in processing the application.

(i) MODIFICATION OF TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After the issuance of any license or permit, the Secretary may modify any term, condition, or restriction in such license or permit if the Secretary finds that such modification is necessary to—

(A) avoid unreasonable interference with the interests of other States in their exercise of the freedoms of the high seas, as recognized under the general principles of international law;

(B) avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States; or

(C) protect the quality of the environment;

if relevant data and other information (including, but not limited to, data resulting from the carrying out of exploration or commercial recovery operations under the license or permit) indicate that modification is required. Any modification under this subsection must be consistent with the criteria set forth in section 106(b) (8) or (9), as the case may be.

(2) No modification may be made under paragraph (1)(C) if the Secretary determines, on the basis of substantial evidence, that the national interest in obtaining hard mineral resources from the area which is covered by the license or permit and which is the subject of the proposed modification outweighs the potential injury to the quality of the environment intended to be remedied by the modification. In determining whether a license or permit shall be modified under paragraph (1)(C), the Secretary shall also consider whether the proposed modification would result in significant economic loss to the licensee or permittee which would substantially outweigh the potential injury to the quality of the environment intended to be remedied by the modification.

(3) The procedures set forth in subsection (g)(2) shall apply with respect to any modification under this subsection in the same manner, and to the same extent, as if such modification were an initial term, condition, or restriction proposed by the Secretary.

(4) The Secretary may suspend any license or permit issued under this section if such suspension is necessary—

(A) to avoid a conflict with an international obligation of the United States, established by any treaty or convention in force with respect to the United States; or

(B) in the interests of national security as determined by the President.

The procedures set forth in section 104 shall apply with respect to any suspension under this subparagraph.

(j) ANTITRUST REVIEW.—(1) Whenever any application for the issuance of a license or permit is received, the Secretary shall transmit promptly a complete copy of such application to the Attorney General and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust reviews of such application as they deem appropriate and shall, if they deem appropriate, advise the Secretary of the likely effects of such issuance on competition.

(3) The Attorney General and the Federal Trade Commission may make any recommendation they deem advisable to avoid any action upon such application by the Secretary which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include without limitation the denial of the application or its issuance upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within 90 days of their receipt of the application. The Secretary shall not issue the license or permit during this 90-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation on the application.

(5) If the Secretary decides to approve any application of which denial has been recommended by the Attorney General or the Federal Trade Commission or to approve any application without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as being appropriate to prevent any situation inconsistent with the antitrust laws, the Secretary shall, prior to or upon the issuance of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

(6) The issuance of a license or permit shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or

abridge any private right of action under such laws.

(7) An antitrust review authorized by this subsection shall be deemed to be an "antitrust investigation" within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.).

(8) As used in this subsection, the term "antitrust law" means the Sherman Act, the Clayton Act, the Federal Trade Commission Act, the Wilson Tariff Act, or the Robinson-Patman Act (15 U.S.C. 13, 13a, 13b, and 21a).

Sec. 104. Denial of approval of applications and suspension and revocation of licenses and permits.

(a) DENIAL, SUSPENSION, AND REVOCATION.—(1) The Secretary may—

(A) deny approval of any application made for a license or permit if the Secretary finds that the applicant, or the activities proposed to be undertaken by the applicant, do no meet the requirements set forth in section 103(f)(1); and

(B) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit issued under this section if the licensee or permittee, as the case may be, substantially fails to comply with any provision of title, I, II, or III, any regulation issued thereunder, or any term, condition, or restriction of the license or permit.

(2) No action may be taken by the Secretary to deny approval of any application or to suspend or revoke any license or permit unless—

(A) the Secretary gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, or revoke and the reason therefor, and

(B) if the reason for the proposed denial, suspension, or revocation is a deficiency which the applicant, licensee, or permittee can correct, the Secretary gives the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice (or such longer period as the Secretary may establish for good cause shown), to correct such deficiency.

(3) The Secretary shall deny approval of any application and suspend or revoke any license or permit—

(A) on the 30th day after the date of the notice given to the applicant, licensee, or permittee under paragraph (2)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, or revocation; or

(B) on the last day of the period established under paragraph (2)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) ADMINISTRATION REVIEW OF DENIAL OR PROPOSED SUSPENSION OR REVOCATION.—Any applicant, licensee, permittee, as the case may be, who makes a timely request under subsection (a) for review of a denial or a proposed suspension or revocation of a license or permit, is entitled to an adjudication on the record after opportunity for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) EFFECT ON OPERATIONS.—The issuance of any notice of proposed suspension or revocation shall not affect the continuation of exploration or commercial recovery operations by the licensee or permittee under the license or permit unless the Secretary determines, and issues an emergency order declaring, that such operations, if continued, will cause an unreasonable threat to the quality of the environment by creating significant injury to that environment, or would be contrary to the national interest.

(d) JUDICIAL REVIEW.—Any determination of the Secretary under subsection (b) to deny approval of any application or to suspend or revoke any license or permit is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code.

Sec. 105. Environmental impact assessments.

(a) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.—(1) The Secretary, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, shall with respect to the area of the oceans in which any United States citizen will likely undertake development under the authority of this title—

(A) prepare and publish a draft programmatic environmental impact statement which assesses the environmental impact of development on such area;

(B) afford all interested parties a reasonable time after such date of publication to submit comments to the Secretary on such draft statement; and

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish a final programmatic environmental impact statement regarding such area.

(2) With respect to the area of the oceans in which development by any United States citizen will likely first occur under the authority of this title, the Secretary shall prepare draft and final programmatic environmental impact statements as required under paragraph (1) except that—

(A) the draft programmatic environmental impact statement shall be prepared and published within 120 days after the date of the enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within 180 days after the date on which the draft statement is published.

(b) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The approval of any application for a license or permit under section 103(e) shall be deemed to be a "major Federal action" for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). In preparing an environmental impact statement which may be required under the preceding sentence with respect to any application for a license or permit, the Secretary shall take into account, and give due consideration to, the information contained in any other environmental impact statement prepared pursuant to this section. Each environmental impact statement which is so required shall be prepared within the 6-month period following the date on which the application for the license or permit concerned is approved by the Secretary.

Sec. 106. Regulations.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, but not later than 1 year after such date, the Secretary shall issue such regulations, in addition to the regulations referred to in subsection (b), as are necessary and appropriate to carry out titles I, II, and III.

(b) REGULATIONS RELATING TO LICENSES AND PERMITS.—The Secretary shall issue such regulations as may be necessary and appropriate relating to procedural matters pertaining to the issuance, denial, suspension, and revocation of licenses and permits under sections 103 and 104, and shall issue regulations consistent with the following criteria (which criteria shall be applied uniformly by the Secretary in establishing the terms, conditions, and restrictions imposed with respect to each such license and permit):

(1) SIZE OF AREA OF EXPLORATION OR COMMERCIAL RECOVERY.—(A) The Secretary shall determine and specify in each license or permit the size of the area of the deep seabed in which the licensee or permittee may undertake exploration or commercial recovery. The size of any area shall be neither smaller nor larger than necessary to satisfy the following objectives:

(i) The area for exploration shall be sufficient to allow for intensive exploration activities (but may not exceed twice the size of the estimated area in which commercial recovery may be undertaken).

(ii) The area for commercial recovery shall be sufficient to satisfy the permittee's stated production requirements over the term of the permit, taking into account the state of the technology then available for ocean mining and the relevant physical characteristics of the area.

(B) When a licensee obtains a permit for commercial recovery, the area not covered by the permit shall be relinquished.

(2) DURATION.—(A) The term of any license shall be of sufficient duration to allow for a thorough survey of the area of the deep seabed covered by the license and the design, construction, and testing of prototype mining equipment for the area and of prototype processing facilities.

(B) The term of any permit shall be of sufficient duration to allow for commercial recovery of the hard mineral resources in the area which is authorized to be recovered under the permit (which duration shall be based upon related factors such as the depletion of the hard mineral resources within the area concerned, the useful life of the mining equipment and processing facilities, and commercial viability) and shall include a reasonable period of time for the construction of commercial scale mining and processing systems.

(3) PERFORMANCE REQUIREMENT.—(A) Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Secretary shall establish, taking into account the size of the area of the deep seabed covered by the license and the amount of funds which is estimated by the Secretary to be required to commence commercial recovery of hard mineral resources within the area within the time limit established by the Secretary (except that such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use).

(B) The Secretary shall establish with respect to each license a maximum time interval after exploration is completed within which commercial recovery must commence. Such interval shall take into account the time necessary for the construction of mining and processing system, with allowance made for unavoidable delays in such construction.

(C) Once commercial recovery is achieved, the Secretary shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit.

(4) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(A) surrender a license or a permit issued to him; or

(B) relinquish in whole or in part, any area of the deep seabed covered by the license or permit.

Any licensee or permittee who surrenders a license or permit, or relinquishes any area of the deep seabed, shall remain liable with respect to all violations and penalties incurred by him, and damages to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(5) RECORDS AND AUDITS.—(A) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Secretary shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for development and onshore processing of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the licensee or permittee that are necessary and pertinent to verify the expenditures referred to in subparagraph (A).

(6) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Secretary such necessary and reasonable data or other information as the Secretary may need for purposes of making determinations with respect to the issuance, denial, or revocation of any license or permit; complying with the reporting requirement in section 108, and evaluating the exploration or commercial recovery operations engaged in by the licensee or permittee.

(7) PUBLIC DISCLOSURE.—Copies of any record, document, report, or other communication received by the Secretary containing data or information required under this title shall be made available to the public, upon identifiable request therefor, at reasonable cost, unless—

(A) such data or information relates to trade secrets or other confidential matter referred to in section 1905 of title 18 of the United States Code; or

(B) the public release of such data or information is prohibited under any provision of law, including, but not limited to, section 552(b) of title 5 of the United States Code.

(8) PREVENTION OF INTERFERENCE WITH REASONABLE USES OF THE HIGH SEAS.—Each license and permit shall include such restrictions as may be necessary and appropriate to insure that exploration or commercial recovery operations carried out by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under the general principles of international law.

(9) PROTECTION OF THE ENVIRONMENT.—Each license and permit shall contain such terms, conditions, and restrictions with respect to the carrying out of exploration and commercial recovery operations authorized thereunder as are necessary to protect the quality of the environment through utilization of the best practicable technology economically achievable. Before establishing such terms, conditions, and restrictions the Secretary shall consult with the Administrator of the Environmental Protection Agency and take into account, and give due consideration to, the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to section 105(b).

(10) MONITORING OF OPERATIONS.—Each license and permit shall require the licensee or permittee—

(A) to allow the Secretary to place appropriate Federal officers and employees aboard vessels used by the licensee or permittee in exploration or commercial recovery operations for the purpose of monitoring such operations at such time, and to such extent, as the Secretary deems reasonable and necessary to assess the effectiveness of, and to determine compliance with, the terms, conditions, and restrictions of the license or permit;

(B) to cooperate with such officers and employees in carrying out monitoring functions; and

(C) to submit to the Secretary such information as the Secretary requests for purposes of assessing environmental impacts resulting from the exploration or commercial recovery operations of the licensee or permittee.

Sec. 107. Reciprocating states.

(a) DESIGNATION.—The President, in consultation with the Secretary and the heads of other appropriate departments and agencies, may designate any foreign nation as a reciprocating state if the President determines that such foreign nation—

(1) provides a legal framework for exploration and commercial recovery (pending agreement on an international treaty) which does not unreasonably interfere with the interests of other states in their exercise of the freedom of the high seas, as recognized under general principles of international law;

(2) recognizes licenses and permits issued under this title to the extent that such nation prohibits, under its laws, any person subject to its jurisdiction from engaging in exploration or commercial recovery which conflicts with that authorized under any such license or permit;

(3) recognizes, under its procedures, priorities of right for applications for licenses or permits which are consistent with those provided for in this title and the regulations issued thereunder;

(4) regulates the conduct of persons subject to its jurisdiction who are engaged in exploration or commercial recovery in a manner compatible with that provided for in this Act and the regulations issued thereunder, including, but not limited to, regulation—

(A) requiring such persons to carry out adequate measures for the protection of the marine environment, the orderly and efficient development of hard mineral resources, and the safety of life and property at sea, and

(B) providing for adequate enforcement; and

(5) has established a special fund for the payment of contributions to an international regime (established under an international agreement) for sharing with the international community pursuant to such agreement.

(b) EFFECT OF DESIGNATION.—If any foreign nation is designated as a reciprocating state under subsection (a), no license or permit shall be issued under this title permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by such reciprocating state.

(c) NOTIFICATION OF APPLICATIONS.—The President shall notify each reciprocating state of the receipt of any application for a license or permit under this title. Such notification shall include appropriate information from such application. The Secretary shall submit to the President such information as is necessary for the President to notify reciprocating states pursuant to this subsection.

(d) REVOCATION OF PARTICIPATION STATE STATUS.—The President, in consultation with the Secretary and the heads of other appropriate departments and agencies, may revoke the designation of a foreign nation as a reciprocating state if the President determines that such foreign nation no longer complies with the requirements of subsection (a).

Sec. 108. Annual report by Secretary.

The Secretary shall submit to the Congress on or before October 31 of each year after 1978 a report on the administration of this Act during the period covered by the report. Such report shall contain, but is not limited to, the following information with respect to the reporting period:

(1) The number of licenses for exploration and permits for commercial recovery issued, denied, suspended, or revoked under section 103 or 104.

(2) A description and evaluation of the exploration and commercial recovery operations undertaken; including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources.

(3) A description and estimate of any damage to the quality of environment resulting from such operations.

(4) The number and description of all civil and criminal proceedings instituted under title III, and the current status of such proceedings.

(5) Such recommendations as the Secretary deems appropriate for amending this Act to further carry out its purposes.

TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

Sec. 201. Declaration of congressional intent.

It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens, and

(B) recognize the rights of United States citizens who have undertaken exploration for, or commercial recovery of, hard mineral resources of the deep seabed under title I before such agreement enters into force with respect to the United States to continue their operations under substantially the same terms, conditions, and restrictions as have been imposed on them under title I and any regulation issued thereunder, or otherwise provide for the continuation of such operations in a manner that does not materially impair the value of investments that have been made in relation to such operations;

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investments of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective producers for the settlement of disputes and any features that tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States, or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

Sec. 202. Effect of international agreement.

If an international agreement enters into force with respect to the United States, any provision of title I, II, or III, and any regulation issued thereunder, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. The Secretary, in consultation with the Secretary of State, shall take all necessary measures to insure, to the maximum extent possible consistent with the provisions of such international agreement, that the integrity of investments previously made by United States citizens in connection with deep seabed mineral exploration and commercial recovery is protected in the implementation of such international agreement. The Secretary shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Secretary under this section, which report shall include, but not be limited to—

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in deep seabed mineral exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their

operations under substantially the same terms, conditions and restriction and, if applicable, the extent to which the value of their investments may have been impaired by the implementation of the international agreement.

TITLE III—CIVIL PENALTIES, CRIMINAL OFFENSES, AND MISCELLANEOUS PROVISIONS

Sec. 301. Prohibited acts.

It is unlawful for any United States citizen to violate any provision of this title I, II, or III, any regulation issued thereunder, or any term, condition, or restriction of any license or permit issued to him under section 103.

Sec. 302. Civil penalties.

(a) ASSESSMENT OF PENALTY.—Any United States citizen who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $50,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any United States citizen against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within thirty days from the date of the assessment order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any United States citizen fails to pay an assessment of a civil penalty after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

Sec. 303. Criminal offenses.

(a) OFFENSES.—Any United States citizen is guilty of an offense if he willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of not more than $250,000 for each day during which the violation continues.

(c) JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

Sec. 304. Enforcement.

The provisions of titles I, II, and III, any regulation issued thereunder, and any term, condition, and restriction of any license or permit issued under section 103 shall be enforced by the Secretary. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency in the performance of such duties. The Secretary shall issue such regulations as may be necessary and appropriate to carry out the Secretary's enforcement duties under this section.

Sec. 305. Liability of vessels.

Any vessel, except a public vessel engaged in noncommercial activities, used in any violation of title I, II, or III, any regulation issued thereunder, and any term, condition, or restriction of any license or permit issued under section 103 shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

Sec. 306. Authorization for appropriations.

There are authorized to be appropriated for any fiscal year beginning after September 30, 1978, such sums as may be necessary for the administration of titles I, II, and III.

Sec. 307. Severability.

If any provision of title I, II, or III or any application thereof is held invalid, the validity of the remainder of such title, or of any other application, shall not be affected thereby.

TITLE IV—TAX

Sec. 401. Short title.

This title may be cited as the "Deep Seabed Hard Mineral Removal Tax Act of 1978".

Sec. 402. Imposition of tax on removal of hard mineral resources from deep seabed.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Tax on Removal of Hard Mineral Resources from Deep Seabed

"Sec. 4495. Imposition of tax.
"Sec. 4496. Definitions.
"Sec. 4497. Imputed value.
"Sec. 4498. Termination.

"Sec. 4495. Imposition of tax.

"(a) GENERAL RULE.—There is hereby imposed a tax on any removal of a hard mineral resource from the deep seabed pursuant to a deep seabed permit.

"(b) AMOUNT OF TAX.— The amount of tax imposed by subsection (a) on any removal shall be 3.5 percent of the imputed value of the resource so removed.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person to whom the deep seabed permit is issued.

"(d) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations. The time so prescribed with respect to any removal shall not be earlier than the earlier of—

"(1) the commercial use of, or the sale or disposition of, any portion of the resource so removed, or

"(2) the day which is 12 months after the date of the removal of the resource.

"Sec. 4496. Definitions.

"(a) DEEP SEABED PERMIT.—For purposes of this subchapter, the term 'deep seabed permit' means a permit issued under title I of the Deep Seabed Hard Minerals Resources Act.

"(b) HARD MINERAL RESOURCE.— For purposes of this subchapter, the term 'hard mineral resource' means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at laest one of which is manganese, nickel, cobalt, or copper.

"(c) DEEP SEABED.—For purposes of this subchapter, the term 'deep seabed' means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside—

"(1) the Continental Shelf of any nation; and

"(2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

"(d) CONTINENTAL SHELF.—For purposes of this subchapter, the term 'Continental Shelf' means—

"(1) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

"(2) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

"Sec. 4497. Imputed value.

"(a) IN GENERAL.—For purposes of this subchapter the term 'imputed value' means, with respect to any hard mineral resource, 20 percent of the fair market value of the commercially recoverable metals and minerals contained in such resource. Such fair market value shall be determined—

"(1) as of the date of the removal of the hard mineral resource from the deep seabed; and

"(2) as if the metals and minerals contained in such resource were separated from such resource and were in the most basic form for which there is a readily ascertainable market price.

"(b) COMMERCIAL RECOVERABILITY.—

"(1) MANGANESE, NICKEL, COBALT, AND COPPER.—For purposes of subsection (a), manganese, nickel, cobalt, and copper shall be treated as commercially recoverable.

"(2) MINIMUM QUANTITIES AND PERCENTAGES.—The Secretary may by regulations prescribe for each metal or mineral quantities or percentages below which the metal or mineral shall be treated as not commercially recoverable.

"(c) SUSPENSION OF TAX WITH RESPECT TO CERTAIN METALS AND MINERALS HELD FOR LATER PROCESSING.—

"(1) ELECTION.—The permittee may, in such manner and at such time as may be prescribed by regulations, elect to have the application of the tax suspended with respect to one or more commercially recoverable metals or minerals in the resource which the permittee intends to hold for at least 1 year without the processing of such metals or minerals. Any metal or mineral affected by such election shall not be taken into account in determining the imputed value of the resource at the time of its removal from the deep seabed. Any suspension under this paragraph with respect to a metal or mineral shall be permanent unless there is a redetermination affecting such metal or mineral under paragraph (2).

"(2) LATER COMPUTATION OF TAX.—If the permittee processes any metal or mineral affected by the election under paragraph (1), or if he sells any portion of the resource containing such a metal or mineral, then the amount of the tax under section 4495 shall be redetermined as if there had been no suspension under paragraph (1) with respect to such metal or mineral. In any such case there shall be added to the increase in tax terminated under the preceding sentence an amount equal to the

interest (at rates determined under section 6621) on such increase for the period from the date prescribed for paying the tax on the resources (determined under section 4495(d)) to the date of the processing or sale.

"(d) DETERMINATIONS OF VALUE.—All determinations of value necessary for the application of this subchapter shall be made by the Secretary (after consultation with other appropriate Federal officials) on the basis of the best available information. Such determinations shall be made under procedures established by the Secretary by regulations.

"Sec. 4498. Termination.

"(a) GENERAL RULE.—The tax imposed by section 4495 shall not apply to any removal from the deep seabed after the earlier of—

"(1) the date on which an international deep seabed treaty takes effect with respect to the United States, or

"(2) the date 10 years after the date of the enactment of this subchapter.

"(b) INTERNATIONAL DEEP SEABED TREATY.—For purposes of subsection (a), the term 'international deep seabed treaty' means any treaty which—

"(1) is adopted by a United Nations Conference on the Law of the Sea, and

"(2) requires contributions to an international fund for the sharing of revenues from deep seabed mining."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following new item:

"Subchapter F. Tax on removal of hard mineral resources from deep seabed."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1980.

Sec. 403. Establishment of Deep Seabed Revenue Sharing Trust Fund.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Deep Seabed Revenue Sharing Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury to be equivalent to the amounts of the taxes received in the Treasury under section 4495 of the Internal Revenue Code of 1954.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and to report to the Congress for the fiscal year ending September 30, 1980, and each fiscal year thereafter on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) EXPENDITURES FROM TRUST FUND.—If an international deep seabed treaty is in effect with respect to the United States on or before the date 10 years after the date of the enactment of this Act, amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making contributions required under such treaty for purposes of the sharing among nations of the revenues from deep seabed mining. Nothing in this subsection shall be deemed to authorize any program or other activity not otherwise authorized by law.

(e) USE OF FUNDS.—If an international deep seabed treaty is not in effect with respect to the United States on or before the date 10 years after the date of the enactment of this Act, amounts in the Trust Fund shall be available for such purposes as Congress may hereafter provide by law.

(f) INTERNATIONAL DEEP SEABED TREATY.—For purposes of this section, the term "international deep seabed treaty" has the meaning given to such term by section 4498 (b) of the Internal Revenue Code of 1954.

Sec. 404. Act not to affect tax or customs or tariff treatment of deep seabed mining.

Except as otherwise provided in section 402, nothing in this Act shall affect the application of the Internal Revenue Code of 1954. Nothing in this Act shall affect the application of the customs or tariff laws of the United States.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, I have offered an amendment in the nature of a substitute to H.R. 3350, the text of which is contained in the bill, H.R. 12988. The substitute measure represents a consensus of the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, International Relations, and Ways and Means. Mr. MURPHY, Mr. UDALL, Mr. KAZEN, Mr. ZABLOCKI, Mr. BINGHAM, Mr. FRASER, Mr. PRITCHARD, and Mr. DERWINSKI have joined me as cosponsors to H.R. 12988. The rule which the House adopted last Friday makes this substitute in order as original text to the bill H.R. 3350.

The administration supports deep ocean mining legislation. Ambassador Richardson, the Special Representative of the President to the Third United Nations Conference on the Law of the Sea, has personally reviewed the consensus bill and endorses it.

The deep seabed mining issue is highly complex and its ramifications very far reaching. It has been the object of intense scrutiny and extensive debate. The views which have been expressed on it have been strongly held and widely divergent.

Consequently, the wide support for H.R. 12988 must be regarded as somewhat remarkable. But more importantly, the balance achieved in this compromise amendment must be respected. Proposed amendments to H.R. 12988 must be considered with great care.

As it stands, this consensus substitute provides the kind of investment climate, without investment guarantees, in which deep seabed mining may be assured of going forward. At the same time, the amendment assures that deep seabed mining will be environmentally and internationally responsible. Indeed, it was out of concern for environmental and international considerations that the Committee on Merchant Marine and Fisheries accepted for inclusion in H.R. 12988 certain amendments to H.R. 3350 by Interior, International Relations, and Ways and Means, as well as the keystone of the interim deep seabed mining regime created by the bill, the grandfather clause.

In the grandfather clause, the Congress expresses its intent that U.S. miners have under a future law of the sea treaty assured access to deep seabed resources and security of tenure of mine sites. This provision is complemented by a provision for sharing deep seabed mining revenues with the international community. Through these provisions the Congress asks that the international community recognize our established international legal rights, and in return, the United States provides concrete recognition of the notion that deep seabed minerals are the common heritage of mankind.

On the environmental side, H.R. 12988 reflects the fine tuning of a complex and very delicate three-committee consensus. It would be particularly unfortunate if this balance were to be upset.

The Committee on Merchant Marine and Fisheries began deliberations with Interior and International Relations Committees several months ago. At that time there were some 19 differing issues for us to resolve, and we were successful in resolving 17 of these issues in favor of either the Interior or the International Relations Committees. One of the unresolved issues will be determined by the House today—this is the question of which department will administer the deep sea mining program. Commerce or Interior. The other issue in dispute was whether mining vessels should be U.S. flag only or be permitted to carry the flag of foreign reciprocating nations—nations which have similar deep sea licensing laws. An amendment will be offered to the substitute to require U.S. flag only in order that the environmental and regulatory policies of this act will apply to the vessels carrying out the work.

With the exception of these amendments, I would urge your cautious con-

sideration of any amendments which might strike at the heart of the compromise which this substitute represents.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. ZEFERETTI. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 12988, the Deep Seabed Mineral Resources Act of 1978. This bill would establish, pending the adoption of an international treaty, a legal framework within which the American maritime and mining industries could begin to harvest the enormous supply of manganese, copper, cobalt, and nickel that lies on the ocean floor.

I support this legislation because it is a reasonable compromise that, in my opinion, correctly assesses the U.S. evolving position in the increasingly interdependent international economy and takes action appropriate to that assessment. The bill demonstrates this Nations acceptance of the United Nation's proclamation that the deep seabed is "the common heritage of mankind," but simultaneously it manifests our intention to promote our national interest vigorously in international relations.

I hope that every Member of Congress shares my belief that the regulatory framework that this legislation would establish is sound; its provisions for licensing, environmental protection, revenue sharing, international cooperation, and transition to an international treaty will insure the orderly and efficient development of the deep seabed. I might add that the bill's careful construction testifies to the hard work that the members of the Ways and Means, International Relations, Interior, and Merchant Marine and Fisheries Committees put into it during their markup sessions.

But if we all agree on the comprehensiveness of the bill itself, our consideration of this bill must turn upon our estimation of whether we should enact this legislation to force the hand of the negotiators at the Law of the Sea Conference. We must weigh our national needs against the concerns of our international negotiators at the Conference.

Our paramount national concern must be the health of American mining and shipping and all of the industries that use manganese, copper, cobalt, and nickel. Our maritime and mining companies have suffered through severe financial problems in recent years, but full scale commercial ocean mining promises to help them toward recovery. In recognition of this prospect, American companies recently have made significant investments in the development of deep seabed mining technology and capacity. It is a fact, however, that American companies, by themselves or as part of international mining consortia, cannot make the multibillion-dollar decisions requisite to full-scale commercial mining without an interim legal framework and the support of the U.S. Government. Moreover, as long as this country's supply of imported minerals remains vulnerable to embargoes and price increases, domestic industries will have to deal with continuing economic uncertainty. Only deep seabed mining can relieve some of this uncertainty.

At present, the Law of the Sea Conference offers little hope of enacting a treaty that will facilitate ocean mining by either the United States or an international mining consortium, for on the issue of ocean mining, the Law of the Sea Conference has reached a stalemate that pits the United States and the industrialized nations against a coalition of developing Third-World nations. This standoff has evolved despite the fact that the United States has made major concessions to the Conference and to the coalition. Although the United States and other nations with the capacity to mine the deep seabed within a few years of receiving the sanctions to do so have agreed in principle to work under an international regulatory structure, in cooperation with an international mining company, and in compliance with a formula of revenue and technology sharing, the Third-World political caucus has obstructed the Conference's efforts to establish a fair licensing and environmental authority, to recognize the validity of free enterprise, and to promote international industrial cooperation. While the Conference sits idly, the fate of vital, abundant mineral resources, of U.S. reliance on imported minerals, and of the financial and employment interests of U.S. industries hangs in the balance.

If the United States desires to take constructive action that balances international considerations with national priorities, the bill before us represents the firmest yet most restrained course of action. The bill clearly expresses concern for the investments of U.S. industry and provides impetus for further development of mining capacities, but it also states that what the United States wants most is international industrial cooperation. Passing this legislation not only will help our troubled domestic industries, but will bring the United States closer to an acceptable and mutually beneficial economic and political relationship with Third-World nations. I think it is fair to characterize this bill as a catalyst for international cooperation.

In light of the protracted proceedings of the Law of the Sea Conference and the urgency of promoting our national interest, I believe that it is time for the Congress to act and force the hand of the negotiators. If we make it clear that our ultimate goal is international economic benefit, I believe that other nations will accept our action.

In a time of scarce resources and a realining world economy, hesitation and obstruction cannot be tolerated, and the United States must lead the way by taking constructive action. H.R. 12988 is constructive action.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL: On page 8, after line 5, add the following:

"(13) the term "Secretary" means the Secretary of the Interior."

Mr. UDALL. Mr. Chairman, the consensus bill before us today, H.R. 12988, is mute on the questions of what department should administer the ocean mining program. My amendment would put this program in the Department of the Interior.

The Department of the Interior has always had responsibility for all Federal involvement in mineral development. The mining law of 1872, the mineral leasing law of 1920, the OCS Lands Act of 1953, all have been managed by the Department of the Interior.

The Department has several thousand employees in the U.S. Geological Survey, and several thousand more work in the Bureau of Mines and the Bureau of Land Management. Together these agencies manage the gathering of information, the advancement of technical expertise, the preparation of environmental impact statements, the leasing, administering, and enforcing of the laws governing our nation's mineral resources.

The best analogy to ocean mining is the development of offshore oil and gas leases. When a land-based technology, the drilling for oil and gas, moved offshore, the new Outer Continental Shelf program came under the purview of the Interior Department. It did not go to the Coast Guard or the Commerce Department. Ocean mining should follow the same pattern, drawing upon the onshore mining and the offshore petroleum drilling expertise of the Department of the Interior, ocean mining's logical home is in Interior.

My support for the Department of the Interior should not be seen as an attack upon the mandate of NOAA. That agency has important responsibilities for monitoring ocean pollution, for collecting scientific information and for advancing competence in oceanographic technologies. But NOAA does not have the experience, the personnel, nor the technical support necessary to run this complex program.

The Interior Committee used as a vehicle for the markup, the bill introduced by Congressmen MURPHY and BREAUX, as reported out by the Merchant Marine and Fisheries Committee. The findings and purposes of that bill make the case for Interior Department jurisdiction.

Included in the findings that—

(1) the United States' requirements for hard minerals to satisfy national industrial needs, will continue to expand and that the demand for such minerals will eventually exceed the available domestic sources of supply.

*Who better to estimate the need for minerals?*

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and that the acquisition of such minerals from foreign sources is a significant factor in the national balance of payments position.

*Who monitors the importations of minerals?*

(3) The present and future national interest of the United States requires the availability of hard mineral resources which are independent of the export policies of foreign nations.

*Who estimates the availability of minerals?*

(4) There is an alternate source of supply of certain hard minerals, including nickel, copper, cobalt, and manganese, which are significant in relation to national needs con-

tained in the nodules existing in great abundance on the deep seabed.

*And, who then can estimate alternative sources of minerals?*

Looking next at the purposes, there is no question left—

(1) To establish an interim program to encourage and regulate the development of hard mineral resources of the deep seabed by U.S. citizens, pending to entering into force with respect to the United States of superseding international agreement relating to such activities;

*Who best can encourage and regulate the development of minerals?*

(2) To insure that the development of hard mineral resources of the deep seabed are conducted in a manner which will encourage the orderly and efficient development of such resources, will protect the environment, and will promote the safety of life and property at sea.

*Who best can insure orderly and efficient resource development?*

(3) To allow the continued development of technology necessary to develop the hard mineral resources of the deep seabed as soon as possible.

*Who best can allow for technological development of mineral development?*

The other findings and purposes speak to policy questions of producing the necessary investment climate and to the Law of the Sea negotiations.

I believe these quotes from the merchant marine bill persuasively argue that jurisdiction for ocean mining should rest with the Department of the Interior.

Mr. BREAUX. Mr. Chairman and members of the committee, I rise in opposition to the amendment of the gentleman from Arizona to place the jurisdiction of this program in the Department of the Interior.

I, too, do not want to speak badly of the Department which I am opposing; but I think what we ought to do in deciding which department is going to have jurisdiction over this program, which is a very major program, is that we should look, first of all, to what type of expertise individual departments have in this particular area.

If any Member would look at the comparison sheet that I have sent around to each Member of the House comparing what the Interior Department has done in this area with what the Department of Commerce has already done in this area, I think Members will come to the conclusion, as I have, that it clearly belongs in the department that has the expertise and has had—which is equally important—the interest to do something about deep sea mining so far. The sheet that I have sent out points out that the Department of Commerce already has an Office of Marine Minerals with a $4.5 million annual budget, which they have had for the past 3 years. They have not just sat on that budget or that Office, but have been very aggressive. They already have seven staff members working, and have a very strong program looking at environmental, economic, legal, resource and regulatory deep seabed mining issues.

In the Interior Department, they have an Office of Ocean Mining with an annual budget of only $500,000 in comparison with the $4.5 million of the Department of Commerce. But, more importantly, the Interior Department has only two staff members and the position of Administrator of the Office of Administration for Ocean Mining has been vacant for the past 2 years. They have had such a tremendous interest that they have not even gotten around to appointing a person to head up the office. The office has been vacant for 2 years. NOAA, on the other hand, which is located in the Department of Commerce, is the only Federal agency to conduct onsite deep ocean mining environmental studies. They have spent a great deal of time and effort doing environmental work to determine the effect of it on the environment. Their DOMES onsite oceanographic ships are out in the ocean looking at the potential mining sites and studying what their effect will be.

We have to look at ocean mining as a total package policy. This is also management. The gentleman from Arizona pointed out that the Interior Department has jurisdiction over the Outer Continental Shelf, but the OCS is the management of our own lands of the Continental Shelf. To say that this is the same as ocean mining is absolutely, totally, in my opinion, incorrect. We are talking about international waters. The agency that handles this should have expertise in international problems and law. It should have a blue water fleet capable of going offshore and studying the impact and making sure that everything is correct. The Interior Department has none of this.

In addition I am proud that I am on the side of the Center for Law and Social Policy. They have sent a letter to the chairman of the subcommittee which reads in part as follows:

> As you know, the International Project of the Center for Law and Social Policy has represented the Sierra Club, Environmental Defense Fund, National Audubon Society, Friends of the Earth, National Wildlife Federation, and Natural Resources Defense Council regarding deepsea mining legislation for the last four years. We have testified on numerous occasions in both the House and Senate about various bills, and have submitted comments to the Executive Branch.
>
> We have always expressed the view that the agency best suited to have authority over deepsea mining is the National Oceanic and Atmospheric Administration (NOAA).

NOAA is housed in the Department of Commerce. That is an unusual situation when we have the gentleman from Louisiana with all these environmental groups arguing for the same amendment. If that is the case, it has got to be good.

I think the Department of Commerce has clearly indicated that they have the interest, the expertise, and the budget necessary to be the lead agency. They should not be compared to the OCS or land-based mining because it bears no resemblance. The technology is completely and totally different. The environment is completely different. NOAA has its own management program.

We have to tailor ocean mining to the effect on the coastal zone. The lead agency is NOAA. We should have a comprehensive ocean management program, and not pick and choose. That is why I will be offering an amendment as a substitute for the amendment offered by the gentleman from Arizona, to designate the Department of Commerce as lead agency in ocean mining.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the truth of the matter is that there are elements of expertise that are lodged in both of these executive departments.

The subject matter of this legislation is deepsea mining. The one governmental agency that has traditionally been the repository of knowledge with respect to the mining industry, its problems and its economics has been the Bureau of Mines and USGS. I speak in support of the gentleman from Arizona and the Department of the Interior because I think on balance that is the agency that is best suited to handle both the environmental responsibilities and the municipal recovery administration that will have to be made.

In the Department of Commerce we have lodged there the Government experience in the science of the seas, oceanography. The truth of the matter is whichever Secretary is designated to run this program, that Secretary is going to have to appeal for assistance from the other Government agency. The Secretary of the Interior will have to look to Commerce for help. Commerce, if they got the lead agency, would have to go to Interior for help.

Ideally in the best of all possible worlds and outside the realm of warring bureaucracies, what should be done here is that there should be a task force with representatives appointed by each Secretary—two or three—to carry out and implement this responsibility. But all of us who know and well recognize the disposition, the jealous disposition of bureaucratic entities to do battle with each other over sacred turf will recognize that the task force unfortunately will not work here. It should work and in practical consequence that is what will happen here in any event.

But the Department of Interior is the repository of knowledge that is going to be necessary to make determinations on rules and regulations on recovery of the mineral resources from the ocean floor. In balance it is the Secretary of the Interior who has made all the decisions on offshore and leasing not always perfectly, but knowledgeably—the Department of the Interior is not going to have to contract for new expertise in order to implement the deep sea responsibility. I would urge my fellow members of the committee to support the gentleman from Arizona and the Department of the Interior as the Secretary to be designated in this legislation.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I heard my friend, the gentleman from Louisiana

(Mr. BREAUX), say he was embarrassed, or maybe he said proud, for having some of the environmental groups behind him, and I wanted to relieve him of some of that embarrassment. The gentleman has a letter of July 18 from an organization which undertook to speak for other organizations and announce the support of those other organizations.

However, I had a letter after that from the Friends of the Earth saying they have come to the conclusion that the Department of the Interior is the proper agency to lead in this.

I had a letter the day after the letter referred to by the gentleman from Louisiana (Mr. BREAUX), from the Environmental Policy Center which said that they strongly support the Department of the Interior for the lead agency in deep seabed mining.

There appears to be some confusion and I hope we will not begin shouting about who the environmental organizations are for. Most of them are for me and the Department of the Interior.

Mr. SANTINI. I thank the gentleman from Arizona.

Perhaps we could come up with a compromise and suggest the Department of Transportation as a truly objective body, especially in view of the fact that we will have to transport these substances from ocean floor to shore.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I was confused until I heard the gentleman from Arizona, and now I am totally convinced it should be the Department of Commerce.

Mr. SANTINI. We cannot account for the gentleman's state of mind or his confusion. This is a liability we all share.

There are equities to suggest the position of the gentleman from Louisiana (Mr. BREAUX), but I would urge the Members of the Committee to come down on the side of the equities supported by the gentleman from Arizona and name the Department of the Interior as the entity that has the established credentials to carry this responsibility.

AMENDMENT OFFERED BY MR. BREAUX AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. UDALL

Mr. BREAUX. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX as a substitute for the amendment offered by Mr. UDALL: At page 8, after line 5, add the following:

"(13) The term "Secretary" means the Secretary of Commerce".

Mr. BREAUX. Mr. Chairman, I am trying to find the letter dated July 26 that I had but we do not seem to have that letter with us.

Nevertheless, I think when we are discussing which environmental groups are supporting which department, the Center for Law and Social Policy is the one supporting the Department of Commerce. The other gentleman has a letter in which the Environmental Policy Center indicates support of the Interior Department, but if that issue is confusing, and it certainly is, the other point that we have to consider is just as confusing and that is the experts that are connected with the various departments.

However, when you look at the record I believe that honestly and objectively you have to admit that the Department of Commerce is the proper department. That is the department that covers the oceans. It has the ocean agency, the National Oceanic and Atmospheric Administration, as the lead Federal administering agency for the development of ocean mining in the United States.

It is the Department that regulates the oceans for the United States. It is the Department that has within it, NOAA, which is in charge of our Federal ocean's program.

It is very clear to me, and to all members of the committee that when you are talking about deep sea mining you are talking about areas that belong not to the United States, but which are in international waters.

Further, when we are talking about oceans, Mr. Chairman, we are talking about the only agency that has a person who is serving as the lead ocean mining administrator in this Government. I might add that the Department of the Interior has not gotten around to filling its vacancy that was created 2 years ago, so evidently they are not that concerned about the ocean program we are talking about.

When you talk about the deep ocean mining environmental study (DOMES), it is NOAA that we are talking about, for the purpose of studying the potential effects of ocean mining. They have the ability and they have the technology and they have the very, very important engineering know-how. If we are going to have an ocean mining program we want to be ready. If we select another department, then you have to start from point No. 1, start from scratch. The Department of Commerce already has come up with the programs and ability to move forward on this problem of our resources in international waters. This program is not the same as mining on the Continental Shelf, this is not mining on land we own that the Department of the Interior has the responsibility for, this is something entirely different.

Therefore, Mr. Chairman, I respectfully suggest to the committee that the wise, the clear and the only choice to make is that the Department of Commerce is the only leading agency in this field.

Mr. PRITCHARD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Louisiana (Mr. BREAUX) as a substitute for the amendment offered by the gentleman from Arizona (Mr. UDALL).

Mr. Chairman, I rise in support of the Breaux amendment, which designates the Department of Commerce and primarily the National Oceanic and Atmospheric Administration as the administering agency for the development of ocean mining in the United States. Given the nature of this particular common property resource which raises many foreign policy and economic questions in terms of its management, it becomes clear that the Department of the Interior has simply not had the requisite experience with the type of resource in which property rights are still evolving.

The Department of the Interior has traditionally been involved in the management of what are clearly nationally owned resources or with resources in which clear property rights exists. When we move into the ocean environment and the management of ocean resources, this clarity of property rights over resources, which can be freely transferred between individuals or governments, consistent with market principles, tends to disappear.

In the case of deep seabed manganese nodules, because they lie beyond most nations' areas of national jurisdiction, ownership is unclear. Our government has argued in the past that the exploitation of these minerals is simply a matter of first come-first served subject to reasonable use of the high seas. The minerals belong to no one until they are actually reduced to capture.

A more recent U.N. Assembly resolution has declared that these resources of the deep seabed are part of "the common heritage of mankind." The United States agreed to this resolution with a proviso that the concept of "the common heritage of mankind" was yet to be defined through some type of Law of the Sea Treaty. Theoretically, it is this eventual treaty which will define or clarify the resource rights pertaining to the deep seabed. However, at this time, these resource property rights in the deep seabed are extremely unclear, and for the United States to simply allow the Department of the Interior to manage these resources identical to the ways that they manage land-based copper mines, coal lands, or even outer Continental Shelf resources (in which the United States effectively owns the resource pursuant to the 1958 Convention on the Continental Shelf and the Truman Proclamation) would be wrong.

At this time, in the debate surrounding the issues of who will exploit and will benefit from the mining of deep seabed resources, there are simply too many unsettled international and foreign policy considerations as well as economic issues which relate to the management of these unique resources to simply proceed at full speed ahead with ocean mining under the leadership of the Federal agency which manages our "Interior" resources.

In addition, I would simply like to point out two additional considerations which point toward NOAA as the logical ocean mining agency. First, it already has a significant fleet of ocean-going research vessels which will be able to conduct monitoring of ocean mining activities and further environmental studies which are necessary as this industry develops. Second, in the general area of

ocean resource management, particularly fisheries, where clear property rights have also been somewhat absent in the past, NOAA has acquired considerable expertise and experience in managing these resources in order to achieve efficient and optimum rates of development. I would strongly argue that to suddenly attempt to impose the responsibility for the management of ocean resources within the agency which has only had experience in the area of land-based resource management would be a mistake.

Finally, Mr. Chairman, I think that we have to also look at existing agencies and their existing clientele group when you designate an agency to manage a new resource which could be a major contributor to our future supply of important raw materials. There is a tendency among the Group of 77 at the Law of the Sea Conference to be most concerned about the potential impact of minerals from the deep seabed on existing markets for cobalt, copper, nickel, and manganese, but especially nickel.

Any time we have a major innovation which provides a significant new source of supply of a particular raw material, the existing producer becomes extremely concerned about the rate at which this new industry develops. I expect that although most concern thus far has been expressed by the group of 77 in this area, that there may be some resistance to deep seabed mining domestically for the reasons I have suggested. Therefore, it seems logical, at least initially, to place the administration of ocean mining in an agency which is not currently dependent on existing land-based mining interests. For these reasons, Mr. Speaker, I strongly support the Breaux amendment as a means to achieve efficient development of ocean minerals in this unique area of resource management which has significant international implications.

Mr. KAZEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to take issue with the gentleman from Louisiana (Mr. BREAUX) and to support the amendment offered by the gentleman from Arizona (Mr. UDALL) which would place the jurdisdiction over the program established by this bill in the Secretary of the Interior.

Mr. Chairman, the only agency that we have heard from in the Department of Commerce which could conceivably be assigned responsibility for the program is NOAA. But I would call the attention of the gentleman from Louisiana (Mr. BREAUX) to the fact that to date NOAA has no experience whatsoever in the actual management of mineral resources. In fact, their primary experience in this area has been to conduct the so-called DOMES program—the deep ocean mining environmental studies program.

As has already been mentioned, I would point out, Mr. Chairman, that the total technical funding for the first DOMES program was $2,959,000. Of this amount NOAA expended $1,041,000 in research contracts with universities and private consulting groups, or 35 percent of the total. More significantly, however, they contracted with the U.S. Geological Survey for 22 percent of the work, or $639,000.

The Geological Survey, of course, is an agency of the Department of the Interior. The U.S. Bureau of Mines is already engaged in deep seabed mining technology assessment, the evaluation and control of seabed mining processes, and nodule analysis. The Bureau is the world's foremost gatherer of world mineral supply and demand information. The U.S. Geological Survey's Conservation and Geologic Divisions are presently engaged in such things as ocean mineral deposit evaluations, geologic hazards evaluation, review of operating plans for the exploration and mineral production on the Outer Continental Shelf, and development of deep seabed instrumentation.

Clearly the expertise is in the Department of the Interior, and I challenge anyone on the floor to put up NOAA's experience with the experience of the Department of the Interior.

I urge support for the amendment offered by the gentleman from Arizona as the Secretary of the Interior is the proper manager of this particular program.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

The reason I asked the gentleman, my good friend from Texas, to yield is that he mentioned the nonfuels mineral study that has been initiated by the Department of the Interior. I am glad, because I think probably the gentleman, along with the gentleman from Nevada (Mr. SANTINI) asked the Interior Department to do the study. But I want to point out that of all the studies that it includes, it does not have anything to do with ocean minerals. It specifically does not include ocean minerals as one of the areas they are going to look at. The study by the Department of Commerce that NOAA did was contracted with MIT to do a totally economic computer model on ocean mining.

Mr. KAZEN. I submit that what they did was contract out their work. The universities did their work for them. NOAA did not have a thing to do with it. They contracted the entire work, and in the process they contracted with the Department of the Interior to do some of the research.

Mr. BREAUX. If the gentleman will yield further, the NOAA contract was with the Massachusetts Institute of Technology. At least, they contracted it out to study ocean mining. The Department of the Interior made a study, but it did not even include ocean minerals as one of the subjects.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

I support the gentleman's remarks. I would observe additionally that when the DOMES I program was funded for $2.434 million, it is interesting to note, in the grand bureaucratic tradition, that a half million dollars of that was spent for administrative costs.

Mr. KAZEN. Exactly.

Mr. SANTINI. Not that that is a precedent unique to the Department of Commerce, but I think traditionally it has to be observed that the Department of Commerce had to turn immediately to the USGS, to the Department of Interior, and say, Here, take the job and do it. We do not have the people with the knowledge and expertise to accomplish the goal.

It should be pointed out that in our national mineral policy that is being conducted right now—and I would correct the record with regard to this point—the minerals of the sea will be examined by that interagency study or as a potential source to relieve our critical mineral shortage.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 1 additional minute.)

Mr. KAZEN. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding again.

They will examine the minerals that are in the sea as a possible answer to our mineral shortage supply problems. It is a part of the mineral survey that is being headed by the Secretary of the Interior, and the gentleman has very well stated that in the one instance we have had an opportunity to examine, the Department of Commerce, dealing with and relative to minerals in the sea, has had to go to the Department of the Interior to get the job done.

Mr. KAZEN. There is no question about it. I thank the gentleman for his contribution. Clearly the supervision of this program should lie in the Department of the Interior.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux substitute amendment.

My colleague from Louisiana has noted some strong and compelling reasons for placing Federal jurisdictional responsibility for deep seabed mining within the Department of Commerce. It should also be pointed out that there are equally compelling reasons for not placing this responsibility within the Department of the Interior.

The Department of the Interior has traditionally been responsible for leasing of mineral rights, both within the interior and on the outer Continental Shelf. But the leasing of these rights is only one component of a much broader mission. That mission is to administer and regulate the use of public lands of the United States as trustee for the owners of those lands, the people of the United States. The Department of the Interior's job as trustee is to see these lands are used in a way that maximizes the Nation's welfare. Sometimes this means mining; sometimes this means abstaining from mining in order to protect fish, wildlife, or water quality.

The need to balance all these possible land uses is the very rationale for placing such diverse agencies as the Bureau of Mines, Bureau of Reclamation, and Fish and Wildlife Service within this one Department. The point to remember is that mining is not the pervading theme of the Department of the Interior's activities. They do not, after all, do the actual mining. The pervading theme is management of U.S. publicly owned lands and their resources.

The difference between the mineral resources managed by the Department of the Interior and those of the deep seabed is that the former are clearly owned by the people of the United States, but the latter, being in international waters, are not. The minerals of the deep seabed are nobody's property until somebody recovers them. This is the same principle of res nullius that applies to living marine resources such as fish beyond the national resources zones and the Continental Shelf. Since the United States makes no claim of ownership of resources on the international deep seabed, it is clearly improper to have recovery of these resources administered by a department whose basic mission is, by its very definition, so strongly identified with administration of territories under U.S. sovereignty.

To pursue this last point further, our bill has gone to painstaking lengths to disavow and avoid any implication that a claim of sovereignty over resources lying in international waters is being made by the United States. The State Department has even gone so far as to say that the very language of the bill itself is of a diplomatically sensitive nature. Imagine then, if you will, the implications of our naming the U.S. Department of the Interior to administer the recovery of deep seabed resources. The clear message, though unintended, to the international community would be that we in the United States consider the deep seabed to be, like our Outer Continental Shelf and interior lands, just another one of our public lands. This is exactly what we have so carefully been attempting to avoid in the drafting of the bill.

The ocean mining activities we will be licensing through this legislation will be taking place in the middle of the ocean. Given this fact, it is clearly most sensible that responsibility for supervising ocean mining be delegated to the lead Federal oceans agency. This is, of course, the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to my colleague, the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, first, I want to eliminate some confusion in the minds of some persons. The gentleman from Louisiana (Mr. BREAUX) and the distinguished chairman, I understand, are going to have a very important and constructive amendment to this bill later on and I intend to fully support that; but I would not want our support of that amendment to be confused with the issue before us. On the issue before us, I am opposed to the amendment of the gentleman from Louisiana. I support the gentleman from Arizona (Mr. UDALL).

Among other things, we should not be alarmed about the role of one or another of our executive agencies. By and large, they look just about alike to the people and governments in our countries.

More specifically, there are some 3,000 islands in the Pacific that are part of the Trust Territories that are under the jurisdiction of the Department of the Interior and this matter is in the course of being resolved by negotiations—negotiations that must of necessity include the Department of the Interior.

I think it much more rational that this authority in this legislation be in the Department of the Interior, rather than in the Department of Commerce.

Mr. SKUBITZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Breaux amendment and in support of the Udall amendment.

Mr. Chairman, I rise in strong support of Mr. UDALL's amendment which places the responsibility for the administration of deep seabed mining activities with the Secretary of the Interior.

No one can dispute that both the Department of Commerce and the Department of Interior have valid interests in the resources of the ocean. Both Departments can, and have, produced long lists of agencies, bureaus, offices, and other bureaucratic subdivisions which have produced studies, reports, position papers, scientific data, and environmental impact statements relating to the sea. Both Departments can claim significant input into the ongoing law of the sea conference negotiations on the future of the ocean resources.

Mr. BREAUX, Mr. PRITCHARD, and Mr. MURPHY have told you that Commerce's role has been more important. Mr. UDALL and Mr. KAZEN argue that Interior's has been. The truth is that the agencies of both Departments have often worked together to achieve a common goal. The DOMES study which Mr. BREAUX relies on for example—deep ocean mining environmental study—is billed as a national oceanic and atmospheric administration project (NOAA). But the fact is, as Mr. KAZEN points out, that the U.S. Geological Survey under the Interior Department provided significant environmental and geologic data for use by NOAA. Do not get me wrong, I am not being critical of NOAA or trying to discourage cooperation between agencies. This should continue no matter which Department administers this act.

What I do want to make clear is that anyone who states that the Bureau of Mines or the Geological Survey lack the expertise for deep seabed mining is flat wrong.

So now you might be thinking "with all this expertise in both Departments, what difference does it make which has jurisdiction? Why should I vote for the Department of Interior?"

I can answer that question with several very good reasons from both a historical and practical point of view.

First, let me remind you again of the title of the bill we are considering—the Deep Seabed Hard Minerals Act. From the time the Department of the Interior was created in 1849, Congress has entrusted, through various laws, the assessment, management, and protection of the Nation's minerals, both on land and under the sea, to Interior. The mining law of 1872, the Mineral Leasing Act of 1920, the Mining and Minerals Policy Act of 1970, and the Outer Continental Shelf Lands Act of 1953, are just a few examples. The Outer Continental Shelf Act is very important because it extended the Department's mineral authority—coal, gas, and other minerals—to lands beneath the sea, as well as other public lands. But today, if we give the Commerce Department administration over the deep seabed, we would be reversing longstanding historical precedent and be saying in effect, "If you mine in California, Kansas, Kentucky, or on the Continental Shelf off Georgia, you deal with Interior. But if you go a little farther out in the ocean to mine, you deal with Commerce." This makes no sense and could create a bureaucratic nightmare.

If we intended to restrict Interior's mining jurisdiction to dry land, we could have shifted the administration of the Outer Continental Shelf leasing provisions to Commerce early this Congress—during consideration of H.R. 1614. But we did not.

This leads me to the second good reason for designating the Interior Department as the lead agency is a very practical one. For 25 years, Interior has been administering oil and gas exploration and licensing on the Outer Continental Shelf. The experience gained—over this quarter century—will be of enormous value administering the deep seabed.

On page 57 of the Merchant Marine and Fisheries Committee Report, the Deputy Comptroller General writes:

> We strongly encourage instead, examination and adoption, of an exploration and leasing system which, in a manner similar to the existing system for the outer continental oil and gas resources would provide payments to the Government for these public resources.

And earlier in the merchant marine report on page 37 referring to environmental impact assessments, it is stated:

> An analogy can be made to the preparation of draft and final environmental impact statements in the Outer Continental Shelf oil and gas field.

But these are not the only sources which strongly suggest Interior as the proper department. In the report of the Commission on Marine Science, Engineering and Resources, which was the result of the Congress directive under Public Law 89-459 to study "the effective use of the vast resources that lie

within and below the sea," it was found that:

The procedures under the Outer Continental Shelf Lands Act have worked well and should not be abandoned lightly. (P. 136)

And the Commission recommended on page 137—so this is not Mr. UDALL or myself speaking—and I quote:

The Commission recommends that when deemed necessary to stimulate exploration. The Secretary of the Interior be granted the flexibility to award rights to develop hard minerals on the Outer Continental Shelf without requiring competitive bidding. The Federal rule in this matter also would provide a suitable model for the States.

Not once in the Commission's entire report is it never even suggested that the Department of Commerce should be in charge. In every instance the Commission refers to the Department of the Interior—as lead agency.

The Commission's recommendations were made with full knowledge that the procedures for deep seabed mining would be only similar—not identical—to oil and gas leasing and after acknowledging and encouraging joint roles and the blending of expertise from the National Oceanic and Atmospheric Administration (Commerce) and the Bureau of Mines (Interior).

I would also note that the environmental policy center lends its strong support for the Department of the Interior as the lead agency.

I would finish by stating again this is a seabed mining bill. Mining always has been and should always remain within the jurisdiction of Interior. I urge my colleagues for both historical and practical reasons to vote to keep it that way.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. SKUBITZ) has expired.

(On request of Mr. ECKHARDT and by unanimous consent, Mr. SKUBITZ was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, I have been very interested in what the gentleman from Kansas (Mr. SKUBITZ) has said. I came to this body today without having been totally convinced either way. I have served on the Committee on Merchant Marine and Fisheries, and I have heard this bill on that committee, and I know that that committee has done an excellent job in the study of this issue. I now serve on the Committee on Interior and Insular Affairs and on the Interstate and Foreign Commerce Committee, as does the gentleman from Kansas.

But I am convinced, by what the gentleman in the well has said, that the practical thing to do is to have all of mining jurisdiction with respect to hard minerals under the Department of Interior and Insular Affairs. I think the gentleman has made a very good case, and I wish to join him and to support his recommendation in this matter.

Mr. SKUBITZ. I thank my colleague for his contribution.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me point out the obvious—that the Members who have been speaking for or against this amendment tend to reflect the basic constituency that they serve in their committee. So it is not surprising that members of the Committee on Interior and Insular Affairs should feel the special expertise lies with that Department.

I am able to address this subject objectively. Serving as I do on the Committee on International Relations, my special interest, if any, is the State Department. I have no desire to insist that jurisdiction lie with the Department of State. So looking at this with total objectivity, one might say, with the dispassionate approach of one who would be, a justice of the International Court in The Hague, that is the kind of approach I am using on this subject.

Mr. Chairman, I would like to say that the logic, the preponderance of evidence, lies with the gentleman from Louisiana (Mr. BREAUX) and the gentleman from New York (Mr. MURPHY). I think the position they have outlined is solid. I think the position in the Breaux amendment, which would designate the Department of Commerce as the technical vehicle, is a practical one.

Therefore, speaking on behalf of those objective Members who are not locked into this little civil war between departments of our Government, I would earnestly recommend support for this portion of the Breaux amendment and rejection of the Udall position.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX) as a substitute for the amendment offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BREAUX. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 184, answered "present" 1, not voting 33, as follows:

[Roll No. 601]

AYES—214

| | | |
|---|---|---|
| Addabbo | Boggs | Coleman |
| Akaka | Bonior | Collins, Tex. |
| Alexander | Bonker | Conable |
| Anderson, Calif. | Bowen | Corman |
| Andrews, N.C. | Breaux | Crane |
| Annunzio | Breckinridge | Cunningham |
| Applegate | Brooks | D'Amours |
| Archer | Broomfield | Daniel, Dan |
| Ashbrook | Brown, Mich. | Daniel, R. W. |
| Ashley | Brown, Ohio | Dent |
| AuCoin | Broyhill | Derwinski |
| Badham | Burgener | Devine |
| Bafalis | Burke, Calif. | Dickinson |
| Barnard | Burke, Fla. | Dicks |
| Bauman | Burke, Mass. | Dingell |
| Beard, Tenn. | Butler | Dornan |
| Benjamin | Byron | Duncan, Tenn. |
| Bevill | Carney | Edwards, Ala. |
| Biaggi | Chappell | Ellberg |
| Blanchard | Cleveland | Emery |
| | Cochran | Erlenborn |
| Ertel | Leach | Robinson |
| Evans, Del. | Lederer | Roe |
| Evans, Ind. | Leggett | Rogers |
| Fary | Lent | Rostenkowski |
| Fish | Livingston | Rousselot |
| Flippo | Lloyd, Tenn. | Rudd |
| Flood | Long, La. | Ruppe |
| Florio | Lott | Russo |
| Flynt | Luken | Satterfield |
| Foley | Lundine | Sawyer |
| Ford, Tenn. | McClory | Schulze |
| Forsythe | McCloskey | Shuster |
| Fountain | McCormack | Sisk |
| Fowler | McDonald | Slack |
| Frenzel | McFall | Snyder |
| Gammage | Madigan | St Germain |
| Gaydos | Mann | Stangeland |
| Gilman | Martin | Stanton |
| Ginn | Mattox | Steiger |
| Goldwater | Metcalfe | Stockman |
| Gore | Michel | Stratton |
| Gradison | Mikulski | Studds |
| Grassley | Miller, Ohio | Stump |
| Guyer | Minish | Symms |
| Hagedorn | Montgomery | Taylor |
| Hall | Moore | Thompson |
| Hamilton | Moorhead, Calif. | Thornton |
| Hammerschmidt | Moorhead, Pa. | Traxler |
| Hansen | Moss | Treen |
| Harsha | Murphy, Ill. | Trible |
| Heckler | Murphy, N.Y. | Tucker |
| Hefner | Murtha | Ullman |
| Heftel | Myers, John | Vander Jagt |
| Hillis | Myers, Michael | Waggonner |
| Holland | Neal | Walker |
| Hollenbeck | Nichols | Walsh |
| Holt | Nowak | Wampler |
| Hubbard | O'Brien | White |
| Hughes | Oberstar | Whitehurst |
| Hyde | Patten | Whitley |
| Ichord | Patterson | Whitten |
| Ireland | Pepper | Wilson, Tex. |
| Jones, N.C. | Preyer | Winn |
| Jones, Tenn. | Pritchard | Wirth |
| Jordan | Pursell | Wydler |
| Kelly | Quayle | Yatron |
| Kemp | Quillen | Young, Alaska |
| Kindness | Railsback | Young, Fla. |
| Krueger | Rhodes | Young, Mo. |
| LaFalce | Rinaldo | Zeferetti |
| Latta | Roberts | |

NOES—184

| | | |
|---|---|---|
| Abdnor | Duncan, Oreg. | Lujan |
| Ambro | Eckhardt | McDade |
| Ammerman | Edgar | McEwen |
| Anderson, Ill. | Edwards, Calif. | McHugh |
| Andrews, N. Dak. | Edwards, Okla. | McKay |
| | English | McKinney |
| Aspin | Evans, Colo. | Mahon |
| Baldus | Evans, Ga. | Markey |
| Baucus | Fascell | Marks |
| Beard, R.I. | Fenwick | Marlenee |
| Bedell | Findley | Marriott |
| Beilenson | Fisher | Mazzoli |
| Bennett | Fithian | Meyner |
| Bingham | Ford, Mich. | Mikva |
| Biouin | Fuqua | Miller, Calif. |
| Boland | Garcia | Mineta |
| Bolling | Gephardt | Mitchell, Md. |
| Brademas | Gibbons | Mitchell, N.Y. |
| Brinkley | Glickman | Moffett |
| Brodhead | Gonzalez | Mollohan |
| Brown, Calif. | Goodling | Mottl |
| Burleson, Tex. | Green | Murphy, Pa. |
| Burlison, Mo. | Gudger | Myers, Gary |
| Burton, John | Hanley | Natcher |
| Burton, Phillip | Hannaford | Nedzi |
| Caputo | Harkin | Nix |
| Carr | Harrington | Nolan |
| Carter | Harris | Oakar |
| Cederberg | Hawkins | Obey |
| Chisholm | Hightower | Ottinger |
| Clausen, Don H. | Holtzman | Panetta |
| | Howard | Pattison |
| Clay | Huckaby | Pease |
| Cohen | Jeffords | Perkins |
| Conte | Johnson, Calif. | Pettis |
| Conyers | Johnson, Colo. | Pickle |
| Corcoran | Jones, Okla. | Pike |
| Cornell | Kastenmeier | Poage |
| Cornwell | Kazen | Pressler |
| Coughlin | Keys | Price |
| de la Garza | Kildee | Rahall |
| Delaney | Kostmayer | Rangel |
| Dellums | Krebs | Regula |
| Derrick | Lagomarsino | Reuss |
| Diggs | Lehman | Richmond |
| Dodd | Levitas | Risenhoover |
| Downey | Lloyd, Calif. | Roncalio |
| Drinan | Long, Md. | Rooney |

| | | |
|---|---|---|
| Rose | Skubitz | Volkmer |
| Rosenthal | Smith, Iowa | Walgren |
| Roybal | Smith, Nebr. | Watkins |
| Runnels | Solarz | Waxman |
| Ryan | Spellman | Weaver |
| Santini | Stark | Weiss |
| Scheuer | Steed | Wilson, Bob |
| Schroeder | Steers | Wilson, C. H. |
| Sebelius | Stokes | Wolff |
| Seiberling | Thone | Wright |
| Sharp | Udall | Wylie |
| Sikes | Van Deerlin | Yates |
| Simon | Vanik | Young, Tex. |
| Skelton | Vento | Zablocki |

ANSWERED "PRESENT"—1

Jacobs

NOT VOTING—33

| | | |
|---|---|---|
| Armstrong | Frey | Moakley |
| Buchanan | Giaimo | Rodino |
| Cavanaugh | Horton | Quie |
| Clawson, Del | Jenkins | Sarasin |
| Collins, Ill. | Jenrette | Shipley |
| Cotter | Kasten | Spence |
| Danielson | Le Fante | Staggers |
| Davis | Maguire | Teague |
| Early | Mathis | Tsongas |
| Flowers | Meeds | Whalen |
| Fraser | Milford | Wiggins |

The Clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Jenrette against.

Mr. Shipley for, with Mr. Staggers against.

Mrs. Collins of Illinois for, with Mr. Fraser against.

Mr. McCLORY and Mr. ULLMAN changed their vote from "no" to "aye."

Mr. SCHEUER changed his vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL), as amended.

The amendment, as amended, was agreed to.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address a question to the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. MURPHY). In section 2(b)(2) of the bill, on page 4, there is a reference to "the orderly and efficient development of such resources."

As I recall, the Committee on International Relations' version had in that place a reference to "the orderly development and conservation of such resources." I am sure conservation of resources is a goal we all share, and I wonder if my colleague, the gentleman from New York, can explain for the record why the concept of "efficient development" was substituted for the concept of "conservation."

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. MURPHY of New York. I thank my colleague for yielding.

The gentleman is correct that we all share the goal of conserving resources. However, the conservation of natural resources in the Committee on International Relations version of the bill raised serious questions of definition. We were particularly concerned that there was the implication of production controls inherent in that phrase. Consequently, we urged that "orderly and efficient development" be substituted as a phrase with somewhat greater precision. I would assure the gentleman, however, that it is the intent of this language that the commercial recovery activity authorized in the bill take place in a manner which would promote conservation of the resources in the sense that such resource retrieval would not be wasteful.

At the same time, although the phrase is intended to refer to the sound principle of resource management, specifically the reduction of waste, it is clearly not intended to grant, imply, or make any inference of production controls or price regulations. Clearly, prices, profits, market conditions, and the volume of production are matters beyond the scope of this phrase, the control of which is certainly not authorized.

Mr. BINGHAM. So it is the intent of this language to insure that development take place in a way which promotes conservation of the resources, not in the sense of production controls, which are clearly not authorized, but in the sense that they will not be wasted.

Mr. MURPHY of New York. The gentleman states the case correctly.

Mr. BINGHAM. I thank the gentleman.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY:

On page 9, at line 22, delete "with respect" and insert in lieu thereof, "based on a work plan referring".

On page 12, strike lines 10–25 inclusive and insert in lieu thereof, "(D) any license for exploration or any permit for commercial recovery if the work plan for such license or permit describes an area of the deep seabed the same as that described in a work plan for a license or permit issued to that applicant which has been surrendered, relinquished or revoked under section 104 within the preceding 3 years;"

"(E) any license for exploration or any permit for commercial recovery, if the work plan for such license or permit would conflict with: (i) any work plan for any pending application for a license or permit to which priority of right for issuance applies; (ii) any work plan for any existing license or permit; or (iii) any equivalent authorization which has been previously issued by a reciprocating state.".

On page 14, after "applications." add, "Each application shall contain a work plan describing—(A) the location of the area of the seabed proposed to be explored or where commercial recovery activities will be conducted;

"(B) a schedule of exploration or commercial recovery activities, and a description of the system to be employed, such information to be used by the Secretary in determining whether the applicant is carrying out such activities with due diligence;

"(C) a schedule of expenditures for exploration or commercial recovery activities; and,

"(D) proposed measures to protect the environment and to monitor the environmental impact of the operations.".

On page 15, after line 15, insert "(D) the applicant's proposed work plan meets the requirements of the Act and the regulations promulgated pursuant thereto."

On page 18, at line 8, delete "area which is" and insert in lieu thereof, "activities".

On page 26, line 9, after "permits" insert, ", or modification of work plans,".

On page 26, strike lines 14–25 inclusive, and on page 27, strike lines 1–9 inclusive, and insert in lieu thereof:

"(1) WORK PLAN.—(A) The area for exploration shall be of sufficient size to allow for intensive exploration activities.

"(B) The area for commercial recovery shall be of sufficient size to meet estimated production requirements.

"(C) The areas for exploration or commercial recovery shall be reasonably regular in shape.

"(D) When a licensee obtains approval of a work plan associated with a permit for commercial recovery, the work plan with his license shall be relinquished.".

On page 27, on lines 12 and 13, delete "the license" and insert in lieu thereof "its work plan".

On page 27, on lines 18 and 19, delete "which is authorized to be recovered under the permit" and insert in lieu thereof "covered by its work plan".

On page 28, at line 5, delete "the license" and insert in lieu thereof "its work plan."

On page 29, starting on line 5 through line 6, delete "area of the deep seabed" and insert in lieu thereof "right to conduct any deep seabed activity".

On page 29, at line 8, delete "area of the deep seabed" and insert in lieu thereof "such right".

Mr. McCLOSKEY (during the reading). Mr. Chairman. I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. MURPHY of New York. Reserving the right to object, would the gentleman provide this gentleman with a copy of the amendment?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman. the amendment that I offer is simple. What it does, from an international law standpoint, is attempt to remove any inference that in enacting this bill the U.S. Government is claiming jurisdiction over any area of the seabed beyond the 200 mile limit of the United States. The reason for this bill is to permit U.S. mining companies to carry out what has been considered to be a right under international law that all nations and all individuals on the high seas have the right of access to such resources on the seabed as they can recover. But it is an equally strong principle of international law, and has been espoused by the United States since our inception as a Nation, that no nation has the right to claim jurisdiction over any block of ground beyond a nation's territorial waters.

Ambassador Elliot Richardson put it this way in his testimony to our committee:

I think it is important . . . to get across as clearly as possible that the United States is not purporting to establish a claim of sovereignty over a portion of the seabed. If that impression were to be created, no matter how slight a foundation, it could trigger comparable claims by other countries. And, we

could end up seeing the whole seabed carved up among competing national claims in the way the continent of Africa was once carved up.

Secretary of Commerce Kreps of the Commerce Department put it this way in testimony before the Committee on Merchant Marine and Fisheries:

Neither the United States nor the miner would have any territorial or property right in an area. U.S. jurisdiction would be purely in person, that is, over the licensee, not the area subject to the license.

Now, what I have done in this amendment is to replace that language in the bill which referred to an area over which the permittee would have rights with language providing for a work plan which describes the area in which a miner will be permitted to operate. It is clear from this language, the substitute language of my amendment, that we are granting the permittee a right in person to extract minerals pursuant to a work plan that is approved and in no way are we asserting jurisdiction as a nation over that area in which we are permitting him to operate.

The words may be seen by some to be cosmetic, but in this case where we are passing this legislation with the hope that it will serve as a stimulus to those countries that are engaged in negotiations with us at the Law of the Sea Conference, I think it is essential that those nations, particularly the group of 77, some of whom have made territorial claims out to 200 miles, believing that our U.S. bill asserting a 200-mile fishery jurisdiction gave them that right, I think it imperative that these nations be clear in the knowledge that we are not asserting international jurisdiction over territory, but merely assigning rights to U.S. citizens the same as other nations and their citizens enjoy.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from California (Mr. McCLOSKEY).

Serving with the gentleman during the last several years as a congressional member of the U.S. delegation to the Law of the Sea Conference, I am aware of his diligent efforts to secure a forward-looking Sea Law Treaty protecting our Nation's legitimate interests and at the same time respecting the legitimate interests of other States.

I support the McCloskey amendment, as does the administration, and I agree with the Environmental Policy Center's conclusion that the work plan is a "key amendment which must be included in the final passage of the bill if Congress is going to pass a strong ocean mining bill."

The amendment would avoid the disadvantageous policy of adopting legislation giving the impression that the United States is attempting, through its mining licensing and permit granting procedures, to establish a claim of sovereignty over portions of the seabed. Moreover, the amendment will ultimately give the Secretary more authority to insure responsible and orderly development of an ocean mining site.

Accordingly, I urge my colleagues to support this amendment enabling our mining interests to proceed even more effectively than current provisions of H.R. 12988 would allow, while at the same time strengthening our position at the Law of the Sea talks by not giving the impression that the United States has unilaterally acted to establish sovereign claims over deep seabed areas.

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman from New York.

Mr. Chairman, I would just like to say in conclusion that this may be deemed by some to be an amendment of words, rather than substance; but those of us who have attended the United Nations Law of the Sea negotiations, as have the gentleman from New York and I, must confirm that in many cases, dealing with the delegates of Third World nations in international negotiations or who are dealing with an explosive situation back home, with a constituency who may view the industrial nations as imperialists, to those delegates, the appearance of those words and language are sometimes more important than the substance itself.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I am glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I support the gentleman's amendment for all the reasons he stated.

I want to add that we should have dealt with this matter in committee. At the time the matter was before the committee the administration had not decided exactly what it wanted to do in this area.

I am correct, am I not, in my understanding that the administration helped in drafting this amendment and in fact supports this amendment?

Mr. McCLOSKEY. Mr. Chairman, the administration did not draft the amendment, but we based the amendment on the administration's position, and we understood it would be in accord with what the administration wanted. I understand the administration now supports the amendment.

Mr. UDALL. The point I want to make is that in the Outer Continental Shelf Act we have a leasing program, and we have to submit a development and production plan to show how a lessee is going to develop a lease, whether it will be done in an orderly way.

Mr. Chairman, the gentleman's amendment is very similar to that provision, and I think it makes very good sense. I support the amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(On request of Mr. BINGHAM, and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California (Mr. McCLOSKEY) and also with the remarks of the gentleman from Arizona (Mr. UDALL), as well as my colleague from the Committee on International Relations, the gentleman from New York (Mr. GILMAN).

This amendment was not considered in the Committee on International Relations as such, but I think had it been considered, it is very likely a majority of the committee would have taken the position the gentleman has outlined, and for the reasons he has outlined, I strongly support his amendment.

Mr. BREAUX. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. McCLOSKEY) because I do not think that it is a good solution to a problem that I believe the commitee bill has handled very carefully.

The gentleman from California (Mr. McCLOSKEY) points out that one of the problems with this legislation was that we wanted to make sure other nations of the world do not get the opinion or the impression, Heaven forbid, that the United States is telling our companies that they have the right to go out and mine an area and that thereby that might constitute a sort of claim of ownership by the United States of an international area.

What our committee has done is to say to a company, "When you get a license or permit, we are going to tell you"—and I want the Members to get this—"we are going to tell you where you can go and explore and mine."

I do not see how a company that is getting a license or permit and spending $500–$750 million or so to put this operation together is going to be able to rely on something that does not at least tell them the area in which they can operate. That is not going to have the effect of telling the Third World countries that we are claiming ownership over this area.

If we look at the legislation, on page 8 of the committee compromise, it says that in the event of giving a license or permit to a company, covering any area designated in the license or permit, the United States "does not thereby assert sovereignty or sovereign or exclusive rights over, or the ownership of, any area of the deep seabed."

What we are merely saying in the license or permit is that this company is going to be able to operate in this area.

The gentleman from California (Mr. McCLOSKEY) will probably say, "Well, the work plan will say the same thing," but there is a very big difference. The license or permit will be public. The license or permit will be international. The license or permit will be able to be read by every country in the world, and they will be able to say that, yes, the U.S. companies are operating in this particular area. It is important that they know that because they would say, "We have got to run our ships through that area with reasonable regard to the U.S. operations, we have got to run our

fishing vessels through that area in that same reasonable manner."

The work plan is very deficient, because the work plan would not be published in the Federal Register; it would be hidden somewhere between the companies and our Department of Commerce.

It is very important that everyone be on notice to the effect that this is the area where U.S. companies are going to be operating. The work plan is deficient, because it does not do that. It is very important that everyone know the area in which companies are going to be operating.

That is the only thing the license or permit does. It is clearly not a declaration of ownership, and everyone will agree with that.

Mr. Chairman, I urge defeat of the McCloskey amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the chairman of the committee.

Mr. MURPHY of New York. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I support the position of the gentleman from Louisiana (Mr. BREAUX) and will state that I am opposed to this amendment.

I think this amendment would only place further unnecessary impediments in the very carefully worked out plan that the committee has drafted. In about 50 sections of this legislation we have written in the proper planning for the development of the deep ocean resources. We certainly want to go on notice to other nations of the world that are interested and have the capability and the technology to mine in the deep ocean, that we are talking about a certain area, and that we have advertised its areas that U.S. companies are going to mine. We placed environmental considerations in the bill, and we have very carefully placed virtually every consideration in the text of this bill.

The gentleman's amendment would only add further impediments and further delays to an already overly delayed subject.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

Mr. Chairman, I am indebted to the gentleman, because I think he stated the issue precisely, and I adopt the very words the gentleman used.

If the purpose of the bill is to say to other countries that, because we have granted a license to mine, they are not to put their ships through that 40-kilometer square or 1,600-square-kilometer area; then the world will assume that the United States is claiming a right to deny to the ships of other countries the right to put their own ships into the area.

Bear in mind what this could mean to our seapower, the claim that one nation can deny to others the use of any given area of the high seas. We should consider the concept of freedom of the seas, which the United States has traditionally exposed. I think the point is stated squarely. I think in this case we ought to defer to international relations concern rather than to mining interests. As the gentleman described what he feels the bill does, we would create an inference we do not intend, that we wish other nations to keep their ships out of the area we have licensed. This mining operation in a 4-square-mile area may be no more than two ships sailing side by side at a relatively slow speed.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(On request of Mr. MURPHY of New York and by unanimous consent, Mr. BREAUX was allowed to proceed for 5 additional minutes.)

Mr. BREAUX. I thank the gentleman from California, and I think the other Members clearly would recognize that under the 1958 Geneva Convention, the United States and many other countries and, under customary law, every nation of the world is under a duty to have reasonable regard for the exercise by other nations of their high seas freedoms. In other words, it is a freedom of the high seas for the U.S. fishing vessels to go out into international waters to take fish. If other countries of the world know we are fishing in the area, they are under a duty to have reasonable regard for our exercising our freedom of the high seas.

This is the same issue here. Other countries of the world ought to be on notice by a public pronouncement through a public license or permit that the United States is licensing or permitting our U.S. citizens to have the right to mine and they will be able to mine in this area.

Other nations of the world will know the U.S. companies are mining in this area, and I think it is going to go a very long way in preventing any conflict, that they cannot go in and say, "We did not know you were out there." They will know if the gentleman's amendment is defeated. How are they to know where the U.S. mining ships are operating? I think if we do not defeat the amendment we will have a lot more problems. I urge defeat of the amendment.

The United States and numerous other countries have for many years specified areas of the high seas for many purposes. We have designated high seas areas for missile tests, naval exercises, weapons tests, dumping sites, safety zones, security zones, and many other things. This notice has itself been required to show reasonable regard toward other states' high seas uses. In turn, this notice has enabled states to show reasonable regard for the uses carried out in the specified area by the state giving notice.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Mr. Chairman, the gentleman states the case accurately. We might say that probably about 80 percent of the key navigational issues have already been resolved internationally. The question of navigation through straits does not enter into an issue here of a work plan. The question of navigation in economic zones, the question of the 200-mile limit, the question of archipelago intrusion, those are all separate and distinct. What we have clearly done and what this amendment would impede would be the fact that we have clearly stated that this is an area that the United States proposes to mine, a U.S. consortium, perhaps, and we are serving notice up front that that is the case. I do not see any reason to confuse that issue.

Mr. Chairman, I compliment the gentleman for his very articulate evaluation.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman previously raised the issue about the description of the area that would be included under a work plan, and inferred that there may be some question about the location of the mining area under the McCloskey amendment.

Permit me to point out that the McCloskey amendment does require specification of a work plan. And, as a matter of fact, it states that each application shall contain a work plan that describes the location of the area of the seabed proposed to be explored.

The McCloskey amendment to section 103, subsection (D), on page 14, states:

> Each application shall contain a work plan describing—(a) the location of the area of the seabed proposed to be explored or where commercial recovery activities shall be conducted—

Mr. BREAUX. If the gentleman will allow me to comment, there is no argument about that. However, that agreement is between the licensee and the department issuing the license. Other nations around the world are not privy to that information. It is not made public. It is kind of hidden between the licensee and the department issuing the license.

That is my whole argument. It should be made public because we have said clearly that it is not a declaration of ownership. We have said that we are just telling where our ships are operating, and we are saying that we think they should know that.

Mr. GILMAN. Both proposals, the McCloskey and the existing language, are based upon public disclosures of the work areas. And the objective of the McCloskey amendment is precisely what the gentleman suggests, that it is not a declaration of ownership, but merely sets forth where our ships would be working. What the McCloskey amendment prevents is the staking out of any mining claim to a particular area.

Mr. BREAUX. We agree on that. We are not staking out a claim because we do not want to say, "This is where we are

going to be in case you are out in that area. Don't use our area."

Mr. Chairman, that is why I think the amendment should be defeated.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment and to impress upon each and every Member the importance of fully understanding what we are doing here today. We must be aware that our actions today will have an impact far beyond the Halls of Congress and will truly reveal just how seriously the United States takes its professed claim to be a responsible member of the international community.

It seems to me that what we are doing now is passing legislation that affects our relationship with all of the world. Rightly or wrongly, the international community has agreed in a U.N. declaration, which was passed without a dissenting vote and with U.S. support, that: "The area shall not be subject to appropriation by any means, by states or persons." Yet, we are addressing here the issue of how to license private mining companies to go out and take those minerals from the ocean floor which we have agreed do not belong to any one nation and are the "common heritage of mankind."

Mr. Chairman, the previous speaker said that everyone agrees we are not asserting ownership. I ask, if we are authorizing people to go ahead and exploit deep sea minerals, is that not asserting de facto ownership of something we have already agreed is not ours to take? Mr. Chairman, I urge support for the McCloskey amendment, and I hope that the Members will look at what we are doing with this legislation.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I indicated before, I am in favor of the amendment. However, I do not think we should overestimate the importance of it.

Mr. Chairman, I would like to have the attention of the gentleman from Louisiana (Mr. BREAUX) for a moment because I do not think he wants his words to be interpreted to mean that if this amendment is defeated—and we use the word "area" in the legislation—that the United States will then be saying we have staked out this area and no other country has a right to come in and mine in this area.

I assume the gentleman is not asserting any such thing. If that were so, I think there would be a very serious problem with the entire legislation.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield, I think the gentleman and I are in complete agreement that the license given by the Department of Commerce would not be a claim of ownership of any area. There is no question about that in this particular matter.

Mr. BINGHAM. In that case, I am a little puzzled as to the gentleman's opposition to the amendment because it seems to me that we are talking about a difference in terminology. I do not see any real difference in substance between the gentleman's position and the position of the gentleman from California (Mr. MCCLOSKEY). The gentleman suggested that the words "work plan" would make the bill more acceptable to the negotiators at the conference. That position has been sustained by the gentleman from New York (Mr. GILMAN); and if we are just talking about a matter of terminology, why cannot the gentleman go along with that?

Mr. BREAUX. If the gentleman will yield further, there is a very major difference. The work plan is between the company and the department. No one else knows about it.

When the department gives a license, it is for an area and puts everyone on notice that this is an area which the United States does not own, but is operating in and will be doing work in. Therefore, we will be exercising reasonable use of the high seas in that area.

That is the major difference, and it is a very important difference.

Mr. BINGHAM. Mr. Chairman, I would like to ask the gentleman from California (Mr. MCCLOSKEY), then, whether it is correct that under his amendment the work plan would be a private document between the U.S. Government and the company concerned?

Mr. MCCLOSKEY. If the gentleman will yield, Mr. Chairman, no; the work plan would be made available if the Secretary of Commerce or the Secretary of the Interior wanted to make it available, and there is no reason that the work plan necessarily would be secret.

Mr. BINGHAM. I personally presume that such a work plan would be a public document. If it were not to be a public document, I would be concerned about it.

Mr. MCCLOSKEY. I see no reason to contend under the amendment that it would be a private document.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with respect to the representations of my good friend from Iowa on the present legal posture of the United States of America with regard to its commitment on the mineral resources, the gentleman quotes from United Nations General Assembly, 25th session, agenda 25, and from paragraph 2 on page 1, as follows:

> The area shall not be subject to appropriation, and no state shall claim or exercise sovereignty or sovereign rights over any part thereof.

But, I know it is not the intention of the gentleman to mislead this body into thinking that that was the sole declaration and commitment of our Nation within this particular document, because this document goes on to say that all of these commitments are contingent upon a condition subsequent; that is, that there will be a Law of the Sea Treaty. The foregoing quote was one sentence in four or five pages. I can cite several quotes to the contrary, I think it is grossly misleading to suggest that that was the sole commitment of the United States on that day.

What the United States said was, as a condition to our entering into an international agreement we make these declarations. The United States did not make an isolated commitment irrespective of any other considerations. It said, "Because we want a Law of the Sea Treaty, this is our commitment in that regard."

For a period in excess of 10 years the Law of the Sea negotiations has proven almost totally nonproductive as we all appreciate and recognize. Therefore, the treaty aspiration has never been realized.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, there is another reference in that declaration, which reads:

> On the basis of the principles of this Declaration, an international regime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon.

Of course, that is part of what we are trying to do, but in no way, as I read it, does it delete the obligation which is there for all the parties under title II of that declaration. If the gentleman has something otherwise, I think he should read it.

Mr. SANTINI. Paragraph 3, "Resources incompatible with the international regime to be established"—it contemplates the establishment of an international regime.

Paragraph 5, "The area shall be open to use exclusively for peaceful purposes * * *"

Paragraph 9, "On the basis of the principles of this Declaration * * * established by an international treaty of universal character * * *"

All of these thoughts were composite thoughts; they anticipated the execution at a later time of a treaty, and not a unilateral commitment on our part. Again that commitment was a precursor of a hoped-for treaty.

Mr. BEDELL. If the gentleman will yield further, if a treaty is not negotiated, does the gentleman think then that this means that we then have a perfect right to violate the spirit and letter of the 1970 U.N. Declaration?

Mr. SANTINI. I do not think there is any question under international law today that we could proceed to recover the mineral resources that exist in manganese nodules if we wanted to. We have been delaying both exploration and recovery in the state of apprehension and expectation that one day we were going to enter into some kind of international accord that would be an implementation of this United Nations expression.

Mr. BEDELL. Certainly, from the people that I have talked to, including people involved in these negotiations, I do feel very, very strongly that, as of today, the world feeling is that international law is against our being able to do this, and would say that it is wrong for us to do this. If the gentleman wants me to get further confirmation of that, I will be glad to do so.

Mr. SANTINI. If I may reclaim my time, that is not the opinion of Ambassador Richardson, as he acknowledged in our Interior hearing, when he conceded

the fact that we have a legal right to explore and mine. Your conclusion is the opinion of the emerging and Third World nations. That is not the opinion of the United States of America.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words. I rise to ask a few questions of the author of the amendment.

I think the gentleman from Nevada is generally correct about the provisions of this bill not being intended to stake out a right as against an international agreement, and I think that is clear under section 202. But section 202, it seems to me, merely says that we will attempt to protect to the extent that we may do so under international law activities by our nationals, acting under the processes of this bill, in the deep sea.

It does not say that we will protect any particular area staked out by a commercial company operating in the deep sea. And it would seem to me that all the gentleman's amendments do is to stress the fact that we are addressing a work plan for an activity rather than a staked out licensed area.

I rather agree with the gentleman from New York (Mr. BINGHAM) that there may not be all this difference as between the original language of the act and the gentleman's amendment, but it does seem to me his amendment is much more consistent with section 202 in addressing protection of an activity rather than protection of a staked out territory.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield, that is precisely correct.

What we have done in my amendment is strike out two sections on page 12 that refer to the word "area," so that when licensee got his permit, it would not be construed as a claim of U.S. jurisdiction over that area. Our purpose is that neither those in the United States nor anyone in the outside would infer that the United States is granting any right to the area itself. By striking the word "area" and inserting the work plan mechanism we have a far different thing. It is a right granted in personam to an individual; it is not a right to the territory itself.

If I might take this occasion to correct an earlier answer I made in response to the gentleman from New York (Mr. BINGHAM), when he asked me would this be a public document and I said I saw no reason to believe it would be a private document, I would like to correct that statement, because this will be a public document subject to the Freedom of Information Act. The reservations in the Freedom of Information Act, however, provide that proprietary trade secrets will be protected. To that extent the holder of the application will be required to protect the proprietary aspects, say the application of technology if that would be a valid proprietary trade secret. The Freedom of Information Act would apply, but the trade secrets provision of the Freedom of Information Act would also apply.

Mr. ECKHARDT. I thank the gentleman for his explanation.

I would like to explore this a bit more with him at this time. What we may do, if we do not emphasize the essential activity as opposed to the area, is to invite conflicts where such invitation is not necessary. It is conceivable to me that explorers and exploiters of various countries could be operating simultaneously within a given area without necessarily unduly interfering with each other. And it would seem to me that to use the term "area" and to protect it by a license and then call upon the United States to protect the area as against any other contender might invite a contest which is totally unnecessary. Would the gentleman comment?

Mr. McCLOSKEY. The gentleman from Texas has precisely stated the problem. The areas that were discussed in the testimony and are understood in the international negotiations as the minimum area to permit commercial deep seabed mining would be 40 kilometers square. In the 40-square-kilometer square, the mining operation might be conducted by a single ship on the surface within that 40-square-kilometer area, moving at a pace of 1 kilometer per hour in a relatively small space at any given time. There is no need to protect the entire area and to invite this controversy.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

I would first rise in support of the amendment offered by my distinguished colleague, the gentleman from California (Mr. McCLOSKEY), because I believe that it makes this particular piece of legislation a little more palatable.

I would like to take this opportunity to characterize this legislation as a horrible piece of legislation that reflects our arrogance in the international arena. I would like to place this legislation within what I believe to be its proper context by first reading to you a few words that characterize the history of this legislation:

> Legislation to permit deep sea mining has been introduced each Congress since 1971 but previous administrations have opposed it—

Interestingly enough, Republican administrations, as well—

> preferring to settle the issue through an International Law of the Sea Treaty. Because the Law of the Sea Conference appears deadlocked for the near future—the seventh session in March met and adjourned without resolution—the Carter Administration—

A Democratic administration with all of its globalistic statements, are saying that they support "interim legislation to permit exploration and commercial recovery prior to completion of the Law of the Sea Conference."

My point is this: I am shocked and chagrined that the Carter administration, that purports to talk about the rest of the world, cannot do what Republican administrations since 1971 were prepared to do and that is to solve this question within the framework of the international arena.

It is incredibly arrogant that we can stand here in the well of the House and argue with a straight face and say, "No, we do not own or have ocean rights to the sea, but we will rip you off anyway while you are trying to negotiate how we will equitably distribute these resources."

That is like telling me, "All right, you are on your own, but I am going to rip you off anyway while we negotiate the nature of our relationship."

I would suggest this, that once these international corporations begin to mine deep in the ocean, once these international groups began to have a disproportionate power and an impact and an influence on the development of the oceans, both domestic and international, how are you going to get them out? Where will be the impetus for debate, where will be the impetus for high motivation to achieve an international agreement when you already have an economic market that will allow us in a superior fashion to take away the resources of the sea?

Which then leads me to this second statement, and, with your permission, I will read it:

> While the U.S. supports the 1970 United Nations declaration that the resources of the seabed and ocean floor belong to all mankind, it also maintains that deep seabed mining constitutes a freedom of the high seas accorded by the 1958 Geneva Convention on the High Seas.

What is the interpretation of that? That the United States stands in the world community in the incredible principle that the resources of the sea belong to all humankind but in the interim we will find whatever rationale we can that will allow us to go forward and exploit the resources of the sea.

I would make the further point:

We have, with our powerful Nation, joining with other powerful industrial nations, raped and plundered the resources of the surface of the Earth. We are now rapidly coming to the moment when we are running out of those resources on the surface of the Earth. There is one more place in the deep sea.

From what we hear we understand that there are roughly 3 trillion dollars worth of resources.

We now have the prime opportunity to negotiate a treaty that will begin to close the gap between the nations that are nations with great wealth, and the nations with great poverty, the have and the have not nations that have created conflict and confusion from time immemorial. Here is now our opportunity for our Nation to stand in the international arena and be committed to the high principle that we must distribute the resources of the sea to all humankind.

What about the nation of Nigeria in this situation that is a land-locked nation? If we take it upon ourselves to exploit the resources of the sea at this time, what will come of our commitment to the principle of their distribution to the rest of the world—particularly the poor nations.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, we know one thing, with respect to the impetus for this legislation. That we are one of the few, if not the only nation in the world that has developed the ability to mine in the deep sea efficiently and

effectively. So what we are saying to the rest of the world is, "To hell with you. While we are waiting to negotiate, we are committed to it, but in the interim we will rip off the ocean in our own self-interests."

I consider that arrogance. I consider that blatant arrogance in the international arena. You cannot stand on the principle of world integrity and then decide as a nation that based on your narrowly focused self-interest you will exploit the world. We take this legislation and turn over the ocean to multinational corporations that will rip off the sea the same way that they ripped off underdeveloped nations of the world.

This is a prime moment to reject the absurdity of this legislation and stand on the principle that this is a moment when we can strike a blow to reduce the tensions in the world, to reduce the gap, the tremendous economic gap, between third and fourth world countries and powerful industrial nations of the world.

I find it incredible that we would bring this legislation to the floor backed by a Democratic President, when Republican Presidents that I opposed tremendously had the integrity to see the need to resolve this problem in the international arena. I find it shameful. I think the world would look at this legislation as America backing off of its commitment and responsibility in the international arena. We cannot on the one hand stand on the principle that the resources of the ocean belong to humankind and then say, until we negotiate the specifics of it, we are going to rip you off because we have the technology, capacity, and the economic resources to do it.

I am horrified and shocked that we would bring this legislation to the floor of Congress. I support the amendment offered by my distinguished colleague because it tries to bring some control to a potentially uncontrollable situation. It tries to bring some justice to a totally unjust situation. I would urge all of my colleagues, if they really believe in reducing tensions in the world, if they are committed to the concept of justice and equity, they will strike down this legislation on the ground that they will not be involved in a blatant degree of international arrogance that I think this bill speaks to.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

If I understand my colleague correctly, then what he is saying is he will support the amendment by the gentleman from California?

Mr. DELLUMS. That is correct.

Mr. SKUBITZ. But his real feeling is that there is no critical need at this particular moment for the minerals that lie in the seabed, and that he feels that we ought to enter into an international agreement before we take any step with regards to development; is this correct?

Mr. DELLUMS. The gentleman states my case perfectly. I do not see the urgency, and that is why I believe that this piece of legislation is the wrong piece of legislation at the wrong time. I do not think we need it. All we are doing is providing major corporations with the opportunity to make a jump.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SANTINI, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

The gentleman has indicated there is no need. Would the gentleman identify the minerals that are involved in the subject matter of the deep sea mining legislation?

Mr. DELLUMS. Look, the gentleman does not have to take me to school. This is not my college training. We both know what minerals we are speaking of.

Mr. SANTINI. If the gentleman is going to presume to say there is no need, then I think he must be presumed to know.

Mr. DELLUMS. Mr. Chairman, I take back my time. I will yield to the gentlemen if he respects the integrity of my opinion and respects me.

Mr. SANTINI. I am coming back to the basic question· What are the minerals that are involved in the question of whether or not there is a need or not a need?

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my colleague from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I think the amendment stands on its own ground that the minerals are nickel, copper, and cobalt. Copper has sunk to new heights. That is one of the great problems in our own country. Nickel will be needed in years to come, and so will cobalt. But I share the opinion of the gentleman in the well that there is no urgency for the development of these minerals. I hope an amendment will be adopted at a later time that will postpone the effective day of this until 1985. But I would hate to see debate on this particular amendment get going on that kind of question.

Mr. DELLUMS. I am prepared for this legislation. I do not have to play this kind of game in naming the minerals. Iron, magnesium, nickel, copper, cobalt—I can do that. This is not a third-grade lesson. We are talking about ideals and concepts. I understand all of that, but what I am saying to the Members is that it is a matter of judgment. I respectfully dissent from the judgment of the gentleman from Nevada. I do not see the urgency at this point, even if he disagrees.

I am saying we are living in a world that is becoming increasingly interdependent and interrelated. We have got to be a nation that embraces a world community and realize that here is an opportunity to do just that.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

I think we must address ourselves to arrogance at this point and also the need and necessity for this legislation coming to the floor, with the agreement and support of three committees of the House. Legislation has already passed the Senate in previous Congresses, so, obviously, with that type of legislative background there is obviously a great need. Perhaps we may just have to reassess that need and trace back a bit, the history as to why we are here today and as to how we got here.

The Law of the Sea Conference is entering into its second decade of progress. We see the United States and other nations in good faith going to consider many of the issues involved in the sea.

There has been one committee, the Committee on Deep Seabed Resources, that has not made progress, despite the United States at session after session making concession after concession on the question of deep seabed resources.

We went to Caracas, to Geneva, to New York, back to Geneva, back to New York again, and at each one of these sessions we found the United States in a most reasonable area and in the most reasonable way trying to have some access to the deep ocean seabed and its resources. As we debated this issue time and time again in this particular committee, a very distinguished Norwegian diplomat named Jens Evensen was given the task of drawing together a regime, a regime that was just referred to in the great debate between the gentleman from Iowa and the gentleman from Nevada. That regime was supposed to control what happened in the deep seabed; but over the years of the Law of the Sea Treaty that regime was so controlled by Third World nations—or the group 77 nations—that these nations are now the ones that control the very mineral resources we are talking about today. Those nations want to control the deep seabed also. They do not want to give the United States or any other industrialized country with the technology, the ability and the need, and also with just as much right to the deep seabed as any other nation the ability to do so. They want to exclude them from mining sites. exclude them from price considerations and exclude them from production controls.

In New York a year ago Elliot Richardson, our ambassador, in full and good faith had tried to get an agreeable regime where there was some parallelism, where the United States could also go parallel with a regime to the deep ocean, so that we could use our technology and meet a need that not only the United States has, but also that the world has. We found as that session drew to a close that the Evensen text was rejected and out from under the table with no consultation and the Paul Engo text was injected. They moved from that reasonable regime and their arrogance at that time was driven home to the United States of America. Ambassador Richardson told the Merchant Marine Committee that the United States was "de-

nied due process" by the leadership of the group 77, that is arrogance.

I think our President and the previous administration supported it and I supported it and most of the Members of this body supported it and that is a reasonable approach to the exploitation of the deep seabed, a use for all of mankind.

In this legislation we clearly say that when the United Nations Law of the Sea Treaty is reasonable enough so that it can be ratified by the Congress, when those provisions prevail, this legislation will be moot.

We also say at the same time that during that interim period, and we will come to the debate on this later, during that interim period we will share part of the profit, if any, from the deep seabed with the Third World.

But I do not think we can be closed out by the arrogance of those countries that want to create another OPEC, another cartel on cooper or manganese, which is vital to the steel producers of this country, or on zinc or nickel and the other rare metals. I think we are being totally reasonable, and the arrogance I see is the arrogance of the law of the sea cabal, the members of which think they can control this situation and extort this country without considering the needs and the necessities of the United States and other industrial countries of the world. They want to keep control. They want to keep control over prices, and they want to keep production control for their own benefit and they do it with pious statements about "the common heritage of mankind" and the like. We are all for the common heritage of mankind—it is in our bill—but it is time we faced the fact they—the group 77—are motivated by a desire to set up a powerful cartel.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I only wish to say this: When we talk about a reasonable treaty, let me say that we have heard from the chairman of the Committee on Interior and Insular Affairs and from the chairman of the subcommittee of the Committee on International Relations, and they urge our support in favor of this amendment.

The other committee chairman, the gentleman from New York (Mr. MURPHY), has been successful in obtaining the jurisdiction of this bill for the Commerce Department. I just want to remind the committee that the Secretary of Commerce favors this amendment, and when we talk about reasonableness as opposed to arrogance, the Secretary of Commerce feels that the most reasonable way to administer this bill will be through the work plan concept, and he so testified before the House.

I would hate to see this amendment lost on a question of rhetoric and on a question of charges of arrogance or on the clashes that many inflame us on different issues.

The basic fact of the matter is that two of the three committees that considered this matter favor the work plan concept. The Department of Commerce, the administration's agency that we have just selected by the will of the House to administer it, wants this amendment passed, as does the administration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 31, noes 28.

RECORDED VOTE

Mr. BREAUX. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 202, not voting 31, as follows:

[Roll No. 602]

AYES—199

| | | |
|---|---|---|
| Abdnor | Frenzel | Nix |
| Ambro | Garcia | Nolan |
| Ammerman | Gephardt | O'Brien |
| Anderson, Ill. | Gibbons | Obey |
| Andrews, N. Dak. | Gilman | Ottinger |
| | Glickman | Panetta |
| Ashley | Goodling | Patterson |
| Aspin | Gradison | Pattison |
| Baldus | Green | Pease |
| Baucus | Hamilton | Pettis |
| Beard, Tenn. | Hammer-schmidt | Pressler |
| Bedell | | Preyer |
| Beilenson | Hannaford | Price |
| Benjamin | Harkin | Pritchard |
| Bennett | Harrington | Quayle |
| Bingham | Harris | Quillen |
| Blanchard | Heckler | Rahall |
| Blouin | Hillis | Railsback |
| Bolling | Holtzman | Rangel |
| Bonior | Horton | Regula |
| Brademas | Howard | Reuss |
| Breckinridge | Hyde | Rhodes |
| Brinkley | Jacobs | Richmond |
| Brodhead | Jeffords | Rinaldo |
| Brown, Calif. | Johnson, Colo. | Roncalio |
| Burgener | Kastenmeier | Rose |
| Burke, Calif. | Kemp | Roybal |
| Burlison, Mo. | Keys | Ruppe |
| Burton, John | Kildee | Ryan |
| Burton, Phillip | Kostmayer | Sawyer |
| Butler | Krebs | Schroeder |
| Caputo | LaFalce | Seiberling |
| Carr | Leach | Sharp |
| Cavanaugh | Lehman | Simon |
| Cederberg | Lent | Skubitz |
| Cleveland | Levitas | Smith, Iowa |
| Cohen | Lloyd, Calif. | Smith, Nebr. |
| Conable | Long, Md. | Solarz |
| Conte | Luken | Spellman |
| Conyers | Lundine | St Germain |
| Corcoran | McClory | Stanton |
| Cornell | McCloskey | Stark |
| Cornwell | McDade | Steers |
| Coughlin | McEwen | Steiger |
| D'Amours | McHugh | Stokes |
| Dellums | McKinney | Studds |
| Derrick | Madigan | Thone |
| Diggs | Markey | Traxler |
| Dodd | Marks | Tucker |
| Downey | Marlenee | Udall |
| Drinan | Marriott | Van Deerlin |
| Eckhardt | Mazzoli | Vander Jagt |
| Edgar | Meyner | Vanik |
| Edwards, Calif. | Michel | Vento |
| Emery | Mikulski | Volkmer |
| Erlenborn | Mikva | Walgren |
| Evans, Colo. | Miller, Calif. | Walker |
| Evans, Del. | Miller, Ohio | Walsh |
| Evans, Ga. | Mineta | Waxman |
| Evans, Ind. | Mitchell, Md. | Weaver |
| Fascell | Mitchell, N.Y. | Weiss |
| Fenwick | Moffett | Wiggins |
| Findley | Mollohan | Wilson, Bob |
| Fish | Mottl | Wirth |
| Fisher | Myers, Gary | Wydler |
| Fithian | Myers, John | Wylie |
| Fowler | Nedzi | Yates |

NOES—202

| | | |
|---|---|---|
| Addabbo | Badham | Brooks |
| Akaka | Bafalis | Broomfield |
| Alexander | Barnard | Brown, Mich. |
| Anderson, Calif. | Bauman | Brown, Ohio |
| | Beard, R.I. | Broyhill |
| Andrews, N.C. | Bevill | Burke, Fla. |
| Annunzio | Biaggi | Burleson, Tex. |
| Applegate | Boggs | Byron |
| Archer | Bonker | Carney |
| Ashbrook | Bowen | Carter |
| AuCoin | Breaux | Chappell |
| Chisholm | Hollenbeck | Pike |
| Clausen, Don H. | Holt | Poage |
| | Hubbard | Risenhoover |
| Clay | Huckaby | Robinson |
| Cochran | Hughes | Roe |
| Coleman | Ichord | Rogers |
| Collins, Tex. | Ireland | Rooney |
| Corman | Johnson, Calif. | Rosenthal |
| Crane | Jones, N.C. | Rostenkowski |
| Cunningham | Jones, Okla. | Rousselot |
| Daniel, Dan | Jones, Tenn. | Rudd |
| Daniel, R. W. | Jordan | Runnels |
| de la Garza | Kazen | Russo |
| Delaney | Kelly | Santini |
| Dent | Kindness | Scheuer |
| Derwinski | Krueger | Schulze |
| Devine | Lagomarsino | Sebelius |
| Dickinson | Latta | Shuster |
| Dicks | Lederer | Sikes |
| Dingell | Leggett | Sisk |
| Dornan | Livingston | Skelton |
| Duncan, Oreg. | Lloyd, Tenn. | Slack |
| Duncan, Tenn. | Long, La. | Snyder |
| Edwards, Ala. | Lott | Spence |
| Edwards, Okla. | Lujan | Staggers |
| Eilberg | McCormack | Stangeland |
| English | McDonald | Steed |
| Ertel | McFall | Stockman |
| Fary | McKay | Stratton |
| Flippo | Mahon | Stump |
| Flood | Mann | Symms |
| Florio | Martin | Taylor |
| Flynt | Mathis | Thompson |
| Foley | Mattox | Thornton |
| Ford, Mich. | Metcalfe | Treen |
| Forsythe | Minish | Trible |
| Fountain | Moakley | Ullman |
| Fuqua | Montgomery | Waggonner |
| Gammage | Moore | Wampler |
| Gaydos | Moorhead, Calif. | Watkins |
| Giaimo | | White |
| Ginn | Moorhead, Pa. | Whitehurst |
| Goldwater | Moss | Whitley |
| Gonzalez | Murphy, Ill. | Whitten |
| Gore | Murphy, N.Y. | Wilson, C. H. |
| Grassley | Murphy, Pa. | Wilson, Tex. |
| Gudger | Murtha | Winn |
| Guyer | Myers, Michael | Wolff |
| Hagedorn | Natcher | Wright |
| Hall | Neal | Yatron |
| Hanley | Nichols | Young, Alaska |
| Hansen | Nowak | Young, Fla. |
| Harsha | Oakar | Young, Mo. |
| Hawkins | Oberstar | Young, Tex. |
| Hefner | Patten | Zablocki |
| Heftel | Pepper | Zeferetti |
| Hightower | Perkins | |
| Holland | Pickle | |

NOT VOTING—31

| | | |
|---|---|---|
| Armstrong | Ford, Tenn. | Quie |
| Boland | Fraser | Roberts |
| Buchanan | Frey | Rodino |
| Burke, Mass. | Jenkins | Sarasin |
| Clawson, Del | Jenrette | Satterfield |
| Collins, Ill. | Kasten | Shipley |
| Cotter | Le Fante | Teague |
| Danielson | Maguire | Tsongas |
| Davis | Meeds | Whalen |
| Early | Milford | |
| Flowers | Pursell | |

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Burke of Massachusetts against.

Mr. Fraser for, with Mr. LeFante against.

Mrs. Collins of Illinois for, with Mr. Shipley against.

Messrs. LEDERER, EDWARDS of Oklahoma, SEBELIUS, STANGELAND, and ROE changed their vote from "aye" to "no."

Messrs. MICHEL, STOKES, and BURLISON of Missouri changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: At page 13, line 4, insert a pe-

riod after the word "States" and delete all that follows through line 5.

Mr. MURPHY of New York. Mr. Chairman, this amendment would require that entities seeking a permit to mine the deep seabed under the authority of this act document their mining and processing vessels in the United States, not in foreign nations. This requirement is inextricably related to the purposes of this act, which are:

First, to encourage and regulate the development of hard mineral resources from the deep ocean floor. The United States only has the authority to regulate its own flag vessels.

Second, to insure that development of the resources is carried out in a manner that will protect the quality of the environment. Only the United States has the effective ability to insure that its own nationals working on its own flag vessels operate in an environmentally responsible manner.

Third, to permit the continued development of the necessary technology for the expeditious development of hard mineral resources from the seabed. Much of the technology involved in ocean mining is part of, or present on, the mining vessels. Unless the mining vessels are documented in the United States, the technology will be exported free of charge.

Restricting the operations of U.S. permittees to U.S.-flag mining and processing vessels would accomplish crucially important objectives.

In recent months, U.S. citizens have begun to revolt against the heavy individual tax burdens they bear. I, for one, do not want to be among those responsible for exporting millions of dollars in tax revenues, thousands of American jobs, and the mining technology that Americans have spent millions to develop.

If U.S. permittees are required to document their mining vessels in the United States, all of the tax dollars resulting from U.S.-flag vessel operations will accrue to the U.S. Treasury and hundreds of new American jobs will be created thus reducing the burden on the individual taxpayer. The ocean mining technology developed with the support of U.S. tax dollars will remain under American control.

The legislation clearly recognizes that deep seabed mining is a freedom of the high seas, subject to a duty of reasonable regard to the interests of other States. There is real concern among Americans about the possible adverse impact which deep seabed mining may have on the environment. These impacts are, at this point, largely unpredictable. Nobody can determine what the actual impacts will be until a substantial amount of evidence is accumulated from actual exploration and commercial recovery activities.

By enacting this legislation, which encourages U.S. nationals to develop the capacity to mine the mineral resources of the deep seabed, the United States incurs an obligation to other nations to carry out these activities in an environmentally responsible manner. This is only possible if the United States has the authority to control the activities of those to whom it issues permits. America can only control the design and operation of American-documented vessels. Furthermore, the United States can only assuredly place its scientists and environmental experts on board its own vessels. If the mining vessels are not U.S.-flag vessels, there is no assurance that we will be able to collect the data we need to assess the environmental impact of deep seabed mining operations.

There are persuasive environmental, safety, manning, and crew-training benefits which will come from this amendment and I urge its enactment.

Mr. RUPPE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. MURPHY) because it seems to me that the amendment would assure that these very high technology ships developed by us would be available to us whenever and wherever they were needed. It would also insure, in large measure, that the deep seabed mining technology would not be available to other countries except under appropriate circumstances. So it does assure us the protection of this technology built into these deep seabed vessels.

I think the amendment is a good amendment.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment. Mr. Chairman, I will be brief. I will not take 5 minutes.

We have heard a living voice speaking to us in the words of 1903. America has not talked like this for years. We are trying to live in a different world. We must live in a different world. We are being required to live in a world in which we all share to some extent. We cannot go on like this, arrogating to ourselves powers that we do not have, simply because we have money. We are not going to be able to live in a world in which people act on these principles and standards. I do not think we have heard talk like this for a long, long time.

We have listened to past administrations, trying to bring into being and to encourage some kind of orderly world. How is it that we hear these voices now? What accounts for it? How can it be that we have turned our backs on the slow, painful development of people on this planet trying to live together in some kind of decency and respect, one for the other?

Everything is not money; we know that. We cannot live alone. There is no vacuum into which we can retire.

Mr. Chairman, I urge defeat of this amendment. I think it would be a defeat for the United States and for the honor of this country if it were to be adopted.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, it is always difficult for me to take the floor after the distinguished gentlewoman from New Jersey (Mrs. FENWICK), and generally I agree with the proposition that the resources of the world and the opportunities of the world should be divided most equally. But do not believe for a moment that a Liberian ship is the result of a slow and painful development of Liberia. A Liberian ship is the result of the registry in the city of New York, typically by an oil company, of that ship as Liberian in order that the ship avoid certain requirements respecting safety of operations, wages, and the like, applicable to U.S. ships. Look at these Liberian ships: For instance, the *Amoco Cadiz*. Do the Members remember when that ship ruptured? The *Argo Merchant*—do the Members remember when that ship's hull burst and leaked oil over the sea? The *Sansinena*—a Liberian ship. The *Torrey Canyon*—everyone remembers the *Torrey Canyon*.

How long are we going to permit this fakery of flag of convenience? We have a Panamanian ship with an Italian master and a Spanish crew, belonging to a U.S. oil compnay. What kind of development of small nations does this promote? What control do we have over such ships?

In truth what we should do is outlaw this fakery of ships registered under a flag of convenience. That is what we really ought to do, and that is what one day we are going to have to do. But this is a small movement in that direction.

I strongly urge the passage of the amendment.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we should understand what the language does that the gentltman's amendment would seek to strike. I think the gentleman from Texas who just spoke misunderstands the effect of the bill. As recommended by the Committee on International Relations and the Committee on the Interior—and on this point we are not in agreement with the members of the Committee on Merchant Marine and Fisheries—the bill provides that the vessels may be documented under the laws of the United States or the laws of a reciprocating state. If the gentleman will look at section 107 of the bill. that has to do with the definition of "reciprocating states."

Those will be the states which regulate deep seabed mining in a manner compatible with the United States, and with whom we expect to cooperate. We are asking for their cooperation in the mining. The consortia that will be operating these concerns will be international consortia, but under the gentleman's amendment we will be saying that, "We want to cooperate with you in every respect, except we are not going to allow any of your ships to do any of this."

Let us be clear, this amendment is opposed by the Committee on International Relations. It is opposed by the Committee on Interior and Insular Affairs. It is opposed by the administration. It is opposed by the mining industry. It is opposed by the environmentalists. The only people affected by the bill

that favor this amendment are the shipping industry.

The amendment would sacrifice, in my judgment, the purposes of the bill and the interests of all the major concerned parties to the desires of this one group.

Let us be clear about who will be doing the mining under this bill. The mining will be done by multinational mining consortia with partners not only in this country, but in Belgium, Canada, France, Japan, the United Kingdom, or West Germany.

Presumably our companies enter into these consortia because they want others to share the burden of providing the capital and the technology for these extremely costly and complex ventures.

Are we going to turn around and say to these other countries that they can share those burdens, but only our ships can be used because we want to reserve these particular projects for our shipping industry? I cannot think of a better way to break up the consortia. Such a breakup would be a serious blow to the mining operations in which we are interested.

The proponents of the amendment say it will save the United States jobs. Do not believe it. They talk about the jobs gained for the shipping industry, but they do not tell you about the jobs that will be lost when mining consortia register in other countries to avoid the increased mining costs imposed by this amendment. If we want to drive the deep sea mining industry out of this country, this amendment is the way to do it.

The proponents of this amendment raise the specter of a lot of ships flying flags of convenience, using cheap labor and undercutting our environmental regulations. This is where the gentleman from Texas who preceded me in the well is misled about the effect of the bill. This is a misrepresentation of the provisions of the bill which, as I said, limits the mining and processing vessels to those of the United States or a reciprocating state. By definition, a reciprocating state is another advanced industrial nation which regulates its ocean mining ventures in a manner similar to ours, including regulations protecting the ocean environment. There will be very few reciprocating states, and certainly no wholesale export of jobs.

Mr. Chairman, I urge my colleagues who really want to encourage deep seabed mining to reject this amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to commend the gentleman from New York on his statement. I concur completely with everything the gentleman says and I want to associate myself with the gentleman's remarks.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I want to congratulate the gentleman from New York and I want to raise this question. Is there any probability or likelihood that either Liberia or Panama would be one of the reciprocating states?

Mr. BINGHAM. I think there is no likelihood whatsoever of that.

Mr. FINDLEY. Mr. Chairman, I agree with the gentleman.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I will be very brief to the members of the Committee. What the amendment of the chairman, the gentleman from New York (Mr. MURPHY) says, very simply, is that any mining or processing ship that is going to be working in deep seabed mining under a U.S. license has to be documented in the United States. That does not mean it has to be built in the United States. It means it has to fly the flag of the country which is issuing the license for them to do the mining.

There are a lot of arguments why it is necessary for jobs and to encourage U.S. ships.

But there is a whole additional set of reasons why the gentleman's amendment should be adopted. For instance, there are a number of environmental laws, very strong environmental laws, and standards involved. These are U.S. laws, and those laws are not going to apply to ships of a foreign country; they are going to apply to a U.S.-documented vessel.

This also means that certain safety regulations would be followed by ships that would be operating on the high seas, because our U.S. laws would then be applied to those ships. This work would be done by a U.S.-documented ship under the Murphy amendment; it would be done by a U.S.-flag ship.

In addition to that, the ships would be manned by U.S. merchant seamen who are trained in the trade and licensed by the Coast Guard. They are seamen who are capable of manning that type of vessel, and they are going to be the type of crew that should run those kinds of vessels.

I am not worried about any foreign country saying, "Well, if you are going to make this rule, we aren't going to come and get a license from you."

Where else are they going to go to get a license? For some time to come, there is no other country in the world that has a licensing procedure that would apply if we pass this legislation today.

They are not interested so much in having a Soviet ship or a French ship. What they are interested in doing is getting the minerals, and they are going to get the minerals under the Murphy amendment. They are going to get them by the operation of a U.S.-documented vessel, but they want the minerals, not the ships.

Mr. Chairman, if we are going to apply a licensing procedure and put U.S. prestige on the line, our U.S. ships ought to be able to share in the benefits. I do not believe we are asking too much in saying that these ships should be U.S.-flag ships.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to join with my colleague, the gentleman from Louisiana (Mr. BREAUX), in support of this amendment.

This is the amendment to which I made reference earlier. I think it is a very useful and constructive amendment, and I urge its adoption.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman from New York (Mr. BINGHAM) had referred to what ships could be qualified. The ship does not have to be a ship of a nation which is actually operating in the deep sea mining consortium as I understand it. It merely has to be a reciprocating nation which regulates in the manner provided in this act.

Therefore, it could be any nation, as I understand it, whether that nation is actually working the deep seabed or not. It merely has to recognize the same standards as those nations do that are operating in the deep sea.

Mr. BREAUX. Mr. Chairman, the gentleman is correct.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I agree with the gentleman's argument. It is very important to note that the vessel does not have to be built in the United States; however, once registered in the United States, this high-technology ship cannot be transferred to another foreign government without the approval of the U.S. Government.

That means that we have by virtue of this amendment a very tight control over the technology embodied in deep seabed mining.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I rise in support of the amendment, and I would like to join with my colleague, the gentleman from Louisiana (Mr. BREAUX), particularly in his concerns expressed about the environmental quality that we could expect only through this amendment.

We have to recognize that we really cannot put our scientists or our environmentalists aboard any other ships but American ships. I do feel that we owe it to other nations to make certain that we have all the data that could possibly accrue to us from having American scientists and American environmentalists aboard these ships monitoring and being able to report not only to the United States but to other participating nations.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the gentleman from Louisiana (Mr. BREAUX) made one statement during the discussion that bothers me, and it has bothered me about this whole piece of legislation.

The gentleman made the statement that no other industry or mining company can go to any other country for a license. The fact is that they cannot go to this country for a license yet; is that correct?

Mr. BREAUX. Well, they would be able to after we pass this legislation.

Mr. VOLKMER. But not without this legislation?

Mr. BREAUX. Not without this legislation.

Mr. VOLKMER. Can the gentleman then assure this House that no other country right now is contemplating doing the very same things we are attempting to do?

Mr. BREAUX. There are several countries contemplating doing the same thing, but all of them are waiting for us.

Mr. VOLKMER. That means that if we go ahead, in all probability they will also go ahead, but then what we will have is disagreements as to areas concerned. Does the gentleman disagree with that?

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words. And I rise in support of the amendment and in support of the bill.

Mr. Chairman, the greatest natural resource on this Earth is the sea. The sea nurtures, cleanses and renews life. And from the great depths of the oceans, we may find answers to many of the material problems that beset our troubled planet. For that reason, I strongly urge the passage of H.R. 3350, The Deep Seabed Hard Minerals Act.

The passage of this bill is critical to the economic health, welfare, and prosperity of this Nation. More immediately, it will relieve us of pressing strategic anxieties.

The enemies of this Republic know very well that the weakest link in an otherwise strong economic chain that binds the industrial nations of the West is our extraordinary dependence on imported raw materials. It is no surprise to anyone familiar with this critical weakness that the Cuban and Soviet energies are directed toward capturing strategically critical real estate, bordering the sealanes: the Horn of Africa, the western coast of Angola, astride the South Sea passages to America and Europe. It is no wonder that the Soviet Union has deployed a "blue water naval force" threatening those sealanes, so vital to the economic life of the industrialized nations of the West and Japan. For here, along these critical passages, the bulk of raw materials bound for the ports of the West are shipped.

It was just a few short years ago that the Western World was shocked into the awful reality of its dependence on Third World resources. When the OPEC nations imposed their embargo on oil, we found ourselves presented with an unprecedented crisis. These states, largely run by backward or hostile political regimes, doubled, then quadrupled the international price of oil between 1971 and 1974. This 400-percent increase in oil prices had a severe impact on balance-of-payments deficits in both the developed and underdeveloped countries of the world. In the United States and the industrialized nations of the West the oil deficit alone reached $40 billion. It served to aggravate a dangerous national and international inflation, created unprecedented problems for the international monetary systems, and forced further slowdowns in the already fragile industrialized economies of the United States, Western Europe, and Japan.

Mr. Chairman, that should have been lesson enough. We cannot afford a repeat of that situation with minerals critical to our industrial survival. We must take decisive steps to insure that we are not at the mercy of other cartels or concerted efforts by Third World adversaries, encouraged by the Soviet Union, a la the oil embago, to bring the economies of the United States and other Western states to a grinding halt.

We have the liberty and the luxury of preparation now. We must act now.

The United States is the single largest consumer of these critical minerals. And the entire economy of the Republic is dependent upon access to them. At the present time we import them at rates which are too high for comfort or security. This is especially true of such metals as nickel, copper, cobalt, and manganese.

We are not now, nor are we likely to be, in the fortunate position of the Soviet Union. Estimates and projections vary. But the Soviet Union is generally believed to be virtually self-sufficient in these industrial raw materials. Leviathan has not yet the technological capability of extracting them at a rate that would satisfy its appetite for industrial power. But the Kremlin's domestic cup of raw materials does runneth over.

Mr. Chairman, providence has blessed us with great abundance. But in this particular area—on land—we are impoverished. We must turn to the sea. The sea is the Earth's last great frontier. Untold riches abound on the ocean floor. In the face of possible resource scarcities, blackmail, or international economic instability, we may resort to this bastion of fantastic natural wealth.

Oceanographers and geologists have told us of the riches of the sea. We know that certain areas of the seabed are suffused with these valuable minerals. Consider the potential. In an essay published in the International Law Quarterly, volume 20, April 1971, it is reported that:

> One square mile of seabed may be covered with 70,000 tons of nodules containing 30,000 tons of manganese, 3,600 tons of aluminum, 2,300 tons of cadmium, 17,000 tons of iron, 400 tons of cobalt, 1,200 tons of nickel and 650 tons of copper.

And I would remind you, Mr. Chairman, that these minerals are not the only treasures to be extracted from the depths of the oceans. The treasures are immense. The Japanese are currently farming kelp, and in my native State of California we, too, are experimenting with this resource. Seabed monitoring devices offer great possibilities to advance deep sea fish farming. We may be in the first phase of harvesting a food supply that would help to feed the expanding population of this world. We must be sure that we do not subscribe to international agreements in this area that would, in fact, retard rather than encourage these developments.

The technology for mining the seas is developing rapidly. For example, in 1963 the Marine Diamond Corp. of Capetown, South Africa, managed to extract 51,000 carats of rough diamonds from the seabed. U.S. industry sources indicated that by 1990 we could substantially cut our imports of these vital minerals, especially manganese and cobalt. According to the Ocean Resources Department of the Kennecott Copper Co., we import 98 percent of our cobalt. Conceivably, we could be self-sufficient in this valuable mineral by 1990 if we quickly resort to ocean mining. We could achieve 90 percent sufficiency in copper and 70 percent sufficiency in primary nickel by 1990. By the year 2000, we could achieve a surplus in cobalt, manganese, and primary nickel.

In developing this new source of supply, we would not only be protecting ourselves from cartel blackmail or international economic warfare, we would also insure the growth of a desperately needed new industry, stimulating the rate of investment and expanding employment opportunities for our people. But we must forge ahead now. It is estimated that private firms are willing to invest as much as $2.8 billion into this project by 1980 and assure a full scale commercialization of these resources by 1983. Private entrepreneurs have the technology to forge ahead and they have the will to accomplish the task. But we cannot allow an inhospitable environment to smother the most optimistic prospects for ocean mining. We cannot subscribe to any new regime of international law which would inhibit this vital investment.

Mr. Chairman, the Law of the Sea is now (de lege ferenda) in the process of development. There is a great need to insure that the legitimate interests of all nations are protected in the development of international law, as it applies to this immensely complex area. I recognize that we must fashion an international law that will effectively grapple with the problems of pollution, waste, and national sovereignty. But in the process of drafting new treaties and conventions, we must not deviate from America's historical commitment to the freedom of the seas. Our rights, and the rights of any other nation to mine the resources of the oceans, are integral to that longstanding American doctrine. We cannot allow ourselves to be locked into any future agreements that would

preclude our legitimate access to the fruits of the oceans.

It is we who have the will. the technology, the managerial and engineering skills to accomplish this task. No other nation possesses the same degree of ingenuity in this area. We ought not to succumb to some guilt-ridden rhetoric which would foreclose the effective development of these resources. In any case, we cannot afford to surrender this traditional freedom of the seas, central to our foreign policy since the founding of this Republic, to some future, probably hostile bureaucracy, staffed by representatives of envious Third World nations. This is what may be ordained by the current United Nations Law or the Sea Conference.

Mr. Chairman, we can afford no delays. Let us press forward with this measure. Please let us consider our posterity.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a bad amendment. The administration does not want it; the mining industry does not want it. It is going to create grave problems for them. The amendment is wanted only by the shipping industry.

I share with some of my colleagues in the House some impatience that we have not drive away our partners. It is imwaited on the Law of the Sea all of these years. We have postponed and postponed.

I made up my mind a long time ago we were going to go ahead and create a framework when we could begin to tap the resources in the seabed. The time has come, and we should pass this legislation and get on with it.

It is important to be fair, that we do not drive away our partners. It is important to understand what is happening. These are not American mining companies that are going out by themselves and using American ships. This job is going to be done by international consortia in which several nations will be represented, and they will be, as the gentleman from New York (Mr. BINGHAM) said, from the wealthier industrial nations.

The report put out by the International Relations Committee shows that there are about five groups poised, getting ready to go to work. The main one is Kennecot, a U.S. company, but it has three partners from Great Britain, a consortium, one from Canada and one from Japan.

The second big one, Ocean Management, Inc., has companies from Canada, Germany, the United States, and Japan, each with 25 percent.

Another one is largely Belgium.

Another one is largely from the Netherlands.

Another one is largely France.

We cannot say to these people, "You are only going to use U.S. ships and U.S. personnel in manning those ships." We will drive them out of the business and we will see that the deep sea mining does not go forward. By doing this I think we make a very big mistake.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I regret that I am in disagreement with my colleague in the well. I gather the gentleman is talking about the moms and pops of the international cartels in the world. Those are the wealthiest of all of the business conglomerates in the entire universe.

The amendment offered by the gentleman from New York seeks to redress a very small part of that, to regain a little of what is left of the American maritime industry.

I would like to advise my colleagues—and this will only take 10 seconds—that I had some six major local maritime unions that, because of historical experience, have their own bought-and-paid-for buildings in my district. As a result of the legislation, or lack thereof, in the last 18 months, there will only be three. If we are not careful, we will not have a maritime industry at all in this country, and I think that is nonsense.

I think the amendment offered by the gentleman from New York is a modest one, to keep this industry that is barely alive a little afloat.

Mr. UDALL. Mr. Chairman, few things would please me more than to see the U.S. shipping industry get up off of its back and be prosperous. But the last way you are going to make any progress is to create a situation where we have four countries, Canada, Germany, the United States, and Japan, each with 25 percent prepared to mine and then say to those proud nations, "No consortium in which a United States company participates can go out there unless all of these ships involved in this enterprise are documented in the United States." It is not right. Other countries will not accept it. We would not put up with it. We should not impose this on other countries. That is why there is opposition to it.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I made it very clear that only one vessel is involved at the mining site for the transportation of these minerals. and we are now talking about the mining process vessel, and none of the other vessels.

I might state further that we have been sharing with the Japanese and with the Germans all of these legislative initiatives. They are just waiting to see what the American Congress does so that they can pattern and model their own national legislation after this. But we are dealing only with that single vessel per site where the United States is involved.

Mr. UDALL. I would make the point that, with all of the thousands of vessels on the ocean, why would we go out and hold up and delay what our minerals industry needs?

I think we make a mistake if we adopt this amendment.

● Mr. VANIK. Mr. Chairman, I speak in opposition to any amendment which would restrict the vessels used in mining, processing, or transporting mineral resources from the ocean floor to only U.S.-flag ships. Section 103 of H.R. 3350 and H.R. 12988 provide that mining and processing ships are to be documented under U.S. laws or under the laws of reciprocating states. Any amendment to restrict deep seabed operations to only U.S.-flag ships would, in effect, be comparable to a 100-percent cargo preference. Last September we debated this issue in connection with H.R. 1037, the oil cargo preference bill, which would have required 9.5 percent of U.S. oil imports to be carried in U.S.-built ships. That measure was defeated but the same concept is now being proposed for deep seabed operations, which could then establish a precedent for extension of cargo preferences for oil or other products.

At the time we debated the oil cargo preference bill I had two main objections, namely the inflationary impact and the implications for U.S. foreign economic policy. Those same objections apply in this case. The higher rates usually charged by U.S.-flag vessels will raise the cost of the deep seabed operations for U.S. firms, making their operations less competitive and presumably consumer prices higher.

I understand that four major U.S. ocean mining companies are organized in consortia with partners in Britain, Canada, Japan, West Germany, or the Netherlands making commercial recovery a multinational enterprise. Ships under contract to U.S. companies as well as under contract to foreign associates will be needed to mine, process, and transport the mineral resources.

Restriction of these operations to U.S.-flag ships would restrict the operations of these consortia and retard the development of ocean mining just at the time in which we are in a crucial final phase of the multilateral trade negotiations in Geneva seeking to liberalize trade barriers in concert with the same countries whose ships would be precluded from use by the consortia under the amendment. Restriction to U.S.-flag ships would be inconsistent with U.S. objectives in those negotiations, would reverse U.S. policy favoring free competition and trade expansion worldwide based on fair and equitable rules, and could trigger the adoption of similar measures by foreign countries in this or other areas.

I understand that the administration opposes the amendment and supports the provision for mining and processing ships to be documented under U.S. laws or under the laws of reciprocating states. I urge my colleagues to do the same.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 38, noes 19.

So the amendment was agreed to.

Are there further amendments?

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: At page 13, between lines 5 and 6, insert the following:

(3) Each permittee shall use at least one vessel documented under the laws of the United States for the transportation from each mining site of hard mineral resources commercially recovered under the permit.

Page 13, line 6, strike out "(3)" and insert "(4)".

Mr. MURPHY of New York. Mr. Chairman, this amendment would require that at least one of the vessels transporting the seabed nodules away from a mining site where companies are operating under a U.S. permit be documented under the laws of the United States.

Each mining system will consist of a mining vessel to harvest the nodules, two or more ore carriers to transport the recovered nodules from the mining sites to land, and a processing plant. Between two and four ore carriers will be needed for each mining site depending on the volume of the mining operation, how far from land the mining site is, and the size of the ore transport vessels.

Requiring each U.S. permittee to utilize at least one U.S.-flag ore carrier per mine site would guarantee U.S. control over the vessels needed to transport at least a significant portion of strategically important hard mineral resources. Without this amendment, U.S. permittees will be able to document all of their mineral transport vessels under flags-of-convenience, and the United States will have no control over the environmental, safety, and manning dimensions of transporting these mineral resources which are vital to the economy and security of the United States.

Since each mining operation will probably require between two and four ore carriers to transport seabed nodules from the mining site to land, this amendment would not impose restrictions on foreign entities belonging to a U.S.-licensed international consortium. At least 50 percent and as much as 75 percent of the ore carriers involved in these operations could be documented under the laws of any foreign nation.

Passage of this amendment will prevent American ocean mining companies from operating their entire bulk fleet under flags-of-convenience at the expense of American labor, tax laws, and environmental and safety standards.

Experts attribute 85 percent of all shipping disasters to human error. Although this factor cannot be completely eliminated, it can be minimized through rigorous training standards for ship personnel, cognizant and concerned with the possibility of damaging the marine environment. Utilization of U.S.-flag ore carriers, designed and operated under the most stringent safety standards and manned by highly skilled and trained U.S. seafaring personnel who must meet Federal Government licensing and certification requirements, will provide the greatest assurance and measure of protection for the marine environment.

The employment of U.S. vessels and U.S. crews will contribute millions of dollars annually to the U.S. Treasury through corporate taxes on shipping profits and income taxes on seamen. Presently, the multinational oil companies escape an estimated $100 million per year in U.S. taxation by registering their vessels under foreign flags and manning them with foreign crews. This amendment will help prevent the U.S. ocean mining industry from becoming another runaway industry.

Every vessel documented under the laws of the United States helps to ease the drain of the dollar and reduce the deficit in our international balance of payments. When U.S. dollars and U.S. crews are paid to transport our mineral resources, dollars are retained in the U.S. economy and used to purchase American goods and services. Dollars paid for foreign shipping leave this country.

This amendment would encourage the growth of the U.S.-flag bulk fleet necessary to end this Nation's dependency on foreign-flag vessels for the carriage of virtually all the strategic minerals imported by this country. Today, not a single ore carrier flies the U.S. flag. Japan controls approximately two-thirds of the world ore carrier fleet and Liberia much of what remains. Almost all of the Liberian-flag fleet is owned by Americans.

The U.S. ocean mining industry has the capacity to reverse the sad state of the U.S.-flag dry bulk fleet. The active U.S. flag dry bulk fleet today consists of only 14 vessels. Most of these vessels are over 25 years old and none of them are ore carriers. Although dry bulk commodities comprise 40 percent of U.S. foreign trade shipments, less than 2 percent moves in U.S.-flag ship.

Unless this legislation requires each U.S. permittee to employ at least one U.S.-flag ore carrier, this Nation will have lost what may be its last opportunity to gain a U.S.-flag dry bulk fleet.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 3 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I support the gentleman's amendment. I really wonder why we limit it to one vessel. Our Subcommittee on Government Operations has had hearings that have clearly demonstrated that the Coast Guard cannot look behind the competency certificate that a foreign government issues on a foreign-licensed vessel. Also, we have testimony showing that when the Coast Guard boards a foreign vessel, they find that they are short a mate, shall we say, and that within 2 hours the consul comes down with almost a blank check certificate and gives it to some seaman. The Coast Guard has to accept that at face value.

I would rather see the gentleman's amendment go much farther, because it is just an absolutely undisputed fact that these foreign flag vessels do not meet the safety standards or crew competency of American-flag ships.

Mr. MURPHY of New York. The gentleman states the case well, but the committee in its modesty only recommended one of these vessels. Hopefully, the committee will support that modest request.

Mr. JOHN L. BURTON. Mr. Chairman, I will support the amendment. I hear people who joke about this modest proposition, but I think it is modest also. The record is replete with the lack of safety, lack of environmental protection, lack of competency on the part of foreign-flag vessels. None of the maritime nations throughout the world measure up to the standards of American-flag ships. I think it is obscene that the American taxpayer and those less concerned about the taxpayers should see our money go to subsidize substandard vessels with substandard crews, which are a threat to the environment and safety of the ocean.

Mr. MURPHY of New York. I thank my colleague.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

May I suggest very briefly, that of course there is no subsidy involved here, as the gentleman from California has been suggesting.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. JOHN L. BURTON. They are subsidized through the fact that the American corporations that hire ships under foreign registry avoid paying the taxes they would have to pay if the ships were American-licensed.

Mr. BINGHAM. But the operations we are talking about here are operations in deep seabed mining areas. As we have said before, these will be operated by international consortia. We are talking about advanced nations that would have the same or similar standards as ours. For the reasons given before in relation to the previous amendment, I oppose this amendment.

It is somewhat less objectionable than the previous amendment because it does limit the protection to one American vessel, but I nevertheless object to it.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the distinguished gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I want to point out that our Government will have the right to issue licenses, and it could set any standards desired as a condition. It seems to me that would be a far more effective way of dealing with this problem than locking it into the statutory form as suggested by the amendment.

I oppose the amendment. I do not have to defend a record on whether I support American jobs. I think this is a very unfortunate step the Congress would be taking. I certainly hope we can reject this proposal.

Mrs. FENWICK. Mr. Chairman, I move to strike the necessary number of words and I rise in opposition to the amendment.

Mr. Chairman, mention has been made of the taxpayers of this country, during course of debate on this amendment, and to the loss of $100 million a year that they experience through the fact that companies license foreign ships or use foreign ships, but I would like to remind this body and the people of this country that the taxpayers are paying handsomely for a maritime industry, to the shippers and to the unions, some $586 million year after year after year, representing 74 percent of the wages and nearly 50 percent of the construction of the ships. And this is not something that just happens once. It is every year.

We know what nearly happened to the consumers of this country had other such proposals put before this Congress not been defeated. We were told by the General Accounting Office that the proposals backed by the same voices would have cost these taxpayers an extra $550 million to $610 million every single year. This is not anything new.

I think we must have regard for the taxpayers, but certainly this is not the way to do it.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment and largely for the same reasons I stated on the last one.

But I would like to have the opportunity here to clarify one thing that the distinguished gentleman from New York (Mr. BINGHAM) has said, because it did throw a question on my arguments with respect to the ships of various registries.

A reciprocatiing state is not necessarily a state whose nationals are in a consortium. A reciprocating state is defined in the bill on page 32 as a state which the President in consultation with the Secretary finds meets certain requirements. These requirements are not engagement in the activity in the deep sea. The requirements are requirements of providing a legal framework for exploration. It does not mean they have to go forth and explore. They have to create a legal framework to do so. It is a state which recognizes licenses and permits issued in this manner and which recognizes, under its procedures, priorities of right for applications for licenses. And the state must regulate the conduct of persons subject to its jurisdiction, and so forth.

And so the state must merely proclaim: "Look, if we engage in deep sea mining we will engage in it in the same way that the United States does," but there is no provision in the bill that states a reciprocating state must be a state in the consortium actually. Engaged in the mining operation.

That is the reason I stated that ships of Liberian or Panamanian registry represented by very competent American lawyers can find ways to qualify even though Panama or Liberia or their nationals may not be engaged in any consortium actually engaged in mining in the deep sea.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

There has been some comment here about the approximately $500 million spent per annum for the U.S. merchant marine. The point was further made that perhaps we are not getting our money's worth out of that expenditure.

I think that what we have to do is analyze what free competition has done for us in the ore vending carrying business. The Japanese are carrying 80 percent of all of the ore in the world at this time.

What we very wisely did back in the early days of the Republic was to enact the Jones Act that provided that, point-to-point carriage in the United States requires that these ships have got to be American ships, and we have got to use American crews and those ships have got to be built in the United States.

Now, were we not to have the Jones Act today, the Japanese would be carrying 80 percent of all of the cargo between American ports for example, between Seattle and San Francisco and between New York and Philadelphia, and the Russians would probably be carrying the other 20 percent.

Mrs. FENWICK. Mr. Chairman, would the gentleman yield?

Mr. LEGGETT. I will yield in just a moment.

So what we need to do—what we must do—is to build in certain hedges in favor of the American merchant marine. It has to be in the nature of Jones Act kinds of qualifications and aids. It has to be in the nature of the first Murphy amendment, to provide that at least the ore manufacturing-processing ships be under American flag. For us just to get 25 percent of this new kind of ore-carrying capability we have got to enact this second amendment offered by Chairman MURPHY.

Now I am happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I know about the Jones Act. It was mentioned by the chairman of the FTC as one of the causes of unnecessary costs imposed upon American consumers every year. The question is how much longer are we going to go on?

Mr. LEGGETT. Let me say to the gentlewoman who has just asked, "how long we are going to go on?", I would say in reply to her question what does she think would happen if the United States were to be involved in a conventional war with the Soviet Union? It may be, in some future emergency that Japan might be on the side of the Soviet Union. If we were totally dependent on those two countries, the carriage of American cargoes between points in the United States, how could we provide for our national defense?

Mrs. FENWICK. Let me say that we have four operating companies which are not operating under the Maritime Commission and are making money.

Mr. LEGGETT. What kind of cargo are they carrying? They are carrying a very, very limited, isolated type of container cargoes. There are only a few companies that can survive in that kind of an atmosphere.

Mrs. FENWICK. If we could just liberate all our ships and let them operate efficiently maybe they could.

Mr. LEGGETT. The Japanese are liberated today and they have got a large percentage of the ships in the world. A large percentage of all of the keels laid down in the world last year were laid down in Japan.

Mrs. FENWICK. Does the gentleman remember our debate on the floor the last time we were discussing this? What about the requirements that are totally unnecessary, crew requirements that are not needed on that particular kind of ship?

Mr. LEGGETT. It is true that there may be some limitations like that.

Mrs. FENWICK. We heard the testimony in the House that the Coast Guard requires certain safety requirements and that our merchant marine, quite unnecessarily, goes far beyond them. We cannot continue to operate so inefficiently.

Mr. LEGGETT. I know that the gentlewoman from New Jersey (Mrs. FENWICK) supports all of the clean air, clean water and clean discharges laws and regulations that apply to the U.S. ships. Now when we are trying to be competitive with the world's maritime industry, you hark back to the Jones Act. You do not like it, and you would like to repeal it.

Mrs. FENWICK. The gentleman brought up the Jones Act, I did not.

Mr. LEGGETT. The gentlewoman is trying to take us back 30 or 40 years ago.

Mrs. FENWICK. We will never be competitive if we have to use larger crews than we need, larger than the Coast Guard says we need.

Mr. LEGGETT. If you would support us for more ships, we could get ahead with the crews and the ships we have got together with the new ships that would be coming on line. Incidentally, in the last 10 years the U.S. maritime industry has cut back the crewing on new U.S. modern vessels by 25 to 35 percent.

Mr. LIVINGSTON. Mr. Chairman, I rise in support of the amendment by the gentleman from New York, to require that at least one ore carrier per mining site be documented under U.S. laws.

I wholeheartedly supported the gentleman's previous amendment and feel that the one before us is equally important to the well-being of the United States.

The requirement that one ore carrier per mining site be a U.S.-flag vessel could result in various economic benefits to this country. At present, no specialized ore carriers fly the American flag, while Japan controls approximately two-thirds of the existing ore carrier fleet. The use of an American vessel means that the jobs created by this amendment will be reserved for American workers.

In addition, the mineral resources of the deep seabed will play a significant

role in maintaining the economic health and security of our Nation in a time of resource scarcity. Restricting seabed mining operations to U.S.-flag vessels will guarantee U.S. control over minerals, such as copper, cobalt, nickel, and manganese, all of which are essential to the industrial economy and national security of America.

By requiring American manning and documentation under U.S. laws, this amendment, in addition to the previous one, could readily enhance the possibility that many vessels are built in U.S. shipyards. This will ameliorate the severity of the projected workload decline in the 27 shipyards throughout the country which compose the total shipbuilding resource base as currently defined by the Maritime Administration.

Our shipbuilding industry is encountering a national mood that has set the building of ships, military or otherwise, at a fairly low priority. According to recent statistics, cited by Shipyard Weekly and other periodicals, the United States may have to shed up to 25 percent of its shipyard work force by the beginning of 1979. Only 5 months ago, the leadership of a major shipyard in Louisiana, was predicting necessary cutbacks of as many as 4,000 in the coming months.

This could amount to an overall national decline in employment of approximately 45,000 persons. This in turn will lead to a direct decline in demand for materials and component parts from all States of the Union. The ripple effect will spread throughout the entire U.S. economy, and with the common multiplier effect of 3 to 1, a 45,000-man decrease in shipyard employment equates to the loss of at least another 135,000 jobs in the private sector.

This must not be allowed to occur.

At a time when millions of Americans are out of work, it is imperative that we make every effort to reserve some of these jobs created by American technology for American workers. The economic benefits of this amendment to the country deserve not only careful consideration, but the full support of this body.

Therefore, I urge my colleagues to support this amendment requiring one ore carrier per mining site be documented under the laws of the United States.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I just want to say to the gentleman I concur in his statement. It has been interesting to sit here this afternoon and listen to some of the arguments made. We were told earlier that this bill was a giant ripoff by the multinational corporations that are going to rape and plunder the ocean bottom at the expense of the world. Now on this amendment and the preceding amendment, we are told by those same critics that we have to be so solicitous of the same multinationals who were accused of raping and plundering earlier this afternoon in the debate. If I have to choose between these international business big boys and American workers jobs in shipyards and on ships, the proper choice is very clear to me. I suspect the same persons who are telling us today that we should vote against the Murphy amendment, against our merchant marine and aganst our workers and seamen today, will be back next week saying we ought to tax these same working people in order to finance the multibillion-dollar foreign aid bill.

Mr. LIVINGSTON. I think the gentleman's point is well taken.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding. Is that the gentleman from Maryland speaking?

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. KREBS

Mr. KREBS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. KREBS: Page 31, between lines 23 and 24 insert the following:

(10) CONSERVATION OF NATURAL RESOURCES.—For the purpose of conservation of natural resources, each license and permit shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity to commercially recover the unrecovered balance of the hard mineral resources. In establishing these terms, conditions, and restrictions, the Secretary shall consider the state of the technology, the environmental effects of the exploration or commercial recovery activities, economic and resource data, and the national need for hard mineral resources. As used in this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision by which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

Page 31, line 24, strike out "(10)" and insert "(11)".

Mr. KREBS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KREBS. Mr. Chairman, I will be extremely brief.

I believe that this is a rather simple amendment. I do not think there is any question, regardless of which side of this bill you stand on, whether you support it or you are going to oppose it, I think we all want to have the cleanest operation, an operation that is going to be fair both to the American taxpayer as well as to the international community. For this reason, Mr. Chairman, my amendment would require that each license and permit shall contain terms and conditions and, if necessary, restrictions which have due regard for the prevention of waste and future opportunity to commercially recover the unrecovered balance of hard mineral resources.

In other words, what we do not want to do is to have some of these mining companies go in and just skim off the best of these nodules and leave a lot of waste behind them. I do not think this is in the interest of anybody, regardless of which side of the issue they are on.

This amendment, is identical to the Senate language of the same legislation. It is supported by the environmental policy center, by the administration and by the industry and I would hope that this House would see fit to support it.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I think the chairman of the full committee might accept the amendment; but before doing that, I would like to ask the author of the amendment some questions, because it gives me some problems unless it is clearly defined.

No. 1, I know that many of the undeveloped nations will look at this phrase and will say that this means production controls. I am very concerned about that, too, and I would like to ask the gentleman from California to comment on this.

Mr. KREBS. Mr. Chairman, I will be glad to do so, if I may draw the attention of the gentleman from Louisiana to the latter portion of my amendment. Let me read the following language that appears in this amendment which should answer the concern of the gentleman, which I certainly submit is a very legitimate concern, I read as follows:

As used in this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation.

Mr. BREAUX. Mr. Chairman, will the gentleman yield for an additional question?

Mr. KREBS. I am glad to yield to the gentleman.

Mr. BREAUX. Mr. Chairman, the other concern I have, I think that many companies in the industry fear that if they are operating on a mining site that they have licensed to mine, that this language could conceivably allow the Federal Government to require private enterprise to continue producing the minerals, even when it becomes uneconomical to do so; in other words, when the price of the minerals drops so low that it costs them more to mine than they can get for selling the minerals. Could this language require them to say, "Well, under this law, you must continue to mine whether it is profitable to do so or not."

Mr. KREBS. Mr. Chairman, I believe the amendment is clear on the subject, that it certainly is not my intention that this be the case. I think it would be unreasonable and I cannot imagine that any Secretary would impose such a requirement under the conditions outlined by the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, does the gentleman think it would allow the Federal Government to tell a licensee, "Well, you should mine more manganese than cobalt," when the company is basically on the mining site to mine cobalt as much as possible?

Mr. KREBS. I think the purpose of this amendment, as I stated repeatedly, is to prevent waste, to prevent what would really amount to so-called strip-mining, leaving unnecessary damage or leaving behind any other materials that could reasonably be mined consistent with reasonable commercial commonsense, if you will, in effect require them to mine sufficiently so that waste will not be created.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, I have no complaint if the gentleman's amendment is to insure that the licensee not create any waste pile mining; but I see a whole series of potential problems if we get a secretary that does not agree with my interpretation or the gentleman's language. They could use the language to put in production controls, to tell them they should continue mining a commodity that is not economical to do so and could say, "You must mine copper," when they really want to mine manganese.

I really fear that it is a blanket open endorsement to do all of these things.

The CHAIRMAN. The time of the gentleman from California (Mr. KREBS) has expired.

(On request of Mr. BREAUX, and by unanimous consent, Mr. KREBS was allowed to proceed for 2 additional minutes.)

Mr. KREBS. Mr. Chairman, I would like again to respond to the gentleman. I think there is specific language in this amendment which clearly states that it is not the intent of this amendment to provide for production control or price regulation in any shape or form.

I think it comes to a point where the public interest should certainly be taken into consideration. This is a very modest and moderate amendment that I would hope this committee would see fit to adopt. There is certainly adequate language to protect the interests of those involved from any caprice or arbitrary regulation or decisionmaking process by the Secretary.

Mr. BREAUX. Mr. Chairman, I thank the gentleman for his answer.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think this is a moderate, sensible amendment that clarifies and strengthens the bill. I share some of the concerns the gentleman from Louisiana (Mr. BREAUX) has, but in the light of the gentleman's explanation, I think the amendment is good and it ought to be adopted.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I thought we had some language which we had agreed upon in the compromise bill which provides for the orderly and efficient processing under the license. I thought that was the agreement among the three committees, and that was, I understood, the language we would go with.

This amendment puts in additional language that certainly causes me a lot of problems, and I thought the amendment was outside the scope of our agreement.

Mr. KREBS. Mr. Chairman, if the gentleman will allow me to use some of my own time, let me emphasize a few points again, in case some of the Members had trouble following me.

Let me point out that the industry is in favor of this language, the Senate has adopted this language, and as I stated previously, the environmental policy groups are in support of the amendment.

Mr. Chairman, I think that any time we get this kind of cooperation in support of an amendment, it cannot be all wrong.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have examined the amendment. I see nothing in it that requires a prudent operator to do other than what he would do without such an amendment. So I accept the amendment.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this issue came up in the committee debate before all three committees. The language that we have in the so-called compromise bill from which we are now working indicates that this agreement was reached by compromise, and I will qoute from page 4 of the amendment, as follows:

The Congress declares that the purposes of this Act are—

Then we go down to line 14, paragraph (2)—

to insure that the development of hard mineral resources of the deep seabed are conducted in a manner which will encourage the orderly and efficient development of such resources, will protect the environment—

Et cetera.

That is the language that we had agreed upon. It clearly states that the Secretary shall require in the licenses and permits that the mineral resources be developed in an orderly and efficient manner.

I am really fearful that the language of the gentleman from California (Mr. KREBS), although he said his intent was not to do that, would allow the Secretary to impose production controls and allow the Secretary to say that someone should continue to produce a mineral even though it might not be economically in anyone's interest to do so. If the mineral can only be sold for $5 per pound and if it costs them $10 per pound to produce it, we certainly do not want to authorize a requirement in any permit that they would have to produce it under those circumstances.

I think this amendment just gives the Secretary too much authority, authority which he does not need, and I think the compromise bill addressed this issue properly and clearly spoke to it. I thought that was our agreement.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I am glad to yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, may I just again very briefly respond? I really regret that this type of an amendment which is so moderate and so basic and is offered to protect the public interest really warrants the type of opposition it is getting. I am really somewhat at a loss to understand it.

I think there is adequate protection here for everybody concerned. This certainly is not going to impose a hardship on anybody if we require such a basic protection for the public interest.

So, Mr. Chairman, I hope the members of this committee will adopt the amendment.

Mr. BREAUX. Mr. Chairman, I will only add to the gentleman's statement that the amendment is also unnecessary. I say that in very good faith, based on the fact that we have covered this particular problem in the bill that is before the committee, and I think we do it in a manner that would insure that the public interest would be protected but at the same time the licensee would be protected.

Therefore, Mr. Chairman, I oppose the gentleman's amendment.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hate to belabor the debate on the amendment, but I might ask the author of the amendment this question:

Does this mean that each permittee must either recover all of the resource or leave a sufficient amount of the resource behind so it can be recovered commercially by a subsequent permittee?

I ask that because, if I read the amendment properly, it says that each permit shall contain conditions which have due regard for the "future opportunity to commercially recover the unrecovered balance of the hard mineral resources."

Does that mean, then, that if any of the resources are left behind, they must be left behind in sufficient quantity to become commercially viable as a future mining operation?

Mr. KREBS. If the gentleman will yield, I will respond to his question.

As I said repeatedly this is the same language as in the Senate bill, and I thought it was clear what this language tries to say—that a person should not go in and just skim off the surface and leave the remaining minerals still there in such a condition that it is going to be very difficult for anybody else to come in and mine the balance.

Mr. RUPPE. Under what condition might he leave any mineral resource behind?

Mr. KREBS. He would be required under this amendment to leave the minerals behind in a condition that some other operator coming in subsequently will be in a position to mine these minerals.

Obviously, as has been pointed out by the gentleman from Louisiana—I tried to respond to him accordingly—we are not going to require anybody to mine the very last minerals that are there. That would be commercially unreasonable.

Mr. RUPPE. It sounds as though any of the materials left behind must be left behind in volume and in a condition so as to be commercially viable for the next operator.

Mr. KREBS. That is correct.

Mr. RUPPE. So what I am saying is: If a permittee takes 80 percent to 90 percent of the resources, it may not be possible to take the last 10 or 20 percent; yet he would have to leave not just the last 20 percent, but perhaps much more behind, because the amendment reads that he has to leave a sufficient quantity so as to be commercially viable.

Mr. KREBS. This is exactly the type of judgment that I think should be spelled out rather than left strictly to the whims of the operator. That is what this amendment is designed to do, and that is what I think this amendment does.

I really do not think, despite the fears that are being expressed here, that any Secretary is going to be capricious in carrying out the spirit of this amendment.

In essence, the amendment tries to prevent the type of arbitrary conduct on the part of any mining operator that happens to be mining a given area. This is in the public interest.

Mr. RUPPE. The Secretary likely will not be capricious, but if the courts are to interpret the amendment, I am concerned with the language that if any resources are left behind, they have to be left behind in volume and in condition so as to be commercially viable. I believe no mining operation is going to take 100 percent of the resources if the technology is not there. Therefore, some of the mineral resources are going to be left behind, and the court might well construe the language to mean, "Well, if you leave any behind, you got to leave enough behind so as to make it commercially viable." Again that is impossible.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. KREBS).

The question was taken; and on a division (demanded by Mr. KREBS) there were—ayes 11, noes 13.

So the amendments were rejected.

AMENDMENTS OFFERED BY MRS. BOGGS

Mrs. BOGGS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. BOGGS: At page 13, between lines 5 and 6, insert the following:

(3) For purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used in the transportation from any mining site of hard mineral resources recovered under a permit issued under this title shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936.

At page 13, line 6, strike out "(3)" and insert "(4)".

Mrs. BOGGS. Mr. Chairman, this amendment would make it statutorily clear that ocean ore transport carriers documented under the laws of the United States would be considered as being in foreign trade, and as such, would be eligible for a construction differential subsidy (CDS) and an operating differential subsidy (ODS) authorized by the Merchant Marine Act of 1936.

With the amendment previously offered by the gentleman from New York (Mr. MURPHY), at least one ore carrier per mine site will be documented under U.S. law. It is in the national interest to encourage the building of such ore carriers in the United States.

This amendment does not require that ore carriers actually be built in the United States. However, if a U.S. citizen who holds a permit under this legislation decides to build its U.S.-flag carrier in our country, this amendment would make such carrier eligible for construction and operational subsidies.

Mr. Chairman, in correspondence received from the Assistant Secretary for Maritime Affairs, Mr. Robert J. Blackwell, it is indicated that it is the judgment of his office that the ore transport carriers are engaged in the "foreign commerce" or "foreign trade," as those terms are designated in the Merchant Marine Act. Because eligibility for CDS and ODS is dependent on vessels being engaged in foreign trade, Mr. Blackwell suggests that this legislation be amended to make it absolutely clear that these differentials apply.

Additionally, to be eligible for the operating-differential subsidy, a vessel must be used "in an essential service in" the foreign commerce or foreign trade of the United States.

At the present time, Mr. Chairman, there is not a single ore carrier on order in an American shipyard. This amendment encourages, it does not require, that the vessels be constructed in the United States. It should also be pointed out that the amendment does not address itself to the construction of a mining and processing vessel, but only to the ore carriers and only to those documented under U.S. laws.

At most, Mr. Chairman, this will probably involve only one ship per mine site, and will not have a serious effect on the foreign partners of the American mining companies.

Mr. Chairman, I urge the adoption of this amendment.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, we have seen amendments defeated today on the basis that this is a compromise bill arranged by three different committees. Has the amendment which the gentlewoman is proposing been submitted to those three committees, according to the agreement?

Mrs. BOGGS. Mr. Chairman, I would like for the gentlewoman to know that it was considered that this definition was really inherent in the bill; but to make it absolutely clear, to make it statutorily clear that these vessels, the ore-carrying vessels, are indeed engaged in foreign trade or foreign commerce and in the interest of the United States, we put this amendment in to simplify it and to clarify it.

Mrs. FENWICK. Therefore, the gentlewoman is telling me that this amendment as to the ships qualifying for foreign trade status has been agreed to by the three committees of the House which apparently approved the bill; is that correct?

Mrs. BOGGS. I will have to defer to the chairman of the committee. I do not think this was ever brought up as an amendment.

Mrs. FENWICK. I ask this because other amendments have been defeated on the ground that this bill had been agreed to by the three committees. It seems to me that this is yet another amendment.

Mrs. BOGGS. There were areas that were agreed upon to be brought up and considered as amendments on the floor. This was one of the areas we felt should be brought to the floor only because we wanted to make it statutorily clear that these vessels, ore-carrying vessels, would indeed be in foreign trade, in foreign commerce, and in the interest of the United States.

Mrs. FENWICK. Mr. Chairman, I thank the gentlewoman; I understand.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Louisiana (Mrs. BOGGS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 4, noes 2.

So the amendments were agreed to.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO:

Page 35, between lines 20 and 21 insert the following:

SEC. 109. PUBLIC NOTICE AND HEARINGS, CITIZENS CIVIL ACTIONS AND JUDICIAL REVIEW.

(a) PUBLIC NOTICE AND HEARINGS.—(1) The Secretary may promulgate rules and regulations; establish and modify the terms, conditions and restrictions of licenses and permits; issue, transfer, and renew licenses and permits; and deny, suspend, and revoke licenses and permits only after public notice and public hearings in accordance with this subsection. Any interested person may present relevant material at any hearing.

(2) If the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5 of the United States Code. The record developed in any

such adjudicatory hearing shall be part of the basis for the Secretary's decision to take any action referred to in paragraph (1). Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. The Secretary shall by regulations prescribe the time period for holding public hearings.

(b) CITIZEN CIVIL ACTIONS.—(1) Except as provided in paragraph (2), any person may commence a civil action for equitable relief on his own behalf, whenever such action constitutes a case or controversy, against any person, including the United States, and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act, any regulation promulgated under this Act, or any term, condition, or restriction of a license or permit issued under this Act. In suits brought under this subsection, the district courts shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or to order the Secretary to perform such act or duty, as the case may be.

(2) No civil action may be commenced under paragraph (1)—

(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary and any other appropriate Federal official and to any alleged violator; and

(B) if the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter of right.

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.

(3) In any action under this subsection, the Secretary or the Attorney General, if not a party, may intervene as a matter of right.

(4) Any district court, in issuing any final order in any action brought under paragraph (1), may award costs of litigation, including reasonable attorney's and expert witness fees, to any party whenever the court determines that such an award is appropriate.

(5) Nothing in this subsection shall restrict any right which any person or persons or class may have under any statute or common law to seek enforcement of any provision of this Act, any regulation issued thereunder, or any term, condition, or restriction of any license or permit; or to seek any other relief.

(c) JUDICIAL REVIEW.—Any person suffering legal wrong, or who is or may be adversely affected, by the Secretary's decision to issue, deny, transfer, modify, renew, suspend, or revoke a license or permit may, not later than 60 days after any such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. Any person shall be deemed to be aggrieved by the Secretary's decision within the meaning of this subsection if the person—

(1) participated in the administrative proceedings before the Secretary, or did not participate but can show that the failure to do so was caused by the Secretary's failure to provide the required notice; and

(2) is adversely affected by the Secretary's action.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, the role of the public in the decisionmaking process is a vital function in the maintenance of a strong and responsive democratic government. From the town-hall meetings to public initiatives and referendums, American history is filled with examples of the benefits of citizen participation. In recent history, public input has been expanded to include participation in the development of executive decisions and recommendations. This has resulted in policies that better reflect the views of the people and are more responsive to our Nation's needs. This Congress has reaffirmed the right of the public to participate in the decisionmaking process by including provisions for citizen input in such legislation and H.R. 2, the Surface Mining Control and Reclamation Act of 1977, and H.R. 1614, the Outer Continental Lands Act of 1977. The amendment that I am offering is a continuation of the process which is so ingrained in American history.

The impact of deep seabed mining is the concern of all mankind. The wealth and quality of the oceans do not exclusively belong to any one country but are the "common heritage of mankind." In our efforts to mine the ocean floor great care must be taken that our policies and actions do not harm the marine environment. This concern can be best assured by guranteeing a place for public participation. By assuring citizen input we will be providing the Secretary with a valuable source of information and a proper balance to the input of the developing interests. The policy that results from this process will result in a viable means to mine the ocean floor that considers environmental concerns and development needs.

The amendment I am offering establishes the needed forum for citizen participation. It provides for:

First. Public participation in the development of the Secretary's rules, regulations, and licensing decisions. This function will avoid lengthy litigation by providing a forum for input during the decisionmaking process and will result in a balanced, sound policy.

Second. Citizen civil action. By allowing for citizen civil action, an important oversight function can be played by the public. All too often, congressional intent is frustrated by bureaucratic bungling and neglect. This provision will help to insure that the regulatory agency will execute this act in a conscientious manner. Concern has been expressed that this provision will result in falicious lawsuits and lengthy delays. I submit that this is not the case. Sufficient safeguards exist in this amendment to prevent such suits and history has indicated that such suits are not as prevalent as some would suggest.

Third. Judicial review. This will provide concerned parties with a mechanism to appeal secretarial decisions and will allow for a speedy resolution to any conflicts that may occur.

The processes included in my amendment will benefit environmentalists and developers alike. Developers will now have a mechanism for input into the development of the Secretary's policies and their expertise will be a valuable contribution to the development of our Nation's deep seabed mining policy. The judicial review process will provide all interests with a means to appeal adverse secretarial decisions.

Public participation plays a necessary role in our governmental process. As the Interior Committee report on H.R. 2 noted:

> While citizen participation is not, and cannot be, a substitute for governmental authority, citizen involvement in all phases of the regulatory scheme will help insure that the decisions and actions of the regulatory authority are grounded upon complete and full information. In addition, providing citizen access to administrative appellate procedures and the courts is a practical and legitimate method of assuring the regulatory authority's compliance with the requirements of the Act. Thus in imposing several provisions which contemplate active citizen involvement, the Committee is carrying out its conviction that the participation of private citizens is a vital factor in the regulatory program as established by the Act.

A similar amendment to the deep sea mining legislation, H.R. 12988, will prove to be as vital to the development of a sound deep seabed mining policy. I urge my colleagues to reaffirm our commitment to the public's role in the decisionmaking process by supporting this amendment. In this way, we will have a viable policy that reflects environmental concerns and development needs.

Mr. BREAUX. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota because I do not think it is in the public interest. The bill has a great deal of public participation already built in. Many of the actions will be subject to the National Environmental Policy Act and involves a great deal of public hearings and participation.

They will be subject also to the Administrative Procedure Act and will protect the public in that way.

The gentleman's amendment goes far beyond any existing law on any Federal books which provide for public participation in any decisionmaking by any Federal agency.

The amendment offered by the gentleman would provide for informal type public hearings every time, for example, a license was issued or transferred—and we do not even provide for the latter in the bill—and when the Secretary refuses to revoke a license, it would be subject to public hearing. Any interested person may present relevant materal at any hearing. Almost any condition of licenses and permits would be subject to informal public hearing requirements. If the Secretary determines that there exists one or more specific and material factual issues there may be a requirement for formal evidentiary hearings.

I do not think we can say that every time a Secretary who is in charge of running a program makes a decision, that he has to have public hearings, informal or formal, to make sure he is doing it correctly.

I think the law we have before us is

very adequate as far as protecting the public interest is concerned. I think the cost to the public of the proposed amendment will be excessive and greatly will exceed the potential benefits that could be gained as a result of the gentleman's agreement.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I rise in opposition to the amendment. I agree with the presentation and the reasons set forth by the gentleman from Louisiana. It seems to me this would make every rulemaking proceeding subject to a hearing. That could be very time consuming and costly, and in view of the fact that there are many protections built into the legislation, as the gentleman has just stated, I believe it is going far beyond what should be in legislation of this type.

I oppose the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Minnesota.

Mr.VENTO. Mr. Chairman, it says that if the Secretary finds there exists one or more specific and material factual issues which will be resolved by a formal evidentiary hearing. It does not require formal evidentiary hearings for every rule and it gives that discretion to the Secretary. I think the public should certainly be a part of the process when it occurs.

Certainly, notice and public participation is essential to the orderly resolution and proper consideration of issues. The provisions in the current measure offer little or no opportunity except in the EIS or NEPA process. I think it is important to recognize that other issues are of public interest and concern and that the only way to safeguard against arbitrary actions and agreements by the Secretary is through public participation. The measure currently overlooks this phenomena, and you have not addressed the right to civil suit which exists in both the Coal Strip Mining Act and the OCS legislation.

Mr. BREAUX. Mr. Chairman, I have the time and I reclaim my time.

I think we are talking about two different things. I have a problem with that section and also with the one dealing with the informal hearings on every step the Secretary would take practically.

We have in the bill requirements on issuance of licenses and requirements for environmental impact statements, and at any stage where there is any importance, an environmental impact is already required, and I think the public has every opportunity under the compromise bill now pending to voice their views as to whether the law is being carried out as intended.

If we are trying to cut down on bureaucracy and expense of Government, we should vote against the amendment offered by the gentleman from Minnesota. I think it is well intended, but I do not think it is necessary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The question was taken; and on a division (demanded by Mr. VENTO) there were—ayes 8, noes 11.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK: In section 4495(b) of the Internal Revenue Code of 1954 (as proposed to be added by the Committee Amendment), strike out "3.75 percent" and insert in lieu thereof "10 percent".

In section 4497(a) of the Internal Revenue Code of 1954 (as proposed to be added by the Committee Amendment) strike out "20 percent of".

Mr. STARK. Mr. Chairman, I am offering an amendment to the Deep Seabed Hard Minerals Act which would modify the trust fund provisions of the committee bill. The tax rate recommended by the committee equals a rate of three-fourths of 1 percent on total revenues. My amendment would increase this amount to a flat 10 percent of total revenues from seabed operations. my reasons for doing this are several:

First. The United States has endorsed the concept of the "common ownership by all nations" of ocean resources. This trust fund is the means by which all nations will share in the enormous wealth beneath the oceans. The trust fund concept has been resolved at the Law of the Sea negotiations and the crucial point which remains is the appropriate level of a tax. Current proposals, at the Conference. range from 7 to 10 percent, with some countries advocating a much higher tax. No nation has proposed a tax as miniscule as this bill proposes. So, we are setting a tax, at a wholly unrealistic level, with the knowledge—and admission by our negotiators—that our actions will have little bearing on the eventual outcome of the negotiations. In short, the Congress will have to address the issue of the tax rate at some time in the future. I maintain that it is far easier to set a tax at a relatively high rate and bring it down than to impose a low charge and struggle to raise it.

We can all visualize the difficult fight that we would have increasing the tax once the companies have become accustomed to the miniscule amount we have before us. Furthermore, because of a "grandfathering" provision in H.R. 12988, there is some question whether we will ever be able to raise the tax. even if the negotiations result in a higher rate.

If the United States, and ultimately the industrialized world in general, truly believe in the concept of the "common heritage of man" we should espouse that concept economically as well as rhetorically. I fear that our actions will be interpreted by the other parties to the LOS Treaty to mean that the treaty is meaningless. I want to state categorically that the tax rate that we are setting today is not an official statement of our position at the LOS Conference. I quote from the Ways and Means Committee report:

The rate of tax set in the bill is not intended to serve as a guideline or precedent which would be binding for any profit sharing agreement negotiated by the United States at the LOS conference.

I fear that a ridiculously low tax would result in a hardening of the positions at the LOS Conference and an increase in world tensions. We simply cannot afford to let this happen.

The second issue that I would like to address is the economic argument. Proponents of the low tax rate contend that the mining companies need great incentives to make the huge investments for deep seabed mining ventures. I would hope that we do not turn this into a small business issue, for the companies that are involved are not your Mom and Pop operations. Lockheed, Exxon, Sun Oil—to name a few—have been at the forefront of deep seabed development. The technology has been developed (without Government incentives). So there must be something which has been spurring investment thus far.

MIT has conducted an analysis of potential deep seabed operations and the resulting cost/benefit figures are astounding. The MIT report projects that each mining site will have an annual operating expense of $100 million. Total revenues from each project will be almost $260 million. This is a 160-percent profit margin. In our free enterprise system, I would think that a potential profit in this amount would be sufficient incentive to attract investment. The tax from each of these projects, based upon the MIT figures, would be a mere $2 million. Keep in mind that these figures apply to each project and the Interior Department estimates that there are at least 400 prime mining sites to be developed. The potential revenues that are involved are truly staggering, and the incentives are there for continued development. Why should we risk antagonizing other nations in the world to provide even greater incentives for huge corporations? Under our economic system, as we all know, risks are taken when there is a reasonable assurance of a return. I do not see how a tax rate of 10 percent can even dim the prospects of the tremendous profits which will be gained from ASSE operations. In closing, our commitment to the common heritage of the seas must be reaffirmed. and a vote in support of my amendment will signify to the world that we are willing to take our place in the world community.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. STARK).

Mr. Chairman, the amendment raises several serious questions.

All four committees of jurisdiction were opposed to the amendment. The chairman and ranking minority member of the Committee on Ways and Means particularly expressed their opposition to it, as did the other three committees and the administration and the industry.

The figure that was arrived at, of course, was agreed upon by the aforementioned people. I think if we go to a rate such as is recommended in this amendment we will be surely hurting our negotiators who will eventually be arriving at some figure.

We realize that during this period of time the American companies involved will be paying U.S. income tax as well as this percentage to any eventual fund set up by the Law of the Sea regime. So I would think the most prudent position would be to defeat this amendment and permit our negotiators to have that flexibility, and not to saddle American companies with such a very high figure.

Mr. STARK. Mr. Chairman, will the distinguished chairman yield to me?

Mr. MURPHY of New York. I will be happy to yield to the gentleman.

Mr. STARK. I thank the gentleman for yielding.

I would assume, then, from what the gentleman has said that should the negotiators set a tax at 5 percent, 4 percent, or 3 percent, then, the gentleman would have no objection to our subsequently raising this tax to conform to whatever is negotiated in the Law of the Sea Conference?

Mr. MURPHY of New York. The treaty would then become international law but it would have to be acceptable to the Senate. We would have no say at that time because this legislation provides the trigger so that it is to be displaced by the accepted and agreed-on treaty and the conditions therein.

Mr. STARK. What the gentleman is saying to me is, should the Conference come up with a higher figure than the three-quarters of 1 percent, the gentleman would have no objection to agreeing to a subsequent increase, if that is the result of treaty negotiations?

Mr. MURPHY of New York. Subject to the approval of the U.S. Senate.

Mr. STARK. Yes.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

The gentleman's amendment is a very little amendment. It only increases the tax liabilities by about 1,300 percent from what the administration has proposed and from what the four committees proposed. That has the effect of completely destroying the project, I would say to the gentleman. If the international treaty comes back with a higher figure than we have and we accept it, that then becomes the law of the land. But I think everybody agrees this is a fair percentage that has been worked out by everybody.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I will say I cannot support the amendment because it is such a drastic increase in the fee that the administration sent forward, but I must say I agree with some of the observations of the gentleman from California. I think the administration did move too quickly and did not set a realistic figure in the beginning.

I also agree with the gentleman from Louisiana (Mr. BREAUX) that if the administration should finally negotiate a treaty and it is approved by the Senate, it would prevail. This is not written in stone, and we can come back and look at it again. So for those reasons I will vote against the amendment.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

I think, as has been suggested, if the Senate accepts any proposed treaty that comes out of a future Law of the Sea Conference, then that will be the law of the land along with the excise taxes running to that particular treaty. I will say I think our imposing a 10-percent tax now is a rather dangerous precedent in the sense that we are dependent on foreign producers for nickel and cobalt, so that actually a 10-percent excise tax is not just a tax on American companies; it is really a tax on American consumers. It is a consumer tax and not a corporate tax.

The second danger of imposing a tax at the present time is that we are dependent on foreign sources of supply for almost all of our nickel and for virtually all of our cobalt. If we suggest a 10-percent excise tax in our own legislation, in my opinion, that would be inviting foreign producers of those metals worldwide to start initiating a sharply higher excise tax of their own, and again that tax passed on to American companies could only result in higher consumer costs. So I think it is not an opportune time at this moment to pass that.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding. I think it is important to point out that industrialized countries like Australia have been willing to offer 7 percent. Some countries have suggested 15, and some other developed countries have talked about as low as 3 or 5 percent. The latest American position at the LOS Conference has been around 2 percent plus profitsharing. So the profits on these operations are so substantial that the excise tax would not be significant in deterring development.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the last word.

I would like to ask the gentleman from California (Mr. STARK) is there any truth to the rumor that the Soviet Union is offering 10 percent?

Mr. STARK. If the gentleman will yield, I think it has been part of the negotiations, yes.

Mr. JOHN L. BURTON. If they are offering 10 percent and we are offering this piddling amount we are offering, are we not in danger of driving people into the arms of the godless athiests, the Communist Soviet Socialist Republic offering 10 percent? They are trying to take the free enterprise system of ours and ram it down our throats.

Mr. STARK. I would like to think that the underdeveloped nations of the world would understand that under the free enterprise system the advantages would be so great even if we raise the tax by the amount suggested by the gentleman from Louisiana (Mr. BREAUX) that they would still choose our system at three-quarters of 1 percent over the Communist system of 10 percent. While what the gentleman is suggesting could be the outcome, I am sure economic conditions would not be the overriding determination, but that they would choose the free enterprise system with the major corporations that are involved.

Mr. JOHN L. BURTON. Would the gentleman agree with me that an anti-Communist vote on this would be in favor of the gentleman's amendment and against the Soviet Union's 10 percent?

Mr. STARK. Absolutely. The gentleman is correct.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise in opposition to H.R. 12988, the Deep Seabed Hard Minerals Act.

As a congressional adviser to the U.N. Law of the Sea Conference, I have been following the LOS deliberations very closely and I have discussed the issues involved in the negotiations with a wide variety of delegates to the conference. In my view, enactment of unilateral legislation by the United States would be a serious mistake.

The unilateral approach to deepsea mining is contrary both to our national interest and to the interests of the international community. It would be harmful to the U.N. effort to negotiate a comprehensive LOS treaty. It would severely damage U.S. credibility in the eyes of the world. And, it could provoke retaliatory action against our country by angry states.

In considering this issue, it is important to understand the history of the Law of the Sea negotiations and the interrelationship between those negotiations and domestic legislation. In 1970, the U.N. General Assembly passed a declaration that stated that—

> The seabed and ocean floor, and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind. The area shall not be subject to appropriation by any means, by States or persons, natural or juridicial, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

This declaration was adopted in a vote of 108 to 0, with 14 abstentions. The United States voted for the declaration. Now, 8 years later, Congress is preparing to pass legislation which would authorize the U.S. Government to unilaterally license private companies to

mine the ocean floor without regard to the 1970 U.N. declaration.

Proponents of H.R. 12988 argue that the intransigent attitude of certain Third World countries has hamstrung the LOS Conference and that unilateral legislation would provide leverage to force greater cooperation by such states toward establishment of an international regime to regulate the development of the ocean floor. Such an argument neglects the fact that while the sixth session did not seem to be very productive, the most recent session in Geneva did make significant progress. Agreement in principle has now been reached on a number of important issues, including offshore oil and gas rights, fishery management, navigation through straits, marine pollution, limits on territorial seas and economic zones, and procedures for settlement of disputes. These agreements could well be jeopardized if enactment of unilateral legislation induces other countries to abandon the conference out of disillusionment with the United States. Several delegates have told me that certain nations will, indeed, break off negotiations if such legislation is enacted.

In addition, if the U.S. Government unilaterally licenses private companies to exploit minerals on the ocean floor which we have already agreed do not belong to any one nation, the threat of retaliatory action will be real. This could take various forms: Lawsuits against the companies involved in deep sea mining ventures; the expropriation of U.S. property abroad in return for what nations compute to be the value of deep sea resources exploited by private firms; or even resort to force.

Enactment of unilateral legislation would also very likely have a deleterious impact on the tenuous web of international agreements that have been so painstakingly constructed through mutual accommodation and compromise by all nations. And, at the very least, it would certainly be interpreted by many nations as an indication that our professed commitment to equity and a world in which no nation takes advantage of any other is little more than rhetoric.

The potential costs of unilateral legislation are clearly high. Yet, it appears that there is strong support in the House for its enactment?

Why?

I believe that the answer to this question lies in the fact that the real prime mover behind this legislation has been the ocean mining industry led by four powerful mining consortia who alone currently possess the technology to exploit the ocean floor. In view of the economic potential of deep sea mining operations, it makes sense for them to spend the money and effort to implement legislation favorable to their interests, and they have retained expensive Washington lobbyists to advocate their case, both on Capitol Hill and with U.S. LOS negotiators.

The mining industry lobby has had a formidable forum from which to advocate their case. They sit in on deliberations at the LOS Conference at the U.N. They participate in discussions at briefings. And they have been very active in lobbying Congress. In fact, the consortium led by Kennecott Copper even hired the former chief U.S. negotiator for deep sea mining as legal counsel, an individual who has stated his belief that—

> There's merit in the so-called revolving door syndrome between industry and government. Otherwise, government agencies become too insulated from commercial interests and concerns.

As we have seen all too frequently in a variety of areas, the other side of this coin is that the "revolving door syndrome" also often serves to insulate officials from the public interest.

The degree of influence by the mining industry on this legislation and the U.N. negotiations is not likely to diminish with the passage of H.R. 12988. On the contrary, the mining companies will in all likelihood look upon House passage of this bill as an opportunity to accelerate their demand and pressure for unilateral exploitation of the deep seabed for their own gain and profit.

In what is claimed to be an act of good faith and an indication that the United States does support the principle that the resources of the sea belong to all mankind, a title has been added to H.R. 12988 which would establish a revenue sharing trust fund to purportedly share the profits of deep-sea mining with the rest of the world. While I find the inclusion of such a fund to be the least objectionable aspect of the legislation, I believe that the current level of contribution to the fund is ridiculously low.

It is important to note that the level of excise tax to be assessed against private firms as a contribution to the revenue sharing fund; that is, three-fourths of 1 percent—is an industry proposal and constitutes an amount substantially lower than what is being discussed at the LOS negotiations. If those who advocate this bill as only an interim measure are indeed sincere in their desire to obtain an international agreement, then they should take the revenue sharing fund a good deal more seriously than the meaningless gesture it currently represents in H.R. 12988.

Mr. Chairman, what is debatable here is why at this early stage, with commercial recovery not due to begin until 1985 at the earliest, the committee would take the lowest possible figure for the revenue sharing assessment. It is a level set by industry and completely disregards the effects this miniscule contribution will have upon the international negotiations over revenue sharing.

The law of the sea negotiations have been discussing royalty payments of from 7 to 15 percent. The American negotiators most recent offer is around 2 percent royalty payment plus a profit-sharing proposal.

Thus, the really crucial question is this: If our LOS negotiators are able to get their proposal accepted; that is, the 2-percent royalty plus a profit-sharing proposal—how supportive will the ocean mining industry be when the treaty comes before the U.S. Senate for ratification if it already has unilateral legislation in place requiring tax contributions of only three-quarters of 1 percent?

I remember only too well the day one of our chief negotiators told me it would be impossible to get the Senate to approve a treaty which was not acceptable to the mining companies. Now can we really expect to find the mining companies lining up to support a treaty which very well may ask them to make a revenue sharing contribution larger than what they have with domestic legislation?

The amendment offered by Mr. STARK would increase the excise tax on nodules removed from the deep seabed to 10 percent of gross receipts. Proponents of the three-fourths of 1 percent provision contained in the bill argue that uncertainty about the profitability of deep sea mining at this time requires that the revenue sharing assessment be kept low, and they point to a recent MIT study on the projected profitability of deep sea mining to substantiate this view. There has been much confusing information circulated in regard to that MIT study.

To clear the record, this study indicated a projected rate of return on investment of 18 percent without royalties and 15 percent with the 10-percent tax proposed by the Stark amendment. Most investors would agree that 15 percent is not a bad rate of return on an investment. It is true that costs might exceed those projected in the study, but it is equally true that prices of some of these metals might recover from their current depressed value. A mere 10-percent increase in the prices of these minerals would completely make up for the effect of the Stark amendment.

Indeed, if the price of nickel alone were just to return to the 1976 price, it would more than make up for the royalties provided in the Stark amendment. Projections indicate significantly improved prices on nickel by the time deep sea mining would begin.

The central question is obvious. Does the mining industry want an international treaty? Or are they interested only in that proposal which will allow them their maximum profit picture?

I do not intend to find fault with corporation executives' business-like approach to the issue of deep seabed mining. Their mandate is to promote growth and maximize profits for their firms. However, our mandate is different. As responsible public officials should we not be willing to look at the larger picture and ask what is right, and just, and fair?

Mr. Chairman, I submit that we should be concerned with the best interests of the United States of America, not with the narrow selfish economic interests of four powerful mining consortia. I believe that it is clearly in our national interest to see a comprehensive Law of the Sea Treaty in place. Thus, if the support of the ocean mining industry is essential for Senate ratification of a Law of the Sea Treaty, we certainly must be out of our minds to pass unilateral legislation which includes a lower royalty payment than will be negotiated in the treaty.

I urge passage of the Stark amendment.

Mrs. MEYNER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment. I

think it will send a positive message. It will say to the Law of the Sea negotiators that we want to get started on deep sea mining, but we would also like to see an international agreement on the matter. We want our private firms to begin exploration, but we still believe that the oceans are the common heritage of mankind.

Mr. Chairman, I urge my colleagues to support the amendment.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYNER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I do not think there is a company in its right mind which would ever go into a contract giving 10 percent of the gross. I have been in favor of private enterprise, it will surprise many people here today. I think this amendment is totally unrealistic. It will encourage other countries to say, "We want 15 percent, not 10."

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK).

The question was taken; and on a division (demanded by Mr. STARK) there were—ayes 8, noes 18.

So the amendment was rejected.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the chairman of the Committee on Merchant Marine and Fisheries, my colleague, the gentleman from New York (Mr. MURPHY), in a colloquy on the language of title II.

I would like to raise two points with the gentleman.

First, I would like to ask the gentleman to confirm for the RECORD the understanding we reached on the interpretation of sections 201 and 202. The bill as reported by the Merchant Marine and Fisheries Committee contained a provision whereby companies which suffered any loss of investment due to the entering into force of a Law of the Sea Treaty for the United States could be compensated for such loss by the U.S. Government. This provision was stricken by the Interior and International Relations Committees, and was strongly opposed by the administration. In our three committee negotiations, my colleagues, Mr. UDALL and Mr. FRASER, and I indicated that we could not support any bill which came to the floor with this provision in it. The gentleman agreed to eliminate this provision, in exchange for a strong grandfather clause. Subsequently, we agreed to such a clause, which essentially states the intent of Congress that the interests of U.S. citizens should be protected in any treaty. I support this strong statement so long as it is not construed as a back-door way of providing investment guarantees. To meet this concern the gentleman agreed that the language of sections 201 and 202 does not express a legal or moral obligation on the part of the U.S. Government to compensate any company for any impairment of the value of its investment which might occur in connection with the entering into force of an international agreement with respect to the United States. The gentleman has exchanged letters confirming this understanding with Mr. UDALL, Mr. FRASER, and me.

I would like to ask the gentleman if he is prepared to confirm this understanding for the RECORD, and if he would agree to insert our exchange of letters in the RECORD as an authoritative statement of the intent of the House?

Mr. MURPHY of New York. Yes, the gentleman's interpretation of sections 201 and 202 reflects my understanding of those provisions and I have no objection to the insertion of our letters in the RECORD.

Mr. BINGHAM. Second, the gentleman is in receipt of a memorandum from the Congressional Research Service, dated March 22, 1978, which addresses two questions: Does section 201 obligate the President to reach an international agreement that is "substantially" the same in its "terms, conditions, and restrictions" as contained in title I of H.R. 3350; and does not "materially impair" the value of investments made, and is there any basis for a claim against the U.S. Government in sections 201 and 202 if the agreement reached by the President is not "substantially" the same as H.R. 3350, or does "materially impair" the value of investments? In short, the memo concludes that the answer to both questions is "No."

Would the gentleman agree to the inclusion of that memorandum in the RECORD as an authoritative statement of the intent of the House?

Mr. MURPHY of New York. The CRS memorandum to which the gentleman refers reflects my understanding, and I have no objection to its inclusion in the RECORD.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman, and I include the material referred to at this point in the RECORD as part of the legislative history of the bill.

Mr. Chairman, with this legislative history, I support the present language of sections 201 and 202 of the bill.

WASHINGTON, D.C.,
*July 14, 1978.*

Hon. JOHN M. MURPHY,
*Rayburn House Office Building,*
*Washington, D.C.*

DEAR JOHN: We are writing to confirm our agreement on the meaning of sections 201 and 202 of H.R. 12988.

At the meeting at which we finalized our agreement to introduce a consensus bill, we agreed that sections 201 and 202 do not express a legal or moral obligation on the part of the United States government to compensate any United States citizen for any impairment of the value of its investment in any operation for the exploration for, or commercial recovery of, hard mineral resources of the deep seabed under Title I which might occur in connection with the entering into force of an international agreement with respect to the United States.

We believe it would be a disservice to the ocean mining industry if ambiguities in H.R. 12988 led companies to invest in mining ventures on the false understanding that investment guarantees are provided or implied by the language of sections 201 and 202.

We would propose to establish this understanding in the legislative history of H.R. 12988 through a colloquy on the floor.

We would appreciate your confirmation of this agreement.

Sincerely,

MORRIS K. UDALL.
JONATHAN B. BINGHAM.
DONALD M. FRASER.

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WASHINGTON, D.C.,
*July 14, 1978.*

Hon. JOHN B. BREAUX,
*Rayburn House Office Building,*
*Washington, D.C.*

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We would propose to establish this understanding in the legislative hisotry of H.R. 12988 through a colloquy on the floor.

We would appreciate your confirmation of this agreement.

Sincerely,

MORRIS K. UDALL.
JONATHAN B. BINGHAM.
DONALD M. FRASER.

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WASHINGTON, D.C.,
*July 18, 1978.*

Hon. MORRIS K. UDALL,
*Chairman, Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, D.C.*

DEAR MO: This is to confirm the understanding we had with respect to sections 201 and 202 of H.R. 12988 as stated in your letter of July 14, 1978.

We agreed to establish this understanding in the legislative history of the bill through a colloquy on the floor on Thursday. This colloquy should be prepared ahead of time by our staff and conform to the substance of your letter.

Sincerely,

JOHN M. MURPHY,
*Chairman, Committee on Merchant Marine and Fisheries.*
JOHN B. BREAUX,
*Chairman, Subcommittee on Oceanography.*

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[From the Library of Congress Congressional Research Service]

WASHINGTON, DC.,
*March 22, 1978.*

To: The Honorable John M. Murphy, Chairman, Merchant Marine and Fisheries Committee, U.S. House of Representatives. ATTN: Dr. Thomas Kitsos.

From: Thomas E. Kane, Attorney/Analyst in Marine Science Environment and Natural Resources Policy Division.

Subject: Effects of sections 201 and 202 of the Committee Print of March 3, 1978, which is proposed as an amendment in the nature of a substitute H.R. 3350.

This is in response to your inquiry pertaining to weather sections 201 and 202 of H.R. 3350 (Committee Print of March 3, 1978) would create a cause of action against the United States for those U.S. citizens who

may have commenced deep seabed mining development prior to the adoption of an international agreement binding on the U.S., and who are financially damaged (e.g., investments are impaired) as a result of the terms of such agreement? That is, can a U.S. citizen as defined in H.R. 3350 recover damages against the U.S. for the impairment of the value of investments made for ocean mining development as a result of an agreement binding upon the U.S. because of the language of sections 201 and 202, of the March 3, 1978. Committee Print?

Before answering that query, it might be helpful to address two separate aspects of the question: (1) Does section 201 obligate the President to reach an international agreement that (a) is "substantially" the same in its "terms, conditions and restrictions" as contained in Title I of H.R. 3350, and (b) does not "materially impair" the value of investment made; and, (2) is there any basis for a claim against the U.S. government in sections 201 or 202 if the agreement reached by the President is not "substantially" the same as H.R. 3350, or does "materially impair" the value of investments?

(1) Sections 201 and 202 are contained in Title II of the Committee Print of March 3, 1978, which is a proposed amendment in the nature of a substitute for H.R. 3350 (Deep Seabed Hard Mineral Resources Act.) Title II addresses the transition to an international agreement. Section 201 is entitled "Declaration of Congressional Intent," and states:

"It is the intent of Congress—

"(1) that any international agreement to which the United States becomes a party *should*, in addition to promoting other national oceans objectives—

"(A) provide assured and nondiscriminatory access . . . to the hard mineral resources of the deep seabed for United States citizens, and

"(B) recognize the rights of United States citizens . . . to continue their operations under substantially the same terms, conditions, and restrictions as have been imposed on them under title I . . . or otherwise provide for the continuation of such operations in a manner that does not materially impair the value of investments that have been made in relation to them." [Emphasis added.]

The key word is clearly "should." Even presuming *arguendo* that the Congress could enact language that bound the President to a particular course of action, or negotiating position, as well as what terms must be included in an agreement, the language here clearly does not do so. There is no mandate that the U.S. must negotiate an international agreement that recognizes the rights of U.S. citizens to continue ocean mining operations "under substantially the same terms, conditions and resolutions," or that their value of investment not be "materially impaired." Rather the Congress, were it to enact this language, would only be expressing its interest that an international agreement should recognize rights of existing U.S. operations.

The issue of whether the Congress could so mandate is not raised here. If it were, the conclusion would appear to resolve itself that Congress could not so bind the prerogatives of the President and mandate how the President should conduct negotiations and what positions or terms he must accept or abide by in the negotiation process. Although there is no case directly on point, the case of *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 82 L.ed. 255(1936), is helpful in identifying the respective roles of the President and Senate during international negotiations. The issue before the Court is Curtiss-Wright concerned, inter alia, the legislative character of Presidential powers when dealing in foreign relations.

Not only did the Court point out the extraordinary character of Presidential powers in foreign affairs, but specifically pointed out that Congressional powers in the area of negotiation were nonexistent.

The Court said:

"Not only, as we have shown, is the Federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1880, in the House of Representatives, 'The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.' " Annals, 6th Cong., col. 613.[1]

The Court went on to say:

"The Senate Committee on Foreign Relations at a very early day in our history (February 15, 1816), reported to the Senate, among other things, as follows:

" 'The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success . . . They think the interference of the Senate in the direction of foreign negotiations calculated to diminish that responsibility and thereby to impair the best security for the national safety. . . .' " 8 U.S. Sen. Reports Comm. on Foreign Relations, p. 24.[2]

It would appear well-settled that the President is the sole voice of the United States during international negotiations; and that he alone determines when, how and what subjects will be negotiated. The Senate is given an opportunity to express its view and to grant or withhold consent after agreement is reached, and before ratification. It would appear "extremely impolitic"[3] to mandate in advance or even during negotiations what position the U.S. will take on a particular subject; and sections 201 and 202 of H.R. 3350, do not attempt to do so. It seems clear that any attempt by Congress to so bind the President would be unsuccessful. See also Schwartz, B., *The Powers of Government*, Vol. II, sec. 212, pp. 117–212 (1963); and Henkin, L., *Foreign Affairs and the Constitution*, Chap. V, p. 129 et. seq.

Therefore, since the Congress cannot bind the President to a negotiating position or result, there is no duty to follow the wishes of the Congress. There clearly is no language in sections 201 or 202 that specifically gives a U.S. citizen a right to make a claim against the government if it fails to protect the value of investments in a future international agreement on the subject. Since there is no specific right to assert a claim contained in the language of sections 201 or 202, the only right that is possible is one that would arise out of a duty owed. Since no duty exists by reason of section 201, no right to make a claim is possible by reason of this language.

(2) Likewise, section 202 does not establish a right to claim damages for the impairment of the value of investment in the event that an international agreement is damaging to those persons who might be conducting deep seabed mining development under title I of the bill at the time an international agreement on the subject matter becomes binding on the United States. Section 202, which is entitled, "Effects of International Agreement," provides that once an international agreement enters into force the provision of the Act (H.R. 3350 and its regulations, where not inconsistent, shall continue in effect as to U.S. citizens.

However, this section does impose a duty on the Secretary (department unidentified). Yet even a breach of that duty would not give rise to a claim for compensation. The duty is set out in the second sentence of section 202:

"The Secretary in consultation with the Secretary of State, shall take all necessary measures to insure, to the maximum extent possible consistent with the provisions of such international agreements, that the integrity of investments previously made by United States citizens in connection with deep seabed mineral exploration and commercial recovery is protected in the implementation of such international agreement."

This language would appear to impose a duty upon the Secretary to make every effort to protect the investments previously made when implementing the international agreement—if such can be done under the terms of such international agreement. If the investments cannot be protected under the agreement then there is no breach of duty by the Secretary. The duty is in the "attempting" and not in the "accomplishing" of said protection. And there clearly is no language that implies compensation if the Secretary is unsuccessful in protecting the investments.

If, on the other hand, the Secretary is able to take measures that would protect the integrity of investments under the international agreement, then clearly he or she must do so under this language. However, failure to carry out that duty does not give rise to compensation since sovereign immunity is not waived. Rather the remedy would be in the nature of mandamus to compel the Secretary to carry out a prescribed duty. 28 U.S.C. 1361. The language of section 202 clearly does not authorize compensation under any circumstances.

In fact, the third sentence of section 202 implies that if compensation for loss of the value of investment is justified at all, Congress will make that decision at a later date; and on the basis of a report (which would include recommendations on compensation) which the Secretary is required to furnish to Congress. The third sentence of section 202 reads:

"The Secretary shall submit to the Congress, within one year . . . a report . . . which report shall include, but not be limited to—

* * * * *

"(2) . . . if applicable, the extent to which the value of their investments may have been impaired by the implementation of the international agreement; and

"(3) such *recommendations* as the Secretary finds are necessary to compensate United States citizens for such impairment." [Emphasis added.]

This language only requires a report on such impairment and recommendations as to how U.S. citizens could be compensated. It does not state that they will be compensated or that there is any right to be compensated—rather, it only requires that recommendations on the subject of compensation be submitted to Congress.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me?

Mr. BINGHAM. I yield to the chairman of the committee.

Mr. UDALL. I rise to address a question to the gentleman from New York (Mr. BINGHAM) concerning the reciprocating states section, section 107. I understand this is International Relations Committee language, so I would like the gentleman's interpretation on one point.

I notice that in subsection (c), on page 34, there is a requirement that the President "notify each reciprocating state of

[1] 299 U.S. at 319.

[2] Ibid.

[3] Ibid., at pp. 320–321.

the receipt of any application for a license or permit under this title." But there is no reciprocal responsibility for the reciprocating state to notify the President of the receipt of applications. I am afraid this might encourage a reciprocating state, upon receiving our President's notice of an application by a U.S. firm, to encourage its own firms to apply for a license or permit for the same area. Such a reciprocating state could then grant the license or permit before we do, and preempt our company. What would the gentleman say in response to that?

Mr. BINGHAM. I thank the gentleman for bringing up that very important point. I would refer the gentleman to subsection (a)(3), on page 33. To designate a foreign nation as a reciprocating state, the President must determine that such foreign nation recognizes "priorities of right for application for licenses or permits which are consistent with those provided for in this title and the regulations issued thereunder." Under this criterion, I would think that in order to be designated a reciprocating state, a foreign nation would have to agree to notify the United States of applications by its companies, in order that priority of right could be established. I think that would take care of the gentleman's concern.

AMENDMENTS OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. JEFFORDS: Page 18, line 2, strike out "permit)" and insert "permit and information on the basis of which revisions are made, under section 105(a)(3), to the applicable final programmatic environmental impact statement)".

Page 24, line 3, strike out "consultation" and insert "cooperation".

Page 25, between lines 6 and 7, insert the following:

"(3) The Secretary in cooperation with the Administrator of the Environmental Protection Agency shall undertake a continuing review of the information obtained pursuant to section 106(b)(10)(C), as well as other pertinent information, and on the basis of any such information shall make such periodic revisions as may be necessary and appropriate to any final programmatic environmental impact statement prepared under paragraph (1) or (2).

Page 32, line 12, after "Secretary" insert "or the Administrator of the Environmental Protection Agency".

Page 32, line 13, strike out "the Secretary" and insert "each".

Page 35, strike out lines 12, 13 and 14, and insert the following:

(3) A summary of—

(A) the results of the monitoring conducted under subparagraph (A) of section 106(b)(10) with respect to environmental matters, and

(B) the environmental impact assessment made pursuant to subparagraph (C) of such section;

and a description and estimate of any damage to the quality of the environment resulting from exploration and commercial recovery operations.

Mr. JEFFORDS. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, these amendments are really not too dramatic, and yet they are significant. The purpose of them is only to insure that, as we move forward into this new area, we do make assurances that we adequately protect whatever impact we may have on the environment.

One of the amendments is a simple one in that it changes a word. That is, in respect to the work of the environmental impact statement, to substitute the word "cooperation" for "consultation." That is, the Secretary must not just consult, but must cooperate with EPA. That is an important substitution for this reason: I am sure all of those who have had the consultation route with the administration or bureaucracy knows what that means. It means they made up their mind what they are going to do, then they give you a phone call saying, "This is what we are going to do. What do you think?" You might say you do not like it, and they say, "Thank you, but that is what we are going to do." The difference is that this amendment would require that there be a memorandum of understanding which will require the Environmental Protection Agency and the Department of Commerce to work in concert on an environmental impact statement. I think that is significant. It still gives the lead to the Secretary. He has the final say, but it requires him to cooperate with the Environmental Protection Agency on the environmental impact statements.

The other parts of the amendments have to do, primarily, with the assurance that there is a continuing monitoring of the environmental impact related to deep seabed mining. Whereas now in known projects with respect to environmental impact statements we know generally where we are going in these areas. We make an impact statement and we make a decision. However in this novel area we do not really know what is going to happen, we do not know what the impact is going to be on the environment around that deep seabed mining, the changing sea environment. This will assure that there will be continuous monitoring, that the Environmental Protection Agency would have the right to obtain information from the licensee as to what is going on with respect to the water or the beds around the mine. It would allow the Secretary—and the Secretary, I point out, not the Environmental Protection Agency—to require changes in the license, depending upon whether or not it is determined there was such adverse impact that it would require changes with respect to the license.

The third part of the amendment is to merely insure that the report that is made by the Secretary adequately sets forth what happened with respect to the monitoring of the environmental impact, and it points out the duties of the Secretary reporting that aspect.

We have worked this out with the support of the staff.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I do not have any problems with the gentleman's amendments being considered en bloc, except the one, and I would like to make a little history of that, if I could.

The gentleman's amendment would require that the environmental impact statement be compiled by the administrative agency in cooperation with the Environmental Protection Agency rather than as now in the language, in consultation.

What I would want to avoid is a 2- or 3-headed monster. We need one lead agency. I think a lot of times industry has a real legitimate complaint that nobody is in charge. I assume that this strengthening language means the Environmental Protection Agency is going to have a little more important role in this process, but it does not do away with the idea that Commerce or Interior, or whatever agency is finally fixed as the lead agency, is in charge of the job, so that you have a single-headed operation.

Mr. JEFFORDS. That is exactly the intent; to leave it a single-headed operation, but to insure that, rather than a phone call, we will at least get a memorandum of understanding as to how the agencies will work together, as to what the input by EPA will be with the lead agency. The lead agency will still be Interior or Commerce, whatever the final decision is, but this will require more input and will require the actual input of information from EPA on a working basis rather than just a perfunctory phone call.

Mr. UDALL. With that assurance, Mr. Chairman, I will vote for the gentleman's amendment. We might win it four to three the way we are going here.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the gentleman talks about the philosophy of having that lead agency when in his amendment he says, at page 24, line 3, "Strike out 'consultation' and insert 'cooperation.'"

What does the gentleman mean by "cooperation"?

Mr. JEFFORDS. That is just what I believe we were trying to establish in the previous dialog. My understanding of what the word "cooperation" means comes from talking with members of the administration, and the Environmental Protection Agency, which has worked under a number of different agencies and a number of different situations with such memorandums. Let me give you examples:

There are numerous instances of cooperation between EPA and other Federal agencies in the preparation of environmental impact statements pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

A prime example of this cooperation exists with the process employed by the EPA and the Nuclear Regulatory Commission. Both EPA and NRC have responsibilities pursuant to NEPA regarding the issuance of licenses or per-

mits for nuclear powerplants and certain other facilities. Through a "memorandum of understanding" the two agencies have defined and clarified their respective roles in this process.

Other examples include:

The Pittston Oil Refinery in Maine.—The EIS was prepared with EPA as the lead agency, in cooperation primarily with the Corps of Engineers. Other agencies involved included the FAA, FEA, National Marine Fisheries Service, the Coast Guard, and the Fish and Wildlife Service.

The Hampton Roads Oil Refinery in Virginia.—Preparation of the EIS included again EPA, the Corps, National Marine Fisheries Service, and Fish and Wildlife Service.

Crosswater Barge Canal project, Florida.—EIS preparation with EPA, Corps of Engineers, Fish and Wildlife Service, National Marine Fisheries Service, and the State of Florida.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 2 additional minutes.)

Mr. JEFFORDS. To continue, Mr. Chairman, what they do is this: The agency heads work out a memorandum of understanding as to what the input would be from EPA and how they would work together. It would not interfere with the lead agency.

Mr. MURPHY of New York. If the gentleman will yield further, where does this memorandum of understanding come from?

Mr. JEFFORDS. It is worked out between the agency heads. If there is any disagreement, of course, it is taken up in the normal hierarchy situation. The lead agency still would be the Secretary, in this case, the Secretary of Commerce; but they would be required to do more than just exercise their own discretion, that is to either ignore or consult with the EPA. The White House would of course have the final say.

This has been done in several instances other than those mentioned above which I could quote to the gentleman. This is not uncommon among agencies, and it has worked very well.

Mr. MURPHY of New York. What is wrong with consultation?

Mr. JEFFORDS. As I pointed out earlier, consultation merely means that one is supposed to call somebody and ask, if he wants to, what the other person's views are. However, at least under bureaucratic terminology, as I understand it, there is no requirement to listen to, work with, or do anything other than engage in some perfunctory consultation, whereas in the bureaucratic terminology, cooperation means that they actually have to work together; but the lead agency still would be the Secretary of Commerce.

I would not want it any other way. I, too, would not want to see a dual-headed monster.

Mr. MURPHY of New York. We do not know whether there would be a dual-headed monster or a snail darter, but we are now confronted with this multi-agency mix in virtually everything we do.

In this legislation we very clearly wrote in what I felt were very strong environmental controls and protection, and I think the gentleman takes away the lead agency responsibility and confuses it.

Mr. JEFFORDS. Finally, the amendments would broaden the environmental impact information required to be submitted by the Secretary in the annual report to Congress. It would simply require that we receive information on the results of the monitoring, in addition to an assessment of any damage to the quality of the environment.

JUSTIFICATION FOR EPA INVOLVEMENT

EPA has extensive jurisdiction and experience in regulating ocean environment activities. In its traditional role of preserving and protecting the quality of water from pollution, EPA has developed effluent limitation guidelines, standards of performance, and pretreatment standards for land-based industrial processes. In addition, under the Clean Water Act (section 403) EPA has established criteria for ocean discharges and regulates discharges from exploratory drilling vessels, drilling platforms, and other offshore drilling facilities located seaward of the territorial sea through permits issued pursuant to the national pollutant discharge elimination system (NPDES). Under the Marine Protection, Research, and Sanctuaries Act of 1972, EPA is engaged in developing criteria to allow environmentally safe disposition of material into all ocean waters, and to conduct site specific baseline surveys of ocean dumping sites. EPA also provides technical advice to the Federal on-scene coordinators when oil spills occur in ocean waters.

POTENTIAL ENVIRONMENTAL IMPACTS OF DEEP SEABED MINING

The environmental impacts of deep seabed mining are potentially quite extensive. While the deep ocean mining environmental study (DOMES) project being conducted by NOAA indicates, at this point, that mining activities may not significantly degrade the marine environment, we have had no full-scale commercial recovery operations going on. The Merchant Marine Committee has noted in their report that the impacts are unpredictable and cannot actually be determined until a substantial amount of evidence is accumulated. However, these impacts may include destruction of marine life and disruption of their environment, sediment resuspension and settling, transplantation of bethnic organisms—benthos, organisms that live on or in the ocean bottom—increased suspended solids in the water column, discharge of heavy metals, and the possibility of toxic components in bottom waters discharged at the surface.

If there is shipboard processing of the mineral nodules, there could be further impacts including process water discharge, and potential ocean dumping of toxic quantities of mercury, cadmium, zinc, copper, and nickel. Additionally, preliminary research indicates that depending upon the size, depth and duration of the activities, the migration patterns of tuna and other fish may be affected by mining operations.

In sum, I believe that given the potential wide range of environmental impacts of ocean mining, and the Environmental Protection Agency's authorizations and expertise in the ocean environment, that it is only prudent and wise to have that agency play an adequate role in assessing the environmental impacts of ocean mining.

I believe these amendments are constructive and would improve the protective features of this bill. I hope my colleagues will support me in this effort.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the reason I have some concern about the gentleman's amendment, and the reason I cannot support it is that I think what we are doing is creating a dual administration as far as at least one aspect of this whole project is concerned. That is the environmental consequences.

Mr. Chairman, I have two objections to that. No. 1, the GAO report we had before our committee recommended that one department be the lead agency and that someone have the authority to make the decisions. In doing that, we provided that he consult with the Environmental Protection Agency. "Consult" is a word of art. It means they have to sit down and listen to each other and work out together the problems they see. However, if the Department of Commerce, which is the lead agency, does not agree with it, they have to make the hard decision and then agree.

In addition to that, if we look at the track record on environment as far as oceans are concerned, we have to admit that EPA does not have the necessary expertise in that area. The Department of Commerce has done a deep ocean mining environmental study. They have taken the lead and have spent a great deal of money and time and effort in trying to assess the environmental consequences of deep ocean mining.

EPA has not done that. EPA does not have any vessels, equipment, or training or expertise in ocean environment.

I think we tried it once before in the Ocean Dumping Act, when we tried to give this dual chain of command to them. We found it did not work and found that the different agencies were fighting and that nothing was being accomplished.

I think the proper setup is to have the Department of Commerce as the lead agency to act in consultation with the Environmental Protection Agency.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I would like to voice my support of the position stated by the gentleman from Louisiana (Mr. BREAUX). I am really concerned about this amendment.

It seems to me that the word "consultation" does call for a good deal of working together between the two agencies. Certainly if EPA feels that they are not getting a fair shake or are not being listened to, it has access to the press. In fact, as everyone knows, their complaints

certainly have received widespread attention.

I think that by putting the word "cooperation" in the bill, we are almost giving EPA veto power. If one agency refuses to move or if cooperation is not forthcoming from an agency, it seems to me that EPA could exercise an outright veto.

Therefore, Mr. Chairman, I would like to say that it seems to me the word "consultation" does the job, whereas the word "cooperation" would give EPA a veto under this particular provision.

Also, as the gentleman who preceded me has said, NOAA has done a good job in the environmental area. There is no reason to believe that they would not do a good job in terms of mining the deep seabed.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would like to know if the gentleman only objects as to this provision, and whether or not he would object to separating that out and voting on that separately. Would he then be willing to accept the other parts?

Mr. BREAUX. I have not read the other parts. This disturbed me so much that I decided not to support the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Vermont (Mr. JEFFORDS).

The question was taken and the Chairman being in doubt, the Committee divided, and there were—ayes 8; noes 8.

The CHAIRMAN. The Chair votes aye.

So the amendments were agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 33, line 24, insert "sufficient" after "a".

Mr. BINGHAM. Mr. Chairman, I think this can be fairly described as a technical amendment. One of the qualifications that was in the language recommended by the International Relations Committee for reciprocating states was that each state establish a special fund for the payment of contributions to an international regime. As a matter of fact, this is a fairly important requirement, and one that would not be likely satisfied by states that were not serious about going into the mining business.

My amendment at this point simply would add the word "sufficient". It would then be up to the determination of the President in consultation with the Secretaries and the heads of the other appropriate departments to determine whether the fund was sufficient, and whether the reciprocating state satisfied the other requirements of section 107.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I would be glad to yield to the gentleman from New York.

Mr. MURPHY of New York. I agree with the gentleman's explanation of the amendment, and certainly support it.

Mr. BINGHAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENTS OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mrs. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. FENWICK: On page 36, at line 7, delete "recognize the rights of" and insert in lieu thereof, "allow".

On page 36, at lines 12 and 13, delete "substantially the same" and insert in lieu thereof "similar".

On page 36, at line 17, delete "materially" and insert in lieu thereof, "unreasonably".

On page 37, at line, 23, after the work "extent" add the word "reasonably".

On page 38, at line 15, delete "substantially the same" and insert in lieu thereof "similar".

On page 38, at line 17, after the word "been" add the word "unreasonably".

Mrs. FENWICK (during the reading). Mr. Chairman, I distributed copies of the amendments to the various desks, and, I think, to most of the Members in the Chamber, there being so few. I do not think they need reading unless anyone would like to have them read.

Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. FENWICK. Mr. Chairman, this is more in the form of a courtesy amendment, removing some of the buzz words that might offend other nations and make consultation and cooperation with them more difficult. It inserts little courtesy phrases that suggest that we are not arrogant, we not indifferent, that we are cooperating and acting in good faith.

It is really an effort, as the Members will see when they read it, just to have a little bit more courtesy and civility in our international relations. I would be happy to answer any questions concerning it. I would like to hear how the gentlemen on both sides of the aisle feel about this.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Of course I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I regretfully have to indicate opposition to the gentlewoman's amendment. The language contained in the so-called grandfather clause, which is the area of the bill the gentlewoman's amendment covers, was worked out as a compromise among three committees with rather differing points of view to start with.

Mrs. FENWICK. I know.

Mr. BINGHAM. And without indicating whether I would personally favor the gentlewoman's amendment, I have to indicate that it would upset the nature of the compromise and, therefore, I have to oppose it.

Mrs. FENWICK. Could I ask the gentleman if we could hear from the gentlemen who represent the other committees? As I understand, it is not a strong personal objection, but the gentleman from New York (Mr. BINGHAM) feels bound by the compromise worked out with the other committees.

Mr. BINGHAM. That is right.

Mr. MURPHY of New York. Mr. Chairman, will the gentlewoman from New Jersey yield?

Mrs. FENWICK. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. As the gentlewoman knows, certainly I am reluctant ever to engage in a conflict with the gentlewoman from New Jersey, but I think the amendment, as we have studied the amendment the gentlewoman has offered, hurts the intent of the grandfather provision.

Mrs. FENWICK. The gentleman does? Does it hurt it?

Mr. MURPHY of New York. I think we have worked out an equitable and agreeable provision that I know had satisfied all of the problem areas amongst the four committees, and I think that this violates that agreement.

Mrs. FENWICK. What troubled me was on page 36, line 7, where we say "recognize the rights of U.S. citizens" and I would merely suggest that we say "allow the U.S. citizens who have undertaken" such agreements to continue their operations under substantially the same arrangement.

In other words, it was to avoid a word like "rights" which might worry other people, but at the same time we are saying the Secretary shall allow these people who have entered into those agreements to continue to do so lawfully under regulations of title I, and so on. It is just a kind of courtesy. If the gentleman feels he can support it, I will sit down. If he feels terribly strongly against it. I will keep standing.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentlewoman for yielding.

The amendments, as I understand, refer to page 36, line 7, where we would delete "recognize the rights of" and insert the word "allow". Then on line 12 the amendments would delete the words "substantially the same" and insert "similar". On line 17 we would delete "materially" and insert "unreasonably".

Mrs. FENWICK. That is right.

Mr. JOHN L. BURTON. And then the gentlewoman would on line 23 after the word "extent" add the word "reasonably".

On page 38, line 15, she would change by deleting the words "substantially the same" and inserting "similar". Then on line 17 after the word "been" she would add the word "unreasonably".

I do not think there is anything unreasonable about these amendments, and I think they are substantially similar to the bill itself, but I think she does raise the point that at least the amendment eliminates a possible flag or opposition that could be a knee-jerk reaction. If we are not serious, I do not know what the problem is or what delicate balance it would upset.

Mr. MURPHY of New York. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I think the gentleman should study very carefully the language changes because they substantially change the intent.

Mr. JOHN L. BURTON. Mr. Chairman, if the gentlewoman will yield further, what is the difference between "substantially the same" and "similar"? What is the difference there? I mean, that is one of the changes. Now recognizing the difference between "rights" and "allow", there is a little difference there, but I think that is similar to or substantially the same. What is the difference? I am serious about this.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(On request of Mr. JOHN L. BURTON, and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Mr. Chairman, I think the gentleman from Louisiana (Mr. BREAUX) likes the amendments.

Mr. JOHN L. BURTON. I am not sure.

I would ask, through the gentlewoman from New Jersey (Mrs. FENWICK) to the chairman, what is the difference between substantially the same and similar, except that it eliminates using potentially buzz words or something of a triggering device?

Mr. SEIBERLING. Mr. Chairman, if the gentlewoman will yield, they are substantially the same.

Mr. JOHN L. BURTON. They are similar in nature. I think we ought to allow them.

The CHAIRMAN. The time of the gentlewoman has again expired.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just very briefly, although all of the words may sound alike, and they basically are regularly in use, as we know them and use them today, but they are also words used in the art. They are words we have been working with the Law-of-the-Sea Conference for years, and they are the result of words recommended by the administration, and by Ambassador Elliot Richardson, and we should not allow anything to happen with regard to something that has been worked out over the years, and is a very delicate part in the negotiating sessions.

There is a difference between them. I am not going to belabor the point, but there is a significant difference betwen the words that could cause us to change our position in the negotiating sessions.

Although the gentlewoman from New Jersey (Mrs. FENWICK) has suggested that on its face it would not do damage nevertheless, it would do damage.

I repeat, these are words we have been using in our negotiations. They are words of art and they are words that we are using in our negotiating sessions.

Mr. SEIBERLING. Mr. Chairman, if the gentleman would yield, could the gentleman please explain to us what the significant differences are?

Mr. BREAUX. They would be a departure from the position we have held for 10 years. All of a sudden we are using different language in the type of treaty that we could expect to improve when it comes back to the Congress. We have been using them for 10 years, and these would represent a change, a turnover and could do damage in the international negotiations and to the Congress.

I yield back the balance of my time.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, an effort has been made by the gentlewoman from New Jersey (Mrs. FENWICK) and by others, to try to improve this bill. I must say it is a lot better than the bill we were initially presented with when it reached the House Committee on Interior and Insular Affairs.

But, Mr. Chairman, I think the gentlewoman is making a really basic point, whatever the particular problems may be with the precise words.

In 1970 the United Nations unanimously, and with the affirmative vote of the United States, adopted a declaration which contains the following language:

> The seabed and ocean floor, and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind. The area shall not be subject to appropriation by any means, by States or persons, natural or juridicial, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

That last sentence really has two parts: it says that no State shall claim or exercise sovereignty or sovereign rights over any part of the deep ocean floor. This bill, by asserting that the United States can license private corporations to mine part of the ocean floor, could be construed as an attempt to exercise sovereign rights over part of the deep ocean floor. The other part of the sentence says that the area shall not be subject to appropriation by any means, by States or persons, natural or juridicial. But if a corporation is unilaterally licensed by the United States, and if it proceeds to remove part of the deep ocean bed, it seems to me it could be construed as a form of appropriation.

So, Mr. Chairman, I am going to vote against this bill. It not only violates the spirit, if not the letter, of that declaration, which the United States supported and which was adopted without a dissenting vote in 1970. But, and this is equally important, it may well jeopardize the conclusion of the Law of the Sea Treaty which is in the process of negotiation. Most of the basic issues have been resolved already by the Law of the Sea Conference, I do not see why we cannot put this whole matter off until the next Congress, and give the conference time to complete its work. If it does not complete it by this time next year, then the next Congress will still have plenty of time to decide what to do.

But I suggest we are making a very wrong decision and one that we will come to regret if we destroy the possibility of working out such a treaty with the other countries of the world. If that should happen, then I say to my colleagues that an area which is seven-eighths of the world's surface will be increasingly a source of potentially serious conflict and even war, as more and more nations assert the same rights that we would be asserting in this treaty, and without any agreed upon international regime to prevent such conflicts.

The Department of Defense says that the minerals on the deep seabed are not essential for our stockpiles at the present time. So there is no need for haste, particularly in view of the risk of jeopardizing the Law of the Sea Treaty.

So I think the gentlewoman from New Jersey (Mrs. FENWICK), should be commended for her effort in trying to at least take some of the sting out of the language of the bill.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

I agree with the gentleman's last comment in particular, and I think that the language that the gentlewoman from New Jersey (Mrs. FENWICK) has offered does take a bit of the sting out of the language in the bill. Certainly it is really in our interest to encourage a treaty to come out of the Law of the Sea Conference, and to the extent that the language offered by the gentlewoman moves in that direction and is suggestive of a U.S. interest in arranging an international agreement and coming to a settlement of the group of 77, it seems to me it is very advisable for us to support the amendment that she is offering.

Mr. SEIBERLING. I certainly agree with what the gentleman says.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and on a division (demanded by Mr. BREAUX) there were—ayes 13, noes 8.

So the amendments were agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 32, after line 16 insert the following:

"(c) The Secretary may at any time amend regulations established under subsections (a) and (b) of this Section as he determines to be necessary and appropriate in order to provide for the conservation of natural resources, protection of the environment, and the safety of life and property at sea. Such regulations shall apply to all operations conducted under any license or permit issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. The Secretary shall hold at least one public hearing on any such proposed amendment."

Mr. MILLER of California. Mr. Chairman, the purpose of this amendment is

to make sure that when the Secretary promulgates regulations at a later date, perhaps after deep sea mining has begun, those regulations would apply in a retroactive fashion. This is the same type of language and the same provisions that we have just finished putting into the legislation dealing with offshore oil drilling on the Outer Continental Shelf. It is not a new standard. It was first written in the OCS Act of 1953 and was reaffirmed in the most recent amendments that the conference committee has just completed.

The stipulation has also been contained in all the coal leases issued by the Department of the Interior since 1967. What it really says is that if we would give the ability to the Secretary to go back and to fine tune those regulations and to bring under the jurisdiction of those regulations on-going operations, I do not think that it is subject to the criticism that somehow we would be allowing the Secretary to overregulate this industry. In fact, it would perhaps allow them to modify and make more reasonable those regulations, so I think that as a matter of consistency where we do have leases or licenses let on a periodic basis, where they are not all let at one single time, this amendment allows us to have the consistency of regulation and the consistency of administration over the many and varied operations wherever they may take place. With that short explanation, I would ask the committee to support the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I think this is an acceptable amendment. These are going to be very large operations, and in many cases that means a decade or so to complete the operation. To say that once the Secretary has made regulations for that particular operation, he is stuck with those regulations forever makes no great sense. It seems to me industry would even be for this amendment because they might well persuade the Secretary that the regulations are too harsh and ought to be changed.

Mr. MILLER of California. I certainly agree with the gentleman. I think it could be very clear that we could learn a great deal from the first license where we would want to change the regulations, and in the second one to make it easier to carry out the license for which it was granted.

Mr. UDALL. Mr. Chairman, if the gentleman will yield further, this is similar to provisions of the Coal Leasing Act and the Outer Continental Shelf Act.

Mr. MILLER of California. That is correct.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Louisiana.

Mr. BREAUX. If the gentleman will yield further, I would like to ask a question on this. We had an amendment by the gentleman from California (Mr. KREBS) that this committee defeated. That was because it provided for the conservation of natural resources language that I had some problems with, as well as some others.

The gentleman's amendment also says that the Secretary will be able to issue regulations at any time in order to provide for the conservation of natural resources. The same questions I asked the other gentleman from California I would like to ask the gentleman in the well. I am really concerned, as are others, that it would allow the Secretary to say you could mine cobalt, but not manganese, and allow the Secretary to issue regulations that say you must continue mining when it is no longer profitable. Those are some of my concerns.

I see the same language of the other amendment offered by the gentleman from California (Mr. KREBS).

Mr. MILLER of California. Mr. Chairman, as the gentleman knows, that would certainly not be the legislative intent behind this amendment. The legislative intent would be to have this language used in the same manner in which it is used in the Outer Continental Shelf Act and in the same manner it was used in the coal leasing legislation; that is, we do it in the most reasonable manner possible.

The purpose of this legislation, let us not forget, is to mine those minerals that are outlined in the legislation.

In terms of conservation of natural resources, I would suspect that this should be used as a tool to limit the taking of those minerals that will be subject to the license, not to this procedure.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman another question. The gentleman assures me that the intent of the gentleman's amendment when the gentleman talks about additional regulations to provide for the conservation of natural resources would not allow the Secretary to set up what we refer to as a production control system, which is something that we very strongly oppose.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, again that would not be the intent of this legislation. I think if that was what the Secretary sought to accomplish, that is something he would have to accomplish simply through the licensing procedure. That is not the intent of this legislation.

Mr. BREAUX. Mr. Chairman, I am pleased with that information. My only comment is that we tried to address it in committee on the compromise language before us. We tried to set up two points of procedure. First, they come in and get a license to explore.

Second, if you come back to the Secretary for a permit for the exploration, he makes a new set of regulations for production. That should give the Secretary, in my opinion, time enough to set up a series of regulations.

I really do not think this is necessary, but with the other assurances of the gentleman, I do not object to the amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, if I understand the gentleman's amendment, the gentleman is trying to give the Secretary the same authority he has today over the mining of other minerals.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, that is absolutely correct.

Mr. SKUBITZ. Mr. Chairman, I have no objection to the amendment.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned about this retroactivity, only because a company could be hard hit after making the enormous upfront expenditures necessary to get into the deep sea mining business, upon reliance on the regulations that existed at the time they first became engaged in it.

We are talking about a 5- to a 10-year timeframe to get going in the business. We are talking about expenditures that may go up to $200 million or $250 million, a quarter of a billion dollars, before the first return on capital is seen.

Considering the fact that this bill is designed to liberate American industry to move forward into deep sea mining until such time as we end the current stalemate and deadlock between the developing world and ourselves as to the terms and conditions of exploiting the resources of the deep seabed, it seems to me that this amendment might have a dampening effect, and a throttling effect that is inconsistent with the very purpose of the bill.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. Yes, of course, I will be glad to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I would just like to explain the experience we have had in the OCS. On single leases companies have expended tens of millions of dollars to get the right to drill. In some leases they will spend a quarter of a billion dollars just to build a rig in some of the frontier areas in Alaska. They will be subject to the same provision and to the same regulations.

What this really says is that if we find a safer way of doing business, we may allow them to do that. We are saying, "If you can prove to us it is less expensive and just as safe to do it in another manner, we can modify the regulations as we see fit." It gives us flexibility.

Otherwise, when we get to questions as to this technology, whenever we are going to have these matters as issues, we are going to have to fight these fights in Congress rather than give the flexibility to the Secretary on these matters.

Mr. Chairman, this is a matter of gaining experience. We really do not know what we will do in this case, so I do not think this will have a dampening effect.

Mr. SCHEUER. Mr. Chairman, I hope the gentleman is right. In any event, Mr. Chairman, I rise in support of H.R. 12988, formerly H.R. 3350, the Deep Seabed Hard Mineral Resources Act, of which I am a cosponsor.

The time has come to allow U.S. citizens to carry out the exploration and commercial recovery of seabed minerals.

In April 1977, the House Science and Technology Subcommittee on Domestic and International Scientific Planning, Analysis, and Cooperation, which I chair, reviewed the status of the U.N. Law of the Sea (LOS) Conference negotiations. A major concern during our hearings was the manner in which the LOS Conference would affect the conduct of oceanographic research. Potential limitations on the publication of research results as well as unreasonable coastal state restrictions on research conducted within the 200-mile economic zone were identified as several critical dangers to scientific freedom. Based on the testimony, our subcommittee concluded its review with several policy recommendations aimed at maintaining vital United States, as well as global, interests regarding the freedom to conduct marine research.

Additionally, our subcommittee focused on certain technology transfer aspects involved in deep seabed mining. Testimony from a number of witnesses revealed that issues concerning the system of access to the seabed, as well as the resource policy to guide and regulate seabed mineral production, have made very difficult the establishment of a negotiated international regime governing ocean mining.

In light of this difficulty, witnesses proposed that domestic seabed mining legislation be enacted to insure U.S. development of this promising natural resource. After considering the testimony, our subcommittee recommended, at that time, that legislation should be enacted if the negotiations at the sixth LOS session "clearly indicated an inability of Conference participants to reach an international agreement on seabed exploitation."

Almost a year has now passed since my subcommittee's review. Today, Conference delegates continue to debate the seabed mining issue.

The latest session of the Conference in Geneva recently ended with little actual documented agreement regarding the economic exploitation of seabed minerals. Although I hope to see substantial progress during the next LOS session scheduled for August of this year, I sincerely doubt that an early resolution of the critical points of difference will be reached on this issue, or whether any further progress can be achieved by the U.S. delegation on the issue of marine scientific research.

I support U.S. participation in the Conference, which is a very ambitious endeavor of the global community, and am convinced that a treaty arising from that Conference is in the best interest of our country. However, to insure the timely U.S. development of the deep seabed resources, I support the passage of H.R. 3350.

Such legislative action is not, in my opinion, inconsistent with continued participation in the LOS negotiations for several reasons. First, the legislation is transitional in nature, pending the adoption of an international regime. Second, it asserts no sovereignty over any area of the seabed, and is consistent with high seas freedoms as established by the 1958 Convention on the High Seas. Third, the bill establishes a revenue sharing fund for U.S. contributions to an international fund, in recognition of the common heritage character of these resources pursuant to an international agreement regarding the precise conditions of their exploration. Under this legislation, if no international agreement is achieved in 10 years, Congress will then decide the ultimate disposition of this fund.

Mr. Chairman, this is carefully considered legislation with broad ramifications for the concept of global consensus and international resource policy and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was agreed to.

● Mr. BOB WILSON. Mr. Chairman, I want to indicate my strong support for the Deep Seabed Minerals Resources Act under consideration in the House today. I was one of the original proponents and sponsors of this legislation, which I introduced early in this decade. The passage of time has only served to intensify the importance of enacting deep seabed mining legislation, and I urge this House to vote affirmatively.

The United States has a critical need from a strategic and economic standpoint for a secure, long-term supply of minerals not available from domestic sources. Over the past decade, U.S. mining companies have developed the sophisticated technology necessary to recover and process mineral nodules located on the ocean floor. The potential of these new mineral resources for our Nation's industrial growth and future security is practically limitless. With proper development and management, the deep seabed will constitute a major world source and would help to provide some degree of stability to world metal prices.

The development and use of the mineral resources of the deep seabed have been the subject of extensive and delicate deliberations by the Law of the Sea Conference. Having had both the privilege and the frustration of participating in the law of the sea for a considerable period of time, I feel I can speak with some authority in this area. Ideally, the question of deep seabed mining should be a part of an overall international agreement on the use of oceans and ocean resources. Unfortunately, despite a herculean effort by United States and other negotiators, the industrialized and developing nations have reached what seems to be an irresolvable impasse. We have postponed congressional action on deep seabed mining legislation since the 92d Congress in order to give the Law of the Sea Conference an opportunity to reach international agreement. In view of the continuing gloomy prospect for any type of acceptable agreement, I do not feel that we can wait any longer. Hopefully, a comprehensive international agreement is still in the cards; in the interim, however, we need this legislation to protect our own interests, and I urge a favorable vote.●

Mr. PRITCHARD. Mr. Chairman, I rise in opposition to the Stark amendment, which would raise the level of contributions assessed to ocean mining companies from three-fourths of 1 percent to 10 percent of gross revenues. I understand Mr. Stark's concerns about the need to establish a meaningful revenue sharing fund which is based on the recognition of the concept of "the common heritage of mankind," as represented by deep seabed minerals. In addition, I share his concerns that perhaps the level of contributions could be somewhat higher. In fact, during our Subcommittee on Oceanography deliberations, I urged that the revenue sharing fund be established at a level of 2 percent of gross revenues as compared to three-fourths of 1 percent. However, that amendment lost and in subsequent negotiations, in order to actually establish the fund, it was necessary to require contributions at a relatively moderate level.

Although many others would like to see somewhat higher levels of contributions, I do feel that the Stark amendment is simply too high in that it would reduce the rate of return on investment a substantial 20 percent, based on the MIT model which simulated an average-scale ocean mining operation. This level of contribution could deter investment in what is an already uncertain and high-risk enterprise. Therefore, given the modified closed rule on this issue, which prevents anything between three-fourths of 1 percent and 10 percent of gross revenues as the level of contributions, I must oppose the Stark amendment. In addition, one of the problems with this proposed formula for revenue sharing is that it is simply based on gross revenues, regardless of profitability. In Ambassador Richardson's financing proposals, at the Law of the Sea Conference he has suggested a mixed form of revenue sharing contributions which would include contributions based on gross revenues, a one-time entry or license fee, and, most importantly, contributions based upon profit. This latter approach would at least allow the development of seabed minerals before substantial front-end burdens are imposed. Given the great uncertainty and risk in ocean mining, it seems to me that little investment will occur without a sound and rational development of precise revenue sharing principles. Mr. Speaker, I do not believe that the Stark amendment represents such a formula.

Mr. LEGGETT. Mr. Chairman, as we have known for many years, the ocean bottom is laden with vast quantities of manganese nodules, rich not only in manganese but also nickle, cooper, cobalt, and other valuable minerals. With growing domestic demand for metals, development of deep ocean mining technology has experienced parallel growth leading to heightened interest in tapping this vital resource.

The United States has a critical strategic and economic need for a secure and extended supply of these four metals in particular, since we are currently dependent upon imports to meet our present demands.

I believe it is necessary to expedite our development of a policy which would enable immediate access to these minerals. Currently, we are importing 71 percent of our nickle, 15 percent of our copper, and nearly 100 percent of our manganese and cobalt from abroad. According to a Department of Defense study of the 15 most critical minerals, most susceptible to supply disruptions due to the political instability of the exporting nations, manganese ranks 2d, cobalt 11th, and nickel 15th. In 1976 alone, the United States spent $1.8 billion importing these minerals, lending strong evidence that a policy of self-sufficiency in this area is vital.

As my colleagues know, manganese, nickle, and cobalt are indispensible in the aerospace, electrical, and steel industries. As an example, for every ton of steel produced, 13 to 20 pounds of manganese ore is consumed. Without a dependable source of manganese and other metals, industrial output could decline sharply, our defense capability would be damaged, and millions of jobs could be lost.

With these facts in mind, I believe that H.R. 12988 should be strengthened to require U.S. permittees to document their mining and processing vessels under the laws of the United States. Having these vessels under the U.S. flag will assure regulation of the nodule harvesting from the deep ocean floor. This will insure an adequate supply of mineral resources for our industries by lessening our foreign dependency while safeguarding environmental quality as well. Among other benefits U.S. ownership and control of vessels used in the mining process will insure American scientific monitoring and assesment of the mining impact to the surrounding marine environment.

Equally important, in my view, is adoption of the amendment offered by my colleagues, Chairman JOHN MURPHY and Congressman JOHN BREAUX, due to its potential for generating tax revenue and because of the employment opportunities it affords to American workers.

Furthermore, I am supportive of yet another amendment offered by Chairman MURPHY and Congressman BREAUX which would require each permittee to use a minimum of one vessel documented under the laws of the United States for the transportation of minerals recovered from the mine sites. Estimates are that between two and four ore carriers will be needed at each mining site to transport the recovered minerals to the processing facilities.

Thus, an amendment of this type would guarantee some United States control over the vessels needed to transport a significant portion for our strategically important hard minerals, while not imposing restrictions on foreign entities wishing to employ their own flag vessels. In addition, this amendment appropriately encourages growth of a United States flag bulk fleet, thus reducing the Nation's dependence on foreign-flag vessels for mineral transport, while also reducing the U.S. balance of payments deficit and the drain on the dollar.

The Deep Seabed Hard Minerals Act provides for three-fourths of 1 percent of the annual receipts to be deposited into a Deep Seabed Revenue Sharing Trust Fund to be shared with the Third World countries. I am of the belief that this rate is appropriate and well balanced, as the bill's primary objective is to encourage private investment in deep seabed mining ventures. To raise the tax rate to 10 percent would tend to discourage maximum private investment, and hence prevent us from reaching our development potential. The tax rate set forth in H.R. 12988 not only provides the necessary incentive for private investment but also is evidence of United States good faith to the international community that we intended to share the proceeds of this endeavor once a suitable treaty is signed.

With respect to agency jurisdiction over mining operations of this type, the Commerce Department has had considerable experience in deep seabed mining projects and their environmental repercussions. Because it has been conducting the preliminary environmental assessment effort known as the Deep Ocean Mining Environmental Study (DOMES) project since fiscal year 1975, the National Oceanic and Atmospheric Administration (NOAA) is the obvious and logical choice to govern these mineral extraction activities. The Commerce Department's experience in the administration of programs that have important foreign policy implications further lends support to the placement of seabed mining within this agency's jurisdiction.

If this legislation is enacted today, it will take an extended period of 5 years until the mining companies are ready to operate commercially. In the interim, they will be active in determining mine site locations and testing their gathering and processing systems.

The Deep Seabed Hard Minerals Act would authorize initiation of ocean mining operations without unnecessary delay. This legislation must be enacted now for the United States to capitalize upon the sophisticated technology it has already spent millions of dollars to develop.

The mineral resources of the deep seabed could play a significant future role in preserving economic well-being and security in an era of growing resource scarcity. Ocean mining presents the United States with the opportunity to strengthen its national defense, improve its balance of payments posture, and provide new employment opportunities for thousands of Americans.

I regret that the Law of the Sea Conference has not been able to come to an agreement as yet, but we must consider the future and provide a stable framework within which ocean mining can proceed. H.R. 12988 can provide this stability and bring new momentum toward successful completion of the international negotiations.●

The CHAIRMAN. If there are no further amendments, the question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3350) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, pursuant to House Resolution 1240, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole to the amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 80, not voting 40, as follows:

[Roll No. 603]

YEAS—312

| | | |
|---|---|---|
| Abdnor | AuCoin | Brademas |
| Addabbo | Badham | Breaux |
| Akaka | Bafalis | Breckinridge |
| Alexander | Barnard | Brinkley |
| Ambro | Baucus | Brooks |
| Ammerman | Bauman | Broomfield |
| Anderson, Calif. | Beard, R.I. | Brown, Mich. |
| | Beard, Tenn. | Brown, Ohio |
| Andrews, N.C. | Benjamin | Broyhill |
| Andrews, N. Dak. | Bevill | Burgener |
| | Biaggi | Burke, Calif. |
| Annunzio | Bingham | Burke, Fla. |
| Applegate | Blanchard | Burleson, Tex. |
| Archer | Blouin | Burlison, Mo. |
| Ashbrook | Boggs | Burton, John |
| Ashley | Bonker | Burton, Phillip |
| Aspin | Bowen | Butler |

| | | |
|---|---|---|
| Byron | Howard | Pressler |
| Caputo | Hubbard | Preyer |
| Carney | Huckaby | Price |
| Carter | Hughes | Pritchard |
| Cavanaugh | Hyde | Quayle |
| Cederberg | Ichord | Quillen |
| Chappell | Ireland | Rahall |
| Chisholm | Jacobs | Railsback |
| Clausen, Don H. | Johnson, Calif. | Rangel |
| Cleveland | Johnson, Colo. | Regula |
| Cochran | Jones, N.C. | Reuss |
| Cohen | Jones, Okla. | Rhodes |
| Coleman | Jones, Tenn. | Richmond |
| Collins, Tex. | Jordan | Rinaldo |
| Conable | Kazen | Risenhoover |
| Corcoran | Kelly | Robinson |
| Corman | Kemp | Roe |
| Crane | Kildee | Rooney |
| Cunningham | Kindness | Rose |
| D'Amours | Krebs | Rosenthal |
| Daniel, Dan | LaFalce | Rostenkowski |
| Daniel, R. W. | Lagomarsino | Rousselot |
| de la Garza | Latta | Roybal |
| Delaney | Lederer | Rudd |
| Dent | Leggett | Runnels |
| Derrick | Lent | Ruppe |
| Derwinski | Levitas | Russo |
| Devine | Livingston | Santini |
| Dickinson | Lloyd, Calif. | Satterfield |
| Dicks | Lloyd, Tenn. | Sawyer |
| Dingell | Long, La. | Scheuer |
| Dornan | Long, Md. | Schulze |
| Duncan, Oreg. | Lott | Sebelius |
| Duncan, Tenn. | Luken | Shuster |
| Edwards, Ala. | Lundine | Sikes |
| Edwards, Okla. | McClory | Skelton |
| Eilberg | McCormack | Skubitz |
| Emery | McDade | Slack |
| English | McDonald | Smith, Iowa |
| Erlenborn | McEwen | Smith, Nebr. |
| Ertel | McFall | Snyder |
| Evans, Del. | McHugh | Spence |
| Evans, Ind. | McKay | St Germain |
| Fary | Mahon | Staggers |
| Fascell | Mann | Stangeland |
| Fish | Markey | Steed |
| Flippo | Marks | Steiger |
| Flood | Marlenee | Stockman |
| Florio | Marriott | Stratton |
| Foley | Martin | Stump |
| Ford, Mich. | Mathis | Symms |
| Fountain | Mattox | Taylor |
| Fowler | Mazzoli | Thompson |
| Frenzel | Michel | Thone |
| Fuqua | Mikulski | Thornton |
| Gammage | Miller, Ohio | Traxler |
| Garcia | Minish | Treen |
| Gaydos | Mitchell, N.Y. | Trible |
| Giaimo | Moakley | Tucker |
| Gibbons | Mollohan | Udall |
| Gilman | Montgomery | Ullman |
| Ginn | Moore | Van Deerlin |
| Glickman | Moorhead, Calif. | Vander Jagt |
| Goldwater | Moorhead, Pa. | Vento |
| Gonzalez | Mottl | Waggonner |
| Goodling | Murphy, Ill. | Walker |
| Gore | Murphy, N.Y. | Walsh |
| Gradison | Murphy, Pa. | Wampler |
| Grassley | Murtha | Watkins |
| Green | Myers, John | White |
| Gudger | Myers, Michael | Whitley |
| Guyer | Natcher | Whitten |
| Hagedorn | Neal | Wiggins |
| Hall | Nedzi | Wilson, Bob |
| Hamilton | Nichols | Wilson, C. H. |
| Hanley | Nix | Wilson, Tex. |
| Hannaford | Nowak | Winn |
| Hansen | O'Brien | Wirth |
| Harsha | Oakar | Wolff |
| Hawkins | Oberstar | Wright |
| Hefner | Obey | Wylie |
| Heftel | Patten | Yatron |
| Hightower | Patterson | Young, Alaska |
| Hillis | Perkins | Young, Fla. |
| Holland | Pettis | Young, Mo. |
| Hollenbeck | Pickle | Zablocki |
| Holt | Pike | Zeferetti |
| Horton | Poage | |

NAYS—80

| | | |
|---|---|---|
| Anderson, Ill. | Coughlin | Hammer-schmidt |
| Armstrong | Dellums | Harkin |
| Baldus | Diggs | Harrington |
| Bedell | Dodd | Harris |
| Beilenson | Downey | Heckler |
| Bennett | Drinan | Holtzman |
| Boland | Eckhardt | Jeffords |
| Bonior | Edgar | Kastenmeier |
| Brodhead | Edwards, Calif. | Keys |
| Brown, Calif. | Fenwick | Kostmayer |
| Carr | Findley | Leach |
| Clay | Fisher | Lehman |
| Conte | Fithian | Lujan |
| Cornell | Forsythe | McCloskey |
| Cornwell | Gephardt | McKinney |
| Madigan | Pattison | Stanton |
| Metcalfe | Pease | Steers |
| Meyner | Pursell | Stokes |
| Mikva | Roncalio | Studds |
| Miller, Calif. | Ryan | Tsongas |
| Mineta | Schroeder | Vanik |
| Mitchell, Md. | Seiberling | Volkmer |
| Moffett | Sharp | Walgren |
| Myers, Gary | Simon | Waxman |
| Nolan | Solarz | Weaver |
| Ottinger | Spellman | Weiss |
| | | Yates |

NOT VOTING—40

| | | |
|---|---|---|
| Bolling | Ford, Tenn. | Roberts |
| Buchanan | Fraser | Rodino |
| Burke, Mass. | Frey | Rogers |
| Clawson, Del | Jenkins | Sarasin |
| Collins, Ill. | Jenrette | Shipley |
| Conyers | Kasten | Sisk |
| Cotter | Krueger | Stark |
| Danielson | Le Fante | Teague |
| Davis | Maguire | Whalen |
| Early | Meeds | Whitehurst |
| Evans, Colo. | Milford | Wydler |
| Evans, Ga. | Moss | Young, Tex. |
| Flowers | Pepper | |
| Flynt | Quie | |

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Stark against.

Mr. Jenrette for, with Mrs. Collins of Illinois against.

Until further notice:

Mr. Le Fante with Mr. Buchanan.
Mr. Shipley with Mr. Evans of Colorado.
Mr. Teague with Mr. Kasten.
Mr. Cotter with Mr. Flowers.
Mr. Danielson with Mr. Quie.
Mr. Davis with Mr. Krueger.
Mr. Pepper with Mr. Sarasin.
Mr. Sisk with Mr. Del Clawson.
Mr. Rogers with Mr. Jenkins.
Mr. Roberts with Mr. Whalen.
Mr. Conyers with Mr. Meeds.
Mr. Early with Mr. Milford.
Mr. Maguire with Mr. Whitehurst.
Mr. Ford of Tennessee with Mr. Wydler.
Mr. Fraser with Mr. Flynt.
Mr. Evans of Georgia with Mr. Moss.

Mr. HARRINGTON and Mrs. HECKLER changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 3350, just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I inadvertently missed the last vote on final passage of the bill on the mining of the ocean floor. Had I been present I would have voted "aye."

## PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE ON JULY 27 AND 28

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to sit on Thursday and Friday, July 27 and 28, 1978, during the 5-minute rule, for the purpose of holding hearings, and hearings alone, on the bill, H.R. 10371.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman from New York can assure us there will be no markup of legislation?

Mr. BIAGGI. Absolutely.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, I just want to commend the gentleman from New York (Mr. BIAGGI) for his diligence, fortitude, and stamina.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to inquire of the Chair as to the program for the balance of the evening and when the end might be, if he will tell us.

The SPEAKER. The House will take up H.R. 7577, Economic Opportunity and Community Services Amendments, on which we have completed the rule and on which we have completed general debate, and upon conclusion of this legislation we will adjourn until tomorrow.

Mr. BAUMAN. We will stay until we finish the bill?

The SPEAKER. We anticipate we will stay, yes. The Chair is very hopeful that we will be through with this bill within an hour.

Mr. BAUMAN. Mr. Speaker, I thank the Chair and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## ECONOMIC OPPORTUNITY AND COMMUNITY SERVICES AMENDMENTS OF 1978

Mr. ANDREWS of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. ANDREWS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7577, with Mr. OBERSTAR, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, July 24, 1978, all

time for general debate on the bill had expired. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Economic Opportunity and Community Services Amendments of 1978".

RESEARCH AND DEMONSTRATIONS

SEC. 2. (a) Section 103 of the Economic Opportunity Act of 1964 (42 U.S.C. 2713) is amended by striking out ", whenever feasible,".

(b) Title I of the Economic Opportunity Act of 1964 (42 U.S.C. 2711 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated for the purpose of carrying out the provisions of this title such sums as may be necessary for fiscal year 1979 and for each of the two succeeding fiscal years.".

COMMUNITY ACTION AGENCIES AND PROGRAMS

SEC. 3. (a) Section 210(d) of the Economic Opportunity Act of 1964 (42 U.S.C. 2790(d)) is amended by inserting ", in accordance with regulations promulgated by the Director" after "determines".

(b) The first sentence of section 211(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2791(b)) is amended by inserting "and not less than fifteen" after "fifty-one".

(c) Section 213 of the Economic Opportunity Act of 1964 (42 U.S C. 2796) is amended by adding at the end thereof the following new subsection:

"(c) The Director shall consult with State economic opportunity offices authorized under section 231(a) of this title in order to annually review, up-date, and simplify all relevant regulations and guidelines applicable to programs funded under this title.".

FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS

SEC. 4. (a) Section 221(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2808(c)) is amended by striking out "every reasonable effort is" and inserting in lieu thereof "reasonable efforts are".

(b)(1) Section 222(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)) is amended by inserting after the fourth sentence thereof the following new sentence: "In no event shall the Director provide financial assistance under this title to a public or private nonprofit agency other than a community action agency in an area in which a community action agency exists without prior notification of such financial assistance to the board of such community action agency, to appropriate local public officials and agencies in the community, and to any State economic opportunity office in the State in which financial assistance is provided.".

(2) The last sentence of section 222(a)(7) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(7)) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and other Federal agencies providing services to the elderly poor. The Director shall seek, to the maximum extent feasible, the utilization of agencies funded under section 221 of this title for the provision of such services available under titles III, V, and VII of the Older Americans Act, or such other Federal programs serving the elderly poor.".

(3) The third sentence of section 222(a)(11) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(11)) is amended by inserting "and programs under the Comprehensive Employment and Training Act of 1973" after "Mainstream programs".

(4) Section 222(a)(13) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(13)) is amended to read as follows:

"(13) A program to be known as 'Summer Youth Recreation' designed to provide recreational opportunities for low-income children during the summer months. Funds made available for this section shall be allocated by the Director among community action agencies where feasible, or other public or private nonprofit agencies where no such community action agency exists or is able to administer a program to provide recreational opportunities for low-income children during the summer months.".

(c)(1) The first sentence of section 225(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2812(c)) is amended to read as follows: "Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to section 221 and section 222(a) of this title shall not exceed 80 per centum of the approved cost of the assisted programs or activities.".

(2) The second sentence of section 225(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2812(c)) is amended by striking out "title, non-Federal" and inserting in lieu thereof "title. Non-Federal".

(d) Part B of title II of the Economic Opportunity Act of 1964 (42 U.S.C. 2808 et seq.) is amended by striking out section 226 and section 228 and by redesignating section 227 as section 226.

SUPPLEMENTAL PROGRAMS AND ACTIVITIES

SEC. 5. (a)(1) Section 231(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2824(a)(1)) is amended by inserting before the semicolon at the end thereof the following: ", with priority to programs funded under section 221 and section 222".

(2) Section 231(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2824(a)) is amended—

(A) in paragraph (3) thereof, by striking out "and" at the end thereof;

(B) in paragraph (4) thereof, by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(5) to advise the Director and the chief elected official of the State on the status and impact of State and Federal programs and services affecting low-income people in the State; and

"(6) to assist programs funded under section 221 and section 222 in coordinating and utilizing services available through other State agencies.".

(b)(1) The third sentence of section 232(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2825(b)) is amended by striking out "minimizing" and inserting in lieu thereof "preventing".

(2)(A) The first sentence of section 232(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2825(c)) is amended by striking out "in any fiscal year" and inserting in lieu thereof "for fiscal year 1978 and fiscal year 1979".

(B) Section 232(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2825(c)) is amended by adding at the end thereof the following new sentence: "No sums appropriated or allocated for fiscal year 1980 or any subsequent fiscal year for this title shall be used for the purposes of this section.".

(3)(A) Section 232 of the Economic Opportunity Act of 1964 (42 U.S.C. 2825) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding the provisions of section 602(d) of this Act or any other provision of this Act, the Director may not arrange with the head of any other Federal agency for the performance of any of his functions under this section.".

(B) The amendment made by subparagraph (A) shall take effect on October 1, 1978. Such amendment shall not apply to, or otherwise affect, any contract or agreement for the provision of financial assistance entered into before the effective date of such amendment.

(c) Part C of title II of the Economic Opportunity Act of 1964 (42 U.S.C. 230 et seq.) is amended by striking out section 236 and by redesignating section 237 as section 236.

(d) Section 236 of the Economic Opportunity Act of 1964, as so redesignated by subsection (c), is amended by striking out "1975" and inserting in lieu thereof "1979".

GENERAL AND TECHNICAL PROVISIONS

SEC. 6. (a) Part D of title II of the Economic Opportunity Act of 1964 (42 U.S.C. 2832 et seq.) is amended by striking out section 240, and by redesignating section 241 through section 245 as section 240 through section 244, respectively.

(b) Section 243(2) of the Economic Opportunity Act of 1964, as so redesignated by subsection (a), is amended to read as follows:

"(2) The Director shall issue necessary rules or regulations relating to compensation for employees engaged in carrying out community action program activities receiving financial assistance under this title.".

(c) Section 244 of the Economic Opportunity Act of 1964, as so redesignated by subsection (a), is amended by striking out "eleven" and inserting in lieu thereof "fourteen".

SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

SEC. 7. Section 321 of the Economic Opportunity Act of 1964 (42 U.S.C. 2871) is amended by striking out "eleven" and inserting in lieu thereof "fourteen".

COMPREHENSIVE HEALTH SERVICES

SEC. 8. The Economic Opportunity Act of 1964 (42 U.S.C. 2701 et seq.) is amended by striking out title IV.

HEADSTART AND FOLLOW THROUGH

SEC. 9. (a) Section 512 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928a) is amended by striking out "1975 through 1977" and inserting in lieu thereof "1979 through 1981".

(b) Section 513(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928b(a)) is amended to read as follows:

"SEC. 513. (a)(1) Of the sums appropriated pursuant to section 512 for any fiscal year beginning after September 30, 1978, the Secretary shall—

"(A) reserve not more than 13 per centum of the sums so appropriated for use in accordance with such criteria and procedures as he may prescribe, except that the Secretary shall make allotments from such reservation to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands, according to their respective needs, before making any other disbursements from such reservation;

"(B) make available, for use by Headstart programs within each State—

"(i) no less funds for any fiscal year than were made available for use by Headstart programs within such State for the preceding fiscal year; and

"(ii) in the case of any State which receives not more than 200 per centum of the amount to which such State is entitled under subparagraph (C) for any fiscal year,

an amount equal to 6 per centum of the amount which such State is entitled to receive under clause (i); and

"(C) allot the remainder among the States, in accordance with the latest satisfactory available data, so that equal proportions are distributed on the basis of—

"(i) the relative number of families receiving an annual income from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and

"(ii) the relative number of related children from birth to 5 years of age living with families with incomes below the poverty line in each State as compared to all States.

"(2) For purposes of this subsection, the Secretary shall utilize the criteria of poverty use by the Bureau of the Census in compiling the 1970 decennial census.".

(c) Section 514 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928c) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall require that the practice of significantly involving parents and area residents affected by the program in selection of Headstart agencies be continued.".

(d) Section 515(b)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928d(b)(1)) is amended by inserting "directly participate in decisions that" after "to".

(e) Section 517(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928f(b)) is amended by striking out "six" and inserting in lieu thereof "twelve".

(f) Section 518(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928g(a)) is amended by striking out "or in the absence of child care would potentially be eligible".

(g) Section 523(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928l(b)) is amended by striking out "thirty" the second place it appears therein and inserting in lieu thereof "ninety".

(h) Section 524(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928m) is amended to read as follows:

"(b) The Secretary shall operate the programs and projects covered by this part in accordance with Headstart performance standards. Any revisions in such standards shall result in standards which are no less comprehensive than those in effect on the date of the enactment of the Economic Opportunity and Community Services Amendments of 1977. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this part.".

(i) Section 551(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2929(a)(1)) is amended by inserting before the period at the end thereof the following: "; and other children in kindergarten and primary grades, including such other children enrolled in private nonprofit elementary schools, who were previously enrolled in preschool programs of a compensatory nature which received Federal financial assistance".

(j) The first sentence of section 552(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2929a(a)) is amended to read as follows: There are authorized to be appropriated for carrying out the purposes of this part $70,000,000 for fiscal year 1979, $80,000,000 for fiscal year 1980, $90,000,000 for fiscal year 1981, $100,000,000 for fiscal year 1982, and $110,000,000 for fiscal year 1983.".

(k) Section 583 of the Economic Opportunity Act of 1964 (42 U.S.C. 2933) is amended by striking out "ten" and inserting in lieu thereof "thirteen".

ADMINISTRATION AND COORDINATION

SEC. 10. (a)(1) The first sentence of section 601(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2941(c)) is amended by striking out "Subject to the provisions of subsection (e) of this section, the" and inserting in lieu thereof "The".

(2) The last sentence of section 601(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2941(c)) is amended to read as follows: "The Director shall promulgate rules and regulations regarding the policymaking functions of the Administration, including the final approval of grants and contracts.".

(3) Section 601 of the Economic Opportunity Act of 1964 (42 U.S.C. 2941) is amended by striking out subsections (e), (f), (g), and (h).

(b) Section 602(d) of the Economic Opportunity Act of 1964 (42 U.S.C. 2942) is amended by striking out "with the approval of the President,".

(c)(1) The first sentence of section 605(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2945(c)) is amended by inserting "and ending with the calendar year 1979" before the period at the end thereof.

(2) Section 605(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2945(c)) is amended by adding at the end thereof the following new sentences: "The Advisory Council shall cease to exist 60 days after making the final annual report required by this subsection. The Advisory Council may not make expenditures or incur obligations, from sums available to carry out this section, which exceed $175,000 for any fiscal year.".

(d) Section 608 of the Economic Opportunity Act of 1964 (42 U.S.C. 2948) is amended by inserting before the period at the end thereof a comma and the following: "and shall include the types of services delivered by community action agencies and other programs funded under this Act".

(e) Section 610–1(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2951(b)) is amended by striking out "$6,000" and inserting in lieu thereof "$8,000".

(f) Section 612 of the Economic Opportunity Act of 1964 (42 U.S.C. 2962) is amended by striking out "any one Federal agency may" and inserting in lieu thereof "and one such Federal agency is the Community Services Administration, then it shall".

(g) Section 615 of the Economic Opportunity Act of 1964 (42 U.S.C. 2965) is amended by striking out "eleven" and inserting in lieu thereof "fourteen".

(h) Section 620 of the Economic Opportunity Act of 1964 (42 U.S.C. 2970) is amended by striking out the last sentence thereof.

(i) Section 632(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2974(3)) is amended by inserting after "time." the following new sentence: "The Director shall consult with community action agencies in the development of such plan.".

(j) Part B of title VI of the Economic Opportunity Act of 1964 (42 U.S.C. 2972 et seq.) is amended by redesignating section 638 as section 639 and by inserting after section 637 the following new section:

"REGIONAL OFFICES

"SEC. 638. (a) The Director may utilize regional Community Services Administration offices for the purpose of—

"(1) carrying out the national responsibilities and directives delegated to them;

"(2) processing and finalizing grants and contracts authorized under this Act;

"(3) monitoring and evaluating programs funded under this Act within that designated region;

"(4) monitoring and evaluating on an annual basis all relevant regulations and guidelines applicable to programs funded under this Act within that designated region; and

"(5) providing technical assistance to local community action agencies and other programs funded under this Act.

"(b) The Director shall monitor and evaluate at least annually the activities of regional offices as described in subsection (a).".

COMMUNITY ECONOMIC DEVELOPMENT

SEC. 11. (a) Section 703 of the Economic Opportunity Act of 1964 (42 U.S.C. 2981b) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 703. For the purpose of carrying out this title, there are authorized to be appropriated $50,000,000 for fiscal year 1979 and such sums as may be necessary for each of the two succeeding fiscal years. Any sums appropriated under this section shall remain available until expended.".

(b)(1) Section 713(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b(a)(1)) is amended by striking out "such" the first place it appears therein and inserting in lieu thereof "the", and by inserting "proposing such program" after "corporation" the first place it appears therein.

(2) Section 713(a)(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b(a)(3)) is amended by striking out "programs" and inserting in lieu thereof "program", and by striking out "supported" and inserting in lieu thereof "assisted".

(3) Section 713(a)(5) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b(a)(5)) is amended by striking out "applicant" and inserting in lieu thereof "applicant's community economic development program".

(4) Section 713(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b(b)) is amended by striking out "an" and inserting in lieu thereof "a substantial".

(c) Section 714 of the Economic Opportunity Act of 1964 (42 U.S.C. 2982c) is amended to read as follows:

"PROGRAM COSTS; OWNERSHIP OF PROPERTY

"SEC. 714. (a)(1) Assistance provided under this title to any program described in section 712(a) shall not exceed 90 per centum of the cost of such program unless the Director determines that assistance in excess of such percentage is required to achieve the purposes of this title. The cost of a program shall be the current value of funds, property, and services used by or expended on behalf of a grantee in connection with or in support of a program.

"(2) The assistance referred to in paragraph (1) shall be made available to the grantee, in accordance with applicable rules and regulations prescribed by the Secretary of the Treasury and any other conditions which the Director deems appropriate, within thirty days after approval of the grant agreement by the Director and such grantee.

"(b) Property acquired as a result of a capital investments made by any community development corporation with funds granted as its Federal share of the cost of programs carried out under this title, and the proceeds from such property, shall become the property of the community development corporation and shall not be considered to be Federal property. The Federal Government shall retain the right for a period of not more than twenty-five years to direct each community development corporation grantee, and any successors thereof, to continue to use such property and the proceeds therefrom for the purposes of this title.".

(d) The first sentence of section 731(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2484(a)) is amended—

(1) by striking out "and" the first place it appears therein and inserting in lieu thereof "to"; and

(2) by inserting after "under this title," the following: "and to community action agencies and other community-based organizations eligible for financial assistance under title II,".

(e) Section 732(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 298a(b)) is amended by striking out "1975" and inserting in lieu thereof "1978".

(f)(1) Section 742(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2985a (a)(1)) is amended by striking out "limited small business investment company,", by striking out "included as" and inserting in lieu thereof "considered for all purposes to be", and by striking out "for purposes of" and inserting in lieu thereof "as such terms are used in".

(2) Section 742(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2985a (a)(2)) is amended to read as follows:

"(2) Within 120 days after the date of the enactment of the Economic Opportunity and Community Services Amendments of 1977, the Administrator of the Small Business Administration shall consult with the Director and shall issue such regulations as may be necessary and appropriate to assure the availability to community development corporations of such programs as shall further the purposes of this part. An otherwise eligible business concern shall not, for the purposes of sections 3, 7(a), and 8(a) of the Small Business Act of 1958, be considered ineligible because it is owned in whole or in part by a community development corporation.".

(3) Section 742(b)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2985a (b)(2)) is amended by striking out "ninety" and inserting in lieu thereof "120", and by striking out "prescribe" and inserting in lieu thereof "issue".

(g) Title VII of the Economic Opportunity Act of 1964 (42 U.S.C. 2981 et seq.) is amended by striking out section 745 and by redesignating sections 746, 747, 748, and 749 as sections 745, 746, 747, and 748, respectively.

NATIVE AMERICAN PROGRAMS

SEC. 12. Section 814 of the Economic Opportunity Act of 1964 (42 U.S.C. 2992d) is amended by striking out "1975 through 1977" and inserting in lieu thereof "1979 through 1981".

EVALUATION

SEC. 13. Title IX of the Economic Opportunity Act of 1964 (42 U.S.C. 2995 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 904. There are authorized to be appropriated for the purpose of carrying out the provisions of this title such sums as may be necessary for fiscal year 1979 and for each of the two succeeding fiscal years.".

Mr. ANDREWS of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PERKINS: Page 27, line 25, strike out "is" and insert in lieu thereof "would be".

Page 28, line 1, insert after "year" the following: "(if no funds were made available to any State under this subparagraph for such fiscal year)".

Mr. PERKINS. Mr. Chairman, the amendment I offer is purely a clarifying amendment. There has been a good deal of confusion and controversy over the interpretation of the existing Head Start formula and this bill attempts to resolve that problem.

Now HEW has raised a question as to the meaning of the new formula in this bill. In my judgment, there really should be no question. The floor debate and the committee report clearly state what is intended.

I do not want there to be any future controversies however, and, accordingly, I am offering this purely clarifying amendment. It does not change in any way the formula the committee agreed to, which I would again like to explain.

First, the Secretary reserves 13 percent of the amount appropriated for allotment to the territories and for discretionary use.

Second, each State receives an amount equal to the amount it received in the previous fiscal year. This is in effect a floating hold harmless.

Third, most States will be provided with a cost-of-living increase of 6 percent. As projected only three States will not receive the 6 percent. These are the States whose hold harmless amounts are over 200 percent more than what they would receive if all of the money were allocated solely on the basis of the formula. The clarifying amendment I have offered deals with this feature of the new distribution formula, and simply clarifies the fact that the measurement of whether a State qualifies for the 6 percent is the formula allocation without regard to the hold harmless and the 6 percent.

Finally, the remaining sums are allocated to the States on the basis of the formula so that all States share in any expansion money.

I urge adoption of the amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we agree with the amendment on this side.

Mr. PERKINS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 22, beginning with line 25, strike out everything through line 6 on page 23.

Page 23, line 7, strike out "(2)" and insert in lieu thereof "(3)".

Mr. GOODLING. Mr. Chairman, I am sure the letters you received at home from the different agencies indicated to you that you should in fact go for the 80–20 and not support my amendment which says 60–40, because those agencies thought, and probably still do think, that they are going to get more money from the Federal Government and if they get more money from the Federal Government that would offset what they in fact are now getting from their local and State effort. Unfortunately, I think that is foolish thinking on their part.

If you look at the record over the years for 1972, 1973, 1975, 1976, and 1977, the appropriations for these programs stayed exactly the same. Last year there was a slight increase which really did not even cover cost of living or inflation.

Knowing the mood of the Congress at the present time and realizing the mood throughout the country, I cannot imagine that the Committee on Appropriations is going to be so generous as to come up with a 20-percent increase to offset what they are going to lose on the local effort level if we go to 80–20.

So, basically, I think my chairman, when we were holding hearings in Atlanta, Ga., put his finger on what my amendment is really all about, and I quote from my chairman's comments in Atlanta.

> But the matter of whether to put in 80–20 or 75–25—my point is that the Appropriations Committee probably has no interest. I expect what we are going to get for this program is pretty much already destined. I doubt there is much we can do about that. So if we change to 80–20 in this bill, you probably aren't going to get any more Federal money, you are just going to get less total money for the program. I believe most all of you are thinking if you get 80–20, you get more money for the program. I think you get less. The Federal share is going to be the same either way. And yet you are going to get less local, so you get less total.

I think that is the thing we have to consider this evening. If we, in fact, want to reduce the amount of money that these agencies will have to help the poor back in our local districts, I think the way to go is to go 80–20, because if they do not get one more penny, or even if they get a cost-of-living increase from the Federal Government, they are going to lose 20 percent from the local effort, which will mean they will have that much less money. They are either going to have to cut programs or they are going to have to fire personnel. I think it is just as simple as that, and we have to make sure then that we understand that the program will be cut. If the Members support the program, it will definitely have to be cut. If we go the 80–20 route, because there will be no—as my chairman stated—extra dollars from the Federal level, some people will give us the argument that they could not raise the 40 percent locally. That in many instances just is not true.

Again in my chairman's area, he has a joint Orange-Chatham County Action, Inc. They put up 60 percent, not the 40 that they designated. In the Wake County Opportunities, they put up the 45 percent, not the 40. In the Operation Breakthrough they put up 25 percent, but we have a very, very liberal provision which permits the director to waive the 40 percent. Last year he waived it 288 times with no inconvenience whatsoever. So I think we very definitely have to give serious thought to what is going to happen to these 800 and some Caa's if, for instance, we take the in-kind contributions.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GOODLING

was allowed to proceed for 5 additional minutes.)

Mr. GOODLING. Some will say that a lot of these contributions are in kind and, as was pointed out at the hearings and as my chairman said, there is probably some cheating in that in-kind business, and there is no question about that. I am sure that if some communities give a building, they probably say that the rental is maybe twice as much as it really is. But think about that for a minute Suppose they now decide, since they only have to contribute 20 percent, that one of the areas they will reduce is, they will take away the facilities that they are giving in kind. That means that these agencies have to in fact go out and rent. They are already going to get less money because they are not going to get any more from the Federal Government; they are going to get less from the local effort. Now they must go out on their own and rent facilities, which is going to delete getting money for the very people we said we are trying to help.

There is a philosophical argument, too, of course. We found through the sixties, particularly, that if these programs are going to work which we on the Federal level send down to the local level, they are going to work only if we can get local communities and people in those communities to be concerned and involved. One of the ways, of course, to get them concerned and involved, as we found out and as the GAO report said, was to make sure they are contributing in kind, and some money and also contributing volunteer work, which I can see will go down the pipe.

Let us take New York City and see how they would suffer from this. Last year they did not worry about the 40-percent match. They actually matched up to about 87 percent.

With all the problems they are having at the present time, looking at New York City if, in fact, they look at that 87-percent matching contribution that they put up, if they decide here is one area we can get a handle on the problem we have and we will start reducing in kind and the many other contributions that we are making and get down closer to the 20 percent, perhaps they only go to the 40 percent through our encouragement and the programs they have must suffer tremendously.

I think the one point we have to remember, if there are no more Federal dollars, and I have had no guarantee and I do not think my chairman has any guarantee that there is going to be anything that could possibly pick up the loss they would have if they cut the local level to 20 percent, if we get down to that point, then the local agencies have to suffer a 20-percent cut in their total spending, the total money that is available, because they will not get additional money.

Think carefully about this, because on the surface it looks like it is great. The Federal Government is going to pick up 80 percent. Then we will not have to go out and raise money. That is the major objection, not that they cannot get it. Their major objection is that they do not like to do that kind of thing; but if they do not get any more Federal dollars, then we have to remember that is a way to start this program on the slide and when we are talking about reducing expenditures over the next couple years and trying to get to a balanced budget, as the President says, I think if you want to kill the program, go to 80–20, because I believe in 3 years time it will pretty well come to a natural death, because there will not be more Federal funds and there will be less local effort.

Think carefully about this. Look at the testimony and look at the comments of my chairman as we were out in the field listening to their arguments and I think you will realize that we either go 60–40, as we are presently doing, nobody suffering, the waiver used 260 some times the last time and that waiver is available to the Director now; we either are going to help them sustain themselves going 60–40 or cut the legs out from under the program, because the total effort would be reduced by at least 20 percent.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to my colleague, the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, to give the House the perspective and the magnitude of the size of the waiver, is it not true that they matched 25 percent of the program?

Mr. GOODLING. Yes; there were about 800-some programs. There were 200-some waivers.

Mr. GARY A. MYERS. The Secretary has taken a fairly positive attitude.

Mr. GOODLING. With very little justification, as I can tell in the release; I do not think he used very much. He used it very liberally. He has that waiver and used it and nobody objected.

Mr. PERKINS. Mr. Chairman, I rise in strong opposition to the amendment. The House has debated this issue virtually every time we have considered legislation to extend the Economic Opportunity Act.

As enacted in 1964, the Economic Opportunity Act provided for a 90-percent Federal share of financial assistance to community action programs. The Federal share was changed to 80 percent in 1967, when Federal antipoverty programs had achieved significant local acceptance. In 1974, the formula was altered by requiring a reduction in the Federal contribution beginning in fiscal year 1975 with a Federal share of 80 percent, declining to 70 percent in fiscal year 1976, and finally to 60 percent in 1977. A slightly higher Federal contribution is allowed to those agencies receiving financial assistance below $300,000.

Mr. Chairman, I think we have to recognize that we made a very serious mistake in 1974. This administration and Community Action people across the country have provided strong and persuasive testimony along these lines.

The testimony has been overwhelming. Many CAPS have told us that they will have to curtail their programs because they simply cannot raise the higher local contribution mandated in 1974.

It is particularly those Community Action programs in rural areas where there is the greatest hardship. It is not that there is an unwillingness to support Community Action. The fact is the money just is not there in rural areas where there is minimal tax resources and little private business.

Local governments are hard put for funds, and inflation is taking every day a deeper bite into budgets. The present matching formula of 60–40 is totally unrealistic in light of present economic conditions. Consider that in 1975 that in order to receive $300,000 in Federal money the local community had to provide $75,000. This year, to remain eligible for the same amount of Federal money, the community would have to raise $200,000, over 2½ times what was required only 2½ years ago.

The gentleman's amendment in effect punishes those areas of the country which are in greatest need.

Local government is saying, "Yes, we would like to help, but there are demands for increased school budgets and the other necesary services."

The Community Action programs simply do not fare well in the competition.

It is true that some programs have not had to be curtailed because they have secured a waiver of the matching requirement. In 1976, 266 waivers were granted—nearly one-third of the Community Action programs. When so many exceptions to the law are needed, something is wrong. We are forcing local Community Action agency people to devote overwhelming time and energy to the burden of administrative paperwork. The gentleman's amendment will greatly increase redtape and paperwork over what will be the case if the committee bill prevails.

I think this House wants to reduce redtape and paperwork wherever it can, and here is a good opportunity.

Not only are Community Action people being taken away from the job of providing services to low-income people, they are also being turned into fund raisers. As one CAP Director told us, "My job description has been rewritten. Rather than planning, evaluating, and implementing programs and being out in the community working with poor people, I've become a fund raiser."

The trend in the past several years in Congress has generally produced lower non-Federal share requirements in Federal grant programs. The Comprehensive Employment and Training Act (CETA), for example, requires no non-Federal contribution. Most adult education programs receive 90 percent Federal funding, and programs such as Headstart and Follow Through, originally conceived by OEO has the 80–20 funding ratio, as do most of the HUD programs.

Everyone would agree that local support for a program is essential, especially in the case of a community action program based primarily on grassroots involvement. What is difficult to understand is why this program—which serves

the most disadvantaged areas with the lowest tax bases—has been singled out to provide a greater local contribution than most Federal programs.

No one is arguing for the elimination of the local contribution requirement for Community Action programs. A return to 80–20 would allow local agency administrators to devote primary attention to program development and operation. It would be a realistic requirement which would be strictly enforced.

I urge your support of the committee and Carter administration position on this important provision.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. Yes, I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, would the gentleman not admit that if we get non-Federal dollars and we go to 80–20, the Federal dollars remain the same, and we would reduce local efforts by 20 percent? And then do we not reduce the total amount available to carry on the programs?

Mr. PERKINS. If the Federal dollars remain the same that might be true. I hope the local contribution would continue at the current rate and that we can increase appropriations at the Federal level.

Mr. GOODLING. And is there any guarantee that the Federal dollars will mean any more than an inflation increase?

Mr. PERKINS. Mr. Chairman, I do not know what the Committee on Appropriations will do. I hope they will provide increases. I do know that to require local communities which do not have the money to come up with 40 percent of the cost will bring about a situation where many communities will not have any program at all. We have about 850 community action agencies in the country.

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, in 1976 we had 256 waivers, and in 1977 we only had 160. But the point remains that no one suffered because a waiver was available, and, for instance, they used it in the gentleman's district.

Mr. PERKINS. Well, if we have that many waivers, I think that proves beyond any reasonable doubt that we need a lesser requirement on local communities. There are communities that did not ask for a waiver who really needed one. Many communities were seriously affected because of the 60–40 requirement. They could not conduct programs they needed.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(On request of Mr. BRADEMAS, and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Mr Chairman, will the gentleman yield?

Mr PERKINS. Mr. Chairman, I will yield first to the gentleman from Pennsylvania (Mr. GOODLING), and then I will yield to the gentleman from Indiana (Mr. BRADEMAS).

Mr. GOODLING. Again, Mr. Chairman, may I ask, is it not true that if we get more Federal dollars, because of the inflation that has set in, they will suffer a total loss of money if we reduce our attempt to get greater local effort and use the waivers?

Mr. PERKINS. Mr. Chairman, let me say this: In many instances they may not ask for a waiver. It requires a lot of extra redtape and a lot of extra paperwork on the part of the communities that need funding the most.

Many communities just are not going to go through that.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the distinguished gentleman from Kentucky (Mr. PERKINS), the chairman of the Committee on Education and Labor, in opposing the amendment.

Mr. Chairman, the 60–40 split, as the committee has pointed out, would reduce the funds available for the people this program is designed to assist. Under the 60–40 split, local community service program directors would be forced to allocate far too much time to seeking matching funds instead of being able to devote their energies to the fundamental task of combating poverty.

We all know that local communities are already under great pressure to cut back on their spending, and these programs are the ones which will suffer the most.

Mr. Chairman, the committee bill also wisely permits total "in-kind" non-Federal contributions, rather than partial cash contributions. The local agencies receive a far better value for these "in-kind" contributions under an 80–20 matching grant program than under the 60–40 split.

Reducing the Federal share serves little purpose if it only compels States to abandon the programs because they find them too costly to maintain.

Mr. Chairman, the amendment should be rejected.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, our research and our hearings indicated that there was not one waiver that was denied.

Does the gentleman have any record to indicate that these waivers were denied?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(On request of Mr. GOODLING and by unanimous consent, Mr. PERKINS was allowed to proceed for 1 additional minute.)

Mr. PERKINS. Mr. Chairman, let me say that it has been my experience, traveling through the Appalachian area—and talking with the Members in the House who represent larger cities of the country and who represent ghetto sections, that there are many complaints about the 60–40 matching ratios. They say it is just too much. I do not think we should place the extra requirement on them. They should be treated like other governmental programs.

I think the gentleman's amendment should be voted down.

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Of the seven agencies, in half of those instances you were able to come up with more than the 40 percent. In the others, you have waivers. Now again, do we not reduce the total amount of money that they will have if we do not increase the Federal amount considerably—not just a little—and, on the other hand, reduce the amount of local effort? Do we not reduce the amount of the total money that they have?

Mr. PERKINS. Let me answer the gentleman's question by stating that to reduce the local requirement down to 20 percent, naturally, means that the Federal Government has to put up 80 percent. The 20-percent requirement could be—in many instances, it is—meet with in kind contributions, in facilities, services, and items of that nature. I want to repeat to the gentleman from Pennsylvania that the poorer communities will derive much greater benefit from the 80–20 matching than they would from the 60–40 matching. There will be no growth at either the Federal or local levels if we have a 60–40 ratio.

Mr. GOODLING. If the gentleman will yield further, I have no problem with that argument if you can guarantee everyone that the Federal Government is going to put up that extra 20 percent. The gentleman and I know the mood of this Congress at the present time and the mood of this country is such that we do not stand a snowball's chance in Hades to ever come up with any additional money.

Mr. PERKINS. I do not think the Members of this Congress want to see the poorer communities of this country deprived of this program which is designed for them.

For that reason, Mr. Chairman, the amendment offered by the gentleman from Pennsylvania should be voted down.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

Mr. WEISS. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. ASHBROOK) may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BROWN of Michigan. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CORRADA. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the gentleman's amendment. Section 225 of the Economic Opportunity Act, which establishes the Federal/State ratio for community action programs, was initially set at 90–10. In 1967, the law was amended to provide an 80–20 ratio, and in 1974 a descending ratio was established, pegging the ratio at 60–40 for CAP's serving over 300,000, and a slightly higher proportion for smaller CAP's.

In 1975, the Community Services Administration issued only two waivers to Community Action Agencies which were unable to come up with the requisite local funding. In 1976, 266 waivers were granted, or roughly one-third of the grantees, my district among them. Meanwhile Head Start and Follow Through, which are authorized under this same bill, retain an 80–20 ratio.

The administration, the National Advisory Council on Economic Opportunity, and countless public witnesses who testified before our subcommittee, support the return to the 80–20, which insures adequate local commitment without the paperwork and diversion of attention from program development and operation to fundraising. The truth is that local communities have been unable to provide the increased funding commitment in light of mounting costs for services. I urge my colleagues to endorse the Committee's recommendation to return to the 80–20 ratio, thus assuring sufficient Federal support coupled with a realistic figure for local commitment. The result is a program which can operate without having to spend an inordinate amount of time and manpower trying to pry funds loose from city hall or the public.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the gentleman's remarks.

Frankly I think we all know what this is all about. It is about killing the program. If we do not want to see this program exist in various areas of the country, then we should pass this amendment. If we support programs to aid the elderly and to have proper nutrition and to have Head Start programs and to have youth centers and to have other centers and provide for hiring of people from the communities who are paraprofessionals who know their communities best, then we want to defeat the amendment.

Frankly a great deal has been mentioned about in-kind contributions being in the small places. In my cities and suburbs where they have this program I know many people who provide in-kind contributions. They are the elderly who have an awful lot to give and they do not want to sit at home and they are mobile individuals, and in their wisdom they have decided to volunteer, and this is the sort of in-kind contribution that in many places occurs. Lots of women who are homemakers who do not necessarily want to go out and have gainful employment, want to volunteer and feel creative in assisting these programs. They are the very people who provide in-kind contributions.

Frankly some years ago I as a member of a resident board who participated in the community came here to Washington to object to President Nixon's trying to kill the Office of Economic Opportunity. Somehow, through some miracle, that did not take place. So let us hope for another miracle and defeat the amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, may I ask the same question of the gentleman. If we do not get a considerable increase from the Federal Government and we reduce the local contribution, do they not have then less money to spend on the program?

Mr. CORRADA. Not really, because the 20 percent matching requirement is not a restriction or a limit. A few weeks ago the gentleman from Ohio (Mr. ASHBROOK) said in the State of New York they were matching 80 percent.

Mr. GOODLING. But if there were no additional Federal dollars, and let us say the gentleman got $6,000 this year from Federal money and $6,000 next year, and we have no guarantee they will get more, and they had some waivers, when they had some problems, we will find out and the gentlewoman will find out next year that it was her effort to have 80–20 that is going to kill this program over the next few years as we get anxious about balancing the budget. It is not going to be the 60–40 that will kill it. It is going to be the 80–20.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

Mr. Chairman, I will not take the full 5 minutes but just let me make a few observations.

The chairman of our committee, the gentleman from Kentucky (Mr. PERKINS) said we must take the word of the directors of the Community Action Agencies. I do not think we must and I do not think we really ought to. Our Committee on Government Operations looked into what these directors of the Community Action Agencies have been doing and the chairman of that subcommittee, the gentleman from North Carolina (Mr. FOUNTAIN) has well documented what they have been doing.

To a great extent what they have been doing is forming associations, professional associations of Directors of Community Action Agencies. Then they have held their conventions in some of the finest watering spots in this country and elsewhere and they take the appropriated money and they use it to travel and entertain each other.

You know, Mr. Chairman, that really is hardly the kind of person that I think we have to look to for advice as to what to do with this legislation.

If there was one word of evidence, of real evidence in the hearing record that there is hardship then it might be justified to move in the direction that the committee bill provides. The hearing record shows no hardship.

We have a provision now that generally 40 percent of the funds must come from local levels. If there is hardship, the current law says a waiver may be granted up to 100 percent. There is no limit. There is nothing to control the discretion of the administration, the director of the community services administration could provide 100-percent Federal funding if there is a real hardship.

So, in the absence of a hardship, with the very valid arguments of the gentleman from Pennsylvania that this could lead many of the agencies to have less funding because it would not increase the Federal funds but would decrease the local funding. it seems to me absolute folly to move in the direction that the committee bill would move.

We have no promise that we are going to have more funding for this program. As a matter of fact. I read in the press today that the President has suggested that next year we should have a $5 billion reduction in the already proposed budget. That would be $5 billion across the board. I assume that means a percentage reduction in this program as well as all of the rest.

There is no justification for the committee provision and I would hope that the amendment would be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 224, not voting 50, as follows:

[Roll No. 604]

AYES—158

| | | |
|---|---|---|
| Ambro | Burke, Fla. | Dickinson |
| Anderson, Ill. | Burleson, Tex. | Dicks |
| Andrews, N. Dak. | Byron | Dornan |
| | Carr | Duncan, Oreg. |
| Archer | Cavanaugh | Edwards, Okla. |
| Armstrong | Cederberg | Emery |
| Ashbrook | Chappell | English |
| Badham | Cleveland | Erlenborn |
| Bafalis | Cochran | Ertel |
| Barnard | Cohen | Evans, Del. |
| Bauman | Coleman | Evans, Ga. |
| Beard, Tenn. | Collins, Tex. | Fenwick |
| Bedell | Corcoran | Findley |
| Bennett | Cornell | Fish |
| Boland | Crane | Forsythe |
| Bowen | Cunningham | Fountain |
| Brooks | D'Amours | Frenzel |
| Broomfield | Daniel, R. W. | Fuqua |
| Brown, Mich. | Delaney | Gammage |
| Brown, Ohio | Derwinski | Glickman |
| Broyhill | Devine | Goodling |

| | | |
|---|---|---|
| Gradison | McHugh | Rudd |
| Grassley | McKay | Runnels |
| Guyer | Mahon | Ruppe |
| Hagedorn | Mann | Russo |
| Hall | Marlenee | Santini |
| Hammer-schmidt | Marriott | Satterfield |
| | Martin | Schulze |
| Hansen | Mathis | Sebelius |
| Harkin | Michel | Shuster |
| Harsha | Miller, Ohio | Simon |
| Hightower | Mollohan | Skubitz |
| Hillis | Montgomery | Smith, Nebr. |
| Hughes | Moore | Snyder |
| Hyde | Moorhead, Calif. | Stangeland |
| Ichord | | Stanton |
| Johnson, Colo. | Murphy, Pa. | Steed |
| Jones, Okla. | Myers, Gary | Stockman |
| Kelly | Nichols | Stump |
| Kemp | Panetta | Symms |
| Kindness | Pattison | Taylor |
| Krebs | Pettis | Thone |
| LaFalce | Pickle | Treen |
| Latta | Pike | Vander Jagt |
| Leach | Poage | Waggonner |
| Lent | Pritchard | Walker |
| Levitas | Pursell | White |
| Livingston | Quayle | Whitehurst |
| Long, Md. | Regula | Wiggins |
| Lott | Rhodes | Wilson, Bob |
| Lujan | Richmond | Wirth |
| Luken | Robinson | Yatron |
| McClory | Rogers | Young, Fla. |
| McDonald | Rousselot | |

NOES—224

| | | |
|---|---|---|
| Abdnor | Flood | Mitchell, N.Y. |
| Addabbo | Florio | Moorhead, Pa. |
| Akaka | Foley | Motti |
| Alexander | Ford, Mich. | Murphy, Ill. |
| Ammerman | Fowler | Murphy, N.Y. |
| Anderson, Calif. | Garcia | Murtha |
| | Gaydos | Myers, John |
| Andrews, N.C. | Gephardt | Myers, Michael |
| Annunzio | Giaimo | Natcher |
| Applegate | Gibbons | Neal |
| Ashley | Gilman | Nedzi |
| Aspin | Ginn | Nix |
| AuCoin | Gonzalez | Nolan |
| Baldus | Gore | Nowak |
| Baucus | Green | O'Brien |
| Beard, R.I. | Gudger | Oakar |
| Bellenson | Hamilton | Oberstar |
| Benjamin | Hanley | Obey |
| Bevill | Hannaford | Ottinger |
| Biaggi | Harris | Patten |
| Bingham | Hawkins | Patterson |
| Blanchard | Heckler | Pease |
| Blouin | Hefner | Pepper |
| Boggs | Heftel | Perkins |
| Bonior | Holland | Pressler |
| Bonker | Hollenbeck | Preyer |
| Brademas | Holt | Price |
| Breckinridge | Holtzman | Quillen |
| Brinkley | Horton | Rahall |
| Brodhead | Howard | Rangel |
| Burgener | Hubbard | Reuss |
| Burke, Calif. | Huckaby | Rinaldo |
| Burlison, Mo. | Jacobs | Risenhoover |
| Burton, John | Jeffords | Roe |
| Burton, Phillip | Johnson, Calif. | Roncalio |
| Butler | Jones, N.C. | Rooney |
| Caputo | Jones, Tenn. | Rose |
| Carney | Jordan | Rosenthal |
| Carter | Kastenmeier | Rostenkowski |
| Chisholm | Kazen | Roybal |
| Clausen, Don H. | Keys | Ryan |
| | Kildee | Scheuer |
| Clay | Kostmayer | Schroeder |
| Conable | Lagomarsino | Seiberling |
| Conte | Lederer | Sharp |
| Corman | Leggett | Skelton |
| Coughlin | Lehman | Slack |
| Daniel, Dan | Lloyd, Calif. | Smith, Iowa |
| Davis | Lloyd, Tenn. | Solarz |
| de la Garza | Long, La. | Spellman |
| Dellums | Lundine | Spence |
| Derrick | McCloskey | St Germain |
| Diggs | McCormack | Staggers |
| Dingell | McDade | Steers |
| Dodd | McEwen | Steiger |
| Downey | McFall | Stokes |
| Drinan | McKinney | Stratton |
| Duncan, Tenn. | Madigan | Studds |
| Eckhardt | Markey | Thompson |
| Edgar | Marks | Thornton |
| Edwards, Ala. | Mattox | Traxler |
| Edwards, Calif. | Mazzoli | Trible |
| Eilberg | Metcalfe | Tsongas |
| Evans, Ind. | Meyner | Tucker |
| Fary | Mikulski | Udall |
| Fascell | Mikva | Ullman |
| Fisher | Miller, Calif. | Van Deerlin |
| Fithian | Mineta | Vanik |
| Flippo | Minish | Vento |
| Volkmer | Whitley | Yates |
| Walsh | Wilson, Tex. | Young, Alaska |
| Wampler | Winn | Young, Mo. |
| Watkins | Wolff | Zablocki |
| Waxman | Wright | Zeferetti |
| Weaver | Wydler | |
| Weiss | Wylie | |

NOT VOTING—50

| | | |
|---|---|---|
| Bolling | Fraser | Quie |
| Breaux | Frey | Railsback |
| Brown, Calif. | Goldwater | Roberts |
| Buchanan | Harrington | Rodino |
| Burke, Mass. | Ireland | Sarasin |
| Clawson, Del | Jenkins | Sawyer |
| Collins, Ill. | Jenrette | Shipley |
| Conyers | Kasten | Sikes |
| Cornwell | Krueger | Sisk |
| Cotter | Le Fante | Stark |
| Danielson | Maguire | Teague |
| Dent | Meeds | Walgren |
| Early | Milford | Whalen |
| Evans, Colo. | Mitchell, Md. | Whitten |
| Flowers | Moakley | Wilson, C. H. |
| Flynt | Moffett | Young, Tex. |
| Ford, Tenn. | Moss | |

Messrs. VOLKMER, KOSTMAYER, and BURGENER changed their vote from "aye" to "no."

Mr. PICKLE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HUCKABY

Mr. HUCKABY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUCKABY: Page 20, after line 13, insert the following:

SEC. 3. (a) Section 210(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2790(c)) is amended by inserting after the first sentence thereof the following new sentences: "The Director, in determining whether a county or multicounty unit is eligible to be served by a community action agency under this title, shall not apply, as the sole criterion for eligibility, any requirement or restriction relating to the number of individuals residing in the county or multicounty unit (or otherwise take into account the population of the county or multicounty unit) if at least 20 percent of the families and unrelated individuals residing therein have incomes below the poverty line, as determined by the Director (utilizing the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census). No new community action agency may be designated under subsection (a) within a county or multicounty unit if—

"(1) such county or multicounty unit has a population of less than 50,000;

"(2) such county or multicounty unit was served by an existing community action agency on June 1, 1978, and continues to be served by such agency; and

"(3) the new community action agency would serve an area smaller than that served by an existing community action agency on June 1, 1978.".

Page 20, line 14, strike out "Sec. 3. (a)" and insert in lieu thereof "(b)".

Page 20, line 18, strike out "(b)" and insert in lieu thereof "(c)".

Page 20, line 21, strike out "(c)" and insert in lieu thereof "(d)".

Mr. HUCKABY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. HUCKABY. Mr. Chairman, the overall purpose of my amendment is to prevent rural communities, who otherwise are eligible to be served by a Community Action Agency, from being rejected solely because of an artificial population criterion imposed by the Community Services Administration. My amendment would simply direct the Community Services Administration to disregard population as a sole criterion in designating Community Action Agencies in a county or multicounty unit if at least 20 percent of the families residing in these areas are poverty stricken. Providing community services to the poor should primarily be based upon their needs and impoverished areas should not be denied access to a Community Action Agency simply because they do not meet an arbitrary population test.

Let me emphasize several aspects of my amendment. First, it does not prevent the Community Services Administration from utilizing criteria other than population in refusing to recognize or fund a Community Action Agency in impoverished areas. Current law establishes a number of other criteria that must be assessed before a Community Action Agency is either recognized or funded. For example, current law clearly requires that a Community Action Agency have the capabilities of planning, conducting, administering and evaluating a community action program. Without such a capacity, a Community Action Agency cannot be recognized.

Section 221(e) of the act requires the Director of the Community Services Administration to "consider the probable capacity of the agency to carry out an effective program before providing financial assistance." Section 221(d) requires that, as an additional condition of financial assistance, each Community Action Agency must have adopted a systematic approach to provide for basic education, health care, vocational training, and employment opportunities to enable the poor living in rural areas to remain in such areas and become self-sufficient therein. Section 244(7) prohibits the Director of the Community Services Administration from extending financial assistance in any case where the costs of developing and administering programs exceed 15 percent of the total costs, including non-Federal contributions to such costs, of such progams. In this regard, I would like to point out that on the average, Community Action Agencies nationwide have had low administrative costs of approximately 8 percent of the total costs. These good administrative practices will set an example for future Community Action Agencies to follow.

Second, my amendment will not result in a proliferation of demands upon the Community Services Administration to recognize new Community Action Agencies. My amendment only addresses the "minimum test" for a community to be served by a Community Action Agency. Currently, a Community Action Agency cannot be recognized in a country or multicounty unit if there are less than 50,000 in the area. This artificial barrier does not give impoverished rural com-

munities even a chance to prove that a cost-effective community action program can be administered. In light of the other criteria that must be reviewed prior to recognizing or funding a Community Action Agency, this arbitrary population limitation is unfair and unjustified. My amendment corrects this inequity by waiving the population requirement as the sole criterion in recognizing a Community Action Agency if at least 20 percent of the families residing within such a county or multicounty unit have incomes below the poverty line as defined by the Bureau of the Census.

Mr. Chairman, there are those who would argue that a community with less than 50,000 persons of which at least 20 percent are poor lacks local resources and skills which would be utilized for purposes of a community action program. This argument does not hold true for all such communities. I know of at least two instances in my State where the Governor recognized a Community Action Agency in a rural area only to have the Community Services Administration reject the designation because of the artificial population limitation.

Third, my amendment will not split or cause to split existing county or multicounty Community Action Agencies. My amendment has been drafted so as to lock in those counties currently serviced by an existing Community Action Agency. No new Community Action Agency can be designated in an area of less than 50,000 unless the new Community Action Agency is merely replacing a previously existing one or the area was not previously serviced by a Community Action Agency. I want to also make it quite clear that by offering my amendment, I do not intend for any funds going toward existing Community Action Agencies to be shifted over to finance new ones designated as a result of the adoption of my amendment.

I am concerned, as I am sure are many of my colleagues, of the costs to the Federal Government that may be generated by the designation of new Community Action Agencies if my proposal is adopted. Therefore, I would suggest that a feasibility study be conducted to determine the degree of necessity for additional federal funds and non-Federal shares.

In conclusion, Mr. Chairman, I believe my amendment is sound and sensitive. It is sound because it provides opportunity not waste or proliferation. It is sensitive because it focuses on the key problem which Community Action Agencies are created to alleviate—poverty. My amendment is well within the policy of the Community Services Act, and the Community Services Administration has indicated to me that it has no objections to my proposal. In view of this and the other facts I have brought to your attention, I urge your favorable consideration and support for the passage of my amendment.

Mr. ANDREWS of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for the record, I do need to ask the gentleman four questions. I will try to be brief.

Am I correct in my reading of the proposed amendment that in an area where a CAA now exists, any proposed new CAA would be required to meet all three of the criteria contained in the amendment?

Mr. HUCKABY. If the gentleman will yield, Mr. Chairman, my answer is, "Yes," you are correct in your interpretation. The intent of my amendment is to emphasize that all the requirements be met, not just one.

Mr. ANDREWS of North Carolina. It appears that only county governments or multi-county units but not cities or other municipalities would be affected by this amendment. Am I correct?

Mr. HUCKABY. Yes, you are correct. This amendment is directed primarily at rural counties and multicounty units that have a significant level of their population living in poverty and are not presently being served by Community Action Agencies.

Mr. ANDREWS of North Carolina. According to your proposed amendment, CSA cannot impose an arbitrary population minimum to determine eligibility for an area in which no CAA has ever operated. Would potential for generating the required amount of non-Federal share, present ability to receive other funding demonstrated by kind and number of other Federal grants, potential for mobilizing private and State funds, assurances that the unit of government has not rejected a reasonable opportunity to combine with other areas, etc., be the kind of review criteria that would be logical for CSA to use?

Mr. HUCKABY. You are correct in stating that CSA cannot impose an arbitrary population minimum to determine elgibility for an area in which no CAA has ever operated. I encourage existing CAA's where feasible to serve adjacent noncapped counties. Where it is not feasible, then CSA will develop review criteria and regulations that will address questions such as the potential for generating non-Federal share, the ability to mobilize private and State funds, et cetera, in designating new Community Action Agencies.

Mr. ANDREWS of North Carolina. Mr. Chairman, this is my last question:

This proposed amendment would not, I assume, require all existing CAA's to go through another designation and recognition process.

Mr. HUCKABY. Correct. My amendment makes it clear that present designations remain in effect and the amendment would not automatically trigger a new time-consuming process.

Mr. ANDREWS of North Carolina. Mr. Chairman, the committee has no objection to the gentleman's amendment. We will support it.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Carolina. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, of course, being the representative of an area which is relatively rural, I cannot object to the amendment; but I must make some history here because I do not want anyone coming back and saying we helped to kill the program.

What the gentleman is doing is taking that sam· existing small amount of money we have and spreading it over more agencies. Therefore, it means that the existing agency has to get less money next year or the new agencies do not get any, as I would read the amendment, because I do not see any more Federal dollars.

However, Mr. Chairman, I have no objection to the amendment.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 7577, which amends the Economic Opportunity Act of 1964 in order to improve the administration of the Community Service Administration and the Head Start program. The bill aso extends authorizations for the programs administered by CSA, for the Head Start and follow through programs and for native American programs.

I am especially pleased to note that the bill extends authorization for the followthrough program for another 5 years, while increasing its appropriations incrementally and expanding eligibility. It also provides an additional 3-year authorization for the national youth sports program.

The programs to be authorized here today underscore this Nation's commitment to help the poor of this Nation to free themselves from the degradation of mind and spirit which is too often the lot of the impoverished.

Before us are programs which affect the lives of 25 million people considered by the statisticians to be poor. In many cases, they touch the lives of another 15 million who are one accident or one lost job away from statistical poverty. The poor we are talking about include 6.5 million children, 2 million older people and 7 million handicapped and developmentally disabled people. Through local community action agencies, CSA programs under such titles as Community Food and Nutrition, Senior Opportunities and Services, Rural Housing Development and Rehabilitation attack the causes and symptoms of poverty at the grassroots level. This bill, through administrative improvements and, in some cases, formula changes, insures that the Federal contribution to these programs is more efficiently and effectively utilized.

As I mentioned earlier, the Education and Labor Committee's action with respect to the follow through program is worthy of particular note. Follow through, which is the conceptual first cousin of the Head Start program, provides instructional, nutritional, medical, dental and psycho-social services to eligible children. It is administered by the Office of Education. Although originally designed for kindergarten and first grade level, the program has expanded through the third grade level. In the current school year, 1977–1978, there are 74,676

students enrolled in the program. It is projected that for the school year 1978–1979, the program will consist of 21 projects and 20 sponsors, providing for 3,477 classrooms in 527 schools. It is estimated that the program will utilize 3,514 classroom assistants and 4,297 para-professionals, most of whom are parents of enrolled children.

Follow through has been under a misguided attack by the administration, which recommended its phase out and offered in its place a vague plan to fold many of its services into a program funded under title I. Much of the criticism of the follow through program subscribed to by the administration was based on an evaluation of the program by a private research association. This research, unfortunately, was very incomplete. In fact, only 12 of 20 different instructional approaches taken in follow through were examined.

While it is true that the program has had difficulty in establishing a clear programmatic direction, this was due in large part to separate and insulated programmatic authority within the Office of Education between the division of follow through and the Office of Budgeting and Evaluation. The solution, as the report language to this bill indicates, is to encourage the Office of Education to devote a serious effort to clearly delineate the responsibilities of two subdepartments and not to scuttle follow through.

The committee is to be commended for looking to improve the program, rather than dropping it because there is so much to recommend this reauthorization of follow through. As your constituent mail may indicate, the program has been enthusiastically supported by the parents and children affected by the program. The Committee on Education and Labor reports that it is particularly impressed with the active involvement of parents and teachers in the planning and implementation of the local projects. Parental integration into all aspects of delivery of these comprehensive services for the children has produced a significant impact on the parents themselves. For example, the program has generated for many parents the desire to improve their own education and has increased their involvement in the lives of their children. This fact alone speaks of the enormous contribution of follow through to the education and human development of the Nation's poor.

I can personally substantiate the committee observation. For the last 9 years, Follow Through has been operating successfully in the Pittsfield, Mass., schools. I have visited the classrooms of the 195 children enrolled, and I came away highly impressed. I am pleased to say that parents are involved as assistant teachers and as health and educational aides. In fact, two parents of children in Follow Through will be receiving their bachelor's degrees this year as a result of encouragement from the program.

Another positive feature out of H.R. 7577 is that it amends the current law to provide eligibility for children enrolled in private nonprofit elementary schools who were previously enrolled in preschool programs of a compensatory nature, which received Federal financing assistance. This will give the program a wider, more diverse impact.

Finally, the national youth sports program is worthy of special praise. It encourages colleges, universities, and certain nonprofit organizations to provide physical fitness instruction to rural and urban disadvantaged youth. For example, like other programs around the country, the program at my alma mater, Boston College, offers its high quality facilities as well as supervision and related education and counselling services—including instruction, concerning study practices, career opportunities, job responsibilities, health and nutrition and drug programs—to disadvantaged Boston youth.

The youth sports program, which is conducted by local institutions primarily during the summertime with special reinforcement followup programs throughout the year, is coordinated on a national basis and is funded through an 80/20 percent formula. I have worked for full appropriations of this program in the past and will do so this year.

In sum, there is much to recommend the programs found under the provisions of this bill. They help provide economic opportunity and community services for those who need them most. I recommend passage of these amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. HUCKABY).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

AMENDMENT OFFERED BY MR. CORRADA

Mr. CORRADA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORRADA: Page 32, line 21, insert immediately after the word "agencies", the following: "and state offices of economic opportunity".

Mr. CORRADA. Mr. Chairman, section 632(3) requires the Director of CSA to consult with community action agencies in the development of the 5-year national poverty action plan. Current law does not require any consultation. My amendment would provide for consultation with State economic opportunity offices in this important planning function. In this manner we get a broader input from those who have a direct interest in national policy issues pertaining to poverty.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we have no objection to the gentleman's amendment on this side.

Mr. ANDREWS of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from North Carolina.

Mr. ANDREWS of North Carolina. Mr. Chairman, there are no objections to the gentleman's amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Puerto Rico (Mr. CORRADA).

The amendment was agreed to.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to bring to your attention today the national demonstration water project which the Community Services Administration has funded since 1972, to demonstrate methods of delivering rural water and wastewater facilities to low-income rural residents at a cost they can afford. The national demonstration water project grew out of a successful experiment by the Total Action Against Poverty in the Roanoke Valley, located in my congressional district. It now contains a network of organizations in 38 States which have an impressive record. Almost 40,000 water and sewer connections are being developed nationally, 11,000 of which are in Virginia.

I have taken the time to review this matter in some detail because it exemplifies a cost-effective, relatively inexpensive program which provides clearly visible benefits for the rural poor. While its value is generally acknowledged, it could go under because of the inadequacy of Federal officials in Washington, D.C., who have ultimate responsibility for its future.

After 5 years as a pilot project within the Community Services Administration, national demonstration water project officials believe the time has arrived to transfer the program to a permanent home within a Federal agency directly concerned with water and sewer needs. However, it is my understanding that no other Federal agency has made such a firm commitment. Funds for this program expire on September 30, 1978. I believe that the Community Services Administration is responsible for seeing that the mechanisms of successful demonstration programs are in place before they are spun off to other agencies. I would like to know if the Community Services Administration is willing to provide carryover funds until negotiations for transition are effected.

I would also like some assurance that the Community Services Administration will use the expertise of the national demonstration water project in any subsequent effort in the rural water and sewer field.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, like the gentleman I have an intense interest in improving methods of delivering rural water and wastwater facilities to low-income rural residents at a cost they can afford. It is not in my power, however, to give the assurances the gentleman requests. I will work with the gentleman, however, to assure that the matter is given every appropriate consideration by the Community Services Administration and failing that with other Federal agencies.

Mr. BUTLER. Mr. Chairman, I thank the gentleman from Kentucky for his assurances.

The CHAIRMAN. Are there further amendments?

● Mr. FORD of Michigan. Mr. Chairman, since the Subcommittee on Economic Opportunity of the Committee on Education and Labor began its work last year on the Economic Opportunity and Community Services Amendments of 1978, H.R. 7577, several issues have arisen which I feel compelled to address.

Initially, I want to compliment our chairman, the Honorable CARL D. PERKINS, and the ranking minority member, ALBERT H. QUIE, for devoting their time and attention to the dilemmas faced by the committee in the consideration of this legislation.

In the Head Start program, the subcommittee discovered with the assistance of the Congressional Research Service (CRS) of the Library of Congress that in fiscal year 1976 and fiscal year 1977 that the Administration for Children, Youth and Families (ACYF) in the Department of Health, Education, and Welfare did not follow the legislatively mandated formula written by Congress in 1975. I found this especially disturbing because the formula was specifically designed to spread out Head Start funds more equitably than they had been prior to 1975 when there had been no formula whatsoever. What the subcommittee found when it analyzed the CRS report on distribution of funds was that 12 States and Puerto Rico received less than the minimum amounts that were required by law. The States and the amounts of the discrepancies were:

| | |
|---|---|
| Arizona | $542,895 |
| Connecticut | 677,594 |
| Georgia | 1,156,214 |
| Illinois | 2,627,910 |
| Maryland | 621,045 |
| Michigan | 5,655,001 |
| New York | 315,289 |
| Ohio | 1,648,872 |
| Oregon | 560,481 |
| Pennsylvania | 3,898,751 |
| South Dakota | 75,180 |
| Wisconsin | 137,136 |
| Puerto Rico | 1,648,944 |

What ACYF did was apply the hold-harmless level established by Congress in 1975, and then apply the two-part formula, based on the number of children qualifying for public assistance and the number of children coming from families below the poverty level. Minimal increases in appropriations and the application by ACYF in fiscal year 1976 and 1977 of a 6-percent cost-of-living increase to all States, including those which were under the hold harmless provisions, added to the inequities Congress sought to minimize by adopting a formula approach in 1975.

When Congress approved a $150 million increase in appropriations for fiscal year 1978, the formula application issue became more crucial. After months of deliberations, the subcommittee was compelled to direct Secretary of Health, Education and Welfare Joseph Califano to allocate the 1978 funds in a particular manner which insured that States which lost during the years of the ACYF misapplication of the formula could make up some of their losses. From the beginning, it was clear, however, that this directive was only temporary and statutory changes were needed. Because the subcommittee directive resulted in substantial increases for 22 States, ACYF was also instructed to permit States to carry over fiscal year 1978 funds into fiscal year 1979. This procedure gives States an adjustment period to determine where new programs can be established and how best to allocate the increased funds.

The subcommittee's deliberations have aroused considerable concern on the part of Head Start programs in States which have been receiving more money than they would have had ACYF strictly followed the statutory formula. Their fear of receiving a cut in funding was a major point of discussion while the subcommittee was developing a new formula. In fact, the subcommittee formula being proposed includes an automatic 6-percent cost-of-living adjustment for all Head Start programs, except those in States which receive more than 200 percent of the amount to which they are entitled under the formula. It should be pointed out that this cost-of-living adjustment would amount to more than $30 million under the current appropriation, and would not be based in any way on programmatic needs. It serves as an annual adjustment for States who would otherwise receive no new money under an equalizing formula.

The subcommittee formula calls for distributing funds based equally on the number of AFDC recipients in each State and on the number of children aged 0 to 5 living with low-income families. There was some discussion by the subcommittee on eliminating the count of children from families receiving AFDC. I believe the subcommittee has made a wise choice in keeping the two-factor formula on counting eligible children. To disqualify AFDC children for counting purposes would be an unjust and irresponsible move. Although States choose to fund their public assistance programs at different levels, their recipients are no less needy nor their children no less wanting for the kinds of services the Head Start program provides.

I am especially supportive of the bill's provisions continuing a high degree of parent and local resident participation in the program. Since its inception in 1964, I have seen a tremendous amount of progress attributable to the Head Start program in many of the young children in my congressional district. The involvement of parents has played an important role in insuring this success, and local school people have also found that it leads to greater parental participation in later school years.

I was pleased to be a participant in the formulation of the original Economic Opportunity Act in 1964, and I am proud to be a supporter again in its reauthorization. The active and beneficial participation of Communities United For Action, the Community Action Agency in my district, has been a significant addition to the communities it serves. The continuation of this program is justified and necessary.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes, pursuant to House Resolution 1234, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 346, nays 38, not voting 48, as follows:

[Roll No. 605]

YEAS—346

| | | |
|---|---|---|
| Abdnor | Burton, Phillip | Ertel |
| Addabbo | Butler | Evans, Del. |
| Akaka | Byron | Evans, Ga. |
| Alexander | Caputo | Fary |
| Ambro | Carney | Fascell |
| Ammerman | Carr | Fenwick |
| Anderson, Calif. | Carter | Findley |
| | Cavanaugh | Fisher |
| Anderson, Ill. | Cederberg | Fithian |
| Andrews, N.C. | Chappell | Flippo |
| Andrews, N. Dak. | Clausen, Don H. | Flood |
| | | Florio |
| Annunzio | Clay | Foley |
| Applegate | Cleveland | Ford Mich. |
| Ashley | Cochran | Fountain |
| Aspin | Cohen | Fowler |
| AuCoin | Coleman | Frenzel |
| Bafalis | Conable | Fuqua |
| Baldus | Conte | Gammage |
| Barnard | Corcoran | Garcia |
| Baucus | Corman | Gaydos |
| Beard, R.I. | Cornell | Gialmo |
| Beard, Tenn. | Cornwell | Gibbons |
| Bedell | Coughlin | Gilman |
| Bellenson | Cunningham | Ginn |
| Benjamin | D'Amours | Glickman |
| Bennett | Daniel, R. W. | Gonzalez |
| Bevill | Davis | Goodling |
| Biaggi | de la Garza | Gore |
| Bingham | Delaney | Gradison |
| Blanchard | Dellums | Grassley |
| Blouin | Derrick | Green |
| Boggs | Derwinski | Gudger |
| Boland | Dickinson | Guyer |
| Bonior | Dicks | Hagedorn |
| Bonker | Diggs | Hamilton |
| Bowen | Dingell | Hammer-schmidt |
| Brademas | Dodd | |
| Breckinridge | Dornan | Hanley |
| Brinkley | Downey | Hannaford |
| Brodhead | Drinan | Harkin |
| Brooks | Duncan, Oreg. | Harris |
| Broomfield | Duncan, Tenn. | Harsha |
| Brown, Mich. | Eckhardt | Hawkins |
| Brown, Ohio | Edgar | Heckler |
| Broyhill | Edwards, Ala. | Hefner |
| Buchanan | Edwards, Calif. | Heftel |
| Burgener | Edwards, Okla. | Hightower |
| Burke, Calif. | Ellberg | Hillis |
| Burke, Fla. | Emery | Holland |
| Burlison, Mo. | English | Hollenbeck |
| Burton, John | Erlenborn | Holt |

| | | |
|---|---|---|
| Holtzman | Moakley | Sharp |
| Horton | Mollohan | Sikes |
| Howard | Moore | Simon |
| Hubbard | Moorhead, Pa. | Skelton |
| Huckaby | Mottl | Skubitz |
| Hughes | Murphy, Ill. | Slack |
| Hyde | Murphy, N.Y. | Smith, Iowa |
| Jacobs | Murphy, Pa. | Smith, Nebr. |
| Jeffords | Murtha | Solarz |
| Johnson, Calif. | Myers, John | Spellman |
| Johnson, Colo. | Myers, Michael | Spence |
| Jones, N.C. | Natcher | St Germain |
| Jones, Okla. | Neal | Staggers |
| Jones, Tenn. | Nedzi | Stangeland |
| Jordan | Nichols | Stanton |
| Kastenmeier | Nolan | Steed |
| Kazen | Nowak | Steers |
| Kemp | O'Brien | Steiger |
| Keys | Oakar | Stokes |
| Kildee | Oberstar | Stratton |
| Kostmayer | Obey | Studds |
| Krebs | Ottinger | Thompson |
| Lagomarsino | Panetta | Thone |
| Leach | Patten | Thornton |
| Lederer | Patterson | Traxler |
| Leggett | Pattison | Treen |
| Lehman | Pease | Trible |
| Lent | Pepper | Tucker |
| Levitas | Perkins | Udall |
| Livingston | Pettis | Ullman |
| Lloyd, Calif. | Pickle | Van Deerlin |
| Lloyd, Tenn. | Pressler | Vander Jagt |
| Long, La. | Preyer | Vanik |
| Long, Md. | Price | Vento |
| Lujan | Pritchard | Volkmer |
| Luken | Pursell | Walgren |
| Lundine | Quayle | Walker |
| McClory | Quillen | Walsh |
| McCloskey | Rahall | Wampler |
| McCormack | Rangel | Watkins |
| McDade | Regula | Waxman |
| McEwen | Reuss | Weaver |
| McFall | Rhodes | Weiss |
| McHugh | Richmond | White |
| McKinney | Rinaldo | Whitehurst |
| Madigan | Risenhoover | Whitley |
| Mahon | Roe | Whitten |
| Mann | Rogers | Wiggins |
| Markey | Roncalio | Wilson, Bob |
| Marks | Rooney | Wilson, C. H. |
| Marlenee | Rose | Wilson, Tex. |
| Marriott | Rosenthal | Winn |
| Martin | Rostenkowski | Wirth |
| Mattox | Roybal | Wolff |
| Mazzoli | Runnels | Wright |
| Metcalfe | Ruppe | Wydler |
| Meyner | Russo | Wylie |
| Michel | Ryan | Yates |
| Mikulski | Santini | Yatron |
| Mikva | Sawyer | Young, Alaska |
| Miller, Calif. | Scheuer | Young, Fla. |
| Miller, Ohio | Schroeder | Young, Mo. |
| Mineta | Schulze | Zablocki |
| Minish | Sebelius | Zeferetti |
| Mitchell, N.Y. | Seiberling | |

NAYS—38

| | | |
|---|---|---|
| Archer | Hansen | Pike |
| Armstrong | Ichord | Poage |
| Ashbrook | Kelly | Robinson |
| Badham | Kindness | Rousselot |
| Bauman | Latta | Rudd |
| Burleson, Tex. | Lott | Satterfield |
| Collins, Tex. | McDonald | Shuster |
| Crane | McKay | Snyder |
| Daniel, Dan | Mathis | Stockman |
| Devine | Montgomery | Stump |
| Forsythe | Moorhead, Calif. | Symms |
| Gephardt | Myers, Gary | Taylor |
| Hall | | Waggonner |

NOT VOTING—48

| | | |
|---|---|---|
| Bolling | Flynt | Mitchell, Md. |
| Breaux | Ford, Tenn. | Moffett |
| Brown, Calif. | Fraser | Moss |
| Burke, Mass. | Frey | Nix |
| Chisholm | Goldwater | Quie |
| Clawson, Del | Harrington | Railsback |
| Collins, Ill. | Ireland | Roberts |
| Conyers | Jenkins | Rodino |
| Cotter | Jenrette | Sarasin |
| Danielson | Kasten | Shipley |
| Dent | Krueger | Sisk |
| Early | LaFalce | Stark |
| Evans, Colo. | Le Fante | Teague |
| Evans, Ind. | Maguire | Tsongas |
| Fish | Meeds | Whalen |
| Flowers | Milford | Young, Tex. |

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Roberts.
Mr. Shipley with Mr. Teague.
Mr. Burke of Massachusetts with Mr. Frey.
Mr. Tsongas with Mr. Del Clawson.
Mr. Fraser with Mr. Maguire
Mr. Flowers with Mr. Krueger.
Mr. Dent with Mr. Milford.
Mrs. Collins of Illinois with Mr. Goldwater.
Mr. Early with Mr. Sarasin.
Mr. Cotter with Mr. Quie.
Mr. Flynt with Mr. Whalen.
Mr. Danielson with Mr. Kasten.
Mr. Jenkins with Mrs. Chisholm.
Mr. Stark with Mr. Moss.
Mr. Evans of Colorado with Mr. Railsback.
Mr. Mitchell of Maryland with Mr. Brown of California.
Mr. Breaux with Mr. Conyers.
Mr. Evans of Indiana with Mr. Ford of Tennessee.
Mr. Ireland with Mr. Sisk.
Mr. Moffett with Mr. Nix.
Mr. LaFalce with Mr. Meeds.
Mr. Jenrette with Mr. Harrington.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ANDREWS of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 7577.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT DURING THE 5-MINUTE RULE, THURSDAY, JULY 27, 1978

Mr. TUCKER. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have permission to sit during the 5-minute rule, Thursday, July 27, to hear testimony from the Chairman of the Federal Reserve Board. There will be no markup of any legislation during this meeting of the Banking Committee.

This request has been cleared with the ranking minority member of the House Banking Committee, the Honorable J. WILLIAM STANTON of Ohio.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman can assure us that there will be absolutely no legislative action taken during this time?

Mr. TUCKER. I can offer assurance there will be no legislative activity of any kind. This request has been cleared with the ranking minority member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio (Mr. STANTON).

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

## AMERICAN PEOPLE FED UP WITH POSTAL SERVICE

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. LATTA. Mr. Speaker, the American people are very unhappy with what they have been getting from the Postal Service.

To use the words of one of my good constituents, Gerald Avery, of Bowling Green, Ohio, they are "fed up" with what has been going on and they want something done about it. Rates are up, service is down, wages are up, and illegal strikes are taking place.

Mr. Speaker, this all started with the making of the Postal Service an independent agency. As soon as the control of the Postal Service was taken from the Congress and given to this independent agency, trouble began. Immediately the new agency forgot that its first and foremost responsibility is to the public and started giving the unions practically everything they wanted, including the key to the Treasury. Giving this agency the power to fix rates for mail service was undoubtedly the worst mistake of all. We now have an independent postal agency contracting with its unions for wages higher than those prevailing in the area for comparable work and then fixing the rates to be charged the public to pay for the same without the slightest oversight or approval by the Congress. The only time this independent agency comes to the Congress is when its excesses cause it to run short of money.

Mr. Speaker, someplace along the line the public has been forgotten and it is high time this shortcoming is corrected. Frankly, the time has come for the Congress to resume control over this agency and to give it some supervision as it is clearly out of hand.●

## PERSONAL EXPLANATION

Mr. WHITEHURST. Mr. Speaker, earlier this evening when the vote was taken on the bill H.R. 3350, I was unavoidably detained.

If I had been present, I would have voted "aye."

## IN HONOR OF PETE ROSE—CINCINNATI REDS

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, once again the activities of the Cincinnati Red's third baseman, Pete Rose, have attracted nationwide attention.

Earlier this year, on May 8, I called the attention of the House to the 3,000th career hit of Pete Rose. I remarked at that time that Pete Rose may well be the favorite athlete of the Nation. Some newspapers accused me of hyperbole, of being excessive in my estimate of Pete's reputation.

These past few weeks the astonished eyes of baseball fans across the Nation

have been turned to Pete Rose as he chased the hitting streak record.

Last night before a tumultously cheering crowd at Shea Stadium in New York, the irrepressible Pete Rose did it again. He ran his hitting streak to 38 straight games, shattering the 33-year-old modern National League record. This is the second largest streak in 56 years.

Tommy Holmes, the previous record holder was on hand last night, to offer his congratulations to Pete. Mr. Holmes said that the new title is "in the hands of a Hall of Famer."

Mr. Speaker, I do not think there is any question that Pete Rose has reached the heights. His outstanding spirit and drive are an inspiration to us all.

I ask my colleagues to join me and the citizens of Cincinnati in congratulating Pete Rose and offering him the best of luck in the days ahead, as he continues to set new records.●

## STATEMENT ON CONRAIL

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, within the next few weeks this body will be considering a $1.3 billion authorization for USRA to provide money for ConRail. In anticipation of that deliberation I want to make a few remarks about ConRail and the distinguished chairman of the Transportation and Commerce Subcommittee, the Honorable FRED B. ROONEY.

Six or seven years ago it become clear to all of us that rail transportation in the entire Northeast was completely falling apart. The Penn Central had gone bankrupt in 1970, and its bankruptcy had a domino effect for six other carriers in the Northeast. By the end of 1975, Northeast rail service had deteriorated to such a point that the Interstate and Foreign Commerce Committee had to seriously examine not only Northeast railroads but also the rail industry in its entirety. You will recall that in December of 1975 our committee brought to the floor an omnibus piece of rail legislation which finally became law in February of 1976.

I was then, and am now, the ranking Republician on the Transportation and Commerce Subcommittee which designed and perfected that piece of legislation. The chairman of the subcommittee, Mr. ROONEY, then as now demonstrated his leadership qualities, his patience, and understanding in attacking the rail problem in the Northeast and basic problems which tend to weaken the railroad industry as a whole. His task was not an easy one because everyone and his brother had a pie-in-the-sky scheme for making the trains run right in the Northeast.

The final choices we considered narrowed down to two. One was the creation of ConRail, which the committee and the Congress adopted. The other choice would have been wholesale abandonments in the Northeast of rail service and a fire sale for those lines that the richer Western railroads wanted to take over. I must confess that I leaned toward the fire sale approach more than once. In my State of Kansas, as in most States in the United States, many people viewed the railroad fiasco of the Northeast as a problem for the States and people of the Northeast to deal with. The logic and persuasiveness of our chairman convinced me that the Northeast problem was a national problem. I might add that his untiring efforts, his understanding of the problem and his sincerity probably changed more minds than any other single factor in this matter.

Today all of us recognize that ConRail is not and cannot be a magic solution to the rail problems in the Northeast. All of us realize that the same kind of time, patience, and understanding as exhibited by Mr. ROONEY would be necessary from all of us if the ConRail management were to be able to turn around the rail disaster in the Northeast. From time to time we see articles in the newspaper which report that ConRail has stumbled on this or that particular policy. All of us should realize that those "stumbles" are likely to occur for the next few years. It takes time to turn a disaster around. It takes time to undo the multiple wrongs of the past. It takes time to develop and run a good railroad.

Chairman ROONEY has not been sitting idly by while time gives ConRail a chance to work.

At the time we considered the ConRail legislation in 1975 it became clear that the Northeast rail situation was but a tip of the iceberg affecting our national rail industry. Over the years Government regulation and indifference to rail problems had taken its toll.

I might add that Government promotion of barges and trucks had also taken its toll. Just as we cannot expect miracles from ConRail, neither can we expect miracles from the Government in developing a more effective framework for railroad operation. It takes hard work, careful analysis, and considerable education for any of us to know the best solution to a most perplexing problem. FRED ROONEY has conducted numerous hearings, congressional symposiums, and summit meetings with railroad management, railroad labor, and shippers throughout the country. He has done this in order to identify all of the problems affecting railroads in order to develop carefully tailored solutions for this Nation's weakened railroad system.

I want to commend my colleague, chairman, and friend for his skillful leadership and dedication. I also want to take this opportunity to alert my colleagues to the fact that the business of saving the railroads in the Northeast and the Nation is far from over and that we can achieve our goal only by taking a step at a time. Within the next few weeks ConRail will be on the floor and over the weeks and months to come we will move forward in order to give this Nation a truly great railroad system.

I will be leaving Congress after this year so many of the railroad bills which are necessary to do the job will be on the floor after I have left. I know that Members on both sides of the aisle will give my friend, Mr. ROONEY, their full attention and cooperation in carrying out the job ahead. Over the years I have found him to be a fair and honorable man who does his homework and knows what he is talking about.

## NATIONAL CONSUMER COOPERATIVE BANK ACT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 30 minutes.

● Mr. ROUSSELOT. Mr. Speaker, since this House will have to consider a conference report on the Senate-passed version of H.R. 2777, the National Consumer Cooperative Bank Act, I believe it will be helpful to my colleagues to review the following report by the Congressional Budget Office on the cost of the Senate bill, as it appears in Senate Report 95-795:

COST OF LEGISLATION

Pursuant to section 252(a) of the Legislative Reorganization Act of 1970, as amended, the committee estimates the cost of the legislation to be as stated in the following cost estimate prepared by the Congressional Budget Office. The committee estimates the cost to the government from enactment of this legislation to be $1 million in fiscal year 1979; $4 million in fiscal year 1980; $8 million in fiscal year 1981; $15 millin in fiscal year 1982; and $22 million in fiscal year 1983.

CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., April 26, 1978.*

Hon. WILLIAM PROXMIRE,
*Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 2777, the National Consumer Cooperative Bank Act.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ROBERT A. LEVINE,
*Deputy Director.*

APRIL 26, 1978.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 2777.

2. Bill title: National Consumer Cooperative Bank Act.

3. Bill status: As ordered reported by the Senate Committee on Banking Housing, and Urban Affairs, April 6, 1978.

4. Bill purpose: The bill would create the National Consumer Cooperative Bank, a mixed ownership government corporation. The bank would be authorized to make and guarantee loans and provide technical services to qualifying cooperative enterprises. Initial capitalization would be provided by up to $300 million in Treasury funds. Provisions are included in the bill for private ownership and control of the bank after the Treasury seed capital has been redeemed. Appropriations are also authorized to establish, within the bank, an Office of Self-Help Development and Technical Assistance. This office could provide capital loans on a more favorable basis to qualifying borrowers than

the bank itself, provide interest supplement loans to qualifying borrowers, and provide technical assistance to cooperatives.

5. Cost estimate: The table below presents the authorization levels as specified in the bill, the expected budget impact (outlays), and the estimated costs to the Government. For many government activities, costs and outlays are identical. However, for loan programs, costs differ substantially from outlays; they are therefore shown separately below:

| | *Millions* |
|---|---|
| Fiscal year 1979: | |
| Authorization levels [1] | $114 |
| Projected outlays | 23 |
| Estimated costs | 1 |
| Fiscal year 1980: | |
| Authorization levels [1] | 265 |
| Projected outlays | 51 |
| Estimated costs | 4 |
| Fiscal year 1981: | |
| Authorization levels [1] | 265 |
| Projected outlays | 85 |
| Estimated costs | 8 |
| Fiscal year 1982: | |
| Authorization levels [1] | 265 |
| Projected outlays | 122 |
| Estimated costs | 15 |
| Fiscal year 1983: | |
| Authorization levels [1] | 265 |
| Projected outlays | 246 |
| Estimated costs | 22 |

[1] Includes only those authorizations for which amounts are specified in the bill. In addition, the bill would allow the bank to issue debt in an amount not to exceed 5 times the bank's paid-in capital and surplus. The CBO estimates that the government's capital subscription will be sufficient to support the estimated activity levels of the bank through fiscal year 1982. To fund fiscal year 1983 activity, the CBO estimates the bank will need $182,000,000 in borrowings. It is uncertain, at this time, if the full amount of potential borrowing is scored as budget authority upon appropriation of the capitalization, or if the amount actually borrowed is scored when it is used.

The costs of this bill fall within budget function 370.

6. Basis of estimate: Title I. National Consumer Cooperative Bank.—Title I of the bill establishes the National Consumer Cooperative Bank and authorizes the appropriation of $100 million in fiscal year 1979 and an additional amount not to exceed $200 million in the aggregate for the next 4 fiscal years. The appropriated funds would be used by the Department of the Treasury to acquire class A stock in the bank, thus providing the bank's initial capitalization. The class A stock would be the senior form of equity in the bank, would return dividends to the Treasury at a rate specified in the bill, and eventually be fully retired. The activity funded by the title I authorizations is the bank's market rate loan program. These loans would be made on a business-like basis to qualifying cooperatives that demonstrate their ability to repay loans on a timely basis and at market rates of interest. During the period that class A stock is owned by the Treasury, the net outlays of the bank will be reflected as outlays in the Federal budget. The portion of outlays attributable to activities authorized in title I are a combination of loans (net of repayments), net operating expenses, interest income, dividends on stock, and additional capital received from other sources. The table below summarizes the various components of the outlay estimate through fiscal year 1983.

[In millions of dollars]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 |
| Disbursements: | | | | | |
| Additional loans | 20.0 | 50.0 | 85.0 | 125.0 | 265.0 |
| Operating expenses | 2.0 | 2.3 | 2.9 | 3.9 | 5.6 |
| Dividends and interest | 0 | 0 | .5 | 1.6 | 5.5 |
| Total disbursements | 22.0 | 52.3 | 88.4 | 130.5 | 276.1 |
| Income: | | | | | |
| Loan repayments | .7 | 2.9 | 7.4 | 14.8 | 28.5 |
| Interest | .8 | 3.3 | 8.0 | 15.6 | 29.5 |
| Fees | .2 | .5 | .8 | 1.2 | 2.6 |
| Sale of class B stock | .2 | .5 | .8 | 1.2 | 2.6 |
| Total income | 1.9 | 7.2 | 17.0 | 32.8 | 63.2 |
| Net outlays | 20.1 | 45.1 | 71.4 | 97.7 | 212.9 |

The projections of both loan levels and operating expenses are based on historical data for comparable agencies and on experts' projections for the Consumer Cooperative Bank. Loans here assumed to have an average maturity of 10 years, return interest at a rate of 8.25 percent, and have an average default rate of 6.5 percent. It was also assumed that borrowers would acquire class B stock at the minimum rate specified in the bill, 1 percent of the initial face amount of the loans. The assumed interest rate reflects the CBO projections for rates on equivalent long-term credit adjusted for the cost to the borrowers of the required purchases of class B stock. The default rate used is the net rate experienced by the Small Business Administration on its section 7(a) business loans. It is estimated that the bank will begin paying dividends to the Treasury in fiscal year 1981 but only at a rate of 25 percent of the net of interest income and operating expenses (including reserve for losses), since that amount was consistently lower than would be required at the average Treasury rate during the projection period.

The outlay estimate above expresses the budget impact of the bank's title I operations. However, the net cost to the Government is represented by the cost to the Treasury of borrowing the necessary funds, less any dividends paid to the Treasury by the bank. The interest rates used to estimate the Treasury's costs of borrowing are the CBO projections for the average cost of the Government's outstanding long-term debt. The costs to government are estimated as follows:

| | *Millions* |
|---|---|
| Fiscal year 1969: | |
| Cost of Treasury funds | $0.6 |
| Less dividends received | ----- |
| Net cost | 0.6 |
| Fiscal year 1980: | |
| Cost of Treasury funds | 2.6 |
| Less dividends received | ----- |
| Net cost | 2.6 |
| Fiscal year 1981: | |
| Cost of Treasury funds | 6.4 |
| Less dividends received | .5 |
| Net cost | 5.9 |
| Fiscal year 1982: | |
| Cost of Treasury funds | 12.4 |
| Less dividends received | 1.6 |
| Net cost | 10.8 |
| Fiscal year 1983: | |
| Cost of Treasury funds | 18.4 |
| Less dividends received | 3.1 |
| Net costs | 15.3 |

Title II. Office of Self-Help Development and Technical Assistance.—Title II of the bill establishes, within the bank, an Office of Self-Help Development and Technical Assistance. The office would have the authority to make loans on more favorable terms to cooperatives unable to qualify under the provisions of title I of the bill. In addition, the office could make interest supplement loans to cooperatives that are temporarily unable to meet scheduled interest payments to the bank or any other lender. The office is also authorized to provide technical assistance and a variety of other services to cooperatives. The bill authorizes the appropriation of $10 million in fiscal year 1979 and an aggregate of $65 million in the next 2 years to be used only for the lending programs of the office. In addition, $2 million is authorized to be appropriated in fiscal year 1979 and such sums as may be needed the following 2 years to cover administrative costs and technical assistance costs of the office. Interest income and repayments from the loan programs can only be used for new loans. Fees charged for other services are to be used to offset expenses of the office. Outlays from the office established in title II of the bill are estimatd as follows:

| | *Millions* |
|---|---|
| Fiscal year 1979: | |
| Loans (net of interest income) | 2.0 |
| Administration and technical assistance (net of fees charged) | .5 |
| Total outlays | 2.5 |
| Fiscal year 1980: | |
| Loans (net of interest income) | 4.8 |
| Administration and technical assistance (net of fees charged) | .7 |
| Total | 5.5 |
| Fiscal year 1981: | |
| Loans (net of interest income) | 12.1 |
| Administration and technical assistance (net of fees charged) | 1.2 |
| Total | 13.3 |
| Fiscal year 1982: | |
| Loans (net of interest income) | 23.2 |
| Administration and technical assistance (net of fees charged) | 1.5 |
| Total | 24.7 |
| Fiscal year 1983: | |
| Loans (net of interest income) | 31.6 |
| Administration and technical assistance (net of fees charged) | 1.7 |
| Total | 33.3 |

Levels of lending activity in this cost estimate are based on industry projections of loan demand and comparable government agency experience. A 6 percent rate of interest and a default rate of 8 percent were assumed for these loans. Since most of the loans from the fund are expected to be principal-deferred loans, no repayments are expected before fiscal year 1982. Administrative costs are estimated based on experience of the Federal Home Loan Banks and Civil Service Commission data, and it is assumed that fees will cover 75 percent of such costs.

The actual cost to the Government, as distinct from the immediate budgetary im-

pact, consists of the administrative costs (net of fees), the Treasury's net cost of borrowing the funds, and the amounts of defaulted loans. These are estimated as follows:

[In millions of dollars]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 |
| Administrative and technical assistance costs (net of fees) | 0.5 | 0.6 | 1.2 | 1.5 | 1.7 |
| Treasury borrowing costs (net) | (1) | (1) | (1) | (1) | (1) |
| Loan defaults | .1 | .4 | 1.1 | 1.6 | 1.0 |
| Total costs | .6 | 1.1 | 2.3 | 4.1 | 6.8 |

[1] Less than $500,000.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 11, 1977, the CBO prepared a cost estimate for H.R. 2777 as ordered reported by the House Committee on Banking, Finance, and Urban Affairs. The bill as ordered reported by the House Committee authorizes the same types of activities as the version considered in this cost estimate but with substantially higher funding authorizations.

On April 5, 1978, the CBO submitted a cost estimate for H.R. 2777, Committee Print No. 1, to the Senate Committee on Banking, Housing, and Urban Affairs. The provisions affecting costs of the bill as ordered reported are the same as those in Committee Print No. 1. The cost estimates, therefore, are identical.

9. Estimate prepared by: Brent Shipp.

10. Estimate approved by:

C. G. NUCKOLS,
Per JAMES L. BLUM,
*Assistant Director for Budget Analysis.*●

## THE BREAKDOWN OF THE CBO'S KEYNESIAN MODEL; OR WHAT IS WRONG WITH THE COMMITTEE ON THE BUDGET'S ANALYSIS OF THE KEMP-ROTH TAX RATE REDUCTION ACT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 20 minutes.

● Mr. KEMP. Mr. Speaker, two events happened this week which are of importance to the deliberations of this House. Although they happened in different forums, they are related to the shape of tax rate reductions.

The first was the House Committee on the Budget's release of a study purporting to show that the Kemp-Roth Tax Rate Reduction Act will produce inflationary deficits. There is little new in this study; it is mostly an elaboration of points previously made and answered. But there is no doubt about one thing: The study is a part of the campaign against tax rate reductions being orchestrated by the White House in response to their awareness in recent weeks that Kemp-Roth may have enough votes in the majority party to be passed by Congress. After all, the measure had 194 votes in March, and public support has grown significantly in the months that followed.

The second event was the publication in the Public Interest of an authoritative, well-reasoned, and convincingly articulated article by Dr. Paul Craig Roberts. Dr. Roberts, a professor of economics and a former member of the staff of the House Budget Committee, has rendered that committee's report and the analyses on which it relied virtually meaningless. How? By showing that the conclusions were drawn from erroneous premises, that the economic rationale behind the econometric studies on which the committee has relied is illogical, that neither people nor the economy behave or respond the way the Keynesians say they do.

Dr. Roberts' article goes to the points of the debate now before us: The relationship between tax rates and production and tax revenues, and the implications of that relationship upon conduct, incentives, rewards, spending, deficits, and inflation.

I will let Dr. Roberts speak for himself:

THE BREAKDOWN OF THE KEYNESIAN MODEL

(By Paul Craig Roberts)

There is much talk these days about "the crisis in Keynesian economics." That some such crisis exists is evident from the bewilderment and impotence our economic policy makers are displaying in their confrontation with economic reality. But what exactly is the nature of this crisis? What went wrong and what can put it right?

The answer, I would suggest, is almost embarrassingly simple. Today in the United States, public economic policy is formulated in bland disregard of the human incentives upon which the economy relies. Instead it is based on the Keynesian assumption that the gross national product (GNP) and employment are determined only by the level of aggregate demand or total spending in the economy. Unemployment and low rates of economic growth are seen as evidence of insufficient spending. The standard remedy is for government to increase total spending by incurring a deficit in its budget. GNP, it is believed, will then rise by some multiple of the increase in spending. Keynesian economics focuses on estimating the "spending gap" and the "multiplier" so that the necessary deficit can be calculated.

This view of economic policy is enshrined in the large-scale econometric forecasting models upon which both Congress and the Executive Branch rely for simulations of economic policy alternatives. It is a view that is extraordinary in its emphasis on spending. True, it is obvious that if people did not buy, no one would produce for market. It also seems obvious that the more people buy, the more will be produced and, therefore, that the use of government fiscal policy to increase total demand will increase total production or GNP. All this is so obvious to Keynesians that they believe any fiscal policy that produces an increase in government spending, even a spending increase matched by a tax increase, will produce an increase in GNP.

The concept of the "balanced-budget multiplier" illustrates the primacy that Keynesians give to spending as the determinant of production. According to this concept, government can increase total spending and, thereby, GNP by raising taxes and spending the revenues. The reasoning is as follows. People do not pay the higher taxes only by reducing their spending (consumption); they also reduce their savings. Therefore, when taxes are raised, the decrease in private spending is less than the increase in government spending. Conversely, a cut in tax rates, matched by a decrease in government spending, would result in a reduction in total spending (i.e., saving would increase), a fall in GNP, and a rise in unemployment.

For years after the 1964 Presidential election, college students were asked a standard question on economic exams: "What would happen if Barry Goldwater's prescription for a tax cut, matched by a spending cut, were implemented? They missed the answer if they did not reply that there would be a reduction in aggregate demand and, therefore, a fall in GNP and employment. Alas, for too many policy markers that is still the answer.

Since the "balanced-budget multiplier" implies that the greater the increase in taxes and in government spending, the greater the increase in GNP, it is a wonder no one ever asked what happens to production as tax rates rise. This question confronts economic policy with the incentive effects it has disregarded. It should be obvious even to Keynesians that when marginal tax rates are high, people will prefer additional leisure to additional current income, and additional current consumption to additional future income. As work effort and investment decline, production will fall, regardless of how great an increase there might be in aggregate demand. Such a recognition of disincentives implies a recognition of incentives, and Keynesians are gradually having to rethink the answer to their standard question about Barry Goldwater. Once one recognizes that people produce and invest for income, and that income depends on tax rates, one has reached the realization that fiscal policy causes changes not just in demand but also in supply.

THE ECONOMICS OF SUPPLY

The economics of spending has thoroughly neglected the economics of supply. On the supply side there are two important relative prices governing production. One price determines the choice between additional current income and leisure; the other determines the choice between additional future income (investment) and current consumption. Both prices are affected by the marginal tax rates. The higher the tax rates on earnings, the lower the cost of leisure and current consumption, in terms of foregone after-tax income.

As an illustration, consider the decision to produce. There are two uses of time—work and leisure. Each use has a price relative to the other. The price of additional leisure is the amount of income foregone by not working, and it is influenced by the tax rates. The higher the tax rates, the smaller the amount of after-tax income foregone by enjoying additional leisure. In other words, the higher the tax rates, the lower the relative price of leisure. When the marginal tax rate reaches 100 percent, the relative price of additional leisure becomes zero. At that point, additional leisure becomes a free good, because nothing has to be sacrificed in order to acquire it.

We often hear that a person works the first five months of the year for the government, and then starts working for himself. But that is not the way it goes. The first part of the year, he works for himself; he only begins working for the government when his income reaches taxable levels. The more he earns, the more he works for the government, until rising marginal rates discourage him from further work.

Take the case of a physician who encounters the 50-percent rate after six, eight, or 10 months of work. He is faced with working another six, four, or two months for only 50 percent of his earnings. Such a low after-

tax return on their efforts encourages doctors to share practices, to reduce their working hours, and to take longer vacations. The high tax rates thus shrink the tax base by discouraging them from earning additional amounts of taxable income. They also drive up the cost of medical care by reducing the supply of medical services. A tax-rate reduction would raise the relative price of leisure and result in more taxable income earned and also in a greater supply of medical services.

The effect of tax rates on the decision to earn additional taxable income is not limited to physicians or to the top tax bracket; it operates across the spectrum of tax brackets. Studies by Martin Feldstein show that the tax rates on the average worker practically eliminate the gap between his after-tax-take-home pay and the level of untaxed unemployment compensation he could be receiving if he did not work. In this case, a marginal tax rate of 30 percent (including state and Federal income taxes and Social Security taxes) reduces the relative price of leisure so much that, by making unemployment competitive with work, it has raised the measured rate of unemployment by 1.25 percent and shrunk GNP and the tax base by the lost production of one million workers.

It is useful to give another example to illustrate that it is not just the top marginal rate that causes losses to GNP, employment, and tax revenues by discouraging people from earning additional taxable income. Blue-collar workers do not yet encounter the top marginal tax rate (although if inflation continues to push up money incomes, and the tax-rate structure remains unadjusted for inflation, it will not be many years before they do). Nevertheless, the marginal tax rates that many blue-collar workers already face are high enough to discourage them from earning additional taxable income. Take the case of a carpenter facing only a 25-percent marginal tax rate. For every additional $100 he earns before income tax, he gets to keep $75. Suppose that his house needs painting and that he can hire a painter for $80 a day and hire himself out for $100 a day. However, since his after-tax earnings are only $75, he saves $5 by painting his own house, so it pays him to choose not to earn the additional $100. In this case, the tax base shrinks by $180—of which $100 is the foregone earnings of the carpenter, and $80 is the lost earnings of the painter who is not hired. (Also, the productive efficiency associated with the division of labor vanishes.)

Suppose, instead, that the marginal tax rate on additional earnings by the carpenter were reduced to 15 percent. In this case, his after-tax earnings would be $85, and it would pay him to hire the painter. The reduction in the marginal tax rate would thus expand the tax base upon which revenues are collected by $180.

Studies by Gary Becker have made it clear that capital and labor are employed by households to produce utility through non-market activities (e.g., a carpenter painting his own house). Utility produced in this way is not purchased with income subject to taxation. Therefore, the amount of household-owned capital and labor supplied in the market will be influenced by marginal tax rates. The lower the after-tax income earned by supplying additional labor and capital in the market, the less the utility that the additional income can provide, and the more likely it is that households can increase their utility by allocating their productive resources to non-market activities. A clear implication of the new household economics is that *the amount of labor and capital supplied in the market is influenced by the marginal tax rates.*

Now consider how relative prices affect the choice concerning the use of income. There are two uses of income, consumption and saving (investment), and each has a price in terms of the other. The price of additional current consumption is the amount of future income foregone by enjoying additional current consumption. The higher the tax rates, the smaller the amount of after-tax future income foregone by enjoying additional current consumption. In other words, the higher the tax rates, the lower the relative price of current consumption.

Take the case of an Englishman facing the 98-percent marginal tax rate on investment income. He has the choice of saving $50,000 at a 17-percent rate of return, which would bring him $8,500 per year before taxes, or purchasing a Rolls Royce. Since the after-tax value of that $8,500 additional income is only $170 per year, the price of additional consumption is very low: He can enjoy having a fine motor car by giving up only $170 per year of additional income. This is why so many Rolls Royces are seen in England today. They are mistaken for signs of prosperity, whereas in fact they are signs of high tax rates on investment income.

A tax-rate reduction would raise the price of current consumption relative to future income, and thus result in more savings, making possible a growth in real investment. A rate reduction not only increases disposable income and total spending, it *also changes the composition of total spending toward more investment.* Thus, labor productivity, employment, and real GNP are raised above the levels that would result from the same amount of total spending more heavily weighted toward current consumption.

TAX CUTS AND REBATES

The econometric models upon which the government relies for simulations of policy alternatives do not take into account these supply-side effects on GNP of these relative price changes. Consider the alternatives faced by the Keynesian policy maker who wants "to get the economy moving again." His goal is to increase aggregate demand or total spending. How can he do this? He has the choice between the balanced-budget multiplier (i.e., increasing both taxes and government spending) or a deficit. He will discard the balanced-budget multiplier, because it is relatively weak and deficits are more politically acceptable than legislating higher tax rates. Having settled on a deficit, he has to choose how to produce it. He can hold tax revenues constant and increase government spending, or he can hold government spending constant and cut tax revenues. In the latter case, he has a choice between rebates and permanent reductions in tax rates. Wanting the most stimulus for his deficit dollar, he will ask for econometric simulations of his three policy alternatives: a tax rebate, a tax rate reduction, or an increase in government spending programs.

The simulations, all based on Keynesian assumptions, will show that a revenue reduction of a given amount, whether in the form of a rebate of personal income taxes or a reduction in personal-income-tax rates, will raise disposable income—and thereby spending and GNP—by the same amount. The policy maker may prefer the rebate for reasons of "flexibility." The spending stimulus may not be required in the following year, and, if it is, he has the option of providing it either by another rebate or by an increase in government spending programs. But on the basis of the econometric simulation, he will be indifferent as to the choice between rebates or rate reductions. As for his third option, an increase in government spending programs, the simulation may report that, dollar for dollar, an increase in government purchases (as contrasted with transfers) will have a more powerful impact on GNP because the government spends all of the money, whereas if it is returned to consumers they will save part of it. Based on the econometric simulation of his alternatives, he will conclude that there is no compelling economic reason in favor of any of the three, and he will make his choice on a political basis.

But the econometric models have misled the policy maker. Unlike a reduction in personal-income-tax rates, a rebate affects no individual choice at the margin. It does not change the relative prices governing the choices between additional current income and leisure or between additional future income and current consumption. It does not raise the relative prices of leisure and current consumption. Therefore, a rebate directly stimulates neither work nor investment. For any given revenue reduction, a rebate cannot cause as great an increase in GNP as a rate reduction, because it does not affect the choices that would cause people to allocate more time and more income to increasing production for the market.

An increase in government spending fares no better by comparison, and may fare even worse. It too fails to raise the after-tax rewards for work and investment. Furthermore, it increases the percentage of total resources used in the government sector. If the government sector uses resources less efficiently than the private sector, as seems to be the case, the result is a decline in the efficiency with which resources are used—which means GNP would be less than it otherwise would be. Yet the econometric simulations of the policy maker's alternatives will pick up none of the incentive and disincentive effects of these relative price changes. Instead, they focus on the effects of these alternatives on disposable income and on spending.

There are a number of adverse consequences of this extraordinary preoccupation with spending. One is that *the models exaggerate the net tax-revenue losses that result from cutting tax rates.* The only "feedback effect" on the tax base and tax revenues that they provide for is the expansion of GNP in response to an increase in demand. They do not provide for the expansion in GNP that results from higher after-tax rewards for work and investment. The supply-side "feedback effects" are ignored. Similarly, revenue gains from tax-rate increases will be overestimated, because the disincentive effects are left out.

A second consequence follows from the popular misidentification of a tax rebate as a tax cut, and from a similar tendency on the part of most policy makers to see rebates and rate cuts as variations of the same policy instrument. If Milton Friedman is correct that personal consumption is a function of *permanent* income, a temporary rebate has little impact even on spending. Thus, on the basis of experience with rebates, tax cuts per se might come to be seen as relatively ineffectual, leaving the field open to proponents of government spending programs.

A third consequence is that the true effects of large tax increases (such as the proposed energy taxes, or the $227-billion increase in the Social Security tax over the next decade) will not be accurately calculated. Policy makers see these tax increases as withdrawals from disposable income and spending, and their only concern is "to put money back" into spending so that aggregate demand does not fall. However, these tax increases change the *relative* prices and incentives of leisure and work, consumption and investment. They produce resource reallocations that have adverse implications for employment and the rate of economic growth. Yet the econometric models, as now constructed, flash no warning lights.

Consider what Arthur Laffer, in the *Wall Street Journal,* has called the "tax wedge." The Social Security tax increase provides a good example of this phenomenon. It is a tax on employment, and, as economists

should know, a tax on employment will reduce employment. The employer's decision to hire is based on the gross cost to him of an employee. The employee's decision to work is based on his after-tax pay. We know that the higher the price, the less the quantity demanded, and the lower the price, the less the quantity supplied. The Social Security tax both raises the price to the demander and lowers it to the supplier. By increasing the Social Security tax, policy makers reduced both job opportunities and the inclination to work.[1] They raised the cost of labor relative to capital for the employer, and they narrowed the gap between unemployment compensation and after-tax takehome pay for a wider range of workers. Since the revenues available for paying Social Security benefits depend on both the tax rates and the number of people paying into the system, the increase in rates will be offset to some degree by a decrease in the number of people paying into the system. It is hard to see how the Social Security system can be saved by decreasing employment, or how increasing the demand for unemployment compensation is likely to free general revenues for Social Security benefits.

"CROWDING OUT" INVESTMENT

There are at least two other important points on which economic policy is misinformed by the neglect of incentives and of choices made at the margin. One is the impact on GNP of reductions in the corporate-income-tax rate, and the other is the controversy over whether government fiscal policy "crowds out" private investment.

Simulations run by the Congressional Budget Office and the House Budget Committee on two of the three large-scale commercial econometric models show *declines* in GNP as a result of reductions in corporate-tax rates. In one of the models, corporate investment did not depend on after-tax profits in a very strong way, but was very sensitive to changes in interest rates. Since interest rates rise as the Treasury increases its borrowing to finance the deficit resulting from the tax cut, investment falls, and *the model predicted a decline in GNP as the result of a tax-rate reduction that increased the profitability of investment.*[2]

The other model predicted that a corporate-tax-rate reduction would slightly raise real GNP after a lag of a couple of quarters, but it predicted a lower nominal GNP for two years. Nominal GNP declined because the corporate-tax-rate reduction reduced the user cost of capital, the price mark-up, and thereby the inflation rate, thus lowering the nominal price level.

To the extent that Keynesians think about the "crowding out" of private investment by fiscal policy, it is in terms of upward pressure on interest rates as a result of government borrowing to finance budget deficits. They do not realize that *investment is crowded out by taxation, regardless of whether the budget is in balance.* To understand how, consider the following example. Suppose that a 10-percent rate of return must be earned if an investment is to be undertaken. In the event that government imposes a 50-percent tax rate on investment income, investments earning 10 percent will no longer be undertaken. Only investments earning 20 percent before tax will return 10 percent after tax. Taxation crowds out investment by reducing the number of profitable investments. When tax rates are reduced, after-tax rates of return rise, and the number of profitable investments increases.

So "crowding out" cannot be correctly analyzed merely in terms of events in the financial markets: "Crowding out" occurs in terms of real output. It is the preempting of production capacity by government outlays, regardless of whether these outlays are financed by taxing, borrowing, or money creation.

RESPONDING TO INCENTIVES

A concern with the supply-side effects of fiscal policy is incompatible with the concept of economic policy that currently reigns in the Congress and in the Executive Branch. Members of the House Budget Committee asked Alice Rivlin, Director of the Congressional Budget Office, and Bert Lance, then Director of the Office of Management and Budget, about the neglect of the incentive effects of tax-rate changes on supply and also about the econometric predictions that GNP would fall in response to a reduction in corporate tax rates.

Dr. Rivlin said that she and her staff had been "particularly troubled" by model findings that GNP declines if corporate tax rates are reduced. However, she went on to say:

"Studies have generally found that tax-rate changes are less important than changes in the cost of capital and changes in levels of national output in influencing the level of investment. It follows that an investment tax credit or liberalized depreciation will increase investment more than a corporate-tax-rate reduction of equivalent revenue loss. While we do not believe that corporate-tax-rate cuts reduce investment, it would not be surprising to find that tax cuts had only a minor expansionary effect."

The OMB staff reply to this question was ambiguous.

Both CBO and OMB realized that the question about incentive effects most fundamentally challenged their concept of economic policy. The comments of Rivlin, Lance, and the OMB staff all unequivocally acknowledged that the econometric models upon which they rely for guidance in the choice of economic policy alternatives do not include any relative price effects of changes in personal-income-tax rates. However, since they believe that the performance of the economy is a function of spending levels, not of production incentives, they expressed no concern over this neglect. They said that economic theory and empirical studies leave it unclear whether the neglected supply-side effects are important; regardless of how the issue is resolved, they questioned the practical importance of supply incentives for short-run policy analysis.

There are two parts to this argument. One is that it is unclear whether lowering personal-income-tax rates will increase or reduce work effort. The other is that it is unclear whether any incentive effects on work effort and investment would show up as quantitatively important in a short-run policy framework. The first proposition questions the existence of the incentive effects; the second question is whether they would be effective in time to deal with an immediate problem of economic stabilization.

It is easy to dispose of the latter point. The long-run consists of a series of short-runs. If policies that are effective over a longer period are neglected because they do not have an immediate impact, and if policies that are damaging over the longer period are adopted because they initially have beneficial results, then policy makers will inevitably come to experience, sometime in the future, a period when they will have no solution for the crisis they have provoked. In the United States, that future might be now.

As for the first point, Rivlin acknowledged that a personal-income-tax-rate reduction raises the relative price of leisure, and that work effort will increase as people substitute income for leisure. This is known in economics as the "substitution effect," and it works to increase supply. However, Rivlin also said:

"It is also theoretically arguable that when a tax cut provides people with more after-tax income, many of them will reduce effort through what is called the income effect. For most people, leisure has some positive value, and it may even be a 'luxury' good; these people could respond to a tax reduction by reducing their working hours, benefiting from more leisure time and still maintaining their after-tax income. For other people who like their work, there may be little or no labor supply response to the income or the substitution effect. In much of the United States economy, work weeks are fixed, leaving little possibility for individuals to make marginal adjustments in hours of work."

In other words, CBO believes that the "income effect" works to decrease supply.

Rivlin then went on to say that it was an empirical question whether the "income effect" offset the "substitution effect," referred to a narrow range of studies that left the question unresolved, and concluded: "In the range of policy options that we have been dealing with, I think the assumption that changes in marginal tax rates have no quantitatively significant effect on labor supply is quite plausible."

But the concept of a targeted or desired level of income unaffected by the cost of acquiring such income is foreign to the price-theoretical perspective of economic science. Rivlin's idea that people respond to a cut in income-tax rates by maintaining their existing income levels while enjoying more leisure implies that, if their tax rates went up, they would work harder in order to maintain their desired income level. Lester Thurow has actually employed this reasoning to argue for a wealth tax. According to Thurow, a wealth tax is a costless way to raise revenues because the "income effect" runs counter to and dominates the "substitution effect." He assumes that people have a targeted level of wealth, irrespective of the cost of acquiring it. Therefore, he says, a tax on wealth will cause people to work harder in order to maintain, after tax, their desired wealth level.

Note the perverse ways in which people respond to incentives and disincentives according to the Rivlin-Thurow line of argument: When tax rates go down and the relative price of leisure rises, people demand more leisure; when tax rates go up and the relative price of leisure falls, people demand less leisure. In economics, any time the "income effect" works counter to the "substitution effect," we have the relatively rare case of what is called an "inferior good" (i.e., people purchase less of it as their income rises). Since income is command over all goods, Rivlin's argument implies that all goods are inferior goods: A tax cut will cause people to purchase only more leisure, not more income (i.e., goods). What kind of people are these? Well, the only kind of people who fit this kind of economic analysis are people who respond to a monetary incentive in perverse ways.

Perhaps Rivlin merely meant to say that lower tax rates would allow people to have a little more income for a little less work. Even so, as long as she maintains that the "income effect" works counter to the "substitution effect," her argument carries the implication that goods in general are inferior.

A PERVERSE LOGIC

Whatever the weight one assigns this point, there is a more fundamental defect in her argument. Notice the stunning inconsistency: People respond to a tax-rate reduction by reducing their working hours . . . and still maintaining their after-tax income." But it is impossible for people *in the aggregate* to reduce their work effort and maintain the same level of *aggregate* real income! If people respond to tax cuts by working less,

real GNP would fall, and it would be impossible to increase real disposable income, spending, and demand in the aggregate. Rivlin's argument is directed against the effectiveness of incentives in raising aggregate output, but if she were correct, it would mean that Keynesian fiscal policy also is ineffective!

The fatal error in the Rivlin-Thurow argument can be put this way: It derives from trying to aggregate a series of partial equilibrium analyses (individual responses to a change in relative prices) and, in the aggregate, ignoring the *general* equilibrium effects.

There are various ways a non-economist can grasp this point. Assume that the government cuts taxes and maintains a balanced budget by reducing spending. In this case, the higher income accorded the taxpayers whose rates are reduced must be matched by a negative impact on the incomes of recipients of government spending. Some or all of these may be the same people. Assume, for example, that both the tax burden and government spending are evenly distributed. In this case the "income effect" (the substitution of leisure for work) "nets out" for each individual. Since the aggregate income effect is zero, it cannot offset the "substitution effect" (the substitution of work for leisure).

If taxes are cut and government spending is unchanged (resulting in a budget deficit), the nominal disposable income of taxpayers as a group will rise relative to the nominal disposable income of the recipients of government spending as a group. The former will be able to bid real resources away from the latter. The real income gains of the former will be matched by the real income losses of the latter. Since the bidding will raise prices, the real income loss might be suffered by individuals who hold money. Regardless of who loses and who gains, the individual income effects "net out," leaving only the "substitution effects," which unambiguously increase work effort.

There can be no aggregate "income effect" unless the impact of incentives is to raise real aggregate income. Economic theory makes it perfectly clear that a tax-rate reduction will increase work effort and total output.

In the final analysis, Rivlin's argument is not that the supply-side incentive effects are unimportant, but the equally false argument that their impact is perverse—that is, only a tax-rate *increase* can produce a rise in real national income! She may not actually believe any such thing, of course—but that is where her reasoning leads her.

FROM ECONOMICS TO POLITICS

An economist might see the flaw in the Rivlin-Thurow argument, but it is not obvious to politicians. Take something simple, like Rivlin's assertion that a fixed work-week precludes adjustment of the labor supply to tax-rate changes. To an economist her assertion is obviously false, but to the politician it sounds reasonable enough. He will not realize that the "adjustments" will be reflected in absenteeism rates, turnover rates, the average duration of unemployment, labor negotiations for shorter work-weeks and more paid vacations rather than higher wages, and in the quality and intensity of work. Nor will he think of the entrepreneur who, because of high tax rates, loses his incentive to innovate—to make the economy itself (all of us) more productive.

Besides, one has to have an idealistic view of government to believe that politicians even want to know. The Keynesian concept of the economy is that of an unstable private sector that must be stabilized by fiscal and monetary policies of the government. This view has served as a ramp for the expansion of the interests of government. It has also served the interests of economists by transforming them from ivory-tower denizens to public-spirited social activists, a transformation which has much increased their power and enlivened their life styles. Unemployment can always be said to be too high. And the rate of economic growth can always be found to be below "potential." This means that there is always a "scientific" economic reason for expanding government spending programs that enlarge the constituencies of the Congress and of the Federal bureaucracy. From the standpoint of the private interests of policy makers, Keynesian economic policy will always be judged a success.

To write about all of the problems of econometrics and economic policy would require a book, not an article, but one other important problem must be mentioned in closing. Professor Robert Lucas has demonstrated that the standard econometric models assume that the structure of the economy remains invariant under wide variations in policy paths. What this means is that the models assume that people do not learn. But people do learn, and their expectations change as they experience various policies: They may not repeat the same behavior in response to the same policy at different times. Therefore, the policy simulation may always misinform the policy makers. This is not an optimistic note on which to end an article about public policy in a country that believes we need a great deal of it. But our faith in public policy has exceeded our knowledge, and we will find out that, in this area, there is no such thing as free faith.

FOOTNOTES

[1] Theoretically, the effect on work effort depends on the present value of the Social Security benefits and taxes. If the increased tax means increased future benefits, the employee's work decision will take into account his increased future income, as well as his reduced current income. However, the recent changes in the Social Security law raised taxes and reduced benefits as a proportion of pay before retirement. As the *Wall Street Journal* put it, "the extra money will go to pay people now or soon to be on the retirement rolls, not to finance your own high living in the 21st century" (February 6, 1978).

[2] According to staff in the Office of Management and Budget, there have recently been changes in the model, but one can still get the perverse result because a reduction in the tax rate directly and substantially reduces multi-unit housing starts.●

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## EXECUTIVE BRANCH SHOULD ADVISE CONGRESS ON PROGRESS OF LAW OF THE SEA NEGOTIATIONS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, I believe we need a straightforward congressional oversight initiative requiring the executive branch to keep Congress apprised, on a timely basis, of what is transpiring at the ongoing Law of the Sea negotiations. The talks are exceedingly complex and cover a wide variety of topics. For Congress to practice meaningful oversight over these talks—and exercise its mutually shared responsibility with the executive branch to see to it that the national interest is being fully protected—it is imperative that we gather as much information as we can on the significant issues being debated at the Law of the Sea Conference.

It is essential that we get that kind of information and be in a position to evaluate intelligently the merits of treaty proposals—many of which impact heavily upon the future security of this Nation.

I believe that it is in the national interest of the United States to have access to hard mineral resources which is independent of the export policies of foreign countries. On account of such national interest, and on account of the responsibility of both the Congress and the executive branch to assure that any proposed provisions for inclusion in an international agreement which are made or accepted by the United States are in accordance with such national interests, it follows that the U.S. Ambassador to the Conference on the Law of the Sea should report to the Congress, on a timely basis or upon the request of an appropriate committee of the Congress, with respect to any proposed provisions made at such conference for inclusion in an international agreement.

We must know of the access of the United States or of U.S. citizens to the hard mineral resources of the deep seabed, including the extent to which U.S. citizens would be required to operate foreign ships and foreign processing plants as a condition of access to such resources.

We should know the degree to which provisions in such international agreement might impair the security of supply of the United States of hard mineral resources of the deep seabed.

We should know the voting rights and the status of the United States in a proposed International Seabed Authority, particularly with respect to policy decisions and decisions concerning the award, suspension, or termination of contracts to U.S. citizens.

What about the control of production or prices of minerals found in the deep seabed, including hydrocarbons?

What about the ability of the United States and of U.S. citizens to appeal final decisions of the proposed International Seabed Authority to a fair and impartial body for the settlement of disputes?

Another dispute is the transfer of technology among countries which may be required by the proposed International Seabed Authority.

What about proposals for taxation of or other methods of collecting revenue from U.S. citizens by the proposed International Seabed Authority?

What about obligations of the United States to make contributions to the proposed International Seabed Authority and its mining operations?

To sum it up, Mr. Speaker, I believe it is important that the executive branch consistently, fully, and properly report to the Congress on developments affecting deep seabed mining. This would be in the long-term interests of American capital that must be marshaled for this effort, our basic national interest, and above all, the interests of the American consumer who must not be forgotten at this point.●

## PANAMA URGES UNITED STATES TO GIVE UP GUANTANAMO NAVAL BASE IN CUBA

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, for the military and naval protection of the Caribbean, there are three strategic points in its defense triangle: the U.S. Naval Base at Guantanamo, Cuba, the naval facilities in Puerto Rico, and the Panama Canal. Aside from the huge investments required for their acquisition, construction and development, their importance for hemispheric security has been, and still is, recognized by renowned strategists, historians, and geo-politicians.

In the course of my addresses over many years in the Congress on Isthmian Canal and related policy questions, I have made various predictions that later eventuated along the lines outlined. Whatever satisfactions there may have been in having been right are, indeed, sterile ones. (H. Doc. No. 474, 89th Congress and subsequent addresses.)

Among those predictions repeatedly made was that giving up U.S. sovereign control over the U.S. Canal Zone would inevitably lead to demands for the surrender of the U.S. Naval Base in Guantanamo. Cuba, and to the loss of Puerto Rico, both of which would be major steps in making the Caribbean a Red lake.

The latest news from the isthmus is that the pro-Soviet Revolutionary Government of Panama, now exulting over its recent treaty victory in the U.S. Senate, has called upon the United States, in a formal policy document, to "give up" its Guantanamo Naval Base and to bring about self-determination for Puerto Rico.

To such demands, I would say that the time has come for the United States to stop cringing before threats of any kind and to act the part of a great power, especially in the Caribbean.

In this connection, I would invite the attention of all Members of the Congress to the momentous address on June 10, 1978, by former President Arnulfo Arias to the people of Panama upon his return to his homeland after nearly 10 years of exile. In that speech, he warned of the "great battle that began in the Middle East, is underway in Africa, and now menaces Nicaragua, El Salvador, and Panama," with increasing use of force and threats on Central American coasts. (CONGRESSIONAL RECORD, July 19, 1978, page 21815; July 20, page 22077; and July 25, page 22696; contain the full text of the Arias address.)

Mr. Speaker, because the Associated Press dispatch upon which much of the foregoing remarks are based, as published in the Washington Star, and an editorial in Human Events should be of high interest to all Members of the Congress as well as to the Nation at large, I quote both as parts of my remarks:

[From the Washington Star, July 20, 1978]

PANAMA URGES U.S. TO QUIT GUANTANAMO

PANAMA CITY, PANAMA.—Panama called yesterday for the United States to give up its Guantanamo naval base in Cuba, self-determination for Puerto Rico and return of all occupied Arab lands by Israel.

The government made the points in a 14-page document intended to lay the basis for its future foreign policy.

"The centerpiece of our foreign policy has been the canal. Now that an agreement has been reached with the United States, we felt we needed to redefine our foreign policy," Foreign Minister Nicolas Gonzalez Revilla said in an interview.

The document also supports respect for human rights and condemns all intervention in the affairs of other nations. Gonzalez Revilla said it "also recognizes Panamanian support of some independence struggles that exist in the world."

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[From Human Events, July 29, 1978]

PANAMA KNIFES U.S.

Remember when the State Department and all those who favored giving the Panama Canal to Panama suggested that such a gesture would buy their friendship? Well, last week the Panamanian government called for the U.S. to give up its Guantanamo naval base in Cuba and give self-determination to Puerto Rico (as if it didn't have it). The Torrijos government also asked Israel to yield all occupied Arab lands.

The points were made in a 14-page document intended to lay the groundwork for a future foreign policy. "The centerpiece of our foreign policy has been the canal," noted Foreign Minister Nicolas Gonzalez Revilla. "Now that an agreement has been reached with the United States, we felt we needed to redefine our foreign policy." Apparently, it is redefining it against the U.S.●

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## LAW OF THE SEA NEGOTIATIONS AND THE DEEP SEABED MINING BILL

The SPEAKER. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

● Mrs. MEYNER. Mr. Speaker, I am deeply concerned about the implications of H.R. 12988, the substitute Deep Seabed Hard Minerals Resources Act, for the Law of the Sea Conference, which will be convening again next month. I share the dismay of many observers at the slow pace of the negotiations. I understand the reasoning of Ambassador Elliot Richardson and others that passage, or at least consideration, of this measure could help to quicken the Conference's deliberations.

However, I feel that this bill could have a destructive effect on those important negotiations. The difficulties that the diplomats have encountered are understandable; they are attempting to reach a consensus on what kind of legal regime to establish over two-thirds of the surface of the globe. It would be tragic if the chances for success were to be scuttled by our haste to underwrite exploitation of the seabed.

Clearly, the final form of this bill matters a great deal. I urge my colleagues in Congress and the President to evaluate all of the provisions of this bill with regard to their potential effect on the Law of the Sea negotiations. The oceans are indeed the "common heritage of mankind." We must act in that spirit. I urge a vote against H.R. 12988.●

## LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. RISENHOOVER (at the request of Mr. WRIGHT), until 10:30 a.m. today, on account of official business.

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## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. ANDERSON of Illinois, for 1 hour, today.

Mr. ROUSSELOT, for 30 minutes, today.

Mr. KEMP, for 20 minutes, today.

Mr. DERWINSKI, for 5 minutes, today.

(The following Members (at the request of Mr. TUCKER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mrs. MEYNER, for 5 minutes, today.

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## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KEMP, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $821, on the subject of his special order today.

Mr. VANIK, to extend his remarks preceding the vote on Murphy of New York documentation amendment.

(The following Members (at the request of Mr. HANSEN) and to include extraneous material:)

Mr. RHODES in two instances.

Mr. GILMAN.

Mr. DERWINSKI in two instances.

Mr. WAMPLER in two instances.

Mr. ANDERSON of Illinois.

Mr. STEERS in four instances.

Mr. HYDE.

Mr. CARTER in 11 instances.

Mr. FINDLEY.

Mr. MICHEL.

Mr. COHEN.

Mr. KEMP.

Mr. PRESSLER in two instances.

Mr. ASHBROOK in three instances.

(The following Members (at the request of Mr. TUCKER) and to include extraneous matter:)

Mr. LONG of Maryland in two instances.

Mr. DODD.

Mr. EDWARDS of California in two instances.

Mr. MCHUGH.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BOLLING.
Mr. LEGGETT.
Mr. HAMILTON.
Mr. VANIK.
Mr. CAVANAUGH in two instances.
Mr. RODINO.
Mr. LAFALCE.
Ms. HOLTZMAN.
Mr. ROSE.
Mr. APPLEGATE.
Mr. BYRON.
Mr. BRECKINRIDGE in two instances.
Mr. MILLER of California.
Mr. HOWARD.
Mr. AUCOIN in two instances.
Mr. MCDONALD.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3153. An act to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes; to the Committee on Interior and Insular Affairs.

## ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11877. An act to authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act.

## BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On July 24, 1978:

H.R. 1751. For the relief of Lucy Davao Jara Graham;

H.R. 2555. For the relief of Michelle Lagrosa Sese;

H.R. 2945. For the relief of Mrs. Amelia Doria Nicholson;

H.R. 3995. For the relief of Habib Haddad;

H.R. 4607. For the relief of William Mok;

H.R. 5928. For the relief of Miss Coralia Raposo;

H.R. 11504. To amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranchers, extend the Emergency Livestock Credit Act of 1974, and for other purposes; and

H.J. Res. 945. Making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.

On July 25, 1978:

H.R. 1420. For the relief of Umberto Ruffolo;

H.R. 10569. To amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such act, and for other purposes;

H.R. 12933. Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 1024. Making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.

## ADJOURNMENT

Mr. TUCKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 9 minutes p.m.), the House adjourned until Thursday, July 27, 1978, at 10 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4646. A letter from the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations), transmitting a draft of proposed legislation to further amend the act of August 29, 1974 (Public Law 93–397), as amended (10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force; to the Committee on Armed Services.

4647. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the quarter ended June 30, 1978, pursuant to Public Law 90–390; to the Committee on Banking, Finance and Urban Affairs.

4648. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–232, "To authorize the expenditure of funds by Council Members for official purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4649. A letter from the Chairman and the members, Federal Election Commission, urging action to exempt the Commission and its staff from collective bargaining with, and representation of employees by, labor unions which maintain political action committees or which endorse or support Federal candidates; to the Committee on House Administration.

4650. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting notice of the Commission's intention to begin reporting incidents of medical maladministration of nuclear byproduct material in the quarterly report on abnormal occurrences required by section 208 of the Energy Reorganization Act of 1974; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

4651. A letter from the Director, Defense Security Assistance Agency, transmitting notice of Navy's intention to offer to sell certain defense equipment to the United Kingdom (transmittal No. 78–65), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4652. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to the United Kingdom (transmittal No. 78–65), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DODD: Committee on Rules. House Resolution 1286. Resolution providing for the consideration of H.R. 12514. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes (Rept. No. 95–1392). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1287. Resolution providing for the consideration of H.R. 9486. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement (Rept. No. 95–1393). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1288. Resolution providing for the consideration of H.R. 11711. A bill to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974 (Rept. No. 95–1394). Referred to the House Calendar.

Mr. RODINO: Committee on the Judiciary. H.R. 10965. A bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation"; with amendment (Rept. No. 95–1395). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. House Resolution 1201. Resolution to disapprove Reorganization Plan No. 2 transmitted by the President on May 23, 1978 (Rept. No. 95–1396). Referred to the Committee of the Whole House on the State of the Union.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 11942. A bill to restore effective enforcement of the antitrust laws (Rept. No. 95–1397, pt. I). Referred to the Committee on International Relations for a period ending not later than August 11, 1978, for consideration of such provisions in section 3 of said bill and amendment as fall within the jurisdiction of that committee under clause 1(k), rule X.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARR:

H.R. 13602. A bill to provide that motor vehicle stickers issued by any State to provide special parking rights for the handicapped shall be honored in the District of Columbia in the same manner as any such motor vehicle sticker issued by the government of the District of Columbia; to the Committee on the District of Columbia.

By Mr. DOWNEY (for himself, Mr. BEDELL, Mr. CARR, Mr. CORNWELL, Mr. DRINAN, Mr. EDGAR, Mr. EILBERG, Mr. FITHIAN, Mr. HANNAFORD, Mr. HUGHES, Mr. LAFALCE, Mr. PANETTA, Mr. PIKE, Mr. STARK, and Mr. WHITLEY):

H.R. 13603. A bill to amend chapter 5 of title 37, United States Code, to review the special pay structure relating to medical officers of the uniformed services; to the Committee on Armed Services.

By Mr. EDWARDS of Alabama (for himself and Mr. STOKES):

H.R. 13604. A bill to amend the Railroad Retirement Act of 1974 to provide spouses' and widows' benefits for certain divorced persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FUQUA:

H.R. 13605. A bill to amend title XVI of the Social Security Act to provide that SSI benefits which are due an individual who dies without leaving an eligible spouse shall be paid to the person or persons who paid the expenses of such individual's last illness and burial; to the Committee on Ways and Means.

By Mr. HORTON (for himself, Mr. FARY, Mr. FISH, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. MURPHY of Pennsylvania, Mr. PEPPER, Mr. ROE, Mr. PATTERSON of California, Mr. YOUNG of Florida, and Mr. WINN):

H.R. 13606. A bill to amend title 39 of the United States Code for the purpose of establishing a new procedure for fixing rates and classes of mail, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KASTENMEIER:

H.R. 13607. A bill to amend title 28, United States Code, to provide for the holding of court for the Southern District of New York in White Plains, N.Y., to provide for the holding of court for the Western District of Pennsylvania in Johnstown, Pa., and further, to establish a Lufkin Division in the Eastern District of Texas, and for other purposes; to the Committee on the Judiciary.

By Mr. LENT:

H.R. 13608. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mrs. SPELLMAN (for herself, Mr. BENJAMIN, Mr. BRODHEAD, Mr. EVANS of Georgia, Mr. GIAIMO, Mr. HANSEN, Mr. HEFTEL, Mr. HUGHES, Mr. JACOBS, Mr. JENRETTE, Mr. MANN, Mr. PREYER, Mr. ROONEY, and Mr. STARK):

H.R. 13609. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STEIGER (for himself, Mr. CONABLE, and Mr. MIKVA):

H.R. 13610. A bill to suspend the duty on freight cars until the close of June 30, 1980; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. CARTER, Mr. MADIGAN, and Ms. MIKULSKI):

H.R. 13611. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MAHON:

H.J. Res. 1088. Joint resolution providing financial assistance for the city of New York; to the Committee on Appropriations.

By Mr. CLEVELAND (for himself and Mr. D'AMOURS):

H. Con. Res. 671. Concurrent resolution expressing the sense of Congress that all remaining proceedings with respect to the Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

522. The SPEAKER presented a petition of Sam D. Rains, Austin, Tex., relative to the Internal Revenue Service, which was referred to the Committee on Ways and Means.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12005

By Mr. COLLINS of Texas:

—Page 14, line 18, add the following new section:

"SEC. 28. No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

# EXTENSIONS OF REMARKS

## A TIP ON INFLATION FIGHTING

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. EDWARDS of California. Mr. Speaker, a recent Los Angeles Times editorial explored the possible benefits of an inflation-fighting program based on a tax-based incomes policy; or TIP. A TIP program uses tax reductions and tax penalties to induce noninflationary behavior in both business and labor. It encourages business to moderate price increases and employees to moderate their wage demands.

I have introduced legislation, House Resolution 1257, calling upon the Ways and Means Committee to explore the various TIP proposals that have been made, and I would certainly welcome the cosponsorship of my colleagues on this proposal.

I believe that the Los Angeles Times editorial offers a lucid explanation of the possible benefits and of the problems to be worked out in developing a tax-based incomes policy, and I wanted to call it to the attention of my colleagues. The editorial follows:

[From the Los Angeles Times, July 25, 1978]

A TIP ON INFLATION FIGHTING

Just a few days before agreement was reached on terms of a new pay-and-benefits contract for more than 570,000 postal workers, a union official observed that, "With the railroad workers getting 35% (for three years), it is awfully tough for our leaders to show restraint" in wage demands.

As it turned out, the postal union did show restraint. But the comment underscored a problem that is threatening to make a shambles of President Carter's anti-inflation program—and is forcing the Administration to consider a new approach called tax-based incomes policy, or TIP.

TIP proposals come in all shapes and sizes. Basically, however, all would use tax cuts, penalties or some combination of both to induce employers and unions to keep wage increases within acceptable limits.

The idea dates back at least seven years, but until recent months did not attract serious attention. In April, some of the country's top economists attended a meeting on the subject at the Brookings Institution. Since then both Treasury Secretary W. Michael Blumenthal and Charles L. Schultze, the President's chief economic adviser, have confirmed that the Administration is studying TIP as a possible means of breathing new life into the Carter ani-inflation program.

This year's performance of the U.S. economy has been quite different than what the Administration expected six months ago. The good news has been a big drop in unemployment. But this has been offset by a surge of inflation well beyond what the President's economic advisers expected.

As Carter recognized in his anti-inflation program, inflation has many fathers, only one of which is high wages. There is a need to reform the tax structure to encourage the sort of investments that will result in higher productivity. Needless or excessive federal regulations that add to business costs and are passed on to consumers should be eliminated. Protectionist pressures from high-cost U.S. industries must be held in check. So must government spending.

Because wages are such a substantial portion of business costs, however, it will be very difficult to control inflation if wage increases exceed the rate of inflation plus about another 2% representing annual productivity gains—or about 8%.

The Administration, in practice, wants workers in highly unionized industries to settle for slightly less on grounds that they have fared better than the average worker in past contracts, and thus have less catching up to do.

The real crunch will come in 1979, which will be a heavy bargaining year. But leaders of unions whose contracts come up for renewal then will find it difficult to show restraint if a precedent of plainly inflationary wage settlements is set this year. And that is precisely what is happening.

Last March the coal miners won a contract for a 37% increase in pay and benefits over three years. A few days ago four major rail unions and the big railroads agreed on a pay package of roughly the same magnitude. More inflated settlements may be in the offing.

Enter TIP, which is aimed at changing an economic framework in which business frequently acquiesces in inflationary wage settlements because it can pass on the costs to consumers anyway.

The simplest form of tax-based incomes policy which offer a tax cut to companies that keep wage increases below a guideline figure—say 6% or 7%—and impose a tax surcharge on those who don't. Any company

willing to pay that penalty would remain entirely free to break the guideline.

In theory, workers would gain from such a system, too, because of their fundamental self-interest in conquering inflation so pay increases won't be eaten up by higher living costs. Many experts are convinced, however, that to make TIP work it would be necessary to give workers a direct stake in restraint by extending the lure of tax cuts for good behavior to them, too.

Obviously, TIP would pose immense administrative problems. It isn't clear, either, how the opposition of union leaders could be overcome. But a growing legion of economists is convinced that it is nonetheless the best hope of avoiding runaway inflation on the one hand or corruption-breeding, ultimately counterproductive wage-price controls on the other.

We're not convinced the idea will fly. But we welcome the Administration's pragmatic willingness to take a closer look.●

## ENERGY: WHERE WE STAND

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 26, into the CONGRESSIONAL RECORD:

ENERGY: WHERE WE STAND

More than 16 months ago President Carter asked Congress for an energy program, but there is no program yet. So far, Congress has failed dismally in its efforts to forge a national energy policy.

The energy crunch is real, but we tend to be skeptical about it when we see that energy is still readily available. Prospects for the future, however, are not so bright. Worldwide demand for oil will begin to run up against the limits of production sometime in the 1980s. This could bring on interruptions in supply and sharp increased prices. In the early years of this decade a series of events, including a war in the Middle East, an Arab oil embargo and a spate of panic buying of oil by Western nations, showed us how quickly a crisis could come upon us, but until we experience a shortage firsthand the adverse trends in energy supply and demand do not seem to impress us.

Among the experts there is a surprising consensus on the energy crunch. World demand for oil produced by the OPEC nations averages some 28 to 31 million barrels a day, with OPEC capacity at 33 million barrels a day. But 10 years from now the demand for OPEC oil will average at least 42 to 45 million barrels a day, with a maximum OPEC capacity by then of 45 million barrels a day. That supply will meet demand assumes that OPEC nations will produce to capacity, which is by no means clear. An extremely tight supply of oil could have grave economic effects. High inflation, a deep cut in investment and a steep decline in growth and employment would be just a few. The political effects could also be serious. Conflict among nations would arise as they struggled to maintain their economic positions. The oil-producing states—especially Saudi Arabia—would dominate the world economy. The United States and other industrialized countries would be placed in a precarious position.

The energy problem remains unresolved because we approach it from so many different perspectives. Many people spend their time looking for villains and conspirators—the oil companies, the federal bureaucrats, the environmentalists and so forth. Some people are concerned that rising energy prices will bring windfall profits to the oil producers. Others want the market to determine prices since higher prices would induce greater conservation and production. Still others worry about the threat to the environment from nuclear reactors and coal-fired industrial facilities. There are those who want to rely on traditional sources of energy and those who want crash programs to develop new sources. Finally, our perception of the energy problem is distorted by regional biases. The different perspectives are often strongly held, leaving little room for consensus-building and reasonable compromise. The attempt to get an energy bill through Congress becomes politically explosive and technically complex. With no agreement on energy in the country, there is no agreement on energy in Congress. It has simply not been possible to get the popular mandate necessary for enactment of comprehensive energy legislation.

Nonetheless, the requirements of an energy program are clear. It should emphasize increased conservation and domestic production of energy. It should stress long-term alternatives to oil and natural gas, such as alcohol fuel and solar power. It should be a mixture of measures to promote conservation and production of energy around the world in as many places as possible.

The five-part energy plan now before Congress would be a modest start. The first part of the package would require industries and electric utilities—with many exceptions—to use coal as their primary fuel. Coal, of course, is the nation's most abundant energy resource. The second section of the package—relatively non-controversial as now drafted—would change procedures for setting utility rates. The third part contains a variety of conservation initiatives, but at the moment it is stalled on the issue of automobiles that "guzzle" gasoline. The fourth section—to revise controls on the price of natural gas—has been the main stumbling block. It would remove most controls by 1985, but its complexity might make it a nightmare to implement. The basic argument over this provision has gone on between those who want the market to set the price and those who seek to protect consumers from rapid price increases. The fifth and most controversial part of the package is the crude oil equalization tax, intended to slow imports by raising domestic oil prices. Its status, however, is uncertain at the present time. As the House and Senate continue to haggle over the bill, congressional observers are saying that it has no better than an even chance of final approval. If the bill is not approved in the next few months, the entire legislative process will have to begin again in January when the new Congress convenes.

The time has come to enact an energy bill, but whatever happens to this particular bill the nation will need another and then another. We must be prepared for a long, patient effort both to conserve energy and to increase production.●

## FRANCISCAN SISTERS OF THE POOR

### HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. APPLEGATE. Mr. Speaker, on December 1 of last year, I had the privilege of addressing this House on a matter of great significance to the area I represent, the 18th Congressional District of Ohio. The event was the presentation of the Proverello Medal Award given annually on Founder's Day at the College of Steubenville, to the Franciscan Sisters of the Poor. These three sisters typified the meaning of the medal which is awarded to those persons who best serve their fellow men in the spirit of St. Francis of Assissi.

The three sisters who have served this order for so long, Sister Nathanael, Sister Rosamunda, and Sister Evangeline, are leaving the order now and will be reassigned. They will surely be missed, because of what they have done for so many people.

The sisters have touched the lives of the poor, the tired, the hungry, and the depressed. They have been there when they were needed for whatever purpose. When they began their work in Steubenville, there were none of the various welfare agencies which now exist. They clothed, fed, and sheltered the poor of the area. The sisters also arranged for employment for jobless fathers and mothers and counseled the children of those families; counseled them so that they might have a chance to escape the deadening cycle of poverty.

The order will be continued, even after the three sisters' departure, by Sister Mary Louise of Marietta, Ohio.

On behalf of all those whose hearts they have touched, I bid the sisters farewell and wish them success in all future endeavors.●

## CAPTIVE NATIONS WEEK

### HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 18, 1978*

● Mr. RHODES. Mr. Speaker, in 1959, President Dwight D. Eisenhower signed into law Captive Nations Week legislation. For nearly two decades, this observance has been a reminder to those of us who live in freedom that world communism continues its determination to oppress peoples everywhere.

Captive Nations Week helps keep alive the hopes of those whose homelands have been overrun by the tyranny of the Soviet Union. During this time, when communism is revealing its ugly underside in the trials and persecutions of dissidents, we all should be grateful that we live in freedom here, and we should renew our determination to turn back the forces of oppression by helping those who wish to remain free.

Captive Nations Week should also remind us that vigilance is the price of freedom, that we cannot afford to allow our defenses to weaken in a perilous world beset by communism aggression. We also must be alert here at home, so that our precious freedoms do not slip away under the blandishments and false security of paternalistic government.

Although the flame of freedom is dim in those nations conquered by commu-

nism, Captive Nations Week nourishes that flame, and keeps it burning in the hearts and minds of those who have fled repression. It is a signal to those who remain as captives of communism that we are aware of their plight and that we care.●

## CALIFORNIA CONSERVATION CORPS MOVES AHEAD

### HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. LEGGETT. Mr. Speaker, as my colleagues are aware, during the decade between 1934 and 1943 several million young Americans served in the national Civilian Conservation Corps (CCC). The CCC provided hope to a large number of unemployed in a time when jobs and money were scarce, and public confidence in our economic system was shaken.

In July of 1976, the State of California initiated a new and exciting project, the California Conservation Corps (CCC), to address similar though less intense economic hardships. With a primary goal of alleviating the horrendous level of unemployment among California's young people, this program provides young men and women with meaningful employment opportunities through public service, while at the same time allowing them to contribute to the conservation of California's natural beauty.

Concerned with protecting our greatest potential asset—young people—this modern statewide version of the old national CCC has taken unemployed youths and placed them in a productive environment, allowing these corpsmen to work with their hands on the land, in applying newly acquired knowledge and developing skills. In this way, the Corps provides a practical educational experience of great value to the more than 1,000 young persons who participate for 12-month periods. Their valuable training in the CCC program is preparing these previously unemployed, unskilled individuals for permanent, worthwhile jobs after graduation from the program.

The cornerstone of this program's success can be seen in the present CCC's recruitment plan. The most intensive recruitment efforts are appropriately aimed at minority and low-income communities where opportunities are most lacking. The marked success of the California Conservation Corps in reaching out for a representative cross section of unemployed young people is clear in view of the fact that about 40 percent of those provided jobs since the program's inception have been females, with minorities constituting about 36 percent of the total.

In providing young people with a year of useful employment and exposure to rural and wilderness areas, the California Conservation Corps has rapidly come to be seen by all associated with it as exhibiting the same spirit characteristic of the national CCC of the 1930's. The similarities between the two CCC's and their achievements are not surprising, however, with the people responsible for organizing California's new Corps having wisely sought the advice and help of some corpsmen from the earlier program.

One such man, Jack Vincent of West Sacramento, is a good friend of mine. In 1934 Jack was teaching in Wisconsin when he was loaned to the CCC for 1 year to assist in the educational and recreational phase of that program. His many contributions proved so valuable that the year turned into 6, until the onset of the war ended his term of service. It is no wonder then that Jack's experience has enabled him to provide invaluable insight and to direct his unequaled energy toward the development of the new CCC program. The decision by this California organization to bring Jack Vincent on board has unquestionably provided the CCC with a source of experienced guidance.

Despite the fact that it is too early to see the full benefits of the California Conservation Corps, the old and new CCC's appear to be remarkably alike in their achievements, even though they were created in very different times. Although these programs were created primarily to combat unemployment, we have learned that equal value lies elsewhere. As a key to our future, concerned young citizens have been able to learn, grow, and contribute to the preservation of natural assets while developing self-discipline and self-direction.

In my view, there is an excellent case to be made for expanding and continuing indefinitely the California Conservation Corps and for creating similar organizations in other States. The value of the educational experience for corps members clearly justifies the need for continued support for these kinds of programs.

As my colleagues are aware, we in Congress have already initiated the Young Adult Conservation Corps as part of the Youth Employment and Demonstration Project Act signed into law last August. I am hopeful that this program will be as successful as the two CCC's were before it and trust that my colleagues will see fit to insure continued support of this program.●

## PARAQUAT ON POT

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. DERWINSKI. Mr. Speaker, in a most timely and, I believe, logical article appearing in the Washington Star of July 20, Malcolm Lawrence discusses the subject of U.S. support of the Mexican program of aerial spraying of paraquat to eradicate marihuana plants. Mr. Lawrence is a former State Department Foreign Service officer who served as a special assistant for international narcotics control. I believe that his commentary should be read thoroughly and objectively. The article follows:

PARAQUAT ON POT? WHY NOT?

(By Malcolm Lawrence)

What did the media give us as one of the lead news items over the July 4 weekend?

Answer: Those fun-loving, pot-smoking Yippies in yet another of their fatuous protests in the nation's capital.

The Yippies have, of course, become the frontline tool of the National Organization for the Reform of Marijuana Laws (NORML), a lobby group seeking to halt U.S. government technical and financial support of the Mexican government's program to eradicate marijuana plants through aerial spraying of the herbicide paraquat.

NORML, the Playboy-backed pro-pot organization, claims that the use of paraquat is a serious health hazard for the millions of Americans who depend on Mexican pot.

NORML's campaign is an outlandish propaganda play for sympathy toward persons who are obviously distributing and using marijuana illegally. But it is much more than that.

A ruling in favor of NORML could only enhance the further growth of the marijuana market in the United States, driving consumption of pot to lower and lower age levels. More important, it would also bring about a sharp rise in heroin abuse.

For the past five years, Mexican opium has been the main source of heroin found on our streets and in the veins of our youth. The Mexican eradication program, to which the U.S. is making a major contribution, is aimed at opium crops located in the remote mountain regions of Mexico. Marijuana happens to grow in the same fields and is consequently sprayed with paraquat along with the opium plants.

Withdrawal of U.S. support would lead to a serious setback in our cooperative program with Mexico and would bring about a renewed surge in the flow of heroin into our country, far in excess of that experienced during 1969–72.

The United States will continue to be the primary target for Mexican heroin traffickers. The incentive to curtail such trafficking is more in our interest than in Mexico's. The Mexican government would not and could not do the job alone.

But can the line be held?

Unfortunately, the Carter administration has become solidly infiltrated by the pro-marijuana lobby, and it can safely be assumed that the NORML-Yippies campaign against paraquat has the blessings—whether they admit it or not—of the top drug abuse advisers in the White House.

And the prospects are even more ominous. As President Carter looks at the advisers around him, he sees people who want to free up not just marijuana, but heroin, cocaine and other dangerous drugs as well.

It should be made clear to the American public that the NORML crusade against paraquat is but another signal that the Carter forces are giving up the battle against drugs, that they are employing defusing techniques designed to embrace and obtain social acceptance of all drugs rather than curtail the problem of drug abuse.

Let's not open the door to these dangerous substances.

I would wager that the bulk of Americans would say, "Paraquat on pot? Why not?"

The knowledge that a harmful drug is made worse by a harmful chemical can be a pretty effective deterrent. Maybe the marijuana culture will slowly drift away if the potheads are convinced that something is wrong with their crutch. Then maybe NORML, the Yippies, and the pro-marijuana drug experts in the White House will leave us alone and quit trying to force pot and other harmful substances down our throats.

I am firmly convinced that there are two types of people who want to free up mari-

juana: those who use it and those who expect to profit from the trade—financially or politically.

Fortunately, these people are still in the minority, and this is as it should be until all the facts are in on this highly controversial and dangerous substance.●

## SAFETY MEASURES FOR NUCLEAR EXPORTS

### HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. CAVANAUGH. Mr. Speaker, I am introducing today an amendment to H.R. 12157, the Export-Import Bank reauthorization bill. This legislation will be on the floor Thursday, July 27, 1978. My amendment to the 5-year reauthorization is designed to provide support for our nuclear exports.

My amendment will provide access by Export-Import Bank and the Congress to the expertise of the Nuclear Regulatory Commission in evaluating the safety and feasibility of any extension of Ex-Im financing for exports of nuclear reactor facilities.

If this procedure is adopted, the benefit to our export program will be significant. Export-Import Bank would be in a stronger position to assert that we are not only reliable suppliers, but reliable suppliers of reliable exports.

My amendment does not require that NRC become involved in the internal affairs of a foreign government prior to the export contract authorization. It only asks that NRC avail Ex-Im of knowledge which is within NRC's experience.

The importance of this amendment cannot be underestimated.

First. If we are going to increase our exports, the reliability of those exports must be assured. This fact is so incontrovertible that I would be amazed to hear expressed the view that this amendment would eliminate our ability to compete for world markets in nuclear facilities.

Second. If the Export-Import Bank credits are to be repaid, we must determine, as well as possible, that nuclear reactors erected in foreign countries will be safe and operational. Without this attempt we are merely grabbing at foreign contracts which will not benefit those countries and will cost the American taxpayers through tremendous losses to Ex-Im. The only ones to benefit from this type of grab now, worry tomorrow, approach would be the American industries supplying the equipment. They would be paid regardless of the outcome.

An example of this scenario has already occurred. The loan of more than $600 million by Ex-Im to the Philippines has already resulted in an Ex-Im outlay of $52,660,000. The Philippines reactor was begun, but work was halted when the site was found to be in the vicinity of five active volcanoes. If the plant never becomes operational it is unlikely the Philippines will repay Ex-Im.

Third. This amendment does not ask Ex-Im to do anything they do not attempt to do now. The latest loan application for a nuclear reactor to South Korea was presented to Congress with a safety analysis incorporated. While it is encouraging to see for the first time a mention of the safety analysis done in connection with nuclear exports, that analysis would have more weight if trained engineers had helped in its preparation. The past chairman of Ex-Im admitted that their engineers do not have the expertise nor do they take the time to thoroughly investigate these loans. I contend this is no way for a lending institution to reliably grant a loan.

Fourth. The Banking Committee, during its markup of this legislation, decided not to accept my amendment, but to wait for the NRC staff study which was to show what NRC would be capable of providing Ex-Im. This study has now been completed and the results indicate that NRC is, indeed, capable of providing the information to Ex-Im required by my amendment.

We must not allow further delays in acceptance of this amendment. If we do not pass it today, we will suffer the consequences for at least 5 more years. I do not believe we can risk that loss to the Treasury.

The amendment follows:

AMENDMENT OFFERED BY MR. CAVANAUGH TO H.R. 12157

Page 5, after line 6, add the following new section and renumber all successive sections accordingly:

Section . Section 2(b)(3) of the Export-Import Bank Act of 1945 is further amended by inserting at the end thereof the following:

"; and

(C) in the case of any transaction involving the sale of a nuclear reactor, an evaluation based upon an analysis prepared by the Nuclear Regulatory Commission (i) describing the nuclear regulatory organization and practices of the recipient country, and (ii) indicating the extent to which the Health and Safety standards adopted and implemented by the recipient country are consistent with those established by the Nuclear Regulatory Commission, and, where applicable, with International Atomic Energy Agency's standards and recommendations.●

## WOMEN AND GUN CONTROL

### HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Ms. HOLTZMAN. Mr. Speaker, many of my House colleagues and I have long been dismayed at the failure of Congress to enact strict gun control laws. While the proliferation of handguns continues unabated, and the number of crimes involving guns continues to increase, Congress has not addressed the issue in any meaningful fashion and has even opposed some minor initiatives sought by the executive branch.

A recent article in the St. Louis Globe-Democrat reports the results of a WomenPoll survey which found that 74 percent of the women questioned favored stricter gun control legislation.

I commend this excellent article to my colleagues' attention; until more of us are elected, I hope you will at least take our views into account.

The text follows:

WOMEN FAVOR STRICTER GUN CONTROL LAWS

One of the bumper stickers displayed by some people opposed to gun control legislation reads "If all guns are outlawed, then only the outlaws will have guns."

But according to the WomenPoll national telephone survey, three out of four women interviewed do not agree.

In response to the question "Do you feel that Congress should pass stricter or more liberal laws regarding gun control?" 74 percent of the women surveyed said Congress should pass stricter laws.

Thirteen percent believed gun control laws should remain exactly as they are and 9 percent wanted a liberalization of current restrictions on firearms. Four percent had no opinion.

The greatest support for stronger gun controls came from respondents at both ends of the age scale. Eighty percent of the youngest group interviewed—18 to 24 years old—and 83 percent of those older than 65 wanted stronger controls.

"For too many years I've heard the gun people say that 'Guns don't kill people, people kill people. That's true enough, but we license cars—and drivers, not cars, kill people. Anyway, guns are a lot more dangerous, and I've never heard of anyone committing a robbery by pointing a car at the victim," said Hilda S., a manager of a fast-food restaurant in Chicago. The need for stronger licensing and registration was a theme heard frequently by the WomenPoll interviewers.

Another comment often expressed was that there is too much government control of our private lives already . . . but stricter gun control laws are still necessary.

Anne W., a mother of two children in elementary school near Seattle, told WomenPoll, "There are more laws on the books now than could ever be enforced, and I think we should exchange about 90 percent of them for really effective ways to cut down the number of guns people have."

In terms of the different sections of the United States, women in the East showed the strongest support for more gun control legislation. Eighty percent of the respondents there voted for stricter laws.

Least support, but still a sizable majority of 69 percent, was found among women in the Midwest.

The percentage was 74 in the South and 71 in the West.

Patricia R., a college student in Georgia, believed there was a strong case for no additional gun laws.

"Right now there are enough laws that could be used to control illegal guns, but they're just not enforced . . . you really don't need new laws. If you pass even more laws, they would be disregarded too, and there would only be more disrespect for law enforcement in general."

But for Pete and Jean Shields, more laws are definitely needed. After their 23-year-old son was shot and killed four years ago by the "Zebra killer" in San Francisco, they became very much involved in the whole issue of gun controls. Shields is now chairman of the National Council to Control Handguns, based in Washington, and Mrs. Shields is a volunteer worker for the group.

In an interview with WomenPoll, Mrs. Shields noted that, "I have felt that the gun control issue will be turned around by the women of this country, not the men . . . and your survey results confirm this. And in order for it to be turned around, women have to express their opinions when they

vote and write their congressman . . . they have to become active to get it done. They can't just be a passive majority."

WHAT DO YOU THINK SHOULD BE DONE WITH GUN CONTROL LAWS?

[In percent]

| | More strict | More libera | Same | No opinion |
|---|---|---|---|---|
| All women | 74 | 9 | 13 | 4 |
| Midwest | 69 | 7 | 21 | 3 |
| East | 83 | 10 | 5 | 2 |
| West | 71 | 11 | 15 | 3 |
| South | 74 | 9 | 11 | 6 |
| Less than high school grads | 80 | 6 | 9 | 5 |
| High school grads | 72 | 10 | 14 | 4 |
| College grads | 77 | 9 | 13 | 1 |
| 18 to 24 yr old | 80 | 14 | 2 | 4 |
| 25 to 34 yr old | 79 | 9 | 10 | 2 |
| 35 to 44 yr old | 65 | 8 | 25 | 2 |
| 45 to 54 yr old | 69 | 8 | 18 | 5 |
| 55 to 64 yr old | 71 | 15 | 14 | 0 |
| 65 yr, older | 83 | 4 | 4 | 9 |

Source: Random sample of 1,000 women nationwide in a survey designed and coordinated by a team of experts from Wharton School, University of Pennsylvania, copyright, 1978, Universal Press Syndicate.●

## TURKISH ARMS EMBARGO

### HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. STEERS. Mr. Speaker, in the near future, the House will be voting on the question of whether or not the Turkish arms embargo should be lifted.

This is a most complex issue and for many weeks, I was undecided as to how best approach this problem that will affect the strength of NATO, U.S. relations with both Greece and Turkey, and the problem on Cyprus. I have come to view the lifting of the embargo, at this time, not to be in the best interest of this country, unless future developments indicate a change in the Cyprus problem.

Many of my feelings on this subject were included in a recent editorial that appeared in the New York Times—July 22—and I would like to present this editorial to my colleagues for their attention.

The editorial follows:

CYPRUS AND THE SENATE

The Senate is about to vote on whether to continue the limitations on arms sales to Turkey. They were imposed after Ankara used American-supplied weapons to occupy two-fifths of Cyprus in 1974, in violation of a Congressional prohibition. We have argued in the past that the limits should be kept until Turkey indicates it will withdraw its forces. We still think so.

Few controversies are as vexing as the feud between the half million Greek Cypriots and the 120,000 Turkish Cypriots over how they will coexist on their island. Their centuries-old quarrel has reached into American politics. The Turks and Turkish Cypriots and their American sympathizers contend that national pride forbids concessions on Cyprus as long as the "embargo" stands. Direfully, they predict that maintaining last year's $175-million limit on arms sales will drive Turkey out of NATO, perhaps even into Moscow's arms. But it would be no gain for the West to purchase Turkish goodwill at the price of Greek resentment.

When Jimmy Carter was a candidate for President he held that the restriction on arms sales should stand until Ankara withdrew the force that enables Turkish Cypriots, with 20 percent of the island's population, to occupy roughly 40 percent of its territory. This spring, however, he urged that the embargo be lifted. Administration spokesmen maintain that once it is lifted, Ankara will make generous diplomatic proposals. But the Government of Prime Minister Bulent Ecevit has so far given no sign that it is prepared to risk the domestic consequences of offering the concessions needed to reach an accommodation. The vague proposal put forward by the Turkish Cypriots on Thursday for resettling some Greek refugees is welcome but scarcely sufficient. The Turkish concessions need to be territorial.

Where Greek Cypriots go wrong is in insisting that their preponderance in numbers also entitles them to the kind of predominance they enjoyed under the island's 1960 constitution. If the Turkish Cypriots would yield significantly on territory, they could more credibly insist on a constitution that provides for virtually autonomous states for the two communities, linking them only for a minimum of such "federal" functions as conducting foreign affairs and issuing currency.

Greek Cypriots denounce this idea as a mere division of the island. Even if this were true, there would be no alternative; nothing except good will can force the two communities to work together. Because ending Turkey's occupation remains an essential first step toward creating an atmosphere of trust, Congress should not yet relax the restrictions on arms sales. It should make clear to the Greek Cypriots, however, that the United States intends to help them reclaim their farms and villages but not to restore their domination of the Turkish population.●

## UNITED STATES NEEDS ERA NOW

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. EDWARDS of California. Mr. Speaker, the time is past due for equal rights for all Americans. If the 1970's are to be recorded in history as the decade which carried the progressive changes of the sixties to fruition, the Equal Rights Amendment must be passed as soon as possible.

Women are not equal to men under the law in this country. For an example, a job position list and salary breakdown in virtually any place of employment will show that women are rarely at the top, or even given the chance to obtain that status. Our laissez-faire system of problems ironing themselves out is quite simply, failing.

The following Los Angeles Times editorial is a provocative survey of why the United States needs the ERA now. It points out that there must be no time limit on equality for women. We cannot rely on the Supreme Court—the Congress must act immediately. An extension for ERA ratification, which constitutional interpretation decidedly favors, brings the issue of sexual justice to the fore in the consciences of our elected government representatives. Do we or do we not believe women should be equal in rights and opportunities to men? If we do, then a vote for extension is not a dilemma in our Nation's capital. It is that simple.

[From the Los Angeles Times, July 24, 1978]

ERA: IT WILL MAKE A DIFFERENCE

Shrouding the national debate over the Equal Rights Amendment is the rhetorical smokescreen of arguments that women already have equal rights, and so ERA is superflous. Those who argue that point are either innocently ignorant of the law or hypocritically hiding their true belief that women don't deserve coverage by the U.S. Constitution.

ERA is necessary—and not just to provide a symbolic boost to the women's movement. Restating the legal gaps ERA would fill takes on new urgency as the House and Senate near action on extending the amendment's ratification deadline. Extension, which we support, cleared one procedural hurdle last week on a 19–15 House Judiciary Committee vote. The measure should come before the full house next month. Passage is considered likely there but questionable in the Senate.

ERA is necessary because the Supreme Court has not consistently applied the 14th Amendment to sex discrimination, because many cases of sex discrimination are allowed under existing law and because some equal rights laws already on the books don't work.

In 1973, Justice Lewis F. Powell Jr., explained one reason the court was not ready to view sex discrimination as requiring the same strict judicial scrutiny it gives race discrimination under the 14th Amendment—the one that guarantees equal protection under the law. Writing in Frontiero v. Richardson, a case involving military dependence benefits, Powell indicated the court was waiting until the states made the major political decision on ratifying ERA. If the votes had existed then to interpret the 14th Amendment as fully covering sex discrimination, presumably Powell would have said so and ERA would not in fact be necessary.

More recently, in the Bakke case, Powell said racial discrimination poses more of a problem than sex discrimination because the former has a more "tragic history." In saying so in a Supreme Court opinion, Powell reaffirmed a legal nicety making proof more difficult in sex discrimination cases than in racial discrimination cases. Powell also appears to be setting up a tragedy scale on which to base elimination of discrimination. That race discrimination has been a brutal blot on this country's history does not make sex discrimination less deserving of eradication.

Existing laws are not enough. For example, Title IX of the 1972 Education Amendments banning sex discrimination has loopholes in its coverage. Enforcement of the law as it touches on athletic programs began only this past Friday because of deadlines for compliance allowed under 1975 federal regulations. Even so, the remedy is cutting off federal aid, not addressing an individual's grievance. So far, it is also not clear whether individuals have a right to sue under Title IX; ERA would give it to them.

Nor does existing law guarantee access to public schools. Last year the Supreme Court upheld a lower court action denying Susan Vorsheimer admission to Philadelphia's top public academic high school for boys because she is a girl.

The Supreme Court has also delivered inconsistent opinions on any sex discrimination involved in handling pregnancy leaves. Denial of disability benefits to pregnant women isn't discriminatory, the court has said, while denial of seniority after a pregnancy leave can be.

In the area of family law, some states still do not recognize the contributions to a marriage of a non-wage-earning wife. State equal

rights amendments in Maryland and Pennsylvania have, however, been interpreted as striking down the presumption that all a couple's joint property really belongs to the man.

Finally, a look at income figures indicates the Equal Pay Act isn't working. Statistics for men and women of the same education or in the same job show consistent earnings gaps. In general, women working full time in 1976 earned an average of $8,312; men averaged $13,859.

The present piecemeal approach to equal rights means women must know specific laws to gain redress for any discrimination. If employers or employes haven't heard of Executive Order 11240, they will have heard of ERA and the national policy it expounds.

ERA will also be permanent. What Congress and state legislatures give in terms of rights, they can take away or allow bureaucrats to erode through law enforcement.

ERA advocates have learned the hard way what economic and social forces loom against them. Perhaps that's been a valuable lesson in recognizing reality and developing the skills to cope with it. Now they're ready, evidence in hand, to make the final assault on the citadels of confusion. They need the time to put women in the Constitution for all time.●

## FED UP WITH TAXES? WHAT WOULD YOU CUT?

### HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. BOLLING. Mr. Speaker, Clayton Fritchey's column which appeared in the Washington Post of July 1 is worth reading. His unidentified friend has some good thoughts which are more than just imaginative.

The column follows:

[From the Washington Post, July 1, 1978]

"FED UP WITH TAXES?" "WHAT WOULD YOU CUT?"

(By Clayton Fritchey)

(A congressman friend of mine likes to indulge in imaginary letters to his constituents. This, in response to a flood of anti-tax mail generated by Proposition 13, is his latest effort.)

Dear Constituent:

Thank you for the "message." You say you are "fed up with big government, big spending, big taxes." I don't blame you. But before I rush into action, I need a little guidance on your priorities. Am I, for example, to consider your latest communication as canceling previous messages you have sent me in behalf of bigger and better federal services?

I will certainly do everything I can to get you, simultaneously, both reduced taxes and increased services, but in case this is not feasible, I would appreciate some clarification on just what services you want eliminated in order to carry out your tax-cut instructions.

The Pentagon budget, of course, offers the single biggest opportunity for savings, but I know you don't want to trifle with the security of the United States. I remember how upset you were when I tried to save some billions by opposing the B1 bomber, additional nuclear carriers and ever larger Trident submarines. I've learned my lesson, so don't worry, I am not going to offend you and other patriotic constituents by trimming the defense budget, which this year will climb to $126 billion and surpass $150 billion by 1980 or so. Nevertheless, as you wired me, we've got to stand up to the Russians.

You don't need to be concerned, either, over my trying to trim Social Security benefits. I agree with you that in the past they have been much too meager, and I am glad that you approved of my efforts to put the Social Security system on a sounder basis. This, of course, is going to cost about $200 billion extra over the next few years, but, as you say, the American people are entitled to protection in their old age.

Some of my constituents think it's time to abolish our expensive unemployment-compensation system, which has been costing around $20 billion a year, but I remember a touching letter from you saying how this system had saved the family of your brother-in-law when he was laid off, so I guess we better keep that going, huh?

I've been getting mail from city dwellers who think we ought to crack down on agriculture supports, but apparently they don't realize that America has the most efficient and cheapest farm and food system in the world. If the government let our agriculture collapse, the cost would be astronomical in both money and misery.

Our interstate highway system, admittedly the finest in the world, is immensely costly, but every time we in Congress try to cut it back we get a flood of protests from the taxpayers. It's the same with environmental protection, industrial safety and public health. A glance around the world shows you can't reduce public health standards without reducing life expectancy.

Like you, I am a war veteran, so I share your view that veterans benefits, large as they are, should be still larger. You are on target when you say the GI bill of rights, which put millions of veterans through college, has been a splendid national investment.

Over the years, I find that many of my constituents believe their taxes could be cut if we "cleaned up" the welfare rolls and got rid of the "bums." Actually, around 90 percent of the welfare dollar goes to children and the mothers who must look after them. Even if federal aid was abolished altogether, it would produce only a minor tax cut.

A lot of people, especially the middle classes, seem to think that high taxes are depriving them of the pleasantries of life. Only today, however, I received a report showing that Americans spent $160 billion last year for "leisure and recreation," and this huge figure is expected to exceed $300 billion a year by 1985.

Yet President Carter and the Congress are now shying away from a national health program on the ground of cost. Is it possible that the richest country on earth cannot afford the kind of health care that nearly all other advanced nations adopted long ago?

I have two other clippings in front of me. One reports the closing of summer schools because of the "tax revolt"; the other reports the opening of more big gambling casinos, where the public is throwing away millions of dollars each day.

Congress will soon cut the income tax by at least $15 billion. This is on top of tax cuts of $20.4 billion in 1977, $27.6 billion in 1976, $28.6 billion in 1975, and $11.4 billion in 1971. If the rates of 15 years ago were still in effect, U.S. taxpayers would be in a state of shock.

Few seem to realize that Americans already enjoy, with minor exceptions, the lowest taxes in the developed world. The latest data show that the total tax bill for U.S. citizens is merely equal to 29.6 percent of the national output. In West Germany it is 36 percent, in Britain 37.4 percent, in France 39.1 percent, ranging upward to 50.9 percent in Sweden. The only major country with a rate lower than the United States is Japan.

In closing, I would like to thank you for calling my attention to the new Kemp-Roth bill to cut income taxes by one-third. The sponsors claim it would stimulate the economy and generate enough new federal revenue to make up for the cut. Why not, then, cut taxes by two-thirds or abolish them altogether? It can be done. The Hottentots have done it.

Justice Oliver Wendell Holmes, who preferred our society to the Hottentots, once said that he was glad to pay taxes. They were, he said, his "investment in civilization." To tell the truth, Dear Constituent, that's the way your congressman feels, too.●

## A CHANCE FOR DEMOCRACY IN RHODESIA?

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following commentary by Kenneth H. Towsey which appeared in the Washington Post on Saturday, July 15, 1978. This editorial provides cogent argument for lifting the economic sanctions now imposed by the West upon Rhodesia.

The Rhodesians are making considerable progress toward a resolution of their racial dilemma. The interim agreement negotiated by Ian Smith with the moderate black leaders provides for a transition to black majority rule with protection for the white minority—in other words a constitutional democracy. Yet still the Western sanctions continue. Now the West insists that a just settlement cannot be reached without the participation of the Marxist "Popular Front." But, the "Popular Front" is trained and supplied by the Soviets and Cubans, and has waged a campaign of terror against the Rhodesian population.

The curious aspect of this situation is that the West should treat seriously the claims of justice put forth by the avowed enemies of constitutional democracy, who place their reliance upon the bullet rather than the ballot. What appears to be occurring is that the West is unable to make judgments as to the validity of the conflicting claims of justice put forward in this instance, so it treats all claims as having equal dignity. As a result the "case" of the Marxist terrorists is treated as being equal in validity to the claims made by those who would abide by the constitutional process and the rule of law.

The very heart of politics is the conflict between differing views of justice. For politics not to lead to tragedy, reasonable men must be able to distinguish between good and bad, true and false claims made on behalf of justice.

Abraham Lincoln told a parable to illustrate this point:

A wolf had a sheep by the throat, but is driven away by the shepherd. The sheep praises the shepherd as his savior, while the wolf curses him for the same action.

In the case of Rhodesia, the wolf has the sheep by the throat, while the shepherd, beset by moral confusion, takes his

leave—advising as he departs, that the sheep and the wolf sit down and reason together.

Only the most obtuse can fail to see that extremists in Africa and elsewhere are drawing the appropriate conclusion from the West's actions in Rhodesia: Might does indeed make right, provided that it can be masked with a claim of justice—no matter how fraudulent the claim.

The editorial follows:

A CHANCE FOR DEMOCRACY IN RHODESIA?

(By Kenneth H. Towsey)

In the last week of June the U.S. Senate voted down a proposal by Sen. Jesse Helms (R-N.C.) to revoke sanctions against Rhodesia. It was a close vote—48–42. And so an opportunity was narrowly lost to give a much needed shot in the arm to what promises to be something unique in Africa—a Western-oriented, multiracial, multiparty state, based on free democratic elections. Those characteristics are guaranteed by the constitutional agreement concluded in Salisbury on March 3 between Prime Minister Ian Smith and the leaders of three political groups, which between them represent, in the judgment of most observers, the overwhelming majority of the Rhodesian people, black and white.

The agreement satisfies the principles of majority rule—a vote for everyone over 18—and self-determination; it was put together by Rhodesians for Rhodesians. Those criteria have been consistently upheld by successive American administrations as essential conditions of political respectability and prerequisites of recognition. A predominantly black transitional government has assumed office, released political detainees, sanctified previously banned political parties (including the internal branches of parties conducting warfare against the state) and set about the processes of organizing elections and of eliminating the remaining traces of racial discrimination.

It is fair to say that Rhodesia has done everything that the Western world asked of it. What is Rhodesia asking of the Western world in return?

Nothing very special. No handouts. No military assistance in contending with her enemies. Only a normalization of relations; the same treatment that the Western world accords to virtually every other member of the international community, including some whose record on human rights makes Rhodesia look like a paragon of political virtue. Rhodesia is looking only for a lifting of the burden of sanctions that would inject new life into the economy, improve the quality of life of the people, boost their morale, remove the uncertainty created by current Western mugwumpery and fortify the country's defenses against its external enemies.

To withhold support for the constitutional agreement, at least to the extent of revoking sanctions, is to victimize the transitional government in its endeavors to promote the democratic objectives of the agreement and to serve the best interests of the Rhodesian people. It creates an unequal struggle. There are no comparable restraints on the forces that oppose the transitional government and want to destroy the agreement. Those forces are armed, trained, indoctrinated and subsidized by the Soviets and the Cubans. There will be no let-up in that support for as long as the client forces appear capable of winning a battlefield victory over government forces hamstrung by the West's continuing hostility.

The Times of London made the point in a recent editorial: "Sanctions are no more neutral now than when they were first leveled against the Smith government. They are working against the government of the day in Salisbury now as then. But the major opponent of the present Salisbury regime is not now the legal government in Whitehall, but the Popular Front's two guerrilla armies. It logically follows that the effect of sanctions now is to help the Popular Front, and strengthen its armed attack against Bishop Muzorewa, Mr. Sithole and Chief Chirau as much as against Mr. Smith and the white power structure . . . So the choice must be made soon; it is not made, then it is made in favour of the Patriotic Front, and for a black state eventually imposed by violence after a civil and perhaps tribal war. We have no doubt that the choice ought to be to support the group which does offer the hope of a viable and relatively democratic black-ruled state."

A former foreign secretary in a British Labour government, Lord George-Brown, is even more preemptory in his plea for quick support for the transitional government: "Let us come off the fence—or rather get back to the right side of it—over Rhodesia/Zimbabwe. We must now recognize and accept the internal settlement there and the multiracial government it has brought to Salisbury. If either or both Mr. Nkomo and Mr. Mugabe wishes in peace to join in, well and good. But recognition and the ending of sanctions cannot be made to wait any longer on that. International support of all kinds must be organized now to ensure a genuine chance of survival for this new African state—which will be unique in Africa in its plural democratic and multiracial character."

Myths have entered into the Rhodesian argument that ought to be dispelled. Some critics of the constitutional agreement have suggested that it is flawed because it excludes the Patriotic Front. There has been no exclusion. To the contrary, the door was and remains open to participation by the Patriotic Front, provided they come in peace and accept the verdict of the ballot box in impartially observed elections to be held before the end of the year. The Patriotic Front have chosen to exclude themselves. It speaks for their lack of confidence in the ballot box that they prefer to shoot their way into power, or extravagantly demand control of the instrumentalities of government in any run-up to elections. Their intransigence is fed, of course, by continuing support from their Soviet and Cuban patrons and by the unwillingness of the West to give the transitional government the support to which it lays a legitimate claim.

Helms's proposition promises to redress the balance of disadvantage, and by doing so to give the Patriotic Front an incentive to lay down the tools of barbarism and to test their strength at the ballot box on the same conditions as other contenders for political office in the new Zimbabwe.

Basically, most white and black Rhodesians are saying to Americans: "Won't you give democracy a chance?" ●

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## IMPLICATIONS OF BAKKE CASE

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. DERWINSKI. Mr. Speaker, the Bakke case has provoked more reviews, interpretations, and commentary than any other Supreme Court decision in recent years. Obviously, there seems to be a different understanding by everyone, thus causing a multiplicity in judgments.

However, I commend to the Members an editorial by columnist Michael Novak in the Washington Star of July 16 which discusses the implications of the various interpretations of this case:

[From the Washington Star, July 16, 1978]

TAINTED AFFIRMATIVE ACTION

(By Michael Novak)

It is amazing how brilliant the Supreme Court looks when it agrees with your own recommendations. In its large, bold outlines, the Supreme Court on "Bakke" did follow the reasoning I set forth in earlier columns; namely, that there are two different kinds of affirmative action, one to be rejected and one (although cautiously) to be accepted. The Davis plan, I wrote, was racist because it permitted "integrated but unequal" admissions—it accepted far lower standards for minority students than for whites. So, initially, I was pleased by "Bakke." My own judgment—for Bakke and also for affirmative action—was vindicated.

Still, there were disturbing signs in their written opinions that the justices are not as sharp about the many kinds of affirmative action as they ought to be, and that some of them, at least, are nourishing illusions future generations will reject. These are not just harmless illusions; they are racist illusions.

Justice Powell, for example, explicitly cited the Harvard plan as a model for other schools. But, as an article in The American Spectator (February 1978) and another in Commentary (May, with letters in July) show, the Harvard plan heaps up mountains of dishonesty, fakery and suspect standards. There is one kind of affirmative action—and one kind only—of which a liberal mind should approve: the diligent search at additional expense and concentrated effort, for minority candidates of standard caliber, who might otherwise be overlooked.

The Supreme Court—like almost everybody else—has failed to come to terms with the major fact now before the nation. That fact is that at every social and economic level, black students are not performing up to the same standard as whites, even when poverty is not at issue. The deans of the University of California professional schools noted candidly in their brief that poverty could not supplant race as the basis for affirmative action, since many black students are not poor, but even so need special standards.

The dimensions of this fundamental inequality come out in such figures as these: In 1974 (the last year for which figures are available), fewer than 40 per cent of black law graduates passed the bar exams, whereas the proportion for whites was about double that.

In 1976, according to the Law School Admissions Test, required of virtually all applicants to law school, a nationwide total of 4,122 white students scored above 700. In the entire country, only seven blacks scored above 700.

To have a realistic chance of being admitted into the top law schools, a white student would need to score near 700 and have a 3.5 grade average. It cannot be due to poverty alone that there was not even one black candidate for each of the top twelve law schools who was a test-score peer of the other students.

At lower levels, the proportions are similar. A full 20 per cent of white applicants (no matter the spread between the poor and the affluent) scored above 600; but only 2 per cent of black applicants did. Worse, there is considerable evidence that such aptitude tests are biased in favor of blacks, in the precise sense that blacks consistently, on average, receive somewhat lower subsequent grades than whites who had identical aptitudes. Blacks do not do as well as expected. This is a situation difficult for the liberal heart to face.

Partisans of double-standard affirmative action programs seem to think that it is not racist to permit blacks to meet a low academic standard. Future generations are not likely to judge "integrated but unequal" so favorably. The professional degrees being won by black affirmative action students are now publicly tainted. Privately, informally, among people who know, appropriate recognition of reality is being made. Justice Blackmun may think that the only way to defeat racism is to take race into account with a double standard, but that ploy is not likely to be regarded favorably by future generations.

For reasons as yet unclear—probably for reasons having to do with a low self-image, and with pre-modern or rural cultural traditions—black students, on average, are now in a position to compete with whites. Still, individuals can and do break free from past limitations in the space of a single generation. Affirmative action based upon locating those and only those truly competitive individuals is an honest program. Anything less than that is inherently racist. The Davis program was not racist because it was based upon a quota. It was racist because it set a separate and unequal standard for blacks. The double standard is inherently duplicitous. It destroys the very possibility of publicly recognized equality.●

## COUNTRY ELGIBILITY FOR EXPORT-IMPORT CREDIT

### HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. CAVANAUGH. Mr. Speaker, I am introducing an amendment to H.R. 12157, the Export-Import Reauthorization Act. My amendment will remove the antiquated prohibitions placed on the Export-Import Bank's extension of credit and allow the Bank to trade with every country in the world, except those expressly prohibited by the President or Congress.

In establishing this procedure, we would be open to a reevaluation of our foreign trade policy. This reevaluation has already begun. We have participated in a lengthy debate on the merits of the Tsongas amendment which prohibits future extensions of credit or loan guarantees to South Africa. The inclusion of this amendment in the Export-Import charter is totally consistent with the intent of my amendment.

In offering this amendment, I am not insisting, or even advocating, that we completely eliminate all trade barriers. I do believe that our huge trade deficits (about $30 billion a year), the continuing devaluation of the dollar, and our struggle against another recession, demand that we use every method possible to strengthen our export program. It is also true that the existing prohibitions on country eligibility in the Ex-Im charter were established almost two decades ago. Both our foreign policy and world economic conditions have changed greatly since that time. I feel it is imperative that we begin now a reevaluation of our trade policies.

It was pointed out this week during hearings of the Subcommittee on International Trade, Investment and Monetary Policy that our old ideas of withholding trade from countries as a punishment for actions which displease us might not have served any purpose, but to cause us to lose export markets. It has been shown that Japan and West Germany have been actively pursuing the very markets which are closed to us by the existing Ex-Im charter. We cannot allow our exporters to continue being out-maneuvered by these aggressive trading competitors.

The intent of my amendment was reported out of the Senate Banking Committee as the Stevenson amendment. Senator Stevenson prohibits Ex-Im extensions of credit to all countries except those expressly determined to be eligible by the President. While the intent of this amendment is compatible with mine, the Stevenson amendment would, however, establish costly, time-consuming and ambiguous procedures. In a letter to the Senate Banking Committee concerning this amendment, Secretary of State, Cyrus Vance, stated this procedure would create serious foreign policy problems in the compilation of the list and would undermine the effectiveness of the Bank at a time when we do desperately need help expanding our exports. My amendment, on the other hand, provides a workable procedure.

I urge your support of this amendment and your participation in a thorough discussion of our goals in determining a foreign trade policy.

We need to provide our Nation a new, flexible basis for determining which countries ought to be eligible to receive Bank-supported exports with active participation in criteria setting. This process will insure that any prohibitions are consistent with our national interests.

It must also be recognized that my amendment does not affect in any way the applicability of the Trade Act of 1974 in determining the eligibility of nonmarket countries for most-favored nations treatment or other credit programs. My amendment is limited solely determining eligibility for Bank credit programs.

The amendment follows:

AMENDMENT TO H.R. 12157 OFFERED BY MR. CAVANAUGH

Page 5, after line 6, add the following new section and renumber all successive sections accordingly:

SECTION . Section 2(b)(2) is amended to read as follows:

"SEC. 2(b)(2) The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit:

(A) in connection with the purchase or lease of any product by any country, agency, or national thereof, which the President or Congress determines would not be in the national interest; or

(B) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency or national is to the knowledge of the Bank, principally for use in, or sale or lease to a country which the President determines would not be in the national interest. Any determination made under this section shall be reported to the Congress not later than thirty days following the date of such determination; or

(C) as otherwise provided in this section.".●

## A DIALOG ON REGULATION

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. MICHEL. Mr. Speaker, I recently received a copy of an imaginary dialog between a loan officer of a bank and a loan applicant. This dialog tells more about the nature and the excesses of Federal regulation than many scholarly studies. I hope you will take the time to read it because although it is a tongue-in-cheek approach, the subject is serious and I am told by those who know about these things that there is "more truth than fiction in the message it contains."

Here, then, is a copy of the dialog:

LOAN OFFICER. "Good morning . . ."

LOAN APPLICANT. "Good morning. I'm here to apply for a loan, the purpose of which I choose not to divulge. You do not have the right to remain silent, anything you say or can do will be held against you in a court of law under the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Credit Billing Act, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, the Civil Rights Act, and the State and Local Commissions thereof. Also, the Consumer Protection Act, the Privacy Act, the Federal Trade Commission Holder in Due Course Regulation, the proposed Unfair and Deceptive Credit Practices Regulation or under one or more of the regulations issued by the Departments of the Treasury, Housing and Urban Development, Health, Education and Welfare, Defense, Labor, Army, Navy, Federal Reserve Board, Internal Revenue Service, Security and Exchange Commission, Social Security Administration and the Office of Economic Opportunity. You have the right to talk to a lawyer and have him present while you are being questioned about my loan application, but it is doubtful that he can protect you from all of the above-mentioned regulations and regulatory agencies. For your information, buddy, you don't mind me calling you buddy, do you, you cannot use established credit criteria such as my ability to repay, collateral, stability of employment, personal habits, alcoholism for instance, past credit experience, or general credit ratings to approve or deny my application. You must use the criteria developed by Congress and the above agencies in their infinite wisdom. If your credit scoring system rejects me, you must reveal the weights given to each item on my application, especially the lack of a savings account. I have a dollar in my pocket to open such an account which will allow your computer to score me high on it. When I become delinquent, you cannot discuss this with me unless I bring it up first, and, remember, I am still holding the Federal Bankruptcy Act and its proposed amendments in reserve." ●

## MRS. JANIE HENDRY QUYNN DELAPLAINE

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. BYRON. Mr. Speaker, I would like to take this opportunity to honor the memory of one of Frederick, Md.'s most outstanding citizens, Mrs. Janie Hendry Quynn Delaplaine.

Born in Ijamsville and a relative of Barbara Fritchie, Mrs. Delaplaine gave much of her time and talents to better the community of Frederick. She maintained one of the most beautiful gardens in the area, while still finding time to be an active member of many civic clubs. She was a supporter of Hood College and a past president of the Hood College Alumnae Association.

Her passing will be felt by all who knew and loved her and I know you will join me in extending the official sympathies of the House in honor of this patriotic American woman.

An article for the Post, Frederick, Md., follows:

MRS. WM. T. DELAPLAINE DIES—WAS "MISS JANIE"

Mrs. Janie Hendry Quynn Delaplaine, one of Frederick's most prominent women and a relative of Barbara Fritchie, died Tuesday, July 18, at her residence, 273 Dill Avenue. She had been ill for some time.

Mrs. Delaplaine was the wife of the late William Theodore Delaplaine, who was the president and manager of the Frederick News-Post from August 15, 1955, until his death April 18, 1964. Mr. Delaplaine was the third son of the founder of The News, William T. Delaplaine.

(Funeral arrangements, under the direction of Robert E. Dailey & Son Funeral Home, will be announced Wednesday).

Mrs. Delaplaine was born in Ijamsville, January 9, 1888, a daughter of the late Charles Williams and Harriete Eleanor Williams Quynn. She was the last of her immediate family.

She was a life-long member of the Evangelical Reformed United Church of Christ. She was graduated from the Woman's College of Frederick, later known as Hood College, in the Class of 1908. She was an ardent supporter of Hood and had remained active in the Hood Alumnae Association.

Mrs. Delaplaine was a founder and charter member of the Frederick Garden Club, a member of the Board of Directors of the Frederick Memorial Hospital, the Historical Society, the Frederick Art Club, the Salvation Army Auxiliary, and a past president of the Hood College Alumnae Association.

Survivors include her daughter, Mrs. Martin L. (Natalie) Bowers Jr. of West Chester, Pa.; two grandchildren, Martin F. Bowers and Miss Jane Elizabeth Bowers, both of West Chester; two nieces, Mrs. Samuel P. (Virginia-Quynn) Grant of North Carolina and Mrs. Myron W. (Frances Ann Delaplaine) Randall of Braddock Heights, and two nephews, Jack T. Quynn of Frederick and George B. Delaplaine Jr., publisher of the Frederick News-Post.

Mrs. Delaplaine was predeceased by two children—a son, Lt. William T. Delaplaine III, a Navy pilot killed in World War II, and a daughter, Miss Eleanor Frances Delaplaine.

Her son was killed in April 1943 in a plane crash with three other pilots and eight airmen. On May 1, 1949, the Delaplaines dedicated the airport building in Frederick in his name.

Her daughter died suddenly Oct. 22, 1938, and a garden on the Hood campus near bears a memorial plaque in her honor.

Mrs. Delaplaine was an artist, and had studied art under Miss Florence Doub, founder of the Frederick Art Club.

She was also a noted gardener, and maintained at her home one of the outstanding gardens in the city.

Jane Quynn and William Delaplaine were married Nov. 15, 1916, and had taken an anniversay cruise the year before his death.

She dedicated the Physicians Lounge at Frederick Memorial Hospital in her husband's name. She also had established scholarship funds at both Hood College and Washington and Lee University.

She had a life-long association with Hood and had known personally all of its presidents.

It is requested that flowers be omitted and expressions of sympathy be made to the Alumnae Association of Hood College in memory of Mrs. Delaplaine.●

## CINCINNATI ENQUIRER OPPOSES CUTS IN WORLD BANK FUNDING

### HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. McHUGH. Mr. Speaker, the foreign assistance appropriations bill will soon come before the House for consideration. As every Member is aware by now, numerous amendments will be offered to reduce funding and to restrict how our assistance may be used in a variety of ways.

I am opposed to these amendments, Mr. Speaker, and I have been encouraged by the fact that so many thoughtful and responsible newspapers across the Nation have indicated their opposition to them as well. For example, a recent editorial in the Cincinnati Enquirer called congressional attempts to slash American funding of the World Bank "tragic and ironic." The Cincinnati Enquirer pointed out that the World Bank not only has never suffered a loan loss in its 32-year history, but actually turns a profit while aiding poorer nations on a "politics-free" economic basis.

For the benefit of those Members who may not have seen this editorial, I am including it in the RECORD at this point.

THE WORLD BANK IN JEOPARDY

(By Robert Webb)

Congress could be about to kill one international organization—the World Bank—that actually works.

It might not be a fast death. The bank wouldn't shut its doors tomorrow.

But if the election-year hysteria fired by Proposition 13 bears its bitterest fruit, the slow death could start when the House takes up the foreign-aid budget next week. For many members, sensing only that voters are fed up with high government spending, see in proposed funds for the World Bank a safe place to cut.

What most of their constituents won't realize, they may assume, is that such budget surgery almost certainly will be counterproductive. Funds denied agricultural projects in India, Pakistan or Bangladesh, say, not only would take food from the mouths of the destitute millions of those countries. The denial would have its consequences on the need to raise living standards for the impoverished countries for the benefit of all countries.

Just as increased spending power in the American South improved markets for the industrial North, so will enrichment of the developing countries mean new buying power for goods made in the United States. And a denial or sharp cut in the $800 million pending as the U.S. commitment for the fifth replenishment of the World Bank's "soft loan" window, the International Development Association (IDA), would also be a slap at such IDA members as Israel, South Korea, the Republic of China on Taiwan, Cyprus, Egypt and Lebanon.

Hard-to-measure but near-certain international political repercussions could also flow from whacks beyond the $1.09 billion the House Appropriations Committee cut from the $3.5 billion sought for the World Bank and the regional development banks (such as the one for Latin America). The cuts would come, moreover, at a time of increasing U.S. dependency on the countries reliant on the banks for many major imports.

As columnist James Reston noted recently, "The United States now depends on developing countries for 45 percent of its oil, 85 percent of its bauxite, 93 percent of its tin, 59 percent of its zinc ore and 36 percent of its iron ore." He also pointed to the $29 billion in goods the United States shipped in 1975 to the nonoil developing countries.

Another slant on the U.S. stake in the aid appropriations comes from Ralph A. Dungan, executive director for the United States on the board of the Inter-American Development Bank (IDB). "As I see it, the logic of the U.S. participation is composed of a mixture of direct economic self-interest, a more general political interest, the cost-effectiveness of this form of economic cooperation and the deep impulse, so typically American, to share the bounty with which we are blessed as a nation," he wrote. ". . . It is estimated that the United States has supplied about 47 percent of the goods and services purchased with the proceeds of loans since the bank began operations in 1959."

Ohio firms are involved in a wide range of IDB activities. Thus they are among 106 U.S. suppliers providing goods and services in a $2.7-million IDB loan to El Salvador to expand and improve water supply and sewerage facilities. Ohio interests are also in a $4.1-million IDB loan project to supply potable water to the Dominican Republic.

American firms, too, are obviously and heavily engaged in provision of services and supplies for World Bank-financed projects globally. The bank, moreover, has a prime credit rating, and has never suffered a loan loss in its 32-year history. It annually turns a profit ($275 million in 1975), which is plowed back into bank loans or IDA credits.

While government aided, the development banks operate pretty much like the one where you keep your own account. Only they may be tougher on their borrowers. Member countries of the World Bank vote proportionate to their shares in the banks. Overall, U.S. shares average 25%, easily the largest. The U.S. share of the most recent replenishment of the World Bank was 18.3%, its IDA component, 31.4%.

The American share, moreover, triggers other contributions Thus a U.S. whack at IDA would jeopardize the extent to which the other 23 donors participate. Notably, member countries in the World Bank ante up only a 10th of their capital contributions. The other nine-tenths is callable only in a bank emergency.

When the House gets down to business on the World Bank and the regionals, it will also face what could be a decisive test on whether the United States will bar the use of any of its funds for Cambodia, Vietnam, Laos or Uganda. Rep. Robin Beard (R-Tenn.) has an amendment ready to attach such a prohibition. But he and other

House members will be faced with legal opinions such a prohibition would violate the bank's charter and have the effect of cutting U.S. aid altogether.

At President Carter's initiative, the U.S. representative on the bank board has been instructed under a "gentleman's agreement" with Congress already to vote on a human-rights basis against aid to such countries. The Beard directive is understandable, and undoubtedly would have the sympathies of many Americans. The remedy, however, may lie more appropriately in some reasonable human-rights amendment to the bank's charter. The dilemma, in any case, is apparent.

So far, the bank board has sought by the most meticulous exmination of loan applications and project reviews to grant help solely on a politics-free economic basis. And since all loans must be repaid, nobody gets a free ride. It is not as though the United States makes a direct gift to any country when it helps development banks expand their lending power. Indeed, such support may help ease the pressure from poorer countries for direct aid.

The message from Proposition 13 was clear, of course, and *ought* to resound across the land. But it would be tragic, indeed ironic, to have it destroy one of government's most conservative and—for generations to come—productive operations.●

## HUMAN RIGHTS VIOLATIONS IN NORTHERN IRELAND

### HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. STEERS. Mr. Speaker, the violence and turmoil in Northern Ireland is certainly one of the most tragic situations in the world today. Human rights violations are common in that region, and I would like to insert into the RECORD at this point the documentation by Amnesty International of one such violation of a human's rights:

DOCUMENTATION

CASE NO. 55

Male. Arrested during the first half of 1977 and brought to a local police station. On the following day he was transferred to Castlereagh Holding Centre where he was detained for seven days. He was then transferred to prison where he remained for several months, after which all charges against him were dropped and he was released.

He alleged to have been subjected to the following forms of maltreatment during detention in Castlereagh:

*Physical maltreatment*

Hair pulled out.

Beatings: diffusely all over, directly on ribs, on hips and stomach.

Kicking.

Direct head trauma with head banged against wall.

Body stepped on, hands and face stepped on while he was on the floor.

Fingers squeezed violently and wrists bent.

Arms twisted behind his back.

Physically exhausting procedures: made to stand with arms straight up in the air, to squat with arms straight out, prolonged and exhausting interrogations.

*Psychological maltreatment*

Threats of having his arm broken; having his child shot; of assassination.

Humiliation: forced to stand with his underpants down to his knees while being ridiculed. His family referred to in a degrading way.

Confusing procedures: interrogation alternated between physical violence and "friendly" interviews.

He claimed to have had the following symptoms immediately after the alleged maltreatment:

Cardio-pulmonary: he was bothered by tachycardia for the seven days he was in Castlereagh.

Gastrointestinal pain just after the beatings in the epigastrium, but this disappeared quickly.

During detention in Castlereagh he passed black-brown urine, which he stated he was told was due to blood in the urine.

Pains in his hands and his left fourth finger was swollen.

Numerous bruises distributed all over his body.

Headaches localized to both temples and vertex; these decreased gradually.

Shaking hands, "pins and needles" after having held the arms out straight. Pains in his elbows and his left hand. These pains later disappeared.

Psychological: He heard footsteps without knowing whether or not they were real. It does not seem likely that he was hallucinating. He stated spontaneously that he had been so desperate during detention he had tried to hurt himself by throwing himself onto the floor in order to be taken away for treatment.

He claimed to have suffered the following symptoms in the period following his detention in Castlereagh:

The symptoms of tachycardia continued for the first two months he was in prison, and then disappeared, although he still has sporadic attacks. The headache continued but became less acute. He became more irritable and erethitic. He had sleep disturbances for a certain period. His left fourth finger remained swollen for about three months. After his release from prison he drank more alcohol than previously.

*Previous medical examinations*

During his detention in Castlereagh, Case No. 55 was examined by several doctors who have given medical evidence of physical injuries. They found consistency between the injuries found during their examinations and the maltreatment alleged by Case No. 55 at the time. These doctors were convinced that the lesions could not have been self-inflicted.

*Findings at detailed examination*

This man was examined by the medical delegates approximately ten months after his arrest and detention. At the time of detailed examination he still complained of the following symptoms:

Sporadic attacks of tachycardia.

Intermittent headaches.

Increased alcohol consumption.

Increased irritability, and erethitic and quarrelsome behaviour.

Case No. 55 stated spontaneously to the medical delegates that in order to get away from interrogation he twice threw himself onto the floor. This cannot explain the injuries alleged by Case No. 55 and noted in the medical reports made at the time of detention (attached).

The medical delegates find consistency between the maltreatment alleged, the symptoms and the medical reports. The detailed examination found predominantly psychological residual signs and noted symptoms which could be ascribed to maltreatment, although the possible effects of imprisonment on his behaviour and condition are difficult to evaluate. However, on the basis of all the material presented to the mission and the medical delegates' assessment of his symptoms and reactions immediately after maltreatment, the medical delegates conclude that the detailed examination strongly corroborates the case that maltreatment took place.

MEDICAL REPORT ON CASE NO. 55 BY DR. ML

Dated during the first half of 1977.

This man was arrested during the first half of 1977 and brought to Castlereagh on the following day. I examined him on Day 9 at his solicitor's request.

Case No. 55 stated that during the previous weekend he was interrogated at intervals by members of the RUC, during which he was assaulted. He stated that he had been pulled around the room several times by his hair, that he had been punched and kicked on his arms and legs and trunk, also that his arms had been forcibly twisted up his back.

He also complained that he had been made to lie face down on the floor, and that his knees were hyperflexed, i.e., forcibly bent backwards, and he also stated that his feet were tramped on, his face was slapped, and that he was made to stand with his hands above his head for hours, and when he brought his hands down he felt a bursting of "pins and needles" sensation. Finally, he stated that he was made to make a fist with both hands and that his hands in this position were squeezed extremely tightly.

Today he complained of a feeling of numbness in both hands and of a painful left ring finger.

On examination I found that there was patchy hair loss, particularly in both temporoparietal and occipital regions.

On his left arm there were three bruises (fading) one above and two below the elbow on the flexor surface.

On his abdominal wall in the epigastrium (i.e., the top of the stomach) there was a large bruise approximately 4" x 3" (fading). There was abrasion ½" to 1" in diameter below his right knee and bruising on the front of the right leg below this (fading). There was extensive bruising along both iliac crests (more to the back than the front). Both these bruises were still quite livid. There were fading bruises on the back of his left thigh. There was slight swelling at the proximal interphalangeal joint of the left ring finger.

Conclusion: The clinical findings of hair loss and generalised body bruising are consistent with Case No. 55's history of what occurred during his interrogation.●

## RED CHINESE GAVE $10 BILLION IN AID TO HANOI

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. ASHBROOK. Mr. Speaker, the Carter administration is treating the People's Republic of China like a newfound friend. We are moving toward full diplomatic relations with the Communist regime, even if it means dumping our longtime ally the Republic of China on Taiwan. There is also talk about the United States playing the "China card" against the Soviet Union.

I find the Carter administration's attitude somewhat strange. The Red Chinese are certainly not our friends nor can their assistance ever be counted on by the United States.

I was interested to see a recent story in the Washington Post where Communist China disclosed that in two decades it gave more than $10 billion to North Vietnam. According to China, this aid included "millions of rifles, tens of thou-

sands of artillery pieces, over a billion rounds of bullets" and other items from ships to locomotives.

These Chinese rifles, bullets, and artillery pieces, of course, were used against us in the Vietnam war. They helped kill or maim thousands of American men. The Carter administration seems to have forgotten this as it rushes toward full diplomatic relations with Communist China.

Following is the text of the Washington Post article.

[From the Washington Post, July 28, 1978]

CHINA RELEASES AID FIGURES

HONG KONG.—In an unusual move aimed at Vietnam China has disclosed that its aid to Hanoi over more than two decades exceeded $10 billion, including "millions of rifles, tens of thousands of artillery pieces, over a billion rounds of bullets" and a variety of other items, from ships to locomotives.

China, which said the bulk of the aid consisted of free grants, ended its assistance to Hanoi earlier this month. The announcement of the amount of aid apparently was an attempt to rebut Vietnamese statements about aid value.

Vietnam, meanwhile announced it has agreed to hold talks with China over the touchy issue of ethnic Chinese living in Vietnam, which helped trigger the recent enmity between the two former allies.

## UNITED STATES ARMS TRADE POLICIES IN THE WESTERN HEMISPHERE: A GLOBAL MODEL OR A DISASTER?—PART II


## HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES


*Wednesday, July 26, 1978*

● Mr. LAGOMARSINO. Mr. Speaker, the first part of former Congressman Joseph Karth's testimony before the Inter-American Subcommittee of the House International Affairs Committee (inserted in the CONGRESSIONAL RECORD July 20, 1978) argued that the U.S. policy of unilateral restraint regarding arms sales in South America failed to achieve its main objective of holding down regional arms races. Furthermore, Mr. Karth put forward the proposition that the unintended consequences of our unilateral restraint has been the erosion of U.S. political and military influence in South America. The U.S. presence, Mr. Karth argues, was actually a force of stability and moderation in regional affairs, but due to the new arms trade policy, we are less able to exercise a beneficial influence upon unfolding events. In this, the second segment of Mr. Karth's testimony, he analyzes the human rights rational underlying the policy of unilateral restraint and finds it to be misconceived. Mr. Karth also goes on to detail the economic costs to American industry of this policy in terms of sales lost to foreign competitors. The third and final installment of Mr. Karth's testimony will follow.

The testimony follows:

TESTIMONY BY JOSEPH KARTH

Mr. Chairman, let me now turn to another aspect of our current arms sales policy to Latin America, that of withholding sales and aid in order to promote the observance of human rights. The Congress has joined—indeed, has led the Administration in this regard—with results equally bleak. Concern for human rights has been a consistent theme of U. S. policy toward Latin America for many years. We used our power of persuasion and public opinion and—importantly—our influence with the military, who have inordinate political power in many of these countries.

As our influence waned, however, our policy became more rigid. With the advent of the Carter Administration, human rights observance was made a specific criteria—in certain cases and for certain selected countries for providing U. S. aid and military sales. Thus, five Latin American countries have rejected or been denied U. S. military aid based on human rights considerations. As we indicated, Brazil has renounced its long standing defense agreements with the United States and the close relationship between our two countries has deteriorated.

Congress has joined in this effort. Section 406 of the International Security Assistance Act of 1976 prohibits military assistance, security supporting assistance, military education and training, credits, guaranties, cash sales, or the provision of export licenses to Chile. Section 620B of the Foreign Assistance Act places those same restrictions on Argentina after September 30, 1978. These are absolute, stringent prohibitions. Under these provisions there are no exceptions. These are strict prohibitions. There is no provision for a Presidential exception in the interest of U. S. national security, as is the case with Communist countries (Section 620 (F)). Thus, Argentina and Chile have been singled out in legislation as human rights violators and have had penalties imposed on them through legislation far more severe than those imposed upon North Korea, and China, for example. Indeed, recent reports indicate that the U.S. is encouraging military sales to China by France and the United Kingdom. In fact, the restrictions on Argentina and Chile are even more severe than those imposed upon those paragons of human rights, Uganda, Cambodia, Vietnam, Angola, and Mozambique.

Thus, we have a clear double standard of morality in implementing U.S. arms transfer policies. First, the U.S. has little or no leverage over some of the world's most repressive regimes, those we have already mentioned—China, North Korea, Cambodia, and the Soviet Union. In cases where we do have significant influence, such as South Korea, Saudi Arabia, or the Philippines, our human rights concerns bump against other, perhaps more important, considerations such as national security or economic necessity. So the brunt of our human rights policy has fallen on those nations that are poor enough and friendly enough to need and be eligible for U.S. aid. But they are not strategically or economically important to this country. Neither are they in the forefront of human rights violation.

We are, of course, not here to defend those nations who violate the human rights of their citizens. The United States, of course, must be concerned for human rights around the world; should speak up for those rights, and should use its influence to moderate flagrant violations of human rights. Such a stance, such a concern, does our nation honor.

But concern for human rights as an element of U.S. policy was not born on January 20, 1977 with the Carter Administration. As State Department witnesses have testified concern for human rights in Latin America has been U.S. policy for the past fifteen years.

And what has been the results of this concern on the part of the U.S. with human rights in Latin America over the years? What has our policy accomplished? According to information furnished us by the State Department, in 1963, 13 Latin American countries were considered to be "clearly free" while 3 were "clearly non-free." In 1978, the figures were 15 nations "clearly free" and 7 "clearly non-free." Three other nations were characterized in 1978 as having "irregular performance" as compared to 2 in 1963. This is not a very impressive record of progress.

But the Carter Administration has added something new to human rights policy First—a huge bureaucracy has been created to translate the President's noble thought into practice. This bureaucracy, with its own vested interest in this issue to the exclusion of other considerations, now threatens to jeopardize other foreign policy/national security objectives by its attempts to implement this policy.

This human rights bureaucracy within the State Department, periodically reports on human rights conditions of other countries in order to decide whether a particular government is good enough to deserve U.S. support. This makes the U.S. appear to others as moralistic and "holier than thou". It also leads to bad policy. It's equivalent to the "shooting the horse to kill the flea" mentality.

Secondly, recent reports indicate that the human rights bureaucracy has systematically rejected almost every single request from U.S. allies for civil law-enforcement equipment including such routine items as tear gas, and handcuffs.

This is not policy, it is a mindless substitute for policy. It might be better referred to as an "ideology" of sorts.

And of course, not all nations recognize the U.S. definition of human rights and not all can afford the luxury of U.S.-type individual freedom.

In this regard, let us look at Argentina specifically. This Subcommittee stated last February, concerning Argentina:

"The present military government came to power in March 1976 in response to the manifestations of social, political and economic disorder. During the last months of the regime of Isabel Peron the country was in a state of chaos, characterized by soaring inflation and virtual anarchy. Terrorist groups of both the right and left were engaged in open warfare. The military filled a power vacuum created by Isabel Peron's inability to govern with support of the Argentine people. The state of siege under which the present government rules, was declared on November 6, 1974, by the Peron Administration in the face of the rising tide of terrorism."

When survival is at stake, some human rights must take lower priority, as our citizens of Japanese ancestry who were interned at the beginning of World War II can testify, and as the American Indian today would perhaps want to testify. Many developing countries see economic development and national security as paramount human rights while the U.S. continues to emphasize personal freedoms. Some are faced with threats to their survival from internal dissidents. A South Korea diplomat recently put it as follows: "The human rights standard varies from culture to culture, but your administration is trying to impose a unilateral standard."

Frankly, I am not really well enough informed to know whether or not our concept of human rights and morality (and when you talk about morality, you must talk about total morality) is *good enough to export*, or can flourish in different soil, but I do know that our foreign trade competitors are not trying to export theirs. Beyond that, if our human righs program is worth a damn, shouldn't it apply to "not buying" as well as "not selling"?

In any case, we do not help the cause of human rights by withholding economic help to the victims of human rights violations. Earlier this year, in March, a delegation from the House Committee on Banking, Finance and Urban Affairs, in a letter to the President (which I would ask be included in the record) reporting on their visit to Latin America, stated:

". . . the people of the countries we visited seem to believe that moral suasion and the power of world opinion were more effective in achieving progress toward human rights than economic sanctions imposed indirectly by the United States through its participation in multilateral lending institutions and directly by the United States through its bilateral aid and/or military sales and credit programs.

"For example, in Argentina . . . we met with three human rights groups. The repeated refrain was, "Don't use economic sanctions against our country." The most thoroughly genuine of those three groups was called the Mothers of Plaza del Mayo. . . . Even this group favored moral suasion over economic sanctions.

"Mr. President, we support your policy statements on human rights. We think the Congress may have overreacted in attempting to put these statements of principle into legislative form. . . . We believe that the Department of State has overreacted to expressions from the President and the Congress in a way that is not only detrimental to the United States but also to the people about whose human rights we are concerned."

We agree that the Congress has overreacted and would propose amendments to restrictive legislation so as to bring Chile and Argentina at least on a par with the Communist countries insofar as arms sales are concerned. These have been included at the end of this testimony.

And the State Department, of course, has overreacted. Although arms transfers to Argentina are embargoed by legislation after September 30, 1978, the bureaucrats at the State Department, clearly perceiving the intent of Congress and always relieved at not having to make independent judgments, have effectively imposed such an embargo already.

What has been the cost of our human rights policy in economic terms alone? What benefits have resulted? As Forbes Magazine recently said, "At least we ought to know in jobs what the export of our morality engenders." I agree. In recent testimony before this Subcommittee, a State Department witness stated that the overall impact on the American economy of our policies in Latin America would be "negligible, . . . though particular orders may occasionally be important to specific U.S. companies." Mr. Chairman, we are concerned with both the U.S. economy and with the fate of specific U.S. companies. We, of course, do not expect the same degree of concern from the Department of State. Their jobs and/or their futures are fairly well assured! But let us see what the Department of State considers to be of negligible economic impact. According to figures provided us by the Department—figures State Department witnesses did not feel it was necessary to divulge to this Subcommittee—the effect is far too striking to be accurately characterized as "negligible."

Argentina provides the most thoroughly documented example of the full fiscal impact of our human rights policy in application. Let me quote the information received from the State Department—but not provided this Subcommittee (and remember, these figures apply to Argentina alone):

"We calculate that sales denied to Latin nations, together with orders simply not placed by US manufacturers and suppliers who can see little merit in expending time and money on sale efforts almost certain to be denied, account for a very substantial sum. . . .

"At the moment, some 169 Munitions Control cases worth $62.5 million are being held up; two cases alone which were either denied or withdrawn account for another $8 million. Sales promotion cases which have been turned down obviously account for another significant sum which cannot be precisely measured, however, we estimate some 25 million in lost business in this category. There are over 74 FMS cases pending with an estimated value of 45.4 million. Other pending cases for major end items of equipment, military ambulances aircraft, amphibious lighters, a computerized communications system (denied on March 14) amount to another 120 million, while outstanding Export-Import Bank cases total 518 million. A gas pipeline bid was lost by an American firm after the US voted against the project in the IDB. The 30 million dollar contract went to a French firm.

"In sum, taken together, we calculate the total value of these cases at 813.519 million dollars. This figure itself may indeed be conservative since we cannot accurately calculate the cost of already discouraged business due to our widely known licensing and financing delays. It is safe to say, however, that the spin-off effect of lost business of this magnitude cannot help but influence every other potential supplier and customer in the Hemisphere."

Mr. Chairman, lost sales conservatively estimated to be $813.5 million to one country alone are not, to my mind, economically negligible. Only a myopic economic "genius" would suggest it. If only we could export some of these geniuses to our political enemies, how helpful it would be.

Mr. Chairman, these lost sales mean jobs to American workers—how many jobs does $813 million to one country in sales buy? They mean an improvement in our balance of payments, and consequent support for the dollar and lessening of inflationary pressures. And this is for firm orders that have not been approved. Not counted are orders which were not even offered to U. S. firms because of the likelihood of disapproval. In this regard, I would like to introduce into the Record a letter addressed to George Meany, President of the AFL–CIO. It is from a sales representative in Argentina for several U. S. electronic firms. He details several lost sales of some $1.4 billion in Argentina as follows:

A. Navy: 6 Navy frigates and 4 patrol boats, value U.S. $1,000,000,000.

U.S. Shipyard could not quote due to export license prohibitions on Human Rights. Germany will supply these ships.

B. Air Force: 100 inertial navigation systems for earlier purchased U.S. Aircraft (Skyhawks), value U.S. $15,000,000.

U.S. Electronics companies could not quote because of export license prohibitions on Human Rights. United Kingdom will supply these systems.

C. Other aircraft electronic components such as head-up displays, fire control sensors, transponders, etc., value U.S. $100,000,000.

Again no U.S. Company can quote. The British and Israelis will sell this equipment.

D. Navy: Laser range finders, value U.S. $12,000,000, to be bought in the U.K.

No attempt was even made to try and find out if the U.S. would sell to Argentina.

E. Army: Optical and control equipment for tanks that are being built in Argentina, value U.S. $250,000,000.

Supplier, either Germany or United Kingdom. The U.S. suppliers were not even approached.

Mr. Chairman, these lost sales, lost jobs, lost production, are not negligible to the U.S. economy. They are certainly not considered to be negligible to the British, Israeli, French, or West German economies.

And how does the denial of these sales impact on human rights in Argentina? Let us look at some specific sales which have been disapproved or are currently being held up by the Department of State:

The sale of commercial executive aircraft, configured as air ambulances, is being held up, apparently because these air ambulances are to be operated by the Argentine Navy. How the denial of this humanitarian equipment designed to save lives and readily available from other sources, helps human rights is something that cannot be comprehended by reasonable people nor justified by those of sound judgment;

The sale of belt buckles, shoes, flight coveralls, gloves, flying helmets, and survival equipment for the Argentine armed forces is being held up. This seems particularly petty;

Although the sale of A–14, P–2, and C–130 aircraft to Argentina has been approved previously, approval for training simulators and spare parts for those aircraft are now being held up; the denial of spare parts for previously furnished aircraft seems to me, Mr. Chairman, to be actually immoral. Such denial does not contribute to human rights—it merely contributes to the killing of Argentine pilots;

The sale of metal and mine detection equipment, designed to screen crowds at the recent World Cup games, was denied; human rights?

The sale of commercial aircraft to Argentina has been held up because these aircraft contain inertial navigation systems, essential to the safe operation of these aircraft. These systems are on the U.S. Munitions List, although they have previously been furnished to Argentina on other aircraft;

The sale of aircraft and helicopters to be used in the support of the Argentine Antarctic Directorate are being held up.

Hundreds of other similar examples could be cited. Indeed, it might be useful for this Committee to request a complete list from the Department of State so as to get the full scope of how Argentina is being "punished" for its internal policies.●

## THE UNHAPPY HISTORY OF TRADE PROTECTIONISM

**HON. JOHN J. LaFALCE**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. LaFALCE. Mr. Speaker, one of the most important debates being conducted throughout the length and breadth of this country at this time concerns the future of our international trade policy. This debate is also present in every other industrialized country, as domestic industries are now facing stiff competition from imported goods.

Despite differences in vocabulary and nuance, this debate is following a classic pattern, free trade versus protectionism. While free trade and protectionism cannot be and are not absolutes, they do involve clear-cut choices between alternative policies, both in terms of the record of previous encounters between these two principles and the unfortunate consequences of a return to trade protectionism.

Our distinguished colleague, Steve Neal, authored an incisive article for the Washington Post last week, in which he skillfully analyzed the economic and political results of the infamous Smoot-Hawley Tariff of 1930. As the highly respected gentleman from North Carolina points out, that tariff helped insure that

the stock market collapse of 1929 would become a deep and worldwide depression, which helped bring about World War II. I hope that all Members will carefully read his article, which follows:

THE UNHAPPY HISTORY OF TRADE PROTECTIONISM

(By Stephen L. Neal)

Before we become saturated with 1930s nostalgia, with Little Orphan Annie, "The Waltons" and art deco, we ought to review one of the hard lessons of the Great Depression: Protectionism is not the answer to our economic problems.

At a recent White House meeting, I was surprised to hear one of our leading industrialists suggest that Congress protect American industries from foreign competition by enacting legislation frighteningly similar to the Smoot-Hawley Tariff Act of 1930.

I have since heard that kind of protectionist talk increasingly from businessmen and from an alarming number of my House colleagues, who are under pressure to secure for their home-state industries quick relief from import competition.

The reasons for this sentiment are clear. Unemployment is still high. Inflation persists. Our industries face strong competition at home and abroad from the aggressive traders of Europe, Japan and the rapidly developing Third World. We are importing more foreign goods than ever, but the demand for American products overseas has been sluggish. As a result, our trade deficit exceeded $3 billion last year, and the dollar's value has been depreciating.

I am keenly aware of how those economic stresses make protectionism seem attractive. I am no purist on this issue. I have supported limited protection when I thought it was justified, particularly for the textile industry, which is highly vulnerable to competition from newly industrializing nations. But I sense that some of my colleagues are tempted to go beyond limited administrative measures that assist distressed industries on a selective basis. They would shove aside the administration's trade negotiators and legislate broader measures reminiscent of Smoot-Hawley.

Like most of those who talk protectionism today, Smoot-Hawley supporters saw themselves as prudent men acting to avert an economic crisis. President Herbert Hoover originally asked only that Congress protect farmers and a few industries. But once the bill started through Congress, the logrolling began in earnest, with members insisting that their home industries be included. No fewer than 1,250 amendments were attached to protect various products. Tariffs were raised by an average of 53 percent.

More than 1,000 economists unsuccessfully petitioned Hoover to veto the bill. So did our world trade partners, who pointed out that they would have no dollars to buy American goods if their own products were shut out here. Even before the bill had cleared Congress, the anticipation of its passage contributed to the panic precipitating the stock-market crash of 1929. Businessmen and investors sensed all too well the potential dangers of high tariff walls. Their instincts proved correct.

Foreign retaliation was swift: Our trading partners erected their own tariff walls. Within three years, our industrial exports had declined by 73 percent and our agricultural exports by 67 percent. The loss of foreign trade, of course, eliminated more jobs, closed more factories and prolonged the Depression. Even worse, the protectionist spirit spread throughout the world and contributed to the economic and political unrest that ultimately led to World War II.

The lesson was clear. President Franklin Roosevelt pushed through the Reciprocal Trade Act of 1934 to get our foreign trade moving again. And ever since, despite an occasional instance of backsliding, the United States has worked toward freer world trade.

If Smoot-Hawleyism didn't work in the 1930s, it obviously won't work in today's interrelated world economy. The United States now exports one-sixth of everything it manufacturers and one-third of its farm products. Overall, we exported some $120 billion worth of goods and services last year, and this trade supported at least 4.5 million jobs in the United States. All this is at stake, remember, when we play the protectionist game—a game always played by more than one.

Indiscriminate protectionism would have other serious consequences. It would deprive consumers of the wide choices and lower prices made available by imports. It would accelerate inflation by eliminating import competition. It would jeopardize our foreign relations and undermine a generation of efforts to build a peaceful and productive world. In particular, it would poison our relationships with the emerging countries of the Third World, who need trade to survive, to pay debts, to modernize and—significantly—to continue to be able to buy our products.

As I said, I am no purist. Free trade, like world peace, human perfection and the low-calorie banana split, is something we have to keep working toward, not something we have achieved. So long as other countries protect some of their industries, it is only common sense that we do the same—in a selective, painstaking way. We should be tough negotiators, yielding trade concessions only to those who give in return. We should vigorously oppose dubious trade practices such as the dumping of foreign products below the cost on our markets and the predatory financing schemes some countries employ to promote their exports.

If we keep trying, however, many trade barriers eventually can be eliminated by negotiations and by the working of market forces. The important thing is that we continue to move toward freer trade, inch by inch if necessary, and that we not retreat in panic to wholesale protectionism achieved by political logrolling in Congress.

History is a great teacher. We should remember its lesson on protectionism.●

## THE ITALIAN-AMERICAN SPORTS HALL OF FAME

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. HYDE. Mr. Speaker, as a member of the honorary board of directors of the Italian-American Sports Hall of Fame, I am pleased to announce that this organization will be holding its second annual induction banquet in my district on September 16.

The Italian-American Sports Hall of Fame is an independent nonprofit organization. Originally formed to honor Italian-American boxing champions, it has rapidly expanded in the last year to honor all outstanding athletes of Italian heritage.

Last year's banquet, which was a huge success, honored Italian-American world boxing champions and, judging from the number of former champs who attended the affair, it was indeed, as dubbed by one writer, "the night of the living legends." Those in attendance included Lou Salica, Harry Jeffra, Willie Pep, Tommy Paul, Petey Scalzo, Sal Bartolo, Paddy DeMarco, Sammy Angott, Louis D'Ambrosio, Tippy Larkin, Tony DeMarco, Carmen Basilio, Johnny Wilson, Jake LaMotta, Joey Giardello, Melio Bettina, Joey Maxim, and Willie Pastrano.

Five former world champs were inducted into the hall of fame, including Sammy Angott, Jake LaMotta, Rocky Graziano, Carmen Basilio, and Willie Pep. Rocky Graziano was, unfortunately, unable to attend but was inducted in absentia. Primo Carnera, Rocky Marciano, and Tony Canzoneri were inducted posthumously, and Angelo Dundee was inducted as the most outstanding Italian-American boxing trainer.

At this year's ceremonies, eight more Italian-American sports heroes will be inducted into the hall of fame including Johnny Wilson and Lou Ambers, Joe and Dom DiMaggio, Gino Marchetti, Charlie Trippi, Vince Lombardi, and Eddie Arcaro.

Though the Italian-American Sports Hall of Fame is still in its infancy, enthusiasm and support for the organization has grown tremendously within the past year. I am hopeful that the dream of its cofounders, George Randazzo and Joseph Granata, to build a multipurpose complex to house the hall of fame museum as well as other sports-related facilities, will soon be realized. Such a facility would include special programs and events for young people, senior citizens, and the handicapped.

Another commendable goal of the organization is to establish a special endowment fund that would give athletic scholarships to some of tomorrow's sports heroes.

I know my colleagues in the House join me in congratulating the cofounders, directors, trustees, and supporters of the Italian-American Sports Hall of Fame for the important strides made since the organization's inception. In addition to my anticipation of the next induction banquet on September 16, I greatly look forward to the day when the Italian-American Sports Hall of Fame complex will officially open. I predict, judging from the enthusiasm engendered among its supporters, that that occasion may not be far off.●

## THE CONTINUING PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS IN ARGENTINA

### HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. DODD. Mr. Speaker, last Friday, July 14, I presided over a meeting in the Rayburn Building to hear from a number of people who described their firsthand experiences in Argentina. The clear pattern of human rights violations in Argentina is sobering to hear. For the benefit of my colleagues who were not able to attend the meeting, I am submitting for

the RECORD three documents. First is a description of what was said at the July 14 meeting, compiled by one of the principal participants, Father Patrick Rice. The description is not meant to be taken as a word-for-word transcript of the meeting, but it is an accurate record of what was said. Second is a factsheet on seven members of a family who have all disappeared in Argentina. Finally, I have included a letter from Matilde Herrera, the mother of three of the seven family members who have disappeared. I hope that all of my colleagues will take the time to read her eloquent and moving letter:

JULY 14 MEETING

Mr. DODD. At a time when our attention is rightfully focused on the denial of human rights in the Soviet Union, we should not forget that the human rights situation in other countries is often far worse. Argentina, in particular, presents a very tragic picture. There are some 3,500 officially recognized political prisoners in Argentina. Amnesty International estimates that the total number of people actually in detention is closer to 10,000. Even more alarming is the number of people who have simply disappeared. There are some 15,000 persons who are unaccounted for, although many are believed to be held in secret detention centers throughout the country. Many people have been killed, but their remains are never returned to their relatives for burial. Torture seems to be routine. During a recent hearing of the European Parliament on Argentina, which I attended, the human rights situation there was dramatically explained.

The purpose of this meeting today is to offer Members and their staffs the opportunity to hear about the situation in Argentina and to decide what is the proper course of action for the U.S. Congress to take. So I present to you Father Patrick Rice, a young Irish priest, who as a missionary in Argentina was imprisoned and tortured. He was one of the group who spoke so eloquently at the European Parliament.

Fr. RICE. I would like to underline the tremendous problems one faces if one has a relative or friend disappear in Argentina. There is absolutely no where and no one to turn to for information on the whereabouts of a person who has disappeared. In my own case, I was detained in October, 1976 and it was only due to the efforts of the Irish Embassy and the fact that there were no charges against me that I was finally able to leave the country. However, the person detained with me, Fátima Cabrera, a catechist, is still under a type of house arrest called restricted liberty. I would like to emphasize the fact that many priests and nuns have suffered Argentine repression first hand, especially those of us who worked among the poor or who questioned the government's human rights policies.

Among those who have disappeared for example are: Fathers Carlos Bustos, Pablo Gazzarri, and Kleber Silva and two French nuns, Alicia Domon and Leonie Duquet. There has been no official response from the Argentine government when the status of these people has been brought up, although unofficially we know that they are in secret detention centers, but one is never fully sure if they are still alive. Disappearances still continue, for example, on June 28, 1978 the well-known editor of Mercado, Julian Delgado was abducted by pro-government groups and there is as yet no explanation of his fate.

Mr. DODD. Now we shall hear from Marta Panero, a citizen of the United States, born in Philadelphia in 1957, but who has lived most of her life in Argentina. She was imprisoned and tortured in September 1976 and was released only recently in February 1978.

Ms. PANERO. I was a student of journalism in Cordoba when I was detained. A week before my sister, Maria Susana, also born in Philadelphia, was arrested. Both our fiances had been detained some weeks previously. Their names are: Luis Leiva and Daniel Oscar Sonsini. There is still no news of their whereabouts. I was taken to a house overlooking the water-dam of San Roque of Carlos Paz in the mountains of Córdoba where I was tortured together with five other prisoners from the University, some of whose names I remember, Cesar Pasamonte (20), Mr. Garcia (aged 29 and father of two children). All of them have disappeared. After two weeks of the most brutal torture, including burnings with hot coals and having snow thrown on us, I was brought by my torturers to the military camp of La Rivera where I could see the people who brought me fraternizing with the military personnel in the camp. Finally after having been in several prisons in Córdoba, in April, 1977 I was brought to Villa Devoto prison in Buenos Aires. I was accused of cooperating with the subversion in the University, but I was never charged. My sister, Maria Susana is still in prison, and I make a special appeal that she be allowed to leave the country. No charges have been filed against her and she has never even been interrogated. Conditions in prison are very bad, and we were subjected to all kinds of harassment, including very humiliating strip searches.

Mr. DODD. Alfredo Forti is 18 years old and was detained together with his mother and younger brothers in Ezeiza Airport in February, 1977. His mother has not been heard from since.

Mr. FORTI. On February 18, 1977 together with my mother Nelida Forti and my younger brothers, we boarded a flight of Aerolineas Argentinas which was going to Caracas, where my father had begun work as a doctor. Our papers had all been approved, but 10 minutes before lift-off police officers boarded the plane and ordered us off saying we were all under arrest. We were brought out of the airport, hooded (even my 8 year old brother), and put into cars. We were brought to a military establishment where we were kept in detention for one week. Finally, at midnight one night, my four brothers and I were released on the streets of Buenos Aires, but my mother remained in detention. Despite all we have done, we have heard nothing about our mother's where-abouts since that time 18 months ago.

Mr. DODD. And now Mrs. Ebe Lopez-Guerra.

Mrs. LOPEZ-GUERRA. I speak as a mother whose daughter Maria Christina Lopez-Guerra disappeared in Argentina two years ago. I speak as a member of the Herrera-Belaustegui family. Seven members of our family has disappeared in Argentina. The last was some six weeks ago in May, 1978—Julio Lareu, for whom Amnesty International has begun a campaign.

Mr. DODD. Finally, we shall hear from Ms. Ana Lajmanovich.

Ms LAJMANOVICH. My 24 year old sister, Terresa, was a student of medicine who was detained on March 22, 1977. Despite all we have done, we have not heard from her since that time. The worst suffering is not knowing if she is alive or dead. The only political activities she participated in were those of the Peronist party when that party was perfectly legal.

Mr. DODD. Are there any questions or comments?

Mr. LARRY MCDONALD. I believe that it is wrong to compare the human rights problems in Argentina with those of the Soviet Union, because in Argentina there is a legitimate problem with widespread terrorism and a weak organized government. That many people have disappeared is a tragic result of a state of near civil war in Argentina.

Mr. DODD. The majority of the thousands of people who have disappeared in Argentina have been ordinary citizens with no contact with terrorism. Since March, 1976 there has been a well organized military government in Argentina which has total control of the country. In fact President Videla himself openly admits that left-wing terrorist forces have been defeated, yet the disappearance of innocent citizens continues. Certainly, one cannot equate the human rights violations of Argentina with a nation defending itself against internal terrorism; that is simply not the case here.

Fr. RICE. I would like to emphasize that in my experience, and the experiences of other people in this room, torture in Argentina is widesperad and brutally conducted. There is widespread use of electric shocks, beatings and drenchings with water. Torture is used to extract the names of friends and acquaintances and is brutal, professional and systematic. Torture is administered to anyone with any sort of contacts with left-leaning groups, no matter how remote.

Mr. DODD. Thank you all for coming here today. I feel very strongly that if the U.S. Congress can do anything to improve the human rights climate in Argentina, it is necessary that we hear from people like yourselves who have experienced Argentine repression first hand. I commend you for your great courage and perseverance in seeing that the truth be known.

Finally, I would like to excuse the absence of Father Jesus Silva, whose brother Kleber Silva is missing in Argentina. He was unfortunately unable to get here in time. In closing, I should remind all here that since 1976, nine priests, 3 former priests and one bishop have been killed in Argentina. Ten church workers have disappeared, eight are in prison and more than forty who would normally be working in Argentina are in exile. We must never be afraid to raise our voices against these kinds of gross violations of basic human rights.

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FACTSHEET: DISAPPEARANCE IN A FAMILY, ARGENTINA

Seven members of a family disappeared in Argentina in the following four incidents:

1. On the 26 of July, 1976 my daughter, María Cristina López Guerra, born 9/8/54, Identity Document (Cédula de Identidad) 7.490.828, and her husband Martín Belaústegui Herrera, born 7/27/56, Identity Document (Cédula de Identidad) 6,309.664, were taken by a group of armed men, from their home, Nicaragua 10.345, kilómetro 22.600, Ruta 8 del Partido 3 de Febrero, Provincia de Buenos Aires, Argentina. María Cristina was pregnant.

2. On the 13th of May, 1977, Valeria Belaústegui Herrera, born 2/3/53, Identity Document (Cédula de Identidad) 6.307.009, and her husband Ricardo Waisberg, born 7/15/47, Identity Document 5.130.283, disappeared. It is not known how they were taken. Their baby appeared mysteriously on the day of their disappearance in a hospital with a sign around her neck.

3. On the 30th of May, 1977, Electra Irene Lareu, born 5/17/54, Identity Document (Cédula de Identidad) 7.034.602, and her husband, Rafael José Belaústegui Herrera, born 5/30/54, Identity Document (Cédula de Identidad) 6.309.665, were taken by armed forces from the following address: Bustamante 2173, Buenos Aires, Argentina.

4. On the 29th of May, 1978, Julio Eduardo Lareu, born 7/1/27, Identity Document (Cédula de Identidad) 2.384.492, Draft Card (Libreta de Eurolamiento) 4.034.122, was taken from his home and work place, Deheza 2775, Buenos Aires, Argentina.

Mr. Julio Lareu, a carpenter, is the father of Electra Irene Lareu, who disappeared a year, less a day, before he did (see incident 2).

APPEAL

I address this appeal to all governments, to all Churches, to political parties and their leaders, and to all institutions in the world concerned with solidarity and the defense of human rights. To families all over the world, to all mothers, to all men of good will.

I do this urged by my grief as a mother, my responsibility as a grandmother and by the terrible anguish I feel faced with after the disappearance of my family over the past year. If I have not addressed public opinion before now, it was because of the hope of getting some results from the legal steps taken after the kidnapping and disappearance of all my children. In spite of following the classical means which in earlier days always produced an answer from the powers of justice this turned out to be a vain hope. The six writs of "habeas corpus" presented after the disappearance of my children had either no answer or a negative one. None of the attempts made in the Argentine Republic to obtain information as to their whereabouts bore any fruit.

On the 26th of July 1976, my youngest son was kidnapped together with his wife. Martin Belaustegui Herrera, who would have been 20 years old the following day, and Maria Cristina Lopez Guerra, 21 years of age and two months pregnant, were coming home from work that afternoon. A group of fifteen armed men in civilian clothes were waiting for them concealed in the court of their house. Once they had caught the two young people, the so-called civilians blast the door with their machine-guns and pushed them inside. The neighbours were forbidden to open their doors or windows and, as usually happens in this type of action, terror prevented any reaction from their part. The people from the neighbourhood, thus frightened, witnessed the kidnapping peeping through their closed shutters. After a while spent inside the house, the two young people were seen to be shoved out and into a car with hoods over their heads. But this was not all: a few minutes later an army truck parked in front of the house and uniformed troops looted all its contents.

Neighbours cannot avoid weeping when they talk about this. "They were very young, good kids, hardworking. Why did they take them in this way? Why did they steal every thing from their house? If they did something wrong, why not take them to court? Why don't they say anything about it?". I, too, as a mother have asked myself why for over a year. All the steps we have taken since then have been useless, we have been unable to obtain any information about the couple. If they are alive, where are they? If they have died . . . shouldn't their bodies at least be given to their desperate parents?

On the 13th May 1977, at 7 p.m. my daughter's mother-in law received a call from a clinic in the city of San Antonio de Padua, Buenos Aires State, warning her that some civilians had left there a baby-girl, a year and a half old, with a note hanging from her neck with the inscription "I am Valeria Belaustegui's daughter" and a phone number. She is the child of my daughter Valeria Belaustegui Herrera, 24 years of age, and her husband Ricardo Waiberg, 25 years of age. When baby's paternal grandmother arrived at the clinic she was informed by the staff, obviously frightened about the whole case, that the baby was extremely upset and had been given sedatives and taken to the local police station. There she was handed over to her grandmother. The child suffers from a serious nervous condition. For several nights she woke up crying and calling her parents. We don't know what happened between 5 p.m. when Valeria called the child's pediatrician to discuss a minor ailment, and 7 p.m., the time of the call from the clinic. All attempts at obtaining information concerning the whereabouts of my daughter and her husband have been unsuccessful. We don't know what happened to them, who kidnapped or arrested them, we don't know if they are alive or dead.

On the 30th May of the current year, a Joint Armed Forces procedure took place in an apartment in downtown Buenos Aires. My son, Rafael José Belaustegui Herrera, 23 years old that very day, his wife Electra Irene Lareu, also 23, and their twenty month old son were staying there with some friends. The house-owner, my son and his wife were taken handcuffed, while the baby was left with the friend's wife. Once in the street my son managed to cry out: "Lareu, Belaustegui, we are being kidnapped". Maybe a goodwilled neighbour would dare to alert their families! The search for information about my son and his wife has been completely fruitless so far. Twenty days after this event, the baby's maternal grandparents received a call from a guardian on the staff of a children's institution belonging to the Ministry of Social Welfare, saying that the child had been left there and that they could pick him up. The child is later given to the care of his grandfather by a judge. The baby is anxious and nervous, sleeps poorly and is taking time to recover from his grief.

In less than one year a whole family has disappeared. Nobody has told me what they are accused of, or where they are. I don't know if they are sick, if they are being tortured, if they are alive or dead. If they are prisoners, I know that this horror of misinformation and doubts is one of the weapons employed by the government of my country in this so-called "war" in which the lists of arrested people are not made public. I'm not addressing the Argentinian authorities because all the steps I have taken in this direction have been absolutely useless.

I simply want, in my name and in the name of those two babies who have been separated from their parents, to ask those who are in a position to get in touch with or to influence the Argentinian Government to try, with all the means in their power, to find out from the military, civil or ecclesiastical authorities if my six children are alive or dead.

If they are alive, I ask those who hold them to inform me about it and about their condition. If they have died, I hope to have the strength and the forbearance to carry on, teaching my grandchildren love for man and life, remembering the young and beautiful faces of my children, their capacity for love, their devotion to their own children, their generosity, their love for all.

I don't think I have the monopoly of pain in Argentina. I don't want you to interpret my words in this way. Maybe I have spoken as too sad a mother, but I also want to take upon myself the pain of all Argentinian mothers who are in the same circumstances. It is of utmost importance to ask the Argentina Government to publish the lists with the names of all those who have disappeared or been kidnapped, and the list of deaths.

By what right—as Christian men—have they become the inflictors, the administrators of so much pain? What is their idea of justice. Or do they think they will not have to account for the fate of 15,000 who have disappeared?

I believe that the time has come for all men with a sense of justice to ask for these lists of the men who govern the Argentine Republic.

I thank you for your attention and for any steps you take in order to alleviate our grief, our terrible uncertainty.

As an Argentinian, as a woman, as a mother, as a grandmother, thank you.

MATILDE HERRERA.●

## REDTAPE SNARES U.S. FISHERMEN

### HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. COHEN, Mr. Speaker, those of us who worked long and hard for the passage of legislation extending U.S. fisheries jurisdiction to 200 miles have been distressed in recent months by the many problems which have arisen as the administration has sought to enforce its numerous provisions.

We knew that enforcement would not be a simple matter, but we certainly did not intend for the administration to impose on hardworking American fishermen the unnecessarily restrictive and cumbersome regulations which have been proposed and promulgated since the act took effect.

The redtape, which is presently preventing the act from accomplishing its congressionally mandated objectives, must be eliminated if our domestic fishermen are to survive and prosper.

In the attempt to manage the vast ocean resources which the United States suddenly acquired, the Department of Commerce instituted complex regulations for the fishing industry. And in accordance with the law passed by this body, the Commerce Department regularly consults a group of scientists, whose knowledge helps the Department manage the valuable resources.

I wholeheartedly support the Department's efforts to carefully manage the Nation's marine resources. For too many years the seas have been overfished and exploited. However, if the regulations continue to infringe upon the freedom of fishermen to carry out their trade, I will certainly consider withdrawing my support for the management arrangements as presently structured. Today fishermen are burdened not only with heavy regulations; the constantly changing nature of the heavy regulations with which our fishermen must deal make consistent production impossible. What is worse, though, is that the quotas which have been established by the Commerce Department encourage waste, as fish accidentally hauled in are thrown overboard again when the quota has already been met.

Congress took a bold and important step in establishing the 200-mile limit 2 years ago. Yet it is clear that the law provided no magical solution. New problems have sprung up in the wake of the retreating foreign ships. It is now up to this body to encourage the development of a formula to manage our irreplaceable new resources, one which is acceptable not only to the ecologists, but also to those upon whom the fishing industry must ultimately rest, the fishermen themselves.

With these thoughts in mind, I respectfully insert the following article in the RECORD:

UNITED STATES FISHERMAN: REDTAPE IS OUR REAL ENEMY

(By Bill Ryan)

NEW BEDFORD, MASS.—José DeSousa, skipper of the stern trawler Gertrude C, looked out at the harbor of this old fishing town and spit out his opinion of the fishing business today.

"We're not fishermen," he said. "We're convicts. We don't know whether we're coming or going. They've taken away our freedom."

Other fishermen might put it another way, but the sentiment is the same. Talk to those up the New England and North Pacific coasts, and their hostility and frustrations spew out.

They say they are overregulated. They say they are victims of the bureaucracy or of the courts. Mention Secretary of Commerce Juanita Kreps, the head of U.S. fishermen (at least in name) and out flows a stream of invective. "The last of the hunters," as one fisherman describes his fellows, are united only in misery and in protest against the snarl of red tape that envelops them.

And yet, 1977 and 1978 were supposed to be the return to paradise for U.S. fishermen. With foreign fishing fleets driven by law out of U.S. waters, up to 200 miles off the coast, the bad days were supposedly over.

A TANGLED MESH

But the days have only gotten more bitter. Today the U.S. fishing industry is a tangled mesh involving the federal bureaucracy, fishermen cheating on laws, resentment and hatred within the industry, and a great deal of waste—of money, certainly, but also of seafood at a time when such resources are becoming more and more scarce.

Traditionally, the seas have been open hunting grounds all over the world. But in the post-World War II era, many countries, realizing the importance of offshore resources, started to "post" them, establishing jurisdictions of up to 200 miles at sea.

South American countries used 200-mile laws to zone out American tuna fishermen. Developing African countries posted their waters, sometimes as an indication of emerging nationalism. Iceland and England engaged in several "cod wars" over alleged violations of posted Icelandic waters.

Then in the mid-1960's there began a major invasion of United States offshore waters. Foreign fishing fleets—Russian, Polish, West German, East German, Spanish, Japanese—hit the East Coast, particularly the Georges Bank area off the New England coast, one of the world's richest and most fabled fishing areas. (Portuguese fishermen had been there before the pilgrims set up the first permanent New World colony at Plymouth.)

Meanwhile, with the world hungering for protein, fishing equipment had become more sophisticated, ships bigger. The fleets, particularly the Russian and Polish, had electronic equipment to detect schools of fish. Scout helicopters operated from huge "mother" ships—floating factories for processing and freezing catches brought in by teams of trawlers.

These foreign armadas would work an area until no signs of marine life remained, then move on.

The United States government watched the plunder for a decade, until Congress finally passed the Fishery Conservation and Management Act of 1976—known as the 200-mile law—effective March 1, 1977.

Pressure for the law came from the fishermen, who screamed that they couldn't compete with the foreign fleets. But the Pentagon and the State Department had both opposed the 200-mile law. For years they had used offshore American waters as international bargaining chips, and they didn't want to lose the clout.

But the law did pass. The foreign fleets were driven out and have since become almost a negligible factor. Never again would the Northwest Atlantic be pillaged of 1.3 million metric tons of fin fish and squid as in 1972, with U.S. fishermen getting less than a sixth of the haul. The fishermen thought it was now back to the days of Kipling's Captains Courageous, where hard work was rewarded and the best fishermen won. There was joy in the waterfront restaurants of Chatham, Gloucester and New Bedford, Mass.

The joy soon turned to dismay, however, then to cries of injustice that have only grown louder. The fishermen discovered a virtually impenetrable sea of red tape

Under the law, jurisdiction of the fisheries is under the U.S. Department of Commerce, advised by citizens councils—one representing each of eight designated regions stretching around the country and extending to the Pacific waters around Hawaii, American Samoa and Guam.

In most of the regions, U.S. fishermen have managed to exist with the new, sometimes incredibly complicated regulations. But in the North Pacific (Washington, Oregon and Alaska) and New England, there has been revolt, cheating and occasional violence.

The North Pacific situation involves not only stipulations on catches under the 200-mile law but an order, issued in 1974 by U.S. District Judge George H. Boldt, that certain Indian groups must be allowed to take 50 percent of Washington's allowable salmon harvest. That dispute—the white man vs. the Indians all over again—has yet to be resolved. At hearings on control of the fisheries there, metal detectors were set up to make sure none of the fishermen carried weapons.

In New England, with its waters so badly overfished for so long, fishermen now are confronted with government limitations on cod and haddock, the two biggest crops, and with constantly changing restrictions.

They claim that the bureaucracy is so hampering them that their livelihood and its charter of free enterprise are in jeopardy. They say that quotas, closures of fishing grounds and other smothering restrictions are not necessary because stocks of cod and haddock are at levels they haven't seen in 15 or 20 years, now that the foreign fishing ships have pulled out.

Listen to some of them:

Jay Lanzillo of Orleans, Mass., president of the Cape Cod Fishermen's Coalition: "We're being regulated to death. You might as well be a potato farmer."

Robert Rose of Gloucester, skipper of the 117-foot dragger Judith Lee Rose and a third-generation Portuguese-American fisherman: "We thought, with no more foreigners—great. But at least we didn't have the bureaucracy to contend with when the foreign ships were out there. We're the last of the hunters, and I just hate to see this country destroy the character of its fishermen."

Alan D. Guimond, executive secretary of the Alantic Offshore Fish and Lobster Association, the biggest fishermen's association on the East Coast: "It used to be such a bad scene out there. It was U.S. fishermen against the foreigners, and the foreigners made such a shambles out of it. The 200-mile limit was supposed to be the answer, but it isn't. It's the question. If Congress had to vote on it today, it wouldn't pass. Fishermen would oppose it."

FISH WASHED OVERBOARD

Dan Arnold, executive director of the Massachusetts Inshore Draggers Association, who left Tufts College 28 years ago because the freedom of a fisherman's life appealed to him: "There are lots of fish out there. You can't get away from them. The government's got to find a mechanism to harvest more of the fish, instead of having them washed overboard."

Washing them overboard? The fishermen say there is tremendous waste at sea. They may legally catch only certain amounts of cod, haddock and yellowtail flounder—species for which there is a ready market and the only ones for which there are quotas—after which they go after other species, such as sole, before returning to port.

But in catching sole, they also bring up cod, haddock and yellowtail flounder—deep-sea fish that die almost immediately when brought to the surface, due to pressure changes. These excess fish are washed overboard, dead. An estimated two to three times as many fish are washed overboard as are brought into port.

A great deal of the fishermen's bitterness centers on the difference between their version of how much stocks of fish are up or down and that of the ecological scientists. They say the 200-mile law is heavily weighted in favor of the scientists, whose findings they distrust.

"Why don't they come out in our boats and take a look," one fisherman says. "Instead they sit in offices and try to razzle-dazzle us with statistics."

According to the law, restrictions respecting the ecology of the sea must be based on the best scientific data possible. In the case of the Northwest Atlantic, the data are obtained from the Northeast Fisheries Center at Woods Hole, Mass. The center is part of the National Oceanic and Atmospheric Administration, the division of the U.S. Department of Commerce that oversees the fishermen. Some fishermen contend that—despite the advice of the eight regional citizens councils—the Commerce Department makes the ultimate decisions based on what its own cautious employees tell it.

Even within the Commerce Department there is acknowledgment that the commercial fishery regulating system has broken down since the start of the 200-mile law.

Terry Leitzell, a 36-year-old lawyer, was plucked from the State Department early this year to head a new post in the Commerce Department that makes him the czar of U.S. fisheries.

Leitzell candidly admits that the problems created by the law are extremely complex and in some cases nowhere near solution.

The North Pacific dilemma is almost unbelievable, he says, particularly regarding salmon. In addition to the disputed court ruling on Indian fishing rights, it involves federal and state jurisdictions, the spawning habits of the salmon in both American and Canadian rivers and their intermingling in the ocean (leading to recent disputes between the two countries, who each face Japanese competition for the fish on the high seas).

The other big trouble spot, the Northwest Atlantic, where the most damage is done by foreign fleets, has occupied much of Leitzell's time. He says he knows that the scientists in Commerce are not believed by the fishermen. He also says he is doing this summer what fishermen have been pleading for since the 200-mile law took effect—sending government biologists out on actual fishing boats to check stocks and "to spend more time on the docks" with the fishermen.

One big trouble with the Northwest Atlantic, says Leitzell, is that the fishing fleet there has always depended too much on cod and haddock. He says the fleet should diver-

sify, catch other types of fish (there are some 200 species) for new markets, domestic and foreign.

Today, most of the fish consumed in the United States is imported. "We have an annual $2 million trade deficit in fish products," says Leitzell. For each dollar gained from exporting fish, we spend $6 buying fish abroad. In fact, all the fish used by the country's biggest fast-food chain is imported, mostly from Eastern European countries and South Korea.

Leitzell says he is developing ways to help U.S. fishermen move into "holes" in the foreign and domestic markets. He also wants to change government buying habits, in the military and other departments, by utilizing native fish. One very conspicuous possible market is the Department of Agriculture's subsidized ($600 million annually) school lunch program. "It has no fish in it at all," says Leitzell.

OVERREGULATION

Leitzell's optimism is not shared by all. Some question not only the present overregulation of fisheries but the entire structure of the regulating system.

Lucy Sloan, executive director of the National Federation of Fisherman, questions the original decision to put fishing under the Department of Commerce and its National Oceanic and Atmospheric Administration.

"We're food producers," she says. "Putting us under Oceanic, a science-dominated agency where the fish is an object of scientific curiosity and fishermen unwanted perturbators, is like putting farmers under the Department of the Interior because wheat is grown on land. We're the only major fishing country in the world that has no ministry for agriculture and fisheries or one just for fisheries." She says she supports the President's reorganization plan to set up a department of agriculture and renewal resources.

Some think the present system will collapse of its own bureaucratic weight and because it is too costly to enforce.

"The 200-mile law talks of the greatest benefit to society," says Jacob P. Dykstra, head of the Point Judith (R.I.) Fishermen's Cooperative, "but I'm not sure anyone is benefiting. There's been too much hardship and heartache. The cure may be worse than the disease."

Dykstra has proposed to the New England Regional Fishery Management Council that no quotas be set on any species of fish but that price incentives be given on species that are normally not caught or are washed overboard. His cooperative, for example, is now marketing anglerfish overseas, where they are considered a delicacy. Dykstra thinks an incentive program on such fish would force open markets and might start to change the eating habits of Americans.

CONGRESS SLOW TO ACT

Edward J. MacLeod, a food-processing executive in Gloucester and chairman of the New England council, says Congress reacted five to 10 years too late in passing the 200-mile law. And now, well over a year after it went into effect, "an awful state of confusion" still exists.

The law is also expensive, says MacLeod. The budget for his regional council this year is $600,000. Nationally, it costs $25–$30 million to administer and enforce the law.

And the fishermen are more unhappy than ever.

In New Bedford recently, José DeSousa was preparing to take his boat and crew of three out for a week at sea. He had been reading the latest regulations and quietly cursing them.

DeSousa, 52, has been going to sea since he was 11, when he ran away from home in Portugal by sneaking aboard a Norwegian freighter.

"I remember when the Russians came," he said. "I've seen things all over the world, but I've never seen anything like that. I could count 300 ships where I was fishing, and even then I didn't stop counting. They were everywhere."

He looked down at the government paper. "But at least we were free. Now they've taken away our freedom. All I get is papers telling me where to fish, how much to fish. Now they are talking of starting times. How the hell do I know what my starting time will be? Sunday? Monday? Everything depends on the weather. It always has depended on the weather.

"When I get out there, I know I'll have to wash a lot of fish overboard. I hate to see fish with their bellies up in the water. They make conservation this way?" It was not a question.●

## MOBILE HOME FINANCING

### HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. AuCOIN. Mr. Speaker, federally chartered savings and loan associations are being prevented from competing with other financial institutions for certain mobile home loans because of outdated Federal regulations.

In 1968, Congress granted to federally chartered savings and loan associations the authority to invest in mobile home loans. Subsequently, the Federal Home Loan Bank Board developed rules governing these loans. Unfortunately, the Bank Board's regulations have not kept pace with the significant and positive changes in the construction and placement of mobile homes.

The Bank Board limits the maturity term of loans for new mobile homes to 12 years. If the mobile home is more than 900 square feet in size, the maturity term is 15 years. With single wide mobile homes now selling for an average of $20,000, it is easy to see why 12 or 15 years is not long enough. With such terms the payments on the loan easily exceed the financial capability of many potential purchasers.

The restrictions for used mobile homes are even more deplorable. The amortization period for a loan for a used mobile home is 12 years, less the age of the unit. Thus if the mobile home is 2 years old, the maximum maturity term is 10 years.

Today's mobile home is no longer mobile. It is constructed out of the same materials used in "onsite" construction and must comply with strict construction and safety standards developed and enforced by the Department of Housing and Urban Development. The HUD standards, the only national construction code, have been termed "comparable" and in certain respects "superior" to many of the local building codes for homes constructed on site.

Given this new era in mobile homes, it is incomprehensible why the Bank Board has not updated its regulations. Just last year, the Congress recognized the changes in mobile home manufacturing and placement and approved new higher loan limits and longer terms for FHA insured loans for mobile homes. Mobile homes consisting of two or more modules now can receive FHA insurance for loans with maturity terms up to 23 years.

I think it is important to do everything possible to make available decent, safe, and sanitary housing at reasonable cost to every American. Mobile homes account for nearly all of the single family detached new home sales in the under $30,000 price range. The industry is sheltering in excess of 10 million Americans.

The Bank Board is missing an important opportunity to help millions of Americans realize homeownership.●

## FDA'S PROPOSED RESTRICTIONS ON ANTIBIOTICS

### HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. ROSE. Mr. Speaker, on Friday, July 14, 1978, the House Committee on Agriculture passed a committee resolution expressing discontent with the Food and Drug Administration's recent proposed regulations to restrict the subtherapeutic use of antibiotics in animal feeds and to require a veterinarian's order before using such compounds.

Since May of 1977 hearings by the Subcommittee on Dairy and Poultry on this issue, I have objected to FDA's continued progress on their proposed regulations. The evidence indicated the scientific community itself was in disagreement over the central issue: Whether the handling and use of antibiotics promotes antibiotic-resistant pathogens that transfer from animals to humans, and thereby increases human resistance to such compounds.

I have continued to monitor this issue and have become increasingly concerned that FDA's Commissioner Kennedy is determined to proceed toward a final rule regardless of the lack of consensus by the scientific community. Even he has acknowledged in his public remarks and background explanations that this issue is a theoretical one with only a "potential for harmful effect"; that his concern is "with the health hazard that "may arise;" and that his own Director of the Bureau of Veterinary Medicine found "the evidence submitted * * * has failed to resolve the issues conclusively * * * (43 Federal Register 14, Jan. 20, 1978, p. 3035).

Given 27 years of well-documented positive use of these compounds by food producers, I feel FDA cannot ignore known benefits, especially when inconclusive evidence of risk exists. To keep the public informed at this time, I would like to insert in the RECORD a copy of our committee resolution, cosponsored by 39 members of the House Committee on Agriculture. We request FDA Commissioner Kennedy to withhold further action on his proposed regulations until certain ongoing epidemiological and other studies are completed by the Office of Technology Assessment, the U.S. Department of Agriculture, and a recently funded National Academy of Sciences Study.

The Committee on Agriculture has spoken now on this issue with a firm voice and it is my wish that Commissioner Kennedy will listen responsibly. These are important compounds used for maintaining a healthy confinement environment, mass production, healthy food-producing animals and preventing disease. Latest USDA research reveals increasing attention on the uses of antibiotics to treat mastitis, shipping fever, salmonellosis, poultry respiratory diseases, swine dysentery and growth promotion in poultry.

Commissioner Kennedy has seen for himself the true nature of this issue when he traveled to the field to participate in three hearings during the spring of 1978. He saw the farm communities respond vigorously with objections to his present course of action. They have daily experiences with these compounds and they told him to his face his theoretical assumptions were wrong. I would hope our committee resolution would further impress upon him the sincerity of our action and our continued interest in seeing that a proper scientific basis exists for any final regulations.

The resolution follows:

RELATIVE TO THE USE OF ANTIBIOTICS IN ANIMAL FEEDS

Whereas, penicillin and tetracycline have been used in swine, cattle and poultry feeds for 27 years, since the early 1950's at low levels to assure an abundant, wholesome, and economical supply of meat and poultry products for American consumers;

Whereas, the House Committee on Agriculture has an interest in the production and marketing of agricultural commodities, welfare of Agriculture generally, and the animal industry and diseases of animals in particular, and likewise wishes to assure an abundant, wholesome, and economical supply of meat and poultry products for American consumers;

Whereas, recent regulatory action by the Food and Drug Administration proposes to restrict most uses of penicillin and tetracyclines in such feeds and also proposes to restrict the remaining uses of these drugs to a veterinarian's order;

Whereas, such proposed actions would not only endanger the continued success of mass producing such livestock and poultry for the benefit of the consumer, but would also place an impossible burden on the limited number of veterinarians who service the livestock and poultry industries;

Whereas, a large segment of the scientific community contends that the available scientific evidence does not warrant these proposed actions;

Whereas, the regulatory agency has stated that continued low-level use of penicillin and tetracycline products in animal feeds does not pose an imminent hazard to human health and that there is only a theoretical assumption of antibiotic-resistance pathogens crossing over from animals to humans;

Whereas, the proposed actions of such animal feed restrictions will cost agricultural producers over $700 million per year in increased production costs at a time when net farm income for 1978 is projected at $25–$26 billion;

Whereas, the proposed actions could also cost consumers in excess of $1 billion in higher meat and poultry prices with no apparent benefits to either producers or consumers;

Whereas, the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, Subcommittee on Dairy and Poultry, have requested that the Office of Technology Assessment conduct a comprehensive assessment of the feed additives issues and an assessment of their impact on the dairy industry;

Whereas, the House of Representatives on June 27, 1978, voted to approve the Agriculture, Rural Development and Related Agencies Appropriation Bill for the fiscal year 1979 by a vote of 326 to 59, and included funding to provide $250,000 for a study on antibiotics in animal feed, and the Committee on Appropriations in its report on that bill urged the Food and Drug Administration to contract with the National Academy of Sciences to plan and monitor the research, and directed the agency to hold in abeyance implementation of their proposals pending the final results of such research and such evidentiary hearings as may result from the notices of opportunity for hearing that have been published by the Food and Drug Administration; and

Whereas, even though acknowledging the importance of the issue the regulatory agency has failed to provide formal evidentiary hearings and in three informal, "legislative-type" hearings held in the Spring of 1978 in Iowa, North Carolina and Texas, testimony was presented by 174 scientific, producer, doctor and veterinarian witnesses opposing these proposed actions and 15 witnesses favored them:

Therefore be it resolved, That because of its interest and concern with maintaining an abundant and safe food supply for American consumers, it is the sense of the Committee on Agriculture of the House of Representatives that these proposed restrictions on the use and distribution of penicillin and tetracycline products in animal feeds at low levels and the proposed veterinarian order should be withdrawn until:

1. Epidemiological studies are undertaken by the National Academy of Sciences under the direction of the Food and Drug Administration on the risk-benefit of antibiotics at low levels in animal feeds to humans; and

2. Additional scientific research necessary to determine the extent of any hazard involved is conducted in order that a rational risk-benefit decision can be made.

Be it further resolved, That it is the sense of the Committee on Agriculture of the House of Representatives that only when the additional scientific studies have been completed and credible cost-benefit assessments have been made—including the studies and assessments being conducted by the Secretary of Agriculture and the Office of Technology Assessment and the National Academy of Sciences—should the regulatory agency proceed with any proposed rulemaking concerning the continued low-level use of penicillin and tetracycline products in animal feeds.

And, be it further resolved, That the Chairman transmit copies of this resolution to the Secretary of Health, Education, and Welfare, and the Commissioner of the Food and Drug Administration, and the Secretary of Agriculture.●

## BALANCE(S) OF POWER SERIES BOOK III A (IV) THEATER NUCLEAR BALANCE

## HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, on Friday, July 21, I inserted into the CONGRESSIONAL RECORD the first part of an article entitled "Theater Nuclear Balance," by Justen Galen appearing in the January 1978 Armed Forces Journal International. The conclusion of the article follows:

COMPARATIVE VULNERABILITY

NATO inevitably suffers from the fact it is unable to strike first, and is unlikely to be able to preempt. This alone would make it far more strategically vulnerable than the Warsaw Pact. NATO also is tactically more vulnerable in many important ways:

All of NATO's nuclear strike, dispersal, and main operating air bases are highly vulnerable to Soviet ICBMs, MRBMs, and IRBMs. So are NATO's nuclear storage sites and the peacetime locations of its Pershing, Lance, and Honest John casernes. These nuclear bases and facilities are also co-located with NATO's conventional forces and critical elements of its command, control, and communications (C) system. The Warsaw Pact could probably decisively destroy NATO's military power in the Center Region in its peacetime locations with an MRBM and IRBM strike limited to NATO's main nuclear delivery and storage sites.

It seems probable that 15%–30% of NATO's men in uniform would be "bonus casualties" in such a strike and it is unlikely NATO could fight cohesively without them. Even if NATO forces were in their wartime locations, the Warsaw Pact could probably destroy most of NATO's air power and many of its weapons with a comparatively limited number of strikes.

In contrast to NATO, Warsaw Pact nuclear delivery systems are well dispersed even in peacetime. The Warsaw Pact IRBM and MRBM forces are also relatively invulnerable to NATO forces since they do not need to fear a surprise strike, are usually silo-deployed and could launch on warning against a NATO air or Polaris strike.

NATO theater nuclear forces still rely heavily on $C^3$ systems which unclassified BDM briefings indicate are vulnerable to Warsaw Pact direction-finding and targeting systems under alert or wartime conditions, but it seems likely that NATO's methods of operation and command and control create a far higher "profile" for Warsaw Pact target acquisition systems that Pact forces do for NATO.

The Warsaw Pact has a range advantage over NATO for virtually all categories of missile systems. Many Warsaw Pact delivery systems can be fired at ranges untargetable to their NATO counterparts.

The Soviet Union can effectively dominate Warsaw Pact war fighting. It can choose the moment of attack, the force concentration used, and the point of greatest vulnerability. This allows the USSR to control the initial ratio of forces used, and to achieve an optimal concentration and balance of vulnerability. The side with tactical initiative, at the battlefield level, can use it to sharply reduce its relative vulnerability.

NATO defense is organized into Corps Zones manned by individual nations. This has led to a severe imbalance of conventional capabilities between the "strong" Corps sectors held by the U.S. and Germans, and weak sectors held by the British, Belgians, and Dutch. These weak Corps sectors are all in the North and leave NATO and U.S. lines-of-communications exposed to a Soviet breakthrough.

This is often referred to as the "maldeployment problem" because NATO's forces are spread so unevenly along its border, and it is so difficult for a strong NATO Corps to rapidly reinforce or support a weak one. The "maldeployment" of conventional capabilities in these Corps sectors is minor, however, compared to their weakness in theater nuclear readiness, equipment, and force posture.

U.S. studies almost unanimously conclude that nuclear war does not provide a means of offsetting superior numbers of conventional forces. In fact, most studies which have addressed theater or Corps-wide conflicts indicate that superior conventional force numbers are even more important in nuclear war because of its more rapid development and higher attrition levels.

NATO is postured in a "forward defense" which commits most of its forward strength to positions near the border which are almost exclusively organized for defense. This "locks" each nation's forces into its Corps zone while concentrating many facilities and capabilities into attractive targets. NATO neither organizes or trains to extract forces from forward positions in the event of a Warsaw breakthrough although it has provided stronger reserve forces in recent years. This has several effects: It locks NATO into a "Maginot line" posture, it makes NATO highly vulnerable to a Soviet concentration of forces at one or two weak spots in its Corps Zones, and it provides attractive targets for a Warsaw Pact theater nuclear attack designed to produce a quick and decisive breakthrough.

NATO depends on fixed facilities for supply, $C^3$, and support. These facilities are concentrated into far fewer and far more attractive targets then Warsaw Pact forces.

NATO armies have essentially no CBR protection. They have few vehicles with CBR equipment, and most decontamination and protection units exist only on paper. CBR training is often nonexistent or ludicrous. In contrast, the Warsaw Pact is steadily improving its force-wide CBR protection and actively trains for CBR defense. The effectiveness of Warsaw Pact CBR protection is uncertain, but NATO's acute CBR vulnerability is unquestionable.

NATO must go to nuclear war publicly and deliberately. Any improvement in the readiness of its nuclear forces can be immediately transmitted by Warsaw Pact agents even if more sophisticated means of intelligence collection should fail.

Unfortunately, there is no question these weaknesses and vunerabilities are well understood by the Warsaw Pact. NATO is more than a "fish bowl"; it is a "sieve." Soviet writings focus on precisely the kind of tactical opportunities that NATO affords, and any casual reader of the press is well aware of just how many "secrets" pass through NATO's doors.

ABILITY TO USE "CONVENTIONAL" FORCES IN A THEATER NUCLEAR WAR

The same NATO emphasis on conventional forces and deterrence that shapes so much of NATO planning is also apparent in NATO's organization and training of its "conventional forces" for theater nuclear war.

As noted earlier, most NATO conventional forces have essentially no CBR protection or defense, regardless of the existence of paper units. The Warsaw Pact has created large scale CBR defense units, its army equipment is acquiring steadily better CBR shelters and $C^3$ facilities have extensive CBR protection while NATO's air units have essentially none. It should be noted, however, that while individual equipment or facilities may have good operating capability in a CBR environment, it is questionable how good either side's CBR capability would be in large scale force-on-force operations.

NATO conducts essentially no meaningful large maneuver training for high thresholds of theater nuclear war. The Warsaw Pact consistently emphasizes such training.

Any kind of NATO land force theater nuclear exercise training is unusual. Soviet writings indicate that Warsaw Pact nuclear exercise training is the rule.

It is uncertain that even half of NATO's men in uniform in the Center Region have had any meaningful training for nuclear operations, or will receive any during their period of active service. Virtually all Warsaw Pact men in uniform receive significant nuclear operations training.

The training of NATO officers for theater nuclear operations ranges from negligible to farcical. While a few dedicated officers in each nation, in SHAPE, and in the International Military Staff have done an outstanding job of preparing NATO to conduct tactical nuclear deterrence and selective strike options, the vast majority of NATO officers are unprepared for theater nuclear war. Soviet and Warsaw Pact officer training for nuclear operations in intensive and technically excellent, although experts differ over its military realism.

NATO capability to conduct theater nuclear operations differs radically by nation and Corps. There is no standardization of operations and doctrine. The Warsaw Pact is dominated by Soviet forces, and has a high degree of consistency.

No nation has ever fought a theater nuclear war. There is no way to know how well the Warsaw Pact could employ its conventional forces in a theater nuclear war. The Warsaw Pact does, however, organize to fight such wars; it makes a serious and large scale effort. NATO does not.

COMMAND AND CONTROL

There is a vast amount of literature published on NATO's planned and potential $C^3$ capability to fight a conventional war. Almost without exception, this literature makes no mention of NATO's $C^3$ capability to fight a theater nuclear war. There seems to be good reason for this:

Most NATO advances in conventional $C^3$ have the effect of further centralizing NATO $C^3$ facilities into fewer potentially lucrative targets for Warsaw Pact theater nuclear weapons. In contrast, the Warsaw Pact is steadily proliferating redundant but simpler $C^3$ systems, and reducing their vulnerability.

NATO's "advantages" in the computerization and integration of $C^3$ systems generally increase vulnerability to electro-magnetic pulses and nuclear blackout. The Soviet systems used by the Warsaw Pact have much less operational vulnerability to nuclear weapons.

NATO puts vast $C^3$ resources into precise information and targeting that have far less value in a theater nuclear environment. The Warsaw Pact seems to put resources into redundancy and central control that can operate in both conventional and nuclear environments.

NATO seems to have put little real effort into creating a system to precisely measure the size and nature of Warsaw Pact nuclear strikes or into managing a large scale or intense nuclear war. It can provide warning, and conduct strikes, but NATO does not seem to have a system that can absorb the damage inherent in a nuclear war, and develop an integrated war fighting response that integrates land and air forces, and cuts across Corps zones or boundaries. The Warsaw Pact system is technically limited in many ways, but does seem organized for nuclear war.

Each side's relative $C^3$ capability, however, is uncertain. Experts differ over the value of the Warsaw Pact $C^3$ system in a nuclear environment, and the improvements taking place in NATO's conventional $C^3$ systems may have more value in nuclear war than has yet been made publicly apparent.

COMPARATIVE IMPACT OF THEATER NUCLEAR EMPLOYABLE STRATEGIC SYSTEMS ON THE THEATER NUCLEAR BALANCE

Both the U.S. and USSR can potentially employ hundreds or thousands of strategic nuclear weapons against theater targets. Each can also counter the other's theater nuclear war fighting successes by striking the opponent's "countervalue" economic or civil population targets, or by striking selectively at targets in the USSR and U.S.

This is a massive increment to deterrence, and it is one area where a strategy of "limited nuclear options" may have had great deterrence value, even if it does not provide theater nuclear war fighting capability. The Soviet Union can never be sure of decoupling theater and strategic war because of the risks inherent in an allout strike. It can never be sure the U.S. will not ultimately trade the loss of a division for a selected number of steel mills, or an Eastern European economic center.

This is also the one area where the U.S. and NATO may have a significant temporary advantage. The U.S. still has more strategic warheads, and more accurate warheads. It can potentially use more of its strategic warheads selectively, and with less risk of somehow triggering off a strategic conflict.

This, however, is a high risk strategy and is a U.S. advantage that will probably vanish by the early 1980s Once the USSR has more warheads available for theater purposes from both its ICBM and SS-20 forces, and completes its probably ongoing improvements in accuracy and retargeting capability, it will be able to outmatch NATO even in this area of force capability.

Such shifts in the strategic balance will probably not weaken pre-conflict deterrence, but they will make any attempt to use U.S. strategic weapons in LNO war fighting simply another variant on the nuclear game of "chicken." The use of strategic forces will become a test of will, nerve, and the ability to accept damage. The will of the U.S. and its Allies to play such a game must not be underestimated, but its results would be a disastrous addition to the consequences of theater war if the USSR proved as resolute as the West.

DETERRENCE VS. DEFENSE: SOME CONCLUSIONS

Only a very few national security experts would argue that NATO and the U.S. are not maintaining a high degree of theater nuclear deterrence. The Soviet Union faces catastrophic losses in launching even the most successful nuclear attack, and its Eastern European allies face even greater risks.

NATO's problems do not leave NATO weak or exposed, and the reforms in NATO strategy introduced by former Secretary of Defense Schlesinger have extended the level of deterrence and the risks inherent in a Soviet attack.

It is also far from clear, given NATO's many weaknesses relative to the Warsaw Pact, that it is credible or purposeful to advocate that NATO create a more meaningful theater nuclear war fighting capability. Deterrence may well be all the Western democracies will ever pay for, and it may be an acceptable calculated risk.

If war comes, however, there can be little real doubt of Warsaw Pact superiority. To paraphrase a political axiom, "You can't beat something with nothing." Warsaw Pact planning and organization for theater nuclear war fighting may have many defects, but it also has an overwhelming strength: It is serious, not a charade.

NATO might, therefore, benefit from improving its deterrent capabilities, and reducing its vulnerability to a first strike even if it will never pay for serious war fighting capability. There are several ways this can be accomplished:

Deploy the new Patriot air defense system in a multiple role—as a surface-to-air missile, anti-tactical ballistic missile, and nuclear surface-to-surface missile.

This could be a potentially low cost increment to a NATO replacement of Hawk with Patriot and would present the USSR with complex targeting problems. Patriot would have some self-defense capability, high mobility, and secure and integrated C links. It could be located away from other conventional forces and facilities. It could have both land and air target acquisition capability.

And, its nuclear warheads could be safely dispersed using advanced technology PAL links, or nuclear missiles could be deployed from CONUS in a crisis or from some other sanctuary. Such a change in NATO nuclear capability would vastly raise the risks and costs inherent in even the best planned Soviet attack.

Deploy, as many of our European allies desire, large numbers of cruise missile launchers with similar advanced technology U.S. warhead controls or PAL links. These cruise missiles could also be deployed away from existing NATO military facilities, and in a highly mobile mode. They might potentially be deployed with Patriot or another advanced SAM missile. They could also be deployed with less than 400 NM ranges to meet SALT II constraints.

In fact, there are some interesting variants NATO might pursue. The non-U.S. nations in the Center Region might buy 1,500-plus-mile systems since they are not bound by SALT II. This might be tied to a direct quid pro quo. The number of NATO long-range cruise missiles might be limited to the number of Soviet SS–20 launchers, missiles, or warheads. This would sharply reduce the Soviet incentive to expand its SS–20 forces.

Re-deploy NATO missile units and nuclear storage sites to minimize co-location with other military facilities. Deliberately increase the number of targets while lowering the value of any one target. Here, however, "tamper proof" weapons would be essential. Increased vulnerability to terrorism would not be a worthwhile trade-off.

Abolish the NATO strike aircraft concept. Rely on forward dispersed missile forces in an initial phase of nuclear conflict, and fly in nuclear bombs from CONUS, as required. This would eliminate the attractiveness of NATO air bases as preemptive or first strike nuclear targets, but retain the flexibility provided by strike aircraft once war began. Hardened storage sites located remotely would provide a similar decoupling of NATO air from the quick reaction nuclear mission.

Provide improved survivable $C^3$ to use such systems effectively with restraint and to guarantee NATO's political leaders that any such improvements would not weaken their control on NATO's nuclear trigger.

Engage the Warsaw Pact in L.N.O.-oriented arms control or collateral constraint talks. Seek to convince the USSR that NATO is now serious about graduated response. Do everything possible to ensure both Soviet political and military planners understand what NATO's strategy is, and that there is a potential alternative to theater wide war.

These options would scarcely reduce the consequences of a war if one should occur. They would, however, sharply raise the potential cost of any war to the Warsaw Pact and Soviet Union. They would also modernize and revitalize NATO's theater nuclear deterrent far more effectively than enhanced radiation weapons, and be a symbol of strength rather than a symbol of strategic uncertainty. If NATO is not going to buy defense or war fighting capability, it should at least get the best possible deterrent it can afford.●

## TURKISH ARMS EMBARGO

### HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. ROSE. Mr. Speaker, as we in Congress prepare to consider the Carter administration's attempt to end the arms embargo imposed on Turkey after its August 1974, invasion and occupation of Cyprus, I believe it most important to bear in mind the likely consequences of such a decision.

In several years during which this issue has been before Congress I have nowhere seen a more eloquent statement of the dangers involved in lifting the embargo than that offered by Messrs. Cyrus Vance and George Ball when they testified as private citizens before the House International Relations Committee on July 10, 1975.

(W)e are seriously concerned.

They said at that time: that this so-called compromise (a partial lifting of the embargo) would create a wide spread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would feel free to use them in pursuit of its own interests, in local conflicts.

The analysis of Messrs. Vance and Ball, offered with respect to merely a partial lifting of the arms embargo, is even more compelling when the matter at issue, is, at here, the proposed total lifting of the embargo.

We have supported President Carter's stated intention to control the spread and misuse of U.S. arms abroad; the President's efforts to end the embargo, before Turkey has taken the necessary substantive actions to remedy its aggression on Cyprus, runs directly contrary to his stated policy and risks precisely the consequences suggested by Messrs. Vance and Ball.

I insert at this point in the RECORD, and commend to the attention of the colleagues, the relevant excerpts of that testimony:

STATEMENTS BY CYRUS VANCE—CYPRUS AND THE TURKISH ARMS EMBARGO

July 10, 1975, from statement before the House International Relations Committee (made jointly with George Ball).

That Turkey used the arms we provided in violation of the relevant American laws and of the express language of the bilateral agreement that governed their transfer is not in dispute. That issue has been settled by an opinion of the Comptroller General in unequivocal language.

The question now is: Should the Congress wipe out the penalties of violation, which, in express terms, would render Turkey ineligible for further American weapons until the Turkish government takes steps to purge itself by some serious move to settle its dispute with Greece and to remove its troops from Cyprus? To do so might dangerously undercut the conditions we have imposed on the use of all the arms we have provided up to this point under our various military aid and military sales programs.

. . . There is, it seems to us, grave danger that, in the highly political atmosphere that now prevails in Ankara, the Turkish Government would regard this measure (a partial lifting of the embargo) as a vindication of its past actions and as removing any pressure to make significant concessions toward a Cyprus settlement . . .

Finally, and in many ways this is the most important point, we are seriously concerned that this so-called compromise would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would be free to use them in pursuit of its own interests in local conflicts.●

## FLUORIDATION

### HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. CARTER. Mr. Speaker, the use of fluoride in various forms is a well established and very effective means of preventing dental disease. The cost/benefit ratio for fluoride treatments is excellent.

Unfortunately there has been controversy surrounding fluoride. Consumer Reports has published a two-part article considering the issues raised by the anti-fluoridationists. In order to give wide dissemination to this information I insert this article in the RECORD.

FLUORIDATION—THE CANCER SCARE

On the evening of February 10, 1976, millions of Dutch television viewers were watching their sets with more than customary attention. News of a bribery scandal in the United States had just reached Europe, along with rumors that Prince Bernard of Holland was implicated. Those who tuned in were unaware, however, that an unrelated interview later in the newscast would soon affect many of them more directly than the scandal.

The interview involved Dean Burk, Ph.D., an American biochemist formerly with the National Cancer Institute, the Federal agency that conducts or sponsors much of the cancer research in the U.S. Dr. Burk's message was a troubling one. Adding fluoride to drinking water as a dental health measure, he asserted, was causing thousands of cancer deaths annually in the U.S. He claimed that statistical studies done by himself and another biochemist, John Yiamouyiannis, Ph.D., showed a link between fluoridation and cancer. Dr. Burk expressed no reservations about his conclusion. "Fluoridation," he told the audience, "is a form of public mass murder."

Copies of the Burk-Yiamouyiannis report had been circulated to members of the Dutch Parliament before the TV appearance. Soon after, a proposal by the Minister of Health to fluoridate all drinking-water supplies in Holland died in Parliament. By September 1976, a Royal Decree ended fluoridation in Rotterdam and other Dutch cities that had been treating their water for years.

A GROWING SENSE OF ALARM

What happened in Holland is not an isolated incident. Despite widespread endorsement of fluoridation by medical, dental, and public health officials, the practice has come under increasing attack both in the United States and abroad as a potential cause of cancer and other diseases. Three years ago, after a publicity campaign linking fluoride to cancer, Los Angeles voters defeated an ordinance to fluoridate the city's water supply. Since 1973, voters in hundreds of smaller U.S. cities and towns have taken similar action, often out of fear of cancer or other disorders attributed to fluoridation.

How valid are those fears? Is there a genuine scientific controversy surrounding the safety of fluoridation? According to Representative James J. Delaney (D., N.Y.), chairman of the powerful House Rules Committee, the answer is an emphatic "yes." A long-time opponent of fluoridation, Delaney has urged Congress to halt the practice, pending further investigation of its safety. Last fall, a subcommittee of the House's Committee on Government Operations held hearings on the issue. Drs. Burk and Yiamouyiannis testified, as did representatives of the American Dental Association, the National Cancer Institute, and authorities on fluoride research. An extensive array of scientific studies and expert commentaries on fluoridation was also presented.

What emerged from the testimony, in CU's opinion, was an unmistakable sense that millions of Americans are being grossly misled about an issue important to both their health and the cost of their dental bills. Water fluoridation is the only public-health measure that many Americans vote on directly. Yet last fall's hearings received only scant coverage by the press, except in publications that commonly run antifluoridation

stories. Accordingly, in this two-part report we will tell you the facts about fluoridation—what it is, how it developed, and what it does. This month we will also examine the claims about fluoridation and cancer and consider the people behind those claims. Next month we'll take a look at other charges frequently leveled at fluoridation, including claims about allergies, birth defects, and heart disease.

ON THE TRAIL OF COLORADO STAIN

Fluorides are compounds containing the element fluorine. In its various forms, fluoride is found in practically all soils, plants, and animals, as well as in human blood, bones, and teeth. It's also present in at least trace amounts in all natural water supplies. The concentration in water varies widely, however. In the U.S., natural fluoride levels range from a high of about 8 parts per million (ppm) in areas of the Southwest to as little as 0.05 ppm in the Northeast.

Fluoridation is simply an adjustment of the natural fluoride content to about 1 ppm—a level of intake that strengthens tooth enamel and sharply reduces dental decay, especially among those exposed to fluoridated water from early childhood. The nominal 1-ppm level (actually 0.7 to 1.2 ppm, according to local conditions) isn't an arbitrary one. Its selection involved a scientific detective story complete with a twist ending.

The initial clue was uncovered early in the century by two scientists investigating a cosmetic defect. F. S. McKay and G. V. Black were trying to find out what caused a mottling of the tooth enamel, a discoloration variously known as "Colorado brown stain" and "Texas teeth." By 1916 they had narrowed the search to something in domestic water supplies. The next step was to identify the substance and get it out of the water. It took until 1931, however, before the substance was identifiable as fluoride.

Meanwhile, McKay had noticed something else. A practicing dentist, he observed that patients with mottled teeth also had remarkable resistance to tooth decay. The concern of public health officials at the time was still how to get fluoride out of the water. But McKay's observation also spurred further research by the Public Health Service to learn more about fluoride's effect on teeth.

Over the next ten years, research teams led by Dr. H. T. Dean of the Public Service studied the dental status of 7257 children in 21 cities having various levels of natural fluoride in their water. The results were unequivocal. The more fluoride in the water, the fewer dental cavities the children experienced. When the water contained approximately 1 ppm or more of fluoride, the children developed about 60 percent fewer cavities than did those who drank water with negligible fluoride content. Furthermore, at the 1-ppm level, the unattractive mottling did not occur. It was associated with levels above 2 ppm. Thus, 1 ppm of fluoride became the benchmark level.

Tooth decay was no minor health problem. During the war year of 1942 some 2,000,000 men were examined as potential members of the armed forces. Almost 10 percent of them were rejected because they didn't have 12 sound teeth in proper position out of a possible 32.

Although the potential dental advantages of fluoridation were obvious, there was a natural reluctance to add a chemical to community water supplies. In the early 1940's, there was no background of scientific data about possible side effects. There were some practical reassurances, though. People had been ingesting fluoride in food and water since the dawn of the human race. Many Southwesterners had been drinking water containing several times the 1-ppm level of fluoride for a lifetime without any discernible side effects except mottled teeth. Eventually, a few cities decided to take the chance.

THE NEWBURGH-KINGSTON EXPERIMENT

Among the pioneers was the New York State Department of Health. Before attempting any widespread introduction of fluoridation, the department proposed a long-term, controlled study of a limited group of children who would be carefully monitored by physicians. After considering various communities, the department chose the cities of Newburgh and Kingston as ideal candidates for the study.

Located some 35 miles apart near the Hudson River, both cities had populations of about 30,000 and were similar in racial, economic, and other demographic characteristics. Each also used reservoirs with water deficient in fluoride.

One city's water supply was to be fluoridated, the other not. Meanwhile, matched groups of children from the two cities were to be followed from infancy onward by means of comprehensive pediatric checkups to detect any side effects from fluoride. Special attention was to be given to growth rates, bone development, blood chemistry, the skin, the thyroid gland, vision, and hearing. Each child would also receive meticulous, regular dental exams.

In March 1944, the City Council of Newburgh agreed to participate in the study and approved the fluoridation of its water to 1 ppm. Kingston agreed to serve as the control city and use its fluoride-deficient water without change. A total of 817 children were enrolled in the Newburgh group and 711 in Kingston. Although most entered at the start of the study, several infants were added during each of the first three years to ensure having some children whose mothers were exposed to flouridated water throughout pregnancy.

The study went on for 10 years, and a majority of the children in both groups participated through the final examination. The findings can be summarized briefly: The examinations disclosed no differences of medical significance between the two groups that could even remotely be attributed to fluoride. There was one difference of dental significance, however. The Newburgh children experienced nearly 60 percent fewer cavities than the Kingston children.

Numerous studies have since confirmed the benefits of fluoridation. "Fewer cavities" means fewer costly fillings, fewer lost teeth, and, eventually, fewer dentures or partial dentures. The cost of fluoridation to a community, according to a report last year in the New England Journal of Medicine, is only about 10 to 40 cents a year per capita.

THE EVIDENCE FOR SAFETY

Since the early days of the Newburgh-Kingston project, literally thousands of scientific studies have examined the effectiveness and safety of fluoride. Virtually every doubt or question that has been raised, however scanty the evidence, has been studied in depth by one or more groups of researchers. As a dentist representing the American Dental Association noted in the House subcommittee hearings last fall, "Fluoridation may well be the most thoroughly studied community health measure of recent history."

In the late 1960's the World Health Organization accomplished the Herculean task of pulling much of the known information together. The objectives was to provide an impartial review of the scientific literature on fluoridation—a vast international aggregation of population studies, experimental research, animal studies, and clinical investigations, including human autopsy studies, clinical trials, and X-ray research.

The report, "Fluorides and Human Health," came out in 1970. It addressed numerous questions raised up to that time about the possible effects of fluoride on different organs and its alleged association to various diseases. Again, the conclusions can be summarized briefly: The study found no reliable evidence that any ill effects or symptoms resulted from drinking water fluoridated at recommended levels.

Since the report's publication, the World Health Organization has uncovered no evidence to alter its judgment. In a statement issued in 1975, the organization noted: "The only sign of physiological or pathological change in life-long users of optimally fluoridated water supplies . . . is that they suffer less from tooth decay."

THE LOYAL OPPOSITION

No amount of study, however, has managed to quiet the criticism of fluoride that has been present from the beginning. Writing in the Journal of the American Dental Association in March 1956, the commissioner of New York State's Department of Health, Dr. Herman E. Hilleboe, told of some of the troubles his agency had encountered in the early days of the Newburgh-Kingston project. Soon after the project's approval in March 1944, the local health officer in Newburgh began receiving complaints from some of the town's citizens.

Some protested that the fluoridated water was discoloring saucepans. Others complained that it was giving them digestive troubles. One woman complained to her dentist that the "fluoride water" had caused her denture to crack. "These incidents all occurred before fluoride was added to the water supply," notes Dr. Hilleboe. The complaints stopped abruptly after a Newburgh newspaper criticized the town's imaginary ills.

Despite fluoridation's success in Newburgh, protests against it elsewhere weren't collapsing so readily a decade later. The rise of "a vociferous minority," said Dr. Hilleboe, had succeeded in delaying, or even reversing, the start-up of flouridation in several areas. The opposition, he reported, came chiefly from food faddists, cultists, chiropractors, and people who misunderstood what fluoridation was. But the efforts of antifluoridationists have also been aided by the caution of various physicians, dentists, and scientists of good standing who initially questioned the safety of flouridation. Opposition has also come from other professionals and lay people who view fluoridation as a government infringement of individual freedom.

Various groups have been formed for the sole purpose of fighting fluoridation, but none has had much impact outside of its local community. Generally, the real steam behind the antifluoridation movement has come from well-funded, national, multi-issue organizations that have been able to disseminate large amounts of scare propaganda around the country. One such group is the John Birch Society. Another, up until the early 1970's, was the Rodale Press, publisher of Prevention magazine and a frequent proponent of unproved nutrition concepts. The most active and effective group today, however, is the National Health Federation, whose roots run deep into the soil of medical quackery. Those roots are worth a brief examination.

WHEN ROOSTERS HAD BAD TEETH

In the early 1950's, an organization called the Electronic Medical Foundation ran a lucrative diagnosis-by-mail service and also sold electronic treatment devices for "curing" numerous disorders. An estimated 3000 practitioners, mainly chiropractors, would send dried blood specimens from their patients to the foundation. There, the blood spot would be checked by an electronic gadget and a "diagnosis" mailed back by postcard.

This eventually aroused a certain skepticism at the U.S. Food and Drug Administration. Accordingly, the FDA arranged to send a few blood spots of its own.

The first, from a man who had lost his right leg, elicited a diagnosis of arthritis in the right foot and ankle. The blood of a dead man brought back a diagnosis of colitis,

and that of a rooster resulted in a report of sinus infection and bad teeth.

The FDA inspectors also investigated the treatment devices. They found that the gadgets simply contained circuits resembling those of an electric doorbell or a small radio transmitter. None could cure anything, reports FDA historian Wallace Janssen.

In 1954 a U.S. District Court ordered the president of the firm, Fred J. Hart, to stop distributing the treatment devices. Shortly thereafter, Hart founded the National Health Federation. Hart continued to distribute the devices, however, and was subsequently prosecuted for criminal contempt and fined $500 in 1962. Between 1957 and 1963, several other officials of the NHF were convicted of misbranding dietary products with false medical claims and received fines or prison sentences. In 1963, the FDA released a report on the NHF that said in part:

"The stated purpose of the federation is to promote 'freedom of choice' in health matters. The record shows that what this frequently means is freedom to promote medical nostrums and devices which violate the law. From its inception, the federation has been a front for promoters of unproved remedies. eccentric theories and quackery."

In an updated report on the NHF issued in 1973, the FDA reiterated virtually the same judgment. Throughout its history, the NHF has crusaded against any Government interference with unproven remedies or treatments. At the same time, it has also opposed proven public-health measures—smallpox vaccination, pasteurization of milk, polio vaccination, and fluoridation of drinking-water supplies.

For the most part, the NHF's opposition to public-health measures has been a losing cause. Until recent years, even fluoridation was slowly gaining acceptance in more communities. About 105 million Americans now have fluoridated water. But in 1974 the NHF decided to mount a new national campaign to "break the back" of fluoridation efforts. It hired Dr. Yiamouyiannis to do the job.

RAISING THE SPECTER OF CANCER

The first big target was Los Angeles, whose City Council had voted in September 1974 to fluoridate the water supply. The NHF's ammunition was a study by Dr. Yiamouyiannis that purported to link fluoridation to an increase in cancer deaths. The study and a couple of publicity handouts that accompanied it were eventually reviewed by various public-health officials, including Thomas Mack, M.D., of Los Angeles, an associate professor of community medicine and an expert in cancer epidemiology. (Epidemiology is a branch of medicine that studies the incidence, causes, and control of a disease in specific populations.) The nature of the Yiamouyiannis study is apparent in an excerpt from Dr. Mack's review:

"I cannot begin without commenting on the form of the documents you sent me," Dr. Mack stated. "Despite the gravity of the question addressed, the form of these sheets is that of a propaganda flyer rather than a serious scientific effort. Specifically, there is no indication that any of the material was ever prepared for submission to a reputable scientific journal. . . . All over the documents one finds . . . conclusions emblazoned essentially in the form of slogans, without cautious interpretation or restrictions. For these reasons, the reader must immediately presume that objectivity has never been considered. . . . At the same time this bias is so pervasive and obvious, the mistaken logic so gross and naive, that the reader assumes the author to be, however competent in his Ph.D. field, totally unaware of the principles of epidemiology."

Most people are unfamiliar with the principles of epidemiology, however, and a Ph.D. degree can sometimes lend credibility even to claptrap. In Los Angeles it evidently did. The scare tactics of the NHF and other antifluoridationists scored a stunning victory over dental health.

Around the beginning of 1975, Dr. Yiamouyiannis also joined forces with Dr. Burk. Like the National Health Federation, Dr. Burk is a leading advocate of the worthless cancer drug Laetrile (consumer reports, August 1977), and he shares the NHF's aversion to fluoridation.

The collaboration produced a study claiming that 25,000 or more excess cancer deaths occur annually in U.S. cities that fluoridate their water. The assertion was based on a comparison of death rates for specific cancers in some counties that were fluoridated compared with some that were not. In July 1975, Representative Delaney entered the study into the Congressional Record and called for "an immediate suspension of all artificial fluoridation."

The National Cancer Institute reviewed the study and was unimpressed. Unlike a proper epidemiological study, it had failed to take into account widely recognized risk factors known to affect the death rate from specific types of cancers. Using the same data, the NCI reanalyzed the study, taking into account such influences as ethnic composition of the population, geographic location, socioeconomic status, and other fundamental risk factors. The purported differences in the cancer death rates promptly disappeared.

Undaunted, Drs. Burk and Yiamouyiannis bounced back with another study. This time they compared overall cancer death rates for 10 large cities that were fluoridated versus 10 large cities that were not. Again, the fluoridated cities came out second best. Over the 20-year period studied, cancer death rates in the fluoridated cities purportedly increased 10 percent more than in the unfluoridated ones. In December 1975, Representative Delaney entered the study into the Congressional Record and demanded that all fluoridation be stopped.

If anything, the new study was even more amateurish than the July entry. In the judgment of one NCI official at the House subcommittee hearings, it represented "the worst piece of work that has been done to date on fluoride." Drs. Burk and Yiamouyiannis had somehow managed to ignore the most fundamental factors involved in cancer mortality rates—age, sex, and race. Old people die from cancer more often than young people; men have a higher cancer death rate than women; and blacks a higher one than whites. Unless those factors are taken into consideration, the results of a cancer-mortality comparison would be meaningless.

When NCI scientists reanalyzed the Burk-Yiamouyiannis data, they found that the difference in the cancer death rate was due entirely to the age and racial makeup of the respective populations. Fluoridation was irrelevant.

ONWARD TO EUROPE

Rebuffed by NCI scientists, Dr. Burk took the National Health Federal studies to Holland and England. As noted earlier, the Dutch trip was a smashing success. But the British refused to panic. Both the Royal College of Physicians and Oxford University had recently completed studies of fluoridation and cancer. The Royal College of Physicians in January 1976 concluded: "There is no evidence that fluoride increases the incidence or mortality of cancer in any organ." The Oxford study reached a similar conclusion.

Moreover, British scientists had learned of the NCI's refutation of the Burk-Yiamouyiannis studies. They also were aware that an independent study conducted for the National Academy of Sciences at the University of Rochester, N.Y., had confirmed the NCI's findings.

"In the normal course of events," reported an Oxford research group, "that would have been the end of the matter. Unfortunately, however, it has not been." What the British scientists hadn't realized was that the facts were incidental.

The real goal of antifluoridation groups, explains an American Dental Association official, "is to create the illusion of a scientific controversy." The "studies" are merely the ploy. The accuracy of that judgment was evidenced by what happened next. According to an account in The Lancet, a British medical journal, Drs. Burk and Yiamouyiannis began publicizing their cancer claims in Britain. Through the assistance of the National Anti-Fluoridation Campaign, their misleading data were circulated to members of Parliament, health authorities, and water boards as evidence that fluoridation was causing many cancer deaths.

Meanwhile, the National Health Federation began claiming in the U.S. that NCI officials were concealing data, a charge that eventually had an impact in Britain. In Parliament, one member accused British health officials of misleading the public about fluoridation and of denying people the truth "because of the Official Secrets Act."

THE NCI "COVER-UP"

According to testimony at the House subcommittee hearings, the NCI refused to disclose certain information to the National Health Federation. That refusal, however, was far less sinister than some members of the British Parliament were later led to believe.

The NCI initially gave Dr. Burk a copy of the publication "U.S. Cancer Mortality by County: 1950–1969," which he later used in preparing the first Burk-Yiamouyiannis report. After the NCI reviewed that report, Dr. Yiamouyiannis asked for a copy of the NCI's analyses. Those were also dispatched. Then, according to NCI testimony, Dr. Yiamouyiannis used that information to attack the NCI's review.

Consequently, when he requested their analyses of his subsequent study, NCI officials denied the request. They pointed out that the basic sources were routine publications of the Bureau of the Census and the National Center for Health Statistics, and they told him, in effect, to do the calculations himself. "The data," said NCI's Dr. Robert N. Hoover at the hearings, "are generally available to anyone with a public library card."

To check that claim, a CU staff member visited the local public library. All but two of the volumes needed, both from 1950, were on the shelves of a suburban library within walking distance of our offices. A phone call by one if the librarians located the two remaining volumes at another nearby branch.

As a result of the charges and the wide publicity the National Health Federation gained in Britain, Drs. Richard Doll and Leo Kinlen of the Department of Regius Professor of Medicine at Oxford decided to undertake still another study. Their reason, they explained, was "to be sure about the truth of the matter, and because we feared that Burk and Yiamouyiannis's abuse of statistics might be detrimental to the future health of British children." At the same time, the Royal College of Physicians requested a formal opinion of the cancer data from the Council of the Royal Statistical Society in Britain.

The resulting studies appeared respectively in The Lancet and in the Journal of Applied Statistics in 1977. In The Lancet, Drs. Doll and Kinlen reported that none of the evidence "provides any reason to suppose that fluoridation is associated with an increase in cancer mortality, let alone causes it." The study conducted for the Royal Statistical Society, which undertook an even more comprehensive statistical analysis than the NCI or Oxford, came to the same conclusion.

Furthermore, additional studies by the NCI in 1976, the U.S. Center for Disease Control in 1977, and the National Heart, Lung and Blood Institute in 1977 each found no evidence linking fluoridation and cancer. In short, independent investigations by

seven of the leading medical and scientific organizations in the English-speaking world have unanimously refuted the National Health Federation's cancer claims.

Meanwhile, other allegations against fluoride are in wide circulation. Fluoride is said to cause allergic reactions, birth defects, mutations, heart disease, and cancer in animals. We'll examine those allegations next month, in the second part of this report.●

## SCIENTIFIC EXCHANGE WITH THE SOVIET UNION AND HUMAN RIGHTS: SOME CONSIDERATIONS

### HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. STEERS. Mr. Speaker, the recent trials of members of the Helsinki monitoring group in the Soviet Union have led many people to question the current status of the entire spectrum of United States-Soviet cooperative ventures. The question of scientific cooperation already has received one day of consideration during a briefing sponsored by my distinguished colleagues, Mr. HARKIN and Mr. HOLLENBECK, and will receive further hearings in the Subcommittee on Domestic and International Scientific Planning Analysis and Cooperation Subcommittee chaired by Mr. SCHEUER.

I am glad to see that this question will be getting the attention it deserves in this Congress, and I would like to present the testimony of Dr. Robert Adelstein, representing the Committee for Concerned Scientists, before Mssrs. HARKIN and HOLLENBECK's briefing on July 18.

Dr. Adelstein points out that the Soviet Union has "chosen to limit artificially" the interchange between Soviet and American scientists by controlling tightly the nature of Soviet participation, and he suggests that, "scientific exchange programs should act as a battering ram to break down the wall of isolation which the Soviet Government seeks to build around refusenik and dissident scientists."

In general, I favor the approach outlined by Dr. Adelstein, although I think that in some specific cases of scientific cooperation in which the Soviets stand to gain most, the threat and possible execution of a moratorium of cooperation should be pursued by our Government.

The statement of Dr. Robert Adelstein, representing the Committee for Concerned Scientists July 18 before a congressional briefing sponsored by Messrs. HARKIN and HOLLENBECK follows:

COMMITTEE OF CONCERNED SCIENTISTS, INC.

SCIENTIFIC EXCHANGE AND HUMAN RIGHTS—SOME CONSIDERATIONS

U.S.-Soviet scientific exchange has at its core two purposes: One political, the other scientific in nature. On the political level exchanges have been used to promote U.S. foreign policy goals in the era of detente. As Public Law 87-256, which governs exchanges, puts it, exchanges exist "to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." It is telling in this regard that the original cooperative agreements reached at the Moscow summit in 1972 were signed for the U.S. by the Secretary of State and not by a scientific official.

At the same time exchanges are designed to serve scientific interests. It was, and is, hoped that increased collaboration would quicken the pace of scientific advancement. Exchanges are a mechanism by which ideas and knowledge useful to both countries' research efforts can be diffused.

This dual purpose for exchanges is recognized explicitly in the major bilateral agreement, the concerning scientific and technical cooperation. The agreement begins by "Recognizing that [technical] benefits can accrue to both countries from the development of cooperation in the fields of science and technology . . ." However, the agreement also takes "into consideration that such cooperation will serve to strengthen friendly relations" between the U.S. and the U.S.S.R. President Carter, Secretary Vance and other members of the administration have stated on numerous occasions that human rights is now one of the cornerstones of U.S. foreign policy. Both by word and deed the Congress too, has placed a commitment to the advancement of human freedom at the center of our foreign policy concerns. Thus the political course which this nation has chosen for itself dictates that scientific exchange be utilized to promote scientific and human rights.

In furthering the scientific goals of exchange we are led in the same direction. Exchanges play a role in scientific advancement because they enlarge the pool of knowledge on which researchers can draw. Science is after all a cumulative effort. Every scientist builds on the foundations provided by the investigations of his colleagues. Interchange is at the heart of science. Exchanges provide a formal means of carrying out this interchange.

The Soviet Union has chosen to limit artificially this interchange and thus impedes scientific progress. Only Soviet scientists who are judged to be "politically reliable" are permitted to participate in scientific exchanges. Scientists who have applied for permission to emigrate or have been outspoken in defense of human rights are prevented from taking part in collaborative efforts. They are dismissed from their positions and are denied any possibility of continuing their work officially. The doors of international conferences and exchange programs are almost always closed to them. Some of the "politically reliable" scientists with whom we are permitted to meet are fine researchers; others are not. Yet the Soviet government denies us the talents and contributions of such outstanding colleagues as Benjamin Levich, Aleksandr Lerner, Viktor Brailovsky and Naum Meiman. Unfortunately the list goes on and on. As the scientific goal of exchange programs is to increase interchange among scientists, efforts to include our ostracized Soviet colleagues in these exchanges can, and should, be a major focus of our attention.

Having established the warrant for and the importance of using exchanges to promote the scientific and human rights of our oppressed colleagues, we must now ask how that can be accomplished in concrete terms. The answer flows largely from the foregoing analysis. In sum, scientific exchange programs should act as a battering ram to break down the wall of isolation which the Soviet government seeks to build around refusenik and dissident scientists. Specifically we would recommend the following steps:

1. American participants in exchanges should be informed that it is consistent with U.S. government policy to use the exchanges to further the rights of refusenik and dissident scientists.

2. American participants should be informed of the existence of unofficial scientific seminars organized by refuseniks and dissidents. Because these seminars are a forum for the exchange of scientific knowledge, American exchangees should be encouraged to participate in them. Of course, the final decision must be left to the individual U.S. scientist. Moreover, the appropriate government agencies can direct interested individuals to private organizations like the Committee of Concerned Scientists, which have a great deal of experience in this regard.

3. When exchange delegations feel it appropriate, they should insist that participation in one of the unofficial seminars be part of their official itinerary. The U.S. governmental agencies concerned should provide the delegations with all possible assistance in this regard.

4. Where scientically appropriate, individual refusenik or dissident scientists should be invited to participate in exchange conferences.

5. When the USSR has shown continuous disregard for the concerns of American participants in particular fields of inquiry vis-a-vis scientific human freedoms, exchanges extant in that field should be halted until such time as the situation improves.

In conclusion, we favor exchanges that will be used directly to advance the cause of scientific and human rights. However, we oppose those exchanges that will cooperate with the U.S.S.R., however, unwittingly, in its efforts to ostracize and suppress our colleagues.●

## CLIFFORD CASE—A STATESMAN

### HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. HOWARD. Mr. Speaker, those of us in the New Jersey congressional delegation who work with CLIFFORD CASE on State issues know what a fine legislator and Senator he is. When he leaves public office in January, CLIFFORD CASE will take with him a reputation as one of the leading statesmen ever to serve in the U.S. Senate. I would like to submit for the record an editorial that was broadcast over WNBC-TV4 recently. I think it very clearly outlines his fine character and contributions.

AN EDITORIAL—WNBC-TV4, JUNE 27, 1978

The political observers are saying that Clifford Case can blame only himself for his defeat in the New Jersey Republican primary. That he took his victory for granted, didn't campaign enough, wasn't seen on television enough, and so on.

There's probably truth in it. Though we'd like to add that the turnout, considering that this was a primary in which there were clear choices to be made—the turnout was a disgrace. If, after failing to vote in the primaries, people complain about the choice of candidate given them, they, too, have nobody to blame but themselves.

But that is history. The fact remains that when the Senate convenes next year, Senator Case will not be present. After twenty four years of office, the reason and quiet intelligence he brought to Senate debates will be gone. He is a man whose views are strongly held, but this never led him to passion, less still to a lack of courtesy. He was always ready to listen to the views of others, as I have had occasion to remember. He was kind, patient, and most important of all, wise. Those years in office did not feed and inflate his ego which is not always true of men in office.

Clifford Case served his country, his state, and, yes, his party well. He will be missed.●

## THE ROLE OF SCIENTISTS IN FORMULATING A NATIONAL POLICY FOR REGULATING CARCINOGENS

**HON. WILLIAM C. WAMPLER**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. WAMPLER. Mr. Speaker, on June 4, our colleague, JIM MARTIN of North Carolina and one of the few authentic scientists in the Congress, made what I consider a most timely and important keynote speech in Dallas, Tex., at the 38th annual meeting of the Institute of Food Technologists. His subject was "The Role of Scientists in Formulating a National Policy for Regulating Carcinogens."

JIM MARTIN, in this speech, has dealt with one of the most important public policy issues facing the Congress. It is one that all of us have voted on but which few of us understand. In this Congress we have had to deal with the saccharin question, amendments to the pesticide act, the Toxic Substance Act, and the OSHA amendments, to name a few. We have talked about, and heard about, the Delaney clause, nitrosamines in bacon, and zero tolerance, to mention a few more. Always the bottom line has been the terrible and legitimate fear of cancer. We have received pressures from various groups to ban this or put rigid controls on that substance or that plant because it is a cancer suspect. And we have also had pressures from those who say there is no need to ban or control these substances because no one has proved that they will cause cancer and anyhow, think of the benefits of these substances. Scientists I have talked to say everybody could be a little bit right and some could be dead wrong, but the voices of science on important aspects of these issues are either ignored or not heard. As a result, the public does not know what to think or who to believe.

For these reasons, I commend JIM MARTIN'S speech to you:

THE ROLE OF SCIENTISTS IN FORMULATING A NATIONAL (RATIONAL) POLICY FOR REGULATING CARCINOGENS

(By Congressman JIM MARTIN, Republican, North Carolina)

There are many public policy issues that relate to food, its supply, its quality and price, and the technology which impacts upon all the rest. Many factors relate to agricultural productivity; such as, farm economics, fertilizer, pesticides, energy priorities and so forth. Next there is the marketing of food, caught between the necessities of price restraint and the cost of processing, packaging and delivery of food products to be chosen by a relatively free society. The current increase in the food component of the consumer price index will draw great attention from politicians and self-directed "consumer advocates" between now and the November elections.

Federal law includes another factor: that of the $20 billion allocation in the budget for food and agricultural programs. But of all the vexing policy areas related to food, none today is more vexing, none is more potentially adverse to the public interest, none is more contrary to what is actually known than the emergence of a regulatory concept whereby it is proposed to eliminate human exposure to carcinogens . . . chemicals that cause cancer.

The concept of Absolute Zero Tolerance for carcinogens is based not so much on science as on a political response to unknown fears. For the last two decades it has been the underlying regulatory principle for food additives because of the Delaney Clause. Currently, this absolutist absurdity is being considered as the guiding principle for other agencies as they turn from relatively trivial problems toward the long-overdue responsibility of regulating carcinogens.

There is wide agreement that this responsibility must be met. Cancer is the most feared of human diseases. It is the second leading fatal disease; taking 1000 American lives a day, plus causing untold suffering. A united effort must be made to reduce the exposure to its causes and to identify the real chemical (and other) culprits.

The Occupational Safety and Health Administration has begun a lengthy series of hearings on the carcinogenic exposure, and its prevention, in the workplace. The Environmental Protection Agency and the Consumer Product Safety Commission and others are following this closely, hopefully to put together a united effort, uniform so as to avoid the confusion of conflicting policies.

I am concerned that their approach to this policy response will be dominated not by scientists, not by experts who understand the capabilities and limitations of science and who can interpret the meaning of evidence; but by those trained in the fields of law and public administration. I am afraid that, if left to themselves, their lack of scientific understanding will be conveniently replaced by their penchant for organizational orderliness. The essentials of technology will be obscured behind a facade of legal technicality.

It will be easy for them to believe that one molecule of any carcinogen can alter one element of the DNA code, irreparably, thus triggering latent cancer. It will be easy for them to believe they can protect the people from cancer by banning any detectable trace of suspected chemicals. And it will be easy for them to construct and promulgate a complex of reporting requirements, disclosures, compliance procedures and the like—because that's what they do best.

It will never faze them if their priorities begin by controlling relatively remote risks, and losing sight of the relatively profound risks—so long as their system of categories and protocols are organized in an orderly way. Their emphasis will be on the derivative logic of their regulatory schemes while neglecting the fallacies of the basic premise of absolute safety.

My point is: They need help. They cannot be expected to properly interpret the premise since that is a question of scientific controversy. Therefore, it is essential that scientists, from a wide range of disciplines, assist them and the Congress in this fundamental interpretation.

That is the role of scientists in helping to formulate a national (rational) policy for regulating carcinogens. Scientists may participate at any and all levels of decisionmaking, as I have done; and there is a great need for members of our profession to get involved politically. Of course, the public will not look to scientists alone to reflect the wishes of the public; but we must look to no one else to interpret the meaning of science.

You must, therefore, get involved. If you do not, it will be left to others to bend the meaning of science so as to fit their advocacy agenda. That is what happened to Soviet biology for 30 years, dominated by the Lysenko doctrine that heredity was controlled by environmental and somatic (whole body) factors rather than by genetics.

Your Executive Committee issued a statement opposing the saccharin ban shortly after that was first proposed by F.D.A. in March of 1977. That I.F.T. statement emphasized the needs of real consumers, for whom there would be no other non-caloric artificial sweetener. It argued for allowing discretion to make an exception to the Delaney Clause Absolute if its benefits outweighed the risks, which was the essential change incorporated in a bill that I drafted and introduced with 201 co-sponsors.

Now I suggest to you that you need to do more of that. You also need to organize expert panels so as to give learned testimony in Congressional and agency hearings. Otherwise your voice will not be heard.

What do you say when the Department of Agriculture, through its consumer office, proposes to eliminate nitrites from pork products? Who will tell the people, if you don't, that this will only increase their risk of botulism, while only marginally reducing their exposure to nitrites? To be consistent and effective they must also ban leafy vegetables—and prohibit swallowing your saliva.

The excellent paper on this by CAST, the Council for Agricultural Science and Technology, points out that one day's salivary drainage pours more nitrite down your throat than a pound of bacon a day. But then, spitting is someone else's jurisdiction, not Agriculture's!

It may be that many of you don't want to get into this, hoping it will all go away or that your own particular food area will escape notice for awhile. I suggest to you that is a dangerous invitation to attrition. This absolutist foolishness must be answered; a broad-gauge assertion of its eventual impact must be put on the hearing record now; or else they will pick you off one by one.

There are, in fact, pork producers who would rather not talk about it, out of fear consumers will voluntarily switch to other foods. Well, to what can they switch?

To hamburgers and grilled steaks? They are already under fire for possible polycyclic aromatic hydrocarbons.

Will consumers switch to dried fish and grains and corn and nuts—while ignoring the irreducible 15 ppb of aflatoxin and other mycotoxins? Or will they subsist solely on leafy vegetables and eggs and dairy products—and not be told about estrogenic carcinogens? Will they ignore the calcium in dairy products, even mothers' milk?

No, I believe it is time to acknowledge that there are risks, even carcinogens, in most natural foods; and that a varied diet not relying on just a few "safe" foods is the key to nutrition and health.

Yes, it is right for government to develop evidence and limitations against substances which are dangerous at levels to which we, or groups of us, are exposed. It is wrong, however, for government to promote a phobia against chemicals in the pantry, or marketplace, or work area.

It is, in fact, "hazardous to your health" to ban anti-oxidants and anti-spoilants from approved food additives and thereby, increase the risk of botulism, dysentery and stomach cancer. We are dealing with an authoritarian socio-political movement that seeks to ban chemicals from the food supply.

After all, we must remind them: when you get right down to it, there is nothing else, at all, in food, except chemicals. We must tell people not to panic; that all those natural ingredients in nature's own food is but a mixture of Chemicals. "M-M-Mother Nature fooled you!"

Still, there are those who pharisaically attack chemicals as the basis of all our woes. How often have you read that 80 to 90 percent of all human cancer is due to what are called "environmental factors?" There is no quarrel with that estimate.

The fallacy occurs when that "80–90%" gets translated, for debate purposes, and by sleight-of-hand, into "synthetic chemicals"

(as though it's all due to vinyl chloride, DES, saccharin and benzene.)

You need to help get across the truth that 80–90% of all those "environmental factors" which are causing most cancer has nothing to do with industrial or synthetic chemicals, but is the burden of lifetime exposure to natural chemicals. I am referring to excessive diets of rich foods, heavy smoking, alcohol, background radiation . . . that is: your lifestyle environment.

No, we must never abandon or neglect our responsibility to protect the public and the environment from real hazards carelessly handled, nor defend those who do. But it is a disservice to frighten people into thinking that saccharin, or red dye 40, or deodorant spray, or (now) hair color somehow cause 1000 Americans to die daily from cancer. Whether or not you ban all four of those consumer items, the number of Americans who suffer to die daily from this awful scourge will still be 1000. It may even increase if tens of millions of dieters lose control, gain weight and thereby increase their risk of cancer—as well as cardiovascular disease, diabetes, hypertension.

There's nothing really magical or profound about saccharin. There are many far more important chemicals. But until F.D.A. proposed to ban this last of the artificial sweeteners, no politician (and few scientists) dared publicly to question the absolutist principle of the Delaney Clause. Why? Because the advocates of absolutism would effectively resort to what I call: "dynamic intimidation." Anyone questioning the validity of this absolute safety dogma would be terrorized and quickly wilted by the simple suggestion that "your constituents deserved better than to be represented by someone who favored a little bit of cancer!"

As for my own qualifications to speak on saccharin I found that reporters mainly wanted to know what the saccharin manufacturer, Sherwin-Williams, made in my district! Fortunately, at a critical time in my career, the answer was and is: nothing! They do make a little money through retail sales of paint. Next, I had to explain the sources of my modest research grants.

Yet the zero risk principle of the Delaney Clause is one nearly all toxicologists, analytical chemists (who can now mischievously detect a few dozen parts per trillion), most scientific learned societies, medical associations, three former F.D.A. commissioners, the present and former directors of the National Cancer Institute, the American Cancer Society, and the American Heart Association, all reject. They are joined by most consumer organizations that represent real consumers like diabetic and obese consumers (as opposed to perceptions of consumers by self-annointed advocates). All these, together with now a large majority of Congress who voted for the 18-month moratorium on saccharin, all agree that this absolutist safety principle is an idea whose-time-has-come-for-a-change!

It is time to accept the modern understanding that zero risk is impossible. Those who persist in pushing to ban every remote risk must be exposed for their allegiance to a principle that if rigorously applied would ban the food supply. Anything containing polycyclic aromatic hydrocarbons, mycotoxins, estrogens, selenium, tryptophan, and calcium would be prohibited. That would eliminate: grain, corn, leafy vegetables, nuts, eggs and dairy products, grilled or dried meat, coffee and even mother's milk.

It is time to take the regulatory ostrich head out of the sand and face up to the gathering evidence that nearly a dozen carcinogens have been shown to have dose-response curves that support the existence of a threshold below which they are not carcinogenic or have substantially lower potency. This means that only above the threshold the substance overloads the natural biological detoxification defenses or DNA-repair capabilities, or forces abnormal metabolism or irritates or abrades sensitive tissues, thus producing tumors which a one-hit from one stray molecule could never do.

It is time to respond to efforts to extend the absolutist principle of the Delaney Clause to the regulatory responsibilities of the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission. Before they adopt a goal to ban all chemicals, I will try to remind them: "What else is there?" (in the material world, anyway!) It will be a hot debate and you will want to follow it closely, and add your voice to it. That way we can get the attention of Congress before it's too late.

For my part, let me suggest a regulatory policy that I think makes sense. It is reasonable. It will not unnecessarily create fear and anxiety in the population. After all, since we all believe in rat tests, we should remember that anxiety, disorientation, and even spinning the little rascals in circles increases their risk of cancer.

Let me suggest that a regulatory process should have four logical steps:

First, there must be a determination whether the scientific evidence proves the substance to be carcinogenic. The kinds of categories and protocols being proposed by OSHA, EPA and CPSC afford an adequate basis for assessment of this evidence. Scientific sloppiness, of course, should not be given great validity. The critical point however is that this should not be the only step on which a regulation is based.

Second, there must then be an assessment of the potency of any carcinogen. How hot is it? While this will be imprecise, a semi-quantitative estimate can and must be made. Otherwise, we will dilute and divert our resources chasing after relatively trivial cases when there is a greater need to focus on the truly hazardous cases.

Third, the public risk should then be estimated by taking into account that potency factor and the actual exposure of the public, including specific subgroups. This would then give us an estimate, based on the best data available, translated into the expected number of human cancers per million population. While this estimate will certainly be open to argument, it will nevertheless be valuable for putting the probable risk into perspective in comparison with other risks which we accept or prohibit in this society.

Fourth, the appropriate regulatory action would be based on the degree of risk in comparison with its benefits. If the risk is slight in comparison with other acceptable, voluntary risks then no action is required. If the risk is of major proportions as with asbestos or B–naphthylamine, rigorous safeguards can be employed. If the risk is moderate, in between, then intermediate levels of regulation, such as warning labels, tax penalties, practical exposure limits and so forth might be appropriate. At the levels where regulation is called for, the substance should not be banned if its public benefits exceed its risks.

Of vital importance: this approach does allow all the best evidence to be weighed as well as the least valid (which now often dominates).

This gives us a workable policy.

1. Is it carcinogenic? At all?

2. If so, how potent is it?

3. What best estimate does that afford as to the public risk, considering the manner and extent to which we are actually exposed to it?

Finally,

4. What regulatory option is most appropriate to this risk in comparison with other ordinarily acceptable risks, and the benefits of the substance?

This is a policy which the public is more likely to support than one which bans saccharin and hair dyes while neglecting excessive smoking, eating and drinking. Free Society, after all, chooses to swim in a sea of risks. So put it in perspective.

Let's take saccharin for example. If you assume (which I don't) that humans are as sensitive at our normal low intake of saccharin (2 mg per kg of body weight, occasionally) as the male rats are at a daily 2.5 g per kg of body weight (including higher exposure in utero), then on the basis of actual consumption of saccharin by roughly one-fourth the U.S. population, you can "predict" a risk of 26 additional cases per year, or 13 per hundred million population. That (given all assumptions) would "project" 4 additional deaths per million per year. No, I'm not in favor of that, but in comparison the risk of cancer death from extra cosmic radiation exposure during one transcontinental air flight per year (w/o the peanuts!) is 12 times greater! Yes, you may have to stay in Dallas. The risk from the average exposure to medical x-ray is 240 times greater! The risk of drowning from fishing is 400 times greater! The cancer risk from improper diet is 20,000 times greater (just from natural food chemicals). By any comparison, any risk attributable to saccharin is at worst well within the range of risks which society readily finds acceptable.

So, let's keep it in perspective.

If it turns out that normal use of hair color (i.e., soaking your hair in it rather than drinking 25 bottles a day) introduces a risk comparable to an extra 15 minutes of sunbathing on your vacation (my calculation puts it less than that, if in fact there's any risk at all), then it seems to me that no public good is served by banning it or even creating much anxiety over it.

No, I am not really in favor of a little bit of cancer. I am only in favor of at least a little bit of intelligence.●

## ANDREW YOUNG

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. STOKES. Mr. Speaker, last week, my colleagues in the Congressional Black Caucus and I gathered here on the floor of the House to address an impeachment effort leveled at U.S. Ambassador Andrew Young. The floor action arose over a controversial statement made by Ambassador Young to a French newspaper suggesting that the United States had hundreds, maybe even thousands of people he would call political prisoners. The press and a number of highly placed Government officials took immediate offense at the Ambassador's statement because of the dissidents trials which were being held 2 weeks ago in the Soviet Union and, no doubt, because they did not agree that the United States had political prisoners.

Mr. Speaker, I rose on that occasion, as I do now, in support of our distinguished Ambassador. I stated that even though his critics have continuously attacked his candor, none have yet stepped forward to prove his statements wrong.

In the wage of this controversy, Mr. Speaker, much has been written on the merits and demerits of the Ambassador's remarks. Two columns by the distinguished journalist William Raspberry have impressed me as being particularly thought provoking. Therefore, Mr. Speaker, I commend to you and my colleagues William Raspberry's columns

which appeared in the July 17 and July 19 editions of the Washington Post:

[From the Washington Post, July 17, 1978]

WAS YOUNG REALLY SO FAR OFF BASE?

(By William Raspberry)

When Carter-administration officials are through chastising Andrew Young for talking out of school about America's "political prisoners," perhaps they'll find the time to explain to the rest of us precisely where Young went wrong.

Did the U.N. ambassador lie when he told a French newspaper that there are "hundreds, maybe even thousands of people I would call political prisoners" in U.S. jails? Did he grossly exaggerate the numbers? Or was his sin merely that he told an embarrassing truth at a particularly awkward time?

The explanation is needed if we are to make sense of the president's posturing on "human rights."

For weeks now, administration officials have been long-faced and grim over the fact that Anatoly Scharansky, Alexander Ginzburg and other Soviet dissidents are facing trial—Ginzburg for anti-Soviet propaganda, Scharansky for high treason.

An American environment delegation scheduled to visit the Soviet Union was told to stay home in protest of the trials. White House and State Department officials have been talking in ominous terms of "reexamining relations" between the Soviets and the United States. The strategic arms limitation talks are threatened and the air of diplomatic crisis hangs heavy.

All this because two Russians are being tried on charges of having violated Soviet law.

Ginzburg has been convicted on the propaganda charge; Scharansky, on charges of spying for the CIA. U.S. officials say the real offense of both men was their human-rights activism.

Meanwhile, the Rev. Ben Chavis (of Wilmington 10 fame) sits in a North Carolina prison, convicted of charges that grow out of his civil-rights activism. Chavis and the others were convicted as conspirators in a wave of violence following a week of racial disturbances in Wilmington, N.C. Specifically, they were charged with arson in the firebombing of an empty store.

But Americans in the millions are convinced that their real crime was their civil-rights activism.

One of the leading witnesses against Scharansky was Sonya Lipavsky, a physician who turns out to have been both an informer for the KGB and a "volunteer" for the CIA.

The principal witness against the Wilmington 10 was a slow-witted teenager named Allan Ray Hall, now 23, who subsequently recanted his testimony, as did two other key witnesses.

But while the Carter administration is outraged at the prospective injustice against Scharansky, it has been sweetly discreet about the palpable injustice to Chavis and others.

President Carter, queried about this celebrated case, which Amnesty International cites as a human-rights violation, said he was not familiar with the details and, besides, it is a state matter. "I am against unjust imprisonment," he said.

Well, who would go on the record as favoring unjust imprisonment? And as for ignorance of the details, the view here is that Carter could have found out at least as much about Ben Chavis as he found out about Anatoly Scharansky—if he had cared as much.

His silence on Chavis and the Wilmington 10 has been ascribed to the fact that, as president, he cannot interfere in a North Carolina trial. But one would suppose that an American president would have at least as much influence on the North Carolina system as on the Soviet system.

I'd like a clearer explanation.

It's a long way from the Wilmington 10 (all of whom but Chavis will be released by October) to Andy Young's "hundreds, maybe even thousands" of U.S. political prisoners.

I would not argue too strongly in defense of the higher number—unless you take the term "political prisoner" to include those persons whose political beliefs have led them to commit ordinary crimes, as may have happened with at least some of the Soviet dissidents.

In that case, you'd have to include anti-war activists, demonstrators, tax protestors, civil-right activists, busing opponents and heaven knows who else. You'd certainly have to include Ronald L. Humphrey and David Truong, recently convicted in federal court on charges quite similar to those levied against Scharansky.

Maybe it's not for the U.N. ambassador to do it, but somebody has to demand that President Carter make some useful distinctions between our political prisoners and Russia's political prisoners. If he can't, and if he insists on keeping quiet about our own, then perhaps he ought to shut up about the whole matter of "human rights."

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[From the Washington Post, July 19, 1978]

HOW WE VIEW OUR DISSIDENTS

(By William Raspberry)

As a general rule, it is America's liberals who are most easily moved to outrage against the excesses of our law-enforcement and intelligence agencies. Conservatives tend to take the toughminded view that the authorities must do what they must do.

But when the excesses take place in Soviet Russia, the strongest reaction comes from American conservatives. If any voice suggests that maybe the Soviets are doing only what Americans, would do under similar circumstances, that voice is likely to belong to a liberal.

It's hard to imagine a Barry Goldwater, a Bob Dole or a Robert Byrd supporting efforts to make the CIA or the FBI more accountable to Congress. Calls for limiting the covert activities—including entrapment, infiltration, wiretaps and burglaries—of these organizations nearly always come from liberals.

But let the KGB do the same thing against Russian citizens suspected of anti-government activities—as in the cases of Anatoly Scharansky and Aleksandr Ginzburg—and conservatives are likely to see it as just another example of the excesses of godless communism.

It is the conservatives who are demanding the head of U.N. Ambassador Andrew Young for daring to suggest that our own criminal-justice system is not free of political considerations.

Liberals are hardly more consistent or more virtuous. As a matter of fact, it may be misleading to talk of American reaction to official excess in liberal-conservative terminology.

Our reactions tend to be based less on ideology or on the specifics of governmental action than on our basic attitudes toward the government.

Americans right across the political spectrum are quick to denounce Soviet suppression of religion. The notion of Russian Baptists meeting in secret terror, or of Soviet Jews risking their liberty to speak their conscience, moves us to shed tears and write checks.

But when the FBI moves against the Church of Scientology, raiding its headquarters and arresting its members, we assume that the authorities must know something. No doubt they do. But isn't it just possible that the Russians see Christianity or religious Judaism as at least as great a threat to their system as Scientology is to ours?

When the Soviets bring criminal charges against their citizens who dissent from the Soviet system, we automatically see the charge as "trumped up."

But when American authorities raid the headquarters of the Republic of New Africa in Mississippi, or the Black Panthers in Chicago, we are likely to conclude that those organizations brought it upon themselves.

The point is not that the Soviet and American systems are equally bad, or that the KGB and the CIA are equally lawless, or that the Russian judicial system is no better than our own. There are tremendous differences, and in every case I can think of, the differences favor America.

But there are also similarities, and it strikes me that we might learn from those as well.

The key similarity is that both systems and the agencies that serve them are dedicated to their own preservation. They are equally inclined to move against what they perceive as threats to their respective systems.

It may be fair for us to make propaganda use of Russia's harshest efforts to contain those threats, just as it is fair for them to turn the Wilmington 10 to their own propaganda purposes. But we ought to recognize the propaganda for what it is, on both sides.

And we ought to recognize one thing more: that the principal difference between our system and theirs is recourse—through judicial appeals, through the press, through popular outcry. But the preservation of that difference requires that we also recognize the similarities between us, in particular the fact that state authority needs some built-in checks to keep it on course.

The easiest way to convert our investigative and intelligence agencies into unreasonable facsimiles of the Russians' is to give them the blank-check authority that some of our conservatives find so attractive.●

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## BRITAIN AND HUMAN RIGHTS

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### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES


*Wednesday, July 26, 1978*

● Mr. BIAGGI. Mr. Speaker, I wish to call to the attention of my colleagues an article which appeared in a recent edition of the Christian Science Monitor. Its main focus is on a new campaign being waged by British Foreign Secretary David Owen to have all British embassies in the Soviet Union and Eastern Europe monitor the human rights activities and file reports every 6 months.

While I do not disagree with the intent of this new directive I think it most interesting that the British feel free to dismiss the human rights violations which are occurring in their own province of Northern Ireland. These violations have been documented by both the European Court and Commission on Human Rights and most recently by Amnesty International. In early 1977, Britain admitted her guilt to these charges and pledged to cease. The Amnesty International report belies the validity of this pledge.

One other rather disturbing element in this article was the Soviet Union recognizing something that the United States has failed to—that there is indeed a human rights problem in Northern Ireland. It has been more than 1 month since the Amnesty report was released, yet this administration which

champions itself as a leader in the pursuit of human rights has remained silent.

The message I wish to convey is simple: To be consistent and credible our concern for human rights must be universal, not selective. We should be as concerned about Northern Ireland as we are about Chile or Romania. Only then will the policy gain the respect of the world community and achieve its goal of advancing human rights around the world.

With respect to Ireland, I maintain that a cessation of human rights violations is absolutely essential to bringing peace to Ireland. I and the 110 members of the Ad Hoc Congressional Committee for Irish Affairs wish to prevail upon the British and Dublin Governments to work for improved conditions in their prisons, which are by far the most notorious havens for human rights violations. Our commitment to peace in Ireland is strong and will continue.

At this point in the RECORD I wish to insert the article entitled "British Put Envoys on Rights Vigil."

BRITISH PUT ENVOYS ON RIGHTS VIGIL

(By Alexander MacLeod)

LONDON.—British embassies in the Soviet Union and elsewhere in Eastern Europe have been ordered by Foreign Secretary David Owen to mount a "rights watch," and the Russians are bitterly angry at what they deem unwarranted interference in their affairs.

Dr. Owen's instruction to ambassadors requires them to file special six-monthly reports on the observance—or otherwise—of human rights by Communist governments.

The reports will be collated in London and used as a basis for criticism of regimes that fail to live up to commitments made in the Helsinki final act three years ago.

Soviet news media have brushed aside Dr. Owen's charge that since the Belgrade review conference on the Helsinki accords 10 members of Soviet human-rights monitoring groups have been put on trial. Instead the media accused the Foreign Secretary of operating a double standard.

Pravda mounted a particularly savage attack, saying that if Dr. Owen was really interested in human rights infringements he should look closer to home—the situation in Northern Ireland.

CARTER BACKED

But the Foreign Secretary, who backs President Carter's human rights line solidly, has said Britain will not be deterred from its new policy of keeping a close watch on the human rights record of Communist regimes.

Dr. Owen's aim is to insure that monitoring, done so far by dissident groups, does not tail off because of the current spate of trials.

A tough line of human rights in Communist countries is also being taken by the Conservative opposition leader, Margaret Thatcher.

In some ways her approach is more rigorous than Dr. Owen's, and there is speculation that the issue may produce clashes between the two main British political parties in the run-up to the general election, now expected in October.

In a weekly publicized BBC Television interview, Mrs. Thatcher said that if the U.S.S.R. and its allies continue to take severe legal action against dissidents, Britain should seek to persuade the West to take retaliatory action.

CURTAILMENTS ASKED

She proposed cuts in food shipments, trade credits, and exports of technological know-how. "I refuse to accept that the West could not mount a credible nonmilitary response to the Russians," she said, dealing with the trials of dissidents and Soviet and Cuban activities to Africa in the same breath

Mrs. Thatcher's remarks evoked sharp Soviet rebukes. Moscow Radio referred to her as a "warmonger" and returned to describing her as "the iron maiden"—an epithet first used two years ago when the Conservative Party leader expressed her opposition to Soviet policies in forthright language.

The day after Mrs. Thatcher's TV broadcast, the Soviet ambassador in London called on her at the House of Commons. It is believed he protested vehemently about her demands for retaliation against Russia and other Warsaw Pact countries over their human rights policies.●

## TURKEY AND NEGOTIATIONS

## HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. FINDLEY. Mr. Speaker, we are at a crossroads. Congress can keep the U.S. arms embargo against Turkey in place and perpetuate a failed policy and the stalemate it has created on Cyprus for over 3 years. Or, we can lift the arms embargo, thereby stimulating movement toward a Cyprus settlement.

We have already had good indications that lifting the embargo will promote a Cyprus settlement. Indeed, since President Carter announced on April 6, 1978, his intention to ask Congress to lift the arms embargo, Turkey has demonstrated a considerable willingness to negotiate on Cyprus and on other difficult issues. Lifting the embargo would further encourage the Turks and would facilitate the negotiating process for Prime Minister Ecevit whose government enjoys a bare four seat majority in Parliament. Retaining the embargo would, on the other hand, render additional Turkish concessions all the more difficult.

For the information of my colleagues, I would like to provide a brief summary of the Turkish efforts this year to negotiate on Cyprus and on other outstanding issues.

I believe that these efforts show great promise and demonstrate more hope for a resolution of the Cyprus conflict than we have seen in the years since 1974—or perhaps since 1960.

A. NEGOTIATIONS ON CYPRUS

Since April 6, 1978, when President Carter asked Congress to lift the arms embargo, the Turkish side has taken the following steps:

First. Reiterated its commitment to an independent, nonalined, bizonal Federal Republic of Cyprus.

Second. Tabled proposals on Cyprus on April 13 which U.N. Secretary-General Waldheim stated "deal with the constitutional and territorial aspects of the Cyprus problem in a concrete and substantial way."

Third. Provided, on May 22, a further elaboration of these proposals which promised Turkish-Cypriot flexibility and highlighted their willingness to:

Consider significant territorial readjustments;

Make further troop reductions;

Permit 35,000 Greek-Cypriots to return to their homes in Varosha as negotiations progress;

Find means to reopen Nicosia Airport for civilian traffic.

The Turkish-Cypriots termed these proposals "a starting point for discussions."

Fourth. On July 20, 1978, the Turkish-Cypriots proposed an interim administration for Varosha under the aegis of the United Nations as soon as intercommunal negotiations resume with planning for the resettlement to begin promptly.

Because of their length, I have not submitted the documents from which the above information was drawn for the RECORD. These documents are available, however, from the Department of State.

B. TROOP WITHDRAWALS

Since 1974, Turkey has withdrawn 41 percent of its initial force on Cyprus. In April and in July Turkey withdrew 2,050 troops from Cyprus. Prime Minister Ecevit of Turkey has stated that he will make additional troop withdrawals in the future.

In a May 22 press conference in Washington, Prime Minister Ecevit spoke of the troop withdrawals:

(Excerpt from statement of Prime Minister Ecevit before the National Press Club on May 22, 1978.)

On the other hand, in spite of the fact that a new pattern has not yet taken roots in Cyprus recently, and, therefore, complete security has not been assured, we have, contrary to the impression that is widely spread in many countries, we have for the last three years withdrawn about 16,000 troops in Cyprus and we continue to withdraw them, although, of course, it would be impossible to pull them all back before the final Cyprus state takes shape, and the security of the people is insured, but the Turkish troops are not in Cyprus to stay there. They are not invading troops, contrary to what many people think.

C. NEGOTIATIONS WITH GREECE OVER BILATERAL ISSUES IN THE AEGEAN

Differences exist between Greece and Turkey on airspace rights and the Outer Continental Shelf in the Aegean. Greece rules out its participating in the Cyprus negotiations or any discussions of that issue.

When Prime Minister Ecevit took office in January, he announced that a resolution of differences with Greece as well as of the Cyprus situation were among his top governmental priorities. His efforts have included the following:

First. He proposed a meeting between Prime Minister Caramanlis and himself which occurred in Montreux on March 9 and 10. The meeting was deemed a success. A second meeting was planned for April 14 to 16. Greece, however, postponed this meeting when it learned that President Carter planned to ask Congress to lift the arms embargo. However, Prime Ministers Ecevit and Caramanlis did confer at the end of May when both were in Washington for the NATO summit and agreed, at that time, that further meetings should take place.

Second. On July 4 and 5, the Secretaries General of the Foreign Ministries of Greece and Turkey met in Ankara to discuss bilateral issues. The two representatives issued a joint communique which described the talks as "full, sincere, and constructive" and stating that "rapprochement" on certain issues was

"possible." The text of the communique follows this section.

Third. Greece has suggested a nonaggression pact with Turkey. Although Turkey had earlier resisted this approach because it considered it unnecessary for two allies, Prime Minister Ecevit has now said he will discuss it. Talks are now underway.

JOINT GREEK-TURKISH COMMUNIQUE

Following a decision by the Prime Ministers of Greece and Turkey, the secretaries general of the foreign ministries of the two countries, Ambassadors Byron Theodoroulos and Sukru Elekdag, met in Ankara on July 4 and 5, 1978.

Their meeting had the objective to continue the examination of bilateral questions already discussed by the two prime ministers during their meetings in Montreux and in Washington and to explore the possibility of a rapprochement of the views of the two sides, as put forward by the two prime ministers.

Bearing in mind the common desire of the two prime ministers to find solutions to the bilateral problems of the two countries, two secretaries general proceeded to a full, sincere and constructive examination of those problems. It was found that as to certain questions the rapprochement of such views is possible and the secretaries general have, therefore, agreed to pursue the dialogue between them. To that effect they have decided to meet again in Athens in September 1978.

D. U.S.-TURKISH PRISONER EXCHANGE TREATY

Our colleague from Michigan, HAROLD SAWYER has, to his credit, diligently worked to promote a United States-Turkish prisoner exchange treaty which would permit the return to this country of Joann McDaniel and Kathryn Zenz, two young American women incarcerated in Turkey. Because of Representative SAWYER's interest, the State Department has approached Turkey on the possibility of a treaty. Turkey has indicated its great interest and willingness to enter into a treaty. Negotiations are progressing well.

Letter from State Department Counselor Matthew Nimetz to Representative HAROLD SAWYER:

WASHINGTON, D.C.,
*July 19, 1978.*

Hon. HAROLD S. SAWYER,
*House of Representatives.*

DEAR MR. SAWYER: This is in reply to your letter to the President of June 29, and other recent correspondence, regarding the status of Joann McDaniel and Kathryn Zenz, two American women imprisoned in Turkey.

As you know, the United States and Turkey have agreed to commence negotiations at an early date on a prisoner transfer treaty. The treaty will provide a mechanism for Americans imprisoned in Turkey, including Ms. Zenz and Ms. McDaniel to return to the U.S. in order to serve out the remainder of the sentences imposed by the Turkish courts, subject to U.S. laws governing eligibility for parole.

As I mentioned to you during our meeting on June 29, the transfer treaty will be based on the European Convention on the International Validity of Criminal Judgments, with necessary modifications to reflect U.S. constitutional and legal requirements. We gave a draft text to the Turkish government on July 17 and proposed sending a team to Ankara with instructions to carry out the negotiations as expeditiously as possible.

The Turks seem equally anxious to reach rapidly a mutually beneficial agreement. Nonetheless, our experience in negotiating similar prisoner transfer treaties with other countries suggests that, even with the best intentions on both sides, such negotiations are not usually concluded in a few days, given the technical and legal nature of the agreement under negotiation.

We share your interest in successfully concluding negotiations at the earliest possible date, and will do everything we can to move forward rapidly. The President's efforts to lift the Turkish arms embargo have improved the tone of our relationship with Turkey in recent months. This improvement will facilitate progress on a prisoner transfer treaty and other issues.

For your information, I have enclosed a copy of the Department's July 10 press release announcing the negotiations, as well as a status report on the case of Ms. Zenz and Ms. McDaniel. I have taken the liberty of distributing copies of this letter and its attachments to your colleagues who also signed the letter to President Carter.

I hope this information will be helpful to you.

Sincerely,

MATTHEW NIMETZ.●

## ABORTION AND DISCRIMINATION

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. MILLER of California. Mr. Speaker, as you are well aware, the issue of abortion has become extremely complex. In the Congress, we have legislated on the issue in terms of public funding. We will consider an amendment to the Civil Rights Commission Act which would prohibit the Commission from making recommendations to Congress on abortion. The Congress may vote this year on conference language regarding the abortion amendment in the pregnancy disability bill. In the latter instance, we may debate "religious" or "corporate conscience" decisions on workers' rights to seek legal abortion.

An aspect of the abortion issue which has not been discussed extensively in this Chamber is discrimination, in employment and otherwise, based upon a woman's choice to seek legal abortion, or an individual's public statement supporting the right to choose.

Ellen Leitzer, the Washington counsel for the Reproductive Freedom Project of the American Civil Liberties Union, has provided me with information on three cases where discrimination, based upon a decision on abortion, may have occurred. In the first and third cases cited by Attorney Leitzer, the ACLU is assessing the legal issues involved to determine whether litigation is in order. The second case already is the subject of legal action. I commend a description of these cases to my colleagues:

STATEMENT OF ELLEN LEITZER, ESQUIRE

In the past few weeks several abortion related incidents have come to my attention and I wish to share them with you. If you have knowledge of similar occurrences, please write me at the above address or call me at (202) 544-1681. It is important that the ACLU monitor situations in which individuals or agencies are penalized for either procuring abortions or advocating a prochoice position.

One. Ann Moe (a pseudonym) is a black woman in her late twenties who has several children and is currently separated from her husband. She was, until recently, employed as a nurse's aid by a private nursing home in a rural county in southeast Alabama. In early May, Ann Moe asked for and was granted a day off from work for medical reasons. She proceeded to obtain an abortion in Montgomery, Alabama which is approximately 90 miles from her home. Upon returning to work, her supervisor told her that "We know what you were doing, you had an abortion." She was then informed that she was fired because of the abortion.

Two. Pat Miller is an attorney who until recently was employed by the Commonwealth of Pennsylvania as an assistant attorney general. Around February 27, 1978 Pat was offered a staff attorney position with the Allegheny County Legal Services for the Elderly Program. On March 30 she accepted the offer which included taking a $4,000 cut in salary and immediately gave notice to her current employer. She was to begin her new job on May 1. On April 28 the three County Commissioners of Allegheny County approved the staff attorney position. That same night, Pat Miller, as President of the Board of Women's Health Services, Inc. (an abortion clinic), hosted the Fifth Anniversary dinner for WHS and introduced the keynote speaker, Senator Birch Bayh (D-Ind.) The following day (Saturday) Pat received a telephone call from Wayne Gerhold, Director of the Legal Services Program and her new boss, who told her not to come to work that Monday because there is "no job."

Apparently her appearance at the WHS dinner coupled with her past history of prochoice activities resulted in the refusal of two of the three county commissioners to sign her employment contract. When asked why Commissioners Tom Foerster (a prominent anti-abortion leader) and Jim Flaherty (whose brother Pete is the Democratic candidate for governor) had refused to sign her contract, the off-the-record answer was "Well, she's not exactly a prolifer." Subsequently, Wayne Gerhold resigned his position as Director for the Legal Services Program in protest and Pat is suing the Commissioners for violation of her civil rights.

Third. Three years ago Congress ordered that regional "health systems agencies" (HSA) be set up across the country in order to review all proposals for new or expanded health facilities and equipment, and to develop long-range health planning. In addition, the HSA is mandated by law to "educate and inform the general public and public officials about community health questions." The Health Systems Agency (HSA) of Northern Virginia which receives about 94 percent of its budget from the federal government recently issued a lengthy report outlining a five-year plan for health care and an annual implementation plan. The report included a recommendation that "the governor and the Virginia General Assembly approve the use of public monies for abortions for Medicaid-eligible women." On May 22, 1978, the Fairfax County (Va.) Board of Supervisors voted to cut off county funding for the HSA accusing the agency of "propagandizing" on the abortion issue. In response, the HSA board chairman claims that the agency has not taken a stand on abortion and that its recommendation is based on the argument "that since abortion is medically and legally sanctioned, it shouldn't be denied because of lack of money."

Prince William County, which jointly funds the HSA of Northern Virginia has also voted to withhold its contribution if the health agency continues to support abortion funding.●

## PUERTO RICAN DAY PARADE

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. RODINO. Mr. Speaker, I want to call my colleagues' attention to a very special event that will be held in my home city of Newark this Sunday, July 30. It is the statewide Puerto Rican Day Parade, which tops a week of activities recognizing the proud heritage of Americans of Puerto Rican descent.

I am fortunate to count my circle of friends many of the Puerto Rican families residing in New Jersey's 10th Congressional District, and it gives me a great deal of satisfaction and pleasure to participate in this celebration with them.

Mr. Speaker, I join with my community in expressing a personal sense of pride in the contributions of Puerto Rican Americans. Individuals like Dr. Jose Rosario, the director of F.O.C.U.S. Ramon Aneses, Newark's deputy mayor, Tony Perez, past director of F.O.C.U.S. and now president of the Immaculate Heart of Mary Council, and Raul Davila who has put together the Puerto Rican Arts Festivals year after year are outstanding examples of leadership that has evolved from the Puerto Rican community. There are others, to be sure, and those who quickly come to mind are Miguel Rodriguez, special aide to Newark Mayor Kenneth Gibson, Fernando Zambrana, president of Newark's Advisory Council on Bilingual Education, Dr. Hilda Hidalgo, a member of the Newark Board of Education, Julio Quinones, chairperson of F.O.C.U.S., Maria Cristina Rosa, who is active in the women's caucus, and Percy Miranda, who is a member of my Newark staff.

The Puerto Rican Day Parade, now in its 16th year, is the result of the combined efforts of many hard-working leaders of the Puerto Rican community. The parade's proceeds will go toward a college scholarship fund. This year's queen, Lorraine Alemany, is an example of the beauty and charm of the Puerto Rican people. The president of the Parade Committee is Luz Miriam Hernandez, the grand marshal is Jack Horta, and the general coordinator is Miguel Sanabria. They have done an excellent job in preparing for the event, and they have received outstanding support from Jose A. Lugo, the parade's first vice president, and Dimas Montalvo, the second vice president, and Miguel Rivera, the treasurer.

Other members of the parade's executive committee who have been vitally involved with making the parade a success are Pablo Rivera, Justo de Jesus, Edwin Rivera, Jaime Munoz, Gladys B. Cancel, Fernando Zambrana and Cipriano Suarez. Frank Melendez is the Newark representative on the parade's board of directors, and the honorary chairmen of the parade include Mayor Gibson, Jose Rosario, Carlos Romero Barcelo, and New Jersey Gov. Brendan Byrne.

Since the first Puerto Rican Day parade, my good friend Marie Gonzalez has been on the scene as an integral part of the event. Marie is a member of the Newark Human Rights Commission and she is serving as the liaison between the commission and the parade.

The work of these people and many others, and also the events leading up to the parade, are very important reminders of the contributions of Puerto Rican Americans. This week in New Jersey is Puerto Rican Heritage Week, and on Monday, Mayor Gibson signed a special proclamation designating Puerto Rican Week in the city of Newark. The Spanish Repertoire Company will perform at Essex County College in Newark on Friday night, and on Saturday, the parade committee will hold a banquet with the keynote speaker being Maurice Ferre, the mayor of Miami, Fla.

Mr. Speaker, I am delighted that the city of Newark is carrying on the important tradition of the Puerto Rican Day parade because I believe it will heighten the appreciation for Puerto Rican culture in America. These citizens are mindful of the value of their heritage and I am very proud to represent them in Congress. I am sure that the 16th annual Puerto Rican Day parade will be another memorable event in the celebration of the resplendent tapestry of America's ethnic heritage.●

## OAHE AUTHORIZATION NEEDED

### HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. PRESSLER. Mr. Speaker, recently, I introduced a resolution in Congress calling for preservation of the existing Oahe authorization and expressing the sense of Congress that it would welcome modification to the Oahe plan.

It has been my strong belief that we should preserve the Oahe authorization, but make modifications and changes in it to make it more acceptable to our people. It cannot, of course, be acceptable to everybody, but the original Oahe plan had problems which many of our people objected to—particularly farm people along the area where the basic ditch would be dug. There were also problems with the land mitigation program and other parts of the project.

I know that this plan has been studied for years, and I know that many Members of Congress have faithfully supported it. I believe it is well worth preserving the authorization and making a major effort at coming up with a modification before we lose it.

Next March and April, we will be considering appropriations again. I am very excited about the possibility that the Governor, the legislature, the local boards, and the congressional delegation can come up with a major new plan by next March or April. I certainly am willing and eager to participate in that planning. I have been meeting with the different local boards, and I have been discussing possibilities. No one person will be able to do this, but I shall certainly continue to work and continue to assist.

A chief objective of any modification must be to get water to our eastern cities—such as Aberdeen, Redfield, Huron, and Mitchell. If we are unable to agree to commence with a canal, it has been suggested that the possible use of one or two large pipelines alongside railroad rights-of-way that run from the Missouri River eastward and westward; the possibility of using the existing pumping plant at Blunt to fill the canal to Medicine Creek, and from there transferring into one or two large pipelines running alongside the railroad right-of-way to Huron; of modifying the land mitigation program; of a Lower James addition; of canalside and alongside the Missouri irrigation; and other possible modifications—all these are needed in our State and probably could be done within the existing authorization or with slight variations in that authorization. I am sure that there are other possible modifications, and I would like to have them suggested. But, by next March or April, we must have an acceptable plan.

Mr. Speaker, at this point I insert a copy of the resolution I have introduced:

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of Congress—

(1) that the Oahe unit, James division, Missouri River Basin project, South Dakota, is a worthwhile project but the authorized plan is in need of modifications;

(2) that Congress welcomes a modification plan from the State of South Dakota;

(3) that, although certain modifications of such project are desirable to facilitate the future development of such project, the authorization of such project under the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 887), as modified by the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the initial stage of the Oahe unit, James division, Missouri River Basin project, South Dakota, and for other purposes", approved August 3, 1968 (82 Stat. 624), should remain in effect.●

## HOW ENACTMENT OF LOWER CAPITAL GAINS TAX RATES WOULD BENEFIT SMALL BUSINESS IN NEW YORK AND THROUGHOUT THE NATION

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. KEMP. Mr. Speaker, several weeks ago the President chose the occasion of a press conference to denounce the bill of our colleague from Wisconsin (Mr. STEIGER) to reduce the capital gains tax rate. The President attacked the legislation as only benefiting millionaires, saying that it did not provide two bits for the average American family. He threatened a veto.

I do not know whether there is much about taxes and economics that the President does not know. Or whether he was badly advised, either by his political advisers or his economic advisers. Or maybe he simply forgot. But, for whatever reason, the President was wrong, clearly wrong.

The President failed to address the critical question of the relationship between incentive and reward as that ap-

plies to taxes. He did not say that people would invest less if the reward were less.

The President failed to address the related question of the relationship between tax rates and tax revenues. That is hard to figure out, considering the information is in the public records of his Treasury Department. He did not say, for example, that the doubling of the capital gains tax rate since 1968 has reduced revenues from that tax, as a percentage of total Federal revenues, by about 40 percent. Thus, a tax increase designed to bring in additional tax revenue, worked in exactly the opposite direction. It was counter-productive. By not knowing this, the President could not then address himself to the obvious: what would happen if the rates were reduced to the 1968 level. Tax revenues would increase, of course.

The President did not talk about the effects of the unnecessarily high capital gains tax upon investment. He did not tell us that our rate of investment has dropped to one of the lowest in the industrialized, free world.

But there is one thing the President did not tell us for which he cannot be easily forgiven. I refer to his failure to tell us the truth about the importance of the Steiger legislation and what would occur as a result of its passage to small business, to the smaller businesses across this country, including New York.

There has appeared an article directed to this very point, one in the New York Post of July 19. It makes this point, and it talks in terms of New York specifically.

I quote:

For many New Yorkers, a reduction in the capital gains tax would induce them to return to more traditional capital investments, ones that would help them expand their business, produce jobs and add to the tax base of the city.

Mr. Speaker, the article follows. I hope every member of the Committee on Ways and Means, every one of my colleagues from New York State, especially New York City, reads this and thinks seriously about what we are being told here, and the implications of that for small business throughout the country.

[From the New York Post, July 19, 1978]

CAPITAL GAINS: HOW SMALL BIZ COULD BENEFIT

(By Carol Mathews)

"It's a great popular misconception that a lower capital gains tax is good only for large businesses or the wealthy. There are a lot of small business people in New York who, with an attractive capital gains tax, would say 'Yes, I can invest more money in my business and, yes, I can stay in New York.' "—Mike Durso, executive vice president, Bronx Chamber of Commerce.)

Congress is flirting with a proposal to reduce the capital gains tax from a top rate of 50 per cent to a maximum of 25 per cent. The plan has brought pained cries of "foul" from President Carter, who has labeled the cut a "huge tax windfall for millionaires," a remark that has led critics to ask how the President, himself, became a millionaire. ("Do you suppose he did it by accumulating after-tax ordinary income?" one lawyer asked sarcastically.)

There is little doubt that the lower tax on capital gains (money made from investing money in things like stocks) than on ordinary income (money received in return for work) leaves it wide open to the charge that it is a "rich person's tax."

But, then, how does someone become rich without making a sizable capital gain?

Since New York, probably more than any other U.S. city, is full of people trying to "make it" and since they feel the best way to do it is by using money to make money, it is understandable that many of them would like to see the capital gains tax reduced.

For many New Yorkers, a reduction in the capital gains tax would induce them to return to more traditional capital investments, ones that would help them expand their business, produce jobs and add to the tax base of the city.

A lowered capital gains tax would benefit the middle class as well as the wealthy, according to Stanley Herzman, president of Herzman & Co., a Manhattan manufacturer of uniforms for organizations such as the Girl Scouts.

"The rank and file are capitalists in this country, in a way. We all have a little investment, whether it be in a house, in stock, in a business, or in a hobby such as stamp collecting," he says.

And, for him, there is a whale of a difference between a top tax of 50 percent and a top of 25 percent, as proposed by Rep. William Steiger (R-Wis.) (The current 50 per cent maximum tax on capital gains applies only to money invested for less than a year. The maximum is 35 per cent on money invested for 12 months or longer.)

"I wouldn't consider selling my business if I had to pay a tax of 35 per cent. It would be too much of a burden. But I could live with a 25 per cent tax. It's more palatable, isn't it?" Herzman said.

This is not idle talk. Herzman has had several takeover offers from other companies. "But the tax weighs heavily in making my decision. So what happens? I don't sell. The business could be choked for lack of the financing that we'd get with the backing of a big company," he adds.

Since New York is really a small-business town, regardless of the hoopla about being international headquarters for the world's largest corporations, and since owners of small businesses are in effect their own "bank," any reduction in the capital gains tax could have an important impact here.

"There are thousands of small businesses in New York. When these businesses need capital, they get it from their owners. A lower capital gains tax would allow these individuals to keep more of the money they make on their investments and this, in turn, would translate into more money for their businesses, which would further help the city's tax base," said Gilbert Robinson, who heads his own public relations firm and is the former chairman of the New York Board of Trade, an organization of small businessmen.

Not every small business in New York would be helped, by any means. There are any number of small mom-and-pop stores struggling to break even, where the business is standing in the center of a financial banana peel. These families have no capital to invest, much less money to lend to their own company.

But for others, a lowering of the tax could trigger increased investment in their own business, expansion, more jobs, and a further commitment to New York.

The benefits of a lowered tax on businessmen here does not mean they welcome it uncritically. "I would resent having the capital gains tax or any other tax reduced if the government's obligation to provide services is curtailed," said Herzman. "But I would say that this tax, if lowered, would free up money and that it would filter down through the city's economy."●

## TOWN THINKS AND SAVES

### HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. RHODES. Mr. Speaker, at a time when the American people are beginning to question the efficacy of government, and to protest the tax burden they see increasing every day, it is refreshing to find an example of frugality and efficiency in government—such as the operations of Scottsdale, Ariz. Columnist Jack Mabley took note of the innovative government of Scottsdale in a Chicago Tribune column on July 25. Scottsdale faces many new problems, fueled by its growth as a progressive sunbelt city. I urge my colleagues to take the time to read this account of how an imaginative and practical city government holds down costs, while it provides the public with good service.

Text of the article is as follows:

TOWN THINKS—AND SAVES

(By Jack Mabley)

Garbage collectors in Scottsdale, Ariz., ride in air-conditioned cabs and listen to stereo music as they move through the city picking up trash.

Each driver is alone. He manipulates a lever in the cab that moves an arm with a hook that grabs garbage cans at the curb and dumps them into the truck. The driver collects more trash per shift than two three-man crews in conventional trucks. Homeowners pay $3.50 a month for garbage collection.

The Scottsdale city government saves about $200,000 a year from the cost of conventional garbage collection systems. Scottsdale's population is 84,000.

We have spent several weeks calling cities around the country to ask how they save money. A tax revolt is demanding that local governments spend and tax less.

It isn't enough for us to threaten: "Economize—or else!" The spenders can make a few gestures, wait till the heat dies, then go back to the spend and spend and tax and tax routine.

We have sought evidence that real economies can be made in local governmental operations without sacrifice of quality.

Happily, we found more than can be told in one column, so this report will continue after today.

Economics can work in large and small governments. Los Angeles eliminated fire alarm boxes and saves $500,000 a year previously spent answering false alarms. And fire protection is better.

Firemen in suburban Glenview do the village's printing in their free time.

Scottsdale is a good example of a medium-size government making real economies. Barbara Markiewicz, the city public information director, gave us a rundown.

Scottsdale doesn't have its own fire department. The city hires a private company to put out its fires. The city figures an annual savings of $960,000, or $12 a resident, through lower costs to the government and lower fire insurance rates for residents.

The private fire company is aided by city employees who are auxiliary fire fighters. They carry beepers so they can answer alarms. They're paid for their extra duties and collectively receive about $40,000 a year.

The police department saves money by using civilian assistants for paperwork and clerical duties.

The civilians get less pay and fewer benefits than policemen, and they free the officers

for patrol and enforcement work. The program saves the city $186,000 a year.

Police communications also are managed by civilians, saving another $125,000 a year.

Scottsdale has an employee suggestion box, with successful suggesters paid a percentage of the savings resulting from their ideas. The first year brought $43,000 in economies

Another $30,000 is saved by using computer printouts of publications available in the city library, rather than maintaining a separate government library and file. The city shares computer time with the schools, saving another $150,000.

The park district hires college students part-time for some maintenance work and uses high school student volunteers in recreation activities. The high school students are not paid, but work records are kept so they can cite the experience in applying for future jobs.

Traffic signal lights became so expensive that Scottsdale began building its own.

When the cost of new fire trucks reached the $50,000 range for commercial trucks and $85,000 and up for custom jobs, the Scottsdale's private fire dapartment started building its own fire trucks, at a saving of $15,000 to $30,000 a vehicle.

They buy commercial chassis and fabricate the equipment in their own shops or subcontract for some metal work. The trucks are designed for the jobs at hand, with direct help from the firemen who will use them. They have less chrome than most fire trucks.

But they meet specifications. Scottsdale's per capital fire loss is under $6. The national average is about $13.

"The thing that sets Scottsdale apart is a willingness to take risks," said City Manager Frank Aleshire. That may be the key to any economy program. If you're imaginative and aggressive, you're going to pull some bloopers, and Scottsdale had its share. But they have character enough to ride out the lumps and bumps and profit from the successes, which are many.●

## FOREIGN INVESTMENT IN AMERICAN FARMLAND

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. ASHBROOK. Mr. Speaker, foreign investment in American farmland is skyrocketing. Huge tracts of our finest agricultural land are passing to alien ownership.

It is now estimated that foreign purchases comprise 20 percent of land sales in certain parts of the country. The general manager of one European company which owns about 14,000 acres of midwest farmland has stated: "The enthusiasm of Europeans for American farms is unbelievable."

A few of the foreign purchases have come to light. These include the Metternich's 2,135 acre farm in Iowa, Prince Lichtenstein's farm in Texas and the Japanese Kikamo farm in Wisconsin. On the whole, however, we lack reliable statistics on the extent of foreign ownership of American farmland.

I strongly believe that the continued growth of foreign purchases poses a danger to our Nation. It threatens the family farm, the backbone of our agricultural system.

Increased competition resulting from foreign investment is driving up the price of land. The virtually unlimited financial resources of alien investors will make it difficult for American farmers to expand their acreage to help overcome rising per acre production costs. Moreover, fewer new farmers will be able to get started.

We must not allow our agricultural system to slip from the family farm to one of alien absentee owners and tenant farmers. This would be disastrous for the farmer, the farming community and the Nation.

Following is a fascinating article on foreign investment in U.S. farmland which appeared in Saturday Review:

INVASION OF THE AMERICAN HEARTLAND

(By Christopher H. Stern)

A new breed of tenant farmer in the United States opens his eyes as the sun rises on his part of the world. What he sees, whether he is in Arkansas, Texas, or California, are acres and acres of the earth's highest-yield farmland. What he cannot see is the German industrialist in Düsseldorf, the Roman Clergyman on Lake Como, or the aging Argentinian banker, one of whom owns the farm he is about to work.

Lehndorff Vermogens Vermattung, a Hamburg-based holding company, owns 14,000 acres of choice midwestern farmland. M. Thomas Lardner, Lehndorff's general manager in the United States, says that nonresident "alien" investors want American farms. "The enthusiasm of Europeans for American farms is unbelievable."

A few foreign acquisitions have received publicity: Prince Lichtenstein's 10,000-acre farm in Texas's Red River area; the Busonis' 12,000-acre Norris farm in Illinois; the Metternichs' 2,135 acres in Iowa; and the Japanese Kikamo farm in Wisconsin. However, viewed against the 340 million acres of American farmland, these purchases represent no more than a soybean in a bucket; but foreign investment in land is not limited to the acquisition of farmland. Overseas firms own 2 million acres of American forest land, hundreds of thousands of acres of coal and ranch lands, and a sizable amount of urban land. Farmland, however, is the property foreign investors are most interested in.

California is the hottest area of foreign investor activity. Anrex Corporation in San Francisco will sell $260 million worth of agricultural farms in 1977 to an assortment of Italians, Swiss, Belgians, West Germans, and Frenchmen. Says the corporation's exuberant president, Gerald Jackson, "Good farmland is selling as fast as it's available. More than eighty percent of agricultural buyers are nonresident foreigners. We get a hundred inquiries a day from interested foreigners, and right now one of the world's biggest banks and one of the biggest investment houses are standing by with fifty billion dollars of foreign capital to invest in farmland."

In New York City, Daniel Bodini, who speaks three languages, handles Eastdil Realty's foreign investors. Last year he sold 200,000 acres in the American West. This year he will sell more than twice that amount. But although other real estate companies and brokers also claim large sales to foreigners, the industry's consensus is that the big banks—particularly Northern Trust and Continental Illinois in Chicago—are doing the most spectacular business everywhere in the country.

"Foreign investors feel comfortable dealing with a bank," explains broker Davis Martin. "One hundred out of one hundred aliens who actually come looking for a U.S. farm begin by going to Northern Trust, and afterward eighty of them wander down the street to Continental." Though banks release no information, citing the fiduciary relationship they have with their clients, Northern Trust's 1976 annual report records 460,000 acres managed in 35 states. "Right now the banks couldn't be doing more farm business," says one successful Chicago broker, "and even if they've been in the business for twenty years, you can bet the overwhelming majority of their holdings are foreign because domestic owners have many better ways to manage their farms."

Davis Martin has good reason not to disparage the banks. In the Arkansas and Missouri river bottoms and in the Mississippi delta, he has handled 30 transactions worth $12 million. A competitor, Oppenheimer Industries, which sold $60 million in farms from 1974 through 1976 and will do $40 million in 1977 alone, has handled 15 to 20 farms in that region. "Foreign owners weren't too familiar with our temperate climate at first," drawls slow-talking, fast-closing broker Vardeman Moore, of Mississippi, "but they're warming to it real fast. There's a virtual land rush down here."

Foreign interest is also high in southwestern and midwestern states, but there are simply not enough large quality farms being put on the market. Henry S. Miller and Company and Interstable of Dallas each sold 15,000 acres to foreigners in 1975 and 1976. This year, they say that due to the lack of big farms they have made no sales. A few farms remain available, and foreign investors are snatching those up. Broker Fred Smith has handled 20,000 acres in the Red River area, and two-thirds of his business comes from foreign investors. San Antonio's Pleaz Naylor knows of 75,000 acres bought by foreigners in northwest Texas, but he agrees there are "a lotta lookers and little land." Complains one exasperated Chicago banker. "We can't begin to locate enough properties to please our foreign investors."

There are many reasons why foreign investors are buying American farms. "My clients are old rich families, disenchanted, nervous, or just scared out of their minds," notes Reed Oppenheimer of Oppenheimer Industries. "Many of them have had land in their families for a thousand years. They say, 'When Napoleon came, when the Prussians came, when the jewels were sold, we survived as a family because of the land.' " Brokers concur that foreigners want to salt away a place for themselves and their children and grandchildren because they fear Communism and consider America the strongest remaining bastion of free enterprise.

In a report to Congress, John Timmons, a professor of economics at Iowa State University, and Charles Curtiss, Distinguished Professor of Agriculture there, outlined the complex of incentives that are drawing foreign investors to U.S. farmland. They cited the hedge against inflation provided by the relative stability of U.S. prices and farming costs; the hope that investments in U.S. land will offer a refuge against land reform and political disorders abroad; the expectations of capital appreciation due to skyrocketing land values (witness the steady 15 to 35 percent annual rises since 1972); the tax advantages and natural advantages (access to food, materials, and farming technology) of investing in U.S. land; the fact that in terms of income and of capital appreciation, U.S. land safely balances investment portfolios; and the idea that—beyond the satisfaction, prestige, and psychic value of owning farmland in the United States—such investment may give them control of strategic resources and provide them with a base of economic and political power within the country.

Though the incentives are well-known and heavy investment is apparent, scant information exists as to the magnitude or locations of foreign ownership. This is because land-related public records, traditionally kept at the county level, are not a practical device for disclosing who owns what and where. And since market advantage runs with secrecy, real estate people are unwilling to provide much information. By and large, brokers deal and do not tell. For example,

Michael Hirsch, vice-president of Amnivest Corporation in New York City, admitted he had sold 25,000 acres of farmland to foreign investors—but quickly added that Amnivest was no longer interested in making farm acquisitions for aliens. Later, two independent brokers described being called in to Amnivest because "the company heads are extremely anxious to locate farms for foreign investors."

The foreign investors themselves insist on anonymity. Some risk prison penalties for taking large sums of money out of their countries. Others fear that being publicly identified as persons of great wealth will make them targets for criminals and political zealots. A West Coast broker told of visiting an elite Spanish hunting club where the men had hunted together for 15 years—"yet not one of them knew that each of the others was my client. They just don't talk about it."

Silent purchases are facilitated by institutionalized investment vehicles. Much of the foreign money passes through either Credit Swisse or Deutsche Bank; through Bermuda, Bahamas, or Netherlands Antilles corporations if the source is Latin-American or European; or, if the source is Asian, through Hong Kong or Taiwan corporations. The American financial intermediaries used most often are Continental Illinois and Northern Trust.

Transactions are rarely conducted principal to principal. In one deal for a 2,500-acre Kansas farm, an unnamed West German investor contacted a Canadian realty firm, which contacted a Wyoming broker, who contacted a Chicago bank, which employed a statewide Kansas broker, who in turn found a local broker. As Tom Martin, president of the Anchor Mutual Investment Fund, says of the tangle of intermediaries, "Ten years ago a guy sitting in Frankfurt would've had trouble making a buy in total secrecy. Now it's a snap of the fingers."

American reaction to the unmonitored alien ownership of U.S. farmland varies. Businessmen stress the absolute prerogative of the free market economy. They point to the significance of creating a truly international world economic order, of maintaining an international cash flow, and of the tremendous value of American land investments abroad. "The internationalization of the world is as inevitable as it is necessary," intones broker Philip Dub, "and capital is the blood of the world's body, so it has to flow freely."

The real estate brokers argue that the hostile reaction of many farmers is xenophobic or, more bluntly, racist. After all, they note, a mere 3 percent of American farms change hands each year, and farmer-to-farmer sales account for 80 percent of all transactions. At this rate, how can foreigners ever own more than a sprinkling of American farms?

Farmers reply that foreign investors have collided head on with them and with their farming communities. In the first place, they say, the unlimited capital resources of alien investors have been pitted against the farmer's instinct for expansion in what amounts to an unfair dollar dogfight. "I waited thirty-five years for my neighbor to die so I could buy his farm," says Iowa farmer Mike Denis. "When he did, it cost me an arm, a leg, and the shirt off my back."

The combined effect of this expansionist instinct and of agricultural technology has transformed the basic unit of rural communities from the small family-owned farm into the large family-owned arm. Todays' corn and soybean operator, for instance, works an average of 1,000 acres, twice as much as he could cultivate 10 years ago. Farmers are very sensitive to the decline in the number of farms (from 4 million in 1960 to 2.8 million in 1976) and to the decrease in the farm population (from 15.6 million in 1960 to 8.9 million in 1975), for they fear a concentration of ownership. Ten years ago, the size of an average farm was 210 acres; in 1977 it is 310 acres. Any investor, therefore, who threatens to further concentrate farm ownership is naturally viewed with hostility.

Foreign investors not only concentrate farm ownership but operation as well. Once a foreigner purchases a farm, an independent management service—Doane's of St. Louis, Oppenheimer's of Kansas City—or a farming subsidiary of a bank is hired. These managers then employ area farmers who, because they are already farming large land tracts, possess sophisticated farming techniques and expensive equipment. In the event that an alien's acquisition lies in a newly developed area where large-scale farming has not been practiced, an experienced farmer from a different county or state is brought in.

Local farmers are angered by the fact that absentee foreign owners are not civic-minded. Virginia farmer Ace Rudder notes that "foreigners force out people who were on the bank board and church board. These people supported local businesses while foreigners buy cheap from big dealers. In fact, the only small business growing around here is the farm brokers. And foreigners don't practice conservation 'cause it's money they have to spend, and when it's not your living, people have short arms and deep pockets."

As to the charge of farmer racism, Harold Dodd, president of the Illinois Farmers Union, replies, "We are not against the foreign investor per se; we are against any large outside nonagricultural interests owning farmland. The biggest contributory factor to our being able to outproduce any country in the world [on the average, an American farmer feeds 57 people; a Soviet farmer feeds 7] is the structure of the family farming system, which has been a hallmark of our country since its inception."

Indeed, according to the U.S. Department of Agriculture, young families have been returning to the farm in sizable numbers. In the period from 1970 through 1975, the number of persons between the ages of sixteen and thirty-four who were self-employed in agriculture increased by about one-third over the preceding five-year period. Older farmers hope these young people will foster the regeneration of the smaller family farm, but they worry that the unlimited resources of foreigners will make it impossible for young farmers to buy quality farmland at reasonable prices.

Politicians regard foreign interest in U.S. farmland in terms of politics at home and of America's position in the world. "To date," says Iowa congressman James Leach, "statistics indicate foreigners probably do not own incredible quantities of American farmland, but the trend pointing violently in that direction potentially endangers our nation." There is a general feeling that the emergence of an international economic order might promise greater world peace and prosperity, but as long as nations regard one another with the evil eye of self-interest, each—including the United States—had better guard its precious resources.

The "politics of food," aggravated by a desperate world land shortage, is destined to become a critical international issue. American agriculture provides a balance-of-payments cushion for domestic politics in the United States, as well as political leverage in international relations. The Soviet Union, Japan, and other industrial nations cannot reduce agricultural imports without drastically affecting their food supply and their political stability. Thanks to the supremacy of its agricultural sector, the United States can always curtail imports in the event of foreign exchange difficulties. More than its thermonuclear power, America's "agripower" makes it a desirable ally and a force in the world.

Many states have statutes intended to prohibit or limit alien investment in farmland. At the federal level, there are three recently passed laws that are intended to facilitate the gathering of information about foreign investment. In the words of Senator Daniel Inouye (Dem.-Hawaii), "The lack of a national information base and of adequate data on agricultural land ownership have been recognized by the Congress. . . . " But as Washington tax lawyer Paul Toulouse comments wryly, "I can't see the ropes for the icopholes in any legislation concerning foreign investment; it's just too easy to veil ownership with intermediaries, local trusts, or corporations."

It is not reassuring to hear lawmakers and others express concern about being blindfolded by a lack of information at a policy crossroads. As Economic Research Service economist Gene Wunderlich says, "Land has sufficiently unique qualities to require separate attention in direct investment policy. America has a right, an immediate and possibly urgent right, to know who owns the land."

This is especially true in view of several ominous portents. Brokers admit they are beginning to receive numerous inquiries from farmers who want to sell to foreign investors because these buyers pay 40 percent down and in fact prefer to make all-cash purchases. (One retired broker in Arizona, a state that strictly prohibits alien ownership, says he might play a little less golf so he can respond to the inquiries he is getting each week.) Many real estate companies formerly unequipped to handle foreign investors are now feverishly preparing to enter the market. One particularly troubling sign is that in the past six months Amrex's Gerald Jackson, among others, has noted the first feelers from Middle Eastern holders of petrochemical dollars seeking American farmland.

Even without new real estate brokers and an inflow of OPEC money, foreign interest in and acquisition of American farmland is like a luxury car accelerating powerfully and noiselessly. The incentives, the mechanisms, and the capacities for investment feed the momentum. In a few decades of harvesting, if no limit is assigned, foreign investment in U.S. farmland could eclipse American ownership. Then American agriculture, the nation's single greatest source of power, would pass from the hands of American citizens.●

## FEDERAL OVERREGULATION

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. DERWINSKI. Mr. Speaker, during the last few weeks, we continue to hear of the weakening of the dollar abroad and reports of rising inflation rates, with evidence of growing grassroots irritation with the Government.

Very appropriately, Allan C. Brownfeld, in the July 6 issue of Anaheim (Calif.) Bulletin discusses the subject of Federal overregulation. The article follows:

FEDERAL REGULATION: ENEMY OF PEOPLE

(By Allan C. Brownfeld)

The American economy is in trouble. Our problems relate not only to inflation and unemployment, which are much discussed, but also to a serious decline in productivity. The standard of living of the average American is declining each year, and the average American home can no longer be afforded by the average American family. California voters expressed the growing national desperation over expanding government and increased taxes when they voted for Prop 13. Voters in other states appear prepared to take similar action.

What more and more Americans are coming

to understand, in addition, is that government regulation of business has, rather than serving the "public interest" at which it was aimed, done serious harm to that interest.

In a volume which has just been published, Regulating Business: The Search For an Optimum (Institute for Contemporary Studies, 1978), this fact is made abundantly clear. The book is the result of a lecture series during the fall of 1977 conducted at the Graduate School of Management at Northwestern University. It is a thoughtful analysis of the many problems with government regulation—both of the older, industry-by-industry type (such as the Interstate Commerce Commission and the Civil Aeronautics Board) and the new—laws dealing with health, safety, and environment—which apply nationwide.

Government regulation may pull the GNP down six to seven per cent below capacity over the next decade, says Paul MacAvoy of Yale. He states that direct price controls now apply to ten percent of the GNP, while health and safety regulation take the control factor up to 30 percent, making regulation a major factor in all major corporate decisions.

Alfred E. Kahn, chairman of the Civil Aeronautics Board, explains the route to deregulation of the airline industry which he is now trying to implement. This includes free entry to markets, greater discount fares and decreased price regulation. It has taken Americans a long time to learn that airline regulation by government has served the airlines—not the people.

In perhaps the most important essay in the collection, Paul Weaver of Fortune magazine distinguishes between the old and new forms of regulation.

While the old industrywide regulation is the social policy of "populist" and "progressive" views of the turn of the century, which transformed the economy into the mixed corporate order we know now, the new regulation is committed to allegedly "humanistic" work and is generally hostile to economic accomplishments. Since this is the case, the economic costs of new regulation may be less a factor in discussing reform than the social policy which prompts them.

Weaver writes: "The New Regulation . . . is the social policy of the new class—that rapidly growing and increasingly influential part of the upper-middle class that feels itself to be in a more or less adversary posture vis-a-vis American society, and that tends to make its vocation in the public and not-for profit sectors. . . By means of its regulatory policy the new class is. . . bringing about what Murray Weidenbaum has called 'the second managerial revolution.' The first. . . involved the displacement of the old bourgeois class by the corporate managerial class. . . The second. . . is transferring power from the managerial class to the new class, and from quasi-public institutions to fully public ones—i.e., the government."

The "new regulators," Weaver declares, do not have the best interests of society in mind—and, in fact, are harming the majority of Americans by their policies. He says that they, "seem less interested in maximizing the overall health, safety, environmental and political costs of the modern capitalist order—which is a very different thing indeed, since liberal capitalism has itself brought about. . . large improvements in the health, safety, environment, and political life. . ."

"The real animus of the new class," Weaver writes, "is not so much against business or technology as against the liberal values served by corporate capitalism and the benefits these institutions provide to the broad mass of Americans: economic growth, widespread prosperity, material satisfactions. . . The real ire of the new class. . . are directed, not merely at those in business who (in Lewis Lapham's marvelous phrase) 'go around making things without permission,' but also, and perhaps especially, at the mass of Americans who go around doing and enjoying things without our permission."

Both our freedom and our economic well being are threatened by the growing power of government regulators. Once Americans understand this fact, perhaps a Prop. 14 can be fashioned to deal with it.●

## WATER IN SOUTH DAKOTA

### HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. PRESSLER. Mr. Speaker, South Dakota has a new Governor. I have sent the following letter to him on our water problems:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 25, 1978.*

Hon. HARVEY WOLLMAN,
*State of South Dakota,*
*Pierre, S. Dak.*

DEAR HARVEY: First of all, my warmest congratulations on your inauguration. Harvey, you have a unique opportunity to do something in our state concerning water that the rest of us have been struggling with. Your political motivations would not be questioned if you were to propose a modified Oahe plan. Also, you live near the project area, so you are in a unique position to know a great deal about it.

Harvey, you are in a unique position to break the Oahe deadlock. I am ready to support and cooperate with you in any way. Many authorizations in Congress are changed somewhat from the time that they are appropriated. Many authorizations are for twenty to thirty years. Obviously, things change. Twenty or thirty years ago, we did not have some of the farming techniques or some of the attitudes about saving prime agricultural land that we have today. We did not have the potential for the use of plastic pipe and plastic substance type pipes that we have today. Many other things have changed. Your unique position politically may strengthen your hand to lead our state to a modified water plan that will be acceptable. Harvey, I do not think our original Oahe plan can be built, but I do think that a modified version could be. There are some exciting possibilities—such as using some of the new plastic pipeline alongside railroad rights-of-way; partial pipelines; alongside-the-Missouri and alongside-the-canal irrigation; and other changes that could bring us a united plan.

It is my firmest belief that by the time appropriations come up again—next March or April—the South Dakota governor, the state legislature, and the local boards could have agreement on some sort of modified plan. If there would be one thing that we could achieve in the next six months, it would be to break the deadlock that exists between the local conservancy boards, the state legislature, and Congress. I am ready to work with you, I am available for meetings, and I want to help. I believe that water development is so important to South Dakota, and I know you share this belief.

I do think we have to look carefully at the use of pipeline alongside railroad rights-of-way, about things such as using the present pumping plant to fill the canal to Medicine Creek, and having one or two major pipelines, at that point, running along the railroad tracks to Huron—which is virtually downhill. We have to look at the possibility of canalside irrigation; of a revised land mitigation program; of alongside-the-Missouri irrigation; the James River addition; and the possibility of using pumps along the Missouri for short pipes that might run 50 to 100 miles immediately adjacent to the Missouri. But one ahing should be key—that is, getting water to our eastern cities, such as Aberdeen, Redfield, Huron and Mitchell.

If there is anything I can do to help, I certainly will. Our entire Congressional delegation has met tirelessly with the various local boards and members of the state legislature to try to break this deadlock. I just want to say that my staff and I are available, and will continue to work on it.

Although we are of different parties, I look forward to visiting with you soon about what we can do to come up with a modified plan, so that by next March or April our state can present a water delivery system plan to the James River Valley that will be workable.

We must also look at such things as the WEB pipeline. If we subsidize a pipeline as much as we talked about subsidizing a huge ditch, it makes the pipeline much cheaper in comparison. Also, we must recognize that the railroads need some revenue. The railroads have cranes to lay the pipe—this would require no purchase of additional lands. Some of the railroad track has already been abandoned. Even if it is not abandoned, the railroad owners tell me they have no objection to a water pipeline such as they do to a gas or oil pipeline because of the danger.

Harvey, I look forward to visiting with you soon. Good luck in your governorship. I am honored to be able to work with you. I am sending you a copy of the resolution I introduced in Congress last week asking that the Oahe authorization be preserved and expressing the sense of Congress that Congress would welcome modifications to the Oahe plan. I do think that we will be wearing the patience of Washington thin if we go beyond March or April of 1979. In the next six to eight months, we simply must come up with what our plan is, and get it approved by the state legislature and the local boards. That is my assessment of the situation.

If you have any advice for me, I stand ready to visit you at any time.

Sincerely,

LARRY PRESSLER,
*Member of Congress.*●

## BALANCE(S) OF POWER SERIES—SOVIET INTENTIONS AND DOCTRINE I—(ii)

### HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, on Friday I inserted into the CONGRESSIONAL RECORD the first part of an article entitled Soviet Military Doctrine and Strategy, by Dr. William Scott, appearing the summer 1975 Strategic Review. The conclusion of Dr. Scott's article follows:

II. MISUNDERSTANDINGS

The Soviet strategic nuclear forces deployed today are the result of decisions made in the early and mid-1960s. This is due to lead time—the period between the time the decision is made to produce a weapons system and the time of actual deployment of the system into operational units. For a major weapons system the lead time generally runs from five to ten years.

The continuity of Soviet military doctrine and strategy throughout the 1960s and into the early 1970s already has been shown. Since this was the period in which decisions were made that are responsible for the Soviet military posture in this post-SALT I period,

it should be instructive to re-examine the interpretations given by Western analysts to these writings at the time in which they appeared. In other words, how well has the public of the United States been informed, on a timely basis, of the main currents of Soviet military thought?

THE KHRUSHCHEV ERA AND THE "DEBATE"

With hindsight, we now know that major discussions took place in the Soviet Union, beginning about 1957, concerning the nature of a future war and the role that might be played by the nuclear weapon. In 1958 these discussions were conducted as a series of seminars, attended by designated senior Soviet officers. The conclusion was reached that in a future war the nuclear weapon would be the decisive factor. This conclusion was accepted as the basis for the new military doctrine. The next step was to develop a strategy based on this doctrinal decision.

A series of papers, probably stemming from the 1958 seminar discussions, has been referred to in the *Penkovsky Papers* as the "Special Collection."[14] These gave various viewpoints concerning an optimum strategy for the utilization of the nuclear-rocket weapon. Contributions were made by the Minister of Defense, senior members of the General Staff, commanders of military districts, chiefs of military academies and military theorists at higher military schools. A number of these were published in *Military Thought*, the classified journal of the Soviet General Staff, beginning in 1960.[15]

Neither the discussions during the 1958 seminars, nor the articles from the "Special Collection," published in *Military Thought*, were internal "debates" of the type that had existed between the United States Navy and Air Force in the late 1940s and early 1950s.

Aided by the views presented in the "Special Collection," the Soviet political-military leadership then formulated a new strategy. This strategy had to meet the guidelines established by the new doctrine, which had been approved in the late 1950s. It is hypothesized that Marshal Sokolovskiy and a group of military theorists, a number of whom had contributed to the "Special Collection," were given the task of preparing an unclassified synthesis of the new strategy for presentation in a book, which could be used for study throughout the Soviet Armed Forces. This would account for the publication of Military Strategy,[16] which first appeared in 1962.

Military Strategy is a book about nuclear war, and describes how the Armed Forces, the industry and the entire Soviet population must be prepared for the eventuality of a nuclear conflict. There is little wonder that this book could not be taken literally in the United States. By the time Military Strategy was translated into English, detente was in vogue. Few analysts dared even suggest that the book outlined the requirements of the Soviet leadership to build a strategic nuclear force that in a decade would exceed that of the United States.

The explanation given, perhaps, was reasonable for the time in which the analysis was made. Various contributors to the book had highlighted different matters. Rereading the book today, however, discloses that there were no basic differences of opinion among the Soviet authors. But at the time analysts may have expected that the book would show a continuation of the "debates" of the 1950s. A prevalent Western opinion was that some sections reflected the "traditionalist" point of view which means favoring "balanced" forces, while other sections were the work of the "modernists," who placed major emphasis on nuclear weapons.

A second edition of Military Strategy, published in 1963, was hardly noticed in the West. The following year another major work, On Soviet Military Science,[17] appeared in Moscow bookstores. This work, if anything, was more "nuclear" in its emphasis than Military Strategy. However, before it was fully translated and analyzed, Nikita Khruschev was ousted.

Still, when the international climate of 1963–1964 is considered—signing of the nuclear test-ban treaty, establishment of the hot-line between Washington and Moscow and, finally, Khrushchev's removal in 1964—it is easy to understand why Soviet doctrinal writings were so misinterpreted at the time. In this period, following the Cuban Missile Crisis of 1962, there was a mood of detente in the United States. Most Western military analysts were finding it difficult to relate Soviet doctrinal writings to current events. They tended to concentrate on possible nuances in Soviet publications, seeking to find evidences of power struggles which might explain the uncompromising attitudes found in books such as Military Strategy. While so doing, they overlooked the basic thrust of Soviet doctrinal thought.

In 1968, when a third edition of Military Strategy appeared,[18] the authors were the same as had written the two earlier editions, except for one contributor who had died in the mid-1960s. This 1968 book was published as one of the Soviet "Officer's Library" series, nominated for the 1969 Frunze Prize, listed in various editions of the Soviet Calendar of a Soldier as recommended reading and referenced in the latest edition of the Bolshaya Soviet Encyclopedia.

Thus, the common interpretation made in 1963 that the first edition of Military Strategy represented a debate between opposing Soviet military groups called "modernists" and "traditionalists" simply has proven to be incorrect. On the contrary, all evidence indicates that this book represents a consensus concerning military strategy, not only within the Soviet Armed Forces, but within the political hierarchy as well.

Unfortunately, the idea of internal Soviet military debates so caught the fancy of many Western Sovietologists that the myth of the "modernists" and "traditionalists" has not been permitted to die. A number of Western analysts even continue to attempt to place specific Soviet officers in a "traditionalist" or "modernist" category—much to the amusement of the Soviet officers themselves.[19]

THE MYTH OF THE "RED HAWKS"

Another version of the "modernists" and "traditionalists" categorization of Soviet military-political leaders appeared in Western writings in 1966. This time it was the Soviet "hawks"—a designation which, as applied, had little connection then or now with the realities of the Soviet power structure.

"Detente," a term in vogue in 1975, was equally a favorite word in 1966. Khrushchev recently had been ousted, and many analysts in the West thought that international relations could return to normalcy. In particular, there was a prevalent belief that the new Soviet leadership would give much less attention to nuclear weaponry, and would accept United States ideas of mutual assured destruction.

In actual fact, as subsequent events and the SALT agreements testify, there was no change in Soviet military concepts. The weapons that Khrushchev started in research and development were produced and deployed during the Brezhnev era. However, in 1965 many Sovietologists thought there should be major shifts in Soviet military policies. As in 1963 with respect to Sokolovskiy's Military Strategy, United States Sovietologists in 1966 had difficulty in reconciling Soviet military writings with prevalent opinions and, perhaps more importantly, with official policies.

A rather brash article published in a Soviet military-political journal in September 1965, somehow tickled the fancy of a number of analysts in the West. The title of the article was "On the Nature of World Nuclear-Rocket War," written by Lt. Colonel Ye. I. Rybkin. This author stated that victory in nuclear war is possible, and presupposes that such a war can be fought and won by the Soviet Union. Any "a priori rejection of the possibility of victory is bad because it leads to moral disarmament, to disbelief in victory, to fatalism and passivity."[20]

Lt. Colonel Rybkin was associated with the Lenin Military-Political Academy. His advanced degree, Candidate of Philosophical Sciences, roughly equates to the Ph. D. in the United States and indicates that he is a student of Marxist-Leninist philosophy. Communist of the Armed Forces, the journal in which the article appeared, is the twice-monthly organ of the Main Political Administration of the Soviet Army and Navy. This Administration has the rights of a department under the Central Committee of the Communist Party, and serves as the Party's ideological watchdog over the Soviet Armed Forces. The Lenin Military-Political Academy is the top school for political officers within the Soviet military educational structure.

When "On the Nature of World Nuclear-Rocket War" was examined in the United States, a general conclusion was reached that Rybkin's views were contrary to those of supposedly more moderate elements of the Soviet military, as well as to those of the Party leadership. Rybkin was dubbed a "Red Hawk," attempting to sabotage the efforts of the new regime in maintaining good relations with the West.

Almost all analysts in the West seemingly overlooked the fact that articles and books published by the Soviet military press after 1965 continued to emphasize the concepts of military doctrine and strategy that had appeared during the Khrushchev regime. Also apparently overlooked was the role of the Lenin Military-Political Academy, and its responsibilities to the Central Committee of the Communist Party in ensuring the ideological purity of the Soviet Armed Forces.

In fact, any doubts concerning the nature of Soviet military doctrine and strategy should have been cleared up completely by the publication of an article, "On Contemporary Military Strategy," in April 1966.[21] This article, by the well-known Marshal Sokolovskiy and his frequent collaborator, General Major M. I. Cherednichenko, restated and updated the basic concepts found in the first two editions of *Military Strategy*. The same year *Tactics*,[22] the first book on this subject since 1941, continued to discuss nuclear warfare.

But the myth of the "Red Hawks" on the faculty of the Lenin Military-Political Academy continued. In December 1968, one of Colonel Rybkin's colleagues at the Academy, Lt. Colonel V. M. Bondarenko, published an article in the same journal which had carried Rybkin's article some two years previously. Bondarenko's article was entitled "The Modern Revolution in Military Affairs and the Combat Readiness of the Armed Forces"—the same article quoted earlier in this study as first explaining a modification to Soviet military doctrine. However, one noted columnist in the United States misinterpreted the purpose of the article and wrote of the "Concern Stirred by Seeming Rise of Soviet Military Over Civilians."[23] Another headlined: "Soviet Armed Forces Renew Fight Against Party Control."[24]

It is of interest that the Lenin Military-Political Academy is located on Moscow's Sadovoye Koltso, within less than a block of Gorkiy Street, opposite the Peking Hotel. It is within easy jogging distance of the dilapidated United States Embassy. Students frequently can be seen outside the building carrying their briefcases and having casual con-

Footnotes at end of article.

versations. This is the most unlikely spot in Moscow to be a hotbed of activity plotting against the established order.

The idea of Rybkin, Bondarenko or any other faculty members of the Lenin Military-Political Academy representing a hardline military view in opposition to a more moderate Party view is contrary to fact. Officers in the Main Political Administration, such as Rybkin and Bondarenko, simply take Party-military approved views, and rewrite them in a Marxist-Leninist context for the training and indoctrination of all members of the Soviet Armed Forces.

Had there been any substance to the belief that Rybkin and Bondarenko were military dissidents, acting against the Party, surely their positions would have been altered over the past five or ten years. This has not been the case.

For example, in October 1973, Dzhermen Gvishiani, son-in-law of Premier Aleksey Kosygin, collaborated with Colonel Bondarenko to write a critical review [25] of the book, Science and Technology as an Instrument of Soviet Policy, which had been published by the Center for Advanced International Studies, University of Miami in 1972.

Also, in 1973 final burial to the myth of Rybkin and Bondarenko being "Red Hawks" should have been given by the publication of Scientific-Technical Progress and the Revolution in Military Affairs. Both were contributors to this work,[26] which was issued as one of the "Officer's Library" series, in the same manner as the 1968 edition of Military Strategy. Incidentally, General-Colonel N. A. Lomov, editor of the book, is a consultant to Dr. Georgiy Arbatov, Director of the Soviet Academy of Sciences' Institute of the USA

Despite all of the evidence of the unity of views of the Soviet poliitcal-military hierarchy concerning the basic tenets of military doctrine and strategy—and the lack of evidence of any disagreement—the myth of the "doctrinal debates" and the "Red Hawks" persists even in the post-SALT I period. Some newspaper columnists still attempt to portray the Party and military leadership as being involved in a struggle for power—discernible by reading between the lines in the open Soviet press!

II. CONCLUSIONS

The need for doctrine, so well expressed by Dr. Henry Kissinger in 1957, is well understood by the Soviet leadership. By 1962 this leadership had formulated both a military doctrine and a strategy for the nuclear age. Their basic concepts of military thought have not changed as a result of the nuclear confrontation in 1962, the nuclear test-ban agreement of 1963, the ouster of Khrushchev in 1964, the invasion of Czechoslovakia in 1968 or the signing of the SALT I agreement in 1972. As a French analyst noted as early as 1966, Soviet military theorists have "digested" the nuclear fact.[27]

Expressions of military doctrine and strategy are not confined to a few speeches by the military leadership, or a few books and articles in the military press. These same concepts can be found in the handbook of the Pioneers,[28] in textbooks used in universities, in books issued by the Academy of Sciences and in countless articles and books found in bookstores and newsstands throughout the entire Soviet Union.

Implementation of the concepts developed in the early 1960s now is demonstrated by the size and composition of the Soviet strategic nuclear forces, as specified in the SALT agreements. The number and capabilities of Soviet strategic weapon systems generally are known, and need no elaboration here. These same strategic concepts are reflected in the organization and weaponry of the Soviet Strategic Rocket Forces, Ground Forces, National Air Defense Forces, Air Forces and Navy.

However, as the record shows, little attention was given to these doctrinal writings by Western analysts throughout the 1960s. Most analysts in the United States appeared to ignore the content of these writings and, instead concentrated on attempts to read between the lines for nuances of meaning. The idea of "doctrinal debates" among "modernists," "traditionalists" and "centrists" was accepted by many Western Sovietologists. As there are "hawks" in the United States, so there must be "hawks" in the Soviet Union!

The general belief in the United States that "doctrinal debates" take place in the Soviet military press, and that groups and individuals can be identified as "traditionalists," "modernists," "hawks" and the like, have affected our perceptions of Soviet actions—and how to deal with them. Since there are hawks, there also must be doves, and the latter should be cultivated. In like manner, "the traditionalists," who support emphasis on conventional weapons, should be favored over the "modernists." If these specific groups are not supported at conferences and during negotiations on arms limitations, their positions might be weakened and the nuclear hawks could gain control.

This belief, in one form or another has existed for years. It is reported that during the thirties President Roosevelt was advised to support the demands of Joseph Stalin, else the hardline Soviet group would take over the Communist Party.

Those in the United States who coined the expressions of "modernists," "traditionalists," "hawks," and so forth produced a body of writings which in many academic circles still is followed. For a decade students at universities, service academies and war colleges have been taught a concept of Soviet military affairs which, on close analysis, falls apart. Many of these former students now are in positions of responsibility, working in areas such as SALT, MBFR and other aspects of arms control.

In all probability there are, of course, differences of opinion in the Soviet military leadership concerning matters of doctrine and strategy. Undoubtedly, there also are differences of opinion within the Politburo, and between some segments of the Politburo and the Ministry of Defense. However, only very, very rarely have differences of opinion concerning military matters been revealed in the open press.

Soviet strategic nuclear power today, combined with the changes in the "balance of forces in the world arena"—an expression frequently used by Soviet theorists—may bring about major modifications to Soviet military thought. If we are to do better in the future than we have in the past in analyzing and understanding these changes, more objective and deeper research of Soviet writings is essential.

Sputnik I caught the Western world completely by surprise. Afterwards, it was found that plans for this launching had been discussed, matter-of-factly, in Soviet scientific journals for at least a year before the event actually occurred. But few Western scientists at that time read them.

The constant build-up of Soviet strategic nuclear forces, as well as conventional forces, continues to surprise the political-military leadership in the West. This is the case despite the fact that the military doctrine and strategy that led to the creation of these forces were, and continue to be, explained in Soviet writings on almost a daily basis. A number of these writings now have been translated into English and are available to interested readers.[29]

There is a strange reluctance in the West to examine these Soviet writings in their totality. It is much easier to sit on the fence and speculate about what course the Soviets might take. A thorough analysis of Soviet publications on military matters, combined with known facts about Soviet weaponry, could present explanations of Soviet behavior that would be uncomfortable to study. Thus, in the marketplace, the myths still have a ready sale.

FOOTNOTES

[1] General-Lieutenant S. S. Lototskiy, *Armiya Sovetskaya* (The Soviet Army), Politizdat, 1969, p. 418. On February 22, 1973, after the SALT I agreements, *Krasnaya Zvezda* (Red Star) announced that *Armiya Sovetskaya* was one of five books nominated for the 1973 Frunze Prize award. This is an annual award for the best military writings, and books nominated for this prize receive special attention. An English language edition of the book was issued by Progress Publishers, Moscow, in 1971.

[2] Henry A. Kissinger, *Nuclear Weapons and Foreign Policy*, New York: Harper and Row, 1957, p. 403.

[3] Ibid., p. 405.

[4] Ibid., p. 415.

[5] In the early 1920's, during Lenin's regime, military doctrine had been discussed by Soviet theorists. However, once Stalin was firmly in power all discussion of doctrine ceased. In all probability, early Soviet works on doctrine were not available to Soviet readers until after Khrushchev denounced Stalin in 1956.

[6] N. S. Khrushchev, "Disarmament for Durable Peace and Friendship," address delivered at the Fourth Session of the Supreme Soviet, USSR, January 14, 1960. This address was published in English by Cospolitizdat, Moscow, 1960.

[7] Marshal of the Soviet Union, R. Ya. Malinovskiy, "Address to the XXII Party Congress," contained in *XXII S'yezd Kommunisticheskoy Partii Sovetskovo Soyuza: 17-31 Oktyabrya 1961: Stenograficheskiy Otchet* (XXII Congress of the Communist Party of the Soviet Union, Stenographic Notes, 17–31 October 1961), Moscow: Politizdat, 1962, Vol. II, pp. 111–112.

[8] Ibid., p. 111.

[9] Lieutenant Colonel V. M. Bondarenko, "The Modern Revolution in Military Affairs and the Combat Readiness of the Armed Forces," *Kommunist Vooruzhennykh Sil* (Communist of the Armed Forces), #24, December, 1968, p. 69.

[10] General-Colonel N. A. Lomov, editor, *Nauchno-Teknicheskiy Progress i Revolyutsiya v Noyennom Dele* (Scientific-Technical Progress and the Revolution in Military Affairs), Moscow: Voyenizdat, 1973, p. 138.

[11] See, for example, R. Ya. Malinovskiy, Marshal of the Soviet Union, "The Revolution in Military Affairs and the Task of the Military Press," *Kommunist Vooruzhennykh Sil* (Communist of the Armed Forces), #21, November, 1963.

[12] Colonel A. A. Strokov, Professor, *Istoriye Voyennovo Iskusstva* (A History of Military Art), Moscow: Voyenizdat, 1967, p. 502.

[13] P. M. Derevyanko, editor, *Problemy Revolyutsii v Voyennom Dele* (Problems of the Revolution in Military Affairs), Moscow: Voyenizdat, 1965.

[14] Oleg Penkosvkiy, *The Penkovskiy Papers*, New York: Doubleday & Company, 1965, p.

[15] Ibid., p. 251.

[16] V. D. Sokolovskiy, Marshal of the Soviet Union, editor, *Voyennaya Strategiya* (Military Strategy), Moscow: Voyenizdat, 1962.

[17] General-Major S. N. Kozlov, editor, *O Sovetskoy Voyennoy Nauke* (On Soviet Military Science), Moscow: Voyenizdat, 1964.

[18] V. D. Sokolovskiy, Marshal of the Soviet

Union, editor, *Voyennaya Strategiya* (Military Strategy), 3rd Edition, Moscow: Voyenizdat, 1968. For an English translation and comparison with the 1st and 2nd Editions, see: *Third Edition, Soviet Military Strategy* edited, with analysis and commentary by Harriet Fast Scott, New York: Crane and Russak, 1975.

[19] This author, during his two tours in the United States Embassy, Moscow, discussed the matter of "modernists" and "traditionalists" with a number of Soviet officers.

[20] Lieutenant Colonel Ye. I. Rybkin, "On the Nature of Nuclear Rocket War," *Kommunist Vooruzhennykh Sil* (Communist of the Armed Forces), #17, September, 1965. For an analysis of the purpose of Rybkin's article, see: William F. Scott, "The Contrast in Chinese and Soviet Military Doctrines," *Air University Review*, January–February, 1968, p. 58.

[21] V. K. Sokolovskiy, Marshal of the Soviet Union and M. I. Cherednichenko, "On Contemporary Military Strategy," *Kommunist Vooruzhennykh Sil* (Communist of the Armed Forces), #7, April, 1966.

[22] General-Major V. G. Reznichenko, Candidate of Military Sciences, Docent, editor, *Taktika* (Tactics), Moscow: Voyenizdat, 1966.

[23] Joseph Alsop, "Concert Stirred by Seeming Rise of Soviet Military Over Civilians," *Washington Post*, January 10, 1969, editorial page.

[24] Victor Zorza, "Soviet Armed Forces Renew Fight Against Party Control," *Washington Post*, January 8, 1969, editorial page.

[25] D. Gvishiani, Corresponding Member of the USSR Academy of Sciences and Colonel V. M. Bondarenko, "Scientific-Technical Progress: Fact and Fancy," *Krasnaya Zvezda* (Red Star) October 18, 1973.

[26] See: General Colonel N. A. Lomov, op. cit. In this book Colonel Bondarenko is identified as being the author of Chapter I, "Scientific-Technical Progress and Its Effect on the Development of Military Art." Colonel Rybkin is lisited as being the author of Chapter X, "The Sociopolitical Consequences of the Revolution in Military Affairs."

[27] "X X X," "The Adaptation of Soviet Ground Forces to Nuclear War," *Military Review*, September, 1966, pp. 15–16. This article first appeared in the *Revue De Defense Nationale* (France) in February, 1966. Since the views expressed by the author were very different from those expressed by most analysts in the West, "X X X" was used instead of the author's actual name.●

## WHY NOT RESIGN?

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 26, 1978*

● Mr. McDONALD. Mr. Speaker, columnist William F. Buckley, Jr. is a person with whom I do not always see eye to eye, particularly on foreign affairs. However, Mr. Buckley wrote an interesting column recently that appeared in the Atlanta Journal of July 19, 1978 that effectively shredded most of Andrew Young's argument in which he compared his arrest 10 years ago in a garbage strike to that of the Soviet dissidents. And his conclusion is correct, Andrew Young should resign. The Buckley column follows:

WHY NOT RESIGN?

(By William F. Buckley, Jr.)

NEW YORK.—President Carter won't fire Andrew Young, for reasons so clearly political they at once remind us of the dishonors of democratic politics and that there are inherent flaws in the system no one is ready to correct:

But one is entitled to ask: Why doesn't Andrew Young resign? Every defense of Young ever published has remarked about him that he is a man of honor and sensitivity. If it were otherwise—if he were personally obnoxious, cynical, opportunistic—he would be left without a single defender.

The question to raise now is this: If he stays on, doesn't he risk the destruction of what personal reputation he has left? He should resign because he is not a representative of the view of the president of the United States, and because the views he continues to enunciate are much more than merely embarrassing to the people whose government pays his salary and provides him his podium.

But one is required to ask: Has Andrew Young lost that sense of balance which in other days would have prompted Andrew Young to resign—rather than submit, as he so ignominiously has done, to a public dressing-down by the secretary of state that would have brought a freshman in the foreign service to resign?

The most offensive feature of his statement to the French press was the comparison of his own experience with that of Ginzburg and Scharansky. On the day that Ginzburg was sentenced to eight years in what the Soviet Union calls a "special" labor camp, Andrew Young told the French reporter that "after all" there are "hundreds, perhaps even thousands of people whom I would call political prisoners" in jail in America. Let that go, even though it is both a lie and a defamation. Concentrate on the next sentence. "Ten years ago I myself was tried in Atlanta for having organized a protest movement."

What happened 10 years ago? Andrew Young was arrested, along with several others, for doing what? Asserting his rights as a black citizen? Defending the Supreme Court's decisions? No, he was routinely arrested for physically obstructing an emergency phalanx of Atlanta municipal workers instructed to remove garbage that had accumulated as a result of a strike by 800 garbage collectors over wages. There was as much political oppression involved in the arrest of Andrew Young as there'd have been if he had received a speeding ticket.

Alexander Ginzburg will be sent for the third time in 20 years to a labor camp. His sentence is for eight years. We know a great deal about the hierarchy of Soviet prison camps thanks to very recent testimony from Anatoly Marchenko. The camp to which Mr. Ginzburg will be sent, for the offense of affirming the rights of Soviet citizens as guaranteed under their own constitution, allows each inmate one visitor per year—but only after serving half the sentence. That is to say, in Ginzburg's case no visitors for the first four years. He is permitted one food-and-clothing parcel per year. And—supreme torture—one letter per year. For Andrew Young to compare his own experience with that of Ginzburg is a profanation that makes Earl Butz's racist jokes a tushery by comparison.

Andrew Young began his career at the U.N. by welcoming Cuban forces to stabilize Africa, even as in the past there were individual Americans who welcomed the Ku Klux Klan to stabilize the Reconstruction South.

He arrived in Africa giving the Black Power salute, thus identifying himself with a movement even Eldridge Cleaver disdains. He has now suggested that Ian Smith—whom he once called "similar" to Idi Amin—was the engineer of the mutilations of the missionaries in Rhodesia. His incontinence causes more than embarrassment. It causes pain to those who are concerned for the preservation of the faculties of ethical discrimination. And, as I say, the only remaining question is whether he has left the dignity to resign.—(c1978.)

It was further interesting to read in the Washington Post of July 19, 1978, in the Evans and Novak column, which stated in part:

While Young is unforgiving about right-wing dictatorships, he is lenient toward communist tyranny. This climaxed in May 1977 in Mozambique, a Marxist regime with 100,000 citizens in forced-labor camps. "East and West alike look to this nation with new hope and with new courage," Young said. While welcoming communist Vietnam into the United Nations by praising its "struggle for independence", he ignored repression and genocide in the new Indochina.

Going along further in the Evans and Novak column, a quote was given from a Carl Gershman, executive director of the Social Democrats who said:

Young finds himself today for the most part on the side not of the oppressed but of the oppressors.

And this is the crux of the problem exactly. Mr. Young always seems to find a way to speak for the oppressors and not the oppressed. How long, I ask, must the American people put up with such dangerous nonsense?●

## SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 27, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 28

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on those sections of the proposed Bankruptcy Reform Act (S. 2266 and H.R. 8200) which relate to taxation and the collection of taxes.
2221 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Talcott W. Seelye, of Maryland, to be Ambassador to the Syrian Arab Republic.
4221 Dirksen Building

JULY 31

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Francis H. McAdams, of the District of Columbia, to be a member of the National Transportation Safety Board.
235 Russell Building
Finance
International Trade Subcommittee
To hold hearings on miscellaneous tariff bills.
2221 Dirksen Building
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on the emerging Pacific Island community.
4221 Dirksen Building

AUGUST 1

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 3036, proposed Susan B. Anthony Dollar Coin Act, and S. 3209, the State Community Conservation and Development Act.
5302 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2590, to amend P.L. 91-505, relating to land claims by the U.S. in Riverside, California, and S. 2274, to extend the boundaries of the Toiyabe National Forest in Nevada.
3110 Dirksen Building
Finance
To resume mark up of S. 1470 to reform administrative and reimbursement procedures currently employed under the medicare and medicaid programs.
2221 Dirksen Building
Foreign Relations
To receive testimony, in closed session, from Secretary of State Vance on the SALT negotiations and the situation in the Middle East.
S-116, Capitol

AUGUST 2

9:00 a.m.
Energy and Natural Resources
To resume markup of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on the quality of patient care in nursing homes.
3302 Dirksen Building
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on S. 3277, to provide for more effective and efficient utilization of resources by small communities.
6202 Dirksen Building
Judiciary
Penitentiaries and Corrections Subcommittee
To hold hearings on S. 3227, to establish a program of therapeutic communities in Federal prisons.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of S. 3209, the State Community Conservation and Development Act.
5302 Dirksen Building
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on section 10 (mail and communications) of S. 3229, to reform the U.S. Postal Service.
235 Russell Building
Finance
To mark up those sections of the proposed Bankruptcy Reform Act (S. 2266 and H.R. 8200) which relate to taxation and the collection of taxes.
2221 Dirksen Building

AUGUST 3

9:00 a.m.
Energy and Natural Resources
To continue markup of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on the quality of patient care in nursing homes.
3302 Dirksen Building
Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings on S. 3227, to establish a program of therapeutic communities in Federal prisons.
2228 Dirksen Building

10:00 a.m.
Armed Services
Military Construction and Stockpiles Subcommittee
To hold hearings on military base realignments by the Department of Defense.
212 Russell Building
Select on Intelligence
To resume hearings on S. 2525, to improve the intelligence systems of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
1318 Dirksen Building
Special on Aging
To hold hearings on vision impairment problems of older Americans, and on aspects of S. 3038, to provide payment for lenses prescribed to improve the eyesight of individuals with severely limited vision.
6226 Dirksen Building

3:00 p.m.
Conferees
On S. 995, to prohibit discrimination based on pregnancy or related medical conditions.
H-328, Capitol

AUGUST 4

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume oversight hearings on the Government in the Sunshine Act (Public Law 94-409).
3302 Dirksen Building

10:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume markup of S. 2755, the Drug Regulation Reform Act, and S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
4232 Dirksen Building

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2475 and H.R. 10587, to improve conditions of the public grazing lands.
3110 Dirksen Building

AUGUST 8

9:30 a.m.
Judiciary
To hold hearings on the nomination of James D. Phillips, Jr., of North Carolina, to be U.S. circuit judge for the fourth circuit.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2533, proposed Gasohol Motor Fuel Act.
3110 Dirksen Building

AUGUST 9

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

10:00 a.m.
Budget
To mark up second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 2533 proposed Gasohol Motor Fuel Act.
3110 Dirksen Building
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed initiatives designed to improve Federal water resource programs transmitted by the President in his message of June 7, 1978.
4200 Dirksen Building
Finance
To mark up miscellaneous tariff bills.
2221 Dirksen Building

AUGUST 10

8:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2560, to expand the Indiana Dunes National Lakeshore.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
6202 Dirksen Building

AUGUST 11

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
6202 Dirksen Building

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2860, proposed Solar Power Satellite Research, Development, and Demonstration Program Act.
3110 Dirksen Building

AUGUST 15

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To hold joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

AUGUST 17

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the physical and financial condition of the Erie canal.
4200 Dirksen Building
Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings on S. 2053, the Deep Seabed Mineral Resources Act, now pending in the Commerce, Science, and Transportation Committee.
4221 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 18

10:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 22

9:00 a.m.
Human Resources
To hold hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 23

9:00 a.m.
Human Resources
To continue hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

AUGUST 24

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

# SENATE—*Thursday, July 27, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

Mr. ROBERT C. BYRD. The distinguished Senator from Missouri (Mr. DANFORTH) will offer the prayer.

## PRAYER

The Reverend JOHN C. DANFORTH, a Senator from the State of Missouri, offered the following prayer:

As You reminded Your servant Job, O God, we were not present when You laid the foundation of the Earth. We did not shut in the sea or command the morning and cause the dawn to know its place. We have not entered into the springs of the sea or walked in the recesses of the deep. The gates of death have not been revealed to us. We do not know the ordinances of the heavens, and we cannot establish their rule on Earth.

Grant us, O God, a measure of humility, that we may understand our own limitations and the limits of the work we do. Teach us, as You did the sons of Zebedee, that whoever would be great must be a servant. And give us the energy to persevere in our efforts, making modest contributions where we can, and trusting that all our positive gains are completed by You in Your heavenly kingdom. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., July 27, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

## SENATE MINISTERS

The ACTING PRESIDENT pro tempore. For the benefit of our guests in the galleries, the Senator who offered today's prayer was Senator DANFORTH, the junior Senator from Missouri, who is an ordained minister. Yesterday the opening prayer was offered by Senator HODGES, of Arkansas, who is also an ordained minister.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

THE COAL CONVERSION CONFERENCE REPORT

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I see the distinguished Senator from New Mexico is in the Chamber at this time. In keeping with the conversation that he and I had previously relating to a conference report, I yield to him at this time so he may address certain inquiries to the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I submit an inquiry to the Chair regarding the status of the coal conversion bill, which was before the Senate starting about 2 weeks ago. There seemed to be some urgency in its consideration, which this Senator did not feel at that time. I wonder if that bill has, in fact, been enrolled and sent to the House of Representatives.

The PRESIDING OFFICER. If the Senator is referring to the conference report, not the bill, it was messaged to the House this morning.

Mr. SCHMITT. It was sent to the House this morning?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCHMITT. Mr. President, I wonder if the distinguished majority leader would have any indication to give this Senator as to when the House would act on the conference report.

Mr. ROBERT C. BYRD. I do not have any indication, no.

Mr. SCHMITT. It would seem that, through appropriate channels, action could be forthcoming. Since the Senate was enjoined to act promptly on the bill, I feel somewhat responsible for having slowed us down a little bit. I hope action will occur at the earliest possible time. I did have some responsibility for a few days of delay.

Mr. ROBERT C. BYRD. Does the Senator expect me to respond?

Mr. SCHMITT. I would appreciate some assurance that the distinguished majority leader would use his good offices to see that the House acted at a fairly responsible and rapid pace.

Mr. ROBERT C. BYRD. I should say to the Senator I was once a Member of that body. It is the feeling over there that they do not need any advice from this body as to how they conduct their business. I think we probably have the same feeling in return. I am sorry I cannot encourage the distinguished Senator in his suggestion that I might be able to speed matters up a bit on the other side. I have my hands more than full in trying to keep things moving over here.

Mr. SCHMITT. I understand. It is just unfortunate that with the urgency that the Senate feels about these matters, that there is not that feeling of urgency in the other body. I would hope that that sense of urgency could be transmitted either by our words or in some other manner. There are a number of matters which are coming forward which I do believe have urgency, including the energy conference reports. Without that sense of urgency in the other body it will be difficult, I believe, to hope for action over here.

I appreciate having had this colloquy, and I know the Senator will do everything he can.

Mr. ROBERT C. BYRD. I hope the Senator does not indicate by what he has just stated that we may expect to see further delays in this body. We have to do what we have to do, as we see our duty. The House does have its responsibility. The public will hold them accountable for their sins and the public will hold us accountable for ours. I would just hope we would keep ours clear so we do not have to be so penitent to all.

Mr. SCHMITT. To complete my remarks, I would like to say that measures can often be enacted quickly which are not completely understood.

It is certainly not this Senator's intention to cause any delay which is unnecessary. I think sometimes a pause is necessary in order to better understand what the Senate is about to do, even though the outcome may be absolutely certain.

Mr. ROBERT C. BYRD. As the Apostle Paul said, "Be still and know."

Mr. SCHMITT. I have found that the Apostles have been very generous, and I hope that throughout the upcoming debates they will not be depriving us——

Mr. ROBERT C. BYRD. I am not sure it was the Apostle Paul. It may have been Psalms.

Mr. BAKER. Mindful, of course, Mr. President, that this is my time in which this lecture in theology is being conducted, I might intervene only long enough to say that this matter was brought to my attention by the distinguished Senator from New Mexico, who did play a part in the bulk of the debate on the coal conversion conference report.

I think he is entirely within his rights to inquire about the sudden "dishaste" in this matter. I do recall that we proceeded to the consideration of this privileged matter, the coal conference report; that there was a degree of criticism, I believe, in the popular press of the distinguished Senator from New Mexico for taking a day or two to discuss it.

Then, Mr. President, I found out this morning, to my surprise I must confess, that the conference report, after it was acted upon by the Senate, was not enrolled and sent to the House until today.

I might ask the Chair if that is correct.

The PRESIDING OFFICER. The Senator is correct. The Senate did not message its action back to the House until today. It will not be enrolled until both Houses have acted.

Mr. BAKER. It was not enrolled, but it was not transmitted to the House until this morning.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. How much time elapsed between the time the conference report was adopted by the Senate and the time it was transmitted to the House?

The PRESIDING OFFICER. Approximately 9 days.

Mr. BAKER. A parliamentary inquiry: What, if any, rule or precedent controls the time at which conference reports or messages to the House are transmitted to the other body?

The PRESIDING OFFICER. There is no rule or precedent that governs such matters.

Mr. BAKER. What has been the practice of the Senate in that respect?

The PRESIDING OFFICER. Usually reports will go within a day or two.

Mr. BAKER. Mr. President, I shall not pursue this matter further except to say when it was brought to my attention by the distinguished Senator from New Mexico, it struck me that was an extraordinarily long time to intervene between the time the Senate acted and the time the message was sent to the House of Representatives, in view of the emergency nature of the matter, as described by many of us, including me.

While there is no rule or precedent of the Senate that bears directly on this subject, I hope if there is going to be a delay in the future, the parties might be apprised of it, particularly those who are extensively involved in the matter itself.

Mr. ROBERT C. BYRD. Mr. President, I suggest that there be no delay in the future so those who may be opposed to a conference report may not use that as an excuse for delay. I do not mean any inferences to be drawn from my having said that, but I think it is good practice, I think it is good protection for all of us. I suggest that those matters be expedited in the future without any delay.

The PRESIDING OFFICER. The Chair will note the comment of the Senator from Tennessee and the Senator from West Virginia.

Mr. SCHMITT. If the Senators will yield, I agree wholeheartedly with the two leaders. The only reason this matter is under discussion is because I happen to be involved in it. Even though I voted in opposition to its passage, once that passage occurred, I think it is clearly the business of the Senate to see that these bills, or conference reports, or whatever measure happens to be before us are transmitted expeditiously to the other body. Once the battle is over, once the vote has been taken, then it is the business of the Senate to see that the business of the people is conducted efficiently. I am sure that will now occur. I hope it will more or less set a precedent for the rapid transmittal of these messages.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I think the Senator from New Mexico has performed a service. I can see from his standpoint why he expresses his concern in this regard. I do not say this as a criticism of anyone on the staff of the Senate. They have other pressing business, also. So without any criticism intended, I can see how the Senator would wonder why there would be such a delay in a matter on which the leadership wanted action promptly.

Looking at it from the standpoint of the leadership, and I have already asked that this situation be corrected in the future, I think as I see it, it is our duty to act on conference reports, not in haste but after reasonable deliberation, without regard for the time or the number of days that may be required to get the message over to the House. I do not think that has anything to do with the scheduling of a conference report here or when the Senate should complete its action. I think it has absolutely nothing to do with that. But I agree with the Senator that, once the conference reports have been adopted, in consideration of all the workload the appropriate people have, the matter should be expedited as much as possible.

Mr. SCHMITT. I am glad to hear those comments. I just say that when the argument of haste and immediate necessity and emergency is used in order to argue for expeditious handling of the measure in the Senate, it is incumbent on the Senate as a body to see that these measures are transmitted to the other body as rapidly as possible. I think we all understand that.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

## VITIATION OF SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that order be transmitted to Mr. PROXMIRE. I understand that Mr. DOMENICI did not want time.

The PRESIDING OFFICER. Without objection, the Senator from Wisconsin is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thought the Senator from Wisconsin wanted some time.

Mr. PROXMIRE. I was going to call up the New York conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. DOMENICI be vitiated.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Mr. President, we are waiting for members of the staff to come to the floor on the New York City conference report. While doing that, I have some other business I should like to transact.

I ask unanimous consent that John Daniels, John Collins, Howard Menell, Ken McLean, and Elinor Bachrach be granted the privilege of the floor during discussion, debate, and vote on the New York City conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I also ask unanimous consent that a member of the staff of Senator ALLEN, Richard Gentry, be granted the privilege of the floor during consideration of the conference report on H.R. 12426.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## WICKER ARTICLE POINTS TO THE NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on Sunday, July 23, New York Times columnist Tom Wicker reviewed this country's human rights policy. Mr. Wicker discussed both the successes and failures of the administration's and the Congress' efforts to secure universal human rights. He reminded us that our human rights policy has not significantly affected rightwing terrorist activities in Buenos Aires, nor have we substantially ameliorated conditions in Brazil, Chile, and a host of other nations. Many of the world's people are still oppressed and persecuted merely because of their race, ethnicity, religious, or political beliefs.

Conversely, Mr. Wicker asserted that there is an improved world "climate of human rights." He cited several notable events which can be attributed to the United States' active advocacy of human rights. While causal links between improved human rights and U.S. policy cannot always be documented, our human rights activism has certainly influenced world opinion and events. Particularly in recent months, our policy has become more consistent and more effective. Last week, the Inter-American Court of Human Rights was formally established. The U.S. Export-Import Bank recently rejected a $270 million loan to Argentina because of the South American country's flagrant violations of human rights. And the government of Indonesia recently released 10,000 political prisoners.

After weighing our accomplishments and our failures, Mr. Wicker concluded that our human rights policy has been a "modest success."

Mr. President, in the vital arena of human rights we cannot afford a "modest success." The lives and fortunes of millions of people are constantly threatened by those who violate human rights with impunity. Our foreign policy must be comprehensive and vigorous. It must reflect our nationwide commitment to universal human rights.

Mr. President, this Senate can act to make our human rights policy much more successful. We can ratify the United Nations Genocide Convention. By defining and punishing the crime of genocide, the United Nations treaty protects the most fundamental of human rights—the right to live. It helps to guarantee that every citizen of the world can live securely.

Mr. President, I ask unanimous consent that a copy of Mr. Wicker's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A MODEST SUCCESS

(By Tom Wicker)

WASHINGTON, July 21.—The vote of Grenada finally brought into being this week an Inter-American Court of Human Rights that has been nine-years in winning hemisphere approval. A day or so later, Argentina learned that the United States Export-Import Bank had turned down a $270-million loan for electrical equipment for a hydroelectric project on the upper Parana River. And in the same week, a Bolivian election was annulled by a court, only to be followed by a military coup.

At least one connecting link between all these events was President Carter's human rights policy. There are those who think that policy is pushed too erratically—not hard enough against strategically important allies like South Korea and perhaps too hard for the good of Soviet dissidents like Anatoly Shcharansky. But after a year and a half, and despite setbacks like the Bolivian coup, the Carter human rights policy has had its modest successes, too.

Some of those most involved in that policy think its major achievement has been an improved world "climate of human rights." Just recently, the Council on Hemispheric Affairs, in releasing a country-by-country assessment of human rights in the Americas, expressed some reservations about the Administration's performance, but concluded:

"The Carter Administration, through its human rights policy, has made a significant contribution to the cause of humanity in the hemisphere. . . . We have now entered a period where no totalitarian regime can victimize its own people with impunity or in silence."

The United States' signature in June 1977 finally led the way toward the necessary ratifications—Grenada's was the 11th and deciding vote—on the hemispheric court of human rights; whether Congress will now ratify what President Carter signed remains to be seen. Argentina's dismal record on human rights, the worst in the hemisphere—more than 3,500 acknowledged political prisoners and probably at least that many more unacknowledged—evoked the Ex-Im Bank's refusal to make the $270-million loan. And human rights pressures from Washington and elsewhere were pushing Bolivia toward a return to civilian rule, until the latest military coup turned back the clock.

Nor is it only in this hemisphere that the human rights policy is being felt. When President Mobutu of Zaire recently declared an amnesty for political prisoners, including a former foreign minister, he was completing his end of an arrangement worked out when the United States agreed to ferry French troops into Shaba Province to repel last spring's Katangese invaders.

And although nobody in Washington

claims specific credit, it seems likely that the improved "climate of human rights" had something to do with Indonesia's recent release of 10,000 political prisoners—although there are at least 20,000 more in Indonesian jails. But one obvious and probably effective human rights move—an American embargo on Ugandan coffee—has not yet been taken by the Carter Administration.

It is among the nations of this hemisphere, nonetheless, where the human rights policy has been most heavily felt. Direct cause and effect of course are not always traceable but it's reasonable to suppose, for example, that elections were held in Peru and Ecuador sooner than they might have been without human rights pressures. The improved "climate" certainly influenced the military to abide by the results of elections in the Dominican Republic.

The liberalization of the Pinochet regime in Chile, though far from complete, has been measurable; and when an American grand jury hands down expected indictments in the assassination in Washington of former Chilean Foreign Minister Orlando Letelier, they may so link the killing to the Chilean Government as to endanger General Pinochet's personal position atop the military junta. And almost any conceivable successor, it's believed here, would be more concerned for human rights than he has been.

Notable progress also has been made in Brazil where, after 14 years of military rule, a "back to the barracks" movement is said to be gathering force in the army and among those who originally welcomed authoritarian government and long supported it. But for all these gains, the coup in Bolivia and the situation in Argentina serve to underscore the warnings of human rights activists here that the task has hardly begun, even in this hemisphere.

Amnesty International estimates that as many as 15,000 people have disappeared in Argentina since the military coup of March 1976. Dr. Oscar Alende, a former Governor of Buenos Aires, visited the United States recently and said 1,000 people have died by right-wing terrorist action this year, probably with police connivance. Religious freedom has been canceled and seven secret prison camps, according to Dr. Alende, are full to overflowing. And although Gen. Jorge Rafael Videla officially becomes President on Aug. 1, in a seeming step toward the rule of law, the expectation here is for continuing repression and violence.

## ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, may I just say to the distinguished Senator from Wisconsin, who will be managing the conference report with the assistance of the ranking member (Mr. TOWER), the Senator from Virginia (Mr. HARRY F. BYRD, JR.) called me this morning. He is in a hearing, perhaps on the markup on a bill. Anyhow, he is in committee, cannot be on the floor at this time, and he will want an hour for himself on the conference report.

So I merely say this so that the Senator from Wisconsin will be aware of that fact and that the Senator from Virginia will be protected before we act finally on the conference report.

Mr. PROXMIRE. I understood Senator BYRD was very interested in being on the floor. Of course, I will be happy to accommodate him.

Could the leader give us some idea when Senator BYRD will be able to come to the floor?

Mr. ROBERT C. BYRD. I told the Senator we would be taking the conference report up at circa 10 o'clock. He wanted to be protected for noon. I told him I did not think that the conference report would go that long without his being on the floor, but that he would be protected, which indicated to me that it may be 11:30 or 12 before he gets here.

Mr. TOWER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. I am the ranking minority conferee on the military procurement bill and I would like to treat this matter with some dispatch.

I wonder if we could find out who wants to speak on this matter and for how long, and, if necessary, if the principals cannot be here, postpone consideration until later in the day?

Mr. ROBERT C. BYRD. I had hoped we might be able to get the health planning bill up in the event we reached a gap. Senator MORGAN is on his way and he will want to address this issue. He is on his way to the floor. Senator MOYNIHAN will also wish to speak and he will be on the floor presently, or shortly.

Mr. PROXMIRE. I am sure Senator JAVITS will want to speak.

Mr. TOWER. I would be amazed if Senator JAVITS did not want to speak.

[Laughter.]

Mr. ROBERT C. BYRD. There will be enough Senators, I would imagine, at this point, to hold the floor for a while until, I hope, Senator BYRD can come to the floor.

Mr. PROXMIRE. In the event we have finished with our speaking and are ready to act on it, I assume we will lay the bill aside until Senator BYRD can come to the floor and speak, is that right?

Mr. ROBERT C. BYRD. Yes. That will be all we can do.

If the Senator will notify me if we reach that point, I will be in my office and will try to give assistance.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HODGES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NEW YORK CITY FINANCIAL ASSISTANCE ACT OF 1978—CONFERENCE REPORT

THE PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 12426, which will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12426) to authorize the Secretary of the Treasury to provide financial assistance for the city of New York, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of July 18, 1978.)

Mr. PROXMIRE. Mr. President, the purpose of this legislation is to assist New York City in meeting its financing needs and restructuring its debt over the next 4 years, by providing Federal guarantees of New York City securities under certain conditions. By the time the guarantee program expires on June 30, 1982, it is expected that the city will have a budget balance in accordance with generally accepted accounting principles and will be able to meet all of its financing needs in the public credit markets, without any further reliance on Federal credit assistance.

Mr. President, as I have made it clear in the course of this legislation and in voting on it, I am fundamentally opposed to this legislation because I believe it is not needed. I think New York City could have and would have made it on its own, with the support of its financial institutions and its pension funds, if the Congress had chosen not to act. Nonetheless, a majority of the Members of both Houses of Congress have voted to provide additional financial assistance to New York City. The conference report reconciling the differences in the bills passed by the House and Senate was approved in the House of Representatives Tuesday and is pending before this body today.

Mr. President, I believe that this conference report is one which Members of the Senate can support. It contains virtually all of the significant provisions of the Senate-passed bill, including a number of additional conditions and requirements designed to insure that New York City balances its budget, gets back in the credit markets, and repays the guaranteed obligations as rapidly as possible. There was a compromise reached with the House on the major differences between the two bills, but that compromise reflects the general thrust of the Senate position and should, I believe, be acceptable to Members of the Senate.

The main points at issue with the House in the conference on this legislation concerned the amount and type of guarantee authority to be provided and the various limitations to be placed on that guarantee authority.

The Senate bill provided guarantees of up to $1.5 billion in aggregate principal amount. The House bill provided up to $2 billion in guarantees of principal plus accrued interest. It was difficult to determine the amount of principal which could be guaranteed under the House formulation; estimates ranged from over $1.9 billion down to less than $1 billion, depending on the assumptions made.

The conference report provides guarantees of up to $1.65 billion in aggregate principal amount. This is somewhat higher than the amount provided in the Senate bill, but well below the $2 billion in guarantees of principal originally requested by the administration, and arguably below the amount provided in the House bill. Moreover, it should be noted that the guarantees are to be available on a standby basis, to be used only if the city is unable to obtain sufficient credit elsewhere, and it is unlikely that all of the $1.65 billion in guarantees authorized will actually be used.

The Senate bill provided guarantees for long-term financing only, as requested by the administration. The House bill permitted the guarantees to be used for either long-term or short-term "seasonal" financing, with the understanding that the guarantee authority backing the seasonal borrowings, which mature within a year, could then be used again for long-term financing later on.

Mr. President, there was a great deal of discussion of this issue in the conference committee. I was extremely reluctant to recede from the Senate's position and to provide guarantees for seasonal as well as long-term financing. The Banking Committee was told time and time again by experts from New York and by the administration that the city could do its own seasonal financing if long-term guarantees were forthcoming, and I believed it would be a step backward for the city to become dependent on the Federal Government for both long-term and seasonal financing.

However, there was a great deal of concern on the part of the House conferees that New York City might not be able to obtain all of the seasonal financing it needs from the various local sources because of possible limitations that might be imposed on the city pension funds legal capacity to invest in city securities by legislation now pending before the Finance and Ways and Means Committees. This legislation would provide exemptions from certain provisions of the Internal Revenue Code for the city and State pension funds, and these exemptions are needed to enable the pension funds to participate in the financing arrangements contemplated by the guarantee legislation. Having discussed the questions raised in conference with members of the Finance Committee, notably the distinguished Senator from Texas (Mr. BENTSEN), who was most helpful on this matter, I believe that the tax-writing committees are aware of the potential problems and that these problems are likely to be resolved in a satisfactory manner.

However, I could understand the concerns expressed by the House conferees and by city officials that the city not be impeded from meeting its seasonal financing needs, given the time constraints involved and the uncertainties about the tax legislation, and therefore some accommodation with the House seemed in order.

The conference report contains a compromise on this issue which provides the possibility of some guarantees of seasonal financing, but only to a very limited extent and under strict conditions. First, it confines the availability of such guarantees to the first year of the guarantee program only, fiscal year 1979, when they are most likely to be needed. Second, it limits the amount of seasonal guarantees which can be provided to a maximum of $325 million. Third, it permits such guarantees to be provided only if, and to the extent that, the full amount of seasonal financing which the city needs in that year—over and above commitments from other private sources and anticipated public note sales—cannot be provided on an unguaranteed basis by the city pension funds due to limitations which may be imposed by the legislation now pending before the Finance and Ways and Means Committees.

This means that the Secretary must first determine that the city pension funds have exhausted their legal capacity to do seasonal financing for the city, by purchasing or agreeing to purchase short-term notes up to the full amount permitted under the prospective tax legislation. Then, if the Secretary determines further that the city has additional seasonal financing needs and that its capacity to meet those needs from other private sources or from the public credit markets has also been exhausted, he may issue guarantees for the remaining amount of seasonal financing needed, so long as that amount does not exceed $325 million.

Mr. President, I think it is unlikely that this seasonal guarantee authority will be used; I do not think it will be needed. The city recently reported that it had about $1 billion in cash on hand at the beginning of this fiscal year, July 1, 1978. The estimates of peak seasonal financing needs have now been reduced to $975 million, down from $1.2 billion, and the city intends to try to sell some $200 to $300 million in short-term notes in the public markets later on this fall. So I think we will find that New York City can, in fact, do its own seasonal financing, and I believe this is the best way for the city to go. But the seasonal guarantee authority is there as a backup this year, in case problems arise.

Mr. President, let me continue to describe the compromise reached with the House, as reflected in this conference report.

The Senate bill contained some significant limitations on the guarantee authority, which were intended to provide a basis for effective congressional oversight of the guarantee program. These included annual limitations on the amount of guarantees to be provided and authorization of a one-House veto of the guarantee authority for the second and third years of the program, fiscal years 1980 and 1981. The House bill contained no such limitations.

I am pleased to state that the conference report includes annual limitations and one-House vetoes along the lines of those provided in the Senate bill, but with some amendments including changes in the dollar amounts. Under the conference substitute, there is guarantee authority available for fiscal year 1979 in an amount not to exceed $750 million, of which up to $500 million is available for long-term guarantees, and up to $325 million is available for guarantees of seasonal financing, subject to the limitations described above. In fiscal year 1980, there is new guarantee authority provided in an amount not to exceed $250 million, plus the carryover of any unused portion of the $750 million in guarantee authority provided in fiscal year 1979, all of which may only be used for guarantees of long-term financing, and all of which is subject to a one-House veto. In fiscal year 1981, there is new guarantee authority of $325 million, plus the carryover of any unused portion of the $1 billion in guarantee authority provided in fiscal years 1979 and 1980, except for any amounts disapproved through passage of a one-House veto, all of which may only be used for guarantees of long-term financing, and all of which is subject to a one-House veto. In the final year of the program, fiscal year 1982, there would be new long-term guarantee authority provided in an amount not to exceed $325 million, only if the Secretary determines that the city has presented a budget balanced in accordance with generally accepted accounting principles. Furthermore, there is to be available the carryover of any unused portion of the $1.325 billion in long-term guarantee authority provided in the 3 prior fiscal years, except for any amounts which have been disapproved through passage of a one-House veto.

Mr. President, let me mention some other features of the guarantee program, as decided in the conference report. The length of the guarantees could run as long as 15 years in all cases. The obligations guaranteed can be sold only to the State and city pension funds. In setting this latter requirement, the conferees wished to confine narrowly any precedent set by this legislation with respect to other cities. Along similar lines, the conferees also agreed to a provision contained in the House bill making the interest on the guaranteed obligations taxable for the life of the guarantee, so as not to set a precedent for Federal guarantees of tax-exempt municipal obligations. However, this provision is not intended to set any precedent with respect to the taxability of municipal obligations generally.

Mr. President, the conference report establishes a number of conditions of eligibility which the Secretary must determine has been met and are being met on a continuing basis before he can provide guarantees or enter into commitments to provide guarantees at any time under this legislation. These conditions and the required determinations by the Secretary can be summarized as follows:

First. There must be a reasonable prospect of repayment of the guaranteed city indebtedness.

Second. The Secretary must determine that credit is not available elsewhere in amounts and terms sufficient to meet the city's financing needs.

Third. The interest rate on the guaranteed indebtedness must be reasonable, taking into consideration current average market yields on other guaranteed obligations.

Fourth. The Secretary must determine that the city's remaining long-term and seasonal borrowing needs over the 4 years of the guarantee program—other than those assisted under the program—will be met through commitments from the State, an agency of the State, private sources, or through public credit markets, in amounts which will be sufficient to enable the city to meet all of its long-term and seasonal borrowing needs through public credit markets after the guarantee program expires on June 30, 1982, assuming that all the other conditions are and will be fulfilled.

Fifth. The city, under the supervision of the independent fiscal monitor, must adopt and adhere to budgets balanced

in accordance with generally accepted accounting principles for fiscal year 1982 and thereafter, and must make substantial progress toward that goal in accordance with accounting principles established under State law in the intervening years, fiscal years 1979, 1980, and 1981. The city must also submit plans for bringing all its expenditures other than capital items into balance with its revenues according to the relevant accounting principles, and there must be annually submitted 4-year plans.

Sixth. The independent fiscal monitor must demonstrate that it has the authority to control the fiscal affairs of the city for the entire period during which the guarantees are outstanding.

Seventh. There must be annual independent audits of the city's financial statements and an audit committee established consisting of the mayor, the city comptroller, the president of the city council, two individuals with expertise in municipal finance, and two officers or employees of two different firms of independent public accountants not already engaged by the city.

Eighth. There are two conditions defining certain State responsibilities under the act. One requires the State to maintain its financial assistance to the city in at least the amount provided in the city's 1979 fiscal year until such time as the city has a budget balanced in accordance with generally accepted accounting principles. The other requires the State to have on deposit in a reserve fund an amount equal to 5 percent of the principal of and of 1 year's interest on the guaranteed indebtedness outstanding, and this State money must be used first to pay or reimburse the Treasury for paying in the event of a default, up to the full amount available in the fund. In addition to giving the State a larger stake in preventing default, this State reserve fund will provide the Federal Government further security against losses due to default, along with the security already afforded by the authority to withhold Federal payments to the city or State to cover losses.

Ninth. The city is required to establish a productivity council to develop and seek to implement ways to increase city employee productivity.

Tenth. The city is required to make public offerings of its short-term notes in fiscal years 1980, 1981, and 1982, and of its long-term bonds in fiscal years 1981 and 1982.

Eleventh. The city must agree that, after the guarantee program ends, it will devote 15 percent of the net proceeds of city indebtedness issued in the public credit markets in each fiscal year to repaying or refunding the guaranteed obligations outstanding, unless the Secretary modifies or waives this requirement because he determines that its application would either impair the city's ability to meet its essential capital needs or substantially overburden the market for long-term city bonds. In addition, the city must implement, under the direction of the Secretary, a general program for refunding the guaranteed obligations outstanding for the purpose of achieving complete repayment of them at the earliest practicable date.

Twelfth. The Secretary must determine that the city and State are meeting their respective obligations under the conditions of eligibility section.

In addition, the Secretary is authorized to set other terms and conditions bearing on any of the parties involved, at his direction.

Mr. President, the details and intent of these conditions of eligibility are amply described in the joint explanatory statement of the conference committee and in the relevant committee reports, so I will not belabor them further here. However, there are a couple of points which merit further clarification.

First, there is a question which has arisen with respect to the balanced budget requirements. The Senate bill contained a provision which required that the city's budget be balanced in accordance with accounting principles established under State law for fiscal years 1979, 1980, and 1981, up until the 1982 fiscal year when the city was required to have a budget balanced in accordance with generally accepted accounting principles. The conference report contains the Senate provision. The term "accounting principles established under State law" refers to the accounting principles established under the State Comptroller's Uniform System of Accounts, and further defined under State law with respect to the gradual phaseout of certain operating expenses funded out of the capital budget and certain accrued pension liability.

I understand that by fiscal year 1982, the city will have completely phased out the operating expenses funded out of the capital budget, and that these will be reduced to $450 million in fiscal year 1979, to $300 million in fiscal year 1980, and to $150 million in fiscal year 1981. I also understand that the city will be accounting for its pension liability on on accrual basis by fiscal year 1982. The language of this provision gives the Secretary the authority to make determinations as to the accounting principles to be used and to set stricter standards as he deems appropriate.

Second, the provision requiring that the city devote not less than 15 percent of the net proceeds of city indebtedness issued in public credit markets in each fiscal year after 1982 to repaying or refunding the guaranteed obligations outstanding may need some clarification. This requirement is intended to apply only to long-term city indebtedness so issued, since there are no net proceeds of seasonal borrowings which could be used to refund long-term debt. The references in the waiver language to "essential capital needs" and "the market for long-term city indebtedness" are a further indication of this intent.

Finally, Mr. President, I should note that the conference report contains certain provisions relating to legal remedies which were included in the Senate bill. One provides a right of civil action to permit the Secretary to go to court to enforce compliance with the provisions of the act, any agreement related thereto, or any provision of State law related thereto, by the city, the State, the financing agent, the independent fiscal monitor, or any official of any of the foregoing, or any other party to an agreement pursuant to the act. Another provision authorizes the Secretary to waive the absolute priority afforded Federal claims in the event of bankruptcy with respect to new issues of city indebtedness if he determines that this is necessory to get the city back in the public credit markets. Third, there is a severability clause which states that if any provision of the legislation is held invalid by a court of competent jurisdiction, the other provisions of the act will not be affected thereby. Thus, for instance, if the one-House-veto provision of this or any other act were overturned by a court, the guarantee authority and the other provisions of the act would remain in effect.

Mr. President, I have some further remarks with respect to rent control which I will reserve until after the distinguished Senator from Texas, who is the ranking minority Member on this issue, speaks.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the Senate on June 29 expressed agreement with the concept of authorizing Federal long-term guarantees of New York City's securities. The bill agreed to by the conferees, over my objection, provides for limited seasonal loan guarantees in addition to the long-term guarantees which the Senate passed. The bill originally passed by the Senate was ill advised and unnecessary; giving New York City additional discretion by authorizing seasonal as well as long-term guarantees further erodes the purported limitations on the precedent established by this unfortunate legislation.

I have repeatedly stated my reasons for opposing this bill. Briefly, I think that the bill does little if anything to solve New York City's financial problems, but instead merely postpones them. The price which we are paying merely to postpone those problems—including the prospect of massive and lengthy Federal involvement in local decisionmaking in New York City and elsewhere—is, in my view, intolerable.

The Banking Committee in February found unanimously that New York City could avoid the need for Federal financial assistance through reliance upon local resources, increased State aid, and other well-documented measures designed to restore crediblity to New York City's financial operations. Instead of a joint and cooperative effort to take the steps recommended by the Banking Committee by those most interested in New York City's well-being, however, it appears to me that far greater effort has been devoted by city and State officials and others to presenting the case for Federal guarantees.

I am most concerned about the lesson which other financially troubled cities are likely to learn from these events. Instead of relying upon local resources and local solutions, this bill and the circumstances leading to its passage are likely to provide a roadmap to Federal guarantees or other financial help for other cities. While steps were taken to

limit the nature of the precedent established in this bill, such steps are in my judgment totally inadequate. Once the precedent—providing guarantees—is established, the details of the assistance to other cities can be negotiated.

The addition of authority to issue seasonal guarantees, as agreed to by the conferees, broadens the precedent further and, at the same time, eliminates some of the discipline on New York City embodied in the bill originally passed by the Senate. It is abundantly clear that New York City has the resources available to meet at least its seasonal needs without Federal intervention; this was amply demonstrated during the Banking Committee's hearings. Providing for seasonal guarantees in such circumstances contributes further to the erosion of the emphasis upon local initiative, for it is apparent that local sources are not going to act as long as the prospect of Federal assistance exists.

The provision for seasonal guarantees is made even more unnecessary in view of facts which have come to light since the Senate's action of approving the long-term guarantees. The New York Times reported on July 18 that New York City now finds itself with a billion dollar cash surplus on hand as of July 1, 1978. Under these circumstances, providing for season loan guarantee authority of up to $325 million, as is done in the bill approved by the conference committee, is completely unwarranted.

City officials were described as "embarrassed" at the size of the cash surplus, in light of estimates available during the Senate's consideration of the bill which projected a substantially lower amount. The "embarrassment" is hardly surprising, since it illustrates the fact that no seasonal guarantees are really needed.

These events serve to reinforce the Banking Committee's findings last February that there is no need for Federal assistance to New York City. The city's present cash position, coupled with the seasonal lending capability of local sources within New York City, make it particularly clear that the city's seasonal borrowing can be accomplished without Federal assistance.

The bill originally passed by the Senate was a bad bill; the bill as amended in conference is even worse, and I urge my fellow Senators to vote against it.

New York City reached a state of fiscal collapse because of its unwillingness to act responsibly, to take the elementary step of limiting its expenses to the amount of its revenues. No amount of Federal guarantees can bring about a climate in which the public credit markets will open up to its securities. Only when New York City faces up to the fundamental concept of consistently balanced budgets will its access to the public credit markets be restored.

Mr. PROXMIRE. Mr. President, will the Senator from Texas yield?

Mr. TOWER. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Before the distinguished Senator from New York speaks, I think this is ironic. Here we have a bill that has gone to conference and we have a conference report that is going to go through overwhelmingly, by a landslide, and we have both the managers of the bill, on the majority side and on the minority side, opposed to it and taking good, hard shots at it.

It is an indication of the fantastic potency and power of New York City and New York State, and of their remarkable Senators, and of New Yorkers' great capacity, in my view, to achieve their will.

The bill may have some merit, but I must say that this is one of the very few occasions in the 20 years I have been in the Senate when the Senators managing the bill on both the Republican and Democratic sides have been opposed to it and yet, as we know, it is going to go through by a resounding vote if we do have a rollcall vote on it.

Mr. TOWER. Mr. President, if the Senator will yield, I agree with his comments on the quality of the representation that New York has in this body.

My distinguished friend, Senator MOYNIHAN, is a product of the London School of Economics and Political Science and is a man of superior intellect.

Mr. PROXMIRE. In spite of that.

Mr. TOWER. The senior Senator from New York is acknowledged to be one of the great legal brains and has one of the best minds that has ever graced this body. He is enormously persuasive, and I have always said if I were ever indicted for a felony crime I would want the senior Senator from New York to represent me and to be my lawyer.

I broached this question to him once, and he said he would do it without fee, and I hope that that is a standing offer, just in the event this ever happens to me.

But certainly New York has two of the most persuasive Senators who ever graced these halls.

The PRESIDING OFFICER. The senior Senator from New York is recognized.

Mr. JAVITS. Mr. President, interestingly enough I was going to address myself to exactly that subject openly. The first of my notes say 53 to 27, which was the vote on this bill here in the Senate.

Mr. President, we have been "brilliant" before, Senator MOYNIHAN and I, as have others of my colleagues in their particular specialties, but we have also lost a lot of them. I know I have. He has not lost quite as many because he has not been here as long, but he will. So, it cannot be our brilliance.

But I tell you what I think it is, and I was going to address myself to that: I think it is simply the weight and the irrefutable facts of New York. The fact is, and it comes through, that this is an important makeweight in our country, in the life of our country, and in the future of our country. And it is not only true of hundreds of millions in the world who know New York, the name, what it is about, et cetera, much more than they do the U.S.A.

We always have a joke about New Yorkers and the map of the United States, with New York, the Hudson River, and then the narrow sliver for the rest of the country.

But that is also true of the world. In the world New York is the U.S.A. and vice versa, and there is a very real reason, and that is that it is the nexus of the communications, of the drive, the initiative, the excitement which makes up so much of our country; and even though it is by no means the best-liked city in the United States—although interestingly enough whenever our own members go there, the overwhelming majority always tell me what a great time they have had and how their kids have enjoyed it and how it is just great, but they would not care to live there—and that is the rather traditional assertion.

I do not know whether that is regretful sour grapes or that they really would not. I think the latter is the explanation that they really would not.

Yet they do appreciate the tempo, the excitement, the originality, the drive, and the fact that it is a proliferation of skyscrapers, cultural events, and the cultural establishment which represents really a 20th century phenomenon.

Having been in all the great cities of the world, and as so many of us have, I think it is far and away the most magnetic and one of which our country has every right to be proud. I think that is what has finally come through in the years from the time when we first began to worry about New York nationally in 1975 until today when we are acting on this bill.

There is a pride in the achievement which has erected this enormous monument to the skill, the dedication, the determination, and the quality of man. All of its excrescences and difficulties, as philosophers will tell you, and as my colleague, Senator MOYNIHAN himself a great student, can explain better than I can, are just the juxtaposition which comes with any kind of greatness or any kind of distinction. Somehow or other there has to be a soil around it out of which it grows, which is not very happy and not very pleasant. Just like Justice Frankfurter said about the civil rights movement: "Don't expect nice people to come into this court and complain about the deprivation of their civil rights." So I think that is the reason, Mr. President.

Second, we were, and we are, in very real trouble with a $14 billion budget. As any company treasurer will tell you if they have got $1 billion to start with, after all, that is good, not bad, but it does not represent any solution. They were expected to have a half billion dollars. They need that kind of float as a minimum in order to pay their debts, and remember that what the Government is going to do in this bill is to give guarantees not money.

So there is debt which the city of New York will contract which it has to pay. Therefore, if its float gives us a little additional margin, I think that is to be praised rather than blamed. I think our city officials who expressed surprise were our city officials who were rocked and buffeted by winds. I have been a city official, and I hazard a guess that if Senator MOYNIHAN had been a city official, we would not have been surprised, we would have used that as an element of proof to our Nation that we were doing the things which our Nation wished us to do in order to deserve the aid of our Nation, and that was a good thing, not a bad thing.

Anybody who knows about the tremendous deficiencies—dangerous, recklessly dangerous deficiencies—in the maintenance of our city in terms of its own people and in terms of its millions of visitors and other Americans who come there, will testify to the fact that whatever we do we will still remain for a long time in this very, very precarious condition.

Last, and I shall not detain the Senate very long, there is no doubt about the fact that New York has tightened its belt and, on the whole, it has done a very creditable job. It has reduced the number of its employees by somewhere between one-fifth and a quarter; frozen its salaries and other compensation except for—even below the actual cost-of-living problems which have arisen—and compensated for an overly liberal pension system, and I am the first to affirm it, compensated for an overly liberal pension system, with the enormous reserves which are now being put at the disposal of the city so that this bill again is guaranteeing what? It is guaranteeing the pension funds of the city's employees which have been created out of this overly liberal pension policy. It is going right back into trying to save New York.

While I do not condone the policy, and we are now on new hires, et cetera, doing much better than we did, I do point out it is not being selfishly directed. It is being placed at risk in respect of the effort to finance the city, and these guarantees go only to these pension funds.

There are, without any question, certain built-in deficiencies in my city. I heard from Senator PROXMIRE that he will say something about rent control. Senator MORGAN, who very graciously allowed me to speak before him because of another committee conflict, told me he would like to speak about rent control. I would like to say a thing about that myself.

New York, after all, is a political organism, and I have no doubt, Mr. President, that there are some elements of rent control in the city of New York that are undeserved. There are other elements, however, which are deserved because there still remain very grave shortages of housing in the city when you take them within the categories within the reach of people of modest means. And there is some form of rent control, because it has been disadvantageous to build quarters except with public money and public credit for moderate and lower income families. There is no such thing as private entrepreneurship except as a tax shelter, and that is a very inadequate way on which to depend for housing. But it is a political entity. While some parts of it are undeserved, other parts of it still remain essential.

We obviously cannot control rent control in the city of New York, and we obviously have made the only decision which makes any sense, which is that we are not going to tell the city to go bankrupt and cause us a real national calamity merely because "we are going to discipline you on the rent control issue." The great majority of the Senate has decided and, I think, quite properly, that you cannot do it that way. But we have done what I think will have a very material effect upon the way in which we handle our real estate.

I think on this bill, while the chairman of the committee and the ranking member may have been against it, they certainly lent themselves to fashioning a very, very tight system of control. Not only is there a financial monitor which has for the last 3 years proven to be courageous, effective, and truly regulatory in a very strict way, and shows every promise of continuing to do that, but also the terms and conditions of these guarantees which require budget balance within a very short time of 3 years, and require that every year from, beginning in, fiscal year 1980, the steps leading toward budget balance should be apparent, and do not even trust that to a matter of contract, and a matter of the jurisdiction of the Secretary of the Treasury to cut off guarantees, but they have now placed it within the power of either House of the Congress by a veto to cut off guarantees. In short, New York is going to have to toe the mark stronger than ever and, therefore, self-interest in order to be able to toe the mark will, in my opinion, have a very material effect on the rent control picture because it relates to the amount of revenue which can be raised by the property tax.

Remember that vast parts of New York go untaxed because of our constitutional inhibitions respecting charitable, educational, and similar institutions.

So, while Congress cannot control rent control, and Congress has decided not to take the drastic remedy of cutting New York off in order to discipline it, this act will eliminate or materially curtail further rent control, and has established a budget balance condition which I believe will lead to very constructive results not only in other features of the cost of municipal administration and employees, but in rent control as well.

Mr. President, again I emphasize the truth of the situation in terms of our country as to what has brought about this majority in the Senate now. I deeply believe that has now been sustained through all kinds of scrutiny and debate, and the Senate should, and I hope it will, concur with the pattern established in passing the bill in its action on the conference report.

Mr. PROXMIRE. Mr. President, I should like to say a few words about the rent control laws in New York City and the bearing these have on the city's financial problems.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. As I stand here today, in July 1978, with the U.S. Senate about to give final approval to yet another measure to provide financial assistance to New York City, it troubles me to reflect that we are no closer now to seeing a resolution of one of the city's most fundamental economic problems than we were in December of 1975, when Congress passed the first New York City financial aid measure. I refer to the city's system of rent regulation and rent stabilization.

A recent report issued by the temporary commission on city finances, one of many such reports which have been issued over the many years of the rent control programs, found that "both rent control and rent stabilization have played a critical role in the destruction of much of the city's rental housing, as well as costing the city hundreds of millions of dollars in lost real estate tax receipts, the single most important source of city revenues." That report went on to estimate that a gradual phaseout of rent control and rent stabilization would yield, in just the first 5 years, about $50 million more a year in real estate tax revenues.

Mr. President, as chairman of the Committee on Banking, Housing, and Urban Affairs, which handles the New York City financial aid legislation, I can state flatly that it is not the committee or the Congress which has ignored this problem. In its first oversight report on the New York City seasonal loan program, issued on May 17, 1976, a little over 2 years ago, the committee found that "the rent control program administered under State law is a major cause of the decline of New York City's housing stock and the erosion of its real estate tax base." The committee then went on to recommend "that the city and State confront this problem squarely and, if necessary, take the actions needed to phase out rent control."

I have pursued this matter in subsequent committee hearings, asking Governor Carey and Secretary Blumenthal and former Mayor Beame what should be done about the disastrous impact of rent controls, and would they support a phase-out of the various rent control laws. For the most part, I just got evasive answers. The most direct, and most candid, response came from Governor Carey, who stated simply in 1976:

> Frankly, this is an election year, and we have more tenants than landlords in the State.

The only real answer came in mid-1977. It was then that the New York State legislature passed a simple extension of the rent control laws for 4 more years, and the Governor signed the bill into law.

I think it is most regrettable that public officials in New York State and New York City are wholly unwilling to face up to this problem and deal with it sensibly. I recognize that it would not be realistic to attempt to do away with rent controls overnight, any more than it would be realistic to expect their impact on real estate investment and management practices to disappear overnight. Any effort to phase out rent controls would have to be gradual and would have to make some provision for aiding lower-income people affected by the phaseout. But the problem is that no one in New York has even begun to make such an effort.

Mr. President, the legislation before us today, the conference report on the New York City Loan Guarantee Act, does not make any mention of rent control. Rent control was not discussed in the House and Senate Committee markups of this legislation, or on the House floor, and it was mentioned only briefly in the debate on the Senate floor and in the conference committee. Therefore, it would not be appropriate to say that this

legislation mandates any action on the rent control issue. In any event, I feel it is something which should properly be handled at the local and State level, where the rent regulation laws are passed and administered.

However, I do feel strongly that it is time, and past time, that New York officials take action to rectify the problems caused by over 30 years of rent controls, by turning the tide and working to eliminate these laws. And I would urge the Secretary of the Treasury, in his continuing review of New York City's progress under the loan guarantee legislation, to assess the problems caused by rent control and rent stabilization and to keep bringing these matters to the attention of public officials in New York City and New York State.

I yield to the distinguished Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I thank the Senator for yielding, and I join in the remarks of the distinguished Senator from Wisconsin, the chairman of the Banking Committee.

Secretary of the Treasury Blumenthal stated to the Subcommittee on Economic Stabilization of the House Committee on Banking on March 2, 1978, that:

> The only way to break the downward spiral [in New York City] is to rebuild the private sector base.

I reemphasize the statement made by the Comptroller of the United States April 4, 1977, that:

> The rapid deterioration in the City's fiscal and economic base is the root of the City's problems. . . . The loss of tax revenues due to rent control has been estimated by the Federal Reserve Board of New York to be more than $220 million dollars in 1975.

In other words, the tax revenues which New York City is losing because of rent controls exceed the annual interest payment on the loans which the Federal Government will be guaranteeing. Obviously, this situation bears upon the integrity of the Federal Government's guarantees.

It was pointed out to the Senate by the distinguished Senator from North Carolina (Mr. MORGAN) on June 29, 1978, that the Temporary Commission on New York City Finances in its June 1977 report to the mayor found that,

> Rent control and rent stabilization have already facilitated the destruction, beyond repair, of a significant portion of the housing inventory of New York City, . . . cumulatively, this subsidy (to tenants) has exceeded $20 billion dollars. . . . By depressing property tax assessments and promoting real estate tax delinquency and the abandonment of rental properties, rent control and rent stabilization diminish receipts from the single most important source of City revenues, the real property tax.

Mr. President, New York City presently ranks last in the major cities of the United States in new housing starts. According to the U.S. Bureau of Census statistics released on January 31, 1978, the New York statistical area with an estimated population of 9,527,000 had approximately 8,000 new units started during 1976, or less than 1 new start per 1,000 population. I am greatly concerned what this decline in construction has meant in loss of jobs. It is estimated that 50,000 to 100,000 jobs will result by a revitalization of the residential construction and rehabilitation of existing housing to the 1963 level of 50,000 new units.

My concerns and those of my colleagues regarding New York rent control programs have been repeatedly expressed and emphasized by persons having impeccable credentials to comment. For example, the Business/Labor Working Group on Jobs and Economic Regeneration in New York City, the leaders of which were David Rockefeller, chairman of the board of the Chase Manhattan Bank, and Harry Van Arsdale, president, Central Labor Council, AFL–CIO, stated in its summary report—page 24—this past year:

> Eliminate rent controls in an orderly and fair manner.

That is exactly what the Senator from Wisconsin was addressing himself to, an orderly and fair manner. Back to the report:

> At present, some 40,000 units of housing a year are being abandoned in New York City. Assuming a conservative replacement cost of $50,000 a unit, this means a loss to the City of some $2 billion in capital investment annually. While many causes are involved, a major factor is artificial ceilings on rents which do not allow revenues to keep up with costs. The Citizens Housing and Planning Council, the Economic Development Council and others have prepared studies and recommendations to deal with this problem in an expeditious and equitable manner. We urge public officials to move on this issue quickly before yet more permanent damage is done.

Mr. President, during the course of the conference committee deliberations, I expressed my concern about the adverse results of rent control and rent stabilization in New York City during the past 33 years. It is my belief that the Congress, and the Secretary of the Treasury, should continue to review this matter since it obviously directly impacts upon the legislation before us. The ability of New York City to repay these loans must be of concern to all Members of Congress. I reiterate the request made to the conference committee which was as follows:

> In order to increase the long-term revenues of the City, the Secretary shall investigate the impact of rent controls and rent stabilization in New York City and the loss of revenue as the result thereof and after such investigation, if he deems it necessary, may require as one of such terms and conditions the phasing out of rent control and rent stabilization on vacant units in the City, as recommended by the Congress in 1975.

I urge, Mr. President, that these matters be considered promptly and seriously by the Secretary of the Treasury and that included in his report to the Congress he state the results.

In the absence of remedial action taken by the Secretary of the Treasury pursuant to the discretionary powers granted him in the pending legislation, I believe the Congress should then take such appropriate action as may be necessary, and this under the continuing review provisions under H.R. 12426.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from New Jersey and congratulate him on his remarks. I think we all recognize there is nobody in the Senate more concerned with housing, with the plight of the poor and the low-income people, with those who are ostensibly, theoretically, supposed to benefit from rent control. At the same time, the Senator recognizes, as I think all of us are beginning to recognize, thanks to him and the Senator from North Carolina, that if we are going to help the poor we have to adopt a far more rational policy of subsidizing rental housing which will be fair to all.

If you talk to people in New York City, as I am sure the Senator from New Jersey who is so familiar with New York has done, you would recognize that there are many, many well-to-do people, with mighty good incomes, substantial incomes, and they are the ones who benefit primarily from rent control. I think we have an absolute obligation to provide shelter for those who need it but who cannot afford it. That is one thing. To provide the kind of comprehensive rent control system New York has now, which covers people with very high incomes, middle incomes, and so forth, is obviously counterproductive. As the Senator has pointed out so well, very careful studies by objective experts have demonstrated that beyond a doubt.

Mr. WILLIAMS. And, of course, we do suggest that in view of the vacancies, the abandonments, this could be accomplished in these first stages without any harsh impact.

Mr. PROXMIRE. The statistics the Senator gave in the beginning of his statement, when he mentioned the great dynamism in New York and the great interest they have in providing shelter, is that New York City is last of all the major cities in the country in providing new housing. There is no question that there is a very distinct connection here, because New York City is the city which, more than any other city that I know of, does require rent control. There are few other cities in the country that do. New York has had it longer, has had it more comprehensively, than other cities have, and I think it is safe to say it has had a more damaging effect.

Mr. WILLIAMS. I think it is significant that everyone who is participating has an understanding of the life and the needs of people of the lower incomes. This should be a further indication that we are not suggesting anything that would bring harsh results to people of lower income, particularly in this period of great pressure, of great inflation.

Mr. PROXMIRE. I yield to the Senator from North Carolina.

Will the Senator permit the Senator from South Carolina to proceed? He has a statement he would like to make which is very brief.

Mr. MORGAN. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I would like to make a short statement in opposition to this approval of this conference report.

This bailout of New York City is not warranted and sets a dangerous precedent for the future. But even if this is overlooked, we cannot escape the fact that assisting New York is tantamount to approving all the abuses and excesses that the city has practiced in the past

and will, as a result of our approval, practice in the future. If in a few years we hear the same plea again the blame will be as much on this Congress as with New York City. If this city is to ever become fiscally sound and stay that way, it must bear the burden of its past mistakes and suffer the restrictions of limited resources. Our action relieves that burden and in effect, the lessons to be learned for the future are lost.

Another problem I have with the current bill, Mr. President, is that the amount of loan guarantees has increased now by $1.5 million. This is another million and a half dollars of the taxpayers' money to be tied up so that employees of New York City can remain among the highest paid municipal workers in this country. I felt, and strongly so, that $1.5 billion was excessive as did some of my colleagues, but now, we are asked to increase that amount. I continue to hope, Mr. President, although realizing the improbability, that others will see now the need to stop this misuse of funds.

I thank the Senator from North Carolina for yielding.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I agree with my distinguished colleagues, the Senator from Wisconsin and the Senator from New Jersey, on the question of rent controls for New York City. I spoke on the subject along with my colleague (Mr. PROXMIRE) earlier, because we think it does have a direct bearing on the recovery of New York City.

I might say in the beginning it is a little hard, sometimes, for the average person to understand how we can stand here in Washington and be concerned about rent control in New York City.

As I pointed out in my statement when the bill was passed, when a landlord finds himself in a situation where his rent is controlled, he cannot increase the rent to take care of inflationary costs which are spiraling, or repairs. He finds himself in the situation where he either lets the building deteriorate or abandons it completely, or, as it was pointed out in the colloquy earlier, many times they are sold to the insurance companies by way of arson.

In my earlier comments I gave some facts and figures on the deterioration of property values in New York City. I think my able colleagues have already established today very well the need for doing something about the rent control.

As I have previously pointed out to the Senate, the Federal Government must in its own interests act to bring about a phasing out of rent control and rent stabilization programs in New York City, so long as we are going to be called upon to guarantee the securities of New York City. This course is required by the inertia and the reluctance of New York City and State officials to deal with the problem. Their reluctance is based on political considerations.

It appears to me that the economic future of New York City is dismal and unviable unless rent controls are ended. Obviously, political considerations are an overriding element in the failure to do away with these outmoded and economically unfeasible programs.

As the distinguished chairman pointed out, Governor Carey, in his testimony before one of our Banking Committee hearings, said there are more renters than there are landlords. I think that is the reason for this colloquy today, to try to impress upon the political leaders of the State of New York the importance that we give to this problem.

Reference has already been made to the devastation to the city's financial tax base resulting from unpaid real estate taxes in New York City. All taxpayers in New York City, regardless of economic class, bear the burden of these unpaid taxes. Rent controls in New York have resulted in the middle-income owners subsidizing the middle-income property renters. This rent control program is not one that has any rational social purpose. It does not benefit only the underprivileged. Apartment units under rent control are available to all comers, regardless of their financial status or annual income. The wealthy are subsidized on the same basis as the lower income or poor citizens. There is no provision in the present New York rent control laws which relates eligibility for rent control apartments to the income of the apartment dwellers. As a social program, these rent controls are irrational; as an economic matter, they are disastrous.

There are a number of Federal and State programs which do subsidize tenants in need who have insufficient income to obtain proper housing. Our housing committee for years has been interested in this type of subsidization. I do not urge, nor do I understand my colleagues to urge, that these subsidized programs should in any way be terminated or revised.

A housing subsidy for the poor is an essential part of any social program. The wisdom of accomplishing this through rent controls is, in my opinion, nonexistent. These rent control programs have been largely responsible for driving New York City to the brink of financial disaster, and their continuance will prevent any renaissance in New York City real estat. They will stifle the normal new construction and improvement of housing units on which any large city must depend for its economic vitality.

I believe earlier, I gave the very low number of new housing units which had been started in New York recently. An initial start in the direction of phasing out these improvident statutes will be a vacancy decontrol program. This could have no disruptive effect on present renters in New York City, but will be a first step, and I repeat a first step, to phasing out the rent control and rent stabilization problems. It will permit owners of these vacated units to undertake improvements which otherwise would not be economically feasible. I commend the chairman, Mr. PROXMIRE, and my colleagues who have addressed this subject today, and join with them in urging that the Secretary of the Treasury take immediate steps to insure that the real estate base, the backbone of the financial well-being of New York City, is not further eroded, because of rent controls. A multitude of studies have already shown the devastating impact of rent control on the New York City economy, on the city's tax base, and on the construction industry. I shall not list them again. These studies should be reviewed as soon as possible by the Secretary of the Treasury, and he should gather any additional information that may be necessary to permit him to take such appropriate action as is necessary with regard to continued Federal assistance under H.R. 12426.

Mr. President, I again thank my colleagues for letting me join in this very important colloquy. I hope it will be of some interest to the officials of the city of New York.

(Mr. SARBANES assumed the chair.)

Mr. MOYNIHAN. Mr. President, I thank the Chair and the Senator from North Carolina. I thank also the chairman of the committee, Mr. PROXMIRE, for giving me this opportunity to speak.

I shall address myself first to the immediate subject of the colloquy which the Senator from New Jersey and the chairman have had.

I understand it to be not a condition of the passage of this legislation but a circumstance of the passage that the city of New York understands that the U.S. Senate expects that the issue of rent control will be addressed. It will be in the spirit—the open, factual, compassionate but realistic spirit—we have this morning and which the Senator from North Carolina spoke to on the day this legislation first passed the Senate. The Senator from Wisconsin, the chairman of the committee, said that the legislation does not mandate such action, but I believe it would be fair to state that it does anticipate it. That the request of the Secretary of the Treasury to include this matter in the annual review of the state of the city's condition seems to me to involve more than just an aspect of legislative history, but to indicate the will of this Chamber in a general sense.

The facts are as clear as can be. The Senator from New Jersey, who is perhaps our leading authority in this matter, cited the elemental evidence that New York City and its region is last in housing stocks. The finding of the business-labor group, headed by Mr. Rockefeller and Mr. Van Arsdale, is that some 50,000 housing units are abandoned each year, representing the destruction of capital in the area of $2 billion.

I do not wish to be anecdotal, but just this last week, a couple of times, I have had occasion to be in Harlem, which is a region that is familiar to me. I went to high school at East Harlem and went to the City College and I know that area rather well. It may be that my eyes have not been seeing as they ought to have done, but it seems to me that 3 years ago, maybe 2 years ago, there was a reasonable stability of real estate. I can report to you that the cancer of the South Bronx has reached 125th Street; 125th Street, one of the great commercial arteries of the city, has collapsed. It is being abandoned.

In the face of that, it is not enough to assert that it is too difficult or too dangerous to do what it is indicated clearly has to be done. I wish to indicate that Governor Carey has concerned himself with this matter, and Mayor

Koch has specificially addressed this matter.

Mr. President, I ask unanimous consent to have printed in the RECORD a paper on rent control from Mayor Koch's office.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

RENT CONTROL

Let me tell you something about rents in New York City. A lot has changed over the last decade. Under provisions of a 1970 local law, rates in many rent-controlled units have increased 86%. In addition, a 1971 State law has required all rent-controlled apartments that become vacant to be rented at the market or economic rent. These factors have no doubt contributed to the recent startling report of the U.S. Bureau of Labor Statistics that the typical household in the New York Metropolitan area spends 42% of its budget on housing.

The rent increase policies of the early 1970's were enacted to counteract the effects of the previous rent control policies of the 1950's and 1960's which failed to provide landlords with cash flow adequate to maintain their properties in the face of inflation.

Putting it another way, New York City is out of the "dark ages" in rent control. The City allows regular 7.5% annual rental increases to law-abiding landlords of apartments that are still subject to rent control. These increases move the rents to the economic level required to adequately maintain a property and provide a competitive rate of return.

The number of apartments subject to rent control decreases everyday as vacancies occur because vacated apartments may be rented at market rates. In fact, since 1970 the number of rent-controlled units has dropped from 1.2 million to about 500,000. If current trends in rent-controlled apartments continue for the next two years, by 1980 between 70% and 75% of the original 1.2 million rent-controlled housing units would no longer be subject to rent control.

The impact of all these changes in the Rent Law has been to give more money to the landlords who need additional funds to operate their buildings but it has increased the rent-paying burden of our citizens who have had to endure the ravages of unemployment and inflation themselves. Over 70% of all New York City housing units are rented and housing costs are the largest fixed cost in a family budget. Most rent-controlled tenants are relatively low income. In fact, in 1975, 66% rent-controlled households reported to the Census Bureau that their income was below $10,000; 78% had incomes below $12,500.

How does our situation in New York compare with that of other cities? In the 1960's New York was probably the only city with rent control. But it has been recently reported in Real Estate Weekly that between 230 and 250 cities now have some form of rent control ordinance. Clearly, other cities have also felt the need to respond to the terrific strain on tenants' budgets caused by the inflation of the 1970's. New York's current rent control policies attempt to maintain the delicate balance between the needs of owners and the needs, and the rent paying capacity, of tenants who are the very families that give New York the stability it needs.

RENT CONTROL: ANSWERS TO POTENTIAL QUESTIONS

What about rent stabilization?

Apartments in the rent-stabilized sector start out at market levels and get regular increases to cover increased costs to landlords.

What about abandonment?

Abandonment is an insidious urban ailment which is a result of many complex social and economic factors. It appears in Newark, Baltimore, Chicago, St. Louis and many other older urban areas that do not have rent control.

Mr. MOYNIHAN. Finally, my thoughts go beyond the specifics to the general and I say that it is true what my good friend from Texas says, that this legislation does little, if anything, to solve New York City's financial problems. But it is the fact that the Senate, with gallantry, has risen to the request we have made of it, done what it does not think perhaps to be the best thing to do, and done it, because we have asked that it be done. That is an act of support and perhaps of confidence, certainly of a certain kind of loyalty, to American arrangements that certainly New Yorkers want to recognize and acknowledge and try to comprehend, because something very large is at issue here.

I have remarked in the past that of all the separations of power in the American Constitution, perhaps the most important is the one that is not provided in the Constitution as such but is an unwritten appendage. That is the determination of Jefferson and the willingness of Hamilton to see that the political capital of the Nation was separate from the financial, cultural, intellectual, and industrial capital of the Nation—a profound idea of separation.

Jefferson wanted the Capital out of New York City, because New York City, in a sense, was the Capital as it would have been understood in any other country of the world, then or previously. He wanted the Capital moved to a swamp on the banks of the Potomac, which turned malarial in April such that any Congressman who stayed on until May might not be back in December, when Congress convened. He could not have anticipated air-conditioning or Dr. Walter Reed. It was his thought that there should be this separation between the banking, artistic, intellectual, industrial, and commercial world from the political capital of the country, so that it not be caught up in those other matters lest it begin to infect them and they it.

This arrangement has worked for a very long time. It is astonishing how pronounced it was in the 19th century: When General Grant died, no one thought to bury him in Washington; he was buried in New York City. When the French gave the Nation the great symbol for their fellow republic, they put it in New York Harbor. It never occurred to them to put it on the Mall.

This persisted only to be commenced to be undone by Franklin D. Roosevelt, a New Yorker, in the rise of the Nation and the advent of the great war, and which inevitably brought about the rise of this city.

The day when the medical association would routinely have its headquarters in Chicago, as with the Governors' conferences, and when most national associations would be in New York, is passing, and something will go out of our culture when it happens.

This has been precipitated by the bad fortune and the poor performance of government in New York City itself which has reduced us to the condition which a writer for the New Yorker magazine recently described as "recidivistic beggary."

It is not with any great pleasure that a Senator raised in and representing that great city rises to thank the Senate for having saved us this time. All I can say is that, genuinely, I do thank you, because something larger was at issue than just the well-being of a municipality. It is something to do with the constitutional separation, the extra-constitutional separation of political power from the rest of the society in America, which I think has made government possible.

I hope we will be deserving of your trust, because something was entrusted to us when Jefferson and Hamilton agreed to leave to the present arrangements and, in the main, New York has fulfilled that trust splendidly.

It is, in truth, the most important city in the world today, but it will be the measure of its citizenry that it should stay such.

The Senate has enabled us, has given us that opportunity. The test of it will be in our will and our capacity. It remains to me to thank my colleagues genuinely, to suggest that I hope we know what is required of us. I hope we will not disappoint the Senate and let down the Nation.

Finally, I want to say that of all the Members of the Senate, we are indebted to, and my formal thanks will be sufficient, I would like to add a personal note of admiration and, if she will allow the term, affection for Miss Elinor Bachrach, of the Senate Banking Committee, who with such awesome authority and gentle good nature has managed this most difficult and unrewarding task with a grace that only comes from intellect and character.

Mr. TOWER. Will the Senator yield?

Mr. PROXMIRE. Before that, let me just add to what he has said about the distinguished member of our staff, Elinor Bachrach, who has done so much work on this matter, and has been responsible for the committee reports we have filed, to a very great extent.

She has worked with some other very talented members of the staff of the Banking Committee. But I think everybody would agree she, more than anybody else, has put in the time, effort, intelligence, understanding, sympathy, and the good, hard, tough criticism of New York, which I hope will help New York to straighten out and fly right in the future.

But I think the Senator is right in saying New York does owe quite a debt to an almost anonymous young lady who has done so much to help the Senate arrive at a more rational position than we might have had, although I agree with the distinguished Senator from Texas that it would be more rational if we said, "No."

Mr. TOWER. Will the Senator yield for a question?

Mr. MOYNIHAN. I am honored to.

Mr. TOWER. I was intrigued by the Senator's remark that New York City is the most important city in the world. There are some who might take issue with that. I just wondered what the basis for the statement is.

Mr. MOYNIHAN. It is, first of all, the financial capital of the world.

Mr. TOWER. Aha! If it is then the financial capital of the world, why is it that it cannot manage its own fiscal affairs? Why does it not have the resolution to deal with its own problems?

Mr. MOYNIHAN. Well, one of the reasons is that the people who run the financial institutions are not the people who run the political institutions, and that is not a bad arrangement. It is an arrangement rather conducive to the effectiveness of both, it seems to me, and, this is one of the reasons I found myself in the Chamber last night speaking of what, it seemed to me, was a profoundly illiberal proposal to have the banks account for their foreign loans.

The whole notion that institutions of our society—private institutions—must be miniatures of the State strikes me as a profoundly illiberal view. I am sure it strikes the Senator from Texas the same way.

I do not mean in any way to complicate his political career, but he is a Senator who shares with me the honor of being a fellow of the London School of Economics.

The fact is that New York is the intellectual capital of the world in the sense that the most important public events are there, and that perhaps the world's most important newspapers are published there. Most of the major magazines of the Nation are published there. We happen to be at this moment the art capital of the world. The most important painting in the world was taking place in New York. We are the largest of what is derisively called the communications industry—that produce the gibberish and inconsequence that passes for evening television. We are the home of JACOB K. JAVITS, a fact which would add distinction to any municipality. We are the place which has the honor that when the Senator from Texas wishes to attend the opera, where does he go? And where is he most emphatically welcomed? And what could be more evidence of a, perhaps, fleeting, but for the moment unquestioned, ascendancy?

Mr. PROXMIRE. Mr. President, I want to join the distinguished junior Senator from New York and the senior Senator from New York, too, because they both took, roughly the same position. But I want to dispute my good friend from Texas on this matter.

I think there is no city in the world like New York, that can really compare with it. Of course, Milwaukee, Madison, Racine, and La Crosse are better cities, but they are not more important cities.

This is an important city, and I must say that the city is so much in so many ways.

If the Statue of Liberty could speak, some people say, all she would say is, "My arm is tired."

But that marvelous inscription, that Emma Lazarus poem:

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door.

Nothing expresses America better than those words. In my view, it also expresses New York. New York has not only said this to the world, we often view this as an invitation to Europe, or the people abroad, to come to our country.

It is also, in my view, an invitation to people to come to New York, American people to come to New York, and not simply to visit, but to come and face it, to face the biggest challenge in so many fields of endeavor anywhere.

If a young man wants to become a lawyer, where does he go? Where is the biggest challenge?

Mr. TOWER. To Houston—that is where he goes. [Laughter.]

Mr. PROXMIRE. Maybe a thousand years from now he may go there, after he goes to Milwaukee and Madison. Right now, they go to New York.

Mr. TOWER. Three of the top five largest law firms in the United States are located in Houston. I thought I would mention that.

Mr. PROXMIRE. Top in what way? With respect to oil?

Mr. TOWER. Numbers, size.

Mr. PROXMIRE. The Statue of Liberty, of course, is only the beginning. There is that marvelous skyline. When you come into New York in the evening, whether you are flying into New York, whether you come by ship, whether you drive into New York, it is so exciting. You just feel it.

The Empire State Building, the World Trade Building, the United Nations. There is no building in the world that gives more hope for peace or for what mankind really aspires to.

Mr. TOWER. That is a very arguable point, indeed.

Mr. PROXMIRE. There is nothing like Rockefeller Center in Houston, or even in Racine, Wis. [Laughter.]

Saint Patrick's Cathedral is one of the great cathedrals in the world.

It is such a marvelous, pluralistic city. We forget about Brooklyn. We forget about Queens. We forget about Staten Island. We forget about all the smells, the dirt, the crime—which, after all, is bigger and stronger in New York City than any other place. And that is what makes New York a zesty, tasty, exciting, dramatic place.

I might go on to say that, above all, it is the people. It is not the buildings. It is not the institutions. It is not even the art. It is the people. It is the fact that you have the Damon Runyons, the Billy Roses, the Walter Winchells, the William Sloan Coffins. Such a marvelous, amazing, spectacular variety of human beings.

As the Senator has pointed out, the New York Times, the New York Daily News, the New York Post, all the TV net works—all these elements are there.

But if New York has one quality above all, it is that fantastic brass, that ability to con you into buying the Brooklyn Bridge, con you into a $1.65 billion guarantee, when, as the Senator from Texas has pointed out, this is the credit capital of the world. New York should need credit like the Sahara needs sand, or like the Atlantic Ocean needs salt water, or like the Senate needs natural gas. [Laughter.]

New York has demonstrated that today in the fact that it has received this $1.65 billion guarantee—for a credit, of all things—sitting there with the 11 top banks, clearinghouse banks, which by themselves have $281 billion in assets. All New York needed was a little $1.65 billion, and they come to Washington to get it in order to avoid the risk, because they are awfully good at putting it over on us peasants from around the country.

I do love New York City. It is a great city. A marvelous city. No place else can you have a better time. It is a great place to live, too.

If you really want to be challenged, in spite of what the distinguished Senator from Texas has said, whether it is law, whether it is accounting, whether it is writing, whether it is poetry, whether it is art, whether it is ballet—regardless of what it is, that is the place to go, if you want a challenge, if you really want to take on the toughest place in the world and aspire to the greatest heights.

It is a wonderful city, and it is a great privilege to be conned by that city, even though that is exactly what is happening to us this morning. [Laughter.]

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. JAVITS. Mr. President, I was born in New York, and I have lived there all my life, other than during the war years when I served in the Army.

It does my heart great good to hear what the Senator from Wisconsin has said. It is very heartwarming. It puts me in mind of one thing, I say to the Senator from Wisconsin and the Senator from Texas.

I think it would be very good for the people of our city if this act—the Senator describes it amusingly, but I think it is an act of confidence by the Congress of the United States—could be considered as a vote of confidence given them, that we are not cut off from the United States, that not everybody wishes we were floating away, but that the Nation, in a sense, has taken us to its bosom, given us its trust, and expects us to deliver, to really make the city the pride to the United States which it is organically in the magnificent terms in which the Senator has described it.

I hope that for my city, and I believe that we have a good chance to do it.

I know that Senator PROXMIRE is against this; but, notwithstanding that, I think he has shown an extraordinary ability, as a Senator, to divide his views from his duties. He has contrived a bill and has been perfectly fair about its strengths and its weaknesses, and I believe this bill can help New York redeem itself. New York is a national institution; it is not just New York.

I know the enormous help that Elinor Bachrach has been to the Senator and the pride he has taken in her work. PAT MOYNIHAN described it beautifully and properly.

I hope the result will be a closer relationship between the people of the United States and the people of New York. I think both have enormous gains to be made in that relationship.

Mr. PROXMIRE. I thank the distin-

guished senior Senator from New York. I know he is completely sincere in his statement. I think the contribution the two great Senators from New York have made will help make this legislation constructive.

Although, as the Senator well knows, I have stated many times that I am against this legislation, I think it may help New York City do a more efficient and more responsible job, to balance its budget in the near future, and to be more self-reliant than ever.

Mr. TOWER. Mr. President, I will not get into the matter of which is the most important city. I believe we all have a great deal of pride in our respective cities throughout the country. That is a debate that could go on at very great length in this Chamber.

I note that, in fact, corporations are fleeing New York, locating their headquarters elsewhere, many of them in my own State, in Houston and Dallas.

I note that finance is becoming more decentralized in this country.

So far as the fine arts, the performing arts, and the literary arts are concerned, that, too, is becoming greatly decentralized in this country, and I think that is a healthy thing.

With all this, however, I think none of us denies that New York City is a great national asset; and those of us from other parts of the country who regard it as such can only be greatly chagrined that it has been mismanaged so badly. The question is, is it going to be managed properly in the future?

It seems to me that very often New York City is managed for the benefit of its public employees or for the perpetuation of certain political cliques in positions of power and influence; that, from time to time, it has ignored the real needs of its people and has failed to manage its affairs properly.

The basic question, then, is, what is going to happen in the future? Are they going to manage it properly in the future? What course must we take here to try to influence the course of events in the future in terms of the proper management of the affairs of that admittedly very great city?

I am concerned that this legislation does not make a positive contribution toward that future; therefore, I oppose it.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays on the conference report are ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, at the suggestion of Mr. TOWER and Mr. PROXMIRE I ask unanimous consent that further consideration of the conference report be set aside until 3:30 this afternoon and that in the meantime the Senate proceed to the consideration of the next order.

The PRESIDING OFFICER. Without objection, it is so ordered. Consideration of the conference report will be set aside until 3:30 p.m. this afternoon.

## HEALTH PLANNING AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2410, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2410) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development.

The PRESIDING OFFICER. Time for debate on this bill, S. 2410, is limited to 1 hour to be equally divided and controlled by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Pennsylvania (Mr. SCHWEIKER); with 30 minutes on any amendment, and 15 minutes on any debatable motion, appeal or point of order.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may put in a quorum call without the time being charged to either side until the managers can get to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make such a suggestion.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Bob Wenger, Stuart Shapiro, Larry Horowitz, Becky Beauregard, Sister Rosemary Donnely, Steve Paradise, Louise Ringwalt, Ellen Akst, and Craig Polhemus be permitted to have access to the floor during the consideration and votes on S. 2410.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the following staff members be permitted to be on the Senate floor during consideration of S. 2410, the Health Planning Act Amendments of 1978: David Winston, David Main, Polly Gault, Mary Bloch, Fran Paris, John Rother, and Barbara Green of the Human Resources Committee staff, Robert Rubin of Senator JAVITS' staff, Ginny Eby of Senator HAYAKAWA's staff, Mary Ann Simpson of Senator STEVENS' staff, and Cindy Root of Senator TOWER's staff.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I also ask unanimous consent that Nancy Olsen of the Human Resources staff be granted the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we are here today to ask for swift passage of Senate bill S. 2410, the Health Planning Amendments of 1978. This bill revises and extends the authorities and requirements under titles XV and XVI of the Public Health Service Act for health planning and health resources development.

Mr. President, I introduced this important legislation on January 23, 1978. The bill, unanimously reported by the Committee on Human Resources, was sponsored by myself and my distinguished colleagues, Senators SCHWEIKER, WILLIAMS, JAVITS, RANDOLPH, PELL, CHAFEE, HATHAWAY, CRANSTON, and BIDEN. The bill was referred to the Committee on Human Resources. I would especially like to thank my distinguished colleague, Senator SCHWEIKER, for working closely with me on this legislation. Three days of hearings were held in the Subcommittee on Health and Scientific Research on this legislation. Testimony was received from Senators CLARK and LEAHY, the Honorable Hale Champion, Under Secretary of the Department of Health, Education, and Welfare, the Honorable J. Joseph Garrahy, Governor of Rhode Island, chairman of the National Governors Association, Subcommittee on Health Policy, and the Honorable Edward Herschler, Governor of Wyoming. Other witnesses included physicians, hospital administrators, health planners, consumers, union leaders, representatives of HMO's, and officials of county government.

In addition statements were supplied for the record by 50 additional witnesses.

Mr. President, I would now like to explain the rationale behind this proposal.

The major purpose of this legislation is to strengthen and build upon the already functioning health planning network. The committee in its deliberations strongly emphasized that health planning should be a process in which both consumers and providers of health and mental health services work together to effectuate a better and more rational health delivery system than exists today. This will assist us in the goal of providing quality health care at a reasonable cost.

The committee found that the need for strengthened and coordinated planning for personal health services has grown more apparent each day. It was the view of the committee that the

health care industry does not respond to classic marketplace forces. The highly technical nature of medical services, together with the growth of third party reimbursement mechanism, acts to attenuate the usual forces influencing the behavior of consumers with respect to personal health services. For the most part, the doctor makes purchasing decisions on behalf of the patient and the services are frequently reimbursed under health insurance programs, thus reducing the patient's immediate incentive to contain expenditures.

Duplicative investment in costly health care resources, such as hospital beds, coronary care units or radiation treatment centers, is too often made in the same or a nearby area. Such investment not only results in capital accumulation but also establishes an ongoing demand for payment to support those services. There is convincing evidence from many sources that overbuilding of facilities has occurred in many areas, and that maldistribution of high-cost services persists.

A recently published study indicates that there are at least 100,000 unneeded hospital beds throughout the United States. Hospital beds, though unused, contribute substantial additional costs to the health care industry. It is estimated that a hospital bed, full or empty, costs between one-third and one-half its initial purchase cost each year to operate. Each $1,000 invested in hospital expansion requires at least $333 each year in operational financing. This operating cost exists whether or not the bed is occupied at a particular time. The same is true with respect to other medical facilities and services. A coronary care unit with a low rate of utilization, or an open heart surgery team which performs relatively few operations a year, requires a substantial proportion of the support required by similar services with a high utilization rate.

Widespread access and distribution problems exist with respect to medical facilities and services. In many urban areas, hospitals, clinics, and other medical care institutions and services are crowded into relatively tiny geographical areas, while other large areas go poorly served or completely unserved. Likewise, many rural communities are completely without a physician or any other type of health care service, while adjacent urban areas are oversupplied.

Mr. President, Federal efforts on behalf of national health planning and resources development have undergone several transformations. Although these programs made many notable contributions, they suffered from austere financing, overlap, and duplication of responsibilities, and absence of sufficient mandate for implementation of their plans. Additionally, there was inadequate Federal guidance as to national health priorities and goals. Planning agencies were in turn accused of knuckling under to the Nation's health providers and paying scant attention to the all-important cost implications of their decisions.

It was my concern over the fragmentation and mixed success of these earlier planning efforts that led me to introduce legislation that combined and integrated these programs with the enactment of the National Health Planning and Resources Development Act of 1974 (Public Law 93-641). In this legislation, clearer lines of authority were drawn with responsibilities and accountability specifically detailed; broader mandates were provided for actual implementation of the short- and long-range plans developed by the planning bodies; stronger sanctions were authorized; improved funding arrangements were included, so that agencies would not be dependent on contributions from health care providers, as had often been the case under the predecessor programs; and the extensive care was taken so that the point of view of those that utilized health care resources would be fully represented.

The legislation recognized State certificate of need programs to be the basic component in an overall effort to control the unnecessary capital expenditures which contribute so greatly to the total national health bill.

Congress drew up an ambitious array of responsibilities for the thousands of individuals in State and local planning agencies who would be involved in implementing the program including the de-escalation of the increasing costs of health care. Since that law was enacted, the issue of cost containment has assumed even greater significance. National health expenditures tripled between 1965 and 1975. In fiscal year 1977, the annual expenditures for health totaled $160 billion, up from the $139 billion spent in 1976. The rate of increase was approximately twice the rate of increase in the overall consumer price index for the same period. Without any intervention it has been estimated that this $160 billion spent on health care in 1977 will grow to $230 billion by 1980. Expenditures for hospital care, which account for 40 cents out of every dollar Americans spend on health care, have been growing far faster than the overall cost-of-living for more than two decades.

In this climate of escalating health costs, effective health planning has become an essential component in the overall strategy to control future increases and to introduce priorities in the allocation and use of finite resources. After 4 years experience with the planning law, Congress is now in a position to assess the strengths and deficiencies of the program and to legislate the changes necessary to improve the process and fulfill the goals set forth in the original legislation.

In preparation for the substantive consideration of amendments to the health planning program, the Committee on Human Resources solicited written comments from over 400 individuals and organizations concerned with the daily implementation of Public Law 93-641. As a result of this process, numerous thoughtful suggestions were incorporated into S. 2410 as originally introduced. Additional comments made in the course of public hearings led to various modifications which the committee believed would measurably enhance the program. Throughout these deliberations, the members and staff of the Subcommittee on Health and Scientific Research participated in an open and active dialog with officials at the Department of Health, Education, and Welfare, representatives of planning agencies, the health industry, including physicians and hospitals, consumer groups, labor unions, and the business community.

Testimony and discussions brought to the committee's attention a number of problem areas which S. 2410 as reported addresses. For example, numerous complaints were received that, despite the law's mandate for a consumer majority on HSA and other planning bodies, consumers remained at a disadvantage in challenging the community influence and technical information wielded by health care providers. In some cases the complaints centered around the lack of education and staff support for consumer board members. In other cases, it was charged that sincere efforts had not been made to attract representatives of low-income or medically undeserved groups, or that the selection process for board members had not been sufficiently well publicized or had resulted in self-perpetuating boards dominated by provider interests. The bill specifically addresses these concerns by assuring effective consumer participation through requirements for HSA staff to be assigned to consumer board members, an open selection process for HSA members in which current members may not select new members, improved liability protection for HSA and SHCC members, consumer majorities on HSA subcommittees, and advance payments for HSA members' expenses.

In similar fashion the bill assures representation of medical underserved populations, especially in rural areas, through explicit provisions for their representation on health systems agencies, statewide health coordinating councils, and the National Council for Health Planning.

Planning agencies in general urged the committee to increase overall funding levels to keep pace with the current rate of inflation and to recognize the necessity for additional funds as the program assumes new and broader responsibilities, particularly in the area of hospital cost containment.

I believe that it is imperative that the health planning agencies should be adequately funded in order to enable them to carry out their mandates and I hope that the authorizations contained in the proposed committee legislation will prove adequate to support the extensive and complex activities of the health planning agencies.

In response to the request of the National Governors that each Governor be given a more defined and visible role in the finalization of the State health plan and the State medical facilities plan, which together act as the planning document for health services throughout the State and the foundation on which certificate of need decisions are to be based, the bill provides that the State health plan and the State medical facilities plan developed by the State health coordinating council is to have the concurrence of the Governor. The committee intended in drafting this provision that the development of the SHP should be a continuing cooperative effort between the Gov-

ernor and the statewide health coordinating council.

Many provisions in the bill are aimed at strengthening the certificate of need program in order to insure linkages between planning and regulatory decisions. To accomplish this end, the bill provides that all certificate of need decisions be consistent with the State health plan developed individually in each State by its State and local planning agencies. To do less would eliminate any objective basis for decision making at the State and local level. Of course, there is sufficient flexibility in S. 2410 to provide for exceptions to this rule for emergency circumstances that pose a threat to public health such as might occur if a hospital's heating plant or the wing of a nursing home had to be replaced as a result of a natural calamity or accident.

The bill also extends the requirement for certificate of need review to any one piece of diagnostic or therapeutic equipment valued over $150,000 regardless of location and is designed to prevent discrimination against HMO's by establishing parity between HMO's and other providers of ambulatory health care. During committee consideration of the bill Senator HATCH offered an amendment to delete this key provision. This amendment was defeated 13 to 2. The provision in the committee's bill is intended to deal with a troublesome anomaly in current law that is increasingly being used by certain providers of health care to acquire very expensive equipment free of planning review. This equipment can add enormous costs to the health care system.

I know in a few moments we will be debating this particular issue and I will elaborate on the position of the committee at that time.

It is self-evident that planning cannot work if the same piece of expensive medical equipment will or will not be subject to certificate of need laws on the basis of who happens to purchase it. But this is the situation under the present law. This anomaly has resulted in physicians and clinics being allowed to purchase expensive medical equipment without having to demonstrate that the community served actually needs that equipment. The hospital serving the identical community would have to prove such need prior to the purchase. This is obviously unfair and destructive to rational planning and is contrary to congressional intent.

We find examples where a hospital is turned down for purchase of the equipment. Then right next door, a clinic will open up and go ahead and purchase the equipment. It makes absolutely no sense. We shall get into those examples during discussions of various amendments.

Some have attempted to frame this discussion as a State's rights issue. That is a smokescreen. States are already required to have in place a certificate of need law that covers certain basic services such as hospital construction and purchase of major medical equipment in most settings. The bill simply insures that the basic certificate of need provisions will cover such very expensive equipment in all settings. It is the equipment which the law will cover and which inflates medical costs.

While the American Medical Association is promoting this self-serving amendment, which would place physicians in a special class, they are the only major health care group who supports the amendment. Even the AMA-sponsored National Commission on the Cost of Medical Care, which was appointed by the AMA Board of Trustees, included 11 physicians, and was chaired by Dr. Max Parrott (AMA President 1975–76), specifically recommended a provision similar to that included in the committee's bill:

> If certificate of need legislation proves to be effective as a cost containment technique for inpatient institutions, then for the sake of consistency: Expand CON to provide settings outside the hospital, including private physician's offices.

Likewise, the respected Labor-Management Group, chaired by former Secretary of Labor John T. Dunlop, recommended in a recently completed report extending the certificate of need authority to include review of nonhospital expenditures.

Other groups in addition to the administration which support the provision that the Huddleston-Hatch amendment would delete include:

American Hospital Association.
National Council of Community Hospitals.
Washington Business Group on Health (made up of large corporations such as GM, Ford, IBM, Xerox, Goodyear, Citicorp).
Blue Cross.
Health Insurance Association of America (representing the commercial health insurance companies).
Labor-Management Task Force (chaired by former Secretary of Labor John T. Dunlop).
United Auto Workers.
AFL–CIO.
American Federation of State, County, and Municipal Employees.
Service Employees International Union.
American Health Planning Association.
Group Health Association of America.
Kaiser Foundation Health Plan.
Health Research Group.
Consumer Coalition on Health.
National Association of Counties.

The publication of the national health planning guidelines brought to public attention the national problem stemming from the already discussed oversupply of 100,000 hospital beds costing well over $2 billion a year. The guidelines called for planning agencies to use 4 hospital beds per 1,000 population and minimum occupancy levels of 80 percent as benchmarks health plans assessing the need for both new and existing resources in their respective health service areas are necessary. While some mistakenly feared that the guidelines thereby mandate HSA's to close unneeded existing facilities and beds, others correctly appreciated that hospital overcapacity was eroding efforts to control overall hospital costs.

Proposals to expand HSA and State agency authority to include decertification of unneeded facilities met with mixed reaction during hearings conducted by the Subcommittee on Health. However, there was almost unanimous support for some type of effort to encourage hospitals voluntarily to close or convert unneeded facilities. The bill establishes a new program to assist and encourage the voluntary discontinuance of unneeded or duplicative hospital services.

Mr. President, this is an important bill. The Committee on Human Resources, after 3 days of hearings, unanimously ordered it favorably reported. I am hopeful that my distinguished colleagues will join in passage of the health planning bill and defeat of the amendment to be offered by Senators HUDDLESTON and HATCH. By doing so, we will be improving the health planning process and reducing the costs of health care.

I yield such time as the Senator from Pennsylvania may want.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Tom Delbanco, Marcia Stanhope, and Sheila Burke of Senator DOLE's staff, Jeff Lewis of the Subcommittee on Aging, Marsha McCord of Senator EAGLETON's staff, and Lynn Wanlund of Senator HUDDLESTON's staff be granted the privilege of the floor during consideration of the bill.

Mr. KENNEDY. I ask unanimous consent that Miss Robinson of Senator NELSON's staff have the same privilege.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I rise today to speak in behalf of S. 2410, the Health Planning Act Amendments of 1978. As ranking Republican on the Health and Scientific Research Subcommittee of the Human Resources Committee, I have been a long-time supporter of a strong, local health planning process. I firmly believe that the way to achieve quality health care at a reasonable cost is through a planning process that includes participation from all consumer groups and providers, as well as local and State government agencies and officials. If we do not improve the planing process so that it can accomplish our goals of lowering health costs and distributing services to areas presently underserved, then it is my feeling that the most likely replacement would be a heavily regulated Federal program of hospital revenue control—an alternative I oppose.

Senator KENNEDY and I are submitting a package of amendments to the Human Resources Committee version of S. 2410. We have worked closely with members of the Human Resources Committee and Senators TOWER, BELLMON, and DOLE to develop these amendments to strengthen the planning process. In particular, we have significantly lowered the amounts contained in title II of S. 2410. The bill was too costly in its original form and the amounts now included in the substitute better reflect what we felt should be the priorities of the planning process.

One of the amendments being offered as a committee amendment will reduce the cost of the bill by $915 million. We now have a fiscal year 1979 authorization of $373 million for all the programs contained in the Health Planning Act. This is $125 million less than was contained for the fiscal year 1978 authorization. Additionally, we have accepted suggestions by Senator TOWER to further assure that any application submitted to a local health systems agency or a State health planning agency will not be rejected simply because the agency does

not act in a timely fashion, and that the guidelines issued by HEW for the health systems plans will be guidelines and not regulations.

These are two issues that I have been very interested in since we began consideration of this legislation. I felt that we had to make clear that the HEW guidelines are just that, and will not be used to preempt local decisionmaking. Also, health care providers should not be held at the whim of the project reviewers but allowed fair, timely consideration of their projects. I strongly support the Tower amendments and appreciate his further clarifying these issues.

HISTORY

The Federal effort in health planning began in 1946 with the enactment of the Hill-Burton Act, a program designed to identify and respond to the deficiencies in the supply and distribution of health care facilities. The thrust of the program was to provide Federal funds—first through grants and later through loans—to build new health facilities or to modernize and expand existing facilities. From 1947 to 1974 over $4.4 billion in grant funds have been appropriated and over $2 billion in loans or loan guarantees have been authorized. The Hill-Burton Act was, by most yardsticks, a great success. In fact it was perhaps too successful. By the late 1960's the Congress became concerned that we had too many beds and facilities. The major problem was not sheer numbers but the distribution of the health facilities. In addition, in 1966 Congress authorized the medicaid-medicare programs and, once the Federal Government became a major purchaser of services it became aware of the steeply rising costs and cast about for ways to deal with the problems of access and cost.

The primary response was enactment in 1966 of comprehensive health planning (P.L. 89–749). This act established the old 314a and 314b agencies at the State and local levels whose functions were to develop planning processes to produce comprehensive health plans for meeting current and future health needs. The role of the CHP agencies was further strengthened in 1972, when Congress enacted section 1122 of the Social Security Act which required certificate-of-need review for capital construction as a condition for reimbursement under medicaid or medicare.

By 1974 the Congress, in reviewing the programs mentioned above noted that considerable progress had been made but more was needed. We therefore approved Public Law 93–641 which established State and local planning agencies (HSA's, requires the establishment of certificate-of-need programs in each State, and authorized a loan guarantee program to facilitate construction of new health facilities and where appropriate, to modernize existing facilities.

The development of the program established under Public Law 93–641 has been at best mixed. The State agencies, the SHPDA (State health planning and development agency) and the SHCC's (State health coordinating councils) are in place and functioning: 86 health systems agencies have received conditional designation and 127 HSA's have been permanently designated. The process has not been easy and unfortunately took longer than anticipated—so much so that meaningful planning has only just begun. During the process certain problems have been identified. Basically the problems fall into three areas: accountability, responsibility, and performance.

ACCOUNTABILITY

A continuing problem is the accountability of the local HSA's. Approximately 90 percent of all HSA's are not for profit corporate structures who are accountable only to the board itself. Even in the very limited number of local government HSA's the regulations published by HEW have insured that the HSA governing board once established was not accountable to local government. In addition, we have become aware that in many areas the technical dominance of the HSA's by consumers is more apparent than real—in fact the boards are dominated by the provider members.

RESPONSIBILITY

Recently a major question has arisen over who is the dominant force in health planning. Is this to be a "bottom-up" planning or planning from the "top-down?" The Federal guidelines began with the assumption that the primary force was to be in Washington. Fortunately HEW, as a result of a nationwide outcry has backed away from their original position.

PERFORMANCE

The major concern of the Congress with regard to performance is whether or not the HSAS will be able or willing to make the hard decisions expected of them. Are they to become advocates for more and better health services or will they be tough enough to say no when appropriate? Our experience, to date, is limited, but is sufficient to cause some alarm. This is important because unless the HSAS can be effective in this area the whole program will fail.

WORK ON S. 2410

With these problems in mind the Subcommittee on Health and Scientific Research last October began a series of consultations with all interested groups to solicit their views or the existing programs and their suggestions for necessary changes. As a result of these consultations the subcommittee developed some basic assumptions upon which S. 2410 is based.

First. The existing HSAS, while not completely satisfactory were nevertheless making progress. It would therefore be counter productive to begin any wholesale changes in the composition of the HSAS. That would only delay the planning process.

Second. The role of the States in the planning process was too limited and should be expanded. No meaningful certificate-of-need program would be possible unless the States were given a larger role.

Third. The planning processes for physical health, mental health, and for alcohol and drug abuse were overlapping and duplicative.

Fourth. The health planning decisions should be made by local HSAS who are aware of local needs and circumstances.

Key changes, based on these assumptions to existing law, and in this bill, are:

First. The State Governors were given veto power over the State Health Plan. Under existing law the HSAS and the State Health Coordinating Council (SHCC)—dominated by the HSAS—developed the State plan without approval by the Governor. HEW had also adopted the position the plan must be reviewed and approved by the Secretary. S. 2410 provides that the Governor must approve the plan, and once approved, it is not subject to HEW veto or approval. The State plan is also not required to conform to Federal guidelines.

Second. The certificate-of-need authority is expanded and strengthened. State certificate-of-need is expanded to include acquisition of major equipment no matter where located, including the physician's office, and that is an element of controversy here today. In addition, the State's certificate-of-need decisions must be related to the approved State plan. In order to avoid unnecessary rigidity the bill provides for an exceptions process when deviation is necessary.

Third. The bill establishes a voluntary program to encourage hospitals to close, merge, or convert unnecessary facilities and services. A system of incentive grants is included to encourage the elimination of unneeded facilities and services.

Fourth. A system of incentive payments is included to encourage the planning, development, and delivery of ambulatory care services, and other alternatives to expensive (and often unneeded) hospital care.

Fifth. The role of the various State and local agencies is clarified so that planning for all health programs (physical health, mental health, alcohol and drug treatment program planning) are coordinated and duplication is eliminated.

Sixth. The private nonprofit HSA's would be prohibited from electing new members to their boards by the members of the boards themselves. They will be required to develop an acceptable process for selection of new members which does not include board selection.

Seventh. The governing body of local government HSA's will be given new authority to approve the HSA budget and the plan, and to remove, for cause, members of the governing board of the HSA.

Eighth. A judicial review process for appeals of certificate-of-need decisions is established. The current law is inexplicably silent on the issue and hospitals have complained about lack of due process.

Ninth. The unique health problems faced by medically underserved communities are targeted in the bill. We hear so often about our national priority to reduce the beds or services in medically overserved communities, but equally important is the need to see that all of our citizens have access to quality health care.

There are, of course, numerous other more technical amendments. But from my perspective these are the most important. I believe we must have a health planning process which is more accountable and more responsible. We must also insure that the principle of local planning is protected and enhanced. I believe the changes proposed in S. 2410 will go a long way toward alleviating some of

the more glaring problems in the planning process and will give the process a chance to succeed.

I think it is in the best interest of the country to give the planning process at the local level an opportunity to work, and that is what this bill is all about. If health planning does not succeed in insuring access to quality care and controlling costs at the local level, it will inevitably be replaced with ever more rigid Federal regulatory programs, from the centralized Federal Government agencies.

Mr. President, I urge my colleagues to join me in supporting S. 2410, as amended by Senator KENNEDY and myself. I believe that we have made major steps in improving the health planning process in this legislation, due to the hard work of Senator KENNEDY, as chairman, and Senator JAVITS, the ranking minority member of the Human Resources Committee, who has been exceedingly interested and devoted in this area, as well as other members of the committee.

Mr. President, I urge enactment of this bill.

Mr. WILLIAMS. Mr. President, I am pleased to join Senator KENNEDY and other members of the Committee on Human Resources in recommending passage of S. 2410, the Health Planning Amendments of 1978.

I have offered as a floor amendment a proposal to create a National Commission on Alcoholism and Alcohol-Related Problems which I will discuss in a separate statement. I appreciate the willingness of Senator KENNEDY to accept this proposal as an amendment to the bill we are considering today.

S. 2410, as reported by the committee, would revise and extend for 3 years the National Health Planning and Resources Development Act of 1974.

Federal involvement in health planning began more than 30 years ago with the Hill-Burton Hospital Construction Act. Subsequently, Federal participation in this area expanded with enactment of the Hill-Harris Amendments of 1964; the Heart Disease, Cancer and Stroke Amendments of 1965; and the Comprehensive Health Planning and Public Health Service Amendments of 1966.

By the early seventies, it was apparent that the Federal Government needed to do more in health planning activities. Existing laws lacked the elements necessary to shape a health care system that was both responsive to the health needs of Americans and managed in an efficient, equitable, and cost-effective manner. In response, Congress enacted the National Health Planning and Resources Development Act of 1974, authorizing a $1 billion, 3-year program to synthesize, redirect, and expand the planning activities of various State and local entities.

Emphasizing the need to involve consumers in decisions about the allocation of health care resources, the 1974 act required health providers, elected officials, and the public to share responsibility for health facilities and health services planning in their communities.

The committee believes that the planning agencies now in place need somewhat more time to mature. Thus, S. 2410, the Health Planning Amendments of 1978, redefines the provisions of current law coordinating and strengthening planning efforts already underway.

The bill supports existing planning networks in seven important ways:

First, the participation of providers, consumers, and public officers in the planning process is more carefully defined.

Second, the role of the Governor is strengthened through involvement in the formal approval of the State health plan.

Third, other Federal systems, such as Peer Standards Review Organizations (PSRO), the National Center for Health Statistics, and medicare and medicaid programs, are linked to the planning process.

Fourth, the special health needs of urban and rural medically underserved populations are represented at all stages of the planning process;

Fifth, the definition of health planning is revised to include mental health planning and the planning for alcohol and drug abuse programs;

Sixth, financial incentives are offered to hospitals to close, merge, or convert unneeded or unused facilities into ambulatory and long-term care services;

Seventh, the certificate-of-need (CON) review process is broadened to cover the purchase of all diagnostic or therapeutic equipment valued over $150,000 regardless of location.

This last provision has been the focus of much controversy in recent weeks.

Existing law requires that health care institutions seek a certificate-of-need before making major capital expenditures. Physicians and other health providers, not bound by statute, can acquire expensive equipment without such review. An inequitable situation has been created by these provisions of the 1974 health planning law.

The review of major equipment is now determined by who purchases it rather than by such factors as demonstrated need for the resource or its appropriate use and placement in the health service area. This is contrary to the intent of the existing law. By requiring that equipment valued at $150,000 be reviewed regardless of its location, S. 2410 secures the intent of existing statute.

The development of an efficient, equitable and economical health care system in the United States is a worthy goal. I believe a strong local planning process is vital to present and future health initiatives. Therefore, I urge prompt passage of S. 2410 without change to its essential certificate-of-need provisions.

Mr. President, I commend the excellence of thought and development that has been put into this legislation by the Senator from Massachusetts, the chairman of our subcommittee, and the ranking member, the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. HUDDLESTON addressed the Chair.

Mr. KENNEDY. Mr. President, would the Senator just permit us to offer a committee amendment?

Mr. HUDDLESTON. I yield to the Senator.

UP AMENDMENT NO. 1518

(Purpose: Reduce authorizations, make clarifying and technical changes, limit scope of health systems plans, require consultation or redesignation)

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, Mr. SCHWEIKER, Mr. WILLIAMS, Mr. JAVITS, and Mr. DOLE.

The PRESIDING OFFICER (Mr. NUNN). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and others, proposes an unprinted amendment numbered 1518.

The amendment is as follows:

SEC. 154. Section 1513(b)(2)(A) is amended by inserting "(primarily with regard to health care equipment, and health services provided by health care institutions, health care facilities, and other providers of health care and other health resources)" after "healthful environment."

Beginning on line 3, page 58, strike out through line 2, page 59, and substitute the following:

SEC. 130. (a) Section 1521(b)(4) is amended by (1) inserting "(A)" after "(4)"; (2) inserting "upon review (as provided in section 1535) of the State Agency's operation and performance of its function," before "he determines"; (3) adding at the end of paragraph (4)(A) (as so redesignated) the following: "Before renewing an agreement under this paragraph within a State Agency for a State, the Secretary shall provide each health systems agency designated for a health service area located (in whole or in part) in such State and the Statewide Health Coordinating Council an opportunity to comment on the performance of the State Agency and to provide a recommendation on whether such agreement should be renewed."; and (4) adding at the end thereof the following new paragraph: "(B) If upon review (as provided in section 1535) of the State Agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed or if the applicable State administrative program does not continue to meet the requirements of section 1522, he may terminate such agreement or return the State Agency to a conditionally designated status under paragraph (2) of subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such State Agency or enter into an agreement with such State Agency under paragraph (3) of subsection "(b).".

(b)(1) Paragraphs (3) and (4) of section 1521(b) are each amended by striking out "twelve months" and inserting in lieu thereof "thirty-six months".

(2) Section 1521(b)(3) is amended—

(A) by inserting "(A)" after "(3)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by amending clause (ii) (as so redesignated) to read as follows:

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B), that the designated State Agency is not complying with the provisions of such agreement.", and (D) by adding at the end the following:

"(B) Before the Secretary may terminate an agreeemnt with a designated State Agency under subparagraph (A)(ii), the Secretary shall—

"(i) consult with the Statewide Health Coordinating Council of the State of which the State Agency is designated respecting the proposed termination,

"(ii) give the State Agency notice of the intention to terminate the agreement and in

the notice specify with particularity (I) the basis for the determination of the Secretary that the State Agency is not in compliance with the agreement, and (II) the actions that the State Agency should take to come into compliance with the agreement, and

"(iii) provide the State Agency with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to designation agreements entered into under section 1521(b)(3) of the Public Health Service Act after the date of the enactment of this Act.".

Beginning on line 15, page 55, strike out through line 10, page 56, and substitute the following:

SEC. 127. (a)(1) Paragraphs (1) and (3) of section 1515(c) are each amended by striking out "twelve months" and inserting in lieu thereof "thirty-six months".

(2) Section 1515(c)(1) is amended—

(A) by inserting "(A)" after "(c)(1)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by amending clause (ii) (as so redesignated) to read as follows:

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B), that the entity is not complying with the provisions of such agreement.", and

(D) by adding at the end the following:

"(B) Before the Secretary may terminate, under subparagraph (A)(ii), an agreement with an entity for designation as the health systems agency for a health service area, the Secretary shall—

"(i) consult with the Governor and the Statewide Health Coordinating Council of each State in which is located the health service area respecting the proposed termination,

"(ii) give the entity notice of the intention to terminate the agreement and in the notice specify with particularity (I) the basis for the determination of the Secretary that the entity is not in compliance with the agreement, and (II) the actions that the entity should take to come into compliance with the agreement, and

"(iii) provide the entity with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.".

(3) The amendments made by paragraphs (1) and (2) shall take effect with respect to designation agreements entered into under section 1515(c) of the Public Health Service Act after the date of the enactment of this Act.

(b) Section 1515(c) (as amended by subsection (a)) is amended by adding after clause (ii) of paragraph (1)(A) the following: "A designation agreement under this subsection may be terminated by the Secretary before the expiration of its term if the health service area with respect to which the agreement was entered into is revised under section 1511(b)(4) and the Secretary determines, after consultation with the Governor and Statewide Health Coordinating Council of each State in which the health service area (as revised) is located that the health systems agency designated under such agreement cannot effectively carry out the agreement for the area (as revised). In terminating an agreement under the preceding sentence, the Secretary shall provide that the termination shall not take effect before an agreement for the designation of a new agency takes effect and shall provide the agency designated under the agreement to be terminated an opportunity to terminate its affairs in a satisfactory manner.".

(c) Section 1515(c)(3) is amended by (1) inserting "(A)" after "(3)"; (2) inserting during the period of the agreement to be renewed" after "section 1513"; and (3) by adding at the end thereof the following new paragraphs:

"(B) If upon review (as provided in section 1535) of the agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 1513 during the period of the agreement to be renewed or does not continue to meet the requirements of section 1512(b), he may terminate such agreement or return such agency to a conditionally designated status under subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such agency or enter into an agreement with such agency under paragraph (1).

"(C) Before renewing an agreement with a health systems agency under this subsection, the Secretary shall provide the State health planning and development agency and the Statewide Health Coordinating Council of the State in which the health systems agency is located an opportunity to comment on the performance of such agency and to provide a recommendation on whether such agreement should be renewed and whether its renewal should be made subject to conditions as authorized by paragraph (3).

"(D) If the Secretary enters into an agreement under this subsection with an entity or renews such an agreement, the Secretary shall notify the Governor of the State in which such entity is located of the agreement, its renewal, and, if any conditions have been imposed under paragraph (3), such conditions.".

(d) The last sentence of section 1515(c)(2) is amended to read as follows: "In considering such applications, the Secretary shall give priority to any application which has been recommended by a Governor or a Statewide Health Coordinating Council for approval.".

(e) Section 1515(b)(4) is amended by striking out the last sentence and substituting: "In considering such applications, the Secretary shall give priority to any application which has been recommended by a Governor or a Statewide Health Coordinating Council for approval. When the Secretary enters into an agreement with an entity under paragraph (1), the Secretary shall notify the Governor of the State in which such entity is located of such agreement.".

On page 66, insert the following between lines 21 and 22:

SEC. 143. (a) Section 1532(b)(2) is amended by adding at the end the following new sentence: "Failure of a health systems agency or State Agency to complete a review within the period prescribed for the review may not be deemed by such an entity to constitute a negative finding, recommendation, or decision with respect to the subject of such review.".

(b) Section 1524(c) is amended by adding at the end thereof the following new paragraph:

"(7) Failure of a SHCC to complete a review within the period prescribed for the review may not be deemed by such an entity to constitute a negative finding, recommendation, or decision with respect to the subject of such review.".

On page 66, line 22, strike "Sec. 143." and substitute "(c)".

On page 84, strike lines 4 through 14.

On page 84, line 15, strike "(f)" and substitute "(e)".

On page 85, line 7, strike "(g)" and substitute "(f)".

On page 52, insert the following between lines 23 and 24:

(d) Section 1513(b)(2)(C) is amended by striking "and is consistent with".

(e) Section 1513(b) is amended by adding at the end thereof the following new paragraph:

"(5) The agency shall submit to the State Health Planning and Development Agency, the Statewide Health Coordinating Council, and the Secretary a detailed statement of the reasons for any inconsistencies between its HSP and AIP and the national guidelines and priorities established under this Act."

On page 45, insert the following between lines 24 and 25:

(c) Section 1512(b)(3)(C)(ii)(II) is amended by inserting "rehabilitation facilities," after "long-term care facilities,".

On page 75, strike lines 15 through 18 and substitute the following:

"SEC. 202. Section 1613 is amended by adding at the end thereof the following new".

On page 76, section 205 is amended by (1) striking "$120,000,000" and substituting "$40,000,000"; (2) striking "$150,000,000" and substituting "$70,000,000"; and (3) striking "$180,000,000" and substituting "$130,000,000".

On page 85, line 8, strike "$150,000,000" and substitute "$50,000,000".

On page 85, line 9, strike "$200,000,000" and substitute "$100,000,000".

On page 85, line 10, strike "$250,000,000" and substitute "$150,000,000".

On page 38, line 5, strike "eighteen" and substitute "twenty".

On page 38, line 10, strike "seven" and substitute "eight".

Mr. KENNEDY. Mr. President, this amendment makes a number of changes in the bill as reported by the Human Resources Committee, which I encourage my colleagues to accept.

First, it emphasizes that HSA's should focus their attention primarily on issues dealing with health care equipment, health services provided by health care institutions, health care facilities, and other providers of health care. I remain committed to the local planning process, but this amendment will redefine the broad mandate of the HSA's.

Second, we have reduced the levels of authorizations in the bill. Many of the programs in the committee's bill have never had any funds appropriated and additional data received since the markup have convinced us that with the current excess in health care facilities in most parts of the country, Federal assistance in this area is no longer needed. For this reason we have reduced the funding in sections 1613 and 1640.

Additionally, the Department of Health, Education, and Welfare has indicated that they will be unable to gear up fully for the important closure and conversion section, and we have thus reduced the levels of authorizations for this new programs and eliminated the extra payment to the HSA's. I am pleased to have worked so closely on this with my distinguished colleagues Senators DOLE and BELLMON.

Third, this amendment increases the membership on the National Council for Health Planning to 20 members. This is an important body, and I am hopeful that the Secretary when he fills these and other vacancies will insure that the membership includes individuals knowledgeable in the management of institutional health services such as hospitals.

In response to the sentiment expressed following the release of the national guidelines for health planning, we have eliminated the requirement that all HSP's be consistent with the national guidelines. I believe that the development of these guidelines should be an

evolving process, and believe that until the state of the art is more refined in this area that the HSA's should be allowed some flexibility. Included, however, is a provision in this amendment that requires the HSA's to state why their AIP's and HSP's are inconsistent with the national guidelines.

There is also an amendment that would clarify current law to assure that the failure of an HSA or State agency to complete a review within a prescribed time period could not be used as a "pocket veto." I feel strongly that to perpetuate the current HEW regulation on this issue fails every test of fairness and is the antithesis of due process.

Also included are a series of amendments that clarify the role for the Governor, the State health coordinating councils, and the Secretary in the designation and resignation of HSA's and State agencies, and a conforming amendment concerning rehabilitative facilities.

Mr. SCHWEIKER. Mr. President, we strongly support this amendment and urge its adoption.

Mr. KENNEDY. I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I thank Senator KENNEDY and other members of the Human Resources Committee for accepting my amendment which would clarify the scope of the health systems plans. I am sure that this amendment will reaffirm to the HSAS and the communities they serve the congressional intent that they primarily concern themselves with the task of improving health services in areas that are underserved, while trying to cut down on services and facilities in areas which are overserved.

Mr. President, today I would like to call attention to a committee amendment to S. 2410, the Health Planning and Resource Development Act Amendments of 1978, which would, for the first time, offer health systems agencies a clear delineation of the intended scope of their health systems plan.

Section 1513(b) of existing law lists among the functions of health systems agencies the promulgation of a health systems plan (HSP) "which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area * * *"

In this very broad mandate the words "healthful environment" have created confusion and uncertainty regarding the appropriate content of an HSP. Obviously, a description of a "healthful environment" might include details of virtually any feature of our surroundings potentially affecting physical or mental health, however broadly those terms might be defined. Indeed, one health systems agency, using this broad authority, recently promulgated an HSP that outlined specific goals for the HSA on a broad range of public policy issues, including antismoking, gun control, air quality, sex education, general traffic safety standards, air bags, the 55-mile-per-hour speed limit, and auto emission standards.



A public controversy resulted that not only diverted the attention of the HSA from its primary and more immediate functions, but also caused the county board of supervisors to withhold a significant amount of local funding for the HSA. Other HSA's across the country have found themselves embroiled in similar controversy as a result of taking stands on broad public policy issues.

Mr. President, while there is no question that the challenge of improving the health of the American people requires public decisionmaking on many issues relating to our environment and lifestyles, I do not think Congress designed health systems agencies to be the vehicle for resolving such a broad range of problems. The Health Planning Act, and health systems agencies, were created primarily to eliminate waste and duplication in the allocation of health services, facilities, and institutions. My amendment, therefore, would qualify the meaning of the term "healthful environment" in existing law so that it would encompass primarily "health care equipment, and health services provided by health care institutions, health care facilities, and other providers of health care and other health resources."

During the review of the Health Planning Act leading to S. 2410, one of the major problems uncovered was the difficulty HSA's are having in developing health systems plans. It is clear that if the HSA's are to succeed in developing these plans, their endeavors must become more, rather than less focused. The HSA's have more than enough to do in developing health systems plans with regard to facilities and services, particularly with the new decertification authority these amendments propose. Should HSA's inject themselves into the amorphous and emotional areas addressed by the HSA I referred to earlier, their resources are likely to be so diverted that those plans may never become a reality.

Additionally, I am concerned that, should HSA's become involved in the broad range of controversial issues potentially relating to a "healthful environment," local funding for the HSA's might be placed in jeopardy. This danger is all too clearly illustrated by the situation I referred to above.

Finally, Mr. President, I am also concerned about whether HSA's are as accountable as we would want public decisionmaking bodies to be in setting policy on the full range of issues related to a "healthful environment." There have already been many criticisms of the process by which HSA's reach decisions on matters relating simply to the consolidation of services and equipment. We have attempted in this bill to improve that process. Nevertheless, I doubt that the planning process has sufficient credibility at the moment to enable it to resolve issues relating to airbags, gun control, sex education, and the like. While we have tried to structure the HSA's to handle matters specifically relating to duplication among facilities and services, I think it would be wiser to leave issues going beyond these narrow functions to publicly elected officials, existing legislative bodies, and judicial procedures.

Mr. President, I believe the thrust of my amendment simply clarifies Congress' original thinking on this matter, and I hope my colleagues will support it.

Mr. DOLE. Mr. President, I am pleased to cosponsor this amendment to S. 2410 which contains a provision resulting in a reduction of $915 million in the authorization levels. The initial purposes in the development and passage of Public Law 93–641 in 1974 were to reduce the fragmentation of earlier planning efforts, and to provide the States and, more importantly, the local areas, with control over the development of health services and the building of health facilities, thereby containing and/or reducing the soaring costs of health care delivery throughout our Nation.

PROGRESS OF THE STATE AND LOCAL PLANNING ACTIVITIES

Now some 4 years later, and after a 1-year extension of the original act by Congress in 1977, the States and local areas are just beginning to develop their health plans and assess their needs for health services and facilities. HEW reports the full designation status of some 123 health systems agencies and five State health planning and development agencies. Recognizing this progress, there remains a degree of paradox in speaking of cost containment as the original intent of the Health Planning Act, while Congress makes a new commitment to ever increasing fiscal spending for this purpose.

Mr. President, in this time of limited budgetary resources, we must carefully scrutinize each Federal program to insure that it is utilizing Federal dollars in the best possible way. In this time of continuing inflation, we must insure that Federal policies do not exacerbate increases in costs.

STATE ALLOTMENTS

One provision of the amendment would delete all funding for section 1613, the facility formula grants. This program was intended to provide funds to the States for the construction of hospital facilities. Although funds were appropriated for the program in 1976, none have been spent.

As my colleagues are aware, the State allotments program is only one of many programs through which medical facilities—particularly hospitals—receive Federal support for construction and renovation.

The need for these construction programs is currently in serious question. As a Nation we have approximately 100,000 extra hospital beds, costing as much as $4 billion annually; $1.6 billion of the cost of unused hospital capacity is paid by the Federal Government. Moreover, in the last 3 years hospital costs have been increasing at an annual rate of 12.6 percent. Over the same period, the CPI averaged 7.1 percent. One factor in this hospital cost inflation has been the existence of excess capacity that encourages unneeded medical care.

By reauthorizing funding of the State allotments program, we would pursue a self-defeating policy with regard to health care costs. On the one hand, Congress considers efforts to control costs,

while at the same time reauthorizing $405 million for further facility construction and renovation that may well fuel further health care cost inflation.

Mr. President, the number of programs that support medical facility construction is overwhelming. Between 1945 and 1973 the Federal Government funded $4.3 billion worth of medical facility construction through the Hill-Burton program. The majority of these funds went to financing 358,000 new hospital beds—about one-third of all existing community hospital beds.

Although the Hill-Burton program has been phased out, title XVI of the Public Health Service Act now authorizes loans, loan guarantees, and interest subsidies, as well as direct grants to medical facilities and grants to State governments for construction or renovation. Furthermore, S. 2474, the Health Services Extension Act, contained reauthorizations for several programs that support medical facility construction. Public works employment grants, Farmers Home Loan Administration direct loans, and FHA mortgage insurance all provide Federal support for construction or renovation of medical facilities. Approximately 6.9 percent of medicare payments, or $2 billion, is paid for interest and depreciation charges related to capital investment. Beyond programs directly supporting expansion of medical facility plants, this country has invested $4 billion annually in tax exempt municipal bonds to finance hospital construction.

My effort to reduce the authorization levels of the specific program and other programs in the bill is a response to those who ask for caution in our decisions to commit more Federal dollars. It is not our intention to prevent the planning process from taking place.

STATE PLANNING

We should continue to allow the States to exercise their rights to make their own decisions. We must provide them with the promised national guidelines that will assist them in developing programs that will increase the health benefits to our citizens in both urban and rural communities, while at the same time reduce the inflationary trend of our health care costs. However, guidelines must be guidelines—they should be provided only to give guidance to the States and localities in making their decisions. The guidelines should not be offered to provide more stringent Federal regulation of the process that is now moving toward a system of planning that encourages local decisionmaking.

I thank my distinguished colleague, Senator TOWER, for his attention to this issue, and am pleased to note that other provisions contained in this amendment address this issue.

ISSUES AND PROBLEMS

Rather than attempting to increase Federal control of the planning process, I am pleased to note that the focus has been placed on the strengths and deficiencies of the program and of legislating the changes necessary to improve State and local planning.

Let us give the States the opportunity to show their ability to provide efficient health services while reducing the costs of health care. Let us lend them the support they need, while being fiscally responsible. Let us not add to the inflationary spiral of the health care system, whether it be reflected in planning, or in the delivery of services.

CONCLUSION

In conclusion, I offer my thanks to my distinguished colleagues, Senators SCHWEIKER and KENNEDY, for their willingness to support this compromise which addresses the need for the Congress to be fiscally responsible. I am pleased to join in the sponsoring of this amendment, and I urge its support and adoption.

The PRESIDING OFFICER (Mr. FORD). The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 3098

Mr. HUDDLESTON. Mr. President, I call up my amendment No. 3098.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an amendment numbered 3098:

On page 62, line 25, insert after "other" the word "covered".

On page 65, line 13, insert after "acquired" the phrase "by a health care facility".

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. On our time, on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUDDLESTON. Mr. President, in addition to the name of the Senator from Utah (Mr. HATCH), I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: The Senator from Tennessee (Mr. SASSER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alabama (Mrs. ALLEN), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from California (Mr. HAYAKAWA), and the Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, since we are under a very short time agreement and the Senator from Utah (Mr. HATCH) and others would like to speak to this amendment, I will be very brief in explaining its purpose—with which most Senators, I believe, may already be familiar.

Mr. President, very simply put, this is a "States' rights" amendment designed to protect their existing options to deal with so-called certificate of need requirements under the health planning law. In particular, it would preserve their ability to apply CON to the noninstitutional, or private office, setting as they see fit rather than federally mandating regulation of all major equipment purchases and tying coverage of one new class of ambulatory providers, that is, HMO's, to coverage of individual practitioners.

The amendment would accomplish this aim by inserting the word "covered" after the word "other" on page 62, line 25, and by adding the phrase "by a health care facility" after the word "acquired" on page 65, line 13. These changes would have the combined effect of allowing the States to themselves determine whether and to what degree they want to extend certificate of need review beyond the basic hospital-related facilities.

As the language of the revelant provisions in the bill now stands, of course, States would be compelled to expand the CON laws they have already adopted or broaden the scope of their initial law when they do enact it in two ways: First, they would be forced to require preauthorization of all major medical equipment purchases which either HMO's or any private practitioners wish to make to improve their health care delivery capabilities; and second, they would be barred from requiring prior approval of an HMO's establishment, construction, equipping, and program of services unless they were also willing to impose the same preliminary review clearance on doctors, dentists, nurses, chiropractors, clinical psychologists, and the like—telling them in effect what, where, whether, and how they can conduct their practices.

For a law which was supposed to return health policymaking decisions to the local level, it seems to me that sort of dramatic Federal mandate thrust upon the States represents a rather substantial preemption of authority without any very reasonable or realistic alternatives. Accordingly, our amendment would restore the choices which States have had to act in this area without affecting the committee's effort to ease the requirements applicable to HMO's. It would do this by making all noninstitutional coverage permissive—granting no exemptions but stipulating no inclusions or contingency coverage either.

For the sake of clarity—and because there have, unfortunately, been some misconceptions circulated regarding the effect of this amendment—I think it would be well to articulate exactly what our proposed modification is intended to do in terms of CON application to both HMO's and private practitioners. With regard to diagnostic equipment, for example, we are talking about optional State coverage for nonhospital HMO's, outpatient clinics, private offices, and indeed, any entity which is not within the definition of a "health care facility," as it is used in the Public Health Service Act. All that means is that States could

cover such ambulatory providers, but would not have to, as the committee bill now requires.

By qualifying the expression "providers of ambulatory health care" with the word "covered" in the section dealing with across-the-board CON review, we are merely deferring again to State prerogative—allowing them to cover HMO's and others who are not within the definition of "institutional health services" as they see fit. The real difference between the committee's language and what we are proposing is that HMO's would not be "coupled" or grouped with all other ambulatory providers; instead, all noninstitutional entities, including HMO's, would be treated independently according to State determination of desirability and appropriateness.

The net effect of the change would be to say to the States: "You do not have to cover either HMO's or private offices unless you want to. Then you can cover anyone, a combination, or all of them as you deem necessary, but inclusion of one would have no bearing on your inclusion or exclusion of another. The only contingency would be that, in the event you cover an ambulatory provider in a certain specified category such as equipment—and coverage in that same category is also extended to HMO's—it can be no more restrictive on HMO's than it is on the other covered provider."

Now if my colleagues find that recitation a bit confusing and convoluted, they have a sympathetic ally in the Senator from Kentucky. The problem in trying to modify an obscure provision such as the one in question, however, is that it invariably still comes out ambiguous. Our purpose was to inject the element of State discretion into the section in the cleanest way possible—without disturbing the basic notion—and the only other way to do that, it seemed to me, would have been to add a more lengthy phrase at the end to make it read, "other providers of ambulatory health care which the States choose to cover."

In any event, to dispell the notion that our amendment would somehow require HMO's to be covered, I offer the following excerpt of an interpretive memorandum I had prepared by the Congressional Research Service:

> The addition of the term "covered" does not lend itself to an unambiguous interpretation of the above language. It would not appear, however, that if a State Agency wished to cover some types of ambulatory health care services that HMO's would also be required to be covered under the State's review procedures. That is, the State Agency could still choose not to cover HMO's while covering other types of health care services. This reading would probably be consistent with other provisions of the Health Planning Law.

The similar clarification I wish to make on this point is that States would certainly also, with our modification, be able to cover HMO's without covering any other types of ambulatory health care services. It has to work both ways in order to be a pure State option for each separate category of regulation, so that if a State wants to review HMO's for services, facilities, equipment, and organization—but only review private offices for, say, equipment, or not at all or vice versa—it can, provided only that the requirements in the selective category are no more stringent for HMO's than for the other ambulatory providers, if any, which it has chosen to cover.

Obviously, the "in addition to" language which the committee utilized in this section of the bill gives a certain advantage to HMO's which it does not give to others, but with our amendment the States will at least have the opportunity to decide of what providers and for what types of activity they wish to require CON review.

Mr. President, when I was the majority leader of the Kentucky State Senate and our current presiding officer of the senate was the Governor of the State of Kentucky, we helped to develop the certificate-of-need law which we enacted even before Congress incorporated the concept into its National Health Planning and Resources Development Act of 1974. For that reason, I support the basic purpose of CON so far as institutions are concerned just as I support the planning law itself. But in 1972 we in the Kentucky Legislature felt that, given the essential objective of CON to review the construction of new bed facilities, it would be not only administratively infeasible but impractical, inappropriate, and ineffective—probably even counterproductive—to expand its application into the ambulatory setting.

I still maintain that same belief today, Mr. President, and while I would not want to deny any State the right to experiment in that area if they so choose, neither would I want to tell them they have to do it against their better judgment and preference—or worse yet, perhaps, that they cannot do it except in accordance with the "not unless you also" contingencies we specify in a quest to grant certain providers preferential treatment. I am especially pleased that the National Conference of State Legislatures has echoed this theme and endorsed our amendment as consistent with their advocacy of local self-determination in the area of health planning—and I hope that every Senator has had a chance to read the copy of their resolution which accompanied a "Dear Colleague" letter of last week.

I think we have to be sensitive to what the NCSL is saying to us here for two basic reasons: One, we are talking about a provision in a law which has as its central core a promise of a return of health policymaking authority to the local level; indeed, 32 States have already used that authority to reach a decision on this specific issue. And two, we are debating the matter in an atmosphere of less, not more, government regulation—which certainly, certificate of need expansion represents.

While much as been made, also, about the notion of our trying to erode a committee "cost-saving" provision, I have to be very frank in labeling that something of a ploy to detract from the real issue under consideration. For Senators who most certainly have a right to be concerned about such a possibility, we have circulated a brief, half-page response for them to consider—but on balance I would just suggest as a matter of economics that more government regulation of any kind seldom reduces costs and that this issue should not properly be decided on that basis.

This amendment is totally in keeping with the spirit and intent of Public Law 93-641, Mr. President, and I believe the choice it offers is one with which we can all identify. I have no interest in either championing or damaging the cause of HMO enthusiasts or private medicine proponents; I do, however, think we have a commitment to live up to in entrusting the design and implementation of health planning policy of this kind to the States—and this amendment is a fulfillment of that pledge.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HUDDLESTON. I yield to the Senator from Florida without the time being counted against me.

Mr. STONE. I appreciate that.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, I ask unanimous consent that two members of my staff, Edward Horowitz and Craig Wolfson, be accorded the privilege of the floor during this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the distinguished Senator.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator from Utah (Mr. HATCH).

Mr. HATCH. Mr. President, I expand upon what my colleague from Kentucky has said by focusing further on the State preemption aspects of the certificate of need provisions in this bill and illustrating why this is a matter of such concern to us. I would also like to inject a bit of perspective on the CON issue as we discussed it during the committee markup on this legislation.

First of all, Senators should be aware that what the committee is really trying to do with the language in question in S. 2410 is extend what was originally supposed to be a review process for institutional bed facilities into the private office setting. It is clearly a calculated endeavor on their part to gain a "first-step" regulatory foothold over all individual practitioners of medicine—eventually bringing them under the complete umbrella of Government control.

At the same time we are examining the bill's motives with respect to fee-for-service entities, I think we would also do well to reflect on the State experience with this matter. For instance, fully 32 of the 39 States with CON laws have directly considered doing what the committee bill is advocating—that is, extending certificate of need requirements to the private office setting—yet only 6 of those 32 have chosen to do so.

It is no wonder the National Conference of State Legislatures is so sensitive about this prospect of the U.S. Senate telling their member State lawmaking bodies that "our judgment is better and wiser than 26 of yours; 18 of you are not going to be allowed to decide this issue after all, even though we told you 4 years ago that you were; and 6

of you have got the right idea, but do not go far enough, so we are going to make you expand your laws to cover private officers just like you do HMO's."

The "States' rights" argument is hardly a "smokescreen" as the committee has suggested, Mr. President, when you consider that the "right" which we extend to them in the original planning act—and which 39 of them have exercised when adopting their CON laws—would, if the bill remains unchanged, be taken away. Either we are going to be sincere and consistent in our promise of local health policymaking or we are going to make a mockery of the law which is supposed to stand for all that.

The idea of injecting Federal regulatory controls into the private office setting is no small matter either, especially when the States have demonstrated such an overwhelming unwillingness to do it themselves. Philosophically and practically, we are not just talking about "one small piece of equipment," for the committee provision is general in its application and would establish a precedent subjecting all licensed providers of health care to Federal scrutiny. The next step is obvious.

While much has been made by HMO proponents of the "uncoupling" aspect of our amendment, how can they in good conscience say:

> We cannot make a case for ourselves at the State level unless we are tied to all ambulatory providers?

It seems to me there is something wrong when a health care delivery alternative is unable to stand on its own merits and has to obtain leverage in another way.

When there is such substantial Federal financial support going for the establishment of HMO's, as we discussed last week, it would seem only natural and appropriate that we ask them to measure up to certain Federal review criteria such as certificate of need. But when there is no corresponding Federal support going for the establishment of private offices, it would seem equally natural that we should recognize a distinction and concede the impropriety of Federal review.

That is exactly why the States should be allowed to sort this thing out themselves. For if the committee should prevail on this issue, the States would be given a rather harsh choice to make: Either exempt HMO's from their CON laws or extend at least matching coverage—despite its obvious administrative infeasibility—to everyone else who delivers any type of health care—and not just for equipment, but for choosing a location, setting up shop, and offering a given set of services as well.

The only other matter I want to comment upon is the committee's attempt to throw up a diversion and somehow call what they are advocating a "cost-saving" measure. How they can maintain that certificate of need regulation of private offices is going to reduce health care costs when we do not have any reliable unrefuted data to demonstrate that it is even accomplishing that with the existing institutional coverage is one of the real mysteries of this debate to me.

Quoting from the most recent HEW analysis of CON effectiveness done by Prof. David Salkever of Johns Hopkins and Thomas Bice of Washington University—entitled "Impact of State Certificate of Need Laws on Health Care Costs and Utilization," for example:

> In summary, our analysis points to the (perhaps) surprising conclusion that CON controls have contributed to cost inflation; thus, they have tended to produce the very result which they were designed to prevent, . . ." At a minimum, our findings signal the need for a much more thorough and detailed study of the effectiveness of certificate of need regulation as a cost control device. The presumption of its effectiveness is clearly not warranted by the available evidence.

Mr. President, that "more thorough and detailed study" which Professors Salkever and Bice recommended has just been undertaken by HEW—and I have just the specifications for it, just the protocol, right here. They are paying two Boston-area consulting firms over half a million dollars—$535,000 to be exact—to do this study, and yet here we are in the Senate talking about expanding the concept to be evaluated before we even know the results of their findings.

I do not know about other Senators, but that poses a definite problem for me. It just seems that when we are talking about regulating doctors' offices; suppressing technology; preempting the States in the process; and spending a half million dollars to find out whether or not something is working—but broadening it beyond its current scope in the meantime—then that is a rather remarkable position for the Senate to be taking.

That is the position the opponents of the amendment are suggesting to us, however, and I just hope all my colleagues might give it some serious thought before being persuaded to go along. Our amendment is fair, reasonable, and responsible, on the other hand, and would place the whole certificate of need issue in its proper perspective.

All time has expired for the proponents of the amendment.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is it in order to ask for a division of the amendment of the Senator from Kentucky?

The PRESIDING OFFICER. It is in order for the Senator to ask for a division of the amendment.

Mr. KENNEDY. I request a division of the amendment.

The PRESIDING OFFICER. The Senator has the right to request a division.

Mr. SCHWEIKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHWEIKER. Does a request for a division in that way given equal time for the segments under the unanimous-consent agreement?

The PRESIDING OFFICER. The effect of a division is to continue the time as it was, with back-to-back votes on the division.

Mr. SCHWEIKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHWEIKER. If the request were made that the amendments be considered separately, would that affect the time of the division?

The PRESIDING OFFICER. If the amendments had been offered separately then they would have separate times. Otherwise the time on the division of the amendment runs as the original time agreement.

Mr. SCHWEIKER. Do I understand that if one of us demands that the amendments be considered separately that we do not get separate time considerations for those amendments?

The PRESIDING OFFICER. Under the prevailing cirumstances that is right.

Mr. HUDDLESTON. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. HUDDLESTON. Is it permissible to make a division at this time with the time restraints remaining after one side has already used up its time?

The PRESIDING OFFICER. The Chair must advise the Senator that it is in order.

Mr. KENNEDY. Mr. President, I do not make that request then at this particular time.

The PRESIDING OFFICER. The Chair is of the opinion that the Senator from Massachusetts has already made the request.

Mr. KENNEDY. Well, I ask unanimous consent to withdraw it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has 15 minutes.

Mr. HATCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. Assuming that this is the same issue but attaches to two sections of the amendment is it still subject to division?

The PRESIDING OFFICER. The amendment as it now appears at the desk is divisible.

Mr. HATCH. But this only attacks one issue but two separate parts of the amendment. Is it still subject to division?

The PRESIDING OFFICER. It is.

Mr. HATCH. I thank the Chair.

Mr. KENNEDY. Mr. President, I understand we have 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, there are two basic issues which are posed by the Huddleston-Hatch amendment. The Senators from Kentucky and Utah in both their oral statements, and the Senator from Utah in his remarks before our committee, have made their points.

First of all, the Senator from Kentucky makes the point about the infringement of the certificate of need on various States. Well, the fact of the matter is that basically the Senate has answered that question when it passed a law in 1974 requiring State certificate-of-need legislation. Prior to 1974 there were probably four or five States that had certificates of need. But the Congress, in its judgment, established the requirement

that States formulate certificate-of-need laws, and over 37 States at the present time have them.

The argument that is made by the Senator from Kentucky, on the one hand, is that in the attempt of the Senate to try to deal with the issue of equipment, whether it be in the hospital or be in the clinic, should be an issue that ought to be resolved at the State level. That leads us, if we follow his conclusion and his rationale, to some extraordinary conclusions.

In Miami, Fla., for example, the Northway Parkway General Hospital submitted an application for a CAT scanner. It was refused because of lack of demonstrated need.

The physicians in the hospital formed an association, and installed the scanner in the clinic across the street. Since a group of physicians purchased the equipment, the purchase was immune from review.

The effect of the Senator from Kentucky's amendment is that if the planning agency, which is made up of providers, consumers, the medical profession, and people within the local community, decides that a piece of equipment is not necessary in order to provide good health in a particular area, that doctors who have a financial interest can open a clinic right next door to the hospital and virtually buy all the equipment they want.

We have established a floor of $150,000 for equipment. We are not requiring that the doctors get a certificate of need for every thermometer or bedpan. It is when a piece of equipment costs more than $150,000.

If we accept the amendment of the Senator from Kentucky you can be sure that you are effectively gutting a provision that would reduce the duplication of equipment.

We have illustrations where in one case the health planning agency said, "All right, you need a CAT scanner," in a particular hospital. Then what happens after they have done a total review at a great deal of cost?

The next day the doctors go out and decide they want the same kind of facility, too. So they go out and buy it and they get reimbursed by medicare and medicaid.

The increased cost to the hospital may be 20 to 30 percent. What possible sense does that make? What possible sense does that make when we are talking about trying to get some control on the costs of health care and begin to effectively contain costs. We cannot bow to the power of the American Medical Association to gut any kind of effective cost containment.

On the other hand, as a result of the amendemnt of the Senator from Kentucky and the Senator from Utah we are going to just add more and more money right into the already inefficient system.

We recognize that just about 50 percent of the increase in costs in hospitals is due to technology and equipment. This amendment would open up another loophole for medicare and medicaid to funnel billions of dollars through without improving any kind of quality care.

I did not hear one word from either the Senator from Kentucky or the Senator from Utah about how this is going to improve the health of the American people, not one.

The fact of the matter is that this is a prestige, high-cost technology issue where the doctors want to be able to say, "OK, you have a piece of equipment next door and we want our boys to have it too."

The Senate Health Subcommittee said,

> Let us cover that equipment no matter where it is, whether it is in the institution, in the hospitals or wherever it is. If it is needed, let us get it. If the American public needs it in terms of improving their health, let us go ahead and get it. But if it is not needed, why go ahead and purchase it?

You end up with Uncle Sam paying the bill. It is not the State of Kentucky, it is medicare and medicaid that go out and pay the bill. We have an interest in this.

Now, with regard to the HMO—how much time do I have remaining?

Mr. HATCH. Mr. President, will the Senator yield?

Mr. KENNEDY. I would just like to complete my remarks.

Mr. HATCH. This is a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes remaining.

Mr. HATCH. That is all the time the Senator has used?

Mr. KENNEDY. I think we can find more time. We will get a little more time, whatever time we need. I would yield time on the bill or ask consent to get additional time. This is the major amendment on these two parts.

Now, on the second part of the amendment that concerns health maintenance organizations.

In the committee's bill we have tried to be more precise, more sophisticated in dealing with the question of whether HMO's are actually providing institutional health services.

Under the amendment of the Senator from Kentucky an HMO would be covered under certificate of need but a group health practice would be excluded. All we are saying is, treat them just the same way.

If the Senator from Kentucky or the Senator from Utah can tell me what the difference is between a group health practice and an HMO outside of a prepaid payment, then I will be interested in listening to their explanation.

The interesting fact of the matter is, Mr. President, that here we have the prepaid programs, which this amendment will help stultify, even though we find they are one of the most cost effective programs we have today. We do not want to open up the door with regard to expensive facilities, but close down the door with regard to one of the most effective programs in reducing health costs in the country today.

We will show the Senator from Kentucky, for example, that in the 11 HMO's we have in my own State of Massachusetts that treat medicaid patients, they do it at 25 percent less cost than they do with fees for service segment. But he wants to eliminate that.

All we are saying is, treat them the same way.

Mr. President, I yield whatever time I have remaining to the Senator from Pennsylvania, withholding 15 seconds at the end.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes and 45 seconds.

Mr. SCHWEIKER. Mr. President, it is my intention, when I finish speaking on this amendment, to demand that the two issues contained in this amendment be considered separately. The amendment offered by the Senator from Kentucky addresses two sections of S. 2410. These two issues are quite different, and I am going to ask for a separate vote on each one.

First, Mr. President, I support the chairman of the Health and Scientific Research Subcommittee, Senator KENNEDY, and the points he is making on this matter. This is not a small item. I talked last night with the dean of the University of California Public Health School. He said that in a matter of 2 years, we will be paying a billion dollars a year for the use of CAT scanners. We will be putting a billion dollars a year through our health care system into CAT scanners. So when you talk about "this little item," you are talking about a billion-dollar-a-year cost.

Who is to decide whether the American people want this? All we are saying in our bill is that the States ought to decide it. It is a States' rights issue. I do not agree that we are taking their rights away from them; we are giving them the right to review. All we are saying is that they should make a decision in each case on whether a clinic or a hospital should have a CAT scanner.

They can still give that clinic a CAT scanner. They can give a private (group) practice that CAT scanner; if they feel it is not duplicative, if it is not a cost burden, they can do that. We took a complete States' rights approach. The State agency decides who can have it, and who cannot. We simply say they must make a judgment on the clinics' request just as they must make a judgment on the request of the hospital.

How can we ask a hospital administrator to stick with the system when we do not ask the clinics to do so? The provisions in S. 2410 treat them alike. We cannot say to the hospital administrators, "You stick with the system, but everybody else can go outside the system."

We want a clinic and a hospital to be judged equally in the certificate of need process. Maybe they both should have CAT scanners, or maybe one and not the other, but somebody in the State should make that determination, when it involves a billion-dollar-a-year investment in CAT scanners.

So much for the first part of the amendment. The second part is quite a different thing. It deals with health maintenance organizations. By opposing part II of the Huddleston-Hatch amendment and supporting the committee position we will be saying that the stringent controls we put on HMO's in the original HMO Act in 1974 should be removed because those requirements are more restrictive than those we imposed on the fee-for-service system.

The Planning Act as now written says

that an HMO must get a certificate of need for all phases of its operation. Not just for hospital beds, but even for ambulatory facilities. The law is written unfairly, discriminating against HMO's. It says they have to get a certificate of need for the construction of ambulatory health care facilities, and for purchases of expensive equipment for use outside hospitals. They have to get a certificate of need but the fee-for-service provider, does not. He does not have to get a certificate of need for building ambulatory care facilities. He does not have to get a certificate of need for purchasing equipment for use outside hospitals.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHWEIKER. I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator may proceed.

Mr. SCHWEIKER. All we are saying in the committee bill, the provision taken from the Schweiker-Kennedy HMO bill is that there should not be this discrimination against HMO's. Just give HMO's the same treament you give the doctors. That is all.

This is a different issue from mandatory coverage of equipment. Our provision simply says that an HMO, which is designed to be cost effective, shall have the same treatment that the fee-for-service doctors have.

Several years ago we in the Congress—erroneously, I think—wrote into the Federal planning law that HMO's had to be covered by CON for everything they do—but not the fee-for-service system. This simply remedies the situation and equates CON treatment. I hope that will be perceived as Senators determine how to cast their votes, Mr. President.

Mr. President, I demand that the two sections of the amendment be considered separately.

Mr. KENNEDY. Will the Senator withhold that, since we have a short timeframe, to see whether other Senators wish to speak? Then we will close down the time.

Mr. HUDDLESTON. I would like to proceed briefly.

Mr. KENNEDY. I would like to ask maybe one other——

Mr. SCHWEIKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHWEIKER. If I demand that the amendment be divided, that does not shut off the time at this point?

The PRESIDING OFFICER. A division, as stated earlier, will not affect the time.

Mr. SCHWEIKER. Mr. President, I demand that the sections be considered separately.

The PRESIDING OFFICER. Is the Senator objecting to considering the amendments en bloc?

Mr. SCHWEIKER. I am demanding that they be considered separately for voting purposes.

The PRESIDING OFFICER. Is the Senator asking for a division of the amendment?

Mr. SCHWEIKER. Yes.

The PRESIDING OFFICER. The Senator can do that. A division of the amendment has been requested, and back-to-back votes on the two sections will occur as a result of that request.

Mr. SCHWEIKER. Mr. President, I will conclude in another minute or so, and give other Senators time to reply.

I think it is unfortunate that the amendment as drafted really touches on two such different issues. One section of the amendment deals with discrimination against HMO's, with a provision relieving that discrimination. The other considers whether hospitals and doctors shall have to meet the same test on equipment purchases.

The HMO part of the amendment does not relate to the equipment part at all. It simply deals with ambulatory health care facilities, providing that in commencing operations on building an ambulatory facility, they have to get a certificate of need.

Our judgment here is that they should be treated just the same as everybody else in the health care delivery system, just the same as the private clinics and the doctors. We are just asking for equal treatment.

I do hope that we judge these issues in separate ways.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes on the bill.

I ask unanimous consent for whatever time the Senator from Kentucky and the Senator from Utah would request.

I have a question of my friend from Pennsylvania.

If there was a situation in Philadelphia, for example, where doctors wanted to go and develop a group health practive in the fee-for-service model, as I understand, they can commence operations. They can build an ambulatory care facility; and they can purchase expensive equipment; and they will not be covered at all under the certificate of need. They can get that facility, they can get the equipment, and the only time they would be covered is actually if they were to develop a hospital. Would I be correct? That would be the fee-for-service program. As I understand, that would be the situation. Does the Senator agree with me?

Mr. SCHWEIKER. I certainly do agree. I might say that we have heard evidence before our committee, if the Senator will yield 1 minute, that some HSAS that have been provider-oriented have used the CON procedure to block an HMO from performing as efficiently as it could. In the case of Rutgers Community Health Plan they requested certificates of need and ran into so many technical roadblocks that they were severely hampered. The Senator is exactly right.

Mr. KENNEDY. If it is a group practice which is a fee-for-service, and has the clinic, has the doctors, has the expensive equipment, they are not covered. If it is a prepaid program, that being the only difference, then they would be covered. The desire of this legislation is to equalize those particular points.

Mr. SCHWEIKER. The Senator is correct. That is my reason for pointing out that the two separate amendments should not have been combined in this way in the first place.

Mr. KENNEDY. There is nothing in this amendment which says that if the State of Kentucky wants to include the one, they will not be able to include the other. Am I correct?

Mr. SCHWEIKER. That is absolutely true. They still would have a complete right to make that determination.

Mr. KENNEDY. Mr. President, I ask unanimous consent for an additional 15 minutes for the proponents of the bill, and maybe 6 minutes for the opponents.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The proponents have 15 minutes and the opponents have 6 minutes.

Mr. HUDDLESTON. Mr. President, I yield myself 4 minutes.

All of us are concerned about the high cost of medical service in this country. We all applaud and support reasonable efforts to in any way reduce the burden upon our citizens for this very important and necessary expense. There is considerable question, however, Mr. President, as to whether or not the issue with which we are dealing right now, the certificate of need process, is in fact an effective cost-saving program, and has been demonstrated as such.

I bring that out because there have been numerous studies made. One indicated that not only has it not been proved conclusively that it is a cost-saving method, but, in fact, may inflate costs. The Department of HEW is contracting for a study costing $535,000 to make a determination as to whether or not the certificate of need program indeed reduces the cost of medical services.

I think to support this on a cost basis exclusively is to deny the fact that up until now, at least, we do not know for certain that it is effective. But assuming that it is, taking for granted that we can reduce medical costs to our people through a certificate of need program, there are reasons to support the amendment we are offering here today.

The question of whether private offices ought to be considered on the same basis as institutional treatment or HMO's is one that deserves some attention.

Medicare and medicaid costs, for instance, in hospitals are figured on the cost of operating that hospital, which includes the cost of building the hospital and the cost of equipping it. There is some reason to have some control over what those cost inputs are.

But in the private setting, medicare and medicaid fees for doctors are figured without regard to the kind of equipment they use. So a doctor in Louisville, Ky., using nothing but a stethoscope will have the same charge to medicare and medicaid as a doctor in the same city who may have a million dollars worth of equipment to be used.

So it does not follow, necessarily, that by restricting the installation of equipment in a doctor's office you reduce his cost charged to medicare and medicaid.

Second, this same CAT scanner that we refer to today operated in a hospital is vastly more expensive to the patient there than the same scanner operated in

a doctor's office. If we are talking about saving money, this is not necessarily the way to achieve that.

We have talked about HMO's and how they are to be treated. We are looking for equality also, but we want to leave the decision up to the State. The bill as presented does not provide parity, as has been stated. It requires that only HMO's be treated no more stringently than other private practitioners. That means that the doctor's office can be required to undergo a much more stringent requirement than HMO's. It means if a State does decide to require that an HMO receive a certificate of need certification from the beginning, then the young doctor who wants to open his own office in the area has to have that same certificate of need approved.

There is a legal question involved about whether or not you ought to, or have to, treat institutions which receive Federal support the same way you treat a private office. A recent Supreme Court decision said that the Federal Government does have a right to impose certain requirements where Federal funds are involved, and that makes sense. If we are spending Federal money to build a hospital, to equip a hospital, we ought to have some say about the cost of operating that hospital.

A considerable amount of Federal money has been appropriated to assist the establishment of HMO's. There is a Federal interest there, and there is some reason to have some Federal control.

If the private physicians referred to by the Senator from Massachusetts want to open a clinic and buy expensive equipment, that is a private decision. There is no Federal money in opening the clinic and there is no Federal money in buying the equipment. So there is a vast difference there.

I think it is reasonable to assume that good businessmen, whether they be physicians or whatever, are not going to squander great sums of money on equipment that is not needed, equipment that cannot be used, and equipment for which they cannot, in effect, recover the cost.

Mr. CURTIS. Will the distinguished Senator yield for a question?

Mr. HUDDLESTON. I yield.

Mr. CURTIS. Is it true that an HMO that does not participate in the Federal subsidy program, has no Federal relation, and has no incentive for buying equipment beyond their prudent needs?

Mr. HUDDLESTON. I cannot imagine that they would. The whole purpose of their operation is to operate as inexpensively as possible. That is the only way they can keep their head above water.

Mr. CURTIS. Does anybody know in the total amount we are authorizing to be spent on health planning, whether or not that saving is anywhere near that much money as it costs?

Mr. HUDDLESTON. I do not totally understand the question. I do not have the figures on what health planning saves.

Mr. CURTIS. It is in the bill, how much is authorized. Does the Senator have any evidence that we are saving the amount in the cost saving?

Mr. HUDDLESTON. I refer that to the Senator from Massachusetts.

Mr. KENNEDY. If the Senator will yield, we will be glad to resubmit it.

Mr. CURTIS. I am talking about the whole field of health planning.

Mr. KENNEDY. I thought the question was with regard to health maintenance organizations.

Mr. CURTIS. That was another question. What I am asking is, Is all this health planning in Washington costing more than it is saving?

Mr. HUDDLESTON. Let me answer the question by saying that the Department of HEW is going to spend a half million dollars to try to ascertain that. I believe it is inconclusive at this point, although there are some studies.

Mr. CURTIS. That answers my question. I think it is quite inconclusive.

Mr. SASSER. Will the Senator yield for a unanimous-consent request?

Mr. CURTIS. I yield.

Mr. SASSER. I ask unanimous consent that John Nelson of the Budget Committee be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I ask the same for Gerald Rosen of Senator GRIFFIN's staff, and Hargrave McElroy, of Senator THURMOND's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I appreciate my distinguished colleague's statement. I think he has attacked a number of the issues that are very important. I think the questions raised by my distinguished colleague from Nebraska have been equally important.

That is, even the basic certificate-of-need concept, as it now applies to institutions, has never been proven cost effective. What we are doing here is what we always do in the U.S. Senate, or at least have done over 42 of the last 46 years: Whenever we want to do something, we create the U.S. Government as an aura over everything that goes on in the private sector. In this particular area, what we are going to do is take away the rights of the States to determine whether or not they can grant these certificates of need in the sense that neither the amendment offered in committee nor the one introduced for floor consideration by Senator HUDDLESTON would delete anything.

Instead, it would merely leave to State discretion whether to apply certificate-of-need requirements beyond the basic hospital-related setting. Inclusion of both HMO's and individual practitioners would thus be a local decision, based on local determinations of necessity and not decided by a faceless bureaucracy back here in Washington, with which everybody is getting sick and tired.

The most recent study done by HEW on the point of cost effectiveness concluded that certificate-of-need controls have contributed to cost inflation. That is what we are going to do here. We are going to have more controls, tell the doctors what they can and cannot do, provide, it seems to me, less beneficial care, and in the end, take away free rights for the States.

All of the wonderful comments about how we are going to have the Federal Government save money, I think, are just poppycock. Every time we have placed our confidence in the Federal Government and in the bureaucracy which we have built up around here, we have placed our confidence in the wrong approach. That is what we want to do here, another Federal Government approach, another big Government approach, to solve problems that are very readily solvable right now.

I think it is time that we started waking up to realize that people out there in the States are sick and tired of having more and more oppression, more and more rights taken away, and less and less services and less and less benefit from them. That is what is happening with this bill, especially in this particular situation.

Individual practitioners—doctors, if you will—can never match the resources of a large institution in order to place them on an "equal footing" in competing for the approval of the HSA. In rural areas, particularly, with the certificate-of-need process requiring upwards of $25,000 of administrative costs just to successfully achieve clearance authority, patients would simply be denied ready access to advanced technological services because providers would not have the ability even to apply.

In other words, we are going to take rights away from the citizens out there in the States merely so we can have another Federal Government agency and more control right here. It does not make sense in my book, and I am getting awfully tired of it.

I think it is a classic State's rights issue because the States currently have the right to decide for themselves as to any application of certificate of need outside the institutional setting for which the concept was designed. To now preempt that right by requiring them to expand coverage to the ambulatory setting whether they want to or not, as the committee provision would do, is most certainly an infringement of the local health policy-making authority.

How can Federal regulatory requirements that extend to doctors' offices generally not be extending the long arm of Federal regulation into doctors' offices generally? If only a handful of practitioners have both the means and the inclination, why is it a problem worthy of Federal solution?

The fact is the problem does not exist. The fact is we are just going to bring the good old Federal Government in, with all of its powers, so HEW can blow another $7 billion of the taxpayers' money with no responsibility to anybody, and be proud that they only lost $7 billion that they cannot explain under present circumstances. They cannot explain where it went, and we are going to give them more power—more and more power to the Federal Government. That is what everybody says.

That is not what the Founding Fathers wanted. That is not what the people in the States want. That is not what the Governors want; that is not what the individuals who have free rights now

want. That is only what the U.S. Senate and Congress want.

The reason they do is that this body, Congress, has been controlled for 42 of the last 46 years by people who believe that big is better, the Federal Government is better, and the States cannot do anything for themselves.

I think it is important. It is amusing to sit here and listen to the sponsors of this legislation, I think, misconstrue their own bill. The distinguished Senator from Pennsylvania says that States will be allowed to act in this area of certificate-of-need. That is true, but their actions are confined to whether to approve the certificate or not. They are deprived of the chance to exempt any category of provider based upon their own local determinations of the health needs of their own local citizens.

No, they have to be told by the Federal Government what to do. There has been no greater advocate for the Federal Government than the committee upon which I sit, the Human Resources Committee, which thinks that the Federal Government can solve every problem, and we all know that it solves very few. It creates more problems than it solves, and that is what this bill, in particular, is doing.

In the end, the individual citizens in the individual States, served by their individual doctors, who do not have the individual ability to come up with $25,000 in the rural areas, are going to have less and less care for more and more cost and, in the end, this whole country is going to have to suffer. This is just one of literally thousands and thousands of regulatory approaches that are stifling us in this country today.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts has 6 minutes.

Mr. KENNEDY. Mr. President, I listened with great interest to my friend and colleague from the State of Utah talk about the role of the Federal Government. But he was not describing this bill. I think—I am sure—that the citizens of Utah and other communities have heard his very eloquent and compelling statements. But he is not describing what the health planning bill is all about.

As the Senator, when he reads the bill, will find out, the purpose of the health systems agency is to have local people in local communities making local decisions to decide what kind of facilities they need, what kind of services they want, and what kind of equipment they want. That is what the health planning bill is all about: Health service agencies made up of people who are providers, made up of local doctors, made up of consumers making decisions about what they need in the local community——

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. Not just yet, I will not yield.

To indulge in all this rhetoric about the Federal Government is not describing this bill. It may be describing some figment of the imagination of the Senator from Utah, but it is not describing the bill.

Mr. HATCH. Will the Senator yield on that point?

Mr. KENNEDY. No. When I finish, I shall yield; not until then. I have listened to what is basically a distortion of what this bill is about and what it is doing in the various local communities, letting local people make these decisions.

The fact of the matter is, as we listened to the Senator from Utah, you would not even think that the Federal Government is spending some $48 billion that are going into Utah hospitals under medicare and medicaid. You would not think the Federal Government has anything to do with that.

We are the people paying the bill and what we have tried to do in this legislation is to balance and let local people make these decisions. But the Senator from Utah is saying, "Oh, no," that if, on the one hand, the local people in Salt Lake City make a decision that they need a certain amount to provide services, that another group can come in that has no accountability to the local community making local decisions and set up whatever they want.

That is effectively what the amendment of the Senator from Kentucky and the Senator from Utah does.

Now, on the issue of containment of costs, the Congressional Budget Office figures in terms of just five States, Colorado, Florida, Louisiana, Maryland, and Mississippi, local people in local control effectively reduced the amount of the request for major hospitalization, and institutionalization, $150 million last year, $150 million that was not spent between 1973 and 1976.

If we provide a reasonable extrapolation on that of about 50 percent of the original cost for operating expenses, which is another $75 million, largely paid for by Uncle Sam and we are talking about $225 million in five States alone.

In five States alone, yet I do not hear either the Senators from Maryland coming in here, or the Senators from Mississippi coming in, or the Senators from Colorado coming in saying that when they saw those reductions the people in Pueblo or Colorado Springs were getting poorer health care.

No one said that. This bill has been on the legislative calendar for a series of days and I have yet to hear someone say, "Senator, we need this amendment because my people aren't getting decent health care."

Not one. Not one.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. KENNEDY. I will yield 15 seconds for a question.

Mr. HATCH. What we are finding out, we are getting darned good health care right now and we do not want it screwed up by the Federal Government because that is what happens.

The 26 States exempted this and said they did not want anything to do with the certificate of need requirements, and you are taking that away from those States and many others.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I ask for 15 more seconds. I would like to ask the distinguished Senator from Massachusetts——

Mr. KENNEDY. Ten seconds.

Mr. HATCH. Ten seconds.

[Laughter.]

The PRESIDING OFFICER. The Chair admonishes the galleries to preserve quiet.

Mr. KENNEDY. How much time do we have on the bill?

The PRESIDING OFFICER. The Senator has 7 minutes remaining on the bill.

Mr. KENNEDY. I yield 2 minutes.

Mr. HATCH. I am very grateful to the distinguished Senator from Massachusetts, who is my friend. However, we do vastly disagree on the approach to government in our society toda

I might add that he is part of the group that has, it seems to me, dominated this country for 42 of the last 46 years and he is in a good position to state what he wants to today.

But I am in a good position to state what the States and individual people want. They want just as good health care without Federal Government interference and dominance.

Is it not true, I ask the distinguished Senator from Massachusetts, that 26 States have said they do not want anything to do with the certificate of need requirements in doctors' offices.

Mr. KENNEDY. Excuse me.

Mr. HATCH. I am sorry. Is it not true that 26 States in our country have said, "We don't want anything to do with the certificate of need requirements of the Federal Government in our doctors' offices"?

Mr. KENNEDY. I will have to take a look at it.

Mr. HATCH. Let me state for the record, that is true.

What the distinguished Senator from Massachusetts is doing here is not giving States rights or individual local community rights to individual local situations. He is bringing the almighty Federal Government in under circumstances where we have the best health care system in the world, in a way I think will take away the best health care system in the world, and certainly in rural and other areas where doctors can presently apply these, and without any real basis, other than, I think, theoretical.

I am particularly grateful to the distinguished Senator from Massachusetts for granting me the 15 seconds plus 10 seconds plus 2 minutes. I thank the Senator very much.

Mr. KENNEDY. Just in response, I yield myself 1 minute.

The PRESIDING OFFICER. On the bill?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. One minute.

Mr. KENNEDY. All the States will have certificate of need laws which will be required for facilities.

What we are saying is that as a matter of findings by our committee, that in cases of those that would be prejudiced by the amendment of the Senator from Utah and the Senator from Kentucky, are the ones that are providing under

the prepaid program cost effective health care benefits.

Mr. HATCH. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays follow because they were ordered prior to the request for the division. They apply to both divisions.

Mr. KENNEDY. I move to table the first section of the Senator's amendment.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the first section of the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON) and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) is necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—57

| | | |
|---|---|---|
| Abourezk | Hatfield, Paul G. | Pearson |
| Bayh | Hathaway | Pell |
| Bellmon | Heinz | Percy |
| Biden | Hollings | Proxmire |
| Bumpers | Inouye | Randolph |
| Burdick | Jackson | Ribicoff |
| Case | Javits | Riegle |
| Chafee | Kennedy | Sarbanes |
| Church | Leahy | Schweiker |
| Clark | Lugar | Sparkman |
| Cranston | Magnuson | Stafford |
| Culver | Mathias | Stevenson |
| Danforth | Matsunaga | Stone |
| Domenici | McGovern | Talmadge |
| Durkin | McIntyre | Weicker |
| Eagleton | Metzenbaum | Williams |
| Glenn | Moynihan | Zorinsky |
| Hart | Muskie | |
| Haskell | Nelson | |
| Hatfield, Mark O. | Nunn | |

NAYS—40

| | | |
|---|---|---|
| Allen | Garn | Melcher |
| Baker | Goldwater | Morgan |
| Bartlett | Gravel | Packwood |
| Bentsen | Griffin | Roth |
| Byrd, Harry F., Jr. | Hansen | Sasser |
| | Hatch | Schmitt |
| Byrd, Robert C. | Hayakawa | Scott |
| Cannon | Helms | Stennis |
| Chiles | Hodges | Stevens |
| Curtis | Huddleston | Thurmond |
| DeConcini | Johnston | Tower |
| Dole | Laxalt | Wallop |
| Eastland | Long | Young |
| Ford | McClure | |

NOT VOTING—3

| | | |
|---|---|---|
| Anderson | Brooke | Humphrey |

So the motion to lay on the table division 1 of Mr. HUDDLESTON's amendment (No. 3098) was agreed to.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the motion to table division 1 of Mr. HUDDLESTON's amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that Susan Brannigan and Leslie Hayes, of my staff, be accorded the privilege of the floor for all votes and debate for the remainder of the day.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Who yields time?

Mr. KENNEDY. Mr. President, I move to lay on the table division 2 of the amendment of the Senator from Kentucky and the Senator from Utah.

Mr. HUDDLESTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 2 of the amendment of the Senator from Kentucky. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE) is necessarily absent.

I also announce that the Senator from Alaska (Mr. STEVENS) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "nay."

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—50

| | | |
|---|---|---|
| Abourezk | Haskell | Pearson |
| Bayh | Hathaway | Pell |
| Biden | Heinz | Percy |
| Burdick | Huddleston | Proxmire |
| Byrd, Robert C. | Inouye | Randolph |
| Cannon | Javits | Ribicoff |
| Case | Kennedy | Riegle |
| Chafee | Leahy | Sarbanes |
| Chiles | Magnuson | Schweiker |
| Clark | Mathias | Stafford |
| Cranston | Matsunaga | Stevenson |
| Culver | McIntyre | Stone |
| Danforth | Metzenbaum | Talmadge |
| Durkin | Moynihan | Weicker |
| Eagleton | Muskie | Williams |
| Gravel | Nelson | Zorinsky |
| Hart | Nunn | |

NAYS—45

| | | |
|---|---|---|
| Allen | Glenn | Long |
| Baker | Goldwater | Lugar |
| Bartlett | Griffin | McClure |
| Bellmon | Hansen | Melcher |
| Bentsen | Hatch | Morgan |
| Bumpers | Hatfield, Mark O. | Packwood |
| Byrd, Harry F., Jr. | Hatfield, Paul G. | Roth |
| | | Sasser |
| Church | Hayakawa | Schmitt |
| Curtis | Helms | Scott |
| DeConcini | Hodges | Sparkman |
| Dole | Hollings | Stennis |
| Domenici | Jackson | Thurmond |
| Eastland | Johnston | Tower |
| Ford | Laxalt | Wallop |
| Garn | | Young |

NOT VOTING—5

| | | |
|---|---|---|
| Anderson | Humphrey | Stevens |
| Brooke | McGovern | |

So the motion to lay on the table division 2 of Mr. HUDDLESTON's amendment (No. 3098) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table division 2 of the amendment of the Senator from Kentucky (Mr. HUDDLESTON) was agreed to.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Alaska (Mr. STEVENS) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "nay."

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—47

| | | |
|---|---|---|
| Abourezk | Hart | Pearson |
| Bayh | Haskell | Pell |
| Biden | Hathaway | Percy |
| Bumpers | Heinz | Proxmire |
| Burdick | Inouye | Randolph |
| Cannon | Javits | Ribicoff |
| Case | Kennedy | Riegle |
| Chafee | Leahy | Sarbanes |
| Chiles | Magnuson | Schweiker |
| Clark | Mathias | Stevenson |
| Cranston | Matsunaga | Stone |
| Culver | McIntyre | Talmadge |
| Danforth | Moynihan | Weicker |
| Durkin | Muskie | Williams |
| Eagleton | Nelson | Zorinsky |
| Gravel | Nunn | |

NAYS—45

| | | |
|---|---|---|
| Allen | Ford | Hodges |
| Baker | Garn | Hollings |
| Bartlett | Glenn | Huddleston |
| Bellmon | Goldwater | Jackson |
| Bentsen | Griffin | Johnston |
| Byrd, Harry F., Jr. | Hansen | Laxalt |
| | Hatch | Long |
| Byrd, Robert C. | Hatfield, Mark O. | Lugar |
| Church | | McClure |
| Curtis | Hatfield, Paul G. | Melcher |
| DeConcini | | Morgan |
| Dole | Hayakawa | Packwood |
| Domenici | Helms | Roth |

| | | |
|---|---|---|
| Sasser | Sparkman | Tower |
| Schmitt | Stennis | Wallop |
| Scott | Thurmond | Young |

NOT VOTING—8

| | | |
|---|---|---|
| Anderson | Humphrey | Stafford |
| Brooke | McGovern | Stevens |
| Eastland | Metzenbaum | |

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

Mr. SCHWEIKER. Mr. President, I yield 5 minutes to the Senator from Wyoming.

Mr. MATSUNAGA. Will the Senator yield for a unanimous-consent request?

Mr. WALLOP. I am happy to yield.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that a member of my staff, Mr. John McLaren, be granted the privilege of the floor during consideration of the pending bill and any vote thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I had intended to call up an amendment but owing to some complications that were unforeseen, I have decided not to. I have asked the sponsors of the bill for time to bring up a point of genuine concern that I see in the trend of programs generally and, in particular, in this program. I am concerned about that trend and though it is difficult to articulate, it is very real.

Many agencies are given a certain amount of money and told to spend it, otherwise for the next year they will get less. We create and encourage the "spend it or lose it" attitude. There is very little accountability and very little incentive to curb Government waste. All too often, we read of agencies which go into a spending frenzy at the end of the fiscal year just so they will not have their funds cut for the next year. Mr. President, I find this practice deplorable. It is particularly upsetting at a time when competition for Federal funds is keen, and public consciousness about Federal spending is rising to new heights. The American people should not and will not tolerate this attitude of spend it or lose it. We should be examining ways to save it, rather than encouraging, even demanding, excuses to spend it. We should examine all possible cost-cutting alternatives.

The Public Health Systems Act, the bill we are currently debating, is basically a good bill, and I intend to support it. But I believe that we should have increased the accountability throughout, especially minimally funded HSA's. Here is a situation where we allocate a lump of money and say "go spend." In my own State of Wyoming, the director of the Wyoming Health Systems Planning Agency maintains that he could get by with less money, if a discretionary fund were made available to them for special circumstances. Here we have an example of an agency which is required to spend money under Federal guidelines which may or may not fit the needs of that particular State. Do not misunderstand me; Wyoming has a definite commitment to public health, and can use money wisely.

If introduced, my amendment would have increased the accountability of minimally funded HSA's by setting their level of funds at the House authorization level, $200,000, rather than the Senate level of $250,000. These HSA's could operate on the $200,000 budget if there were adequate discretionary funds available to cover unforeseen contingencies. In future authorizations we would both lower the relative authorization level and create a discretionary fund for minimally funded HSA's. My amendment also provided for a separate discretionary fund to be reserved for minimally funded HSA's. This would encourage frugality, and if additional expenses could be justified, they could be granted.

Mr. President, the justification for this amendment is simple. All minimally funded HSA's are given a set amount of money, disregarding the variance in population size served and the amount of square miles covered by the agency. Populations for minimally funded HSA's vary anywhere from 500,000—499,964 in the case of Connecticut—down to about 14,000, as in the case of the Northern Marianas. All of them get the same amount of money. The square miles covered by minimally funded agencies varies from a vast 207,000 in Alaska, to Maryland with 2,211 square miles. Yet each of these agencies is getting an equal amount of money without having to justify the need.

I realize that there are certain requirements which must be met by each HSA to comply with Federal Government regulations, such as the minimum five-member staff. All HSA's must administer the same type of program by submitting through their board a health systems plan and by establishing an annual implementation plan which describes the objectives and goals and priorities of the HSA. These plans must be published and available to the public.

Mr. President, I will not argue the need and valuable function that HSA's serve in this country. Wyoming has been lucky to have an extremely successful agency for the last 3 years and I recognize the important contribution this agency has made in the area of health planning in my State.

My argument is based on the principles of allocating a set amount of money for a program whether or not it can justify its need. It staggers me to realize that our funding is not set by the use of a budget but by distributing an amount of money which is exactly the same for 66 small agencies in the United States.

The use of the discretionary fund for minimally funded HSA's is a valuable tool. If we set the funding at the lower House level and ask agencies to justify their need for additional money, then we eliminate the problem of waste and abuse of money which is appropriated but not necessarily needed. It is impossible for me to believe that all 66 of these small HSA's need exactly the same amount, considering the wide diversity in sizes of populations and square miles covered in their areas. It only makes good sense to begin funding at lower levels, making these agencies aware that more money is available if needed. Travel expenses in some States, such as Wyoming, are staggering. It is possible that additional moneys are needed for just this type of additional expense. However, these HSA's should not argue against a cut when money is available for them if they can justify the need for it.

While everyone, individual citizens, bureaucrats, and politicians preach fiscal conservation, it's much easier to digest when you are not directly affected. I appreciate my distinguished colleagues' efforts on the committee in the past few months to accommodate Senators who have found ways to cut the so-called fat from several health bills. If I were interested in serving the selfish interest of only my State, I would have no doubt tried to pad this amendment, rather than cut it. However, my main consideration is for the taxpayers who deserve to get the most for their money and oftentimes do not.

I believe that saving money and requiring agencies to be accountable for amounts spent is most important. I am aware that some problems could arise if small agencies are required to go to the Secretary of HEW in order to receive additional funds. It has been pointed out to me that many small agencies fear that money will be withheld if their State is not held in favorable light by the present administration. If this is the way discretionary funds are being used, then we need to work on an alternate way of administering them fairly and with no political interference. The health of our constituents should not be a political favor.

My amendment was one which would promote careful and frugal spending practices by minimally funded health agencies. It is in no way interfering with their ability to perform their duties yet is merely asking that additional funds over $200,000 be justified and accounted for.

Mr. KENNEDY. Mr. President, the Senator from Wyoming raises an important issue. We did extensive research and found out what would be an appropriate recommendation. The recommendation was reviewed in detail by the HEW and came to $250,000. The House has $200,000. I give assurance to the Senator from Wyoming that we shall review this very, very carefully. We shall welcome the opportunity, prior to the conference, to go over this with the Senator from Wyoming and try to insure that the concerns of the Senator from Wyoming are brought out at the conference and in the conference recommendations.

I think the Senator raises a good, valid point. I think the best information that we have had today has been that the figures we have outlined in the bill will be necessary to permit the HSA's to fulfill their function. But we shall review that in careful detail and consider the remarks of the Senator from Wyoming.

Mr. WALLOP. I thank the Senator from Massachusetts. I simply say that in the future, I hope we shall go to some-

thing more attuned to need than the present system. Obviously, from a population of a half million to 14.000, there has to be some difference. Perhaps the half million is underfunded. Certainly, 14,000 is overfunded. Somewhere between lie my State and some other States. I hope we can get down to the business of requiring budgets, asking for justification, and requiring a good deal more flexibility and accountability than the Senate bill does.

Mr. KENNEDY. The Senator knows we have enormous difficulty working out formulas around here, but the point the Senator raises is a valid one and we shall raise that in conference and demand some additional information from HEW. We shall try to come back from the conference with a position which is justifiable.

Mr. WALLOP. I thank my colleague and hope he will not focus entirely on my State, since I just raised the issue.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I think the Senator from New Jersey has an amendment.

AMENDMENT NO. 3239

(Purpose: To establish a Commission on Alcoholism and other alcohol-related problems)

Mr. WILLIAMS. I have an amendment, Mr. President. I call up amendment No. 3239 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), Mr. KENNEDY, Mr. JAVITS, and Mr. HATCH, proposes an amendment numbered 3239.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 86, after line 6, add the following:

TITLE IV—NATIONAL COMMISSION ON ALCOHOLISM

ESTABLISHMENT OF A NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS

SEC. 401. (a) There is established a Commission to be known as the National Commission on Alcoholism and other Alcohol-Related Problems (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of—

(1) four Members of the Senate appointed by the President of the Senate;

(2) four Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) 11 members appointed by the President upon recommendation of the Secretary of Health, Education, and Welfare. At no time shall more than two of the members appointed under paragraph (1), or more than two of the members appointed under paragraph (2), or more than six of the members appointed under paragraph (3) be members of the same political party.

(b) (1) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Ten members of the Commisison shall constitute a quorum, but a lesser number may conduct hearings.

(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Other members of the Commission shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(c)(1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5 United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $75 per diem, including traveltime. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

STUDY AND REPORT

SEC. 402. (a) The Commission shall conduct a study of alcoholism and alcohol-related problems including, but not limited to, the following areas:

(1) an assessment of unmet treatment needs of alcoholics and their families;

(2) an assessment of manpower needs in the fields of research, treatment, and prevention;

(3) an assessment of the integration of alcoholism treatment into ongoing health and social health care services within communities;

(4) an assessment of the need for integration of alcoholism services into existing fiscal support systems, including national health insurance;

(5) An evaluation of the accessibility of services and quality of care, including rural as well as urban areas;

(6) the relationship of alcohol use to aggressive behavior and crime;

(7) the relationship of alcohol use to family violence;

(8) the relationship of alcoholism to the high rates of illnesses, particularly those with a high stress component, among family members of alcoholics;

(9) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

(10) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems; and

(11) an evaluation of the needs of special and underserved population groups.

(b) The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within eighteen months after the date on which funds first become available to carry out the provisions of this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

COORDINATION AND AUTHORIZATION OF APPROPRIATIONS

SEC. 403. (a) The Secretary of Health, Education, and Welfare shall be responsible for the coordination of the activities of the Commission.

(b) There are authorized to be appropriated for the purposes of this section $1,000,000 to remain available until expended.

Mr. WILLIAMS. Mr. President, this amendment would create a National Commission on Alcoholism and Alcohol-Related Problems. The Commission would consist of Members of both Houses of Congress and of public members appointed by the President, upon the recommendation of the Secretary of Health, Education, and Welfare.

The amendment provides for compensation of the public members and employees of the Commission and for access to such information from Federal agencies as the Commission might require to enable it to carry out its duties.

The Commission would conduct an in-depth study of alcoholism and alcohol-related problems and of the Federal effort to combat these problems. The work of the Commission would be coordinated by the Secretary of Health, Education, and Welfare, and an appropriation of $1 million would be authorized to carry out the work of the Commission.

Mr. President, I am pleased that this amendment has the unanimous support of the other members of the Subcommittee on Alcoholism and Drug Abuse, Senator HATHAWAY and Senator HATCH, of the distinguished ranking minority member of the Human Resources Committee, Mr. JAVITS, and of the distinguished chairman of the Subcommittee on Health and Scientific Research, Mr. KENNEDY. The proposal for a national Commission also has the support of the National Coalition for Adequate Alcohol Programs, which consists of all the major national organizations interested in the Federal alcoholism effort, as well as the National Association of State Alcohol and Drug Abuse Directors, an organization comprised of the officially designated single State authorities for alcoholism and drug abuse.

The need for such a Commission has also been recognized by Secretary Califano, who has a deep interest in the problems surrounding the use and misuse of alcohol. Indeed, the Secretary has initiated a study of the agencies within HEW to determine how their programs can be coordinated to help address these issues. That study will be an important resource for the Commission as it begins its work.

Mr. President, the basis for establishing this national commission is contained in the report of the President's

Commission on Mental Health. The Mental Health Commission pointed out that the cost to the Nation of alcoholism and alcohol-related problems is nearly twice that of the cost of mental illness. The report stated:

In the case of alcohol-related problems, we believe it is urgent that we develop a national plan of action. As a first step, the Commission recommends the creation of a broadly representative national group to analyze existing public policies and programs and to make recommendations for the future.

The Commission's Liaison Task Panel on Alcohol-Related Problems described the need for and possible characteristics of such a Commission and made a logical and convincing argument for such a Commission.

The drain on the economic and human resources of our society from alcoholism and alcohol-related problems is overwhelming. The economic drain amounts to $42.5 billion annually. Alcohol misuse is a significant factor in the instances of mortality from a number of chronic diseases, as well as in suicide, homicide, and accidents. The majority of highway deaths are alcohol-related. The misuse of alcohol plays a major role in many other areas of national concern, such as child abuse and marital violence cases, industrial accidents, assaults, robberies, drownings, freezings, and fires.

Mr. President, the problems surrounding the use and misuse of alcoholic beverages have a decided impact in many areas of the Federal Establishment and there is an urgent need for a comprehensive study cutting across Federal agencies. In passing the 1974 amendments to the Comprehensive Alcoholism and Alcohol Abuse Prevention, Treatment, and Rehabilitation Act, we hoped that the new Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism would effectively coordinate alcohol-related programs and policies.

However, this committee has not functioned effectively, in part because of insufficient interest and representation by other Federal agencies. Yet, a wide variety of Federal agencies impinge on alcohol problems or are involved in treatment or prevention programs. This includes not only the Department of Health, Education, and Welfare, but the Department of Transportation, the Civil Service Commission, the State Department, the Veterans' Administration, the Department of Defense, and others.

No coordinated or comprehensive Federal policy can be established without a searching look at the current scope and nature of the problems, an assessment of what is presently being done, and the development of recommendations to address these needs.

Mr. President, there are a number of reasons why this is an especially auspicious and crucial moment for a sustained reexamination of national policies on alcohol-related problems. These problems are increasing in every segment of our society. I am particularly concerned about the increasing numbers of our children who are involved in serious alcohol-related problems and, indeed alcoholism itself. Millions of children are being raised in families where one or both parents are alcoholics. These children run a substantially increased risk of serious emotional problem in later life. Children of alcoholics also run a high risk of becoming alcoholics themselves in later years.

Mr. President, I urge the Senate to adopt this amendment, and I ask unanimouse consent that excerpts from the report of the Liaison Task Panel on Alcohol-Related Problems of the President's Commission on Mental Health, be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

REPORT OF THE LIAISON TASK PANEL ON ALCOHOL-RELATED PROBLEMS

SUMMARY

The Liaison Task Panel on Alcohol-Related Problems has, as its primary recommendation, urged the President's Commission on Mental Health to propose a National Commission on Alcoholism and Other Alcohol-Related Problems. In support of this proposal, the Task Panel presents its findings with regard to the scope, magnitude, and nature of the diverse and complex problems surrounding the use of beverage alcohol in this country.

The second major position of the Task Panel has to do with coverage under any National Health Insurance plan. The medical complications associated with frequent, heavy alcohol usage are more prevalent and more serious than with most mental health conditions. These associated morbidities and sequelae support a stronger argument for inclusion of alcoholism on the same basis as any other chronic health condition. The contention of the panel is that the medical aspects are currently being treated without addressing the underlying causation, resulting in inappropriate—and perhaps more expensive—treatment.

Other options offered by the Task Panel relate to situations where there is an interface between mental health and alcohol-related problems. Even in these instances, both the commonality and uniqueness of the two areas, i.e., mental health problems and alcohol-related problems, are explicated.

Briefly, the findings of the Task Panel resulted in the following recommendations:

1. That the Commission recommend to the President that he initiate and support the establishment of a National Commission on Alcoholism and Alcohol-Related Problems to investigate the various aspects and manifestations of alcohol-related problems, examine and evaluate the existing remedial actions, and make recommendations on an integrated national alcohol problems prevention and treatment policy to both the President and the Congress.

2. That in the adoption of any national health insurance plan or alternative funding support for health care, the treatment of alcoholism, and of the problems of the family of the alcoholic, be categorically covered at a level no less than that of any other illness.

3. That adequate resources be committed to devise, implement, and evaluate strategies of prevention, recognizing that such strategies require long-term allowances for effective evaluation

4. That the Federal financial commitment for research on alcoholism and other alcohol-related problems be substantially increased to a level of at least $30 million for fiscal year 1979 and that both authorizations and appropriations for subsequent years be commensurate with the need for sound policy and planning efforts.

5. That the Commission emphasize the need for greater sensitivity by policymakers and service providers to the needs of special population groups who are at particularly high risk in connection with alcohol problems or who are now served either inadequately or inappropriately. Such groups include but are not limited to women, youth, the disabled, the aged, homosexuals, migrant workers, children of alcoholics, Blacks, American Indians, Spanish-speaking Americans, and Asian Americans.

6. That the Commission recognize and endorse the need for quality assurance programs in the areas of mental illness, drug abuse, and alcoholism treatment services and further recommend to the President that these fields be given responsibility, as appropriate, to develop their unique quality assurance programs under any national health insurance plan adopted in the future. Further, that these programs be oriented toward clients rather than providers and that there be monitoring of alcoholism services rendered including accountability to the planning process and the funds allocated.

7. That in view of the success of certain Community Mental Health Centers in rendering effective alcoholism treatment services, the Commission encourage the development of similarly effective and accountable programs in those Community Mental Health Centers whose service areas do not currently contain adequate alcoholism treatment capacity, as well as in those State mental hospitals where alcoholism treatment services are still in existence. This recommendation is not intended to designate a mental health setting as the treatment milieu of choice for alcohol problems but rather to recognize the substantive percentage of people currently seeking help for alcohol-related problems through the mental health delivery system.

The Liaison Task Panel on Alcohol-Related Problems has attempted to be responsive to the charge of the President's Commission on Mental Health. The Task Panel felt that it could only fulfill its responsibility if the report reflected its perceptions regarding the nature and size of the problem and if the recommendations it made grew out of those perceptions. If it were necessary to distill the Panel's priority concern into one recommendation, it would be that an adequately funded and staffed National Commission on Alcoholism and Alcohol-Related Problems be established to look at the problem area in the context and depth it so obviously requires.

ALCOHOL-RELATED PROBLEMS

Until recent years the scope, nature, and severity of problems stemming from the consumption of beverage alcohol in the United States has received minimal attention. Such data as were generated by responsible groups received at best ambivalent response from the public or from organizations, groups, individuals, and governmental agencies whose considerations and activities were, or should have been, affected. In fact, the use of beverage alcohol in this country lacks consistent cultural norms, reflecting the diversity of cultures from which our people stem, and this has hindered the formulation of any general pattern recognizably national in character. The use of alcohol, however, as much as many people find it gratifying and rewarding, is associated with many severe health and social problems. Ey some accountings, mortality from alcohol problems ranks third in size after heart disease and cancer. A recently completed study sponsored by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) set the cost of alcohol problems at $42.75 billion for 1975, substantially above the costs assigned to any other public health problem area so studied. (Third Report to Congress on Alcohol and

Health, National Institute on Alcohol Abuse and Alcoholism, Rockville, 1977.[1]) While the exact figures are arguable, there is no doubt that the social costs generated by alcohol-related problems are astronomical.

An examination of the supporting data reveals that the health care component of this total is $12.74 billion, the greater portion of which, $8.4 billion, is accounted for by hospital care for injury and illness. The latter figure represents 20 percent of the total cost to the Nation of this particular category of health care. Examination of the full extent of the negative consequences of alcohol misuse suggests that it plays a significant role in mortality from a number of chronic diseases as well as in such specific causes of death as suicide, homicide, and accidents, many of which are not traditionally associated with alcohol use. It is worth noting just a few of these to accent the size of alcohol-related problems. Literally a mass of evidence accumulated in over a score or more studies in this area demonstrates that drivers with blood alcohol levels of 0.10 percent or higher (the legal driving impairment level in many jurisdictions) are involved in from 35 percent to 59 percent of highway fatalities, depending on the particular methodology and population examined.

Fatalities from single vehicle crashes range from 41 percent to 72 percent alcohol involvement, while nonfatal crashes of drinking drivers appear to have more severe consequences than for nondrinking drivers. As death from falls is the second greatest cause of accidental death in the United States, it is notable that studies demonstrate alcohol involvement to a highly significant degree. Violent crime has long been associated with alcohol consumption; and research findings here demonstrate that in homicide alone, the range of offenders using alcohol at the time of the offense is from 28 percent to 86 percent, while victims show alcohol use involvement from 40 percent to 60 percent, again depending on the study being examined. Studies on suicide demonstrate a disproportionately high rate among people with a history of alcoholism or heavy drinking. Other casualties and crimes with alcohol use as a component include child abuse, marital violence, industrial accidents, assault, rape, robbery, drownings, freezings, and fires. Alcohol is involved in such casualties and crimes both in the sense of drinking and drunkenness in the event itself and in the sense of an overinvolvement of those with a history of heavy drinking or alcoholism.

Despite a comparatively conservative Federal commitment—a little over $1 billion total in the 7 years since establishment of the NIAAA—there have been positive changes in several problem areas. Thus, a modest research budget has produced valuable findings, not the least of which has been the recognition of the fetal alcohol syndrome, which has resulted in the dissemination of a cautionary statement by the Secretary of the Department of Health, Education, and Welfare. Training programs have begun to have effects. Beginning in 1978, questions on alcoholism will for the first time be included in the examination of the National Board of Medical Examiners. There has also been an increasing acceptance of the appropriateness of including alcoholism treatment in health insurance plans. Despite this record, progress has been markedly limited in comparison with the clear need, and the indications are that greater effort by the Federal establishment is essential and potentially effective. The firm opinion of the Panel is that the current low level of Federal response should be raised to a priority commensurate with the magnitude of the problem, and that the Commission lend its support to this goal in view of the many areas in which mental health and alcohol problems bear strongly on each other. To this end, the Panel reiterates its recommendations and offers a basic rationale for each.

Up to the present the Federal response has been primarily through the National Institute on Alcohol Abuse and Alcoholism, which has been hampered by the lack of a firm knowledge base, a pattern of fundings that has frustrated coherent planning, and by staffing limitations that have impeded effective evaluation activity and attempts to ensure fiscal responsibility and accountability in the programs it has supported across the country. The overwhelming demand, and need, for treatment services has been a consistent drain on a limited NIAAA budget, to the almost total exclusion of other efforts. Only recently, for instance, has research begun to assume a priority position, and its budget still remains substantially below other agencies functioning within related problem areas. NIAAA's financially starved prevention demonstration program recently funded its first new grants in almost 3 years. With NIAAA staffing limitations barring effective program evaluation, and faced with a token research budget, much of the Federal effort centered in this agency has of necessity been promulgated more on faith than on known fact.

Staffing of the NIAAA, both as to numbers and as to composition, needs to be examined. Increased responsibilities for the lead agency at the Federal level in the alcohol field will require increased and improved staffing. NIAAA has historically been considerably understaffed for its responsibilities and has often not been able to recruit staff of appropriate abilities. This has frequently resulted in the use of contractual mechanisms for fulfilling responsibilities which should properly be accomplished by staff.

There is an immediate and pressing need for improved coordination of the Federal alcoholism effort. The existing interagency committee for coordinating alcohol-relevant programs and policies has not functioned effectively, in part because of insufficient interest and representation by other Federal agencies. A wide variety of Federal agencies impinge on alcohol problems or are involved in treatment or prevention programs. The existing committee should be strengthened and new mechanisms of bilateral and multilateral coordination developed.

Given the current state of the art and of the social attitudes toward alcoholism, drug abuse, and mental health, the Panel asks that the Commission recommend to the President the retention not only of categorical funding for alcoholism but the maintenance of NIAAA as a seperate entity. It is unrealistic to predict the feasibility at any fixed point in the future of some combination of the lead Federal agencies on mental health, drug abuse, and alcoholism. However, any merger of the three in the near term for administrative efficiency could seriously undermine the progress made to date in the visibility, degree of acceptance as a valid public health problem, and generation of support among both policymakers and the general public for efforts to reduce alcoholism and alcohol-related problems.

As noted above, the Liaison Task Panel found it impossible within the constraints of time and resources to develop and present recommendations on the full range of alcohol problems policy issues. The Panel also felt such an attempt would be inappropriate within the framework of the President's Commission on Mental Health; while many alcohol problems are mental health problems, and in fact a substantial part of treatment services for mental health is treating alcohol problems, there are also many important dimensions of alcohol problems which lie outside the scope of mental health problems. Hence our first and foremost recommendation below is for a national commission specifically addressed to alcohol problems.

Our other recommendations are made in the light of this first recommendation and in accordance with three criteria: (a) topics specifically relevant to mental health concerns and services; (b) topics where alcohol problems policy is likely to be affected by the Commission's recommendations on mental health; and (c) topics of sufficient urgency and with enough unanimity to merit action in advance of the deliberations of a commission on alcohol problems.

ISSUE NO. 1: NATIONAL COMMISSION ON ALCOHOLISM AND ALCOHOL-RELATED PROBLEMS

We have already sketched in our introductory comments some of the dimensions of alcohol's impact on American life, in terms of mortality, sickness, family and job problems, accidents, crime, mental illness, and quality of life. Repeatedly in the last decades Presidential or national commissions have noted alcohol problems as a substantial problem in terms of their field of reference, but have addressed themselves to alcohol problems issues only peripherally or in a limited frame.[2]

There is, of course, a very substantial overlap between mental health problems and alcohol problems, just as there are substantial overlaps of alcohol problems and a variety of health, public safety, and welfare problems. But, as suggested by the experience of commissions on law enforcement, drug abuse, and mental health, alcohol problems as a whole cannot be adequately addressed in any particular non-alcohol framework, since alcohol problems reach across so wide a variety of aspects of life.

There are a number of reasons why this is an especially auspicious and crucial moment for a sustained examination of national policies on alcohol-related problems. In the last 15 years, average consumption of alcohol in the drinking-age population has risen by over 30 percent, and survey data suggest that the proportion of heavy drinkers in the population grew substantially in the 1960's. Rises in the rate of heavy drinkers are generally associated with eventual rises in the long-term health consequences of alcohol such as cirrhosis mortality. Other major changes in drinking patterns have also occurred, often with unknown consequences. For instance, in the last 30 years there has been a decisive shift from tavern drinking to drinking in homes, and other private locations. Meanwhile, the basic frameworks of State and Federal alcohol control laws and regulations have remained unchanged and largely unexamined since their adoption at the repeal of prohibition. Only recently is it becoming recog-

[1] This, and the following data and the sources thereof in this section are referenced in the Third Report to Congress on Alcohol and Health, National Institute on Alcohol Abuse and Alcoholism, Rockville, 1977.

[2] See, for example, President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Drunkenness.* 1967, pp. 1–5 for drunkenness offenses, p. 6 for a general recommendation of expansion of research and treatment on alcoholism; National Commission on Marihuana and Drug Abuse, Second Report. *Drug Use in America: Problems in Perspective.* March, 1973. pp. 143, 157, 192, 225, 382; President's Commission on Mental Health. (Sept. 1, 1977) *Preliminary Report to the President.* September 1, 1977. pp. 6, 20. Apparently the most recent national or Presidential commission with a mandate for a systematic study of any alcohol issues was the National Commission on Law Observance and Enforcement (report filed January 20, 1931), which studied among other non-alcohol-related topics the "problem of the enforcement of Prohibition."

nized that these regulatory systems are relevant to alcohol problems policymaking.

Recent years have seen a substantial growth in the recognition of governmental responsibility for the prevention and treatment of alcohol problems. Beginning in many States in the 1950's, and at the Federal level in the 1960's and 1970's, substantial treatment systems and facilities for alcoholism and various alcohol-related problems have been organized and funded. An NIAAA table on Estimated Caseloads for 1976 suggests the dimensions and polymorphous nature of governmental alcoholism treatment efforts. If this aggregation of services can be called a system, it has never been comprehensively examined as such. Basic decisions about alcohol services need to be made in the near future, such as their relation to community needs, their sources of funding on a continuing basis, and their relationship to health maintenance organizations and national health insurance. Equally important, the nature and dimensions of alcohol problems prevention programs and measures need to be addressed as part of the construction of a national alcohol policy.

RECOMMENDATION

That the Commission recommend to the President that he initiate and support the establishment of a National Commission on Alcoholism and Other Alcohol-Related Problems. The panel urges that this commission be adequately funded and staffed for a 2-year term, with representation from appropriate areas of Federal, State, and local government, the Congress, the sciences, and knowledgeable spokespersons from the public, voluntary, and private sectors of the field. The charge of the commission should be to investigate the various aspects and manifestations of alcohol-related problems, examine and evaluate the existing remedial actions, and make recommendations on an integrated national alcohol problems prevention and treatment policy to both the President and the Congress.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I rise in support of the amendment .

The PRESIDING OFFICER. Would the Senator kindly suspend? Who yields time?

Mr. SCHWEIKER. I yield the Senator 2 minutes.

The PRESIDING OFFICER. On the bill.

Mr. JAVITS. Mr. President, I rise in support of this amendment. I cosponsored this amendment because my own relationship to the subject goes back to 1970 when I first joined with the Senator from Utah (Mr. Moss), the predecessor of Senator HATCH, in the Comprehensive Alcohol Abuse and Prevention, Treatment, and Rehabilitation Act of 1970.

That act established a commission called the Commission on Alcoholism and Drug Abuse. The results of that Commission's work were very impressive. One of the major contributions of the Commission was the finding that alcoholism was a medical problem, which was later confirmed by the Supreme Court.

We are in the situation of arresting a tide which is created by the mixed problem of social drinking and alcoholism. This proposed Commission is essential for it will give us a new platform from which to proceed.

Mr. President, while the problems associated with alcoholism have been very clearly outlined by Senator WILLIAMS, I wish to address one other.

Alcoholism is one of the principal problems of American industry. Absenteeism attributable to alcoholism is a major factor which contributes to declining productivity in industry.

For all those reasons, Mr. President, I hope very much that the Senate will adopt this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Who yields time?

Mr. HARRY F. BYRD, JR. Will the Senator from New Jersey permit me to ask several questions?

Mr. WILLIAMS. Yes.

Mr. HARRY F. BYRD, JR. The Senator from New Jersey mentioned a number of existing programs in this field. Does the amendment offered by the Senator from New Jersey take the place of those programs or is this an additional program?

Mr. WILLIAMS. This is not a program. This is a commission. This amendment would create a commission to look at problems and the present programs to alleviate them. Hopefully, suggestions for greater efficiency in the carrying out of present programs will be developed. The report of the commission would suggest those things that are not being done to reach people in need in this area of alcoholism and alcohol abuse.

It does not specifically, to answer the Senator from Virginia, replace present programs, many of which we are finding so helpful in meeting the need of people who have this particular disease, and need treatment, rehabilitation, counseling, et cetera.

Mr. HARRY F. BYRD, JR. What is the termination date?

Mr. WILLIAMS. This calls for a report in 18 months. That seems to be a rather short time, but that is a pattern that has evolved here for studies. It will be sunset in 18 months.

Mr. HARRY F. BYRD, JR. Sunset in 18 months?

Mr. WILLIAMS. Yes.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. DOLE. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS. I yield.

Mr. DOLE. I think the Senator may have answered the question of the Senator from Kansas.

On page 3, subsection (c), it indicates that the commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to provisions of title V, United States Code, governing employment in Federal service, and so forth.

I assume that we are not envisioning a large staff. There does not seem to be any limit on the size of the staff.

Mr. WILLIAMS. The limitation will be the amount of money that is authorized and appropriated. Of necessity, it will not be a large staff. We have drawn from the experience of other commissions in applying this language for the designation of staff for the commission.

There is no danger, I say to the Senator from Kansas, that there will be a large number of personnel in the creation of a staff. The study has its limitation of time as well.

Mr. DOLE. In 18 months. I guess you could hire a lot of people in 18 months. I do not know how to define "large." I know that the Senator from New Jersey would want it to be a responsive staff.

Mr. WILLIAMS. I am glad the Senator has raised this question.

It seems to me that of those Members appointed from the Senate—there would be four Members—I believe it would be wise if present staff working on the subcommittee dealing with alcoholism, alcohol problems, and alcohol programs were drawn on, so far as we are concerned.

Mr. DOLE. We have had this come up with certain health commissions, where they have drawn on personnel who had the experience in HEW, to save the additional expense.

Mr. WILLIAMS. That is wise. Of course, the Secretary of HEW is key in many ways to this Commission. He will be advising the President and will be in on the selection of ex officio members from departments, and we know that those departments have staff.

Mr. DOLE. I thank the Senator.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Carlton Betenbaugh be permitted access to the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I am pleased to cosponsor the pending amendment offered by the distinguished chairman of the Committee on Human Resources, my good friend Senator WILLIAMS, and I urge its adoption by my colleagues.

The amendment would establish a National Commission on Alcoholism, comprised of eight Members of Congress and an additional 11 public members appointed by the President, upon recommendation of the Secretary of Health, Education, and Welfare. The commission is charged with conducting a study of alcoholism and alcohol-related problems in our society, and is required to assess and evaluate a variety of factors relating to this disease, including treatment and manpower needs, quality of care, and the relationship to crime, family violence, and to other illnesses. The commission is also charged with conducting a survey of unmet needs, and the needs of special population groups, along with assessing the potential for integration of alcoholism treatment into ongoing health care services, and any national health insurance proposal which emerges.

Appropriations of up to $1 million are authorized to allow the commission to fulfill this mandate, and it is to report its results, along with legislative recommendations, within 18 months of being established.

The tragic and growing toll which alcoholism has upon our society has been well-documented by my colleague. The economic cost in excess of $42 billion annually, the person and family tragedies, the linkages to auto fatalities and

other deaths all call for our best efforts at formulating a comprehensive national policy. Alcoholism is no doubt one of the most widespread, and destructive of diseases, but at the same time is perhaps the least understood.

The commission proposed by this amendment could make an invaluable contribution to the understanding of the American people with respect to this complex and pervasive problem and to the formulation of policies directed at curbing it. I commend the Senator from New Jersey for proposing it. It has been my privilege to serve under his leadership as chairman of the full Human Resources Committee, but I have especially appreciated being able to work with him on the activities of the Subcommittee on Alcoholism and Drug Abuse, which I chair. His work today is but one example of his dedication and commitment to proposing and implementing workable solutions to these problems, and I look forward to our continued work together.

There are many good aspects of this amendment, but I point out in particular item (10), on page 5:

A survey of the unmet research needs in the area of alcoholism and alcohol-related problems.

It is ironic, Mr. President, that in this society, in which alcoholism is rated as the third greatest health menace, next to cancer and heart disease, we are spending no more than $10 million a year in research; whereas, with respect to heart disease and cancer, we are spending $400 to $500 million.

I am glad that that provision is included in this bill among the 11 items that should be surveyed by the commission. I feel reasonably certain that they will report back and indicate a strong recommendation for additional funds for research.

I join the Senator from New York in pointing out the loss of productivity we have as a result of alcoholism. I believe the figure is that last year we lost $43 billion in production, to say nothing of the losses caused by highway fatalities and other accidents, just because of alcohol.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. I have an amendment to the amendment. Is it in order at this time?

The PRESIDING OFFICER. Not until the time has been used or yielded back on the amendment.

Mr. DOMENICI. I ask the Senator from New Jersey if he is prepared to yield back his time.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Lisa Falconer, of Senator STEVENS' staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Louis Watts be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1519

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1519 to amendment No. 3239:

On page 5, between lines 17 and 18, insert the following new section (12) "An evaluation of the needs of native Americans."

Mr. DOMENICI. Mr. President, I will not take much time. I have circulated this amendment to the floor managers and the sponsors of the amendment, and I believe it is acceptable to them. I believe the amendment I am introducing is a very important one. It expands the areas of study for the National Commission on Alcoholism to also evaluate the needs of native Americans.

The commission that Senator WILLIAMS' amendment contemplates is badly needed in this country, and I am among those who hope that it will accomplish a great deal.

Alcoholism appears to be an increasing problem among native Americans. I do not have the evidence with me, but I think everyone will agree that it is becoming a significant social problem.

For example, I am aware than in the Navajo Nation, the largest group of native American Indians, the most serious social problem today is alcoholism. It is growing among the nonreservation Indians and it seems to be the result of our times and their culture.

I believe it is most appropriate that we specifically ask for an evaluation of alcoholism as it applies to the native Americans.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield.

Mr. JAVITS. Mr. President, I thoroughly agree with the Senator. So far as I am concerned, I would like to accept the amendment, and I hope Senator WILLIAMS will find it acceptable.

Mr. WILLIAMS. Mr. President, I appreciate the need for the specificity with respect to Indians, for the evaluation of their needs, and I accept the amendment.

Mr. KENNEDY. Mr. President, I ask that I be included as a cosponsor.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the name of the Senator from Massachusetts (Mr. KENNEDY) be included as an original cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

UP AMENDMENT NO. 1520

Mr. KENNEDY. Mr. President, I send to the desk an amendment to the Williams amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. CRANSTON, and Mr. HATHAWAY, proposes an unprinted amendment numbered 1520 to amendment No. 3239.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike out "and", and strike out lines 9 through 15 and insert in lieu thereof the following:

(3) 11 members appointed by the President upon recommendation of the Secretary of Health, Education, and Welfare; and

(4) ex officio members from agencies of the Federal government, appointed by the President, whose programs affect the prevention and treatment of alcoholism and such ex officio members shall be individuals with knowledge of programs administered by such agencies affecting the prevention and treatment of alcoholism.

At no time shall more than two of the members appointed under clause (1), or more than two of the members appointed under clause (2), or more than six of the members appointed under clause (3) be members of the same political party.

On page 3, on line 1, strike all after "Other" through line 5 and insert in lieu thereof "members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of the basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Commission; and, while away from their homes or regular places of business in the performance of duties of the Commission, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United State Code.".

On page 3, on lines 20 and 21, strike out "but not in excess of $75 per diem, including traveltime" and insert in lieu thereof "but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule".

On page 4, on line 7, insert "the head of" after "Commission,", and on line 9 insert "consistent with applicable laws and regulations with respect to the privacy of medical records" before the period.

Mr. KENNEDY. Mr. President, on behalf of the Senator from California (Mr. CRANSTON) and the Senator from Maine (Mr. HATHAWAY) I send to the desk an amendment to make a minor modification to the pending amendment. I understand that this modification is acceptable to the author of the amend-

ment, the Senator from New Jersey (Mr. WILLIAMS).

Very simply, this amendment, first, insures that the personal privacy rights of patients will be protected in any disclosure of information to the commission by any Federal department or agency; second, it makes technical changes with respect to the per diem and travel reimbursements paid members of the commission and consultants to that commission; and third, it provides for ex officio members on the commission to represent those Federal agencies which have programs affecting prevention and treatment of alcoholism, such as HEW in order to insure that the expertise of those agencies in alcoholism and other alcohol-related problems is fully available in the deliberations of the commission.

Mr. President, I ask unanimous consent that the amendment be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I support the amendment, and I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 1520) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey, as amended.

UP AMENDMENT NO. 1521

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 1521, an amedment to 3239:

On page 2, line 5 strike the semicolon and add the following, "upon the recommendation of the majority and minority leaders."

Mr. SCHWEIKER. Mr. President, this is an amendment so that Senator WILLIAMS' amendment will conform to the present procedure in the appointment of the representatives of the Senate. I have cleared it with the Senator from New Jersey. It simply says that Members of the Senate appointed by the President pro tempore will be appointed "upon the recommendation of the majority and minority leaders." It is intended to protect the prerogatives of the majority and minority leaders.

I yield back the remainder of my time.

Mr. WILLIAMS. I approve, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania to the amendment of the Senator from New Jersey.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey, as amended.

The amendment was agreed to.

UP AMENDMENT NO. 1522

(Purpose: To extend eligibility for Federal matching of non-Federal contributions to minimally funded health systems agencies)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1522.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 2 and 3, insert the following new section and renumber subsequent sections accordingly:

"SEC. 130. Section 1516(b) is further amended by adding at the end of the following new paragraph:

'(4) For the fiscal year ending September 30, 1978 if the amount of the grant of a health systems agency is determined under paragraph (b)(3) of this section, and if the application of such grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made such grant shall be increased by an amount equal to the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of $0.25 and the population of the health service area for which the agency is designated.'"

Mr. GRAVEL. Mr. President, I am offering an amendment to the Health Planning and Resources Development Act Reauthorization, which I think will correct a misinterpretation of congressional intent. This amendment would extend to the minimally-funded health systems agencies (HSA) eligibility for Federal matching funds of local contributions.

The law provides that HSA's who successfully raise local contributions to augment their Federal grant will be eligible for additional Federal assistance. However, the law limits Federal matching assistance eligibility to those HSA's already receiving substantial Federal grants. The smaller population HSA's which receive a minimal grant from the Federal Government are not eligible.

Many of the smaller HSA's would not be eligible for even the minimal Federal grant of $175,000 based on the formula of $.50 per capita. The Department of Health, Education and Welfare realizing the inequity and imprudence of restricting these small HSA's to the formula has raised the grant for all the minimally designated HSA's to the maximum for their category, that is, $175,000. Since they have done this, HEW believes that they have already compensated the small HSA's for their ineligibility for matching funds.

The past 2 years of experience with the HSA's has shown that, in fact, it is the smaller HSA's which need additional help. HEW has responded by giving each of the minimally designated HSA's the maximum legal amount, regardless of the formula. The Human Resources Committee has responded by amending the reauthorization to raise the minimum funding level to $250,000 and allow Federal match for all local contributions. This action taken by the committee indicates their understanding of the economic burden placed on many of our smaller HSA's.

We have asked them to perform the same functions as the larger HSA's necessitating professional staff and considerable travel with greatly limited resources. Many of them would not have survived without local contrbutions. Yet, we have refused to extend to them the reward for their labors that has been available to all other HSA's. I do not believe Congress intended to use the matching funds as anything but a reward for organizing community support behind the HSA's. Realistically it is the local contributions and matching funds, when available, that have played a significant role in making the HSA's viable.

While I applaud the committee's action in extending Federal matching eligibility to the smaller HSA's, I want to recommend that this action become applicable immediately. The HSA's has a staggered Federal funding period beginning in April and ending in September.

Therefore, for many of them fiscal year 1978 has not even begun. If we wait till fiscal year 1979 to extend matching eligibility to them, we are forcing them to continue to administer their program with limited funds when the committee has already decided that they should be eligible.

Since HEW does not disburse matching funds until September, it would not be unreasonable to require them to include the six or seven minimally funded HSA's who have collected local contributions. Based on a rather rushed survey of the minimally funded HSA's, I estimate that they would only be eligible for a maximum match of $400,000. This is based on the $0.25 per capital formula that HEW uses to allocate matching funds.

I want to stress that HSA's currently eligible for match and anticipating matching funds in September would not realize any significant depletion in their awards. HEW consistently has over estimated the amount of local contribution eligible for match. They set-aside an amount less than their estimate based on the annual appropriation level. Since the appropriations have not been adequate to award the maximum amount each HSA may be eligible to receive, HEW has been awarding a percentage of the maximum allowable. This year they have set-aside $7.2 million. HEW estimates they will be able to allocate nearly $0.90 on the dollar, or almost 100 percent of the maximum allowable this year. This would be an increase of $0.07

on the dollar over last year. The addition of six or seven small HSA's would not significantly alter the awards to other HSA's.

This is a matter of equity, Mr. President. Obviously the minimally funded HSA's will not receive anything approaching a windfall.

I hope the distinguished chairman of the Health Subcommittee, Senator KENNEDY, and the distinguished ranking minority member, Senator SCHWEIKER, will see the merits of my amendment and accept it.

Mr. President, all this does is allow minimally funded HSA's that are prepared to put up some matching money to take advantage of the program right now.

I believe it is acceptable to the manager of the bill.

Mr. KENNEDY. Mr. President, that is basically a technical amendment that makes clear the rights of the smaller HSA's in rural areas. It is completely acceptable.

Mr. GRAVEL. I thank my colleague.

I am prepared to yield back my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHWEIKER. Mr. President, I would like to state for the record my concerns about extending certificate-of-need to noninstitutional health facilities.

Specifically, I am concerned about attempts to use certificate-of-need as a license to do business. The Congress approved certificate-of-need for institutional health facilities because we determined that, for a number of reasons, hospitals were not truly competitive, very probably could not be made so, and that their duplication of beds and services was a major cause of spiraling health care costs. Congress sought to correct the situation by a certificate-of-need process designed to review existing facilities and services, identify future needs, and to then judge individual applications for new facilities with those factors given due consideration. One of the major reasons certificate-of-need is necessary is because facility and equipment costs are relatively fixed and cannot be altered quickly based on the law of supply and demand.

We are now, however, being asked to extend certificate-of-need to labor intensive, rather than equipment and facility intensive industries, such as home health agencies. We are asked to do so based on the argument that competition drives up the cost of care and in any event certificate-of-need is necessary to eliminate abuses in the home health program.

To the latter point I would argue that establishment and enforcement standards are a licensing function and, if necessary or desirable, ought to be done through enactment of a license statute.

I would also point out that all our experience would indicate certificate-of-need would not correct the abuse since by definition those guilty are already in existence. certificate-of-need would only perpetuate their existence while insuring that new agencies were not allowed to compete. It is "grandfathering" of the worst sort.

To the former point, I find it very difficult to understand why in an industry such as home health services competition would increase costs. This is a labor-intensive industry and there is no reason why an agency's costs cannot be adjusted based on the law of supply and demand. I suspect it is more a case of refusal to adjust rather than a lack of ability to do so.

In short, I fear we are being asked to extend certificate-of-need to certain industries, such as home health care not because it is necessary to control costs, but in an attempt to reduce or eliminate competition.

I strongly believe we should promote competition wherever possible in the health care industry and am opposed to the use of certificate-of-need to eliminate competition. I also oppose any attempt to use the certificate-of-need process as a licensing or standard setting function.

I therefore urge my colleagues to carefully review any proposals to extend certificate-of-need outside the institutional or equipment setting to insure it does not become an impediment to healthy competition.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. I do not believe we have any further amendment to be proposed.

● Mr. JAVITS. Mr. President, I support S. 2410, the Health Planning Amendments of 1978. This bill, unanimously reported by the Human Resources Committee, revises and extends the National Health Planning and Resources Development Act which I coauthored in 1974 (Public Law 93–641).

The purpose of the original act was to establish a system which would rationally plan the use of, and allocate, increasing scarce health resources. Public Law 93–641 established a nationwide network of 205 health systems agencies and 56 State and territorial agencies to carry out health planning and resources development activities. These agencies are developing regional blueprints for the delivery of medical care. The HSA's are governed by boards of consumers and providers living in their respective regions so that local needs and local voices can determine the individual health priorities for each health service area. Although implementation of this program has not been without its problems, I am generally pleased with the progress we have experienced thus far. Within the next year all 205 health systems agencies will have health systems plans for their regions, thereby revealing a clear picture of the health needs of our citizens.

The amendments we are considering today represent the first major revision of Public Law 93–641 since its enactment. In developing the legislation, the committee made a concerted effort to seek the views and recommendations of all interested parties. During consideration of this measure, hundreds of groups and individuals were consulted through hearings, individual meetings, and correspondence. Virtually every recommendation was carefully analyzed, and the bill we have before us today represents the product of that effort.

I believe that each of these amendments will serve to strengthen the health planning process. To accomplish this objective, the bill includes important provisions designed to assure effective participation by the consumers who sit on the HSA governing boards; to strengthen the role of the Governor in the overall planning process; to require that certificate-of-need decisions be consistent with the State health plan; to specify the criteria to be used in making certificate-of-need decisions and in determining the appropriateness of existing services; to assure representation of medically underserved populations on the various planning agencies; and to improve the coordination between health planning entities and appropriate drug abuse, alcohol abuse, and mental health agencies.

The bill also contains provisions to revise and extend the health resources development authority under title XVI of the Public Health Service Act. One important provision contained in this section establishes a program to assist and encourage the voluntary discontinuance of unneeded hospital services.

Existing law—section 1625(d), provides for grants to public hospitals for construction and modernization projects designed to, first, eliminate or prevent imminent safety hazards, as defined by Federal, State, or local fire, building, or life safety codes or regulations; or, second, avoid noncompliance with State or voluntary licensure or accreditation standards.

The financial problems of local government make it difficult to raise capital for needed reconstruction or renovation of the public general hospitals. Tax revenues often cannot meet their needs, and localities often must borrow at extremely high interest rates. In some cases, localities are excluded from the bond market altogether. Often the physical plant is old and renovated only with extreme difficulty. Yet renovation is necessary if the hospital is to meet required life safety codes. One such facility that typifies these special problems is the Harlem Hospital Center in New York City, whose approved application for assistance under this section is pending the appropriation of additional funds.

Until last year, funding for this section depended upon a 22-percent set-aside of funds appropriated for all hospital construction under the act. Unfortunately, since the enactment of Public Law 93–641, no such funds have been appropriated, and the 22 percent set-aside has been limited to about $11 million, which was the required share of carry-over funds.

Last year during the Human Resources Committee's consideration of

the Health Programs Extension Act of 1977, it was brought to my attention that HEW had received 136 applications for $138 million for renovation and improvement projects to make hospitals safe. Presently there are 53 urban and rural project grants which have been approved for funding at a total of $200 million.

It was for this reason that I offered a provision in the Health Programs Extension Act which was signed into law last year for a separate funding authority of $67.5 million for such projects. In the bill before us today, there are included authorizations totaling $300 million over 3 years. These funds are to be used to help the public general hospitals meet and maintain minimum life safety code standards and other licensure requirements. I believe it is incumbent upon the Congress to assure that the care rendered by these public facilities is delivered in a safe environment.

Finally, I would like to comment on the amendments which will be offered today. While I support the amendments which are being offered by the committee, I am opposed to the amendment to be offered by Senators HATCH and HUDDLESTON.

As we all know, the Senate last week voted overwhelmingly to pass S. 2534, the Health Maintenance Organization Amendments of 1978. This action occurred in response to the growing track record of HMO's which establishes them as a viable, cost-effective alternative for the delivery of health care services. The amendment which is contained in the committee bill is designed to eliminate discrimination of HMO's in the health care system.

During hearings on the extension of both the HMO and planning bills, the committee learned of numerous instances whereby HMO's were denied certificates of need simply because local fee-for-service providers fear the potential competition. Because I believe in the HMO concept and its potential for delivering comprehensive health care services and realizing significant cost savings, I believe the Congress should take steps to insure nondiscrimination against HMO's. The most positive way to accomplish this objective is to end the discrimination which currently faces many HMO's. The committee bill creates parity between HMO's and other providers of ambulatory care by prohibiting certificate-of-need requirements for HMO's which are more stringent than those requirements applied to other providers of ambulatory care.

Under the committee bill, a state is free to determine whether or not to cover other providers of ambulatory care in their individual State certificate-of-need laws. The committee bill in no way removes a State's right to make that determination. The committee bill does, however, insure that HMO's are not treated any differently than other ambulatory care providers. I believe this is an extremely important policy, and urge my colleagues to support the committee bill in this regard.

The Hatch-Huddleston amendment is also aimed at restricting certificate-of-need coverage with respect to the purchase of expensive medical equipment. The committee bill extends certificate-of-need coverage to any piece of equipment costing more than $150,000 regardless of its location.

In its deliberations on this issue, the committee found many examples of individual physicians and groups of physicians purchasing equipment which, if purchased by a hospital, would require the acquisition of a certificate of need. In my judgment, the planning process will be an effective mechanism for allocating increasingly scarce health care resources only when this unintended loophole is closed.

I believe it is most unwise to apply one set of requirements to one component of the health care system and not to other components when there is no rational justification for unequal treatment. I urge my colleagues to support the committee bill on this issue.

In general, I believe S. 2410 holds the promise of strengthening significantly the health planning process, and I urge my colleagues to act favorably on this bill.●

CERTIFICATE OF NEED

● Mr. NELSON. Mr. President, I would like to clarify the impact of the language in the health planning amendments (S. 2410), which addresses the relationship between health maintenance organizations (HMO's) and State certificate-of-need review programs instituted under the 1974 Health Planning and Resources Development Act.

Under current law, health planning certificate-of-need review must cover all phases of HMO's, including establishment, capital expenditures, and changes in services. There is no Federal mandate for health planning approval of doctors' offices, services, or equipment. States may require such planning coverage if they choose.

Section 134 of S. 2410 is a compromise approved by the Human Resources Committee, which would result in comparable health planning treatment of HMO's and other providers of outpatient health care, such as private physicians and clinics.

The Subcommittee on Health and Scientific Research, in reviewing the Health Maintenance Organization and Health Planning Acts, concluded that current Federal law treats HMO's differently from other providers of ambulatory outpatient care. State laws enacted pursuant to the 1974 Federal health planning law require certificate-of-need approval for HMO's, but most States do not require such approval for equipment or services of other outpatient providers, such as private doctors and clinics.

The Health Subcommittee of the Human Resources Committee originally took the position—which I did not support—that HMO's should be exempt from the certificate-of-need review process. In my view, it would be extremely unwise to exempt HMO's—a major health service delivery system—from the health planning process.

The Human Resources Committee reconsidered the issue and approved the language in section 134 of the bill, which, for health planning purposes, requires States to treat outpatient activities of HMO's comparably to other providers of outpatient health care. It is a rational approach based on a simple premise: that comparable providers of care should be treated equally under the planning law. The approach in the bill would preempt State law.

Another section, 141 of S. 2410, also amends the Health Planning Act with respect to coverage of equipment in physicians' offices under certificate-of-need review which, under current law, is left to the discretion of the State.

Wisconsin is one of only 7 States that require health planning approval of equipment in physicians' offices or clinics under the State certificate-of-need law. Under the Wisconsin law, any health care provider must obtain a certificate of need prior to making capital expenditures for clinically-related equipment costing more than $100,000 for one piece or more than $150,000 for two pieces of equipment.

The need for health planning coverage of clinically-related equipment is demonstrated by the proliferation of costly, often underutilized equipment, which is located in nonhospital settings in order to circumvent health planning certificate-of-need review when hospitals have been denied approval for such purchases. This problem is described in a letter to our office from the Wisconsin Department of Health and Social Services. I shall submit for the RECORD the letter following these remarks.

I recognize that most States—including Wisconsin, which has the most comprehensive certificate-of-need law in the Nation—would have to amend their State laws to equalize coverage of HMO's and other providers of the same type of outpatient care. In the interest of being fair to all provider's of health care, these changes are justified, in my view.

These amendments to the Health Planning Act will result in equitable certificate-of-need review.

I support efforts to strengthen the health planning process as a means of controlling health care costs by planning for a community's health resources as a whole.

The letter follows:

DEPARTMENT OF HEALTH AND SOCIAL SERVICES,
*State of Wisconsin, July 12, 1978.*

HON. GAYLORD NELSON,
*Senate Offie Building,*
*Washington, D.C.*

DEAR SENATOR NELSON: As I mentioned in a recent telephone conversation with your staff, the Wisconsin health planning experience with computed tomography scanners (CT) clearly indicates it is essential that physicians be covered by the same health planning laws applicable to hospitals in order to prevent circumvention of cost containment and the planning process. Aware of this health planning loophole, the Wisconsin Legislature enacted a Certificate of Need Law (CON) one year ago which covers capital expenditures for clinically related equipment (defined as an expenditure for a single piece of clinical equipment of more than $100,000 or an expenditure for clinical equipment which exceeds $150,000 for two or more pieces of related equipment).

In the 15 month period prior to physician coverage in the state, seven (7) CT scan-

ners were purchased by physicians outside of the planning process and without health planning approval. Six (6) of these scanners are located in hospitals or in buildings which are connected and continguous with hospitals. Please refer to the attached table (p. 2, item "C") which lists the non-approved scanners in Wisconsin. In each case, it appears that the planning process was bypassed to locate a scanner immediately adjacent to a hospital. Underutilization of a majority of scanners in the state suggests there was no need for six of the seven scanners. This represents an unnecessary investment of over $3 million plus the added burden of operating expenses driving health care costs higher. Most of these scanners are in direct competition with approved scanners, preventing optimal utilization of any of the existing CT scanners in the state.

In the year since physicians have been covered by Wisconsin's CON law there have been no new CT scanners purchased by physicians. During this same time period Wisconsin has moved from a ranking of 11th in the nation for CT scanners per 100,000 population to a rank of 19th indicating that physician coverage under the law has enabled health planning to make some cost containment gains in Wisconsin.

There are other less well documented examples of physicians' circumventing the planning process, undercutting health planning, and cost containment, which we can share with you. It is my hope that this information will be of value in making a case for physician coverage under Federal Health Planning legislation. If I can be of further assistance, please call me.

Sincerely,

MICHAEL J. PHILPS,
*Director, Bureau of Need Review.*●

● Mr. EAGLETON. Mr. President, I would like to take a few moments to raise a concern about the bill's expansion of certificate-of-need to all equipment regardless of location. As you know, the House version of this bill excludes independent laboratories from the health planning process.

Although I am fully supportive of the chairman's objective of controlling unnecessary costs in the delivery of health care, I believe the independent laboratories present a somewhat different picture. First, independent laboratories are competitive in their billing operations. They do not have the same "captive audience" that other segments of the health care industry have. In addition, many of the labs are multistate operations. To which State agency would a lab apply? Would Iowa's statewide Health Coordinating Council be making planning decisions for a lab operating in Missouri?

I do not intend to propose an amendment to exempt independent labs from the Senate bill, but I would appreciate the chairman's consideration of what I view to be a somewhat novel segment of our health delivery system.

Mr. KENNEDY. I appreciate the Senator from Missouri's concerns about expansion of certificate-of-need to independent laboratories. You are correct that the competitive nature of the business, and its interstate operation comprise a somewhat different picture from the rest of the health care delivery system. I assure you that I will give careful consideration to the argument made by the House of Representatives on this particular issue.●

● Mr. HATHAWAY. Mr. President, I would like to consider for a moment the position of home health agencies with respect to the health planning process. The House bill adds home health agencies to the list of health providers specified in section 1531(5)(A) of the Health Planning Act as being covered by the certificate of need provision of the act. The Senate bill does not.

When the 1974 act was passed, it provided that the certificate of need program to be established in each state must cover, as a minimum, all health providers that were then included in the regulations issued under section 1122 of the Social Security Act—the precursor of the Health Planning Act. Home health agencies were among the health facilities and organizations subject to review under the regulations issued by HEW pursuant to section 1122. Thus, there was a clear legislative mandate to HEW to include home health agencies in the certificate of need program, inasmuch as they were part of the section 1122 regulatory program.

Accordingly, the Public Health Service recommended to the Secretary that the certificate of need regulations issued after the passage of the 1974 Health Planning Act cover home health agencies. However, as one of his last acts in office, the former HEW Secretary disregarded the Public Health Service recommendation and issued certificate of need regulations on January 13, 1977, which did not include home health agencies.

Last year, when Congress passed a bill providing for a 1-year extension of authorities under the 1974 act, the legislative history in both the House and the Senate took note of the failure of HEW to carry out this legislative mandate regarding home health agencies, and directed that the certificate of need regulations be amended to conform with the intent of Congress. The Conference Committee report on the 1-year extension bill—House Conference Report 95–500—stated that the omission of home health agencies from HEW's certificate of need regulations "should be immediately reconsidered and rectified."

No action has been taken by HEW to carry out this directive. Thus, if we want to insure the inclusion of home health agencies in the certificate of need regulations, we should do so in the statute.

Underlying the expressions of congressional intent that I have discussed, there are significant substantive reasons put forth in support of inclusion of home health agencies in the certificate of need program. These include prevention of duplication of services and unnecessary administrative costs. More importantly, without certificate of need regulations for home health agencies, it is argued, the prices of home health services could increase. Opponents of such a provision would argue, also convincingly, that the increased competition due to a free market—with certificate of need—would force the prices down.

Mr. President, good arguments can be made on both sides of the issue.

I am inclined to cover home health agencies in the certificate of need program, but would first like to see additional solid data regarding costs of home health services with respect to certificate of need and the effect of competition on price. The National Association of Home Health Agencies is currently collecting this data. Unfortunately, it is not yet available. Consequently, rather than offer an amendment at this time without sufficient backup information, I have decided to wait until conference to finalize my opinion. I strongly hope that by then the association will be able to produce the data so that we can make a studied judgment.

I might add here, Mr. President, that home health agencies are playing a vital role in our health care delivery system, and I commend them for their invaluable contribution. It is my desire to arrive at a logical and equitable solution to this issue, and I hope my colleagues will give it their careful consideration in conference.●

● Mr. TOWER. Mr. President, I am pleased that the Committee on Human Resources has accepted my amendments to the Health Planning Act, S. 2410. I would especially like to thank the chairman and ranking member of the Health Subcommittee, and their staffs for their able assistance on these amendments. It is my hope that adoption of my five amendments will go a long way in removing many of the potentially onerous aspects of Public Law 93–641. The original act too often destroyed local initiative and flexibility in health planning. It is time for the planning law to move more in the direction of responding to our citizens' needs by limiting Federal power and shifting more of the authority and responsibility for health planning back to the local community. My amendments to the Health Planning Act, by emphasizing Federal and local cooperation, will work to make needed medical services more available and more accessible, and yet work to preserve the very necessary local community control over the health care industry.

Since its passage in 1974, I have been increasingly concerned over several of the ramifications of the National Health Planning and Resources Development Act. While I agreed with the assessment that a need existed to formulate workable health planning programs, I opposed the passage of the original legislation because I felt that its comprehensive regulatory provisions would undercut the flexibility of State and local governments, undermine the freedom of individuals to determine their own health care needs, and impede necessary professional input by the medical community.

The issuance of the national health planning guidelines of September of 1977 regrettably exemplified the most negative aspect of Public Law 93–641. As mandated by this public law, the administration released these relatively inflexible standards that attempted to usurp local and State control over health care planning decisions and reinvest this power into the federally controlled regulatory network of health systems agencies. Although somewhat modified prior to their final adoption in March 1978, it is clear

that the intent is for the HSA's to be required to meet the guideline standards in 5 years, or face the alternative of not being redesignated. I do not believe the Congress intended the guidelines to be mandatory or to be inflexible national standards. Although specific benchmarks, targets, or objectives are worthwhile, the determination of such benchmarks must be left to the local area which has the understanding of local resources and needs. Acceptance by the committee of my amendment will ensure the necessary flexibility in compliance with the guidelines. This action will make it clear that health planning will truly be a local phenomenon, utilizing the knowledge and understanding of the local consumer and provider of health care services.

Adoption of my second amendment will preclude a State's reviewing agency from denying a certificate of need application by not reviewing the application during the prescribed review period of 90 days. The effect of this clarifying amendment is to remove from the planning and/or regulatory agency the opportunity to "pocket veto" an application by the agency's failure to act within the prescribed time.

My third amendment eliminates the 10 percent incentive payment to the HSA's for any hospital facility or service discontinuance in their health systems area. In Texas, a majority of HSA executive directors see the 10 percent discontinuance incentive paid to the HSA's in the proposed section 1643 as no more than a "bounty" which may force the HSA's to identify not only unnecessary services or beds but marginal services and perhaps necessary services also, and to pursue their discontinuance with inordinate zeal in order to obtain development funds for projects and programs. Incentives or bounties should not be necessary for HSA's to have a reason or means for getting their planning job done. Developmental funds should be based on the ability of the HSA to identify and justify a community's health care needs and not as a result of its efforts to close facilities or services.

My last two amendments elaborate on the designation/termination process for the health systems agencies and for the State health planning agencies. My substitute language provides a statutory due process approach to the renewal or termination of HSA/State agency designation agreements with specific references to those who are to be consulted by the Secretary prior to the decision. Advance notice of HEW's intention to terminate, including specific reasons why this action is being taken, and actions the HSA may take to avoid the termination of the agreement is mandated. In addition, my amendments provide the opportunity for a public hearing on the matter before an office or employee of the Department of HEW. By requiring such a process, the Congress will be placing the entire HSA/State agency designation process before the public for review in a manner which will assure that all concerned have the opportunity for input. This language will reaffirm the congressional commitment for necessary local emphasis of the Health Planning Act.○

● Mr. NELSON. I would like to clarify the impact of the health planning bill, S. 2410, as it would impact on States, such as Wisconsin, for purposes of certificate-of-need review of health maintenance organizations and outpatient ambulatory physicians' services and equipment.

Does section 134 of the bill as reported from the Human Resources Committee require comparable health planning treatment of outpatient services for both HMO's and physicians' offices?

Mr. KENNEDY. Yes. It states that:

No such program shall have provisions for the review and determination of need of the services, facilities, equipment, and organization of health maintenance organizations that are in addition to provisions for the review and determination of need of the services, facilities, equipment, and organization of other providers of ambulatory health care.

The effect of this provision is that certificate-of-need review may not be more extensive for HMO's than it is for other providers of comparable outpatient services.

The committee determined that HMO outpatient activity should be treated comparably with other providers of outpatient care.

Mr. NELSON. Does this language refer only to outpatient services?

Mr. KENNEDY. Yes. HMO inpatient services, equipment, and facilities must be reviewed for certificate-of-need, as described in section 141, which defines "institutional health services" that must be covered under State certificate-of-need programs. HMO's do have special criteria for such review in the law.

Mr. NELSON. Wisconsin certificate-of-need law differs in its applicability to various ambulatory provider groups. Wisconsin law presently requires certificate-of-need review for all phases of HMO activity—establishment, changes in services, and capital expenditures. The law is one of only seven in the Nation that requires certificate-of-need review for physicians' offices and clinics, but only with respect to health-related capital expenditures exceeding $100,000 for one piece or $150,000 for more than one piece of clinical equipment.

Since Wisconsin certificate-of-need law does not apply to HMO outpatient activities comparably to physicians' outpatient activities, would Wisconsin be required to change its law?

Mr. KENNEDY. Yes. It could change the application of certificate-of-need either for physicians' offices or for HMOs: it could increase coverage of physicians' outpatient activities, or it could reduce coverage of outpatient HMO activity.

Mr. NELSON: What is meant by "other providers of ambulatory care" in section 134 of S. 2410? Does the language mean that such other ambulatory care services as home health agencies, or ambulatory surgical or renal dialysis centers cannot be covered more stringently than HMO comparable services? Or, does the section refer only to physician-based ambulatory care services, such as clinics and doctors' offices?

Mr. KENNEDY. The intent is to refer ambulatory care services such as physicians' clinics and offices.

Mr. NELSON. Does section 141 of S. 2410, which requires certificate-of-need review for: "Diagnostic, or therapeutic equipment acquired through purchase, rental, lease, or gift valued at the time of acquisition in excess of $150,000, used in the delivery of health care services by any person, institution, or other entity," allow a State to have more stringent coverage of such health equipment such as Wisconsin's law does, which requires coverage of equipment starting at $100,000?

Mr. KENNEDY. Yes.

Mr. NELSON. Would the amendment offered by Senators HATCH and HUDDLESTON require States to cover such equipment?

Mr. KENNEDY. No, it would leave the matter of such coverage of equipment outside of institutions up to the discretion of the States. It would require coverage of equipment only in institutions, which is what the current law requires.

Mr. NELSON. Thank you for clarifying these matters as they affect Wisconsin's health planning law.●

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, a parliamentary inquiry

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Did the Chair act on the Williams amendment, as amended?

The PRESIDING OFFICER. The Chair did.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Massachusetts yield for a question?

The PRESIDING OFFICER. All time has been yielded back.

Mr. KENNEDY. Mr. President, I ask unanimous consent for 2 minutes for the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. The Senator better make it longer than 2 minutes. We will see how we get along. I want to understand the cost of the bill if I can. I understand that the figures brought to the Senate have been changed by amendment in the Senate.

The figures that I have provide for an authorization for 1979 of $688 million, 1980 of $827 million, and 1981 for $965 million.

My question to the Senator from Massachusetts is, are those figures accurate

or have those figures been changed by amendment in the Senate?

Mr. KENNEDY. There have been changes. For the first year now it is $373 million.

Mr. HARRY F. BYRD, JR. That is 1979?

Mr. KENNEDY. The Senator is correct.

Mr. HARRY F. BYRD, JR. What was that figure again?

Mr. KENNEDY. $373 million.

Mr. HARRY F. BYRD, JR. Yes.

Mr. KENNEDY. For 1980, $512 million and for 1981 $680 million, effectively reducing the authorization by about $900 million.

Mr. HARRY F. BYRD, JR. Yes, I think that is a decided improvement, I say to the Senator from Massachusetts.

Mr. KENNEDY. I simply mention to the Senator that the area we reduced was in transferring underutilized hospital beds that could have been used for other services which would have been less costly, and even though we are reaching the figure of reducing the authorization here in the Chamber I think over the long run we are going to end up probably paying more because we are still spending $2 billion a year on unused hospital beds. But the Senator is correct. We reduced it because I did not think that we will get the appropriations, and that is why.

Mr. HARRY F. BYRD, JR. For 1979 the appropriation requested $152 million and the committee brought in a $688 million authorization. That has been reduced, as I understand it, to $373 million.

Mr. KENNEDY. The Senator is correct.

Mr. President, I ask unanimous consent for 3 additional minutes on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. We added this transfer authority which effectively we have eliminated now. So we have eliminated the funding for new programing which it was the judgment of the committee over any reasonable period of time would have been really very cost effective. But we did not expect we would be able to get the money in terms of appropriation, and so that is why.

The PRESIDING OFFICER. The Chair interrupts to remind the Senator from Massachusetts that at 3:30 p.m. the Senate will resume consideration of the conference report of the New York loan guarantee.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The bill having been engrossed for a third reading and having been read the third time, the question is, Shall the bill pass?

The bill (S. 2410), as amended, was passed, as follows:

S. 2410

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Planning Amendments of 1978".

(b) Whenever in this Act and amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—REVISION AND EXTENSION OF NATIONAL HEALTH PLANNING AND DEVELOPMENT AUTHORITY

SEC. 101. (a) Section 1503(b)(1) is amended by (1) striking "fifteen" and inserting in lieu thereof "twenty"; (2) inserting "the Assistant Secretary for Rural Development of the Department of Agriculture," after "Defense,"; and (3) striking "not less than five shall be persons who are not providers of health services" and inserting in lieu thereof: "not less than eight shall be persons who are not providers of health services including individuals who are members of urban and rural medical underserved populations".

(b) The last sentence of section 1511(a) is amended by (1) striking "if the Governor of each State" and inserting in lieu thereof "if the Governor of any State" and (2) striking "in order to meet the other requirements of this subsection".

(c) Section 1501(b)(1) is amended by adding at the end thereof the following "Such standards shall reflect the unique circumstances and needs of medical underserved populations including isolated rural communities.".

SEC. 102. Section 1511(b)(4) is amended to read as follows:

"(4)(A) The Secretary shall review on his own initiative or at the request of any Governor or designated health systems agency the appropriateness of the boundaries of the health service areas established under paragraph (3) and, if he determines that the boundaries for a health service area no longer meet the requirements of subsection (a), or if the boundaries for a proposed revised health service area meet the requirements of subsection (a) in a significantly more appropriate manner in terms of the efficiency and effectiveness of health planning efforts, he shall revise the boundaries in accordance with the procedures prescribed by paragraph (3)(B)(ii). If the Secretary acts on his own initiative to revise the boundaries of any health service area, he shall consult with the Governor of the appropriate State or States, the chief executive officer or agency of the political subdivisions within the State or States that would be affected by the revision, the appropriate designated health systems agency or agencies and the appropriate established Statewide Health Coordinating Council. A Governor may request a revision of the boundaries of a health service area only after consultation with the Governor of any other appropriate State or States, the chief executive officer or agency of the political subdivisions within the State or States that would be affected by the revision, the appropriate designated health systems agencies, and the appropriate established Statewide Health Coordinating Council and shall include in such request the comments concerning the proposed revision made by such individuals and entities. A designated health systems agency may make a request to revise the boundaries of its health service area only after consultation with the Governor of the appropriate State or States, the chief executive officer or agency of the political subdivisions within the State or States that would be affected by the revision, the other appropriate designated health system agency or agencies, and the appropriate established Statewide Health Coordinating Council and shall include in such request the comments concerning the proposed revision made by such individuals and entities. No proposed revision of the boundaries of a health service area shall comprise an entire State without the prior consent of the Governor of such State. In addition, for each proposed revision of the boundaries of a health service area, the Secretary shall give notice and an opportunity for a hearing on the record by all interested persons and make a written determination of his findings and decision.

"(B) The Secretary shall, by January 1, 1979, by regulation establish criteria for the revision of the boundaries of health service areas.".

SEC. 103. Section 1511(c) is repealed.

SEC. 104. (a) Section 1512(b) is amended by adding the following new subsection at the end thereof:

"(7) CONFLICT OF INTEREST.—Each health systems agency shall adopt procedures in accordance with regulations promulgated by the Secretary to insure that no member, employee, consultant or agent participates in any matter regarding any person, institution, organization or other entity with which he or she has or has had within the past three years any substantial direct or indirect employment, fiduciary, competitive, medical staff, or ownership or other financial interest.".

(b) Section 1524(b) is amended by adding at the end thereof the following new paragraph:

"(4) A SHCC shall adopt procedures in accordance with regulations promulgated by the Secretary to insure that no member, employee, consultant or agent participates in any matter regarding any person, institution, organization or other entity with which he or she has or has had within the past three years any substantial direct or indirect employment, fiduciary, competitive, medical staff, or ownership or other financial interest.".

SEC. 105. (a) The first sentence of section 1512(b)(2)(A) is amended by—

(1) inserting ", to the extent practicable," after "shall",

(2) striking "health planning" and inserting in lieu thereof "health and mental health planning",

(3) striking "health resources" and inserting in lieu thereof "health and mental health resources", and

(4) inserting before the period at the end thereof ", (v) financial and economic analysis, and (vi) public health and prevention of disease".

(b) The second sentence of section 1512(b)(2)(A) is amended by striking "health resources" and inserting in lieu thereof "health and mental health resources".

(c) Section 1512(b)(2)(A) is amended by adding at the end the following: "At least one member of the staff shall be designated to have the responsibility of providing the consumer members of the governing body of an agency with such assistance as they may require to effectively perform their functions.".

SEC. 106. Section 1512(b)(3) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) SELECTION.—Each health systems agency shall establish a process for the selection of the members of its governing body and any subarea advisory councils which process is designed to assure that (i) such members are selected in accordance with the requirements of subparagraph (C), (ii) there is the opportunity for broad participation in such progress by the residents of the health service area of the agency, and (iii) the participation of such residents will be encouraged and facilitated. Such process shall prohibit the selection of members of such body by members of such body and members of such councils by members of such council. Each agency shall make public such process and report it to the Secretary.".

SEC. 107. (a) Section 1512(b)(3)(A) is amended by inserting before the period at the end of the first sentence the following: "except that a public regional planning body or unit of general local government which is

a health systems agency is not required to delegate to its governing body for health planning the exclusive authority to—

"(i) appoint and with cause remove members of the governing body for health planning;

"(ii) establish personnel rules and practices for the staff of the governing body for health planning;

"(iii) approve the agency's budget; or

"(iv) any combination of the activities described in clauses (i), (ii), and (iii)."

(b) Section 1512(b)(3)(C)(iii)(I) is amended by (1) striking "and other representatives of governmental authorities" and inserting in lieu thereof "and other representatives of units of general purpose local government" and (2) adding at the end thereof the following new sentences: "To be considered a representative of a unit of general purpose local government, an individual must be appointed by such unit or a combination thereof. For the purpose of this clause, the State government of a State is comprised of a single health service area shall be deemed to be a unit of general purpose local government.".

SEC. 108. Section 1512(b)(3)(B)(vi) is amended by (1) striking out "reimburse" and by inserting in lieu thereof "reimburse (or when appropriate make advances to)" and (2) inserting "and performing any other duties and functions of the health systems agency" after "governing body".

SEC. 109. (a) Section 1512(b)(3)(B)(viii) is amended by (1) inserting ", except for meetings or portions thereof called to discuss the performance or remuneration of an individual employee of the health systems agency which if public would constitute a clearly unwarranted invasion of the personal privacy of such employee" after "conduct its business meetings in public" and (2) inserting ", except for personnel records and data regarding an individual employee the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of such employee," after "records and data".

(b) Section 1512(b)(6)(A) is amended by inserting ", except to personnel records and data regarding an individual employee the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of such employee" after "such access thereto".

(c) Section 1522(b)(6) is amended by (1) inserting ", except for meetings or portions thereof called to discuss the performance or remuneration of an individual employee of the State Agency which if public would constitute a clearly unwarranted invasion of the personal privacy of such employee" after "conduct its business meetings in public" and (2) inserting ", except for personnel records and data regarding an individual employee the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of such employee," after "records and data."

(d) Section 1532(b)(10) is amended by inserting ", except to personnel records and data regarding an individual employee the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of such employee," after "State Agency review."

SEC. 110. Section 1512(b)(3)(C)(i) is amended by (1) striking "(nor within the twelve months preceding appointment been)" and (2) inserting "including but not limited to unions and corporations" after "major purchasers of health care".

SEC. 111. (a) The first sentence of section 1512(b)(3)(C)(ii) is amended by inserting "or have their principal place of business within" after "residents of".

(b) Section 1512(b)(3)(C) is amended by striking "health care" each place it occurs and inserting in lieu thereof "health or mental health care".

(c) Section 1512(b)(3)(C)(ii)(II) is amended by inserting "rehabilitation facilities," after "long-term care facilities,".

SEC. 112. (a) The first sentence of section 1512(b)(3)(C)(ii) is amended by inserting "including doctors of medicine and osteopathy" after "(I) physicians".

(b) Section 1531(3)(A) is amended by inserting "(a doctor of medicine and a doctor of osteopathy)" after "including a physician".

(c) Section 1531(3) is amended by striking "provider of health care" each place it occurs and inserting in lieu thereof "provider of health or mental health care".

SEC. 113. The first sentence of section 1512(b)(3)(C)(ii) is amended by (1) striking "and" after "health professional schools," and inserting before the period at the end thereof ", (VI) non-professional health workers and (VII) other providers of health or mental health care" and (2) striking "substance" and inserting in lieu thereof "alcohol and drug".

SEC. 114. (a) Section 1512(b)(3)(C)(iii)(II) is amended by inserting "at least" before "equal".

(b) Section 1512(b)(3)(C)(iii)(III) is amended by inserting "non-voting" before "ex officio".

SEC. 115. Section 1512(b)(3)(C)(iv) is amended by (1) striking "of its members" and ", to the extent practicable," and (2) striking "the representation on such subcommittee or group described in this subparagraph" and inserting in lieu thereof "that a majority of the members of any such subcommittee or group are consumers of health or mental health care".

SEC. 116. (a) Section 1512(b)(4) is amended by (1) striking "member or employee" and inserting in lieu thereof "member, employee, consultant or agent" and (2) striking "if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it" and inserting in lieu thereof "if he could have reasonably believed he was acting within the scope of such duty, function, or activity, and acted, with respect to that performance, without gross negligence or malice toward any person affected by it".

(b) Section 1524 is amended by adding at the end thereof the following new subsection:

"(d) No individual who, as a member, employee, consultant or agent of a SHCC shall, by reason of his performance of any duty, function or activity required of, or authorized to be undertaken by the SHCC, be liable for payment of damages under any law of the United States or any State (or political subdivision thereof) if he could have reasonably believed he was acting within the scope of such duty, function, or activity, and acted, with respect to that performance, without gross negligence or malice toward any person affected by it.".

SEC. 117. Section 1512(b)(6) is amended by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D) and by adding before subparagraph (B) (as so redesignated) the following:

"(A) provide that any executive committee of the agency and any entity appointed by the governing body or executive committee of the agency and any subarea advisory council shall (i) conduct its business meetings in public (except for meetings or portions thereof called to discuss the performance or remuneration of an individual employee which if public would constitute a clearly unwarranted invasion of the personal privacy of such employee), (ii) give adequate notice of its meetings to those persons who have requested such notice, and (iii) make its records and data available, upon request, to the public (other than personnel records and data regarding an individual employee the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of such employee);".

SEC. 118. (a) The first sentence of section 1513(b)(2) is amended by striking "and" before "(C)" and inserting after "health resources and services" the following: "; (D) which describe the institutional health services (as defined in section 1531(5)) needed to provide for the well-being of persons receiving care within the health service area including, at a minimum, the number and type of medical facilities, rehabilitation facilities, nursing homes, beds, and equipment needed to provide acute inpatient, psychiatric inpatient, obstetrical inpatient, neonatal inpatient, long term care, and treatment for alcohol and drug abuse; the extent to which existing medical facilities, rehabilitation facilities, nursing homes, beds and equipment are in need of modernization or conversion to new uses; and, the extent to which new medical facilities, rehabilitation facilities, nursing homes, beds and equipment need to be constructed or acquired; (E) which describe other health services (other than institutional health services as defined in section 1531 (5)) needed to provide for the well-being of persons receiving care within the health service area including, at a minimum, the number and type of health maintenance organizations, outpatient (including primary care) facilities, rehabilitation facilities, facilities for the treatment of alcohol abuse and drug abuse, and other medical facilities, and home health agencies and equipment needed to provide public health services and outpatient care and the extent to which such facilities and equipment are in need of modernization or conversion to new uses and the extent to which new such health maintenance organizations, facilities, home health agencies and equipment need to be constructed or acquired.".

(b) The second sentence of section 1523(a)(4)(B) is amended by inserting "and that are consistent except in emergency circumstances that pose a threat to public health with the State health plan required by section 1524(c)" after "found to be needed".

(c) The first sentence of section 1524-(c)(2)(A) is amended by striking "Prepare" and inserting in lieu thereof "With the concurrence of the Governor, prepare".

(d) Section 1524(c)(2) is amended by (1) redesignating subparagraph (B) as subparagraph (C) and (2) by inserting after subparagraph (A) the following new subparagraph:

"(B) In addition to the requirements of subpararaph (A), a State health plan shall be coordinated with the State mental health plan developed pursuant to the Community Mental Health Centers Act, the State alcohol abuse plan developed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act, and the State drug abuse plan developed pursuant to the Drug Abuse Office and Treatment Act of 1972, and shall describe the resource requirements of manpower, facilities, equipment, and funds necessary to provide access, availability and quality services at a reasonable cost to persons receiving care within the State including, at a minimum—

"(i) the institutional health services (as defined in section 1531(5)) comprising, but not limited to, the number and type of medical facilities, rehabilitation facilities, nursing homes, beds, and equipment needed for acute inpatient, psychiatric inpatient, obstetrical inpatient, neonatal inpatient, long term care, and treatment for alcohol abuse and drug abuse; the extent to which existing

medical facilities, rehabilitation facilities, nursing homes, beds and equipment are in need of modernization or conversion to new uses; and, the extent to which new such medical facilities, rehabilitation facilities, nursing homes, beds, and equipment need to be constructed or acquired, and

"(ii) other health services (other than institutional health services as defined in section 1531(5)) comprising, but not limited to, the number and type of health maintenance organizations, outpatient (including primary care) facilities, rehabilitation facilities, facilities for the treatment of alcohol abuse and drug abuse, and other medical facilities, home health agencies and equipment needed for public health services and outpatient care and the extent to which such facilities and equipment are in need of modernization and conversion to new uses and the extent to which new such health maintenance organizations, facilities, home health agencies and equipment need to be constructed or acquired.".

(e) Section 1524(c)(2) is amended by adding at the end thereof the following new subparagraph:

"(D) If a State health plan as required by this subsection is not in effect for the State, the Secretary may not make any grant to the State health planning and development agency pursuant to section 1525.".

SEC. 119. (a) The second sentence of section 1513(b)(2) is amended by inserting "in the process of annually reviewing an HSP, and before amending an HSP" after "Before establishing an HSP,".

(b) Section 1513(b)(3) is amended by (1) inserting after "goals of the HSP" the following: "(as revised pursuant to section 1524(c)(2)(A))" and (2) adding at the end thereof the following new sentence: "The AIP shall be established, annually reviewed, and amended in accordance with the procedures set forth in the last two sentences of paragraph (2).".

(c) Section 1513(b)(2) is amended by inserting after the first sentence thereof the following new sentence: "The HSP shall include identifiable alcohol abuse, drug abuse, and mental health components, and shall address specifically the needs of all medical underserved populations in the health service area.".

(d) Section 1513(b)(2)(C) is amended by striking "and is consistent with".

(e) Section 1513(b) is amended by adding at the end thereof the following new paragraph:

"(5) The agency shall submit to the State Health Planning and Development Agency, the Statewide Health Coordinating Council, and the Secretary a detailed statement of the reasons for any inconsistencies between its HSP and AIP and the national guidelines and priorities established under this Act.".

SEC. 120. Section 1513(c)(2) is amended by (1) striking "may" and inserting in lieu thereof "shall" and (2) inserting "in obtaining and filling out the necessary forms and may provide other technical assistance" after "technical assistance".

SEC. 121. (a) The fourth sentence of section 1513(c)(3) is amended by inserting "except that if such grant or contract is renewed, funds may be carried forward to the subsequent grant or contract period without being deducted from the amount of the subsequent grant or contract" before the period at the end thereof.

(b) The second sentence of section 1516(a) is amended by striking "renewed (as the case may be)" and inserting in lieu thereof "in the event that the grant is renewed, may be carried forward to the subsequent grant period without being deducted from the subsequent grant award".

(c) The second sentence of section 1525(a) is amended by striking "renewed" and inserting in lieu thereof "in the event that the grant is renewed, may be carried forward to the subsequent grant period without being deducted from the subsequent grant award".

(d) Section 1526(c)(1) is amended by inserting "except that if such a grant is renewed, funds may be carried forward to the subsequent grant period without being deducted from the subsequent grant award" after "such grant was made".

SEC. 122. (a) Section 1513(d) is amended by (1) inserting "(including area agencies on aging, local and regional alcohol abuse, drug abuse, and mental health planning agencies)" after "administrative agencies" in paragraph (3); (2) redesignating paragraph "(4)" as paragraph "(5); (3) striking "and" in paragraph (3); and (4) adding after paragraph (3) the following new paragraph:

"(4) any entity of the State in which the agency is located which reviews the rates and budgets of health care facilities located in the agency's health service area, and".

(b) Section 1522(b)(7)(A) is amended by inserting "and for the coordination by the State Agency in the conduct of its activities with any entity of the State which reviews the rates and budgets of health care facilities in the State" after "health care,".

SEC. 123. (a) Section 1513(g) is amended by adding at the end thereof the following new paragraph:

"(3) In making the appropriateness review required by paragraph (1), each health systems agency shall address at a minimum issues of need, accessibility, financial viability, cost effectiveness, costs and charges to the public, and quality of service provided.".

(b) Section 1513(e)(1)(B) is amended by (1) striking "intended for use in the health service" and inserting in lieu thereof "that would make a significant change in the health services offered within the health service area" and (2) striking "the delivery of health services" and inserting in lieu thereof "to support the delivery of health services which would make a significant change in the health services offered in the health service area".

SEC. 124. Section 1513(g)(1) is amended by (1) striking "all" and inserting in lieu thereof "at least those" and (2) inserting "identified in the State health plan prepared pursuant to section 1524(c)(2)" before "offered".

SEC. 125. Section 1514 is amended by striking "may" and inserting in lieu thereof "shall".

SEC. 126. (a) The last sentence of section 1515(b) is deleted.

(b) The last sentence of section 1515(c)(2) is deleted.

SEC. 127. (a)(1) Paragraphs (1) and (3) of section 1515(c) are each amended by striking out "twelve months" and inserting in lieu thereof "thirty-six months".

(2) Section 1515(c)(1) is amended—

(A) by inserting "(A)" after "(c)(1)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by amending clause (ii) (as so redesignated) to read as follows:

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B), that the entity is not complying with the provisions of such agreement.", and

(D) by adding at the end the following:

"(B) Before the Secretary may terminate, under subparagraph (A)(ii), an agreement with an entity for designation as the health systems agency for a health service area, the Secretary shall—

"(i) consult with the Governor and the Statewide Health Coordinating Council of each State in which is located the health service area respecting the proposed termination,

"(ii) give the entity notice of the intention to terminate the agreement and in the notice specify with particularity (I) the basis for the determination of the Secretary that the entity is not in compliance with the agreement, and (II) the actions that the entity should take to come into compliance with the agreement, and

"(iii) provide the entity with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.".

(3) The amendments made by paragraphs (1) and (2) shall take effect with respect to designation agreements entered into under section 1515(c) of the Public Health Service Act after the date of the enactment of this Act.

(b) Section 1515(c) (as amended by subsection (a)) is amended by adding after clause (ii) of paragraph (1)(A) the following: "A designation agreement under this subsection may be terminated by the Secretary before the expiration of its term if the health service area with respect to which the agreement was entered into is revised under section 1511(b)(4) and the Secretary determines, after consultation with the Governor and Statewide Health Coordinating Council of each State in which the health service area (as revised) is located, that the health systems agency designated under such agreement cannot effectively carry out the agreement for the area (as revised). In terminating an agreement under the preceding sentence, the Secretary shall provide that the termination shall not take effect before an agreement for the designation of a new agency takes effect and shall provide the agency designated under the agreement to be terminated an opportunity to terminate its affairs in a satisfactory manner.".

(c) Section 1515(c)(3) is amended (1) inserting "(A)" after "(3)"; (2) inserting "during the period of the agreement to be renewed" after "section 1513"; and (3) by adding at the end thereof the following new paragraphs:

"(B) If upon review (as provided in section 1535) of the agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 1513 during the period of the agreement to be renewed or does not continue to meet the requirements of section 1512(b), he may terminate such agreement or return such agency to a conditionally designated status under subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such agency or enter into an agreement with such agency under paragraph (1).

"(C) Before renewing an agreement with a health systems agency under this subsection, the Secretary shall provide the State health planning and development agency and the Statewide Health Coordinating Council of the State in which the health systems agency is located an opportunity to comment on the performance of such agency and to provide a recommendation on whether such agreement should be renewed and whether its renewal should be made subject to conditions as authorized by paragraph (3).

"(D) If the Secretary enters into an agreement under this subsection with an entity or renews such an agreement, the Secretary shall notify the Governor of the State in which such entity is located of the agreement, its renewal, and, if any conditions have been imposed under paragraph (3), such conditions.".

(d) The last sentence of section 1515(c)(2) is amended to read as follows: "In con-

sidering such applications, the Secretary shall give priority to any application which has been recommended by a Governor or a Statewide Health Coordinating Council for approval.".

(e) Section 1515(b)(4) is amended by striking out the last sentence and substituting: "In considering such applications, the Secretary shall give priority to any application which has been recommended by a Governor or a Statewide Health Coordinating Council for approval. When the Secretary enters into an agreement with a entity under paragraph (1), the Secretary shall notify the Governor of the State in which such entity is located of such agreement.".

SEC. 128. Section 1515(d) is amended by (1) inserting "agreement" after "If a designation" and (2) inserting "or is not renewed" after "prescribed for its expiration".

SEC. 129. (a) Section 1516(b)(2)(A)(i) is amended to read as follows:

"(i) the greater of (I) the amount determined under paragraph (1) without regard to this paragraph or paragraph (3), or (II) the amount determined under paragraph (3), and".

(b) Section 1516(3) is amended to read as follows:

"(3) The amount of a grant under subsection (a) to a health systems agency designated under section 1515(c) may not be less than $250,000 in the fiscal year ending September 30, 1979, $270,000 in the fiscal year ending September 30, 1980, and $290,000 in any succeeding fiscal year.".

(c) Section 1516(c)(1) is amended by (1) striking "and" after "1976" and (2) inserting ", $150,000,000 for the fiscal year ending September 30, 1979, $175,000,000 for the fiscal year ending September 30, 1980, and $200,000,000 for the fiscal year ending September 30, 1981" before the period.

(d) Section 1516(c) is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) Of the amount appropriated under paragraph (1) for any fiscal year, the Secretary may use not more than 5 per centum of such amount to increase the amount of a grant in such fiscal year to a health systems agency under subsection (a) to assist the agency in meeting extraordinary expenses (including, but not limited to, extraordinary expenses resulting from the agency's health systems area being located in more than one State, from the agency serving a large rural or urban medical underserved population, or a large health service area) which would not be covered under the amount of the grant that would be available to the agency under this subsection.".

(e) Section 1516(c)(2) is amended by striking out "; except that" and all that follows in that section and inserting in lieu thereof a period.

"SEC. 130. Section 1516(b) is further amended by adding at the end the following new paragraph:

"(4) For the fiscal year ending September 30, 1978, if the amount of the grant of a health systems agency is determined under paragraph (b)(3) of this section, and if the application of such grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made such grant shall be increased by an amount equal to the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of $0.25 and the population of the health service area for which the agency is designated.".

SEC. 131. (a) Section 1521(b)(4) is amended by (1) inserting "(A)" after "(4)"; (2) inserting "upon review (as provided in section 1535) of the State agency's operation and performance of its function," before "he determines"; (3) adding at the end of paragraph (4)(A) (as so redesignated) the following: "Before renewing an agreement under this paragraph within a State agency for a State, the Secretary shall provide each health systems agency designated for a health service area located (in whole or in part) in such State and the Statewide Health Coordinating Council an opportunity to comment on the performance of the State agency and to provide a recommendation on whether such agreement should be renewed."; and (4) adding at the end thereof the following new paragraph: "(B) If upon review (as provided in section 1535) of the State agency's operation and performance of its functions, the Secretary determines that it has not fulfilled, in a satisfactory manner, the responsibilities of a State agency during the period of the agreement to be renewed or if the applicable State administrative program does not continue to meet the requirements of section 1522, he may terminate such agreement or return the State agency to a conditionally designated status under paragraph (2) of subsection (b) for a period not to exceed twelve months. At the end of such period, the Secretary shall either terminate its agreement with such State agency or enter into an agreement with such State agency under paragraph (3) of subsection "(b).".

(b)(1) Paragraphs (3) and (4) of section 1521(b) are each amended by striking out "twelve months" and inserting in lieu thereof "thirty-six months".

(2) Section 1521(b)(3) is amended—

(A) by inserting "(A)" after "(3)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by amending clause (ii) (as so redesignated) to read as follows:

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B), that the designated State Agency is not complying with the provisions of such agreement.", and

(D) by adding at the end the following:

"(B) Before the Secretary may terminate an agreement with a designated State Agency under subparagraph (A)(ii), the Secretary shall—

"(i) consult with the Statewide Health Coordinating Council of the State for which the State Agency is designated respecting the proposed termination,

"(ii) give the State Agency notice of the intention to terminate the agreement and in the notice specify with particularity (I) the basis for the determination of the Secretary that the State Agency is not in compliance with the agreement, and (II) the actions that the State Agency should take to come into compliance with the agreement, and

"(iii) provide the State Agency with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to designation agreements entered into under section 1521(b)(3) of the Public Health Service Act after the date of the enactment of this Act.".

SEC. 132. Section 1521(d) is amended to read as follows: "If an agreement under this section for the designation of a State Agency for a State is not in effect by September 30, 1980, the Secretary shall reduce by 25 per centum the amount of any allotment, grant, loan, loan guarantee to be made and the amount, if any, of any contract to be entered into under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect. If such an agreement is not in effect by September 30, 1981, the Secretary shall reduce such amounts by 50 per centum until such time as such an agreement is in effect. If such an agreement is not in effect by September 30, 1982, the Secretary shall reduce such amounts by 75 per centum until such time as such an agreement is in effect. If such an agreement is not in effect by September 30, 1983, the Secretary shall reduce such amounts by 100 per centum until such time as such an agreement is in effect.".

SEC. 133. (a) Section 1522(b) is amended by adding at the end thereof the following paragraph:

"(14) Provides that any person who is adversely affected by a final decision of the State Agency pursuant to paragraph (4), (5), or (6) of section 1523(a) may, within a reasonable period of time after such a decision is made and any review is made pursuant to paragraph (13), obtain judicial review of such a decision in an appropriate State court. Upon such judicial review, the decision of the State Agency shall be affirmed unless it is arbitrary or capricious, or was made not in conformity with the applicable law.".

(b) Section 1522(b)(13)(A) is amended by inserting "in a timely manner" after "reviewed".

SEC. 134. Section 1522(c) is amended by striking "once each year" and inserting in lieu thereof "once every three years".

SEC. 135 (a) Section 1523(a) is amended by adding the following new paragraph at the end thereof:

"(7) Provide technical assistance in obtaining and filling out the necessary forms to individuals and public and private entities for the development of projects and programs.".

(b) Section 1523(a)(2) is amended to read as follows:

"(2) Prepare and review and revise as necessary (but at least annually) a preliminary State health plan which shall be made up of the HSP's of the health systems agencies within the State. The State Agency shall refer the alcohol abuse, drug abuse, and mental health components of such HSP's to the State alcoholism, drug abuse, and mental health authorities, respectively, designated by the Governor, to review their respective components and to prepare the alcohol abuse, drug abuse, and the mental health components of the preliminary State health plan. The alcohol abuse, drug abuse, and mental health components of such preliminary plan may, as found necessary by such State authorities, contain such revisions of the alcohol abuse, drug abuse, and mental health components of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide alcohol abuse, drug abuse, and mental health needs. The remainder of such preliminary plan may, as found necessary by the State Agency, contain such revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide needs. The preliminary State health plan shall be submitted to the Statewide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in section 1524(c)."

SEC. 136. Section 1523(a)(4) is amended by (1) striking "which is satisfactory to the Secretary" and inserting in lieu thereof "which is consistent with standards established by the Secretary by regulation"; (2) striking "services, facilities, and organizations" each place it occurs and inserting in lieu thereof "services and facilities"; and (3) inserting before the last sentence thereof the following: "In addition, such program shall provide (i) for procedures and penalties to

enforce the provisions of the program and (ii) that after a certificate of need is issued a periodic review (at least every twenty-four months) shall be conducted of the progress being made in making the service or facility for which the certificate was issued available for use, and if it is determined, after notice and an opportunity for a hearing on the record, that substantial progress (absent unforeseen and unavoidable circumstances) is not being made, the certificate shall be withdrawn. In addition, each certificate of need in the State that is issued must be based solely on the record established in administrative and judicial proceedings (as provided for in this title) held with respect to an application for such certificate in order for such certificate of need program to be in compliance with this paragraph. No such program shall have provisions for the review and determination of need of the services, facilities, equipment, and organization of health maintenance organizations that are in addition to provisions for the review and determination of need of the services, facilities, equipment, and organization of other providers of ambulatory health care.".

SEC. 137. Section 1523(a)(5) is amended by inserting "except that this function shall not be performed if the State has in effect a certificate of need program as required by paragraph (4)" after "such services".

SEC. 138. (a) Section 1524(c)(1) is amended by striking "Review annually" and inserting in lieu thereof "Establish (in consultation with the health systems agencies within the State and the State agency) a uniform format for HSP's and AIP's and review annually".

(b) The first sentence of section 1513(b)(2) is amended by inserting "(in accordance with the format prescribed pursuant to section 1524(c)(1))" after "establish".

(c) Section 1524(b)(1) is amended by (1) striking "consumers of health care" each place it occurs and inserting in lieu thereof "consumers of health care or mental health care"; (2) striking "providers of health care" each place it occurs and inserting in lieu thereof "providers of health or mental health care"; and striking "two" in paragraph (D) and inserting in lieu thereof "one".

(d) Section 1524(c)(6) is amended by inserting after "Community Mental Health Centers Act," the following: "Section 409 and 410 of the Drug Abuse Office and Treatment Act,".

(e) Section 1524(b)(1) is amended by adding at the end thereof the following paragraph:

"(E) Members of the SHCC who are consumers of health or mental health care and who are not providers of health or mental health care must include individuals who are members of rural and urban medical underserved populations if such populations exist in the State.".

SEC. 139. Section 1525(c) is amended by (1) striking "and" after "1976" and (2) inserting ", $40,000,000 for the fiscal year ending September 30, 1979, $45,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981" before the period.

SEC. 140. Section 1526(e) is amended by (1) striking "and" after "1976," and (2) inserting ", $6,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, and $7,000,000 for the fiscal year ending September 30, 1981" before the period.

SEC. 141. (a) Section 1531(3)(A) is amended by (1) striking "substance" and inserting in lieu thereof "alcohol and drug" and (2) inserting "rehabilitation facilities," after "outpatient facilities".

(b) Section 1531(3)(B)(i) is amended by inserting "except that an individual shall not be considered an indirect provider of health care solely because he is a member of a governing board of an entity described in subclause (II) or (IV) of clause (ii)" after "clause (ii)".

SEC. 142. Section 1531(5) is amended to read as follows:

"(5)(A) The term 'institutional health services' means (i) the health services provided through health care facilities (but excluding health care facilities of health maintenance organizations other than hospitals) as defined in regulations of the Secretary including, but not limited to, private and public hospitals, rehabilitation facilities, and nursing homes if such services entail annual operating costs of $50,000 or more; and (ii) diagnostic or therapeutic equipment, acquired through purchase, rental, lease, or gift, valued at the time of acquisition in excess of $150,000, used in the delivery of health care services by any person, institution, or other entity.

"(B) In determining whether diagnostic or therapeutic equipment has a value in excess of $150,000 for purposes of subparagraph (A), the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.".

SEC. 143. Section 1532(a) is amended by (1) striking "(e), (f), and (g)" and inserting in lieu thereof "(e), (f), (g), and (h)" and (2) by adding at the end thereof the following: "Procedures and criteria for reviews by health systems agencies pursuant to section 1513(f) and reviews by State Agencies pursuant to paragraphs (4) and (5) of section 1523(a) must provide that applications be submitted in accordance with timetables established by such agencies and Agencies; that such reviews be undertaken in a timely fashion; and that completed applications pertaining to similar types of services or facilities affecting the same service area are considered in relation to each other at appropriate times (but no less often than twice a year). Procedures and criteria for reviews by health systems agencies pursuant to section 1513(g) and by State Agencies pursuant to section 1523(a)(6) must provide that reviews of similar types of institutional health services affecting the same service area be considered in relation to each other. Health systems agencies and State Agencies within a State shall cooperate in the development of procedures and criteria under this subsection to the extent appropriate to the achievement of efficiency in their reviews and consistency in criteria for such reviews.".

SEC. 144. (a) Section 1532(b)(2) is amended by adding at the end the following new sentence: "Failure of a health systems agency or State Agency to complete a review within the period prescribed for the review may not be deemed by such an entity to constitute a negative finding, recommendation, or decision with respect to the subject of such review.".

(b) Section 1524(c) is amended by adding at the end thereof the following new paragraph:

"(7) Failure of a SHCC to complete a review within the period prescribed for the review may not be deemed by such an entity to constitute a negative finding, recommendation, or decision with respect to the subject of such review.".

(c) Section 1532(b) is amended by adding the following paragraph at the end thereof:

"(13) In the case of reviews pursuant to subsections (f) and (g) of section 1513 and subsections (4), (5), and (6) of section 1523, and where appropriate for other reviews—

"(A) opportunity for each participant to present evidence and arguments orally and/or by written submission,

"(B) opportunity for each participant to cross examine any other participant who makes a factual allegation relevant to such a review,

"(C) maintenance of a record of the hearing,

"(D) provision that the decision of the agency and Agency be based solely on the record of the hearing, and

"(E) prohibition on ex parte contacts with individuals voting on the review process.".

SEC. 145. Section 1532(b)(1) is amended by (1) striking "Written" and inserting in lieu thereof "Timely written" and (2) inserting "and to all other persons who have asked to have their names placed on a mailing list maintained by the agency and Agency" after "affected persons".

SEC. 146. Section 1532(b)(7) is amended by striking "Notification" and inserting in lieu thereof "Timely notification".

SEC. 147. Section 1532(b)(8) is amended by inserting "prior to any decision" after "State Agency review".

SEC. 148. (a) Section 1532(c)(9)(B) is amended by inserting "and on the costs and charges to the public of providing health services by other persons" after "construction project".

(b) Section 1532(c) is amended by adding after paragraph (9) the following new paragraphs:

"(10) In the case of existing services or facilities, the quality of care provided by such services or facilities in the past.

"(11) The extent to which such proposed services will be accessible to all the residents of the area to be served by such services.".

(c) Section 1532 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding subsection (c), an application for a health maintenance organization (as defined in section 1531(6)(B)) for a certificate of need for new institutional health services shall be approved by the State Agency if the State Agency finds (in accordance with criteria prescribed by the Secretary) that—

"(1) approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll, and

"(2) the health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.".

SEC. 149. (a) Section 1534(a) is amended by striking "or contracts, or both,".

(b) Section 1534(b)(1) is amended by (1) striking "or contract" each place it occurs; (2) inserting "and be able to provide assistance and dissemination of information to health systems agencies and State Agencies as provided in subsections (a) and (c)" after "paragraph (2)" and (3) inserting "and is able to provide such assistance and dissemination of information" after "such requirements".

(c) Section 1534(c)(2) is amended to read as follows:

"(2) shall develop and use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies planning approaches, methodologies (including methodologies to provide for education of new board members and new staff and continuing education of board members and staff of such agencies and State Agencies), policies, and standards.".

(d) Section 1534(d) is amended by (1) striking "and contracts", (2) striking "and" after "1976,", and (3) inserting ", $12,-

000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, and $18,000,000 for the fiscal year ending September 30, 1981," before the period.

SEC. 150. Section 1535 is amended by adding the following new subsection at the end thereof:

"(e) In making the reviews required by subsections (c) and (d), the Secretary shall consider the comments submitted by any interested person.".

SEC. 151. Section 1536(b)(3) is amended by (1) striking "may" and inserting in lieu thereof "shall" and (2) inserting after "1640" the following: "(provided that nothing contained herein shall prevent such State Agency from contracting with an entity described in section 1512(b)(1) for performance of a part of such functions or participation in the performance of such functions).

SEC. 152. (a) Section 2(a)(3)(B) of Public Law 93-641 is amended by deleting "and" and inserting after section 2(a)(3)(C) the following:

"(D) lack of effective coordination between the mental health care system and physical health care system, both by providers and planners, have promoted fragmentation, lack of continuity, and inappropriate utilization of the Nation's health care resources; and

"(E) lack of attention to and emphasis on the behavorial aspects of physical health care and status.".

(b) Section 1502 is amended by adding the following new subsections at the end thereof:

"(11) The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and the maintenance of health.

"(12) The elimination of inappropriate placement in institutions of persons with mental health problems and improvements in the quality of care provided to persons with mental health problems for whom institutional care is appropriate.

"(13) The assurance of access to community mental health centers and other mental health care providers for needed mental health services and the emphasis on outpatient care as a less restrictive alternative to inpatient mental health services.".

SEC. 153. Section 1513(a) is amended by—

(a) inserting "(as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act)" after "Indian tribe" in paragraph (1)(B),

(b) redesignating paragraphs (2) and (3) as paragraphs (3) and (4) respectively and adding after paragraph (1) the following new paragraph:

"(2) When a health systems agency is requested by or on behalf of a Federal department or agency to review a proposed use of Federal funds, other than those specified in subparagraph (A), to support the development of institutional health services intended for use in the health service area, the health systems agency shall, within sixty days of receiving such a request, submit its views on such proposed use to the Federal department or agency involved and to the appropriate Committees of the Congress.", and

(c) adding after paragraph (4) as so redesignated by subsection (b) the following new paragraph:

"(5) Health systems agencies that have an Indian tribe or intertribal Indian organization (referred to in paragraph (1)(B)) located within such agencies' health service areas shall carry out their functions under this section in a manner that recognizes tribal self-determination. Such agencies shall seek to enter into agreements with the Indian tribes and/or intertribal organizations located within their health service areas on matters of mutual concern as defined in regulations of the Secretary.".

SEC. 154. Section 1531 is amended by adding at the end thereof the following new paragraphs:

"(6)(A) Except as provided in paragraph (b), the term 'health maintenance organization' means an entity which has had approved an application for assistance under section 1304 or a public or private organization organized under the laws of any State, which (1) provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out of area coverage; (2) is compensate (except for copayments) for the provision of the basic health care services listed in paragraph (1) to enrolled participants on a predetermined periodic rate basis; and (3) provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(B) For the purposes of section 1532(d), the term 'health maintenance organization' means an entity which has been determined by the Secretary to be a qualified health maintenance organization pursuant to section 1310(d).

"(7) The term 'medical underserved population' has the same meaning as such term has under section 330(b)(3).".

"(8) The term 'rehabilitation facility' means a facility which is operated for the primary purpose of providing rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) rehabilitation services which shall include, under one management, medical, psychological, social and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be described by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.".

SEC. 155. Section 1513(b)(2)(A) is amended by inserting "(primarily with regard to health care equipment, and health services provided by health care institutions, health care facilities, and other providers of health care and other health resources)" after "healthful environment".

SEC. 156. (a) Except as provided in subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 104, 105(a), 105(b), 106, 107, 113, 114(a), 118, 119(c), 134(b), 135, 137(a), 137(b), 137(e), and 148(a) shall take effect one year after the date of enactment of this Act and the amendments made by sections 142 and 147 shall take effect six months after the date of enactment of this Act, except that on or after the date of the enactment of this Act health systems agencies, State health planning and development agencies, and Statewide Health Coordinating Councils may make the organizational and related changes required and may act in accordance with the changes in their functions made by such amendments.

TITLE II—REVISION AND EXTENSION OF HEALTH RESOURCES DEVELOPMENT AUTHORITY

SEC. 201. Section 1603(a)(3) is amended by inserting "and the Governor of the State" after "Council".

SEC. 202. Section 1613 is amended by adding at the end thereof the following new sentence: "The Secretary may make funds appropriated for use in fiscal year 1976 under this section but not expended available to carry out the purposes of section 1625(d) through September 30, 1979.".

SEC. 203. Section 1622(e)(2) is amended by (1) striking "and" after "1976," and (2) inserting ", September 30, 1979, September 30, 1980, and September 30, 1981" before the period.

SEC. 204. Section 1625(d) is amended by (1) striking "the fiscal year ending September 30, 1978" and inserting in lieu thereof "the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981" and (2) striking "for such fiscal year" and inserting in lieu thereof ", $75,000,000, $100,000,000, and $125,000,000 for such fiscal years respectively".

SEC. 205. Section 1640(d) is amended by (1) striking "and" after "1976," and (2) inserting $40,000,000 for the fiscal year ending September 30, 1979, $70,000,000 for the fiscal year ending September 30, 1980, and $130,000,000 for the fiscal year ending September 30, 1981" before the period.

SEC. 206. Title XVI is amended by adding at the end thereof the following new part:

"PART G—PROGRAM TO ASSIST AND ENCOURAGE THE VOLUNTARY DISCONTINUANCE OF UNNEEDED HOSPITAL SERVICES

"ESTABLISHMENT OF PROGRAM

"SEC. 1641. The Secretary shall, by April 1, 1979, establish a program under which financial assistance and encouragement shall be provided, in accordance with this part, for the consolidation of duplicative hospital services and the discontinuance of unneeded hospital services.

"ASSISTANCE UNDER THE PROGRAM

"SEC. 1642. (a)(1) Under the program established under section 1641, any hospital which was in operation on the date of enactment of this part and—

"(A) which intends to discontinue providing inpatient health services may apply for a debt payment and an incentive payment under section 1643 for such discontinuance,

"(B) which intends to discontinue an identifiable unit of the hospital which provides inpatient health services may apply for an incentive payment under section 1643 for such discontinuance, or

"(C) which intends to convert an identifiable part of the hospital into providing ambulatory care services, long term care services, or any other service designated by the Secretary may apply for a conversion payment under section 1643 if the State health planning and development agency which would have jurisdiction over such service has determined, after taking into consideration the recommendations of the health systems agency which would have jurisdiction over such service has determined, after taking into consideration the recommendations of the health systems agency which would have jurisdiction over such service, that such service is needed.

"(2) The incentive payment authorized by paragraph (a)(1) may be used for—

"(A) the planning, development (including

the cost of construction and the acquisition of equipment), and delivery of ambulatory care services, home health care services, long term care services, or other services (designated by the Secretary) for the community served by the applicant for such payment, which services the State health planning and development agency, after consideration of the recommendations of the health systems agency with jurisdiction over such community, has determined are needed;

"(B) if the applicant has merged with another hospital, preparation of that hospital to serve patients of the closed hospital;

"(C) reasonable (as determined under guidelines prescribed by the Secretary) termination pay for personnel of the applicant who will lose employment because of the discontinuance of inpatient services to be made by the applicant, retraining of such personnel, and assisting such personnel in securing employment; or

"(D) any combination of the activities described in subparagraphs (A), (B), and (C).

"(b) An application of a hospital for a payment under section 1643 shall include—

"(1) a description of the service (or services) to be discontinued or the part of the hospital to be converted;

"(2) an evaluation of the impact of such discontinuance or conversion on the provision of health care in the health service area in which such hospital is located;

"(3) if the services of a unit of a hospital or of all services of a hospital are to be discontinued or converted, an estimate of the change in the applicant's revenues which will result from such discontinuance or conversion;

"(4) with respect to the incentive payment for the discontinuance of all the services of hospital—

"(A) a description of the activities for which the applicant intends to expend such payment,

"(B) a description of the means with which (including a description of any Federal financial assistance the applicant intends to apply for), and the manner in which, the applicant will carry out such activities,

"(C) the amount the applicant intends to expend for such activities, and

"(D) if the applicant will not be responsible for making expenditures for such activities, identification of the person (or persons) who will be responsible for making such expenditures;

"(5) with respect to the incentive payment for the discontinuance of an identifiable unit of a hospital, a description of the use the applicant will make of such payment;

"(6) an evaluation of the impact of such discontinuance or conversion on the employees of such hospital; and

"(7) such other information as the Secretary may by regulation require.

A hospital which has an application under this subsection approved by the Secretary is entitled to receive the payments applied for.

"(c) The health systems agency for the health service area in which an applicant under this section is located shall determine the need for the service (or services) proposed to be discontinued by such applicant or for the part of the hospital to be converted, as the case may be, and shall make a recommendation to the State health planning and development agency for the State in which the applicant is located respecting approval by the Secretary of such applicant's application. A determination of a health systems agency under this subsection shall be based upon criteria developed pursuant to section 1532(c).

"(d) A State health planning and development agency which has received a recommendation from a health systems agency under subsection (c) shall, after consideration of such recommendation, make a recommendation to the Secretary respecting the approval by the Secretary of the application with respect to which the health systems agency's recommendation was made. A State health planning and development agency's recommendation under this subsection with respect to the approval of an application (1) shall be based upon (A) the need for the service (or services) proposed to be discontinued by the applicant or for the part of the hospital to be converted, as the case may be, and (B) such other criteria as the Secretary may by regulation prescribe, and (2) shall be accompanied by the health systems agency's recommendation made with respect to the approval of such application.

"(e) In considering applications submitted under this section, the Secretary shall consider the recommendations of the State health planning and development agency and the health systems agency. The Secretary may not approve an application which a State agency recommends not be approved.

"(f) In determining the need for the service (or services) proposed to be discontinued by an applicant for payment under section 1643, a health systems agency and a State agency shall give special consideration to the unmet needs and existing access patterns of urban or rural poverty populations.

"(g) For purposes of this title, the term "hospital" means, with respect to any fiscal year, an institution (including a distinct part of an institution participating in the program established under title XVIII of the Social Security Act) which satisfies paragraphs (1) and (7) of section 1861(e) of such Act, but such term does not include a Federal hospital.

"AMOUNT OF PAYMENTS

"SEC. 1643. (a) The amount of a debt payment which shall be made to a hospital, with an approved application under section 1642 for the discontinuance of all of its inpatient services is the sum of—

"(1) (A) the lesser of—

"(i) the total outstanding financial obligation of the applicant attributable (as determined under regulations promulgated by the Secretary) to the acquisition of equipment and facilities of the hospital, or

"(ii) the amount of unexpensed depreciation attributable (as determined under regulations promulgated by the Secretary) to the equipment and facilities of the hospital, less—

"(B) the fair market value (as defined by the Secretary) of the equipment and facilities of the hospital; and

"(2) any other expenses (as defined by regulation by the Secretary) which result from the financial obligation of the applicant being satisfied before due.

"(b) The amount of an incentive payment which shall be made to a hospital, with an approved application under section 1642 for the discontinuance of all of its services or the services of an identifiable unit of the hospital is—

"(1) in the case of the discontinuance of all of the inpatient services of a hospital, an amount not to exceed the amount reported by the hospital under section 1642, and

"(2) in the case of the discontinuance of the services of an identifiable unit of the hospital, an amount not to exceed 30 per centum of the charges reported by the hospital for such unit in the previous hospital accounting fiscal year pursuant to generally acceptable accounting principles prescribed by regulations of the Secretary.

"(c) The amount of a conversion payment which shall be made to a hospital, with an approved application under section 1642 is 50 per centum of the reasonable (as determined by criteria established in regulations of the Secretary) cost of the conversion approved in such application.

"(d) The debt payment, incentive payment, and conversion payment to which a hospital is entitled shall be paid in a single payment.

"(e) The Secretary shall not make a payment pursuant to this section until the Secretary of Labor has certified that fair and equitable arrangements have been made to protect the interests of employees affected by the discontinuance of services against a worsening of their positions with respect to their employment including, but not limited to, arrangements to preserve the rights of employees under collective-bargaining agreements; continuation of collective-bargaining rights consistent with the provisions of the National Labor Relations Act; reassignment of affected employees to other jobs; retraining programs; protecting pension, health benefits, and other fringe benefits of affected employees; and arranging adequate severance pay, if necessary. Procedures for certification by the Secretary of Labor shall conform to standards established by the Secretary of Labor by regulation.

(f) To make the payments required by this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $100,000,000 for the fiscal year ending September 30, 1980, and $150,000,000 for the fiscal year ending September 30, 1981.

"STUDY

"SEC. 1644. The Secretary shall make a study of the first twenty-five applications approved under section 1642 to determine their effect on the elimination of unneeded hospital services. The Secretary shall report the results of such study to Congress together with his recommendations for any revision in the program which he determines to be appropriate, including any revision in the authorization of appropriations for such program.".

SEC. 207. Except as provided in section 206, the amendments made by this title shall take effect on the date of the enactment of this Act.

## TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. Section 314 is amended by repealing subsections (a), (b), and (c).

SEC. 302. Title IX is repealed in its entirety.

SEC. 303. The amendments made by this title shall take effect on the date of the enactment of this Act.

## TITLE IV—NATIONAL COMMISSION ON ALCOHOLISM

ESTABLISHMENT OF A NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS

SEC. 401. (a) There is established a Commission to be known as the National Commission on Alcoholism and other Alcohol-Related Problems (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of—

(1) four Members of the Senate appointed by the President of the Senate upon the recommendation of the Majority and Minority Leaders;

(2) four Members of the House of Representatives appointed by the Speaker of the House of Representatives;

(3) eleven members appointed by the President upon recommendation of the Secretary of Health, Education, and Welfare; and

(4) ex officio members from agencies of the Federal Government, appointed by the President, whose programs affect the prevention and treatment of alcoholism and such ex officio members shall be individuals with knowledge of programs administered by such agencies affecting the prevention and treatment of alcoholism.

At no time shall more than two of the members appointed under clause (1), or more

than two of the members appointed under clause (2), or more than six of the members appointed under clause (3) be members of the same political party.

(b)(1) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Ten members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of the basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Commission; and, while away from their homes or regular places of business in the performance of duties of the Commission, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(c)(1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule. While away from his home or regular place of business in the performance of service for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission consistent with applicable laws and regulations with respect to the privacy of medical records.

STUDY AND REPORT

SEC. 402. (a) The Commission shall conduct a study of alcoholism and alcohol-related problems including, but not limited to, the following areas:

(1) an assessment of unmet treatment needs of alcoholics and their families;

(2) an assessment of manpower needs in the fields of research, treatment, and prevention;

(3) an assessment of the integration of alcoholism treatment into ongoing health and social health care services within communities.

(4) an assessment of the need for integration of alcoholism services into existing fiscal support systems, including national health insurance;

(5) an evaluation of the accessibility of services and quality of care, including rural as well as urban areas;

(6) the relationship of alcohol use to aggressive behavior and crime;

(7) the relationship of alcohol use to family violence;

(8) the relationship of alcoholism to the high rates of illnesses, particularly those with a high stress component, among family members of alcoholics;

(9) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

(10) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems;

(11) an evaluation of the needs of special and underserved population groups; and

(b) The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within eighteen months after the date on which funds first become available to carry out the provisions of this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendation for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

(12) an evaluation of the needs of Native Americans.

COORDINATION AND AUTHORIZATION OF APPROPRIATIONS

SEC. 403. (a) The Secretary of Health, Education, and Welfare shall be responsible for the coordination of the activities of the Commission.

(b) There are authorized to be appropriated for the purposes of this section $1,000,000 to remain available until expended.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of S. 2410.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I want to make generous comments about the members of the committee staff on the majority and minority side that did yeoman work in helping us achieve this successful piece of legislation.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SPARKMAN. Mr. President, will it be in order at this time to call up a conference report which will take only 3 minutes?

The PRESIDING OFFICER. The Senator has that right.

## ARMS CONTROL AND DISARMAMENT AUTHORIZATIONS, 1979

Mr. SPARKMAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11832.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate Numbered 2, 3, 4, 5, and 6 to the bill (H.R. 11832) entitled "An Act to authorize appropriations for fiscal year 1979 under the Arms Control and Disarmament Act."

*Resolved*, That the House agree to the amendment of the Senate Numbered 1 to the aforesaid bill with an amendment as follows:

Page 2, line 9, of the Senate engrossed amendments, strike out all after "negotiations." over to and including "Senate." on page 3, line 2.

*Resolved*, That the House agree to the amendment of the Senate to the title of the bill.

Mr. SPARKMAN. Mr. President, I move that the Senate concur in the amendment of the House to the amendments of the Senate to H.R. 11832.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ORDER DISCHARGING BUDGET COMMITTEE FROM CONSIDERATION OF SENATE RESOLUTION 521

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Budget Committee be discharged from its consideration of Senate Resolution 521, and that further consideration of Senate Resolution 521 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NEW YORK CITY FINANCIAL ASSISTANCE ACT OF 1978—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 3:30 having arrived, the Senate will proceed to the consideration of the conference report on H.R. 12426.

The Senate continued with the consideration of the conference report.

Mr. HARRY F. BYRD, JR. Mr. President, much was said and written about the bailout of New York City with Federal tax dollars before the Senate on June 29 approved legislation which would—for the first time—provide Government-guaranteed loans to a city for its fiscal operations.

Much has been said and written about it since.

Now comes some astonishing new information, which I shall refer to later, that confirms my earlier suspicions.

When this legislation was discussed earlier, I outlined in a series of speeches on the Senate floor many of the objections I had to this matter.

I had hoped that the Senate would not take this piece of legislation too lightly, and that it would not be stampeded into too hasty action before all of the facts

on this issue were brought forth and scrutinized closely.

Nevertheless, due to a very effective lobbying job put forth by the proponents of this legislation, it was passed rather handily.

It is ironic that at the very moment the Senate was approving this legislation there was being released the results of the latest New York Times/CBS News national poll which showed that those that responded to the poll were opposed 49 percent to 42 percent to loan guarantees.

The poll substantiated what I and other Senators had stated earlier—that the public was opposed to any loan guarantees for New York City.

Mr. President, at the conclusion of my remarks I shall ask unanimous consent to have inserted into the RECORD several GAO reports and newspaper articles, including the New York Times, June 30 article entitled "National Poll Indicates Less Support for Aid."

Now that the New York loan guarantee legislation has been acted upon and voted out of conference, this issue is once again before the Senate.

Mr. President, I am disappointed with the bill that has come out of conference.

The conference bill has drastically changed the bill voted upon and approved by the Senate.

Although I could not support the Senate bill I believed that the provisions that the Senate added to the bill made it the best bill of the lot.

The major changes which bring me dismay are:

First. Increase of $150 million in the amount of loans that can be guaranteed;

Second. Allow for seasonal financing to be guaranteed under this bill, such seasonal financing totaling $325 million; and

Third. Lengthen the years of the guarantees that can be given after the bill's first year of operation from 10 years to 15 years.

Much has transpired between the time the Senate first considered this legislation in June and now when the Senate considers the conference report.

Many of the events that have taken place and the reports that have been written on this matter question the necessity for this legislation.

In an effort to have the Senate carefully weight the merits of—or the need for—this legislation, I would like to call to the Senate's attention some of these matters.

During the debate on this bill June 29, I indicated that while I could not support—because of the dangerous precedent it was establishing—the philosophy of this legislation, I believed that the Senate bill was the best of a bad lot. I was troubled, also, by what might become of the Senate bill in conference since it differed markedly from the House bill.

The Senate in a very strong, precise, and purposeful manner set forth its position on this legislation in Senate Report 95–952.

The Senate Banking Committee and the Senate took the position that the maximum amount of loans that could be guaranteed under this legislation could not exceed $1.5 billion.

This position was adopted because, in its report, the committee specifically noted:

> . . . The Committee believes that Federal guarantees in these amounts should be sufficient to enable the city to carry out its 4-year long-term financing plan with an adequate margain of safety, while placing primary reliance where it ought to be placed, on private placements of unguaranteed bonds to local parties and on public sales of MAC and city bonds in the credit markets.

The Senate Banking Committee and likewise the Senate also adopted the position in a determined manner that Federal guarantees would not be allowed to be used to guarantee any of New York City's seasonal financing.

After much debate, this position was agreed to for three basic reasons outlined in its report:

First. The city and its representatives along with the Treasury Department indicated that, if long-term financing were guaranteed by the Federal Government, the city could acquire on its own its seasonal financing needs;

Second. Since the greater risk of long-term financing was being guaranteed, then the local parties assume the limited exposure risk of seasonal financing; and

Third. The city's financing plan, as outlined in Mr. Rohatyn's testimony does not specifically call for guarantees of seasonal financing.

The Banking Committee summarized its position on the nonguaranteeing of seasonal financing thus:

> The committee believes strongly that the city should be pushed to reenter the credit markets and to meet its financing needs from private placements with local parties and from public sales of its obligations in the credit markets as rapidly as possible. Requiring the city to provide for its seasonal borrowing needs by not authorizing guarantees for this purpose is a good first step in that direction.

After examining the Senate Banking Committee's report and the debate that ensued on the Senate floor over this legislation, one can readily see that the Senate was very concerned over the amount of loans that would be guaranteed under this bill and the nature of the loans.

The Senate's approval of this legislation was firmly founded on the suppositions that among other things: First, the amount of loans to be guaranteed would be no more than $1.5 billion; and, second, there would be no guarantees accorded seasonal financing.

In debating this conference legislation the Senate should give careful examination to the reasons cited by the conference committee report for the drastic changing of the Senate's strongly held position.

Turning to the conference report, House Report No. 95–1369 one finds it devoid of any reasons for either increasing the amounts to be guaranteed or the guaranteeing of seasonal financing for the first year only.

No reasons are given at all for changing two of the Senate's most important provisions on this legislation.

One is hard pressed to find the reasoning for the drastic changes.

Of course, I realize that every conference faces difficulties when one House takes one position and the other House takes a different position.

In an attempt to understand this action one is drawn to an article which appeared in the New York Daily News on July 12, 1978, entitled "Conferees Hit a Stall Over City Loan Bill."

The article indicated that the conferees were presented with a telegram from Governor Carey, Mayor Koch, and Felix Rohatyn which said that—

> A provision for seasonal financing was absolutely necessary, supported the $1.8 billion figure for guarantees, and opposed the Senate's "short leash" provision.

Mr. President, at the end of my remarks I shall ask unanimous consent that the above-mentioned article be inserted in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, if this telegram is the basis for the drastic additions to this legislation it should be noted that it flies in the face of the testimony presented before the Senate Banking Committee only 1 month before which stated that there was no need for the Federal Government to guarantee seasonal financing if it would guarantee the long-term financing of the city's proposed 4-year plan.

This causes one to wonder whether New York officials were being fair with the Senate when the bailout legislation was before the Senate.

After the Senate passed the New York legislation, the New York Times on July 19, 1978, in an article entitled "New York Unveils a Big Cash Balance" disclosed that—

> New York City had a cash balance on July 1, the start of the current fiscal year, of nearly $1 billion, almost twice as much money as had been previously projected.

Yet the conference report provides for a guaranteeing of seasonal loans, despite the fact that New York has reported a surplus of nearly $1 billion.

I continue quoting from the New York Times article:

> All of the explanations of how the cash balance came into being and how officials plan to spend it could not disguise their embarrassment at having $997 million in the bank after several years of crying poverty.

Mr. President, I say, again interjecting here during the reading of the New York Times article, why should the people of Virginia, the people of Texas, the people of California, why should the taxpayers of the United States, be called upon to guarantee the bonds of a city which reported a surplus, at the end of June, of $997 million?

I go back to quoting from the New York Times:

> One official who is intimately involved in the city's finances said yesterday, "We're not surprised that the cash is this great. All of us looking at the number suspected that the cash would be larger than was estimated during the spring . . ."

I point out that during the spring was the time when New York City officials were down here in Washington trying to get loan guarantees from the Federal Government.

This whole business of New York City, the way they keep their books, the way they are handling their finances, the information they are submitting to the people of this country and to Congress, causes one to wonder how Congress can possibly be justified in passing legislation, as it is planned to do, to guarantee New York City's bonds.

Mr. President, all of this, I think, calls into question whether New York City needs Federal guarantees. This does not sound like the city is in a dire fiscal emergency to me. It appears that the city can get along quite well on its own finances without the need of this legislation. It certainly calls into question whether the city needs Federal guarantees of up to $325 million of its seasonal financing for fiscal year 1979.

At the end of my remarks I shall ask unanimous consent to have printed in the RECORD the above-referenced article.

It appears that the city's fiscal health has recovered noticeably, paced by the fact that the city is planning to sell short-term bonds and/or notes within the next year. This was noted in the New York Daily News of July 10 in an article entitled, "Sees Public Sale of City Bonds Soon," and the Wall Street Journal article of July 17, 1978, entitled "New York City Plans to Resume Its Sale of Short-Term Notes."

Indeed, Mr. President, there is so much conflict in what the city has been telling the Senate what its fiscal condition is and what has actually been appearing in the news, that on May 9 I asked the objective General Accounting Office to review the New York City fiscal situation and report to me how the New York City public employee labor contract settlement would affect the city's budgetary situation.

I was troubled by the reports that the city intended to use its "reported surplus" of this year to fund the following 2-year labor agreement.

Just yesterday, July 26, Mr. President, GAO was able to officially respond to my request.

Its report, in its usual thorough and objective fashion, provides some rather interesting and at times alarming information.

Because this report is so pertinent and vital to the legislation before us, I will quote extensively from it.

Here are the pertinent excerpts I submit, quoting now from the GAO report:

USE OF THE 1978 SURPLUS AS FUNDING SOURCE IS NOT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

You specifically asked that we look into the city's plan to utilize its 1978 "surplus" to fund this 1979–80 labor settlement and for our opinion as to whether this funding technique was in accordance with generally accepted accounting principles.[1]

The importance of your question, of course, lies in the fact that the city is functioning under strict annual financial plans, and so, charging the cost of this labor settlement totally to 1979 and 1980 would increase the deficit in those years and require the city to make offsetting budget cuts. On the other hand, if the city charged approximately $220 million in expense to 1978, that would substantially ease the budgetary pressures in 1979 and 1980 and obviate the need to make budget cuts to pay for this wage settlement.

In our opinion, the city's accounting treatment of the transaction is not in accordance with generally accepted accounting principles. The facts of the situation, as we see them, are as follows. In early April 1978, city officials indicated that they intended to use their 1978 underspending or surplus to provide some of the funding necessary to pay for the wage settlement which was being negotiated. At the time, however, it was not clear just what the surplus would be used for. The city's Deputy Mayor for Finance, had at one point, suggested the surplus might be used to pay for deferred cost of living adjustments. Subsequently, other city officials suggested the surplus might be used to pay for bonuses. During the course of all these discussions this issue had become a public one and was being explored in the local press in articles like "NYC and Unions Study Using 78 Surplus".[2]

In addition to these discussions about what the so-called surplus would be used for, there were also discussions about how to arrange to use it. From an accounting standpoint this presented a problem. Some city officials initially suggested bringing forward the surplus into 1979 and using it as a revenue in that year. This idea was quickly rejected by the Special Deputy State Comptroller for New York City as not being in accordance with generally accepted accounting principles. His conclusion was based on the fact that there was no true surplus, but one existed only after certain adjustments permitted by State law. In addition, the city has a large cumulative deficit so that, under generally accepted accounting principles, there were no available funds to bring forward to 1979. We believe the Special Deputy Comptroller's conclusions are sound.

Ultimately, this matter was resolved when the city and the unions agreed that of the $1,500 cash payment ($750 x 2 years) $937.50 would be considered to have been earned in 1978 and charged to that year. Subsequently, this amount was changed to $1,000. If the payment was considered earned by the employees in 1978, the accounting problem would be solved since the payment could then be properly accounted for as a 1978 expense.

City officials conferred with their certified public accountants and prepared a representation letter which stated that $1,000 of the $1,500 in cash payments had been earned by the employees in 1978 and that it was the city's intention to expense the payments against fiscal year 1978. The CPAs stated that, based on the city's representations as to when the payments were earned, the proposed accounting in their opinion would be in accordance with generally accepted accounting principles.

Our views of this transaction differs from that of the city and its CPAs. As set forth in a statement of the Accounting Principles Board, a basic feature of financial accounting is that it emphasizes the economic substance of events rather than their form. In this case, the parties publicly stated on several occasions their intention was to utilize the 1978 surplus thereby easing 1979 and 1980 budgetary pressures. They stated that they would do so by some appropriate accounting technique which they had not yet decided upon.

Therefore we believe the use of the surplus and the relief of budgetary pressure in 1979 and 1980 was the objective of the parties and that is the substance of the transaction. In our opinion, this cannot be overlooked in assessing the propriety of the accounting involved. Looking toward the substance of the transaction then, we can see no justification for charging it as a 1978 expense.

Beyond the question of substance over form, there is, in our opinion, another flaw in the justification for charging this as a 1978 expense. The agreement requires that for employees to be paid the full $1,000 payment they must continue to work for the city during 1979 and part of 1980. This requirement clearly suggests that the employees have not earned the $1,000 payment for services rendered in 1978, and therefore that expense should not be charged to 1978.

On July 17, 1978, we provided this section of the letter to the city for its review and comment. A copy of its comments is included as Enclosure III.

The city strongly disagrees with our opinion that its accounting for the costs of labor settlement is not in accordance with generally accepted accounting principles. The city contends that budgetary relief for fiscal year 1979 and 1980 was only one of the effects of the settlement and not a primary objective as we contend.

We recognize that payment for services rendered in a given fiscal year is an appropriate expense of that year. We nonetheless continue to believe that the size of the labor settlement coupled with the financial difficulties faced by the city and its need to ease budgetary pressures in fiscal years 1979 and 1980 were the motivating forces in arriving at the terms of the labor settlement. While relieving an immediate fiscal problem, this strategy compounds the financial pressures the city faces in the years beyond this contract. As a result, we feel strongly that charging part of the wage settlement to fiscal year 1978, a year in which the city anticipates a deficit under generally accepted accounting principles, not a surplus, obscures the impact of the settlement and will distort the results of the city's financial operations in fiscal year 1979 and 1980.

The overriding consideration from an accounting point of view is that under the terms of labor agreement there is no liability for fiscal year 1978. The $1,000 payment is, in effect, for services to be rendered in fiscal year 1979 and part of fiscal year 1980, subject to the condition that the employee worked in fiscal year 1978. This amount was not earned in fiscal year 1978, because employees who do not work in fiscal years 1979 and 1980 are not entitled to the payment.

BUDGETARY IMPACT OF CONTRACT IN FUTURE PERIODS

Generally speaking, this labor settlement has not been widely discussed and which There is one aspect of it, however, which has not been widely discussed and which may not ultimately prove to be so conservative.

This contract may have a significant budgetary impact on the city after June 1980 since the salary levels on which wage increases will be applied will be sharply higher at the end of the period than they were at the beginning of this contract (see Enclosure II). This difference between the so called "going-in" "going-out" rates is significant when viewed in terms of the next labor negotiation. For example, in this contract the employees won two increases of 4 percent each and these were viewed as moderate. At the end of the contract period, however, the full 8 percent will be in effect, and combined with the $750 annual cash payment provided for in the contract, this will give the employees a "going-out" rate which may be as high as 16 percent more than the "going-in" rate for the average employee ($15,500 per year). This increased rate will most likely

[1] This surplus exists only under special accounting criteria in State law. According to generally accepted accounting principles, no surplus exists; in fact, a deficit resulted from 1978 operations and a very large cumulative deficit exists from previous years.

[2] New York Times, May 9, 1978.

become the base for the next negotiation and should have a budgetary impact not readily apparent when one examines the modest 4 percent increase in the contract at hand.

RESTORATION OF GIVEBACKS PREVIOUSLY WON BY THE CITY

One other aspect of this contract which has not been widely discussed, but which may nevertheless be significant, relates to the question of givebacks previously won by the city.

Early in the fiscal crisis the city negotiated a $24 million annual reduction in fringe benefits with its unions. This was part of the general austerity program in the city and was one of the city's budget cutting actions. Under this program the starting salaries of certain new employees were cut back 10 percent; vacation allowances for new employees were reduced from 20 to 15 days; check cashing privileges were cancelled; and other fringes were either cut back or cancelled.

Going into this current negotiation, city officials had announced that they were demanding further reductions in employee fringe benefits, or give backs, ranging from $70 to $100 million. As the negotiations progressed, however, the city softened its position on this matter and ultimately achieved no givebacks. Beyond that, the city also conceded to return some of the givebacks previously negotiated.

The 10 percent starting salary reductions and the vacation reductions were given back to the unions. We have not estimated the cost of the fringes returned, but city officials agree that the major concessions previously won from the unions have been returned.

That completes my reading from the GAO report. I will put the text of the report into the RECORD later.

Mr. President, when one examines the July 26 GAO report in conjunction with its June 7 report to me and its March 30, 1978, report to Congressman MOORHEAD, one is drawn to the conclusion that GAO has very serious reservations about New York City's fiscal matters and the solutions that the city has proposed to this problem.

The reports:

(1) Question the City's accounting methods in its attempts to fund the City's public employee labor contract settlement. The report and news articles indicate that the City is still using manipulative accounting gimmicks to achieve desired ends no matter whether or not the practice meets accounting standards.

(2) Question the City's reliance on very uncertain revenue sources to fund its labor settlement and provide for a balanced budget. As the revenue sources look less and less certain, the City's ability to balance its budget becomes less certain.

(3) Bring into question the ability of the City to handle within its budgetary plan future labor contracts whose foundation will be based upon the recently agreed employee contract settlement.

(4) Call into question the ability of the City to deal effectively with its labor unions. The City by giving back to the unions those benefits it had won from them in earlier contracts brings to question whether the City is able to deal from strength in their negotiations with their unions.

(5) Question whether the current independent fiscal monitoring board has the authority to effectively monitor the City's fiscal practices and oversee them in the manner which the Senate in its bill envisioned.

This point seems to have been supported by articles that appeared in the New York Times of June 29, and the New York Daily News of June 29, which point out that the independent fiscal monitoring board approved the City's budget over the objections of the Deputy State Comptroller that he had serious reservations whether the City's budget fell within proper accounting standards and some of the revenue projections could not—objections, which by the way were concurred with by GAO.

After considering the GAO reports, Mr. President, it is apparent that unless New York City curbs its spending and becomes fiscally responsible in its affairs according to generally accepted accounting practices, the city's 4-year fiscal plan will not bring about its intended result.

Currently, Mr. President, New York City refuses to curb its spending by any amount that would be helpful to its financial status, and it refuses to put its own fiscal house in order.

Until they do, the Federal Government should not rush into the fiscal gap to provide the city with expanded fiscal relief.

This is no time for the Senate to create a dangerous precedent, especially in the light of these comprehensive GAO studies and recent news items concerning the affairs of the city of New York.

The July 26 GAO report and the constantly late breaking news articles are new information—new documentation—which, because of their potent portent, require the Senate to give serious reevaluation of the entire program and legislation. I am convinced a dangerous precedent would be established by the Federal Government guaranteeing the bonds of a municipality.

(Mr. SPARKMAN assumed the chair.)

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I congratulate the Senator from Virginia for his statement. It is a remarkable statement. This is a very unusual action for any Senator to take. The Senator is not a member of the Banking Committee, although he is a member of the Finance Committee. This is something outside of his committee jurisdiction, but something he felt so deeply about that he took more extraordinary action than any Senator took: He asked for a GAO report on the city labor contract settlement, which he received in just the last few days, I understand.

Mr. HARRY F. BYRD, JR. Just yesterday.

Mr. PROXMIRE. Just yesterday.

It is a report to which all Senators should give some attention.

First of all, before going into that, I want to say to the Senator that I agree with him about this legislation and about the city's problems. I raised similar objections in committee. Although I disagree with him on some of the points, I think he has made a very strong statement.

I agree that the city does not need these guarantees, that we should not pass the conference report, that New York can do it by itself, and that to pass this conference report would be a mistake and a bad precedent.

Let me say to my friend from Virginia that there are several elements here that ought to be considered.

First, the Senator raised the question of the guarantees for seasonal financing. He pointed out that the bill as it passed the Senate did not provide for seasonal guarantees. That was based on testimony by New York officials that what they wanted was long-term guarantees, not seasonal financing. They said that if they got the long-term guarantees, then the city could do the seasonal financing on its own. Yet we went to conference, and the city and State officials and the House conferees insisted that they did need seasonal guarantees, too. The fact is that when we did make a concession to the House, we made only the slightest kind of concession. The House bill provided for seasonal as well as long-term guarantees over the life of the act, 4 years. The conference report provides for seasonal guarantees only in the first year, and these guarantees can be issued only the first 6 months of the first year, fiscal year 1979.

Furthermore, we instructed the Secretary of the Treasury, who will administer this, that no seasonal guarantees may be made available unless New York City can show there is no other way they can get the seasonal financing they have to have. Specifically, guarantees for seasonal financing can be provided only if, and to the extent that, the city pension funds are unable to provide all of the seasonal financing needed (over and above that provided by other private sources and through public notes sales) because of restrictions on their holdings of city securities which may be imposed by legislation now pending before the Finance and Ways and Means Committees.

This legislation, which provides exemptions from certain Internal Revenue Code provisions, is needed to permit the New York City and State pension funds to participate in the financing arrangements contemplated by this bill.

I talked to Mr. Toia, who is deputy mayor for finance in New York City. Mr. Toia told me, during the period in which the conference committee was meeting that if the Finance and Ways and Means Committees would get together on permitting the city pension funds to make the necessary investment and not impose any limitation that would prevent the city pension funds from doing seasonal as well as long-term financing, they could forget about seasonal guarantees and New York City would not ask for them.

Mr. HARRY F. BYRD, JR. I think that will be done, does not the Senator?

Mr. PROXMIRE. I think it will be done, too. And I think that legislation along this line would accommodate New York. I talked to Senator BENTSEN at some length on it about this legislation, since he has been handling it. But this was the reason that the city and State officials gave, that this tax bill was problematical, and that they did not know whether they could get workable legislation or not. Under those circumstances, they felt they needed some security and, therefore, they felt it was necessary for

us to provide seasonal guarantees in this legislation, in case the Finance Committee and Congress did not provide that accommodation for the pension funds. So on the seasonal guarantees point, that was their response.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. HARRY F. BYRD, JR. How does the Senator envision the purported $997 million bank balance will fit into this?

Mr. PROXMIRE. I want to come to that in a minute. The Senator makes a very good point. He points out that the New York Times itself, which is certainly favorable to New York City and its problems, indicated in its recent news article that there is considerable embarrassment in New York about this $1 billion cash surplus that they have in the bank, far above what they expected to have. As I understand it, there are three reasons for that.

One of the major reasons is that they asked for prepayment of real estate taxes, and collected about $330 million, far more than anticipated. That account for about a third of the additional money they had in the bank.

In the second place, there was a substantial amount of underspending. That is hard to believe with respect to New York, but it can happen. That has happened with respect to the Federal Government, as the Senator knows, where we had $11 billion of underspending a year or two ago. But there was some underspending relative to the original fiscal year 1978 spending estimates, and that accounts for about a third of the difference.

Mr. HARRY F. BYRD, JR. If the Senator will yield on that point, I think the underspending on the part of the Federal Government comes from the fact that the Congress is dishing out so many dollars that the Federal Government cannot spent it all.

Mr. PROXMIRE. The other reason is that the city tried to provide for some end-of-year cash surplus. They made some progress in that direction, and since they made some progress, they were able to accumulate more than they thought they could.

So this additional money in the bank, which, as the Senator points out, should obviate any need for seasonal guarantees in the first 6 months of fiscal 1979, which is the only time we permit such assistance anyway, should make the seasonal guarantee issue moot in any event.

As far as the amount is concerned, the Senator had pointed out that the Senate bill provided $1.5 billion in guarantees of principal amount outstanding. In the debate we had, the distinguished Senator from Texas said we should not go over a billion dollars. The Senator from Texas was right. A billion dollars would have been plenty. The Senate decided on $1.5 billion, and the conference committee raised that to $1.65 billion. Why? The Treasury requested $2 billion in guarantees of principal. The House reduced that somewhat by having the $2 billion include accrued interest. The $1.65 billion in principal does constitute something of a compromise.

The Senator has been in many, many conferences. He knows how difficult it is to insist on your position, when you have set dollar figure, and to say you are not going to go above it. The other body has another figure and says you have to compromise, and usually, you feel you have to do it.

The conference report figure may be somewhat closer to the Senate position, maybe not. Anyway, that is the reason we settled at $1.65 billion.

Let me respond to the very interesting points the Senator has made regarding his GAO report, which I think are extraordinarily significant and go beyond anything that has been discussed or debated on the floor before. As the Senator has pointed out, the report has only become available in the last 24 or 48 hours.

I understand that the Senator from Virginia requested that the GAO analyze the budgetary impact of the city's labor contract settlement.

The report is only in draft form, but GAO is critical of the accounting for and costs of NYC's labor settlement. These are the major findings of the study, and the city's rebuttal:

GAO agrees with the city's estimate of the cost of the contract over the 2-year period: $1.088 billion, of which $868 million will be paid out of city tax levy funds during that period.

GAO had some questions about how the city would pay the $617 million it originally offered and, therefore, about its ability to pay $868 million, but the draft report does not detail these questions. They probably involve the various assumptions of additional revenues and underspending.

The city intends to use about $220 million of the fiscal year 1978 "surplus" (based on State law, not a surplus under GAAP) to make cash payments which are part of the settlement in fiscal years 1979 and 1980. These are lump-sum payments to each employee of $750 a year, $1,500 in all. For each employee, of which the city intends to fund $1,000 per employee out of the fiscal 1978 surplus. The agreement further provides that for the employee to get the full $1,000, he must continue to work for the city during fiscal year 1979 and part of 1980. The result will be to ease fiscal year 1979 and 1980 budgetary pressures. GAO says that a basic feature of financial accounting is that it emphasizes the economic substance of events rather than their form. Therefore, GAO believes that proper accounting principles should not permit these lump-sum payments to come out of fiscal year 1978 surplus funds, because they are really wage increases in fiscal years 1979 and 1980, but put back to 1978 to ease strains on the budget.

The city's counterargument is that they have checked this matter out extensively with their own independent accountants, with the emergency financial control board, and with the special deputy comptroller, and have done the accounting in a way which is acceptable to all of these parties. Furthermore, the city contends that the lump-sum payments are based on a fiscal year 1978 cash surplus which was partially derived from employee productivity gains and, therefore, it is proper that the cost of the payment be charged to 1978.

Now, GAO also contends that although the pay raises in the settlement appear modest—4 percent each year—but that at the end of the contract period, the full 8 percent will be in effect, and combined with the $750 annual cash payment, the "going-out" rate for some city employees could be as high as 16 percent more than the "going-in" rate at the start of the contract. This going-out rate would then become the base for negotiating the contracts for the fiscal year 1981–82 period, which could have a severe budgetary impact.

The city's only response here is that they do not intend to count the $750 cash payment in the base. That is a pretty weak response. However, the unions say they will push for this to be included in the base, and they got most of what they pushed for this time around.

Finally, GAO also points out the city's failure to get any givebacks of fringe benefits in this contract settlement, and the fact that the city actually gave back some of the fringe benefit concessions that were won last time around, in 1976.

So I think the Senator from Virginia has made a very powerful argument against the conference report, and also an argument that the city is digging itself into another serious financial problem, in view of the relatively feeble way it is handling its contract negotiations with its employees and the very large concessions given when you consider the trouble it has been in.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wisconsin.

I realize the very difficult position he is in as chairman of the subcommittee. I want to say that I am rather convinced the bill brought forth by the Senate Banking Committee would have been a less desirable bill from the point of view of the Senator from Virginia had it not been for the Senator from Wisconsin (Mr. PROXMIRE).

I think if anything is to be done in regard to Federal help for New York City that the Banking Committee bill was about as good a proposal as could have been brought to the Senate.

Let me say this, my opposition to loan guarantees for New York City does not in any way suggest any animosity on my part toward New York City. As a matter of fact, I stated on the Senate floor many times that New York City is one of the greatest, if not the greatest, city in the world.

I do not know whether we would say it is greater than London. As an American, I would like to think it is. But it is certainly comparable to London, to Paris, to Madrid, to Rome, to Vienna, and in many respects superior to any city in the world.

I lived in New York City for a year or 18 months at one point and I have a very high regard for that great city.

Mr. TOWER. None of it rubbed off on the Senator from Virginia and I am delighted to see that.

[Laughter.]

Mr. HARRY F. BYRD, JR. But I do

have a very high regard for that city. I know the tremendous contribution which New York City makes to our Nation in many ways.

It is the financial capital of the world, just as Washington is the political capital of the world. New York, in my judgment, is the financial capital of the world and it is a vitally important city.

My opposition to this legislation, just as my opposition to the legislation 4 years ago, is that as a matter of policy I think it is wrong for the Government to get into the business of guaranteeing these finances of a municipality or a State of this Nation.

I think the precedent is dangerous. I think as time goes by it is going to be an invitation for politicians everywhere to give in to the demands of the pressure groups with the knowledge that if a particular city or a particular county or a particular State cannot pay the bill, they will just go to Washington and let the taxpayers take care of the matter.

So that is my opposition to the Federal Government guaranteeing the bonds of New York City, based on what I consider to be an unsound policy and a dangerous precedent.

Mr. MOYNIHAN addressed the Chair.

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the Senator from Virginia.

Mr. President, I rise for the brief purpose of saying that I am profoundly disturbed by the information he has brought to the floor from the General Accounting Office audit which he requested.

The audit hovers at the point of questioning the propriety of recent actions by the mayor of the city of New York. The mayor has provided a reply to this, in the form of a letter from Deputy Mayor Toia to the GAO. I did not know of this matter until now, nor, I think, has Senator JAVITS been informed.

It would not be uncharacteristic of the political practices of our city not to share information openly, as information has often been regarded as a form of power that is diminished if it is ever divided and shared. And so, I never received word that the city had replied, and have not seen the city's reply.

I would undertake on my part to inquire into this matter. I cannot speak for Senator JAVITS, but I am sure he will wish to join me in this. We will seek to get to the essentials of it. There will be a side that New York City will present.

If Senator JAVITS and I conclude there is a question of propriety, we will come to the floor and so state.

I point out one last thing, however, it is the extraordinary fact of this legislation that it establishes a regime which almost to the end of this century will make it not only appropriate but necessary to bring to the floor of the Senate just the kind of questions the Senator has brought.

I would like to state that he has done us no disservice in this matter. It is never a disservice for a person of such a perfect sense of honor as the Senator has, and he has known the experiences we have had over many years in these matters, to raise these questions, because not just the probity of our city government but the appearance of probity is essential to the objectives which we all share here. I make that undertaking, and I thank the Senator from Virginia for raising the question.

Mr. HARRY F. BYRD, JR. I thank the Senator from New York for the understanding way in which he accepts my comments today in regard to the great city which he has the high honor to represent.

The GAO considered the comments of the city officials and rejected them in the final report.

If I may have the attention of the Senator from Wisconsin, I should like to make a unanimous-consent request, but I want to be sure it meets with his approval.

I stated I would ask unanimous consent at the conclusion of my remarks that the GAO report and other documents be printed in the RECORD. The Senator from Wisconsin subsequently asked that another matter be inserted in the RECORD.

Mr. PROXMIRE. Yes—the response of Deputy Mayor Toia to the GAO report.

Incidentally, I say to the Senator from New York that, as a matter of courtesy, GAO just made the report available to the chairmen of the House and Senate Banking Committees. New York got it some time ago and was asked to respond to it, as a matter of interest to the GAO, so they would have a well-balanced report. This is standard procedure for the GAO.

Mr. HARRY F. BYRD, JR. The New York reply is a part of the GAO report.

I shall ask unanimous-consent request that the documents that I wish to insert in the RECORD, and the material offered by Senator PROXMIRE be inserted at the end of the colloquy among the Senator from Wisconsin, the Senator from New York, and the Senator from Virginia.

Mr. President, I ask unanimous consent that the material to which I have referred and to which the Senator from Wisconsin referred be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
*Washington, D.C., July 26, 1978.*

Hon. HARRY F. BYRD, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BYRD: In your letter dated May 9, 1978, you requested that we analyze the budgetary impact of the settlement of New York City's recent negotiation with its labor unions.

On June 7 we furnished you a preliminary response which projected a settlement with all unions, following the pattern of the transit workers contract which had been negotiated in April. After the preparation of our letter, a coalition of municipal unions, representing the majority of city workers, negotiated their own contract.

Although the labor picture is still unsettled, in that the negotiated contracts have not yet been ratified by the unions' memberships and other unions are still negotiating, we nevertheless want to respond to your letter at this time. We believe the contract negotiated by the coalition will undoubtedly form the pattern for all other settlements. Further, we wish to bring to your attention two matters which concern us and which have not been given widespread attention. These involve the budgetary impact of these contracts in future periods and the restoration of givebacks previously won by the city.

TERMS OF AGREEMENT

On June 5, 1978, a tentative agreement was reached between the city and a coalition of municipal unions representing most of the city's work force, except for police and firefighters. This contract was subsequently reduced to writing on June 20. The agreement covers the city's 1979 and 1980 fiscal years (July 1, 1978–June 30, 1980).

Its major terms are as follows:

A 4-percent wage increase (minimum $400) will be effective beginning October 1, 1978, and another 4-percent increase (minimum $400) will be effective October 1, 1979.

Cost of living increase I (COLA I) is to continue to be paid to workers in their paychecks and included in their base salary for fringe benefit and pension computation purposes. All workers will be paid COLA I at a rate of $441 per annum. (While most workers were paid COLA I at this rate in the prior contract, some received it in somewhat higher or lower amounts). COLA I will also be included in employee's base salaries for the computation of the second 4-percent wage increase.

Cost of living increase II (COLA II), paid in the previous contract in lump sum amounts, adjusted for the consumer price index, will be discontinued. Its effective rate at the end of the prior contract was $882 per annum. Replacing it will be a cash payment of $750 per annum, paid in the paychecks of employees at a rate of $28.76 biweekly. These amounts will not be included in base pay for pension purposes. While COLA II was to be offset by savings or revenues generated through worker productivity, the cash payment will be paid without consideration of productivity.

The requirement for documenting offsetting productivity savings for COLA II in the prior contract will be waived for the final payment due under that program ($567 per employee).

No additional reductions in fringe benefits (or givebacks) will take place.

City officials estimate the cost of the contract over the 2-year period as applied to all municipal workers will be $1.088 billion.

About $868 million of this amount represents added budget costs to the city which will have to be met by its own tax levy funds. The balance represents amounts chargeable to Federal and State reimbursable programs as well as additional pension costs the city will incur by virtue of this settlement. Our analysis of the city's estimates shows them to be reasonable. Enclosure I shows the city's estimate of cost by contract provision.

In addition to these costs, an arbitration board has recently decided that the city is also liable for approximately another $200 million representing deferred wages to its employees. However, this will only be payable if certain conditions related to the city's fiscal stability are met. Further, the board ruled that these amounts will not have to be paid until after June 30, 1982.

Furthermore, the city may incur added costs if those unions not accepting the coalition agreement (police and firefighters) receive a larger settlement. In that case, uniformed employees presently covered by the

coalition agreement could "reopen" their contract and demand greater benefits as well. Approximately 15,000 workers have the right to exercise this "me too" clause. On July 19, 1978, a settlement was reached between the police and the city which is reportedly consistent with the coalition agreement. We have not yet reviewed this contract.

FUNDING OF CONTRACT SETTLEMENT

The city's fiscal year 1979 executive budget indicates that $617 million is available for labor settlements and other contingencies. The sources for that funding are as follows:

| | Millions |
|---|---|
| Amount already included in 4-year plan | $138 |
| Contribution by N.Y. State | 100 |
| Overestimate of pension cost included in 4-year plan | 71 |
| "Surplus" in current year's budget—1978 | 170 |
| Additional revenues and underspending—1979–80 | 138 |
| Total | 617 |

Now that a settlement has been reached which will result in total budgetary demands on the city of $868 million, the city has indicated that the added cost of $251 million will be funded as follows:

| | Millions |
|---|---|
| Additional "surplus" expected in 1978 | $46 |
| Additional State aid | 60 |
| Additional savings and city actions—1979–80 | 145 |
| Total | 251 |

Although we have not examined this incremental funding for the wage settlement, we are concerned by the uncertainty of some elements in the original $617 million funding. In our letter to you of June 7, 1978, we discussed these uncertainties and stated that we believe it is unwise to rely upon some of these uncertain sources to fund a wage settlement.

*Use of the 1978 surplus as funding source is not in accordance with generally accepted accounting principles*

You specifically asked that we look into the city's plan to utilize its 1978 "surplus" to fund this 1979–80 labor settlement and for our opinion as to whether this funding technique was in accordance with generally accepted accounting principles.[1]

The importance of your question, of course, lies in the fact that the city is functioning under strict annual financial plans, and so, charging the cost of this labor settlement totally to 1979 and 1980 would increase the deficit in those years and require the city to make offsetting budget cuts. On the other hand, if the city charged approximately $220 million in expenses to 1978, that would substantially ease the budgetary pressures in 1979 and 1980 and obviate the need to make budget cuts to pay for this wage settlement.

In our opinion, the city's accounting treatment of the transaction is not in accordance with generally accepted accounting principles. The facts of the situation, as we see them, are as follows. In early April 1978, city officials indicated that they intended to use their 1978 underspending or surplus to provide some of the funding necessary to pay for the wage settlement which was being negotiated. At the time, however, it was not clear just what the surplus would be used for. The city's Deputy Mayor for Finance, had at one point, suggested the surplus might be used to pay for deferring cost of living adjustments. Subsequently, other city officials suggested the surplus might be used to pay for bonuses. During the course of all these discussions this issue had become a public one and was being explored in the local press in articles like "NYC and Unions Study Using 78 Surplus."[2]

In addition to these discussions about what the so-called surplus would be used for, there were also discussions about how to arrange to use it. From an accounting standpoint this presented a problem. Some city officials initially suggested bringing forward the surplus into 1979 and using it as a revenue in that year. This idea was quickly rejected by the Special Deputy State Comptroller for New York City as not being in accordance with generally accepted accounting principles. His conclusion was based on the fact that there was no true surplus, but one existed only after certain adjustments permitted by State law. In addition, the city has a large cumulative deficit so that, under generally accepted accounting principles, there were no available funds to bring forward to 1979. We believe the Special Deputy Comptroller's conclusions are sound.

Ultimately, this matter was resolved when the city and the unions agreed that of the $1,500 cash payment ($750 x 2 years) $937.50 would be considered to have been earned in 1978 and charged to that year. Subsequently, this amount was changed to $1,000. If the payment was considered earned by the employees in 1978, the accounting problem would be solved since the payment could then be properly accounted for as a 1978 expense.

City officials conferred with their certified public accountants and prepared a representation letter which stated that $1,000 of the $1,500 in cash payments had been earned by the employees in 1978 and that it was the city's intention to expense the payments against fiscal year 1978. The CPAs stated that, based on the city's representations as to when the payments were earned, the proposed accounting in their opinion would be in accordance with generally accepted accounting principles.

Our view of this transaction differs from that of the city and its CPAs. As set forth in a statement of the Accounting Principles Board, a basic feature of financial accounting is that it emphasizes the economic substance of events rather than their form. In this case, the parties publicly stated on several occasions their intention was to utilize the 1978 surplus thereby easing 1979 and 1980 budgetary pressures. They stated that they would do so by some appropriate accounting technique which they had not yet decided upon.

Therefore we believe the use of the surplus and the relief of budgetary pressure in 1979 and 1980 was the objective of the parties and that is the substance of the transaction. In our opinion, this cannot be overlooked in assessing the propriety of the accounting involved. Looking toward the substance of the transaction then, we can see no justification for charging it as a 1978 expense.

Beyond the question of substance over form, there is, in our opinion, another flaw in the justification for charging this as a 1978 expense. The agrement requires that for employees to be paid the full $1,000 payment they must continue to work for the city during 1979 and part of 1980. This requirement clearly suggests that the employees have not earned the $1,000 payment for services rendered in 1978, and therefore that expense should not be charged to 1978.

In arriving at our assessment of this transaction we were guided in part by some particularly germane comments made some years ago in an accounting research study.[3] While the study does not have the force of accounting principles it is nevertheless part of the accounting profession's body of knowledge. The authors said in part:

"Unless accountants are forearmed, they could slip into acceptance of accounting 'principles' which are not independent expressions of the results of accounting considerations but instead simply validate the policies established in the field of collective bargaining."

On July 17, 1978, we provided this section of the letter to the city for its review and comment. A copy of its comments is included as Enclosure III.

The city strongly disagrees with our opinion that its accounting for the costs of the labor settlement is not in accordance with generally accepted accounting principles. The city contends that budgetary relief for fiscal year 1979 and 1980 was only one of the effects of the settlement and not a primary objective as we contend.

The city's comments contain information which supports its accounting treatment of the labor settlement. According to the city, at meetings in early April, representatives of the Mayor's office expressed the city's intent to share part of the estimated statutory surplus with its employees, because the surplus was partially derived from increased employee productivity. The city states it was advised by its independent auditors that if payment to employees was earned and related to services provided in fiscal year 1978, the cost of that payment should be charged to 1978. The city maintains that since this was its intent, negotiating this concept with the unions was the problem it faced and not accounting for the transaction.

We recognize that payment for services rendered in a given fiscal year is an appropriate expense of that year. We nonetheless continue to believe that the size of the labor settlement coupled with the financial difficulties faced by the city and its need to ease budgetary pressures in fiscal years 1979 and 1980 were the motivating forces in arriving at the terms of the labor settlement. While relieving an immediate fiscal problem, this strategy compounds the financial pressures the city faces in the years beyond this contract. As a result, we feel strongly that charging part of the wage settlement to fiscal year 1978, a year in which the city anticipates a deficit under generally accepted accounting principles, not a surplus, obscures the impact of the settlement and will distort the result of the city's financial operations in fiscal year 1979 and 1980.

The overriding consideration from an accounting point of view is that under the terms of the labor agreement there is no liability for fiscal year 1978. The $1,000 payment is, in effect, for services to be rendered in fiscal year 1979 and part of fiscal year 1980, subject to the condition that the employee worked in fiscal year 1978. This amount was not earned in fiscal year 1978, because employees who do not work in fiscal years 1979 and 1980 are not entitled to the payment.

BUDGETARY IMPACT OF CONTRACT IN FUTURE PERIODS

Generally speaking, this labor settlement has been presented as a conservative one. There is one aspect of it, however, which has not been widely discussed and which may not ultimately prove to be so conservative.

This contract may have a significant budgetary impact on the city after June 1980 since the salary levels on which wage increases

[1] This surplus exists only under special accounting criteria in State law. According to generally accepted accounting principles, no surplus exists; in fact, a deficit resulted from 1978 operations and a very large cumulative deficit exists from previous years.

[2] New York Times, May 9, 1978.

[3] Accounting Research Study 3 "A Tentative Set of Broad Accounting Principles For Business Enterprises", by Robert T. Sprouse, Ph. D., and Maurice Moonitz, Ph. D., CPA.

will be applied will be sharply higher at the end of the period than they were at the beginning of this contract (see Enclosure II). This difference between the so called "going-in" and "going-out" rates is significant when viewed in terms of the next labor negotiation. For example, in this contract the employees won two increases of 4 percent each and these were viewed as moderate. At the end of the contract period, however, the full 8 percent will be in effect, and combined with the $750 annual cash payment provided for in the contract, this will give the employees a "going-out" rate which may be as high as 16 percent more than the "going-in" rate for the average employee ($15,500 per year). This increased rate will most likely become the base for the next negotiation and should have a budgetary impact not readily apparent when one examines the modest 4 percent increase in the contract at hand.

We discussed this with city officials who said there is no reason to assume that the $750 annual cash payment in this contract will be included in the going-out rates on which future increases will be based. They maintain this will be a matter for negotiation. In fact, they do not assume the payment itself will be continued beyond 1980. Therefore, the financial plan for 1981 and 1982 makes no provision for paying the approximately $160 million this payment would cost in each of these 2 years.

Union representatives, on the other hand, tell us their position will likely be that these amounts will be part of the base at which new negotiations will begin.

In our opinion, it is unrealistic to think otherwise.

RESTORATION OF GIVEBACKS PREVIOUSLY WON BY THE CITY

One other aspect of this contract which has not been widely discussed, but which may nevertheless be significant, relates to the question of givebacks previously won by the city.

Early in the fiscal crisis the city negotiated a $24 million annual reduction in fringe benefits with its unions. This was part of the general austerity program in the city and was one of the city's budget cutting actions. Under this program the starting salaries of certain new employees were cut back 10 percent; vacation allowances for new employees were reduced from 20 to 15 days; check cashing privileges were cancelled; and other fringes were either cut back or cancelled.

Going into this current negotiation, city officials had announced that they were demanding further reductions in employee fringe benefits, or givebacks, ranging from $70 to $100 million. As the negotiations progressed, however, the city softened its position on this matter and ultimately achieved no givebacks. Beyond that, the city also conceded to return some of the givebacks previously negotiated.

The 10 percent starting salary reductions and the vacation reductions were given back to the unions. We have not estimated the cost of the fringes returned, but city officials agree that the major concessions previously won from the unions have been returned.

As arranged with your office, we are sending copies of this report to the Chairman of the Senate Committee on Banking, Housing and Urban Affairs and the Chairman of the House Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs. Copies will also be available to other interested parties who request them.

We would be happy to meet with you or any of your staff members to discuss these issues further.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General of the United States.*

COST OF SETTLEMENT BETWEEN NEW YORK AND ITS MUNICIPAL UNIONS

[In millions]

| | Fiscal year— | | |
|---|---|---|---|
| | 1979 | 1980 | Total |
| Wage increase: | | | |
| 4 percent or $400 effective Oct. 1, 1978 | $121 | $158 | $279 |
| 4 percent or $400 effective Oct. 1, 1979 | | 126 | 126 |
| $750 annual cash payment | 171 | 164 | 335 |
| Equalizing COLA I at $441 per annum for all employees | | 10 | 10 |
| Cost of wage settlement | 292 | 458 | 750 |
| Unbudgeted increments and COLA costs | 46 | 72 | 118 |
| Total city costs | 338 | 530 | 868 |
| Accrued pension cost | 28 | 54 | 82 |
| Costs chargable to State and Federal programs | 53 | 84 | 137 |
| Total cost of contract settlement, all funds | 419 | 669 | 1,088 |

"GOING OUT" COMPUTATION INCLUDING THE $750 CASH PAYMENT

| | | | | | | |
|---|---|---|---|---|---|---|
| Selected base salaries of New York City employees at the end of the current 2-yr wage pact | $7,500 | $10,000 | $15,500 | $17,000 | $20,000 | $25,000 |
| Add: Increases to base salary as a result of the new pact: | | | | | | |
| 4 percent wage increase, fiscal year 1979 | 400 | 400 | 620 | 680 | 800 | 1,000 |
| COLA I | 441 | 441 | 441 | 441 | 441 | 441 |
| 4 percent wage increase, fiscal year 1980 | 400 | 434 | 662 | 725 | 850 | 1,058 |
| Cash payment to employees | 750 | 750 | 750 | 750 | 750 | 750 |
| Total "going out" rate | 9,491 | 12,025 | 17,973 | 19,596 | 22,841 | 28,249 |
| Less: Beginning base salary | 7,500 | 10,000 | 15,500 | 17,000 | 20,000 | 25,000 |
| Total increase to base salary as a result of the new 2-yr pact | 1,991 | 2,025 | 2,473 | 2,596 | 2,841 | 3,249 |
| Percentage increase to base salary | 26.5 | 20.3 | 16.0 | 15.3 | 14.2 | 13.0 |

"GOING OUT" RATE COMPUTATION EXCLUDING THE $750 CASH PAYMENT

| | | | | | | |
|---|---|---|---|---|---|---|
| Selected base salaries of New York City employees at the end of the current 2-yr wage pact | $7,500 | $10,000 | $15,500 | $17,000 | $20,000 | $25,000 |
| Add: Increases to base salary as a result of the new pact: | | | | | | |
| 4 percent wage increase, fiscal year 1979 | 400 | 400 | 620 | 680 | 800 | 1,000 |
| COLA I | 441 | 441 | 441 | 441 | 441 | 441 |
| 4 percent wage increase, fiscal year 1980 | 400 | 434 | 652 | 725 | 850 | 1,058 |
| Total "going out" rate | 8,741 | 11,275 | 17,223 | 18,845 | 22,091 | 27,499 |
| Less: Beginning base salary | 7,500 | 10,000 | 15,500 | 17,000 | 20,000 | 25,000 |
| Total increase to base salary as a result of the new 2-yr pact | 1,241 | 1,275 | 1,723 | 1,846 | 2,091 | 2,499 |
| Percentage increase to base salary | 16.5 | 12.8 | 11.1 | 10.9 | 10.5 | 10.0 |

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
*New York, N.Y., July 21, 1978.*

Mr. EDWARD HEFFERON,
*U.S. General Accounting Office,*
*New York, N.Y.*

DEAR MR. HEFFERON: We are responding to the draft of your comments to Senator Byrd relating to "the use of the FY 1978 surplus as a funding source" in the City's labor settlement. We appreciate the opportunity to respond as it is a matter of great concern and importance to the City.

The City strongly disagrees with the opinion that the City's accounting for the costs of the labor settlement is not in accordance with generally accepted accounting principles (GAAP). The key issue raised by the General Accounting Office ("GAO") is that the primary objective of the City and the coalition unions was to provide budget relief in FY 1979 and FY 1980. It is the City's position that this was only one of the effects of the settlement. The City believes that the economic substance of the City's labor settlement is properly accounted for and specifically that the $1,000 non-pensionable cash payment ("cash payment) is a proper FY 1978 charge. This accounting is based upon appropriate facts and evidence to support the City's position.

Shortly after the conclusion of the labor negotiations with the Transit Workers, City officials met with representatives of the Emergency Financial Control Board, the Office of the Special Deputy Comptroller, the Citys independent auditors, Peat, Marwick, Mitchell & Co., and others to discuss the Citys pending coalition union labor negotiations. At these meetings in early April representatives of the Mayors Office stated that, as part of the labor negotiations, the City intended to share part of its estimated statutory surplus in FY 1978 with its employees because the estimated statutory surplus was partially derived from employee actions in providing service levels at reduced costs. The City asked its independent auditors what the proper accounting treatment would be and they responded that, if a payment to employees was earned and related to services provided in FY 1978, the cost of that payment should be charged to FY 1978. This was indeed the City's intention and therefore the accounting was *not* considered to be a problem early on in these discussions. Rather the problem was negotiating this concept with the unions as well as meeting other requirements of law.

The GAO claims that "some City officials" inquired about bringing forward the surplus into FY 1979 at one of these meetings. This concept was rejected not only by the Special Deputy Comptroller but aso at the same time by representatives of the Mayor's Office, the City Comptroller's Office and by Peat, Marwick, Mitchell & Company. During all these meetings, in the labor negotiations, and in public statements, the City consistently indicated that it was committed to budgeting and accounting for its operations in accordance with GAAP.

The City further articulated its negotiating position and intentions in the Mayor's Budget Message, dated April 26, 1978. In keeping with the policy for full and complete disclosure, funds were shown as reserved in FY 1978 as part of the costs of the labor settlement. This presentation reaffirmed the City's position that certain costs associated with a labor settlement would be earned and chargeable in FY 1978.

The Coalition Economic Agreement was executed on June 20, 1978 and under its terms, the City and the coalition unions agreed that "a cash payment shall be *earned* and paid to qualifying employees for services rendered during the City's fiscal years ending June 30, 1978, . . . " (emphasis added). This contract language represented an important gain for the City because it indicated that the coalition unions accepted the concept of a payment to employees for their

services in a preceding year dependent upon the results of operations for that year. The payment did not become part of the employees' wage base nor was it included in determining an employee's pension.

Perhaps the only section of the contract referred to by the GAO as support for its opinion relates to the condition that employees who leave the employ of the City before they have received their full cash payment will not receive the unpaid amount. This singular reference ignores several additional important contract provisions, however.

For example, the agreement provides that employees entering City service in FY 1979 were not entitled to any portion of the FY 1978 cash payment. It should also be emphasized that salary levels of new employees have not been increased to compensate for this cash payment.

In addition, not all FY 1978 employees received the entire amount of the cash payment. The agreement clearly stipulated that the amount of the cash payment would be prorated for the length of service an employee worked in FY 1978. For one quarter of FY 1978 would only earn and, therefore, could not receive more than one-quarter of the cash payment. Thus, the amount of the employee's cash payment is directly related to the amount of service provided to the City in FY 1978.

The agreement further provides that the cash payments be paid over a period of months and not paid as a lump sum as of June 30, 1978, for example. This provision was made as a matter of sound fiscal management to reduce the cash needs of the City during a time when the City was seeking financing assistance in both the private and public sectors. Obviously, the effect of this agreement is to limit the overall economic cost of the settlement in each of the contract years as well as for future years. This was done to establish the principle that the cash payment is only available to the extent that it is earned within a particular fiscal year and to the extent that funds are available. The City has thus incorporated into its labor contract a fiscally responsible method of compensating its employees.

These conditions and terms of the Coalition Economic Agreement are not unlike those of compensation plans of private industry. For instance, under the concept of profit sharing plans, the profit of an enterprise, which is usually determined after the year is completed, is shared with the employees. Payment of the determined amount is usually made in the following year to employees for their service in the preceding year. The amount paid to the employees is treated as a change to the period in which earned, i.e., in the year to which services are related. This is the same accounting treatment the City proposes to follow. Many major publicly-owned corporations use this accounting treatment and such treatment has been accepted by the Securities and Exchange Commission as well as by the public accounting profession.

The GAO implies that, regardless of the form of the labor agreement, all costs should be charged to FY 1979 and FY 1980. However, there is no legal or accounting basis of which the City is aware that would require that all the costs of this labor agreement be charged to FY 1979 and FY 1980 irrespective of the terms of the agreement. In addition, the GAO has not specified an alternative accounting nor the basis for its application. If cash basis expenditure accounting for this payment were proposed, for instance, this would represent a return to some of the City's past practices which have been severely criticized in the SEC report, among others, and which the City would strongly resist.

We believe that we have responded to the issues raised in the opinion expressed in your letter. During the discussions prior to and during the labor negotiations, the City Comptroller, the Special Deputy State Comptroller, Peat, Marwick, Mitchell & Company, the Emergency Financial Control Board and others were aware of the issues and the accounting principles involved. They have not taken exception to the City's accounting for the costs of the labor settlement. The City reaffirms its position that its accounting for the costs of the Coalition Economic Agreement properly reflects the economic substance of the results of its labor negotiations.

Very truly yours,

PHILIP L. TOIA,
*Deputy Mayor for Finance.*

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COMPTROLLER GENERAL
OF THE UNITED STATES,
*Washington, D.C., June 7, 1978.*

Hon. HARRY F. BYRD, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BYRD: In your letter dated May 9, 1978, you requested that we prepare a report on the budgetary impact of existing and prospective labor contract settlements in New York City. In a subsequent discussion with your office we advised that while we have been following the status of the city's labor negotiations, we are unable to furnish definitive answers to your questions because those negotiations are still in process. Rather than delay responding, however, we would like to furnish you some of the preliminary information which we have developed.

Essentially, there are three main sets of negotiations the city is faced with: (1) the transit workers' contracts expired March 31, 1978; (2) the main body of municipal workers are covered by contracts expiring June 30, 1978; and (3) the teachers' contracts expire in September 1978. The teachers, however, are negotiating in a coalition with the main body of municipal workers. The police and fire unions, on the other hand, have excluded themselves from the coalition and will negotiate independently. As of May 31, 1978, the city has negotiated a proposed agreement with the transit workers and they were in active negotiations with the coalition of municipal workers. The transit contract had not yet been accepted by the union membership, and, in fact, the union leaders had made public statements indicating that they might attempt to re-open negotiations with the city if the terms offered to the coalition exceeded the terms they had won. In essence, then, no contracts have been finally settled as of May 31, 1978.

Assuming that the contracts might offer equal benefits to all employees when finally negotiated, we analyzed the proposed transit contract and projected it over all municipal employees. Our projections indicated that the transit contract over 2 years (fiscal years 1979 and 1980) would cost the city $18 million and those same benefits extended to the main body of municipal employees over the same 2-year period would cost the city approximately $870 million.

Our understanding of the transit workers' contract, as outlined below, is based on what we were able to learn of the terms and conditions of the contract by speaking to one of the principals to the negotiation and several city officials who were on the periphery of the negotiation. The representative of the transit workers, who was the other principal, elected not to talk to us about the proposed contract until after it was finalized.

The major terms of the agreement, according to our discussions, are as follows:

A 6-percent wage increase, payment of which is deferred for 3 months. The increase is, therefore, applicable to the last 21 months (July 1978 to March 1980) of the 24 month contract.

A $250 lump sum payment, payable before July 1, 1978, not to be included in the workers' base salary for pension computation purposes.

Cost of living increase I (COLA I) is to be continued and frozen at the rate of $0.22 per hour and included in the hourly salary rate and base salary for pension computation purposes.

Cost of living increase II (COLA II) is to be continued and frozen at $0.40 per hour and included in the hourly rate but not the pension base for employees on board as of March 31, 1978. Under prior agreements this COLA was offset by savings generated from worker productivity. Under this contract, however, the COLA will be paid without consideration of productivity. The contract also provides that previously existing productivity programs will continue.

Cost of living increase III (COLA III) is to be paid after July 1, 1979, based on the Consumer Price Index rise for the period July 1978 to May 1979. The total COLA III increase will be included in employees' pay checks but will not be included in base salaries for pension computation purposes. This COLA is not expected to add any cost to the contract because it is to be funded totally by measured productivity savings.

Management's prerogative to hire part-time workers will be recognized in the hiring of 200 part-time change booth clerks in the subway system.

Because the transit operating authority in New York City is an independent authority and has substantial income from fares, the cost of this contract to the city is not major. The city's projections show that its subsidy to the transit system will increase by $18 million to fund this settlement.

Our preliminary projection of the cost of those conditions, if a similar pact is negotiated with all city workers, is summarized below.

ESTIMATED COST OF A TRANSIT-LIKE SETTLEMENT IF APPLIED TO OTHER MUNICIPAL UNIONS 2-YR CONTRACT

[In millions of dollars]

| | Total payout under contract | Nontax levy share [1] | Tax-levy share or city cost |
|---|---|---|---|
| Wage increase—6 percent | 481 | 63 | 418 |
| Bonus—$250 per employee | 66 | 9 | 57 |
| Continuation of COLA I [2] | | | |
| Continuation of COLA II | [3] 453 | [3] 58 | [3] 395 |
| Institution of COLA III [4] | | | |
| Total | 1,000 | 130 | [5] 870 |

[1] The nontax levy share represents that portion of the city's incremental costs which are normally projected to be passed on to the State and Federal governments under reimbursable grant programs. This is currently estimated to be 13 percent.

[2] COLA I is already included in employee hourly wage rates and accounted for in the 4-yr financial plan.

[3] COLA II might cost somewhat less if the existing productivity programs continue to generate savings in the future.

[4] COLA III is expected to be a no-cost COLA since it is to be paid only out of measured savings from productivity.

[5] This estimate does not include increased pension costs of approximately $50,000,000 per year. Since the city funds its pensions on a 2-yr lag this cost will not impact on its budgets until 1981.

A discussion of how the city would fund a settlement of $870 million is speculative to some extent because the city's offers have been for a 2-year settlement at lower amounts. They have, therefore, been planning on funding those amounts rather than the highest cost projected here.

The city's latest contract offer is for a package estimated to cost $700 million to be offset by $78 million in "givebacks" of fringe benefits. These givebacks are to be of the

type which will actually reduce the cost of the labor settlement.

The city's fiscal year 1979 executive budget indicates that $617 million will be available during 1979 and 1980 for labor settlements and other contingencies. The sources for that funding are as follows:

| | Millions |
|---|---|
| Amount included in 4-year financial plan | $138 |
| Contribution by N.Y. State | 100 |
| Overestimate of pension cost included in 4-year plan | 71 |
| "Surplus" in current year's budget (1978) | 170 |
| Additional revenues and underspending 1979–1980 | 138 |
| Total | 617 |

We attempted to verify the availability of these amounts as possible funding sources. While our work was constrained because the amounts in question are budget estimates subject to change, we have been able to learn the following:

*$138 million included in 4-year plan*

This amount was included in the plan as the city's share of the anticipated cost of COLA II.

*$100 million contribution by N.Y. State*

City officials told us that the Governor pledged $100 million from State funds to assist in the 2-year contract settlement. We visited Albany and met with a State budget official who told us that the State was planning to provide the first half of its share of such funding as part of a total city aid package. The details of the funding for that aid package will require some State or Federal legislative action before it is firm. Details of the State's 1980 funding sources are as yet uncertain.

*$71 million overestimate of pension cost*

City officials told us that the cost of the city's pension contribution had been overestimated by about $39 million for 1979 and $32 million for 1980. We discussed these amounts with the actuary who showed us his estimates and explained that he had initially overestimated the needs of certain funds. The overestimates became evident upon a detailed review of the computations and when they were discovered he brought them to the attention of city budget officials.

*$170 million "surplus" in 1978 budget*

This $170 million in available funds resulted primarily from projected underspending by city agencies during fiscal year 1978.

We discused this underspending with representatives of the Office of the Special Deputy Comptroller for New York City, whose recent review of spending levels for the entire year projected them at roughly the same levels projected by the city. We analyzed the work of the Special Deputy Comptroller's staff and we reviewed the city's actual spending reports as of February 1978. Our work indicated that most of the projected underspending was reasonable. We do, however, have reservations about that portion of the underspending which city officials claim will result from a tightening of the procedures under which agencies can obligate appropriations at the end of the year. While this may result in reduction of spending, city officials could offer no support for the $50 million specifically earmarked to be saved under these new procedures.

There has been some controversy about the propriety of using this 1978 underspending to pay for the costs of the 1979 labor contract. If this controversy is not resolved in favor of the city, the availability of these funds to pay for the wage settlement would be uncertain. The matter, however, may be resolved in another way. If the language in the labor contracts identifies certain benefits as having been earned by employees in 1978, the costs of those benefits might be considered as 1978 expenses, and the 1978 underspending could then be applied to pay for those expenses.

*$138 million in underspending, additional revenues, and added budget cuts in fiscal years 1979 and 1980*

The largest component of this amount is an estimated $80 million to be derived from the sale of the right-of-way for the construction and Westway, a highway project. These revenues were originally projected to be received in fiscal year 1978.

Before the project goes forward the city must obtain permits from Federal and State agencies. The Federal Environmental Protection Agency has already recommended against the project and although city and State officials believe all objections will eventually be overcome, the realization of these revenues is uncertain at this time.

The city is also projecting $20 million in additional revenues for fiscal year 1979, primarily in increased sales and personal income taxes. The Office of the Special Deputy Comptroller has reviewed the city's econometric projections of these items and found them reasonable.

Most of the remaining $38 million is expected to result from underspending similar to that being experienced in fiscal year 1978.

Given the uncertainty of several of the funding sources, there is a risk in relying on such sources to fund a wage settlement. It should be noted, however, that the city always has the option of making various budget cuts to fund the cost of the wage package.

In any discussion of the funding of pay increases it is important to keep in mind that the city has other funding problems as well, as its budget is still far from being balanced. Enclosure I shows the extent of the city's budget balancing problem assuming the transit settlement were extended to the other municipal unions.

As arranged with your office, we plan to make copies of this report available to other interested parties. We would be happy to meet with you to discuss any of these matters further.

Sincerely yours,

R. F. KELLER,
*Acting Comptroller General of the United States.*

ESTIMATED IMPACT OF A TRANSIT LIKE SETTLEMENT ON CITY'S FINANCIAL PLAN

[In millions of dollars]

| | Fiscal year— | | |
|---|---|---|---|
| | 1979 | 1980 | Total |
| True gap 4-yr plan | 1,022 | 1,104 | 2,126 |
| Add estimated cost of settlements: | | | |
| Transit contract | 18 | 0 | 18 |
| Transit contract extended for municipal unions | 440 | 430 | 870 |
| Amount included in plan | (69) | (69) | (138) |
| Revised gap | 1,411 | 1,465 | 2,876 |
| Less proposed measures to close the gap: | | | |
| Previously announced | 457 | 704 | 1,161 |
| Pledged by State for labor settlement | 50 | 50 | 100 |
| Savings in pension costs | 39 | 32 | 71 |
| City estimate of 1978 budget underspending | 170 | ..... | 170 |
| Underspending and additional revenues fiscal years 1979 and 1980 | 104 | 34 | 138 |
| Underspending and additional revenue to cover cost of transit pact | 18 | 0 | 18 |
| Total of identified measures | 838 | 820 | 1,658 |
| Remaining gap | 573 | 645 | 1,218 |
| Less— | | | |
| Pension liability which will not be funded | (115) | (100) | (215) |
| Operating expenses which will be paid with borrowed funds | (450) | (300) | (750) |
| Remaining gap if transit settlement were extended to all municipal employees | 8 | 245 | 253 |

COMPTROLLER GENERAL OF THE UNITED STATES,
*Washington, D.C., March 30, 1978.*

Hon. WILLIAM S. MOORHEAD,
*Chairman, Subcommittee on Economic Stabilization, House of Representatives.*

DEAR MR. CHAIRMAN: In your letter of March 10, 1978, written jointly with the Honorable Stewart B. McKinney, you requested that we respond to the question of whether there would be a serious risk of default, insolvency or bankruptcy if the Federal Government provided only seasonal loans to New York City in lieu of some other proposals which have been discussed during your Subcommittee's hearings. You stated that you had no specific term in mind for the seasonal loans but a simple 1-year extension had been suggested as a possibility. The Subcommittee staff subsequently asked that we also comment on a 3-year extension.

We have closely followed the extremely complex New York City situation for the past 2 years, but like most other observers we cannot answer your questions with complete confidence. We are nevertheless offering our opinions on your questions, as well as some of our thoughts on the conditions we think should accompany any program of aid to New York City.

In our judgment, there is a risk associated with the seasonal loan approach. It is not possible to predict with certainty the actions of all the city's long-term financing sources—the pension fund trustees, the banks, and the investing public. Pension fund trustees, both State and city, have indicated they will not invest fund assets unless the securities are guaranteed by the Federal Government. In addition, the Chairman of the Municipal Assistance Corporation (MAC) has stated that MAC might not be able to market its securities without Federal involvement in a total financing package and he has contended that a stand-up Federal seasonal loan program, as well as Federal guarantees of long-term obligations, is needed.

The risk, then, lies in underestimating the sincerity or judgment of those individuals.

First and foremost, in considering the option of 1-year financing, there is a question as to whether the Secretary of the Treasury could make such a loan. The existing legislation requires the Secretary to make a determination that there is a reasonable prospect of repayment before he approves any loans. We assume new legislation would include a similar provision and there might be considerable doubt about the prospect of repayment in the absence of continued long-term financing for the city. Such long-term financing from MAC and the pension funds might be constrained without a strong indication of Federal involvement for longer than 1 year.

The city's 4-year financing plan projects long-term financing needs in fiscal year 1979 of $1.2 billion as follows:

| Purpose: | Millions |
|---|---|
| True capital needs (mostly owed on existing contracts) | $423 |
| Operating expenses in capital budget | 450 |
| Bonding of MAC capital reserve | 200 |
| Refunding of MAC bonds | 100 |
| Total | 1,173 |

The plan proposed that the true capital financing needs ($423 million) be provided through the proceeds of Federally guaranteed bonds to be sold to the city and State pension funds with the balance ($750 million) to be sold by MAC, without guarantees, to financial institutions and the public.

The Senate Banking Committee, in its February report, concluded the city's long-term financing needs were somewhat less and felt they could be met by essentially the same sources the city designated, but without any Federal guarantees.

Regardless of which estimate is correct,

if Federal assistance is limited to a 1-year extension of seasonal financing, certain obstacles need to be overcome. The continuing investment of the city pension funds in city obligations without Federal guarantees must be considered questionable. While these funds have invested about $2 billion in New York City paper between 1975 and 1977 without a guarantee, there is no assurance they will continue to do so. The trustees have stated they do not intend to make such investments without a guarantee, emphasizing that their fiduciary duty compels them to seek a more diversified portfolio of investments. On the other hand, faced with a similar situation in 1975, the pension fund trustees did invest in New York City and they may have no option but to do so again to protect their existing investment.

The State pension funds do not currently hold any city or MAC securities. The sole trustee of these funds has stated that he will not invest in them without "iron clad" Federal guarantees.

Public reception to new MAC offering to meet the city's long-term financing needs also seems far from assured. The Chairman of MAC and other officials representing the city and State have insisted that the total financing package, both long-term and seasonal, called for in the city's plan, is needed to assure investor confidence in city securities. In view of these statements, the question arises as to whether any proposal that calls for substantially less Federal involvement, such as a 1-year extension of seasonal loans, will instill the necessary confidence in investors.

The 3-year approach may be somewhat less risky than the 1-year approach. There is a possibility that it might induce others to invest but the city's financing sources might view seasonal loans, even for 3 years, as too short a Federal commitment. If that view is taken, the city would continue to face difficulty in obtaining long-term funds and the Congress could expect to be faced with the same problem again.

The long-term financing needs over the next 3 years according to the city's plan are as follows:

[In millions of dollars]

| Purpose | 1979 | 1980 | 1981 | Total |
|---|---|---|---|---|
| True capital needs | 423 | 537 | 746 | 1,706 |
| Operating expenses in capital budget | 450 | 300 | 150 | 900 |
| Bonding State advance | | 200 | 300 | 500 |
| Bonding of MAC capital reserve | 200 | 50 | | 250 |
| Refunding of MAC bonds | 100 | 200 | 200 | 500 |
| Total long-term financing needs | 1,173 | 1,287 | 1,396 | 3,856 |

Under a seasonal loan approach, and assuming the same sources of financing the city has assumed, the city and State employees pension funds would be called on to invest $1.6 billion in unguaranteed city bonds, financial institutions and the public would be asked to invest $2.15 billion in MAC bonds, and the public would be expected to invest $100 million in city bonds. It is simply not possible to know if these sources would provide the funding necessary if Federal participation were restricted to 3 years.

If the Congress decides to continue a Federal financing role, we believe the wisest course of action would be one which offers a long-range solution rather than a series of temporary measures which tend to obscure and complicate the problem. We strongly believe that the terms of any Federal assistance should be quite stringent and provide a strong incentive for the city to end its reliance on the Federal Government as soon as possible.

In that regard, a strict fiscal control mechanism would be an essential condition. Further, an important precondition to continuing Federal assistance should be a resolution of the city's present labor negotiations in a manner which does not increase the projected deficits in the city's 4-year financial plan.

The pertinent portion of a report we issued on April 4, 1977, entitled "Assessment of New York City's Performance and Prospects Under Its 3-Year Emergency Financial Plan," is enclosed. In that report, we outlined the conditions we believe should be included in any long-term solution involving Federal loans or guarantees for New York City or any other local government. In essence these conditions, as we would view them as applying to New York City, are:

1. Federal loans or loan guarantees should only be made available after a clear demonstration to the Federal Government that the city has no alternate source for borrowing and the State is unable to provide the needed financing. There should also be a determination by the Federal Government that there is a reasonable prospect for repayment.

2. An independent State board of managers should be established for the duration of any Federal involvement. The board should be responsible for supervising the fiscal affairs of New York City and should have the power to approve, disapprove and modify the city's budgets or any line items within those budgets. That authority should enable it not only to assure that the budgets will be balanced, but also to approve the means by which the balance is achieved. The Secretary of the Treasury could be empowered to appoint an independent respected member of the financial community, knowledgeable in municipal affairs, as a Federal representative on the board. Any Federal loans or loan guarantees should be made through the board, or an appropriate State agency, rather than directly to the city.

3. To encourage State and city efforts to disengage from Federal dependence, monetary penalties should be attached. Interest rates on direct Federal loans should be set at a level so that the city receives less favorable treatment than others borrowing in the private market. For loan guarantees, a fee could be discretionary based on the Federal Government's evaluation of the risk involved.

4. The loan or loan guarantee agreements should provide an automatic review mechanism to assess the potential for refinancing the loans in the private market as soon as practical.

5. Provisions should be made for Federal audit and review.

6. Long-term borrowing for current operating expenses represents such an undesirable fiscal practice that the use of Federal loans or guarantees for such purposes should be prohibited.

In commenting on similar conditions in our prior report, city officials found them unduly onerous and thought some might be an infringement on the rights of elected city officials. We understand their concern. The potential disruption of our federal system of government is of great concern to us. However, we believe continued Federal assistance mandates strong independence involvement in, and control over, the financial operations of the city for what will be, hopefully, a short period of time. Through such involvement there will be best assurance that the difficult decisions will be made—

To close the city's revenue and expense gap;

To end the special Federal and State involvement in the city's affairs;

To return the management of the city to locally elected officials, and

To restore normalcy in intergovernmental relations.

Subsequent to the preparation of the above response, a bill was introduced in the House, cosponsored by you and eleven other Representatives, which addresses many of the issues we raise in this letter.

The basic thrust of this bill seems to promise the long-range solution that we discussed above. We believe, however, that a more specific statement of the terms to be imposed as a condition of Federal assistance would better insure a rapid recovery of the city to a position of fiscal stability.

In particular, we think that the powers of the "independent fiscal monitor" should be more specifically enumerated, along the lines of the second condition listed on page 5 of this letter. The monitor, or board as we call it, should be authorized to modify specific line items in the city's budget. The existing Emergency Financial Control Board generally looks only at the aggregates of the budget, and not the details making up those aggregates. The condition we outlined represents a significant change in the way the board would be expected to function.

We would also suggest that you consider the possible merits of having a Federal representative appointed to the board, possibly by the Secretary of the Treasury. Such an appointment, not unusual in a large credit arrangement, would provide a third-party voice to represent the national interest. This representative would be a party to all of the discussions and decision-making processes now participated in by only State and city officials or appointees of those officials.

We would be happy to meet with you to discuss these observations further.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General of the United States.*

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COMPTROLLER GENERAL'S REPORT TO THE CONGRESS: ASSESSMENT OF NEW YORK CITY'S PERFORMANCE AND PROSPECTS UNDER ITS 3-YEAR EMERGENCY FINANCIAL PLAN

CONCLUSIONS

New York City faced a financial crisis of major proportions during most of 1975. Toward the end of that year, a combination of Federal and State actions stabilized the situation somewhat. It permitted the city to function in an orderly fashion under a financial plan which called for a combination of revenue increases and budget cuts that would lead to a balanced budget by June 30, 1978.

The city has made progress toward resolving its problems, a goal it must achieve to restore its fiscal independence and stability. It is clear, however, that major problems confront the city during the remainder of the financial plan and in the period immediately following. Despite the obvious difficulties, city officials remain cautiously optimistic about meeting the goal of the financial plan. Their determination is encouraging and indispensable to the city's success.

Although no one can state with certainty whether or not the city will achieve the goals of the financial plan, our assessment, at this point, indicates there are sufficient uncertainties to suggest the city may fall short of its goals. Its success is highly dependent on actions of various levels of government as well as the private sector. Even if the city is successful, it remains uncertain whether it will be able to gain sufficient access to the private credit market or other non-Federal sources for its total financial needs after June 30, 1978.

MATTERS FOR CONSIDERATION BY THE CONGRESS

A variety of proposals for Federal action which would assist New York City have been, and no doubt will continue to be advanced. Proposals range from fundamental changes in the Federal domestic assistance system, such as Federal takeover of welfare, to Federal assistance in regional development efforts to stimulate the economy of the Northeast. This report focuses on the more immediate fiscal questions.

It is clear that the city will require substantial short- and long-term financing after the plan period. The amount of the financing will depend on a number of variables, including the degree of success the city has in carrying out its financial plan. Should the city be unable to meet its total financing needs in the private market, it will likely seek Federal assistance in the form of direct Federal loans, loan guarantees, or a combination of the two.

The Congress can, of course, decide to take no action and leave the problem at the State and local level for resolution. On the other hand, it may find that sufficient Federal interest continues to exist to justify further assistance in meeting the financing needs of the city.

Congress could provide for short-term financing by either extending the New York City Seasonal Financing Act of 1975 along with the terms and conditions associated with the present program or by enacting a loan guarantee program. This would leave long-term financing for operating deficits and the capital program to be provided by other sources. Should the city be unable to gain access to other sources of credit, the Congress could consider enacting a program of direct or guaranteed Federal loans for long-term financing needs.

Federal, State, and city officials have for some time been discussing the concept of loan guarantees. Loan guarantee proposals were considered and reported out of Committee in both Houses of the Congress in the fall of 1975. Neither proposal was accepted, primarily because of the President's announcement that he was prepared to veto any legislation designed to prevent a default by the city The President was concerned that Federal guarantees would reduce rather than increase the prospect that the city's budget would ever be balanced, and would establish an undesirable precedent which would relieve the pressure on other State and local governments for prudent management of their financial affairs.

In our judgment, any consideration of Federal approaches to assist the city in meeting its financing needs for the post-1978 period should take these concerns into account. The fiscal cornerstone of our decentralized governmental system rests on the proposition that States and their political subdivisions must raise the revenue required to pay for the level of services they elect to provide. The Federal Government, through a multitude of domestic assistance programs, provides massive supplements to State and local programs. However, responsibility for maintaining overall fiscal viability has and must continue to rest at the State and local level.

Therefore, we believe that any program of direct to guaranteed Federal loans to the city or any other local government should carry stringent conditions. Elements of many of the conditions we would envision are already in place under the New York City Seasonal Financing Act or were included in congressional loan guarantee proposals advanced in the fall of 1975. We would recommend the following:

1. Federal loans or loan guarantees should only be made available after a clear demonstration to the Federal Government that the local government has no alternate source for borrowing and the State government is unable to provide needed financing. There should also be a determination by the Federal Government that there is a reasonable prospect for repayment.

2. An independent State board should be established for the duration of any Federal involvement. The board would be responsible for supervising the fiscal affairs of the local government in that it would have the power to approve, disapprove, and modify the localities' budget. Any Federal loans or loan guarantees should be made through the State board, or other appropriate State agency, rather than directly to the locality.

3. To encourage prudent State and local management of financial affairs and to discourage applications, financial discentives should be attached to any program of Federal loans or loan guarantees. Interest rates on direct Federal loans should be set at a level such that the State or locality does not receive favored treatment over others borrowing in the private market. For loan guarantees, a fee could be required and the interest income could be made subject to the Federal income tax. The fee established could be discretionary based on the Federal Government's evaluation of local and national conditions at the time the guarantees were authorized.

4. The period of Federal loans or guarantees on specific transactions should be limited. For example, any long-term issue could include a provision for automatic termination of the Federal guarantee or for refinancing of direct loans at the end of a specified period, perhaps 5 years, provided the issue could be refinanced at reasonable interest rates in the private market.

5. Provision should be made for Federal audit and review.

6. Long-term borrowing for current operating expenses represents such an undesirable fiscal practice that consideration should be given to a provision which would preclude the use of Federal loans or guarantees for such purposes. The difficulty with such a provision in the case of New York City is that long-term financing of current operating expenses represents one of its major needs for the next several years. While its efforts might not be successful, in our judgment, the city should look to the State or to other sources, such as its pension funds, for this type of financing. As a minimum, long-term loans or guarantees of long-term loans which will provide funds for operating expenses should be approved only if it is absolutely clear that no alternate sources of financing are available and concerted efforts are being made to eliminate the need to borrow for operating expenses.

Federal assistance in the form of loans or loan guarantees would only address the comparatively short-range fiscal aspects of the New York City crisis. While much of the city's crisis can legitimately be attributed to a history of poor financial management, the problem has been exacerbated by social and economic forces which are largely beyond the control of local officials. The seemingly intractable social problems that confront many of the nation's older cities represent one of our major domestic problems and present a range of issues and potential Federal policy responses which are beyond the scope of this report. These issues are considered in a separate GAO report dealing with the longer-term fiscal problems of the New York City area as they relate to the economic conditions of the area.

COMMENTS OF CONCERNED OFFICIALS

We received comments on this report from officials of New York City, the Office of the New York State Special Deputy Comptroller for New York City, and the Emergency Financial Control Board. Their comments are summarized below. The full text of the comments are included as appendixes III through V.

On January 14, 1977, the same day that comments were requested from State and city officials, we also requested comments on this report from the Office of Management and Budget and the Department of the Treasury. Comments have not been received from either agency.

*City comments*

City officials commented that overall our report was comprehensive, thoughtful, and helpful in discussing the immediate fiscal questions confronting the city. The city reaffirmed its intent to balance its budget for fiscal year 1978 but reiterated its belief that the recovery of New York City will be possible only if the coalition of interests in the unions, financial community, State and Federal Governments, and the public at large continues to work together.

The city believes that a discussion of the alternatives open to the Federal Government in the event it must request Federal assistance is helpful from a planning standpoint. It agrees with the need to provide disincentives for the use of Federal financing aid since it is not desirable to have such aid become a regular part of municipal finance. It contends, however, that some of our proposals are unduly onerous and take on a punitive aspect.

Also, the city believes that Federal assistance should not be contingent on all alternate sources of borrowing being exhausted. It believes that Federal help should come early rather than as a last ditch effort, and the conditions for assistance imposed on the city should be carefully drawn so as not to infringe on the rights of elected city officials or be so punitive as to add to the city's problems.

*Special Deputy Comptroller's comments*

The State's Special Deputy Comptroller concurred with our conclusion that it is uncertain whether the city will gain sufficient access to the private credit market or other non-Federal sources for its total financial needs after June 30, 1978. He suggested that the most prudent course would be to enact a loan program as soon as possible that would make available, on a standby basis, any necessary financing that was not otherwise available. He believed such a program would assure prospective lenders there was no risk of bankruptcy in the event the city's aggregate needs could not be met and would minimize, if not eliminate, the need for Federal loans or loan guarantees.

*Emergency Financial Control Board comments*

The Board's Executive Director observed that if the city cannot meet all of its credit needs privately by fiscal year 1979, then it has no other option but to turn to the Federal Government for some form of assistance. He was pleased that this issue was being raised in a new forum, but was concerned that GAO viewed further Federal assistance as running counter to our decentralized form of government and that loans or loan guarantees were acceptable only if the terms were made punitive.

We do not view Federal assistance which stimulates and supports State and local programs as undesirable. However, direct Federal aid to a State or local government with the objective of meeting its overall fiscal needs is a different policy question. In our opinion, safeguards are needed to assure that the pressure for prudent financial management is not lessened.

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[From the New York Times, June 30, 1978]

NATIONAL POLL INDICATES LESS SUPPORT FOR AID

Federal aid to New York City, approved yesterday by the Senate, had a much easier time in Congress this year than it did in 1975, but public support for it across the country appears to be weaker.

The latest New York Times/CBS News national poll showed that those responding were opposed, 49 percent to 42, to loan guarantees. In November 1975, when the city's fiscal difficulties were a much sharper issue across the country, 55 percent of those surveyed said they felt that the Federal Government should provide funds to the city. Thirty-three percent disagreed then.

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[From the Daily (N.Y.) News, July 12, 1978]

CONFEREES HIT A STALL OVER CITY LOAN BILL

(By Bruce Drake)

WASHINGTON (News Bureau).—House and Senate conferees made little progress yesterday in trying to iron out key differences between their versions of the New York City

loan guarantee bill, but efforts to find a compromise continued.

Senate Banking Committee Chairman William Proxmire (D-Wis.) arrived at the second day of the conference with a proposal that appeared to make some concessions to the House bill, but essentially it contained all the major, stricter conditions of the Senate version.

Proxmire's gambit was similar to that of his House counterpart, who opened the conference on Monday by offering a "compromise" that in effect retained all the more generous provisions of the House bill.

Rep. William S. Moorhead (D-Pa.), the New York bill's House manager, said of Proxmire's offer: "When you get down to the guts of it, it is the Senate bill in every respect." But a veteran Senate staffer said that despite the lack of movement, "it's premature to call this a standoff."

Moorhead and his House colleagues met later in an attempt to work out a new compromise offer. He conceded that "we can't just stick to my original proposal."

A NARROWING OF ISSUES

The main points of disagreement narrowed yesterday to these issues:

Proxmire insisted that the conference stick with the $1.5 billion in guarantees voted by the Senate. However, House Banking Committee Chairman Henry S. Reuss (D-Wis.) said that House conferees still wanted to stick with their offer of a $1.8 billion bill. Of all the key disagreements, this issue appeared to be one where a compromise might be easiest.

Proxmire assailed the House proposal to keep a provision in the bill allowing some guarantees to be used for short-term as well as long-term borrowing. Saying that such New York fiscal officials as Felix Rohatyn had told his committee that the city really only needed long-term help, Proxmire cracked: "Now that Felix has the long term locked up, he says, 'Give us the seasonal, too.' He wasn't singing that tune back then."

Proxmire also insisted that the final bill go along with the Senate version and dole out the guarantees in installments over the next four years and provide for a one-house veto of the program in 1980 if the city does not live up to its financial plan. The House members believe the guarantees must be authorized in one lump sum.

READS A TELEGRAM

Resuss read to the conference a telegram from Gov. Carey, Mayor Koch and Rohatyn which said that a provision for seasonal financing was absolutely necessary, supported the $1.8 billion figure for guarantees, and opposed the Senate's "short leash" provision.

Proxmire did note one possible inspiration for a compromise. He displayed the tie he was wearing—a gift from Mayor Koch that was patterned with replicas of the New York City seal—and pointed to the date 1625 that appears under the seal.

"Mayor Koch sent this tie and it has the figure 1625," Proxmire said. "I asked the Library of Congress what that meant and they said they couldn't find anything that happened in 1625. A member of the staff suggested that maybe this was the last time there was no fiscal crisis in New York. But maybe 1625 is the figure we're looking for" as a compromise loan guarantee.

After the conference committee broke up for the day, House conferees met privately to try to work out a compromise loan guarantee figure that Proxmire and the Senate members would accept.

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[From the New York Times, July 18, 1978]

NEW YORK UNVEILS A BIG CASH BALANCE

(By Lee Dembart)

New York City had a cash balance on July 1, the start of the current fiscal year, of nearly $1 billion, almost twice as much money as had been previously projected, city officials said yesterday.

The amount includes $330 million of real-estate taxes that were prepaid in June, which means that the city's cash needs are assured probably until September, when it plans to resume its seasonal borrowing. City financial officials said yesterday that they expected New York to try to sell short-term notes to the public no later than November.

The prepayment of the real-estate taxes was made necessary last month when the willingness of the municipal pension funds to make $700 million in loans was in doubt. At the end of the month, the funds bought $564 million in bonds, which, combined with the $330 million of prepaid real-estate taxes, resulted in the swollen cash balance.

Officials at City Hall and the City Comptroller's office could not say yesterday how much of the cash on hand reflected a true budget surplus. "That is a number that is very difficult to come by," said a senior official on the Comptroller's staff.

Part of the difficulty in assessing the true size of the surplus is that much of the cash balance is spoken for.

$975 IN SEASONAL LOANS

The contract agreement that the city entered into with most of its unions last month calls for using $216 million of the 1978 money to pay for wage increases in 1979 and 1980 and more than $80 million more to pay the 1978 cost-of-living adjustments that the workers will receive this year.

The data on the city's cash balance were contained in a cash-flow report for the current fiscal year that was prepared for Donald D. Kummerfeld, executive director of the Emergency Financial Control Board, by Deputy Mayor Philip L. Toia.

According to Mr. Toia's projections, the city will need $975 million in seasonal loans this year, starting with $225 million in September and October, increasing to $325 million in November and dropping off to $100 million in December and January.

As now contemplated, most of the seasonal borrowing will be done privately with the clearinghouse banks and the municipal pension funds. But the city will try to sell some of its short-term debt publicly, probably in November and possibly in October, depending on when the auditors complete their examination of the city's books for the last fiscal year.

Completion of the audit is a prerequisite for the city's notes to receive an investment rating. Last fall, a city note sale was scuttled after the notes received the lowest investment-grade rating.

EMBARRASSED BY RICHES

The cash-flow projection for the fiscal year also shows a reduction in the annual state advance from $800 million to $100 million, in part as a result of converting the short-term debt into long-term bonds and in part as a result of the city's desire to show that it can stand on its own two feet.

All of the explanations of how the cash balance came into being and how officials plan to spend it could not disguise their embarrassment at having $997 million in the bank after several years of crying poverty.

As recently as last fall, the cash balance for June 30 was projected in the $200 million to $300 million range.

After the first of this year, it became clear that the agencies were overbreaking their spending and that capital construction was proceeding at a slower rate than had been anticipated.

For most of the spring, the projected cash balance swung between $500 million and $600 million, a figure that was raised by the real-estate tax prepayments, officials said.

Nonetheless, one official who is intimately involved in the city's finances said yesterday, "We're not surprised that the cash is this great. All of us looking at the numbers suspected that the cash would be larger than was estimated during the spring."

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[From the Wall Street Journal, June 29, 1978]

NEW YORK CITY FINDS WINDFALL IN BUDGET FOR 1978 FISCAL YEAR

NEW YORK.—New York City, which has been crying poverty, suddenly finds itself with an embarrassment of riches.

Budget officials currently expect New York to end its fiscal year tomorrow with at least $300 million in unexpended funds, and the figure could go considerably higher by the time the books close officially.

City officials attribute the $300 million windfall to conservative budgeting practices, which they say led them to underestimate revenue, and to tighter controls on city spending. New York frequently has proclaimed its new devotion to accurate financial projections, and it is generally agreed that the city has greatly improved its financial statements since 1975, when the chaotic books concealed an accumulated $5 billion deficit.

But the unspent money appears to lend credence to the belief that former Mayor Abraham Beame padded the 1978 budget with extra funds for the election year, only to lose the Democratic primary and leave the benefits to the man who defeated him, Edward I. Koch.

Mayor Koch has decided against using the excess funds to reduce the city's massive $783 million budget deficit. Instead, he plans to employ much of the money to help defray the cost of his labor settlement with city unions, which exceeds the fiscal guidelines he had set previously. By using $216 million of the 1978 money, the major can pay for a settlement covering two years, fiscal 1979 and 1980, out of three years' revenue.

The state's fiscal watchdog for New York, the Emergency Financial Control Board, ratified the mayor's actions yesterday by approving the labor agreement; the city's new 1979 financial plan, which includes a $13.5 billion city budget, and modifications to the current 1978 plan. State Comptroller Arthur Levitt, in a rare action, abstained from the vote, echoing warnings by his staff that diverting so much 1978 money could leave a gap in the budget.

Some critics contend that New York should use any extra funds to reduce its deficit, which has impeded a return to the public credit market. But city officials repeatedly characterize the budget windfall as a "surplus," sustaining public belief that the money is above and beyond the city's normal budget needs. State-sanctioned accounting loopholes permit the city to describe the 1978 budget as balanced. Stricter, generally accepted accounting principles for municipal government, which New York won't adopt fully until 1982, show a big budget deficit.

The growing "surplus" first became evident late last year, when the city reported that it had unusually large sums of cash on hand. James R. Brigham Jr., the city's budget director, said yesterday that unexpended 1978 funds may well grow beyond $300 million. One possible source of funds: a $100 million reserve fund that the city hasn't touched. However, Mr. Brigham said that he expects the outside auditors, Peat, Marwick, Mitchell & Co., to direct the city to make some charges against the fund when they examine the books.

New York officials emphasize that the big budget windfall won't reduce the city's need for a Carter administration-backed plan to supply New York with federal loan guarantees. The officials say that the guarantees are needed so New York can persuade state and city pension funds to buy city bonds.

Meanwhile, Felix Rohatyn, chairman of the Municipal Assistance Corp., said that he hoped to assemble, by the third week in July, $6 billion in lending commitments to meet New York's seasonal and long-term borrowing

needs over the next four years. He indicated that the plan assumes that the city will obtain $1.7 billion in federal loan guarantees.

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[From the Daily (N.Y.) News, July 18, 1978]

REDUCE CITY'S BORROWING OUTLOOK TO $975M

(By Mark Lieberman)

The city will have to borrow $975 million in the current fiscal year through the sale of short-term notes—$900 million less than it borrowed last year and $500 million less than earlier estimates—city fiscal officials reported yesterday.

The lowered cash needs, fiscal observers said, increase the likelihood of a public sale of city notes this year—the first such sale since March 1975.

The city revised its cash needs forecast on the basis of a higher than anticipated closing cash balance at the end of the fiscal year that closed June 30 and in a new schedule for the sale of long-term bonds as part of the $4.5 billion four-year city financing plan.

WANTS BACK-UP PLEDGES

Municipal Assistance Corp. Chairman Felix Rohatyn said that the city might be able to come up with between $200 million and $300 million through a public note sale. He said though that Big Mac would seek commitments from commercial banks and city pension systems for the full $975 million as a backup.

"The city's first priority ought to be to get to the market with a note offering of respectable size," Rohatyn said, "but to have this whole $975 million backed by private placements in case the market really turns sour."

WILL CONFER WITH CAREY

Rohatyn, one of the architects of the Municipal Assistance Corp., plans to quit as unsalaried chairman next month and is reportedly urging Gov. Carey to name financier George Gould, now Big Mac's finance chairman, as his successor.

Rohatyn, 50, said yesterday that he would talk with Carey again next month "about my future and the future" of the corporation after Big Mac completes arrangements for the city's four-year plan and seasonal financing.

Eugene Keilin, Big Mac's $57,000-a-year executive director, also has indicated that he plans to resign.

At least one of the major bond-rating agencies—Standard & Poor's—has expressed concern about Big Mac's future, noting that "continuity of management" is a key factor in determining bond ratings. If ratings are lowered on Big Mac's bonds, it could mean higher interest rates and higher costs for the city.

Gould, 51, is now chairman of four state agencies—Housing Finance Agency, Project Finance Agency, Medical Care Facilities Agency and Municipal Bond Bank Agency—all of which issue tax-exempt bonds.

To accept the Big Mac post, Gould would have to resign from the other agencies to avoid conflicts involved as head of agencies competing with each other in the tax-exempt bond market.

LEADING CANDIDATE

Gould is president of the Madison Fund, an investment company. Before joining the fund in 1976 he served as board chairman and chief executive officer of Donalson, Lufkin and Jenrette Securities Corp.

While Gould, with Rohatyn's backing, is considered the leading candidate for Big Mac's top spot; another possibility is Edward Kresky, a nonvoting representative to Big Mac.

Kresky, 54, a general partner in the investment banking firm of Wertheim & Co., is Senate Majority Leader Warren Anderson's official nonvoting representative to the corporation.

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SEES PUBLIC SALE OF CITY BONDS SOON

(By Mark Lieberman)

New York City may be able to sell short-term notes in the public market by late summer or early fall according to a top executive of the city's largest bank.

Jac Friedgut, vice president of Citibank, made the cautious prediction in a report on city finances prepared for bank customers. While city officials and Municipal Assistance Corp. Chairman Felix Rohatyn have been suggesting a possible return to public credit markets by the city this year, Friedgut's comments were the first public indication by any bank executive that such a proposal was feasible to the financial community.

The city has been unable to raise cash in public credit markets since March 1975.

Friedgut said that "a modest amount of market acceptance (of city notes) could be expected" in the next few months if the city's four-year financial plan gets off "to a reasonable start" and if the audited financial statements for the fiscal year which ended last month "contain no major adverse surprises."

ONE CAUTIOUS NOTE

Despite his otherwise optimistic report, Friedgut cautioned that the city might not be able to attain its goal of a truly balanced budget by the 1982 fiscal year.

"Factoring in the full costs of the new contract for city employes and taking into consideration the likelihood of additional costs in the next round of bargaining two years from now, true budget balance in fiscal 1982 cannot be considered a foregone conclusion," Friedgut wrote.

"The city must run very fast to stand still," Friedgut said. He added that the city would have "to close what now looks like a rapidly growing budget gap after fiscal 1980."

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NEW YORK CITY PLANS TO RESUME ITS SALES OF SHORT-TERM NOTES

[From the Wall Street Journal, July 17, 1978]

NEW YORK.—New York City, closed out of the public credit market in early 1975 and rebuffed by the market last year, plans to resume the sale of its short-term notes in November.

The sale, if successful, would significantly advance New York's fiscal recovery and would bring closer the day when the city can again meet its borrowing needs without Federal help.

Last November, New York tried to sell $200 million in notes to the public, but the sale collapsed after Moody's Investors Service gave the notes its lowest rating and underwriters pulled out.

The city's plan to meet seasonal cash needs for the fiscal year begun July 1 calls for public marketing of $300 million in notes through sales starting in November, Philip L. Toia, deputy mayor for finance, said yesterday.

The city projects total seasonal borrowing needs for the year at $975 million and expects to get most of the money through short-term loans by city commercial banks and public pension funds.

COVERS SHORTAGES

The money, which goes to cover temporary cash shortages during the year, would be repaid by June 30, 1979.

Mindful of the unsuccessful note sale last year, city officials will delay the planned new sale until November when the city is scheduled to get audited financial statements for fiscal 1978, following the city's first independent outside audit. Mr. Toia said the statements will be used in seeking a more favorable rating from Moody's for the city's notes

City officials expect to finish assembling by early August a long-term lending package based on Federal guarantees that will preserve the city's solvency over the next four years. Once the loan package is completed, "the market will be much more receptive" to city notes than it was earlier, predicted Felix Rohatyn, chairman of the Municipal Assistance Corp.

The city's plan, however, calls for banks and pension funds to supply extra loans in case the new sale of notes fails.

NEEDS BOARD APPROVAL

The short-term borrowing plan, which is being submitted to the Emergency Financial Control Board, must be approved by that watchdog agency and by the banks and pension funds.

For the past 2½ years, New York's temporary cash needs have been supplied by the Federal Government, but the Federal program of seasonal loans expired June 30. A new Federal aid program, in the final stage of congressional approval, provides some Federal guarantees to back up the city's short-term borrowing in fiscal 1979.

New York doesn't plan to sell long-term bonds to the public until fiscal 1981.

New York projects its 1979 short-term borrowing at $975 million, down sharply from the roughly $2 billion it borrowed in the past year. The city's coffers are swollen with nearly $1 billion in cash, because spending has been slower than anticipated and because major property owners prepaid real estate taxes. In addition, the city plans to sell bonds to pay off much of an $800 million deficit hidden on the city's books. The State currently advances New York $800 million each year to cover this budget hole, and the city then borrows to repay the State, swelling its total short-term borrowing.

City officials expect New York to market notes in batches of roughly $100 million in the conventional manner. But they are considering a plan, advanced by Jac Friedgut, a Citibank vice president, to auction smaller quantities of city notes as often as twice a month. The plan would resemble, in certain respects, the weekly auctions of U.S. Treasury bills.

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[From the New York Times, June 29, 1978]

CITY BUDGET BACKED BY CONTROL BOARD

(By John Kifner)

Brushing aside a warning from Special Deputy State Comptroller Sidney Schwartz, the Emergency Financial Control Board yesterday approved the city's 1979 budget, its labor settlement and its financial plan.

State Comptroller Arthur Levitt abstained from voting on the budget because of Mr. Schwartz's reservations, marking only the second time since the Control Board was established at the height of the 1975 fiscal crisis that its vote on any proposal has not been unanimous. Moments later, he also abstained from voting on the labor settlement, saying its provisions were "interwoven" with those of the budget.

Mr. Schwartz said that restrictions should be placed on how much of the $216 million of 1978 surplus funds could be used to finance the labor settlement, lest unexpected revenue shortfalls put the 1978 budget in deficit.

OTHER FACTORS

He also expressed fear that the cost of judgments and claims brought against the city might run higher than the $77-million budgeted and that all of the $55-million in real estate taxes expected from the bankrupt Penn Central might not materialize.

However, the Control Board's chairman, Donald D. Kummerfeld said at the meeting that all the "downside uncertainties" had been carefully considered, and approval was swiftly voted.

After the meeting, Mr. Kummerfeld told reporters that the independent auditing firm of Peat, Marwick, Mitchell had disagreed with Mr. Schwartz's interpretation and that following his recommendtion would mean the

entire labor settlement would have to be renegotiated.

"We'd be back to square one," he said.

A STAFF REPORT

Last week, the Control Board issued a staff report warning that the $13.5 billion budget might still be out of balance and asking the city how it might make up potential deficits. Before approving the budget yesterday, the board voted resolutions requiring the city to submit by July 10 a contingency plan with a $100 million emergency reserve for fiscal 1979 and a $200 million contingency fund for 1980.

In addition, by July 15, the city is to submit a cash-flow plan showing monthly revenue and spending expectations.

The hour-long meeting on the 58th floor of the World Trade Center ended in a lengthy flurry of self-congratulations.

Meanwhile, three municipal pension funds—those of the teachers, Board of Education and city employees—reached agreement to buy their $564.6 million share of the $683 million worth of city bonds the pension funds are pledged to purchase by the end of the fiscal year.

The pension funds of the police and firemen, who are currently negotiating labor contracts with the city, appeared less eager, however. Their shares are $12 million for the police fund and $105 million for the firemen's. Both set meetings on the matter for Friday afternoon.

The purchases are needed to provide cash to fund the city through July and August.

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[From the Daily (N.Y.) News, June 29, 1978]

FINANCE BOARD OKAYS CITY'S LABOR PACT BUT STATE OFFICIAL OBJECTS

(By Mark Lieberman)

Despite objections of State Special Deputy Controller Sidney Schwartz, the Emergency Financial Control Board yesterday approved the agreement reached earlier this month between the city and most of its unions.

The control board approved the broad outlines of the labor agreement by a 6-to-0 vote, with Controller Arthur Levitt not voting. The measure was one of the few acted on in the board's three-year history which did not have the support of all seven members of the watchdog panel.

Schwartz' objections to the pact centered on the city's proposal to use $216 million of a current year's budget surplus to pay $750 per year bonuses for city workers in the new fiscal year which starts Saturday.

Schwartz specifically objected to a proposed modification to the city's current financial plan which details the $216 million. With Levitt abstaining, the board approved that change in the financial plan also by a 6 to 0 vote.

ABSTENTIONS BY LEVITT

Levitt said he would have to abstain on both votes to remain consistent.

According to Schwartz, uncertainties still exist in the city's current budget and that using the $216 million of current-year funds to pay future expenses could result in a budget deficit.

During the hourlong session at the World Trade Center, Municipal Assistance Corp. Chairman Felix Rohatyn said that Big Mac hoped to put together a $6 billion financing package for the city within the next three weeks. He said the pieces of the package—$4.5 billion of long-term financing and $1.5 billion of seasonal financing—would depend on the type of federal guarantees on city bonds okayed by Congress.

The Senate began debate yesterday on a city aid bill which calls for $1.5 billion in guarantees. A House-passed bill would provide $2 billion in guarantees.

EXPLANATION BY ROHATYN

Rohatyn said that Big Mac had scaled down the amount of guaranteed bonds it would offer to city and state pension systems from $500 million apiece to $375 million apiece and would hope to sell additional unguaranteed bonds to financial institutions.

The control board yesterday gave final approval to the city's fiscal 1979 budget, but directed city officials to produce a program of standby cuts by July 10 to overcome possible budget deficiencies cited in reports by Schwartz, the control board staff and Big Mac.

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[From the Daily (N.Y.) News, July 26, 1978]

FISCAL PLAN HAS LONG WAY TO GO: FELIX

(By Mark Lieberman)

Municipal Assistance Corp. Chairman Felix Rohatyn said yesterday that state and city employee pension funds, commercial banks and other financial institutions are "days, maybe weeks" away from agreement on short and long-term financing plans for the city.

The city's proposed four-year financing plan involves $4.5 billion of long-term bonds on top of $975 million of short-term notes to provide cash in the current fiscal year. Rohatyn said the parties involved in the financing had "agreed in principle" to the investments, but added "that was in from the beginning.

The pension systems are seeking approval of federal legislation which would permit their investments without a loss of federal tax exemption status. The financial institutions want a clear fix on the life of the new Emergency Financial Control Board, which would go out of existence when the city achieves "market access." The definition of that term has not been resolved.

Two alternatives have been proposed: either that the state controller or an expert of his choosing certify that the city could sell its securities or, as the banks have insisted, the city obtain cash through public note sales.

According to Rohatyn, the city plans to raise the $4.5 billion by selling between $600 million and $650 million of unguaranteed bonds each to commercial banks and city retirement systems, $375 million of guaranteed bonds each to city and state pension systems, between $250 million and $300 million of unguaranteed bonds each to savings banks and insurance companies. The remaining funds would come through public sales, of Big Mac and city bonds with the remaining federal guarantees—about $900 million—held in reserve if the city bond sale fails.

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[From the New York Times, May 9, 1978]

NEW YORK CITY AND ITS UNIONS STUDY USING 1978 SURPLUS

(By Lee Dembart)

New York City and the municipal labor unions are working on a package of wage increases that will use the surplus from the city's 1978 budget for what will be called 1978 expenses even though the money will be paid in 1979.

Knowledgeable participants in the labor negotiations indicated yesterday that the parties were confident that there were enough deferred payments that the unions could claim through 1978 to enable a pact to be written that would pass muster with Sidney Schwartz, the state's special deputy comptroller, who last week insisted that the 1978 surplus could not be used for 1979 expenses.

The two major items now being discussed are the one-year deferral of wage increases that occurred in 1975–76 and the deferral of part of the cost-of-living payments under the present contract.

"Those are legitimtae 1978 expenses that could easily be paid from the 1978 surplus," said Deputy Mayor Philip L. Toia.

DEVELOPMENTS IN SOLVENCY EFFORT

Discussion of the deferred payments as part of the new wage package came on a day when there were these developments in the city's multifront effort to stay solvent.

Felix G. Rohatyn, chairman of the Municipal Assistance Corporation, and State Senator John J. Marchi "kissed and made up," according to Mr. Rohatyn, after last week's brouhaha stemming from his "intemperate" remarks about the State Legislature.

In any case, State Senator Roy M. Goodman expressed doubts about creating a new M.A.C. bond at this time for purchase by the municipal pension funds. "I'd like to keep the new bonds in our vest pocket for some future purpose," Mr. Goodman said.

Secretary Treasury W. Michael Blumenthal summoned Governor Carey, Mayor Koch, Mr. Rohatyn and representatives of the banks and the unions to a meeting with him tomorrow morning at the Federal Reserve in New York to exhort them to move quickly toward settlement of all outstanding issues.

Mr. Blumenthal also sent a letter to City Comptroller Harrison J. Goldin to remind him of the pension funds' commitment to buy city bonds. Mr. Goldin is a trustee of four of the five pension systems, and Mr. Blumenthal called his position opposing further purchase of city bonds "troublesome."

Mr. Koch said that he expected the pension funds, in the end, to make the loans this month because "in a sense, it would be self-immolation" for them not to.

While the various threads of the city's financial difficulties continued unwoven, considerable attention focused yesterday on the labor contracts and the requirement to use the $280 million surplus from 1978 to pay for 1978 expenses. Mayor Koch has said that $170 million of that amount will be included in the $610 million package the city has already offered.

In 1975, the unions agreed to defer for one year most of the 6 percent wage increase that city workers were contractually entitled to receive that year. The unions estimate that a total of $180 million was deferred.

Under the agreement with the unions, the money can be repaid if two conditions are met: the city must have a balanced budget and the city must have access to the private credit markets. City officials agreed yesterday that the last condition had certainly not been met, but some people familiar with the bargaining suggested that the city might find some way to relax that requirement.

The matter of the deferred cost-of-living payments involves a complicated calculation under which each worker would be entitled to $294, representing the difference between two formulas for determining the payments. If paid in full, the cost to the city would be between $50 million and $60 million.

Another likely possibility for use of the 1978 budget surplus is based on the unions' assertion that the surplus arose as a result of underspending by the city, principally leaving job slots unfilled. The unions say that the excess attrition that resulted is a productivity saving from 1978, which the remaining workers are entitled to benefit from in 1979.

City officials seemed disposed yesterday to go along with that thinking, in part because otherwise there would not be enough money left in the Mayor's $610 million package to pay real 1979 wage increases.

The contract speculation took place against the swirling backdrop of the city's need for cash this month from the pension

systems. Mr. Goodman conducted a hearing of the Senate Committee on Taxation and Government Operations, of which he is chairman, at which Mr. Rohatyn; the city's Corporation Counsel, Allen G. Schwartz; Third Deputy Comptroller Paul M. O'Brien and representatives of the investment community testified and reviewed both the pending M.A.C. legislation and the city's proposed Emergency Financial Control Board legislation.

Mr. Rohatyn repeated his warning that without the Federal loan legislation now pending in Washington, the city would go bankrupt this summer. "Without the Federal legislation," he said, "I see absolutely no prospect of financing."

Mr. Goodman tried to steer the discussion away from Mr. Rohatyn's flap with Senator Marchi, which Mr. Goodman called a "tempest in a teapot."

Afterward Mr. Rohatyn remarked of last week's contretemps, "I lost my temper out of frustration. I don't think losing one's temper is either elegant or constructive."

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[From the Daily (N.Y.) News, June 20, 1978]

CITY MOVES TO REVISE 4.5B FISCAL PLAN

(By Mark Lieberman)

City and state fiscal officials moved yesterday to revise the city's $4.5 billion four-year financing plan in the wake of action by the Senate Banking Committee okaying $1.5 billion of federal loan guarantees rather than the $2 billion originally sought by the city.

Municipal Assistant Corp. Chairman Felix Rohatyn said the revised package would not alter the size of the plan but rather the amounts of financing sought from participants in the plan.

The original financing plan, using $2 billion in loan guarantees had been to sell $500 million of guaranteed bonds each to city and state pension systems, $500 million of unguaranteed Big Mac bonds each to city pension systems and commercial banks, $250 million of unguaranteed Big Mac bonds each to savings banks and insurance companies, and to seek public sale of $1 billion of Big Mac bonds and $1 billion of city bonds.

The unused $1 billion of federal guarantees were to have been held in reserve to back up the public sale of city bonds.

Rohatyn said he hoped to have a new financing package pieced together before the full Senate takes up the committee bill. The new package, he said, would substitute Big Mac bonds for some or all of the city bonds initially proposed and would increase sales to pension funds, banks and insurance companies.

He refused to offer any specifics of the changes, however.

The city would use $2.3 billion of the financing for capital budget items, $900 million to pay for expense items in the capital budget.

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[From the New York Times, June 30, 1978]

NATIONAL POLL INDICATES LESS SUPPORT FOR AID

Federal aid to New York City, approved yesterday by the Senate, had a much easier time in Congress this year than it did in 1975, but public support for it across the country appears to be weaker.

The latest New York Times/CBS News national poll showed that those responding were opposed, 49 percent to 42, to loan guarantees. In November 1975, when the city's fiscal difficulties were a much sharper issue across the country, 55 percent of those surveyed said "they felt that Federal Government should provide funds" to the city. Thirty-three percent disagreed then.

(Mrs. ALLEN assumed the chair.)

Mr. TOWER. Madam President, I strongly oppose the adoption of the conference report, not out of any malice for New York City. I think the record of 3 years ago will show that, at some political hazard to myself, I supported the seasonal loan for New York City. I said at the time that I would not ever support loan guarantees. So I think I am consistent in my position there.

I had hoped that that seasonal loan would be adequate and that the leadership in New York City would discipline themselves to do what was necessary to make this kind of action unnecessary.

In my view, New York City has been given every opportunity, and I do not believe that at this time we should be put in the position of assisting them through the vehicle of a long-term loan guarantee.

I agree with what many have said, that the precedents are wrong. I would simply say to other cities that might be looking at this, particularly cities which have some managerial and fiscal problems of their own at the moment, that this should not be considered a precedent for our dealing on an ad hoc basis with the financial difficulties of other cities.

I hope all Members of the Senate will take note of the changes that have been wrought in this measure since it passed the Senate and went through the conference proceeding. It is not what the Senate passed originally. I hope that some who voted for the bill in the Senate, who gave some indication that they thought this is the maximum we should do, will consider voting against the conference report; and I suggest that that would not be inconsistent with anyone's position in having voted for this measure in the first place.

I believe the yeas and nays have been ordered, and unless anyone else is prepared to speak, I believe we can go ahead to the vote on this measure.

Again I say that my attitude toward this measure does not spring from any malice toward New York City. It is a great city; it is a great national asset.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 58, nays 35, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—58

| | | |
|---|---|---|
| Baker | Hatfield, Paul G. | Muskie |
| Bayh | Hathaway | Nelson |
| Biden | Heinz | Packwood |
| Bumpers | Hodges | Pearson |
| Byrd, Robert C. | Huddleston | Pell |
| Case | Inouye | Percy |
| Chafee | Jackson | Randolph |
| Clark | Javits | Ribicoff |
| Cranston | Johnston | Riegle |
| Culver | Kennedy | Sarbanes |
| Danforth | Leahy | Schmitt |
| Dole | Long | Sparkman |
| Durkin | Lugar | Stafford |
| Eagleton | Mathias | Stevens |
| Ford | Matsunaga | Stevenson |
| Glenn | McIntyre | Stone |
| Gravel | Melcher | Weicker |
| Hart | Metzenbaum | Williams |
| Haskell | Morgan | |
| Hatfield, Mark O. | Moynihan | |

NAYS—35

| | | |
|---|---|---|
| Allen | Domenici | Nunn |
| Bartlett | Garn | Proxmire |
| Bellmon | Goldwater | Roth |
| Bentsen | Griffin | Sasser |
| Burdick | Hansen | Schweiker |
| Byrd, Harry F., Jr. | Hatch | Scott |
| Cannon | Hayakawa | Stennis |
| Chiles | Helms | Talmadge |
| Church | Hollings | Thurmond |
| Curtis | Laxalt | Tower |
| DeConcini | Magnuson | Young |
| | McClure | Zorinsky |

NOT VOTING—7

| | | |
|---|---|---|
| Abourezk | Eastland | Wallop |
| Anderson | Humphrey | |
| Brooke | McGovern | |

So the conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## BUREAU OF LAND MANAGEMENT QUADRENNIAL AUTHORIZATIONS, FISCAL YEARS 1979 THROUGH 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2234, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 2234) to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 5, strike "$290,000,000" and insert "$292,200,000";

On page 2, line 5, strike "$320,000,000" and insert "$329,300,000";

On page 2, line 6, strike "$350,000,000" and insert "$361,300,000";

On page 2, line 7, strike "$380,000,000" and insert "$393,300,000";

On page 2, line 10, strike "$20,000,000" and insert "$20,900,000";

On page 2, line 24, strike "$45,000,000" and insert "$40,000,000";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That pursuant to section 318(b) of the Federal Land Policy and Management Act of 1976 (31

U.S.C. 1301 note), there are hereby authorized to be appropriated the following sums for activities and programs administered through the Bureau of Land Management:

(a) for management of lands and resources, excluding emergency firefighting and rehabilitation: $292,200,000 for fiscal year 1979, $329,300,000 for fiscal year 1980, $361,300,000 for fiscal year 1981, and $393,300,000 for fiscal year 1982;

(b) for land acquisition, construction, and maintenance: $20,900,000 for fiscal year 1979, $22,000,000 for fiscal year 1980, $25,000,000 for fiscal year 1981, and $27,000,000 for fiscal year 1982;

(c) for implementation of the Act of October 20, 1976 (31 U.S.C. 1601): $105,000,000 and such additional sums as are necessary for payments for fiscal year 1979, $108,000,000 and such additional sums as are necessary for payments for fiscal year 1980, $111,000,000 and such additional sums as are necessary for payments for fiscal year 1981, and $114,000,000 and such additional sums as are necessary for payments for fiscal year 1982;

(d) for implementation of section 317(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1747): $40,000,000 for loans for fiscal year 1979, $50,000,000 for loans for fiscal year 1980, $57,000,000 for loans for fiscal year 1981, and $65,000,000 for loans for fiscal year 1982; and

(e) such additional or supplemental amounts as may be necessary for increases in salary, pay, retirements and other employee benefits authorized by law, and for other nondiscretionary costs.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1 hour to be equally divided and controlled by the Senator from Arkansas (Mr. BUMPERS) and the Senator from Wyoming (Mr. HANSEN), with 30 minutes on any amendment; 20 minutes on any debatable motion, appeal, or point of order; and with a provision that when the bill has been advanced to third reading, the Senate will proceed to the consideration of H.R. 10787, the House companion bill, that all after the enacting clause be stricken, that the Senate language be inserted in lieu thereof, that the bill be advanced to third reading without further amendment, debate, or motion, and that the Senate then proceed with final passage.

Mr. BUMPERS. Madam President, I ask unanimous consent that privileges of the floor be extended to the following staff persons of the Committee on Energy and Natural Resources during debate and vote on the BLM bill, S. 2234, and the dam safety bill, S. 2820: Dan Dreyfus, Mike Harvey, R. D. Folsom, and Russ Brown.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Madam President, add to that from the same committee: Fred Craft, David Swanson, Tom Imeson, Tony Bevinetto, Ted Orf, and Carol Sacchi.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I think the indications are that there will be no rollcall votes on this bill or on amendments or motions in relation thereto. But could we get an agreement from the managers and other Senators that if any rollcall votes are ordered in connection with this bill that they go over until tomorrow?

Mr. JACKSON. Madam President, we have no objection to that.

Mr. HANSEN. No objections on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Madam President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. The Federal Land Policy and Management Act of 1976 established for the first time a requirement for separate authorization legislation for funding of Bureau of Land Management programs.

S. 2234 would authorize appropriations for the 4-year period of fiscal years 1979 to 1982 for the Bureau of Land Management (BLM), totaling $458,200,000 for fiscal year 1979, and increasing to $604,300,000 for 1982.

The requirement for congressional action on this authorization offers the opportunity for the Congress to provide direction to BLM programs. It represents a prototype of the detailed long-term oversight role that many have advocated for congressional legislative committees in the "sunset" concept.

S. 2234 covers four appropriations accounts which finance most of the operations of BLM. These are: management of lands and resources; acquisition, construction, and maintenance; payments in lieu of taxes; and mineral development impact loans.

S. 2234 does not contain authorizations for the Oregon and California grant lands, the range improvement fund, service accounts, and permanent appropriations.

The BLM administers more Federal lands than the Forest Service, National Park Service, and Fish and Wildlife Service combined. BLM manages 470 million acres of national resource lands—60 percent of all federally owned land of the United States, or 20 percent of the Nation's entire land base. In addition, BLM has management responsibilities for 840 million acres of federally owned mineral rights, and 1,100 million acres of the Outer Continental Shelf. Because of their vast size and their immeasurable value, the management and use of these lands and resources touch the daily life of every American. As a people, we depend upon the national resource lands as a source of jobs, energy, minerals, food, fiber, and forest products. The protection of soil, water, and air quality on these lands affects areas far larger than the lands themselves. Just as importantly, the public lands represent a valuable resource for less tangible benefits such as recreation and wildlife habitat. Additionally, these lands contain a physical record of much of the Nation's rich historical and cultural background.

Given the expectations of a modern and diverse society whose legitimate concerns range from absolute preservation to intensive resource development, the basic mission of the BLM—to achieve balanced and effective multiple-use management of the national resource lands—is very difficult.

In recent years, there has been a heightened interest in the national resource lands. Certainly a principal reason for this interest has been the potential contribution of these lands to meet shortages of energy and minerals. Proposals for development of the public lands have aroused concerns of the public and environmental groups that development take place with a minimum of adverse environmental damage or risk.

A less visible, but nonetheless intense interest has also developed in the renewable resources on the national resource lands. Numerous executive branch reports, including the 1973 report of the President's Advisory Panel on Timber and the Environment, the 1975 BLM range condition report, and the 1976 Forest Service's forest and rangeland renewable resource assessment, have disclosed that the productivity of the Nation's forest and range lands is relatively low and the quality of a significant portion of these lands is declining. In short, the statutory goal of "sustained-yield" management has not been fully realized.

For years, the Bureau of Land Management found its management responsibilities impeded by its dependence on a vast number of outmoded public land laws which were enacted when disposal and largely uncontrolled development of the public domain were the dominant themes. Unlike the Park Service or the Forest Service, the BLM had no "Organic Act" to provide guidance and authority for its actions. With uncertainty as to the continuation of its lands in Federal ownership and the lack of a well-defined mission within its confusing and often contradictory statutory base, the BLM has not been very successful in the competition for scarce Federal land management funds.

However, on October 2, 1976, the President signed into law an organic act for the BLM—the Federal Land Policy and Management Act of 1976 (FLPMA)—which repealed many of the outmoded public land laws and provided the agency with a coherent mandate and sufficient authority to implement it. Also, in 1976, the Congress passed the Payments-in-Lieu-of-Taxes Act (PILT Act), and the authorization contained in this bill is to meet those payments.

For fiscal year 1979, the President has asked for an increase ($52,086,000) in the agency's budget over the prior year's appropriation. The magnitude of this increase is actually less than it appears, however, because much of it is accounted for by a change in financing of "Firefighting and Rehabilitation." Starting with fiscal year 1979, this item would be financed in the initial appropriation rather than in a supplemental appropriation which has been the normal funding practice in prior years. This financing change amounts to an apparent increase of $25,250,000 that does not provide any real program growth. When this financing change is subtracted, the actual program increase proposed is $26,836,000 over the 1978 appropriation.

Section 318 of FLPMA required the Secretary of the Interior to submit last

year a proposal for a 4-year (fiscal years 1979-82) authorization for most of the Bureau's programs. This proposal was to include funding levels which the Secretary "determines can be efficiently, and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by an official or agency of the executive branch."

The Secretary transmitted his first request under this provision last September. It provided estimates for fiscal years 1979 through 1982. In January, the President's budget for fiscal year 1979 was transmitted. While the Secretary has requested more than is in the President's budget, there is some question as to whether the Secretary has asked for all that he really needs and can employ as section 318 requires.

It was of particular concern to the Committee on Energy and Natural Resources that there is such a large disparity between what the Secretary proposed for fiscal year 1979 in the 4-year BLM authorization submittal and what is included in the President's budget request for fiscal year 1979. The Secretary's submission (S. 2234) calls for $100 million more in the comparable budget items in fiscal year 1979 than does the President's budget request. The committee gave very careful attention to the President's budget and the Secretary's estimates for 1979 because a greater degree of specificity is available for 1979 and the direction taken in 1979 can be expected to continue for several years thereafter. Furthermore, fiscal year 1979 is a crucial budget year for public land renewable resources management. The period of study is over and, with the exception of the National Rangelands Policy Act, the authorizing legislation has been enacted. While the study and legislative efforts have not required significant budgetary outlays, implementation of the more costly study recommendations and statutory mandates will require a significant increase in funding levels.

The attention of the committee has focused primarily upon the first year of the authorization period, 1979. Because the committee had explored the BLM quadrennial authorization estimates so thoroughly, it was able to comment and make budgetary recommendations in considerable detail in its report (committee print 95-95) to the Budget Committee for use in formulating the first budget resolution. The committee believes that its recommendations for 1979 reflect the proper balance among BLM programs and will insure that the directions which the committee's fiscal year 1979 authorization would require the BLM to take will be followed in fiscal years 1980 through 1982. Thus, the following views of the committee and the basis for its actions are largely a recapitulation of the committee's previous recommendations concerning the 1979 budget. They are repeated in this report to provide a consolidated statement of the committee's views.

The committee has made only two program additions, one for a wildlife program that is considered to be inadequately funded and one for mining claim recordation, a task that was not provided for in the Secretary's estimates. Otherwise, the committee's authorization figures at the appropriation account level are identical to those recommended by the Secretary. The committee believes that the levels requested will provide adequately for implementation of the Federal Land Policy and Management Act of 1976, perhaps not at the pace this committee and other interested groups would prefer, but at a rate that appears to be about the maximum rate economically feasible.

Madam President, I wish to reiterate that this is a rather unique authorization. I have always felt that Congress ought to authorize all budgets for 2 years at a time, so that in the off years we could deal with substantive policy legislation. But this legislation is a giant step, in this particular program, because we are authorizing money for 4 years in advance. I think it will help revitalize the grazing lands of the West. It will take much less of the time of Congress, and the Bureau of Land Management will have a policy to guide them for 4 years, which is unprecedented.

● Mr. HANSEN. The House passed the Bureau of Land Management's (BLM) quadrennial authorization, which includes authorization of $10 million to pay the costs of processing right-of-way (R/W) applications. Do you favor such a provision?

Mr. BUMPERS. No, I do not. There are several distinct and pertinent reasons to support my point of view. First, there is a court case involving cost recovery which the Government will appeal at the 10th Circuit Court of Appeals late this summer. I do not believe it would be appropriate to prejudice this case by authorizing funding of the very item at issue. Second, including authority for this purpose reverts to a procedure used by BLM to carry out its responsibility to process and grant R/W permits and was proven to be unsatisfactory to all parties concerned. This was prior to the passage of their Organic Act in 1976. Under the previous procedure, funds were made available for processing R/W applications through regular budget requests. This was cumbersome, and caused processing delays.

Mr. HANSEN. Why?

Mr. BUMPERS. One, R/W applications are largely uncontrollable—the needs and timing of different energy transmission sectors are different—making the workload difficult to predict in relation to key decision points in the budget process.

The problem in providing for the costs of processing these R/W's lies in the question of not knowing how much to include in budget requests and at what time. This uncertainty has led to situations whereby processing of some R/W applications had to be delayed until funds were made available through the regular budget process or through supplemental appropriations.

Third, R/W and ancillary facilities under consideration may not be clearly or completely defined at the time of filing. As a result uncertainties in preparing budget estimates often contributed to underestimating costs causing further processing delay. Delays frequently mean added costs to the applicant. At times these costs can be substantial. In similar fashion, compliance, and monitoring terms cannot be spelled out far enough in advance to be able to include, with any precision, the amounts required in budget requests. Again, delays result in higher costs to the applicant.

Mr. HANSEN. Does not the amended Mineral Leasing Act require cost reimbursement on all oil and gas pipeline R/W proposals?

Mr. BUMPERS. Yes, and therein lies the question of equity between different types of pipeline applicants. Oil and gas pipeline R/W permit applicants are required to reimburse the Government for costs of processing their applications. Other types of R/W applicants, transmission lines for example, would not have to pay similar costs if funds were appropriated for that purpose.

Mr. HANSEN. Are there any particular advantages to the current procedure?

Mr. BUMPERS. Yes, the current procedure which requires reimbursement of costs by the applicant has one very special advantage—the ability to respond quickly to new, often unforeseen, R/W requests. There are little to no delays in getting started on application for R/W as they are received. A potential 18-month delay in even initiating work on a large-scale project due to budgetary leadtime can cost industry many times the amount associated with processing that application.

Furthermore, the current procedure is based on provisions in the Federal Land Policy and Management Act and the fiscal year 1978 Appropriations Act which specifically provide for cost reimbursement on R/W proposals and an appropriation derived from advance applicant deposits. Congressional action on the budget indicates a clear intent that all major right-of-way projects be largely self-financing.●

Mr. BUMPERS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair would remind the Senator from Arkansas that the committee amendments must be disposed of first.

Mr. BUMPERS. Will the Chair restate her last statement?

The PRESIDING OFFICER. The committee amendments must be disposed of first, unless the amendment proposed by the Senator from Arkansas is an amendment to the committee amendments.

Mr. BUMPERS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Madam President, I ask unanimous consent that the committee amendments be adopted and consid-

ered as original text for purposes of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1523

Mr. BUMPERS. Madam President I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1523.

Mr. BUMPERS. Madam President I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, after line 6 insert a new paragraph (f) to read as follows:

(f) Paragraph (c) of section 317 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2771; 43 U.S.C. 1701, 1747) is amended to read as follows:

"(c)(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 50 per centum of mineral leasing revenues to be received by such States and subdivisions pursuant to section 35 of such Act.

"(2) The total amount of loans outstanding pursuant to this subsection for any State and political subdivisions thereof in any year shall be not more than the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended, for the ten years following.

"(3) The Secretary, after consultation with the Governors of the affected States, shall allocate such loans among the States and their political subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

"(4) Loans made pursuant to this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure the achievement of the purpose of this subsection. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this subsection no later than three months after the enactment of this paragraph.

"(5) Loans made pursuant to this subsection shall bear interest equivalent to the lowest interest rate paid on an issue of at least $1,000,000 of tax exempt bonds of such State or any agency thereof within the preceding calendar year.

"(6) Any loan made pursuant to this subsection shall be secured only by a pledge of the revenues received by the State or the political subdivision thereof pursuant to section 35 of the Act of February 25, 1920, as amended, and shall not constitute an obligation upon the general property or taxing authority of such unit of government.

"(7) Notwithstanding any other provision of law, loans made pursuant to this subsection may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for each project or program and which provides planning or public facilities otherwise eligible for assistance under this subsection.

"(8) Nothing in this subsection shall be construed to preclude any forebearance for the benefit of the borrowe- including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this subsection.

"(9) Recipients of loans made pursuant to this subsection shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

"(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this subsection.

"(11) All amounts collected in connection with loans made pursuant to this subsection, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this subsection, shall be deposited in the Treasury as miscellaneous receipts.".

Mr. BUMPERS. Madam President, in the House bill, which we will hopefully adopt after we insert the committee text, the House has provided for impact loans from the Secretary to those communities and governmental subdivisions that have suffered some inordinate impact as a result of energy activities in their areas.

Those loans would be secured by anticipated funds which States would be entitled to receive as part of their royalty from minerals extracted within their States.

Here is an example which my distinguished colleague from Wyoming has previously used:

Wyoming has somewhere between 100 and 200 billion tons of coal. As the United States leases that coal and it is dug, the State of Wyoming is entitled to 50 percent of the Federal royalties from that land.

Gillette, Wyo., is a city in that State which has been very severely impacted by the tremendous activity and influx of people resulting from the activities in the Powder River Basin. So Gillette would be eligible under this amendment to go to the Secretary and say, "We need to borrow $1 million against these royalties we will receive in the ensuing year. Those royalties are a dead certainty. We will pay you an interest rate based on the lowest interest rate received by the State in the issuance of bonds during the preceding year."

Does the Senator from Wyoming agree with my statement of the amendment?

Mr. HANSEN. I say to my good friend, the floor manager of the bill, I think the statement that he has made is essentially correct. I think technically in Wyoming the money goes to the State and then is made available to the counties. That is a rather minor point, however. Essentially what the distinguished Senator from Arkansas has said is true.

Mr. BUMPERS. The loans would go to the States and be funneled into the political subdivisions?

Mr. HANSEN. Yes.

Mr. BUMPERS. That is my understanding.

This amendment is a duplicate text of the House bill, with a minor clarification. Madam President, I move its adoption, with a minor clarification.

The House version under paragraph 5 of the amendment provided that loans made pursuant to this subsection shall bear interest equivalent to the lowest interest rate paid on an issue of at least $1 million of tax exempt bonds of such a State or local government, or any agency or subdivision thereof, within the preceding calendar year.

This amendment does change the House text. I felt that it was ambiguous and could lead to different interpretations by both the Secretary and the political subdivisions applying for loans.

We have changed the amendment so that it complies with the statement I just made, which is that the political subdivision or State making application for the loan will receive the loan based on the lowest interest rate paid by the State, and the State only, during the preceding year.

With that clarification, Madam President, I move the adoption of the amendment.

Mr. HANSEN. Madam President, the distinguished late Senator from Montana, Mr. Metcalf, the Senator from Colorado, Mr. HASKELL, and myself as sponsors of the mineral revenue sharing section of Public Law 94–579 were pleased to see the administration support this concept in principle.

Early last year we asked Secretary Andrus to seek funding for the loan provisions in section 317(c) of the Federal Land Policy and Management Act. We also asked that guidelines and regulations be written to help the many communities and political subdivisions obtain loans to address the multiple problems that face many of these areas as energy fuels are extracted from the Federal estate, State and private lands. The provision—section 317(c)—permits these communities to borrow against the future return of mineral royalties, and allows these areas access to the dollars needed "up front," when the need is the greatest, before production or extracting the revenue return.

Let me stress that this provision does not authorize massive new authorizations for funding the programs directed to relieving energy impact problems. Instead it provides a mechanism where those funds already allocated may be used when the need is greatest at the start of the energy development cycle and in the form of loans against the sure return of the mineral royalties as previously addressed by Congress. This is simply fine tuning of existing law.

I support my distinguished friend from Arkansas and urge adoption of the amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). Do both Senators yield back their time?

Mr. BUMPERS. I yield back my remaining time.

Mr. HANSEN. I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1524

Mr. BUMPERS. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1524.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 5, strike "$292,200,000" and insert "$312,100,000".

On page 2, line 10, strike $20,900,000 and insert "$22,600,000".

Mr. BUMPERS. Mr. President, this amendment would increase two of the fiscal year 1979 authorizations. The first would add $19.9 million to the authorization for management of lands and resources. The second would add $1.7 million to the authorization for land acquisition, construction and maintenance. These additions are designed to allow the authorization level for fiscal year 1979 to accommodate a proposed appropriation level already approved by the House of Representatives. I believe this flexibility of authorization is necessary to accommodate possible resolution of differences between the Senate and the House as to appropriations levels and purposes for fiscal year 1979. I urge adoption of the amendment.

Mr. HANSEN. Mr. President, I join with the Senator from Arkansas and urge the adoption of this amendment. I support it.

I yield back the remainder of my time.

Mr. BUMPERS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1525

Mr. HANSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an unprinted amendment numbered 1525.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end the following new section:

SEC. 2. The Act entitled "An Act to provide for the establishment of the King Range National Conservation Area in the State of California", approved October 21, 1970 (Public Law 91-476), is amended—

(1) by adding at the end of subparagraph (b) of section 5(3) the following sentence: "Any such payment made to the Secretary shall be deposited in the Treasury as a miscellaneous receipt.";

(2) by inserting "(a)" in section 12 after "Sec. 12."; and

(3) by adding at the end of section 10 the following new subsection:

"(b) In addition to any amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated for fiscal years beginning on or after October 1, 1980, for the acquisition of lands and interests in lands under this Act—

"(1) from the Land and Water Conservation Fund (established under the Land and Water Conservation Fund Act of 1965) not to exceed $5,000,000, and

"(2) from any other sources an amount not to exceed the sum of (A) $5,000,000, and (B) an amount equal to the amount deposited in the Treasury under section 5(3)(B) of this Act after the date of the enactment of this subsection,

such sums to remain available until expended.".

Mr. HANSEN. Mr. President, the purpose of this amendment is to raise the authorizing ceiling contained in the King Range National Conservation Area Act to permit the Bureau of Land Management to complete its land acquisition and land exchange program in the area.

The act was signed on October 21, 1970. The primary purpose of the legislation was to establish a national conservation area and to help the Bureau of Land Management in consolidating lands into a more manageable unit thus permitting BLM to better accomplish its preservation and multiple use objectives.

In 1970, the ownership pattern in the area was "checkerboard" in nature with intermingled public and private ownership. Of the total acreage, the Bureau of Land Management controlled approximately 31,500 acres with the remaining 21,000 acres held in private ownership. The act authorized the Secretary to acquire these private lands through exchange for public lands, outside the planning unit, located in the same county. Where the exchanges were unequal in value some cash was required to make the exchange process come out even. The original legislation, therefore, authorized $1,500,000 for this purpose and for land purchases where exchange was not possible.

To date 8,322 acres of the original private lands have been either exchanged or purchased with a remaining 13,000 acres to be acquired. In order to complete the consolidation it is necessary for us to raise the authorization ceiling to provide the additional funds needed. Our original authorization ceiling was intentionally set low to encourage the Department to negotiate as many exchanges as possible and to discourage land purchases.

Availability of large sums of money would have discouraged land exchanges in favor of outright purchases.

We have been successful in meeting this objective with the majority of the lands acquired to date obtained through exchanges. The acreage left to be acquired consists of a number of difficult areas which may ultimately require their purchase. Escalating land costs have also increased the cost. An additional $10 million is needed to complete all land negotiations in the King Range area.

This amendment also provides that any funds received by the Secretary from private landowners in exchange for public lands will be deposited in the Treasury under miscellaneous receipts with the authorization ceiling credited by an equal amount.

Since enactment of the legislation funds have been flowing into the Treasury as a result of land exchanges but these funds have not been available for use in additional exchanges and purchases. Our amendment corrects this accounting error and insures that adequate funds will remain available to complete King Range.

I urge my colleagues to adopt this amendment. It has the full support of both the majority and minority members of our committee.

I yield back my time.

Mr. BUMPERS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. BUMPERS. Mr. President, so far as I know, that completes all the amendments.

The PRESIDING OFFICER. Are there further amendments?

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I take this time only to indicate that the bill now before the Senate should not be considered to be the end of the problems in dealing with BLM. I think the fact that we passed the organic act last year gives us the framework for management direction and criteria, and the authorization for a 4-year period gives us the promise of a continuity and a steadiness of purpose that has lacked in the past. Any idea that, simply because we have now passed or are now passing an authorization for a 4-year period, that puts an end to the discussion of problems can only be laid to rest by a look at the problems that exist at this moment.

A number of those problems need to be addressed and are being addressed in the dialog with the Bureau of Land Management and their personnel, a dialog between environmental groups and user groups with respect to the management, direction, and criteria. But let me point up a couple of very specific difficulties.

We have now a new evaluation of grazing on public lands managed by the Bureau of Land Management that will

put Western livestock men out of work. I am not talking about just minor adjustments; I am not talking about a simple readjustment of the levels of grazing. We have two that have already started in Idaho, one on the Challis district and one on the Shoshone district, that reduce grazing allotments by from 40 to 80 percent. I talked to one woman up on the east fork of the Salmon River 3 weeks ago whose family has been in operation in that area for three generations. The allotment which is being suggested to them now will reduce their operation to 75 head, and there is not anyone who can stay in business with a grazing allotment of 75 head.

What will happen is that those people are forced to make one of three decisions: They have to go out and find somebody else who is going out of business so they can consolidate operations, which is a bare possibility; they will be forced to sell to someone else who will use it for nonincome property—in other words, recreation property; or they will do what more and more livestock operators in the West are being forced to do—that is, subdivide their land.

Most people who are concerned about the land base in the West would regard the last option as being the worst option. Yet it is the option that more and more ranching operators are being forced to go to.

Let us take a look for a moment at the specific problems that lead to this kind of result, where people that have been on that land for generations are being forced, literally forced, out of the communities.

I might just mention that this happens to be a county that is 97 percent Federal land. They have no options. Federal land is all there is. If the Federal land cannot be used to maintain their livelihood, they simply have to leave the community. And there will not be much left, I guarantee you, if that is all there is, of people who can exist on what the BLM is suggesting to them now.

We have the criteria being used by the BLM for suitability as grazing land. They say cattle will not graze on a slope greater than 55 percent; therefore, the forage that is on a steep hillside has to be totally ignored. We took them out there and showed them slopes that were greater than 55 percent. While they were looking at them, right up there in the middle of the slope were a couple of cattle eating grass. They say you cannot count that, because those cattle ought not to be up there eating grass. After all, they have not been to college and been educated enough to know they cannot eat grass on a slope that steep.

They say you cannot have forage on land that is more than 3 miles away from water. There is a lot of that land, and I know my friend from Wyoming will recognize that instantly. There is a lot of land that is more than 3 miles away from water that has been grazed for years and is still being grazed. That has to be left out completely. That, I think, is absolutely ridiculous.

We have in that area, also, the problem of wild horse herds which we directed, under the Wild Horse and Burro Act, that the BLM manage. What are they doing? They have allowed that to quadruple in size.

It was 150 head. It is now over 600 head. They are saying that while we study this, we will freeze the situation. They should go out and freeze those stallions. The stallions are not being frozen and the situation is not being static. The population is growing and it is destroying the range.

Maybe some fellow has one really fine idea of how to control the birth rate of the wild horses out on the range. But they have not come up with it yet and the horses are destroying the ranges that were supposed to be protected.

That is another of the very serious problems not being addressed, but it is a critical problem that must be addressed.

We have another problem that must be addressed within far less than 4 years. We have got the necessity for range improvement. We have to somehow deal with this wild horse and burro problem and get the BLM into a management mood, not simply ducking the issue and avoiding confrontation that must inevitably come.

We have to somehow assure that on these public lands that are so important in our Western States and much of the country that there will be a continuation of multiple use management on these public lands.

It is necessary if the western livestock industry is to survive. It is important for the consumers of this country that the western livestock industry not be driven out of business and that we have to depend on foreigners to provide our food as well as our oil and other essentials for our society.

It seems to me we have to again emphasize what the BLM Organic Act was designed to emphasize, and that is management of the public domain for the American people, and not the kind of restriction, not, certainly, the kind of paralysis, that has characterized it now.

Range improvement and grazing legislation is now awaiting hearings before the Senate Natural Resources Committee and it is imperative that Congress finish this matter this year.

The House has passed their bill, H.R. 10587, and they have passed it overwhelmingly.

It will today introduce legislation in the Senate as a companion bill and I hope we will get to the decision on that legislation yet this year.

I hope the committee will take a long look at the excellent legislation which the House has already passed and get it to the floor as soon as possible.

Every major farm organization, including the Farm Bureau, the Farmers' Union, the National Farmer's Organization, the American National Cattlemen, the Grange, the Public Lands Council, and others, have endorsed this legislation. I can say without any doubt that that is truly one of the first times in a long, long time that all of those groups have joined together in support of any issue, but certainly it is significant that all join in support of this.

I hope when we take a look at that legislation we will also look at the possibility of granting the users the right to make improvements in lieu of the payment of fees, legislation that I have had pending for 2 years, and I think would greatly alleviate some problems in public land management caused by lack of appropriate levels of funding.

Mr. President, I thank the Senator from Wyoming for yielding me this time. I thought it was necessary to at least alleviate some of these problems that remain that this legislation today in authorization does not address and must be addressed soon.

Mr. HANSEN. Mr. President, I want to thank my colleague from Idaho for his very excellent and perceptive observations on some of the problems that we face and are becoming increasingly aware of as an effort is made to implement the laudible concepts Congress had in mind in passing the BLM Organic Act.

The Senator from Idaho has called attention to a number of problems that are common to many areas of the West. He has spoken specifically about situations in Idaho that could be duplicated in Wyoming, in Montana, in Nevada, in Utah, and most of the public lands of the West where grazing is commonly practiced.

In Wyoming we have one other situation that I know he is well aware of, but to which he did not allude. That is that in trying to change the grazing from one class of livestock to another, from sheep to cattle, for example, we have had inordinate delay brought about in part by the NRDC against the Hughes case. As a consequence of that suit it has been necessary in the opinion of the solicitor for the department to go into this complicated EIS exercise.

It is frustrating to see stockmen trying to reflect the desires and needs of consumers by changing from one class of livestock to another and unable to make that change.

Whatever can be done to expedite that, clearly, would be in the public interest.

I must say also that I am not certain just where the thinking of the Department at this particular moment may be. But if, as earlier was determined, each grazing district should require an EIS statement, the amount of money that would be required to be spent by the Government in the preparation of those statements seems to me to have no useful purpose that will be served.

Mr. McCLURE. Will the Senator yield?

Mr. HANSEN. I am happy to.

Mr. McCLURE. Mr. President, a comment to me from my friend from Wyoming was that the Bureau of Land Management is requiring that an environmental impact statement be developed on every individual grazing unit. As a matter of fact, the Shoshone unit in Idaho is one of the first they have undertaken to do that on and the preliminary analysis beginning to flow out of that indicates they have made in that particular one an assignment of 60 percent of the available forage to wildlife.

I asked the land manager where that

figure came from. He said it was arbitrary. Since that wildlife forage assignment has been made, they also assume it is competitive with the domestic livestock.

That would indicate the first cut at the pie would say there has to be 60-percent reduction in the available livestock grazing.

It is that kind of problem that is being focused on in the EIS which is being required.

I am not opposed to EIS. But, certainly, I agree with my friend from Wyoming that it is time consuming, it is expensive, and unless they develop better criteria, it is going to be devastating.

Mr. HANSEN. I thank my friend from Idaho.

I might say also that a lot of well-intentioned people just cannot be aware at all of what is happening to the range, to the destruction in the habitat that results from excessive numbers of wild horses and burros.

The fact is that these animals have no natural enemies out there and they have proliferated. Sooner or later, there will be a reduction, a very sharp and drastic reduction, in the herds if for no other reason than they will starve themselves to death because they have eaten up all their range. It is that simple.

It is distressing to me to see some of the efforts we have gone to in trying to adopt a wild horse or a wild burro. We give far more concern and spend more money in that kind of operation by far, I would expect, than is spent on the adoption of a human being.

I think the difficulty arises from the symbolism that a horse or a burro represents to many Americans, particularly those in the urban centers, and reveals the lack of an understanding that the part of the resource, the whole aspect of life that is most important has to be the habitat, which provides the grazing and the sustenance and the feed for animals, whether it is livestock, wild burros, or game.

It is not hard to manipulate numbers if you have the base, the forage, available for that. Without that, nothing else is going to work. I want to underscore that, because I think the Senator from Idaho has called attention very succinctly to some real concerns we have.

My understanding is that we have 212 EIS statements in the stipulated agreement. I think perhaps only three have been completed. When we think about the amount of man-hours, the amount of time that will have to be expended on completing the other 200, or however many there may be, we will be into the next century before we get that job done.

Mr. McCLURE. Mr. President, one of the other questions we have also lies in the desirable and mandated review of roadless areas. In the definition of roadless areas, they have written out a large percentage of the total mileage of roads that exist on the public lands and have existed for many, many years. That is not only exposed into a greater impact, but also, the potential impact of the end result of the roadless area review on the public lands may be even greater than anybody now imagines; because they simply ignore roads that have been in use for 75 or 100 years by saying they do not exist. The definition does not allow them to exist. They are simply wiped off the map, as if they never did exist.

We also can discuss creditor problems and a number of other things that are problems on the public lands. However, it is not my intention to look at all the problems of Bureau of Land Management, but to highlight some of the most pressing problems.

I do appreciate the comments and the assistance of the Senator from Wyoming and that of Senator BUMPERS, the chairman of the subcommittee, for the work he has done in this area. We are going to be asking him to do a great deal more work as we look at these problems in the months ahead.

Mr. HANSEN. I thank the Senator.

I yield back the remainder of my time.

Mr. BUMPERS. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 10787, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10787) to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

Mr. BUMPERS. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 10787 be stricken and that the text of S. 2234 be substituted therefor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 10787) was passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2234, the Senate bill dealing with the Bureau of Land Management authorization, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PSYCHOTROPIC SUBSTANCES ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 889.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 2399) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 3, line 16, beginning with the comma, strike through and including line 19, and insert in lieu thereof "as determined by the Secretary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.";

On page 5, line 20, after "notification" insert "or receives notification (referred to in this subsection as a 'schedule notice') that existing legal controls applicable under this title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed";

On page 6, line 6, after "notification" insert "or schedule notice";

On page 6, line 18, after "decision" insert "or schedule notice";

On page 7, line 1, after "decision" insert "or schedule notice";

On page 7, line 14, strike "or";

On page 7, line 21, strike the period and insert "; or" and the following:

"(iv) in the case of a schedule notice, request the Secretary of State to take appropriation action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice."

On page 9, line 11, strike "paragraph (3)(C)(ii) or (3)(C)(iii)" and insert "clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph notice";

On page 9, line 22, after "Convention" insert "in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice";

On page 10, line 8, striking "such scheduling decision" and insert "the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)";

On page 10, line 19, after the period, insert the following: "If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention."

On page 11, line 9, strike "1977" and insert "1978";

On page 11, line 20, after "1971" insert a semicolon and "and the term 'Single Convention on Narcotic Drugs' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961";

On page 11, beginning with line 24, insert the following:

"(c) For the purpose of carrying out the

minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act, place such drugs in schedule IV of such Act."

On page 12, line 25, after "Drugs" strike the comma and "1961, signed at New York, New York, on March 30, 1961,";

On page 14, line 10, strike "INTERNATIONAL";

On page 14, line 10, strike "OR" and insert "AND OTHER INTERNATIONAL";

On page 14, line 21, strike "international";

On page 14, line 21, strike "or" and insert "and other international";

On page 15, line 7, strike "international treaties or agreements" and insert "treaties or international agreements";

On page 15, line 19, strike "international treaties or agreements" and insert "treaties or international agreements";

On page 16, line 22, after "Act" insert "and the amendments made by this Act";

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. Stephen Rapp and Mr. Cliff Vaupel, of the staff of the Subcommittee on Juvenile Delinquency, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, S. 2399 is enabling legislation for U.S. implementation of the provisions of the Vienna Convention on Psychotropic Substances. This bill was introduced by 14 Senators and was unanimously reported by the Committee on the Judiciary on June 21, 1978.

Mr. President, the adoption of S. 2399 and the ratification of the convention would provide for the same kind of international controls on drugs such as PCP, LSD, the amphetamines, and barbiturates that the Single Convention on Narcotics provided for drugs like heroin and morphine since 1961.

A great deal of attention has recently been focused on the problem of diversion from licit to illicit channels of legally manufactured psychotropic substances. On the domestic level Congress has enacted legislation to restrict such diversion by mandating certain enforcement activities to the Drug Enforcement Administration. Domestic legislation alone cannot prevent invasion by supplies from other countries. Preventing such illicit inflow is particularly difficult, if not impossible, if other countries by their own lack of adequate controls facilitate the diversion of dangerous drugs into illicit channels. Despite our own strong legislation, the United States has become, in the words of a DEA official, "a victim of the current international inadequacies."

An example of this situation was presented during the course of one of the Juvenile Delinquency Subcommittee's hearings by an official of the Drug Enforcement Administration who testified that—

The U.S. Mexican border area has become the locus of many clandestine operations using barbiturate and amphetamine powders diverted from legitimate international commerce. Seizures continued to escalate at a rapid pace. In 1971 some 8 million illicit amphetamine tablets believed to be of clandestine Mexican manufacture were confiscated by U.S. enforcement agencies in the United States. In 1972 approximately 13 million tablets were seized, and in 1973 the total exceeded 26 million tablets.

It is this type of activity that the Convention on Psychotropic Substances seeks to prevent by limiting stimulant, depressant, and hallucinogenic drugs to medical and scientific purposes.

If we are to succeed, it will be necessary for importing as well as exporting countries to become parties to the convention. The United States, as one of the largest manufacturers of psychotropic substances, cannot prevent or significantly reduce the illicit availability of such drugs unless we become a party to the convention.

In addition, ratifying the convention would strengthen our leadership in international drug abuse control by increasing our credibility as a nation willing to apply effective controls at home while cooperating in the prevention of illicit trafficking in other countries.

S. 2399 seeks to amend the Comprehensive Drug Abuse Prevention and Control Act and other drug laws to implement the provisions of the convention which was signed in Vienna on February 21, 1971, and has been in force since August 16, 1976.

It has been transmitted to the U.S. Senate for advice and consent. The convention is currently before the Senate Foreign Relations Committee which has deferred further action until the necessary enabling legislation has been enacted.

Substantively, the requirements of the convention are already largely satisfied by current U.S. drug laws. However, these laws do not authorize administrative action to conform U.S. drug controls to those under international agreements ratified by the United States after the date of their enactment. They only authorize action to conform domestic controls with controls under earlier international agreements such as the 1961 Single Convention on Narcotics. New legislation is, therefore, necessary to provide the administrative mechanism to permit U.S. implementation of the provisions of the Psychotropic Convention.

The Convention on Psychotropic Substances has as its focus, the international control of substances that are not included under any of the existing multilateral drug treaties. These treaties are directed toward international control of opium and other narcotic substances. This particular treaty governs the nonnarcotic drugs known as psychotropic substances which produce central nervous system stimulation or depression with resulting disturbances in perception, thinking, and behavior. These drugs include hallucinogens such as LSD and mescaline, amphetamines, barbiturates, and certain tranquilizers.

Structurally, the convention is similar to both the Single Convention on Narcotic Substances, ratified by the United States in 1967 and the Comprehensive Drug Abuse Prevention and Control Act. The convention lists substances in schedules depending on the extent of their abuse, their potential for abuse, and their therapeutic usefulness. It contains procedures for adding new substances to schedules, moving them among schedules and deleting them from the schedules. It provides gradations of control, with the most stringent controls applied to schedule I substances, such as LSD, and less forceful retrictions on substances in schedules II, III, and IV.

Mr. President, in summary, S. 2399 would have very little substantive effect on our drug laws. It would simply require us to apply minimum controls to any drug the World Health Organization and the U.N. Commission on Narcotic Drugs voted to control. It would not prohibit us from controlling any other drug that we might wish to restrict.

It would have a substantial effect on international control of drugs. To date, 49 nations have ratified the convention and many others are waiting on our ratification. Our approval will lead to ratification by nations which have no controls and thus put an end to the business of drugs being legally shipped from a producer country to a country without controls and then shipped back through the illicit market.

It would aid our efforts to persuade underdeveloped nations to control opium and coca. Quite often when we ask them to participate in international controls on the production of these substances they resist, pointing to our failure to participate in such controls on the drugs we produce.

Mr. President, our adoption of S. 2399 is long overdue. I urge the Senate to take this important step toward greater international cooperation in the control of dangerous drugs by approving S. 2399.

Mr. President, the Judiciary Committee has adopted several technical amendments. I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as the original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, at this time I yield to the distinguished Senator from Texas (Mr. BENTSEN) for the presentation of an amendment.

UP AMENDMENT NO. 1526

Mr. BENTSEN. I thank the distinguished Senator.

Mr. President, I offer this amendment on behalf of myself, Senator CULVER, and Senator HATHAWAY.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself and others, proposes an unprinted amendment numbered 1526.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, at the bottom of the page add the following:

"TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES".

On page 16, line 22 strike out "Act" and insert in lieu thereof "title".

On page 16, line 23 strike out "Act" and insert in lieu thereof "title".

At the end of the bill add the following new title:

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 101. Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(a) by inserting after the phrase "such person shall" in the first sentence of paragraph (1)(B) the following: ", except as provided in paragraphs (4) and (5) of this subsection,", and

(b) by adding after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, or possessing with intent to manufacture or distribute, except as authorized by this title or title III, phencyclidine, shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000 or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1)(B) of this section or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment. For the purposes of this paragraph, 'phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts and any analog, derivative, or variant of 1-(1-phenylcyclohexyl) piperidine that is in a schedule pursuant to section 202 of this title.".

SEC. 102. The Controlled Substances Act (Subchapter I of chapter 13 of title 21 of the United States Code) is amended by adding at the end thereof the following new part:

"PART H—PIPERIDINE REPORTING

"§ 800. Reporting requirement

"(a) It shall be unlawful—

"(1) For any person to sell, transfer, or otherwise furnish any piperidine unless such person reports such sale, transfer, or exchange to the Attorney General pursuant to regulations promulgated under section 801.

"(2) For any person to sell, transfer, or otherwise furnish any piperidine unless the purchaser, transferee, or other recipient of such piperidine presents positive personal identification pursuant to regulations promulgated by the Attorney General under section 801.

"(3) For any importer of piperidine to receive piperidine without reporting such receipt to the Attorney General pursuant to regulations promulgated under section 801.

"(b) The provisions of paragraph (a) of this section shall not apply to—

"(1) Intracompany sales or transfers of piperidine.

"(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of piperidine is solely for the purpose of transporting such substance in the usual course of his business or employment; Provided, That the Attorney General may require any such carrier or warehouseman to retain and report any shipping documents for such substance.

"§ 801. Nature of reports

"(a) Any person required to submit a report pursuant to section 800 shall submit such report on a common reporting form to be issued in blank by the Attorney General.

"(b) Such reporting form shall contain information as to—

"(1) The quantity and form of the piperidine sold, imported, transferred, or otherwise furnished.

"(2) The date the piperidine was sold, imported, transferred, or otherwise furnished.

"(3) The name, address, and age of any individual who purchases, imports, or otherwise receives such piperidine.

"(4) The type of identification presented by the individual purchaser, importer, or other transferee.

"(5) The name and address of any business entity that purchases, imports, or otherwise receives piperidine, including the name, address, and title of the employee placing the order for purchase, import, or other receipt of piperidine for such business entity.

"(6) The purpose of such purchase, importation, or transfer, including a description of the intended usage of such piperidine. This requirement shall not apply to quarterly reports authorized by the Attorney General under section 802(b).

"(7) The date and manner that such piperidine was shipped or otherwise transferred and the address of the destination of any such shipment or transfer.

"(8) Such other information, including that necessary for establishing positive, buyer or transferee identification, as the Attorney General may deem necessary for the enforcement of this part.

"(c) The Attorney General is authorized to promulgate such regulations as are necessary for the enforcement of this part.

"(d) Not later than one year after the effective date of this part, the Attorney General shall submit to the President and the Congress an analysis and evaluation of the effectiveness of piperidine reporting in reducing the illicit manufacture of phencyclidine. Such analysis and evaluation shall also contain an assessment of any burden such reporting places on legitimate transaction in and uses of piperidine and such recommendations as the Attorney General deems appropriate.

"§ 802. Filing deadline for reports

"(a) Except as provided in subsections (b) and (c) of this section any person required to submit a report to the Attorney General pursuant to section 800 shall submit such report within 7 days of the purchase, transfer, importation, or other exchange of piperidine.

"(b) The Attorney General may authorize any person required to submit a report to the Attorney General pursuant to section 800 to submit such report on a quarterly basis with respect to repeated, regular transactions between the furnisher and the recipient if the Attorney General determines that (1) a pattern of regular supply of piperidine exists as between the person who sells, imports, transfers, or otherwise furnishes such piperidine and the recipient of the piperidine and (2) the recipient has established a record of utilization of such piperidine for lawful purposes.

"(c) Any person required to submit a report to the Attorney General pursuant to section 800 within the first 90 days after the enactment of this part may submit such report at any time up to 100 days after the enactment of this part. Such report shall contain the information specified in paragraphs (b)(1) through (b)(7) of section 801.

"§ 803. Retention and inspection of records

"(a) Any person who sells, imports, transfers, or otherwise furnishes piperidine shall maintain such records as are deemed necessary by the Attorney General to enforce this part. Such records shall be kept and be available, for 2 years, for inspection or copying by officers or employees of the United States authorized by the Attorney General.

"(b) Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this part with respect to identification of persons within such State or political subdivision thereof who have purchased, imported, or otherwise received piperidine together with a description of such piperidine.

"§ 804. Lost or stolen piperidine

"Any person who manufactures, sells, purchases, imports, transports, transfers, or otherwise furnishes or receives piperidine shall report any theft or loss of such piperidine to the Attorney General within 7 days of the actual discovery of such theft or loss. Such reports shall contain such information as the Attorney General may require under regulations promulgated under this part.

"§ 805. False or misleading statements

"It shall be unlawful for any seller, purchaser, importer, transferor, transferee, or other provider or recipient of piperidine to knowlingly make any false, oral, or written statement or misrepresentation with respect to information required to be reported pursuant to regulations promulgated under this part or to knowingly omit any material information required to be reported pursuant to regulations promulgated under this part.

"§ 806. Penalties, enforcement

"(a) Whenever it shall appear that any person has violated any provision of section 800, 801, 802, 803, 804, or 805, the Attorney General may bring a civil action for such relief (including injunctions) as may be appropriate.

"(b)(1) Except as provided in paragraph (2), any person who violates section 800, 801, 802, 803, 804, or 805 shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce this paragraph.

"(2)(A) If a violation of section 800, 801, 802, 803, 804, or 805 is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (b)(2)(B) of this section be sentenced to imprisonment of not more than one year or a fine of not more than $25,000, or both.

"(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under paragraph (2), or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than two years, a fine of $5,000, or both.

"(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of section 800, 801, 802, 803, 804, or 805 does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) of this subsection shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

"§ 807. Prohibited transfers of piperidine

"It shall be unlawful for any person to import, purchase, transport, transfer, receive,

conceal, store, barter, sell, manufacture, or otherwise furnish or dispose of any piperidine if—

"(a) such person—

"(1) is under indictment for, has been convicted in any court of, a crime punishable by, imprisonment for a term exceeding one year;

"(2) is a fugitive from justice; or

"(3) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)), or

"(b) such person knows or has reasonable cause to believe—

"(1) that such piperidine will be used to manufacture phencyclidine, except as authorized by this title or title III

"(2) that such piperidine has been stolen, or

"(3) that the purchaser, transferee, or other recipient of such piperidine—

"(A) is under the age of 18;

"(B) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(C) is a fugitive from justice; or

"(D) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)).

"§ 808. Criminal penalties

"Any person who violates any provision of section 807 shall be fined not more than $20,000, or imprisoned not more than five years, or both.

"§ 809. Confidentiality

"Reports and records obtained by the Department of Justice under this part shall be considered confidential, commercial and financial information, and as such shall not be publicly disclosed, unless needed in a civil or criminal action.

"§ 810 Sunset provision

"(a) At the end of a period of time consisting of three calendar years beginning on the date of enactment of this part, this part shall be repealed unless legislation to continue the existence of this part is enacted during such period of time.

"(b) Any repeal of this part pursuant to subsection (a) of this section shall not affect or abate any civil or criminal proceedings for any violation of this part if such violation occurred prior to the date of such repeal.

"§ 811. Definitions

"For purposes of this part—

"(1) 'Person' includes any individual or business entity;

"(2) 'Piperidine' means piperidine, its salts and its acyl derivatives;

"(3) 'Phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts and any alalog, derivative, or variant of 1-(phenylcyclohexyl) piperidine that is in a schedule pursuant to section 202 of this title; and

"(4) 'Attorney General' means the Attorney General of the United States.".

SEC. 103. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting immediately after "SEC. 709. Appropriations authorizations." the following:

"PART H—PIPERIDINE REPORTING

"Sec. 800. Reporting requirement.
"Sec. 801. Nature of reports.
"Sec. 802. Filing deadline for reports.
"Sec. 803. Retention and inspection of records.
"Sec. 804. Lost or stolen piperidine.
"Sec. 805. False or misleading statements.
"Sec. 806. Penalties, enforcement.
"Sec. 807. Prohibited transfers of piperidine.
"Sec. 808. Criminal penalties.
"Sec. 809. Confidentiality.
"Sec. 810. Sunset provision.
"Sec. 811. Definitions.".

Mr. BENTSEN. Mr. President, this PCP control amendment is identical to S. 2778, a measure that received the enthusiastic, unanimous approval of the Judiciary Committee's Juvenile Delinquency Subcommittee on July 13.

In June, S. 2778 was the subject of 2 days of public hearings. These sessions were cochaired by my distinguished colleagues, Senator HATHAWAY, chairman of the Human Resources Subcommittee on Alcoholism and Drug Abuse, and Senator CULVER, chairman of the Juvenile Delinquency Subcommittee. I commend Senators HATHAWAY and CULVER for their interest and for their expeditious consideration of this measure.

I first introduced S. 2778, the PCP Control Act of 1978, on March 22, in an effort to help deter the illicit manufacture and distribution of a particularly dangerous street drug currently in vogue with many young people in this country. Mr. President, I am pleased to report that this proposal has been cosponsored by 34 of our colleagues—Senators ALLEN, ANDERSON, BELLMON, BIDEN, BUMPERS, CULVER, DECONCINI, DOLE, EAGLETON, GARN, GOLDWATER, GRIFFIN, HATCH, HATHAWAY, HAYAKAWA, HODGES, HUDDLESTON, HUMPHREY, JOHNSTON, LEAHY, LONG, LUGAR, MATSUNAGA, MCINTYRE, PELL, PERCY, RANDOLPH, RIEGLE, SARBANES, SASSER, SCHMITT, STONE, TALMADGE, and TOWER. I would also note, Mr. President, that this legislation has been endorsed by the International Association of Police Chiefs, the International Narcotics Enforcement Officers Association, and by the State narcotic agencies of Alabama, Arizona, Arkansas, Flordia, Georgia, Louisiana, Michigan, Mississippi, New Mexico, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The Federal Drug Enforcement Administration and the Department of Justice also embraced the proposal.

I think this broad measure of support, in the Senate and among the Federal and State jurisdictions, suggests that the time has indeed come to move against PCP. Clearly, Mr. President, we have an urgent requirement to devote our best efforts to control the abuse of this new drug. Not only because PCP is dangerous per se, but also because it could well be the harbinger of a whole new generation of entirely synthetic, manmade drugs that contain elements not normally found in nature. Unlike cocaine, morphine, or opium, PCP does not have to be grown abroad, refined, and smuggled into this country. Unlike LSD and related semisynthetic drugs having complex molecular architecture, PCP can be produced cheaply and in abundance by anyone with perverse instincts out to make a fast dollar.

Mr. President, this amendment would increase the criminal sanctions for the unauthorized manufacture, distribution, or possession of PCP from a maximum first offense penalty of 5 years in prison and/or a $15,000 fine to 10 years in prison and/or a $25,000 fine. Furthermore, the measure would render the clandestine manufacture of PCP much more perilous by controlling the sale and transfer of the chemical piperidine, a necessary ingredient in the illicit production of PCP. This is accomplished by requiring anyone who purchases piperidine to present positive identification at the time of purchase, with the transaction registered with DEA.

PCP, angel dust, killer-weed, DOA—by any name, the animal tranquilizer phencyclidine is without question a dangerously different drug of abuse. As employees of any hospital emergency room or psychiatric ward can attest, PCP misuse literally drives people insane. Individuals under the influence of this dangerously different drug suffer disorientation and dissociation; their pain receptors become short-circuited. Some individuals high on angel dust commit grotesque acts of self-mutilation while others engage in violent, unprovoked attacks on innocent bystanders. Consider the following:

Medical specialists attribute a recent schizophrenia epidemic occurring in the Washington, D.C. area to PCP abuse.

In 1977, 4,000 emergency room admissions and over 100 deaths were attributed to the abuse of angel dust.

We read of PCP demented youths crashing through closed doors and plate glass windows, and impaling themselves on fences during frightened flight from imaginary monsters. Youngsters under the influence of this terrible drug have pulled out their own teeth with pliers, gouged their eyes from their sockets to avoid seeing grotesque visions, and drank rat poison to kill the rodents they believed were infesting their bodies.

Police files contain reports of angel dust crazed citizens murdering an unwanted child, assassinating immediate family members, and strangling loved ones.

Hundreds of similar acts are chronicled and recorded. We react in horror. But we have no way of knowing how many thousands of minds have been permanently twisted; we have no way of knowing how many of the 1½ million children between the ages of 12 and 17 who have experimented with PCP or angel dust have become mental cripples for life.

One of the basic problems in attacking PCP is the fact that any person with a few hundred dollars and perverse instincts can manufacture angel dust at home or even in the back of a van. He can freely order the ingredients from a mail order house, and turn a $600 investment into drugs worth $100,000 on the street. He runs a certain risk of blowing himself up in the process, but this does not deter these entrepreneurs of derangement. Most of the angel dust used by the young people of America today is manufactured by nonprofessional criminals out to make a quick buck.

Mr. President, I would like to sketch out a little scenario for you. Let us assume, just for the sake of argument, that someone wanted to make some money and decided to go into the PCP business. He or she would need about $600, Mr. President, not an insuperable obstacle. He or she would need some primitive equipment and a place to manufacture—a cellar, a garage, or even a van would do nicely. Then the entrepreneur would

go to a chemical supply house, cash in hand, and order the ingredients. A little cyclohexanone, a little phenylmagnesiumhalide, and a little piperidine. Assuming that the purchaser pays cash, there need be no questions asked and the sale cannot be traced. Now the person has most everything required to turn that $600 into PCP having a street value of $100,000. PCP that can be sold on the street for as little as $1 for 5 milligrams. We now have a situation in which, for the price of a school lunch, a child can buy enough PCP to blow his mind for hours, or possibly forever.

But piperidine, the third essential chemical in the manufacture of PCP, is produced in small quantities—it represents only one one-hundred thousandth of 1 percent of U.S. chemical production—and has only one major commercial use—the curing of rubber.

There is little reason why anyone who is not in the business of curing rubber should be purchasing PCP from a chemical supply house. On the contrary: There is every reason to believe that a person making a cash purchase of piperidine is bent on the illegal manufacture of PCP.

This amendment is drafted to attack the PCP manufacturing process at its Achilles heel—unquestioned access to piperidine. It would require anyone who purchases piperidine to present positive identification at the time of purchase, with the transaction registered with DEA.

I am not suggesting a licensing procedure. I do not envision interfering with the normal flow of chemicals throughout industry. I have no intention of creating cumbersome bureaucratic procedures, and indeed we are not.

We are simply proposing that those who go to a chemical supply company, in person or by mail, to purchase piperidine, should be required to present positive identification.

Since many of those currently making such purchases are engaged in the illegal manufacture of PCP, it is reasonable to assume that they would be reluctant to identify themselves and have the transaction registered with DEA.

Mr. President, PCP is dynamite. It can do to the brain what TNT can do to a building. We do not permit people to walk in off the street and purchase dynamite in this country. It makes no sense for us to permit individuals to purchase, without even the requirement for identification, all the necessary ingredients for PCP.

This legislation would have three primary benefits. It would give law enforcement authorities urgently needed information on purchasers of piperidine—people who are either curing rubber legally or destroying young minds illegally.

The requirement for registration upon purchase of piperidine would deter weekend profiteers from obtaining an essential raw material used in the PCP manufacturing process.

And finally, by providing legal procedures for the purchase of piperidine, we would give drug enforcement officials an added weapon to use in prosecuting illegal PCP producers.

I urge my colleagues to support this measure. In my opinion, this country cannot afford to wait any longer before acting to control "the most dangerous drug to ever hit the streets."

Mr. President, this was the subject of 2 days of public hearings. It is a concerted attack on the problem of PCP and its distribution in this country. It increases the penalties. It requires a positive identification on the purchase of piperidine, which is an essential ingredient that has to go into the making of "angel dust."

I believe that taking this action will recognize what is happening in the manufacturing of chemical drugs that could be the harbinger of a new class of drugs in this country, drugs that could be purchased for the price of a school lunch, whereby kids have a chance to blow their minds not just for 5 hours but for life.

I am very appreciative of the leadership shown by Senator CULVER and his subcommittee and that of Senator HATHAWAY.

It is my understanding that both sides of the aisle are agreeable to this amendment.

Mr. CULVER. The Senator is correct.

Mr. President, I thank the distinguished Senator from Texas for his amendment. As the author of S. 2778, the bill upon which this amendment is based, he deserves great credit for recognizing the need to deal with the growing problem of PCP. I also wish to thank Senator HATHAWAY, who along with the Subcommittee on Alcoholism and Drug Abuse, has played a major role in formulating this amendment. Legislation upon which this amendment is based was the subject of 2 days of joint hearings by the Subcommittees on Juvenile Delinquency and Alcoholism and Drug Abuse. It was approved unanimously, with amendment on July 13, and has my fullest support.

Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section analysis of this amendment as approved by the Juvenile Delinquency Subcommittee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF BENTSEN-HATHAWAY-CULVER AMENDMENT

Section 101 would increase the penalties for the illegal manufacture or distribution of phencyclidine (PCP) from the current maximum of five years imprisonment and/or $15,000 fine to a maximum of ten years imprisonment and/or a fine of $25,000. It would also increase the penalty for a second or subsequent offense from the current maximum of ten years imprisonment and/or a $30,000 fine to a maximum of twenty years imprisonment and/or a $50,000 fine.

Section 102 would add a new part entitled "Piperidine Reporting" to the Controlled Substances Act (Chapter 13 of title 21 of the United States Code). This new part would require anyone who furnishes or receives piperidine to report certain information to the Attorney General and prohibits certain transfers of piperidine. Specifically:

Section 800 of the proposed part requires anyone who sells, transfers, imports or otherwise furnishes piperidine to require the recipient of such piperidine to present positive personal identification and to report such transaction to the Attorney General.

Proposed Section 801 identifies the type of information that must be reported to the Attorney General following the transaction in piperidine. This information includes the quantity and form of the piperidine transferred; the date of the transaction; the name, address and age of the recipient if such recipient is an individual; the name, address and authorizing employee of the recipient if the recipient is a business entity; the purpose of such transfer including a description of the intended usage of the piperidine; the date and manner of any shipment of piperidine; the type of identification produced by the recipient of the piperidine; and such other information as the Attorney General may require. This section would also authorize the Attorney General to promulgate such regulations as are necessary for the enforcement of the subchapter. Finally it would require the Attorney General to submit a report to Congress evaluating the effectiveness of piperidine reporting in reducing the illicit manufacture of phencyclidine and any burden such reporting places on legitimate transactions in and uses of piperidine.

Proposed Section 802 would require such reports to be submitted to the Attorney General within seven days of the transaction except that the Attorney General may authorize the parties of repeated, regular, legitimate transfers of piperidine to submit such reports on a quarterly basis. In order to allow time for the institution of the reporting system, the section also provides that any reports that are due during the first 90 days after enactment may be submitted at any time up to 100 days after enactment.

Proposed Section 803(a) requires anyone who furnishes piperidine to maintain such records of piperidine transactions as the Attorney General may require for a period of two years. It is the intent of this provision that the scope of such record keeping be restricted solely to such documents as are necessary for the enforcement of the subchapter such as copies of reports filed with the Attorney General and such original sales documents as purchase orders and invoices.

Proposed section 803(a) requires that such records be made available for inspection and copying by officers and employees of the United States who are authorized by the Attorney General to do so, and a refusal to do so would be a violation of this subsection. Federal agents are not authorized by this section or any other section of this amendment to make warrantless searches for the purposes of inspecting or copying such records. To this extent, section 803(a) should be interpreted in light of the recent United States Supreme Court decision in *Barlow* v. *Marshall* (May 23, 1978).

Proposed Section 804 requires anyone who furnishes, receives or transports piperidine to report any lost or stolen piperidine within seven days of the discovery of such loss or theft.

Proposed Section 805 would make it unlawful for any party to a transaction in piperidine to knowingly omit or misrepresent any information required to be reported to the Attorney General.

Proposed Section 806 would provide civil and criminal penalties for violations of proposed sections 801, 802, 803, 804, or 805. Civil penalties would include injunctions and/or a fine if not more than $25,000. Anyone who knowingly violated these sections would also be subject to a criminal penalty of up to one year imprisonment and/or a fine of $25,000 for a first offense and up to two years imprisonment and/or a fine of $50,000 for a record or subsequent offense.

Proposed Section 807 would prohibit transactions in piperidine if one of the partners to the transaction is under indictment for or has been convicted of a felony; is a fugitive from justice, or is an unlawful user of any controlled substance. This

section would also prohibit any transaction in piperidine if one of the parties to the transaction knew or had reasonable cause to know that the piperidine is intended for use in the illegal manufacture of PCP or is stolen; or that the recipient of such piperidine is under the age of 18 or under indictment for or convicted of a felony, is a fugitive from justice, or is an unlawful user of any controlled substance.

Proposed Section 808 would provide for criminal penalties for any violation of section 807. Such penalties would consist of imprisonment for up to five years and/or a fine of up to $20,000.

Proposed section 809 would provide that reports and records obtained by the Department of Justice under this subchapter shall be considered confidential, commercial and financial information and shall not be publicly disclosed unless needed in a civil or criminal action.

Proposed section 810 provides that this subchapter will be repealed at the end of three years unless the Congress enacts legislation to continue its existence during that period of time.

Proposed section 811 would define several terms. Under this section the definition of piperidine would include any salts or acyl derivatives of piperidine as well as any analogue derivative or variant of phencyclidine that is placed on a schedule of controlled substances.

Mr. CULVER. Mr. President, this amendment seeks to stem the rapid and very dangerous increase in the use of phencyclidine, or PCP, among our young people. It would accomplish this by increasing the penalties for illegal manufacture and distribution of PCP from a maximum of 5 years and/or a $15,000 fine to 10 years and/or a $25,000 fine. It will also make it much more difficult to actually manufacture this dangerous drug by requiring anyone who purchases piperidine, a relatively rare chemical used in manufacturing PCP, to present proper identification at the time of such purchase, and would require reporting of these transactions to the drug enforcement administration.

The record of our hearings established that the abuse of PCP is a serious and growing problem in this country. The testimony also identified a number of improvements which the committee subsequently made in the original legislation sponsored by Senator BENTSEN.

Specifically we focused the reporting requirement on the type of information that will be most useful to law enforcement authorities. We also allowed regular legitimate purchasers of piperidine to furnish the Attorney General with abbreviated reports on a quarterly basis once the Attorney General has determined that such sales are for legitimate purposes. We also provided civil penalties for non-criminal violations of the act, but strengthened the prohibition against those who knowingly divert piperidine to the illicit manufacture of PCP. We added a provision to insure the confidentiality of all reports on piperidine sales. And finally, Mr. President, we required the Attorney General to submit a report to the Congress concerning any burdens this amendment may place on legitimate sales of or uses for piperidine.

In short we took every precaution to assure that this amendment does not place any significant burden on the legitimate use of piperidine but is still effective in preventing the illicit manufacture of PCP. I believe this amendment will prove to be very effective in reducing the availability of this dangerous drug and I fully support its passage.

I ask unanimous consent to have printed in the RECORD a letter I have received from the administrator of the Drug Enforcement Administration about the sentencing of the defendants in a recent major PCP manufacturing case.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
*Washington, D.C., July 21, 1978.*

Hon. JOHN C. CULVER,
*Chairman, Subcommittee on Juvenile Delinquency, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN CULVER: A major focus during the PCP hearings you co-chaired with Senator Hathaway on June 7 and 21, 1978, was the need for more appropriate sentencing for PCP offenses. You will recall that during my testimony I wholly supported the increased sentencing provisions contained in S. 2778. Too many light sentences are being given which are totally inconsistent with the cases we are bringing before the courts. The following is a most recent example.

As a result of information voluntarily provided by chemical companies located on the East Coast who are participating in our precursor liaison program, DEA initiated surveillance of chemicals air freighted to Los Angeles. The surveillance was conducted by approximately 80 agents of our Los Angeles office as well as agents who were temporarily brought in from our San Diego and San Francisco offices. In addition, approximately 50 Deputy Sheriffs of the Los Angeles County Sheriff's Office participated.

Based on two weeks surveillance, 17 search warrants were executed on December 17, 1977. The following seizures were affected: 104.5 pounds of PCP, 869 pounds of PCC (the immediate precursor to PCP), eleven tons of chemicals used in the manufacture of methaqualone, a multi-station tableting press and various laboratory equipment. Five defendants were charged with felony counts of conspiracy to manufacture, manufacture, possession with intent to distribute, and aiding and abetting. The seizure was the largest PCP seizure effected to date.

Two of the senior Assistant United States Attorneys in Los Angeles prosecuted the case with distinction. The selection of these Attorneys is indicative of the seriousness in which the U.S. Attorney in Los Angeles viewed the case. Three of the defendants pled guilty and two cooperated with the Federal prosecutors. These defendants received probationary sentences. After a two week trial the remaining defendants were found guilty.

On July 12, 1978, sentencing of three defendants took place in U.S. District Court in Los Angeles. Only one defendant received a sentence of incarceration and that was for only three years. The other two defendants received five-year probationary sentences.

In my mind these sentences are unacceptable in terms of both punishment for the offenses committed and in terms of deterrence to others. It also illustrates a lack of perception by the Courts of the magnitude of the PCP problem. The Special Agents, local officers and prosecutors who worked this case are greatly dismayed.

You are assured that DEA will continue to stress the enforcement of the statutes relating to PCP. It is my hope that your legislative efforts will result in more appropriate sentences in the Courts.

Sincerely,

PETER B. BENSINGER,
*Administrator.*

Mr. HATHAWAY. Mr. President, I am pleased to support the amendment offered by my distinguished colleague, Mr. BENTSEN, to increase penalties for trafficking in PCP, and to require reporting of exchanges of piperidine, an essential PCP ingredient.

Last month the Subcommittee on Alcoholism and Drug Abuse held two joint hearings with the Subcommittee on Juvenile Delinquency to explore a relatively new phenomenon in drug abuse; namely, the illicit use of legitimate chemicals. Our specific focus was on phencyclidine, commonly known as PCP, angel dust, killer weed, crystal, cadillac, cyclone, hog, and many other descriptive terms. It is even called DOA by some—this is police shorthand for "dead on arrival."

Regardless of what it is called, PCP is said to be a deadly and devastating drug, worse than anything else on the street. A glance at a magazine stand reveals numerous articles on PCP in a variety of magazines from Women's Day to Newsweek to Human Behavior. Newspapers and television programs have been drawing attention to PCP as well. Just 2 weeks ago, the Washington Post ran a front page story on the destructive effects of PCP on the family, friends, and neighbors of the PCP user. Clearly, the problem extends far beyond the user alone.

That PCP has become a national problem, as reflected by the media, is also supported by what little statistical information we have available. Use of PCP is growing in alarming proportions, especially among our Nation's youth. Federal officials estimate that nearly 7 million people, most of them 12 to 25 years old, have tried this dangerous drug. Recent news reports indicate that last year alone, PCP sent at least 4,000 users to hospital emergency rooms, took 100 lives, and was responsible for an untold number of strange, suicidal, or homicidal acts. Reported incidents include drowning in a shower, self-inflicted gunshot wounds, and other bizarre behavior.

PCP is a nonnarcotic, nonbarbiturate chemical agent. It is apparently easy to make from readily available legal chemicals. This drug is extremely toxic and can cause severe reactions with a single dose.

Because of its widespread abuse and potential for devastating effects, PCP warrants national attention and Federal controls. This became increasingly clear at the hearings. Three former PCP users testified about the dangers of PCP and how easily one can obtain the drug. A convicted PCP manufacturer who is currently serving time in Federal prison, described the ease with which PCP is made and the enormous profit that can be realized with a small investment.

Researchers, treatment professionals and law enforcement personnel testified about the widespread and growing use of PCP, especially among our Nation's youth, and cited examples of the bizarre and violent behavior which can be attributed to its use. We also heard from the administration about current efforts with respect to prevention and education, treatment and rehabilitation, and Federal law enforcement activity related to PCP. Finally, we were pleased to have

the benefit of testimony from Mr. BENTSEN, the author of S. 2778, the PCP Criminal Law and Procedures Act of 1978.

This bill would increase the penalties for PCP trafficking and require reporting of the sale or transfer of piperidine, an essential ingredient of PCP. I am pleased to be a cosponsor of this bill, and commend Senator BENTSEN for his fine efforts.

Based in large part on the testimony received during the hearings, Senator CULVER and I offered an amendment to S. 2778 to strengthen that bill. Entitled the "Drug Abuse Control Act of 1978", it revised the penalty structure for the unauthorized manufacture or distribution of PCP contained in S. 2778, so that it is in conformity with the Controlled Substances Act. It also revised the provision in S. 2778 requiring reporting of transfers or sales of piperidine to require reporting within 7 days instead of 30 days This would make it easier for law enforcement personnel to track down the substance should there be suspicion of improper use.

Controlling PCP is more difficult than controlling most abused drugs because it is composed of readily available licit chemicals which are used for legitimate industrial purposes. However, if we can get a handle on piperidine, an essential ingredient of PCP, then we should be able to get PCP under control. The Drug Abuse Control Act of 1978 attempts to do just that.

I was pleased to learn that the Subcommittee on Juvenile Delinquency of the Judiciary Committee incorporated this amendment as a substitute to S. 2778 during its deliberations last week.

Because of the urgent need to put a stop to the PCP problem, it is essential that we move this legislation forward as quickly as possible. Mr. BENTSEN is attempting to do so by offering S. 2778, as reported by the Subcommittee on Juvenile Delinquency, as an amendment to S. 2399. I strongly urge my colleagues to support this measure.

Mr. CULVER. Mr. President, the Bentsen amendment is acceptable. It has been cleared by the minority, and I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment is agreed to.

Mr. CULVER. Mr. President, I yield to the distinguished Senator from Georgia (Mr. NUNN) for the presentation of another amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I yield to Senator NUNN for the presentation of another amendment.

UP AMENDMENT NO. 1527

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes unprinted amendment numbered 1527.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 201. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(a) by adding at the end of subsection (a) the following new paragraph:

"(6) Any moneys, negotiable instruments, securities, and other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this title or title III." and

(b) by adding after the words "Whenever property" in subsection (e) the words "described in subsections (a)(1) through (a)(5)"; and

(c) by adding a new subsection (h) at the end thereof as follows:

"(h) Whenever property described in subsection (a) (6) is forfeited for violation of this title or title III, the Attorney General, making due provision for the rights of any innocent person—

"(1) may dispose of property other than moneys, negotiable instruments, and securities in the manner set forth in subsection (e);

"(2) may dispose of negotiable instruments and securities in the manner prescribed in subsection (e)(2); and

"(3) shall forward currency obtained from sales pursuant to paragraph (2) and moneys forfeited under subsection (a)(6) to the Treasure of the United States for deposit in the general fund of the United States Treasury.".

Mr. NUNN. Mr. President, almost 8 years ago the Nixon administration declared an "all out war" on illegal drugs. In October 1972, during the heat of the Presidential campaign, he even went so far as to declare victory—saying we have "turned the corner" in the fight against drug abuse. He was mistaken. After declaring victory, Mr. Nixon created a new Federal agency, the Drug Enforcement Administration, as the vehicle to capitalize upon and preserve that "success." Until recently, we were losing the battles as well as the war. Even today, drug abuse is still one of the most serious and tragic problems facing our country—costing the Federal Government alone over three-quarters of a billion dollars in 1976 to combat the problem—up from $82 million in 1969. The number of addicts has a little over doubled—but the Federal budget has increased almost tenfold.

We can no longer look solely to the Drug Enforcement Administration. Under the leadership of Mr. Peter Bensinger, it is doing its part—make no mistake, it can do more—but narcotics agents and prosecuting attorneys alike are frustrated by low bail, light sentences, early parole, and the inability to seize the proceeds of narcotic trafficking.

The Permanent Subcommittee on Investigations, which I am vice chairman, has held literally weeks of hearings over the past 3 years probing the effectiveness of our Federal narcotics enforcement efforts and identifying means whereby these efforts could be made more effective.

The criminal justice system can only be effective if there is a meaningful deterrent. It is important that the offender be aware of the risk he is running. In today's narcotic traffic the profits to be made are astronomical. The penalties are not so substantial; the deterrent is likewise minimal, mainly because of the present sentencing and bail provisions. I have urged repeatedly that these needs be addressed. Additionally, deterrence is minimized because it is difficult to attack an individual's sources of finance for narcotics trafficking. We cannot forget that profit, astronomical profit, is the base motivation of drug traffickers. The amendment I propose here today is intended to enhance the efforts to reduce the flow of illicit drugs in the United States by striking out against the profits from illicit drug trafficking.

Specifically, the amendment would provide for the seizure and forfeiture of moneys, negotiable instruments, and securities furnished or intended to be furnished in exchange for controlled substances.

Due to recent restrictions of the Internal Revenue Service which ended the practice of immediately terminating a drug trafficker's taxable year to allow effective "jeopardy assessments," Drug Enforcement Administration agents have been compelled to return seized money to defendants even though it has been apparent the money is the profit from illicit drug trafficking or has been used or intended to be used in drug trafficking. Moreover, returned money has been used by defendants to replenish their stock of drugs that were seized at the time of arrest. The proposed amendment would enable the Drug Enforcement Administration and the U.S. attorneys to immediately begin forfeiture proceedings against money furnished or intended to be furnished in illicit drug transactions in the same fashion that such proceedings are now used against all types of conveyances, equipment, products, and drugs used in violation of the Controlled Substances Act. Thus, the punitive and deterrent purposes of the Controlled Substances Act would have greater impact on drug trafficking.

I have discussed this amendment with Senator CULVER from Iowa, and I want to commend him for his tireless efforts in this overall area to improve the state of law enforcement. I believe the enactment of this amendment would be a significant step forward in our journey toward eliminating illicit drug trafficking, and I ask my colleagues to support the amendment.

Mr. President, I have a modification to the amendment. We are in the process of discussing that modification at the moment. I am also hopeful it is going to be acceptable to the managers of the bill on the majority and minority side.

Without offering that modification, I

will simply recite it right now. At the end of the amendment what I would propose is to add the words "all proceeds directly traceable to such an exchange, except that no proceeds shall be subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent."

That would be the modification that I would not propose until we determine whether it is acceptable by the majority and the minority, but I would hope the amendment, with or without the modification, would be acceptable.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I have checked with the senior Senator from Maryland (Mr. MATHIAS) and also with Senator CULVER, both the minority and majority, about the modification. Of course, I understand I have the right to modify the amendment, but I wanted to make certain.

The PRESIDING OFFICER. The Senator has that right.

Mr. NUNN. The modification was acceptable to both sides, so I would offer the following modification: After the word "and" in the amendment which is pending, I would add the following language:

all proceeds directly traceable to such an exchange, except that no proceeds shall be subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent.

And then further modify it by deleting in line 2 of the amendment, after the word "value", the remainder of that line and the first word in the next line.

Mr. President, to assist our able clerk, I send the modification to the desk.

The PRESIDING OFFICER. The clerk would appreciate that and the amendment will be so modified.

The amendment, as modified, is as follows:

SECTION 1. The bill is amended by adding at the end thereof the following new title:

"TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

"(a) by adding at the end of subsection (a) the following new paragraph:

"(6) Any moneys, negotiable instruments, securities, and other things of value intended to be furnished by any person in exchange for a controlled substance in violation of this title or title III, and all proceeds directly traceable to such an exchange except that no proceeds shall be subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent and

(b) by adding after the words "Whenever property" in subsection (e) the words "described in subsections (a)(1) through (a)(5)"; and

(c) by adding a new subsection (h) at the end thereof as follows:

"(h) Whenever property described in subsection (a)(6) is forfeited for violation of this title or title III, the Attorney General making due provision for the rights of any innocent person—

"(1) may dispose of property other than moneys, negotiable instruments, and securities in the manner set forth in subsection (e);

"(2) may dispose of negotiable instruments and securities in the manner prescribed in subsection (e)(2); and

"(3) shall forward currency obtained from sales pursuant to paragraph (2) and moneys forfeited under subsection (a)(6) to the Treasurer of the United States for deposit in the general fund of the United States Treasury.".

Mr. NUNN. Mr. President, I hope the amendment, as modified, will be acceptable to the management.

Mr. CULVER. Mr. President, this amendment would increase the ability of Federal authorities to seize the proceeds of illegal drug transactions, including any moneys or properties furnished in exchange for and in many cases moneys or properties generated by trade in narcotics or other dangerous drugs. It is acceptable to me, and it has been cleared by the minority. At this point I ask unanimous consent to have printed in the RECORD a section-by-section analysis of the amendment as modified.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS

Section 201(a) of the amendment would amend Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) to permit the forfeiture of any moneys, negotiable instruments, securities, and any other things of value intended to be furnished by any person in exchange for a controlled substance in violation of this title or title III and all proceeds directly traceable to such an exchange except that no proceeds directly traceable to such exchange shall be subject to forfeiture by reason of any act or omission established by an owner thereof to have been committed or omitted without his knowledge or consent.

While this section broadens existing forfeiture law to enable federal authorities to reach the consideration used or intended to be used in illegal drug transactions or any proceeds directly traceable to such transactions, it specifically safeguards the rights of innocent persons. The descriptive terms of consideration are defined as follows:

(1) "Monies" means officially issued coin and currency of the United States or any foreign country; (2) "Negotiable instruments" means that which can be legally transferred to another party by endorsement or delivery; and (3) "Securities" refers to any stocks, bonds, notes or other evidences of debt or property:

Section 201(b) is simply a clarifying amendment.

Section 201(b) provides that property forfeited pursuant to Section 201(a) would be disposed of by the Attorney General in accordance with existing law and with due regard for the rights of any innocent persons involved. Subsection(b)(3) of Section 201 also provides that the Attorney General shall cause to be deposited in the general fund of the United States Treasury all monies forfeited pursuant to Section 201(a) and all currency derived from the sale of forfeited negotiable instruments and securities.

Mr. CULVER. The purpose of the proposed amendment is to help combat the flow of illicit drugs in the United States by striking at profits from illicit drug trafficking. The Drug Enforcement Administration estimates that the value of the illicit drugs sold in the United States each year ranges between $18–20 billion. Often illegal transactions in such drugs involve transfers of several hundred thousand dollars. Under current law, however, Federal officers are frequently required to return such moneys to individuals arrested on drug charges even though such moneys were used in illegal drug transactions. In fact in many cases these returned funds are used by defendants to replenish their stock of drugs.

In certain cases it is possible to seize moneys or other proceeds of illegal drug transactions under the tax laws or the RICO statute. Both of these procedures, however, require a great deal of investigation and preparation before an effective seizure and forfeiture can be made. As a result they are very seldom used to seize moneys or other proceeds that have been used or are intended for use in illegal drug transactions.

The proposed amendment, on the other hand, would allow Federal officers to seize any moneys, negotiable instruments, securities and other things of value if such property is furnished or intended to be furnished in exchange for illegal drugs. It would also authorize the seizure of any proceeds that are directly traceable to such an exchange of illegal drugs.

The proposed amendment differs from title III of S. 1722 which was recently considered by the Juvenile Delinquency Subcommittee. In the subcommittee, concerns were expressed over the breadth of the provisions of title III of S. 1722. Specifically, it was noted that the original language could have been construed to reach properties traceable to the illegal proceeds but obtained by an innocent party without knowledge of the manner in which the proceeds were obtained. The original language is modified in the proposed amendment in order to protect the individual who obtains ownership of proceeds with no knowledge of the illegal transaction.

It is believed that seizures and forfeitures under the proposed amendment would help to disrupt drug trafficking by greatly raising the risk of such trafficking, reducing the profits involved, and immobilizing certain drug rings by seizing large amounts of their assets.

Under the current provisions of 21 U.S.C. 881 as adopted in 1970, the Attorney General may seize and cause to be forfeited certain types of property if such property is used, or intended for use, in illegal drug transactions. The types of property covered under the current law include drugs, raw materials and equipment used in manufacturing drugs, property used to contain or conceal drugs, vehicles used to transport drugs, and any records, books of formulas related to the drugs, or drug transactions.

Under the proposed amendment, the Attorney General would also be able to seize and cause to be forfeited any monies, negotiable instruments, securities or other things of value that are furnished or intended to be furnished in exchange for illegal drugs or any proceeds of such

an exchange. In the majority of cases such moneys (or the proceeds of forfeiture sales of negotiable instruments, securities or other property) would be deposited in the general fund of the U.S. Treasury. In the case of property other than moneys, negotiable instruments or securities, however, the Attorney General would have the option of retaining the property for official use, transferring it to an appropriate agency, destroying such property if it is deemed to be harmful to the public, or selling such property and depositing the proceeds of such sale into the general fund of the U.S. Treasury.

Under section 881(d) of the existing law, all such seizures and forfeitures would have to conducted in accordance with certain laws and procedures that govern seizures and forfeitures for violations of the customs laws. (19 U.S.C. 1604–1620). Under these provisions, the Attorney General would be able to dispose of property with a value of $2,500 or less through an administrative forfeiture procedure, but would have to seek a judicial forfeiture for property valued in excess of $2.500. The existing customs laws also provide for certain time limits for parties to file claims to any seized property, the remission or mitigation of forfeitures, the compromise of claims, and the award of compensation to informers.

Mr. President, I ask unanimous consent that the Nunn amendment as modified be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified. Without objection, the amendment is agreed to.

Mr. CULVER. Mr. President, I do not believe there are any further amendments. Does the Senator from Georgia wish to speak further?

Mr. NUNN. No; the only thing I would say is that, at the request of Senator MATHIAS and Senator WALLOP's staff, we did add a provision in the modification to make it clear that a bona fide party who has no knowledge or consent to the property he owns having been derived from an illegal transaction, that party would be able to establish that fact under this amendment and forfeiture would not occur.

That is the purpose of the wording added to the modification, in addition to some other wording in the modification making the amendment broader than it otherwise would have been.

I thank my colleague from Iowa for the time and effort he has put forth on this bill, and for his extraordinary patience in waiting so that we could work this matter out, particularly at the end of a long, hard day. Having been with the Senator from Iowa on the Armed Services Committee conference for hours and hours today, his patience is not only commendable but it is appreciated.

Mr. CULVER. Mr. President, I wish to express my appreciation and admiration to the distinguished Senator from Georgia for his leadership in this whole area of drug enforcement. He has been interested in and worked hard on this issue for a very considerable time, and his contributions, have been invaluable in bringing about the most effective possible effort to combat this extremely dangerous problem to our national life. I commend him and I also wish to express my appreciation for his recent additional clarification, for purposes of legislative history of the intent of his amendment-as-modified which has just been approved by the Senate.

Mr. President, I do not believe there are any further amendments. If not, I ask that the bill be read the third time, and I would move for passage.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (S. 2399) was passed, as follows:

S. 2399

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Psychotropic Substances Act of 1978".

TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES

SEC. 101. The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together wih existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.

SEC. 102. (a) Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by inserting "(1)" after "(d)" and by adding the following new paragraphs at the end thereof:

"(2)(A) Whenever the Secretary of State receives notification from the Secretary General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health, Education, and Welfare who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health, Education, and Welfare shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

"(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health, Education, and Welfare of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health, Education, and Welfare shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

"(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a 'schedule notice') that existing legal controls applicable under this title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health, Education, and Welfare, after consultation with the Attorney General, shall first, determine whether existing legal controls under this title applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

"(A) If such requirements are met by such existing controls but the Secretary of Health, Education, and Welfare nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsec-

tions (a) and (b) of this section, to apply such controls.

"(B) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare concurs in the scheduling decision or scheduling notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

"(C) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

"(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply such additional controls;

"(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

"(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

"(4)(A) If the Attorney General determines, after consultation with the Secretary of Health, Education, and Welfare, that proceedings initiated under recommendations made under subparagraph (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

"(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health, Education, and Welfare and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decisions with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

"(i) the decision is reversed, and

"(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention, the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

"(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 202(b) and without regard to the procedures prescribed by subsection (a) or (b) of this section.

"(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health, Education, and Welfare or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(29) The term 'Convention on Psychotropic Substances' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term 'Single Convention on Narcotic Drugs' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.".

(c) For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1, 2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act, place such drugs in schedule IV of such Act.

SEC. 103. Subsection (d) of section 202 of the Controlled Substances Act (21 U.S.C. 812(d)) is amended by striking out "and" before "(2)" and by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances".

SEC. 104. Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) In addition to the reporting and recordkeeping requirements under any other provision of this title, each manufacturer registered under section 303 shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this title on manufacturers subject to the requirements of this subsection.".

SEC. 105. Section 1002(b) of the Controlled Substances Import and Export Act (21 U.S.C. 952(b)) is amended by inserting immediately before the period at the end of paragraph (2) the following: ", except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention".

SEC. 106. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953(e)) is amended—

(1) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(4) in any case when a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of the invoice required by paragraphs (2) and (3) of this subsection.".

SEC. 107. (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

"SEC. 412. Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.".

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting—

"Sec. 412. Application of treaties and other international agreements."

immediately after

"Sec. 411. Proceedings to establish previous convictions.".

SEC. 108. (a) Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

(b) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

SEC. 109. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823(f)) is amended by adding at the end the following sentence: "Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 110. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827(c)) is amended by adding the following after and below paragraph (3): "Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.".

SEC. 111. Subsection (n) of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding the following new sentence at the end thereof: "Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers.".

SEC. 112. This title and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, enters into force in respect to the United States.

## TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 201. Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(a) by inserting after the phrase "such person shall" in the first sentence of paragraph (1)(B) the following: ", except as provided in paragraphs (4) and (5) of this subsection,", and

(b) by adding after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, or possessing with intent to manufacture or distribute, except as authorized by this title or title III, phencyclidine, shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1)(B) of this section or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment. For the purposes of this paragraph, 'phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts and any analog, derivative, or variant of 1-(1-phenylcyclohexyl) piperidine that is in a schedule pursuant to section 202 of this title.".

SEC. 202. The Controlled Substances Act (Subchapter I of chapter 13 of title 21 of the United States Code) is amended by adding at the end thereof the following new part:

"PART H—PIPERIDINE REPORTING

"§ 800. Reporting requirement

"(a) It shall be unlawful—

"(1) For any person to sell, transfer, or otherwise furnish any piperidine unless such person reports such sale, transfer, or exchange to the Attorney General pursuant to regulations promulgated under section 801.

"(2) For any person to sell, transfer, or otherwise furnish any piperidine unless the purchaser, transferee, or other recipient of such piperidine presents positive personal identification pursuant to regulations promulgated by the Attorney General under section 801.

"(3) For any importer of piperidine to receive piperidine without reporting such receipt to the Attorney General pursuant to regulations promulated under section 801.

"(b) The provisions of paragraph (a) of this section shall not apply to—

"(1) Intracompany sales or transfers of piperidine.

"(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of piperidine is solely for the purpose of transporting such substance in the usual course of his business or employment; *Provided*, That the Attorney General may require any such carrier or warehouseman to retain and report any shipping documents for such substance.

"§ 801. Nature of reports

"(a) Any person required to submit a report pursuant to section 800 shall submit such report on a common reporting form to be issued in blank by the Attorney General.

"(b) Such reporting form shall contain information as to—

"(1) The quantity and form of the piperidine sold, imported, transferred, or otherwise furnished.

"(2) The date the piperidine was sold, imported, transferred, or otherwise furnished.

"(3) The name, address, and age of any individual who purchases, imports, or otherwise receives such piperidine.

"(4) The type of identification presented by the individual purchaser, importer, or other transferee.

"(5) The name and address of any business entity that purchases, imports, or otherwise receives piperidine, including the name, address, and title of the employee placing the order for purchase, import, or other receipt of piperidine for such business entity.

"(6) The purpose of such purchase, importation, or transfer, including a description of the intended usage of such piperidine. This requirement shall not apply to quarterly reports authorized by the Attorney General under section 802(b).

"(7) The date and manner that such piperidine was shipped or otherwise transferred and the address of the destination of any such shipment or transfer.

"(8) Such other information, including that necessary for establishing positive, buyer or transferee identification, as the Attorney General may deem necessary for the enforcement of this part.

"(c) The Attorney General is authorized to promulgate such regulations as are necessary for the enforcement of this part.

"(d) Not later than one year after the effective date of this part, the Attorney General shall submit to the President and the Congress an analysis and evaluation of the effectiveness of piperidine reporting in reducing the illicit manufacture of phencyclidine. Such analysis and evaluation shall also contain an assessment of any burden such reporting places on legitimate transactions in and uses of piperidine and such recommendations as the Attorney General deems appropriate.

"§ 802. Filing deadline for reports

"(a) Except as provided in subsections (b) and (c) of this section, any person required to submit a report to the Attorney General pursuant to section 800 shall submit such report within 7 days of the purchase, transfer, importation, or other exchange of piperidine.

"(b) The Attorney General may authorize any person required to submit a report to the Attorney General pursuant to section 800 to submit such report on a quarterly basis with respect to repeated, regular transactions between the furnisher and the recipient if the Attorney General determines that (1) a pattern of regular supply of piperidine exists as between the person who sells, imports, transfers, or otherwise furnishes such piperidine and the recipient of the piperidine and (2) the recipient has established a record of utilization of such piperidine for lawful purposes.

"(c) Any person required to submit a report to the Attorney General pursuant to section 800 within the first 90 days after the enactment of this part may submit such report at any time up to 100 days after the enactment of this part. Such report shall contain the information specified in paragraphs (b)(1) through (b)(7) of section 801.

"§ 803. Retention and inspection of records.

"(a) Any person who sells, imports, transfers, or otherwise furnishes piperidine shall maintain such records as are deemed necessary by the Attorney General to enforce this part. Such records shall be kept and be available, for 2 years, for inspection or copying by officers or employees of the United States authorized by the Attorney General.

"(b) Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this part with respect to identification of persons within such State or political subdivision thereof who have purchased, imported, or otherwise received piperidine together with a description of such piperidine.

"§ 804. Lost or stolen piperidine

"Any person who manufactures, sells, purchases, imports, transports, transfers, or otherwise furnishes or receives piperidine shall report any theft or loss of such piperidine to the Attorney General within 7 days of the actual discovery of such theft or loss. Such reports shall contain such information as the Attorney General may require under regulations promulgated under this part.

"§ 805. False or misleading statements

"It shall be unlawful for any seller, purchaser, importer, transferor, transferee, or

other provider or recipient of piperidine to knowingly make any false, oral, or written statement or misrepresentation with respect to information required to be reported pursuant to regulations promulgated under this part or to knowingly omit any material information required to be reported pursuant to regulations promulgated under this part.

"§ 806. Penalties, enforcement

"(a) Whenever it shall appear that any person has violated any provision of section 800, 801, 802, 803, 804, or 805, the Attorney General may bring a civil action for such relief (including injunctions) as may be appropriate.

"(b)(1) Except as provided in paragraph (2), any person who violates section 800, 801, 802, 803, 804, or 805 shall, with respect to any such violation be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce this paragraph.

"(2)(A) If a violation of section 800, 801, 802, 803, 804, or 805 is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (b)(2)(B) of this section be sentenced to imprisonment of not more than one year or a fine of not more than $25,000, or both.

"(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under paragraph (2), or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of $5,000, or both.

"(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of section 800, 801, 802, 803, 804, or 805 does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) of this subsection shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

SEC. 807. PROHIBITED TRANSFERS OF PIPERIDINE

"It shall be unlawful for any person to import, purchase, transport, transfer, receive, conceal, store, barter, sell, manufacture, or otherwise furnish or dispose of any piperidine if—

"(a) such person—

"(1) is under indictment for, has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) is a fugitive from justice; or

"(3) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802 (9)) or narcotic drug (as defined in 21 U.S.C. 802(16)), or

"(b) such person knows or has reasonable cause to believe—

"(1) that such piperidine will be used to manufacture phencyclidine, except as authorized by this title or title III,

"(2) that such piperidine has been stolen, or

"(3) that the purchaser, transferee, or other recipient of such piperidine—

"(A) is under the age of 18;

"(B) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(C) is a fugitive from justice; or

"(D) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)).

"§ 808. Criminal penalties

"Any person who violates any provision of section 807 shall be fined not more than $20,000, or imprisoned not more than five years, or both.

"§ 809. Confidentiality

"Reports and records obtained by the Department of Justice under this part shall be considered confidential, commercial and financial information, and as such shall not be publicly disclosed, unless needed in a civil or criminal action.

"§ 810. Sunset provision

"(a) At the end of a period of time consisting of three calendar years beginning on the date of enactment of this part, this part shall be repealed unless legislation to continue the existence of this part is enacted during such period of time.

"(b) Any repeal of this part pursuant to subsection (a) of this section shall not affect or abate any civil or criminal proceedings for any violation of this part if such violation occurred prior to the date of such repeal.

"§ 811. Definitions

"For purposes of this part—

"(1) "Person" includes any individual or business entity;

"(2) "Piperidine" means piperidine, its salts and its acyl derivatives;

"(3) "Phencyclidine" means 1-(1-phenylcyclohexyl) piperidine, its salts and any analog, derivative, or variant of 1-(phenylcyclohexyl) piperidine that is in a schedule pursuant to section 202 of this title; and

"(4) "Attorney General" means the Attorney General of the United States.".

SEC. 203. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting immediately after

"SEC. 709. Appropriations authorizations." tho following:

"PART H—PIPERIDINE REPORTING

"Sec. 800. Reporting requirement.
"Sec. 801. Nature of reports.
"Sec. 802. Filing deadline for reports.
"Sec. 803. Retention and inspection of records.
"Sec. 804. Lost or stolen piperidine.
"Sec. 805. False or misleading statements.
"Sec. 806. Penalties, enforcement.
"Sec. 807. Prohibited transfers of piperidine.
"Sec. 808. Criminal penalties.
"Sec. 809. Confidentiality.
"Sec. 810. Sunset provision.
"Sec. 811. Definitions.".

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(a) by adding at the end of subsection (a) the following new paragraph:

"(6) Any moneys, negotiable instruments, securities, and other things of value intended to be furnished by any person in exchange for a controlled substance in violation of this title or title III, and all proceeds directly traceable to such an exchange, except that no proceeds shall be subject to forfeiture under this section by reason of any act or omission established by the owner therof to have been committed or omitted without his knowledge or consent." and

(b) by adding after the words "Whenever property" in subsection (e) the words "described in subsections (a)(1) through (a)(5)"; and

(c) by adding a new subsection (h) at the end thereof as follows:

"(h) Whenever property described in subsection (a)(6) is forfeited for violation of this title or title III, the Attorney General, making due provision for the rights of any innocent person—

"(1) may dispose of property other than moneys negotiable instruments, and securities in the manner set forth in subsection (e);

"(2) may dispose of negotiable instruments and securities in the manner prescribed in subsection (e)(2); and

"(3) shall forward currency obtained from sales pursuant to paragraph (2) and moneys forfeited under subsection (a)(6) to the Treasurer of the United States for deposit in the general fund of the United States Treasury.".

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CULVER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2399.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL CONSUMER COOPERATIVE BANK ACT—CONFERENCE REPORT

Mr. McINTYRE. Mr. President, I submit a report of the committee of conference on H.R. 2777 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. McINTYRE. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

## RECLAMATION SAFETY OF DAMS ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, will the Chair state the next order of business?

The PRESIDING OFFICER. Under the previous order of the Senate, the Senate will now proceed to the consideration of S. 2820, which the clerk will state.

The legislative clerk read as follows:

Calendar Order No. 741, a bill (S. 2820) to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes.

The PRESIDING OFFICER. The time for debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Wyoming (Mr. HANSEN), with 30 minutes on any amendment and 15 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against this bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## REPORT OF THE DEPARTMENT OF TRANSPORTATION — MESSAGE FROM THE PRESIDENT—PM 202

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

*To the Congress of the United States:*

I transmit herewith the Tenth Annual Report of the Department of Transportation. This report has been prepared in accordance with Section II of Public Law 89–670 and covers Fiscal Year 1976.

The Report covers activities of the Department during a period prior to the commencement of my term of office

JIMMY CARTER.

THE WHITE HOUSE, *July 27, 1978.*

## MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 11003, an act to clarify the authority for employment of personnel in the White House Office and the Executive residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NIX, Mr. UDALL, Mrs. SCHROEDER, and Mr. DERWINSKI were appointed managers of the conference on the part of the House.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. A concurrent resolution relating to adjournment to a date certain during the remainder of the Ninety-fifth Congress.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 12973. An act to amend title XX of the Social Security Act to increase the entitlement ceiling and otherwise provide for an expanded social services program, to promote consultation and cooperative efforts among States, localities, and other local public and private agencies to coordinate services, to extend certain provisions of Public Law 94–401, and for other services.

## HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 12973. An act to amend title XX of the Social Security Act to increase the entitlement ceiling and otherwise provide for an expanded social services program, to promote consultation and cooperative efforts among States, localities, and other local public and private agencies to coordinate services, to extend certain provisions of Public Law 94–401, and for other services; to the Committee on Finance.

## HOUSE JOINT RESOLUTIONS REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.J. Res. 682 and H.J. Res. 946, now being held at the desk, be appropriately referred.

The PRESIDING OFFICER. Without objection. it is so ordered.

The joint resolutions were referred as indicated:

H.J. Res. 682. A joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

H.J. Res. 946. A joint resolution to designate October 7, 1978, as "Natural Guard Day"; to the Committee on the Judiciary.

## SUBSTITUTION OF SENATOR SCHMITT FOR SENATOR GARN AS A CONFEREE—S. 3084

Mr. BAKER. Mr. President, I ask unanimous consent that the distinguished Senator from New Mexico (Mr. SCHMITT) be appointed as a conferee on S. 3084, the housing bill, in the place and stead of the distinguished Senator from Utah (Mr. GARN).

The PRESIDING OFFICER. Without objection, it is so ordered.

## REFERRAL OF A BILL

Pursuant to the provisions of section 401(b) of the Budget Control Act of 1974, H.R. 3946, Calendar No. 584, has been referred to the Committee on Appropriations for 15 calendar days exclusive of days on which the Senate is not in session.

## COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4039. A communication from the Chairman, Nuclear Regulatory Commission, relating to steps underway to develop a misadministration reporting rule on medical uses of byproduct material; to the Committee on Environment and Public Works.

EC–4040. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a Statistical Appendix to the Annual Report of the Secretary of the Treasury on the State of the Finances, Fiscal Year 1977; to the Committee on Finance.

EC–4041. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–4042. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 13, 1978, which would amend the Standards of Assistance of the District of Columbia relating to payments to persons residing in community residence facilities (Act 2–229); to the Committee on Governmental Affairs.

EC–4043. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 13, 1978, which would establish the District of Columbia Commission for Women (Act 2–230); to the Committee on Governmental Affairs.

EC–4044. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 27, 1978, which would amend the Condominium Act of 1976 relating to the advertisement of condominiums (Act 2–231); to the Committee on Governmental Affairs.

EC–4045. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 27, 1978, which would authorize the expenditure of funds by Council Members for official purposes (Act 2–232); to the Committee on Governmental Affairs.

EC–4046. A communication from the Assistant Secretary for Administration, Department of Commerce, transmitting an amended page 2 of the New System Report, dated May 8, 1978, to delete the phrase "in metal conduits" from the sentence "All Printer terminals and almost all Cathode Ray Tube Display terminals will be hardwired to the computer using shielded cable in metal conduits."; to the Committee on Governmental Affairs.

EC–4047. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report of the annual audit of the Student Loan Marketing Association for the year ended December 31, 1977; to the Committee on Human Resources.

EC–4048. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the National Institute on Alcohol Abuse and Alcoholism (NIAA) for the fiscal year 1976; to the Committee on Human Resources.

EC–4049. A communication from the Chairman, Franklin Delano Roosevelt Memorial Commission, transmitting, pursuant to law,

a report of the Franklin Delano Roosevelt Memorial Commission; to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2782. A bill to protect consumers from misrepresentative advertising of gold and silver jewelry, and for other purposes (Rept. No. 95–1040).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment:

H.R. 5646. An Act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization (Rept. No. 95–1041).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 13385. An Act to provide for a temporary increase in the public debt limit (Rept. No. 95–1042).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BIDEN:

S. 3348. A bill to provide emergency financial assistance to certain States and localities for the construction and modernization of correctional facilities and systems; to the Committee on the Judiciary.

By Mr. HASKELL (for himself and Mr HART):

S. 3349. A bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreational Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mr. HAYAKAWA):

S. 3350. A bill to maximize employment opportunities for all Americans in rural and urban poverty areas; and to alleviate structural unemployment among young people through bonus incentives to private and independent sector sponsors; and to achieve more efficient, productive and cost-effective economic policymaking within the Federal Government; to the Committee on Human Resources.

By Mr. McCLURE:

S. 3351. A bill to improve the range conditions of the public lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. WALLOP):

S. 3352. A bill to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURKIN:

S. 3353. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements relating to the manufacture, sale, or distribution of soft drink products are not unlawful; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 3348. A bill to provide emergency financial assistance to certain States and localities for the construction and modernization of correctional facilities and systems; to the Committee on the Judiciary.

### EMERGENCY AID FOR PRISONS

● Mr. BIDEN. Mr. President, I would like to introduce the Emergency State and Local Prison Compliance Assistance Act. This legislation is designed to provide financial assistance to State and local governments for construction of new and renovation of existing correctional institutions in compliance with Federal court decisions declaring existing facilities unfit in their present condition. The funds to be made available are also tied to the establishment of minimum standards to be promulgated in accordance with the provisions of the act. I believe the legislation fills an urgent national need that becomes more critical as each day passes.

This legislation will assist States, like my own, faced with Federal court orders mandating release of hardened prisoners in the face of unconstitutional prison conditions. Delaware is not the only State facing this crisis. There are Federal court orders mandating prisoner release or some form of extensive upgrade of prison conditions in Alabama, Rhode Island, and a host of other States.

As traumatic as these court decisions are, they only recognize what the average citizen knows but most legislators would prefer to ignore. Our Nation's prisons are massively overcrowded, and this overcrowding has a profound effect on the matter in which our system of justice functions. One of the primary roles of the prison system is to protect society by removing the criminal from its midst. Yet, unless we remedy prison overcrowding, we cannot hope to achieve sane and effective crime control.

Judges and prosecutors will openly admit that overcrowding has a devastating effect upon our system of plea bargaining, probation, sentencing, and parole. Plea bargains resulting in probation are indiscriminate. Probation is granted in many cases where incarceration is warranted simply because there is no space available in the jails. Many criminals are not sentenced at all or receive minimal sentences inappropriate to the severity of their offense. Parole release becomes a method of prison population control to the total disregard of the public welfare.

In short, the protection of society, if considered at all is a secondary factor in deciding when and how to reintegrate the convicted criminal into the society he victimized.

Furthermore, overcrowding combined with a lack of funds results in a denial of the minimal physical conditions necessary for human existence. The litany of problems which characterize local jails includes overcrowding, idleness, unsanitary living quarters and dining facilities, substandard diets, decrepit hygiene facilities and inadequate visitation hours and privileges.

Inhumane conditions breed hostility, contempt and unrest. Deplorable conditions are fully capable of turning even a first offender into an embittered, hardened criminal.

As a result, the Federal courts have again jumped into the breach caused by legislative neglect and taken radical, at times disruptive, action. For example, U.S. District Court Judge Frank N. Johnson has ordered the prison system of the State of Alabama to meet specific minimum standards within a specified time or close. His logic is simple: the severe overcrowding and unsanitary conditions in Alabama prisons was evidence of "cruel and unusual punishment" and, consequently, unconstitutional.

U.S. District Court Judge Raymond J. Pettine recently held that Rhode Island's maximum security prison "presents an imminent public health, fire and safety hazard" and ordered the prison closed within a year.

In my own State, U.S. District Court Judge Murray M. Schwartz recently ordered a massive reduction in prison population of the Delaware Correctional Center while pointing out a multitude of problems existing in a 7-year-old facility once touted as a model prison but now termed by the judge a "ticking time bomb".

Case law in other jurisdictions evidences an increasing willingness on the part of the bench to insure that prison operations meet minimally humane requirements. I fear failure to deal with the problem may shortly result in a judicially imposed prohibition on the use of prisons. Judges may in effect outlaw prisons, bringing down the whole criminal justice system.

At the same time that the Federal judges are closing down our prisons because of inhumane conditions, corrections experts have begun to express doubts about what goes on in the name of progressive treatment of offenders. The goal of rehabilitation is increasingly viewed as an improbable, if not impossible, dream.

The statistics are clear. Inmates subjected to programs designed to rehabilitate are as likely to recidivate as others. Study after study, throughout this country and around the world, has concluded that we have not yet learned how to rehabilitate. Worse, yet, there is no apparent yardstick, no foolproof method, to determine when, or even if, rehabilitation has occurred.

Faced with this awareness, is it any wonder that people are demanding that an individual who has committed a crime and is convicted receive his just deserts—that he face cetrain justice?

In an attempt to deal with this growing public awareness and changing public mood, those of us here in the Senate who have been talking about the need to restore the concept of accountability

to those convicted of a crime incorporated sentencing guidelines in the revision of the Federal Criminal Code as it passed the Senate. That act, in limiting judicial discretion in sentencing, goes a long way toward answering the public's demand for action at the Federal level. Revising the Federal sentencing judicial discretion in sentencing, the deterrent value of the criminal sanction but will have little immediate impact on the problem to which this bill is addressed. First, sentencing reform on the Federal level can at best only serve as a model for State sentencing procedures. Second, "flat-time" sentencing has little positive impact on prison overcrowding except perhaps to exacerbate the problem.

The most positive role we can play on the Federal level is to assist the States with Federal funds in complying with Federal judicial mandates. We cannot, however, simply throw money at this problem. Our authorization of expenditures for correctional improvement of some $700 million over the years 1971–1977 years through the Law Enforcement Assistance Administration has done little to remedy the situation.

Like most LEAA programs the corrections programs lack focus and fails to tie the availability of these funds to mandated standards as well as court decisions to insure results. Furthermore, the LEAA authorizing legislation limits the percentage of a prison construction or modernization project that can be covered by LEAA funds.

The need for mandated minimum standards was pointedly dramatized by a report of the General Accounting Office in April of 1976. It concluded that some jails that had received LEAA funds were nonetheless in such poor condition that they appeared similar to others that had been closed by the courts.

Basically, the legislation I propose today would give States the funds needed for construction of new facilities in compliance with Federal court mandates. Funds would also be available for the cost of modernization projects.

Both construction and modernization would have to conform to a State plan conceived and approved by the agencies and people who represent State and local authorities. Aside from the need to preserve fiscal integrity and to evaluate what has been done, States and local governments are given freedom to fashion remedies for their own needs consistent with the applicable Federal court decision and mandated standards.

This legislation is not a panacea. It is a necessary step toward sound management. Without adequate space—without decent, humane facilities—we can provide no guarantee of accountability.

We cannot continue to allow overcrowding and decay occasioned by inadequate funding to prostitute our system of justice. We must provide humane prisons and we must provide adequate prison space if we are to respond properly to societal demands.●

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By Mr. HASKELL (for himself and Mr. HART):

S. 3349. A bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness; to the Committee on Energy and Natural Resources.

INDIAN PEAKS WILDERNESS AREA AND ARAPAHO NATIONAL RECREATION AREA ACT

● Mr. HASKELL. Mr. President, today I am introducing legislation, along with my friend and colleague from Colorado, Senator HART, to grant wilderness protection to the Indian Peaks region along the front range of Colorado. In addition, this bill creates a national recreation area on part of the western slope adjacent to the Indian Peaks and mandates a study to determine the suitability of revising the boundaries of Rocky Mountain National Park to include Indian Peaks.

This area of jagged peaks and alpine lands may be the most spectacular mountain scenery on the front range.

In 1972, Congress passed Public Law 92–528 directing the Secretary of Agriculture to study 71,000 acres in Colorado's Arapaho-Roosevelt National Forest for its possible inclusion in the National Wilderness Preservation System. This area, commonly known as the "Indian Peaks" area, abuts the southern boundary of Rocky Mountain National Park, and is within a 1½–2 hours drive of Denver and the majority of the population of Colorado's front range metropolitan areas. Despite the explosive growth which has occurred in the greater Denver area during the last several decades, the Indian Peaks still retain their primeval wilderness qualities and undeveloped lands of outstanding scenic value, glaciers, numerous pristine streams and lakes, and alpine terrain and vegetation.

As such, the area has become increasingly popular for those seeking a nearby wilderness experience, and represents an outstanding opportunity for Congress to further its goal of protecting wilderness values and establishing wilderness areas in close proximity to major population centers. As with the Sandia Mountain, Lone Peak, and Pusch Ridge Wildernesses, which form the scenic backdrops for Albuquerque, N. Mex., Salt Lake City, Utah, and Tucson, Ariz., respectively, and which were designated wilderness by the 95th Congress, the Indian Peaks area promises to afford a nearby high quality wilderness experience for many urban residents.

At the same time as wilderness use increases, so does the demand for developed and mechanized recreation such as permanent and developed campsites, motorboat use, alpine skiing, and off road vehicle recreation. While most national forest lands are generally available for such uses, sufficient personnel and funding for developed recreation facilities is sometimes lacking, or lags behind demand, especially in a region which is growing as rapidly as Colorado's front range metropolitan areas. To this end, this bill establishes an approximate 32,735-acre Arapaho National Recreation Area immediately west of, and contiguous to, the proposed Indian Peaks Wilderness, and authorizes $5 million for land acquisition and $5 million for water quality and recreation development.

The Forest Service study of the Indian Peaks area has been completed, and the administration has recommended enactment of this legislation with certain boundary adjustments. Specifically, the administration recommended: first, the exclusion from wilderness of some 2,500 acres in the vicinity of Niwot Ridge to facilitate the creation of an international Biosphere Reserve; second, the exclusion from wilderness of some 2,500 acres in the Devil's Thumb area to allow for a potential future winter sports (alpine skiing) site; and third, the addition of 968 acres to the proposed Arapaho National Recreation Area around Willow Creek Reservoir. These boundary adjustments have been incorporated into the bill.

Mining and timber interests have not opposed this legislation because they found the area did not have significant deposits of precious metals or harvestable stands of trees. Hearings in Boulder and Granby demonstrated the wide support for wilderness designation and the establishment of a national recreation area. Colorado's Governor Lamm has strongly endorsed the bill. Hunting, tourist, and most four-wheel-drive interests are all backers.

Boulder and Grand commissioners, as well as representatives from every town affected by the legislation, all support this bill. The U.S. Geological Survey's study of the area shows no evidence of substantial mineral potential in the area. Virtually no chance exists for oil or gas reserves. The area with the most potential for mineral resources is the area surrounding the Boulder watershed—which has been excluded from the bill's boundaries.

I would like to congratulate Representatives TIM WIRTH and JIM JOHNSON for their fine efforts in putting together this balanced piece of legislation. Also, this bill, reported by the House Interior Committee yesterday, was made possible by the extraordinary input from the Wirth Advisory Committee on Indian Peaks. With only their passion to preserve the pristine character of this area, and without monetary compensation, this group of dedicated individuals devoted hundreds of hours to insure the proper balancing of interests and boundaries. The Grand County commissioners, for their initiation of and hard work on the national recreation area proposal, are also major contributors to this bill.

In addition, the bill designates 58 islands and groups of islands within, and administered by, the Oregon Islands Wildlife Refuge, as additions to the National Wilderness Preservation System. This completes action on an administration wilderness proposal which has been before the committee since 1972, and which is endorsed by both Congressmen involved, as well as Oregon's Senators.

The proposed Oregon Islands Wilderness is a haven for hundreds of thousands of petrel, cormorants, murres, puffins, and other sea birds, as well as sea lions, sea otters, and harbor seals. Wilderness will insure that important nesting and breeding sites remain

undisturbed and unaltered by man's activities. The islands have no known commercially valuable mineral resources.

Mr. President, this bill is supported by many diverse groups and individuals. The patient and effective working relationships of many Coloradans have made this a desirable and balanced piece of legislation. Wilderness designation of this unique and rugged terrain should no longer be put off to the future. I urge my colleagues to support and consider speedy passage of this worthy legislation.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3349

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Indian Peaks Wilderness Area and Arapaho National Recreation Area Act."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that it is in the national interest—

(1) to include the land within the Arapaho and the Roosevelt National Forests known as the Indian Peaks Area in the National Wilderness Preservation System so as to protect the area's enduring scenic and historic wilderness character and its unique wildlife and to preserve the area's scientific, educational, recreational, and inspirational resources and challenges; and

(2) to create the Arapaho National Recreation Area within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project so as to preserve and protect the natural, scenic, historic, pastoral, and wildlife resources of the area and to enhance the recreational opportunities provided.

INDIAN PEAKS WILDERNESS AREA

SEC. 3. (a) An area of land comprising approximately seventy thousand acres located in Boulder and Grand Counties, within the Arapaho and the Roosevelt National Forests (as generally depicted as the "Indian Peaks Wilderness Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978) is designated for purposes of the Wilderness Act (16 U.S.C. 1131–1136) as a wilderness area and shall be known as the Indian Peaks Wilderness Area.

(b) The Indian Peaks Wilderness Area shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

ARAPAHO NATIONAL RECREATION AREA

SEC. 4. (a) An area of land comprising approximately thirty-two thousand seven hundred and thirty five acres located in Grand County, Colorado, within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project (as generally depicted as the "Arapaho National Recreation Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area," dated July 1978) is established as the Arapaho National Recreation Area.

(b) The Secretary shall administer the Arapaho National Recreation Area, in accordance with the laws and regulations applicable to the national forests, in such a manner as will best provide for—

(1) public recreation and enjoyment;

(2) the conservation and development of the scenic, natural, historic, and pastoral values of the area;

(3) the management, utilization, and disposal of natural resources such as timber, grazing, and mineral resources so that their utilization will not substantially impair the purposes for which the recreation area is established; and

(4) the management of water quality in the recreation area consistent with the development of needed water supply and wastewater systems, including the control of aquatic vegetation in the streams, lakes and reservoirs within the recreation area.

(c) The Secretary shall develop an overall management plan for the Arapaho National Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested persons.

ACQUISITION OF LANDS FOR THE ARAPAHO NATIONAL RECREATION AREA

SEC. 5. (a) (1) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or bequest, any lands or lesser interests therein, including mineral interests and scenic easements, which the Secretary determines are needed to establish and manage the Arapaho National Recreation Area. In determining what private property is needed to establish and manage the Arapaho National Recreation Area, the Secretary shall utilize the approved county zoning plan to identify those properties whose use or intended use is not in conformance with the overall intent of this Act.

(2) As used in this section, the term "scenic easement" means the right to control the use of land in order to carry out this Act, but shall not preclude the continuation of any use that is compatible with the overall management plan for the Arapaho National Recreation Area developed pursuant to subsection (c) of section 4.

(b) In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Arapaho National Recreation Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) In exercising the authority conferred by this section to acquire property by exchange, the Secretary may accept title to any non-Federal land or interests therein, located within the Arapaho National Recreation Area, and the Secretary may convey in exchange therefor any federally owned lands or interests in lands within the State of Colorado which is classified by the Secretary as suitable for exchange and which is under the Secretary's administrative jurisdiction. The values of any lands or interests in lands so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary, so long as payment does not exceed 25 per centum of the total value of the land or interest in land. In utilizing cash equalization in changes the Secretary shall try to reduce small an amount as possible. In the exercise the amount of the payment of money to as of his exchange authority, the Secretary may utilize authorities and procedures availab'e to him in making exchanges of national forest lands.

(d) Any land or interest in land owned by the State of Colorado or any of its political subdivisions may be acquired only by donation of exchange.

(e) Notwithstanding any other provision of law, any Federal lands or interests in lands within the Arapaho National Recreation Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for use by the Secretary in carrying out this Act. Lands within the Arapaho National Recreation Area acquired by the Secretary or transferred to the Secretary's administrative jurisdiction shall become part of that recreation area and of the national forest within or adjacent to which they are located, *Provided,* That the operation and facilities of the Colorado Big Thompson project shall remain under the jurisdiction of the United States Bureau of Reclamation.

HUNTING AND FISHING IN THE ARAPAHO NATIONAL RECREATION AREA

SEC. 6. The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the boundaries of the Arapaho National Recreation Area in accordance with the laws of the United States and the State of Colorado, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety area general administration, or public use and enjoyment. Except in emergencies, any regulations made by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

PERMITS FOR FACILITIES AND SERVICES IN THE ARAPAHO NATIONAL RECREATIONAL AREA

SEC. 7. The Secretary shall cooperate with other Federal agencies, with State and local public agencies, and with private individuals and organizations in the issuance of permits for facilities and services in the Arapaho National Recreation Area and the development and operation of those facilities and services.

APPLICATION OF STATE WATER LAWS TO THE ARAPAHO NATIONAL RECREATIONAL AREA

SEC. 8. The jurisdiction of the State of Colorado and the United States over waters of any stream included in the Arapaho National Recreation Area shall be determined by established principles of law. Any taking by the United States under section 5 of this Act of a water right, which is vested under either State or Federal law immediately prior to the enactment of this Act shall, entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

FILING OF MAPS

SEC. 9. As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Indian Peaks Wilderness Area and the Arapaho National Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such description shall have the same force and effect as if included in this Act, except that correction of any clerical or typographical errors in such map and description may be made. Such map and the map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978, shall be on file and made available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

STATE CIVIL AND CRIMINAL JURISDICTION

SEC. 10. Nothing in this Act shall diminish, enlarge, or modify any right of the State of Colorado, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Indian Peaks Wilderness Area or the Arapaho National Recreation Area or of rights to tax persons, franchises, or property, including mineral or other in-

terests, in or on lands or waters within those areas.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. Effective October 1, 1979, there are authorized to be appropriated to carry out sections 1 thru 10 of this Act $5,000,000 for the acquisition of lands and interests in lands and $5,000,000 for water quality and recreation development.

OREGON ISLANDS WILDERNESS

SEC. 12. (a) In accordance with subsection 3 (c) of the Wilderness Act (78 Stat. 892), certain lands in the Oregon Islands National Wildlife Refuge, Oregon, which comprise approximately four hundred and fifty-nine acres, which are depicted on a map entitled "Oregon Islands Wilderness—Proposed", date June 1972 (revised July 1972), is hereby designated as wilderness and shall become a part of the existing "Oregon Islands Wilderness".

(b) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Oregon Islands Wilderness with the Committee on Energy and Natural Resources of the Senate and the Interior and Insular Affairs Committee of the House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. A map and legal description of the Oregon Islands Wilderness shall be on file and available for public inspection in the Office of the Director, Fish and Wildlife Service, Department of the Interior.

(c) The lands designated by this Act as the Oregon Islands Wilderness shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

ROCKY MOUNTAIN NATIONAL PARK STUDY

SEC. 13. Within one year of the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report studying and evaluating the suitability of revising the boundaries of Rocky Mountain National Park to include all or part of the Indian Peaks Wilderness Area is established by this Act and examining the possible addition or deletion of other lands designated as "Park Study Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area" dated July 1978; provided, that regardless of the ultimate administration of the areas to be studied under this section, the 70,000 acre Indian Peaks Wilderness Area established by this Act shall remain as a component of the National Wilderness Preservation System.

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SECTION-BY-SECTION ANALYSIS

Section 1. Names the area as the "Indian Peaks Wilderness Area and Arapaho National Recreation Area."

Section 2. Sets out findings that it is in the national interest to establish the Indian Peaks Wilderness and Arapaho National Recreation Area.

Section 3. Designates an approximate 70,000 acre Indian Peaks Wilderness, and provides for management of the area in accordance with the provisions of the Wilderness Act.

Section 4. Establishes a 32,735 acre Arapaho National Recreation Area, sets goals for management of the area and directs the Secretary of Agriculture to develop an overall management plan for the area.

Section 5. Authorizes the Secretary to acquire lands to further the purposes of the Arapaho National Recreation Area in conformance with the county zoning plan and on a willing buyer, willing seller basis, or by donation, exchange or bequest. Transfers Federal lands or interests therein within the NRA to the administrative jurisdiction of the Secretary of Agriculture except for the operation and facilities of the Colorado Big Thompson Project.

Section 6. Directs the Secretary to allow hunting and fishing in the NRA in accordance with U.S. and State of Colorado laws, except where closure to hunting and fishing is necessary for public safety, general administration or public use and enjoyment of the area.

Section 7. Directs the Secretary to cooperate with other Federal, State, and local agencies and private individuals and organizations in the administration of the area.

Section 8. Provides that the jurisdiction over waters shall be by established principles of law.

Section 9. Provides for the filing of maps and descriptions of the wilderness and national recreation area.

Section 10. Provides that nothing in the Act will diminish, enlarge, or modify the State of Colorado's right to exercise civil and criminal jurisdiction or impose taxes within the area.

Section 11. Authorizes appropriation of $5,000,000 for land acquisition, and $5,000,000 for water quality and recreation development to carry out the purposes of the Act effective October 1, 1979.

Section 12. Designates 459 acres in the Oregon Islands Wildlife Refuge for addition to the National Wilderness Preservation System, and provides for management of the area in accordance with the provisions of the Wilderness Act.

Section 13. Directs the Secretary of the Interior and the Secretary of Agriculture to jointly develop and submit a report evaluating the suitability of including all or part of the Indian Peaks Wilderness Area within the boundaries of Rocky Mountain National Park.●

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By Mr. CRANSTON (for himself and Mr. WALLOP):

S. 3352. A bill to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978

● Mr. CRANSTON. Mr. President, I am introducing today on behalf of Senator WALLOP and myself the Agricultural Foreign Investment Disclosure Act of 1978, a bill to establish a national reporting system for nonresident alien owners of U.S. farmland. The measure is identical to H.R. 13132 sponsored by Congressman JOHN KREBS and others in the House.

It is estimated that foreign investors acquired $800 million of U.S. farmland last year—about 30 percent of the total foreign investment in this country. Foreign buyers purchased tens of thousands of acres, primarily in the western, midwestern and southern States. In the rich San Joaquin Delta region of California alone, over 17,000 acres of agricultural land have been purchased by foreign buyers since June 1976.

Since hard data on the extent of foreign investment in farmland is undependable or unobtainable in many areas of the Nation, it is difficult to judge the impact of these land purchases on American agriculture. Reports from real estate dealers in my State indicate that foreign buyers are often willing to pay land prices far above current market values. Induced by attractive rates of return on what they feel to be a secure investment, foreign investors inflate land values by aggressive bidding on this limited natural resource. Escalating land values may squeeze small U.S. farmers out of the land market and prevent young farmers from setting up their first farm or ranch. Moreover, the chances of a financially successful farm operation are reduced by the heavy burden of loans that must be carried to purchase agricultural land inflated by overseas currency.

The Agriculture Foreign Investment Disclosure Act of 1978 will clear up the existing confusion on the extent of foreign ownership of U.S. farmland and the consequences of these land holdings on agriculture. The legislation requires all foreign interests to report present holdings, sales, purchases or transfers of U.S. farmland to the Secretary of Agriculture. Domestic corporations controlled substantially by nonresident aliens would also be required to report to the Secretary, thereby preventing evasion of the law by use of an American corporation. A penalty of up to 25 percent of the fair market value of the unreported land could be levied against those avoiding the declaration requirements.

Additionally, the Secretary of Agriculture would be required to file regular reports with Congress on the level of foreign investment in agricultural land, including an analysis of the effect of these transactions and holdings on family farms and farm communities.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3352

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Foreign Investment Disclosure Act of 1978".

REPORTING REQUIREMENTS

SEC. 2. (a) Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign per-

son is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the country in which such foreign person is created or organized and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which such foreign person acquired or transferred;

(5) a legal description of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—

(A) in any case in which such transferee is an individual, the citizenship of such transferee; and

(B) in any case in which such transferee is not an individual or a government, the country in which such transferee is created or organized and the principal place of business of such transferee; and

(8) such other information as the Secretary may require by regulation.

(b) Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the date of the enactment of this Act shall submit a report to the Secretary not later than 180 days after the date of the enactment of this Act. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is an individual, the citizenship of such foreign person;
is created or organized and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) a legal description of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest; and

(7) such other information as the Secretary may require by regulation.

(c)(1) With respect to any foreign person, other than an individual or a government, who is required to submit a report by subsection (a) or (b), the Secretary may, in addition, require such foreign person to submit a report to the Secretary containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the country in which such holder is created or organized and the principal place of business of such holder.

(2) With respect to any person whose legal name is contained in any report submitted under paragraph (1), the Secretary may take such actions as the Secretary considers necessary to determine—

(A) the legal name and the address of any person who holds any interest in any person whose legal name is contained in such report;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the country in which such holder is created or organized and the principal place of business of such holder.

(3)(A) The Secretary shall not require any foreign person to submit any information in any report under paragraph (1) if the submission of such information is prohibited by the laws of the country involved.

(B) The Secretary shall not take any action under paragraph (2) if such action is prohibited by the laws of the country involved.

CIVIL PENALTY

SEC. 3. (a) Whoever violates any provision of section 2(a), 2(b), or 2(c) (1) of this Act shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

(b) With respect to any person who violates any provision of section 2(a), 2(b), or 2(c) (1), any civil penalty imposed by the Secretary shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

REPORTS

SEC. 4. (a) In accordance with the schedule set forth in subsection (b), the Secretary shall—

(1) with respect to each period set forth in such subsection, analyze information obtained by the Secretary under section 2 and determine the effects of foreign persons' acquiring, transferring, and holding agricultural land, particularly the effects of such acquisitions, transfers, and holdings on family farms and rural communities; and

(2) transmit to the President and each House of the Congress a report on the Secretary's findings and conclusions regarding each analysis and determination made under paragraph (1).

(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination transmitted, pursuant to subsection (a)—

(1) with respect to information obtained by the Secretary under section 2 during the 6-month period following the date of the enactment of this Act, within 9 months after such date of enactment;

(2) with respect to information obtained by the Secretary under section 2 during the 12-month period following the date of the enactment of this Act, within 15 months after such date of enactment; and

(3) with respect to each calendar year following the 12-month period referred to in paragraph (2), within 90 days after the end of such calendar year.

DEFINITIONS

SEC. 5. For purposes of this Act—

(1) the term "agricultural land" means any land used for agricultural purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign country" means any country other than the United States;

(3) the term "foreign person" means—

(A) any individual who is not a citizen of the United States and who has not been lawfully admitted for permanent residence under the Immigration and Nationality Act;

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign country or which has its principal place of business in a foreign country;

(C) any person, other than an individual or a government, which is created or organized under the laws of a State of the United States, the District of Columbia, or a territory, possession, or Commonwealth of the United States and which, as determined by the Secretary under regulations to be prescribed by the Secretary, is substantially controlled by any individual referred to in subparagraph (A), any person referred to in subparagraph (B), any government of a foreign country, or any combination of such individuals, persons, or governments; and

(D) any government of a foreign country;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other similar organization;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.●

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By Mr. DURKIN:

S. 3353. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements relating to the manufacture, sale, or distribution of soft drink products are not unlawful; to the Committee on the Judiciary.

Mr. DURKIN. Mr. President, I rise to introduce a bill that will protect hundreds of small bottling businesses from the harmful effects of a recent Federal Trade Commission ruling. In April, two FTC Commissioners ruled that the soft drink bottling industry's system of territorial franchises was anticompetitive and in violation of antitrust laws. The structure of the industry for the past 75 years has been that local bottling firms are franchised by the syrup manufacturer to sell a line of soft drinks in a specific geographic area. In other words, a Coca-Cola or Pepsi-Cola bottler authorized to sell in one area is not permitted to encroach upon the territory of its neighbors. Yet within its territory, a company bottling coke competes with Pepsi, 7-Up, Dr. Pepper, Faygo, and so forth, in the marketplace.

The FTC ruling overturns this system of franchises. The Commission's logic was that because two or more bottlers of the same product were not able to sell against each other, competition was being suppressed. In reaching these conclusions, the FTC discounted the aggressive interbrand competition among the soft drink companies and based its decision almost solely on the question of intrabrand competition between bottlers of the same brand.

If allowed to stand, this ruling would result in unfair competition which could put many small bottlers out of business. Because the bottling industry is one of the few in the country that has not been taken over by a few giant corporations, independent firms still dot small towns and rural areas; providing local employment and much needed tax dollars for many communities. In my own State of New Hampshire, for example, 7 of the 11 bottling firms employ fewer than 50 people. These firms are located throughout the State, from Manchester to Greenland to North Conway.

If the appeals to the FTC ruling fail, these small bottlers will be at the mercy

of their larger neighbors. Many small firms will be unable to compete with the industry giants for many important accounts. After a few years, hundreds of these locally-owned firms would be driven out of business, laying off thousands of workers. Accompanying this will be far less competition than we now have, coupled with an increase in prices and less market coverage.

An examination of the soft drink industry shows quite clearly that it is one of the most competitive in the country. There are over 70 soft drink companies in America that franchise over 2,000 independent bottling firms. Most of these are local industries employing fewer than 50 people. They have been granted specific geographic territories by the soft drink companies to bottle and sell their products. In these territories, each bottler faces stiff competition from other brands' bottlers. This has benefited consumers by keeping prices low and by making soft drinks available at every mom and pop store and crossroads filling station in the country.

Now, however, the FTC has determined that even though the consumer has dozens of choices of soft drinks, there is not enough competition in the industry. However, the truth is that the various soft drink brands are fiercely competitive, and the ultimate beneficiary of this is the consumer.

To make this even clearer, it is interesting to note that for some bottle sizes, the per ounce price of soft drinks, even with inflation, is at the price level of 1940. Certainly free enterprise is working well here.

What my bill will do is recognize the benefit to consumers under the present system by providing a per se rule of legality for territorial franchises, as long as there is substantial interbrand competition in an area, and as long as the grantor of the franchise retains substantial control over product quality, packaging, and advertising. This is a reasonable means of protecting small businesses and many jobs from unfair competition, while insuring continued service to the consumer by keeping free competition in the marketplace.

Mr. President, all too often small businesses are battered and damaged by powers outside their control. They are the backbone of American business life, and their prosperity is essential to the preservation of our free enterprise system. The bottling franchises are small businesses that provide the employment and tax dollars for so many communities all across the country. They must be able to continue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3353

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new paragraph:

"(3) Nothing contained in this Act, or in any of the antitrust Acts, prohibits the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engaged in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, or sale of a trademarked soft drink product, of any provision granting the licensee the sale and exclusive right to manufacture, distribute, or sell such product in a defined geographic area or limiting the licensee the sole and exclusive right to manufacture, distribution, or sale of such product only for ultimate resale to consumers within a defined geographic area if in such defined geographic area—

"(A) such product is in substantial and effective competition with products of the same general class manufactured, distributed, or sold by others;

"(B) the licensee is in substantial and effective competition with vendors of other products of the same general class; and

"(C) the licensor retains control over the nature and quality of such product in accordance with the provisions of the Trademark Act of 1946 (15 U.S.C. 1051).".

## ADDITIONAL COSPONSORS

S. 3229

At the request of Mr. GLENN, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3229, the Postal Service Amendments Act of 1978.

S. 3265

At the request of Mr. ROTH, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 3265, a bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence.

SENATE RESOLUTION 431

At the request of Mr. RIBICOFF, the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. GLENN and Mr. METZENBAUM), the Senator from Iowa (Mr. CLARK), the Senators from South Dakota (Mr. MCGOVERN and Mr ABOUREZK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senators from Florida (Mr. CHILES and Mr. STONE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Michigan (Mr. RIEGLE), the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 431, the Lee Metcalf Fair Employment Relations Resolution.

## AMENDMENTS SUBMITTED FOR PRINTING

### STRATEGIC AND CRITICAL MATERIALS TRANSACTION ACT OF 1978—S. 2635

AMENDMENT NO. 3313

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to S. 2635, a bill to authorize the disposal of 11 materials from the national and supplemental stockpiles.

### NATIONAL DEFENSE STOCKPILE ACT—H.R. 4895

AMENDMENTS NOS. 3314 THROUGH 3316

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted three amendments intended to be proposed by him to H.R. 4895, an act to amend the Strategic and Critical Materials Stockpiling Act, and for other purposes.

### BRETTON WOODS AGREEMENTS ACT AMENDMENTS—S. 2152

AMENDMENT NO. 3317

(Ordered to be printed and to lie on the table.)

Mr. WEICKER (for himself and Mr. MARK O. HATFIELD) submitted an amendment intended to be proposed by them, jointly, to S. 2152, a bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

AMENDMENTS NOS. 3318 THROUGH 3320

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to S. 2152, supra.

### CIVIL SERVICE LAW REFORM—S. 2640

AMENDMENTS NOS. 3321 THROUGH 3331

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted 11 amendments intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

Mr. STEVENS. Mr. President, it has become obvious in recent months that a strong effort will be made to pass civil service reform legislation during this session of Congress. The Federal bureaucracy has always presented an easy target for politicians and this year more than ever, shortcomings in leadership are being diagnosed as inefficiencies in the Federal personnel system.

While I do not argue with many of the goals of the proposed reorganization of the civil service system, there is serious doubt in my mind that the bill which has been reported by the Governmental Affairs Committee will, indeed, achieve those desired ends.

To insure that the Senate carefully considers the effects of this legislation when it comes to the floor, I am today submitting a series of amendments which will improve the committee bill. Each of them will be discussed in detail when S. 2640 comes to the floor.

### LOCAL PUBLIC WORKS ADMINISTRATION AUTHORIZATIONS—S. 3243

AMENDMENT NO. 3332

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to S. 3243, a bill to authorize the appropriation of funds to provide for additional administrative expenses associated with the implementation of the

Local Public Works Capital Development and Investment Act of 1976, as amended.

## SMALL BUSINESS AMENDMENTS—H.R. 11445

AMENDMENTS NOS. 3333 THROUGH 3335

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted three amendments intended to be proposed by him to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

## NOTICES OF HEARINGS

OCCUPATIONAL ALCOHOLISM PROGRAMS

Mr. HATHAWAY. Mr. President, on August 17, 1978, the Subcommittee on Alcoholism and Drug Abuse will convene a joint hearing with the Subcommittee on Federal Spending Practices to consider S. 2515, dealing with occupational alcoholism programs.

The hearing will begin at 10 a.m. in room 3302, Dirksen Senate Office Building.

Testimony is anticipated from administration and public witnesses. Any individuals wishing to submit testimony or desiring further information should contact the office of either subcommittee.

## SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, on July 24, I announced that the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance would hold hearings on July 28, 1978, on sections 346, 505, 507, 523, 728, 1146, and 1331 of S. 2266 and H.R. 8200, the Bankruptcy Reform Act of 1978.

To provide additional time to prepare testimony, I am today announcing that the hearing will be delayed until Friday, August 4, 1978.

The hearings will begin at 9:30 a.m. in room 2221 of the Dirksen Senate Office Building.

The hearings will be limited to those sections of the act which relate to taxation and collection of taxes. In connection with the Judiciary Committee's consideration of the act, the staff of the Joint Committee on Taxation has developed certain proposed amendments to the act. I am at this time requesting that those proposed amendments be printed in the CONGRESSIONAL RECORD so that comments on the amendments can be received at the hearings.

Witnesses who desire to testify at the hearings should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on August 2, 1978.●

PARKS AND RECREATION SUBCOMMITTEE

● Mr. JACKSON. Mr. President, I would like to note some corrections for the July 31 and August 4 hearings on H.R. 12536, National Parks and Recreation Act of 1978, by the Parks and Recreation Subcommittee of the Energy and Natural Resources Committee.

Section 503 of H.R. 12536, Pine Barrens Area, N.J., will be rescheduled from July 31 to August 4.

Section 501, Guam National Seashore; section 506, Saint Paul's Church, Eastchester; section 509, Palo Alto Battlefield National Historic Site; and section 551, Continental Divide National Scenic Trail, North Country National Scenic Trail, and Overmountain Victory Trail study, will be rescheduled from August 4 to July 31.

As previously scheduled, both meetings will be in room 3110 of the Dirksen Senate Office Building and will begin at 9 a.m. each day.●

## ADDITIONAL STATEMENTS

### CONRAIL: TIME TO TIGHTEN OVERSIGHT

● Mr. McGOVERN. Mr. President, the Congress is about to be asked to authorize another huge investment in the Consolidate Rail Corp. in the hope that this new infusion of taxpayer funds will enable the system to get off the corporate welfare dole and become self-supporting.

Specifically, the Senate will be asked to approve $1.3 billion more for ConRail to enable it to reach profitability by 1982. Enactment of this legislation will bring to $2.4 billion the Federal investment in this enormous rail complex comprised of six bankrupt lines that stretch from New England to Chicago and constitutes a cornerstone in the national rail industry.

Mr. President, I am far from being convinced that another billion-dollar-plus handout to ConRail will enable it to become self-supporting. My doubts are reinforced by the U.S. Railroad Association, the agency created to play the role of Federal banker for ConRail and oversee its operations to protect the public investment in the system. USRA, in its recent report on ConRail, was pessimistic in its evaluation of the system. It estimated that ConRail may need a total of nearly $4 billion to continue operations during the 5-year period ending in 1982, and even then the goal of financial independence may not be reached.

ConRail's uncertain future has prompted USRA to draft alternative proposals to achieve and sustain an adequate rail system for the northeast. It is preparing to present these proposals to Congress and the administration next April in the event that circumstances between now and then make it clear that ConRail cannot check its downhill run.

The fact of the matter is, ConRail is further from the goal of success than it was when it became operational on April 1, 1976.

The vast rail system, made up largely of the bankrupt Penn Central, the largest single railroad in the world, lost more than $367 million last year.

It lost $216 million more in the first quarter of this year alone.

The percentage of cars delivered within 1 day of scheduled arrival fell from 75 percent when ConRail began operations to 55 percent in early May.

ConRail was fined $2.3 million by the Interstate Commerce Commission early this month for failing to comply with ICC orders to speed the flow of freight cars to other railroads. This problem reached critical proportions, during the winter when one-third of all the rail industry's box cars, twice as many as ConRail itself owns, "disappeared" into the ConRail system.

An average of 197 ConRail road locomotives a day were out of service for repairs last year.

The line is beset with a grand jury investigation of payroll irregularities and possible payroll fraud.

Railroad union officials and ConRail employees have presented Congress with charges of serious mismanagement of ConRail resources by some middle level ConRail officials.

To say the least, this is a dismal picture for a project which was supposed to have become self-supporting next year on the strength of the $2.1 billion originally appropriated for it. Instead of success the Congress now finds itself being asked to deliver freight cars full of public funds to ConRail with no cutoff point in sight.

The railroad is beginning to look like a financial merry-go-round taking the taxpayers for a ride.

Mr. President, I do not in any way mean to imply that Congress should abandon ConRail by halting its financial support of a system which is a major component of the Nation's rail industry. By the same token, the continued deterioration of the line demands much closer congressional oversight of its activities from this point forward so that we will know as soon as possible whether ConRail, in fact, will inevitably run out of track and we can step in to change its direction with a more efficient alternative at the first opportunity.

Donald Cole, president and chief operating officer of ConRail, has endorsed this stance. When he testified Wednesday at Joint Economic Committee hearings which I am chairing on national railroad policy and problems, he indicated that USRA plans to tighten its scrutiny of ConRail by requiring indepth quarterly reports in its operating activities and financial status. I wholeheartedly concur with this position. Moreover, I think that Congress must have access to the reports ConRail makes to USRA so that it will be better prepared to respond to alternative proposals when and if this course is determined to be unavoidable. Given the dire condition of ConRail, Congress can do no less than this.

Mr. President, I ask unanimous consent to have the testimony of Mr. Cole on this point printed in the RECORD along with an article appearing in the Washington Star reporting that Jervis Langdon, Jr., former chief executive of the Penn Central, has concluded that ConRail cannot survive and presenting the alternatives he thinks are open for consideration.

The testimony follows:

Senator McGOVERN. Mr. Cole, we may be looking at the proposed $1.3 billion supplemental appropriation for ConRail as early as this week, as I think you know.

Mr. COLE. Yes.

Senator McGOVERN. You mentioned in your statement that USRA is attempting to do a little tighter monitoring job over Conrail. In that spirit, do you think it might be useful for Congress to require, when we grant these additional funds, that there be a quarterly, if not monthly, reporting to us and to USRA?

Mr. COLE. Senator, we intend to do some reporting with or without any requirement. Monthly is probably—well, that adds nothing, and is somewhat burdensome in the main because you do not really see where you are going on a monthly basis. It takes a quarterly picture to understand the trends.

Senator MCGOVERN. I don't think anybody here wants to just cook up needless paperwork. The question is how do you stay on top of the situation closely so that there are not surprises down the road, or shock, by things we were not aware of.

Mr. COLE. I think by two ways; one, the quarterly reports, which we intend to provide without any additional legislative direction—but of course if Congress feels that it ought to increase the annual reporting to a quarterly basis, we are completely sympathetic with that. Again it is not just a question of the flow of information, it is our analysis as we look at the situation and inform Congress even before a report may be due on certain issues. I think we have tried to perform briefings for different committee staffs as issues arise, and I think in the future we have to do even more of that that is outside the formal reporting requirements.

Senator MCGOVERN. I know you have studies underway on possible alternatives to Conrail. Can you give us any brief sketch today of what some of those alternatives might be?

Mr. COLE. Well, Senator, some of them deal with spinoffs of some of the testimony we have heard this morning, and that is that some regulatory changes might be the answer. That one is more in the hands of the Department of Transportation because it does impact entire rail industry rather than just conrail.

We, of course, are following it quite closely in working with the Department of Transportation in that approach on regulatory changes. But it is clear that Conrail's problems are much more fundamental than just change in some regulation, in effect, because the level of traffic with Conrail—what they are dealing with now and even if they are increased—are probably considerably less than that necessary to recover the revenue for the plant costs that Conrail has. So any alternatives have to deal with the size and configuration of Conrail plant and also, I think, with the number of employees and the people there, because it is a very high labor cost system. Conrail pointed out itself that its plant—even with the $1.3 oillion supplemental approach—would require some $500 million in savings in labor costs over the next five years. And we still have not seen the results of that.

There also is the basic problem of Conrail's carrying some commodities that there is no way they can be fully compensated for, and even rate changes may not be enough because they just have to possibly get out of certain markets to deal with it.

Finally, I think that Conrail and its equipment needs are so great that not only does it have to increase utilization but we have to look at some alternatives to the equipment needs of Conrail that deal with the entire rail industry and its equipment needs because the equipment that Conrail uses is very often equipment owned by other railroads and that means that any issue you deal with concerning Conrail equipment affects the entire rail industry.

These are a variety of things that we are beginning to look at and that for us it involves getting down and doing a network segmentation analysis of Conrail's plant system and the profitability and the losses we find on different segments. And then decide what to do with those segments. If you have a segment of Conrail losing money, you must decide whether it is in the terminal areas or in a route structure; do you work Conrail out of that market or that segment; or out of certain markets; or do you provide subsidies for that type of operation if it is felt by the Congress that it is socially necessary?

Well, there are a lot of approaches to this problem and there are also a lot of public policy decisions that have to be made to deal with it.

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CONRAIL'S FAILING, SPLIT IT UP, EX-PENNSY CHIEF SAYS

(By Stephen M. Aug)

A former long-time chief executive of three major railroads—including the bankrupt Penn Central Transportation Co.——says Conrail is failing and nothing short of nationalization, breaking it up or shrinking it drastically will save it.

Jervis Langdon Jr., who ran the Penn Central from 1973 until its property was acquired by Conrail two years ago—and who is a former chief executive of the Baltimore & Ohio and of the Chicago, Rock Island & Pacific Railroad—says Conrail so far has been unable to match the service level achieved by Penn Central when it was in bankruptcy.

In an interview and in a memorandum, Langdon pointed out that in just one area—on-time performance—Conrail's record has been almost straight down. Langdon, who said he obtained his figures from publicly available information, measured on-time performance in percentage of freight cars arriving at their destination within one day of their scheduled arrival time.

Between 1974 and April 1, 1976—when Conrail took over—Penn Central's freight cars improved their on-time performance from 70.5 percent to 76.5 percent. Conrail's performance—which included some lines owned by bankrupt railroads other than Penn Central—shows a continuous decline from 75 percent on the takeover date to 56 percent this past March.

Penn Central's freight car utilization—a key measure of efficiency—averaged 53 miles per day in 1975, just about the industry average. Conrail achieved 50.6 miles in 1976 when the industry average rose to 56.9 miles, and last year dropped to 50.3.

Further, Conrail continues to lose business. In 1970—the year it plunged into bankruptcy—Penn Central's share of freight revenues among Eastern railroads was 35.2 percent. By 1975 this was up to 36.8. But Conrail reversed this trend, Langdon said. In 1976, Conrail's share—which includes not only Penn Central's but shares of other bankrupt lines—was 45.3 percent. Last year this dropped to 44.7.

Langdon said all the traditional indicators railroads use to measure performance indicate that Conrail's performance has been dropping. Langdon was reluctant to blame the firm's management, but he suggested, "There could be other reasons and it may be that the local division superintendents aren't given enough authority, or the general managers."

He called for a thorough examination of Conrail's five-year outlook, and contended that such studies by the U.S. Railway Association—which designed Conrail's system—and Conrail's own five-year plan, were unrealistic.

Langdon suggested that an indepth study likely will show that Conrail's "earning power for the operation as it's presently being conducted is not likely to be obtained."

He suggested there are three options for Conrail, and none of them envisions the firm continuing as it is. The three are:

1. A drastic restructuring, reducing Conrail from the present 19,000 miles to 7,000-9,000 miles. Langdon conceded that this would be politically unacceptable.

2. Outright nationalization. At present, Conrail, though subsidized by the Federal government, is supposed to be a for-profit corporation. Langdon suggests Conrail could be restructured like the Canadian National Railways, which is owned by the Canadian government, but which is gradually becoming profitable.

3. Langdon's favored option—similar to that advocated by the Penn Central trustees during the reorganization process—is simply to break up the system and parcel out the lines to connecting railroads. This could result in creation of a transcontinental railroad if Western lines cooperate.

Rail lines left over after the most desirable lines are distributed to profitable railroads would be either abandoned or, if their operation is necessary, subsidized.

Langdon said there is virtually no hope for Conrail as it is structured. Its principal problem, he said, is the continuing decline in traffic This was also Penn Central's principal problem.

"People never realized that Penn Central—or the constituent companies of Penn Central—had been slipping in their freight traffic since World War II. I think in 1973, '74 and '75 that our freight traffic volume was some 15 or 17 percent . . . less than in the early 1950s and right after World War II," he said.

By contrast, he added, in areas served by the Southern Railway, Santa Fe and Western lines "the traffic had in certain cases more than doubled. With Penn Central, its declining traffic flow was the principal problem because . . . it occurred during a time when costs were going up as a result of inflation . . . You had an inflationary economy and a declining volume and you were in an impossible situation . . .

"This same trend—namely declining traffic volume—continues. And part of it is, of course, due to the decline . . . in the economy of the Northeast . . . And another part is due to the fact that trucking competition is undoubtedly more severe in the East than it is in other parts of the country."

Since it began operations, Conrail has lost about $1 billion. Further, it has just about exhausted a federal fund of $2.03 billion worth of financial aid to rehabilitate its rundown system, and has asked the government for another $1.3 billion.

The legislation has been approved by committees in both houses of Congress and is scheduled for a Senate vote next week. The House has also approved an initial $300 million appropriation.●

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## CAMBODIAN GENOCIDE

● Mr. DOLE. Mr. President, I want to submit for the RECORD a copy of an article appearing in Time magazine this week, dealing with the ongoing genocidal conditions in Cambodia.

Certainly, the mass executions and subhuman living standards have shocked all of us. This reign of terror is a throwback to mankinds' most primitive and uncivilized condition. At a time when both Congress and the President are focusing attention on human rights violations around the world, there can be no excuse or alibi for ignoring the deaths—by disease, starvation, and execution—of literally millions of Cambodians.

For Congress, our immediate duty is clear: We have to make the public aware of what is happening in Cambodia. Little by little, progress is being made. The House of Representatives has already approved a resolution condemning the Cambodian atrocities, and I have introduced a similar resolution in the Senate, which has thus far been cosponsored by 15 of my colleagues in the Senate. That resolution—Senate Resolution 323—would place the Senate squarely on record as condemning this total disregard

for basic human rights, and it calls upon the President to take all possible effective measures to help bring about an end to the atrocities in that country.

REFUGEES

Beyond simply educating the public, we also have to take action wherever possible to relieve the suffering of the Cambodian people, and to deny the Communist regime the support it needs to retain its authority.

There are several things we can do, and which we must do. We can, for example, insist that the leaders of the People's Republic of China bring pressure to bear on the Cambodian regime, to apply more human standards toward the Cambodian people. China is one of the few nations which deals directly with the Cambodian regime, and Peking's leaders must know that we expect positive efforts on their part if "normalization" steps are to continue.

Finally, and most immediately, we can provide for improved immigration conditions, to allow many more Cambodian refugees to enter this country. More than 15,000 Cambodian refugees are now living in camps next to the Cambodian border, and we are concerned about the constant danger and severe conditions under which they live. I have already contacted the Secretary of State, and the Immigration Department to urge that special accommodations be made to permit many more of these refugees to come to our shores to begin a new life. Furthermore, when the Justice Department Appropriations bill reaches the Senate floor, I intend to propose an amendment to provide special parole authority for 7,500 Cambodian refugees to enter the United States during fiscal year 1979. I believe this action would facilitate relocation of Cambodian refugees, and would encourage the Government of Thailand to admit those who continue to seek asylum.

Mr. President, I ask that the article entitled "Cambodia: An Experiment in Genocide" from Time magazine of July 31, 1978, be printed in the RECORD.

The article follows:

CAMBODIA: AN EXPERIMENT IN GENOCIDE

The enormity of the tragedy has been carefully reconstructed from the reports of many eyewitnesses. Some political theorists have defended it, as George Bernard Shaw and other Western intellectuals defended the brutal social engineering in the Soviet Union during the 1930s. Yet it remains perhaps the most dreadful infliction of suffering on a nation by its government in the past three decades. The nation is Cambodia.

On the morning of April 17, 1975, advance units of Cambodia's Communist insurgents, who had been actively fighting the defeated Western-backed government of Marshal Lon Nol for nearly five years, began entering the capital of Phnom Penh. The Khmer Rouge looted things, such as watches and cameras, but they did not go on a rampage. They seemed disciplined. And at first, there was general jubilation among the city's terrified, exhausted and bewildered inhabitants. After all, the civil war seemed finally over, the Americans had gone, and order, everyone seemed to assume, would soon be graciously restored.

Then came the shock. After a few hours, the black-uniformed troops began firing into the air. It was a signal for Phnom Penh's entire population swollen by refugees to some 3 million, to abandon the city. Young and old, the well and the sick, businessmen and beggars, were all ordered at gunpoint onto the streets and highways leading into the countryside.

Among the first pitiful sights on the road, witnessed by several Westerners, were patients from Phnom Penh's grossly overcrowded hospitals, perhaps 20,000 people all told. Even the dying, the maimed and the pregnant were herded out stumbling onto the streets. Several pathetic cases were pushed along the road in their beds by relatives, the intravenous bottles still attached to the bedframes. In some hospitals foreign doctors were ordered to abandon their patients in mid-operation. It took two days before the Brugel-like multitude was fully under way, shuffling, limping and crawling to a designated appointment with revolution.

With almost no preparations for so enormous an exodus—how could there have been with a war on?—thousands died along the route, the wounded from loss of blood, the weak from exhaustion, and others by execution, usually because they had not been quick enough to obey a Khmer Rouge order. Phnom Penh was not alone: the entire urban population of Cambodia, some 4 million people, set out on a similar grotesque pilgrimage. It was one of the greatest transfers of human beings in modern history.

The survivors were settled in villages and agricultural communes all around Cambodia and were put to work for frantic 16- or 17-hour days, planting rice and building an enormous new irrigation system. Many died from dysentery of malaria, others from malnutrition having been forced to survive on a condensed-milk can of rice every two days. Still others were taken away at night by Khmer Rouge guards to be shot or bludgeoned to death. The lowest estimate of the bloodbath to date—by execution, starvation and disease—is in the hundreds of thousands. The highest exceeds 1 million, and that in a country that once numbered no more than 7 million. Moreover, the killing continues, according to the latest refugees.

The Roman Catholic cathedral in Phnom Penh has been razed, and even the native Buddhism is reviled as a "reactionary" religion. There are no private telephones, no forms of public transportation, no postal service, no universities. A Scandinavian diplomat who last year visited Phnom Penh—today a ghost city of shuttered shops, abandoned offices and painted-over street signs—said on his return: "It was like an absurd film; it was a nightmare. It is difficult to believe it is true."

Yet, why is it so difficult to believe? Have not the worst atrocities of the 20th century all been committed in the name of some perverse pseudo science, usually during efforts to create a new heaven on earth, or even a "new man"? The Nazi notion of racial purity led inexorably to Auschwitz and the Final Solution. Stalin and Mao Tse-tung sent millions to their deaths in the name of a supposedly moral cause—in their case, the desired triumph of socialism. Now the Cambodians have taken bloodbath sociology to its logical conclusion. Karl Marx declared that money was at the heart of man's original sin, the acquisition of capital. The men behind Cambodia's *Angka Loeu* (Organization on High), who absorbed such verities while students in the West, have decided to abolish money.

How to do that? Well, one simplistic way was to abolish cities, because cities cannot survive without money. The new Cambodian rulers did just that. What matter that hundreds of thousands died as the cities were depopulated? It apparently meant little, if anything, to Premier Pol Pot and his shadowy colleagues on the politburo of Democratic Kampuchea, as they now call Cambodia. When asked about the figure of 1 million deaths, President Khieu Samphan replied: "It's incredible how concerned you Westerners are about war criminals." Radio Phnom Penh even dared to boast of this atrocity in the name of collectivism: "More than 2,000 years of Cambodian history have virtually ended."

Somehow, the enormity of the Cambodian tragedy—even leaving aside the grim question of how many or how few actually died in *Angka Loeu's* experiment in genocide—has failed to evoke an appropriate response of outrage in the West. To be sure, President Carter has declared Cambodia to be the worst violator of human rights in the world today. And, true, members of the U.S. Congress have ringingly denounced the Cambodian holocaust. The U.N., ever quick to adopt a resolution condemning Israel or South Africa, acted with its customary tortoise-like caution when dealing with a Third World horror: it wrote a letter to Phnom Penh asking for an explanation of charges against the regime.

Perhaps the greatest shock has been in France, a country where many of Cambodia's new rulers learned their Marx and where worship of revolution has for years been something of a national obsession among the intelligentsia. Said New Philosopher Bernard-Henri Lévy, a former leftist who has turned against Marxism: "We thought of revolution in its purest form as an angel. The Cambodian revolution was as pure as an angel, but it was barbarous. The question we ask ourselves now is, can revolution be anything but barbarous?"

Lévy has clearly pointed out the abyss to which worship of revolution leads. Nonetheless, many Western European intellectuals are still reluctant to face the issue squarely. If the word "pure," when used by adherents of revolution, in effect means "barbarous," perhaps the best the world can hope for in its future political upheavals is a revolution that is as "corrupt" as possible. Such skewed values are, indeed, already rife in some quarters. During the 1960s, Mao's Cultural Revolution in China was admired by many leftist intellectuals in the West, because it was supposedly "pure"—particularly by contrast with the bureaucratic stodginess of the Soviet Union. Yet that revolution, as the Chinese are now beginning to admit, grimly impoverished the country's science, art, education and literature for a decade. Even the Chinese advocates of "purity" during that time, Chiang Ch'ing and her cronies in the Gang of Four, turned out to have been as corrupt as the people in power they sought to replace. With less justification, there are intellectuals in the West so committed to the twin Molochs of our day—"liberation" and "revolution"—that they can actually defend what has happened in Cambodia.

Where the insane reversal of values lies is in the belief that notions like "purity" or "corruption" can have any meaning outside an absolute system of values: one that is resistant to the tinkering at will by governments or revolutionary groups. The Cambodian revolution, in its own degraded "purity," has demonstrated what happens when the Marxian denial of moral absolutes is taken with total seriousness by its adherents. Pol Pot and his friends decide what good is, what bad is, and how many corpses must pile up before this rapacious demon of "purity" is appeased.

In the West today, there is a pervasive consent to the notion of moral relativism, a reluctance to admit that absolute evil can and does exist. This makes it especially difficult for some to accept the fact that the Cambodian experience is something far worse than a revolutionary aberration. Rather, it is the deadly logical consequence of an atheistic, man-centered system of values, enforced by fallible human beings with total power, who believe, with Marx, that morality is whatever the powerful define it to be and, with Mao, that power grows from gun barrels. By no coincidence the most humane Marxist societies in Europe today are those that, like Poland or Hungary, permit the dilution of their doctrine by what Solzhenit-

syn has called "the great reserves of mercy and sacrifice" from a Christian tradition. Yet if there is any doubt about what the focus of the purest revolutionary values is, consider the first three lines of the national anthem of Democratic Kampuchea:

The red, red blood splatters the cities and plains of the Cambodian fatherland,
The sublime blood of the workers and peasants,
The blood of revolutionary combatants of both sexes.

DAVID AIKMAN.●

## THE ALASKA LANDS BILL

● Mr. LEAHY. Mr. President, Vermont is a long way from Alaska. The Green Mountain State is a small, northeastern territory, settled long, long ago by yeoman farmers who carved farms from the rocky hillsides and narrow valleys. Today, even with its relatively small population, Vermont is covered with well-manicured farms and small towns.

Yet we Vermonters have an overriding sense of wilderness and the value of raw, untouched forests. We fight our environmental battles on a different scale than Alaskans, yet we share the same concern for conservation.

I am watching with great interest the Alaskan lands bill introduced by my distinguished colleague from my neighboring State of New Hampshire, Mr. DURKIN. The following is my column published recently in a number of Vermont newspapers. I offer it today, and ask that it be printed in the RECORD.

The column follows:

JUNE 29, 1978.

ALASKA LANDS BILL

(By U.S. Senator PATRICK J. LEAHY)

Unfortunately, one of the most important pieces of legislation to come before the Senate this decade is being swept under the rug this session. While we spend our time in weeks upon weeks of debate and filibuster over the Panama Canal Treaties and the Labor Reform proposal, the Senate has ignored a bill beneficial to the history and future of our country and its people.

The bill does not have a direct bearing on Vermont, although its indirect impact means jobs and a sense of national identity.

The bill will responsibly preserve for posterity an important link in our heritage.

And the proposed law will insure orderly development that keeps pace with protection of wilderness resources.

It is the Alaska Lands Bill, which I wholeheartedly support. Because the Senate has prolonged debate on a few issues this year, and because the two senators from Alaska have threatened to filibuster the bill, I fear this landmark legislation will not see action this session.

For me, this is a tragedy to the cause of responsible conservation.

The controversial issue of setting aside large portions of land in Alaska ignited a classic confrontation between conservationists and business interests. Such a highly emotional debate—carried on too often by high pressure lobbyists—clouded the merits of a bill which will provide adequate protection for pristine wilderness, ample access for recreation and measured development of minerals and other resources.

Alaska is huge. The land bought from the Russians in 1867 for two cents an acre is truly the last wilderness in the 50 states, and it also holds the potential for supplying energy and resource needs far into the next century. The question before the state, the Congress, and the country is how best to meet the contrary needs of wilderness and exploitation, conservation and development.

I feel the legislation by Rep. Morris K. Udall, D-Ariz. which passed the House last month, and the similar proposal introduced in the Senate by Sen. John Durkin, D-NH, will successfully satisfy those conflicting needs. Under the bill:

40 percent (149 million acres) of all the land in Alaska is or will become the property of the state, Native corporations or private landowners.

23 percent (86 million acres) of all the land in Alaska will be federal land open to mineral exploration, logging and other multiple uses.

63 percent (235 million acres summing up the above classifications) of the state's land will be available for a wide variety of development and exploitation.

37 percent (140 million acres) of all the land in Alaska will be in one of the conservation system units either already existing or designated in the bill.

90 percent of all the land in Alaska would be open to sport hunting.

70 percent of the lands with metallic mineral potential will be outside conservation system units.

95 percent of all high potential oil and gas lands in Alaska will be open for possible development, and the entire land mass under federal control will be open to mineral assessment, core drilling and data collection by the Department of the Interior.

While the legislation affords necessary room for recreational and industrial access, it also places 110 million acres of federally owned land into three National conservation systems: the National Park System, the National Widlife Refuge System and the National Wild and Scenic Rivers System. This proposal will protect and preserve 30 percent of Alaskan wilderness.

Business lobbyists who claim their various industries will suffer from loss of timber and resources are wrong. The tradeoff involved in this legislation does not sacrifice resources for wilderness, because in many cases the two are found in different regions.

Six years of study by the Interior Department show that a considerable majority of commodity resources—oil, gas, rock minerals and timber—are found in lands that do not have the highest wilderness, wildlife, scenic and ecological values. Those valuable resources will not be locked up in national parks by this legislation, they will not disappear if not exploited.

In considering this vital issue, I concluded that we can always make available the resources of Alaska, but once the wilderness is lost, it is gone forever. In this case, if we err, we should go too far in setting aside land, instead of not enough.●

## BANKRUPTCY LAW REVISION LEGISLATION

● Mr. HARRY F. BYRD, JR. Mr. President, on July 14, 1978, the Committee on the Judiciary reported S. 2266, a bill which revises the bankruptcy laws of our country. This bill, along with H.R. 8200, the House-passed bill on the same subject, represents the culmination of almost 8 years' study of a broad revision of the Bankruptcy Act.

By prior agreement, the chairman of the Judiciary Committee and the chairman of the Finance Committee arranged for the sequential referral of S. 2266 to the Finance Committee for a period not to exceed 30 days. During this period, the Finance Committee may consider and offer recommendations covering certain tax-related provisions of the bill.

These provisions are contained in sections 346, 505, 507, 523, 728, 1146, and 1331 of the bill. These provisions deal generally with determinations of tax liability and with the priority and discharge of taxes in bankruptcy cases.

There is strong sentiment in both Houses for the enactment of bankruptcy reform legislation in this Congress. In the interest of helping the Judiciary Committee achieve this goal, members of the staffs of the Finance Committee, and of the Joint Committee on Taxation, have been studying the provisions of the bill related to the collection of taxes in bankruptcy at the same time that these provisions were being considered by the Judiciary Committee.

To enable the Finance Committee to consider the tax-related provisions of S. 2266 expeditiously, I am placing in the CONGRESSIONAL RECORD a series of staff-prepared proposed amendments to S. 2266, dealing with the tax-related sections of the bill which have been referred to the Finance Committee.

Making these proposed amendments available to the public at this time will permit interested persons to comment on them and the Finance Committee on complete its consideration of the bill as quickly as possible.

Mr. President, I ask that the proposed amendments be printed in the RECORD.

The amendments follow:

TAX-RELATED AMENDMENTS TO S. 2266

(A bill to establish a uniform law on the subject of bankruptcies, as reported by the Committee on the Judiciary, Report No. 95-989)

AMENDMENT OF SECTION 346 (RELATING TO SPECIAL TAX PROVISIONS)

On page 337, beginning on line 1, strike out all through line 13 on page 344, and insert in lieu thereof the following:

§ 346. Special tax provisions.

(a) For purposes of this title—

(1) a tax on or measured by income or gross receipts for a taxable period shall be considered incurred on the last day of the taxable period; and

(2) a tax on or measured by payment of wages or compensation, production or use of property, transfers by death, gift, sale, or otherwise (other than a tax on income from any such transfer), or other transactions or events, shall be considered incurred on the date of such transaction or event.

(b) Notwithstanding the provisions of the Internal Revenue Code of 1954 and of any State or local law imposing a tax—

(1) no penalty otherwise permitted under any such law for failure to make timely payment of a tax shall be imposed on—

(A) the estate, if such a failure by the trustee occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses; or

(B) the debtor, with respect to a tax incurred on or before the earlier of the order for relief, or in an involuntary case, the appointment of a trustee, if the petition was filed before the last due date, including extensions, of a return required for any such tax.

This paragraph shall not apply to a penalty imposed with respect to failure to pay or deposit a tax withheld or collected from others and required to be paid to a governmental unit.

(2) Any penalty otherwise permitted under any such law for failure to make timely payment of a tax incurred on or before the earlier of the order for relief or, in an involuntary case, the appointment of a trustee, and to which paragraph (1) of this subsection does not apply, may not, if computed

by reference to the passage of time until payment, be imposed on the debtor during or after a case under this title in an amount greater than the amount of the penalty computed to the date of the filing of a petition.

(c) For purposes of this title, the trustee or debtor in possession shall withhold and collect from any payment of wages, salaries, commissions, dividends, interests, or other payments, any amount required to be withheld or collected under applicable tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law.

AMENDMENT OF SECTION 505 (RELATING TO DETERMINATION OF TAX LIABILITY)

On page 380, beginning on line 3, strike out all through line 18 on page 382, and insert in lieu thereof the following:

§ 505. Determination of tax liability.

(a)(1) For purposes of the allowance from property of the estate of any expense or claim for a tax liability—

(A) the court in a case under this title may determine the liability of the debtor or the estate for—

(i) any tax, whether or not previously assessed or paid; and

(ii) the amount of any offset or counterclaim to, or net overpayment of, the same tax for the same taxable period; and

(B) the court may not make any determination referred to in subparagraph (A) concerning a tax incurred before the earlier of the order for relief or, in an involuntary case, the appointment of a trustee, if—

(i) before such determination, a judicial or administrative tribunal of competent jurisdiction has determined any such liability; or

(ii) any administrative prerequisite to a refund of tax has not been satisfied, unless the refund results from an offset or counterclaim to a claim or request for payment made by a governmental unit.

In any case in which a determination by a judicial or administrative tribunal of competent jurisdiction under the circumstances referred to in this paragraph becomes final, such determination shall be binding in the case under this title, whether or not the trustee intervened on behalf of the estate in the proceeding.

(2) For purposes of this subsection, the term "tax" includes a fine or penalty, however denominated, permitted under any law imposing a tax, whether the fine or penalty is punitive in nature or is in compensation for actual pecuniary loss suffered by the governmental unit.

(b)(1) The debtor in a case under chapter 7 or 13 of this title may apply to the court for a determination of his personal liability for any tax or customs duty excepted from discharge under paragraphs (1) and (7) of section 523(a) of this title, except that this sentence shall apply to a tax or duty excepted from discharge under subparagraph (B) or (C) of paragraph (1) of such section only if the governmental unit filed a proof of claim therefor. If a trustee is appointed in a case under chapter 11 of this title involving a debtor who is an individual, the debtor may make similar application with respect to any tax incurred as an administrative expense and which may be collected from the debtor under section 1141(d)(3) of this title. If the debtor makes proper application under this subsection, the court, after notice and a hearing, shall determine whether the tax or duty is dischargeable and, if nondischargeable, the extent of the debtor's personal liability therefor, including, where appropriate, a decision on the merits of the tax liability at issue. Whenever a judgment under this subsection becomes final, it shall be binding and conclusive on the governmental unit and on the debtor.

(2) If an expense or claim relating to a tax or duty referred to in paragraph (1) of this subsection is filed, and if the trustee or other party in interest objects to allowance thereof, an application under this subsection relating to the merits of the expense or claim may only be made before the hearing on allowance of the expense or claim. If a claim is deemed allowed under section 502 (a) of this title in the absence of objection to the claim, an application under this subsection may be made before or after the case is closed.

(3) Notwithstanding any other provision of this subsection, no determination of the merits of the tax liability may be made under this subsection if—

(A) a judicial or administrative tribunal of competent jurisdiction has previously determined the debtor's personal liability for the same tax; or

(B) the debtor has previously, with respect to the same tax—

(i) filed a petition in the United States Tax Court or initiated a proceeding in a similar judicial or administrative tribunal under State or local law, unless a stay of any such proceeding under section 362 or 1301 of this title remains in effect for the duration of the case under this title;

(ii) allowed the period of time for filing such a petition or initiating such a proceeding to expire, unless such period expired before the commencement of the case under this title; or

(iii) paid the tax in full to the governmental unit having authority to collect or receive payment of such tax.

(4) Nothing in this subsection shall preclude a determination under this subsection of the dischargeability of a tax or duty on grounds other than the merits of the liability for a tax or duty.

(c) For purposes of this section—

(1) subsection (a) shall apply whether a proof of claim for the liability was filed by a governmental unit or was filed, under section 501 of this title, by another person or entity on behalf of such unit, but if a claim is filed by such other person or entity, the determination by the court in the case under this title shall apply solely for purposes of distribution of property of the estate;

(2) in a case under chapter 7 of this title, the jurisdiction of the court in such case to determine a tax liability of the estate shall be original and exclusive;

(3) an application and determination may be made under subsection (b), whether or not a proof of claim has been filed for any liability covered by the application;

(4) the filing of a proof of claim by a debtor on behalf of a governmental unit under section 501 of this title shall not constitute an application for purposes of subsection (b), but the permitted filing by a debtor of an objection to a proof of claim under section 502 (a) of this title shall constitute such an application;

(5) if the court in the case under this title disallows, in whole or in part, a claim for a tax or duty, and if no application is made under subsection (b), the governmental unit shall not be precluded by any rule of collateral estoppel or res judicata from collecting from the debtor after the case the same amount as the amount of the proof claim filed by the governmental unit, or for a greater or lesser amount, except that—

(A) the amount of the debtor's personal liability for the tax or duty, as finally determined, shall be adjusted to reflect the amount of any such liability that would have been paid from property of the estate if the court in the case under this title had allowed in full a timely filed claim for such liability; and

(B) if the amount of the debtor's personal liability for the tax or duty, as finally determined, is less than the amount from the estate in satisfaction of the tax or duty, no adjustment shall be required to be made in the distribution of property of the estate, but no adjustment referred to in subparagraph (A) shall be made in the case of the debtor's personal liability for a tax excepted from discharge under section 523 (a)(1)(B) or (C) of this title; and

(6) except to the extent otherwise provided in subsection (b), an allowance of a claim for a tax by the court shall not deprive any other court of jurisdiction, under otherwise applicable law, to determine the personal liability of the debtor for the balance of any tax not paid from property of the estate.

(d) Before a case under chapter 7 or 11 of this title is closed, the trustee may apply for a prompt audit of any tax incurred as an administrative expense under section 503 (b)(1)(B) or (C) of this title with respect to which any required return has been filed. If the applicable terms and conditions of subsection (e) are satisfied, the trustee and any predecessor of the trustee shall be discharged from personal liability for the taxes for which an application was made under this section, except that any such discharge shall be void in case of fraud or material misrepresentation by the trustee. In a case under chapter 7 or 11 of this title involving a debtor other than a corporation, in which property of the estate remains, or in the judgment of the trustee, is reasonably likely to remain for return to the debtor, the trustee shall make the application described in this subsection and a discharge of the trustee shall also discharge a predecessor of the trustee and the debtor from liability, including a transferee, for the tax for which the application was made.

(e) For the purposes of this section:

(1) The trustee shall apply in writing to the governmental unit responsible for determining and collecting the liability of the estate for taxes referred to in this section for a prompt audit of such liability. The trustee shall submit with such application an exact copy of the return of the tax to which such application relates, and shall state the name and location of the office where such return was filed. Within 60 days after receiving the application, the governmental unit shall notify the trustee and the court by mail whether the returns are accepted as filed or have been selected for examination. If one or more of the returns are selected for examination, the governmental unit, within 120 days after giving such notice to the trustee, shall notify the trustee by mail of the amount of any unpaid tax for which the estate is liable for the taxable year and shall file with the court a request for payment of the unpaid tax. If an examination of the return cannot be completed within the 120 day period, the court, upon application by the governmental unit before the period has expired and for good cause shown, shall grant a reasonable extension of time to permit completion of the examination.

(2) The conditions of this subsection shall be considered satisfied—

(A) if the governmental unit responsible for determining and collecting the tax for which an application was made under this section—

(i) gives notice to such trustee under paragraph (1) that the return made with respect to the tax is accepted as filed;

(ii) fails to give notice to the trustee as required by paragraph (1) that the return is accepted as filed or is selected for examination; or

(iii) in the event the return is selected for examination, fails to give notice to the trustee as required by paragraph (1) of the amount of any unpaid tax for which the estate is liable; or

(B) upon payment of such tax in accordance with the final order of the court determining the liability of the estate for such

tax, unless a notice of appeal from such order is timely filed.

(3) The governmental unit charged with determining and collecting a Federal tax is the internal revenue district in which the case under this title is pending.

(4) Notice shall be deemed to be given by mail on the date of the United States postmark stamped on the cover, properly addressed, in which the notice is mailed.

AMENDMENT OF SECTION 507 (RELATING TO PRIORITIES)

On page 384, line 3, strike "or".

On page 384, line 5, strike the period and insert in lieu thereof a semicolon and "or".

On page 384, between lines 5 and 6, insert the following:

(3) such claim was excepted from discharge under sections 523(a)(1), 1141(d)(2), or 1328(a)(3) and (c)(2) of this title.

On page 384, line 9, after the comma insert "except as otherwise provided in this section and in section 364(c),".

On page 384, line 23, after the semicolon insert "and".

On page 384, strike out lines 24 and 25.

On page 385, line 1, strike out "(C)" and insert in lieu thereof "(B)".

On page 385, beginning in line 4, strike out "subparagraphs (A) and (B)" and insert in lieu thereof "subparagraph (A)".

On page 386, strike out lines 4 through 20, and insert in lieu thereof the following:

(6) Sixth, allowed unsecured claims, to the extent that such claims are for any—

(A) tax incurred on or before the date of the filing of the petition, if—

(i) a required return or report of any such tax was last due, including extensions, within three years before the date of filing of the petition or thereafter, or

(ii) in the case of a tax for which no return or report is prescribed by law, the tax was incurred within three years before the date of the filing of the petition;

(B) tax incurred before the date of the filing of the petition—

On page 387, line 5, strike out ", or" and insert in lieu thereof a semicolon.

On page 387, strike out lines 6 through 14.

On page 387, line 15, strike out "(D)" and insert in lieu thereof "(C)".

On page 387, line 16, strike out "taxes" and insert in lieu thereof "tax".

On page 387, line 19, strike out "(E) property taxes," and insert in lieu thereof "(D) property tax,".

On page 387, line 20, strike out "taxes" and insert in lieu thereof "tax".

On page 387, line 22, strike out "(F)" and insert in lieu thereof "(E)".

On page 387, line 22, after "to" insert "an excessive allowance of".

On page 388, strike out lines 5 through 9, and insert in lieu thereof the following:

(F) tax for which an offer in compromise was—

(i) pending at the date of the filing of the petition, or

(ii) withdrawn by the debtor, or rejected by the governmental unit, at any time during the 240 days immediately before the date of the filing of the petition,

if such tax would have been entitled to priority under other subparagraphs of this paragraph if a case under this title had been commenced on the date on which an offer with respect to such tax was originally submitted;

On page 388, line 10, strike out "(H)" and insert in lieu therof "(G)".

On page 388, line 13, strike out "subparagraph (A)" and insert in lieu thereof "other subparagraphs of this paragraph".

On page 388, line 14, strike out "proceeding" and insert in lieu thereof "case".

On page 388, beginning with line 17, strike out through line 13 on page 389 and insert in lieu thereof the following:

(H) liability of the debtor as a third party for failing to surrender property or to pay an obligation in response to a levy for taxes of another, or for paying or providing funds for the payment of wages without provision for taxes required to be withheld therefrom, if the event giving rise to such liability occurred within four years before the earlier of—

(i) the date of the filing of the petition, or

(ii) the commencement of suit against the debtor with respect to such liability, if such suit was pending at the date of the filing of the petition or was terminated not more than one year before such date;

(I) amount provided for under an extension or deferral of time for payment of a tax, which had been granted at the request of the debtor before the date of the filing of the petition, if such taxes would have been entitled to priority under other subparagraphs of this paragraph if a case under this title had been commenced on the date on which the extension or deferral with repect to such taxes was originally granted;

On page 389, line 14, strike out "(K)" and insert in lieu thereof "(J)".

On page 390, line 3, after "to" insert "an existing investigation into".

On page 390, between lines 5 and 6, insert the following:

(1) A tax liability shall receive priority under subsection (a)(6) if it satisfies the terms of any subparagraph thereof.

On page 390, line 6, strike out "(i)" and insert in lieu thereof "(2)".

On page 390, line 11, strike out "(ii) A claim" and insert in lieu thereof the following: "(3) Except as otherwise provided in subsection (a)(6)(E), a claim".

AMENDMENT OF SECTION 523 (RELATING TO EXCEPTIONS TO DISCHARGE)

On page 399, line 7, strike out "paragraph (3) (B) or (C)," and insert in lieu thereof "paragraph (2)".

On page 399, line 8, strike out "or not".

On page 399, line 9, strike out "filed or was".

On page 399, line 15, after the comma insert "if such filing occurred".

On page 399, line 20, strike out the semicolon and insert in lieu thereof a period.

On page 399, beginning with line 21, strike out through line 6 on page 400.

On page 402, line 4, strike out "addition to tax,".

On page 402, beginning with "fine" in line 7, strike out through line 10 and insert in lieu thereof the following: "penalty under any law imposing a tax unless—

"(A) the penalty is computed by reference to the amount of a tax liability of the debtor which is nondischargeable under paragraph (1) of this section; or

"(B) the penalty is imposed with respect to a transaction or event which occurred during the three years immediately before the date of the filing of the petition;".

On page 402, line 17, after the semicolon insert "or".

On page 403, between lines 20 and 21, insert the following:

(e) Subsection (a)(1) shall apply whether or not a claim for the tax or duty was filed in the case, but if a governmental unit received timely notice of the commencement of the case and if no claim was filed for a tax or duty, other than a tax or duty to which subsection (a)(1) (B) or (C) applies, subsection (a)(1) shall not apply to the amount of any such tax or customs duty as finally determined to be a personal liability of the debtor, as would have been paid from the property of the estate if a claim therefor had been timely filed. The reduction provided in the preceding sentence shall not apply to any amount with respect to which a determination is made under section 505(b) of this title.

(f) Any debt excepted from discharge under subsection (a) of this section shall not include interest accrued thereon after the date of the filing of the petition and until the closing of the case under this title, other than interest paid under section 726(a)(5) of this title from property of the estate.

AMENDMENT OF SECTION 728 (RELATING TO SPECIAL TAX PROVISION)

On page 448, beginning with line 12, strike out through line 25 on page 449.

AMENDMENT OF SECTION 1146 (RELATING TO SPECIAL TAX PROVISIONS)

On page 531, beginning with line 10, strike out through line 18.

On page 531, line 19, strike out "(c)" and insert in lieu thereof "(a)".

On page 531, line 22, after "any" insert "State or local".

On page 531, between lines 22 and 23, insert the following:

(b) Notwithstanding any other provision of this section, the court may not confirm a plan if, upon application by a governmental unit and a sufficient showing, the court finds that the principal purpose of the plan is the avoidance of taxes or the avoidance of section 5 of the Securities Act of 1933 (15 U.S.C. 77e).

On page 531, line 23, strike out "(d)" and insert in lieu thereof "(c)".

On page 532, line 8, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT OF SECTION 1331 (RELATING TO SPECIAL TAX PROVISION)

On page 561, strike out lines 2 through 8, and insert in lieu thereof the following:

Any tax which is nondischargeable under section 523 of this title, or any tax payable by the debtor that arises out of the taxable event that occurs after the commencement of the case, may, within limits otherwise applicable, be assessed against and collected from the debtor, but—

(1) the governmental unit to which such tax is owing may accept the provisions of the plan under this chapter dealing with the assumption, settlement, or payment of any such tax, and

(2) if the debtor has not completed all payments under the plan he may request that the plan be modified pursuant to other applicable sections of this chapter.

MISCELLANEOUS TECHNICAL AND CONFORMING AMENDMENTS

On page 299, strike lines 8 through 11 and insert in lieu thereof the following:

(4) "claim"—

(A) means right to payment, other than of an expense allowable under section 503, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; and

(B) includes, except where specifically provided otherwise, interest thereon provided by law or contract;

On page 301, line 2, strike "section 502(f), 502(g), 502(h), 502(i), or 502(j)" and insert in lieu thereof "subsections (f), (g), or (h) of section 502".

On page 314, line 16, insert immediately before the semicolon the following: ", including any suspensions of such period occurring on or after the date of the filing of the petition".

On page 315, between lines 18 and 19, insert the following:

(d) If the period for commencing a proceeding in the United States Tax Court, or in a similar judicial or administrative tribunal under State or local law—

(1) had begun to run but had not expired before the date of the filing of the petition under this title, or

(2) would have begun to run after the date of the filing of the petition under this title but for the stay provided under section 362(a)(9),

such period shall not expire until the end of a period equal to the maximum period, not including extensions, that would be permitted under otherwise applicable law if such period had originally begun to run three

days after the notice of termination or expiration of the stay.

On page 349, line 3, strike "and".

On page 349, line 6, strike the period and insert in lieu thereof a semicolon.

On page 349, between lines 6 and 7, insert the following:

(8) any appeal or review pending at the date of the filing of the petition from a determination by a judicial or an administrative tribunal concerning a liability asserted against the debtcr; and

(9) the commencement or continuation of any proceeding in the United States Tax Court, or in a similar judicial or administrative tribunal under State or local law. For the purposes of this paragraph, the term "commencement" includes the running of any period of time under otherwise applicable tax law for filing a petition or similar pleading.

On page 350, line 2, "or".

On page 350, line 8, strike "or".

On page 350, line 19, strike the period and insert in lieu thereof a semicolon and "or".

On page 350, between lines 19 and 20, insert the following:

(8) under subsection (a) of this section, of any action by a governmental unit to assess or collect a tax from property which is not property of the estate, or which is abandoned under section 554 of this title, or which is exempted from property of the estate under section 522 of this title, to the extent that the governmental unit is permitted, under otherwise applicable law, to assess or collect a tax by reason of jeopardy.

On page 353, between lines 9 and 10, insert the following:

(h) Notwithstanding any other provision of this section—

(1) the court shall, within 30 days after motion by the debtor to commence or continue a proceeding referred to in subsection (a)(9), and notice to the trustee, terminate the stay provided under subsection (a); and

(2) the trustee may prosecute an appeal or review of an adjudication by a judicial or an administrative tribunal of competent jurisdiction of any tax, whether or not paid, if the time for appeal or review, as the case may be, of such adjudication has not expired before the date of the filing of the petition.

On page 360, between lines 21 and 22, insert the following:

(f) For purposes of this section, the terms "credit" and "debt" include interest incurred on such credit or debt, except to the extent that the court limits the amount or rate of interest that may be incurred thereon.

On page 373, line 2, strike "section 523(a)(5)(6)" and insert in lieu thereof "section 523(a)(6)".

On page 376, beginning on line 24, strike "order for relief" and insert in lieu thereof "earlier of the order for relief or, in an involuntary case, the appointment of a trustee".

On page 377, beginning on line 2, strike "order for relief" and insert in lieu thereof "earlier of the order for relief or, in an involuntary case, the appointment of a trustee".

On page 377, beginning on line 11, strike "any fine, addition to tax, or penalty incurred by the estate, relating to taxes" and insert in lieu thereof "any fine or penalty relating to taxes referred to in subparagraph (B)".

On page 379, line 2, strike "and".

On page 379, line 4, strike the period and insert in lieu thereof a semicolon and "and".

On page 379, between lines 4 and 5, insert the following:

(7) interest provided by law or contract on such expenses.

On page 369, beginning on line 17, in the section analysis for subchapter I, in the item relating to section 505, strike "Determination" and insert in lieu thereof "Determinations".

On page 393, line 6, strike out "Notwithstanding" and insert in lieu thereof the following: "(a) Notwithstanding".

On page 393, between lines 11 and 12, insert the following:

(b) For purposes of this title, a reduction, due to late payment, of a credit which was available to the debtor in connection with any employment tax on wages, salaries, or commissions paid by the debtor shall be treated as a penalty which is not in compensation for actual pecuniary loss.

§512. Additional conforming amendments

(a) Subsection (a) of 6871 of the Internal Revenue Code of 1954 (relating to claims for income, estate, and gift taxes and bankruptcy receivership proceedings) is amended by striking out "the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing, or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or".

(b) Subsection (b) of section 6871 of the Internal Revenue Code of 1954 (relating to claims file despite dependency of tax court proceedings) is amended by striking out "the adjudication of bankruptcy, the filing, or where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or".

(c) Subsection (a) of section 6873 of the Internal Revenue Code of 1954 (relating to unpaid claims) is amended by striking out "or any proceeding under the Bankruptcy Act".

On page 395, between lines 4 and 5, insert the following:

(2) a debt for taxes owing to a governmental unit and a lien securing such a debt whether or not avoided;

On page 395, line 5, strike out "(2)" and insert in lieu thereof "(3)".

On page 395, line 9, strike out "; or" and insert in lieu thereof a period.

On page 395, strike out line 10.

On page 408, line 2, strike out "; and" and insert in lieu thereof a period.

On page 408, line 3, strike out "proceeds" and insert in lieu thereof "Proceeds".

On page 408, between lines 6 and 7, insert the following:

(7) A refund of any tax arising from the carryback of a loss or credit of the debtor to a taxable year before the first taxable year of the estate.

On page 408, strike out lines 7, 8, and 9, and insert in lieu thereof the following:

(b) Property of the estate does not include—

(1) any power that the debtor may only exercise solely for the benefit of an entity other than the debtor;

(2) any property held in trust for the benefit of an entity other than the debtor; or

(3) any taxes withheld or collected from others pursuant to Federal, State, or local law before the commencement of the case and required to be paid to a governmental unit.

On page 430, in the matter appearing between lines 7 and 8, strike out the item relating to section 728.

On page 439, beginning in line 6, strike out "sections 507(a)(1), 507(a)(2), 507(a)(3), and 507(a)(4)" and insert in lieu thereof the following: "paragraphs (1) through (5) of section 507(a)".

On page 440, line 18, before "claims" insert "expenses and".

On page 441, line 16, strike out "addition to tax,".

On page 441, beginning in line 17, strike out "date of the filing of the petition," and insert in lieu thereof the following: "earlier of the order for relief or, in an involuntary case, the appointment of a trustee,".

On page 441, line 19, strike out "addition to tax,".

On page 441, line 23, strike out the comma.

On page 442, strike out lines 2, 3, and 4.

On page 442, line 5, before "claims" insert "expenses and".

On page 442, beginning with "except that" in line 9, strike out through line 16 and insert in lieu thereof the following: "except that—

(1) in a case that has been converted to this chapter under section 1112 or 1307 of this title, administrative expenses incurred under this chapter after such conversion shall, except as provided in paragraph (2), have priority over administrative expenses incurred under any other chapter of this title or under this chapter before such conversion and over any expenses of a custodian superseded under section 543 of this title, and

(2) any taxes withheld or collected from others pursuant to Federal, State, or local law and required to be paid to a government unit shall be paid in full to the government unit or its agent entitled to receive such taxes at the time and in the manner required by such Federal, State, or local law.".

On page 446, line 22, strike out "5233 (a)" and insert in lieu thereof "523 (a)".

On page 447, line 2, strike out "sections 502 (g), 502 (h), 502(1), and 502 (j)" and insert in lieu thereof the following: "subsections (g) and (h) of section 502".

On page 520, line 13, strike out "or request for payment".

On page 520, beginning in line 20, strike out "or request for payment".

On page 521, line, after "Treasury" insert "or his delegate".

On page 524, beginning in line 14, strike out "section 502 (g), 502 (h), 502 (1), or 502 (j)" and insert in lieu thereof the following: "subsections (g) and (h) of section 502".

On page 525, strike out lines 3 through 8, and insert in lieu thereof the following:

(2) The confirmation of a plan does not discharge—

(A) a debtor which is a corporation, or a successor to such a debtor under the plan, from—

(i) any tax incurred as an administrative expense described in section 503 (b) (1) (B) or (C) of this title;

(ii) any debt from which an individual debtor would not be discharged under section 523 (a) (1) (A) of this title; or

(iii) any debt from which an individual debtor would not be discharged under section 523 (a) (1) (B) or (C) of this title, unless equity security holders of the debtor, as of the commencement of the case, do not retain or receive, by reason of their equity ownership, any debt or equity interest in the debtor or successor to the debtor under the plan; or

(B) a debtor other than a corporation from any debt excepted from discharge under section 523 of this title.

After confirmation of the plan, any tax referred to in this paragraph may be assessed against and collected from the debtor, or from a successor to the debtor under the plan, within the limits of otherwise applicable law. Notwithstanding other provisions of this paragraph, the debtor, a successor to the debtor under the plan, or the governmental unit to which any tax or debt referred to in this paragraph is owing may accept the provisions of the plan dealing with the assumption, settlement, or payment of any such tax or debt.

(3) After confirmation of the plan, any tax liability of the estate incurred as an administrative expense described in section 503 (b) (1) (B) or (C) may, within the limits of otherwise applicable law, be assessed against and collected from a debtor who was an individual, unless—

(A) the debtor is discharged from liability for any such tax pursuant to the provisions of section 505(d) of this title;

(B) the governmental unit to which any such taxes owing accepts the provisions of

the plan dealing with the debtor's liability for or payment of any such tax; or

(C) the effect of the plan is substantially equivalent to a liquidation rather than a reorganization.

On page 525, line 9, strike out "(3)" and insert in lieu thereof "(4)".

On page 525, line 19, strike out "(4)" and insert in lieu thereof "(5)".

On page 553, line 7, before "claims" insert "expenses and".

On page 555, line 25, before "property" insert "payments to be made, or".

On page 555, line 25, after "distributed" insert a comma.

On page 556, line 1, after "amount" insert "or value".

On page 556, between lines 18 and 19, insert the following:

(c) Notwithstanding any other provision of this chapter, the court shall not confirm a plan which provides for payment of a tax claim of the United States in property other than cash, unless the Secretary of the Treasury or his delegate agrees to the terms of payment.

On page 557, line 24, strike out "or".

On page 558, line 2, strike out the period and insert in lieu thereof a semicolon and "or".

On page 558, between lines 2 and 3, insert the following:

(3) referred to in section 1331 of this title.●

## ANOTHER HELSINKI MONITOR TRIED AND CONVICTED

● Mr. STONE. Mr. President, I take this opportunity to call attention to the latest example of Soviet persecution of the members of the Helsinki monitoring groups—the conviction and sentencing last week of Ukrainian group member Levko Lukyanenko. While the spotlight of world opinion was focused on the trials in Moscow of Anatoly Shcharansky and Aleksandr Ginzburg and in Vilnius of Viktoras Petkus, in the Ukrainian town of Gorodyna, their colleague Lukyanenko was being tried on identical charges—"anti-Soviet agitation and propaganda." Lukyanenko received the maximum penalty of 15 years: 10 in labor camp and 5 in exile. Lukyanenko, who is 51 years old, has already served a 15-year term for his nationalist activities. By the time he finishes serving this sentence he will have spent nearly half his life in the Soviet Gulag.

The conviction of the Ukrainian human rights advocate brings the total number of convicted Helsinki watchers to 17. Two others—Armenian Robert Nazaryan and Georgian Victor Rtskhiladze—are imprisoned awaiting trial as is Aleksadr Podrabniek, the head of a subgroup on psychiatric abuse. In addition, the Soviet authorities have banished two other Helsinki monitors by stripping them of their citizenship while they were out of the country. All this in order to wipe out the five Helsinki monitoring groups in Moscow, Kiev, Tblisi, Vilnius, and Yerevan. Fortunately, despite an incredibly well-orchestrated crackdown, new members are joining the ranks of the monitoring groups. During the trials of Shcharansky and Ginzburg, it was learned that Sergei Polikanov, a physicist, had become a member of the Moscow group. Perhaps the Soviet authorities will finally learn that their own citizens take seriously the commitments made at Helsinki to "respect human rights and fundamental freedoms" and will hold them to those pledges regardless of the consequences.●

## TRIBUTE TO DR. JOHN CHASE, CHIEF MEDICAL DIRECTOR, VETERANS' ADMINISTRATION

● Mr. CRANSTON. Mr. President, Dr. John Chase, one of the finest and most respected men in our Federal Government, is stepping down after 4 years as Chief Medical Director of the Veterans' Administration. Tomorrow is his last day in that position.

Based on my own personal and professional knowledge, Jack Chase is a man of great integrity, a man of dynamic ability, a first-rate manager of our Nation's largest centrally controlled health care system, and a physician who deeply cares about the well-being and health of our Nation's veterans.

He has supervised a system of 172 hospitals, 89 nursing homes, 219 outpatient clinics, and 16 domiciliaries serving nearly 180,000 patients every day.

Jack Chase has been responsible for a network of health care services that employs 10,500 physicians, 1,000 dentists, and 30,000 nurses; its university-affiliated hospitals train almost 87,000 health care personnel annually.

He directed the VA's $100 million yearly research program with 6,000 individual projects—resulting in two Nobel Prizes in 1977.

This is an awesome job and one that Jack Chase has handled with compassion, keen insight into the needs of America's veteran population, and dedication.

He is a calm professional who was appointed Chief Medical Director at a most difficult time in the history of the VA's Department of Medicine and Surgery. In April of 1974, the Department was in a state of disarray and internal turmoil. The Chief Medical Director has resigned over irreconcilable differences with the then Administrator of Veterans' Affairs who was to be ousted over the dispute.

Moreover, Dr. Chase began his 4-year term at the end of American combat involvement in Vietnam which was marked by the return to this country of hundreds of thousands of veterans bearing the physical and psychological scars of America's longest and most divisive war.

Under his forceful leadership, the VA established medical programs to meet the unique treatment needs of a new generation of American veterans. Drug and alcohol treatment centers to combat addiction in young veterans were established, and the VA redoubled its commitment to treatment of veterans with catastrophic spinal-cord injuries.

Jack Chase's tenure as Chief Medical Director also coincided with the emergence of another major health care issue, the challenge of caring for an aging American veteran population. The majority of this country's veterans served during World War II, and their average age is now 60.

This problem is not as visible or dramatic as the one created by Vietnam, but the rapidly increasing age of the average veteran has tremendous implications for the future of the VA health care system. By taking advantage of this challenge to meet the needs of our World War II veterans, the VA can serve as a model for aiding and treating older Americans all across our country.

Jack Chase has already begun to meet that challenge by significantly expanding the number of beds in VA nursing homes and increasing the commitment of health care resources to nursing home care; by working vigorously for Federal grants to States for the construction and maintenance of nursing homes for veterans; and by making the VA a national leader in the developing field of gerontology and medical research relating to the aging process.

Thanks to Jack Chase, the VA has already created a geriatric fellowship program through which experienced physicians will receive training in the specific health problems of older veterans.

Jack Chase also presided over two major institutional developments during these last 4 years. He guided the Department of Medicine and Surgery through the difficult transition from a health care system in which traditional inpatient hospital care predominated to one emphasizing comprehensive outpatient services and increasingly community-oriented programs for elderly and psychiatric patients.

The explosive growth in the number of outpatient visits—there will be an estimated 15,435,000 outpatient visits in 1979—together with a concurrent increase in inpatient turnover rates placed an enormous financial and administrative strain on the Department of Medicine and Surgery. Jack responded by upgrading ambulatory care sections at VA hospitals and recruiting desperately needed radiologists, pathologists, and other medical personnel for understaffed central services, and he pushed for additional appropriations for construction and renovation work at overcrowded hospital outpatient clinics.

Jack also provided intelligent leadership in fostering the delicate but critical relationship between the VA health care system and the Nation's medical schools. During his 4 years at the helm of the Department of Medicine and Surgery, 25 previously unaffiliated VA hospitals established teaching and residency programs with medical schools, and scores of other VA hospitals strengthened their existing affiliation programs. These new and strengthened affiliations greatly enhance the quality of care being provided in VA hospitals.

Jack Chase is a man who has tried and succeeded. Because of him, the quality of care given to our veterans has been enriched. Because of him, a broad discussion of the role of the VA in relation to national health care strategies has been stimulated.

As VA Chief Max Cleland pointed out:

His many contributions and his intense concern for the welfare of his patients . . . have greatly enhanced the quality of life, not only for America's veterans, but for all Americans.

Dr. Chase, we will all miss you. I know my colleagues join in wishing you and Mrs. Chase the loveliest, happiest life as

you return to your home State of Washington.●

## FEDERAL PUBLIC TRANSPORTATION ACT OF 1978—S. 2441

AMENDMENT NO. 3310

● Mr. HASKELL. Mr. President, yesterday I introduced an amendment to the Federal Public Transportation Act of 1978, calling for the Department of Transportation, in cooperation with the Environmental Protection Agency, to conduct a study to determine the feasibility of including the nature and extent of an area's air pollution as a criterion in the distribution of mass transit funds. Due to error, the text of my amendment was not included in the RECORD. I ask that the text of my amendment be printed in the RECORD.

The text of the amendment follows:

On page 72, line 17–18, insert the following:

STUDY

SEC. 114. (a) The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environmental and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, within one year of the date of enactment of this section, recommendations (including draft legislative proposals to accomplish such recommendations) as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds. In formulating such recommendations, the Secretary (in consultation with the Administrator) shall consider and report back to such committees his findings with respect to, but not limited to, the following:

(1) the most appropriate and feasible standards of air quality to be utilized as a criterion of air pollution, including but not limited to, standards for ozone, carbon monoxide, nitrogen oxide, and hydrocarbons;

(2) the most appropriate and reliable methods for measuring and monitoring the above air quality standards, including but not limited to, measuring devices, placement of such devices, frequency of readings, and other procedures relating to measuring air quality;

(3) the most appropriate, feasible, and equitable manner in which air pollution measures can be adjusted to take into account seasonal, meterological, and other variations so that air measures accurately reflect average air quality over a reasonable period of time;

(4) which Federal mass transit program funds should be allocated on a basis utilizing air pollution as a criterion, including but not limited to, programs under sections 3 and 5 of the Urban Mass Transportation Act of 1964;

(5) the relative weight which such an air pollution criterion should be given for the purpose of allocating funds under the above Federal mass transit programs; and

(6) alternative approaches to modifying criteria for allocating Federal mass transit funds which would assure that areas with extensive air pollution receive a proportionately greater amount of funds than areas with a lesser extent of air pollution.

(b) There is authorized to be appropriated such amount as is necessary to carry out the provisions of this section.●

## PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on July 26, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notification follows:

DEFENSE ASSISTANCE AGENCY,
*Washington, D.C., July 26, 1978.*

In reply refer to: I–6002/78ct.

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. MARBOD,
*Acting Director,*
*Defense Security Agency.*●

## PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have just received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 26, 1978.*

Hon. JOHN J. SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78–65, concerning the Department of the Navy's proposed Letter of Offer to the United Kingdom for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $22.7 million and support costs of $33.7 million for a total estimated cost of $56.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

TRANSMITTAL NO. 78–65

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: United Kingdom.

(ii) Total estimated value: Major Defense Equipment*, $22.7 million; other, $33.7 million; total, $56.4 million.

(iii) Description of articles or services offered: Principal items including twelve (12) navigation computers, six (6) LORAN (long range navigation) receivers, ancillary equipment and services to maintain and modernize the navigation subsystems aboard the U.K. Polaris missile submarines.

(iv) Military Department: Navy.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: none.

(vi) Date report delivered to Congress: July 26, 1978.

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

## LEE METCALF FAIR EMPLOYMENT RELATIONS RESOLUTION

● Mr. STONE. Mr. President, I am pleased to be added today as a cosponsor of Senate Resolution 431, the Lee Metcalf Fair Employment Relations Resolution, and I urge the leadership to bring this measure to the floor as soon as possible.

Presently, employees of the U.S. Senate have no job protection. They serve entirely at the whim of their employers. The Equal Pay Act of 1963, title VII of the Civil Rights Act of 1964 and the Age Discrimination Employment Act of 1967 do not apply to our employees. Evidence of discrimination in congressional hiring practices came to light several years ago. Studies done recently, by such groups as the Capitol Hill Women's Political Caucus, indicate the Senate still has far to go to equalize treatment of women, minority groups and handicapped employees.

The public gets upset, and rightfully so, when Congress enacts a law for the good of the people, but does not consider the law good enough to apply to Congress. Our employees should enjoy freedom from discriminatory practices and have a recourse against discrimination

similar to that available to every other employee in the country.

I think the mechanism established by Senate Resolution 431 will protect Senate employees without infringing on our ability as U.S. Senators to hire individuals suited to our needs as legislators with a particular political background and specific geographical interests. Our employees will have, for the first time, a means of challenging discriminatory actions with respect to hiring, firing, promotions, compensation, and other employment-related benefits. The mechanism will be a Senate Fair Employment Relations Board which will be composed of individuals who do not owe allegiance to any particular Member. The resolution sets out the complaint process and allows ample provision for informal resolution of disputes.

I hope that very few complaints will have to proceed through the formal complaint stage. Rather than an exception, the Senate should be the model in fair employment practices. This resolution will lay the ground work for that goal.●

## MINORITY TRUCKING CONTRACTING OBSTACLES

● Mr. GLENN. Mr. President, over the past year I have been quite active in seeking expanded opportunities for minoritories in the trucking industry. I joined Congressman PARREN MITCHELL and the Minority Trucking Transportation Development Corp., in supporting petition ex parte No. 107 before the ICC to encourage agencies of Government to increase utilization of minority firms for the transport of Government cargo. I have also urged the ICC to aggressively implement reform of its operating authority regulatory policies so as to provide greater opportunity for small and minority truckers.

Mr. President, I would like to share with my colleagues a July 26, 1978 column by Jack Anderson on the issue of the increased costs that accrue to taxpayers as long as rigid and inflexible regulatory rules operate to deny greater opportunity to smaller carriers. While I have no first-hand familiarity with the facts reported by Mr. Anderson, I have become increasingly aware of a pattern of waste of the sort described by Mr. Anderson. I intend to explore this issue in greater depth as part of the Governmental Affairs Committee's deliberations on transportation regulatory reforms.

The column follows:

MOVING STORY

The brass at Offutt Air Force Base in Omaha has bumped the low bid of a struggling black trucking firm, given a free lift to a white competitor and taken the taxpayers for an $80,000 ride in the process.

The case illustrates the almost insurmountable odds faced by minority businessmen trying to get a slice of the federal contract pie, despite high-sounding orders from President Carter to give such firms favored treatment whenever possible.

Ward Smith, the black owner of an Omaha trucking company, submitted the low bid on a contract to move household effects of Offutt personnel. But the contract was awarded to a white mover who had bid $80,000 more—all because Smith, stymied by hide-bound state and federal regulations, was certified to move goods only within the city of Omaha.

To get necessary authority for the smaller percentage of moves outside Omaha, Smith would have had to undergo a costly, time-consuming application procedure with no guarantee of success. And the Offutt brass hats refused to split the award into two contracts and give Smith at least part of the business.●

## LEO LESMEISTER: OUTSTANDING POSTMASTER AND CITIZEN

● Mr. BURDICK. Mr. President, the July 1978 issue of the Postmasters Gazette included an article about one of North Dakota's leading citizens, Leo Lesmeister. Having known Mr. Lesmeister for a number of years, I have had the good fortune of witnessing first-hand his unselfish commitment to his family, community, and the Postal Service. Leo Lesmeister is a shining example of what "interested citizen participation" truly means.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

LEO LESMEISTER: OUTSTANDING POSTMASTER AND CITIZEN

(By Edward J. Ziman)

The title "postmaster" is synonymous with community service, community activity, and community participation. They are the rare exception among the nation's 30,000 postmasters who restrict their activity to their work at the post office.

If a survey were to be taken, it would certainly disclose that many postmasters serve their communities as chairmen of fund raising projects, as city officials, as chairmen and members of various boards and committees, as religious instructors, as little league coaches, as scoutmasters, and in many other areas.

An attempt was launched to find an individual who was both outstanding as a postmaster and in community service. The search indicated that it would be very difficult, if not impossible, to surpass the efforts of the NAPUS vice president of the Minneapolis region, Leo Lesmeister of Halliday, ND, a city with a population of about 450.

Leo is "Mr. Halliday, ND." For years he has worked at improving conditions in the city and making it a more desirable place to live.

Ask Leo how many hats he wears and he will reply, "First of all, I am the postmaster," a title he has enjoyed since 1956. During his tenure he has moved to new quarters, added another rural route, and increased his box section considerably.

Another hat that Leo wears in Halliday is that of mayor. He was elected to his first term in 1970. Since that time he has experienced no opposition and has been elected to two more four-year terms.

Through his efforts the city has received a grant from the federal government in the amount of one million dollars. Determining how to spend so much money wisely was a tremendous job, involving countless meetings with the community, meetings with the city council, and meetings with engineers and contractors. Now he still has the responsibility to see that the original plans are carried out.

These two positions would keep an ordinary person well occupied, but not Leo. He is also chief of the Halliday Fire Department, a position he has held continuously since 1952. In 1966, when the Halliday rural fire district was organized, he was selected chief of that group and still holds that position today. The rural fire district comprises approximately 720 square miles plus 76,000 acres of land on the Fort Berthold Indian reservation.

Fortunately fires occur only occasionally, but Leo still meets with the firemen at least once each month for a meeting and a training session. Of course the completion of the many forms and reports rests upon his shoulders.

The rural fire district also provides an ambulance service for the area. Who is in charge? No need to ask! Leo is head of the ambulance squad which at times makes runs up to 250 miles each way for medical aid. Each month he and the other members of the squad train for one evening. This continual training is evident because the residents of the area are proud of their service and claim that it is one of the best in the western part of the state.

Leo relates several incidents in regard to his experiences with ambulance runs. He said "This type of work really provides a sense of satisfaction. On two separate occasions the coroner had pronounced a man and a woman dead, but we continued to work on them and we revived both. Of coure, this is the rare exception, not the normal occurrence."

On another occasion he successfully revived a young girl who was on the verge of death and had already lost consciousness. He dislodged the blockage in her throat and revived her.

Perhaps the reason why the ambulance service is so good is because Leo is a certified Red Cross instructor for the state of North Dakota. He is also associated with the Heart Association and is often called upon to give CPR demonstrations in various parts of North Dakota.

The walls of his office at home are covered with awards he has received over the years. The one in which he takes the greatest pride is the "Service to Humanity Award" presented to him in 1974 by the North Dakota JC's.

Another hat that Leo wears is that of chairman of the Dunn County Housing Authority. Through his efforts the city has received 20 housing units for the elderly. "Seeing the satisfaction on the faces of these people was sufficient reward for all my efforts," said Leo.

In the past Leo had served as chief of police for the city of Halliday and also as Dunn County deputy sheriff. Upon his appointment as postmaster, he resigned both of these offices. In the face of trouble he was fearless, often exposing himself to danger. He recalls on one occasion how he was called upon to disarm a man who had barricaded himself in his home on the Fort Berthold Indian reservation. "He had several rifles with him and he took a few shot at me. Fortunately, his aim was not accurate. Eventually we subdued him."

Despite the unpleasant tasks associated with this type of work, Leo appears to have no enemies. Evidently it is because he treats everyone fairly, honestly, and justly and commands the respect of his entire community and the surrounding area.

For 12 years Leo also served as a member of the Halliday Board of Education. During this time he was associated with the youth of the city as scoutmaster.

Is that all that he does? Hardly! He is ac-

tive in church affairs, being a member of St. Paul's Catholic Church.

As a postmaster Leo was actively involved in NAPUS circles for many years. He served the North Dakota chapter as chairman of various committees. Moreover, he was an instructor at NAPUS seminars and training sessions. In North Dakota he will be remembered most for the five one-year terms he served as president of the chapter. This in itself was a feat unmatched in the history of North Dakota NAPUS. Surprisingly enough, he could have continued as president had he not voluntarily given up that office one year ago. During his administration the North Dakota chapter prospered and emerged as a power.

Last year at Phoenix, AZ, Leo was elected national vice president of the Minneapolis region. This was fitting recognition for a man who had devoted so much time and effort to help every North Dakota postmaster, many of whom were not even members of NAPUS.

Despite all of these activities, Leo is a family man. He and his wife Joyce have seven children, two of which are still living at home. Joyce is also a postal employee. She has been employed as a clerk at the Halliday post office since 1956 and now also serves as a clerk-carrier for the Dickinson SCF.

We are familiar with the saying, "Let George do it." In North Dakota, especially around Halliday, people say, "Let Leo do it because we know that it will be done and be done well."●

## S. 3317—HEALTH WARNING LABELS ON ALCOHOLIC BEVERAGES AND CIGARETTES

Mr. BELLMON. Mr. President, on Tuesday, July 19, 1978, I introduced S. 3317, a bill to require the Secretary of HEW to provide for health warning labels on alcoholic beverages and cigarettes. I requested unanimous consent that the entire text of the bill be printed in the RECORD. Unfortunately, sections 3 and 4 of the bill were omitted from the RECORD. I ask unanimous consent that the bill be star printed and that the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the bill follows:

S. 3317

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. The Federal Food, Drug, and Cosmetic Act is amended by the addition of a new section, section 903 (21 U.S.C. 393) as follows:

SEC. 903. The Secretary shall prescribe, by regulations issued in accordance with the provisions of section 553 of title 5, United States Code, statements relating to health which shall be contained on the labeling of alcoholic beverages and the labeling of cigarettes.

SEC. 2. Section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205) is amended by the addition of the quoted language in subsection (e):

(e) LABELING.—To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate commerce, or to receive therein, or to remove from customs custody for consumption, any distilled spirits, beer, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with "any regulation prescribed by the Secretary of Health, Education, and Welfare, pursuant to section 393 of title 21, United States Code," and with such regulations, to be prescribed by the Secretary of the Treasury, with respect to packaging, marketing, branding, and labeling in size and fill of container.

SEC. 3. Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended as follows:

It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear such statement or statements as the Secretary of Health, Education, and Welfare may prescribe by regulation issued pursuant to 21 U.S.C. 393. Unless and until the Secretary of Health, Education, and Welfare shall so prescribe a different statement or statements, it shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement:

"Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health."

Each statement required to be placed on a cigarette package by this section shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

SEC. 4. Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by the addition of the following underlined language:

(a) No statement relating to smoking and health, other than the statement or statements required by section 1333 of this title, shall be required on any cigarette package.

## TRIBUTE TO SENATORS CRANSTON, LEAHY, AND ABOUREZK

Mr. PERCY. Mr. President, I spoke on the Senate floor Tuesday, July 25, 1978, concerning my amendment to the Security Assistance Act of 1978 to prohibit use of U.S. funds and assistance for the Mexican program to spray marihuana with the dangerous herbicide paraquat. At that time, I did not mention that my distinguished colleague Senator CRANSTON of California joined me, as well as Senators LEAHY and ABOUREZK, in cosponsoring the amendment. I very much appreciate the support of the assistant majority leader and his demonstrated concern for many Californian citizens, in particular young Californians, whose health may be jeopardized by the paraquat spraying.

## UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 887, S. 3243, the local public works bill, is called up and made the pending business before the Senate—with the understanding that it not be before 3 o'clock p.m. on Monday—there be a time limitation agreement on the bill as follows:

One hour for debate on the bill, to be equally divided between and controlled by Mr. BURDICK and Mr. STAFFORD, with 30 minutes on any amendment and 15 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate, except that on an amendment by Mr. WEICKER, there be a time limitation of 1 hour, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 945, S. 2384, the veterans pension bill, is called upon and made the pending business before the Senate—with the understanding that it not be before 1 o'clock p.m. on Monday—there be a time limitation agreement on the bill as follows:

One hour on the bill, to be equally divided between and controlled by Mr. CRANSTON and Mr. STAFFORD; with 30 minutes on any amendment and 15 minutes on any debatable motion, appeal or point of order, if such is submitted to the Senate, provided that there be a 1-hour limitation on an amendment by Mr. JAVITS, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 779, S. 2584, the Nuclear Regulatory Commission authorization bill, is called up and made the pending business before the Senate—though with the understanding that it not be called up before August 7—there be a time limitation on that bill as follows:

One hour on the bill, to be equally divided between and controlled by Mr. HART and Mr. STAFFORD, with 30 minutes on any amendment, except on one amendment designated as the Hart-Domenici amendment, on which there be a time limitation of 1 hour; provided further, that there be a time limitation of 15 minutes on any debatable motion appeal, or point of order, if such is submitted to the Senate, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMERICAN INDIAN RELIGIOUS FREEDOM

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 102.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the resolution from the Senate (S.J. Res. 102) entitled "Joint resolution American Indian Religious Freedom", do pass with the following amendment:

Strike out all after the resolving clause, and insert: That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and

exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

SEC. 2. The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to the Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

## ORDER FOR RECOGNITION OF SENATOR MORGAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for recognition of Senators tomorrow?

The PRESIDING OFFICER. The Chair informs the majority leader that there are none.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that after the two leaders or their designees are recognized under the standing order tomorrow, the Senator from North Carolina (Mr. MORGAN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that following the recognition of Mr. MORGAN on tomorrow, the Senate resume its consideration of S. 2820, the Federal reclamation dam safety measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening time be changed to 9:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:45 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senator from North Carolina (Mr. MORGAN) will be recognized for not to exceed 15 minutes, after which the Senate will resume its consideration of the bill S. 2820, to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes.

There is a time agreement on that bill. Rollcall votes may occur on the bill and/or on amendments or motions in relation thereto.

Upon the disposition of that bill, under the order the Senate will proceed to the consideration of the International Monetary Fund bill, which is S. 2152. Rollcall votes are expected to occur on amendments thereto, and it is possible that other measures may be cleared for action during the day.

Senators may anticipate a good day's work tomorrow, with rollcall votes.

## RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 6:11 p.m., the Senate recessed until tomorrow, Friday, July 28, 1978, at 9:45 a.m.

# HOUSE OF REPRESENTATIVES—*Thursday, July 27, 1978*

The House met at 10 a.m.

Rabbi Herbert J. Mandl, Kehilath Israel Synagogue, Kansas City, Mo., offered the following prayer:

Almighty G-d, we ask Thy blessings on our country, and these, our Representatives, who help legislate laws to further the peace and welfare of all Americans.

Universal Father, help us to unite all the citizens of our Republic by a bond of genuine brotherhood. Sustain us in our endeavors to eradicate prejudice and preserve the precious ideals and democratic institutions of our American way of life.

Enable true liberty-loving men the world over to witness the fulfillment of the vision of our prophet; "Nation shall not lift up sword against nation—neither shall men learn war anymore." Bless these, our legislators, with wisdom and understanding to guide us and the world, as well, to peace and friendship. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on July 21, 1978, the President approved and signed bills of the House of the following titles:

H.R. 2176. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes;

H.R. 9757. An act to impose a moratorium on any increase in the public lands grazing fee for the 1978 grazing year, and for other purposes; and

H.R. 11232. An act to authorize appropriations to carry out the Standard Reference Data Act, and to authorize appropriations for the National Bureau of Standards.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5146) entitled "An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12255. An act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12255) entitled "An act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. EAGLETON, Mr. KENNEDY, Mr. CRANSTON, Mr. CHAFEE, Mr. HAYAKAWA, and Mr. JAVITS to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2777) entitled "An act to provide for consumers a further means of

minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. MCINTYRE, Mr. BROOKE, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3084) entitled "An act to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. MCINTYRE, Mr. BROOKE, Mr. TOWER, and Mr. GARN to be the conferees on the part of the Senate.

## RABBI HERBERT J. MANDL

(Mr. BOLLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLLING. Mr. Speaker, Rabbi Herbert J. Mandl, senior rabbi of Kehilath Israel Synagogue which is located in the Fifth Congressional District of Kansas City, Mo., gave the very fine opening prayer we have just heard.

Kehilath Israel is one of the largest traditional synagogues in the State of Missouri with over 4,000 members.

On January 29, 1978, Rabbi Mandl was installed as spiritual leader of the synagogue. I had the pleasure of participating in the installation service.

The rabbi's wife, Barbara, and parents are here, as are several other relatives and friends.

## NATIONAL COMMISSION ON SOCIAL SECURITY

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, on Tuesday, of this week, I took the occasion to urge the President to nominate his appointees to the National Commission on Social Security. As the Members will recall, the National Commission on Social Security was established by law last December to make the first comprehensive review of the social security system since 1936 and to recommend fundamental changes to meet our needs for the future.

Mr. Speaker, I have since Tuesday been advised by the White House that the nominees by the President have been selected. They are now undergoing the usual FBI screening, and their names will be sent to the Senate for confirmation in the near future. This is good news.

I would like to point out that the gentleman from Oregon (Mr. ULLMAN), the chairman of the Committee on Ways and Means, stated, when this legislation passed last year, that it was absolutely essential that this important Commission move expeditiously because this Commission can make the difference.

During the debate, the gentleman from Oregon said:

> I would hope that if we adopt it, the commission is able to organize and get to work quickly on a subject that is terribly important for every American.
>
> * * * * *
>
> Let me say that in accepting this study, I think it is of extreme importance that it be properly constituted, with the best staff available in this country; that we take the problems seriously. I have served on commissions. Ordinarily it takes a year or 18 months even to get organized. I hope that is not the case here. I hope we can move expeditiously, get the proper staffing, and have this commission do what we all expect it to do; that is, look at the whole gamut of retirement and make, in fact, recommendations that will insure that we can move toward a future social security system into the next century.

Mr. Speaker, I trust that the Commission will be appointed promptly.

## "BLUNT NEW WHITE HOUSE AIDE"

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BADHAM. Mr. Speaker, our President has engaged the services of a specialist in public relations and put him in charge of what the press has referred to as "polishing his tarnished image."

This highly paid—by the taxpayers—media "expert" began his admittedly difficult task by setting up shop in a large office in the Executive Office Building that was once used by one of our President's predecessors as a "hideaway office."

The new imagemaker for the White House granted an interview in this new office to the Washington bureau chief of the Los Angeles Times as what must be assumed to be part of the opening salvo of his press relations barrage.

Referring to the drapes and furniture in his new office, this image builder for the holder of the highest office in the land pledged that "the first thing I'm going to do is get rid of this San Clemente whorehouse red."

Well, I want my colleagues to know that this highly paid imagineer got off his first shot, and a cheap one at that, by killing two birds with one stone. He not only insulted a beautiful city on the coast of California in my district which he probably has never visited, he also has caused many readers of the Times to wonder just where and how he obtained his expertise in the decor of such establishments.

On behalf of my constituents in that city I greatly resent this comment and as a member of the national legislature with responsibilities to all of our citizens, I wonder again at the people the President hires as personal assistants.

The Los Angeles Times article is as follows:

> [From the Los Angeles Times, July 10, 1978]
>
> BLUNT NEW WHITE HOUSE AIDE—ADMAN CALLED IN TO POLISH CARTER'S TARNISHED IMAGE
>
> (By Jack Nelson)
>
> When being interviewed in his specious office, where Nixon used to listen to his White House tapes, Rafshoon glanced around at the gaudy red drapes and furniture left behind by the previous Administration and announced:
>
> "The first thing I'm going to do is get rid of this San Clemente whorehouse red."
>
> The second thing, he said, would be to try to portray Carter as Rafshoon sees him, "as having that steely resolve that came across when he was running for President."

## LEGISLATION TO PERMANENTLY REMOVE U.S. TARIFFS ON NATURAL EXTRACTS USED IN PROCESSING LEATHER

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. COHEN. Mr. Speaker, I rise to speak in favor of legislation currently pending before the House of Representatives which would permanently remove U.S. tariffs on natural extracts used in the processing of leather.

Since 1957, Congress has enacted a series of 3-year exemptions from import duties for natural extracts such as chestnut, wattle and quebracho, which are used to produce finished leather. The last such exemption lapsed on June 30. A bill submitted by Representative JAMES BURKE, which has been favorably reported by the House Ways and Means Committee, would make permanent the exemptions on tannery extracts.

This is a clear case where Congress can take action to both promote free trade and protect the interests of American workers. The pending bill would hold down the price of raw materials for the domestic leather products industry. In my own State of Maine, there are 19,900 workers in the leather and leather products industry and, either directly or indirectly, all would benefit under the proposed legislation.

Taking into consideration the wave of leather imports from South America, Europe, and the Far East, I have come to the conclusion that these exemptions are especially necessary. One of the tanneries in my State has already laid off 30 percent of its employees and has reduced production by 40 percent. Imported extracts account for an important share of the cost of producing leather in the Maine plants. A permanent assur-

ance of stable supplies of extracts would reduce the risk to an ailing industry in Maine.

Often, when we lower the tariffs on imports, we must pay a dear price in American jobs. Such is not the case here. There are virtually no domestic suppliers of the natural extracts, which are obtained from trees which are no longer commonly found in the United States. The domestic leather industry buys synthetic extracts, which are not covered by the pending tariff bill, from American firms, but these chemicals are not effective substitutes for natural extracts. Every tanner in Maine to whom I talked reports that both products are necessary to manufacture quality leather.

I urge the House to pass this bill without delay. Unnecessary procrastination in the consideration of this legislation will bring additional hardship to workers in a plagued industry. Rarely is the Congress presented with legislation with so few costs and so many benefits.●

## REQUEST TO CONSIDER SENATE AMENDMENTS TO H.R. 11003, CLARIFYING AUTHORITY FOR EMPLOYMENT OF WHITE HOUSE OFFICE AND EXECUTIVE RESIDENCE PERSONNEL

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, with Senate amendments thereto, and concur in Senate amendment numbered 1 and disagree to Senate amendment numbered 2.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 13, strike out all after line 18 over to and including line 2 on page 16 and insert:

"SEC. 113. (a) The President shall transmit to each House of the Congress, and make available to the public, reports containing information described in subsection (b) for each fiscal year beginning on or after the effective date of this section. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report and shall contain a statement of such information for such year.

"(b) Each report required under subsection (a) shall contain—

"(1) the number of employees who are paid at a rate of basic pay equal to or greater than the rate of basic pay then currently paid for level V of the Executive Schedule of section 5316 of title 5 and who are employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration, and the aggregate amount paid to such employees;

"(2) the number of employees employed in such offices who are paid at a rate of basic pay which is equal to or greater than the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5 but which is less than the rate then currently paid for level V of the Executive Schedule of section 5316 of title V and the aggregate amount paid to such employees;

"(3) the number of employees employed in such offices who are paid at a rate of basic pay which is less than the minimum rate then currently paid for GS–16 of the General Schedule of section 5332 of title V, and the aggregate amount paid to such employees;

"(4) the number of individuals detailed under section 112 of this title for more than 30 days to each such office, the number of days in excess of 30 each individual was detailed, and the aggregate amount of reimbursement made as provided by the provisions of section 112 of this title; and

"(5) the number of individuals whose services as experts or consultants are procured under this chapter for service in any such office, the total number of days employed, and the aggregate amount paid to procure such services.

The information required under this subsection to be in any report shall be shown both in the aggregate and by office involved.

Page 18, line 10, after "1978" insert ", except that no budget authority (including permanent budget authority) which is authorized under these amendments may be obligated or expended during a fiscal year beginning after September 30, 1983, unless the enactment of such budget authority is authorized by provisions of a law enacted after the date of the enactment of this section. For the purposes of this section the term "budget authority" has the meaning given to it by section 3(a)(2) of the Congressional Budget Act of 1974".

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

Mr. DERWINSKI. Reserving the right to object, Mr. Speaker, I do so only to give the gentleperson from Colorado the opportunity to explain the legislative situation.

Mrs. SCHROEDER. If the gentleman would yield, Mr. Speaker, I thank the gentleman from Illinois for his request, and I will be more than happy to explain the legislative situation.

As we know, there is a slight disagreement between the Senate and the House; and hopefully, we can work it out. The other alternative would be to go to conference, but we thought we might accept one Senate amendment and disagree with the other amendment which is the 5-year sunset amendment. I know the gentleman from Illinois (Mr. DERWINSKI) has worked very hard against the sunset amendment. We are hoping the other body will accept this compromise and that it will expedite the situation without necessitating a conference.

Mr. DERWINSKI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, can the gentlewoman from Colorado tell us whether or not the amendment to which the House is being asked by unanimous consent to agree is the other body's suggestion that the authorization for White House operations not be open ended, but be limited, I believe, to a 5-year period; is that what we are agreeing to?

Mrs. SCHROEDER. If the gentleman will yield, that is correct. The Senate put a 5-year sunset provision on the bill. Many people feel we should not have a sunset provision in this case, because if the sun does set, then we will go back to where we were, which means the White House can have any number of employees they want. In other words, we have the authority to put the sunset provision in on this bill, but we really do not have the constitutional authority to "sunset" the whole White House. We know it is always going to be with us. So the 5-year sunset only would apply to the limits not the whole White House.

Mr. BAUMAN. That is the point of view of the individual speaking.

Mrs. SCHROEDER. Furthermore, the House did defeat the sunset amendment here by a vote of 171 to 232. Therefore, we feel we should pressure the Senate about this disagreement.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, that is usually done in conference rather than by disagreeing to a Senate amendment. I would suggest that perhaps a conference would be the better method by which to resolve the difference.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman knows about the pressure on the calendar before adjournment. We feel with such a strong vote of rejection in the House, 171 to 232, plus the fact that this is a unique kind of sunset amendment allows more expeditious treatment. This is not an executive agency which could be created and destroyed at will—this is really a third part of the Government established by the Constitution; it is the White House. We are not going to be able to constitutionally sunset it through legislation, we can only end the limits we place on it. Sure this is different from the normal sunset provision, I feel the Senate will be willing to settle it in this manner.

Mr. BAUMAN. Further reserving the right to object, I have it on the President's own authority, based on his statement the other day, that no one on the White House staff is above the law.

Mr. Speaker, I do object.

The SPEAKER. Objection is heard.

## APPOINTMENT OF CONFEREES ON H.R. 11003, CLARIFYING AUTHORITY FOR EMPLOYMENT OF WHITE HOUSE OFFICE AND EXECUTIVE RESIDENCE PERSONNEL

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. NIX and UDALL, Mrs. SCHROEDER, and Mr. DERWINSKI.

## PROVIDING THAT BOTH HOUSES OF CONGRESS SHALL NOT ADJOURN FOR MORE THAN 3 DAYS OR SINE DIE EXCEPT BY CONCURRENT RESOLUTION ADOPTED BY BOTH HOUSES

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 98) providing that the Senate and House of Representatives shall not adjourn for a period in excess of 3 days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of 3 days) to a day certain, or for adjournment sine die, and ask for its immediate consideration.

## EXPLANATION OF SENATE CONCURRENT RESOLUTION 98

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, this is the routine concurrent resolution annually passed by the House and Senate, setting aside our otherwise mandatory adjournment on July 31.

The Senate already has passed the concurrent resolution.

Therefore, Mr. Speaker, I ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas for the immediate consideration of Senate Concurrent Resolution 98?

There was no objection.

The SPEAKER. The Clerk will report the Senate concurrent resolution.

The Clerk read as follows:

S. CON. RES. 98

*Resolved by the Senate (the House of Representatives concurring)*, That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

The was no objection.

The SPEAKER. The question is on the Senate concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 302, nays 44, not voting 86, as follows:

[Roll No. 606]

YEAS—302

| | | |
|---|---|---|
| Addabbo | Emery | McCormack |
| Akaka | English | McDade |
| Alexander | Erlenborn | McEwen |
| Ammerman | Ertel | McFall |
| Anderson, Calif. | Evans, Ga. | McHugh |
| | Fary | McKay |
| Anderson, Ill. | Fenwick | McKinney |
| Andrews, N.C. | Findley | Madigan |
| Andrews, N. Dak. | Fish | Mahon |
| | Fisher | Mann |
| Annunzio | Flippo | Markey |
| Applegate | Flood | Marks |
| Archer | Florio | Marriott |
| Ashley | Foley | Mathis |
| Aspin | Ford, Mich. | Mattox |
| AuCoin | Forsythe | Mazzoli |
| Badham | Fountain | Metcalfe |
| Barnard | Fowler | Meyner |
| Beard, Tenn. | Frenzel | Michel |
| Benjamin | Fuqua | Miller, Calif. |
| Bennett | Gammage | Mineta |
| Bevill | Garcia | Minish |
| Biaggi | Gaydos | Mitchell, N.Y. |
| Bingham | Gephardt | Moakley |
| Boggs | Giaimo | Mollohan |
| Boland | Gilman | Montgomery |
| Bolling | Ginn | Moore |
| Bowen | Glickman | Moorhead, Calif. |
| Brademas | Goldwater | |
| Breaux | Gonzalez | Moorhead, Pa. |
| Breckinridge | Gore | Moss |
| Brinkley | Gradison | Motti |
| Brodhead | Grassley | Murphy, Ill. |
| Brooks | Green | Murphy, N.Y. |
| Brown, Mich. | Gudger | Murphy, Pa. |
| Broyhill | Guyer | Murtha |
| Burgener | Hall | Myers, Gary |
| Burke, Calif. | Hamilton | Myers, John |
| Burke, Fla. | Hammer-schmidt | Myers, Michael |
| | | Natcher |
| Burleson, Tex. | Hanley | Neal |
| Burlison, Mo. | Hannaford | Nedzi |
| Burton, John | Harkin | Nichols |
| Burton, Phillip | Harris | Nix |
| Butler | Harsha | Nowak |
| Byron | Hawkins | O'Brien |
| Caputo | Heckler | Oakar |
| Carney | Heftel | Oberstar |
| Carter | Hillis | Obey |
| Cavanaugh | Hollenbeck | Panetta |
| Cederberg | Horton | Patten |
| Chappell | Howard | Patterson |
| Clawson, Del | Hubbard | Pease |
| Clay | Huckaby | Pepper |
| Cleveland | Hyde | Perkins |
| Cochran | Ireland | Pettis |
| Cohen | Jeffords | Pickle |
| Coleman | Johnson, Calif. | Pike |
| Conable | Johnson, Colo. | Poage |
| Conte | Jones, N.C. | Price |
| Conyers | Jones, Okla. | Pritchard |
| Corcoran | Jones, Tenn. | Pursell |
| Corman | Jordan | Rahall |
| Cornwell | Kastenmeier | Railsback |
| Cotter | Kazen | Rangel |
| Coughlin | Kemp | Regula |
| D'Amours | Keys | Reuss |
| Daniel, R. W. | Kildee | Rhodes |
| Davis | Kostmayer | Rinaldo |
| de la Garza | Krebs | Roe |
| Derwinski | Latta | Rogers |
| Devine | Lederer | Roncalio |
| Dickinson | Lehman | Rooney |
| Dicks | Lent | Rose |
| Diggs | Levitas | Rostenkowski |
| Dingell | Lloyd, Tenn. | Roybal |
| Dornan | Long, La. | Rudd |
| Drinan | Long, Md. | Ruppe |
| Duncan, Oreg. | Lott | Ryan |
| Early | Luken | Sawyer |
| Eckhardt | Lundine | Sebelius |
| Edwards, Ala. | McClory | Seiberling |
| Edwards, Calif. | McCloskey | Sikes |
| Eilberg | Mccloskey | Sisk |
| Skelton | Studds | Watkins |
| Skubitz | Thompson | Weaver |
| Slack | Thone | Weiss |
| Smith, Iowa | Thornton | White |
| Smith, Nebr. | Traxler | Whitehurst |
| Solarz | Treible | Whitley |
| Spellman | Tucker | Wiggins |
| Spence | Udall | Wilson, Bob |
| St Germain | Ullman | Wilson, C. H. |
| Staggers | Van Deerlin | Wilson, Tex. |
| Stangeland | Vander Jagt | Winn |
| Stanton | Vanik | Wolff |
| Stark | Vento | Wright |
| Steers | Volkmer | Wydler |
| Steiger | Waggonner | Wylie |
| Stockman | Walgren | Yates |
| Stokes | Walker | Yatron |
| Stratton | Walsh | Young, Mo. |
| | Wampler | Zablocki |

NAYS—44

| | | |
|---|---|---|
| Abdnor | Gibbons | Quayle |
| Armstrong | Goodling | Quillen |
| Ashbrook | Hagedorn | Robinson |
| Bafalis | Hansen | Runnels |
| Bauman | Holt | Schroeder |
| Broomfield | Ichord | Schulze |
| Brown, Ohio | Jacobs | Shuster |
| Collins, Tex. | Kelly | Snyder |
| Crane | Kindness | Steed |
| Cunningham | Lagomarsino | Stump |
| Daniel, Dan | Leach | Symms |
| Delaney | Lujan | Taylor |
| Duncan, Tenn. | Marlenee | Treen |
| Fascell | Miller, Ohio | Young, Fla. |
| Flynt | Mitchell, Md. | |

NOT VOTING—86

| | | |
|---|---|---|
| Ambro | Evans, Ind. | Nolan |
| Baldus | Fithian | Ottinger |
| Baucus | Flowers | Pattison |
| Beard, R.I. | Ford, Tenn. | Pressler |
| Bedell | Fraser | Preyer |
| Beilenson | Frey | Quie |
| Blanchard | Harrington | Richmond |
| Blouin | Hefner | Risenhoover |
| Bonior | Hightower | Roberts |
| Bonker | Holland | Rodino |
| Brown, Calif. | Holtzman | Rosenthal |
| Buchanan | Hughes | Rousselot |
| Burke, Mass. | Jenkins | Russo |
| Carr | Jenrette | Santini |
| Chisholm | Kasten | Sarasin |
| Clausen, Don H. | Krueger | Satterfield |
| | LaFalce | Scheuer |
| Collins, Ill. | Le Fante | Sharp |
| Cornell | Leggett | Shipley |
| Danielson | Livingston | Simon |
| Dellums | Lloyd, Calif. | Teague |
| Dent | McDonald | Tsongas |
| Derrick | Maguire | Waxman |
| Dodd | Martin | Whalen |
| Downey | Meeds | Whitten |
| Edgar | Mikulski | Wirth |
| Edwards, Okla. | Mikva | Young, Alaska |
| Evans, Colo. | Milford | Young, Tex. |
| Evans, Del. | Moffett | Zeferetti |

Mr. MARLENEE changed his vote from "yea" to "nay."

So the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## TENTH ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Public Works and Transportation, the Committee on Interstate and Foreign Commerce, and the Committee on Merchant Marine and Fisheries:

*To the Congress of the United States:*

I transmit herewith the Tenth Annual Report of the Department of Transportation. This report has been prepared in accordance with Section II of Public Law 89–670 and covers Fiscal Year 1976.

The Report covers activities of the Department during a period prior to the commencement of my term of office.

JIMMY CARTER.

THE WHITE HOUSE, *July 27, 1978.*

## SUGGESTED MEMBERS FOR DELEGATION TO SALT

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. HYDE. Mr. Speaker, Congressman RON SARASIN and I have given a great deal of thought to an appropriate congressional delegation to the SALT negotiations, and have a few suggestions to offer.

Certainly any delegation to SALT should be led by Congressman PEPPER, and the following Members' names suggest themselves as providing food for thought: PICKLE, PEASE, PIKE, ROE, STEERS, QUAYLE, and GINN.

As Vice Chairman, who else but our valued colleague HAM FISH?

We are sure any report submitted by this group would be digested by the Members very, very carefully.●

## AMENDMENT REQUIRING CONGRESS TO MAINTAIN A BALANCED BUDGET

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. HILLIS. Mr. Speaker, the results of my annual survey were recently completed and it was not surprising to find that the vast majority of respondents rated inflation as the chief problem the Congress should address. Although inflation is a problem from which none of us escapes regrettably, the Congress far from addressing this issue has contributed to it.

The Federal deficit is widely recognized as a major source of inflation, yet we continue to pass one inflationary measure after another. It has become obvious that we need some type of incentive to bring spending under control. For this reason, I became a cosponsor, as many of my colleagues, of legislation suggesting an amendment to the Constitution requiring the Congress to maintain a balanced budget. There are several such measures pending in the Judiciary Committee. Because I believe it imperative the Congress take action on this legislation, yesterday I took the unusual step of signing the gentleman from Ohio, Mr. LATTA'S discharge petition No. 7. Twenty-nine State legislatures have already petitioned the Congress to balance the budget. How long can we avoid addressing this issue head on? I would like to strongly urge my fellow colleagues to join me in signing this discharge petition. It is my understanding approximately 50 signatures have already been obtained since the petition was initiated this past week. The average American must live within his budget. Why should less be expected from the Congress? ●

## PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT DURING 5-MINUTE RULE ON FRIDAY, JULY 28, 1978

Mr. NEAL. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have permission to sit during the 5-minute rule on Friday, July 28, 1978, to hear testimony from the Chairman of the Federal Reserve Board.

No legislation will be considered and there will be no markups during this meeting.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## EXPORT-IMPORT BANK

Mr. NEAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12157) to amend and extend the Export-Import Bank Act of 1945.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. NEAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12157 with Mr. LONG of Louisiana (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, June 2, 1978, the bill had been considered as having been read and open to amendment at any point.

Are there any further amendments?

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: Page 5 immediately after line 6, insert the following new section:

SEC. 8. Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the 1961 Foreign Assistance Act as amended, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of non-nuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.

(b) section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in that report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the 1961 Foreign Assistance Act, as required by subparagraph (C) of this paragraph."

Redesignating the succeeding section accordingly.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 5, immediately after line 6, insert the following new section:

SEC. 8. Section 7(b) of the Export-Import Bank Act of 1945 is amended by striking out the second and third sentences thereof and by striking out "after receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination." and inserting in lieu thereof the following: "within sixty days of continuous session of the Congress after receipt of such report together with the reasons, the Congress fails to adopt a concurrent resolution disapproving such higher limitation. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and on the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 60-day period referred to in such sentence.".

Redesignate the succeeding section accordingly.

Mr. GARY A. MYERS. Mr. Chairman, what is at issue in this amendment is the question of executive flexibility in pursuit of policies which relate to Eximbank's ability to offer credits to the Soviet Union.

Presently, with respect to the Soviet Union, Eximbank has a $300 million maximum in credits that is available, and the President can only increase that by action in which he recommends to the Congress a lifting of the amount. The Congress would, therefore, then have to approve that action.

The effect of this amendment would be twofold. First of all, it would remove the current Stevenson amendment, which imposes a limitation with regard to the amount of credits that can be given in the area of development and production of fossil fuel energy.

More importantly, what the amendment would do would be to allow the President to offer as a "carrot" to the

Soviet Union the opportunity for increased credits above the currently authorized $300 million unless Congress disapproves. This does not in any way prevent Congress from disapproving the increases beyond the $300 million.

What I am trying to do in this area is to allow the President some flexibility so that, instead of acting only on the basis of reprisals when we are unhappy with the Soviet Union's action in international affairs, the President has the ability to offer incentives to the Soviet Union to proceed with policies which would be more in line with what we believe to be the best interests of the people in international situations.

The amendment does not in any way remove the requirements of the current law with respect to the Jackson-Vanik amendment. The Soviet Union would still have to be in compliance with that amendment. What I am trying to get at is that we should allow the President the ability to nudge the Soviet Union in the direction of compliance with Jackson-Vanik by being able to put a "carrot" before it and say, "Here are the items that are available."

The $300 million is available right now, and the Soviet Union has not picked it up. I think one of the reasons for that is that they see it as a maximum limit. There is no incentive for them to go in the direction of compliance with Jackson-Vanik if in fact, they are going to reach a maximum or ceiling under current law.

This amendment does not take away, as I say, the right to disapprove. The President has argued that he, in fact, does want flexibility—and I believe he does need flexibility—in some areas to offer "carrots" instead of only being in a position to use a stick and punish the Soviet Union if affairs are not going the way we think they should.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am just shocked that, at this stage in United States-U.S.S.R. relations, we would be considering this morning an amendment to relax the trade restrictions in this legislation with respect to the Union of Soviet Socialist Republics. It is clear that the Union of Soviet Socialist Republics has recently committed a flagrant violation of the Helsinki agreements. They have engaged in the most shocking conduct, the most cruel conduct, with respect to the dissidents within the Soviet Union. I am absolutely flabbergasted that this House would consider at this time that it is appropriate to relax trade restrictions and that we would consider that the proper response to that kind of action on the part of the Soviets is to signal the Soviet Union that we are willing to be more generous with them than at present.

Mr. Chairman, I therefore strongly urge that we defeat this amendment.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Mr. Chairman, I want to ask the gentleman if it is not his hope that the current increase in hostility between the Soviet Union and the United States is a temporary situation and that, further, the only response that the President now has that he is able to offer in direct response to international frustrations, regardless of how tense they are, is essentially a penalty, the stick effect?

If we read the amendment there is nothing in the amendment that permits the President to offer any increase in credits unless the Soviet Union is essentially in compliance with the Jackson-Vanik amendment. It does not remove the Jackson-Vanik amendment or its provisions.

Mr. Chairman, it is my hope that we find some mechanism—if it is not this mechanism, then some other appropriate mechanism—to move at least back to the stage that we were prior to the installation of the Jackson-Vanik amendment.

If we look at the statistics, they do in fact confirm the fears of many people that the bottom-line effect of these fixed restrictions has been to increase the burden and the pressure on Soviet citizens and decrease the emigration from the Soviet Union.

I in no way endorse those types of actions and situations that have recently been developing in the Soviet Union, but I only want this House and this Government to look at it in realistic terms. The Jackson-Vanik amendment with the current cap has not worked. It is time, I think, to give the President another tool. It does not force him to. I think we have to look at the record of this President. He has in fact indicated he is not going to be extremely lenient. It does provide a 60-day review. If we feel it is inappropriate and the Soviets are not moving in the proper direction internationally, we will have the final say. I want to be an instrument to finding a more appropriate response tool for this administration.

Mr. GREEN. Mr. Chairman, I first want to state that I am sure that the gentleman shares with me my shock at the recent actions of the Soviet Union. I never suggested otherwise. But I do want to suggest that this amendment can only be seen as doing something favorable for the Soviet Union, and I do not think that this is the time to do that.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I wish to compliment the gentleman in the well for pointing out, of course, exactly where we would stand on this amendment and that this is certainly not the time, of all times in the history of the relationship of the two countries, to signal a softening of a good will relationship through this type of signal to the Soviet Union.

While the proponent of the amendment may have had this in mind several weeks ago, that is one thing; but in the light of what the gentleman in the well has pointed out, and in the light of the activities in the last few weeks, to send this signal would be counterproductive to what the policy of the Federal Government, is at the present time.

Mr. Chairman, I join the gentleman in strongly urging the defeat of this amendment.

Just for the Members' attention and for their benefit, of course, the controlling point of view is the Jackson-Vanik amendment as far as the relationship with the Soviet Union is concerned. There is another section, in the bill which this amendment deals with, in which case, if the amount is over $300 million, it would have to come to the Congress for approval.

This amendment, of course, reverses that. The President could do it unless the Congress vetoed his action, more or less.

Therefore, Mr. Chairman, I strongly urge defeat of this amendment.

The CHAIRMAN. The time of the gentleman from New York (Mr. GREEN) has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. GREEN was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, of course, the timeliness of offering this amendment has been severely crippled. Perhaps if the Soviets had, in fact, taken different actions, certainly, in their internal affairs over the last few weeks, I would have felt more comfortable. The fact of the matter is that I might have been precluded by a more senior member of the House moving in this direction and bringing the amendment to the floor.

The facts are that Jackson-Vanik coupled with limits such as this cap in its present context, has not been working to the advantage of those people who want to emigrate.

I think we also have to address the question of the events of the last few weeks, as to whether they are just unfortunate developments or whether they are a signal for a long-term fight in which we are going to entrench ourselves and be in such a position that the only reaction we can make is to ask for international penalties of some sort.

Mr. Chairman, it seems to me that we owe it to ourselves to at least give consideration to move to a conference in which the wisdom of the House and Senate may or may not be exercised on this subject. However, if we take such an adamant view that we only want to try to invoke international policies with respect to the Soviet Union's domestic handling of their affairs through the stick and the penalty approach, then I think we should reject this approach.

I think it is necessary that there be a reasonably open mind with respect to what is the proper response to recent events. I disagree with the decisions that

they have made. I wish they had not made them. I think that if, in fact, the matters had gone the other way, which I think is the gentleman's desire and every other Member's desire, that the amendment may have gone through here rather easily.

However, Mr. Chairman, I did not think I could realistically withdraw the amendment. It was on record that I intended to offer it. If I had withdrawn it, I think it would have been a signal that I endorsed the idea that we should only penalize or that I felt the current situation is a long-term trend and that we should use no other tools than reprisals and penalties.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I completely agree with the gentleman in the well in his opposition to the pending amendment.

It seems to me that the way the Soviets would regard passage of this amendment and the way they would use it—as they did the statement of Ambassador Young—would be very detrimental to any relationship we might be able to build in the future. I think it is a very inappropriate time now. It might make some sense at some other time, as has been pointed out before; but I think at this time it would definitely be used by the Soviets for their own devious purposes.

Again, Mr. Chairman, I commend the gentleman for his statement.

Mr. GREEN. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO).

Mr. NEAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like to say that I think the gentleman from New York and the gentleman from Ohio made the case in their very excellent way. I think the gentleman from Pennsylvania is attempting to deal with a very serious problem, but it just seems, as the gentleman who preceded me has said, that this is the wrong time to send this kind of signal to the Soviet Union. I would like to commend the gentleman for his thoughtfulness, but I certainly would urge defeat of the amendment.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I will engage in colloquy because it is the gentleman's committee which has dealt with the Jackson-Vanik amendment what its impact has been with regard to Eximbank activity. Does the record show that Jackson-Vanik has in fact improved the record of immigration from the Soviet Union? It is my understanding that was the objective of it. Does the record prove that?

Mr. NEAL. I say to the gentleman that I personally do not think the Jackson-Vanik has been very helpful. Our committee does not deal with Jackson-Vanik, so I could not give the gentleman a committee position on it. It is my understanding, and I would agree, that we should reconsider that, probably next year. I would think this would not be the time to take it up in this highly charged election year, but I think we should reconsider that, and a lot of these other problems also. I am just saying that now is the wrong time to send that kind of signal to the Soviet Union.

Mr. GARY A. MYERS. On the point that now is not the time, a critical decision is to be made. It seems to me that if we are setting ourselves for a long, entrenched action-reaction type of international situation, the attempt to deal with Jackson-Vanik and its true impact later down the road may be much more difficult than it is today.

I think what we have right now is a record which has been established with fairly amicable relationships between the Soviet Union and ourselves on a relative basis over the last few years. We see that provision has not worked. If it in fact turns out, as it probably will, we can use only the stick approach, then the argument for change might be much weaker a year from now. That is why I think it is important that we consider seriously whether now is the time we give the President a little bit of working room in his dealings with the Soviet Union, just enough so that he can see whether the Soviets are going to return to a more favorable situation in this regard. If it does not happen, he does not have to recommend it. In our interpretation, if a request from him is inappropriate, we can disagree.

But, I cannot accept the argument that we must wait another year. I think the next year is critical in the relationships between the Soviet Union and ourselves. I cannot endorse what they have done, but I cannot ignore the fact that we have a serious responsibility. In my opinion, unilaterally we have been able to affect the Soviet Union's response in respect to the request for immigration. Now, we cannot just cast aside the full impact of that with some very narrow assessment of this important U.S. activity.

I think we have to approach this over a longer time. Certainly, by the time the President would come back for any request it would give us another 3 or 4 months, and another 60 days after that to attempt to evaluate the situation.

Mr. NEAL. Has the President requested this kind of authority?

Mr. GARY A. MYERS. As the gentleman well knows, the President is not going to a second-term Republican Member and ask him to offer this amendment.

Mr. NEAL. Did he ask anyone?

Mr. GARY A. MYERS. I think if the gentleman looks at the President's public requests, he certainly has asked the Congress for more flexibility in the day-to-day dealing in international affairs. I see that signal clearly. I would hope that the majority party would see that signal clearly. He is not the President of my party. I could accept the majority's criticism if in fact we were one administration back and the President was a Republican. I have heard what he has said. He has said, "Don't put any crippling amendments on these international institutions. Give me flexibility."

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, this is all very good discussion, but I hope the gentleman from Pennsylvania realizes that the Jackson-Vanik amendment does not come in original jurisdiction out of our committee. It comes from the Ways and Means Committee, the Tax Act of 1974. We added the Eximbank on to that, but if the gentleman wants to look at the Jackson-Vanik amendment, this is the wrong format for that.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina has expired.

(At the request of Mr. GARY A. MYERS and by unanimous consent, Mr. NEAL was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, in response to the gentleman from Ohio it seems to me that just by the nature of the subject matter that we are dealing with here, we are involved in the implication of the Jackson-Vanik amendment.

The committee certainly had a bill under its jurisdiction with which they could have made a response. Now whether it comes from another committee or not, I am not on the gentleman's committee, but I cannot ignore the impact of it. The bottom line of this amendment is that it does not change Jackson-Vanik. It changes the method in which the President can increase the credits to the Export-Import Bank, and that is specifically under the jurisdiction of the gentleman's committee and I think specifically his committee should have asked why that $300 million has not been picked up by the Soviet Union and why they have not improved with respect to Jackson-Vanik.

It would have been appropriate for the gentleman's committee to have considered it and it is somewhat inappropriate for his committee to put blindfolders on and say that since it is in the original jurisdiction of another committee the gentleman's committee should not deal with it.

We can involve ourselves significantly with the impact of it in international relations. If the Banking and Currency Committee does not want to do that, that is fine. But I think they have the opportunity to wedge in and have some little bit of leverage in that area.

I think the comments of the gentleman from Ohio are somewhat incorrect as to the involvement of this committee. That is a difference of opinion between him and me. I am somewhat on quicksand here, but I wanted to bring to the attention of the Members that Jackson-Vanik is not working, the $300 million has not been picked up by the Soviet Union, and

the President is not probably going to ask for anything above it because there is not an incentive.

I do not know whether this is an appropriate solution.

Mr. NEAL. I thank the gentleman from Pennsylvania for his comments.

I would still have to urge defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: Page 5, immediately after line 6, insert the following new section:

SEC. 8. Section 2(B) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new section:

"(9) Maintenance of free enterprise requires that foreign producers not have access to U.S. financing and markets on terms better and cheaper than those available to U.S. producers. It is the policy of the United States not to provide financing at subsidy rates to foreign industries which directly compete with the products of American firms and their workers.

"The bank shall not extend, or participate in the extension of loans, guarantees, insurance or credit in connection with establishing or expanding production of any commodity unless the President certifies in a report to Congress based on statistical findings set forth in the report, that the commodity is not in surplus and its import into the United States will not cause substantial injury to U.S. firms and employees producing the same, similar or competing commodity."

Mr. NEAL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Maryland (Mr. LONG).

Mr. Chairman, I personally think that this would be the most damaging amendment that we will deal with today. It could be very costly to businesses in this country, to profits in this country, and to our capacity to produce.

The fact of the matter is that it does not accomplish anything. As the gentleman from Maryland (Mr. LONG) just said, if we do not finance the steel plant in Trinidad, Tobago, and if we do not finance some of the other projects in some of the other countries of the world, that there are other countries who will. The world is full of competition for our markets and they will be happy to do it.

In fact, since the gentleman mentioned the steel plant in Trinidad, Tobago, let us talk a little bit about it.

The Government there came to the Export-Import Bank some time ago and asked for financial assistance for this project. The Export-Import Bank, because they were worried about the competitive situation, as they are required to be worried about it in the making of their loans, therefore refused. So the Government of that country went to the French, they went to the Germans, and so on, to build the plant which it planned to build, with $60 to $70 million out of those other countries. Now the Export-Import Bank is saying that the plant will be built anyway, so why do we not let our own exporters in on some of this business since we are running a $20-billion-a-year deficit, and they agreed. And there has been no objection, because the majority of the people in this body recognized the fact that this kind of proposal has no effect.

The project goes ahead anyway. All we do is lose the jobs and profits in this country.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I will be happy to yield to the gentleman.

Mr. LONG of Maryland. How does the gentleman meet my argument that most of this steel will be sold in the United States, not in the countries that are building the plants, and the only way they can guarantee access into the U.S. market is to get an Eximbank loan, as a result of which they can always say, if we do not go ahead, if the steel is prohibited from coming into the United States, then we will not get our money back. So they have to have the Eximbank loan in order to make the future of that steel firm in Trinidad a viable one. How does the gentleman answer that?

Mr. NEAL. Let me ask the gentleman, has that happened before? Has anyone conditioned the repayment of an Eximbank loan upon entry into our markets?

Mr. LONG of Maryland. That is exactly it. We have been building steel capacity all over the world, and we are ruining our steel industry.

Mr. NEAL. What I am saying to the gentleman is I share his concern. I do not want to see this happen, but what I am trying to say is whether we make the loan or not makes absolutely no difference. The plant is going to be built anyway. The only difference it makes is we give that business to the West Germans, the French, the Japanese, or someone else.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. NEAL. I will be happy to.

Mr. LONG of Maryland. I do not know how far along this steel plant is.

Mr. NEAL. It is about $70 million along.

Mr. LONG of Maryland. All right. What happened was they got some sort of a wink or a nod to begin with that the Eximbank would help finance it and that would guarantee the access to U.S. markets. If we slam the door on this, we shall teach them a lesson in the future and there will not be any more of this. That is what I want to do. I want to tell the developing world, listen, no more of this stuff of conspiring to create production that is going to come into the U.S. market, with U.S. investment.

The Iron and Steel Institute has just announced that 45 percent of imports of steel into the United States in May are not from Japan, not from Europe, but from the developing countries, mostly plants that the Eximbank helped to build and that is guaranteeing their production, because we cannot slam the door on their imports without their saying, oh, we will not get our investments back.

Mr. NEAL. That has not happened, I will say to the gentleman. I think it is pure speculation. It may or may not happen. It could happen, I guess, but it has not happened. We get the full faith and credit of the government that we are doing business with. It is conceivable that they would default on a loan. As the gentleman knows, the loan repayment history for Eximbank is just excellent. There have been very few defaults. The Eximbank, as the gentleman knows, makes money for us.

Mr. LONG of Maryland. If the gentleman will yield, it is an absolute fact, and there is no question about it, that the steel industry in the United States is hurting because of vast imports from the developing world. That is not speculative; that has happened.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 3 additional minutes.)

Mr. NEAL. I would just like to say to the gentleman that I share his concern, but this amendment in this bill would do nothing about it. That is the point, I will say to my friend. It does not do anything. All it is going to do is hurt our exports. It is not going to do anything about imports. The gentleman is concerned with these imports. I would argue with the gentleman if he proposes protectionist measures to keep the imports out that we must move very cautiously in that area. But the fact is that this amendment—the gentleman is concerned about imports—would do nothing about imports.

Mr. LONG of Maryland. Let me say it will do something about imports because there are plans under way to build as much as 500 million tons of steel capacity in the developing world. Whether they all will get built or not, I do not know. A minimum estimate is a steel capacity equal to the capacity of the United States, and that cannot be built unless it is known that we are going to be subsidizing the production facilities, and that having subsidized the production, we will not slam the door against imports. They are counting on the steel coming into the United States. They would be foolish to build that steel capacity unless they could bring it into the United States, because none of the other countries—Japan, Germany, and the countries helping to build those plants in Trinidad—would help in the building of those steel plants in their countries. They are counting on it coming into our country.

Mr. NEAL. But this amendment does not speak to that problem.

Mr. LONG of Maryland. I have to disagree with the gentleman. I think it goes precisely to that problem. I am for free enterprise. I do not believe we should be subsidizing even in the United States, but certainly not our foreign competition.

Mr. NEAL. Let me say to the gentleman the Eximbank does not really subsidize production in other countries. There is not a dollar of Eximbank funds that leaves this country. It all finances a product to be exported. There is no subsidy of other countries. This is not an aid bill, as the gentleman knows.

This is a trade bill. This means jobs and profits for people in our country.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield further, the statement of the head of the American Iron and Steel Institute before my Hearing definitely stated that in his opinion this is a subsidy because it provides interest rates backed by the U.S. taxpayer that are not available to U.S. firms to help build domestic production; so we are giving better terms to foreign producers of steel than we are providing to our own steel industry. That is why for years people have been saying the American steel industry consists of a bunch of antiquated rust pots.

Mr. NEAL. These interest rates are market-related rates. Last year their profit was something like $50 million. They have to make money. They have to pay their own way. They do not come here for an appropriation to run their business. It is a moneymaking business. They offer rates that are competitive to what other exporting nations are offering. Their rates are sometimes higher, sometimes lower than domestic rates, depending on the rate in competition and the interest rate in effect.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina (Mr. NEAL) has expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 5 additional minutes.)

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield further so I could respond on that. If it were true that this were purely competitive, there would be no need for an Export-Import Bank at all.

In fact, the Wall Street Journal has a very interesting article in today's paper which states that the Export-Import Bank cannot improve the balance of payments and bolster the dollar in the short run.

Mr. NEAL. No one claims they are doing it in the short run.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield further, it states:

WE SHOULD RESTRAIN U.S. FINANCING OF EXPORT PROGRAMS

(By Stephen H. Goodman)

The essence of the economic policy problem facing America is that every economic interest group—agriculture, labor and the business and financial communities in particular—recognizes the need to reduce government spending but continues to support programs that serve its special interests. How many captains of industry and finance, for example, preach the virtues of the free enterprise system four days a week and spend the fifth day in Washington seeking greater government assistance?

A striking example of the business and financial communities acquiescence to the growth in government spending is their support of the House bill to extend the life of the Export Import Bank and, in effect, to increase its commitment authority by 47% to nearly $60 billion. Despite the increasing interest at least in the concept of reducing government spending (and the administration's commitment to zero-based budgeting) this year's review of the bank was much less thorough than the last examination in 1974. At that time, a number of very serious questions were raised—some in the editorial columns of this paper—about the economic rationality of the very existence of the Bank.

Apparently the huge trade deficit and the weakening dollar have muted criticism of the Export Import Bank as well as of other export promotion programs. Indeed, the Carter administration is planning to expand and enlarge government export promotion efforts as a key element in its program to defend the dollar despite the near universal recognition by economists of every persuasion that these efforts cannot significantly improve the balance of payments.

Clearly the Export Import Bank cannot improve the balance of payments and bolster the dollar in the short-run. Any exports stimulated through the Banks programs—both monetarist and Keynesian economists believe the volume is not likely to be large, although for different reasons—will generally only be shipped after a lag and will generate the bulk of their balance-of-payment receipts only when the credits are repaid, often many years later. Thus, the positive effect on the trade account—if any—is largely offset by the debit on capital account.

To the extent that the Bank's credits do not stimulate additional exports they will have an adverse effect on the short-run balance of payments by contributing to the capital outflow. Export Import Bank credits consequently may actually accentuate the sharp swings in U.S. balance-of-payments performance and the value of the dollar by shifting receipts from periods of balance-of-payments stingency and a depreciating dollar to periods of balance-of-payments strength and a rising dollar.

This phenomenon is clearly illustrated by the recent Bank decision to provide a credit to All Nippon Airways to finance two Boeing 747 SR aircraft and similar loans and guarantees to other major foreign airlines including the official airlines of countries with growing trade surpluses such as Lufthansa and JAL. All Nippon, spurred by Japanese government efforts to increase imports from the United States, had already decided to purchase these aircraft and could have easily arranged the necessary financing in the private market or through the Export Import Bank of Japan.

The Export Import Bank, however, taking advantage of its preferred access to capital as a government agency, undercut the competition from foreign and U.S. private lenders, offering the Japanese an 8% credit for a total term of eight years—far more favorable terms than are available to most private borrowers. Thus, the Export Import Bank was successful—successful in offsetting the favorable short-term balance-of-payments impact of the export sale while adding to the government deficit, thereby crowding out private capital and exacerbating inflationary pressure.

Other examples of the Bank's "successes" include: a credit to Japan to finance the sale of U.S. cotton to be made into textiles, much of which will be exported to the United States; a credit to Algeria to finance the transportation of liquid natural gas being brought to market at prices substantially above the controlled domestic price and above the price we are willing to pay for more secure Mexican gas; a credit to Jamaica to finance a steel mill the bulk of whose output will be exported to the already troubled U.S. market.

Those who benefit from the Bank and other export promotion programs sometimes justify their call for increased government support by citing the need to meet "unfair" officially supported foreign competition. But if other countries wish to inflate their governments' deficits in order to give away their exports, it's no justification for us to do the same.

It is interesting to note that among the major countries, Germany and Switzerland provide the fewest officially supported export credits and have the least costly export promotion programs, yet these are countries with strong and appreciating currencies. The United Kingdom, on the other hand, has the most costly export promotion program but faces periodic balance-of-payments crises.

Clearly, the best way to effectively meet foreign competition is to provide a superior product at a competitive price. This requires an environment conducive to growth with price stability, an environment in which government support for programs of questionable value is substantially reduced, including export promotion programs such as the Export Import Bank.

This call for restraint in the government export promotion effort is not a call for the total abandonment of the Export Import Bank and their government programs where they serve justifiable and well defined purposes. The Bank can play an important role, for example, in assuming—using insurance principles—those reasonable commercial and political risks that the private sector is unable or unwilling to undertake.

I say if we are going to subsidize, let us subsidize our own steel industry to compete with these countries, not put up import barriers and not subsidize our foreign competition.

Mr. NEAL. If the gentleman wants to subsidize some domestic industry, that is certainly an interesting idea and we ought to consider it in the proper committee and with proper hearings, but that is not what we are here for today.

The language of the amendment is extremely vague. It says, "not in surplus." Does that mean scarce or not superabundant? We do not know what it means. Do we ask the President to make the determination? How?

Markets change quickly. Take the example of a steel mill. It takes several years to plan and build a steel mill. Steel may be in surplus under the terms of this amendment today, but a year from now we may have a great shortage of steel. I do not know what is going to happen. I do not think anybody else does, either.

The amendment requires a Presidential determination for every single transaction in which the Eximbank engages. In the course of our hearings, the major complaint that business people voiced about the Eximbank is that they are not as competitive as other financial lending institutions that they compete with because of bureaucratic delays and paperwork and so on.

This would only add another layer to that. What we will be doing by this

amendment is sending a signal to the rest of the world that, yes, in fact, we have finally decided we are going to go protectionist, and surely the gentleman knows that would invite retaliation from all around the world.

If we adopt this amendment, we would lose $1.6 billion in exports, which translates into a loss of between 50,000 and 90,000 jobs in this country, not to mention the profits.

That is not to mention the fact that it would exacerbate our trade deficit and weaken the value of the dollar. I just say that it is a very ill-advised amendment, and I urge its defeat.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield further?

Mr. NEAL. I will be happy to yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, whatever the Export-Import Bank says or whatever it pretends to mean, it is clear that most economists take a different position. The Wall Street Journal, which is no radical outfit, states this: Most economists agree we do not improve our balance of payments or our exports by subsidizing this type of industry. For one thing, it just gives out more money and more credit, and that does not improve our balance of payments; we just get more I O U's.

We have enough of those I O U's already. What we need to do is to improve our own industries to help us with our balance of payments. We do not get this with the Export-Import Bank, and these credits are given out at low interest rates.

The senior vice president of the American Iron and Steel Institute has said that these "Exim loans are at subsidized interest rates," and that they are subsidized loans to foreign producers.

Mr. NEAL. He is simply mistaken in that.

Mr. LONG of Maryland. Mr. James Collins of the American Iron and Steel Institute says that these "Exim loans are at subsidized interest rates in terms of the ability of our steel companies to obtain such loans * * *" That is the position also of the executive committee of the steel caucus.

Mr. NEAL. Mr. Chairman, will the gentleman answer this question for me?

I have talked to some members of the steel caucus, and I was informed they did not endorse this proposal. Is that not correct?

Mr. LONG of Maryland. I said that the executive committee voted for this.

Mr. NEAL. The executive committee voted in favor of it?

Mr. LONG of Maryland. They voted in favor of it.

Mr. NEAL. Was this proposal not put before the entire steel caucus for its consideration and they refused to endorse it?

Mr. LONG of Maryland. No, this was not put before the whole caucus. It was put before the executive committee, and the executive committee voted to support it.

Mr. NEAL. Whatever the vote was, it did not include the rest of the members.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina (Mr. NEAL) has expired.

(On request of Mr. LONG of Maryland, and by unanimous consent, Mr. NEAL was allowed to proceed for 3 additional minutes.)

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield further, other supporters of the amendment are the American Textile Manufacturers Institute, the International Ladies Garment Workers, the Amalgamated Clothing and Textile Workers, and the American Federation of Labor-Congress of Industrial Organizations. Translated, that is the AFL–CIO. It also supports this amendment.

I repeat that this amendment is not protectionist; it is the opposite. I believe that protectionism is subsidy, and I am against subsidy of our own industry and of foreign industry, especially when foreign industry hurts U.S. industry.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Pennsylvania.

Mr. BROYHILL. Mr. Chairman, is the gentleman aware of the action that was taken a year or so ago when American taxpayer money was used to rebuild the Egyptian textile industry? Is he not familiar with that transaction that took place a year or so ago?

Mr. LONG of Maryland. Mr. Chairman, if the gentleman from North Carolina will yield further, I understand the gentleman is referring to the Egyptian textile industry, and I was not aware of that.

Mr. BROYHILL. In any event, this is a perfect example of what the gentleman is talking about, where American taxpayers' money is being used in a way that would have a detrimental effect on domestic industry.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I will just say to my friend, the gentleman from North Carolina (Mr. BROYHILL) that he does make a point in this regard. and he is absolutely right. Supposedly, and I am not sure that they did, a year or two ago Egypt did get an Export-Import Bank loan for textile machinery to improve their textiles.

The point the gentleman in the well is making in opposition to this amendment is that if we did not give it to them, the Germans would have, and they would have built that textile plant in the same way and at the same time, one way or another. I do not know how that would have come out financially, but we could not have stopped that plant from being built at that particular time. That is the point.

Mr. Chairman, we have listened to the gentleman from Maryland (Mr. LONG) for quite awhile, but when the gentleman gets on the subject of banks, that is another matter. But here, on the subject of the Export-Import Bank, when he tries to put in the type of restrictions he is talking about, regrettably, he is being counterproductive.

I do not know how many Members have been listening to the gentleman in the well, the gentleman from North Carolina (Mr. NEAL), but I submit that what the gentleman from Maryland (Mr. LONG) is doing is costing Americans jobs by his amendment. I am not just saying that. The only other authority we can appeal to is the Export-Import Bank people themselves. If they are not the authority, nobody is.

They tell us that the Long amendment will cost 65,000 American jobs. That is 140-some jobs in every congressional district in the country. Not only that, but it will cost us $1.8 billion in trade. Yet here we are talking about the extent of our problems with balance of payments and all the rest of it. That is the point I think the gentleman from North Carolina (Mr. NEAL) is making.

I would say further to the gentleman that we could never convince the gentleman from Maryland (Mr. LONG) in our arguments with him, because I have listened to him before.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina (Mr. NEAL) has again expired.

(On request of Mr. STANTON, and by unanimous consent, Mr. NEAL was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, if the gentleman will yield further, and if I may continue, as I was saying, I think we ought to get on with this question, because I am convinced we will never convince the gentleman from Maryland (Mr. LONG). I admire the gentleman for defending his position, but I have heard it 10 times before. I have heard it all over and over as to who is in favor of that position and who is not.

Mr. Chairman, I say that we should get on with the vote here. This amendment is just counterproductive and will cost American jobs. That is why the State Department, the U.S. Government, the Commerce Department, the Export-Import Bank, and industry, and, hopefully, labor, are opposed to such an amendment.

Mr. NEAL. That is a good point, I would say.

Mr. Chairman, I would like to point out, along these same lines, that the gentleman has listed a long list of supporters. One of them is the AFL–CIO.

Mr. STANTON. Mr. Chairman, will the gentleman yield on that point?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, we have heard about this steel caucus. I stand here and I mention this point: Within 120 miles of my hometown and within my congressional district and the surrounding area is 80 percent of the steel-producing efforts of the United States of America. Three out of five of the largest corporate headquarters are surrounding my area. Do the Members think I would stand up here and fight

against this amendment if I thought it would cost American jobs? Why, I would be absolutely crazy to do that. I say, let us get down to the fact that the gentleman from North Carolina pointed out. It is absolutely counterproductive.

Mr. NEAL. Mr. Chairman, the gentleman mentioned earlier that he thinks the Export-Import Bank is financing 25 percent of the world steel production. Is that the figure?

Mr. LONG of Maryland. If the gentleman will yield, it has financed 50 percent of the steel production capacity in the underdeveloped nations of the world. In other words, $4.6 billion has been financed by all of the various banks of the Export-Import Bank. The Export-Import Bank, $2.6 billion, which is more than half. Thirty-seven million tons of steel capacity in the developing countries.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina (Mr. NEAL) has expired.

(On request of Mr. LONG of Maryland and by unanimous consent, Mr. NEAL was allowed to proceed for 2 additional minutes.)

Mr. NEAL. Mr. Chairman, let me say to the gentleman that the Bank tells me that they have financed about 2 percent of foreign steel plants built in the early 1950's. I guess we will have to try to get at the bottom of the figures.

There is one other point, and that is that the Bank is already required to take into account the effect those exports will have on domestic jobs and profits. They have a system which works. If it can be demonstrated that the costs outweight the benefits, then they should not be making the loans.

Mr. Chairman, I would just say that we should move toward freer and more open trade. Let us defeat this amendment.

Mr. LONG of Maryland. If the gentleman will yield further, I think I made my argument, but let me respond to one point that the gentleman from Ohio made.

The gentleman from Ohio said the Export-Import Bank claims that my amendment is going to cost a lot of jobs. Is the gentleman claiming, then, that the various union organizations are conspiring with CLARENCE LONG to cost their industries a lot of jobs?

The International Ladies Garment Workers, the Amalgamated Clothing and Textile Workers, the AFL–CIO, the American Iron and Steel Institute—all of those labor organizations—apparently do not agree with the Export-Import Bank that my amendment is going to cost a lot of jobs. On the contrary, they think, and they have told me overwhelmingly, that it is going to save jobs.

We have been using American taxpayers' money to export jobs to other countries. Incidentally, once we export these jobs to other countries, the firms, once they get their money abroad, they do not pay any more income taxes until they bring their money back into this country. The figures recently released show that 150 corporations are paying more income taxes to foreign countries than they are paying to the United States.

Mr. NEAL. Mr. Chairman, would the gentleman like to apply that principle to our exports if he had the oportunity?

Mr. LONG of Maryland. Only the subsidized exports of the American taxpayers.

Mr. NEAL. Mr. Chairman, I urge the defeat of the amendment.

● Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Maryland. I voted against the insertion of language similar to this during the foreign operations appropriation markup. Placing restrictions on the loan and financing actions of the Export-Import Bank, which on the surface appears to benefit our domestic industry, would on an overall basis, do more harm than good. Allow me to explain.

First. The Eximbank is unique among export credit agencies, because its mandate requires it to support projects in which it has a reasonable assurance of repayments on all loans. For this reason, the projects it seeks to fund are generally very desirable to finance. The projects are as attractive to other countries as to the United States. Therefore, if they are not funded by the United States, they will most certainly be taken up by other countries.

In other words, the withdrawal of U.S. funding does nothing to stop completion of a potentially harmful steel mill or sugar processing facility in another country. The potential of the projects to inflict damage to U.S. industry exists regardless of whether or not we fund the project. And the benefits that would accrue from the purchase of American machinery, construction material, and the other necessary means to implement the projects would be lost by the rejection. Such action would further escalate the already unprecedented balance-of-payments deficit—a deficit of $31.5 billion in the international merchandise account.

Second. The Eximbank estimates that similar but less restrictive language, section 508, which appears in this year's foreign assistance appropriations bill, could cost the United States $750 million to $1 billion in exports by the year 1980. The Department of Labor estimates that every billion dollars in exports creates 40,000 domestic jobs. These jobs would be sacrificed to protect other jobs which for a variety of reasons may be unsavable. The crucial question of whether the U.S. employment generated by the exports required is greater than the potential U.S. employment lost cannot be addressed if Mr. Long's suggested language is adopted. The anticompetitive nature of the amendment will drive up prices on the affected commodities, thus fueling inflation. If the amendment is adopted, we may be saving our face, by cutting off our nose.

Third. Most importantly, the restrictive approach as set forth by Mr. Long would hurt the U.S. bargaining position in achieving an effective solution to overcapacity and oversupply in the international market. The only way to get a grip on this problem is for all of the international export credit agencies to get together and take multilateral action against the creation of overcapacity. It makes little sense to stop the Eximbank from funding projects as long as other nations are eager to take our place in these projects. All nations with such programs must show restraint before a solution can be found. For the United States to pull out of projects which other nations are willing to fund constitutes unilateral disarmament of a sort. It gains us nothing.

For these reasons, I urge rejection of the amendment offered by the gentleman from Maryland.●

● Mr. SEIBERLING. Mr. Chairman, while I share the concerns that this amendment purports to deal with, it seems to me that the conditions it would impose are so rigid as to undermine the ability of the Export-Import Bank to function. There is little doubt that the Export-Import Bank has on occasion been used to facilitate the construction of foreign plants which have significantly undercut domestic American industries. On the other hand, in most cases, the plants would have been built anyway, with or without Export-Import Bank or American participation, so that the loss of American jobs would have taken place in any event. Frequently the only way that American companies have been able to preserve some of their business in various foreign countries has been through the construction of a plant in such countries.

My criticism of the Export-Import Bank is that it has sometimes been used to supply credits for the construction of facilities abroad, even though the private sector, either in this country or the foreign country, was able and willing to supply the necessary financing. I believe that this is the kind of situation in which we should be restricting the Bank's role, but not by the unrealistic and crippling restrictions contained in the amendment before us.●

● Mr. MICHEL. Mr. Chairman, despite the very sincere and well-intentioned arguments of the gentleman from Maryland (Mr. LONG), I am not so sure his amendment is in the best interests of the American working man or the American economy.

I agree with those who may argue that it is our duty to see to it that American industry and the American economy do not suffer from transactions made by the Eximbank. However, I do not believe we accomplish this by passing legislation that is ambiguous, needlessly restrictive and probably, in the long run, capable of bringing about precisely those adverse economic effects it seeks to avoid.

Under current law, the Eximbank Board of Directors is required to "take

into account any serious adverse effect of (a) loan or guarantee on the competitive position of U.S. industry * * * and employment." If Eximbank is to be required to consider such facts, the existing statutory language would seem preferable.

The amendment of the gentleman presumably would focus on whether a particular commodity was in surplus at the time the transaction was authorized. Even assuming that we can determine whether something is "in surplus on world markets" I question whether we should impose restrictions on proposed transactions unless the surplus condition was likely to exist at the time the exported productive capacity was "on line."

Many of the transactions financed by Eximbank involve construction periods of 2 or 3 years, during which time no increased productive capacity would exist from the export. During this period, there may be occasions in which substantial new demand can reasonably be projected.

An amendment of this nature is unnecessarily restrictive. Present language permits Eximbank to examine the impact of the transaction on U.S. industry and employment as a whole and not just the impact on "producers of the same, similar or competing commodities."

As I understand, it is the present Eximbank practice to examine two important factors:

A. Would the absence of Eximbank support for the transaction reduce the potential for adverse impact, and

B. Would the U.S. economy receive a net benefit if the transaction goes forward (in other words, is the U.S. employment generated by the export greater than the potential U.S. employment lost).

Since all Eximbank money must be spent in the United States, buying U.S. equipment and supplies, Eximbank loans stimulate additional export markets for U.S. goods, above and beyond the value of the loan itself. Preliminary analysis of projected fiscal year 1979 activity indicates that approximately 20 percent of potential Eximbank activity will involve commodities that arguably have "surplus" world capacity at present. If only half of these projected transactions were prohibited by this amendment, Eximbank authorizations alone could be reduced by $400–$500 million per year. This could result in a reduction in U.S. exports of up to $1 billion per year.

Mr. Chairman, adoption of this amendment will inhibit our exports. It is one more example of an antiexport policy. Business Week recently described the United States as "The Reluctant Exporter." We had a record trade deficit of $31.5 billion in 1977, and the first quarter of 1978 set still another record with an all-time high deficit of $11.2 billion for January–March 1978. While our trade deficit rises, and an administration task force is trying to come up with ideas for expanding exports, this proposal adds still another new obstacle to exports and exporters.

The issue is not whether projects abroad are going to be brought to fruition. Competitive equipment and financing are available from other countries. The question is whether the United States will get a share of the sales and jobs that go into building new facilities that will be built in any event.

In summary, Mr. Chairman, there is no apparent guarantee that any protection will be accorded any U.S. commodities through this amendment.

There is a very real possibility that other industries and the economy in general will be seriously harmed by this approach.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and on a division (demanded by Mr. LONG of Maryland) there were—ayes 2, noes 13.

Mr. LONG of Maryland. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 607]

| | | |
|---|---|---|
| Andrews, N.C. | Frey | Preyer |
| Armstrong | Harrington | Quie |
| Ashley | Harsha | Roberts |
| Blanchard | Heckler | Rodino |
| Brademas | Howard | Rousselot |
| Burke, Mass. | Jenkins | Runnels |
| Burton, John | Jenrette | Ruppe |
| Burton, Phillip | Jordan | Russo |
| Chisholm | Kasten | Santini |
| Clay | Kastenmeier | Sarasin |
| Collins, Ill. | Krueger | Satterfield |
| Conyers | LaFalce | Scheuer |
| Danielson | Le Fante | Seiberling |
| Davis | Leggett | Shipley |
| Dent | Livingston | St Germain |
| Derwinski | Lloyd, Tenn. | Teague |
| Diggs | McCloskey | Tucker |
| Drinan | McDonald | Udall |
| Eckhardt | McKinney | Vento |
| Evans, Ind. | Maguire | Waxman |
| Fish | Mathis | Whalen |
| Fisher | Meeds | Wright |
| Flowers | Milford | Young, Alaska |
| Ford, Tenn. | Mitchell, Md. | Young, Tex. |
| Fraser | Nolan | |

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. LONG of Louisiana, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12157, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 358 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Maryland (Mr. LONG) for a recorded vote.

Mr. LONG of Maryland. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 199, not voting 36, as follows:

[Roll No. 608]

AYES—197

| | | |
|---|---|---|
| Abdnor | Gephardt | Murtha |
| Addabbo | Gilman | Myers, John |
| Akaka | Ginn | Myers, Michael |
| Ambro | Gonzalez | Natcher |
| Ammerman | Goodling | Nichols |
| Anderson, Calif. | Grassley | Nix |
| | Gudger | Nolan |
| Andrews, N. Dak. | Hagedorn | Nowak |
| | Hall | Oberstar |
| Applegate | Hammer-schmidt | Ottinger |
| Armstrong | | Panetta |
| Ashbrook | Harkin | Perkins |
| Bafalis | Harsha | Pickle |
| Bauman | Hawkins | Pike |
| Beard, R.I. | Heckler | Poage |
| Benjamin | Hefner | Pressler |
| Bennett | Heftel | Quillen |
| Bevill | Hightower | Rahall |
| Bowen | Hillis | Rangel |
| Breaux | Holland | Regula |
| Brooks | Hollenbeck | Rinaldo |
| Brown, Calif. | Holt | Risenhoover |
| Broyhill | Horton | Robinson |
| Buchanan | Howard | Roe |
| Burke, Fla. | Huckaby | Rogers |
| Burleson, Tex. | Hughes | Rooney |
| Burlison, Mo. | Ichord | Rose |
| Burton, John | Ireland | Runnels |
| Byron | Jeffords | Ryan |
| Caputo | Jones, N.C. | Santini |
| Carney | Jones, Tenn. | Satterfield |
| Carter | Jordan | Schulze |
| Chappell | Kazen | Shuster |
| Clausen, Don H. | Kindness | Sikes |
| | Latta | Skelton |
| Cleveland | Lederer | Slack |
| Cochran | Leggett | Snyder |
| Cohen | Lent | Spellman |
| Coleman | Levitas | Spence |
| Cornwell | Lloyd, Calif. | St Germain |
| Cotter | Long, La. | Staggers |
| Coughlin | Long, Md. | Stangeland |
| D'Amours | Lott | Steers |
| Daniel, Dan | Lujan | Stratton |
| Daniel, R. W. | Luken | Stump |
| Davis | McDade | Traxler |
| de la Garza | McEwen | Treen |
| Derrick | McKay | Trible |
| Dickinson | Madigan | Volkmer |
| Dingell | Mahon | Waggonner |
| Dornan | Mann | Walsh |
| Drinan | Marks | Wampler |
| Duncan, Tenn. | Marlenee | Watkins |
| Edwards, Ala. | Martin | Weaver |
| Eilberg | Mathis | White |
| Emery | Metcalfe | Whitehurst |
| Ertel | Mikulski | Whitley |
| Evans, Ga. | Miller, Calif. | Whitten |
| Flippo | Miller, Ohio | Wilson, C. H. |
| Flood | Minish | Wolff |
| Florio | Mitchell, Md. | Wydler |
| Flynt | Mitchell, N.Y. | Yatron |
| Ford, Mich. | Mollohan | Young, Fla. |
| Fountain | Montgomery | Young, Mo. |
| Fowler | Moore | Zeferetti |
| Fuqua | Mottl | |
| Garcia | Murphy, Ill. | |
| Gaydos | Murphy, Pa. | |

NOES—199

| | | |
|---|---|---|
| Alexander | Fenwick | Obey |
| Anderson, Ill. | Findley | Patten |
| Andrews, N.C. | Fish | Patterson |
| Annunzio | Fisher | Pattison |
| Archer | Fithian | Pease |
| Aspin | Foley | Pepper |
| AuCoin | Forsythe | Pettis |
| Badham | Frenzel | Price |
| Baldus | Gammage | Pritchard |
| Barnard | Giaimo | Pursell |
| Baucus | Gibbons | Quayle |
| Beard, Tenn. | Glickman | Railsback |
| Bedell | Goldwater | Reuss |
| Beilenson | Gore | Rhodes |
| Biaggi | Gradison | Richmond |
| Bingham | Green | Roncalio |
| Blanchard | Guyer | Rosenthal |
| Blouin | Hanley | Rostenkowski |
| Boggs | Hannaford | Rudd |
| Boland | Hansen | Ruppe |
| Bolling | Harris | Russo |
| Bonior | Holtzman | Sawyer |
| Bonker | Hubbard | Scheuer |
| Brademas | Hyde | Schroeder |
| Breckinridge | Jacobs | Sebelius |
| Brinkley | Johnson, Calif. | Seiberling |
| Broomfield | Johnson, Colo. | Sharp |
| Brown, Mich. | Jones, Okla. | Simon |
| Brown, Ohio | Kastenmeier | Sisk |
| Burgener | Kelly | Skubitz |
| Burke, Calif. | Kemp | Smith, Iowa |
| Burton, Phillip | Keys | Smith, Nebr. |
| Butler | Kildee | Solarz |
| Carr | Kostmayer | Stanton |
| Cavanaugh | Krebs | Stark |
| Cederberg | LaFalce | Steed |
| Chisholm | Lagomarsino | Steiger |
| Clawson, Del | Leach | Stockman |
| Clay | Lehman | Stokes |
| Collins, Tex. | Lundine | Studds |
| Conable | McClory | Symms |
| Conte | McCloskey | Taylor |
| Conyers | McCormack | Thompson |
| Corcoran | McDonald | Thone |
| Corman | McFall | Thornton |
| Cornell | McHugh | Tsongas |
| Crane | McKinney | Tucker |
| Cunningham | Markey | Udall |
| Delaney | Marriott | Ullman |
| Dellums | Mattox | Van Deerlin |
| Derwinski | Mazzoli | Vander Jagt |
| Devine | Meyner | Vanik |
| Dicks | Michel | Vento |
| Dodd | Mikva | Walgren |
| Downey | Mineta | Walker |
| Duncan, Oreg. | Moakley | Waxman |
| Early | Moffett | Weiss |
| Eckhardt | Moorhead, Calif. | Wiggins |
| Edgar | Moorhead, Pa. | Wilson, Bob |
| Edwards, Calif. | Moss | Wilson, Tex. |
| Edwards, Okla. | Murphy, N.Y. | Winn |
| English | Myers, Gary | Wirth |
| Erlenborn | Neal | Wright |
| Evans, Colo. | Nedzi | Wylie |
| Evans, Del. | O'Brien | Yates |
| Fary | Oakar | Zablocki |
| Fascell | | |

NOT VOTING—36

| | | |
|---|---|---|
| Ashley | Hamilton | Preyer |
| Brodhead | Harrington | Quie |
| Burke, Mass. | Jenkins | Roberts |
| Collins, Ill. | Jenrette | Rodino |
| Danielson | Kasten | Rousselot |
| Dent | Krueger | Roybal |
| Diggs | Le Fante | Sarasin |
| Evans, Ind. | Livingston | Shipley |
| Flowers | Lloyd, Tenn. | Teague |
| Ford, Tenn. | Maguire | Whalen |
| Fraser | Meeds | Young, Alaska |
| Frey | Milford | Young, Tex. |

The Clerk announced the following pairs:

On this vote:

Mr. Roberts for, with Mr. Jenrette against.

Mr. Teague for, with Mr. Burke of Massachusetts against.

Mr. Le Fante for, with Mr. Harrington against.

Mr. Preyer for, with Mr. Ashley against.

Mr. Dent for, with Mr. Shipley against.

Mrs. SMITH of Nebraska and Messrs. DERWINSKI, ENGLISH, EDWARDS of Oklahoma, GAMMAGE, KOSTMAYER, MOAKLEY, RUSSO, WALKER, and ANDREWS of North Carolina changed their vote from "aye" to "no."

Mr. AKAKA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of asking some questions of the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. NEAL) and I have not had the opportunity to have a private discussion a few minutes ago, and this has to do with a very disturbing article that appears in the magazine the Washington Monthly, for the month of June, entitled "Tapping the Federal Till the Occidental Way" by Tom Gilroy and I will read significant paragraphs in order to lay the preface for the questions because I did not want to obstruct in any way the bill and did not prepare any amendment, because I wanted to have a chance to discuss and ask these questions. The article says that in 1954 Occidental Co. secured a 20-year, $20 billion fertilizer trade agreement with the Soviet Union:

In 1974, Occidental signed a 20-year, $20-billion fertilizer trade agreement with the Soviet Union. The agreement, which is extremely complex, calls for the USSR to sell Occidental large quantities of ammonia, the building block for all nitrogen fertilizers. In return Occidental will supply the Soviets with super phosphoric acid used in the production of phosphate fertilizer.

For the Soviets, the deal has a dual purpose. First, they hope it will provide them with phosphate fertilizer they badly need for their agricultural program; and second, they are counting on the trade to generate enough surplus funds to pay off a $360-million loan from the Export-Import Bank that the Soviet Union used to build the ammonia facility in the first place.

To insure that, Occidental accepted two provisions to the trade. It agreed to buy a great deal more ammonia than it would sell of its phosphoric acid, and it also agreed to market most of the Soviet product in the U.S.—thereby keeping Occidental from competing with Soviet ammonia exports to other countries. With the money generated by the sale of the ammonia, the USSR could pay Occidental for its acid and still have enough left to repay the Export-Import loan. In essence, then, a U.S. loan that played a key part in building up the Russian fertilizer industry would be paid off with U.S. dollars supplied by Occidental.

There are several interesting things about the loan to the Soviets. First, although the Supreme Court ruled recently that the terms of the loan may remain secret, reliable sources say that repayment extends over 20 years, with several years' grace period, at a fixed interest rate of six per cent. Except for government credits to less-developed countries, it would be hard to find a more concessionary loan.

But the sad fact is that the money will create more jobs in the Soviet Union than it does in the U.S. Promises of a healthier economy and more jobs—even when true—are the argument that big business uses every time it wants more money from the government.

The article goes on to say that the particulars of this agreement have been and still are maintained in secrecy as a result of a Supreme Court decision that says that the terms of the agreement do not have to be disclosed.

The article goes on and points out that this fertilizer deal would be based on the premise that Occidental would have large quantities of ammonia, which is a building block for all nitrogen fertilizers and Occidental would supply the Soviets with super phosphoric acid which is used in the production of phosphate fertilizer.

Apparently, in the course of this transaction the Export-Import Bank financed the deal for the construction of an ammonia plant in Russia.

The important part of this is in this significant portion of the article which says that there are several interesting things about the loan to the Soviets. First, although the Supreme Court ruled recently that the terms of the loan may remain secret, reliable sources say that the payment extends over 20 years, with several years' grace period, at a fixed interest rate of 6 percent. Except for Government credits to less-developed countries, it would be hard to find a more concessionary loan.

Apparently the hope is that the Russians expect to develop enough surplus funds for this transaction with Occidental in order to pay off the $360 million Export-Import Bank loan for the construction of this ammonia plant in the Soviet Union.

It goes on and says that because ammonia is produced from natural gas, any rise in the price of gas means a rise in the price of ammonia, therefore, the United States will end up in being a dependent for phosphates imported from Russia and we will, in the meanwhile, be importing ammonia from Russia which is competing with a distressed industry now.

Apparently, according to this article, the ammonia production industry in the United States is not in a good financial condition.

This is very disturbing, and I was wondering if the subcommittee or the full committee was aware of this transaction?

Mr. NEAL. Mr. Chairman, if the gentleman will yield, we are checking out the details of this particular loan the gentleman has referred to, and I am not familiar with it, and I hope to have the information soon. But, in the first place, the Export-Import Bank is prohibited from making any kind of loans to the Soviet Union because of the Jackson-Vanik amendment. I believe the loan the gentleman is talking about occurred many, many years ago. And on the question of concessionary financing, there was a time in the Bank's history when it came under severe criticism from the press and the public that it was making below normal interest rate loans to foreign purchasers of our products. That happened at a time when our entire inflation went way up and our domestic rates went up and we were still promot-

ing exports. That is no longer the case. The bank is required by its charter to make loans at market-related interest rates. They cannot set lower rates. The only time the Export-Import Bank might be involved in the market is if the private money is not available, and further, they are not to compete with private capital. So the Export-Import Bank only makes loans when private capital is not available, and makes the loans at market rates. Historically it has made a good profit. Last year it made, I believe, something like $50 million.

Mr. GONZALEZ. If the gentleman will yield my time back to me, this may be well and true, but, nevertheless, the fact is equally true that on the basis of a loan by the Eximbank this facility has been constructed in Russia and that its product is now in competition with ours.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. The disturbing point about this is that—and I did not bring it up before because I realized the issue on this other amendment would get complicated because in the course of the debate on the Long amendment statements were made, but they were made in a general way. Whereas, and this is disturbing, this article points to one specific transaction, and the author says categorically this will leave the U.S. farmers dependent on the Soviet Union for an important fertilizer ingredient vital to the production of wheat and corn, and that is phosphate, in the future.

Mr. NEAL. I am somewhat at a disadvantage in that I have not read the article, and I know nothing about the accuracy of that statement. I would tend to doubt it, frankly. It does not appear to me that we are dependent. I am just sort of guessing, however. I wish there were someone here who could help us. I am not sure of the status of the phosphate production in this country. I am inclined to doubt that we are dependent on the Soviet Union for anything.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I have not read the article either, but I would like to point out to the gentleman that there is substantial phosphate production in this country from many sources now, in Idaho, Florida, and various other places, and that we have large resources of phosphate that do respond to market demand. I do not know anything about the situation the gentleman has described in the article to which the gentleman is referring. I do not think it necessarily bad for us to be importing phosphates. They are an essential ingredient, of course, for fertilizer, and the more we get from other sources, the less we have to use of our own supplies. They are undoubtedly a limiting element in agricultural production, but I do not believe that importing phosphates from Russia puts us in a vulnerable position, because we can quickly expand our own production.

Mr. GONZALEZ. According to the article again—and this is the reason I was raising the question because I think we ought to be aware of this; this is a very serious article to read at a time when we are discussing the extension of the Eximbank—what he says here is that in any event we will be dependent on them for phosphates and that U.S. tax resources are being used to undermine an American production.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

Mr. McCORMACK. I thank the gentleman.

The CHAIRMAN pro tempore. Are there further amendments?

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the Banking Committee for its thorough and balanced study of the Export-Import Bank operation. No doubt the Bank needs added authority, which I trust will be provided soon. But the committee also stated that sometimes the Bank fails to promote our exports aggressively, using the authority it already has. I am reminded of recent press reports on the Bank's refusal to help a small firm in its uniform-exporting business, because of a policy against military items.

I would like to address a question to the Chairman.

Is this not an example of a rigid and cautious attitude within the Bank that we cannot afford any longer? Can the gentleman comment?

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I would be happy to yield to the gentleman.

Mr. NEAL. Mr. Chairman, I thank the gentleman. His point is well taken. The military credit restrictions were enacted when Eximbank unwisely participated in certain armaments sales sponsored by the Defense Department. These restrictions are still important today, but uniforms are not guns or tanks; they are not armaments as contemplated at the time nor are they lethal. I think the Bank erred on the conservative side in interpreting the congressional intent in this specific case. It certainly should have made a distinction between military hard goods and soft goods and, also, between sales by the Defense Department from its own stocks and sales generated in the private sector.

The Bank should bear in mind section 1 of the Foreign Military Sales Act of 1968, as amended, in which Congress declared:

> . . . that the United States and other free and independent countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain and foster the environment of international peace and security essential to social, economic and political progress. Because of the growing cost and complexity of defense equipment it is increasingly difficult and uneconomic for any country, particularly a developing country, to fill all its legitimate defense requirements from its own design and production base. The need for international defense cooperation among the United States and those free countries to which it is allied by mutual defense treaties is especially important since the effectiveness of their armed forces to act in concert to deter or defeat aggression is directly related to the operational compatibility of their defense equipment.

In the case of the small firm in its uniform-exporting business, the apparel industry is highly vulnerable to imports and it is anomalous indeed that any counterbalancing export should fail to receive the full support of the Bank. Yes, this is a good example of the committee's view that Eximbank should push exports more vigorously and aggressively and help clear the trade deficit.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for his response.

Mr. HANNAFORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the chairman of the subcommittee, the gentleman from North Carolina (Mr. NEAL) for this legislation that addresses a time of torrential change in international trading. It is an extremely important piece of legislation and the gentleman has done a most credible job.

Mr. Chairman, I would like to engage the gentleman from North Carolina in a colloquy, if I could.

Perhaps I could pose a question first, Mr. Chairman.

As the gentleman from North Carolina is aware, the sale of Airbus Industrie A300's to Eastern Airlines and of Lockheed L1011's powered by Rolls-Royce engines to Pan American earlier this year greatly disturbed me. The terms of the sales is what troubles me, for I believe some of those terms constitute predatory financing on the part of the European manufacturers.

For example, the British export credit department provided 100 percent financing and guarantees for the Lockheed/Rolls-Royce sale to Pan Am, even though this represented four times the value of the actual Rolls-Royce jet engine content of the aircraft. In addition, the British provided a 15-year repayment term and required no down payment on the purchase. All of these terms were direct violations of the 1975 Standstill agreement of the Organization for Economic Cooperation and Development.

I fear that similar violations may occur on the part of our foreign competitors in their zeal to penetrate the world aircraft market in a big way. I ask the gentleman from North Carolina: Will the Export-Import Bank continue to be held to the already abrogated terms of the OECD aircraft agreement when competing with foreign companies in foreign markets?

Mr. NEAL. It is the intent of the committee that the Export-Import Bank meet violations of the OECD agreement on their own terms. That is, if a foreign aircraft manufacturer should offer financing terms in violation of the OECD Standstill agreement, Eximbank should offer commensurate support to American sales efforts that compete with the abrogating party in foreign markets. The goal is to so neutralize the unfair advantage gained by violation of our international agreements that the advantage disappears. I trust the mere authority of the Eximbank to take similar liberties as our foreign competitors will suffice to guarantee that these violations cease.

Mr. HANNAFORD. Mr. Chairman, I thank the subcommittee chairman for this assurance, and I am very pleased to have that assurance.

Mr. Chairman, the Airbus Industrie sale to Eastern Airlines raised a different kind of difficulty. In that case there were no apparent express violations of the OECD agreement. Yet it was French and German Government financing of the Airbus deal that made it so attractive to the airlines. Our aircraft manufacturers simply could not compete with the German and French national treasuries in financing terms.

Ironically, our Export-Import Bank has been extremely reluctant to support our own aircraft sales abroad. Only recently has there been any progress in securing Eximbank financing for such sales. Will the Eximbank continue to be restrained in its support of American aircraft sales efforts abroad?

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. HANNAFORD. I will be glad to yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, the Bank has historically been hesitant to finance aircraft sales for essentially three reasons. First, there was a fear that Eximbank resources were not of the magnitude to support both extensive aircraft sales while continuing to support other American sales overseas. Second, there was no reason to support American aircraft sales abroad when only American companies were competing. This was the usual case since American aircraft was technologically superior to its competitors. Finally, there was pressure from U.S. airlines not to support aircraft sales, since it meant that foreign airlines could often operate less expensively than U.S. airlines thanks to U.S. Government financing of aircraft purchases.

Obviously these historical arguments have disappeared. The reauthorization that we are now considering guarantees adequate Eximbank resources for these kind of endeavors. That our aircraft manufacturers now need Eximbank support is clear; the Airbus is a competent and aggressive competitor in every aircraft market in the world.

The CHAIRMAN pro tempore. (Mr. SISK). The time of the gentleman from California (Mr. HANNAFORD) has expired.

(By unanimous consent, Mr. HANNAFORD was allowed to proceed for 2 additional minutes.)

Mr. NEAL. Mr. Chairman, will the gentleman yield further?

Mr. HANNAFORD. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, if I may continue, furthermore, the enthusiasm of the British, French, and German Governments in assisting Airbus sales in the United States assures us that our airlines will not suffer if Eximbank supports our aircraft sales overseas.

Consequently, it is the intent of the committee that Eximbank should wholeheartedly support American aircraft sales ventures abroad, especially where American aircraft are in direct competition with foreign aircraft manufacturers. The Bank should extend substantial direct credits to aircraft exporters and take whatever other action necessary to return our domestic aerospace manufacturers to a position of equality in financing capability.

However, the aircraft sales situation is only a symptom of a much broader problem applying to all products, services, and commodities. Since some of the largest exporting nations have been found violating the "gentleman's agreement," the OECD standstill agreement, and the spirit of free trade, the committee recognizes that as a last resort it may be necessary in a few instances to match the questionable practices of these nations in order to demonstrate that the United States will not stand mute while its exporters are forced to compete with foreign national treasuries. If these violations continue, the violators will have to contend with the full faith and credit of the U.S. Treasury.

In the event that other corrective attempts fail and the Bank must take such action as I have just described, the Bank should do so fully aware that it must compensate for below-cost loans with other profit bearing loans. The Bank should know that the committee feels this to be an acceptable option after all other avenues have proven fruitless, and that this approach would be used in an instance or two to insure that the United States does not become the only gentleman left in the game.

Mr. HANNAFORD. Mr. Chairman, I thank the gentleman from North Carolina (Mr. NEAL) very much for those assurances. I wholeheartedly agree with the approach he is taking in helping to direct the Eximbank on a course of being a changing institution to fit a changing world. I commend the gentleman for his good work, and I certainly support the legislation.

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RINALDO: Page 5, immediately after line 6, insert the following new section:

SEC. 10. Section 2(b) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new paragraph:

"(9) The Bank shall not guarantee, insure, or extend credit or participate in any extension of credit in connection with the purchase or lease of any product by any country, or agency or national thereof, which country, as determined by the Secretary of State, aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The Secretary of State shall notify the Bank within 30 days of enactment and subsequently thereafter of any such determination and such prohibition shall remain in effect—

(A) unless and until the Secretary of State certifies to the Bank that termination of assistance from the Bank to such country, or agency or national thereof, would not be harmful to national security, or

(B) for 90 days after the date the Secretary of State certifies to the Bank that such country no longer aids or abets any such individual or group, whichever occurs earlier.

Redesignate succeeding section accordingly.

Mr. RINALDO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. Yes, I am glad to yield to the subcommittee chairman.

Mr. NEAL. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity to read the amendment, and we think it is very constructive. I urge its adoption.

Mr. RINALDO. Mr. Chairman, I thank the gentleman.

Mr. Chairman, the amendment I am offering today would prohibit the Eximbank from extending any assistance—insurance, guarantees, or credit—to any nation which harbors international terrorists.

My amendment is patterned after language contained in section 621 of the Foreign Assistance Act (22 U.S.C. 2371).

That provision was added 2 years ago when the International Security Assistance Act was enacted into law.

Under that section of the statute, the President must terminate all assistance * * * "to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism."

Earlier in this Congress, the House and Senate added almost identical language to the foreign aid appropriations bill (Public Law 95–148).

That law states that none of the funds provided under the act "may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group, which has committed an act of international terrorism, unless the President of the United States finds that national security requires otherwise."

Although that prohibition applies to

the Eximbank, it is only effective for the duration of current appropriations.

My amendment would place almost identical language in the authorizing statute, thus, making permanent the intent of Congress as expressed on two separate occasions.

Additionally, Mr. Chairman, I would like to point out that this amendment has been modified in response to comments I have received from the committee and representatives of the Department of State.

I urge the adoption of the amendment.

Thank you.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman well knows, the majority has already accepted this amendment, and we have had an opportunity for weeks to look at this. I simply want to say that the minority has no objection to it.

The subject has been brought up, though. Does the gentleman have specific examples of what countries this would affect at the present time?

Mr. RINALDO. I called the State Department. At the present time, no countries would be involved. We have already checked this out with the State Department.

Mr. STANTON. Our good friend, the gentleman from Washington, has asked a question on the subject of Libya, for example. He is concerned about an attempt to get that permit lifted at the present time. To the gentleman's knowledge, Libya would not be affected under this amendment?

Mr. RINALDO. Of course, it would depend on the Secretary of State.

Mr. STANTON. On their determination.

Mr. RINALDO. We asked his office just this morning, based on similar language in other statutes, whether or not such a sanction has been applied to any other country as of this date, and we received a negative answer.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding, and I rise in strong support of the gentleman's amendment. I consider his amendment to be in the nature of a human rights amendment. I will be very shortly offering a human rights amendment to this bill. I support the gentleman's amendment on terrorism because I think it fills in a gap which I will openly admit I had not added in my amendment, but which was on my amendment in the past.

I compliment the gentleman in the well for bringing this up to date and filling in a part of a human rights amendment which my amendment did not address itself to. I am hopeful that, with the adoption of the gentleman's amendment and, hopefully, with the adoption of my amendment, the two will complement one another in covering the human rights aspect of this particular piece of legislation.

Again I commend the gentleman for offering this amendment.

Mr. RINALDO. I thank the gentleman.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding, and I want to commend the gentleman for introducing this amendment. I think it is extremely important. While we do a lot of talking about, we do too little about terrorism. The gentleman's proposal gives some teeth to our combating terrorism and underscores our disdain for these lawless acts and individuals.

Mr. Chairman, I support the amendment offered by my distinguished colleague, the gentleman from New Jersey (Mr. RINALDO) barring the granting of Export-Import Bank credits to any nation which the State Department determines has granted sanctuary to terrorists.

The menace of international terrorism must be fought on many fronts, by all practical means, to rid the international community of hijackings, kidnapings, assassinations, and other vile manifestations stemming from a blatant disregard for human life.

Congress now has before it, legislation to suspend U.S. foreign assistance to nations aiding or granting sanctuary to terrorists, and to cut air traffic to such countries.

Testifying on the subject of terrorism most recently before the Subcommittee on Aviation of the House Committee on Public Works and Transportation, I joined with other interested Members of Congress and concerned individuals to urge expeditious action on legislation directing strong retaliatory measures against nations which assist terrorists in committing their inhumane deeds and which also shield these criminals from the severe punishment to which these individuals should be subjected.

I support this amendment as I believe it will add another needed weapon which this Nation can employ against terrorists and nations backing terrorist causes.

Export-Import Bank credits were designed to assist U.S. exporters in providing competitive credit terms to attract foreign customers. However, while intended to assist U.S. firms, such credits were also designed to contribute to strengthening and developing the economies of those foreign nations with which U.S. firms deal.

The Export-Import Bank was not established for the purpose of in any way assisting economies of countries which embrace the heinous philosophy of terrorism. Neither was the intention to encourage trade between U.S. business concerns and nations flaunting basic tenets of civilized society.

Accordingly, Mr. Chairman, I ask my colleagues to support this amendment seeking to combat terrorism on yet another front.

Mr. RINALDO. I thank the gentleman for his contribution.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if the chairman would answer a few questions? There is not a person in this body who could disagree with our concern over terrorism; but at the same time, in dealing with the State Department over a recent denial of an export permit to Libyan Airlines for the purchase of domestically produced aircraft, which were ordered years ago, I am really wondering if we do not have enough flexibility in the existing management of the Export-Import Bank and the existing ability of the State Department to deny export permits, that we really need this language.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I think the gentleman from Washington (Mr. CUNNINGHAM) is aware that also at Bonn recently the President was trying to negotiate, and apparently had success in negotiating, with other countries to end this kind of activity.

My own feeling is that there is absolutely no harm that I can see in this amendment; and that if it helps in a positive way to speak to this problem, then I would urge the adoption of the amendment.

Mr. CUNNINGHAM. I am not saying that I would have to disagree with the gentleman. It is probably not absolutely necessary, and there are probably other ways to deal with it; but this Eximbank bill is before us. We do have the opportunity to speak to this question, and I think it is wise to do so.

No one in his right mind can oppose a concern over terrorism, but what I am concerned about, if the body is unaware of it, is that our relations with Libya are at an almost all-time low. At the same time, the LAA Airlines is a significant Mideast carrier which has an increasing fleet and is now carrying about 1.5 million passengers per year. In the next 7 years it is estimated, I believe, that it will be about 2¼ million passengers since it is anticipating a significant increase in the number of planes that the airline will be putting on its routes as it expands its routes.

Of course, they have in the past permitted terrorists to land there, although they are not doing it now. It is on that basis that members of our State delegation and others have asked the State Department to reconsider their denial of an export permit, at least on a nonmilitary item.

This type of language could technically force this airline, which is a viable airline, into buying, for instance, $1.2 billion worth of the French consortium A300B.

I do not want to disagree with the chairman, but I really wonder if in our zeal to address the terrorism problem we are not making the taxpayers of this country virtually the whipping boys by possibly forcing such countries as Libya to purchase from other countries at a future date.

Mr. NEAL. Mr. Chairman, if the gentleman will yield further, I think philosophically, in general terms, I would agree with him.

I think most often these kinds of amendments, including the one we just defeated, which is a good example, are harmful to our country and serve no beneficial purpose.

This amendment seems rather mild to me.

It says a country that aids or abets, meaning currently aids or abets, terrorists, as I read the language. It has two escape clauses, as I see it, or two ways to remove a country from this kind of provision, which seems reasonable to me.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM I yield to the gentleman from New Jersey, the author of the amendment.

Mr. RINALDO. Mr. Chairman, I thank the gentleman for yielding.

We have gone over this amendment very carefully with the State Department.

First of all, at the present time Libya is not harboring any terrorists.

Second, the language, as was just noted by the distinguished chairman of the subcommittee, is very carefully written.

It says that the country, as determined by the Secretary of State, must aid or abet by granting sanctuary from prosecution to any individual or group which has committed an act of international terrorism.

The CHAIRMAN. The time of the gentleman from Washington (Mr. CUNNINGHAM) has expired.

(By unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 2 additional minutes.)

Mr. RINALDO. Mr. Chairman, will the gentleman yield further?

Mr. CUNNINGHAM. I yield to the gentleman from New Jersey.

Mr. RINALDO. Thirdly, Mr. Chairman, and I may be redundant here, but as I stated earlier, at the present time, according to the information we received, Libya is not harboring any terrorists. Therefore, there would be no problem.

Finally, I think the gentleman is aware of the fact that as far as aircraft flights go, not aircraft purchases, but flights, this would be covered by the Bonn agreement. There was a new antiterrorists agreement there. Seven countries participated in an expression of will and intent so that if a country harbors hijackers, the seven countries agreed at Bonn that they will not receive flights from the country involved or fly their own planes into it.

Therefore, Mr. Chairman, I think this is part of a general pattern. I think the sanction should be there.

The sanction is in many, many other laws. This merely puts it into the Eximbank law and makes it a permanent part of the law. I can see absolutely no justification whatsoever for saying that it should not be there even if, in some instances, it does mean that we lose some business.

I, for one, would state that I am probably one of the strongest proponents of business. I want to revise the economy. I want to do everything possible to see the United States get more business. I want to increase our exports, but not at the expense of harboring terrorists. I think this may act as a signal to these other countries that we do mean business. The amendment, which is in so many other laws, is in this particular one. I might say that the amendment was amended after many consultations with the State Department, so it is backed by the State Department, and ostensibly by the administration.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, just to help clarify the legislative history, am I correct in stating that the author of this amendment did not have Libya in mind in drafting the amendment?

Mr. RINALDO. That is absolutely correct. Libya would not be covered by the provisions at the present time.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to my colleague from Washington.

Mr. McCORMACK. Mr. Chairman, the gentleman from New Jersey (Mr. RINALDO) has just answered the very question I was prepared to ask. If we assume that today's situation, as it has been described, continues to exist, and if we assume that there is no aggravation of any sort by Libya, such as providing sanctuary for terrorists, then this amendment, in and of itself, would not provide a barrier to the completion of that sale of commercial U.S. airplanes which is being negotiated?

Mr. RINALDO. The gentleman is correct.

Mr. McCORMACK. I thank the gentleman.

Mr. CUNNINGHAM. Mr. Chairman, my big concern is that we are looking at the Eximbank, not another confirmation of the Helsinki agreement. I do not know why we are mixing the two together. Although we all have the concern, I just think that this is an inappropriate vehicle to do this.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, I concur with the amendment. Providing the assurances we have been given, I think we are in good shape. No one is more opposed to terrorism than I am, and I believe we can provide economic sanctions to prevent terrorism. I think, however, that with the assurances we have been given, that the amendment serves a constructive purpose, without doing thoughtless damage. I support the amendment.

Mr. CUNNINGHAM. I hope my colleagues are aware, for instance, that on the Oshkosh truck situation, where the denial to export was issued, that was predicated on existing law, on the determination that it was not in our best interests as a country to go ahead and export those. Not everything that is impacted by Eximbank is necessarily to our best or our worst interests. I sincerely would again wonder if we should be doing this type of thing on an Eximbank bill instead of addressing the issues in the normal foreign affairs method.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CAVANAUGH

Mr. CAVANAUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAVANAUGH: Page 5, after line 6, add the following new section and renumber all successive sections accordingly:

SEC. . Section 2(b)(2) is amended to read as follows:

"SEC. 2(b)(2). The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit:

"(A) in connection with the purchase or lease of any product by any country, agency, or national thereof, which the President or Congress determines would not be in the national interest; or

"(B) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency or national is to the knowledge of the Bank, principally for use in, or sale or lease to a country which the President determines would not be in the national interest. Any determination made under this section shall be reported to the Congress not later than thirty days following the date of such determination; or

"(C) as otherwise provided in this section.".

Mr. CAVANAUGH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, the gentleman has two amendments. Can he tell us which one this is?

Mr. CAVANAUGH. This is not the nuclear amendment.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. CAVANAUGH. Mr. Chairman, I am introducing an amendment to H.R. 12157, the Export-Import Reauthoriza-

tion Act. My amendment will remove the antiquated prohibitions placed on the Export-Import Bank's extension of credit and allow the Bank to trade with every country in the world, except those expressly prohibited by the President or Congress.

In establishing this procedure, we would be open to a reevaluation of our foreign trade policy. This reevaluation has already begun. We have participated in a lengthy debate on the merits of the Tsongas amendment which prohibits future extensions of credit or loan guarantees to South Africa. The inclusion of this amendment in the Export-Import charter is totally consistent with the intent of my amendment.

In offering this amendment, I am not insisting, or even advocating, that we completely eliminate all trade barriers. I do believe that our huge trade deficits—about $30 billion a year—the continuing devaluation of the dollar, and our struggle against another recession, demand that we use every method possible to strengthen our export program. It is also true that the existing prohibitions on country eligibility in the Ex-Im charter were established almost two decades ago. Both our foreign policy and world economic conditions have changed greatly since that time. I feel it is imperative that we begin now a reevaluation of our trade policies.

It was pointed out this week during hearings of the Subcommittee on International Trade, Investment and Monetary Policy that our old ideas of withholding trade from countries as a punishment for actions which displease us might not have served any purpose, but to cause us to lose export markets. It has been shown that Japan and West Germany have been actively pursuing the very markets which are closed to us by the existing Ex-Im charter. We cannot allow our exporters to continue being outmaneuvered by these aggressive trading competitors.

This reevaluation was addressed by an amendment which was reported out of the Senate Banking Committee as the Stevenson amendment. Senator STEVENSON prohibits Exim extensions of credit to all countries except those expressly determined to be eligible by the President. The Stevenson amendment would establish costly, time-consuming, and ambiguous procedures. In a letter to the Senate Banking Committee concerning this amendment, Secretary of State Cyrus Vance stated this procedure would create serious foreign policy problems in the compilation of the list and would undermine the effectiveness of the Bank at a time when we do desperately need help expanding our exports.

My amendment, on the other hand, provides a workable procedure.

I urge your support of this amendment and your participation in a thorough discussion of our goals in determining a foreign trade policy.

We need to provide our Nation a new, flexible basis for determining which countries ought to be eligible to receive Bank-supported exports with active participation in criteria setting. This process will insure that any prohibitions are consistent with our national interests.

It must also be recognized that my amendment does not affect in any way the applicability of the Trade Act of 1974 in determining the eligibility of nonmarket countries for most-favored nations treatment or other credit programs. My amendment is limited solely to determining eligibility for Bank credit programs.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, as I understand the gentleman's amendment, it has as an intent the effort to try to enhance the position of the United States in its world trade and to enable us to better fight a depression or recession that might be looming on the horizon. I wonder then if the gentleman's amendment would also override the amendment that now exists in the bill with regard to South Africa?

Mr. CAVANAUGH. It would not.

Mr. KELLY. Then we would still not fight the depression as far as South Africa is concerned?

Mr. CAVANAUGH. What the amendment does is to change the basis upon which eligibility for credit extensions by the Export-Import Bank are to be determined. It would say they would be determined either by the President or the Congress. In the instance of South Africa the Congress has made that determination and I would not disturb any determination which the Congress or at least the House of Representatives has made in previous consideration of that question.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

(By unanimous consent, Mr. CAVANAUGH was allowed to proceed for 2 additional minutes.)

Mr. CAVANAUGH. Mr. Chairman, we would transform the basis of eligibility to one of national interest rather than arbitrary political distinctions which have proven hypocritical and inconsistent.

Mr. KELLY. Mr. Chairman, if the gentleman will yield further, the question I was trying to address is it would seem as though the real purpose of the Export-Import Bank is to try to promote our industry and help the economy of our country, and the Export-Import Bank is primarily not a foreign aid project but it is something effective.

Mr. CAVANAUGH. I agree absolutely.

Mr. KELLY. And this is a good thing for the United States. Now, since we are going to use this to fight a recession and we are going to use this to fight problems in our own economy, wouldn't we do that with respect to South Africa and every other country

Why would we be willing to deal with the Communists but not South Africa if the purpose is to really try to sell American goods?

Mr. CAVANAUGH. I think, as the gentleman realizes, and as I certainly must realize, that there are political realities that continue to be confronted. Our trade does not exist in a vacuum and the Export-Import Bank does not exist in a vacuum. I am trying to provide a more reasonable basis upon which that determination—and we ought to make the determination if we are going to extend the Export-Import Bank credit opportunities to the countries that we should extend them to, and could be the basis for, as the gentleman says, expansion of U.S. trade and trading opportunities.

That is the fundamental principle of my amendment, and it also incorporates a recognized fundamental that political realities must be considered.

We do not just simply prohibit trading with all Communist countries, because, under existing law we trade with some Communist countries and not others.

Mr. NEAL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the gentleman from Nebraska (Mr. CAVANAUGH) for having worked so diligently on this problem. The gentleman has worked on it for months. This is a very constructive attempt to deal with our own national interests in a rational way.

The Stevenson amendment adopted by the Senate seems to be a much more cumbersome attempt to deal with the same problem.

Again I would like to commend the gentleman. I would also like to ask that the gentleman let us have this as a future position that we might be able to use in our negotiations with the Senate during the conference?

Mr. CAVANAUGH. Mr. Chairman, if the gentleman will yield, let me say that I have discussed this with the chairman, the gentleman from North Carolina (Mr. NEAL), and I do believe that we share a common goal in the course of addressing the deficiencies of the Stevenson amendment and the very adverse consequences that I think the Stevenson amendment would have not only for the Export-Import Bank but for the implications it would have on U.S. trade policy, and I do not believe that we should set up all of the details of this process as elaborately as the Stevenson amendment does, because I believe that would be disastrous.

I have assured the chairman that my offering of the amendment is simply to raise the point for the House and not necessarily present this as the final or most appropriate solution. So, with the chairman's assurance, to seek elimination of the Stevenson amendment I will ask unanimous consent that I be allowed to withdraw my amendment.

Mr. HYDE. Mr. Chairman, if the gentleman will yield, as I understand the amendment, then, we are going to stop any impediments by the Ex-Im credits in the Communist countries but that we will continue ostracizing South Africa, is that right?

Mr. CAVANAUGH. That would not be the understanding of the amendment.

Mr. HYDE. Perhaps the gentleman in the well could explain it.

Mr. CAVANAUGH. I have asked unanimous consent to withdraw the amendment.

Mr. HYDE. If the gentleman has asked

to withdraw his amendment, then I beg the gentleman's pardon.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska (Mr. CAVANAUGH) that he may withdraw his amendment?

There was no objection.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 5, immediately after line 6, insert the following new section:

SEC. 8. (a) Section 2(b) of the Export-Import Bank Act of 1945, as amended by section 5 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) No guarantee, insurance, aid, or credit participation shall be extended by the Export-Import Bank to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person unless such guarantee, insurance, aid, or credit participation will directly benefit the needy people of such country. The Secretary of State, in consultation with the Assistant Secretary of Human Rights and Humanitarian Affairs, shall determine whether the requirements of this subsection are being met. In making this determination, the Secretary shall consider the extent of cooperation of the government of the country concerned in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.".

(b) Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out at the end thereof ", and shall also take into account, in consultation with the Secretary of State," and all that follows through "country".

(c) Section 9 of the Export-Import Act of 1945 is amended by adding at the end thereof the following new subsection:

"(c) The report shall also contain a description of any case in which the Bank (1) did not extend any guarantee, insurance, or credit participation to any country on account of violations of human rights referred to in section 2(b)(9) of this Act, or (2) notwithstanding such violations, extended such guarantee, insurance, or credit participation on the basis of a determination that such guarantee, insurance, or credit participation will directly benefit the needy people of such country.".

Redesignate the succeeding section accordingly.

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, does the gentleman have a copy of the amendment so that we may know what is in the reading of the amendment that is to be dispensed with?

Mr. HARKIN. Mr. Chairman, if the gentleman will yield, it is my human rights amendment. A copy of it should be at the desk.

Mr. BAUMAN. This is the gentleman's annual human rights amendment?

Mr. HARKIN. It is my human rights amendment.

Mr. BAUMAN. Has it been changed from last year's language in view of the deplorable decline in human rights in the world?

Mr. HARKIN. No.

Mr. BAUMAN. There is no change in the language?

Mr. HARKIN. No, it is the same language.

Mr. BAUMAN. I believe we are all familiar with that, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. Mr. Chairman, this is the sixth time in about 3 years, since September 1975, that I have taken the well of the House to offer this amendment. This is the last time, at least that I can see for this year, or this session, because this is the last act in the play, or it is the last avenue of freedom that we have left that is not covered by this human rights amendment. Every time that I have taken the well with the amendment, it has been supported by the House. We have had some problems with the Senate, but we have overcome those either in conference or on defeating the conference report, as happened on the IFI's last year. So I would just point out that similar basic human rights language now applies to our economic and food aid bill, our military assistance program, the Inter-American Development Bank, the African Development Fund, the World Bank or other IFI's—IDA, IFC, ADB, ADF, and Overseas Private Investment Corp. Also the House voted similar language on the International Monetary Fund, but the Senate has not acted on it yet, so there is just one avenue of U.S. involvement not covered, and that is the Eximbank. This bill authorizes $40 billion for 5 years, and such a large amount of American international funding I do not believe should operate outside of our stated human rights policy. I would be the first to state and recognize that all of these human rights amendments since the first one was signed by President Ford in December 1975 have not in the last 3 years transformed the world into a citadel of democracy and human rights. However, there are numerous examples of progress that have been made in many countries that have been attributable, I believe in large part, to these human rights amendments.

To those who argue they do not want human rights language in the Eximbank, I can say that there are already two human rights amendments that apply to the Eximbank. The first, of course, is the Jackson-Vanik amendment that was adopted several years ago, and it does not allow Exim financing in any country that does not have an open emigration policy.

The second human rights amendment was added in committee, and that was to deny Exim funds to South Africa because of the apartheid policy of that government. That was modified a little bit by the Evans amendment here on the floor, but, nevertheless, it is still a human rights policy directed toward one country.

I would submit that practices in many other countries, such as the tortures, assassinations, prolonged detention without trial—the kind of thing we have just witnessed in the Soviet Union with the sham of the Shcharansky trial where he got almost 13 years at hard labor—I believe every one of these could be considered every bit as much a matter of human rights violations as apartheid or the right to open emigration. That is why general human right language applying to all countries, the same as we have in other pieces of legislation, is needed in the Eximbank.

Several argue that the Eximbank is involved with trade and not with aid. If that is absolutly true, then we do not even need this bill, but the fact is that the Eximbank provides aid precisely to encourage trade, and this trade may indeed be going to companies which do business in countries that are involved in gross violations of human rights and, thus, bolsters the repressive government. Trade simply is not politically, socially, or economically neutral. In fact, there was an editorial in last Friday's Wall Street Journal—it was an editorial written by a former vice president of the Policy Analysis of the Eximbank—titled, "We Should Restrain U.S. Financing of Export Programs." This was in the Wall Street Journal, pointing out it is not just trade but it is aid in order to support trade.

Arguments will also be made, I am sure, that our trade will suffer greatly if this amendment is adopted. I would like to address that because I am not opposed to exporting our commodities from this country. Treasury Department figures showed that in fiscal year 1977 the involvement of the Eximbank added about $4 billion to our exports. Using that figure and taking into account those countries that are considered by the Department of State as gross violators of international recognized human rights, the maximum amount that would have been affected by this human rights restriction last year was only .67 percent—not 67 percent—of all U.S. exports.

I went to the Library of Congress and got a study done on that, and the Economics Division of the Congressional Research Service examined the Treasury Department's figures that I have mentioned, and they concluded that Eximbank may only have an additionality factor of $500 million. I will just quote from that study.

Furthermore, we felt that the estimates appeared to be higher than one might expect in a program of that type.

The Treasury Department study was not based on empirical quantitative data but, rather, rested on certain qualitative judgments, and the summary by the Congressional Research Service said, and again I quote:

The estimates indicate that the Eximbank direct loan program increased exports by about a half billion dollars.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 5 additional minutes.)

Mr. HARKIN. That is where I get the figure of $500 million. If this is the case, then what we are dealing with is even a much smaller figure than 0.67 percent of all exports. There were exports last year of $120 billion and the Library of Congress indicates that the additionality factor of the Eximbank is much less than even $4 billion.

This figure 0.67 assumes that none of the funds going to human rights violators could be transferred to other countries.

That is another point I want to make. The Eximbank receives many more requests than they are able to honor; so I am saying, let us take the money that normally goes to human rights violators and let us take that money and give it to countries that put in for Eximbank financing that did not violate human rights.

Even after all this, it will be argued that the Eximbank is different than all the other things we have done. We have added this human rights amendment in the past, but somehow it is always said that this is different. Every agency argues this every time it comes up. First, the State Department says it is different. Then the World Bank says it is different and the IMF and the OPIC say they are different.

Both the House and the Senate have recently approved the same kind of language on a bill authorizing the extension of OPIC, the Overseas Private Investment Corporation, and much of the debate we heard on the floor centered around how good OPIC was for our exports. The House passed this human rights amendment on OPIC, the Senate passed it, and it was signed into law by the President.

The same language is in the OPIC bill. If OPIC can live with it, I am sure the Eximbank can also live with it quite well.

One last thing, the Eximbank authorizations are now going up to $12 billion from $6 billion last year; it is $40 billion for the next 5 years. Since the general expectation is for outlays of an additional $6 billion next year, I believe it is only reasonable to assume that the Eximbank receives more applications than they can fill. Therefore, selectivity must be a factor in the Bank's operations.

Moreover, in only one out of every four cases in which the Bank makes a preliminary commitment, does the board finally authorize the program, so there is obviously some form of discretion being utilized.

Now, here is where we run into the problem and here is where the human rights policy is suffering around the world from a lack of consistency. On the one hand, here is a list of the countries in which our representation on the IFI's voted "no" or abstained from loans on human rights grounds last year; the Eximbank turns around and gives the same countries the assurances and loans they want.

Argentina was denied; Central African Empire, Ethiopia, Uruguay, these are all on the list where we have opposed loans and IFI's; but in every one of those cases the Eximbank went right ahead and provided the financing of exports and imports, in clear violation of what the State Department had been saying was a gross violation of human rights; so I believe the amendment offered in good faith by my friend, the gentleman from North Carolina, last year on the bill, which is kind of an advisory thing on human rights, has really not held their feet to the fire. What we are seeing is a duplicitous situation, with this administration doing one thing on the IFI's, and something else on the Eximbank.

I think if we are really going to have an effective human rights policy and if we are going to ask the nations of the world to follow us in this regard, we at least have to have some modicum of consistency and must not just say, "Well, when it comes to Exim, we won't do it, but we will do it on everything else."

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman has mentioned that he has offered this amendment on a number of occasions. I think I have voted each time it has been offered in favor of the amendment.

Can the gentleman give us any example or instance where one dollar of aid or loan guarantees have been denied to any country as a result of the adoption of this amendment?

Mr. HARKIN. Yes. I believe in the case of bilateral aid and, if aid as it pertained to the Inter-American Development Bank, there were some cases in which we have voted no or abstained.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. Mr. Chairman, there have been cases where we held up a loan and the country withdrew. They then made some changes in their country and then came back, and the loan was approved. Such a situation, I know, happened in El Salvador.

I also believe there has been some indication the situation in Chile has improved in the last couple of years, either because of our threatened cutoff or because we voted no and abstained from the World Bank. Other countries have followed our lead in these matters. So I think there is some indication that progress has been made.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, the gentleman provides in this amendment, as in the other amendments, that the determination of the denial of human rights is vested in officials of the State Department.

I am wondering, with the recent redefinition of the term "political prisoners" offered by Ambassador Young, whether this amendment might rule the United States out from participation in the Bank. If Mr. Young is correct, and he is not, then the United States is violating human rights.

Mr. HARKIN. Mr. Chairman, I do not understand the question.

Mr. BAUMAN. Well, one of our top officials in foreign affairs has made the statement that this country suppresses thousands of political prisoners, and that absurd theory has not been repudiated by his resignation or even by the President.

I am wondering whether this amendment might hurt the United States, if this is imposed on the Eximbank by denying Americans who do apply for guarantees? Or am I being somewhat facetious under the circumstances?

Mr. HARKIN. Perhaps the gentleman is being just a bit facetious. He may have made a point, though, because if the United States is keeping political prisoners, perhaps we ought not to be given Eximbank guarantees.

But obviously, Mr. Chairman, I agree with the gentleman from Maryland (Mr. BAUMAN) that the remark made by the Ambassador was absolutely incorrect.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding, and I wish to state that I associate myself with the gentleman's amendment.

As a member of the Subcommittee on International Trade, Investment, and Monetary Policy and also as a member of the full Committee on Banking, Finance and Urban Affairs, I supported the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS) concerning South Africa. I also supported the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) concerning China, which I thought was very important, although unfortunately it was defeated.

I believe what the gentleman is doing is really providing an extension of the spirit of those amendments by offering a universal amendment applying universally to countries that violate human rights. I think it is time that those of us who are in public office quit being rhetorical about the situation. We have to be people of action.

I must say that I am at times somewhat disappointed when I do not see more action followed up by the administration, and I think the same thing holds true in Congress.

So while we have this language in the OPIC legislation, it seems only reasonable that when we have this valuable resource that extends to other countries and assists our people, we ought to have this important amendment in this legislation.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has again expired.

(By unanimous consent, Mr. HARKIN

was allowed to proceed for 1 additional minute.)

Ms. OAKAR. Mr. Chairman, if the gentleman will yield further, I just want to conclude by saying most of us saw the charade of the recent trials in the Soviet Union, and it seems to me that this amendment at this time is in the spirit of what so many of us were protesting in terms of those trials. The spirit of that feeling is the same as the spirit of the gentleman's amendment.

So, Mr. Chairman, if we feel very, very strongly about what went on just recently in Communist Russia, we ought to really quit being rhetorical and do something of action by supporting the gentleman's amendment.

Mr. HARKIN. Mr. Chairman, I thank the gentlewoman for her remarks. She is absolutely correct. I do not think we could send a clearer signal to the world than by adopting this amendment at this time, especially after the charade of the Shcharansky trials in the Soviet Union.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the amendment, while it is well-intentioned, confuses trade with aid. I think we have a perfect right and a perfect duty to restrict those things that we give to countries as aid rather than those elements of trade that we carry out with countries.

But the sole and only purpose of the Export-Import Bank is to help this country export manufactured products, goods, and services. This country is in a very desperate situation in terms of a trade deficit, in terms of a woefully lagging export trade and policy, and the purpose of this Export-Import Bank is to alleviate that economically distressing situation and assist Americans get jobs and export products.

Now moving from the purely economic aspect of this to the human rights aspect, it would be marvelous if the shining example of this country could impel other countries to emulate us. And we can always hope. But one way of helping the human rights situation in the world is through communication. And one way to communicate is through trade with these countries. If they want our goods and our products—we make these items, we make them better and we make them cheaper—there must be something about the system of government in this country, the political and economic freedom, because the other countries want our goods and services.

If we are to fully implement in a nonhypocritical way the Harkin amendment, 70 to 100 of the countries of the world will be banned, they will be put on the blacklist, and we cannot trade with them. You and I know that hypocrisy walks hand in hand with the human rights arguments. We ostracize South Africa as a leper, but we tolerate religious apartheid behind the Iron Curtain. We tell Chile, "You are a bad country," the day we handed the Crown of St. Stephen back to Hungary, which today has 40,000 Soviet troops occupying that country.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, I am glad the gentleman mentioned the Crown of St. Stephen. As the Members know, I was very involved in that. That is exactly the spirit of this amendment. We should not be catering to those countries which violate human rights, and that is exactly why I opposed returning the Crown of St. Stephen. So I think we agree on that point.

I would just like the gentleman to carry over that same wonderful philosophy to this amendment.

Mr. HYDE. Mr. Chairman, I just want to say to the gentlewoman that it is the selective indignation that I resent, that rubs me the wrong way.

The gentleman from Iowa is making gestures.

Mr. HARKIN. Yes. I am saying, "Me too."

Mr. HYDE. I am glad the gentleman interpretated that. I thought the gentleman had an itch.

Mr. HARKIN. I have an itch to get my amendment adopted.

Mr. HYDE. The purpose of the Export-Import Bank is not to evangelize the world on human rights. There are other ways to do that. There are other means to do that. But if we are going to insist that we only deal with those countries that adhere to our standard—and I am not sure what our standard is, in light of the remarks of the Ambassador to the United Nations—it just seems to me that we ought to do it uniformly and evenhandedly. But we do not. We do not. The Export-Import Bank has refused to make three transactions recently, Chile, Uruguay, and Brazil, allies, friendly countries, but we will treat them as pariahs. We will continue to find every justification for dealing with Hungary, Romania, Poland, and other countries like that.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I want to say to the gentleman that that is precisely my point. They singled out certain countries. What I want to do, again, with my amendment is hold their feet to the fire and make sure they cannot just operate willy-nilly down there.

I had someone from the Department the other day in my office talking about Argentina. I said, "What about the other countries?" They said, "Well, there is no language in the bill." They just want to do this their own way. That is why I want to cover the waterfront on this.

Mr. HYDE. Then will not the gentleman concede that the Harkin amendment has been ineffectual in getting this evenhandedness in the World Bank and the other institutions in that the administrators have continued to be selective in its imposition?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. HARKIN and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I am not going to take up the cudgel for the administration on all their human rights weaving in and out; that is true, but I do believe that efforts are being made, under the obstacles of that amendment, to make a more evenhanded approach.

Mr. Chairman, I just mentioned a list of countries, and I will go through the list again: Argentina, Central Africa, Chile, Ethiopia, Brazil, Uruguay, and so forth.

Mr. HYDE. I have not heard one Communist country mentioned.

Mr. HARKIN. I do not know whether Ethiopia is benign or what they are.

Mr. HYDE. That is my point.

Mr. HARKIN. The point, then, would be well taken. What we need, then, is to follow up on the World Bank so as to make sure that they do not just go after certain human rights violators and not others.

If we do not have the mechanism of this human rights amendment, we cannot even do that.

Mr. HYDE. I submit that this administration tends to sensitize with respect to offenses on the right and anesthetize with respect to offenses on the left.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I thank the gentleman for yielding.

I would like to inquire of the author of the amendment what his amendment does which is not now accomplished by the language in the existing act, which reads as follows:

> . . . the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of the United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports . . .

Mr. Chairman, if we really have people who act in good faith, it would seem as though that language would cover the situation like a glove.

Mr. HARKIN. Mr. Chairman, if the gentleman will yield further, as I said, what my amendment does is to put a prohibitive type of language in there, which will make them justify what they do when they go ahead and provide Exim financing. The old amendment does not do that.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman's yielding. I certainly am going to get my own time later.

However, I want to make a point with

respect to what the gentleman from Florida (Mr. KELLY) said about the present language in the bill.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. STANTON and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes).

Mr. STANTON. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I got a letter from the president of the Eximbank the other day in which he talked about a loan for Argentina which they turned down based on the human rights language that is in this bill right now.

Mr. Chairman, I think this language goes too far, but the gentleman from Florida is absolutely right. This matter is already covered in the legislation at the present time.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is hard to know where to start. I imagine we have to start with the letter of the gentleman from Iowa (Mr. HARKIN).

It is simply wrong to imply, as the gentleman from Iowa implies in the letter, that the Bank does not operate under human rights language.

As the gentleman said a moment ago, the committee did adopt human rights language last year, which seems to me probably the best, most practical, most effective human rights language that we have added to any of the bills which the gentleman has mentioned.

I say that, because the Bank has the option of taking into account the practical effects of what it does; that is, if its refusal to grant a loan will have no practical effect, then it is not absolutely required to do it. Then it can deny the loan, so, obviously, no one would benefit from that. It would have no effect in that country. It would be a fruitless gesture.

Of course, it would have one effect, which would be that it would hurt our domestic economy. It would reduce jobs and profits in this country and further increase our trade deficit.

Mr. Chairman, I can demonstrate to the gentleman that the language has already worked. Because of the language that is in the bank bill, the Bank refused to finance the export of computers for storage of fingerprints to the state police of Brazil. They also refused to approve certain transactions with Chile and Uruguay, for example; and most recently refused financial involvement in Argentina, in cooperation with the State Department.

Therefore, Mr. Chairman, my point is that this human rights language which is in the bill now works. It is good human rights language. The gentleman is not the author of it. He is the author of the language that is in the other bill, but I would argue that they are not working all that well.

With respect to the section in the aid bank bill, we only have one vote, so in considering the loan, we have one vote while we contribute about 25 percent of the money.

So, in considering the law, we vote against it and use our money to develop the project, and the people of that country are furious with us.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I would like to ask the gentleman if it does not support his position that Donald Stingel, one of the Directors of the Eximbank, recently in a letter to a Member of this Congress wrote and said:

> However, it is well known there are a number of those who, either in final action on Eximbank's Appropriations Bill or on our Authorization Bill, would put forth amendments seriously restricting our ability to finance products, equipment, or facilities in certain specific cases. Others would introduce further human rights or environmental restrictions, or even attempt to politicize the Bank, perhaps not recognizing fully that the United States already faces an uphill export fight against foreign competition which in most cases has the full and unqualified financial and other support of their governments.

He further says:

> What we need to improve the export posture of this Country in the face of a large deficit, and to prove to the U.S. exporters, who employ hundreds of thousands of people in export-oriented work, that we mean to support them in their efforts, is a "clean" Eximbank Bill accompanied by an unencumbered Appropriation Bill for the next Fiscal Year.

It would seem to me that either Mr. Stingel, who is an appointee of the present administration, is oblivious and insensitive to human rights, or is incapable of maintaining a strong human rights position, or else the Harkin amendment is just superfluous because this gentleman, a Director of the Bank, says the Harkin amendment is what we do not need.

Mr. NEAL. I will agree with the gentleman that we do not need the Harkin amendment. But beyond that, I would have to say that it is not only not needed, it is potentially very costly and very destructive to our country.

Let me make a couple of other points. An amendment was offered such as this in the Banking Committee this year. When it was last offered, we really had a chance to debate it thoroughly. In that committee, it was defeated by a vote of 32 to 3. Last year, when we adopted the Eximbank bill, this House under suspension of the rules adopted this human rights language, which we have in the bank bill, and it is working.

Let me make this point: The gentleman said that this is needed, because it does not conform to all these other institutions. None of these other institutions had human rights language at all, as I understand it. So, the gentleman offered language and got it approved by the House. I personally do not think it is working very well, but the point I am trying to make is that we do have human rights language in this bill, and that language is working.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent Mr. NEAL was allowed to proceed for 5 additional minutes.)

Mr. NEAL. The gentleman has indicated that he thinks that this Bank is an aid bank, but I would like to point out to him that this Bank makes money. It made over $50 million last year, as I understand it. It does not use taxpayers' money to do it. It is self-sufficient, and it generates jobs and profits in this country. I just think that if the gentleman is basing his argument on the need for this amendment, on the assumption that: No. 1, we do not have human rights language in the bill; and No. 2, that this is an aid institution, then the gentleman is just basing his entire argument on some false premises.

The gentleman says—and I do not know where this 0.67 percent comes from; I cannot figure it out, it seems like a figure pulled out of the air and unrelated to anything I can determine—but let us just presume for a moment that it is correct; we are talking about 0.67 percent of $120 billion. This is around $1 billion in trade that this would cost us. Is that what the gentleman wants to do? Does he want to cost us that billion dollars in trade?

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

First of all I do want to comment on the vote of the committee last year. I certainly do not know all the Members' reasons for voting but I think the gentleman does remember I did testify before his committee on this human rights amendment. At that time I agreed not to offer my human rights amendment, but to go ahead and let it go through with the human rights language of the gentleman from North Carolina and take a look and see what would happen between last October and this year and see if it worked well up until that time. I have never pushed this on the extension last year, not a bit. I never wrote on it or anything.

Mr. NEAL. Congressman BADILLO did with the support of the gentleman from Iowa, I would assume. But anyway it was done and after the testimony, and the gentleman from Iowa testified as did the gentleman from New York, Congressman BADILLO, on the arguments on the amendment, and the subcommittee rejected it overwhelmingly and the full committee rejected it by a vote of 30 to 5.

Mr. HARKIN. But anyway it was not brought up this time at all.

Mr. NEAL. That is absolutely correct. We have not had any hearings on this.

Mr. HARKIN. It was not brought up this year at all.

The second thing I want to address is:

Aid, not trade. The gentleman asked where I got the 0.67 percent. This is what the Treasury says.

Mr. NEAL. The Treasury says this is aid?

Mr. HARKIN. No; I was talking about where I got the 0.67 percent. The Treasury Department's own figure shows there is an additionality of aid that is generated by the Eximbank. We have $120 billion a year in exports. What Treasury says is out of that $120 billion, about 10 percent or $12 billion is even financed by the Eximbank, and the gentleman is saying that out of that less than one-third would not have gone through had it not been for Ex-Im financing. That is where we come up with the figure of 0.67 percent. I took the Ex-Im's own figures to the Library of Congress. They came back and they said Treasury Department did not rest it on quantitative data but on certain qualitative judgments. They said it is less than 0.67 percent. We know that it is not even 1 percent or $120 million. It is less than a million.

Mr. NEAL. But that is speculative also, is it not? But it is less than $1 million.

Mr. HARKIN. And the gentleman is talking about comparing that to gross violations of human rights that go on around the world? I hope we do not want to get ourselves into that position.

Mr. NEAL. I hope the gentleman knows I am not arguing for gross violations of human rights. I want us to act when such action will make some difference. The approach of the gentleman is such a nondiscriminating approach that it does not take into account what effect that action may have. He is perfectly satisfied that the action has no beneficial effect, it seems to me.

Mr. HARKIN. I will respond to that by saying the Eximbank gets many more applications than it ever is able to fulfill.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 5 additional minutes.)

Mr. NEAL. Let me say to the gentleman on that point, that again is simply not true. Over the last 10 years the Bank has only on average, over that 10-year period, used about 70 percent of its authorization. The Bank is not able to use all its authorizations. That is simply a total misconception.

The Bank is out promoting exports from this country in a very competitive world market. There is extremely intense competition for many of our exports now and the Bank is seeking out loans to make. Not only have they operated at about 70 percent of their capacity over the last several years, but also we are increasing that capacity considerably in this year.

Again, the three basic facts the gentleman bases his argument on are simply incorrect.

Mr. HARKIN. The gentleman in the well is arguing there is so much demand at present for our Ex-Im financing. Then we can pick and choose whom we want. We do not have to finance those human rights violations.

Mr. NEAL. Oh, no. The point is in world trade we are in a very competitive area and we have to fight for every export we get. If we were to have this very unwise language, then we would almost hobble the Bank's efforts to aid our exports.

Mr. HANNAFORD. Mr. Chairman, will the gentleman yield to me on that point?

Mr. NEAL. I yield to the gentleman from California (Mr. HANNAFORD).

Mr. HANNAFORD. Mr. Chairman, as I understood the colloquy, the chairman was not making the point that there was intense competition but there was a lack of intense competition and that the bank was seeking how to make loans.

Mr. NEAL. That is correct, domestically.

Mr. HANNAFORD. Mr. Chairman, let me state that I certainly agree with the gentleman in the well on this legislation. There is no way that we can effectively compel any human rights behavior through the instrumentality of the Export-Import Bank. There is just no way.

The argument is quite similar to the one that was given previously to the earlier amendment we just voted on, and that is that if these other countries do not buy our products then they are going to buy the products from elsewhere, whether on the basis of human rights, or anything else.

I happen to have the DC–10 manufacturing plant in my district, and the point was made that they were using the Export-Import Bank to buy the DC–10's instead of the European 830's. We all know that none of those DC–10's are going to be used as instrumentalities of death and I see no basis whatever for denying the sale of those aircraft.

Further, Mr. Chairman, let me say that if we used a standard of moral judgment about every transaction that took place in the world, the commerce of the world would be killed.

The point is that the Export-Import Bank is an instrument of our Government whose policy is to sell the products of our farms, our factories, and our mines to the rest of the world. I believe it is extremely important that we not fetter them with such restrictions as are proposed. I think we should rather use such meaningful instruments as we have to try to encourage human rights around the world, not this one.

Mr. NEAL. The gentleman from California (Mr. HANNAFORD) is correct in his comments.

Mr. Chairman, I would like to make one other point in this regard and that is it is simply a total misconception by the gentleman from Iowa (Mr. HARKIN) that the Export-Import Bank directly allocates its resources on a country-by-country basis, or that, for instance, if a loan is not made to this country over there then that will free up the loans to be made in another country.

The fact is, we have more than adequate resources; the problem is with making the exports. The competition is in the world international trade area, not here in our country for the exports.

One other point, if I may be permitted to make it, is that we have said several times that we must argue that this is different and something else is different. I suggest we have to agree that the Export-Import Bank is different. It is different in that this is the only Government agency with certain real responsibilities of facilitating the export of U.S. products. That is its purpose and in that respect it is different. It is certainly not an aid bank; it is very, very different from that.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, a few moments ago we were talking about the subject of the availability of countries who want bank loans from the Export-Import Bank, and do they or do they not have enough customers. I think it would be interesting for the Committee to know that in countries all around the world there is no particular company or country that I know that classifies countries on the basis of human rights violations or violations of civil rights, as is present in the particular language used in the amendment offered by the gentleman from Iowa (Mr. HARKIN) to the best of my knowledge, anyway. But I think it is interesting to note that Freedom House in New York lists some 78 countries that are in violation of political rights and 50 countries who are in violation of civil rights. In addition to that, there is Amnesty International that lists some 25 countries in which journalists are being held in those countries.

But, Mr. Chairman, what happens when you get into the language we now have, let alone the extreme language that the gentleman from Iowa (Mr. HARKIN) is offering at the present time?

If we took these countries and these institutions which are listed, they would have accounted for almost $3 billion in loans from the Export-Import Bank last year, and I think that before the vote is cast that we had better get a description of what gross human rights violations means. We already have language in the bill, as I say, and I am sure the gentleman from Iowa (Mr. HARKIN) is familiar with the language, but to go along and provide this additional language is certainly an overkill and I hope the language will be defeated.

Mr. NEAL. Mr. Chairman, I just want to make a couple more points. One is that we have an administration now totally dedicated to the cause of human rights around the world, and it just does not make any sense to cripple them with this kind of amendment. The Bank

has human rights language. The amendment before us is unnecesary. All this amendment would do would be to lessen any kind of competitive opportunity we might have in world trade. It is a competitive area, and other countries would certainly be happy to move in and fill the void.

I urge that we defeat this amendment.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa. One hundred and fifty years ago de Tocqueville, a French aristocrat, writing about democracy in America, after describing so many other aspects of America, said that one reason for America's greatness is that America is basically a good country, and when it stops being good, it will no longer be great.

The thing that endears the Harkin amendment to me is that basically it is telling the world that we insist on certain moral standards before we participate in subsidizing or otherwise helping to do business with those countries. We cannot tell the countries that they have got to run their systems in a certain way. We cannot intervene in those countries. We can say, we will not do business with you, or, we will not put money into your country. That is why I think the Harkin amendments are so important. I do not suppose there is anybody here who disagrees with that. What the opponents of Harkin are saying is that jobs and economics override the moral considerations.

Let me read here from the Wall Street Journal a statement which clearly, I think, puts the Export-Import Bank and its contributions to our exports balance of profit in perspective. When I get all through reading, I am going to tell the Members who wrote the article. I shall not read all of the article, but here is the important part of it:

> Clearly the Export Import Bank cannot improve the balance of payments and bolster the dollar in the short-run. Any exports stimulated through the Bank's programs—both monetarist and Keynesian economists believe the volume is not likely to be large, although for different reasons—will generally only be shipped after a lag and will generate the bulk of their balance-of-payment receipts only when the credits are repaid, often many years later. Thus, the positive effect on the trade account—if any—is largely offset by the debit on capital account.
>
> To the extent that the Bank's credits do not stimulate additional exports they will have an adverse effect on the short-run balance of payments by contributing to the capital outflow.

Here is what we have been doing. We have been exporting capital when we do not have enough capital in this country to fulfill about $2 trillion of capital needs.

> Export Import Bank credits consequently may actually accentuate the sharp swings in U.S. balance-of-payments performance and the value of the dollar by shifting receipts from periods of balance-of-payments stringency and a depreciating dollar to periods of balance-of-payments strength and a rising dollar.

Later on in the article:

> Those who benefit from the Bank and other export promotion programs sometimes justify their call for increased government support by citing the need to meet "unfair" officially supported foreign competition. But if other countries wish to inflate their governments' deficits in order to give away their exports, it's no justification for us to do the same.
>
> It is interesting to note that among the major countries, Germany and Switzerland provide the fewest officially supported export credits and have the least costly export promotion programs, yet these are countries with strong and appreciating currencies. The United Kingdom, on the other hand, has the most costly export promotion program but faces periodic balance-of-payments crises.

Now, the author of that article is Steven H. Goodman, former vice president, policy analysis, of the Export-Import Bank.

I submit there are enough questions—about whether the Export-Import Bank does good for our economy, does good for our balance of payments—to raise the question, should we be putting moral and human rights considerations aside on the grounds that business is more important?

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I just want to make it clear to the gentleman, that is not the situation. We already have human rights language in the Bank that is working. It gives us both the carrot and the stick approach.

This is so inflexible that it would only give us the stick. I just cannot emphasize strongly enough that we have language in the Bank that was adopted by the committee and adopted by the House.

This language in the amendment would not work. It is totally unneeded and it would be very costly to this country.

Mr. LONG of Maryland. Mr. Chairman, it does not do any good to lock ten windows and leave one open. It does not do any good at all. A burglar can get in that one window.

The gentleman from Arkansas (Mr. HARKIN) is trying to close up the open window.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize we have debated this subject at great length, but let us sit back for a second look at the issue. Is it our purpose to posturize ourselves or is it our purpose to attempt to effectuate an improvement in human rights throughout the world?

Mr. Chairman, if our purpose is the former, then I suppose the amendment before us is the proper vehicle; if our purpose is the latter, then it seems to me that what we ought to do is to have the President, when he is meeting at Bonn at an economic summit conference, discuss these different issues with other nations so that we will have a free world position—a free world position that is effective in accomplishing our purpose.

We are not the Nation we were insofar as international trade is concerned. We are not the Nation that we were immediately following World War II, when a policy adoped by this country was for all intents and purposes the trading policy of the free world. Today our trading partners can probably supply everything we can supply, other than perhaps 1 percent of the items in international trade that is conducted in a year's time.

So, therefore, our unilateral posturizing is ineffectual.

The President the other day said we would not sell the Univac computer, and he gave two reasons. I was at the White House at that time. First, the President said the Univac computer had a strategic capability that far exceeded the need of the Tass News Agency, maybe 20 times the capacity, and so it was being done perhaps for a strategic reason. The other was the human rights reason, to show our displeasure. I respectfully suggest that, despite what has been said in the other body, both those reasons are wrong unless certain other determinations are made.

Some of the Members will recall that in 1969 the gentleman from Ohio, LUD ASHLEY, and I mounted a campaign to loosen up the Export Administration Act, because the National Security Council was denying an export license to almost everything on a strategic basis. We did that so the NSC could not deny export licenses on everything during that time. We said that in determining the strategic importance of an item, the NSC could not look only at the item, but must look at what is available elsewhere in the free world, because, once again, a unilateral decision on our part did not interdict the receipt of the item by the recipient country; it only denied our exporters the opportunity to engage in that commerce.

So unless the President has determined that that computer is not available elsewhere, or, even better, unless we have an agreement among our free world trading partners that they in effect will adopt a common policy with respect to a computer of that capability, then our decision is meaningless.

The same thing is true of human rights. If we do not have a summit conference on human rights so that all the trading partners insofar as Eximbank-type national financing is concerned say they will not furnish beneficial financing unless our common human rights policies are concurred in, we have done nothing.

I respectfully suggest there is one thing in this bill that is very good, and that is the part that says we have got to sit down with all the other nations in the free world and start talking about predatory financing. That is the kind of summit conference that will help eliminate the predatory financing that is going on. We need to have a summit conference on this subject, and we should have similar language in this bill saying that we have got to have the free world nations sit down and talk about human

rights and come up with one common policy.

We need to have the nations of the free world sit down in a summit conference and make CoCom, the coordinating committee, which determines what strategic items shall be on the committee's list, develop a consistent policy, and have all the nations follow it up so that we will have a free world policy on strategic goods.

But, Mr. Chairman, we are not doing those things. We are acting unilaterally. Our rhetoric is wonderful, our posture is great, but we are totally ineffectual.

Mrs. FENWICK. Mr. Chairman, this debate has lasted a long time. I will be very brief.

There is something I would like to bring to the attention of my colleagues. I am sure that if we could solve the human rights situation in the world we would join in any lawful means at our command in order to do so. This legislation suggests itself as one of them. I do not wonder, as someone who has spoken so often on this subject, that we again might try to do something.

But, to begin with, there is something in the amendment that I object to. I think it is humiliating and unnecessary to list those countries which we have, so to speak, castigated. I think it would be better to do that privately. At the end of the amendment, it says:

> The report shall also contain a description of any case in which the Bank did not extend any guarantee . . .

I think that is really unfortunate. But that is not the whole point. More importantly, this amendment is not going to work. I would like to point out to those who attempted to join in this that neither West Germany nor Switzerland, who have been held up as great examples of how to operate without any help from government, has anything similar to the Harkin amendment. We are introducing an element which is not common to the banking practices of the world.

But suppose we could do something. Consider this: Just a month ago, Nicaragua got millions of dollars. I questioned the State Department as to how this could be. The editor of the opposition newspaper, Mr. Chamorro, had been murdered. So had his cousin—also named Chamorro. His son, a boy 16 years old, sought asylum in our Embassy. I asked, "How did you come to give Nicaragua this money?" It was done through the clause provided in this amendment. And here it is: "Unless it will directly benefit the needy people of such countries." And there you are. The writer of this amendment is right to include the clause. There must be a way to benefit the needy of any country. But if one could interpret a road, or whatever aid was given, as justifying money for Nicaragua certainly we could, in Brazil, help the people in the favelas of Rio, the terrible shantytowns, by selling equipment for a hydroelectric plant, to give people jobs and dignity. Almost anything could be done that way. A nuclear plant could be built so that people could have electricity instead of living with no light on their streets.

This is an amendment, in my opinion, that is useless and mischievous. It is not going to accomplish the end it purports to seek.

Mr. Chairman, I urge the defeat of the amendment.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, to coin a phrase, it is time to put our money where our mouth is. We are the richest country in the world. We are also the leading proponents of human rights. Morale and ethical principles should have no price tag. We should be leaders in action, not only in speech. This is a universal amendment. It would apply to Communist countries, as well as South Africa.

The sponsor of this amendment, the gentleman from Iowa (Mr. HARKIN), has indicated that according to the Treasury Department this would only decrease the amount of loans that the Export-Import Bank makes by 0.6 percent. This is a very, very small price to pay for our country's leadership in the field of human rights, and it is about time we supplemented our leadership and our words with action.

Mr. Chairman, I think it is disgraceful that we will not have the same universal language in this bill that we will have in the OPIC bill. We really ought to help the people who are suffering from these dictatorships and who are suffering in terms of human dignity. We ought to supply the language which tells their government, "Look, you have to adhere to human dignity and treat your people with respect and justice, or we are not going to assist you."

We all know this is not going to be a great burden, and the argument concerning the cost of jobs simply is not true, the Treasury report, and so forth.

Therefore, let us not hide behind this charade any more about human rights. We are either doers or we are not. I hope that we will be doers in this instance.

Mr. NEAL. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I thank the gentlewoman for yielding.

The gentlewoman said in her remarks that we are not going to aid countries which violate human rights.

Ms. OAKAR. I did not say that.

Mr. NEAL. Perhaps the gentlewoman said assist. Aid, assistance, mean the same thing. The fact of the matter is that this is not an aid or assistance institution.

Ms. OAKAR. No, I did not say that. I understand what the spirit of the law is very well. I am on the committee, and it is not an aid program. We understand that; but in a real sense it does assist these nations, does it not? Would the gentleman agree that it assists them?

Mr. NEAL. It assists us, that is who it assists, not them.

Ms. OAKAR. I do not know. A lot of countries have nuclear power plants, which is another whole issue that I am hopeful we will get to.

It is a very, very questionable action when your reports show how dangerous our own powerplants are.

Mr. NEAL. With respect to what the gentlewoman said about this meaning the loss of only a few jobs, I think the minimum estimate of lost jobs this would cost would be something like 60,000 jobs.

Ms. OAKAR. Where did the gentleman get that figure? The Treasury said it is only 0.6 percent.

Mr. NEAL. Of $120 billion.

Ms. OAKAR. Exactly, but they can shift it to other countries, and we all understand that there are countries waiting in line to participate in it.

That conclusion is the chairman's.

Mr. NEAL. That is absolutely incorrect, I say to the gentlewoman.

Mr. HARKIN. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentlewoman for yielding.

I would respond to the chairman that if there are not countries waiting in line, then why do we have to increase this amount by 47 percent? Why is it that if they are not standing in line to get Eximbank money, that we have to increase this to $40 billion over the next 5 years?

Mr. NEAL. Mr. Chairman, if the gentlewoman will yield, we are hoping we will increase our trade worldwide. Unless we should become more aggressive in trade, the Bank would run out of money relatively soon, in the next year or so. Therefore, we are increasing their authority so that they can help us reduce this $31 billion trade deficit so as to do something about the value of the dollar and put people to work in this country.

Mr. HARKIN. That is fine. Let us increase trade with those countries which share with us a commitment in human rights, as the President said in his inaugural address. Then we can take up the slack of those 60,000 jobs by dealing with those countries and increasing our trade to those countries.

Mr. Chairman, I would just like to address myself to one point raised earlier. Members have raised this argument about the fact that businesses will be hurt.

The CHAIRMAN. The time of the gentlewoman from Ohio (Ms. OAKAR) has again expired.

Ms. OAKAR. Mr. Chairman, I ask unanimous consent to be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

Mrs. FENWICK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank

the gentleman from Missouri (Mr. VOLKMER) for yielding.

I just want to make one last point. It is this: My good friend, the gentleman from California, raised the issue of airplane sales. I am very supportive of exporting our technology. I do not think anyone can say that I have not been. In fact, just yesterday I talked at great length with some representatives from an aircraft manufacturer located in the State of California. I talked with them about this amendment and what I sought to do with it.

He said, "Would you want us to cut our exports?"

I said, "No, not in any way. However," I said, "did you raise either with any company or country you were dealing with the issue of human rights?"

He said, "No."

I said, "That is my point. What I want to do is to provide a mechanism whereby a company in this country dealing with another company in another country that has this pattern of gross violations will have to raise the issue of human rights. They can say, 'I am sorry. I have to raise this issue because it is in the law. I am made to do this.'"

The other company in the other country will then put pressure on its government and say, "If you do not do something about human rights, we may lose some of this business."

That is not being done now, and I can understand why it is not being done now.

All I want, Mr. Chairman, is to have those businesses dealing abroad raise the issue of human rights, to be conscious of it, and to deal with it on the basis that, "No, we are not going to cut off exports; we are not going to cut anybody's throats or anything like that, but that the issue of human rights is a necessary element in all dealings between our country and any other country in the world."

Mr. Chairman, again I thank the gentleman for yielding.

Mr. VOLKMER. Mr. Chairman, I would like to say something. I have heard here today, in listening to this debate it has been said, that we have talked long enough on human rights; we have heard enough this session on human rights. I am thankful that our forefathers—our forefathers—did not hear enough on human rights so that we do have our Bill of Rights. I believe that we should also try to persuade, if possible, other nations that their people are entitled to those same rights that the people of this country are entitled to, and no less for the people of those other countries.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I would like to refer the gentleman to a recent communication to the Speaker of the House. It says:

> As you are aware, the firm commitment of the President to human rights throughout the world is unquestioned. The President joins me in opposing the proposed Harkin amendment and in urging passage of the extension of authority for the Eximbank.
>
> Signed, Cyrus Vance.

Mr. VOLKMER. Yes, I know of that letter.

Mr. KELLY. So, it would seem to me that the Harkin amendment is setting a standard for human rights that the rest of us can hardly afford.

Mr. VOLKMER. I disagree. I believe that we may have to put a little more backbone into the Eximbank.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 14; noes 30.

RECORDED VOTE

Mr. HARKIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 286, answered "present" 1, not voting 42, as follows:

[Roll No. 609]

AYES—103

| | | |
|---|---|---|
| Addabbo | Fisher | Nowak |
| Ambro | Florio | Oakar |
| Anderson, Calif. | Ford, Tenn. | Ottinger |
| | Garcia | Panetta |
| Anderson, Ill. | Gilman | Pepper |
| Bafalis | Gonzalez | Pike |
| Bauman | Gore | Pressler |
| Bedell | Green | Pursell |
| Beilenson | Harkin | Richmond |
| Benjamin | Hawkins | Rinaldo |
| Bennett | Heckler | Rosenthal |
| Biaggi | Holland | Roybal |
| Bonior | Hollenbeck | Ryan |
| Brademas | Holtzman | Scheuer |
| Buchanan | Keys | Schroeder |
| Burke, Calif. | Kildee | Seiberling |
| Burton, John | Kostmayer | Smith, Iowa |
| Burton, Phillip | Krebs | Snyder |
| Caputo | Lehman | Solarz |
| Carr | Lent | Spellman |
| Cavanaugh | Long, Md. | Spence |
| Chisholm | Lujan | Stark |
| Corcoran | McDonald | Steers |
| Cornwell | Markey | Symms |
| Cotter | Marks | Volkmer |
| Crane | Marlenee | Walgren |
| Davis | Martin | Walker |
| Dellums | Mikulski | Waxman |
| Dodd | Mikva | Weaver |
| Drinan | Miller, Calif. | Weiss |
| Duncan, Tenn. | Moakley | Wolff |
| Early | Moffett | Yates |
| Edwards, Okla. | Mottl | Young, Fla. |
| Eilberg | Myers, Gary | Zeferetti |
| English | Nolan | |

NOES—286

| | | |
|---|---|---|
| Abdnor | Broyhill | Dingell |
| Akaka | Burgener | Dornan |
| Alexander | Burke, Fla. | Downey |
| Ammerman | Burleson, Tex. | Duncan, Oreg. |
| Andrews, N.C. | Burlison, Mo. | Eckhardt |
| Andrews, N. Dak. | Butler | Edgar |
| | Byron | Edwards, Ala. |
| Annunzio | Carney | Edwards, Calif. |
| Applegate | Carter | Emery |
| Archer | Cederberg | Erlenborn |
| Armstrong | Chappell | Ertel |
| Aspin | Clausen, Don H. | Evans, Colo. |
| AuCoin | | Evans, Del. |
| Badham | Clawson, Del | Evans, Ga. |
| Baldus | Cleveland | Fary |
| Baucus | Cochran | Fascell |
| Beard, R.I. | Coleman | Fenwick |
| Beard, Tenn. | Collins, Tex. | Findley |
| Bevill | Conable | Fish |
| Bingham | Conte | Fithian |
| Blanchard | Corman | Flippo |
| Blouin | Cornell | Flood |
| Boggs | Coughlin | Flynt |
| Boland | Cunningham | Foley |
| Bolling | D'Amours | Ford, Mich. |
| Bonker | Daniel, Dan | Forsythe |
| Bowen | Daniel, R. W. | Fountain |
| Breaux | de la Garza | Fowler |
| Breckinridge | Delaney | Frenzel |
| Brinkley | Derrick | Fuqua |
| Brodhead | Derwinski | Gammage |
| Brooks | Devine | Gaydos |
| Broomfield | Dickinson | Gephardt |
| Brown, Calif. | Dicks | Giaimo |
| Brown, Mich. | Diggs | Gibbons |
| Ginn | McKay | Runnels |
| Glickman | McKinney | Ruppe |
| Goldwater | Madigan | Russo |
| Goodling | Mahon | Santini |
| Gradison | Mann | Satterfield |
| Grassley | Marriott | Sawyer |
| Gudger | Mattox | Schulze |
| Guyer | Mazzoli | Sebelius |
| Hagedorn | Metcalfe | Sharp |
| Hall | Meyner | Shuster |
| Hamilton | Michel | Sikes |
| Hammer-schmidt | Miller, Ohio | Simon |
| | Mineta | Skelton |
| Hanley | Minish | Skubitz |
| Hannaford | Mitchell, N.Y. | Slack |
| Hansen | Mollohan | Smith, Nebr. |
| Harris | Montgomery | St Germain |
| Harsha | Moore | Staggers |
| Hefner | Moorhead, Calif. | Stangeland |
| Heftel | | Stanton |
| Hightower | Moorhead, Pa. | Steed |
| Hillis | Moss | Steiger |
| Holt | Murphy, Ill. | Stockman |
| Horton | Murphy, N.Y. | Stokes |
| Howard | Murphy, Pa. | Stratton |
| Hubbard | Murtha | Studds |
| Huckaby | Myers, John | Stump |
| Hughes | Myers, Michael | Taylor |
| Hyde | Natcher | Thompson |
| Ichord | Neal | Thone |
| Ireland | Nedzi | Thornton |
| Jeffords | Nichols | Traxler |
| Johnson, Calif. | O'Brien | Treen |
| Johnson, Colo. | Oberstar | Trible |
| Jones, N.C. | Obey | Tsongas |
| Jones, Okla. | Patten | Tucker |
| Jones, Tenn. | Patterson | Udall |
| Jordan | Pattison | Ullman |
| Kastenmeier | Pease | Van Deerlin |
| Kazen | Perkins | Vander Jagt |
| Kelly | Pettis | Vanik |
| Kemp | Pickle | Waggonner |
| Kindness | Poage | Walsh |
| LaFalce | Price | Wampler |
| Lagomarsino | Pritchard | Watkins |
| Latta | Quayle | White |
| Leach | Quillen | Whitehurst |
| Lederer | Rahall | Whitley |
| Leggett | Railsback | Whitten |
| Levitas | Rangel | Wiggins |
| Lloyd, Calif. | Regula | Wilson, Bob |
| Long, La. | Reuss | Wilson, Tex. |
| Lott | Rhodes | Winn |
| Luken | Risenhoover | Wirth |
| Lundine | Robinson | Wright |
| McClory | Roe | Wydler |
| McCloskey | Rogers | Wylie |
| McCormack | Rooney | Yatron |
| McDade | Rose | Young, Alaska |
| McEwen | Rostenkowski | Young, Mo. |
| McFall | Rousselot | Zablocki |
| McHugh | Rudd | |

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—42

| | | |
|---|---|---|
| Ashbrook | Frey | Nix |
| Ashley | Harrington | Preyer |
| Barnard | Jacobs | Quie |
| Brown, Ohio | Jenkins | Roberts |
| Burke, Mass. | Jenrette | Rodino |
| Clay | Kasten | Roncalio |
| Cohen | Krueger | Sarasin |
| Collins, Ill. | Le Fante | Shipley |
| Conyers | Livingston | Sisk |
| Danielson | Lloyd, Tenn. | Teague |
| Dent | Maguire | Vento |
| Evans, Ind. | Mathis | Whalen |
| Flowers | Meeds | Wilson, C. H. |
| Fraser | Milford | Young, Tex. |

The Clerk announced the following pairs:

On this vote:

Mr. Vento for, with Mr. Jenrette against.

Mr. FUQUA changed his vote from "aye" to "no."

Messrs. SCHEUER, LENT, and RINALDO changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan: On page 5, after line 6, insert a new section as follows:

"SEC. 10. The Bank shall not guarantee, insure or extend credit or participate in the extension of credit in support of any export to purchasers in any country unless the United States Secretary of State certifies that the purchaser has endorsed the following principles; non-segregation of the races in all work facilities; equal and fair employment for all employees; equal pay for equal work for all employees; initiation and development of training programs to prepare minority employees for supervisory, administrative, clerical and technical jobs; increasing the number of minority employees in management and supervisory positions; improving the quality of life for employees in such areas as housing, transportation, schooling, recreation and health facilities; and, a willingness to engage in collective bargaining with labor unions."

Renumber the remaining section accordingly.

Mr. BROWN of Michigan. Mr. Chairman, I do not anticipate that this amendment is going to be accepted by both sides. However, I respectfully suggest it should be.

This is the language that was agreed to and was supported by both the minority side and the majority side in connection with the Evans amendment. It relates to working conditions in firms, facilities, and industries that receive the benefit of Eximbank financing. It was offered before in connection with the Evans amendment with respect to South Africa which was overwhelmingly agreed to.

This amendment does not strike any of the language of the Evans amendment that relates to apartheid, but, rather, it extends the Evans amendment that was only applicable to South Africa to all the countries that are involved in any way with Eximbank financing.

It seems to me, as I indicated earlier, that we ought to have a more genuine and uniform agreement in the free world as to what we do on the issues of human rights and all the other things that are covered in the amendments that have been offered to the Eximbank bill. But absent the fact that we do not seem to be given that kind of agreement, we should at least have a uniform policy with respect to this country.

If we are going to insist upon certain working conditions and other things with respect to some countries, we ought to have those same conditions, requirements, and standards made applicable to all countries.

In short, this amendment does somewhat the same thing the Long amendment attempted to do in saying that we want other nations basically to attempt to conform to those kinds of protections we afford our own workers.

Mr. Chairman, I think the amendment should be supported. As I say, it has already been adopted in one section, with respect to section 2(b) of the Eximbank bill, and it should be made applicable to all countries.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. Certainly, I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentleman's yielding.

Basically, I agree with the amendment. I am a little perplexed, though.

Could the gentleman give me a definition of who the "minority" would be, for example, in Argentina?

Mr. BROWN of Michigan. I think it would be any group that is classified as a minority in Argentina.

Mr. NEAL. Mr. Chairman, if the gentleman will yield, would the gentleman say the Nazi Party would be a minority if it did not happen to be the party in power?

Mr. BROWN of Michigan. Mr. Chairman, I do not think the gentleman ever thought that the Nazi Party was a minority, even in this country. Both the gentleman from North Carolina (Mr. NEAL) and the gentleman from Texas (Mr. DE LA GARZA) are aware of what we mean by "minorities."

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Michigan. Certainly, I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I think the gentleman in his enthusiasm is trying to do what is right and proper.

Mr. BROWN of Michigan. I am trying to do what is right and proper, and I say to the gentleman that what is right and proper is that we ought to be intellectually honest about these things. I do not think we should be promoting selective indignation and exercising selective morality. Let us make these standards applicable to all.

Mr. DE LA GARZA. I agree. The thing I would like to do, however, is, hopefully, to help the gentleman with his amendment, because I believe the gentleman confuses the word, "minority," as we use it here, and suggests that it would be applicable in all the countries of the world, and it is not.

If the gentleman could select a better wording, I would like to work with him on his amendment. I do not know who the "minority" would be in Chile. Perhaps it might be the Indian or perhaps it might be one of German ancestry.

Mr. BROWN of Michigan. Mr. Chairman, if I may recapture my time, I believe the Secretary of State can make that determination, and he can see whether or not the thrust of this language, the spirit, and the principle are being carried forward. The Secretary of State can certify and he can make all those nice little determinations about which the gentleman is raising questions.

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will yield further, I do not imply that the Secretary of State does not have the judicial capability to do that, but I would assume that he would make the same mistake the gentleman did.

Mr. BROWN of Michigan. Mr. Chairman, I would respectfully suggest to the gentleman that I think the rather technical argument that is being made by the gentleman is really being made, because perhaps the gentleman does not support the amendment, although I think he should. This amendment only extends those principles that we are making applicable to some nations, to all the nations.

Mr. NEAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if I could have the attention of the gentleman from Michigan (Mr. BROWN), the author of the amendment, I would like to see if I could get a clear understanding of the purpose of this amendment.

It is my understanding now that the gentleman does not approve the language adopted by this House concerning South Africa, so he would like to extend the language we adopted concerning South Africa, at least part of it, all of that that does not refer to apartheid, to the rest of the countries of the world; is that correct?

Mr. BROWN of Michigan. If the gentleman will yield, much to the contrary. My position is—and I am sorry the gentleman from Mr. Iowa (Mr. HARKIN) is not here because he could fully support my amendment—that we ought to make these principles uniform. If they are right, they should be uniform and they should apply to all nations.

Mr. NEAL. Mr. Chairman, could the gentleman tell me, is there some divine principle involved which says we should make our treatment of all nations exactly equal?

Mr. BROWN of Michigan. Is the gentleman a selective moralist? Does the gentleman wish to pick and choose and decide who we should give this treatment regarding employees to? We can only pick and choose? We do not have this commitment to make it applicable to all, but we only apply our great principles and our sense of responsibility and righteousness to nations in a selective way?

Mr. NEAL. We adhere to the language of the bill.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Georgia.

Mr. LEVITAS. Is the gentleman from North Carolina really saying this: We may need to pass laws prohibiting parading elephants down the streets of a city which has a zoo, but there is no reason to prohibit parading elephants on the moon because there are no elephants on the moon; therefore, you devise legislation to deal with problems where you find them.

If we find a problem of the sort described by the gentleman, we should legislate against it.

Mr. NEAL. The gentleman makes a very good point and a lot of sense.

I am not really convinced that the gentleman from Michigan is offering the amendment in all seriousness. I hope he is not. It seems to me that it is a frivolous amendment, and I would urge its rejection.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding. At the outset, I think urging fair and equal working

conditions is hardly analogous to regulating elephants whether they be in the streets or on the Moon, as the gentleman from Georgia suggests. But, Mr. Chairman, I will ask the gentleman the chairman of the subcommittee this question: What is wrong with the principle of the amendment? Tell me what is wrong. Basically, is the gentleman saying there should not be equal and fair employment among employees, there should not be nonsegregation of the races in all work facilities?

Mr. NEAL. I have read the amendment.

Mr. BROWN of Michigan. The amendment calls for an effort to put a number of minority employees in management and in supervisory positions. It urges employers to work to improve the quality of life in housing, in schools, in recreation, in health facilities.

And, finally, is the gentleman against a willingness on the part of employers to engage in collective bargaining?

Mr. NEAL. Of course not.

Mr. BROWN of Michigan. I would not think that anyone would be opposed to that position.

Mr. NEAL. I just say that I do not think we can impose our standards on the rest of the world.

Mr. BROWN of Michigan. The gentleman just did that. He endorsed and spoke in behalf of the Evans amendment a while back.

Mr. NEAL. That is quite correct.

Mr. BROWN of Michigan. That is the same language.

Mr. NEAL. That is part of the same language; and of course, as the gentleman knows, the Evans amendment was an attempt to modify an amendment adopted earlier by the full Committee on Banking, Finance and Urban Affairs. It was an improvement. I thought it was an improvement, and a majority thought it was an improvement.

Mr. BROWN of Michigan. The gentleman's amendment, to the extent that it has application to a particular country, was covered in the first two subparagraphs, not the final one. The final one was added on.

Those conditions, it seems to me, should be enforced and should be applied equally and universally around the world, not just to one nation.

Mr. NEAL. Mr. Chairman, I must respectfully disagree with the gentleman and hope that we will defeat the amendment. It would cost this country probably billions of dollars in jobs and profits and would be very dangerous to our country.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think we ought to make it clear to the members of the committee exactly what this amendment does.

We had an argument in our committee on the subject of South Africa, on the question of whether or not we were going to have total prohibition against lending in South Africa or what we were going to do with regard to South Africa. The majority of our committee voted for the amendment of the gentleman from Delaware.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. NEAL) has expired.

(On request of Mr. STANTON and by unanimous consent, Mr. NEAL was allowed to proceed for 2 additional minutes).

Mr. STANTON. Mr. Chairman, will the gentleman yield further?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. As I was saying, Mr. Chairman, the entire committee came up with a compromise. The gentleman from Delaware (Mr. EVANS) came up with this language which, we thought, solved the South African question.

Let me explain what the amendment of the gentleman from Michigan (Mr. BROWN) would do. The gentleman wants us to say to 6,000 companies and all the countries in the world that Exim deals with that they should deal with the Eximbank under the same language as in the Evans amendment. The gentleman from Michigan (Mr. BROWN) says that we can take the language out in conference if we want to.

Mr. Chairman, I am still angry with South Africa, but the Evans amendment was a compromise. One can, of course, win the battle and lose the war. There is absolutely no sense to putting this language in. It will affect all of the 6,000 companies to the extent that the Secretary of State would have to tell the president of the Eximbank how to vote on every decision he would have to make.

Therefore, Mr. Chairman, I urge defeat of this amendment, and I call for a vote at this time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROWN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROWN of Michigan. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. FARY). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Michigan (Mr. BROWN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 90, nays 288, not voting 54, as follows:

[Roll No. 610]

AYES—90

| | | |
|---|---|---|
| Ambro | Hammer-schmidt | Quillen |
| Andrews, N. Dak. | Hansen | Rangel |
| Applegate | Harkin | Richmond |
| Bauman | Harsha | Robinson |
| Bonior | Hawkins | Rousselot |
| Broomfield | Holland | Rudd |
| Brown, Mich. | Holt | Ruppe |
| Buchanan | Holtzman | Satterfield |
| Burke, Calif. | Ichord | Sawyer |
| Burke, Fla. | Jacobs | Schulze |
| Burleson, Tex. | Kelly | Shuster |
| Burton, John | Kemp | Skelton |
| Byron | Lehman | Snyder |
| Chappell | Lent | Spence |
| Chisholm | Long, Md. | Stark |
| Clay | Lujan | Stockman |
| Cleveland | McDonald | Stokes |
| Collins, Tex. | Martin | Stump |
| Coughlin | Metcalfe | Symms |
| Crane | Mikulski | Taylor |
| Daniel, Dan | Miller, Calif. | Thone |
| Daniel, R. W. | Miller, Ohio | Treen |
| Davis | Mitchell, Md. | Vander Jagt |
| Dellums | Mitchell, N.Y. | Volkmer |
| Derwinski | Moorhead, Calif. | Walker |
| Devine | Mottl | Wampler |
| Dornan | Oakar | Weaver |
| Duncan, Tenn. | Poage | Wiggins |
| Garcia | Pressler | Wilson, Bob |
| Goodling | | Wydler |
| | | Young, Alaska |

NOES—288

| | | |
|---|---|---|
| Abdnor | Dodd | Hillis |
| Akaka | Downey | Hollenbeck |
| Alexander | Drinan | Horton |
| Ammerman | Duncan, Oreg. | Howard |
| Anderson, Calif. | Early | Hubbard |
| | Eckhardt | Huckaby |
| Anderson, Ill. | Edgar | Hughes |
| Andrews, N.C. | Edwards, Ala. | Hyde |
| Annunzio | Edwards, Calif. | Ireland |
| Archer | Edwards, Okla. | Jeffords |
| Armstrong | Eilberg | Johnson, Calif. |
| Aspin | Emery | Johnson, Colo. |
| AuCoin | English | Jones, N.C. |
| Bafalis | Erlenborn | Jones, Okla. |
| Baldus | Ertel | Jones, Tenn. |
| Baucus | Evans, Colo. | Jordan |
| Beard, R.I. | Evans, Del. | Kastenmeier |
| Beard, Tenn. | Evans, Ga. | Keys |
| Bedell | Fary | Kildee |
| Beilenson | Fascell | Kindness |
| Benjamin | Fenwick | Kostmayer |
| Bennett | Findley | Krebs |
| Bevill | Fish | LaFalce |
| Biaggi | Fisher | Lagomarsino |
| Bingham | Fithian | Latta |
| Blanchard | Flippo | Leach |
| Blouin | Flood | Lederer |
| Boggs | Florio | Leggett |
| Boland | Flynt | Levitas |
| Bolling | Foley | Lloyd, Calif. |
| Bowen | Ford, Mich. | Long, La. |
| Brademas | Ford, Tenn. | Lott |
| Breaux | Forsythe | Luken |
| Breckinridge | Fountain | Lundine |
| Brinkley | Fowler | McClory |
| Brodhead | Frenzel | McCloskey |
| Brooks | Fuqua | McCormack |
| Brown, Calif. | Gammage | McDade |
| Broyhill | Gaydos | McEwen |
| Burgener | Gephardt | McFall |
| Burlison, Mo. | Giaimo | McHugh |
| Butler | Gibbons | McKay |
| Carter | Gilman | McKinney |
| Cavanaugh | Ginn | Madigan |
| Cederberg | Glickman | Mahon |
| Clausen, Don H. | Goldwater | Mann |
| | Gonzalez | Markey |
| Clawson, Del | Gore | Marks |
| Cochran | Gradison | Marlenee |
| Conable | Grassley | Marriott |
| Conte | Green | Mattox |
| Corcoran | Gudger | Mazzoli |
| Corman | Guyer | Meyner |
| Cornell | Hagedorn | Michel |
| Cotter | Hall | Mikva |
| Cunningham | Hamilton | Mineta |
| D'Amours | Hanley | Minish |
| de la Garza | Hannaford | Moakley |
| Delaney | Harris | Moffett |
| Derrick | Heckler | Mollohan |
| Dickinson | Hefner | Montgomery |
| Dicks | Heftel | Moore |
| Dingell | Hightower | Moorhead, Pa. |

| | | |
|---|---|---|
| Moss | Regula | Stratton |
| Murphy, Ill. | Reuss | Studds |
| Murphy, N.Y. | Rhodes | Thompson |
| Murphy, Pa. | Rinaldo | Thornton |
| Murtha | Risenhoover | Traxler |
| Myers, Gary | Roe | Trible |
| Myers, John | Rooney | Tsongas |
| Myers, Michael | Rose | Udall |
| Natcher | Rosenthal | Ullman |
| Neal | Rostenkowski | Van Deerlin |
| Nedzi | Roybal | Vanik |
| Nichols | Russo | Waggonner |
| Nolan | Santini | Walgren |
| Nowak | Scheuer | Walsh |
| O'Brien | Schroeder | Waxman |
| Oberstar | Sebelius | Weiss |
| Obey | Seiberling | White |
| Ottinger | Sharp | Whitehurst |
| Panetta | Sikes | Whitley |
| Patten | Simon | Whitten |
| Patterson | Sisk | Wilson, C. H. |
| Pattison | Skubitz | Wilson, Tex. |
| Pease | Slack | Winn |
| Pepper | Smith, Iowa | Wirth |
| Perkins | Smith, Nebr. | Wolff |
| Pettis | Solarz | Wright |
| Pickle | Spellman | Wylie |
| Pike | St Germain | Yates |
| Price | Staggers | Yatron |
| Pritchard | Stangeland | Young, Fla. |
| Pursell | Stanton | Young, Mo. |
| Quayle | Steed | Zablocki |
| Rahall | Steers | Zeferetti |
| Railsback | Steiger | |

NOT VOTING—54

| | | |
|---|---|---|
| Addabbo | Dent | Milford |
| Ashbrook | Diggs | Nix |
| Ashley | Evans, Ind. | Preyer |
| Badham | Flowers | Quie |
| Barnard | Fraser | Roberts |
| Bonker | Frey | Rodino |
| Brown, Ohio | Harrington | Rogers |
| Burke, Mass. | Jenkins | Roncalio |
| Burton, Phillip | Jenrette | Runnels |
| Caputo | Kasten | Ryan |
| Carney | Kazen | Sarasin |
| Carr | Krueger | Shipley |
| Cohen | Le Fante | Teague |
| Coleman | Livingston | Tucker |
| Collins, Ill. | Lloyd, Tenn. | Vento |
| Conyers | Maguire | Watkins |
| Cornwell | Mathis | Whalen |
| Danielson | Meeds | Young, Tex. |

Mr. WAGGONNER and Mr. NOWAK changed their vote from "aye" to "no."

Messrs. RICHMOND, BONIOR, RUPPE, VOLKMER, McDONALD, BUCHANAN, CRANE, and KEMP changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CAVANAUGH

Mr. CAVANAUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAVANAUGH: Page 5, after line 6, add the following new section and renumber all successive sections accordingly:

SEC. 10. Section 2(b)(3) of the Export-Import Bank Act of 1945 is further amended by inserting at the end thereof the following:

"; and

"(C) in the case of any transaction involving the sale of a nuclear reactor, an evaluation based upon an analysis prepared by the Nuclear Regulatory Commission (i) describing the nuclear regulatory organization and practices of the recipient country, and (ii) indicating the extent to which the Health and Safety standards adopted and implemented by the recipient country are consistent with those established by the Nuclear Regulatory Commission, and, where applicable, with International Atomic Energy Agency's standards and recommendations.".

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Chairman, I make a point of order against the language of the amendment on the ground that it violates rule XVI, clause 7, of the rules of the House and is not germane to the subject matter before us.

The bill before us deals with amendments to the Export-Import Bank Act, and this pending amendment, although it goes to a section of the act and does pertain to the export of nuclear technology, does not confine itself to that.

If the Chair will address himself to section 2(b)(3) of the Export-Import Bank Act of 1945, the Chair will find that the only requirements imposed there for reporting are those on the president of the Bank to give Congress a complete analysis of the proposed loans to be made. The section does not in fact impose any duties on anyone else or any other agency.

Section 2(b)(4) also imposes duties on the Secretary of State, as well as the Board of Directors of the Bank.

The gentleman's amendment, however, goes beyond anything in the present act and requires a scientific analysis by the Nuclear Regulatory Commission, which is not heretofore mentioned in the act, describing completely both the aspects of the organization and the practices of the recipient country, and even beyond that, the health and safety standards applied within that country.

I am informed by the Nuclear Regulatory Commission that it has no jurisdiction under existing law to address the question of nuclear exports in this matter. Neither the Atomic Energy Act of 1954 nor the Nuclear Nonproliferation Act of 1978 requires the Nuclear Regulatory Commission to review the health and safety standards of the recipient nations of nuclear exports. It has neither the staff nor the funding previously authorized to carry out these duties which are newly imposed by this language.

So, Mr. Chairman, this amendment is beyond the scope of the legislation now before the committee and is outside the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I would submit it is not germane to the bill before us.

The CHAIRMAN. Does the gentleman from Nebraska (Mr. CAVANAUGH) wish to be heard on the point of order?

Mr. CAVANAUGH. I do, Mr. Chairman.

Mr. Chairman, the arguments of the gentleman from Maryland (Mr. BAUMAN) do not primarily go to the issue of germaneness here. He vastly expands his argument to the question of the capability of the agency, and those should be substantive arguments based on requirements set out in my amendment. The issue here is whether or not this Congress can, through this legislation, require reports to it on a specific transaction involving the sale of nuclear facilities and whether it can require interagency cooperation in order to achieve that. The entire history of the legislation is replete with interagency cooperation provisions reflecting all aspects of the Federal Government.

The Small Business Administration is mandated by this legislation to cooperate with Ex-Im, as is the Commodity Credit Corporation, and more specifically, with regard to sections 2(b)(3) and 2(b)(4) to which this amendment is particularly germane, the Secretary of State already has analogous responsibilities mandated by Ex-Im legislation conferring particular responsibilities on the Secretary of State and in fact, requiring the Secretary of State to similarly, as this amendment provides, examine cooperation with the International Atomic Energy Agency.

So this amendment and legislation is wholly analogous and germane to the section being amended and to the history of the Eximbank legislation authorization.

Mr. BAUMAN. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, the gentleman from Nebraska (Mr. CAVANAUGH) conveniently ignores my major point. Under the rule of germaneness, the amendment must be germane to the proposition before us.

The gentleman cites as his authority that the present act, the Export-Import Bank Act, in 2 sections requires certain reporting regarding the export of nuclear materials or the financing of them by the Board of the Bank and by the Secretary of State.

The gentleman's amendment goes far beyond that and imposes, for the first time, on a completely different governmental entity, the Nuclear Regulatory Commission, certain judgments to be made, as I have described, as to what the recipient country is doing regarding nuclear matters for health and safety, and to describe completely that country's nuclear capabilities and organization. It even goes so far as to require the NRC to apply the International Atomic Energy Agency's standards, which are not under their jurisdiction, adding still a fourth agency.

Nothing in the present law supports that extension of the power of the Export-Import Bank to make these judgments or to require them from another agency. Therefore, I feel that it is not germane, and the gentleman has not addressed the fact that there is no statutory law which allows the NRC to engage in these practices, nor is there anything in the law that this bill seeks to amend that covers the matters the amendment addresses.

The CHAIRMAN. Does the gentleman from Nebraska (Mr. CAVANAUGH) wish to be heard further on the point of order?

Mr. CAVANAUGH. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized.

Mr. CAVANAUGH. Mr. Chairman, first of all, this amendment does not, as the gentleman from Maryland has stated, require the imposition of IAEA standards or NRC standards on this transaction. It simply requires that the Export-Import Bank provide the Congress with an evaluation based upon an analysis performed by the NRC, and in no way expands the authority of Exim to the imposition of foreign standards or, indeed, of any standards, but simply

a compilation of information which is peculiarly within the expertise of the NRC, and it would be impossible for the Export-Import Bank to accomplish its appropriate legislative mandate or evaluation to the Congress preliminary to an extension of credit for the sale of nuclear facilities.

I would urge the chairman that this amendment, therefore, is wholly germane to the existing legislation before us.

The CHAIRMAN. Does the gentleman from Missouri (Mr. VOLKMER) seek recognition on the point of order?

Mr. VOLKMER. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized.

Mr. VOLKMER. Mr. Chairman, in speaking on the point of order, very briefly, a careful reading of the amendment shows that the amendment itself does not in any way impose on the NRC any additional duties. Clearly this Congress could provide that the Export-Import Bank would not export any nuclear energy or nuclear reactor information and technology. And if the Export-Import Bank is unable to provide this information which is called for in this amendment, my reading of it is they prohibit the exportation of it and the subsidy of it. A careful reading will show it does not impose on the NRC any additional duty.

The CHAIRMAN. The Chair is ready to rule on the point of order.

The amendment is drafted as a further condition to be imposed on the Bank before it may approve certain transactions.

From page 20 of the report it is evident that the Eximbank is already required by the bill and by the section of law being amended to consult with and seek the cooperation of diverse Government resources and agencies, including the Small Business Administration, the Commodity Credit Corporation, the Department of State, and the President himself.

For example, on page 20 the report indicates that the Commodity Credit Corporation is called upon to perform new functions in cooperation with the Eximbank.

In addition, section 2(b)(4) of the act already requires that the Bank be in receipt of information relating to compliance with the International Atomic Energy Agency standards.

The Chair will also turn to chapter 28, section 23.1 of Deschler's Procedure, which reads as follows:

To a bill authorizing the procurement of military weapons for the fiscal year, an amendment prohibiting procurement from a particular facility pending the submission of a report by the Comptroller General relating to the feasibility of deactivating that facility was held to be germane. 116 CONG. REC. 14481, 91st Cong. 2d Sess., May 6, 1970.

The Chair also refers to chapter 28, section 24.21 of Deschler's Procedure, which reads as follows:

To a section of a bill reported from the Committee on International Relations authorizing appropriations for humanitarian and evacuation assistance to war refugees in South Vietnam, an amendment making that authorization contingent upon a report to Congress on the costs of a portion of the evacuation program, but not requiring the implementation of any new program (within the jurisdiction of another committee) was held germane as a related contingency. 121 CONG. REC., 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act].

Therefore, the Chair rules the amendment is germane as a restriction on the authority of the Eximbank.

Accordingly the Chair overrules the point of order.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. CAVANAUGH. I yield to the gentleman from Maryland.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, I just wanted to inquire of the Chair whether or not it is parliamentarily possible to make a point of order against the ruling of the Chair for not being germane to the point of order that was made.

The CHAIRMAN. The germaneness rule applies only to amendments. Is the gentleman from Maryland appealing from the ruling of the Chair?

Mr. BAUMAN. No, Mr. Chairman, I am just making an inquiry.

Mr. CAVANAUGH. Mr. Chairman, this amendment will provide access by the Eximbank and the Congress to the expertise of the Nuclear Regulatory Commission in evaluating the safety and feasibility of any extension of Ex-Im financing for exports of nuclear reactor facilities.

My amendment does not require that the NRC become involved in the internal affairs of the foreign government prior to the export authorization. It only asks that the NRC make available the knowledge which is in the NRC's peculiar expertise.

Mr. Chairman, the importance of this amendment cannot be overstated if we are going to increase our exports and the reliability of those exports.

If Eximbank credits are to be repaid, we must determine as well as possible that nuclear reactors erected in foreign countries will be safe and operational.

The loan of more than $600 million by the Eximbank to the Philippines provides a striking example of the need to provide the Eximbank with the expertise required to evaluate the safety of nuclear reactor projects prior to the time they make the commitment for the funding.

Mr. Chairman, the Eximbank has already extended $71 million for this reactor, which may never be completed, because of health and safety hazards, and because of the inadequacy of prior preparation and health and safety review.

It is apparent that the Eximbank now attempts to provide safety review of proposed nuclear projetcs, but does not possess the unique expertise necessary to analyzing these massive funding commitments.

An Ex-Im report to Congress on a nuclear reactor in South Korea contains a paragraph on the safety of the proposed project. This is the first time that the Eximbank has so provided Congress with such information. It is apparent from that report that the basis and foundation of the analysis is wholly inadequate to justify a sound conviction by the Congress or even by Eximbank, the financer, of the security and feasibility of that project or of any other project.

The committee during its markup of this legislation decided not to accept my amendment pending an NRC staff study, which has now been completed. The results of that staff study are inconclusive and indecisive on this particular question. I think that there is considerable division of opinion within the NRC itself, and I have recently had conversation with two of the commissioners of NRC who have indicated broad sympathy with this type of legislation and a clear understanding of its necessity in order for Exim to properly and appropriately carry out its responsibilities.

I, therefore, urge support of this amendment, and encourage the Members to understand that this is an authorization for 5 years. We may not in the near future have the opportunity to address that very serious problem. I urge its support.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, does the gentleman have any idea as to the amount of money the Eximbank releases for the building of nuclear plants throughout the world?

Mr. CAVANAUGH. I would have to say that I do not have the aggregate figure of existing and contemplated commitments. I can tell the gentlewoman with reference to some specific projects in order that she can appreciate the importance of this amendment. The Philippine project, in which Exim has committed itself to direct loans or loan guarantees, is in excess of $600 million.

Ms. OAKAR. That was just one project?

Mr. CAVANAUGH. Yes. In the case of the South Korean project, most recently submitted to the Congress, the request is for loan commitments and loan guarantees in excess of $800 million for one single project. It would be contemplated that there could be between 6 and 12 additional projects within the next decade to be financed.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

(At the request of Ms. OAKAR and by unanimous consent, Mr. CAVANAUGH was allowed to proceed for 2 additional minutes.)

Ms. OAKAR. Mr. Chairman, I would just like to rise in enthusiastic support of this amendment. It is the minimum we should do in terms of protecting those individuals who engage in this kind of activity. The problem, however, really goes beyond that.

Mr. CAVANAUGH. The point the gentlewoman is making that it is a minimum is absolutely correct. This is the absolute minimum. This is perhaps the fifth redraft of this amendment, after continuous consultation with the State Depart-

ment, Ex-Im, and NRC. There are two fundamental principles, which the amendment addresses. First, an evaluation as to whether a regulatory agency exists, and what its capabilities are; and second, what is the nature and extent of the health and safety standards they have adopted.

Ms. OAKAR. Let me just say that, relating to our own nuclear powerplants, the Comptroller General of the United States put out a report to Congress on September 9, 1977, in which they talk about the hazards and the real questions about what we are doing in our own country, and we have not related to answering these questions. It is of tremendous national interest in bringing these plants in our own country, and here we are engaging in this kind of activity abroad, and not even having minimal standards for protection.

It is such an unknown factor that I would just like to make sure, for the record, that they are aware of this particular report to Congress put out by the Comptroller General of the United States. It is extremely important, and I really want to commend the gentleman.

I really want to commend the gentleman. I hope we support his amendment in this committee. Many of us in the subcommittee supported the amendment and I really feel had we not packed up at that point it would have been passed.

Mr. CAVANAUGH. I thank the gentlewoman for her support.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I commend the gentleman from Nebraska for his amendment. I want to record myself as in support of his amendment.

It is important that if possible we be able to export our nuclear expertise, but we have to be very careful about it and make sure we are not contributing to dangers in other parts of the world. All this amendment says is that the one agency that has the expertise with respect to the health and safety of these plants take a look at the plans and give their advice to the Eximbank. The amendment does not require the Bank to take the opinion of the NRC. The amendment simply wants to make sure the agency takes a look at the plants.

Mr. CAVANAUGH. That is exactly what this amendment does. This is in no way a licensure or an imposition on a foreign country. All this attempts to do—and everyone is in universal agreement I believe with this—we know the Eximbank does not possess the expertise to make that kind of evaluation and the NRC does, and prior to committing $600 million or $800 million, we want to make sure the Eximbank asks for and receives the opinion of the NRC, that agency of the Government, with the expertise in the area as to the capabilities and standards of the recipient country.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I certainly hope, earnestly hope, that the Members of this House are not going to be stampeded this afternoon into accepting an amendment that I think could have potentially very, very damaging consequences for this country. We are facing this year a deficit in our balance of payments of more than $26 billion.

There are two areas to which we must look if we would try to alter that unfavorable balance of trade. One as we all know is in the field of agriculture, where because of the marvelous efficiency of our farmers we enjoy a comparative economic advantage that no other country in the world enjoys.

The other area in which we can increase our exports and try to increase our exports is in the area of high technology exports. Clearly nuclear technology exports fall within that particular rubric.

There are three very good reasons why the gentleman's amendment should be rejected by the committee.

First of all, it was rejected by the full committee, by the Banking Committee by a vote of 31 to 12. It has been rejected by our own U. S. State Department as an amendment that would potentially do serious damage to our nonproliferation policy. Under the bill sponsored so ably, and for which I voted along with most of the Members of this House, by the gentleman from New York (Mr. BINGHAM), we have a nuclear nonproliferation policy set forth in a Nuclear Export Act controlling the export of nuclear technology.

The State Department in a letter which was sent to the gentleman from Nebraska on May 10 expressed concern that his proposal may well be viewed by other countries as an attempt to impose U.S. health and safety standards unilaterally and would thereby be considered an infringement on their sovereign responsibility. Other countries will not look kindly on nor treat lightly this effort in other words by the United States to unilaterally impose our conditions, our notions as to what health and safety standards should be in these other countries.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I mentioned the gentleman's name and I must yield.

Mr. CAVANAUGH. I thank the gentleman from Illinois for yielding.

The gentleman is correct in quoting the letter of May 10.

On June 1, I received an additional letter in answer to 10 questions which I sent to the State Department on April 25. In reply to my question No. 7 this is what I have received from the Department of State.

I asked this question:

Does the Department of State feel that safety and feasibility evaluations performed by the NRC on behalf of Ex-Im prior to the committing of Ex-Im Bank financing for a project would imperil the United States as a reliable supplier of nuclear material and equipment for peaceful uses to countries which share our nonproliferation objectives?

The next question goes on to say:

Does the Department of State believe that availing Ex-Im of the expertise of the Nuclear Regulatory Commission in making such safety and feasibility evaluations would impair the United States as a reliable supplier of nuclear material and equipment for peaceful uses? If the Department of State does so believe how would this impairment come about?

The answer of the Department of State was:

The Department does not hold the view that the performance of evaluations by Exim Bank or by any agent, such as the NRC on behalf of Exim Bank, necessary to arrive at a judgment on whether a project should be financed would necessarily adversely affect the U.S. role as a reliable supplier or any other U.S. foreign policy objective.

Mr. ANDERSON of Illinois. Mr. Chairman, the fact of the matter is that I have heard from those who are engaged in the nuclear export business and the nuclear export business is in real trouble in this country today. We simply are losing out to the French, to the British, to the West Germans, and other countries because we cannot convince them that we are reliable suppliers of nuclear technology. I do not care whether the State Department can answer the gentleman's question or not, as far as the nuclear industry is concerned, we simply are not meeting the competition already, and if we add to it the additional uncertainty that must be associated through these proposals with the untimely issuance of such licenses, that will be inserted into the market if we were to adopt this amendment then I can only predict that our exports in this respect are going to go down, down and down in this area because we do not have the capability, we do not have the qualifications to compete with other nations of the world.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman from Illinois (Mr. ANDERSON) yielding me this time.

Not only do I want to associate myself with the remarks made by the gentleman from Illinois (Mr. ANDERSON) but I want to reemphasize what the gentleman has said. First of all, I want to tell the committee that there is some question on this, and there was when it was presented to us in the original subcommittee. Let me say this, we are a banking committee, we are a finance committee, we are involved with the export and the import of goods abroad, but we are not experts on nuclear power. This is a matter that is a very complicated matter, but one thing we are not, and that is we are not a nuclear regulatory agency and we are not connected with nuclear activities.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. STANTON, and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 3 additional minutes.)

Mr. STANTON. Mr. Chairman, if the gentleman will yield still further, let me repeat, we do not have the expertise that is needed on such matters as this. I do admire the gentleman from Nebraska (Mr. CAVANAUGH), who has exhibited his

expertise in matters relating to nuclear issues, but do not expect the rest of the committee to be experts. Let me further add that we have a committee on energy, we have experts on energy, and we have experts on nuclear matter, and they are the ones who should be coming up and telling the Committee on Banking, Finance and Urban Affairs whether we are doing the correct thing by this or not.

I will be glad to repeat what the gentleman has said that there is a National Nuclear Regulatory Commission who have made studies in this regard, studies that have been going on for some time. They have looked at the Cavanaugh amendment and they are opposed to it. The State Department, so I am told, is opposed to the Cavanaugh amendment. It would bring about the necessity for substitution of our own safety regulations and of extraterritorial applications of U.S. health standards abroad, and I do not know what all would be required. All I know that as a member of the Banking and Currency Subcommittee I suggest that we let the State Department handle it, but not the Committee on Banking, Finance and Urban Affairs.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman from Ohio for his comments.

Mr. Chairman, at the very least we ought to suspend action on the proposal of the gentleman from Nebraska (Mr. CAVANAUGH) until the Committee on International Relations, the committee which has primarily jurisdiction over our Nation's international affairs, control and jurisdiction over the nuclear nonproliferation policy, and the committee of jurisdiction over the Nuclear Regulatory Commission examine this proposal. This involves a drastic rewriting of the policies of the NRC.

Mr. STANTON. Mr. Chairman, if the gentleman will yield still further, I think the gentleman from Nebraska (Mr. CAVANAUGH) ought to withdraw his amendment so as to permit our colleagues who are experts on nuclear matters advise the committee on this matter so that we can act on it intelligently, without further bringing the Committee on Banking, Finance and Urban Affairs into the subject of nuclear activities. The next thing you know we will be on an energy bill and then instead of another hour we will be here for probably another month.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I am surprised to see the gentleman from Arizona (Mr. UDALL) who is chairman of the subcommittee on which I am the ranking minority member, the subcommittee that has jurisdiction over the NRC. I might add that formerly the gentleman's joint committee had jurisdiction over these matters, the gentleman is now cavalierly waiving that jurisdiction by his acceptance of the proposed amendment.

Let me add further that we have not held hearings on this matter. The committee staff has not completed its studies sufficiently to give us its conclusions on this particular issue concerning the amendment whatsoever. No decision has been reached indicating that we should go in the direction the amendment suggests. It is entirely too premature and, at best, this is no place to be regulating a fundamental change in our nuclear policy.

Mr. ANDERSON of Illinois. I share the gentleman's surprise and disappointment that the chairman of the full committee would take the position that he did.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

I just wondered if the Chairman would consider this. I had thought it was rather unfair because some of us opposed to the amendment have not had a chance to say what we want to, but I have been told that some people have airplanes to catch around 4:30 o'clock and 5 o'clock. I just wonder if the Chairman would not ask to see if we could limit this debate on this very important amendment to maybe 15 minutes, or something like that.

Mr. NEAL. Mr. Chairman, I ask unanimous consent that we limit debate on this amendment to 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. KOSTMAYER. I object.

The CHAIRMAN. Objection is heard.

Mr. NEAL. Mr. Chairman, I ask unanimous consent that we limit debate on this amendment to 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. KOSTMAYER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. NEAL. Mr. Chairman, it is my understanding that the Nuclear Regulatory Commission must issue an export license for all of our nuclear exports already, and in talking with the author of the amendment I learned that his primary concern was not the health and safety and environmental concerns that some have been speaking to here, but the question of whether or not we are going to get repaid on these loans. In the letter he sent around he raised the question of who is going to repay the loan on that nuclear reactor built in the Philippines if it should not work out. All right, we have never had a default on one of these loans. The main reason, as I understand it, is that we on all of these nuclear exports get the full faith and credit of the government importing the product, and certainly they have so much more to lose in terms of other advantageous relationships with us that they are certainly not going to endanger that whole relationship just so that they do not have to pay for one nuclear reactor, assuming that it does not work out. The fact of the matter is that we have a 100 percent, as I understand it, collection record on these types of projects.

The point I am trying to make is that if that is the major concern of the gentleman, that we are repaid in a timely fashion, then the amendment is totally unnecessary.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. I thank the gentleman for yielding.

I know I have discussed this particular point with the chairman, but the chairman understands that U.S. exporters have become much more aggressive, and I think appropriately so, as I said in my opening remarks. This amendment is in no way intended to constrict but rather to expand future opportunities for nuclear exports, but we have become much more aggressive in terms of making those exports available to less developed countries, countries without a strong, firm technological base of their own, and ones which may not be capable yet of absorbing this technology. The fact that the point in time at which the lender, Eximbank, enters the transaction is at the very origin of the proposed transaction and they have no expertise in the Bank to make the necessary evaluations, but that expertise does exists in NRC. The reason I would make the expertise of the NRC available to the Eximbank is to allow Exim to use the NRC in it evaluation of the feasibility of the proposed project.

When the chairman contends that Exim should not be concerned about the repayment for the project because they have the full faith and credit of the recipient country, that is the purpose of this amendment. I think the NRC is much more expert in providing these fundamental evaluations of the capability of the country to absorb and utilize this very sophisticated and costly technology than is Eximbank, and why not avail Exim of this expertise, and protect the integrity of the investment? Why not assure that a loan is going to be repaid because the plant will become operational and because it will be economically feasible for the country to repay?

Mr. NEAL. The gentleman asks why not. There are a number of very good reasons not to do it, some of which have been discussed here, the main one being that it only weakens us in world trade for no benefit. The Department of State says that this will weaken our attempts to limit proliferation of nuclear problems around the world, because if we do not make the loans, the plant will be built anyway. Someone else will build it, and they may not require that the Nuclear Regulatory Commission approve the export license. I guess they would have no ability to require it.

Mr. CAVANAUGH. That is not what the State Department said to me in its letter of June 1, 1978.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 5 additional minutes.)

Mr. NEAL. Mr. Chairman, let me point out to the gentleman: The gentleman has, as I understand, the general sup-

port of one of the members of the Nuclear Regulatory Commission, Mr. Victor Gilinsky. I have a copy of a letter Mr. Gilinsky wrote to Mr. CAVANAUGH on June 1. In that letter he says:

It is not practical for the NRC staff to conduct safety reviews in connection with Ex-Im loans for nuclear exports.

That is the gentleman's supporter on the Nuclear Regulatory Commission.

I ask the gentleman, Who asked for this? Who wants this? Did the Bank ask for this? Did the State Department ask for it? Who wants it, can the gentleman tell me?

Mr. CAVANAUGH. Mr. Chairman, if the gentleman will yield further, I think the public wants it. I think the public and this Congress should want it, who support and authorize the Eximbank to provide the financing for these facilities up to the tune of $800 million, that the public ought to be assured that when a banker is going out to make a loan that he is making it for a viable, realistic, secure project. That is all that this amendment is directed to.

Mr. NEAL. There is no problem with that. We have a 100-percent repayment record. We have the full faith and credit of these other governments behind these loans. We do not need to improve on that. The gentleman has a solution; we do not have a problem.

Let me make one other point. I would like to make several, but, first, the year-long study that we have been waiting for, for which we are all waiting anxiously to understand, says that "the potential benefits" did not outweigh the adverse political impact "it would have to recipient countries."

That is, most countries do not appreciate us coming in and telling them how to run their internal affairs, setting their environmental standards, their work standards, their energy standards, their transportation standards, and so on, I guess any more than we would not like it if some other country came in and told us how to run our internal affairs.

Mr. CAVANAUGH. Mr. Chairman, if the gentleman will yield further, this is the greatest distortion ever perpetrated on this amendment.

First of all, this amendment does not impose NRC standards or IAEA standards on a recipient country in any fashion. What the amendment does do is ask those countries to whom the Eximbank is going to lend $600 million or $700 million, what kind of nuclear regulatory agency they have, and what their standards are, and how those standards compare to those of the NRC or the IAEA where applicable. That is a reasonable thing for both the lender to ask and the Congress who has responsibility for the Eximbank. The NRC is the only agency of Government capable of providing a reasonably sound answer to the questions.

Mr. NEAL. Mr. Chairman, let me ask the gentleman one more question. Why then was it rejected by this year-long study?

Mr. CAVANAUGH. It was not rejected by the year-long study. In conversation with Mr. Bradford from the Commission yesterday, I quoted him the industry language to which the gentleman is referring, and if the gentleman has it available, I would appreciate having it.

I do not have it available, but the language was that the Cavanaugh amendment was rejected by the year-long study of the NRC.

Commissioner Bradford said, "That is absolutely wrong."

I said, "May I quote you?"

And he said, "Please quote me. I did not reject it."

First, NRC options 6 and 7 are not the Cavanaugh amendment. They do not encompass the scope or intent of the Cavanaugh amendment. They go far beyond it. The only option considered even remotely analogous to my amendment was not a specified option, but it says on page 50 of the report:

It has also been suggested that NRC might participate unofficially in such export analyses now regularly performed by other U.S. agencies (such as Exim Bank). Although such unofficial assistance is not well defined, presumably it might include lending NRC assistance to provide independent, expert advice in such analyses. The staff has no objection to such expert assistance, providing: (1) analyses would not bind the NRC to findings and conclusions developed by other agencies; (2) sufficient NRC experts are available; and (3) the reviews are part of a presently existing program of the other agency to make overall project and feasibility assessments.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

(At the request of Mr. CAVANAUGH, and by unanimous consent, Mr. NEAL was allowed to proceed for 2 additional minutes.)

Mr. NEAL. Mr. Chairman, I would just like to say to the gentleman from Nebraska (Mr. CAVANAUGH) that for many reasons mentioned here this amendment would cripple our exports. We are running big trade deficits now, and we need to export more.

I really would have to say that the gentleman accomplishes nothing by this, because we do not have a bad payment history on nuclear exports. I think the amendment is unneeded.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I thank the gentleman for his comment.

I can only say that all the arguments put forward are either distortions of the basic argument and its purpose or distortions of the facts as they exist, and I think that is very unfortunate.

Mr. NEAL. We made the statement that we have been repaid on our nuclear loans. Is that a distortion?

Mr. CAVANAUGH. No.

Mr. NEAL. Would this amendment not harm our exports?

Mr. CAVANAUGH. There are projects currently financed that are in jeopardy, and I cite, for instance, the project in the Philippines.

Mr. NEAL. How do we know that? We have the full faith and credit of the Government.

Mr. CAVANAUGH. But the project itself is in grave jeopardy, and there is no assurance the Government is going to want to pay for a project that does not come to completion.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Nebraska.

This is substantially the same amendment as was rejected by the Banking Committee during markup by a vote of 31 to 12.

Such an amendment is opposed by the State Department on the grounds that the responsibility for the health and safety arrangements for a nuclear facility rests with the sovereign government in whose territory the facility is to operate. Any effort to impose U.S. standards would clearly be viewed as an infringement upon those sovereign responsibilities. The most likely result would be to reduce the U.S. role as a nuclear supplier, doing serious damage to our nonproliferation policy.

This is not to mention the practical impossibility of investigating and perhaps monitoring the activities of domestic health and safety agencies of a foreign government which is not disposed to be cooperative.

As long as the United States is not the only supplier of nuclear reactors, it cannot arbitrarily impose its own safety standards upon the world.

I think it is important to note that reactors exported from the United States are designed and built to the same standards as those built for use within the United States. Thus our safety standards are already incorporated into foreign plants using American-made equipment. Additional health and safety analysis is available and is used by developing nations from commercial consulting organizations, and by way of bilateral arrangements between such countries and the Nuclear Regulatory Commission for cooperation and assistance to them in developing and implementing their safety programs.

The United States also supports the efforts of the International Atomic Energy Agency to advance safety through the development and promulgation of international safety codes and guidelines. I submit that these efforts are the appropriate means of advancing world health and safety standards.

I also understand that the staff of the Nuclear Regulatory Commission has completed an extensive study which reaches conclusions similar to mine.

The United States cannot set itself up as the arbiter of health and safety standards for the world and expect the world to merely acquiesce. The dramatic drop in U.S. nuclear export sales in the last few years, while French and German industries have garnered upward of $12 billion worth of nuclear export orders dramatically illustrates the potential results of such U.S. action.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the original author of the Nonproliferation Act of 1978, I would like to say with all due respect to my honored colleague, the gentleman from Illinois, that I do not see anything inconsistent whatsoever in that act and in the amendment offered by the gentleman from Nebraska (Mr. CAVANAUGH).

It seems to me, as a matter of fact, that they move to some extent in the same direction. If the State Department has expressed the opinion that this amendment would hurt our nonproliferation objectives, I simply cannot agree with that conclusion.

I would think that the Eximbank itself would want the kind of information provided for in the Cavanaugh amendment. All we are talking about here is information, both for the Bank and for the Congress. The information would be in the form of an evaluation by the people who are best qualified to make it, namely the NRC.

I would not think the Bank would want the responsibility of passing on the types of questions that are raised here.

I think under this amendment the NRC would to a certain extent get involved in questions that it has not been involved in in the past. However, it seems to me we should all want to see that our nuclear reactors, if they are going overseas, are not only designed in a safe manner—and I agree with the gentleman from Pennsylvania (Mr. MOORHEAD) that the design would be the same—but that the maintenance and operation would be safe.

The worst things that could happen to the nuclear export industry, or the nuclear industry as a whole, would be for some disaster to occur in a developing country because a plant is not being properly operated or properly safeguarded.

So I would think that those who want to see the exports proceed—and I do—under proper conditions would also want to have this kind of protection and this kind of information come to the Bank and to the Congress.

I really cannot understand the position of the Bank. I understand it is somewhat equivocal.

I would like to yield to my friend, the gentleman from Nebraska (Mr. CAVANAUGH), to tell us what the position of the president of the Bank is on this problem.

Mr. CAVANAUGH. I thank the gentleman for yielding.

Mr. Chairman, I am honored the gentleman supports this amendment. I would consider the gentleman the author and the father of the Nonproliferation Act. I think clearly his statement in no way conflicts with that act. It should carry great weight with the membership. But I am similarly confounded by the position of the Export-Import Bank. Yesterday afternoon I discussed the matter with the chairman of the Bank. I have continuously pressed the representatives of the Bank as to what the basis of their objection was, why they would not want to avail themselves of this expertise, and I have never received a satisfactory answer to that inquiry. Yesterday the President's concern was whether the NRC would object. There is a division in NRC, among the directors of NRC, and within the staff of NRC as to what the scope or involvement should be. There is a clear capability in the NRC. If there is not, we should certainly do away with NRC.

Today I informed the chairman of that fact and today his concern is the State Department. He has never expressed a concern peculiar to Export-Import, why Export-Import would object to having this very needed availability of expertise.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for his comments.

Let me just say that I am certainly not aware, nor have I ever been advised by the State Department, of its opposition to this amendment, and certainly not in the form in which it is presently worded.

The gentleman has modified the amendment and modified it, until very little is left except, as I have indicated, a requirement for information based upon evaluation by the most expert agency, and that information I would think the Bank would want and I would think the Congress would want.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

The Bank does seek this kind of information.

Mr. BINGHAM. But is the Bank as well qualified as the NRC to evaluate the information?

Mr. NEAL. I just have to say that officials in the administration oppose this amendment because it is premature. They think it threatens potential damage to our exports, and raises an unknown factor in cost and time delays. Further, they say this amendment would be seen as an attempt to dictate our will, and potentially could cause political damage in our relations with other countries. For these and for some of the other reasons, Mr. Chairman, it is simply premature.

I would think the gentleman would want to hold some hearings on it. I am not unalterably opposed to the concept. As I told the gentleman, we share the same goals. I agree with the gentleman that it would be a disaster if we had an explosion in some country because of sloppy procedures here.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(On request of Mr. NEAL and by unanimous consent, Mr. BINGHAM was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. Mr. Chairman, I do not see how, looking at this amendment, it could possibly be said, and I cannot imagine anybody in the State Department saying, on the basis of this language, that this is going to be interpreted as an attempt by the United States to impose unilaterally its standards on other countries.

As I have indicated, this is a matter of getting evaluation and information. If the Export-Import Bank does get such information and evaluation, does determine whether the project makes sense, whether it is going to be a safe project, I am glad to hear them gentlemen say that, but I would think NRC would be better qualified to make that evaluation than the Bank itself.

Mr. NEAL. I would think this would be of special interest to the gentleman: The State Department has said that they oppose this, in a letter to the Committee on Banking, on May 10, and again on June 1.

Mr. BINGHAM. Is that in respect to the language of the present amendment?

Mr. NEAL. I believe it is. Let me give the gentleman the exact quote. I think the present language is very similar.

* * * could do serious damage to our nonproliferation policy.

Is not that of some concern?

Mr. BINGHAM. I understand that they said that with regard to a prior version.

I would like to yield to my friend the gentleman from Nebraska (Mr. CAVANAUGH), to clarify that point.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(On request of Mr. CAVANAUGH and by unanimous consent, Mr. BINGHAM was allowed to proceed for 3 additional minutes.)

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I thank the gentleman for yielding.

There is no more expert Member of this body on the standards of the Nuclear Nonproliferation Act.

Does the gentleman see anything offensive in this amendment to the goal, the aspirations, and the implementation of that act?

Mr. BINGHAM. I certainly cannot.

Mr. CAVANAUGH. I think that that is adequate address to that question.

As I previously said, Mr. Chairman, I did not feel that the goal of this amendment, when I set it out in questions rather than in amendment form, in any way imperils the reliability of U.S. industry as an exporter.

I think the bottom line here, as the gentleman from Illinois stated when he responded to me when he said that he does not care what the State Department position is, is that it is the industry's position. What the industry's position is is that they want no standards or evaluation performed by Eximbank prior to the commitment of the funds because then the project is committed before any inspection agency of this Government has ever evaluated its feasibility, its desirability, or its future reliability.

Mr. Chairman, that is what this amendment is all about. Let us put the cash on the barrelhead regardless of the consequences.

Again, Mr. Chairman, that is what this amendment is all about.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I wonder whether the gentleman from Nebraska (Mr. CAVANAUGH) is even remotely aware of the fact that for many years we have had in existence an Advisory Committee on Reactor Safeguards

and that there is not a reactor manufactured in this country today, whether it is to be operated within the United States or exported abroad, that does not have to comply with the most rigorous safety standards established by that body?

We have on that board the distinguished gentleman from Washington (Mr. McCormack), who can attest to what I just said.

The idea that is somehow sought to be created that we have companies in this country which are just going to go out and wantonly sell equipment dangerous to human life, which is going to explode, is a myth and ought to be exposed as such.

Mr. BINGHAM. I am sure the gentleman is not saying that the care with which a reactor is operated and the degree of protection afforded during the operation of the reactor, which is under the control of the country where it is located, is of no importance. Any reactor, no matter how safely built, can be unsafely operated.

I am sure the gentleman will agree with that.

Mr. ANDERSON of Illinois. If the gentleman will yield further, he will recall, I think, earlier when the gentleman from Nebraska was discussing his amendment he said that part of the purpose of his amendment was to get a report to Congress on the question of whether or not the economy of the particular country was mature enough to absorb this kind of technology.

I would suggest that the gentleman's amendment goes far beyond merely going into a question of that nature.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, as the objector to the limitation on time, let me say that I do not seek to prolong this debate needlessly. Rather, I think it is an important debate and should be conducted thoroughly.

Mr. Chairman, I rise in support of the amendment of my friend, the gentleman from Nebraska (Mr. Cavanaugh). I think it is important to remember a number of things which this amendment does not do.

First, it does not require the Eximbank to follow the recommendations of the NRC. Rather, it states that the NRC will provide an evaluation, but not a mandatory one. Secondly, it does not inject the United States into the internal affairs of other countries. It does not impose the moral, political, or philosophical views of own country on other countries. It is not a licensing procedure. We are not exporting the standards of the United States to other countries.

There are a number of things it does do, however. It does require the Nuclear Regulatory Commission to review the question of safety when the sale of a nuclear reactor is proposed.

Mr. Chairman, this amendment was rejected by the committee. It was rejected apparently because there were those on the committee who felt the NRC did not have the capability to carry it out. Since that time the NRC has indicated they do have that capability.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I just think the gentleman ought to check more closely before he makes a statement like the one he just made.

I am informed by representatives of the staff of the NRC that they do not have either the funds, the staff, or the capability to carry out the extensive investigation regarding nuclear activities in foreign lands which this language would require, and no committee of Congress has ever authorized it.

Mr. KOSTMAYER. It is my understanding that there is an equal division of opinion with respect to that.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I can only say to the gentleman from Maryland (Mr. Bauman) that if the staff of the NRC has so advised him that this language would invite inspections in foreign countries, they have deliberately, maliciously, and intentionally misinformed the gentleman.

Mr. BAUMAN. If the gentleman will yield, Mr. Chairman, I did not say that.

Mr. CAVANAUGH. I have been in continuous contact with that staff. They know that this amendment in no way requires what the gentleman is talking about.

Mr. BAUMAN. If the gentleman will yield, Mr. Chairman, I did not say that. I said they did not have the funds, the staff, or the capability at this point to carry out the studies the amendment would mandate.

If the gentleman wants to proceed in regular legislative order, come before the proper committees and propose this amendment, maybe it will be adopted and funded.

Mr. CAVANAUGH. This in no way imposes those responsibilities on the staff. The gentleman is incorrectly advised, and I would say he was incorrectly advised by NRC.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, on this point, in this review that has been quoted, the same proposal discussed what they call a limited technical review, which I believe will be similar to what the gentleman from Nebraska is proposing. When they talk about that, this is what they say:

> Implementation of this alternative would create substantial impact on NRC staff requirements. Increased manpower would be required for reporting technical reviews. The staff estimates a requirement of no more than 10 man years for export reviews.

Going to the bottom of the page, this assumes that for the first period of use roughly 10 man-years review, and then two to three years to complete a review. It takes into account likely export trends over the next few years.

The other point it makes is that on the other hand, there may be disadvantages to such reviews. The additional scrutiny of nuclear reactor exports and the attendant administrative burden would be viewed by importing countries as intruding into their internal affairs, and imposing new unilateral conditions for receiving U.S. nuclear exports, especially when the results of the reviews become public. The published reports would tend to put officials of the recipient countries under pressure to act, which would be resented. Such reviews could give the false impression that NRC was assuming responsibility for future security safety.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. The chairman is reading an option presented by the NRC that is not at all relevant to my amendment here. The language that he is reading from the report does not relate to the amendment I have addressed here.

We are not calling for reviews or structural analyses. We only ask two things, if the chairman would re-read my amendment. One, to describe the regulatory organization that exists within the country. How could we expect to lend six or eight hundred million dollars without determining that there is a regulatory agency that exists within the country?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. Cavanaugh and by unanimous consent, Mr. Kostmayer was allowed to proceed for 3 additional minutes.)

Mr. CAVANAUGH. That is all it asks, to tell the Congress, does one exist, does such an agency exist and to tell the level of sophistication of such agency. That is knowledge NRC has concerning all regulatory agencies existing anywhere in the world. The problem is, we might have a company that goes out and tries to sell to a country that does not have an agency.

Secondly, if that agency is existing, what rules and regulations has it adopted, and how do they conform or not conform with the NRC rules and the IAEA rules? That is a clear, simple reporting requirement. All they have to do is look at their own rules and look at the rules of the IAEA, and tell us how the adopting country conforms. That is all it does.

There are no 10 man-years, there are about 5 hours, assuming NRC does know where all the agencies are and know what their rules are and where the other rules of IAEA can be found, and then will tell us how the recipient country conforms or does not conform. The NRC staff study states that NRC does have this information now.

My amendment never commented on the option you cite. Commissioner Bradford said, in my phone conversation with him regarding the statement that my amendment was rejected by NRC, he said, "Absolutely wrong. Quote me, please quote me."

And those are the facts.

Mr. KOSTMAYER. Mr. Chairman, if I might make a final point, I think this amendment actually would protect the industry.

Let me read briefly from the RECORD of July 26 from remarks entered by the gentleman from Nebraska (Mr. CAVANAUGH) as follows:

> An example of this scenario has already occurred. The loan of more than $600 million by Ex-Im to the Philippines has already resulted in an Ex-Im outlay of $52,660,000. The Philippines reactor was begun, but work was halted when the site was found to be in the vicinity of five active volcanoes. If the plant never becomes operational it is unlikely the Philippines will repay Ex-Im.

If we can prevent the commencement of construction of such reactors, I think that would be preferable to countries simply not paying for them upon the discovery that they were unsafe.

I think the amendment is modest and sensible.

The gentleman from North Carolina has said we do not have the right to impose certain standards on others. I think we have a right to impose standards of safety on others and on ourselves. It seems to me to be an imminently practical amendment. I urge my colleagues to adopt it.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to commend the gentleman from Nebraska. I know his amendment is offered with all good intentions. However, I think it is a mistaken approach. It could have an extremely damaging impact. It should be rejected.

After communicating with the State Department and the NRC, the gentleman from Nebraska will state, as he has stated, that he has changed the wording on several occasions. This is all the more reason why we should not be adopting that amendment at the moment. We are dealing with a half dozen variations or so of it. We do not know even what the final reactions of the various agencies are.

The gentleman from Nebraska has repeated on several occasions that the NRC has not rejected the amendment. Of course that is true. The NRC has not taken any formal action on this amendment. Just as the NRC would never take any formal action on any amendment before this House. Such an act would be unthinkable, and to protest that NRC has not done so is meaningless.

In conversations with the staff of the NRC I have been told forcibly that there is not:

> Money for carrying out the purposes of this amendment in the budget; that the NRC is not staffed up for such responsibilities, that it is not practical for the NRC to try to deal with the problems which this responsibility would create, particularly with respect to standards in other countries involving site characteristics, seismic standards, types of cooling, and so on.

The amendment reads in part:

> * * * Health and Safety standards adopted and implemented. * * *

I emphasize "safety * * * standards * * * implemented. * * *"

What are we going to do if the NRC is required to explore the seismic characteristics of a proposed site for a plant in another country before the sale can be accomplished, or even before an order could be taken? One could easily construe the amendment to say that the NRC would have to do seismic exploration at a site, and for any alternate site, for a particular plant.

This is why the State Department has over and over again said that:

> We do not want this. It would constitute intruding into the affairs of other countries.

And the nations trying to buy nuclear plants will not allow such an intrusion. They will simply go to another nation to buy their nuclear plants.

It is important for us to understand that the United States does not have a monopoly on nuclear technology any more than we have a monopoly on wisdom. Why should we think that our standards are superior to somebody else's? There is no justification for such myopia. Some of us seem to sit here thinking that we are better than other nations, and we don't have higher standards.

If other nations have different standards, it may be a minute difference in size between two large numbers. The difference may be, as for instance, between the numbers "one million" and "one million and one." What gives us the right to say that our one million and one is better than their one million, or vice versa? What gives us the right to say that if a foreign nation does not conform to our one million and one that our vendors cannot sell to them? They will say to us: "Go fly a kite. We'll buy from somebody else."

This would be no idle threat. According to recent figures, there are 112 nuclear powerplants operating in the free world outside the United States. Of those, 22 were manufactured in the United States the other 90 were manufactured in some other country.

If anyone thinks that the United States has some sort of monopoly, he is kidding himself. If we put these kinds of restrictions on loans, there will not be loans; and there will not be exports. This country will be weakened, not only with respect to our trade balance, but also with respect to the fact that our manufacturing industry, on which we must depend in the future for much of our own energy, will be in a precarious position. That is what this amendment would do. It is not just a simple amendment that requires the NRC just to check in on another country. That is simply not true. It would require extensive intrusion by the NRC into the private business of other sovereign nations.

Mr. Chairman, it is for these reasons that the State Department opposes this amendment. I trust the Members will understand this, and reject the amendment overwhelmingly.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in case there is any confusion I would like to read the amendment. The amendment requires that there be:

> * * * in the case of any transaction involving the sale of a nuclear reactor, an evaluation based upon an analysis prepared by the Nuclear Regulatory Commission (i) describing the nuclear regulatory organization and practices of the recipient country, and (ii) indicating the extent to which the Health and Safety standards adopted and implemented by the recipient country are consistent with those established by the Nuclear Regulatory Commission, and, where applicable, with International Atomic Energy's standards and recommendations.

Mr. Chairman, it seems to me that that language is so simple and so clear that it takes an act of will and effort to distort it and to make something else of it.

What it says, is that you take our rules and regulations and the recipient country's and you compare them and then you tell the Export-Import Bank how they agree or differ. That is all it says.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. WEISS. Of course I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I thank the gentleman from New York (Mr. WEISS) for yielding to me because he is saying specifically what my amendment proposes. The gentleman is absolutely correct. I think it does take a very strong desire to read anything else into my amendment or to arrive at any other conclusion.

I thank the gentleman for making that very clear.

Mr. WEISS. Mr. Chairman, I had occasion to listen earlier in the debate to the distinguished gentleman from New York (Mr. BINGHAM) wherein he said, and I think quite correctly, that the Export-Import Bank should want, should be pleading to have the Nuclear Regulatory Commission make this kind of independent reporting to it. They can then go ahead and do what they want, but at least they have the Nuclear Regulatory Commission citing the law on whether or not the rules and regulations are consistent or inconsistent.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield further?

Mr. WEISS. I yield further to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, again, I could not agree more with the point the gentleman from New York (Mr. WEISS) is making. I think it is a source of great sadness and despair for many of us who support this administration, or who are attempting to, to see that they have not supported this very simple, fundamental, good-business-practice amendment to the Export-Import Bank. The Export-Import Bank should be ashamed of itself, as should the State Department, for not recognizing the fundamental, essential responsibility involved in implementing this type of amendment and to avail themselves of the expertise of the Nuclear Regulatory Commission.

I thank the gentleman for making that clear.

Mr. WEISS. Mr. Chairman, I am pleased to do so. In closing, I want to extend my appreciation, and I believe I speak also on behalf of a great many of the other Members, to the gentleman from Nebraska (Mr. CAVANAUGH) for of-

fering this very effective, very clear, very precise, and very necessary amendment.

I might say that an objective observer, if one had been watching and listening to this debate, and then reading of the language of the proposed amendment, would have to wonder why there is so much opposition to this simple, modest amendment. What in the world is going on?

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Obviously there is a need for the amendment. Obviously, according to our Comptroller General report on nuclear energy, we ought to be doing the same thing in our own country in terms of providing various checks, because no one in this body, I am sure, would want nuclear waste products in their districts. That is the great dilemma. The point is there is a need. They tried to build, or are in the process of building, a nuclear plant—if one can believe it—next to five volcanoes in the Philippines.

Mr. WEISS. If the gentlewoman would yield back to me for just 1 second, in California they tried to build one on the San Andreas fault. They finally had some second thoughts about it because somebody up there decided to rumble them just a bit with a small earth tremor. At that point the decision was made to build it elsewhere.

Ms. OAKAR. If the gentleman will yield further, it will be on our conscience as Americans if we do not pass this amendment, which is a minimal safeguard. It is so minimal that I can hardly believe people would not support it because we really ought not to be engaging in providing these kinds of loans to begin with.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. CAVANAUGH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CAVANAUGH. Mr. Chairman, I demand a recorded vote, and pending that I make a point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Nebraska (Mr. CAVANAUGH) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 266, not voting 60, as follows:

[Roll No. 611]

AYES—106

| | | |
|---|---|---|
| Akaka | Garcia | Obey |
| Ambro | Gephardt | Ottinger |
| Ammerman | Glickman | Panetta |
| Anderson, Calif. | Gore | Patten |
| Aspin | Green | Pattison |
| Baldus | Hagedorn | Pease |
| Bedell | Harkin | Pike |
| Beilenson | Harris | Pressler |
| Benjamin | Heftel | Rahall |
| Bingham | Holtzman | Rangel |
| Bonior | Jeffords | Richmond |
| Bonker | Kastenmeier | Roe |
| Brademas | Keys | Rosenthal |
| Brodhead | Kildee | Roybal |
| Burke, Calif. | Kostmayer | Ryan |
| Burke, Fla. | Krebs | Scheuer |
| Burton, John | LaFalce | Schroeder |
| Carr | Lederer | Seiberling |
| Cavanaugh | Long, Md. | Simon |
| Chisholm | McCloskey | Smith, Nebr. |
| Cornell | Markey | Solarz |
| Dellums | Metcalfe | Spellman |
| Diggs | Meyner | Steers |
| Dodd | Mikulski | Stokes |
| Downey | Mikva | Studds |
| Drinan | Miller, Calif. | Udall |
| Early | Miller, Ohio | Van Deerlin |
| Eckhardt | Mitchell, Md. | Vanik |
| Edgar | Moakley | Volkmer |
| Edwards, Calif. | Mottl | Waxman |
| Eilberg | Murphy, Pa. | Weaver |
| Emery | Myers, Michael | Weiss |
| Fish | Nolan | Wolff |
| Fisher | Nowak | Yates |
| Florio | Oakar | Young, Fla. |
| | Oberstar | |

NOES—266

| | | |
|---|---|---|
| Alexander | Devine | Ichord |
| Anderson, Ill. | Dickinson | Ireland |
| Andrews, N.C. | Dingell | Jacobs |
| Andrews, N. Dak. | Dornan | Johnson, Calif. |
| Annunzio | Duncan, Tenn. | Johnson, Colo. |
| Applegate | Edwards, Ala. | Jones, N.C. |
| Archer | Edwards, Okla. | Jones, Okla. |
| Armstrong | English | Jones, Tenn. |
| Bafalis | Erlenborn | Jordan |
| Baucus | Ertel | Kelly |
| Bauman | Evans, Colo. | Kemp |
| Beard, R.I. | Evans, Del. | Kindness |
| Beard, Tenn. | Evans, Ga. | Lagomarsino |
| Bennett | Fary | Latta |
| Bevill | Fascell | Leach |
| Biaggi | Fenwick | Leggett |
| Blanchard | Findley | Lehman |
| Blouin | Fithian | Lent |
| Boggs | Flippo | Levitas |
| Boland | Flood | Lloyd, Calif. |
| Bolling | Flynt | Long, La. |
| Bowen | Foley | Lott |
| Breaux | Ford, Mich. | Lujan |
| Breckinridge | Ford, Tenn. | Luken |
| Brinkley | Forsythe | Lundine |
| Brooks | Fountain | McClory |
| Broomfield | Fowler | McCormack |
| Brown, Calif. | Frenzel | McDade |
| Brown, Mich. | Fuqua | McDonald |
| Broyhill | Gammage | McEwen |
| Buchanan | Gaydos | McFall |
| Burgener | Gibbons | McHugh |
| Burleson, Tex. | Gilman | McKay |
| Burlison, Mo. | Ginn | McKinney |
| Butler | Goldwater | Madigan |
| Byron | Gonzalez | Mahon |
| Carney | Goodling | Mann |
| Carter | Gradison | Marks |
| Cederberg | Grassley | Marlenee |
| Chappell | Gudger | Marriott |
| Clawson, Del | Guyer | Martin |
| Cleveland | Hall | Mathis |
| Cochran | Hamilton | Mattox |
| Coleman | Hammer-schmidt | Mazzoli |
| Collins, Tex. | Hanley | Michel |
| Conable | Hannaford | Mineta |
| Conte | Hansen | Minish |
| Corcoran | Harsha | Mitchell, N.Y. |
| Corman | Hawkins | Moffett |
| Cotter | Heckler | Montgomery |
| Coughlin | Hightower | Moore |
| Crane | Hillis | Moorhead, Calif. |
| Cunningham | Holland | Moorhead, Pa. |
| D'Amours | Hollenbeck | Moss |
| Daniel, Dan | Holt | Murphy, Ill. |
| Daniel, R. W. | Horton | Murphy, N.Y. |
| Davis | Howard | Murtha |
| de la Garza | Hubbard | Myers, Gary |
| Delaney | Huckaby | Myers, John |
| Derrick | Hughes | Natcher |
| Derwinski | Hyde | Neal |
| Nedzi | Russo | Treen |
| Nichols | Santini | Trible |
| O'Brien | Satterfield | Tsongas |
| Patterson | Sawyer | Ullman |
| Pepper | Schulze | Waggonner |
| Perkins | Sebelius | Walgren |
| Pettis | Sharp | Walker |
| Pickle | Shuster | Walsh |
| Poage | Sikes | Wampler |
| Price | Sisk | Watkins |
| Pritchard | Skelton | White |
| Pursell | Slack | Whitehurst |
| Quayle | Smith, Iowa | Whitley |
| Quillen | Snyder | Whitten |
| Railsback | Spence | Wiggins |
| Regula | Staggers | Wilson, Bob |
| Reuss | Stangeland | Wilson, C. H. |
| Rhodes | Stanton | Winn |
| Rinaldo | Steed | Wirth |
| Risenhoover | Steiger | Wright |
| Robinson | Stockman | Wydler |
| Rogers | Stratton | Wylie |
| Rooney | Stump | Yatron |
| Rose | Symms | Young, Alaska |
| Rostenkowski | Taylor | Young, Mo. |
| Rousselot | Thompson | Zablocki |
| Rudd | Thornton | Zeferetti |
| Ruppe | Traxler | |

NOT VOTING—60

| | | |
|---|---|---|
| Abdnor | Duncan, Oreg. | Preyer |
| Addabbo | Evans, Ind. | Quie |
| Ashbrook | Flowers | Roberts |
| Ashley | Fraser | Rodino |
| AuCoin | Frey | Roncalio |
| Badham | Giaimo | Runnels |
| Barnard | Harrington | Sarasin |
| Brown, Ohio | Hefner | Shipley |
| Burke, Mass. | Jenkins | Skubitz |
| Burton, Phillip | Jenrette | St Germain |
| Caputo | Kasten | Stark |
| Clausen, Don H. | Kazen | Teague |
| Clay | Krueger | Thone |
| Cohen | Le Fante | Tucker |
| Collins, Ill. | Livingston | Vander Jagt |
| Conyers | Lloyd, Tenn. | Vento |
| Cornwell | Maguire | Whalen |
| Danielson | Meeds | Wilson, Tex. |
| Dent | Milford | Young, Tex. |
| Dicks | Nix | |

Mrs. SPELLMAN, Mr. KREBS, and Mrs. SMITH of Nebraska changed their vote from "no" to "aye."

Mr. GRASSLEY, Mrs. HECKLER, Mr. MATTOX, and Mrs. FENWICK changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Ms. OAKAR. Mr. Chairman, I rise in support of Mr. HARKIN's amendment, and commend the gentleman for his continuing efforts and persistence on this vital issue.

As a member of the Subcommittee on International Trade, I have listened to the debates on the wisdom of using our financial instrumentalities in the conduct of foreign policy. Members of that subcommittee and the full Committee on Banking have advanced the notion that the membership of that committee is best served to avoid the question of foreign policy. I, Mr. Chairman, do not share this view.

In the committee's markup, I strongly supported the efforts of the gentleman from Massachusetts (Mr. TSONGAS) to prohibit Exim activity in South Africa. I was opposed to the efforts of the gentleman from Oregon (Mr. AUCOIN) with regard to Exim activity in the People's Republic of China. I view my support of the Harkin amendment as an extension of these two stances, and more importantly as a commitment to the protection of basic human rights for the people of all nations.

I realize that there will be some adverse effect on our exporting enterprises by virtue of this human rights language.

I would submit that the effects will be minimal. However, the effects this language on the standing of America in the international community and among our own people has an incalculable value.

Mr. Chairman, I urge my colleagues to reemphasize our commitment to the basic human rights and needs of all people by using all of our governmental agencies. I see no reason to exclude the Eximbank from this initiative, and I urge the adoption of the Harkin amendment.●

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. MINETA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12157) to amend and extend the Export-Import Bank Act of 1945, pursuant to House Resolution 1168, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KELLY

Mr. KELLY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KELLY. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KELLY moves to recommit the bill, H.R. 12157, to the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. STANTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 314, nays 47, not voting 71, as follows:

[Roll No. 612]

YEAS—314

| | | |
|---|---|---|
| Akaka | Beard, R.I. | Bowen |
| Alexander | Beard, Tenn. | Brademas |
| Ambro | Bedell | Breaux |
| Ammerman | Beilenson | Breckinridge |
| Anderson, Calif. | Benjamin | Brinkley |
| | Bennett | Brodhead |
| Anderson, Ill. | Bevill | Brooks |
| Andrews, N.C. | Biaggi | Broomfield |
| Andrews, N. Dak. | Bingham | Brown, Calif. |
| | Blanchard | Brown, Mich. |
| Annunzio | Blouin | Broyhill |
| Applegate | Boggs | Buchanan |
| Archer | Boland | Burgener |
| Baldus | Bolling | Burke, Calif. |
| Baucus | Bonker | Burke, Fla. |
| Burleson, Tex. | Hightower | Patten |
| Burlison, Mo. | Hillis | Patterson |
| Burton, John | Holland | Pattison |
| Butler | Hollenbeck | Pease |
| Carney | Horton | Pepper |
| Carr | Howard | Perkins |
| Carter | Hubbard | Pettis |
| Cavanaugh | Hughes | Pickle |
| Cederberg | Hyde | Pike |
| Chappell | Ireland | Poage |
| Chisholm | Jacobs | Price |
| Clawson, Del | Jeffords | Pritchard |
| Clay | Johnson, Calif. | Pursell |
| Cleveland | Johnson, Colo. | Quayle |
| Cochran | Jones, N.C. | Rahall |
| Coleman | Jones, Okla. | Railsback |
| Conable | Jones, Tenn. | Rangel |
| Conte | Jordan | Regula |
| Corcoran | Kastenmeier | Reuss |
| Corman | Keys | Rhodes |
| Cornell | Kildee | Rinaldo |
| Cotter | Kostmayer | Roe |
| Coughlin | Krebs | Rogers |
| Cunningham | LaFalce | Rooney |
| D'Amours | Lagomarsino | Rose |
| Daniel, Dan | Latta | Rosenthal |
| Daniel, R. W. | Leach | Roybal |
| de la Garza | Lederer | Rudd |
| Delaney | Leggett | Ruppe |
| Dellums | Lehman | Russo |
| Derrick | Lent | Ryan |
| Derwinski | Levitas | Sawyer |
| Devine | Lloyd, Calif. | Scheuer |
| Dickinson | Long, La. | Schroeder |
| Diggs | Long, Md. | Schulze |
| Dingell | Lott | Sebelius |
| Dornan | Luken | Seiberling |
| Downey | Lundine | Sharp |
| Drinan | McClory | Sikes |
| Early | McCloskey | Simon |
| Eckhardt | McCormack | Sisk |
| Edgar | McDade | Skelton |
| Edwards, Ala. | McEwen | Skubitz |
| Edwards, Okla. | McFall | Smith, Iowa |
| Eilberg | McHugh | Smith, Nebr. |
| Emery | McKay | Solarz |
| English | McKinney | Spellman |
| Erlenborn | Madigan | Staggers |
| Ertel | Mahon | Stangeland |
| Evans, Colo. | Mann | Stanton |
| Evans, Del. | Markey | Steers |
| Fary | Marks | Steiger |
| Fascell | Marriott | Stokes |
| Fenwick | Martin | Stratton |
| Findley | Mattox | Studds |
| Fish | Mazzoli | Stump |
| Fisher | Meyner | Thompson |
| Fithian | Michel | Thornton |
| Flippo | Mikva | Traxler |
| Flood | Miller, Calif. | Treen |
| Florio | Miller, Ohio | Trible |
| Flynt | Mineta | Udall |
| Foley | Minish | Ullman |
| Ford, Mich. | Mitchell, N.Y. | Van Deerlin |
| Ford, Tenn. | Moakley | Vanik |
| Forsythe | Moffett | Waggonner |
| Fountain | Mollohan | Walgren |
| Fowler | Montgomery | Walker |
| Frenzel | Moore | Walsh |
| Garcia | Moorhead, Pa. | Wampler |
| Gaydos | Moss | Watkins |
| Gephardt | Mottl | Waxman |
| Giaimo | Murphy, Ill. | Weiss |
| Gibbons | Murphy, N.Y. | White |
| Glickman | Murphy, Pa. | Whitehurst |
| Goldwater | Murtha | Whitley |
| Gonzalez | Myers, Gary | Whitten |
| Goodling | Myers, John | Wiggins |
| Gore | Myers, Michael | Wilson, Bob |
| Gradison | Natcher | Winn |
| Grassley | Neal | Wolff |
| Green | Nedzi | Wright |
| Gudger | Nichols | Wydler |
| Guyer | Nolan | Wylie |
| Hagedorn | Nowak | Yates |
| Hamilton | O'Brien | Yatron |
| Hanley | Oakar | Young, Mo. |
| Hannaford | Oberstar | Zablocki |
| Harris | Obey | Zeferetti |
| Hawkins | Ottinger | |
| Heckler | Panetta | |

NAYS—47

| | | |
|---|---|---|
| Armstrong | Ginn | Kindness |
| Bafalis | Hall | McDonald |
| Bauman | Hammer-schmidt | Mathis |
| Byron | | Mikulski |
| Collins, Tex. | Hansen | Mitchell, Md. |
| Crane | Harkin | Pressler |
| Davis | Harsha | Quillen |
| Duncan, Tenn. | Holt | Risenhoover |
| Evans, Ga. | Holtzman | Robinson |
| Fuqua | Ichord | Rousselot |
| Gammage | Kelly | Santini |
| Gilman | Kemp | Satterfield |
| Shuster | Symms | Young, Alaska |
| Slack | Taylor | Young, Fla. |
| Snyder | Volkmer | |
| Spence | Weaver | |
| Stockman | Wilson, C. H. | |

NOT VOTING—71

| | | |
|---|---|---|
| Abdnor | Evans, Ind. | Preyer |
| Addabbo | Flowers | Quie |
| Ashbrook | Fraser | Richmond |
| Ashley | Frey | Roberts |
| Aspin | Harrington | Rodino |
| AuCoin | Hefner | Roncalio |
| Badham | Heftel | Rostenkowski |
| Barnard | Huckaby | Runnels |
| Bonior | Jenkins | Sarasin |
| Brown, Ohio | Jenrette | Shipley |
| Burke, Mass. | Kasten | St Germain |
| Burton, Phillip | Kazen | Stark |
| Caputo | Krueger | Steed |
| Clausen, Don H. | Le Fante | Teague |
| | Livingston | Thone |
| Cohen | Lloyd, Tenn. | Tsongas |
| Collins, Ill. | Lujan | Tucker |
| Conyers | Maguire | Vander Jagt |
| Cornwell | Marlenee | Vento |
| Danielson | Meeds | Whalen |
| Dent | Metcalfe | Wilson, Tex. |
| Dicks | Milford | Wirth |
| Dodd | Moorhead, Calif. | Young, Tex. |
| Duncan, Oreg. | | |
| Edwards, Calif. | Nix | |

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Jenrette against.

Mr. Addabbo for, with Mr. Roberts against.

Until further notice:

Mr. Preyer with Mr. Abdnor.

Mr. Shipley with Mr. Caputo.

Mr. Barnard with Mr. Marlenee.

Mr. Rostenkowski with Mr. Ashbrook.

Mr. Vento with Mr. Maguire.

Mr. AuCoin with Mr. Moorhead of California.

Mr. Krueger with Mr. Don H. Clausen.

Mrs. Collins of Illinois with Mr. Badham.

Mr. Ashley with Mr. Livingston.

Mr. Heftel with Mr. Quie.

Mr. Cornwell with Mr. Brown of Ohio.

Mr. Bonior with Mr. Lujan.

Mr. Dent with Mr. Cohen.

Mr. Conyers with Mr. Frey.

Mr. Phillip Burton with Mr. Sarasin.

Mr. Danielson with Mr. Thone.

Mr. Dicks with Mr. Whalen.

Mr. Stark with Mr. Vander Jagt.

Mr. Charles Wilson of Texas with Mr. Teague.

Mr. Dodd with Mr. Tsongas.

Mr. Edwards of California with Mrs. Lloyd of Tennessee.

Mr. Steed with Mr. Tucker.

Mr. Wirth with Mr. Duncan of Oregon.

Mr. Evans of Indiana with Mr. Flowers.

Mr. Harrington with Mr. Fraser.

Mr. Huckaby with Mr. Hefner.

Mr. Jenkins with Mr. Kazen.

Mr. Le Fante with Mr. Meeds.

Mr. Metcalfe with Mr. Milford.

Mr. Richmond with Mr. Nix.

Mr. Roncalio with Mr. St Germain.

Mr. Runnels with Mr. Aspin.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore (Mr. BOLLING). Is there objection to the re-

quest of the gentleman from North Carolina?

There was no objection.

## PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

Mr. EDWARDS of Alabama reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, the purpose of my seeking this time is to announce our plans generally for the coming week and then to make one unanimous-consent request embodying two requests.

We have done very well in the last 10 days in accomplishing those portions of the program that we had set forth, and for that I want to thank and congratulate the entire membership.

We must continue to do well throughout the remainder of this session of Congress if we are to complete those things absolutely necessary for the conclusion of our business.

At the last accounting there were some 64 expiring authorizations. In addition to that, of course, all of the appropriations must be undertaken. We believe that it is essential for this Congress to complete action on a comprehensive energy program, quite probably on some tax reform or reduction proposal, and of course we must adopt a second budget resolution. All of those things add up to about 75 pieces of "must" legislation.

We have so few working days remaining that we are going to have to continue to maintain a very busy pace in order to achieve our objectives. Therefore, Mr. Speaker, it is our purpose to begin a little earlier on 2 days next week, and to continue a little longer on other days in order to act upon three of the major bills of this session.

Next week we expect to take up and to conclude the foreign aid authorizations bill, the foreign aid appropriations bill, and the military appropriations bill.

For that purpose, Mr. Speaker, I ask unanimous consent that the House shall convene at 10 o'clock on Tuesday next and at 9 o'clock on Friday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Reserving the right to object, Mr. Speaker, I would like to call the attention of the House to the fact that we have some 115 bills which have been reported from the committee, we have some 26 which are in conference, and we have another 125 that are under the category of "likely to be reported"—which adds up to some 266 bills which are in various stages of proceeding through the legislative process.

I am pleased that the majority leader has announced that there are only 75 pieces of "must" legislation. And of course I have no way of knowing how many of those are in this particular number which I have mentioned. I presume that they all are. If this is the situation, then there must be some 190 pieces of legislation or proposed legislation which are either in committee, or out of committee, or in conference, which are not pieces of "must" legislation.

It would be my hope—the gentleman from Texas and I have talked about that, but I have not yet had a chance to talk to the Speaker about it—that we could look at the list of bills which make up this number which I have just put in the record and strike from that list the bills which we feel under no circumstances are likely to become law because the other body would not act on them or because it would not be necessary that they be enacted in this particular session of Congress. We are coming down to the time when, if we are going to do the things we have to do, we cannot do the things which many people perhaps would like to have us do. We will have to put some things over until the next Congress.

So may I ask my good friend, the gentleman from Texas (Mr. WRIGHT), No. 1, if it would be possible for us to make some sort of an arrangement whereby at a date certain in the not-too-distant future the legislative committees would quit work, the Committee on Rules would quit work, and the leadership—I would certainly be happy to join in this effort—would announce to the Members of the House that certain bills will be expected to be adopted before we adjourn sine die, and no more, realizing of course that some flexibility would be necessary and it would be necessary for the Speaker and the majority leader, hopefully in consultation with the minority, to perhaps from time to time, and only on definite selected occasions, bring in legislation which is not on that list.

Is it possible for us to arrive at such a state of affairs?

Mr. WRIGHT. In response to the gentleman's question, it not only is possible, I think it is imperative.

Obviously, not all of those 190 bills to which the gentleman makes reference will be able to be considered, let alone enacted, during the remaining days of this session.

The distinguished minority leader has made a suggestion which already has been contemplated and on which action has been initiated, in fact, by the Speaker. The Speaker, according to my information, is at this moment going over a list which he hopes to be able to present to the Steering and Policy Committee; and based upon that list of "must" legislation, I believe the Speaker intends to make a request at a relatively early date of the Committee on Rules for the establishment of a cutoff date, with the exception of vitally important legislation or emergencies which we cannot now foresee. We would expect that there might be a shutoff date for authorizing committees.

When that list is finalized or even put in raw form which is understandable, I can assure the distinguished minority leader that we would have no objection whatsoever to sharing that list with him since he bears, along with us, the joint responsibility of trying to accomplish those things necessary to the enactment of legislation.

Mr. RHODES. Mr. Speaker, I thank the gentleman from Texas (Mr. WRIGHT), my distinguished friend, and assure him that I will cooperate. I think we must all cooperate if we are going to take the time off which I think we all need in August and then adjourn this House, hopefully, not later than the first day of October.

I realize that there may be some reason to anticipate some slippage in the adjournment date. I hope that there will not be too much.

I might ask the gentleman from Texas, Is it still the intention of the leadership, of the majority, to observe the days for work at home which we have projected for August and also the adjournment target of October 1?

Mr. WRIGHT. I assure my friend, the distinguished minority leader, that it definitely is the plan and intention of the leadership to observe the August home district work period which has been previously announced.

It is our present anticipation and our expectation that we will be able to conclude this session by October 7. I should think it unlikely that we would finish on the first day of October; but at the conclusion of the first week of October, we intend to be able to finish. This will permit Members of both parties, of course, to return to their constituencies and report to them on the activities of this Congress.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BOLLING). Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman tell us, if we are going to come in on Friday at 9 o'clock a week from tomorrow, that the leadership will make every effort to be sure that committees are not meeting so that there is a conflict and the potential markup of bills that will not ever reach the floor anyway?

Mr. WRIGHT. If the gentleman will yield, it is my impression that fewer committees meet on Fridays than on almost any other day. We took that fact into account in proposing the unanimous consent request. We wanted to disrupt or disturb committees to the least extent possible. I should think that if we were to come in at 9 o'clock on next Friday, a week from tomorrow, committees might well be advised not to plan sessions unless it were absolutely necessary to meet some deadline, of which I am unaware.

We will do very well, indeed, if next week we can complete these targets we have set forth, completing total debate and action on all amendments and bills, on the foreign aid authorization, the foreign aid appropriation bill, and the Defense Department appropriation bill. Those are three of the biggest and most controversial bills of the session.

For that reason we hope to come in early on Tuesday, Wednesday, and Thursday at 10 o'clock and at 9 o'clock on Friday. On Monday, Tuesday, and Thursday we will perhaps go later, perhaps until 7 o'clock. I believe we can complete those bills, and I think it is vitally important for the rest of the session and for meeting these other targets that we do complete those bills next week.

Mr. ROUSSELOT. I cannot argue with anything the gentleman said about what he is trying to do here on the floor. My question relates to the problem which we have, where we constantly get requests in here for committees to meet, different requests being made for marking up some great, critical bill. The problem is, we get five or six of these requests per day, and if the leadership can help us by encouraging these committees to announce that they have completed their work so that this critical legislation we have on the floor will be given the attention of the entire membership, we will not have to shuttle back and forth between here and committee meetings.

Mr. WRIGHT. The gentleman makes a good point, unquestionably, and to the extent the persuasion of this Member is efficacious, it will be applied.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. PEPPER. Mr. Speaker, reserving the right to object, I want to ask two questions, if I may, of the distinguished majority leader. First, with respect to Fridays, many of us had hoped that it would be possible for us to have Fridays at home. I judge from what the distinguished majority leader has said that it is not contemplated, at least between now and the August 18 adjournment, that we will have any free Fridays. Is that correct?

Mr. WRIGHT. I believe that would be correct, if the gentleman would yield. The gentleman from Florida recognizes the exigencies of the situation, the necessities of scheduling. I just believe it would be altogether unrealistic for any Member to anticipate that there would not be, between now and August 18, any free Fridays.

Mr. PEPPER. Mr. Speaker, my second question is, those of us who live in the eastern part of the United States would be very much favored if we knew that there would not be a vote on suspensions on Mondays until, say, 3 o'clock in the afternoon. For example, if I am to be here by 1:30 or something like that, to be sure that I can vote on suspensions—and as the distinguished gentleman knows, sometimes there will be five or six votes, so that one's record of absenteeism shows up very badly if we miss them—in order to do that, I have to leave home on either an 8 o'clock plane or an 8:45 plane to be sure to be here on time.

If I could leave on a 12:10 plane, which gets me here at 2 o'clock or a little after, I would have the whole morning at home. To those of us who live in the eastern half of the United States and to others who live in the Middle West, no doubt that would be a favor. It would not make an awful lot of difference as far as time in the House was concerned if, say, votes would start at 3 o'clock. I just wondered if that was a possibility.

Mr. WRIGHT. Well, if the gentleman would yield further, I think it unlikely that we could promise him that for next Monday. We have been attempting to hold down the number of suspensions scheduled for Mondays when we come into session at noon.

One of the reasons for coming into session at noon on Monday and for not asking for an earlier convening on that day is to try to accommodate the very necessity which the gentleman from Florida mentions; but the only way to assure that we would have late votes on those suspensions would be to load the calendar with a lot of suspensions, and thus promote lengthy debate on those suspensions. That, of course, would not serve the purposes we are attempting to serve, which is to complete these three major bills next week.

So, I think under the circumstances I should not encourage the gentleman from Florida to expect that we could do that on next Monday. But, we can certainly try to help if possible on subsequent Mondays.

Mr. PEPPER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

Mr. BROWN of Michigan. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Texas, the majority leader, if he has any assurance that much of the legislation we have already passed will be acted upon by the other body. I say that because many of my colleagues on this side of the aisle and on his side of the aisle have expressed that belief, that much of this legislation will not be acted upon because of the business and filibusters and other delaying activities in that body. Could the gentleman give us any assurance on that?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, the gentleman from Michigan knows of course that the majority leader of the House cannot give absolute assurance as to anything the other body might do or fail to do. But I think the gentleman would be reassured to know that on Tuesday of last week the leadership of the House met with the Senate leadership and went over the entire list of legislation to which the distinguished minority leader earlier made reference. We talked about every bill. It was a 2-hour session. And we got the best advice and best judgment we could elicit from the majority leader and majority whip of the U.S. Senate.

So we think we have a pretty good feel for those matters that they expect to be able to address, and we have isolated some matters which we feel they cannot address by reason of the possibility of filibuster and difficulty of imposing cloture.

It will be the effort of the majority leader of the House to schedule primarily those bills on which we expect that the other body will be able to act. While we cannot forecast that with absolute certainty, we will do the best that we can. There may be exceptions. There may be votes on some bills that never will be acted upon in the other body, but to the best of our ability we will try to avoid wasting the time of the Members of the House on legislation which we have every reason to know will not be acted upon by the other body.

Mr. BROWN of Michigan. Further reserving the right to object, Mr. Speaker, the gentleman knows that the Speaker has total control over what items are brought to this floor. Does the Speaker intend to follow that which the gentleman has said and not permit anything to be scheduled that he does not have some reasonable assurance will receive action in the other body?

Mr. WRIGHT. I cannot honestly say to the gentleman that no bill will be scheduled on which we have not received absolute assurance.

Mr. BROWN of Michigan. That is not what I asked the gentleman.

Mr. WRIGHT. I would say to the gentleman that to the extent of our ability to do so we are going to try to work with the leadership in the other body and to devote the remaining time to those matters which at least have some reasonable opportunity to be considered. Both bodies have lists of bills which they consider musts. We are trying to accommodate the other body and they are making an earnest attempt to accommodate us.

Mr. BROWN of Michigan. I thank the gentleman.

I will not belabor it more, Mr. Speaker, by further reserving the right to object, and I will not ask the gentleman to respond, but I think it might be well for the leadership to indicate to committee chairmen there is no reason to take up further legislation which it is not expected will not be acted upon by the other body, and we could dispose of the business of the House in a much more expeditious way.

Mr. WRIGHT. Mr. Speaker, I assure the gentleman that is exactly what we intend to do.

Mr. BROWN of Michigan. Mr. Speaker, I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I just wanted to ask the majority leader, in view of the fact that he is asking permission to come in at 10 o'clock on Tuesday and 9 o'clock on Friday, can he give us a more definite commitment as to the time each night next week when we might expect to adjourn? I have not heard any reference made to that.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, it would be our plan to adjourn by 7 o'clock on Monday, to adjourn by 7 o'clock on Tuesday, to go later Wednesday, to adjourn by 7 o'clock on Thursday, and not later that 3 o'clock on Friday. If we are able to come in at 9 o'clock and complete the business under consideration, we might be able to adjourn earlier than 3 o'clock on Friday.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2777, NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a report of the conference committee on the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

## PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT ON FRIDAY, JULY 28, 1978, DURING 5-MINUTE RULE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce be permitted to sit on Friday, July 28, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## TURKISH ARMS EMBARGO

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this time to insert in the CONGRESSIONAL RECORD the first four of a series of letters that are being sent to Members of the House, setting forth the reasons that it would be most unwise and against the national interest of the United States for the House of Representatives to vote to repeal the Turkish arms embargo. These letters are signed by 21 Members of the House, from both sides of the aisle; namely, the gentleman from Florida (Mr. FASCELL); the gentleman from Illinois (Mr. DERWINSKI); the gentleman from New York (Mr. ROSENTHAL); the gentleman from North Carolina (Mr. ROSE); the gentleman from Maryland (Mr. MITCHELL); the gentleman from California (Mr. MINETA); the gentleman from Massachusetts (Mr. TSONGAS); the gentleman from Minnesota (Mr. FRASER); the gentleman from Michigan (Mr. BLANCHARD); the gentlewoman from Maryland (Ms. MIKULSKI); the gentleman from New York (Mr. BIAGGI); the gentleman from Georgia (Mr. FOWLER); the gentleman from New Jersey (Mr. FLORIO); the gentleman from New Hampshire (Mr. D'AMOURS); the gentleman from Illinois (Mr. RUSSO); the gentleman from New York (Mr. RANGEL); the gentleman from New York (Mr. GILMAN); the gentleman from Illinois (Mr. O'BRIEN); the gentleman from California (Mr. JOHN L. BURTON); the gentleman from Pennsylvania (Mr. EDGAR); and the gentleman from Indiana (Mr. BRADEMAS).

Mr. Speaker, I hope very much that Members of the House will read these letters with great care and that they will, when they cast their votes next week on this issue, agree with the position of the signatories of the letters to which I have referred.

The texts of the letters follow:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., July , 1978.*

THE EMBARGO AND THE LAW

DEAR COLLEAGUE: You will soon have an opportunity to cast a vote in favor of a foreign policy based on principle and in accord with the rule of law.

The Carter Administration's proposal to remove the limited arms embargo now in effect against Turkey is, in our view, an ill-conceived move that violates fundamental legal, moral and security principles of U.S. foreign policy. We ask your help in defeating this effort, and we hope to set forth, in this and subsequent letters, the considerations which have led us to our position on this important matter.

The Turkish arms embargo is required as a matter of law.

It is important to remember that the arms embargo was voted by Congress only after Turkey, in clear violation of American laws and bilateral agreements already in effect, used American weapons for offensive purposes in its second—August, 1974—invasion and occupation of Cyprus.

Unlike Turkey's Cyprus action of the previous month, which was mounted in response to a coup instigated on the island by the Greek junta, this August invasion took place at a time when hostilities had ended, the junta had fallen, a ceasefire was in effect and the interested parties were engaged in peace talks at Geneva. It was at that moment that Turkey employed 40,000 troops, armed with American weapons, to occupy forty percent of Cyprus, and it was in response to this second, clearly offensive, operation, that Congress acted.

Provisions of both the Foreign Assistance Act and the Foreign Military Sales Act required that further military aid to Turkey be terminated. The embargo was voted, therefore, not to enact new law but rather to insure that existing laws were enforced.

Secretary of State Vance has conceded in his recent testimony before the House International Relations Committee that the Turkish occupation of Cyprus was carried out in violation of American laws and bilateral agreements. He has conceded, further, that the imposition of the embargo was the appropriate response to those violations.

Precisely the same considerations which justified imposition of the embargo now require its continued support.

Nearly four years after its invasion of Cyprus, Turkey still occupies forty percent of the island. Nearly 30,000 troops of that occupying army, still equipped with American weapons, remain there. And Turkey has taken no actions to improve the situation substantially.

The continued presence of these Turkish troops on Cyprus, therefore, constitutes nothing less than a continuing violation of American laws. So long as the violations continue, the embargo must remain in force.

It should be noted that the embargo provision itself permits President Carter to end the embargo in a moment, if he is willing to certify to Congress that Turkey is now in compliance with the Foreign Assistance Act, the Foreign Military Sales Act, and its bilateral agreements with the United States, and that substantial progress has been made toward an agreement regarding military forces on Cyprus. We would welcome actions by Turkey substantive enough to permit President Carter to make such certifications to Congress; clearly, however, Turkey has taken no such actions.

In his policy statements on this very issue during his campaign for the Presidency, Jimmy Carter declared that "The United States must pursue a foreign policy based in principle and in accord with the rule of law." We ask that you join us in supporting those sentiments by voting to maintain the arms embargo against Turkey.

Sincerely,

Dante B. Fascell, John Brademas, Norman Y. Mineta, James J. Blanchard, Mario Biaggi, Edward J. Derwinski, Charles Rose, Paul E. Tsongas, Barbara A. Mikulski, George M. O'Brien, Benjamin S. Rosenthal, Parren J. Mitchell, Donald M. Fraser, Benjamin A. Gilman, John L. Burton, Robert W. Edgar, Norman E. D'Amours. Wyche Fowler, Jr., Martin A. Russo, James J. Florio, and Charles B. Rangel.

UNDERMINING THE EMBARGO

HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 1978.*

DEAR COLLEAGUE: In imposing an embargo on American military aid to Turkey after Turkey's August, 1974, invasion and occupation of Cyprus, Congress had in mind two basic considerations:

The first was the need to enforce American law, which required that further military assistance to Turkey be terminated after American-supplied weapons were used by Turkey for offensive purposes on Cyprus.

The second consideration, and the focus of this letter, was the expectation that the Administration would use the embargo to convince Turkey of the need to take substantive actions to promote a just settlement on Cyprus.

Regrettably, the Administration has failed to do so.

Instead, this Administration, like the one which preceded it, has acted in a manner which has undermined the effectiveness of the embargo and has signaled Turkey that it need not take the embargo seriously.

The following brief summary of Carter Administration actions and statements concerning Cyprus—many of which have received little or no publicity in this country—makes this conclusion obvious. The summary also makes clear that the Administration's request that the embargo be lifted "because it hasn't worked" stands logic on its head: the embargo has not worked because the Administration has been unwilling or unable to make it work.

We think it essential, therefore, that the

following facts be kept in mind in considering the Administration's justification for attempting to lift the embargo:

The Administration's first request for arms for Turkey, submitted by the State Department in March of 1977, sought a level of military assistance many times the level supplied by the previous Administration. This request, you may recall, engendered strong opposition and was ultimately substantially reduced. Turkey nonetheless received a forty percent increase in military sales (from $125 to $175 million) from 1977 to 1978 although it had taken no positive action whatsoever on Cyprus. The hope that this significant increase would induce such positive action on the part of Turkey proved empty.

The Department of Defense resorted to a little-known agency—the NATO Maintenance and Supply Agency (NAMSA)—located in Luxembourg, to supply Turkey with nearly $30 million of weapons beyond the restrictions in America law limiting the amount of military sales. Despite the vigorous protests of several Members, including the Chairman of the Subcommittee on Europe of the House International Relations Committee, who termed the action "a violation of the spirit, if not the letter, of the law", this circumvention of the military sales limitation continues.

The United States Mission to the United Nations, in an effort to avoid "offending" Turkey, voted with a very small minority last fall to weaken a General Assembly resolution which simply called for action toward a settlement on Cyprus.

The State Department submitted last February a report on human rights in Turkey and in Cyprus which was a deliberate whitewash of Turkish practices in both those countries. A State Department spokesman was quoted at the time as saying that the Department did not want to report anything which might make it more difficult to get Congress to approve lifting the embargo.

The United States Ambassador to Turkey declared in news interviews in Ankara, during the time when the Administration still claimed to support the embargo, that "the embargo doesn't serve any American interest," that "without changing the law which prohibits United States arms to aggressor countries) I would like to find some way around it," and that "my only hope is that . . . it (the embargo) will be removed." High-ranking U.S. military officers made similar statements in the past eighteen months and thereby encouraged Turkish intransigence with regard to a just settlement on Cyprus. Obviously, the arms limitation could not be effective when the Turkish government heard high American officials publicly contradict the Administration's own policy on this issue.

The Secretary of State assured Members of Congress several months ago that before the Administration made any decision on whether to reverse its field and ask for a lifting of the embargo, the Administration would carefully study the actions and proposals expected from Turkey to insure that they represented substantive progress toward a Cyprus settlement. But the Administration soon backed down and—before Turkey had taken any action, indeed, before the Turkish proposals had even been submitted, let alone examined—asked for the lifting of the embargo anyway.

Not surprisingly, with all incentive to take actions on a Cyprus settlement having been eliminated, Turkey took no actions at all. Moreover, its proposals were so poor as to be regarded throughout the diplomatic community as virtually meaningless.

This sorry record shows clearly why the embargo "hasn't worked": these—and other—actions of the Administration have undermined it. The Administration has failed abysmally to convince Turkey that greater flexibility on Cyprus is essential to the resumption of a full military relationship with the United States. As a remedy for its own failure, the Administration now asks Congress to abandon principle and to ignore the clear requirements of American law. This we must not do.

We ask you, therefore, to join us in demonstrating that Congress, a co-equal branch of our government, believes in enforcing our laws by supporting the effective use of the arms embargo against Turkey.

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 1978.*

THE EMBARGO AND NATIONAL SECURITY

DEAR COLLEAGUE: In its attempt to lift the Turkish arms embargo, the Carter Administration has avoided discussing the requirements of American law and has focused instead on what it claims are overriding national security considerations.

The Administration's strategy is understandable. For to focus on the law, and on Turkey's continuing violation of the law through its continuing occupation of Cyprus, would make ending the embargo at this time unthinkable.

As a result, the Administration speaks of Turkey's importance to NATO and of the need to do whatever is necessary to preserve U.S. relations with Turkey.

We yield to no one in our support for NATO. Yet it is clear to us that, even on "national security" grounds, the Administration's current tilt toward Turkey is shortsighted and extremely dangerous to vital American security interests abroad.

We know that both Turkey and Greece are necessary for the security of NATO's southeastern flank; the Administration has conceded as much in its recent testimony before the House International Relations Committee. It is not, therefore, a question of choosing one country over the other—we must do all we can to insure that both participate fully in NATO.

As matters now stand, Turkey is a full member of NATO, while Greece has partially withdrawn from NATO as a result of U.S. mishandling of the Turkish invasions of Cyprus in 1974.

The Greek government has made it clear that it wishes to return to a full role in NATO, but that it cannot do so unless the embargo is maintained as a way to encourage a just settlement on Cyprus.

The Turkish government, meanwhile, has made it equally clear that it will remain in NATO regardless of the outcome of the embargo vote in Congress.

Therefore, a vote to continue the embargo is the only way to bring about the full participation of both Turkey and Greece in NATO. Statements made by the leaders of the two countries on their recent visits to Washington make this conclusion obvious.

Mr. Karamanlis told Members of Congress, that despite Administration claims to the contrary, a lifting of the embargo would be a major political issue in Greece, would further damage U.S.-Greek relations and would make the reintegration of Greece into NATO far more difficult. Mr. Karamanlis also revealed that a vote to lift the embargo—and the American abandonment of Greece such a vote would imply—could topple his pro-Western government, with untold consequences for American security interests in that vital region of the world.

Mr. Ecevit, for his part, set forth Turkey's position quite plainly:

"We do not intend to leave NATO in any case, because we believe that the front in which we have a stake is based on a rather delicate balance, and Turkey has a responsibility to maintain that balance." (The Today Show, Interview held May 30, 1978)

And again:

BARBARA WALTERS. "Mr. Prime Minister, suppose the arms embargo is not lifted. Would you pull Turkey out of NATO?"

Mr. ECEVIT. "No, I have always said explicitly that we would still want to remain in NATO." (ABC Evening News, Interview held June 1, 1978)

Mr. Ecevit's statements should not be surprising. Mr. Ecevit knows that continued participation in NATO is to Turkey's benefit. He knows, too, that the embargo has not been as harmful to Turkey as some have claimed—Turkey has received more than $600 million in American military equipment for NATO purposes since the embargo began. And he knows, finally, that Turkey has been permitted since 1975 to purchase additional American-made equipment in unlimited amounts through U.S. commercial channels.

Yet, despite this, Administration officials have suggested that voting an end to the embargo is the only way to keep Turkey in NATO. In light of Mr. Ecevit's statements on this issue, these Administration claims are difficult to accept. We have, in fact, only two choices:

We can assume that Mr. Ecevit is telling the truth when he says that Turkey remains committed to NATO—in which case the Administration's arguments are groundless and Congress need not fear voting to maintain the embargo.

Or we can assume that he is not telling the truth—in which case the credibility of *any* of his commitments respecting Turkish flexibility on Cyprus or Turkey's reliability as an ally are themselves open to serious question, and Congress has no *reason* to lift the embargo.

The Administration simply cannot have it both ways, disputing Mr. Ecevit on this major concern and yet vouching for his reliability in all other respects.

We believe the statements of both Mr. Ecevit and Mr. Karamanlis on this issue: Turkey will remain in NATO regardless of the embargo vote, while Greece will only be able to rejoin NATO if the embargo is maintained. The need to have both Turkey and Greece play full roles in NATO leads to only one conclusion: that the embargo must be maintained.

We ask you, therefore, in the name of America's security interests abroad to cast your vote in support of the Turkish arms embargo.

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 1978.*

THE EMBARGO AND TURKISH INTRANSIGENCE

DEAR COLLEAGUE: We will soon be called upon to vote again on the Turkish arms embargo. Because this issue first came before Congress nearly four years ago, many important details tend to be forgotten. In addition, many Members have joined the House since this issue was first considered in the wake of Turkey's August, 1974 invasion and occupation of forty percent of Cyprus.

The Administration suggests, in its effort to lift the embargo, that the failure to achieve a Cyprus settlement is due, not to continued Turkish intransigence, but to Congressional inflexibility. If Congress would only ease the pressure on Turkey, we are told, Turkey would respond by taking the substantive actions necessary to promote a Cyprus settlement.

The Administration's argument ignores the clear historical record.

Congress has taken action after action in the past four years to "ease the pressure on Turkey" in response to similar Administration pleas. Yet Turkey has failed to make a single substantive response to these Congressional concessions. It seems, in fact, that Congressional flexibility on this issue has

merely encouraged further Turkish resistance.

We ask you to consider the following facts:

Congressional action—September 1974: Congress delays embargo two months at Kissinger's request to use his influence on Turkey.

Turkish action: No response.

Congressional action—December 1974: Congress delays embargo two more months at Kissinger's request to use his influence on Turkey.

Turkish action: No response.

Congressional action—October 1975: Congress relaxes embargo to allow: (a) $185 million in arms ordered before embargo to be released to Turkey; (b) unlimited commercial arms sales to Turkey; (c) future FMS sales to Turkey.

Turkish action: No response.

Congressional action—1974–1976: Nine meetings with President Ford and/or Secretary Kissinger initiated by embargo supporters to show ways Congress would move immediately if Turkey indicated it wanted to solve Cyprus.

Turkish action: No response.

Congressional actions—April 1976: Congress authorizes $125 million in FMS to Turkey for FY 1976.

Turkish action: No response.

Congressional action—May 1976: Congress adds $125 million in FMS to Turkey for FY 1977.

Turkish action: No response.

Congressional action—April 1977: Congress increases FMS to Turkey for FY 1978 to $175 million, a forty percent boost.

Turkish action. No response.

When the Administration claims that Congress is responsible for preventing progress on Cyprus, remember the past record of substantive actions taken by Congress.

When will Turkey act?

## PERSONAL EXPLANATION ON SUPPLEMENTAL VIEWS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute.)

Mrs. FENWICK. Mr. Speaker, due to a printing error, my "supplemental views" on the Financial Institutions Regulatory Act of 1978 appear as the last paragraph of Mr. McKINNEY's views (p. 237, H. Rept. 95–1383). In fact, I joined the minority views of Representatives STANTON, BROWN, WYLIE, ROUSSELOT, HANSEN, HYDE, GRASSLEY, LEACH, EVANS, and GREEN, but with the following reservation:

The only question that might be raised concerning the minority views involves variable rate mortgages. Although I favor the concept of reverse annuity mortgages, I have grave reservations about variable rate mortgages and cannot subscribe to the endorsement accorded them in the minority views.

## GAO ON NUCLEAR FUEL REPROCESSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, on July 20, 1978, the General Accounting Office (GAO) released a report entitled: "An Evaluation of Federal Support of the Barnwell Reprocessing Plant and The Department of Energy's Spent Fuel Storage Policy." This report makes it clear that the GAO supports continuation of ongoing research and development efforts at Barnwell.

The reason I bring this report to my colleagues' attention is that it adds one more authoritative voice to the growing concern over the administration's policy on nuclear fuel reprocessing. A large number of eminent scientists, international leaders, and Members of both Houses of this Congress, as well as I, have pointed out repeatedly that the U.S. policy deferring reprocessing and the breeder reactor is bankrupt—it will not accomplish the lofty international nonproliferation goals for which it was established, and it will seriously damage our own hopes for providing needed future energy supplies.

The GAO report ties this problem in with the continuing inability to obtain a climate amenable to completion of the U.S.'s sole commercial reprocessing plant, that at Barnwell, S.C. As most Members of Congress know, the owners of the Barnwell plant were strongly encouraged by the Federal Government to construct that facility. The GAO gives a good summary of this encouragement and notes the rapid turnabout in Federal policy that came with President Carter's April 7, 1977, policy statement which indefinitely deferred commercial reprocessing in the United States. The GAO makes the following statement on the policy of the Carter administration on reprocessing:

These policies reflect a major change in the Federal attitude toward Barnwell. While the Government did not provide any direct financial support to Allied-General, it created—through its policies and programs on nuclear power—an atmosphere favorable to reprocessing. The former Atomic Energy Commission, for example, offered verbal encouragement to Allied-General, provided it access to reprocessing technology, and sold it land on which to build the reprocessing complex. Likewise, NRC, while imposing strict requirements had not previously given Allied-General reasons to believe that reprocessing and recycling activities could not eventually meet safety and environmental licensing criteria.

Thus, the Carter policy left Barnwell in a very uncertain position. Congress responded by appropriating $13 million in fiscal year 1978 to orient Barnwell toward a research and development mode, until optional uses could be explored. Optional uses do exist and the GAO report contains an excellent discussion of what those uses are.

Much to my disappointment, the administration has again opposed doing research and development work at Barnwell. The GAO is critical of this opposition and states that it: "fails to recognize two important considerations. First, does the Federal Government have any responsibility to the developers of Barnwell, considering the encouragement given to start a commercial reprocessing industry? Second, will the other nuclear developing countries follow the U.S. lead on proliferation and stop or defer their reprocessing programs? Early indications are that—even with a total U.S. commitment—other countries view the development of breeder technologies and reprocessing as vital to their economic stability, and may not be willing or able to follow the U.S. lead. For instance, Japan, France, West Germany, the United Kingdom, and the Soviet Union all have ongoing breeder reactor development programs as well as planned or operating reprocessing facilities. They have not, as of yet, indicated a desire to discontinue these programs."

Mr. Speaker, I believe our choice is clear. The United States must maintain the option to reprocess spent nuclear fuel, and continued research and development at the Barnwell plant is a necessary step in keeping the option open. The GAO recognizes this, and has concluded that "the Congress should continue to fund short-term research studies at Barnwell until the completion of the international study on alternative fuel cycle technologies. This will keep the facilities and key people available in the event the United States decides, as a result of the study, that some method of reprocessing is consistent with its nonproliferation objectives.

GAO believes, however, that it is important that the Department not wait on congressional initiatives to plan work at Barnwell and make it compatible with existing programs.

I urge my colleagues to obtain a copy of this excellent report. I am happy to say that the GAO position conforms very closely with that which I believe is the overwhelming sentiment in the Congress. The GAO is to be complimented on a job well done.●

## ALICE RIVLIN'S PROFESSIONAL OPINION ON THE LACK OF ACCURACY IN ECONOMIC MODEL FORECASTING OF THE EFFECTS OF TAX CUTS UNDERCUTS THE CONCLUSIONS OF GIAIMO BUDGET COMMITTEE REPORT ON THE KEMP-ROTH TAX RATE REDUCTON ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minute.

● Mr. KEMP. Mr. Speaker, Members of Congress were sent at the beginning of the week a report of the House Budget Committee purporting to show disastrous consequences to tax revenues, deficits, the Federal debt and the economy, if the Kemp-Roth Tax Rate Reduction Act became law. That report was released by the committee's chairman Mr. GIAIMO.

The Tax Rate Reduction Act is designed to restore incentive to working, saving, investing, and risk taking by restoring the reward for such economic activity by lowering the tax rates. Specifically, the measure would reduce individual income taxes by approximately 33-percent, across-the-board over the next three years; reduce the combined corporate normal and corporate surtax rates from 48 percent to 45 percent in that same time frame; and increase the corporate surtax exemption from $50,000 to $100,000, thereby aiding smaller businesses.

The Giaimo report rests on three analyses done of the Kemp-Roth bill by econometric models, all Keynesian mod-

els. The conclusions reached by the committee were based on these analyses. The accuracy of those models and their conclusions were offered as the last word on this subject.

There are so many things wrong, conceptually and technically, with that study and the conclusions drawn from it, that it will be the subject of separate remarks.

But there is one thing which stands in such contrast to that report that it has to be mentioned today.

Now, it would be one thing, if it were just a difference of opinion between my colleague, Mr. GIAIMO, and me, or a difference in other peoples' attitudes about the accuracy of forecasting with these models, but this is very different. It is that the Director of the Congressional Budget Office, Alice Rivlin, stated in a letter last month that the CBO is unable to provide estimates of the long-run impact of tax cuts, that given the present state of the art in economics, estimates of long-run impacts of tax cuts on variables such as savings, productivity, and work incentives cannot be made with any degree of confidence.

In a letter to the ranking minority member of the Committee on Ways and Means, Mr. CONABLE, dated June 2, and on CBO letterhead, Director Rivlin says, and I quote:

> We are also unable to provide estimates of the long-run impact to tax cuts. * * * Given the present state of the art in economics, estimates of long-run impacts of tax cuts on variables such as savings, productivity, and work incentives cannot be made with any degree of confidence.

Yet it is those variables of savings, productivity and work incentives which will govern the rate at which the tax base will expand and bring in the additional revenues to offset the static revenue loss projection and not create higher deficits, higher debt, or run the risk of inflation. This point is crucial to ascertaining what will really happen if Roth-Kemp is passed. But that seems to have escaped our colleague (Mr. GIAIMO) in relying on the three Keynesian models, DRI, Wharton and Chase, raising fundamental questions of whether the report was offered as an economic document or as a political tract.

Mrs. Rivlin's letter follows in its entirety:

CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., June 2, 1978.*

Hon. BARBER B. CONABLE, JR.,
*Ranking Minority Member, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.*

DEAR BARBER: Thank you for your recent letter requesting that CBO compare the economic impact of the First Concurrent Resolution with the Roth-Kemp Tax Reduction Act (H.R. 8333). At this time, we are able to provide only a small portion of the estimates you have requested. We can make estimates of the short-run incremental economic impact of the personal tax reductions contained in the Roth-Kemp bill. Those estimates are shown in the table in this letter. We cannot, however, provide estimates of the impact of rate cuts in corporate income taxes because of the greater uncertainty about the economic effects of such cuts. As we explained in our recent report, *The Economic Outlook* (February 1978), it is very difficult to arrive at consensus estimates of the magnitude of real effects of business tax cuts and, in the case of prices, even of the direction of the effect (pp. 31–35 and Appendix A).

We are also unable to provide estimates of the long-run impact of tax cuts. As you realize, there are those who believe that the incentive effects of tax cuts will generate enough income to pay for themselves. It is CBO's view, however, that most tax cuts are not likely to pay for themselves in the first few years after implementation, and we have no basis for assuming that they pay for themselves in a longer period. Given the present state of the art in economics, estimates of long-run impacts of tax cuts on variables such as savings, productivity, and work incentives cannot be made with any degree of confidence.

*Impact of Roth-Kemp proposal for a reduction in personal income taxes in 1979*

| | 1979 | 1980 | 1981 |
|---|---|---|---|
| Change in GNP, 4th quarter: | | | |
| (Billions of current dollars) | +31 | +79 | +142 |
| (Billions of 1972 dollars) | +18 | +40 | +60 |
| Change in unemployment rate, 4th quarter: | | | |
| (Percentage points) | −0.4 | −1.0 | −1.4 |
| Change in inflation rate, 4th quarter to 4th quarter: | | | |
| (CPI percentage points) | +0.1 | +0.3 | +0.8 |
| Direct budget cost, fiscal year: [1] | | | |
| (Billions of current dollars) | +21.2 | +46.6 | +83.8 |
| Net budget cost, fiscal year: [2] | | | |
| (Billions of current dollars) | +17.9 | +31.6 | +55.8 |

[1] Costs are given on a National Income Accounting (NIA) basis.
[2] Direct cost less reflows due to effect of stimulus on nominal income.

CBO does expect to be able to provide an estimate of the incremental effect on economic activity of the increase in spending above current policy that is incorporated in the First Concurrent Resolution. A precise estimate of the incremental effects of the tax cuts in the First Concurrent Resolution (compared with current policy) is not possible, partly because the composition of these tax cuts is not yet known.

We are preparing a new economic forecast that takes into consideration recent economic developments as well as the effect of the First Concurrent Resolution. This forecast will be available in mid-July, prior to the markup of the Second Resolution. In preparing this forecast, CBO will consult with Congressional staff in order to make assumptions about the composition of the tax cut and will then estimate the overall effect of the First Concurrent Resolution. We will forward this material, including the effect of the expenditure increase, to you as soon as it is available. At that time, we will also reestimate the short-run effect of the Roth-Kemp bill, taking into consideration our latest view of the state of the economy.

CBO is currently planning to undertake an in-depth study of the issue of the incentive effects of large tax cuts and the impact of reductions in business taxes. This will enable us to address these issues in greater detail in the future.

If we can be of further assistance, please let us know.

Sincerely,

ALICE M. RIVLIN,
*Director.*

The debate, obviously, does not end here. If my colleagues want to see what is really wrong with the Giaimo report and the analyses on which it was based, I invite them to read "The Breakdown of the Keynesian Model," in the RECORD of July 26, at pages H7397–H7400. This precisely thought-through, carefully articulated article devastates the Giaimo report by showing that the conclusions were drawn from erroneous premises, that the economic rationale incorporated in the econometric models used by CBO in preparing its report are illogical, that neither people nor the economy behave or respond the way they infer, state, declare that they do. That article has profound implications, not just for the Kemp-Roth bill debate but also for policymaking in the Congress and the administration. We have, in short, been shown through that article why past economic policy has not worked the way it was predicted it would work, and we have been given a way out of the problem.●

## DEPARTMENT OF EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, I am today introducing legislation to create a Department of Education. Proposals to create a Department of Education have received strong and broad support from leaders in education and in the Congress as well as from President Carter.

Two primary reasons have been advanced for the creation of a Department of Education. First, education issues are submerged in the huge Department of Health, Education, and Welfare. Despite the rapid growth in the Federal commitment to education, the Education Division accounts for only 6.3 percent of HEW's budget. In light of the importance of education in our national life and the priority the President places on it, education should have it own seat in the Cabinet. This would be an important step in gaining for education the visibility, stature, and budgetary commitment that it merits.

Second, education programs are currently scattered across the Federal landscape. A recent survey identified more than 400 separate education programs lodged in 35 Federal agencies besides the U.S. Office of Education. There is an obvious need to coordinate and consolidate this maze of education programs. Decreasing this fragmentation would improve the efficiency and effectiveness of the Federal Government and markedly reduce the burden of redtape and regulations. Particularly from the point of view of the individual student, the parent, the local educational agency and the institu-

tion of higher education, a Department of Education would make more comprehensible and manageable the array of Federal education programs.

Both of these objectives for a Department of Education point to the same basic organizing principle that ought to guide the formulation of such a department. It is clear to me that in order to achieve a high priority for education and in order to effectively reduced the fragmentation of Federal education efforts, a new Department of Education must be comprehensive.

On June 29, 1978, Chairman BROOKS of the Government Operations Committee introduced H.R. 13343, the Department of Education Organization Act, and hearings before Chairman BROOKS' subcommittee have begun. H.R. 13343 is an admirable start toward a comprehensive Department of Education. It would include the following in the new Department:

The current Education Division of the Department of Health, Education and Welfare;

The functions of the Office for Civil Rights relating to education;

The child nutrition programs from the Agriculture Department,

The Indian education programs from the Interior Department;

Schools for overseas dependents from the Defense Department;

Science education programs from the National Science Foundation;

The student loan and grant programs for law enforcement personnel from the Justice Department; and

The college housing program from the Department of Housing and Urban Development.

In formulating the bill, which I am today introducing, I took H.R. 13343 as a starting point and made a number of modifications in it. Assuming that those who are interested in this issue are familiar with H.R. 13343, let me spend the balance of my statement explaining how my bill differs from H.R. 13343.

VETERANS EDUCATION PROGRAMS

The bill transfers to the new Department the veterans' education programs authorized by chapters 32, 34, 35, and 36 of title 38 of the United States Code and administered by the Veterans' Administration. In fiscal year 1978, these programs provided slightly more than $3 billion in educational benefits to 1.6 million veterans, military personnel, and dependents, widow and orphans of military personnel. These benefits are used primarily at institutions of postsecondary education. Clearly an education program of this magnitude ought to be included in any Department of Education worthy of the name. My conversations with student-veterans and educators and the oversight hearings on the veterans education programs held by the Subcommittee on Postsecondary Education last year have all convinced me that implementation of education programs by the Veterans' Administration can at best be characterized as insensitive. Veterans' Administration regulations concerning contact hours, attendance, standards of progress and eligibility of schools and programs have demonstrated a gross lack of understanding of the needs of the student-veteran and of the nature of postsecondary education and institutions. I believe that the student-veteran and the others eligible for assistance under these programs would be better served by the programs if they were in a Department of Education, and I believe that student-veterans in particular would applaud such a transfer.

REHABILITATION AND EDUCATION OF THE HANDICAPPED

The bill transfers to the Department the programs authorized by the Rehabilitation Act of 1973 and creates an office to administer functions relating to rehabilitation and education of the handicapped. An additional principal officer at level V of the executive schedule is authorized. These changes are justified because of the special needs the handicapped and the high Federal priority for assuring equal educational opportunity to the handicapped. The Senate Committee on Government Affairs has already made comparable changes in its Department of Education bill, S. 991.

MIGRANT EDUCATION

The bill transfers two programs for the improvement of education and training opportunities for migrant youth from the Department of Labor, the high school equivalency program (HEP) and the college assistance migrant program (CAMP). The office for functions relating to education of Indians, Alaskan Natives and Aleuts and the comprehensive plan for the education of Indians, Alaskan Natives and Aleuts (section 303(c)) are broadened to include migrants. I would envision that the office to administer functions relating to the education of Indians, Alaskan Natives, Aleuts and migrants would be organized in two divisions or bureaus since the special educational needs of migrants are distinct from those of Indians, Alaskan Natives, and Aleuts. The transfer of HEP and CAMP from the Department of Labor and the recognition of migrant education in a principal office of the new Department should provide the basis for a comprehensive Federal assistance program for migrant education.

NATIONAL COUNCIL ON EDUCATION RESEARCH, DEVELOPMENT AND DISSEMINATION

The bill establishes within the principal office for research and improvement functions a National Council on Education Research, Development and Dissemination. This Council is patterned after the current National Council on Educational Research in the National Institute of Education. The NIE Council has played a salutory role in providing the Director of NIE with policy guidance based on the broad and detached perspective of scholars and practitioners in the field. An autonomous board also serves as a buffer against political constraints being applied in the setting of research and evaluation priorities. I anticipate that the new 15-member Presidentially appointed Council would play the same role for the entire office administering functions relating to research, development and dissemination in the Department of Education.

NONPUBLIC EDUCATION

The bill broadens the functions of the principal operating officers of the Department to include a special responsibility for involving the nonpublic educational sector in the formulation and implementation of departmental policy. The Office of Education is currently acting more aggressively to insure that nonpublic elementary and secondary schools are receiving the full benefits of Federal programs to which they are entitled. This is a very significant priority which I believe it is important to sustain and emphasize in a new Department of Education.

The bill does not include section 102 (9) of the statement of purpose of H.R. 13343. This part of the statement of purpose in H.R. 13343 asserts that the Department will be responsible for "assessing the potential contribution of institutions of higher education to the attainment of national goals, bringing the problems of such institutions to the attention of appropriate departments and agencies, and recommending measures that foster the continuing vitality of such institutions." This part of the statement of purpose goes too far, I believe, in asserting a special Federal responsibility for institutions of higher education. Such a special Federal responsibility for these institutions contradicts longstanding Federal policy that the primary responsibility for the health of higher education institutions rests with State and local governments or the private sector, as noted in the findings (section 101(3)). To establish a special Federal responsibility for institutions of higher education runs contrary to the high priority that Federal policy has placed on student aid rather than institutional aid in postsecondary education. There is also no self-evident reasons to assert a special Federal responsibility for institutions of higher education as compared to all other educational institutions. Finally, the term "higher education" generally refers to traditional nonprofit colleges and universities, and establishing a special responsibility for these institutions would imply less Federal concern for other institutions encompassed in the term "postsecondary education."

The bill does not include the Intergovernmental Advisory Council on Education—section 212 of H.R. 13343. This council is loaded with so many responsibilities and so many categories of members that its real function as pure window dressing is apparent. It appears to be a security blanket for anyone who is uneasy about the representation of their particular interest in the new department. If the Secretary of the new Department is not sensitive to the substantive issues and political forces in education, an advisory council will not remedy such a basic lack of intelligent leadership.

Mr. Speaker, I hope that in its future hearings and deliberations that the Committee on Government Operations will give serious consideration to the ideas contained in the Department of Education bill which I am introducing.●

## PANAMA CANAL: JOHN F. STEVENS, SUPREME CIVIL ENGINEER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, as stated by me in various addresses in and out of the Congress, the Panama Canal has been one of my life-long and greatest interests. It originated in early youth when that great American leader, former President Theodore Roosevelt, used to visit my grandfather's home in Hazleton, Pa., often described some of his problems in launching the great project, and became my youthful ideal.

During the last 2 years, there has been much publicity concerning the interoceanic canal problem but very little concerning the fundamentals of Panama Canal history and the leaders responsible for that great achievement.

In an engineering sense there were three great leaders:

Adolphe Godin de Lepinay, the forgotten precursor of the Canal;

John F. Stevens, its basic architect, who organized the forces for construction and brought the project to the point where success was assured; and

George W. Goethals, under whose direction the canal was opened to traffic. Above all the leaders during its construction by the United States, was President Roosevelt, without whose courageous decisions the opening of the canal would have been delayed many years.

It was, therefore, with the greatest interest that I read a most illuminating article by Adolph J. Ackerman on "John F. Stevens—Supreme Civil Engineer" in which the parts played by the leaders were brought into perspective.

For those seeking more complete information on the acquisition by the United States of the Canal Zone and the construction of the Panama Canal, I would recommend the following by Capt. Miles P. DuVal, Jr., U.S. Navy, retired: "Cadiz to Cathay: The Story of the Long Diplomatic Struggle for the Panama Canal." Stanford University Press, 1947; and "And The Mountains Will Move: The Story of the Building of the Panama Canal." Stanford University Press, 1947.

More recent editions of these books have been published by the Greenwood Press of Westport, Conn. Cadiz to Cathay was published in a Spanish edition in 1973 by the University of Panama Press.

To make author Ackerman's excellent article on John F. Stevens available to all Members of the Congress and the Nation at large, I quote it as part of my remarks:

[From the Wisconsin Engineer, March 1977]

JOHN F. STEVENS—SUPREME CIVIL ENGINEER

(By Adolph J. Ackerman)

The name John F. Stevens stands permanently enshrined in American history, first as the chief engineer and, finally, as Chairman and Chief Engineer of the Isthmaian Canal Commission during the critical planning and design stage of the Panama Canal from 1905 to 1907. His achievement can be appreciated more fully after recalling the tragic failure in the 1880's when the eminent French pioneer, Ferdinand de Lesseps, fresh from his triumph in building the Suez Canal, undertook to build a similar sea-level canal across the Isthmus of Panama—but this was an entirely different problem.[1]

In 1930–32, while living in the Panama Canal Zone, I had an opportunity to study the history of the engineering planning of this greatest of civil engineering ventures of its day. It was an impressive experience to find that there were three fundamental factors in this vast project which served as the foundation for its successful execution:

1. The brilliant engineering evaluation of the topography, geology, and hydrology developed in 1859 by the French engineer, Adolphe Godin de Lépinay; [2] this led to his conception of two manmade lakes by damming the Chagres and Rio Grande Rivers to form the Gatun and Miraflores lakes, joining these lakes with the Culebra cut across the continental divide and thus creating a long stretch of navigable water across the isthmus, and with locks at each end (in three steps) connecting this long stretch to the Atlantic and Pacific oceans.

2. A great President of the United States, Theodore Roosevelt, under whose leadership and determination the financial resources of the United States were directed towards bringing the U.S. ports on the east and west coasts closer together.

3. John F. Stevens, America's greatest civil engineer who was placed in charge of the Panama Canal project by President Roosevelt at a very critical time. Stevens' principal achievements which assured the ultimate success of the Panama Canal project consisted of (a) his recognition of the great merits in the Lépinay plan; (b) winning the approval of the President and of the U.S. Congress for building the lock-type canal; (c) his strong support of Dr. William C. Gorgas to combat the devastating peril of Yellow Fever; and (d) acquiring the machinery and organizing the personnel for the unprecedented task of excavating the huge Culebra Cut.

Winning the approval of the President and the Congress was a remarkable achievement, especially when we consider the obstacles he had to overcome: a 13-member Board of Consulting Engineers on the Panama Canal, appointed by President Roosevelt in June 1905, had presented its report in January 1906; [3] a majority of 8 had recomemnded a sea-level canal, and the minority recommended a lock-type canal. John F. Stevens, then Chief Engineer of the Isthmian Canal Commission, wrote an analysis and recommendation for adopting the Minority Report and this was approved by the Commission. It was also supported by the Secretary of War, William Howard Taft, and the President recommended the lock-type canal to Congress. It was at this crucial moment in the history of the Panama Canal that John F. Stevens applied his resources of exceptional engineering judgment, experience, integrity, initiative and perseverance to win adoption of the right plan at the right time In this unique moment in engineering history Stevens proved that where there is respect for responsible dissent "one man with the TRUTH is a majority."

STEVENS' CONCEPT OF "RESPONSIBILITY"

An earlier story [4] has identified the personalized performance and responsibilities of John F. Stevens as the Chief Engineer for the Panama Canal, along with the personal characteristics and qualifications that make a great engineer. This is further brought out in the circumstances under which Stevens was called upon to take over the work from his predecessor, John F. Wallace. Years later, in his notable address as President of the American Society of Civil Engineers in 1927, Stevens referred to Wallace in generous terms: [5]

"Mr. Wallace was a man whom I had known for years, and esteemed, not only as a warm personal friend, but also for his great ability as an engineer . . . His action in resigning, under the conditions and the handicaps of the old Commission, was perfectly justifiable . . . Mr. Wallace was not an aggressive man, and there are times and conditions when fighting becomes a righteous duty. The situation which had developed at the date of his resignation was such as demanded a one-man control, control by a man who was heedless of his technical reputation; and one only bent upon smashing away through all obstacles, a kind of political 'roughneck,' who did not possess too deep a veneration for the vagaries of constituted authority."

In this notable statement Stevens has clearly identified his concept of "responsibility" of a Chief Engineer as a unique characteristic: it can only reside and inhere in a single individual. To this Admiral H. G. Rickover, U.S.N., has added:

"If responsibility is rightfully yours, no evasion, or ignorance or passing the blame can shift the burden to someone else . . . Service ceases to be professional if it has in any way been dictated by the client or employer. The role of the professional man in society is to lend his special knowledge, his well-trained intellect, and his dispassionate habit of visualizing problems in terms of fundamental principles to whatever specific task is entrusted to him. Professional independence is not a special privilege but rather an inner necessity for the true professional man, and a safeguard for his employers and the general public. Without it he negates everything that makes him a professional person and he becomes at best a routine technician or hired hand, at worst, a hack." [6]

This is the most important message for the engineering profession, and John F. Stevens stands as one of the greatest symbols of "the responsible engineer" and merits his great place in Isthmian history as the basic planner of the Panama Canal.

RESPONSIBILITY FOR CONSTRUCTION

After Stevens had completed the fundamental plan and design for the canal project he turned to the huge task of planning the construction operations. This called for examining the capabilities of prospective contractors, mobilizing the requisite manpower, purchasing the machinery and materials, and embarking on the expenditures of huge sums of government money. As Stevens later noted: "To create an organization fitted to undertake the tremendous work, and to fill its ranks with the proper material, was a task of heroic proportions." [7]

However, in his capacity as a civilian engineer, Stevens encountered serious obstacles, increasing political interferences and "red tape" restrictions. It soon became apparent that on this Canal project it was physically not feasible to carry out the continuity of functions normally associated with the Chief Engineer, and Stevens chose to resign in 1907 after a tenure of 18 months and after he had made all the great decisions and brought the project to the stage where its successful execution was assured.

The complexity of the logistics and the remote tropical location made this huge construction venture a task for military engineers. President Roosevelt immediately turned to the Chief of Engineers of the U.S. Army who recommended Colonel George Washington Goethals as the "fittest man" from the Corps of Engineers for appointment as Chairman and Chief Engineer of the Isthmian Canal Commission.

It should be noted here that the U.S. Army Corps of Engineers comprises a unique and vital resource of engineering leadership and manpower to protect and defend our national security both in peacetime and in modern warfare. This Corps traditionally is maintained in active status on the building of dams and navigation locks on America's riv-

Footnotes at end of article.

ers, and it was on this work that Colonel Goethals' capabilities had been amply demonstrated. Goethals fully understood governmental routines and he could promptly mobilize a staff of highly competent Army Engineers and demand from them organizational unity and loyal obedience to his orders. Furthermore, the Corps of Engineers, as represented by Colonel Goethals, was assured of the confidence and support of the President, the Congress and of the American people.

During the succeeding 7 years, from 1907 to 1914, under the tropical sun and in the mud of the rainy seasons, Colonel Goethals maintained a persistent struggle and directed some 30,000 workers to bring the construction of the Panama Canal to a successful conclusion.[8] John F. Stevens summarized this achievement in these words:

"The work of Maj.-Gen. George W. Goethals, U.S.A. (Retired), M. Am. Soc. C.E., former Chief Engineer, and of his associates on the Zone, cannot be given too high credit. The details of the canal and of its accessories have been wrought out and completed marvelously well. . . . The character of the work, as regards materials and execution, is superb. No mistake was made in entrusting the work to their hands . . . and I take this occasion to pay a high and well deserved compliment to Gen. Goethals and his associates."[9]

The Panama Canal was created by two great Chief Engineers: John F. Stevens as Chief Engineer of Design and George W. Goethals as Chief Engineer of Construction.

TODAY'S CHALLENGE TO ALL ENGINEERS

In these days of worldwide turmoil and chaos, John F. Stevens and Gen. George W. Goethals stand forth as ideals and as inspirations for all engineers. In these terms they will continue to render their greatest service to our nation and to our profession for all future time. Today's challenge confronting all engineers has been identified by another great engineer, Herbert Hoover:

"Our greatest danger is not from invasion by foreign armies. Our dangers are that we may commit suicide from within by complaisance with evil. Or by public tolerance of scandalous behavior. Or by cynical acceptance of dishonor. These evils have defeated nations many times in human history. The redemption of mankind by America will depend upon our ability to cope with these evils here at home."[10]

FOOTNOTES

[1] Miles P. DuVal, Jr., *And the Mountains Will Move* [Stanford University press, 1947], pp. 81–90.

[2] Ibid., pp. 38–39.

[3] Report of Board of Consulting Engineers—Panama Canal, Jan. 10, 1906.

[4] Virginia Fairweather, "The Forgotten Engineer: John Stevens and the Panama Canal." *Civil Engineering*. ASCE, Feb. 1975, pp. 54–57.

[5] John F. Stevens, Presidential Address, "The Panama Canal," ASCE *Trans.*, Vol. 91 [1927], pp. 946–67.

[6] H. G. Rickover, "The Meaning of Your Profession," *American Engineer*, NSPE, Jan. 1960, pg. 17.

[7] DuVal, p. 182.

[8] Thomas Fleming, "The Canal That Couldn't be Built," *Reader's Digest*, Jan. 1973, p. 136.

[9] Stevens, ASCE *Trans.*, p. 962.

[10] C. C. Cutler, "Duty to Dissent" IEEE Spectrum, June 1967 p. 47.

(The author, Adolph J. Ackerman, is an independent Consulting Engineer in Madison, Wis.) ●

## PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on Rollcall No. 606 this morning, on a procedural motion to waive the adjournment date, I was unavoidably detained at a meeting with the President at the White House. Had I been present, I would have voted "aye." ●

## THE NATIONAL WILDLIFE REFUGE SYSTEM ENTERS ITS 75th AND MOST IMPORTANT YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

● Mr. LEGGETT. Mr. Speaker, on March 14, 1903, Pelican Island, a 3-acre island off the east coast of Florida whose population of brown pelicans was drastically declining as a result of human actions, became the first wildlife refuge when President Theodore Roosevelt signed an Executive order establishing it as a bird sanctuary. Out of this first bold attempt to conserve wildlife was born our National Wildlife Refuge System. Today, 75 years later, the National Wildlife Refuge System contains 386 separate units and 32.5 million acres of land. These units, present in almost every State, represent nearly every ecosystem found in the United States. It is, without question, the greatest network of lands managed for the benefit of wildlife in the world.

Refuge units are found in the prairie pothole region of the north-central States which is an impressively productive waterfowl breeding area, the marshes and swamps of the South which are the wintering grounds for wood ducks and contain perhaps the largest mallard duck populations in the Western Hemisphere, the coastal and estuarine fish and salt water coastal marshes, the desert lands and mountain ranges of the western game regions as well as the rocky coastline of the Northeastern States.

Theodore Roosevelt's action conserving Pelican Island was soon complemented as other lands were set aside in an attempt to save our natural resources. In 1918 the Migratory Bird Treaty Act came into being thus protecting birds migrating between Canada and the United States. This act made no provisions for specific refuges; however, it aided in the protection of birds during their nesting and wintering periods. Although the depression and the dustbowl greatly reduced funds available for the conservation of wildlife, the Migratory Bird Conservation Act of 1929 instituted authority for the appropriation of land to be used as refuges for migrating birds. This act was strengthened when in 1934 the Migratory Bird Hunting Stamp Act provided funds for the acquisition of refuges. In 1956 the concept of providing refuges was broadened not only for migratory birds but also for the protection of all wildlife when the Fish and Wildlife Act of 1956 was passed. Finally, in 1966 the vast number of refuges set up under these various acts, as well as the refuges acquired under the Endangered Species Conservation Act of 1966, officially became the National Wildlife Refuge System. Despite this impressive record dating back to 1903, 1978 may very well turn out to be the most important year in the 75-year history of the system. This year we have an unparalleled opportunity to increase the size of the refuge system by a factor of three in one piece of legislation. I am of course referring to H.R. 39, the Alaska National Interest Lands Conservation Act. To fully understand the relationship of H.R. 39 to the refuge system it is necessary to understand the operation of the refuge system itself.

Although the main objective of the National Wildlife Refuge System is to conserve so as to insure the "health, preservation and enhancement of fish and wildlife and their habitats as well as the ecological system of which they form a constituent element" of human activity in these areas is not discouraged. Many forms of human activity are permitted within refuges when they can be carried out in a manner compatible with the purposes of the refuge.

There is no question that the ecosystems which this program encompasses warrants a diverse management program. In other words, all human activities do not halt in these areas. In fact, when these activities are not inconsistent with the goals of a specific program they are encouraged. The lands set aside as wildlife refuges are not declared off limits to the public; rather they are available for public enjoyment—as they should be. Last year, Americans made 30 million visits to our national wildlife refuges.

Although the public activities are understandably curtailed in refuges inhabited by endangered or threatened species, such as the Aransas refuge in Texas which supports the whooping crane, in most refuges a variety of visitor-oriented activities occur. These activities include hunting, fishing, photography, observation, and trapping. In many refuges such nonwildlife related public activities as picnicking, camping, boating, and swimming are permitted. Hunting is permitted on at least 184 refuges located in 44 States while fishing is permitted on 171 national wildlife refuges. Fur trapping is allowed in refuges in 22 States. These activities are structured and supervised to aid in the enhancement of each refuge. They have helped to maintain a healthy abundance of both game and nongame species on wildlife refuges.

The term wildlife refuge does not mean "do not enter." Rather refuges are and should be enjoyed by the public. Wildlife refuge system lands are not only enjoyed by individual recreationists, but are utilized by private industry as well. Farming, grazing, and timber activities occur on many refuges where a determination is made that these activities can be carried out in a manner compatible with the purpose of the refuge. Although the land is not sold, leased, or rented to private industry for these purposes, companies may utilize the land on a "permittee" arrangement. In 1974 over 160,000 acres were cultivated and 656,000 acres were subject to forest management program. Another 1,267,883 acres were subject to grazing in 1974. In

some instances, wildlife refuges even support oil and gas development. Oil and gas resources are extracted from 16 separate refuges. The Delta Refuge in Louisiana produced over 1,700,000 barrels of oil and 19 billion cubic feet of gas in 1974. The Kenai National Moose Range in Alaska produced 6.2 million barrels of oil and 270 billion cubic feet of gas last year. However, the expansion of these business opportunities will occur only if they do not inflict any damage on the wildlife of these refuges.

The Alaska National Interest Lands Conservation Act of 1978 represents the most important addition to the National Wildlife Refuge System in its 75-year history. The Alaska Lands Act, as passed by the House, would more than triple the size of the refuge system. The House bill would add 77 million acres to the existing refuge system. Under H.R. 39, for the first time the United States Fish and Wildlife Service will be managing multimillion acre refuges encompassing entire watersheds and ecosystems. Many refuges will also contain numerous Native villages as well as lands belonging to village and regional corporations.

The Alaska Lands Act represents the last stage of a 20-year effort to conserve Alaskan wildlife. This effort began with the passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act which set aside 105 million acres of land for the State and 44 million acres for the Natives of Alaska.

The vast acreage set aside under the Alaska National Interest Lands Act is obviously important because of the number of acres involved, but it is important for other reasons as well. The wilderness and the wildlife which Alaska sustains of the last ramnant of the once vast American frontier—a frontier which less than 200 years ago was the United States itself.

The wildlife which the various refuges sustain is as diverse as the refuges themselves. Endangered species such as bald eagles, and peregrine falcons can be found on several of the proposed refuges while populations of sea lions, harbor and hair seals, walruses, sea otters, and polar bears are found on others. The proposed Alaska Peninsula National Wildlife Refuge supports such varied wildlife as brown bears, caribou, moose, salmon, grayling trout, and walrus. During certain times of the year this refuge contains the entire world population of the black brant and emperor geese. The proposed Copper River National Wildlife Refuge in another part of the State supports the world's entire population of dusky Canadian geese while the river and its tributaries account for almost 90 percent of the Prince William Sound harvest of king salmon. Perhaps the most impressive of the Alaskan refuges is the Arctic National Wildlife Refuge. This refuge contains three diverse ecosystems: tundra, mountains, and tiaga forest. These ecosystems support over 140 species of birds, 44 species of mammals including polar bears, musk-oxen, Dall sheep, moose, grizzly bear, wolf, and 11 species of fish.

The outstanding feature of this refuge however, is the annual migration of the world's last great barren-ground caribou herd. The porcupine caribou herd, which is reminiscent of the great herd, of American bison, includes over 120,000 animals. It ranges over a 10,000 square mile area—migrating through the Brooks Range, wintering in Canada, and calving on the Arctic coastal plain east of Prudhoe Bay. H.R. 39 proposes to designate wilderness in much of the range of the porcupine herd. This designation will insure that at least one portion of the American Arctic will remain in a pristine condition for future Americans to use and enjoy.

The National Wildlife Refuge System plays an essential role in the preservation of our wildlife. This program represents conscious effort of the American people to insure the continuation of our irreplaceable wildlife resource. While the objective of the national parks system is to provide natural environment for the enjoyment and education of the public, the National Wildlife System is primarily concerned with the conservation of wildlife. The continued support of and interest in our national wildlife refuge program should insure the perpetuation of our wildlife resources for the enjoyment of future generations of the Americans in years to come.●

## SOME THOUGHTS ON SALT II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 5 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, on Tuesday, July 25, this Nation's highest ranking military official, Air Force Gen. David C. Jones, new chairman of the Joint Chiefs of Staff, expressed his reservations about any agreement with the Soviet Union that did not allow the United States to make its land missiles less vulnerable.

I share the General's reservations and have been publicly speaking out against a document which, in my opinion, would only increase the vulnerability of our ICBM force not enhance its survivability. I am speaking specifically about the proposed SALT II agreement with the Soviet Union.

At his first formal press conference, General Jones said the United States must make its land-based missiles mobile to keep them from being destroyed by the thousands of Soviet nuclear weapons aimed at them. He and many others in the defense community are alarmed at the large number of Soviet reentry vehicles that possess increased accuracy.

SALT II will not, unfortunately, give us the mobile option for several years. According to the proposed protocol, the more survivable MX mobile system will be stalled by the agreement in research and development for at least 3 years, and that could even be longer, if at all, given the current mindset of our arms control negotiators, most specifically Mr. Paul Warnke and his friends in the arms control lobby. The lack of Presidential commitment for the MX—and other systems—make its future doubtful if nonexistent.

Ironically, provisions which our own negotiators insisted on being incorporated in SALT II now are preventing the deployment of the MX missile in the multiple aim point or MAP mode. Even after Secretary Vance and Mr. Warnke went to Geneva with their hats in hand, the Russians refused to make an exception for the "shell game" deployment of the MX. This incredible development, which permits the Russians to control U.S. national security decisions is only one example of the adverse effects of SALT. A New York Times article of July 24, 1978, reports this very disturbing development.

The Soviets, on the other hand, are not only developing more accurate missiles with very high throw weights, they have now tested both the SS–16 and the SS–20 in the mobile mode. While the mobile SS–20, as far as we know, is not now deployed, it is believed that it can with a single warhead reach the United States.

These facts and my own observations from the two negotiating sessions I attend in Geneva, leave me extremely concerned over the future of this country's strategic and nuclear forces. If SALT II were signed and ratified by the U.S. Senate, it is my firm opinion that we would be placed in a position of inferiority to the Soviets.

For the review of my colleagues in the Congress I am placing in the RECORD the statement I made upon my return from the negotiating sessions held in Geneva last December and a speech I delivered to the American Security Council along with the Times article.

While expressing my own views, they also state some highly disturbing facts that should be openly debated.

SALT II: THE HIGH STAKES GAME WE ARE LOSING

(By Representative CHARLES H. WILSON of California)

The Strategic Arms Limitation Talks (SALT II) which are taking place in Geneva, Switzerland between the United States and the Soviet Union are of vital importance to the American people. Having recently attended the SALT II proceedings as a Congressional delegate, I want to take this opportunity to share my observations and concerns about the possible results of a SALT II agreement as it is now structured.

As a member of the House Armed Services Committee for the last 15 years, no one is more aware of the need to control strategic nuclear armaments. As an observer of a great deal of the world's history over several decades, I am also aware of the dangers inherent in unilateral disarmament. Unilateral disarmament and military weakness led directly to World War II and to the war in Korea in spite of the peaceful assurances and treaties involved.

In our desire to control strategic weapons, we should always be aware that our own weakness is a source of strength for a potential enemy. We must take every precaution to assure that our strategic forces will be sufficient to meet our possible future needs. SALT II gives me no such assurance.

During the past 30 years, the national security of the United States and the security of our allies have rested upon the power of our strategic nuclear weapons to deter potential aggressors. While treaties with our NATO allies and Japan have served as excellent statements of principles and helped to facilitate diplomatic matters, the real basis of peace in these areas has not been the

treaties but the existence of U.S. deterrent power and the perception of potential aggressors that this power would be used if necessary.

There have been several changes in the United States strategy of deterrence over the years. During the 1950's when nuclear weapons and their delivery systems were relatively unsophisticated, we followed a policy of "massive retaliation" against any potential nuclear aggressor. During that time we enjoyed an unchallenged superiority in strategic nuclear weapons. As the Soviets increased the number of weapons and delivery systems in their arsenal, we responded with a policy of "mutual assured destruction." This policy recognized a Soviet ability to strike first, but gave notice that the United States would maintain the power to destroy any aggressor country even after absorbing a first strike. For this purpose the nuclear deterrent "triad" of manned bombers, intercontinental ballastic missiles (ICBMs) and submarine based sea-launched ballistic missiles (SLBMs) was developed. The triad, based upon the idea that any single leg can inflict unacceptable destruction on an attacker after the absorption of a first strike, has served us well for more than twenty years.

There have been other more recent innovations in United States strategic planning, notably the so-called "counterforce" doctrine which holds that the President should have the flexibility to make limited strikes at Soviet military and industrial targets, short of a full nuclear exchange. Most recently we have heard terms such as "minimum deterrent" and "rough equivalence" used to describe our strategic requirements. These latter terms, like the "counterforce" idea, were apparently adopted in order to rationalize the fact that the Soviets have pulled even and are pulling ahead of the United States in nuclear strategic forces. Unfortunately, these terms are used to furnish a measure of false reassurance to the American people and as a basis to defer or terminate sorely needed defense programs.

Whether the Soviets were able to pull even and move ahead in strategic power because of the very liberal (to them) terms of the 1972 SALT I agreement, or through a combination of those liberal terms and Soviet cheating as alleged by former Secretary of Defense Melvin R. Laird, is not the most important question to be debated today. The fact is that SALT I did not constrain any Soviet strategic weapon program and that the Soviets used SALT I to catch up and pull ahead. The question is, will SALT II legalize and perpetuate an imbalance of strategic nuclear power in the favor of the Soviet Union? Everything I have learned about SALT II indicates that the answer to that question is yes.

SALT II negotiations with the Soviets are taking place in somewhat of a vacuum. Most members of the U.S. delegation in Geneva do not tend to consider the implications of SALT II in terms of deterrence or in connection with recent changes in our national security policy. Neither do they appear to consider SALT II in connection with national security decisions which have not yet been made and which the civilian side of our defense establishment tends to push further into the future. If the objective of SALT II is to maintain a balance in strategic forces and a credible future U.S. nuclear deterrent, then that objective has already been bargained away. This has occurred simply because we have failed to negotiate on the basis of total strategic power in terms of throw weight, numbers of warheads, explosive power (yield) and weapon accuracy, and because the Soviet Backfire bomber is not even under discussion. For these reasons, and contrary to the orchestrated publicity of the Carter Administration, SALT II constrains the United States very much and the Soviet Union very little.

I am distressed by the fact that the concessions on behalf of the United States in the SALT II discussions have been predicated on our future possession of deterrent weapon systems about which the Administration and some segments of the Congress have no firm direction. Ironically, we are told that these weapons will constitute our nuclear deterrent after 1985. For example, the Administration has presented no firm plans to proceed with production or deployment of the MX or the cruise missile. We have no plans for a follow-on bomber. Cruise missile carriers, which are of doubtful value, are only in a preliminary study stage. According to recent press accounts, which could only have originated in the Office of the Secretary of Defense or OMB, the Trident submarine and missile program is in doubt. In view of the Carter Administration's zeal toward the goal of a comprehensive test ban, the future of our strategic nuclear weapons stockpile is also in doubt. The combined effect of SALT II and a comprehensive test ban can, by 1985, easily leave us in a position where we are not only inferior in numbers of weapons but also where even the weapons which we will have will be unreliable.

THE PHILOSOPHY OF SOVIET NEGOTIATIONS

The Soviet negotiators in Geneva are tough and experienced pragmatists. They recognize that the U.S. manned bomber force is on the decline as a result of the President's unilateral decision to kill the B–1 bomber. They realize that the U.S. Minuteman force is becoming highly vulnerable while an increasing percentage of their own land-based strategic missile force is becoming more secure against a first strike or counterblow. The Soviets now have about 35 percent of their missiles capable of hitting the United States in submarines, while our Trident missile is only in the testing stage. They have already deployed a 600 kilometer air- and sea-launched cruise missile—the U.S. has not. They have tested a 6,000 mile SLBM—the U.S. has not.

The Soviet negotiators do not speak in terms of deterrence. Deterrence has never been a part of their doctrine. They expect to win any war against the West. While the Soviets offer no apologies for their growing strategic and conventional forces, neither do they offer clues to the intended use of these forces. This uncertainty is the crucial ingredient in both SALT II and a nuclear test ban.

Lest we forget the traditional pragmatism of the Soviets with respect to military matters and become naively overconfident and trusting, we should consider other possible Soviet motivations toward this particular SALT treaty. First, neither the treaty nor the protocol would enhance the survivability of the U.S. Minuteman missile force, while the more survivable MX system will be stalled by the agreement in research and development for at least three years. United States cruise missile technology transfer and deployment will be severely limited. Limitations on testing and deployment of "new systems" will freeze U.S. ICBM and SLBM range, accuracy and explosive power at present levels. The Backfire bomber, at the insistence of the Russians, is not even under discussion in SALT, nor are the hundreds of medium range land- and sea-launched missiles targeted upon NATO.

Given the statements of the President, and the selection of policy makers and negotiators with a disarmament (at times unilateral) mind-set, such as Paul Warnke, the Soviets perceive that a treaty as now shaped is to their great advantage. It would seem to have several advantages to them:

It would freeze U.S. technology while permitting the Soviets to move ahead. (SALT I permitted them to pull even.)

It would undercut Congressional support for defense programs, including research and development on strategic systems. (Systems delayed by the treaty or protocol will probably be delayed in the appropriations process.)

It would result in world propaganda favorable to the Soviets, while raising serious questions about our national will.

The treatment of cruise missile technology transfer will drive a wedge between the U.S. and our NATO Allies.

VERIFICATION

One of the most troubling features of the SALT II accord, as now structured, is an almost total lack of any reliable means to verify Soviet compliance in crucial areas. The Soviet Union is a closed society with a controlled press, where the movements of persons are carefully controlled. There are no Congressional Committees to review military programs; harsh punishments are meted out for the unauthorized disclosure of security information. The fact that the opposite is true in the United States is enough to assure our 100 percent compliance with a SALT treaty or protocol, while the Soviets, under their secrecy system, would be relatively free to cheat. The same serious flaw would exist in the case of a comprehensive test ban treaty.

The U.S. national means of verification will only to a limited extent permit us to verify total numbers of ICBMs or SLBMs, which missiles are "heavy" missiles, which are MIRVed, or how many warheads (MIRVs) are carried per missile. Neither will the national means of verification disclose which systems have been upgraded with new guidance systems or other components, the range or type of warhead of a cruise missile, or the adaptability of a particular BACKFIRE bomber to deliver short-range or long-range cruise missiles.

Without this information, there can be no reliable verification of the series of interlocking ceilings contained in SALT II which are designed to control the active Soviet inventory of strategic weapons.

THE "NUMBERS GAME" AND SEMANTICS

Those who may wish to view the current state of the SALT treaty as an enhancement of U.S. security through a more secure and credible deterrent force should be disappointed. Those who may wish to view it as stabilizing the arms race or as any real constraint upon the raw strategic power of the Soviets should also be disappointed. The treaty merely deals with gross numbers of launchers and delivery systems (missiles, aircraft) and, as it now stands, the strategic balance will be less stable since the Soviets will be assured of nuclear weapons superiority. For example, the Soviets are assured of at least twice the number of ICBM warheads (RVs) that the U.S. will possess. And the total number of RVs cannot be verified. Modern Soviet RVs are believed to be as accurate as those of the U.S., while possessing yields several times higher.

The Soviets are permitted more than 300 "heavy" (very high throw weight) ICBMs, while the U.S. would have none.

Aside from the treaty, the SALT negotiators are considering a protocol and a "statement of principles." The protocol, in the nature of an Executive agreement, restricts "new" systems, "heavy" ICBMs and the deployment of land and sea based cruise missiles beyond a 600 kilometer (KM) range capability, so that they cannot hit the Soviet Union. While Backfire bombers would not count under the treaty or under the protocol, the FB–11, B–52, wide bodied jet or any other aircraft equipped to carry long-range

missiles would count against the total systems permitted as a MIRVed system.

THE NATO/CRUISE MISSILE ISSUE

The Soviets have been adamant in their position that the agreement must provide against the transfer of cruise missile technology to U.S. NATO Allies. Since the land- and sea-launched cruise missile is considered by several NATO allies as a means of stabilizing the situation in Western Europe, they are seriously afraid that the U.S. will foreclose any land- or sea-based options which they may have. I share their concern.

The cruise missile is a stabilizing strategic deterrent weapon, since it can be deployed in large numbers and cannot be targeted in a first strike by the Soviets as missile silos and strategic aircraft may be. It represents a ready and secure retaliatory force.

THE TREATY AND U.S. POLICY

The policy of the United States with respect to the limitation of strategic offensive arms is expressed in Public Law 92–448, approved by the President in connection with the SALT I treaty on September 20, 1972. As stated in Section 3 of Public Law 92–448, our national policy calls for:

A stable international strategic balance which does not threaten the survivability of U.S. strategic deterrent forces.

A future treaty that would not limit the U.S. to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.

Maintenance of a vigorous research and development and modernization program.

The SALT agreement under discussion in Geneva does not, in my opinion, measure up to our existing policy for the following reasons:

With the deployment of Soviet MIRVed and more accurate missiles, and the deployment of additional Backfire bombers, the asymmetry in total strategic power is continued and will grow more favorable to the Soviets during the life of the treaty.

The survivability of the U.S. Minuteman ICBMs is already threatened by heavy Soviet ICBMs. So is at least a part of SAC and those units of our SLBM force which would not be at sea. Nothing in the proposed treaty will make our ICBM force more secure. Instead, the threat will grow in proportion to the increasing number and accuracy of Soviet weapons. Under current Administration policies, the manned bomber leg of the triad will deteriorate. The Administration is not committed to the production or deployment of any new systems.

With the exception of "heavy" ICBMs which the Soviets will be able to deploy under the treaty, and the Backfire bombers which are not even under discussion, the U.S. and Soviet sides will be permitted a rough equivalence in numbers of strategic delivery systems. Numbers alone, however, are no measure of the inferiority or superiority of intercontinental strategic force levels. Even without the Backfire, the Soviets will be guaranteed superiority in the numbers of RVs and yield, and the opportunity to modernize and improve the accuracy of existing systems.

U.S. concessions at Geneva have dealt with Soviet systems which are in being, or under advanced development such as the SS–9, SS–17, SS–18, SS–19, SS–20 and SS–NX–18 sea-launched ballistic missile.

Soviet concessions, on the other hand, have been rare. They have sought to strictly limit even the systems which we do not have such as the cruise missile, cruise missile carriers, FB–111H, and the MX. In the absence of an early Presidential commitment, we may never have these systems.

The status of the U.S. cruise missile, cruise missile carriers, MX missile, and the Trident II missile are in a state of limbo. The fate of each of these systems depends upon decisions of the Office of the Secretary of Defense, the Office of Management and Budget, the President, and the Congress, creating multiple uncertainties. Each of these projects for political or fiscal reasons, may suffer the same fate as the B–1 bomber. Paul Warnke opposes all of them. I fear that a hastily signed treaty, which has no real advantages to the U.S., may well have the effect of drying up research and development funds for these and other deterrent forces. There are many people at work within the Carter Administration to see that this occurs even before a SALT II treaty has been proposed. This fact, and SALT II coupled with a comprehensive test ban treaty, and the stockpile problems such a treaty would cause, would by 1985 result in woefully weak U.S. deterrent forces, as compared with Soviet forces.

CONCLUSION

The SALT II treaty in its present form is not in the best interest of the United States. In view of a withering bomber force which will decline in capability while the treaty would be in force, a highly vulnerable ICBM force, and with the Trident, MX and cruise missile programs in doubt even within our own government, no treaty would be preferable to an instrument which would guarantee Soviet strategic superiority for the remainder of the century.

To those who would argue that any SALT treaty, regardless of content, would be better than no SALT treaty, I would recommend a review of British/French/German negotiations prior to World War II. History shows that a demonstration of national will and the maintenance of deterrent forces would have served the world better than the pacifist treaty of Munich. Certainly, no treaty at all would have been a better course than the legalization of Hitler's actions and the encouragement of bolder moves. SALT II, like Munich, may prove to be a very tenuous shield against Soviet adventures.

I cannot recommend support for a SALT II treaty, or a protocol thereto, which, among other things, would not halt the trend toward Soviet strategic superiority. Nothing in the proposed treaty or protocol would halt this trend, they would only legalize it until 1985. This trend cannot be halted by a SALT II treaty even more favorable to the United States than the draft now under consideration in Geneva. Any treaty must be bolstered by firm defense programs proposed by the President and supported by the Congress. Without a fair and equitable treaty and a sense of direction on the part of our own government, SALT II would be a travesty and may have tragic consequences in the futures.

SALT II is of vital importance to every American and to others in the world whose peaceful existence depends upon the deterrent power of our "nuclear umbrella." It is a matter which should be widely understood and debated. Our purposes for seeking a SALT II agreement should be made clear. Americans deserve to know the full risks and ramifications of such a treaty to our national security, even if the Soviets live up to the terms of the treaty and protocol, and where we will stand as a nation if the administration continues to push vital decisions on strategic systems farther into the future.

If the American people perceive SALT II as unfair and one-sided, where the U.S. is forced to play the game with all cards exposed while the Soviet's cards are hidden, the treaty has perhaps already failed. While the American people have on occasion been caught with their defenses down, they have never knowingly let their vital national security interests be bargained away no matter what the cost. They will not gamble their national security against the uncertain hope that the Soviets have good intentions.

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REMARKS OF HONORABLE CHARLES H. WILSON

I am grateful for the opportunity to present my views on the SALT II negotiations in Geneva. But first, let me say that I take no pleasure in opposing the position of President Carter on this crucial issue.

During the past year, we have heard and read much about the Panama Canal Treaties. And, perhaps even more media coverage has been given to the dispute between Israel and Egypt.

The Panama Canal Treaties may determine who owns and controls the Panama Canal after the year 2000.

And, settlement of the Israeli-Egyptian dispute may determine who owns and controls the West Bank of the Jordan River.

But SALT II—and especially SALT II when combined with a Comprehensive Test Ban Treaty—may well determine who owns and controls the United States after the year 2000!

This is precisely the reason that I am speaking out publicly on this question. And this is why a vigilant press must get the word out to the people. It seems to me that the SALT II question deserves equal billing with the canal and the Middle East.

SALT II, and the Test Ban agreement, have been negotiated behind the locked doors and security guards of the Soviet and U.S. Missions in Geneva. Very little has come to light except for selective leaks from the Arms Control and Disarmament Agency and its Director, Mr. Warnke, to their friends in the unilateral disarmament lobby. The Carter Administration has, for more than two months now, refused to provide a copy of the Joint Draft Text of the Treaty to the House Armed Services Committee. Secretary of State Vance has not, to my knowledge, even acknowledged the Chairman's letter!

From what I have found out about SALT II, the Administration has good reason to keep the details of SALT from the people and the Congress. The way I see it, the unilateral disarmers want to keep the public in ignorance until the package can be the subject of a "Summit" deal, with great political hoopla. The SALT II package will then be sugar coated and presented as an "offer we can't refuse" from the "Godfather" in the Soviet Union.

Here are some of the things that are being withheld from the public:

Item: SALT II will not in any way limit the Soviet's supersonic Backfire bomber, which is capable of making nuclear missile and bomb strikes against American industry and cities.

Item: We have guaranteed the Soviets more than twice the number of ICBM warheads that the U.S. may have. Their accurate ICBM systems can, with little warning, hit more than twice the number of targets in the U.S. that our ICBMs would be able to take out in the Soviet Union.

Item: The Soviet Union will be able to deploy more than 300 very high throw weight ICBMs, each carrying as many as 8 MIRVed warheads. Each of the 2400 warheads carried on these heavy missiles will be several times more powerful than the explosive power of our Minuteman III missile.

Thus, with the blessing of the United States, the Soviets will, by the early to mid-1980's, have a first strike, hard target kill capability. The United States will have no, and I repeat NO, heavy MIRVed missiles.

Item: The U.S. has been euchred into a corner on MIRV limitations. We will, without doubt, insist on counting our slow B–52s, which are now about 19 years old, in the same MIRV limit as the MIRVed ICBM. This literally makes no sense at all. Even equipped with cruise missiles, it would take the B–52 eight to ten hours to hit a target, while a MIRVed ICBM would require only 25 to 30 minutes. Restricting the numbers of B–52s on this basis is like comparing race horses to jackasses.

Even while we are apparently willing to limit our B–52 force, we are also limiting the capability of the cruise missile to reach targets within the Soviet Union. The

range limitation on the U.S. standoff cruise missiles is a real boon to the Soviet military planner. He will know where to concentrate his 6,000 radars, his 2,600 fighter interceptors and his 12,000 surface to air missiles. He will know where to plan to intercept and shoot down cruise missile carriers such as the old, slow B-52 and the proposed "Fat Albert" Cruise Missile Carrier. With a range limitation of 1300 nautical miles (2500 kilometers), Soviet planners can simply extend their intercept lines, forcing the cruise missiles to be launched farther and farther from their shores.

If President Carter is true to his word that he will not sign any SALT II treaty which cannot be verified, he will not sign the document as it stands now in Geneva.

This is the curious thing about SALT II. While the negotiations and proposed treaty are based on distrust of the Soviets, most of the verification of a treaty will have to be based on trust in the Soviet's word.

It is true, as Mr. Warnke says, that we can count most missile silos—if they are not hidden.

But, Mr. Warnke cannot tell us exactly what is in those silos or in the tubes of submarines.

Are they heavy missiles? Are they MIRVed?

Which Backfire bomber is equipped for long-range cruise missiles?

What is the maximum range of a particular cruise missile? Does it have a conventional or nuclear warhead?

How many missiles are MIRVed?

Will the Soviets have land-mobile missiles ready for deployment?

All of these things are verifiable about U.S. systems in our press and in hearings before Congress. The Soviet Union does not oblige us with this type of verification.

During SALT I, the Soviets did not bother to tell us that they were building a huge ballistic missile submarine under cover. Neither did they tell us that they were testing an antiballistic missile radar or a satellite killer.

Verification under SALT II will continue to depend largely on estimates—that is, guesswork. The people in the trade will readily admit that intelligence is about 10 percent hard information and 90 percent guesswork.

When Mr. Warnke was questioned recently about possible Soviet cheating on SALT II, he replied in effect: If we were to catch them cheating, we would have every right to protest. This, no doubt, is a great comfort to the Joint Chiefs of Staff.

SALT II comes at a most unfortunate time. As Secretary Harold Brown said, this is the 15th year of consistent Soviet military growth in both strategic and conventional forces, while, in real terms, U.S. defense budgets have declined during most of that period.

I could not put the situation better than General George Brown, the Chairman of the Joint Chiefs of Staff, recently did; he said, "I am struck by the fact that in nearly every area of military strength there has been a relative decline over the years in relation to the Soviet Union, our principal potential adversary."

Thus, we are doing something in Geneva that we have never done before. We are negotiating from a position of relative weakness, and allowing the Soviets to negotiate from a position of relative strength.

The Soviets can read the trend lines as well as the Secretary of Defense and Chairman of the JCS.

They are building supersonic BACKFIRE bombers and developing a new heavy bomber—we killed the B-1 program.

They are producing and deploying a fourth generation of heavy ICBMs, and developing a fifth generation—we have no plans.

They have developed a land-mobile ICBM—we continue to stall on the MX missile.

They are putting several new ballistic missile submarines to sea each year—we have cut back on Trident construction.

They maintain an air defense system—we have abandoned ours.

They have a civil defense program—we abandoned any such effort years ago.

And, they will have a treaty which permits them to modernize and expand their strategic arms—while we will have a treaty which will, at best, maintain the status quo and, at worst, require the destruction of B-52s or missiles, and stifle any real ICBM improvements.

The subject of arms control is not new to me. In fact, I headed a special armed services subcommittee on Arms Control in 1974.

The subcommittee's report, issued in December 8, 1974, anticipated the change in the strategic balance as it evolved under the SALT I agreement, the subcommittee said:

"If stability does not result from an acceptable strategic arms limitation agreement, the U.S.—if it appreciates the consequences of the eroding character of its strategic posture—will decide it must either take the necessary steps to develop new and better strategic tools to become operative in the early 1980's, or recognize and accept it will become a military power second to the Soviet Union in the perception of other nations, and in fact."

The Carter Administration appears ready to accept such a result.

To sum up my remarks, it appears to me:

First, that SALT II will be a Strategic Arms Limitation Treaty which limits only U.S. strategic arms.

While there are vital and significant areas which will defy verification, the treaty would favor the Soviets even if they observed all of its terms.

SALT II and a Comprehensive Test Ban Treaty, when combined with inaction by the Executive Branch, will guarantee Soviet strategic supremacy.

SALT II is a bad deal, and a high price to pay for a political symbol.

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[From the New York Times, July 24, 1978]

SOVIET OBJECTS TO U.S. MISSILE PLAN, COMPLICATING TALKS ON ARMS PACT

WASHINGTON, July 23.—Carter Administration officials said today that the Soviet Union had objected to an American plan for deploying mobile, intercontinental missiles. They said the move had injected a new complication into the Administration's search for a strategic arms agreement this year with Moscow.

The officials said that at a recent private meeting in Geneva, the top Soviet arms negotiator, Vladimir S. Semyonov, had informed Paul C. Warnke, the director of the Arms Control and Disarmament Agency, that an American proposal to hide land-based missiles among clusters of empty, underground silos might not be compatible with the terms of a new treaty to limit strategic arms until 1985.

According to the officials, Mr. Semyonov did not rule out American deployment of a mobile-missile system under a new treaty, but he did indicate that Moscow would resist some approaches the Administration is examining.

In particular, he is said to have questioned a so-called "multiple aim point" missile system in which hundreds of missiles would be shifted randomly among thousands of launching silos to complicate any Soviet effort to destroy American land-based missiles in a first strike.

The Administration has decided that a new arms accord must allow the United States to move ahead with mobile missiles, largely because it is thought that an agreement without this option cannot win Senate approval. Accordingly, during two days of talks in Geneva earlier this month, Secretary of State Cyrus R. Vance told the Soviet Foreign Minister, Andrei A. Gromyko, that the proposed treaty could not interfere with American plans to protect land-based missiles.

Mr. Vance, officials said, did not specifically refer to the mobile-missile idea, but in the session between Mr. Semyonov and Mr. Warnke it was more fully discussed. The Russian negotiator's primary concern, they said, was the difficulty the Soviet Union would have counting American missiles.

The Soviet reaction has caused consternation among Pentagon officials, who fear that Moscow is committed to banning mobile missiles. However, other officials said they were less alarmed and were optimistic that Moscow would accept some type of mobile-missile deployment.

The deployment of mobile missiles is banned in a three-year protocol now being negotiated by the two sides but not in the longer-term treaty, which would run until 1985 and limit overall members of missiles and bombers.

To make verification of compliance easier, the treaty restricts construction of new missile silos, which has led to concern by some officials that the shell-game idea might be prohibited.

They have maintained that rather than restrict the number of silos, the treaty should limit the cannisters that would be used to carry rockets from silo to silo.

Under such an arrangement, the officials contend, the United States could build new underground launchers, and methods could be worked out for Moscow to verify that cannisters carrying American missiles did not exceed the permitted number. However, Mr. Semyonov is said to have been skeptical about counting cannisters instead of silos.

Despite this, officials maintained that the chances of achieving an arms agreement this year remained good. One reason for optimism, they said, is progress on another unresolved issue—what new missiles, mobile and stationary, each side could deploy.

During his session with Mr. Gromyko, Mr. Vance is said to have proposed that the treaty allow both sides to test but not deploy one new land-based missile. Under this approach, the United States would be able, officials said, to develop the proposed mobile missile and could deploy it after the treaty expired.

Mr. Gromyko is said to have rejected this proposal on the ground that Moscow is ready to deploy a new missile soon while the American project is still on the drawing boards.

However, Mr. Gromyko, in a counter-proposal, is said to have been willing to accept an earlier American proposal on new missile deployment if Washington accepted Moscow's position on other issues still in dispute, including what restrictions are to be placed on the Soviet bomber known as the Backfire. The earlier American proposal was that both sides be allowed to test and deploy one new land-based missile during the treaty, with or without multiple warheads.

While Mr. Vance is said to have turned down this proposal, officials said that Moscow's apparent readiness to move toward the American position on new missiles was encouraging.●

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## SUPPLEMENTAL FUNDING REQUEST—HOUSE RESOLUTION 1276—SELECT COMMITTEE ON ASSASSINATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

● Mr. STOKES. Mr. Speaker, I take this time to share with my colleagues the submission I have made to the Committee on House Administration supporting the request for supplemental funding to provide for the further expenses of investigations and studies to be conducted by the Select Committee on Assassinations for the 2d session, 95th Congress.

The 95th Congress reconstituted the select committee by House Resolution 222 on February 2, 1977, and extended its duration for the length of the 95th Congress by House Resolution 433 on March 30, 1977.

The select committee has identified four main issues to be analyzed to fulfill its legislative mandate as defined in House Resolution 222. First, who was or were the assassin(s) of President John F. Kennedy and Dr. Martin Luther King, Jr.? Second, did the assassin(s) have any aid or assistance either before or after the assassination? Third, did the agencies and departments of the U.S. Government adequately perform their duties and functions in collecting and sharing information prior to the assassinations; protecting John F. Kennedy and Martin Luther King, Jr.; and conducting investigations into each assassination and coordinating the results of those investigations. Fourth, given the evidence the select committee has uncovered, is the amendment of existing legislation or the enactment of new legislation appropriate?

During the first session of the 95th Congress and the 2d session to date, the select committee has been gathering evidence by field investigation, interviews, and the taking of testimony in executive session. Each investigation is following a carefully formulated and detailed plan designed to resolve significant issues concerning that assassination.

However, in order to fulfill the committee's legislative mandate during the remainder of the second session, the committee must conclude the investigations, hold public hearings, which are now scheduled for August, September and November, and write the final report which under the committee's reconstituting resolution is due by December 31, 1978.

To finance the committee's operation during the second session, the committee requested "primary expense" funding in the amount of $2,978,000 by way of House Resolution 956, introduced January 19, 1978.

The Committee on House Administration reduced this request to $2,500,000, which the House subsequently approved.

At the time of action by the Committee on House Administration, the record will show the select committee indicated that supplemental funding would be necessary to restore the cut funds plus an additional $100,000 to $200,000 for possible scientific projects whose expense could not then be accurately forecast.

Based upon actual operations through June 30 and a projection of expenses for the balance of the year, it is now determined that supplemental funding in the amount of $790,000 will be required.

This amount represents the $478,000 originally cut by the Committee on House Administration, plus an additional $152,000 for underestimating expenses and $160,000 for scientific projects.

In reference to the $152,000 additional expense money, while the committee has been extremely prudent in the expenditure of funds, it underestimated the funds needed for travel, witnesses, and telephone expense to conduct a comprehensive investigation.

The following is a comparison of the committee's original expense request with its revised 1978 budget:

| | Original request | Revised budget |
|---|---|---|
| Miscellaneous | 5,000 | 50,000 |
| Salaries | $2,400,000 | $2,335,000 |
| Travel | 300,000 | 420,000 |
| Consultant services | 132,000 | 86,000 |
| Witnesses | 25,000 | 100,000 |
| Stationery and supplies | 20,000 | 14,000 |
| Telephone and telegraph | 48,000 | 80,000 |
| Equipment: Lease | 28,000 | 28,000 |
| Reproductions, et cetera | 18,000 | 15,000 |
| Books and periodicals | 2,000 | 2,000 |
| Miscellaneous | 5,000 | 50,000 |
| Scientific projects | 0 | 160,000 |
| Totals | 2,978,000 | 3,290,000 |
| Funded, House Resolution 956 | | 2,500,000 |
| Supplemental funding request | | 790,000 |

Although the funds were not provided in the primary funding request, the committee decided that in order to conduct "a full and complete investigation," the funds, as indicated, would have to be spent on the scientific projects and in the other areas.

Consequently, the committee's present funds will last no longer than the latter part of September. The committee notes that this will occur even with a reduction of almost 30 persons from the committee's staff.

To put the 1978 revised budget of $3,290,000 in proper perspective, I would like to compare it with actual expenditures in 1977 of $2,089,400 which shows an increase of $1,200,600.

The increase is due solely to the fact that the select committee is operating at full strength and full investigative capacity in 1978 where it was not able to in 1977.

A few statistics for the first 6 months of 1978 and a full year projection compared with the entire year of 1977 will prove this point. They are:

| | 1977 | 6 months 1978 | Projection 1978 |
|---|---|---|---|
| Number of persons traveling | 387 | 485 | 700 |
| Number of areas visited | 562 | 716 | 1,000 |
| Number of man days traveled | 1,882 | 2,197 | 3,200 |
| Number of witnesses | 35 | 115 | 265 |
| Number of consultants used | 28 | 46 | 48 |
| Number of hearings and meetings held | 42 | 67 | 117 |
| Number of interviews conducted | 1,400 | 2,134 | 3,000 |
| Number of subpenas issued | 103 | 305 | 325 |
| Number of immunity grants | 5 | 112 | 135 |

In addition, the following number of files were requested from the various executive branch agencies during the first six months of 1978.

| *Agency* | *Number* |
|---|---|
| Department of Justice | |
| Mainly F.B.I. but includes A.T.F., I.N.S., D.E.A. and U.S. Marshals | 1,191 |
| Central Intelligence Agency | 705 |
| Department of Defense | 236 |
| Secret Service | 235 |
| Miscellaneous | 12 |

NOTE: The volume of material contained in a "Main File" has ranged from one serial volume to as many as 93 volumes comprising 6000 plus serials and exhibits.

The increase of $1,200,600 for 1978 over 1977 is accounted for in the following expense categories:

| | |
|---|---|
| Salaries | $608,600 |
| Travel | 246,000 |
| Witnesses | 87,000 |
| Telephone | 49,000 |
| Scientific projects | 160,000 |
| Contingency allowance | 50,000 |
| Total | 1,200,600 |

These increases are a matter of fact and not conjecture and are explained as follows:

SALARIES—INCREASE $608,600

In 1977, the committee contemplated reaching its authorized staff of 115 by July. However, maximum strength was not reached until the end of the year evidenced by the following comparative figures:

| | 1977 | 1978 |
|---|---|---|
| January | 73 | 115 |
| February | 73 | 115 |
| March | 64 | 117 |
| April | 63 | 116 |
| May | 59 | 118 |
| June | 72 | 118 |
| July | 84 | 114 |
| August | 93 | 92 |
| September | 103 | 90 |
| October | 111 | 90 |
| November | 114 | 90 |
| December | 114 | 90 |
| Average | 85 | 105 |

The average number of staff in 1977 was 85 compared with 105 in 1978 which accounts for the increase of $608,600.

| | |
|---|---|
| 1978 Salaries | |
| 105 × average salary of $22,238 | $2,335,000 |
| 1977 Salaries | |
| 85 × average salary of $20,310 | 1,726,400 |
| Increase | 608,600 |

TRAVEL—INCREASE $246,000

Because of lack of funds and other problems, travel was severely restricted in the early part of 1977. In fact, it was not until October that the committee reached its anticipated level of investigative travel. This level increased sharply in the first 6 months of 1978 but should taper off as the year continues. The following compares travel month-by-month in 1977 with 1978. The figures in the number columns represent the size of staff in that month.

| | 1977 | |
|---|---|---|
| | Number | Amount |
| January | 73 | 0 |
| February | 73 | 0 |
| March | 64 | $6,500 |
| April | 63 | 5,600 |
| May | 59 | 8,400 |
| June | 72 | 6,500 |
| July | 84 | 10,700 |
| August | 93 | 19,500 |
| September | 103 | 19,900 |
| October | 111 | 35,700 |
| November | 114 | 33,200 |
| December | 114 | 28,000 |
| Totals | | 174,000 |

| | 1978 | |
|---|---|---|
| | Number | Amount |
| January | 115 | $41,200 |
| February | 115 | 39,400 |
| March | 117 | 53,700 |
| April | 116 | 58,600 |
| May | 118 | 56,600 |
| June | 118 | 34,100 |
| July | 114 | 31,400 |
| August | 92 | 30,000 |
| September | 90 | 25,000 |
| October | 90 | 25,000 |
| November | 90 | 15,000 |
| December | 90 | 10,000 |
| Totals | | 420,000 |

WITNESSES—INCREASE $87,000

In 1977, the committee handled 35 witnesses compared with 115 for the first 6 months of 1978 and 265 projected for the full year 1978. The following is a recap of monthly expenses for 1977 and 1978.

| | 1977 | 1978 |
|---|---|---|
| January | $0 | $368 |
| February | 0 | 3,451 |
| March | 0 | 10,659 |
| April | 0 | 13,649 |
| May | 527 | 7,466 |
| June | 392 | 7,428 |
| July | 0 | 6,979 |
| August | 267 | 10,000 |
| September | 6,084 | 14,000 |
| October | 190 | 8,000 |
| November | 4,933 | 14,000 |
| December | 607 | 4,000 |
| Totals | 13,000 | 100,000 |

These funds cover the expenses of live witnesses, deposition witnesses, interpreters and other individuals providing information or assistance to the committee.

TELEPHONE AND TELEGRAPH—INCREASE $49,000

Lack of funds and the cutting off of service to the committee severely restricted telephone usage in the early part of 1977. It was not until the latter part of 1977 that telephone expense approached the anticipated level. Stepped-up investigative activity in 1978 has increased the expense further and it is expected that this level will hold through 1978. The following is a comparison of telephone expense for 1977 and 1978.

| | 1977 | 1978 |
|---|---|---|
| January | $1,374 | $4,672 |
| February | 837 | 5,909 |
| March | 1,267 | 7,107 |
| April | 1,604 | 6,367 |
| May | 1,801 | 7,035 |
| June | 2,275 | 6,910 |
| July | 1,590 | 7,000 |
| August | 2,437 | 7,000 |
| September | 3,726 | 7,000 |
| October | 4,851 | 7,000 |
| November | 5,061 | 7,000 |
| December | 4,177 | 7,000 |
| Totals | 31,000 | 80,000 |

SCIENTIFIC PROJECTS—$160,000

The committee has determined that the expenditure of funds for the following scientific projects is necessary to conduct a full and complete investigation.

| | |
|---|---|
| Photo Analysis and Enhancement | $95,000 |
| Accoustical | 60,000 |
| Engineering | 5,000 |
| Total | 160,000 |

CONTINGENCY ALLOWANCE—$50,000

As this will be the last opportunity to seek funding from the House, it was determined that a contingency allowance be requested for unanticipated expenses that may arise in the latter part of 1978.

Some of my colleagues have questioned the price tag of $5,000,000 for the select committee to conduct the two investigations. I would like to answer this by submitting the following comparative analysis of the budget and staffing level of the Warren Commission which investigated only one assassination.

WARREN COMMISSION

Staff: 83.
Duration: 10 months.
Budget: $4,418,423.*

The Warren Commission did not possess an independent investigative staff. For investigative purposes, they relied on the following Federal intelligence agencies.

FBI: Provided 150 full-time agents who in turn conducted 25.000 interviews and submitted 2,300 reports totalling 25,400 pages. They also provided secretarial and clerical assistance.

CIA: Provided 12 full-time and part-time professionals. They also provided secretarial and clerical assistance

Secret Service: Provided over 60 full-time professionals who conducted 1,550 interviews and submitted 800 reports totalling 4,600 pages. They also provided secretarial and clerical assistance.

Justice Department: Provided certain professional support.

IRS: Estimates that they provided 6 staff-years of support.

Converting the assistance from the Federal agencies into a full-time staff would have given the Warren Commisison a staff of 400 at a cost of over $10,000,000 for only 10 months to investigate the one assassination.

The Select Committee will have an average staff of 95 for two years at a total cost of slightly over $5,000,000 to investigate two assassinations.

*Budget expressed as 1976 dollars per Library of Congress Congressional Research Service, January 27, 1977.

As I mentioned earlier, the committee's present funds will last no longer than the latter part of September. Because of the urgency of this situation, the Subcommittee on Accounts will hold a hearing on the supplemental funding request on Tuesday, August 8, 1978 with action by the full Committee on House Administration later that week. This will enable their recommendation to be brought to the House floor in the early part of September.

I hope that my colleagues will support the select committee at this critical time so that the committee can complete the legislative mandate of the House and bring credit to the Congress of the United States.●

## "HORIZONTAL DIVESTITURE: THE FORGOTTEN PROMISE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, I would like to take this opportunity to register my deep disappointment with the decision of the Carter administration to forego a policy which would prohibit the major oil companies from controlling alternative energy industries.

Horizontal divestiture was explicitly endorsed by Mr. Carter in his campaign and mandated by the National Democratic Platform of 1976. Despite his campaign statements, despite the platform on which he was elected, President Carter failed to include horizontal divestiture in the comprehensive energy plan he introduced in April of 1977. In recent testimony before a joint hearing of the Senate Judiciary Committee and the House Subcommittee on Antitrust and Monopoly, Assistant Attorney General John H. Shenefield made it clear that the administration now plans to turn its back on this promise.

The case for horizontal divestiture of energy companies is manifest. It is incomprehensible that we should stand by and permit the petroleum, natural gas, and coal giants to play a significant role in determining what energy alternatives will be developed, at what rate, at what cost, and at whose expense. As Professor Walter Adams of Michigan State University has asked, "shall we delegate to a private power complex—subject neither to the discipline of competition nor to effective Government regulation and with a record of public service that is not reassuring—the right to plan our industrial future? * * * The Exxons of this world will not suddenly or voluntarily surrender their market control. Nor will they start competing against themselves in defiance of the laws of profit and power maximization, and indeed, the laws of self-preservation." Mr. Speaker, it is precisely our industrial and economic future which is at stake in this matter.

According to the American Petroleum Institute, as quoted in the Washington Post of March 31, 1978, the oil industry

today owns 43.7 percent of U.S. uranium reserves, over 40 percent of U.S. coal under private lease, and 40 percent of domestic copper holdings. Copper, it should be noted, is presently essential in the manufacture of solar energy collectors. These corporate giants, who in 1973 earned healthy and even outstanding profits while American consumers lined up at gas stations to pay skyrocketing prices, plan to continue to invest in alternative energy enterprises. The prospect of a practical energy monopoly is a sobering thought for people of any economic or political philosophy.

In May of this year in Knoxville, Tenn., President Carter stated his administration's support for "encouraging more competition and less concentration of economic power among the producers of petroleum, coal, and uranium." Mr. Speaker, I wish that the President would back up those words with concrete initiatives to oppose the concentration of which he speaks. Mr. SEIBERLING, my colleague from Ohio, has introduced excellent legislation H.R. 7785, which would amend the Clayton Act to bring about genuine interfuel competition. I call on President Carter to add his belated support to this most important measure, and thereby to uphold the principles of competition of which he has earlier been such an eloquent champion.

In 1948, candidate Harry Truman said:

To me, party platforms are contracts with the people, and I always looked upon them as agreements that had to be carried out.

I now urge my colleagues to join me in reminding the President of his campaign statements and his election platform, which explicitly called for "the legal prohibition against corporate ownership of competing types of energy." Mr. Speaker, this issue is not, however, merely one of fidelity to the President's public statements. As the U.S. oil companies continue to buy interest in and control over corporations which produce alternative energy supplies, prompt preventive action is not just desirable—it is imperative. As noted in the 1976 platform, " 'horizontal' concentration of economic power is dangerous both to the national interest and to the functioning of the competitive system." Lacking executive leadership in this vital area, Congress can and must seize the initiative on its own.●

## McDONNELL DOUGLAS TESTIMONY ON NATURE OF INTERNATIONAL TRADE IN AIRCRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, on July 14, the Subcommittee on Trade of the Committee on Ways and Means held a hearing on American and foreign practices in the financing of large commercial aircraft sales. The subcommittee has received a very useful, informative statement from the McDonnell Douglas Corp. discussing some of the issues of concern to the subcommittee. The McDonnell Douglas statement notes, for example, that the financing terms of a recent sale involving Rolls Royce engines "violate the existing Standstill Agreement as to downpayment, terms of financing, and coverage. Actually the financing covers over three times the value of the British export."

In discussing recent sales of airbuses to the U.S. market, McDonnell Douglas states:

If we were to attempt to offer such a financing package to a foreign airline customer, under present policy the Eximbank would not participate. The accepted interpretation of the Standstill Agreement is that if any element of the financing package exceeds the accepted guidelines, the official agency cannot participate. The EAL terms did exceed those guidelines. . . . We are aware of other instances of Airbus Industrie exceeding the limits of the Standstill Agreement.

The McDonnell Douglas statement is further proof of the need for agreement among the world's industrialized nations on clearer rules for export financing. The full text of the informative statement follows:

STATEMENT ON INTERNATIONAL COMMERCIAL AIRCRAFT COMPETITION

McDonnell Douglas Corporation (MDC) is a proponent of free trade. We have a corporate representative in Geneva as part of the Industry Sector Advisory Committee assisting in the United States GATT negotiations in the aerospace sector, and we support the current activity of the United States in seeking acceptable understandings in our areas of interest. However, cooperation requires joint dedication, and we are concerned with some recent developments and believe that they require discussion.

STANDARDS SALES AND FINANCING PRACTICES IN THE SELLING OF AIRCRAFT IN THE INTERNATIONAL MARKET

Most sales of U.S. commercial transport aircraft to foreign airlines are financed in part by the Export-Import Bank (Eximbank is not allowed to finance sales to domestic airlines). In a similar manner, sales of European aircraft are financed in part by European government credit and financing agencies similar to Eximbank. Such assistance is necessary because commercial jet aircraft sales generally involve some form of long-term debt.

The standard practice for financing the sale of American commercial jet aircraft to foreign buyers involves both the Eximbank and private lenders. Typically, the buyer makes a cash payment of approximately 15 percent of the aircraft price with Eximbank and private lenders providing the remaining funds through direct loans. These loans are usually repaid over a 10-year amortization period with the private lenders being repaid in the early maturities and Eximbank in the latter maturities. In general, the private lender's interest rate is determined by a base rate such as the prime rate in the U.S. or the six-month Eurodollar rate in London. The Eximbank interest rate is generally fixed throughout the repayment term and is a function of the term of the loan.

The accepted financing practice for non-U.S. manufacturers of commercial jet aircraft is similar. Typically, 85 percent to 90 percent of the contract value is supplied by the lenders with repayment ending 10 years after aircraft delivery. Normally government-backed insurance is available to guarantee repayment.

Government agencies in the U.S. and abroad have worked together to agree on common financing limits and avoid "financing wars." Several existing agreements pertain to the financing of exports, but only one applies to the financing of the export of commercial jet transports. This agreement was reached by the Organization for Economic Cooperation and Development (OECD) Group on Export Credits and Credit Guarantees in May 1975 and is today commonly known as the "Standstill Agreement."

This Standstill Agreement of the OECD Group stated that ". . . the Members of the Group declare that for exports of subsonic aircraft and helicopters they will not grant softer terms than their current practices." The "no softer terms" provision in the case of commercial jet transports has meant that the members require a downpayment equal to at least ten percent of the contract value, and that the credit has a maximum length of ten years from the date of delivery. There also exists a second understanding in which it has been agreed not to finance or cover credit for more than 100 percent of the value of goods and services exported.

These criteria define the generally accepted permissible limits for officially sanctioned export financing in which governments participate. They are the guidelines to which Eximbank has adhered. Private financing, it should be noted, may take whatever form the market determines to be feasible, and the terms available to any particular airline are established by the qualifications of the particular borrower in the private commercial markets.

HOW RECENT TRANSACTIONS HAVE VARIED FROM STANDARD SALES AND FINANCING PRACTICES

Pan Am purchased twelve L–1011–500 aircraft powered by the Rolls-Royce RB–211 engine. The estimated total British content, including engines, was less than thirty percent of the total purchase price. The British Government's export financing agency, Export Credit and Guarantee Department (ECGD), provided the following financing for the engines: no initial cash payment, one hundred percent guarantee, and a fifteen-year repayment period. We have been told that the interest rate on this portion of the financing was fixed at 8.5% plus certain premium fees and other charges which raised the effective cost somewhat higher.

The financing for the airframes, which were built in the U.S., was also the subject of a British Government guarantee. Therefore, the British Government provided 100% financing for the entire airframe and engines for a period of 15 years. Such terms violate the existing Standstill Agreement as to down payment, term of financing and coverage. Actually the financing covers over three times the value of the British export.

In the Eastern Airlines purchase of the A–300, senior debt repayable over a ten-year period was provided with the lenders being given a guarantee in the normal manner of European export financing. In addition, four of the aircraft, originally delivered under a zero-cost short-term lease, were financed under a long-term lease. It appears that Airbus Industrie also supplied a substantial amount of senior debt and agreed to provide Eastern with approximately $96,000,000 in subordinated loans. It has been reported that repayment is deferred so that no payments will be made in the initial 4 years and interest only will be paid in years 6 through 10. Repayment will occur in years 11 through 15. According to newspaper accounts, the interest rate on this portion of the financing is to vary with Eastern's earnings. The remaining portion of the purchase price is to be supplied by the engine manufacturer and the airline itself.

If we were to attempt to offer such a financing package to a foreign airline customer, under present policy the Eximbank would not participate. The accepted interpretation of the Standstill Agreement is that if any element of the financing package exceeds the accepted guidelines, the official agency cannot participate. The EAL terms did exceed those guidelines.

We are aware of other instances of Airbus Industrie exceeding the limits of the Standstill Agreement. Twelve-year financing couched as leases have been offered in Korea, Thailand, South Africa and Germany.

THE EXTENT TO WHICH THE U.S. AIRCRAFT INDUSTRY RECEIVES DIRECT OR INDIRECT GOVERNMENT SUBSIDIES

European governments evidently are convinced that the U.S. commercial aircraft industry's supremacy is due to massive U.S. government subsidization. This notion apparently arises from the fact that the U.S. commercial aircraft manufacturers are also substantial military and NASA contractors. Accordingly, those governments view support of their industry as way to redress an imbalance. However, such a view is not justified.

More than twenty years ago, U.S. government funding of the B–47, B–52, and KC–135 programs helped Boeing take the lead in commercial jet transports. Other U.S. manufacturers without such military programs, however, quickly introduced competing jets, and since that time government-sponsored development has played a very modest, declining role.

Government funding of the competition for the C–5 transport program in the 1960's has been used as an example of government subsidization. In the case of MDC's Douglas Aircraft Company, however, we know that there is no relationship between the Douglas C–5A proposal and the DC–10. The objectives of military technology—short life, limit-load design, supersonic speeds, emphasis on aerodynamic and weapons performance but not on environmental constraints—are mostly very different from the long life, subsonic speeds, safety, and economic and environmentally acceptable performance that are the aims of commercial development. With the demise of the strategic bomber the relationship has declined even further. In the military area, there has been a rising emphasis of tactical aircraft and a de-emphasis of strategic and transport aircraft. Moreover, the recent military purchase of DC–10's as transport-tankers gave the government the advantage of development costs already expended by private enterprise. On a smaller scale, the military use of the DC–9 likewise made use of commercial development.

This trend is documented by the DoD-DoT-NASA Research and Development Contributions to Aviation Progress study of 1977. Some basic technologies originally developed at government expense have been beneficial to the commercial industry. The use of composite materials is an example. But when compared with the total development requirements of commercial aircraft, these benefits are modest. MDC estimates that probably not more than $200 million of NASA's annual budget is useful to commercial technology, and most of that amount relates to long-term goals rather than to current applications.

Our government has shown little interest in maintaining engineering staffs adequate for continuing development of the U.S. aircraft industry, so that the three commercial aircraft producers have had to do this themselves without help. Furthermore, although the government does permit military contractors to include in overhead costs the Independent Research and Development (IRAD) funds spent on military aircraft technology, the percentage of IRAD for which a company can be reimbused on military contracts cannot be greater than the percentage of military work in the company's long-term business base. Since MDC's Douglas Aircraft Company has only about 15 percent military work in its long-term base but devotes about a third of its IRAD expenditures to military systems technology, Douglas' commercial work in effect subsidizes more than half of its military IRAD work. Obviously this contradicts the preconceptions of our European competitors.

THE EXTENT TO WHICH FOREIGN COMMERCIAL TRANSPORT MANUFACTURERS RECEIVE GOVERNMENT SUBSIDIES

In general, the European governments treat their aviation industry as a national asset and in most cases actually have nationalized the companies or have controlling ownership of them. In addition, foreign governments often act as equity participants in commercial transport programs and absorb the large financial risks. Typical from 50% to 90% of program launch cost is a government responsibility.

Airbus Industrie, the entity established to develop and market the A-300, is owned by France's Aerospatiale, West German's Messerschmitt-Bölkow-Blohm, VFW-Fokker (a consortium of West German and Dutch companies) and CASA of Spain. Development funds have been provided by the governments involved, with repayment to be on a royalty basis. In the case of the French government, the mechanics of the payback are illustrated by Enclosure (1). For the first 130 aircraft the repayment is 0.06% per airplane. On the next 20 aircraft the amount is 0.17% per aircraft and on the next 210 aircraft 0.35% providing repayment of 85% of the funds over the delivery of 360 aircraft. In this way the governments absorb the bulk of the market risk, giving industry the opportunity to recover its funds on the early airplanes. Generally, no or very low interest charges are placed on these fundings. In the case of the A-300B, even the nominal royalty charges of 0.6% per aircraft were suspended in February 1976 and apparently have not been reinstated.

The total amount of such government funding is unknown. Enclosure (2) summarizes the best available data. It seems reasonable to assume that between guarantees and direct fundings, France and Germany as substantially equal partners have invested a total aggregate of over $3½ billion thus far in the A-300B program.

Another form of apparent subsidy is illustrated by Enclosure (3), which shows that Aerospatiale of France, while incurring massive losses in recent years, has shown a steady increase in capital worth. Such an increase can only have occurred as a result of substantial capital infusion by the French government, either directly or indirectly. A privately owned company would probably not be able to survive in the face of such losses.

CONCLUSION

Obviously this entire subject is extremely complex, but it must be quickly solved in a way that will restore genuinely free trade uninhibited by artificial barriers or artificial incentives. We cannot fault Eastern or Pan Am for accepting the most attractive financing packages available to them, and certainly no thought should be given to cancelling their purchases. But for the future, Eximbank should be given and encouraged to use the power to prevent extraordinary financing arrangements from taking business from American manufacturers in either foreign or domestic air line markets. Another part of the solution may be found in new forms of cooperation among aircraft manufacturers both here in the U.S. and overseas; this possibility was outlined in McDonnell Douglas Corporation's submissions to the CAB last October. Other problem areas—the low prices and special inducement that only government-subsidized industries can consistently offer—also require attention.

These problems exist today, and they are hurting U.S. manufacturers today all around the world. There must be prompt action on all of them if an extremely important and productive element of American industry is not to be seriously and permanently damaged.●

## EASTON'S LARRY HOLMES NEW HEAVYWEIGHT CHAMP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

● Mr. ROONEY. Mr. Speaker, while some areas of the world may take issue, the 15th Congressional District of Pennsylvania recognizes only one heavyweight boxing champion of the world, our favorite son, Larry Holmes.

This Saturday evening, the citizens of Easton, Pa., and many friends from far and wide, will converge on Kirby Fieldhouse on the Lafayette College campus in Easton to pay tribute to "the champ."

Larry Holmes won the World Boxing Council's heavyweight title in a thrilling 15-round match with Ken Norton on June 9. Larry had reached the pinacle of the boxing profession with a perfect record of 27 victories and no defeats in professional competition. He won 19 of his victories by knockouts.

Born in Cuthbert, Ga., on November 3, 1949, he lived for a time only an hour's drive from Plains, Ga., home of our President Jimmy Carter. And, as the Easton Express newspaper recently noted, the Holmes family, like the Carter family, produced a son who rose to the very top of his chosen profession.

Larry moved to Easton with his family in 1956 and attended the Taylor and Porter Elementary Schools there. He wrestled at St. Anthony's Youth Center, played football, basketball, and baseball in local midget leagues, and got his introduction to boxing at the Easton Police Athletic League.

At the age of 13, Larry dropped out of Shull Junior High School while in the seventh grade and began working in a series of laborer jobs, pursuing his boxing training at every opportunity. As far back as he can remember, Larry told a reporter, he was stimulated by the challenge of fighting.

As his boxing skills improved, he advanced from the facilities of the Easton PAL and St. Anthony's to the Trenton, N.J., PAL. In 1972, he won the New Jersey Golden Gloves Championship, the Amateur Athletic Union Championship, and the Eastern Olympics Championship.

His amateur career consisted of 22 contests, 19 of which Holmes won.

He became the Irish Golden Gloves Champion, a semifinalist in the National Golden Gloves Tournament, and was runnerup in the 1972 U.S. Olympic Team trials.

Larry turned professional on March 21, 1973, in a match with Rodell Dupree in Scranton, Pa. Five years later, on March 25, 1978, the world learned that Larry Holmes was a solid, determined contender for the heavyweight championship

when he decisioned Ernie Shavers in 12 rounds in Las Vegas.

And so there was no doubt in the minds of Larry's multitude of family, friends, and supporters in Easton, Pa., when he squared off with Ken Norton in the World Boxing Council's 15-round championship match on June 9 of this year. Larry would be bringing a world championship home to Easton, they knew. And Larry did.

More than 2,000 fans welcomed the champ when his plane arrived at nearby A–B–E Airport and many thousands more cheered him along the streets of Easton.

This Saturday night, I will join the many hundreds who plan to attend Larry Holmes' testimonial in Easton. We want the world to know that we are proud—every one of us in the Lehigh Valley—of our "Holmes Town" boxer who is the new world's heavyweight champ.●

## AFFIRMATION OF SOVEREIGNTY OF THE INDIGENOUS PEOPLE OF THE WESTERN HEMISPHERE

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, I request, at this time, the opportunity to read into the CONGRESSIONAL RECORD, a manifesto, entitled, "Affirmation of Sovereignty of the Indigenous People of the Western Hemisphere," which was presented to me on July 27, 1978, by a representing committee of the Longest Walk, a native American pilgrimage, here in Washington, D.C.

I feel that the manifesto typifies and voices the high spiritual level and commitment to human rights which was embodied in the Longest Walk.

The manifesto follows:

AFFIRMATION OF SOVEREIGNTY OF THE INDIGENOUS PEOPLE OF THE WESTERN HEMISPHERE—THE LONGEST WALK MANIFESTO

Chief Joseph, Nez Perce: "Treat all men alike. Give them all the same law. Give them an equal chance to live and grow. All men were created by the same Great Spirit Chief, we are all brothers. We ask to be recognized as men, let me be a free man. Free to travel, free to stop, free to choose my own teachers, free to choose my own religion. Free to act, think and speak for myself, and I will obey every law or submit to the penalty."

We gather together to give a greetings and thanksgiving to all the Creation for its help and support to us during The Longest Walk.

Let us turn our attention to the Sacred Pipe. It is the Pipe that has led us from the western edge of our Turtle Island to the eastern side. The Pipe is the symbol of all Life. The bowl represents all Female Life, in that it comes from our sacred Mother Earth. The stem represents all Male Life, and the joining of the two represents the whole of the Universe and the laws of the Creation.

In the places where we live grows Tobacco, Corn, or other vegetation that has been given to us to act as a communication between the two-leggeds and the great Mystery. At this time we give a greetings and thanksgiving to these beings who aid our communication with the Great Mystery.

Finally, we wish to give a greetings and thanksgiving to the Spirits of the People that have combined to carry forth the beliefs and protection of our People. We recognize that the Great Mystery has provided that Spirit, and that it is part of our instructions to combine our spirits for the good of all Life.

Now, as we stand on the Eastern Shores, we wish to address the People gathered around us.

Grandfather, Great Spirit, you are the Ultimate power which created the Universe and all life within. Grandfather, to many spirits you have given to life on this earth, and to each you instructed on how to live according to your ways.

As I come from the womb of my Mother, the Earth, you gave me life. You have given me the choice of two ways to live—the good way and the bad way, and you have given me a sacred pipe with which to learn from my relatives the wingeds, the two-leggeds, the four leggeds, and those that live in the waters, to walk the good road, which is red.

Grandfather, as I stand before you today, forgive me if I am weak. Today we ask for your mercy.

Grandfather, you have created the Red Man, the Yellow Man, the Black Man, and the White Man. To each you have given a domain and a purpose. Today as the Red stand before the Yellow, the Black and the White, we pray that you may touch their hearts so that they may understand our purpose.

Grandfather, today we remember the countless members of our Red nation who have sacrificed their lives so that we, the coming generations may live to see this day.

Grandfather, today we remember the slaughtered millions of Buffalo, Elk, Deer, Eagle, and all the rest of natural life that you have created and have given purpose.

Grandfather, today we remember our Grandmother, the Earth, who gave us birth and who continues to nurture us, her children. Forgive us if we become weak to allow her exploitation and continued destruction.

Grandfather, today we pray for the coming generations.

Grandfather, today we pray for all the living.

Grandfather, as one Spirit, one Body, and one Voice we send this prayer. Grandfather, hear us today for there may not be a tomorrow for us, the Red Man.

AFFIRMATION OF SOVEREIGNTY OF THE INDIGENOUS PEOPLE OF THE WESTERN HEMISPHERE

We are the sovereign and free children of Mother Earth. Since before human memory, our people have lived on this land. For countless generations, we have lived in harmony with our relatives, the four-leggeds, the winged beings, the beings that swim, and the beings that crawl. For all time our home is from coast to coast; from pole to pole. We are the original people of this hemisphere. The remains of our ancestors and of our many relatives are a greater part of this land than any other's remains. The mountains and the trees are a part of us—we are the flesh of their flesh. We are the Human Beings of many nations, and we still speak many tongues. We have come from the four directions of this Turtle Island. Our feet have traveled our Mother Earth over many thousands of miles. We are the evidence of the Western Hemisphere, the carriers of the original ways of this area of the world, and the protectors of all life on this Turtle Island.

Today we address you in the language of the oppressor, but the concepts predate the coming of the invaders. The injustice we speak of is centuries old, and has been spoken against in many tongues. We are still the original people of this land. We are the people of The Longest Walk.

For many generations we have been seeking justice and peace from the European refugees, and their descendants who have settled on our sacred Turtle Island. It has been an incredibly long struggle. We have entered into many agreements for peace and friendship with the governments of these people, and yet we have received neither peace nor friendship. Most of our original homelands have been illegally taken from us. Our people have been, and continue to be, mercilessly hunted and slaughtered to serve the needs of corporations, governments, and their agents.

Today, the conditions in Central and South America are identical to the conditions in this country during the 19th Century. The process of annihilation and destruction are carried on with money, sophisticated weapons, missionaries, widespread sterilization, so-called developmental programs, CIA and FBI organized training of terrorists and provocateurs that are sponsored and provided by the United States. We can find no other words for the description of these acts other than murder and terrorism. This process is hidden from the peoples of the world by a conscious suppression of information coming from the offending countries.

Our people are often forced to leave their beloved homelands and are sent to lands where they greatly suffer. Our grandfathers and grandmothers were forced to walk many times in front of the guns of the invaders. Today we have been forced to walk, again in front of guns and the threat of destruction that comes from words in legislation.

The guns of today are not held by the Seventh Cavalry but are in the hands of the FBI, the Federal Marshals, and other persons who are supposedly upholding the laws of the United States. These guns and many other sophisticated weapons have been used to continue a campaign of legalized murder, terrorism, torture, mutilation, and oppression of our people. All of these weapons have been used in direct violation of international laws concerning the use of weapons against civilian populations.

Our Mother Earth feeds, clothes, and shelters us, as she does all life, but those who have embraced Western values do not realize the value of the Creation. They are exploiting our Mother Earth and all our relatives who walk and grow with us. This is not right.

For countless generations the cycles of life have been guarded and respected by our people. In the short span of five centuries, the people who invaded these lands have caused an unbelievably massive annihilation of all life forms of the Western Hemisphere. We indigenous people recognize and understand the Natural Balance of these life cycles and assert the right to live within this natural order.

Most of our original homelands have been taken from us. We have been allowed access to only a tiny fraction of the land which remains and it, too, is being destroyed against our will. Our lands hold natural resources that are coveted by huge transnational corporations. These organizations are very powerful. In many ways, the United States government has acted as a direct agent of these organizations.

We know that the present attacks on our lands and sovereignty will, unless halted, ultimately benefit the interest of corporations which seek coal, uranium, water and other parts of our Mother Earth. We understand that the attack on our existence originates with these interests. The land speculators of the last century have been replaced by the oil refineries and the ore processors of this century. The United States government failed to protect our interests against land speculators, who were far less powerful than the transnational corporations we face today. The present day racism against our people is fueled by the organizations, and the denial of our rights will open up our air, water and lands to a ruthless expoitation unparalleled in history. Uncontrolled Western develop-

ment will destroy our ways of life, and will threaten all life on this Turtle Island.

The Creator gave to us our original instructions, telling us how to walk about on this Earth as protectors and relatives to all life. As long as the sun rises, the grasses grow, and the cycles continue, we are to carry on this duty. Around us a people who act in a way that will bring about the total destruction of all life. The transnational corporations destroy life in the waters, air, and land. Huge trawlers attack our relatives in the sea, giant machineries strip our Mother Earth's skin bare, factories and vehicles fill the sky with tons of poison. The recent rush to use nuclear power poses the most potent threat to ending all life in one generation.

In order to further satisfy the greed of these corporations, members of our communities have been seduced to aid their processes. Our resistance to these processes is strongly oppressed by the United States government, agencies and corporations. Much to our dismay, we find this process being promoted and used against us by the corporations of newly liberated areas. We call for a stop to these practices, and we seek real assistance from liberated people.

Our people gathered together on the western coast of this Turtle Island and discussed actions that could be taken to stop these many threats to the dignity and permanence of Life. It was decided that we should join together and begin this walk across our beloved land, starting at Alcatraz, our symbol of our continuing resistance. It also serves as the symbol of our unity as the original people of this land, and starting from this symbol we decided to bring to the American people, and the people of the world, the message that we are still a People. We carried with us our babies on cradle boards, and the little ones who run about on the Earth. We came with our young men and women, and we came with our elders and wise people. We are carrying with us our spiritual ways, and we have planted our prayers and sacred things all along our journey. We have come to seek justice and to deliver a message to the leaders and the people of the United States and the world. Our journey has indeed been The Longest Walk.

Why are we the only people of this hemisphere whose land and resources can be stripped from us by governmental decree? Formal agreements between our sovereign and separate nations and the occupying governments always become nullified, abrogated or violated and we have no legal recourse or protection from these illegal actions. Only to the indigenous people of this hemisphere does this happen. The oppression of indigenous populations is an automatic characteristic of Western Civilization. The United States' Bureau of Indian Affairs is one prime example of how that oppression becomes an institution of these people.

How do we explain to the American people that we love our Mother Earth and ways of life? How can we state we do not need the United States government to tell us how to be indigenous people? What will it take to convince the U.S. government to allow us to live in peace? How do we convince the U.S. government to simply leave us alone to live according to our ways of life?

The federal system has tried many programs for the so-called improvement of our lives. There have been an endless procession of such programs: the BIA, the Dawes Act, the 1924 Citizenship Act, the 1934 Indian Reorganization Act, the Indian Claims Commission, Termination, Relocation, Self-determination, Housing, and on and on. Our conditions have not improved.

There are those of our people who have been destroyed by words and promises of a better way of life through the American system. The American government chooses to see them as leaders of indigenous people. They form corporations and committees. But a corporation is not a nation!

On many of our territories, we are subjected to governments created under the Indian Reorganization Act of 1934, or the fostering of dissidents who are willing to sell out for an American sanctioned position. The Indian Reorganization Act was created as a part of a long range plan to terminate indigenous nations. The Indian Reorganization Act and other United States policies created governments which supposedly have the power to sell or lease away indigenous lands and resources, but the power is not recognized as a legitimate power by the majority of indigenous people. Those governments were created largely to implement United States policies that are contrary to the beliefs and laws of our people. They were given recognition by the United States government as having power to negotiate away our inherent rights. They were intended to give the appearance that those negotiations possess some legitimacy from the indigenous people. From the beginning these puppet governments have brought the wishes of the federal government to the indigenous people. They have never been able to effectively bring the wishes of the indigenous people to Washington. These governments are the clearest manifestation of federal policy in the indigenous communities. They do not, and cannot, effectively represent the people. They represent a policy which, when advocated by indigenous individuals, presents what can best be described as a kind of self-destruction. The United States government has divided, subdivided and allotted our land, and then directed the most desired parcels to those among us who shift alliances from traditional leaders to government agents. It has then termed much of the remainder of our sacred Mother Earth as excess to give it away to non-Indians.

In order for our people to be happy, healthy, and productive, we must have access to all of our relatives and the self-esteem, respect, affection, and a sense of belonging we receive from them. There are many policies and regulations that remove our many relatives from us. Our relatives in the waters are being removed by millions of sports fishermen and commercial fishing fleets. Our relatives, the four-legged creatures, are being hunted, trapped, slaughtered, driven away, and forced into extinction. Our relatives in the sky are faced with the same problems and have the same threats upon them. This indiscriminate barbarism is beyond the reason of our people. Our people only took the lives of those other beings when it was necessary for our survival and not the mere "sport" of it. Our Grandmother, the Moon, has been molested and a part of her being has been removed.

As we look about us we find it hard to believe that other two-leggeds can act in such a way. Zoos act as reservations for the other members of the Natural World. In every way the process of Western civilization commits a genocide toward all living things. This disruption of the natural cycles cannot continue without serious consequences. As we seek to protect and continue the original instructions of our people, we must now take actions to protect and preserve all those that help to form all the cycles of the Natural World.

Among us we find many people, agencies, and institutions actively removing the young people who run about the Earth. Daily, hundreds of those who are our closest relatives are torn from their communities. The transfer of the children from one group to another is recognized, by international law, as an act of genocide. This mass removal is rationalized in the laws and values of Western civilization, and by not recognizing our traditional institutions and systems. Western civilization can practice assimilation processes that have as their goals the disappearance of our people as a unique way of life. We are here to say that these practices are going to stop.

Our cultures are structured for Human Beings. They are based on principles of respect and responsibility for everyone and everything. The manner in which the people are to live is described to the people through our religious teachings. These religious teachings were given to the Creation by the Creator in order to insure our existence in this world. To remove our children from our communities, and to deny them access to these original instructions leads to the collapse of our families, societies, and nations. It is our commitment to reverse this process and rebuild our country.

We understand that self-esteem derives from the things that people do everyday. Our elder people teach a respect for one another and the respect for all the things of this place, including Mother Earth, the Grasses, the Waters, and the many things which support our lives. We have a high regard for the affection of our people. In our ways, we are taught our relationship to the generations yet unborn, to those who have gone before us, and to our nations of people. We are deeply rooted in the land and our people's roots draw sustenance from our Mother Earth. We, the traditional people, are instructed in the old ways and everyday we still live these instructions.

Everyday we must struggle to protect our right to carry on our way of life. In every way we are met with an interference. Our healing cultures are ridiculed, and laws are passed to keep us in the American healing systems. Laws exist which forbid the practice of our healing cultures.

The occupiers' border defining the settler regimes of Mexico, the United States and Canada divide our territories and peoples. Each of these regions seeks to impose fake identities of being Mexican, American or Canadian. Border policies inhibit the free flow of the members of our nations and break up the cultural continuity and integrity of our peoples. The national laws of these regimes function uniformly in the destruction and exploitation of our peoples. Land laws in Mexico force our people from their lands, and force them northward to seek survival. The immigration laws of the United States deny entrance to the indigenous people coming from Mexico. Yet, these same laws are distorted to allow for a legalized kidnapping of our children from the Canadian area. Throughout the hemisphere, immigration laws have historically been used to bring in large groups of immigrants to further the colonization and destruction of our Mother Earth and People. Since those immigrants are coming to this hemisphere to occupy our lands, we are asserting our right to determine who enters our lands and asserting our right to deport those people who we determine to be illegal aliens.

In our own country the leadership of our people evolves from the natural cycles of the Creation. The quality of leadership is one that is in harmony with the Universe. It is a leadership that genuinely arises from the people, responds to the people, and does not seek to dominate either people or the Natural World. It is a leadership whose vision is constantly trained on the well-being and survival of present and future generations. These are the people who are of The Longest Walk.

It is the common knowledge of many people that the American theories of democracy were derived from indigenous people. Among our people were the inspirations for Franklin, Washington and Jefferson. Today, it is in our minds that the Western people have

never escaped the need to have a single king-like figure to be their leader. Throughout the history of the United States, the Western people have always chosen leaders who successfully led the process of genocide against our people and other indigenous people throughout the world.

So we have watched the process of American government, and we are shocked that American leaders have little or no accountability to their people. President Carter has come to office talking strong words about "Human Rights". To us, these words have a hollow ring when applied to our people. We call upon all people of the world to confront President Carter on the question of United States' honor of Human Rights for the indigenous people of this land.

One specific problem of Human Rights violations is the problem of political prisoners in America. Our children are political prisoners of American compulsory education laws. Our women a political prisoners through health practices that force sterilization upon them. Entire communities are political prisoners when our right to protect our communities from violent and destructive forces is ignored.

There can be no amnesty for all the political prisoners of the United States and the Western civilization, for all things—the air, the trees, the four-legged beings, the ones in the oceans, as well as the two-legged beings—are political prisoners. All types of life are prisoners of a political system which has no respect for human or natural rights—a system only interested in protecting corporate financial interests. And at what cost is this done? Survival?

Today, many brothers and sisters from sovereign indigenous nations are being held in prisons as prisoners of war, because they dared to defend their rights given to them by the Creator and acknowledged by treaties made in good faith with the United States government.

We as sovereign indigenous people demand the release of our people from your inhuman jails and behavior modification units. We do not want a "pardon" or "amnesty"—only the complete and total release of our people, for we have committed no crimes. We have only acted in defense to protect the sacred gifts of this Creation and her children. We are under attack and forced into a state of war for our land and resources.

We never had jails. Our leaders had no need of weapons to protect them from their own people, because they truly are servants of the people. But today we see these problems placed upon us. We do not want jails on our lands, nor do we want our people or ways imprisoned within them. No one was meant to live that was and no man has the right to make that decision.

We know and understand how our leaders and warriors have been locked away, as well as murdered to steal the land we live upon, to silence our voices and to destroy our survival. This has been so since your arrival. Your laws were made to protect, not your people, but the greed of the wealthy. So there is no respect in your laws and no justice in your courts. We do not recognize your self-appointed control over our lives and freedom.

As a people we have the right to gather together to give a greeting and thanksgiving to the Creation. We have the right to live in peace and tranquility. We have the right to the fruits of our own lands to feed, shelter and clothe our people. We have a right to conceive and to give birth according to our natural ways. We have the right to educate our children to our ways of life. We have the right to protect ourselves and our lands against abuses and to settle disputes that arise within our own territories. We have the right to clean air, clean water and the peaceful usage of our lands. We have the right to be a people. These are inherent rights. All people possess these rights under the laws of the Universe, as well as man-made laws. These are rights that cannot be given to or denied by one group of people over another. As the traditional people, we recognize and understand that these rights came from the Creator and not by actions of humans.

The United States has claimed to confer U.S. citizenship upon our people. Even that act has been used as a weapon against our people. It may be true that the United States has the power to confer citizenship upon whoever seeks it, but it has no right to deny our citizenship to our own nations. Today it comes to our ears that we are "privileged citizens" and that the treaties should be "abrogated" in order that we may be equal to United States citizens.

We are not United States citizens. We have treaties with the United States, and the U.S. does not make treaties with its own citizens. We protested the 1924 Citizenship Act. We do not claim U.S. citizenship. Nothing the U.S. has done in its relations with us has moved us to change that position.

The indigenous people of the Western Hemisphere are the most oppressed of any people in these lands. Every facet of our lives are regulated and interfered with by the institutions of the people who invaded our territories. In every way the lives of our people are disrupted. The hospitals sterilize our women, the bureaucracies aid in the theft of our lands, resources and waters. But the most outrageous aspect of this oppression is the Western people's fetish for disturbing our ancestors.

In the name of science and academics, the archeologists and other grave robbers roam the countryside eagerly seeking the remains of our people.

To our people, one's passing from this world to the next is as significant as birth. At the time our spirit starts its journey to the Creator's world, we have completed our cycle within the many cycles of the Universe. At that time we balance the many lives it has taken to provide for our continuance.

The passing into the next world and the process of burial are very dignified and sacred events in the lives of our people. But that dignity and sacredness are severely disrupted by the activities of the Western grave robbers among our people, we provide our relatives with the necessities of their journey and return our relatives to the bosom of our Mother Earth dressed in their finest clothes. We place their bodies throughout our lands, and they act as constant reminders of the cycles we live within.

Our ancestors' right to be at peace is not respected by the invaders. In many areas the grave robbers have a free hand to desecrate the resting places of our people. The objects we gave them for their journey and their clothes end up on display in side shows and museums. Further insult is added when such displays are rampant with misinformation about our people. The people of the United States are encouraged to support these outrages through contributions and tax dollars. Daily, thousands of children are herded through these buildings and are taught to believe that these practices are normal and acceptable.

Many of our sacred burial sites have been desecrated by the construction of dams, housing tracts, industries and other land destroying processes of the West. Laws have been passed, forcing our people to follow alien and contradictory burial rites.

All of these practices are genocidal in nature and are heaped upon our people, consequently promoting the destruction of the spiritual health of our people. The original intents are clear. They are part of the Western desire to practice forced assimilation. If this is denied by you, then prove it by taking action to end these practices.

We call upon all museums, collectors and other hobbyists for the return of our sacred items, the remains of our people and items of our material heritage for proper reinterment. We call for the return of those items not taken from graves, but from our people, to be returned for their continued use in our ways of life.

We call for the restoration of all lands illegally removed from our protection. We call for the payment of war reparations due to us, for the reconstruction of our nations.

We call for an end to the confusing situation regarding state and federal jurisdiction, and direct America's attention to our treaties and agreements which define the relationship of our countries.

We call upon organized religion to become allies in the process of liberation, and to stop their competition for our "souls".

We are here to make it clear to the American government and the people of the world that there is only one definition of who we are as a people. That definition arises from our religions, governments and the ways of life that we follow. No one else on the Mother Earth has the right to attempt to define us or our existence.

We feel these are simple things to carry out. If the processes that affect us today are allowed to continue, in thirty or fifty years our nations and communities will be as destroyed as the areas that America occupies. At this time in history, we, as the original people of this hemisphere, are the only ones living in this part of the world left with any direction on how to be a human being in harmony with the Universe. Yet this is the greatest gift we could offer to all humanity.

In closing, the young people of The Longest Walk want our elders to know that we cannot thank you enough for carrying on the traditional ways. If it were not for our elders, we would not be speaking and thinking this way today. We, the young people, want our elders to know that as long as there is breath left in our bodies, that we commit ourselves to never allow your teachings to be forgotten. We commit ourselves to carrying on these peaceful traditional ways.

ADDENDA TO AFFIRMATION OF SOVEREIGNTY OF THE INDIGENOUS PEOPLE OF THE WESTERN HEMISPHERE

The following position paper was adopted by three traditional governments of North American Indians: the Dine (called by the Spanish "Navajo"), the Lakota (known to the English-speaking people as Sioux) and the Haudenosaunee (called by the French "Iroquois", and known to the U.S. as the Six Nations). This is the first position paper ever to be presented in Washington by these three nations. The statement calls on President Carter to meet with the Traditional and Spiritual leaders of the Native people to begin serious negotiations on issues vital to the survival—physical and spiritual—of the Native peoples.

STATEMENT TO THE PEOPLE OF THE UNITED STATES AND THE WORLD, JULY 1978

For countless thousands of years, our people have lived on this continent in peace and tranquility, coexisting with all Natural Life. In the beginning, we were told that the human beings who walk upon the Earth have been provided with all the things necessary for life. We were instructed to carry a love for one another, and to show a great respect for all beings of this Earth. We were shown that our life exists with the tree life, that our well-being depends on the well-being of the vegetable life, that we are close relatives of the four-leggeds. In our way, Spiritual consciousness is the highest form of politics.

Our roots are deep in the lands where we live. We have a great love for our country, for our birthplace is here. The soil is rich from the bones of thousands of our generations. Each of us were created in these lands

and it is our duty to take great care of them, because from these lands will spring the future generations of our peoples. We walk about with great respect, for the Earth is a very Sacred Place.

Our traditional governments are truly governments "of the people, by the people, and for the people." All power of authority, at all levels comes from the people and can be withdrawn at anytime if the power is abused or responsibilities not met.

Our traditional governments cannot be adequately compared to the different forms of government that exist around us today. As with all aspects of Native life, our governments have their roots in the religious systems. Leaders are chosen for, among other things, the way they live their lives according to the four main virtues of bravery, fortitude, generosity, and wisdom. They are men who have proven themselves and show commitment to uphold and enforce the Spiritual and Natural Law, and also the laws of the people.

We are a peoples who strongly believe in the cycles of the Universe. Everything is based on concepts of harmony and balance. With the coming of the peoples from the East, this hemisphere has experienced a 486-year conflict between Western Civilization and the Natural World Peoples.

The Western culture has been horribly exploitative and destructive of the Natural World. Over 140 species of birds and animals were utterly destroyed since the European arrival in the Americas, largely because they were unusable in the eyes of the invaders. The forests were levelled, the waters are polluted, our people subjected to genocide. The vast herds of herbivores are reduced to mere handfuls, the Buffalo nearly became extinct. Western technology, and the people who employ it, have been and continue to be, the most amazingly destructive forces in all human history. No natural disaster has ever destroyed as much. Not even the Ice Ages counted as many victims.

Many would like to believe that all of these injustices have ended. This couldn't be further from the truth. Our Native nations entered into hundreds of treaties with the European colonists and with the United States. These treaties recognized the sovereignty of our nations, and guaranteed the lands and resources which belong to our nations.

Our people are the most abused of all peoples in North America. The extreme wrongs which are committed against our people today affect our everyday lives. Under the laws and policies of the United States we do not possess recognition of even the most fundamental rights necessary for our survival. We have no real rights in our lands, no rights to determine our Way of Life, no rights to our economic development. We are not even allowed to protect our communities against unfair actions by any people who choose to invade our homelands. Our lands are leased "for us" by the B.I.A. Our governments are frequently controlled or hindered by the Interior Department. Our rights to exist as communities and nations are not protected and often denied by the courts. We are a horribly oppressed people in our own land. The most basic justice is denied to our peoples, and only to our peoples!

We are the only peoples in North America who own land and resources and who must worry that these things can be taken away from us No one else who owns resources is subjected to an unrelenting fear that the United States government will take those things away—But the Native Peoples must worry about these things.

We are the only people who have formal legal agreements with the United States government, which the United States freely violates without legal liability. It happens to no others. The Constitution of the United States does not allow this to happen to other peoples. Yet, the U.S. claims the legal right to violate and ignore legal treaties made with our nations. Only to our people does this happen.

Our people are often subjected to such extensive bureaucratic control and manipulation that the process amounts to the denial of even the slightest amount of real self-government. Although there are laws and policies that give the appearance of participation in the processes that affect our land and peoples, the reality is that we have no power over the bureaucracies or laws and policies which affect our lives. Indeed, the practices of the United States have the impact of foreign control over our affairs. The official U.S. position states that there exists on our lands a significant measure of self-determination. This is an illusion created to confuse the people of the U.S. and the World. Our peoples possess the least self-determination of any communities in North America.

Only the Native People can be subjected to acts of theft and fraud with no possibility of justice under law. What other people are told that even if a fraudulent, or other illegal act can be proven beyond any doubt, that the courts have no power to correct the wrongs which are committed? Yet, that is the actual practice of the courts. The Political Question Doctrine applied by the courts prevents the courts from questioning fraudulent treaties, prevents the courts from questioning or correcting abusive acts of government relating to our peoples.

What other communities have no right, under law, to pass ordinances to protect their members from the acts of violent and destructive outsiders? What other communities of people in the whole world are denied the right to control the acts of companies and individuals operating on their lands? Yet this is exactly the situation suffered by our peoples in the United States today, right now!

Only our peoples can be driven from their lands without due process of law. Under the U.S. Supreme Court decision in the case of the Tee-Hit-Ton Indians, the United States can, and does, take lands which have been forever the lands of our peoples. They not only take the land, but they assert the power to do so without any compensation, and without due process, and there is no law which protects our peoples from these obvious thefts.

The struggles of our peoples have brought our leaders before the Judicial, Legislative and Executive branches of the U.S. government time after time in futile attempts to find Justice.

The real issues of Sovereignty and Treaty Rights have been consistently submerged to the processes of bureaucratic white-tape. Time after time we have been referred to the Interior Department which has neither the competency nor the power to effectively deal with these issues. We cannot allow these acts to continue if we are to survive as a People.

It seems the basic attitude of the American people and their government towards our peoples is yet one of extreme apathy.

Presently the Human Rights, Rights of Nationhood, Right of Self-Determination and the basic right of existence of our peoples are being actively denied in the United States.

We challenge the President of the United States to take the first step in correcting these wrongs by meeting with the Traditional and Spiritual leaders of our peoples to begin serious negotiations.

The basic issue of Human Rights raised by the President of the United States is hypocrisy and an outrage when viewed in the context of the history and present conditions of our peoples.

It must be pointed out to the American people that the United States and Canada are the two major nations which have not signed the United Nations Universal Declaration of Human Rights of 1948.

The definition of Genocide as stated in Article II of the international Convention on Genocide provides the basis of our peoples charge of Genocide made at the United Nations in Geneva, Switzerland, September 1977.

Article II states: "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, such as:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group."

Many of our young people went across the seas and never returned. We were told that we went to war to fight for our country. Our war casualties under the U.S. flag are greater than any other sector of the North American population. Yet today, our country is threatened by the United States.

United States policy and intelligence agencies have directed illegal military operations against our peoples, such as COINTELPRO. These actions have resulted in the violent deaths of a number of our leaders. The process has not stopped, and we have no protection against these actions. As a result of these actions there are in many United States prisons patriotic Native People who only advocate peace and freedom for their nations.

According to a GAO report issued last year, 24 percent of our women were forcibly sterilized during the period 1971–75.

Nearly 1 out of 3 of our children are being placed in non-Indian foster homes daily, by various county, state and federal agencies.

The Indian Reorganization Act of 1934, continues to destroy the traditional governments of our people, causing widespread disruption of a tranquil Way of Life, and literally pitting brother against brother.

The clearcut policy of genocide of the last century continues in more sohisticated forms in this century.

Our religions have been attacked, and degraded, our children continue to be processed through various forms of Western educational programs. The Spiritual leaders of our nations are now being subjected to the destructive nature of government program monies. Taxpayers monies are being used to regulate the practice of our natural religions. There are even efforts to certify our medicine peoples and to despiritualize the nature of our healing culture. That practice is a policy that is destroying our natural healing practices. It is a policy which is an outrageous attempt to interfere with, and ultimately destroy our natural religion.

Finally, the bills currently before Congress which call for the abrogation of Indian treaties, and termination of our lands, resources, and of genocide to the existence of our peoples is alive and well. The fact that the present Congress of the United States, in the year 1978, can consider such legislation should alarm the people of the United States. When a government denies the human rights of one people, it is only a matter of time before those rights will be denied to all of its peoples.

We call upon the voting public of the United States to seriously consider and question the ethics and morality of their representative leadership in Congress who are responsible for the introduction of dangerous and racist legislation against our peoples.

We call upon the United States to acknowledge its responsibilities under international law to respect Indian treaties, to insure genuine self-determination for our nations, and to correct past wrongs in an honorable and equitable manner.

The traditional people recognize that the injustices perpetuated upon our people, and indeed upon many of the peoples of the world, are the major factor destroying the Spirituality of the Human Race. Peace and unity are the foundations of the Spiritual Way of Life of our peoples. But peace and unity are not companions to injustice.

We call upon all the peoples of the world to join with us in seeking peace, and in seeking to insure survival and justice for all indigenous peoples, for all the Earth's creatures, and all nations of the Earth.

We will take whatever steps necessary in the protection of our Sacred Mother Earth, and the rights and well-being of our peoples.

We will continue our efforts before the World Community to regain our inherent Human and Sovereign Rights.

THE PRINCIPLES OF NATIVE WOMEN FROM INDIGENOUS NATIONS AND PEOPLES OF THE WESTERN HEMISPHERE

Since time began we are the bearers of the unborn generation, with our own instructions in which to conduct ourselves to live in harmony with Mother Earth and Grandmother Moon. We are still fulfilling our duties, even though colonization has been to interfere with our Circle of Life.

We continue to realize that our struggle in this hemisphere is unique. Our land base is guaranteed through international treaties. Our culture and way of life has survived through resistance from foreign domination. Our fight today is to survive as a people. Native women have always been in the front lines in the defense of our nations. Today we are targets of the colonial governments of the western hemisphere, our Native women of the northern part of this Turtle Island need support from all traditional and spiritual leaders. We are born within the womb that held no borders or discrimination.

Our young are being attacked through the racist educational system of governments and churches. Our unborn are attacked through programs of genocide called sterilization. We value our young for they are the very foundation of our future generations. Only by throwing off the yoke of colonization with the strength of our spirituality will we survive as Peoples Nations.

We will work on local, national and international levels to obtain our goals of true liberation and freedom.

Since time began the Native women were all born with equal rights, we share in this Longest Walk, in our search for survival.

We the Native women of this Western Hemisphere will take our place and stand proudly with our sisters and brothers in the world in the common struggle for all basic rights.

POLITICAL PRISONER RELEASE

The historical and present denial of the enforcement of our treaty reserved rights by the Office of the President has created the vacuum under which you have assumed the authority to legislate and regulate our rights. This authority you exercise is unlawfully assumed and acts to deny us that lawful protection of our rights vested in the Office of the President. The unlawful regulation of our internal and external affairs by the Congress and the Courts of the United States is always for the benefit of interests other than our own. Since our politics and law-making has been out of our hands, we as Native peoples, have all been political prisoners in the truest sense of the term. We will now discuss some examples and a way of working out of this intolerable situation.

Leonard Peltier is serving two life sentences in the federal prison at Marion, Illinois. He was convicted in the death of two FBI agents at a shoot-out in Aglala on the Pine Ridge Indian Country. Peltier was part of a peace keeping force there, at the request of the Independent Oglala Nation, the recognized traditional leaders of the Aglala people.

The majority of the Oglala people have been in contention with the federal Tribal Government in that country for control of their political authority and organization since 1973. The tribal government has continued, after the example of the United States armed force at Wounded Knee, to wage war against its opposition through acts of terrorism, which by June of 1975, had resulted in over forty-five murders and thousands of acts of violent and armed aggression against the traditional people of its own tribe. These acts were committed by BIA police and other paid agents of the federal and tribal governments who operated without fear of prosection for their crimes. In fact, it seems that the many FBI agents there to enforce law and order were somehow themselves involved in the atrocities.

It was against this background that the Oglala Lakota were moved to call for brave men to provide protection for their more innocent and helpless. Leonard Peltier is one of those who answered that call and is now a casualty of that strife between those two political bodies.

Peltier was arrested in Canada and extradited to the United States under a treaty between the two countries. It is now a matter of record that the petitions presented by your government was fraudulant, containing falsified affidavits prepared by the FBI which were the basis for his extradition. We have just recently petitioned the Canadian Government to recall Peltier, raising internationally the reality of how your government, through its agents honors your treaty obligations, no matter who you make them with.

Robert Robideau is imprisoned at Leavenworth, Kansas, convicted of charges which arose from his flight to avoid prosecution for the same incident and charges as Peltier. He was eventually charged and tried as a co-defendent of Peltier's, but in separate trials. His defense was able to substantiate his plea of self-defense and he was found not guilty in a jury trial.

Herb Powless imprisoned at Terra Haute, Indiana, was convicted as a felon in possession of fire arms. The charge stemmed from the same political strife that claimed Peltier, and is further unjustifiable in that the governor of the state convicting him as a felon had already granted him a full pardon. Herb was no longer a felon, but he was a strong political leader in his own community. It is for this reason that he is now in prison.

These three are most clear examples of our political prisoners. These are some of our most spirited young men. As we look at it closely, we see that almost all of our families have a brother or sister in prison or being processed through your criminal justice system. Our greatest resources in human energy is being destroyed in your prisons. The loss to their children, their families, and to our nations is disastrous and we must question if this is not by your purposeful design. In any case the effect is the same.

It is in this light that we now say to you that as sovereign nations we have never severed the tribal relations of these men nor have we relinquished our own lawful jurisdiction over them to you or to anyone else. We recognize that the jurisdiction you exercise over our people is a fact of life dependent only on your obvious willingness to totally enforce it. Somehow it has, of late, coerced those of our people empowered by you to represent us into submittal to it, but we are here to tell you that we do not accept it. That in accepting it we could not hope to survive its effect to help annihilate us as a people.

We are here to demand the release of these three patriots and we are establishing a commission to identify our other most obvious political victims in your prisons, and to establish a way to secure the release of all our people from your prisons, and to also establish a way to resume the exercise of our total jurisdiction over all of our own people to the exclusion of your criminal justice system and your other institutions and agencies.

A MANIFESTO FROM THE ALGONQUIN NATION

The following supportive statement grew from the minds of a handful of participants of the Longest Walk representatives of the Great Lakes Area indigenous people. We shall attempt to set forth some examples of our Indian Way of Life, and also show that we concur with our brothers of the Lakota Nation, the Six Nation Confederacy, the Dine Nations, and other Indian Nations as well, in their efforts to seek our own way of life for our people. We also hope to reveal a united interest and support of all traditional peoples everywhere who struggle to maintain their sacred traditions.

The traditions of the Indigenous people are varied and many as there are numerous tribes scattered throughout the Western Hemisphere. But it is these same traditions that have kept alive the spirit of our people and has brought about a new awakening among us to those things which are meaningful to the Indigenous people. Our traditional teachings have also given us the will to outlast the present practices of this government, known as the United States, in their attempts to assimilate us into the mainstream of white America. These scared instructions further enable us to see clearly the vision before us, so we can plan with clarity the future of our unborn.

These old ways are not easy to learn and understand, let alone to live, but attempts are being made by many of our young people to educate themselves in their Indian culture. Survival Schools are springing up rapidly among those of us who live in cities, as well as those who reside on reservations. The language of our old people and various Indian studies programs are being introduced into the curriculum of many such institutions. Our young are taking great pride in learning the old religious teachings of our people and strive to acquire as much as they can during our ceremonial services. As we seek for this knowledge and listen to the voices of our Elders, we shall see changes that will be beneficial for people everywhere.

These changes shall occur at all levels, cultural, physical, spiritual and economic. We must embrace these teachings with our whole being that we might be agents of change throughout this whole country. When the white man realizes he is wrong, and he will, he will need help that only we can provide.

Indigenous people to this land have always been taught to love, honor and respect all living things, as they are considered sacred to him. The Europeans took advantage of these traits and misused us because they saw that we had the one thing he wanted and needed, which was the land, our Sacred Mother. Once the white man realized what he could gain from us, he never ceased in his quest to acquire all he could get. In this way he was also able to control the natural resources of that land. To this day he still has not stopped, but has devised even more sophisticated ways to steal what little we have left of this precious commodity.

Without this land base the Red Man is dead in all ways except for being physically

and biologically alive. Attempts to create land bases by some tribes have been met with fierce resistance by the white man, as he too recognized the importance of land. Legislative practices and current legislation tend to lend support, not to the Red Man, but to those who already control most of our Sacred Mother.

We know the meaning of love, honor and respect. This is exemplified in the way we view our world. We do not abuse our Mother, the sacred earth, we don't abuse our four-footed brothers and winged beings, we don't misuse our black, yellow or white brothers. As was stated before, all life is sacred to us. Our religion sustains and supports our Way of Life.

These views and religious practices have not been dealt with in a respectful manner by this present government. They have made so many attempts to repress and suppress us throughout their history. They have not respected one thing of the original people. They desecrate our graves and jail many of our young, and our medicine people as well. Wisconsin, Michigan and Minnesota are just three of the most recent states where outright grave robbing was documented. They take the bones of our ancestors and place them in museums for others to view while they call it history and art. Many of our people who dared fight for us are sitting in prisons today as political prisoners, not to minimize those who gave their lives freely for the protection of the traditional "Way of Life". When will all of this disrespect for our ways and our people come to an end?

The only thing the white man wanted from the Indian was the land he saw us living on. Now he has desecrated that and little remains for him to seize. We have a small amount of land left, and what we have we must keep for our children and those who follow. As has been stated above, a land base is desperately needed for us to survive. We are of our Sacred Mother Earth, we were made for our mother and we must do all in our power to obtain more of her and keep all we have left.

The United States Government made treaties with us which they have not kept. They have broken their promises to us so many times it is burdensome for us to remember. We signed those treaties with the utmost good faith, but soon realized they were not sincere. In spite of this we continued to attempt to live in harmony with them. We still desire to live in peace, if at all possible, but time and patience is running out for us. Our human rights have been violated repeatedly, as our children are being certified at age 13 to stand trial as adults for crimes they allegedly commit. Indian children are being placed in white foster homes by the score, separated from their loved ones and completely torn away from their cultural teachings. Indian women are being sterilized without their knowledge or consent. The list of injustices could go on and on.

But something is happening among us. A prophecy is being fulfilled. Our songs have become greater, our drums louder, our unity has been foretold, because the prophecies of our old people are in complete harmony with our Way of Life.

Time is fast drawing to a close when the white invader shall stand in judgement for what has been done to all those he has held in oppression. We are a strong people made stronger by all we have had to endure. We shall continue to grow stronger as our songs get louder and our culture is again reawakened.

We cannot add more to what has been so ably stated by our brothers from other nations, except to pledge our undying support. We cherish the Indian Way of Life, like many of those who came on this long walk for freedom and justice for our people.

Many of those who came on this walk are still young in years and in our culture. As young people, we want to let the elders among us know that we cannot thank them enough for carrying on the old ways of our nations. If not for them we could not carry out the original instructions that were given to us by the Creator. We wouldn't even be speaking in this manner today with the pride of our teachings. As long as there is breath left in our bodies, we intend to carry on those traditional instructions we have learned, nor will we allow them to ever die out among us.

The United States of America has continually violated the independent Native people of this continent by Executive Action, Legislative fiat and Judicial decision. By its actions, the U.S. has denied all Native people their International Treaty rights, Treaty lands and basic human rights of freedom and sovereignty. This same U.S. government which fought to throw off the yoke of oppression and gain its own independence, has now reversed its role and become the oppressor of sovereign Native people.

Might does not make right. Sovereign people of varying cultures have the absolute right to live in harmony with Mother Earth so long as they do not infringe upon this same right of other people. The denial of this right must be challenged by truth and action. World concern must focus on all colonial governments to the end that sovereign people everywhere shall live as they choose, in peace with dignity and freedom.

The International Indian Treaty Conference hereby adopts this Declaration of Continuing Independence of the Sovereign Native American Indian Nations. In the course of these human events, we call upon the people of the world to support this struggle for our sovereign rights and our treaty rights. We pledge our assistance to all other sovereign people who seek their own independence.

Preamble to: Declaration of Continuing Independence by the First International Indian Treaty Council at Standing Rock Sioux Indian Country, (June 8, 1974).

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DECLARATION OF PRINCIPLES FOR THE DEFENSE OF THE INDIGENOUS NATIONS AND PEOPLES OF THE WESTERN HEMISPHERE

PREAMBLE

Having considered the problems relating to the activities of the United Nations for the promotion and encourageemnt of respect for human rights and fundamental freedoms,

Noting that the Universal Declaration of Human Rights and related international covenants have the individual as their primary concern, and

Recognizing that individuals are the foundation of cultures, societies, and nations, and

Whereas, it is a fundamental right of any individual to practice and perpetuate the cultures, societies and nations into which they are born, and

Recognizing that conditions are imposed upon peoples that suppress, deny or destroy the culture, societies or nations in which they believe or of which they are members,

Be it affirmed that,

1. RECOGNITION OF INDIGENOUS NATIONS

Indigenous peoples shall be accorded recognition as nations, and proper subjects of international law, provided the people concerned desire to be recognized as a nation and meet the fundamental requirements of nationhood, namely:

(a) Having a permanent population
(b) Having a defined territory
(c) Having a government
(d) Having the ability to enter into relations with other states

2. SUBJECTS OF INTERNATIONAL LAW

Indigenous groups not meeting the requirements of nationhood are hereby declared to be subjects of international law and are entitled to the protection of this Declaration, provided they are identifiable groups having bonds of language, heritage, tradition, or other common identity.

3. GUARANTEE OF RIGHTS

No indigenous nation or group shall be deemed to have fewer rights, or lesser status for the sole reason that the nation or group has not entered into recorded treaties or agreements with any state.

4. ACCORDANCE OF INDEPENDENCE

Indigenous nations or groups shall be accorded such degree of independence as they may desire in accordance with international law.

5. TREATIES AND AGREEMENTS

Treaties and other agreements entered into by indigenous nations or groups with other states, whether denominated as treaties or otherwise, shall be recognized and applied in the same manner and according to the same international laws and principles as the treaties and agreements entered into by other states.

6. ABROGATION OF TREATIES AND OTHER RIGHTS

Treaties and agreements made with Indigenous nations or groups shall not be subject to unilateral abrogation. In no event may the municipal laws of any state serve as a defense to the failure to adhere to and perform the terms of treaties and agreements made with indigenous nations or groups. Nor shall any state refuse to recognize and adhere to treaties or other agreements due to changed circumstances where the change in circumstances has been substantially caused by the state asserting that such change has occurred.

7. JURISDICTION

No state shall assert or claim to exercise any right of jurisdiction over and indigenous nation or group or the territory of such indigenous nation or group unless pursuant to a valid treaty or other agreement freely made with the lawful representatives of the indigenous nation or group concerned. All actions on the part of any state which derogate from the indigenous nations' or groups' right to exercise self-determination shall be the proper concern of existing international bodies.

8. CLAIMS TO TERRITORY

No state shall claim or retain, by right of discovery or otherwise, the territories of an indigenous nation or group, except such lands as may have been lawfully acquired by valid treaty or other cessation freely made.

9. SETTLEMENT OF DISPUTES

All states in the Western Hemisprere shall establish through negotiations or other appropriate means a procedure for the binding settlement of disputes, claims or other matters relating to indigenous nations or groups. Such procedures shall be mutually acceptable to the parties, fundamentally fair, and consistent with international law. All procedures presently in existence which do not have the endorsement of the indigenous nations or groups concerned, shall be ended, and new procedures shall be instituted consistent with this Declaration.

10. NATIONAL AND CULTURAL INTEGRITY

It shall be unlawful for any state to take or permit any action or course of conduct with respect to an indigenous nation or group which will directly or indirectly result in the destruction or disintegration of such indigenous nation or group or otherwise threaten the national or cultural integrity of such nation or group, including, but not limited to, the imposition and support of illegitimate governments and the introduction of non-indigenous religions to indigenous peoples by non-indigenous missionaries.

11. ENVIRONMENTAL PROTECTION

It shall be unlawful for any state to make or permit any action or course of conduct

with respect to the territories of an indigenous nation or group which will directly or indirectly result in the destruction or deterioration of an indigenous nation or group through the effects of pollution of earth, air, water, or which in any way depletes, displaces or destroys any natural resource or other resources under the dominion of, or vital to the livelihood of an indigenous nation or group.

12. INDIGENOUS MEMBERSHIP

No state, through legislation, regulation, or other means, shall take actions that interfere with the sovereign power of an indigenous nation or group to determine its own membership.

13. CONCLUSION

All of the rights and obligations declared herein shall be in addition to all rights and obligations existing under international law.

## TESTIMONY OF CAMBODIAN PEOPLE

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, like many Members, I have read with horror the continuing press reports on the plight of the people of Cambodia since April 1975. The magnitude of the atrocities conducted by the Khmer Rouge since they took power is difficult for a free and peaceful nation to comprehend.

As I advised Members in a letter yesterday, I have obtained copies of interviews with Cambodian refugees who arrived in Thailand after October 1977, conducted by U.S. foreign services officers, and extracts of earlier reports by the U.S. Embassy in Bangkok on conditions in Cambodia from 1975 to 1977. These are a portion of the materials provided by the U.S. Mission to the United Nations to the U.N. Division on Human Rights on July 6, 1978.

Today I am beginning the submission of some of these documents into the RECORD. I plan to continue these submissions in the days to follow because I believe it is important for us in Congress to continue to bear witness to the terrible sufferings of the Cambodian people, particularly in light of the fact that most of the major international bodies concerned with the violation of human rights have failed to firmly condemn the perpetrators of this holocaust for almost 3 years now.

The first of these materials follows:

INTERVIEW WITH CAMBODIAN REFUGEE IN SURIN, THAILAND CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE, 1978

(Account of Sen Chul—Refugee agreed to use of his name in public document)

Sen Chul, 27, came from Koukmon village, Ampil District, Oddar Meanchey Province. He studied eleven years and attended college at Samrong one year, where he received a diploma. He was in Samrong when the Khmer Rouge took over and subsequently returned home to Koukmon. After the takeover, the Khmer Rouge held mass meetings in which everyone was told to identify himself. Chul admitted that he was a student. Chul arrived in Thailand in February, 1978.

*Conditions of Living in Democratic Kampuchea.* "Life was better in Koukmon than in other places. In the mobile youth group in which I worked, we had enough to eat. We had plenty of rice but no fish or meat. In the village, where my family lived, and I lived with my wife after we got married, food was also adequate but limited to rice. The crop was better this year than last year when we had a drought.

"We were issued one set of clothes when we could no longer mend the ones we had been wearing. For those who worked hard, the clothes wore out in about four months. To get a new set, you had to present concrete evidence that your present ones were worn out. This was easy since they were usually rags. We got one scarf and a set of black pajamas.

"We worked from 0400 to 1100, 1300 to 1700 and 1900 to 2200 each day since 1975.

"I was with the mobile youth until 1976 when I got married. After that I moved to the village and worked as a farmer. Once or twice a year we had a 'mating period.' For two days, while also working, young men and young women were allowed to talk with each other. Except during the mating period, young men and women were not allowed to talk with each other, day or night, except for talk about developing the country. If the Khmer Rouge knew that you had violated this 'ethics code' you would both be executed immediately. I knew of about twenty young men and women caught flirting, who were executed. No romantic chitchat is allowed. After the two day mating period, you report to the authorities that you have found a suitable partner. Aside from the mating period, you cannot tell a girl that you like her. You must go to the village chief and tell him. If you tell her directly, you will be killed. In either case, if the chief agrees, you must wait until the mass marriages are held about every six months at the same time as the mating season.

"Girls have no right to refuse. Even if the man is crippled, had one hand, or is ugly, the girl must accept. She is summoned and told that she must marry. If she refuses, she will be executed. In some cases, she and her family are told that they must be 'relocated' far away. In 1976 about fifteen families of girls who refused to marry were relocated. But, in fact, the Khmer Rouge escorts returned the next day with all their clothes and distributed them to others. Everyone thought that the families were executed. Being 'relocated' frequently means being executed."

*Executions.* "The Khmer Rouge have executed all the former soldiers and government officials they can identify. They also forcibly relocated the families of former soldiers. I knew of about fifty families of former soldiers who were sent to the northern district, but everyone thinks they were also executed.

"In 1978, the Khmer Rouge started executing former students, former members of village defense forces, or former militiamen. They started with the leaders and with those who studied to higher grades. In January and February, about twenty students, who had studied five years or more and had then been assigned to the mobile youth, and about thirty former militiamen were executed. I know of thirteen young men, some of whom were my friends, who were killed. The Khmer Rouge tied their hands behind them and took them to the forest. The next day I saw 13 fresh mounds. No one knew of any reason why they would have been killed except that they were former students.

"The worst crime is criticizing the way people are being treated and administered. If you do so, the Khmer Rouge say, 'you are a bad element' and 'do not support Angka'. If they want to kill anyone, the Khmer Rouge merely say, 'you are supporting the enemy' or 'you are a spy.' These are only pretexts. These charges are made either before you are executed or afterward. Before killing students, there were usually no meeting. The Khmer Rouge would just round up ten or so and take them away.

"I had two cousins killed in 1978. They were Chhum Bu, about 50, and Sin Sok, about 45. After they were executed, their families were also executed. There were about 60 families 'relocated' since 1975."

*Human, Civil and Poiltical Rights.* "There are no rights or freedoms in Cambodia. The Khmer Rouge have clamped down on every facet of life. The central government's policy is to exterminate all the old people to have a new generation of Cambodians who have never known a good life. Their policy can be compared to burning a field of grass so that new grass can replace the old. They are succeeding very well because they are killing everybody."

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INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AN AMERICAN EMBASSY OFFICER IN JUNE 1978

(Account of Source H—The name of the individual refugee who provided this account has been excised to protect the identity of family members or friends still in Cambodia)

Source H, 25, from Battambang was a student until the Khmer Rouge victory in April 1975. Afterward he became a farmer. He escaped to Thailand on May 16, 1978. His account follows:

*Conditions of Life in Democratic Kampuchea.*—"We had 300 grams of rice a day for three people from 1975 to 1978. There was no change in the ration. There were only herbal medicines, and people were frequently sick with dysentery and beriberi.

"We worked each day from 0500 to 1200, 1230 to 1800, and occasionally, from 1900 to 2200. If there was no work, I slept. There was nothing else to do and I was very tired. There were about 1,000 people at first in the village. I ate with 150 of them. By 1978 there were fewer than 500 people left in the village. Eighty percent of the dead had died by assassination and twenty percent of disease. Most of those assassinated were former officials. I personally saw about sixty soldiers loaded on a truck in 1975 and hauled off to be killed. The driver of the truck, named Nieng, later told me that they had been killed. Gradually, former students and teachers were also killed. The Khmer Rouge did not know that I was a student. Three days before I fled to Thailand, I found out from a spy (*chhlop*) that I had been identified and would be killed.

"My younger brother was killed for being late three times to work, fifteen or twenty minutes. They carried him away. My father saw him killed and told me. He was 16.

"For minor faults, you would be warned. The second time you would be warned and either killed at home or taken away to the forest.

"You could not criticize or suggest anything or even speak to the village chief. Any criticism of the regime meant immediate death."

*Human Rights.*—"There is no such thing as human rights or justice in Cambodia. There is only facism, and death, without pity."

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[Extracts from an airgram report by an officer of the American Embassy at Bangkok]

MARCH 31, 1977.

LIFE IN CAMBODIA

INTRODUCTION AND SUMMARY

They've done terrible things to us. You know, we Cambodians have always been an easy-going people. They've changed that completely. They've gotten rid of all of our traditions. No one is any longer allowed to do our graceful dance, the ramwong. Now, the only dances are 'revolutionary' dances. We no longer have our religion. They even

change our language, using many strange words. We are no longer allowed to greet one another in our old manner. Now, we either use a stiff Chinese handshake or ask from a distance, 'How are you, comrade?' Everyone has to wear black clothing. These people (the Khmer communists—KC) are not civilized.—Recently arrived refugee.

Cambodians fleeing their country continue to speak of a very harsh life and work regimen, some executions, a general air of fear and uncaring and illiterate KC. As much as the daily rigors and dangers, however, there is often a much deeper sense of alienation or inner hostility caused by the Cambodian Communists' complete disregard for all that the Cambodian people traditionally cherished, features which differentiated them from other peoples. The refugee's statement quoted above was made in a tone which can only be described as deeply sorrowful.

The Cambodian regime is pursuing total revolution whose end is difficult to foresee—provided the present leadership can continue to maintain both its grip on the country as well as its present fervor. If pursued to its conclusion, the result will be something quite unique in human experience. The Cambodian people involved in it are considered, sadly, as objects of relatively little real value, despite the fact that, in theory, the revolution is being waged in their name.

As we do every several months, the Embassy submits another wrapup on life in Cambodia, this one based upon interviews conducted with refugees since the beginning of 1977. There is considerable similarity to these surveys. Cambodia is now one large work project, and refugee comments—based upon their knowledge of one very small area limited to a few square kilometers of the country—serve only to confirm what we have been hearing for almost two years already and to provide some detail about specific conditions in one locality or another.

ORGANIZATION

*Diversity in Village/Cooperatives.* The movement of population in Cambodia appears to have ceased. One refugee recounted having been moved eight times since the takeover, observing that things have more or less now "settled down". The desired number of persons comprising a cooperative would appear to be 1,000. Except for totally new villages, most others in Cambodia are of greatly varying sizes. Sometimes the effort is made to have them adhere to theory by declaring a small village a small village cooperative (*sahakoo toic*) and joining it with another or even all those within a commune to make a large cooperative (*sahakoo thom*).

We continue to hear of a number of examples in the north and northwest where families living in GKR-held areas during the war years have been placed in villages long under KC control. In one instance, each "new" family was housed with an "old" family in a Siem Reap village so that the old could keep watch over the newer arrivals. In Thmar Pouk district of Battambang province, 200 new villagers were placed in a KC village of 300 persons. The total constituted a village/cooperative, but each element lived in its half of the village and worked separately. In living and working, the old villagers supervised the new; there was little social mixings. The new residents accused the old ones of eating better and of not being nice, although they also believed the long-time residents were not much happier than they with their lot.

*Local Administration.* Many local authorities continue to be military personnel. An ex-KC soldier heads a long-time KC village in Kompong Thom province, appointing other members of the village committee from among local residents. In a similar village in Siem Reap province, the president and vice-president of the village committee are active military, with the third member (for economic affairs) a long-time resident. In a new village in Oddar Meanchey province, a KC civilian is in charge, selecting an old man as his deputy and intermediary with the people.

*Higher Administration.* No refugees with whom we have spoken this year had seen anyone visit his village from the central level. Indeed, a doctor from Preah Net Preah (Battambang) said one finds the KC themselves know little more than the names of the most prominent members of the central leadership. At most a rare refugee will have heard of the regional level (*phumpheak* or *pheak*). The northern region, headquartered in the town of Siem Reap and consisting of the sectors of Oddar Meanchey, Siem Reap, Preah Vihear, and Kompong Thom, is headed by an unidentified middle-aged military man who formerly commanded a battalion. When he visited a village in Oddar Meanchey, he was wearing black pajamas.

Somewhere above the village level, probably at sector or district, cadres (*kamaphibal*)—both military and civilian—seem to be attached. A pilot who arrived in Thailand in late November from an area to the east of Samrong said that these cadres would visit his village "only once in awhile". Wearing Chinese or American pistols, which are marks of importance, they would work briefly with the people to demonstrate solidarity and deliver lectures on the need to work.

*People's Representative Assembly.* Several persons described the voting farce of March 20, 1976, in which they theoretically chose their representative in the PRA. In a village in eastern Oddar Meanchey, no one voted, nor did the residents ever see the man chosen as their representative, knowing only that he is concurrently the Oddar Meanchey sector chief, called locally Mit Hien. In Preah Net Preah, everyone was given a name they did not know and told to vote for him.

*Travel.* Travel passes are issued only for a good reason. It is rare that one can obtain authorization to go farther than the next village a couple of kilometers away. It is no longer possible to forge passes easily, since the KC have evolved to the rubber stamp level of bureaucratic sophistication.

THE LIFE

With communal working and living the rule, virtually all discernible vestigas of traditional Cambodian life have been eliminated. A vilage scene is very drab. No colors other than black may be worn, the KC observing that that color hides the dirt better. Men must wear pants instead of the traditional sarong, which is now worn only by women. The previously indispensable astrologer is no longer allowed to practice. There have been a large number of changes in the language, even for a word such as "eat". There are no monks ("parasites", according to the KC) except in one place of which we have heard: Samrong. The refugee who had formerly been a pilot and who did not live too far away from there claimed that eight monks have been permitted to remain in a wat, perhaps for display purposes. The monks are required to grow their own food, but occasionally elderly people from his village are permitted to travel there to offer them fruit. Otherwise, there are only "lots" of soldiers and some civilians who are working with the KC living in Samrong.

*Food.* The rule in present-day Cambodia appears to be to provide a person thin rice gruel twice a day. Two persons or more may share one milk tin of it. People try to supplement this with pieces of waterplant, banana, or manioc. Exceptionally, a person may receive a plate of rice; one wonders whether this depends upon the whim of the local leader as much as supply. The most extreme example of which we have heard was in the case of the pilot mentioned above. After the harvest was completed in early 1976, the people in his village received rice to eat for the next 2–3 months. His village is the exception an another way, as well, for the people sometimes receive meat, particularly as a reward for a good harvest. Generally around Cambodia after the harvest, authorities store in nearby vats or the like at most only that portion of the production considered sufficient to meet the people's needs.

Two refugees from Siem Reap reported never having any meat to eat. However, an arrangement was worked out whereby the people made fishing poles and nets for the KC, who fished while the people worked. At the end of the day the KC would divide up the fiish, part for the 500 people and part for themselves. Each villager received only a small portion, of course, but it was something. It was the periods when there was no salt which were the most difficult; after a time there would be swelling of limbs and sometimes death as a result. In Oddar Meanchey, a person now receives a kilogram of salt every three months, coming from Kampot. In that respect, the situation is said to be much better than it was a year ago.

*Disease.* As we have been reporting for some time, there is agreement among refugees that deaths due to a combination of disease, malnutrition, and general exhaustion and weakness were greater in 1976 than during the previous year. Among diseases, malaria and its complications remain the big killer. New refugees from both Siem Reap and Kompong Thom reported cholera last year. One of them who almost died from it himself noted that a village close to his in Kompong Thom was virtually wiped out by the disease in May. There remains an extremely low birth rate and a high mortality rate of children and their mothers.

THE WORK

Continuing to work seven days a week, without a break, the population of Cambodia has passed from harvesting the rice to, once again, building irrigation canals and dams. Phnom Penh radio broadcasts are now devoted almost exclusively to reports on ongoing work designed to control and distribute water in various parts of the country.

*The Cooperative.* All work is performed under the aegis of the cooperative, which often receives its orders from the village or commune's economic chief. One village/cooperative of 1,000 persons in Oddar Meanchey is organized as follows, from its smallest to largest unit: (A) the basic element is the squad (*krom*) of 12 persons of the same sex, which can be further divided into units (*pouk*) of 3–5 persons, depending upon the work to be done; (B) three squads comprise a platoon (*kong toic*) of 36 persons; (C) three platoons make up a company (*kong thom*); three companies comprise a battalion (*viareah*, in current KC terminology); and three battalions comprise a regiment (*kong pia*) which is equal to a cooperative. In view of the essentially military nature of Cambodia's leadership and organization, it should come as no surprise that cooperatives are also run along military lines.

*Divisions by Age.* In northern and northwestern Cambodia (and most likely throughout the country), persons are separated by age for work purposes, and further separated by sex. Adults constitute the main work force, of course, sometimes camping out in a field and returning to the village after a month. Young children usually remain in the village during the day. Cambodians from Ampil district in western Oddar Meanchey complained that parents are told that their children will be cared for in their absence but, in reality, that has not been the case. In the eastern part of the province, small children tag along with the women when they go out to work.

Children between the ages of 5 and 12 are often taken away to an area somewhat re-

moved from the village to live together, work on small handicraft projects or carry night soil to adults working in a field, and receive some indoctrination but little real education. In those cases where the children are not permitted to return to the village, their mothers can often take things to them and reassure themselves that their children are still alive. In others, even if the children are assigned to help in the same field as their parents, they can neither eat with them nor, at night, sleep with them. The KC will choose one pliable child from among each group and name him president.

It is particularly the teenagers and young unmarrieds who are the objects of special attention throughout most, and perhaps all, of Cambodia. Beginning at ages 13, 14, or 15, members of this age group are generally separated completely from other family members. Removed physically to another area, they may come under commune or other direction, rather than that of the village. They are placed in special camps of 4,500 to 1,000 persons, scattered around a province. In all cases, they constitute a special mobile work force which labors in distant areas to perform such hard work as making new rice fields or felling timber. They may remain at a site for a month before being permitted to visit their families, if they are even permitted to do so. One refugee claimed that these youths are objects of special lessons on communism. In their special role in or out of the cooperative, the teenagers are divided into platoons, etc. It is thought that, as a separate force, they can be trained quickly to act as a military unit should there be a need for soldiers. In each group of these teenagers (known as *kong chhlat* or, literally, the group of intelligent ones), the KC also designate a person who appears pliable as the president.

Pregnant women work hard for seven months. Then, depending upon the situation, they may be allowed to remain in the village, perhaps working there or caring for young children, until two months after they give birth, when they must return to the fields. Also remaining in the village with tasks to carry out are the elderly.

*Variety of Work.* The KC sometimes describe the country's general economic plan to the people. It calls for increased production of rice which Cambodia will sell abroad, in exchange for which it will purchase equipment to open more factories to produce more items, such as clothes, for the people. In the pilot's village near Samrong, the KC had the people attempt to grow three crops of rice last year. There was generally sufficient water available in the area, and people found themselves in the unique position—for Cambodia—of harvesting and planting rice at the same time. Although the effort was not notably successful, the KC told the people that they fully intended to produce three good crops there during the course of 1977.

An increasing number of refugees describe working in the fields on other crops in and out of the rice growing season. Cotton, manioc, bananas, and corn and other vegetables are being planted. Once this is done, the KC have the people leave the crops alone until they are ready for harvesting. The KC may allow the people to retain some of the output, with the KC keeping the remainder or send it away. In one village in Thmar Pouk district, a craft "guild" consisting of several persons who know how to weave is designated to take the large amount of cotton produced there and make clothing. Those villagers in need of clothes receive them, and the remainder are shipped to an unknown destination.

The refugees from Siem Reap described 1976. The year was one of digging and building irrigation works and of planting. A month before the rice harvest began in November, everyone was in the fields planting cauliflower and other vegetables. Then came harvest time, and the entire population of the village was sent to the rice fields. In their space time, people were making farm implements and fishing poles. Indeed, another person said it is this type of thing, bamboo dishes, or vessels for carrying water, to which the KC are referring when they use the word "handicrafts" on the radio.

Finally, livestock raising is also receiving emphasis. One has the impression that the number of working animals is increasing after a dismal beginning in 1975. When a village is considered to have an excess of buffalo or cattle, these are shared with other villages.

GOVERNMENT SERVICES

*Health.* A Cambodian doctor who arrived in Surin from Preah Net Preah noted that most KC medics are women. He claimed that they received no training and tried to treat malaria, beriberi, or cholera with such fluids as coconut milk and Pepsi (sic). He himself was not allowed to practice because he was not a revolutionary.

In most places, medicines other than the natural kinds are simply not available except, at most to the KC. The pilot said that some Chinese-produced medicines and some of other origins would reach his village from time to time. Limited in its variety, there was occasionally some aspirin or chloroquin, which was better than nothing. Sadly, people were generally forced to return to work before they had recovered from their illnesses. A person seriously ill could apply to a village official to be treated in a hospital located in a private house in Samrong. Some medicine was available there.

*Education.* We have heard few recent accounts of formal education other than teaching children revolutionary songs. No one heard of any effort at conducting a literacy campaign among adults.

*Provision of Goods.* We have noted how clothing was distributed in a village, some of whose inhabitants had weaving skills. In some villages, it seems to be the rule that each person will receive one new set of clothing per year. Black cloth thought to be of Chinese origin was made into clothing and has apparently been distributed in several provinces during the past year. If a villager wants shoes, he can obtain them only by making them himself.

*Information.* Although there still seem to be some areas where people are not allowed to listen to any radios, it is more generally true that arrangements are made for people to listen on a community set, those belonging to the KC, or even on their own sets. In Oddar Meanchey, the pilot reported that those having them are permitted to bring them out into the open and tune in to the Cambodian services of either Laos (sic), the People's Republic of China, Viet-Nam, or Phnom Penh. His village also had loudspeakers over which Radio Phnom Penh broadcasts were diffused. An item banned from use there, however, were radio/tape recorders, the KC fearing that persons may play tapes containing pre-liberation songs.

Despite frequent fear that one risks one's life by showing signs of being educated by reading, persons report occasionally having looked at a KC publication. Recent refugees said they saw two items: (A) a four-page printed monthly (possibly weekly) newspaper, and (B) a thirty-page monthly magazine containing some color photographs showing peasants planting rice, etc. The message in both is always the same, i.e., the need to work hard.

CONTROL OF THE POPULATION

*The Military.* Little is really known of the KC military organization. There is dispute over whether the wearer of green fatigues is different from the wearer of black pajamas; this writer believes there is no difference between the two. There is controversy over the extent of new recruitment of soldiers; many refugees have heard of no recruitment at all in their areas. It is really not known whether soldiers guarding a village are of a different element than those attached to much higher levels of the government; some knowledgeable refugees are convinced that they belong to the same unit despite their being assigned to different levels or carrying out different tasks. Distinction in rank or importance on any level seems to be indicated by whether one has a pistol or not.

Soldiers are concentrated particularly around the border with Thailand (and, presumably, Viet-Nam), frequently a deterrent to men taking the risk and fleeing the country with their wives and children. It is said that it is the concentration of forces on the border of Preah Vihear province (not to mention the rugged terrain) which accounts for the fact that almost no refugees arrive from that neighboring area into Thailand.

Troop presence in villages continues to vary considerably from a complete absence of soldiers to ten or twenty, a combination of old and very young ones. A village 37 kilometers from Thailand in Thmar Pouk district has only one KC soldier, a man with a Khmer Krom accent of southern Viet-Nam, who is in charge of the village. The dozen refugees from there who arrived in Thailand at the beginning of February said they "feared" that KC patrolled the area around the village at night, however. Indeed, reports of a number of refugees suggest that KC often use mobile patrols rather than station troops permanently in an area, a practice which would seem to be logical in view of their limited manpower.

Refugees agree that there is considerable corruption among local KC. Everything can be traded for favors, but it is a dangerous game, for the KC soldier may not necessarily keep his part of the bargain.

*Executions.* The answer to the riddle of KC control remains, of course, the maintenance of an atmosphere of fear. People continue to disappear often enough to keep the remainder of the population on edge and in line, whether or not there is a soldier physically present. Most refugee accounts continue to support the conclusion that the number of executions is now lower than during the first ten months or so after the takeover. Some twenty-two Cambodians who fled Ampil district in early January 1977, cited the case of one person who was led away from their village and of two others from an adjacent village three weeks earlier. All three were marked for execution, they thought, not because of their past records (which, of course, still mean the difference between life and death, if they are discovered) but because the KC judged that they "lacked respect," a term which covers complainers, the lazy, etc. The pilot fled when he was warned that he was to be executed as an educated person the following day. The last executions in his village had been of two persons fifteen days earlier, caught while trying to escape.

The last executions of which the former soldiers who escaped from Siem Reap province in January were aware of three friends caught while attempting to escape six months earlier. The entire village was forced to assemble to watch the three being beaten to death. Generally, the only former government soldiers above the lowest ranks still alive are those who have successfully hidden their backgrounds.

The pilot noted that those who are led away from a village are told that they are going to *Angka*, the organization. Later, their bodies are found in the forest or in shallow graves in the ground. Typically, their hands are still tied behind their backs, their corpses showing signs that they were killed

with blows from hoe handles and axes. Because he was sometimes used as a messenger, he had occasion to pass by the end of the runway at Samrong. This spot, where no people live, is a favored place in Oddar Meanchey for executions. Persons from Siem Reap province described two similarly favorite spots there, one being at the Chikreang district town. Those who do the killing in Cambodia may be either KC located in the village of the victim or KC at a base camp. The doctor from Preah Net Preah told his captors he was formerly a hospital guard; he claimed that doctors or teachers were executed for minor offenses, such as listening to the radio.

*Prison.* Asked whether, if one has done something wrong, he is imprisoned, some refugees declare adamantly that there are no prisons in their areas, that a "wrong" is redressed only by beating the person concerned to death on the back of the neck. Elsewhere, however, prisons are reportedly located in the towns of Samrong and Siem Reap. Persons caught while trying to escape are sometimes placed in them prior to execution at one of the principal execution spots.

One of the sadder features of Cambodia today is that having a "love affair" is considered to be a crime. One of the refugees from Siem Reap recalled a friend who was discovered having intercourse. The KC beat him to death while forcing his girlfriend to watch. The same source said that a man and a woman in his village were discovered in late December to be having an affair. As this is strictly forbidden, the man was imprisoned and given no food while the woman was allowed to go free. Generally speaking, the man dies in jail, but if he does not, he is released after a time and returned to work.

Special Camps. On rare occasions, we continue to hear of special work/concentration or re-education camps exisitng in Cambodia, although it is not clear why, in view of their readiness to execute, the KC even bother. A reporter recently met three men who had been in a hard labor camp for former officers in the Kampot area until they escaped in December. The object seemed to be to work the inmates to death, although most had already been executed by the time the sources heard they were going to be, as well, and fled. The cooperative from which the doctor came in Preah Net Preah consisted only of former health and teaching personnel. Theirs was one of a series of small cooperatives for persons in these professions. They spent three days studying communism, then went to work in the fields. The families of some were permitted to join them later.

## GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks preceding the vote on the second Long of Maryland amendment to the bill, H.R. 12157.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

## LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. ADDABBO, after 2:30 p.m. today and for July 28, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. FORD of Michigan, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Mr. LEGGETT, for 5 minutes, today.
Mr. CHARLES H WILSON of California, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. ROONEY, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SEIBERLING, immediately prior to vote on the Long of Maryland amendment on H.R. 12157 in the Committee of the Whole today.

Mr. ANDERSON of Illinois, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $985.50.

Mr. BRADEMAS, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $886.

Mr. DELLUMS, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,135.

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. MOORE.
Mr. DEL CLAWSON in two instances.
Mr. CAPUTO.
Mr. LAGOMARSINO.
Mr. STEIGER.
Mr. CARTER in three instances.
Mr. FINDLEY.
Mr. GILMAN.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. BAUCUS in two instances.
Mr. GONZALEZ in three instances.
Mr. PATTISON of New York.
Mr. STOKES in five instances.
Mr. MAZZOLI in two instances.
Mr. MCHUGH.
Mr. LONG of Maryland.
Mr. RICHMOND.
Mr. EDWARDS of California.
Mr. VANIK.
Mr. WAXMAN.
Mr. SANTINI.
Mr. RANGEL.
Mr. BLOUIN.
Mr. MURPHY of Pennsylvania in five instances.
Mr. REUSS.
Mr. LAFALCE.
Mr. GIBBONS.

## BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 11877. To authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act.

## ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Friday, July 28, 1978, at 10 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4653. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the release of certain budget authority, the rescission of which was proposed by the President and disapproved by the Congress; to the Committee on Appropriations.

4654. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on property acquisitions of emergency supplies and equipment during the quarter ended June 30, 1978, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

4655. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting a proposed final regulation governing the award of Federal funds for the experimental program for opportunities in advanced study and research in education, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4656. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report for 1977–78 on the health consequences of smoking, pursuant to section 8(a) of Public Law 89–92, as amended (84 Stat. 89); to the Committee on Interstate and Foreign Commerce.

4657. A letter from the Comptroller General of the United States, transmitting a report on the need for improved mapping, charting, and geodesy support of the strategic ballistic missile submarine force (CED–78–142, July 25, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4658. A letter from the Comptroller General of the United States, transmitting a report on the need for the Defense Department to improve tactical towed array sonars to enhance antisubmarine warfare capability (PSAD–78–71, July 27, 1978); jointly to the Committees on Government Operations, and Armed Services.

4659. A letter from the Comptroller General of the United States, a report on the condition of the strategic and critical materials stockpile (EMD–78–82, July 27, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4660. A letter from the Comptroller General of the United States, transmitting a report of the U.S. Geological Survey programs to provide systematic assessment of the mineral potential of key areas in the United States (EMD–78–83, July 27, 1978); jointly, to the Committee on Government Operations, and Interior and Insular Affairs.

4661. A letter from the Comptroller General of the United States, transmitting a report on the Alaska Railroad's present and future role and ways management could be improved, (CED–78–137, July 27, 1978); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

4662. A letter from the Comptroller General of the United States, transmitting a report on revenue estimates under various methods of taxing Americans abroad, (ID–78–52, July 27, 1978); jointly, to the Committees on Government Operations, and Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 12511. A bill to extend for 1 year the child care food program of the National School Lunch Act and the women, infants, and children program of the Child Nutrition Act of 1966; with amendment (Rept. No. 95–1153, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 13635. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; (Rept. No. 95–1398). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. ROUSSELOT, and Mr. PATTERSON of California):

H.R. 13612. A bill to amend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BURKE of California:

H.R. 13613. A bill to amend the Communications Act of 1934 to establish requirements with respect to agreements relating to the broadcasting of certain professional sports clubs' games; to the Committee on Interstate and Foreign Commerce.

H.R. 13614. A bill to amend the Clayton Act to prohibit any professional football league from imposing certain territorial restrictions on any club in the league; to the Committee on the Judiciary.

By Mr. EDWARDS of Alabama:

H.R. 13615. A bill to authorize the Secretary of the Army to make studies of means of preventing streambank erosion at historic Blakely, Ala.; to the Committee on Public Works and Transportation.

By Mr. FITHIAN (for himself, Mr. FINDLEY, and Mr. VANDER JAGT):

H.R. 13616. A bill to suspend the duty on freight cars until the close of June 30, 1982; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. BRADEMAS, and Mr. KILDEE):

H.R. 13617. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. GEPHARDT:

H.R. 13618. A bill to establish a limit on total budget outlays; to the Committee on Rules.

By Mr. GIBBONS (for himself, Mr. PICKLE, Mr. GEPHARDT, Mr. STEIGER, and Mr. FRENZEL):

H.R. 13619. A bill to amend the Internal Revenue Code of 1954 to make technical corrections in the provisions relating to individual retirement plans; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 13620. A bill to amend the Internal Revenue Code of 1954 to provide for nonrecognition of gain on sales of certain business interests and for accelerated depreciation of certain property, and to amend certain securities laws to facilitate private offerings and for other purposes; to the Committee on Ways and Means.

By Mr. GILMAN (for himself, Mr. ARCHER, Mr. BRODHEAD, Mr. D'AMOURS, Mr. DELLUMS, Mr. FISHER, Mr. GEPHARDT, Mr. GUYER, Mr. HARKIN, Mr. HOLLENBECK, Mr. HUGHES, Mr. LUKEN, Mr. LUNDINE, Mr. MINETA, Mr. PANETTA, Mr. ROBINSON, Mr. SANTINI, Mr. WINN, and Mr. YATRON):

H.R. 13621. A bill to establish a task force to study and evaluate the taxation of real property by State and local governments, the effects of such taxation on certain taxpayers, and the feasibility of Federal taxation and other policies designed to reduce the dependence of State and local governments on such taxation; jointly, to the Committees on Ways and Means, and Government Operations.

By Mr. GRADISON (for himself, Mr. BAUMAN, Mr. FLOWERS, Mr. O'BRIEN, and Mr. WINN):

H.R. 13622. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 13623. A bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs; to the Committee on Ways and Means.

By Mr. NOWAK:

H.R. 13624. A bill to amend the Federal Water Pollution Control Act to provide grants for the costs of operation and maintenance of waste treatment works; to the Committee on Public Works and Transportation.

H.R. 13625. A bill to amend the Internal Revenue Code of 1956 to allow the deduction of the portion of certain taxes or sewer rents which is allocable to the construction of waste treatment works; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. ANDREWS of North Dakota, Mr. TRAXLER, and Mr. SIMON):

H.R. 13626. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. RICHMOND:

H.R. 13627. A bill to establish a Commission to identify, designate, preserve, and protect cemeteries, monuments, and historic buildings which are located abroad and which are associated with the foreign heritage of U.S. citizens; to the Committee on International Relations.

By Mr. RODINO:

H.R. 13628. A bill to amend the fee provisions of the U.S. patent and trademark laws; to the Committee on the Judiciary.

By Mr. ROE (for himself and Mr. WEAVER):

H.R. 13629. A bill to establish a National Alcohol Fuels Commission, and for other purposes; to the Committee on Science and Technology.

By Mr. ROUSSELOT:

H.R. 13630. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEBELIUS (by request):

H.R. 13631. A bill to provide for the establishment of a board which will establish and administer agricultural production and marketing programs, and for other purposes; jointly, to the Committees on Agriculture, International Relations, Interstate and Foreign Commerce, and Ways and Means.

By Mr. SYMMS:

H.R. 13632. A bill to amend the Fair Labor Standards Act of 1938 to make the minimum wage requirements of that act inapplicable to employees under the age of 21; to the Committee on Education and Labor.

By Mr. THONE:

H.R. 13633. A bill to amend the Internal Revenue Code of 1954 to remove certain limitations on the estate and gift tax marital deductions; to the Committee on Ways and Means.

By Mr. MAHON:

H.R. 13635. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

By Mr. HUGHES:

H.J. Res. 1089. Joint resolution proposing an amendment to the Constitution of the United States to provide that Members of the House of Representatives shall serve for terms of 4 years and that such Members may not serve more than three consecutive terms; to the Committee on the Judiciary.

By Mr. DERWINSKI (for himself, Mr. ANNUNZIO, Mr. BENJAMIN, Mr. BLANCHARD, Mr. CEDERBERG, Mr. DOWNEY, Mr. EILBERG, Mr. ERLENBORN, Mr. FARY, Mr. GOODLING, Mr. GUYER, Mr. HYDE, Mr. KEMP, Mr. LIVINGSTON, Mr. MCDONALD, Mr. MOTTL, Mr. O'BRIEN, Mr. PICKLE, Mr. PRICE, Mr. STRATTON, Mr. THONE, Mr. VAN DEERLIN, Mr. VANIK, Mr. VENTO, and Mr. WINN):

H. Con. Res. 672. Concurrent resolution relating to the occupation of Czechoslovakia by Soviet troops; to the Committee on International Relations.

By Mr. BEARD of Tennessee (for himself, Mr. LLOYD of California, Mr. CORCORAN of Illinois, Mr. SIMON, Mr. MOORHEAD of California, Mr. GUYER, Mr. SPENCE, Mr. MILLER of Ohio, Mr. SATTERFIELD, and Mr. BAUMAN):

H. Res. 1289. Resolution requesting that the Secretary of Defense should rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges; to the Committee on Armed Services.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BONIOR introduced a bill (H.R. 13634) for the relief of John Franklin Herbert McLin, which was referred to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## HOSPITAL COST CONTAINMENT

### HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. BROYHILL. Mr. Speaker, the problem of rising hospital costs has become an issue of great national concern in recent months. The focus of attention has been on the President's proposed hospital cost containment legislation, H.R. 6575.

This legislation was recently before the House Interstate and Foreign Commerce Committee on which I serve. From the day the bill was introduced, April 25, 1977, I have spent considerable time studying the problem. I have found that the problem of rising hospital costs, indeed health care costs in general, can only be properly addressed with the kind of program that recognizes the inherent complexities of the industry without jeopardizing the quality of healthcare or services available to the American people. Unfortunately, I believe that the Congress and the administration still have considerable work to do before we find workable solutions to the problem.

Recently an article on cost containment written by the dean of the Bowman Gray School of Medicine at Wake Forest University, Dr. Richard Janeway, was brought to my attention. I found Dr. Janeway's comments most enlightening and timely in view of the recent actions by the Commerce Committee. Accordingly, I am submitting the text of the article in order to afford my colleagues the benefit of Dr. Janeway's thoughts.

As Congress continues its consideration of cost containment, I hope that Dr. Janeway's comments will serve as guidance to Members as they study the very difficult and complex field of quality health care at reasonable costs.

The comments follow:

MEDICAL EDUCATION AND THE COSTS OF MEDICAL CARE

The editor of the NCMJ has provided the dean of each of our medical schools an annual opportunity to speak directly to the members of our state society. This offer represents far more than an opportunity; it is a privilege.

I have chosen to comment on pending federal legislation directed at containment of the costs of medical care. This issue might appear to be of limited interest of a fulltime medical educator, but that is far from the truth.

Arbitrary "spending-cap" cost containment proposals strike equally at the quality of medical care and the quality of medical education. The proposed legislation provides an unparalleled opportunity for the practicing community and the universities to speak with a single voice. It behooves all of us to ask questions based on hard facts which will validate a rational and non-emotional resistance to the simplistic "9%" solution currently advocated by the administration in H.R. 6575 and S. 1391. The Medicare-Medicaid Administrative and Reimbursement Reform Act (S. 1470), introduced by Senator Talmadge, is an improvement over administration proposals. However, even this bill fails the test of critical analysis when its provisions are measured against the complexities of financing medical care in a setting consonant with quality, scholarship, human dignity and freedom of choice.

Many in government have concluded that containment of the costs of medical care will solve all the problems of health care in our country. While I subscribe to the view that the health of our citizens cannot be "left entirely to the medical profession," I am opposed to government control of the quality of medical care we may be allowed to provide. We are not arbiters of national lifestyle, nor did we create poverty and illiteracy. Somehow the semantic and real difference between medical care and societal health has been deleted from the federal lexicon.

We, our patients and our students (we are all in this together) are faced with a prime example of an apparently simple solution to a complex human problem. We must organize ourselves so that our patients and students will not have to bear the inevitability of the proof that the proposed solution is incorrect. The proof will manifest itself by a decline in the quality of care and education we are willing and able to provide at a level expected of us by our now and future patients.

Are we prepared to implement a rational resistance to pervasive federal intervention? Based on the published testimony of our supporters, I am not convinced of our readiness. I am concerned that data may have been generated before some of the most appropriate questions have been asked.

As an example, is it not more appropriate to ask questions related to the cost of caring for comparable illnesses than it is to compare "per diem costs" among dissimilar environments? We should also have data that rank-order the most common illnesses treated in each hospital and compare costs among hospitals on that basis. It would be helpful to have data which document the intensity of nursing care as it relates to patient outcomes in a variety of hospital settings for a variety of illnesses. Should we not present data to indicate that limitation of capital expenditures (a major factor in all legislative proposals), even with full consideration given to "life-cycle costs," will make at best a minuscule impact on the aggregate national costs of hospitals which are labor/supplies-intensive rather than capital intensive? Is there no way we can demonstrate beyond question that our costs are determined largely by the prices set by our suppliers, the wages we pay our employees and by the expectations of our society?

Although it is true that physicians generate 70 to 80 percent of hospital charges, is it not equally true that in the main we respond to the societal demand to "Do everything you can for Mom, no matter how much it costs?" We have in this instance the obligation to question, but do we have the right to refuse these demands?

Unfortunately, the answers to these questions are not readily available in a form or quantity suitable for national aggregation. We have not always asked the right questions and have not, therefore, generated the important data. We can prove with great accuracy the cost per pound to process laundry, but we do not have the data to prove who lives, and why.

That we in the medical profession have an obligation to contain costs and to teach our students appropriate methods to contain future costs should by now be beyond question. As did many other units in North Carolina, we accepted this obligation many years ago at Bowman Gray/Baptist Hospital in the absence of federal mandates. Many of our efforts to be efficient and cost-effective will be punished rather than rewarded by the proposed "spending-cap."

Our society is ambivalent in its evaluation of the adequacy of our current system. The availability and costs of services have been the subject of widespread public criticism. The quality of care has not often been criticized on the basis of data. We must prevent the uncritical acceptance of the concept that the only thing that counts in health care is how much it costs. If we ask the right questions we can prove the social value of the services we render. If we do not, we will unwittingly assist an attack on the quality of our care. Unless we develop baseline data related to outcome-quality, we will have a difficult task indeed to prove that a decline in quality resulted directly from federal control.

We should prepare ourselves quickly lest society falls victim to the political axiom that the safest way to capitalize on the present is to mortgage the future.

RICHARD JANEWAY, M.D.●

## DEPUTY CHIEF OF POLICE ELDRED M. LEMBKE RETIRES

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. ANDERSON of California. Mr. Speaker, the men and women who serve on the law enforcement agencies in our communities occupy a very special place in our society. Perhaps no other group of individuals serves our people in so many ways—or become so involved in events taking place in our communities.

For the past 29 years, Deputy Chief Eldred M. "Al" Lembke has served the people of Los Angeles as a member of the Los Angeles Police Department. Since May of 1975, he has served as commanding officer—operations south bureau, which includes the Los Angeles harbor area. Al's upcoming retirement will leave a great sense of loss in the many communities he served, both in his last assignment and in the many other posts he has held with distinction over the years.

Born in Los Angeles on June 6, 1924, Al Lembke graduated from Manual Arts High School and attended the University of Southern California and California State University at Los Angeles. He served in the U.S. Navy for 6 years, with duty aboard submarines and destroyers in the Pacific Theater during World War II.

Chief Lembke joined the Los Angeles Police Department on February 1, 1949. He advanced to the rank of sergeant on March 6, 1960, and made lieutenant on June 9, 1963. Al became a captain on July 31, 1968; commander on July 12, 1970; and deputy chief on October 31, 1974.

Chief Lembke's assignments have covered a wide range of our diverse Los Angeles metropolitan area. They include the 77th Street division; Venice division; Devonshire division; bureau of adminis-

tration; University division; Hollywood (Vice OIC); Metropolitan division; West Los Angeles division; and tactical operations and planning (staff coordinator).

Chief Lembke has also held a number of commands throughout the Los Angeles area, ranging from the San Fernando Valley area to the harbor, which lies in my district. He has served as the assistant commander of the patrol bureau; and as the commanding officer of the Devonshire patrol; the Venice patrol; the tactical operations group; the headquarters bureau uniformed service group; the headquarters bureau; and operations south bureau.

In his 29 years in service to our community, Al Lembke has performed in a manner which exemplifies the best in police tradition. After the 1971 earthquake, which broke the Van Norman dam, he received a commendation for his exemplary performance of duty as field comander of police forces deployed to the area. He chaired the Terroristic Crimes Subcommittee for the President's Private Security Advisory Council in 1972, and was instrumental in the development and implementation of the LAPD's special weapons and tactics (SWAT) teams.

Chief Lembke published the model civil disturbance control plan distributed by the International Association of Chiefs of Police, which reflected his own experience in dealing with public demonstrations and disturbances on several occasions.

As commanding officer—operations—south bureau, one of Chief Lembke's objectives has been the establishment of strong, active citizens' support groups in the various communities. Through organizations such as the Harbor Lights in the port area, the Los Angeles Police Department has been able to establish a positive relationship with community members, allowing them to serve their area better through cooperation and understanding.

Al Lembke has also been active in professional and community organizations, including the International Association of Chiefs of Police; the Los Angeles County Peace Officers Association; the California Peace Officers Association; the Rotary Club; and the American Legion.

Mr. Speaker, retirement does not signify an ending, but instead of the start of a new portion of our lives. Chief Al Lembke has personified the best characteristics inherent in the calling of police work for over 29 years. He will be missed by his fellow officers, as well as the many community members who have had the pleasure of knowing him, and working with him, over the years.

My wife, Lee, joins me in expressing our sincere congratulations to Chief Lembke as he approaches his retirement date of June 29, 1978. We would also like to express our best wishes to his lovely wife, Mary; and their twin daughters, Linda and Lori.●

## RENEWAL OF HUDSON, N.Y.

### HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. PATTISON of New York. Mr. Speaker, throughout the country efforts to revitalize aging cities are many. Outstanding progress and remarkable results for these efforts are not so common. Some methods work. Others do not. With so much "trying" going on, it seems worth our while to stop and look at those examples of outstanding progress in revitalization to see what they might include that others could learn from.

One such example exists in my district and I would like to share it with my colleagues and the people in their districts. The economic development efforts of the city of Hudson began in 1966, when the local unemployment rate was 11 percent, the central business district had a vacancy rate of 20 percent, and 34 percent of the housing was substandard. In the years since, the city planned overall efforts and specifically targeted projects. The key factor in Hudson's renewal was full participation and cooperation by Federal, State, and local governments, business, community, and local political leaders. Successful, visible early projects led to greater involvement, and creation of the necessary agencies and boards to manage renewal projects. At present, the vacancy rate in the business district is below 3 percent and one-seventh of the housing has been newly built or rehabilitated.

I bring to your attention the article from the June Journal of Housing which details the history of Hudson's economic development gains of the past decade:

HUDSON'S ECONOMIC DEVELOPMENT GAINS: ARE BASED ON PUBLIC/PRIVATE COOPERATION, UTILIZATION OF A WIDE RANGE OF PROGRAMS

(By William Loewenstein and Barry Lang)

On October 13, 1977, representatives of the New York area office of the Department of Housing and Urban Development, the Small Business Administration, a design firm, and the city of Hudson, New York, attended the convention of the state chapter of the American Institute of Architects to receive an award recognizing the success of Hudson's community development programs. The programs consisted of housing rehabilitation in historic areas and the redevelopment of Hudson's central business district, emphasizing historic structures. The award marked the third time in two years that Hudson has received awards for design in urban renewal and community development areas but this award was the first to recognize the importance of public-private partnerships to success.

When the city began its economic development efforts in 1966, it was faced with an unemployment rate exceeding 11 percent and it ranked at the bottom 25 percent in the state for per capita income. Suburban shopping centers had led to a 20 percent vacancy rate in the central business district and condemnation signs were appearing on many of the buildings. No new factory had been constructed in the city in over 100 years. Furthermore, the city's housing stock was in poor condition. In March 1966, the state division of housing and community renewal did a housing survey in Hudson. With a total of 3406 housing units, 1168 were substandard—34 percent of the total inventory. The North Bay neighborhood, with the largest concentration of housing in the city, was 68 percent substandard. The report labelled Hudson's housing stock among the worst in the whole state.

The report stirred the Hudson community into action. In 1966, the city filed an application with HUD for a planning grant. By 1970, an urban renewal plan had been approved by HUD.

Historic Rehabilitation: Hudson has been called a living museum, covering every period in America's architectural history. Hudson includes examples of colonial, federal, Victorian, and Adams styles of architecture. The heart of the renewal plan was to utilize the elegance of the old buildings and to restore them to their historic beauty.

To encourage work in the area, the city decided the first step should be something that would produce immediate and visible results: it undertook the restoration and improvement of a park that serves as the terminus for the area, overlooking the Hudson River. Improvements made in the two-acre Promenade Hill Park included new playground equipment and landscaping; restoration work was done on a fountain, a statue, and on the benches. The cost to the city was $50,000.

Next, the city's urban renewal agency, with the help of the consulting firm of Raymond, Parish, Pine and Weiner, devised a facade easement program. Using this mechanism to assure renovation along historic lines, the city obtained rights to 46 residential facades in a two-block stretch of Warren Street near Promenade Hill Park. The city then spent $300,000 of urban renewal funds to restore the facades. This amount leveraged 1 million dollars in private money, which went to rehabilitate the interiors of the houses and bring them up to standard as well as to make general improvements. Another $318,000 of urban renewal funds were spent by the city to make public improvement in the project area, such as new sidewalks, street repaving, and new sewer and water lines.

Other Housing Efforts: The city has since expanded the project to an adjacent area that has 11 multi-family residential structures. About $150,000 of community development money is being spent on the facade easements, with private investment expected to amount to about $300,000.

To meet the housing needs of Hudson, the city has built or rehabilitated fully one-seventh of its housing stock—523 dwelling units. Included are 168 units of middle-income housing built under the Federal Housing Administration Section 236 program; 135 units of public housing for both the elderly and for families, which were built with conventional public housing funds under the turnkey program; 20 single-family houses earmarked for purchase by low-income families, which were built under the Section 221 (d)(2) program; and rehabilitation of 200 units, 12 of which were done under the Section 312 low-interest rehabilitation loan program and the remainder of which were done under the local municipal loan program, with the help of up-front CD subsidies.

Central Business District: The next major project was the revitalization of the central business district. The CBD was in a state of advanced decay. Surrounding suburban shopping centers threatened to destroy the economic health of central Hudson. There was inadequate parking. Disinvestment was rampant.

The central business district, besides being the physical heart of the community, con-

tributed the bulk of taxes to the city. In public hearings throughout the city, speaker after speaker, regardless of ethnic background or economic level, recognized that without a healthy and vital CBD, there was little future for the city. The argument of "why help businessmen, let them help themselves" was quickly discarded.

In early 1975, a coalition of the public and private sectors formed to develop a strategy to counter the downward slide of the CBD. Participants in the coalition included local merchants; the city's community development and planning agency; the city's planning consultants; and another city-retained consulting and assistance organization, the National Development Council, which is a nonprofit economic development organization with New York City and Washington, D.C. offices that is funded by HUD, SBA, the Department of Commerce, and private sources.

The first goal was to establish an overall plan and then to demonstrate visible results. A major need was to create off-street parking. Using $100,000 of community development money for land acquisition and relocation, 270 offstreet parking places were created. Two mini-parks also were built, turning garbage-strewn vacant lots into attractive community assets that provide access to the main street from the new parking areas. These improvements cost $59,000.

Local Loan Program: The National Development Council played a major role in the downtown project, creating a municipal loan program. This was originally intended for merchants only but since has been extended to residential property-owners. The program offers an interest subsidy—using community development funds—to assist in rehabilitation and renovation. The up-front interest subsidy has proved to be essential in obtaining participation, particularly among the downtown merchants. The city has used $540,000 of CD funds for this program. It has stimulated the rehabilitation of 73 of the 83 commercial buildings in the CBD, leveraging 1.2 million dollars in private financing.

SBA also played a key role in the redevelopment of the downtown, as well as in the city's industrial efforts. It has made nine loans totaling about 1 million dollars through its Section 7(a) and Section 502 programs that provide money for both working capital and for capital improvements.

Eminent domain powers of the urban renewal agency also proved helpful in the downtown project. For example, the building now occupied by London Bridal, a clothing store, was owned by an absentee landlord who did not want to either sell or comply with rehabilitation. Under the threat of condemnation, however, the out-of-town owner agreed to sell the building to the operator of the clothing store, who, with the help of an SBA loan, purchased the building, fixed it up, and began her business.

A part of the CBD plan included uniform design standards that is allowed false fronts and stressed the original design of the historic structures. To implement this plan, the urban renewal agency condemned all nonconforming signs. The merchants then replaced old signs—which were often neon—with free-standing wooden period signs.

The city also used $600,000 of CD funds to repave streets, replace sewer and water lines, and construction period sidewalks in the downtown area. In addition, the Niagara Mohawk Power Corporation installed new street lights and removed overhead wiring at its own expense.

The consequence of this effort is that the vacancy rate of stores in the area has dropped from 20 percent to 3 percent. Only three of the 83 stores in the project area now stand vacant. As the revitalization of the five-block area draws to a close, the city is planning to extend the effort through the remaining four blocks that separate the CBD from the original residential rehabilitation area near Promenade Hill Park. The plan is to use the municipal loan program to leverage rehabilitation of the mixture of commercial and residential structures there. The facade easement program will not be used again simply because the city cannot afford it now. Hudson is no longer an entitlement city under the CD block grant program. It is a phase-down city.

Industrial Development: As part of the urban renewal program, Hudson created a new industrial park. In designating the location, the city wanted to avoid relegating paints to marginal areas that have no amenities or ties to the community. A million-dollar investment by an industry is as important as a million-dollar investment by a luxury apartment developer. Thus, the city designated a prime area that was near residential development.

Each sector of the community understood that it would need to cooperate. The city would have to make financial sacrifices by providing tax incentives so that business would locate there. The financial community would have to make loan funds available. Land worth $60,000 would be sold at a write down, with water and sewer facilities on site. The city also decided it would have to carry out an advertising campaign and permit the executive director of the community development agency and his staff to spend the necessary time to attract industry and retail facilities into the community.

With the help of the National Development Council, Halpern Manufacturing Company, a clothing design and manufacturing concern, moved to Hudson and built a new plant. The company employs 120 people, with an annual payroll in excess of 1 million dollars. The National Development Council, the Small Business Administration, the New York State Job Development Authority, the New York State Urban Development Corporation, and private lenders arranged the necessary $225,000 loan for Halpern.

In a nearby deserted textile mill, the National Development Council arranged a $458,000 loan to attract X-Tyal, a manufacturer of rubber products such as rubber rafts, rescue equipment, and other heavy duty rubber products. The loan created 250 new jobs in Hudson. A third loan—$135,000—to Craftech, a manufacturer of plastic nuts and bolts, has recently been approved and will create an additional 40 jobs.

Three other loans are being processed. The six loans, combined, will generate 700 new jobs in Hudson.

Public Transportation: For the past 13 years, Hudson has not had public transportation. The only way to travel in Hudson was by private car or taxi, which was too expensive for the highly concentrated senior citizen and low-income population. (In 1970, Hudson's population had 25 percent elderly, with a total of 45 percent near or under the poverty level.)

Under the Urban Mass Transit Program of the Department of Transportation, Hudson was granted $75,000 to purchase three buses, construct a bus garage, and erect bus stop signs. The buses started in summer 1976 and have been highly successful. The city operates the new bus system.

The Cooperation Formula: The success of the revitalization of Hudson depended upon receiving the full cooperation of all sectors—federal, state, local government, and business and community leaders.

In community development, the words "politics" and "politicians" are often viewed negatively but, in Hudson, we perceived from the beginning that we had to have full political participation to be able to succeed. The local politicians offered the necessary leadership for revitalization.

The first step was to set up the necessary legal institutions and agencies to carry out the economic development program. A local development corporation (LDC) was set up to extend second and third mortgages and to make available New York State Job Development Authority and SBA loans. An industrial development agency (IDA) was needed in order to offer tax breaks, assemble and lease land, and participate in financing. An overall economic development plan (OEPD) was needed to qualify for basic eligibility under the Economic Development Administration. To run the low-cost municipal loan program for residential and commercial rehabilitation, a municipal loan board was necessary. The Hudson Community Development and Planning Agency was needed to give staff assistance to the various agencies and to administer the community development resources. Finally, the cooperation of the planning commission was needed to effectuate development plans.

Board Make-Up: The proliferation of boards and agencies could have presented bureaucratic rivalry and jealousy but local elected officials prevented it by using a simple strategy. Each of the boards was represented politically by the mayor, the minority and the majority leadership of the city council, and the chairman of the planning commission. The strategy served two major purposes: (1) it assured that the city's political structure was involved in every major decision related to the development of Hudson and (2) by involving both the Republican and Democratic leadership, community development became "nonpolitical," regardless of the outcome of future elections. The leadership of both parties was equally committed to the success of revitalization in Hudson.

In addition, the membership of each of the boards included major local business leadership, creating an important public-private balance and assuring that the talent of the private sector was included.

A second part of the strategy was to establish the Hudson Community Development and Planning Agency. Hudson created a small but highly professional administrative staff to coordinate the multiple program that would carry out the various policy decisions in a uniform and coordinated manner. In a day-to-day operational sense, the staff was essential to help initiate projects, to work with the federal and state agencies and programs, and to keey after all the necessary details.

Local Bank Help: From the beginning, it was clear that local bank participation would be necessary for success. The political and local business leaders held a series of meetings with the banks in the community. As a result, two banks committed themselves to making loans to assist residential, commercial, and industrial development.

The banks realized that revitalization, with the creation of new jobs, was not only good for the community but would benefit the banks as well by attracting new deposits and healthy lending opportunities.●

## ED MURPHY'S HARAMBEE HOUSE: A DREAM TAKING SHAPE

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. STOKES. Mr. Speaker, for several months now, an exciting, new enterprise

has been taking shape in this town in the form of the Harambee House Hotel on Georgia Avenue. This black owned and managed establishment is one of the finest hotels that I have visited in Washington, D.C. The decor, service, entertainment, and rooms are all done with taste and style.

Mr. Speaker, I am certain that my colleagues in the House are well aware of the many problems which confront black businesses when they seek to establish themselves in a competitive market. Due to lack of capital, discrimination, and a long list of economic barriers, the black entrepreneur has great difficulty maintaining the financial base so necessary for success. For this reason, Mr. Speaker, I would like to make special mention of the proprietor and creator of Harambee House, Mr. Ed Murphy. Through years of struggle, Ed Murphy did not let his dream die. He has succeeded where few others dare to venture. I have no doubt, Mr. Speaker, that Harambee House will grow and thrive under his able guidance.

Mr. Speaker, so that my colleagues in the House can be more familiar with the Harambee House, I submit to you at this time an article by Washington Post columnist Jackie Trescott which appeared in the July 22, 1978, edition of the paper:

LONG PULL FROM HOT DOGS TO HARAMBEE—ED MURPHY COMBINED STREET SAVVY AND PRAGMATISM TO BUILD A DREAM

(By Jacqueline Trescott)

Standing at a window of the new Harambee House Hotel, the facility he fought 10 years to build on this hodgepodge strip of Georgia Avenue, Ed Murphy glows. Then he glowers.

Within his view there's a post-card panorama of downtown Washington, steeples and monuments soaring. But, also, a bird's eye view of a flourishing junkyard—radiators and bed frames jutting above the trees—directly across from the hotel entrance.

Murphy fidgets, shifting his rod-thin frame from one leather slip-on to the other, as his hard, dark eyes case the streetscape. Up the avenue is the marquee of his second supper club, a short-lived venture that inherited the pizazz of his first but not even its marginal financial success.

Quickly Murphy turns away from these static reminders of heartache. He's cooly ecstatic, the joker's grin spreading across his angular and taut face, a face that has been part of Washington's street scenes for most of his 47 years. Now the biggest gamble of his business life, converting small talk that started around his nightclub's mahogany bar into a nine-story hotel, has hit the jackpot. People are signing the register. Music blasts from the supper club.

Though Ed Murphy is far from the hotel magnate status of his dreams, and doesn't own the hotel, it's his picture that hangs in the lobby and his ideas that have injected a fanciful individuality into the Harambee.

"I want it to be a home. The commitment is to a first-class operation," says Murphy, relaxing in one of the hotel's penthouse suites that is swathed in the deep beiges and oranges of the hotel's general decor. "I don't want to challenge Pitts and Paschals," says Murphy, mentioning black-owned hotels in Washington and Atlanta. "But our challenge is to the Hyatt-Regency."

And every imaginable roadblock has occurred getting this far. Over the last 10 years, Murphy's personal odyssey has been a rocky one—from flamboyant bar owner to identifiable face on the unemployment line to respectable businessman. On the way, Murphy changed, learned to compromise, toned down the high life. He was schooled in the ways of the executive board rooms, where the rules are light years away from the corner of 11th and O streets NW, where Murphy grew up.

No saga of the black businessman is uncomplicated, but Murphy's story was additionally affected by events he had no power to control. The junkyard is only one part of the story. There is also Watergate, the once-bright hope of black capitalism, local power politics and investigations that have stalked Murphy's business dealings.

And the gamble isn't over. The Harambee's location and limited convention facilities are some handicaps, say some observers.

The Harambee, located off the bustling intersection of 7th Street and Florida Avenue between the campus and hospital of Howard University, is one of a handful of black-owned hotels in the country. One of the largest minority commercial building projects in the city in recent years, it is expected to renew interest in the Georgia Avenue corridor.

Initially Murphy approached the federal government for the construction money, but the Commerce Department advised him it couldn't lend to an individual. The People's Involvement Corporation (PIC), an 11-year old antipoverty agency with a proven record in that neighborhood, received the $7.5-million loan and grants and owns the hotel. It leases the business to the Murphy Hotel Corp., whose chairman is Ed Murphy. Easily recognizable by its rooftop insignia—a profile of an African likeness etched with a black, red and green stripe—the Harambee contains 169 rooms with a computerized lock system, a health club, a nightclub and several meeting and reception rooms.

"It's an excellent facility," said Len Hickman, executive director of the 40-member Washington Hotel Association. "It has more amenities than others that size. Its major drawback is the location, but the planned Metro stop will help that. Like the Madison and the Georgetown Inn, it takes time for an independent to build a reputation."

And the immediate reputation of the Harambee depends largely on Murphy.

"GUYS AND DOLLS"

In every city's night-life gallery, the characters who stand out are the smooth, flashy and carefree ones, those who evoke equal shares of mystery, romance and rumors.

In Washington's cast of "Guys and Dolls," Murphy has been one of the principals. "I came from 11th and O Streets. Sometimes I broke the rules and regulations on protocol, but I did it," says Murphy, whose Washington childhood was a segregated one. Born in the Shaw area, he looked up to the barons of U Street, who struggled to keep their barber shops and pool halls open. After Cardozo High School, he went into the Army and returned to Washington to buy the store where he once stocked groceries.

A successful business was his only goal and he worked his way up, bootstrap by bootstrap, nickel by dime, hot dog stand by supper club. "Then I outgrew the supper club. So I took another site, a hotel. I was tired of always going to Connecticut Avenue for meetings and family meals out. So I was determined to keep this business on Georgia Avenue," says Murphy.

But Murphy, before his rebound into present good fortune slipped badly and ended up on the front pages, a very recognizable face on the unemployment line. Anticipating the groundbreaking for the hotel, Murphy had closed his first supper club in September 1972. At the farewell party, surrounded by the judges, secretaries and doctors who had made Murphy's a popular watering hole for the black middle class, Murphy was buoyant, toasting his bright future.

Within weeks, Murphy was picking up a $105-a-week unemployment check. "It's so degrading that it's humorous—almost. In the community, I'm looked up to as successful," Murphy said at the time. "If a guy like myself, grassroots, from the ghetto, if I can't make it, then what chance have others got?" He pointed a finger at the Commerce Department's Economic Development Administration (EDA) which had held in escrow some of the money due Murphy for relocating his business.

BLACK CAPITALISM

"Once you package a $7 million project, you should be something. Not a complete zero," said Murphy, fingering two gold bracelets on his arm. His voice is usually a growl and even now his words for the government aren't kind. Some feel that Murphy's own candidness about his lifestyle—once in a 1972 magazine article he posed bare-chested in his apartment among the waterbed and fake fur throws and openly talked about how gambling gave him his start—prompted some federal agencies to scrutinize his bankbooks.

Part of his disillusionment came because Murphy had given a good stab to linking up with the establishment. Though he never cut off his old friends in trying to get the hotel project, he built up a working relationship with then-secretary of commerce Maurice Stans. At a dialogue between Stans, cit officials and black businessmen in 1969, an aide of Mayor Walter Washington's stood up, and in effect said, "If you care so much, Mr. Secretary, why aren't you looking at Ed Murphy's project?" Murphy gave his spiel. Stans liked what he heard.

"Everyone was talking about black capitalism. Some people like Stans were sincere," says Murphy, his manner changing from languid to combative as he talks about Stans. "All I can say is that Stans gave his full support. We did our part, pounding home on the black theme," and Murphy, who was then an outspoken member of several black economic groups, laughs a hard laugh.

"We were into our black thing; Marion Barry and Calvin Rolark, we would usually meet with Stans every 30 days. There was this man, Stans, heavy into African safaris. He speaks fluent Swahili. If he had challenged us on that level, we couldn't have retorted."

However, *ujamaa*, Sawhill for cooperative economics, was not around the corner. Stans was indicted in the Watergate coverup in May 1973 and was acquitted in April 1974. A few months later Murphy opened the second supper club, up the street from the original, and it failed.

More than the money, Murphy had lost some of the nutrients of a street guy's happiness. Gambling was out, as were clothes spending-sprees. Also, his political base was eroding without the supper club, where many of the city's maverick politicians and groups held forth.

Because Murphy was determined ("We are going for broke on this project," he told friends. "We will show a black idea can work"), he learned the art of bridge building. "At some of those early meetings Murph would jump in and call a spade a spade, saying 'you're trying to put the clamps on this project.' Then he would switch to a very philosophical, oppressed posture. He

would say 'you are kicking my butt and everyone feels it.' Now he combines the angry man, the intimidator, with business sense—the 'this is profitable for you' approach," remembers Darryl Hill, then president of the Greater Washington Business Council.

"I have never given up," says Murphy, his back flat against a brown suede-covered chair. "Some of these events have been very damaging to my reputation as a businessman. But every time I went through a heavy number, I looked at it as a test. And I enjoyed the fight. I am still one of the everyday people." Murphy smiles faintly. "I don't dare try to do anything else."

WINNERS CLUB

Once past the plain concrete front, where a former doorman of the Madison Hotel reigns, the dual personality of the Harambee—African casualness and small-scale efficiency—is immediately evident.

Murphy's hotel is rich in textures and warm, forestry colors. But the occasional juxtaposition of moods—a beige fabric wall, deep chocolate tile floor, a few sculptures and perforated ceilings in one corridor—caused a critic to label the decor "afro-tac."

But unlike some other new hotels, the Harambee lobby is not encumbered by fountains, travel desks and shops. A straight path, lined with couches and potted plants, leaves social space and leads directly to the registration desk. The rooms, which are decorated with vivid, tapestry wallpaper, cost from $25 to $210 a day.

On the second floor a spacious room with an elevated bandstand in the center serves as both dining room and supper club. It's called Murph's Haramba Supper Club.

Guest artists at the Haramba have included Freddy Cole, Oscar Brown and Jean Pace. Dick Gregory performed in an adjacent room because he wouldn't appear where alcohol is served. Both the supper club and a first-floor meeting room, the Kilimanjaro Room, have been used for press conferences by Muhammad Ali, Coretta Scott King, Nancy Wilson and community groups. Vice President Walter Mondale came to one political party there. Half the staff of 215 has been hired for food and beverage service. The breakfast menu is standard hotel, the lunch expands beyond the routine to include Tasmanian beef, water chestnut pie and Tunisian couscous; dinner features Continental food as well as one soul dish. During a recent show, however, only a skimpy menu was offered, limited to five main dishes and no appetizers.

The Harambee features a health club, a luxury feature in a small hotel. Like the Watergate facilities, it's open to memberships. Though the pool isn't as large as the Watergate's, the area around the pool is conducive to cabana parties.

To keep the Harambee from being classified as a hang-out, Murphy and James Gibson, president of the hotel corporation and second-in-command to Murphy, developed a Winners Club system. The membership system includes the supper club and the health club; besides admission to the gym and pool, the $50 to $1,000 charge doesn't seem to buy more than a "no cover charge" arrangement or discounts for performances. Nevertheless, about 400 people, according to Murphy, have signed up for the plan.

Initial reactions have varied. Charlayne Hunter-Gault, a correspondent for PBS' "McNeil-Lehrer Report," missed a clock in the lobby and didn't receive some of her messages. "In my profession I need to communicate with the outside world and the telephone system wasn't satisfactory. But when I complained, everyone was agreeable.

Joseph C. McKinney, finance officer for the AME Church office here, decided to switch his board meetings from the Washington Hilton to the Harambee.

POLITICAL GAME

"The only drawbacks are parking," says McKinney, "and the view from the dining room." Plans for an underground parking lot had to be scrapped when water was found underneath the property, but a 300-space garage is one block away.

Actually, at night the Junkyard doesn't intrude, looming as a collage of urban living or a bit of Star Wars metal on the chicken wing strip. But in the daytime, it is an intrusion. And Gilbert Freedman, the scrap iron dealer who has been at that location for 37 years, says, "I don't have any plans to move."

But Ed Murphy isn't worried. He feels his new game of politics—the combination of street savvy and mainstream pragmatism—will win. And the optimism that carried him past obstacles isn't going to be broken by a junkyard. Instead, he talks of his corporate capability, the 120-year lease.

He whispers wistfully, "Atlantic City," as he talks about advising minorities on hotels there and as he pushes back from a meal of hard-shelled crabs.

"I know there's a certain reluctance, it being a black hotel. And some people don't want to leave a chain. But I think people will come. Realistically I know at first white people don't want to sleep on Georgia Avenue. But they will come up for cocktails and entertainment, enjoy the hospitality and come back to stay.

"And no one," he says finally, somewhat fiercely "is going to let a junkyard kill the million-dollar project of a black man. Not as long as I am here." ●

## HOUSTON POST OPPOSES FURTHER REDUCTIONS IN U.S. CONTRIBUTIONS TO THE WORLD BANK

### HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. McHUGH. Mr. Speaker, the foreign assistance appropriations bill will soon come before the House for consideration. As every Member is aware by now, numerous amendments will be offered to reduce funding and to restrict how our assistance may be used in a variety of ways.

I am opposed to these amendments, Mr. Speaker, and I have been encouraged by the fact that so many thoughtful and responsible newspapers across the Nation have indicated their opposition as well. For example, the Houston Post in a recent editorial pointed out that the World Bank plays a vital role by stimulating demand for American goods and services in the developing countries. It opposed further reductions in funding for the Bank, and suggested that the restrictive amendments that will be offered will ultimately politicize the working of the Bank and lead other nations to impose their own conditions on its activities.

For the benefit of those Members who may not have seen this editorial, I am including it in the RECORD at this time.

[From the Houston Post]

FINANCIAL FACTS

The World Bank is neither a charity of nor a burden to the United States. Like commercial banks everywhere, it is self-supporting and it makes a profit. Yet Congress seems in the mood to cripple the bank badly, either by cutting American investment capital or by tying strings to it in ways that the World Bank board cannot accept under the charter. If Congress damages the bank, it will ultimately damage the American economy at a time when it needs all the strength it can muster.

The U.S. is a rich country with many poor neighbors to the south and on other continents. But no American industry can flourish if we sell only to Americans. We need a worldwide market for our exports if we are to gain the foreign currency essential to our import of foreign oil and raw materials. One out of eight jobs in American industry depends on the export business for existence. One acre out of three of American farmland grows crops for export.

Of all those goods and crops, a good third goes to developing countries. U.S. exports to the developing countries are greater than all we sell to Western Europe, Eastern Europe, China and the Soviet Union combined. If the developing countries stop developing, if they lose their reason for buying farm machinery, power plants, sewer pipes, road building equipment, if they lose the ability to buy and pay for American farm and industrial products, one-third of our export trade will be lost to us.

Each member nation contributes to the bank's capital fund, any nation can borrow from it for developmental projects. The World Bank is the chief pipeline for investment capital from the industrialized nations of the world to the developing nations. But it makes its loans only after careful on-site scrutiny, expert evaluation and a clear understanding of how the money will be spent. So long as a borrowing country is spending a World Bank loan, bank advisers stick with the project to be sure that the work is being properly carried out. The result is that World Bank money is productive, stimulating the economy of countries that borrow. It is such a prudent and knowledgeable lender that multinational banks follow its lead on commercial loans.

But Congress is behaving rather as though the World Bank were an adolescent dependent needing to have its allowance cut. In January President Carter asked for $3.5 billion for the World Bank and smaller regional development banks. The House Appropriations Committee has cut it to $2.65 billion. Several congressmen seem to see this as an opportunity to bring the World Bank under this nation's thumb by threatening to withhold the U.S. portion of capital from specific countries for specific reasons. But the World Bank is neither a political institution nor an American institution. It has 130 members of varying ideologies. Its sole purpose is that of economic development. If Congress starts playing that game, other member nations could hold back capital for specific ideological reasons. Other countries have—in fact—tried that trick without succeeding. These are self-defeating tactics and can only harm an institution that is a strong pillar of the global economy. We must hope that the House shows greater grasp of the financial facts of life than the House Appropriations Committee has shown.●

## FARM SAFETY WEEK

### HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. MOORE. Mr. Speaker, this week is National Farm Safety Week as pro-

claimed by the President March 23, 1978. Besides extolling the virtues of safe practices on farms and encouraging the men and women of this country's agricultural community to regard safety as an integral part of all their activities, President Carter also stated in his proclamation:

Anything that diminishes the ability of farmers and ranchers to meet these vital needs (production of food and fiber) is of great concern.

Perhaps, Mr. Speaker, the item of greatest concern to farmers and the personnel of USDA's Extension Service, which administers an essential farm safety program, is the fact that the President submitted a budget for fiscal year 1979 to the Congress deleting all funds for farm safety. When the fiscal year 1979 Department of Agriculture budget reached the House Agriculture Committee, on which I serve, for review under the budget process, all $1,020,000 programed for the previous fiscal year for farm safety had been cut. I learned that the Extension Service considers this program very helpful and educational, as well, and in light of such problems as grain elevator explosions wanted very much for it to continue.

I added an amendment to the House Agriculture Committee's recommendations on the fiscal year 1979 budget restoring the $1,020,000 in its entirety, and was very pleased when the Appropriation Committee in turn restored full funding for the Extension Service farm safety program. I hope very much that Congress will eventually approve a fiscal year 1979 appropriation bill supporting this program.

I have no doubt that the President had good intentions when he signed his name to the proclamation for National Farm Safety Week. However, as has been evident in other actions taken by this administration, the Carter commitment to agriculture has been one no less than a complete contradiction.●

## U.S. ARMS TRADE POLICIES IN THE WESTERN HEMISPHERE: A GLOBAL MODEL OR A DISASTER?—PART III


## HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES


*Thursday, July 27, 1978*

● Mr. LAGOMARSINO. Mr. Speaker, this is the third and final segment of the testimony of our former colleague, Joseph Karth, president of the American League of International Security Assistance, Inc. (ALISA), before the Subcommittee on Inter-American Affairs of the House International Relations Committee. Mr. Karth was testifying on U.S. arms trade policies in the Western Hemisphere. In this concluding segment, Mr. Karth summarizes his arguments against the current U.S. policy of unilateral restraint in hemispheric arms sales.

REMARKS BY JOSEPH KARTH

But our arms sales policies in Latin America and elsewhere in the world are part of a larger picture, a picture which has important implications for the overall American economy for American jobs, and, indeed, for the role of the United States—politically and economically in relation to the rest of the world.

The Administration—and to a great extent the Congress—apparently feels that the United States should not confer the benefits of its trade upon countries that reject U.S. values. Likewise, they seem to believe that the United States can reward or punish countries by withholding trade, foreign aid, or investment.

The evidence mounts daily that this is indeed not the case. America can no longer influence the behavior of other nations by economic retaliation. Our preeminent position in the world economy has eroded. Our once substantial lead in technology has been overtaken in many significant areas. Even the once mighty dollar is being sneered at in most parts of the industrial world.

In many areas of medium and high technology—machine tools, power turbines, reactors, jet aircraft, naval vessels—foreign competitors from Europe, Japan and even some developing countries export goods that approach or surpass the best American designs, even though they may cost more at the present time. As a Brazilian official recently pointed out to an American industrialist, "Of the first 70 nuclear reactors built outside the U.S., 63 were built by the U.S. In the last three years, 37 more were built, two of them by the United States and 35 by European suppliers." In fact, a recent New York Times article, which I request be inserted in the record, indicates that imports of machinery and transport equipment and of manufactured goods, mostly from Western Europe and Japan, have overtaken oil imports as the biggest drains in this nation's expanding trade deficit.

In this climate, subordinating exports to political goals is a policy that can boomerang. In many cases, countries denied U. S. goods can easily find them elsewhere. Moreover, if the United States acquires a reputation as an unreliable exporter, other countries will take steps in their own self-interest to assure their future supplies.

So increasingly, the other side of the trade coin becomes important. America needs the benefits of trade, the exports needed to sustain U. S. employment and to pay for our imports of machinery, manufactured goods, and oil.

By voluntarily eliminating export markets, as we have done to a great extent in Latin America, America's overseas economic and political power is weakened. In the short run, the U.S. trade balance—$31 billion in deficit last year—suffers, and the value of the dollar drops; this undermines confidence abroad in America's economic vitality. In the long run, the U. S. competitive position permanently deteriorates from a willful sacrifice of markets. Paradoxically, the more the United States seeks to use the levers of trade to achieve political results, the more it may weaken its economic and political power.

The Administration and the Congress often cannot resist the attempt to impose our moral and political values on someone else, and the weapon closest at hand is often economic sanctions. But playing politics with U. S. exports, playing politics with the American economy, has become increasingly risky.

In a recent speech at the University of Hawaii and undoubtedly following Administration policy, Vice President Mondale dutifully outlined a foreign policy program for the United States based on the Carter Administration's "new foreign policy concerns—human rights and restraints on arms transfers."

Can we honestly agree with the Administration that our foreign policy must be based on those concerns? I think our concerns must be more fundamental. I think that in the final analysis, U. S. foreign policy must be based upon the national interest and upon the security of the United States of America, even if that means that we may find ourselves on occasion selling arms and commercial items to governments whose internal policies we do not admire.

A State Department witness testified before this Subcommittee on June 27 that, in the judgment of his Department, the economic costs involved in implementing U. S. policy in Latin America "are worth the benefits derived from having clear policies in favor of human rights and arms restraint." He failed to identify either the costs or the benefits derived. While I cannot identify any benefits, I believe that I have identified certain of the costs involved.

Our attempts to impose unilateral standards on the rest of the world, both in terms of arms sales and human rights, is doomed to failure. Already, the attempt to implement these standards in Latin America has caused serious problems for our own foreign policy, our own economic development and our own national security.

PROPOSED AMENDMENTS

1. Section 406, International Security Assistance Act of 1976, is amended to add the following:

". . . unless the President determines (and reports to the Congress) that such is in the interest of the United States."

This section presently reads:

"No military assistance, security supporting assistance, military education and training, credits, guaranties, cash sales, or export licenses may be provided Chile."

2. Section 620B, Foreign Assistance Act (FAA) of 1961, is amended to add the following:

". . . unless the President determines (and reports to the Congress) that such is in the interest of the United States."

This section presently reads:

"No military assistance, security supporting assistance, military education and training, credits, guaranties, military sales, or the granting of export licenses for the commercial sales of arms may be made to Argentina after September 30, 1978."

Section 38(b)(3), Arms Export Control Act (AECA) is amended to add the following paragraph:

"(F) Notwithstanding the provisions of this act or any other provision of law, the export of defense articles and defense services which the Secretary of State determines shall have a nonlethal application or are to be used in furtherance of the safety and well-being of the civilian population shall not be deemed prohibited."

AMERICAN LEAGUE FOR INTERNATIONAL SECURITY ASSISTANCE, INC.

ALISA MEMBERSHIP

*Companies*

Aerojet General Corporation.
American Hoist and Derrick Company.
AM General Corporation.
AVCO Corporation.
The Boeing Company.
Control Data Corporation/Commercial Credit Company.
Emerson Electric Company.

FMC Corporation.
Garrett Corporation.
General Dynamics Corporation.
Goodyear Aerospace Corporation.
Gould, Inc.
Harsco Corporation.
Hazeltine Corporation.
Hughes Aircraft Company.
Lear Siegler, Inc.
Lockheed Corporation.
LTV Corporation.
Martin Marietta Aerospace.
NAPCO Industries, Inc.
Northrop Corporation.
Pneumo Corporation.
Raytheon Company.
Rockwell International.
Rohr Industries, Inc.
The Singer Company.
Sundstrand Corporation.
Teledyne, Inc.
TRW, Inc.
United Technologies Corporation.
Westinghouse Electric Corporation.

*Unions*

International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers.
United Brotherhood of Carpenters and Joiners of America, AFL–CIO.
Marine Engineers' Beneficial Association, AFL–CIO.●

## INDIVIDUAL RETIREMENT PLAN TECHNICAL CHANGES ACT OF 1978

### HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. GIBBONS. Mr. Speaker, today I am pleased to introduce the "Individual Retirement Plan Technical Changes Act of 1978," a bill to improve the fairness and efficiency of the law governing individual retirement accounts, annuities, and bonds (IRA's, designated under the bill as, "Individual Retirement Plans"). Nearly 4 years ago, as part of the Employee Retirement Income Security Act of 1974 (ERISA), the Congress enabled millions of working Americans not covered by retirement plans sponsored by their employers to establish their own individual retirement plans. An estimated 3 million individuals have already taken advantage of this opportunity to help themselves, making the IRA a successful and increasingly important component of private retirement systems.

However, not everyone has been successful in taking advantage of the IRA program. Last February, it was revealed in hearings of the Oversight Subcommittee of the Committee on Ways and Means, of which I am chairman, that in 1975 and 1976 alone more than 70,000 individuals got themselves into a mess of trouble by making "excess contributions" to IRA's. By and large, these were people who acted without fully understanding the complex and restrictive eligibility rules. Others acted without the availability of complete or accurate information regarding their own financial circumstances. Still others, as outlined in a major Federal Trade Commission report prepared at the request of the Oversight Subcommittee, entered into IRA insurance contracts requiring fixed premium payments for substantial periods of time even though these payments may be nondeductible excess contributions under the IRA rules.

The bill I am introducing today is aimed at clearing up many of these problems, both for those who have already gotten into them and for the future. It does so, in general, by expanding the opportunities to correct mistakes, eliminating the double taxation and the overlapping penalties which have followed from those mistakes, and eliminating some of the unnecessary restrictions which, in many cases, caused the mistakes in the first place. In addition to eliminating or lessening the traps for the unwary, our intent is to make both regular and "rollover" IRA's easier to use and administer.

Turning to the particulars, the bill contains a series of changes in the IRA provisions of the Internal Revenue Code related to four basic areas: First, contributions, second, rollover provisions, third, penalty provisions, and fourth, administrative or reporting provisions. Each set of changes is described below.

CHANGES RELATING TO CONTRIBUTIONS

In summary, the changes related to contributions: First, extend the latest IRA establishment and contribution dates (currently 45 days after the close of the taxable year) to the tax filing date for the year; second, allow a deduction where "excess contributions" are applied to a subsequent year's undercontribution; third, allow greater time for the correction by withdrawal for inadvertent "excess contributions"; fourth, allow a pro rate IRA deduction for people covered under a qualified plan for only part of the year; and fifth, require IRA insurance contracts issued in the future to provide for flexible premiums.

Section 11 of the bill extends the current February 14 deadline for making contributions to and for establishing an IRA until the individual's Federal tax filing date (including extensions) for the year involved. Thus the latest date for calendar year taxpayers to contribute to or establish IRA's generally would be April 15 (plus any extensions) of the following year.

The bill, under sections 12 and 14, also provides relief from the double taxation and overlapping penalties which may often result, under present law, from making an "excess contribution." Many unsuspecting individuals who made contributions for which they were ineligible have found themselves caught in a web of adversity: Their "excess contribution" is, under present law, fully taxed as ordinary income in both the year it was put in and the year it is taken out. On top of that, there is a 6 percent excise tax for each year the excess remains in the account—and a 10 percent premature distribution tax when an individual under age 59½ removes the excess to avoid the annual 6 percent tax.

Under section 14 of the bill, an individual whose contribution does not exceed $1,750 may avoid both the double taxation and the 10 percent premature distribution tax, and avoid the 6 percent excess contributions tax for future years, by withdrawing an excess contribution at any time. In addition, a special rule extends the relief, without the $1,750 limitation, to IRA rollover situations where the individual has reasonably relied upon erroneous information furnished by an employer. Section 14 is effective with respect to distributions in taxable years beginning after December 31 1975. Thus most taxpayers who have already suffered adverse tax consequences as a result of previous distributions of excess contributions will be eligible for tax refunds, and individuals who distribute excess contributions in the future will not be subject to the double and overlapping tax consequences.

Alternatively, if the individual is entitled to an IRA deduction for any year which follows a year in which an excess contribution is made, he is allowed, under section 12 of the bill, to receive a deduction by applying the excess as a contribution for a later year. While it was previously permissible to correct an excess contribution through a subsequent undercontribution, the deduction was lost in the process; section 12 changes this result. Moreover, there is a special transitional rule in cases where the applied excess would generate a deduction in 1976 or 1977; the bill would instead allow the deduction in 1978. This provision alleviates the need of taxpayers eligible for the 1976 or 1977 deduction to file amended returns for those years.

Section 13 of the bill relaxes the harsh all-or-nothing rule under which no IRA deduction is available for an entire year if the individual is an "active participant" in a qualified employer-sponsored plan for just a single day of the year. Under this new provision, the allowable deduction would be the lesser of 15 percent of compensation or 1/12 of the $1,500 annual maximum ($1,750 in the case of the "spousal" IRA) for each full month in which the individual is not an "active participant."

Section 15 of the bill is drawn from the 2-year study and the recommendations of the Federal Trade Commission. This provision no longer permits new individual retirement annuities which require fixed premiums. Because most people are unable to foresee changes in employment or other changes in circumstances years down the road which may affect their continued ability to meet a long-term fixed payment obligation, and because current law may restrict both eligibility for and/or the maximum amount of the premium payments, I share the view of the FTC that the fixed or inflexible premium contracts need to

be removed from the IRA market. To its credit, I should state that the insurance industry itself took the lead in recognizing the incompatibility of the fixed premium contracts with current law. Because many IRA participants have already invested in inflexible contracts, section 15 also allows a special tax free conversion of such a contract into a flexible premium IRA annuity.

CHANGES RELATED TO ROLLOVER PROVISIONS

Many comments from the public have suggested the existence of certain inappropriate restrictions related to the availability of rollover IRA's. Accordingly, and consistent with a policy of providing maximum flexibility to taxpayers in this area, the rollover provisions of present law are changed as follows: First, individuals are permitted to roll over less than the entire amount distributed from a qualified plan (and attributable to employer contributions) into an IRA or another qualified plan; Second, individuals may roll over the proceeds from the sale of property distributed rather than rolling over the property in kind; Third, a surviving spouse is permitted to roll over a plan distribution into an IRA on the same basis as a plan participant; Fourth, the 5-year plan participation rule for receiving a "lump sum distribution" is repealed insofar as it restricts eligibility for a rollover IRA; and Fifth, the rule limiting the frequency of rollovers to once every 3 years is repealed.

Section 21 of the bill permits partial rollovers: An individual is no longer required to transfer the entire amount distributed from a qualified plan into a rollover IRA. In addition to providing a greater measure of flexibility for meeting individual needs, this change should reduce the frequency (and the significant adverse consequences) of defective rollovers. It should be noted that, generally, special 10-year averaging and capital gains treatment are not permitted with respect to portions of distributions not rolled over.

Secion 22 of the bill permits an individual who receives all or part of a lump sum distribution in the form of stock or other property first to sell all or part of the property and then, within the existing 60-day period from the date of the distribution, roll over the proceeds of the sale. This change should provide greater flexibility to the public since many IRA trustees have been unable or unwilling to accept rollovers in the form of property.

Under Section 23, the opportunity to make a rollover contribution is extended to a surviving spouse who in any year receives a total distribution from a plan in which the deceased spouse participated. Under present law, a plan participant who receives a distribution often is eligible for a rollover contribution while, on the same facts, apart from the identity of the recipients, his surviving spouse is not. Because our intent is to provide greater opportuntes for the use of the rollover IRA as a mechanism for preserving tax-favored retirement savings, the existing restriction is relaxed. It should be noted, however, that the change extends only to rollovers into an IRA and not to rollovers from an IRA or a qualified plan into a qualified plan.

In keeping with the policy of providing maximum flexibility, the 5-year plan participation requirement for rollover eligibility is removed, under section 24.

Finally, in order to avoid unduly restricting the ability of individuals to shift IRA investments and to advance IRA portability, the bill repeals the rule that IRA rollovers may not be made more frequently than once every 3 years by any individual.

CHANGES RELATED TO PENALTIES

In addition to the expanded opportunity to rectify certain excess contributions (and, as discussed above, to escape the double taxation, early distribution tax and the future application of the excess contributions tax), the following changes are made in the IRA penalty provisions:

First, under section 31, the Treasury and IRS are given the authority, where the taxpayer makes a reasonable error and takes appropriate remedial steps, to waive the existing 50-percent tax on distribution shortfalls known as excess accumulations. This is a hefty penalty which should be applied only in situations where a tax abuse purpose is found to exist. The provision is effective for taxable years beginning after December 31, 1975.

Second, under section 32, the existing limitations on the amount of an "excess contribution" which may be corrected through a distribution prior to the tax filing date (for the year in which the contribution is made) is removed. Thus, an excess contribution, including an excess rollover contribution made in any year, can be corrected without penalty by withdrawing the excess contribution and any earnings on it by the tax filing deadline for that year.

ADMINISTRATIVE OR REPORTING PROVISIONS

Section 41, the final provision of the bill, eliminates the separate individual reporting requirements for an IRA to which contributions have not been made and from which distributions have not been received during a taxable year. This provision should make it easier for individuals to establish and maintain IRA's without excessive paperwork.●

## TRIBUTE TO JOSEPH R. RAYMOND

### HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. LONG of Maryland. Mr. Speaker, I want to pay tribute to Mr. Joseph R. Raymond, who recently died of cancer at the age of 38.

Joe was a distinguished member of the Maryland House of Delegates before he became responsible for all Baltimore City affirmative action and equal opportunity programs. In 1977, Joe was appointed as a deputy auditor general of the Agency for International Development.

Joe was a dedicated citizen of the city of Baltimore. He will be missed by all who knew him.●

## THE GREAT TERRAIN ROBBERY

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. YOUNG of Alaska. Mr. Speaker, on May 19, 1978, the House passed H.R. 39, the Alaska National Interest Lands Conservation Act. Since that time, a number of my colleagues have inserted in the RECORD statements describing this bill as a great conservation measure, one which will "save" Alaska.

Quite frankly, I am a little confused as to what we are saving Alaska from. My State has an excellent conservation record; in fact, it is better than that of the Federal Government. Alaska's oil spill and water pollution laws are as strong or stronger than those established by this Congress. Alaska has close to 6 million acres of State parks, an area roughly the size of Massachusetts. Our hunting and fishing laws, designed to provide a sustained yield of fish and wildlife, have resulted in lower harvests than when we were under the control of the Department of the Interior. I suggest that the Government look to its own house before trying to clean ours.

The D–2 lands issue goes beyond simple environmental protection, however. It is an issue involving the right of American citizens to control their own destiny. In 1959, Alaska was granted statehood and was promised 104 million acres of land, to be used for the growth and enjoyment of the citizens of the State. By passing H.R. 39, the House has broken that promise. The people of Alaska have been told that their needs are not important, that the desires of certain Federal agencies to establish a 124-million-acre kingdom must come first. Furthermore, this land grab has been couched in terms of preservation, with a threat that "if we do not pass H.R. 39, then the bulldozers that are now waiting to rip into Alaska will be unleashed."

Mr. Speaker, the bulldozers, the flowers, the wildlife, and the people can coexist if we only let them. The way to do it is by enacting legislation which sets aside an ample amount of land for parks, forests, and refuges, gives Alaska the land it was promised, and sets up a procedure for planned, controlled growth.

I think that the following editorial, entitled "The Great Terrain Robbery," which appeared in the Manchester Union Leader on July 3, 1978, speaks to all of these issues. I insert it at this point in the RECORD:

THE GREAT TERRAIN ROBBERY

D2, as those who have been following the Alaska national interest lands controversy

know, is not an insecticide or the designation of some super-secret weapons system yet to be developed. Trouble is, the news media generally have given such scant coverage to the controversy, even in the wake of the U.S. House of Representatives' passage of HR-39, that most Americans could be excused if they equated D2 with extraneous considerations.

In point of fact, D2 refers to Section 17 (d)(2) of the Alaska Native Land Claims Act of 1971 which instructed the Secretary of the Interior (currently Cecil D. Andrus) to withdraw up to 80,000,000 acres of Alaskan land for study for possible inclusion in a national preservation system of national parks, forests, wildlife refuges and scenic and wild rivers. Congress' assignment is to decide which lands will be so designated.

Why should the average citizen of New Hampshire be concerned? Well, that's an easy question—one of the few easy questions involved in the controversy—to answer. If for no other reason, Granite Staters should be concerned that this federal control vs. states' rights issue could set a precedent and allow the federal government to designate federal lands in New Hampshire as highly restrictive wilderness areas.

Well, anyone who is in favor of preserving the natural environment, and who feels the country is running out of outdoor recreational opportunity, might be expected to have a natural inclination in favor of designating lands as federal wilderness areas, and it is this natural inclination that the supporters of HR-39, recently passed by the House and now before the U.S. Senate, are exploiting.

But the issue is not all that uncomplicated. In the first place, while this newspaper is willing to concede that many congressmen have been living in an intellectual wilderness, we are not sure that many of them really comprehend what a wilderness area is. A public opinion poll conducted by the American Forest Institute reveals that one in five Americans believes he or she has visited a wilderness area. However, attendance figures from the units of the national wilderness preservation system, which consists of nearly 23,000 square miles (about 15,000,000 acres), indicate that that is not the case. Many of these visits were actually to parks, forests or other nonwilderness areas. Under the 1964 Wilderness Act, federal wilderness areas were intended to be 5,000 acres or more where man's presence is not apparent and where visitors will remain temporarily. By law, such areas have no roads, no campgrounds, no recreational facilities such as ski areas. They allow no motorized vehicles, no campers, boats or aircraft, etc.

What the average American, and probably the majority of congressmen who voted in favor of HB-39, which delineates which acreages of Alaskan land should be included in the federal protection package and how they should be protected and managed, does not understand is that designating lands as federal wilderness areas will not materially increase the kind of outdoor recreational opportunities the majority of people want.

With just cause, Alaska's so-called Ambassador of Information, former Lieutenant Governor M. A. "Red" Boucher, laments that the D2 controversy has been put forward erroneously as a confrontation between conservationists and developers, whereas, "in fact, it is a one-sided media battle artfully staged by conservation elements which are swept up in a cause, collecting acres and acclaim." The State of Alaska, the former mayor of Fairbanks points out, is huge in acreage but small in population and power and is now fighting "for its right for orderly growth against stronger and better financed factionally organized opposition . . ."

Mr. Boucher, an affable and articulate spokesman for Alaska's D2 Steering Council, says that Alaska asks only "for a cool headed appraisal of objective facts" and an understanding that "in almost all cases the lands in question are so remote and forbidding that any development would be in the distant future," so why the haste?

Alaska does have a counterproposal to offer, one which seems entirely reasonable. It proposes that about two-thirds of the acreage be made into cooperative federal-state lands to be classified after careful study by a joint federal-state commission.

The problem now is that not only does the State of Alaska itself require a certain amount of development to survive, but also that some classifications would close suspected or known fields of gas and oil that the American public needs. The basic issue involved, as Alaska views it, is sensible balance. The choice is not between development or natural beauty; there is ample room in Alaska for both development and wilderness for generations to come.

As D2 Day, the December 18th date on which Congress must decide how much and which lands in Alaska shall be included as federal wilderness lands, approaches, Alaska's basic position seems to have eluded the majority of congressmen. The state does not object to large areas of land being set aside in the four categories as so-called national interest lands. The problem is mainly with the legal "wilderness" definition which could make adjacent state-owned lands virtually worthless. Why worthless? Because some of the wilderness parcels would deny access to and across those state lands for recreation, transportation and utility purposes. The State of Alaska is willing to negotiate on the amount of acreage and is in no way opposed to wilderness areas in themselves—as long as they do not hinder access or development of adjacent state areas, the protection of resources or the livelihood of native people.

Alaskans, who have dubbed D2, "The Great Terrain Robbery," ask only that their fellow Americans in turn ask their elected representatives in Congress to strike a sensible balance allowing Man his proper place in the ecosystem while at the same time protecting and conserving nature, with all citizens recognizing that because of that state's provision of heat for our homes through Alaskan oil and natural gas, this issue vitally concerns each and every one of us. Why the haste? Why run the risk that classifications of Alaskan land will close suspected or known fields of gas and oil that the American people need? ●

## A TRIBUTE TO BOB HALL

### HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. BLOUIN. Mr. Speaker, a special thanks is due Bob Hall for his outstanding career in the Extension Service. The Nation should be grateful for the wisdom and practical advice that men like Bob Hall have contributed to a prosperous American agriculture. Bob has been known throughout eastern Iowa, because of his ability to anticipate changes in agriculture while working with people to take advantage of the opportunities afforded by these changes. Bob, too, has been aware of the problems and pitfalls of changes in agriculture and has guided many a farmer around them.

If Bob's wisdom had been confined to Delaware County, it would have been a tragic loss. We are all proud of the national recognition Bob has achieved. His philosophy of helping people help themselves has invigorated not only those in agriculture, but all those who look to the inner strength of the American people to make our Nation great.●

## PRESERVATION OF AMERICA'S HERITAGE ABROAD

### HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. RICHMOND. Mr. Speaker, the fabric of our society is strengthened by visible reminders of the historical roots of that society. Among the visible reminders of America's past are the cemeteries, monuments, and historic buildings located in other nations, which are associated with the foreign heritage of American citizens.

Many of the cemeteries, monuments, and historic buildings which visibly represent the foreign heritage of present-day Americans are threatened and are in need of protection.

These landmarks are in danger of deterioration or destruction, because there are no longer descendants or compatriots in the communities where these landmarks are located, or because of neglect or deliberate actions by the governments of the countries in which the landmarks are located.

I am sure my colleagues have heard the tragic stories of the destruction or neglect of several of these landmarks:

The last remaining wall of the Warsaw ghetto was torn down by the Polish Government just over 1 year ago. The remains of the ghetto lie underneath modern apartment buildings, and all that remains of the wall is a pile of rubble and a shattered monument.

The Soviet monument at Babi Yar in Kiev, where more than 100,000 people, one-half of whom were Jews, were murdered by the Nazis, was not built until the 1970's, and then only because of worldwide public opinion, aroused by the moving verse of the poet, Yevgeny Yevtushenko. A combination of Soviet anti-Semitism and actions by Ukranian officials had previously converted the area into the site for apartment houses and a television transmitter.

Many of Czechoslovakia's Jewish cemeteries have been designated for other uses. The Slovakian Jewish community's 3,500 remaining members were unable to save them. In 1976, six cemeteries were officially listed for demolition, and descendants in the West and in Israel claimed they were given insufficient notice to arrange for reburial of their relatives.

In a November 22, 1977, article in the

Washington Post, Richard Cohen wrote of his search for firsthand information about his grandparents in Ostroleka, Poland. He closes his article on a poignant note:

Now the old man is saying that the construction that has taken the cemetery is also going to take his house. He worries about what kind of apartment he will be given and then he returns to the topic of the cemetery. He said a woman complained about conditions there. She was an old woman and she had gone to Communist Party headquarters in the town and she said that something should be done about the cemetery that bones were turning up and the children were playing with them. Something was done and for a while the place was cleaned up.

Outside it was raining and outside it had turned windy and cold. It was dark and unlighted out by the cemetery and so we stepped in puddles and slipped in the mud and finally made it back to the town. Now we had a person to look for—the woman who had complained about the cemetery. She must be very old and she must know things about the town and about the square where my grandparents once lived and maybe something about them. We went off looking for her. The old man had been very specific.

She was the last Jew in the town.

Mr. Speaker, the graves and monuments of our ancestors in foreign lands are worthy of great reverence and respect, for they serve as a reminder of the contributions of those men and women, not only to their own country, but to the foreign heritage of the United States as well.

When these visible reminders of our foreign past are destroyed or allowed to deteriorate, it is a cause for profound sadness among the descendants and compatriots in America whose roots are obliterated.

Today, I am introducing legislation to establish a Commission for the Preservation of America's Heritage Abroad.

This Presidential Commission will be responsible for identifying threatened cemeteries, monuments, and historic buildings located abroad which are associated with the foreign heritage of U.S. citizens. In addition, the Commission will publicize the names and locations of these landmarks.

Most importantly, the Commission, in cooperation with the State Department, will obtain assurances from the involved foreign governments that the cemeteries, monuments, and historic buildings will be preserved and protected.

I urge my colleagues to join me in support for this measure which will help preserve America's heritage in foreign nations.●

## CONGRESSMAN JIM LLOYD'S TESTIMONY ON AVIATION TRADE PROBLEMS


### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES


*Thursday, July 27, 1978*

● Mr. ANDERSON of California. Mr. Speaker, Congressman JIM LLOYD, my distinguished colleague from California, recently testified before the Ways and Means Committee's Subcommittee on Trade. His testimony was carried as an editorial in Aviation Week and Space Technology's July 24 issue.

I do not quarrel with some of the worthy objectives which the administration may be attempting to achieve with these actions as reported by Congressman LLOYD, but his testimony does raise valid questions that concern me.

Are there not better ways to achieve the objectives of our adminstration without such damage to ourselves? Are we not worried also about our balance of trade, about productivity, and about inflation? Leaving aside the question of sales of military aircraft, why should we hesitate to sell our commercial aircraft, and even more so, what is so threatening in the sale of general aviation aircraft? If, as the editor of Aviation Week and Space Technology seems to imply, this is partially a bureaucratic stumbling block, why should we, in an administration dedicated to reducing bureaucratic stumbling blocks and redtape, seem to be increasing them? Is there no good way to expedite these decisions?

I believe we need good answers to some of these questions for our constituents and for our aviation industry and their employees. Congressman LLOYD's illuminating testimony follows:

BUREAUCRATIC STUMBLING BLOCKS

(Rep. Jim Lloyd, a California Democrat and a former Navy fighter pilot, takes a close interest in international aerospace and its effects on U.S. policies and trade. He recently attacked the Administration and State Dept. for regressive regulations and redtape that hinder sales. Excerpts of his testimony before the House Ways and Means subcommittee on trade follow.—Ed.)

We were once a nation of superb horsetraders who bargained the United States into prosperous international leadership. However, sometimes it appears that prosperity is viewed as eternal.

Fortunately, there are those of us who realize that a prosperous nation, in order to survive, cannot rest on past achievements forever.

The horsetraders, and descendants of that energetic and visionary breed, still exist. But, the Administration, and in many cases Congress itself, in their zealous approach to curing the ills of international society, have allowed a segment of the bureaucratic process to wield extraordinary veto powers which are absolutely inconsistent with economic reality. . . .

While I do not condemn the Administration or Congress for all that's wrong with our economy, in the commercial, general and military aviation marketplace, stumbling blocks have been created. In many instances, I consider them capricious, unrealistic and detrimental to any effort designed to reduce our balance of payments. Inflexible idealism cannot be allowed to replace realistic and responsible fiscal management. If that occurs, the very foundation and economic strength on which this country was created will slowly crumble.

Let me cite a few brief examples to make my point:

The sale of T-34C aircraft to Argentina. Approval of the export license was languishing in the State Dept. even though a valid contract had formerly been approved and would have been fulfilled prior to Oct. 1, 1978, when the embargo on Argentina takes effect. Had this matter not been called to the personal attention of undersecretary Warren Christopher, Beech Corp. would have been stuck with contract penalties and 16 training aircraft for the Argentine navy valued at $8.9 million.

Propeller-driven target drones. Northrop Corp. has been supplying Argentina with remotely controlled, propeller-driven target drones since 1966. As early as six months ago, Northrop had a validated export license in hand, and was ready to ship target drones to replenish the Argentine naval commission's inventory. An informal request from the Office of Munitions Control in the Dept. of State to stop shipment was issued until further notice. As of today, Northrop's request for export authorization still has not been honored by the State Dept.

Sales of general aviation aircraft to South Africa. Early this year, over $6.5 million of small civilian aircraft were being held in the pipeline because a segment of Congress and the Administration disapproved of sales to South Africa. Validated licenses were issued only after an elaborate procedure was established to insure that the foreign buyer was not affiliated with a parliamentary organization. The point I make is that any delay automatically plays into the hands of foreign competition.

General aviation aircraft sales to Argentina. Since the inception of the policy allowing nonmilitary general aviation aircraft to be exported to most Free World destinations under general license, a practice has emerged in the export administration to routinely refer all validated export license requests to the State Dept. As of today, $22 million in export licenses are pending in the Dept. of Commerce awaiting approval from the State Dept. for Argentina alone. This is cash on the barrelhead, not economic aid. And while the licenses are being stalled, the aircraft manufacturer is absorbing production and finance costs.

Swearingen air ambulance sale to Argentina. Swearingen, a division of the Fairchild Corp., has had approval of an export license valued at $1.6 million pending in the Dept. of Commerce for two months for the sale of one Metro air ambulance to the Argentine army. This is not an FMS sale, and I would hardly classify a twin-turbo ambulance aircraft as a weapon of war, just the opposite. But, approval of that sale too, is languishing in the State Dept. The key to the contract, however, is that prior to July 24, 1978, Swearingen is obligated under contract to provide the Argentine army evidence that the U.S. government will approve the sale. If not, Argentina will turn to Mitsubishi of Japan for an MU-2, or to France for a Falcon Jet.

Argentine navy King Air Sale. Beech signed a contract with the Argentine naval commission in Washington for six King Air transport aircraft valued at $10 million. The Argentine navy has been a Beech customer for 46 years, and the current order, with spare parts, is equivalent to 10 percent of Beech's 1978 total export volume. Are we to allow the sale of these aircraft in which no military equipment is installed, and which contain no modifications for any type of military operation, to also languish in the State Dept?

The sale of Israeli Kfir aircraft to Ecuador. While this transaction did not involve a U.S. aircraft directly, it does reflect current State Dept. policy which, to me at least, appears questionable. Because the Kfir uses General Electric engines, the sale to Ecuador was disapproved. As a result, Ecuador bought French Mirage fighters. This not only opened the door to France for the sale of aircraft, both military and civil, but eventually many other lines of French products. The economic message in this should be clear.

Brazil wanted an aviation industry, for which several multinational corporations competed. Piper Aircraft won a competition to supply aircraft parts for assembly, and Pratt & Whitney to supply turboprop engines. When the industry got going, Brazil closed its border to U.S. general aviation

imports. Yet Brazil is allowed to export its aircraft to the United States. . . .

President Carter recently declared exports a national priority, but I've seen no evidence that such a policy exists. In fact, when he took office, he dropped the Council for International Economic Policy. It's time, therefore, that Congress step forth vigorously and insure the pursuit of Free World trade, especially if we intend to see the balance of payments reduced.●

## MAIL STRIKERS: THE LETTER OF THE LAW

### HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. DEL CLAWSON. Mr. Speaker, a recent informal discussion with postal workers at home in California provided some useful input regarding striking postal employees. I was interested to find their point of view supported in an editorial appearing in the Washington Post of July 26. I believe it would be hard to quarrel with the logic of the position in the editorial and commend it to the attention of my colleagues at this point in the RECORD:

MAIL STRIKERS: THE LETTER OF THE LAW

Perhaps some of you are having difficulty understanding why certain postal workers are striking when union members haven't even had a chance yet to vote on the tentative nationwide contract settlement that was reached with the U.S. Postal Service only last Friday. It is a trifle puzzling—especially if you believe in such things as union democracy, fair play, obeying the law and the public servant's responsibility to that public. But forget all that and consider instead the Gospel of Lawlessness According to one Moe Biller, who is a local president in New York who doesn't care about such niceties:

To begin with, Mr. Biller didn't like the proposed settlement, which would provide for wage increases, including cost-of-living benefits, totaling 19.5 percent over three years and which contains a no-layoff provision. Fair enough—he and anybody else in the union are entitled to that opinion, and to so vote. But then, without waiting for that vote, certain workers in California and New Jersey decided to take matters into their own hands by engaging in wildcat strikes. It happens that federal law prohibits strikes—wildcat or union sanctioned—by postal workers and other U.S. government employees. So the postal service announced the dismissal of more than 100 of the self-anointed strikers.

Enter Mr. Biller, who decides that his local should "authorize" a strike vote to support the wildcat strike. Thus, as he was quoted as assuming, "If New York votes to strike, the rest of the country will follow." Quite aside from the audacity of that remark, the question is where all the followers think they're going. Perhaps they think the U.S. Postal Service and the U.S. Government Taxpayer will go along, too—paying whatever any individual postal worker thinks is necessary to get a particular brand of workers back on the job.

Nonsense. Where followers of Mr. Biller should wind up is out of work. There should be no way in which the postal service abides such selfish disobedience of procedures on which the time-honored process of collective bargaining has rested. If the settlement proposal is deemed unsatisfactory by the majority of voting union members affected, there are procedures for either returning to the bargaining table or fact-finding/arbitration. Meanwhile, those postal workers who insist on defying the law by walking off the job should be given permanent walking papers.●

## FLUORIDATION—PART 2

### HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. CARTER. Mr. Speaker, on Wednesday, July 26, I entered into the RECORD the first half of a two-part article on fluoridation published in Consumer Reports. Fluoride in water supplies and therapeutic preparations has been proven highly effective in preventing dental disease. The safety of its use, however, has been questioned.

There is considerable interest at present in disease prevention. In light of the timely nature of the article in Consumer Reports I commend it to my colleagues for an objective discussion of all the issues surrounding fluoride safety:

THE ATTACK ON FLUORIDATION—PART 2

SIX WAYS TO MISLEAD THE PUBLIC

"There are three kinds of lies," remarked 19th-century British statesman Benjamin Disraeli, "lies, damned lies, and statistics." Probably every type of misrepresentation known to Disraeli, and some he may have overlooked, have been used to attack fluoridation. Misleading information about it appears regularly in a paper called the National Fluoridation News, and the entire gamut of hokum has recently been published in a 176-page issue of the Cancer Control Journal, a pro-Laetrile magazine based in Los Angeles.

In last month's issue of Consumer Reports, we examined the most prominent charge—that fluoridated water causes cancer—and reported it to be baseless. But fluoride is also accused of causing numerous other ills, ranging from brittle nails to birth defects. Since such claims are resurrected whenever fluoridation comes up for a vote, we'll discuss the most persistent ones and the evidence behind them.

CLAIM: FLUORIDE IS A POISON

Like iron, zinc, and several other minerals, fluorine (in the form of fluoride) is classified by the National Academy of Sciences as an essential trace element in human nutrition. And like many substances essential to life or good health—iron, vitamins A and D, oxygen, and even water itself—fluoride can be toxic in excessive quantities. At high concentrations, fluoride has been used as a poison for insects and rodents. However, at the level in fluoridated water—one part per million (ppm)—you'd have to drink at least several hundred gallons at one sitting to get a lethal dose. The water alone would kill you first.

But what about the possibility of slow poisoning—a little bit at a time over long periods? According to the National Academy of Sciences, the daily intake required to produce symptoms of chronic toxicity after years of consumption is 20 to 80 milligrams or more—far in excess of the average intake in the U.S. Such heavy doses are associated with water supplies that contain at least 10 ppm of natural fluoride, as in some parts of India. There is absolutely no danger of poisoning from imbibing water fluoridated to prevent dental cavities.

An occasional tactic in antifluoridation tracts is to run pictures of cattle or other animals harmed by fluoride poisoning. The photographs are authentic, but the impression conveyed is false. Years ago, steel mills and clay factories in England and Wales sometimes polluted nearby vegetation with tons of fluoride emissions. Similar incidents have also occurred in the U.S. Cattle and other animals that grazed on the vegetation would ingest enormous amounts of fluoride and develop bone fractures and lameness. Their pictures are the ones antifluoridationists use.

In contrast, a controlled experiment with cattle produced far different results. The cattle were fed various amounts of fluoride in their diets for nearly 7½ years. Even at fluoride levels as high as 27 ppm, the cattle did not experience fractures, lameness, or any adverse effects on soft tissues, fertility, or milk production. Nor were there any abnormal effects on their offspring through successive generations.

CLAIM: FLUORIDE CAUSES BIRTH DEFECTS

In the late 1950's, a French physician named Rapaport reported that mongolism occurred more frequently in some cities with fluoridated water than in some cities with little or no fluoride in their water. Experts who reviewed the study found it seriously flawed, however, especially in its method of locating cases. According to Dr. Rapaport's figures, the incidence of mongoloid births in both the fluoridated and unfluoridated cities was less than half the usual rate—a highly questionable finding in itself. Thus, there was a strong likelihood that Dr. Rapaport had failed to uncover the majority of mongoloid births in the cities he chose to study.

That conclusion was soon confirmed by a more carefully controlled study in England. Using more exacting methods of case-finding, the British researchers reported no difference in the incidence of mongolism whether the water was high or low in fluoride.

Since then, two extensive studies have substantiated the British findings. One surveyed virtually all mongoloid births in Massachusetts from 1950 through 1966. The results, published in the New England Journal of Medicine in 1974, showed no link between fluoridation and mongolism. An even larger study published in 1976 covered approximately 1.4 million births in six major U.S. cities. Researchers at the Center for Disease Control investigated not only mongolism, but also cleft palate, heart abnormalities, clubfoot, and other common birth defects. Again, there was no association between fluoride and any of the defects. In short, the antifluoridationists' claim is based solely on the discredited Rapaport study.

CLAIM: FLUORIDE IS MUTAGENIC

A variation on the birth-defects theme is the charge that fluoride is a genetic hazard. Until recently, this claim was based on irrelevant or questionable experiments with fruit flies and plants. Then, in 1976, two researchers in Kansas City, Mo., reported that various levels of fluoride damaged chromosomes in the bone-marrow cells and sperm cells of mice. Although experts who reviewed the experiment noted several inconsistencies in the results, the question it raised was judged important enough to warrant further research.

Accordingly, joint studies were undertaken by the Laboratory of Developmental Biology and Anomalies at the National Institute of Dental Research, the Department of Biochemistry at the University of Minnesota, and the Laboratory of Cellular and Comparative Physiology at the National Institute on

Aging. Tne scientists conducted four separate experiments, including tests on mice receiving acute doses of fluoride and mice raised for several generations on water containing 50 ppm of fluoride. None of the studies produced any evidence that fluoride damages chromosomes, even at levels 100 times that in fluoridated water supplies.

In Germany, meanwhile, an independent group of researchers reported similar results with human white blood cells, which are especially sensitive to mutagenic agents. Not only did fluoride fail to produce damage, it also evidenced an antimutagenic effect by *protecting* chromosomes against a known mutagen.

CLAIM: FLUORIDE CAUSES ALLERGIC REACTIONS

The charge that people can suffer allergic reactions or "intolerance" to fluoride gained prominence from anecdotal accounts by George L. Waldbott, M.D., an early opponent of fluoridation who founded the National Fluoridation News. Between 1955 and 1965, Dr. Waldbott reported numerous instances of patients experiencing nausea, headaches, "spastic colitis," or various other symptoms that he attributed to fluoride ingestion.

In the World Health Organization study described last month, a review of the Waldbott reports found no reliable evidence to support his contentions. The cases were judged to represent "a variety of unrelated conditions." Following the WHO study, the Public Health Service asked the American Academy of Allergy to evaluate the issue. After a review of the existing clinical reports, the executive committee of the academy concluded unanimously: "There is no evidence of allergy or intolerance to fluorides as used in the fluoridation of community water supplies."

CLAIM: FLUORIDE CAUSES CANCER IN ANIMALS

Possibly the most absurd evidence marshaled against flouridation is material purporting to show that fluoride induces cancer in animals. One series of studies frequently quoted by antifluoridationists was conducted by researchers in Texas in the 1950's. The first study involved a strain of mice that ordinarily gets cancer. Supposedly, the mice given fluoridated water developed tumors slightly earlier than similar mice on fluoride-free water. There were a few minor hitches in the experiment, however. All the mice were also fed a dog chow that, unknown to the investigator, contained 42 ppm of fluoride—or 10 to 100 times the amount any of the mice got in their water, thus making any comparison between the two groups invalid. A further botching occurred when the investigator miscalculated the amounts of fluoride in the water. Two scientists from the National Institute of Health reviewed the study in 1951 and dismissed it. Other experiments by the same investigator and a co-worker have long been discredited by subsequent research. Nevertheless, opponents of fluoridation still cite the Texas experiments as significant evidence that fluoride is carcinogenic.

Another study currently getting star billing in antifluoridation tracts is an experiment conducted with fruit flies in 1963. This time, legitimate findings are being substantially distorted. In that study, two strains of fruit flies exposed to 20 to 50 ppm of fluoride in their food experienced an increased incidence of melanotic tumors. Opponents of fluoridation interpret that to mean that fluoride can cause cancer. That's not so, according to scientists working at the National Cancer Institute. While humans may be physiological cousins to the mouse and other mammals, their kinship to the fruit fly is somewhat more distant.

Specifically, a *melanotic* tumor in a fruit fly is not the same as a cancerous tumor in a human or mammal. It is more akin to scar tissue, and, unlike a cancerous tumor, it's not malignant or harmful. It can be induced by a wide range of substances, including some vitamins and even lysine and typtophan, two amino acids essential for human growth and health. Fruit flies can also get malignant tumors, but there's no evidence that fluoride has ever caused any. Indeed, fluoride has never proved to be a carcinogenic in tests on a variety of animals, including rats, mice, guinea pigs, rabbits, hamsters, dogs, and sheep.

CLAIM: FLUORIDE CONTRIBUTES TO HEART DISEASE

In Wisconsin, opponents of fluoridation have often charged that it increases the number of deaths from heart disease. They base their claim on statistics that show a rise in heart deaths in the town of Antigo, Wis., since the introduction of fluoridation there.

The National Heart and Lung Institute has called the data a "misrepresentation of statistics." As one scientist points out, "The well-known fact that deaths from heart disease become more frequent as people grow older was overlooked." Since fluoridation was introduced in Antigo in 1949, the percentage of elderly people there has doubled. Between 1950 and 1970, for example, the segment of the population 75 years old or older increased 106 percent. When that factor is taken into account, the alleged effect of fluoride vanishes.

According to a 1972 study by the National Heart and Lung Institute, comparisons of fluoridated and unfluoridated communities reveal no difference in the rate of heart deaths. Furthermore, reported the institute, evidence from autopsy studies, from examinations of people exposed to acute doses of fluoride in industrial accidents, and from medical data on people who have drunk water naturally high in fluoride for a lifetime "all consistently indicate no adverse effect on cardiovascular health."

THE FACTS: ANTIGO LEARNED THEM THE HARD WAY

Of all the numerous ills that have been attributed to fluoridation—from cancer in humans to constipation in dogs—none has even been shown to be valid. In fact, the only known hazard of fluoridated water has nothing to do with drinking it. Patients undergoing kidney dialysis can be exposed to about 50 to 100 times the amount of fluid consumed by the average person. Accordingly, the National Institute of Arthritis and Metabolic Disease recommends that fluoride—as well as calcuim, magnesium, and copper—be removed from the tap water *before it is used in an artificial kidney machine.* Aside from that precaution, there is no genuine reason to worry about fluoridation.

In 1960, however, the residents of Antigo, Wis., didn't realize that scare stories being circulated by local opponents of fluoridation were false. Antigo voted to discontinue its 11-year practice of fluoridating the water supply. The decision eventually led to a study by public health officials, who wanted to learn what effects the end of fluoridation would have on the dental health of Antigo youngsters.

During 1960, dental personnel from the Wisconsin Division of Health examined nearly all children in the kindergarten, second, fourth, and sixth grades of Antigo's schools. The examiners recorded the number of decayed, missing, or filled teeth for each child. Four years later, they repeated the examination among children in all of the same grades except the sixth.

The kindergarteners in 1964 had a rate of dental problems 92 percent higher than their counterparts four years earlier. Among second-graders, the decay rate in permanent teeth was up 183 percent. Among fourth-graders, it was up 41 percent. A subsequent examination of sixth-graders showed a 91 percent increase in decay rates. In 1965, Antigo voted to reinstate fluoridation.

Despite persisting claims about heart deaths by local anti-fluoridationists, the people of Antigo today still drink fluoridated water. Meanwhile, about 100 million Americans do not, largely because of the fears raised by opponents of fluoridation. The simple truth is that there's no scientific controversy" over the safety of fluoridation. The practice is safe, economical, and beneficial. The survival of this fake controversy represents, in CU's opinion, one of the major triumphs of quackery over science in our generation.●

## HANDICAPPING THE DISABLED

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. MAZZOLI. Mr. Speaker, this country has been making significant progress in its efforts to understand and meet the special needs of handicapped people.

Legislation has been enacted to protect the rights of disabled persons and to encourage them to be full, contributing members of society. Last year a White House conference brought thousands of handicapped people together to study these problems and to seek ways of improving Federal programs designed to serve their needs.

But, while a great deal of progress has been accomplished, much remains to be done. It is the unfinished business I wish to address briefly today.

Adequate mass transportation is vitally important to a handicapped person. Without reliable transportation, a handicapped person cannot go to school, cannot get to work nor do any of the things which enable his or her to reach fullest potential and to make fullest contribution to society.

Therefore, I am particularly distressed by the negative, regressive position taken by the Federal Aviation Administration (FAA) with respect to travel by blind people on commercial airlines. The FAA seeks enforcement of regulations which require all blind people to store their canes during airplane take-off and landing.

Enforcement of this ruling is insensitive to the needs and best interests of the blind.

I urge the FAA to reconsider its decision and let the blind keep their canes and similar devices with them at all times. In the event of an airplane emergency, all of us who are sighted probably have a better chance of survival in an emergency if the sightless people aboard have their canes near at hand. They could cooperate more easily in emergency procedures and thus avoid the panic and chaos which could spell doom for every passenger.

I hope my colleagues will read Garry Wills' article on this subject which appeared in the Washington Star on July 25, 1978.

THE BLIND, CANES AND PLANES

Bureaucracy, like many other things we gripe about (the weather, children, parents), is more beneficient than maleficent. Many services performed by the bureaucracy are indirect or invisible, and we only get a measure of their necessity when they are withdrawn.

Last year, the airlines that had blamed many things on federal regulation protested when the Federal Aviation Administration started withdrawing controls. Perhaps it is by way of revenge that United Airlines is enforcing one of the sillier rules made by the FAA, to make the federal agency look silly.

But whatever the motive, there is no question of the move's success. The FAA looks not only silly but coarse when it takes away the canes of blind people in airplanes, and stores them during take-off and landing. This is not a case of the blind leading the blind, but of the intellectually blind actually tripping up blind people.

The FAA claims that loose canes might strike or harm others if the plane were tossed about in an emergency. I assume that is physically possible. Then why doesn't the stewardess take away my glasses? They might fly off and poke my neighbor in the eye. For that matter, the pencil in my hand or the book I am reading every landing and take-off might fly out of my grasp and stick into or thump someone else.

This is not so absurd as it sounds. The blind person's cane is never far away from him, always within reach, grasped for instinctively. Cripples can leave a cane anywhere because they can see where it is when they want it. Not so a blind person. Blind pickets in a recent demonstration aptly chaned "FAA, See Our Way." The cane is a blind man's "eyes." It is as much his appendage, automatically protected, as are my glasses.

The FAA makes a false appeal to rules and fairness. All luggage must be of a size to store under the seat in front. If the businessman is deprived of his briefcase, on take-off and landing, because it won't fit there, why should the blind person be an exception?

That argument is an insult to intelligence. The cane is not "luggage," and the blind person is rightly an exception to some rules. Courts and post offices admit this when they allow Seeing Eye dogs to enter buildings where all other dogs are banned.

There are justifiable arguments against letting Seeing Eye dogs on airplanes. They are not trained to cope with the emergency procedures of an airplane in trouble. They would be just another thing to care for, when the stewardesses are the trained guides in emergency for blind and seeing alike. But banning dogs from planes is not to be considered on the same level as taking canes from the blind.

Would blind people, in the panic of emergency exit from the airplane, poke or injure others with their canes? No more than other passengers would do with their elbows, knees, or whatever. The blind person would be less panicky, more in control, with his cane—and therefore less a threat to others.

I think it is unhealthy for people to seize on this or that colorful excess of bureaucracy to attack the whole structure of social services—for instance, those who point to serious failures in certain public schools in order to attack the entire public education program, one of America's proudest achievements.

But in this time of rather undiscriminating reaction against bureaucracy and its costs, it is important for the bureaucrats themselves to eliminate weak and foolish targets for criticism. I can think of no better place to begin than the stupid treatment of blind people who "see" with their canes. It is unthinkable that they should be deprived of that essential support, doubling their handicap. It is time to stop blinding the blind.●

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## CONSUMER CO-OP BANK WILL FILL CREDIT NEED


### HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES


*Thursday, July 27, 1978*

● Mr. REUSS. Mr. Speaker, the National Consumer Cooperative Bank is about to become a reality. Such a bank will fill a serious credit vacuum which exists for nonprofit, self-help consumer co-ops.

An article in Business Week of July 31, 1978, discussing the potential for development of the consumer co-op movement follows:

CONSUMER CO-OPS WIN SOME AID

Consumer cooperatives have sprouted thickly in the U.S. since inflation and the consumer movement took off in the early 1970s. Today about 1,000 of them are in business, up from only 277 just six years ago. But if their numbers are burgeoning, their record as successes is spotty. Co-op officials, untouched by the profit motive, tend to be stronger on goodwill than on business expertise.

Soon, though, the co-op movement will be getting some major help. On July 13, the Senate passed a bill creating a consumer cooperative bank, empowered to provide $1.5 billion in loans over the next five years and to offer technical assistance to co-op managers. An earlier House bill had provided more than twice that amount.

Whatever the compromise figure set by a conference committee of both houses, consumer co-ops are now certain of financial and technical assistance from the government. They can certainly use both.

Of course there are some outstanding successes among the co-ops. In Eau Claire, Wis., for example, the 41-year-old Consumers Cooperative Assn. operates four gas stations, a cafeteria, a snack bar, and a mammoth shopping center that has caused competing Jewel and A&P supermarkets to close their doors. Its sales top $35 million a year, it has returned $3.3 million to customers and members through rebates, dividends, and discounts during the past five years, and its stock is worth $3.4 million.

BANKS ARE LEERY

At the other end of the scale, the Uptown Neighborhood Food Co-op, located in a low-income area of Chicago, staggers along from day to day, barely making ends meet. "We're a small struggling business that the banks don't understand," says co-op coordinator David W. Garland.

Somewhere between the two, Co-op Auto of Washtenaw, in Michigan, stays comfortably in the black but lacks the capital necessary to expand its auto repair shop. "It takes a monstrous amount of money," says David Friedrichs, manager of Co-op Auto, "and the banks won't help." Without such help, two large co-ops, in Denver and Fitchburg, Mass., went out of business recently despite combined annual sales of more than $6 million.

Banks seldom lend to co-ops, says E. Carroll Arnold, vice-president of the Cooperative League of the U.S.A., because most bankers are innately suspicious of nonprofit enterprises and—more practically—because co-op managers frequently lack adequate training in business techniques. "Bankers have been fearful that co-ops are risky businesses, and in some cases they're right," Arnold concedes.

A co-op is a nonprofit business owned by its stockholders or members, each of whom casts a single vote in electing the board of directors. It seeks to apply democratic principles to business and to provide services that private industry either neglects or provides at what co-op officials regard as an unreasonably high price. Profits are returned to members, usually on the basis of how much they have used co-op services as customers.

At present, 1.2 million people belong to consumer co-ops, with additional thousands in housing and finance co-ops—the latter better known as credit unions Co-ops sell everything from legal advice to eyeglasses, but the bulk of their business is in food. Of the $477 million in sales recorded for 1977, $405 million represented food sales. This is a minuscule figure compared with 1977's total food sales of $218 billion, but it is a steadily growing one. Most co-ops are concentrated on the East and West coasts and in the tristate area of Minnesota, Wisconsin, and Michigan. Some 75% are in urban areas.

What a consumer cooperative bank could do for them is indicated by the results after the creation of 13 banks for agricultural co-ops under the federal farm credit program in 1933. Sales and assets of agricultural co-ops increased 20-fold in the next four decades, while consumer co-ops, without access to major capital markets, merely tripled in size. "The bank could change urban economics dramatically," says Mark Creekmore, manager of the Ann Arbor (Mich.) Cooperative Society Inc.

That is precisely why they opposed it, say a group of senators who voted against the bill. The bank poses a threat to small businesses not eligible for subsidized credit, the senators say. For their part, supporters contend that small businesses have their own source of subsidized credit in the Small Business Administration.

OVER ITS HEAD

The most common problem that a federal bank could help solve—or prevent—is that of the small, successful co-op that expands overenthusiastically. A prime example is Greenbelt Consumer Services Inc., of Silver Spring, Md., a co-op that serves Maryland, Virginia, and Washington, D.C. Begun as a small shopping center in the late 1930s, Greenbelt had 25 supermarkets, 8 gasoline stations, 8 pharmacies, and 9 furniture stores by 1976, when it racked up $56 million in sales—and $500,000 in losses. Greenbelt was in over its head, says membership coordinator Donald H. Cooper. Its inadequately trained management could not meet the overhead costs incurred in operating 12 stores it had purchased from Kroger Co., the supermarket chain. Since then, Cooper says, Greenbelt has reorganized its management and begun spinning off unprofitable operations. It now plans to "concentrate on areas where we can do the job well."

Another co-op that might benefit from the bank's help is the country's largest and most publicized, Consumers Cooperative of Berkeley Inc. in California, with 90,000 members, 13 supermarkets that account for $75 million in annual sales, a weekly newspaper with a circulation of 80,000, 4 pharmacies, a hardware store, a savings and loan unit, and a burial society. The co-op has been in the red for the past two years despite a program of retrenchment. It has closed down a gas station and an auto repair shop and is preparing to close two supermarkets acquired

only a few years ago to serve depressed areas in nearby Oakland.

Moreover, Berkeley's membership is split ideologically on the co-op's proper function: whether to serve customers as well as possible with high quality, low-cost goods, or to go further and try to achieve social aims. Members recently elected three conservatives to replace three activists on the nine-member board, but the controversy continues unabated.

One group wants to remove products of companies whose policies it opposes. At least one member has quit because the co-op "refuses to become socially committed"—for instance, by barring Coors beer because a brewery union is striking the company. Other members regard Berkeley as already socially overcommitted in its present state. Jack Citrin, a political science professor at the University of California, says he abandoned the co-op because he got tired of waiting in long lines and bagging his own groceries.

"The co-op philosophy at Berkeley is that you are all part of one big, happy family, choppers and checkers," says Citrin. "I got a lot of ersatz moralizing when all I wanted to do was pick up my groceries and get out.

PRICING

Not ideology but lack of business skill is the Berkeley co-op's greatest handicap, says Ivan Owen, senior vice-president of Lucky Stores Inc., a major California chain that competes with the co-op. Owen attributes this lack to the absence of a profit motive and adds that he has never regarded the co-op's prices as competitive with his.

Co-ops should certainly compete successfully on price, say such officials as Ann Arbor's Creekmore, who claims that his customers pay 20 percent to 30 percent below the prices of competing stores. But beyond price, say co-op spokesmen, they offer broader services than for-profit businesses do—for instance, providing nutritional information in food stores.

Like most of his colleagues, Creekmore is happy to see the establishment of a consumer co-op bank. The Ann Arbor co-op's new home insulation service could use a loan, he says, and he himself would welcome technical assistance on almost everything from inventory control to personnel recruitment. Manager Creekmore, 32, holds a PhD in sociology.●

## EUROPEAN COMMUNITY UNANIMOUSLY OPPOSES TURKISH EMBARGO

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. FINDLEY. Mr. Speaker, on July 25 German Foreign Minister Genscher informed Secretary of State Vance that the nine foreign ministers of the European Community nations have unanimously asked the Federal Republic of Germany, as President of the Community, to inform Secretary of State Vance that they feel it would be helpful if the embargo against Turkey were lifted.

This is significant because it is the first time that the European Community nations have agreed to take a unified stand on the embargo issue.

The Europeans recognize that the embargo is not in the interests of Europe. I hope that my colleagues in the House will also recognize that the arms embargo against Turkey is not in U.S. interests.●

## PROPOSITION 13: ITS EFFECT ON COUNTY HOSPITALS

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. WAXMAN. Mr. Speaker, on June 6 of this year California voters approved by a 2 to 1 margin proposition 13, a State constitutional amendment sharply reducing property taxes. The popularity of this amendment has prompted debate here in Congress over Federal spending and tax policies. If we respond to voter sentiment by revising our tax policies at the State and Federal level to make them more equitable, then I think great progress can be made toward worthwhile reform. But if our response to proposition 13's popularity is arbitrary cutbacks in government services, then I think we have seriously misunderstood what the California electorate was trying to tell us.

Proposition 13 is not an attack on government spending as much as it is a protest against government's failure to show services correlate with increasing government expenditures. The premise of proposition 13 is that if government has less to spend it will spend what it has more efficiently.

Unfortunately, this is not proving to be true. In California, government inefficiency continues, but vital services are being sacrificed in a manner which affects the poor most harshly.

Recent economic indicators suggest that the tax burden on our constituents may be too onerous. Federal spending has climbed steadily from about 18.7 percent of the gross national product in 1958 to an estimated 22.6 percent in 1978. Federal taxes have climbed as well. They surpassed 20 percent of the GNP only twice since 1958 (in 1969 and 1970), but they have been rising rapidly ever since 1976.

State and local taxes have simultaneously jumped significantly. Spending rose from 8.2 percent of GNP in 1959 to 11.5 percent in 1974. Last year it still hovered around 11 percent. State and local taxes were only 8.7 percent of the GNP in 1960, but by 1976 they represented 12.4 percent.

The problem with nonselective spending cuts is that the vital medical services upon which many Americans depend may be eliminated. I think it is ironic that the same year we are closer to an administration national health insurance proposal for all our citizens than ever before, we are debating restraints on spending that will deny medical benefits to the poor who need them most.

In California, the survival of county hospitals is at stake. Public hospitals, it must be remembered, are for many the sole source of care. Medicare and medicaid have not eliminated the gaps in financial protection for the poor and near poor, according to a report just issued by the Commission on Public General Hospitals, entitled "The Future of the Public-General Hospital: An Agenda for Transition." The Commission was organized in February 1976, with 17 members representing State and local government, medical education, and both public and private hospitals. Dr. Russell Nelson, president emeritus of the Johns Hopkins Hospital in Baltimore, was chairman, and Arthur Hess, former deputy commissioner of the Social Security Administration, directed the 2-year study financed by grants from the Robert Wood Johnson Foundation, and other interested groups.

The Commission found:

Millions of Americans have no other source of care if their county hospital is closed;

Millions of Americans fall between the cracks of eligibility requirements for medicare and medicaid; this means the poor, and particularly the near poor in many cases, cannot afford private care;

New standards for hospital cost accounting imposed by medicare and medicaid and health planning laws have diminished the ability of private hospitals to absorb bad debts and charity cases. The prevailing atmosphere in some private hospitals today is pay or no care;

National health insurance will be institutionalized in an incremental way. We cannot assume that the demise of our county hospitals will be halted by the enactment of a national health insurance bill. It will be years before a comprehensive program is actually in place; and

Too many county hospitals have inadequate capital for renovation or replacement of outmoded buildings and equipment.

These findings were all made before California voters approved Proposition 13. Since June 6, the plight of California county hospitals has become even more critical. I close my remarks with an article from the Los Angeles Times by Geraldine Dalleck analyzing the effect of State spending cuts on the delivery of medical care to California's indigent and near poor. Ms. Dalleck's report deserves our close attention because it alerts us to the potential for injustice if our health care system is not protected from arbitrary cutbacks.

PROP. 13'S IMPACT ON PUBLIC HEALTH: COSTLY PROPOSITION

(By Geraldine Dalleck)

Politicians usually answer public demands for tax reform or for less government spending in predictable ways: Either they cut social services where they feel certain there will be the least public outcry; or they eliminate the jobs of those public employes at the lowest rung of the vocational ladder. Or both.

Since the passage of Proposition 13, officeholders have done nothing to alter this pattern. In the spirit of these times, public health is a sitting duck. So it comes as no surprise to discover that California's county hospital and health clinic system will be crippled within the year.

Since this is not the first time that it has been subjected to budgetary paring, the county's public health system can ill afford further cuts. Between 1965 and 1977, California county supervisors closed 20 county hospitals, leased two, sold or transferred three to the University of California and turned nine others over to private management. Twelve of the county hospitals shut down were in counties where no similar public service is available.

Of course, cutbacks do change budget patterns. In fact, since its county hospital was closed in 1973, Imperial County has spent more to bury indigents than to care for them.

So far, the supervisors in both Santa Barbara and Shasta Counties have voted to close their hospitals to accommodate Proposition 13. Mendocino County plans to shut down its emergency room and San Mateo County will terminate its chronic care facility.

In Los Angeles County, Chief Administrative Officer Harry L. Hufford has recommended closing Long Beach General Hospital, eliminating 32 of the 57 health-care centers and canceling the rebuilding of earthquake-damaged Olive View Hospital. In addition, Hufford would cut 1,900 jobs in the L.A. County Dept. of Health Services and 10% of the mental health, alcoholic and drug abuse programs.

A $3.4 million cut in the state budget for public health and local assistance programs seriously limits county services for hemophilia, cystic fibrosis, renal dialysis, genetic disease prevention, family planning, crippled children and Native American health services.

Nor does the impending medical care crisis stop with dismantling facilities and services. At the same time that Proposition 13 is squeezing public hospitals, Medi-Cal is also in trouble, as the state considers ways to reduce Medi-Cal funding. On Thursday, for example, Medi-Cal covered abortions were virtually eliminated.

Short-sighted legislators propose deleting plans to increase the reimbursement rate for Medi-Cal services. At present, participating doctors are paid much less to treat Medi-Cal patients than they can charge private patients. Unless reimbursement fees are increased, physicians will be more reluctant than ever to care for Medi-Cal patients.

Even now, many of the state's 2.9 million Medi-Cal recipients cannot find a private physician to treat them. The situation is particularly acute for maternity patients; throughout California private obstetricians will not accept Medi-Cal patients. As a result, a large number of these women are being forced to turn to county services—the very services that are being cut.

And uninsured poor patients are even more vulnerable to medical care restrictions. They are routinely refused treatment at private hospitals and are shuttled to county facilities like so many pieces of baggage.

A two-week study of the records of Highland General in Alameda County, one of the largest county hospitals in California, found that the vast majority of transfers from the private Alameda hospitals to Highland General were medically indigent (uninsured) or Medi-Cal patients who were far sicker than the average county hospital patient.

"Of the 19 transferred patients," the study noted, "16 had life-threatening diagnoses: a brain hemorrhage, a stroke, a possible heart attack, a low blood sugar, three serious head traumas, a drug overdose, a skull fracture, a gunshot wound to the chest, two serious intestinal hemorrhages, three broken legs and a fractured pelvis combined with severe head trauma."

Under the new funding proposals the paradox of our health care system intensifies: Those most in need of medical care are least able to obtain it. California's poor (a disproportionate number of whom are elderly and minority group members) are less healthy than the rest of society, yet they receive significantly less health care. Until the environmental, social and economic circumstances in which these people struggle to survive are changed, they will continue to suffer high disease and mortality rates. Nevertheless, studies show that when medical services are provided, the health of the underprivileged improves.

Cuts in county health care will be hardest on those without health insurance who also depend on these services. The uninsured are usually those in the lowest paid jobs, or those without jobs.

Ironically, Proposition 13 is likely to increase the ranks of the unemployed and at the same time, eliminate the health care services these people must turn to.

Within our large cities, lack of primary care physicians was already extreme before Proposition 13. In Los Angeles 19 areas are underserved. In 1972, for example, there were 63 physicians per 100,000 population in the Watts-Willowbrook section of Los Angeles County while the county as a whole had 186 physicians per 100,000 residents. Because of the scarcity of doctors in underserved areas, county hospital outpatient departments and emergency rooms are the principal source of primary health care. The unavailability of alternate health care resources forces people to use emergency care to meet routine needs.

In large cities, county hospitals provide a disproportionately higher number of emergency services and in many rural counties they are the *only* sources of emergency care. In 1976, San Francisco General Hospital logged 60,148 emergency room visits—17.4% of all the emergency care provided in San Francisco County. Meanwhile, Los Angeles County-USC Medical Center provided emergency care to 336,763 patients—17.8% of all emergency treatment in L.A. County. The high use of these services proves just how necessary county hospitals are, and yet they are being ripped from the fabric of public health care like frills from a Puritan garment.

While a superficial appraisal of proposed health service cuts may suggest that these reductions will only affect the poor, closer analysis reveals that the entire community will suffer and, in the end, overall costs will increase as a direct result of limited health-care services.

This is especially true in the case of maternal and child health services and communicable-disease control.

The link between prenatal care and the condition of the child at birth is well established. Prenatal care is essential to prevent many of the complications that may arise during pregnancy. And the lack of prenatal care increases the risk of infant mortality and mental retardation.

Premature birth is responsible for half of all infant deaths, and it increases the likelihood of birth defects. A woman who has had no prenatal care is three times more likely to give birth to a premature infant than a woman who has had that benefit.

A child born mentally retarded or with cerebral palsy—only two of the birth defects associated with prematurity—because of inadequate prenatal care will ultimately require more of society's economic resources than adequate prenatal care would have cost.

County hospitals and clinics provide a substantial proportion of maternal and child health services for the poor, which are not available in the private sector. If these services are eliminated or reduced, many California children will go without basic preventive health services necessary for a productive life.

But prenatal care is not the only serious loss. Anything that limits health-care services creates community health problems. For one thing, the spread of communicable diseases increases. A case in point is Orange County.

In June, 1976, the Orange County Medi-Cal Services Administration instituted a policy of requiring everyone who could not pay for medical care to apply for Medi-Cal. The names of those who would not apply or who were without adequate identification were sent to the Immigration and Naturalization Service. For undocumented immigrants in Orange County, seeking medical care from public agencies became synonymous with the threat of deportation. As a result, fewer people sought such help.

By September of 1977, the Orange County Public Health and Medical Administration reported that since the previous year, the county had experienced increases in the following diseases: 57 percent in extrapulmonary tuberculosis, 47 percent in salmonellosis, 14 percent in infectious hepatitis, 53 percent in rubella, 153 percent in syphilis.

The treatment of primary syphilis and early stages of tuberculosis, the detection and treatment of phenylketonuria (a genetic deficiency) and rubella immunization programs are inexpensive, save millions of dollars a year in unneeded medical services and prevent suffering.

These preventive and public health services also reduce the incidence of illness in the entire society. Obviously, any cutbacks in county hospital services that make it more difficult for the poor to get treatment for communicable diseases endanger the broader community.

By decreasing communicable diseases among the poor the county health system directly serves the middle- and upper-class Californian. These groups also benefit from health-care programs that prevent costly long-term services to the mentally retarded and physically handicapped.

But county hospitals do much more than care for the poor. California's larger public hospitals are associated with medical schools, and they provide a wide range of highly specialized services:

—Los Angeles County-USC Hospital, for example, operates one of only three burn treatment units in the county. In addition, it has the only communicable disease ward in the city.

—Harbor General Hospital operates a clinical study center which provides research and services in metabolic diseases, unduplicated anywhere in the county. It is also one of the few hospitals in its area that operates a neonatal intensive care center and a renal transplant unit.

—Another Los Angeles county hospital, Rancho Los Amigos, provides long-term rehabilitation and physical therapy services utilized by the entire county.

Further, California county hospitals are a major resource for training physicians and other health-care professionals. In 1974, 47.8 percent of the total number of interns and residents trained in Los Angeles received instruction at county hospitals. In California, 14 county hospitals conduct family-practice residency training programs. Indeed, these hospitals are a primary source of training for doctors who will be responsible for primary care throughout the state.

California's county hospitals and clinics provide services upon which the entire community depends. Responding to Proposition 13 by eliminating these benefits will lead to increased suffering and illness. Because the California electorate demanded such severe budget cuts they have, in fact, placed property rights over human life.

Under present disastrous plans for county supported health care systems, doctors and services for the poor will soon be scarce. In fact, if these proposals are implemented, perhaps California should post a new sign at its border beside the speed and littering warnings and direct it to the poor, the unemployed and the elderly:

"The Surgeon General has determined that entering California is dangerous to your health." ●

## CLEAN BILL OF HEALTH FOR CETA

### HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. LONG of Maryland. Mr. Speaker, the House of Representatives will in the next few weeks begin debate on the reauthorization of the Comprehensive Employment and Training Act (H.R. 12452). I support the CETA system and I feel that in the 4 years of its operation it has been instrumental in addressing both the problems of structural and countercycli-

cal unemployment. Yet much of the current debate about CETA has centered on isolated anecdotes in the program rather than its overall effectiveness. In order to present a balanced view of the CETA program, I ask that several articles about the CETA program in Baltimore be placed in the RECORD.

I am pleased to report that Baltimore, after an extensive investigation, by the Department of Labor, was given a clean bill of health. I cite two editorials that appeared in Baltimore newspapers concerning that investigation. The editorials praise the CETA operation in Baltimore. The first is from the News American of June 16, 1978.

GOOD NEWS

A U.S. Department of Labor investigation of Baltimore's federal jobs program is completed, and the city—we're glad to say—has obtained virtually a clean bill of health.

We say "virtually" because three jobs program employees were dismissed because of "technical violations" of federal hiring standards.

Marion Pines, director of the Manpower office, said she will not appeal the case, but added that all three "did nothing wrong—we at the Manpower office made some technical errors."

The technical errors involved the miscalculation of the length of time each of the three had been unemployed before obtaining jobs under the federal Comprehensive Employment and Training Act.

Actually, in Title VI of CETA, to qualify for which a person has to have both low income and have been unemployed for 15 out of the last 20 weeks, no errors at all were discovered. Seventy percent of the 3,600 persons-funded are on Title VI.

No favoritism or nepotism was founded by the Labor Department probers.

Mayor Schaefer said he was "very pleased" with the findings, in view of the fact the probe showed no evidence of abuse or patronage, and said: "It's good news to hear we can run a program where there are 20,000 applicants and we have only three technical difficulties."

We share the mayor's pleasure.

A similar editorial appeared in the Baltimore Evening Sun on June 16, 1978, and the portion dealing with the Baltimore program is excerpted here:

THE CETA PROBE

The Department of Labor has investigated Baltimore's use of funds from the Comprehensive Employment and Training Act (CETA) and has given the city a generally clean bill of health. The department did order the manpower office to fire three unnamed employees who were illegally hired. And it found a technical violation in the CETA job held temporarily in late 1976 by Louis R. Palughi, nephew of the city's special services chief. But even here the department found the city's behavior "represented an honest effort to comply with CETA [nepotism] regulations."

If we are to believe the Labor Department's investigation was thorough and objective—and there is no reason not to—the Mayor's Office of Manpower Resources gets a ringing endorsement. The CETA program is *not* rife with nepotism and favoritism, and the dozen or so cases cited in this newspaper last December (including relatives of a judge, the sheriff, a prominent legislator and one of this newspaper's photographers) have now been cleared. The number of cases on which the department has found Marion Pines' manpower office in technical violation constitute a minute percentage of the 3,500 CETA employees in the city . . .

The clean bill of health is crucial for a city that relies so heavily on federal job funds, particularly now that Baltimore is one of the cities selected for participation in the $400 million Private Sector Initiative Program. That CETA is being run honestly cannot help but make it a better program.●

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## AIRLINE PROFITS SOAR, BUT SO WILL PASSENGER EXCISE TAXES

### HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. VANIK. Mr. Speaker, the House of Representatives will soon be considering the Noisy Aircraft Revenue and Credit Act of 1978. Certain provisions of this legislation would transfer about $2.3 billion from the airport-airway trust funds directly to the airline industry.

The Noisy Aircraft Revenue and Credit Act of 1978 is designed to help airlines meet Federal regulations on noise pollution by 1985. Under this regulation, 1,600 aircraft would have to be replaced reengined, or retrofitted. The airlines claim they cannot afford to meet the 1976 regulations by 1985. In reality, however, the industry is enjoying record profits and is currently making extensive aircraft purchases without Federal assistance.

Presently, airlines are in a boom period where earnings for scheduled airlines reached $563 million in 1976, $754 million in 1977, and $80 million in the first quarter of 1978. Moreover, estimates for earnings in the second quarter of 1978 range from $350 to $450 million. United Airlines' profit alone for the second quarter of 1978 reached $91.9 million and Trans World Airlines' profit reached $37.1 million for the second quarter of 1978. Eastern Airlines has also reported record profits for the second quarter of 1978.

The recent purchases of aircraft, without Federal aid, also illustrates the fact that airlines are currently capable of compliance with Federal regulations. Eastern Airlines is purchasing 23 A–300 Airbuses, costing $778 million. Recently, United Airlines announced the purchase of 30 B–767's and 30 B–727's. The $1.6 billion needed to purchase these aircraft is financed without any Federal assistance. In addition, Delta and Northwest Airlines have spent $1.25 billion each on the purchase of quieter aricraft since 1973. Thus, it appears obvious that airlines and airline manufacturers, are presently replacing their fleets and have the capacity to meet Federal regulation by 1985—without Government assistance.

Moreover, under the Noisy Aircraft Revenue and Credit Act of 1978, funds would be allocated according to the amount of revenue an air carrier generates. As a result, funds would be allocated according to an airlines' share of the market, and not according to the number of noisy aircraft it operates.

In the Rules Committee's preliminary consideration of this matter, I requested that several amendments be made in order to try to prevent the bill from picking passengers' pockets to pay for the airlines' new planes. I will pursue that course until I am satisfied that the public is being treated fairly. They are not as the bill is currently written.

I hope that the Rules Committee will permit the House to make appropriate amendments to this legislation.●

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## THE TAX REFORM TRAP: AN INTERESTING PERSPECTIVE ON THE SHAPE OF THE DEBATE ON TAX REFORM AND TAX RATE REDUCTION

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. KEMP. Mr. Speaker, Dr. Paul Craig Roberts, a member of the Senate staff, a senior research fellow at the Hoover Institute at Stanford University, and a professor of economics at George Mason University in Virginia, has offered us an interesting perspective on the nature, the shape of the debate going on in Congress and throughout the country on tax reform and tax rate reduction.

Dr. Roberts poses and answers the question: What's at stake in the final decision? That answer explains the reaction of the administration and of certain Members to suggestions that we reduce income tax rates. It also gives us hints of the coalition which is being brought together to assure permanent tax rate reductions for all Americans.

Dr. Roberts' informative piece, from the New York Times of July 26, follows:

[From the New York Times, July 26, 1978]

THE TAX REFORM TRAP

(By Paul Craig Roberts)

WASHINGTON.—These are dangerous times for the taxpayer. Revolts don't always succeed. They often fail, and in the process of being put down, the taxpayer can come out a net loser.

On a national level, taxpayers are an uncertain political force. Their visit numbers and different positions in the tax brackets make them easy to segment and difficult to organize. Their dispersal across all Congressional districts prevents them from becoming the special interests of specific politicians. In a system built to serve organized interest groups, taxpayers, as a group, have no political patron.

Taxpayers have powerful opponents. One is the Internal Revenue Service, whose interest is to collect more taxes, not less. Whenever there is any prospect of taxes being cut, the Treasury Department visibly worries about deficits. "Inflation is the cruelest tax of all," intone the Treasury's men. Less visible but more powerful opponents of the taxpayer are: One, Congressional spending committees that want more taxes not fewer to hand out; two, constituents that are the organized recipients of the handouts; and three, Federal agencies that thrive on administering the Congressional spending bailiwicks.

Skillful opponents of tax reduction can divide the taxpayers with proposals to shift

the tax burden instead of reducing it. This political manuever goes under the names of tax reform to help the poor.

Tax reform to help the poor is easy because the poor don't pay any taxes. I.R.S. statistics show that in 1976 the bottom 50 percent of taxpayers paid only 6 percent of the total personal income taxes. Therefore, for only 6 percent of the money, the Government could buy half of the taxpayers' votes. This half, plus the millions who have already been dropped from the tax rolls as a result of lower tax bracket reforms during the 1970 to 1975 period, could vote themselves benefits for which they don't have to pay.

There is a constituency here politicians could organize into a winning coalition for reforms that shift, rather than reduce, the tax burden. In tomorrow's politics, being liberal may become a rational, self-interested response of political entrepreneurs to this system of representation without taxation. What more can a politician achieve than constituents who are both economically and politically dependent?

The I.R.S. is a great supporter of tax reform. The tax men are quick to point out that tax cuts in the lower brackets can be paid for by closing loopholes. This looks on the surface like a fair swap with no net gain to the I.R.S. In reality, it is a cleverly designed tax increase. In our system of progressive income tax rates, shifting the burden upward means increasing it, because inflation continually moves people out of lower brackets (that were cut) and into higher brackets (that weren't).

With 50 percent of the taxpayers paying practically no taxes on their money incomes, the I.R.S. is attempting to recoup by taxing their fringe benefits. Thus the campaign against tax loopholes. To most people, loopholes mean three-martini lunches, oil depletion allowances, and real estate shelters, but 70 percent of the dollar value of the loopholes goes to people who are not rich. Pension benefits and medical insurance provided by employers, Social Security benefits, military disability pensions, disabled coal miners' benefits, public assistance, sick pay, G.I. benefits, and unemployment benefits are all on the Treasury's loophole list.

Whether taxes are cut or reformed will be determined by the outcome of the political fight over handout power. What can be handed out through tax breaks and lower tax rates cannot be handed out by Congressional spending committees and Federal agencies. Tax reform stripped of sanctimonious talk is nothing but a move against the handout power of the tax-writing committees. Liberals may fancy that it is a fight between haves and have-nots, but, in truth, political power is a matter of handout power, and it is merely a fight among members of Congress.

That doesn't mean that the rest of us are unaffected by the outcome. If the private sector can't form capital, it can't provide jobs. The Legislative and Executive branches don't really mind unemployment because it means more Federally created jobs, public works and Government spending. Pork-barrel legislation builds the spending constituencies and welfare dependencies of Congress and the Executive branch, and means more patronage for individual politicians.

Tax reform masquerades as equity for the poor, while furthering the growth of political dependencies. Such moral masks outlive their wearers and are the hand-me-downs of political life. Over time, every ruling class is discredited by failures, but the mask that hides the self-interest of government endures.●



## FORMER SECRETARIES OF TREASURY ENDORSE INTERNATIONAL FINANCIAL INSTITUTIONS

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. LaFALCE. Mr. Speaker, next week the House is scheduled to consider H.R. 12931 which is the foreign assistance appropriations for fiscal year 1979. One of the key provisions of that bill provides for future U.S. financial participation in the multilateral international development banks.

A number of attempts will be made to amend that portion of the bill, including an effort to insert legislative restrictions on U.S. contributions to the development banks and an effort to reduce the level of U.S. contributions to those institutions. I believe that both efforts are ill-advised and should be defeated, because they could severely hamper the vital work of these banks, and because they are opposed to the important U.S. interest in the concept of multilateral economic development of Third World countries.

In order to convey the momentousness of this legislation, I would like to commend to my colleagues' attention a joint statement by eight former Secretaries of the Treasury concerning this bill. This truly bipartisan group's statement constitutes a powerful argument for the passage of the bill in its present form and for the principle this bill embodies.

The statement follows:

JOINT STATEMENT BY FORMER SECRETARIES OF THE TREASURY

As former Secretaries of the Treasury, we want to reaffirm again this year our belief that United States participation in the international financial institutions—the World Bank and the regional development banks—is vital to American economic and political interests.

Since the Second World War successive Presidents of the United States—Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford—with strong bipartisan backing in the Congress, have supported the World Bank and the regional development banks as major elements of our foreign policy.

As Secretaries of the Treasury during this period, we have consistently nurtured the growing role of these institutions in the world economy.

We did so because these institutions provided the most orderly, effective and business-like way of promoting international cooperation between the developed, democratic nations in assisting the poorer, less developed nations in giving hope for solid economic progress to their peoples.

The multilateral development banks provide a way of sharing the burden equitably, which otherwise would tend to fall disproportionately on the richer and larger nations such as the United States.

These institutions are set up so that the decisions on loans, hard or soft, are made by Executive Boards of Directors, representing member countries, but voting on a weighted basis, reflecting quantity of support, on recommendations from a staff of international civil servants. By this device, the politicizing of aid by individual nations can be avoided; appropriate terms and conditions to make the lending effective can be attached without the resentment of the borrower being directed at an individual lending nation; and the types and forms of loans can be made to reflect the points of view of borrowers and lenders alike. Moreover, procedures following up the extension of the loan can be administered so as to assure its appropriate use without the charges of interference that might otherwise attach to an individual lending nation.

We firmly believe that a continued U.S. leadership role in the multinational financial institutions is vitally necessary to a continuance of these organizations along the efficient, business-like lines described, and to our own cooperative effort in the world.

The House of Representatives will soon vote on the FY 79 Foreign Assistance Appropriations Bill. The House Appropriations Committee will report the bill to the floor with an $876 million reduction in the Administration's budget request. It is crucially important that no additional cuts be made. Any such cuts would seriously erode the U.S. position in the banks by putting the United States further behind in meeting past pledges. We believe that any further reduction this year would run counter to important U.S. interests and policies.

Unfortunately, it is possible that amendments may be offered again this year which would earmark U.S. contributions to the banks in a way which will prohibit their use for loans for certain countries and certain commodities. If such restrictive amendments were to be adopted, they would effectively end U.S. participation in the banks. The Charters of these multilateral institutions do not permit the banks to accept funds so conditioned by individual members. These institutions have become such an integral part of the world economic system and U.S. foreign policy that such a result would gravely undermine the world economy and the future well-being of the American people.

We are pleased that the Appropriations Committee decided not to recommend any legislative restrictions on the use of funds appropriated in this year's bill. We urge the House and the Senate to reject any restrictive amendments that would have such devastating effects on the banks and U.S. participation in them, as well as to vote down any further reductions in the appropriations for the World Bank Group and the regional development banks.

ROBERT B. ANDERSON,
JOSEPH W. BARR,
JOHN B. CONNALLY,
C. DOUGLAS DILLON,
HENRY F. FOWLER,
DAVID M. KENNEDY,
GEORGE P. SCHULTZ,
WILLIAM E. SIMON.●

## NEVADA'S FIRST TV STATION

### HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. SANTINI. Mr. Speaker, I would like to share with my colleagues an event that must be considered a milestone in Nevada journalism. KLAS–TV Channel 8 in Las Vegas, Nevada's first television

station, is celebrating its 25th year of service to the southern Nevada area on Thursday, July 27.

As one of the leaders in broadcast journalism, programing, production, and facilities in the State, KLAS is deserving of special recognition on its silver anniversary.

But, the event cannot be fully appreciated without a brief look at the station's illustrious past.

It all began in a small facility in July 1953, when then-Governor Charles Russell pulled the switch bringing power to the transmitters at TV–8 and opening up Nevada to the fascinating and informative world of television.

The original station was located just off what is now the Las Vegas "strip," and it feature some of the most diversified programing imaginable. It picked up segments from all three networks as well as the old DuMont Television Network. Nostalgia buffs will remember such favorite programs as Boston Blackie, Range Rider, Hopalong Cassidy, Danny Thomas, and Cashman Theater.

As the station grew, it became widely know and reputable. Finally, in March 1968, the telecasting property was purchased by Hughes Tool Co. (now Summa Corp.). KLAS became a CBS affiliate and a new transmitter was erected. This brought about better and more widely received service to Las Vegas viewers.

Then, in 1971, a man by the name of Mark Smith came into the KLAS picture. Mark moved the station to a new building and changed KLAS from just a television plant to a facility capable of a wide variety of major productions. Mark thought of KLAS in terms of a "West Coast" production center and set about making his vision come true. Today, Mark's dream is a reality.

Mr. Speaker, for 25 years, the people of Las Vegas and southern Nevada have been the beneficiaries of outstanding KLAS service.

I join the thousands of viewers and friends of KLAS in wishing the new owners, the management, and staff a happy 25th anniversary and many more years of success.●

## ERA's FUTURE

### HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. DEL CLAWSON. Mr. Speaker, the Honolulu Advertiser of Monday, July 24, contained a column from the Washington Post which originated with the Washington Post Service, commenting on the future of the equal rights amendment. It is a discussion which in my opinion warrants the attention of my colleagues in the House who have not already had the opportunity to read it. The column by Mary Russell is included at this point in the RECORD:

ERA's FUTURE

(By Mary Russell)

WASHINGTON.—The thousands of women who descended on Washington 10 days ago, urging Congress to give them more time to win ratification of the Equal Rights Amendment by the necessary 38 states, may have been making a mistake.

It is true, of course, that with the ratification drive currently three states short and with the seven-year ratification deadline up next March 22, the prospects for ERA are gloomy. But at this point it would perhaps be better if the deadline were not extended.

In part, this is because of immediate practical problems. Even if Congress passes a controversial extension of the deadline in an election year, it may also allow states that have approved ERA to rescind their votes.

This raises the possibility that ERA supporters might lose more votes than they could gain by an extension. It also means the issue might be tied up for years in the courts, since the legality of rescission has never been tested.

In addition, ERA proponents, already on the defensive, would be burdened with another difficult charge to defend: that they unfairly changed the rules of the game. The charge is already emerging, even among some who are sympathetic to the women's movement. As political consultant Curtis Gans recently wrote, "There is something fundamentally incongruous when a movement committed to the principle of political equality seeks unequal treatment from the law."

But perhaps most important, what would result if the deadline is not extended is a reassessment by the women's movement of where it's been, where it's going, and what went wrong.

Loss of ERA for now would be tragic. Pressures on businesses, unions, judges and politicians to continue gains for women would likely be eased. The country would have to face the fact of telling half its citizens that the Declaration of Independence's phrase, "all men are created equal," does not mean them.

But that certainly would not be the end of the issue. Women's leaders clearly are determined to press the matter, and they surely would start over to pass the amendment again in Congress.

That new beginning might be best. This is not only because it would make relatively little difference in the time which then would be needed for ratification by three-fourths of the states—the movement, after all, has been asking for seven more years—or that it would remove many other complications. It is also because it would force that badly needed reassessment of the movement's strategies.

For one thing, it seems clear that the movement needs to shift its emphasis from rhetoric—from marches and conferences and consciousness-raising—to expertise in gut-level politics. We know the issues, but we do not know how to translate them into political action.

This is not to point the finger of blame. For a movement that was "born again" only in the late 1960s, it has made incredible gains. Women have moved into jobs traditionally closed to them, from airline pilots to a woman appointee to the Federal Reserve Board. They are entering schools of law and medicine at record rates, and they have won such discrimination suits as the landmark AT&T case.

Everything, however, is not roses. While more women are entering the work force than ever before, they are filling lower-paying jobs and, compared with the pay men receive, are actually losing ground. In 1971, women earned 63 cents for every dollar a man earned, but by 1975 this was down to 57 cents. The ERA's equal protection clause is necessary to insure a legal umbrella for further advances.

But if the ERA and the movement are to make further gains, involved women will have to take stock and change.

The women's movement must also review its political tactics. A weary Chicago legislator who had voted consistently for ERA says the stridency on both sides was wearing him down. "To tell you the truth, I would have promised my vote to the first side which offered not to yell at me any more," he remarks only half facetiously.

One of the most ill-conceived tactics is the decision not to hold conventions in states that haven't ratified ERA. It is big cities that suffer the loss of trade from this boycott. Yet ERA gets most of its support from big city legislators.

Florida is a classic case. The kingpin of the Florida senate and the leading ERA foe, Dempsey Barron, is an arch-conservative Democrat from the Florida panhandle. But it is Miami that is hurt by the boycott in Florida. Barron, as is typical of many rural state legislators, views the city as a blot on the landscape. Boycotting Miami could not please him more. The basic tenet of political strategy is to hurt your enemies, not your friends.

A woman delegate at the House conference last year, watching for a while as the movement leaders—Friedan, Steinem, Bella Abzug—spoke, summed up the needs of the movement today. I'd trade them all for one female Lyndon Johnson," she said.●

## FACILITATING SMALL BUSINESS EFFORTS TO INCREASE PRODUCTION AND EMPLOYMENT OPPORTUNITIES

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. GILMAN. Mr. Speaker, the 13 million small businesses in the United States comprise 97 percent of the total number of American business firms. Thus, any assessment of the state of this Nation's economy quickly turns to a consideration of production levels and employment opportunities prevailing within our small business community.

In numerous meetings with small businessmen in recent months, I have continually heard the charge that the existing array of restrictive tax structures and oppressive Government regulations are seriously impeding capital formation and needed expansion. Faced with such conditions, small business faces an uphill battle in its efforts to create jobs, to increase production, to compete effectively in world markets, and ultimately to win the battle against inflation.

The legislation I am introducing today is born of the conviction that the Federal Government must act expeditiously to correct critically shortsighted tax formulas and regulations which when paired with current business conditions, seriously exacerbates the economic hostilities facing small businessmen. The

measure recognizes the plight of small business and seeks to remedy several key problems inhibiting capital formation and the concomitant expansion of small business so necessary for a healthy economy.

The major provisions of this bill are as follows:

First. Simplify current depreciation rules through a 3-year useful life straightline depreciation formula;

Second. Provide investors with a capital gains rollover if holdings are reinvested in a small business within a 2-year period; and

Third. Increase the size of a small securities offering that may be made under Securities and Exchange Commission regulation A from the current $1,500,000 to $3,000,000.

The first section of this bill permits a business to more expeditiously recover capital invested in machinery and equipment through a formula allowing depreciation deductions to be taken over a 3-year period on purchases of property not exceeding $100,000 in value. Small business firms electing this straight line depreciation based on a 3-year uselife formula for eligible property would be able to dispense with an inordinate array of depreciation regulations, reduce their tax-return paperwork, and writeoff machinery and equipment approximately three times faster than under present law.

While all businesses would be entitled to this accelerated depreciation allowance, the limitation of this allowance to the first $100,000 of equipment purchased each year will make this provision especially attractive to smaller business concerns.

The proposal directly addresses two key problems inherent in the present depreciation allowance formula which are severely impeding business efforts to secure capital: Costly compliance with a plethora of complex reporting requirements, and an inability to adequately reflect the impact of inflation on depreciation allowances.

Because depreciation is one of the most complicated areas of tax law, small businesses face the prospect of either retaining experts and, therefore, expensive accounting and legal services, or unaware of those specialized allowances for which they are eligible, do not avail themselves of certain depreciation allowances designed to help small businesses.

Moreover, a 3-year straight line depreciation allowance would enable firms to better absorb the adverse effects of inflation. Recent studies have shown that an accelerated depreciation allowance would free smaller businesses in many instances from the prospect of having to wait a longer period of time to recover money worth increasingly less each year and from not having the option of buying new equipment sooner, before it becomes increasingly more expensive.

A second provision in the measure I am proposing would permit investors to defer tax on an otherwise taxable capital gain if that profit received in the transaction is reinvested within 2 years in a small business. While not a new concept, this so called capital gains rollover is a sensible and fairly straightforward means to boost the attractiveness of a small business as a prime target for investment.

Precedent for this formula can be found in those rules and regulations governing reinvestment of the proceeds of the sale of a personal residence.

Endorsed this year by coordinators of the Small Business Washington Presentation, this provision would, as expressed at that forum, provide "relief to the small business which has an extremely difficult time attracting, retaining, and recovering capital."

Further addressing the problem experienced by many small businesses seeking vitally needed capital, the third section of this legislation provides for an increase from $1,500,000 to $3,000,000 of that amount of small business securities offerings which are exempt from certain Securities Exchange Commission regulations governing securities offerings.

As the Senate Committee on Banking, Housing, and Urban Affairs stated in an April 1978 report (95–763):

> Federal securities laws have always reflected the national policy of encouraging the growth and expansion of small business.

Raising the SEC regulation exemption ceiling has been a method in which Congress has traditionally endeavored to respond to small business's need to finance modernization and expansion, and the needs of newly organized ventures requiring a considerable amount of seed capital.

In times of increasingly tight money, small businesses often find that banks and private sources may not be willing or, indeed, able to provide necessary risk capital, and turn more to public offerings as a source of such capital. We must assist small business efforts to seek public financing and recognize that the current $1,500,000 SEC regulation A ceiling, though designed to facilitate such financing, is due to present economic conditions, indeed, an inadequate level to small business firms seeking to secure desperately needed capital.

The report of the SBA Task Force on Venture and Equity Capital for Small Business, released in January 1977, by the Small Business Administration, recommended that the small offering exemption be increased from the $500,000 ceiling to $3,000,000. While the 95th Congress acted earlier to increase this ceiling to $1,500,000, the SBA report underscores the urgent need to raise this limit to $3,000,000.

The SBA Task Force makes the case for raising the SEC regulation A in the following unequivocal terms:

> It is alarming that venture and expansion capital for new and growing small businesses has become almost invisible in America today. In 1972 there were 418 underwritings for companies with a net worth of less than $5,000,000. In 1975 there were four such underwritings. The 1972 offerings raised $918 million. The 1975 offerings brought in $16 million. Over that same period of time, smaller offerings under the Securities and Exchange Commission's (SEC's) Regulation A fell from $256 million to $49 million and many of them were unsuccessful. While this catastrophic decline was occurring, new money raised for all corporations in the public security markets increased almost 50 percent from $28 billion to over $41 billion.

Congress must expeditiously and effectively respond to the economic one-two punch of inflation and capital scarcity which is so severely threatening the survival of so many of this Nation's small businesses.

I am hopeful that by adoption of this legislative package providing: First, an increase in the SEC Regulation A ceiling; second, a 3-year straightline depreciation allowance; and third, a formula for a capital gains rollover, we can begin to relieve the adverse economic consequences especially hard hitting such a large number of our smaller business firm.

Accordingly, I urge my colleagues to support this legislation, and I request that the full text of this bill be inserted at this point in the RECORD:

H.R. 13620

A bill to amend the Internal Revenue Code of 1954 to provide for nonrecognition of gain on sales of certain business interests and for accelerated depreciation of certain property, and to amend certain securities laws to facilitate private offerings and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Incentives Act of 1978".

SEC. 2. STRAIGHT-LINE DEPRECIATION FOR CERTAIN PROPERTY BASED ON 3-YEAR USEFUL LIFE.

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(q) STRAIGHT-LINE DEPRECIATION FOR CERTAIN PROPERTY BASED ON 3-YEAR USEFUL LIFE.—

"(1) IN GENERAL.—In the case of property—

"(A) with a useful life of 3 years or more, and

"(B) with respect to which the taxpayer elects to have this subsection apply,

the term 'reasonable allowance' as used in subsection (a) means an allowance computed under the straight-line method (within the meaning of subsection (b)(1)) based on a useful life of 3 years.

"(2) $100,000 BASIS LIMITATION.—The taxpayer may not elect to have this subsection apply to property placed in service during the taxable year to the extent that the aggregate basis (as determined under subsection (g)) of such property exceeds $100,000.

"(3) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a controlled group of corporations—

"(i) all corporations which are component members of such group at any time during the calendar year shall be treated as one taxpayer for such year, and

"(ii) the dollar amount specified in paragraph (2) shall be apportioned, in such manner as the Secretary may prescribe by regulation, among such component members.

"(B) DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.—For purposes of subparagraph (A), the term 'controlled group of corporations' has the meaning given such term by subsection (a) of section 1563, except that for such purposes—

"(i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' in each place it appears in such subsection, and

"(ii) the determination of whether a corporation is a component member of a controlled group of corporations at any time during a calendar year shall be made on December 31 of such year.

"(C) CONTROLLED GROUPS CONTAINING PERSONS OTHER THAN CORPORATIONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to groups of persons under common control where one or more of such persons is not a corporation.

"(4) ELECTION.—The election under paragraph (1) with respect to any property shall be made at such time, in such manner, and subject to such conditions as the Secretary may prescribe by regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 3. NONRECOGNITION OF GAIN ON CERTAIN SALES AND EXCHANGES OF CERTAIN BUSINESS INTERESTS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1401. SALES AND EXCHANGES OF CERTAIN BUSINESS INTERESTS.

"(a) NONRECOGNITION OF GAIN.—

"(1) IN GENERAL.—If an equity or proprietary interest in any trade or business is sold by the taxpayer and, within the 2-year period beginning on the date of such sale, replacement property is purchased by the taxpayer, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price of such interest exceeds the cost to the taxpayer of such replacement property.

"(2) ELECTION.—The election under paragraph (1) shall be made by filing, not later than the last day prescribed by law (including extensions thereof) for filing the return of tax imposed by this chapter for the taxable year in which the sale occurs, with the Secretary a statement (in such manner as the Secretary may by regulations prescribe) of such election.

"(b) DEFINITION OF REPLACEMENT PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term 'replacement property' means any equity or proprietary interest in any trade or business which is a small business concern, as defined under the Small Business Act.

"(2) TIME FOR DETERMINING STATUS AS A SMALL BUSINESS CONCERN.—The determination of whether any equity or proprietary interest is an equity or proprietary interest in a small business concern shall be made at the time such interest is acquired by the taxpayer.

"(c) EXCHANGE TREATED AS SALE.—For purposes of this section, an exchange by the taxpayer of an equity or proprietary interest in any trade or business for other property shall be treated as a sale of such interest, and the acquisition of replacement property on the exchange of property shall be treated as a purchase of such replacement property.

"(d) LIMITATION ON STOCK SALES.—In the case of any equity or proprietary interest which is evidenced by stock, subsection (a) shall apply to the sale of such stock only if such sale would, if such stock had been purchased by the issuing corporation in such sale, be treated as a redemption within the meaning of paragraph (1), (2), or (3) of section 302(b), including the application of section 302(c).

"(e) REDUCTION OF BASIS.—Where the purchase of replacement property results under subsection (a) in the nonrecognition of gain on the sale of any equity or proprietary interest, the basis of such replacement property shall be reduced by an amount equal to the amount of gain not so recognized on the sale of such interest. Where the purchase of more than 1 replacement property is taken into account in the nonrecognition under subsection (a) of gain on the sale of such an interest, the preceding sentence shall be applied to each replacement property in the order in which such property is purchased.

"(f) STATUTE OF LIMITATIONS.—If the taxpayer during any taxable year sells any equity or proprietary interest at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of the 3-year period beginning on the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase replacement property within the 2-year period described in subsection (a), or

"(C) the failure by the taxpayer to purchase replacement property within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) TECHNICAL AMENDMENT.—Section 1223 of such Code (relating to holding period of property) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) In determining the period for which the taxpayer has held replacement property the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale or exchange of an equity or proprietary interest, there shall be included the period for which such interest had been held as of the date of such sale or exchange."

(c) CONFORMING AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales and exchanges of certain business interests."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 4. INCREASE IN SMALL ISSUE EXEMPTION.

Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$1,500,000" and inserting in lieu thereof "$3,000,000".●

## ERA RATIFICATION EXTENSION

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. EDWARDS of California. Mr. Speaker, extension of the ratification period for the equal rights amendment is an issue which will soon be considered here in the House. One of the reservations that has been expressed by some Members of Congress about extension is that a ratification period longer than 7 years would not provide the sort of contemporaneous consent that the Supreme Court has ruled is necessary for amending the Constitution.

Court rulings on this subject have made clear that by speaking of contemporaneous consent the court intended that amendments that were no longer relevant or for which there was no longer any need would not still be under consideration by the State legislatures.

In the case of the equal rights amendment, there can be no question of the continued vitality of the issue. The mere fact that tht ERA is capable of provoking such spirited debate throughout the country is evidence the amendment is not stale or dead. Poll after poll has shown that a majority of the American people continue to support the ERA. In fact, support for the amendment is on the upswing according to recent Gallup and Harris polls.

Further, the pressing need for an equal rights amendment is obvious to anyone who examines the status and salaries of women in the workforce or who studies continued discrimination in educational opportunity despite passage of title IX of the Civil Rights Act of 1964.

The fact of the matter is that we need the ERA. Piecemeal legislation and weak or vague court interpretations of existing sex discrimination statutes are inadequate. Once and for all we must provide constitutional recognition for equal rights of both women and men.

The Christian Science Monitor, in a recent editorial, explored the recent vote of the House Judiciary Committee to recommend extension of the ratification period until June 30, 1982. The article examines the need for a renewed effort on the part of all of us who support equality of opportunity to work for the ERA and for extension. I commend this editorial to the attention of my colleagues. The editorial follows:

ONE SMALL STEP FOR ERA

Supporters of the Equal Rights Amendment sorely needed a victory, and the House Judiciary Committee gave them one of sorts with their narrow 19 to 15 vote last week. What the committee did was to approve a resolution to extend by three years and three months the deadline for ratifying the proposed 27th amendment to the U.S. Constitution which would outlaw discrimination on the basis of sex. The battle is far from won, however.

The ERA forces must still convince the full House and the Senate, and indications are this may not be easy, particularly in the Senate. But after a string of recent defeats in state legislatures, the Judiciary Committee vote may give ERA supporters the boost needed to regain their campaign's lost momentum. The three-year extension, although less than the seven years ERA proponents had sought, nevertheless ought to provide sufficient time for getting the approval of the three more states needed for ratification.

Without a concerned push by supporters, however, the three-year extension could backfire and provide opponents with a new

opportunity to convince legislatures to rescind their ratifications—as three already have done.

The Judiciary Committee rightly rejected a proposal to allow states to rescind their approval of ERA; the legality of such rescindings has been questioned.

Thus with a new Gallup Poll showing a majority of Americans—58 to 31 percent—favoring the ERA, it is incumbent upon supporters to step up their lobbying. The poll also indicated Americans are more evenly divided—43 to 40 percent—on whether to extend the ratification deadline. Supporters obviously will need to focus their heaviest artillery on the extension issue, since it seems doubtful that they can reach their goal by March 22.

ERA proponents ought to remind lawmakers that until the 18th Amendment, there was no deadline for ratifying amendments, and Congress began imposing limits then only to keep proposals no longer relevant from floating around endlessly. There can be little doubt that the need to constitutionally ensure equal rights for both sexes remains very much a live and relevant issue in 1978—as it will three years hence.●

## CASE 83: HUMAN RIGHTS VIOLATIONS IN IRELAND

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. RANGEL. Mr. Speaker, I would like to call attention to the human rights violations documented by Amnesty International in their 1978 report.

As a member of the Ad Hoc Congressional Committee on Irish Affairs, I am most disturbed by this report and have joined my colleagues in calling attention to it by participating in this special order.

The case which follows is another example of the maltreatment of prisoners that exists in Castlereagh Prison in east Belfast, Northern Ireland.

I believe that this case and the others that have been inserted in the CONGRESSIONAL RECORD will encourage all Members of Congress to support the need for hearings on the Irish conflict. This is one human rights issue that should not be forgotten.

Case No. 83:

CASE NO. 83

Male, arrested 1977 and brought to the Newcastle RUC Station; later transferred to Bessbrook RUC Station. Alleged maltreatment in both detention centers. Detained for four days, then released without charge. Had a medical examination on arrival at the Newcastle RUC Station and also on arrival at Bessbrook RUC Station. During his detention at Bessbrook, he had medical examinations by two different doctors. He had a medical examination before he left the Newcastle RUC Station. No information regarding any medical examination before release from Bessbrook.

Maltreatment alleged: general beating, physically exhausting procedures, hairpulling, direct trauma to the head: karate chops on the back of his head. Threats.

Symptoms (immediate): nausea, unable to think, unable to sleep, pains all over but especially in the area of the 10th and 11th ribs. Alleges that when he received a karate chop on the back of his head he "saw stars". (Later): insomnia, fear, inability to work.

Medical report: On examinations by Dr. D2, No. 1 while still detained, No. 2 the day he was released from detention center and No. 3 six months later.

Signs: on first examination in detention center, was shivering and frightened. Was easily annoyed and obviously reactively depressed. B/p low, 100/60. Pulse normal. Had clinical signs of fracture of 10th and 11th ribs. A bruise mark over right buttock. A bruise on right back, but not necessarily new. Tenderness in the epigastric area. Urine contained albumen and acetone. Dr. D2 explained the albuminuria as orthostatic, provoked by a long time standing in erect posture with lordosis of the lumbar spine.

On second examination, the day he was released: had no albuminuria, but very shaky and had all the signs mentioned above.

On third examination, six months later: somewhat better, but still showed some mental disturbances. It should be added that Dr. D2 had known this man for 15 years before his detention and asserts that he had always been completely healthy and mentally normal.

Conclusion: There is consistency between alleged maltreatment and the signs. We would add that the proteinuria, as explained by Dr. D2, may also have been provoked by physically exhausting procedures such as those the patient alleged.

The complainant was examined by police doctor T2 and it would be of great value to compare the reports.●

## TERROR SQUADS IN RHODESIA TARGET BLACK MODERATES

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 27, 1978*

● Mr. McDONALD. Mr. Speaker, assassination squads trained in Angola by Soviet and Cuban military advisers for the so-called Patriotic Front, the coalition of two terrorist groups, the Zimbabwe African People's Union (ZAPU) led by Joshua Nkomo and the Zimbabwe African National Union (ZANU) led by Robert Mugabe, have been sent into Rhodesia with the assignment of murdering the moderate black Rhodesian leaders who are supporting the "internal settlement" of transition to black majority rule. A captured terrorist from Nkomo's Zipra forces, Reuben Donga, 22, has provided details of the training provided by Soviet and Cuban officers at terrorist bases in Angola at several public news conferences. Among Donga's admitted deeds was the massacre of 17 unarmed black civilians in mid July.

That the two terrorist groups comprising the Patriotic Front were planning the murders of black Rhodesian moderates cannot be news to United Nations diplomats and personnel for the Patriotic Front's U.N. Liaison office at 211 E. 43rd Street, suite 902, New York, N.Y. 10017, has made certain that substantial numbers of copies of Zimbabwe News, ZANU's "official organ," have been distributed to Maoist and revolutionary bookstores across the United States and in the U.N.

The March–April, 1978, edition of Zimbabwe News carried the following headline and story on page 1:

WHY SITHOLE, MUZOREWA AND CHIRAU MUST DIE

Before these three stooges signed the * * * so-called "internal settlement," we of ZANU and ZAPU, which together comprise the Patriotic Front did all we could to warn them of the dangers of their doing so. We reminded Sithole, Muzorewa and Chirau * * * that what had made the settlers to shout 'majority rule,' 'one man one vote' was not on account of a change of heart. It was pain. It had taken bazookas, sub-machine guns, landmines etc. to bring them into the 20th Century. But they still needed more pounding before they could fully repent. Many more of them would have to die before they could shout, with feeling, 'Zimbabwe now,' 'No racial representation in parliament now,' 'No racial privilege and discrimination now,' 'All land to the tillers,' 'Socialism now.' You have to hit a racist settler in the groin and skull hard; very hard; very, very hard before you can get him to scream those words. That is what we proposed; that is what we have been doing and that is what we will continue to do till final victory.

But Sithole, Muzorewa and Chirau * * * would not listen. They quickly signed the 'Articles of Auction'—selling the seven million Zimbabweans to settler agents of imperialism and multi-national corporations. * * * The crimes Sithole, Muzorewa and Chirau committed by signing the treacherous covenant are so dastardly, they cry to heaven for revenge.

Had Sithole, Muzorewa and Chirau not joined the illegal regime. Smith would not have continued the war. They have allowed him to claim that he has 'broadened' his regime * * *. He has now sent them to the U.S., U.K., South Africa and elsewhere—as messengers in defence of the criminal minority rule. * * *

This is why we firmly hold to the view that Sithole, Muzorewa and Chirau will have to die. * * * The people's hand is long; and their memories are wrought in blood and their punishment is certain. So it is written, so let it be done.

The two terrorist groups have been open about their intention to continue using terrorism against the Rhodesian civilians, black and white, whom they are trying to conquer. In July 1976, at a Capitol Hill conference a ZANU representative was joined by a ZAPU spokesman in asserting that white Rhodesians owed a "blood debt" to the revolutionaries. More recently I attended a briefing for Members of Congress by Dr. T. Kangai and Mr. C. Ndlovu of the Patriotic Front in which they admitted that attacks on Rhodesian civilians was a part of the revolutionary strategy.

Nevertheless, this country's Ambassador to the United Nations, Andrew Young, remains committed to throwing U.S. support to these terrorist gangs led by committed Marxist-Leninists rather than to parties of the Rhodesian internal settlement. Ambassador Young's partisan support for the Patriotic Front terrorists was revealed in the second part of his interview with the French Socialist newspaper, Le Matin, when he offered his belief that the campaign of planned terrorism against missionaries and their families in Rhodesia could only have come from the Rhodesian govern-

ment and not from the Marxist revolutionary forces of ZAPU and ZANU.

However, that same issue of Zimbabwe News printed an article by N. Shamuyarira, director of ZANU's Zimbabwe Institute, which denounces the missionary schools and religious training as an "attack on African culture." Especially blameworthy, according to this terrorist theoretician, is the fact that the missionary schools have educated many black Rhodesians. According to Shamuyarira, these educated black Rhodesians form a dangerous "elite." He continued:

> In comparison with other countries at the time of independence, the size of this elite is fairly large, and it exercises considerable influence on the population as a whole. Ninety per cent of the Zimbabwe elite were educated in Mission stations where they were indoctrinated with ideas of superiority and elitism. * * * The psychology of individualism and competition which is fertile ground for capitalism was also inculcated into the minds and thinking of young Africans.

The ZANU education director proposes that the mission school system will have to be ended in order to "produce an [educational] policy that will prepare citizens for life in a socialist Zimbabwe."

Both Nkomo and Mugabe agree that any Zimbabwe they control will be "socialist" in the Marxist-Leninist style, not the social democratic tradition. Zimbabwe News stated that "Zimbabweans have no apologies to make for comrade President Robert Mugabe's unashamed proclamation that ZANU is inspired by Marxist - Leninist - Mao - Tsetung thought." This Zimbabwe News editorial opened with a compliment from our Ambassador Andrew Young that "the trouble with Robert Mugabe is that he is thoroughly incorruptible." It continues in a typical "cult of personality" paean to Mugabe stating that Mugabe "stands for total and permanent struggle . . . permits no compromise of principle . . . spurns coexistence with imperialism or with its puppets." Actually, Mugabe represents not incorruptibility, but fanaticism and a blood lust for power.

As for captured terrorist Reuben Donga, he has been quite willing to provide Western newsmen with graphic demonstrations of the skills taught him by his Soviet and Cuban instructors. Donga's press statements have been extensively reported in the Daily Telegraph, published in London, but not in the U.S. media. Therefore, for the details on the "patriotic front" assassination plots against moderate leaders, I refer my colleagues to the following news items published on July 21–23, 1978:

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[From the Daily Telegraph, July 21, 1978]

TERRORIST TELLS OF PART IN MASSACRE

(By Hugh Davies)

A young Black terrorist captured by Rhodesian troops in an ambush last Saturday explained in graphic detail yesterday how he and a fellow gunman massacred 17 Blacks a week ago.

Reuben Donga, 22, said he had been taught how to shoot and bayonet his victims by Cuban instructors in Angola.

At a Press conference in Salisbury he was freed from his handcuffs while Special Branch detectives allowed him to demonstrate with his Russian-made AK automatic rifle how he had raked two mud huts packed with women and children.

He stood with his legs in an assault position and swung the rifle from right to left. "I was told that guerrillas were living there, drinking beer in the huts," he said. My friend and I were ordered to go and kill them."

They used tracer bullets to burn down one of the huts in which nine people were incinerated, he said. His companion was later shot dead by a Rhodesian soldier.

ANSWER TO YOUNG

Donga, who claimed to belong to Joshua Nkomo's Zipra forces, was paraded before a group of foreign correspondents by Rhodesia's Ministry of Information.

Officials said they were anxious to counter outside skepticism, particularly that expressed by Mr. Andrew Young, American Ambassador to the United Nations, about exactly who was responsible for the current wave of atrocities in Rhodesia.

Donga's manner was totally convincing as he explained how in the space of 16 months he was turned from a "bar boy" in the Park Lane Hotel, Salisbury, into what appeared to observers to be an indoctrinated Marxist prepared to kill on orders.

He kept on talking about "the masses," on whose behalf, he said, he was acting; and he claimed that his group were under orders to assassinate the four Black leaders in Salisbury—Chief Chirau, the Rev. Ndabaningi Sithole, Bishop Abel Muzorewa and Mr. James Chickerema, Vice president of the UANC.

Six of his companions, he said had reached Salisbury, although he was unable to give proof of this. He had been in the bush and out of touch with them, he claimed: Asked if there was an intention to kill Mr. Ian Smith, he replied: "No, His name was not mentioned."

AUTHENTIC RING

While this part of Donga's story seemed slightly implausible, his account of his recruitment into Zipra had a completely authenic ring.

He said he left his job in March last year to return to his home in Plumtree, 300 miles south west of Salisbury, and near the Botswana border. His mother was ill and he wanted to see her, he explained.

But guerrillas in the area persuaded him and two other men to accompany them on a bus which crossed the border into Botswana. Donga claimed that he was abducted.

Then they were moved by lorry to a camp in Zambia, where they stayed a week until soldiers he identified as Cubans arrived in lorries to take a large group of recruits into eastern Angola.

At a camp called Boma, near Luso in Angola's Moxloo Province, 150 miles west of the Zambia border, more Cubans awaited the party. Donga said he spent six months there undergoing "guerrillas training."

"Our instructors spoke English and taught us how to fire rifles and bayonet people. There was a lot of Cubans there in uniform. I would say about 1,000. I also saw Russians there. They taught me a lot of things. They said that there was no God. They said we were to kill Whites."

Donga spoke of being continually told about Europeans in Rhodesia sitting in bars and having large swimming pools.

MET NKOMO

Then he broke off and showed reporters how he was taught to lay grenades in a swimming pool, one at each corner with a string attached.

On his return to Zambia he said that he met Joshua Nkomo, who told him and his fellow recruits: "Now you have finished our training you must go and fight. Zimbabwe must be free."

Donga said that his final instructions were given to him and 11 others by Nikita Mangena, the Zipra commander who was killed by a bomb at the end of June. Zipra claimed at the time that he trod on a landmine.

But it is believed that Mangena was the victim of a feud within the guerrilla movement. A month before his death he was wounded in a gun attack believed to have been instigated by his rivals.

Donga said that apart from the rifle he was given only £2.28 in Rhodesian dollars and told to fend for himself. He robbed village stores of food and begged water from local people.

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[From the Sunday Telegraph, July 23, 1978]

HOW CUBANS TRAINED ME FOR WAR

(By Hugh Davies)

A disturbing picture of Soviet and Cuban instructors in Angola are turning raw young recruits of Joshua Nkomo's Zipra forces into an effective guerrilla army was given this week by Reuben Donga, 22, a self-confessed terrorist killer of 21 black Rhodesians.

After he surrendered to troops in bushland near Sinoia, 60 miles east of Salisbury, he was held in a detention centre where I interviewed him over a period of five hours. Like the special branch detectives who guard him, I am convinced that he was truthfully recalling his guerrilla experience.

I have also interviewed his relatives, who, like the war-weary people of Rhodesia, for legal reasons cannot yet be told of his arrest or what has happened to him over the last 17 months. He is due to face charges of mass murder and a mandatory death sentence if convicted.

His life changed dramatically in February of the last year when he took a week's leave from his job in Salisbury as a bartender at the plush Park Lane Hotel. He had heard that his mother was ill at her kraal in Plumbtree, 300 miles away in Matabeleland, close to the Botswana border.

As he got off the bus at Plumbtree, he was approached by three men who identified themselves as Zipra guerrillas. As he recalled, they told him: "You must come with us. You are going to Botswana to join Joshua Nkomo." He claimed that he was unwilling, but that he had no choice.

The men picked up two other youths in the town and the six strong party crossed the border that night and walked 50 miles to Francistown, where they stayed at a small guerrilla camp for three weeks. Then with five other youths and 18 girls he was put aboard a civilian passenger plane at the town's airport and flown to Lusaka, where he was fed for a further three weeks at a Zipra transit camp at Nyampunda, just outside the Zambian capital.

He saw about 4,000 people in the camp, including Zambian soldiers who were wearing rice-fleck East German camouflage uniforms. He was given food but had to sleep in the open.

From there he was taken to a smaller holding camp known as "FC" which is reported to be about thirty miles North West of Lusaka on the road to Angola. The late Alfred Nikita Mangena, overall commander of Zipra until his recent death in an explosion, paraded a group of recruits and told them they were to commence training in Angola.

Donga said: "He said that Cubans would be teaching us. Then a large number of trucks arrived at the camp. I counted 55 of them. White men were with them. They wore green uniforms, and Mangena said they were the Cubans. There was one to each truck, apart from four of the vehicles which were packed with these soldiers. I believe the trucks were called Zilis, which I think is a Russian make."

With more than 2,000 fellow camp inmates, among them girls, Donga was put aboard the convoy which then slowly wound its way across the border to Boma township outside Luso in Moxico province, 150 miles inside Angola. The journey took six days.

Just beyond Boma, the trucks were driven past a guard post into a large complex of barracks, with a parade square, rifle range, hospital and large training area. From Donga's description, it appears to have been an old Portuguese army post. Many Cubans were based there, he said. He talked about "hundreds." He estimated that there were also about 80 Russian soldiers on the base.

For a week, nobody did anything except clean out dormitories and read Russian books printed in English, the language that was used throughout the training period. Then a strict daily routine was instigated.

Recruits were woken at 7 am for 20 minutes physical training. Guerrilla warfare instruction began at 8:30 am. The timetable for Donga's "Infantry Platoon Three" was rigid. Monday and Tuesday were reserved for bushcraft. They were taken out of the camp, given rifle-shaped pieces of wood and taught how to lie in concealed positions, crawl, crouch and run.

On Wednesday, the morning was reserved for intensive marching on the parade square. After lunch, his unit was moved to a hut for the "engineering class." This involved tuition in the placing of TNT and plastic explosives. With simple drawings on blackboards, recruits were shown how to blow up pipelines and railway links.

Demonstrations were given in the vicinity of the camp on an actual piece of railway line laid specially for the purpose of showing blasting techniques.

Thursday was always a morning and afternoon of pure politics. Cubans and Soviets alternated as teachers, and, according to Donga, the emphasis of both sides was on "black and white being equal." He said: "We learned the life of socialism and that there was no God. In Socialism Africans and Europeans are one. You live together, you work together, and everyone is paid the same, even the man who works on the roads."

Halfway through the training period, judo and karate were added to the timetable, and Donga was allowed to begin firing live rounds on the range.

It was shortly after this that he was singled out with 47 other young men for intensive guerrilla training. It appears that he showed a natural ability with the rifle.

Detectives who have interviewed him in Rhodesia have been impressed by his knowledge of rifles. On his arrest he was carrying a Russian-made 1976 model of the AKM, a sophisticated version of the AK47. He could strip and assemble the weapon in seconds.

In reconstructing the three killings he has been involved in this month, including a massacre of 17 blacks, among them women and children, he appears to have had no qualms about spraying his victims with up to 70 rounds of automatic fire. He recalls the murders almost with a sense of satisfaction of having been ordered to execute them, he said, by "the masses."

In rounding off his training, his instructors taught him bayoneting.

And his first bloody act after he was smuggled into Rhodesia two months ago was to bayonet an elderly man.

His training in Angola ended in November when Mr. Nkomo arrived at the camp in a helicopter from Lusaka. Donga remembers the day well.

"It was the time we became soldiers. Mr. Nkomo was dressed in army uniform and he stood on a platform alongside the Cubans and the Soviet commanders. An Angolan officer was also with them.

"Then we all marched past them, and Mr. Nkomo saluted us. I was very excited. He told us: 'Now you are soldiers. You have got to fight for Zimbabwe. You must try to be men. You must never retreat. You must never be captured.'

"He then shouted 'Zimbabwe Zi Zi—now you are free.' We all sang with him. He told us he was going to Luanda, and he got back into his helicopter."

The captured guerrilla added: "After that we had a party for two days. We had Coca-Cola, beer, and for the first time, nice rice and good soup. People got drunk. Nobody slept. The Cubans brought out drums and guitars and everybody sang.

"The Russians joined in. They were very happy, but a bit reserved. There were Cuban and Soviet girls there. The Cubans had a song called '*Angola, Angola.*' The girls of the Soviet even danced with us. I will always remember that."

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[From the Daily Telegraph, July 22, 1978]

NKOMO GANG "SENT TO ASSASSINATE BLACK LEADERS"

(By Hugh Davies)

Six African terrorists including a Soviet-trained explosives expert were being hunted in Rhodesia last night after a warning that they had been briefed in Zambia to assassinate four black leaders in Salisbury.

The briefing was said to have been at a camp of the ZIPRA guerrilla followers of Mr. Nkomo, the Patriotic Front leader. The four "targets" were said to be:

Bishop Muzorewa; his two partners on Rhodesia's multiracial Executive Council, Chief Chirau and the Rev. Ndabaningi Sithole; and Mr. James Chikerema.

Mr. Chikerema is a vice-president of Bishop Muzorewa's United African National Council and was formerly deputy to Mr. Nkomo in the Zimbabwe African People's Union (ZANU) leadership.

Apparently 12 terrorists split into two units of six with a Soviet-trained man leading each unit. Security sources say all members of one unit have been accounted for. The other six terrorists may have reached Salisbury.

Sketchy details of the plot were first disclosed two days ago by Reuben Donga, 22, a Cuban-trained ZIPRA guerrilla who surrendered to troops after his companion was shot dead.

KILLER OF 21 PEOPLE

He confessed to killing 21 people, and although he faces a mandatory death sentence, he agreed to talk to foreign correspondents about his role in the Makanza massacre of Blacks a week ago.

He referred to his "mission" and gave names of the four "targets." Observers were skeptical, thinking he might have been trying to impress his all-White audience, but after extensive inquiries, I have ascertained that he was in a specially selected team of high-calibre guerrillas that left Zambia about seven weeks ago.

SMITH NOT ON LIST

All four "threatened" politicians are normally heavily guarded, and it is not thought extra precautions are being taken. But Special Branch detectives are taking the threat very seriously.

According to information collated by detectives, the team was told to leave Mr. Ian Smith, Prime Minister, alone.

One theory is that Mr. Nkomo wants to deal directly with Mr. Smith at a settlement conference. Mr. Smith has denied he would go to a peace conference without his black partners.

Yesterday, Bishop Muzorewa was still in America, and Mr. Sithole was traveling in Europe. The other two politicians mentioned were in Salisbury.

Ten men were briefed at "FC," a ZIPRA camp near Lusaka, by two of Mr. Nkomo's henchmen, Nikita Mangena, then ZIPRA forces leader, and Enoch Tsongani, his head of operations, told them they would be smuggled into Rhodesia specifically to kill the four politicians.●

# HOUSE OF REPRESENTATIVES—*Friday, July 28, 1978*

The House met at 10 a.m.

Father John J. McMahon, St. Theresa's Church, Phoenix, Ariz., offered the following prayer:

Lord God, thank You for the gift of a new day, full of potential, with opportunities for service and love. Forgive us for time wasted yesterday. May we use this day wisely and well. In our busy world of papers and speeches, may we not forget You, the Creator and Giver of time.

Lord, bless these Congressmen and all those who have been entrusted with the Government of our country. May they always be loving, caring people. May love—true love—bounce off the walls of their hearts and off the walls of this august Chamber. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2777) entitled "An act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R.

12426) entitled "An act to authorize the Secretary of the Treasury to provide financial assistance for the city of New York."

The message also announced that the Senate agrees to an amendment of the House to a joint resolution of the Senate of the following title:

S.J. Res. 102. Joint resolution, American Indian religious freedom.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 1 to a bill of the House of the following title:

H.R. 11832. An act to authorize appropriations for fiscal year 1979 under the Arms Control and Disarmament Act.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

The message also announced a change of conferee: Mr. SCHMITT was appointed to replace Mr. GARN as a conferee on S. 3084, proposed Housing and Community Development Amendments of 1978.

## FATHER JOHN McMAHON

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. RUDD. Mr. Speaker, it has been our great privilege to welcome in our midst today for the purpose of opening this session with prayer, Father John McMahon from my congressional district in Phoenix, Ariz., and pastor of St. Theresa's Parish.

Father McMahon has been a servant of the Lord in Arizona for just over 30 years.

He is a priest who constantly uplifts the spirit and the faith of those he touches in his daily work, which in addition to his parish duties includes charity and community development work that benefits thousands of Arizonans.

I am proud to know Father McMahon as my pastor and my friend.

Father McMahon was born in Cavan County, Ireland, and spent his young years working the land on his family's farm. He entered St. Patrick's Minor Seminary in Cavan Town as soon as his age would permit.

John McMahon was an energetic youth, and played on St. Patrick's football team. In between chores, a 10-mile bicycle ride one way, and long hours of study, he charted a course for a life of service.

He graduated to St. Patrick's College at Carlow, and his studies there led to ordination as a priest on June 13, 1948. While at the college in Ireland, Father John learned of the need for priests in Tucson, Ariz.—then a small town situated in the Sonoran Desert shared by the United States and Mexico.

The Diocese of Tucson, as we might guess, was about as foreign a place as one could find from the Emerald Isle. But on December 10, 1948, Father John arrived and helped to build the new St. Cyril's Parish.

He excelled as an assistant pastor at St. Cyril's, and the church so liked his work that they sent him back to Ireland to recruit more workers for the Southwest.

In 1957, Father John was appointed founding pastor of St. Philip's in Payson, Ariz., rim country northeast of Phoenix. Even today, Payson boasts only 2,900 souls. When Father McMahon arrived there 21 years ago, there was no church building in which to conduct mass, so he held forth under the pines. Little more than a year later, he said his first mass in a beautiful new church with funds raised across the country.

Father John again received travel orders from the bishop, to become pastor of St. Mary's in Chandler. Following the successful planning and fund drive for a new church there, he was again reassigned in 1968 as pastor of St. Theresa's, where he has eliminated a quarter-million-dollar debt and established a strong and vital parish.

Father McMahon has served on numerous boards and committees for the betterment of life in Arizona, for which he has received help, praise, and awards from organization after organization.

Those of us who have been fortunate enough to know him during his 30 years in Arizona have come to expect—with no warning—a phone call late at night or early in the morning, asking after a parishioner's health in the most beautiful of brogues as an introduction to enlistment in yet another of his ambitious and beneficial projects.

His spirit, his enthusiasm, his honest and benevolent concern for others make it a pleasure and a privilege to say, "Of course, Father McMahon, what may I do to help?" And Father McMahon never lacks an answer.

Mr. Speaker, it is a privilege to have in our midst this man of God who has given so generously of himself for the betterment of so very many people. Let us wish him many more years of success in his good works.

I thank the House for receiving him.

## FLOOR REMARKS OF THE HONORABLE CARROLL HUBBARD ON THE NEED FOR A SUBSTANTIAL TAX CUT

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, the taxpayers of the First Congressional District of the Commonwealth of Kentucky have sent a message, and that message is clear. My constituents want a substantial cut in Federal taxes, and they want a substantial cut in Federal spending to match that cut in taxes. In a questionnaire I recently sent to the citizens of Kentucky, I asked, "Understanding that reduced Federal taxes cause reduced Federal services, do you favor or oppose a substantial Federal income tax cut?" With 10,000 responses tallied, 83 percent favor an income tax cut, and only 17 percent oppose such a cut in taxes and Federal services. The message is, indeed, clear.

We now have a system that allows a combination of inflation and the progressive tax structure to gouge the American taxpayer with ever-increasing severity. We have a system that discourages increased production. The current failure of the Congress and the White House to provide significant tax relief is unconscionable in both economic and social terms. A current proposal before the House Ways and Means Committee to abandon proposals for tax reductions and simply extend tax measures which are to expire at the end of this year is blind to an out-of-control upward surge in tax rates and an impending reduction in the gross national product, jobs and real wages.

After a careful study of the various proposals for a significant tax cut, I have reached the conclusion that the best bill offered so far is the one by Representative JACK KEMP and Senator WILLIAM ROTH, which would cut more than $100 billion from Federal revenues in 3 years. It appears to me that the only way to reduce the growth of the Federal Government is to reduce the level of revenues available to the Government. It also appears that the current level of taxation is a burden upon our economy, and that Kemp-Roth will result in a healthier and more vibrant economy.

## WAS YESTERDAY'S WORK ON TAX BILL TIME WASTED?

(Mr. VANIK asked and was given permission to address the House for 1 minute.)

Mr. VANIK. Mr. Speaker, this morning in our prayer it was requested that we be forgiven our waste of yesterday.

Mr. Speaker, last evening a coalition of all of the Republicans and 13 of the 25 Democratic members of the Committee on Ways and Means reported out a tax bill that would have thrilled Andrew Mellon. The bill is heavily tilted in favor of the upper crust. The average taxpayer will receive a few bare bones from the banquet table.

Mr. Speaker, I opposed the bill. I have no pride in it. As far as the average taxpayer is concerned, the bill is a sham tax cut.

## APPOINTMENT OF CONFEREES ON H.R. 12255, COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12255) to amend the Older Americans Act of 1965

to provide for improved programs for older persons, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. PERKINS, BRADEMAS, BEARD of Rhode Island, MILLER of California, KILDEE, HEFTEL, HAWKINS, BIAGGI, QUIE, JEFFORDS, and PRESSLER.

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## CONFERENCE REPORT ON H.R. 2777, NATIONAL CONSUMER COOPERATIVE BANK ACT

Ms. OAKAR filed the following conference report and statement on the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes:

CONFERENCE REPORT (H. REPT. 95-1399)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National Consumer Cooperative Bank Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasing the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. The Congress also finds that consumer and other types of self-help cooperatives have been hampered in their formation and growth by lack of access to adequate cooperative credit facilities and lack of technical assistance. Therefore, the Congress finds a need for the establishment of a National Consumer Cooperative Bank which will make available necessary financial and technical assistance to cooperative self-help endeavors as a means of strengthening the Nation's economy.

TITLE I—NATIONAL CONSUMER COOPERATIVE BANK

CREATION AND CHARTER OF BANK

SEC. 101. There is hereby created and chartered a body corporate, the National Consumer Cooperative Bank, hereinafter referred to as the "Bank", as an instrumentality of the United States, and until otherwise provided, shall be a mixed ownership Government corporation. The Bank shall have perpetual existence unless and until its charter is revoked or modified by Act of Congress. The right to revise, amend, or modify the charter of the Bank is specifically and exclusively reserved to the Congress. The principal office of the Bank shall be in Washington, District of Columbia, and, for the purpose of venue, shall be considered a resident thereof. It shall make loans and offer its services throughout the United States, its territories and possessions, and in the Commonwealth of Puerto Rico. The Bank shall—

(1) encourage the development of new and existing cooperatives eligible for its assistance by providing specialized credit and technical assistance;

(2) maintain broad-based control of the Bank by its voting stockholders;

(3) encourage broad-based ownership, control, and active participation by members in eligible cooperatives;

(4) assist in improving the quality and availability of goods and services to consumers; and

(5) encourage ownership of its equity securities by cooperatives and others as provided in section 104, so that the date when all of the Bank's class A stock owned by the United States has been fully redeemed (the "Final Government Equity Redemption Date") occurs as early as practicable.

GENERAL CORPORATE POWERS

SEC. 102. The Bank shall have the power to make and service loans, commitments for credit, guarantees, furnish financially related services, technical assistance and the results of research, issue its obligations within the limitations imposed by section 107 in such amounts, at such times, and on such terms as the Bank may determine, and to exercise the other powers and duties prescribed in this Act, and shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) elect by its Board of Directors a president, one or more vice president, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, and define their duties in accordance with regulations and standards adopted by the Board, and require surety bonds or make other provisions against losses occasioned by acts of employees;

(4) prescribe by its Board of Directors its bylaws not inconsistent with law, which shall establish the terms of office and the procedure for election of elective members; provide in a manner not inconsistent with this Act for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; and prescribe the manner in which its officers, employees, and agents are elected or selected, its property acquired, held and transferred, its loans, commitments, other financial assistance, guarantees and appraisals may be made, its general business conducted, and the privilege granted it by law exercised and enjoyed;

(5) enter into contracts and make advance, progress, or other payments with respect to such contracts, without regard to the provisions of section 3648 of the Revised Statutes;

(6) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property and sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary or convenient to its business: *Provided*, That any such acquisition or ownership of real property shall not deprive a State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights of the inhabitants of such property under Federal, State, or local laws;

(8) obtain insurance against loss in connection with property and other assets;

(9) modify or consent to the modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or has an interest pursuant to this Act;

(10) utilize and act through any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with such agency, instrumentality, or organization for furnishing or receiving technical services and benefits of research services, funds or facilities; and make advance, progress, or other payments with respect to such contracts without regard to section 3648 of the Revised Statutes;

(11) within the limitations of section 107, borrow money and issue notes, bonds and debentures or other obligations individually or in concert with other financial institutions, agencies or instrumentalities, of such character and such terms and conditions and at rates of interest as may be determined;

(12) issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it;

(13) participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this Act on terms as may be agreed upon;

(14) accept guarantees from other agencies for which loans made by the Bank may be eligible;

(15) establish one or more branch offices and one or more advisory councils in connection with any such branch offices, as may from time to time be authorized by the Board of Directors;

(16) buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the final Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors;

(17) approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but, except as otherwise provided in this Act, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired; and

(18) have such other incidental powers as may be necessary or expedient to carry out its duties under this Act.

The stock or other securities or instruments issued by the Bank shall, to the same extent as securities which are the direct obligations of the United States, be "exempt securities" within the meaning of the laws administered by the Securities and Exchange Commission.

BOARD OF DIRECTORS

SEC. 103. (a) The Bank shall be governed by a Board of Directors (hereinafter referred to as the "Board" which shall consist of thirteen members. Subject to the provisions of subsection (b) of this section, all members of the Board shall be appointed by the President, with the advice and consent of the Senate, for terms of three years or until their successors have been appointed and qualified. The President shall appoint seven members of the Board from among the officers of the agencies and departments of the United States Government: *Provided*, That at any one time no more than one member shall be from any one agency or department. The remaining members shall be from the general public (and not from the officers or employees of the United States Government) but shall have extensive experience in the cooperative field representative of the following classes of cooperatives: (1) housing, (2) consumer goods, (3) low-income cooperatives, (4) consumer services, and (5) all other eligible cooperatives, and for these appointments the President shall consider nominees submitted by national associations of cooperatives. Any member appointed by the President may be removed at any time with or without cause by the President. If a vacancy occurs on the Board for any reason other than a resignation pursuant to subsection (b) of this section, a new member shall be appointed by the President to serve until the next annual meeting of the Bank, at which time the vacancy shall be filled for the remainder of the unexpired term by the President or the holders of class B and class C stock, as provided in this section 104.

(b) At the first annual meeting occurring after the time when the amount of paid-in capital of the Bank attributable to the shares of class B stock and class C stock equals or exceeds $3,000,000, three members of the Board appointed by the President from the general public shall resign. Similarly, when the amount of paid-in capital attributable to the shares of class B and class C stock equals or exceeds $10,000,000 the terms of the other three members appointed by the President from the general public shall terminate. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at each of the annual meetings occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds seven-thirteenths and eight-thirteenths of the total amount of paid-in capital of the Bank. As members of the Board resign in accordance with the foregoing provisions, the directorships vacated shall be deemed shareholder directorships and shall be filled by the holders of class B stock and class C stock in accordance with the provisions of subsection (c) of this section. Five remaining members of the Board appointed by the President shall resign on the Final Government Equity Redemption Date. Thereafter, one member of the Board shall continue to be appointed by the President from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers.

(c) At all elections of Directors by holders of class B stock and class C stock, nominations shall be made by the classes of eligible cooperatives specified in subsection (a). Vacant shareholder directorships shall be filled, whether by appointment or election, so that at any time when there are three or more shareholder directors on the board, there shall be at least one director representing each of the classes of housing cooperatives, low-income cooperatives, and consumer goods and services cooperatives. Each nominee for shareholder directorship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented. No one class of cooperatives specified in subsection (a) shall be represented on the Board by more than three directors.

(d) When all five remaining members of the Board appointed by the President have resigned pursuant to subsection (b) of this section, their successors and the successors to shareholder directors shall thereafter be elected puruant to such rules as the Board may from time to time prescribe in the by-laws of the Bank.

(e) No director shall be eligible to be elected for more than two consecutive full three-year terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank. The Bank shall give adequate advance notice to all voting stockholders of nominees and of the procedures for nominating other candidates. Each voting stockholder shall make the information required in this paragraph available to its members.

(f) The Board shall annually elect from among its members a chairman and vice chairman and select a secretary who need not be a member. The Board shall establish the policies of the Bank governing its funding, lending, and other financial and technical assistance, and shall direct the management of the Bank.

(g) The Board shall meet at least quarterly. Its meeting shall be open to members or representatives of all eligible cooperatives and other eligible organizations, as observers only, and to persons or representatives of groups who identify their interest in the Bank and who are invited to attend a meeting, subject to such rules as the Board may establish for the conduct of such meetings. Those rules shall include the manner of giving notice of meetings, the procedure for the conduct of meetings, the manner of submitting topics for the agenda, the allocation of time of presentations, and debate. The chairman, when sustained by the majority of the Board present, may adjourn the open meeting into an executive session on motion of the chairman, any Board member, or at the request of any applicant, borrower, officer, or employee when the matter under discussion involves an application, a loan, a personnel action, or other matter which might tend to impinge on the right of privacy of any person.

(h) Members of the Board appointed by the President from among the officers of the agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. Until the Final Government Equity Redemption Date, members of the Board appointed by the President from among the general public or elected by the holders of the class B and class C stock shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5, United States Code, for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code, for each day that they are away from their homes or regular places of business in the performance of their duties on the Board.

CAPITALIZATION

SEC. 104. (a) The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, and by the United States. Beginnning with the fiscal year ending September 30, 1979, the United States shall purchase class A stock and for that fiscal year there are authorized to be appropriated $100,000,000 for such purposes, and there are authorized to be appropriated for the next four succeeding fiscal years an amount not to exceed $200,000,000 in the aggregate. Any amounts so authorized but not appropriated or not utilized to purchase such stock of the Bank in any such fiscal year is authorized to be appropriated or reappropriated and so used in subsequent fiscal years.

(b) The capital stock of the Bank shall include class A, class B, and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank. Class A preferred stock held by the United States shall be a preferred stock with first preference with respect to assets and dividends over all other classes of stock issued by the Bank. So long as any class A stock is outstanding, the Bank shall not pay any dividend on any other class of stock at a rate greater than the statutory dividend payable on the class A stock. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers or organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of other classes held, except as provided in subsection (g) of this section.

(c) Class A stock with a par value of $100 per share shall be issued by the Bank to the Secretary of the Treasury on behalf of the United States in exchange for capital furnished pursuant to subsection (a) of this section. The holder of class A stock shall be entitled to dividends at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity: Provided, That until October 1, 1990, such dividends shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such dividends shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative. Any such dividend payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, but any dividend payment so deferred shall bear interest at the same rate as the rate at which dividends accumulate on the class

A stock. Without the approval of the Secretary of the Treasury, the Bank shall not pay any dividend or distribution on, or make any redemption or repurchase of, any other class of stock at any time when the cumulative dividends on the class A stock shall not have been paid in full (together with any unpaid interest thereon). Upon any liquidation or dissolution of the Bank, the holder of class A stock shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any other class of stock of the Bank, an amount not less than the aggregate par value of all class A stock outstanding, plus all accrued and unpaid dividends accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A stock be redeemed and retired as soon as practicable consistent with the purposes of this Act (such redemption to be at a price equal to the par value of the class A stock so redeemed plus cumulative dividends accrued thereon to the date of redemption): Provided, That beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of shares of class A stock having an aggregate par value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year.

(d) Class B stock shall be held only by recipients of loans under section 105 of this Act, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank may determine will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers.

(e) Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 105 of this Act or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank. Such dividends shall be payable only from income, and, until all class A stock has been retired, the rate of such dividends shall not exceed the rate of the statutory dividend on class A stock.

(f) Nonvoting stock of other classifications and other priorities may be issued at the discretion of the Board, to other investors, except that so long as any class A stock is outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A stock as to dividends or upon liquidation or dissolution.

(g)(1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 103(c) of this Act; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

(h) The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board. For the purpose of accepting such contributions, the Bank will be a governmental unit within the meaning of section 170(b)(1)(A)(v) of the Internal Revenue Code of 1954.

(i) After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds for reserves for losses, for cumulative dividends on class A stock and dividends on class C stock and for any redemption of class A stock in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

ELIGIBILITY

SEC. 105. (a) For the purpose of all titles of this Act, subject to the limitations of subsection (d) of this section, an eligible cooperative is an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such goods, services, or facilities, or a legally chartered entity entirely owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank, or mutual savings and loan association.

(b) No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

(c) As used in this section, the term "net savings" means, for any period, the borrower's gross receipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

(d) An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Rural Telephone Bank, the Banks for Cooperatives or other institutions of the Farm Credit System, or the Farmers Home Administration may receive the assistance authorized by this Act only (1) if the Bank determines that a request for assistance from any such source or sources has been rejected or denied solely because of the unavailability of funds from such source or sources, or (2) by agreement between the Bank and the agency or agencies involved.

(e) Notwithstanding any other provision of this section, a credit union serving predominantly low-income members (as defined by the Administrator of the National Credit Union Administration) may receive technical assistance under title II.

ANNUAL MEETING

SEC. 106. The Bank shall hold an annual meeting of its stockholders which shall be open to the public. At least 30 days' advance notice of the time and place of the annual meeting shall be given to all stockholders. Borrowers from the Bank shall also give notice of the meeting to their members, who shall be entitled to attend. At such meeting the Bank shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to borrowers and organizations eligible to borrow from the Bank. Members and representatives of borrowers may present motions or resolutions relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda.

BORROWING AUTHORITY

SEC. 107. (a) The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine after consultation with the Secretary of the Treasury: *Provided, however,* That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed ten times the paid-in capital and surplus of the Bank.

(b) The Bank is also authorized, but not required, and only so long as any of its class A stock is held by the Secretary of the Treasury, to issue its obligations to the Secretary of the Treasury, in amounts not to exceed in the aggregate such amounts as are provided in appropriations Acts and the Secretary of the Treasury may in his discretion purchase any such obligations. Each purchase of obligations of the Bank under this subsection shall be upon such terms and conditions as to yield a rate of return not less than a rate determined by the Secretary of the Treasury, taking into consider-

ation the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine any of the obligations of the Bank acquired by him under this subsection.

(c) The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(d) Obligations issued under this section shall not be guaranteed by the United States and shall not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Bank.

LENDING POWERS

SEC. 108. (a) The Bank may make loans and commitments for loans under this subsection to any organization determined by the Bank to be eligible under the provisions of section 105 of this Act, and may purchase or discount obligations of members of such organizations if the Bank, to the exclusion of all other persons, entities, agencies, or jurisdictions, also determines that the applicant has or will have a sound organizational and financial structure, income in excess of its operating costs and assets in excess of its obligations, and a reasonable expectation of a continuing demand for its production, goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions. Commencing on October 1, 1983, the Bank shall not make any loan to a cooperative for the purpose of financing the construction, ownership, acquisition, or improvement of any structure used primarily for residential purposes if, after giving effect to such loan, the aggregate amount of all loans outstanding for such purpose would exceed 30 per centum of the gross assets of the Bank. The Board of Directors shall use its best efforts to insure that at the end of each fiscal year of the Bank at least 35 per centum of its outstanding loans are to—

(1) cooperatives at least a majority of the members of which are low-income persons, and

(2) other cooperatives, if the proceeds of such loans are directly applied to finance a facility, activity, or service that the Board finds will be used predominantly by low-income persons.

The Board shall adopt and publish in the Federal Register rules defining the term "low-income persons" for purposes of this subsection. The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any person or organization.

(b) Loans under this section shall be repayable in not more than forty years and, except for loans with final due date not longer than five years from the date of the loan, shall be amortized as to principal and interest. In setting the terms, rates, and charges, it shall be the objective of the Bank to provide the type of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the Bank, necessary reserve and expenses of the Bank, and the technical and other assistance attributable to loans under this section made available by the Bank, but so long as the Bank makes loans from the proceeds of the sale of class A stock, the interest rate shall not be less than the rates generally prevailing in the area from other sources for loans for similar purposes and maturities, taking into consideration the cost to the borrower of required purchase of class B stock in the Bank. The loan terms may provide for interest rates to vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Bank for new loans at such times. The proceeds of a loan under this subsection may be advanced by the borrower to its members or stockholders under circumstances described in the bylaws or rules of the Bank.

(c) Subject to section 102(13), the Bank may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any borrower if such loan is to an organization that would be an eligible borrower from the Bank for a direct loan and is on terms and conditions (including the rate of interest) which would be permissible terms and conditions for such a direct loan. The Bank may impose a charge for any such guarantee. No loan may be guaranteed by the Bank if the income therefrom to the lender is excluded from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

(d) Any loan guaranteed under subsection (c) shall be assignable to the extent provided in the contract of guarantee as may be determined by the Bank. The guarantee shall be uncontestable, except for fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan. The Bank in lieu of requiring such lender to service such guaranteed loan until final maturity or liquidation, may purchase the loan for the balance of the principal and accrued interest thereon without penalty, if it determines that (1) the liquidation of the loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation, and (2) the loan will be repayable with revision of the loan rates, terms, or payment periods or other conditions not inconsistent with loans made by the Bank under subsection (a) of this section, which revisions the lender or other holder of such guaranteed loan is unwilling to make.

(e) As long as any of the class A stock of the Bank is held by the Secretary of the Treasury, the aggregate amount of commitments by the Bank to make or guarantee loans shall not exceed such amounts as may be specified in annual appropriation Acts.

TAXATION

SEC. 109. Until the Final Government Equity Redemption Date, but not thereafter, the Bank, including its franchise, capital reserves, surplus, mortgages, or other security holdings and income shall be exempt from taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, but any real property held by the Bank shall be subject to any State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

QUARTERS AND SPACE

SEC. 110. Until the Final Government Equity Redemption Date, space for the principal office and any branch offices of the Bank shall be provided by the General Services Administration. Thereafter, the Bank may lease, construct, or own quarters and provide for the space requirements of its principal and other offices.

REPORTS TO CONGRESS

SEC. 111. The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

AUTHORIZATION

SEC. 112. In addition to appropriations specifically authorized in this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, ending September 30, 1980, and September 30, 1981, such sums as may be necessary: *Provided*, That none of these appropriated sums shall be used to retire any indebtedness of the Bank incurred pursuant to section 107 of this Act. Any sums so appropriated shall remain available until expended.

APPEALS

SEC. 113. (a) If an application for assistance under this Act is denied in whole or in part, the applicant shall be informed within thirty days in writing of the reasons for the denial or restriction.

(b) Any applicant for assistance under this Act receiving notice of denial or restriction of the application may, within thirty days of receipt of such notice, request the Board of Directors to review the application and notice of denial or restriction for a determination of whether the action of the Bank was correctly within the terms of the Act, the regulations, and the policy of the Board. The Board shall consider the request for review at its next meeting and promptly inform the applicant of its determination and the reasons therefor.

CONFLICT OF INTEREST

SEC. 114. The Board of Directors shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the Federal Executive conflict of interest rules contained in Executive Order Numbered 11222 in prohibiting participation or action or the use of inside information for personal advantage on any matter involving a corporation, trust, partnership, or cooperative organization in which a board member, officer, or employee holds a substantial financial interest or holds a position as board member or senior officer, the activities of which organization might be relevant to, be competitive with, or be inconsistent with the objectives of any bank created under this Act. These rules shall require—

(1) each nominee for elected membership on the Board established under this Act to make public and file with the election official before the date of election a statement of his financial interest and position, if any, in such organizations; and

(2) each senior executive officer and appointed member of the Board to file with the appointing officer, before entering that office a statement of his financial interest and position, if any, in such organizations, which shall be available for inspection upon request.

The provisions of this section shall remain in effect until the Final Government Equity Redemption Date.

EXAMINATION AND AUDIT

SEC. 115. Until the stock of the Bank held by the United States has been fully retired, the operations of the Bank shall be examined annually under the direction of an agency or instrumentality of the Federal Government designated by the President, including the General Accounting Office, and reports of such examination shall be forwarded to the Congress. The President shall, no

later than the date that 66⅔ per centum of the class A stock is held by others than the Secretary of the Treasury, establish an Office of Supervision and Audit which shall be responsible for audits and examinations of the Bank, shall assure that the objectives of this title are carried out, and shall review and comment on the bylaws of the Bank and the general policies of the Bank and shall make an annual report to the Congress.

TITLE II—OFFICE OF SELF-HELP DEVELOPMENT AND TECHNICAL ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established within the Bank an Office of Self-Help Development and Technical Assistance (hereinafter the "Office").

(b) The Office shall have a Director who shall be appointed by the President, with the advice and consent of the Senate, and who shall not be a member of the Board. Subject to review by the Board, the Director shall promulgate and publish in the Federal Register policies and procedures governing the operation of the Office.

AUTHORIZATION

SEC. 202. There are hereby authorized to be appropriated to the Office $10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act. Any amounts appropriated to the Office shall be deposited by the Office in a separate account in the Bank (hereinafter the "Account"), and shall remain available until expended. Repayments of capital investment advances made pursuant to section 203(a) and interest supplement advances made pursuant to section 203(b) and payments of interest thereon pursuant to section 203(c) shall also be deposited in the Account. No other funds of the Bank shall be transferred into the Account. The Account shall be used by the Office only as authorized in section 203.

CAPITAL INVESTMENTS AND INTEREST SUPPLEMENTS

SEC. 203. (a) The Office may make a capital investment advance out of the Account to any eligible cooperative, either in conjunction with or without a loan if the Office determines that—

(1)(A) the applicant's initial or supplemental capital requirements exceeds its ability to obtain such capital through a loan under section 108 or from other sources; or

(B) the membership of the applicant is, or will consist, substantially, of low-income persons, as defined by the Board of Directors, or the applicant proposes to undertake to provide specialized goods, services, or facilities to serve their needs; and

(2) the applicant cannot obtain sufficient funds through a loan under section 108 or otherwise, and the applicant presents a plan which the Office determines will permit the replacement of a capital investment advance out of member equities within a period not to exceed thirty years.

(b) The Office may make advances out of the Account to pay all or part of the interest payable to the Bank or any other lender by an eligible cooperative applicant which the Office determines cannot pay a market rate of interest because it sells goods or services to, or provides facilities for the use of, persons of low income: *Provided*, That such advances will not exceed an amount equal to 4 per centum of the principal amount of the indebtedness of such applicant to the Bank or such other lender for any year in which the net income of the cooperative is insufficient to meet scheduled interest payments.

(c) Capital investment advances made by the Office pursuant to subsection (a) and interest supplement advances made by the Office pursuant to subsection (b) shall bear interest at a rate determined by the Board of Directors of the Bank, and the Board of Directors may authorize an interest rate applicable to such advances lower than the rate applicable to loans by the Bank pursuant to section 108.

ORGANIZATIONAL ASSISTANCE

SEC. 204. The Office shall make available information and services concerning the organization, financing, and management of cooperatives to best achieve the objectives of this Act and to best provide the means through which various types of goods, services, and facilities can be made available to members and patrons. The Office may enter into agreements with other agencies of Federal, State, and local governments, colleges and universities, foundations, or other organizations for the development and dissemination of such information, and services described in this title. The Office may make or accept grants or transfer of funds for such purposes.

INVESTIGATION AND REVENUES

SEC. 205. The Office may undertake investigations of new types of services which can more effectively be provided through cooperative not-for-profit organizations and make surveys of areas where the increased use of such organizations will contribute to the economic well-being of the community.

FINANCIAL ANALYSIS AND MARKET SURVEYS

SEC. 206. The Office may, at the request of any eligible cooperative, provide a financial analysis of the applicant's capital structure and needs and its cost of operations, survey the market for the goods or services the cooperative makes or desires to make available to its members or patrons or the users of its facilities.

DIRECTOR AND MANAGEMENT TRAINING AND ASSISTANCE

SEC. 207. The Office shall develop and make available, alone or in concert with other organizations, a program for training directors and staff of eligible cooperatives to improve their understanding of their responsibilities; the problems of and solution for effective and efficient operation of their organizations or cooperatives in general; and may by any means it deems appropriate, conduct membership studies, provide membership education programs, and programs for informing consumers and the general public of the advantages of cooperative action. Management supervision, review, and consultations shall be available from the Office to any eligible cooperative.

GOVERNMENT ASSISTANCE PROGRAMS

SEC. 208. The Office shall work closely with all United States Government agencies offering programs for which consumer cooperatives may be eligible to assure that information concerning all such programs is made available to eligible cooperatives.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated to the Office $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this title. Any sums so appropriated shall remain available until expended.

FEES FOR SERVICES

SEC. 210. The Office may make the technical assistance services under this title available for such fees as it may establish, except that such services as the Office may determine may be made available without charge to eligible cooperatives depending on the nature of the services or on ability to pay. Any fees collected shall be accounted for separately and be available for expenses of the Office.

TITLE III—GENERAL PROVISIONS

AMENDMENTS TO EXISTING LAW

SEC. 301. (a) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by redesignating paragraph (6) the second time it appears therein as paragraph (7), by striking out "and" immediately before "(9)" and by inserting ", and (10) the National Consumer Cooperative Bank" immediately before the period at the end thereof.

(b) Section 302 of the Government Corporation Control Act (31 U.S.C. 867) is amended by striking out "or" before "the Federal Land Banks" and inserting immediately after "the Federal Land Banks," the following: "or the National Consumer Cooperative Bank,".

(c) The second sentence of subsection (d) of section 303 of the Government Corporation Control Act (31 U.S.C. 868(d)) is amended by inserting "National Consumer Cooperative Bank," immediately before "Rural Telephone Bank".

SEC. 302. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) President, National Consumer Cooperative Bank.

"(123) Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.".

And the Senate agree to the same.

HENRY S. REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
BUTLER DERRICK,
MARY ROSE OAKAR,
JERRY M. PATTERSON,
CHALMERS P. WYLIE,
*Managers on the Part of the House.*

WILLIAM PROXMIRE,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2777) to provide consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment. Except for minor and nonsubstantive provisions, and technical, clarifying, and conforming changes, the following statement explains the differences between the House bill, the Senate amendment, and the substitute agreed to in conference.

GENERAL STATEMENT

Both the House and the Senate approved legislation which would establish a National Consumer Cooperative Bank as a mixed-ownership government corporation, a Self-Help Development Fund, and a technical assist-

ance program to encourage the development of consumer cooperatives. President Carter and the Administration support the establishment of a National Consumer Cooperative Bank and the President included the program in his March 27 speech calling for a comprehensive national urban policy. That policy, he said, would: " . . . build a *New Partnership* involving all levels of government, the private sector, and neighborhood and voluntary organizations in a major effort to make America's cities better places in which to live and work."

Voluntary efforts, including the utilization of not-for-profit cooperatives, have played a vital role in the development of this nation. To further encourage this spirit of self-help and local initiative, the President supported the creation of an independent bank to assist consumer cooperatives. His proposal is incorporated in the legislation agreed to by the managers on the part of the House and the Senate.

RESOLUTION OF POINTS OF DIFFERENCE BETWEEN THE HOUSE AND THE SENATE

The House and the Senate bills both provide authorization for the Secretary of the Treasury to purchase stock in the National Consumer Cooperative Bank, such purchases providing initial capitalization for the Bank—all capital to be repaid with interest by the cooperatives. The House provided an authorization for appropriation of $100,000,000 for such purchases for the Fiscal Year ending September 30, 1978 and for the next four succeeding fiscal years an amount not to exceed $400,000,000. The Senate provided an authorization of $100,000,000 for the Fiscal Year ending September 30, 1979 and up to $200,000,000 for the next four fiscal years. The House receded to the Senate amendment.

The House bill provided that the Bank would be operated by a thirteen-member Board of Directors. The initial members would be appointed by the President with the advice and consent of the Senate. Seven members would be chosen from among officers of nine specified Federal government agencies. Six members would be chosen from the public. After three years of operation the six non-government members would be elected by the voting stockholders of the Bank. When 66⅔ percent of the voting stock of the Bank is held by borrowers, six of the remaining seven members would be elected by the stockholders. The one remaining member would continue to be a Presidential appointee.

The Senate bill also provided for a thirteen-member Board of Directors, initially appointed by the President. Seven of the members would be chosen from among officers of Federal government agencies (no specification of agencies) with no one agency having more than one member. Six members would be chosen from the general public. When private capital in the Bank reaches $3 million, three of the public members would be elected by the stockholders. When private capital reaches $10 million, three more members would be elected by the stockholders. When seven-thirteenths of the paid-in capital of the Bank is borrower-owned, an additional member would be elected. When eight-thirteenths of the capital is privately owned, one more member would be elected. After all Treasury stock is retired four more members would be elected. The last Presidentially-appointed director would be chosen from among proprietors of small business concerns.

The House receded to the Senate amendment providing for the composition and selection of a Board of Directors of the Bank.

Both the House and the Senate authorized the Bank to obtain funds through the sale of bonds and other obligations in the private market. The House provided that such obligations could not exceed at any time ten times the paid-in capital and surplus of the Bank. The Senate provided that such obligations could not exceed five times paid-in capital and surplus. The Senate receded to the House position. This increased borrowing authority will facilitate the Bank's borrowing operations in the private market, hastening the day when the government's seed capital is fully retired. The borrowing authority, agreed to by the managers, is more comparable with that provided the majority of lending institutions created by the Federal Government in past years.

The House bill authorized, after seven years of operation, the establishment of four to twelve regional banks, each operated by a Board of Directors, each having capital stock as determined by the central Bank, and each having powers similar to the central Bank. The Senate bill contained no provision for the establishment of regional banks but did authorize the establishment of one or more branch offices to facilitate operations of the Bank. The House receded to the Senate amendment.

The House bill authorized an appropriation of $2 million for the fiscal year ending September 30, 1978 and up to $30 million for the next succeeding fiscal years for administrative expenses of the Bank during the start-up phase. The Senate bill provided an authorization for $2 million for the fiscal year ending September 30, 1979 and for each of the next two fiscal years such sums as may be necessary. The House receded to the Senate amendment.

Both bills established an office to administer the Self-Help Development Fund (to provide financial assistance for fledgling and low-income co-ops) and the Technical Assistance programs created by the legislation. The House bill would have created an Office of Consumer Cooperatives in a separate government agency—ACTION. The Senate bill established within the Bank an Office of Self-Help Development and Technical Assistance. The House receded to the Senate amendment.

The House bill authorized an appropriation of $10 million for the fiscal year ending September 30, 1978 for deposit in the Self-Help Development Fund and up to an additional $240 million for the next four fiscal years. The Senate bill authorized $10 million for the fiscal year ending September 30, 1979 and up to an additional $65 million for the next two fiscal years for deposit in the Fund. The House receded to the Senate amendment.

The House bill provided that all loans and guarantees of the Bank would be on budget. The Senate bill provided that, until all government capital was retired, the aggregate amount of the Bank's loans and guarantees could not exceed amounts specified in annual appropriation Acts. The House receded to the Senate amendments.

Both bills included provisions requiring retirement of the stock purchased by the Secretary of the Treasury. The House bill provided that beginning June 30, 1990 an amount equal to the purchases of class B (stock required to be purchased by borrowers from the Bank) would be retired annually. The Senate amendment required that beginning October 30, 1990, an amount equal to purchases of Class B and Class C (owned by eligible borrowers) stock be retired annually. The House receded to the Senate amendment.

The House and the Senate bills contained provisions specifying a formula to determine the dividends payable on the stock of the Bank. The House bill provided that Class A (Treasury) stock would be entitled to a dividend of the lesser of 25 per cent of the net income of the Bank or a rate based on the average annual interest rate on Treasury debt obligations during the previous fiscal year. Class B and C stock would also be entitled to a dividend at a rate determined by the Bank. The Senate amendment provided a dividend for Class A stock at a rate determined by the Secretary of the Treasury taking into account the yield on outstanding marketable obligations of the U.S. of comparable maturity. The Senate further provided that Classes A and C would receive no dividends while dividends due Treasury stock were outstanding unless the Secretary of the Treasury approved. The House receded to the Senate amendment.

The House bill authorized the Bank to buy and sell obligations of, or insured by, the U.S. or any agency or instrumentality thereof or securities backed by the full faith and credit of any such agency or instrumentality and make any other investments authorized by the Board of Directors of the Bank. The Senate amendment limited the Bank to investments in obligations of, or insured by, the U.S. or its agencies or instrumentalities with purchases of other obligations being prohibited until after the government's capital was retired. The House receded to the Senate amendment.

The House bill contained no specific requirements for loans to different types of cooperatives. The Senate bill required the Board of Directors of the Bank to use its best efforts to assure that at least 35 per cent of all loans outstanding at the end of any fiscal year be to low-income cooperatives or cooperatives providing a service or facility to predominantly low-income persons. The House bill did require that housing cooperatives eligible for assistance from existing Federally-sponsored sources of credit would not be eligible for loans from the Bank unless the Bank determined that requests for assistance from those other sources had been denied. The Senate amendment limited (beginning on October 1, 1983) loans to residential housing cooperatives to 30 per cent of the gross assets of the Bank. The House receded to the Senate amendments in both these areas.

The House bill provided that cooperatives which produce, market, or furnish goods, services, or facilities for its members as primary producers (for example, handicraft co-ops in the Appalachian mountains) would not be ineligible unless the dollar volume of loans to such co-ops exceeded 10 per cent of the Bank's lending capacity. The Senate provided that such cooperatives would not be ineligible unless the dollar volume of loans to such co-ops exceeded 10 per cent of the Bank's gross assets. The House receded to the Senate amendment.

The House bill provided that organizations eligible to receive financial assistance from any existing Federally-sponsored credit sources for cooperatives would only be eligible if the Bank determined that requests for assistance from such sources had been rejected. The Senate bill provided that such cooperatives would only be eligible if the Bank determined that a request for assistance from the other source was denied for lack of funds or cases in which the Bank and the other source agree that the credit should be extended by the Bank. The House receded to the Senate amendment.

Both bills provide procedures to insure that the government has sufficient control over the Bank (by selecting members of the board of directors, by requiring consultation with the Secretary of the Treasury on debt offerings, and dividend rates, and through general oversight of the operations of the

Bank) and that Treasury stock investments are retired at the earliest possible date. The House therefore receded to the Senate amendment with respect to the termination of authorities on December 31, 1982.

The House bill provided that the President shall designate an agency of the Federal Government to annually examine the operations of the Bank and forward such reports to the Congress. When two-thirds of the stock of the Bank is privately owned, the President would be authorized to establish an Office of Supervision and Audit to continue supervision of the operations of the Bank and to make annual report to the Congress. The Senate included among the agencies which the President could designate for the initial audits the General Accounting Office. The House had no similar designation. The House receded to the Senate amendment.

The House bill provided that credit unions were ineligible for any assistance provided by the Act. The Senate amendment prohibited loans to credit unions but authorized credit union participation in the technical assistance programs. The House receded to the Senate amendment.

HENRY S. REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
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MARY ROSE OAKAR,
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CHALMERS P. WYLIE,
*Managers on the Part of the House.*

WILLIAM PROXMIRE,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
*Managers on the Part of the Senate.*

## CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9400) to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 4, answered "present" 1, not voting 123, as follows:

[Roll No. 613]

YEAS—304

| | | |
|---|---|---|
| Akaka | Archer | Boggs |
| Alexander | Armstrong | Boland |
| Ammerman | Ashbrook | Bowen |
| Anderson, Calif. | Bafalis | Brademas |
| | Baldus | Breckinridge |
| Anderson, Ill. | Bauman | Brinkley |
| Andrews, N.C. | Benjamin | Brodhead |
| Andrews, N. Dak. | Bennett | Brooks |
| | Bevill | Broomfield |
| Annunzio | Blanchard | Brown, Calif. |
| Applegate | Blouin | Brown, Mich. |
| Broyhill | Heckler | Pettis |
| Burgener | Hightower | Pike |
| Burke, Calif. | Hillis | Poage |
| Burke, Fla. | Holland | Pressler |
| Burleson, Tex. | Hollenbeck | Preyer |
| Burlison, Mo. | Holt | Price |
| Burton, Phillip | Holtzman | Pritchard |
| Butler | Howard | Pursell |
| Byron | Hubbard | Quillen |
| Carr | Hughes | Rahall |
| Carter | Hyde | Railsback |
| Cavanaugh | Ichord | Rangel |
| Cederberg | Ireland | Regula |
| Chappell | Jeffords | Reuss |
| Clawson, Del | Jenrette | Rhodes |
| Coleman | Johnson, Calif. | Rinaldo |
| Collins, Tex. | Johnson, Colo. | Risenhoover |
| Conable | Jones, N.C. | Robinson |
| Conte | Jones, Okla. | Roe |
| Corcoran | Jones, Tenn. | Rogers |
| Corman | Jordan | Rooney |
| Cornell | Kastenmeier | Rose |
| Cotter | Kelly | Rostenkowski |
| Coughlin | Kildee | Rousselot |
| Cunningham | Kindness | Roybal |
| D'Amours | Kostmayer | Rudd |
| Daniel, Dan | Krebs | Russo |
| Daniel, R. W. | LaFalce | Ryan |
| Davis | Lagomarsino | Santini |
| de la Garza | Latta | Satterfield |
| Delaney | Leach | Sawyer |
| Derrick | Lederer | Scheuer |
| Derwinski | Leggett | Schroeder |
| Devine | Lehman | Schulze |
| Dodd | Levitas | Sebelius |
| Dornan | Long, Md. | Seiberling |
| Downey | Lott | Sharp |
| Drinan | Lujan | Shuster |
| Duncan, Tenn. | Luken | Sikes |
| Early | Lundine | Simon |
| Eckhardt | McClory | Skelton |
| Edgar | McCloskey | Slack |
| Edwards, Ala. | McDade | Smith, Iowa |
| Edwards, Calif. | McFall | Smith, Nebr. |
| Edwards, Okla. | McHugh | Snyder |
| Eilberg | McKay | Solarz |
| Emery | McKinney | Spence |
| English | Madigan | Staggers |
| Erlenborn | Mahon | Stangeland |
| Ertel | Mann | Stanton |
| Evans, Colo. | Markey | Steers |
| Evans, Del. | Marks | Steiger |
| Evans, Ga. | Marlenee | Stockman |
| Fary | Marriott | Stokes |
| Fascell | Martin | Stratton |
| Fenwick | Mattox | Studds |
| Findley | Mazzoli | Stump |
| Fish | Michel | Symms |
| Fisher | Mikulski | Taylor |
| Fithian | Mikva | Thompson |
| Flippo | Miller, Calif. | Traxler |
| Flood | Miller, Ohio | Treen |
| Florio | Mineta | Trible |
| Flynt | Minish | Udall |
| Foley | Mitchell, N.Y. | Ullman |
| Ford, Tenn. | Moakley | Van Deerlin |
| Forsythe | Moffett | Vander Jagt |
| Fountain | Mollohan | Vanik |
| Frenzel | Montgomery | Volkmer |
| Fuqua | Moore | Waggonner |
| Gammage | Moorhead, Pa. | Walgren |
| Gibbons | Moss | Walker |
| Gilman | Motti | Watkins |
| Ginn | Murphy, Pa. | Weaver |
| Glickman | Murtha | Weiss |
| Goodling | Myers, Gary | White |
| Gore | Myers, John | Whitehurst |
| Gradison | Myers, Michael | Whitley |
| Grassley | Natcher | Wiggins |
| Green | Neal | Wilson, C. H. |
| Gudger | Nedzi | Wilson, Tex. |
| Guyer | Nowak | Winn |
| Hagedorn | O'Brien | Wolff |
| Hall | Oakar | Wright |
| Hamilton | Oberstar | Wylie |
| Hammer-schmidt | Ottinger | Yates |
| | Panetta | Yatron |
| Hanley | Patten | Young, Fla. |
| Hannaford | Patterson | Young, Mo. |
| Hansen | Pease | Zablocki |
| Harsha | Pepper | |
| Hawkins | Perkins | |

NAYS—4

| | | |
|---|---|---|
| Lloyd, Calif. | Quayle | Wilson, Bob |
| Mitchell, Md. | | |

ANSWERED "PRESENT"—1

Skubitz

NOT VOTING—123

| | | |
|---|---|---|
| Abdnor | Dingell | Moorhead, Calif. |
| Addabbo | Duncan, Oreg. | |
| Ambro | Evans, Ind. | Murphy, Ill. |
| Ashley | Flowers | Murphy, N.Y. |
| Aspin | Ford, Mich. | Nichols |
| AuCoin | Fowler | Nix |
| Badham | Fraser | Nolan |
| Barnard | Frey | Obey |
| Baucus | Garcia | Pattison |
| Beard, R.I. | Gaydos | Pickle |
| Beard, Tenn. | Gephardt | Quie |
| Bedell | Giaimo | Richmond |
| Bellenson | Goldwater | Roberts |
| Biaggi | Gonzalez | Rodino |
| Bingham | Harkin | Roncalio |
| Boiling | Harrington | Rosenthal |
| Bonior | Harris | Runnels |
| Bonker | Hefner | Ruppe |
| Breaux | Heftel | Sarasin |
| Brown, Ohio | Horton | Shipley |
| Buchanan | Huckaby | Sisk |
| Burke, Mass. | Jacobs | Spellman |
| Burton, John | Jenkins | St Germain |
| Caputo | Kasten | Stark |
| Carney | Kazen | Steed |
| Chisholm | Kemp | Teague |
| Clausen, Don H. | Keys | Thone |
| | Krueger | Thornton |
| Clay | Le Fante | Tsongas |
| Cleveland | Lent | Tucker |
| Cochran | Livingston | Vento |
| Cohen | Lloyd, Tenn. | Walsh |
| Collins, Ill. | Long, La. | Wampler |
| Conyers | McCormack | Waxman |
| Cornwell | McDonald | Whalen |
| Crane | McEwen | Whitten |
| Danielson | Maguire | Wirth |
| Dellums | Mathis | Wydler |
| Dent | Meeds | Young, Alaska |
| Dickinson | Metcalfe | Young, Tex. |
| Dicks | Meyner | Zeferetti |
| Diggs | Milford | |

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 9400, with Mr. OBERSTAR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, May 25, 1978, pending was the committee amendment in nature of a substitute which was open to amendment at any point.

Are there any further amendments to the committee amendment in the nature of a substitute?

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time briefly to recapitulate for the committee where the committee stands on this legislation.

On May 1, Members will recall, we initially considered this legislation. On May 25 we considered it a second time but, on both occasions, we reached a late hour and, accordingly, the Committee rose.

This morning we should be able to complete the legislation without difficulty in my view.

I am aware that the gentleman from California (Mr. WIGGINS) has several amendments. We have discussed them with the gentleman from California, noting the time necessary to debate those amendments. As a result of these discussions, the differences between the committee and the gentleman have, in some instances, been resolved.

Also the gentleman from Ohio (Mr. KINDNESS) has two principle amendments he would like to offer.

On May 1, an important amendment which affected sentenced adult prisoners was offered by the gentleman from Pennsylvania (Mr. ERTEL) and agreed to. That amendment was later conditioned by the acceptance of another amendment offered on May 25 by the gentleman from Illinois (Mr. RAILSBACK) that affected the coverage of those prisoners.

Mr. Chairman, I now would like to recapitulate for the Members just what the bill does and its status.

The bill is actually a simple bill. It seeks to vindicate constitutional and Federal statutory rights of institutionalized persons who are, in a sense, not free in our society. These people who are institutionalized are juveniles, elderly, handicapped, mentally ill, mentally retarded, chronically ill, and some of them are prisoners. Coverage of sentenced prisoners, however, is limited by two prior amendments. The ability of the Attorney General to initiate such suits has been limited by virtue of the Ertel amendment, modified by the Railsback amendment, which provides that the courts must refer a petition or complaint to the U.S. Attorney General for his consideration prior to the initiation of the suit. He may not initiate such a case on his own without a referral from a court of a petition or complaint which raises an issue about illegal conditions in such an institution. We have left the intervention rights of the Attorney General in cases of sentenced prisoners as they exist in present practice under rule 24 of the Federal Rules of Civil Procedure.

Does this bill create some form of bureaucracy? Is it expensive? The answer is "No." If this bill were adopted, what the Department of Justice would ask for is two more attorneys' positions and one more clerk's position. The Bureau of the Budget and the Congressional Budget Office have estimated the cost of this bill to be $76,000. It is not the intention to create a bureaucracy. It is not the intention of this bill to create a new field of litigation, burdening the courts with further litigation. It is to enable the Attorney General in certain areas to initiate or intervene in civil suits, but before he does so, we have for the first time rationalized the system.

The Members know what the situation is. We have had Federal judges making substantial rulings regarding State institutions because of the denial of constitutional rights of inmates or prisoners. Under this bill the complaint should come to the Attorney General. He then should notify State authorities. He then should consult the State authorities. He ought to fully inform them—the State attorneys general, the Governors, and the superintendents of these institutions—and try to mitigate the complaint. As to a pattern or practice, we are not talking about individual cases; we are talking about a pattern or practices of the denial of constitutional and statutory rights, and abuses of people in these institutions. If negotiation fails, then the Attorney General will commence a suit. It also enables him, as he may now do, to intervene in ongoing suits.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 2 additional minutes.)

Mr. KASTENMEIER. Further than that—and this may be a confusing factor—we have provided in section 5 a method to diffuse the impact on the courts of all these 1,983 cases. That is to say, when an individual prisoner complains about the status of his confinement, these complaints end up in the Federal courts. Rather than make these all Federal cases, what we have done here—and this was originally suggested by Attorney General Levi in the past administration, and was offered to the bill by the gentleman from Illinois (Mr. RAILSBACK)—is say those matters should go back through a certified grievance procedure mechanism, and this procedure must be exhausted first before they come to Federal court. We have set up a system entirely voluntary in terms of the States. The States may not elect to subscribe to these guidelines at all. There is no compulsion for them to do so. But, I should note, it is the mood of the States to agree to grievance procedure mechanisms within their State institutions. We have patterned this on the California youth authority as a model. This is quite separate from the rest of the bill in terms of conception. Both of these, in fact, are designed, among other things, to channel matters which end up in litigation into other forums for resolution and also to vindicate the rights of Americans.

We are very concerned about human rights abroad. In years past we have vindicated through legislation the rights denied on account of race, and we will be asked to ratify, at least to extend consideration of an amendment affecting the constitutional rights on account of sex.

In conclusion, it is time that we protect this class of uniquely vulnerable citizens.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On Page 11, Line 23, strike out "prior to such time" and insert "at least 30 days previously".

Mr. WIGGINS. Mr. Chairman, to refresh the recollection of the Members, there are two basic circumstances under which the Attorney General can become involved in these actions affecting civil rights of institutionalized persons. In one case, the Attorney General, if the bill is enacted, may file an action directly in the name of the United States. That is a so-called section 2 action under the bill.

The other circumstance is that the Attorney General can intervene in an existing action. In either event, it is quite clear that the committee has been careful to see that the Attorney General consults with State agencies prior to becoming involved either in the form of a direct action or by way of intervention. In the case of a direct action, the Attorney General is required under the bill to certify that at least 30 days previously, that is, prior to his action, he has contacted the agencies of the State, has identified the pattern of practice of which he complains, has given the facts as he understands them, has provided a suggested solution and has offered the good offices of the Department of Justice to correct the problem, all in advance of filing the action.

Now, that is required under the present bill and must be done at least 30 days before the action is filed.

Why 30 days? Well, it is admittedly an arbitrary period, but its purpose is to provide an opportunity for the State to correct the condition without the necessity of a lawsuit.

In the case of an intervention, as distinguished from a direct action, the Attorney General must file a similar certificate, but that certificate need not be filed 30 days prior to the action, but merely must be filed, to use the language of the bill, "prior to such time;" that is, prior to the intervention.

Conceivably, therefore, there would not be an opportunity for the State to correct the condition which the Attorney General finds offensive, if the intervention is accomplished shortly after the State was advised of the intention of the Attorney General to intervene.

I find it inconsistent and wrong to require 30 days notice before the Attorney General can file an original action, but to not require any specific time before he can intervene. You see, it would be very easy, I fear, for the Attorney General to circumvent the careful procedures which we have required in the case of an original action if he can move directly into an existing action by intervention. There will always be cases out there in which the Attorney General can intervene if he chooses to do so.

So I think it is good policy, it is consistent with the proposal, if we attempt to impose upon the Attorney General the very same conditions for intervention that we impose upon him in the case of original action.

My amendment has that purpose. It deletes the language in the present bill, "prior to such time" and inserts the language found in section 3 "at least 30 days previously."

Again, the purpose of my amendment is to be constructive, to see that there is, in fact, time for the Attorney General to consult with the State and for the State to respond and, therefore, to avoid the litigation.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I appreciate the purpose for which the gentleman has offered an amendment.

The gentleman has explained it very well. However, of course, there is a difference between section 3, initiating a suit, and section 4. Insofar as section 4 is concerned, the suit is ongoing. It is brought by a plaintiff or plaintiffs other than the Attorney General.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

(On request of Mr. KASTENMEIER, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield further?

Mr. WIGGINS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. But, Mr. Chairman, I think the gentleman's point that the Attorney General may proceed preemptively without adequate notice is a good one, and I want to assure the gentleman that "prior to such time," in terms of how we would have the Attorney General or the court construe such a phrase, means as much time prior to the filing by the Attorney General of a motion to intervene as is reasonable and proper.

We are not seeking confrontation or surprise. We are seeking other means of reconciling these difficulties in fact, this having been an ongoing suit. It is the intent of the requirement that the State officials be given meaningful notice—and that does not mean the day after tomorrow—prior to intervention. It means notice to which they can respond and perhaps in some other fashion, as I have suggested, reconcile what is in connection as far as the litigation is concerned.

It is only in extraordinary emergency situations that short notice would satisfy this requirement. Under the present practices we are well informed that the Attorney General is able to give substantial prior notice, and we intend that such practice would continue under this act.

Mr. WIGGINS. It is clear, Mr. Chairman, that the intention of the gentleman from Wisconsin (Mr. KASTENMEIER) is the same as my own. If the legislative history is clear that the Attorney General is to give the maximum notice possible under the circumstances, then that is my objective as well, and if the gentleman from Illinois (Mr. RAILSBACK) concurs in the statements of the gentleman from Wisconsin (Mr. KASTENMEIER), I will be pleased to withdraw my amendment.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. RAILSBACK, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I certainly agree with the statements of the gentleman from Wisconsin (Mr. KASTENMEIER).

I might just mention that as part of the adopted amendment that I offered which was billed as a compromise between the gentleman from Pennsylvania (Mr. ERTEL) and myself, we did insert section 4 as a reference to the section 2 notice requirement, so that it is spelled out very specifically that there is required to be a certification of 30 days which was to be given just for prisoners.



Mr. WIGGINS. I understand. Mr. Chairman, in light of the legislative history and the agreement on both sides with respect to the meaning of the language, I ask unanimous consent that I may be permitted to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows: On page 8, line 5, strike "on behalf of or" and insert "solely" in lieu thereof.

Mr. KINDNESS. Mr. Chairman, the purpose of this amendment is to bring into focus a problem that exists in the definitions of this act, the definition, specifically, relating to "institutions."

The definition as it stands purports to include as an institution that would be covered under the act a facility such as, let us say, a mental institution or a psychiatric hospital where the State has contracted with that hospital, although it might be operated under private auspices, but the State has contracted with that hospital for the providing of services for patients under the care of the State.

However, the definition currently seems to go well beyond even that and into, let us say, a nursing home under private operation that does take medicare and medicaid cases, because there is a contractual relationship between the State, in administering the welfare function, and that nursing home.

So in place of the language which now says:

"institution" means any facility or institution which is owned, operated, or managed by or provides service on behalf of or pursuant to a contract with, any State or political subdivision of a State—

I would suggest that we need to narrow that language and refer to only such facility or institution which is owned, operated, or managed by or provides services solely pursuant to a contract with, any State or political subdivision of a State.

Some would say "solely" goes a little too far, that perhaps we should say "substantially" or some other such word. I would like to point out that the report of the committee, in relation to this part of the definitions, says:

if an institution, as defined under pargaraph B, provides services, in whole or in part on behalf of or pursuant to a contractual agreement—

That language in the report gives me quite a bit of concern, because it does seem to be saying, "yes, we are going to take into the definition of an institution a nursing home that may have one medicare patient in it under a contractual arrangement administered by the State."

The chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER), and I have discussed this in some detail, and if the chairman of the subcommittee would care to comment, I think there is need of at least clarifying the record in this regard. If it can be sufficiently clarified, I would suggest that I would ask unanimous consent to withdraw my amendment. But I am concerned with the state of the record at this point.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the comment of the gentleman from Ohio. We have had, of course, an elaborate discussion in the past on State action. I think the gentleman knows that we do not intend for institutions that are essentially private in character to be usually reached, but we recognize that where there is a substantial referral by certain States in one form or another, perhaps other than by contract, to nonpublic facilities which would house a number of individuals, that private institution really acts in lieu of the State.

We have used the term "in whole or in part," but I would not want "in part" to refer, in terms of State action, to institutions that were accepting one or two or a small number of individuals under State control and many not under State control.

The entire bill is predicated on a pattern or practice which would affect a substantial number of individuals, and perhaps "substantial" might have been a better word; but in pursuing this, I would point out to the gentleman that we have made a conscientious decision not to include private facilities under the ordinary state of circumstances, that is to say, whether a private institution is licensed or inspected or whether the patients be recipients of medicare and medicaid at such institutions. That is clear; they are not covered solely because of these circumstances alone.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(On request of Mr. KASTENMEIER and by unanimous consent Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield further?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Further, Mr. Chairman, the referral of one or two or a small number of individuals also would not probably constitute State action, for our purposes, because this contemplates a pattern or practice which would involve, in my estimation, a number of persons.

Mr. KINDNESS. Would the gentleman concur that in essence we are attempting to cover, under the definition of "institution" here, the type of situation where the State or local government may contract for a group of people to receive services rather than just for individual cases?

Mr. KASTENMEIER. I would agree with that, but there also are cases where the State does not, in fact, contract with a private contractor or institution, but uses other means to place large numbers

of individuals in private institutions by referrals, by grants, and other State action, as in the famous case of Gary W. against Stewart, which resulted in the abuse of many, many children, young children, who were there because they were handicapped or retarded, the State action was reached in that case. We adopt a similar standard. We would not want in the bill to remove the State from responsibility, which was not done in the Gary W. case. However, on the other hand, we are not trying to reach those, say, incidental, occasional referrals of one or two or a very small number of persons.

Mr. KINDNESS. Would the gentleman concur or offer his interpretation of whether it is intended to bring within the coverage of the bill, as an "institution" within the definition on page 8, nursing homes in general?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(On request of Mr. KASTENMEIER and by unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, would the gentleman from Ohio restate his question.

Mr. KINDNESS. Yes. Is it the intention of the chairman of the subcommittee that the definition of "institution" should or should not bring within it, in general, nursing homes, although they may have medicare or medicaid patients in them?

Mr. KASTENMEIER. The answer is "no," an unequivocal no absent sufficient State action.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for those views.

I would ask the gentleman from Illinois (Mr. RAILSBACK) whether he would care to comment on that clarification.

Mr. RAILSBACK. If the gentleman will yield, Mr. Chairman, I listened very carefully to the exchange the gentleman from Ohio (Mr. KINDNESS) had with the gentleman from Wisconsin (Mr. KASTENMEIER). I think, first of all, the gentleman raised a very legitimate and a very good point. However, I do think that the colloquy which the gentleman had with the gentleman from Wisconsin cleared up and pointed out that it is meant to be more than a single person. It is agreed that it was meant to be at least a group.

I note in the bill the reference in section 2 is to "subjecting persons" who are confined.

I think that what we really are trying to reach is that case where a State or a county has contracted out for substantial services to be performed by the private contractor.

Mr. KINDNESS. Would the gentleman agree that, in the absence of such a substantial group of services, we could hardly develop a pattern or practice prohibited under the bill?

Mr. RAILSBACK. Yes, I would.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Wisconsin (Mr. KASTENMEIER) for their comments.

Mr. Chairman, in view of the colloquy that has taken place, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are their further amendments?

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 12, after line 15, insert the following new subsections:

(2) that he or his designee has made a reasonable effort to consult with the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution, or their designees, regarding assistance which may be available from the United States and which he believes may assist in the correction of such pattern or practice of deprivations;

(3) that he is satisfied that the appropriate officials have had a reasonable time to develop a plan to correct such deprivations and have not adequately done so;

And redesignate subsection "(2)" on line 16 as subsection "4".

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, to understand the force and effect of this amendment, one must go back and repeat the fact that there are two ways in which the Attorney General gets involved. One is direct action, and the other is intervention.

In the case of direct action, the bill on page 9 and following details a complicated but specific procedure which the Attorney General must follow as a precondition of filing an action under this bill. The Attorney General must file a certificate at the time he files the action indicating that 30 days previously he has notified the Governor in writing, first of the alleged pattern or practice of deprivation of which he complains, and, second, he must notify the Governor of the supporting facts justifying that conclusion.

Third, the Attorney General must notify the Governor of the measures which the Attorney General believes will correct the pattern or practice. Fourth, he must make a reasonable effort to consult with the Governor or his representatives to correct the alleged pattern or practice. And, finally, he must certify that a reasonable time has passed, and that the pattern or practice has in fact not been corrected.

That is the procedure we require in the event of a direct action. Move now and compare that procedure with that required under section 4, in the case of intervention. In that case, the Attorney General must notify the Governor of the pattern or practice; he must notify him of the facts; and he must state what measures will correct the condition. But, carefully and specifically omitted is the requirement that the Attorney General consult with the Governor for the purpose of correcting the problem. In other words, there is a different procedure in the case of intervention than that which we carefully require in the case of direct action.

My amendment has as its purpose requiring that the Attorney General do all of those things in the case of intervention which the bill requires that he do in the event of an original action filed by him. Narrowly, it requires the Attorney General to do only two things additionally; namely, that he consult prior to intervening, and second, that he find that there has been a reasonable time for the State to correct the violation and it has failed to do so.

My opinion is that if those conditions are reasonable under section 3 of the bill, they are similarly reasonable under section 4 of the bill, and ought to be incorporated in that section. That is the effect of my amendment. I would hope that it would not be controversial, and I urge its adoption.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I am pleased to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, we have considered this amendment. I might say, as the gentleman knows, that we constructed section 4 differently than section 3, and if I understand it, at least in these two respects, the two subsections conform with section 3.

Mr. WIGGINS. Exactly.

Mr. KASTENMEIER. I see no harm in it, although it should be pointed out that the certifications that the Attorney General makes are on his own judgment. He believes that, and he is satisfied that, the appropriate officials have had a reasonable time, and so forth. That is to say, it is a question of his judgment.

I might say he ought to take into account the rights of the primary plaintiff. I make the assumption that he shall not procure suits by third parties; that would not be proper, and carry on bona fide suits that have been instituted by the primary party, the plaintiff, and he must consider the rights of such persons.

With that in mind—and I have discussed this with the gentleman from Illinois (Mr. RAILSBACK) on the other side—we are inclined to support the gentleman's amendment.

Mr. WIGGINS. I appreciate the gentleman's support. The circumstances of the parties is obviously a factor which the Attorney General should consider; that is, the impact of his motion to intervene upon ongoing litigation, and I expect that factor to be considered in terms of what is a reasonable time.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 30 additional seconds.)

Mr. WIGGINS. If I may have the attention of the gentleman from Illinois (Mr. RAILSBACK), the gentleman from Wisconsin (Mr. KASTENMEIER) has indicated support on the majority side for this amendment.

Mr. RAILSBACK. Mr. Chairman, if the gentleman from California will yield, I believe the gentleman's amendment is a good one and is acceptable on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: On page 12, beginning on line 24 through to line 9 on page 15, strike all of section 5.

Mr. KINDNESS. Mr. Chairman, section 5 of the bill provides that no later than 180 days after the date of enactment of this act the Attorney General shall put together the minimum standards for the development and implementation of a "plain, speedy, and effective system for the resolution of grievances of persons confined in any jail, prison, or other correctional or pretrial detention facility." The minimum standards point out, for the attention of Members, that these particular provisions for the minimum standards would have to include the participation of employees and inmates of correctional institutions in the formulation, implementation, and operation of the system. Some people would say that is a provision requiring the participation of inmates of the jails and prisons in running the jails and prisons. Some people would say that is rather outlandish. I would agree with them. That is perhaps the most objectionable part of these provisions. It goes on, however, to make specific maximum time limits within which written replies to grievances with reasons thereto at each decision level within the system would be required.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I do think there should be an understanding of the participation of the inmates and staff. What we intended—and it is incidentally our intention to agree to a further amendment to clarify that—is that this be an advisory role only. We tried to use the California Youth Authority as a model, even though they may have a somewhat greater role for prisoners and staff under that system than we have suggested here.

I call the gentleman's attention to page 28 of the report where it says:

The committee recognizes that the ultimate and only authority for the management of the institution rests with the administration and it is the committee's intent that the inmate involvement in the system pursuant to this standard be one of substance, but primarily advisory nature.

Mr. KINDNESS. Would the gentleman agree that a State or a local governmental unit operating a jail or prison can simply not ask for certification of its grievance procedure and thus not be involved? Is that correct?

Mr. KASTENMEIER. If the gentleman will yield, of course, that is correct.

Mr. KINDNESS. And the whole reason for this section being in the bill is a little obscure unless one looks beyond this bill and realizes that these minimum standards will be enforced by withholding of Federal funds either through LEAA or otherwise. Is that the gentleman's understanding?

Mr. KASTENMEIER. If the gentleman will yield further, I would say there is nothing further from the truth. There is no implication of a State system having to adopt these and no penalty other than the fact that the State's grievance mechanism may not be recognized by the courts in a treatment of 1983 suits. There would be no further impact.

Mr. KINDNESS. So the only impact of this would be a possibility of a 90-day delay after a section 1983 suit is brought if it appears that the grievance procedure is a certifiable one or certified grievance procedure and that procedure has not been employed by the party filing the 1983 suit.

Mr. KASTENMEIER. Yes, I would say to the gentleman.

Mr. KINDNESS. I thank the gentleman from Wisconsin for his concurrence in that clarifying statement, and I would submit this.

I would suggest that there is very little reason for section 5 to be in the bill at all. I would suggest to the Members that it does offer the danger that the Department of Justice will attempt to impress upon and require State and local governments to employ grievance procedures as outlined in the bill, with the threat that at least they would have a very hard time getting LEAA funds or other funds that might be influenced in their distribution by the Justice Department, whether there is any statutory basis for such a thing or not.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. BUTLER, and by unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I think it is very important to note the gentleman's interest in this section of the bill, but I think the gentleman's alarm about the possibility of its effect on LEAA funds, and others, is absolutely unfounded. There is no basis at all for that.

In our discussions—and, as a matter of fact, the gentleman well knows this particular part of the bill comes from our side of the subcommittee—it was our view that there is a substantial abuse of the Federal court system by the use of 1983 petitions. Many of those petitions are without real substance. These petitions which could otherwise be quickly resolved. These petitions are now going into our Federal court system, but if we had the grievance machinery, and if they were required to go through that grievance machinery, we believe that many of these cases, a great majority of them, would not lead into the Federal court system but that they would be quickly resolved, and resolved at the level where they should be resolved and that is where the grievance arises, and that is in the penal institution nor the local jail rather than having the Federal courts decide it.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BUTLER. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. KINDNESS) may have such additional time as I have consumed of his time, let us make it an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. KINDNESS. Mr. Chairman, I would suggest that I would hope this would not be required, but would the gentleman concur that there is absolutely no basis in this legislation for the withholding or of having any effect on the distribution, or the granting or lending of funds for the State and local governments over which the Justice Department could have any possible effect?

Mr. BUTLER. I would be happy to affirm that statement. I would go even further and say that there was no discussion of it. The effect and intention is only that we should improve the grievance machinery and cut down on the participation of the courts in 1983 petitions, and that it is clearly not the intention of the subcommittee that this should have any effect on any other aspect of Federal funds or the LEAA activities.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman from Virginia (Mr. BUTLER) for his comments. I would simply urge support of the amendment in that it serves a small but limited purpose but foreseeS problems far beyond what we see now in terms of the operation of the grievance procedure that provides for participation of inmates in jails and prisons in that system of grievance procedure.

Mr. ERTEL. Mr. Chairman, if the gentleman will yield, it would appear to me, knowing the philosophical position of the gentleman now in the well, that the gentleman would want to offer support for this section in this bill because it requires the exhaustion of remedies for 1983 petitions. Indeed, some 95½ percent of the 1983 petitions which go to the Federal courts are frivolous and this can cut down on the number of such frivolous petitions which now are sent to the Federal courts. It will save our judicial system time and money and effort. Secondly, it will push them down into the level where they belong, at the State level, for the resolution of these issues.

As I say, knowing the philosophy of the gentleman from Ohio (Mr. KINDNESS), I do not understand why the gentleman would want to strike this particular section which would help the judicial system resolve a lot of these

issues which come up to the Federal courts.

Further, I think the amendment is not well founded on the basis of the gentleman's philosophy.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is settled law that an exhaustion of administrative remedies is not required as a precondition of maintaining a 1983 action. For many years, some of us have felt that the requirement of exhaustion of remedies would be a desirable in the case of 1983 actions, but for various reasons it has been impossible to implement this requirement. The bill, however, makes a modest approach at an exhaustion of remedies requirement.

It allows the Attorney General to promulgate minimum standards. The States are invited to, but not required to, accept those minimum standards, and if they do, the Attorney General has a mechanism provided in the bill to certify that the States have adopted and are in substantial compliance with the minimum standards. In the event that such standards are in place, the bill further provides that in a section 1983 action a temporary 90-day suspension of that action is permissible but not required in order to give an opportunity for the administrative process to work. I think that is conceptually a good idea, but I want to question some aspects of it and invite the attention of the gentleman from Wisconsin.

It is my understanding that the power to continue a case for 90 days is in the sound discretion of the judge. If there is in his view a plain, adequate, and speedy administrative remedy available, would that discretion to continue the case be properly exercised where there was such an administrative mechanism but which had not been certified by the Attorney General? In other words, may the States have their own administrative mechanism and choose not to submit it to the Attorney General, and the court finds it to be plain, speedy, and adequate and, therefore, be authorized to continue a case for 90 days?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

I was about ready to rise to suggest this point even if not asked by the gentleman. The court may make the finding, and I read:

> . . . or the court has determined that such administrative remedy is in substantial compliance with the minimum acceptable standards promulgated pursuant to this section.

That means that the court may continue the case whether or not the procedure has been certified by the Attorney General.

Mr. WIGGINS. Even if the Attorney General has withdrawn certification? It is up to the sound discretion of the judge?

Mr. KASTENMEIER. It is. I call the attention of the House to the report at page 30 for further discussion of this issue.

Mr. WIGGINS. In light of that, Mr. Chairman, I fully support the provision, especially as I hope to amend it in a moment and, therefore, oppose the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer Amendment No. 4.

The Clerk read as follows:

> Amendment offered by Mr. WIGGINS: On page 13, at line 8, strike the words "the participation of" and insert in lieu thereof the words "an advisory role for".

Mr. WIGGINS. Mr. Chairman, this amendment deals with minimum standards, section 5 of the bill. It is intended to directly confront the problem which was addressed by my friend, the gentleman from Ohio (Mr. KINDNESS), and that is: What should be the role of the inmates themselves, not in the formulation of a suitable plan, but in its implementation? I strongly object to the requirement as a minimum standard that inmates be involved in implementing a plan. To do so will certainly create a hierarchy in prisons, some prisoners will occupy a quasi-judicial role, and it will, in my opinion, exacerbate problems of discipline and good order in prisons rather than solve them.

We must bear in mind that prisoners are not, generally speaking, of the character that we would want to occupy the role as a judge. They may, indeed, be subjected to corrupt influences. They may, indeed, exercise their discretion corruptly, and we would not be surprised to find that to be so, because they are there, in some cases, because of their corrupt propensities. My amendment does not require as a minimum standard that the inmates participate in implementing the grievance procedure. It does require, however, that inmates have an advisory role.

Now, I think that is fair. I do think there will be a certain credibility in the grievance mechanism if there is an inmate role. I think the inmates ought to participate in developing what the program is; but when it comes to implementation, that is, the judging of specific cases, I do not believe that role should require as a minimum condition that inmates act in more than an advisory capacity. That is the effect of my amendment.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I am pleased to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, of course, we would have objected to striking out entirely the participation of inmates and staff; but with the gentleman's suggestion is that an advisory role is appropriate for them. I would have to agree with the gentleman and I think our report agrees with the thrust of the amendment. I would like to read it again, because I think this is clearly what we had in mind:

> The first standard shall provide for the participation of employees and inmates in the formulation, implementation, and operation of the system. It is the view of the committee that a key to a successful, credible grievance resolution system is the participation of inmates, line staff and administration staff in the development of the system and the actual resolution of disputes. The committee recognizes that the ultimate and only authority for the management of the institution rests with the administration and it is the committee's intent that the inmate involvement in the system pursuant to this standard be one of substance, but primarily advisory nature.

Accordingly, I do not find objection to the gentleman's amendment. I have discussed it also with the gentleman from Illinois (Mr. RAILSBACK) who can speak for himself. Accordingly, I will support the gentleman's amendment.

Mr. WIGGINS. Mr. Chairman, I appreciate the gentleman's support. It is important to underscore that we are talking about minimum standards. It may be that a State may wish to give inmates a participatory role in implementing their grievance mechanism. I am willing that the States experiment, but I am unwilling to require that they do so as a minimum standard and my amendment would strike that requirement.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I am pleased to yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, as I have listened to the statement of the gentleman from California, it seems to me that this is a very constructive amendment; also, I think the gentleman's statement has been very helpful.

Mr. WIGGINS. Mr. Chairman, I urge an affirmative vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WIGGINS: On page 13, lines 24 and 25, strike out "not under the direct supervision or direct control of the institution." and insert "not having direct supervision or control of the person alleging the grievance."

Mr. WIGGINS. Mr. Chairman, this is a policy issue. There will not be agreement on both sides with respect to this issue; so I ask each of you to make a judgment as to what is right in the interest of the administration of justice and the control of prisons.

The question relates to proper grievance procedures. The present bill says that the Attorney General shall promulgate minimum standards, and one of those minimum standards is as follows: For the independent review of the disposition of grievances by a person or other entity not under the direct supervision

or direct control of the institution; namely, that there will be an independent appellate review, as it were, of decisions made by an in-house grievance body.

I object to that. I believe that it is not fair to have the jailer act as the judge and jury with respect to a grievance, but I think that it is excessive to require for the resolution of these disputes that we go outside the prison and create an independent review body.

Mr. Chairman, the disputes which may arise within a prison are almost too numerous to imagine. They may involve complaints with respect to hot water, with respect to towels, with respect to mail, with respect to alleged discrimination, with respect to all manner of things. Many of them will be quite trivial.

I think that an inmate ought to have an opportunity to air his grievance. He should be able to air his grievance and have it decided by someone who does not have direct supervision or control over him, but to require as a minimum standard that every institution go outside that institution to some independent review authority to resolve these sometimes petty, sometimes serious disputes, is excessive.

My amendment does not preclude a State from establishing what amounts to a two- or three-tier level of appellate review if it wishes. The State may well establish a mechanism for the independent review of serious policy disputes raised by inmates, but here we are talking about minimum standards and this bill requires as a bare minimum that they have an independent review mechanism. That is far too much bureaucracy for the resolution of typical disputes.

My proposal simply says that the minimum standard shall be that the review of these disputes will be made by a person or entity not having direct supervision or control of the person alleging the grievance. Now, that is fair as a minimum standard.

Mr. Chairman, I urge my colleagues not to force upon State penal institutions an elaborate two- or three-tier mechanism of an appellate review of grievances as a minimum standard, and I urge the adoption of my amendment.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I have listened with care to the gentleman's comments.

Do we not already have a provision for independent review without this language that is suggested here? They can apply to the courts themselves and obtain a remedy. They do have that remedy now, and that is the 1983 petition.

So are we not adding one more layer of bureaucracy here by providing for this review board outside the prison itself?

Mr. WIGGINS. Mr. Chairman, the gentleman is entirely correct. If the prisoner finds himself aggrieved and frustrated by the decision of the administrators, he may also file his action under section 1983 and obtain a judicial review.

The purpose of the grievance mechanism is to avoid litigation; that is, to resolve the matter in-house administratively. I support that concept and that is why I opposed the Kindness amendment.

But let us not make this mechanism so elaborate that it becomes literally an Administrative Procedures Act with respect to the resolution of disputes within the prison, especially since, as the gentleman knows, there always sit U.S. judges prepared to overrule the arbitrary acts of prison officials.

Mr. ERTEL. Mr. Chairman, I think the gentleman has offered a good amendment, and I support it.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment would defeat the very purpose that he has spoken to; namely, to assist in diverting 1983 cases from the Federal courts.

We have to have a credible system. We modeled this particular section on the gentlemen's own State system, the California Youth Authority, which does have a three-tiered grievance mechanism procedure, two of them in-house and one of them external.

In the California system, the first tier is a mixed inmate and staff board. Then, if the grievance is turned down there, you may go later to the superintendent of the institution. If it is turned down there, then you may seek an external review outside the institution.

The purpose is, in fact, to get these matters resolved at the administrative level, and not to bring 1983 petitions to the Federal court to make a Federal case out of them, if it is unnecessary.

And yet all the gentleman's amendment does is to strike out a good portion, perhaps the most effective portion, of the three-tiered suggestion that is contained in the bill.

For example, if the source of the grievance is the superintendent himself, what does it profit us to provide that he need go to an inmate staff board and then appeal to the superintendent himself? A credible grievance mechanism requires the ability to go to an independent review authority before seeking court review, before having exhausted these administrative procedures.

I might suggest that not only California but even the Federal system employs such a procedure.

Mr. Chairman, I have a letter from Norman A. Carlson, Director, Bureau of Prisons, and I will quote this portion:

> The policy of the Federal Bureau of Prisons relating to the administrative remedy of grievance procedure calls for an independent review of a warden's decision by the Regional Director and, if desired, by the General Counsel of the Bureau of Prisons.

The Federal system works appropriately and successfully in diverting some of these cases from the Federal courts and reaching a fair and speedy resolution of complaints.

If the gentleman's amendment is agreed to, then indeed we would have, in good measure, failed what we hoped to achieve in providing an adequate mechanism at the State level so that they do not end up making a Federal case of it pursuant to the 1983 petition in the Federal courts.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman have any information as to the State of California? When they reached the independent review level, how many cases have been diverted from going further as a result of the independent review at that level, have not gone beyond that?

Mr. KASTENMEIER. I regret to say to my friend that I do not have data accessible on that, but I think common sense would indicate that the third level would cause the minimization of the number of cases that would end up in court.

Mr. ERTEL. I thank the gentleman.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman confirm the fact that the subcommittee has chosen something that all administrative officials in correction agree to, namely that there has to be somebody outside the system in order to give credibility. However, this is a very limited independent review that is granted in this bill. It is not required that the review be outside the corrections department, just outside the institution in which the inmate is incarcerated.

Would the gentleman concur that we have given a very limited independent review and a review that is really indispensable to the credibility of the entire process?

Mr. KASTENMEIER. Yes, I concur in the gentleman's observation.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, along with many others of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, have exercised oversight over prisons and correctional facilities. I have had occasion to visit many jails, many prisons, and have had an opportunity to interview many inmates as well as correctional officers and administrative personnel.

In interviewing the inmates, without a doubt, at many institutions there is a great deal of cynicism, of frustration, if not outright despair. Part of that is caused, in my opinion, because the inmates feel, even those who are honor inmates—and I am really speaking for them in respect to this matter—that they have had no real ability to communicate or to have their grievances even heard.

My feeling, as has been indicated by the chairman of the subcommittee and also by the director of the Bureau of Prisons, is that if we are to somehow alleviate the cynicism and the frustration, then I think that we are well advised to truly provide for an independent review. In the eyes of the inmates that independent review would not be by the warden of a particular institution who must deal all of the time with the people who are carrying out his orders.

Mr. Chairman, despite my very high regard for the gentleman from California (Mr. WIGGINS), I think this amendment is bad. My feeling is that if we are going to have independent review, let that independent review be by someone who has no supervision over an inmate in a particular institution. In other words, let us do what they are now doing on the Federal level, which is to require somebody like a regional authority to conduct an independent review.

Mr. Chairman, I urge that we vote down the amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I appreciate the gentleman's opposition to my amendment.

I wish to ask some questions which do not relate to the issue of independent review. I think however we ought to have at least some discussion with respect to the nature of that review.

Mr. Chairman, I would like to know just how much due process we are going to require with respect to such review. If we are silent, I assure the gentleman that there will be controversy and perhaps litigation over that issue.

Is it not clear that the prisoner is entitled at least to make his argument, but that it is not required that he be represented by counsel?

Mr. RAILSBACK. That is true.

Mr. WIGGINS. It is not required that there be necessarily a further appellate review of the decision of the reviewing authority; is that not correct?

Mr. RAILSBACK. May I just very briefly try to sketch for the gentleman what I think the likely sequence of events would be.

Mr. WIGGINS. All right.

Mr. RAILSBACK. I had a chance to visit the so-called Nilles School, which is a correctional facility in the State of California. They have a grievance procedure which has worked very well.

It works in this way: They try to, first of all, informally resolve any grievance. They do that with staff people and two inmates who sort of sit in judgment and sort of act as conciliators or even arbitrators.

Many, many times it is not necessary to go beyond that. They are able to either informally resolve the dispute or the grievance. In the event that it may be necessary to go beyond that, then they can go to the warden of the facility.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. WIGGINS and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. To continue, Mr. Chairman, then they have the opportunity to go before the warden, who, of course, has supervisory powers over the entire institution.

What we are providing here is that at least at some stage, there must be an independent review if an independent review is needed. In other words, we are not trying to suggest that we do not give the supervisory personnel in the institution an opportunity to participate in a review-type capacity; but we are saying at some point there ought to be, in a particular case, an independent review.

Mr. WIGGINS. If the gentleman will yield further, in my opinion, the original grievance mechanism and any review thereof entitles the prisoner only to the barest form of due process. By that I mean that he is entitled to notice of the fact that his complaints will be heard, and he is entitled to be heard himself.

Beyond that, all of the sophisticated aspects of procedural due process are not necessarily required in this context.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I would confirm the gentleman's observation in that connection. There is no due process accorded here for the inmate. The inmate is not entitled, certainly under this, to be represented by counsel, not entitled to a hearing. The review may be exclusively a paper review.

The only thing—and the only thing, I state—is that the review be independent, and that it be by a person or entity not under the direct supervision or control of the institution. Beyond that, there is no due process accorded by virtue of this subsection.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I have heard this argument, and I agree with much of what the gentleman says, but that sounds all right for a very sophisticated prison system such as California and the Pennsylvania Bureau of Prisons and the federal system. But, let us get down to the local jails which are included within this, local jails which may have an average inmate population of 4 per year, or 3, or 10, and there are a lot of jails throughout the country that have that.

The gentleman is setting up now as a minimum standard a very overwhelming bureaucracy. What do these people do to get these independent reviews, and how much bureaucracy are we going to require for those very small prisons? That is why I support Mr. WIGGINS. Those sophisticated systems such as the gentleman is talking about should have an independent review, but those very unsophisticated systems should not.

I appreciate the gentleman's comments.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Wiggins amendment. As a member of the subcommittee, I would not like to leave the impression that the opposition to the Wiggins amendment was unanimous. This is, in my judgment, a softening of the implications without destroying the substance of the grievance procedure.

I think in the long run it will make it much easier for the States to develop an acceptable grievance procedure without really damaging the rights of inmates. Under those circumstances, I think it is an appropriate amendment offered by the gentleman from California, and rise in support of it.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, the gentleman is not the only one in opposition to the subcommittee. I am also, and I support the Wiggins amendment.

Mr. BUTLER. I thank the gentleman, and I say that my regard for the gentleman from Pennsylvania has increased immeasurably today in his last two appearances on this floor.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and on a division (demanded by Mr. WIGGINS) there were—ayes 7; noes 12.

So the amendment was rejected.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time only to clarify a definition in the bill. I am sure the definition is readily clear to the committee and the Members who have dealt with the subject, but I do want to raise a few questions with the chairman, if he would care to respond.

Under the definition, the term "institution" refers to any facility, institution, and it has in subsections (A) and (B) a set of nomenclature describing the institutions. It would seem to me that one could perhaps find himself interpreting that definition to include also, in some cases, educational institutions across the country, because in fact it is current policy to move people who are covered under subsection (b)—retarded or handicapped, and so forth—and provide protection in "educational institutions."

One might be able to interpret that this bill will in fact apply to public and private schools which are basically designed not as institutions to provide living facilities but educational facilities, as well as some civic organizations which have day care facilities, halfway houses, et cetera, that do not provide full residence type of service but do in fact provide in an institutional way services to people who are mentioned in that section. These are questions of concern to me and I would like to yield to the gentleman from Wisconsin to get some clarification.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman,

the gentleman raises a good question. The committee intended that these terms be narrowly construed. At least, for example, we refer to an institution—and I add parenthetically, primarily as a residential facility for persons who are mentally ill, disabled, and retarded. We are not speaking about institutions in which incidentally certain people who are mentally ill, disabled, or retarded or handicapped attend. It must be an institution operated by or on behalf of the State, or under a contract with the State or a political subdivision. It must be a "State" institution or one which is otherwise qualified. It is an institution for the purpose obviously of aiding persons who are vulnerable and are handicapped in some way within a residential facility.

It would not in all probability cover the instance the gentleman alluded to of a nonpublic institution, and we are speaking about institutions operated by the State, and it would not include any State-operated school which is for a purpose other than for treating persons mentally ill, disabled, chronically ill, or handicapped or juveniles residing there or receiving care for any other State purpose.

Mr. GARY A. MYERS. Would it include institutions such as hospital facilities which obviously have on a temporary residence basis people who can fall into the description of subsection 1(b)? Would it include day care centers where essentially the person is residenced in his own home but a day care center would primarily be providing services to people who are chronically ill or mentally ill or retarded, and so forth?

Mr. KASTENMEIER. In my opinion it would not. As I see it, either individuals operating a day care center or children who are temporarily there would not be covered. In any event, all of the categories refer to residence. They must reside within this institution. It is intended, for example, to cover, say, classically, an orphanage operated by the State, but I do not believe that a day care center as presently understood would be covered under this language.

Mr. GARY A. MYERS. Would it cover an institution similar to a drug or alcohol treatment center in which an individual either on a voluntary basis or by the courts is assigned for a residence period in which the individual is expected to graduate, so to speak, at a certain period?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, the gentleman may be describing, indeed, a facility that would be covered if the people under treatment in that facility are, in fact, residents, and if that facility is operated by or on behalf of the State or under a contract with the State, and they are there for that type of illness or handicap. They may be there under court order, in some instances.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman from Wisconsin (Mr. KASTENMEIER) would care to respond further, what about a community which has an alcohol treatment center in which a person is a resident for perhaps a period of several weeks, certainly less than a year, so to speak, he is a full-time resident during that period of time and, nature, he is, essentially, an active participant in the general community, but because of a particular problem which might be described as a chronic illness has entered a facility such as that, is it the committee's intent to require that hospital to come under compliance of these type of procedures, and so forth, for that sector of their facility?

Mr. KASTENMEIER. If the gentleman will yield further, of course, there is no particular compliance that is sought. If this is a "State" institution, and if they have residents for any of these categories and if they have the pattern or the practice of denying the constitutional or Federal statutory rights of those individuals, by virtue of that they would be certainly included.

I suggest that it is not necessarily the voluntary or involuntary character of the residency that describes the coverage. You can have 100 very old people who voluntarily go to some institution but, in all practicality, they may have lost their freedom.

Mr. GARY A. MYERS. Mr. Chairman, my concern is that I think the definition is somewhat loose. It would seem to me that some Members who may support the bill may be surprised in a year or 2 down the road when they find some institutions which they thought were not institutions covered under this bill are subjected to the provisions of this bill.

I am wondering if in the conference with the Senate or in the conference report whether concern could be raised and brought back to the House fairly describing the types of institutions that would be covered?

One final concern I might have is for a person who is mentally ill, handicapped, chronically ill, or falls into one of these other definitions.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, if I may continue, and if that individual were, in fact, over the age of 18, was an independent, in that sense of the word, but was "institutionalized" in his own family home or in another individual's home who has agreed to provide a residence in a sense for the individual, is there anything in this bill which subjects the person whose home or facility is providing that residence to be subjected to the provisions of this bill?

Mr. KASTENMEIER. From what I understand of the gentleman's hypothetical situation, I would think they would not be covered if the gentleman is talking about a home. A group home might be covered if "State action" exists. We are talking about residences in primarily public institutions, under public authority or facilities acting on behalf of the State or under contract with it.

I might add further that the gentleman from Pennsylvania (Mr. GARY A. MYERS) may not be entirely happy with the definition, but I can assure the gentleman that the committee has worked on this for a long time. The Senate is working on it at the same time.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. KASTENMEIER. I do not believe that any definition could please everybody.

Mr. GARY A. MYERS. I thank the gentleman for his comments.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 9, line 10, strike out "or laws".

On page 10, line 6, strike out "or laws".

On page 11, line 8 and line 15, strike out "or laws".

On page 12, line 5 and lines 19–20, strike out "or laws".

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, this amendment deletes the words "or laws" wherever those words appear in the bill. This is not a technical amendment. It is an important substantive amendment. At the conclusion of the debate, I will announce now, it is my intention to obtain a record vote on the amendment if sufficient Members stand up and support that request.

Mr. Chairman, as the Members know, standing is granted to the Attorney General to vindicate the rights of inmates which are secured by the Constitution or laws of the United States. The scope and the reach of constitutional rights is generally known. However, the power of the Attorney General to protect rights conferred by treaties, by Federal statutes, by Federal rules and regulations, and by Federal executive orders—all of which under certain circumstances rise to the level of laws of the United States—is unclear. The hearings demonstrate that the Attorney General intends to move against institutions involved in the delivery of health services by challenging the quality of care and the treatment of patients on the theory that the laws of the United States are being violated. The committee has apparently ratified this plan of action. The report cites with approval the theory of the Solomon case where the Government argued that the Developmental

Disabilities Act of 1975 gave a statutory right to individual inmates to a certain quality of health care and freedom from harm. Likewise, the theory of the Mattson case is also cited wherein it was alleged in that case that treatment, training, education, decent living conditions, and pay for certain work was a right accorded inmates in State institutions by Federal statute. Other similar cases are also cited with approval in the report.

In addition, on page 21 of the report various statutes which are apparently targeted as a basis for the exercise of Federal jurisdiction under this bill are listed.

In summary, then, it is unmistakably clear that the Attorney General intends to utilize various statutes, some of which are financial aid programs enacted by Congress, as the basis for claiming that individual inmates or patients are given enforceable rights under those statutes. This proposition is, I believe, legally questionable and ought not to be condoned by this committee. The Developmental Disabilities Act demonstrates the essential point. That act was the basis for the Federal assertion of jurisdiction in the Solomon case. That act provides funds to States in support of certain health facilities. As an introduction to the statute, Congress made certain sweeping findings, including the finding that all Americans are entitled to quality health care. The body of the statute, however, was a typical grant-in-aid program. Surely such a financial aid statute does not give an individual the right to sue on the basis of the sweeping declaration of policy contained in its preamble. But the Attorney General maintains to the contrary, and this committee apparently intends, unless my amendment is adopted, to support the Attorney General in his interpretation.

The desire of the Attorney General should be recognized for precisely what it is—a grab for power to supervise, with the aid of the Federal courts, the day-to-day operation of State health facilities. Striking "or laws" will confine the Attorney General to constitutional violations and will prevent him from using "or laws" as a hook on which to hang Federal jurisdiction over the operation of State health care institutions.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. The problem which I envision, and which the record fully supports, can be obviated or at least minimized, I believe, if the record before this committee is unmistakably clear that the Attorney General may maintain an action under this bill only if the law of the United States alleged to have been violated confers or authorizes a private right of action upon the inmate personally.

If it does, I have less zeal for my amendment. If it does not, however, then my amendment surely must be adopted.

Mr. Chairman, I urge support for my amendment.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to ask the author of this amendment some questions. I am certain that what we want to do by this legislation is to protect the rights of institutionalized persons, particularly where they allege that they are being deprived of their basic constitutional rights; but as I understand the purpose of the gentleman's amendment, it is to avoid our having inmates get involved in all kinds of potential litigation relating to a variety of laws that we may pass with regard to the construction or the health or safety conditions in institutions. For example, construction of facilities to assist the handicapped or for clinical services and any other detailed provisions of law might apply to all such institutions, but would not directly involve an individual inmate in such an institution. Is my understanding of the purpose of the gentleman's amendment correct that you wish this measure to provide a mechanism for protecting primarily the constitutional rights of institutionalized persons?

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, in general, the purpose of my amendment is consistent with the gentleman's understanding.

I offer my amendment because the Attorney General and the Secretary of HEW have a contrary understanding. It is evident from their testimony and from the committee report that they fully intend to take laws that confer no right of action in favor of an inmate, but, nevertheless, are the laws of the United States, as the basis for asserting the right to intervene or to file an original action to control the conduct of these institutions.

I think that is wrong. It trenches very heavily on the principle of federalism and we ought to rein them in on this grab for power.

Mr. McCLORY. Mr. Chairman, there are a great many pressures being applied by the Federal Government to impose basic health and safety standards in the State institutions. These pressures are being applied through various departments of the Federal Government; nevertheless, it is my understanding that those rights of action, those pressures, those administrative and judicial proceedings, will continue under the authority of the appropriate Federal officers and would not be delegated to an individual inmate in the institution and that the effect of the gentleman's amendment would be to carry out that purpose, as I have explained it.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, that is my hope. It is apparent to me from the record that Mr. Drew Day and the Secretary of HEW do not have that narrow reading of their authority in mind. They intend to seize upon regulatory statutes and grant-in-aid programs in support of their claim that a law of the United States has been violated and, therefore, their power to intervene in the day-to-day operation of State institutions, and that is wrong.

Mr. McCLORY. Mr. Chairman, I think unless some clarifying language is substituted for that proposed by the committee, which would have the effect of the adoption of the amendment, the gentleman's amendment should be adopted.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding.

The alarm expressed by the gentleman from California (Mr. WIGGINS) as to the zeal which we can anticipate from the Department of Justice in this area is well-founded.

This particular question as to whether the words, "or laws," should be stricken or not was before our subcommittee and has been discussed at great length. We invited comment from the Department of Justice.

We have a letter from Mr. Drew Days saying that while all cases that can be visualized as being brought under this bill, if enacted, would involve some kind of 14th amendment claim, there are rights which institutionalized persons have that might be based on a Federal statute.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has expired.

(On request of Mr. BUTLER, and by unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, clearly it is the basis of this legislation to anticipate parlaying the words, "or laws," into several causes of action, not only based on statutes but on regulations, which are laws, on court decisions, which are laws, and indeed on administrative interpretations, which are laws.

This is just too far to go. This is just too much authority to give the Attorney General of the United States when we are setting up a new right of action in the Attorney General. For that reason I think the limitations of this amendment are very well founded, and I support the amendment offered by the gentleman from California (Mr. WIGGINS).

Mr. McCLORY. Mr. Chairman, it seems to me we would be moving a long step forward if we approved this legislation based upon alleged deprivation of Federal constitutional rights. To go beyond that without much more clarification or much more direction as to where we are going would seem to me to be most unwise.

Mr. Chairman, I hope, therefore, that the amendment offered by the gentleman from California (Mr. WIGGINS) will be adopted.

AMENDMENT OFFERED BY MR. KASTENMEIER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WIGGINS

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER as a substitute for the amendment offered by Mr. WIGGINS: On page 9, line 8, after the word "which" insert the following: "cause them to suffer grevious harm and".

On page 11, line 13, after the word "which" insert the following: "cause grievous harm and".

Mr. KASTENMEIER. Mr. Chairman, this amendment is designed to reassure the Members as to the use of the term, "Constitution or laws of the United States," as contained in the bill.

As suggested by the gentleman from Virginia (Mr. BUTLER), this has indeed been debated time and time again before the subcommittee, before the full committee, and even now before the Committee of the Whole.

It would be unprecedented and I know of no other legislation in history which relies exclusively on the Constitution. The term, "Constitution or laws of the United States," goes back to 1871 statutes. It has a well-understood meaning, and if Assistant Attorney General Drew Days was somewhat exuberant in the interpretation he reached prospectively of the Department's position in terms of its reliance upon the language, I would like to set the record straight.

The term that I have offered as an amendment, embodying the words, "grievous harm," is a standard by which laws of the United States, in conjunction with the Constitution, have been interpreted by the courts. I will cite just Kimbrough versus O'Neil.

Such harm must be shown, whether the deprivation is one of a Federal constitutional right or a statutory right.

I will also say to the committee that the same apprehensions and reservavations expressed by the gentleman from California (Mr. WIGGINS) were expressed by one or more Senators in their consideration of the bill, and in fact the amendment I offer today is a resolution reached by that body, at least in its full committee, with respect to the meaning of "laws."

It would be, I think, a grave mistake to try to limit this so that every case must reach a constiutional level. Even though, as a matter of practice, and as is suggested, the 14th amendment and other constitutional protections are relied upon for vindication, the Congress does speak in a contemporary way through its laws.

The Congress does speak through its laws and does, I think, contemplate the vindication of rights through the expression of statutory laws from time to time, and even though that is not often, it does take place.

Mr. Chairman, I would also suggest to the committee that the limitations of this bill are substantial. Beyond this, the constitutional laws of the United States, there must be a pattern or practice of denial of rights. The matter under consideration has to involve an abuse so that the correction of the abuse is a matter of general public importance. And, as I have suggested before, this does not contemplate that the Justice Department undertake any great incremental new burden of litigation. It contemplates targeting certain cases within this country wherein the abuse is so egregious in these terms that it is necessary, other means having failed, to pursue it.

By striking the words or laws of the United States we will have, it seems to me, turned the clock back. I submit, Mr. Chairman, that the further standard of grievous harm will serve as sufficient limitation for any who feel that the laws of the United States give too great a breadth, in terms of vindicating these rights.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment qualifies the kind of conduct, whether it be a constitutional violation or a law violation, by adding the words "causing grievous harm."

The gentleman claims the words modify both the constitutional violation, as well as the statutory violation.

If he is correct that it modifies the constitutional violation, I think such a result would be inconsistent with the present cases and practice, and unwise.

The rights of prisoners, for example, have not involved eighth amendment deprivations only. There have been first amendment rights recognized with respect to mail, which do not involve grievous harm to the inmate. There have been first amendment rights with respect to the access to legal materials, generally deprivations falling short of cruel and unusual punishment.

If it is the purpose of this amendment to qualify those rights by saying they can only be the basis of a lawsuit if there is a grievous harm—and I take that to be harm in the nature of grievous personal injury to an inmate, as alleged—then it seriously narrows the scope of existing rights of inmates to seek relief.

It is asserted that this amendment restates current law. Well, I do not think it does restate current law with respect to constitutional deprivations. The phrase has been used—and I acknowledge that—with respect to whether or not a statute gives a cause of action to an inmate. In those cases the courts have occasionally found that no right of action was intended and is not to be implied unless grievious harm was visited upon the plantiff.

This proposal tracks language adopted in the Senate hastily. It was, in my opinion, a vehicle to get the support of a single Senator who had reservations.

We, in my opinion, should not ratify that hasty action. There is a much more fundamental way to deal with the problem, and my amendment offers that fundamental way.

Mr. Chairman, while I have the floor, I wish to get the attention of the gentleman from Wisconsin (Mr. KASTENMEIER) and see whether I can obtain his agreement that for a law to form the basis of Attorney General action, that law must confer a private right of action upon the inmate personally. If he does not agree with that statement—and I would believe that he would almost have to—then, without question, my amendment must be adopted.

Mr. KASTENMEIER. If the gentleman will yield, Mr. Chairman, I would say I would agree with the gentleman but qualify it to say private or public right of action.

Mr. WIGGINS. Public right of action troubles me. I realize that, there are some cases which have held that when there is a general public wrong being committed, a right of action in the Attorney General will be implied and recognized. There are very few cases which do that in other contexts, but in this narrow area of the law, the Solomon case stands for the proposition that no such public right of action in favor of the Attorney General is recognized by implication. Statutory authorization for such an action must be found if it is to be recognized at all.

Mr. Chairman, I appreciate the gentleman's agreeing with me halfway. That is progress.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I am a bit curious about this matter and perhaps the gentleman can enlighten me.

The amendment that is proposed would be, I imagine, a substitute for the gentleman's amendment, and the amendment of the gentleman from Wisconsin contains the language, "cause them to suffer grievous harm."

As I read this language, that is a modifier of the Constitution as well.

Mr. WIGGINS. Indeed.

Mr. ERTEL. Are we saying that certain constitutional rights are different or that they do not create or suffer grievous harm by the denial of constitutional rights, or does that imply physical harm?

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Wiggins amendment and in support of the substitute amendment.

Mr. Chairman, I would like to refer to a Justice Department opinion which was requested by the committee, which concerns me a great deal with respect to the Wiggins amendment, if it is accurate.

Mr. Chairman, I am going to quote from the opinion. It says the following:

Suits to redress violations in any Group (C) [jails, prisons, or pretrial detention facilities] or Group (D) [juvenile facilities] institutions would be relatively unaffected if the phrase "or laws" were removed from the bill, since virtually all Section 2 suits in those institutions would allege violations of the due process clause of the Fourteenth Amendment. Actions involving Group (A) [facilities for the mentally ill, disabled, or retarded], Group (B) [the physically handicapped], or Group (E) [nursing homes] would be drastically affected. The typical

Group (A) institution sued by the Department is a large, understaffed building where residents live in wretched conditions and receive little or no training or treatment. While some courts have found a "right to treatment" implicit in the Constitution, others have not, which means the constitutional protections for residents in mental retardations centers and mental hospitals are at best uncertain, even as to eighth amendment standards.

There are statutory protections for residents in those institutions: Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination against the handicapped in any federally financed program; the Developmentally Disabled Assistance and Bill of Rights Act; the Special Health Revenue Sharing Act; and Title XI– of the Social Security Act, to name only the major statutes in the area. If H.R. 9400 were restricted to only "Constitutional violations", however, the Government would be precluded from utilizing these statutes, which in many jurisdictions may well bar any meaningful Government action, even in the most shocking cases.

May I just say that if that is true, then as I understand the memorandum, what they are saying is that the Wiggins amendment would not do any great harm as far as petitions filed by a prisoner, but as far as people affected that may be in mental retardation centers or mental hospitals, it could really prevent—according to this memorandum—the Justice Department from trying to correct what would have to be a pattern of abuse and conditions which really result, under the gentleman's substitute amendment, where grievous harm exist. So, I am bothered by that. It seems to me that maybe it is very important that we address that particular issue.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I think the gentleman is answering the question which is raised, but just in order that we might understand what the Department of Justice is talking about in this memorandum—which I do not recall having seen—did they not address themselves to the substitute which the gentleman offered? Did they address the issue of grievous harm?

Mr. RAILSBACK. They did address the issue of grievous harm, but then they were asked to give their opinion of what the effect would be of the amendment removing the words "or laws." This is before the gentleman's substitute was even conceived, as far as I know. What they are saying is that you are all right if you adopt the amendment; you may be all right as far as affording protection of jail inmates or prisoners, but as far as people that may be in a mental health center or a mental hospital or a mental retardation center, they may not be able to allege successfully any violation of constitutional rights. That, I think, is what they are saying.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. WIGGINS and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, that is not the position of the Department of Justice. The Department of Justice has proceeded in mental health cases on the basis that the inmates therein have been deprived of constitutional rights, as well as certain alleged statutory rights.

Mr. RAILSBACK. If the gentleman will let me say this: I have read the Justice Department memorandum, and I think that it represents their position.

Mr. WIGGINS. Their position is more clearly reflected in their pleadings. In the pleadings in the Solomon case and the Mattson case both, they asserted—these are health care cases—14th amendment violations. It is difficult to tie an 8th amendment violation to a person who is not in jail, I think, but there are other provisions of the Constitution, primarily the 14th amendment, which provide ample ground, at least for the Attorney General to proceed on the basis of a constitutional violation.

But, here in my hand is a statement on Drew Days indicating what he intends to do on the basis of statutory rights. He intends to proceed on the basis of congressional declarations contained in the Developmental Disabilities Act. That is terribly obnoxious to me when that is only a grant in aid program, conferring no rights at all upon the inmates. It is merely stating a matter of policy for inducing the Congress to make the grant.

Mr. RAILSBACK. I understand what the gentleman is saying. If there are in fact, as suggested by the opinion, situations which may not amount to a constitutional deprivation because somebody is in a mental health hospital rather than in a prison, it bothers me that the Justice Department may not be able to act in that particular case.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mrs. FENWICK, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Could the gentleman or perhaps the author of the amendment explain? Do I understand, or are we trying to say, that the law defending these people shall not be followed when we strike "or laws" on the page, and so on? I mean, how could it be that anyone would want to remove the protection of any law?

Mr. RAILSBACK. I think the gentlewoman had better direct her question to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield, the problem is that not all laws of the United States give me the right to sue. The laws that the Attorney General seeks to employ are not necessarily for the rights of the inmates nor do they give the inmates any rights at all, but the Attorney General seeks to use those laws.

Mrs. FENWICK. But if the gentleman will yield further, of all the people in the world who need the protection of the laws, and there are too few laws to protect them, it seems to me these are the people in the institutions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER) as a substitute for the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and on a division (demanded by Mr. WIGGINS) there were—ayes 17, noes 16.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS), as amended.

The amendment, as amended, was agreed to.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to make brief mention of the fact that my colleague Mr. BIAGGI had intended to offer as an amendment to this bill, the text of his law enforcement officers bill of rights (H.R. 181). In consultation with him I advised him that it was not germane to this legislation. However, I do want to indicate my agreement with the concerns which motivated him to want to sponsor his amendment. The civil rights of our law enforcement personnel are often overlooked as we zealously pursue them for others. Mr. BIAGGI in his extensive research on this subject has uncovered numerous instances where law enforcement officers when subjects of investigations within their own departments, are denied basic civil rights. There is something amiss when law enforcement personnel cannot have the same guarantees of civil rights that all other Americans enjoy.

I appreciate the commitment of my colleague to this issue and hope a more appropriate legislative vehicle is made available to accommodate his interest.

● Mr. PEPPER. Mr. Chairman, I would just like to once again commend my colleague, Mr. KASTENMEIER, for providing the House the opportunity to discuss this important and long-overdue piece of legislation. I support the objectives of this measure and would like to comment on the need for its enactment.

Although the Bill of Rights assures that basic civil rights are an inalienable condition of U.S. citizenship, and even though provisions which deal with patients' rights in institutions are included in medicaid and medicare regulations, the enforcement of these rights has been woefully inadequate. On many occasions, as chairman of the House Select Committee on Aging, I have been shocked and educated when advised not once, but many times, of the gross, inhumane treatment encountered by residents of nursing homes and other State operated institutions. Unfortunately, such tragic situations have not only been tolerated but even allowed to persist in institutions around the country. Our committee has uncovered countless in-

stances in which the rights of patients are infringed, where persons are involuntarily committed or released from institutions without provisions for care, or where older and poorer citizens in hospitals and nursing homes live in fear that attempts to seek better care or to complain about inadequate care would inevitably lead to further hardship. At present, the only remedy is a total cutoff of Federal reimbursement. As a consequence, the Federal Government has been reluctant to withdraw its share of dollars from a home if such action would force the home to close.

In addition, as chairman of the former House Select Committee on Crime, the need for a procedure which would permit inmates the opportunity for redress when abuses arise was obvious. The Attica uprising is a compelling example of the problems we can continue to expect until appropriate grievance procedures, such as this bill could recommend, are in place.

I was pleased to join Congressman COHEN last year in the introduction of legislation designed to provide for the development and enforcement of standards relating to the rights of patients in medical facilities, while at the same time permitting patients to become active participants in the decision affecting their own health and bodies. This bill received the benefit of discussion during debate on H.R. 3, the Medicare-Medicaid Anti-Fraud and Abuse Act, and I am happy to report that we received assurances at that time that hearings on this legislation will be held at the earliest possible time.

So Congress is becoming increasingly aware of the need to devise mechanisms to insure that the constitutional rights of all persons are protected.

This bill will not by itself totally resolve the deplorable conditions and abuses which exist in many of our Nation's institutions, nor will it necessarily provide the mechanism for the redress of every institutionalized individual's complaint. But it is certainly an important and necessary first step in that direction. Ultimately, those State officials who administer programs for the institutionalized will determine the success of what we in Congress prescribe in legislation today.●

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9400) to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States pursuant to House Resoluton 1150, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. KINDNESS. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KINDNESS moves to recommit the bill, H.R. 9400 to the Committee on the Judiciary with the instructions to report back the same to the House forthwith with the following amendment: Strike all after the enacting clause.

The SPEAKER. Does the gentleman from Ohio (Mr. KINDNESS) desire to be heard on his motion to recommit?

Mr. KINDNESS. I do, Mr. Speaker.

The SPEAKER. The gentleman from Ohio (Mr. KINDNESS) is recognized for 5 minutes in support of his motion to recommit.

Mr. KINDNESS. Mr. Speaker, and Members of the House, I will try not to take the full 5 minutes, but I believe, even though there are so few of us here, it is probably desirable to take a little bit of time and summarize the legislation that is before us, because it has been so long since H.R. 9400 was first on the floor, and I do wish that there were the opportunity for more people to refresh their recollections about just what this bill does.

I might say for the benefit of those Members of the House who are back in their offices watching this on their TV sets that this might be an appropriate time for them to turn up the volume on their hearing aids.

Mr. Speaker, we have before us a bill which really has weakly demonstrated its way along through three sessions on the House floor. It has been pulled, or at least proceedings have been stopped in the debate due to the lateness of the hour on two previous occasions, and so I believe we should consider some of the facts concerning it as it has proceeded through the House on this, the third day.

The whole thrust of H.R. 9400 is for the Congress to empower the Justice Department to tell the States, through lawsuits, how to run their institutions for the mentally ill, the mentally retarded and, to a certain degree, under certain circumstances, prisons and jails.

There is nothing in this bill to help the States do the job of protecting the rights and preserving the interests of people who are inmates or patients in those institutions. In every case where the Attorney General has intervened to attempt to protect the constitutional rights of patients and inmates in such State institutions, there has always been an answer to their problem, and there is always an answer to these problems in terms of more adequate staffing, more adequate facilities, better provisions in terms of food and administration, and it all costs money, and there is nothing in this bill to address that problem.

There is only one thrust of this bill, and that is to empower the Attorney General to go after the States to make them adversaries in litigation. States and local governments will thus find themselves at odds with the United States of America in litigation. The answer to the problems that underlie this litigation require money. There is nothing in the thinking of the people who are pushing H.R. 9400 to provide funds to help States and local governments overcome those problems. I would suggest to the Members that H.R. 9400 ought to be the second step in the process. In the first place, we ought to be, if we are really concerned with the constitutional rights and the problems of inmates and patients in State institutions, looking to how we can help to alleviate those problems. Then as the second step when the ability is there, perhaps at that point we can provide such powers to the Attorney General. But right now we ought to be taking the money that will eventually be required to hire lawyers in the Department of Justice and to litigate, and use it to help the patients and the inmates in these institutions. It is for that reason that I urge the Members to vote no on H.R. 9400. I realize it has the wonderful kind of title that makes it almost impossible to vote against it, but, indeed, it is only a second step, and we have not taken the first step, and we ought to be taking that first step before we thus empower the Department of Justice, before we go telling the States and local governments how to run their business.

Mr. KASTENMEIER. Mr. Speaker, I will only take 1 minute. We have debated this measure for three sessions. I think the moment of truth has finally come, and I hope, as the gentleman from Ohio suggests, that it is virtually impossible to vote against this bill. Actually it will be the first step forward in a field affecting the handicapped, affecting the mentally ill, the mentally retarded, juveniles, the aged citizens who are in institutions, as well as prisoners. We have attempted for the first time to bring some order in terms of our judicial system, some responsibility, both congressional and executive, as well as judicial, in answering questions of abuse of constitutional rights of individuals in institutions.

Mr. Speaker, I hope and pray the House will reject the motion to recommit and approve the bill.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, I object

to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 69, not voting 109, as follows:

[Roll No. 614]

YEAS—254

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|---|---|---|
| Akaka | Giaimo | Panetta |
| Alexander | Gibbons | Patten |
| Ambro | Gilman | Patterson |
| Anderson, Calif. | Ginn | Pattison |
| | Glickman | Pease |
| Anderson, Ill. | Gonzalez | Pepper |
| Andrews, N. Dak. | Gore | Perkins |
| | Gradison | Pettis |
| Annunzio | Green | Pike |
| Applegate | Guyer | Pressler |
| Armstrong | Hagedorn | Preyer |
| Baldus | Hamilton | Price |
| Beard, R.I. | Hanley | Pritchard |
| Beilenson | Hannaford | Pursell |
| Benjamin | Harris | Quillen |
| Bennett | Harsha | Railsback |
| Bevill | Hawkins | Rangel |
| Blanchard | Heckler | Regula |
| Blouin | Hightower | Reuss |
| Boggs | Hillis | Rhodes |
| Boland | Holland | Rinaldo |
| Bonior | Hollenbeck | Robinson |
| Brademas | Holtzman | Roe |
| Breckinridge | Howard | Rogers |
| Brinkley | Hubbard | Rooney |
| Brodhead | Hughes | Rose |
| Brooks | Hyde | Rostenkowski |
| Broomfield | Jeffords | Roybal |
| Brown, Calif. | Johnson, Calif. | Russo |
| Brown, Mich. | Johnson, Colo. | Ryan |
| Buchanan | Jones, Okla. | Santini |
| Burgener | Jones, Tenn. | Sawyer |
| Burke, Calif. | Jordan | Scheuer |
| Burke, Fla. | Kastenmeier | Schroeder |
| Burlison, Mo. | Kildee | Schulze |
| Burton, John | Kostmayer | Sebelius |
| Burton, Phillip | Krebs | Seiberling |
| Butler | LaFalce | Sharp |
| Byron | Leach | Sikes |
| Carr | Leggett | Simon |
| Carter | Lehman | Sisk |
| Cavanaugh | Levitas | Skubitz |
| Chappell | Lloyd, Calif. | Slack |
| Chisholm | Long, La. | Smith, Iowa |
| Conte | Long, Md. | Smith, Nebr. |
| Corcoran | Lujan | Snyder |
| Corman | Luken | Solarz |
| Cornell | Lundine | Spellman |
| Cotter | McClory | Staggers |
| Coughlin | McCloskey | Stangeland |
| D'Amours | McDade | Stanton |
| de la Garza | McFall | Steers |
| Delaney | McHugh | Steiger |
| Dellums | McKay | Stockman |
| Derrick | McKinney | Stokes |
| Derwinski | Madigan | Stratton |
| Dodd | Markey | Studds |
| Downey | Marks | Thompson |
| Drinan | Martin | Thornton |
| Duncan, Tenn. | Mattox | Trible |
| Early | Mazzoli | Udall |
| Eckhardt | Meyner | Ullman |
| Edgar | Michel | Van Deerlin |
| Edwards, Ala. | Mikulski | Vander Jagt |
| Edwards, Calif. | Mikva | Vanik |
| Eilberg | Mineta | Volkmer |
| Emery | Minish | Walgren |
| Ertel | Mitchell, Md. | Weiss |
| Evans, Colo. | Mitchell, N.Y. | White |
| Evans, Del. | Moakley | Whitehurst |
| Evans, Ga. | Moffett | Wilson, Bob |
| Evans, Ind. | Mollohan | Wilson, C. H. |
| Fary | Moorhead, Pa. | Wilson, Tex. |
| Fascell | Moss | Winn |
| Fenwick | Mottl | Wolff |
| Findley | Murtha | Wright |
| Fish | Myers, Gary | Wylie |
| Fisher | Myers, John | Yates |
| Fithian | Natcher | Yatron |
| Flippo | Neal | Young, Alaska |
| Flood | Nedzi | Young, Fla. |
| Florio | Nowak | Young, Mo. |
| Ford, Tenn. | O'Brien | Young, Tex. |
| Frenzel | Oakar | Zablocki |
| Fuqua | Oberstar | |
| Gammage | Ottinger | |

NAYS—69

| | | |
|---|---|---|
| Andrews, N.C. | Goldwater | Montgomery |
| Archer | Goodling | Moore |
| Ashbrook | Grassley | Poage |
| Ashley | Gudger | Quayle |
| Bauman | Hall | Risenhoover |
| Broyhill | Hammer-schmidt | Rousselot |
| Burleson, Tex. | | Rudd |
| Clawson, Del | Hansen | Satterfield |
| Collins, Tex. | Holt | Shuster |
| Conable | Ichord | Skelton |
| Cunningham | Jenrette | Spence |
| Daniel, Dan | Jones, N.C. | Stump |
| Daniel, R. W. | Kelly | Symms |
| Davis | Kindness | Taylor |
| Devine | Lagomarsino | Traxler |
| Dingell | Latta | Treen |
| Dornan | Lott | Waggonner |
| Edwards, Okla. | McCormack | Walker |
| English | McDonald | Watkins |
| Erlenborn | Mahon | Weaver |
| Flynt | Mann | Whitley |
| Foley | Marriott | Wiggins |
| Fountain | Mathis | |
| Gephardt | Miller, Ohio | |

NOT VOTING—109

| | | |
|---|---|---|
| Abdnor | Duncan, Oreg. | Murphy, N.Y. |
| Addabbo | Flowers | Murphy, Pa. |
| Ammerman | Ford, Mich. | Myers, Michael |
| Aspin | Forsythe | Nichols |
| AuCoin | Fowler | Nix |
| Badham | Fraser | Nolan |
| Bafalis | Frey | Obey |
| Barnard | Garcia | Pickle |
| Baucus | Gaydos | Quie |
| Beard, Tenn. | Harkin | Rahall |
| Bedell | Harrington | Richmond |
| Biaggi | Hefner | Roberts |
| Bingham | Heftel | Rodino |
| Bolling | Horton | Roncalio |
| Bonker | Huckaby | Rosenthal |
| Bowen | Ireland | Runnels |
| Breaux | Jacobs | Ruppe |
| Brown, Ohio | Jenkins | Sarasin |
| Burke, Mass. | Kasten | Shipley |
| Caputo | Kazen | St Germain |
| Carney | Kemp | Stark |
| Cederberg | Keys | Steed |
| Clausen, Don H. | Krueger | Teague |
| | Le Fante | Thone |
| Clay | Lederer | Tsongas |
| Cleveland | Lent | Tucker |
| Cochran | Livingston | Vento |
| Cohen | Lloyd, Tenn. | Walsh |
| Coleman | McEwen | Wampler |
| Collins, Ill. | Maguire | Waxman |
| Conyers | Marlenee | Whalen |
| Cornwell | Meeds | Whitten |
| Crane | Metcalfe | Wirth |
| Danielson | Milford | Wydler |
| Dent | Miller, Calif. | Zeferetti |
| Dickinson | Moorhead, Calif. | |
| Dicks | | |
| Diggs | Murphy, Ill. | |

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Roberts against.

Mr. Addabbo for, with Mr. Cleveland against.

Mr. Vento for, with Mr. Zeferetti against.

Mr. Biaggi for, with Mr. Nichols against.

Mr. Lederer for, with Mr. Teague against.

Mr. Ammerman for, with Mr. Breaux against.

Until further notice:

Mr. Richmond with Mr. Cohen.

Mr. Gaydos with Mr. Abdnor.

Mr. Garcia with Mr. Forsythe.

Mr. Carney with Mr. McEwen.

Mr. Cornwell with Mr. Nix.

Mr. Maguire with Mr. Coleman.

Mr. Waxman with Mr. Lent.

Mr. Wirth with Mr. Marlenee.

Mr. St Germain with Mr. Milford.

Mr. Shipley with Mr. Frey.

Mr. Rosenthal with Mr. Quie.

Mr. Obey with Mr. Kemp.

Mr. Pickle with Mr. Sarasin.

Mrs. Lloyd of Tennessee with Mr. Thone.

Mr. AuCoin with Mr. Badham.

Mr. Baucus with Mr. Horton.

Mr. Ford of Michigan with Mr. Moorhead of California.

Mr. Harrington with Mr. Runnels.

Mr. Ireland with Mr. Livingston.

Mr. Kazen with Mr. Walsh.

Ms. Keys with Mr. Brown of Ohio.

Mr. Miller of California with Mr. Ruppe.

Mr. Danielson with Mr. Whalen.

Mr. Dicks with Mr. Caputo.

Mr. Diggs with Mr. Wampler.

Mr. Metcalfe with Mr. Aspin.

Mr. Bonker with Mr. Cederberg.

Mr Bowen with Mr. Bafalis.

Mr. Clay with Mr. Wydler.

Mrs. Collins of Illinois with Mr. Beard of Tennessee.

Mr. Conyers with Mr. Crane.

Mr. Meeds with Mr. Don H. Clausen.

Mr. Stark with Mr. Dent.

Mr. Rahall with Mr. Dickinson.

Mr. Nolan with Mr. Cochran of Mississippi.

Mr. Murphy of New York with Mr. Kasten.

Mr. Le Fante with Mr. Duncan of Oregon.

Mr. Krueger with Mr. Flowers.

Mr. Barnard with Mr. Harkin.

Mr. Bingham with Mr. Huckaby.

Mr. Hefner with Mr. Jacobs.

Mr. Heftel with Mr. Fowler.

Mr. Bedell with Mr. Jenkins.

Mr. Murphy of Illinois with Mr. Michael O. Myers.

Mr. Murphy of Pennsylvania with Mr. Fraser.

Mr. Steed with Mr. Roncalio.

Mr. Tsongas with Mr. Tucker.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 9400.

The SPEAKER pro tempore (Mr. YATES). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, On rollcall No. 614, final passage of H.R. 9400, civil rights of institutionalized persons, I was unavoidably detained in my office on official business. Had I been present and voting, I would have voted "aye."

## DISPOSITION OF CERTAIN RECREATIONAL DEMONSTRATION PROJECT LANDS BY STATE OF OKLAHOMA

Mr. RISENHOOVER. Mr. Speaker, I move to take from the Speaker's desk the Senate bill (S. 920) relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 2, line 19, of the House engrossed amendment, strike out "2(a)" and insert "102(2)(C)".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. EDWARDS of Oklahoma. Reserving the right to object, Mr. Speaker, would the gentleman from Oklahoma explain the Senate amendment to us.

Mr. RISENHOOVER. If the gentleman will yield, Mr. Speaker, in H.R. 4691, as reported by the Interior Committee, there is a provision that any new deed issued by the Secretary of the Interior to permit oil and gas development on the Lake Murray demonstration lands shall require that development take place only pursuant to a plan which has been reviewed by the Secretary and that the review must include the preparation of any environmental impact statement pursuant to section 2(a) of the National Environmental Policy Act.

When H.R. 4691 passed the House, the language of that bill was substituted in the Senate bill—S. 920—as an amendment to the Senate bill. The citation to the Environmental Policy Act was wrong—it should have been section 102 2(c) instead of section 2(a). The Senate amended the bill to make the correction in the citation. There was no other change made in the bill as it passed the House.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

A motion to reconsider was laid on the table.

## THE 1977 ANNUAL REPORT OF ACTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor and the Committee on International Relations:

*To the Congress of the United States:*

I transmit herewith the 1977 Annual Report of ACTION as required by section 407 of the Domestic Volunteer Services Act of 1973, as amended.

JIMMY CARTER.

THE WHITE HOUSE, *July 28, 1978.*

## ANNUAL REPORTS ON MILITARY AWARDS PROGRAMS OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services:

*To the Congress of the United States:*

I transmit herewith the Annual Reports on Military Awards Programs of the Department of Defense and the Department of Transportation. These Reports, in part, describe activities prior to the beginning of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *July 28, 1978.*

## CIVIL RIGHTS COMMISSION ACT OF 1978

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12432) to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 303, nays 5, not voting 124, as follows:

[Roll No. 615]

YEAS—303

| | | |
|---|---|---|
| Akaka | Clawson, Del | Ford, Mich. |
| Alexander | Coleman | Ford, Tenn. |
| Ambro | Conable | Fountain |
| Anderson, Calif. | Conte | Frenzel |
| Andrews, N.C. | Corcoran | Fuqua |
| Andrews, N. Dak. | Corman | Gammage |
| Annunzio | Cornell | Gephardt |
| Applegate | Cotter | Giaimo |
| Armstrong | Coughlin | Gibbons |
| Ashbrook | Cunningham | Ginn |
| Ashley | Daniel, Dan | Glickman |
| Baldus | Daniel, R. W. | Goldwater |
| Bauman | de la Garza | Gonzalez |
| Beard, R.I. | Delaney | Goodling |
| Bellenson | Dellums | Gore |
| Benjamin | Derrick | Gradison |
| Bennett | Derwinski | Grassley |
| Bevill | Devine | Green |
| Blanchard | Dingell | Gudger |
| Blouin | Dodd | Guyer |
| Boggs | Dornan | Hagedorn |
| Boland | Downey | Hall |
| Bolling | Drinan | Hamilton |
| Bonior | Duncan, Tenn. | Hammer-schmidt |
| Bowen | Early | Hanley |
| Brademas | Eckhardt | Hannaford |
| Breckinridge | Edgar | Hansen |
| Brinkley | Edwards, Ala. | Harris |
| Brodhead | Edwards, Calif. | Harsha |
| Brooks | Edwards, Okla. | Heckler |
| Broomfield | Eilberg | Hightower |
| Brown, Calif. | Emery | Hillis |
| Brown, Mich. | English | Holland |
| Broyhill | Erlenborn | Hollenbeck |
| Buchanan | Ertel | Holt |
| Burgener | Evans, Colo. | Holtzman |
| Burke, Calif. | Evans, Del. | Howard |
| Burke, Fla. | Evans, Ga. | Hubbard |
| Burleson, Tex. | Evans, Ind. | Hughes |
| Burlison, Mo. | Fary | Hyde |
| Burton, Phillip | Fascell | Ichord |
| Butler | Fenwick | Jeffords |
| Byron | Findley | Jenrette |
| Carr | Fish | Johnson, Calif. |
| Carter | Fisher | Jones, N.C. |
| Cederberg | Flippo | Jones, Okla. |
| Chappell | Flood | Jones, Tenn. |
| Chisholm | Florio | Jordan |
| | Flynt | Kastenmeier |
| | Foley | Kelly |
| | Natcher | Sisk |
| | Neal | Skelton |
| | Nedzi | Skubitz |
| | Nowak | Slack |
| | O'Brien | Smith, Iowa |
| | Oakar | Smith, Nebr. |
| | Oberstar | Snyder |
| | Ottinger | Solarz |
| | Panetta | Spellman |
| | Patten | Spence |
| | Patterson | Staggers |
| | Pattison | Stangeland |
| | Pease | Stanton |
| | Pepper | Steers |
| | Perkins | Steiger |
| | Pettis | Stockman |
| | Pike | Stokes |
| | Poage | Stratton |
| | Pressler | Studds |
| | Preyer | Stump |
| | Price | Symms |
| | Pritchard | Taylor |
| | Pursell | Thompson |
| | Quillen | Thornton |
| | Rahall | Traxler |
| | Rangel | Treen |
| | Regula | Trible |
| | Reuss | Ullman |
| | Rhodes | Vander Jagt |
| | Rinaldo | Vanik |
| | Risenhoover | Volkmer |
| | Robinson | Waggonner |
| | Roe | Walgren |
| | Rose | Walker |
| | Rostenkowski | Weaver |
| | Rousselot | Weiss |
| | Roybal | White |
| | Rudd | Whitehurst |
| | Russo | Whitley |
| | Ryan | Wiggins |
| | Santini | Wilson, Tex. |
| | Satterfield | Winn |
| | Sawyer | Wolff |
| | Scheuer | Wright |
| | Schroeder | Wylie |
| | Schulze | Yates |
| | Sebelius | Yatron |
| | Seiberling | Young, Alaska |
| | Sharp | Young, Fla. |
| | Shuster | Young, Mo. |
| | Sikes | Young, Tex. |
| | Simon | Zablocki |

NAYS—5

| | | |
|---|---|---|
| Collins, Tex. | McDonald | Wilson, Bob |
| Lloyd, Calif. | Quayle | |

NOT VOTING—124

| | | |
|---|---|---|
| Abdnor | Flowers | Murphy, Ill. |
| Addabbo | Forsythe | Murphy, N.Y. |
| Ammerman | Fowler | Murphy, Pa. |
| Anderson, Ill. | Fraser | Myers, Michael |
| Archer | Frey | Nichols |
| Aspin | Garcia | Nix |
| AuCoin | Gaydos | Nolan |
| Badham | Gilman | Obey |
| Bafalis | Harkin | Pickle |
| Barnard | Harrington | Quie |
| Baucus | Hawkins | Railsback |
| Beard, Tenn. | Hefner | Richmond |
| Bedell | Heftel | Roberts |
| Biaggi | Horton | Rodino |
| Bingham | Huckaby | Rogers |
| Bonker | Ireland | Roncalio |
| Breaux | Jacobs | Rooney |
| Brown, Ohio | Jenkins | Rosenthal |
| Burke, Mass. | Johnson, Colo. | Runnels |
| Burton, John | Kasten | Ruppe |
| Caputo | Kazen | Sarasin |
| Carney | Kemp | Shipley |
| Cavanaugh | Keys | St Germain |
| Clausen, Don H. | Krueger | Stark |
| Clay | Le Fante | Steed |
| Cleveland | Lederer | Teague |
| Cochran | Leggett | Thone |
| Cohen | Lent | Tsongas |
| Collins, Ill. | Livingston | Tucker |
| Conyers | Lloyd, Tenn. | Udall |
| Cornwell | Lundine | Van Deerlin |
| Crane | McEwen | Vento |
| D'Amours | McKinney | Walsh |
| Danielson | Maguire | Wampler |
| Davis | Mathis | Watkins |
| Dent | Meeds | Waxman |
| Dickinson | Metcalfe | Whalen |
| Dicks | Milford | Whitten |
| Diggs | Mitchell, Md. | Wilson, C. H. |
| Duncan, Oreg. | Moorhead, Calif. | Wirth |
| Fithian | Moss | Wydler |
| | | Zeferetti |

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12432, with Mr. DE LA GARZA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Monday, June 26, 1978, all time for general debate had expired, and the bill had been considered as having been read and open to amendment at any point.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 21, strike out "insert" and insert in lieu thereof "inserting."

The committee amendment was agreed to.

The CHAIRMAN. Are there any amendments?

AMENDMENTS OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BUTLER: Page 2, strike out line 11 and all that follows through line 5 on page 3, and insert in lieu thereof the following:

SEC. 3. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended—

(1) by redesignating paragraph (6) of subsection (b); and

(2) by redesignating subsection (b) and (c) as (c) and (d), respectively.

Page 4, line 10, strike out "$12,752,000" and insert in lieu thereof "$10,752,000".

Page 4, beginning in line 11, strike out ", and not to exceed" and all that follows through "Act" in line 13.

Mr. BUTLER. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Mr. Chairman, those amendments accomplish two related objectives. They would strike the provisions in this legislation which seek to add authority for the Commission to study discrimination in the denial of equal protection of the laws of the aged and the handicapped. At the same time the amendments return the Commission's authorization on appropriations to the level requested by the administration and the Office of Management and Budget, $10,752,000. The Commission was originally established to study denials of equal protection of the laws based on race, color, religion, and national origin. Sex discrimination was added in 1972 when Congress last extended the life of the Commission for 5 years. The Commission does not need to be involved in every timely issue which appears to be fashionable and generates publicity. For all too long the Commission has been tempted to hop on popular bandwagons which attract attention to itself. No one can deny that the aged and the handicapped need governmental forums in order to discuss their problems. However, the Civil Rights Commission is not the appropriate group.

Since the Commission has no enforcement powers it would serve as just one more body to issue directives to improve the lifestyle for persons in our society. We simply do not need any more reports prepared at Federal expense on the plights faced by these groups.

Mr. Chairman, the attention of the Members is called to these books to my left. Mr. Chairman, would it be out of order to ask the cameras to focus on these stacks of books for a moment?

The CHAIRMAN. I do not know that the Chair has control over that situation.

Mr. BUTLER. I appreciate the Chair's indulgence. But when I sneak behind them for a minute, the Members will understand it is for public attention and not because I am hiding from them.

The Library of Congress has been able to identify 222 reports prepared by the Congress alone which studied problems of the aged from 1975 through May 1978. According to the Library, during the same period the executive branch prepared 63 reports on the same topic.

The Library of Congress also notes that the executive branch has prepared quite a few more; but because of the volume, they only kept the best 63. We have no idea how many they threw away.

I tried to learn how much this cost the taxpayers. The Library could not even begin to identify the cost of the congressional reports of those prepared in-house by the executive branch. The Library researchers were able to give me some idea. They identified almost $15 million in contracts which were let for studies and reports on the aged since 1975. Many of these reports were specifically designed to study discrimination against the aged. For example, the U.S. Senate Special Committee on Aging issued a report in 1977 entitled, "Discrimination in Employment," addressing the steps to be taken to combat discrimination in aging and retirement.

In 1976, the Committee on Education and Labor issued a report entitled, "Age, Discrimination in Employment," based on oversight hearings.

Numerous reports and studies were generated.

More important, however, than the hundreds of reports and studies prepared by the Congress and the executive branch is the work of the Civil Rights Commission itself in this area. Pursuant to the authority granted by the Age Discrimination Act of 1975, the Commission was directed to prepare a study on the basis of discrimination against the aged. During the last 3 fiscal years, the Commission spent over $1.5 million to produce the recently published 112-page report. If this is any indication of how the Commission plans to use its new authority, I believe we would be irresponsible to award the jurisdiction without more in-depth study as to the real necessity for the Commission to assume this task.

Many of the objections I have raised concerning the Commission's attempt to secure this authority also apply to the extension of the Commission's authority to study the handicapped. Numerous Federal agencies and committees of the Congress which are involved on a full-time basis in addressing the problems which face handicapped persons. Between 1975 and the present, executive branch departments and agencies have produced 51 studies regarding the status of handicapped persons in our society. In addition, committees of the Congress have generated another 80 reports on the same subject. Federal contracts totalled $3,318,064.

In addition, the Office of Handicapped Individuals within HEW is already established as the national clearinghouse for information with respect to handicapped individuals. Certainly, the Civil Rights Commission need not duplicate this function.

The Civil Rights Commission does not need to be involved in every timely issue which is fashionable and generates publicity. For all too long, the Commission has attempted to hop on popular bandwagons which will inevitably attract attention to itself.

I cannot condone another attempt by the Commission to expand its overly broad power base by attempting to secure authority to study these issues. It would be irresponsible for this Congress to expand the jurisdictional mandate of the Commission when the clear fact is that from 1970 to the present, the Commission has totally ignored two areas of its jurisdiction. The subcommittee received testimony which clearly pointed out that from 1970 to the present, the Commission has not issued one report discussing discrimination based on religion or national origin. If the Commission is too busy to concentrate on its jurisdiction as clearly authorized by law, I cannot support efforts to add two more categories which are already thoroughly studied on a full-time basis. The Commission should return to concentrating on the constituencies for which it was established to assist.

I have one final point. During our subcommittee hearings, the Office of Management and Budget testified in support of the President's recommendation in his budget to set the authorization on appropriations for the Commission for fiscal year 1979 at $10,752,000. The subcommittee arbitrarily chose $12 million, designating the difference in the sums to be used for this expanded jurisdiction. It would be premature for us to assume that the Commission either needs this much money or may in fact require more money to adequately study discrimination against these two groups. I urge the House to postpone this attempt to expand the Commission's authority until the Office of Management and Budget can carefully analyze and report on just exactly how much money this expanded authority will cost.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would be inclined to support the gentleman's amendment if it were not for the fact that the Civil Rights Commission has already been given an enlarged authority by Congress. The Commission started out with its activities being directed toward the interests of those who were discriminated against on the basis of race, color, religion, and national origin. In 1972, we expanded that to give them the authority with respect to sex discrimination, and it seems to me that it is only fair that we likewise extend the authority to provide for jurisdiction to study discrimination against the aged and handicapped.

Mr. BUTLER. Mr. Chairman, I would like to reclaim my time.

The gentleman's point is very good, but it comes too late. We have given other Federal agencies this same responsibility. We have given HEW the responsibility for the handicapped, and we have given Federal departments and agencies various responsibilities with respect to the aged.

Now is not the time to start expanding the jurisdiction of the Civil Rights Commission. The Civil Rights Commission was created to ferret out and protect those people who are suffering from racial discrimination. It is getting away from that mandate. It is reading the headlines.

Mr. Chairman, that is wrong. I think they ought to be doing the job they were set up to do and not grabbing off every popular program that comes along.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. Mr. Chairman, I will not yield at this time.

The gentleman well understands, of course, that obviously these are currently popular areas, and that is why the Commission is attempting to secure jurisdiction.

Mr. Chairman, there are 12 feet of studies here on the aged and handicapped, already costing in the neighborhood of $17 million. Now we are asking for $2 million more to have the same thing done all over again, just because the Civil Rights Commission is excited about these programs. There is nothing more they can do but duplicate these studies.

Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield to me?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I just want to make this one comment: I think the amendment offered by the gentleman from Virginia (Mr. BUTLER) comes too late. The time to have confined the jurisdiction of the Civil Rights Commission was before we expanded it beyond the subjects of race, color, and national origin. It now has authority in the areas of discrimination as the basis of sex and religion. It would seem to me unfair to omit reference to such areas of widespread discrimination as age and handicap.

Mr. EDWARDS of California. Mr. Chairman, the amendment offered by the gentleman from Virginia (Mr. BUTLER) would delete the new coverage that the subcommittee has added to the jurisdiction of the U.S. Commission on Civil Rights. This jurisdiction would include Commission review of discrimination on the basis of age and handicap status and, of course, I think it would be a terrible mistake to eliminate that important jurisdiction from Commission review.

We held extensive hearings on the bill, and we heard from people representing these groups as well as representatives from civil rights organizations. They have all recommended that this jurisdiction be included in the authorization of the Civil Rights Commission.

Their only admonishment was that we provide enough money so that this new mandate could be handled without diminishing efforts under the current jurisdiction. These witnesses, Mr. Chairman, testified that people within this status are denied the most fundamental rights, rights to adequate housing, delivery of health services, and access to employment, credit, and insurance. They are frequently shut out from Government services. They are even prevented from exercising their rights to travel and to vote.

The case for including this jurisdiction in the Civil Rights Commission is most compelling, and I urge that we not shut these people out from this additional protection.

I am impressed—and I am sure we all are—with the package exhibited here, the great number of books that the gentleman from Virginia (Mr. BUTLER) has brought with him. I might point out that the fact these books exist would reinforce the case for coverage by the Civil Rights Commission.

Let me remind the gentleman from Virginia (Mr. BUTLER) and the committee that the Commission is presently authorized to investigate allegations, to study and collect information, and, most importantly, to appraise the laws and policies of the Federal Government and to act as a national clearinghouse to inform the Nation of our effort to meet the goal of equal justice under law for all.

All of these books prove that Commission review of these areas is needed. It does not prove that the work is being done by the Library of Congress or by HEW or by anybody else.

Mr. Chairman, I strongly, strongly urge the defeat of the amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Mr. Chairman, if I understood the gentleman from Virginia correctly, he pointed out that the discrimination which is alleged against the aged and the handicapped is not being explored and taken care of by the Department of Health, Education, and Welfare. If this is correct, this bill is just an example of how bureaucracy keeps growing and growing and growing. A job was given to an agency 5 years ago or 6 years ago and it continues to grow and grow and spawn and spawn. Then we talk in this body here about the growth of the bureaucracy. We ought to do something about it. To me, the gentleman from Virginia is absolutely correct. The time has come to stop delegating more authority to them and to start putting an end to some of them.

Mr. EDWARDS of California. Mr. Chairman, I strongly disagree with the observations of the gentleman. All of the books that the gentleman from Virginia has brought before us emphasize the need for needed assistance to these groups who are not protected now.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, the fact is that the Civil Rights Commission has absolutely no enforcement powers whatsoever. HEW has enforcement power, the Department of Health, Education, and Labor has enforcement powers. These are the departments that are going to enforce the law. The role of the Civil Rights Commission is purely and simply oversight in these areas, and nothing more and nothing less.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I will say to my colleague on the other side of the aisle that the very fact that the other agencies have the enforcement power today, either they are making their own studies today in order to create regulations which they cannot enforce, or they are acting without information. And something ought to be done about that.

Mr. DRINAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I serve with the distinguished gentleman from Florida, our colleague (Mr. PEPPER), on the Select Committee on Aging, and I am certain that the gentleman from Florida (Mr. PEPPER) would reinforce what the gentleman from California (Mr. EDWARDS) has said; namely, that there is an acute need for additional basic research and recommendations with respect to discrimination against the elderly and against the handicapped.

The gentleman from Virginia makes the point that there are already a lot of studies. His argument proves too much. There are many studies with regard to all of the other things that the Civil Rights Commission has to investigate. There are more studies than the studies accumulated here based on race and color and religion and sex and national origin.

Is the gentleman suggesting that, because there are more studies, the U.S. Commission should be deprived of this right? This is a new era for the elderly and for people who are discriminated against.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, in answer to the question of whether the gentleman from Virginia is suggesting that the presence of these studies indicates that additional studies of these same studies are not indicated, I will state that the gentleman from Massachusetts is misinterpreting my remarks. I do think they are appropriate. I neglected to point out, when I was speaking before the House and referring to all of these books, that these were all we could get our hands on on short notice. I have, however, 4 volumes of printouts of listing all the studies since 1975.

Mr. DRINAN. Mr. Chairman, if I could reclaim my time, the gentleman is proving my case for me, that the age discrimination study, which is the one study the U.S. Commission has done on this topic, which was issued in December 1977 was a very valuable, extraordinarily helpful document on which, in part, the legislation passed this year by the Congress was based.

We are in a new era, Mr. Chairman, as I was saying, when it is now unlawful to dismiss anybody on the basis of age until that person is 70. We need all of the investigation and all of the research that we can get in this era.

In addition, Mr. Chairman, we have many, many statutes now at the Federal and State level that protect the rights of the handicapped. We need the U.S. Commission, with all of its nonpartisan, objective prestige, to focus attention on the rights of handicapped, and those rights are not being observed or implemented.

Therefore, Mr. Chairman, I think this House should resoundingly defeat the amendment offered by the gentleman from Virginia.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am very pleased and proud to join the distinguished chairman of the subcommittee who is handling this measure, the gentleman from California (Mr. EDWARDS), and my friend and distinguished colleague on the Select Committee on Aging, the gentleman from Massachusetts (Mr. DRINAN), in opposition to this amendment.

Mr. Chairman, the distinguished gentleman from Virginia (Mr. BUTLER) has exhibited for our observation here all this pile of books. I am sure he has read all those books and commends them to our consideration. I am sure he has found them informative, and that he has derived from a study of those books so much information that he advises us today to follow the advice of these books, so that the gentleman does not want to include the aged and the handicapped as groups which are protected in this bill.

Mr. Chairman, we appreciate the advice of the distinguished gentleman as to how much literature is available on this subject. The issue is not literature; it is not learning; it is not philosophy. The aged and the handicapped want protection. They want to have a tribunal to which complaints may be made when they are discriminated against, as they are in so many instances in the field of education, mental health care, housing, and employment. How many scholarships or fellowships do the Members know about which have been extended to the aged, who also want to go to college or to universities?

In the field of employment, I wish the gentleman from Virginia would find somewhere in those books some guidance or some answer to the problem of unemployment among the aged people of this country.

Mr. Chairman, everyone knows that when one gets up above 40 years of age, as a matter of fact, it is difficult to get a job in industry. When one gets to be 65, it is almost impossible.

It took legislation by this Congress, approved by the President this year, to ban the mandatory discharge of people in this country for no offense except the good fortune of getting to be 65 years of age.

Mr. Chairman, those books or those studies did not prevent those worthy men and women all over America from being discharged from their duties which they were performing well, simply because they got to be 65-years of age. It was the Civil Rights Commission's distinguished Chairman, Dr. Arthur Flemming, who recommended to me that there be included in the authority of the Commission the right to investigate and to take whatever action they could to protect the aged and the handicapped of this country.

As a result, Mr. Chairman, Congress has a good record of protecting the aged and the handicapped. We made a very salutary advance in that area last year. This is another step forward so that the aged and the handicapped of this country will know that the Congress of the United States has put the cloak of national protection around them and the morality of their security about them.

I would hope, therefore, that our colleague would not retard our progress but, rather, see that it is accelerated by adding specifically the aged and the handicapped to the protection of this law, which now says there should be no discrimination on account of sex, race, religion, or national origin.

Mr. Chairman, I am sure, from the record of this distinguished House, that that will be the action of this body.

As my colleagues well know, the purpose of this bill is to extend the life of the U.S. Commission on Civil Rights for 5 years, and expand jurisdiction of the Commission to include discrimination based on age and handicapped status.

The U.S. Commission of Civil Rights in its 20 years of existence has earned a tremendous amount of respect from the American people. The Commission has been involved in numerous short- and long-term studies, of such issues as internal discrimination in labor unions, sex discrimination in pensions and insurace programs, and an overview of the state of civil rights. Its reports and findings provide a plethora of information not only to Congress, but also to every Federal, State, and local agency, and to the American public. This dissemination has furthered every citizen's basic understanding of his or her individual civil rights.

Although this reputation has been built through the Commission's examination of racial and ethnic discrimination, it is extremely well suited to add age and handicap to its areas of authority. The Commission unquestionably has proven to be a valuable arm of the Federal Government.

Mr. Chairman, the new jurisdiction in H.R. 12432 for the Commission to investigate discrimination based on age and handicapped status is well founded. Ageism is as odious as racism or sexism. Discrimination on the basis of age or handicap is just as arbitrary, unjust, and inhumane as discrimination on the basis of race, sex, religion or national origin. It is time that older people and handicapped individuals received the same watchful protection against arbitrary treatment as others whose civil rights have been systematically violated.

In 1975 Congress passed as part of the Older Americans Act Amendments of 1975 the Age Discrimination Act, which banned "unreasonable" age-based discrimination in most federally financed programs. The U.S. Civil Rights Commission was directed to study age discrimination in Federal programs and recommend to the Congress and the President how best to implement the act. The Civil Rights Commission released its excellent report in January.

The study found that "barriers erected between persons falling within particular groups—especially children and older persons—and services financed by the Federal Government have had and are continuing to have a serious adverse impact on the lives of children and older persons who need these services * * * "

In its report, the Civil Rights Commission recommended a number of changes in the Age Discrimination Act of 1975. Those changes were unanimously endorsed this spring by the Select Committee on Aging, which I have the honor to chair, and then added through an amendment offered by Congressman BIAGGI to the bill extending the Older Americans Act. That bill, H.R. 12255, passed the House by a vote of 361 to 6. Also included in that bill was a directive to the Commission to examine racial and ethnic discrimination in Federal aging programs.

The Commission's study on age discrimination is important not only for its findings and recommendations, but also for the expertise that the Commission's staff has acquired as a result. The study has left the Commission with core staff

who understand and can analyze complaints of discrimination based on age.

A few of my colleagues have contended that the inclusion of provisions dealing with these types of discriminatory practices would be duplicative and constitute a threat to existing Federal agencies.

However, I do not see either of these developments occuring. Instead, I see a cooperative body engaged in the vital functions of factfinding and advice to the Congress and the President, so that they may remain well informed as to the prevalence of this cruel and insidious type of discrimination. Only through the availability of objective and timely information can remedial policies be developed and implemented.

Nor is the existence of the House's Select Committee on Aging, or our counterpart panel in the other body, an excuse for denying the Commission this extended authority. The Aging Committee looks forward to working with the Commission in this complex area. As chairman of the House Select Committee on Aging, I have introduced separate legislation which would accomplish exactly the same goal.

Mr. Chairman, it will be a tragedy if the jurisdiction of the U.S. Commission on Civil Rights is not extended to include age discrimination. Protection from age discrimation is a fundamental civil right. I hope my colleagues will join me in opposing this amendment which would delete age and handicap discrimination from H.R. 12432.

H.R. 12432 should be overwhelmingly approved in its present form by the House.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield with pleasure to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I wish to associate myself with the remarks of the chairman of the Select Committee on Aging. I commend the subcommittee for the important work they have done.

Mr. Chairman, it would be different if the handicapped and the elderly had the same access to buildings, simple things like that, buildings, employment, educational opportunities. If everything was equal and fine and right, we would not need those two words added. I think it is very, very important for the millions of Americans who have been ignored concerning their own personal rights, and I hope we resoundingly defeat this amendment.

Mr. PEPPER. Mr. Chairman, I appreciate the gentlewoman's remarks.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(At the request of Mr. GILMAN and by unanimous consent, Mr. PEPPER was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend the gentleman from Florida for proposing and advocating this important aspect of the Civil Rights Commission to allow the aged and the handicapped to have some body, some agency, that will respect and protect their rights.

We are just beginning in the Congress to recognize the need to do something substantive for older Americans and for the handicapped, and we are beginning to spend substantial dollars in that direction. It is extremely important that we have an agency that will oversee their rights and make certain that they are protected.

Mr. Chairman, I would like to address the amendment offered by my colleague from Virginia (Mr. BUTLER). This amendment seeks to eliminate the provision included in the Civil Rights Commission Act of 1978 which allows the Commission to enlarge its jurisdiction to include cases arising from discrimination on the basis of age or handicap.

I am opposed to the gentleman's amendment because the scope of discrimination transcends race, and the insidious attitudinal barriers which arise because of age and handicapping conditions find their way into all aspects of the elderly and handicapped's lives. When the Commission was first established, the problem of racism was the most noticeable and pervasive form of discrimination. The Commission has done an admirable job in pointing out and attempting to eradicate the sources and manifestations of prejudice; and yet, in the years following the work of the Commission, other forms of discrimination have come to the forefront: discrimination on the basis of sex, religion, age, and handicap. This is a sad commentary on the state of human relations, and in America today, we must continue to place a high priority on diversity and pluralism. An amendment such as this one, in essence, denied the validity and presence of discrimination on the basis of age and handicap.

The Congress has contributed much to the cause of liberating the aged and the handicapped. Through mandates which address job policies and retirement policies, the elderly have the option to continue working even though they have reached the traditional age of retirement. The handicapped may now have access to the programs which had been formerly closed to them. Yet, despite the mandates and programs that have been established by legislation, many instances of discrimination still continue to occur. For example, we were recently informed of a case in the Securities and Exchange Commission which involves a handicapped individual who had been passed up for promotion, and to whom many of the physical barriers surrounding him were insurmountable.

The elderly face no less horrible circumstances. Many of them are denied jobs, privileges and necessities simply because they are old. This reasoning reflects poorly upon the caliber of our society, and would severely restrict the scope of the Civil Rights Commission.

The Civil Rights Commission should be allowed to address the problems of various kinds of discrimination, and its jurisdiction should be enlarged in this manner.

It is for that reason that I commend the gentleman for his efforts, and urge my colleagues to support the measure.

Mr. PEPPER. I thank the gentleman for his able statement.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Very briefly, Mr. Chairman, I think there is some confusion with regard to the role of the Civil Rights Commission and the performance that it has had as a Commission. It was established in 1957 by then President Eisenhower for the purpose of oversight on the enforcement effort, to look at the civil rights area and determine the needs, what the complaints were, and what needed to be done in these areas. It has continued to effectively perform that role throughout the years from 1957.

We have had a large number of laws in the civil rights area and these laws are enforced by a myriad of agencies and departments—sometimes effectively and sometimes not so effectively. The purpose of the Civil Rights Commission is not simply to look at the law enforcement side, but also to look at the impact on the community. We have had enforcement in the civil rights area which has been arbitrary and abusive. The Commission does not just simply look at Government's role but it is responsible to oversee what is happening to the public and present an objective picture of what is happening. That is the role it performs, and it is an invaluable role in terms of enforcement and public information.

I found it particularly valuable as director of the Office for Civil Rights, to have the Civil Rights Commission continually review the situation and be able to report directly to the public.

The second point I would make is that if indeed we are talking about the "Civil Rights" Commission, when it comes to the issues involving the aged, handicapped and women, we are talking about civil rights. That is the purpose of the Civil Rights Commission, to look at all areas of discrimination. We cannot begin to eliminate arbitrarily areas of discrimination from their jurisdiction and maintain an effective Commission. They perform an important role, and they ought to continue to perform that role in all areas of civil rights.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that, as usual in debate we have lost our congressional compass. The gentleman from Virginia, the State of Jefferson and a great many other of our Founding Fathers, suggests that there is a proper role for Government, but that the particular agency in question is going beyond the bounds of proper activities, and beyond the bounds of need, if I understood his amendment. He has offered us a graphic exhibition of what we all know exists in almost every facet of governmental activities—duplication, waste, unneeded studies, more bureaucrats on the payroll than are necessary.

Everytime any move is suggested that might cut spending, all the bleeding hearts come foward and say, "You are mortally wounding whoever is supposed to be the recipients of this or that particular study."

Those who support cutbacks in Government are not against the poor or old people or the handicapped. One would think that the gentleman from Virginia had offered an amendment to cut $20 billion out of the social security system or to dismantle HEW. What he is saying is that for these groups the job has been done and is being done by other Federal agencies.

I do not like to bring in personal illustrations, but my mother-in-law is 71 years old. Her husband died a good many years ago, and she has lived on social security and a small income. She raised three kids alone. She is a lady of great personal resources and has a keen interest in government. Many times when I talk with my mother-in-law, the same discussion comes up.

"Why can't Congress help older people by cutting down on inflation and by cutting down on the unnecessary spending that drives up the price of everything that every elderly person in this country needs?" is her question.

One of the ways in which we can cut down on spending is by doing away with such unnecessary spending and duplication as is addressed by the amendment offered by the gentleman from Virginia (Mr. BUTLER).

If we mean what we say when our newsletters go out and if we mean what we say when we go back and campaign, if we mean that we want to cut the budget, here is one small $2 million we can cut in this Commission. It will not hurt anyone and it will help those old folks who are standing in line at the A&P trying to make their dollar stretch for the groceries they need.

Here is where the blame lies, with the people on this House floor, with those Members who go right on voting for every proposition that spends money thus robbing the handicapped, the aged, and the poor of the value of their small incomes and savings.

I wonder where your concerns really lie?

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

I will not take the 5 minutes, but I oppose the amendment.

I just want to ask the gentleman from Virginia (Mr. BUTLER), and the other people who seem to be so determined that this is a waste of money and that it is a duplication this question: if that is the case, then why is this bill including the jurisdiction that would be cut by this amendment, supported by every single national organization of senior citizens? They include the National Council of Senior Citizens, the American Association of Retired Persons, the National Retired Teachers Association in addition it is supported by the American Civil Liberties Union, the National Association for the Advancement of Colored People, and the League of Women Voters.

If their problems are so well handled by other agencies, as the gentleman from Maryland and the gentleman from Virginia represented, then why is it the people who are best qualified to know that is, those who represent the older Americans, do not think so? Perhaps they could explain that to me.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I think the reason is—the gentleman asked for a reason and I think it is clear—I do not think they know. Nobody would dream that if there are that many reports, that someone would ask for $2 million more for another report. That is what the problem is.

Mr. SEIBERLING. I suggest they know better than most of us in this Chamber what is going on that affects them. Hardly a week passes but that I do not have brought to me some case of some senior citizen in my district who is not being treated with equality, who is being discriminated against. It tears me apart to see people who have spent their lives to bring up a generation of Americans ignored and neglected.

Mrs. FENWICK. If the gentleman will yield further, that is absolutely right. That happens every day, and my mail reflects it too. But the point is we are not enforcing the laws we have got. How many of us listen to those people and read our mail from those people? Why do we not say: "What is going on here that you dare treat people like this?"

Mr. SEIBERLING. I suggest the Civil Rights Commission is the best agency to find out why, in answer to the gentlewoman's question.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and on a division (demanded by Mr. EDWARDS of California) there were—ayes 19, noes 19.

RECORDED VOTE

Mr. BUTLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 87, noes 224, not voting 121, as follows:

[Roll No. 616]

AYES—87

| | | |
|---|---|---|
| Andrews, N.C. | Hansen | Rousselot |
| Archer | Harsha | Rudd |
| Armstrong | Holt | Satterfield |
| Ashbrook | Ichord | Sawyer |
| Bauman | Ireland | Schulze |
| Benjamin | Johnson, Colo. | Sebelius |
| Bevill | Jones, N.C. | Shuster |
| Bowen | Kelly | Sikes |
| Broomfield | Kindness | Skubitz |
| Broyhill | Lagomarsino | Slack |
| Butler | Latta | Snyder |
| Chappell | Lott | Stangeland |
| Clawson, Del | McCloskey | Stanton |
| Collins, Tex. | McDonald | Stockman |
| Conable | McKay | Symms |
| Daniel, Dan | Marriott | Taylor |
| Daniel, R. W. | Martin | Thornton |
| Devine | Michel | Treen |
| Duncan, Tenn. | Miller, Ohio | Trible |
| Edwards, Ala. | Mollohan | Vander Jagt |
| Edwards, Okla. | Moore | Waggonner |
| Fenwick | Murtha | Walker |
| Flynt | Myers, Gary | Whitehurst |
| Forsythe | Myers, John | Wiggins |
| Goodling | Patten | Winn |
| Gudger | Pettis | Wylie |
| Guyer | Pike | |
| Hagedorn | Poage | |
| Hall | Quillen | |
| Hammer-schmidt | Rhodes | |
| | Robinson | |

NOES—224

| | | |
|---|---|---|
| Alexander | Fithian | Moss |
| Ambro | Flood | Mottl |
| Anderson, Calif. | Florio | Natcher |
| | Foley | Neal |
| Anderson, Ill. | Ford, Mich. | Nedzi |
| Andrews, N. Dak. | Ford, Tenn. | Nowak |
| | Fountain | O'Brien |
| Annunzio | Frenzel | Oakar |
| Applegate | Fuqua | Oberstar |
| Ashley | Gammage | Ottinger |
| Baldus | Gephardt | Panetta |
| Beard, R.I. | Giaimo | Patterson |
| Beilenson | Gibbons | Pattison |
| Bennett | Gilman | Pease |
| Blanchard | Ginn | Pepper |
| Blouin | Glickman | Perkins |
| Boggs | Gonzalez | Pressler |
| Bolling | Gore | Preyer |
| Bonior | Gradison | Price |
| Brademas | Grassley | Pritchard |
| Breckinridge | Green | Pursell |
| Brinkley | Hamilton | Quayle |
| Brodhead | Hanley | Rahall |
| Brooks | Hannaford | Rangel |
| Brown, Mich. | Harris | Regula |
| Buchanan | Heckler | Reuss |
| Burgener | Hightower | Rinaldo |
| Burke, Calif. | Holland | Risenhoover |
| Burke, Fla. | Hollenbeck | Roe |
| Burleson, Tex. | Holtzman | Rogers |
| Burlison, Mo. | Howard | Rooney |
| Burton, John | Hubbard | Rostenkowski |
| Burton, Phillip | Hughes | Roybal |
| Byron | Hyde | Ryan |
| Carr | Jeffords | Santini |
| Carter | Jenrette | Scheuer |
| Cederberg | Johnson, Calif. | Schroeder |
| Chisholm | Jones, Okla. | Seiberling |
| Coleman | Jones, Tenn. | Sharp |
| Conte | Jordan | Simon |
| Corcoran | Kastenmeier | Sisk |
| Corman | Kildee | Skelton |
| Cornell | Kostmayer | Smith, Iowa |
| Cotter | Krebs | Solarz |
| Coughlin | LaFalce | Spellman |
| Cunningham | Leach | Spence |
| D'Amours | Lehman | Staggers |
| Davis | Levitas | Steers |
| de la Garza | Lloyd, Calif. | Steiger |
| Delaney | Long, La. | Stokes |
| Dellums | Long, Md. | Stratton |
| Derrick | Lujan | Studds |
| Derwinski | Luken | Stump |
| Dingell | Lundine | Thompson |
| Dodd | McClory | Traxler |
| Dornan | McCormack | Ullman |
| Downey | McDade | Van Deerlin |
| Drinan | McFall | Vanik |
| Early | Madigan | Volkmer |
| Eckhardt | Mahon | Walgren |
| Edgar | Markey | Weaver |
| Edwards, Calif. | Marks | Weiss |
| Ellberg | Marlenee | White |
| Emery | Mathis | Whitley |
| English | Mattox | Wilson, Bob |
| Erlenborn | Mazzoli | Wilson, Tex. |
| Ertel | Mikulski | Wolff |
| Evans, Colo. | Mikva | Wright |
| Evans, Del. | Miller, Calif. | Yates |
| Evans, Ga. | Mineta | Yatron |
| Evans, Ind. | Minish | Young, Alaska |
| Fary | Mitchell, Md. | Young, Fla. |
| Fascell | Mitchell, N.Y. | Young, Tex. |
| Findley | Moakley | Zablocki |
| Fish | Moffett | |
| Fisher | Moorhead, Pa. | |

NOT VOTING—121

| | | |
|---|---|---|
| Abdnor | Caputo | Flowers |
| Addabbo | Carney | Fowler |
| Akaka | Cavanaugh | Fraser |
| Ammerman | Clausen, Don H. | Frey |
| Aspin | | Garcia |
| AuCoin | Clay | Gaydos |
| Badham | Cleveland | Goldwater |
| Bafalis | Cochran | Harkin |
| Barnard | Cohen | Harrington |
| Baucus | Collins, Ill. | Hawkins |
| Beard, Tenn. | Conyers | Hefner |
| Bedell | Cornwell | Heftel |
| Biaggi | Crane | Hillis |
| Bingham | Danielson | Horton |
| Boland | Dent | Huckaby |
| Bonker | Dickinson | Jacobs |
| Breaux | Dicks | Jenkins |
| Brown, Calif. | Diggs | Kasten |
| Brown, Ohio | Duncan, Oreg. | Kazen |
| Burke, Mass. | Flippo | Kemp |

| | | |
|---|---|---|
| Keys | Murphy, N.Y. | Smith, Nebr. |
| Krueger | Murphy, Pa. | St Germain |
| Le Fante | Myers, Michael | Stark |
| Lederer | Nichols | Steed |
| Leggett | Nix | Teague |
| Lent | Nolan | Thone |
| Livingston | Obey | Tsongas |
| Lloyd, Tenn. | Pickle | Tucker |
| McEwen | Quie | Udall |
| McHugh | Railsback | Vento |
| McKinney | Richmond | Walsh |
| Maguire | Roberts | Wampler |
| Mann | Rodino | Watkins |
| Meeds | Roncalio | Waxman |
| Metcalfe | Rose | Whalen |
| Meyner | Rosenthal | Whitten |
| Milford | Runnels | Wilson, C. H. |
| Montgomery | Ruppe | Wirth |
| Moorhead, Calif. | Russo | Wydler |
| | Sarasin | Young, Mo. |
| Murphy, Ill. | Shipley | Zeferetti |

Messrs. STEIGER, O'BRIEN, BROWN of Michigan, and ENGLISH changed their vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 4, line 9, after "Sec. 106." insert "(a)" and on page 4, after line 13, insert the following:

(b) No sums made available to the Commission shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except when the Commission is requested to give an opinion.

Mr. BUTLER. Mr. Chairman, I have an amendment at the desk.

Mr. Chairman, this amendment seeks to include in the legislative charter for the Civil Rights Commission language which would prohibit members of the Commission, its staff, or contractees from engaging in efforts to influence passage or defeat of any legislation in the Congress or a State or local legislative body.

In no way is it my intention to prohibit the Commission from carrying out its congressionally mandated duty of studying and collecting information and transmitting that information to the President and the Congress. Nor is this intended to prohibit the Commission from responding to a request for an opinion by a Member of Congress or executive branch official.

The purpose is simple. It is to insure that Federal tax money will not be used to lobby legislators. It certainly was never the intent of Congress to have the Civil Rights Commission or its contractees engage in lobbying activities. The amendment makes it clear that the abuses of any language prohibiting such activity will not be a license to engage in such conduct.

During our hearings in subcommittee, one witness testified that he believed representatives of the Commission engaged in lobbying State legislators requesting medicaid funds for abortions. In addition, one of my constituents has sent me a June 1973 pamphlet which was sent to her by the Civil Rights Commission when the Commonwealth of Virginia was considering the equal rights amendment. The pamphlet states:

Ratification of the Equal Rights Amendment is an important and appropriate means of alleviating sex discrimination—just as the adoption of the Thirteenth and Fourteenth Amendments was vital to the cause of racial equality.

Moreover, the October 12, 1977, New York Times notes that on the eve of the Supreme Court arguments on the controversial Bakke case, the Commission issued a 12-page statement endorsing affirmative action programs in professional schools, including the use of numerically based admission programs.

All of these actions are subtle, and yet I am sure that my constituents do not want Federal tax dollars to be used by this unelected group to attempt to determine the outcome of such important debates.

This amendment seeks only to do what this Congress has done in the past with several agencies, including Treasury, Postal Service, and, just 2 weeks ago, the Legal Services Corporation.

The amendment would in no way limit the Commission or its grantees from testifying, or advising whenever asked, before any governmental body. Adoption of this amendment would insure that there is no misunderstanding on the part of the Commission, its employees, or contractees of their responsibilities and obligations as Federal employees, even though they are supposed to be independent and bipartisan.

Some have alleged that 18 U.S.C. 1913, which forbids lobbying by Federal employees, is a sufficient deterrent for the Commission. I do not agree. This statute covers only appropriated funds, does not include contractees and does not reach the State legislatures. With the current turmoil over the ratification of ERA and Federal funding of abortions, the State legislatures are a most inviting target for potential abuse and should be covered.

In the past, the Commission and its employees have generally conducted themselves in the professional manner. The amendment is not to reflect in any way on the work of the Commission or its analyses of important issues which have faced this Nation over the past 20 years. I am simply urging that the Commission know its role, and I believe this language will make it quite clear and understandable.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the proposed amendment is unnecessary and unwise. Mr. BUTLER, himself, has acknowledged there is little evidence to support the conclusion that the Commission has been lobbying. Even if such lobbying was being done, 18 U.S.C. 1913 is available to prosecute violators—that criminal statute prohibits Government employees or officers from lobbying the Congress.

In addition, the proposed amendment may cause more harm than the hypothetical "evil" it seeks to correct. As presently drafted, the amendment works to gut the Commission's most important function—its authority to make findings and recommendations. Without this authority, the Commission's courageous voice will be mute.

The proposed amendment does great mischief, and I am afraid that its effect would be to silence the Commission's courageous voice. The Commission's charter has never granted authority to its officers or employees to lobby the national or State governments. Any lobbying is clearly outside its scope of power. Furthermore, I am sure the gentleman will agree that except for the not too strong allegation of one witness, there is no evidence to support the conclusion that the Commission has been lobbying; thus, the need for such an amendment is not clearly supported by the facts.

Such activity by the Commission is not only violative of its charter, but a violation of 18 U.S.C. 1913—that provision sets forth a criminal prohibition against Government employees or officers lobbying the Congress. If the gentleman feels the prohibition is inadequate to reach the kinds of "lobbying" with which he is concerned, I suggest rather than amending the Commission's charter, he should be proposing amendments to title 18. Particularly since I am sure he would want such prohibitions to apply to all Government employees or officers and not be selectively enforced against the Commission only.

This amendment should not be supported because it could destroy the Commission's most effective and significant function—its authority to make findings and recommendations.

Section 104 of the Commission's charter grants it limited authority which, in effect, makes it a public, education/information resource. It is unique among the Federal agencies in this regard. Part of its authority, indeed its most significant function, is its power to make findings and recommendations "at such times as the Commission, the Congress, or the President shall deem desirable."

Broadly construed, the proposed amendment would prevent the Commission and its State Advisory Committees from issuing any reports, since the selection of the material published could be viewed as an attempt to "indirectly" influence executive or legislative action—even though such reports contain nothing but statistics and factual material. More narrowly construed, it would allow the Commission and its Advisory Committees to issue reports but preclude them from making findings, conclusions, and recommendations.

In performing its work, the Commission must, of necessity, speak to existing or pending statutes or executive orders. Often the Commission has recommended legislative or executive action to improve civil rights enforcement. It has no power to enforce such recommendations—that decision is for the Congress and the President. Admittedly, both branches have frequently implemented such rec-

ommendations, and that is to the Commission's credit; clearly, we are not suggesting it be penalized for doing its job effectively.

On the local level, reports issued by State Advisory Committees (SAC's) and testimony by their members before governmental bodies have provided State legislators and executives with the kinds of information necessary to assess civil rights efforts within their State. More importantly, these local Committees supply the raw data to the Commission which enables it to establish policy and program guidelines for its future efforts.

For 21 years, the Commission has been our national conscience, and the SAC's its eyes and ears. This carefully designed network has enabled the Commission to consistently home in on our successes and failures and to provide us with the kinds of alternatives necessary to the goal of equal justice under law. This proposed amendment will greatly diminish the Commission's effectiveness, and I urge a "no" vote.

Mr. Chairman, section 1913, to which reference was made, reads as follows:

§ 1913. Lobbying with appropriated moneys

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.

June 25, 1948, c. 645, 62 Stat. 792.

Mr. BUTLER. Mr. Chairman, will the gentleman yield on that point?

Mr. EDWARDS of California. Yes, I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I hate to interrupt the gentleman, but I think this is a good time to make the legislative history perfectly clear that it is not our intention by this amendment to limit the traditional practices of the Civil Rights Commission in distributing its findings in whatever fashion is appropriate.

What I object to and what I think most people would object to is taking sides on legislative matters before a State and lobbying in that area.

Section 1913, to which the gentleman referred, does not prohibit this sort of lobbying, as the gentleman knows.

The gentleman has suggested that perhaps the appropriate thing to do is to amend title 18.

I would ask the gentleman this question: Now that we are undertaking a comprehensive revision of the criminal code, would he agree to extending the provisions of section 1913 when the criminal code comes before our committee to include State legislatures as well as the Congress?

Mr. EDWARDS of California. I believe that that would be a very new and wide change in the law. I would not and I am sure the gentleman would not suggest that any of us here should make such a rather radical suggestion without the advantage of study and hearings in some depth.

However, I would like to point out to the gentleman from Virginia (Mr. BUTLER) that this suggestion that the Commission has been lobbying in State matters cannot be supported. One witness rather faintly referred to this matter; and if the gentleman has any evidence that the employees of the U.S. Commission on Civil Rights have been lobbying in States and local legislatures, then I think the gentleman owes it to this body to bring the evidence before us.

Mr. Chairman, that apparently is the sole basis for his amendment, and there is no evidence that this has ever taken place.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman. I thank the gentleman for yielding.

I think this amendment would be disastrous. I hope it will be defeated.

I worked for the Commission for over 10 years as a volunteer. Why should we fear any kind of information that they may want to give us? We should encourage the Civil Rights Commission, rather than to discourage it, to bring us information so that we can do a better job here in the Congress.

Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired

(On request of Mr. BAUMAN and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

I did not come prepared, with evidence, to defend the amendment of the gentleman from Virginia (Mr. BUTLER). However, I distinctly recall last year, prior to the Supreme Court's ruling on the issue of the Hyde amendment's constitutionality, that at the appropriate time there came from the Commission a letter and a lengthy report attacking the Hyde amendment on the ground that it was unconstitutional, and possible violations by the amendment of the Civil Rights Acts were suggested.

The letter and staff report miraculously appeared here on the floor at the time of the debate. I can rummage through my files and find it, perhaps.

That was an advisory opinion, but it amounted to blatant lobbying on crucial legislation with taxpayers' funds.

Mr. EDWARDS of California. Mr. Chairman, I disagree with the gentleman.

As I recall, that particular document came from the Civil Rights Commission at the specific request of one of the Members of Congress or of one of the committees. At the time, as I recall, no one here objected to it and called it lobbying, as the gentleman from Maryland has called it.

Mr. BAUMAN. I will say it appeared in the press simultaneously with a lot of press releases from the Commission. It just happened to occur I suppose. I doubt anyone does not think the letter and report were a carefully contrived political effort by the Commission to scuttle the Hyde amendment and that to me is lobbying.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia (Mr. BUTLER).

Mr. Chairman, this amendment is a long overdue addition to the legislative charter for the Civil Rights Commission. I supported language similar to this in the Legal Services Corporation appropriation, and I believe a firm statement by Congress regarding this practice represents a wise policy toward all Federal tax-supported agencies which have been designed to be independent and nonpartisan.

The amendment is a clear and concise statement which makes it clear to all parties that direct attempts to influence the legislative process are clearly outside the responsibilities and prerogatives of the Commission and its employees. It would in no way prohibit the Commission from performing its duties mandated in the statute. The only intention is to prohibit the Commission from straying too far in support of its positions.

Consistently, the Commission has adopted very definite positions on extremely controversial issues. This is, of course, part of their function. However, it is not the Commission's function to subsequently advocate their conclusion or pressure Members of Congress or, in appropriate cases, State or local legislators, to adopt these conclusions.

Opponents of this amendment argue that it is unnecessary; however, I do not agree. We should adopt this language in authorization for other independent agencies. It does not penalize the Commission; rather, it merely addresses a problem before it occurs.

I do not believe this amendment will tie the hands of the Commission. Instead, we are making a firm statement to our constituents that we recognize that Federal tax dollars should not be used to influence legislators on the very emotional and controversial issues which the Commission studies.

Over the past 20 years, the Commission has conducted itself for the most

part in a very professional manner. Addition of this language to the Commission's charter will insure this posture continues and will make it certain that the Commission will not compromise its independence and nonpartisanship.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and on a division (demanded by Mr. BUTLER) there were—ayes 27; noes 25.

RECORDED VOTE

Mr. EDWARDS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 125, not voting 148, as follows:

[Roll No. 617]

AYES—159

| | | |
|---|---|---|
| Andrews, N.C. | Fuqua | Moore |
| Andrews, N. Dak. | Gammage | Murtha |
| Applegate | Gephardt | Myers, Gary |
| Archer | Gibbons | Myers, John |
| Armstrong | Gilman | Neal |
| Ashbrook | Ginn | Nedzi |
| Bauman | Glickman | O'Brien |
| Benjamin | Goldwater | Pettis |
| Bennett | Goodling | Pike |
| Bevill | Gradison | Poage |
| Bowen | Grassley | Pressler |
| Brinkley | Gudger | Preyer |
| Brooks | Guyer | Pursell |
| Brown, Mich. | Hall | Quayle |
| Broyhill | Hamilton | Quillen |
| Burgener | Hammer-schmidt | Regula |
| Burke, Fla. | Hansen | Rhodes |
| Burleson, Tex. | Harsha | Risenhoover |
| Butler | Holland | Robinson |
| Byron | Holt | Rogers |
| Carter | Howard | Rousselot |
| Cederberg | Hubbard | Rudd |
| Chappell | Hughes | Santini |
| Clawson, Del | Hyde | Satterfield |
| Coleman | Ichord | Schulze |
| Collins, Tex. | Jenrette | Sharp |
| Conable | Jones, N.C. | Shuster |
| Corcoran | Jones, Okla. | Sikes |
| Coughlin | Jones, Tenn. | Skelton |
| Cunningham | Kelly | Slack |
| D'Amours | Kindness | Smith, Iowa |
| Daniel, Dan | LaFalce | Snyder |
| Daniel, R. W. | Lagomarsino | Spence |
| Davis | Latta | Stanton |
| de la Garza | Leach | Steiger |
| Derwinski | Levitas | Stockman |
| Devine | Lujan | Stump |
| Dingell | Luken | Symms |
| Dornan | McClory | Treen |
| Duncan, Tenn. | McCloskey | Trible |
| Edwards, Okla. | McCormack | Udall |
| Emery | McDonald | Waggonner |
| Erlenborn | McKay | Walker |
| Ertel | Madigan | White |
| Evans, Del. | Mahon | Whitehurst |
| Evans, Ind. | Mann | Whitley |
| Findley | Marlenee | Wiggins |
| Fish | Marriott | Winn |
| Flippo | Martin | Wolff |
| Florio | Michel | Yatron |
| Flynt | Miller, Ohio | Young, Fla. |
| Foley | Mitchell, N.Y. | Young, Tex. |
| Fountain | Mollohan | Zablocki |

NOES—125

| | | |
|---|---|---|
| Akaka | Brodhead | Downey |
| Ambro | Buchanan | Drinan |
| Anderson, Calif. | Burke, Calif. | Eckhardt |
| Annunzio | Burlison, Mo. | Edgar |
| Ashley | Burton, John | Edwards, Calif. |
| Baldus | Burton, Phillip | Eilberg |
| Beard, R.I. | Carr | Evans, Colo. |
| Beilenson | Cavanaugh | Evans, Ga. |
| Blouin | Chisholm | Fary |
| Boggs | Conte | Fascell |
| Bolling | Corman | Fenwick |
| Bonior | Cornell | Fisher |
| Brademas | Delaney | Fithian |
| Breckinridge | Dellums | Flood |
| | Derrick | Ford, Mich. |
| Ford, Tenn. | Mattox | Rostenkowski |
| Forsythe | Mazzoli | Roybal |
| Giaimo | Mikulski | Ryan |
| Gonzalez | Miller, Calif. | Scheuer |
| Gore | Mineta | Schroeder |
| Green | Minish | Seiberling |
| Hanley | Mitchell, Md. | Simon |
| Hannaford | Moffett | Sisk |
| Harris | Moorhead, Pa. | Solarz |
| Heckler | Moss | Spellman |
| Holtzman | Natcher | Staggers |
| Jeffords | Nowak | Steers |
| Johnson, Calif | Oberstar | Stokes |
| Jordan | Ottinger | Stratton |
| Kildee | Panetta | Studds |
| Kostmayer | Patten | Thompson |
| Krebs | Patterson | Thornton |
| Lehman | Pattison | Ullman |
| Lloyd, Calif. | Pepper | Van Deerlin |
| Long, La. | Perkins | Vanik |
| Long, Md. | Price | Walgren |
| Lundine | Pritchard | Weaver |
| McDade | Rahall | Weiss |
| McFall | Rangel | Wilson, Bob |
| McHugh | Reuss | Wright |
| Markey | Rinaldo | Wylie |
| Marks | Roe | Yates |

NOT VOTING—148

| | | |
|---|---|---|
| Abdnor | Frey | Nix |
| Addabbo | Garcia | Nolan |
| Alexander | Gaydos | Oakar |
| Ammerman | Hagedorn | Obey |
| Anderson, Ill. | Harkin | Pease |
| Aspin | Harrington | Pickle |
| AuCoin | Hawkins | Quie |
| Badham | Hefner | Railsback |
| Bafalis | Heftel | Richmond |
| Barnard | Hightower | Roberts |
| Baucus | Hillis | Rodino |
| Beard, Tenn. | Hollenbeck | Roncalio |
| Bedell | Horton | Rooney |
| Biaggi | Huckaby | Rose |
| Bingham | Ireland | Rosenthal |
| Blanchard | Jacobs | Runnels |
| Boland | Jenkins | Ruppe |
| Bonker | Johnson, Colo. | Russo |
| Breaux | Kasten | Sarasin |
| Broomfield | Kastenmeier | Sawyer |
| Brown, Calif. | Kazen | Sebelius |
| Brown, Ohio | Kemp | Shipley |
| Burke, Mass. | Keys | Skubitz |
| Caputo | Krueger | Smith, Nebr. |
| Carney | Le Fante | St Germain |
| Clausen, Don H. | Lederer | Stangeland |
| | Leggett | Stark |
| Clay | Lent | Steed |
| Cleveland | Livingston | Taylor |
| Cochran | Lloyd, Tenn. | Teague |
| Cohen | Lott | Thone |
| Collins, Ill. | McEwen | Traxler |
| Conyers | McKinney | Tsongas |
| Cornwell | Maguire | Tucker |
| Cotter | Mathis | Vander Jagt |
| Crane | Meeds | Vento |
| Danielson | Metcalfe | Volkmer |
| Dent | Meyner | Walsh |
| Dickinson | Mikva | Wampler |
| Dicks | Milford | Watkins |
| Diggs | Moakley | Waxman |
| Dodd | Montgomery | Whalen |
| Duncan, Oreg. | Moorhead, Calif. | Whitten |
| Early | | Wilson, C. H. |
| Edwards, Ala. | Mottl | Wilson, Tex. |
| English | Murphy, Ill. | Wirth |
| Flowers | Murphy, N.Y. | Wydler |
| Fowler | Murphy, Pa. | Young, Alaska |
| Fraser | Myers, Michael | Young, Mo. |
| Frenzel | Nichols | Zeferetti |

Mr. LONG of Louisiana changed his vote from "aye" to "no."

Mr. FUQUA changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. KASTENMEIER. Mr. Speaker, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the Chair, Mr. DE LA GARZA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12432, to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes, had come to no resolution thereon.

## PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT ON FRIDAY, AUGUST 4, 1978, AND FRIDAY, AUGUST 11, 1978, WHILE HOUSE IS IN SESSION

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs, be permitted to sit on Friday, August 4, 1978, and Friday, August 11, 1978, despite the House being in session, for the consideration of the Stanton bill on the Federal Reserve System and related matters.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman can assure us there will be no markup of any legislation; is that correct?

Mr. REUSS. Mr. Speaker, if the gentleman will yield, absolutely, there will be no votes and no markups and, indeed, an effort will be made to permit as many Members as possible to be on the floor.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the gentleman can assure us these were witnesses called before the committee knew we would be in session?

Mr. REUSS. That is absolutely correct.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. REUSS)?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute.)

Mr. DEVINE. Mr. Speaker, I have asked for this 1 minute for the purpose of inquiring of the acting majority leader of the schedule for the balance of the week, if any, and the following week.

Mr. LLOYD of California. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I am happy to yield to the gentleman from California.

Mr. LLOYD of California. Mr. Speaker, this concludes this week's business. Next week the House will go in at noon Monday. We have two bills on the Suspension Calendar, H.R. 9998, Ocean Shipping Act of 1978; and H.R. 5044, duties suspension on strontium nitrate. Votes on suspensions will occur at the end of both suspensions.

Then we will have the rule and general debate only on two bills:

H.R. 12514, foreign aid authorizations for fiscal year 1979, open rule, 3 hours;

and H.R. 12931, foreign aid appropriations for fiscal year 1979, general debate only.

Going to Tuesday, the House will meet at 10 a.m. First, we will have the call of the Private Calendar. We will then have votes on two suspensions: H.R. 12972, elimination of work disincentives under social security; and H.J. Res. 963, POW MIA National Recognition Day. We will vote on both suspensions at the end of both suspensions.

We will then go back to the bill H.R. 12514, foreign aid authorizations, fiscal year 1979. We will have votes on amendments and the bill. We will complete consideration that day on that bill.

On Wednesday, the House will meet at 10 a.m. on the bill H.R. 12931, foreign aid appropriations, fiscal year 1979, for votes on amendments and the bill, to complete consideration.

On Thursday, the House will meet at 10 a.m. on the bill H.R. 13635, defense appropriations, fiscal year 1979.

On Friday, the House is to meet at 9 a.m. and will complete consideration of that bill, H.R. 13635, defense appropriations, fiscal year 1979.

Mr. Speaker, the House will adjourn by 3 p.m. on Fridays and by 7 p.m. on all other days except Wednesdays.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. DEVINE. Mr. Speaker, I thank the gentleman from California.

## PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT

Mr. LLOYD of California. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, July 28, 1978, to file a report on the bill H.R. 11122, the Agricultural Land Retention Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. LLOYD of California. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## ADJOURNMENT TO MONDAY, JULY 31, 1978

Mr. LLOYD of California. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 o'clock noon on Monday, July 31, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## DEPARTMENT OF AGRICULTURE

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SMITH of Nebraska. Mr. Speaker, I stand before this body as a lifelong farmer in an effort to defend and preserve the U.S. Department of Agriculture.

Although I have some reservations about the current operation of the Department, circumstances dictate the need for the preservation of the status quo, at least for the moment.

According to all indicators, a turf battle of the bureaucrats is in full swing, and the President and his top advisers have come down in favor of the aggressors against agriculture.

Can you believe that the State Department would like to take over the foreign agriculture service?

They apparently feel that they are doing such a masterful job throughout the world that they can assume an agrarian role. This, despite the fact that most of the striped pants set would not know a corncob from a cornflower.

Would you believe that the Secretary of Health, Education, and Welfare, Joseph Califano, thinks his organization is so efficient that it should also assume agricultural roles? His Department is the one which Mr. Califano tells us lets some $7 or $8 billion of our tax dollars drop through the cracks in his organizational structure. That is more than twice as much in absolute waste to consumer services as was estimated for a program requested by the striking farmers who visited all of our offices this past winter and spring.

The Department of the Interior would like a piece of the action. Miffed because of a carving up of some of its departmental responsibilities after the creation of the Department of Energy, Secretary Andrus and his bureaucratic top bananas would like a slice of the agricultural pie in order to justify their numerical strength come budget time, and to enhance their prestigious position in the governmental pecking order.

There are others equally as ambitious for portions of the Department.

Most people in rural America believe the Department of Agriculture should be farm oriented and working for the farmer. This has not been the case in the current administration. We have an Assistant Secretary of Agriculture, Carol Foreman who is a strong consumer advocate. We resent it when the Department of Agriculture operates as agriculture's policeman, instead of sincerely working for our benefit. However we feel the producers of America's food, and the entire Nation, will be best served by keeping such agencies as the Soil Conservation Service, the Forest Service, and others, within this Department that has a long history of experience, that has developed expertise, and that comes nearer to understanding the needs and the interests of America's food producers than any other Department.

I have introduced a resolution, House Resolution 1258, which pertains to the proposed diminution of the Department of Agriculture's duties. After consultation with respected advisers of every political persuasion during the 4th of July district work break, I have decided that additional measures need to be taken in order to assure the executive branch that we in the Congress are sincerely concerned about the welfare of our great agricultural industry.

Through this speech and by letter, I am respectfully asking the chairman of the House Committee on Agriculture, Mr. THOMAS S. FOLEY, to request the General Accounting Office to study the structure of the Department and recommend any needed legislative change.

Such a study should be the basis for legislation which would strengthen the Department.

I would hope that a study of the agricultural needs of the Nation by the General Accounting Office would be accomplished through consultation with responsible community leaders from both the private and public sectors. Respected governmental study groups such as the Brookings Institution and the American Enterprise Institution should participate from areas where large Federal landholdings and irrigation projects have an effect on non-Federal tax bases. The most important input should come from the farmers themselves and from those who derive their livelihood from the land. Key members of the Agricultural Committees of both Houses would be essential along with representatives of the Government Operations Committees.

It is too late in this session of the Congress to do more than put the administration on notice that the Congress is not going to allow massive changes in authority. From a practical standpoint I would hope that during the First Session of the 96th Congress the study would be completed and ready for implementation.

I urge my colleagues to join with me in this effort so the President and his Cabinet members are put on notice that the agricultural areas of this Nation do not intend to see divisive action taken without total congressional sanction.

Meanwhile, I want to warn the would be dissectors of the department that we in the Congress will carefully watch their every action. Title 5 of the United States Code, sections 901 through 906 must be observed fully and the letter of the law adhered to.

## THE OLYMPIC GAMES SHOULD NOT BE USED AS POLITICAL TOOL

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, the suggestion has recently been made in the editorial columns of the national media that the United States withdraw from the 1980 Olympic Games in protest to the unjust sentences given last week to the Soviet dissidents Anatoly Scharansky, Aleksandr Ginzburg, and Yuri Orlov.

While I agree that such clear abridgements of basic human rights merit a strong and immediate response from our country, I question the use of the Olympic Games as a political tool. There are several reasons for my concern. First, I believe other more tangible and responsible means of registering our abhorrence to these actions are available, such as President Carter's discontinuation of computer sales to the Soviet Union. Second, to prohibit American participation in the Olympic games would deprive many hardworking American men and women athletes of the opportunity to compete on the highest amateur level after years of grueling preparation.

My most serious objection to a 1980 withdrawal, however, is that the United States would be legitimizing the use of the Olympic games as a political tool. In 1972 and again in 1976 we criticized other countries for attempting to use the games for political purposes. To withdraw from the games in 1980 would not only lend fuel to the ever reoccurring claims of American hypocrisy but also become a precedent for other countries to use in future games. Thus, a withdrawal might not only destroy the 1980 Olympics, but also imperil the viability of all future Olympics.

The threat would not only be political but financial as well. With the games open to political interruption, no responsible city could reasonably risk the financial commitment necessary to stage the Olympic games. As Los Angeles Mayor Tom Bradly so clearly demonstrated last week, this commitment is difficult enough to justify today.

But my objection to United States politicization of the Olympics goes beyond monetary arguments to a deeper philosophical opposition. The International Olympics were devised as an arena where athletes could compete on a purely athletic level devoid of nationalistic and political considerations. While the games have not always lived up to this goal, the ideal remains. A United States withdrawal from the 1980 games would institutionalize the ugly political usage of the Olympics, discarding the ideal of competition transcending political belief and action as another relic of the idealism of days gone by. Even if the Olympics managed to somehow survive such political turmoil, the tragedy of the 1972 Munich slaughter would most likely cease being the exception and become the rule. Rather than condoning such political manipulation, we should at all times be working to discourage such activity.

I hope that we can reject this temptation to irresponsibly react to Soviet injustices through the Olympic games and instead employ more tangible and effective diplomatic measures.

## NUCLEAR WASTE MANAGEMENT ACT OF 1978

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 10 minutes.

● Mr. GOLDWATER. Mr. Speaker, today I am introducing legislation that will help our Nation deal with the growing problem of nuclear wastes. This issue is of considerable importance to the Nation, as we must be able to adequately dispose of our nuclear wastes if we are to continue to depend on nuclear energy for a significant portion of our future energy needs. Our Nation must face this problem now or we may have to face the prospect of closing our nuclear plants in the near future. We have already been forced to limit construction of new nuclear plants in some areas of the country due to the public's perception of the nuclear waste problem, and we must act now to assure that this situation gets better, not worse.

My legislation, the Nuclear Waste Management Act of 1978, will help us avoid the frightening prospect of an energy shortage, which a nuclear slowdown would surely entail, by providing the timely establishment of needed facilities to store nuclear wastes. This bill directs the Secretary of Energy to construct and operate a permanent Federal research, development and demonstration repository for the storage of nuclear wastes. The key element of this bill is that it sets a strict timetable for the completion of this job, recognizing the urgency of the problem. Site selection is to be based on the many studies conducted to date on nuclear waste disposal, as well as on specific site evaluations yet to be completed. The demonstration facility must become operational by September 30, 1985.

Under this bill, the many groups and individuals interested in this project will be able to provide their views for consideration in the siting, design, and construction of the waste repository. The bill recognizes that the States and other parties must play a significant role in the formulation of any effective nuclear waste disposal program. My legislation formally recognizes the role of the States, and gives the meaningful opportunity to comment on and influence any actions taken by the Secretary under this bill.

In order to receive the most effective input from other interested parties such as industrial organizations, professional societies, and environmental groups, this legislation establishes a Nuclear Waste Management Advisory Committee, which shall study and advise the Secretary of Energy on all facets of nuclear waste management programs and technologies.

I believe that it is in the best interests of our Nation to insure that a permanent repository is constructed now and that it is in operation within the time frame established in this bill. We need action rather than studies. As I have recently stated in a letter to the Secretary of Energy on this matter, I cannot help but note that we have seen a seemingly unending series of studies, reviews, and evaluation of this subject within the last several years, each ending with several laudible recommendations or goals that somehow get sidetracked before they are achieved. Endless paper studies do not seem to me to be the solution to the nuclear waste disposal problem. What we need instead is to establish a research, development and demonstration program that will get this job done, and to my mind that includes construction and operation of a repository in a timely manner. The bill does exactly that.

I find it ironic that despite its rhetoric on this subject, the administration has within the past year let the deadline for the construction of a permanent repository slip a total of 3 years, to 1988. We cannot afford this kind of approach.

A number of my colleagues in both Houses of Congress have recently introduced various bills intended to remedy various aspects of the nuclear waste problem. These bills include proposals such as expanding the licensing authority of the Nuclear Regulatory Commission to include waste management facilities, and establishing a new governmental entity to operate our nuclear waste program. However, no legislation introduced in the House to date will do what the bill I am submitting today will accomplish—require the Secretary of Energy, by a specific date, to build a facility for permanent disposal of our nuclear wastes.

We in the Congress must recognize that the principal national issue of concern with nuclear energy is waste disposal. I believe that this legislation provides the tools to allow us to adequately address this concern. For this reason, I urge that my colleagues support the bill and that it receive prompt consideration.●

## SENATE TAKES A STEP BACKWARD IN U.S. VISA POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, on July 26 major foreign policy steps were taken by the Senate regarding the arms embargo against Turkey and economic sanctions against Rhodesia. Both actions received prominent national attention. However, on the same day the Senate also took a major step in foreign policy which received little attention—it voted to rescind the McGovern amendment.

The McGovern amendment to the International Security Assistance Act was enacted last year symbolizing our good faith as a signatory to the Helsinki Final Act, which called for freer international movement of people and ideas. The provision, in its own words, was intended to achieve "greater U.S. compliance with the provisions of the final act" and to encourage "other signatories to comply with those provisions." The McGovern amendment accomplished this by removing from our immigration laws the presumption against the admission into the United States of a prospective visitor simply because of his or her affiliation with the Communist Party.

The McGovern amendment is more important as a symbol than for any actual change in the workings of our immigration laws. The immigration law contains 31 classes of people who are inadmissible to the United States. I com-

mend section 212(a) of the law to the attention of my colleagues. These classes range from persons who "have had one or more attacks of insanity," and who are "paupers" or "mental defects," to those who are anarchists, who may be involved in espionage, sabotage, terrorism or who may in any way endanger the national security of the United States. No one would dispute our right and responsibility to exclude those persons who constitute a potential threat to our national security concerns.

The McGovern amendment did not change those provisions of the law. It simply said we are not afraid of ideas. The section of our immigration law which denies a visa to a person because of an affiliation with the Communist Party also contains authority for the Secretary of State to ask the Attorney General for a waiver. In 1975, 2 years before the McGovern amendment became law, 96 percent of those initially denied visas simply because of organizational affiliation, were granted waivers.

The McGovern amendment directed the Secretary of State to act automatically in such cases, making an immediate waiver recommendation to the Attorney General so that a visa could be issued, unless the Attorney General found a basis for exclusion beyond affiliation with the Communist Party. Thus what was in fact practice became law. Since its enactment the McGovern amendment has facilitated the admission of 40 persons, and the 40 were not solely from Warsaw Pact countries. They were from Australia, Italy, and Finland as well.

In a letter to Senator MCGOVERN, Secretary of State Cyrus Vance warned:

For the United States to repeal the McGovern Amendment at this point, when we are criticizing the Soviet Union and Eastern European countries for violations in the human rights field, would be to rob our efforts of force and credibility. Not only the Soviets, but also many of our friends in Eastern Europe would wonder about the sincerity of a government and Congress which urge progress on others while at the same time moving backwards in the administration of its own legislation. Public commitment to the goals of the Helsinki Final Act in the United States could also be weakened by this example of American disregard for the spirit of this undertaking.

One of the most eloquent defenders of the McGovern amendment during debate on it this week was Senator ROBERT DOLE of Kansas. A member of the Congressional Commission which monitors compliance with the terms of the Helsinki Act, Senator DOLE stated:

Having been to Belgrade on two occasions and having visited Ambassador Goldberg, and knowing how the Soviets have used this one item in their discussion of the Helsinki Final Act, it seems to me that if we restore the law to bar Soviet officials and Warsaw Pact officials from obtaining visas unless they get a waiver, we are discriminating against certain people, because of their political beliefs, which is a violation of the Helsinki Agreement, the so-called Basket I. It goes against the clause encouraging human contact, which is Basket II.

Early in the 95th Congress I introduced legislation to accomplish the same purpose as the McGovern amendment to the International Security Assistance Act. My bill, H.R. 6308, removed the automatic exclusion of members of the Communist Party from the Immigration and Naturalization Act directly. H.R. 6308 was cosponsored by 20 Members of Congress.

If the United States is to speak with authority on the issue of the denial of human rights abroad, we must act to remove from our own law an antiquated, unnecessary, and offensive automatic denial of entry visas simply on the basis of political affiliation. Is not our free society strong enough to permit visits by people who might either hold or espouse political ideas with which we disagree? Would we not be offended if a nation excluded all visitors who advocated the political ideas of parliamentary democracy, solely on those grounds?

Opponents of the McGovern amendment argued that its repeal would serve to protest the recent increase in Soviet oppression of minorities and dissidents. This short-sighted argument ignores two central facts: first, if we are to retain our credibility in criticizing such oppression, we must remove our own laws which violate the Helsinki accord; and second, this exclusion is not limited to visitors from the Soviet Union and Warsaw Pact nations, but denies entry to people from Western Europe, Latin America, and throughout the world.

During the Belgrade Conference to review compliance with the Helsinki Final Act, Arthur Goldberg, chief of the U.S. delegation, cited the McGovern amendment as an example of what the United States had done to carry out the terms of the Helsinki Final Act. Our allies in the North Atlantic Assembly, composed of parliamentarians from all the NATO nations, formally commended the United States for its long overdue action to repeal the automatic exclusion of people simply due to their political beliefs.

If we are to retain our ability to speak on behalf of the principle of free emigration and adherence to the terms of the Helsinki agreement, we must reverse the backward step taken by the Senate in striking the McGovern amendment. I trust that the House conferees on the International Security Assistance Act will insist that the McGovern amendment, and with it America's compliance with the Helsinki Final Act, be restored.●

## THE 20TH OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, the 20th observance of Captive Nations Week was a huge success. Here on Capitol Hill, in the major cities and even in foreign lands the observances was punctuated by religious events, parades, rallies, receptions, luncheons, and seminars—all in dedicated response to Public Law 86–90 and proclamations by the President, Governors, and mayors in States across the Nation. With mystical symbolism, the week highlighted the barbaric trials in the U.S.S.R. of Ginzburg, Scharansky, and Petkus.

I had the pleasure of addressing some 500 participants in the reception on July 18 in the Senate Caucus room. It was my great pleasure, too, to receive the Liberty Award from the National Captive Nations Committee on July 20. In a TV interview, Dr. Lev E. Dobriansky of Georgetown University and chairman of NCNC presented me with the award. As he put it—and I quote—

This is in popular recognition of over twenty years of dedication and service in behalf of freedom and the eventual liberation of all the captive nations in Central Europe, the USSR, Asia, and Cuba.

For selected examples of the 20th observance I append to my remarks the following: First, proclamations by Gov. James B. Hunt, Jr. of North Carolina and Mayor Dale G. Bennett of Hialeah, Fla., second, an article by Joseph McLellan, "The Launching of Captive Nations Week" in the July 19 Washington Post, third, the Captive Nations Week program on Capitol Hill, July 20, fourth, the America editorial of July 13, "Remember the Captive Nations," and fifth, the report in the China Post, July 15, "Dr. Ku Invited to U.S. Receptions":

PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and others; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war: and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such a week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations:

Now, therefore, I, James B. Hunt, Jr., Governor of the State of North Carolina, do hereby proclaim the week of July 16–22, 1978, as "Captive Nations Week in N.C." and commend this observance to our citizens.

PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of many peoples of this earth; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations, as well as in Hialeah, constitutes a powerful deterrent to any ambitions of Communist leaders to indicate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week: and

Now, therefore, I, Dale G. Bennett, Mayor of the City of Hialeah, Florida, do hereby proclaim the week of July 16-22, 1978, as "Captive Nations Week" in Hialeah and call upon our citizens to join with others in observing this week.

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[From the Washington Post, July 19, 1978]

THE LAUNCHING OF CAPTIVE NATIONS WEEK

(By Joseph McLellan)

The Russians can usually be relied on to do something nasty around this time of year and revive interest in Captive Nations Week—an occasion for rubbing SALT into the administrations wounds.

This year, they outdid themselves spectacularly with last week's dissident trials, and accordingly a reception to launch Captive Nations Week, sponsored jointly by Sens. Daniel Patrick Moynihan (D.-N.Y.) and S. I. Hayakawa (R-Calif.), packed the enormous Senate Caucus Room to capacity.

"For the first time in many years," said Moynihan, "the American people have been able to see the true face of Soviet tyranny, the genuine totalitarian brutality that that regime represents."

The applause was tumultuous from a crowd that included many senators and representatives and members of their staffs but also a strong representation of the clergy and people of Eastern European origin—assembled to insist, for the 20th year in a row, that the United States does not and should not forget the plight of those who live unwillingly under Communist governments.

Sen. Jacob Javits (R-N.Y.) confided that when an aide brought in this year's Captive Nations resolution for endorsement, the aide suggested that it might be "out of date—old hat," and that his reply was "not on your life—those who hold these nations captive count on the fact that we will be unable to run the course. So I beg you, dedicate yourselves to their struggle for freedom—not only during my lifetime and yours, but thereafter. It may take a long time, but justice will triumph if those who believe in justice persist."

The three bars distributed around the room were nearly deserted during the ceremonies, as people crowded to hear the oratory by such speakers as Sens. Strom Thurmond (R.-S.C.), Richard Schweiker (R-Pa.), Harrison Schmitt (R-N.M.), and Reps. Daniel Flood (D-Pa.), Eldon Rudd (R-Ariz.) and former Rep. Walter Judd of Minnesota. The motifs varied widely from Thurmond's brief, simple, "My heart is with you . . . I will do anything I can to help," to a visionary scheme by Rep. Steven D. Symms (Individualist R-Idaho): "If we could bombard the Russians with Sears, Roebuck catalogues, we'd go a long way toward solving our problems."

Among those in the audience were a good many people born in one or another of the captive nations. Electronic engineer Constantin Rauta, for example, who defected from Romania four years ago and now works at the Goddard Space Flight Center, is awaiting the day when his wife and son can overcome red tape and American apathy and his former government's obstacles and join him here.

One woman, who asked to have her name withheld, said that she has had relatives killed both by the Nazis and by the Communists, and she wondered what cocktail parties have to do with the plight of the captive nations.

"I come every year to some kind of party for the captive nations," she said. We have drinks and everybody talks, but I always have the feeling that they only come to get the ethnic vote, but they don't do a damned thing about it."

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CAPTIVE NATIONS WEEK

[20TH Observance, July 16-22, 1978]

"Man is born free, yet he is everywhere in chains."—Jean Jacques Rousseau

"In giving freedom to the slave we assure freedom to the free—honorable alike in what we give and what we preserve."—Abraham Lincoln

"Freedom of speech and freedom of action are meaningless without freedom to think. And there is no freedom of thought without doubt."—Bergen Evans

"Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."—Thomas Paine

"Liberty does not consist of mere declarations of the rights of men. It consists in the translation of those declarations into definite actions."—Woodrow Wilson

PROGRAM

Welcome: Dr. Lev E. Dobriansky.

Pledge of Allegience: Lee Edwards.

Invocation: The Reverend Edward G. Latch.

LUNCHEON

Presentation of Awards: "Liberty Award" to Representative Daniel J. Flood; "Liberty Award" to Representative Edward J. Derwinski.

SEMINARS

Panel I—"The Belgrade Conference and Captive Nations."

Moderator, Lee Edwards.

Panelists, Jonathan Greenwald, R. Spencer Oliver, Mark Anderson and Gunars Meierovics.

Panel II—"Human Rights and Captive Nations: Where Do We Go From Here?"

Moderator, Dr. Lev E. Dobriansky.

Panelists, Frank Manson, Dr. Henry Lane Hull, Anthony Bouscaren, and Dr. Charles Moser.

COOPERATING ORGANIZATIONS

AFL-CIO: American Conservative Union, American Council for World Freedom, The American Legion, Cardinal Mindszenty Foundation, Catholic War Veterans of the United States, Ladies Auxiliary, The Committee to Unite America, Inc., Council Against Communist Agression, and Council for Inter-American Security.

Freedom Leadership Foundation, Institute of American Relations, International Rescue Committee, Inc., Lithuanian American Community of the U.S.A., Inc., National Captive Nations Committee, Inc., Ukrainian Congress Committee of America, Inc., and Young Americans For Freedom.

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[From "America" (Philadelphia, Pa.), July 13, 1978]

REMEMBER THE CAPTIVE NATIONS

The week of July 16-22, 1978 will mark the 20th observance of Captive Nations Week. The Resolution which established the third week of July each year as "Captive Nation Week" in the United States, was passed by the U.S. Congress on July 17, 1959 and signed into Public Law 86-90 by President Eisenhower. The Resolution calls on each President of the United States to issue each year a proclamation of "Captive Nations Week" until such time as freedom and independence shall have been achieved for all the captive nations of the world . . ."

The Resolution was and continues to be a powerful and outstanding document of U.S. foreign policy, inasmuch as it clearly denotes the U.S. will not recognize Soviet Russian territorial and political conquests in Europe and Asia.

The Helsinki Accords by which 33 European governments, Canada and the United States recognized the "status quo", cannot supercede the "Captive Nations Week Resolution," because the latter is a law, while the Helsinki Accords is just an agreement entailing now legal consequences for the U.S. government.

Rightly, the Kremlin has been greatly concerned about the resolution, as was indicated by the Soviet press, commentaries and scathing attacks, which continued even today with uninterrupted denunciations and fury. According to Prof. Dobriansky, President of the UCCA and Chairman of the National Captive Nations Committee (NCNC), Georgi Arbatov, head of Moscow's "American Institute," lectured a U.S. exchange group last December on the necessity to liquidate the idea of the captive nations and the Week if detente is to continue. In March 1978, members of the House Armed Services Committee were confronted in Moscow by members of the Supreme Soviet, criticizing some Congressmen for their contribution to the volume. "The Bicentennial Salute to the Captive Nations", and openly crying "Do you want to break up our country?"

This deep concern of Moscow over the captive nations is understandable, because the very concept of the captive nations reminds the free people everywhere of the captivity of the millions of people held in thralldom by Russian Communism.

Yet, not all U.S. highly-placed officials understand this concern. In the past, some powerful figures in Washington tried to prevail upon one or another U.S. President not to issue the "Captive Nations Proclamation" for fear of upsetting the policy of detente!

Now with the Kremlin embarking on an imperialistic course in Africa, the problem of the captive nations in the USSR assumes even more important significance. The captive nations in the USSR are not only our true and proved allies, but they also constitute an inherent weakness of the Soviet Russian totalitarian empire.

As we are entering "Captive Nations Week," we ought to manifest our belief in the meaning of this event. Each and every one of us should participate in the events marking observance of the Week. Whether it is a religious manifestation, a rally, a march, or a lecture dealing with "Captive Nations Week"—we should wholly support these events and take active part in them. Moreover, we should see to it that the local American press, TV and radio stations are adequately informed about the captive nations—and in our case especially—about Ukraine. The UCCA has just published an informative brochure—"The Captive Nations: Responsibility of the Free World," containing factual data on the captive nations, which would provide the necessary information to the American media.

The American people have always been generous in their support of those fighting for freedom. On this 20th observance we must show the captive nations and their oppressors that Americans sympathize with their plight and will stand by them with whatever help they can give until the day of freedom and independence—the overall objective of struggle of all the captive nations has been achieved.

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[From the China Post, July 15, 1978]

DR. KU INVITED TO U.S. RECEPTIONS

Dr. Ku Cheng-kang, honorary chairman of the World Anti-Communist League, yesterday sent cables to U.S. Senator S. I. Hayakawa, Senator Daniel P. Moynihan and U.S. Representatives Daniel J. Flood, and Edward

J. Derwinski, to thank them for their invitations to attend receptions to commemorate the 1978 Captive Nations Week in Washington on July 18 and July 20.

Dr. Ku, however, told the Senators and Representatives in his cables that he could not attend, since he has to preside over the 1978 Captive Nations Week activities in Taipei, to be held from July 16 to 22.●

## REGULATORY FLEXIBILITY AND REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, today, along with my good friend and colleague from Wisconsin, Congressman BALDUS, I am introducing the Regulatory Flexibility and Reform Act.

This bill represents a refined version of an earlier bill which Congressman BALDUS and I introduced, H.R. 12296, with 26 cosponsors.

The basic purpose of the bill is to provide the agencies and departments of the Federal Government with the necessary tools to tailor regulations to the size and resources of those being regulated. The intended effect of the bill is to relieve small business, small organizations, small governmental jurisdictions and individuals of limited resources of some of the regulation and paperwork burden.

During the period of public comment on regulations, agencies would be required to solicit and consider regulatory alternatives which would be less costly but which would still meet the legislative goals of the regulations. An agency that rejected a lesser cost alternative would be required to explain why it did so in the final rule.

The bill proposes a number of approaches to flexible regulations: the use of "two-tier" or "multi-tier" standards for organizations and businesses of differing economic sizes; the use of performance-oriented standards rather than standards which impose particular technologies; and the use of progressively applied standards which condition exemption from more rigorous standards upon satisfactory compliance with less rigorous standards.

The bill also sets up stringent new restrictions governing the imposition of reporting and recordkeeping requirements on the public by Federal agencies. If regulations include reporting requirements from the public, they must so indicate at the time they are originally proposed. Regulations which would create significant paperwork for those affected would have to be proposed and opened to public comment—including suggestions for less burdensome approaches—just like substantive regulations.

Senators NELSON and CULVER have taken the lead on this legislation in the Senate. More than a third of the Senate is now cosponsoring the bill. Over 200 associations of small businesses and small nonprofit organizations have backed the measure.

This new revised version is a result of evaluating comments submitted by agencies and interested parties on the Senate bill, which is identical to H.R. 12296. The new bill encourages the agencies to seek alternative regulatory strategies not only from within the Government, but from the public as well. It streamlines the requirements for agency impact statements. It mandates agency consideration of regulatory effects on small cities and towns, as well as on small enterprises and on individuals.

It offers regulatory strategies which go beyond "tiering," but have the same effect: reducing the burden on those least least able to bear it. It imposes strict controls on paperwork requirements. And, it opens the regulatory process further to public participation.●

## REAL PROPERTY TAX COMPENSATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, I am pleased to join my colleague from New York (Mr. LENT) in cosponsoring the Real Property Tax Compensation Act of 1978.

Our bill would provide relief for the taxpayers who live in communities which are financially burdened with a great number of tax-exempt properties owned by foreign representatives living in the United States.

With the United Nations located in New York City, the New York metropolitan area has become the principal place of residence for foreign embassies and delegates working for the United Nations, and for other international organizations.

Due to our country's role as host to foreign representatives and international organizations, bilateral and multilateral treaties to which the United States is a party have evolved which grant tax-exempt privileges. Such privileges to foreign governments are desirable and necessary; however, they should not be at the expense of the local taxpayers who must carry the burden of financing municipal and school district services for their tax-exempt neighbors.

This problem was brought to my attention by the city of New Rochelle, N.Y., which, due to its location in Westchester County—only 15 miles from New York City—contains 19 such tax-exempt foreign properties. The total assessed valuation of these lands is $860,350 which represents a rather significant portion of New Rochelle's total assessed valuation of $393,187,186.

If taxes were being levied on these properties, New Rochelle would receive an additional $34,274 to finance its essential services. The school district would receive $54,505; Westchester County, $17,758; and the sewer district would collect an added $3,687.

This legislation would allow for communities like New Rochelle to be reimbursed by the Secretary of the Treasury an equal amount of the real property tax revenue that the community would have received during the previous calendar year had these taxes been collected.

In these inflationary times, it is very difficult for local units of government, many of which are experiencing declining tax bases, to pay the costs of services rendered to tax-exempt representatives of foreign governments. The Federal Government has provided this tax-free privilege to foreign representatives and should assist communities in supporting services to these people.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. VENTO (at the request of Mr. WRIGHT), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 30 minutes, on Monday, July 31, and Tuesday, August 1.

(The following Member (at the request of Mr. GUYER), to revise and extend his remarks, and to include extraneous matter:)

Mr. GOLDWATER, for 10 minutes, today.

(The following Members (at the request of Mr. BONIOR) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. DRINAN, for 5 minutes today.
Mr. FLOOD, for 5 minutes today.
Mr. KASTENMEIER, for 5 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Mr. FARY, for 5 minutes on August 1, 1978.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STEIGER, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $903.

Mr. MCCLORY, to revise and extend his remarks on the Butler amendment on H.R. 12432.

(The following Members (at the request of Mr. GUYER) and to include extraneous matter:)

Mr. RUDD.
Mr. MILLER of Ohio in three instances.
Mr. ANDERSON of Illinois.
Mr. CARTER in two instances.
Mr. MARTIN.

Mr. CORCORAN of Illinois.
Mr. DORNAN in three instances.
Mr. MCCLOSKEY.
Mr. DERWINSKI in two instances.
Mr. GILMAN.
Mr. SAWYER.
Mr. MADIGAN.
Mr. WYLIE.
Mr. RHODES.
Mr. PRESSLER.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. FORD of Michigan.
Mr. ROSE.
Mr. ADDABBO.
Mr. MCHUGH.
Mr. OBERSTAR in three instances.
Mr. MURTHA.
Mr. MURPHY of Pennsylvania.
Mr. HAMILTON in two instances.
Mr. MAZZOLI.
Mr. MOORHEAD of Pennsylvania in 10 instances.
Mrs. SPELLMAN.
Mr. MOTTL.
Mr. JOHN L. BURTON.
Mr. RISENHOOVER.
Mr. WOLFF.
Mr. LEDERER.
Mr. EILBERG.
Mr. UDALL.

## ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 11832. An act to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes; and

H.R. 12426. An act to authorize the Secretary of the Treasury to provide financial assistance for the city of New York.

## ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 48 minutes p.m.) under its previous order, the House adjourned until Monday, July 31, 1978, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4663. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the Commandant, Defense Intelligence School to award the degree of Master of Science of Strategic Intelligence; to the Committee on Armed Services.

4664. A letter from the Executive Director, National Commission on Libraries and Information Science, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4665. A letter from the Chairman, Resource Conservation Committee, transmitting the committee's third semiannual progress report, pursuant to section 8002(j) of the Solid Waste Disposal Act, as amended; to the Committee on Interstate and Foreign Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee of Conference. Conference report on H.R. 2777 (Rept. No. 95–1399). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. H.R. 11122. A bill to establish an Agricultural Land Review Commission; to establish a demonstration program for protecting agricultural land from being used for nonagricultural purposes; and for other purposes, with amendment (Rept. No. 95–1400). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARRIOTT:

H.R. 13636. A bill to amend the Internal Revenue Code of 1954 to allow an individual a deduction for certain contributions to an account the proceeds from which are used to purchase a principal residence for such individual; to the Committee on Ways and Means.

H.R. 13637. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. BLANCHARD (for himself, Mr. FOLEY, Mr. GEPHARDT, and Mr. MINETA):

H.R. 13638. A bill to require authorization of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. BRADEMAS:

H.R. 13639. A bill to provide financial assistance to States in order to expand educational programs in juvenile and adult correctional institutions to assist in the rehabilitation of criminal offenders, and for other purposes; to the Committee on Education and Labor.

By Mr. BRINKLEY:

H.R. 13640. A bill to amend title II of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to permit ministers and their employers to enter into voluntary agreements for the treatment of such ministers as employed persons; to the Committee on Ways and Means.

By Mr. EVANS of Georgia:

H.R. 13641. A bill to amend the Interstate Land Sales Full Disclosure Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 13642. A bill to provide for the continuance of cases in a court of the United States whenever a party or counsel is absent by reason of attendance as a member of the legislature of any State; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 13643. A bill to provide for the striking of medals in commemoration of the life and ideals of Dr. Martin Luther King, Jr.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GOLDWATER:

H.R. 13644. A bill to provide for the research, development, and demonstration of a permanent Federal repository for nuclear waste and spent nuclear fuel assemblies generated from the operation of civilian nuclear powerplants, and for other purposes; to the Committee on Science and Technology.

By Mr. KASTENMEIER (for himself, and Mr. BALDUS):

H.R. 13645. A bill to provide that agencies consider alternative regulatory proposals in the promulgation of agency rules, regulations, and reporting requirements; and for other purposes; to the Committee on the Judiciary.

By Mr. KILDEE:

H.R. 13646. A bill to amend part J (relating to public safety officers' death benefits) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to include Federal firefighters among the officers with respect to whom benefits may be paid; to the Committee on the Judiciary.

By Mr. LAFALCE:

H.R. 13647. A bill to amend the Internal Revenue Code of 1954 to permit the deduction of sewer taxes, rents and other similar sewer charges; to the Committee on Ways and Means.

By Mr. LENT (for himself and Mr. OTTINGER):

H.R. 13648. A bill to direct the Secretary of the Treasury to compensate States and units of local government for the loss of real property tax revenues due to the tax-exempt status of certain real estate property owned or occupied by foreign countries and international organizations; to the Committee on Government Operations.

By Mr. MADIGAN (for himself, Mr. JOHNSON of Colorado, Mr. SYMMS, Mr. HAGEDORN, Mr. ABDNOR, Mr. THONE, Mr. SEBELIUS, Mr. JEFFORDS, and Mr. GRASSLEY):

H.R. 13649. A bill to provide indemnities to beef, goat or sheep producers or owners when import quotas are used to suppress market prices; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. UDALL (for himself, Mr. LUJAN, Mr. SHARP, Mr. MARRIOTT, Mr. JOHNSON of Colorado, Mr. MCKAY, Mr. VENTO, Mr. KAZEN, Mr. RONCALIO, Mr. BAUMAN, and Mr. RHODES):

H.R. 13650. A bill to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. YOUNG of Texas:

H.R. 13651. A bill to change the name of the Palmetto Bend Reservoir on the Navidad River, Texas, to Lake Texana; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN (for himself, Mr. AUCOIN, Mr. BEARD of Rhode Island, Mr. BENJAMIN, Mr. BLANCHARD, Mr. DERWINSKI, Mr. EILBERG, Mrs. FENWICK, Mr. FISH, Mr. FRASER, Mr. GREEN, Mr. GUYER, Mr. HANLEY, Ms.

HOLTZMAN, Mr. HUGHES, Mr. KEMP, Mr. LAGOMARSINO, Mr. LEHMAN, Mr. LENT, Mr. MCHUGH, Mrs. MEYNER, Mr. OTTINGER, Mr. RANGEL, and Mr. SPENCE):

H. Con. Res. 673. Concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union and that the United States should bring to the attention of the next Congress of the Universal Postal Union the failure of the Soviet Union to comply with certain articles of the Universal Postal Union; jointly to the Committees on International Relations, and Post Office and Civil Service.

By Mrs. MEYNER (for herself, Mr. GILMAN, Mr. HOLLENBECK, Mr. BARNARD, Mr. HANNAFORD, and Ms. MIKULSKI):

H. Con. Res. 674. Concurrent resolution requesting the President to convene a White House Conference on Foreign Trade; jointly, to the Committees on International Relations, and Ways and Means.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12931

By Mr. YOUNG of Florida:

—On page 2, line 11, strike "$610,000,000" and insert in lieu thereof "$552,000,000".

—On page 3, line 20:

Strike "$260,000,000" and insert in lieu thereof "$253,200,000".

On line 23 strike the period and insert the following: ": *Provided further*, That not more than $116,250,000 shall be available for the United Nations Development Program."

—On page 11, line 15, after the word "directly" add "or indirectly".

—On page 14, line 9, strike the period and insert the following: ": *Provided further*, That none of the funds appropriated in this paragraph shall be used to pay for abortions."

—On page 23, after line 19 insert the following new section:

"SEC. 510. The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose and seek adoption of an amendment to the Articles of Agreement for their respective institutions to establish human rights standards to be considered in connection with each application for assistance."

## FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of June 16, 1978 (page 17973).

H.R. 12004. April 11, 1978. Ways and Means. Amends the Internal Revenue Code to provide that artistic compositions, copyrights, and the like shall not be included in the estate tax valuation of the creator's estate.

H.R. 12005. April 11, 1978. Judiciary; Intelligence. Authorizes the appropriation for fiscal year 1979 of specified sums for designated activities and agencies of the Department of Justice.

HR. 12006. April 11, 1978. Judiciary; Ways and Means. Revises generally the jurisdiction of the Customs Court. Permits assignment of Customs Court judges to specified other courts, and stipulates that the chief judge of the Customs Court shall serve to age 70.

Amends Customs Court procedures and details the scope of its review of administrative actions.

Amends the jurisdiction and procedures of the Court of Customs and Patent Appeals.

Permits affected American businesses to petition the Secretary of the Treasury to exclude designated merchandise from entry. Allows any aggrieved person to seek judicial review of the Secretary's decision or of certain other administrative actions.

H.R. 12007. April 11, 1978. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated to carry out such Act to $10,000,000.

H.R. 12008. April 11, 1978. Interstate and Foreign Commerce. Amends the Controlled Substances Act, the Controlled Substances Import and Export Act, the Federal Food, Drug, and Cosmetic Act, and the Public Health Service Act to meet obligations under the Convention on Psychotropic Substances.

H.R. 12009. April 11, 1978. Ways and Means. Amends the Internal Revenue Code to allow limited income tax credits for new business property placed and new employees working in high unemployment urban areas.

H.R. 12010. April 11, 1978. Veterans' Affairs. Extends to fiscal year 1981 the authorization of appropriations to carry out a pilot program for the exchange of medical information between Veterans' Administration facilities and the medical community.

H.R. 12011. April 11, 1978. Veterans' Affairs. Provides for the continuation of the Administrator of Veterans' Affairs authority to furnish private hospital care to certain veterans living in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight States.

H.R. 12012. April 11, 1978. Veterans' Affairs. Amends the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 to extend to fiscal year 1979 the authority of the Administrator of Veterans' Affairs to enter into special pay agreements with physicians and dentists employed by the Veterans' Administration Department of Medicine and Surgery.

H.R. 12013. April 11, 1978. Veterans' Affairs. Extends the authorization of appropriations for grants to States for the construction of State home facilities for furnishing nursing home care to veterans.

H.R. 12014. April 11, 1978. Veterans' Affairs. Extends the authorization of appropriations to fiscal year 1984 for grants to medical schools and other health manpower institutions affiliated with the Veterans' Administration.

H.R. 12015. April 11, 1978. Veterans' Affairs. Establishes a ten-year program of preventive health care services within the Veterans' Administration.

Directs the Administrator of Veterans' Affairs to design and conduct a health maintenance pilot program to demonstrate the medical advantages and cost-effectiveness of providing such services to veterans.

H.R. 12016. April 11, 1978. Veterans' Affairs. Extends until September 30, 1983 the authority: (1) of the Administrator of Veterans' Affairs to maintain an office in the Republic of the Philippines; (2) of the President to authorize the Administrator to enter into contracts with the Veterans' Memorial Medical Center to pay for hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; (3) to make payments for such care and services; and (4) to appropriate specified sums for the training of health service personnel, for new equipment and the rehabilitation of the Veterans' Memorial Medical Center.

H.R. 12017. April 11, 1978. Veterans' Affairs. Increases from $500 to $1,000 the amount by which the annual income of certain disabled veterans may exceed the maximum annual income limitation for pensions without such veterans losing the right to continue to receive drugs and medication from the Veterans' Administration.

H.R. 12018. April 11, 1978. Veterans' Affairs. Extends outpatient dental services and treatment for a non-service-connected disability to any war veteran who has a service-connected disability of 100 percent.

H.R. 12019. April 11, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations with a maximum rate of 45 percent on income in excess of $150,000 and a minimum rate of 18 percent on income not in excess of $25,000.

H.R. 12020. April 11, 1978. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation of Ugandan coffee.

H.R. 12021. April 11, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to establish new procedures for the planning and construction of public telecommunications facilities. Sets forth new requirements for the application to the Corporation for Public Broadcasting for construction grants.

Authorizes appropriations to the Public Broadcasting Fund for fiscal years 1978 through 1983.

H.R. 12022. April 11, 1978. Interstate and Foreign Commerce. Amends the Federal Insecticide, Fungicide, and Rodenticide Act to direct the Administrator of the Environmental Protection Agency to request the National Academy of Science to conduct a study regarding the desirability of developing a Federal policy for the determination of the potential carcinogenicity in man of chemicals tested primarily in nonhuman test systems through the standardization of certain tests.

H.R. 12023. April 11, 1978. Interior and Insular Affairs. Amends the Water Resources Research Act of 1964 to establish water resources research centers and to promote a national program of water resource research.

H.R. 12024. April 11, 1978. Interstate and Foreign Commerce. Prohibits the distribution in commerce of any ionization smoke detector unless such device bears a label which: (1) includes a recognized symbol indicating the presence of radioactive material; and (2) bears the following statement: "This device contains radioactive material which may be hazardous to your health if ingested or improperly disposed."

H.R. 12025. April 11, 1978. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the Act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 12026. April 11, 1978. Interior and In-

sular Affairs. Establishes the Indian Peaks Wilderness Area within the Arapaho and Roosevelt National Forests, in Colorado.

Establishes the Arapaho National Recreation Area within the Arapaho and Roosevelt National Forests and the Colorado Big Thompson project, in Colorado.

H.R. 12027. May 15, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 12028. April 11, 1978. Veterans' Affairs. Increases the maximum assistance available for specially adapted housing for certain disabled veterans from $25,000 to $30,000.

Entitles Vietnam era veterans to eligibility for home, condominium, and mobile home loans, and for automatic 60 percent guaranteed home loans.

Increases the amount of a home loan which may be guaranteed by the Veterans' Administration from $17,000 to $25,000.

Revises certain veterans' mobile home and mobile home lot loan provisions.

H.R. 12029. April 11, 1978. District of Columbia. Amends the District of Columbia Code to increase the distance which members of the District of Columbia's Police Force and Fire Department may live from the United States Capitol Building from 25 to 50 miles.

H.R. 12030. April 11, 1978. Interstate and Foreign Commerce. Amends the Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1979 through 1981 to carry out the provisions of such Acts.

H.R. 12031. April 11, 1978. Public Works and Transportation. Authorizes appropriations for Federal-aid highway programs, highway safety projects, and mass transportation projects. Authorizes the Secretary of Transportation to make Federal financial assistance available for State projects for highway bridge replacement, interstate highway resurfacing, traffic control signalization and urban bikeways. Authorizes the Secretary to carry out specified transportation demonstration projects.

Amends the Urban Mass Transportation Act to revise Federal financial assistance programs under such Act.

H.R. 12032. April 11, 1978. Education and Labor. Defines the term "age" for purposes of equal employment opportunities under the Civil Rights Act of 1964, to mean a person's being considered too old, but only if such person has attained the age of 40 years.

Prohibits employment discrimination because of age, under such Act.

Repeals the Age Discrimination in Employment Act of 1967.

H.R. 12033. April 11, 1978. Education and Labor. Defines the term "age" for purposes of equal employment opportunities under the Civil Rights Act of 1964, to mean a person's being considered too old, but only if such person has attained the age of 40 years.

Prohibits employment discrimination because of age, under such Act.

Repeals the Age Discrimination in Employment Act of 1967.

H.R. 12034. April 11, 1978. Post Office and Civil Service. Repeals specified Federal laws compelling mandatory retirement based on age for the following: (1) Federal employees; (2) Tax Court Judges; (3) Foreign Service employees; (4) Lighthouse Service officers and employees; (5) the Comptroller General and the Assistant Comptroller General; (6) Central Intelligence Agency officers and employees; and (7) District of Columbia Judges.

H.R. 12035. April 11, 1978. Post Office and Civil Service. Repeals specified Federal laws compelling mandatory retirement based on age for the following: (1) Federal employees; (2) Tax Court Judges; (3) Foreign Service employees; (4) Lighthouse Service officers and employees; (5) the Comptroller General and the Assistant Comptroller General; (6) Central Intelligence Agency officers and employees; and (7) District of Columbia Judges.

H.R. 12036. April 11, 1978. Education and Labor. Amends the Age Discrimination Act of 1975: (1) to declare the purpose of prohibiting any discrimination on the basis of age; (2) to bypass payments to State or local governments which are out of conformity with such Act and to pay directly any nonprofit organization which can carry out the Federal program; (3) to authorize persons aggrieved pursuant to this Act to bring a civil action; and (4) to require the head of each Federal Agency to annually report on the steps taken in the preceding year to carry out specified provisions of the Act.

H.R. 12037. April 11, 1978. Education and Labor. Amends the Age Discrimination Act of 1975: (1) to declare the purpose of prohibiting any discrimination on the basis of age; (2) to bypass payments to State or local governments which are out of conformity with such Act and to pay directly any nonprofit organization which can carry out the Federal program; (3) to authorize persons aggrieved pursuant to this Act to bring a civil action; and (4) to require the head of each Federal Agency to annually report on the steps taken in the preceding year to carry out specified provisions of the Act.

H.R. 12038. April 11, 1978. Judiciary. Requires the Commission on Civil Rights to study and collect information concerning policies and practices constituting discrimination based on age.

Amends the Civil Rights Acts of 1957 and 1964 and other laws to prohibit specified forms of discrimination based on age, including discrimination in: (1) public accommodations; (2) public facilities; (3) public education; and (4) the sale, rental, or financing of housing.

H.R. 12039. April 11, 1978. Judiciary. Requires the Commission on Civil Rights to study and collect information concerning policies and practices constituting discrimination based on age.

Amends the Civil Rights Acts of 1957 and 1964 and other laws to prohibit specified forms of discrimination based on age, including discrimination in: (1) public accommodations; (2) public facilities; (3) public education; and (4) the sale, rental, or financing of housing.

H.R. 12040. April 11, 1978. Post Office and Civil Service. Requires that Federal employees be given compensatory time off to conform to religious requirements of abstention from work during certain periods of time.

H.R. 12041. April 11, 1978. Judiciary. Extends to 14 years the deadline for ratification of the equal rights amendments.

H.R. 12042. April 11, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12043. April 11, 1978. Judiciary. Authorizes the issuance of a visa for permanent admittance to the United States, under the Immigration and Nationality Act.

H.R. 12044. April 11, 1978. Judiciary. Relieves a certain individual of liability to pay the United States a specified sum. Directs the Secretary of the Treasury to pay a sum to such individual.

H.R. 12045. April 11, 1978. Judiciary. Authorizes classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 12046. April 11, 1978. Judiciary. Relieves a certain individual of liability to pay the United States a specified sum. Directs the Secretary of the Navy to pay a lump sum to such individual.

H.R. 12047. April 11, 1978. Interior and Insular Affairs. Directs the Secretary of the Interior to act upon the petition of a certain individual for reinstatement of a specified Oil and Gas Lease.

H.R. 12048. April 11, 1978. Judiciary. Declares a certain individual to have satisfied the residence and physical presence requirements for naturalization under the Immigration and Nationality Act.

H.R. 12049. April 11, 1978. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 12050. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals a temporary, limited income tax credit for tuition paid for the postsecondary, nongraduate education of the taxpayer, his spouse and his dependents.

Forbids any construction of this Act as granting additional authority to examine the activities of any church school except to determine whether it is a postsecondary educational institution.

Provides for immediate certification of actions brought in district courts concerning the constitutionality of this Act to the appropriate circuit court of appeals with direct appeal to the Supreme Court.

Disallows this credit when determining eligibility for Federally funded educational assistance.

H.R. 12051. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to allow New York State and City employee pension plans to purchase New York City debt up to specified portions of their total assets without losing their status as tax exempt organizations or qualified pension plans.

H.R. 12052. April 12, 1978. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to authorize Federal savings and loan associations to make and invest in graduated payment mortgages and reverse annuity mortgages.

H.R. 12053. April 12, 1978. Government Operations. Establishes an Office of Inspector General within each of the Departments of Agriculture, Commerce, Housing and Urban Development, Interior, Labor, and Transportation, the Environmental Protection Agency, and the Community Services, General Services, National Aeronautics and Space, Small Business, and Veterans' Administrations. Makes it the duty of such offices to direct the auditing investigation of the programs of the agency in which each such Office is established and to recommend policies to each respective agency to promote the efficiency and economy of and to prevent and detect fraud and abuse in the programs administered by each agency.

H.R. 12054. April 12, 1978. Veterans' Affairs. Provides that, where the death of a qualified veteran occurs in a State home, the Administrator of Veterans' Affairs shall pay the actual cost (not to exceed $250) of the burial and funeral, and shall transport the body to the place of burial in the same or any other State.

H.R. 12055. April 12, 1978. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to establish a nonprofit, nongovernmental Institute for Long-Range Energy Analysis.

Directs the Institute to analyze, on a con-

tinuing basis, the long-range energy needs of the country. Requires the Institute, among other things, to develop policy alternatives to current energy allocation, consult with relevant Federal agencies, and to review national capabilities and programs relating to energy development, conservation, and consumption.

H.R. 12056. April 12, 1978. Small Business. Simplifies Government contracting procedures with respect to small businesses.

Establishes Government contract arbitration panels within the Small Business Administration.

Directs Federal agencies to take the apparent low responsive bidder's small business concern subcontracting plan into account in determining the responsibility of such bidder for the award of such contract.

Assigns an employee of the Small Business Administration to each Federal agency.

Establishes the Small Business Procurement Advisory Committee.

H.R. 12057. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to apply the same tax rates to married persons filing separate returns as are presently applicable to unmarried individuals.

H.R. 12058. April 12, 1978. Interstate and Foreign Commerce. Establishes an Office of Rural Health within the Department of Health, Education, and Welfare to be headed by a Director who shall be a qualified health care professional, appointed by the Secretary. Authorizes the Director to make grants, contracts, loans, and loan guarantees for projects to examine existing models of rural health care delivery, to determine their applicability and transferability to other rural areas, and to assist in the study, planning, development, experimentation, and demonstration of rural health care delivery models.

H.R. 12059. April 12, 1978. Interior and Insular Affairs. Exempts specified irrigation districts organized for the purpose of delivering water from the Kings River and Tulare Lake Basin project, California, and lands located within such districts, from certain restrictions of Federal reclamation laws including those limiting the transfer of excess lands.

H.R. 12060. April 12, 1978. Post Office and Civil Service. Directs the President to make a compilation of all Federal statistical activities and to submit such compilation to Congress.

Terminates all Federal statistical authority not otherwise provided for by law as of a specified date.

Requires that each report accompanying a bill or resolution which provides for Federal statistical authority to contain specified information including the purpose for which such information is being sought, the costs involved, and the number of respondents from which such information is to be obtained.

H.R. 12061. April 12, 1978. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives.

H.R. 12062. April 12, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act and the Internal Revenue Code to finance the payment of disability benefits and hospital insurance benefits through general tax revenues rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 12063. April 12, 1978. Agriculture. Amends the Federal Insecticide, Fungicide, and Rodenticide Act to prohibit the importation of any agricultural commodity whenever the use of any pesticide in connection with its production, processing, or handling is restricted in the United States, if: (1) the exporting country does not have at least equal restrictions with respect to the use of such pesticide; and (2) such commodity is produced in substantial quantities in the continental United States.

H.R. 12064. April 12, 1978. Public Works and Transportation. Modifies the navigation project at Mamaroneck Harbor, New York, to increase the Federal share of such project to 100 percent.

H.R. 12065. April 12, 1978. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to eliminate the requirement that prior hospitalization is necessary before extended care facility benefits are available under the Medicare program.

H.R. 12066. April 12, 1978. Public Works and Transportation. Authorizes appropriations for Federal-aid highway programs, highway safety projects, and mass transportation projects. Authorizes the Secretary of Transportation to make Federal financial assistance available for State projects for highway bridge replacement, interstate highway resurfacing, traffic control signalization and urban bikeways. Authorizes the Secretary to carry out specified transportation demonstration projects.

Amends the Urban Mass Transportation Act to revise Federal financial assistance programs under such Act.

H.R. 12067. April 12, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a flood control reservoir on Lower Knox Creek, Kentucky. Waives the requirement of an economic analysis of this project.

H.R. 12068. April 12, 1978. Interstate and Foreign Commerce. Amends the Noise Control Act of 1972 to authorize appropriations for fiscal year 1979.

H.R. 12069. April 12, 1978. Interstate and Foreign Commerce. Amends the Noise Control Act of 1972 to authorize appropriations for fiscal years 1979 and 1980.

H.R. 12070. April 12, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to construct, operate, and maintain the Buffalo Bill Extension of the Shoshone project in the State of Wyoming.

H.R. 12071. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals a refundable income tax credit for the amount of wages and other earned income lost as a result of an "emergency" or "major disaster" as defined under the Disaster Relief Act of 1974.

H.R. 12072. April 12, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to enter into contracts with public housing agencies for the establishment of congregate housing projects which are supplemented by supportive services for frail and physically impaired residents.

Amends the United States Housing Act of 1937 to permit the provision of congregate services in existing public housing.

H.R. 12073. April 12, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to establish a new procedure for funding the Corporation for Public Broadcasting, to reorganize the board of directors of such Corporation, and to establish regulations governing the grant programs for public telecommunications.

H.R. 12074. April 12, 1978. Agriculture. Amends the Soil Conservation and Domestic Allotment Act to extend the Great Plains conservation program to all contiguous States of the continental United States designated by the Secretary of Agriculture as susceptible to serious water and wind erosion.

H.R. 12075. April 12, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to limit the mission of the National Institute on Aging to the conduct and support of biomedical research and training related to the aging process. Eliminates from such mission the support of research training related to the social and behavioral aspects of aging.

H.R. 12076. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 12077. April 12, 1978. Judiciary. Authorizes the Law Enforcement Assistance Administration to make grants to States under the Omnibus Crime Control and Safe Streets Act of 1968 for the development and operation of programs to prevent and detect the intentional damaging of real or personal property by fire or explosive committed by or under the direction of its owners.

H.R. 12078. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to (1) lower individual and corporate income tax rates and rates on estates and trusts; (2) revise the tax treatment of certain deductible expenses and tax shelters; (3) repeal the preferential tax treatment of capital gains realized by noncorporate taxpayers; (4) permit States and localities to issue high yield taxable bonds with Federal subsides of interest costs; (5) revise the tax treatment of small businesses and to repeal certain corporate preferences; and (6) repeal the excise tax on communication services and reduce the unemployment tax.

H.R. 12079. April 12, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 12080. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 12081. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits that earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 12082. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 12083. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 12084. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing

a separate return to the amount actually earned by that individual.

H.R. 12085. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 12086. April 12, 1978. Public Works and Transportation. Authorizes air carriers holding a certificate to engage in foreign air transportation to carry domestic traffic between points in the United States on flights operated in foreign air transportation. Stipulates that such authority shall be limited to one round trip flight per day in each city-pair market unless otherwise authorized by the Civil Aeronautics Board.

H.R. 12087. April 12, 1978. Agriculture; International Relations. Directs the President to establish a wheat reserve to furnish emergency and developmental food needs abroad and to fulfill reserve stock obligations under the Wheat Trade Convention.

H.R. 12088. April 12, 1978. Judiciary. Allows the court in any civil action brought by or against the United States to award reasonable attorney fees and expenses to the prevailing party (other than the United States or an agency or official thereof). Stipulates that the court may award attorney fees to a prevailing defendant only if the court determines that the action was brought without foundation, vexatiously, frivolously, or in bad faith.

H.R. 12089. April 12, 1978. Interior and Insular Affairs. Establishes a Potomac River Shoreline Area Advisory Commission to develop a plan for the management of specified areas of the Potomac River located in Virginia, Maryland, West Virginia, and the District of Columbia.

H.R. 12090. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross income; thereby providing the deduction to individuals who do not itemize.

H.R. 12091. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross income; thereby providing the deduction to individuals who do not itemize.

H.R. 12092. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 12093. April 12, 1978. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to extend medical assistance under such Title to individuals who are unable to care for their personal needs due to a physical or mental handicap which may result in death or which has lasted or may last continuously for at least one year.

H.R. 12094. April 12, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of Commerce to identify on a continuing basis concerns which are in danger of closing or relocating and whose closing or moving would cause substantial economic dislocation in the community.

Provides, through the Secretary, loans for technical assistance and operating costs to an employee or employee/community corporation so that it may assume ownership of a concern so identified.

Authorizes loans to employees so that they may participate in a purchasing corporation.

H.R. 12095. April 12, 1978. Interior and Insular Affairs. Establishes the Santa Monica Mountains Greenline Park and Preserve in California, to be overseen by the Santa Monica Mountains Park and Preserve Oversight and Administrative Commission. Sets plan requirements for the park.

H.R. 12096. April 12, 1978. Public Works and Transportation. Expands the special bridge replacement and rehabilitation program to authorize Federal participation in State projects to replace or rehabilitate bridges which are not located on the Federal-aid highway systems.

H.R. 12097. April 12, 1978. Government Operations. Requires specified agencies of the Federal Government to report annually to Congress the number of written complaints received from a Member of Congress regarding any difficulty experienced by any person with respect to such agency, whether such complaint was resolved, and the time required to complete each such resolution.

H.R. 12098. April 12, 1978. Public Works and Transportation. Authorizes appropriations to the Secretary of the Interior for fiscal years 1979 and 1980 for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts.

H.R. 12099. April 12, 1978. Interior and Insular Affairs. Designates Sailors Snug Harbor, located in New York City, as a part of the Gateway National Recreational Park.

H.R. 12100. April 12, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to make grants to finance the construction and rehabilitation of congregate facilities in federally assisted housing projects and the provision of congregate services for elderly and handicapped individuals and families.

H.R. 12101. April 12, 1978. Agriculture. Amends the Farmer-to-Consumer Direct Marketing Act of 1976 to require the Secretary of Agriculture to make grants for the development of innovative methods of direct marketing from farmers to consumers.

H.R. 12102. April 12, 1978. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to designate the Center for Minority Group Mental Health Programs of the National Institute of Mental Health as a division of the Institute to be known as the Division for Minority Health. Sets forth a program for the Division.

H.R. 12103. April 12, 1978. Post Office and Civil Service. Includes civilian security police of the Department of Defense within the civil service retirement provisions applicable to law enforcement officers and firefighters.

H.R. 12104. April 12, 1978. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 12105. April 12, 1978. Ways and Means. Amends the Internal Revenue Code to provide that property used in, or related to, the taxpayer's trade or business, and which the taxpayer acquired without cost, shall not qualify as a capital asset.

H.R. 12106. April 13, 1978. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Independent Safety Board Act of 1974 to authorize appropriations to the National Transportation Safety Board for fiscal years 1979 and 1980.

H.R. 12107. April 13, 1978. Merchant Marine and Fisheries; Interstate and Foreign Commerce; Judiciary. Requires the Secretary of the Interior to issue regulations relating to traps and trapping. Sets forth standards for approved traps.

Establishes an advisory commission to advise the Secretary on traps designed or intended for use.

Prohibits trapping on Federal lands where such trapping will adversely affect any species of mammal or bird.

Sets forth a procedure for the application and issuance of trapping permits.

Requires shipping certificates for packages containing specified parts of trapped animals shipped in interstate commerce.

Sets forth criminal penalties for violations of this act.

H.R. 12108. April 13, 1978. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1974 to repeal the emergency financial operating assistance provided in such act for the costs of providing certain mandatory rail passenger service.

Directs the Secretary of Transportation to reimburse States and local public bodies and agencies for the cost of modernizing and rehabilitating rolling stock, and publicly owned road beds, and for the costs of supporting or operating class I electric railways.

H.R. 12109. April 13, 1978. Intelligence. Authorizes appropriations for fiscal year 1979 for intelligence and intelligence-related activities. Sets an end strength ceiling for the intelligence community for fiscal year 1979 at 170 full-time employees.

Requires the Attorney General to notify specified House and Senate Intelligence Committees whenever there have been admitted into the United States aliens who are excludable under specified laws because of the threat of their presence to the national security.

H.R. 12110. April 13, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 12111. April 13, 1978. Ways and Means. Amends the Internal Revenue Code to restore part of the pre-1969 tax treatment of capital gains by repealing the capital gains item of tax preference for the minimum tax; lowering the corporate alternative tax to 25 percent of net capital gain; and lowering the alternative individual tax to 25 percent of net capital gain.

H.R. 12112. April 13, 1978. Public Works and Transportation. Designates Gathright Lake on the Jackson River, Virginia as Lake Moomaw.

H.R. 12113. April 13, 1978. Public Works and Transportation. Amends the Federal Water Pollution Control Act to transfer from the Administrator of the Environmental Protection Agency to the Secretary of the Army, the approval and financial assistance functions with respect to certain clean lake projects. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to enter into agreements with States for demonstration projects related to water pollution. Directs such demonstration projects to be conducted at specified locations in New Hampshire. Directs the Secretary to establish a clean lakes research laboratory at Hanover, New Hampshire.

H.R. 12114. April 13, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 12115. April 13, 1978. Ways and Means. Amends the Internal Revenue Code to exempt from taxation certain contributions to profit sharing plans by employers which would otherwise be taxable to the employee merely

because a plan includes an arrangement under which the contribution is made only if the employee elects not to receive such contribution in cash.

H.R. 12116. April 13, 1978. District of Columbia. Amends the District of Columbia Self Government and Governmental Reorganization Act to stipulate that an act passed by the District of Columbia Council and not signed or returned to it by the Mayor of the District of Columbia shall not become law if the Council prevents the act's return by taking a recess of at least ten days.

Repeals the authority of the President to veto Council measures which have been vetoed by the Mayor and repassed by two-thirds of the Council.

Revises the method for determining the period for Congressional review of District of Columbia legislative acts.

H.R. 12117. April 13, 1978. District of Columbia. Directs the Mayor of the District of Columbia, consistent with an urban renewal plan approved by the Council of the District of Columbia, to transfer all title and interest of the United States to and in specified property in Southwest Washington, D.C., to the District of Columbia Redevelopment Land Agency.

Authorizes the Agency, in accordance with the District of Columbia Redevelopment Act of 1945, to lease or sell all or part of the transferred parcel.

H.R. 12118. April 13, 1978. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to conduct a study assessing the cost effectiveness of reimbursing providers of respiratory therapy according to an hourly salary equivalency system and the effect of such a proposed system upon the quality of respiratory therapy services.

H.R. 12119. April 13, 1978. International Relations. Amends the Food for Peace Act of 1966 to permit the Commodity Credit Corporation to finance export sales of agricultural commodities on credit terms in excess of three, but not more than ten years.

H.R. 12120. April 13, 1978. Appropriations; Armed Services. Amends the Department of Defense Appropriations Act, 1978 to repeal the provision of such Act which prohibits the payment of lodging expenses for individuals away from their post of duty on official business when adequate government quarters are available but are not occupied by such individual.

H.R. 12121. April 13, 1978. Interstate and Foreign Commerce. Amends the Controlled Substances Act to specify increased penalties, including minimum mandatory prison terms, for illegal distribution of controlled substances in or adjacent to elementary or secondary schools.

H.R. 12122. April 13, 1978. Government Operations. Extends countercyclical revenue sharing until fiscal year 1982 and decreases the unemployment percentage required for authorization of such program from six to five percent.

H.R. 12123. April 13, 1978. Public Works and Transportation. Authorizes the Secretary of Transportation to furnish Federal financial assistance for construction projects to separate rail-highway crossings where the rail facilities have incurred a substantial increase in use as a result of coal transportation activities with the result of substantial delays in highway travel.

H.R. 12124. April 13, 1978. Banking, Finance and Urban Affairs. Establishes minimum national standards for disclosure and consumer protection in the condominium industry.

Provides remedies for condominium owners with respect to matters such as self-dealing or unconscionable contracts.

H.R. 12125. April 13, 1978. Banking, Finance and Urban Affairs. Amends the National Housing Act to prohibit the denial of assistance under the Federal Housing Administration mortgage insurance programs solely because the housing is located in an area subject to a high noise level resulting from the operation of a nearby airport.

H.R. 12126. April 13, 1978. Veterans' Affairs. Prohibits the Veterans' Administration from not denying home loan financing to certain veterans solely because the property is located in an area identified by a Federal agency as the area which is most adversely affected by the noise from the operation of nearby civilian or military airports.

H.R. 12127. April 13, 1978. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to authorize payment under the supplementary medical insurance program for foot care involving the cutting and removal of corns, warts, and calluses and the trimming of club nails.

H.R. 12128. April 13, 1978. Government Operations; Rules. Requires each Federal agency to reduce the paperwork burden such agency places upon the private sector and State and local governments by a specified amount each year until fiscal year 1982.

Amends the Legislative Reorganization Act of 1970 to require all public legislation reported by any congressional committee to be accompanied by a Paperwork Impact Statement detailing the paperwork burden which would be imposed upon the public sector and State and local governments by such legislation.

H.R. 12129. April 13, 1978. Agriculture; Ways and Means. Imposes specified labeling and inspection requirements on imported equine meat products.

Amends the policy of Congress to restrict the importation of beef, veal, goat, and sheep meat, and live cattle to specified amounts. Decreases the percentage by which estimates of such annual imports must exceed the imports of the preceeding calendar year before triggering the imposition of import quotas. Revises the circumstances under which the President may suspend or impose an import quota proclamation relating to imports covered by this Act.

H.R. 12130. April 13, 1978. Education and Labor. Amends the Rehabilitation Act of 1973 to establish minimum qualification standards for rehabilitation counselors hired pursuant to State plans under such Act.

H.R. 12131. April 13, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Administrator of the Environmental Protection Agency to make grants to small public water systems for the purpose of enabling such systems to meet national primary drinking regulations.

H.R. 12132. April 13, 1978. Public Works and Transportation. Terminates the authorization of the Helm Reservoir project, Wabash River, Illinois.

H.R. 12133. April 13, 1978. Education and Labor. Adds a provision to the Occupational Safety and Health Act stating that nothing in the Act shall be construed to authorize any regulation designed to restrict hunting, fishing, or shooting sports or to establish safety or health standards for work performed in any location which is customarily used for those activities.

H.R. 12134. April 13, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 12135. April 13, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make urban rehabilitation grants to severely distressed cities and urban counties for the following purposes: (1) to finance the acquisition of real property by private nonprofit entities for residential rehabilitation; (2) to finance residential rehabilitation through grants, revolving loan funds, mortgage insurance, and low interest loans; (3) to make grants to neighborhood groups to carry out residential rehabilitation; and (4) to finance the rehabilitation of publicly-owned buildings when the recipient of the grant participates in such rehabilitation.

H.R. 12136. April 13, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for expenses incurred for Government required tree removal designed to prevent the spread of pest diseases.

H.R. 12137. April 13, 1978. Post Office and Civil Service. Includes within the definition of "air traffic controller" for purposes of statutes pertaining to Federal employee pay, retirement, and employment, persons actively engaged in providing preflight, inflight, or airport advisory service to aircraft operators and the immediate supervisors of such persons.

H.R. 12138. April 13, 1978. Public Works and Transportation. Designates a specified Federal building in Laguna Niguel, California, as the "Chet Holifield Building."

H.R. 12139. April 13, 1978. Public Works and Transportation. Authorizes appropriations for the comprehensive plan of development of specified river basins. Amends the Flood Control Act to authorize the Secretary of the Army to construct bank protection works along specified sections of the Sacramento River, California.

H.R. 12140. April 13, 1978. Public Works and Transportation. Amends the Federal Water Pollution Control Act to supplement previous authorizations for designated operating programs.

H.R. 12141. April 13, 1978. Education and Labor. Amends the definition of "employee" under the Longshoremen's and Harbor Workers' Compensation Act to specify the coverage of such Act with respect to persons engaged in the manufacture, sale, repair, or servicing of recreational or fishing boats.

H.R. 12142. April 13, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12143. April 17, 1978. Interior and Insular Affairs. Authorizes the appropriation of $43,000,000 for fiscal year 1979 for continuation of distribution systems and drains on the San Luis Unit, Central Valley Project, California.

H.R. 12144. April 17, 1978. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse (who meets specified requirements), or when there is no surviving spouse, to the child or children (who meet specified requirements).

H.R. 12145. April 17, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 12146. April 17, 1978. Education and Labor; Interstate and Foreign Commerce. Establishes a program for developing networks of community-based services to prevent unwanted initial and repeat pregnancies among adolescents and to aid pregnant adolescents or adolescent mothers in obtaining maternal health care services.

H.R. 12147. April 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide that State and local government retirement systems shall be tax exempt organizations. Exempts those systems from the reporting requirements pertaining to deferred compensation. Treats all such systems as qualified pension plans under the Code.

H.R. 12148. April 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross

income; thereby providing the deduction to individuals who do not itemize.

H.R. 12149. April 17, 1978. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 12150. April 17, 1978. International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to permit the President to waive prohibitions against commodity assistance relating to (1) status as a "friendly country," (2) North Vietnam, (3) diplomatic relations with the United States, (4) seizure of property owned by any United States person, and (5) emigration restrictions; in order to directly benefit needy people.

Amends the Food for Peace Act to permit the Commodity Credit Corporation to extend agricultural export credit if the President waives prohibitions against such credit relating to (1) emigration restrictions, and (2) North Vietnam, in order to directly benefit needy people.

H.R. 12151. April 17, 1978. Agriculture. Amends the Consolidated Farm and Rural Development Act to establish a low-income farm ownership loan program for owners or operators of small or family farms.

Authorizes the Secretary of Agriculture to insure or guarantee loans for refinancing equipment and operating loans, giving preference to small or family farmers.

Extends the authority of the Emergency Livestock Credit Act through fiscal year 1979.

H.R. 12152. April 17, 1978. Agriculture. Permits marketing orders under the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to include provisions concerning marketing promotion, including paid advertisement, of raisins.

H.R. 12153. April 17, 1978. Ways and Means. Amends the Internal Revenue Code to provide for annual cost-of-living adjustments to the individual income tax rates, personal exemption amounts, withholding tax amounts and the minimum amounts of income which necessitate filing an income tax return.

H.R. 12154. April 17, 1978. Education and Labor. Amends the definition of "employee" under the Longshoremen's and Harbor Workers' Compensation Act to specify the coverage of such Act with respect to persons engaged in the manufacture, sale, or repair, or servicing of recreational or fishing boats.

H.R. 12155. April 17, 1978. Judiciary. Directs the President to promulgate and publish regulations for merit selection of nominees for United States attorney.

Stipulates that the President may waive such procedures and that no nomination may be invalidated for failure to comply with such procedures.

H.R. 12156. April 17, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act and the Internal Revenue Code to finance the payment of disability benefits and hospital insurance benefits through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 12157. April 17, 1978. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 with respect to (1) the limitations on credit and insurance extension by the Bank; (2) the Congressional oversight of the Bank; (3) the prohibition against extending credit or credit insurance to South Africa; and (4) the exemption of the People's Republic of China from prohibitions against the extension of credit to Communist countries.

Directs the Secretary of the Treasury and/or the United States Special Trade Representative to begin negotiations to end predatory export financing, and other export subsidies to third country and United States markets.

H.R. 12158. April 17, 1978. Banking, Finance and Urban Affairs; Post Office and Civil Service; Rules. Amends the Truth in Lending Act to exempt transactions involving extensions of credit for agricultural purposes. Requires consumer and creditor statements and descriptions of security interests or property in connection with the extension of credit not under an open end plan.

Directs the simplification of disclosure requirements.

Directs the President to make a compilation of all Federal statistical activities and to submit such compilation to Congress.

Terminates all Federal statistical authority not otherwise provided for by law as of a specified date. Requires an explanation of the paperwork impact of reported Federal legislation.

H.R. 12159. April 17, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to provide taxpayers (in writing) with whatever advice, information, or interpretations they request which pertain to the income tax. Provides that such responses shall not bind the Secretary except with respect to the computation of interest on underpayments.

Provides that interest shall be suspended on income tax deficiencies arising through errors in these responses, or in tax returns prepared by the Internal Revenue Service, which are caused by the Government.

H.R. 12160. April 17, 1978. Agriculture. Amends the Agricultural Act of 1949 to: (1) increase the loan level for the 1978 through 1981 crops of wheat; (2) increase the established price for the 1978 crop of wheat; and (3) require the Commodity Credit Corporation to sell stored wheat at not less than the parity price.

H.R. 12161. April 17, 1978. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association in order to purchase securities of the Consolidated Rail Corporation.

H.R. 12162. April 17, 1978. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1979.

H.R. 12163. April 17, 1978. Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce. Authorizes appropriations to the Department of Energy for energy research and development.

H.R. 12164. April 17, 1978. Ways and Means. Amends the Internal Revenue Code to increase the farmers' deduction for clearing land.

H.R. 12165. April 17, 1978. Ways and Means. Amends the Tariff Schedules of the United States to extend the suspension of customs duties on certain metal waste and scrap, unwrought metal, and other articles of metal.

H.R. 12166. April 17, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish, within the National Institutes of Health, the Center for the Evaluation of Medical Practice. Directs the Secretary of Health, Education, and Welfare to use the Center to conduct and support research on the evaluation of the effectiveness of medical practice.

H.R. 12167. April 17, 1978. Judiciary. Relieves certain parties of liability to the United States for a specified sum representing the amount of employment taxes and interest due thereon for a specified period.

H.R. 12168. April 18, 1978. Judiciary. Directs that the United States Court for the Central District of California shall be held at Long Beach as well as at Los Angeles.

H.R. 12169. April 18, 1978. Merchant Marine and Fisheries; Interstate and Foreign Commerce; Judiciary. Requires the Secretary of the Interior to issue regulations relating to traps and trapping. Sets forth standards for approved traps.

Establishes an advisory commission to advise the Secretary on traps designed or intended for use.

Prohibits trapping on Federal lands where such trapping will adversely affect any species of mammal or bird.

Sets forth a procedure for the application and issuance of trapping permits.

Requires shipping certificates for packages containing specified parts or trapped animals shipped in interstate commerce.

Sets forth criminal penalties for violations of this Act.

H.R. 12170. April 18, 1978. Ways and Means. Entitles, under the Social Security Act, States whose rates of insured unemployment is at least six percent to partial reimbursement on an ascending sliding scale of unemployment compensation costs incurred above a certain amount.

H.R. 12171. April 18, 1978. Government Operations. Authorizes the Comptroller General, under the Accounting and Auditing Act of 1950, to have access to any information needed to audit all Federal expenditures. Amends the Budget and Accounting Act, 1921 to require the President to appoint the Comptroller General from a list of at least three names submitted by a commission of congressional leadership representatives established for the purpose of compiling such list.

H.R. 12172. April 18, 1978. Ways and Means. Amends the Internal Revenue Code to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 12173. April 18, 1978. Ways and Means. Reverse Revenue Ruling 77–85 in order to restore the tax treatment formerly extended policyholders receiving dividends and interest on custodial amount annuity contracts and the insurance companies maintaining the assets.

H.R. 12174. April 18, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire the Eppes Manor and adjacent lands for addition to the Petersburg National Battlefield, Virginia.

H.R. 12175. April 18, 1978. Education and Labor. Directs prime sponsors under the Comprehensive Employment and Training Act of 1973 and heads of Federal agencies administering authority under any of specified Acts or programs, including the State and Local Fiscal Assistance Act of 1972, the Housing and Community Development Act, and public works assistance programs, to give special consideration to Opportunities Industrialization Centers, Incorporated, and other national community-based organizations in the provision of job opportunities and comprehensive employment services for the unemployed.

H.R. 12176. April 18, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to establish standards for determining the status of a taxpayer as an independent contractor or self-employed person for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, income tax withholding, and the Old-Age, Survivors, and Disability Insurance Program of the Social Security Act.

H.R. 12177. April 18, 1978. Ways and Means. Postpones until January 1, 1979, the effective date of the provision of the Social Security Amendments of 1977 which eliminates the

monthly retirement earnings exemption under which an individual who earns less than a specified exempt amount in any month may receive full social security benefits under the Old-Age, Survivors, and Disability Insurance program for that month regardless of the amount of such individual's total earnings for the year.

H.R. 12178. April 18, 1978. International Relations. Limits the validity of passports issued to Federal officers, employees, and their dependents, for use in their official duties, to the period of the officer's or employee's official status.

H.R. 12179. April 18, 1978. Ways and Means. Amends the Internal Revenue Code and the Social Security Act to authorize refunds of social security taxes to members of religious faiths which oppose participation in that program. Provides a current exemption from social security taxes for employees engaged in farming where both employer and employee are members of such faiths.

Broadens the existing exemption from the tax on self-employment income for members of such religious faiths to include those individuals who are conscientiously opposed to acceptance of the benefits of public retirement and disability plans only, and not to private plans.

H.R. 12180. April 18, 1978. Banking, Finance and Urban Affairs. Amends the Bretton Woods Agreements Act to terminate all authority granted under such Act after September 30, 1981, unless reauthorized by Act of Congress.

H.R. 12181. April 18, 1978. Government Operations; Small Business. Designates the Small Business Administration as an executive department. Increases the salary of the Administrator of Small Business to level I of the executive schedule.

Directs the President to include the Administrator in all meetings of the Cabinet.

H.R. 12182. April 18, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from gross income a corporate stock distribution to a stockholder based upon the reinvestment of stock dividends in the corporation by such stockholder pursuant to his election to participate in a qualified dividend reinvestment plan, as defined in this Act.

H.R. 12183. April 18, 1978. Judiciary; Post Office and Civil Service. Classifies all deputy United States marshals holding non-supervisory or non-specialist positions at GS–5 through GS–11. Classifies marshals in supervising or specialist positions at GS–12 through GS–14. States that all law enforcement personnel performing the duties of a marshal shall be classified as a marshal. Sets the salary level of the Director of the United States Marshals Service at level V of the Executive Schedule. States that the Director shall set the salary levels of non-law enforcement employees of the Service.

H.R. 12184. April 18, 1978. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated to carry out such Act to $10,000,000.

H.R. 12185. April 18, 1978. Interstate and Foreign Commerce. Amends the Health Programs Extension Act of 1973 to prohibit any entity receiving Federal funds from discriminating against any applicant for study because of the views of the applicant regarding abortion or sterilization.

H.R. 12186. April 18, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) reduce corporate tax rates; (2) repeal the investment tax credit; (3) disallow exclusions from gross income for interest earned on government securities and for amounts used for shipping industry construction; (4) disallow deductions for certain depreciation expenses, for intangible drilling costs of oil and gas wells, and for certain income of Domestic International Sales Corporations (DISC) and Western Hemisphere Trade Corporations; (5) repeal percentage depletion allowances and special capital gains treatment for certain mining production activities; and (6) establish a tax credit for contributions to employee stock ownership plans.

H.R. 12187. April 18, 1978. Interior and Insular Affairs. Removes residency requirements and acreage limitations applicable to lands subject to reclamation laws.

H.R. 12188. April 18, 1978. Post Office and Civil Service. Prohibits any Federal employee from coercing any individual for the purpose of interfering with the right of such individual to disclose any illegal or otherwise improper Government action to the Review Board on Improper Government Actions, established by this Act, and from taking any adverse personnel action against such individual who is a Federal employee in retaliation for such disclosure. Requires the Board to investigate any such disclosure and, in the event further investigation or action is warranted, to notify the person, the head of the agency in which such person is employed, and, if appropriate, the Attorney General and/or the Comptroller General.

H.R. 12189. April 18, 1978. Agriculture. Prohibits the movement of any biological control organism into, through, or within the United States without the authorization of the Secretary of Agriculture.

H.R. 12190. April 18, 1978. Post Office and Civil Service. States that the mailing of a solicitation of an order of goods or services from an addressee in a form which could be interpreted as a bill and which does not contain a prescribed statement that such solicitation is not a bill shall constitute prima facie evidence that the person mailing such matter is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

H.R. 12191. April 18, 1978. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate the deduction of railroad retirement annuities by amounts payable as social security benefits for persons who had current connections with the railroad industry, had at least five years of service with the railroad industry, had at least five years of service, and had attained the age of 65 as of the effective date of such Act.

H.R. 12192. April 18, 1978. Public Works and Transportation. Authorizes additional mileage for the Interstate Highway System for the construction of a route along Missouri Route 725 between Interstate Route 270 and Page Avenue in Saint Louis County, Missouri.

Authorizes appropriations out of the Highway Trust Fund in such amounts as may be necessary to construct such route.

H.R. 12193. April 18, 1978. Banking, Finance and Urban Affairs. Amends the Consumer Credit Protection Act to create safeguards for consumers in the utilization of electronic funds transfer services.

Amends the Truth in Lending Act to expand certain disclosure requirements in the case of credit card issuance, to prohibit specified billing practices, and to provide other protection for consumers.

H.R. 12194. April 18, 1978. Small Business. Amends the Small Business Act to provide assistance to individuals and small business concerns for the acquisition, development, and maintenance of solar energy equipment or other renewable energy source equipment.

H.R. 12195. April 18, 1978. Education and Labor. Amends the formula for allocating funds among the States for basic vocational rehabilitation services under the Rehabilitation Act of 1973.

H.R. 12196. April 18, 1978. Government Operations. Amends the Budget and Accounting Act to increase the Comptroller General's contribution for a survivorship annuity, to increase the amount of such annuity, and to provide for cost-of-living adjustments in such annuity and the Comptroller General's pension.

H.R. 12197. April 18, 1978. Small Business. Directs the head of each Federal agency to prepare a small business impact statement in connection with each rule made by such agency, unless the agency head, with the approval of the Office of Advocacy of the Small Business Administration, determines that such rule will not have a substantial effect on a significant number of small businesses.

H.R. 12198. April 18, 1978. Ways and Means. Amends the Tariff Schedules of the United States to suspend temporarily the customs duty on polystyrene foam.

H.R. 12199. April 18, 1978. Interstate and Foreign Commerce. Amends the Federal Power Act and the Natural Gas Act to provide procedures for the establishment and review of fuel adjustment clauses. Extends the scope of the prohibition against interlocking directorates among utilities, natural gas companies, and related firms.

H.R. 12200. April 18, 1978. Ways and Means. Amends the Internal Revenue Code to prohibit the transferee of a qualified stock option from making an election to include in his gross income in the year of transfer the excess of the fair market value of such option over the amount paid for it.

H.R. 12201. April 18, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 12202. April 18, 1978. International Relations. Requires the Secretary of State to demonstrate solar energy and other renewable energy technologies by using such energy sources in Foreign Service buildings located abroad.

Directs the Secretary to consult with the Secretary of Energy concerning the most viable techniques adaptable to the local resources and environmental conditions of the host country.

Requires the Secretary of State to insure that projects under this Act are demonstrated to, and are available for inspection by, officials and other citizens of the host country.

Directs the Secretary to give priority to projects in less developed countries.

H.R. 12203. April 18, 1978. Interstate and Foreign Commerce. Directs the Secretary of Commerce, in consultation with the Secretary of Energy, to conduct a global market survey to determine which foreign countries might serve as markets for solar energy equipment manufactured in the United States.

H.R. 12204. April 18, 1978. Merchant Marine and Fisheries. Abolishes the Federal Maritime Commission. Transfers the functions of the Commission to the Office of the Special Representative for Trade Negotiations, the Department of Transportation, and the Interstate Commerce Commission.

Establishes within the Office of the Special Representative for Trade Negotiations a Deputy Special Representative for Maritime Affairs who shall be responsible for the regulation of United States foreign waterborne commerce.

H.R. 12205. April 18, 1978. Government Operations. Exempts specified State or local governments from conforming to specified public hearing provisions of the State and Local Fiscal Assistance Act of 1972, in the event that holding such a hearing is unreasonably burdensome in relation to the revenue sharing funds to be received by such government.

H.R. 12206. April 18, 1978. Ways and Means. Subjects specified kinds of preserved beef and veal products to the policy of Congress related to the restriction of beef imports.

Revises the formula for the determination of beef and veal import quotas. Repeals the authority of the President to suspend a proclamation limiting beef imports. Directs the President to limit beef imports at any one port of entry in order to insure the geographical distribution of such imports. Declares it the policy of Congress that a quota should be imposed upon the importation of cattle. Directs the President to impose such limitation and to limit such imports at any one port of entry.

H.R. 12207. April 18, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 12208. April 18, 1978. Banking, Finance and Urban Affairs. Extends the supervisory authority of Federal agencies which regulate depository institutions.

Prohibits interlocking director and management relationships between financial institutions.

Restructures the National Credit Union Administration.

Regulates the sale of insured financial institutions.

Establishes the Bank Examination Council to formulate uniform principles and standards for the examination of banks by Federal bank regulatory agencies.

Revises: (1) the power of national banks to purchase, hold, and convey real property; (2) trust powers of national banks; and (3) emergency restrictions on Federal Reserve banks.

Requires the termination of the National Bank Closed Receivership Fund.

H.R. 12209. April 18, 1978. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act regarding Department of Defense overseas dependents schools to limit the term of teaching positions and the travel and quarters allowance benefits for teachers who are recruited outside the United States.

H.R. 12210. April 18, 1978. Post Office and Civil Service. Entitles physicians employed by the Federal Government to a professional allowance in addition to basic pay.

Authorizes Federal agencies to enter into service agreements with prospective government physicians whereby the physician is paid a bonus of up to $10,000 per annum in return for agreeing to work a specified number of years in such agency.

H.R. 12211. April 18, 1978. Post Office and Civil Service. Increases the amount of leave a Federal employee serving aboard an oceangoing vessel is entitled to be granted without regard to any other leave. Repeals the requirement that such additional leave be granted only if such vessel were on an extended voyage.

H.R. 12212. April 18, 1978. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require that contracts and agreements respecting any consumer credit transactions subject to such Acts be written in clear and understandable language.

H.R. 12213. April 18, 1978. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require that contracts and agreements respecting any consumer credit transactions subject to such Act be writin clear and understandable language.

H.R. 12214. April 18, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction of up to $2,500 annually and $10,000 in a lifetime for contributions to an individual housing account. Makes such accounts tax exempt and allows distributions from such an account to be tax free if such distributions are used exclusively for the purchase of a principal residence for the distributee.

H.R. 12215. April 18, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 12216. April 18, 1978. Ways and Means. Directs the Secretary of the Treasury to admit free of duty specified items for the use of a certain church.

H.R. 12217. April 18, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 12218. April 19, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit unsolicited commercial telephone calls to a telephone subscriber who has notified the telephone company that he does not wish to receive such calls.

H.R. 12219. April 19, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit unsolicited commercial telephone calls to a telephone subscriber who has notified the telephone company that he does not wish to receive such calls.

H.R. 12220. April 19, 1978. Ways and Means. Amends the Internal Revenue code to prohibit the taking of a business deduction for expenses paid or incurred to advertise alcoholic beverages.

H.R. 12221. April 19, 1978. Interstate and Foreign Commerce. Amends the Rail Passenger Service Act to authorize appropriations for the National Rail Passenger Corporation for fiscal year 1979. Directs the Secretary of Transportation to formulate and implement an optimal intercity route system for the Corporation.

Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to establish maximum travel times between points in the Northeast Corridor. Directs the National Railroad Passenger Corporation to establish rolling stock and related equipment which will be compatible with the Northeast Corridor.

Directs the Postal Service to utilize the services of the Corporation in the surface transportation of mail.

H.R. 12222. April 4, 1978. International Relations. Authorizes appropriations for development assistance and economic stability under the Foreign Assistance Act of 1961 for fiscal year 1979. Repeals the authority for security supporting assistance programs under such Act. Revises the annual reporting requirements under such Act. Terminates specified programs and funding limitations of such Act.

Mandates the establishment of an International Development Coordination Administration to supersede the Agency for International Development and to coordinate international development activities.

H.R. 12223. April 19, 1978. Agriculture. Prohibits the Secretary of Agriculture, for a two-year period, from issuing any order or regulation: (1) restricting the use of nitrites or nitrates as preservatives in meat products beyond a specified degree or (2) requiring labeling on meat products concerning nitrites or nitrates in addition to the requirements already in effect.

H.R. 12224. April 19, 1978. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such Act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the Act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the Act.

H.R. 12225. April 19, 1978. Public Works and Transportation. Authorizes the Secretary of the Army to enter into agreements with any State or public agency to carry out one or more projects to demonstrate methods and techniques for the elimination or control of pollution within lakes.

H.R. 12226. April 19, 1978. Public Works and Transportation. Authorizes appropriations for Federal-aid highway programs, highway safety projects, and mass transportation projects. Authorizes the Secretary of Transportation to make Federal financial assistance available for State projects for highway bridge replacement, interstate highway resurfacing, traffic control signalization and urban bikeways. Authorizes the Secretary to carry out specified transportation demonstration projects.

Amends the Urban Mass Transportation Act to revise Federal financial assistance programs under such Act.

H.R. 12227. April 19, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 12228. April 19, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 12229. April 19, 1978. Interstate and Foreign Commerce; Interior and Insular Affairs. Authorizes the Secretary of Energy to make grants to specified States for the restoration of abandoned uranium mill sites.

H.R. 12230. April 19, 1978. Interior and Insular Affairs. Establishes the Long Island Sound Heritage in Connecticut and New York.

H.R. 12231. April 19, 1978. Interstate and Foreign Commerce. Amends Title VIII (Nurse Training) of the Public Health Service Act to extend for two fiscal years, through fiscal year 1980, the program of financial assistance for nurse training.

H.R. 12232. April 19, 1978. Ways and Means. Amends the Unemployment Compensation Amendments of 1976 to provide compensation for members of the National Commission on Unemployment Compensation who are not full-time Federal employees.

Revises the deadline for the Commission's final and initial interim report, and requires the Commission to submit an additional interim report.

Delays the effective dates to provisions (1) requiring set offs against unemployment compensation of certain pension benefits and (2) extending unemployment compensation coverage to certain alien agricultural workers.

H.R. 12233. April 19, 1978. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of the Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 12234. April 19, 1978. Veterans' Affairs Stipulates that intervals between terms not exceeding 15 days and certain teacher conferences or training sessions shall not be counted as absences for purposes of veterans' educational assistance determinations for eligible veterans (and other eligible persons) enrolled in courses not leading to a standard college degree.

H.R. 12235. April 19, 1978. Agriculture; International Relations. Authorizes the Secretary of Agriculture, through the Commodity Credit Corporation, to provide intermediate export loans on terms of from

five to ten years in order to develop and expand foreign markets for United States agricultural commodities, including breeding livestock.

H.R. 12236. April 19, 1978. Government Operations. Establishes an executive department to be known as the Department of Education to be administered by a Secretary of Education.

Transfers to such Secretary specified functions of the Secretary of Health, Education, and Welfare and the Commissioner of Education and specified educational responsibilities of other Federal agencies and instrumentalities.

Redesignates the Department of Health, Education, and Welfare and the Secretary of such Department as the Department of Health and Welfare, and the Secretary of Health and Welfare.

Establishes a Commission on School Finance.

H.R. 12237. April 19, 1978. Public Works and Transportation. Authorizes the Secretary of Transportation to furnish Federal financial assistance for construction projects to separate rail-highway crossings where the rail facilities have incurred a substantial increase in use as a result of coal transportation activities with the result of substantial delays in highway travel.

H.R. 12238. April 19, 1978. Agriculture. Amends the Agricultural Act of 1949 to increase the loan levels and established prices of the 1978 crops of cotton, feed grains, and wheat.

Amends the Commodity Credit Corporation Charter Act to increase the corporation's borrowing authority.

H.R. 12239. April 19, 1978. Agriculture; Ways and Means. Imposes specified labeling and inspection requirements on imported equine meat products. Amends the policy of Congress to restrict the importation of beef, veal, goat, and sheep meat, and live cattle to specified amounts. Decreases the percentage by which estimates of such annual imports must exceed the imports of the preceding calendar year before triggering the imposition of import quotas. Revises the circumstances under which the President may suspend or impose an import quota proclamation relating to imports covered by this Act.

H.R. 12240. April 19, 1978. Intelligence; Armed Services; Judiciary. Authorizes appropriations for fiscal year 1979 for intelligence and intelligence-related activities. Sets an end strength ceiling for the intelligence community for fiscal year 1979 at 170 full-time employees.

Requires the Attorney General to notify specified House and Senate intelligence committees whenever there have been admitted into the United States aliens who are excludable under specified laws because of the threat of their presence to the national security.

H.R. 12241. April 19, 1978. Judiciary. Grants a Federal charter to the Gold Star Wives of America.

H.R. 12242. April 19, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 12243. April 19, 1978. Ways and Means. Amends the Trade Act of 1974 (with respect to the authority of the President to negotiate trade agreements) to direct the President to reserve any article for which an agreement limiting agricultural imports has been entered into, from negotiations to reduce or eliminate customs duties or import restrictions.

H.R. 12244. April 19, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to require physicians to accept payment by assignment from the provider of services which such physicians furnish in Medicare-participating hospitals under the Supplementary Medical Insurance program.

H.R. 12245. April 19, 1978. Judiciary; Armed Services; Ways and Means; Post Office and Civil Service. Revises the Civil Rights Act of 1964 regarding public accommodations and federally assisted programs, veteran's and armed forces dependents benefits, social security benefit, and tax deductions for retirement account contributions with respect to sex discrimination. Requires the Secretary of Health, Education, and Welfare, to study and make recommendations to Congress concerning women's retirement benefits, child care services, and tax deductions for child and disabled parent care services.

H.R. 12246. April 19, 1978. Merchant Marine and Fisheries. Directs the Secretary of the department in which the United States Coast Guard is operating to cause a certain vessel to be documented as a vessel of the United States.

H.R. 12247. April 19, 1978. Judiciary. Declares a certain individual to have satisfied residence and physical presence requirements for naturalization, under the Immigration and Nationality Act.

H.R. 12248. April 20, 1978. Interior and Insular Affairs. Directs the Secretary of the Interior to conduct a study of the feasibility of establishing the Santa Margarita National Recreation Area, in the area which is now Camp Pendleton, California.

H.R. 12249. April 20, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Administrator of the Environmental Protection Agency to make grants to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations.

H.R. 12250. April 20, 1978. Interior and Insular Affairs. Establishes the Boundary Waters Canoe Area Wilderness and the Boundary Waters Canoe Area National Recreation Area, in Minnesota.

H.R. 12251. April 20, 1978. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to extend and increase specified rural housing assistance programs.

Directs the Secretary of Agriculture to withhold assistance for specified programs from any otherwise eligible borrower who fails to incorporate energy conservation features into such structure.

H.R. 12252. April 20, 1978. Veterans' Affairs. Provides for a burial allowance of $150 to be paid by the Veterans' Administration: (1) to any State or political subdivision thereof for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 12253. April 20, 1978. Veterans' Affairs. Provides for a burial allowance of $150 to be paid by the Veterans' Administration: (1) to any State or political subdivision thereof for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 12254. April 20, 1978. Education and Labor. Provides for the funding, construction, planning and operation of Indian community colleges.

H.R. 12255. April 20, 1978. Education and Labor. Amends the Older Americans Act of 1965: (1) to require each State in order to be eligible for a grant under the Act to develop and administer a State plan for the aged for social services, nutrition services and multipurpose senior centers; (2) to authorize grants to support the development of comprehensive, coordinated systems of community long-term care for older persons; (3) to authorize the President to call a White House Conference on Aging in 1981; and (4) to direct the Commission on Civil Rights to study discrimination based on race or ethnic background in federally assisted programs affecting older persons.

H.R. 12256. April 20, 1978. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to revise the method of computation of annuities for certain retired employees and their surviving spouses.

H.R. 12257. April 20, 1978. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when the veteran's remains have not been recovered or identified or have been buried at sea.

H.R. 12258. April 20, 1978. Veterans' Affairs. Increases from $250 to $350 the burial and funeral expense allowance which may be paid by the Veterans' Administration on behalf of certain deceased veterans.

H.R. 12259. April 20, 1978. Veterans' Affairs. Increases fom $250 to $350 the burial and funeral expense allowance which may be paid by the Veterans' Administration on behalf of certain deceased veterans.

H.R. 12260. April 20, 1978. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when the veteran's remains have not been recovered or identified or have been buried at sea.

H.R. 12261. April 20, 1978. Veterans' Affairs. Directs the Secretary of Defense to place a memorial plaque in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery to pay tribute to those members of the armed forces who served in Southeast Asia during the Vietnam era. Directs the Secretary, to honor those members who lost their lives in Southeast Asia, to display near such plaque the medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam era.

H.R. 12262. April 20, 1978. Veterans' Affairs. Directs the Secretary of Defense to place a memorial plaque in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery to pay tribute to those members of the armed forces who served in Southeast Asia during the Vietnam era. Directs the Secretary, to honor those members who lost their lives in Southeast Asia, to display near such plaque the medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam era.

H.R. 12263. April 20, 1978. Ways and Means. Amends the Internal Revenue Code to provide that no gain from the sale of securities shall be recognized if the purchaser of such securities buys replacement securities within 18 months of the sale of the original securities.

Allows an offset against taxable income of all losses from the sale of replacement securities.

Repeals limitations on allowable deductions for interest payments on investment indebtedness.

H.R. 12264. April 20, 1978. Interior and Insular Affairs. Designates the Blackjack Springs Wilderness Area and the Whisker Lake Wilderness Area, both within the Nicolet National Forest, Wisconsin, as wilderness areas. Directs the Secretary of Agriculture to administer the areas in accordance with the provisions of this Act.

H.R. 12265. April 20, 1978. Government Operations; Small Business. Amends the Office of Federal Procurement Policy Act to require the payment of interest on contract payments which are overdue under Federal contracts with small businesses.

H.R. 12266. April 20, 1978. Judiciary. Authorizes the appropriation of such sums as may be necessary to carry out the Civil Rights Act of 1957.

Amends such Act with respect to: (1)

the compensation of Civil Rights Commission members, (2) the deadline for a report by the Commission to the Congress on violations of civil rights, (3) the establishment of advisory commitees to the Commission, and (4) vacancies on the Commission.

Amends such Act to require the Commission (1) to study age and handicap discrimination, (2) to review related Federal law and policies, and (3) to serve as a clearinghouse for information regarding such discrimination.

H.R. 12267. April 20, 1978. Education and Labor. Amends the Older Americans Act of 1965 to establish the National Commission on Housing for the Elderly to study, investigate, and review housing needs for the elderly.

H.R. 12268. April 20, 1978. Education and Labor; Ways and Means. Amends the Higher Education Act of 1965 to authorize the Commissioner of Education to establish a system of undergraduate tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954.

Establishes a trust fund in the United States Treasury for such tuition advance program.

H.R. 12269. April 20, 1978. Judiciary. Directs the President to promulgate and publish regulations and standards for merit selection of nominees for United States Attorney or United States district court judge.

Stipulates that the President may waive such procedures and that no nomination may be invalidated for failure to comply with such procedures.

H.R. 12270. April 20, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from the coverage of the Federal Unemployment Tax Act agricultural handharvest labor performed by full-time students under the age of 16 years.

H.R. 12271. April 20, 1978. Agriculture. Directs the Secretary of Agriculture, acting through the Agricultural Stabilization and Conservation Service and the Commodity Credit Corporation, to make incentive payments to any qualified dairyman with respect to: (1) any dairy cow which such person markets and delivers for slaughter; and (2) any bred dairy heifer or dairy cow exported.

H.R. 12272. April 20, 1978. Interior and Insular Affairs. Expands and makes changes with respect to, the Federal San Luis Unit Service Area of the Central Valley Reclamation Project, California.

H.R. 12273. April 20, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under such Title may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned

H.R. 12274. April 20, 1978. Education and Labor. Amends the Rehabilitation Act of 1973 to authorize the Secretary of Health, Education, and Welfare, through the Commissioner of the Rehabilitation Services Administration, to establish up to 12 programs for training interpreters for the deaf. Designates six institutions which may serve as base centers and requires that the six additional authorized centers have ongoing operating programs for training interpreters.

Permits centers to operate satellite interpreter training programs.

Directs the Secretary to institute a program for the establishment of information and referral centers and of interpreter referral centers for the deaf in each State.

H.R. 12275. April 20, 1978. Education and Labor. Amends the Older Americans Act of 1965: (1) to require the National Information and Resource Clearing House for the Aging to prepare and disseminate information related to transportation services for older persons; and (2) to require the Council on Aging to undertake a study of transportation programs for older persons offered by the Federal Government.

H.R. 12276. April 20, 1978. Interstate and Foreign Commerce. Directs the Secretary of Transportation to establish regional reserves of railroad rolling stock for lease to rail carriers for seasonal, specialized, or high volume operations which in and of themselves do not justify the purchase of equipment.

Authorizes the Secretary to make grants to States to upgrade rail lines which are abandoned or subject to abandonment.

Requires that, in carrying out this Act, opportunities for employment be afforded to the unemployed.

H.R. 12277. April 20, 1978. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to permit States to provide home health care and other services to individuals who would otherwise be eligible to receive medical assistance if they were institutionalized.

H.R. 12278. April 20, 1978. Veterans' Affairs. Extends the time period within which the board of review concerned, on its own initiative, shall determine whether a person who has been awarded a general or honorable military discharge under specified revised standards for the review of discharges is entitled to an upgraded discharge. Extends the time during which a former serviceperson may continue to receive Veterans' Administration benefits pending such determination.

H.R. 12279. April 20, 1978. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide for the pricing of Federal Reserve System services and for the payment of interest on reserves which member banks are required to maintain.

H.R. 12280. April 20, 1978. Post Office and Civil Service. Denies pension and survivor's annuity benefits to any Federal employee who is convicted of any felony committed in connection with his or her Federal employment or who has fled the United States to avoid prosecution for any such felony.

H.R. 12281. April 20, 1978. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the Act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 12282. April 20, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction of up to $2,500 annually and $10,000 in a lifetime for contributions to an individual housing account. Makes such accounts tax exempt and allows distributions from such an account to be tax free if such distributions are used exclusively for the purchase of a principal residence for the distributee.

H.R. 12283. April 20, 1978. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to stipulate that nothing in such Act shall be construed to authorize any regulation designed to restrict hunting, recreational fishing, or recreational shooting sports or to establish safety or health standards for work performed in any location which is customarily used for such activities.

H.R. 12284. April 20, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12285. April 24, 1978. Interior and Insular Affairs. Changes the amount per acre which the Secretary of the Interior must pay to local governments for public lands within the boundaries of such localities.

H.R. 12286. April 24, 1978. International Relations. Authorizes appropriations for fiscal years 1979, 1980, and 1981, to carry out the International Investment Survey Act.

Directs the President to study the feasibility of a monitoring system for foreign direct investment in agricultural, rural, and urban real property.

H.R. 12287. April 24, 1978. House Administration. Authorizes the Board of Regents of the Smithsonian Institution to acquire the Museum of African Art.

H.R. 12288. April 24, 1978. Education and Labor. Amends the Older Americans Act of 1965: (1) to require each State in order to be eligible for a grant under the Act to develop and administer a State plan for the aged for social services, nutrition services and multipurpose senior centers; (2) to authorize grants to support the development of comprehensive, coordinated systems of community long-term care for older persons; (3) to authorize the President to call a White House Conference on Aging in 1981; and (4) to direct the Commission on Civil Rights to study discrimination based on race or ethnic background in federally assisted programs affecting older persons.

H.R. 12289. April 24, 1978. Ways and Means. Amends the Internal Revenue Code to revise the social security tax rates established by the Social Security Amendments of 1977.

Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase allocations of employment income and decrease allocations of self-employment income from the Treasury to the Federal Disability Insurance Trust Fund. Repeals increases in the contribution and benefit base.

Permits the making of loans between the Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund.

H.R. 12290. April 24, 1978. Judiciary. Rescinds the authority of the Attorney General with respect to (1) approval of a pretrial services agency's provisions of facilities such as treatment centers for the custody and care of released persons, (2) certification of community supervision programs for drug dependent persons on probation and termination of a person's participation in such a program, and (3) contracting for supervisory aftercare of an offender.

H.R. 12291. April 24, 1978. Ways and Means. Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross income; thereby providing the deduction to individuals who do not itemize.

H.R. 12292. April 24, 1978. Interstate and Foreign Commerce. Amends the Public Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to carry out developmental and demonstration projects for providing, improving, or expanding accessibility, acceptability, or quality of health services provided to medically underserved populations.

H.R. 12293. April 24, 1978. Government Operations. Directs the Secretary of the Treasury to make quarterly payments to local governments experiencing substantial unemployment or secular decline. Authorizes appropriations for supplemental fiscal assistance payments to eligible territorial governments, Indian tribes, and Alaskan Native villages.

H.R. 12294. April 24, 1978. Interstate and Foreign Commerce; Ways and Means. Requires all gasoline stations, within three years of the passage of this Act, to sell a mixture of gasoline and alcohol in the same manner as they sell gasoline. Imposes a civil penalty for violations of such requirement. Amends the Internal Revenue Code to allow rapid amortization of facilities producing alcohol for us as a fuel in motor vehicles. Amends the Clean Air Act with respect to the authority of the Environmental Protection Agency to regulate the use of alcohol as a fuel additive.

H.R. 12295. April 24, 1978. Veterans' Affairs. Designates the Veterans' Administration hospital located at 1481 West Tenth Street, Indianapolis, Indiana, as the "Richard L. Roudebush Veterans' Hospital."

# SENATE—*Friday, July 28, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. PAUL G. HATFIELD, a Senator from the State of Montana.

Mr. PAUL G. HATFIELD. The convening prayer will be offered by the Honorable RICHARD G. LUGAR, a Senator from the State of Indiana.

## PRAYER

The Honorable RICHARD G. LUGAR, a Senator from the State of Indiana, offered the following prayer:

Dear God, help us to see our work in proper perspective. You are our Creator. You are our loving Father, now and for eternity.

We pray for the souls of four of our Members who began this session of the Congress with us and who dwell now with You. We know that we will serve not a day nor an hour longer than You wish.

But while we serve, help us to learn more about prayer and, through prayer, to learn more about You and Your world. If we should begin to succeed in not taking ourselves so seriously, teach us also how to succeed much more abundantly in taking our work much more seriously. There is so much to do. Help us to find sound alternatives, and help us to forward justice and mercy through timely decisions.

Be close to us on this day and guide us in making our rules and policies more humane. Remind us of the need to conserve the greatness of our natural heritage, to have compassion for the poor, to learn truly how to love one another as better vessels of Your will and with recognition that we are surrounded by Your awesome and Your loving presence. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., July 28, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL G. HATFIELD, a Senator from the State of Montana, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. PAUL G. HATFIELD thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Mr. MORGAN is recognized under the order, he may utilize any of my time that he may need.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time and no request for the time. I note that the majority leader yielded the remainder of his time to the distinguished Senator from North Carolina. If he needs more, I shall be glad to give him mine, too.

I inquire if he has any need for that.

Mr. MORGAN. Mr. President, with all the generosity of the leaders this morning, I might expound on a number of subjects.

Mr. BAKER. Mr. President, I think we might have encouraged the distinguished Senator excessively. I withdraw my offer.

I yield back my time.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes plus the time yielded by the majority leader.

## THE POSTAL SERVICE SITUATION

Mr. MORGAN. Mr. President, I have asked for time this morning to speak on a subject that is of great concern to the people of North Carolina and, I believe, to people all over the Nation. That is the Postal Service of the United States.

I am becoming increasingly concerned about the Postal Service, or lack of it, in North Carolina. I am sure that parallel situations can be found in other States.

People are paying the new, higher rates, such as the 15 cents it costs to mail a letter, because they have no choice. We in Congress have seen to that; we have given the Postal Service a monopoly on first class mail. The sharp increase is part of the inflation that has hit us all, and is also contributing to that same inflationary spiral.

I have also been told that the extremely slow delivery of mail is hurting the more than 100 nondaily newspapers that are published in North Carolina, the businessmen who advertise their products in those newspapers, and the thousands of subscribers.

Nondaily papers depend on the mails to get most of their copies to their subscribers.

And most of them publish on Wednesday or Thursday so that the papers can be delivered to readers before the weekend.

Businesses that advertise, for the most part, gear their advertising to attract people to their places before the weekend. A grocery, for instance, will advertise its special prices aimed at people doing their end-of-the-week shopping.

But I have been told by publishers that all too often, the papers that are mailed on Thursday do not get delivered until Monday of the next week. This, I am informed, is not an isolated case, but has become widespread.

This snail-like performance on the part of the Postal Service is critically injuring these newspapers and it is also harming the thousands of North Carolina businesses, large and small, who use them to advertise their wares.

This seems to me to be a ridiculous situation, and also a serious one.

The publisher of one of our better North Carolina nondaily newspapers told me about his problems. He publishes his paper in the largest town in his county, which contains several small towns that have separate post offices. He said:

> Our rates have gone up some 450 percent in the last few years and now we do most of the work for the post office. We place the mail that is to go to each other post office in a separate bag so that all they have to do at the post office is deliver the bags. But we found that we can't do that.
>
> If we sent the bags to the post office in our town on Thursday, the bags are sent to a distributing point a hundred miles away and they won't get back here before the weekend. So what we have to do is to put the bags in a car and take them to the other nearby post offices. That's the only way we can be assured of same week delivery.

Now I submit there is something wrong with a system that will send a mail bag full of newspapers a hundred miles to a distribution point rather than sending it 12 miles to the post office where it is supposed to eventually go.

As I say, this would be ridiculous and also comical if it were not seriously affecting several thousand businesses in our State.

This situation with nondaily newspapers is but a symptom of the whole sickness that has affected our ability to deliver the mail in this country.

Almost everyone has his own horror story of a letter or a package that took a week to move for just a short distance.

Just last week, it took 5 days for me to get a letter mailed from the Democratic National Committee in northwest Washington to my office here in this section.

A few years ago we listened to those who claimed that all the Post Office needed was to be taken away from the Government and placed under private control.

We have tried that and just how well it has worked in holding down costs and providing better service is apparent to everyone.

It may be time to seriously consider returning it to where it was and to see if we can get a weekly newspaper delivered 10 miles in the same week that it was published.

Mr. President, I would urge the members of the committee that handles the Post Office to give consideration to returning the Postal Service back where it belongs.

It is not a question of pay. The lowest paid Postal Service employee in most towns in North Carolina make more than the highest paid schoolteacher that is charged with the instruction of our children. Yet we cannot get a newspaper delivered within 10 miles.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. MORGAN. I am delighted to.

Mr. HARRY F. BYRD, JR. It is a most interesting presentation that the Senator from North Carolina has made to the Senate today.

It is really astonishing to learn, which I had not learned before, that mail has to be taken a hundred miles and then brought back to a distribution point within 12 miles of where it originally started before mail can be delivered.

It is no wonder, in such a circumstance as that, that the delivery of the mail is as bad as it is in many areas.

May I ask the Senator this, did he happen to see in the press last week, I believe it was, where an individual in Salt Lake City sent two letters to the same addressee in San Francisco, one went by regular mail, U.S. Postal Service, the other went by Pony Express. The Pony Express letter was received before the regular mail letter was received.

Mr. MORGAN. I would say to my colleague that I did not see it, but the fact does not surprise me at all.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina.

Mr. MORGAN. Mr. President, while I am on this subject, I notice in the press that postal workers across the Nation are talking about striking. It just happened to occur to me when I read one of those stories that whenever an employee of this Senate fills out his application to go on the payroll to work for this Senate, he has to certify that he has never participated in a strike against the U.S. Government. I think that is proper, because if the millworker down in my hometown wants to go on strike, I can go somewhere else and find some blue denim from his competitor.

But we in Government have given to the Postal Service a monopoly. We cannot turn anywhere else for service. We are dependent upon these people for service and I do not believe that it is right for public employees who are given this right to engage in strikes.

I might say that it is a violation of the law for a person to strike. In the Public Law 89–554, title V, it forbids any person from accepting or holding a job of the Federal Government, or in the District of Columbia government, who participates in a strike or asserts a right to strike against a Government employer.

Mr. President, I want to serve notice on the Attorney General, or whoever is in charge of enforcing the laws of this Nation, that I, for one, as a Member of this Senate, expect to see that law upheld.

We cannot continue to tolerate unlawful public employee strikes which damage the public good and endanger the national security of this country.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. MORGAN. I am delighted to yield to the Senator.

Mr. HARRY F. BYRD, JR. The Senator from Virginia would like to associate himself with the views just expressed by the able Senator from North Carolina.

I think we do have adequate laws on the books. The problem is, is the Government willing to enforce the laws?

Now, when they get to ticklish and difficult situations, such as the public employee strikes, they want to take the easy way out and want to say, "Well, we don't want to ruffle the feathers of a powerful political group, so we'll not enforce the law."

I want to associate myself with the Senator from North Carolina (Mr. MORGAN) in expressing the hope that the Attorney General, the President, those in a position of responsibility, will see that the laws are enforced and that the interests of all the people of the country are protected against unauthorized and unlawful strikes against the Government.

Mr. MORGAN. I thank my colleague.

I hope they will not negotiate away these rights. I do not believe anybody has the authority to do so. But it seems to me that in almost every labor situation, about the last thing that is negotiated is that "Well, all right, we're going to settle this, provided all criminal charges are dropped."

The Congress of the United States put this law on the books, and I do not believe that the Postmaster General—I understand he is enforcing it, and I hope we will give him our moral backing—the President of the United States, the Attorney General or anyone else should negotiate away these rights.

## ORDER OF BUSINESS

Mr. MORGAN. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 20 minutes remaining.

Mr. MORGAN. Mr. President, I shall speak now of one of our departed colleagues, the late Jim Allen, of Alabama.

## JAMES B. ALLEN: A MAN OF STATURE

Mr. MORGAN. Mr. President, the death of Senator James Browning Allen is a loss to us all, regardless of our ideology or party affiliation.

I shall remember Senator Allen as a man of strong conviction in not only matters of substance, but equally strong in his conviction on the rules by which legislative decisions were made.

All of us knew Senator Jim Allen, the conservative, a man who fervently believed in the rights of our States to determine their own destiny, a man who believed in a strong national defense, and a man who promoted the concept of private enterprise over government initiative.

While I remember Jim Allen for his disciplined ideology, I will also remember him for his steadfast commitment to the notion of the Senate as a body of coequals. Indeed, Senator Allen's knowledge of the rules of the Senate made this a more democratic body.

Senator Allen provided a worthy model for us all. He was a deeply religious man who shared with us, particularly through example, his strongly held religious beliefs.

This great Alabamian and American was a student of all aspects of the legislative process. His effectiveness at every step in the legislative process is a standard that we should all strive to achieve.

We all will remember Jim Allen for different legislative accomplishments. I will especially recall Senator Allen as a friend of the farmers of this Nation. This past winter and spring, when the farmers came to Washington to protest low crop prices, Senator Allen was at the forefront in pushing for an improved farm program.

I recall his commitment to modernizing the farm credit programs. In my capacity as chairman of the Subcommittee on Rural Housing, I had the opportunity to cooperate with him on much of this legislation.

Indeed, it should not come as a surprise that his last bill to clear the Senate dealt with the subject of our farm system credit.

Jim Allen was a formidable force in the Senate. His influence went far beyond the reach of his seniority. It is a tribute to this great man that he exercised his abilities in a manner that contributed to greater service to his beliefs and constituency.

The Members of this Chamber extend their sympathy to his widow, MARYON, and the other members of his family.

Mr. President, we all will miss Senator James Browning Allen.

## ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me 5 minutes of his time?

Mr. MORGAN. I yield all my remaining time to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

## PANAMA CALLS ON UNITED STATES TO QUIT CUBA BASE

Mr. HARRY F. BYRD, JR. Mr. President, a week ago today, the Richmond Times Dispatch, of Richmond, Va., published an Associated Press dispatch from Panama City, Panama. The headline reads: "Panama Calls On U.S. To Quit Cuba Base." I will read the first several paragraphs of this news article:

PANAMA.—Panama called yesterday for the United States to give up the Guantanamo Naval Base in Cuba, to allow self-determination for Puerto Rico, and for Israel to return all of occupied Arab lands.

The government made the points in a 14-page document intended to lay the basis for its foreign policy.

"The centerpiece of our foreign policy has been the canal. Now that an agreement has been reached with the United States, we felt we needed to redefine our foreign policy," Foreign Minister Nicolas Gonzalez Revilla said.

That is the end of the quotation from the Associated Press dispatch from Panama.

Mr. President, it did not take Panama very long to begin to flex its muscles after the United States gave to Panama property of the United States with a replacement value of approximately $9 billion.

According to the proponents, the purpose of giving away the Panama Canal was to appease the Panamanians, to try to bring about a more friendly relationship with the Panamanians. That action has been taken. The Senate has approved the giving away of the Panama Canal.

Within 2 months after that action having been taken, Panama now calls upon the United States to give up its naval base at Guantanamo.

Panama is not even content with that. Panama goes on to tell the United States what it should do about Puerto Rico.

But Panama is not even content with that. As a basic part of its foreign policy, according to the Foreign Minister, it is telling Israel what it should do in regard to occupied Arab lands.

Mr. President, one would think that Panama would be well satisfied to have been the recipient, at no cost to itself, of the Panama Canal and of property with a total replacement value of $9 billion.

But apparently Panama is not satisfied with that, and it now seeks to require the United States to give up its important naval base in Cuba.

I do not know what response Congress will make to that Panamanian demand. I can only say what response the Senator from Virginia will make. The Senator from Virginia is not receptive to any such demand in the part of Panama and, in fact, thinks it is none of Panama's business.

## ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I yield back the remainder of my time.

## TIME-LIMITATION AGREEMENT—S. 2090

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 822, S. 2090, authorization for community services, is called up and made the pending business before the Senate, that there be a time limitation of 1 hour to be equally divided between Mr. NELSON and Mr. JAVITS, with 30 minutes on any amendment, and 15 minutes on any debatable motion, appeal or point of order which is submitted to the Senate, and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECLAMATION SAFETY OF DAMS ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2820, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2820) to authorize the Secretary of the Interior to construct, restore, operate, maintain new or modified features at existing Federal reclamation dams for safety of dam purposes.

The Senate resumed consideration of the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment on page 2, beginning with line 12, strike through and including line 22, and insert in lieu thereof the following:

SEC. 4. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the Act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this Act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

SEC. 5. All costs heretofore or hereafter incurred pursuant to this Act shall be nonreimbursable and nonreturnable under reclamation law.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act: *Provided*, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a date certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such findings shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allowed to reimbursable purposes heretofore authorized.

SEC. 4. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the Act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this Act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

SEC. 5. All costs heretofore or hereafter incurred pursuant to this Act shall be nonreimbursable and nonreturnable under reclamation law.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act: Provided, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a date certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such findings shall be accompanied by a technical report contain-

ing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 1 hour to be equally divided and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Wyoming (Mr. HANSEN), with 30 minutes on any amendment and with 15 minutes on any debatable motion, appeal, or point of order.

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a time transfer on the side of the minority and that such time be handled by the distinguished senior Senator from Oregon (Mr. MARK O. HATFIELD).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Rick Cocker, of my staff, be accorded the privilege of the floor during the consideration of the pending measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JACKSON. I yield to the Senator from Idaho (Mr. McCLURE).

Mr. McCLURE. Mr. President, I ask unanimous consent that Kit Caples, of my staff, be accorded the privilege of the floor during all stages of this legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JACKSON. I yield.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that Beverly Charles, of Senator JAVITS' staff, be accorded the privilege of the floor during debate and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield for a similar request?

Mr. JACKSON. I yield.

Mr. DOMENICI. Mr. President, I ask uanimous consent that Linda Dickman, of my staff, be accorded the same privilege.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that Mary Goedde, of Senator HAYAKAWA's staff, be accorded the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I ask unanimous consent that Mr. Barry Berkoff, of my staff, be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the committee amendment be agreed to and that the bill as thus amended be treated as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the purpose of the pending measure, S. 2820, is to provide permanent authority for the Secretary of the Interior to undertake actions deemed necessary to assure safety of dams and related facilities under the jurisdiction of the Bureau of Reclamation, thereby permitting such necessary actions to be taken in a more timely manner.

In the past few years, major modification of dams for safety purposes have been authorized by Congress on a case-by-case basis, with each project considered in a separate authorizing bill.

The committee believes that it would be appropriate to provide the Secretary with permanent authority to undertake safety of dams modifications rather than having to come to Congress for each project.

Mr. President, that summarizes basically what we are endeavoring to do in connection with the pending measure, S. 2820.

Mr. MARK O. HATFIELD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I rise in support of S. 2820, the Reclamation Safety of Dams Act of 1978.

The Federal Government has a continuing responsibility to insure the safety of dams under its jurisdiction. The legislation before the Senate today deals with those dams and facilities under the jurisdiction of the Bureau of Reclamation; it provides the Secretary of the Interior with permanent authority to modify dams for safety purposes rather than having Congress deal with each facility on a case-by-case basis.

I believe that the bill reported by the Energy and Natural Resources Committee addresses the issue in a responsible manner, and I urge its adoption.

Mr. President, I ask unanimous consent that a statement of Senator HANSEN of Wyoming be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR HANSEN

I support S. 2820, safety of dams legislation. This needed authorization would allow the Secretary of the Interior through the Bureau of Reclamation to proceed in a timely fashion with work to preserve the structural safety of dams under the jurisdiction of the Bureau.

A number of dams have been preliminarily identified as being in need of repairs and modification for safety reasons. It is imperative that funding be authorized for this work immediately. Concerns for life, property and safety of our people have to be first priority in our minds and actions. The reduced water level and secondary hardships on recreation and stream flows are of concern also. I would urge my colleagues to assist us in the prompt passage of this bill.

UP AMENDMENT NO. 1528

(Purpose: Technical amendment to provide for conformance by S. 2820 with the Congressional Budget Act of 1974)

Mr. JACKSON. Mr. President, I send to the desk two technical amendments and ask for their immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes two technical committee amendments, unprinted amendment numbered 1528.

Mr. JACKSON. Mr. President, I ask unanimous consent that the reading of the two technical amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 5, insert the following: "to the extent and in the amounts provided in appropriations acts" after the word "contracts".

On page 3, line 11, insert the following: "effective October 1, 1978" after the word "appropriated".

Mr. JACKSON. Mr. President, I ask unanimous consent that the two technical amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

Mr. JACKSON. Mr. President, the purpose of these two technical amendments is to bring the text of S. 2820 in compliance with the requirements of the Budget Control Act and as such the amendments do not have any substantive impact on the intent of the legislation.

Mr. President, I yield back my time.

Mr. MARK O. HATFIELD. Mr. President, I yield back the time on our side.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment en bloc.

The amendment was agreed to.

UP AMENDMENT NO. 1529

(Purpose: To authorize the Secretary of the Interior to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon)

Mr. MARK O. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk will read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD) proposes an unprinted amendment numbered 1529.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add a new section as follows:

The Secretary of the Interior is hereby directed, notwithstanding the terms of the contract number 14–06–100–7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at Federal expense pursuant to the authority of P.L. 89–596 which authorized the construction operation and maintenance of the Tualatin Reclamation Project in Oregon.

Mr. MARK O. HATFIELD. Mr. President, it is not because I believe the Bureau of Reclamation needs any further authority that I call up my amendment today. It is because the Department of the Interior will continue to resist solving a serious problem at the Tualatin project, now nearing completion in Oregon, unless Congress directs them to solve it immediately.

The problem concerns the perimeter road at Henry Hagg Lake, the reservoir behind the project's Scoggins Dam. Last winter it suffered severe damage from landslides in several locations. Repairs of the damaged sections are estimated by the Bureau to cost $1,375,000. In some locations the land fell away from beneath the roadbed, literally sending the entire section of asphalt down the hill.

This road is actually the county's, relocated by the Bureau to make way for the project; and although it is not on project—Federal—lands, it does provide access to all recreational features of the very popular Hagg Lake—the closest impoundment to metropolitan Portland. The Bureau's contract with the county provided that the Bureau would construct the road and turn it over to the county for operation and maintenance. It also provided for the Federal Government to pay for all extraordinary maintenance for a 2-year "warranty" period, which happened to coincide with the two abnormally dry winters my colleagues will recall as the great western drought of 1975 to 1977. In the following winter, in December of 1977 and after the warranty had expired, the normal prolonged wet weather activated six slides affecting the roadway, four of them major.

Obviously, the warranty period did not provide a good test of the road's construction.

I should point out, Mr. President, that at a recent hearing of the Appropriations Subcommittee on Public Works, the Commissioner of Reclamation indicated that the facts which I have stated are accurate. In response to a question from subcommittee Chairman JOHNSTON, Commissioner Higginson said:

Circumstances which could not be foreseen, when the above agreement was entered into between the two parties, were the extreme drought conditions that were to occur during the 2-year warranty period. It is highly probable that the slides would have occurred during the warranty period if normal weather conditions had prevailed. This probability is further substantiated by the fact that, during the first heavy rainfall season after the drought, slide areas developed in the relocated road.

It is our feeling that Washington County, through no fault of its own, did not receive full value from the warranty provision of the contract.

The purpose of my amendment is to assure that the Bureau corrects the road conditions which it ought to correct.

Mr. President, this matter has been cleared with the majority. It is a technical matter which is merely authorizing action for the Bureau to correct this particular problem that has been resisted by the Bureau up to this time.

Mr. JACKSON. Mr. President, as I understand it, this amendment basically is an amendment to clarify existing authority on the part of the Commissioner. Mr. President, I join in supporting the amendment and yield back the time on our side.

Mr. MARK O. HATFIELD. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

UP AMENDMENT NO. 1530

(Purpose: To authorize the Secretary of the Interior to make visitor protection modifications at Buffalo Bill Dam)

Mr. MARK O. HATFIELD. Mr. President, I send to the desk one other amendment on behalf of Senator HANSEN and Senator WALLOP of Wyoming.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD) proposes an unprinted amendment numbered 1530 on behalf of Mr. WALLOP and Mr. HANSEN.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 4, after line 6, insert the following:

SEC. 7. The Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required to provide safe public access to the existing public viewing areas of the Buffalo Bill Dam. Such modifications may be made from funds appropriated under section 6 of this Act.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the statement of Senator WALLOP be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR WALLOP

On May 17th the Bureau of Reclamation locked the gate on the public viewing area of Buffalo Bill Dam, a national historic civil engineering landmark located on the gateway to Yellowstone National Park. When completed in 1910, it was the highest concrete arch dam in the world. Last year this landmark attracted an estimated 300,000 visitors.

The Bureau barred public access, because the rockfall from the adjacent cliffs combined with the increased number of exposed visitors was creating a hazardous situation which they could no longer ignore.

This closing presents us with several options. We can allow the dam to remain closed to the public. It would be a national historic civil engineering landmark, to be viewed only in books and foggy memories.

We could demand that the Bureau re-open the area regardless of the risk to the life and limbs of visitors from all the states and abroad.

Or, the Bureau could make reasonable modifications to provide safe public access from the parking lot to the existing public viewing area of the dam. However, the Bureau does not have general authority to make nonreimbursable expenditures for public safety.

It may be that the Bureau should be given some general authority to accomplish these tasks when necessary. But this is a complex question which deserves more deliberate consideration, and meanwhile this scenic and historic area remains closed.

The amendment which we offer to S. 2820 will simply authorize the Secretary of the Interior to make nonreimbursable modifications adjacent to the Buffalo Bill Dam which are reasonably necessary to protect the visiting public from rockfall on the existing accessway to the viewing area of the dam.

The Buffalo Bill Dam is located only 5 miles west of Cody, Wyoming in a scenic and narrow gorge on the main eastern access road to Yellowstone National Park. The awesome view of this dam and its setting, combined with its proximity to such a busy artery, attracts an increasing number of visitors. It affords the only opportunity for some to view a high concrete arch dam.

Until this year, visitors followed a maintenance road from the parking lot through an abandoned unlined highway tunnel to view the dam and the canyon below. Falling rock has been a problem at the dam since its completion because of the steepness of the canyon walls and continuing fracturing of the rocks. There is no evidence that the extent of rockfall has increased over the years, but the greater visitation has increased the risk. In recent years the Bureau has closed the area to the public during the spring freeze and thaw periods when slides are most likely to occur. Now it remains closed during this busy summer season when thousands would normally step on their way to and from the parks.

The Bureau has examined the alternatives available and decided that the best solution is to enclose the walkway in a pre-cast concrete section. This would be a permanent solution to the problem, and would be compatible with possible future modifications at the dam.

Mr. MARK O. HATFIELD. The purpose of this amendment is to authorize the Secretary of the Interior to make modifications adjacent to the Buffalo Bill Dam in Wyoming to protect the public from rock fall on the existing accessway to the visiting area of the dam.

I believe it has been cleared with the floor manager and I urge its adoption.

I yield back the remainder of my time on this amendment.

Mr. JACKSON. Mr. President, I yield back the remainder of the time on our side.

The ACTING PRESIDENT pro tempore. All time having been yielded back the question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

UP AMENDMENT NO. 1531

Mr. JACKSON. Mr. President, I send to the desk an amendment on behalf of myself, the distinguished Senator from Washington (Mr. MAGNUSON), the Senators from Oregon (Mr. MARK O. HATFIELD and Mr. PACKWOOD), and the Senators from Idaho (Mr. CHURCH and Mr. MCCLURE), and the Senators from Mon-

tana (Mr. MELCHER and Mr. PAUL G. HATFIELD).

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Mr. CHURCH, Mr. MARK O. HATFIELD, Mr. MCCLURE, Mr. MAGNUSON, Mr. MELCHER, Mr. PACKWOOD, and Mr. PAUL G. HATFIELD, proposes an unprinted amendment numbered 1531:

On page 4, line 6, insert the following new section:

"SEC. 7. The proviso contained in section 201 of the Colorado River Basin Project Act (43 U.S.C. 1511) is amended by striking out "ten years" and inserting in lieu thereof 'twenty years'."

Mr. JACKSON. Mr. President, I send to the desk an amendment on behalf of myself, the senior Senator from Washington (Mr. MAGNUSON), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senators from Idaho (Mr. CHURCH and Mr. MCCLURE), and the Senators from Montana (Mr. MELCHER and Mr. HATFIELD).

Mr. President, the purpose of this amendment is to extend the interbasin water transfer study moratorium contained in the Colorado Basin Project Act for an additional 10 years.

As my colleagues in the Senate are well aware, the existing moratorium was included in the Colorado Basin Project Act to provide the time needed by the States in the Pacific Northwest to develop sound projections of water needs so that future demands from outside the Pacific Northwest could be examined in light of State and regional requirements. At the time this measure was initially enacted, there was a strong interest in the arid Southwest in importing supposedly "surplus" Columbia River water as a means of expanding agricultural development of arid lands and resolving interstate controversies over the division of Colorado River water. The Pacific Northwest, at that time, had not been faced with critical water conflicts and had not collected the basic information necessary to refute the contentions that the region could spare massive quantities of water.

The moratorium on interbasin transfer studies has proven to be a wise policy both for the Pacific Northwest and for the Nation. Since 1968, a new comprehension of the problems of resource management has come about. Water resources no longer are viewed as an expendable commodity to be consumed by the highest bidder until the streambed is dry.

Greater sophistication about the many uses of water resources has led to public appreciation of the problems of water quality maintenance, the fish and wildlife and recreational uses of flowing streams and the general ecological impacts of major changes in naturally occurring water.

The value of renewable hydroelectric power production at existing dams has been vastly enhanced by the energy crisis since 1968, and can no longer be dismissed as incidental.

The result of all these developments is to make major water transfers out of the Columbia River unthinkable by today's standards. The Pacific Northwest, indeed, is struggling with internal conflicts over the future development of its remaining water. Controversies between economic uses of water and environmental values have required painful deliberation. Decisions have been made to sacrifice worthwhile and justified hydroelectric projects in order to protect equally significant fisheries and nationally significant recreational and esthetic values.

In short, it is now conclusively proven—both by statistics and by current events—that there is no surplus water in the Pacific Northwest.

Nevertheless, we still hear of resolutions by public bodies, public statements of officials, and continued discussion in the Southwest which contemplate "augmentation" of the Colorado River at our expense.

Mr. President, there is no justification for Federal agencies to lend their credibility and the public's funds to these unrealistic "pipe dreams". We should not embark upon planning which would envision a single public works project which would cost billions of dollars, would benefit only a few citizens, and would jeopardize the future of two major regions in ways we could never predict.

The amendment which I propose will extend the existing moratorium on Federal studies of major interbasin water transfers for 10 more years. It will provide a clear policy statement that the Federal Government does not intend to encourage or support any such venture.

More importantly, it will be a clear signal to the people of both regions that they must make realistic plans to meet regional needs and create a regional future by the wise use of regional resources.

Mr. President, I urge the Senate to adopt this amendment.

I yield to the Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I am pleased to join with the chairman of the Committee on Energy and Natural Resources as a cosponsor of this amendment.

Congress wisely prohibited such a study of interbasin water transfers in 1968 as a part of the Colorado River Basin Project Act and the facts today indicate strongly that a 10-year extension is warranted.

There are those who believe that the Pacific Northwest consists of a vast rain forest, that we are without water quantity problems. I wish this were so, Mr. President, but it is far from the truth. Just as water is not equally distributed throughout the Nation, it is not equally distributed in the Northwest or in my State. Average annual rainfall in some areas of Oregon is as little as 10 inches, and there is an incredible range in the amount of rainfall from year to year. Last year's drought, which was severe enough to bring congressional relief action, provided a vivid example of the problems we face. And it was not too long ago that the Department of the Interior stated that there were 183 communities in Oregon which faced water quantiy problems, caused by inadequate storage and distribution, and insufficient water supplies.

The fact is, Mr. President, that the Columbia River is already an extremely heavily used resource. When available, we are happy to share the benefits of that resource, which include surplus power provided to the Southwest during the summer months, and food grown on irrigated lands. But we cannot afford to think about shipping water itself out of our region when we have not completed our own resource planning and development.

The U.S. Army Corps of Engineers issued a report 2 years ago on irrrigation depletions in the Columbia River System. Their study concluded:

Due to seasonal and geographic distribution of runoff of the Columbia River System there is not sufficient water available with the present level of development to meet all existing and future river uses.

It seems absolutely clear that instead of devoting time and money to any study of diverting water out of our system, we need to deal with the conflicts which exist within it—conflicts which are already taxing the full potential of the Columbia River System.

So I am fully supportive of the amendment which is before the Senate. I urge my colleagues to adopt it.

Mr. JACKSON. Mr. President, I yield to my distinguished senior colleague from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I commend my colleagues from the Pacific Northwest for their compelling emphasis on the need to conserve waters from the Pacific Northwest rivers.

Senator JACKSON is right when he says:

There is no surplus water in the Pacific Northwest.

The amendment we are offering today is the same as legislation passed 10 years ago. The concept is the same. The goal is the same. Only the need has changed. It is greater.

The concept of the amendment is straightforward. It extends the interbasin water transfer study moratorium for an additional 10 years.

The goal of the amendment is equally straightforward. It is to discourage other regions from looking to the Pacific Northwest for water.

The need for this amendment is greater now than it was 10 years ago. For example, regional demand for water was sharply affected by the fuel crisis of 1973, the Northwest drought of 1977, and an increasing demand for irrigated land.

We are now in the process of planning for our future in relation to water, hydroelectric projects, and the potential of the Columbia Basin.

It would be difficult to come to a sensible solution if there is a constant threat hanging over the area as to the full potential of our water.

I repeat. If the need was there 10 years ago, it is doubly so now. We do not have a surplus of water. We have to conserve it wisely and carefully. This amendment allows the Pacific Northwest to respond to its needs.

I again want to compliment my colleague who has taken the leadership in this matter. I commend the Senators from Oregon, Idaho, and other States,

who have joined with us in what I think is so necessary.

Mr. JACKSON. Mr. President, I thank my senior colleague for his kind comments. As a longtime member of the Appropriations Committee, and as its chairman, he has played a critical role in helping to make funds available for all of our great water development projects, not just in the Pacific Northwest but the Pacific Southwest as well.

I yield briefly for a unanimous consent request to the Senator from Alaska (Mr. STEVENS).

Mr. STEVENS. Mr. President, I ask unanimous consent that Harold Espy, of my staff, be permitted to have access to the floor today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. I now yield to the Senator from Idaho (Mr. CHURCH), who has taken a tremendous interest in this project.

Mr. CHURCH. I thank my colleague the able chairman of the Energy and Natural Resources Committee.

There is a provision in this bill, Mr. President, that relates to the American Falls dam in Idaho, which has recently been replaced due to structural faults.

AMERICAN FALLS SAFETY REPAIR

In 1973 Congress passed and the President signed into law a proposal to permit replacement and rehabilitation of the American Falls dam in Idaho through the use of non-Federal financing by the American Falls Reservoir District.

This action was necessitated by safety considerations caused by an alkali-aggregate reaction resulting in deterioration of the concrete in the dam. The economy of southern Idaho depended upon affirmative action to reconstruct and rehabilitate the dam. Nearly 900,000 acres of prime agricultural land depended to a large extent on the waters stored behind this dam.

When safety concerns led to restrictions on the storage capacity of this reservior in 1972, speedy action to repair the facility was vital. At that time, the Federal Government did not recognize an obligation to repair such facilities. This circumstance lead to a unique arrangement approved by Congress to allow the local irrigation district to assume the repair costs in conjunction with a private utility which installed hydroelectric generating facilities simultaneously with the dam repair project.

Mr. President, the 1973 congressional action to authorize this replacement endeavor has resulted in the completion of the repair project, at an expense to the irrigators of about $18 million and a cost of about $20 million to the utility. It is more than ironic that, even as the replacement dam at American Falls reaches completion, the Federal Government is now about to accept the responsibility for repair work in cases like the American Falls Dam.

We are prepared now to provide permanent authority to the Secretary of the Interior to undertake such repair actions related to safety of dams. Simple equity dictates that we should treat the American Falls irrigators in the same manner that this bill would treat irrigators on other reclamation projects. That is why I urged the committee to amend this bill to add the American Falls Dam to the list of 13 dams identified as needing safety repairs. Assumption of the American Falls irrigator's costs does not set a precedent. On at least four previous occasions, Congress has approved the expenditure of general tax funds for upgrading individual dams having structural faults.

Mr. President, I ask my colleagues to join with me in supporting this amendment bill to provide fair treatment for the American Falls irrigators.

THE CONTINUING THREAT OF WATER DIVERSION

Mr. President, I am joining with my colleagues from the Pacific Northwest in urging that the Senate pass the amendment offered by Senator JACKSON to extend the present water transfer study moratorium for another 10 years.

Proposals have been made frequently over the years to divert water from Pacific Nothwest rivers to other parts of the country, especially to the arid Southwest. By one count, there have been 17 such proposals advanced over the years, and 11 would have either utilized waters flowing into or out of Idaho, or would have had conveyance facilities installed within Idaho.

Congress enacted the present moratorium in 1968 after the House of Representatives had passed legislation which would have authorized diversion studies. If the present moratorium expires this year, we can expect States in the Colorado River Basin to renew longstanding pressures for water transfer studies. The call for diversion of water will become all the more fervent as the Colorado Basin States increase efforts to develop their rich coal and oil shale deposits, for such development is largely dependent upon adequate supplies of water.

To those who argue that the Southwest has abandoned plans for water diversion schemes, I would call the attention of my colleagues to a resolution passed late last year by the Los Angeles, Calif., Board of Supervisors.

The resolution, passed December 13, 1977, and sent to Members of Congress, urges that the Department of the Interior and the Army Corps of Engineers develop programs for a massive diversion of water from either the Columbia River or from the Snake River near Hagerman, Idaho.

The resolution suggests not only that water from Idaho and the Northwest be used in California, but also in Arizona, Nevada, and Mexico.

The resolution states:

> The entire Southwest United States could be turned into a bread basket to feed America and the world, and Columbia River water would eliminate drought conditions for the next 100 years and would create thousands of jobs.

If the present moratorium expires, we can expect more such resolutions, and added pressure, from the Colorado River Basin States to move ahead with diversion studies, no matter what the cost, and no matter what dislocations such plans would cause to the Pacific Northwest.

The resolution mentioned the alleviation of drought conditions in the Southwest. But last year's drought provided graphic evidence that Idaho and the Northwest do not have water to spare.

The State of Idaho, in developing a comprehensive plan for the future use and conservation of water resources within Idaho, came to the principal conclusion that the waters originating in Idaho, or passing through the State, will be effectively appropriated. As former Governor and now Secretary of the Interior Cecil Andrus observed in comments before the 1975 Idaho Water Conference:

> We in Idaho have been blessed with an abundant supply of one of our most precious resources: water . . . (W)e are still thinking that the question was how much surplus did we have, not how could we stretch our supplies to meet our needs.
>
> "However, as we began to complete the studies and gather information necessary to complete a water plan, it became evident that our problem was one of choices among potential uses of a scarce resource. When this situation became evident, careful consideration and planning of our alternative future courses of action became very important.

Because of the planning Idaho has done toward future need for water resources, Idahoans have long since given up the illusion that a surplus exists within our State. Idahoans are now more concerned with questions about how diminishing supplies can be divided among competing interests.

I would hope that the Southwest will ultimately abandon its own illusions about diverting water from the Northwest to the States of the Colorado River Basin. But until that happens, the Northwest must insist upon legal safeguards to protect our own interests. That is the reason why extension of the moratorium is essential, and that is why I urge the Senate to adopt this amendment.

Mr. JACKSON. Mr. President, I yield now to the distinguished junior Senator from Idaho (Mr. MCCLURE).

Mr. MCCLURE. Mr. President, I thank the chairman for yielding. I will very briefly comment concerning the pending amendment and the necessity for it.

Having served in the State legislature at a much earlier period, when the demands for water were not as well known in my State of Idaho and throughout the Northwest, we initiated a constitutional amendment for the creation of a water board in the State of Idaho, to make a study to determine the need for our water.

That amendment was submitted by the legislature to a vote of the people of Idaho, and they voted favorably upon it, because it was our feeling that the best protection we had for our water was to prove the need for it in our own area.

The water resources agency created as a result of that constitutional amendment has completed a water plan for Idaho, and they have clearly identified the fact that we are not a water surplus

State, at least in the regions of the State that are most closely located to the Colorado Basin. The Snake River Plains area, where the majority of the people of Idaho live, has demands upon that river for more water than normally flows in it, as we found from bitter experience last year. We cannot even store enough in storage for cycles of years that are less wet than normal.

The result has been that we are in a better position now than we were 10 years ago to prove the need for water within the State of Idaho. But the threat continues, and for those who think it does not, I can refer them only to a letter written by the Los Angeles Board of County Supervisors, in which they were again suggesting that the problems that they confront can be solved by creating a problem in the Northwest. They did not say it that way; that is my choice of words, not theirs. But the needs persist, and I commend the Senator from Washington for his leadership in bringing this matter to the floor at this particular time, remembering that the moratorium legislation of 10 years ago was the brainchild of my predecessor in the Senate, former Senator Len Jordan.

I think all of us in the Northwest join in this very justifiable concern, and again I appreciate the leadership of Senator JACKSON in bringing this measure to this point today.

Mr. DOMENICI. Mr. President, will the Senator from Washington yield me 2 minutes for a question, so that I may ask for a clarification from my standpoint?

Mr. JACKSON. Mr. President, if the Senator will withhold for just a moment, on final passage of the bill—not on the amendment—we ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. I yield to the Senator from New Mexico.

Mr. DOMENICI. I would just ask the Senator from Washington this question: About 2 years ago, Congress passed, as part of the public works omnibus bill, a provision for a study to be conducted jointly by the Economic Development Administration and the Department of Commerce, with reference to the high plains States and the Ogalalla Basin. Those States are Nebraska, Colorado, Wyoming, New Mexico, and Kansas.

Those States presently being irrigated by the Ogalalla Basin are depleting their reservoirs, and that study required those two Departments, together with the Governors of the States, to undertake reconnaissance studies of the possibility of importation of water into it from elsewhere.

I just want to make it clear, and see if the Senator agrees with me, that this dual extension of the previous prohibition in no way affects that ongoing study by those two Federal agencies and the Governors.

Mr. JACKSON. The Senator's understanding is correct. This moratorium is on studies of major importations of water into the Colorado River Basin. It would not affect work dealing with the Rio Grande drainage in any way.

Mr. DOMENICI. I thank the Senator.

Mr. JACKSON. I now yield to the Senator from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. President, I thank the distinguished chairman for yielding to me. I am pleased to join with him and the other Senators in the Northwest in sponsorship of this amendment.

I believe our State of Montana is one of the very important watershed areas for much of the country. The water uses that we have are principally for agriculture, power generation, recreation, including the retention of habitats for fish, municipal, and industrial.

Water has been our past, it is our present, and it will be our future opportunity for a beneficial and productive environment in our State of Montana. We need the protection of this amendment to safeguard this great natural asset that now benefits our State and will benefit it even more in the future.

Transferring water out of Montana from the Missouri Basin or the Columbia Basin would be robbing us of our heritage and cheating the coming generations of Montanans and our neighboring States.

Much of the West lacks the abundant average annual rainfall that the East, South, and Midwest receives. Our arid country depends upon the water flowing in our streams and rivers originating high in the mountains and kept flowing by melting snow that tides us through the dry days of summer.

This water is our lifeblood.

The amendment is needed to protect that lifeblood for our States. I urge its adoption.

Mr. JACKSON. Mr. President, I believe there are no other speakers on this particular amendment.

Mr. DOMENICI. I have an amendment, but we have not disposed of this one yet.

Mr. JACKSON. No. Mr. President, I know of no one else who wishes to speak on this amendment. At this time I yield back the remainder of my time.

Mr. MARK O. HATFIELD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Will the Senator yield for a unanimous-consent request?

Mr. MARK O. HATFIELD. Yes.

Mr. McCLURE. I ask unanimous consent that Eddie Twilley of Senator THURMOND'S staff be granted the privileges of the floor during the consideration of this legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1532

(Purpose: Authorize continuing expenditures on Indian Drought Relief Projects)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment in behalf of myself and Senator CRANSTON and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. CRANSTON, proposes an unprinted amendment numbered 1532.

Mr. DOMENICI. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 6, insert the following:

"SEC. 7. Public Law 95-226 is amended by adding at the conclusion of the first section the following sentence: 'There is authorized to be appropriated such funds as may be necessary, but under no circumstances, more than $1.5 million, to complete the following projects initiated under the Emergency Drought Act of 1977: Acoma Pueblo Project, Isleta Pueblo Project, San Ildefonso Pueblo Project, San Juan Pueblo Project, Taos Pueblo Project, Tesuque Pueblo Project, Zia Pueblo Project, Pala Mission Project, Rincon Mission Project, Morongo Mission Project, LaJoya Project, Pauma Project, San Carlos Apache Project, Gila River Project, Pyramid Lake Project, Summit Lake Project and Yerington Paiute Project.

Mr. DOMENICI. Mr. President, I have called up my amendment No. 2792, having to do with Indian projects under the Emergency Drought Relief Act and ask for its immediate consideration. I am pleased to have as a cosponsor of this amendment, the gentleman from California (Mr. CRANSTON).

I would first like to submit to the desk a revision to my original amendment, a revision which requests a sum of $1.5 million to be appropriated for completion of certain specified projects. This differs from my original amendment in that I have now requested a specific dollar amount and have included a list of tribes that are in need of this funding.

I am offering this amendment to correct and clarify legislation that was passed earlier in this Congress; legislation that extended the deadline for completion of several Indian projects being funded under the Bureau of Reclamation's emergency drought relief program.

Perhaps it would be in order for me to explain the circumstances that surround this program, which will more clearly reveal the need for my amendment.

The worst recorded drought in most areas of the Western United States occurred in 1976–77. The Congress arising to the call for assistance, provided for the establishment of drought relief programs within several different agencies.

Specifically, the Emergency Drought Act of 1977 (Public Law 95–18) authorized to be appropriated $100 million for the Secretary of the Interior, through the Bureaus of Reclamation and Indian Affairs to make loans and grants to assist impacted areas. The act also authorized use of funds available under the

Emergency Fund Act of 1948 and $30 million additional funding was included in the Supplemental Appropriations Act of 1977.

The program was to serve manifold needs. The funds were to be used, as stated in an April 1978 report of the Bureau:

. . . To establish a water bank to facilitate the transfer of water, to augment limited 1977 water supplies by providing loans to water user organizations, Indians and individual irrigators to develop wells, install pumps, build pipelines, and undertake other activities to alleviate the impact of the drought; to provide grants to State water resource agencies for drought emergency problems; to provide grants to fish and wildlife agencies to purchase or acquire additional water to mitigate damages to fish and wildlife resources caused by the drought; and to conduct studies to identify opportunities to augment or conserve water supplies and evaluate potential facilities to mitigate the effects of future drought.

There funds were awarded with the stipulation that all projects were to be completed by January 31, 1978.

Last winter, it became apparent that several Indian tribes were behind in meeting construction deadlines, due to a variety of reasons, from inclement weather to inability to secure equipment.

Consequently, H.R. 10532, legislation to extend the deadline for certain projects at the discretion of the Secretary was passed. I might add at this point that this legislation came out just prior to the deadline, and examination of the progress of the program to determine other needs was not implemented.

Therefore, H.R. 10532 did not provide for another problem that was surfacing at that time; that is the problem of expiring authorization for funding. Unbelievably, H.R. 10532 had simply extended the deadline for the program and not the funding. To have missed this major problem is clearly the fault of Congress, and with my amendment, I hope to correct this oversight in order that these projects may be completed.

As I stated when I introduced my amendment, this amendment does not have anything to do with the issue of dam safety. however, I see this bill as the only vehicle presently pending floor action that will correct the problem.

My amendment quite simply adds another section to Public Law 95–226 which extends the authorization for appropriated funds under the program for those projects that were designated by the Secretary to continue beyond the January 31, 1978 deadline.

From calculations that the BIA has made, it appears that about $1.5 million in additional funds are necessary to complete the work. Just recently the Bureau of Reclamation returned to the Congress, along with its final report, something in excess of $45 million that had not been obligated under the Emergency Drought Act of 1977. Therefore, when we are requesting about $1.5 million, we are not talking about a great deal of money, and yet, it is money that is vitally important to these tribes.

Mr. President, I believe that this is a very important matter that deserves congressional correction, and I urge my colleagues to support this amendment.

Mr. President, I have discussed this amendment with the floor managers of the bill. This is a nongermane amendment. It authorizes $1.5 million specifically, not open-ended, for a number of itemized Indian projects that were caught half completed or at various stages of completion when we cut off last year's drought relief bill. These projects are enumerated with specificity and are found in four States: The States of California, Nevada, Arizona, and New Mexico.

We would like an opportunity to go to conference with these and if we can hold them to bring them back and see if we can convince the Senate Appropriations Committee that it is wiser to complete these projects than to leave them at various stages of completion such as wells half drilled, equipment unpurchased with a well drilled, or with no equipment to pump the water. Those are the kinds of facts which permeate those projects.

As I indicated, we are not seeking to reopen that fund. I think we did a superb job nationally in returning some $45 million to the Treasury by cutting off drought relief at a point certain. But I think in this case we are being very foolish to leave uncompleted, half purchased kinds of projects lingering, in the various pueblos and on the Indian reservations.

Mr. MARK O. HATFIELD. Mr. President, I would like to join the Senator in support of his amendment. I believe he makes an excellent point concerning some very important projects which should be given the highest priority. This is an appropriate way to handle it. I join in support of his amendment.

Mr. DOMENICI. I thank the Senator from Oregon.

I say to the distinguished floor manager (Mr. JACKSON), I would not bring this amendment to this bill if I had any other vehicle to resolve this inequity this year, but I could find no other vehicle.

Mr. JACKSON. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Oregon (Mr. MARK O. HATFIELD) in support of the efforts of the distinguished Senator from New Mexico. I yield back the remainder of my time.

Mr. DOMENICI. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1533

(Purpose: Relative to the Teton Dam Disaster)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE), for himself and Mr. CHURCH, proposes an unprinted amendment numbered 1533.

Mr. McCLURE. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

SEC. 7. The Act entitled "An Act to authorize the Secretary of the Interior to make compensattion for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94–400) is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended.

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94–355) or the Act approved September 30, 1976 (Public Law 94–438), in excess of the total of—

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later),

but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled 'Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures,' May 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed

under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraphs.".

Mr. McCLURE. Mr. President, this amendment will allow the use of money which has already been appropriated for the Teton Dam Disaster Recovery Act to be used to the extent it has not been absorbed by the claims for the list of specific projects which EDA had agreed was their share of the recovery effort, and was understood for a year and a half of the 2 years which have transpired since that dam broke, and which they now find difficult in paying. It will not require the appropriation of any additional moneys but would simply allow the somewhat less than $10 million that have not been paid by EDA on the list of projects identified in the amendment so that those projects can be completed as were understood by EDA and all the other Federal agencies that were involved during the efforts to rehabilitate the area devastated by the breaking of the Teton Dam.

Mr. President, as I said, this amendment provides for the remaining appropriated moneys under the Teton Disaster Recovery Act to be utilized for vital economic projects in communities still trying to recover from the Teton Dam failure.

This amendment does not call for new appropriations but merely allows any remaining moneys from the $400 million appropriated in 1976 for the individual claims program to be used for projects such as sewer systems and water systems that have no other source of funding at this time.

The Economic Development Administration has been studying and working with local officials in a five county area on establishing an adjustment program for the Teton disaster area. It has been the understanding since the President's commitment to the Idaho victims 2 years ago, that EDA would assist these communities in funding needed projects. That assistance is not a reality today in spite of the State of Idaho's efforts in complying strictly to EDA criteria. EDA has refused to fund all the needed projects. While the story leading up to our situation today is a long one, the immediacy of getting assistance to these communities is upon us. Because the Teton Recovery Act was passed with the purpose of compensating victims of the disaster, it is appropriate to allow these moneys to continue to be used for the purpose of assisting struggling communities.

It should also be noted that as of July 1, 1978 there was $144 million not expended under the Teton Recovery Act. There are still around 300 claims to be settled. This amendment only allows those moneys not used to settle these remaining claims to be available for economic adjustment projects. It is also estimated that the remaining economic adjustment measures will total around $10 million. It is our hope that once the claims are settled there may be enough moneys left to cover the remaining $10 million in projects. This amendment simply allows this to occur as the money is already appropriated.

The Governor of the State of Idaho, the Congressman from the district, the local officials and citizens are strongly in favor of this amendment. It is also my understanding that the administration has no objection to it. I urge the Senate to accept this amendment today.

I would like to take a few minutes to bring the Senate up to date on the situation in the Teton area today and why we have come to the crossroads of needing this amendment.

As the Senate may recall, on June 5, 1976 as the Teton Dam, a Federal project constructed by the Bureau of Reclamation, collapsed sending flood waters on a path of destruction through a five county area of Southeast Idaho. I, and my colleague from Idaho, have related to this body the tales of losses to human life, private property, and public facilities many times.

The people of the flooded area have now, slightly more than 2 years after the dam's failure, put most of their shattered lives back together again. This was accomplished through an unprecedented cooperation between the Government and the citizens, the likes of which has never been surpassed.

Following the dam's failure, the Congress began to act immediately. Legislation which my colleague and I introduced was approved in record time, providing for complete compensation to flood victims for their physical losses.

The administration and its various departments and agencies reacted immediately with aid, and with a spirit of genuine, helpfulness and willingness to get a common job done.

Now, 2 years after the flood, those totally destroyed communities and the rich surrounding farmland appear again to be prosperous as they once were. Crops are growing on much of the land which has been rehabilitated, and downtown businesses are again open. To this Senator, who was on the scene hours after the dam's failure, and who made his most recent visit to the area within the past week, the transformation is nearly a miracle—but under the surface there are still several loose ends to pick up before the area is again completely whole.

As the Federal structure collapsed, pledges were made by none less than the President, pledges that because this Federal structure failed, the citizens and their surrounding environs would be made whole once again.

Except for one area, I am happy to report that this has been accomplished—the pledges have been honored. Public Law 94-400 which was passed by the Congress provided for the compensation to individuals suffering losses due directly to the dam's failure; $400 million was appropriated for that compensation, with about $300 million expended thus far.

Unfortunately Public Law 94-400 does not compensate local governmental units for all of their losses, some direct, and some indirect. Those local governmental units have suffered losses, partially physical, and partially because of the social upheaval of citizens and rapid rebuilding of cities and towns. Local governments found that the assessed valuation of real and personal property used as a base for local tax revenues, was suddenly no more. Homes were gone, the local tax base was destroyed, and in some cases, flooded victims have now rebuilt at different locations.

Imagine, if you will, that a large number of the citizens of this or any other city suddenly moved from traditional residential areas, to a new location a few miles away. City planners would be hard pressed to provide services such as sewer and water to these newly constructed residences. Drastic modifications would be needed to the cities' system of highways and streets, to their sewer trunk lines, to their water supply systems, to their fire protection system and that upheaval would continue right down to the location of city parks and the municipal library.

This is a realistic example of the types of problems encountered by local governments who suddenly found their towns destroyed, and then almost as suddenly found their towns rebuilt—but rebuilt differently than natural evolution of the community would have allowed.

Local governments, struck suddenly with no real property to assess for taxation, and thousands of their residents homeless, were forced to borrow against future tax revenues to meet immediate pressing demands.

In extraordinary fashion the various Federal agencies divided up the work according to the capabilities of each agency. The Corps of Engineers repaired levies and dikes. The Soil Conservation Service began rehabilitating the farmland. The Federal Disaster Assistance Administration, under the Department of Housing and Urban Development moved in with temporary housing—and the story goes on.

Somewhere, however some projects have fallen between the cracks of the broad Federal rehabilitation platform. As the Federal agencies divided up the work, a portion of the rehabilitation fell to the Economic Development Administration. But now that the urgency of the moment has disappeared, the EDA had pulled in the reins, it has reverted to finding within its rules and regulations the periods and commas which it uses as excuses to renig on previous commitments. So we now find ourselves $5 to $6 million short of funding for work needed on public facilities in the flooded area. Projects such as sewer main extensions, street improvements, storm drain systems and even some dike construction projects.

These needs in public facilities are related to the horrible damage on upheaval caused by the failure of the Teton Dam. It is only just that these final few remaining projects be funded and completed.

Public Law 94-400 authorized the claims program through which those in-

dividuals and businesses damaged by the flood could regain their losses; $400 million has been authorized and appropriated to pay these claims.

As I have stated, the amendment which I am offering today simply authorizes that a portion of these already appropriated funds be used to fund these public projects. It is a method of securing funding for a portion of the reconstruction work which the EDA maintains cannot be funded through their regular processes. I submit that the collapse of this Federal dam gives us a set of rather extraordinary circumstances. My amendment only seeks to carry out what the administration and the Congress originally intended, to make the residents of the flooded areas whole again. This amendment seeks no new appropriations of money, it merely seeks to transfer some of the appropriated funds from the claims program to be used for the construction of these few needed projects. Again, I urge the Senate to support our amendment.

Mr. CHURCH. Mr. President, I join with the junior Senator from Idaho in offering this amendment to address unfinished Federal business after the Teton Dam disaster of June 6, 1976.

The Teton Dam disaster was a unique tragedy for which the Federal Government bore responsibility. Immediately afterward, all possible assistance was promised to the individuals and communities who were its victims. As part of that assistance, the Economic Development Administration worked with community officials, who formed the Teton Disaster Recovery Organization (TDRO), in order to execute projects for the consequences of the devastating flood after the Teton Dam burst.

EDA helped TDRO write a three volume study, "Adjustment Program for the Teton Disaster Area, 'which included direct and indirect effects of the flood. Most of the projects in this program have been funded, but those for economic assistance have encountered stubborn resistance, despite the fact that they are clearly within the basic mandate of EDA, which helped write them in the first place.

Early this year, fully 18 months after the disaster, I sent a mailgram to EDA urging action on these projects which details the bureaucratic contortions they had suffered. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. CHURCH. Following my mailgram, EDA finally decided to fund only $3.9 million of the $14.2 million which had been requested. EDA has remained adamant in its refusal on the remainder of these funds, and thereby has failed to fulfill its part of the Federal obligation, assumed in the wake of the Teton Dam's collapse. Correspondence I have received from TDRO explains the entire situation clearly, and I ask unanimous consent that it also be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. CHURCH. Mr. President, the amendment that Senator MCCLURE and I offer today will serve to meet the Federal responsibility for the Teton Dam disaster in simple and straightforward fashion, without any complication or additional appropriations. It provides that these projects will be funded with any funds that remain after all individual claims and expenses under the Teton Dam Disaster Assistance Act have been taken into account.

This amendment is necessary, Mr. President, because the Teton Dam Disaster Assistance Act limits payments to directly related consequences of the disaster. Economic assistance projects, as we all know, are often only indirectly related to the purposes they serve.

The amendment is limited in two respects. First, the Teton Dam disaster was unique, and precedents set in its aftermath would have applicability only if an identical Federal calamity were ever to occur again. I would point out, Mr. President, that the dam safety legislation which we seek to amend has as its main purpose the avoidance of such disasters.

The second limitation is in the amendment itself, which provides that only those remaining projects in the June 1977 "adjustment program for the Teton disaster area" will be funded in this manner, and I ask unanimous consent that a specific listing of them, the May 1978 "adjustment program for Teton disaster area, summary of remaining economic measures," be printed in the RECORD as part of this amendment's legislative history. In addition, if there are not sufficient funds for all of these projects after all other expenditures are taken into account, then TDRO will work with Federal officials to determine which projects will be funded.

Mr. President, it is a matter of law and tradition that when a wrong has occurred and responsibility is established, the liability is clear and the commitment for compensation is firm. That is the purpose of our amendment, and I urge its adoption by the Senate.

EXHIBIT 1

JANUARY 6, 1978

ROBERT T. TALL,
*Assistant Secretary for Economic Development, Department of Commercce, Washington, D.C.*

I am extremely concerned with the delays the EDA has imposed in dealing with the State of Idaho and Teton Dam Recovery Organization's profile for possible funding of worthy projects through your Title IX program. It has been over 18 months since the failure of the Teton Dam. The need for repair of the ensuing flood damage is long overdue.

Early last year, the State of Idaho submitted a pre-application and profile of projects identified by a detailed study required by your agency. The study cost the counties involved $150,000. The profile, developed from that study, and with the assistance of your Seattle Regional Office, was returned to the applicant by the EDA Review Committee in Washington, D.C., for being unacceptable.

Your objections to the first profile were reworked. A second profile was submitted on November 16, 1977. Local officials in the flood-affected areas, and my Pocatello Field Office, were assured it would be expeditiously handled there, and then sent to Washington for the action of the Review Committee.

My office was notified by your agency that Seattle had finished their work, and had sent the profile to Washington. For over two and one half weeks, I awaited word that the Review Committee had received the profile. My Field Office was told it had arrived one day, the local elected officials were told it had not the next day, and was still en-route.

I understand the profile finally arrived in Washington for consideration during the week of December 12, I was in East Idaho at that time, and talked with the local officials involved. They repeatedly expressed their concern over the lack of cooperation they had received from the EDA.

While in my Pocatello office, I was assured, the Review Committee would meet December 15 or 16 to act on the TDRO proposal. I was also assured the results of that review would be furnished to the Seattle EDA office for notification of the applicants no later than the first of the next week. On December 22nd, I was informed the EDA Seattle office had failed to furnish the proper in-house information needed by the Review Committee to adequately consider the profile, and that it would have to be returned to Seattle for further consideration.

As of today, I have been informed the TDRO profile has not yet been received there.

Because of the background information I have mentioned, it is extremely difficult for me to understand why consideration of this proposal is being delayed. Either there is some reason the EDA refuses to deal with the TDRO project, and will not publically inform those of us interested in it, or this is a case of bureaucratic mismanagement at its worst. Whichever is the reason, I would appreciate your own review of the problems involved, and a report of your findings at the earliest possible time.

Senator FRANK CHURCH.

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EXHIBIT 2

EAST-CENTRAL IDAHO PLANNING AND DEVELOPMENT ASSOCIATION, INC.,
*Rexburg, Idaho, April 24, 1978.*

Hon. FRANK CHURCH,
*U.S. Senate, Russell Office Building, Washington, D.C.*

DEAR SENATOR CHURCH: It is now nearly two years since the failure of the Teton Dam. The Teton Disaster Recovery Organization (TDRO) has been working through this period to achieve full economic recovery and adjustments from the aftermath of that disastrous flood. We appreciate the efforts of your office, the offices of other members of the Idaho delegation, and the various Federal agencies which have assisted in our recovery.

Many difficult, "indirect" problems remain. Assistance provided through the

Church-McClure bill, particularly, has allowed the FDAA and the Bureau of Reclamation to deal with most of the damage directly associated with the flood waters. Language in that bill has, however, restricted its application to "direct" effects.

Cities, counties and other public agencies have been particularly hard pressed to deal with indirect, but flood caused, problems. Patterns of residence and living have been dramatically changed and speeded up. New areas have been developed for housing, farms and business. Many jobs were permanently lost or changed. Much capital has left the Upper Snake River Valley as former residents chose to take compensation for their damaged homes or businesses and live somewhere else. To deal with such problems, an EDA funded study (Adjustment Program for the Teton Disaster Area, three volumes, June 1977) proposed a two-pronged "adjustment strategy" for "restoration" and "redevelopment". Most restoration needs were covered under the current language of the Church-McClure bill, but a few have not been. Some projects relating to restoring pre-Teton Dam flood control are not yet funded. Also, some projects aimed at providing vital municipal services (water, sewers, and streets) to residents who resettled in new areas of the cities and counties affected have fallen outside of the coverage of the Church-McClure bill.

Projects aimed at economic adjustment have been particularly difficult to get underway. After the flood, local leaders quickly realized that many jobs and resources were permanetly lost. Assistance to individual, private persons, and interests was fraught with problems of inequity and special pleadings. They chose to focus economic adjustment efforts in the public sector. Jobs and development infrastructure would be created, providing an environment conducive to private investment. We had hoped that the EDA would fund many of these projects. They responded, after much prodding, with an agreement to consider applications for projects totaling $3.9 million. These economic adjustment measures are seriously needed, but they include only one-fourth of the items needed. Further, the projects EDA consented to consider focused much of the money outside of the hardest hit areas in Jefferson and Madison Counties.

We are asking that the Church-McClure bill be amended slightly so that funds which were appropriated by Congress in 1976 can be used to complete the Congressional intention of restoration and economic adjustment. We are recommending that the amendment be worded so that only a specific set of projects which now fall outside the coverage of the Church-McClure bill can be funded.

Attached to this letter is a summary of the status of the Teton Disaster Recovery and Economic Adjustment program, the contributions of various Federal agencies to that program, a proposal to amend the Church-McClure bill, and a list of the economic adjustment measures to be included for funding. It should be stressed that these projects have been widely discussed and agreed upon by local leaders and citizens. It is not an extravagant wish list, but a realistic set of measures which will help complete the commitment Congress and the President made to fully restore the Teton Disaster area. The list includes projects for both restoration and redevelopment.

We are indebted to your offices for drafting and assisting in the implementation of the Church-McClure bill. Without your prompt and continous help we could not have accomplished the fantastic level of recovery we have reached so far. We understand there may be serious legislative difficulties if the Church-McClure bill is amended, but we believe that such legislative action is our last remaining option.

Therefore, on behalf of the TRRO, we ask that an amendment be made to the Church-McClure bill to implement the economic adjustment strategy recommended in the Adjustment Program for the Teton Disaster Area.

Respectfully,

JAMES SIDDOWAY,
*Commissioner, Fremont County.*
JOHN C. PORTER,
*Mayor, City of Rexburg.*

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I—STATUS OF THE TETON DISASTER ECONOMIC ADJUSTMENT PROGRAM

The Teton Disaster Recovery Organization (TDRO) has, after months of effort, failed to complete the outlines of the funding strategy for its Economic Adjustment Strategy (Adjustment Program for the Teton Disaster Area, June, 1977, was financed by EDA). The approach taken in the adjustment strategy was to have the various regular funding authorities, the Federal Disaster Assistance Administration (FDAA), the Soil Conservation Service (SCS), Corps of Engineers, and the Bureau of Reclamation (BuRec's regular and special authority under the Church-McClure "Full Restitution Act") carry their assistance to the limits of their authority. Then, the Economic Development Administration, through its disaster related Title IX authority, pick up the remainder.

TDRO had exhausted the regular authorities and BuRec's special claims authority when EDA began to say that they could not support their part of the approved economic adjustment strategy. EDA has made a first and final offer of only $3.9 million (see letter attached). This leaves $11,440,000 needed to complete the economic adjustment strategy and achieve full economic recovery. This strategy can be fulfilled and full recovery realized without the need for additional appropriation. Possibly as much as $125 million may remain from the original appropriation—less than 10% of the estimated remainder.

II—THE PROBLEM

Why have the existing programs and appropriations not dealt with the full economic adjustment program? The answer is basically the unique character of the disaster and the limitations in authority. There are many secondary and diffuse impacts which most regular and special Federal authorities were not designed to address. What follows is a brief recapitulation of the agencies and their constraints.

The FDAA may only replace those public facilities which were in place and actually flood damaged or directly linked to flood damage (ie. damage done by cleanup crews). The economic adjustment strategy calls for a restoration and redevelopment of the disaster area. The restoration objective is to restore a specific facility or provide a specific capability that was damaged or eliminated by the flood. The development objective is aimed at offsetting the negative indirect economic impacts of the flood.

The SCS will have completed its work and exhausted its funding with the work currently underway on the South Fork of the Teton River. Some river bank habitat conservation measures also have yet to be completed but should be complete this calendar year. SCS is prohibited from further flood control or reclamation work due to a lack of funding and authority (no further work could be done unless flooding occurred or was imminent).

The Corps of Engineers is prevented from restoring the Teton Dam pending Congressional authority and appropriations. The same constraints also control the Bureau of Reclamation.

The Church-McClure "Full Restitution Act", administered by BuRec in the public sphere is merely an extension of FDAA authority as interpreted in its administrative regulations. Nothing may be addressed without the items' previous existence and without direct water damage. Administrative costs for public jurisdictions relating to the disaster may be paid.

One further point should be made about the Church-McClure measure. The Claims Program of BuRec is basically conducted in an adversary atmosphere. Some public claims have come to court cases because of differing interpretations of the law. The Bureau has taken the claims administration very seriously and thus has taken a narrow and strict interpretation of the law.

The EDA Title IX program has also taken a fairly narrow approach to the problems of adjustment. The TDRO feels that it is fair to say that the nature of the adjustment problem and the economic adjustment program has been poorly treated by this agency. Aside from the inefficient and slow response of the agency throughout this case, the EDA has exhibited a poor understanding of the laboriously prepared and costly ($150,000) economic adjustment strategy. Indeed, EDA has also exhibited, from start to finish, a lack of familiarity and understanding of their own Title IX program.

EDA has alternatively pleaded that there was no strategy, then drug its feet to fund one; then, complained there was not time to read and review the study which was prepared; then, pleaded that there were insufficient funds; and has finally wound up using regular Title I and unfunded Title VIII criteria for evaluation purposes. Some of these criteria make very little sense to the localities which labored long and hard to communicate their needs in an effective manner, and also develop an adjustment strategy which would work. EDA ignored the programatic nature of the adjustment strategy which was derived from local plans and priority systems, and reverted to the traditional "project by project", piece meal approach. Nothing so swiftly belies the current strategy oriented emphasis of the EDA as their handling of the Teton Disaster adjustment case.

All of this has been said not so much in a sense of bitterness and frustration, but to point out that as an agency EDA has very little business trying to deal with a disaster, and from a response point of view, is far too bureaucratic to respond in a timely manner. Therefore, despite the fact that it can be shown that the adjustment program is valid and useful, the Economic Development Administration's adjustment program has in essence failed to effectively complete the adjustment financial strategy.

III—THE PROPOSED SOLUTION

With the Claims Program nearing a conclusion (September 28, 1978), the balance of the appropriation estimated to be unexpended ranges between $100 and $125 million. The TDRO proposes that the remaining portion of the unfunded adjustment strategy be completed with the existing disaster appropriations through an amendment to the Church-McClure "Full Restitution Act".

ADJUSTMENT PROGRAM FOR TETON DISASTER AREA—JUNE 1977

SUMMARY OF REMAINING ECONOMIC ADJUSTMENT MEASURES

| | County | Location | Measure | Brief description | Estimated cost | Federal share |
|---|---|---|---|---|---|---|
| 1. | Fremont | City of Parker | Sewage collection system | Public investment substitution for job and income losses which will complete a regional sewer system in disaster impacted county. | $550, 000 | $161, 500 |
| 2. | Fremont | City of Newdale | Rebuilding of city streets | Heavy traffic by recovery crews following disaster and influx of flood victims caused breakup of streets which need replacing. | 100, 000 | 100, 000 |
| 3. | Fremont/Madison | do | Diversion structure on Teton River | Diversion structure capable of providing a measure of flood control now absent with the loss of the Teton Dam. | 200, 000 | 200, 000 |
| 4. | Fremont | do | Water supply, storage distribution | Will replace well and pump worn out by increased use during recovery effort and will also supply storage necessary for a viable system distribution. | 400, 000 | 362, 000 |
| 5. | Fremont | City of St. Anthony | Recreation facilities | Will replace a local recreational capability voided by land and environmental damage due to disaster. | 80, 000 | 60, 000 |
| 6. | Fremont | do | City county jail | Will provide income stream replacement and will replace a facility which is obsolete without overtaxing a tax base not fully restored since the disaster. | 520, 000 | 390, 000 |
| 7. | Fremont | City of Ashton | Street improvements | Street replacement in commercial and industrial area to serve as an income stream replacement. | 808, 000 | 606, 000 |
| 8. | Madison | Rexburg | Barney Dairy Rd | Flood caused displacement sponsored by HUD was poorly placed increasing hazard for both motorist and pedestrian-road to provide safe access. | 206, 000 | 206, 000 |
| 9. | Madison | do | Madison Memorial Hospital | Disaster related funding problems which plaque this new facility's completion can be solved with assistance to complete construction begun immediately after the disaster. | 3, 700, 000 | 800, 000 |
| 10. | Madison | City of Rexburg | Storm drains | Will provide adequate drainage and waste water management which is seriously needed due to flood victim relocation. | 1, 720, 000 | 1, 720, 000 |
| 11. | Madison | do | Water supply | Due to relocation of flood victims the recently installed water storage and distribution system has already become obsolete and in need of expansion. | 1, 090, 000 | 1, 090, 000 |
| 12. | Madison | do | Sewer main extension | Due to flood victim relocation from the plain to Rexburg bench area, there is now a need to extend sewer services. | 210, 000 | 210, 000 |
| 13. | Madison | do | Street improvements | Flood victim relocation requires access roads into areas being settled out of the flood plain on the Rexburg bench. | 527, 000 | 527, 000 |
| 14. | Madison | do | Parking facilities | This redevelopment measure will assure the competitive position of central business district merchants whose livelihood is threatened by proposed "mall-type" developments outside the CBD. | 600, 000 | 450, 000 |
| 15. | Madison | Sugar City | Park facilities | Will provide a replacement for recreation facilities and environment damaged by the Teton disaster and will aid in the redevelopment of the center of Sugar City. | 150, 000 | 112, 500 |
| 16. | Madison | do | Heating district | Funding will be combined with other assistance to verify the existence of a geothermal resource to trigger district heating system development which could make a valuable redevelopment contribution. | 198, 000 | 198, 000 |
| 17. | Madison | City of Rexburg | Fairground arena | Proposal will finish structure begun with FDAA assistance and will replace income streams and jobs lost through public infrastructure reinvestment. | 275, 000 | 206, 250 |
| 18. | Jefferson | City of Roberts | Well and water extension | Relocation and damage done since recovery to assure pure culinary water source requires well replacement and water extensions | 208, 000 | 208, 000 |
| 19. | Jefferson | do | Storm drain | Flood victim relocation and heavy silting now require a much more sophisticated method of wastewater treatment. | 314, 000 | 314, 000 |
| 20. | Jefferson | Cities of Rigby Lewisville, and Menan area. | County Drain District No. 1 | Severe economic impact resulting from high ground water level can be eliminated and an income stream and job replacement achieved. | 800, 000 | 600, 000 |
| 21. | Jefferson | City of Rigby | Recreation facilities | Facility will act as a substitute for recreation areas and environment lost or degraded by he disaster and will also act as an income stream/job replacement reinvestment | 400, 000 | 300, 000 |
| 22. | Jefferson | City of Roberts | CBD beautification | Proposed to stimulate redevelopment of CBD through beautification and will act as an income stream/job replacement investment | 60, 000 | 45, 000 |
| 23. | Jefferson | City of Rigby | Streets and storm drains | A public infrastructure reinvestment will substitute for jobs and income stream losses. | 600, 000 | 450, 000 |
| 24. | Jefferson | City of Rir.e | Sewer and water extensions | Public infrastructure replacement for income stream/job losses resulting from Teton disaster. | 115, 000 | 86, 250 |
| 25. | Bingham | City of Firth | Drainage system | Will reduce ground water level raised by flood, restoring productive capability to surrounding farm land damage by the Teton disaster. | 625, 000 | 307, 000 |
| 26. | Bingham | Blackfoot | Dikes | Will restore dike protecting 450 homes and 3 major potato processing plants (handle 48 percent of Idaho's crop) from potential 100-yr flood. | 216, 000 | 216, 000 |
| 27. | Fremont, Madison, Jefferson, and Bingham. | Areawide | Technical assistance for implementation | A 2-year technical assistance program is called for to suppor the efforts of these disaster area localities in implementing the adjustment program for the Teton disaster area. | 400, 000 | 200, 000 |
| 28. | Total | | | | 15, 072, 000 | 10, 125, 500 |

Mr. JACKSON. Mr. President, as I understand, the amendment provides for the use of funds which have already been appropriated. I support the amendment and yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time, Mr. President.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that Thomas Robert Dougherty of Senator GLENN's staff be granted the privileges of the floor for today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment that I offered was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MARK O. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment I offered on behalf of Senators HANSEN and WALLOP of Wyoming was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield to the distinguished Senator from Arizona (Mr. DECONCINI).

UP AMENDMENT NO. 1534

(Purpose: To allow accelerated repairs of the Bartlett Dam)

Mr. DECONCINI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1534.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 8, insert the following new section:

"Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River Project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act."

Mr. DECONCINI. Mr. President, the purpose of this amendment is to allow needed modification to be performed on Bartlett Dam, located northeast of Phoenix, Ariz. This modification is necessary to insure the structural integrity of Bartlett and, ultimately, the safety of the inhabitants of Phoenix, Ariz.

Mr. President, my staff, as well as the representatives of the Salt River project, of which the Bartlett Dam is a part, have been in contact with committee members and the staff. It is my understanding that the distinguished floor manager of the bill finds the amendment acceptable.

Mr. JACKSON. Mr. President, as I understand it, this amendment is entirely within the scope of the basic bill. It simply provides that in one particular case, that of the Bartlett Dam in Arizona, the urgent rehabilitation work can go forward with donated funds and be reimbursed later.

Is that not the situation?

Mr. DECONCINI. The Senator is correct.

Mr. JACKSON. Mr. President, I support the amendment. Therefore I yield back the remainder of my time.

Mr. DECONCINI. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER (Mr. RIEGLE). The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 1534) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LONE PROXMIRE VOTE AGAINST RECLAMATON SAFETY OF DAMS ACT

Mr. PROXMIRE. Mr. President, with regret I cast my vote against S. 2820, the Reclamation Safety of Dams Act.

I recognize the need for the authority that the Interior Department is seeking to modify existing Bureau of Reclamation dams for safety purposes. Recent events have provided us with unfortunate reminders of the tragic consequences when dams or related structures fail.

I would have fully supported the bill proposed by the administration to deal with the need to undertake remedial construction at existing reclamation dams. Under the administration bill, the costs of safety modification improvements would have been apportioned among the beneficiaries of each project in the same proportion as the beneficiaries' repayment of original dam construction costs. Under existing repayment policy, those who benefit from these Reclamation Bureau projects, especially agriculture irrigators, already receive generous subsidies from the Federal treasury.

Unfortunately, the Senate Energy and Natural Resources Committee followed the precedent of the House Interior Committee and amended the adminisrtation bill to declare that all costs incurred under this legislation will be nonreimbursable and nonreturnable under reclamation law. What this means is that once again the Senate has chosen to ignore the "user pay" principle. Instead of requiring those who benefit from these reclamation projects to pay for their maintenance, all the taxpayers are required to foot the bill.

I appreciate the need to insure that Federal projects pose no dangers to those they are designed to help. At the same time, Mr. President, I do not feel that safety modifications should be made from the general revenues collected from taxpayers who in no way benefit directly from these projects.

Safety improvements, like any other, are an essential part of the capital investment made in reclamation projects. Without such improvements, the beneficiaries will not be able to continue to realize the fruits of thier original investment. In my judgement, project users should be required to pay for the costs of safety improvements in the same proporiton as they paid original project costs.

I am concerned that the Senate's action is passing this bill runs seriously counter to President Carter's water policy reform efforts which seek to improve the repayment procedures for projects administered by the Bureau of Reclamation. I hope that my colleagues in the House of Representatives will be successful in restoring the repayment requirements of the administration bill.

Mr. JACKSON. Mr. President, I know of no further request for time and I suggest we go to third reading.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. MARK O. HATFIELD. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back and the bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Minnesota (Mr. ANDERSON), would each vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the

Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. HANSEN), the Senator from Wyoming (Mr. WALLOP), and the Senator from New Jersey (Mr. CASE), would each vote "yea."

The result was announced—yeas 77, nays 1, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—77

| | | |
|---|---|---|
| Allen | Hatch | Nelson |
| Baker | Hatfield, | Nunn |
| Bartlett | Mark O. | Packwood |
| Bayh | Hatfield, | Pearson |
| Bellmon | Paul G. | Pell |
| Bentsen | Hayakawa | Percy |
| Bumpers | Heinz | Randolph |
| Burdick | Helms | Ribicoff |
| Byrd, | Hodges | Riegle |
| Harry F., Jr. | Hollings | Roth |
| Byrd, Robert C. | Huddleston | Sarbanes |
| Cannon | Jackson | Sasser |
| Chiles | Javits | Schmitt |
| Church | Johnston | Schweiker |
| Clark | Kennedy | Sparkman |
| Culver | Leahy | Stafford |
| Curtis | Long | Stennis |
| Danforth | Lugar | Stevens |
| DeConcini | Magnuson | Stevenson |
| Dole | Mathias | Stone |
| Domenici | McClure | Talmadge |
| Durkin | McIntyre | Thurmond |
| Ford | Melcher | Weicker |
| Garn | Metzenbaum | Williams |
| Glenn | Morgan | Young |
| Gravel | Moynihan | Zorinsky |
| Hart | Muskie | |

NAYS—1

Proxmire

NOT VOTING—22

| | | |
|---|---|---|
| Abourezk | Eastland | Laxalt |
| Anderson | Goldwater | Matsunaga |
| Biden | Griffin | McGovern |
| Brooke | Hansen | Scott |
| Case | Haskell | Tower |
| Chafee | Hathaway | Wallop |
| Cranston | Humphrey | |
| Eagleton | Inouye | |

So the bill (S. 2820) was passed, as follows:

S. 2820

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

SEC. 4. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the Act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this Act, and to enter into contracts to the extent and in the amounts provided in appropriations Acts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

SEC. 5. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River Project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act.

SEC. 6. All costs heretofore or hereafter incurred pursuant to this Act shall be nonreimbursable and nonreturnable under reclamation law.

SEC. 7. There are hereby authorized to be appropriated, effective October 1, 1978, such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act: *Provided*, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a date certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such findings shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

SEC. 8. The Secretary of the Interior is hereby directed, notwithstanding the terms of the contract number 14-06-100-7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at Federal expense pursuant to the authority of Public Law 89-596 which authorized the construction operation and maintenance of the Tualatin Reclamation Project in Oregon.

SEC. 9. The Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required to provide safe public access to the existing public viewing areas of the Buffalo Bill Dam. Such modifications may be made from funds appropriated under section 7 of this Act.

SEC. 10. The proviso contained in section 201 of the Colorado River Basin Project Act (43 U.S.C. 1511) is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 11. Public Law 95-226 is amended by adding at the conclusion of the first section the following sentence: "There is authorized to be appropriated such funds as may be necessary, but under no circumstances, more than $1,500,000, to complete the following projects initiated under the Emergency Drought Act of 1977: Acoma Pueblo Project, Isleta Pueblo Project, San Ildefonso Pueblo Project, San Juan Pueblo Project, Taos Pueblo Project, Tesuque Pueblo Project, Zia Pueblo Project, Pala Mission Project, Rincon Mission Project, Morongo Mission Project, LaJoya Project, Pauma Project, San Carlos Apache Project, Gila River Project, Pyramid Lake Project, Summit Lake Project, and Yerington Paiute Project.".

SEC. 12. The Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94-400) is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended.

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94-355) or the Act approved September 30, 1976 (Public Law 94-438), in excess of the total of—

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later),

but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures, May 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraphs.".

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of S. 2820.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR—S. 2152

Mr. HEINZ. Mr. President, I ask unanimous consent that Mr. Bill Reinsch and Mr. Barry Johnson, of my staff, be accorded the privilege of the floor during consideration of S. 2152.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, I ask unanmious consent that Tom Getman, of my staff, be accorded the privilege of the floor during consideration of the IMF bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Jim Bond, of the Appropriations Committee staff, be accorded the privilege of the floor during consideration and voting on the International Monetary Fund bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BRETTON WOODS AGREEMENT ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2152, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2152) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all of the enacting clause and insert the following:

That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2) is amended by adding at the end thereof the following new section:

"SEC. 28. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as the 'facility') established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

"(b) The Secretary of the Treasury shall account, through the fund established by section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a), for any adjustment in the value of monetary assets held by the United States in respect of United States' participation in the facility.".

SEC. 2. (a) Section 3(c) of the Bretton Woods Agreements Act (22 U.S.C. 286a(c)) is redesignated as section 3(c)(1) and amended by adding at the end thereof the following new paragraph:

"(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) The Secretary of the Treasury shall instruct the United States executive director of the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national government service or private industry. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the Congress prior to February 1, 1979.".

(b) Upon entry into force of the amendment to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31–4 of the Board of Governors of the Fund, section 3(c) of the Bretton Woods Agreements Act, as amended by subsection (a), shall be redesignated as section 3(d) of such Act, and the text of section 3(d)(1) of such Act shall be amended to read as provided in section 2(2) of Public Law 94–564.

Mr. CHURCH. Mr. President, I ask unanimous consent that Janice O'Connell and Karin Lissakers, of the Foreign Relations Committee staff, be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Gary Welsh, of my staff, and Robert Russell, of the Banking Committee staff, be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. I yield to the Senator from New York.

Mr. JAVITS. The same request for Jack Gorland, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will my colleague yield for a unanimous-consent request?

Mr. CHURCH. I yield.

Mr. McCLURE. Mr. President, I make the same request for Charles McQuillen, of the Budget Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, on behalf of the distinguished Senator from Alabama (Mrs. ALLEN) I ask unanimous consent that a member of her staff, Richard Gentry, be accorded the privilege of the floor during consideration and voting on S. 2152.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. CHURCH. Mr. President, may I make a similar request on behalf of Mr. Ralph Nurnberger, of the Foreign Relations Committee staff?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. CHURCH. I yield for that purpose.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, S. 2152, the pending bill, contains, at line 21 on page 2 through line 4 on page 3, an authorization for the Secretary of the Treasury to enter into a contract under which the United States is obligated to make outlays, the budget authorization for which is not provided for in advance by appropriation acts. That authorization fits the description of new spending authority contained in section 401(c)(2)(A) of the Congressional Budget and Impoundment Control Act of 1974.

Under section 401(a) of the Budget Act, it is not in order for the Senate to consider any bill which provides such new spending authority unless the bill provides that such new spending authority is to be effective only to such an extent, or in such amounts, as are provided in appropriation acts.

Mr. President, my inquiry is if a point of order were raised under section 401(a) of the Budget Act, would that point of order lie?

The PRESIDING OFFICER. The Chair advises that the bill has been studied and the point that the Senator has raised does speak to a violation of section 401(b) of the Budget Act; therefore, if a point of order were made, it would be sustained on that basis.

Mr. McCLURE. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, it would be my hope that the managers of the bill would amend it to get around this point of order by making appropriate provision pursuant to the Budget Act. If the Senator from Idaho, now speaking, does not raise the point of order now but awaits until they have the opportunity to so amend the act, do I waive the opportunity to make the point of order?

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Chair would respond by saying that the Senator does not waive his right by waiting to raise his point of order later.

Mr. McCLURE. I thank my colleague for yielding, and it is my hope they will conform the bill to the Budget Act so that a point of order would not lie, and that the Senator now speaking would not then raise the point of order. But I would want the managers of the bill to know that unless it is so amended I will make that point of order.

Mr. JAVITS. Mr. President, the issue raised by the parliamentary inquiry will not go unchallenged. It is a very key aspect of the bill because one of the amendments which will be proposed to the bill, we understand, is an amendment respecting appropriations.

The position which the managers of the bill will take—at least this manager

and, I believe, others, and there are four of us who are managing the bill because it comes out of two committees—is that this represents a change of assets. The United States simply buys an asset in the International Monetary Fund in the way of a subscription, and it does not represent an appropriation of money of the United States.

If, as, and when the U.S. subscription is called on, other than the actual making of the contract, which is authorized by this statute, then there may be the need for an appropriation. But until such time occurs there is no need for an appropriation.

If what is desirable is that we shall say that in the text, to wit, that if, as, and when money is required an appropriation will be sought, and all this does is authorize one, that is another matter. But if it is claimed that this represents an authorization for appropriation in the usual sense then we will have to challenge that, and it may very well be that we would have to, if the Chair persists in that ruling, appeal from the ruling of the Chair and leave it to the Senate.

I would rather hope, with all respect to the Parliamentarian and the Chair, that this question would have been put to the Senate before it was decided on a parliamentary inquiry.

But, nonetheless, that may be the way, because I have every confidence in the Parliamentarian, in which the language which we have is construable. So I deeply appreciate, as always, the graciousness, fairness, and accommodation of my colleague, Senator McCLURE, and we will examine the language very carefully in the time which is allowed to us now with the idea in mind of making sure that as far as we are concerned, even under our construction of the law, this bill qualifies, to wit. that when, as, and if money is needed to back up our subscription there will be an appropriation, and the bill will make that clear.

Mr. McCLURE. Mr. President, will the Senator yield?

I take this time now only because I want the record to reflect what the varying views are. I appreciate the comments of my colleague from New York because I do know that the Treasury has maintained all along the position that payments to the IMF are like deposits in a bank where Treasury funds are kept pursuant to withdrawal. Therefore, Treasury contends that these payments are not expenditures but merely an "exchange of monetary assets."

In short, the Treasury would lead us to believe that a special drawing right (SDR) is like a certificate of deposit (CD) for Treasury funds at Riggs Bank. Nothing could be further from the truth. The CD is liquid while the SDR can be redeemed only to the extent that the IMF asserts that the United States is in a severe balance-of-payments position and some other country is willing to accept the SDR for its own currency.

Aside from the merits of the Witteveen Facility itself, the exchange-of-assets concept poses substantial problems as a precedent for future financing activities. Under the reasoning advanced by the Treasury, it would be possible to set up a bank to finance some activity—energy development or urban development, for example. The Treasury could then deposit in the bank such sums as it deemed appropriate and obtain in return a certificate of deposit. The bank would have the use of U.S. funds, which the Treasury would treat as assets on deposit in the bank. And all this could be accomplished without congressional approval. The potential for this technique as a new form of backdoor spending is almost unlimited.

That is the reason why I am absolutely confident that it is a violation of the Budget Act. I would have made the point of order except I wanted to give the managers of the bill the opportunity to correct the defect in the legislation rather than barring its consideration and requiring that it go back to the committee.

I would be happy to yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I want vigorously to support the argument of the distinguished Senator from Idaho (Mr. McCLURE). We have been discussing this off and on privately throughout this calendar year, indeed, prior thereto.

Throughout the year, I and others have been asked to attend meetings for the purpose of trying to resolve this institutional issue. But, the meetings were never called or were canceled. Meanwhile, S. 2152 has been languishing on the Senate calendar.

There is no question that a point of order lies to this bill, in its present form, under my interpretation of the Budget Act. I will not undertake to describe or define the interpretation at this point because, I take it, we will have ample opportunity to do that later on. But I would like to suggest that what is important with respect to the Witteveen facility is that the certainty of American participation be established.

I really doubt that our partners in this effort abroad are concerned as to the integrity of our bookkeeping arrangements. They are more concerned about the certainty of our commitment. It is unfortunate that this delay has taken place, this delay in implementing the Witteveen facility, whose purposes I thoroughly subscribe to, because of bookkeeping arrangements that are mandated, in my judgement, by the Budget Act.

If we permit this exception, and the Senate accedes to this exception that is being urged by the floor managers of this legislation, we open a very wide door indeed, not only with respect to international legislation, but with respect to legislation having domestic impact. What is being urged apparently is that we approve a token appropriation which can then be the basis for unlimited commitment to obligations far exceeding the amount of the original appropriation.

If that is not inconsistent with the accountability which the Budget Act imposes upon us, then I do not recognize the mandate of the Budget Act which I have been charged to support for now some 4 years.

I will not go into it further at this point, but I will have ample opportunity later to define my understanding of the Budget Act as it applies. I state again: It is unfortunate that we are going to be involved in a step which delays further implementation of the IMF supplementary financing concept. But that is the way it has to be. I feel very strongly about this situation, and I want to make that point clear at the outset of the debate.

Mr. PROXMIRE. Mr. President, will the Senator yield very briefly?

The PRESIDING OFFICER. Is the Senator from Idaho yielding?

Mr. CHURCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Idaho (Mr. McCLURE) has the floor and he yielded to the Senator from Maine. But I gather he is yielding——

Mr. McCLURE. I yield the floor.

Mr. CHURCH. Mr. President, I would like to respond briefly to the remarks of the Senator from Maine, the able chairman of the Budget Committee, as well as to the remarks of my colleague, Senator McCLURE. It may be that there need be no problem concerning this matter.

First of all, I think we ought to get the facts straight with respect to this Witteveen facility.

The contributions that we would make to the Witteveen facility differ from ordinary contributions that the United States makes from time to time to the International Monetary Fund in this respect: The money which the United States provides to the Witteveen facility under the provisions of this bill will be repaid to us in eight semiannual installments beginning 3½ years after the financing is provided. The funds will be repaid with interest, covering the cost of borrowing to the Treasury, so there will be no net interest costs involved.

So let it be clear that both the principal and interest will be repaid. The only possible potential loss that could result from U.S. participation would come about if there is a change in the relative exchange rates between the dollar and the SDR during the period in which our contribution is outstanding.

If the dollar appreciates against other currencies during that period, the Treasury will get back fewer dollars than it paid in. If the dollar depreciates during that period, the converse will be true: our Treasury will get back more dollars than it paid in.

It is my understanding that the President has included in his 1978 supplementary budget request a $200 million contingency reserve to meet the potential exchange loss which might result from U.S. participation in the facility.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. CHURCH. Yes, I would like to yield, because I do not think that it is necessary for us to have a collision on this question. All we are attempting to do is to accurately ascertain the extent of the liability and the possible cost.

Mr. MUSKIE. The difficulty I have with the Senator's argument is that all across the budget, we have programs involving direct loans—in agriculture, for example. And the dollar amount of those

loans has to be appropriated, notwithstanding the fact that in many cases they are totally repaid without loss to the Treasury. We in Congress have to account for the drain on national resources.

So the fact that this is in the nature of a direct loan, if this is an accurate description of it, does not differentiate it from other programs, policies, or transactions which involve direct loans. That is not a distinction that has any persuasiveness so far as the Budget Act is concerned. All must be fully accounted for by appropriations.

Loan guarantees are sometimes treated differently. However, Witteveen is most comparable to a direct loan. If we were to extend that kind of a precedent here, then I am sure that before long we would have committees coming to the Senate floor and arguing that really the full amount of the program that they are requesting should not be charged against them, because it is their estimate that only 10 percent may represent an ultimate loss, so we do not have to worry about the 90 percent which will be repaid.

I can see all sorts of precedents offered, then, for expansion of our obligations, based upon that kind of loan, because of someone's estimate on the amount of loss which may or may not ultimately occur. It is to close that back door that section 401 of the Budget Act was written into law.

So I think the Senator needs to make a very careful distinction based on that point.

Mr. McCLURE. Mr. President, will my colleague yield for one further comment?

Mr. CHURCH. Mr. President, I would hope that the Senator from Maine might also distinguish between the International Monetary Fund and the more conventional types of loans made by our Government for various domestic purposes.

This fund is, after all, an international fund. It is owned by the participating governments that contribute to it. We have special drawing rights in connection with it, should we, because of our own balance-of-payments deficit require assistance from the fund.

So I do not quite understand the Senator's fear that passing the bill in its present form would create a dangerous precedent.

In the past, when the United States has made contributions to the fund where no appropriation has been required, it has been regarded as a deposit of an asset by the U.S. Government in international funds in which we participate and in which we have rights.

The Witteveen facility seems to me to be an especially poor place to change past practice, because here we not only deposit the asset with a drawing right should we need it, but we do so under the terms of a special facility which is temporary in character, and which expressly undertakes the obligation of repaying the full amount with interest.

I think this is a unique situation, quite different from the kind to which the Senator refers, and I wonder if we really even assume any risk of establishing some precedent that might come to afflict other loan operations.

I think not. I think this is unique.

Mr. MUSKIE. Let me say, first of all, it is not the question of a risk which is the only reason why the Budget Act requires that we account for drains upon the Treasury.

Not every dollar spent out of the Treasury in the form of domestic or international loans means 100 percent risk. It is not just a question of risk; it is the question of accounting to the taxpayer for resources that we commit, that are not then available for other purposes.

With respect to the IMF, in 1976 the IMF received appropriations as it had since it began its operations in 1946.

The second point is that I am not the one seeking to make an exception; it is the distinguished floor manager of the bill and those associated with him who are trying to make an exception to the Budget Act.

As to the argument that all that is involved is an exchange of assets between the Treasury and the special drawing rights, in short, meaning that somehow it should be regarded as taking the matter out of the Budget Act, the fact is that the asset we get for the money paid, that is, the special drawing right, is restricted. It is not readily usable to the same extent as the funds paid in.

Their use is restricted because they are available only if the United States officially submits a request to the IMF, formally stating a balance of payments need, and the executive board approves the request and issues a decision to that effect.

Although the United States could theoretically sell its holding to another major contributor to the facility willing to purchase the U.S. holding, there is no certainty that such a sale could be arranged. It is not an exchange of equal assets, as I understand it.

But second, if we were to accept the exchange of assets argument, then we would have to be concerned, Mr. President, about the application of such an exchange of assets concept in areas which traditionally do undergo appropriations action, and are counted fully as budget authority.

For example, take the case of the U.S. purchases of oil for strategic petroleum reserves.

The U.S. purchases of oil for strategic petroleum reserves are counted as budget authority in full, as are virtually all other exchange of assets transactions. Under S. 2152 as originally introduced, the administration would have covered exchange losses from the off-budget exchange stabilization fund without any appropriation. In fact, the oil is much more liquid in its value than the SDR's in the facility. The exchange of assets idea could eliminate from the budget all direct loans as they would be construed as exchange of assets. For example, dollars for mortgages, mortgages in the domestic field or elsewhere. We would be exchanging dollars for mortgages, for housing or any other purpose. Or Treasury might be authorized to set up a bank to finance some activity such as energy or urban development without any appropriation or budget authority.

Treasury could deposit funds in the bank, obtaining in return a certificate of deposit, like the SDR rights. The bank would have the use of the funds which Treasury could treat as any asset in a bank. Under Treasury's reasoning, only a small sum, if any, covering potential losses, would be appropriate as budget authority although direct funding of the same activities by the U.S. Government would require appropriation and budget authority for the full amount.

These are the kinds of consequential results that we have to guard against if we loosely interpret the Budget Act in order to open the door for this particular application. As a precedent for some such urgings by other Members of the Senate or by other committees, I think the logic is directly relevant to what we are being asked to consider.

Mr. CHURCH. Mr. President, just so the RECORD is not left with a contradiction as to the facts, I have been advised that no appropriation has been required for deposits in the IMF by the United States since 1973. It was at that time that the Congress accepted the Presidential argument that this was a deposit of assets. Appropriations have not been required since that date.

The Senator is correct that before 1968 it was the practice to appropriate the money.

I simply want to get the facts straight between us.

Mr. MUSKIE. I think we should add another fact, that the Budget Act was enacted in 1974, which had made no exceptions with respect to back door spending authority in either foreign policy or domestic policy. There is a reason there was an authorization to establish the need and then an appropriation to establish the justification as among competing priorities. That has been the basis of our appropriations process at least since I have been in the Senate and for a long time before. There is an authorization to establish the need and an appropriation then to permit priorities to compete for the resources available in the Treasury. It is for the reason of protecting that procedure and that practice that this provision was written into the Budget Act.

It was written in because increasingly in the domestic field and the foreign field there had been efforts by authorizing committees to bypass the appropriation process. By so doing, life became easier. I was guilty of it myself. The Public Works Committee, at that time, in seeking to enlarge the program of waste treatment facilities, wrote into our legislation contract authority which, in effect, bypassed the Appropriations Committee.

Other committees were doing the same thing. The Foreign Relations Committee and other committees interested in foreign policy obligations were doing the same thing.

The Budget Act was designed to reimpose the discipline implicit in that two-pronged approach, authorizations to

establish need and appropriations to insure that among all the competing priorities for Federal funds there is room for a particular priority.

We ought not lightly retreat from that policy which was reenshrined in the Budget Act of 1974.

Mr. STEVENSON. Will my colleague yield?

Mr. CHURCH. I will in a moment. I would point out first that following the enactment of the Budget Act, in 1975 and again in 1976 American contributions to the International Monetary Fund were made.

Mr. McCLURE. Will my colleague yield briefly?

Mr. CHURCH. I did promise to yield to Senator McCLURE. Then I will yield to Senator STEVENSON.

Mr. McCLURE. There is some difference regarding the facts. I have been advised that only in 1976 was the U.S. contribution to the IMF permitted without appropriations. I think in every other year since 1946 the U.S. contributions have gone through a regular appropriations process.

As I say, I may be in error on that.

Mr. CHURCH. I would call my colleague's attention to a statement appearing on page 31 of the committee report, which reads:

> In July 1975, Treasury officials explained to Congress (in letters from Assistant Secretary Charles A. Cooper to Chairmen Reuss, Mahon, Sparkman, Proxmire and McClellan) that no appropriation would be sought to meet the U.S. maintenance of value obligations to the IMF that resulted from the reduction in the SDR value of the dollar during the IMF fiscal year ending April 30, 1975.

So on this occasion, as well as in 1976, no appropriation was sought and Congress did not impose such a requirement even though the Budget Act was passed.

Mr. MUSKIE. May I clarify the RECORD on that point? Frankly, we were asleep, some of us. It has not been an easy task to watch all of you geniuses undertake your work under the Budget Act without changing too many of your hats. Some of these slip by. The 1976 action was not taken as an explicit definition of the requirements of the Budget Act. The question was not raised. It was not raised because we in the Budget Committee were asleep at that point. We were occupied with other responsibilities; we did not fully understand our new mandate.

In the absence of an explicit definition with respect to 1976, that constitutes no precedent for the action we are being urged to take today. We are now in a position to take a clearcut definition and a clearcut precedent which will guide our future actions. It is because we slipped in 1976, in part; it is because we do not want to see this precedent growing into a wide open door with respect to government operations in the domestic field, that we are raising this issue today.

Clearly, if the Congress and the Senate wish to open the door to back-door spending once more, it can take a first step today, whatever my view or whatever the view of Senator McCLURE, my good friend from Idaho. Whatever our view, the Senate can decide to open that door today. All I am trying to do is to say in my judgment the Budget Act does not permit it. It can be bypassed, it can be run around, it can be abrogated, in effect, by whatever we do, but in my judgment it is not permitted.

Mr. CHURCH. I yield to the Senator from Illinois who has studied this matter with great care.

Mr. STEVENSON. I thank the Senator from Idaho for his yielding.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. STEVENSON. I yield.

The PRESIDING OFFICER. The Chair apologizes for interjecting, but will the Senator from Illinois use his microphone?

Mr. HARRY F. BYRD, JR. Mr. President, I rise only to commend and support the Senator from Maine. I think it is very important that the incident that occurred in 1976 be overriden, if it is necessary to so do, to erase that precedent today.

I think it is very important that the budget concept, as so clearly delineated by the chairman of the Committee on the Budget, be upheld by the Senate. After all, we are dealing with $1.7 billion of tax funds taken from the American working people. Regardless of what the technicalities might be, it seems to me only logical that that fund, any such fund, should be appropriated and not just assumed to have been appropriated.

I support the position taken by the chairman of the Committee on the Budget.

PRIVILEGE OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Parliamentarian's Office: Mandy Ochoa; Mr. JAVITS: Jacques Gorlan; Mr. PROXMIRE: Kenneth McLean and Ron Tammen; Mr. MUSKIE: Tom Dine, Charles Flickner, Sidney Brown, Liz Tankersley, and John McEvoy of the Budget Committee staff; HARRY F. BYRD, Jr.: Edward Beck and John Brooks; Mr. McCLURE: Howard Segermark of Mr. HELMS' staff; Mr. CHURCH: Ira Nordlicht.

Mr. SCHWEIKER. Will the Senator from Illinois yield for a minute?

Mr. STEVENSON. I yield for a half-minute to the Senator from Pennsylvania.

Mr. SCHWEIKER. As the chairman surely knows, the Schweiker amendment goes to the heart of this issue. I am prepared to offer it, since all debate seems to be on this issue as the issue, whenever managers of the bill deem appropriate. It seems to me we are in the amendment already and that is the issue. I wonder what the concept of the managers of the bill is as to when that will be appropriate to offer or in how much time to proceed.

Mr. STEVENSON. Mr. President, I, for one, hope that the Members, or at least of those of the floor managers of the bill who wish to do so, will have an opportunity to make opening statements before offering amendments. I have not had that opportunity, nor, for that matter, has anyone, since this subject which was raised prematurely. I hope the Senator from Pennsylvania and the others might at least afford us that opportunity. How long it will take, I do not know, because I do not know how many other Members have opening statements. I have one.

Mr. SCHWEIKER. I appreciate that. I raised the question because that is where the whole debate seemed to go.

Mr. McCLURE. Will the Senator yield very briefly?

Mr. STEVENSON. I yield very briefly.

Mr. McCLURE. I do apologize for raising this issue at the outset. I did it essentially in order to make certain that the point of order would not be waived and I did not wish to lose the opportunity. I understand the frustration of the managers of the bill, who are debating an issue that is extraneous to the reasons for the bill. But before getting back to the opening statements on the merits of the legislation, let me just remind the Senate that the Senate, earlier this year, adopted the conference report on the budget resolution. That conference report on the budget resolution, on page 5, contains this language under function 150, international affairs:

> The Senate resolution provided budget authority of $12.8 billion and outlays of $7.2 billion. The House resolution provided budget authority of $10.990 billion and outlays of $6,600 billion. The conference substitute provides budget authority of $12.8 billion and outlays of $6.9 billion. The conference substitute includes $1.8 billion in budget authority above the House resolution only to provide for the possibility that implementation of the Witteveen Facility of the International Monetary Fund will be delayed until fiscal year 1979 and that the entire amount will be appropriated.

I take the time only to lay before the Senate the fact that the Senate has already said, in the budget report adopted by the Senate, that this would be subject to an appropriation.

Mr. JAVITS. May I ask the Senator this question?

Mr. McCLURE. Surely.

Mr. JAVITS. Would he agree on the law, even on his version, that, therefore, this particular matter comes within the exception of section 303 and that, being provided for in the budget, we may pass this bill provided that we condition the subscription upon being made October 1, 1978, or thereafter? That is the very thrust of what the Senator has just said.

Mr. McCLURE. No, that is not the thrust of what the Senator has said and I am sorry my friend misunderstood.

The fact is that this requires an appropriation and section 401 of the Budget Act says contract authority must be specifically appropriated.

Mr. JAVITS. Yes, but we are talking now about the passage of this bill. The Senator asked for an amendment. I asked the Senator whether an amendment saying that the subscription shall be not earlier than October 1, 1979, would mean exactly what the Budget Committee said in bringing in its report—to wit, that we can pass the bill;—there is no point of order against it—provided that it is not subscribable until October 1, 1979, and it comes within the budget and whatever ensues at that time can be argued about. But it would obviate the

point of order against the bill and we could go ahead and do our business.

Mr. McCLURE. I would not agree with my friend from New York that that is the manner by which we can obviate the necessity of going through the budget process.

Mr. JAVITS. I did not say we obviated it.

Mr. McCLURE. The Budget Act requires that contract authority be budgeted and appropriated. This has not been done and, therefore, under section 401 of the Budget Act, it is out of order to consider the legislation.

Rather than make the point of order at the outset, barring the Senate from considering the bill, I put it in the form of a parliamentary inquiry so we could raise the issue, give the managers the opportunity to amend the bill to conform to the Budget Act, rather than simply raising the point of order and making it out of order to consider the bill today.

Mr. JAVITS. Obviously, the Senator does not prefer to deal with my question. My question was exactly that: If we conform to the Budget Act by making this subscription October 1, 1978, then, in my opinion, we simply reserve the question as to appropriation until an effort is made to subscribe. At that time, we can deal with it by appropriation or otherwise.

Obviously, the Senator does not agree with me, so I shall bide my time.

Mr. McCLURE. Will the Senator yield on that?

Mr. JAVITS. Yes.

Mr. McCLURE. I think we have run into the problem where it would require a third resolution, because there is not enough room for the 1.8 in fiscal year 1978.

Mr. JAVITS. I think we are passing each other in the night, but we shall deal with it.

Mr. STEVENSON. Mr. President, I ask unanimous consent that William Weber, of the Banking Committee, be granted the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

Mr. STEVENSON. I would like to make an opening statement about this bill, but I think we are into this issue prematurely. The Senator from New York put a question. The approval by the Congress of the U.S. quota increase in the International Monetary Fund in 1976 has been approved. I believe I was the manager at the time. The Senator from Maine is the authority on the Budget Committee and it certainly is possible it was asleep at the time.

I can say, as he has indicated, the question was never raised about compliance with the Budget Act or the necessity of an appropriation.

But that was, I believe, the one precedent, the first and one precedent, established by the Congress since enactment of the Budget Act. Regardless of whether the Budget Committee was asleep, it was approved, and it was approved with the understanding that this involved initially an exchange of assets.

That is the understanding of every country on Earth. There is not another country, including our own executive branch, that does not regard participation in the International Monetary Fund as anything other than an exchange of assets. They do so, first, because they do not wish to run any unnecessary risks of politicizing the International Monetary Fund.

Most democratic countries, perhaps all, do not require any legislative approval at all within their governments.

Mr. MUSKIE. Will the Senator yield?

Mr. STEVENSON. Let alone participation in the appropriations process.

I would like to finish this, if I may, and then come back to the Senator.

The reason is that it is more akin to a bank deposit than it is an outlay which must compete for congressional or legislative authorizations or appropriations for national defense, housing, or anything else.

This debate has so far been confused by a failure to distinguish between the initial participation in the IMF which involves, I believe, an exchange of assets from the general fund. The second question is, What happens if as a result of that participation there is a loss?

The mere exchange of assets by itself should not involve an appropriation, because that, by itself, does not involve a loss, but a loss could occur subsequently.

Of course, a gain could occur, too.

That loss can be covered out of the exchange stabilization fund.

The balance in the Exchange Stabilization Fund is about $4 billion.

The Exchange Stabilization Fund is an off-budget fund. Expenditures from the Exchange Stabilization Fund for exchange rate losses, for losses as a result of participation in the IMF, do not require an appropriation, do they?

Mr. JAVITS. That is correct.

If we could have the attention of the Senator from Maine, Senator STEVENSON is raising the whole issue of the swaps, the currency swaps, and the many other stabilization activities of the stabilization fund as being outside the budget process.

I just wanted to call that to the attention of the Senator.

Mr. MUSKIE. We are not swapping equivalent assets. When we talk about swapping dollars out of the general fund of Treasury for an increased international reserve position denominated in special drawing rights, SDR's are not used in the same way as dollars.

I observed the Senator listening closely to me when I made that point.

Mr. JAVITS. What is the difference between swapping dollars for, let us say for the sake of argument, French francs, which is done constantly, and swapping dollars for SDR's? They are a form of currency.

Mr. MUSKIE. What is the difference between swapping dollars for SDR's or swapping dollars for oil, petroleum, to be put in the oil reserve?

Mr. JAVITS. I think there is a difference.

Mr. MUSKIE. We can make any difference we want. But if what the Senator is saying is that when any asset is acquired, for instance SDR's in return for Treasury dollars, there is justification, for accountability purposes to reduce the amount of dollars put in the budget to the amount equal to the risk value that it may lose. Thus all we have to account for is the amount of that risk——

Mr. JAVITS. May I answer that?

Mr. MUSKIE. Of course.

Mr. JAVITS. The difference is we cannot buy oil out of the stabilization fund, the stabilization fund totally has already been established, is already in the process of use, and is not a budget fund.

So if we cannot buy oil out of the stabilization fund——

Mr. McCLURE. Will the Senator yield?

Mr. JAVITS. Not yet.

If we cannot buy with the stabilization fund, that would be the difference. But we cannot. The only thing we can do with the stabilization fund is engage in operations like the Witteveen facility, or swaps, and so on.

So that is a big, fundamental difference.

It is not just taking money out of the Treasury to buy fungible goods. If we took money out of the Treasury for the purpose of buying foreign currency, of course, we would have to budget it appropriately.

But that is not what Senator STEVENSON is arguing. He is arguing that we are taking money out of the fund, which is established, operating outside the budget process for this very purpose.

Mr. McCLURE. Will the Senator yield on that point?

Mr. STEVENSON. Surely.

Mr. McCLURE. I think the stabilization fund is clearly outside the budget and it has operated that way since back in the 1930's.

I think that the moneys that are necessary to contribute to the stabilization fund are not covered by the Budget Act.

But that is not what we are dealing with here today. We are dealing with a different amount of money for a different purpose that has not been exempted from the Budget Act. Therefore, the stabilization fund analogy is, by its own terms, inappropriate to apply to this.

Mr. JAVITS. It is not an analogy. It is money. If there is any money, it comes out of the stabilization fund.

That is what the Senator is telling us.

Mr. McCLURE. That is what I am saying it is not.

Mr. JAVITS. Well, it is what he is telling us.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a memorandum from the Treasury on its accounting for monetary reserves.

There being no objection, the memo-

randum was ordered to be printed in the RECORD, as follows:

ACCOUNTING FOR MONETARY RESERVES ON THE BOOKS OF THE UNITED STATES TREASURY AND ITS RELATIONSHIP TO THE APPROPRIATIONS PROCESS

I. THE ACCOUNTING FRAMEWORK

The concepts underlying Treasury accounting for its operating cash and its domestic and international monetary reserves have evolved over such a long period that their roots are lost in history. The logic, however, is evidenced from an examination of the items listed under the caption "Cash and monetary assets" in Treasury financial reports.

The term "cash" in that caption means the same as in commercial accounting practice, i.e., coin and paper currency in the till and demand deposits in banks. It includes not only U.S. dollar currency and deposits but also foreign currency. Cash is essentially synonymous with money—whatever represents the currently usable medium of exchange or means of settling debts.

The term "money" is important to an understanding of the rationale underlying the accounting treatment of monetary reserves. The constitution says that "No money shall be drawn from the Treasury, but in consequence of appropriations made by law. . . ." This has been interpreted from the beginning of the Federal Government to mean (1) that the spending of any form of money—e.g., to acquire goods and services—requires an appropriation; and (2) that the conversion of money from one form to another—such as the deposit of paper currency into a bank account or the payment of U.S. dollars in exchange for British pounds—does not require an appropriation.

Although Treasury accounting for cash parallels commercial practice as far as that goes, the Treasury accounts extend substantially beyond commercial practice to incorporate the Treasury's role as a governmental monetary authority. The monetary role of the Treasury has evolved from a predominantly domestic monetary orientation to a predominantly international monetary orientation, but throughout the evolution the accounts for domestic and international monetary reserve assets have been intertwined with accounts for Treasury operating cash. With only occasional lapses, both operating cash items and monetary reserve items have been treated as components of Treasury "money," governed by the aforementioned rules regarding appropriations.

II. MONETARY RESERVE ACCOUNTS

Some money items are interchangeable between operating uses *and* monetary uses, while others are confined primarily to the monetary area of use. They all have the common characteristic, however, of broad acceptability in the settlement of debts or of ready conversion to money items that have such acceptability. In the international area, these settlements may be infrequent and may be confined to government-to-government dealings, but the various means of payment have acceptability by virtue of international agreements or established convention and are recognized in the official accounts of the governments concerned, and of the IMF, as monetary reserve assets. In this connection, a sharp line is drawn between assets that have the characteristics of money and those that do not. The United States has invested many billions in capital contributions to international development institutions and put many more into foreign loans, but none of these assets has the character of money—only those financial assets that are specifically tied to world monetary arrangements, and that have the money characteristics of wide acceptability and high liquidity, are classified as monetary reserves.

Following is a description of the more important accounts representing monetary reserves.

1. Gold and Silver. Going back to the time when both metals were part of the U.S. monetary base, gold and silver bullion acquisitions have been made without appropriations.

2. Base Coinage Metals. As raw materials for minting coins, copper, nickel and alloys have always been purchased without appropriations. For all other purposes, purchases of these same metals require appropriations.

3. Foreign Exchange. Foreign currencies are acquired both for operating needs and purely monetary needs. In either case, they are normally carried as a component of the cash accounts and are acquired without charging appropriations.

4. IMF-Related Monetary Reserves. The following categories of IMF-related monetary reserves have only a monetary use, i.e., can be exchanged for other forms of money, and have no operating use, i.e., cannot be used to purchase goods and services.

A. Special Drawing Rights. The allocation of Special Drawing Rights to the United States as well as U.S. acquisition of Special Drawing Rights are made without appropriations.

B. Reserve Position with the International Monetary Fund. The United States' reserve position in the IMF is comprised of the U.S. "reserve tranche," and claims by the United States on the IMF for financing provided under the GAB and the Witteveen Facility.

(1) "Reserve Tranche": The so-called "reserve tranche," comprised of the U.S. quota in the IMF less the dollars held by the IMF in the form of letters of credit, represents a right to draw foreign currencies from the IMF in the nature of a demand deposit. Although originally financed by appropriation and treated as an expenditure, the account was reclassified in the late 1960's to the "cash and monetary" group of accounts in recognition of the development of its status internationally as a monetary reserve. Treatment of the "reserve tranche" as a monetray reserve is in keeping with the practice followed by the IMF and all IMF members.

(2) General Arrangements to Borrow: Although an appropriation was enacted to finance U.S. participation in the General Arrangements to Borrow, the appropriation was not necessary and was not used when the time came for the U.S. to participate by advancing cash to the IMF. This was a recognition that U.S. financing under the GAB, when called, was in the nature of a demand deposit. It can be readily converted to dollars, SDR or foreign currencies for balance of payments purposes and it is recognized as a monetary reserve by all GAB participants and by the IMF.

(3) Witteveen Facility: The accounting treatment called for by the nature of the assets that would be acquired by the U.S. in providing financing under the Witteveen Facility is the same as that applied to claims on the IMF acquired by the U.S. under the GAB and the U.S. reserve tranche with the IMF. These assets are a part of the U.S. reserve position in the IMF and have the same essential money characteristic—ready conversion into dollars, SDR or foreign currencies for balance of payments purposes. It has an additional liquidity feature in that the claims acquired by the U.S. can be sold, by agreement, to other countries.

III. VALUATION GAINS AND LOSSES

Because the unit of account for Treasury accounting is the U.S. dollar, all money items except U.S. dollars are subject to changes in value when expressed in dollar terms. These value changes, gains and losses, have been accounted for in various specific ways, as outlined in the following paragraphs, but the general result has been invariable: Gains are classified as revenues for credit to a congressionally sanctioned receipt or fund account; losses are classified as expenditures which must be charged to a congressionally sanctioned appropriation or fund account. Generally losses are netted against gains, at least in part, but the arrangements vary in that respect.

1. Gold, Silver and Coinage Metals. These monetary metals in practice have generated only gains. This is because the acquisition cost has always been at or below the then-current statutory monetary value, and dispositions have always been at or above the then-current statutory monetary value. When gold no longer was allowed to be coined, and instead served as a monetary reserve against paper currency, statutory authority was provided for any increase in the official dollar value of gold to be covered into the Treasury as a miscellaneous receipt; and, an appropriation was provided to cover any decrease in the official dollar value of gold.

2. Foreign Currencies. Gains and losses on foreign currencies are handled in three principal ways.

A. Foreign Currencies Held by Treasury and State Department Disbursing Officers for Disbursement in Behalf of Themselves and Other Agencies. Gains and losses are netted throughout the fiscal year on these foreign currencies, with any overall net gain transferred to miscellaneous receipts. A net loss would be held in suspense until the following year, pending enactment of an appropriation to the Treasury. Appropriations for that purpose are authorized by existing legislation.

B. Foreign Currencies Held by Defense Department Disbursing Officers. Gains and losses are not recognized explicitly because expenditures of the foreign currencies are valued at the average cost of the currencies rather than the prevailing daily market rate. Implicitly, therefore, gains and losses are distributed to Defense Department appropriations.

C. Foreign Currencies Held by the Exchange Stabilization Fund. Gains and losses are netted within the fund without regard to time

3. Special Drawing Rights. SDRs are accounted for as part of the Exchange Stabilization Fund, and gains and losses fall to the fund, with valuation on a monthly basis.

4. U.S. Reserve Position in the IMF. Gains and losses on the U.S. reserve tranche and the GAB are netted, with separate accounts for the reserve tranche and for the GAB. Any net losses would be charged against existing appropriations accounts for the U.S. quota in the IMF and the 1962 appropriation for the GAB. Any realized gains would be covered into miscellaneous receipts. The proposed accounting for gains and losses on the Witteveen Facility is exactly the same as for the existing components of the U.S. reserve position in the IMF. An appropriation would be sought to cover potential net losses, and net gains would be covered into miscellaneous receipts.

Mr. STEVENSON. Mr. President, approval by the Congress of S. 2152, the bill to authorize U.S. participation in the Witteveen Facility, is essential to the stability of the international monetary system. The facility is needed to replenish the resources of the International Monetary Fund and enable the Fund to provide medium-term balance-of-payments financing while countries take measures to reduce their deficits.

The Witteveen Facility would provide approximately $10 billion to the International Monetary Fund for a period of not more than 5 years, of which the

United States would be committed for about $1.8 billion. At the end of that 5-year period no more funds would be dispersed through the Witteveen Facility although repayments could extend over as much as another 7 years.

This temporary addition to the Fund's resources is necessary to meet serious structural payments problems. As countries felt the oil price increases in 1973 and the consequent slowdown in economic growth and trade, many countries took measures to finance their deficits while maintaining their growth rates. Some countries failed to adopt programs to adjust to the higher cost of oil imports and slower growth of exports.

Instead, they attempted to continue expanding their spending at home and imports from abroad as if nothing had changed.

Private financial institutions are reluctant to provide additional financing for countries not taking steps to realize a better equilibrium in their international payments. Drawings on the International Monetary Fund have been higher over the last 2 years than ever before. Many countries have turned to the International Monetary Fund to meet their payments deficits while they take measures to restore equilibrium. Measures to reduce oil imports and boost exports require time. Countries need to draw larger amounts from the Fund for longer periods of time to balance their payments without adopting drastic trade and payments restrictions.

It is in the interest of the United States to help put the IMF in a position to provide financing subject to appropriate conditionality. Otherwise, there is a grave risk that countries will take measures which could restrict U.S. exports and further weaken the dollar. Indeed, it is even conceivable that national insolvencies could trigger a domino effect in the international banking system, with grave economic consequences for the world.

The Witteveen Facility is a cooperative step by 14 countries to help stabilize the world economy. The participants include the countries with the strongest currencies. OPEC countries will contribute one-half the total facility. The U.S. share is less than 17 percent. That is modest compared to the U.S. share in most international institutions. Indeed, it is small by contrast with the stakes of the United States in the world economy.

The Witteveen Facility is a joint effort by OPEC countries and non-OPEC countries to deal with the weakness of the international economy. All countries other than the United States have indicated their readiness to put the facility into operation. Only the concurrence of the U.S. Congress is needed to do so.

Time is needed to deal with the energy problem and increase supplies and reduce consumption. Time is needed to adjust to the growing export potential of the developing countries and make structural adjustments inside both developed and developing economies. That is why the Witteveen Facility is so important. It provides the opportunity for countries with large payments deficits to make substantial drawings for the medium term from the IMF, if they are prepared to take the necessary economic measures to reduce their deficits.

This facility is needed to inspire confidence; confidence in the continuity of international economic cooperation; confidence that the United States and the other major powers, including the OPEC surplus countries, are willing and able to assist other countries to cope with their economic difficulties; confidence that the United States intends to exercise monetary leadership in the world and not retreat within a shell of self-doubt and indecision.

If the United States turns its back on this facility or attaches conditions to its participation which are noxious to the notion of a global international monetary system, there is no chance that there will be another facility like this or that the IMF can continue to play a central role in the international economy. Countries are no longer so dependent upon the United States that they have no alternatives. The United States negotiated a financial support fund in the OECD but, although it was approved by all the other countries, the United States refused to put up its share of the money. The United States pressed for increased international development assistance and promised larger capital contributions to the international development agencies so the poor of the world could have a better future. Now the U.S. Congress refuses to approve payment of the full U.S. share.

The international trade negotiations which the United States pressed to initiate at Tokyo in 1974 continue toward what we all hope will be a successful conclusion. But pressure for protectionist measures are mounting at home, and the United States is moving to place more and more political controls on its exports and investments in other countries.

So, Mr. President, this bill gives us a chance to strike a blow for American authority in the world. It is needed to maintain the economy of the world and, therefore, the political stability of the world.

Mr. President, the world faces a risk of declining trade and general recession. The Witteveen Facility is not the whole answer to that risk, but it is an essential part of the answer.

If world trade can expand and countries realize satisfactory rates of economic growth without inflation, debts and deficits will fade away. This facility can help.

U.S. participation in this facility will cost nothing. In fact, the United States will probably make money by earning interest on this participation. When the facility is liquidated, the United States will show a profit, unless the value of the dollar increases so much in the interim that the exchange rate shift eliminates that profit. We should look forward to such a happy circumstance.

Finally, Mr. President, this debate still fails to distinguish between participation in the IMF and what happens if there is a loss as a result of that participation.

I was not drawing an analogy to the exchange stabilization fund. I was simply pointing out that any losses would come out of the exchange stabilization fund. Participation itself involves an exchange. Congress recognized as much in 1976, which was the first and the only time it has acted on this question, I believe, since enactment of the Budget Act. It recognized what every other country has recognized, that participation involves an exchange of currencies for SDR's. SDR's at the present time are valuable, perhaps more so than the dollar—SDR's which are fully negotiable. They have all the attributes of currency. Participation really has the attributes of a deposit in a bank, for which it never has been suggested that appropriations are required.

Exchange itself does not bring about a loss or a gain. But a loss could occur; and if it did, the loss would be covered out of the exchange stabilization fund, just as losses for exchange rate interventions are covered out of the exchange stabilization fund.

Congress, in its wisdom, as the distinguished junior Senator from Idaho has recognized, does not require appropriations for expenditures from the ESF. That fund has a balance of about $4 billion at the moment. The largest loss that could conceivably be incurred as a result of participation in the Witteveen Facility is $200 million—very easily—should that most unlikely event occur, to be covered out of the ESF.

So even should that unlikely event take place; namely, a loss as a result of a great appreciation in the dollar—it would not be covered by an appropriation; because, as in the case of exchange rate interventions, it would be covered under the ESF, for which Congress does not require appropriations.

Mr. President, for all those reasons, I urge the Senate to approve this legislation and to do so without crippling amendments, without running the risk of politicizing the monetary system of the world, recognizing that, in this world at least, more than one can play that game.

In fact, now, for the first time, the United States, which gave birth to this institution, is no longer its largest contributor. In this case, Saudi Arabia would contribute about 25 percent. The United States would contribute 17 percent.

If the United States, through appropriations requirements or other requirements with political overtones, begins that process, more than one country can play it—with grave economic consequences for a world that requires a stronger, not weaker, monetary system, and with greater political consequences for ourselves and for countries that are friendly to us.

I yield the floor.

Mr. HEINZ. Mr. President, in the last 5 years, the world has been traumatized by major economic disturbances highlighted by staggering oil price increases, unprecedented inflation, and deep and lasting recession. These disturbances have dramatically altered the pattern of world payments and have resulted in

large demands being placed upon the international financial system.

The OPEC nations, which traditionally had maintained nearly balanced current-account positions, accumulated surpluses of about $150 billion between 1973 and 1976. Meanwhile, many of the industrial nations, which traditionally had experienced moderate surpluses and had been lenders of capital, suddenly found themselves running sizable deficits and becoming borrowers of capital. During the same period, these nations suffered cumulative current-amount deficits of about $66 billion.

The non-oil-exporting-developing nations, though, were the most severely impacted. Historically, these nations had maintained carefully controlled and, for the most part, manageable current-account deficits which between 1971 and 1973 averaged about $4 billion. However, between 1974 and 1976, this figure rose sixfold to about $23 billion per year.

These large current-account deficits greatly increased the need for balance-of-payment financing, as initial emphasis was placed upon "financing" deficits rather than on "adjusting" economies for the purpose of eliminating or reducing deficits. Nations were encouraged by international agencies, including the IMF, to finance their deficits in the short run to deter individual nations from implementing painful internal measures and/or self-serving, protectionist measures to support their payments positions.

Though the bulk of this financing has been provided by the private markets (about 75 percent), official financing has also increased substantially during this period. As a result of this demand, the IMF's holdings of usable currencies, even with the recent sixth quota increase, are extremely low and judged to be inadequate to support the potential needs of its members.

This judgment is based upon the premise that the large payment imbalances will continue for several years and that there will be a growing need for some nations to shift their emphasis from simply financing deficits to "adjusting" their economies to resolve deep-rooted structural economic problems.

The supplementary financing facility would add about $10.5 billion to the IMF's resources to be used specifically to assist nations with severe balance-of-payments problems. Many of these nations, given their financing needs and internal economic problems, no longer have access to the private markets. For them, economic adjustment programs, requiring adequate financial support, are essential before their situations become critical.

The IMF is the appropriate vehicle to provide such support. It is the primary source of official balance-of-payment financing and is experienced in working with countries to develop sound and internationally responsible economic adjustment programs.

Furthermore, because the IMF is an international institution whose only direct interest is in maintaining order in the international monetary system and where decisions are based solely on economic criteria, borrowing members are more likely and willing to accept conditions imposed by the Fund than they are those imposed by other governments or private financial institutions. In fact, IMF conditions are often welcomed by governments as they provide justification for imposing politically difficult but necessary adjustment measures.

Specifically, the facility would make financing available to needy members in larger amounts and for longer periods than currently available under IMF credit tranches to support carefully developed and economically appropriate adjustment programs. These programs are designed to reduce the borrowers' needs for external financing and to put their balance of payments on a more sustainable basis.

The countries that are most likely to benefit from this facility are the weaker, low-income developed countries and the more advanced less developed countries. Potential users of this facility include: Portugal, Turkey, Peru, Egypt, Bolivia, Zaire, to name a few, all of whom have been experiencing serious payments imbalances. Obviously, it is not possible to tell whether any of these nations will ever actually draw upon the facility or to foresee which other nations may need to use it. It is interesting to note, however, that the countries mentioned as possible users include, in addition to trading partners, nations of significant strategic importance in sensitive areas of the world. It would be damaging to our national interest to allow instability to foster in these nations.

Fourteen countries have already made pledges to participate in the facility. These participants include seven industrial and seven oil-exporting nations with each group providing approximately one-half of the funds. We, the United States, would not be the largest contributor, for a change. Saudi Arabia would have that distinction by providing about 24 percent or $2.5 billion to the facility. Our share would be about 17 percent or $1.8 billion. The facility has been designed in such a manner, though, that it cannot be implemented without U.S. commitment. Therefore, what we do here today will decide the fate of this important facility.

Though the facility is relatively small in comparison with the magnitude of the problem, it should assist in an overall strengthening of the international monetary system by improving the economic stability and thus the creditworthiness of members adopting adjustment programs, and by encouraging the adjustment of balance-of-payment positions toward a more sustainable pattern.

Considering our dependence on the international monetary system, which is the basis for world trade and financial flows, the United States is obviously going to benefit substantially from a stabilizing and strengthening of this system. We are the world's largest trader, with exports and imports totaling about $270 billion last year, and our money markets are of international importance and scope. Furthermore, the dollar is the international medium of exchange, serving as the world's reserve currency. Consequently, the interdependence of our economy with those of other nations and our position in the world's economy makes it vitally important for us to promote, to the extent possible, a stable and viable international monetary system.

Passage of this bill will, therefore, not only state our commitment to the IMF supplementary financing facility but it will also do our part, to further a sound and expanding world ecomony which is in our own interest as well. I thus urge my colleagues to support this important legislation.

I would only add, Mr. President, that if we fail to pass this important piece of legislation or if we burden it with amendments that will result either in politicizing the Fund or making our participation in the facility unacceptable to other Members, as I think we are in some jeopardy of doing, we stand the danger of losing our credibility as a leader in the international economic affairs of the world, and that would seriously jeopardize the stability of the international monetary system.

We chose awhile back not to participate in the $25 billion OECD safety net and now we have taken almost a year to act on our pledge to this facility while the other 13 participants have anxiously awaited our decision, having already committed themselves.

Mr. President, surely we should not do any more than we already have to create further doubts about the stability of our Government, the continued role of the dollar as an international medium of exchange and our ability to sustain a leadership position in world affairs.

People have expressed some doubts openly abroad about our ability to meet these objectives. Our failure to act in a positive manner on this bill will only cause a further deterioration in confidence abroad in our ability as a nation and our willingness as a people to exert the leadership the rest of the world expects and hopes that we can provide.

Mr. JAVITS. Mr. President, I shall not take over 5 minutes. We want to get on with the bill and deal with the amendments.

I would like to say, first of all, that before going into my opening statement, which will be brief, that the only reason I raised and took issue with my colleagues respecting this budget process is the practical issue of its reaching out into many areas which do represent banking transactions by the United States which require immediate action such as, for example, the support of currencies like our own.

We ourselves have drawn on the International Monetary Fund not once but on previous occasions, and we are now facing a very unstable international condition in currencies, including a most drastic fall of the dollar which may very well require that we use the facility again.

I did not wish to immobilize the United States any more, Mr. Presdent, than I did, and I beg my colleagues to hear me on this, any more than I did want to in the War Powers Act, with which I had so much to do. I do not wish to immobilize our President in an immediate response if the national security of the

country required it. Indeed, that act does not in any way restrain him on that very critical point.

I feel the same way about this, and, hence, that is why we are debating this issue because we do not want the reach of immobilization to paralyze us when action is urgently required.

I have no doctrinaire views about this particular matter. If the Appropriations Committee—I say to all my colleagues who are interested in that phase of the Congressional process—does not like this they can kill it anyhow because they have to vote the $200 million worth of the appropriations.

So I wish to make that explanation.

Mr. President, as to the desirability of what we are doing, to me it is, perhaps, of even more importance than it is to the International Monetary Fund or to the parties which look at it solely as the Witteveen Facility. This is because, Mr. President, since last August when I first testified before the Banking Committee, I am convinced that the crisis—and it is a crisis which is getting worse in the international monetary situation which results from the quadrupling, the quintupling, almost, in the price of oil and the resulting strain on the less developed countries, which are now borrowing up to their ears, rolling over their borrowings with commercial banks, and threatens the world with a recession or a serious depression.

Now, the only way you can handle that, because these less developed countries cannot keep up these borrowings—Mr. President—is by expanding the world's production and the world's consumption, and this can only be done if we are bold enough to extend the kind of credit, on intelligent bases, which is only extended in war. We are scared to death of $100 billion, but we thought nothing of it, of expanding our debt by $100 billion in each year of World War II, and that was in those dollars which mean $200 billion or more today. That was for war. But have we ever done it for peace? The answer is, no, except the Marshall Plan. That is the time we really showed that kind of boldness and enterprise.

The Witteveen Facility, Mr. President, is a recognition of the way in which the world should move if it wishes to save itself from a monetary and a financial debacle. That is why, Mr. President, taking the larger picture into consideration, although the facility is for the adjustment of balances of payments problem, is a first step in the direction of the world's realizing and meeting this peril.

Secondly, it is a banking matter, and I am so deeply indebted to Senator STEVENSON for making that clear, that we are going to be repaid as if it were a banking loan.

As we know from oil, with British oil and North Slope oil and oil being discovered in the less-developed countries where we never dreamed it might exist, the resources of this world are far beyond our calculations. But the ingenuity of man must draw them out, and I have the greatest respect for my conservative friends, if they would think this way about governmental program as they do for private business.

I hope, therefore—and we will get over this particular hurdle in some way, I assure Senator MCCLURE—I hope all my Colleagues will look at this Witteveen Facility from the point of view of that kind of enterprise.

Other than that, whatever may be our arguments about our internal action, it is a very hardheaded banking deal with people who want to deal with us.

I hope very much, Mr. President, that as we debate this issue we will keep our eye on the ball and on the main theme, which is why I have been so deeply devoted to this particular effort which we have here.

The United States was a primary force behind the establishment of Witteveen Facility, which totals approximately $10.5 billion; yet, we are the only country which has not completed its constitutional procedures for participation. In its negotiations with the other donor countries in the IMF, the administration took into account congressional concerns about an earlier attempt made by the Ford administration to develop a program to meet the balance of payments needs of the world, the OECD safety net.

In response to congressional criticism of the safety net that it did not include money from the OPEC countries and would not be used to meet the balance of payments needs of the developing countries, the administration favored a facility within the IMF which specifically met our concerns.

Let it be clear to my colleagues that we are not talking about a foreign aid program. The IMF is the world's central monetary institution and serves as a common storehouse of international monetary reserves to which all the members of the IMF have contributed. The member countries thus are eligible to draw upon the reserves for official ballance of payments financing which must be accompanied by steps to stabilize their economies and correct any excessive deficit in the balance of payments. Once a country has been accepted for membership and has paid its entrance fees by contributing hard currencies, gold, and some of its local currency, it has the right to draw on its share in IMF resources to which it is entitled.

All IMF members contribute to the reserve pool; and nearly every member, including the United States, has drawn a portion of its reserve quota to meet balance of payments needs at one time or another. The United States, in fact, has drawn on 23 occasions in the amount of $3.5 billion.

The Witteveen Facility is specifically geared to meeting the needs of the international economy for increased flows of capital from countries in balance-of-payments surplus to those in deficit. Increased flows are, however, not enough. The international economy has suffered greatly since the quadrupling of oil prices by the OPEC countries in 1973–1974, and we need further to insure that the increased capital flows are put to productive use in capital investment in order to generate the needed funds to pay for the increased energy costs that these countries are incurring.

In the light of this cataclysmic shock that has severely affected the world economy, it is imperative that the international institutions that were created to deal with balance-of-payments problems adapt their programs to meet these changed conditions. In the immediate period following the OPEC price rise, the commercial banking system rose to the occasion by recycling much of the funds from the surplus to the deficit countries. The fact that the international monetary system did not collapse, as was predicted by many in the immediate aftermath of the 1973–74 OPEC price rise, was due to the resiliency of the private commercial banking sector.

The official institutions, responded, too, albeit more slowly. The Witteven Facility is part of that official response. The other official institutions—the World Bank and the regional development banks—have only begun now to increase their lending to the deficit countries.

The Witteveen Facility is needed in order to permit the IMF to meet these increased world balance-of-payments financing needs and to promote economic stabilization for member countries in this period of particular financial difficulty and uncertainty. The facility will total approximately $10.5 billion, with OPEC countries sharing in the financing on a roughly 50–50 basis with the major industrial countries. Saudi Arabia is the largest participant, providing about 24 percent of the financing. The U.S. share, about 17 percent, is appropriate to our large stake in a healthy world economy. This financing involves no net interest cost to the Treasury and gives us a highly liquid asset—for each dollar we provide, we receive an equivalent increase in our international monetary reserves which we can encash in the event of balance-of-payments need.

We have heard much criticism of the IMF because of the conditions that the IMF insists upon, the so-called "conditionality," in order to permit countries to draw upon IMF resources. It is often argued that these corrective actions are much too harsh and that they impose severe restrictions on the economies of the borrowing countries. This issue has been explored in depth. I ask unanimous consent that a recent speech given by the former Managing Director of the Fund, Johannes Witteveen, who negotiated the Facility and for whom it is named, be inserted in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FUND'S CONDITIONAL ASSISTANCE PROMOTES ADJUSTMENT PROGRAMS OF MEMBERS, WITTEVEEN STATES

The financial activities of the Fund do not relate exclusively to developing countries, but these countries do form the vast majority of the number of countries borrowing from the Fund. As is well known, the current account deficits of the non-oil producing developing countries increased sharply after the quadrupling of oil prices in late 1973 and 1974. At the same time, relatively new channels of financing emerged—in particular, private commercial banks have made a sub-

stantial contribution to financing payments imbalances in the years since 1973. Nevertheless, the Fund also has had to play a more important role than previously in financing these deficits. At an annual average of about $29 billion, the current account deficits of non-oil producing developing countries were somewhat over three times as large in 1974–77 as during 1968–73; as between the same two periods, the share of assistance provided by the Fund increased from 3 per cent to 6 per cent. This latter percentage may appear to be small and is indeed much smaller than that attributable to commercial banks. However, the balance of payments assistance provided by the Fund plays a crucial role in the international credit system principally because of its most distinctive feature—the conditionality attached to it.

Over the past four and a half years that I have been at the Fund, I have become increasingly aware of the critical role played by conditionality in the contribution that the Fund makes to alleviating the balance of payments problems of countries and to facilitating the international adjustment process. The Fund's conditionality is often viewed as a quid pro quo for its financial assistance. I submit that such a view is in error. The Fund's conditionality is, in fact, an essential complement to the assistance it provides. Without the conditionality, the financial assistance cannot be used to its maximum potential advantage, while, without the assistance, the process of adjustment would be much more painful.

Conditionality consists of the requirement that a country making use of the fund's resources do so in the framework of an economic policy program aimed at restoring equilibrium in its payments position. It is based on the simple premise that in most cases it is unwise and, in the end, not even feasible, to finance balance of payments deficits over a protracted period of time without taking corrective measures. I must stress, however, that there are circumstances in which less emphasis need be placed on adjustment, and this the fund fully recognizes. Balance of payments disequilibria of a relatively small magnitude are a case in point—a case that has been accommodated by the liberal policy, in existence since 1955, relating to the use of the Fund's resources that does not go beyond the first credit tranche. Payments difficulties caused by downward fluctuations in export earnings which arise from circumstances substantially beyond the control of a country and which can be expected with reasonable confidence to be reversed in a relatively short period of time are another case in point. The Fund has accommodated this case by introducing in 1963 a special facility [the compensatory financing facility] to finance such needs with minimal conditionality. A third case in point—and the most dramatic—was that arising from the oil price developments of 1973–74. The Fund then considered that the payments deficits resulting from these developments had to be sustained and financed for a while, in order to avoid reinforcing the recessionary forces in the world economy. The oil facilities [for 1974 and 1975] with their limited conditionality were therefore set up.

Apart from these special cases, the dominant feature of all other Fund lending is the degree of conditionality that is attached to it. Except for a brief period of a few years after the Fund opened its doors, it has never been seriously argued that access to the Fund's resources should in general be automatic or even near-automatic. A number of transactions did take place in that brief period, but thereafter the concept of conditionality was explicitly, albeit gradually, introduced into Fund lending policies. There was uncertainty at first as to what the conditionality should consist of, but by early 1952, thinking had so crystallized that the Executive Board could concur in a declaration that the Fund's attitude toward a member country seeking its assistance would be determined above all by its judgment as to whether the policies being pursued by the country were adequate to overcome its balance of payments problem within a temporary period and enable it to reverse drawings from the Fund within an outside range of three to five years.

Along with the basic concept of conditionality, the Fund developed the stand-by arrangement as the channel through which its resources would be made available by the late 1950s, it had become the principal channel for this purpose. The stand-by arrangement was developed initially to assure the availability of Fund resources to countries which did not need such resources immediately but felt that they might need them in the near future. Over time, however, it became clear that the arrangement could in fact also serve as an extremely efficacious instrument for the implementation of conditionality in the case of countries experiencing an immediate as well as a prospective need for balance of payments financing. During the period of the stand-by arrangement, the Fund and the country concerned can work closely together in dealing with the payments problem. Precise declarations by the country as to the policies it intends to follow for this purpose are set out in a letter of intent that accompanies the stand-by arrangement. Actual use of resources made available under the stand-by arrangement is phased over the duration of the arrangement and coordinated with the continued pursuit of corrective policies. Moreover, use of the resources beyond the first credit tranche is contingent on the observance of performance criteria, most of which relate to precisely defined statistical measures of broad aggregates of key economic variables.

So much for the apparatus of Fund lending through which conditionality is implemented. But what is its content? I have said before that conditionality consists of the requirement that a country making use of the Fund's resources do so in the framework of an economic policy program aimed at adjusting its payments position. Clearly, the specifics of such programs will vary depending on factors such as the causes and the severity of the payments problem and the structure and institutional framework of the country's economy. While, therefore, no two programs will look quite the same, there are some common desiderata: the payments objective should not be achieved by tightening restrictions on foreign trade or payments—indeed, elimination of any newly introduced restrictions and, if possible, the reduction of the more long-standing ones should be sought; nor should it be achieved by merely depressing domestic demand temporary without providing for a redirection of resources to the foreign trade sector; nor, finally, should it be achieved by resorting to foreign borrowing on a scale and in a form that may not be sustainable in the medium term. The rationale of these essentials hardly needs elaboration. Improvement in the payments position achieved by any of the above means cannot be enduring.

Given these desiderata, the broad objective of corrective programs is twofold. First, recognizing that balance of payments problems often reflect national overspending, the programs seek to ensure that aggregate demand for goods and services is brought into line with output. For regulating aggregate demand, the appropriate amount of domestic credit expansion is determined in the light of the likely increase in aggregate output during the program period, the price and balance of payments targets, and an assessment of the likely demand for money. Limiting credit expansion to an amount that is compatible with the targets usually involves adjustments in government budgetary policy since bank-financed government deficits are often a primary cause of excessive credit expansion. In a number of cases this kind of demand restraint, taken by itself, would cause a reduction in growth and an increase in unemployment. In such cases, therefore, the program will also have to emphasize the establishment of an appropriate structure of relative prices—a structure that would encourage savings and investment and a redirection of investment as needed for the purpose of strengthening the international competitiveness of the foreign trade sector of the economy. The prices that are most often relevant to the adjustment program are the exchange rate, interest rates, and producer prices of certain key commodities.

The performance criteria in programs supported by the Fund usually relate to the broadest possible economic aggregates that would suffice for the achievement of the objective of payments adjustment. The Fund avoids taking a view on the appropriate distribution of the burden of adjustment as between various sections of society. Thus, for example, if an improvement in the government budgetary position is an ingredient of the program, as is very frequently the case, the performance criterion usually applied relates to the extension of bank credit to the government, rather than to specific measures to increase revenues or cut expenditures. Similarly, performance criteria do not relate to specific prices for individual commodities but, where needed, apply to prices fundamentally influencing the structure of production like exchange rates and interest rates.

I have given you only the barest outline of the content of conditionality. But I have said enough, I think, to indicate why it should have become a subject of controversy. After all, control of inflation and the effectiveness of monetary policy, or the responsiveness of savings to interest rate changes, the efficacy of exchange rate changes in inducing changes in trade flows, and the responsiveness of farmers to price incentives—these have been lively subjects of debate among economists for decades. But what gives a particularly sharp edge to the controversy surrounding conditionality is that the manner in which these issues are resolved bears on the real income of one or another economic group. This goes to the heart of national policies in all countries. Both inflation and balance of payments difficulties reflect efforts on the part of a society, seen as a whole, to avail itself of more resources than it can currently generate. Dealing with these problems involves, especially in the short run, cutting back on real incomes and the use of resources; and fears on the part of each section of society that it may have to assume a disproportionate share of the burden of this cutback provoke strong resistance to efforts aimed at this objective. It is not difficult to see why such matters should become highly charged political issues.

Controversy surrounding these issues and, therefore, surrounding Fund conditionality has increased in intensity in recent years. As I said a while ago, when the oil price developments of late 1973 and early 1974 resulted in large-scale payments disequilibria, the Fund took the view that in dealing with these disequilibria, the emphasis should initially be on financing them. As the dangers of a financial collapse and severe depression receded while the danger of rapid inflation reemerged, the Fund shifted to the view, by the fall of 1976, that the time had come to put greater emphasis on the adjustment of external positions. However, the very scale of the disequilibria meant that in many individual cases the required adjustment was large. The persistence of high unemployment in a number

of countries complicated the problem of demand management. Moreover, to the extent that the payments problems were the result of a sharp deterioration in the terms of trade, with a consequent reduction in real income, the necessary domestic adjustment was particularly painful. Finally, the problem was exacerbated in some parts of the world by an increase in the number of governments whose position was insufficiently strong to enable them to undertake difficult adjustment measures.

In the remainder of my remarks today, I shall try to respond to some of the criticisms, both new and old, that are leveled against the policy stance that underlies Fund conditionality. If we in the Fund attach as much importance to conditionality as I have said we do, we are conscience-bound to be constantly on our guard to ensure that its broad philosophy continues to be rational, realistic, and, most important, relevant to individual country situations. We can do so only by utilizing the continuously accumulating lessons of experience and heeding the constructive criticism that outsiders—whether in national governments, international banks, academia or the press—may have to offer. It is, therefore, in a spirit of a dialogue with those who are concerned to achieve the same broad objectives as those of the Fund that I make my remarks.

One criticism is that Fund conditionality, with its emphasis on the role of demand restraint in dealing with payments problems, always compromises the growth objective unduly and is particularly inappropriate in the context of the current world economic situation which calls for more expansionary policies. I must state at once that I share the concern with the current world economic situation which in part motivates this criticism. Unfortunately, substantial underutilization of capacity, very high levels of unemployment, low rates of investment, and increasing reliance on protectionist trade measures are too widely prevalent today, and there is clearly a need now for greater emphasis on policies to stimulate economic growth. However, such stimulatory policies cannot be undertaken indiscriminately. They will not be successful and could indeed be severely damaging if undertaken without regard to the price situation in each country and the relative position of that country in the international adjustment process. I have emphasized in other forums and I would like to emphasize here once again that countries with strong balance of payments positions and relatively stable domestic price situations, whether developed or developing, must contribute more vigorously to world economic growth than a number of them are doing at present. But for countries with persistent domestic inflation and large balance of payments deficits, expansionary policies are not appropriate, even in the present world situation. They must give priority to bringing inflation under control and reducing their payments deficits to manageable proportions. In doing so, growth may appear temporarily to be sacrificed. However, if an appropriately restrained demand policy is combined with a realistic price structure, as I have already indicated, adjustment can go together with, and even lead to, stronger and healthier growth. Moreover, in an uncomfortably large number of countries evidence is strong that growth does not proceed beyond a modest rate until inflation has been substantially reduced and balance of payments constraints eased.

Progress toward these respective objectives in surplus and deficit countries will be mutually supportive and must go hand in hand. Progress by countries with low inflation and strong payments positions will ease the process of adjustment in those with high inflation and weak payments positions. And, progress by the latter toward their immediate objective will make their eventual contribution to the growth of the world economy more sustainable.

Let me turn now to a criticism of Fund conditionality which is independent of the current world economic situation. This is that policy recommendations made by the Fund are based on a faith in the working of the price mechanism as an allocator of resources, a faith that is not justified, especially in the developing economies with their narrow production base and shortages of essential factors of production. It is also sometimes suggested the policies based on the use of the price mechanism are regressive in their incidence.

It will clearly be impossible for me to deal fully with this subject within the confines of this speech. I shall, therefore, deal with it only selectively. I shall first make a general remark and then address two matters that are of specific concern to critics in this area.

My general remark is this. There is probably truth in the argument that because of market imperfections of various kinds, the price mechanism does not always function in the most ideal manner. However, reliance on detailed physical controls for the allocation of resources is not a clearly preferable alternative, since it presupposes that the administrative machinery possesses a degree of efficiency, knowledge, and foresight that obtains in few countries. In fact, this has come to be increasingly appreciated, and consequently we now see an unmistakable trend throughout the world to reduce reliance on controls and make greater use of realistic pricing. It is also recognized more clearly that, even where reliance on controls is substantial, relative prices that reflect market conditions facilitate the task of those who administer the controls.

Besides, a pervasive system of controls all too frequently opens up possibilities of corruption. Surely, this is not a desirable consequence, especially in societies in which a highly unequal distribution of income creates tensions which are exacerbated by resentment of the fact that corruption creates considerable wealth among those who wield political or economic power.

An area of particular concern to some critics is the exchange rate. It is often argued that the Fund recommend exchange rate changes much too readily. According to this view, a devaluation, instead of facilitating the task of coping with payments imbalances, in fact makes it more difficult, because it has an immedate domestic inflationary impact, while the supply response, which is necessary in order to achieve the desired export expansion and import substitution, takes a long time to materialize. What is needed to improve the balance of payments, the argument continues, is a host of direct measures aimed at increasing domestic production, rather than the relative price changes attendant on a devaluation. It is also argued that devaluation is too blunt an instrument and does not permit enough selectivity in the control of imports.

It is true that Fund-supported programs intended to cope with large payments deficits often include action in the exchange rate field. Indeed, under the amended Articles of Agreement as recently adopted, it is one of the obligations of all Fund member countries to ensure that exchange rates are not set at levels that would impede effective balance of payments adjustment, and the Fund is required to oversee the observance by each member of its obligations. When domestic prices and costs become substantially out of line with those in trade partner or competitor countries, development of the foreign trade sector is stifled. If that sector is to be revitalized, an exchange rate change is surely the simplest and the least painful of the available policy alternatives, although it must be accompanied by a policy of adequate demand restraint. The alternative of domestic deflation alone is far more costly in terms of output and employment. The alternative of restrictions on trade and payments may hold down imports but does little to encourage exports; indeed, it serves to discourage them insofar as it raises the input costs of exporters without increasing their returns. Attempts to overcome this difficulty by subsidizing exports, together with the initial restrictions on imports, result in time in an excessively complex system of controls and subsidies which is cumbersome and distorts incentives toward obtaining administrative favors rather than developing markets, improving products, or reducing costs. It may well be that the response of export supplies to price incentives set up by a devaluation takes some time, but there is little reason to expect it to take more time than the response to export subsidies.

Once it is accepted that sustainable development of an economy requires the healthy development of its foreign trade sector, it becomes apparent that realistic pricing of foreign exchange should be viewed not merely as an instrument for balancing the external accounts but, in fact, as a powerful instrument of development policy. Moreover, a realistic exchange rate by appropriately pricing capital goods which developing countries for the most part import, encourages the substtiution of labor for capital and thus helps in the efforts to promote employment—one of the most important policy objectives of developing countries.

What I have been saying is amply grounded in the experience of many countries. I am not at all suggesting, of course, that exchange rate policy alone is a panacea for all balance of payments or development problems. For it to be fully effective, complementary policies are needed not only in the area of demand management but also in broad areas having to do with the improvement of productive efficiency.

I would like to cite another instance of the importance of relative prices. In a period of inflation, the authorities often feel compelled to keep prices of basic food items stable in the interests of low income consumers in urban areas. Sometimes this is done by subsidizing the consumer through the government budget; the Fund points out the budgetary problems such subsidies could create but accepts their continuation if they are an important part of the social program of the government and it is clearly understood that the burden of such a subsidy has to be borne by some section of society. Just as often, however, the low consumer prices are made possible by the payment of low prices to producers of basic foods, who are themselves among the poorest sections of society. Experience has shown, moreover, that in a period in which other prices are rising, such low prices serve as a strong disincentive to the production of basic items, and producers tend to shift to the production of other, higher-priced items. The problem cannot be solved, as many governments try to do, by subsidizing the price of inputs necessary for food production, for that is not an efficient substitute for the appropriate pricing of output. Thus, a policy designed to protect the interest of the lower income consumers often turns out, in fact, to affect them adversely.

Let us turn next to the argument that while the sort of corrective measures that the Fund recommends may be appropriate, the pace of adjustment that the Fund looks for is too rapid. It is argued that such an excessively rapid pace risks political recoil, a possible reversal of the measures and, eventually, greater economic damage. I should point out in this connection that all too many countries approach the Fund for

financial assistance only when, as a result of protracted delay in taking corrective action, the economic situation has already become critical. Under such circumstances, it is inevitable that at least the initial corrective measures would be painful. Also, in the Fund's experience, a gradual approach to taking corrective measures has not always proved to be preferable to bold, decisive action. Indeed, gradualism can actually give vested interests an opportunity to reassert themselves, pushing the economy back into its previous difficulties.

The Fund recognizes, however, that a corrective program spread over a period longer than the one year which has been the standard for stand-by arrangements has certain advantages. Such a longer period could make it possible for the authorities to choose from a broader range of alternative policy instruments, permitting a more acceptable distribution of the burden between various sections of society; it could also give them greater latitude in determining the timing of various measures. The authorities may feel that a longer-term program promises greater political assurance of steady progress toward the intended goals. In recognition of this possibility, the Fund has been modifying its practices. The initial adaptation, used already for some years, was to have successive annual stand-by arrangements with a given country; but more recently, the Fund has introduced a few two-year stand-by arrangements.

The extended Fund facility established in 1974 also meets the need for adjustment measures spread over a period of time longer than one year. Programs under this facility, which are for relatively large amounts, can be for periods of up to three years. Such long-term programs are particularly appropriate when fundamental policy and institutional reforms are needed and it is necessary to coordinate medium-term investment plans with financial policies. Each of the extended arrangements so far agreed has been for a three-year period.

Countries have sometimes considered it anomalous and perhaps also unfair that they should have to negotiate a wide range of national policies with the Fund when the amount of financing the Fund can provide is a small proportion of their need for balance of payments financing. It is recognized, of course, that agreement with the Fund is often a precondition for other financing to be made available. Nevertheless, it has become increasingly common for countries to perceive the Fund as the lender of last resort, approaching it only when all other sources are exhausted and the economic situation has, in the meanwhile, greatly deteriorated. As I have said earlier, much of the difficulty associated with Fund conditionality arises from the severity of the adjustment measures needed at that late stage. The new supplementary financing facility is, therefore, designed to enable the Fund to meet more fully the needs of countries whose payments deficits are large in relation to their quotas.

I would hope that countries would increasingly recognize the desirability of approaching the Fund in the early stages of their balance of payments problems. In this context, let me recall for a moment what I described earlier as the initial conception of the stand-by arrangement. The stand-by arrangement was initially conceived as a sort of precautionary device to assure the availability of financing to countries that did not have an immediate need for such financing but felt that they might need it in the near future. In the evolution of the stand-by arrangement over time, we have largely lost sight of this initial purpose. I think countries must once again begin to look upon the stand-by arrangement as a line of credit to be arranged before a large-scale or urgent need for financing is actually upon them. Our friends in the press can help in this respect by not always portraying such occasions as situations of crisis or confrontation.

More fundamentally, it is necessary to counter the belief that Fund conditionally involves policy measures that countries in balance of payments difficulties could otherwise do without. There are circumstances in which balance of payments deficits can and should be financed. There are periods, relatively brief, over which they can be financed—whether or not they should be. But certainly no country can use reserves or borrow indefinitely to finance sizable overall payments deficits. Sooner or later, the time to finance comes to an end and the time to adjust arrives, simply because no source of financing is available. The adjustment measures which then become unavoidable are unlikely to be very different from those that are encompassed by Fund conditionally. Indeed, even when supported by the Fund, a country's adjustment program is likely to be successful only if the government itself clearly perceives that the adjustment is needed and is completely committed to seeing it through to its successful conclusion. For that national will and commitment, Fund conditionality is not a substitute. The fund can counsel and agree but it assuredly cannot—as is, unfortunately, so often said—"impose" policies and conditions.

I have just said that the Fund counsels on national economic policy making. Over the past 25 years, the staff of the Fund has developed a considerable body of economic and financial technology that has been tested in the crucible of practical experience in many countries at differing stages of development and facing a wide variety of problems. This technical expertise relates to a variety of areas such as trade and payments policies, policies relating to taxation, tax administration and budgetary control, and monetary policies and institutions. The sharing of this accumulated experience is an important service that the staff provides to national authorities, not only in the process of collaboration that is involved in designing the balance of payments adjustments programs supported financially by the Fund but also on a more continuing basis.

Since one of the purposes of the Fund is to help achieve a balanced development of the world economy, it must promote at the national level the careful balance between financing and adjustment which I have been talking about. In other words, a successful functioning of the international monetary system requires that the provision of unconditional international liquidity and that of conditional liquidity be suitably harmonized. By promoting adjustment in this way the Fund in fact provides a crucial underpinning to the whole structure of international credit. This seems to me an increasingly important contribution to the continued growth of the world economy.

Mr. JAVITS. Let me quote from Mr. Witteveen's speech:

The Fund's conditionality is, in fact, an essential complement to the assistance it provides. Without the conditionality, the financial assistance cannot be used to its maximum potential advantage, while, without the assistance, the process of adjustment would be much more painful.

In analyzing what conditions the Fund must insist upon, it is important for us to remember that the Fund has become a lender of the last resort. Once again I would like to quote from Mr. Witteveen,

It has become increasingly common for countries to perceive the Fund as a lender of the last resort, approaching it only when all other sources are exhausted; and the economic system has, in the meanwhile, greatly deteriorated.

A deteriorated economic system and, hence, balance of payments difficulties, generally are the result of attempts by a member countries design to deal with resources than it can currently generate. The stabilization programs, which the member country to avail itself of more these problems, involve, especially in the short run, cutting back on the aggregate real income and the use of resources by that country. This is a harsh task; but, using a term that has become very popular today and is very apposite, "There is no such thing as a free lunch."

This past week there appeared in the Washington Post a series of articles on the IMF. I ask unanimous consent that they be inserted at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 23, 1978]

NOW, WHEN THE IMF TALKS, MORE NATIONS ARE LISTENING

(By Art Pine)

Last February, a four-member field team was quietly sent from the International Monetary Fund to the Zambian capital, Lusaka, for discreet negotiations. The subject: the Zambian government's request for a $305 million emergency loan to save the country's credit by underwriting its heavy balance-of-payments deficit.

After 21 days of delicate discussions, Zambia had its money. But in return, Prime Minister Kenneth Kaunda had to promise to devalue his country's currency and slash government spending. The devaluation meant higher prices for imports, and the spending cuts meant reductions in income. The two actions lowered the Zambian standard of living, but the government had no choice. It was either accept the IMF's conditions or go bankrupt.

What occurred isn't unusual, but it serves to illustrate a point. The fund, a 130-nation organization whose job is to police the badly strained world monetary system, is gaining increased power and influence over its members' affairs—often, in the case of weaker nations, to the point of setting the terms of their domestic economic policies.

Besides the Zambia case, the fund has forced stringent austerity measures in 21 deficit-plagued nations over the past several years. In 1974 and 1977, it issued new lines of credit to Italy and the United Kingdom. In June, it approved a loan to Jamaica. And now, IMF officials are in the midst of negotiating with war-torn Zaire. What's more, international experts say the fund's clout is growing almost daily.

The question is, how is the IMF's bureaucracy, housed in a bulky, atrium-topped building on 19th Street, exercising its new power? Some critics say the fund is too arbitrary and inflexible—overly tough on developing countries, and insensitive to the "human" consequences of the belt-tightening it prescribes for problem-ridden nations.

Indeed, fund-mandated government austerity programs recently led to rioting in Peru and Egypt, with residents protesting their leaders' decisions to raise domestic prices. And diplomats from some developing nations regularly grouse that IMF officials demand more of smaller countries than large ones. "If the big countries resist," says one, "the fund disappears."

The increased clout is a relatively recent phenomenon. Only a few years ago, the IMF's attempts to give countries economic advice

were treated as little more than a gentleman's game. Fund field representatives held annual "consultations" with all member governments. But their urgings were taken with a grain of salt—particularly if the sitting government disagreed.

But now, with the past few years' dramatic changes in the world economic situation, the fund has become a power to be reckoned with. "These days," says one international economist, "when the IMF talks, more and more countries are listening." And so are private banks and other international lending institutions.

The big multinational banks, in fact, are among the big winners in the fund's hardline approach. Although the money lent by the IMF ostensibly is for government-to-government balance-of-payments transactions, once it's in a countrys' hands it can be used to pay off loans to private banks if need be. And the IMF's policy prescriptions serve to guarantee the banks that the country will be a better credit risk.

The IMF's heightened new influence stems basically from two developments:

The sharp rise in oil prices the Arab nations engineered in 1973 has thrown more countries into deficit—and dependence on IMF loans to save them from bankruptcy. Since private banks rely heavily on IMF judgments—and backup—in their own lending to countries, the fund's pronouncements on policy have extra weight. If a nation wants the IMF's seal of approval, it has to toe the line.

The recent overhaul of the international monetary system has given the fund formal new authority to exercise "surveillance" over problem countries that have severe payments imbalances. While no one yet knows precisely how much power that entails, the charter revisions have given the IMF's recommendations increased status.

The fund's say-so over domestic economic policies of individual countries stems primarily from its power over its own purse strings—specifically, the conditions it sets for making loans to countries that are in difficulty over exceptionally large balance-of-payments deficits. (A country gets into deficit when its imports and investments abroad outstrip its exports and intake of capital.)

The IMF's role in the world economic system essentially is that of a policeman for the "haves"—other fund members, the nations that have lent money to financially troubled countries, and, indirectly, the large multinational banks. (The World Bank, the fund's sister organization, deals with helping the "have-nots" by offering grants or low-interest loans for economic development projects in poor countries.)

If a rich or poor nation gets into balance-of-payments difficulty, the fund steps in—often as lender of last resort—with an offer to help bail out that government by providing a sizable line of credit. But the credit is hinged on the condition that the country adopt stringent fiscal and monetary policies designed to eliminate its payments deficit. The more a country wants to borrow, the stiffer the terms the IMF sets. Often, by the time a country seeks fund help, it's too late for anything but severe belt-tightening.

Fund officials argue that the tradeoff is fair enough: Were it not for the IMF's underwriting, the individual nations would go bankrupt, and would have to impose much harsher austerity programs than those the funds insists on. Like a benevolent banker, the fund aims for gradually restoring economic health to the deficit country—not pay up on the spot.

Under the basic IMF loan system, nations may borrow up to 100 percent of their "quota," or membership fee in the fund, divided into four separate "tranches" or lending categories, each with a progressively tougher set of strings attached. There also are special longer-term lending pools from which members may borrow additional amounts.

It's the power to set conditions for making loans that gives the fund most of its clout. The organization's charter is worded vaguely enough that officials are free to establish whatever terms they think are needed. Talks between the government and fund representatives often last for weeks. At the end, everything must be approved by the IMF executive board.

The results often are striking. In Zambia's case, for example, the government won a credit line of $305 million, but had to devalue its currency by 10 percent and sharply slash spending. Great Britain won authority to borrow up to $4 billion, but had to raise interest rates and pare spending. Jamaica received $244 million—after devaluing and promising to slow wage increases.

Moreover, the IMF continues to influence national policies even after a loan is granted, because the aid usually is only for a year or so and requires a "performance evaluation" for renewal. So, Jamaica this year had to renegotiate a new domestic economic program after its 1977 efforts failed to meet the fund's criteria. And IMF officials prodded Sri Lanka into its most sweeping economic reforms ever.

IMF authorities insist the fund doesn't "dictate" domestic policies to individual countries. In the first place, the terms it sets almost always are worded in the euphemisms of international economics, unlikely to offend any government. "We never ask a country to devaluate its currency," an insider says. "We just agree on limits for net foreign assets of its central bank."

Secondly, fund negotiators almost always suggest several options for governments on each major issue. In the Zambian case, for example, IMF representatives suggested five or six approaches for achieving each economic goal, and then Zambian officials chose among them, based on domestic political considerations.

There's often been criticism that the IMF's judgments are made by staff, not political officials, meaning that nation's policies, in effect, are determined by sometimes youthful economists who never have been elected to office. In essence, that criticism is accurate. But often the IMF staff members are experienced. And in all cases, their work is reviewed by top fund officials and the executive board.

In the case of the Zambian negotiations, all four fund field team members were economists: a 40-year-old Italian, who has spent his career with the IMF and other international economic institutions; a 33-year-old Japanese economist; a 30-year-old Finn, and a 29-year-old London School of Economics graduate who has been at the fund seven years.

Their proposals, the result of weeks of work, were approved by Zambian policymakers and top IMF officials. The decisions at the Zambian end were made by the prime minister and finance minister.

William B. Dale, a former U.S. Treasury official who is the fund's deputy managing-director, insists that "the fund can't dictate a nation's domestic economic policy." Even if a country "agreed to whatever we suggested," he says, "it's they, not we, who administer the policy. They've got to become satisfied the policies are correct before they adopt them."

And Paul A. Volcker, former U.S. undersecretary of the treasury for monetary affairs and now president of the New York Federal Reserve Bank, says the fund's analysts usually are right on target. "You can pick your individual instances where in hindsight there's been some problem," Volcker says, "but by and large the fund people do their jobs pretty well."

Still, in the end, even fund insiders agree, the bottom line is whether the deficit-plagued country wants the IMF's money and imprimatur. "The borrowing countries accept the terms because they need the IMF's Good Housekeeping seal of approval," says a U.S. official familiar with the negotiation process. "They know they can't function without it."

Adds one high developing-country policymaker involved recently in negotiating an IMF loan for his country: "It's just astonishing how much authority the IMF mission chief has. You're really dealing with a high-class bunch of people here, and on balance I'd have to say they were fair. But the staff has one hell of a lot of clout."

Fund officials deny the agency is more stringent with developing countries than with industrial nations—citing as examples recent demands on the United Kingdom and Italy. "It's fairly obvious we're not going to push big or small countries if they don't want to," one fund source concedes. "The difficulty is, the smaller countries are in financial trouble more often."

Nevertheless, as holder of the purse strings, the fund can get tough when it wants to. In ongoing negotiations with Zaire, a beleaguered Mobuto government already has agreed to give the IMF extensive influence over the country's economic policies as part of a $1 billion plan to bolster its shaky regime. There even will be an IMF "technical adviser" in the Zairian central bank.

And Robert Solomon, a former Federal Reserve Board international monetary adviser who now is at the Brookings Institution, suggests there may be some truth to the charges that larger countries—and those with balance-of-payments surpluses, which theoretically are supposed to be as bad as deficits—emerge less scathed.

"The fund may indeed have been too tough on some countries," Solomon says, "We seem to have fashioned a monetary system with the same old prejudices—that a deficit is bad but a surplus is good." He also is critical of the way IMF policy prescriptions are formulated: "You sometimes get the feeling that some pretty junior staff people are in effect mandating policy."

In any case, there seems to be agreement that the organization's demands are rarely really unfounded. As a U.S. official puts it, "The problem isn't the fund—the problem is the countries are in a bind and need to take drastic steps to get out. The reality is that the IMF loan makes it less painful for these countries to make their adjustments—even with the demands the fund makes."

The question is, how much is the fund's insistence an unwarranted intrusion on national sovereignty? While some countries go kicking and screaming to the IMF's bargaining tables, others seem to welcome the fund's toughness as a cover for imposing needed cutbacks they know will be unpopular. "The fund makes a terrific scapegoat," one policymaker says.

In still other cases, the governments sometimes turn out to be too weak or ill-equipped to carry cutback programs on their own.

In Peru, for example, outside observers say it's unlikely the regime would have been able to slash programs without fund intervention. And onlookers say Zairian officials simply weren't technically able to develop their own programs.

At least some of the criticism over the way the fund treats developing countries may be reduced as a result of a new approach to IMF lending involving longer-term loans. Until recently, the major form of IMF lending has been to extend credit to a country for a year at a time. If the government did not perform as expected, the line of credit simply was canceled.

Under the new program, however, the fund now works out a longer-term plan with borrowing nations designed to help restore the

local economy over a three-year period. In the case of Jamaica, where Prime Minister Michael Manley has criticized IMF officials for not fully "understanding" poorer nations' needs, policymakers are viewing the new procedure as "a better tool" for the IMF to use.

What is less certain is how much influence the fund will be able to exert on nations that aren't actually trying to borrow money—such as West Germany, Denmark, or even the United States. Although the organization's newly revised charter grants it increased power in this area, the rules of the game haven't been drawn yet. "They're still feeling their way," a knowledgeable onlooker says.

Dale and other IMF officials insist that "we're taking the matter seriously" in trying to develop standards and procedures for policing countries that are not currently borrowing, but some observers are skeptical. "The fact is, they're just not going to be able to force any nation to make cutbacks if it doesn't need IMF money," one observer says.

The issue may be decided quickly, however. Jacques de Larosiere, the fund's new managing-director, was a coauthor (along with former U.S. treasury undersecretary Edwin H. Yeo) of the fund's new "surveillance" power, and is said to be taking a more aggressive stance than his predecessor, former Dutch finance minister H. Johannes Witteveen.

The fund's directors are appointed by the various finance ministries of the IMF's 130 member nations and take their policy instructions from their home governments. The voting power of the directors is weighted according to the size of the economy of the nation they represent. The U.S. director controls just under 21 percent of the votes. Zambia's ballot is counted in with those of several other African nations as a single regional vote.

In any case, the corner has been turned for the once-toothless IMF. To the officials in the Zambian treasury—and others in governments throughout the industrial and developing world—the fund now is a force to be respected. And for better or worse, analysts say that's unlikely to change very soon.

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[From the Washington Post, July 24, 1978]

IMF LOAN TERMS FORCE JAMAICAN BELT-TIGHTENING

(By Art Pine)

KINGSTON, JAMAICA.—Away from this lush, mountain-capped Caribbean island, Prime Minister Michael Manley likes to portray Jamaica as a major force in the struggle by developing nations to become economically independent. In speeches in various world capitals, Manley calls repeatedly for a "new international economic order" for poorer countries. He often laments big-power "imperialism."

At home, however, Manley is being forced to put his country's economy through the wringer, precisely to satisfy the demands of these very industrial nations. Almost bankrupt from an outsized balance of payments deficit, Jamaica has had to take out a $244 million, three-year loan from the International Monetary Fund. And that means meeting IMF terms for getting its economy up to snuff.

Jamaica's new belt-tightening is one of 21 cases in the past several years in which the IMF has required borrowing nations to take stringent austerity measures to qualify for multilateral aid—part of the 130-member organization's growing power in the face of changing economic conditions. Technically, the fund doesn't mandate specific policy changes. But it won't lend the money until it's satisfied with a country's program.

To meet the IMF's conditions, Jamaica last month began gulping down a harsh dose of economic medicine that includes a massive 30 percent devaluation of its currency, stringent controls on imports, a series of big tax increases on manufacturing and tourists, higher interest rates, limits on credit expansion and a tight wage ceiling on workers' raises.

The result has been a virtual shock wave for already hard-hit Jamaican workers, and a new jolt for the island's close-knit middle class that has sent many fleeing to the United States. Despite government subsidies, prices of many necessities—such as food and gasoline—have jumped more than 30 percent since early May. Domestic business is off. And jobs are scarce.

A can of condensed milk—a staple to the island's poorer families—now costs more than 50 cents at Jamaican food stores. Cigarettes run $1.36 for a pack of 20. And gasoline now costs $3 a gallon in Jamaican currency. Even beer prices have soared—to 65 cents a bottle, up from 41 cents two weeks ago. Says one prominent union leader: "You look at this thing and you just want to cry."

Moreover, Manley's leftish "democratic socialist" government, which won a landslide victory last December before the country's financial straits were made public, is now coming under increasing criticism from both labor and business. Although the charismatic Manley is not up for reelection until 1981, his supporters concede they're no longer fully confident of being returned to office.

Admittedly, terms or no terms, almost everyone in Jamaica agrees the hardship would have been a lot stiffer if the IMF had rejected Jamaica's loan application. Without the IMF money, a high Jamaican official says, private banks would have curtailed their lending and foreign exporters would have cut off short-term credit, stifling needed trade.

With problems of that magnitude, the remedies would have been harsher. "To try to go it alone would have meant operating a siege economy," a finance ministry official said. "You'd virtually have to retire from international commerce, which would be next to suicide for a country that has to import as much as we do. And that would mean serious political upheaval. There really was no choice."

The question is, did the IMF go too far in prodding Jamaica to accept these harsh terms, and how much did Manley's government have to say about what policies it would adopt to meet the fund's terms? Manley himself often has criticized international lending agencies for failing to take account of the "fragile" economies of developing countries. Was this another such IMF fluff?

The negotiations leading up to last month's loan came against a backdrop of continued decline in the Jamaican economy. Caught amid high oil prices, falling revenues from its sugar exports and a tradition of heavy government spending, Jamaica gradually ran down its monetary reserves. Inflation intensified. Layoffs increased. The nation was facing an economic disaster.

In 1977, Manley applied for—and got—a $78 million line of credit from the fund. But after months of halfhearted cutbacks—including an abortive austerity program imposed after Manley won his December 1976 reelection—Jamaica failed to meet previously agreed on economic targets, and the fund closed the window on the loan. The government tried to get along without the IMF's help but eventually it asked for another loan.

Last February, an IMF field team flew down to Jamaica to begin negotiations for the loan, but—with the previous year's performance in mind—insisted on a much tougher set of conditions. On IMF prodding, Jamaica was forced even before the talks began to agree to a 15 percent currency devaluation. When negotiators did sit down in earnest, fund officials were decidedly stern.

Just how much Jamaica was coerced into adopting the policies it did, and how much flexibility it had to pick and choose, depends on the perspective. Although both sides agree that the fund didn't actually dictate the measures it wanted Manley to adopt, the goals the field team set were so specific, it was hard to avoid the tough decisions.

The fund team was headed by David Finch, a bespectacled, fiftyish Australian who has spent his career as an IMF field representative. Far from being dictatorial, Jamaican officials report, Finch and other staffers were almost deferential about what policies Jamaica would have to adopt. (Earlier, Finch had handled loans to Italy and Great Britain as well.)

As a Jamaican official in on the talks describes it, "They never told us specifically what policies we had to follow to qualify. All they would say was, 'You show me what you want to do and I'll tell you if it's correct.' By the end, we were pleading with them, 'Please just impose your conditions and be done with it.' But they said Jamaica had to make up its own mind."

To their credit, Finch and other team members spent their first several weeks simply studying the Jamaican situation, conferring with union and business leaders to see how much each side would be willing to sacrifice. In the process, even Jamaican officials were astonished at their thoroughness. "I learned a lot about this island," one says, "that I didn't know before."

The negotiators' jobs also were made easier because the loan was carried out under a new form of lending pool that gives borrowing nations up to three years—in contrast to the normal one year—to get their financial houses back in order. And a western observer adds pointedly: "There also was more than usual regard for appearances. The IMF people were well aware of third world attitudes toward the fund."

But ultimately, finance ministry policymakers say, Finch was determined about what Jamaica could and couldn't do. "He's by far the toughest negotiator I've ever run into," says one senior official here. "He'd never say no—just sit there, patiently, like some sort of professor, and then say, 'Yes, but . . .' The gnawing thing was he was so nice about it you couldn't get angry."

By April, there were only two major points of disagreement.

Jamaican officials resented Finch's demand that they devalue their currency by 30 percent (15 percent at the start, and 15 percent a month until the 30 percent is reached). "Our feeling was that 15 percent in total would have been enough," a high Jamaican official recalls. "But we finally had to do it, all 30 percent."

The second was the government's plans to take over all importing through a state trade corporation. The IMF team contended that with so many of Jamaica's trade transactions now coming through U.S. and British subsidiaries, a takeover now would discourage needed expansion. The result was a compromise: Jamaica would "monitor" imports, and if things got out of hand, Manley could publicly call attention to the problem.

On the rest of the package, there was "virtual unanimity," a ministry official asserts: Jamaica would devalue its dollar according to the IMF formula; Manley would try to hold the line on government spending and boost taxes to reduce the budget deficit; imports would be controlled tightly and wage increases would be held to 15 percent.

There's no question these policies have resulted in hardships. Since the program went into effect last month, prices have risen sharply for almost everything, including basic necessities; retail sales have fallen off visibly, in some cases by as much as 40 percent and workers, deprived of catch-up pay increases, are being caught in a squeeze.

For Jason R., a 48-year-old blue-collar worker (Many Jamaicans are loathe to use

their full names in print, for fear of losing patronage jobs), the dilemma is acute. The gaunt father of six earns $40 a week at his full-time job. But he must spend $30 for food alone, $10 a week for rent, $5 for transportation and $10 for lunches for his school-age youngsters.

For now, Jason R. is eking out a living by dipping into a small nest egg the family accrued when his wife worked as a domestic in the United States a few years ago. But in two weeks, that money will be gone, and Mrs. R's visa expired in the interim. "We buy a lot less of everything," he says. "One pound of flour instead of two, half of what we used to before."

Lascelles Beckford, labor chief of the opposition-allied Bustamante Industrial Trade Union, says such pinching has become commonplace for Jamaica's poorer workers, many of whom still earn the national minimum wage of $24 a week. "You try to write down a typical family's budget," he says, "and you just look at the figures and crumple up the paper. But it's true."

Moreover, the squeeze is so bad it's even hitting the middle class, many of whom are simply giving up and emigrating to Miami. Alvin B., a 29-year-old bank manager, is planning now for just such a move as soon as he can arrange it. "It's really hitting like hell," he says. "We just can't enjoy the same standard of living we had before.

Not surprisingly, union leaders have protested the government's new wage ceiling, which is preventing workers from keeping up with the new rise in prices. Even the Manley-affiliated National Workers' Union is criticizing the prime minister's policies. Says the NWU's president, Carlisle Dunkley: "What we're saying is, 'What assurances can you give us on prices? And they can't.

Business leaders also are upset. Bruce Rickards, a director of Grace-Kennedy & Co., a major food distributor here, complains that "many items have now been priced out of the reach of ordinary citizens. We're facing problems we've never had before," he says. "The whole thing is turning out to be diminished returns to the very government that needs it. It's a disaster."

Still, despite the widespread hardship, there's been relatively little criticism of the IMF. A nationwide public opinion poll published last week by Carl Stone of the Kingston-based University of the West Indies showed 46 percent of Jamaicans in favor of the IMF loan deal, and 40 percent opposed—not a bad plurality in the island's volatile political structure.

If anything, most of the blame is being laid squarely on Manley. Says the NWU's Dunkley, usually an ally of the prime minister's: "Sure it was a tough deal. But when you go to a bank, you have to do what they tell you. The fact is that Jamaica for too long has delayed the actions needed to restore financial stability. So now, you might say, the chickens are coming home to roost."

To many observers, the immediate question is whether the government can keep the lid on wages—an element most Jamaican economists regard as the key to the program's success. Although unions and employers are obligated to obey the guidelines, Manley might have to loosen them if opposition intensifies. So far, protests have been perfunctory. But things could heat up if prices rise more.

There also are longer-range problems. As a finance ministry official explains it, the strategy of the IMF team was to use "a short, hopefully temporary jolt of inflation to help dampen workers' buying power and bring consumption into line with production. The problem was solved as it had to be—with a crunch," he says. "It's a novel approach, but we think it will work."

The dilemma is, dampening consumption is only half of what Jamaicans have to do. The other side is to begin spurring production. And on this, Jamaica may well be in an economic Catch 22. To help eliminate its payments deficit, the government must crimp the economy to curtail consumption. But that in turn makes it more difficult to resume production. So, where does the cycle end?

Was the IMF, then, too tough on Jamaica? By a wide majority, both government officials and private sector spokesmen insist it was not. "The negotiations were tough, but the IMF people weren't unfair," says Richard Fletcher, the No. 2 man at Jamaica's embattled finance ministry. "There was only one technical matter on which we disagreed. For the rest, we made the key decisions ourselves."

Another top official puts it more candidly: "Just look at the alternatives," he says. "Bilateral aid is a possibility when you have sympathetic men in the State Department, but otherwise I really prefer international organizations. And the big multinational bank boys are nice guys—when you don't need them. When you're in a bind, they just disappear. . . ."

Mr. JAVITS. The second article focuses on the recent negotiations on a stabilization plan between an IMF team and the Government of Jamaica. In describing the relationship between the stabilization program which the Government of Jamaica finally adopted and the role of the IMF, the author of the series, Art Pine, asked and answered the following question; and I quote "Was the IMF, then, too tough on Jamaica? By a wide majority both government officials and private-sector spokesmen insist it was not. "The negotiations were tough, but the IMF people weren't unfair," says Richard Fletcher, the No. 2 man at Jamaica's embattled finance ministry. "There was only one technical matter on which we disagreed. For the rest, we made the key decisions ourselves."

Furthermore, he quotes a leading Jamaican as saying,

> The fact is that Jamaica for too long has delayed the actions needed to restore financial stability. So now, you might say, the chickens are coming home to roost.

Mr. President, there is a technical question about whether an appropriation is needed to fund the U.S. contribution to the Witteveen Facility. While we will be providing funds to the IMF, we will be receiving in exchange a future call on the assets of the IMF, should the occasion arise. Thus, what we have here is an "exchange of assets" without any need for an appropriation. Senator SCHWEIKER and his colleagues, however, believe that the full amount of $1.8 billion in an appropriation is necessary. I disagree. What is needed, at the most, is an appropriation of $200 million to cover any possible foreign exchange losses arising from the fact that our contribution is earmarked in SDRs rather than dollars.

Mr. President, I would like to stress that, if we are to decide today on appropriating the U.S. contribution to the Witteveen Facility, that appropriation should not be misconstrued as being a precedent for the next quota increase of the IMF. There are: First, several distinctions between the U.S. quota in the IMF and U.S. participation in the facility. The Witteveen Facility involves a temporary supplement to IMF resources and, unlike quotas in the IMF, is not a permanent part of the IMF's financing structure.

Any gains or losses resulting from fluctuations on the U.S. dollar value of our SDR-denominated reserve claims arising from the U.S. quota in the IMF would only be realized if the United States were to withdraw from the IMF or the IMF were liquidated. The possibility of realizing such gains or losses is thus inconceivable and, in any case, would be impossible to estimate. In contrast, net "gains" or "losses" on U.S. participation in the Witteveen Facility will be realized, at the latest, within 12 years.

A technical legal distinction can be made that U.S. claims on the IMF arising from participation in the facility are not as liquid as U.S. claims arising from the U.S. quota in the IMF. In the former case, the United States can encash its claims upon a representation of balance-of-payments need. That representation must be given the "overwhelming benefit of the doubt," language intended to convey automaticity, but as a technical matter the representation could be challanged by the Fund. (In practice, such representations by members have never been challenged.) In contrast, under the Articles of Agreement of the Fund, a member's representation of balance-of-payments need to use its reserve claims arising from its quota in the IMF cannot legally be challenged.

In light of these distinctions between U.S. participation in the facility and in the IMF itself, as well as the difference in views expressed here today, it would be appropriate for Congress to carefully reexamine the budget and appropriations issue prior to approving the next quota increase in the IMF. Both the Foreign Relations and the Banking Committees have called for such a study to be made.

Mr. President, we will also be inundated by amendments which in one way or another will have the effect of severely limiting the effectiveness of the facility. I am particularly concerned about the Human Rights and Human Needs amendment that Senater ABOUREZK plans to introduce. As we, the comanagers of the bill, indicated in our "Dear Colleague" letter, while we share the concerns reflected in the Abourezk amendment, we oppose the amendment because:

First. It opens the door to noneconomic criteria for the use of IMF resources. The IMF has remained remarkably free of political conflicts; membership encompasses Communist and non-Communist States, Greece and Turkey, Israel and its Arab adversaries, South Africa and the front-line Black African States, India and Pakistan, and scores of other potential political and military opponents.

Second. The amendment assumes too direct a cause-and-effect relationship between an IMF stabilization program and internal political decisions made in member countries. As substantiated by the article on Jamaica in the Washington Post, measures which a government will take to meet the IMF's broad economic targets are not dictated by the IMF but

are worked out jointly by the IMF and the borrowing government.

Third. Economic stability is essential to long-term economic growth and development. It is inevitably that almost any economic austerity program will, in the short run, reduce the overall living standard of the country in question. The Witteveen Facility, which will permit countries to design longer term stabilization programs with less rigid limits on government external borrowing, domestic deficits, and in turn, on public consumption, was created to enable the IMF to ameliorate that problem. In the long run, healthy economic conditions provide a better climate for the observance of basic human needs and rights than inflation, falling growth rates, shortages of consumer goods and imports, and rising unemployment.

Regarding the amendments that Senator HELMS will introduce, I can only say that their effect is abundantly clear: to gut the facility and to jeopardize the whole international monentary system. It is unthinkable that the United States could pull out of the IMF. Even serious consideration of such a move would totally destabilize the international monetary system.

Mr. President, in sum, the facility will help to assure a more stable and smoothly functioning international monentary system and a sound world economy. The United States is heavily dependent on such a world economy, and the facility represents a major element of our program to achieve it.

Mr. CHURCH. Mr. President, the legislation pending before the Senate, S. 2152, would authorize U.S. participation in the supplementary financing facility, the so-called Witteveen Facility, of the International Monetary Fund. This bill has broad implications not only for U.S. economic interests, but for our foreign policy as well.

The facility will provide approximately $10.7 billion in additional financial resources to the IMF. These funds will be used by the IMF to provide medium term balance-of-payments financing to member countries facing serious balance of payments difficulties.

Since the oil price explosion of 1973, both industrial and developing countries have suffered a major dislocation in their balance of payments. While the oil producing countries have been piling up tens of billions of dollars in payments surpluses, much of the rest of the world have been staggering under the burden of a collective deficit which last year totaled over $70 billion. The IMF has played a major role in providing nations with emergency funds which can tide them over at least for the short term, while they make the necessary adjustments in their trading accounts.

However, this problem of oil-related deficits has proved itself resistant to the usual short term adjustments techniques normally used by governments to restore a balance in their trade accounts. Therefore, there has been not only an enormous demand for the fund's resources, but also a crying need for a facility which can provide financial support for longer than the usual IMF term of 6 months to a year.

The Witteveen Facility will go a long way toward meeting both needs. Not only will it replenish the fund's resources, which are down now to approximately $15 billion, but it will also provide a facility from which countries may borrow up to 7 years. This extended lending period will allow countries a longer adjustment period, thereby easing the economic and political strains that are often created by economic austerity measures that may be required to close the gap between imports and exports.

This facility is unique in another respect as well. This is the first instance in which the surplus oil producing countries have agreed to share equally with the industrial countries, the burden of providing financial assistance to nations in balance-of-payments trouble. The industrial countries will be putting up 50 percent of the $10.7 billion and the OPEC countries will be providing the other 50 percent. U.S. participation amounts to only about 17 percent of the total, while Saudi Arabia is providing approximately 24 percent.

Moreover, U.S. participation involves no real financial cost or risk to the Treasury. For every dollar we transfer to the facility, we will receive a monetary reserve claim on the IMF. If the United States should need to draw on these assets for balance-of-payments reasons, it has every right to do so.

The money which the United States provides to the facility will be repaid in eight semi-annual installments beginning 3½ years after the financing was provided. The funds will be repaid with interest covering the cost of borrowing to the Treasury, so there will be no net interest cost involved. The only possible potential loss that could result from U.S. participation would come about if there is a change in the relative exchange rate between the dollar and the SDR during the period in which our contribution is outstanding.

I would not contend that the Witteveen Facility is a panacea for all of the economic and financial dislocations that have beset the world economy in the last few years. Far from it. However, it is a positive step, particularly in that it involves a major cooperative effort between the industrial and oil exporting countries.

The United States has taken a strong lead in bringing about this faciilty. All the other participants have ratified the agreement and are prepared to provide their share of the funds. Activation of the facility now depends solely upon action by the U.S. Congress. The House has already approved U.S. participation in the facility.

I urge my Senate colleagues to vote favorably upon S. 2152, so that the United States may take its place as a participant in the Witteveen Facility.

Mr. JAVITS. Mr. President, I yield to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

UP AMENDMENT NO. 1535

(PURPOSE: To impose a trade embargo against Uganda)

Mr. WEICKER. I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1535.

Mr. WEICKER. Mr. President, I propose the amendment on behalf of Senator MARK O. HATFIELD, Senator METZENBAUM, and myself. I also ask unanimous consent that Senator DOLE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I would read the amendment to my colleagues:

At the bottom of page 4, add the following:

SEC. 3. (a) The Congress finds that—

(1) the Government of Uganda, under the regime of General Idi Amin, has committed genocide against Ugandans;

(2) the United States maintains substantial trade with the Republic of Uganda; and

(3) the relationship of the United States with Uganda is unique and justifies an exceptional response by the United States to the actions of the Government of Uganda.

(b) It is the sense of the Congress that the Government of the United States should take steps to disassociate itself from any foreign government which engages in the international crime of genocide.

(c) Notwithstanding any other provision of law, after date of enactment of this section, no corporation, institution, group or individual may import, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing gross violations of human rights.

(d) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following: "(m) No article material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing gross violations of human rights."

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda.

Mr. WEICKER. Mr. President, on this amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I support the Uganda boycott legislation. The regime of Idi Amin offends the conscience of every decent human being. Roughly one-third of his revenue comes from U.S. coffee purchases. We cannot tolerate this situation any longer.

I am delighted to note that the Weicker-Hatfield amendment is intended to stop U.S. corporations from importing

coffee from Uganda, directly or indirectly. That is to say, corporations would not, under this amendment, be permitted to purchase Ugandan coffee through their European subsidaries and reexport it to the United States as they have been doing. Without this provision, the boycott legislation would be ineffective.

I hope that other countries follow suit in this initiative. Idi Amin cannot survive without his coffee revenue. An international embargo aganst his regime is long overdue.

In supporting the Ugandan trade embargo, we should not be seen to be engaging in selective morality. There are other nations in Africa which likewise are gross violators of human rights and we should take a look at these as well. South Africa is the most prominent example.

Let me also say that I do not think that Idi Amin is typical of African leaders. Indeed, he is a great embarrassment to most of them. Some of the most prominent leaders, like President Nyerere and President Kaunda, the heads of state of Tanzania and Zambia, spoke out earlier than most in condemning this murderer. They repeated their criticism of him when they each visited this country recently.

But African countries do not contribute to the maintenance of his regime, as we do. They have less leverage than the West in bringing influence to bear on ending the atrocities in Uganda. We have to act according to our good conscience in this matter. We may not, in our own action, bring down this brutal regime. But we may encourage more international action. At the very least, we can say we did the right thing and our own hands are now clean. We will, with this amendment, completely end any association we have with this ruthless tyrant.

UP AMENDMENT NO. 1536

Mr. CHURCH. Mr. President, I send to the desk an amendment in the nature of a substitute for the pending amendment, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 1536:

In lieu of the language proposed to be inserted by UP Amendment No. 1535, insert the following:

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by UP 1535 insert the following:

In recent years the Government of the Republic of Uganda has engaged in a consistent pattern of gross violations of internationally recognized human rights;

The United States holds such actions to be unacceptable and has already taken certain measures to express its abhorrence of human rights conditions in Uganda;

The United Nations Human Rights Commission has agreed to and is currently preparing for study missions in order to investigate charges of violations of rights in Uganda;

The Government of the Republic of Uganda continues to earn significant amounts of foreign exchange from exports of coffee to the United States and other countries; and

Repressive measures taken by the Ugandan Government have aroused deep concern among Americans and throughout the international community:

(a) The Congress strongly condemns the gross violations of human rights, and other acts which suppress freedom of political thought and violate the rights of individuals, which have been committed by Idi Amin and the Government of the Republic of Uganda, and the Congress urges the President of the United States to support, and where possible, implement measures, such as an embargo on trade with Uganda, which would effectively discourage United States support of the Government of Uganda.

(b) The Congress urges the President of the United States to encourage and support international efforts to investigate and respond to conditions in the Republic of Uganda, including economic restrictions.

Mr. CHURCH. Mr. President, I know of the strong feelings of the distinguished Senator from Connecticut. I share his abhorrence of the Idi Amin regime.

In recent weeks, I have conducted hearings for the Senate Foreign Relations Committee.

The testimony we received at those hearings underscores the fact that the people of Uganda are living under an African Hitler. The brutality, the gross, systematic violation of fundamental human rights, the execution of thousands of Ugandan citizens on a scale that can only be described as genocide, constitutes a specter of horror that we must no longer countenance by purchase of Ugandan coffee.

Let it be understood that the U.S. Government is not represented by an Ambassador to Uganda. Our Ambassador was removed some years ago.

Further, let it be understood that the United States extends no form of aid to the Idi Amin government, either military or economic. But until recently American coffee companies have purchased approximately one-third of the Uganda coffee crop, and something in excess of 95 percent of all of the foreign exchange earnings realized by the Ugandan Government comes from coffee exports.

I think all of us recognize that it is not within the power of the United States to reform or restructure or remodel other governments. As a practical matter, we must take them pretty much as they come. But since the United States does have a genuine interest in human rights abroad, since our President, Jimmy Carter, has given new emphasis to freedom and human rights as a major component of American foreign policy, we have begun to withhold American aid, sometimes military aid and sometimes economic aid, from governments which are found to be engaging in gross violations of human rights.

I think that is entirely proper. Even though there may be little we can do to change the character of these governments, there is no reason whatever that we should continue to extend governmental aid to them.

(Mr. HODGES assumed the chair.)

Mr. CHURCH. We face another question when it comes to the matter of trade. I think in most cases, trade is a commercial undertaking unrelated to the government. And since trade is a two-way street that clearly benefits the United States as well as the country with which the trade is conducted, a different rule has to apply in such a case.

Yet there are cases, there are governments in this world, that simply have gone beyond the pale, and are not entitled, by virtue of their conduct, to normal relations with civilized nations.

I think Uganda falls in this category. It is not the only government that deserves to be isolated from its contact with the civilized world. Certainly, Cambodia has engaged in barbarities of a kind that would clearly qualify it for such treatment.

However, Mr. President, we have no contact whatever with Cambodia. We maintain no relations with that country, we have no aid program of any kind, and we engage in no trade of any kind with Cambodia.

With respect to Uganda, however, our hearings demonstrated that the major sustenance of the Idi Amin regime is derived from the proceeds of the sale of Ugandan coffee. One-third of the coffee sold by Uganda each year entered the American market. This situation called for Senate hearings. It cried out for congressional review. I am happy to say that both the House of Representatives and the Senate have undertaken such a reexamination of American commercial relations with Uganda.

The House has passed a sense of the Congress resolution which was the direct result of the hearings conducted in the other body. It is the same resolution that I am offering today as a substitute for the amendment of the Senator from Connecticut.

I do so for several reasons:

First of all, this House resolution has produced very encouraging results, even though it does not mandate an embargo against Uganda, nor is it binding upon the administration.

Since passage of the House resolution, virtually every American company, including all the major coffee companies and all the major brokers, have voluntarily agreed to boycott Ugandan coffee. The list of the companies that have agreed not to purchase Uganda's coffee includes Chock Full 'O Nuts, Procter & Gamble—which is the Folger brand—Nestle's Coffee, General Foods—with respect to their American markets—Woodhouse, Drake & Carey Trading Co., ACLI International, Van Ekris & Stoett, Inc., J. Aron & Co., Inc., Saks International, Sprague & Rhodes Commodity Corp., Hills Brothers Coffee, Mitsui & Co., William L. Marshall Coffee Co., Carl Borschsenius Co., Gill & Duffus, Inc., Carson M. Simon & Co., and, finally, M.J.B. Co.

This is a very impressive list. Together, these companies represent the

largest aggregate purchasers in the United States of Ugandan coffee.

There are some companies that have not followed suit. But I am inclined to believe that, if the Senate adopts the same resolution as was adopted by the House, we will soon find the few remaining American companies that have not voluntarily terminated further purchases of Ugandan coffee joining in. That is one reason I urge the adoption of the substitute. In many ways, I think it has greater impact if our own companies voluntarily stop these purchases because of their deep concern over the brutality of the Ugandan Government.

But the resolution goes further. It urges the President of the United States to encourage and support international efforts to investigate and respond to conditions in the Republic of Uganda, including economic restrictions.

In our hearings, Mr. President, we discovered that any unilateral action on our part is likely to be ineffective unless we are joined by the other principal importers of Ugandan coffee—by the British, by the Germans, by the French. Clearly, the amendment being offered by the Senator from Connecticut cannot bind these other countries, so it is likely not to prove to be an effective instrument.

If we adopt this substitute, we give the President of the United States notice that the Congress wishes him to undertake those negotiations with other foreign countries that would make an embargo effective. Why proceed with a congressional embargo that could constitute, at best, a unilateral effort, that, on the basis of the testimony, we know will prove ineffective when we have an opportunity formally to urge the President to undertake the kind of negotiations that could cut off the coffee trade that the world presently is doing with Uganda?

I say, let us give the President a chance to do this. Let him know that Congress formally urges him to do this. Then if, for any reason, he decides against this course of action, or if, having undertaken negotiations in good faith with these other purchasers of Ugandan coffee, his efforts prove futile, we are still left with the option of then considering a unilateral statutory ban on all further imports of Ugandan coffee to this country.

These are the reasons, Mr. President, I think we would be better advised to adopt the same course that has already been favored by the House of Representatives.

I should like at this time to read the resolving clause of the proposed substitute and then I shall ask unanimous consent that the entire text, including the preamble, be printed in the RECORD.

The resolving clause reads:

*Resolved by the House of Representatives (the Senate concurring)*, That (a) the Congress strongly condemns the gross violations of human rights, and other acts which suppress freedom of political thought and violate the rights of individuals, which have been committed by Idi Amin and the Government of the Republic of Uganda, and the Congress urges the President of the United States to support, and where possible, implement measures, such as an embargo on trade with Uganda, which would effectively discourage United States support of the Government of Uganda.

(b) The Congress urges the President of the United States to encourage and support international efforts to investigate and respond to conditions in the Republic of Uganda, including economic restrictions.

Mr. President, I ask unanimous consent that the entire text be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

H. CON. RES. 612

Whereas in recent years the Government of the Republic of Uganda has engaged in a consistent pattern of gross violations of internationally recognized human rights;

Whereas the United States holds such actions to be unacceptable and has already taken certain measures to express its abhorrence of human rights conditions in Uganda;

Whereas the United Nations Human Rights Commission has agreed to and is currently preparing for study missions in order to investigate charges of violations of rights in Uganda;

Whereas the Government of the Republic of Uganda continues to earn significant amounts of foreign exchange from exports of coffee to the United States and other countries; and

Whereas repressive measures taken by the Ugandan Government have aroused deep concern among Americans and throughout the international community: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That (a) the Congress strongly condemns the gross violations of human rights, and other acts which suppress freedom of political thought and violate the rights of individuals, which have been committed by Idi Amin and the Government of Republic of Uganda, and the Congress urges the President of the United States to support, and where possible, implement measures, such as an embargo on trade with Uganda, which would effectively discourage United States support of the Government of Uganda.

(b) The Congress urges the President of the United States to encourage and support international efforts to investigate and respond to conditions in the Republic of Uganda, including economic restrictions.

Mr. CHURCH Mr. President, I think at this time, the best way for us to proceed would be to adopt the resolution already approved by the House of Representatives. I think that we shall see such an action followed by voluntary decisions by our own principal coffee companies. In addition, the President of the United States will be strongly motivated to proceed with the kind of negotiations that could make a multilateral embargo possible. It is only the latter that will choke off the coffee trade and deny to the Ugandan regime the financial resources it now depends upon for its existence.

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous consent request?

Mr. CHURCH. I yield.

Mr. METZENBAUM. I ask unanimous consent that during the pendency of this particular measure, including the amendments to it, Dan Grady be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. WEICKER. I yield to the distinguished Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that, during the debate on this measure, Jack Robertson be granted the privilege of the floor.

I ask unanimous consent that Senator SCHMITT be added as cosponsor to Senator WEICKER's and my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that Peter Kirsey of my staff be granted the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of this amendment: Senators METZENBAUM, DANFORTH, MCINTYRE, BROOKE, ANDERSON, HELMS, ABOUREZK, GRAVEL, and RIBICOFF.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Arthur House be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask unanimous consent that Mark Edelman of Senator DANFORTH's staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I rise to oppose the substitute of the Senator from Idaho and speak on behalf of the amendment originally offered by this Senator, Senator HATFIELD, and others.

The difficulty I have with the substitute amendment of the distinguished Senator from Idaho is that its effect will come too late. Indeed, we are already too late in terms of hundreds of thousands of people in Uganda whose lives have been ended by Idi Amin. Every day that we delay it is not just a question of muscle flexing, it is a question of lives.

A man like Idi Amin does not respond to sense of the Senate resolutions. He only responds when it is clear this Nation and, hopefully others on the international scene, will act.

Even now, there have been many words by politicians in this country as to the brutality that exists in that Nation. I can assure all Senators that Amin will take all the words we can dish out and he will not flinch one moment from his course of madness.

The amendment I offer is made up of the following parts:

First. A statement of congressional intent and policy in enacting this legislation.

This is where it differs sharply from the amendment offered by the distinguished Senator from Idaho:

Second. A provision to prohibit direct or indirect importation of goods from Uganda;

Third. An amendment to the Export Administration Act to prohibit exportation of all nonagricultural goods from the United States to Uganda; and

Fourth. A directive to the President to

pursue international sanctions against Amin.

Let me quickly review the essential facts which confront us in the case of Uganda.

First. Up to 300,000 Ugandans have been killed under the Amin regime. Government directed genocide and terror have shredded the fabric of Ugandan society.

Second. The United States, during all the killing of these 300,000 people, has been Uganda's largest trading partner in her crucial export market. American companies bought $245 million in Uganda coffee last year, 33 percent of her exports, and over 15 percent of her GNP.

Third. Amin's economy runs on a single government-controlled crop: coffee. Coffee exports, administered by a government agency, provide 85 percent of the annual government revenue of Uganda, most of which goes for military equipment and mercenaries.

Fourth. Over 90 percent of the Ugandan population has been driven into subsistence farming. The devastated economy no longer produces consumer goods or provides civilian jobs. Only Uganda's fertile soil and favorable climate have averted mass starvation.

What has been the response of the U.S. Government to this starvation?

The Secretary of State has told Congress that we are doing all we can and should do about human rights in Uganda.

Over 6 weeks ago the House of Representatives passed a resolution—very much along the lines of that offered by the distinguished Senator from Idaho—urging President Carter to take some action against Amin.

That was 6 weeks ago. I do not know how many lives ago, but it was 6 weeks ago.

What has been the reaction of the White House? Silence, absolute silence.

Our U.N. delegation gives us the good news that after 7 years of Amin's terror, that the U.N. Human Rights Commission has finally decided to study the problem.

In the meantime:

Several major coffee companies have joined an ad hoc, voluntary boycott, while an equal number of importers continue to trade with Amin directly, or do so by way of foreign subsidiaries.

I was disappointed to hear that two of the larger companies, General Foods and Nestle, although I believe Nestle is Swiss-owned, in spite of their announcement that they were no longer importing coffee from Uganda, have done so through their subsidiaries in foreign markets.

Our coffee companies and corporations, those who do business with Amin and those who do not, have testified before the Senate that they are floating in a foreign policy limbo, waiting for an official Government policy.

Mr. President, this amendment was drafted to meet three clear objectives:

First. To make it the unmistakable policy of the United States that we will not traffic in or do business with genocide. A genocidal government is exactly what we are dealing with in Uganda and with Mr. Amin.

Second. To end the multimillion-dollar trade between our countries in the most effective way possible to bring a halt to the killing. Our moral and diplomatic protestations about Amin mean nothing while the goods and dollars continue to flow. The amendment addresses both the export and import markets in order to completely break off our commercial relationship with his regime.

Third. To direct the President to do what he can to encourage other nations to join us in this embargo, to intensify international pressure on Amin.

Apparently, Mr. Carter is unwilling to take the most direct action. So far as I am concerned, the amendment tells him to do it and then suggests he go a step further and have the international community join the United States on this very real issue of human rights.

When is the issue of human rights going to become a fight rather than a slogan?

Here is our opportunity to take a very firm step, not one of rhetoric, but one that will hit home, and hard, and now.

Mr. President, I do not believe there is a person in this Chamber who would dispute the horror of Amin's blood sport regime. But several issues must be addressed as the Senate considers this amendment.

First. Are sanctions a proper foreign policy tool?

An economic boycott such as I have proposed involves subjecting international trade to political constraints. There can be no realistic distinction, however, in any realm of public policy, between economic circumstances and political realities. The United States has recognized this and used economic sanctions in other instances, for a number of reasons, among them political. So the question is not whether political issues should become factors in international trade, but what issues should be factors.

Genocide, in my opinion, is such an issue. As Senator CASE stated in his minority views on the last Uganda resolution passed by the Senate, there are certain prescriptive rules of behavior which apply to the rulers of all nations. Those who violate such rules jeopardize their standing in the community of nations. Uganda, because of Amin's genocidal policies, belongs outside of the fellowship of civilized nations and should thus be denied its benefits, one of which is free trade.

Second. Will sanctions work?

The State Department has opposed this legislation on the grounds that it will not be "effective" in improving rights in Uganda. Now I do not think anyone can predict with authority what would happen inside Uganda if a boycott were enacted. We know what is happening inside Uganda today. The symbolic value alone of an unequivocal American initiative against Amin could encourage Amin's own people to take steps against him. It could spur an international boycott.

We have seen the results of what this Nation can do when it commits itself, just as in the case of Rhodesia.

Sure, there might be differences in the Senate as to the various peace plans proposed. But it was only a few short years ago there was no hope of majority rule until the community of nations acted. Believe me, whatever the difficulties in Rhodesia, they are as serious, if not more so, in Uganda today.

So, yes, I think sanctions can work, where the cause is right.

Testimony by the coffee companies last month indicated that a boycott would cause a disruption in coffee markets, as buyers shifted their sources of supply. There is no telling how long this situation would take to stabilize, but without question it would mean difficult times for Amin.

Recent information from within Uganda indicates that the voluntary boycott has dried up some of Amin's foreign currency reserves, making it difficult for him to obtain petroleum products.

Amin's reward system, in which he trades whisky and cars for the loyalty of his key henchmen, is a hand-to-mouth operation. Any interruption in the flow of coffee cash and luxury goods into Uganda would create a precarious situation for Amin in his inner circle.

Amin also has a payroll of over 10,000 mercenaries to meet, which would be jeopardized by the immediate halt of U.S. purchases.

I wish that all Members of this body had the opportunity that Senator HATFIELD and I have had, in the course of the past months, to talk with those intimately involved with the situation in Uganda—whether with religious leaders, with whom Senator HATFIELD has had the opportunity to speak, or with our former ambassador, Dr. Thomas Melady, now president of Sacred Heart University in Fairfield, Conn., who described the conditions and the brutality of that regime in his book Idi Amin Dada, Hitler of Africa.

If we could read to Members of the Senate a couple of chapters from books written, not by men of the opposite political party, but by men who have been a part of Mr. Amin's inner circle and who could no longer stomach the violence and the killing and the torture, I do not think there would be one person in this Chamber who would waste 1 day on any sense of the Senate resolutions but would insist that this country act immediately.

Maybe Uganda is not big enough in the sense of its participation or effect in the cycle of world affairs. Maybe it is that there are not many Ugandans living in the United States, so they do not have a lobby. Maybe it is that the oil situation is not of such importance in Uganda that we have to tiptoe lightly in our relations with that country. But a human right is just that, anywhere, whether it is in Africa, the United States, or wherever. It is a precious thing, and our commitment to life should not be predicated upon where that life exists or under what circumstances.

People say, "What will happen to the people of Uganda in the case of such a boycott?" What is happening to the people of Uganda right now, without it? That is the question. The people of

Uganda, tragically, because of what has gone on, have nothing to lose.

Unfortunately too many people have been ducking this issue, and I am glad we have the opportunity to bring it to the floor this afternoon.

The House of Representatives resolution obviously was dictated by an administration unwilling to act. I have no doubt that if this amendment proposed by Senator HATFIELD, myself, and others is adopted, it will be accepted by the House.

Human rights are and always have been the heart of our democracy in its finest hours, whether at home or abroad, whether in Yorktown or Normandy or Selma, Ala. It is what this country is all about. But we have to fight for it. We cannot just go ahead and say the worst and then sit back in our chairs. That is what is at issue here today.

I have said many times that it is the state of our spirit that determines the state of the Union. We have heard enough talk about human rights. I want to see them come into full flower, and indeed in the case of Uganda, just in the sense of being able to live.

I ask rejection of the substitute amendment, although it is a well-intentioned amendment. I have no disputes with the distinguished Senator from Idaho as to what the right thing is to do on this issue. He feels as strongly as I do. Let us make that point very clear. It is just that I feel that if the end is to be achieved, it has to be achieved in the no-nonsense language of the original amendment, and I hope that will be the language enacted by the U.S. Senate.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. HEINZ. Mr. President, I think the Senator from Connecticut has been extremely eloquent, and he addresses a very legitimate problem.

I joined the Senator from Connecticut and the Senator from Oregon some weeks ago in writing to the President on this very issue, when we asked the President, using his authority under the Export Administration Act, to go farther than the voluntary actions taken by individual U.S. companies and to impose official sanctions on Uganda. He has not done so, and I think that this amendment, as well as the House action and the amendment of the Senator from Idaho are an expression of dissatisfaction with the halfway measures pursued to date by the Carter administration.

The second point I make is this: The Senator's amendment is not precisely germane to this legislation. Among other things, it would be germane to the Export Administration Act; it is not technically germane to the Bretton Woods agreement. Nonetheless the Senate has failed to act so far. Perhaps we will be pleasantly surprised later on this year, but I am not so sure. Nor has action been completed on the antiterrorism bill reported by the Governmental Affairs Committee which would provide an appropriate opportunity to consider this amendment. Absent that legislative opportunity, I would not in any way criticize the Senator from Oregon or the Senator from Connecticut for offering this amendment at this time.

However, there is one question—and this is why I asked the Senator to yield—on which I would like his thinking, and it is this: Granted that the human rights violations by Idi Amin and Uganda are egregious, actions of other nations with respect to human rights—at least in this Senator's judgment—are equally to be condemned, equally egregious.

There come to my mind, in particular, Iraq and Libya, both of which carry their violations of human rights beyond their own borders and, by training and financing international terrorists, export the most fundamental violation of human rights that one could ever suppose to exist, and that is the deprivation of life. Life is our most fundamental human right.

So I ask my good friend from Connecticut whether he might enlighten me as to why he has chosen to limit his amendment to Uganda. Why should not his amendment include countries like Libya and Iraq? In this Senator's judgment, those countries have exported human rights violations by financing, encouraging, and providing training for active terrorism, whether it be in Munich or in Greece or in Israel or in a half-dozen other countries around the world.

Mr. WEICKER. I know this will come as a surprise to the Senator from Pennsylvania, but this Senator is limited in his capabilities and talents, in the sense that he is unable to spread himself all over the world to dealing with all the problems that confront this Nation and the world.

I do not in any way dispute the facts laid out by the Senator from Pennsylvania. Indeed, if he wants to propose an amendment, I think he should.

The fact is that on this particular issue, it is something that has drawn the attention over the years of both Senator HATFIELD and myself. Frankly, we have been unable to give it the attention it deserves or to bring about the result that this situation deserves.

It was felt that the time had come, past the time, to strike. This in no wise disputes what it is the Senator from Pennsylvania is saying, and indeed once this amendment is agreed to, then let us get to work on the other situations. What I think is important, I think the point the Senator from Pennsylvania is making is well taken, is that there is a great deal of noise coming out of this country about human rights, I think properly so.

I will be very honest with you. I think for the past several years a great deal of credit might be given to some of our foreign exploits. On the other hand, they were, I think, very disregarding of certain human issues. They might have been good tradeoffs in the sense of politics, or charisma, if you will. I do not think they were well applied to a nation like the United States. Call us naive, if you will. I like what it is we stand for, and I do not think we should trade it off.

So in that sense, finally, we came to a realization of how important human values are in achieving recognition and admiration throughout the world, but really we have been doing so much talk, talk, talk and very little act. Hopefully this will be one of those instances when we do act, which does not mean to say that similar conduct should not be forthcoming relative to other nations in the future.

Mr. MARK O. HATFIELD. Mr. President, I am very pleased to be a cosponsor with Senator WEICKER on this amendment calling for some action regarding the problems that we have in relation to the country of Uganda.

Mr. President, my comments on the introduction of this important amendment will be brief in that I am already on the record with reasons for my strong conviction that the U.S. Government must act in unprecedented fashion against the government of the modern day Hitler, Idi Amin of Uganda.

It should be said that my sincerest hope was that the Carter administration would, in the instance of Uganda, give credence to its human rights campaign by specific actions such as trade restrictions and encouragement of the same by our allies. After several months of delay and confusion by the State Department, White House and National Security Council it has become apparent to me that the Congress must act forcefully to affect change in our trade relationship with Amin's genocidal regime. The voluntary effort by especially American coffee companies has been encouraging but, I must say, not sufficient to stop the flow of American cash into the pockets of Amin's murderous mercenaries. And coffee companies which have acted voluntarily have requested of us that we impose trade sanctions so that they would not be at a competitive disadvantage with companies which continue to purchase Ugandan products.

Therefore, the legislation which Senator WEICKER and I, introduced by way of amendment today, is an expression of our moral resolve to act appropriately toward one of the worst violators of human rights in the world today.

The final draft of this amendment is before you in unprinted form and incorporates language suggested by the Subcommittee on Africa. "No corporation, institution, group or individual may import, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda." So that the intent is clear—there are American corporations now buying Ugandan products through subsidiaries and other third parties for consumption in the United States. This law would make it impossible to do that. Further, this amendment would disallow importation until such time as "The President determines and certifies to Congress that the Government of Uganda is no longer committing gross violations of human rights." This gives, in my view, all the flexibility necessary for the President to determine appropriate action based upon an understandable standard of the world community.

Exportation would be disallowed on

the date of enactment as well by this amendment for all articles, materials, supplies, including technical data and information subject to the jurisdiction of the United States, except for cereal grains and additional food products which are necessary to supplement the subsistence farming of the nearly independent Ugandan citizens.

An important point which has gone virtually undiscussed in the months of debate and hearings on the issue of a trade embargo with Uganda is the important role this issue plays in our national interest. This small East African nation, the size of my home State of Oregon, does not wield significant strategic or economic influence in the international community. It does not provide rare minerals or petroleum to the Western World. There is no doubt, however, that Uganda is destined to find its place in ignominious history. It will be referred to as a unique product of the 1970's, along with Cambodia and Equatorial Guinea. Historians will note with preplexed curiosity that this was also the decade in which the issue of human rights was introduced to international diplomacy as a central component of U.S. foreign policy.

I, for one, believe that we do have as a Nation a powerful universally applicable principle in our human rights policy that will further not only our national interest but will ease the plight of the oppressed of the world if we but steward this policy responsibly. It is in our national interest to apply this principle most forcefully to the most severe violators. For if our policy is nothing more than empty rhetoric and a few resolutions we sap it of its power and place oppressed peoples in increased danger. Idi Amin, at the cost of incomparable suffering to thousands of innocent Ugandans, has presented us with the best opportunity to date to demonstrate our resolve to characterize the human rights policy of this country with concrete actions rather than mere words.

It has been said that to move against Idi Amin with trade sanctions would set a bad precedent. Such logic rings of blind indifference and an acceptance of the status quo even when there exists the most brutal forms of torture and executions. To impose sanctions on Amin does not mean that therefore we must use sanctions in the months ahead every time a patriotic leader uses disagreeable rhetoric.

We must ask what kind of precedent we set when we not only allow madmen like Idi Amin to participate in the affairs of the world community but also directly subsidize his reign of terror by supporting his economy.

I urge support for this amendment. God forbid that we be guilty of continued "silent" involvement in Idi Amin's murderous rule. If civilized nations fail to challenge the growth of barbarism and genocide, we condemn ourselves to be slowly encircled and finally engulfed by it.

Mr. President, a number of weeks ago many Americans watched the television documentary called "Holocaust." Many times afterwards I heard the questions asked, with the knowledge we have as a civilized Western World, how could we abide by the actions taken in Nazi Germany without raising more effective protest than what we did?

I am mindful that in 1939 a group of political science professors from United States leading universities and colleges visited Nazi Germany and were hosted by Adolf Hitler and given a tour. They came home, and the vast majority of these political science professors indicated it was their view that Hitler was merely trying to help the German people back on their feet.

It was very interesting, in retrospect, that so many of these things that were so evident to those very careful viewers of the scene from afar were not so evident and they were blinded when they saw them up close. In the same way certain Americans are now visiting Uganda and coming back with all kinds of apologetic stories and excuses for the regime. It seems as though sometimes these facts escape us when they are so blatant. This becomes vivid to one who gives some careful attention to the scene.

I say that because it seems to me that many times the people of this Nation are ahead of the politicians.

Let me remind the Foreign Relations Committee in reference to this particular amendment or proposal that we have been asked to substitute for Senator WEICKER's and my amendment, and which was patterned after the House of Representatives Resolution No. 612 which passed the House of Representatives on June 12, that long before June 12 the people of this Nation were becoming aware of the genocide policies of Idi Amin and were responding to a voluntary boycott that some of us launched on April 3 of this year in the Senate and even last fall in the House.

So when the Senator from Idaho gives to the Foreign Relations Committee and the action of the House of Representatives the credit and the results that have been brought about as a result of the so-called official action of Congress, I challenge that observation with simple facts that the people of this country were engaging in a voluntary boycott before Congress ever got around to acting, and the companies that were the main purchasers of Ugandan coffee were already feeling the result of that citizens' boycott, the people's boycott.

We were in communication with General Foods, Procter & Gamble, and other companies that were importing Ugandan coffee for a long period before the June 12 action by the House of Representatives. It was very evident from the communication and contacts we had with those American companies that the people's boycott was already being felt by these companies.

Mr. President, this proposal by the Foreign Relations Committee is talking about effectiveness. I think, with all due respect, it will be about as effective as instant mashed potatoes.

This is another one of those examples of rhetoric, when we really have circumstances that call for action, the kind of action that is embodied in Senator WEICKER's and my amendment.

I say that because when we talk about effectiveness let us bear in mind that the United States of America consumes about one-third of the over $500 million coffee crop now exported into the world marketplace by Idi Amin's government. That is the last of the cash crops that Amin's economy now produces. And when we consume about one-third of that, which is only about 5 percent of our total coffee consumption, it is very obvious to me that we can effect results and we will see even greater results if we can bring that one-third of his crop into total and effective boycott.

I mention that because at least one of the companies that entered into this agreement that they would boycott the coffee from Idi Amin's Uganda has, subsequent to that agreement, continued to purchase coffee through subsidiary corporations.

Our amendment would preclude that from continuing and would bring into effect a very definite boycott which would mean that we could cut one-third of Amin's crop and his cash.

I also have been in touch with the members of the British Parliament, and there is a resolution pending in the British Parliament at this time to do exactly as Senator WEICKER's and my amendment proposes in our Senate. In fact, we have word from David Owen, the British Foreign Secretary, that Parliament will follow suit should we pass this amendment.

But I do feel that we have evidence today that we can present to this body indicating that even the limited boycott that has been effected, both through the voluntary boycott and through the response from our American companies, has brought certain results that indicate a trend in Uganda.

Mr. President, we have been in direct communication with former ministers of the Ugandan Government, and with refugees from Uganda, and with those who have maintained communication with people living in Uganda. I can say unequivocally today that there is a trend downward in the political-economic life of Uganda as a result of this boycott. But it is only a half measure. We need to make the boycott effective, and complete as far as the United States is concerned That is what this amendment produces and will produce.

I think it is interesting to note that the Foreign Relations Committee indicated that they wanted to go along with the House of Representatives as if the House of Representatives found the real key to this problem.

I might say respectfully that I think probably the substitute amendment we are being asked to consider at this time is brought about from the same or similar results that happened in the House of Representatives. Let me say that the prime sponsors of the House of Representatives resolution support Senator WEICKER's and my amendment here today and they very clearly state both to us personally and for the RECORD, that the amendment they had in the House of Representatives was a watered-down version of what they really wanted. But they had jurisdictional problems they

could not overcome, and this was the best product they could get. It was not at all satisfactory to the prime sponsors of the original amendments in the House of Representatives.

We talk about the various calls for human rights. I remind this body that we refused to lift the embargo on Rhodesia. We put an embargo on Rhodesian chrome and we did so in the name of human rights. Yet I wonder why this same body now, under the leadership of the Foreign Relations Committee, has only been able after all this time of hearings, study, and writing to come up with this rather half-hearted amendment to address itself to a very profound issue of genocide.

Why is it we can get so righteous and so indignant about human rights that are being violated by white regimes of Rhodesia and South Africa, and yet here we have one of two, at least to my knowlelge, one of two governments that are officially practicing genocide against its own people, Uganda and Cambodia, and why we tend to drag our feet and find all sorts of Nervous Nellie phrases to avoid facing up to the real issue and dealing with it effectively?

To me there is an element of hypocrisy in that we can apply the criterion of human rights against one particular form of government that has a certain color of skin and yet we turn in a different way and blind one eye, or half blind both eyes, as it relates to a government of a different color of skin.

It seems to me that where genocide is practiced and where human rights are in violation we should be concerned regardless of the color of the skin of the administration or the controlling political structure.

Therefore, it seems to me this body ought to be willing to lead the American people. The people in this body who are leading at this moment in the Senate should be far ahead in recognizing this horrible, murderous regime in Uganda and desiring to do something effective against it.

One last point, Mr. President, and that is it seems to me that when we look at the flexibility that the Foreign Relations Committee wants to give to the President, I am not one who wants to conduct foreign relations from the floor of the Senate. But I would like to invite the attention of the members of the Foreign Relations Committee who propose this substitute to section (c) on page 2 of Senator WEICKER's and my amendment. In that section we have deliberately set forth an element of flexibility for the President. I might say that we had the very helpful assistance from the staff of the Foreign Relations Subcommitee on African Affairs in drafting this particular section to provide that degree of flexibility for the President.

I would like to read it:

Notwithstanding any other provision of law, after date of enactment of this section, no corporation, institution, group or individual may directly or indirectly import into the United States or its territories or possessions any article grown, produced or manufactured in Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing gross violations of human rights.

I think anyone looking at that particular section could recognize immediately the flexibility, the character of flexibility, we have accorded the President. I want to emphasize again that this language was developed by the staff of the Subcommittee on African Affairs of the Committee on Foreign Relations.

So, Mr. President, it seems to me this is a time for the Senate to develop some degree of consistency about its concern for human rights violations in the world, and we have an opportunity at this time, with Senator WEICKER's amendment, to so do as it relates to Uganda.

I would also like to add a further comment to what Senator WEICKER has already stated in response to the question by Senator HEINZ. I do not think we can afford to sit back and do nothing until we can do everything. I think we have to recognize that the answers to many of these problems, such as the global problem of human rights, have to be taken step by step, brick by brick, as we build the fortress of liberty and freedom.

For instance, I would suggest that if we wanted to include Cambodia—another country that is practicing genocide today—it would really be very difficult because we have no relationship with Cambodia.

It does not mean there will not be other vehicles, other ways, by which we can perhaps attack the problem in Cambodia. But this does give us a very distinctive opportunity to deal with a country in which we are supporting, in effect we are perpetrating, that regime by the continuing purchase of its chief export crop, coffee, because it is upon that cash crop that Amin builds his power structure.

Bear in mind that Amin has a power structure based solely upon a mercenary soldier force, and without being able to pay them off in cash regularly the loyalty of that soldier force is quickly diminished. Consequently, this does give the Senate an opportunity to act, and I am very hopeful that, when the decision is made, the Senate will support our amendment, for it is one of most effective character as compared to the mashed potatoes of the Senate Foreign Relations Committee.

Mr. President, I ask unanimous consent that Senator HODGES be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am proud that a Congressman from my State, DONALD FEASE, a junior member of the House International Relations Committee, is the Member of Congress who has done more than any other to bring to light the facts about Uganda and about the relationships between that country and some American business concerns. Congressman PEASE has distinguished himself on this matter and it is in large measure because of his efforts that so many of us have taken a new look at this subject. I am very pleased to be joining my distinguished colleagues in the Senate, Senators WEICKER, HATFIELD, and others, as a cosponsor of this legislation.

I agree that we need mandatory legislation. It is not enough to simply indicate by the sense of the Congress what our point of view is on this subject.

Mr. President, we are fortunate to live in a world in which hundreds of millions of people have come to recognize that the fundamental human rights guaranteed until now to the citizens of only a few fortunate countries should be extended to all.

We have seen the supposedly apathetic people of India reassert their belief in democracy by overwhelmingly voting an authoritarian government out of office.

We have seen the rise of the dissident movement in the Soviet Union and we have observed with awe and admiration the fact that new people seem always to step forward to take the places of those who are driven into exile or packed off to jail by the Soviet authorities.

We have seen stirrings of freedom in the eastern European nations dominated by the Soviet Union and we have seen brave people stand up against brutal regimes in countries as diverse as South Korea, Iran, and Argentina.

But the fact is, Mr. President, that in spite of these hopeful signs, we all know that there are nations in today's world afflicted with governments that treat their own people with mindless, primitive barbarism.

The Khmer Rouge regime in Cambodia has set out to systematically annihilate whole categories of the Cambodian population and to demolish the high and ancient culture to which their country is heir.

South Africa, a nation that claims to be an outpost of western civilization, makes a mockery of our Judeo-Christian values by raising the most blatant and degrading racism to the status of official state doctrine.

And Uganda, the subject of today's debate, a beautiful country that I had the good fortune to visit probably about 18 to 20 years ago to be exact, suffers under an odious and demented despot who has presided over the massacre of hundreds of thousands of his countrymen. This admirer of Adolf Hitler and friend and supporter of international terrorism has turned loose the foreign mercenaries who keep him in power upon the Ugandan people with a license to kill, to torture, to rape, and to loot at will. His continued rule is a nightmare for Uganda, and it is a reminder to the world of the utter depravity to which the human species can sink.

The amendment before us today, of which I am proud to be a cosponsor, will at long last commit the United States to bring to an end the trade that helps to sustain the Idi Amin regime. This step—a mandatory trade embargo—will deprive Amin of the more than $248 million he derives each year from exporting coffee to this country. That $248 million amounts to more than a third of his total foreign exchange—a third of the money that he uses to pay his mercenaries, and to keep them supplied with luxury goods, Soviet weapons and Cuban advisors.

And the embargo will also deprive Amin of the limited, but valuable, access he has had to American products and

American expertise. This access has been important to Amin's regime. And it has been profitable to the handful of American companies that have chosen to do business with him.

I do not think that Americans should be flying and maintaining Idi Amin's aircraft. Yet they have been doing so for the past several years.

I do not think that we should be providing Idi Amin with helicopters or that we should be training pilots for him. Yet until last fall, an American firm was doing just that.

And I do not think that an American company should be supplying Uganda with communications equipment for the use of Amin's henchmen in the army and police. Yet such an arrangement now exists.

And, Mr. President, I find it hard to believe that a number of American coffee companies, including General Foods, the producer of Maxwell House, the largest selling coffee in this country, literally have refused to join Chock Full O' Nuts. Procter & Gamble, Nestle, and other companies in a voluntary boycott of Ugandan coffee. That voluntary boycott, I am informed, has already begun to be felt in Kampala to the degree that Amin is not able to meet the bill for the fuel that Uganda imports via Kenya.

Mr. President, I ask unanimous consent that a list of other companies that have refused to stop buying Ugandan coffee be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

General Foods (Maxwell House).
E. R. Camilleri and Company.
Lonray, Inc.
Socomex Coffee Inc.
G. M. Saks Inc
S. Jackson and Son, Inc.
George William Reuff, Inc.
P. W. Bellingall Inc.
Hoty Shepston and Sciaroni.
Volkart Brothers Inc.
Bill Potts and Company.
B. A. Kahl and Company.
Loretz and Company.
Anderson-Clayton Foods.
Western States Marketing Company.

Mr. METZENBAUM. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Ohio may proceed.

Mr. METZENBAUM. Mr. President, it is possible that the Amin regime will, as some have said, be able to find other markets for its coffee in the event that we eliminate our imports. On the other hand, it is also possible that our example will encourage nations like Britain, which takes 21 percent of Uganda's coffee, France, which buys 6.5 percent, and West Germany, the market for 3.5 percent, to take similar steps. Together, the United States, the European common market countries, and Japan account for approximately 80 percent of Uganda's coffee export market. If the others join in, the effect will be devastating. If they do not, our own country, at least, will have done what is manifestly the right thing.

Mr. President, the Senate refused this week to remove existing sanctions on Rhodesia until that country makes a good faith effort to reach a settlement with the parties now in opposition and move toward majority rule via truly free elections.

I believe that the Senate's judgment in this matter was sound. And I believe that the same human rights principles that led us to impose and to maintain sanctions on Rhodesia are applicable in the case of Uganda.

I do not advocate that we cut off trade with every nation with which we disagree. If we did, we might have few trading partners.

And I do not believe that embargo is necessarily the best tactic to use in most circumstances.

But in this case, Mr. President, we are not dealing with a government with which we have disagreements in policy or philosophy. We are dealing with an outlaw government, with a regime which does not belong in the company of civilized humanity, with a bloody dictatorship that deserves contempt and ostracism.

Mr. President, I know that we cannot right all of the wrongs in the world. With regard to Idi Amin, however, we can do something—and something that will hurt.

Mr. President, I regret to say that I do not believe that a sense of the Congress resolution will be sufficient to provide that kind of reaction, that kind of impact. Therefore, Mr. President, I hope that the Senate will not accept the resolution offered by the distinguished Senator from Idaho, but will instead adopt the amendment that I join the Senators from Oregon and Connecticut in offering.

Mr. RIEGLE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. I yield.

Mr. RIEGLE. I ask unanimous consent that Mark Kowalski, of my staff, be given the privilege of the floor during the remainder of the debate and any votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, on behalf of Senator WEICKER and myself, I thank the Senator from Ohio (Mr. METZENBAUM) for a very eloquent statement. I know of his deep concern in connection with human rights, both here and elsewhere in the world. It is certainly in keeping with his long-time reputation for standing and fighting for such considerations, and I thank him for his outstanding contribution.

Mr. METZENBAUM. I thank the Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the name of the Senator from Pennsylvania (Mr. SCHWEIKER) be added as a cosponsor of Senator WEICKER's and my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I support this amendment which would impose a trade embargo against Uganda.

The present Government of Uganda is notorious for its brutal and barbaric treatment of those individuals whom it perceives as political opponents. Both public and private executions have become the standard means for dealing with political opposition since Idi Amin came to power in January of 1971. Both Ugandans and non-Ugandans have suffered the wrath of this capricious dictator.

Last November, I introduced a Senate resolution which would clearly express the sense of this body with respect to the handling of visa applications submitted by Ugandan Government officials in the future. In addition, it calls for a mandatory embargo on the export of all American military, police, and paramilitary equipment to Uganda; and it urges the U.S. Ambassador to the United Nations to propose a mandatory arms embargo on Uganda by all members of the United Nations. This would, of course, parallel similar action taken by the U.N. Security Council against the Government of South Africa last fall.

A BARBARIC REGIME

Within the past several years, the world has become sadly aware of the unspeakable horrors of the Amin regime in Uganda. The rule of law in Uganda is nonexistent, and financial mismanagement is widespread. Idi Amin has declared himself "president for life" and has undertaken a bloody campaign to eliminate all potential opposition to his totalitarian government. The official intelligence network within the country constitutes a continuous form of harassment and intimidation for Ugandans in all walks of life.

Estimates of the number of Ugandan citizens who have been mercilessly killed since Amin came to power vary, but amnesty international reports that between 30,000 and 300,000 Ugandans have fallen victim to this reign of terror.

In addition, we know that American businessmen and church leaders residing in Uganda have been harassed and intimidated unmercifully. Discrimination against Christians and Jews has occurred regularly. For a few days in February of 1977, Amin forbade Americans living in Uganda from leaving the country. A concerted international protest fortunately led to a rescission of that order.

SOVIET AND CUBAN INVOLVEMENT

In search of a source of diplomatic and military support, Idi Amin has turned to the Soviet Union for the purchase of fighter aircraft and tanks as well as Soviet instructors to accompany them. Amin's closest friends on the international scene are the leaders of Cuba and Libya, both international outlaws in their own right. Newspapers in neighboring Kenya have reported that large numbers of Cubans are entering Uganda, and Libya is providing Uganda with economic aid. It will not come as a surprise to many that the brutal Ugandan regime displays a definite pro-Marxist tendency in its foreign relations.

PURPOSE OF RESOLUTION

Mr. President, there are those who shrug their shoulders helplessly and say that there is little we can do to improve the barbaric situations that we know exist in nations such as Cambodia and

Uganda today. But I do not subscribe to the theory that our limited capacities necessitate hopeless resignation on our part. I believe that the U.S. Government has a responsibility to speak out, and to continue to speak out against such brutal regimes, and to attempt to focus world attention on their gross violations of basic human rights.

In many cases, our action may be termed "symbolic" or "moralistic." In some cases, when we move to deny technical and military assistance to Uganda, others may fill the void. But I, for one, believe that moral principle and consistency of policy argue for such action in any case. Indeed, I believe the national interest is best served by a policy that encourages the isolation of repressive governments and by the termination of assistance that directly strengthens the means of repression.

At this time, I believe it is more important that the U.S. Senate go beyond a simple expression of condemnation for the oppressive Ugandan Government. I believe all of us should support this trade embargo against Uganda, restricting certain exports as well as imports.

Mr. President, I believe the effort by the distinguished Senator from Connecticut and the distinguished Senator from Oregon deserves the suport of all Members of this body. Some time later during the course of the consideration of this measure, the Senator from Kansas will offer yet another amendment, which would direct the President of the United States to instruct our Nation's Executive Director to the International Monetary Fund to oppose any funding to Cambodia or Uganda through the supplemental facility addressed by this legislation. That will be another effort, and I hope an appropriate effort, and a proper response to the atrocities we see in Uganda and the genocide we see in Cambodia.

Mr. JAVITS. Mr. President, I shall be brief.

I do not think anyone could question my support for and sympathy with the principles which Senator WEICKER is espousing and which he has sedulously pursued, and which I join with the others in praising.

My problem is that I shall be a conferee in a difficult conference, which will face the following proposition: This is a trade matter. It is not within the jurisdiction of either the Foreign Relations Committee or the Committee on Banking, Housing, and Urban Affairs. Nor will we be conferring with the Ways and Means Committee of the House of Representatives. I have profound concern that it will be knocked out on a point of order in respect of what goes on on the House floor.

Therefore, in this matter—and I think, aside from Senator PROXMIRE, I am the most ardent advocate of the Genocide Treaty on this floor, and have been for years—I believe I would rather do something than nothing. The House of Representatives has adopted the resolution which Senator CHURCH has proposed as a substitute. I believe with Senator CHURCH that this will be very eloquent notice to the President that, whether on this bill or some other bill, we will put on an embargo, as we have on Cuba and as we have in other situations we felt strongly about, on a proper bill, a bill out of Senator CURTIS' and Senator LONG's committee. There are plenty of them to come up yet. I believe that is the proper course.

If the President does not get the message, then I think we have plenty of opportunity to act in a summary way. But I believe our zeal may mislead us in this particular situation.

That is the first point.

Secondly, I would like to ask the Senator from Connecticut whether he thinks that his own terms are too strict in terms of the ability of the United States to deal with situations. For example, he says that the embargo, and it is an absolute embargo which would be imposed, other than food, is conditioned upon the President certifying to the Congress that the Government of Uganda, "is no longer committing gross violations of human rights."

Well, gross violations of human rights could be committed on one person.

I would have thought that some flexibility, in a case like this, when we do not know what could happen, what the situation would be in Africa, would read, "Until he certifies to the Congress that the national interest requires" some other action. I think in a case like this, that would be shooting a big weapon, a necessary precaution.

For all those reasons, that is, that I would rather do something rather than nothing, I find, notwithstanding my deep feelings about this matter, that I must stand with Senator CHURCH in respect of advocating to the Senate the substitute.

Mr. MARK O. HATFIELD. Mr. President, I would like to respond to the Senator from New York. I understand his concern and we anticipated it. We checked with the House Parliamentarian on this question he raises as to the conference committee with the House and the whole procedure. The House Parliamentarian informed us that there would be no germaneness problem if this amendment were attached to this bill. He indicated that if someone should raise a point of order in the House of Representatives, they would merely separate the amendment and vote on the amendment separately. The chief sponsors of the amendment in the House of Representatives are urging that we take this action, feeling very confident that they can handle it in that manner, according to the ruling by the House Parliamentarian.

As to the second point raised relating to section C of our amendment, again I reiterate that we had difficulty in drafting that particular section. We wanted the finest help and assistance we felt to be available. We went to the Senate Foreign Relations Committee. We went to the Subcommittee on African Affairs. The staff of that Subcommittee on African Affairs, of the Senator's committee, assisted us and, in fact, did the primary wording for us.

I feel we have therefore at least looked to the Senate Foreign Relations Committee for the kind of assistance and help it is so expert in and we have, therefore, the language that perhaps is the best that we can devise at this time.

I am sure that Senator WEICKER and I are not locked into any nomenclature or glossary of words. We are trying to convey an idea. We are trying to establish a concept of flexibility for the President.

I merely wanted to state for the record again that we looked to the committee of the Senator from New York and the Subcommittee on African Affairs for that kind of wording.

Mr. JAVITS. If the Senator will yield, I will reply.

Mr. MARK O. HATFIELD. I yield.

Mr. JAVITS. As to the first question, our information is to the contrary. That sometimes happens. It depends on what Parliamentarian you get.

Mr. MARK O. HATFIELD. From the same Parliamentarian?

Mr. JAVITS. I am not going to quote anybody.

Mr. MARK O. HATFIELD. I wanted to get a source. If it is a higher source, I want the source.

Mr. JAVITS. All I will say is that our information is not in accord with the Senator's information on this issue of germaneness or point of order. That is all I wish to say. The Senator's statement stands and so does mine. I am not trying to debate the Senator or contradict him. I just say that our information is to the contrary.

As to the second point, as far as the language is concerned, we will have to deal with that when we come to it. We are not at that point now. We have a substitute which is proposed and that substitute may be tabled, as I understand Senator WEICKER is going to move to table it. Then we will debate that issue.

I do believe, and I think it is very established practice here, and I yield to no one in respect to my respect for my friend (Mr. MARK O. HATFIELD), that when you have the help of the subcommittee staff that does not represent the action of the subcommittee. I have never heard about this. I do not know about other members of the African Subcommittee. Generally, staff will oblige any Senator, and it is their duty, I believe, when he asks them to do something. If a Senator tells them what he would like done, they will tell him how to do it. That does not mean that the subcommittee or the committee is committed to that formulation. So I felt free to make the point which I made. I do not think it is invalidated by the fact that the staff of a subcommittee has helped the Senators in drawing up their amendment, as indeed they should.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor, and I ask unanimous consent that James Lockemy of Senator THURMOND's staff be granted the privileges of the floor.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, unless others wish to be heard, I move to table the substitute amendment offered by Senator CHURCH and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Church substitute amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Minnesota (Mr. ANDERSON) would each vote "nay."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 46, nays 30, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—46

| | | |
|---|---|---|
| Abourezk | Hatfield, | Percy |
| Allen | Mark O. | Proxmire |
| Baker | Hayakawa | Ribicoff |
| Bartlett | Heinz | Riegle |
| Bellmon | Helms | Roth |
| Byrd, | Hodges | Sarbanes |
| Harry F., Jr. | Huddleston | Schmitt |
| Cannon | Leahy | Schweiker |
| Curtis | Lugar | Scott |
| Danforth | Magnuson | Stevens |
| DeConcini | McClure | Stone |
| Dole | Melcher | Talmadge |
| Domenici | Metzenbaum | Thurmond |
| Ford | Morgan | Weicker |
| Garn | Packwood | Young |
| Hatch | Pearson | Zorinsky |

NAYS—30

| | | |
|---|---|---|
| Bayh | Hart | Moynihan |
| Bumpers | Hatfield, | Muskie |
| Burdick | Paul G. | Nelson |
| Byrd, Robert C. | Hollings | Nunn |
| Chiles | Inouye | Pell |
| Church | Jackson | Sasser |
| Clark | Javits | Sparkman |
| Culver | Kennedy | Stevenson |
| Durkin | Long | Williams |
| Glenn | Mathias | |
| Gravel | Matsunaga | |

NOT VOTING—24

| | | |
|---|---|---|
| Anderson | Eastland | Laxalt |
| Bentsen | Goldwater | McGovern |
| Biden | Griffin | McIntyre |
| Brooke | Hansen | Randolph |
| Case | Haskell | Stafford |
| Chafee | Hathaway | Stennis |
| Cranston | Humphrey | Tower |
| Eagleton | Johnston | Wallop |

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. JAVITS. Mr. President, I have addressed the Chair.

The PRESIDING OFFICER. I say to the Senator from New York, the Senator from Oregon sought recognition and was recognized before the Senator.

Mr. JAVITS. Mr. President, I was on my feet seeking recognition. It does not matter, if the Senator wishes to be recognized.

Mr. MARK O. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs——

UP AMENDMENT NO. 1535, AS MODIFIED

(Purpose: To impose a trade embargo against Uganda)

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent to amend our amendment on page 2, to include the words: a consistent pattern of gross violations of human rights.

During the debate on the previous amendment, the Senator from New York raised the question about some tightening of the criteria as to when the President would certify that such actions had ceased to be taking place.

Consequently, I am offering this amendment to tighten the criteria on that authority of the President.

Mr. HEINZ. Will the Senator yield?

The PRESIDING OFFICER. Do Senators agree to the amendment——

Mr. HEINZ. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Will the Senator suspend for a moment? The Senate is not in session—I mean, is not in order.

[Laughter.]

The PRESIDING OFFICER. It is so close to not being in order, it is almost out of session.

Would members please take their seats and clear the well?

Mr. HEINZ. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Members will please clear the aisles and take their seats.

The Senator from Pennsylvania reserves the right to object to the unanimous consent request.

Mr. HEINZ. Mr. President, I would like to ask the Senator from Oregon if I understand his request correctly. Does he seek to amend both section (c) and section (d) on page 2 and page 3, both?

Mr. MARK O. HATFIELD. Yes, exactly. I ask that as part of my unanimous consent request.

Mr. HEINZ. Mr. President, I do not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Will the Senator please send the modification to the desk?

The amendment, as modified, is as follows:

SEC. 3. (a) The Congress finds that—

(1) the Government of Uganda, under the regime of General Idi Amin, has committed genocide against Ugandans;

(2) the United States maintains substantial trade with the Republic of Uganda; and

(3) the relationship of the United States with Uganda is unique and justifies an exceptional response by the United States to the actions of the Government of Uganda.

(b) It is the sense of the Congress that the Government of the United States should take steps to disassociate itself from any foreign government which engages in the international crime of genocide.

(c) Notwithstanding any other provision of law, after date of enactment of this section, no corporation, institution, group or individual may import, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistant pattern of gross violations of human rights.

(d) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following: "(m) No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistant pattern of gross violations of human rights."

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda.

Mr. JAVITS. Will the Senator yield?

Mr. MARK O. HATFIELD. I yield to the Senator from New York.

Mr. JAVITS. I think it is a fine change and, in view of the expressed will of the Senate, I expect to vote for the amendment.

Mr. MARK O. HATFIELD. I thank the Senator from New York.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, the reason I offered the substitute in the first place was that I believed that by adopting the same action the House had taken and joining hands with the House in the sense of the Congress resolution, we would urge upon the President a course of action which would enable him to negotiate with other countries in a way to make the embargo effective.

Our hearings showed that a unilateral embargo on the part of the United States would not prove effective since other Ugandan customers, such as the Europeans, would simply increase their purchases, and we would not achieve our objective.

But the Senate has chosen differently,

and I fully subscribe to the objective sought by the Senator from Connecticut and the Senator from Oregon.

Both Senators appeared as very effective witnesses at those hearings I conducted. There is no question in my mind but that the Idi Amin regime is not entitled to any kind of relationship with civilized countries and that that regime is now sustained, at least partly, by the trade between Uganda and the United States, which would be cut off if this amendment were adopted.

I subscribe to the objective of the amendment. I would hope the Senate would now, by a rollcall vote, overwhelmingly approve the amendment.

Mr. MARK O. HATFIELD. Mr. President, to establish the clear intent of this effort, one of the purposes of our amendment as drafted is to address both U.S. corporations and their foreign subsidiaries and to prevent second- and third-party purchases. This was the reason that we included the terms "directly or indirectly" in paragraph (c).

PUT TEETH IN UGANDA EMBARGO

Mr. PROXMIRE. Mr. President thanks to the efforts of our distinguished colleagues from Oregon and Connecticut, we now have the opportnuity to practice what we preach in the area of human rights. For the first time, we have a vehicle with which to effect material change in a country whose institutionalized brutality knows few parallels in the modern world.

For years, this Nation, and other nations around the world have stood by in silence, often more amused by the comical antics of Idi Amin than horrified by his reign of terror. Whether madman or comic, Amin has regrettably succeeded in convincing the world community not to take him seriously.

But it is high time that we stop this tragic farce. It is time for us to stop looking at Amin the clown and start acting against Amin the butcher.

The fact is, we are witnessing, much as we did some 40 years ago. a holocaust. At the direction of Amin, as many as 150,000 people have been killed in the most barbaric and capricious fashion.

When the self-professed admirer of Adolf Hitler first came to power in 1970, he boasted that his coup had been bloodless. Indeed it had. But with the slaughter of the bulk of his armed forces during his first year as dictator, the pattern of bloodshed for years to come was set.

Has the Ugandan nightmare changed during the past few years? The answer is clearly no. Testimony by the International Commission of Jurists and Amnesty International indicates that if anything, the situation has worsened. Now, poor farmers in the countryside, once relatively secure, are just as likely to suffer death and torture as urban dwellers.

Still, during the past few months, with the fabric of Ugandan society unraveling around him, General Amin has been unusually silent. To what can we attribute this highly uncharacteristic behavior?

Mr. President, I do not think there is any doubt that recent actions by Congress and by American coffee companies have seriously shaken the confidence of General Amin. After all, he is hardly accustomed to such a reaction by his once passive spectators. He does not expect this Nation to act any differently than do the United Nations or the Organization of African Unity, both of which have failed to even censure Amin.

But the United States, I am proud to say, has not remained in the shadow of indifference and passivity that have characterized the responses of other nations. Already, the House of Representatives has passed a unanimous resolution urging the President to support and implement a trade embargo against Uganda. Sixty members of Congress have echoed that proposal in a special letter to President Carter.

Now, however, we can give our verbal resolve some teeth. We can show our support for those coffee companies that have voluntarily stopped buying Ugandan beans. More importantly, we can end the hypocrisy that inevitably attends a situation in which we criticize Idi Amin while providing him with financial and technical support with which to continue his savage rule.

We are all well aware that the United States can wield significant influence over the Ugandan economy through its large purchases of coffee beans—that country's only significant export. We also know that Amin's regime of fear is heavily dependent on coffee revenues, since fully 95 percent of his armed forces are mercenaries who are loyal only so long as Amin pays them in hard currency. In short, there are few situations where economic sanctions would prove as effective as in the case of Uganda.

The vital question facing us here today is whether we wish to remain the No. 1 source of financial support for a man who can only maintain power through systematic genocide. Quite frankly, I do not consider this a terribly controversial question. I believe that failure to act on this amendment not only undermines the consistency of American ideals and American foreign policy, but also serves as a callous rebuff to those oppressed peoples around the world who look for us to provide leadership in human rights.

I am sympathetic to the concerns of those who would argue that it is unwise to use trade restrictions for political purposes. Under ordinary circumstances, I would oppose any measure that impaired free trade for political purposes. But circumstances in Uganda are far from ordinary, and I think we would be extraordinarily derelict in our duty if we did not recognize that American free enterprise must contain a moral component in such instances.

It is folly to continue to talk about preserving the so-called "two track" division between politics and economics when the subject is Uganda. For in this case, the two are inseparable. At this very moment, our economic actions are having profound political consequences. We are continuing to purchase coffee and indirectly support genocide.

Dare we persist in our role as chief conspirator in the slaughter of thousands of Ugandan citizens? Dare we let ourselves be associated with the defilement of the magnificent beauty of Uganda and its citizens? Let us not repeat the past. Let us not again blemish the conscience of our Nation as we did through our early support of Adolf Hitler.

Once again we are faced with a moral choice. We should not be implicated by our silence.

Mr. CHURCH. I ask for the yeas and nays.

The PRESIDING OFFICER The yeas and nays have already been ordered.

The question is on agreeing to UP amendment No. 1535 of the Senator from Connecticut, as modified. The yeas and nays have been ordered on the amendment and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Arkansas (Mr. HODGES), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from Minnesota (Mrs. HUMPHREY), would each vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 73, nays 1, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—73

| | | |
|---|---|---|
| Abourezk | Domenici | Jackson |
| Allen | Durkin | Javits |
| Baker | Ford | Kennedy |
| Bartlett | Garn | Leahy |
| Bayh | Glenn | Long |
| Bellmon | Gravel | Lugar |
| Burdick | Hart | Magnuson |
| Byrd, Harry F., Jr. | Hatch | Mathias |
| Byrd, Robert C. | Hatfield, Mark O. | Matsunaga |
| Cannon | Hatfield, Paul G. | McClure |
| Chiles | Hayakawa | Melcher |
| Church | Heinz | Metzenbaum |
| Clark | Helms | Morgan |
| Curtis | Hollings | Moynihan |
| Danforth | Huddleston | Muskie |
| DeConcini | Inouye | Nelson |
| Dole | | Nunn |
| | | Packwood |

| | | |
|---|---|---|
| Pearson | Sarbanes | Stone |
| Pell | Sasser | Thurmond |
| Percy | Schmitt | Weicker |
| Proxmire | Schweiker | Williams |
| Randolph | Scott | Young |
| Ribicoff | Sparkman | Zorinsky |
| Riegle | Stevens | |
| Roth | Stevenson | |

NAYS—1

Culver

NOT VOTING—26

| | | |
|---|---|---|
| Anderson | Eastland | Laxalt |
| Bentsen | Goldwater | McGovern |
| Biden | Griffin | McIntyre |
| Brooke | Hansen | Stafford |
| Bumpers | Haskell | Stennis |
| Case | Hathaway | Talmadge |
| Chafee | Hodges | Tower |
| Cranston | Humphrey | Wallop |
| Eagleton | Johnston | |

So Mr. WEICKER's amendment (UP No. 5153), as modified, was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3101

Mr. SCHWEIKER. Mr. President, I call up my amendment No. 3101 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) for himself, Mr. INOUYE, Mr. MAGNUSON, Mr. YOUNG, Mr. PROXMIRE, Mr. BROOKE, Mr. MUSKIE, and Mr. BELLMON, proposes amendment numbered 3101.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 9, strike out the quotation marks and period at the end of the line.

On page 3, between lines 9 and 10, insert the following:

"(c) Notwithstanding any other provision of this section, the authority of the Secretary to enter into agreements making resources available under this section shall be limited to such amounts as are appropriated in advance in appropriation Acts. Effective October 1, 1978, there are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as are necessary to carry out subsection (a) of this section, but not to exceed an amount of dollars equivalent to 1,450 million Special Drawing Rights.".

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of my amendment: Senator HELMS, of North Carolina; Senator CHILES, of Florida; Senator MCCLURE, of Idaho; Senator WEICKER, of Connecticut; Senator HARRY F. BYRD, JR., of Virginia; Senator ABOUREZK, of South Dakota; Senator STEVENS, of Alaska; and Senator BURDICK, of North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, in addition, the prime sponsors of my amendment include Senator INOUYE, the chairman of the Foreign Operations Appropriations Subcommittee, on which I serve; Senator MAGNUSON, the Chairman of the Appropriations Committee; Senator YOUNG, the ranking member of the Appropriations Committee; Senator PROXMIRE, chairman of the Banking Committee; Senator BROOKE, the ranking member of the Banking Committee; Senator MUSKIE, the chairman of the Budget Committee; and Senator BELLMON, the ranking member of the Budget Committee.

I think the reason for this rather important and prestigious group of sponsors is because this amendment corrects a serious deficiency in the bill as it was reported by the committee. Simply, the Schweicker amendment would require that any funds provided for U.S. participation in the Witteveen facility must be wholly appropriated in advance.

Before discussing the merits of my amendment, I express my deep appreciation to the chairman of the Foreign Operations Appropriation Subcommittee, and the chairmen and ranking members of the Appropriations, Banking and Budget Committees, whose names I have just mentioned, for their support and interest in this amendment.

These individuals have been consistent in trying to insure that the Budget Act continues to be a strong fiscal and budgetary tool of Congress. In addition, I would like to especially commend Senator MUSKIE and the Budget Committee for the excellent work they did on this matter when we considered the first budget resolution. Because of their diligence, $1.8 billion is included in the first budget resolution to cover the full appropriation needed for U.S. participation in the facility.

Mr. President, in anticipation of arguments which may be made against this amendment, and some of which already have been made, even though my amendment had not been called up, I believe it would be worthwhile to discuss both those issues and the background of this legislation. The administration's original version of this legislation did not provide for any appropriation, despite the fact that under this bill the United States would outlay $1.8 billion to the Whitteveen facility. Their argument was that because this is an exchange of monetary assets, appropriation of funds were not necessary. The Foreign Relations Committee reported the administration's bill. When the legislation was considered by the Banking Committee, Senator PROXMIRE offered an amendment cosponsored by Senator BROOKE which would have brought the facility under the appropriations and budget process. Senator PROXMIRE withdrew his amendment and both he and Senator BROOKE presently support the position I am making that funds for the facility must be wholly appropriated.

Mr. President, the bill, as reported, is subject to a point of order under section 401(a) of the Budget Act. This section was enacted to stop so-called "backdoor spending" legislation which previously circumvented the appropriation process. S. 2152 involves "contract authority" within the meaning of the Budget Act, because the United States would enter into a contractual arrangement to participate in the facility. That contract would obligate the United States to make outlays to meet its commitment. While the House legislation contains language which would bring the facility under the appropriation process, it is at best vague, and does not require that funds for the facility be wholly appropriated. The Budget Committee has correctly determined that commitments authorized by this legislation fall within the definition of budget authority and, therefore, the entire $1.8 billion should be appropriated. Any other approach than that taken by my amendment only fuzzes the issue and abrogates the process.

Mr. President, as I mentioned earlier, the administration's original proposal was to treat U.S. participation in the facility as an exchange of monetary assets not requiring appropriations. They have made a separate proposal, not contained in this legislation, which would provide $200 million for possible exchange valuation losses when the SDR-denominated contribution to the IMF is repaid in dollars. This proposal, which was a fiscal year 1978 supplemental request, was not even considered by the House of Representatives in passing the second supplemental appropriation bill for fiscal year 1978, and I can safely state that the Senate Appropriations Committee will take similar action. That is why the chairman of our committee is a sponsor, as well as the ranking Republican.

Mr. President, there are several defects in the exchange of assets arguments advanced by the administration. First, the asset we get for the funds contributed to the facility is restricted and not as readily usable as the funds put in. Second, Treasury will have to finance the U.S. contribution either by borrowing in the Government securities market or from tax revenues. Third, the United States does not acquire a completely liquid asset in return for its contribution to the IMF. Indeed, the special drawing rights it acquires can only be redeemed in dollars with the approval of the IMF. Only upon representation by our Government that it has a legitimate balance of payments need, and only with the approval of the IMF would it be possible for us to draw from the fund.

The point here is that legally we do not have a claim on retrieving our funds without specific IMF approval under specific IMF conditions.

Fourth, and I believe the most important point, is that if the exchange of asset argument were carried to its logical conclusion, Congress would lose complete control over the budget. There are several areas which have been mentioned where an exchange of assets concept might apply under the reasoning represented in this bill. Under the reasoning propounded by Treasury, banks could be set up to finance urban or energy development wherein Treasury would deposit funds in that bank and in return receive a certificate of deposit. The bank would then have the use of U.S. funds which Treasury could treat as assets on deposit at the bank. This would mean we would not have to appropriate that money either. As Senator

PROXMIRE pointed out in a letter to me concerning this subject, the potential of this new form for "backdoor spending" is almost unlimited. Why, under Treasury's reasoning, could not Government acquisition of strategic petroleum reserves—they have a very high monetary value. We could easily put up a certificate of deposit exchanged under some conditions in the future when they were sold—or timberlands which have a value, too, or recreational lands or almost any transaction where the Government acquires an asset, could come under this exchange of assets concept, thereby avoiding the appropriation and budget process. In fact, I think it could be forceably argued that such assets would be more valuable and liquid than the assets we would acquire under this legislation.

The bill, without my amendment, would make a mockery out of the budget process and the appropriation process.

Mr. President, the administration has indicated their strong wish for passage of the Witteveen facility legislation. While the administration continues its desire to treat this legislation off-budget—or outside budget, they have indicated that because they feel it is important to enact this bill soon, they will not fight the passage of my amendment. I earnestly hope that the managers of this bill will see this amendment as a genuine attempt to strengthen and preserve the Budget Act. If the amendment is passed by the Senate, I feel certain that the President can anticipate it in a relatively short period of time.

Mr. President, again I would like to thank the cosponsors for their help on this amendment and I urge my colleagues to accept it.

I see the chairman, the distinguished chairman, of our committee, has risen, and I will be glad to yield to him without losing my right to the floor.

Mr. MAGNUSON. I want to suggest, too, that there is another reason for this amendment. The Office of Management and Budget has fallen into the habit, which I do not think they should have but they do, to list all loans as expenditures. As a matter of fact, if you took all loans out of the budget and listed them as assets, which they are, you would come pretty close to balancing the budget. There are billions of dollars worth of loans that are listed as expenditures. It is true they have to go out and borrow the money to make the expenditure. As long as the Appropriations Committee is taking the responsibility, the praise or the criticism, whatever it may be, for expenditures, I think we ought to take a look at some of these things that would be involved in this particular operation.

That is one of the reasons why I so strongly support the amendment, since if something happens we are going to be the ones who are going to be accused of not taking a look at some of these things as long as they are listed as expenditures and not as assets.

Any business that has a good loan never lists it as a debit. They list it as an asset. When they talk about balancing budgets we are running up into somewhere around $40 billion worth of loans that are listed as expenditures and debits in the budget.

If you took those out, you might say, "I have a balanced budget." Of course, one of the problems is that the Treasury does have to go and borrow money to make the loan. When they do, they dip into the private sector supply of money available and that, in turn, causes interest rates to rise and inflation. But I think it ought to be clear—and I assume that the Committee on Foreign Relations has looked upon this operation as good solid loans. There have not been any defaults.

Mr. CHURCH. That is correct.

Mr. MAGNUSON. I do not know why the Office of Management and Budget continues to put this down as part of expenditures and part of a deficit in the budget. There is not that big a deficit if you take care of that particular bookkeeping item.

That is why I support the amendment, other than the other basic purposes the Senator from Pennsylvania has put forth.

Mr. JAVITS. Mr. President, I wish to comment on Senator MAGNUSON's point. He has made a very significant point for all of us. Look what is happening with this imbalanced budget. The dollar is sliding because we have a $50 billion deficit and sliding disastrously. The American people are going to feel it very hard very soon because we have to buy a lot of things to keep this industrial machine working, and the imbalance in terms of our exports and imports weigh in two and three times the reason they should because they are built upon an imbalanced budget.

The bookkeeping is crazy, and for this reason. The very people who are insisting upon that kind of bookkeeping, Senator MAGNUSON, say we have to run a business government. Do you see General Motors or General Electric or United States Steel running its business the way you just said? Sure, they go out and borrow money, but they carry it as a perfectly good asset when they have a loan and it is not what you owe, it is what you have against what you owe. The fact is that even the national debt is low compared to our gross national product in terms of previous years.

I will deal with the amendment later, but I just felt this was so pertinent to our national situation that it is really tragic that this President, who wants to reform everything—and I think the Senator has a good deal of influence on him—I do not see why he should not reform that.

Mr. MAGNUSON. Mr. President, if the Senator will yield, if any business kept books the way we keep books, I think the SEC would put them in jail. I am sure of that. But we technically go down to the till theoretically this year on September 30 at midnight. We open the Federal till and we look in. If there are some I O U's in there, perfectly good I O U's, that is part of the deficit. If there is a little cash in there, that is the surplus. Then we close the till and go about our business for another year.

No one could do business that way any place, and some of the people who will be beneficiaries of these loans are the ones who are criticizing us.

Mr. JAVITS. Exactly right.

Mr. MAGNUSON. That is why we should take a look at it.

Mr. SCHWEIKER. I thank the distinguished chairman of the Appropriations Committee.

I ask unanimous consent, Mr. President, that a statement by the Senator from North Dakota (Mr. YOUNG), the ranking Republican member on the Appropriations Committee, strongly in support of the Schweiker amendment, be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR YOUNG

I would like to reiterate my strong support for the amendment being offered by Senator Schweiker which I have co-sponsored.

Since the passage of the Budget Act those of us who have a particular responsibility regarding that Act have consistently sought to insure that legislation containing "backdoor spending" not be enacted. In some cases this has been a painful process, but we must do all we can to make sure that the Budget Act continues to be a viable mechanism for budget control.

This effort will have to continue and this amendment simply represents another attempt to make sure that our own processes are not violated. I would like to commend the Senator from Pennsylvania and the rest of the co-sponsors of this amendment for their diligence in this matter, and I hope the Senate will clearly see the necessity of passing this amendment.

Mr. SCHWEIKER. I also ask unanimous consent that a statement by the Senator from Massachusetts (Mr. BROOKE), the ranking Republican member on the Banking Committee and also, I might say, a member of my subcommittee which will be appropriating the money for this amendment, which statement is also strongly in support of the Schweiker amendment, be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR BROOKE

We have before us S. 2152, a bill which would authorize the United States to participate in the IMF Witteveen Facility. This facility would provide the IMF with approximately $10.5 billion worth of hard currencies (our share—about $1.75 billion) which would be used to assist countries experiencing severe balance of payments difficulties and would, therefore, help to strengthen the international monetary system. I support U.S. participation in this facility.

I am deeply concerned, though, that the bill, as reported, constitutes an "end run" of the budget process and violates Section 401 (a) of the Congressional Budget Act of 1974 by authorizing the Treasury to make contributions to the facility without requiring that the funds be provided in advance in an appropriations act.

U.S. participation in the Witteveen facility will obligate the Treasury, on call, to obtain funds to be transferred to the IMF either by going to the capital markets or by utilizing tax revenues. This type of commitment constitutes a binding contract obligating the U.S. to make budgetary outlays. And Section 401(a) of the Budget Act specifically provides that legislation authorizing such contracts to make outlays be limited

to amounts provided in advance in an appropriations act.

The Treasury has attempted to justify this off-budget treatment of U.S. contributions to the facility by arguing that these contributions represent merely an "exchange of monetary assets". This argument is based upon the premise that the U.S. receives, in exchange for each dollar contribution, an equivalent reserve claim on the IMF, denominated in Standard Drawing Rights (SDRs), that is highly liquid and thus similar to a bank deposit. We are asked to believe therefore, that such a transaction does not really involve an "outlay" of funds, only an exchange of monetary assets, and should not be included in the budget.

This "exchange of assets" argument, though, ignores two major important points.

First, the Treasury will be obligated to finance U.S. contributions to the IMF either by borrowing in the capital markets or drawing upon tax revenues. As a consequence, these contributions would have the equivalent impact on our domestic credit markets and economy as would direct expenditures for any current program and thus should, logically, compete with all other Federal outlays reflected in the budget.

Second, the asset acquired by the Treasury in exchange for contributions to the facility is not as liquid as the Treasury would have us believe. It can only be redeemed with prior IMF approval and if the U.S. can represent to the IMF a legitimate balance of payments need. Although the Treasury argues that the U.S. would be given the "overwhelming benefit of the doubt" by the IMF in these situations, it is a fact that legally we cannot act without the prior approval of the IMF. Furthermore while mortgage loans and similar financial instruments acquired by the federal government can be liquidated without requiring the approval of another organization and are thus even more liquid than an SDR-denominated reserve claim, their acquisition is treated as a budgetary outlay.

My distinguished colleague from Pennsylvania, Senator Schweiker has introduced an amendment which would require that the amount to be committed to in this facility be approved in advance in an appropriation act. I have cosponsored this amendment along with Senators Inouye, Magnuson, Young, Proxmire, Muskie, and Bellmon, and I strongly urge my colleagues to support this amendment.

As I stated previously, I support U.S. participation in the Witteveen Facility. The United States would benefit as a result of the stabilizing and strengthening effect that the implementation of this facility would have on the international monetary system. I am convinced, however, that the decision to participate in the facility must be made in conjunction with the budget and appropriations processes.

Mr. SCHWEIKER. Mr. President, I am prepared to yield the floor at this point.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I do not agree with all of the arguments that have been made by the distinguished Senator from Pennsylvania in behalf of his amendment. Earlier I stated the position of the Foreign Relations Committee. I believe the distinguished Senator from Illinois has stated the position of the Banking Committee. The Senator from New York earlier made a very fine statement laying out the general position of the managers of the bill.

However, the Chair has already indicated that it would support a point of order, if raised, against the bill as it now stands, and I see no reason why we should prolong the debate and possibly jeopardize the bill itself by engaging in an argument that essentially deals with internal bookkeeping here in the Senate, an argument that does not go to the merits of the bill at all.

I must also say, in all candor, that Senator STEVENSON, Senator JAVITS, Senator HEINZ, and I have been standing on top of a hill since 11 o'clock this morning, watching an army of Senators gathering in the field below, under the banners of MAGNUSON, SCHWEIKER, and MUSKIE. That army is obviously growing in size with every passing hour. Under these circumstances discretion may be the better part of valor. So we have decided to yield the heights and join the imposing host in the field below * * * not for the purpose of establishing precedents that might govern in the future, but for the purpose of facilitating this bill. In order to expedite the business of the Senate, we are prepared to accept the amendment.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. CHURCH. Yes, I am happy to yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, as the distinguished Senator from Idaho indicated, the managers have said their piece. I do not intend to repeat mine. I cannot accept the reasoning of the distinguished Senator from Pennsylvania, but I am prepared to accept this amendment with respect to the Witteveen Facility if the distinguished Senator from Pennsylvania and perhaps others can give us some reason to believe that, having accepted it, the Appropriations Committee, and perhaps the distinguished chairman of that committee would comment, will act in the near future, and favorably, on an appropriation of the full amount for U.S. participation in the Witteveen Facility.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. JAVITS. Senators should remember that this is an all or nothing proposition. I think that ought to be clear. It is not a matter of quantitative judgment; either we do it or we do not.

Mr. STEVENSON. Yes; I think the Senator is right to make that point. If we are not successful in assuring our participation in the amount that has been negotiated for U.S. participation in the Witteveen Facility, it falls; it is dead.

Mr. JAVITS. It falls apart. And it should be remembered that this is the "biggie" we get out of the International Monetary Fund. Saudi Arabia is in this one for 25 percent.

Mr. MAGNUSON. If the Senator will yield, I am sure the Senator from Pennsylvania will understand we do have to take the limit.

Mr. JAVITS. Either we are in the deal or we are not.

Mr. MAGNUSON. I can assure you we will vote expeditiously on this matter, and not stall it in any way because of some feeling someone might have about some of the things that might be involved; because we are still the money committee, and we have to take this or put it down. I think we can do it, and do it very quickly.

Mr. CHURCH. I thank the Senator for that assurance.

Mr. SCHWEIKER. Mr. President, if I may respond on behalf of our subcommittee, I want to give the same assurance, because Senator INOUYE has been very much interested in this. As chairman of the subcommittee under Senator MAGNUSON, he has already given that assurance.

I have a letter from Senator INOUYE to Under Secretary of the Treasury, the Honorable Anthony Solomon, who says he will do everything he can to undertake the matter and do it with great dispatch. So we have his assurance, and the assurance of my subcommittee. I will support the full amount, and I believe the Republicans on my subcommittee, Senator BROOKE, Senator HATFIELD, and Senator MATHIAS, also feel the same way. So we have every expectation that we will be forthcoming with the full amount.

Mr. JAVITS. Mr. President, on the assurances given by those Senators, and I have expressed my views heretofore on the point made by Senator MCCLURE, I find the amendment acceptable, and join with the other Senators in supporting it.

Mr. HARRY F. BYRD, JR. Mr. President, I am much impressed with the statement made by the Senator from Pennsylvania (Mr. SCHWEIKER) when he presented this amendment——

Mr. PROXMIRE. Mr. President, will the Senator yield so I can get the yeas and nays?

Mr. HARRY F. BYRD, JR. I yield.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. SASSER). Is there a sufficient second?

Mr. PROXMIRE. If I cannot get them now, I am going to get them if I have to stay here all day and all day Monday.

Mr. HARRY F. BYRD, JR. I will join with Senator PROXMIRE in that effort.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I was much impressed with the opening statement made by the Senator from Pennsylvania (Mr. SCHWEIKER) when he presented this amendment. I think this is a vitally important amendment.

The Senator from Pennsylvania outlined the reasons for the amendment. The reasons, in my judgment, are sound. The Senator from Maine (Mr. MUSKIE) earlier had outlined the reasons for the amendment.

It is vitually important that this policy be established.

If the Senator from Wisconsin had not asked for the yeas and nays, my purpose in rising now was to ask for the yeas and nays.

I think there should be a showdown in the Senate on this matter. This thing of the Senate continually going off the budget and avoiding the appropriations process does not appeal to the Senator

from Virginia, and I am happy to join with the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Maine (Mr. MUSKIE) in supporting the amendment.

Mr. JAVITS. Mr. President, I rise for only one purpose, and that is to ask the Senator from Maine a question.

Is it not a fact that this amendment is contained in the budget for 1979 at $1.8 billion?

Mr. MUSKIE. Yes, it is in the congressional budget for 1979, and we were able to persuade the House conferees to accept the Senate provision.

In other words, there has never been any challenge as to the amount needed; there has only been a challenge on the off-budget/on-budget issue, and that, I take it, will be resolved by the passage of this amendment later this afternoon.

Mr. JAVITS. I just wanted to be sure on the matter regarding the budget.

Mr. MUSKIE. I had wondered how much I should add to the dialog.

Mr. JAVITS. I thank the Senator.

Mr. McCLURE. Mr. President, being mindful of the hour and the mood of the Senate, I want to be very brief but I do want to make some comments on what the Senator from Idaho said about the gathering army, the trumpeter having sounded the charge, and then being ready to fall back and regroup. If the Schweiker amendment is adopted, as appears likely, there would be no reason for me to raise the point of order, and I would not attempt to raise the point of order in the event the Schweiker amendment is agreed to.

● Mr. BELLMON. Mr. President, I join my friend the distinguished chairman of the Budget Committee, Senator MUSKIE, in his support for the Schweiker amendment. The conference report on the first concurrent resolution made specific reference to the Witteveen Facility and indicated the need for proper accounting. The report stated:

> The conference substitute includes $1.8 billion in Budget Authority above the House resolution only to provide for the possibility that implementation of the Witteveen Facility of the International Monetary Fund will be delayed until fiscal year 1979 and that the entire amount will be appropriated.

Those who indicate that the Witteveen Facility should be fully funded and yet resist an appropriation of budget authority compatible with full funding ask us to accept an internally inconsistent thesis and in so doing violate the provisions against backdoor spending as contained in section 401 of the Budget Act. They believe that smaller is better. In a budgetary sense, I, too, would share that view on most occasions. A budget, however, should tell it like it is. The Witteveen Facility represents a $1.8 billion commitment of resources by the Treasury and should be appropriated and budgeted as such.

The Foreign Relations Committee maintains the position that payments to the IMF are like deposits in a bank, where Treasury funds are kept pursuant to withdrawal. Therefore, they contend that these payments are not expenditures but merely an "exchange of monetary assets."

In short, they would lead us to believe that a special drawing right (SDR) is like a certificate of deposit (CD) for Treasury funds at the Riggs Bank. Nothing could be further from the truth. The CD is liquid while the SDR can be redeemed only to the extent that the IMF asserts that the United States is in a severe balance-of-payments position and some other country is willing to accept the SDR for its own currency.

Aside from the merits of the Witteveen Facility itself, the exchange of assets concept poses substantial problems as a precedent for future financing activities. Under the reasoning advanced by the Treasury, it would be possible to set up a bank to finance some activity such as energy development or urban development, for example. The Treasury could then deposit in the bank such sums as it deemed appropriate and obtain in return a certificate of deposit. The bank would have the use of U.S. funds, which the Treasury would treat as assets on deposit in the bank. And all this could be accomplished without Congressional approval. The potential for this technique as a new form of back-door spending is almost unlimited.

In addition to an appropriation of $1.8 billion to create the facility, we should provide for the potential losses which will arise with dollar appreciation over the 7-year period. I am pleased to note that the sponsors of S. 2152 appear willing to provide for that contingency.

The precedent which we will establish here today is an important one. I trust that the Senate, while it desires a smaller budget, demands a truthful one.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. FORD), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. NUNN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senators from Minnesota (Mr. ANDERSON and Mrs. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 67, nays 0, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—67

| | | |
|---|---|---|
| Allen | Hatfield, Paul G. | Percy |
| Bartlett | Hayakawa | Proxmire |
| Bayh | Heinz | Randolph |
| Bellmon | Helms | Ribicoff |
| Burdick | Hollings | Riegle |
| Byrd, Harry F., Jr. | Inouye | Roth |
| Byrd, Robert C. | Jackson | Sarbanes |
| Cannon | Javits | Sasser |
| Chiles | Leahy | Schmitt |
| Church | Long | Schweiker |
| Clark | Lugar | Scott |
| Culver | Magnuson | Sparkman |
| Curtis | Mathias | Stevens |
| Danforth | Matsunaga | Stevenson |
| DeConcini | McClure | Stone |
| Dole | Melcher | Thurmond |
| Domenici | Metzenbaum | Weicker |
| Durkin | Morgan | Williams |
| Garn | Moynihan | Young |
| Glenn | Muskie | Zorinsky |
| Gravel | Nelson | |
| Hart | Packwood | |
| Hatfield, Mark O. | Pearson | |
| | Pell | |

NAYS—0

NOT VOTING—33

| | | |
|---|---|---|
| Abourezk | Eastland | Johnston |
| Anderson | Ford | Kennedy |
| Baker | Goldwater | Laxalt |
| Bentsen | Griffin | McGovern |
| Biden | Hansen | McIntyre |
| Brooke | Haskell | Nunn |
| Bumpers | Hatch | Stafford |
| Case | Hathaway | Stennis |
| Chafee | Hodges | Talmadge |
| Cranston | Huddleston | Tower |
| Eagleton | Humphrey | Wallop |

So Mr. SCHWEIKER's amendment (No. 3101) was agreed to.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I ask unanimous consent that a member of my staff, Pat Chastka, be granted privilege of the floor during consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that Mrs. Gwenn King of my staff be granted privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, a similar

request for Robert Lawrence of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, if the distinguished Senator from Idaho, the manager of the bill, is willing, I would like to address several questions to him in connection with the bill.

May I ask the distinguished manager of the bill what countries are likely to be beneficiaries of this legislation?

Mr. HEINZ. If I might respond to the Senator from Virginia, any country that is a member in good standing of the International Monetary Fund, and which has met the three conditions for participation, may seek assistance and get assistance from the International Monetary Fund. These conditions are that the country must: have need of the kind of financing provided by the International Monetary Fund; have lived up to its commitments as indicated in the quota increases; and have agreed to the necessary conditions to bring its economy into appropriate compliance with any conditions set by the International Monetary Fund.

But in order to receive assistance it must be a participant and it must meet all the needs criteria and, depending on the kind and quality of its needs, be willing to take necessary stabilization steps.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is referring specifically to the Witteveen Facility.

Could the Senator from Pennsylvania indicate how many countries might be eligible to participate in this Witteveen fund?

Mr. HEINZ. Any country that has the need for the kind of extended financing that this facility is designed to accommodate and that meets the general criteria I enunciated a moment ago would be eligible, and that includes the United States.

Some people say if the dollar keeps dropping and our energy imports keep increasing and we do not do a better job of exporting, we may want to be one of the first customers of this facility.

I do not necessarily agree, and I certainly hope it does not come to that, but there is nothing to prevent the United States from being one of the facility's customers. Indeed, from time to time the United States has gone to the International Monetary Fund and has received assistance.

I yield to my colleague.

Mr. CHURCH. I simply wanted to make that point.

The United States has been both a creditor and a debtor to the International Monetary Fund over the past 30 years. The United States has drawn currency from the International Monetary Fund on 23 occasions, most recently in 1972. The drawings have totaled $3.5 billion.

Incidentally, I wonder if it might be helpful at this point to have printed in the RECORD a list of those countries that are members of the International Monetary Fund. There are 134 member countries.

Mr. HARRY F. BYRD, JR. Yes. I think that will be very desirable.

Mr. CHURCH. Mr. President, I ask unanimous consent that the list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MEMBER

Afghanistan, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bolivia, Botswana, Brazil, Burma, Burundi, Cambodia, Cameroon, Canada.

Central African Empire, Chad, Chile, China, Colombia, Comoros, People's Republic of the Congo, Costa Rica, Cyprus, Denmark, Dominican Rep., Ecuador, Egypt, El Salavador, Equatorial Guinea.

Ethiopia, Fiji, Finland, France, Gabon, Gambia, The, Germany, Fed. Rep. of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India.

Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Korea, Kuwait, Lao People's Dem. Rep., Lebanon, Lesotho, Liberia, Libya.

Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway.

Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Qatar, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia.

Senegal, Seychelles, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Rep., Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey.

Uganda, United Arab Emirates, United Kingdom, United States, Upper Volta, Uruguay, Venezuela, Viet Nam, Western Samoa, Yemen Arab Rep., Yemen, People's Dem. Rep. of, Yugoslavia, Zaire, Zambia.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is speaking of the Witteveen fund. The Witteveen fund, how long has it been in existence?

Mr. HEINZ. The Witteveen Facility is technically not in existence.

Mr. HARRY F. BYRD, JR. That is what I thought. So these figures being put in the RECORD do not apply to the Witteveen Facility?

Mr. HEINZ. Well, let me say to the Senator from Virginia that only members of the International Monetary Fund——

Mr. HARRY F. BYRD, JR. Of which there are 134.

Mr. HEINZ (continuing). May be eligible for assistance under the Witteveen Facility. But while the Witteveen Facility is being financed by a smaller group of countries than all the 130-plus members of the International Monetary Fund—it being a separate facility from the quota increases that from time to time are established—it will not take effect until the United States ratifies its participation, as we are doing here and as we will do, presumably, through the appropriations process as a final step.

The Senator's participation in that was very important.

Mr. HARRY F. BYRD, JR. The Witteveen Facility is a new program?

Mr. HEINZ. Yes. I would say it is a new program. But it is also a different program, unlike the quota increases. This is unlike the quota increases, which are essentially permanent in terms of our support for the fund. This is a temporary facility. Each nation that has contributed to this facility begins to get repayments, as I understand it, within 5 years or as soon as 5 years.

Mr. CHURCH. It is my understanding that within 3½ years after the first drawings, the repayments begin.

Mr. HEINZ. The Senator is correct. The first drawings might not take place for up to a year and a half. So from 3½ to 5 years out, we could start receiving back the money, or our commitment of support could be reduced.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The statement which was put in the RECORD by the Senator from Idaho does not refer to the Witteveen Facility, because that is not yet in operation. So the Witteveen Facility applies to those countries that are members in the International Monetary Fund—that is the list that the Senator from Idaho put in the RECORD.

Mr. CHURCH. Yes. The same countries would be eligible to participate in the Witteveen Facility.

Mr. HARRY F. BYRD, JR. So, as I understand it, 134 countries would be eligible to participate in this program.

Mr. HEINZ. The Senator is correct.

Mr. HARRY F. BYRD, JR. The junior Senator from Pennsylvania mentioned that at the end of 3½ years, repayment would be made to the various countries that have contributed to the Witteveen fund. Is that correct?

Mr. HEINZ. The Senator is correct.

Mr. HARRY F. BYRD, JR. I understood the senior Senator from Pennsylvania to state, when he presented his amendment, that the only way those funds could be returned to the United States was with the approval of the International Monetary Fund.

Mr. HEINZ. Let me explain two things to the Senator from Virginia.

First of all, the United States is making a commitment to support the Witteveen Facility, which does not necessarily entail the transfer of currency to the facility. We make a promise to support it, in effect. Whether or not we actually are requested by the IMF to send currency—dollars—to the facility, might or might not take place. In either case, whether it is simply our promise to support or the fact of our support, at the beginning, perhaps as soon as 3½ years from now, either the money or the promise that we have made would be reduced, in effect.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is not clear as to whether the position enunciated by the senior Senator from Pennsylvania prevails or whether the position enunciated by the junior Senator from Pennsylvania prevails.

Mr. HEINZ. Let me yield to Senator CHURCH, to clarify this.

Mr. CHURCH. I think the confusion arises from the fact that the senior Senator from Pennsylvania had in mind the ordinary workings of the IMF.

It is true that in the case of permanent contributions, they can be drawn back, so to speak, by the United States only with the consent of the Fund. However,

the Witteveen Facility is set up on a different basis, and the statement of the senior Senator from Pennsylvania is not accurate. It is not correct.

The Witteveen Facility is meant to be a temporary facility, and in due course the money contributed to it will be returned to those countries contributing. This is guaranteed by contractual agreement and is not left to the discretion of the IMF.

Mr. HARRY F. BYRD, JR. How does the legislation read where it makes a mandatory return?

Mr. HEINZ. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. HEINZ. My understanding is that, in the contract that is the Witteveen Facility agreement, to which the United States will be a signatory in good standing, when and if we pass this measure, and when and if the Appropriations Committees enact appropriate legislation, the President concurring, there are words to the effect that repayment of drawings under the supplementary facility—that is to say, the Witteveen Facility—will be made in equal semiannual installments, beginning not later than 3½ years and completed not later than 7 years from the date of drawing.

Mr. HARRY F. BYRD, JR. Just one additional question, and then I will yield to the Senator from North Carolina; and then, if we may, I would like to get back to this point.

The Witteveen Facility would provide loans to various countries. Is that correct?

Mr. HEINZ. A loan is one way of characterizing the kind of support that it provides.

Mr. HARRY F. BYRD, JR. Either loans or grants.

Mr. HEINZ. But it is not necessarily what the Senator from Virginia and I would consider a loan.

For example, a country that wants to stabilize its balance of payments situation might obtain from the IMF, under the Witteveen Facility, a commitment to which it would make a reciprocal response, instead of commitment, whereby the IMF—let us say hypothetically—for a period of 3 years would agree to be the purchaser of that country's currency, so that that country would not be forced to sell on the open currency market an amount of currency that would create confusion in the market for that currency, and which would, for all intents and purposes, create monetary chaos for that country's currency.

So, as I say, it is not necessarily a loan. Money is not necessarily given for a promise to pay. The country, for example, may simply give some of its money to the IMF; and the IMF, in return, will provide an alternative or hard currency.

Mr. HARRY F. BYRD, JR. I thank the Senator from Pennsylvania.

Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina without losing my right to the floor.

The PRESIDING OFFICER Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2437

(Purpose: To authorize the striking of gold medallions)

Mr. HELMS. I thank the Senator from Virginia.

Mr. President, I have an amendment at the desk numbered 2437, which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2437.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 17 and 18, insert—

"TITLE I—BRETTON WOODS AGREEMENTS ACT AMENDMENTS"

On page 2, line 18, strike out "That the" and insert in lieu thereof "SEC. 101. The".

On page 3, line 10, strike out "SEC. 2." and insert in lieu thereof "SEC. 102.".

At the end of the bill, add the following:

"TITLE II—GOLD MEDALLIONS

"SEC. 201. This title may be cited as the 'Gold Medallion Act of 1978'.

"SEC. 202. (a) (1) Upon a determination by the Secretary of the Treasury (hereinafter referred to as the 'Secretary') that it is in the national interest to sell gold, the Secretary shall offer all or part of such gold for sale to the public in accordance with this title in the form of gold medallions, of two sizes, one of which shall contain one ounce of .999 fine gold but shall be manufactured from .900 fine gold, and one such medallion shall contain one-half ounce of .999 fine gold but shall be manufactured from .900 fine gold.

"(2) The one ounce medallion shall have on its face the likeness of the Statue of Freedom atop the dome of the Capitol Building, surrounded by laurel leaves. The word 'freedom' shall be inscribed above the likeness, and the words 'one ounce fine gold' shall be inscribed in the remaining area inside the edge of the medallion. The obverse of the one ounce medallion shall have a representation of the Great Seal of the United States, and be inscribed with the words 'United States of America' and the numerals of the year the medallion is produced inside the edge of the medallion.

"(3) The one-half ounce medallion shall have on its face, an appropriate design symbolizing the rights of individuals, the words 'Human Rights' and the words 'one-half ounce fine gold'. The obverse shall have a representation of the Great Seal of the United States and be inscribed with the words 'United States of America' and the numerals of the year in which the medallion is produced.

"(b) If the Secretary determines that less than one and one-half million ounces of gold is to be sold in any fiscal year after the date of enactment of this title, all such gold shall be sold in the form of the medallions described in subsection (a).

"(c) If the Secretary determines that more than one and one-half million ounces of gold are to be sold in any such year, that part of the excess gold which is not struck into medallions shall be sold in such a manner as the Secretary deems appropriate.

"SEC. 203. (a) The medallions shall be produced in the first year of production in the ratio of two one-half ounce medallions for each one ounce medallion to be struck. In subsequent years, the ratio shall be adjusted to meet anticipated demand.

"(b) Notwithstanding any other provisions of this title the number of medallions to be produced and sold in succeeding years in which sales of gold are held, shall be adjusted to meet anticipated demand.

"SEC. 204. (a) Upon the determination referred to in section 2, the Secretary shall announce such determination, together with the total quantity medallions to be sold, and the date or dates on which the sale or sales will be held. For the purpose of carrying out any such sale, the Secretary shall enter into such arrangements with the Administrator of General Services as may be appropriate.

"(b) Such arrangements for the sale of medallions shall be made so as to encourage broad public participation.

"(c) Such rules and regulations as may be appropriate in carrying out functions under this section are hereby authorized.

"SEC. 205. The Secretary shall direct the Bureau of the Mint to reserve out of the gold to be struck into the medallions under this title a quantity determined, on the basis of orders or surveys, by such Bureau to be sufficient to meet the need for premium quality medallions at a fair, market related price.

"SEC. 206. Notwithstanding any other provisions of this title, the authority contained herein shall expire five years after the date of enactment of this title.".

Mr. HELMS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Idaho (Mr. MCCLURE) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I offer this amendment today because, first, the Gold Medallion Act, which I introduced some time ago, proposes a minor change in our laws that has been researched carefully; and, second, because it would meet the desires of from 1 million to 2 million Americans—citizens who want to make modest investments in gold but who now, in order to purchase even a piece of gold, must buy Mexican or Austrian or South African gold pieces.

Mr. President, this amendment simply provides that when the Treasury sells gold—whenever, in the wisdom of the Secretary of the Treasury, some of the U.S. gold stocks should be sold—a portion of that gold equal to last year's consumption of gold bullion coins be made into 1-ounce and one-half-ounce medallions. That is all.

This is all the amendment proposes. It does not revoke the Treasury Department's authority. It does not require gold sales. It certainly does not "remonetize" gold, as the Treasury seems to fear.

The gold medallions contemplated under this amendment would not have a specific monetary value. They would not be stamped with any dollar value. They would, however, compete in the same market with gold pieces of other nations presently totalling about $400 million in sales each year in this country.

Mr. President, that is money that is going abroad, hurting our balance of payments. If the U.S. gold medallion is produced, I would expect that the influx of foreign gold coins would drop dramatically.

Instead of helping our international situation, the Treasury Department sug-

gests that this amendment would hurt our international situation, and this I deny. Frankly, the logic of the Treasury Department is baffling.

I received a communication from the Department just the other day containing a number of arguments that merit only brief rebuttal. One of the most glaring inconsistencies in the Treasury Department's response to a letter written by me to them is the contention that somehow gold pieces will undermine the credibility of the President's efforts against inflation. This morning's news carried the word that the President's chief inflation fighter, Robert Strauss thinks inflation this year will be about 9 percent. That is 30 percent higher than the President's own prediction of 6 months ago.

Mr. Strauss' comments suggest more a lack of credibility of the President's anti-inflation program than an argument against the production of gold medallions—I might emphasize again: nonmonetary gold medallions.

What is both curious and disturbing, Mr. President, is that the Treasury Department tells us that gold is not money. They tell us that it has been "demonetized." They then turn around and say that the production of a nonmonetary gold piece would upset inflation programs, and perhaps hurt the dollar in international markets.

Let us look at that curious argument for a moment. Sales of about $300 million of gold pieces will net the Government $300 million, and will represent a figure equal to about 4 percent of the growth of the money supply. The sale of gold medallions over a year would be equal to the amount the Federal debt increases in just 2 days.

I ask, how in the name of rationality can a gold medallion undermine exchange rates when the administration is increasing the Federal debt at the rate of $60 billion a year, and the money supply is increasing at a rate far in excess of the economy's ability to absorb it without inflation.

If ever the Treasury Department set up a strawman to be a threat to the dollar, this is it. Its opposition to the proposal in connection with the gold medallion is a strawman, no more, no less.

I ask, Mr. President, how much will it hurt the dollar if we produce a gold medallion? Let us look north for our lesson. The Canadian dollar is about as bad off as a currency can be. Yet, the Canadian Government is going ahead with a program to produce a gold bullion coin. If production of a gold bullion piece hurt a nation's currency, would Canada, with a faltering dollar, be undermining her currency by issuing gold pieces?

Let me stress that Canada is not going at this in a small way. My office has been in touch with officials in Ottawa who predict that the Canadians will soon be producing $600 million of these pieces per year. The chief problem Canadians perceive is keeping people supplied with these pieces, and they report enthusiasm from American banks who are anxious to distribute the Canadian pieces.

Mr. President, I fear the Treasury Department is digging out arguments against a gold bullion medallion that they used when the Senate considered making gold ownership legal.

I remember the predictions of gloom and doom when that proposition was first offered here in the Senate. Those predictions did not come true when gold was legalized.

The Treasury used the same arguments before gold clause contracts were made legal. We heard predictions of doom and gloom. These predictions blew away after President Carter signed the gold clause contract freedom into law. Nothing adverse happened.

Now we see and hear the same shopworn arguments being dredged up from the depths of the Treasury Department, and I predict that if and when Congress enacts this proposal, the Treasury Department will conveniently forget about some of the arguments that it has made in opposition to the production of gold medallions.

Mr. President, I ask the distinguished senior Senator from Wisconsin, my friend, who is the distinguished chairman of the Banking Committee, if he will comment on this proposal.

Mr. PROXMIRE. Mr. President, I congratulate the distinguished Senator from North Carolina for bringing up this measure. It obviously is a very innovative and interesting approach.

The Senator from North Carolina has had a far more far-reaching effect on our monetary policy than most people realize, particularly with respect to gold.

He points out in his statement that this gold medallion bill is unique in many respects. He says that this medallion will have no specific monetary value, as I understand it.

Mr. HELMS. That is correct.

Mr. PROXMIRE. And yet it would be, of course, of a specific size and therefore its value could be easily determined from the world price of gold.

Mr. HELMS. That is correct.

Mr. PROXMIRE. So it would be easy to calculate, if it is one ounce or one-sixteenth of an ounce, or whatever, by taking whatever the world price of gold per ounce is.

Then he indicates that in his judgment the influx of foreign gold coins would drop and, of course, if that developed that would have a favorable effect on our balance of payments, and I think he is right about that.

Then, he also argues that the Treasury opposes this but for reasons which he thinks are not very sound.

They argue, No. 1, it could have an inflationary effect. They argue, No. 2, as he points out, that it would have an increase in the money supply which might be significant. He says that would be very small. I think he said 4 percent increase in the money supply.

Of course, it is in an exotic form and because it does not carry a specific price it is hard to know the extent to which it would circulate, how it would affect the money supply, and how it would compete with currency, cash, and bank deposits.

For all these reasons, it seems to me we do need to have more information. We certainly should, in my view, have a hearing in which we have the Treasury Department, the Federal Reserve Board, the economic experts, the Canadian experts who have had the experience they had in Canada, the collectors who have an interest in this and might have a very useful viewpoint they could give us. I think if we could make a record on that kind of a basis we might be in a far better position to determine how to act on the Helms proposal.

As I say, it is a very interesting proposal and it might have a very desirable effect.

I think one of the points the Senator has made privately to me—he did not stress it in the Chamber today—was that the American people are among the few people in the world who are not able to buy and sell gold freely. It is a freedom that other people enjoy, and in view of the fact that gold throughout history or throughout most of history has been the principal monetary unit, it is a freedom that we should not treat lightly.

So I think the Senator is taking a step which might be very constructive and useful. I would like, as chairman of the committee, to have an opportunity for the committee to explore this and to determine whether or not we might be able to support the bill because I think maybe we might very well be able to do something.

Mr. HELMS. Mr. President, I am very encouraged by the distinguished Senator's comments, and I appreciate them as I appreciate the fine work he does in all matters.

With the Senator's comments and his suggestion about hearings, I am inclined to withdraw the amendment, but I would want to ask the Senator this: Does he think it might be possible to have these hearings at a fairly early date?

Mr. PROXMIRE. Yes, I will be happy to schedule hearings as soon as I can.

I might tell the distinguished Senator from North Carolina that I discussed this matter with the leader today and he indicated there will be, in his judgment, a limitation within the next few weeks of committees being able to report legislation to the floor for passage this year.

I would be very happy to schedule this as soon as possible, but I do not think I could make a commitment that the committee would report it for action this year, at least for final action this year by the House and Senate. But I can assure the Senator we will have hearings this year.

Mr. HELMS. I am sure the Senator will do the very best he can in that connection, and if it turns out we can have it I certainly would be grateful. If not, we can proceed next year, whether I am in the Senate or not. That is up to the Lord and the people of North Carolina on November 7. But I do appreciate the Senator's interest, and I am particularly grateful for his willingness to conduct hearings.

I yield to the Senator from California (Mr. HAYAKAWA).

Mr. HAYAKAWA. Mr. President, I would like to say just a word or two in support of the Gold Medallion Act introduced by Senator HELMS. I think the fear that gold will be monetized as a result of the issuance of these gold medallions

is totally without foundation. If these medallions are issued without a denomination of value placed upon them they do become very similar to the Krugerrand issued by South America, which has been sold in enormous numbers in the United States simply because many Americans, as well as people in other parts of the world, would like to have this kind of stored value which gold represents.

I do believe the American people are entitled to have access to this historic value, people of modest means no less than people who have $70,000 to put in a 400-ounce brick.

So in the interest of peer justice for the people who do want to make this kind of investment, I do believe the American Government should issue such gold medallions as Senator HELMS has suggested.

I thank the Chair.

I yield back to the Senator from North Carolina.

Mr. HELMS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER (Mr. MELCHER). The amendment is withdrawn.

The Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. Mr. President, I would like to resume commenting on one or two matters in the bill.

As I understand it, 134 countries are eligible to participate in this fund. I know the managers have studied the matter carefully. Obviously, it is not expected that 134 countries will need or will seek to avail themselves of this new facility, if and when Congress approves it.

I am wondering if the manager of the bill would indicate which countries are most likely to be the beneficiaries of this facility.

Mr. CHURCH. I would have to speculate in answering that question. The facility is designed especially to accommodate the balance of payments difficulties that have been greatly accentuated by the high price of oil.

There are a number of countries that are overextended.

Mr. HARRY F. BYRD, JR. Which ones are those?

Mr. CHURCH. I am about to mention them. The following countries would seem to be in a position where they might wish to apply for the assistance available once the Witteveen Facility has been set up: Peru is one such country; Jamaica is another; Spain and Portugal are possibilities; Turkey a probability, I should think; Egypt a likely prospect; Zaire another possibility. There may be others, but these would seem to me to be governments that might well apply for the help that would be made available through the Witteveen Facility.

Mr. HARRY F. BYRD, JR. I thank the Senator.

We already have in existence, and the United States has already made very substantial contributions—heavy contributions—to the International Bank for Reconstruction and Development, known as the World Bank, to the International Finance Corporation, International Development Association, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

My question is, considering the international financial institutions that we have already established, Are not these institutions capable of taking care of whatever financial problem may arise?

Mr. CHURCH. I will answer the question briefly and then I will turn to the distinguished Senator from Illinois and the distinguished Senator from Pennsylvania.

The other international financial institutions to which the Senator from Virginia referred engage in making project loans available to foreign governments. The International Monetary Fund—the IMF—was set up for a different purpose; namely, to stabilize countries experiencing serious problems with their currencies. This usually occurs when a country's balance of payments is in a serious deficit position.

If the IMF were not there to tide over these countries that find themselves close to insolvency, we could have a series of defaults that could lead, like falling dominoes, to a general collapse.

In the past, the IMF has helped immensely to avert such a crisis in the international monetary system, and the Witteveen Facility will give it an extra capability to deal with the disequilibrium which has been caused by the exorbitant increases in the price of oil that have been imposed by the OPEC cartel.

That disequilibrium may well, in time, adjust itself into better balance, and we hope so. But we do need the additional time that the Witteveen Facility will provide. Without that facility it is altogether possible that countries in great financial distress could default on their international obligations, and this could have a devastating impact upon the financial stability of the entire world.

So my answer to the Senator's question is that the IMF plays a role in these matters quite different from that played by the multilateral banks, the international financial institutions which loan money for the purpose of financing projects abroad.

Mr. HARRY F. BYRD, JR. I thank the Senator from Idaho. I want to read three paragraphs from a Wall Street Journal editoral of September 26, 1977, which was written when the House of Representatives was considering this proposal. The editorial reads:

> The plain fact is, the IMF is among the chief sources of the planet's economic problems, and it shows no signs of reforming. The main topic of mischief this week no doubt will be the care and feeding of the Witteveen facility, named after its creator, Johannes Witteveen, the IMF chairman. What is the Witteveen facility? First we will tell you the problem the W–F seeks to correct. Over the last 25 years, a lot of poor countries around the world came to the IMF and asked what they had to do to get ahead. The IMF advised them to borrow lots of money in the world's capital markets—the big New York and London banks, mainly—and use the money to build "infrastructure." Dutifully, the little countries did so, but this has not proved the key to development.

Then, after a few more paragraphs it says:

> American taxpayers, in other words, will be asked to cough up a few billion for the IMF loan to the poor countries so they can pay off the banks.

I will be glad if the managers of the bill care to comment one way or the other on that. That is not the statement of the Senator from Virginia, I might say; it is the statement of the editors of the Wall Street Journal.

Mr. HEINZ. Mr. President, if I may respond to the Senator from Virginia, I have listened carefully to what he has to say.

First, let me ask unanimous consent that what I consider to be quite an accurate portrayal of the way the IMF operates, from the July 23 Washington Post, be printed in the RECORD at this point. The article is entitled "These Days, When the IMF Talks, Countries Listen."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 23, 1978]

THESE DAYS, WHEN THE IMF TALKS, COUNTRIES LISTEN

(By Art Pine)

Last February, a four-member field team was quietly sent from the International Monetary Fund to the Zambian capital, Lusaka, for discreet negotiations. The subject: the Zambian government's request for a $305 million emergency loan to save the country's credit by underwriting its heavy balance-of-payments deficit.

After 21 days of delicate discussions, Zambia had its money. But in return, Prime Minister Kenneth Kaunda had to promise to devalue his country's currency and slash government spending. The devaluation meant higher prices for imports, and the spending cuts meant reductions in income. The two actions lowered the Zambian standard of living, but the government had no choice. It was either accept the IMF's conditions or go bankrupt.

What occurred isn't unusual, but it serves to illustrate a point. The fund, a 30-nation organization whose job is to police the badly strained world monetary system, is gaining increased power and influence over its members' affairs—often, in the case of weaker nations, to the point of setting the terms of their domestic economic policies.

Besides the Zambia case, the fund has forced stringent austerity measures in 21 deficit-plagued nations over the past several years. In 1974 and 1977, it issued new lines of credit to Italy and the United Kingdom. In June, it approved a loan to Jamaica. And now IMF officials are in the midst of negotiating with war-torn Zaire. What's more, international experts say the fund's clout is growing almost daily.

The question is, how is the IMF's bureaucracy, housed in a bulky, atrium-topped building on 19th Street, exercising its new power? Some critics say the fund is too arbitrary and inflexible—overly tough on developing countries, and insensitive to the "human" consequences of the belt-tightening it prescribes for problem-ridden nations.

Indeed, fund-mandated government austerity programs recently led to rioting in Peru and Egypt, with residents protesting their leaders' decisions to raise domestic prices. And diplomats from some developing nations regularly grouse that IMF officials demand more of smaller countries than large ones. "If the big countries resist," says one, "the fund disappears."

The increased clout is a relatively recent phenomenon. Only a few years ago, the IMF's attempts to give countries economic advice were treated as little more than a gentleman's game. Fund field representatives held annual "consultations" with all member governments. But their urgings were taken with a grain of salt—particularly if the sitting government disagreed.

But now, with the past few years' dramatic changes in the world economic situation, the fund has become a power to be reckoned with. "These days," says one international economist, "when the IMF talks, more and more countries are listening." And so are private banks and other international lending institutions.

The big multinational banks, in fact, are among the big winners in the fund's hardline approach. Although the money lent by the IMF ostensibly is for government-to-government balance of payments transactions, once it's in a country's hands it can be used to pay off loans to private banks if need be. And the IMF's policy prescriptions serve to guarantee the banks that the country will be a better credit risk.

The IMF's heightened new influence stems basically from two developments:

The sharp rise in oil prices the Arab nations engineered in 1973 has thrown more countries into deficit—and dependence on IMF loans to save them from bankruptcy. Since private banks rely heavily on IMF judgments—and backup—in their own lending to countries, the fund's pronouncements on policy have extra weight. If a nation wants the IMF's seal of approval, it has to toe the line.

The recent overhaul of the international monetary system has given the fund formal new authority to exercise "surveillance" over problem countries that have severe payments imbalances. While no one yet knows precisely how much power that entails, the charter revisions have given the IMF's recommedations increased status.

The fund's say-so over domestic economic polices of individual countries stems primarily from its power over its own purse strings—specifically, the conditions it sets for making loans to countries that are in difficulty over exceptionally large balance of payments deficits. (A country gets into deficit when its imports and investments abroad outstrip its exports and intake of capital.)

The IMF's role in the world economic system essentially is that of a policeman for the "haves" * * * other lent money to financially troubled countries, and, indirectly, the large multinational banks. (The World Bank, the fund's sister organization, deals with helping the "have-nots" by offering grants or low-interest loans for economic development projects in poor countries.)

If a rich or poor nation gets into balance of payments difficulty, the fund steps in—often as lender of last resort—with an offer to help bail out that government by providing a sizable line of credit. But the credit is hinged in the condition that the country adopt stringent fiscal and monetary policies designed to eliminate its payments deficit. The more a country wants to borrow, the stiffer the terms the IMF sets. Often, by the time a country seeks fund help, it's too late for anything but severe belt-tightening.

Fund officials argue that the trade-off is fair enough: Were it not for the IMF's underwriting, the individual nations would go bankrupt, and would have to impose much harsher austerity programs than those the fund insists on. Like a benevolent banker, the fund aims for gradually restoring economic health to the deficit country—not pay up on the spot.

Under the basic IMF loan system, nations may borrow up to 100 percent of their "quota," or membership fee in the fund, divided into four separate "tranches" or lending categories, each with a progressively tougher set of strings attached. There also are special longer-term lending pools from which members may borrow additional amounts.

It's the power to set conditions for making loans that gives the fund most of its clout. The organization's charter is worded vaguely enough that officials are free to establish whatever terms they think are needed. Talks between the government and fund representatives often last for weeks. At the end, everything must be approved by the IMF executive board.

The results often are striking. In Zambia's case, for example, the government won a credit of $305 million, but had to devalue its currency by 10 percent and sharply slash spending. Great Britain won authority to borrow up to $4 billion, but had to raise interest rates and pare spending. Jamaica received $244 million—after devaluing and promised to slow wage increases.

Moreover, the IMF continues to influence national policies even after a loan is granted, because the aid usually is only for a year or so and requires a "performance evaluation" for renewal. So, Jamaica this year had to renegotiate a new domestic economic program after its 1977 efforts failed to meet the fund's criteria. And IMF officials prodded Sri Lanka into its most sweeping economic reforms ever.

IMF authorities insist the fund doesn't "dictate" domestic policies to individual countries. In the first place, the terms it sets almost always are worded in the euphemisms of international economics, unlikely to offend any government. "We never ask a country to devalue its currency," an insider says. "We just agree on limits for net foreign assets of its central bank."

Secondly, fund negotiators almost always suggest several options for governments on each major issue. In the Zambian case, for example, IMF representatives suggested five or six approaches for achieving each economic goal, and then Zambian officials chose among them, based on domestic political considerations.

There's often been criticism that the IMF's judgments are made by staff, not political officials, meaning that a nation's policies, in effect, are determined by sometimes youthful economists who never have been elected to office. In essence, that criticism is accurate. But often the IMF staff members are experienced. And in all cases, their work is reviewed by top fund officials and the executive board.

In the case of the Zambian negotiations, all four fund field team members were economists: a 40-year-old Italian, who has spent his career with the IMF and other international economic institutions; a 33-year-old Japanese economist; a 30-year-old Finn, and a 29-year-old London School of Economics graduate who had been at the fund seven years.

Their proposals, the result of weeks of work, were approved by Zambian policymakers and top IMF officials. The decisions at the Zambian end were made by the prime minister and finance minister.

William B. Dale, a former U.S. Treasury official who is the fund's deputy managing-director, insists that "the fund can't dictate a nation's domestic economic policy." Even if a country "agreed to whatever we suggested," he says, "it's they, not we, who administer the policy. They've got to become satisfied the policies are correct before they adopt them."

And Paul A. Volcker, former U.S. undersecretary of the treasury for monetary affairs and now president of the New York Federal Reserve Bank, says the fund's analysts usually are right on target. "You can pick your individual instances where in hindsight there's been some problem," Volcker says, "but by and large the fund people do their jobs pretty well."

Still in the end, even fund insiders agree, the bottom line is whether the deficit-plagued country wants the IMF's money and imprimatur. "The borrowing countries accept the terms because they need the IMF's Good Housekeeping seal of approval," says a U.S. official familiar with the negotiation process. "They know they can't function without it."

Adds one high developing-country policymaker involved recently in negotiating an IMF loan for his country: "It's just astonishing how much authority the IMF mission chief has. You're really dealing with a high-class bunch of people here, and on balance I'd have to say they were fair. But the staff has one hell of a lot of clout."

Fund officials deny the agency is more stringent with developing countries than with industrial nations—citing as examples recent demands on the United Kingdom and Italy. "It's fairly obvious we're not going to push big or small countries if they don't want to," one fund source concedes. "The difficulty is, the smaller countries are in financial trouble more often."

Nevertheless, as holder of the purse strings, the fund can get tough when it wants to. In ongoing negotiations with Zaire, a beleaguered Mobuto government already has agreed to give the IMF extensive influence over the country's economic policies as part of a $1 billion plan to bolster its shaky regime. There even will be an IMF "technical adviser" in the Zairian central bank.

And Robert Solomon, a former Federal Reserve Board international monetary adviser who now is at the Brookings Institution, suggests there may be some truth to the charges that larger countries—and those with balances of payment surpluses, which theoretically are supposed to be as bad as deficits—emerge less scathed.

"The fund may indeed have been too tough on some countries," Solomon says. "We seem to have fashioned a monetary system with the same old prejudices—that a deficit is bad but a surplus is good." He also is critical of the way IMF policy prescriptions are formulated: "You sometimes get the feeling that some pretty junior staff people are in effect mandating policy."

In any case, there seems to be agreement that the organization's demands are rarely really unfounded. As a U.S. official puts it, "The problem isn't the fund—the problem is the countries are in a bind and need to take drastic steps to get out. The reality is that the IMF loan makes it less painful for these countries to make their adjustments—even with the demands the fund makes."

The question is, how much is the fund's insistence an unwarranted intrusion on national sovereignty? While some countries go kicking and screaming to the IMF's bargaining tables, others seem to welcome the fund's toughness as a cover for imposing needed cutbacks they know will be unpopular. "The fund makes a terrific scapegoat," one policymaker says.

In still other cases, the governments sometimes turn out to be too weak or ill-equipped to carry out cutback programs on their own. In Peru, for example, outside observers say it's unlikely the regime would have been able to slash programs without fund intervention. And onlookers say Zairean officials simply weren't technically able to develop their own programs.

At least some of the criticism over the way the fund treats developing countries may be reduced as a result of a new approach to IMF lending involving long-term loans. Until recently, the major form of IMF lending has been to extend credit to a country for a year at a time. If the government did not perform as expected, the line of credit simply was canceled.

Under the new program, however, the fund now works out a longer term plan with borrowing nations designed to help restore the local economy over a three-year period. In

the case of Jamaica, where Prime Minister Michael Manley has criticized IMF officials for not fully "understanding" poorer nations' needs, policymakers are viewing the new procedure as "a better tool" for the IMF to use.

What is less certain is how much influence the fund will be able to exert on nations that aren't actually trying to borrow money—such as West Germany, Denmark, or even the U.S. Although the organization's newly revised charter grants it increased power in this area, the rules of the game haven't been drawn yet "They're still feeling their way," a knowledgeable onlooker says.

Dale and other IMF officials insist that "we're taking the matter seriously" in trying to develop standards and procedures for policing countries that are not currently borrowing, but some observers are skeptical. "The fact is, they're just not going to be able to force any nation to make cutbacks if it doesn't need IMF money," one observer says.

The issue may be decided quickly, however. Jacques de Larosiere, the fund's new managing-director, was a coauthor (along with former U.S. treasury undersecretary Edwin H. Yeo) of the fund's new "surveillance" power, and is said to be taking a more aggressive stance than his predecessor, former Dutch finance minister H. Johannes Witteveen.

The fund's directors are appointed by the various finance ministries of the IMF's 130 member nations and take their policy instructions from their home governments. The voting power of the directors is weighted according to the size of the economy of the nation they represent. The U.S. director controls just under 21 percent of the votes. Zambia's ballot is counted in with those of several other African nations as a single regional vote.

In any case, the corner has been turned for the once-toothless IMF. To the officials in the Zambian treasury—and others in governments throughout the industrial and developing world—the fund now is a force to be respected. And for better or worse, analysts say that's unlikely to change very soon.

Mr. HEINZ. Mr. President, first, to enlarge on something Senator CHURCH was saying, the principal difference about the IMF, even more than all the other differences which were pointed out quite accurately by Senator CHURCH, is that it is able to, and successfully is, imposing very important terms and conditions on the countries that ask it for help, in the best interests of those countries.

Sometimes it is difficult for a country to make those decisions that are responsible decisions. Indeed, the Senator from Virginia has urged on this country time and again more responsible decisions and a little less attention to the politics of those decisions, and I think he has done well in that respect.

The IMF requires these countries to be responsible, and that is one of its most important characteristics. The consequence, I think, of what I am saying is that I am not sure it is entirely accurate or fair to say that the IMF has driven some countries into the clutches of the international bankers. There are countries that have gotten into the clutches of the banks. This is clear. But I do not know of any documented evidence that in fact the IMF is acting as shill for the banks.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, the Senator from Virginia did not so allege.

Mr. HEINZ. I did not say the Senator from Virginia, but the Wall Street Journal indicated——

Mr. HARRY F. BYRD, JR. Correct.

Mr. HEINZ [continuing]. That the IMF had urged several small countries to go to the banks. That is the view of the writers of that article, and I am not sure it reflects reality.

Mr. HARRY. F. BYRD, JR. Correct.

Mr. HEINZ. I believe the Senator asked what is unique about this facility. The IMF's financing or support, under existing credit tranches and under the extended facility, is limited to a maximum of 3 years. Frankly, you cannot straighten up all the problems of all countries in 3 years. The purpose of the Witteveen Facility is to try to provide more than 3 years for such countries to readjust their economies to the problems that they face.

I also wish to point out that this facility is available, not just to the less developed countries that face large deficit problems occasioned by the rise of OPEC, but to the developed countries as well. Senator CHURCH indicated earlier that the United States had gone to the IMF. It is not without the realm of imagination that other developed nations, the United States included, could come and seek, if they were so pressed, assistance under this facility. Indeed, there are people who look at our economy and say that the structural problems we have in our economy today are the result of many years, not just a few, of mismanagement, and that it will take quite a few years to get this country back on the right track, if we have the political will to do so.

I hope that is responsive to the concerns of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from Pennsylvania. May I ask this question: Up to this point, how much has the United States put into the International Monetary Fund?

Mr. HEINZ. Through the sixth quota increase, my understanding is that it is in the neighborhood of $9 billion; $9.75 billion.

Again I would point out that that is not necessarily money that we have delivered, but it includes——

Mr. HARRY F. BYRD, JR. An obligation of the U.S. Government.

Mr. HEINZ. A promise to pay, or the funds to do so.

Mr. HARRY F. BYRD, JR. What is the current status of the IMF fund?

Mr. HEINZ. When you say "the current status," what precisely would you like to know?

Mr. HARRY F. BYRD, JR. I would like to know this: The United States has put $9.75 billion into that fund. I suppose the next question should be, How much have other countries put into that fund?

Mr. HEINZ. Let me ask unanimous consent, in order to answer the Senator's question, to have printed in the RECORD at this point, Mr. President, the information I have before me noted as table 1, which will show amounts that have been accepted under the sixth general review for all the countries that are members of the International Monetary Fund.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—MEMBER COUNTRIES' IMF QUOTAS AND CURRENT ACCOUNT POSITIONS

[In millions of dollars]

| | IMF quotas,[1] under 6th general review | Current account position[2] 1974 | 1975 | 1976 |
|---|---|---|---|---|
| Industrial countries: | | | | |
| United States | 9,750 | 2,603 | 17,739 | 3,604 |
| Canada | 1,574 | −1,520 | −4,900 | −4,373 |
| Japan | 1,924 | −4,693 | −682 | 3,706 |
| Austria | 383 | −457 | −335 | −1,526 |
| Belgium | 1,032 | 911 | 700 | −304 |
| Denmark | 360 | −987 | −508 | −906 |
| France | 2,226 | −5,492 | −2 | −6,004 |
| Germany | 2,501 | 9,590 | 3,859 | 3,018 |
| Italy | 1,438 | −8,030 | −530 | −2,856 |
| Luxembourg | 36 | NA | NA | NA |
| Netherlands | 1,100 | 2,057 | 1,662 | 2,372 |
| Norway | 342 | −1,117 | −2,171 | −3,728 |
| Sweden | 522 | −933 | −1,627 | −2,424 |
| United Kingdom | 3,393 | −8,581 | −3,719 | −2,642 |
| Finland | 304 | −1,219 | −2,183 | −1,203 |
| Greece | 215 | −1,241 | −99 | −1,085 |
| Iceland | 34 | −155 | −144 | −24 |
| Ireland | 180 | −697 | −66 | NA |
| Malta | 23 | 13 | 66 | 64 |
| Portugal | 200 | −824 | −818 | −1,226 |
| Romania | 284 | NA | NA | NA |
| Spain | 646 | −3,236 | −3,553 | −4,436 |
| Turkey | 232 | −634 | −1,841 | −1,899 |
| Yugoslavia | 321 | −1,186 | −1,036 | NA |
| Australia | 916 | −2,613 | −581 | −1,398 |
| New Zealand | 269 | −1,128 | −1,400 | −751 |
| South Africa | 492 | −1,471 | −2,476 | −1,741 |
| Oil exporting countries: | | | | |
| Algeria | 331 | 1,370 | −1,440 | −1,160 |
| Indonesia | 557 | 430 | −1,250 | −1,030 |
| Iran | 766 | 11,600 | 3,560 | 5,940 |
| Iraq | 164 | 3,310 | 2,260 | 2,980 |
| Kuwait | 273 | 7,880 | 6,780 | 6,500 |
| Libya | 215 | 2,680 | 810 | 2,700 |
| Nigeria | 418 | 5,300 | 440 | 490 |
| Oman | 23 | 0 | −200 | 10 |
| Qatar | 46 | 1,760 | 1,000 | 1,280 |
| Saudi Arabia | 696 | 25,800 | 19,370 | 17,960 |
| United Arab Emirates | 139 | 5,390 | 4,580 | 5,590 |
| Venezuela | 766 | 5,770 | 2,380 | 670 |
| Ecuador | 81 | 38 | −220 | −1 |
| Nonoil LDC's: | | | | |
| Argentina | 621 | 125 | −1,282 | 611 |
| Bolivia | 52 | 117 | −159 | −119 |
| Brazil | 771 | −7,180 | −6,754 | −6,215 |
| Chile | 252 | −178 | −565 | 43 |
| Colombia | 224 | −350 | −109 | 341 |
| Costa Rica | 48 | −266 | −218 | −205 |
| Dominican Republic | 64 | −242 | −61 | NA |
| El Salvador | 50 | −134 | −93 | 22 |
| Guatemala | 59 | −103 | −66 | −8 |
| Haiti | 27 | −20 | −48 | −13 |
| Honduras | 39 | −106 | −120 | −109 |
| Mexico | 621 | −2,877 | −4,184 | −3,394 |

Footnotes at end of table.

TABLE 1.—MEMBER COUNTRIES' IMF QUOTAS AND CURRENT ACCOUNT POSITIONS—Continued

[In millions of dollars]

| | IMF quotas,[1] under 6th general review | Current account position[2] 1974 | 1975 | 1976 |
|---|---|---|---|---|
| Nicaragua | 39 | −257 | −185 | −66 |
| Panama | 52 | −227 | −152 | NA |
| Paraquay | 27 | −54 | −90 | −95 |
| Peru | 190 | −725 | −1,541 | −1,191 |
| Uruguay | 97 | −133 | −203 | −74 |
| Bahamas | 38 | −101 | −13 | 25 |
| Barbados | 20 | −55 | −21 | −75 |
| Grenada | 3 | NA | NA | NA |
| Guyana | 29 | NA | NA | NA |
| Jamaica | 86 | −92 | −283 | −303 |
| Trinidad and Tobago | 95 | 271 | 278 | 144 |
| Bahrain | 23 | 50 | −20 | −120 |
| Cyprus | 39 | −72 | −37 | −10 |
| Egypt | 264 | −327 | −1,397 | −807 |
| Israel | 238 | −1,596 | −2,279 | −1,030 |
| Jordan | 35 | 9 | 67 | 84 |
| Lebanon | 14 | NA | NA | NA |
| Syria | 73 | 167 | 93 | −772 |
| Nonoil developing countries: | | | | |
| Yemen, A.R. | 15 | −6 | 129 | 297 |
| Yemen, P.D. | 48 | −100 | NA | NA |
| Afghanistan | 52 | NA | NA | NA |
| Bangladesh | 176 | −475 | −571 | −260 |
| Burma | 85 | −7 | −80 | −30 |
| Cambodia | 36 | NA | NA | NA |
| China, Republic | 638 | −1,115 | −587 | 395 |
| India | 1,328 | 1,207 | NA | NA |
| Korea | 186 | −2,027 | −1,888 | −279 |
| Lao,s, PDR | 19 | NA | NA | NA |
| Malaysia | 293 | −273 | −186 | NA |
| Nepal | 22 | NA | NA | NA |
| Pakistan | 331 | −917 | −1,052 | −762 |
| Philippines | 244 | −165 | −923 | −1,109 |
| Singapore | 128 | −1,121 | −796 | −876 |
| Thailand | 210 | 83 | −475 | −469 |
| Vietnam | 104 | NA | NA | NA |
| Fiji | 21 | −29 | −25 | −38 |
| Papua, New Guinea | 35 | NA | NA | NA |
| W. Samoa | 3 | −1 | −12 | −15 |
| Benin | 19 | 2 | NA | NA |
| Botswana | 10 | NA | NA | NA |
| Burundi | 27 | NA | NA | NA |
| Cameroon | 52 | −14 | −151 | −108 |
| C. African Emp | 19 | −15 | −37 | NA |
| Chad | 19 | −4 | −52 | −17 |
| Comoros | 3 | NA | NA | NA |
| Congo | 20 | −36 | −224 | NA |
| Eq. Guinea | 12 | NA | NA | NA |
| Ethiopia | 42 | 55 | −46 | −19 |
| Gabon | 35 | 105 | −109 | NA |
| Gambia | 10 | 6 | 11 | −13 |
| Ghana | 123 | −172 | −2 | −89 |
| Guinea-Bissau | 4 | NA | NA | NA |
| Guinea-Republic | 35 | NA | NA | NA |
| Ivory Coast | 88 | −61 | −391 | −206 |
| Kenya | 80 | −308 | −214 | −84 |
| Lesotho | 8 | NA | NA | NA |
| Liberia | 43 | NA | NA | NA |
| Sri Lanka | 138 | −136 | −109 | −6 |
| Madagascar | 39 | −24 | NA | NA |
| Malawi | 22 | −35 | −74 | NA |
| Mali | 31 | −36 | −52 | −33 |
| Mauritania | 20 | 47 | −43 | −56 |
| Mauritius | 31 | 54 | 18 | NA |
| Morocco | 174 | 229 | −535 | NA |
| Niger | 19 | −13 | NA | NA |
| Rwanda | 27 | 1 | −10 | 17 |
| Senegal | 49 | −66 | −55 | NA |
| Seychelles | 2 | NA | NA | NA |
| Sierra Leone | 36 | −61 | −63 | NA |
| Somalia | 27 | −52 | NA | NA |
| Sudan | 102 | −277 | −416 | −169 |
| Swaziland | 14 | NA | NA | NA |
| Tanzania | 64 | −273 | −238 | −3 |
| Togo | 22 | 133 | −10 | NA |
| Tunisia | 73 | 29 | −183 | NA |
| Uganda | 58 | −24 | −20 | 38 |
| Upper Volta | 19 | −4 | NA | NA |
| Zaire | 176 | −472 | −600 | NA |
| Zambia | 164 | 77 | −611 | NA |

[1] International Monetary Fund; quotas were coverted into dollars at average January–June 1977 dollar/SDR exchange rate.

[2] International Monetary Fund; balance on goods, services and public and private transfers. Country groupings are as shown the International Financial Statistics of the IMF. On U.S. accounting basis, the U.S. position for 1974–76 would be: −1,935; 15,552; −1,324.

Mr. HARRY F. BYRD, JR. Will the Senator indicate the figures?

Mr. HEINZ. There are 130-some countries.

Mr. HARRY F. BYRD, JR. Do we have a total?

Mr. HEINZ. The total is, in round figures, $40 billion.

Mr. HARRY F. BYRD, JR. So $40 billion has been put into the fund?

Mr. HEINZ. That is correct.

Mr. HARRY F. BYRD, JR. Of which the United States put in——

Mr. HEINZ. $9.7 billion.

Mr. HARRY F. BYRD, JR. Slightly less than $10 billion?

Mr. HEINZ. That is correct.

Mr. HARRY F. BYRD, JR. So the United States has put in 25 percent of that fund?

Mr. HEINZ. Roughly, that is correct.

Mr. HARRY F. BYRD, JR. What does the fund have in it at the present time? What is its cash position?

Mr. HEINZ. According to the estimates I have heard, the fund has about $15 billion.

Mr. HARRY F. BYRD, JR. Why could not that $15 billion be used for the purposes for which the Witteveen facility is intended?

Mr. HEINZ. Because under the terms of the IMF agreement with member countries, that money is restricted to shorter term financing of either 1 year in the case of the normal credit and no more than 3 years in the case of the extended facilities.

Mr. HARRY F. BYRD, JR. Is it correct, as the Wall Street Journal contends, that the funds which go to the Witteveen Facility will be used to a significant degree to pay off loans which various countries have obtained from various banks, principally New York and London banks?

Mr. HEINZ. I could not agree with the Wall Street Journal in that regard. Not only is that pure speculation, but I just do not think that the record bears that out. The Witteveen Facility does not bail out either countries or banks. It is not a welfare program. It operates as a central bank to the world in the same way the Federal Reserve operates as a stabilizing effect, as the central bank in the United States. The facility is explicitly not for the purpose of paying off old debts to banks or otherwise. It is, rather, to encourage countries which face large balance-of-payments deficits resulting from domestic economic distortion and excessive imports or other factors to adopt sound measures. Without adequate financing to cover the transition period while these adjustment measures take effect, there is a danger that these countries will feel it necessary to deal with these deficits by either excessive deflation or imposing protectionist measures. We are the great losers, as one of the great traders, if they impose protectionist measures.

Mr. STEVENSON. Will the Senator yield?

Mr. HARRY F. BYRD, JR. May I follow up on one point,

The Senator mentioned excessive protectionist measures. As I recollect, one of the countries in the list of seven which is likely to benefit from this fund is Jamaica, which has taken rather unusual steps in regard to permitting the United States to buy bauxite from them, which is vitally important to the United States. So they are already taking a protectionist step.

I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, there are many misconceptions about the IMF. It does not provide long-term financing for projects for development. It does provide financing, as Senators CHURCH and HEINZ have indicated, for current account financing. It is short-term financing.

It does not require contributions from us. The United States has contributed through its participation some $9 billion since the beginning, but it has never lost a cent. The IMF is a central bank for central banks. It is a depository to which countries can make deposits and then draw on them. We have never lost a cent. On the contrary, these deposits, in the case of the Witteveen Facility, will draw interest at rates in excess of the cost of borrowing to the U.S. Treasury.

Mr. HARRY F. BYRD, JR. But the United States has committed itself to $9 billion.

Mr. STEVENSON. And it can get its money back any time.

Mr. HARRY F. BYRD, JR. Only with the approval of the IMF.

Mr. STEVENSON. And it would not

be and has never been denied. The claim can be freely negotiated. It can be sold.

Mr. HARRY F. BYRD, JR. But the United States cannot get its money back.

Mr. STEVENSON. It can get back its deposits if it wants to, and it has drawn on those deposits some 23 times in the past. It can also exchange its SDR's. In fact, those SDR's in the opinion of many people would be a more valuable holding at the moment than the dollar.

Furthermore, it does not bail out banks. The notion that banks have been led by the IMF to make unsound loans to poor little countries is just plain wrong. Poor little countries of the world have no access at all to private banks. Those are the countries which go to the international development institutions, such as IDA or the regional development banks, for concessionary financing. The poor countries cannot go to CitiBank or any of the other large multinational banks.

The countries which do avail themselves of this credit facility, and, as has been indicated, get current account financing on terms which can be very tough and do require a period of time to get their payments in equilibrium, are countries such as Argentina, Brazil—recently, of course, European countries, such as Italy and the United Kingdom—Chile, Colombia, Mexico, Peru, the Philippines, South Korea, and Taiwan, which are not terribly poor. These countries, in fact, have had growth rates ranging from 5 to 11 percent per year. They are countries that have had per capita growth rates that are very rapid, with rapidly rising standards of living, rapidly rising exports. They are countries which suffer periodically, as in the case of Europe, severe dislocations. At the present time, those dislocations for the most part are caused by the increase in the price of oil. They need to be tided over. The U.K. has been tided over; Italy has been tided over. Soon Mexico will be earning substantial hard currencies from the sale of its natural gas and oil.

It does not behoove the United States to let such countries go down the drain. If we were to do so, of course the banks would suffer, and so would every other commercial institution in the United States. By the same token, keeping the world afloat benefits banks and benefits every other institution. Far from bailing out banks, the experience of the IMF indicates that as the IMF provides current account financing, under tough conditions, bank exposure grows. The banks then find opportunities with which to increase their lending in the world.

The historical experience indicates, at least, that this institution, the only one of its kind in the world, is necessary to maintain economic stability for the benefit of all commercial institutions, and more so for the United States than any other country because this country has by far the largest portion of international trade and commerce of all the countries of the world. We have more to gain. Yet under this facility, at least one other country, Saudi Arabia, would be committing itself to a larger participation than the United States.

Mr. HARRY F. BYRD, JR. I think, by the same token, Saudi Arabia will benefit to a much greater extent than the United States. The United States will not benefit at all, as far as I can judge. Saudi Arabia will benefit because of our, and countries who will receive IMF funds, oil purchases from them.

Mr. HEINZ. Will the Senator yield?

Mr. STEVENSON. Yes.

Mr. HEINZ. I just want to lay to rest any notion that anybody has that this facility bails out anybody, especially banks. It does not. I want to make it very clear on the record that that is demonstrably not accurate, not true. The experience with IMF loans demonstrates clearly that bank exposure tends to increase—not decrease—after a standby arrangement is made by the fund. In the period 1970 through 1975, the IMF negotiated standby agreements providing about $2.1 billion; net lending in the private sector in the 35 countries involved actually increased by nearly $9.6 billion during the period covered by the agreement.

I think that demonstrates beyond a shadow of a doubt that, contrary to that notion. the IMF hardly goes about bailing out banks. What they do by virtue of the very conditions imposed through agreements with the countries involved is to improve the structural economic condition of those countries so they are able to stand on their own two feet and make their way in the world as good citizens, at least economically speaking.

Mr. HARRY F. BYRD, JR. I am not speaking in opposition to the IMF. I agree with the Senator from Illinois in regard to the drawing rights. I am not speaking in opposition to the IMF. I do have concern, however, as to whether we want to get into a new program—and this is a new program. It has not even started yet. As the able Senator from Pennsylvania said earlier, it will not even begin until this legislation is passed. So it is a new program.

We have already put $10 billion into the International Monetary Fund, 25 percent of the total. What I am very much concerned about and what makes it very difficult for me to support this legislation is that, despite the very serious position that our Nation is in, despite the fact that foreign governments hold $120 billion of U.S. bonds and notes, despite the fact that on top of that, there are $375 billion of Eurodollars floating around the world, we are coming in here and considering a new program over and above all these other programs that we have.

(Mr. PROXMIRE assumed the Chair.)

Mr. MELCHER. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MELCHER. I have been in the Chair and I have been quite confused about some of the statements made in the last few minutes. I wonder if the Senator from Pennsylvania will yield for a question?

Mr. HEINZ. I am happy to yield. I commend the Senator, who was in the Chair, for doing something which may be quite unusual, which is listening very carefully to the debate. Normally, when one is in the Chair, one is permitted to listen, but not permitted to speak. This has a somewhat deadening effect on the senses. So I commend the Senator.

Mr. MELCHER. I thank the Senator.

The question I have is that if the International Monetary funds are not to be used for a bailout of a bank or anything else, and while I would not doubt the Senator's judgment on that, the confusing point, to me, is that I was informed that Zambia was granted an International Monetary Fund loan of between $340 million and $346 million last spring—the country was—as a result of the nationally owned copper mines selling great amounts of copper to the world market at depressed prices, and well below the cost of production. The intent of the loan. it was my understanding, was indeed to jack up, rescue, or I used, in my own thinking, the term "bail out" that country's situation from their nationally owned copper mine operation. It would be hard for me to envision that that loan would be a short-term loan in the case of Zambia.

Mr. HEINZ. I am not an expert on each and every one of the IMF transactions, but the Senator is correct that there was, as I understand it, a 1-year loan to Zambia, in return for which the nation of Zambia agreed, as is the custom, to certain conditions. I do not know what those conditions are, but, in general, the IMF, as I said a moment ago to the Senator from Virginia, seeks to try to get individual countries that have gotten themselves in balance-of-payments difficulties to take the responsible, necessary steps to get themselves on the right track.

I share the Senator's concern about welfare programs. This is the farthest thing I know from a welfare program, inasmuch as it requires that, for whatever modest assistance is made available—and is made available temporarily—it has to be repaid. It is only made available to be repaid if certain very hard decisions are made. I should think this is really what we ought to ask of a lot more people and nations in the world.

Mr. MELCHER. If the Senator will yield further——

Mr. HARRY F. BYRD, JR. Yes.

Mr. MELCHER. I just might make this observation: That a loan made to Zambia of that magnitude, a quarter of a billion dollars, if it is only for a year, is an unrealistic loan, because the term for Zambia to repay it should be much longer. I would categorize it as a high-risk loan made for 1 year only for the purposes of expecting it to be renewed at the end of the year or be picked up by some agency or some other government that would want to give aid to Zambia, because the prospect of the copper market improving much in 12 months' time, from last March to next March, was not predicted by anyone.

There are people who might make predictions as to when the copper market might return to a break-even point, but anything that I have read has been in the long range of perhaps 4 to 5 years down the road.

For our own sake, my own State of

Montana, and for the sake of this country, I hope that the copper market returns to a profitable situation, or at least a break-even situation, soon. But the capability of Zambia to repay a loan simply is not in the cards, because all Zambia is facing is a continuation, if they do it—and I think it is foolish to do it—but if they continue to produce and sell copper at below the cost of production, they are going to need another loan on top of that just to—I hesitate to use the term "bail out," but just to prop them up before that year is out.

Mr. HEINZ. Will the Senator yield?

Mr. MELCHER. Yes, I yield.

Mr. HEINZ. I think the Senator makes two excellent points. The first point is that without the IMF, the situation might very well have been worse in Zambia. It might—as I say, I cannot say this to be factually correct. But hypothetically, I think it is a reasonable case that Zambia might have been faced with a far worse alternative, bankruptcy, which could have been far more disruptive of the international copper markets and disruptive to our industry had the IMF not stepped in. It might have been worse.

Second, the Senator makes the point that a year is a very short term in which to seek adjustments, and the Senator is entirely correct. That is an excellent argument for this facility, because this is a long-term facility. I should hope that it would allow the kind of more gradual structural adjustment that I think the Senator seeks.

Mr. MELCHER. I was advised by the person who described the loan to me that there were no restraints placed on it in terms of guiding Zambia to a more prudent position in production of copper. The fact that they have continued and a couple of other countries, whose mines are nationally owned, have continued to produce and sell copper on the world market, extending the period of depressed prices, is extremely foolish.

Zambia should have been required, as the economic constraints on the copper companies we have in the United States, which are privately owned and, therefore, bound by the law of supply and demand, to reduce production.

It was a sad situation for us in Montana, it was a sad situation in Arizona and Utah where copper is produced by privately owned companies, that it has been necessary to reduce the activity and therefore put men and women out of work. But it was the only sensible way to comply with the basic law of supply and demand.

I have been advised a loan made from the International Monetary Fund to Zambia did not carry with it the prudent counseling that any normal banking institution would give to a borrower in order to help them better utilize the loan.

I think in this case it was the wrong loan by the wrong agency, or if it was the right loan by the right agency there should have been constraints that would make Zambia forbear in the continuation of just mining the copper and throwing it onto the market, which continually depresses it and keeps us away from the balance of supply and demand we would like to have.

I thank the Senator from Virginia for yielding to me.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Montana that I am delighted he brought up the question of Zambia because in the current law there is a prohibition on U.S. aid to Zambia. As recently as the day before yesterday, the Senate adopted an amendment to the International Security Assistance Act to continue the prohibition under that bill for the upcoming year. Yet, as the Senator from Montana pointed out, an agency to which the United States has contributed heavily has made a loan of $340 million to that nation.

So while the Congress puts a prohibition on the one hand against aiding a particular country, the international financial institutions totally disregard that and make huge loans to those nations which the Congress says should not receive U.S. funds.

I think the point made by the able Senator from Montana is a very important one. It dramatizes one of the problems that the Congress faces when it turns over tax funds to those international organizations.

Mr. President, I want to say at the outset that I am not speaking in opposition to the International Monetary Fund. I am speaking to express the view of this Senator that I have great difficulty in supporting a proposal to create a new fund, and that is what this proposal does.

The American taxpayer is now about to be hit with another expensive international financial bill. I refer to S. 2152, the supplemental contribution to the International Monetary Fund for the so-called Witteveen Facility.

The American contribution to this facility will be approximately $1.7 billion. I say "approximately" because there is really no precise estimate as to how much we will be giving. Instead, the funds are expressed in terms of special drawing rights known as SDR's.

These are drawing rights which would arise upon an American contribution to the International Monetary Fund.

The value of SDR's fluctuates in relation to international currency fluctuations.

The able Senator from Illinois, incidentally, just pointed out today that these drawing rights are more valuable than the U.S. dollar, and if we continue as we have been doing in the Congress, in the way of unrestrained spending, adding more new programs, the value of the dollar will continue to go down.

The stated purpose of S. 2152 is to assist countries to meet balance of payments problems caused by the rapid rise in oil prices. This will be done by providing loans to countries that are experiencing serious debt problems.

I might add at this point, does any nation have a more serious balance-of-payment problems than does the United States? I think not.

In reply to a question put by the Senator from Virginia to the manager of the bill as to which countries would be eligible to participate in this new fund if it is established, the reply was that 134 different countries would be eligible.

In reply to a second question—the second question being, which countries do the managers of the bill envision would be the most likely beneficiaries of the fund if it is established?—the manager listed these countries: Peru, Jamaica, Spain, Portugal, Turkey, Egypt, and Zaire.

Now, we should explore the way in which these balance of payments problems emerged.

During past years, many less developed countries (LDC's) made costly capital investments for items such as roadways and buildings, so-called national "infrastructure." These investments, financed by borrowed capital, were often made at the insistence of the IMF, according to the Wall Street Journal.

Simultaneously with these capital commitments, the price of oil began to rise rapidly.

LDC's financed their expansion and their oil bills by massive borrowing from New York-based multinational banks.

These banks were happy to finance these loans because massive inflows of petro dollars from the Middle East had rapidly increased their assets.

As a result, many countries have massive debts which cannot be repaid through domestic production and economic growth. External assistance is considered to be necessary.

The Witteveen Facility is designed to meet this problem.

Crucial questions are raised by this proposal.

First, how will IMF member countries, particularly the United States, benefit from the Witteveen Facility? Second, how will the money be used? Third, who will get the money?

The last two questions can more easily be answered. The persons who will get the money and those who will benefit will be the multinational banks. They will have their loans repaid. Along with the multinational banks, the Arab oil countries will receive the benefit as LDC's will continue to pay a high price for oil.

While the multinational banks and the OPEC countries will benefit, no benefit will go to the American taxpayers.

As chairman of the Subcommittee on Taxation and Debt Management of the Senate Finance Committee, I conducted hearings on the question of foreign indebtedness to the United States. Including World War I debts, as of September 30, 1977, there is now $67 billion in outstanding debt owed to the U.S. Government and its agencies. Of this $67 billion, foreign governments owed the United States $38.3 billion; private obligors owed $3.7 billion; and World War I obligations were $25 billion.

Incidentally, after hearings that I conducted on the question of debt to the United States, while Secretary Kissinger was Secretary of State, the Assistant Secretary of State who testified told the press that he found the hearing very boring. I was asked to comment and said I was not at all surprised that he found the hearing very boring, because I find that the State Department has great enthusiasm and great interest whenever Congress is dishing out money for for-

eign countries, but they find it very, very boring when our country seeks to have those other countries repay the money they owe us.

I was asked, "Aren't you mad at this Assistant Secretary of State for saying that your hearings were boring?"

I said, "Not at all." In every speech I made in the State of Virginia for a year, I told the people of the State of Virginia about this incident. I said:

That dramatizes just what the problem is in Washington. That dramatizes why your taxes are so high. That dramatizes why we have more and more spending. Because these Government officials find it boring when the United States seeks to collect debts justly owed to our country, but they have great enthusiasm when we are dishing out money to 100 different countries around the world, as we have been doing for so long.

There are now more than 215 million inhabitants of the United States. As individuals, each American, will have provided over $300 each for these loan programs.

This does not include our foreign economic and military assistance programs which the Senate Budget Committee has recommended budget authority totaling $11.4 billion in fiscal year 1979—$9.1 for foreign assistance and $2.3 for military assistance.

We cannot afford to pour additional vast sums of money, $1.7 billion, into another foreign aid program.

There should be no doubt about it. This is another new program which will be added upon existing U.S. participation in international financial institutions.

It has been brought out on the Senate floor today by the managers of the bill that the United States already has put into the International Monetary Fund approximately $10 billion, 25 percent of the total of that fund.

We already are also heavily involved with the loan programs of the International Bank for Reconstruction and Development, known as the World Bank, the International Finance Corporation (IFC), the International Development Association (IDA), the Inter-American Development Bank (IDB), the Asian Development Bank (ADB), and the African Development Fund (AfDF).

The funds to finance these operations do not come out of thin air. They come from the pockets of American taxpayers. They come from the taxes paid by the working men and women of the United States.

For each of these operations, we have committed American dollars in fiscal year 1978 appropriations as follows:

| | *Million* |
|---|---|
| World Bank | $380 |
| IFC | 38 |
| IDA | 800 |
| IDB | 480 |
| ADB | 218 |
| AfDF | 10 |
| Total | 1,926 |

This is a total of $1.9 billion in fiscal year 1978.

For fiscal year 1979, the budget estimates appropriations of $3.5 billion, an increase of $600 million in one fiscal year.

The United States has been criticized as trying to be the policeman of the world. Now we seek the honor of being the bail-out Nation of the world.

And the victim is the American taxpayer.

Congress should be working to provide our own citizens with financial relief, rather than trying to bail out the economies of nations around the world. It is time to place American interests first when it comes to our foreign policy.

We should also consider whether this type of aid will really help foreign countries.

Most of the loans will not help the hungry in less developed countries.

What these countries need is to increase their agricultural production and exports of agricultural products, thereby reducing their balance of trade deficits.

Instead, this new IMF program will go for huge commercial projects, such as railroads, highways, ports, telecommunications, and electric power.

The dependency of developing world economies upon international lending agencies and banks can hardly be considered to be healthy.

What we are really doing is establishing an international welfare program. If we should have a recession, the ability of poor countries to repay loans would end.

The Witteveen Facility is not the answer to the problems of the less developed countries. Piling another expensive international program on top of the many we now have may help the huge New York and London banks, but it will not solve the problems of the LCD's.

We must keep our eye on the ball, Mr. President. The dominant problem facing the United States is inflation. Almost everyone will admit that. The dominant problem is inflation and the major causes of inflation are the accumulated and accelerated deficits of the Federal Government.

I submit we cannot get inflation under control by going into more foreign spending programs.

This is another program in the international banking field piled on top of all of the other international banking programs.

I am not sure how many of us in Congress realize just how serious is our financial situation as with regard to U.S. Government notes and bonds owned by foreigners.

The reason I have some doubt as to how many of us are aware of the extent of the commitments against our currency is that in a meeting 2 days ago with a number of Members of the Senate and several high administration officials the question came up as to how many Eurodollars are now floating around Europe, and none of us, including the Senator from Virginia, knew the answer to that.

After the meeting I had a long talk with the Assistant Secretary of the Treasury, Mr. Anthony Solomon, and I was somewhat startled to learn the total. We have 375 billion of Eurodollars; in other words, there are $375 billion held by individuals either in the form of currency, bank accounts, or Government bonds, 375 billion in Eurodollars, and then on top of that, aside from that, foreign governments hold notes and bonds of the U.S. Government totalling $120 billion.

Mr. President, I end as I began by saying that I am not opposing the International Monetary Fund. That is not my purpose in speaking today. My purpose in speaking today is to question whether we should go into a new program over and above all the other programs that we have in the foreign field.

For one Senator I find it difficult to justify going into this new program to which our country will be committing $1.7 billion.

(The following occurred during the remarks of Mr. HARRY F. BYRD, JR.:)

Mr. ROBERT C. BYRD. Will the Senator yield for a question at a convenient moment?

Mr. HARRY F. BYRD, JR. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I merely wish to ask the distinguished Senator whether or not he intends to call up an amendment today so that the Members may be informed as to prospects for any rollcall votes today.

Mr. HARRY F. BYRD, JR. No, I do not. I expect to speak for about 20 or 30 minutes and then, as far as the Senator from Virginia is concerned, I will have concluded my activities for today.

Mr. ROBERT C. BYRD. The Senator is very responsive. I think the Cloakrooms ought to inform our colleagues that there will be no more rollcall votes today.

This will be carried over until Monday, at which time further amendments will be called up and votes will occur. No rollcall votes will occur, however, before 3 o'clock on Monday, with the exception of any rollcall votes that may be necessary procedurally to establish a quorum.

The Senate has been at work today. It has disposed of the reclamation dams bill and of some amendments to this bill, on which there have been rollcall votes.

I want to express appreciation to my colleagues on both sides of the aisle for their good attendance, for their patience. I say with deep gratitude to my friend from Virginia (Mr. HARRY F. BYRD, JR.) that I appreciate his courtesy in yielding and his very responsive answer to my request.

Mr. HARRY F. BYRD, JR. I am always delighted to yield to the distinguished, able, and outstanding majority leader, the Senator from the great State of West Virginia (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. I thank the Senator.

(Conclusion of earlier remarks.)

Mr. CHURCH. Mr. President, I shall conclude the debate this afternoon by making a few points that I think should be contained in the RECORD concerning the Witteveen Facility.

First of all, the United States has been both a creditor and debtor to the IMF at various times over the past 30 years. Our country has drawn currencies from the IMF on 23 occasions, most recently in 1972. These drawings totaled some $3.5 billion.

Second, this facility will provide temporary reinforcement for the IMF at this time. It is needed that the IMF can meet

balance-of-payments financing needs and promote economic stabilization by member countries in periods of particular financial difficulty and uncertainty.

Third, the Witteveen Facility will strengthen the international monetary system by improving the creditworthiness of those countries adopting adjustment programs. By strengthening the international monetary system the facility will benefit all participants in the international economy, including American industry and the American economy in general.

Fourth, the U.S. economy depends heavily on, and benefits greatly from the international monetary system which provides the framework for financial trade. U.S. exports account for on the order of one out of every eight manufacturing jobs in this country, as well as nearly one-third of our total farm acreage.

Fifth, eighty percent of the international monetary system is composed of U.S. dollars. I think that that is indicative of the stake we have in this matter.

Sixth, there will be no net interest cost to the Treasury on the financing contemplated by this bill since the United States will receive interest rates slightly above the cost of borrowing to the Treasury.

Seventh, for each dollar that is provided by the United States to the Witteveen Facility, the United States receives an equivalent increase in the international reserve assets immediately available to the United States for use in the event of balance-of-payments need.

The total American contribution to the Witteveen Facility, would be $1.8 billion, which is only 17 percent of the total of $10.7 billion which will be provided by all participants. In this connection I point out that the Arab governments of the OPEC cartel have agreed to furnish approximately 50 percent of the total. I think this represents a very significant recognition on the part of these governments that have increased the price of oil six times over its level in October of 1973, that having caused the disequilibrium in the world economy, they, have a responsibility to furnish the necessary credit to see us through.

Mr. President, I ask unanimous consent that a table showing the contributions to be made by the various countries that have agreed to participate in the creation of the Witteveen facility to the IMF be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—PARTICIPATION IN AND COMMITMENTS TO IMF SUPPLEMENTARY FINANCING FACILITY

[As of July 27, 1978]

| | SDR (millions) | Approximate dollar equivalent (millions) [1] | As percent of total |
|---|---|---|---|
| Industrial countries: | | | |
| Belgium | 150 | 188 | 1.7 |
| Canada | 200 | 251 | 2.3 |
| Germany | 1,050 | 1,317 | 12.2 |
| Japan | 900 | 1,129 | 10.5 |
| Netherlands | 100 | 165 | 1.2 |
| Switzerland | 650 | 815 | 7.6 |
| United States | 1,450 | 1,819 | 16.9 |
| Subtotal | 4,500 | 5,615 | 52.4 |
| Oil exporting countries: | | | |
| Iran | 685 | 859 | 8.0 |
| Qatar | 100 | 125 | 1.2 |
| Saudi Arabia | 2,007 | 2,500 | 23.4 |
| Venezuela | 500 | 627 | 5.8 |
| United Arab Emirates | 150 | 188 | 1.7 |
| Kuwait | 400 | 502 | 4.6 |
| Nigeria | 220 | 276 | 2.6 |
| Subtotal | 4,062 | 5,077 | 47.3 |
| Other countries: Guatemala | 30 | 38 | .3 |
| Total | 8,592 | 10,760 | 100.0 |

[1] At $/SDR of 1.25455 (the rate for July 27, 1978)

Mr. CHURCH. Mr. President, if there be no further amendments to be offered at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMODITY EXCHANGE ACT EXTENSION

Mr. LEAHY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2391.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2391) entitled "An Act to extend the Commodity Exchange Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

COMPOSITION AND FUNCTIONS OF COMMISSION; CONFLICT OF INTEREST; LIAISON WITH OTHER AGENCIES; CONFORMING AND TECHNICAL AMENDMENTS

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out "and (vi)" in paragraph (1) (7 U.S.C. 2) in the definition of the term "commodity trading advisor" and inserting in lieu thereof "(vi) dealers, processors, brokers, and sellers of cash commodities and products thereof, (vii) nonprofit, voluntary membership, general farm organizations which provide advice on the sale and purchase of cash commodities, and (viii)";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out "(A)" and "(B)" in the last sentence of paragraph (2) and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman who shall complete his term as a Commissioner."; An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. The President may, in his discretion, at any time appoint a different Chairman, by and with the advice and consent of the Senate, and the Commissioner previously appointed as Chairman shall complete his term as a Commissoner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate.";

(7) inserting in subparagraph (6)(A)(7) U.S.C. 4a(e)(1)) after "use and expenditures of funds" the words "according to budget categories, plans, programs, and priorities established and approved by the Commission,";

(8) striking out in subparagraph (6)(B) (7 U.S.C. 4a(e)(2)) "of the Commission" and inserting in lieu thereof ", plans, priorities, and budgets approved by the Commission";

(9) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a (f));

(10) adding at the end of paragraph (7) a new subparagraph (B) as follows:

"(B) No Commissioner or employee of the Commission classified as a GS–16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character shall, for a period of one year beginning on the last day of service as such Commissioner or employee (i) make any appearance before, or (ii) make any written or oral communication to, the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission if such last day of service is more than four months after the date of enactment of this subparagraph: *Provided*, That this restriction shall not apply to an appearance or response to a subpena or any matter of an exclusively personal and individual nature.";

(11) inserting "(A)" immediately after the designation of paragraph (8) (7 U.S.C. 4a (a));

(12) striking out in the first sentence of paragraph (8) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(13) adding at the end of paragraph (8) a new subparagraph (B) as follows:

"(B)(i) The Commission shall maintain communications with the United States Department of the Treasury, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in futures contracts under the jurisdiction of the Commission and in securities and/or financial instruments under the jurisdiction of such agencies.

"(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate such board of trade as a contract market based on such application until forty-five days from the date the Commission delivers the application to such agencies or

until such time as the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies will be included as part of the public record of the Commission's designation proceeding. In approving, refusing, suspending, or revoking the designation of a board of trade as a contract market involving transactions for future delivery of any security referred to in this section or in considering possible emergency action under section 8a(9) of the Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the impact that designation, suspension, revocation, or emergency action might have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.":

(14) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(15) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) amending subsection (b) to read as follows: "(b)(1) It shall be unlawful for any person subsequent to the date of the enactment of this subsection to offer to enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, unless expressly permitted under rules or regulations that the Commission, in its discretion, may prescribe subsequent to the date of enactment of this subsection after notice and opportunity for a hearing: Provided, That this subsection shall not apply to any commodity option transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of this subsection, to be offered to be entered into, entered into, or confirmed, to or by, a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof: *Provided further,* That if the Commission allows commodity option transactions the Commission may set different terms and conditions for different markets.

"(2) As used in this subsection, 'commodity option transaction' means any transaction or agreement which is, is held out to be, is of the character of, or is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'.

(3) Nothing contained in this subsection shall affect any rights and obligations arising under any commodity option transaction entered into before the effective date of this subsection.

(4) Notwithstanding the foregoing provisions of this subsection, the Commission, in its sole discretion and subject to such rules and regulations as it may prescribe without regard to the requirements of the Administrative Procedure Act or any other provision of this Act, may permit for a period not to exceed nine months any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise utilizing that commodity to continue to grant or issue options on that commodity. Such rules and regulations, among other things, may restrict the distribution of such options to, and the offer and sale of such options by, such futures commission merchants as may be specified by the Commission. Any permission granted pursuant to this subsection may be terminated only after a hearing including a finding that the continuation of such permission is contrary to the public interest: *Provided,* That pending the completion of such termination proceedings the Commission may suspend the right to offer and sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

"(5) No rule or regulation issued or promulgated pursuant to this subsection (b) shall become effective until (i) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a copy of such rule or regulation, and (ii) the expiration of ten calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving such rule or regulation.".

CUSTOMER FUNDS AND PROPERTY

SEC. 3. Section 4d(2) of the Commodity Exchange Act (17 U.S.C. 6d(2)) is amended by inserting after *"Provided further,"* in the first paragraph the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *And provided further.*".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 4. Section 4(f)(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by striking out in the third sentence "All registrations shall expire on the 31st day of December of the year for which issued" and inserting in lieu thereof "Each registration shall expire on the 31st day of December of the year for which issued or at such other time not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe".

TECHNICAL AMENDMENT

SEC. 5. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATED PERSONS

SEC. 6. The third sentence of section 4k(2) of the Commodity Exchange Act (7 U.S.C. 6k(2)) is amended to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided,* That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.".

REGISTRATION OF COMMODITY TRADING ADVISERS AND COMMODITY POOL OPERATORS

SEC. 7. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out in subsection (2) "thirty days" and inserting in lieu thereof "six months";

(2) striking out "All registrations" in subsection (3) and inserting in lieu thereof "Each registration"; and

(3) inserting after "year," in subsection (3) "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION OF FRAUDULENT TRANSACTIONS

SEC. 8. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out "registered under this Act".

ARBITRATION BY REGISTERED FUTURES ASSOCIATION

SEC. 9. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting in subsection (11) after "otherwise" the following: "(such as by delegation to a registered futures association having rules providing for such procedures)".

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS

SEC. 10. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting after the first sentence the following: "At least 30 days before approving any such bylaws, rules, regulations, and resolutions of economic significance, the Commission shall publish in the Federal Register a copy of such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through submission of written data, views, or arguments."; and

(2) striking out "The Commission shall approve, within thirty days" and inserting in lieu thereof "After consideration of the relevant matter presented, the Commission shall approve within sixty days".

HEARING ON THE RECORD FOR REFUSAL, SUSPENSION, OR REVOCATION OF CONTRACT MARKET DESIGNATION; COMMISSION SUBPENA POWER

SEC. 11. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence;

(2) inserting "on the record" after "hearing" in the second sentence of subsection (a);

(3) striking out the third sentence of subsection (b) and inserting in lieu thereof the following new sentences: "For the purpose of securing effective enforcement of the provisions of this Act, and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is enpowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any

books, papers, correspondence, memorandums, or other records which the Commission deems relevant or material to the inquiry.

Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or conducts business or wherever such person may be found.".

HEARING ON THE RECORD FOR CEASE AND DESIST ORDERS AND IMPOSITION OF CIVIL PENALTY

SEC. 12. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting in the first sentence "on the record" after "hearing".

JURISDICTION OF THE STATES

SEC. 13. The Commodity Exchange Act is amended by adding after section 6c a new section as follows:

"SEC. 6d. Notwithstanding any other provision of this Act, in order to promote effective enforcement, curtail or prevent fraud, protect the public interest, and effectively utilize the resources available to State agencies, any State agency or official may—

"(1) investigate or prosecute in a civil action violations of this Act, of section 217 of the Commodity Futures Trading Commission Act of 1974, or of the rules or regulations thereunder in any district court of the United States which would have jurisdiction thereof, if such action had been brought by the Commission, and that court shall have jurisdiction to entertain any such action brought under this section, and the Commission shall be entitled as of right to intervene in any such action as a party thereto: *Provided, however,* That a State agency or official may not investigate or prosecute any violation of the Acts or the rules and regulations thereunder committed or alleged to be committed by a designated contract market or a board of trade licensed by the Commission (or committed or alleged to be committed by the organization clearing transactions thereon); and

"(2) investigate and prosecute violations of the criminal statutes of such State.".

LIMITATION ON DISCLOSURE TO THE PUBLIC OF NAMES AND POSITIONS OF TRADERS ON BOARDS OF TRADE

SEC. 14. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by—

(1) inserting in the first sentence "but subject to the limitations set forth below," after "discretion";

(2) striking out in the first sentence ", except data and information which would separately disclose the business transactions of any person and trade secrets or names of customers" and inserting in lieu thereof ": *Provided, however,* That, notwithstanding the foregoing, the Commission shall not disclose publicly or publish any data or information which would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person, unless such data or information has been previously disclosed publicly in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or congressional proceeding";

(3) inserting in the first sentence ", except that any facts that are subject to the restrictions on public disclosure hereinabove set forth may be included in such report only after such facts have otherwise been publicly disclosed in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or Congressional proceeding" after ": *Provided further,* That the Commission in any report may include facts as to any actual transaction";

(4) striking out in the second paragraph "from time to time" and inserting in lieu thereof "but only after such information has otherwise been publicly disclosed in an administrative proceeding pursuant to the Commodity Exchange Act, as amended, a judicial or congressional proceeding,";

(5) striking out in the second paragraph "and make public" the second time that phrase appears and inserting in lieu thereof "on a confidential basis".

POTATO FUTURES STUDY

SEC. 15. Section 8 of the Commodity Exchange Act is amended by adding at the end thereof the following new undesignated paragraph:

"Within one year after the date this paragraph becomes effective, the Comptroller General of the United States shall—

"(1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts for the purchase or sale of Irish potatoes for future delivery, including rules and regulations pertaining to such trading issued by the Commission or any board of trade; and

"(2) submit to each House of Congress a detailed report on the results of such study. Such report shall also include any proposals the Comptroller Geenral may have concerning any legislation needed tto implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by the Commission or any board of trade.".

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; LIMITATION ON PUBLICATION OF CERTAIN INFORMATION

SEC. 16. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended by—

(1) inserting in subsection (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing".

(2) striking out in subsection (6) "and to publish".

CRIMINAL PENALTIES

SEC. 17, Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) in subsection (a), by striking out "$100,000" and inserting in lieu thereof "$500,000"; and by inserting immediately after the first sentence the following new sentence: "Not withstanding the foregoing, in the case of any violation described in the foregoing sentence by a future commission merchant, or any employee or agent thereof who is an individual, the fine shall not be more than $100,000, together with the costs of prosection.";

(2) in subsection (b), by striking out "$100,000" and inserting in lieu thereof "$500,000"; and by inserting before the period at the end of subsection (b) the following: ", or to knowingly violate the provisions of section 4, section 4b, section 4h, or section 4(1) of this Act, or to knowingly make any false or misleading statement of a material fact in any registration application or report filed with the Commission. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual the fine shall not be more than $100,000, together with the costs of prosecution"; and

(3) striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution for any person to violate any provisions of section 4a, section 4c, section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years beginning October 1, 1976, and ending September 30, 1981, and not in excess of such sums as may, after the date of enactment of this subsection, be authorized by law for any subsequent fiscal year.".

REPARATIONS PROCEEDINGS

SEC. 19. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out "registered" in subsection (a) and inserting in lieu thereof "who is registered or should be registered";

(2) striking out "$2,500" in subsection (b) and inserting in lieu thereof "$5,000"; and

(3) striking out "$2,500" in subsection (c) wherever it appears and inserting in lieu thereof $5,000".

REGISTERED FUTURES ASSOCIATIONS

SEC. 20. Section 17 of the Commodity Exchange Act is amended by adding a new subsection (n) as follows:

"(n) Notwithstanding any other provision of this Act, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

SEC. 21. Any person who sells any commodity (as defined in section 2 of this Act) for export shall, within forty-eight hours after such sale, inform the Commission of (1) the date of such sale, (2) the name and full identity of the commodity sold, (3) the quan-

tity of the commodity sold, (4) the name of the buyer and the country or countries to which the commodity is to be shipped, (5) the sale price, and (6) such other information as the Commission may by regulation require. The Commission shall by regulation prescribe the manner in which the above information shall be transmitted. On the first working day following its receipt, such information shall be made available by public announcement and shall remain available for public inspection for a reasonable time thereafter. The Commission shall prescribe regulations to assure that such information shall be disclosed simultaneously to the public and to protect against any person or firm gaining from premature disclosure.

EFFECTIVE DATE

SEC. 22. Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1978.

Mr. LEAHY. I move that the Senate disagree with the House amendment and agree to the conference requested by the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. SASSER) appointed Mr. TALMADGE, Mr. HUDDLESTON, Mr. CLARK, Mr. STONE, Mr. LEAHY, Mr. DOLE, Mr. BELLMON, and Mr. LUGAR conferees on the part of the Senate.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators may be permitted to speak during morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORTS ON MILITARY AWARDS PROGRAM OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 203

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports, which was referred to the Committee on Armed Services:

*To the Congress of the United States:*

I transmit herewith the Annual Reports on Military Awards Programs of the Department of Defense and the Department of Transportation. These Reports, in part, describe activities prior to the beginning of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *July 28, 1978.*

## REPORT OF ACTION—MESSAGE FROM THE PRESIDENT—PM 204

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Human Resources:

*To the Congress of the United States:*

I transmit herewith the 1977 Annual Report of ACTION as required by section 407 of the Domestic Volunteer Service Act of 1973, as amended.

JIMMY CARTER.

THE WHITE HOUSE, *July 28, 1978.*

## MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:29 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 12426. An Act to authorize the Secretary of the Treasury to provide financial assistance for the city of New York.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PAUL G. HATFIELD).

At 12:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. JONES of Tennessee, Mr. POAGE, Mr. DE LA GARZA, Mr. RICHMOND, Mr. BALDUS, Mr. BEDELL, Mr. ENGLISH, Mr. PANETTA, Mr. HARKIN, Mr. FITHIAN, Mr. GLICKMAN, Mr. BROWN of California, Mr. WAMPLER, Mr. MADIGAN, Mr. JEFFORDS, Mr. KELLY, Mr. COLEMAN, and Mr. MARLENEE were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 12255, an act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. BRADEMAS, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, Mr. BIAGGI, Mr. QUIE, Mr. JEFFORDS, and Mr. PRESSLER were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3350. An act to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; and

H.R. 7577. An act to amend the Economic Opportunity Act of 1964, and for other purposes.

ENROLLED BILL SIGNED

At 3 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bill:

H.R. 11832. An act to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PAUL G. HATFIELD).

At 4:20 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 920) relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma.

The message also announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 12157. An act to amend and extend the Export-Import Bank Act of 1945.

## ORDER THAT H.R. 3350 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 3350, the deep seabed mining bill, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7577. An act to amend the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Human Resources.

## HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 12157. An act to amend and extend the Export-Import Bank Act of 1945.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 12934. An Act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 95-1043).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

S. Res. 529. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 551. Referred to the Committee on the Budget.

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 96. A concurrent resolution authorizing the reprinting of book II of the Senate report entitled "Intelligence Activities and the Rights of Americans" (S. Rept. 94–755) (Rept. No. 95–1044).

S. Con. Res. 97. A concurrent resolution authorizing the printing of additional copies of the committee print entitled "Preliminary Guide to Export Opportunities to Japan" (Rept. No. 95–1045).

S. Res. 487. A resolution authorizing supplemental expenditures by the Committee on Finance for inquiries and investigations (Rept. No. 95–1046).

By Mr. PELL, from the Committee on Rules and Administration, with an amendment and an amendment to the title:

S. Res. 405. A resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate (together with additional views) (Rept. No. 95–1047).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with amendments:

S. 1624. A bill to authorize an additional Assistant Secretary of Commerce (Rept. No. 95–1048).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment, unfavorably:

S. Res. 464. A resolution relating to Reorganization Plan Numbered 2 (together with minority views) (Rept. No. 95–1049).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Talcott W. Seelye, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Talcott W. Seelye.

Post: Damascus, Syria.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, none. Names, none.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

TALCOTT W. SEELYE.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 3354. A bill for the relief of Taieb Elmourabit; to the Committee on the Judiciary.



## ADDITIONAL COSPONSORS

S. 2216

At the request of Mr. CURTIS, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 2216, a bill to amend the Internal Revenue Code to increase the limitations on charitable deductions and investment tax credits for certain cooperatives and their members.

S. 2388

At the request of Mr. PACKWOOD, the Senator from Oklahoma (Mr. BELLMON), the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Utah (Mr. HATCH), the Senator from Arkansas (Mr. HODGES), the Senator from Vermont (Mr. LEAHY), the Senator from Indiana (Mr. LUGAR), the Senator from Washington (Mr. MAGNUSON), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 2388, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs.

S. 2860

At the request of Mrs. ALLEN, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2860, the Solar Power Satellite Research, Development, and Demonstration Program Act of 1978.

S. 3326

At the request of Mr. JAVITS, his name was added as a cosponsor of S. 3326, a bill to suspend the duty on freight cars until the close of June 30, 1982.

SENATE RESOLUTION 431

At the request of Mr. RIBICOFF, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Resolution 431, the Lee Metcalf Fair Employment Relations Resolution.

## SENATE RESOLUTION 529—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 529

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 551, a bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

Such waiver is necessary to permit consideration of S. 2640 a bill to reform the civil service system. While the bill authorizes to be appropriated such funds as may be necessary, the Congressional Budget Office estimated the cost of the bill at $13,600,000 for the fiscal year beginning October 1, 1978.

The President only submitted the bill to Congress on March 3, and the number of hearings required and the complexity of the subject made it impossible for the Committee to report the bill before the May 15 budgetary deadline.

## AMENDMENTS SUBMITTED FOR PRINTING

### FAIR FUND TRANSFER ACT—S. 3156

AMENDMENTS NOS. 3336 THROUGH 3339

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted four amendments intended to be proposed by him to S. 3156, a bill to amend the Consumer Credit Protection Act to provide consumer rights and remedies in electronic fund transfer systems.

FAIR FUND TRANSFER ACT AMENDMENTS

● Mr. SCHMITT. Mr. President, I am introducing several amendments to S. 3156, the Fair Fund Transfer Act, which concerns electronic fund transfer systems and related matters. This is an unnecessary measure to be considering at this time and may well delay the availability of EFT services. At the very least, the bill should create free-standing law rather than increasing the regulatory authority of the Federal Reserve over an area of activity that only barely exists and in which there is no record of abuse.

The amendments I am introducing would: first, remove Federal Reserve authority to promulgate regulations; second, revise the procedures for error resolution; third, provide a fair and balanced approach to the liability for unauthorized transfers from EFT accounts; and fourth, eliminate the criminal liability provisions of the legislation. These amendments, along with those of Senators TOWER and GARN, are necessary because of the great compliance burden the bill currently places on financial institutions. It is to be hoped that with the acceptance of these and other amendments, the legislation can be transformed into a law that will have beneficial rather than harmful effects on the future of electronic fund transfer development.

The first amendment would strike out section 904 which gives the Federal Reserve Board very broad authority to prescribe regulations under the act.

This is an inappropriate delegation of law writing authority.

Unprecedented discretion is given in section 904(d) for the Board by regulation to cover persons other than financial institutions who are offering electronic fund transfer services. If Congress wants to cover service providers other than financial institutions, it should do so in the statute itself and not delegate such broad authority to an outside agency. By the same token, the acts and practices to be regulated should be done so completely within the four corners of the legislation and not be left to an agency which may create new rights and remedies.

Congress is abdicating its responsibility when it delegates to a bureaucracy the writing of the law as here proposed. Much of the regulatory overkill stems from the complicated regulations issued by various government agencies in response to loosely drawn legislation.

One example may be seen in the Truth in Lending Act delegation of rulemaking authority to the Federal Reserve Board.

Pursuant to that authority, the Board has issued a regulation almost three times as long, and almost three times as technical, as the Act. In addition, the Board has issued 64 Official Board Interpretations, seven of which were later withdrawn and several others amended. The staff of the Board has issued 145 Official Board Interpretations and 1,286 unofficial staff interpretations. That is simply too much for the small businessperson to assimilate and, in fact, too much for any business, whatever the size, to have to master just to avoid highly technical litigation which rarely involves actual damages.

By contrast, under the Fair Credit Reporting Act under which there is no delegation of rulemaking power, there is paucity of litigation and almost no complaints to Congress. Here it is obvious that Congress took the time to decide what it wanted to do and to say what it meant.

To avoid regulatory overkill Congress must write simple and understandable laws and discontinue the practice of delegating broad authority to the bureaucrats to rewrite and extend the reach of legislation passed by Congress. The adoption of this amendment is a step in that direction.

The second amendment would amend section 908 to provide a fair and workable error resolution procedure. This amendment closely follows the error resolution procedure adopted by the House Banking Committee in H.R. 13007, its electronic fund transfer legislation.

Section 908 as currently written is both unfair and unrealistic.

It is unreasonable to trigger an error resolution procedure to which penalties and sanctions attach on an oral notification as section 908 would do. The provision for a written notification 15 days after the oral notification is not helpful because it comes after the time has expired for recrediting the account. Under the Fair Credit Reporting Act written notice of an alleged error is required. This procedure has worked satisfactorily for both the consumers and institutions for a number of years. As is the present practice, most financial institutions would undoubtedly honor an oral request for error correction.

The requirement in the section that a financial institution investigate and recredit an account within 10 days is unrealistic particularly where third parties are involved. Although most institutions should be able to resolve error problems when only they are involved, if there is a third party it could easily take a longer period of time particularly if it is a retailer in a distant city. The National Commission on Electronic Transfers recommended that 45 days be allowed for error correction. Under fair credit billing the creditor has 90 days to correct an error.

Finally, the treble damage penalty provision of the section adds a totally new concept to the enforcement of consumer credit protection laws. The current approach under the Truth in Lending and Fair Credit Billing Acts is to provide the consumer with recovery of either actual damages or where these cannot be established, then a civil penalty of up to $1,000 plus court costs and attorney's fees. This has provided sufficient incentive for consumers and attorneys to bring law suits for vindication and private enforcement of the law. Adding the treble damage feature would be an invitation to harassment.

The amendment strikes a course somewhat in between the provisions of section 908 and the recommendations of the Commission. It recognizes that the customer will be deprived of his or her fund if there is not a prompt resolution of the problem. On the other hand, it takes into consideration that a financial institution should be given sufficient time to investigate and take action on its findings. This is done by allowing 10 days for a correction of an error involving a transaction between only the institution and the account holder and 20 days if the error involves a transaction including a third party, such as a seller of goods. It eliminates the treble damage feature and relies on the civil penalty section of the bill for enforcement.

I urge the adoption of this fair and balanced approach to the problem.

The third amendment would alter section 909 to provide a fair and balanced approach to the burden of loss from an unauthorized transfer.

The amendment provides that the account holder is liable for losses due to an unauthorized transfer if the loss results from:

First, the account holder's fraud;

Second, the account holder's providing the means of access to the third party or writing the access code on the means of access; or

Third, the account holder's failure to notify the institution within a reasonable time of the loss or theft of the means of access.

A $50 limit is placed on the account holder's total liability if the account holder was not involved in a fraudulent act or did not provide the means of access to the third party. All losses will be borne by the institution after the account holder has notified the institution of the loss or theft of the means of access.

This amendment closely follows the liability for unauthorized tranfers provision adopted by the House Banking Committee in H.R. 13007. It also closely follows most of the recommendations of the National Commission on Electronic Fund Transfers.

The current section 909 limits the customer's liability to a maximum of $50 if an EFT card is lost or stolen even though the card holder wrote the access number on the card. This provision is modeled after the liability provisions of the Fair Credit Billing Act applicable to credit cards.

The National Commission on Electronic Fund Transfers pointed out that the credit card model as used in S. 3156 is not applicable for a number of reasons.

The Commission stated that a $50 limit on liability would be inadequate to encourage sufficient care in the protection of the EFT card and identification code. The EFT card holder who suffers a loss in excess of $50 from unauthorized use of his card would probably lose $50 regardless of his care or negligence if the loss occurred before he could report the missing card. If a thief removed $200 from an EFT account, the depository institution would simply deduct $50 and recredit $150 to the depositor's account. There would be no need to bill and collect the forfeited amount, as with credit card accounts. Thus, the careful customer would be penalized by $50 even though he could not have prevented the loss

In the credit card case, the credit card issuer has two means of protecting against theft which would not be available in the debit card case. The credit card issuer protects itself by obligating the merchant to require the card holder to produce identification and sign the transaction slip. This face-to-face confrontation does not exist where the debit card is used at an automated terminal. Thus, currently debit card issuers are protecting themselves through PIN or code numbers. This security device is compromised if the customer writes the number on the access instrument. For this reason, the National Commission recommended that the customer be held liable for his gross negligence in compromising the security system. This is the basic change in the amendment.

Another difference between the credit card model and the debit card situation is that the credit card issuer can limit the extent of its potential loss through credit limits. This is not the case in a deposit account because the extent of possible loss is the amount of funds deposited in accounts accessible to the debit card. Although it is theoretically possible to have limitations on the amounts which may be withdrawn through debit cards, the provisions of S. 3156 imposing liability for the failure of the institution to honor the customer's transfer order, puts a cloud over the ability of the institution to establish such security limitations.

The losses that S. 3156 would shift to the financial institutions resulting from the negligence of the careless customer would ultimately be borne by consumers in general. The financial institutions and the Federal Reserve are now considering a new practice of having the financial institutions charge each customer fees according to the actual cost of the service. This would mean that financial institutions would pass on these losses to all debit card customers. Lower income consumers could loose out because the liability ceiling may cause a financial institution to limit the distribution to current customers who have proven records of reliability.

Mr. President, the amendment strikes a fair balance. It places the risk of most losses upon the financial institution particularly those which cannot be avoided by the consumer. On the other hand, it places on the blatantly careless customer the risk of loss from his own gross negligence. I urge the adoption of this amendment.

The fourth amendment would delete section 916(a) of S. 3156, the Fair Fund Transfer Act, which imposes a fine of

not more than $5,000 and imprisonment of not more than 1 year for willful violations of the bill.

There is no justification to support this criminal liability section of the bill which makes everything that is in the statute, if not followed, a violation of law punishable in the U.S. district courts. This would expose a businessperson to a fine of up to $5,000 and imprisonment of not more than 1 year for failing to give a disclosure as required by the bill. It would give the FBI jurisdiction to investigate most financial institutions in the country to determine whether those institutions had complied with the EFT Consumer Protection Code. It is questionable whether the Federal courts or the FBI should be tied up in this kind of trivia and whether the business community should be exposed to criminal penalties for trivial violations.

The Chief Justice of the United States has warned Congress to be mindful of the judicial impact of the enactment of legislation such as this. Congress in effect is creating a whole new series of Federal crimes which are trivial in nature and should not be tried as major misdemeanors in the U.S. district courts.

I ask unanimous consent that these amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3336

On page 4, line 18, strike out the comma and insert in lieu thereof a semicolon.

On page 4, strike out line 19.

Beginning with page 6, line 3, strike out through page 7, line 11.

Redesignate the succeeding sections of the bill and all cross references thereto accordingly.

On page 7, line 16, strike out ", in accordance with regulations of the Board".

On page 8, line 9, strike out ", as determined by the Board".

On page 8, lines 17 and 18, strike out ", in a form prescribed by regulations of the Board,".

On page 9, lines 13 through 15, strike out "Subject to subsection (a)(3), the Board shall require subsequent notification if such a change is made permanent.".

On page 11, lines 1 and 2, strike out ", in accordance with regulations of the Board".

On page 13, line 13, strike out ", in accordance with regulations of the Board,".

On page 16, line 22, insert "or" after the semicolon.

On page 16, line 25, strike out ", or" and insert a period.

On page 17, strike out lines 1 and 2.

On page 22, line 5, strike out ", in accordance with regulations of the Board,".

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AMENDMENT NO. 3337

Beginning with page 13, line 16, strike out all through page 17, line 2, and insert in lieu thereof the following:

"§ 908. Correction of errors

"(a) For the purpose of this section, an error consists of—

"(1) an unauthorized electronic fund transfer;

"(2) an incorrect electronic fund transfer from or to a consumer account;

"(3) the omission from a periodic statement of an electronic fund transfer affecting a consumer account which should have been included;

"(4) a computational error by the financial institution;

"(5) the receipt of an incorrect amount of money from an automated teller machine;

"(6) a financial institution's failure to comply with an account holder's request for any information or documentation required by this title concerning any electronic fund transfer in the account;

"(7) a financial institution's failure to stop payment on a preauthorized transfer from an account when properly instructed to do so; or

"(8) the failure to make an electronic fund transfer to or from an account.

"(b) Every financial institution at which any account subject to this title is maintained shall notify each account holder of the identity of a person or office and the address and telephone number at which the account holder may, in person, by phone, or in writing notify the institution of any error in the account. In order for the financial institution to be subject to the duties and liabilities imposed by this title with respect to the correction of errors, such notice to the institution must include the information required under subsection (c) and be mailed, telephoned, or delivered in person within sixty days of the last day of the time period covered by the periodic statement which relates to the alleged error, but the failure of an account holder to give such notice, or to give such notice within that period, does not affect any rights or remedies such holder may otherwise have. No notice or information given orally (whether in person or by telephone) to a financial institution by any individual shall create any liability on the part of the institution under this section, other than that arising out of the duty of the institution to inform such person of the requirement that the notice or information be confirmed in writing, unless such information is confirmed in writing, signed by or on behalf of the account holder, and mailed or otherwise delivered to the institution within the time required by this subsection.

"(c) Any notice of an error under this section shall set forth or otherwise reasonably enable the financial institution to identify the name and account identification of the account holder, and shall describe or identify the error which the account holder believes has been made.

"(d) Except as provided in subsections (e) and (g), if the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after such determination or eleven business days after notification, whichever is earlier, correct the error, subject to section 909, including the crediting of interest where applicable.

"(e) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (b), it may, in lieu of the requirements of subsection (d), provisionally credit the consumer account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the conclusion of its investigation. Such investigation, shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally credited. Such provisional credit shall be made within ten business days after receiving such notice if the error involves a transaction between only the institution and the account holder, and within twenty business days if the error involves a transaction including a third party, such as a seller of goods.

"(f) If, as a result of an error on the part of the institution, any electronic fund transfer or payment of checks or other instrument or order is refused, the financial institution shall notify each payee that such was the case, and shall pay or reimburse any charges incurred by the account holder as a result of such error or nonpayment.

"(g) If the financial institution asserts, after its investigation pursuant to this section, that an error did not occur, it shall deliver or mail to the account holder an explanation of its findings within three business days after the conclusion of its investigation, and upon request of the holder, deliver or mail to the holder reproductions of relevant documents which the financial institution relied on to conclude that such error did not occur.

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AMENDMENT NO. 3338

Beginning with page 17, line 3, strike out all through page 19, line 9, and insert in lieu thereof the following:

"§ 909. Liability for unauthorized transfers

"(a) An institution is not liable to an account holder for a loss to his account if—

"(1) the loss is by means of an electronic fund transfer which is the result of fraud in which the account holder has participated,

"(2) an account holder provides the means of access to the account to a third party, or writes or otherwise discloses the identifying access code or number on the card or other means of access, and the loss to the account results from an electronic fund transfer initiated, directly or indirectly, by the third party before the account holder notifies the institution that such third party no longer is to have access to the account and authorizes the institution to take the necessary steps to eliminate the access, or

"(3) an account holder has failed to notify the institution within a reasonable time after the account holder knows of the loss or theft of a card or other means of access, except that unless paragraph (1) or (2) applies, the institution shall be liable to the account holder for loss in excess of $50 that could not have been avoided had the account holder made timely report of the loss or theft.

"(b) Except as provided by subsection (a), an institution shall be liable to an account holder for any loss to such holder's account resulting from an unauthorized electronic fund transfer of funds from the account if—

"(1) the means of access for such transfer was not a card or other means of access issued in accordance with sections 905 and 911 and accepted by the account holder;

"(2) such transfer of funds occurs after the institution has been notified of the loss or theft of a card or other means of access;

"(3) the institution has not provided a method whereby the user of the card or other means of access can be identified as the person who is authorized to access the account by electronic fund transfer;

"(4) the institution has not furnished the account holder with written notice of the account holder's potential liability for losses in a form which sets forth the pertinent conditions clearly and in readily understandable language so that the account holder could reasonably be expected to have noticed it and understood its meaning; or

"(5) the institution has not furnished the account holder with a telephone number of the institution which any authorized user of the card or other means of access may use to notify such institution in the event of loss or theft of the card or other means of access.

"(c) Except as provided in subsection (a), providing for no liability on the part of the institution, and subsection (b), providing for full liability on the part of an institution, an institution is liable for all losses to the holder of a consumer account in excess of $50 resulting from unauthorized electronic fund transfers with respect to that account.

"(d) For the purpose of subsections (a)(2) and (b)(2), an institution is notified if an account holder or person acting on behalf of such holder takes such steps as

may be reasonably required in the ordinary course of business to provide such institution with the pertinent information, whether or not any particular officer, employee, or agent of such institution does, in fact, receive such information.

"(e) In any action to enforce liability on the part of an institution for losses to any consumer account resulting from an electronic fund transfer, the burden of proof shall be upon the institution to show that such transfer of funds was authorized or, if the transfer of funds was unauthorized, then the burden of proof shall be upon the institution to show that a condition set forth in subsection (a) applies, or that a condition set forth in subsection (b) does not apply.

"(f) Nothing in this section imposes liability upon an account holder for losses resulting from an unauthorized electronic fund transfer in excess of the holder's liability for losses under other applicable law or under any agreement with the institution.

"(g) In the event of a transaction which involves both an unauthorized electronic funds transfer and an extension of credit as defined in section 103(e) of this Act pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the consumer's account is overdrawn, the limitation on the consumer's liability for such transaction shall be determined solely in accordance with this section.

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AMENDMENT NO. 3339

On page 27, strike out lines 2 through 9.
On page 27, line 10, strike out "(b)" and insert in lieu thereof "(a)".
On page 29, line 7, strike out "(c)" and insert in lieu thereof "(b)".●

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## CIVIL SERVICE LAW REFORM—S. 2640

AMENDMENTS NOS. 3340 THROUGH 3381

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted 42 amendments intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

AMENDMENTS NOS. 3382 THROUGH 3389

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted eight amendments intended to be proposed by him to S. 2640, supra.

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## BRETTON WOODS AGREEMENTS ACT AMENDMENTS—S. 2152

AMENDMENT NO. 3390

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK (for himself, Mr. MARK O. HATFIELD, Mr. BAYH, Mr. RIEGLE, Mr. MCGOVERN, Mr. ANDERSON, Mr. PROXMIRE, Mr. WEICKER, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to S. 2152, a bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

## NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, August 8, 1978, at 9:30 a.m., in room 2228 Dirkson Senate Office Building, on the following nomination:

Harry E. Claiborne, of Nevada, to be U.S. district judge for the district of Nevada vice Bruce R. Thompson, retiring.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. MUSKIE. The Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs, on Wednesday, August 2, will hold a hearing on S. 3277, the Small Communities Act of 1978.

The hearing will begin at 9:30 a.m. in room 6202 of the Dirksen Senate Office Building. Senator DANFORTH will chair the hearing.

Any person interested in submitting a statement for the record should send it to the subcommittee office in room 508 of the Carroll Arms Hotel.●

COMMITTEE ON HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources will hold hearings on S. 2645, the "National Art Bank Act of 1978," on Tuesday and Wednesday, August 22 and 23, 1978, commencing each day at 9:30 a.m. The hearings will be held in room 4232 of the Dirksen Senate Office Building.●

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## ADDITIONAL STATEMENTS

## COLLEGE TUITIONS AND THE MIDDLE-CLASS SQUEEZE

● Mr. ROTH. Mr. President, before the Senate begins its consideration of the Tuition Tax Relief Act, I want to emphasize once again the difficulties middle-income families are having in sending their children to college.

Increasing college costs, higher prices, and a growing tax burden are making it more and more difficult for middle-income students to attend college.

There is no doubt in my mind that a growing number of young Americans are being prevented from obtaining a college education because of the increasing costs.

In the past few years, the cost of a college education has skyrocketed.

According to the Congressional Budget Office, total annual college costs increased approximately 75 percent between 1967 and 1976. However, tuition and required fees, the only expenses which will be eligible for the tuition tax credit, have increased at a much faster rate.

According to the National Center for Education Statistics, the average tuition and fees at a private university increased 93 percent between 1967 and 1976, from $1,297 to $2,505. For a public university, tuition and fees also increased 93 percent during the same 10-year period, from $283 to $549.

These tuition costs will continue to increase. According to the College Entrance Examination Board, the average annual total cost of a private university for the upcoming school year will be $5,110. For a public university, the average annual cost will be $3,054 for the 1978–79 school year. For a student entering college this fall, the total 4-year cost will be an estimated $17,500 for a public university and $30,000 for a private college. And if a parent has a 1-year-old child today, it has been estimated that it will cost $47,000 to send the child to a public university and $82,000 for a private university in the 1990's.

The administration and the Congressional Budget Office have argued that a tuition tax credit is not necessary because total college costs have not risen as fast as median income. According to a recent CBO report, total college costs increased 75 percent and median family income increased 78 percent between 1967 and 1976. The administration has seized upon these figures as proof that the average family is no worse off today than it was 10 years ago.

But the administration and CBO are totally ignoring an extremely important fact—that the tax burden on the average family has increased substantially during this same period and middle-income families have less disposable income to spend on a college education for their children.

According to a study by the Library of Congress Congressional Research Service, the tax burden on median income families with college-age children increased 135.4 percent between 1967 and 1976, as the following table shows:

AVERAGE TAXES AND MEDIAN INCOME, 1967 AND 1976

| | Median income | Federa income tax | Social security tax | Average State and local taxes | Total taxes | After tax income |
|---|---|---|---|---|---|---|
| 1967 | 7,923 | 684 | 290 | 404 | 1,378 | 6,545 |
| 1976 | 14,164 | 1,395 | 829 | 1,020 | 3,244 | 10,920 |
| Percent change from 1967 to 1976 | 78.8 | 103.9 | 185.9 | 152.5 | 135.4 | 66.8 |

As this study shows, the after-tax income of median income families increased only 66.8 percent, and did not keep pace with the 75-percent increase in total college costs or the 93-percent increase in tuition and fees.

In addition, the percentage of after-tax median income required for tuition and fees has increased 16.3 percent at public colleges and 15.7 percent at private colleges over the last 10 years, as the following table shows:

MEDIAN FAMILY INCOME, AFTER TAX MEDIAN FAMILY INCOME, AND COLLEGE TUITIONS

| Year | Median family income: Families with 18- to 24-yr-olds | Median family income: After tax | Tuition and required fees: Public | Tuition and required fees: Private | Tuition and fees as percent of after-tax MFI: Public | Tuition and fees as percent of after-tax MFI: Private |
|---|---|---|---|---|---|---|
| 1967 | $7,923 | $6,545 | $283 | $1,297 | 4.3 | 19.8 |
| 1976 | 14,164 | 10,920 | 549 | 2,505 | 5.0 | 22.9 |
| Percent change, 1967–76 | 78.8 | 66.8 | 93.9 | 93.1 | 16.3 | 15.7 |

Sources: Congressional Budget Office, Federal Assistance for Postsecondary Education: Options for Fiscal Year 1979; Congressional Research Service, "Selected Statistics Regarding Income and College Costs" (John Karr, June, 1978); National Center for Education Statistics, Digest of Education Statistics, 1976 Edition.

These figures clearly show the Federal Government is taking more money away from the average families of this country through higher taxes and inflation. The tuition tax credit is designed to reduce the average tax burden and allow taxpayers to keep more of their own money to spend on a college education for their children.

These increasing costs have had a considerable impact on the ability of middle-income students to attend college. According to Census Bureau figures, the enrollment rate of middle-income students has declined in the last 10 years. In fact, while the enrollment rate at the lowest income level has increased slightly, the enrollment rates of all other income levels have declined in the last 10 years.

COLLEGE ENROLLMENT RATES

| Income | 1967 | 1976 | Rate change | Percent change |
|---|---|---|---|---|
| 0 to $5,000 [1] / 0 to $8,500 [2] | 20 | 22.4 | +2.4 | +12 |
| $5 to $10,000 [1] / $8,500 to $17,00 [2] | 37.9 | 36.3 | −1.6 | −4 |
| $10 to $15,000 [1] / $17 to $25,500 [2] | 51.9 | 47.5 | −4.4 | −8 |
| $15,000-plus [1] / $25,000-plus [2] | 68.3 | 58.2 | −10.1 | −15 |

[1] Constant dollars.
[2] Current dollars.

Source: Bureau of the Census, Current Population Reports, Series P-20, No. 319, Issued February 1978.

Mr. President, there are millions of families today who are neither affluent enough to afford the high cost of college nor considered poor enough to qualify for the many different Government assistance programs their taxes make possible.

We are rapidly approaching a situation in this country where only the very affluent and the very poor will be able to attend college. The group in the middle—the very taxed—will be unable to afford it.

Mr. President, a tuition tax credit is the simplest and most equitable way to provide middle-income families relief from mounting college costs. A tuition tax credit will allow people to keep more of their own hard-earned money rather than send it to Washington. With a tuition tax credit, there is no administrative overhead, no forms to fill out, and no need to beg, plead poverty, or apply to the big bureaucrat on the banks of the Potomac.

Working Americans, caught in the middle, do not want a Government handout. They merely want to keep more of what they earn to spend on something as basic as the right to send their own children to college.

Mr. President, I submit for the RECORD articles describing the middle-class squeeze.

The articles follow:

[From the New York Times, Apr. 22, 1978]

SCARED BY COSTS OF COLLEGE

(By Robert J. Christian)

WILTON, CONN.—I'm scared.

Scared because even though I make more than $25,000, I pay out $12,300 of my net income for college for two sons per year. You say it can't be done? I say you're nearly right.

Elizabeth W. Suchar, director of financial aid services for the College Entrance Examination Board, which sponsors the Scholastic Aptitude Test (S.A.T.) and other widely used admissions tests, says $12.3 billion is available in aid for students in 1978. For all eligible students? Where is her ivory tower?

I know money is available for the poor, and rightly so. And there are state senatorial scholarships and union funds and special-services aids for nursing programs, etc., but what about us in the middle, middle-income class? Those of us with no special strings to pull?

True, it's been three years since I've tried to get any of this aid, but when I did none of eight colleges would even let me fill out an application.

Maybe the answer is to take out a Federal loan and not pay it back as many have done. My taxes help pay for the derelictions of conscience.

Some editorial writers say we should tough it out and pay up. The President thinks $250 off our income tax would suffice. The Congress said no to even that ridiculous figure, and as usual has no positive idea to go in its place. But then what do any of the above know about us in the new middle-class strata with no strings to pull?

I'm not asking you to cry for me, but I am asking you to get concerned now if you expect any colleges to be there when your kids are ready to go.

With fewer babies being born, coupled with a continuing 6-to-8 percent a year inflation rate, college costs will continue to jump rapidly and eliminate even more prospects for their classrooms.

That will force more colleges to become economically expendable. We will have empty buildings and unkempt campuses. It's happending already in grade schools throughout the country.

I'm scared. You should be too!

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[From the Baltimore Evening Sun, Apr. 19, 1977]

WANT TO SEND YOUR CHILD TO COLLEGE? START SAVING

If you've got a newborn baby, start setting aside $1,500 a year. Put that money in a savings account every year for 18 years. Then, if all goes well, you may be able to send your child through four years of college at a state university in 1995.

Astounding but true, say the people at Oakland financial Group, a Charlotteville (Va.) financial counseling service.

According to a formula devised by this group, a college degree in 1995 will cost a total of $47,330 at a state college or $83,830 at a private one.

This earthshaking prediction is based on simple arithmetic. This is how it works:

Assume your child is 10 years old and will be entering a university in eight years. By taking today's average cost per year at a state school, $4,000, or $7,000 at a private one, and factoring in a 6 per cent annual rate of inflation, you can project that by the time your child graduates it will cost you $27,270 or $47,720. That bargain includes room, board, tuition and miscellaneous outlays.

To prepare for sending that 10-year-old through college you would have to start now, saving $2,300 a year for eight years if the child is to go to a public college, or $4,080 a year for eight years if you have a private school in mind.

The annual savings rate is based on cash after taxes that is estimated to grow at 5 per cent a year.

To read the chart for both state and private colleges, find the age of your child in the left-hand column. The next column, "Four-Year Cost", estimates the total outlay for a degree program based on a 6 per cent inflation rate.

The third column, "Annual Savings Required," details how much cash after taxes you must deposit in a savings account, with a minimum 5 per cent return, every year until your child enters college.

If you're asking how you can afford the skyrocketing cost of college, the answers are few. Start saving what you can now. Set up short-term trusts or custodial accounts in your child's name so the tax bite on your savings is reduced. Diligently investigate loan and scholarship programs. And if all this doesn't help, encourage your child to be a plumber.

| Age of child | State colleges: 4-yr cost | State colleges: Annual savings required | Private schools: 4-yr cost | Private schools: Annual savings required |
|---|---|---|---|---|
| 1 | $47,330 | $1,570 | $82,830 | $2,750 |
| 2 | 44,660 | 1,610 | 78,160 | 2,820 |
| 3 | 42,150 | 1,660 | 73,760 | 2,910 |
| 4 | 39,770 | 1,710 | 69,600 | 2,990 |
| 5 | 37,530 | 1,780 | 65,680 | 3,120 |
| 6 | 35,420 | 1,860 | 61,990 | 3,260 |
| 7 | 33,000 | 1,930 | 57,750 | 3,380 |
| 8 | 30,710 | 2,010 | 53,740 | 3,520 |
| 9 | 28,940 | 2,140 | 50,650 | 3,750 |
| 10 | 27,270 | 2,300 | 47,720 | 4,080 |
| 11 | 25,690 | 2,500 | 44,960 | 4,380 |
| 12 | 24,200 | 2,760 | 42,350 | 4,830 |
| 13 | 23,110 | 3,160 | 40 440 | 5 530 |
| 14 | 22,090 | 3,720 | 38,660 | 6,510 |
| 15 | 20,840 | 4,507 | 36,470 | 7,880 |
| 16 | 19,660 | 5,800 | 34,410 | 10,150 |
| 17 | 18,550 | 8,420 | 32,460 | 14,740 |
| 18 | 17,500 | 16,220 | 30,630 | 28,390 |

[From the New York Times, Sept. 25, 1977]

WITH COLLEGE COSTS RISING TUITION X 12 EQUALS A MAJOR SQUEEZE

(By Richard Phalon)

There may have been a time when raising children really was cheaper by the dozen, but that was before tuition and living costs generally tore through the refectory roof.

Take Jean and Tom Hoffman. They have a dozen children, ranging in age from 25 to 12. Jean is a high school teacher, Tom is an accountant and they are going broke on a combined income of about $42,000 a year.

It takes around $30,000 in after-tax dollars just to cover such routine items as the food bills, electricity, heat and mortgage payments on the Hoffmans' six-bedroom frame bungalow in Forest Hills, Queens.

The big squeeze on the budget is education. Two of the children already have their degrees, but there are three in college now.

two in high school, three in grade school. The way their timetable shapes up, the Hoffmans will have at least one child—and in some years three or four—on campus through 1986.

ONLY MARGINAL AID

The Hoffmans are painfully aware of how rapidly tuition costs are rising, and despite the size of their family they have been able to get only modest scholarship help.

John Hoffman, 24, was awarded $1,500 in grants while working himself through a five-year pharmacy course at Duquesne University, but he still has about $10,000 in tuition loans hanging over his head. The others were able to get on-campus jobs, but no other direct financial aid.

Tom Hoffman thinks his family is caught in a typical middle class bind.

"Our kids are good students," he said, "but not outstanding enough to have qualified for academic scholarships." "And in terms of need," he continued, "our income is supposed to put us among the most affluent groups in society, even though we're broke."

It's not that the Hoffmans haven't tried to shake the academic money tree. Mrs. Hoffman, who is a guidance counsellor and English teacher at the Thomas A. Edison Vocational and Technical High School in Jamaica, Queens, knows more about where the money is than most parents.

Yet even the research she did into such possibilities as a Disabled American Veterans scholarship—Mr. Hoffman carries a disability from his Army service in World War II—didn't pan out.

"The competition is fierce," Mrs. Hoffman said.

"Our daughter Mary has almost a 3.8 average at Hunter and she couldn't make either the D.A.V. or the National Merit," Mr. Hoffman said.

UPSET BY ANALYSIS

Mrs. Hoffman is particularly incensed at the amount of money the College Scholarship Service estimates her family should be able to provide for the childrens' education. The service's need analyses—based on financial-aid forms filed by the family—are used by most colleges, governmental agencies, and other sources of scholarship help to establish how much money a student requires to get by.

The scholarship service is an arm of the College Entrance Examination Board in Princeton, which administers the Scholastic Aptitude Tests taken by college-bound high school juniors and seniors. The College Scholarship Service's financial aid form has its counterpart in the family financial statement used by the other aptitude analyzing organization in the field, the American College Testing Service.

Mrs. Hoffman argues that the C.S.S. support formula is biased against big middle-class families. "Once they look at our income," she said, "it's no dice—no matter how many people we have to spend it on."

CHILDREN HOLD JOBS

Life at 68-25 Manse Street is comfortable enough, but by no means luxurious. All of the children in high school—following a pattern set by their older brothers and sisters—work part-time in such places as Waldbaum's or a nearby Chinese restaurant. Vacations are "occasional." A good chunk of the mortgage the Hoffmans took out a couple of years ago to fix up the house they have lived in since 1957 has in fact gone for education.

The Hoffmans' equity in the house is considered an asset on the college financial aid statement and hence a sign of financial strength. Other elements that go into the need equation are living costs—they are based on a "low" budget as computed by the Bureau of Labor Statistics—and, of course, such items as family size and the number of children in college.

Taxable income is another big variable in the computer mix and as that figure goes up, so does the amount of money a family is expected to provide.

A couple with one of three children in college and adjusted income of $15,000 a year, according to Joe Paul Case, associate director of the College Scholarship Service, would be expected to provide the student with $590 a year.

The same size family with adjusted income of $25,000 a year would be expected to provide $2,610 a year. At $45,000 the family would be expected to put up $7,770.

DEFENDS THE FAIRNESS

The amount of family help expected declines with the number of children in college, and Mr. Case argues that the system is as fair "as rational analysis can make it."

Taking the Hoffmans as a hypothetical case, Mr. Case estimated their children would be entitled to a "healthy x amount of aid," if they were accepted by an Ivy League college where total costs now run to around $7,000 a year. They might find "some aid" at some state universities and "none" at the City University of New York.

In fact—income from his job and John's $1,500 in grants aside—the Hoffman children have had to rely entirely on New York State-guaranteed loans obtained through private banks, their parents, and whatever they could make during high school and summer vacations to cover their costs.

Looking ahead, Jean Hoffman said she thinks her children will be able to afford only state or city colleges unless they are lucky enough to get "some enormous scholarship help."

"I'm a very optimistic person," she said. "I think it's going to be very difficult, but I have hope that we'll get them all through.

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[From the Wall Street Journal, May 25, 1977]

CAMPUS QUANDARY: AS COLLEGE COSTS SOAR, MIDDLE-CLASS FAMILIES ARE CAUGHT IN SQUEEZE—THEY ARE TOO RICH FOR HELP AND TOO POOR TO LAUGH; IF THEY SAVE, THEY LOSE

(By Mitchell C. Lynch)

Harvey and Dorothy Doss, a Michigan couple making about $26,000 a year, thought they had a formula for sending their four children through college. With scholarship aid and other financial assistance, they figured that their own outlays could be held to $3,000 a year per child.

Barbara, their oldest, went off to Kenyon College in Gambier, Ohio, where she now is a sophomore. Tuition, room, board and other fees total about $5,700. She got enough scholarship and other aid to bring her parents' bills down to $3,650, including spending money. "That's more than we figured on," Dorothy Doss said, "but we think we can still do it."

Now, however, the Dosses have run into trouble. Their next oldest, Jean, has been accepted for admission next fall to Syracuse University. Tuition, room, board and fees there total $5,770. Like her sister, Jean applied for enough financial help to bring the family's expense down to $3,C00. Syracuse said no. It wouldn't come close to what the Dosses wanted.

The reason: At $26,000 a year, the Dosses have too big an income to qualify for so much aid from Syracuse. But they figure that without that much aid, they can't afford to send Jean to Syracuse.

COSTS UP 70 PERCENT SINCE 1970

Like millions of other American families making from $12,000 to, say, $40,000 a year, the Dosses are caught in a tightening squeeze in higher education. Because of the skyrocketing costs of college, these families need help. Because of their incomes, they can't get it—at any rate, not enough of it.

Since 1970, total costs of college, not counting spending money, have climbed more than 70 percent, to a median of $2,790 a year at state-run schools and $4,568 at private colleges, according to the College Scholarship Service, the branch of the College Entrance Examination Board that establishes the generally accepted standards on financial-aid eligibility. Parents usually file income and savings statements with the service, which makes the statements available to the colleges.

There are a variety of college, state, federal and company aid programs designed to help meet the soaring costs. They are base on need, which means that the lion's share goes to students from lower-income families, with little left over for the middle class. (It is assumed that upper-income families don't need any help.)

Generally, bright students with grades of B-minus and up from families making less than $12,000 a year are eligible for enough scholarship aid, low-interest loans and straight grants to carry them through all four years without dipping into the family wallet. Starting at about $12,000, the higher your income the harder it is to get help. The crunch really begins at $20,000 a year. Those making at least $30,000 can rely on little outside help at all, except for the local Rotary, Kiwanis or Woman's Club scholarship, which usually isn't based on need.

An exception to all the difficulty should be noted: The straight-A student active in school affairs can get plenty of aid, no matter what his family's income, authorities say. "Those kids don't apply to college; they get recruited by the colleges," a high-school guidance counselor says.

But for the families of most college-bound students, the already tight financial situation is likely to get worse. Oakland Financial Group Inc., a personal-finance consulting firm, estimates that the higher-education bill for today's 14-year-old high-school freshman will be $5,522 a year at a state college and $9,665 at a private university. For today's 8-year-old, the firm calculates, the annual cost will be $7,677 at a state college and $12,662 at a private one. These projections don't include pin money and they assume no increase in the inflation rate.

"ADMIT-DENY" FORMULA

Clearly, college-financing problems have reached "worrisome proportions," says John Kemeny, president of Dartmouth College. He says that most schools, unable to provide all the help that families seek, end up adopting what he calls a destructive "admit-deny" formula; that is, they admit the students but deny them the required financial assistance. "It's tantamount to denying admission in the first place," he says.

Dartmouth, Harvard and some other colleges are trying to do something about this. Dartmouth has a "custom-tailored" financial aid program intended to make sure that any student admitted for academic reasons won't have to opt out for financial reasons. "It's the opposite of the admit-deny formula," Mr. Kemeny says.

After seeing a 10% drop in middle-income students last year, Harvard started a pilot program of low-interest loans—8%, compared with about 12% for conventional loans—to families earning between $15,000 and $50,000 a year. The loans are repayable over six years.

At least five other schools are phasing in loans similar to Harvard's and carrying interest rates of 8% to 8¾%. They are Amherst, Bryn Mawr, Cornell University's School of Hotel Administration, Pomona College and Stanford. Yale has come up with a program it calls "tuition postponement option," which allows a student to repay loans after college at a rate based on his income.

One reason that more people are feeling the higher-education squeeze is simply that more people are demanding a college education. The Conference Board, a nonprofit economic-research organization, estimates college enrollment at 11 million and climbing.

compared with just three million in 1960. "More people expect to send their children so more people are aware that it is costly," says Michael McPherson, an economist at Williams College who studies higher-education costs.

William Brennan of Longmeadow, Mass., is more than aware of the situation; he is bitter about it. "Sometimes I think my kids would be better off if I made less money," he says. Mr. Brennan, the father of three children, is a section manager at a roller-chain plant in nearby Springfield. He makes between $30,000 and $35,000 a year. By most people's reckoning, that's a good paycheck. Mr. Brennan says, "I may be a good manager at the plant, but I must be a poor manager at home." He has little savings in the bank.

After paying federal and state taxes, the Brennans are hit with more than $2,000 a year in mortgage payments, another $2,000 for property taxes and "one heck of a lot of money" for such necessities as food, heating fuel and insurance. (The Brennans own two cars—a 1966 Chevrolet and a 1971 Oldsmobile, both paid for.) Indeed, a rundown of the Brennan family ledger shows little surplus, "and we don't live the high life," Mr. Brennan says.

Still, his income precludes any state, federal or college financial aid for the Brennan's son, Bill, completing his second year at Holy Cross College in Worcester, Mass. The tab for tuition, room, board and "pocket money, which really builds up," is more than $5,000 a year, Mr. Brennan says. Last summer Bill made about $1,200 as a clerk in a bookstore and used some of his meager savings. This brought the Brennan family's tab down to $3,600.

Mr. Brennan borrowed this from his company's credit union at 10% interest to be paid in one year, in monthly installments of about $320. The crunch, though, will come next year when the Brennans' daughter Sheila, an honor student in high school, also tries to attend Holy Cross. If she can't get financial aid and if costs rise as expected, Mr. Brennan could be facing a monthly bill of well over $750, or more than $9,000 a year, for the two collegians.

"What really gets me is Sheila gets good marks in school because she wants to get scholarships," Mr. Brennan says. "But if she can't get a scholarship because of my income, then what kind of incentive is that for a kid to study hard?"

A CASE OF OVERREACH?

While many may sympathize with the plight of the Dosses and Brennans, some others don't. Many college administrators and other authorities say the situation isn't nearly so bad as it's often painted. For one thing, they say, some parents could be suffering a classic case of middle-class overreach by trying to send two or more of their children through college at the same time, without being willing to make such personal sacrifices as remortgaging their homes or selling one of the family cars.

"I'm alarmed at the changing attitude in this country," says Jonathan D. Fife, associate director of a higher-education study group at George Washington University in Washington. "People in the middle class used to be willing to give up anything to help, but today they won't give up anything."

Richard Z., a $25,000-a-year store manager outside Los Angtles, bemoaning the high cost of putting his two sons through college, says he can't contribute anything from his personal savings account because "we finally have enough to renovate our basement." The renovation includes transforming the basement into a 1920s-style speak-easy. "We entertain a lot," Mr. Z. says.

Parents who have conscientiously saved money for college are frequently jarred to find the savings taken into account by college-aid administrators. The savers are entitled to less assistance than families who haven't salted away a penny.

"I was really surprised when I found that out," says Mrs. Victoria Lodoly of St. Louis, whose two sons commute to St. Louis University. She says she and her husband, George, a brewer for Anheuser-Busch, "always tried to put a little away because we knew our children would be going to college some day." One of her sons received a small scholarship, but neither was entitled to other help, principally because the Lodolys' income is around $30,000 a year and they have a savings account.

Some observers discount the talk of overreach and unwillingness to sacrifice. "We're talking about the term liquidity" says William Cavanaugh, an official of the College Scholarship Service. "People appear to be richer, but their resources aren't liquid, they're tied up with bills and other payments." What's more, the term "middle class" covers a wide area, says Nicholas Ryan, financial aid director at Grinnell College, situated amid cornfields outside Des Moines. "What about the farmer? What's he supposed to do, sell a couple of acres a year to put his children through college?"

DECLARATIONS OF INDEPENDENCE

One way to fight back is to declare your children independent. A student who lives away from home can use his own income, not his parents', as the basis for seeking financial aid. This technique hasn't spread much. The College Scholarship Service says the percentage of students declared self-supporting has risen—but only slightly, and mainly because more people in their middle or late 20s are beginning college these days.

Cutting the apron strings can pay off, says John McGrath of Springfield, Mass. His daughter Sherry wasn't eligible for financial aid when she entered Framingham (Mass.) State College three years ago. She married a student at the school, and now, her father says, "she can get financial help from the school or state if she wants."

Most authorities agree that, severe or not, the middle-class squeeze is forcing parents to become more selective—and realistic—about the colleges their children can attend. Typical of such families are the Dosses of Michigan. After denial of aid from Syracuse, daughter Jean has decided to go to the University of Michigan, which is in her home town of Ann Arbor and has a tuition of $904 a year for state residents. Still, her parents, Harvey Doss, a pilot for an air-freight carrier, and Dorothy, a nurse, say they are "a little crushed."

Michigan is a good school, "but we always felt that part of the education process was to live away from home, to meet new people in a different environment," Mrs. Doss says. "I guess we'll have to give that up."

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[From the New York Times, July 6, 1975]

MIDDLE-CLASS TRAP: TOO POOR FOR COLLEGE, TOO RICH FOR HELP

(By Gene I. Maeroff)

Among hundreds of thousands of unsuccessful applicants for college scholarships this year was a Dartmouth freshman from Florida whose schoolteacher parents make $32,500 between them. They have a $60,000 home (mortgaged), $8,000 in savings and an older son already in college. On the basis of a formal evaluation of his family's financial circumstances, the entering freshman was told he and his parents could afford the $6,800 it will cost to keep him at Dartmouth next year. The only help available through Dartmouth was a $1,500 Federally insured loan at 7 per cent annual interest the college arranged.

The Florida family is, like many others, feeling a new kind of squeeze. It is too affluent to qualify for college aid, but not wealthy enough to pay the bills without personal sacrifice. Stories about youngsters turning down Ivy League acceptances to go to less expensive, less prestigious institutions are becoming commonplaces.

There are several reasons for the phenomenon, startling in a society that has generally held that the "better" an education, the more likely it is to guarantee a ticket to the better life. One, of course, is that there is simply not enough student aid to go around.

Another is the result of a trend of the last decade. Priority is given to the neediest. No matter how tough things are for the family with an apartment on Central Park West and a summer home in the Hamptons, things are worse north of 110th Street, and families with incomes around and above 1973's national median of $13,622 find scholarship and grant money generally unavailable.

In 1973, 90 per cent of the aid being channeled to college students through the United States Office of Education was going to young people from families with annual incomes of less than $15,000. These Federal funds are 40 per cent of $6.4-billion available to college students from all public and private sources. And of the $6.4-billion, two-thirds is awarded solely on the basis of need.

Allan W. Ostar, the executive director of the American Association of State Colleges and Universities, maintains the Office of Education program has been counterproductive. The program began, like others in the sixties, as a response to unrest in the inner city. But, as others have felt about other programs of the sixties, Mr. Ostar fears a backlash.

"If the Government continues this policy and if tuitions continue to increase," Mr. Ostar says, "I think the consequences are going to be felt in several quarters, such as the state legislatures' willingness to support educational systems not responsive to the needs of middle income families, those paying the taxes."

"Not the least of the consequences will be the antagonism of middle income families, those in the $10,000 to $15,000 group," Mr. Ostar continues. It is not visible in Russell W. McBride, a sales manager for a chemical company in Delaware, whose paycheck (supplemented by his wife's part-time job in a community college) produces $45,000 a year. It makes sense to Mr. McBride to give preference to the poor, but it does not relieve his difficulties: He had hoped his daughter, the oldest of 10, would get at least a loan from Barnard that he could pay off over several years.

"I know that I've got a good salary in the comparative sense and that there are a lot of people worse off than I am," says Mr. McBride, whose paycheck—supplemented by his wife's part-time job at a community college—produces $45,000 a year for his family. "But it's still a great strain."

EFFECTS OF THE PINCH

All but people in very highest income brackets feel a pinch paying for their children's college education. The effect that this is having on college-going is less certain.

It is still true that the more money a young person's family has, the more likely he or she is to be enrolled in college. In 1973, 47 per cent of all high school graduates went immediately from high school to post-secondary education, including technical and occupational schools, two- and four-year colleges. But, according to the United States Bureau of the Census, in 1973 families below the poverty line, with incomes of less than $3,000, had only 12.7 per cent of their 18- to 24-year-old children enrolled full time. For families with incomes between $5,000 and $7,499, the figure is 23.7 per cent. Around the median—families with incomes between $10,000 and $14,999—36.3 per cent of the 18- to 24-year-olds were enrolled; families with incomes of $15,000 and over had 53.7 per cent.

Statistics in education, of course, are as deceptive as statistics in other fields. True, more young people feel a college education is worth less in a country full of underemployed college graduates and more do not go to college immediately after high school.

But in 1968 55 per cent, not 47, of high school graduates went on to college immediately. The American Association of State Colleges and Universities' suggestion earlier this year that the decline in college-going was related to "increased tuition and related student costs" has been supported by the release last month of a national survey by First National City Bank of New York showing that 12 per cent of Americans said that someone in their family was prevented from going to college during the last five or six years by the cost.

What the cost of college seems to influence most is the choice of college. The lower tuitions of tax-supported institutions have great appeal to families unwilling or unable to pay for private colleges. Twenty-five years ago, half of all American college students were in private institutions; the number has now dropped to one-quarter.

REINTRODUCING MERIT

Private colleges, eager to keep their share of the enrollment from falling even further, began to introduce scholarships specifically earmarked for middle income, not poor, families. They have also been reviving scholarships based on merit.

Hofstra University on Long Island, now offers $500 grants for students from middle-income families, and $800 scholarships to freshmen, regardless of income level, who ranked in the upper 20 per cent of their high school classes and had combined Scholastic Aptitude Test scores of at least 1200. Even alumni are getting into the act, the class of '55 has just presented almost $50,000 to Lehigh University in Pennsylvania. The money is to endow scholarships exclusively for middle income students.

In Congress, Representative James G. O'Hara, the Michigan Democrat who is chairman of the House Subcommittee on Postsecondary Education, has championed families not poor enough to qualify for college aid. He has introduced a bill that would remove family assets as a test of financial need and reintroduce the merit system for determining who gets a portion of Federal assistance.

From the look of things, most middle income families are going to need all the help they can get. The Oakland Finance Group of Charlottesville, Va., has prepared projections showing that a family that now has a child entering kindergarten will have to bank $1,231 a year between now and the time the youngster is graduated from high school if the family wants to put away in advance all of the money that will be required for that child's college education at a public university. If the family is thinking about a private college, it should save $2,072 a year.

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[From the Washington Post, Apr. 29, 1978]

COPING WITH THE RISING COSTS OF COLLEGE

With reference to your lead editorial of April 8, titled "College Costs," all I can say is bunk!

I can personally assure you that the burden of paying for college is not coming down for me. I am, I suppose, in the "middle middle" income bracket. I earn $26,000 gross per year. Yet the faceless folks at the College Scholarship Service (CSS) say I earn too much for my son to qualify for any—repeat any—assistance. And the way the system is organized, the university won't provide any assistance unless the need is certified by CSS.

Of course, I can handle the problem any number of ways: Put my wife to work, take a second mortgage on the house, or something else. But, the bitter irony is that I could perhaps solve the problem most easily by disowning my son; that is, putting him out of the house on his own. Were I to do this, he would automatically become eligible for all sorts of aids: grants, loans, food stamps, the whole works. I can't bring myself to do that, even though the system seems to encourage it—and many people do.

You are probably correct in saying that there is more aid available to students than ever before, but its not finding its way to us in the middle. And while the real cost of college may not be up (I sincerely believe that point is very arguable), the real cost of practically everything else is thereby increasing the burden of college costs indirectly. It particularly galls me that your writers can't seem to emphasize at all with this middle-class crunch. We are bruised, and we think its about time we got some help, too. Anyone who can't realize that is out of touch with the real world. The least you could do is some investigative reporting with respect to who is and who isn't getting help with the financial burden of college.

As you would expect, we middle-incomers will find some way to get our kids through college, and we'll continue to pay our taxes so that the government (so nobly assisted by the education lobbies) can educate other people's kids at our expense. But I suggest that some day there will be a political reckoning, and it will probably be severe because you molders of public opinion and our elected representatives failed to perceive that the "doers" of this country could never get tired of carrying the load. What happens when that middle income "wealth" is no longer available for redistribution?

REX A. SHANE.

CARLISLE, PA.●

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## COMMERCE COMMITTEE STUDY ON "MOTOR CARRIAGE REGULATORY REVISION"

● Mr. KENNEDY. Mr. President, I would like to direct my colleagues' attention to a report published recently by the Committee on Commerce, Science, and Transportation that represents a major contribution to the current debate surrounding the need for regulatory reform in the trucking industry. The report, entitled "The Impact on Small Communities of Motor Carriage Regulatory Revision", is the result of the committee's decision to commission, during the first session of the 95th Congress, Policy and Management Associates, Inc., of Boston, Mass., to conduct an independent study of the impact regulatory reform could be expected to have on motor carrier service to small communities.

The Subcommittee on Antitrust and Monopoly, which has recently completed its 10th day of hearings on pricing practices in the trucking industry, will surely benefit from the information and insights contained in the report as we continue to evaluate the anticompetitive effects and ostensible benefits to the public of the broad antitrust immunity trucking companies now enjoy to discuss and set prices collectively. I applaud the Commerce Committee, and particularly Senators CANNON and MAGNUSON, for their continuing attention to the problems of the Nation's surface transportation system and for their foresight in commissioning this study.

The report addresses one of the most fundamental issues in the current debate over regulatory reform in the trucking industry: Whether a relaxation of strict Federal regulation would cause current levels of service to small communities to diminish. In its examination of this issue, the report calls into question a number of traditional rationales for the present regulatory scheme. It concludes that regulatory reform would have salutary effects on the structure and performance of the industry, and many benefits for its users.

The report counters the contention that less economic regulation of this industry would cause a sudden loss of service to small towns. It indicates, instead, that the effects of reform would be positive with gradual, beneficial changes affecting large and small towns alike. These positive effects, the study concludes, would include a decline in general rate levels and an increase in the variety of price and service options available to shippers. The study also anticipates the opportunity for trucking companies to enhance their profitability through greater efficiency.

In its current oversight investigation of truck regulation, the Subcommittee on Antitrust and Monopoly is seeking to determine whether there is adequate price competition in the industry, and whether collective ratemaking operates in the interest of shippers, consumers, and workers, as well as the trucking companies themselves. Shippers, including manufacturers in small communities, have impressed upon the subcommittee their desire for more flexible rates and services than they now receive, and their interest in being able to negotiate comprehensive shipping plans tailored to their individual business needs. One of the report's most significant findings is that an extremely broad range of rate and service preferences were expressed by the shippers surveyed. A significant percentage of the shippers expressed their desire for the option to pay more for more elaborate service and less for a considerably lower level of service.

Evidence developed in the course of the Antitrust Subcommittee's investigation thus far lends support to these findings. Our inquiry has revealed that Federal regulation of the trucking industry curtails price competition and may foster excessive service competition among firms. Shipper dissatisfaction with regulated rates and service has manifested itself in the startling growth in the number of private truck fleets now in operation. This has not come without significant detrimental impact on the financial position of many regulated carriers and their employees.

The Commerce Committee report is a thorough, timely, and sophisticated contribution to our knowledge of an industry central to this Nation's growth. The report will undoubtedly inspire and stimulate additional independent analyses of other facets of economic regulation of the motor carrier industry and of the too-long-untested assumptions which undergird it. Only through utilization of analyses such as this can Congress make informed decisions about any reforms that may be necessary.

I commend "The Impact on Small Communities of Motor Carriage Regulatory Revision" to the reading of Members of Congress and their staffs.●

## A BUSINESSMAN LOOKS AT SOVIET-AMERICAN TRADE

● Mr. MATHIAS. Mr. President, there has been a great deal of discussion in the Congress and in the press for several months now about whether or not the United States should curtail its trade with the Soviet Union in retaliation for Soviet activities which we find offensive, notably the suppression of human rights exemplified by the Shcharansky and Ginsburg trials. It is a natural temptation to retaliate when confronted with offensive behavior. And many, perhaps even the majority of those who have joined in this debate, urge that we cut down our contacts with the U.S.S.R. to show our displeasure with Soviet attitudes and actions.

There are others, however, who caution moderation; who believe that more can be accomplished by leverage than by linkage; who suggest that history teaches that criticism from abroad tends to solidify the Soviet people behind their government rather than to raise questions about whether or not the government is pursuing wise policies.

This debate is not new. Only the ammunition that is fueling it now is new. And perhaps the issues will never be satisfactorily resolved. But one point of view that has received little exposure in the debate and which deserves particular attention is that of American business, especially those businesses that have had reasonably long experience in trade with the Soviet Union.

Donald M. Kendall, chairman of the board and chief executive officer of Pepsico, Inc., represents this point of view ably and responsibly. He is under no illusions that "trade is a panacea for all our problems dealing with the Russians." But he argues persuasively that "expansion of our economic relations provides one of the most effective means of minimizing unnecessary stress in our overall relations and thus enhances the prospects of world peace."

Not long ago Mr. Kendall spoke on the subject of Soviet-American Trade at a meeting of the Boston World Affairs Council. I ask that his talk be printed in the RECORD.

The address follows:

### SOVIET-AMERICAN TRADE

More than likely, some of you already know me as an outspoken proponent of U.S.-Soviet trade. Since I am addressing such a distinguished group, I would not only like to share my views with you, but also, I am interested in knowing your opinions. Therefore, I intend to allow plenty of time for comments and questions at the conclusion of my remarks.

What I propose to do this morning is concentrate on some of the misconceptions about Soviet-American trade. In my opinion, these misconceptions distort U.S. thinking with respect to the Soviet Union and serve as stumbling blocks to formulation of a sound U.S. foreign policy vis-a-vis Russia.

Let me ask, how many of you would like to see the U.S. and the Soviet Union increase trade with each other?

About a year ago, Lou Harris took a nationwide poll, asking this same question. A two-thirds majority indicated that they would like to see Russia and the U.S. increase trade with each other, and 75% were in favor of detente.

However, even though a 61% majority of the American public voiced the opinion that they would like to see Russia given the same trading rights with the United States as most other nations have, Congress has failed to grant the Soviets these rights. What is in question here is called "most favored nation status."

Unfortunately, the term "most favored nation" is misleading in of itself. These words imply preferential treatment, when in actuality, MFN, as it is commonly referred to, represents the standard trading rights granted by the U.S. to the vast majority of countries in the world. In fact, the Soviet Union had enjoyed MFN up until 1951 when the U.S. withdrew it at the height of the Cold War.

In terms of dollars and cents, the lack of most favored nation status for the U.S.S.R. increases the duties on goods from that country anywhere from 23% on machine tools, for example; 34% on binoculars; 63% on watches; and 78% on distilled alcoholic beverages. From these examples, you can rapidly deduce what lack of MFN does to the potential for trade.

Most of you are familiar with what happened in 1974 when Congress modified the terms of the proposed Trade Reform Act with passage of the Jackson-Vanik Amendment. This amendment legislated that Moscow must issue explicit declarations about free emigration in order to secure most favored nation status. The Russians flatly rejected this arrangement.

This discussion brings me to my next point: the whole concept of linkage. Let's stop for a minute and picture what Congress was asking Moscow to do by publicly linking most favored nation status with free emigration. As my friend Tom Clausen of Bank of America remarked, ". . . It would be like an order from an Arab country to the U.S. saying 'no more oil unless you have school busing.'"

The Soviets are a very proud people, as we ourselves are, and they are extremely concerned about their image around the world. Hedrick Smith, who was Moscow Bureau Chief for the New York Times from 1971–74. observed in his book that the Russians may criticize the system among themselves, some may even do this in front of foreigners, but if a foreigner dare offer the same criticism, the Russian will switch in mid-stream and defend the Soviet system.

The Jackson-Vanik Amendment constituted a public threat from the U.S., and the Soviets were not about to give in to this condition as a matter of principle. As a result of the amendment, not only did we lose out on the potential from increased trade between our two countries, which so many Americans favor, but we managed to further aggravate the situation on emigration. In 1973, Jewish emigration from the Soviet Union totaled 34,000, and in 1975, following the Trade Reform Act fiasco, the number dropped to 14,000.

Advances in trade and economic cooperation should not be held hostage to equal advances in the human rights area. By publicly linking internal reform, or any kind of action by the Soviets, to something they want from us, we are, in effect, sabotaging our own efforts.

As Marshall Shulman, currently State Department Adviser on Soviet policy, remarked: "Easing of repression [in the Soviet Union] is more likely to result from evolutionary forces within the society under prolonged conditions of reduced international tension than from external demand for change and the siege mentality they would reinforce."

It is my firm conviction that progress in one area, for instance trade, will significantly improve the overall climate so that the chances for progress in other areas will have a better chance of occurring.

In fact, the Soviet Minister of Foreign Trade Patolichev shares this philosophy with Shulman and myself. At the most recent annual meeting of the U.S.-U.S.S.R. Trade and Economic Council, Minister Patolichev put it this way: "Trade questions are the most simple and easiest to resolve. Trade helps create an atmosphere of trust and it helps solve other issues."

Certain critics of Soviet-American trade perceive this relationship as a one-way street, with Russia acquiring the grain and technology they need and the U.S. receiving nothing in return. I would hazard a guess that if this were the case, trade between our two countries would come to a dead stop even if all restrictions were lifted. Let's take a closer look at "what's in it for us."

First of all, we have a lot to gain in terms of raw materials. As the largest country in the world, the Soviet Union possesses natural resources that are generally larger and more varied than any other country's, including our own. Let's start with energy, for instance—a commodity which is becoming increasingly precious to all of us. The Soviet Union is the world's largest producer of petroleum, and 35 percent of the world's known gas reserves are located in the U.S.S.R. Another example is metals, such as chrome, platinum, palladium, and rhodium.

Thus, as we look around us to discover that our supplies of raw materials are no longer as abundant as they use to be, we realize that we need the Russians' raw materials, just as they need our technology to exploit some of their untapped resources.

Furthermore, we should do everything possible to keep the Russians in the position of being a net exporter of oil and gas, because the more oil and gas on the world market, the greater the likelihood of stable supply and prices.

Secondly, let's examine how our commercial transactions with Russia affect our balance of trade, which is an issue of great concern to us in view of the weakening dollar. From 1971 to 1976, the U.S. experienced a $2.5 billion favorable trade balance with the U.S.S.R. and a $3.0 billion surplus for all of Eastern Europe. Last year, the total volume of trade between the U.S. and the Soviet Union fell over 25 percent yet two-way trade between the Communist countries and ourselves reached some $3.7 billion, about $2.6 billion of which represented U.S. exports, resulting in a healthy surplus for the United States.

Thirdly, what kind of an impact does Soviet-American trade have on U.S. employment? Our Commerce Department conservatively estimates that $25,000 in manufactured exports provides one job. In 1976, non-agricultural exports to the Soviet Union provided over 30,000 jobs.

Lastly, in terms of benefits to Americans, and to my mind most important, increased trade between our two countries enhances the possibility of an improved political climate. As trade relations develop, person-to-person contacts build mutual understanding. The more they know us and the more we know them, the better. As the Soviet economy becomes more interconnected with the world's economy, its stake in a stable, international economic order is heightened. At the same time, it becomes increasingly difficult for its government to withdraw to an isolationist and belligerent status, thereby bettering the odds for world peace.

Now that I have outlined some of the benefits of Soviet-American trade, both economic and political, some of you may be saying to yourselves, do the advantages outweigh the risks? Let's examine some of these so-called risks.

Is there any danger of our becoming too dependent on Russian imports? When you consider that East-West trade currently represents about 1% of total U.S. trade, you realize that increasing imports from the Soviet Union can only serve to diversify our sources of supply.

Are the Russians a bad credit risk? The answer is no—they have the ability to pay,

and for the most part, their repayment record has been very good. Soviet debt is estimated to be between $14 and $15 billion. To place this figure in perspective, look at this debt within the context of the Russian GNP: total hard currency credits represent slightly more than 1% of the Soviet economy's total output. Specialists estimate the Soviets have reserves of about 2,000 tons of gold, which along with their petroleum and natural gas reserves, supply the country with the wherewithal to improve its trade balance situation and service its past debt.

Furthermore, the U.S. is hardly a significant contributor to the Soviet debt. Credits extended to Russia by the Export-Import Bank total $469 million, a mere 3% of their total debt.

Another issue of concern to many is the whole area of technology: by selling its technology to the Soviet Union, is the U.S. aiding the Russians to its own detriment? The fact is, the U.S. does not possess a monopoly on technology. Did you know, for instance, that the gasoline and diesel engine were invented in Germany? The steam locomotive, the jet engine and the Bessemer process for processing steel were all inventions from England.

And the list goes on. Most of the technology which the Soviets need and cannot obtain directly from us, can be purchased from the Japanese, the Germans, or the Italians.

We already have a system by which the U.S. protects itself against the transfer of important military technology. Each application for an export license is screened by the Federal government before it is issued, and any export that could conceivably make a contribution towards the military potential of a Communist country is barred.

Recently, considerable alarm has been sounded with regard to the Soviet Union's increasing military strength. For the first time in its history, Russia is capable of projecting its power far beyond its shores. Some critics of Soviet-American trade maintain that there is a link between the inception of détente in 1972 and the military buildup in Russia. In actuality, much of what the Soviets are demonstrating today in the line of military equipment is the result of decisions made in the early and middle 60's. Military experts say that since the Cuban missile crisis, the Soviet Union has been adding to its defense budget at a steady rate of 3-5 percent a year.

I believe that history provides enough evidence to convince us that the Soviet Union will meet its strategic military plans whether or not we trade with them. Obviously, our past restrictive policies have not held back the Russians. As Henry Kissinger observed during his tenure as Secretary of State: "What is new today is the culmination of thirty years of postwar growth of Soviet industrial, technological, and military power. No American policy caused this: no American policy could have prevented it. . . ."

I do not pretend to believe that trade is the panacea for all of our problems in dealing with the Russians. When two giants, such as the United States and the Soviet Union, have such radically conflicting ideologies, there will always be a degree of tension in their relations. Trade is never going to eliminate that clashing of political thought, as it manifests itself in each country's foreign policy.

However, I wholeheartedly believe that expansion of our economic relations provides one of the most effective means of minimizing the unnecessary stress in our overall relations and thus enhances the prospects of world peace.●

## ADDRESS BY MR. KENNEDY TO THE U.S. CONFERENCE OF MAYORS

● Mr. NUNN. Mr. President, my distinguished colleague, Senator KENNEDY, recently addressed the annual meeting of the U.S. Conference of Mayors in Atlanta.

Speaking of the challenges now facing the mayors of this country in a city that I feel is one of the brightest stars on our urban horizon, Senator KENNEDY spoke thoughtfully and hopefully of what a national commitment to the health of our cities can mean:

We can rally the people to our standard. We can stretch our resources to meet the need. We can build a new framework of partnership and cooperation. We can alleviate the suffering of those in need, and bring sunlight to their shadows. In so many different ways, we can create a brighter future for our cities.

Mr. President, I commend the full text of Senator KENNEDY's remarks to the Conference of Mayors to the attention of my distinguished colleagues in the Senate, and I ask that it be printed in the RECORD.

The remarks follow:

ADDRESS OF SENATOR EDWARD M. KENNEDY

President Alexander, Maynard Jackson of Atlanta, Kevin White of Boston, friends and mayors. It is a pleasure for me to be with you this afternoon on the first day of the 46th Annual Meeting of the Conference of Mayors.

I want to express my appreciation for the kind and thoughtful words of introduction by your President, Lee Alexander of Syracuse, who has been such an outstanding leader of the Conference. And I also congratulate your incoming President, William McNichols of Denver, who will carry on the cities' work and the vital interests that the Conference of Mayors serves so well. I also commend John Gunther and the other members of your Washington staff who have provided wise counsel and assistance to all of us in Congress on a broad range of issues important to the cities.

There is another individual, whose memory permeates this hall, whose vigor renews our spirit and whose life was a living tribute to the vitality of our cities. When Hubert Humphrey last spoke to you, he said:

"We have to think of the grand design of the America we want. We have to be willing to think big and to plan big. We have to tell the American people that this is a big country for a great people. We have got to start to build this country the way it ought to be."

His vision of America was your vision, too. For nearly half a century, the Conference of Mayors has been fighting the cities' battles. Wisely you have understood that what happens in other vital areas of foreign and domestic policy is also vital for the future of the cities. Your voices were among the clearest and most eloquent in helping the nation understand that the Vietnam war was wrong. And today you are an equally influential voice for an effective SALT agreement, because you understand the importance of nuclear arms control to the peace of the world and the future of our country and its cities.

The challenges the cities face at home have never been easy ones to meet, at any period in our history. But your burdens have grown enormously in recent years. There are six hundred cities represented in the United States Conference of Mayors. And I want to tell you that in my book, you have the six hundred toughest jobs in the United States of America.

Never has there been a greater gulf between the problems of the cities and the comforts of the suburbs.

As the gap grows wider, the cities have been left with fewer resources to solve their problems. They are losing the resources of people, because as suburbs grow, the cities have declined in population. They are losing the resource of dollars, because as industry moves out, the property base dries up and revenues decline. And a whole generation of children is growing up who believe the central business district is the little sign beside the highway, pointing in a direction they never go.

All these enormous challenges and many others have landed in your laps. In fact, in America in 1978, it takes a contortionist to be a mayor. If you're doing your job correctly, you've got one hand pulling back on the reins of business heading for the suburbs. The other hand is filling out the paperwork for grants from Washington. The local newspaper has locked its teeth into one of your legs. Your other leg is in the bear pit of a contract dispute whose deadline expired last night. You're on the telephone with an SOS to the governor. You've got one eye on your opponent in the next election, and now your other eye is riveted on Howard Jarvis.

Like the farmers at Concord Bridge two hundred years ago, the embattled taxpayers of California have fired a shot heard 'round the world. No person in public life—no President, no Senator, no Governor, no Mayor—can ignore the message and the outraged feelings of the people. Our job is to understand the meaning of Proposition 13 and to carry out its mandate wisely—so that it becomes an effective warning shot across the bow of government, and not a shot below the waterline of the American ship of state.

If we are going to bring relief to the hard-pressed taxpayers of this nation, let us do so in ways that do not destroy local tax systems that are the cornerstone of local control over local services in our federal nation, that do not drive mayors hat in hand to Sacramento or Washington to find refuge from angry voters and that do not turn tax teller for deserving homeowners into tax windfalls for the property of big business.

If we are going to stop the hemorrhage of revenues wasted in massive spending designed to help the many who are poor, let us do so in ways that also stop the hemorrhage of revenues wasted in massive spending through tax loopholes designed to help the few who are rich. If we are going to provide tax relief from the burden of soaring tuition costs, let us do so in ways that do not undermine the cities' public schools.

Above all, if we are going to balance the federal budget, let us resolve that the burden will be shared by all—not just the cities, not just the poor and the black and the sick—so that no citizen pays too high a price for the cutbacks the future may have in store.

General Eisenhower once complained to Marshal Zhukov about the delays and difficulties involved in clearing minefields, so that allied troops could advance. Zhukov replied that he solved the problem easily—by ordering his troops to march across the field. If Proposition 13 brings us to ground like that, no one, least of all urban America, should have to do the marching.

It may well be that we have poured too little brains into programs to rescue those in need. But it is not because we have poured in too much heart. As the poet Dante wrote, Divine justice weighs the sins of the cold-blooded and the sins of the warm hearted in different scales—the hottest places in hell are reserved for those who, in times of great moral crisis, maintain their neutrality. For America, in 1978, the great moral crisis is the challenge of the cities.

It isn't fair to blame our problems on the cities or their mayors.

It wasn't the mayors who let the national economy capsize twice because of recessions in the past ten years, or who caused our serious problems of inflation and unemployment.

It wasn't the mayors who started a trust fund for superhighways at the expense of city transportation.

It wasn't the mayors who created a welfare system that encourages people not to work or that drives families apart.

It wasn't the mayors who devised a tax policy that gives federal subsidies for companies to desert their city homes and build in the suburbs.

In other areas, like crime and energy, health and education, housing and environment, there are similar problems that afflict our society at large, but come home to roost in a special way in the cities of the nation.

It wasn't the mayors who caused these problems. In large part, the blame falls squarely on the short-sighted policies of the Federal government. Now is the time that our federal policies have to change, and start paying more attention to the cities.

A stronger and more vital urban program is not a narrow-minded policy designed at the expense of other sections of the nation. Those who live in the suburbs and the rural areas are beginning to understand that a victory for the cities is a victory for them as well. For it is their fight too. Without success for the cities of America, there can be no real success for the farms or suburbs either.

I urge all of you, in a special plea today, to give President Carter a chance. Give Vice President Mondale a chance. Give Secretary Harris and H.U.D. a chance.

At last, we have an administration that is trying to understand the cities and is worried about their problems. Ed Koch knows better than most—the mayors are acquiring new partners in Congress and the White House.

We can differ about the elements of the President's urban policy announced last March. We can debate the specifics of the programs and question the levels of funding. But the direct involvement of the President was a significant accomplishment and an important beginning of a new day for America's cities. The concerns of urban America have been elevated to a higher place on the national agenda. It is up to Congress to respond to the initiative, and it is up to you and others who care about these matters to help refine it and see that it is enacted into law before Congress adjourns for the fall elections.

Although things are not what we would like them to be in urban America, the situation is getting better. People are putting aside their differences and working creatively with what they have. At each level of government the public and private sectors, labor and neighborhood groups are beginning to work more effectively together. As I have heard Coleman Young say so many times, "We can see around the corner."

Cities are reclaiming older and declining areas. Abandoned lands have been turned into new and attractive neighborhoods. Mills and factories have been converted into housing for the elderly.

In our own city of Boston, the Quincy Market has become a crowded tourist attraction and a thriving commercial center, a magnet drawing throngs of shoppers from the suburbs.

In New Orleans, the Superdome, the largest facility of its kind in the world, was built on a decaying downtown street and has already generated half a billion dollars in private development in the central business district.

In San Antonio, the riverwalk built along the river draws tens of thousands to the center of the city to enjoy its restaurants and shops and the shade of its lovely trees.

And in Portland, department stores are deciding to remain downtown and new stores are going up because of the outstanding transit mall, historic districts, and the green park leading to the river.

In individual ways like these and many others, we can rejuvenate our cities. Dedicated mayors and concerned communities have begun to make a difference and to make their cities work.

It is a national responsibility to work with mayors who are facing the issues and seizing the opportunities. And there are important procedural reforms that we must adopt if we are to reach our goals.

In accord with the rising costs and frustration of the taxpayers who pay the bills, we must develop more effective ways to cut the fraud and fat and waste from needed federal, state and local programs. None of us will find it easy to perform the surgery required. But then operation must be carried out if we are to restore the confidence of the people in the way government carries out its public trust. If we are not willing to cut the fat, then others who care less about these urgent problems may rush in to cut the muscle, too.

We must do a better job of targeting our limited public resources in accord with the real priorities of the nation. There is an elementary principle of government that has been lost too often in the pork barrel politics of the past and present—the principle that the people and the places with the greatest need are the ones that deserve the greatest help. One of the greatest inequalities is to insist on equal treatment for places with unequal needs. It makes no sense, in the name of false equality, to insist that scarce dollars designed for urban needs must be spread around for the benefit of others not in need. So long as we merely spread our strength evenly across the land, we do not solve our problems—we merely waste our dollars.

If eligibility for assistance is too inclusive, we will give funds to some to spend on marginal services, while others must forego vital services. If we spend a dollar in a place which does not need it, it is not merely a gift, but a deprivation, and only insures that misery elsewhere shall persist.

The ink was barely dry on the President's urban message before special interest groups began their drive to blur its focus and destroy its targeted approach. Those who care about the cities must do battle so that the proposed National Development Bank's assistance will be directed to the needy, not the greedy.

Slow population growth and slow employment growth do not necessarily mean economic distress. By themselves, they should not entitle communities to aid from the National Development Bank. Private investors are not discriminating against wealthy suburbs. It is unconscionable for them to demand that any aid designed to help the central cities must be broad enough to cover them as well.

Finally, just as we need a wiser allocation of resources, we also need a wiser distribution of responsibility, by giving more responsibility to those who are able to do the job.

One of the most significant new initiatives by the Federal government in recent years is the effort to give greater breathing room to competition in our free enterprise system by reducing the burden of federal regulation on the private sector of our economy. We must do the same for the public sector. The time has come for the Federal government to give greater breathing room to the mayors, and let them do their jobs.

If we can deregulate the airlines, so that they can serve their passengers, if we can deregulate other areas of the economy, then we can also deregulate the mayors so that they can serve the people of our cities.

Excessive federal regulation is reducing the potential for urban growth. We have tried to insure against every possible error, thereby preventing mayors from being bold. We have slowed down federal processing of grants to insure against misspent dollars, thereby forcing mayors to forego opportunity.

The federal government has not adequately considered the consequences of adding a new procedural requirement or substantive limitation each time a problem presents itself. If one city takes a drink, we have put every city on the wagon, regardless of the extra paperwork, or the different circumstances of different cities.

We can no longer afford to take months to process ninety-nine good applications to insure that we do not fund a bad one. We can no longer afford to make ninety-nine cities turn square corners for fear that one city will cut a corner.

We must change the way we disburse the funds. The Federal government must satisfy with setting goals and assessing results instead of imposing burdensome requirements that jeopardize the goals. If the problems are national and deserve federal support, we must assure that steps are taken to correct them. But the conditions in this land are too varied, the diversity too great, and the creativity too widespread for the federal government to dictate the detailed ways in which the problems shall be met.

We can do more to coordinate the scores of federal departments and agencies which carry out our urban programs. We need a single task force to unify the applications and procedures of all urban agencies. We need better methods for approval of frequently recurring types of jointly funded projects. It should not take longer to build a civic center than it did to win World War II.

It is not the role of Congress or H.U.D. to take over City Hall or stifle the initiative of local leaders elected by the people. The mayors of America deserve a better fate than being treated like Gulliver, bound tightly by federal strings, encircled by Lilliputian Federal bureaucrats.

No one should believe these changes will will make life easier for you. The price of greater freedom is greater responsibility. Citizens who pay the public bills are no longer willing to tolerate the misuse and waste of their hard-earned dollars. If there are fewer rules to restrict you, you will have fewer excuses to explain away your failures. If the bucks are going to go to the mayors, the buck must stop with the mayors. Most mayors will want to take this offer—our programs will be more effective for it and our cities will be better places.

These, then, are the twin pillars of a national urban policy—adequate resources targeted to meet the local need, and effective responsibility allocated to local officials who can do the job.

The task ahead of us is not an easy one. It has become harder now than it was last year, or even two weeks ago.

But we can resolve today to summon the greater effort required to meet the larger challenge.

We can rally the people to our standard. We can stretch our resources to meet the need. We can build a new framework of partnership and cooperation. We can alleviate the suffering of those in need, and bring sunlight to their shadows. In so many different ways, we can create a brighter future for our cities. Success will require strength and courage, insight and understanding, sacrifice and perseverance. Above all, it will require a new and deeper commitment from all who share America's urban dream.

Daniel Webster of Massachusetts put it well 150 years ago, when he said, recalling the events of the revolution:

"Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its greatest interests, and see whether we may also. in our day and generation, perform something worthy to be remembered."

The challenge summons us across the years. May each of us, to the best of our ability, in

our own day and generation, perform something worthy to be remembered.●

## ADDRESS BY SENATOR DOLE TO THE NATIONAL CORN GROWERS ASSOCIATION

● Mr. CURTIS. Mr. President, on July 17, 1978, our distinguished colleague, Senator BOB DOLE of Kansas, gave a speech at Lincoln, Nebr., to the National Corn Growers Association. Senator DOLE dwelt on some very important matters of concern, not only to corn farmers, but to all American agriculture.

Senator DOLE is one of the best friends that American agriculture has.

Mr. President, I submit for the RECORD Senator DOLE's address:

REMARKS OF SENATOR BOB DOLE

I am deeply honored to be here this morning to address the annual meeting of the National Corn Growers Association. It is always a pleasure to be in Nebraska, a great agricultural state, and to speak to such a dedicated group of American farmers.

You and I share common beliefs, goals, and dreams!

We both want to strengthen American agriculture.

We both want to increase the income flowing to our farmers.

We both want the farmer to receive a fair wage and a fair return on his investment.

We both seek to provide new opportunities for young people to enter farming.

We both are dedicated to the family farm as the backbone of our agricultural production system.

We both want the farmer to be free to produce in a free market.

We both seek to keep the involvement of government in agricultural decisions to a minimum.

We both seek to maintain a healthy agriculture—one that is economically efficient and productive and free from unnecessary regulations.

Those of us in Congress, and especially those of us in leadership positions on the Agriculture Committee, have the responsibility for developing legislation to achieve these positive and necessary goals.

Farmers have to be free to make a profit. They have to be free to operate and make decisions based on the information provided by our economic system concerning supply and demand and prices.

They should not have to produce in an uncertain climate of government regulation, arbitrary decisions by government officials, and ever changing government farm programs. Government programs and actions have been like a roller-coaster. Up and down, on and off.

The farming system is uncertain enough because of weather, world demand, changing consumer needs and other forces without adding an uncertain, ever changing, unpredictable, intervening government.

The government's economic and spending policies seem to be causing the major problems facing farmers.

INFLATION HOAX

I believe this Administration is developing a strategy to blame inflation on the American farmer and drive a wedge between the farmer and the consumer.

This Administration is perpetrating a hoax on the American farmer and the American consumer.

The farmers problems with getting responsive legislation, getting rid of excessive government regulations, obtaining adequate agricultural credit, stopping the purchase of farmland by foreigners, having a healthy livestock market, and obtaining a fair ratio between prices paid and prices received all relate to the government's inability and lack of will power to stop inflation once and for all.

The Administration's main battleground in their so-called fight against inflation, their hoax on the American farmer, is holding down agricultural product prices.

They seem to be fighting inflation by keeping down the price of corn, sugar, cattle, wheat, and other agricultural products.

Their justification for this action is to lower consumer prices and thereby fight inflation.

Inflation is killing our farmers financially. They cannot stand double-digit inflation for what they buy when the price of what they sell stays at low levels.

The farmer has not been the cause of inflation—he has been the victim of inflation. President Carter seems to believe just the opposite.

If we would require our governments to live within their means, the inflationary spiral would not only be controlled—it would stop.

DOLE TAX PROPOSALS

I have proposed measures to provide tax relief and curbs on government spending to aid American taxpayers.

The four initiatives are:

(1) An income exclusion of increased wages earned as a result of our spiraling inflation.

(2) A constitutional amendment calling for a federally balanced budget.

(3) A Congressional Commission to study and recommend a proposal for limited federal spending.

(4) An amendment to the Budget Act requiring that the budget resolution contain no real increases in spending.

In addition, I am calling for the States to petition Congress for a constitutional convention to consider a constitutional amendment for a balanced federal budget.

FARMERS FACE FINANCIAL DISASTER

I need not go into detail about the serious economic state that most of the farmers are still facing today. All of you are personally aware of the situation. During 1977, farm indebtedness reached an astronomical $102 billion as farmers geared up to meet world food needs.

During this time new farm income dropped to disastrously low levels—last year—to about $20 billion. This was $13 billion below the 1973 record year.

Because of this, many farmers are having trouble meeting their obligations. In my state of Kansas, many farmers—particularly young farmers—have come face-to-face with bankruptcy.

AGRICULTURAL CREDIT LEGISLATION

An area of concern to farmers is the adequacy of the existing agriculture credit system, which has been put to the test by the economic and natural adversities encountered by farmers in most areas of the country.

The loan limits of the Farmers Home Administration have been outdated for the farmers of Kansas for several years. The FmHA has just not had the necessary tools to properly serve family farmers, at least in my state of Kansas.

A Senate-House Conference Committee has approved a bill, which I originally introduced in the Senate, to expand and modernize the farm credit programs of the FmHA.

This legislation is designed to bring the Farmers Home Administration Programs into touch with the times so that they will be more responsive to today's farm credit needs.

The Farm Credit Bill is the most significant and far-reaching farm credit legislation to come before the Congress for several years. I am confident it will be approved this week by the Congress and signed by the President before the end of July.

CREDIT LEGISLATION PROVISIONS

The Conference Bill includes provisions which would:

(1) Raise the FmHA real estate loan ceiling from $100,000 to $200,000 on direct loans and to $300,000 on federally-guaranteed loans.

(2) Raise the FmHA farm operating loan ceiling from $50,000 to $100,000 on direct loans and to $200,000 on federally-guaranteed loans.

(3) Make family-farm corporations, partnerships, and cooperatives eligible for FmHA credit for the first time.

(4) Authorize cattlemen to approve a beef promotion checkoff program by a simple majority of producers voting in a referendum. This was an amendment I offered.

In 1976, we were successful in passing the Beef Research and Information Act, which provides for a referendum to be conducted by the cattlemen. A nationwide check-off program would be established to create a beef board financed with the funds collected.

The Beef Board would develop research and carry out programs of market development at home and abroad. Any cattleman not wishing to participate would be able to freely request a refund of deducted check-off funds.

Such a referendum was conducted in the summer of 1977. The referendum was approved by 56.7% of the cattlemen voting, but the law required approval by two-thirds of those voting.

An amendment I proposed to the Farm Credit Legislation was adopted by the Senate and accepted by the House conferees. The amendment lowered the required approval to a majority of those cattlemen voting.

We are hopeful that now another referendum can be conducted and be readily approved. Approval of this referendum and the resulting research and market development could provide a tremendous stimulus to beef and corn farmers.

(5) Extend a special cattle industry credit program for one year, through September 30, 1979.

(6) Authorize an economic emergency loan program for farmers who have suffered losses due to low farm prices. The loan total would be limited to $400,000 per farmer and loans could be used to refinance debts and to pay for operating expenses.

(7) Create a special farm real estate loan for beginning and low-income farmers with interest rates set at five percent or less. A reduced principal payment schedule could apply during the early years of each loan to allow the new farm family to get on its feet.

Increased credit is by no means the cure-all for the farmer's problems. We must continue efforts to increase farm income. This bill will provide farmers with a more realistic, more flexible, and broader agricultural credit program than has been available.

COST OF GOVERNMENT REGULATIONS

There are many areas of vital concern to American agriculture and to farm families. One of these, I know from the letters farmers have been writing me, is the overregulation of farming and business by government.

The projected estimate of the cost of government regulation of farming, business, and industry for fiscal 1979 is $134.8 billion. This sum is appalling to me and I believe should be drastically reduced.

The government's fiscal 1979 regulatory budget is up 6% from $4.54 billion in the current fiscal year, and up a staggering 115% from $2.24 billion in 1974.

I believe Congress is going to have to take a closer look at the regulatory agencies and their enabling legislation. Some of this legislation needs to be amended. OSHA, EPA, and other agencies are a thorn in the flesh to farmers, and businessmen. Many of their regulations are absurd and don't even make

common sense. The agencies are the subject of many jokes.

The rapid growth in federal regulatory spending is greater than the growth in the federal budget, the population of the country, the gross national product, or any of the other normal yardsticks used for comparison.

I am concerned about the cost of government regulation because it normally translates into higher prices for consumers, lower efficiency for workers, farmers, businessmen and helps create overall economic stagnation, in short—inflation!

I am working to see what amendments should be enacted to change present regulatory legislation. I am also working to limit the funding for the agencies that seem to forget common sense when they write their rules and regulations.

MEAT IMPORTS

Another area of concern to American agriculture and to farm families especially to corn growers is the economic health of the livestock industry.

The economic health of the corn industry is tied closely to the economic health of the livestock industry. With over one-half of your corn crop going to feed cattle, hogs, and chickens you have a vital stake in the health of these industries.

You need a strong demand for meat products in order to have a strong demand for corn. It is essential for the corn grower that the livestock industry be strong and healthy.

I believe part of the present low price/crop surplus situation for corn is the result of a depressed cattle market the last several years which has resulted in reduced cattle numbers.

We are not going to get the feedgrain industry on a strong profitable level until we have a healthy meat industry and until we expand our exports. To expand production a cattleman has to see prospects of a profit for three years.

The unfortunate decision by President Carter to interfere in the cattle industry by raising beef imports will in the long-run have a negative effect on the corn growers.

I am not quite certain what spurred the President to increase import quotas. The record will show the only impact of the President's action will be to damage further the American farmer.

This is not a partisan concern. Senators, Congressmen, farmers and business leaders from both parties have joined me protesting this unfortunate action by the President.

This is a concern about cattle and corn producers and their families who are trying to make a living.

I do not know how we can expect the American cattleman to continue to produce or to expand his production as long as they are forced to accept this type of action from any Administration.

Everytime the farmer starts to make a profit, the government interfers. We talk about the free enterprise system . . .

We talk about letting farmers make it on their own . . .

We talk about getting the government out of agriculture . . .

We talk about an adequate supply of meat at reasonable prices . . .

We talk about letting the farmer get his income from the marketplace . . . and then when the cattle producers, for the first time in a number of years, start to make a profit, the government increases meat imports.

CORN SWEETNERS

Perhaps all corn farmers may not fully appreciate the stake you have in some legislative issues, such as the continuing struggle over sugar price supports. Yet, a substantial share of your market, and the prices you get for all your corn, are directly involved.

You need all the cash markets you can get, at home or abroad. Corn sweetners are gaining increasing acceptance in the food and beverage industry.

Already about ten percent of your cash corn crop goes to the corn refineries, primarily to produce sweetners. Gains or losses in that market affect the price of all your corn.

U.S.D.A. economists estimate that for every 100 million bushels of add disappearance or use, the value of the corn crop goes up 7 cents per bushel.

With about 400 million bushels going into the refineries this marketing year, that meant from 25 cents to 30 cents per bushel in added corn crop value.

To put it into proper perspective, this is about the same amount as the Soviet corn purchases from the United States, and you know what that has meant pricewise.

CORN GROWERS SHOULD BE CONCERNED

Corn Growers should be concerned, particularly when the Administration persists in trying to push through sugar policies deliberately intended to discriminate against corn.

SUGAR PROGRAM COSTS CORN GROWERS

The sugar program of the Carter Administration has cost the American corn grower about $160 million during the past several months.

In the current marketing year corn prices could have been about 4 cents a bushel higher if the Carter Administration had not mishandled the sugar program.

The record sugar imports in 1977 prevented the use of about 60 million bushels of corn at refineries. A million tons of imported sugar was used instead. The cash income of corn growers was reduced by about $160 million.

The Administration seems to either forget you corn producers are involved, or don't care as much about you as they do industrial users of sugar.

The Administration consistently subsidizes them by allowing a huge flood of imported sugar selling below the cost of production—at your expense. as well as the expense of your fellow U.S. farmers producing sugar beets and sugar cane.

INTENT OF CONGRESS IGNORED

The Administration has ignored the clear intent of Congress. Rather than imposing import fees, the administration made payment of about $200 million. Rather than collecting hundreds of millions in import fees and preserving the economic relationships of corn with beets and cane, the administration persisted in these payments—with devastating effects on the budget deficit.

It was because of these defiant actions that the corn industry very rightly called on the federal courts to compel implementation of the law as Congress intended. Many of us in the Congress joined in that effort, filing support briefs with the court.

Every move the administration has to take on sugar is directly opposed to the interests of corn growers—including its recommendations for new legislation again seeking payments to cane and beet processors contrary to the expressed will of Congress.

The Congress must re-establish its authority, and insist that its legislative intent is implemented. We need and welcome your support in doing so. The National Corn Growers were effective in Congress during the last year.

At this very moment, the administration is delaying the imposition of a higher import fee to give the sugar users a chance to get some cheap imported sugar under contract.

Nevertheless, consumer prices for sugar products rise to record levels. Neither the consumer nor the farmer is benefiting from this cheap, under cost of production sugar.

Fortunately, your national corn growers association was alert to the interests of corn growers, and worked closely with those of us in Congress seeking a better sugar program fair to corn growers, beet growers, cane growers, and consumers alike.

I commend you for your vigorous stand over the past year. I hope it will continue.

In summary, the following point needs to be emphasized. In the current marketing year, your corn prices could have been about 4 cents a bushel higher if the Carter administration had not mishandled the sugar program. The record sugar imports in 1977 prevented the use of about 60 million bushels of corn at refineries. A million tons of imported sugar was used instead. Your cash income was reduced by about $160 million.

MIRACLE OF AGRICULTURE

The family farm is an essential part of America, but it's a tough and risky business as you and I know all too well.

But as in any business, farmers must earn a profit. Just as any segment of our society, farmers want to provide a better life for their families and education for their children.

The miracle of American agriculture is that we are feeding an ever-increasing number of the world's people with an ever-decreasing number of producers. And that is our goal—yours and mine—to provide the right conditions and the right programs so that our farmers—large and small—can continue their production miracle.●

## OPPOSITION TO POSSIBLE CLOSURE OF PARRIS ISLAND MARINE CORPS RECRUIT DEPOT

● Mr. HOLLINGS. Mr. President, the citizens of Beaufort County, S.C., and surrounding areas were alarmed recently when the Navy Department announced that the Marine Corps was studying the possible closure of its recruit training depot at Parris Island.

That alarm is understandable. Parris Island, according to experts who have looked into the situation, provide nearly 50 percent of the total personal income of the Beaufort area. It is the major industry of the community. Any decision to close this base would have a disastrous effect on Beaufort.

But the alarm goes further than a purely economic concern. Mr. Barry L. Johnson, the president of the Beaufort Council of the Navy League, and Mr. Leroy H. Keyserling, national vice president of the Navy League, wrote to me recently concerning Parris Island, and they said, and I quote:

Over the years, we have been closely associated with Parris Island, and we know that in many ways it is Parris Island that makes Marines. Parris Island is more than a tradition to the Marine Corps; it is the Marine Corps.

They were expressing a concern for the future mission of the Marines and the effectiveness of the Marine Corps as an elite fighting force, and that expression goes much deeper than alarm over the local economy.

Members of the South Carolina congressional delegation, along with Mayor Henry Chambers of Beaufort, and Mr. Keyserling, met last week with Secretary of Defense Brown and Navy Secretary Claytor to discuss the Parris Island situation. Mr. Claytor said the study focused on arriving at the most cost-efficient training operation possible for the Marine Corps. He further pointed out that the most efficient operation possible might be a consolidation of basic train-

ing at Parris Island. I hope that is the decision, because I think Parris Island has proved its value over the years. And I hope the Navy Department can speed a decision so that the economic activity in the Beaufort area can begin moving again.

Mr. President, I ask at this time to have printed in the RECORD the letter on Parris Island from Mr. Johnson and Mr. Keyserling and, additionally, a copy of a resolution approved by the county council of Beaufort County opposing the possible closure of Parris Island.

The letter follows:

NAVY LEAGUE OF THE UNITED STATES,
*Washington, D.C., July 14, 1978.*

Hon. ERNEST F. HOLLINGS,
*U.S. Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR HOLLINGS: The Beaufort Council, Navy League of the U.S., is most distressed over the news that consideration is being given to closing or reducing Parris Island Marine Corps Recruit Training Depot. The Beaufort Council of the Navy League has the highest membership of any Navy League organization, on a pro-rata basis, based on the population area available for us to serve. Our 221 members earnestly cppose the closing or reducing of Parris Island.

Our opposition to the closing or reducing of Parris Island is based upon our assessment of the needs of the Marine Corps, the needs of the Beaufort community, and the needs of our country.

Over the years, we have been closely associated with Parris Island and we know that in many ways it is Parris Island that makes Marines. Parris Island is more than a tradition to the Marine Corps; it is the Marine Corps. We understand that most of the Marine Corps Recruits come from east of the Mississippi, and a large percentage therefrom come from the American South and it is only logical to continue operating Parris Island which is the only Marine Corps Recruit Depot on the east coast. We believe this is the most efficient, logical and reasonable way to operate Marine Corps recruit training requirements, even if it means consolidation of west coast facilities and/or reduction of same.

Locally, the Parris Island operation, and its effects, have tremendous impact in all areas of our community's life. Most fundamentally and importantly, it appears that the annual payroll of the U.S. Marine Corps Recruit Training Depot at Parris Island provides 47.5% of the total personal income of Beaufort. Alteration of this factor, by closing or reducing Parris Island, would have an unspeakably disasterous effect on this county, and this area of South Carolina.

As you well remember, several years ago, through your efforts, national attention was spotlighted on this part of S.C. because of its economic needs and the resultant unfilled social and humanitarian needs. Not the least of the disastrous effects would be on our University of South Carolina branch, here, and our public schools, due to military students and federal impacted area funds. This would have a chilling, if not crippling, effect on job and educational opportunities for minority and underprivileged children and adults. The programs initiated here and in nearby counties under your leadership and guidance would be greatly diminished in effect, upon any closing or reduction of Parris Island, with tremendous increases in welfare and public assistance applications as a likely result. The greatest negative effect here would be upon those who, probably, could least afford it. Most of our retirees have retirement incomes; the employees and persons directly affected by the Parris Island payroll are not yet similarly situated—they need that work-related income. To permit the closing or reduction of Parris Island, if for no other reason than simply the economic impact, would take us backward, locally, in the ability of local government and the local economy to provide a favorable climate in which people might live, work and have jobs.

With respect to the needs of our country, we believe that there is no area in the United States, and probably not in the world, where there is a more understanding and cooperative, warm and close relationship between the American defense establishment, as here represented by the U.S. Marines, and the civilian community. Indeed, our Beaufort Council of the Navy League has been instrumental in fostering, nurturing and assuring the fullness of this relationship. Our national defense effort requires this type of citizen's support for its efficiency and its strength. To close or reduce Parris Island is to sever those ties and thus destroy the circumstance which provides this great community support for Parris Island.

Your efforts will be more than appreciated by your many friends in this area, and all of us will be forever in your debt.

We urge and encourage you to study this matter carefully; weigh the factors relating to our national defense, our national economy, our local economy and upon your full reflection upon these matters, we rest quite assured that you will strongly oppose the closing or reducing of Parris Island.

With warm, personal regards, I am

Most sincerely,

BARRY L. JOHNSON,
*President, Beaufort Council of the Navy League of the U.S.*

LEROY H. KEYSERLING,
*National Vice President, Navy League of the U.S. and Chairman, Marine Corps Affairs, Beaufort Council, Navy League of the U.S.*

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RESOLUTION OPPOSING THE CLOSING OF THE MARINE CORPS RECRUIT DEPOT

Whereas, the County Council of Beaufort County realizes the major contribution made by the Parris Island Marine Corps Recruit Depot to the citizens of our County; and

Whereas, the number of persons directly involved in the closing of this facility would be 10,494 military, civilian, and their dependents which would represent a 16.9% loss in population for the entire County due to the relocation of these employees; and

Whereas, the closing of this facility would cause a vacating of some 2,276 housing units, both rental and owner occupied; and

Whereas, this closing would affect the many retired families living in Beaufort County who rely on the military facilities which influence their decision to retire here; and

Therefore, be it resolved, that the County Council of Beaufort County on this 22nd day of May 1978, does hereby voice their opposition to the closing of the Parris Island Marine Corps Recruit Depot and offers support in maintaining this recruit depot in Beaufort County.

County Council of Beaufort County,
ARTHUR HORNE,
*Chairman.*●

## GSA ADMINISTRATOR DESERVES SUPPORT

● Mr. METZENBAUM. Mr. President, it has long been an axiom in business and in government that the man at the top must have the freedom of action to operate his company or department. This is especially true at a time of crisis.

At the moment, the General Services Administration is under siege with charges of corruption, mismanagement, and malfeasance. The indications are that these conditions have existed and festered over a long period of time.

Last year, the new Administrator of the General Services Administration, Jay Solomon, took over his job with full knowledge of the poor image his agency had.

As press reports began to show the magnitude of the problem, he took the first step by appointing a special counsel to conduct an investigation.

Since then he has taken strong stands to discipline GSA employees who have not only damaged the agency, but the entire Federal Government by their actions.

I have extreme confidence in Mr. Solomon and am certain he will continue to work to see that all the facts come out and that corruption and waste are eliminated in GSA.

To do this, he needs and deserves the total support of the administration and the Congress.

Mr. President, I take this occasion to offer my full support to Mr. Solomon and urge my colleagues to do the same.●

## THE DANGERS OF A PERMISSIVE SOCIETY

● Mrs. ALLEN. Mr. President, Mr. G. V. Timmons, an 86-year-old retired high school teacher from Carrollton, Ala., recently sent me an article, "Riding Hood Today." This article was printed in the July 6, 1978, edition of the Pickens County Herald and West Alabamian, a fine weekly newspaper published in Carrollton by E. V. Junkin.

This article, whose author is unknown, cleverly parodies one of the tragic problems which faces our country today. I ask that this article be printed in the RECORD.

The article follows:

RIDING HOOD TODAY

"Tell me a story, daddy! Tell me a story."

"Once upon a time, in a faraway country, there lived a little girl called Red Riding Hood. One day her mother asked her to take a basket of fruit to her grandmother, who had been ill and lived alone in a cottage in the forest.

"It happened that a wolf was lurking in the bushes and overheard the conversation. He decided to take a shortcut to the grandmother's house and get the goodies for himself. The wolf killed the grandmother, then dressed in her nightgown and jumped into bed to await the little girl.

"When she arrived, he made several nasty suggestions and then tried to grab her. But by that time the child was very frightened and ran screaming from the cottage. A woodcutter, working nearby, heard her cries and rushed to the rescue. He killed the wolf with his ax, thereby saving Red Riding Hood's life. All the townspeople hurried to the scene and proclaimed the woodcutter a hero. But at the inquest, several facts emerged: (1) The wolf had never been advised of his rights. (2) The woodcutter had made no warning swings before striking the fatal blow. (3) The Civil Liberties Union stressed the point that although the act of eating Grandma may have been in bad taste, the wolf was only 'doing his thing' and thus didn't deserve the death penalty. (4) The SDS contended that the killing of the grandmother should be considered self-defense since she was over 30 and, therefore, couldn't be taken seriously

because the wolf was trying to make love, not war.

"On the basis of these considerations, it was decided there was no valid basis for charges against the wolf. Moreover, the woodcutter was indicted for unaggravated assault with a deadly weapon. Several nights later, the woodcutter's cottage was burned to the ground. One year from the date of 'The incident at Grandma's' her cottage was made a shrine for the wolf who had bled and died there. All the village officials spoke at the dedication, but it was Red Riding Hood who gave the most touching tribute.

"She said that, while she had been selfishly grateful for the woodcutter's intervention, she realized in retrospect that he had overreacted. As she knelt and placed a wreath in honor of the brave wolf, there wasn't a dry eye in the whole forest.

"They named two bridges, one school, and a street for the wolf. Two denominations gave huge funds in his memory to reconcile all other wolves."●

## UNITED STATES-MEXICAN RELATIONS

● Mr. KENNEDY. Mr. President, one of the more crucial aspects of our Nation's foreign policy—and an issue that involves our national interests as much, and perhaps more than any other foreign policy question—is the issue of United States-Mexican relations.

The ties between our two countries are strong and friendly, as are the ties that bind our two countries together. But the problems we share are also growing, and many issues between us will be contentious and difficult to handle under the best of conditions—from economic problems, migration issues, to differing political views.

Recently, Alan Riding, the New York Times correspondent in Mexico City, wrote an extraordinarily thoughtful piece on United States-Mexican relations—reviewing some of the problems we confront together and some of the issues we in the United States must face more directly and with a greater sense of urgency and priority.

I commend to the attention of Senators Mr. Riding's article in the Saturday Review, and ask that it be printed in the RECORD.

The article follows:

[From The Saturday Review, July 8, 1978.]

SILENT INVASION: WHY MEXICO IS AN AMERICAN PROBLEM

(By Alan Riding)

There was a time when the United States border with Mexico marked a clear line between the wealth, organization, and artificial flavorings of the north and the poverty, improvisation, and pungent spices of the south. Today that line is blurred. The United States has become an accepted presence in northern Mexico while Mexico has thrust cultural economic, and even political fists deep into the soft underbelly of the United States. In fact, Mexico is increasingly determining the mood and mores of the American Southwest and beyond.

The signs are everywhere: in the crowded American border cities, where unemployed Mexican boys strike in lightning raids, assaulting individuals, homes, and businesses; on Texas farms, where poor Mexican peasants provide cheap labor; in Arizona department stores, where rich Mexicans are the main clients; as far north as Chicago, where Mexicans run the drug underworld; and as far east as New York, where the major Mexican television newscast is broadcast nightly.

Mexico already is an American problem. But the cause of the problem is that Mexico itself is in deep trouble. The single party that has ruled the country for almost 50 years is now struggling to maintain its own and the nation's stability. The economic development that brought such a concentration of wealth during the postwar era is no longer functioning. Unemployment is so widespread that each year millions of Mexicans must cross illegally into the United States to work on farms as underpaid stoop laborers. Rural poverty remains endemic as urban slums swell. Even Mexico's new oil wealth offers little hope for a transformation of society. Solutions are being found arithmetically; problems are growing geometrically.

But to the United States, called upon to feed and finance much of the Third World, Mexico's problems still seem as distant as those of Brazil, Indonesia, or any other large backward nation. Washington does its bit to help them all, but it really feels that if only these countries could control their birthrate, their corruption, and their infantile nationalism, they would be much better off. And so the argument has run that if they don't want to help themselves, well, eventually, it's *their* problem and *their* poverty.

This has been the case with Mexico. Having seized half of Mexico's territory in 1848 and having intervened sporadically in the country for the next 70 years, the United States has been blessed with having a strong government south of the Rio Grande for much of the past half century. The contradiction of the world's richest nation sharing a 2,000-mile border with a traditionally violent and deeply impoverished country was suspended. Worrying successively about the Soviet Union, Nazi Germany, Japan, China, Korea, Vietnam, the Middle East, and southern Africa, Washington took Mexico for granted. So when political and economic instability began to surface there in 1976, it was treated like any other distant problem: given passing attention and then as the immediate crisis abated, forgotten.

The Carter administration has proved to be no more perceptive about Mexico—and perhaps even less so—than its predecessors were. Taking office at almost the same time, Jimmy Carter and Mexico's president José López Portillo decided to patch up the relations that were strained between 1973 and 1976 by then-president Luis Echeverría's Third World militancy. But Carter has acted only in a personal way, sending Rosalynn Carter to Mexico City for López Portillo's inauguration, on December 1, 1976, and to the Texas border last November to meet with Mrs. López Portillo; receiving the Mexican president last year as his first foreign guest; and sending Vice-President Walter Mondale down to Mexico City this past January, presumably to celebrate the new amigo ties. But even as diplomats and politicians feted the new rapprochement, Washington adopted policies certain to upset Mexico, and nation-to-nation relations deteriorated.

To be fair, the United States has treated Mexico as it might treat any other nation. And therein lies the problem. Struggling with a huge trade deficit, the United States has responded to Mexican complaints about American protectionism by pointing out that Mexico's tariff barriers are even higher. Trying to control inflation and to implement a sound energy policy, Washington has argued that it cannot pay more for Mexican-supplied natural gas than for domestic or Canadian. And with six million Americans out of work, the Carter administration has been pressured by the AFL–CIO to clamp down on the illegal immigration of impoverished, unemployed Mexicans. But while these policies are logical, they are not farsighted. It is in American interest to treat Mexico as a special case because the short-term cost of such a policy will be minimal compared with the long-term price of allowing the pressures of poverty and violence to continue building there.

The issue can be posed in three questions: Can the United States afford to stand by idly as Mexico's population doubles to 130 million by the year 2000 and the nation's precarious economic and political structures buckle under the strain? Can the United States expect to be unaffected if serious unrest breaks out so near to home? Can the United States continue to pretend that Mexico is not a crucial problem?

The Carter administration appears to see no problems ahead. Last August, without even consulting Mexico, it announced its immigration plan in the same chauvinistic tone that it might use to reveal any other domestic initiative. The bill, being taken up by Congress this summer, aims to reduce illegal immigration—85 percent of it comes from Mexico—by strengthening the U.S. Border Patrol and by penalizing American employers of undocumented aliens. As a concession, the bill would grant legal status to immigrants who can show that they have resided in the United States since before January 1, 1970. (Few Mexicans would benefit. Studies show that the majority come over on a seasonal basis or for only a couple of years at most.) Finally, for those who can show that they arrived before January 1, 1977, the bill contemplates a provisional status that would allow them to remain for a five-year trial period during which they would be expected to pay social security and other taxes but could not benefit from welfare. Naturally liberals object to the creation of second-class citizens—it may well be unconstitutional anyway—while many conservatives feel that the legalization of immigrants who are already established in the country is unnecessary. As a result, Mexico faces the prospect of a carrot-and-stick U.S. immigration law from which the carrot will have been removed by Congress.

But what impact will the stick have? First, the chances are that it won't succeed in stopping the flow of Mexicans to the north. So long as menial jobs are available in the United States—particularly on a seasonal basis on the farms of the Southwest—and unemployed peasants exist in Mexico, natural economic forces will bring supply and demand together. And with many Americans, including blacks, unwilling to become farm laborers even when they are jobless and with peasant unemployment growing in Mexico, the demand and the supply will exist indefinitely. The only way to stop the supply would be to militarize the 2,000-mile border, hardly an appealing prospect for a nation built up by immigrants who came in search of freedom and prosperity.

But, one could reasonably ask, could not the stick force Mexico to start to resolve its own problems? After all, the country's 25 million peasants have long been ignored by their various governments. Mexico also has one of the worst records in Latin America of corruption and the concentration of wealth. Action in these areas would not be amiss. Additionally, Mexico has a significant industrial sector, and its new oil and natural gas wealth should provide financing for further development. And if through the stick increased unemployment and unrest resulted in greater political pressure for change, would that be altogether bad? Perhaps not, but other factors complicate the picture.

Mexico's relative political stability rests on a bizarre coalition of political and economic forces that could break up if sudden change were promoted. Many of former president Echeverría's problems—not the least of which was the flight of capital that provoked the first devaluation of the peso in 22 years—came about because he denied domestic and foreign private-sector leaders and old-time political bosses immediate access to power.

The López Portillo administration has therefore been forced to rebuild this ruling coalition by wooing back those groups that had become dangerously alienated. And in doing so, it has once again emphasized political stability over social reform.

But the Catch-22 is that by choosing to have stability now, Mexico may be planting the seeds of future instability. Stability now means the preservation of an economic system that benefits one quarter of the population at most. Sustaining the status quo is a relatively small but growing middle class—comprising members of organized labor and the government bureaucracy—that is fully employed and that serves to extend the market for consumer goods. The rising expectations of this middle class make it press for its own economic demands to be met, but the group itself is an obstacle to any deep social reform.

Outside this 20 percent of the population that controls 70 percent of Mexico's wealth, living conditions are grim. Unemployment and underemployment affect over half of the 18-million-strong work force. Many others find work only for a few days a week or, in the countryside, for three months a year. Despite the postrevolutionary land reform, at least four million adult peasants are today without land, forced to follow the seasonal harvests in Mexico and the United States. Many peasants choose instead to migrate to Mexico's urban areas, where the unceasing influx has spawned huge slums that lack running water and minimal sanitation and that are known poignantly as "lost cities." This uncontrolled urbanization has made Mexico City the world's largest poor city. As a result, it is burdened by the inevitable symptoms of poverty: a population growth rate of 3.2 percent per year despite a new birth control program, malnutrition affecting 60 percent of adults and 80 percent of children under five, inadequate housing for 75 percent of the population, a functional illiteracy rate of 60 percent for adults, and a high infant mortality rate due to poor hygiene.

In this dark panorama, illegal immigration to the United States offers a ray of hope. For the government, it is an escape valve that each year removes at least one million people from the ranks of the unemployed. For individuals, it is a chance to earn good money for a few months or perhaps even to find a permanent job in an American city. For the families of those who migrate, it means at least survival and could provide the extra money needed to buy their children school uniforms or textbooks. And for the Mexican economy, it implies an injection of $2 billion to $3 billion sent home by the illegal workers.

The Carter administration has promised that there will be no mass roundups or deportations of undocumented Mexicans, but the real issue is whether or not the escape valve will be closed off in the future. Over the past three years, many workers in Mexico have been laid off because of the country's economic crisis, but every year, 800,000 new Mexicans have joined the job market for the first time. In order for unemployment to stabilize by the mid-1980s, more than one million new jobs must be created each year, yet senior Mexican government officials recognize that their target of even 150,000 new jobs a year is ambitious. So without the escape valve, unemployment and chaotic urbanization will accelerate, and social unrest will inevitably follow. And, significantly, those Mexicans who have the drive and ambition to risk going north of the border will become a new factor of political unrest, while those who were exposed to life in the United States will hardly be satisfied with their lot at home.

From a U.S. point of view, the fate of illegal immigration is only one of several variables because even if the immigration continues, Mexico cannot hope to solve its social crisis in the coming years. Mexico's oil wealth, being channeled into vast refinery and petrochemical projects, will create few jobs and at best will merely provide funds to subsidize supplementary food and basic welfare for the under- and unemployed. The rural sector, long the Achilles' heel of the economy, cannot aspire to efficiency unless it expels half its population, but then the cities will suffer further. In politics, the long-ruling Institutional Revoluntionary party (PRI) is still firmly in control of the government, but the absence of an equally institutionalized opposition is leading popular discontent and frustration to adopt more chaotic and violent forms of expression. The López Portillo administration is aware of the trend and is encouraging new political parties to grow in the shadow of the PRI. But if urban and rural violence grow, greater repression will become inevitable, creating an even more explosive situation.

What then can the United States do about Mexico? How can the United States minimize the problems that are being exported by its neighbor? Clearly, moralizing about the inequities and corruption of Mexico does not help. Taking Mexico as it is, what can be done?

Whenever a wave of concern about developments in Mexico sweeps Washington, it provokes talk of a "Marshall Plan" for the country. At first sight, the idea is appealing. But the nature of the challenge is very different: In Europe, Washington helped to rebuild sophisticated societies that had been shattered by a single event; in Mexico, it would have to develop something from nothing and to go against the trends of international economic relations to do it. Additionally, Europe was ready to receive American help, while Mexico's nationalistic pride has always led it to reject American aid.

Different schemes are nevertheless being mooted. Congressman Henry Gonzalez, sensitive to the influence of Mexico in his home state of Texas, has proposed the idea of a $2 billion joint fund to stimulate the development of those regions of Mexico that "export" the most illegal aliens to the United States. But Mexico already has a $30 billion foreign debt and an $80 billion gross national product, so another $2 billion would hardly be felt. On the other hand, former CIA director William E. Colby is one of the few public figures who seem to recognize that unless solutions are found to Mexico's crisis, "social tensions between the Spanish- and English-speaking communities [in the United States] will produce violence, misery, and turmoil." His proposals though seem less than practical. In a recent article in *Worldview* magazine, Colby suggested a U.S.-financed food stamp program aimed at the poor of Mexico, Central America, and the Caribbean. Individuals would spend the food stamps in the marketplace, and those same stamps would then be used as currency to purchase further imports of surplus American food. But apart from the inevitable danger of abuse and corruption, such a program would discourage local production of staple foods and stimulate a switch to more lucrative export crops, which would result in huge profits for rich farmers and in the need to provide even more welfare for the poor. More important, the program would not be a strong enough magnet to keep Mexicans from immigrating to the United States.

Clearly, there are no simple measures that the United States can adopt; but as a first step in demonstrating a degree of understanding and in instituting new measures, the Carter administration should withdraw its immigration proposals. Even if they are never adopted, discussion of them will create a psychological barrier to more realistic solutions to the Mexican problem. In the short run in fact, the government should allow the forces of supply and demand to control the ebb and flow of Mexicans across the border. In the long run, the government could institutionalize this flow by signing a seasonal workers accord with Mexico similar to the so-called Bracero Agreement that operated until stopped by Congress, in 1964. The accord would meet the labor demands of farmers in the Southwest and would ensure that the workers return to Mexico once the season was over. Not surprisingly, this is a solution favored by Secretary of Agriculture Bob Bergland, who is fully aware that unemployed Americans are not willing to do stoop labor. But Congress will take more persuading. The AFL-CIO is strongly opposed to a new Bracero Agreement, but it must be convinced that its interests will be harmed more by the continuation of illegal immigration. Organized labor must also learn to separate the threat from the cheap labor in, say, Taiwan or Brazil from the more complex Mexican issue.

President López Portillo has frequently stated that he prefers Mexico to export products rather than people to the United States. But to do so, Mexico requires a special trade deal with the United States. At present, Mexico benefits from the generalized system of trade preference, and it recently signed a bilateral agreement with Washington that eliminated tariffs on $64 million worth of its agricultural products and on $32 million worth of U.S. exports. But many Mexican exports to the United States are in practice blocked by such nontariff barriers as quotas and frequently specious quality controls on such products as tomatoes, strawberries, and winter vegetables Congress is opposed to granting Mexico specialized trade preferences, but it would be an act of great vision if it were to do so.

On a less ambitious scale, Mexico would like to extend the current system of labor-intensive border assembly plants to the more depressed regions of the country. Under this system, raw materials are imported from the United States, assembled in Mexico, and reexported to the United States, with duty paid only on the value added. But while this scheme succeeded in launching industry in Puerto Rico, the AFL-CIO is campaigning for the relevent U.S. tariff provisions to be revoked because American firms are running away to cheaper labor in Mexico. Extending the system beyond the border area, where some 40,000 jobs are currently provided to Mexicans, will therefore depend on a more understanding attitude by Congress. The idea is attractive to Mexico because it would enable new industries to take off in nonindustrial areas. These industries would then gradually use more Mexican raw materials and, hopefully, eventually be able to compete at home and abroad.

One irony is that while the United States should act on these questions for purely selfish reasons, Mexico has something to offer as evidence of the two countries' growing interdependence. After Saudi Arabia, Mexico probably has the world's largest oil reserves, and while production is now only 1.25 million barrels per day (bd), oil exports will reach 574,000 bd by the end of this year and 1.2 million bd by 1980. With proven reserves of 17 billion barrels and probable reserves of between 60 billion and 100 billion barrels, Mexico can assure the United States a secure supply of oil for the rest of this century. But because the United States continues to pressure rather than to aid the Mexican economy, the Lopez Portillo administration is seeking new markets for the country's oil in order to

avoid excessive dependence on United States purchases. Extraordinarily, at the same time as it is turning a blind eye to Mexico's social crisis, Washington is also failing to recognize the importance of the country's oil and natural gas. The two attitudes are related and unrelated. If Mexico is treated as a special case as far as immigration, trade, and investment are concerned, the United States can feel secure about its oil. But if Mexico continues to be treated as if it were any other distant developing nation, no amount of oil wealth will prevent its social and political problems from spilling over into the United States.●

## PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on July 27, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., July 27, 1978.*

In reply refer to: I-6890/78ct.

Dr. HANS BINNENDIJK,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*●

## EXTENDING THE ARMS SALES REVIEW PERIOD

● Mr. CULVER. Mr. President, S. 3075, the International Security Assistance Act of 1978, which was approved by the Senate on July 26, contains an important change in the congressional review procedures for foreign military sales. Section 24 of the act permits an additional period of 30 days for Congress to consider arms sales notifications submitted under section 36(b) of the Arms Export Control Act if a two-thirds vote of the Senate Foreign Relations Committee or of the House International Relations Committee requests a one-time extension of the initial 30-day review period.

One year ago today, President Carter was forced to withdraw his first proposal for selling AWACS aircraft to Iran because congressional concerns could not be satisfied within the 30-day deadline. It was clear that this short period was inadequate for Congress to evaluate and act on difficult arms sales issues, which can involve assessment of highly sophisticated technology and regional military balances as well as complex foreign policy judgments. Moreover, the AWACS episode demonstrated the great difficulty for the Congress of completing action by two or more subcommittees, two committees, and both Houses in 30 calendar days. If the legislative review provisions for foreign military sales is to be a responsible and effective exercise, we must not be forced to accept or reject an arms sale because of the clock.

After the Iranian AWACS experience, I suggested that there should be a legal mechanism to extend when necessary the arms sales review period for an additional 30 days. This is an appropriate formula that allows prompt consummation of noncontroversial sales while providing more time for thorough congressional consideration and action on objectionable sales proposals.

I want to commend the Senate Foreign Relations Committee for adopting a similar provision in the International Security Assistance Act of 1978, and urge the House of Representatives to do likewise. The extension procedure would contribute significantly to the ability of the Congress to responsibly review U.S. foreign military sales programs.●

## THE LATE REVEREND ELDEN G. BUCKLIN

● Mr. LEAHY. Mr. President, I am sure that each of our lives have been touched by one individual who has left us a better person and enabled us to have a better understanding of ourselves and increased love for and appreciation of our fellow man. In the case of many of my fellow Vermonters, such a man was the late Reverend Elden G. Bucklin of Putney, Vt.

In terms of time, dedication, unselfishness and devotion to love of God and His work, Reverend Bucklin was akin to the early "circuit riders" who traveled through our early history by horseback, thinking little of their own needs, but giving unsparingly of their time and love to the families of the early frontier.

The "Parson," as he was known throughout Vermont, had a humble beginning which molded his character for the life to which he was called. Left without parents at an early age, he worked 12 hours a day in a drug store, his meals consisting of snacks at the drug counter, making just enough money to pay his rent on the small one room which was his home. He later was befriended by the parents of a fellow worker who took him in as a foster son. His adopted family was responsible for the "Parson" attending college, studying for the ministry. He further aided his tuition, in respect for the work ethic, by washing pots and pans in a campus restaurant.

The "Parson" never forgot the lessons of love that he learned from the hardships of his youth. During the 50 years he served as an ordained minister in six separate churches he always found time to share his life with the youth of today. In the last 42 years of his ministry he devoted many hours counseling the youth groups of his churches, attending Grange youth camps, giving inspirational sermonettes, teaching and having just plain fun. In addition to his work with the Grange youth, he shared his zest for life and love of youth as a Boy Scout leader in his native State of Rhode Island as well as in Vermont.

The "Parson" touched many lives, in his churches, Boy Scouts, senior citizens, Odd Fellows and especially the Vermont State Grange and Rhode Island State Grange, where he served as State chaplain. Elected to the office in Rhode Island in 1926, he served until 1948 when he accepted the call to the United Church in Colchester, Vt. Shortly thereafter he was elected to the office of chaplain of the Vermont State Grange, serving until his calling in 1976.

One of the "Parson's" many acts of being about his Father's business was a few year ago when he sat up for 3 weeks with a young child who was dying of sleeping sickness. The "Parson" was not one to shirk his other pastoral duties but added this vigil of love and comfort as an outward expression of his understanding of the mysteries of life and death.

Death came to the "Parson" on March 16, 1976, while he was still serving members of the Federated Church as Putney, Vt.

The Vermont State Grange honored "Parson" on Sunday, July 9, 1978, by dedicating the Bucklin Memorial Chapel, located on a wooded Vermont hillside next to the grange center at Brookfield, Vt.

We in Vermont have been honored to share this wonderful man's life of service with our sister State of Rhode Island and I would like to share with all my colleagues the life of this dedicated servant of our Maker.

"PARSON"

Rev. Elden G. Bucklin was born in Pawtucket, Rhode Island on February 13, 1903. In 1925 he opened a church in Arcadia, Rhode Island, which had been closed for some time. He was ordained as a minister of the gospel in 1926. During the 50 years of his ministry, he served 6 churches:

Arcadia Baptist Church, Arcadia, R.I., 1925–1926; Chepachet Union Church, Chepa-

chet, R.I., 1926–1948; North Foster, R.I. Church and Hopkins Mills Union Church, 1928–1948; United Church, Colchester, Vt. 1948–1968; and Federated Church, Putney, Vt., 1968–1976.

Called to his heavenly home March 16, 1976.

He served as Chaplain of the Rhode Island State Grange from 1926 to 1948 and of the Vermont State Grange from 1948 to 1976. He served for 17 years as Grand Chaplain of the Grand Lodge-Odd Fellows of Vermont and as Sovereign Grand Chaplain of the World Odd Fellows. He enjoyed the distinction of serving as Grange State Chaplain of both Rhode Island and Vermont for 2 months during his transition to Vermont. He attended and held classes at all the Vermont State Grange youth camps since their inception.

During his ministry, he received many honors among which being named the Baptist Minister of the Year in 1976 by the Vermont Baptist State Convention and a citation for distinguished service from the Rhode Island Baptist State Convention. In 1940 he was the recipient of the Rosa Hall Award for distinguished service to town and country churches awarded by the Baptist Home Mission Society.

He was married to Beatrice F. Keach on June 27, 1927. They were blessed with one son, Elden G. Bucklin, Jr., and three grandchildren.

"How Great Thou Art."

I talked with my good friend, John Scott, the master of the National Grange while he was returning from the dedication of the Bucklin Memorial Chapel. I mention this because of the high regard we Vermonters have for Mr. Scott and because it was so fitting he would be present at the dedication.

I was not privileged to know "Parson" intimately but because my life has been touched by one quite similar, I feel him as an intimate friend and I am sure you will, too. Thank you, Mr. President, for allowing us this time to share in the life of a great Vermonter, the Reverend Elden G. Bucklin.●

## ANNOUNCEMENT OF POSITION ON AMENDMENT NO. 3248 TO HOUSING AND COMMUNITY DEVELOPMENT BILL

Mr. PELL. Mr. President, last Thursday morning, July 20, 1978, the Senate considered an amendment, numbered 3248 to the Housing and Community Development bill (S. 3084). Due to the traffic jam caused by the Metro transit strike in the District of Columbia, I was unavoidably delayed arriving at the Senate, and reached the Senate Chamber just as the 15-minute rollcall expired. Had I been present, I would have voted against the amendment, which I believe alters the original intention of the urban development action grant program in such a way as to channel Federal funds away from the economically declining cities in the Northeast and Midwest "UDAG" was designed to help.

## GSA MAY BE WASTING MILLIONS BY FAILING TO REQUIRE COMPETITIVE BIDDING

Mr. PERCY. Mr. President, the General Services Administration is known as the Federal Government's housekeeper. It arranges for the construction of Federal buildings and provides for their maintenance as well as security.

This is a vast responsibility and involves the expenditure of millions of dollars in taxpayer money each year.

Unfortunately, as a General Accounting Office report on GSA contracting procedures reveals, the GSA does not appear to be awarding construction and repair contracts with the degree of care necessary to insure that the Government is not overcharged for the work provided.

I asked the Comptroller General to evaluate how effectively GSA was observing Federal contracting procedures which require, except for unusual circumstances, competitive bidding on all contracts. Unfortunately, GAO found:

There appears to be too high a proportion of negotiated contracts, overly liberal interpretations of public exigency to justify negotiation, and little or no competition for any advertised and negotiated awards.

The GAO study found that GSA preferred to award, without the required competitive bidding, 13.4 percent of repair and alteration contracts valued at $10,000 or more, and to award without competitive bidding 12.7 percent of new construction valued at $10,000 or above.

In many cases, GSA excused the bypassing of competitive bids procedures by claiming the award of the contract was a "public exigency." However, the GAO found that many of these claimed public exigencies were nonexistent.

Clearly, the GAO report leaves the impression that GSA is playing favorites, rather than trying to get the best job done for the least amount of money to the American taxpayer.

Mr. President, I ask that the GAO report to me on the GSA contract award procedures be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
*Washington, D.C., July 6, 1978.*

Hon. CHARLES H. PERCY,
*Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.*

DEAR SENATOR PERCY: In response to your letter of February 17, 1977, requesting that we review certain management practices of the General Services Administration (GSA), we reported the results of our review of Construction Management Division activities in the Boston Region (LCD–78–304, Jan. 17, 1978). As agreed with your representative, your requested nationwide statistical profile, modified to show GSA's use of advertised and negotiated contracts for new construction and major repairs and alterations, would be the subject of a later report.

On May 24, 1978, we orally reported the results of our data gathering and analyses to your representatives. The statistical inferences indicate that restricted competition may preclude assurance that awards are made at reasonable prices. There appears to be too high a proportion of negotiated contracts, overly liberal interpretations of public exigency to justify negotiation, and little or no competition for many advertised and negotiated awards.

We pointed out that without examining contract files and interviewing the responsible persons, one cannot conclusively determine whether or not the contracting method, the basis for negotiation, or a lack of competition is inappropriate in any individual case. It was agreed, however, that we need to promptly report these indicators of serious inadequacies in GSA's contracting practices to the Administrator of General Services. We are suggesting to the Administrator that his recently formed task force—on activities most susceptible to criminal abuse—consider this information and investigate specifically the sufficiency of competition in the Public Building Service's construction and repair and alteration contract work. Attachment I is a copy of the report to the Administrator (LCD–78–330) issued on this date.

At the request of your representatives, we made brief visits to two GSA regional offices (Chicago and San Francisco) to review examples and any readily available explanations of noncompetitive awards, as well as the circumstances considered by GSA to involve such compelling and unusual urgency as to constitute public exigencies requiring negotiation rather than public advertising and competitive bidding. Attachment II shows some of these examples.

It should be noted that the work requested was statstical analysis and inference—as reported in the letter to the Administrator—and that attachment II may not show the most representative or best examples of unnecessary restricted competition. While these individual cases and others in the contract files we examined do not contradict but generally support our statistical inferences, our examinations and inquiries were not complete and do not eliminate the need for closer study by the Administrator's task force.

Trusting that this report satisfies your request for a nationwide statistical profile, we are not planning further work at this time. As arranged with your office, further distribution of the report will be made 7 days after the issuance date unless you publicly release its contents before this time.

Sincerely yours,

R. G. ROTHWELL,
(For F. J. SHAFER, Director).

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U.S. GENERAL ACCOUNTING OFFICE,
*Washington, D.C.*

Hon. JOEL W. SOLOMON,
*Administrator of General Services.*

DEAR MR. SOLOMON: We recently completed a statistical analysis of the General Services Administration's (GSA's) contract awards for construction and major repairs and alterations of buildings, at the request of Senator Charles H. Percy, Ranking Minority Member of the Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs. The purpose of our analysis was to give Senator Percy a general picture of GSA's contracting for these services, in terms of degree of competition, use of and justifications for negotiated contracts, variations among regions, and any similar characteristics bearing on restricted competition and possible favoritism.

For this purpose your office provided us with computer printouts detailing and summarizing data on all such contracts awarded for over $10,000 in calendar years 1974–76. We also looked at the contract files documenting some of these awards in your Chicago and San Francisco regions for examples and any readily available explanations of noncompetitive awards (made after receiving less than three bids or proposals) and the use of public exigency to justify negotiation.

As we advised Senator Percy, our analysis raises questions about the sufficiency of competition in GSA's contract awards. Because

we did not audit the data or examine any contract awards in detail, we consider the results of our analysis to be only indicators of serious inadequacies in GSA's contracting practices which require further study. You may wish to use our findings in your current efforts to improve procurement management.

The data for the 3 years show awards of 324 new construction contracts for a total of about $335 million, and 1,610 contracts for major repairs and alterations for about $177 million. The enclosure contains five tables of information on these contracts; they identify the use of negotiated contracts, justifications for negotiated awards, and extent of competition obtained. The most significant indicators of potential problems are described below.

HIGH PROPORTION OF NEGOTIATED CONTRACTS

Tables 1 and 2 show that about 13 percent of all contracts were negotiated awards. In terms of the total value of these contracts, negotiation covered over 6 percent of new construction awards and nearly 10 percent of repairs and alterations. The nature of construction and repair work and the large number of firms generally operating in most localities do not seem to require such a high degree of negotiated, rather than formally advertised, procurements.

Furthermore, the numbers of negotiated contracts shown are less than the actual awards, because those negotiated with the Small Business Administration and businesses eligible under section 8(a) of the Small Business Act were misclassified as advertised contract awards rather than as negotiated awards otherwise authorized by law. Section 8(a) awards, and other small business set-asides authorized under section 302 (c)(15) of the Federal Property and Administrative Services Act of 1949, were not specifically identified in the computer printouts, but we would normally expect small business to be one of the most frequently cited justifications for negotiated awards. There is added reason, therefore, to question the need for GSA's large number of negotiated awards shown in the data provided to us.

Table 3 shows the statutory exceptions which were used to justify negotiation rather than formal advertising procedures for the 257 negotiated awards. Public exigency (some type of emergency situation requiring immediate contracting) was used for more than 174 cases—the majority of all negotiated awards for both new construction and major repairs and alterations. The number is nearly 10 percent of all the contracts for these services, seemingly a very high proportion of emergency situations. We scanned the underlying information and noted some services that appear to be doubtful cases of public exigency. Among these were: (1) new construction awards for landscaping, miscellaneous concrete, and completion of interior finishes and (2) major repair and alteration awards for renovation design work, painting and decorating, and additional bookshelving.

The second and third most frequent reasons for negotiation were the impracticality of securing competition (45 instances) and the unsatisfactory bids obtained after advertising (33 cases). In regard to the impracticality of competing for major repairs and alterations, there may have been appropriate justifications for negotiation in those cases where the nature and scope of the work was not certain—contrasted with the availability of work descriptions and specifications for new constuction. Although these reasons for negotiation are to be used to get competition not attainable by advertising, the actual extent of competition obtained by GSA generally seems inadequate.

Referring again to tables 1 and 2, the GSA regions varied widely in their use of negotiation. For new construction, the highest proportion of their total numbers and/or value of contracts negotiated was experienced by Boston, San Francisco, and Auburn. Negotiated major repair and alteration awards were particularly heavy in New York, Washington, Chicago, and Denver.

LITTLE OR NO COMPETITION FOR MANY CONTRACTS AWARDED

Table 4 shows the range of bidders responding to invitations for formally advertised contracts. The unusual feature is that over 20 percent of the awards for which pertinent data was available (both new construction and major repairs and alterations) were made after receiving only one or two bids.

Formal advertising requires a minimum of two prospective sources; the award is made to the lowest responsive and responsible bidder. However, all of the bids may be rejected if the prices are unreasonable or the competition is inadequate to insure reasonable prices.

If less than three bids are received, the contracting officer may make the award, but the Federal Procurement Regulations require that he determine whether the small number of bids received is due to an absence of the prerequisites of formal advertising. These include nonrestrictive specifications, wide dissemination of announcements on prospective procurements before issuing invitations for bids, and sufficient time for bid preparation. The record of the invitation for bids must include the contracting officer's recommendation on action needed to get more than one or two bids in future procurements.

Table 5 shows the extent of competition for contracts awarded after negotiations. Although one might expect less competition because of the conditions justifying use of negotiated awards, the amount actually obtained is so limited that it is questionable. Only one or two firms responded in 17 of 41 new construction procurements and in 92 of 216 major repair and alteration awards—over 40 percent of all such awards. The average contract value in these cases was below the average of all negotiated contracts for new construction, but above the average of all contracts in the case of major repairs and alterations. For the latter type of work particularly, awards made after negotiating with only one or two firms were for relatively large amounts.

The combined data from tables 4 and 5 show that a total of 409 contracts were awarded for all types of work when only one or two firms responded. That represents about 25 percent of the 1,686 contracts for which pertinent data was available. With a record of such limited competition, there may be serious inadequacies in GSA's contracting procedures for construction and major repairs and alterations. Do the procurement offices develop and maintain adequate lists of potential bidders for various types of work? Does the work planning system allow sufficient time for developing specifications and advertising before the work must begin? Are procurement offices soliciting a reasonably wide range of firms for these contract awards? Are potential contractors not bidding because they are reluctant to accept terms and conditions associated with Government contracting?

OBSERVATIONS

After the allegations of fraud, favoritism, and kickbacks in GSA's contracting activities, you started several internal surveys of the agency's procurement management, and took or are planning to take such positive actions as strengthening your Office of Audits and Investigations, separating contract award and inspection activities, and refining methods of procurement solicitation so that orders are not limited to the same few businesses.

We also understand that you recently formed a task force to thoroughly investigate activities most susceptible to criminal abuse and recommend corrective actions. The information in this report is directly related to the thrust of that investigation. We suggest, therefore, that your task force specifically consider this information and cover (1) the efforts of the procurement offices to obtain competition for construction and repair and alteration contract work and (2) the reasonableness of the justifications for using negotiated procurement for such work.

If your office has any questions about the statistical tables in the enclosure or our analyses of the data, we would be pleased to meet with you.

Sincerely yours,

R. G. ROTHWELL,
(For F. J. Shafer, Director).

TABLE 1.—CONTRACTS OVER $10,000 AWARDED BY GSA FOR NEW CONSTRUCTION DURING CALENDAR YEARS 1974–76

| GSA regional office | Number of contracts | | | Value of contracts | | |
|---|---|---|---|---|---|---|
| | Negotiated | Advertised | Total | Negotiated | Advertised | Total |
| Boston, Mass | 2 | 10 | 12 | $8,354,551 | $11,677,296 | $20,031,847 |
| New York, N.Y | 0 | 6 | 6 | | 731,947 | 731,947 |
| Washington, D.C | 2 | 70 | 72 | 230,440 | 100,996,603 | 101,227,043 |
| Atlanta, Ga | 4 | 72 | 76 | 4,309,611 | 109,642,872 | 113,952,483 |
| Chicago, Ill | 3 | 24 | 27 | 681,400 | 20,151,455 | 20,832,855 |
| Kansas City, Mo | 0 | 19 | 19 | | 10,280,593 | 10,280,593 |
| Fort Worth, Tex | 1 | 11 | 12 | 25,188 | 16,168,554 | 16,193,742 |
| Denver, Colo | 0 | 10 | 10 | | 6,463,710 | 6,463,710 |
| San Francisco, Calif | 22 | 35 | 57 | 6,062,650 | 17,508,955 | 23,571,605 |
| Auburn, Wash | 7 | 26 | 33 | 1,767,300 | 19,544,512 | 21,311,812 |
| Total | 41 | 283 | 324 | 21,431,140 | 313,166,497 | 334,597,637 |
| Percent | 12.7 | 87.3 | 100 | 6.4 | 93.6 | 100 |

TABLE 2.—CONTRACTS OVER $10,000 AWARDED BY GSA FOR MAJOR REPAIRS AND ALTERATIONS DURING CALENDAR YEARS 1974–76

| GSA regional office | Number of contracts | | | Value of contracts | | |
|---|---|---|---|---|---|---|
| | Negotiated | Advertised | Total | Negotiated | Advertised | Total |
| Boston, Mass | 10 | 100 | 110 | $451,266 | $6,461,894 | $6,913,160 |
| New York, N.Y | 37 | 132 | 169 | 1,635,119 | 15,722,400 | 17,357,519 |
| Washington, D.C | 31 | 348 | 379 | 7,643,144 | 62,957,432 | 70,600,576 |
| Atlanta, Ga | 2 | 162 | 164 | 46,504 | 10,441,524 | 10,488,028 |
| Chicago, Ill | 44 | 119 | 163 | 2,581,677 | 11,328,395 | 13,910,072 |
| Kansas City, Mo | 17 | 112 | 129 | 638,38[illegible] | 16,037,232 | 16,675,616 |
| Fort Worth, Tex | 16 | 98 | 114 | 488,279 | 9,338,999 | 9,827,278 |
| Denver, Colo | 26 | 116 | 142 | 1,679,145 | 10,936,125 | 12,615,270 |
| San Francisco Calif | 22 | 110 | 132 | 874,370 | 8,435,231 | 9,309,601 |
| Auburn, Wash | 11 | 97 | 108 | 727,231 | 8,660,286 | 9,387,517 |
| Total | 216 | 1,394 | 1,610 | 16,765,119 | 160,319,51 | 177,084,637 |
| Percent | 13.4 | 86.6 | 100 | 9.5 | 90.5 | 100 |

TABLE 3.—GSA JUSTIFICATIONS FOR NEGOTIATED CONTRACTS OVER $10,000 AWARDED FOR NEW CONSTRUCTION AND MAJOR REPAIRS AND ALTERATIONS DURING CALENDAR YEARS 1974–76—Continued

| Type of negotiated contract justification | Negotiated contracts | |
|---|---|---|
| | Number | Value |
| New construction: | | |
| Public exigency | 25 | $10, 125, 485 |
| Impracticable to secure competition by formal advertising | 11 | 2, 254. 792 |
| Negotiation after advertising | 5 | 9, 050, 863 |
| Total | 41 | 21, 431, 140 |
| Major repairs and alterations: | | |
| Public exigency | 149 | 12, 327, 398 |
| Impracticable to secure competition by formal advertising | 34 | 2, 287, 999 |
| Negotiation after advertising | 28 | 1, 916, 911 |
| Others | 5 | 232, 811 |
| Total | 216 | 16, 765, 119 |
| Total negotiated contracts: | | |
| Public exigency | 174 | $22, 452, 883 |
| Impracticable to secure competition by formal advertising | 45 | 4, 542, 791 |
| Negotiation after advertising | 33 | 10, 967, 774 |
| Others | 5 | 232, 811 |
| Total | 257 | 38, 196, 259 |

[1] When GSA showed more than 1 justification for the negotiated contract, we divided the contract number and dollar value equally between the justifications in order to maintain the integrity of the total contract number count and values. For example, in the case of public exigency as a justification, there were 163 awards justified solely on that basis and 22 awards justified by more than 1 reason. We divided the latter cases between public exigency and the other reasons.

TABLE 4.—DEGREE OF COMPETITION FOR ADVERTISED CONTRACTS OVER $10,000 AWARDED BY GSA FOR NEW CONSTRUCTION AND MAJOR REPAIRS AND ALTERATIONS DURING CALENDAR YEARS 1974–76

| Number of firms responding | New construction contracts | | | Major repair and alteration contracts | | |
|---|---|---|---|---|---|---|
| | Percent | Number | Value | Percent | Number | Value |
| 1 | 8 | 22 | $5, 099, 654 | 11 | 149 | $13, 914, 667 |
| 2 | 9 | 26 | 16, 935, 762 | 7 | 103 | 11, 590, 521 |
| Subtotal | 17 | 48 | 22, 035, 416 | 18 | 252 | 25, 505, 188 |
| 3 to 5 | 35 | 99 | 81, 705, 261 | 27 | 381 | 38, 358, 186 |
| 6 to 9 | 24 | 69 | 128, 221, 357 | 24 | 331 | 44, 489, 996 |
| 10 and up | 12 | 33 | 20, 514, 487 | 16 | 216 | $27, 875, 142 |
| Subtotal | 88 | 249 | 252, 476, 521 | 85 | 1, 180 | 136, 228, 512 |
| No data [1] | 12 | 34 | 60, 689, 976 | 15 | 214 | 24, 091, 006 |
| Total | 100 | 283 | 313, 166, 497 | 100 | 1, 394 | 160, 319, 518 |

[1] The degree of competition was not identified by GSA for advertised contracts which had been completed and transferred to records centers at the time of our review. After eliminating these contracts, the percentages of contracts awarded on the basis of less than 3 bids are 19 percent for new construction, 22 percent for major repairs and alterations, and 21 percent overall.

TABLE 5.—DEGREE OF COMPETITION FOR NEGOTIATED CONTRACTS OVER $10,000 AWARDED BY GSA FOR NEW CONSTRUCTION AND MAJOR REPAIRS AND ALTERATIONS DURING CALENDAR YEARS 1974–76

| Number of firms responding | New construction contracts | | | Major repair and alteration contracts | | |
|---|---|---|---|---|---|---|
| | Percent | Number | Value | Percent | Number | Value |
| 1 | 12 | 5 | $1, 384, 400 | 27 | 59 | $6, 261, 368 |
| 2 | 29 | 12 | 5, 560, 704 | 15 | 33 | 1, 122, 613 |
| Subtotal | 41 | 17 | 6, 945, 104 | 42 | 92 | 7, 383, 981 |
| 3 to 5 | 51 | 21 | 12, 634, 866 | 46 | 99 | $6, 585, 813 |
| 6 to 9 | 8 | 3 | 1, 851, 170 | 11 | 23 | 1, 985, 591 |
| 10 and up | | | | 1 | 2 | 809, 734 |
| Total | 100 | 41 | 21, 431, 140 | 100 | 216 | 16, 765, 119 |

EXAMPLES OF NONCOMPETITIVE AWARDS AND CIRCUMSTANCES DETERMINED BY GSA TO BE PUBLIC EXIGENCIES REQUIRING NEGOTIATION

EXAMPLE 1

Citing public exigency, a $78,537 contract was negotiated and awarded on September 30, 1976, for roofing repairs at the Federal Service Center Building, Bell, California.

In justifying negotiation, GSA noted that the roof had deteriorated and would continue to do so unless a protective coating was applied before the rainy season, and that funds had become available shortly before the end of the fiscal year. GSA determined that the requirement involved compelling and unusual urgency and called for negotiation to meet the deadline.

We noted that (1) documentation in the files does not explain the deadline and the additional time required for public advertising that might jeopardize meeting the deadline and (2) the contract was awarded on the last day of the fiscal year.

EXAMPLE 2

Citing public exigency, a $42,745 contract was negotiated and awarded on May 27, 1976, for exterior sculpture foundations at the U.S. Courthouse, Federal Office Building and Parking Facility, San Diego, California.

In its justification, GSA noted that funds for this project were going to expire. GSA found that the remaining short time did not permit solicitation of bids and that the unusual urgency could not tolerate delay incident to formal advertising.

We noted that (1) GSA's citation of public exigency to award a contract before expiration of funds is a questionable interpretation of section 302(c)(2) of the Federal Property and Administrative Services Act, as amended, and (2) documentation made available to us mentioned "critical time frames of construction completion" but did not explain how the Government would be seriously injured, financially or otherwise, if these services were not furnished by a certain time.

EXAMPLE 3

Citing public exigency, a $134,000 contract was negotiated and awarded on September 22, 1976, for partitions and related items at the Federal Center, Battle Creek, Michigan.

GSA's support for use of public exigency was that (1) relocation of some elements of the Air Force Logistics Command, which started May 1, 1976, was scheduled to be completed January 1, 1977, (2) time lost in failing to award the contract by advertising had reduced the available time for performing the work needed to accommodate the proposed relocation, and (3) solicitation by public advertising "does not afford us the negotiating opportunities * * * which could preclude long delays due to possible irregularities in submitted proposals."

We noted that bids had been solicited as early as October 1974, a sole bid was rejected because it was about 50 percent over the Government estimate, and a decision was made to readvertise. Bids were again solicited in May 1976, and in August 1976 all four bids received were "rejected because inadequate and defective specifications were cited in the bid forms."

In its rejection decision, the Board of Awards said: "the errors, omissions, and discrepancies of specifications are numerous. The specifications are considered to be so defective that fair and equal effective competition cannot be accomplished."

The Board recommended that the specifications and bid forms be thoroughly reviewed and corrected before resolicitation.

This seems to be a type of situation meriting close examination by the Administrator's task force for (1) possible overly liberal use of public exigency and (2) from a remedial viewpoint, insufficient planning by the GSA procurement office and failure to develop suitable specifications before the work must be started.

EXAMPLE 4

An advertised $803,240 contract was awarded to a sole responsive bidder in July 1974 for a new courtroom on the 19th floor of the Everett McKinley Dirksen Building, Chicago, Illinois, and for miscellaneous alterations on the 7th and 20th floors for agencies relocated by the courtroom work.

The contract files given to us did not have documentation related to the work request, the pre-invitation solicitations of interest or

publicizing in trade journals, the actual solicitations or data thereon, an abstract of bids, or recommendations of a Board of Award. The files we examined did not include the contracting officer's recommendation on action needed to get more than two bids on future procurements, as called for in 41 CFR 1-2.407-1(b).

The contracting officer rejected the low bid as non-responsive because it did not meet the bid guarantee and other conditions. The award was made to the 2nd (of two low bidder, "such bid having been found fair, reasonable and responsive to the invitation."

This type of situation seems to merit close examination by the Administrator's task force for (1) the adequacy of pre-invitation publicizing and lists of potential bidders for various types of work and (2) the sufficiency of the basis for deciding if prices bid are fair and reasonable.

EXAMPLE 5

Citing public exigency, a $287,000 contract was negotiated and awarded on February 27, 1975, for construction at the U.S. Border Station, San Diego, California.

In its justification, GSA stated a need to complete the inspection facilities within 6 months to (1) relieve the annual summer tourist traffic delays, (2) avoid higher labor wage rates after July 1, 1975, (3) maintain the existing excellent relations with Mexico, and (4) increase efficiency and productivity.

The claimed benefits of negotiation were illustrated by comparing a normal (presumably advertising) acquisition schedule with the actual schedule planned. This comparison showed a decrease of 15 days in the bid/award period (from 1 month to ½ month) and a decrease of 4½ months in the design period (from 6 months to 1½ months).

We questioned whether maintaining good relations and increasing efficiency represent compelling needs of unusual exigency. Also, we noted that the contract price escalated from $287,000 to about $350,000—an increase of about 22 percent—even though we could not establish that the cost increase resulted from the 75-percent reduction in design time or the lack of full competition.

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## FOREIGN-BRIBERY ACT IMPOSES TOUGH RULES ON THE BOOKKEEPING OF ALL PUBLIC FIRMS

Mr. PROXMIRE. Mr. President, this morning the Wall Street Journal carried an article analyzing the provisions of the foreign bribery legislation passed in this Congress. The legislation prohibits American companies from bribing foreign government officials.

The bribery of foreign officials by American companies became a huge national and international scandal, undermining the integrity of our domestic capital markets and complicating our foreign policy. Corporate bribery of foreign officials was largely accomplished by the maintenance of off-the-record slush funds aided and abetted by sloppy internal management controls.

The bribery legislation—the Foreign Corrupt Practices Act—goes to the heart of the problem. It requires corporations subject to the jurisdiction of the Securities and Exchange Commission to maintain accurate books and records in reasonable detail and to maintain internal accounting controls. These statutory requirements should stop corporate bribery. The benefits of this legislation are enormous potentially: competition for foreign business may truly take place in accordance with free market principles, our democratic image abroad should be enhanced and corporations should be better managed.

Mr. President, the article quotes one person as saying that the Foreign Corrupt Practices Act is the most significant legislation affecting business passed in many years. I agree with this observation. I commend this article to my colleagues and request unanimous consent that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 28, 1978]

FOREIGN-BRIBERY ACT IMPOSES TOUGH RULES ON THE BOOKKEEPING OF ALL PUBLIC FIRMS

(By Charles N. Stabler)

NEW YORK—Under the new Foreign Corrupt Practices Act, it is becoming clear, you don't have to be either operating in foreign lands or corrupt to be in trouble.

The measure was enacted late last year following months of hearings and investigations by Congress and the Securities and Exchange Commission into "questionable" activities by U.S. companies abroad. More than 300 American corporations were revealed to have maintained secret slush funds overseas, bribed foreign officials or paid excessive commissions in a quest for sales and favorable treatment in other nations.

Despite all this uproar, an executive of a company that didn't do any foreign business and didn't engage in corrupt activities might take a detached view of the new legislation. But that would be a mistake.

"The act is the most significant legislation affecting businesses, all businesses, in many years," warns Norman E. Auerbach, chairman of Coopers & Lybrand, a major auditing firm. Coopers and other accounting firms are rushing to inform corporate clients about implications of the new law and to help them comply with it.

"The title of the new act doesn't communicate its scope fully," says a study by Arthur Young & Co., another major auditor. Although the law does make specifically illegal what previously were "questionable" foreign payments and provides stiff fines and prison terms for violations, it does much more as well.

BOOKKEEPING PROVISION

Because much corrupt activity abroad was concealed through secret foreign bank accounts or was falsely recorded, the act requires companies to keep good accounting records. According to the Senate Banking Committee, the law requires companies that issue securities to the public "to maintain books and records which accurately and fairly reflect the transactions of the corporation and to design an adequate system of internal controls to assure, among other things, that the assets of the issuer are used for proper corporate purposes."

Moreover, this accounting mandate applies not just to corporations with foreign interests. As an amendment to the Securities Exchange Act of 1934, it applies to all public companies.

At first glance, the requirement for good record-keeping and controls may appear unexceptionable; no one advocates phony bookkeeping. But some analysts warn that the new law has created troubling uncertainties for the conduct of businesses, armed the SEC and possibly other regulatory agencies with a powerful new enforcement weapon and increased the legal liability of corporate executives and directors.

Already, there has been indications of the law's broad sweep. Earlier this year, the SEC charged Aminex Resources Corp. and several former officers of the New York coal company with misappropriating more than $1.2 million of Aminex assets under cover of improper accounting and in violation of the new law. Significantly, the case doesn't involve foreign payments in any way.

In addition, the new law is cited in a still-pending SEC action against Page Airways Inc. and six of its executives. The case includes allegations of corrupt foreign payments to promote aircraft sales abroad. The SEC doesn't charge that the law's antibribery provisions were violated, apparently because the alleged payments preceded its Dec. 17, 1977, effective date. But it does accuse the defendants of violating the accounting provisions through continuing failure to reflect the transactions accurately on Page's books. (A Page attorney said earlier that the charges have "no merit" and that the company will defend itself in court.)

Efforts to broaden the law's application seem assured, analysts say. They cite, for example, a March memo to Harold Williams, the SEC's chairman, from Harvey L. Pitt, its general counsel, about independent audit committees. Such committees, made up of nonemploye directors on corporate boards, usually are charged with monitoring internal accounting controls and working with the outside auditors.

Both the SEC and many accountants favor such committees, and most major companies already have them. But the question of who, if anyone, has the authority to order them for all companies stirs considerable disagreement.

In his memo, Mr. Pitt says the new law, coupled with the SEC's general rule-making authority, "could provide the basis for a commission rule requiring issuers . . . to utilize an independent audit committee." He concedes that establishment of such a committee "isn't in itself an element of a system of internal accounting control," but he adds: "The commission could, however, determine that the establishment of an independent audit committee, charged with communicating with the issuer's outside auditors, is a 'necessary and appropriate' means of implementing" the law's requirement for a proper internal control system.

THREAT OF "INTRUSION"

Mr. Pitt's comments disturb Coopers & Lybrand's Mr. Auerbach. Such a policy, Mr. Auerbach says, "could end up as the basis for continuing intrusion into corporate governance, through the side door."

Be that as it may, the SEC said earlier this month that it is "likely to require, in reports filed with it, a representation that an issuer's system of internal accounting controls is in compliance with the provisions of the act." This could be done by requiring management to state that it has a control system, along with an auditor's opinion on the matter.

In addition, the SEC already has pending rule proposals, predating the new law, that would make it unlawful for anyone to falsify corporate books and records and for any officer, director or shareholder of a public company to mislead an accountant in connection with an examination of a company's financial report.

The SEC moves are spurring related efforts within the accounting profession to devise more-comprehensive reports to shareholders on companies' internal control systems. The American Institute of Certified Public Accountants, a trade group, has a task force at work on developing guidelines for evaluating such systems—criteria that will be helpful in assuring compliance with the new law.

"It is virtually certain that reporting on internal controls will be a reality for public companies" soon, the SEC's Mr. Williams says. And in fact, some companies, including American Telephone & Telegraph Co., already provide such reports.

LAW'S PROVISIONS

Meanwhile, the law has gone into effect. It specifies that companies must have "internal accounting controls sufficient to provide reasonable assurances" that four goals will be met. These goals cover management authorization for use of a company's assets, accurate accounting for transactions, regular double-checking and remedial action when needed.

But the act is stirring much concern. The key problem analysts say, is that its accounting provisions are drawn from language used by accountants and clear enough for them but not clear enough for attorneys. "Many lawyers have pointed out that the language is far too imprecise to consititute legal standards," according to the auditing firm of Peat, Marwick, Mitchell & Co.

Touche Ross & Co., another major auditor, complains in a report to clients: "No government regulatory rules or guidelines on how the act should be applied have been issued. Unless general guidelines are developed, determining whether individuals and companies have complied with the act may have to wait until the provisions of the act are applied and interpreted in specific administrative and judicial proceedings of alleged wrongdoing. This could prove a long, tedious and painful process."

Under current practice, auditors normally study a client company's internal control system only to determine how much they can rely on it in auditing the books. They don't make a comprehensive study because it may be cheaper and quicker to check sample transactions and records to ascertain that the financial statements follow generally accepted accounting principals.

However, in making such tests, auditors may notice a weakness in the internal control system. If the weakness is considered "material"—significant enough to affect the overall report—the auditor comments on it in a confidential "management letter." The management then can correct it or, for various legitimate reasons, decide action isn't necessary.

Under the new law, this process is fraught with legal implications. What may seem "sufficient" or "reasonable" to an auditor may not seem so to a regulatory agency, analysts note. Moreover, as the Arthur Young study says, "Determining compliance with provisions of law ultimately involves legal determinations and interpretations. It isn't within an auditor's purview to give legal advice."

However, if an auditor reports to management, as required, a material weakness in acounting controls, that report becomes a letter in the company's files—a letter that would be damaging evidence of a violation of the Foreign Corrupt Practices Act. In addition, the law doesn't provide any "grace period" for correcting a possibly illegal weakness following its discovery.

CHECKING "RED FLAGS"

One possible outcome, Arthur Young warns, is a "Ping-Pong" effect. "We find a significant deficiency or weakness during an audit and tell the client about it. The client asks whether the condition is a violation of the law. We respond, 'Ask your lawyer,' and the counsel says, 'Ask your accountants.' "

Despite the uncertainties, some companies and their auditors are reviewing their internal control systems, especially focusing on certain types of transactions about which accountants have found it pays to ask questions. For example, typical "red flags" would be currency dealings, checks drawn to "cash," or checks payable to accounts of nonoperating entities in secretive countries. Others might be unusual bonuses paid to employes or unusual credits granted customers.

But the key to evaluating an internal control system, auditors say, is to check the entire cycle of various kinds of transactions—for example, following through all the procedures and signatures required to record a sales order, ship the goods and collect the payment. This kind of study can be useful even if it doesn't disclose any significant weaknesses, Coopers & Lybrand's Mr. Auerbach says.

Recently, he says, two internal auditors from Sun Co. and two Coopers people reviewed one transaction cycle at the oil company and found "a number of possible system improvements." Besides, the auditing team reported, several Sun employes actually stamping documents and signing papers said that, "for the first time, they had gained an understanding of how their jobs fitted into the system."

## EFFORTS TO ERADICATE WORLD HUNGER UNDERSCORE SIMILAR NEED TO OUTLAW AND PUNISH GENOCIDE

Mr. PROXMIRE. Mr. President, it has been some time now since we have heard about the tremendous problem of global hunger and malnutrition.

As the terrible drought in the so-called Sahel region of Africa subsided, so too did the sense of urgency about world hunger. But regrettably, the problem of global starvation remains severe. Last month, the United Nations World Food Council estimated that some 450 million people are seriously malnourished and said that the situation is getting worse. As the president of that body noted several weeks ago, the developed countries are in grave danger of being "lulled into a false sense of complacency."

In truth, the United States and other industrialized nations have made some efforts recently to combat global hunger. President Carter has established a presidential commission that will recommend administrative and legislative strategies to improve American responsiveness to world hunger, while stimulating a high level of industry and private voluntary agency involvement in tackling hunger problems.

At the same time, the President's mother, Mrs. Lillian Carter, is presently on a trip to four developing nations in Africa to focus American and world attention on issues of malnutrition and food production.

Mr. President, these efforts represent important steps toward reducing starvation and death that have become a way of life for many people around the world.

But as we strive to eliminate the unnecessary deaths of millions of our Earth's inhabitants, let us not be lulled into complacency about another source of human death—man's mass murder of his fellow man.

Tragically, genocide continues to rival those ravages of nature like flood or drought in its destructive effects. If we can initiate efforts to eradicate world hunger, we can do the same with genocide. One very simple, very important opportunity is available to us.

Mr. President, I am speaking about ratification of the Genocide Convention, an action that would commit this Nation to the definition and punishment of genocide under international law.

For nearly 30 years, this opportunity has stared us in the face, but we have neglected to act. In the context of President Carter's emphasis on human rights as an integral part of American foreign policy, our refusal to ratify the Genocide Convention has become a major source of diplomatic embarrassment.

Of course, ratification of the Genocide Convention will not end mass murder all at once, just as the establishment of a Presidential panel on hunger will not solve the problem of global starvation. Neither action is a panacea for injustice.

But in the same way that the Geneva Conventions for the Treatment of Prisoners of War have improved that situation, the Genocide Convention will represent a significant step toward civilizing the affairs of nations.

Let us work to safeguard the right to live. Let us endorse this important moral document without delay.

## PROBLEMS OF U.S. URANIUM RESOURCES AND SUPPLY TO THE YEAR 2010

Mr. SCHMITT. Mr. President, over the last few days an extremely interesting and extremely important report has become available. It is the report of the Uranium Resource Group of the Supply and Delivery Panel of the Committee On Nuclear and Alternative Energy Systems of the National Research Council, of course, under the National Academy of Sciences.

This is supporting paper 1 entitled "Problems of U.S. Uranium Resources and Supply to the Year 2010."

This distinguished panel has done what in this Senator's, and former geologist's, point of view is an excellent job of analyzing the problems dealt with in the report.

I would particularly call my colleagues' attention to its distinguished chairman, Dr. Leon T. Silver, professor of geology, division of geological and planetary sciences, California Institute of Technology. Dr. Silver's scientific reputation and his knowledge in this field are without peer.

Mr. President, I hope that my colleagues will have an opportunity to at least read the summary findings and recommendations of this report, which I will subsequently introduce into the RECORD.

We have heard a great deal on this floor and from members of the administration and in the media about the question of our dependency or potential dependency on nuclear energy in the future.

Well, whatever decision this country finally makes, there will be a need for nuclear fuel, and this report should be viewed as, if not sobering in its analysis then certainly, something we should take very close account of.

I would just read a few of the findings and recommendations, not all but a few of the most critical. Under the findings, No. 2 reads:

2. The best current estimate of U.S. uranium reserves contained in $30/lb forward cost ore* is 640,000 tons of $U_3O_8$. The actual

reserves may be as low as 480,000 tons, but it probably is no higher than 640,000 tons.

Then No. 3 and 4:

3. The best current estimate of U.S. potential uranium resources is 1,060,000 tons of $U_3O_8$ in $30/lb ore.

4. The best current estimate of combined U.S. uranium reserves and potential resources is 1,760,000 tons of $U_3O_8$ in $30/lb ore.

Mr. President, to put those findings in their context, we have had estimates placed before this body and its committees suggesting that there are close to 4 million tons of uranium available to this country between now and early in the next century. Those estimates, according to this report, are obviously wrong, and we must view with alarm the status of this discrepancy.

I would also quote finding No. 12 of the panel's report which they italicized, and I would also, and underlined, which reads as follows:

12. In the opinion of the panel, current levels of exploration will not provide the discoveries required to meet the demand forecasts. To meet these requirements, a fivefold increase in the rates of discovery and development of reserves is necessary. Considering the increasing difficulty of finding major new deposits, this probably will necessitate a tenfold increase in exploration drilling.

Finally, Mr. President, I would quote from the report three of their recommendations or rather let me quote the first four recommendations.

1. Public expression of an immediate and firm commitment by the federal government for a program of growth of nuclear-generated electrical energy. It is not probable that long-term efforts and investments will be generated without such an announced commitment.

2. Expansion of the federally supported research and development program in the basic geology and geochemistry of uranium in support of exploration. New design, direction, participation, and an increased effort by order of magnitude would be required.

3. Expansion of the activities of ERDA and the U.S. Geological Survey in uranium appraisal, in the direction of basic research and technology development in a number of specific areas described in the body of the report, to provide better models and analytical techniques. External review systems to monitor and improve progress in resource appraisal should be created.

4. Creation of an explicit and attractive climate of incentives and regulations that would lead to a highly accelerated industry exploration program.

Mr. President, I personally view this report with alarm. I hope that my colleagues will read it, and I ask unanimous consent that this portion of the report, entitled "Supporting Paper 1," be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTING PAPER 1: PROBLEMS OF U.S. URANIUM RESOURCES AND SUPPLY TO THE YEAR 2010

PREFACE

In June 1975, the National Research Council (NRC) undertook a comprehensive study of the nation's prospective energy economy during the period 1985-2010, with special attention to the role of nuclear power among the alternative energy systems. The goal of the study is to assist the American people and government in formulating energy policy.

The Governing Board of the National Research Council appointed an NRC-wide Committee on Nuclear and Alternative Energy Systems (CONAES) to conduct the study. CONAES consists of 15 members drawn from diverse disciplines and backgrounds. The committee developed a three-tiered functional structure for the study. The first tier is CONAES itself. The ultimate findings, judgments, and conclusions of the study will be embodied in its final report.

To provide scientific and engineering data and analyses, a second tier of four panels was formed to examine (1) energy demand and conservation, (2) energy supply and delivery systems, (3) risks an impacts of energy supply and use, and (4) syntheses of diverse models of future energy economies, respectively. Each panel, in turn, established a number of resource groups—22 in all—as the third tier, to address in detail an array of more particular matters, such as buildings and transportation systems, solar energy, breeder reactors, coal technologies, health and environmental implications, and alternative consumption patterns and economic models. In all, more than 200 informed individuals served on or contributed to the work of the panels and resource groups.

The National Research Council customarily publishes only the final reports of its committees—and then only after the report has been reviewed by a group other than its authors according to procedures approved by a Report Review Committee consisting of members of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. However, because such a large volume of information and analyses was assembled for consideration by the committee, and because of the diversity and scope of that information and the accompanying judgments, the panel reports and approximately 10 reports by the resource groups are being published as supporting papers. Each of these has been considered and used by CONAES but has not undergone the critical review procedure normal to the NRC. The report of the Uranium Resource Group has, however, been subjected to a thorough and expert peer review for accuracy, consistency, and clarity.

It must be recognized that some conclusions of the panel and resource group reports may be at variance with the conclusions of the CONAES report. The findings reported in these documents are those of their authors and are not necessarily endorsed by CONAES or the National Research Council.

The contents of this report cover the work of the Uranium Resource Group of the Supply and Delivery Panel, performed for the most part in 1976–1977. The report was designed to inform the panel and CONAES by responding to certain specific questions. Its scope reflects the nature of the assignment. This report, together with the other supporting papers, is published to enrich the understanding of the intricate and wide-ranging issues and implications of energy in the coming decades and to acquaint the reader with the variety and complexity of the material with which CONAES has had to deal.

ACKNOWLEDGMENTS

In preparing this report, the Uranium Resource Subpanel has drawn on interviews and contributions from representatives of industry, universities, and the government. The subpanel wishes to express its particular appreciation for the cooperation of E. Grutt and colleagues, Grand Junction Office, U.S. Energy Research and Development Administration, and W. Finch, Uranium and Thorium Resource Branch, U.S. Geological Survey, Denver, Colorado. S. Adams, Anaconda Co., and R. Luke, Kerr-McGee Corp., were early members of the subpanel who helped create the framework for the report and have served as a continuing resource. James Boyd, Chairman, Energy Resources Resource Group, CONAES, met with the subpanel for many of its meetings and contributed to its deliberations. David Tillman has provided essential support in the preparation of this report.

URANIUM RESOURCE SUBPANEL

Leon T. Silver (Chairman), Professor of Geology, Division of Geological and Planetary Sciences, California Institute of Technology, Pasadena, Calif. 91125.

Jack J. Grynberg, Jack Grynberg and Associates, 1050 17th Street, Suite 1950, Denver, Colo. 80202.

David S. Robertson, Robertson and Associates, 20th Floor, 65 Queen Street W., Toronto, Ontario, Canada M5H 2M7.

Joseph B. Rosenbaum, Consulting Metallurgist (Former Research Director for Salt Lake Lab., U.S. Bureau of Mines), 1149 Mercedes Way, Salt Lake City, Utah 84108.

Arnold J. Silverman, Professor of Geology, University of Montana, Missoula, Mont. 59801.

SUMMARY

The principal findings of the CONAES Uranium Resource Subpanel on the reserves, potential resources, and producibility of uranium and thorium for nuclear power generation in the United States to the year 2010 are presented below. The estimates that follow are derived from the best information available to the subpanel. The considerable uncertainties are discussed in the body of the report.

Brief definitions of resource terms used in the findings are as follows:

Reserves are discovered and defined uranium or thorium ore.

Potential Resources are undiscovered or inadequately defined concentrations of uranium or thorium that may become economically producible in the future.

FINDINGS

1. The information bases available for appraisal of domestic and world uranium and thorium resources are not adequate for precise quantitative assessment and statistical treatment.

2. The best current estimate of U.S. uranium reserves contained in $30/lb forward cost ore* is 640,000 tons of $U_3O_8$. The actual reserves may be as low as 480,000 tons, but it probably is no higher than 640,000 tons.

3. The best current estimate of U.S. potential uranium resources is 1,060,000 tons of $U_3O_8$ in $30/lb ore.

4. The best current estimate of combined U.S. uranium reserves and potential resources is 1,760,000 tons of $U_3O_8$ in $30/lb ore. (This includes an estimated 60,000 tons of by-product $U_3O_8$. The subpanel's subjective confidence in this value and in higher and lower estimates is as follows:

| Combined resources ($30/lb $U_3O_8$); | Probability (percent): |
|---|---|
| Less than 1,000,000 tons | 3 |
| Less than 1,760,000 tons | 33 |
| Less than 3,780,000 tons | 97 |

5. Adequate data are not available for assessing the abundance of U.S. $100/lb uranium potential resources. In the subpanel's opinion, the probability that the actual resource value is less than 3 million tons is 70 percent.

6. World uranium ($U_3O_8$) reserves at $30/lb, including those of the United States, are estimated at 2.4 million short tons.

*Forward cost is the estimate of capital and operating cost not yet incurred that will be required to produce a pound of $U_3O_8$ at the time the estimate is made. Forward costs per pound (in 1975 dollars) rather than market prices will be used in this report except where otherwise specified. For a forward cost of $30/lb, an approximate market price might be $40–$60/lb.

7. World uranium ($U_3O_8$) resources at $30/lb, including those of the United States, are estimated at 5.1 million short tons.

8. U.S. and world thorium resources have never been adequately appraised and no appraisals are in prospect. About 500,000 short tons of $ThO_2$ potential resources have been estimated in the United States and about 2,450,000 tons in the world, but cost figures are not available.

9. In a successful uranium exploration program, there is generally an 8- to 15-year interval from the start of exploration to the first production of ore.

10. 1976 exploration drilling is reported at 3.8 million feet. Costs are reported at $171 million, an all-time high.

11. Exploration yields per units of drilling and cost are expected to continue to decline over the long term. This will result from the need for deeper drilling and more intensive exploration of previously unproductive regions.

12. In the opinion of the panel, current levels of exploration will not provide the discoveries required to meet the demand forecasts. To meet these requirements, a fivefold increase in the rates of discovery and development of reserves is necessary. Considering the increasing difficulty of finding major new deposits, this probably will necessitate a tenfold increase in exploration drilling.

13. The possibilities for identifying additional unanticipated resources in the United States have not been exhausted, despite the increased difficulties and costs of exploration. These possibilities cannot be quantified at this time and they certainly cannot be utilized realistically in any prudent forecasts of uranium production for the next 25-35 years, given the time spans that intervene between exploration and production.

14. In resource appraisal, ERDA activities in estimating reserves are very useful. However, ERDA has not established an adequate base of information to permit effective estimation of potential resources.

15. The National Uranium Resource Evaluation (NURE) program will not make a contribution to U.S. uranium exploration and to resource appraisal commensurate with the need. Its design and funding are not adequate for supporting rapid growth in ore discovery rates and in the definition of new uranium provinces.

16. Domestic annual uranium production has been 12,000–13,000 tons of $U_3O_8$ for the past 5 years. It is estimated it will reach between 17,000 and 19,000 tons by 1980, and between 22,000 and 26,000 tons by 1985. This production will fall significantly short of ERDA forecasts of demand and production, and of ERDA's contracts for enrichment. The ERDA uranium demand forecast we have selected for comparison with supply is the Mid Case 1976, based on 0.25 percent tails, with no plutonium recycling, in light water reactors. This forecast reflects the seventh year of reduction in ERDA statements of requirements, and further demand reductions seem probable.

17. Major shortfalls in domestic uranium oxide production relative to ERDA 1976 projections of requirements are predicted to the year 2000 and beyond, if present conditions affecting the exploration industry continue.

18. Relative to the ERDA Mid Case 1976 requirement, the estimated cumulative shortfall will be about 20 percent (54,000 tons) in 1985, about 30 percent (153,000 tons) in 1990, and more than 40 percent in 2000 (565,000 tons) in the Present Conditions scenario (I).

19. A scenario (II) that projects Moderately Enhanced Conditions for the domestic uranium industry, and an improved research program in support of exploration, suggests that discovery rates might be increased, and the shortfalls might be reduced by approximately one-half over the same period.

20. A scenario (III) under a Full Commitment to Nuclear Energy Development projects a possible uranium discovery rate and a production rate that could eliminate about 90 percent of the otherwise expected shortfall by the year 2000.

21. The average forward cost per pound of $U_3O_8$ (in 1975 dollars) in the three scenarios is estimated at:

Scenario I, $17/lb.; Scenario II, $21/lb.; Scenario III, $21/lb.

The higher costs of II and III reflect lower grades of ore taken and more rapid exploitation.

22. Foreign exploration and foreign demand are growing at comparable rates. The United States will have to compete vigorously in order to obtain significant supplies of uranium abroad. It will have no particular exploration advantages in foreign competition unless it develops superior science and technology by a program of research at home.

RECOMMENDATIONS

Even the recently reduced forecasts of nuclear generating capacity cannot be supported without a significant long-term increase in the rate at which new uranium ore reserves are discovered. It appears that with the present reserves and foreseeable uranium production capability, major near-term shortfalls of uranium production relative to ERDA's anticipated requirements are inevitable. If a national policy decision is made to use nuclear-generated electric power as a major contribution to the total U.S. energy supply, then drastic changes will be required in the national uranium exploration effort

The subpanel offers a number of recommendations that, if adopted, might increase rates of discovery and development of reserves and provide a better definition of the national uranium resource base. If these or similar recommendations are not adopted, and if implementation is not begun promptly, the nation can anticipate only a limited contribution from Light Water Reactor (LWR) nuclear electric generating capacity to the national electrical energy requirements during the rest of this century.

If it is a national decision that LWR nuclear electric power be given a major energy role, the following recommended courses of action are offered:

1. Public expression of an immediate and firm commitment by the federal government for a program of growth of nuclear-generated electrical energy. It is not probable that long-term efforts and investments will be generated without such an announced commitment.

2. Expansion of the federally supported research and development program in the basic geology and geochemistry of uranium in support of exploration. New design, direction, participation, and an increased effort by an order of magnitude would be required.

3. Expansion of the activities of ERDA and the U.S. Geological Survey in uranium appraisal, in the direction of basic research and technology development in a number of specific areas described in the body of the report, to provide better models and analytical techniques. External review systems to monitor and improve progress in resource appraisal should be created.

4. Creation of an explicit and attractive climate of incentives and regulations that would lead to a highly accelerated industry exploration program.

5. Enhancement of the incentives to invest risk capital in uranium exploration. In the opinion of the subpanel, rapid progress in exploration will require large-scale initial funding at the level of at least $10 billion in tne next 10 years. This might be provided by electric utilities and their power consumers if the utilities were allowed to pass on the costs of exploration in their rate schedules.

6. Maintenance of existing tax incentives and of the freedom of the uranium market from excessive regulation. Encouragement of the petroleum industry and other industries that have demonstrated exploration expertise and the funds for the required front-end investments to participate in uranium exploration.

7. Assignment of the responsibilities for regulation of exploration and production by the uranium industry to one central agency that would assemble all pertinent analysis and advice expeditiously. Provision should be made for agency decision response time in months, not years.

8. Maintenance of warranted environmental constraints and restrictions on access to public lands, but with provisions for periodic review for continued justification. Mechanisms for consideration of exceptions in appropriate cases of unusual priority should be established.

9. Development for foreign supplies of uranium as a supplement to domestic supplies, but not to the point of dependency. The U.S. exploration industry should be encouraged by tax credits and fiscal policies to develop larger exploration program abroad, which can compete with other international efforts. Technical competence developed in this country should be made available through our participation in the International Atomic Energy Agency programs.

In concluding this section on recommendations, the subpenaed duly notes that a number of similar observations on resources and several similar recommendations were made in the 1975 NAS-NRC COMRATE supplementary report, "Reserves and Resources of Uranium in the United States." We have recognized no evidence of significant response in current and projected ERDA estimates and plans.

## APPROPRIATIONS HIT ROCK BOTTOM

Mr. SCHMITT. Mr. President, the Senate Appropriations Subcommittee on the Department of Housing and Urban Development (HUD) and Independent Agencies has completely removed the funding from the NASA budget for scientific investigation of Moon rocks and other extraterrestrial material. This unquestionably is a hasty and ill-advised budget reduction. Hopefully, the full Appropriations Committee will reverse the subcommittee's action and restore the $5.7 million funding for NASA to continue this important and historic scientific program.

Clearly, NASA is and should be the lead agency for scientific investigation of lunar and extraterrestrial material. These samples are collected in a space environment by NASA, transported and distributed by NASA, and information derived from the scientific investigations of this material is used in part to plan future NASA probes to planets, asteroids and comets.

An article from the Washington Post of July 27, 1978, by Bob Levey entitled "Unlocking the Moon's Secrets: Unfinished Business," ably points out some of the reasons that funding for this program should be continued. Mr. President, we have spent approximately $25.6 billion on the six successful Moon landing missions. Now are we saying that the $5.7 million requested for this fiscal year,

0.02375 of 1 percent, roughly two-hundredths of 1 percent, is too much to invest to learn more of the scientific secrets resulting from these missions? If so, it would be an incredibly unbelievable situation even in this budget-cuttting year. Historians will be incredulous at such an action.

The lunar samples are a unique national and international treasure, unlike any scientific material ever studied. It is appropriate that the study of the samples be funded in a unique and now well-understood manner. International interchanges stimulated by this sample research have been of great and continuing value to the country.

Mr. President, I ask unanimous consent that the text of the Post article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 27, 1978]

UNLOCKING THE MOON'S SECRETS: UNFINISHED BUSINESS

Two twirls left, two more right, and the lock on the gray filing cabinet drawer clicks open. Edwin Roedder reaches inside with exaggerated care, as if he were about to pat a newborn in a crib. Grinning, he steps aside so a visitor can see.

Holy Neil Armstrong! Great intergalactic Captain Video! The drawer is lousy with moon rocks.

Gray ones and brown ones, rust-colored ones and blackish ones. Here a moon rock nugget, mounted in a plastic case. There a collection of moon pebbles, sealed in a plastic bag. A few slides of moon dust. Some envelopes full of shavings. All brought to you direct from outer space.

Those expecting speckles and sparkles would be disappointed by moon rocks. They are dull to the eye and the touch. Kick them down a country road, and you couldn't tell them from earth rocks. And if anyone still harbors illusions about green cheese—go back two spaces and forfeit your turn.

But lifeless as the moon rocks seem, they generate a jolt of fascination.

All those astronauts, all those missions, all those hours in front of the television. One tends to start composing a speech for one's grandchildren: "Sure, sure, your old granddad remembers Neil Armstrong. And he also remembers the day he tossed moon rocks around like hardboiled eggs. Remembers it like yesterday. . . ."

But moon rocks are anything but fantasy to Ed Roedder. They are the opportunity of a lifetime.

As a geologist at U.S. Geological Survey headquarters in Reston, Roedder heads one of 96 scientific teams conducting federally sponsored research in the U.S. on lunar samples brought home by Apollo missions 11, 12 and 17.

For nine years, or almost from the instant Armstrong splashed down in the Pacific with his two companions and 830 pounds of moon rocks, scientists have been examining the booty.

They have learned a lot. They know, for example, that the moon was not created in anything like the way the earth was, for moon rocks do not contain certain minerals found on earth. They know that human life cannot be independently supported on the moon's surface, for moon rocks do not contain water or oxygen. And they have been able to deduce a great deal about the way meteors have affected the moon's surface.

But as Ed Roedder says. "There are many things still to be learned from the lunar samples. Some of the rocks haven't been studied at all.

"Curiosity is just one side of it. We have to keep studying these rocks so we can learn about the earth, not just the moon."

The trouble is that mice on Capitol Hill are nibbling at the moon rock research budget.

From grants totaling more than $10 million in fiscal year 1970, the lunar sample research budget of the National Aeronautics and Space Administration has steadily dwindled.

In the current fiscal year, it is $5.7 million. Last year, it was $5.9 million. Next year, NASA is asking again for $5.7 million—but inflation makes that equivalent to a cut in funds.

Meanwhile, the number of projects is declining, too. This year there are 96 projects; as recently as fiscal year 1975 there were 126. And it is not a matter of lack of demand. "I know lots of people who applied for grants and have been turned down," said Roedder.

What of the fact that $24 billion was spent on the three Apollo missions? What about ongoing, multiyear research that might have to be abandoned in midstream? Isn't there other fat in the federal budget?

"Well," said a Senate source, "you've heard of cutting off your nose to spite your face, haven't you?"

According to one high-ranking staff member for the House Committee on Science and Technology, the danger of the floor falling out of federal moon research funds is very small. Rather, the staffer said, his fear is the funds will continue to be chipped away, robbing some research projects of the scope and tools they should have.

"For the first time this year, I have been hearing from ranking members of committees that, hey, isn't nine years long enough on these rocks? How can there be anything left to look at?" the staff members said.

"In the past, there was concern only about duplication of research efforts, Moon rocks were very sexy then. Now, they're starting to become just another item in the budget."

The staff member said he finds such an attitude "almost foolhardy. We spend all these dollars to get there, and now we're talking about not getting everything we can out of it. We should do whatever we can with the samples. Everything."

For Ed Roedder, it is not as if he is facing the business end of a loaded gun. He has nine projects that do not involve moon rocks at all. He would not be standing in a breadline if his grant were not renewed.

Still, the question visibly saddened him. Asked what he would do if Moon-rock money were to vanish, Roedder clasped his hands and looked at the floor for 10 seconds.

"Well, I guess I'd just have to turn in my samples and go back to terrestrial samples," he said. Then, gazing at the Virginia countryside outside his laboratory window, he added: "But I wouldn't like it. Not one bit."

## CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, these two measures having been cleared on the other side of the aisle, that the Senate proceed to the consideration of Calendar Orders Nos. 959 and 960.

Mr. SCHMITT. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STANDING BEAR LAKE

The bill (S. 3342) to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the lake known as the Military Lake, which has been completed on site 16 (as described in House Document Numbered 349, Ninetieth Congress) of such Papillion Creek basin project, shall hereafter be known and designated as the "Standing Bear Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States shall be held to be a reference to the Standing Bear Lake.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1037), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of S. 3342, as reported, is to authorize the naming of Military Lake in the Papillion Creek project in Nebraska as "Standing Bear Lake."

GENERAL STATEMENT

Standing Bear was a chief of the Poncas. He is of great historic and symbolic importance to Indian people. He is also to be remembered and celebrated as an individual who believed in the cause of freedom.

In 1877 the Ponca Tribe was relocated to Indian Territory by the Federal Government. This move resulted in suffering and death. In 1879 Chief Standing Bear, in violation of Government orders, returned to Nebraska to bury his son. For this he was arrested and tried. At his trial the judge declared for the first time that an Indian was a person within the naming of the law and thus a citizenship reference for our native Americans was first made.

This trial and its attendant publicity prompted President Rutherford B. Hayes to rule that the Poncas should be entitled to return to their lands along the Niobrara River. The site of this famous trial was Fort Omaha which is only a few miles from the damsite which is proposed for naming by this bill.

Chief Standing Bear's courage served to substantiate the basic rights of Americans in this country.

## CHET HOLIFIELD BUILDING

The bill (H.R. 12138) to name a certain Federal building in Laguna Niguel, Calif., the "Chet Holifield Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1038), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE LEGISLATION

The purpose of H.R. 12138, as reported, is to authorize the naming of the Federal Building at Laguna Niguel, Calif., the "Chet Holifield Building."

GENERAL STATEMENT

Congressman Chet Holifield was born in Mayfield, Ky., on December 3, 1903. He was educated in the public schools of Arkansas and has resided in Montebello, Calif., since 1920. For many decades, he has served his community, his State, and his country with high distinction and dedicated service.

Chet Holifield was elected to Congress in 1942 as the first representative from the newly reapportioned 19th Congressional District of California and was reelected to 14 succeeding terms of Congress. He distinguished himself as a conscientious legislator and valuable congressional leader. He served as chairman of the Joint Committee on Atomic Energy in the 87th, 89th and 91st Congresses and as vice chairman of the Joint Committee in the 88th and 90th Congresses.

Over many years the Congressman was instrumental in the development of the atom in the military and in the transitional use of atomic energy from the military to the commercial sector.

In recognition of Chet Holifield's outstanding expertise, he was appointed as congressional adviser or delegate to numerous commissions and international conferences. He was the representative of the Joint Committee on Atomic Energy at the first organizational meeting of the International Atomic Energy Agency in Vienna, Austria in 1957, and he served as congressional adviser to the U.S. delegations to the 3d, 7th, 9th, 12th, 13th and 14th General Conferences of the International Atomic Energy Agency between 1959 and 1970.

Chet Holifield devoted much of his illustrious career to pursuing the peaceful uses of atomic energy. He was congressional adviser to the U.S. delegations to the International Conferences on the Peaceful Uses of Atomic Energy in Geneva, Switzerland, in 1955 and 1971; to the Conference on the Discontinuance of Nuclear Weapons Tests at Geneva in 1959 and 1961; and to the Disarmament Conferences at Geneva from 1967 through 1971.

Chet Holifield also devoted much of his talents to improving Government. During his tenure in Congress he served as chairman of the House Committee on Government Operations and as chairman of the Subcommittee on Legislation and Military Operations, House Committee on Government Operations. He examined the creation of more departments and more reorganizations than perhaps any other person in the Congress. In addition, he was vice-chairman of the Commission on Government Procurement from 1970 through 1972, and served as a member of the Commission on Organization of the executive branch of Government.

The Congressman's distinguished career has been recognized and noted by his constituents and the people of his country. He is the recipient of numerous awards, including the Congressional Distinguished Service Award of the American Political Science Association and the National Security Award of the U.S. Civil Defense Council. He holds a number of honorary degrees from distinguished American colleges.

It is in further recognition of Chet Holifield's long and distinguished career, and in view of his outstanding service to the people of his district and to his country that the Senate Committee on Environment and Public Works reports the bill to name, in his honor, the Federal building at Laguna Niguel, Calif., the "Chet Holifield Building."

## SURFACE MINING CONTROL AND RECLAMATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2463.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2463) entitled "An Act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to raise certain authorized funding levels contained therein, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 712 of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87, 91 Stat. 445, 524) is hereby amended as follows:

(1) in subsection (a), delete all after "September 30, 1978," and insert in lieu thereof: "$25,000,000 for each of the two succeeding fiscal years, and in such fiscal years such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs."; and

(2) delete subsection (b) and insert in lieu thereof: "(b) For the implementation and funding of section 507(c) there are authorized to be appropriated sums reserved by section 401(b)(1) for the purposes of section 507(c) and such additional sums as may be necessary (i) for the fiscal year ending September 30, 1978, to provide an amount not to exceed $10,000,000 to carry out the purposes of section 507(c) and (ii) for the fiscal years ending September 30, 1979, and September 30, 1980, to provide an amount not to exceed $25,000,000 to carry out the purposes of section 507(c)."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination at the desk.

The PRESIDING OFFICER. The nomination will be stated.

## DEPARTMENT OF STATE

The assistant legislative clerk read the following nomination, reported earlier in the day by the Committee on Foreign Relations:

Talcott W. Seelye, of Maryland, to be Ambassador to the Syrian Arab Republic.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 o'clock Monday morning.

The PRESIDING OFFICER. The Senate is still in executive session.

Mr. ROBERT C. BYRD. I thank the Chair.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATORS CURTIS AND BAKER ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, the Senator from Nebraska (Mr. CURTIS) and the Senator from Tennessee (Mr. BAKER) be recognized, each for not to exceed 15 minutes, after which the Senate resume the consideration of the International Monetary Fund bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. I shall now state the program for Monday.

The Senate will come in at 10 o'clock on Monday.

After the two leaders or their designees have been recognized under the standing order, the Senator from Nebraska (Mr. CURTIS) will be recognized for not to exceed 15 minutes and the Senator from Tennessee (Mr. BAKER) will be recognized for not to exceed 15 minutes, after which the Senate will resume its consideration of the International Monetary Fund bill.

Rollcall votes will occur on amendments or motions in relation to the bill. Hopefully final action will be reached on that bill on Monday. In any event, there will be no rollcall votes, however, before 3 o'clock p.m., with the possible exception of rollcall votes which deal with procedural matters, such as establishing the presence of a quorum. I would anticipate several rollcall votes on Monday after 3 o'clock p.m.

## RECESS UNTIL 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock on Monday morning next.

The motion was agreed to; and at 5:37 p.m., the Senate recessed until Monday, July 31, 1978, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 28, 1978.

DEPARTMENT OF JUSTICE

Andrew L. Metcalf, Jr., of Michigan, to be U.S. marshall for the western district of

Michigan for the term of 4 years, vice Marvin G. Washington, term expired.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Jerome R. Waldie, of Maryland, to be a member of the Federal Mine Safety and Health Review Commission for the term of 2 years (new position).

AGENCY FOR INTERNATIONAL DEVELOPMENT

Calvin H. Raullerson, of Texas, to be an Assistant Administrator of the Agency for International Development, vice Fred O. Pinkham.

IN THE NAVY

The following-named commanders of the U.S. Navy for temporary promotion to the grade of captain in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5769, subject to qualification therefor as provided by law:

Ackart, Leon E.
Adams, John W.
Adams, Samuel W., Jr.
Addison, Carl W., Jr.
Aldana, Louis P.
Alligood, Bruce T., Jr.
Allsopp, Richard E.
Anderson, Anders T.
Anderson, Edward E., Jr.
Anderson, Richard S., Jr.
Andres, Sharles G.
Artim, Ronald N.
Avila, John, Jr.
Baker, Edward B., Jr.
Ballantine, James C., Jr.
Banks, William K.
Barnes, Paul D.
Barnum, Craig L.
Bassett, Charles H., Jr.
Bassin, Paul H.
Bauer, Herbert
Beatty, James R., III
Behning, William P.
Bender, James E.
Bernsen, Harold J.
Betterton, Thomas C.
Biele, Charles E., Jr.
Bledsoe, Paul I.
Boice, Frank B.
Bolinger, Charles W.
Bondi, Joseph R.
Bovey, Robert L.
Boyne, Peter B.
Brantuas, Joseph A.
Breckon, Richard L.
Brennock, Robert F.
Brewton, Edward A.
Brightman, James M.
Bronson, Edward F.
Brooks, Linton F.
Brooks, Thomas A.
Brown, Donald L.
Brown, Thomas W.
Buck, David E.
Buck, Ralph V.
Burgess, John E.
Burke, John P.
Burns, John D.
Butsch, Lester H.
Caldwell, James F.
Campbell, Craig S.
Campbell, Robyn M., Jr.
Cantrell, Walter H.
Caron, Gerald C., Jr.
Carson, William G.
Cartwright, Jackson E.
Chabot, Peter G.
Chanslor, Richard M.
Charles, Richard N.
Christensen, John E., Jr.
Christenson, Robert W. S.
Clark, Charles F.
Clark, Jeremy C.
Clarke, Douglas L.
Clexton, Edward W., Jr.
Coffee, Gerald L.
Coleman, James J.
Comer, Robert F.
Compton, William H.
Conklin, Andrew J.
Coolbaugh, Jesse D.
Cossey, James D.
Coulbourn, Samuel W.
Cox, Kenneth E.
Crowe, William M., Jr.
Culhane, William P.
Curtis, Guy H., III
Davis, James V.
Demand, Daniel H.
Dennis, Jefferson R., Jr.
Derr, Allen J.
Dietrich, William H.
Doherty, Edward F.
Donovan, Francis R.
Dreessen, Francis M.
Dugan, Ferdinand C., III
Dunbar, Richard P.
Dunham, William C.
Dunlap, Stanton P.
Edson, Philip N.
Edwards, Steven H.
Eldredge, Howard S.
Ellis, Herbert A., Jr.
Ellsworth, Warren R., Jr.
Enkebol, Richard E.
Erner, Eugene J.
Evans, Thomas W.
Farrell, Edmund F.
Feran, Paul M.
Fernald, Lloyd W., Jr.
Fickenscher, David B.
Finn, William A.
Fisher, Harvey E.
Fisler, Louis H.
Floyd, Francis M.
Flynn, Gerrish C.
Foss, Robert N.
France, Morgan M.
Freakes, William
Frederick, Keith J.
Fredrickson, Arthur H.
Gallo, Salvatore F.
Gentz, Richard C.
Gilchrist, James L.
Gimber, Harry M. S. III
Glickman, Thomas W.
Gneckow, Gerald E.
Greenhoe, Duane F.
Grimm, Thomas D.
Gruendl, Paul L.
Gulliver, Victor S.
Gunderson, Donald H.
Gurke, Donald L.
Halloran, William R., Jr.
Hamilton, Larry D.
Hansen, Harry J., III
Hardy, Brenton P.
Harper, Thomas J.
Hatcher, Jerry M.
Heisner, Robert I., Jr.
Herring, George G. III
Hewitt, Wesley C.
Heyward, Shannon D.
Hiebner, Robert J., Jr.
Hines, Dean H.
Hodgens, Jack A.
Hodgkins, William S.
Holland, Joe L.
Holsten, Donald W.
Holtzclaw, John W.
Horne, Ronald G.
Houston, Jerry B.
Howe, Frederic N., Jr.
Hower, James J.
Howland, John H.
Huckabay, William O., Jr.
Hummer, John J.
Hyatt, Leo G.
Isaacson, Alan T.
Jacobs, Thomas L.
Jensen, Robert L.
Johnston, Ronald L.
Jones, Colin M.
Jordan, William T.
Kalleres, Michael P.
Katz, Bennett D.
Kaufman, Larry E.
Keith, Robert T. S.
Kerr, Howard J., Jr.
Kerr, William A., Jr.
King, Carleton J., Jr.
King, John J.
Kirkconnell, William B.
Kirkland Thomas J., III
Kirkman, Roger J.
Knutson, Jerry G.
Kober, Harry P., Jr.
Koch, William A.
Koster, Alfred M., IV
Kraft, Robert M.
Kriewall, Royce L.
Kuhn, Joseph L.
Kunkel, Larry D.
Lange, William G.
Langholz, Marcus J.
Larabee, Kent W.
Lavinder, Carlton L., Jr.
Law, James E.
Lewis, Marwood D.
Lewis, Robert K., Jr.
Lindsey, Eugene E., Jr.
Lineback, Harry W.
Litton, Robert C.
Loewenthal, Robert G.
Loftus, Stephen F.
Loman, Cleve E., Jr.
Lorusso, John M.
Madouse, Richard L.
Magner, Lawrence R.
Maher, Daniel R.
Mahony, Terrence M.
Malley, Kenneth C.
Maloney, Thomas C.
Martin, Richard L.
Marxer, Hugo E.
Masten, Lawrence E.
Mattingly, Thomas K., II
McCain, John S., III
McCauley, George K.
McConville, James E.
McCulloch, James M.
McCullough, Robert F.
McFarland, James S.
McGlasson, Daniel E.
McGrail, Charles R., Jr.
McGuigan, David B.
McMahon, Bernard F., Jr.
McMichael, George L.
McPherson, Roger B.
McRight, Clarence, Jr.
Meaux, Richard P.
Meinig, George R., Jr.
Metz, Fredrick J.
Meukow, Walter T.
Meyer, Frank W.
Mickle, William M.
Miniter, Howard E., Jr.
Mixson, Riley D.
Moore, Jimmie R.
Moreau, Ronald F.
Morris, David R.
Mumford, Robert E., Jr.
Munch, Charles H.
Munn, Robert J., Jr.
Murdoch, Thomas M.
Murphy, Norbert P.
Murray, Gordon L., Jr.
Murray, Thomas R.
Neese, John F.
Nelson, Henry E.
Nelson, Paul C.
Newell, John W.
Nicholas, Joseph
Nider, Kenneth E.
Noll, Charles F.
O'Brien, George E.
O'Connor, Paul
Ogren, John P.
O'Neill, James P., Jr.
Osberg, John W., III
Palmer, Leslie N.
Parker, Richard S.
Parnell, Ural C.
Parrish, David E.
Peacher, Robert W.
Peerenboom, William H.
Peterson, Paul A.
Peterson, Robert A.
Pharis, Wade J.
Philipps, George
Pirotte, James H.
Pistotnik, James J.
Pittenger, Richard F.
Poole, James R.
Poyet, Elmer F.
Preston, Craig A.
Prosser, Norman E.
Puerling, Peter N.
Quinn, James H.
Read, Dennis S.
Reimann, Robert T.
Reynolds, Ted W.
Rice, Lloyd K.
Rich, Roger L., Jr.
Richardson, Daniel C.
Richardson, John D., Jr.
Riches, Raymond C.
Ripple, James E., Jr.
Robbins, Philip D.
Robins, Harry B., Jr.
Roeser, Walter V., Jr.
Rogers, David N.
Rothrauff, Thomas B.
Rumney, Robert E.
Russell, Earl H.
Salmon, Walter W., Jr.
Sample, Bobbie L.
Scales, Richard H.
Schaffer, Ruben W.
Schleicher, Richard J.
Schneider, Henry J.
Schoonover, Richard T
Schulz, Russell K.
Scott, Milton M.
Sedor, Gerald
Seidel, Melvin L.
Sharp, Grant A.
Shay, James E.
Shields, Ronald M.
Shriver, Norman W.
Sick, Gary G.
Siegel, Kent R.
Sillery, Charles D.
Silvia, Charles P.
Sloan, Dennis Y.
Sloane, Stephen B.
Smedberg, Edwin B.
Smith, Charles J.
Smith, Clyde A.
Smith, Peter T.
Smith, William E., Jr.
Smith, William J.
Smithey, William J. H. Jr.
Snell, William F.
Spencer, Thomas J.
Stark, William R.
Steckler, Joseph L.
Stewart, Keith A.
Stoker, Laron L.
Stoodley, Francis H.
Strahm, Kenneth A.
Strange, Robert O., Jr.
Strole, Dennis S.
Sullivan, Jermiah F.
Sutphen, Harold J.
Szczypinski, Walter S., Jr.
Taff, Clarence O., Jr.
Tarbox, Thomas N.
Tarquin, Donald C.
Taunt, Melvin, E.
Terry, Ross R.
Thompson, Alton K.
Thompson, Glynn M.
Toney, Robert L.
Topping, Robert L.
Veenstra, Robert M.
Venezia, Howard
Viccellio, John S.
Viessmann, Alex J.
Vold, Almer C.
Vosseller, Richard T.
Wardwell, Arthur F., Jr.
Wasloski, John E.
Waters, Ronald L.
Watts, Robert B.
Wellborn, Robert M., Jr.
Wentz, James E.
West, Eugene H.
West, Ralph W., Jr.
West, William W.
Wheatley, Gary F.
White, Charles E.
White, Ervin E.
White, George W., Jr.
Whitmire, Wilson R.
Wilbur, Charles H.
Williams, James R.
Wiltsie, Ronald J.
Wood, Leland E., Jr.
Woodworth, Benjamin B.
Wyatt, Raymond E.
Wyatt, Richard L.
Yockey, Harry M.
Zeller, Raymond G.
Zimmer, Emory P.
Zucker, Channing M.

Lt. Comdr. Manuel A. Hipol, Medical Corps, of the Reserve of the U.S. Navy for temporary promotion to the grade of commander in the Medical Corps of the U.S. Navy as a reserve officer, pursuant to title 10, United States Code, section 5505, subject to qualification therefor as provided by law.

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and staff corps, as indicated, pursuant to title 10, United States Code, section 5769 (line) and 5773 (staff corps), subject to qualification therefor as provided by law:

LINE

White, Robert E., Jr.

CHAPLAIN CORPS

Ellison, Floyd C.
Julius, James A.
Williams, Norman O.
Izac, Carroll A.
Masse, Edward J., Jr.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps of the U.S. Navy, as indicated, pursuant to title 10, United States Code, section 5769 (line) and 5773 (staff corps), subject to qualification therefor as provided by law:

Abel, Robert J.
Albrecht, Scott E.
Beauvais, Douglas J.
Berry, Edmund W.
Blow, James B.
Borrelli, William A.
Brainerd, Jeffery H.
Brattin, Kenneth R.
Brilleslyper, Harry M.
Brunsvold, Daniel P.
Carlson, David R.
Cassano, Rocco
Clouse, Alexander P.
Corner, Stephen J.
Coston, Phillip W.
Cowart, Michael W.
Dowell, Jon C.
Elliott, Erwin B III
Fredrickson, Guy P.
Gray, Clifford C.
Greenleaf, George A.
Haffey, George F.
Hamilton, Randall W.
Hertz, Charles L.
Hess, Robert M.
Hoyer, Robert T.
Hutchens, Andrew R., Jr.
Jackson, Robert H., III
Kaser, Robert D., Jr.
Kennedy, John W.
Kleiser, Theodore E., III
Klepper, James M., Jr.
Kupovits, Terry M.
Lamb, Larry S.
Levi, Joseph C.
Lowery, Charles D. III
Myers, Lawrence E.
O'Brien, Thomas E.
Owsley, Robert C.
Parish, David C.
Parks, Gary C.
Parsons, Stanton V., II
Pearson, Robert A.
Phillips, John A.

Proffitt, Donald W., Sr.
Ragsdale, Robert G., Jr
Rancik, Rodney
Robinson, Decatur M.
Schumaker, Carl W.
Scott, Charles B.
Sewell, Steven R.
Steward, Thomas F.
Swartzbaugh, Charles C., II
Taylor, Alfred W.
Thompson, Edgar D.
Tuten, Harold R.
Walker, William R., Jr.
Williams, David L.
Wortham, Willie L.

SUPPLY CORPS

Hutchison, Michael B.
Nance, Jeremiah M. III
Sumner, Dale L.

CIVIL ENGINEER CORPS

Hunter, Ernest R.

MEDICAL SERVICE CORPS

Chandler, Robert G.
Schoenberg, Lawrence W.

NURSE CORPS

Boechler, Gerald A.
Campany, Joyce A.
Clary, Maureen F.
Fraley, Ronald E.
Hagstrom, Cynthia A.
Leonard, Mary E.
Merkley, Don A.
Oldenburg, Pamela J.
Pollard, Shirli L.
Purdham, Richard S.
Wallace, Karen N.

The following-named women commanders of the U.S. Navy, for permanent promotion to the grade of captain in the line, of the U.S. Navy, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Calene, Mary L.
Vonwantoch, Jordine S.
Watlington, Sarah J.

The following-named women lieutenants (junior grade) of the U.S. Navy, for permanent promotion to the grade of lieutenant in the line, of the U.S. Navy, pursuant to title 10, United States Code, section 5771, subject to qualifications therefor as provided by law:

Cummings, Kathleen M.
Dady, Teresa G.
English, Patricia A. R.

The following-named ensigns of the Supply Corps, of the U.S. Navy for appointment in the line of the U.S. Navy as permanent ensigns, pursuant to title 10, United States Code, section 5582(a), subject to qualification therefor as provided by law:

Collier, Roosevelt, II
Colman, Charles, Jr.

Ensign Thomas L. Dinges, Chaplain Corps, of the Reserve of the U.S. Navy for appointment in the line of the Reserve of the U.S. Navy, as a permanent ensign, pursuant to title 10, United States Code, section 593, subject to qualification therefor as provided by law.

IN THE NAVY

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps, pursuant to title 10, United States Code, section 5784, subject to qualification therefor as provided by law:

LINE

Absher, William C.
Ackerman, Donald K., Jr.
Adams, Christopher C.
Adams, Christopher T.
Adams, James J.
Adamson, Robert E., II
Adolphe, Robert G.
Aguilera, Marino
Aiken, Daniel J.
Aker, Winfred, G.
Alexander, Joseph L.
Alexander, Robert C.
Alfred, Michael A.
Alger, Daniel F.
Allen, Charles T.
Allen, Damon E., Jr.
Allen, James P.
Allen, Lois E.
Allen, William H.
Amelon, Richard R.
Ament, Joseph W.
Ament, Marion D.
Amundson, Glenn M.
Anderson, Scott P.
Anderson, James S.
Anderson, Stephen D.
Anderson, Alan D.
Anderson, Lee F.
Anderson, Paul A., Jr.
Annunziata, Michael J.
Anthes, Ernest S.
Archer, Paul L.
Areizaga, Charles
Arildsen, Jesse A.
Armacost, Gary M.
Armstrong, David T., Jr.
Army, Denis V.
Arnold, Richard R.
Askins, Larry E.
Assel, Michael D.
Atkins, Thomas B.
Atkins, William C.
Atkinson, Thomas P.
Atkisson, Fred G.
Atwood, Daniel L.
Auerbach, David
Austin, George B.
Avers, Randall J.
Averyt, Dennis E.
Ayala, Richard J.
Ayars, Arthur D., Jr.
Ayers, Lew L.
Baar, Eric C.
Bacin, Mark S.
Baila, Dorel L.
Bailey, Arthur E.
Bailey, Joseph L., Jr.
Bailey, Roger L.
Bain, Edward D.
Baird, Kenneth M.
Baker, Francis E.
Baker, James M.
Baker, Jeffrey W.
Baker, Joe F.
Baker, John V.
Baker, Robert D.
Baldwin, Henry S.
Baldwin, James P.
Balko, Brian L.
Bange, Jeffrey D.
Bannon, Michael C.
Baptista, Armand L., Jr.
Barba, Robert E., Jr.
Barber, Nelson W.
Barbieri, Anthony A.
Barner, Mark E.
Barns, William F.
Barreto, Paul K.
Barrie, Robert W.
Barringer, Robert M.
Bartlett, David F.
Bartlett, Roland R.
Bary, Charlene G.
Bass, Luncford L.
Bateman, Dale D.
Batze, Donald R.
Bauer, Geoffrey L.
Bauer, Michael E.
Bauer, Scott A.
Baum, Gordon E.
Baumgaertel, James L.
Bayer, Michael J.
Bayma, Benjamin A., Jr.
Beall, Joseph S., III
Beck, Charles E.
Beck, David W.
Beck, Reece N.
Becker, William J.
Beebe, James E.
Beeler, Dale E.
Beemer, Bruce A.
Beersdorf, Jerry W.
Begley, Grant A., Jr.
Beimborn, Susan M.
Bell, Fredrick A.
Bell, Mark T.
Bell, Steven D.
Bellard, James A.
Bellinger, Gene R.
Bello, Joseph V.
Benavidez, Ralph L., Jr.
Bender, Gregory L.
Bender, James C.
Benfield, Paul K.
Benigno, John C.
Benkert, Francis M.
Bennett, Gary D.
Bennette, Donald D.
Benoit, John E.
Beres, Dennis P.
Bergman, Fred W.
Bernhard, David L.
Bernhardt, Wardell K.
Berry, Wendell S.
Bertalan, Frank J.
Berthrong, Williams E.
Bertsche, Mark S.
Beth, Daniel R.
Bettisworth, Allen K.
Beuchel, Bruce E.
Bigham, Harry R.
Billingsly, David E.
Binderup, Stephen F.
Blaha, Milady, A.
Blair, Brian E.
Blake, John T.
Blake, Richard E.
Blake, Thomas J.
Blanchard, Eldon D.
Bleeker, Hans J.
Blevins, Jerry L.
Blitz, Victor E., Jr.
Bloomberg, William R.
Bloomer, James W., II
Bloomquist, Mark P.
Bloss, Walter J.
Blume, Frederick L.
Blummer, Roger C.
Bobb, Kenneth A.
Bobenage, James M.
Bock, Wolfhubertus
Bodin, Kenneth C.
Boggs, Howard D.
Bohn, John L., II
Bolger, Randall C.
Bollenbacher, Thomas M.
Bolyard, John W.
Bonanno, Samuel J.
Bonner, Robert B.
Bordelon, Richard S.
Borovicka, Stephen J.
Borries, Robert B.
Boschert, Gregory H.
Boucon, Daniel L.
Bourgeois, Neil C.
Bourne, Carlton M.
Bowen, Michael M.
Bowers, Steven G.
Bowles, Paul R.
Bowling, Raymond B.
Boyce, Robert L.
Boyd, Edwin E., II
Boyd, James A.
Boyd, Lloyd R., Jr.
Boyd, Thomas E.
Boyer, James
Boyle, John J.
Brackett, Robert C.
Bradford, Charles P.
Bradley, Kenneth D.
Brammer, Harry M., III
Bramsen, Jeffrey
Brands, Michael B.
Brannon, Robert B.
Brannon, Todd C.
Brasco, Thomas C.
Brasel, Thomas M.
Brehm, Barbara L.
Brennan, Ainslie S.
Brewer, Robert G., Jr.
Briant, Charles C.
Briley, Jo
Britt, John A.
Broach, Dana M.
Broadway, Michael W.
Brockhoff, Charles S.
Brody, Robert A.
Broomfield, Kenneth A.
Brown, Budd C.
Brown, Chalker W., III
Brown, Christopher M.
Brown, Elena W.
Brown, Gary L.
Brown, Gerald R.
Brown, Kevin M.
Brown, Michael L.
Brown, Robert D.
Brown, Robert C.
Brown, Steven W.
Brown, William H.
Brownlee, Robert E., III
Brubaker, Thomas E.
Bruce, Richard V.
Bruce, Robert L., Jr.
Bruner, Bettyjo D.
Bruski, Terrance J.
Bryan, Dewey G.
Bryan, James J.
Bryce, James H.
Bryce, Thomas D.
Bryndal, Gerard L.
Bubula, Richard A.
Budd, William V.
Buescher, Stephen A.
Buhrlage, Charles A.
Buker, Jeffrey A.
Bullock, Robert A.
Bultemeier, Craig W.
Bumgardner, Mark L.
Burch, Carl D.
Burd, James E.
Burger, Gerald A., Jr.
Burger, Rolf J.
Burgess, Leslie A.
Burgess, Richard R.
Burkhart, Grey E.
Burks, Donald M.
Burns, John W.
Burns, Robert E.
Burtis, Thomas C.
Burton, Eugene R.
Bush, John R.
Bush, Richard A.
Bush, Richard L.
Bush, Robert B.
Bushong, Gregory B.
Bussey, Michael D.
Bust, Jeffrey D.
Bustamante, Robert P.
Butler, Brian F.
Butler, Richard M.
Butler, Stephen C.
Buttermore, James E.
Butts, Jeffrey M.
Buzby, Robert E.
Buzek, Mark C.
Byrd, William J.
Byrne, Charles M.
Byrne, John W., IV
Cable, Larrie G.
Cabrian, Stephen L.
Caddell, Marvin R.
Cadwell, Charles A., Jr.
Cady, David W.
Calfior, Fred J.
Calhoun, John D.
Calland, Wynn E.
Callier, Robert D.
Cameron, Wallace R., Jr.
Campagna, Michael S.
Campagna, Mark S.
Campbell, William B.
Campobasso, Thomas D.
Caracci, Vincent E.
Caramia, Lawrence
Carey, Leslie F.
Carey, Richard P.
Carl, Keith P.
Carlisle, Garold E., Jr.
Carlson, Carl G.
Carlson, Jay A.
Carlson, Phillip D.
Carlson, Thomas A.
Carman, John W.
Carmichael, David L.
Carpenter, Edward J.
Carpenter, Stephen E.
Carrizales, J. Javier
Carter, Gregory L.
Carter, James C.
Carter, Steven M.
Case, Paul H.
Casey, Edward J., III
Casey, Kevin D.
Casey, Patrick J.
Casey, Ronald L.
Cashbaugh, David M.
Cassias, Jeffrey B.
Cassin, Stephen J.
Cassun, Nicholas J., II
Cauley, Bruce A.
Cavalieri, Ralph P.
Cavalli, Joseph P.
Cavanagh, Jeffrey D.
Cavanaugh, Thomas A.
Cecere, Michael L., III
Cenci, Anthony W.
Centeio, Anthony F., Jr.
Cerino, Michael N.
Cetel, Alan J.
Chaloupka, Joy L.
Chan, Edward W.
Chapman, David B.
Charlsen, Randolph A.
Chase, Richard E.
Chatlos, David J.
Chavis, Francis D.
Cheeseman, Edward W., Jr.
Chegin, George M.
Cheney, David M.
Cherney, James R.
Chesson, Roy W.
Chilton, Michael A.
Chimiak, William J.
Chomas, Edward J.
Christensen, Nyles L.
Church, Richard C.
Cihlar, Thomas J.
Cikanovich, Christopher J.
Ciola, Joseph P.
Clark, Brozia H., III
Clark Craig J.
Clark, David R.
Clark, Frank N.
Clark, Michael L.
Clark, Michael D.
Clark, Miles Ira, II
Clark Robert L.
Clary, Michael D.
Clausen, George E., III
Cleary, William W.
Clements, Michael R.
Clifton, Glynna M.
Clough, Karl E. R., Jr.
Cloyd, James D.
Cluster, Chris J.
Coad, William D.
Cockrel, Robert G.
Cole, Stephen D.
Cole, Walter B.
Colegate, Gregory A.
Coles, Bryan W.
Collier, Clifford L.
Collier, James R., Jr.
Collins, Ronald E.
Collins, Steven P.
Collis, Jerry C.
Comer, Kenneth W.
Comi, Patrick M.
Conley, Jeffrey M.
Conn, Stephen A.
Connal, Edson N., Jr.
Connell, James M.
Connell, Roger J., Jr.
Connors, Michael P.
Conrad, Lawrence J.

Conrad, Robert D.
Conte, Donald V.
Conway, Daniel R.
Cook, Frederick C.
Cooke, Terrence A.
Cooke, William C.
Cooper, Wade T., Jr.
Coppins, Stephen B.
Corbett, Bruce B.
Cordes, George A.
Corley, Robert D.
Cornwell, Paul G.
Corrigan, Patrick J.
Corrigan, Robert D.
Costa, Joseph R.
Couch, Jay R.
Coulter, John S.
Courtney, John D.
Covington, Benjamin B.
Cowell, Harry T.
Cowen, Sherry T., III
Cowley, Kevin J.
Cox, Charles D.
Cox, David C.
Cox, Vincent H.
Cox, William E., Jr.
Coy, Curtis L.
Crager, Scott R.
Cramer, Michael L.
Crandall, James W., Jr.
Crawford, Billie E.
Crawford, Robert D.
Crawford, Thomas A.
Crawford, Tom H., III
Cresswell, Charles A.
Crissinger, Michael A.
Critz, Michael R.
Crocker, Michael D.
Croner, George W.
Crook, Sean P.
Crooks, John S.
Crosby, Paul J.
Crow, David L.
Crowe, Richard C.
Crowley, James A.
Cuaderes, Ricardo A.
Cudd, Robert J.
Cullen, Michael J.
Culver, David R.
Culver, Walter C.
Cummings, William R.
Cunningham, James R.
Cuppett, Bruce J.
Curlee, Steven D.
Currier, Charles R.
Curry, Kenneth W.
Curry, Patrick F. D.
Curtis, Lebbeus
Dabrowski, Jerome A.
Dahlmeier, Michael C.
Daley, William H., III
Dalton, Jerry W.
Daly, Terrence F.
Damisch, Peter W.
Dandeneau, Allen H.
Dandrea, Joseph W.
Daniels, Hoyle H., III
Daniels, Kirk J.
Danko, Lawrence W.
Dann, Geoffrey
Darland, Dallas M.
Darrow, Mark F.
Daugherty, David W.
Daum, Michael G.
Davidson, Gary R.
Davila, Frank D.
Davilli, Thomas B.
Davis, Alfred R.
Davis, Lee S.
Davis, Robert H.
Dawson, Lawrence
Dearth, Randolph S.
Debs, Brian T.
Dedels, Ronald A.
Dedes, Robert P.
Dehoff, George R.
Delbando, John T.
Delery, Thomas A.
Delpino, Joseph M.
Demeranville, Stephen G.
Deml, Robert J.
Dempsey, James R.
Dempsey, John M., II
Denham, Keith N.
Denis, David A.
Dennis, Samuel E.
Dennis, Timothy J.
Derrick, Michael B.
Despain, James E.
Detweiler, Thomas J.
Deutsche, Bruce R.
Devane, Benjamin L.
Diantonio, Brian A.
Diantonio, Dennis J.
Dick, Richard
Dickason, Clarence W., Jr.
Diekman, Diane J.
Dillon, Steven F.
Dillon, Thomas C.
Dillow, Robert G.
Dilmore, William D., Jr.
Dimaio, Ralph S.
Dinunzio, Joseph A.
Disney, Mark S.
Dixon, Richard P.
Dlugolecki, Thomas M.
Dobry, Thaddeus P.
Dodge, Ryland T., III
Doehnert, Mark P.
Doeler, Jeffery N.
Doherty, John T., Jr.
Dolat, Stephen W.
Donald, Kirkland H.
Donaldson, Thomas Q. V.
Donnelly, John J.
Dooley, Albert J.
Dorrance, William H., IV
Doughty, Michael H.
Douglas, Michael L.
Douglas, Rex R.
Dove, Thomas E.
Downing, Julie A.
Doyle, Michael T.
Drake, Wesley C.
Draughon, Clarence G.
Drew, Bryan C.
Driver, Robert K.
Droddy, James E.
Duba, Stephen C.
Ducharme, James E.
Dudley, Noel F.
Duffie, David A.
Duke, Paul S.
Dumont, Sidney P., III
Dunaway, Frank R., III
Duncan, James L.
Duncan, Marshall B.
Duncan, Ralph E.
Duncan, Robert B.
Dundics, Desi G.
Dunlap, James C.
Dunne, Michael J.
DuPaul, Gilbert A.
Durnan, Jaymie A.
Durst, Robert G.
Dutton, Terence L.
Dwyer, Richard M.
Eaton, Albert L., Jr.
Edgar, Leslie I.
Edwards, John A.
Eek, Robert E.
Egbert, Jean L.
Eggebroten, James K.
Eggleston, Dennis C.
Eggleston, Steve W.
Eichelberger, Robert M.
Eichstedt, James R.
Elins, Daniel J.
Ellis, Frank C., Jr.
Ellis, James M.
Ellis, Robert S.
Ellison, Stephen K.
Elsea, Rodney A.
Emery, James W. Jr.
Emley, James E.
Endrikat, Hansjoachim
Engelman, Peter B.
Engler, David M., II
English, Charles P.
Ennis, John F.
Enzenauer, Raymond J.
Erickson, Steven G.
Ericson, Eldon A., Jr.
Ervin, Franklin A.
Estes, Steven C.
Evans, John D.
Evans, Richard L.
Evans, Ross M., III
Ewers, Barton A., Jr.
Ewing, Ronald J.
Eyman, Roy L.
Ezzard, Henry S., Jr.
Fackrell, Michael A.
Fair, Christopher K.
Falby, John S.
Farber, Martin J.
Faria, Richard D.
Farmer, David H., Jr.
Farrell, Paul F.
Fay, James E.
Feeney, Michael J.
Feldman, David S.
Fellows, Larry A.
Feltham, John C., III
Ferguson, Stephen W.
Ferguson, Charles D.
Ferguson, Julian A., III
Ferris, Joyce M.
Ferris, William F.
Field, John G.
Fife, Lorin M., III
Finnnegan, Raymond W.
Firth, Edwin G.
Fitzpatrick, Walter F.
Fitzpatrick, Ulysses
Fitzsimons, John V.
Flammang, Harold J., Jr.
Flannery, Brian E.
Flick, Robert M.
Flint, Thomas P.
Flippin, Walter N., III
Flood, Joe S.
Floyd, Charles A.
Flynn, John E.
Foerster, Bernd A.
Foerster, John C.
Fogelsanger, Robert W.
Foley, Christopher P.
Foley, Patrick J.
Foley, William R., III
Fonnesbeck, Robert W.
Ford, Richard K.
Ford, William A., III
Forgy, James R.
Forrest Gaylord, R. M.
Forsley, Richard T.
Fosberg, Barry L.
Foster, John I., III
Foster, Leslie
Fowler, Harold E., Jr.
Fowler, John D. M.
Fox, Dana L.
Fox, Leonard A.
Francis, Michael R. J.
Franks Lanney G.
Fraser, Donald B., Jr.
Frassica, Frank J.
Frese, Robert M.
Freund, Jack L., Jr.
Frey, Thomas W.
Fricton, Robert K.
Frigo, Ronald J.
Frost, David E.
Frye, Wilson E.
Fuhrman, Robert E.
Fuhrmeister, Roy L.
Fulca, Michael J.
Fuller, James T.
Funk, Dan R.
Fursman, Thomas M.
Fusco, Louis L., Jr.
Gabor, James R.
Gabus, Cynthia L.
Gade, Richard E.
Gadzala, Thomas J.
Gagliardi, Michael J.
Gahran, Brian H.
Galicki, Dennis M.
Gallaher, Robert D.
Galle, John L., Jr.
Galloway, Graig E.
Gann, Timothy J.
Gantt, Robert M.
Ganze, Robert H.
Garbolevsky, Alexander F., Jr.
Gardner, Mark R.
Garmer, Stanley A.
Garnett, Lloyd M.
Garrett, Gene W.
Garrett, William L.
Garwood, Bruce W.
Gearin, Michael J.
Geigelbunker, Carlos E.
Genereux, Donald E.
Gentile, Joseph P.
Gentry, Guy M.
Gettman, Kenneth E.
Geyer, Charles E., Jr.
Gibbons, Matthew J.
Gibson, James H.
Gibson, Robert D.
Giesey, William C.
Gilbreath, James V., Jr.
Gilchrist, Lorri P.
Giles, Robert T.
Gill, James J.
Gillchrist, Mark C.
Gillchrist, Thomas E.
Gillespie, Richard D.
Gillette, Craig A.
Gilliam, Brent G.
Gilliam, Charles D.
Gillliland, Manuel A.
Gilmore, James R.
Gimbrone, Carl J.
Ginn, John D.
Gladden, Riley J.
Glendinning, Robert E.
Goforth, Hunter B.
Gold, Robert J.
Gonzales, Rodolfo F., Jr.
Goodman, James B.
Goodwin, Frederick L.
Goodwin, James D.
Goodwin, John W.
Goodwin, Kevin P.
Gooley, William P.
Gordon, Jonathan R.
Gordon, Royal P., III
Gothard, David L.
Gottschalk, Patrick O.
Gough, David B.
Gould, Thomas E.
Gove, David A.
Graf, Joseph G.
Graff, Frederick W., Jr.
Graham, Frank C., Jr.
Graham, Jerry L.
Graham, Sheila A.
Granger, Douglas S.
Grant, Patrick W.
Grant, Stephen R.
Granucci, Richard A.
Graves, Robert G.
Graves, Ronald L.
Gray, David P.
Gray, Thomas B.
Green, Norman K., Jr.
Greenberg, Allen J.
Greenert, Jonathan W.
Gregor, Kevin M.
Gregory, Paul G.
Gregory, Thomas J.
Grella, William A.
Gribble, Richard E., Jr.
Griffin, Gerald B.
Griffin, James P.
Griggs, Michael S.
Grisham, Jimmy D.
Groothousen, Michael R.
Gross, Donald E., Jr.
Grover, Ronald O.
Gucwa, Terence J.
Guernsey, Neal F.
Guerrazzi, Eric L.
Gullick, Jerry W.
Gustafson, Timothy M.
Gustafson, Victor G.
Guth, James D.
Gutzman, Howard W.
Haage, George W.
Haas, Jon M.
Hack, Harold R., Jr.
Haefner, Gregory G.
Hagin, James M.
Hale, Patrick C.
Hales, Randolph F.
Hall, Charles F.
Hall, Christopher J.
Hall, Douglas A.
Hall, Graham T.
Hall, Russell E.
Hall, Steven C.
Halter, Stanley F.
Hambrock, Paul E.
Hamel, David A.
Hamilton, Philip P.
Hammer, David A.
Hammerquist, Kenneth G.
Hammitt, Frank D.
Hammond, Richard S.
Hampey, John M.
Hancock, Frederick J., Jr.
Hankins, Henry D.
Hanna, James S.
Hannah, Phillip J., Jr.
Hanrahan, John M., Jr
Hansen, Bertel J., Jr.
Hansen, Kurt F.
Hansen, Wilhelm A., Jr.
Hanson, Paul G., III
Harar, Paul W.
Harden, Timothy S.
Harding, Warren A.
Hardy, Thomas E.
Hargrove, Charles D.
Harlan, Gilbert R.
Harmon, James L.
Harmon, Steven A.
Harnish, Judith A.
Harper, Mark J.
Harrington, James T.
Harris, Andrew V. V., Jr.
Harris, Lary E.
Harrod, Robert L.
Hart, Kenneth R.
Hart, Robert H.
Hartmann, Francis X., Jr.
Harvey, Kenneth D.
Harvey, Terrence D.
Harwell, Rickey D.
Hass, James E.
Hasselfeldt, John K.
Hasslinger, Karl M.
Hatstat, Gregory D.
Haug, William C.
Hawkens, Edward R.
Hawkins, David A.
Hayden, Ernest N.
Hayes, Fred E.
Hayes, Onedia J.
Hayes, Thomas D.
Hayes, William R.
Haynes, Curtis J.
Hays, Charles E.
Hayward, Robert M.
Hazeltine, Joseph T.
Headley, Robert B.
Heard, Maurice E., III
Heath, Ronald Y.
Heely, Timothy L.
Heffley, John M.
Heine, David G.
Heinzer, Michael E.
Heitfield, Richard V.
Helsell, Peter F.
Henderson, James W.
Henderson, William J.
Herbein, David S.
Herman, Robert S.
Hermann, Edward P.
Hersh, Richard C., Jr.
Hess, Richard W.
Hessey, John H. V.
Hetzel, Gary P
Hicks, Lawrence F., II
Hicks, William M.
Hill, Charles A.
Hill, George C.
Hill, John D.
Hill, Stephen A.
Hill, Thomas B.
Hilliard, Chris A.
Himel, Craig A.
Hirabayashi, Donna M.
Hirsch, Thomas J.
Hite, Kent H.
Hixson, Ralph S.
Hodun, Anthony L.
Hoefer, Ronald K.
Hoffman, Gregory W.
Hoffman, Richard G., Jr.
Hofheimer, Norman A
Hogan, Gary P.
Hoggatt, Frederick A.
Hoke, Richard T.
Holmes, Douglass M.
Holmgren, David W.
Holthus, Gregg B.
Hood, James B., Jr.
Hood, Robin L.
Hopkins, Arni T.
Hoppock, Ronald E.
Horne, Martin W.
Horton, Stephen S.
Horwedel, Mark S.
Housley, Michael J.
Houtman Bauke H.
Howard, Andrew C.
Howard, Andrew J.
Howe, Charles M., Jr.
Howe, William S., III
Howse, William E.
Hubbard, Stephen D.
Huebner, William E.
Heutter, Patrick B.
Hufty, Lawrence M.
Hughes, Daniel E.
Hughes, Stephen M.
Hugo, Robert J.
Humeweinkam, Christina
Hunnicutt, Thomas G.
Hunter, Paul R.
Hunton, Lynn M.
Hurst, Richard E.
Huston, James W.
Hutcheson, Chester J., III
Hutchins, Robert E.
Hyde, Milo W., III
Hyer, Robert E., Jr.
Ingold, Gary C.
Iverson, Mildred N.

Jaap, Joseph B.
Jablonski, Edward R.
Jackson, Andrew E.
Jackson, David K.
Jackson, Douglas E.
Jackson, James T., Jr.
Jackson, Lesley J., Jr.
Jagger, Sandra J.
Jagoe, Donald A.
Jahnke, Larry D.
James, Donald L.
Jamieson, Margaret D.
Janning, Michael M.
Jaramillo, Bernardino, J.
Jarecki, John F., Jr.
Jarrett, Dale L.
Jaskot, Richard D.
Jefferson, James R.
Jenkins, James L.
Jenkins, Robert E.
Jennett, Gaston P., III
Jennings, Kathleen R.
Jensen, Donald W.
Jeschke, Francis N.
Jesson, Andrew R.
Jewell, Edwin D.
Joerger, David H.
Johns, Eric R.
Johnson, Aaron B.
Johnson, Allen K.
Johnson, Douglas A.
Johnson, Darrell J.
Johnson, Edward G., Jr.
Johnson, John R.
Johnson, Johnny L.
Johnson, Kurt D.
Johnson, Kirk E.
Johnson, Michael D.
Johnson, Richard A.
Johnson, Ralph B.
Johnson, Steve A.
Johnson, Steven W.
Johnson, Thomas E.
Johnson, William W.
Johnson, Warren H.
Johnsrud, Roger F.
Johnstone, Claudette G.
Joller, Walter C., Jr.
Jonas, Jon B.
Jones, Daron B.
Jones, Gary R.
Jones, James O.
Jones, John C.
Jones, Patrick W.
Jones, Richard L.
Jones, Robert G.
Jones, Ronald E.
Jones, Steven A.
Jones, Thomas D.
Jordan, Will H.
Jorgensen, Janis M.
Jori, Carol D.
Joseph, Marc W.
Judd, Curtis D.
Jump, Donald H.
June, Carl H.
Junk, Kevin R.
Jurewicz, Thomas A.
Kaeser, Dana S.
Kagey, Leslie O., III
Kammler, Richard W.
Kapurch, Thomas J.
Karl, Michael L.
Karstens, Michael G.
Kasten, George D., III
Kato, Frances T.
Kawamoto, Worth M.
Kearney, Francis J., Jr.
Kearney, James P.
Kee, Scott C.
Keeler, Donald L., Jr.
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Keene, Charles R.
Keene, Donald L.
Keifrider, William F.
Keith, Julian F., III
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Keller, Douglas J.
Kelley, Thomas C.
Kelly, Douglas B.
Kelly, Scott H.
Kelly, William A., Jr.
Kemhus, Jeffrey W.
Kennard, Charles W., Jr.
Kent, Tycho L.
Kepferle, Michael R.
Kern, Ludwig A., III
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Kersey, John K. J.
Kessling, Philip F., III
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Kiessling, Kristin P.
Kilcline, Patrick J.
Killen, Jeffrey L.
Kilpatrick William J., III
King, Richard N.
King, William H., IV
Kirchhoff, Stephen A.
Kirk, Michael W.
Kirtley, John D., Jr.
Kittler, John L.
Klauss, Mark F.
Klee, Carl R.
Kleinholz, Adam F.
Klett, Mark N.
Kline, Kim F.
Kloth, Lawrence G.
Klugh, David C.
Knapp, David A.
Knapper, Robert A.
Knieriem, Kenan J.
Knight, John R.
Kochanik, Randall W.
Kondrack, Charles J.
Konrad, William H.
Koppin, Larry E.
Korney, James M.
Kosloske, Douglas L.
Koupash, Douglas J.
Koven, Steve
Kozik, Douglas W.
Kratovil, Michael J.
Krech, Kenneth G.
Kreitman, Gayle
Krekel, Tig H.
Kriel, Ronald J.
Kroshl, William M.
Kruer, Dennis A.
Krull, James C.
Krull, Rodger P.
Kruschke, Dale E.
Kruse, Marcia A.
Kucinski, John M.
Kuehl, Russell O.
Kuhn, Pamala A.
Kuhse, Bruce E.
Kulick, Francis J. J.
Kunz, Gary M.
Kuppers, Robert H., Jr.
Kurdys, Martin P.
Laabs, Steven R.
Labaw, Richard A., Jr.
Lafrenz, Paul T.
Labren, Dean B.
Lair, Thomas W.
Lam, Daniel T.
Lamb, Charles L.
Lamb, William G., Jr.
Lamboni, Mark W.
Lambright, Joseph M.
Landis, Kerry D.
Landmann, Michael A.
Lang, Robert H., Jr.
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Langley, Frank M.
Lanzer, Glenn A., Jr.
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Larson, Keith R., Jr.
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Lasko, Charles R.
Lathrop, Jonathan E.
Laughlin, John M.
Lauro, Frank J.
Lavassaur, Gregory J.
Lavigne, Barry A.
Law, Donald R.
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Lawson, Jeffrey P.
Layton, Robert F., Jr.
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Lebeaux, Keith G.
Lecky, Richard L.
Ledbetter, John M.
Leder, Kris A.
Lee, Jeffrey S.
Lee, Richard H.
Leghart, Martin J., Sr.
Leighty, Melinda J.
Leininger, Matthew J.
Lenci, Mark R.
Lennon, David D.
Lennon, Gary R.
Leonard, Ellis A.
Leslie, David R.
Levedahl, William K.
Levin, William B., Jr.
Lewis, Thomas H. V.
Licata, Lee A.
Lihach, John H.
Lilek, Michael R.
Lillis, James J., III
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Lindamood, Edgar V.
Lindgren, Mark P.
Lindner, Hutson H.
Lindsay, Curtis G.
Lindsay, Richard H.
Lindsey, Mark R.
Lingerfelt, Michael L.
Lipari, Michael S.
Lisak, Keith S.
Lisota, Gary
Lisowski, Thomas E.
Liss, Stanley M.
Little, Thomas M.
Livingston, David M.
Livingston, Craig B.
Locke, Rodney M.
Lockwood, Peter
Lofaso, Joseph M.
Loll, Kim R.
Long, Linda D.
Longshore, William L., III
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Lord, Michael W.
Lorhammer, Donn N.
Loucks, Michael J.
Louie, Chuck L.
Lovell, Laverne R.
Lowell, Richard W.
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Lueker, Randal E.
Luke, Richard T.
Lunny, Mark C.
Lutes, Frank A.
Luther, Ronald J.
Luti, William J.
Lutz, Hirlye R., Jr.
Lyman, Michael F.
Lyons, William M., Jr.
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MacDonald, Gregory A.
Machala, Robert P.
MacIntyre, John M.
MacLeod, Scott C.
Maclin, James S.
Macris, John J.
Mader, John F.
Madigan, Thomas J.
Madre, Thomas E., II
Madsen, Gil J.
Madson, Richard O., Jr.
Magnant, Michael F.
Mahon, Charles R.
Mallory, Allyn F.
Maloney, John K.
Manfredi, Michael J.
Mangan, Patrick C.
Mangham, Cheri J.
Manion, Mark M.
Manning, Robert C.
Manthei, Jerry L.
Marano, Frank B.
Mardik, Walter E.
Marke, John A.
Markulis, George J.
Marlowe, Robert L.
Marquis, Jarrett T.
Marsh, Bert
Marsh, James P., Jr.
Marshall, David E.
Martin, Clifton C., Jr.
Martin, Douglas F.
Martin, Edwin H., Jr.
Martin, Gregory
Martin, John C.
Martin, Lance S.
Martin, Raymond F., Jr.
Martin, Richard L., Jr.
Martin, William E., II
Masden, Joseph T.
Masley, Michael C., Jr.
Maslow, David L.
Masoero, Robert E.
Mason, Martin W.
Massicotte, Thomas E., Jr.
Matasic, Charles S.
Matheny, Leonard R.
Mathews, Michael J.
Mathison, Robert C.
Matson, Keith J.
Matthews, Darrell L.
Matyskiela, Joseph A.
Mauney, Carl V.
Mauthe, John M.
Maxwell, Michael D.
Maybaum, Susan C.
Mayer, George E.
Mayhue, Frank M., III
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Maynard, Michael J.
Mayo, David L.
McAlexander, Robert K.
McCaffrey, Brian
McCain, Charles M.
McCall, David M.
McCaman, Brock G.
McCamy, John D.
McCannel, Gregory J.
McCauley, Jeffrey F.
McCauley, John J.
McClellan, Craig S.
McClellan, Gene E.
McClelland, Roger C.
McClure, Charles L., II
McClure, Charles G., Jr.
McClure, John R.
McCole, William E., III
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McCorkle, Jack W., Jr.
McCormick, Landy L.
McCrillis, Richard T.
McCollough, Bernard J., III
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McDermott, Michael J.
McDonagh, Daniel
McDonough, Martin B.
McEwan, Llewellyn P.
McGee, David L.
McGhee, Daniel K.
McGlashan, Douglas R.
McGloon, James W., Jr.
McGowen, Thomas L.
McHale, Phillip M.
McHugh, Robert J.
McInnis, Marcus A.
McIsaac, William A.
McKannon, Thomas M.
McKee, William L.
McKernan, Patrick P.
McLaughlin, Don O.
McLeish, Michael J.
McMahan, Gerald T.
McMahon, Robert J.
McMicken, Steven M.
McMurdy, Ronald E.
McNair, Tommy H.
McNally, Mark T.
McNally, Michael T.
McNamara, Brian S.
McNamara, Christopher P.
McNeil, Dane W.
McNeil, James J.
McNeill, Alexander, III
McSwain, Donald W.
McTighe, John A., II
Mead, Thomas
Mears, David W.
Mehula, Joseph A., II
Meissner, Robert M.
Melnychenko, George A.
Menocal, Antonio G.
Menocal, Serafin G.
Mentas, Michael W.
Mergele, Edwin W., III
Merritt, Cyrus M.
Merwin, John D., II
Messick, Charles M.
Metz, Thomas L.
Meyer, Kenneth W.
Meyers, Michael J.
Meyers, William O.
Michalke, Douglas W.
Miller, Albert A.
Miller, Bruce E.
Miller, Cecil D., Jr.
Miller, David B.
Miller, Donald R., Jr.
Miller, Edward M.
Miller, Frank B.
Miller, Harold A.
Miller, James R.
Miller, James R.
Miller, Kerwin E.
Miller, Robert K.
Miller, Robert L.
Miller, William E.
Milliken, Mark R.
Mills, Gary B.
Mills, James G.
Mills, Mark A.
Mingle, Leo L.
Mitchell, Michael P.
Moffatt, Michael M.
Mogish, Nicholas M.
Monger, Albert J., Jr.
Monk, Robert L.
Moody, John F.
Moody, Keith W.
Moody, Martin L.
Moorehead, Donald F.
Moorman, Timmons P.
Moran, Douglas B.
Moran, John F.
Moran, Thomas J., Jr.
Morck, Richard H.
Morgan, James M.
Morgan, Jean P.
Morgan, John F.
Morgan, Richard W.
Morgan, Robert G.
Morgenstern, Roger W.
Moriki, Richard G.
Morison, Mark A.
Moritz, David J.
Morris, Barry S.
Morris, Bruce H.
Morrison, John W.
Morrissette, Curtis B.
Morrow, Charles J.
Morse, David M.
Morse, Ronal B.
Mortonson, Christopher
Moschella, Christopher
Moseley, Ben P. P., III
Mosley, Harold, Jr.
Moss, William L., Jr.
Mott, Rex M.
Moyseowicz, Thaddeus, J.
Mozick, Donald R.
Mueller, Ronald
Mueller, Robert D.
Mulholland, David J.
Mullan, John G.
Mullen, Alan L.
Mundy, James F.
Murphy, Brian R. A.
Murphy, Daniel R.
Murphy, Vincent L., Jr.
Murphy, John W.
Murray, Raymond J., Jr.
Muschara, Tony M.
Myatt, Gregory A.
Myers, John E.
Myers, Timothy R.
Naple, Timothy H.
Narcum, John A.
Nash, Allan H.
Nash, Betty J.
Nash, Ray C.
Nash, Robert J.
Natale, Joseph J.
Naumann, James W.
Nawrocki, John T.
Neal, Harold L., III
Neal, Laurence W.
Neal, Thomas S.
Neff, Christopher K.
Nehring, Daniel F.
Neill, William R.
Nelms, Dovard W.
Nelson, Betty A.
Nelson, Daniel A.
Nelson, Gregory F.
Nemechek, Michael M.
Nesset, Bruce K.
Netusil, Paul E.
Neumann, Donald E., Jr.
Newberry, Stephen G.
Newell, William M.
Newman, Lawrence G.
Newman, William E.
Nichols, Dorothy K.
Nicholson, Scott L.
Nicol, Ronald L.
Nicol, William J.
Niedermaier, David G.
Nielsen, Christian R.
Nietmann, Kevin J.
Nishimura, Rodney
Noe, Curtis H.
Nollie, Thomas C., Jr.
Noonan, Ruth S.
Norcross, John P.
Norcross, Paul D.
Nordstrom, Daniel L.
Norland, Eric R.
Norris, John C.
Norte, Joseph L.
Northam, Donald R., Jr.
Northrup, Donn R.
Norton, Carleton P.
Norton, William L., II
Nostrant, Keith R.
O'Brien, James D.
O'Brien, John F., Jr.
O'Brien, Stephen A.
O'Bryant, Milton H., Jr.
O'Chenkoski, James
O'Connell, Robert K.
O'Connor, Thomas J., Jr.
Ogden, James S., Jr.
O'Hare, Hugh A.
Ohler, Christopher D.
Oker, William R.
Oldemeyer, Keith W.
Olender, Kurt M.
Olexik, Carl S., Jr.
Oliver, Randall G.
Oliveria, David K.

Olson, Carl D.
O'Neal, Michael A.
O'Neill, Gary S.
Opitz, Martin E.
Orlandi, Daniel J.
Orlandi, Ronald J.
O'Rourke, James J.
Orski, Gary A.
Orski, Mark A.
O'Shaughnessy, John L.
Oskielunas, Lawrence A.
Oslund, Steven K.
Oster, Lynn F.
Owen, Kaye K.
Owen, William G.
Owens, Christopher D.
Owens, John R.
Paha, Edmund J.
Painter, Donald J.
Pannell, Thomas B.
Papish, Paul A.
Pappas, Drew A.
Pappenfus, Patrick A.
Parico, Robert F.
Park, Alan M.
Park, John S., Jr.
Park, Stephen J.
Park, Steven A.
Parker, Daniel A.
Parker, Frederick H.
Parker, John S.
Parks, Robin L.
Pascarell, Carl S.
Patchin, Alan E.
Patrick, Larry A.
Patterson, Robert F.
Paterson, Malcolm D.
Patterson, Louis W.
Pattoon, Daniel C.
Paulewicz, Frank W., Jr.
Paulis, Joseph J., III
Pay, Alec A.
Payne, David C.
Payne, Leonard K., III
Pearl, David R.
Pearson, Steven C.
Pedersen, Earl J.
Peifer, Mark A.
Pekarek, Edward W.
Percich, Mark E.
Perez, Oscar
Perkins, Lenard
Perkins, William S.
Person, John L.
Peters, Lyman, Jr.
Petersen, Paul D.
Peterson, Gary A.
Peterson, Scott C.
Peterson, Robert C.
Peterson, Wayne
Peterson, Robert R.
Petito, Michael D.
Peyronel, Sharon A.
Pfaltzgraff, James R.
Pfeifer, John T.
Phillip, Douglas T.
Phillips, Daniel E.
Phillips, Duane J.
Phillips, Edward A.
Phillips, Stephen W.
Pierce, Burt W.
Pierce, Stephen E.
Pierson, William E.
Pistol, Jordan D.
Pittman, Ray C., Jr.
Pitzer, Paul D.
Place, William D.
Planck, Charles W.
Plato, Gayle J.
Platt, Robert B., III
Plouse, Henry S.
Poage, David R.
Polizzi, Vincent J.
Polley, David P.
Pollock, Louis W.
Pope, Larry G.
Porras, Oscar J.
Potter, Don H., Jr.
Poulos, Terrence P.
Powell, Leland C.
Powell, Thomas B.
Powers, Denis F.
Powers, Gary D.
Powers, Trent R., Jr.
Prahl, Harry W., III
Pratt, David L.
Prescott, Ernest A., Jr.
Prikazsky, Cyril H.
Pro, Carl W.
Proctor, Walter N.
Provenzano, Joseph G.
Pruett, David D.
Pruitt, James D.
Pruszenski, Keat D.
Pryjmak, Peter G.
Puckett, William G.
Puksta, Charles P., Jr.
Purcell, Marc L.
Purdy, Mary C. H.
Quigley, Allen L., III
Quigley, Craig R.
Quinn, Christopher D.
Quinn, Timothy P.
Quirk, Edward J.
Rabideau, Michael B.
Ramey, Robert F.
Randich, Kevin T.
Ranelli, Peter H.
Rankin, Craig A.
Rantanen, Robert W.
Rapin, Jerome P.
Rapoport, Lance H.
Rarig, Scott L.
Rasmussen, Lloyd J.
Ratcliffe, Robert E.
Ray, David C.
Ray, Philip D.
Rayback, Terrence L.
Razalan, Patrick G.
Rea, James R.
Reardon, Paul J.
Redmon, Danny R.
Reed, Gary E.
Reed, Robert E.
Reglin, Gary L.
Regn, Mark W.
Reid, William R.
Reilly, Robert D., Jr.
Reilly, Thomas J.
Reily, Patricia J.
Repka, Rodney P.
Reskusich, John
Reust, Gerald M.
Reynolds, Charles P.
Rhinesmith, Gary R.
Rice, Edwin D., III
Richards, Robert E.
Richards, Stuart A.
Riche, Robert S.
Richey, Truman A., Jr.
Rickert, Dale R.
Ricketts, Steven D.
Rickner, Darryl A.
Riconscente, Paul P.
Rider, Daniel E.
Rider, Maradee
Ridgeway, George A.
Rieger, Richard A.
Riel, Robert G.
Ries, Daniel E.
Rikard, Ralph M., Jr.
Riley, David L.
Rios, Patricia B.
Rives, James D., III
Rix, William H.
Robbins, David D.
Roberts, David N
Roberts, Roger W.
Robertson, O. Z., III
Robinson, Henry E., Jr.
Robinson, William R.
Robinson, Christopher B.
Robison, Michael W.
Robison, Russell H.
Roche, Harold E., Jr.
Rocheleau, Karen D.
Rodgers, Stephen J.
Roesler, Gordon M., Jr.
Rogers, David W.
Rogers, Valerie
Rogness, Steven L.
Rohda, Charles M., III
Rohling, Henry J.
Rolle, Andreas D.
Rollins, Richard L.
Rollow, Thomas A., Jr.
Romano, Steven
Romig, William A.
Ronacher, Andrew J., Jr.
Rose, Jimmy V., Jr.
Rosemond, Julian B., Jr.
Rosenberg, Joan R.
Rossi, Thomas J.
Roth, Glynn E.
Roumaya, Louis T.
Rouse, Alfred C.
Rousseaugeraldos, Marcel C.
Rowan, James S.
Rubinkowski, Adrienne L.
Rudin, William E.
Ruggiero, Robert W.
Ruoti, Anthony J., Jr.
Ruscitto, David G.
Rush, Richard C.
Russell, Darrell A.
Russell, Joseph M.
Russell, James R., Jr.
Russo, David A.
Ryan, Lester E.
Ryan, Paul J.
Ryan, Robert C., Jr.
Sabel, Joseph M.
Sabin, Burritt H.
Sagen, Michael E.
Sales, Christopher A.
Sammons, Donald S., Jr.
Sampson, John R.
Santangelo, Peter C.
Santowski, Richard D.
Satorius, Mark A.
Satterfield, George C.
Saunders, Charles C.
Savonarola, Dennis P.
Sayers, Clay S., II
Sayler, James N., Jr.
Saylor, Bev L.
Schacherer, Timothy G.
Schachtman, Jack G.
Schapper, Gary E.
Schemel, Craig A.
Schenk, Richard S.
Schenzel, William P.
Schires, Brian G.
Schlaefer, Douglas C.
Schmidt, Dennis A.
Schoenbauer, Martin J.
Schoeneman, David D.
Schoultz, Robert P.
Schratz, Paul R., Jr.
Schreiber, Robert C.
Schueneman, Fredrick W.
Schuler, Richard J.
Schultzenhofer, Robert R.
Schwarting, Richard A.
Schweiger, Jeffrey M.
Scott, Charles T.
Scott, Dale R.
Scott, David A.
Seaward, Randall A.
Sechrist, John D.
Sell, Robert D.
Sellers, Charles E.
Selsor, Harry D.
Seymour, Lane L.
Shafer, Michael K.
Shannon, William E., III
Sharp, Michael A.
Shaw, Brian D.
Shaw, Richard S.
Sheffield, James W.
Shegrud, Steven K.
Shelley, Kenneth L.
Shelor, James L.
Shelton, James M.
Shepherd, David S.
Shippee, Randall C.
Short, Keith E.
Shriver, Timothy D.
Shroyer, Timothy M.
Sieband, Marc A.
Siedsma, Paul R.
Sill, John A.
Silvast, Stevan D.
Simmons, George W.
Simmons, Larry R.
Simonson, Steven C.
Singer, Donald R.
Single, John M.
Sipe, Alan M.
Siragusa, George A.
Sisk, Charles E., Jr.
Skinner Thomas B., Jr.
Skotty, Donald R.
Skrincosky, Dennis A.
Skura, Gary M.
Skurla, Dale G.
Slack, Randall J.
Slight, Stephen I.
Sloan, Patrick F.
Sloss, Daniel D.
Smart, James S.
Smart, Scott W.
Smart, William A.
Smedberg, Richard A.
Smith, Billie L.
Smith, David H.
Smith, David A.
Smith, Donald W.
Smith, George W.
Smith, Norman K., II
Smith, Peter G.
Smith, Raymond L.
Smith, Richard E.
Smith, Richard L.
Smith, Robert D., II
Smith, Steven S.
Smock, Jackson D.
Snead, Hugh D.
Sneed, Brandon M.
Snyder, Richard L.
Sokolowski, John A.
Solem, Craig R.
Soto, Ralph M.
Souder, Charles C.
Spagna, William S., Jr.
Spear, Gary L.
Spencer, Douglas G.
Spilman, Theodore L., III
Spinnato, Joseph C., III
Spoto, Russell A.
Sprague, Thomas L.
Spunar, Vincent P.
Squicciarini, Peter D.
Squires, William D., Jr.
Staeb, Roland W., II
Stafford, David S.
Stagl, Frank P., Jr.
Stair, Gerald K., Jr.
Stanko, Frank J.
Stanley, Peter J.
Stanley, Paul S.
Stanley, Wiliam B.
Starzy, Virginia L.
Steel, George D.
Steele, Robert D., Jr.
Stefanik, Edmund J.
Steger, James M.
Stelten, James R.
Stemp, Roger
Stengle, Barry J.
Stephenson, George M.
Stephenson, Michael P.
Stephenson, Richard D.
Stetson, William S., Jr.
Stevens, Martin M.
Stevens, Richard A.
Stevens, Richard E., Jr.
Stevenson, William A., III
Stevenson, Allen R., II
Stewart, John W., III
Stewart, John M., Jr.
Stewart, Robert B.
Stewman, John H.
Stichter, Michael C.
Still, Roger C.
Stine, Danny A.
Stinson, Ralf H., II
Stone, Dennis D.
Stott, Kermit P.
Strandquist, John H., II
Streeter, Paul J.
Stribling, Charles S., Jr.
Stringer, Gary L.
Stufflebeem, John D.
Strul, Gary R.
Stufflebeen, John D.
Stumpf, Michael E.
Sturgis, Gregory T.
Sullivan, Daniel D.
Sullivan, Dennis M.
Sullivan, Mark D.
Sullivan, Mark P.
Sullivan, Martin D.
Sullivan, William R., Jr.
Sunderland, Paul R.
Sussdorff, Thomas E.
Suttinger, Michael E.
Sutton, Donald R.
Swan, Arthur D.
Sweeney, Francis M.
Sweeney, Joseph W., III
Sweeney, Randal C.
Sweeney, Robert L., III
Sweet, Robert B., Jr.
Swift, Gary B.
Swift, Thomas O.
Swiontek, Richard L., Jr.
Sycuro, Frederick A.
Sykes, Kenneth B.
Szepe, Vivtor H.
Tabb, Henry J.
Tague, Charles L.
Takahata, Richard H.
Talcott, Michael A.
Tarbet, Gary L.
Tarkington, Larry G.
Taylor, Allen D.
Taylor, Ross M.
Tenuto, James E.
Terrell, James M.
Tesch, Thomas G.
Tharp, Mark E.
Thomas, David L.
Thomas, Glenn A.
Thomas, John A.
Thomas, Richard C.
Thomas, Richard J.
Thomas, Richard L.
Thomas, Robert B.
Thompson, Daniel P.
Thompson, David C.
Thompson, David D.
Thompson, Helen B.
Thompson, Mark C.
Thompson, Richard H.
Thoms, James M.
Thorn, David J.
Thorne, Stephen D.
Thorne, William R.
Tibbits, Ray T., Jr.
Tierney, Michael J.
Tillotson, Robert N.
Todd, James A.
Toll, Harry V.
Tollefsrud, Neil E.
Tomaszewski, Daniel J.
Tomkins, Philip A.
Tooley, Norman E., Jr.
Torgersen, Richard C.
Torgesen, Thomas J.
Torsney, George P.
Tournier, Johanne L.
Town, John W., Jr.
Towne, James B.
Towner, Richard L.
Tozer, Michael M.
Tracy, Michael C.
Tracy, Robert E., Jr.
Trasoras, Edward C.
Tritchler, Wayne K.
Troske, Paul S.
Troy, Philip E.
Tucker, Jack W.
Tufte, Duane M.
Tull, John T., Jr.
Tully, Brian E.
Tunstall, Thomas N.
Tuohy, Matthew W.
Turnbull, Thomas
Turner, Arden C.
Turner, Dick W.
Tusing, George M., II
Tyson, David S.
Udicious, Richard A.
Udick, Steven J.
Uhal, Howard T.
Uhl, Thomas W.
Uhlig, Phillip C.
Ulmer, Edward W.
Ulrich, Margaret A. K.
Undersander, Robert L.
Urban, Clement D.
Urban, Russell T.
Vagts, Wayne F.
Valvo, Gary M.
Vanbladeren, Ronald W.
Vanderford, William D.
Vandoren, Wayne R.
Vanduyne, George S., Jr.
Vandyke, Mark A.
Vanosdol, Donald W.
Vardell, Ronald K.
Vasquez, Alberto E., Jr.
Vasquez, Harry W.
Vaughn, Holly A.
Vehslage, Louis M.
Velasquez, David M.
Veley, Richard K.
Vendeland, Ralph P.
Vereb, Guy L.
Verhofstadt, Francis A.
Vermilyea, Sharon L.
Verseckes, Michael S.
Vilotto, Daniel T.
Vineyard, Michael H.
Viscovich, Paul W., Jr.
Volk, Ralph L., III
Vollmer, Leo W., Jr.
Vonchristierson, Steven
Waechter, Thomas M.
Waid, Daniel W.
Walden, Kim C.
Walker, Lambert R., III
Walker, Samuel D.
Wall, John G.
Wallace, David B.
Wallace, Kevin E.
Wallace, Lawrence K.

Walls, Keith A.
Walsh, Stephen E.
Walsh, Stephen W.
Walter, Ainslie B.
Ward, David T.
Ward, Larry W.
Ware, William G.
Warmbrunn, Robert J.
Warner, John R.
Warren, Darrell W.
Warren, Jay K.
Warren, Timothy R.
Warrenfeltz, Larry L.
Washington, Leroy L., Jr.
Washington, Michael B.
Wassel, Raymond P., Jr.
Wasson, Warren J.
Waterfield, Michael G
Watkins, Gary N.
Watkins, Thomas V., III
Watson, Larry J.
Watson, Michael G.
Watson, Richard N.
Wawrzyniak, James S.
Weaver, Brian R.
Weber, Bruce A.
Weber, Frederick W.
Weber, Paul D.
Weber, Paul J.
Webster, William E., Jr.
Weckbaugh, Larry L.
Wedoff, Steven D.
Wegner, Brian J.
Weimer, John C.
Weinhardt, Stephen A.
Weinstein, Frank D.
Wellock, Stephen M.
Wells, William A.
Wentzel, Philip E., Jr.
Wernli, Daniel E.
Wessel, Kirk D.
West, David D., Jr.
West, Jeffrey A.
West, Robert T.
Weyand, William G., II
Wham, Norman B.
Whatley, Joseph W.
Whealton, Richard W.
Wheeler, Daniel A.
Wheeler, Dennis R.
Wheeler, Steven R.
Whipple, David E.
White, Gregory J.
White, James F., III
White, Jerry S.
White, Norman L.
White, Scott R.
White, Stephen R.
White, Stephen F.
White, Stuart T.
Whiteside, Richard E., Jr.
Whitmer, Lynden D.
Whyms, Michael L.
Wick, Daniel B.
Wicks, James H., Jr.
Widman, Stephen C.
Wiebe, John M.
Wierenga, Michael A.
Wiggers, Raymond P., Jr.
Wigginton, Ronald L.
Wildemann, Leonard W., II
Wildfong, Daniel J.
Wilhoit, George Z.
Wilken, Dennis R.
Wilkerson, Lonnie O., III
Willett, Kenneth L.
Williams, Charles M.
Williams, Craig L.
Williams, Dale J.
Williams, Danny B.
Williams, Darrell W.
Williams, James H.
Williams, Raymond B.
Williams, Richard B.
Williams, Robert P.
Williams, Thomas D., IV
Williams, William H., Jr.
Willis, Carl J.
Willis, Joseph W., Jr.
Willis, Montgomery P.
Wilson, Peter C.
Wilson, Steele D.
Windsor, George B.
Winslow, Robert S.
Winston, Jeffrey N.
Wischerath, L. Joseph
Wiseman, Fred E., Jr.
Withrow, John F.
Wittenberg, Charles F.
Woerner, Richard H.
Wolfe, Christian E.
Wolff, John C.
Wolff, William S.
Wood, Michael P.
Woodall, James W.
Woodcock, David A.
Woods, James A., Jr.
Woods, Wayne A.
Woolley, James R.
Wooster, Michael H.
Wooten, Hubbard S., III
Work, Edward P.
Worst, Terry J.
Wren, William C.
Wright, Riley L.
Wunderlich, Erwin J.
Wurst, James P.
Wurzel, Donald J.
Wurzel, James D.
Wydra, Mark J.
Yandle, Stephen R.
Yasgar, Richard K.
Yasment, Frank P.
Yates, John M., Jr.
Yates, William R.
Yeung, Bradley W.
Yost, Charles P.
Yost, Jerald E.
Young, David R.
Young, Gregory D.
Young, Robert V.
Yumen, David Y.
Yungk, George L.
Zambrano, Steven P.
Zapolski, Edward S.
Zazworsky, Daniel S.
Zebrowski, Christine A.
Zebrowski, Jeffrey L.
Zeiders, Michael D.
Zeller, Randel L.
Ziebelman, Michael S.
Zoepfl, Frederick J.
Zwingelberg, Keith M.

SUPPLY CORPS

Ansoff, Peter A.
Appelquist, James S.
Barnet, John A., III
Beck, Robert K., III
Benson, Nanette E.
Bickert, William E., Jr.
Bland, Paul M.
Blass, Jeffrey D.
Blecharczyk, Ted M.
Boyd, Richard A.
Boyll, Mark S.
Breckner, Anthony J.
Brown, Gregory A.
Buzzard, Lewis C.
Cade, Adolphe C., IV
Carr, Stephen M.
Caughman, Clarence E., Jr.
Chidichimo, William C.
Cogswell, Peter R.
Cohe, Shaw H.
Cole, John H.
Connor, James G., Jr.
Corbett, John C.
Cording, William H., Jr.
Cragie, James R.
Crosby, Thomas W.
Culp, William N., III
Davis, Donald L.
Day, James W., Jr.
Dieterle, Robert S.
Dixon, Jeffrey A.
English, Raymond P.
Ettus, Douglas E.
Evans, Peter M.
Ferrant, Thomas H. B.
Freihofer, James T.
Gillespie, David W.
Goldberg, Robert J.
Gruenhagen, Gregory G.
Guion, Stephen W.
Hall, Thomas F.
Haren, Joseph L.
Harmer, Frank T.
Harp, Timothy J.
Hedges, Michael W.
Hendrickson, Robert C., III
Hess, Donald W.
Hill, Edward H.
Hirschy, John A.
Hoglund, Michael P.
Hoops, John R.
Huff, Kurt R.
Isham, Brian S.
Johnson, Michael D.
Josef, Michael D.
Kent, Rock E.
Kierner, Frederick A., III
Knaggs, Christopher D.
Knorr, Ernest W.
Kri'l, Rockne E.
Labarre, Allan K.
Lewis, James L.
Liftman, Michael J.
Lobasz, Miroslaw T.
Louderback, Warren T.
Lyons, John J., III
Mackenzie, Robert B.
Manno, Francis A
Mattingley, Mark W.
McGavin, Phillip H.
McLean, Robert M.
McPadden, Russell P.
Mikulka, Robert M.
Moran, James G.
Morgan, Everett M.
Morrisset, Richard A.
Moslow, Gene S.
Nanney, Robert G.
Newman, Charles T.
O'Day, Patrick M.
Ohms, Bruce G.
Paskey, Walter J., Jr.
Pike, Thomas H.
Pillmore, Eric M.
Pond, James N.
Preston, Leonard H., Jr.
Price, Stephen R., Jr.
Proctor, John S.
Rach, Daniel E.
Register, Wayne H.
Reilly, Robert W.
Scaperotta, Ralph M.
Segredo, John M.
Sheppard, Leslie C.
Sligh, Albert B., Jr.
Sperry, Charles K.
Stanton, Marjorie J.
Stensland, John N.
Stephens, Thomas L.
Stroupe, John B.
Taylor, Timothy J.
Telecsan, Gary K.
Theel, William C.
Thornbury, Joseph S.
Tomlin, Henry B., III
Torpey, James M.
Trayer, Donald A.
Turner, Tramble T.
Uhlendorff, William E.
Volkmar, John A.
Wallace, Brian P.
Warren, William H., III
Waterman, William M.
Wight, Terry E.
Williams, Michael G.
Williams, John A., Jr.
Winstead, William G.
Wiruth, Alvin L.
Zajdel, Daniel J.
Zimmerman, Robert G.

CIVIL ENGINEER CORPS

Ault, Douglas K.
Bertsche, Arnold F.
Campbell, Craig M.
Carver, Gary F.
Curd, Andrew T.
Dove, Stephen M.
Eckhart, Andrew J.
Evans, Rodney A.
Fortner, Kenneth G.
Fowler, Brad J.
Frey, Kenneth P.
Haines, George F., III
Jencks, Randall C.
Knudson, Daniel F., Jr.
Kuenzi, Keith L.
Liedke, Thomas R., Jr.
Loose, Michael K.
Ludwig, Kurt J.
McAfee, Richard J.
McConnell, James A., Jr.
McFarland, Roger L.
Menno, Stephen R.
Meyer, Belinda A.
Oberlin, William L.
O'Connor, Michael H.
Rudolph, Thomas C., III
Ross, Steven R.
Saunders, Mark H.
Schwind, Herbert L., Jr.
Sjodin, Kenneth V.
Vanwyk, Teunis W., II

MEDICAL SERVICE CORPS

Armstrong, Curtis G., Jr.
Bacon, Neil D.
Bosshard, Nancy L.
Cain, Russell L.
Cawley, Michael
Chapman, Jack D., II
Chumley, Paul A.
Cline, Clarence R.
Driscoll, Millard J.
Fish, Stanley L.
George, Charles L.
Hetsko, John A.
Hodges, Napoleon
Mallea, Richard L.
Oxford, Lawrence L.
Paulson, Larry G.
Pierce, Roderick J.
Powers, Pat B., Jr.
Silva, William A.
Stringfield, Walter L.
Swafford, James J., Jr.
Taylor, John P.
Thibodeau, Ronald E.
Vanzee, Stephen P.
Williams, Arthur D., Jr.
Williams, Peter N.
Wocher, John C.
Wyatt, Edward P.

IN THE NAVY

The following-named chief warrant officers, W–1 of the U.S. Navy for temporary promotion to the grade of chief warrant officer, W–2, pursuant to title 10, United States Code, section 5787c, subject to qualifications therefor as provided by law:

Anderson, Paul A.
Balinas, Jose C.
Bishop, Jeffrey M.
Brasseur, James W.
Burton, Wilfred R.
Cruz, Romeo G.
Evans, Gary L.
Garland, Fernald T.
Hubner, Jon B.
King, John P., Jr.
Raybourn, Stephen A.
Reed, Jerry W.
Royes, Raphael O.
Tucker, Elmo G.

## CONFIRMATION

Executive nomination confirmed by the Senate July 28, 1978:

DEPARTMENT OF STATE

Talcott W. Seelye, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

# EXTENSIONS OF REMARKS

## THE TURKISH ARMS EMBARGO DEBATE

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an exchange of "Dear Colleague" letters on the issue of whether or not the arms embargo against Turkey is required as a matter of law.

Following are letters from the proponents of keeping the arms embargo against Turkey in which it is contended that the embargo is required as a matter of law and continues to be required. In a second letter, I have tried to counter this argument and state why the embargo is not required by law, but rather the issue before the Congress is a policy issue, not a legal issue and it is up to the Congress to decide whether the embargo continues to be appropriate.

The two letters follow:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., July, 1978.*

THE EMBARGO AND THE LAW

DEAR COLLEAGUE: You will soon have an opportunity to cast a vote in favor of a foreign policy based on principle and in accord with rule of law.

The Carter Administration's proposal to remove the limited arms embargo now in

effect against Turkey is, in our view an ill-conceived move that violates fundamental legal, moral and security principles of U.S. foreign policy. We ask your help in defeating this effort, and we hope to set forth, in this and subsequent letters, the considerations which have led us to our position on this important matter.

The Turkish arms embargo is required as a matter of law.

It is important to remember that the arms embargo was voted by Congress only after Turkey, in clear violation of American laws and bilateral agreements already in effect, used American weapons for offensive purposes in its second—August, 1974—invasion and occupation of Cyprus.

Unlike Turkey's Cyprus action of the previous month, which was mounted in response to a coup instigated on the island by the Greek junta, this August invasion took place at a time when hostilities had ended, the junta had fallen, a ceasefire was in effect and the interested parties were engaged in peace talks at Geneva. It was at that moment that Turkey employed 40,000 troops, armed with American weapons, to occupy forty percent of Cyprus, and it was in response to this second, clearly offensive, operation, that Congress acted.

Provisions of both the Foreign Assistance Act and the Foreign Military Sales Act required that further military aid to Turkey be terminated. The embargo was voted, therefore, not to enact new law but rather to insure that existing laws were enforced.

Secretary of State Vance has conceded in his recent testimony before the House International Relations Committee that the Turkish occupation of Cyprus was carried out in violation of American laws and bilateral agreements. He has conceded, further, that the imposition of the embargo was the appropriate response to those violations.

Precisely the same considerations which justified imposition of the embargo now require its continued support.

Nearly four years after its invasion of Cyprus, Turkey still occupies forty percent of the island. Nearly 30,000 troops of that occupying army, still equipped with American weapons, remain there. And Turkey has taken no actions to improve the situation substantially.

The continued presence of these Turkish troops of Cyprus, therefore, constitutes nothing less than a continuing violation of American laws. So long as the violations continue, the embargo must remain in force.

It should be noted that the embargo provision itself permits President Carter to end the embargo in a moment, if he is willing to certify to Congress that Turkey is now in compliance with the Foreign Assistance Act, the Foreign Military Sales Act, and its bilateral agreements with the United States, and that substantial progress has been made toward an agreement regarding military forces on Cyprus. We would welcome actions by Turkey substantive enough to permit President Carter to make such certifications to Congress; clearly, however, Turkey has taken no such actions.

In his policy statements on this very issue during his campaign for the Presidency, Jimmy Carter declared that "The United States must pursue a foreign policy based in principle and in accord with the rule of law." We ask that you join us in supporting those sentiments by voting to maintain the arms embargo against Turkey.

Sincerely,

Dante B. Fascell, John Brademas, Norman Y. Mineta, James J. Blanchard, Mario Biaggi, Edward J. Derwinski, Charles Rose, Paul E. Tsongas, Barbara A. Mikulski, George M. O'Brien, Benjamin S. Rosenthal, Parren J. Mitchell, Donald M. Fraser, Benjamin A. Gilman, John L. Burton, Robert W. Edgar, Norman E. D'Amours, Wyche Fowler, Jr., Martin A. Russo, James J. Florio, and Charles B. Rangel.

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 26, 1978.*

DEAR COLLEAGUE: In the last few days, the proponents of keeping an arms embargo on Turkey have circulated letters giving reasons why the embargo against Turkey should be maintained.

In this and subsequent letters I seek to give you another perspective on this issue and to counter arguments made by the proponents of the embargo.

Arguments used by proponents of keeping the arms embargo against Turkey:

1. The Turkish arms embargo is required as a matter of law.

2. Precisely the same considerations which justified imposition of the embargo now require its continued support.

Counter:

1. This issue before Congress is a policy issue, not a legal issue.

Whether the embargo should be required by law is the question at issue. Congress should decide, as a matter of national policy, whether the embargo continues to be appropriate.

Although the embargo is currently required as a matter of law by section 620(x) of the Foreign Assistance Act of 1961, the Congress is in the process of deciding whether that section should be repealed. Surely, the proponents of the embargo are not arguing that Congress is powerless to lift the embargo. If the Congress enacts legislation repealing section 620(x), the Turkish arms embargo will no longer be required as a matter of law.

2. Other provisions of law do not require the Turkish arms embargo.

Section 3(c) of the Arms Export Control Act and section 505(d) of the Foreign Assistance Act of 1961, relating to ineligibility for assistance, are general in nature and do not supercede any specific action that the Congress may take with respect to shipments of U.S. arms to Turkey.

To argue that they do is to argue that the partial lifting of the embargo which the Congress enacted in 1975, revised in 1976, and extended in 1977, is illegal.

Those provisions were extensively revised in 1976 and do not apply to violations occurring before then. Moreover, by the terms of those revised sections, a country does not become ineligible to receive U.S. arms and assistance unless and until either (1) the President determines that a substantial violation of the terms of a military assistance or sales agreement has occurred and reports that determination to Congress, or (2) the Congress adopts a joint resolution stating that it finds that a country is ineligible because a substantial violation has occurred. Neither action has occurred in the Turkish case. These provisions of law are not self-enforcing.

3. The principle of law has been upheld.

The enactment of the embargo demonstrated that U.S. arms cannot be used in an unauthorized way. That point will be no clearer if the embargo is left in effect. Our purpose is to get Turkish troops off Cyprus and get a settlement of the Cyprus dispute, but the present approach is not achieving these goals.

4. The principle of law will not be strengthened by leaving the embargo in effect indefinitely.

It defies common sense to contend that laws should remain in force when they harm the national interest. Nothing requires the imposition of an embargo for an indefinite duration as the only permissible response to a violation of the law.

5. Selective enforcement undermines the principle of law.

The proponents of keeping the embargo have shown no interest in applying the law in other cases where recipients of American arms may have violated agreements with the United States on the prescribed uses of US-supplied equipment. The Library of Congress lists over twenty cases since the 1950s when foreign states may have violated bilateral agreements with the United States. Turkey is the only country against which Congress has applied these sanctions.

6. From its viewpoint, Turkey sees the legal issues differently.

Since Cyprus' independence in 1960, both Turkey and Greece have sent US-origin equipment there illegally. Yet, Turkey was punished in 1974. From its perspective, Turkey felt it had conflicting legal responsibilities. On the one hand Turkey was responsible to our bilateral agreements and, on the other hand, Turkey felt it had a responsibility under the 1960 Accords on Cyprus (Article 4 of the 1960 Treaty of Guarantee) which gave Turkey the right to intervene to restore "the state of affairs" created by the Accords. Some appreciation should be shown for Turkey's legal and policy dilemma.

In sum, the Turkish arms embargo is not required as a matter of law. Whether there is an embargo on arms shipments to Turkey is a matter of policy to be decided by the Congress. In my view, United States interests are suffering in the region, the embargo has become self-defeating and a new approach is needed to try to achieve a Cyprus settlement and accelerate the withdrawals of remaining Turkish troops from the land.

I hope you will agree that it is in our national interest to lift the embargo against Turkey.

Sincerely yours,

LEE H. HAMILTON,
*Member of Congress.*



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## SOVIET TRIALS OF DISSIDENTS

**HON. AUSTIN J. MURPHY**
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. MURPHY of Pennsylvania. Mr. Speaker, the recent trials of dissidents in the Soviet Union has rightfully brought about worldwide criticism. The distinct lack of due process by Soviet courts demonstrates a disregard of basic rights accorded to defendants. The predetermined verdicts in the trials of Anatoly Scharansky, Aleksandr Ginzburg, and Viktoras Petkus are not representative of a freely conducted procedure.

In the Scharansky trial, courtroom observers were handpicked by Soviet officials thereby excluding the defendant's mother, the remainder of his family except her brother, and close friends from the trial. While supporters held vigil outside the building, Soviet officials photographed the crowd. Similar occurrences took place during the May trial of Yuri Orlov and also during the trial of Ginzburg. Actions such as these preclude any hope of a free and open trial.

In the conduct of the trials, basic rules of evidence were violated. In Scharansky's trial, flaws in the Soviet Government's case are readily apparent. For example, although the government charged that Scharansky telephoned Los Angeles Times correspondent Robert Toth to arrange a clandestine meeting, a government witness testified that there was no telephone in Scharansky's

apartment. Such an instance points to a distinct lack of due process as well as a disregard for any rules of evidence.

The sentences given to Scharansky, Ginzburg, and Petkus are harsh by any standard. Ginzburg and Petkus have already spent years in prison because of their political views. For simply observing and acting upon violations of basic human rights, these individuals have had their rights abridged by a regime that seems insensitive to world opinion.

The Soviet Government has violated basic human rights in these cases. Freedom of expression and speech has been denied. Freedom of travel by refusing to allow Scharansky and others to emigrate has also been abridged. Such is the case of Vladimir Slepak who is now sentenced with a crime against the state because he publicly stated his desire to emigrate on a banner hung from his apartment. Throughout the course of these trials and the events surrounding them, the Soviet Government has consistently violated the provisions of the Universal Declaration of Human Rights, the United Nations Charter, and the Final Act of Helsinki accords. Such violations cannot go unnoticed in the court of world opinion. I, therefore, urge the continuance of worldwide focus on violations by the Soviet Union of some of its citizens' human and equal rights.●

## ELK HILLS NAVAL PETROLEUM RESERVE

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. DORNAN. Mr. Speaker, in the next few weeks the Congress will be asked to decide whether or not to reduce the rate of continued production at our Naval petroleum reserves. The principal reserve affected is in my State, Elk Hills NPR No. 1 near Bakersfield, Calif.

While the question that will be before the Congress will be simply stated, the implications of our decision will have a dramatic effect on the independent sector of the California oil industry.

A perceptive and compelling analysis of the reasons why Congress decided initially to develop Elk Hills and our Naval petroleum reserves, why we should continue to do so, and why the California oil industry is unique, might be helpful to my colleagues. I commend to you this analysis by Charles Seeger, an attorney with the Washington office of Nelson, Harding, & Yeutter and former legislative assistant to my friend the late Congressman Charles Teague. The analysis follows:

ELK HILLS NAVAL PETROLEUM RESERVE: PAST AND FUTURE

(By Charles M. Seeger)

During the House Armed Services Committee hearings on the Naval Petroleum Reserves a few weeks ago, a California Congressman traditionally aligned with Navy concerns asked the Department of Energy and Navy witnesses, "How much Elk Hills crude does the Navy get?"

"Not a barrel" was the essence of the dramatic reply. Unfortunately, the reply should have also added this fact: crude oil is virtually useless to the military. Refined product—such as Navy Special fuel, diesel fuel, jet fuel (JP–4 and JP–5), gasoline, asphalt—all these refined products are valuable to the military.[1]

This colloquy illustrates that one of the few positive government actions resulting from the 1973–74 Arab embargo is now in jeopardy.

In the next few weeks Congress will decide whether or not to reduce the rate of continued production from Elk Hills Naval Petroleum Reserve, and other reserves. This article argues that (1) continued production at the current maximum efficient at Elk Hills is the soundest course; (2) government policy is detrimental to the California producers effort to receive the proper value for his crude production; and (3) these two issues are only tangentially related and the oil policy of California requires special federal attention.

WHY ELK HILLS WAS OPENED

The oil embargo of 1973–74 forced the United States to examine its domestic production capability. Part of that examination included a look at Naval Petroleum Reserve No. 1, Elk Hills, in Kern County, California 35 miles west of Bakersfield. A reserve established in 1912 because of Teddy Roosevelt's concern for assuring a secure source of oil supply for the Navy. When the oil embargo occurred, Elk Hills had virtually no production only 2,500 barrels per day were being produced for testing and conservation, and this was the average daily production since World War II. Despite TR's hope, Elk Hills then provided the military no cushion of reliance. In December 1973, the Chairman of the Joint Chiefs, Admiral Moorer confirmed this and agreed that Elk Hills should be developed.

ELK HILLS PRODUCTION CAPABILITY

With due Congressional deliberance, and much urging by the local Congressman, the late William Ketchum, the Naval Petroleum Reserves Production Act of 1976 was enacted mandating production at the maximum efficient rate for six years.[2]

This law began considerable development work and Elk Hills production capability is now approximately 128,000 b/d. Elk Hills crude is above 23° API gravity, with the preponderance of the crude being approximately 36° gravity—the combination of Shallow Zone and Stevens Zone production is basically a higher quality crude. In the very near future, the production capability of Elk Hills should be about 140,000 b/d because of additional gas processing capability.

Navy and DOE estimates for ultimate maximum efficient rate are 260,000 b/d.

MILITARY IMPORTANCE OF ELK HILLS CONTINUED PRODUCTION

The Navy's interest is properly keen for historical reasons. But as already noted, the Navy's needs are for refined product and a readily available supply for emergencies. This need is met by continued production from Elk Hills. As noted, seven military bases are now receiving refined product from the independent refiners processing Elk Hills crude. Additionally, the Norwalk Fuel Support point, another recipient of refined product from Elk Hills crude, distributes product to 22 other Navy, Marine Corps, Army, and Air Force installations throughout California and Arizona. Admiral Moorer's comments favoring the production at Elk Hills since the beginning supports this perspective.

The military need for refined product deserves emphasis. This is so because of the discussion in the Armed Services Committee about the use of Elk Hills as a strategic petroleum reserve.

WHY NOT ELK HILLS AS A STRATEGIC PETROLEUM RESERVE?

There is a vast difference between crude oil already extracted from the ground and then placed in storage in a strategic petroleum reserve (SPR), and crude oil remaining to be extracted from a natural reservoir. The ultimate objective of the SPR (i.e., crude stored in salt domes on the Gulf Coast) is a draw down capability of 6 million barrels per day. The draw down can begin within 7 days. This tremendous accessibility is a totally different engineering proposition than extracting crude from a reservoir.

Elk Hills' maximum production level would still be less than one-fifth of the strategic petroleum reserve draw down. That one-fifth (260,000 b/d) could only be achieved through a diligent effort on the part of the Navy and DOE is readying Elk Hills so that it may be at its MER of production as called for under the original NPR Production Act.

If Elk Hills were fully developed, then shut-in as the current amendment of Congressman Bob Wilson (R-San Diego) requires, it would take at least three months to return production to the MER. This assumes that the deterioration of idle equipment does not totally preclude ever again regaining full production.

Unlike oil stored in salt domes, Elk Hills must be a fully-producing reserve if it is to be truly valuable as a reserve.

In short, refined product and the important local refinery capability is an important part of the military aspect of the Elk Hills reserve. Continued production at the MER is the most logical method of meeting our best national interest.

HOW DID THE SAN JOAQUIN VALLEY SMALL REFINERS OPERATE BEFORE ELK HILLS OPENED UP?

The song refrain, "Got along without ya before I met ya. . . ." raises an issue that must be addressed: Local small refiners, got along without Elk Hills crude three years ago, why do they need it so much now?

Before Elk Hills, local refineries were operating at approximately only 75 percent of capacity. Because of Elk Hills, these refineries are now able to utilize close to 100 percent of their capacity.

Additionally, the situation for small refiners in the San Joaquin Valley has changed since Elk Hills crude has become available.

1. Before, more light low-sulphur crude was produced locally and available. Now, overall, light crude production in the San Joaquin Valley has declined since early 1974, even with significant increases in production at such fields as Yowlumne, which has increased output from 239 b/d to 25,000 b/d in four years time.

2. Before, foreign light crude was trucked from Los Angeles and Long Beach Harbors at great expense. Elk Hills eliminates this extraordinary supply method.

3. Before, there was a greater market for the fuel oils refined from the heavier California crudes. Increasingly, more stringent environment regulations in California—the toughest in the nation—have greatly reduced the market for the high sulphur resid, the principal product of heavy California crude. This necessitates refiners running higher quality low-sulphur crude such as imported or Elk Hills.

Footnotes at end of article.

There is absolutely no question that the San Joaquin Valley refiners must have Elk Hills crude in order to run at efficient rates and meet the aforementioned changing supply and environmental concerns.

WHAT ABOUT CALIFORNIA PRODUCERS MARKETING PROBLEMS AND SHUT-INS

California crude producers clearly have severe problems with marketing their crude. The problem is marketing a 13° API crude with tar-like viscosity to refiners that, except for specialty refiners, would prefer to run a 36° API crude wtih a viscosity close to gasoline. This problem is compounded by the federal government. There are prohibitions on the exchange or direct export of heavy crude despite the fact that there is tremendous economic sense in doing this. And despite the fact certain California heavy crudes are shut-in while a ready market exists in Japan.

California producers efforts to receive a greater value for their crude, much of which is now priced considerably below ceiling prices, is further compounded by many DOE and Department of Commerce restraints on the export of heavy refined products from the California crude to potential markets, such as the east coast resid market or Japan.

As if the California producers problems were not complicated enough, there is the entitlements program—easily the most complex cost controlling scheme ever devised. This program was purportedly designed to equalize the cost of oil for all U S. refineries to prevent companies with ready access to lower tier domestic crude from driving other refineries out of business. The effect of this program in California is to offer virtually no incentive for West Coast refiners to run California heavy crudes when they can purchase higher quality crude from Alaska, Saudi Arabia, or Indonesia and off-set their higher crude costs through checks from other refiners in the entitlements program.

After years of dallying, the administration has within the past few weeks finally announced a program with a sliding scale gravity adjustment for the previously "crude-quality-blind" entitlements program. But, as the producers know, it remains to be seen what benefits they will receive.

Producers are also raising a question about the entitlement treatment Elk Hills crude now receives. Elk Hills crude is treated as uncontrolled oil for purposes of the entitlements program, thus it does not carry the entitlement burden of lower and upper tier crudes. No checks beyond the purchase price flow from the refiner. Arguably this entitlement free status disadvantages the California producer of entitlement burdened crude. But the reason is simple—the Congress wanted the government to receive as much money as possible for the government owned crude. Thus, Elk Hills is bid for on as near as is possible a free market basis. Whether or not this pricing decision for Elk Hills crude is changed should not be a part of the decision on the rate of production.

WEST COAST IS UNIQUE

One lesson from past regulatory tinkering with West Coast supply and demand facts should be to acknowledge that California is different. A program based on national crude acquisition averages is not particularly logical to refiners and producers operating in a petroleum industry with crude supply and product demand patterns quite different from the rest of the country.

In short, the oil policy of California deserves special federal attention. Senator Cranston and Congressman Mark Hannaford have always known this and their efforts in cajoling the administration have been admirable. Additionally, California producers and refiners alike have repeatedly called for incentives for refinery retro-fitting, to allow the necessary modernization and configuration changes to process heavier domestic crudes. The least incentive being a "stable, rational, and predictable government policy," in the words of California State Controller Ken Cory.

The important point regarding Elk Hills crude is that it is only tangentially related to California producers real problems.

Only tangentially related because "a barrel of crude is not a barrel of crude", that is, crude oil is not a fungible product. A comparison of Elk Hills Stevens zone with California Kern River or even Alaskan Sadlerochit is compelling. The gravity of Stevens zone is well over twice that of Kern River crude, and the sulphur content of the Stevens is only half as much.[3]

These significant quality differences between Elk Hills crude and the rest of the California production really do diminish the arguments that one crude displaces the other. The natural replacement for Elk Hills crude is like quality crude, and that unfortunately does not mean domestic crude.

WEST COAST GLUT?

The current "crude glut" in California must thus be viewed in quality terms. Further the "glut" also only exists because of California's failure to allow the Sohio project to carry the North Slope crude to the mid-continent, an approval very much wanted by Chairman John Dingell (D-Mich.), of the House Energy and Power Subcommittee. And Dingell wants it before he works to provide the necessary review and alterations of DOE programs to benefit California producers.

Reduced production from Elk Hills would not alleviate the current California crude surplus. As the quality comparison illustrates, such a move would probably simply further increase the demand for foreign sweet crude. And while the surplus is real, it is a surplus of high sulphur crude principally brought on by the availability of Alaskan North Slope Crude. But this Alaskan heavier crude is 1) not accessible to the San Joaquin Valley refiners; 2) cannot be run efficiently in these refineries, and; 3) results in a product yield, which because of the high content of the residual boiler fuel, runs counter to prevailing market and environmental conditions because of state and local air pollution control standards that discourage the burning of residual oil and prohibits the burning of even minimumly high sulphur resid.

REVENUE LOSS AND BUDGET IMPACT

No review of the Elk Hills situation is complete without a recognition of its balance of payments benefit and income generating power through the bidding and sale process. Assuming an imported crude price of $15, oil revenues lost by withholding NPR crude from the commercial market would result in a loss of $500 million in fiscal year 1979 and each year thereafter through 1982.

CONCLUSION

In short, the reasoning behind getting our Naval Petroleum Reserves in ready production status was sound militarily, strategically, and economically. Elk Hills has benefited the Navy, our balance of payments deficit, the local refiners, and the California consumer. It's continued production is wise, and this is not debated. The rate of that production is now in question in Congress. At the very least no backward steps are warranted and would be disastrous to local small refiners. Producers legitimately raise many questions about their problems and these must be addressed. The full assessment on these concerns has been diligently sought by the California producers and must continue. The debate on the Wilson amendment to the Elk Hills authorization bill is not the forum for the necessary intricate review.

Six months ago President Carter instructed the Department of Energy to pursue efforts to "expand production of oil at the Elk Hills Naval Petroleum Reserve, *and* maintain production of California crude at a high level."[4] These two objectives are worthy and should be achieved.

FOOTNOTES

[1] Significantly, California's small refiners now processing Elk Hills crude are providing refined product to seven military facilities: Edwards Air Force Base; China Lake Naval Weapons Center; Point Mugu Naval Air Station; Ontario International Airport (Air Force fuel contract); Long Beach Naval Shipyard; San Pedro Defense Fuel Support Point; and Le Moore Naval Air Station.

[2] The law also allows three year production extensions if the President so recommends, and neither House of Congress disapproves. P.L. 94–258 April 5, 1976.

[3] Approximate gravity and sulphur levels are:

Elk Hills Stevens Zone, 36° API, .4 percent Sulphur.

Alaskan Sadlerochit, 27° API, .8 percent Sulphur.

California Kern River, 13° API, .8–1.0 percent Sulphur.

[4] Statement by the President, December 21, 1977. Office of the White House Press Secretary.●

## ALASKAN NATURAL GAS: THE SAGA CONTINUES

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. MURTHA. Mr. Speaker, as one of the Members of Congress who vigorously opposed approval of the Trans-Canadian route for transporting Alaskan natural gas to the United States, I was very interested by a recent article outlining problems with getting the gas to the United States.

I hope the pricing problem will soon be solved by Congress, but that will leave the financing issue which was one raised during the debate last year. The article also fails to mention another problem of concern to many of us. Despite the fact this is an American project, the Canadian Government has taken a hard line toward using Canadian products for construction, which could cost Americans jobs and will likely hurt U.S. steel companies.

I would like to insert the news article from the July 24 Washington Star for the information of the Members.

ALASKAN GAS PIPELINE RUNS LATE BEFORE IT EVEN CAN GET STARTED

CALGARY, ALBERTA.—The much-heralded, 4,700-mile pipeline that was supposed to bring trillions of cubic feet of Alaskan natural gas to the rest of the United States by 1983 already is behind schedule.

And in the wake of political and financial problems, and new questions about when the gas actually will be needed, some experts are wondering if the pipeline—the largest

project ever undertaken by private industry—will be ready on time.

If not, years from now, American consumers may find themselves shivering through short supplies of natural gas while huge quantities of the precious fuel are wasted in Alaska.

"There's a question right now as to whether or not a market exists for Alaskan gas," said Jim Kiely, a utilities expert for the U.S. Federal Energy Regulatory Commission who has been following the project since it was proposed several years ago.

Is there a chance that the project, now about six months behind schedule, will not be completed by 1983? "That's a possibility that has to be looked at," Kiely said.

Just last year, Kiely and other government officials were expressing great confidence that the pipeline would be completed in 1983, and the project's sponsors still say it will be. The timing is crucial because if the project is not finished within five years, many oil companies—now reinjecting the gas into oil wells—will be forced to "flare," or burn off, the gas at the wells.

Meanwhile, as delays mount, the project's cost—originally estimated at $10 billion—grows. Some estimates of the pipeline's final cost now reach $14 billion.

As designed, the pipeline would extend from Prudhoe Bay in Alaska, along the Alaskan Highway, down through the Yukon and across British Columbia and Alberta. In alberta, it would be split into two branches—one that would end on the U.S. West Coast and another that would end in the Chicago area.

According to estimates, there may be as much as 26 trillion cubic feet of natural gas in the North Alaskan fields that are now being pumped of oil. A year ago, amid natural-gas shortages that forced school closings and job layoffs in the Midwest, officials considered three plans for transporting that gas to the lower 48 states.

Canadian and U.S. officials finally agreed on the current project, then called the "Alcan" pipeline, now called the Foothills pipeline.

But since that agreement, two large roadblocks have developed. First, President Carter's energy program and its crucial guidelines for natural gas pricing have been blocked in Congress. The project's sponsors—several large Canadian and U.S. pipeline firms—cannot arrange financing until the price at which the gas can be sold is known.

Financing is believed to be the most difficult part. The total equity capital of all U.S. pipeline companies was $9 billion in 1975, the last year for which figures are available. Thus, the firms must borrow most of the $100 billion to $14 billion needed for the new pipeline, and they must borrow the huge amount without disrupting credit markets—a move that would make borrowed money even more expensive.

According to one estimate, each year's delay will add $1 billion to the project's cost.

"As soon as the gas pricing arrangements get out of Congress, the natural gas producers and buyers of the gas in the United States will sign contracts," said Diane Narvik, an official of Foothills Pipelines (Yukon) Ltd., the consortium that will build the Canadian portion. "Then those U.S. buyers will sign contracts with their local customers and we will have the basis to get into financing."

Narvik maintains that there will be no trouble raising the money. "There's quite a surplus of capital these days and we have a steady stream of people coming into this office wanting a piece of the action," she said.

But many analysts still believe federal loan guarantees will be necessary, although Narvik maintained that financing and construction costs will not rise to that point.

"People just aren't aware that this is relatively easy terrain to build on," she said. "Almost all of the pipeline will be underground. We certainly don't see where there should be any major overruns."

But, as Kiely pointed out, the project faces another large problem: Will Alaskan gas be needed soon enough to justify the enormous outlay of money and effort?

Just 18 months after the Midwest natural gas shortage, there is a "gas glut" in the United States.

A milder winter, conservation and federal restraints on gas usage have accounted for so much excess gas that there have been price decreases in parts of Texas, Louisiana and Oklahoma. One large California utility—Pacific Gas & Electric Co.—is running out of storage tanks for excess gas; after months of refusing to sign up new customers, many utilities around the country once again are soliciting business.

"One of the things the project has to decide is whether the United States will need the gas at the time it's delivered or if they (the pipeline operators) will have to develop another market to handle it for the short term," said Kiely.

If there is no immediate market for the Alaskan gas, a possibility which Kiely says must be considered, financing may be difficult to arrange and the project's completion further delayed. The glut is expected to end in five years—exactly when the gas either must be transported from Alaskan wells or burned uselessly.

That raises the possibility that, if financiers prove shortsighted, the pipeline may not be completed on time.

And even if the gas eventually does arrive in the lower 48 states, it is likely to be quite expensive. U.S. officials estimate its final cost at about $3–$4 per thousand cubic feet, compared to $2–$2.25 per thousand cubic feet for gas produced closer to market.

Narvik acknowledged that there is some doubt about whether the project will be completed on time, but she insisted that project officials are ready to begin.

"We have over 400 people right here working in the plans and they'd like nothing better than to go out and begin digging a ditch," she said. "If you guys (Americans) would get the energy bill through Congress, maybe we could get started."●

## THE NATIONAL RIGHT TO WORK COMMITTEE

### Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. RISENHOOVER. Mr. Speaker, the National Right to Work Committee which has two problems of its own that I will address, has ordered congressional supporters of education to return our past contributions from schoolteachers.

Again, NRWC—which operates with secret money and from a platform of falsehoods—is trying to confuse the American voter.

A judge ruled that some of the National Education Association's political fundraising—a reverse checkoff system used in 16 States—was wrong. Teachers that contributed through reverse checkoff can get their money back—if they want it.

On that basis, NRWC lists about 300 Members of the House and Senate as having received "illegally collected campaign funds."

The NEA never collected any money in Oklahoma with the reverse checkoff system. Yet NRWC says I received "illegally" $1,300 from the teachers. The contributions were 100 percent legal from Oklahoma schoolteachers. Even money that "may have" been given my colleagues from the reverse checkoff system was received by the candidate's campaign committees in good faith. No Member or candidate should even consider returning the money unless they are requested. No thinking politician, lawmaker, or campaign committee should succumb to the false accusations of the NRWC.

Now, I will address the two problems of the NRWC.

Three years ago, I called upon the NRWC to disclose the source of its funding. It is one of the most powerful, ruthless, untruthful, but well-financed, lobbies in Washington. It has an invisible means of support. I have yet to see its contributor list unveiled. I am sure most of its supporters are not schoolteachers.

Second, NRWC does not—as its name wrongfully implies—have anything to do with a person's right to work. It simply is a secret front for worker-hating people who do not believe in equality among the four factors of production: land, capital, entrepreneurship, and labor. They are lobbying to replace "labor" with "slaves."●

## TURKISH ARMS EMBARGO

### HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. JOHN L. BURTON. Mr. Speaker, those of us in Congress who support the Turkish arms embargo have repeatedly called for the administration to use the embargo as a means of encouraging Turkey to take concrete actions to promote a peaceful settlement of the Cyprus tragedy.

We have been deeply dismayed at the administration's unwillingness to act in this matter, and its concentration, instead, on mounting a battle to defeat Congress on this issue.

The futility of this approach is set forth most convincingly by Mary McGrory, political columnist of the Washington Star, in her column of July 17, 1978. Says Ms. McGrory:

"If he would put as much pressure on the Turks as he is putting on Congress, Jimmy

Carter would have his repeal of the Turkish arms embargo handed to him on a silver platter."

Ms. McGrory notes that previous moves taken by Congress to encourage Turkish flexibility have met only continued Turkish intransigence, and she asks, in response to administration's claims about the effects of a total lifting of the embargo, "Why would the Turks be any more willing to bend with U.S. arms than without them?"

As we prepare to consider the Turkish arms question once again, I commend Ms. McGrory's excellent article to the attention of those of my colleagues who have doubts about the Carter administration's handling of important foreign policy matters.

THE PRESSURE CARTER'S PUTTING ON HILL MIGHT WORK ON TURKEY

(By Mary McGrory)

If he would put as much pressure on the Turks as he is putting on Congress, Jimmy Carter would have his repeal of the Turkish arms embargo handed to him on a silver platter.

The president is the chief lobbyist for the dubious cause. He invites groups of members to the White House for urgent briefings attended by the secretary of state, the secretary of defense, superlawyer Clark Clifford and the Joint Chiefs of Staff. Republicans receive telephone calls from Supreme NATO Commander Alexander Haig.

Turkey, they are told, has been "punished enough" for using U.S. arms to invade Cyprus in 1974.

The issue has divided Democrats, who have just been through the wringer of the Mideast warplanes sales and are not eager to embark on election-year "kamikaze missions" against their Greek constituencies.

"Why doesn't he put the screws on the Turks?" moaned one liberal who would like to help NATO and oblige his president.

"The problem here," said another, "is Carter's credibility. He just makes one foreign policy mistake after another. He's asking us to trust him to get something out of the Turks."

Turkey has been a sulking member of NATO since the embargo was imposed. What baffles some Democrats is that Carter is asking them to reward the Turks for bad conduct. Administration officials argue that the embargo hasn't worked and that a more indulgent attitude toward the transgressors is the only way.

If that's the case, some of them wonder, why don't we start being nice to Fidel Castro? Surely, our embargo against Cuba has not won hearts and minds in Havana. It has, instead, provoked Castro to such irritating countermeasures as the dispatch of troops to Africa. But any mention of diplomatic recognition as an alternative approach is frowned on by the Carter Establishment.

Turkey's intransigence on Cyprus—it still occupies 40 percent of the island, and, according to one European human rights investigating team, is severely mistreating Greek islanders—is put forward as the clincher for coddling them.

"Turkey and Greece have been at each other's throat for centuries on Cyprus," a White House official explained. "Our national interest is involved in NATO."

Two prominent Senate doves, Frank Church and George McGovern, have been won over to this "realistic" approach, but others are demanding to see a few cards from the Turks before they throw in their hand.

Why would the Turks be any more willing to bend with U.S. arms than without them? The embargo was never total. We slipped them supplies through the back door of an overseas Pentagon branch office. Last year, Congress tried to bribe them into a show of flexibility by upping their covert allowance from $125 million to $175 million. They did not move an inch. Carter's announcement of his intention to resume the full flow inspired them to invite battered Greek refugees back to Famagusta—to live under Turkish occupation.

President Carter "reassured" a large delegation of Greek-American leaders whom he invited to the White House last month that there had been "absolutely no progress on Cyprus"—as if this would dilute their rage over his broken campaign pledge to "couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue."

If the Carter administration has taken any steps to bring about the "coupling," they have been well concealed. Our ambassador to Turkey, Ronald Squires, last January said his "only hope was that the embargo will be removed."

Assent of both houses is required for repeal. The Senate will go first, and the leader of the Greek forces, Sen. Paul Sarbanes, D-Md., is hopeful that logic—and reminders of Jimmy Carter's call for morality in foreign policy—will win the day.

Sarbanes, a freshman, is remembered for his dogged endeavors on the House impeachment committee. He is of Greek origin, but not the wily kind. His friends say that if he had been among the troops outside Troy, he would not have been working on the fateful gift horse; he would have been throwing words over the wall.

"He is leafleting the Senate," says a colleague. "Every time you meet him, he hands you some literature."

Sarbanes goes on the floor armed with reprints of anti-repeal editorials from English and American papers, reprints of pre-reversal statements by Carter and Secretary of State Vance. Lately he has been handing out copies of Laurence Sterne's history of the Turkish invasion, "The Wrong Horse."

Sarbanes says Carter has failed to use international leverage. NATO ambassadors should be routed, not to Capitol Hill, but to Ankara, where the English and the Germans have special influence, to lean on the Turks.

On a more immediate level, he believes that if Carter is willing to write off the Greek vote, his colleagues are not. The administration's high-powered spokesmen say it's "pragmatic" to vote for repeal; but the Greek-American lobby, second only to the Jewish community in activism, is telling them it's not. And it votes.●

## BISHOP PEDRO CASALDALIGA OF BRAZIL AND HUMAN RIGHTS

### HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. ADDABBO. Mr. Speaker, just 2 weeks ago the world was shocked and dismayed as the Soviet Union proceeded to try and convict Anatoly Scharansky, Yuri Orlov and Aleksandr Ginzburg. These trials have taken on great symbolic value for those of us who are wholeheartedly committed to the cause of worldwide humanitarianism.

Today I wish to share with my colleagues the story of a man whose whole life is a trial in defense of the human rights of impoverished Indians and migrants living in Mato Grosso and Goias, Brazil, Bishop Pedro Casaldaliga. Bishop Casaldaliga, a Claretian missionary priest, has been on "trial" since 1968. His quest for human rights and dignity in Brazil is a living example of the democratic principles which I find most inspiring. Immediately after reading of him I was reminded of a statement made by President Woodrow Wilson,

Liberty does not consist of mere declarations of the rights of men. It consists in the translation of those declarations into definite actions.

With this in mind I commend to the Members the following article by John Kuenster which appeared in the July issue of the U.S. Catholic:

BISHOP PEDRO CASALDALIGA: PROTECTING PEOPLE FROM THE POWERS

(By John Kuenster)

If a man's physical appearance reflected his qualities of courage, integrity, or leadership, it would be extremely difficult to gain an accurate reading of Bishop Pedro Casaldaliga, C.M.F. of Sao Felix, Brazil.

He is a thin, unpretentious-looking man whose personal and spiritual discipline add an unseen dimension of strength to his frail physique. There is a sense of warmth, compassion, and self-effacement about him that stamps him as a particularly magnetic human being.

Casaldaliga has attracted international attention for his defense of the human rights of impoverished Indians and migrants living in Mato Grosso and Goias. As well, his firm stand has attracted considerable hostility among powerful Brazilians.

His diocese covers 57,900 square miles of largely underdeveloped land. When Casaldaliga first arrived there in 1968, there were no modern conveniences such as electricity, telephones, postal services, medical care, and hard-surfaced roads.

At that time, multinational corporations were seizing huge tracts of land. They had only callous disregard for the poor, neglected *posseiros* (squatters) who had been eking out a living in the sparsely populated Amazon bush country.

Approximately 100,000 people live in Casaldaliga's diocese, an area comparable in size to the state of Michigan. Theoretically, there should be enough land for everyone, and that is one reason why the area has attracted landless people from all parts of Brazil.

In the mid-1960s, national and foreign corporations, with the encouragement of the Brazilian military regime, began grabbing large parcels of land in Mato Grosso and Goias and forced out the squatters. In one case, a worker accepted a small price for his land. When he went back to harvest a few remaining crops, he was shot. The money he had received for his land was used to save his life and nurse him back to health.

When Casaldaliga went to Brazil as a Claretian missionary priest, he often worked side by side with his parishoners, planting and harvesting. He knew his people, understood

their problems, and resolved to stand with them. He once wrote on a banana leaf:

> We are the people of the nation.
> We are a people of God.
> We want a place on earth.
> In heaven, we already have one.

In 1970, a year before he was consecrated a bishop, Casaldaliga prepared a report denouncing the conditions of life in his parish and sent it to civilian and church authorites. Almost immediately he was warned that his report was subversive. The state police began to keep him under surveillance. The landowners began systematic harassment of his parishioners.

As he continued his resistance to the injustices in Mato Grosso and Goias, Casaldaliga knew he was inviting his expulsion from Brazil. He had sided with the poor against the rich, a move destined to make him a marked man.

There have been several attempts to kill Casaldaliga. The threats have spurred him to even greater efforts to bring some semblance of human dignity to his people. With the help of his pastoral team of Claretians, diocesan priests, and laity, he has appealed to the government and large corporations to protect the rights of the small landowners in Mato Grosso and Goias. The odds are stacked against him since the state police are at the service of influential power brokers and corporations.

Casaldaliga's appeals have gone unheeded, and there have been incidents of harassment by the police, evictions, imprisonment of parishioners, closing of parochial schools, and the expulsion of priests.

Powerful Brazilians do not look kindly upon Casaldaliga's efforts in social reform based on the gospel message of love. They bristle at his open defiance.

In 1973, his residence in Sao Felix was surrounded and searched. He and his staff—20 or so priests, nuns, and lay people—were questioned, and some were beaten. The nuns' infirmary was declared illegal and replaced by a medical station. Teachers at the diocesan school were threatened.

"How wonderful to be persecuted for the sake of the Gospel!" exclaimed Casaldaliga.

Once, the bishop was arrested in connection with his defense of a French priest of his diocese, Francois Jentel, who earlier had been sentenced to a ten-year term in prison on charges of sedition. Casaldaliga denounced the priest's trial as a "farce," and his cry of protest stirred public opinion in Brazil. The bishop's outcry and pressure from other church leaders brought about a commutation of the priest's sentence, although the clergyman was expelled from the country a year later.

As a bishop, Casaldaliga is completely devoid of ostentation. He is highly visible, traveling constantly within his parish and to other cities. During these visits, he frequently wears a sport shirt, slacks, and sandals. It is hard to distinguish him from the many workers and townspeople he mingles with.

At the time of his consecration, as a bishop, Casaldaliga said he would "use the straw hat of the laborer instead of a miter, the truth of the Gospel for a crosier, the faith of the people as a shield, and the strength of hope and freedom as gloves."

Without the civilized comforts of life and without the accoutrements of title, Casaldaliga has become a symbol of hope for the poor in Mato Grosso and Goias.

The bishop has no intentions of changing the course he has taken. "Our church," he said, "is once again the church of the catacombs."

In 1974 when military personnel again invaded and ransacked Casaldaliga's residence in Sao Felix, they arrested, beat, and tortured four priests and temporarily held the bishop prisoner.

But the bishop continued his campaign to document and protest injustices in the states of Mato Grosso and Goias.

Large landowners and civil authorities plotted to have him ousted from Brazil. They leveled accusations against the Spanish-born bishop, saying he was subversive, that he was linked to the Communist movement, and that he tried to provoke the rebellion of settlers against the big landowners.

The slanderous attack on Casaldaliga brought a wave of protest from United States and Brazilian bishops. Bishop Ivo Lorscheiter, secretary general of the Brazilian National Bishops Conference, announced there was nothing in the work of Casaldaliga to justify his expulsion. A group of Brazilian bishops, led by Cardinal Paulo Evaristo Arns of Sao Paulo, successfully appealed to Pope Paul to prevent Casaldaliga from being deported on the trumped-up charges.

Threat of death, destruction of homes, and the burning of fields have accompanied eviction of the Indians from their land. In fighting these injustices, Casaldaliga has come close to death himself.

One night in October, 1976, a Jesuit priest, John Bosco Penido Burnier, who worked among the Indians in Mato Grosso, overheard a discussion Casaldaliga was having with a Brazilian youth.

The boy informed the bishop that two local women were being held prisoners at a nearby police station. He said the women were screaming, "Please don't beat us!"

"I felt an obligation to go to the police station to plead in favor of these poor women," Casaldaliga said. "The boy wanted to come with me, but I wouldn't let him. He was very young, and he would be marked for the police. Father John Bosco heard our talk and joined right in to go with me."

Two ranch foremen and two soldiers met Casaldaliga and Bosco. They insulted and threatened the bishop and priest.

Casaldaliga told the men the women's imprisonment was illegal. "You have no reason to torture them," he said.

The police defended their actions, insisting that what they were doing was legal. Bosco calmly challenged them, saying he would report the incident to their superiors when he passed through the town of Cuiaba.

One of the soldiers crossed over to the priest and struck him in the face. Casaldaliga suggested they leave, but the soldier continued to hit the priest below the right eye with his revolver. The gun went off, and the bullet entered the skull of Bosco above the right eye, lodging in the brain.

With the help of friends, Casaldaliga rushed Bosco to a small, local clinic and later accompanied him on a flight to a neurological center in Goiania.

"But it was all futile," the bishop said. "Father died the following day in Goiania. We buried him in Diamantino, beneath the sun of the Mato Grosso, amid songs of the Resurrection of the whole pueblo. The news reporters who were there were impressed. Some of them cried."

Later, Casaldaliga presented a declaration of protest to the federal police in the archbishop's house at Cuiaba.

"Pray that we will be faithful," he wrote to friends outside of Brazil, "that the church remains as witness to the very end. Don't worry about us, but pray that we are not overly preoccupied about ourselves. The Lord is the Resurrection and the life. It is not a sad hour. It is a beautiful hour of the Gospel."

Casaldaliga believes the policeman who attacked Bosco did so thinking the Jesuit priest was the bishop.

"Why was it Father John Bosco and not me?" he has often asked.

Casaldaliga makes a point of being accessible to his flock. He had been in Ribeirao Bonita at the time of Bosco's slaying to be present during the last days of a novena to Our Lady of Apparitions, patroness of the local townspeople.

The members of the mission team in the Sao Felix diocese "give very positive witness to Christian living," says Father Richard Todd, a Chicago Claretian who visited the area recently. "Their poorness, their intimate contact with the people, and their dedication exemplify gospel values."

Under Casaldaliga's direction, the missionaries have not only resisted oppression of the poor people, but also have made efforts to provide medical services and promote hygiene and nutrition in local communities. At the Catholic mission house in each of the towns, a well has been dug for the use of the entire community. Latrine programs have also been encouraged to improve sanitary conditions in the towns.

A few years ago, Casaldaliga established several schools in the area, but they were closed by the government. The government has also tried to curtail the missionaries' medical services by offering a service of its own, but, according to Todd, the government program has been ineffective. "The medical personnel sent into the area by the government do not have a genuine interest in serving the poor people.

"That is one thing that cannot be said of Bishop Casaldaliga. His concern for people is rooted in a deep and abiding faith."

Casaldaliga's spirituality shines through his life, but it does not obscure his humanness. There have been times in the past when he has longed to return to his homeland, times when sporadic desires have arisen in him to flee the misery, poverty, and suffering around him. But Casaldaliga will never voluntarily return to Spain because he knows that if he leaves he may be barred from reentering Brazil.

The heroic stance of Casaldaliga has put the church in a new perspective in the eyes of the people he serves and has been an example and inspiration to all priests, religious, and laity working in Latin America.

Casaldaliga has clearly defined his position to his parishioners, to fellow church leaders, and to the world at large.

"The church and the prelacy of Sao Felix," he wrote in a pastoral letter, "in communion with the church of the Third World, for reasons of the Gospel and summoned by local reality, chooses the oppressed."

That statement, among others, inspired charges that the Claretian bishop was a Communist.

When a local *campesino* (farmer) was asked what he thought about having his bishop called a Communist, he said, "If being a Communist means being common, there is no doubt about it. Our bishop is a common, unpretentious man. But in another sense, he is a very uncommon man—and for that we are grateful."●

## SENIOR CITIZEN INTERNS IN PRESSLER OFFICE

### HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. PRESSLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

SENIOR CITIZEN INTERNS

Many thanks to Ruth and Carl Hansen, ages 65 and 70, of Parker, South Dakota who participated in the Congressional Senior In-

tern Program this year. They contributed much to my office during their two-week stay in Washington.

The Hansens spent their time working in my office, and attending special meetings with agencies and private organizations on senior citizen matters.

Many of the interns spent their time in discussions with various Congressional experts, in working sessions with administration officials, in White House briefings, in Congressional committee hearings, or in other functions.

Topics of discussion at the meetings included elderly consumer and transportation problems, Social Security, and Medicare.

South Dakotans who would like to participate in the program next year should write to "Senior Intern Program," 1132 Longworth House Office Building, Washington, D.C. 20515.

Any senior citizen group wishing to hear about the Hansens' Washington internship should contact them in Parker, S.D. No. 605–297–3385. The Hansens are available to speak to groups.●

## SPIRIT OF COMPROMISE NEEDED FOR BWCA

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. OBERSTAR. Mr. Speaker, my colleagues in this House know the extent to which the Boundary Waters Canoe Area has become a highly charged issue in my district and throughout my home State of Minnesota.

The long conflict has exacted a considerable emotional toll from those who care deeply about the BWCA.

The people living in the area, people I represent in this House, have a tremendous stake in the future of an area upon which their way of life and, in many cases their livelihoods, depend so heavily.

While I cannot support a narrow single use concept for the area, I also recognize the tremendous emotional commitment to this issue among many who favor total wilderness.

Throughout the long debate I have hoped the willingness to compromise and the recognition of the variety of conflicting, but nevertheless valid, rights would resolve the controversy.

At this point, we have achieved consensus on the major issues of timber harvesting, mining, and wilderness status. My BWCA proposal, the bill passed by this House last month, and the Anderson-Humphrey bill now being considered in the Senate all would prohibit timber harvesting and mining in the BWCA. These three proposals would reaffirm wilderness designation for the entire 1,030,000 acres now in the Boundary Waters.

Differences now center on the extent to which motorized recreational use of the area will be permitted to continue. This is a people question—the question of who will use the area, and in what manner.

John McMillion, publisher of the Duluth News-Tribune—the largest daily newspaper in my district—devoted his weekly column, Publisher's Corner, last Sunday to a discussion of the need for compromise in the resolution of the issue.

Mr. McMillion focuses on the essential elements in ending the long controversy—the spirit of compromise and the recognition of the many interests at stake. They include the protection of the environment, the rights of the local people and the rights of all Americans to enjoy the BWCA, either as a canoeist or as a fisherman.

I urge my colleagues to read Mr. McMillion's excellent column.

[From the Duluth News-Tribune, July 23, 1978]

ANIMOSITY NO ANSWER FOR BWCA

(By John McMillion)

There is a message all concerned should listen to in the advice given in the BWCA conflict last week.

U.S. Sen. James Abourezk, D-S.D., head of the Senate Energy and Natural Resources Committee, advised those involved to settle the issue among themselves rather than dump it into the lap of Congress. Abourezk points out whatever Congress might come up with could prove unpalatable to both parties.

Nothing could be more dangerous in an issue as emotional and localized as this than litigation conceived in an election year.

Take note of the number of federal, state, and now county candidates who suddenly have become BWCA experts, whereas before they generally ignored the issue.

Beware of politicians bearing gifts in an election year.

Take heed of Abourezk's warning and resolve the thing among yourselves. No doubt Congress will accept anything all parties recommend.

The tricky part, of course, is to get all the parties to agree on something.

It is going to take some understanding and willingness to give, not only from those who favor a general multiple use of the BWCA but also from the environmentalists.

Some will say compromise between these two factions is impossible, but nothing is impossible and I've seen some labor agreements hammered out through the collective bargaining process when at the onset both sides were pretty far apart.

The Boundary Water Conservation Alliance has indicated, through its official, Ed Zabinski, it may be willing to try this approach. Zabinski said the alliance's board of directors will meet Monday to consider appointing a representative to mediate the dispute with the other side, the Friends of the Boundary Waters Wilderness, a group favoring total wilderness.

We hope Zabinski's group does agree to try and mediate. The environmentalist faction has agreed to do so. Neither side has a thing to lose and Abourezk has set it up for a staff member of the Senate subcommittee on parks and recreation. Tom Williams, to act as the mediator.

It won't be easy because the animosity between the two sides is deep.

The key to whether something is resolved is whether the environmentalists are willing to give. The folks who reside in the BWCA have moved quite a ways, not necessarily willingly, if you consider where the bill regulating the BWCA stands as passed by the House of Representatives as compared with the one presented by Rep. James Oberstar, D-Minn., the Congress member representing the district in which the BWCA lies.

The gut issue now is the matter of motorized boating in portions of the BWCA. The lakes and routes approved by the House for such use are too meager in the eyes of those aligned with the Alliance and if there is room for some give by the environmentalists this is where it is, in my mind.

I certainly cannot pretend to be an expert on the BWCA as my knowledge is pretty well limited to what I have gleaned following the controversy and from a couple of visits to the area, the most recent this past week.

In my opinion, and it is no more than that, there are three considerations.

First the consideration of protecting the environment must be given heavy weight.

Then the rights of the people who live in that area must be a factor, and coupled with this are some of the economic realities involved.

Thirdly the rights of the average resident of this nation, the person who wants some use of the area, who by virtue of being a taxpayer has some rights, cannot be ignored.

I also feel on the basis of my limited exposure that because someone is a canoeist does not guarantee he or she is a purist nor by the same token because someone is a fisherman, or fisherwoman, or fisherperson, does not guarantee he or she is a pig.

In fact the area I fished in this past week was more overrun by canoeists than by those fishing in boats propelled by small motors.

And the lack of expertise or common judgment exercised by some of those canoeing made me wonder if the safety factor cited by the pro-boat advocates might not bear more weight than is being given.

So I think the puzzle has to be put together in a manner where reasonable, and the word reasonable is the key, consideration is given to environmental concerns, the economy of the area and to the average citizen who wants to go fishing or just eye the scenery but with the aid of some motorized propulsion.

The proper mix may be nearer than all concerned feel.

Right now the environmentalists are riding pretty high and don't see the need to do much compromising.

These people must be given credit for awakening the average American to the abuses of the environment prevalent for years from all corners, industry included but perhaps more important from all of us as individuals.

And anyone with a grain of sense does not want the lakes of the BWCA to become the junked-up puddles lined with wall-to-wall cabins as is the case in much of the rest of Minnesota.

And I think the majority of the people of this state would accept extreme limitations on use of the BWCA. For the water skier, the big motor boater and others of this ilk there is plenty of water elsewhere in the state.

But if the environmentalist gets too dogmatic, unyielding, too arrogant from the flush of recent victories, he or she could create a reverse reaction eventually.

## THE PUBLIC REJECTS ALL TAX CREDITS AND SUPPORTS STUDENT AID

### HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. FORD of Michigan. Mr. Speaker, the Roper Organization, a nationally respected polling company, recently published its second annual study of public attitudes toward the Federal income tax system. Included in their survey were questions relating to tuition tax credits.

When presented with the alternatives

of expanding existing student aid programs or adopting a tuition tax credit as a means to aid families in meeting college costs, the public clearly prefers the student aid option. Only 9 percent of the public supports a tuition tax credit for postsecondary education like the one adopted by the House in H.R. 12050 on June 1. In addition, 64 percent of the respondents opposed a tuition tax credit for elementary and secondary education, and only 28 percent were in favor.

This survey clearly demonstrates that tuition tax credits enjoy the support of only a small minority of Americans.

At this point in the RECORD I would like to insert the relevant chapter from the Roper study:

CHAPTER V—TAX AID FOR EDUCATION

CHAPTER SUMMARY

A major issue with regard to tax reform during the past year has been that of providing tax aid for education. This study explored public opinion on tax aid for college tuition and for private elementary and secondary school tuition.

Of four plans to provide tax aid for college tuition, the Carter proposal to make more middle income people eligible for government grants or loans by raising income eligibility was the most popular. A relatively small minority approved direct government aid to colleges and universities. But the public turns thumbs down on a flat $250 personal tax deduction annually when a child is in college—either for everyone regardless of income or for those with less than $25,000 income.

Furthermore, the public gives a resounding "No" to extending tax aid to private elementary and secondary schools. The idea is equally disapproved when parochial schools are mentioned and when they are not mentioned.

TAX AID FOR COLLEGE TUITION

With college tuition costs rising at a rapid rate, a number of proposals have been made for providing tax aid for college tuition. In this study four plans were put before the public as means of helping people cope with the cost of college. The question explained that all four would mean higher tax rates to bring in the extra billion and a half dollars each plan would cost.

The public turns thumbs down on a flat $250 annual tax reduction for each year a child is in college—either for everyone regardless of income or for those with less than $25,000 income. The Carter proposal to make more middle income people eligible for government grants or loans by raising the income eligiblity for them was the most popular of the four plans, approved by one-third of the public. Only 1 in 5 approved direct government aid to colleges and universities so they can hold down tuition fees. Only 16 percent favored none of the plans.

All subgroups of the population agreed pretty much along the same lines on the four plans, including those who have children of college age.

Q. 23. There's a good deal of concern about the high cost of college. Here are four approaches that have been suggested for helping people cope with the cost of a college education—all of which would mean higher tax rates to bring in the extra billion and a half dollars that each of these four plans would cost. (Card shown respondent) Which of these plans would you favor, or wouldn't you favor any of them if it meant raising the tax rate?

| | Total public | Total tax-payers | Have children 19 to 62 |
|---|---|---|---|
| Number of respondents | 2,007 | 1,684 | 189 |
| | Percent | | |
| Plan C: Make more middle income eligible to get Government grants or low cost college loans by raising the income ceiling under which these grants and loans are available | 34 | 36 | 35 |
| Plan D: Provide direct Government aid to colleges and unive sities so they can hold down tuition fees | 20 | 20 | 16 |
| Plan B: A $250 reduction in taxes for those with ess than $65,000 of income for each year a child is in college | 14 | 14 | 19 |
| Plan A: A $250 reduction in taxes for everyone regardless of income for each year a child is in college | 9 | 10 | 11 |
| None | 15 | 16 | 15 |
| Do not know | 7 | 5 | 4 |

TAX AID FOR PRIVATE ELEMENTARY AND SECONDARY SCHOOLS

The public gives a resounding "No" to extending tax aid to private elementary and secondary schools. It was explained that the same four plans for college aid could be used for lower private schools, but that doing so would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. On this basis, the public said it was opposed to extending aid to lower schools by 64 percent to 28 percent. For half the sample, the question asked about private and parochial schools, for the other half the question asked only about private schools, with no mention of parochial. Answers were virtually identical regardless of mention of parochial schools.

A majority of all subgroups are opposed to tax aid for private elementary and secondary schools with the exception of Catholics and even Catholics are more opposed (48 percent) than in favor of it (43 percent).

Q. 24X. These same four plans could be used for children in private elementary and secondary schools as well as for children in colleges. But if they were extended to private schools it would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. Would you be in favor of or opposed to extending tuition aid to private schools?

Q. 24Y. These same four plans could be used for children in private and parochial elementary and secondary schools as well as for children in colleges. But if they were extended to private and parochial schools it would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. Would you be in favor of or opposed to extending tuition aid to private and parochial schools?

| | Total public | Parochial schools not mentioned | Parochial schools mentioned | Total tax-payers |
|---|---|---|---|---|
| Number of respondents | 2,007 | 1,004 | 1,003 | 1,684 |
| Favor extending tuition aid to private schools (percent) | 28 | 28 | 28 | 28 |
| Opposed to it (percent) | 64 | 65 | 63 | 66 |
| Do not know (percent) | 8 | 7 | 9 | 6 |

## KEY CONGRESSIONAL AID AND THE SUGAR INDUSTRY


## HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES


*Friday, July 28, 1978*

● Mr. LEDERER. Mr. Speaker, as far back as May 22, 1978, and as late as July 21, 1978, I have conveyed my uneasiness to my colleagues in the House about reports raising serious conflict of interest charges by former key congressional aides in both the drafting and lobbying efforts behind S. 2990 and its companion bill, H.R. 12486, the Sugar Stabilization Acts of 1978, currently under consideration by both Houses of Congress.

Ethical questions raised by such diverse sources as the Washington Post, the U.S. News & World Report, the New York Times, the Washington Star, and Knight Ritter Newspapers indicate a situation which goes beyond what amounts to a revolving door behind the sugar producing industry and key congressional aides.

Unfortunately, my worst suspicions have been confirmed by a recent Consumer Federation of America investigation, the summary of which I wish to share with my colleagues in the House. Official and quasi-official acts have been attributed to these aides in the drafting and promoting of sugar producing industry legislation while these aides were still in the employ of Congress and yet shortly before they began working for the sugar growers lobby. At the very least, there seems to be a violation of the postemployment lobbying section of the Senate Code of Official Conduct which states "For a 1-year period after leaving, an employee on a Member's personal staff cannot lobby the Member or his other staff members, a committee staff member cannot lobby committee staff or Members, and an S. Res. 60 employee cannot lobby any of the above."

My fears continue that these occurrences may only be one narrow aspect of an entire industrywide lobbying effort by the sugar producers, which is subverting the integrity of the legislative process. It is my belief that these massive efforts by the sugar producers' lobby are attempts to compensate for the fact that H.R. 12486 and S. 2990 sacrifices the interests of the American consumer and this Nation's battle against inflation, for the narrow few who would benefit from such legislation. I sincerely believe that my colleagues in the House will recognize the fact that poor legislation is poor legislation, no matter what efforts are attempted to secure its passage.

The Consumer Federation of America press release follows:

CONSUMER FEDERATION OF AMERICA

At a time when consumers can least afford a big boost in sugar prices, why is Congress pushing that hike on behalf of fewer than 1 percent of our nation's farmers?

Consumer Federation of America, the nation's largest consumer organization, today disclosed information which goes far towards explaining the success of one of the most powerful and effective lobbying efforts now on Capitol Hill.

In announcing its findings which developed in light of CFA's own intensive lobbying in opposition to pending sugar legislation, Executive Director Kathleen F. O'Reilly stated, "We are convinced that the door between the halls of Congress and the sugar lobby revolves at a disturbingly fast pace."

According to CFA, the ranks of that lobby are filled with former Congressional aides who worked on sugar legislation. Furthermore, it is immeasurably aided by Senators and Representatives from the sugar-producing states of Louisiana, Texas, Idaho, Hawaii, Utah and Minnesota. Since every legis-

lated price hike for sugar is followed by increased markets for corn sweeteners, additional support comes from Congressional representatives of Western and Midwestern corn-producing states. Many of these members hold key positions on Congressional committees with jurisdiction over sugar legislation.

"This powerful combination of forces is totally ignoring the overwhelming inflationary impact on consumers which passage of the Church/de la Garza bills would produce," commented O'Reilly.

"It is clear that the involvement of former Congressional aides goes well beyond the much publicized gifts of Dwayne Andreas, head of the Archer-Daniels Midland Company, a large corn sweetener manufacturer." O'Reilly was referring to the appointment of David Gartner, former administrative assistant to the late Senator Hubert Humphrey (D-MN), to the Commodity Futures Trading Commission, despite Gartner's acceptance of $72,000 in trust funds from Andreas while working for Humphrey.

CFA found that another former key Humphrey aide, Herbert Waters, has followed the revolving door into the sugar industry. Waters is currently president of Tadco Enterprises, a private lobbying firm hired by Archer Daniels to help ensure passage of the Church/de la Garza bills.

The interplay between the industry and Congressional staff members goes even further, CFA disclosed. Tadco has hired Karth-Best Associates, another lobbying firm, to aid in the sugar legislation campaign. Robert Best, partner of former Representative Joe Karth, was a legislative assistant to Senator Russell Long (D-La.) until 1977. (Long, whose Louisiana constituents include a substantial number of cane sugar growers, is chairman of the Senate Finance Committee. His Subcommittee on Tourism and Sugar, chaired by Senator Spark Matsunaga (D-HI), initiated hearings on the Church bill.)

Best has been implicated, along with Karth and Waters, in writing a letter, dated August 16, 1977, which Gartner sent to the Senate Agriculture Committee under Humphrey's signature making recommendations that could bring a multimillion-dollar bonanza to the corn sweetener industry. According to Knight-Ridder Newspapers, the letter was signed by an office signature machine in Humphrey's absence.

Among the employees at Karth-Best is Will Leonard, another former Long legislative assistant. Leonard was appointed to the International Trade Commission (ITC) in 1968, where he led fights for sugar producers. He resigned from the ITC on June 10, 1977, and immediately became involved with Karth-Best in its sugar lobbying efforts.

A close associate of Senate Agriculture Committee Chairman Herman Talmadge (D-Ga.) is also involved in the pattern. Until March 1978, Michael McLeod was general counsel and staff director of the Senate Agriculture Committee and right-hand assistant to Talmadge. He played a key role in drafting the Church bill. He now lobbies for the Florida Sugar Cane League, despite promises upon leaving the committee that he would not become a lobbyist (Washington Post, March 21, 1978). Coincidentally, McLeod was retained by the League's Horace Godfrey, a USDA official until 1969. Godfrey also represents Texas sugar growers.

Still another player is Dale Sherwin, former minority staff counsel to the Senate Agriculture Committee and assistant to Senator Robert Dole (R.-Ka.) until his resignation in March of this year. He is now lobbying for the Church bill on behalf of A. E. Staley, one of the country's leading corn sweetener manufacturers. Sherwin helped draft and develop the bill while on the Committee staff.

Among other corporate food giants the financial success of which is tied to sugar legislation is the Heinz Corporation. Its corn sweetener interests are represented by the consulting firm of former Nixon White House aide, William Timmons.

"In spite of these overwhelming odds," concluded O'Reilly, "CFA will continue to vigorously voice its opposition on behalf of American consumers and urge the Administration to stand firm in opposing any measure which would raise the price of sugar."●

## THE ROAD TO PROSPERITY—PART XIV—HOW DO PEOPLE AVOID PAYING TAXES?

### HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. STEIGER. Mr. Speaker, in the barrage of rhetoric from the administration, the Washington Post and the New York Times against the Investment Incentive Act, there has been one common theme. It is that my proposal is unfair; that it will enable some people to avoid paying taxes. This is the backbone of the arguments against the Steiger amendment. It is time to look at the problem in greater detail.

There are two aspects of the problem. The first is determine what comprises income. Income is the return or reward someone receives in exchange for their labor. Capital is the source of the tools which enables a worker to employ his or her labor. Some economists and some Presidents would tax capital, in the form of capital gains, as ordinary income. This, in effect, turns the income tax into a wealth tax. Not only is it a confusion of objectives, but it taxes away our capital stock which is necessary to expand plant and equipment, produce jobs, and increase economic growth.

Back in 1937, Irving Fisher, hardly a proponent of business or wealthy taxpayers, wrote that any gains in capital value are not properly income. He added,

> They (capital gains) are capital; and to tax them as income and later to tax the income flowing from this is a form of double taxation.

Income earned by money—that is, investment—should be taxed in the same manner as income earned by labor. However, we do not tax a laborer who has engaged in work. We tax the results of his labor. In the same light, we should not tax the capital which produces income. I should remind the readers that capital is produced by savings. That savings is acquired from income which is taxed. This is appropriate. But it is not appropriate to tax the capital base itself.

The second problem is how do people avoid paying taxes. Critics contend that the reduction of the capital gains tax only benefits the wealthy thereby creating an inequity in the tax code. This argument conveniently ignores several facts.

First, since 1969, the only individual income tax increase has been on capital gains, but only on gains realized above a certain income tax bracket. It stands to reason that a reduction in the tax will benefit only those who had their taxes increased. The critics' argument is based on circular, meaningless logic.

All other income taxes since 1969 have decreased. In effect, taxes have been indexed to inflation. The same can be said for salaries and wages—practically everyone now receives cost of living adjustments. The one exception is capital gains. The tax has increased, while inflation has eroded any real gain. It is no wonder that individual investors are dropping out of the stock market, and that those with high incomes are switching to tax-free municipal bonds.

Besides an increase in the tax rate on capital gains, another tax was imposed in the form of the minimum tax. The minimum tax was aimed at those who had high incomes, but were paying little or no income tax. While the number of people in this category declined for several years after the 1969 tax reforms, the number has climbed back up. The minimum tax has not solved this problem. Unfortunately, for many other people, it has become an additional tax. This was not the intended purpose of this tax provision.

The capital gains tax structure is used by many middle and upper income taxpayers to legitimately reduce their tax burden. There is nothing pernicious, immoral, or offensive about their action. But, is the capital gains tax the culprit as far as millionaires who pay no tax is concerned? A recent study by the liberal Brookings Institution analyzed this problem. The higher income taxpayers with the least tax obligations do not rely on capital gains to reduce their taxes. Over half of their tax burden is eliminated by the use of personal deductions, such as contributions to charity. Capital gains account for less than 10 percent of the tax reductions. Yet, capital gains is the major portion of the minimum tax, accounting for 80 percent of the revenue. The personal deductions, the actual culprit, account for less than 10 percent of the minimum tax. Something is obviously wrong. If people are really concerned about tax avoidance, then let's go to the heart of the problem and levy tax on those items responsible for tax avoidance.

I should also remind the readers that unlike other income taxes, the tax on capital gains is completely controlled by the taxpayer. They decide when to realize the gain. Many people remain locked into existing investments because of high taxes. This deprives our economy of recycled investment funds. Others invest in nonproductive, but tax-free, items such as municipal bonds. And, a smart lawyer can always find ways to avoid taxes. The recent Washington Post article on the sale of the Hill 'n Dale estate reveals one device—leasing, rather than selling—to avoid capital gains taxes.

The Post article follows:

WHO DOESN'T BEAR THE TAX BURDEN

The concept of equitable treatment under the tax system has been of considerable public concern in recent years. Tax preferences were an important issue in the 1976 Presidential election, and the winner promised fundamental reform of the income tax.

Many of the most significant contributions to the study of the erosion of the tax base and the popular interest in tax reform have

been made by Joseph A. Pechman.[1] Several of these showed, through a graphical technique, how much the various tax preferences reduced liability in different income classes. This paper will expand upon that analysis by (1) quantifying the average effective tax rates paid at all income levels, according to the tax schedule used and the number of exemptions claimed; (2) searching the population at all incomes for taxpayers with liabilities in different proportions of the average for their income class and household status; and (3) analyzing the effects of tax preferences used by groups of households according to the degree of difference between their taxes and the average. Comparisons can thus be made between groups of tax returns with similar degrees of tax avoidance at different income levels, and between others with different degrees of tax avoidance at the same income levels. This analysis will be based upon the Brookings 1970 MERGE file.[2]

The first part of this paper will describe the procedures used to group tax returns according to the relationship of their tax liabilities to the average for their type of return and income class. The second part will show the relative importance of tax preference items in reducing tax liabilities, with comparisons among taxpayers grouped by the relationship of their liabilities to the average. A brief conclusion will follow.

DETERMINATION OF AVERAGE EFFECTIVE TAX RATES

Popular interest in tax equity issues typically focuses on tax paid over various levels of income, judged by some subjective standard of vertical equity. For present purposes, however, the major emphasis will be upon tax paid relative to he average effective rate at a given level of income. This standard is chosen because the equal taxation of equals is a more widely endorsed principle than any possible standards for the appropriate treatment of unequals. From a more pragmatic viewpoint, any broadening or narrowing of tax preferences that did not change the distribution of average effective rates would not change total revenue, which is presumably set according to public sector needs rather distributional preferences; thus this horizontal equity approach can provide insights to the need for and effects of tax reform independent of redistributional questions.

Any measurement of the average effective tax rate must take account of a number of provisions of the tax law that introduce dispersion into tax liabilities at any given income level with no intervention by the taxpayer. Two taxpayers with the same incomes might pay taxes according to different tax rate schedules and claim different standard deductions and personal exemptions; it would be misleading to compare their taxes as though they were identically situated. Therefore several adjustments are made in the analysis described here. First, taxpayers filing each of the four different types of returns (married filing jointly, married filing separately, single. head of household) are analyzed separately. Second, a new income measure called "standard taxable income" (STI) is used to compute average effective tax rates. STI is defined as total income [3] less the appropriate standard deduction under the tax law in question, less the total amount of personal exemptions for the taxpayer(s) and dependents. These two adjustments control for the varying sizes and filing statuses of different taxpayers.

One further difficulty, this one computational, is how to categorize each individual return with respect to the average effective tax rate for its income level. The average rate could be computed for a large number of income intervals, and each individual return's effective rate compared with the average for its class. Such results would be inaccurate, however, because with a progressive tax the average effective rate would be expected to increase from the bottom of each interval to the top. Thus, the average for the entire interval would not be an appropriate standard for the extremes unless the interval were very small. The smaller the income interval, of course, the smaller the sample of tax returns within that interval, and therefore the greater the sampling variation of the mean within each interval.

The alternative chosen here was to estimate the average effective tax rate through a set of four regression equations—one for each type of tax return—relating the effective tax rates to incomes. To determine an individual return's relationship to the average rate, then, the appropriate equation was solved using the precise income level of the return, and the solution value was taken to be the average rate. This technique circumvented the problems of progressivity within income intervals and sampling variation described above.

Of several alternative specifications tried, the best fit of effective tax rates (that is, liabilities as a percentage of STI) to STI was obtained through a simple single logarithmic transformation

$$T/STI = a + b \ln(STI)$$

where T is tax liability and STI is standard taxable income. In order to obtain a satisfactory fit, it was necessary to impose some restrictions on the sample. First, returns with negative standard taxable incomes were omitted from the analysis. Some low income tax returns were eligible for negative taxes under the refundable earned income credit; negative taxes were truncated to zero for the analysis. The regression results are shown in table 1,[4] and the distribution of tax returns by the relationship of tax liability to the average in each income class is shown in table 2.

TABLE 1.—RESULTS OF REGRESSION ON EFFECTIVE TAX RATES

| Type of return | a (standard error) | b (standard error) | $R^{-2}$ | F | S.E.E. |
|---|---|---|---|---|---|
| Single | 0.3614 (.0014) | 0.0397 (.0002) | 0.6546 | 25,785.60 (1, 13,604) | 0.036 |
| Joint | .3972 (.0024) | .0543 (.0005) | .2010 | 11,945.62 (1, 47,491) | .105 |
| Separate | .5467 (.0158) | .0831 (.0035) | .6377 | 569.54 (1, 322) | .069 |
| Head of household | .3632 (.0035) | .0457 (.0006) | .6129 | 5,304.64 (1, 3,349) | .042 |

Source: Brookings 1970 MERGE file, projected to 1977.

TABLE 2.—DISTRIBUTION OF TAX RETURNS BY THE RELATIONSHIP OF TAX LIABILITIES TO THE AVERAGE, 1977

| Tax liability as a percent of average | Number of returns (millions) | Percent of all returns |
|---|---|---|
| Greater than 100 | 56.8 | [1] 77.5 |
| 100 to 75 | 8.8 | 12.0 |
| 75 to 50 | 2.5 | 3.4 |
| 50 to 25 | 1.4 | 1.9 |
| 25 to 0 [2] | .7 | 1.0 |
| 0 | 3.1 | 4.2 |
| All | 73.2 | 100.0 |

[1] The percentage of returns with taxes greater than average is greater than 50 because (a) the distribution of taxes as a percentage of the average is skewed toward zero, as explained in footnote in the text, and (b) the regression equation used to estimate the average effective rate at each income level underestimates the actual mean because it is fit on the basis of the square of the deviation of each observation from the mean, rather than the deviation itself.

[2] Tax is 25 percent or less of the average effective rate for the income level, but greater than zero.

Source: Brookings 1970 MERGE file, projected to 1977. Data are rounded.

TAX REDUCTION DEVICES

The format for presentation of the results is the graphical technique first used by Pechman.[5] This graph shows first the distribution of effective tax rates by income class that would prevail if no deductions or exemptions whatever were permitted; then it shows the change due to reinstating each preferential feature one by one until the final result is tax liability under current law.

Figure 1 shows the effects of the individual tax features for the entire population. The shape of the diagram is much like the earlier computations by Pechman. The personal exemptions and personal credits in the law are found to reduce taxes significantly at the lower income levels, but to become progressively less important in a relative sense as income rises. Personal deductions have a large impact at all levels, including lower incomes where the standard deduction is prevalent. Tax preference items [6] excluded from the ordinary tax but subject to the minimum tax have a perceptible effect only at upper income levels; the maximum tax on earned income has a similar impact. Income splitting reduces taxes by the largest relative amounts at moderately high income levels, and less at the highest and lowest incomes. The refundable earned income credit reduces taxes at low income levels only.

The most striking feature of the chart, however, is probably the effect of the capital gains preference. While it has no perceptible effect on revenues below about $25,000 of comprehensive income, the exclusion of one-half of realized long term gains (plus the alternative tax) has a rapidly increasing effect until it is the second most important revenue reducing feature for the highest income returns. This significant role of capital gains preference in reducing taxes at the highest income levels has led many observers to conclude that this preference must play a leading role in cases of highly successful minimization of tax liability by upper income taxpayers.

Figure 2, which is drawn only for returns with tax liabilities within 5 percent of the average for each income level, would probably tend to reinforce this conclusion. It shows that for the average upper income taxpayer, the capital gains preference has a more limited impact than for all of those with high incomes. The other obvious shift at the upper income levels is the greater role for the maximum tax on earnings, indicating that the high income taxpayer with average liability receives a relatively large fraction of his income from labor. Below about $100,000 of income it is clear that the average taxpayer uses virtually no tax reduction devices beyond deductions and exemptions.

Figures 3 and 4 present taxes for two other subgroups of the population: those whose taxes are between 100 and 75 percent, and 75 and 50 percent of the average, respectively. For upper income returns in these groups, it is clear that the capital gains exclusion and alternative tax are of primary importance. These preferences reduce the effective tax rates of the highest income classes by twenty percentage points in the lower-taxed group—more than all itemized deductions. The maximum tax has less effect as effective tax rates fall, indicating that little of the income at these levels is earned from labor. Income splitting also becomes relatively less important for lower tax rate groups, while tax preference items other than capital gains become more important. The tax reduction devices used at income levels below about $100,000 are again restricted largely to the various itemized deductions.

Figures 5 and 6 show the tax reducing features used on returns with tax liabilities less than 25 percent of the average but still greater than zero, and on nontaxable returns. The results at upper incomes might

Footnotes at end of article.

come as something of a surprise—the important role of the capital gains preferences is drastically reduced. The overwhelming effect is that of personal deductions, which by themselves reduce effective tax rates by fifty percentage points or more at the highest income levels. The only other appreciable effect is that of capital gains, which is less than 10 percentage points for both groups. The dominance of personal deductions below $100,000 of income is virtually unchanged.

The foregoing results make it clear that different taxpayer groups with varying effective rates of tax make dramatically different use of different tax reduction devices. A remaining question is the composition of the personal deductions taken at different income and effective tax rate levels. Table 2 shows the percentage breakdown of itemized deductions among five classes: medical, charitable, interest, state and local taxes, and all other. The results indicate that the relative use of different itemized deductions also varies significantly by effective tax rate groupings.[7]

Comparisons among the effective tax rate classes can best be made by broad income groupings. Below about $20,000 of STI, there is no discernible shift among tax rate classes. Between about $20,000 and $200,000, the low effective tax rate group shows a greater relative use of medical, charitable and (with less consistency) miscellaneous deductions than tax returns with higher effective rates. The reliance on interest and state and local tax deductions is lower. Above $200,000, however, the low tax rate returns show distinctly greater relative use of interest and charitable deductions, and less of medical and state and local tax deductions; miscellaneous deductions are largely unchanged. Interest and charitable deductions are, of course, easily manipulable by the taxpayer to minimize tax liability.

CONCLUSIONS

The computations in this paper indicate that some qualification of earlier notions of the role of tax reduction devices may be in order. A view of the entire population indicates that preferences for realized long term capital gains have an impact second only to personal deductions on tax liabilities at the highest income levels. On tax returns with high incomes and very low tax liabilities, however, personal deductions play a far more important role. Capital gains preferences show up more strongly on returns with liabilities between one-half of the average and the average. For returns with taxes around the average, the maximum tax on earned income reduces liabilities most. At lower income levels, personal deductions are the major tax reduction feature.

An examination of the itemized personal deductions used to reduce taxes shows again that, the use of various devices changes with the degree of tax avoidance. Returns with low tax liability between about $20,000 and $200,000 of income make heavier relative use of deductions for medical expenses and charitable contributions than returns with the same incomes and higher taxes; at higher incomes, interest expense and charitable contribution deductions are more heavily used by returns with low effective tax rates.

The major implication of these findings is for tax policy with regard to leakages from the income tax base. If a major concern for policy is the total reduction of tax liabilities at upper income levels, then the capital gains preferences are virtually as important as personal deductions. If, on the other hand, the major concern is extreme cases of tax minimization, then most effort should be concentrated on personal deductions.

FOOTNOTES

[1] Notably "Individual Income Tax Provisions of the Revenue Act of 1964," Journal of Finance, May, 1965, pp. 247–272; "Individual Income Tax Erosion by Income Classes" (with Benjamin A. Okner), *The Economics of Federal Subsidy Programs*, U.S. Joint Economic Committee, 92 Cong. 2 sess. (1972), pp. 13–40; *Federal Tax Reform: The Impossible Dream?* (with George F. Break), Brookings, 1976; and *Comprehensive Income Taxation* (editor), Brookings, 1977.

[2] The MERGE file is a combination of responses to the March 1971 Current Population Survey and tax returns for 1970, on computer-readable magnetic tape. Working papers on the construction of the MERGE file are available from the author.

[3] "Total income" is defined as adjusted gross income plus excluded sick pay and moving expenses and the excluded half of long term capital gains.

[4] The distribution of effective tax rates is such that there is a maximum value (that which results from taking the standard deduction with no exclusions) but no minimum other than zero. Thus the distribution tends to be truncated at the highest possible tax rate, and the regression curve underestimates the average rate somewhat. The result here is that the group selected as paying approximately the average effective rate includes returns paying somewhat less, and the groups selected as paying less than average in fact pay even somewhat less than stated.

[5] See "Individual Income Tax Provisions of the Revenue Act of 1964," op. cit.

[6] Not including excluded long term capital gains.

[7] It is important to remember two factors in considering table 2: (1) The table shows the percentage breakdown of different types of deductions in total deductions; in the lower effective tax rate groups, however, the absolute amount of deductions is higher in any given income class than in the higher tax groups. (2) The table shows the total amount of each deduction claimed in each income class; certain types of deductions might be claimed in very large amounts but on few returns, leading to a small total.

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ARCHBOLD TRACT SET FOR LUXURY PROJECT

(By Jerry Knight and Patricia Camp)

The largest piece of private property in the District of Columbia, the 40-acre John Archbold estate on Reservoir Road NW, will be turned into a multimillion-dollar luxury housing development by C. W. Murchison, Jr., the Texan who owns the Dallas Cowboys.

Officials of a company owned by Murchison said yesterday they have leased the estate, known as Hillandale, from Archbold and his family. The lease calls for payments to the Archbold family in "excess of $1 million a year" and reportedly includes "cost of living escalators" that will double the annual rental over its 99-year term.

A mixture of at least 300 detached and clustered houses, selling for $300,000 and up, will probably be built on the land, said John Williams of Hillandale Development Corp.

Murchison formed the company last month to develop the estate, a project that real estate industry sources estimate will cost at least $75 million and take several years to build.

A housing project that big would bring the city about $10 million a year in additional real estate and income taxes, said J. Kirkwood White, assistant D.C. planning director.

It would also bring additional traffic, people and controversy to a neighborhood where any proposed development usually produces outcries.

The estate, covering almost 16 blocks on the western edge of Georgetown, is already zoned for housing, so the developer will have few administrative hurdles to clear before beginning work.

Hillandale is a few blocks away from the Foxhall Road estate of Nelson Rockefeller, where another developer plans to build about 125 houses in the $300,000 to $400,000 price range.

D.C. City Council member Polly Shackleton (D-Ward 3), who represents the neighborhood, said yesterday she hopes the development of Hillandale will include "the same kind of regulation that the Rockefeller estate came under."

Rozansky and Kay, developers of the Rockefeller property, agreed to let neighbors participate in planning the the project. "I would hope that Murchison would do the same thing and work with the community," added Shackleton.

Williams said the developers already plan to "meet with interested parties, public and private, so we have a project that is economically feasible and solves more problems than it creates."

The Archbold and Rockefeller family fortunes flow from the same oil wells. John D. Archbold was the original partner of John D. Rockefeller in the Standard Oil Company.

Archbold's daughter Anne—who resumed the family name after she was divorced—built Hillandale's eight-bedroom mansion, in the style of a 14th century Italian villa, starting in 1921. She gave away part of the property to form Glover-Archbold Park, which now abuts Hillandale on the north and west sides. On the south, the estate fronts on Reservoir Road for about four blocks. And 39th Street, from Reservoir north past S Street NW forms the eastern edge of the property.

The land now is owned by Archbold Investment Co., a family company headed by John Archbold, the son of Anne, who lives in the house when he is not at his country home in Upperville, Va., at his English estate, or traveling.

Williams said the developers have not decided what to do with the sprawling stucco villa. In addition to leasing the land from the Archbolds, the developers paid $600,000 for the mansion, outbuildings and a gatehouse now occupied by socialite Page Lee Hufty, a member of the Archbold family.

Under the agreement, Archbold can live in the house for two years, while the developers are planning their project. Hufty can stay in her residence for a year.

The others owners of Archbold Investment Co., who will share in the $1 million-a-year income from the lease, are John Archbold's four daughters, Anne Archbold Collins, Moira Archbold O'Connor, Lucie Schelling Archbold and Jennifer Archbold.

Richard Mullens, the attorney who represented Archbold in the transaction, said, "The principal factor that prompted him to do something about the property at this time was the District of Columbia property tax."

Mullens said the house was "just too costly." With an assessed value of $5 million, the highest on the city's tax rolls, the taxes on the property last year were $65.000.

Taxes were also the reason Archbold decided to lease the estate rather than sell it, Mullens said.

If the property were sold, capital gains taxes almost 50 percent of the money. Income from the lease will be taxed as ordinary income, presumably at lower rates. The $1 million-a-year rental amounts to an 8.5 percent return on a $12 million investment, the cash price upon which the sale was reportedly based.

The Archbolds also have an unusual two-year option allowing them, in effect, to force Murchison to buy the property, for as much as $14 million, depending on when the option is exercised.

Leasing the land creates major legal headaches for the developers, said Washington attorney E. David Harrison, who represents the Murchison interests, because land leases

have never been used for residential developments in the District of Columbia.

Building houses on leased land is common practice in some areas, including Baltimore, but D.C. laws might have to be changed to make the Hillandale project feasible, the attorney said.

In another major development in Northwest Washington, California builder Dwight Mize recently signed a contract to purchase McLean Gardens, a 723-unit apartment complex on Wisconsin Avenue, and convert it to condominiums.

In Northeast, two developers have purchased 25 arces on Michigan Avenue from Trinity College and plan to build 534 town houses there.●

## WEALTH OF A NATION: FOCUSING ON THE FUTURE

### HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. MARTIN. Mr. Speaker, this year, for the second consecutive year, my office sponsored an essay contest for juniors and seniors in high schools in North Carolina's Ninth Congressional District.

After preselection by officials at public and private high schools, a panel of independent judges selected a winner and two runners-up from the entries.

The judges were extremely complimentary of the quality of the writing, along with the degree of research and thought which went into the essays.

The winner of this year's essay contest is 17-year-old Paul Madsen, son of Mr. and Mrs. Alan Madsen of Charlotte, N.C.

Paul is a junior at Olympic High School in Mecklenburg County.

Mr. Speaker and Members of the House of Representatives, I call to your attention the essay of Paul Madsen and know you join with me in extending congratulations to this leader of the future:

WEALTH OF A NATION: FOCUSING ON THE FUTURE

(By Paul Madsen)

America—it might be considered a relatively insignificant appellation until one considers the enormous impact the United States of America has made on modern civilization. Within this nation lie the roots of democratic capitalism which have such a profound effect upon global society. Never before in the history of mankind has there been so much technological progress than during the relatively short two hundred years America has been in existence. The wealth of the United States is synthesized by its capitalistic way of life; and it is this economic entity, directed by the perpetual influence of human nature, that will determine the ultimate course taken by American society.

How does capitalism function in the economy of the United States? Capitalism can be described as synonymous to the wealth of the United States; and America's wealth, in turn, endures a symbiotic relationship to its economy. So, in essence, it can be safely assumed that capitalism directly supports America's economic system. Without capitalistic drives the economy of the United States would slowly deflate, like a leaky balloon. Capitalism encourages competition and innovative technological development simply because it appeals to an enduring, typically human pursuit—greed. Therefore, capitalism is a predominantly functioning factor in U.S. economic developments.

However, unchecked capitalism has a devastating potential for destruction. As is clearly visible during modern times, America's primary economic influence is getting out of hand. Industrial giants, encouraged by America's democratic, free-enterprise system and spurred by capitalist sentiments, are now largely responsible for the exploitation of human and natural resources which the United States presently encounters. Inflation and unemployment thrive, the stock market falls and pollution contaminates the environment as a result of corporate ventures. Theoretically, America's typical middle-class laborer produces more than he is paid for. Consequently, the United States is transforming into a giant junk yard whose goods eventually end up useless or obsolete from lack of quality and efficiency. Ironically, the United States Government supports such exploitations simply to keep the economy from collapsing. The end results of the process are pollution and similar environmental and economic disasters. A solution is desperately needed to thwart "corporate" capitalism.

The ultimate future of American economy lies then in a form of controlled expansion regulated by the government of the United States. President Carter's energy plan is a prime example of such a system and its complete or even partial adoption will surely open doors. At the same time, however, as governmental influence increases, the creative, technical atmosphere fostered by capitalism could suffer. The strengths of capitalism may, ironically, sustain its partial decomposition. Yet, the benefits of modifying capitalism in its present form considerably outweigh the possible detrimental effects imposed by its control. Therefore, because of present economic tendencies promoted by rampant, "corporate" capitalism, an increase in governmental influence upon United States economy is surely imminent.

America's social behavior is largely influenced by its economy. Social patterns in the U.S. are strongly marked by Marx's theory of Economic Determinism. Thus, by the principle of the syllogism, it can be assumed that capitalism also plays a major role in determining the course of social trend in the United States. In fact, democratic capitalism is fast becoming a way of life for most American citizens. James D. Forman describes the evolution of capitalism:

"Capitalism was born not made. Without benefit of disgruntled intellectuals or revolutionaires, it simply grew as a way of doing business, and ultimately as a way of life." [1]

So, early capitalism was nourished by the freedom of a democratic society and it still remains largely unchecked.

What does this economically-centered way of life mean for the average American? It simply means that he will have to endure the effects of present economic tendencies or lower his standard of living. Present sociological trends in the United States indicate sentiments linked to the theory of rising expectations. The United States middle class has been exposed to the highest standard of living it has ever experienced. Yet, this class has such a limited scope that it expects living standards to rise consistently. Of course, they will continue to rise only as long as corporations exploit the economy of the United States. These exploitations also bring the subsequent demise of established society. Today's typical teenager is strong evidence of the influence of present capitalistic trends upon society. Society is disorganized and so he seeks an escape through drugs and alcohol. A solution lies in the enlightenment and intellectual development of America's middle class through improvements in the general quality of education. Therefore, U.S. governmental control is necessary to the stabilization of United States economy, but it is also essential to the creation of the rational social behavior patterns that promote beneficial growth.

Most American citizens would tend to think that an increase in government influence upon their lives implies socialist or communist motives—on the contrary. Controlled expansion will provide for a more efficient capitalistic, social-economic state. Capitalism thrives on the constant threat of communism. Americans feel intimidated and consequently divert their energies toward beneficial development. The United States need fear no interruption by either socialism or communism if it exhibits tendencies toward an increasingly structured capitalist nation. Capitalism must not be totally eradicated because it has more growth prospect than any other economic system.

Common problems such as drug abuse, crime, vandalism and poverty are all typical of the destructive nature which the disorganized, economically dependent society of the U.S. has instilled. Governmental organization will invariably enable these problems to correct themselves. The complete process will take time, perhaps as long as it took capitalism in its present form to develop, but the ultimate rewards will be great.

Politics will naturally have a fundamental influence upon the future of American economic and social trends. Liberalism is essential to the structured capitalism the United States must pursue. The trite advice which proceeds from the expression "nothing ventured—nothing gained" is quite pertinent to America's present situation. United States citizens are already witnessing the downfall of conservative sentiments in the corporately-stressed Republican party. Conservative attitudes provide for no organized development of technical processes. So, in the long run, Conservative attitudes cannot survive within the political spectrum of the United States.

The development of American society can be critically employed to evaluate the eventual outcome of the supreme political struggle which the United States presently encounters—The Cold War. The Cold War is constantly nourished by fear and instability. These fears are largely created by the prospect of mutually-assured destruction. Most Americans probably realize that the economic stability enjoyed by Soviet communism is fast leaving the United States behind in the arms race. America's unsteady economy prevents the successful deterrence of Soviet aggression. Thus, controlled capitalistic economic expansion, may put a damper on Soviet hostilities by restoring some confidence in the American people.

The cold war is also rapidly transforming into an economic superiority contest. The conflict is currently based upon the question of economic stability, the victor being the one who can manufacture a surplus of arms and still maintain its composure. Situations in the Middle East are typical of current Cold War strategies. The United States sells Phantom jets to Israel so the Israelis can vanquish the Egyptians in their Russian-built tanks. America will eventually lose such a

[1] James D. Forman, *Capitalism: Economic Individualism to Today's Welfare State*, New York: Franklin Watts, 1972, p. 8.

battle with communism simply because communism creates a more efficient society. The final solution lies not only in the structuring of capitalism in the United States, however, but also in the technological development of "backward" nations. These nations fall as easy prey to the initial appeal which communism inspires. Therefore, only the development of these threatened "backward" nations will sufficiently hinder the expansion of communism.

The wealth of the United States, embodied in a governed capitalist economy, holds many prospects for the future. International trade markets will most assuredly result from the policy of controlled expansion that America must pursue. Tariffs and embargoes will become extinct restrictions as detrimental "corporate" capitalism, which discourages international cooperation, is eradicated. Technological advance is also sure to result from the efficient and highly scientific atmosphere installed by the emergence of rational social behavior and labor-specialization. The quality of education must be improved to create the intellectual capacity and wisdom needed to efficiently expand such national and global development.

The free world must unite both economically and politically in a limited capacity to thwart the spread of communism which threatens America's prosperity and growth and subsequently the world's. The Cold War will gradually dissipate if the United States simply stabilizes its economy and maintains an equal if not superior military status toward the Soviets. Cold War hostilities will gradually dissipate as both sides realize the futility of such conflict and national and international interest predominate. As John K. Galbraith says:

"Whatever the peculiarities of the Russian temperament or the communist commitment to its faith, there is no reason to think that these include a predilection for high temperature incineration." [2]

In fact, the future of world civilization may involve a fusion of the three most predominant economic systems in existence today—capitalism, communism, and socialism. The United States is strong evidence of the benefits capitalism contributes to society, and it is up to American government to provide for its efficient control and development.

In conclusion, America's financial, human, and natural resources coupled with the strong influence of "corporate" capitalism and a growing liberal viewpoint will necessitate the development of a structured capitalist economy. The processes involved in such a task will substantially influence the political, social, and economic tendencies of the entire globe. It is certainly evident that the future of mankind depends on the wisdom with which he develops his technology and economic way of life. As the United States has a profound global influence, it is valid to propose that America's efficient economic development will undoubtedly exert a magnificent force upon the ultimate future of man and his society.

[2] John K. Galbraith, *The Liberal Hour*, Boston: Houghton-Mifflin, 1960.

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## QUESTIONNAIRE RESULTS

## HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. WYLIE. Mr. Speaker, I would like to take advantage of the opportunity afforded by the CONGRESSIONAL RECORD to bring to the attention of my colleagues the results of my most recent questionnaire mailed postal patron to the residents of Ohio's 15th Congressional District.

I have found this opinion sampling technique to be highly informative and a most useful tool for me in determining how to represent my constituents in Congress.

The results are as follows:

QUESTIONNAIRE RESULTS

| | His | | | Hers | | |
|---|---|---|---|---|---|---|
| | Yes | No | Undecided | Yes | No | Undecided |
| 1. Do you favor a tax reduction to stimulate the economy, even if it increases the Federal budget deficit? | 26.6 | 68.8 | 6.6 | 24.4 | 66.2 | 9.4 |
| 2. Do you favor returning the Postal Service to congressional control, with subsidies from general tax revenues? | 36.4 | 50.6 | 13.0 | 36.7 | 47.0 | 16.3 |
| 3. Do you favor public financing of campaigns for candidates for the House of Representatives and the Senate? | 26.5 | 64.7 | 8.8 | 24.4 | 65.4 | 10.2 |
| 4. Do you believe that the United States should give further military aid to foreign countries friendly to us but who are said to be violating their own people's human rights, such as Chile and South Korea? | 25.8 | 63.2 | 11.0 | 16.1 | 71.5 | 12.4 |
| 5. Do you favor the Government's adopting a "guaranteed annual income" approach to public welfare rather than social service programs such as aid to dependent children, aid to the blind, food stamps, and old age assistance? | 24.1 | 61.1 | 14.8 | 22.3 | 60.9 | 16.8 |
| 6. Do you think it is a good idea to require industries to control pollution, even if it means higher prices for their goods and services? | 69.3 | 20.6 | 10.1 | 68.9 | 19.6 | 11.5 |
| 7. It has been proposed that everyone in the Nation have health insurance, to be paid for by the Government, or by employers or by employees, or by a combination of the 3. Which of the following statements comes nearest to your own feelings on this subject? Check only 1 | No response—4 | | | No response—6 | | |
| (a) The Government should not become further involved | 44.7 | | | 44.1 | | |
| (b) We should move immediately into a Federal health insurance program for all Americans | 10.9 | | | 10.9 | | |
| (c) We should provide at this time a limited program that would offer financial protection against catastrophic and other major illnesses | 40.4 | | | 39.0 | | |
| 8. On the following statements, which would best characterize your position on the Panama Canal treaties? Check only 1 | No response—3.3 | | | No response—5 | | |
| (a) I oppose ratification under any circumstances | 48.7 | | | 48.3 | | |
| (b) I favor ratification | 9.5 | | | 7.4 | | |
| (c) I would favor ratification as long as U.S. military security and priority passage are protected | 32.3 | | | 28.7 | | |
| (d) I am reserving judgment for the moment | 6.2 | | | 10.6 | | |
| 9. Should parents receive a tuition tax credit for each child attending college time? | 56.9 | 36.7 | 6.4 | 57.9 | 33.7 | 8.4 |
| 10. Should the time limit for ratification of the equal rights amendment be extended? | 21.2 | 68.2 | 9.6 | 28.2 | 59.1 | 12.7 |
| 11. The Department of Health, Education, and Welfare now administers programs in all 3 of these areas of concern. Do you favor creation of a separate Cabinet-level Department of Education? | 25.9 | 62.8 | 11.3 | 27.3 | 58.5 | 14.2 |
| 12. Should the United States establish formal diplomatic relations with Cuba? | 35.2 | 50.6 | 14.2 | 29.9 | 48.9 | 21.2 |

| | | Number of times listed 1st | |
|---|---|---|---|
| | | His | Hers |
| 13. Rank in order of priority the emphasis you think the Government should place on the following forms of energy (number 1 through 5 with 1 being your top priority): | | | |
| (a) Coal | Solar | 29.6 | 34.0 |
| (b) Oil | Nuclear | 29.8 | 21.0 |
| (c) Natural gas | Coal | 17.5 | 16.4 |
| (d) Solar | Gas | 6.3 | 8.0 |
| (e) Nuclear | Oil | 5.6 | 5.3 |
| 14. What do you consider to be the greatest cost factor increasing the price of a new home? Check only 1. | Undecided | 11.2 | 15.3 |
| (a) Financing costs | | 9.9 | 10.8 |
| (b) Materials | | 19.3 | 16.6 |
| (c) Labor | | 39.6 | 39.7 |
| (d) Licenses, taxes and other government-imposed costs | | 6.3 | 6.8 |
| (e) Land acquisition and development | | 4.3 | 4.1 |
| (f) Other | | 3.2 | 2.2 |

| | His | | | Hers | | |
|---|---|---|---|---|---|---|
| | Yes | No | Undecided | Yes | No | Undecided |
| 15. Do you favor the labor reform bill, H.R. 8410, providing for quicker union certification and elections? | 20.9 | 46.6 | 32.5 | 17.2 | 40.9 | 41.9 |

## TESTIMONY OF THE CAMBODIAN PEOPLE—PART 2

### HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. ANDERSON of Illinois. Mr. Speaker, today I am placing in the RECORD, for the Members' information, two more interviews with Cambodian refugees:

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE, 1978

ACCOUNT OF SOURCE C*

Source C, a former barber, arrived in Thailand March 1, 1978, from Siem Reap Province. After April 1975, he was ordered to become a farmer like everyone else. Source C is about 28. His account follows:

Conditions of Life in Democratic Kampuchea. "I lived in a village of 550 people in Siem Reap Province. About half of the people were 'Old Cambodians' and half were 'New Cambodians' (not under Khmer Rouge before April 1975). During the rainy season, we worked in the fields and in the dry season, we worked digging canals and building dams. In my village, the rice crop decreased year by year since 1975. I think that inadequate fertilizer was responsible for the decreases.

"We ate twice each day. For a few months in 1975, we had rice each day. After that, we received only porridge, but not enough. We received about the same amounts until I escaped."

System of Administration and Discipline. "We had to attend weekly meetings in the village. In the meetings, the village chief only talked about production and the need to work hard to build dams." The 'Old Cambodians' could give suggestions, but the 'New Cambodians' could not.

"If the 'New People' were late for work, sick or did not have permission to do something, the group chief would tell the village chief, who would call you in and give you a reprimand the first and second time. If you stole a little food from someone, the same thing happened. If a 'New Cambodian' raised a potato near his house and ate it without getting the permission of the group chief, you would be reprimanded the first and second time. The third time you would be 'sent to Angka Leu' (executed).

"If you were a 'New Cambodian' and had problems, too much work, or if someone was taking advantage of you, you had no recourse. 'Old Cambodians' could tell the group chief. If you were beaten up by an 'Old Cambodian', it was too bad. The 'New People' were always wrong and the 'Old' always right. If the group chief hit you, you could not complain to the village chief, because the group chief would tell the village chief that you were a 'New Person', did not like to work, and do not like the new regime."

Executions. "I decided to escape because the Khmer Rouge wanted to kill me. I was assigned to work far from my village. One night eight of us who were 'New Cambodians' were invited to 'attend a meeting'. When we arrived, the Khmer Rouge ordered us to be tied up. The seven others were tied, but I escaped and ran away. Of the seven, three were former soldiers and four were simple farmers. I did not understand precisely why we were called. There were many such meetings, but usually when we attended we were not tied up. I had heard of this happening before—people were called in the night and then executed.

"I learned from neighbors that I was to be killed. I asked, 'Why?' because I had done nothing wrong. The neighbors told me only that people were being killed. Earlier, I was walking around and I overheard the Khmer Rouge tell 'Old Cambodians': 'We do not trust the Lon Nol people and do not like to keep them.'

"I had two brothers and a brother-in-law who were killed. My brothers were 26 and 24 in 1975. They had not been conscripted in the Lon Nol Army, but their names had been registered. The Khmer Rouge found their names on GKR lists and killed them just two months after the takeover in 1975. My brother-in-law was also killed, but he was a former soldier.

"At that time, the Khmer Rouge assembled all the soldiers, telling the soldiers that they would 'be retrained.' But in fact they were executed. Many people saw the execution sites. I myself saw an execution site at Kog Dong. There were only bones, perhaps 400 skeletons there. At the time, I was assigned to work there. The soldiers' wives were not harmed."

*(The name of the individual refugee who provided this account has been excised to protect the identity of family members or friends still in Cambodia.)

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE, 1978

ACCOUNT OF YIM SOT RONNACHIT*

Yim Sot Ronnachit, 16, completed six years of schooling in his native Siem Reap before the Khmer Rouge took over. After the takeover, he moved to Pouk District, Siem Reap with his family, his mother, father and six brothers and sisters. He escaped to Thailand in March 1, 1978. His story follows:

"The Khmer Rouge ordered us to work in the rice fields. My father had been a fish-seller in Siem Reap. At first, we lived together, but after ten days in Pouk, my eighteen year old brother and I were sent about ten kilometers away to work. We worked in the rainy season as farmers. In the dry season, we built canals and dug ditches. We worked from 0600 to 1200 and then from 1300 to 1700. During the dry season, we also worked at night from 1900 to 2100.

"During the dry season, we received rice twice a day. This was not enough. In the rainy season, we only received rice porridge twice a day, one tin of rice (250 grams) to make porridge for ten persons. This also was not enough. The rations were about the same from 1975 on.

"People got sick often because of lack of food. The sick went to the hospital where they received medicine made from roots and bark. Most people came back.

"My brother and I stayed in that place to work until 1977, when we were called back to the village where my family lived (to see our father and mother). After a few days with our family, we and 26 other families, 78 persons in all, were told we would move to another place, Kothasuous, also in Pouk District.

"On the way to Kothasuous, we were escorted by eight Khmer Rouge soldiers. After five days of working in Kothasuous, we were ordered to go to another place near the Lake Tonle Sap to plant rice. The Khmer Rouge soldiers said, 'Let's go all together about five kilometers'.

"After we walked about one kilometer to Kan Sang Pi Doeun, the Khmer Rouge said, 'Everybody must stop here. All the men should go ahead to build houses.' After about one hour, the Khmer Rouge took small groups, about ten or fifteen persons, at a time, all in family groups. The Khmer Rouge would say, 'Let's go to a new place. While waiting, the women and children were very frightened and were crying.

"Then my family was ordered to go along with another three families. We were taken by three Khmer Rouge to a place where there were twelve others. The Khmer Rouge pointed guns at us and tied the entire group of us together. There was one old man, one male adult and the rest were women and children. We could see that the others had all been killed. I saw the body of my father in the heap. The Khmer Rouge said, 'You will be killed, because you are wrong.' We were ordered to sit on the ground, then the Khmer Rouge began to hit us with poles and hoes. The Khmer Rouge beat five or six people before me. Then they hit me on the back of my head and on my back. I fainted. They thought I was dead.

"I spent another night in the forest. My head hurt very badly. Even now when it is hot, I have a pain from my neck into my head. After two nights, I saw a man from my village. He told me of another group which was going to be killed. We decided to flee together. I didn't know where we were going. We got a little rice from some 'New Cambodians' we met. After two days of walking, we met two others we knew, both farmers whom the Khmer Rouge had wanted to kill. We walked in the forest for two weeks before arriving in Thailand March 1.

"I cannot imagine any reason the Khmer Rouge wanted to kill 27 families. We were 'New Cambodians' (not under the Khmer Rouge prior to April 1975) from the town and the Khmer Rouge don't like people from the town. When I was working in the rice fields with my brother, I heard the Khmer Rouge say, 'All New People are the enemy.' All 77 who were killed were 'New Cambodians.' Neither I nor my family had ever previously had any trouble with the Khmer Rouge.

"All the members of my family were killed. They were: Yim Khun Nung, 43, my father; Seng Cham, 44, my mother; Yim Sot Noren, 20, my brother; Yim Sot Ronnachot, 13, my brother; Yim Sot Nisay, 10, my brother; Yim Sot Moniki, 9, my brother; and Yim Sot Seihavirak, 6, my brother."●

*(Refugee agreed to his name being used in public document.)

## DEALING WITH THE ENERGY CRISIS

### HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. MOTTL. Mr. Speaker, I would like to include in today's RECORD a letter I received from the school board in North Royalton, Ohio.

With Congress still wrestling with the energy crisis, it is refreshing to see that some Americans are taking the bull by the horns and coming up with their own solutions.

I think the school board and school officials of North Royalton deserve the thanks of this Congress for their patriotic actions.

The letter follows:

NORTH ROYALTON CITY SCHOOLS,
*North Royalton, Ohio, July 25, 1978.*

Hon. RONALD MOTTL,
*Congressional District of Ohio,*
*U.S. House of Representatives.*

DEAR CONGRESSMAN MOTTL: As president of the N. Royalton Board of Education I would like to report to you about the small things we are doing in our school district.

1. We have conducted an energy audit of one of our elementary schools and corrected

all and any energy losing equipment and space.

2. The Appalachian Exploration Inc. whom we signed an agreement for an oil and gas lease started to dig today, July 25, 1978 and is expected to hit gas sometime this week. This school system will naturally begin to profit from this lease.

North Royalton City Schools is proud that it is doing the very best possible to make itself self sufficient in this energy age.

We will be honored if you can report our efforts to the Congress, the Departments of Energy and Education as well as the President of the U.S.

Sincerely,

FELINO V. BARNES, M.D.●

## MILWAUKEE JOURNAL, PORTLAND OREGONIAN, READING EAGLE OPPOSE FOREIGN AID CUTS

### HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. McHUGH. Mr. Speaker, the foreign assistance appropriations bill will soon come before the House for consideration. As every Member is aware by now, numerous amendments will be offered to reduce funding and to restrict how our assistance may be used in a variety of ways.

I am opposed to these amendments, Mr. Speaker, and I have been encouraged by the fact that so many thoughtful and responsible newspapers across the Nation have indicated their opposition to them as well. For example, the Milwaukee Journal in a recent editorial argued that the United States should not attempt to impose political conditions on our contributions to the international financial institutions since they were never intended to serve as instruments of U.S. short-term foreign policy goals.

The Portland Oregonian elaborated on this point by observing that a substantial reduction in our foreign aid would prove harmful to a system of international agreements that we ourselves originally fostered.

Finally, the Reading, Pa., Eagle made a more direct point in a recent editorial. It pointed out that AID and the IFIs spend much of the foreign aid funds we provide on goods and services in the United States, and suggested that we should not overlook the beneficial domestic consequences of foreign aid.

For the benefit of those Members who may not have seen these editorials, I am including them in the RECORD at this time:

FOREIGN AID'S MISGUIDED CRITICS

Today's great disparities between rich and poor nations are the seeds for tomorrow's global conflicts. Over the years, the US has wisely voiced the need to help lessen those gaps. Now it has a particularly good opportunity to match its words with dollars.

The House soon will take up a $7.35 billion foreign assistance bill. Of special importance is a $2.62 billion appropriation within the legislation representing America's promised share of support for the World Bank, the Inter-American Development Bank, the Asian Development Bank and the African Development Fund. These important multinational lending institutions play a vital role in providing assistance to solid economic development projects in the poorer countries of the globe.

These institutions' criteria for lending are not based on politics but on the economic viability of the proposed project. Will the benefits outweigh the investment? Will the project pay? This kind of approach not only makes sense financially but it also fosters the right kind of development psychology in an underdeveloped country. There are no political strings attached to these loans. The recipient nation is beholden to no rich, industrialized country in particular.

It is in the best interest of the US to encourage this kind of multinational activity. Regrettably, that view might not prevail in the House. One reason is a stinginess ill befitting a powerful nation. Although the US contributes a smaller fraction of its national wealth to foreign assistance than do many industrialized nations, some House critics still want to slash support for these international banks. Such a step would be tragic since the amount already is a pared down version of the administration's original reasonable request of $3.5 billion. And Congress already is in arrears in paying to the banks what it promised in past years.

A second problem is the desire to place severe restrictions on how the American money is used. Some critics don't want the banks to grant loans to countries that restrict human rights; others don't want the institutions to support projects that compete with US products; and still others want to bar loans specifically to such countries as Cuba, Vietnam, Cambodia, Laos, Angola, Mozambique and Uganda.

Such restrictions would be quite proper if this were bilateral US foreign aid meant to support specific short term foreign policy goals. But these lending institutions are specifically designed to be free of politics—and for good reason.

The US should not try to impose its narrow desires on these banks any more than should France, England, Japan or Saudi Arabia, who also contribute funds. If every country attempted to have its way, the banks simply could not function—and the world would be a more explosive place.

CASE FOR FOREIGN AID

California's Proposition 13 precedent in tax slashing has had a variety of impacts. One of the first and most serious of these has been congressional whittling on foreign aid legislation. The mood in Congress has been apparently to impress the folks back home by a show of frugality at the expense of the nation's foreign relations.

The foreign aid issue is expected to come to the floor of the House of Representatives after the July 4 recess. The House Appropriations Committee cut more than $1 billion off the total the Carter administration requested for the Agency for International Development (AID), International Financial Institutions (IFI), including the World Bank, and military credit and sales. There has been some talk in Congress of killing the entire package.

That would be a great disservice, not only to the poor nations of the world, but to the U.S. national interest as well.

This country has been campaigning abroad for an increase in foreign aid on the part of the world's most developed countries, many of them U.S. allies. An abrupt cessation of or substantial cut in U.S. foreign aid would be harmful to the system of international agreements fostered by this country for the strengthening of Third World economies, stimulation of trade and alleviation of hunger in the poorest countries.

For example, the United States was instrumental in creating the agencies in the IFI as a means of encouraging other developed countries to share in assistance to developing nations. A congressional rebuke to foreign aid would hurt that program, perhaps cripple it.

The issues are expected to be debated for several days in the House. Members will probably try to exhibit on the floor their response to Proposition 13 in the form of reductions in foreign aid. Some reductions are tolerable, but the bill should not be gutted to the extent that the product would harm U.S. influence and interests abroad.

AID MONEY SPENT AT HOME

The Senate has just voted a 5 percent across-the-board reduction in "foreign aid," which poses, according to President Carter, a threat to the good repuation that the United States enjoys around the world.

The echoes, moreover, may be heard not just in some far away place, but right here in our own backyard.

In a manner of speaking, "foreign aid" is a misnomer for the federal program under which goods and services are bought in the United States and sent overseas. It is true, of course, that recipient countries are the beneficiaries, but they get the value only. The buck stops at home; we keep the money.

During the past year, for example, the Agency for International Development spent $17,182 right here in Reading, out of a total of more than $23.2 million worth of goods and services that it bought in Pennsylvania.

Of the Berks total, $3,109 went to Carpenter Steel Company; $7,110 to Kaweeki Berylco Inc.; $4,456 to Mercator Corp.; and $2,507 to Rockwell International.

The sums spent here are dwarfed by those in nearby counties: $8.3 million in Lehigh: $1.2 million in Montgomery, and $728,000 in Chester.

AID explains that the commodities and services that it buys are used to help stimulate economic growth in less developed countries, many of which supply raw material for U.S. factories and, also, are export markets for U.S. products.

Of the statewide total of $23.2 million, more than $3.6 million to Pennsylvania farmers and food processors for grain and other agricultural commodities for developing countries under the Food for Peace program.

Multinational development institutions supported by the United States, such as the World Bank, also purchase goods and services in the United States, but accurate figures on that are not available.

In addition to humanitarian reasons, the United States supports a foreign aid program to combat problems in less developed countries that do or could influence the peace, security, and well-being of the United States.

Among these Third World problems are massive hunger that causes political upheaval, skyrocketing population growth that nullifies economic gains, lack of job opportunities that triggers migration to affluent countries, depletion of natural resources like fresh water and arable lands, and environmental degradation.

That the effort also bolsters our domestic economy must not be overlooked.●

## ELIMINATION OF GLOBAL HUNGER

### HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. SAWYER. Mr. Speaker, the international community has repeatedly re-

affirmed its commitment to eliminate global hunger and malnutrition. We in the United States strongly subscribe to this action and we have taken affirmative steps to help others who are in need. Not only must we address this accelerating problem through the attention of governmental efforts, but we must enlist the support and assistance of all religious, social, and other private organizations to effectively reduce world hunger.

In furtherance of this policy, I am pleased to call the attention of my colleagues to the action taken by the Christian Reformed Synod of North America on June 26, 1978.

Their declaration follows:

DECLARATION ON WORLD HUNGER

Recognizing God as the Creator of all things, and man as his steward;

Confessing that God breaks into the lives of his people with his Word and Spirit, training them in patterns of love and justice;

Finding in God's Word his liberality for men and the whole creation, and protective laws for the defenseless and underprivileged;

Remembering the grace of the Lord Jesus Christ, who entered poverty so that others might become rich; and

Listening to God's call to his people to disciple all nations and to practice love and justice in the earth;—the synod of the Christian Reformed Church acknowledges that the alleviation of hunger at home and abroad is an integral part of our Christian responsibility, and asks that all members of the Christian Reformed Church devote themselves to gratitude, compassion, repentance, and justice as they respond to world hunger with a ministry of word and deed.●

## SOVIETS SUBJECT PHILADELPHIA SISTER TO OUTRAGEOUS ORDEAL

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. EILBERG. Mr. Speaker, I would like to draw my colleagues' attention to an abhorrent experience endured by Sister Gloria Coleman during her recent trip to the Soviet Union.

Sister Gloria is coordinator of interfaith and ecumenical affairs for the Cardinal's Commission on Human Relations of the Archdiocese of Philadelphia. She also serves as chairman of Philadelphia's Interreligious Task Force on Soviet Jewry.

During her visit to the U.S.S.R., Sister Gloria met with both Jewish and non-Jewish activists, to let them know that Christians in the United States are dedicated to the cause of human rights. While she was waiting at the Moscow airport for her airplane to return home, Sister Gloria was forced to undergo a body search by an airport employee in a locked room, after which the notes she had kept of her trip and addresses of Soviet Jews were taken from her. Airport officials refused to provide her with a document stating that the materials had been confiscated.

I would like to commend Sister Gloria for her courageous work on behalf of Soviet activists. I would also like to share with my colleagues the following article, which describes Sister Gloria's horrifying experience:

[From the Philadelphia Evening Bulletin, June 30, 1978]

NUN SAYS RUSSIANS SEIZED NOTES, FILM

(By Paula Herbut)

A Roman Catholic nun concerned about the plight of Soviet Jews charged yesterday that notes she kept of a recent 16-day trip to the Soviet Union, including addresses of Soviet Jews, were confiscated at the Moscow Airport before she returned home.

Sister Gloria Coleman of Philadelphia said yesterday that she handed over the material after she was locked in a room at the airport and subjected to a body search Sunday morning before her departure.

Films of the trip taken by another nun, Sister Ann Gillen of Chicago, executive director of the national Interreligious Task Force on Soviet Jewry, also were confiscated, Sister Gloria said.

"I insisted I was a tourist. There was no reason for a body search," she said in a press conference at Jewish Community Relations Council offices at 260 S. 15th st., Philadelphia. "My objection was that I had no one there to witness it (the search)."

"It was obvious we had no rights at the time we were being questioned and being searched. There was a feeling of powerlessness," she said. "All the laws were being made on the spot for their purposes."

Sister Gloria is coordinator of interfaith and ecumenical affairs with the Cardinal's Commission on Human Relations of the Roman Catholic Archdiocese of Philadelphia and Philadelphia chairman of the Interreligious Task Force on Soviet Jewry.

She said that she and Sister Ann unsuccessfully requested a document stating that the material and films had been confiscated. She said she filed complaints on Monday with the U.S. State Department's Soviet Desk and Office of Human Rights and Human Affairs.

Her luggage was separated and searched, Sister Gloria said, and she was asked into a room where she was to be searched by a woman employe at the airport. After entering, she decided to leave, she said. But when she turned to the door, the woman locked and bolted it, the nun said.

Sister Gloria said she believes she and Sister Ann were singled out because they ignored several of the group tours made to go off by themselves, sometimes to sightsee and sometimes to visit Soviet Jewish activists.

"I wanted to bring some hope to them (the activists)," she said. "I wanted them to know that Christians were interested in human rights being denied . . . Whether it will be for other Christians or Jews, we're all together "

The two visited about 30 activists or the families of activists who are in prison, all but one of them Jewish, Sister Gloria said. Most have been trying to obtain emigration rights.

One was Ida Nudel, whom they visited 10 days before she was convicted of "malicious hooliganism" stemming from her attempts to emigrate to Israel, Sister Gloria said. She said Mrs. Nudel's Moscow apartment was kept under surveillance by agents who followed the trio when they left.

Mrs. Nudel, a 47-year-old economist, is called the "guardian angel" by imprisoned Soviet activists because of her aid to prisoners and their families. She was sentenced on June 21 to four years in a prison camp in Siberia. Convicted the same day on the same charge was Jewish activist Vladimir Slepak, a 50-year-old electronics engineer who received five years.

"There is obviously a crackdown" by the Soviet government, "an attempt (to break) the back of the (Soviet activist) movement," Sister Gloria said. "The atmosphere was very tight, very tense."●

## AN INADEQUATE DIAGNOSIS

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. DORNAN. Mr. Speaker, it is a sad day in this Nation when a longtime, intimate adviser to the President of the United States has to resign his position of public trust because of a manifest abuse of his professional status as a psychiatrist-physician. The situation created by Dr. Peter Bourne, who falsified a prescription for a mood-altering drug to be used by a member of the White House staff, cries out for attention.

Mr. Charles Seib of the Washington Post relates that there is more to the story in his July 26 article. More questions have been raised than have been answered both by the press and Mr. Jody Powell. We have two examples of abuse. Is there further drug abuse on the White House staff? Why did the Post's executive editor, Ben Bradlee, sit on the story about Peter Bourne snorting cocaine rather than unleashing his ever-so-efficient Watergate bloodhounds? What was the personal lifestyle of the White House staffers that prompted the so-called need for such drugs? What bad dreams was Mr. Bourne trying to assuage for his young White House friend with his quaalude treatment?

Alexandr Solzhenitsyn's reference to Western decadence is all the more poignant now. How is this ugly incident being played by the Soviet controlled press?

At one point in Mr. Carter's 1976 Presidential campaign, a need for some quick "prop-up" money led his campaign staff to seek the fund raising assistance of acid-rock concert, drug culture types. Are the seeds of that peculiar decision coming to fruition?

Mr. Nixon had his flakey staff people. Mr. Carter had his Lance and his Bourne. The American people will not swallow the shallow placebo offered by Mr. Carter's Press Secretary, Jody Powell, nor Ben Bradlee's tranquilizing excuses.

The Charles Seib column follows:

[From The Washington Post, July 26, 1978]

THE COCAINE INCIDENT: THERE'S MORE TO THE STORY

(By Charles B. Seib)

Dr. Peter Bourne left the White House to an old refrain: He was lynched by President Carter's enemies, who were abetted by the press.

Bourne resigned after it was disclosed that he had signed a prescription for a much-abused drug made out to a fictitious person. That surely was an unseemly thing for the president's adviser on drug abuse to do. But Bourne told the president in his letter of resignation that he really was a good fellow and the real villians were "those who seek to hurt you through my disparagement."

"I know clearly recognize" he said, "that I am an instrument through which others attempt to bring disfavor to you."

Such nonsense can be partly excused as the distraught maundering of a man whose world has just crashed. But it has a familiar ring, recalling the less precipitous but no less self-righteous departure of Bert Lance less than a year ago.

If Bourne believed what he said, he was kidding himself. The prescription caper was news. Any newspaper that suppressed it would deserve to have its First Amendment shredded.

It is true the coverage got strident; it always does when the press goes after misbehavior in high places. But once that luckless woman was arrested for trying to pick up the Quaaludes, there was only one way the story could go.

Having retained my membership in the Society of Militant Journalists, I must go on to say that there were several aspects of the story that the press should feel queasy about. To wit:

An important element in Bourne's decision to quit undoubtedly was a sensational follow-up to the prescription story—a report that, at a party thrown last December by a group favoring the legalization of marijuana, Bourne not only smoked marijuana but also used cocaine, a very illegal and very expensive drug. The party was a big one, attended by at least 600 people It was in an upstairs bedroom off limits to the bulk of the crowd, the story goes, that Bourne used the cocaine.

That bit of news was broken by Jack Anderson on ABC television the morning after The Washington Post's story on the phony prescription.

Bourne resigned later that day, and the next morning The Post gave the cocaine-snorting story prominent front-page display. It said Anderson's report had been substantiated by "a witness interviewed by The Washington Post."

Anderson's report and The Post's confirmation and expansion of it shared a defect: They didn't tell the whole story.

Anderson's broadcast was based on information supplied by one of his reporters, identified in The Post's story as Gary Cohn. Anderson did not tell his viewers that Cohn had been at the party, although not up in the bedroom, and that he had heard about the cocaine incident at that time.

After the prescription story broke, Cohn told Anderson what he knew, and Anderson directed him to get statements from witnesses. When those were obtained, Anderson went on the air with the story.

Now about that "witness interviewed by The Washington Post" on whom The Post's story mainly relied. The witness was, in fact, a Post reporter who had attended the December party and who said he saw Bourne snort cocaine through a rolled piece of currency, as is the fashion. Two other Post people were in the bedroom, which must have been a crowded one, at the historic moment, but apparently they did not supply material for The Post story.

Anderson and Ben Bradlee, executive editor of The Post, have explanations for their failure to reveal their reporters' special connection with the story.

Anderson says that since Cohn wasn't actually in the bedroom there was no need to mention that he was at the party. He says that he felt it was more important, in the two minutes of air time he had, to put the story in balance by noting some of the good things Bourne had done while at the White House.

Had Cohn been upstairs and a witness to the cocaine incident, Anderson added, he would have mentioned him on the air.

Bradlee says he is not troubled by The Post's failure to tell its readers that the witness it interviewed was one of its own reporters. "He gave us the information under a pledge of confidentiality, as news sources often do," he says. "Since we couldn't use his name, there was no point in identifying him as a Post reporter."

Well, maybe. But by not disclosing that their reporters were aware of the cocaine-sniffing months ago, both Anderson and The Post avoided an awkward news-business question: If the incident is such big news now, why didn't their reporters consider it news last December? Bourne was the president's drug-abuse adviser then, and cocaine was a highly illicit drug.

Although it is water long since over the dam, both Bradlee and Anderson say that if they had known what their reporters knew last December they would have gone after the story.

The cocaine story, like the prescription story, was a legitimate one. It concerned the conduct of a high public official in his special area of responsibility. It would have been a legitimate story seven months ago.

But the fact remains that neither Anderson nor The Post came totally clean with their publics. And a basic truth—that it is the media people who decide what is news and what isn't—was driven home again.●

## AGRICULTURAL PROBLEMS

## HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. CARTER. Mr. Speaker, I wish to share with my colleagues an address delivered by Robert H. Stevens, Ph. D., a professor of biology and chairman of the Bureau of Conservation and Environmental Science at Rutgers University.

Dr. Stevens' remarks, entitled "Agriculture, America's Brightest Star, Outshines Its Quibbling Critics," puts into proper perspective the invaluable contribution by those in this country who produce our food and fiber. I fear that sometimes we tend to forget how great that contribution is, and I offer this speech for the careful perusal of the Members of this body.

AGRICULTURE, AMERICA'S BRIGHTEST STAR, OUTSHINES ITS QUIBBLING CRITICS

(By Robert H. Stevens)

The towering structure of America rests primarily on the production of food and fiber. It is the basis of our standard of living and our national prosperity.

Even during the recent recession, with the highest unemployment level since the great depression of the 1930's, America is still the most fortunate land on earth for the vast majority of its citizens.

U.S. industrial equipment and supplies, public services and facilities, housing and furnishings, education and training, medicine and public health, communications and transport and, above all, food and fiber, not only surpass those of any other nation on earth in abundance, quality and availability to the people, but of any nation since history began.

The efficiency of our farms is such that our burgeoning population is more than adequately nourished by the land labor of less than 5 percent of our people. We thereby release 95 percent to advance our industry, our public works, our education, our research and to enrich our culture and to maintain our defense.

The charge by uninformed persons that U.S. agriculture is wasteful of energy is without substance. Agricultural production in 1976 (the last full year of record) consumed only 3 percent of our total national energy budget, and at the same time accounted for exports equivalent to 68 percent of all petroleum imports. As for manual labor taking over energy tasks, a human being laboring 10 hours (at approximately $26.80 total wages) does work equivalent to that provided by 3 cents worth of electricity. Pesticides, also blamed by some persons as being energy consumptive, actually requires only 2 percent of our agricultural energy budget, the equivalent of .06 of 1 percent of our national energy consumption.

The other great world power, the U.S.S.R., still binds over 50 percent of her people to the toil of the soil and yet is unable to produce the bare necessities of food and fiber for her people with reliability. They have to appeal, periodically, to America to supply the deficiency.

For the first time in the history of man's long and often frustrating struggle against want, America has, in this century, found how to banish hunger, exposure and destitution from the earth.

This is by far the greatest victory that democracy and the political philosophy of freedom of choice and enterprise has won. It constitutes the fundamental fulfillment of our civilization upon which all other national accomplishment necessarily rests.

THE SEED FOR AGRICULTURAL DEVELOPMENT

A century ago the Federal Government recognized that America was an agrarian nation, which would have to rely entirely upon its own lands and waters, its own ingenuity and industry to provide not only the bare necessities of life but also the surplus capital, only upon which the future development and prosperity of the country would have to depend.

Thus the state land grant colleges and later the agricultural experiment station systems, both state and federal, were established to educate the young rural people in the constructive use and exploitation of the land and its resources, and to research and resolve the myriad problems involved in food and fiber production.

The total investment over the past century by the taxpayers of the United States in agricultural and industrial research related to food and fiber production, about $16 billion, is returned every year in the reduced food bill paid by the American consumer.

In 1973, the cost of food to the American consumer dropped below 16 cents of the take home dollar. It has risen slightly since to about 18 cents, where it is still the lowest all time cost for the highest nutritional level of any country in the world.

In the days of the great depression, the food bill in America was over 30% of the take home income, and it lies well above that figure for most of the countries of the world today, including Russia.

Our food supply is also the most nutritious, highest quality, most abundant and it is readily available at virtually all seasons of the year.

BITING THE HAND THAT FEEDS

Yet there are those who complain of its cost, its quality, its composition, its safety and its appearance. They conveniently ignore their own enlarged incomes and the increase

in expenses of the farmer. They contend the quality is inferior to that of former years, although assays reveal that on comparable scales it is actually of substantially superior quality. They say it has been over-processed into convenience foods, but they no longer want to peel potatoes, string beans, shell peas, fillet fish or bake breads and pastries.

They insist that modern U.S. foods are laced with "poisons" to preserve their appearance and to prolong shelf life, without realizing that there are no medically annotated records of any consumer becoming sick, developing cancer or dying from the direct consumption of any foodstuff that has been treated with any registered pesticide, preservative or food additive used in accordance with approved registered label recommendations.

Yet, there are numerous instances, medically recorded every year, of consumers becoming sick and of fatalities from consumption of foods contaminated with natural toxins, most of which could have been prevented by the correct use of registered, approved pesticides and preservatives.

The production, processing, preservation and distribution of food and fiber in America have become incredibility efficient. However, it has depended entirely upon research and development into all its phases, and this progress was the direct output of the land grant college and experiment station system which adapted the solution of farm problems to each area and climatic condition throughout the United States.

TEACHING OTHERS

The same system can be applied all over the world to the relief of misery for tens of millions of mankind. Indeed in a few cases the system, in miniature form, has already been exported to Mexico, to India, to the Philippines and elsewhere.

In these areas, the system has flourished and brought on the "Green Revolution," but much more needs to be done to bring the food and fiber supply up to a subsistence level and to stem the rapid approach of vast famines.

Although much can be done to relieve the misery, hunger and want of the many tens of millions of humans in Africa, in Asia and in South America and to lift them to a subsistence level, it is manifestly impossible to raise the standard of living of all mankind to that currently enjoyed in North America, or even to that of Western Europe or Mediterranean Europe.

The population of the world has already attained a level where there are simply insufficient resources—energy, arable soils, water, metals, transport, education—to raise all the peoples of the earth to the living standards of the western world.

There is no way in which many poor underdeveloped countries can be raised much above a bare subsistence without pulling down the advanced nations to virtual destitution.

We in America simply cannot appreciate the inordinate wealth and luxury that we have come to regard, not only as essential but even as our birth right. Our average income is $2,800/annum, which compares with from $334/capita/annum in South America or to $379 in Central America.

Scandanavia comes closest to the U.S. with $1,707/capita/annum. Africa is totally destitute, by western standards, ranging from $77/capita/annum in central countries to a high of $456 in the southern countries.

THE ENORMOUS TASK AHEAD

These data reveal all too vividly the utter impossibility of spreading the wealth around and the fallibility of so doing.

What needs to be done, and it will take over a century of intensive and dedicated effort to achieve even a partial success, is to spread education around to bring the findings of the research laboratory and experiment station down to the grass roots on the farm where it can go to work; to develop, introduce and distribute new species, varieties and strains of livestock and domesticated food plants into countries and edaphic areas where they can flourish; to distribute engineering skills and equipment to provide power to produce so that one man can do what it now takes perhaps a hundred or more to do; and to introduce, provide and distribute agricultural chemicals to promote the growth efficiency of favored livestock and domestic crop plants (feedstuffs and fertilizers), and to protect the increased yields produced from the ravage of insects, weeds, disease and vermin (pesticides).

Once these developing countries can learn to feed, clothe and shelter themselves from their own natural resources and labor, they can then accumulate capital through the export of goods and services and can attain the "Take-Off" stage into a semi-industrialized society and can at least reach to well above a bare subsistence existence.●

## NEAL REPORTS VOTING RECORD

### HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. NEAL. Mr. Speaker, in keeping with a practice I have observed ever since coming to Congress, I am making public my entire voting record.

I sincerely believe that the citizens of the Fifth District of North Carolina have a right to know how I voted on every issue coming before the House. Further, I believe that record should be compiled in such a way as to free them of the burden of research.

The ensuing compilation is for the months of January, February and March of this year. Each entry includes, in order, the roll number, a description of the question, my individual vote, the vote of the North Carolina delegation (in parentheses), and, finally, the vote of the entire House. The N.C. delegation vote is in the following order: Yes, no, and the number not present or not voting. "DNV" in all instances means "did not vote."

VOTING RECORD—SECOND SESSION, 95TH CONGRESS

(2) Amendment to clarify authority for warrantless search and seizure under Fish and Wildlife Improvement Act, specifying that a federal officer must have reasonable grounds to believe offense has been committed. Yes (4–5–2). Passed, 215–131.

(3) Final passage, Fish and Wildlife Improvement Act, establishing a uniform policy of game law enforcement. Yes (8–1–2). Passed, 292–59.

(5) To authorize State Department to acquire a bust of Gen. George C. Marshall. Yes (10–0–1). Passed, 351–22.

(6) To require Civil Service Commission to comply with state court orders or property settlements in connection with divorces or legal separations of civil service employees. Yes (9–1–1). Passed, 369–7.

(7) To give civil service retirement credit to all federal employees of Japanese ancestry for time spent in World War II internment camps. Yes (8–1–2). Passed, 366–12.

(8) To increase federal loan guarantee for fishing vessels from 75 percent to 87.5 percent of actual costs. No (6–3–1). Passed, 309–68.

(10) To permit federal tax court judges to withdraw from tax court pension system any time before benefits begin to accrue. Yes (11–0). Passed, 399–1.

(11) To authorize $6 million over three years for the Administrative Conference of the U.S. No (6–5). Passed, 292–103.

(12) To make it a federal offense to use children under age 16 for the production of pornographic materials, or to sell or distribute these materials. Yes (11–0). Passed, 401–0.

(13) To consider (adopt rule) Outer Continental Shelf Land Act Amendments. Yes (5–5–1). Passed, 247–158.

(15) Breaux Substitute for Outer Continental Shelf Lands Act Amendments. No (6–5). Failed, 187–211.

(16) Minority substitute for Outer Continental Shelf Lands Act Amendments. No (3–8). Failed, 143–229.

(18) To authorize $1 million for the Office of Rail Public Counsel. Yes (10–0–1). Passed, 318–44.

(19) To require ConRail to assume the bankrupt railroads' obligations to pay medical and life insurance premiums for 13 employees who retired before ConRail took over assets of the railroads. No (7–3–1). Passed, 314–50.

(20) To allow supplemental or all-cargo air carriers to qualify for new air cargo certificates immediately, rather than wait one year. Yes (10–0–1). Passed, 403–0.

(21) To delete Interior Department authority for core and test drilling under Outer Continental Shelf Lands Act. Yes (10–0–1). Passed, 328–77.

(22) Continental Shelf: To eliminate lease cancellation compensation for investment of leasee if lease is canceled. Yes. (10–0–1). Passed, 208–194.

(23) Continental Shelf: To limit the use of new bidding systems to at least 10 percent of newly leased areas, but not more than 30 percent. No (8–2–1). Failed, 196–207.

(24) Continental Shelf: To require that new bidding systems be used for at least 20 percent, but not more than 50 percent, of newly leased acreage. No. (7–3–1). Passed, 219–188.

(25) To resolve into Committee of the Whole House to consider Bankruptcy Law Revision. Yes (10–0–1). Passed, 405–4.

(26) To strike provision of Bankruptcy Law Revision to establish an independent bankruptcy court and make bankruptcy judges federal lifetime judges. Yes (10–1). Failed, 146–262.

(27) Continental Shelf: To give discretionary authority to Justice Department to review proposed OCS lease sales for possible antitrust implications. Yes (11–0). Passed, 241–162.

(28) Continental Shelf: To strike provisions of the bill requiring random selection of tracts to be used under new bidding systems. Yes. (9–2). Passed, 225–174.

(29) To approve the journal of the last day's proceedings. Yes (10–0–1). Passed, 368–21.

(30) Continental Shelf: To strike provisions establishing documentation, registry and manning requirements for vessels and rigs on the OCS. No (0–10–1). Failed, 118–280.

(31) Continental Shelf: To require that all building and rebuilding of vessels, platforms and rigs for the OCS would have to be per-

formed in the U.S. No (0–11). Failed, 201–208.

(33) Continental Shelf: To stipulate that 20% of OCS revenues, up to $200 million per year, be shared with the coastal states most directly affected by offshore development. Yes (11–0). Passed, 279–120.

(34) Continental Shelf: To exempt states which receive OCS revenue sharing funds from existing requirements that they have federally approved Coastal Zone Management Plans. Yes (11–0). Failed, 159–230.

(35) Continental Shelf: Final passage, to provide specific statutory guidelines, standards and procedures for the development of Outer Continental Shelf oil, gas and other resources. Yes (11–0). Passed, 291–91.

(36) To adjust Medicaid payment rates for Puerto Rico, Guam and the Virgin Islands to conform to those of the 50 states. Yes (8–2–1). Passed, 253–106.

(37) To consider (adopt rule) on H.R. 8336, Chattahoochee River Recreation Area. Yes (10–0–1). Passed, 323–41.

(39) Timber Sales: To direct the Secretary of Agriculture to require sealed bids on all sales of publicly owned timber. No. (0–9–2). Failed, 136–239.

(40) Timber Sales: To authorize the Secretary of Agriculture to select the bidding method which best insures fair competition, fair value to the government for timber, economic stability for timber-dependent communities, and prevention of collusive practices. Yes (9–0–2). Passed, 295–78.

(42) To authorize 145 new federal judgeships (including three in North Carolina). Yes (11–0). Passed, 319–80.

(43) To consider (adopt rule) on H.R. 6805, Office of Consumer Representation. Yes (6–5). Passed, 271–138.

(44) Glickman Substitute: To establish an Office of Consumer Counsel in each of the 23 departments and major agencies. No. (6–5). Failed, 93–313.

(46) To resolve into Committee of the Whole House to consider Office of Consumer Representation Act. Yes (10–0–1). Passed, 377–25.

(47) Consumer: To extend to all agencies the requirement that the President be notified 30 days before the Office of Consumer Representation sought judicial review of an agency action. Yes (9–2). Failed, 195–219.

(48) Consumer: To eliminate provision which exempted labor injunction suits, certain proceedings of the National Labor Relations Board, and activities of the Federal Mediation and Conciliation Service. No (2–9). Failed, 138–274.

(49) Consumer Representation: To strike provision which exempted from the bill proceedings of the Department of Agriculture, Farmers Home Administration and Federal Crop Insurance Corp. No. (0–11). Failed, 105–309.

(50) Consumer Representation: Final passage, to create an independent, nonregulatory Office of Consumer Protection to represent the interests of consumers before federal agencies and the courts. No (1–10). Failed, 189–227.

(52) To recommit with instructions Redwood National Park Amendments. No (2–9). Failed, 116–274.

(53) To expand Redwood National Park in California by 48,000 acres. Yes (10–1). Passed, 328–60.

(54) To adopt conference report on Endangered American Wilderness Act, designating 17 areas, including 1.3 million acres in the western U.S., for inclusion in the National Wilderness Preservation System. Yes (11–0). Passed, 333–44.

(55) To resolve into Committee of the Whole House to consider H.R. 2664, Black Hill Claim. Yes (11–0). Passed, 337–17.

(56) To instruct House conferees on Additional Federal Judgeships to insist on House provision regarding merit selection of federal district court judges. Yes (9–1–1). Passed 321–19.

(57) To resolve into Committee of the Whole House to consider Chattahoochee River Recreational Area. Yes (11–0). Passed, 325–7.

(58) To require State of Georgia to take over ownership and operation of Chattahoochee River National Park in 1980. No (1–9–1). Failed, 119–230.

(59) Final passage, to acquire up to 6,300 acres and develop and operate Chattahoochee River National Park. Yes (8–2–1). Passed, 273–79.

(60) To limit number of commissioned officers in the military and establish uniform standards for appointment, promotion and retirement. Yes (10–0–1). Passed, 351–7.

(62) To adopt conference report on black lung benefits. Yes (7–4). Passed, 264–113.

(63) To create National Aquaculture Plan to facilitate development of commercial aquaculture in U.S. Yes (7–4). Passed 234–130.

(65) To authorize $250 million from Highway Trust Fund to states for repair of potholes and highway damage. No (4–6–1). Passed, 274–137.

(66) To authorize the president to call separate White House conferences on the arts and the humanities. Yes (10–0–1). Passed, 341–65.

(67) To extend Alcohol and Drug Abuse Education through FY 1983, and to authorize $67.6 million for five years for its programs. Yes (10–0–1). Passed, 409–0.

(68) To authorize $5 million for the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. Yes (10–0–1). Passed, 356–53

(71) To table a motion to recede and concur with a Senate amendment rescind'ng $462 million for production of two B–1 bombers. No (6–5). Failed, 172–244.

(72) To concur in a Senate amendment to rescind $462 million for production of two B–1 bombers. Yes (5–6). Passed, 234–182.

(73) To consider (adopt rule) IMF Supplementary Financing Facility. (Neal bill). Yes (11–0). Passed, 386–15.

(76) IMF: To specify that salary limits would apply only to the Supplementary Financing Facility and not to all IMF representatives. Yes (5–6). Passed, 253–141.

(77) IMF: To authorize the U.S. to invest $1.8 billion in the Supplementary Financing Facility of the International Monetary Fund. Yes (6–5). Passed, 267–125.

(78) Overseas Private Investment Corp. (OPIC): To prohibit OPIC loans or guarantees to the National Finance Corp. of Panama unless approved by the House of Representatives. DNV (6–4–1). Failed, 166–199.

(79) OPIC: To prohibit OPIC from insuring or financing any project to establish or expand production of palm oil, sugar, or citrus crops for export. Yes (9–2). Passed, 191–167.

(80) OPIC: Final passage, to extend OPIC through FY 1980. Yes (8–3). Passed, 191–165.

(81) To consider (adopt rule) Grazing Fee moratorium. Yes (10–0–1). Passed, 302–1.

(82) To consider (adopt rule) Wichita Indian Tribal Lands. Yes (8–1–2). Passed, 295–6.

(83) To place one-year moratorium on increases in public lands grazing fees. Yes (10–0–1). Passed, 257–47.

(84) To accept Roncalio substitute to Wichita Indian Tribal Lands, defining affiliated bands, etc. Yes (10–0–1). Passed, 293–1.

(85) Final passage, to permit Wichita Indian Tribe to file its land claims against the United States with the Indian Claims Commission, etc. No (8–2–1). Passed, 226–68.

(87) To approve action of District of Columbia Council amending D.C. Home Rule Charter so D.C. voters can initiate laws and disapprove council acts by referendum. Yes (9–1–1). Passed, 321–24.

(88) To approve D.C. Council action permitting D.C. voters to recall elected officials. Yes (10–0–1). Passed, 350–4.

(90) To abolish diversity of citizenship as a basis for federal court jurisdiction. No. (7–3–1). Passed, 266–133.

(91) To authorize $290 million through FY 1981 and make substantive changes in Federal Trade Commission functions. No (0–10–1). Failed, 146–255.

(92) To authorize funds ($3.18 million for three years) for American Folklife Center of Library of Congress. Yes (10–0–1). Passed, 306–80.

(94) To consider (adopt rule) D.C. Representation in Congress. DNV (10–0–1). Passed, 386–21.

(96) To resolve into Committee of the Whole House to consider D.C. Representation in Congress. DNV (9–0–2). Passed, 369–15.

(96) To resolve into Committee of the Whole House to consider D.C. Representation in Congress (day after preceding vote). DNV (10–0–1). Passed, 394–12.

(97) To propose a constitutional amendment to provide the District of Columbia with representation in Congress on the same basis as states. Yes (11-0). Passed, 289–127.

(99) To approve the journal of the previous day's proceedings. Yes (9–1–1). Passed, 304–20.

(100) To provide $400,000 for Veterans' Affair Committee investigations and studies. Yes (11–0). Passed, 336–1.

(101) To provide $275,000 for District of Columbia Committee investigations and studies. Yes (10–0–1). Passed, 318–15.

(102) To provide $49,500 for Rules Committee investigations and studies. Yes (11–0). Passed, 321–13.

(104) To approve journal of previous day's proceedings. Yes (9–0–2). Passed, 331–11.

(105) To designate May 3, 1978, as Sun Day. Yes (9–0–2). Passed, 348–7.

(107) To extend the authority of Commissioner of Education to waive certain requirements regarding the use of grants for 13 school districts, allowing them to continue programs begun under ESEA Title I studies. Yes (11–0). Passed, 404–0.

(108) To consider (adopt rule) on Increasing the Temporary Debt Limit. No (9–2). Passed, 285–115.

(110) To strike provision requiring that subsequent debt ceilings be set in concurrent budget resolutions provided for in the Budget and Impoundment Control Act. No 6–5). Passed, 277–132.

(111) To increase the temporary debt ceiling to $824 billion. No (2–9). Failed, 165–248.

(112) To authorize Southwestern Power to purchase $13.1 Million in electric power to fulfill its delivery contracts. Yes (9–2). Passed, 353–50.

(113) To provide $2 million for Public Works and Transportation Committee studies and investigations. Yes (11–0). Passed, 399–1.

(115) To dispense with further proceedings under the call of the House. Yes (10–0–1). Passed, 372–34.

(116) To approve journal of previous day's proceedings. Yes (10–0–1). Passed, 377–26.

(117) To table a motion to reconsider the

vote approving journal of the previous day's proceedings. DNV (8–1–2). Passed, 313–91.

(118) To close debate on adoption of the rule on Full Employment and Balanced Growth Act. Yes (9–1–1). Passed, 371–36.

(119) To consider (adopt rule) Full Employment and Balanced Growth Act (Humphrey-Hawkins). Yes (7–2–2). Passed, 349–58.

(120) To table a motion to reconsider vote adopting the rule on Humphrey-Hawkins. Yes (10–1). Passed, 368–29.

(121) To resolve into Committee of the Whole House to consider Humphrey-Hawkins. DNV (8–1–2). Passed, 364–32.

(123) To approve journal of the previous day's proceedings. Yes (11–0). Passed, 386–15.

(125) Humphrey-Hawkins: Anti-inflation substitute to require the president to include in the annual economic report specific price stability goals and policies and programs designed to achieve those goals. Yes (9–2). Passed, 277–143.

(126) Humphrey-Hawkins: To add a specific goal of reducing inflation to 3% by 1983. Yes (5–6). Failed, 198–223.

(127) Humphrey-Hawkins: To require president in the annual economic report to measure all employment, and to count separately public service employees. Yes (9–2). Passed, 239–177.

(128) Humphrey-Hawkins: To add to bill's economic goals a goal of 100% parity of income for farmers at the marketplace by 1983. Yes (11–0). Passed, 264–150.

(129) Budget Recission: To approve recissions of $40.2 million in appropriations for the military assistance program; $10.1 million in borrowing authority for the Federal Home Loan Bank Board, and $5 million in appropriations for contributions to international peacekeeping efforts. Yes (10–0–1). Passed, 318 to 0.

(131) To order a second on motion to suspend the rules and pass Rate of Interest on Individual Retirement Bonds, making their interest yield consistent with Series E savings bonds. Yes (10–0–1). Passed, 372–1.

(132) To authorize Civil Service Commission to conduct three-year experiment in the use of compressed and flexible work schedules. ⅔ required. No (2–8–1). Failed, 242–141.

(133) To establish a uniform federal policy on part-time employment and to require federal agencies to establish part-time career employment programs. No (7–3–1). Passed, 294–84.

(134) To provide Congress opportunity to review proposed changes in the level of nationwide postal services before they take effect. Yes (10–0–1). Passed, 371–6.

(135) To recommit with instructions Judiciary Committee Funding. Yes (6–3–2). Failed. 161–216.

(136) To recommit with instructions Select Assassinations Committee Funding. No (5–4–2). Failed, 182–198.

(137) To provide $2.5 million for investigations and studies of the Select Assassinations Committee. Yes (5–4–2). Passed, 204–175.

(139) To dispense with further proceedings under the call of the House. Yes (10–1). Passed, 331–72.

(140) To read in full the journal of the previous day's proceedings. No (2–9). Failed, 99–301.

(141) To approve journal of the previous day's proceedings. Yes (10–1). Passed, 371–29.

(142) To table a motion to reconsider the vote approving the journal of the previous day's proceedings. Yes (10–1). Passed, 308–91.

(143) To suspend the rules and pass Absaroka-Beartooth Wilderness Act. Yes (11–0). Passed, 380–20.

(144) To order second to motion to suspend the rules and pass Travel Expenses of Government Officials Paid by Private Foundations. DNV (10–0–1). Passed, 387–2.

(145) To order a second to motion to suspend the rules and pass Home Production of Beer and Wine. DNV (10–0–1). Passed, 388–3.

(146) To designate 904,500 acres of the Custer and Gallatin National Forests in Montana as the Absaroke-Beartooth Wilderness. Yes (11–0). Passed. 405–7.

(147) To broaden the exception to prohibition against private foundation reimbursement of government officials' expenses, permitting reimbursement for foreign and domestic travel. Yes (11–0). Passed, 372–38.

(148) To expand Redwoods National Park by 48,000 acres, etc. Yes (9–1–1). Passed, 317–60.

(150) To approve journal of previous day's proceedings. Yes (11–0). Passed, 387–15.

(151) To resolve into Committee of the Whole House to consider Full Employment and Balanced Growth Act (Humphrey-Hawkins). Yes (10–0–1). Passed, 380–19.

(152) Humphrey-Hawkins: To add the specific economic goal of a balanced budget by 1983 and to mandate the president to pursue policies consistent with that goal. Yes (9–2). Failed, 205–215.

(153) Humphrey-Hawkins: To declare one purpose of the Act to be the achievement of a balanced budget consistent with achievement of the unemployment goals. Yes (11–0). Passed, 411–3.

(154) Humphrey-Hawkins: To end debate on Title I at a specified time. Yes (8–3). Passed, 237–170.

(155) Humphrey-Hawkins: To add goal of a permanent reduction in individual federal income taxes by 10 percent a year for three years, accompanied by a 1 percent reduction in corporate taxes annually for three years and an increase in the corporate surtax exemption to $100,000. Yes (9–2). Failed, 194–216.

(156) Humphrey-Hawkins: To resolve into Committee of the Whole House to consider the bill. Yes (11-0). Passed, 379–8.

(157) Humphrey-Hawkins: To add to the bill's national priority programs the implementation of programs already established by law as national priorities, such as the removal of architectural barriers to the handicapped. Yes (10–0–1). Passed, 398–0.

(158) Humphrey-Hawkins: To omit certain persons from the unemployment statistics used for purposes of the Act, such as those unemployed because of strikes; those unemployed for less than four weeks; those not seeking full-time employment; those who voluntarily left their last jobs; and those who have jobs but for their own convenience are waiting to start work. Yes (9–1–1). Failed, 199–204.

(159) Humphrey-Hawkins: To strike the enacting clause and thus kill the bill. No (2–9). Failed, 106–310.

(160) Humphrey-Hawkins: To require the President, in carrying out the Act, to consider the impact on the national economy of all provisions of the U.S. Code and Federal Code of Regulations. Opponents contended the amendment would require the President, every time he sent Congress recommendations for new programs and policies, to review all federal laws and regulations—a task which would take years. No (0–11). Failed, 114–296.

(161) Humphrey-Hawkins: To strike requirement that Joint Economic Committee to submit its own concurrent resolution to Congress. Yes (9–2). Passed, 259–153.

(162) Humphrey-Hawkins: To terminate the Act on Sept. 30, 1983, unless extended by Congress. Yes (7–4). Failed, 196–216.

(163) Humphrey-Hawkins: To accept Republican substitute prohibiting use of public service jobs to meet unemployment goal. No (2–9). Failed, 137–276.

(164) Humphrey-Hawkins: Final passage, to set 1983 unemployment target of 4 percent of all workers 16 and older and 3 percent for adults age 20 or more; 1983 target of 100 percent parity in farm prices; reduce income taxes 10 percent a year for each of three years; reduce corporate taxes and increase corporate surtax exemption; to achieve a balanced budget consistent with goals of the act; to require the President to include in annual economic report specific price stability goals and policies and programs to achieve anti-inflation goals. Yes (8–3). Passed, 257–152.

(166) To order a second on a motion to suspend the rules and pass Middle Income Student Assistance Act. Yes (5–4–2). Failed, 156–218.

(167) To provide $375,000 for an investigation and study of Korean-American relations. Yes (9–0–2). Passed, 367–13.

(168) To consider (adopt rule) Postal Service Act Amendments. Yes (9–0–2). Passed, 387–0.

(170) To condemn the March 16 kidnapping of former Italian Premier Aldo Moro. Yes (10–0–1). Passed, 390–0.

(171) To consider (adopt rule) Public Debt Limit Extension. Yes (9–1–1). Passed, 314–80.

(172) To extend the existing temporary debt limit to $752 billion through July 31, 1978. No (6–4–1). Passed, 233–172.

(174) To consider (adopt rule) Federal Election Campaign Act Amendments. Yes (5–5–1). Failed, 198–209.

(175) To abolish compulsory retirement for most federal employees and raise the mantory retirement age for non-federal workers from 65 to 70. Yes (10–0–1). Passed, 391–6.

(176) To resolve into Committee of the Whole House to consider Postal Service Act Amendments. DNV (9–0–2). Passed, 364–2.

(177) To appropriate $300 million in FY 1978 for the Federal Disaster Assistance Administration. Yes (9–0–2). Passed, 393–4.

(178) To consider (adopt rule) Shipping Act Amendments of 1978. Yes (9–0–2). Passed, 365–33.

(179) To resolve into Committee of the Whole House to consider Shipping Act Amendments of 1978. Yes (9–0–2). Passed 376–0.

(180) Final passage, Shipping Act Amendments, stiffening penalties for illegal rebates in the shipping industry. Yes (9–0–2). Passed, 390–1.

(181) To disagree with Senate amendments to Raisin Marketing Order Act. The amendments added to House bill provisions which diverted 31 million acres of wheat, corn, soybeans and cotton; increased target prices and prices and loan rates for wheat, corn, and upland cotton. Yes (8–0–3). Passed, 332–63.

(182) Motion to table, and thus kill, a motion to instruct House conferees to support Senate amendments to Raisin Marketing Order Act. Yes (8–1–2). Passed, 224–167.●

## LEGISLATION TO FACILITATE THE COAST GUARD'S SEABORNE DRUG INTERDICTION

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. GILMAN. Mr. Speaker, yesterday I testified before the Subcommittee on

the Coast Guard and Navigation, which is chaired by my distinguished colleague from New York (Mr. BIAGGI), in support of H.R. 10371 and H.R. 10698, respectively measures authored by the gentleman from New York and myself, that would facilitate the enforcement by the Coast Guard of laws relating to the importation of heroin, cocaine, marihuana and other controlled substances. Both proposals are designed to prohibit any individual on board a U.S. vessel on the high seas and any U.S. citizen on board a foreign vessel on the high seas to possess, with the intent to distribute or dispense, any federally controlled substance.

The subcommittee is considering revising these legislative proposals to include, among other things, prohibiting the transfer of a controlled substance from any vessel to a vessel of the United States, or to a vessel subject to the jurisdiction of the United States. This is known as the "mother ship" transfer, whereby the "mother ship" remains outside the U.S. Customs inspection waters and unloads the contraband cargo to a small, inconspicuous vessel that then mingles among the tens of thousands of recreational boats in U.S. waters and eventually unloads the illicit cargo onto the isolated coves scattered throughout this Nation's coastline.

A second major proposed revision to H.R. 10371 is to provide funds for the Coast Guard to purchase additional seaborne drug interdicting equipment.

As a member of the Select Committee on Narcotics Abuse and Control who has participated in the select committee's recent drug trafficking hearings in Florida, Hawaii, and Guam. I want to assure my colleagues that our drug law enforcement agencies need additional personnel, first-rate equipment and funds to compete against the sophisticated equipment currently used by the international criminal syndicates whose Lear jets and 7-knot corsa boats are no match for our antiquated World War II aircraft, sluggish vessels and other outdated equipment. Our law enforcement agents need assistance in the form of legislation that would provide them with the authority to plug this existing law enforcement loophole and funds to purchase better equipment. The Coast Guard also needs communications equipment, radar equipment and other sophisticated radio gear.

There is also a need for the Coast Guard to emphasize drug law enforcement as one of its missions and to develop a personnel system that emphasizes law enforcement as a career. These dedicated agents who daily risk their lives in interdicting narcotics trafficking and in apprehending drug traffickers are to be commended for their outstanding drug interdicting accomplishments; but they also need our legislative help.

Mr. Speaker, in order to share with my colleagues my thoughts regarding Mr. BIAGGI's bill, H.R. 10371, and my proposal, H.R. 10698, together with my views regarding a suggested revision to these measures, I am inserting the complete text of my statement before the Subcommittee on the Coast Guard and Navigation at this point in the RECORD. I will welcome the views and support of my colleagues on these legislative proposals which are intended to assist the Coast Guard in interdicting the narcotics trafficking, which has reached catastrophic proportions, and in apprehending the drug traffickers who profit from the human misery of this sordid business.

The statement follows:

STATEMENT BY HON. BENJAMIN A. GILMAN, BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES' SUBCOMMITTEE ON COAST GUARD AND NAVIGATION ON H.R. 10371 AND H.R. 10698, JULY 26, 1978

Mr. Chairman and distinguished members of the Subcommittee on the Coast Guard and Navigation, I welcome this opportunity to join you in the important proceedings regarding H.R. 10371 and H.R. 10698 respectively, measures that you, Mr. Chairman, and I have authored that would facilitate the enforcement by the Coast Guard of laws relating to the importation of heroin, cocaine, marihuana and other controlled substances. Minor differences between our two measures aside, both proposals are designed to prohibit any individual on board a U.S. vessel on the high seas and any U.S. citizen on board a foreign vessel on the high seas to possess, with the intent to distribute or dispense, heroin, cocaine, marihuana, or any other controlled drugs.

The U.S. Coast Guard's authority to interdict illicit drugs on the high seas is broadly governed by title 14, section 2 of the United States Code, which authorizes the Coast Guard to "enforce or assist in the enforcement of all applicable Federal laws on or under the high seas and subject to the jurisdiction of the United States." Section 89 of that same title permits the Coast Guard to "make inquiries, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction for the prevention, detection and suppression of violations of laws of the United States." This broad authority (and certain drug-related statutes) does not, however, prohibit a U.S. citizen from possessing Federally controlled drugs while on board a United States or a foreign vessel on the high seas; nor does it prohibit a foreign national on board a United States vessel on the high seas from possessing these Federally controlled drugs.

As a member of the Select Committee on Narcotics Abuse and Control that held hearings last November at the United States Mission to the United Nations in New York on international narcotics control . . . a hearing that you, Mr. Chairman, participated in in your capacity as ex officio member of the Narcotics Select Committee . . . I was impressed by Rear Admiral Norman C. Venzke, Chief of the Office of Operations and Director of the Enforcement of Laws and Treaties Program of the U.S. Coast Guard, who testified:

"The general revision of drug laws which produced the Comprehensive Drug Abuse and Control Act of 1970 omitted the provision making the possession of quantities of drugs by United States vessels on the high seas a Federal crime. Consequently, Coast Guard drug law enforcement action against U.S. vessels at sea beyond the 12-mile customs zone now requires the proof of conspiracy to import before law enforcement action can be properly undertaken."

Mr. Chairman, H.R. 10371 and H.R. 10698 are designed to help plug that loophole by prohibiting that conduct and by subjecting the convicted violator to an imprisonment of not more than 15 years and a fine of not more than $25,000, or both. A subsequent conviction would subject the violator to imprisonment of not more than 30 years, a fine of not more than $50,000, or both—penalties that are stipulated by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Mr. Chairman, I understand that you are considering revising your bill, H.R. 10371, that, among other things, would broaden the scope of this measure to include the following: (1) to state as a Congressional finding and declaration that the Coast Guard place increased emphasis on the interdiction of controlled substances on the high seas by vessels bound for the United States and to authorize the purchase of law enforcement equipment necessary to meet the operational requirements of seaborne drug interdiction; (2) to prohibit the attempt or the conspiracy to import or to transport any controlled substance into the United States; (3) to prohibit the transfer of a controlled substance from any vessel to a vessel of the United States; (4) to authorize the President to conclude agreements with foreign nations to seek prior consent of a foreign nation for the Coast Guard to board and seize a vessel violating this legislative proposal and to arrest the individual on board such vessel; and (5) to authorize the appropriation of not more than $30 million for each of fiscal years 1980-1982 in order to carry out the purposes of this proposal.

Mr. Chairman, I commend you for broadening H.R. 10371, for sharing your thoughts with me and for providing me and my staff the opportunity to make some suggestions to your revised proposal. In my view, two provisions of the revision are particularly critical: (1) prohibiting the transfer of a controlled substance from one vessel to a vessel of the United States, either within the territorial seas of the United States or on the high seas and (2) to authorize the appropriation of funds to permit the Coast Guard to purchase seaborne interdicting equipment.

I encourage you to go forward with the revised version of H.R. 13071, and I will be pleased to join you in this measure as a cosponsor. The revision clearly broadens the very things that your original proposal and my H.R. 10698 would attempt to accomplish, namely: to provide the Coast Guard with the law enforcement tools to conduct effective seaborne interdictions and to minimize the advantage in equipment and smuggling techniques currently used by international criminal syndicates.

As you know, Mr. Chairman, one major seaborne drug smuggling technique used by organized crime and independent narcotics traffickers is the "mother ship" technique popularized during the 1920s and the early 1930s by prohibition rum runners, whereby the "mother ship" remains outside U.S. Customs inspection waters and unloads the contraband cargo to a small, inconspicuous vessel that then mingles among the tens of thousands of recreational boats in U.S. waters. The smaller, "narcotics running" craft eventually unloads its illicit cargo onto the isolated coves scattered throughout this Nation's coastline. From there, these deadly drugs are dispersed by organized crime's intricate operational networks to virtually every city, town and school district in this country, injecting our citizens with narcotic misery and destruction.

Obviously, if the Coast Guard (and other drug laws enforcement agencies) are to effectively combat the international criminal syndicates whose Lear jets, 70-knot corsa boats, and other sophisticated equipment outmaneuver the antiquated World War II aircraft, obsolete boats and other vintage

equipment used by this Nation's law enforcement agencies, then these brave and dedicated law enforcement agents, who daily risk their lives in interdicting the narcotics traffic and in apprehending the drug traffickers, must be provided sufficient personnel, first-rate equipment and sufficient funds to perform their difficult and dangerous tasks.

Last month, the Narcotics Select Committee focused its spotlight on drug trafficking in southern Florida—an area that is currently the drug trafficking capital of the Nation. The drug trafficking problem in Florida has reached epidemic proportions . . . it is a tidal wave, a drug crisis of catastrophic dimensions The problem of interdicting the massive quantities of illicit drugs from polluting our shores and from preventing these deadly drugs from moving inland to every region of our Nation is herculean.

Just last week, on July 12th and July 14th, the U.S. Coast Guard cutter *Durable* seized 82,000 pounds of marihuana worth an estimated $30 million and arrested 17 drug traffickers. I understand that during the 10 weeks from May 6th, 1978, through July 19th, 1978, the U.S. Coast Guard, combined with the U.S. Customs Service and local law enforcement authorities seized 804,919 pounds of marihuana (or more than 402 tons) worth an estimated street value of $289,186,497 and arrested 137 traffickers. During the month of June, Customs agents in Florida seized 35 pounds of cocaine worth approximately $105,000 and 367,655 pounds of marihuana worth approximately $183,827,500. These seizures represent only the tip of the narcotics iceberg; they do not represent seizures by other Federal, State and local law enforcement agencies, nor do they represent the amount of hallucinogens, stimulants, barbituates or other dangerous drugs that have been seized by law enforcement authorities.

Clearly, if this Nation's law enforcement authorities are to perform effectively and efficiently their dangerous assignments and to place their lives on the line, then they must be provided with personnel, the equipment and the funds to compete against the sophisticated equipment of organized crime whose highly organized international criminal syndicates reach into every region of the world and whose sordid business corrupts the political, economic, social and moral fabric of the international community. Restrictions against the "mother ship" transfer of any controlled substance and the authorization of appropriations for seaborne drug interdicting resources is a step in the right direction to help impede these illicit drug trafficking operations and these provisions will go a long way in plugging certain deficiencies currently hamstringing the Coast Guard.

Again, Mr. Chairman, I commend you and your distinguished colleagues on this subcommittee for focusing attention on H.R. 13071 and on H.R. 10698, and for thinking about ways to broaden these measures. In the event that you and members of this distinguished subcommittee decide to go forward with this proposed revision, I can assure you that you can count on me to cosponsor this legislative proposal and to support it fully.●

## FAIRNESS IN EXTENDING ERA

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. OBERSTAR. Mr. Speaker, a majority of the American people are committed to the principle and the spirit of the equal rights amendment. A majority of the Members of this House share that commitment. I believe full equality for women should be assured in our Constitution.

The amending process insures full public debate of any proposed amendment and contributes to the development of a national consensus. The very requirement that three-fourths of the States must ratify the amendment increases the power of an amendment, and amendments themselves are strengthened by the rigorous procedure of amending the Constitution.

The current debate over the extension of the period for ratification of the equal rights amendments has raised the question of the effect the extension will have on the amendment itself.

The issue which will soon be before us in this House will not be whether one favors the equal rights amendment or not. The debate will not even be limited to the simple question of exemption—yea or nay.

Archie Salyards, the editorial page editor of the Duluth News-Tribune, offered a significant contribution to the debate over extension in his editorial of July 20, 1978.

That editorial argues that the equal rights amendment is so important to the American people that it merits the extension. At the same time, the importance of the amendment cannot override the principle of fairness in the process of considering the amendment.

Extension without providing for reconsideration of previous action on ERA by the States is unfair to those who oppose the amendment, he says.

Salyard's editorial is thought-provoking and I commend it to my colleagues.

I am looking forward to the House debate. I know the equal rights amendment is an issue about which my colleagues feel deeply. The depth of feeling in this House will contribute to the full discussion of the extension which will add to the confidence of the people in this House and in the process by which the Constitution is amended.

FAIR IS FAIR

It's ironic how proponents of the Equal Rights Amendment support a move that is contrary to the very title of the amendment.

The Irony—or insolence, if you prefer—came during congressional maneuvering to extend the deadline for ratification of the amendment by a required 38 states. The original seven-year limitation expires next March 22, and advocates first asked to extend it another seven years.

The House Judiciary Committee Tuesday approved a compromise extension to June 30, 1982. That, in itself, would seem reasonable.

But where the committee, and the proponents, went wrong was in taking away the equal rights of opponents to the amendment. As approved in committee, the proamendment forces have until 1982 to convince state legislatures to ratify the amendment, yet the anti-faction is NOT given equal time to convince legislatures which have approved the amendment to rescind what they have done.

Thirty-five states have ratified the amendment, although three later rescinded approval. The legality of the rescission option still has not been settled by Congress.

It has become obvious the nation hasn't made up its mind yet on the merits of the amendment, at least not in a collective majority strong enough to satisfy 38 state legislatures. A few more years, or even another seven, is a small price to pay to assure the ultimate decision is acceptable to a preponderance of the American people.

Extension of the ratification deadline obviously works to the advantage of those supporting the amendment. Important, naturally, is the additional time given state legislatures to react to the wishes of a changing society—and attitudes are changing on woman's role in that society.

Equally as important, however, is the fact that while the amendment lives, it is being discussed and debated. The amendment's mere presence as a social issue perhaps is doing more to further the rights of women, and change the attitudes of men, than its quick and simple approval ever would have done.

Yes, the Equal Rights Amendment deserves a better, and longer chance. But if Congress doesn't give the amendment opponents the same rights that it gives proponents, then the amendment deserves to die. Fair is fair.

And the fair sex, if anyone, should realize that.●

## NATIONS DO NOT WANT TO BE DOMINATED BY RUSSIA

### HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. McCLOSKEY. Mr. Speaker, following World War II, we commenced a massive program of economic assistance to our former enemies, Germany and Japan. Our purpose was not only humanitarian; we sought to create strong and friendly allies in our efforts to contain the domination of Soviet Communism over smaller nations.

Over 5 years have now elapsed since American troops were withdrawn from Vietnam, and over 3 years have passed since the North Vietnamese were successful in reuniting their country.

It seems time to resume commercial and diplomatic relations with the Vietnamese.

As in the case of Germany and Japan, and certainly as in the case of Yugoslavia, our national interests are served by strengthening a nation which has no great desire to be dependent on Soviet support.

In this connection, there have been some recent newspaper articles which bear on this point. I enclose them in the RECORD at this point:

[From the New York Times, July 24, 1978]

RENEWING TIES WITH VIETNAM

(By Peter Kovler)

WASHINGTON—Now that the United States is out of Vietnam, it is time to get back in. On Sept. 14 the United States trade embargo against that country, issued by executive order in 1975, expires, forcing President Carter either to renew or cancel it. For practical strategic and moral reasons it is an ideal opportunity for the President to break with his predecessors and allow trade. It would be the beginning of a sane and civilized United States-Vietnamese relationship.

Each country would derive important economic benefits. United States self-interest would be served, according to Michael Emmons, president of the American Chamber of

Commerce in Hong Kong, because "we feel that the U.S. trade embargo on Vietnam punishes American business and not Hanoi."

And for Vietnam, the new trade would spur post-war reconstruction. Without entering into the question of the United States Government's post-war promises made in Paris three years ago, American firms could aid a poor country that has been at battle for decades. Indeed recent comments by Vietnamese leaders indicate they might like United States economic ties even without direct aid from Washington.

The two countries and several American corporations could particularly benefit from closer links in the agricultural and oil industries. Vietnam now imports approximately one million tons of grain per year. Instead of buying it from the United States, they acquire it from the Soviet Union, Canada, Sweden, the European Economic Community and others. This is especially appalling, as Senator Hubert H. Humphrey pointed out one month before his death, "given our unprecedented trade deficit and our depressed prices caused by overflowing stocks."

Vietnam's oil potential may be as promising as that of any area outside the Middle East. However, according to Maurice Strong, chairman of Petro-Canada and former Secretary-General of the United Nations Conference on Human Environment, it is the "lack of normal relations with the United States that has constrained the pace of Vietnam's reconstruction, particularly oil exploration and development."

Strategically, it is crucial that the United States consider new East Asian conflicts and consequently become friendlier toward Vietnam. Today the primary clashes are not "yellow versus white" nor "red versus red-white-and Vietnam against Cambodia. A potential threat is that a passive American diplomacy will de facto align us with China against Vietnam; and this will force Vietnam to develop a greater dependency on the Soviet Union. By lifting the embargo, President Carter could decrease Vietnam's reliance on the Soviet Union, and eventually promote the chances for stability and peace in the area.

Morally the United States still has its post-war obligations. Not even the most gifted writer—at this late date—would dare to expound on the atrocities the United States perpetrated against Vietnam: no one wants to be reminded of the horrors. Let it suffice to say that this country acted wrongly. But now, by beginning trade and thereby permitting the Vietnamese to use some of our advanced technology, the United States can, in a small way, atone.

Proponents of a continued embargo are mostly concerned about accounting for the missing in action. The families of these men have unquestionably experienced a terrible sadness and fear; but one must seriously question whether continued strained relations will help to ferret out information about the fates of these men. Recent developments, particularly the current official Vietnamese trip to the Honolulu M.I.A. Center, seem to indicate that closer relations are more likely to bring out the truth, rather than to hide it.

Two years ago there was a consensus that the embargo should be ended. Both the House and the Senate accepted it but it was President Ford's veto that stopped the move. Now, the United States has the chance to push for a totally new sort of "Vietnamization," not based on lies and self-deception, but on an ethical and intelligent approach to Southeast Asia. At least one Congressional advocate of lifting the embargo, Representative Jonathan B. Bingham, a Democrat from New York, has indicated that there could be hearings. One can only hope that renewed Congressional pressure, along with some fresh thinking that recognizes we are no longer fighting the Vietnam war, will compel President Carter to end this pointless restriction.

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TRADE BETWEEN THE UNITED STATES AND THE SOCIALIST REPUBLIC OF VIETNAM

Most Asian nations in which American companies have substantial operations, including all members of the Association of Southeast Asian Nations, are moving rapidly to establish normal diplomatic and trade ties with the Socialist Republic of Vietnam.

Because of the embargo on U.S. trade with Vietnam, U.S. companies are increasingly finding themselves in anomalous and sometimes embarrassing situations. Two examples can demonstrate this:

(1) A U.S.-controlled company sells spare parts to an indigenous company in an ASEAN country, which then resells them to Vietnam. When the U.S. company discovers the final destination of the parts, it is compelled to refuse further orders, thus souring a long-time relationship and promoting the Asian company to turn to other suppliers, particularly from Japan or Western Europe.

(2) A U.S. bank discovers that its European subsidiary is discussing participation in a syndication to finance exports to Vietnam. The U.S. bank is forced to instruct its subsidiary to withdraw totally.

Vietnam faces severe economic difficulties, primarily resulting from extreme weather conditions and delays in restructuring society after the long war, but it is considered these difficulties will be overcome, creating the probability of Vietnam becoming one of the strongest economic forces in the region during the next decade.

Japan has established itself as Vietnam's leading non-communist trade partner, with two-way trade in 1977 estimated at US$230 million.

Major commodities include steel, coal and marine products. Japan purchased some US$60 million worth of Vietnamese coal last year and an agreement has been signed for the Vietnamese purchase of 200,000 tons of Japanese steel annually during 1978–1980.

In addition, Norwegian, Italian and German oil companies have been granted exploration and exploitation rights off the coast of southern Vietnam. These areas are near concessions formerly explored by US companies and in which there were indications of oil in commercially viable quantities. Vietnamese officials would like US participation.

Vietnam has successfully tapped the international financial market, raising a minimum of US$350 million in commercial loans. This does not include government-government aid or soft loans.

There is a potential market in Vietnam for a range of US exports, including: petroleum equipment and technology; agricultural, forestry and irrigation equipment; mining machinery; fertilizer and fertilizer plants; wheat; cotton; and aircraft spare parts.

The American Chamber of Commerce in Hong Kong recommends that all trade restrictions imposed by the United States on trading with Vietnam be suspended.●

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## ALTERNATIVES TO ABORTION

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**HON. MAX BAUCUS**

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. BAUCUS. Mr. Speaker, the question of abortion continues to be a hotly debated issue and will be for all times. Philosophers, physicians, lawmakers, and the clergy have for centuries, and will forever argue their positions—all feeling very strongly, and few changing their mind no matter how persuasive the arguments.

Despite all this intense debate, I suspect that all of us can agree on a single basic premise: namely, no one is for abortion. No, abortion is simply a bad alternative to the more basic and infinitely more resolvable problem of pregnancies that, for any variety of reasons, are unwanted.

Abortion is no more a solution to unwanted pregnancies than war is a solution to preventing human rights violations in our world. In both cases, the easy "solution" is just as repugnant as the problem itself.

The real solution, and the challenge that must be faced by Congress—and by both sides in the abortion debate—is how we can best help to keep people from feeling backed into a corner and perceiving abortion as their only way out.

There are, in fact, many alternatives to abortion. And our responsibility in Congress is to take immediate, appropriate, and effective legislative action which will provide access to real abortion alternatives. Unfortunately, the efforts made by Congress in this area, to date, have been inexcusably inadequate.

In fiscal year 1975 the Department of Health, Education and Welfare spent about $100 million under title X of the Public Health Service Act on family planning services. During the same time period, HEW spent $50 million, half the amount spent for family planning, to provide payment for medicaid abortions. 1976 data provided by the Allen Guttmacher Institute shows that there is one abortion for every 2.8 live births.

Clearly, Mr. Speaker, our efforts have not come close to meeting the need.

There are at present several good legislative proposals pending before this Congress which would seek to reduce the incidence of abortion. Unfortunately, pending legislation doesn't do much good. Such legislation must be immediately enacted and put to work if we are seriously committed to resolving the abortion problem.

On April 26, 1978, I introduced H.R. 12400, the Alternatives to Abortion Act. My bill seeks to reduce the incidence of abortion by addressing the following four areas which significantly contribute to the high frequency of abortion in this country.

PREGNANCY DISABILITY

Some women have to work, and unfortunately, under present conditions, economics often force women to seek abortions.

47 percent of the current working force in this country is composed of women. Approximately 70 percent of these working women have to work. Most often they are either the family's sole wage earner or their husbands earn less than $7,000 per year. When one of these women becomes pregnant, her choice becomes clear: lose several weeks or months of income and maybe her job, or have an abortion. This choice should not have to be made.

Title I of my bill prohibits sex discrim-

ination on the basis of pregnancy. It simply states that "women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work." In other words, if a company has a health insurance plan and a sick-leave policy that would permit male employees to take time off for a voluntary operation, then the same alternative should be available to female employees who are pregnant and wish time off to deliver their baby.

TEENAGE PREGNANCY

Here, perhaps, lies our greatest challenge. Not only is the incidence of teenage pregnancy and abortion higher than for other age groups, but so are the risks.

One-third of all abortions in this country are performed on teenagers. Both young girls who have abortions and those who continue their pregnancies face increased health risks. The mortality rate for pregnant teenagers is significantly higher than for older mothers, as is the mortality rate for their babies.

Title II of my bill provides grants for programs which provide prenatal and postnatal health care for both the mother and the infant.

ADOPTIONS

More pregnant women would carry their babies to term if they had assurance that their babies would have secure, happy futures. Title III of my bill enhances the idea of adoption for both the mother and prospective parents.

My bill seeks to remove any financial barriers to prospective parents by calling for an allowance of an income tax deduction for all adoption expenses and providing funds to help alleviate financial obstacles which act as barriers to qualified persons seeking to adopt. In addition, my bill promotes the establishment of uniform adoption regulations and establishes a national office of adoption information and services within the Department of Health, Education, and Welfare's Office of Child Development. H.R. 12400 also seeks to eliminate black-market baby selling.

FAMILY PLANNING

The Federal Government has in fact made some progress in the field of family planning. However, in view of the number of unwanted pregnancies, it is clear that more must be done. Title IV of H.R. 12400 authorizes the Secretary of Health, Education, and Welfare to make grants for voluntary family planning projects, research and human production, and for community-based informational and educational services about family planning.

Though H.R. 12400, the Alternatives to Abortion Act, only touches the tip of the iceberg in terms of what can and must be done to reduce the incidence of abortion in the country, it will help. And because it will help, this and similar pieces of legislation must be enacted.

I urge my colleagues to remember that we ultimately share the same concern and the same responsibility, and I ask that we all turn seriously to resolving the problem by providing realistic alternatives to abortion. Only then will women not seek abortions.●

## PRODUCTIVITY: ONE U.S. COMPANY'S CONTRIBUTION

### HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. CORCORAN of Illinois. Mr. Speaker, earlier this month, I was invited to speak in Aurora, Ill., before local 1942 of the International Brotherhood of Electrical Workers. This IBEW local consists of employees of Western Electric, a wholly-owned subsidiary of the Bell System. The statement made at the meeting described the record of success enjoyed by the Bell System. I also discussed the importance of labor-management cooperation and productivity in the United States.

Mr. Speaker, in view of the crucial importance of productivity to our overall economic position in the world today, I would like to share with my colleagues the bulk of the text of my Aurora statement made before IBEW local 1942:

In preparing for this meeting, I did some research on your industry and found that the Bell System and the International Brotherhood of Electrical Workers have a record of which you can all be proud. In fact, your very existence as a private enterprise reflects favorably on you because the telecommunications industry of most countries is controlled by the Government. Although the telecommunications industry is part of the private sector in the United States, it is closely regulated by the Government. Prices which are charged, services offered, and profits earned are all regulated by the Government. I am certainly not an advocate of Government regulation and am happy to note the success of your organization despite some such regulation.

Your success is borne out by several impressive statistics:

First. In 1977 the Bell System handled 10 percent more long distance calls than in 1976 and it added more telephones than in any previous year.

Second. The Bell System used 11 percent less energy in 1977 than in 1973, although its volume of business has grown 33 percent. Considering the extent of the energy problem in this country, this is a remarkable achievement.

Third. Ninety-five percent of American households now have telephone service.

Another item worth noting is the awarding of a nearly half-billion dollar contract to Western Electric to furnish and maintain 300 microwave radio relay stations in Saudi Arabia. In view of our country's poor balance of trade record, such an accomplishment on the part of Western Electric is good news indeed. The Department of Commerce just released figures which show that U.S. imports of oil have now been exceeded by our imports of machinery and transport equipment and manufactured goods. The trend of our increasingly relying on imports is a trend which has complications for all of us, particularly in terms of jobs in America.

Our increasing reliance on imported goods is due in part to bad trade and tax policies in the United States over a long period of time. This must be changed, and soon.

Moreover, the Bell System's productivity record has been a good one—during the period of 1970–76, Bell's productivity rate increased nearly 5 percent each year. One relevant statistic is that in 1967 there were 130 telephones per employee and now there are 167 per employee.

My interest in meaningful labor and management producivity is longstanding. In fact, just a year ago, I sponsored a Labor-Management Seminar on Productivity here in Aurora. We had over 60 leaders of labor and management from throughout the 15th congressional district in attendance. We heard speakers discuss ways in which productivity as well as the quality of working life can be improved—and improved to the benefit of both labor and management. For instance, we heard from representatives of labor and management from a plant in Wisconsin discuss how they contributed to implementation of a profit-sharing plan which has resulted in increased productivity as well as bonuses for the employees. We also heard from a representative of an independent Federal agency—the National Center for Productivity and Quality of Working Life—which is the Federal agency primarily concerned with productivity in the United States today. We also heard from a professor from the Illinois Institute of Labor and Industrial Relations in Champaign. The point of that seminar was to get labor and management together to discuss mutual problems and possible solutions in a way which would supplement collective bargaining agreements. Productivity means "working smarter, not working harder" and it is something in which we all have a stake.●

## FROM OLYMPIC DORMITORY TO PRISON: BAD IDEA?

### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. DRINAN. Mr. Speaker, in 1977 when we were considering a $22 million supplemental appropriation for the Bureau of Prisons to build a youth facility at Lake Placid, N.Y. I strongly objected. The Bureau of Prisons was granted these

funds to construct a facility which could be used in the 1980 Olympic games at Lake Placid for athletes' housing and which following the games would be converted to a prison for 500 youth offenders.

I fully appreciated the need for afteruse of the facility for athletes housing since the Olympic games represent a substantial investment of taxpayers money. Yet it was and remains of great concern to me that this decision was made without the benefit of full and open discussion. The Subcommittee on Courts, Civil Liberties, and the Administration of Justice, on which I serve has held extensive hearings over the years on both corrections policy and construction.

One major issue which emerges from a discussion of prison construction is the location of facilities. The Director of the Bureau of Prisons told the subcommittee in 1975 that:

Our philosophy is that new institutions should be as close as we can humanly get them to where the offenders are from and where we can find staff and other resources.

The subcommittee was aware of the Bureau's search for a site to house young offenders from the northeast region. Since these offenders would be primarily from metropolitan areas of the northeast it was expected that efforts to find a site would focus on metropolitan areas. It was thus most disturbing to me to learn of the plan for Lake Placid. The inmates for this facility will come from New York City which is 300 miles away as well as Boston, Baltimore, Philadelphia and Washington, D.C. which represent an even greater distance.

It is well recognized and substantiated that in working with youth offenders we should maximize familial and community ties which may constitute the single most important link to a law-abiding life. Along with that consideration, I have concerns about the recruitment of staff for this remote location and access to resources for contractual work and study release programs. None of these concerns were addressed when this decision was made.

I commend to my colleagues the following article of William Raspberry on this matter:

FROM OLYMPIC DORMITORY TO PRISON: BAD IDEA?

They're building dormitory facilities at Lake Placid, N.Y., to house some 1,800 young athletes for the 1980 winter Olympics. That utilization will last for a couple of weeks.

Then the "Olympic Village" will become the newest federal prison.

The idea either makes sense, or it instantly appalls. Argument—of which there is plenty—seems to change no one's mind.

The Olympic people are, of course, pleased. They get a free ride out of the deal, since the U.S. Bureau of Prisons is paying the entire $22-million cost of the facility, including its post-Olympic conversion from the dormitory to jail.

The people of Lake Placid, according to Rep. Robert C. McEwen (R), who represents that Adirondack district, also are pleased. With the highest unemployment rate in the state of New York, they naturally welcome the prospect of 225 prison jobs at an average pay of $15,000.

And the Bureau of Prisons, while acknowledging that the site runs counter to the bureau's own guidelines consider the dormitory-turned-prison a pretty good deal.

On the other side are a host of church-related groups, civil-rights organizations, a number of ad hoc bodies and, of course, the National Moratorium on Prison Construction.

Perhaps their most telling argument consists of quotes from the 1967 report of the president's Commission on Law Enforcement and the Administration of Justice. For instance: "New institutions should . . . be relatively small, and located as close as possible to the areas from which [they draw their] inmates, probably in or near a city rather than in a remote location."

Or from the United Nations' standards for the treatment of prisoners: "The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. * * * Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both."

The Lake Placid facility may meet the "relatively small" criterion, with an anticipated 500 inmates, but at a distance of nearly 300 miles from the nearest metropolitan area it will hardly be "as close as possible" to the homes of most of its inmates—most probably New York City.

The fact that almost the entire prison staff will consist of Lake Placid residents hardly emphasizes the inmates' continuing part in their community. Nor will family relations be improved by the fact that the area is served by a single bus a day or that it has hardly any low-cost housing for visitors.

"I agree that this is not the ideal location," say Michael Aun, a spokesman for the Bureau of Prisons. "Our own guidelines say we should build close to where the inmates live, which means the big cities. But every time we try to locate in a big city, we get thrown out—for instance, San Diego, in 1975. Nobody wants us around."

Location aside, said Aun, the Lake Placid facility will come close to being an ideal prison. "It will be modern and unobtrusive, with private rooms rather than concrete and iron cages. It's true that it will be more than 250 miles from New York City but, then, because of the shortage of facilities, we have federal prisoners from the Northeast located as far away as Sandstone, Minn.

"Lake Placid may be inconvenient for families in New York or Boston, but it sure as hell beats Sandstone."

According to Aun, many of the people who are opposing this particular location are in fact opposed to any new prison construction whatever. "Well, the fact is that we have to replace some of the existing facilities. McNeil Island (Washington) is falling apart. We'd like to close Leavenworth. Atlanta needs to be closed or else completely redone. Danbury (Conn.), the only facility in the Northeast, has 767 inmates in space designed for 500."

Aun's explanation won't cut much ice with those who are convinced that the whole proposal is stupid at best, a political boondoggle at worst. From their point of view, the Lake Placid location has less to do with the needs of the Bureau of Prisons than the fact that Lake Placid needs the jobs and income that the prison will provide.

Aun won't deny political influence, principally that of McEwen. But he points out that the rules require that there be a post-Olympic use for any facilities built for the Olympics. "Some of the church groups are trying to promote the idea of a permanent Olympic training center for Lake Placid," he said, "but so far, there have been no takers."

All that may be true. But for anyone who believes, as the bureau itself ostensibly believes, that prisons shouldn't be isolated, who believes that having a guard force consisting of small-town whites for a population of big-city black inmates was one of the sparks for Attica, it is hard to consider the Lake Placid prison as other than a rotten idea.●

## TITO: DEVISING A FORMULA FOR WORLD PEACE

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. OBERSTAR. Mr. Speaker, Yugoslavia under Marshal Tito symbolizes the importance of the nonalined nations to world peace.

The responsible leadership of Marshal Tito has ended the fratricidal civil wars of ethnically diverse Yugoslavia and has brought a degree of stability previously unknown to this region.

In an address to delegates of the nonalined nations meeting in Belgrade, Tito warned against the dangers of bloc confrontations and involvement of nonalined nations in these conflicts. Nonalinement is the only possible alternative to confrontations, international tension and ultimately new military conflagrations.

In words which the entire world should heed, Tito stated in unequivocal terms, "Sectarianism of any kind is alien to nonalinement. Divisions based on ideological, religious, and other criteria and motivations are unacceptable, no matter what slogans they hide behind."

These words of reason emanate from a leader who knows too well the horror of ethnic wars in his own country and of major armed conflict.

He was a leader in the fight against Nazi oppression in the greatest military confrontation the world has ever known.

I would like to share with my colleagues in this House a report of Marshal Tito's address which appeared in the New York Times, July 26, 1978.

His speech represents a forceful denunciation of the Soviet-Cuban intervention in Africa. That kind of intervention represents a major threat to the philosophy of nonalinement. At the same time, the Soviet-Cuban offensive threatens to involve the superpowers—the United States and Russia—and their allies in direct conflict.

We have come closer to that confrontation within the past year in Africa than we have at any time since the Cuban missile crisis in 1962.

Marshal Tito's statement comes at a most appropriate time for world peace.

The article follows:

TITO IN WARNING ON ROLE OF CUBA IN AFRICAN STRIFE

(By Flora Lewis)

BELGRADE, YUGOSLAVIA, July 25.—President Tito warned countries professing nonalignment today against letting their disputes, especially in Africa, develop into East-West power struggles through involvement of outside forces.

While he named no countries, Marshal Tito's speech, at the opening session of the conference of nonalignment nations, was clearly aimed at Soviet-backed Cuban intervention in Africa.

"There is every indication that we have again arrived at a dangerous cross-roads," he said.

President Tito called on all members of the nonaligned movement, which he helped to establish at the start of the 1960's, to "devise effective means" for settling their disputes "peacefully and democratically." Otherwise, he continued, "new forms of colonial presence, of bloc dependence, foreign influence and domination" may be imposed.

ZAIRE AND ANGOLA REPORT ACCORD

Just after he spoke, Zaire's Foreign Minister, Umba-Di-Lutete, disclosed that his country had reached an agreement with neighboring Angola, which served as the base for an invasion of Zaire's Shaba Province last spring by Katangan rebels. The invasion gave threat briefly of turning into a conflict between the United States and the Soviet Union.

The agreement was reached at a meeting of President Mobutu Sese Seko of Zaire and President Agostinho Neto of Angola, with the help of President Sékou Touré of Guinea. It was drafted last week at the meeting of the Organization of African Unity in Khartoum, the Sudan.

The accord commits each side to prevent the use of its territory for armed attack on the other and for the disarming of rebel groups—such as the Cuban-trained Katangese who invaded Shaba Province.

A commission made up of representatives of Cameroon, Nigeria, the Sudan and Rwanda was estabilshed to make sure the accord is carried out, he said.

The Zairian Foreign Minister said the two sides had not discussed the presence of Cuban troops in Angola because "we don't care where they are so long as they don't interfere in our affairs; it would be against the principle of nonalignment for us to say who can be in Angola."

By the same token, he indicated, Zaire made no promises about how long a joint African force, hastily assembled to pacify Shaba, would remain. But the idea of a "pan-African intervention force" has now been abandoned, he said, and it is up to the new commission to make sure that the Zaire-Angola settlement, now "on paper," is put fully into effect.

The reconciliation has already reached a point where the Zairian officials congratulated Foreign Minister Paulo Teixeira Jorge of Angola on his speech today. The address echoed several of President Tito's points, calling for reassertion of nonalignment principles "as an active factor in international détente" and a safeguard for "territorial integrity."

AN EXAMPLE OF TITO'S STRATEGY

The Zaire-Angola agreement was one obvious example of Marshal Tito's strategy favoring negotiated settlements of the many third-world conflicts before they can lead to renewal of the cold war.

Delegations were present from the rebel movements of three countries of southern Africa where white regimes are being challenged by black forces, conflicts that could lead to broad Soviet-supported intervention and Western reaction.

While President Tito said at one point that "it is high time" the "anachronistic situation" of colonialism and racism in Africa be ended, he also seemed to be referring to the explosive situation in southern Africa. He said that "realistic possibilities" for peaceful solutions "represent not interference but offers of good offices."

Marshal Tito's carefully worded but direct statement went considerably beyond what the African countries were able to endorse last week at their Khartoum meeting, after disagreements on the Cuban and Soviet-bloc role prevented denunciation of foreign military intervention in Africa.

COLONIALISM AND HEGEMONY

While he attacked "new forms of colonialism," Marshal Tito also criticized "hegemony," the term the Yugoslavs and Chinese use for Soviet attempts at domination, and insisted that détente was "a universal process that must extend to all areas of the world."

Nonalignment is "the only possible alternative to bloc confrontations, tensions and the dangers of a new military conflagration," President Tito said.

The definition of nonalignment, particularly in the wake of Cuba's intervention in Africa and Vietnam's joining the Communist bloc's economic organization, Comecon, had been expected to be a major controversy of this meeting.

Some countries, led by Cuba, had been asserting that nonalignment must mean adherence to the "progressive" group of countries, in effect those that are Marxist oriented.

TITO SEEKS TO PRE-EMPT THE CUBANS

In several different ways, President Tito sought to pre-empt the Cuban insistence. He said nonalignment was "pledged" to resist imposition of social and political systems or ideologies. "The nonaligned countries must allow no one to jeopardize the solidarity of their movement and blunt the edge of its basic orientation and unity of action," he said. "They must allow no one to dilute the policy of nonalignment."

"Sectarianism of any kind is alien to nonalignment," he continued. "Divisions based on ideological, religious and other criteria and motivations are unacceptable, no matter what slogans they hide behind."

The Yugoslav effort to resist direct or indirect Soviet pressures on the third world was obviously well-prepared.

NORTH KOREAN MORE SPECIFIC

The North Korean Foreign Minister, Ho Dam, read a message from President Kim Il Sung that, surprisingly, was even a little more specific than Marshal Tito in rejecting the Soviet-Cuban stand.

It said that "the nonaligned countries should not classify the member countries into opposed groups arguing which nation is progressive and which is not, and not tolerate any foreign forces to interfere and dominate the nonaligned countries."

If a compromise on the basic issue of Cuba's role has already been reached, which seemed possible, it was reflected in President Tito's explicit reference to Havana as the site of next year's scheduled nonaligned summit meeting. Prospects of a confrontation here would have made that unlikely.

If the 86 year-old Yugoslav leader's efforts to restore a unified overall position among the nonaligned countries are effective, they could bring a subtle but crucial shift in the trend of world politics and a new obstacle to Soviet expansion without direct United States involvement.

NO DRAMA AND LITTLE COLOR

Today's opening session provided no drama and little color. There were no attacks on the United States. Most of the delegates wore Western clothes, and many of them, as delegates to the United Nations, had long since grown accustomed to meeting each other in elaborate conference halls—where speeches are made in public and log-rolling deals are worked out in private.

Marshal Tito, limping on a cane and reading his speech while seated, looked fit otherwise and he spoke in a firm voice. He wore his customary ice-cream linen summer suit

As he noted, except for the issues of southern Africa and the Middle East, the struggles that brought the original group of 25 nations together 17 years ago had mostly been overcome.

But now, the enlarged group of 87 member countries, 20 observers, including four liberation movements, seven guests and one country with "special status," Belize, is split by a series of rivalries, with several of the countries battling each other.●

## FREEDOM FOR THE INDIVIDUAL

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. DORNAN. Mr. Speaker, appreciation for one's country generally increases with time and experience. Yet at 15 years old, Sara Shulsinger reminds us of a fundamental, and too often forgotten, reason for our Nation's success: America's people are free. They are free in part because America as a country is free from foreign constraints and outside domination.

A first prize winner for the second year in a row of the Palos Verdes Peninsula Independence Day essay contest, 1978, Sara observes in her essay that for an individual to be free, he or she must live in a free land—an appropriate reminder on an Independence Day.

The essay follows:

THE INDIVIDUAL NATION

The United States of America has a long history of successful foreign relations. This was most likely inspired by three documents: the Declaration of Independence, George Washington's Farewell Address, and the Monroe Doctrine. These all discouraged American intervention in international political trials and tribulations. Thus the United States has managed to remain independent of foreign domination, and this status as an individual nation gives its people more choices.

The first step away from outside complications was the Declaration of Independence. America's forefathers foresaw from experience the dangers of involvement with other nations, and so they stated twenty-seven specific reasons why the United States must avoid foreign control. The folly of having another nation ruling the United States becomes clear through these words.

And then in September, 1796, George Washington, with the help of his friend, Alexander Hamilton, compiled his views concerning future foreign policy into his valedictory message. He believed that it would be a wise America that would avoid either patronizing or disfavoring any other country. Unfortunately, Washington's advice has not been followed to perfection, but this nation is still one of the most independent ever.

A third early American document, the Monroe Doctrine, addressed the problem in a different manner. James Monroe neatly slipped into his seventh annual message a few sentences which said that the United States had kept out of European affairs, but

if any European power antagonized an existing country of the Western Hemisphere or tried to colonize this area any further, the United States would take action. He reinforced this statement in his eighth message, proving that no matter how European officials screamed, this statement would have all of America to back it up.

And America has backed it up. And yet it has managed to remain on excellent terms with most nations throughout the world. The United States has mutual tariff agreements with many major countries, including the entire United Kingdom and Japan, thus exposing its people to a wider world. Therefore individuality is encouraged and American residents have greater tolerance and eagerness for what is new and different. Since the United States is an individual, individual rights are protected.●

## COMMEMORATION OF CAPTIVE NATIONS WEEK

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. DERWINSKI. Mr. Speaker, in view of the recent commemoration of Captive Nations Week, I wish to insert several formal proclamations issued during the past week which display the nationwide interest on behalf of those people held under Red dictatorship. I respectfully direct the attention of the the Members to the proclamations issued by Mayor E. Lee Comer, Jr., of the city of Independence, Mo., and by Gov. John D. Rockefeller IV of the State of West Virginia:

PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjection and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, Georgia, North Korea, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now, therefore, I, E. Lee Comer, Jr., Mayor of the City of Independence, do hereby proclaim the week of July 16-22, 1978, as Captive Nations Week in Independence, Missouri, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In witness whereof, I have hereunto set my hand and caused the seal of the City to be affixed this 16th day of July, 1978.

A PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of many countries; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now, therefore, I, John D. Rockefeller IV, Governor of the State of West Virginia, do hereby proclaim the week of July 16 through July 22, 1978, as Captive Nations Week in West Virginia, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State to be affixed.●

## FDA'S PROPOSED RESTRICTIONS ON ANTIBIOTICS

### HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. ROSE. Mr. Speaker, the antibiotics issue arose from an incident in Great Britain 10 years ago where a tolerance problem occurred that resulted in the issuance of the Swann report. This report led to government-restricted use of antibiotics in animal feeds. Since then a recent Braude study from the University of Pennsylvania has examined its effect and concluded there was no converse improvement in human health from the British restrictions as one would expect. An article outlining subsequent British problems is attached for your information.

The Canadian Health Protection Branch, Canada's FDA equivalent, when faced with similar requests for restrictions, has admitted to inconclusive results of research that cannot be objectively measured. I regard these remarks as significant of understanding the ramifications of the proposed restrictions if they remain unsubstantiated by scientific consensus. Part III will present a report by the Watt Publishing Co., "Antibiotic in Animal Feeds: Risk vs. Benefit," outlining the history of the proposed restrictions.

MANY PROBLEMS IN BRITISH ANTIBIOTIC POLICY

(By Rex Wilmore)

The rosy picture painted by British authorities and even British pigmen with regard to experience with very restricted use of drugs in hog feeds changes a great deal if you really dig into the subject in conversations with pig farmers.

The British experience during the past 4½ years without antibacterial drugs in hog feed is used as an example by those advocating similar regulations in the U.S. Indications are that things are going smoothly in the British pig industry. At least that's what American visitors report and what British authorities say. Even British pigmen claim they've had no problems doing without drugs. Yet when you get out on pig farms, talk with the owners and managers, and really dig into their programs, you find a completely different story. They do have problems with their prescription approach to drug use. And there are indications that U.S. problems would be much worse under the same restrictions.

Even though they voice overwhelming acceptance of drug restrictions and regulations, British producers often use the few drugs available in massive amounts and in combinations U.S. producers would not even consider. They're trying to squeeze every bit of efficiency possible out of their feed, and they're trying to head off, or treat, disease outbreaks.

Use of broad-spectrum drugs in livestock feeds has been under fire in the U.S. for four years—some drugs and combinations have already been taken off the market, and others are under a threat of removal. The British regulations, and results, are held up as strong evidence that you wouldn't suffer if your drugs for growth promotion and disease prevention were put under prescription to "safeguard" man and animals.

Manufacturers are working frantically to provide proof that feeding antibiotics and similar antibacterials doesn't pose a health hazard to humans or animals to head off the threat. The basic concern is that continuous feeding of drugs will result in emergence of bacteria resistant to those drugs—which no one denies. But the possibility of illness in man or animals—illness which couldn't be effectively treated because of the resistance—is the point of contention. FDA and some medical authorities feel it is possible, so FDA has required that companies invest millions in research to prove that it doesn't happen. Other points are involved, but the key question is whether there's a danger to man.

Experience and research to date indicate there isn't, but the research is continuing anyway. No rulings or decisions by FDA are expected in the near future, but that doesn't mean the threat is lessened.

The United Kingdom restricted most effective drugs used for disease prevention and growth promotion 4½ years ago. They're now fed only for treatment, on prescription from a veterinarian. The British pig industry did not suffer a disaster when the switch was made, and seems on first look to have few problems because of drug regulations. But they do have problems. More important, their pig industry is considerably different from our own—and some of those differences make it possible for them to do without broad-spectrum drugs where U.S. producers could not. FDA observers, not familiar with our hog industry, who visited the U.K. seem to have overlooked these differences. When they're taken into account, the idea of restricting drugs here produces a multitude of problems.

There are three differences:

1. The tendency in Britain is to specialization, either producing weaners, or fattening weaners. Farrow-to-finish units are much less common than in the U.S. On top of that, producers concentrate on producing one type of market pig. This specialization produces a high degree of managerial skill, but in a limited scope—a case of doing an excellent job within one segment of the pork industry. The American producer, by contrast, is apt to be working in all phases of production, spreading his management

knowledge and abilities thinner than his British counterpart.

2. Size of unit is a second big difference. U.K. units tend to be smaller than those in the U.S. Yet labor is more available, and labor costs lower, so the U.K. pigman has more manpower available. He lavishes more care, observation and management time on his pigs than the typical American hogmen can. At the same time, the British pigman or manager has fewer other enterprises to worry about—those working with pigs generally specialize only in that phase of agriculture, so the manager focuses more management on his pig enterprise.

That means he can, and does shoot for maximum production per unit—sow, pen, whatever—and maximum quality. The American, because he's working in more areas and stretching his management thinner, tends to settle for less than top output. Instead, he boosts the number of units to increase production. The end result is the same—more pigs and more profits. But the manner of getting there is quite different.

3. The U.K. pigman has an effective, low-cost alternate for growth promotion in copper sulfate. U.S. producers have nothing available to replace growth-promoting antibiotics, while the U.K. pigman did. Copper consistently gives between 10 percent and 15 percent improvement in feed efficiency under British conditions. It performs much the same growth promotion function for the British producer that low-level antibiotics fill in the U.S. It has been available since 1958.

Because of the cost differences, British pigmen had already begun switching away from antibiotics for growth promotion before use of drugs was restricted. When they lost most drugs, copper took up much of the slack, making the transition to prescription use of drugs a relatively painless one. "Without copper sulfate, we would have had a much different situation, with more problems," says Dr. Dick Melrose, chief veterinary surgeon of Britain's Meat and Livestock Commission.

Copper sulfate is approved for use in the U.S. at low levels as a trace mineral but is not approved at high levels for growth stimulation or disease prevention, and it is not considered likely that it will become available as a feed additive at high levels.

Companies are not likely to spend the funds which would be necessary to develop the environmental impact data required by the Environmental Protection Agency, especially in view of the EPA's attitude with regard to potential buildup of copper in the soil as a result of spreading manure from copper-fed pigs. Another deterrent is the fact that there would be little opportunity for a company to recover the large expenditures required to clear use of copper sulfate in hog feeds, since no license for exclusive sale of the material could be obtained, and anyone could reap the benefits of the developmental expenditures. Use of copper sulfate in hog feeds was cleared in Britain before the environmental era and the British have taken a much more lenient view of buildup of copper in the soil than has the U.S. EPA.

Better management was supposed to take up some of the slack left when drug use was restricted in Britain. And there's no doubt that successful pig farmers in Britain have intensified their management. "Antibiotics in the past were used to overcome bad management," says Dr. Nick Galbraith, Newsbury veterinarian. "General management of pig units now is far superior to that of five years ago, before the restrictions."

Yet better management hasn't solved many of the health problems. "Poorer managers are now on antibiotics at some state of production all the time," says Dick Loane, technical manager of the pig division of BOCM-Silcock, largest feed manufacturer in the U.K. "The good ones with tighter controls have problems, but nothing that they cannot overcome. But there are very few pig farmers who at some time don't have to bring in medicated feed or medicate through the water."

They've found that management can only do so much. Then the pigman has to have disease prevention and/or treatment available. Even good managers are already frequent users of drugs at therapeutic levels. Larger units are stretching manpower and management thinner, just as in the U.S. The result is a continuing health problem, as visits with farmers demonstrate.

Brian Selfe of Aldemoore Farm provides a good example of what can happen. While he's unable to purchase drugs or medicated feed "off the shelf," his problem is such that he's using a routine treatment program. It differs only from that of many American pork producers in that he has to obtain a prescription from his veterinarian and work through red tape to medicate his herd.

He runs a 200-sow herd, farrowing ten sows a week. He's an excellent manager as shown by his records—an average of just under 20 pigs per sow per year, including replacement gilts and open sows. He sold an average 9.48 pigs per litter in the latest six-month period, all sold at 60 lbs. as weaners.

But he has one problem: "We produce a good pig to weaning with no trouble," he explains. "Then all hell breaks loose. I don't know if it's management or what. But until we find what it is, we must have antibiotics in feed to do our job. Antibiotics are our cover."

Selfe's problem is the immediate 15 days after weaning. In early 1974, just after he'd doubled herd size to the present 200 sows, his problems began: Pigs were scouring badly, stopped growing and just looked rough. At the time, he was feeding a post-weaning ration containing copper sulfate and virginiamycin. He got a prescription from his vet and had his feed company add 200 gm./ton of Aureomycin to the post-weaning feed. "That was effective for awhile—maybe it was the weather or something, but it quit working."

He muddled along for several months with nothing other than the two growth promotants in the ration, plus injections and water medication as needed. Then he made the decision to pull out virginiamycin from all his rations, which appeared to make no difference in performance, or in his scours problem. At that point, someone—he doesn't remember who—suggested he try Quixalud, a non-antibiotic effective against E. coli and salmonella, which is cleared for growth promotion at 200 gm./ton and for therapeutic use on prescription at 600 gm.

Selfe's veterinarian provided a prescription for the special mix required for a 600 gm. level, his feed company provided the medicated feed, and he's been using it for the 15 days after weaning with every batch of pigs since. It has brought the problem under control, as several other drugs might have done at the therapeutic level.

But the important point is that now, therapeutic treatment is a routine part of Selfe's operation. He makes sure not to run out of the special mix, and as added protection, keeps a 5-lb. can of material on hand, just in case.

"This hasn't solved the problem, but it has helped," he says.

Martin Oatley finds himself in much the same situation as Selfe. His problem is a combination of gut edema and E. coli scours, however. "It became a problem last January," he explains. "We had had some problem before, but in January it became serious. We immediately began using Terramycin in water, on prescription, but it did no good. Then we went to furazolidone in the water, then in the feed when we could get it."

"That seemed to help the problem a lot, but after three months the treatment suddenly became ineffective. So we stopped using it. We used Tylan some during this same period. Then the problem cleared up for awhile, only to reappear later. We don't know what's causing it, but now as soon as we see a problem coming on, we begin a treatment program that seems to work."

The current program Oatley is using goes this way: As soon as he sees a scours or edema problem, every pig in a pen (or all pigs weaned at the same time) gets an injection of ½cc of Tribrissen (trimethoprim and sulphadiazine) every day for 3 days. In addition, neomycin is added to the feed for that pen or group of pigs for six days. The medicated feed is not premixed, nor is it kept on hand. Instead, Oatley's vet trusts him to keep a supply of neomycin on hand.

Whenever pigs start to break, he mixes up a batch of medicated feed in a 5-gallon bucket. This is a crude and inaccurate procedure, but one that works well for Oatley. Without it, he doubts he would have been able to survive through last year's rough economic situation. And today, it's a treatment he uses on almost every group of pigs.

In this case, because he's unable to pick a ready-mixed feed off the shelf, Oatley is using a program that's both time-consuming and not up to the standards he sets for the rest of his operation. Yet it's the only thing he's found that works, and he plans to stick with it as long as it does work. He guesses that regular feeding of a broad-spectrum antibiotic would solve his problem, but that's illegal.

Oatley also uses a heavily medicated diet from weaning on. His normal ration contains zinc bacitracin, arsenilic acid and copper sulfate at maximum levels cleared for growth promotion. But this combination does nothing against his scours, and other products aren't easily available. So he has to follow his program.

There are other problems with the prescription concept, too. Jeremy Skipper of Pettings Court Farm is one of the sharpest hogmen you'll meet anywhere, and an excellent manager by any standards. Until recently, he was running a 100-sow farrow to finish unit by himself, but has recently added a full-time man. One measure of his ability: Pigs reared per sow per year averages over 20 since he began the unit, and in one year he topped 24. His death loss from farrowing to 60 lbs. runs 0.9 pig per litter, including stillborn pigs. He feeds no drugs normally.

Skipper's problem came on suddenly on a Wednesday. Normally, he has no scouring problem at all in his flat-deck post-weaning pens (weaning is at three weeks). That Wednesday evening, he noticed a bit of scours, but nothing serious. The next morning, he had dead pigs, so he called the veterinarian. The veterinarian took swabs from the pigs and recommended adding Terramycin to the drinking water, pending culture and sensitivity test results.

Skipper's unit is geared for water medication, with tanks for each bank of nursery pens. So it was no problem to medicate through the water, except for coming back out every four hours to let in more water and add new medication. But Terramycin didn't help at all, and pigs continued to die. Late Friday evening, the vet called back with the test results. The problem was an E. Coli that's susceptible to furazolidone, but the vet had none on hand. Even though the next day was Saturday and it's normally impossible to obtain something like this on Saturday, the vet did locate a supply and delivered it Saturday afternoon. It went straight into the drinking water and by Sunday the scouring was under control. But Skipper was still going to the unit every four hours to add new medication.

Net loss to date: 13 pigs in a unit where he'd had no death loss previously.

"That same Saturday, we started working to get our starter-creep ration medicated with furazolidone," Skipper says. "I had a prescription, so that was no problem. But because it is a special mix, it had to be mixed at the BOCM-Silcock plant at Liverpool. I had to order 2½ tons minimum, and then, even though I work very closely with BOCM, it took two weeks for the special mix to arrive. So it cost me 13 dead pigs, plus more feed than I needed, at a higher price than I wanted to pay, to get the problem under control."

Two weeks is a bit longer than normal for obtaining a special feed mix, say feed company officials. But even at best, it takes 5 to 7 days from the time the order is placed. Plus however long it takes the veterinary surgeon to determine what drug to prescribe. The minimum required per order varies with the feed company and the mill at which it is mixed. But the bare minimum seems to be 2½ tons of complete feed. Farmers who mix their own feed don't have this problem of course. They simply obtain the drug from their veterinarian (or a pharmacist), and mix it up themselves.

The British do have some antibacterials readily available in feed—drugs that are classified as unrestricted—but they're used only for growth promotion, providing little if any therapeutic or preventative value.

"The only feed additive drugs we have readily available, we have because they're not very effective," says Dick Loane of BOCM-Silcock. "Only one has any action against gram negative bacteria—which are the ones we need to affect. The others don't do much. Most give only 1 percent or 2 percent in efficiency, which is scarcely worth the cost. But if we could use broad-spectrum antibiotics with copper, we would get twice the response in growth and feed efficiency."

All antibacterials are available for therapeutic use on prescription, of course. But they're available in feed only on special order, in minimum amounts of 2½ tons generally. And obtaining them involves waiting for the order to be made and delivered—a long wait during a serious disease outbreak.

There are other problems with the system, as well. Obtaining a prescription is ordinarily no big problem. But it can mean a veterinary call that would be unnecessary otherwise—just one more added expense. And there's a black market of sorts in some antibiotics. Although it's difficult to learn details, many veterinarians admit to having seen bags of restricted drugs at pig units they visit.

It's obvious to the American observer that the U.K. approach to limiting use of broad-spectrum drugs has created difficulties for producers. While they're not insurmountable problems for the most part, and can be lived with with no great expense, the same would not be the case in the United States.

In the first place, the American hog producer would have no efficient alternative for growth promotion—he has become largely dependent on antibiotics. Copper sulfate allowed the British to go from wide use of drugs to a very limited use without the farmer suffering economically. American producers would suddenly find themselves with no growth promotants, and a subsequent drop in performance, production and profits.

In some respects, converting to prescription on therapeutic and prophylactic drugs such as Aureo-SP-250 and Tylan-Sulfa would be a much harder blow to American producers. While they would be available on prescription, that would mean most producers would not be able to use them until a problem had shown up and could be diagnosed. This would likely mean increased pig mortality, followed by lower rates of gain and feed efficiency, all piled on top of a more severe disease situation.

Size would also be a problem. Larger British units are having some health problems, in spite of their more intensive management. Most felt the problems were due to management—after they'd supposedly tightened down on management, facilities, and other factors that are supposed to make it easier to do without drugs. So it would seem that the average American producer could look forward to problems, as well, while the large unit would face a great many problems.

There's no doubt that U.S. use of drugs overcomes lack of management time. But as common as scours, pneumonia and other health problems are now, it's almost impossible to visualize what would happen without the products we now depend on to keep these under control. Certainly restrictions on drug use would lead to smaller units, an increase in therapeutic treatment, higher costs of production and less efficient use of feed, higher death loss, and a higher labor requirement.

Given restrictions on drugs such as those in the U.K., American hogmen would find themselves using more feed and capital to produce fewer slaughter hogs in smaller units at a higher cost. Learning to do that would provide very expensive lessons for pork producers.

Dick Loane of BOCM-Silcock says, "I've seen the U.S. situation, and would not swap our setup for yours. You use such massive amounts of antibiotics that if you dropped them, you would have a catastrophe." ●

## THE CAREER WOMAN IN GOVERNMENT: WHAT IS HER FUTURE?

## HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mrs. SPELLMAN. Mr. Speaker, there is a great deal of interest and emphasis, these days on "upward mobility" for women, both in government and in the private sector. For this reason, I would like to share with my colleagues a recent speech by Alan K. Campbell, Chairman of the U.S. Civil Service Commission, before the National Council of Career Women. Mr. Campbell outlined the reform legislation now before the Congress and commented on the measures the Commission was taking or drafting, to make the Federal career service more "hospitable" to the talents of women. The National Council of Career Women is a nonprofit membership organization providing career guidance and development for women in order to make them better prepared for "upward mobility."

The speech follows:

THE CAREER WOMAN IN GOVERNMENT: WHAT IS HER FUTURE?

I very much appreciate the opportunity to talk with you about the future of career women in government.

Any consideration, of course, of women in government must be based on two sides of an equation: the individual initiative required to develop, to learn, to grow, and, the employers' responsibilty—in this case, the Federal Government—to supply opportunities, training, and rewards.

Focusing on the employer's part of the equation I will discuss here some programs already underway, and the President's proposals for personnel reform and reorganization—what these mean to you as a career woman, and as a concerned citizen.

It is a truism that the government as employer must fulfill special roles which the private-sector employer need not consider. Among these, sometimes acknowledged, sometimes not, is government's role as a model employer. To take just one example, quite clearly, the government has no business prescribing employment standards in the private sector which it flaunts in its own personnel management.

It would appear, however, that government has often failed in the model role. At best, it has been a reflection of its times, and continues to reflect its times.

A special report we just did last month found that women hold 35 percent of all Federal jobs, compared to 36 percent in the nation's total labor force.

Side by side comparisons of salaries for women in public and private industry are hard to come by, but we do know that in both sectors women hold an unsought monopoly on the lower paying, less responsible jobs: Women hold 68 percent of the Federal jobs in grades one through eight.

As we move to the mid and upper levels, we find fewer women at each step along the way—about 22 percent in grades 9 through 12, about 6 percent in grades 13 through 15, and only 3.2 percent in the supergrades 16 through 18; that last total is at least up from the previous year's high of 2.8 percent!

We are especially concerned about the scanty representation of women in grades 13 through 15 since these comprise the "feeder group," the ranks which produce tomorrow's executives.

Since Federal managers tend to fill top jobs almost exclusively from within, the paucity of women in the "feeder" grades makes it extremely unlikely that the supergrade situation for women will improve markedly so long as we hold to present staffing habits. For example, last year 11 times as many employees were promoted to GS–13 as were hired from outside of government. My point is, when we make progress at the feeder level, we can hope for later progress at the top.

I should stress, as well, that reaching the upper ranks through promotion is a long slow process, even in a "growth economy." Today, it represents an even more tortuous, uncertain route, since the Federal work force has seen little expansion since 1972—consequently, there are fewer top jobs to be filled.

In the non-career service, where upper grade people can more readily be hired from outside government, the picture is somewhat brighter for women. Sixteen percent of this administration's non-career executive appointments have been women, and their representation in non-career supergrade jobs has doubled over the past year.

Nevertheless, anyone aspiring to the career service, or anyone interested in the health of the career service, which comprises 92 percent of Federal jobs, should be concerned about these lopsided statistics. Indeed, this is one of the many issues we are tackling as we move forward in personnel reform.

As you know, we began to examine the personnel system a year ago, and reform legislation is now before Congress. Hearings have been completed in both the House and the Senate. With markup now in progress, we have every expectation that we will see a bill reported well before the session ends.

But before I outline that legislation, let me highlight some measures we are already taking, or drafting, to make the Federal career service more hospitable to the talents of able women, to get women and minorities out of the "basement of public service," and increase their numbers at all levels.

The first of these is the Presidential Management Intern Program. Our purpose is to attract outstanding young men and women,

well educated and committed to public management. They bring to government new graduate degrees in public management at a time when creative management is sorely needed.

On completing their two-year internships, they may receive competitive civil service status. They start at GS–9, and are eligible for promotion during their internships. Close to 1,000 highly qualified people were nominated for the first year of the program, and 250 were selected. It is particularly gratifying that 46 percent of the finalists are women.

These interns, I might add, are in great demand, for there are more billets than the 250 who can be hired in a given year.

Another promising new opportunity is a graduate co-op education (or work-study) program extending the existing undergraduate program to graduate and associate degree students. It could provide as many as 10,000 internship-like positions yearly. Students are paid for career-related work assignments in Federal agencies while still in college. If they meet certain requirements, they may enter the career service non-competitively. This program will open still more doors for women in the public service.

We have done extensive work to develop a Special Emphasis Program, in which agencies will be authorized to appoint women and minorities through special procedures in an occupation where they are underrepresented. The program is clearly experimental, and if it does not produce good results it will be abandoned. We feel experimentation is necessary, however, because current procedures have not resulted in a Federal work force that appropriately reflects the nation's diversity.

The plan would permit a variety of selection methods, providing competition on the basis of education, experience, and performance. Those selected would, in effect, be taking a two-year on-the-job performance test. If successful, they will enter the career service.

The plan is positive and innovative. However, there are things it would not do:

It would not create new jobs, or set up parallel systems outside the personnel mainstream . . . rather, candidates will occupy regular positions which are temporarily designated for these so-called Schedule A jobs.

It would not choose candidates on nonmerit factors, such as race, color, creed, sex, national origin, or handicap . . . appointments under the excepted authority would be open to all candidates.

I'd like to point out that the Special Emphasis Program is designed for hiring new employees. In no way is it a replacement for upward mobility. Nevertheless, women already in Federal jobs could compete through special methods and be selected for higher grade positions.

Let me briefly mention Upward Mobility, which began to work in a meaningful way with passage of the EEO Act of 1972.

Its basic principle is that some employees in dead-end jobs, GS–9 and below, have the potential for more rewarding positions, but not the qualifications. How do we tap this potential?

Target jobs must be identified, the employee must have counseling, there must be training to get the employee qualified for the better job, and, finally, each participant's progress must be carefully evaluated.

Participants in the Upward Mobility Program are predominantly women since most of the dead-end jobs are held by women, and the program has helped them. From 1972 through 1975, an estimated 60,000 employees moved to career occupations, some reassigned, some promoted. And in 1976 alone, the latest year for which we have solid information, over 70,000 were either promoted or reassigned to new careers.

What about mobility for the mid-level woman?

Just as there is a difficult gap to be bridged at the GS–4 through 9 range, another stopping point for women is at the GS–11 through 13 levels.

Women who reach the "full performance" (formerly journeyman) level of their jobs, and are excellent technicians in their fields, find that they are not being considered for promotion to management jobs. I have just asked the Commission's Federal Women's Program, working with our Bureau of Training and an interagency task force, to map out a meaningful career development ladder for such women.

We expect these positive steps not to undermine merit, but enhance it—a concept that has clearly been violated in a system which has 92 percent white males and 3 percent women at its top levels.

I am pleased to report to you, as well, that plans to move a substantial portion of CSC's responsibilities for EEO and affirmative action to the Equal Employment Opportunity Commission are progressing well. Reorganization Plan I, mandating such a transfer, was recently cleared by Congress, and we have worked closely with both the White House and the EEOC to ensure that civil service reform and EEO reorganization are mutually supportive.

Now let me turn to the civil service reform drive, and specific aspects of the legislation.

There are some who maintain that the proposed personnel reform and reorganization is simply another Washington game of musical chairs.

Not true! We are proposing to simplify the complex personnel system, remove the inconsistencies, and speed up the process.

The basic civil service law, written in 1883, is still on the books. Certainly, the system has evolved, with a law here, and an Executive order there.

The tragedy of it all is that the changes have added more and more protections, against abuse and against arbitrariness, but there have been literally no changes designed to make it more possible for a manager to manage! So this reform reflects the first time the system as a whole has been studied, and solutions devised to match the problems.

The two legislative instruments which we're proposing are the Civil Service Reorganization Plan, or Reorganization Plan 2, which went to Congress today, and the Civil Service Reform Act of 1978, submitted to Congress on March 2.

The Reorganization Plan would split the Civil Service Commission into three agencies, namely:

The Office of Personnel Management which would help the President manage government's human resources, as does the Office of Management and Budget in managing government's finances.

The Merit Systems Protection Board which would be an independent agency to hear employee appeals, empowered to punish violators or abusers of the system.

The Federal Labor Relations Authority which would pull together several programs, and function for Federal workers much as the National Labor Relations Board does for private sector workers.

Let's get to the heart of these civil service reform proposals. The bill sent to Congress on March 2 contains the changes requiring specific Congressional action. It would:

Put into law the basic principles of the Federal personnel system. With the rules in a single law—rather than a hodgepodge of Executive orders, rules, legal precedents, and diverse statutes—we stand a far better chance of enforcing them. And, we are also providing the means to punish those who violate the rules.

Improve performance evaluation. The present system for appraising employee performance is an exercise in futility. Ninety-nine percent of all Federal employees receive the same rating—satisfactory. We would require each agency to develop its own performance appraisal system, tailored to its needs.

Allow agencies more authority. This should result in quicker decisions, since agencies won't need to go through the Office of Personnel Management on every personnel decision. That office would, of course, oversee the agency's actions.

Increase the range of choices in hiring decisions. The "rule-of-three" asks for our testing methods to make finer distinctions they now can provide. We therefore are proposing to allow a choice from the top seven candidates, or from an even wider range if circumstances merit. We want to be sure candidates have equal chances.

Provide incentive pay for mid-level managers and supervisors. By tieing pay increases to performance—not time in service—for managers and supervisors at the GS–13 through 15 levels, we would be adding greater motivation for those officials who are so crucial to improved government productivity.

Improve employee appeals procedures. This would put teeth in the Merit Systems Protection Board, giving enforcement authority to act against abusers of the system. It would also ensure appeal rights to all Federal employees, and would define circumstances when an agency whose decision was reversed would have to pay the appealing employee's costs.

Better use of the talents of top managers. We propose to create a Senior Executive Service with possibilities of greater pay for superior performance, as well as possibilities of easier removal for marginal performance. SES officials could be placed wherever their talents could be best used—regardless of agency. The greater risks would balance the greater benefits, but there would also be a fallback right to a GS–15 position for any career executive removed from an SES position.

Modify veterans preference to concentrate on those who need and most deserve these benefits, and to alleviate the adverse effects on women's opportunities. I've saved this issue for the last, since I would like to dwell on it.

Up until this administration took office, the topic of veterans preference was pretty much like the weather—everybody talked about it, but no one did much about it.

Such an attitude is unfair on the face of it. It serves no one's cause to leave rumor unchecked, charges unsubstantiated.

The fact that a heated controversy—should I say fight—on veterans preference could put the entire civil service reform package in jeopardy did not contravene, in our view, the need to get this issue out in the open, and to press for change.

Among the many documents and facts, now available, let me refer to just a few.

According to GAO, in a September 1977 report to Congress, because of veterans preference (and the appointment law, now repealed) many highly qualified women can't be certified for employment. Some women, said the report, with perfect or near-perfect scores, currently rank behind veterans with much lower scores. Non-veteran women need substantial extra qualifications to surmount veterans preference barriers.

The conflict, I might note, became more vivid during the 14 public hearings we held last year. One manager in California, for example, reported that his hiring effort for an entire year was wiped out, when, in a reduction in force, the veterans were retained and the women and minorities were "laid off," to use his expression.

The result of veterans preference is that half the Federal work force is veterans, and only 35 percent are women. Looking at grades, 65 percent of the supergrades are veterans, while 3.2 percent are women.

We propose to limit preference for non-disabled veterans to ten years after leaving the service. For retired military personnel, preference would be even more limited. Anyone retiring under the rank of major would receive preference for only three years after separation; those in the ranks of major or above would receive no preference.

During a reduction in force, non-disabled veterans would retain preference over competing employes only during the first three years after their first appointment. After that, non-disabled veterans' only advantage in RIF's would be a five-year credit added to their length of service computation.

I would point out that any contemplated reduction in veterans benefits would apply only to non-disabled vets. The disabled would continue to receive lifetime preference. In fact, we are proposing to make it even easier for disabled veterans to get Federal employment. Moreover, there would be special benefits for Vietnam era veterans.

Some States are already in the forefront of modifying veterans preference. In Oregon, State officials are already seeing more women and minorities on the certificates although the law was just passed in 1977. No doubt, we will find more women on Federal registers too, when the law is changed.

In closing, before I gird myself to answer the questions of this excellent panel assembled here, let me add a personal note.

To women who are building Federal careers, or who, as private citizens, are watching the Federal Government's drive for a more representative civil service, I would say the coming decades will indeed be years of controversy and challenge. Women are on the brink of a new world in Federal employment. Our goal of true equal opportunity will not be achieved next year or the year after. Passing a law or issuing a regulation alone cannot change a tradition quickly. But the path has been cleared; the design completed.

Whatever measures the Congress approves, I can assure you that we will persevere in our drive to rebuild and modernize the civil service system. We count on your support.●

## BEEF INDEMNIFICATION ACT OF 1978

### HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. MADIGAN. Mr. Speaker, I am pleased to introduce legislation today for the purpose of discouraging the President from further harming the domestic beef industry. My bill would achieve this purpose by requiring the Secretary of Agriculture to issue indemnity payments to cattle producers for economic losses incurred whenever the President acts to increase or suspend meat import quotas for any reason other than as part of an international agreement to expand agricultural exports from the United States.

The indemnity payments to the eligible producers would be calculated based on the difference in the price of cattle 120 days immediately preceding the President's announcement of import increases and the price of cattle 120 days immediately following the announcement of import increases.

President Carter's announcement on June 8, 1978, to increase meat imports by 200 million pounds has caused grave concerns among consumers, cattlemen, and corn growers.

The consumers are concerned about the President's decision because, in the future, as foreign supplies of beef tighten and U.S. cattle production decreases, beef prices may rise to a higher level than they are at the present.

The cattlemen are justifiably concerned since the price of fed cattle in feedlots across the country dropped from above $60 to less than $50 after the President's announcement. Thus, resulting in disastrous economic losses to the cattle industry who were just beginning to recover from a 5-year cycle of low prices and inflationary costs.

Corn growers will be adversely affected because the President's actions will decrease domestic cattle production, and thus reduce demand for corn and feedgrains.

Furthermore, the President's decision will adversely affect the balance-of-payments situation. The U.S. trade deficit for 1978 is projected to be a record $40 billion, an increase of $13 billion from 1977. It is estimated the 200 million pound increased beef imports will add further to that deficit.

In summation, I think the President's decision to increase meat imports by 200 million pounds was wrong because there will be no long term reduction in beef prices or inflation, but rather an increase in both with the undesirable possibility of costly cattle Government price support programs if cattle producers are denied reasonable profits in the marketplace. Therefore, it is my hope that this bill, the Beef Indemnification Act, will discourage the President from increasing meat import quotas in the future. I urge my colleagues to support this legislation.●

## MAYOR GEORGE R. MOSCONE OF SAN FRANCISCO AND AIRPORTS DIRECTOR HEATH URGE APPROVAL OF THE AIRPORT AND AIRCRAFT NOISE REDUCTION ACT AS PRESENTED BY PUBLIC WORKS AND TRANSPORTATION AND WAYS AND MEANS COMMITTEES

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. ANDERSON of California. Mr. Speaker, we would like to call to the attention of our colleagues a copy of a mailgram sent to some of us by Mayor George R. Moscone of San Francisco, accompanied by a longer message from Richard R. Heath, director of airports, San Francisco International Airport. Both strongly support the incorporation and approval, as requested by our respective committees, of H.R. 11986, Ways and Means, as title III of H.R. 8729, Public Works and Transportation, the Airport and Aircraft Noise Reduction Act, both of which are now pending before the Rules Committee.

The City of San Francisco badly needs passage of H.R. 11986, formerly H.R. 8729, Congressman Glenn Anderson's Bill. We urge you to prevent its being bottled up in the Rules Committee. I will not repeat the arguments forwarded to you by our Airports Director, Richard Heath. But I strongly request that you carefully consider his position and do whatever is necessary to permit the Bill to reach the House Floor. It is essential to this City's Airport which serves all of Northern California.

GEORGE R. MOSCONE,
*Mayor of San Francisco.*

I cannot stress sufficiently the urgency of the need for passage of H.R. 11986, formerly H.R. 8729, Congressman Glenn Anderson's Bill. This Airport, like most other major airports, is faced with massive costs for property acquisition or property easements if the aircraft fleet is not retrofitted or replaced with less noisy aircraft in the reasonably near future. Airport proprietors of this nation have been working diligently with Congress and the FAA for many years to bring about passage of this greatly needed legislation. It would be tragic indeed if these years of work were scuttled by the House Rules Committee through a refusal to allow this Bill to reach the House Floor.

We fully support Title III of this Bill which provides monetary assistance to the Airlines in paying for the conversion of their fleets on an accelerated basis. The funding mechanism provided is totally consistent with the long-established policy that the Air Transport industry should be paid for by the users of that industry. Air passengers and air shippers, and not the general public, pay the charge that creates the Trust Fund. Providing the airlines this financial assistance out of that Trust Fund will assure their compliance with the deadlines provided. Without this assistance you and all other members of Congress will be subjected to intensive pressure by the Airlines to relax the compliance dates so that they may utilize the older, noisier aircraft longer.

HR 11986 constitutes a fragile compromise agreement between all segments of the air transport industry, the traveling public and the airport neighbors who are affected by aircraft noise. If HR 11986 is stalled by the Rules Committee, that compromise will likely distintegrate. The result will unquestionably be a proliferation of legal actions nationwide requiring airports to buy up residential properties near airports. We estimate that the probable total cost to San Francisco Airport alone will exceed the total funding provided in Title III. Let's not kid ourselves that the Aviation Trust Fund will not be tapped for most of this cost. HR 11986 thus makes good sense from the economic standpoint alone. Failure to pass it will result in far higher costs in land acquisitions in the years to come. Failure to pass it will result in a boon to the lawyers bringing and defending those lawsuits, but will be a serious blow to airports, airport neighbors and to the traveling public.

We urge you to take immediate action to refer this Bill to the House Floor before that fragile compromise, painfully constructed over many years, comes apart at the seams.

RICHARD R. HEATH,
*Director of Airports,*
*San Francisco International Airport.*●

## THE TURKISH ARMS EMBARGO DEBATE, NO. 2

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an exchange of "Dear Colleague" letters on the issue of whether or not the administration has acted in a manner which has undermined the effective-

ness of the embargo and has signaled Turkey that it need not take the embargo seriously.

Following is a letter from the proponents of keeping the arms embargo against Turkey in which it is contended that the administration has been unwilling or unable to make the embargo work. In a second letter, I have tried to counter this argument and state why the embargo has not worked. I mention that there have been many U.S. efforts over the last 3 years to try to achieve progress towards a Cyprus settlement.

The two letters follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., July, 1978.*

UNDERMINING THE EMBARGO

DEAR COLLEAGUE: In imposing an embargo on American military aid to Turkey after Turkey's August, 1974, invasion and occupation of Cyprus, Congress had in mind two basic considerations:

The first was the need to enforce American law, which required that further military assistance to Turkey be terminated after American-supplied weapons were used by Turkey for offensive purposes on Cyprus.

The second consideration, and the focus of this letter, was the expectation that the Administration would use the embargo to convince Turkey of the need to take substantive actions to promote a just settlement on Cyprus.

Regrettably, the Administration has failed to do so.

Instead, this Administration, like the one which preceded it, has acted in a manner which has undermined the effectiveness of the embargo and has signaled Turkey that it need not take the embargo seriously.

The following brief summary of Carter Administration actions and statements concerning Cyprus—many of which have received little or no publicity in this country—makes this conclusion obvious. The summary also makes clear that the Administration's request that the embargo be lifted "because it hasn't worked" stands logic on its head: the embargo has not worked because the Administration has been unwilling or unable to make it work.

We think it essential, therefore, that the following facts be kept in mind in considering the Administration's justification for attempting to lift the embargo:

The Administration's first request for arms for Turkey, submitted by the State Department in March of 1977, sought a level of military assistance many times the level supplied by the previous Administration. This request, you may recall, engendered strong opposition and was ultimately substantially reduced. Turkey nonetheless received a forty percent increase in military sales (from $125 to $175 million) from 1977 to 1978 although it had taken no positive action whatsoever on Cyprus. The hope that this significant increase would induce such positive action on the part of Turkey proved empty.

The Department of Defense resorted to a little-known agency—the NATO Maintenance and Supply Agency (NAMSA)—located in Luxembourg, to supply Turkey with nearly $30 million of weapons beyond the restrictions in American law limiting the amount of military sales. Despite the vigorous protests of several Members, including the Chairman of the Subcommittee on Europe of the House International Relations Committee, who termed the action "a violation of the spirit, if not the letter, of the law", this circumvention of the military sales limitation continues.

The United States Mission to the United Nations, in an effort to avoid "offending" Turkey, voted with a very small minority last fall to weaken a General Assembly resolution which simply called for action toward a settlement on Cyprus.

The State Department submitted last February a report on human rights in Turkey and in Cyprus which was a deliberate whitewash of Turkish practices in both those countries. A State Department spokesman was quoted at the time as saying that the Department did not want to report anything which might make it more difficult to get Congress to approve lifting the embargo.

The United States Ambassador to Turkey declared in news interviews in Ankara, during the time when the Administration still claimed to support the embargo, that "the embargo doesn't serve any American interest," that "without changing the law (which prohibits United States arms to aggressor countries) I would like to find some way around it," and that "my only hope is that . . . it (the embargo) will be removed." High-ranking U.S. military officers made similar statements in the past eighteen months and thereby encouraged Turkish intransigence with regard to a just settlement on Cyprus. Obviously, the arms limitation could not be effective when the Turkish government heard high American officials publicly contradict the Administration's own policy on this issue.

The Secretary of State assured Members of Congress several months ago that before the Administration made any decision on whether to reverse its field and ask for a lifting of the embargo, the Administration would carefully study the actions and proposals expected from Turkey to insure that they represented substantive progress toward a Cyprus settlement. But the Administration soon backed down and—before Turkey had taken any action, indeed, before the Turkish proposals had even been submitted, let alone examined—asked for the lifting of the embargo anyway.

Not surprisingly, with all incentive to take actions on a Cyprus settlement having been eliminated, Turkey took no actions at all. Moreover, its proposals were so poor as to be regarded throughout the diplomatic community as virtually meaningless.

This sorry record shows clearly why the embargo "hasn't worked": these—and other—actions of the Administration have undermined it. The Administration has failed abysmally to convince Turkey that greater flexibility on Cyprus is essential to the resumption of a full military relationship with the United States. As a remedy for its own failure, the Administration now asks Congress to abandon principle and to ignore the clear requirements of American law. This we must not do.

We ask you, therefore, to join us in demonstrating that Congress, a co-equal branch of our government, believes in enforcing our laws by supporting the effective use of the arms embargo against Turkey.

Sincerely,

Dante B. Fascell, Edward J. Derwinski, Benjamin S. Rosenthal, John Brademas, Charles Rose, Parren J. Mitchell, Norman Y. Mineta, Paul E. Tsongas, Donald M. Fraser, James J. Blanchard, Barbara A. Mikulski, Benjamin A. Gilman, Mario Biaggi, George M. O'Brien, John L. Burton, Robert W. Edgar, Wyche Fowler, Jr., James J. Florio, Norman E. D'Amours, Martin A. Russo, Charles B. Rangel.

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COMMITTEE ON INTERNATIONAL RELATIONS

DEAR COLLEAGUE: This letter is in response to the second letter sent to you by the proponents of keeping the arms embargo against Turkey. Their second letter addresses the issue of whether the Administration undermined the embargo and whether it was unwilling or unable to make the embargo work.

Arguments made by the proponents of keeping the arms embargo against Turkey:

1. This Administration has acted in a manner which has undermined the effectiveness of the embargo and has signaled Turkey that it need not take the embargo seriously.

Counter:

1. The fundamental reason why Turkey has not acted more to promote a Cyprus settlement while the embargo has been in force is because, as a proud and independent nation, Turkey is not going to "buckle" under to American pressure.

Turkey has so stated publicly. The more we exert public pressure, the less likely will Turkey act. Turkey did not refuse to act on Cyprus because the Administration undermined the embargo.

2. If the proponents' argument were true, then continuing the embargo means continuing the status quo, which we all agree is unacceptable.

If it is true that the embargo has not worked because the Administration has been unwilling to make it work (we would acknowledge that neither this Administration nor the preceding one had enthusiasm for the embargo), then we cannot expect that attitude to change if the embargo continues. And if the attitude of the Administration does not change, we cannot hope for improvement in the situation if the embargo remains.

Proponents of the embargo argue that we have not had any progress on Cyprus but that we should continue the same policy.

I conclude the opposite: we have not made progress because we have pursued a policy that has not worked. Therefore, we need to try a new approach.

3. The Administration has complied with the embargo and made many good faith efforts to try to achieve substantial progress towards a Cyprus settlement.

A detailed list is available of over 100 contacts held since July 1974 in which the Administration strenuously urged the Turks of the necessity to be more forthcoming in order to achieve substantial progress toward a Cyprus settlement. There have been some important achievements, including an agreement between the Cypriot communities over the broad outlines of a settlement.

But a Cyprus settlement will require negotiations between the two communities on the island, which have proved very difficult while the embargo has been in effect.

The Administration acknowledges that Turkey was able to make a few purchases while the embargo was in effect from the NATO Maintenance and Supply Agency (NAMSA). Turkish NAMSA purchases have now been stopped and the loophole has been closed except for small purchases involving NATO partnerships over which NAMSA and the U.S. have little control.

The question of how hard the Administration worked to enforce the embargo is not now the relevant question. For whatever reasons, the embargo has not worked and lingering with it longer will only continue the existing, unacceptable situation.

I hope you agree that a new approach should be tried, and that the embargo should be lifted.

Sincerely,

LEE H. HAMILTON, M.C.●

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## A GOOD INFLATION FIGHTER

## HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. RHODES. Mr. Speaker, the mark of a truly good elected representative is his ability to recognize and support the

good ideas of others, as well as having good ideas himself.

My colleague and friend from Arizona, Congressman ELDON RUDD, is a man with such ability.

As a first-term Member of Congress, ELDON has introduced and cosponsored many worthwhile pieces of legislation that would benefit the American people. Many of these bills were inspired by his senior colleagues, who are experts on economic, budget, and Government policy, and other important issues facing our Nation.

By supporting and helping to promote these good ideas, so that they gain wider acceptance by the public and his colleagues, ELDON RUDD has proved himself to be a good inflation fighter, through attempts legislatively to balance the Federal budget, stop deficit spending, cut taxes, and reduce overburdensome Federal regulatory control.

It is a tribute to him, and to the people of Arizona's Fourth Congressional District who elected him, that he has achieved such an excellent record of legislative accomplishment, which has been recognized by his peers as well as by citizen and opinion leaders.

I know that I speak for a great many of his senior colleagues in Congress when I say that ELDON RUDD has earned our respect and admiration as a very capable representative.

ELDON's initiative and ability in proposing and supporting good legislation during his first term in Congress has been recognized editorially by the Phoenix Gazette, Arizona's largest statewide afternoon newspaper. I would like to include the Phoenix Gazette editorial in the RECORD to underscore Congressman RUDD's record of legislative accomplishments.

[From the Phoenix Gazette, July 24, 1978]

INFLATION ANTIDOTES

While the Carter administration is casting around for means of controlling the increasing rate of inflation, there are measures sitting in Congress that would provide means to this end.

Rep. Eldon Rudd, R-Ariz., is co-sponsor of many of these bills, and, as he pointed out recently, heavy taxation is only part of the total problem. The federal government uses tax money to build bureaucracies, which, in turn, find regulatory work to do. This adds almost $100 billion a year to the cost of producing products and services. This cost, of course, is borne by consumers who had the displeasure of financing all the overseeing in the first place.

Rudd is co-sponsoring legislation to cut taxes, require a firm ceiling for federal spending, to prohibit federal deficits and require balanced budgets. A look at taxation at all levels from 1967 to 1977 reveals the crying need for this reform.

State and local income taxes went up 405 percent. Property taxes increased by 132 percent. Sales taxes are up 199 percent, and corporate taxes rose by 112 percent. Social Security taxes jumped by 220 percent, and federal income taxes are up 125 percent.

Whatever the worth of a dollar earned, only 53 percent of it is real. The total tax bite is 47 cents on the dollar—dangerously close to one-half.

Inflation is Washington's chief export, and only at the source can this be stemmed. The means are available.●



## THE UNITED STATES SHOULD HONOR THE MEMORY OF DRAJA MIHAILOVICH

### HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. RUDD. Mr. Speaker, hundreds of American fighter pilots who were shot down by the Nazis over Yugoslavia during World War II owe their lives and their freedom to a Yugoslav patriot, now dead, by the name of Gen. Draja Mihailovich.

Mihailovich rescued and gave refuge to these American servicemen, and they now seek congressional support to honor his memory.

The problem is that the State Department is lobbying against legislation, sponsored by Senator STROM THURMOND, which has already passed the Senate, because Mihailovich was a political enemy of Yugoslav dictator Tito, who had Mihailovich shot after he came to power.

Senator THURMOND's bill, now bottled up in the House Administration Committee, would require the Secretary of Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain a monument to this valiant Yugoslav patriot.

The Arizona Republic has recently editorialized that Congress should forget about the State Department's unwarranted nervousness about offending dictator Tito, and pass the Mihailovich memorial legislation.

I wholeheartedly agree with that position, and commend that Republic's editorial to all my House colleagues. I would like to insert the editorial at this point in the RECORD:

[From the Arizona Republic, July 24, 1978]

TITO'S TANTRUM

Since the closing days of World War II, the name of Draja Mihailovich has been treated in official American quarters as some despicable family scandal. It simply isn't mentioned if anyone can help it.

But just as assiduously, a small and dwindling group of World War II fliers has been trying to elevate Mihailovich's name to heroic public proportions.

No one denies Mihailovich deserves hero recognition. But international diplomacy has gotten involved, and everyone knows that the politics of diplomacy frequently ignore logic or justice.

Mihailovich was the World War II Yugoslav patriot who took to isolated mountain hideways, and tied up thousands of Nazi soldiers with guerrilla raids on occupied Axis territory.

While in the mountains, Mihailovich and his Chetnik followers hid more than 500 American fliers who had been shot down behind Nazi lines. Most of them were airlifted to safety by the Chetniks.

But if Mihailovich hated Nazis, he also hated an old Yugolsav political foe worse—Josip Tito.

Unfortunately for Mihailovich, the Allies sided with Tito after the war, and presided over his installation as Yugoslavia's leader.

Mihailovich was arrested by Tito in 1948, tried for treason—a euphemism for opposing Tito—and shot.

Enter the ex-fliers who owe their lives to Mihailovich.

For years, they've been trying to move Congress into approving a monument for the executed Mihailovich.

What has happened every year is precisely what is happening this year, as another bill honoring Mihailovich bogs down in Congress.

Tito objects to the United States honoring the old nemesis whose fame he tried to wipe out with the firing squad.

As Washington columnist Jack Anderson reported recently, American Ambassador Lawrence Eagleburger was ushered to the Yugoslav foreign ministry, and handed an "energetic protest" about Congress creating a posthumous honor to Mihailovich.

The State Department also has joined in the hand-wringing, speculating that a monument to the Chetnik patriot would create "extreme umbrage" on the part of the Tito regime.

Such nonsense.

The United States should tell Tito where to get off.

Congress is not proposing that it honor the politics of Mihailovich. It is honoring the memory of a man, regardless of his Yugoslav politics, who risked his life to save the lives of hundreds of Americans.

The honor should be established, and let Tito vent his rage.

More to the point, there is a dramatic irony involved in this issue.

The American government is cowering in fear over the "extreme umbrage" that might be expressed if it honors a man who defied fear to save others.●

## THE KEMP-ROTH BILL

### HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. UDALL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: Mr. Speaker, I call your attention to an editorial published in the July 23, 1978, edition of the Arizona Republic, the largest newspaper in my State. The editorial is a ringing and articulate denunciation of the Kemp-Roth tax cut bill. This editorial is significant because for decades, the Republic has been a consistent, aggressive and conscientious champion of conservative politics. Their editorials always have been in the best tradition of American journalism—direct and forthright. Sometimes the Republic and I have been on opposite sides of an issue, and sometimes not. But I think in this instance they have taken a particularly courageous stand, and the newspaper deserves commendation. I recommend the editorial to my colleagues.

INFLATIONARY PROPOSAL

With the echoes of California's tax revolt still reverberating through Capitol Hill, a bill to cut personal income taxes by 33 percent over the next three years, and corporate taxes, as well, is gaining momentum in Congress.

The bill, introduced by Rep. Jack Kemp, R-N.Y., and Sen. William Roth, R-Del., already has won the endorsement of 176 congressmen. Bill Brock, chairman of the Republican National Committee, has called it a top GOP priority.

Since no legislator has ever failed re-election because he voted for a tax cut, there is

a chance that Congress will pass the bill. President Carter has said that, if Congress does, he will veto it.

In this, the president has proved himself a truer conservative than Kemp, Roth, Brock, et al, men who call themselves conservatives. For the bill is Keynesianism run amok.

Kemp and Roth argue that cutting taxes by a third would generate so much new investment and create so many new jobs that, within a year or two, government revenues would rise to a point where the budget would come into balance, even without a cut in the budget.

As evidence, they cite what happened after the Kennedy-Johnson tax cut. The economy did expand, and the increased revenues resulting from that expansion did put the Treasury into the black.

Voila! they say. The same thing would happen again.

The fallacy lies in the fact that 1978 is not 1963. The economy was then in the doldrums, running well below capacity. There was no shortage of skilled labor. And, most important of all, the rate of inflation was a miniscule 1.4 percent.

Today, we are enjoying 40 straight months of economic expansion, the longest such period in the history of the nation. Many industries are running at capacity or very near it. There is a growing shortage of skilled labor.

And inflation, during the second quarter of the year, was running at the horrendous annual rate of 10 percent.

As Walter W. Heller, the architect of the Kennedy-Johnson tax cut, has pointed out, it did not lead to increased capital investment, as Kemp and Roth seem to believe, but to increased consumer demand, which took up the slack in the economy.

There's no slack now. Pouring billions of dollars into the hands of consumers will simply send prices sky high. The nation will start looking back at 10 percent inflation with longing.

There is a need for a tax cut to stimulate capital investment, for that is the weakest spot in the economy. Industry is not spending nearly enough on new plants and equipment.

However, the need is for a tax cut specifically designed for the purpose of encouraging such expenditures—a decrease in the corporate tax and in the capital gains tax, a rise in the investment tax credit, the end of double taxation of dividends, a change in the method of computing depreciation.

Politically, it would be impossible to enact any of these measures without giving individuals tax relief, too, and that should be done, but not in the meat-ax way that Kemp and Roth propose.

A 33 percent cut in the federal income tax could have no other result than runaway inflation.●

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## VIETNAM VETERANS

## HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 28, 1978*

● Mr. WOLFF. Mr. Speaker, the problem of veterans employment is a serious one. As I'm sure you realize, Vietnam veterans are often the last hired and the first fired. Furthermore, the economic recession of 1975 brought veterans' unemployment to an all time high.

Consequently, Congresswoman MARGARET M. HECKLER and myself have produced what we hope will be a fruitful analysis of the current situation facing the veterans. We hope our recommendations will prove worthwhile and appropriate action will be taken. It is for this reason that we wish to bring the report to the attention of the colleagues.

VETERANS EMPLOYMENT—ANALYSIS AND RECOMMENDATIONS

(By LESTER L. WOLFF and MARGARET M. HECKLER)

Veterans' unemployment is primarily counter-cyclical rather than structural. Vietnam veterans' and disabled veterans' underemployment is both structural and countercyclical. In 1973 when veterans' unemployment reached its lowest level (4.9 percent), then President Nixon declared that "veterans' unemployment is no longer a national problem." The economic recession of 1975 brought veterans' unemployment to an all-time high (10.5 percent). The average Vietnam veteran is now 31 years old. He has a wife and two children, and a high school education. The veteran is seeking a secure and meaningful career in the private sector commensurate with his peers who did not serve in the military.

Vietnam veterans are often the last hired and first fired. Many lack the training and skills necessary to acquire careers equal to their abilities and aspirations. A viable solution to the unemployment and training of the disabled and Vietnam veterans lies in the private sector, not in subsidized public service employment. Effective private sector career training initiatives and interfaced with Veterans Administration Apprenticeship On-the-Job Training (OJT) and cooperative benefits should be the primary solution to the employment and training needs of the disabled and Vietnam veteran. The substantial potential that lies in the HIRE II program may be lost because there is not sufficient technical assistance, training, and guidance to ensure effective implementation of the program. HIRE II funds can be spent as CETA title I OJT programs.

However, CETA title I training opportunities are far below the employment capabilities and aspirations of the majority of the disabled and Vietnam veterans. To utilize the HIRE II program in the same manner as a CETA title I program would be a tragic disservice to veterans and the future of veterans employment initiatives. To realize the full potential of the HIRE II program, the maximum feasible effort should be made to interface HIRE II with Veterans Administration Apprenticeship, OJT, and cooperation benefits programs. To facilitate this objective, the Veterans Administration (VA) and the Veterans Employment Service (VES) must play an integral role in the development and implementation of the HIRE II training opportunities. It appears that the VA and the VES are being denied the opportunity to utilize their full potential in ensuring the success of the HIRE II program. The Department of Labor (DOL) press release announcing the appointment of Mr. Weatherford as Acting Deputy Assistant Secretary for Veterans Employment (DASVE) states that, "a number of the Department's programs helping veterans, including the HIRE program, are not under his supervision." CETA prime sponsors have the ability to implement HIRE II as a CETA title I OJT program without the assistance of the Veterans' Administration and the Veterans Employment Service. However, the programs' real potential cannot be realized without the maximum contribution and cooperation of the agencies and organizations concerned with veterans employment. Since the HIRE II program is exclusively a veterans program, the talents and resources of the DOL and the nation's veterans employment specialists must be fully utilized in order to ensure its success.

To this end it is recommended:

1. That the Veterans Employment Service and the Veterans Administration be given a major role in the technical assistance and training program to ensure that CETA prime sponsors, the Veterans Employment Service, veterans service organizations, and other organizations and individuals concerned with the development and implementation of HIRE II are full aware of its provisions and how to effectively implement them;

2. That specific goals be established for the interfacement of HIRE II with Veterans Administration OJT apprenticeship and training programs;

3. That a HIRE II orientation guide be prepared to ensure effective interpretation and implementation of the HIRE II program by all concerned; and

4. That maximum effort be made to ensure the future of the HIRE II initiative once the initial funding is expended.

To improve employment services to veterans within current fiscal and manpower resources there must be a greater emphasis on qualitative services to disabled and Vietnam veterans, rather than a quantitative increase in "compliance indicators" to all veterans. Without additional fiscal and manpower resources, any quantitative increase in the Employment Service indicator requirements would probably result in a qualitative decrease in services to many of the most needy disabled and Vietnam veterans. These veterans require the greatest individual attention in both counseling and job development. Current acquisition of employment through the employment service is often predicated upon the veteran being in the employment service office at the time the job opening is posted. Greater emphasis must be placed on counseling, skills assessment, and meaningful career development and training for disabled and Vietnam veterans. Employment Service offices must have the capability of promptly notifying veterans when an appropriate employment opportunity becomes available, and ensuring that the veteran is qualified, motivated, and prepared when referred to an employment opening. To this end it is recommended:

1. That the Disabled Veterans Outreach Program (DVOP) be continued at current strength (2000) or expanded through a combination of Federal funding and State and local CETA contributions to sustain and expand DVOP initiatives. PSE slots could be allocated by prime sponsors to local employment service offices to fund DVOPs. The role of the DVOP should be expanded to include services not only to disabled veterans, but also to Vietnam and other veterans as deemed necessary and appropriate;

2. That the counseling resources of the Veterans Administration be made available to the Employment Service to assist veterans with benefits, career planning, personal adjustment, and motivational problems, and possible cooperative outreach efforts with the VA; and

3. That greater technical assistance, training, and support be accorded to local employment service offices and DVOPs to ensure that they are fully apprised of the resources available to them and can provide necessary employment services to veterans.

In a letter dated May 4, 1978 to Congressman Lester L. Wolff (D–NY), Secretary of Labor Ray Marshall stated that the "DASVE program plan, or "Veterans Helping Veterans" program, has been carefully reviewed and a decision has been made to provide $10 million for a new veterans outreach and job development program, concentrating on target cities with high unemployment among veterans, particularly minority veterans. This program is still in the planning stage and will be announced in the near future."

The Department of Labor apparently wishes to reduce that amount to only $3 million. This amount is insufficient and repre-

sents only the funds necessary to sustain viable existing veterans outreach and supportive service programs. Many of these programs were assured that their funding would be assumed and their programs expanded by the Office of the Deputy Assistant Secretary for Veterans Employment, upon notification by Secretary Marshall and Assistant Secretary Green that a $10 million "Veterans Helping Veterans" program had been approved.

In a June 29 letter to President Carter, Rep. Margaret M. Heckler stated that "full and effective implementation of Vietnam veteran initiatives advanced by both yourself and the Congress must be supported by the Department of Labor's $10 million 'Veterans Helping Veterans' technical assistance and training programs, and by support for community-based veterans' self-help initiatives." Rep. Heckler noted that such funding will enable development of 'workable new veterans job development, outreach, supportive service, and demonstration projects."

Such a community-based effort was mandated by Section 305 of P.L. 95–93 and was an integral element of the nation's readjustment efforts for veterans of World War II. It is recommended:

1. That the "Veterans Helping Veterans" effort be funded on a case by case basis at the announced level of $10 million;

2. That maximum effort be made to allocate CETA PSE's to viable "Veterans Helping Veterans" projects to fund their staffs;

3. That a concerned technical assistance and training program be initiated as soon as possible to facilitate effective implementation of program initiatives. The success of veterans employment programs is to a far greater extent predicated upon the effective utilization, coordination, and interfacement of existing programs and resources than it is to the allocation of additional fiscal resources. One of the biggest problems facing the veteran is a lack of understanding of his needs, and how to target existing resources to address those needs; and

4. That maximum use of community-based resources, traditional service organizations, and Veterans Administration resources be utilized in the implementation of the "Veterans Helping Veterans" program.

In a letter to Secretary of Labor Ray Marshall, Congressman Wolff expressed concern that the effectiveness of the Deputy Assistant Secretary of Labor for Veterans Employment was impeded by a lack of operational control over the programs within its jurisdiction as well as the permanent professional staff resources needed to implement those programs. While the Office of the DASVE was established by Congress over 18 months ago, it still has not been allocated professional staff positions by the Civil Service Commission. Currently the Veterans Employment Service is operating with only 10 of its 15 authorized professional staff members, the vacancies occurring at critical senior policy development and implementation levels.

In a June 27 letter to Labor Secretary Ray Marshall, Rep. Heckler called for reestablishment of the position of director of the Veterans' Employment Service. She called for the appointment of a "highly qualified individual who is an aggressive veterans advocate, and one who has the confidence of the veterans community, to this important post. Mrs. Heckler noted that the abolition of the Director position has seriously affected the operation of the 200 VES personnel in the field. Rep. Heckler stated that reestablishing the position of director, and refocusing the strength of the Veterans Employment Service, would bring credibility to the operation of the VES among veterans organizations.

There appears to be an effort to curtail the statutory responsibilities of the DASVE and the Veterans Employment Service. The Department of Labor press release announcing the appointment of Acting Director of the DASVE Lawrence Weatherford states in part: "the Act specifies that the Deputy Assistant Secretary is the principal advisor to the Secretary (on) unemployment and training programs to the extent they affect veterans. A number of the Department's programs helping veterans, including the HIRE program, are not under his supervision."

The law states in fact that the DASVE "shall be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all policies and procedures . . . of the Department of Labor employment, unemployment, and training programs to the extent they affect veterans." The law further states, "to this end policies shall be promulgated and administered by a Deputy Assistant Secretary of Labor for Veterans Employment, through a Veterans Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum employment and training opportunities through existing programs, coordination and merger of programs and implementation of new programs."

While the DASVE and the Veterans Employment Service should not be a separate employment and training delivery system within the Department of Labor, they must be utilized to their fullest capability to facilitate the effective formulation and implementation of programs administered by existing delivery systems to the extent they affect veterans. This working relationship can be readily established provided that the DASVE and the Veterans Employment Service are accorded their proper role within the Department of Labor. To this end it is recommended:

1. That the Civil Service Commission authorize as soon as possible permanent staff positions for the Office of DASVE, and that highly qualified persons be appointed to such positions on a temporary basis until a new DASVE is chosen;

2. That the position of Director of Veterans Employment Service be restored;

3. That qualified persons from the VES field staff be detailed on a temporary basis to the national office to ensure effective program development and implementation until the professional staff vacancies in VES can be filled permanently;

4. That the veterans employment specialists in the DASVE, VES, and the VA be utilized to their fullest extent to ensure the effective implementation of all DOL employment and training programs affecting veterans; and

5. That a technical assistance and training program be initiated to ensure effective implementation of current and new veterans employment and training program initiatives.

Legislation (H.R. 13373) has been introduced by U.S. Representatives Heckler and Wolff which would extend the 10-year delimiting period for veterans to participate in Veterans Administration OJT, apprenticeship, and cooperative programs. Enactment of this legislation is critical if the Administration initiatives are to effectively address the needs of Vietnam combat veterans. The legislation falls within the parameters of the fiscal resources available to the Veterans Affairs Committee for new initiatives.●

# SENATE—*Monday, July 31, 1978*

*(Legislative day of Wednesday, May 17, 1978)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

*The Lord is my light and my salvation; whom shall I fear? the Lord is the strength of my life; of whom shall I be afraid?*—Psalms 27: 1.

Almighty God, in whom we live and move and have our being, we do not know what the future holds but we know who holds the future. Thou dost hold the world and all things in it now and forever. Thou art above all men, above this Nation and all nations. In our good deeds and our misdeeds Thou art our refuge and our strength. Once more we ask Thee to enfold our little lives in the vastness of Thy love and wisdom that we may be our best selves. Show us what to do and how to do it. May we go forth into the new week in quest of the true, the beautiful, and the good, following the Lord of our salvation. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., July 31, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The acting Republican leader (Mr. STEVENS) is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, does the majority leader desire to use his time?

The ACTING PRESIDENT pro tempore. The majority leader relinquishes his time under the standing order.

Mr. STEVENS. Mr. President, I yield the time of the minority leader to the distinguished Senator from Wyoming (Mr. HANSEN).

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

## CONFERENCE REPORT ON NATURAL GAS LEGISLATION

Mr. HANSEN. Mr. President, the proposed conference report on natural gas legislation released today is not a solution to our problems caused by regulation of natural gas; it is a continuation of these problems.

There has been only a brief time for me and my staff to review the documents, but several important items are already clear.

First. This bill will increase regulation, not end it. When it takes more than 300 pages of paper just to set forth the new control scheme, you know that simplification and freedom are not what the authors had in mind. This scheme will not only control producers, but will put all gas users at the mercy of the Federal Energy Regulatory Commission's pricing powers.

Second. Enormous complexities and regulatory silliness abound in the bill. For example: If you drill 800 feet deeper from an oil well, the gas you find is not thereby new gas; but if the oil well also produces from a shallower gas horizon, then the gas you find by drilling deeper would be new gas. What is the sense in that? There is not any. There are hundreds of similar examples.

Third. Despite the vast amount of time invested in the gas question, the actual drafting of these documents was done in great haste. Matters of great importance in the statutory language were settled cursorily after staff disagreement, or left unresolved, simply to meet the time deadline imposed. All interested Senators and citizens should realize that these documents are not official unless signed by a majority of the conferees. I know that conferees will not sign the report as it stands if their careful inspection leads to the conclusion that improvements are needed.

Fourth. There are several major areas where the documents do not seem to reflect my understanding of what was agreed to based on the public record. I recognize that I do not have access to the secret legislative history of the secret meetings leading to this bill, but I would hope that these were reflected in the public discussion.

First, the conferees certainly intended that gas now flowing in intrastate markets would not be treated as controlled interstate gas. Yet, as a result of a very strained interpretation of the recent Supreme Court decision in the Southland case, the draft documents are deliberately designed to allow FERC to bring virtually all gas under the rules that are applied to controlled interstate gas.

Second, it was my understanding, following the arguments made for the original House bill, that the agreement meant that at least new gas was not subject to the regulatory burden of certification by FERC, even though it was subject to price control, and to specified nonprice regulation. This idea has been abandoned in the draft.

Third, the draft does not reflect the widely heralded message of the compromise that producers of new gas were assured a real growth rate of 3.5 percent or 4 percent per year in their ceiling price. This understanding, even though confirmed by the very analyses used by the House Members to sell the compromise, has now been abandoned.

Fourth, the agreement seemed to deregulate all gas that could be produced from new wells deeper than 15,000 feet, and new wells specifically included deeper drilling in an existing well. This too has been changed, so that a producer who wants to try for high-risk deep gas by deepening an existing well is forced instead to go out and waste money and material in drilling a whole new well from the ground down, perhaps only 50 yards away.

The economic analysis contained in the conference report correctly states (perhaps its only correct statement) that the question at issue is whether to equalize the interstate and intrastate markets by freeing the regulated or by regulating the free. This bill manages the amazing feat of taking the worst features of both.

It presents such a web of controls and regulations that, as Senator BUMPERS aptly said, it will not produce more gas than the current system, where the heavy producing areas can respond to a free market. And yet, as all analyses have shown, it will raise consumer prices above their level under the status quo.

How did this disaster come about? The House and Senate each passed a bill that, in their different ways, represented a coherent philosophy, and a considerable period of careful thought. The draft, as produced, represents nothing but a fevered attempt to find a ground on which 51 percent of the conferees can stand, so that the President can say that he has passed an energy plan. The details of this bill have been taken as set in concrete based on hurried conferences and last-minute agreements. This is no way to legislate. We should not throw away our energy future, for at least the next 7 years, just to give a President, a Senator, or a Representative campaign ammunition. I think we should turn off this summer rerun, and produce a bill early in the new Congress that will unleash the productive genius in the American people.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. DECONCINI). Under the previous order, the Senator from Nebraska (Mr. CURTIS) is recognized for not to exceed 15 minutes.

Mr. CURTIS. Mr. President, I commend the distinguished Senator from Wyoming. The Senate and the Nation owe much to the work that he has performed in the field of energy over the years, and this clear statement of his merits the consideration of the entire country. I commend him for it.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Mary Gore of Senator STEVENS' staff be permitted access to the floor today.

The PRESIDING OFFICER. Without objection, it is so ordered.

## S. 3355—LET THE PEOPLE HAVE THEIR SAY

Mr. CURTIS. Mr. President, I rise to speak about the economy of our country. In years gone by, our attention has been directed to the threat of inflation. We are no longer dealing with threats. Inflation is here.

Practically all prices have skyrocketed. The cost of acquiring a home is now prohibitive for many people. It was said recently that the day will soon come when a modest home will cost $600,000, while the average wage will then amount to $250,000 a year. If that comes to pass, everyone who is toiling now and buying life insurance, investing in savings, and paying social security tax at the present wage base will face disaster.

Mr. President, I flatly deny that I am a prophet of gloom and doom. I believe that there is still time to rescue our economy. I believe that the American people are more intelligent and more concerned about the future of our economy than most people in the political world. I believe that if the American people are given the facts, they will muster the courage and the self-discipline necessary to see to it that the finances of our Federal Government are placed in order. I think it is of great importance that we find out just what the people think about the financial practices of our Federal Government.

The high cost of living, our runaway inflation, and the devaluation of the dollar all represent the same problem. High prices are but a symptom. We must look to the root cause. Our economy is complex and I do not propose to offer an all-inclusive diagnosis of our ills. There are, however, some very important and principal causes of our economic woes. The first is the ruinous and wasteful spending of the Federal Government which results in continued deficits, high taxes, a mounting national debt, and the very damaging inflation that presently exists. The other cause which must be

mentioned is our trade policy. For instance, we buy billions of dollars of goods from Japan. But Japan, in turn, imports many billions of dollars less from us. This means that Japan soon has an excess supply of U.S. dollars, which subsequently become less valuable in Japan and elsewhere.

In 1960, about one American out of three made his living in manufacturing. Today, only about one American out of four can find a job in manufacturing. But, it is not my purpose today to talk about trade. I wish to talk about the larger of the two problems, the finances of the U.S. Government.

Spending is at an all-time high. According to the Congressional Budget Office, spending in this fiscal year will reach the total sum of $452 billion and the tax revenues will only amount to $401 billion. This leaves a deficit that is unpaid. We are going into debt by that amount. We are leaving the consequences for tomorrow and for our children's tomorrow.

The deficit now being incurred by the Federal Government is not a one-time deficit due to some disaster. It is the established pattern of the Congress of the United States. This pattern has been followed for almost a half-century with but occasional bright spots. It is true that deficits in the past were not nearly as large as those of today, but the seeds were then planted for our present crisis.

The problem is a difficult one. It cannot be fully met by a more efficient operation of government and the elimination of waste, even though these things are of great importance. If we are to save our country financially, we will have to decide how much government we can afford. We must take the case to the people and let them decide. If the people are allowed to speak and the Congress of the United States takes their advice, all the pessimism that haunts me concerning the future will disappear and I will once more revert to my natural state of enthusiastic optimism.

Mr. President, I am introducing a bill today that calls for an advisory referendum with respect to a balanced budget. It is my hope that this bill could be promptly enacted and that every State in the Union will participate in this referendum.

This proposal calls for placing on the ballot in every State a referendum, to be voted upon in the general election to be held in November 1978. This will give the voters a chance to express themselves on Federal spending. It will give the people an opportunity to give guidance to the Congress and to the President as to the financial policy we should follow. The people should decide whether or not our Government should continue its long-established practice of deficit spending or start now to reduce expenditures and bring the budget in balance in a short period, such as 2 years. The ballot will inform the voter that he is asked to express an opinion on our spending policies and the voter will be instructed to vote for one of the two following alternatives:

First. That a start be made at once to reduce Federal spending, and that a balanced budget be reached within a period of the next two fiscal years; or

Second. The Federal Government should continue its present practice of deficit financing.

The States will be called upon to tabulate and certify the results by State and congressional district and transmit the same to the President of the United States, the Speaker of the House of Representatives, and the President of the Senate.

The voter will be informed right on the ballot that is used that the results of the polling are advisory only and shall have no legal effect.

If this is done, it will have a great moral and political effect on the country and on the Congress. The people are sovereign and if they wish to speak they will exercise that sovereignty. I have great confidence that they will direct a course that is sound and best for our country.

This bill provides that there shall be paid to each State, for the purpose of doing this, the sum of 1 cent multiplied by the number of voters who cast votes in the general election in November 1976.

Mr. President, the question may be raised: Why do I propose that the voters have a chance to choose between an immediate start of spending retrenchment with a balanced budget to be obtained within 2 years, or the continuation of the present deficit financing, and not give them a chance to vote on a balanced budget to be obtained a few years further down the road? My answer to that is that such plans for balancing the budget several years down the road always fail—they never work. They must be cast in the category of broken political promises.

Mr. President, I hope that this proposal will have immediate and favorable action by the Senate and the House of Representatives.

Mr. President, on behalf of myself and the Senator from Delaware (Mr. ROTH), I send a bill to the desk for appropriate reference.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

## ORDER OF BUSINESS

Mr. CURTIS. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUMPHREY). Without objection, it is so ordered.

Mr. PROXMIRE. Madam President, I ask unanimous consent that the time of the Senator from Tennessee, the minority leader, be transferred to me. I understand that this has been cleared on the minority side.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HUMAN RIGHTS ESSAY REMINDS US OF THE NEED TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Madam President, I recently received a letter from Archbishop Iakovos of the Greek Orthodox Church of North and South America. He enclosed an essay entitled "Human Rights," by Prof. Constantine Tsatsos, a Greek legal scholar and philosopher. In his treatise, Professor Tsatsos critically explores several philosophical questions concerning human rights. He begins his essay with a definition of human rights. I quote:

> All rights are validated that guarantee the individual a sphere of free action for the cultivation of his creative powers . . . And all must have the possibility of creative activity; the activity of one may not impinge on that of another.

Professor Tsatsos further explains why human rights are vital and why they must be protected vigorously. Again, I quote:

> Man's destiny (is) to create the material, civilization, (and) rights exist to that general end.

Underlying Professor Tsatsos' discussion is a right of which I have often spoken on this floor—the right to live. How can individuals think or act creatively if they fear for their lives? If people know that they may be killed merely because of their race, ethnic origin, nationality, political, or religious beliefs. How can we expect them to contribute positively to civilization? The right to live is fundamental, and the foundation upon which every other right is built.

Madam President, we must defend and protect the right to live. Professor Tsatsos' essay eloquently reinforces how imperative our active advocacy of human rights is, particularly the right to live.

This Senate can and should act to help to guarantee the right to live. We must ratify the United Nations Genocide Convention. Eighty-three nations have acceded to the treaty, and every President since Truman has favored its ratification. Daily we are reminded of atrocities that threaten the lives of thousands of people, and as Professor Tsatsos reminds us, the violation of human rights threatens to undermine our entire civilization.

Madam President, I urge the Senate to ratify this crucial human rights convention.

Mr. JAVITS. Madam President, I wish to comment again on the indefatigable, extraordinary and exemplary work which Senator PROXMIRE does daily with respect to the genocide treaty, I am full of admiration.

I deeply believe that, as time goes on and we see more Ugandas and Cambodias

and other comparable tragedies, we will succeed.

I am very thankful that Senator PROXMIRE, almost singlehandedly, keeps this vital, human, and world issue alive. I am very grateful to him.

Mr. PROXMIRE. Madam President, I thank my good friend from New York.

I have spoken many times over the last 11 years with respect to this treaty on the floor of the Senate; but I think that the distinguished Senator from New York, with his very strong and consistent and always very intelligent advocacy of the genocide treaty in the Foreign Relations Committee, represents by far the best hope of getting this treaty ratified.

I recognize it is going to be very difficult to get a treaty like this, as it is controversial, and it is likely to tie up the Senate, enacted this year, although I am hopeful we can move forward on it.

I plead to the leadership at the very least to put it first on the agenda and give it top priority next year when, of course, there will not be the same problems that we have at the present time so that we can at long last join the other nations of the world, the overwhelming majority of the nations, virtually all of our allies in the world, all of the free nations and many of the Communist nations which have done this.

Mr. JAVITS. Madam President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. JAVITS. My recollection is that a treaty that is reported out survives the end of a Congress. That is my recollection.

I will discuss with the Foreign Relations Committee, and I will make it my business to get it on the agenda again, the possibility of reporting it out so that in those so-called dog days of the new Congress, when we are organizing, et cetera, that time may be taken without harm to some other major national issue which may be also of high priority but which we could not get to anyhow in January or February, and I might say to the Senator that I believe the great majority of the Foreign Relations Committee is ready again to report out the Genocide Treaty. But I think the leadership, ever since Mike Mansfield's day here, has felt that we simply have to produce the votes for cloture at the same time that we report out the treaty, but it may very well be that with this time lag we are talking about and if we could get the President, and I will personally appeal to the President, to give really high priority and strong backing, we may be able to get the leadership to defer the proof of the votes being there until next year because there will be a good many new Senators, and so on, and at least by reporting out the stage will be set for action in those days when Congress is being organized, et cetera.

Mr. PROXMIRE. Madam President, this is very encouraging. I think the time has come now, and we have said this before, but I do think the situation is different. The dramatic effect of that TV series "Holocaust" which demonstrated, as has no dramatic action that I can recall, the viciousness of genocide, the fact that genocide is continuing in Cambodia, Uganda, elsewhere in the world, and the initiative the President of the United States is now taking to make human rights the centerpiece of his foreign relations policy, all these should contribute, plus the fact that the American Bar Association no longer opposes the genocide treaty and now favors it. I think these are the elements that should enable us to pass this treaty, I hope overwhelmingly, next year.

Mr. JAVITS. I will join with the Senator and I think with others to see if we can work that out.

I thank the Senator very much.

Mr. PROXMIRE. I thank the Senator.

Madam President, I understand under the arrangements that have been made it is proper for me to yield back the time of the minority leader at this time so that action can commence on the pending business.

The PRESIDING OFFICER. The Senator is correct.

## BRETTON WOODS AGREEMENTS ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2152, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2152) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund.

The Senate resumed consideration of S. 2152.

Mr. SARBANES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second asistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Madam President, I ask unanimous consent that Karin Lissakers and Janice O'Connell, of the Foreign Relations Committee staff, and Cliff Hackett, of my staff, be accorded the privilege of the floor throughout the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3390

(Purpose: To amend the Bretton Woods Agreements Act)

Mr. ABOUREZK. Madam President, I call up amendment No. 3390 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK), for himself, Mr. MARK O. HATFIELD, Mr. BAYH, Mr. RIEGLE, Mr. MCGOVERN, Mr. ANDERSON, Mr. PROXMIRE, Mr. WEICKER, and Mr. LEAHY, proposes amendment numbered 3390:

At the bottom of page 4, add the following:

SEC. 3. The Bretton Woods Agreement Act, as amended by sections 1 and 2 of this Act, is further amended by adding at the end thereof the following:

"SEC. 29. (a) The Secretary of the Treasury shall instruct the United States Executive Director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the Managing Director of the Fund and other member country Executive Directors with regard to encouraging the staff of the Fund to formulate stabilization programs entered into pursuant to loans from the Supplementary Financing Facility which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

"(b) In accordance with the unique character of the Fund, the Secretary of the Treasury shall direct the United States Executive Director to take all possible steps to the end that all Supplementary Financing Facility transactions, including economic programs developed in connection with the utilization of Fund resources, do not contribute to the deprivation of basic human needs, nor to the violation of basic human rights, such as torture, cruel or inhumane treatment or degrading punishment, prolonged detention without charge, or other flagrant denials of life, liberty, and the security of person; and to oppose all such transactions which would contribute to such deprivations or violations.

"(c) In order to gain a better understanding of the social, political, and economic impact of the Fund's stabilization programs entered into pursuant to loans from the Fund's Supplementary Financing Facility on borrowing countries, especially as it relates to the poor majority within those countries, the United States Governor of the Fund shall prepare and submit, not later than one hundred and eighty days after the close of each calendar year, a report to the Congress. Such report shall evaluate, with respect to countries to which loans are made by the Supplementary Financing Facility during each year, the effects of policies of those countries which result from the standby agreement(s) on the ability of the poor in such countries to obtain:

"(1) an adequate supply of food with sufficient nutritional value to avoid the debilitating effects of malnutrition;

"(2) shelter and clothing;

"(3) public services, including health care, education, clean water, energy resources, and transportation; and

"(4) productive employment that provides a reasonable and adequate wage.".

Mr. ABOUREZK. Madam President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is there a time agreement on this amendment or others on this bill?

The PRESIDING OFFICER. No, there is not.

Mr. ABOUREZK. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The order is that there shall not be a vote before 3 o'clock

today. Would there be time, with the consent of the managers of the bill, for additional supplementary debate when there are more people on the floor?

The PRESIDING OFFICER. The order provides that there will be no votes prior to 3 o'clock, no roll call votes.

Mr. ABOUREZK. Are there other votes backed up or will there be other votes backed up at 3 o'clock or will this be the only vote at 3 o'clock?

The PRESIDING OFFICER. That remains to be seen.

Mr. JAVITS. Madam President, will the Senator yield to me? The understanding is only that no votes will occur before 3 o'clock, which means that if Members talk they might talk until 6 or 7 or 8 or 9, so that many Senators will be here, if that is what the Senator is waiting for, except that we do not vote until we stop talking unless there is a motion to table, and even a motion to table will not be made, I would advise the Senator by this particular manager, until 3 o'clock. Thereafter it is open season. But certainly I would not wish to foreclose a modest amount of debate for a little while after 3.

According to our schedule there will be—the general attendance will come in beginning at about 1 or 1:30, so that 3 o'clock is kind of an arbitrary period because, according to our schedule, most Members who are not here will arrive between 1 and 2 o'clock this afternoon. A relatively few will come after 4, so we may not have to wait for them. On my list there are one or two who come in at that time. I do not know about the Democratic list. The Senator, I am sure, can get that. So I think the opportunity for debate with the presence of Senators will be very ample, and it is entirely within the control of the Members and also of the managers in terms of tabling, and I have already given the Senator from my side my assurance on that score.

Mr. ABOUREZK. I thank the Senator.

Mr. JAVITS. I have the list here. It is a fact that we have only one Member who will not be here until 4:30.

Mr. ABOUREZK. Madam President, this amendment has bipartisan support. If I may, I would like to read the cosponsors. In addition to myself they are Senators MARK O. HATFIELD, BAYH, RIEGLE, MCGOVERN, ANDERSON, PROXMIRE, WEICKER, and LEAHY. In addition it has support from people who are not cosponsors on both sides of the aisle.

This amendment calls for the U.S. delegate to the Fund to take steps to insure that a Fund's transaction does not contribute to the deprivation of the basic human rights and needs of the citizens of a borrowing country and to oppose such loans which would contribute to these deprivations.

All too often, the economic hardships associated with IMF-related reforms are concentrated among the poorest people in the borrowing countries. Several recent examples have shown that social programs, such as food subsidies, are the first to be eliminated or reduced. While it is recognized that certain international economic reforms are necessary to counteract short-term balance-of-payment difficulties, this amendment would help insure that the burden of these reforms is shared equitably by the citizens of a borrowing country.

Peru is a country which was forced to accept IMF-imposed conditions in order to qualify for a badly needed loan. The conditions which prejudicially affected the poor people precipitated riots and strikes, resulting in the imposition of martial law and the suspension of constitutional rights. An article in the Washington Post in February on Portugal's economic status states that—

> The IMF is insisting on what sober, conservative people regard as draconian measures. Portugal's fear that if such harsh terms are accepted in steeper credit cuts and sky-high interest rates, hundreds of small companies will go bust and the number of jobless—most of them unprotected by employment benefits, will reach even more drastic totals.

The arguments for this amendment are compelling, not only because of the recent hardships suffered by Peru, Egypt, and now Jamaica as a result of IMF-imposed policies, but because it is time we stopped the erosion of congressional control over our foreign aid programs and their policies. This amendment provides a legitimate exercise in congressional authority. In fiscal year 1976, the Congress authorized only 31 percent of total U.S.-related, Third World aid or about $8 billion out of a total of $25 billion. Bilateral foreign aid programs have been brought under closer congressional supervision, but by contrast, the institutions like the IMF have more than doubled their spending since 1971 with little congressional scrutiny.

This amendment does not impede the Fund's freedom to foster long-term economic development and growth. It simply asks the U.S. Executive Director to the Witteveen Facility to appropriately integrate short- and long-term goals while considering social and political consequences. I hope the Senate will join me in supporting this amendment to the Witteveen Facility.

Mr. President, I have received a letter from the Maryknoll Fathers who do social work in Peru. They are based in Lima, and work with the poor people in Peru. The letter is dated June 23, 1978, and it is addressed to me, and is as follows:

PADRES DE MARYKNOLL.
*Lima, Peru, June 23, 1978.*

Hon. JAMES ABOUREZK,
*New Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ABOUREZK: As U.S. citizens and missioners serving the people in Peru, we follow with great interest and concern the Human Rights Policy practiced by the current administration. It is our judgment that the policy has been consistent in favor of civil political rights, while ignoring social-economic rights.

We are deeply concerned with this policy. Its area of pressure for the civil-political rights is good and we support it completely. However, its lack of balance, in falling to recognize the most fundamental human rights for food, clothing and shelter is seriously negating and in fact destructive for the people of our under-developed nations.

We as missionaries here in Peru accompany our people on a day to day basis and have seen the results of what we consider this unbalanced policy: The poor (85 percent of the people) have moved from malnutrition to the border of starvation while being given the right to vote in the midst of repression. In other words, the vote is more important than bread. We must register our strong disagreement with this policy and its effects on the poor we serve.

We write to you, Mr. Abourezk, because to a great extent the IMF is responsible for this situation. It has made demands on this Nation which are humanly impossible to meet. What nation can pay out 60 percent of its export earnings in one year simply to pay its debts? This policy has resulted in all food subsidies being taken away, real wages dropping over 40 percent in three years, and in 100 times more deaths (through disease and deprivation) than could be caused through riots or repression.

We are aware, Mr. Abourezk, that your Human Rights amendment to the Witteveen Facility is being faced with a stiff challenge in the Senate and that the administration would prefer that it not pass. Our position on your amendment is that of strong support.

We are strongly in favor of civil rights, but we consider them as valid only within the context of the full human rights that guarantee the basic necessities of life and allow the poor to live with some sense of personal human dignity.

We sincerely applaud your initiative, Senator, and will do all that is possible to support its passage.

Peace,

P.S. We send you this letter with haste as North American Religious Superiors in Peru. A copy signed by North American missionary personnel will follow.

It is signed by a number of priests, who are the Maryknoll priests, who work in Peru with the poor people.

In addition to that, Mr. President, I choose not to read at this point but to ask unanimous consent that there be inserted in the RECORD a series of newspaper articles which report similar kinds of deprivations as a result of IMF-imposed policies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Feb. 12, 1978]

BAILING OUT BANKS THAT STRAITJACKET THE THIRD WORLD BANKS

(By Howard M. Wachtel and Michael Moffitt)

The catchword of foreign policy pronouncements from the State Department is human rights. But across town, the Treasury doesn't seem to have gotten the word. Their international economic policy has had the effect of restricting human rights by imposing conditions of economic austerity on countries that are in debt.

This has happened in Peru, Zaire, Jamaica, and in wealthier countries too, like Portugal, Turkey, and Italy.

The Peruvian case is particularly instructive because after 1968 a progressive government had embarked on an ambitious program of social development and democratization of the workplace only to have the reforms aborted by the conditions that the International Monetary Fund and, later, private bankers imposed on Peru.

Business Week has implored bankers to be cautious of these types of ventures because they raise "troublesome questions about foreign business interference in the affairs of a sovereign state." The banks insist that "they did not interfere in Peru's affairs," but "simply told Peru to put its financial house in order and the Peruvian authorities independently decided how they would make themselves credit-worthy again."

The survival of Egyptian President Sadat has also been threatened by debt and the conditions creditors have imposed. Less than a year ago, the New York Times editorialized that "Egyptian crowds rioted when the subsidies for food and fuel were removed . . . That action, threatening the regime of President Sadat, was imposed by Egypt's creditors." The U.S. Treasury in a more subdued tone, echoes the same theme. "Whichever adjustment policies a government chooses," the Treasury remarked in a report on debt, "it may face political difficulties in implementing them. Restraining current consumption may require adoption of an incomes policy that angers wage earners."

To understand the origins of this austerity question we must go back to the early 1970s, when New York-based multinational banks engaged in a worldwide expansion of finance that was without precedent in history. Billions of petrodollars—dollar earnings of OPEC countries—flowed into U.S.-based multinational banks at a speed that rivaled the rate at which the oil gushed from the sands of the Middle East. The petrodollars have been recycled through the financial system by a handful of private U.S. multinational banks who have accepted OPEC's deposits, and, in turn, loaned them out to borrowers experiencing balance-of-payments problems. And like true financial nomads, the modern multinational bankers have roamed the earth setting up their financial tents wherever they promised to yield the most profits with the least government regulation.

Offshore banking havens sprouted in places like the Cayman Islands, the Bahamas, Panama, and Singapore. In the Bahamas, there is now one bank for every 800 inhabitants. New York's Citibank, one of the largest multinational banks in the world, is reported to have booked 20 per cent of its offshore loans from offices in the Bahamas and now receives 20 per cent of its earnings from oil-importing less-developed countries.

Increasingly, the loans made by these private multinational banks have not gone to their typical blue-chip private corporate customers. Instead, many loans have been made to governments of less-developed countries in the Third World, whose debt has reached crisis proportions in the past five years. The 86 LDCs that import oil and other necessities have accumulated a debt of $200 billion; all but $83 billion has been borrowed since 1972. Of this total debt, about $80 billion is owed to private banks.

This burden of debt is overwhelming for the many poor countries who find themselves substantially in hock to their creditors, their futures mortgaged to the bill-collector. Countries like Pakistan, Botswana, Somalia, the Congo and others have debts nearly as large as their gross national product. The debt is so onerous that larger and larger proportions of precious export earnings must be used to pay back old debts. Egypt, Mexico, Brazil, Peru, and Pakistan are now using anywhere from 30 to 40 per cent of their annual export earnings to pay off old debts.

Whether or not these loans can ever be paid back is a question which has stirred great controversy in policy-making circles. On the one hand, bankers publicly insist that their capital structures are sound and that they have not, as some have alleged, become seriously "overexposed" in a number of Third World countries. Among those whose concern has been aroused by the dramatic growth of private bank loans to the Third World are such figures as Arthur Burns, former chairman of the Federal Reserve Board, and IMF Director H. Johannes Witteveen. In a speech last year at Columbia University, Burns warned that the international financial system is seriously overextended and "especially vulnerable" to a possible crisis should there be another international recession.

The situation cries out for much more disclosure of the financial situation of the banks so that the public can make a rational decision about the several expensive proposals now floating around to resolve the world's current debt predicament.

One proposal now making its way through Congress would cost the American taxpayer $1.7 billion—the U.S. contribution to a $10 billion fund put together by the IMF to assist countries that are in debt. The name given to this fund is the Witteveen Facility, named after the IMF official, of the Netherlands. The stated purpose of the Witteveen Facility is to provide loans to countries that are experiencing serious debt problems. At first glance, this seems to be an innocuous, though expensive, activity; but beneath the surface lurk important questions for the American taxpayer who will foot this bill and for the countries that will borrow money from the Witteveen Facility:

How will IMB member countries benefit from the Witteveen Facility?

Will the Witteveen Facility become an indirect subsidy to private U.S. multinational banks who have lent enormous sums of money to the less-developed-countries (LDCs) and fear that these loans can never be repaid?

Will funds expanded under the Witteveen Facility help meet the basic human needs of the poor in the world in concert with the development strategies being discussed in the World Bank and the U.S. Agency for International Development?

Are the conditions of economic austerity imposed by the IMF compatible with the human rights thrust of the Carter administration?

Just like New York City, debtor countries are under pressure to mortgage their political sovereignty (to use former Mayor Beame's characterization) to their creditors by adopting austerity programs imposed by the private foreign banks or in conjunction with the IMF. Arthur Burns has referred to this as the "IMF certificate of good standing," designed to restore bankers' perceptions of credit-worthiness of an impoverished nation.

Whatever the coating, the austerity pill usually prescribed by the IMF and private banks adds up to the same medicine: lowering the standard of living through a dose of restrictive fiscal and monetary policies whose effect is to increase unemployment, restrict the activities of labor unions, and reduce public sector expenditures on the very basic human needs that the World Bank and the United States propose as the cornerstone for their development policies in the world.

All this adds up to a series of contradictory forces operating on U.S. foreign policy. The commercial banks who lent money to poor countries naturally expect to have those loans repaid. However, in the course of paying back the debt, the poor countries are being asked to dance to a particular tune of the piper, a melody that imposes conditions of economic austerity which restricts a country's ability to fulfill the basic human needs strategy that World Bank President Robert McNamara and President Carter have articulated as the goal of development assistance. At times countries are pushed into policies that necessarily restrict human rights in order to enforce a policy of lowering the standard of living of their people.

The austerity route, however, is not the only policy that would assist debt repayment. Other options are open, options that would enable countries to pay back their loans, expand human rights, and meet basic needs.

First, poor countries could be encouraged to diversify their exports so they can reduce their dependence on the export of one crop or one mineral. The industrial countries could also reduce their import barriers on finished manufactured goods and processed raw materials from the LDCs. Less-developed countries with higher and more stable export earnings would be much better customers for U.S. exports.

Secondly, LDCs could be more selective in the type of imports they allow in under the conditions for the extension of future credits. Rather than restrict necessities like food, a country could restrict the importation of luxury goods, as the Manley government of Jamaica has done.

Finally, the industrial countries could follow the Swedish government's example of writing off the debts owed to them by poor countries. As the debate about a foreign aid reorganization bill is heating up in Congress, we should consider debt write-off as a significant foreign aid option. We would get more bang for the buck this way since fewer bureaucrats would be needed to administer debt relief than for the normal aid program.

None of these alternative solutions has been discussed by the Congress as it has deliberated about the Witteveen Facility. Rep. Cavanaugh, D-Neb., a member of the House Banking, Finance and Urban Affairs Committee, which has jurisdiction over the bill, complained that adequate public discussion of these issues has never been held.

These pleas have thus far fallen on deaf ears and on January 23, the House Banking, Finance, and Urban Affairs Committee approved the U.S. contribution to the Witteveen Facility. By a margin of two votes, an amendment by Congressman Mitchell, D-Md., was defeated that would have "encouraged" the IMF staff to develop stabilization programs for countries that meet basic human needs and do not restrict human rights.

There is little debate about the necessity for some international mechanism for bailing out the countries heavily in debt to private U.S. multinational banks and public lending institutions. The issue is the form this facility will take and the conditions it will impose on sovereign countries. However, like the two sides of a coin, the creditor countries stand to benefit from the Witteveen Facility just as much as the debtor countries. Congressman Pattison, D-N.Y., addressed this question with an amendment, also defeated, that would have prevented the Witteveen Facility from simply becoming a mechanism for bailing out the private banks through an indirect IMF-administered subsidy, while thrusting the risk of default wholly onto public lending institutions. If, as most bankers maintain, the private banking system is currently sound, then why do we need the Witteveen Facility to bolster confidence in the financial system?

In opposing the Witteveen Facility, the Wall Street Journal editorialized that "American taxpayers, in other words, will be asked to cough up a few billion for the IMF to loan to the poor countries so that they can pay off the banks . . . Imagine the flap if the problem were solved honestly and directly," they ask. by calling the Witteveen Facility "The Bankers Relief Act of 1977."

BANKS LIKE LENDING TO THE THIRD WORLD—WITH IMF AID

(By Roger Smith)

The near bankruptcy of Peru and Zaire two years ago underscored a startling development. U.S. commercial banks had rapidly accelerated lending to underdeveloped countries, and were faced with defaults that could shake the world banking system.

This spring Peru and Zaire are again reeling toward insolvency. But now the U.S. banks are almost sanguine. Despite over $45 billion in unguaranteed loans to less developed countries (LDCs) that do not export oil, U.S. bankers say they are confident that their profits in those nations are secure.

There are two reasons. Many bankers contend that LDC governments now realize how important their relations with banks are, and are giving top priority to servicing their bank debt. And international organizations such as the International Monetary Fund are increasingly shouldering the burden where defaults are likely, in effect running interference for the private banks.

The result defuses the potential for massive defaults which theoretically could have toppled some major banks. But the controversy over heavy involvement by U.S. banks in Third World finances continues, centering not only on whether it is good business but whether it is good foreign policy.

The loans—most of them made on a short-term basis to help the developing countries meet balance of payment deficits or to finance trade with industrialized countries—required rapid growth in exports from the developing countries to assure eventual repayment. But the world economy is faced with slow growth in the near term, reducing the prospect for increases in LDC exports.

If the loans have to be rescheduled or refinanced, the banks require the debtor nation to adhere to stringent IMF conditions aimed at helping to stabilize the nation's balance of payments or current account.

This can result in drastically curtailed employment, income and consumption in the affected country. "The politics of stabilization are not always genteel," notes Albert Fishlow, a professor of economics at Yale University writing in the spring issue of Foreign Policy. In the case of Peru, dramatic hikes in food and gasoline prices precipitated riots and talk of revolution.

The banks began major lending to developing countries in the late 1960s and plunged even deeper to help LDCs meet a quadrupling of oil prices in 1973. When recession dried up loan demand in the United States in 1975, the banks pumped out more credit to LDCs. Total indebtedness of the developing countries that do not have any significant oil exports is estimated at roughly $250 billion, of which U.S. banks hold 20 percent.

Bankers vigorously defend their commitments. "There are risks in lending to these countries, but they are manageable risks," says A. C. Rice, vice chairman of Bank of America, which has $6.2 billion in outstanding loans to LDCs.

The banks typically run "country risk" studies before agreeing to loans in a developing country. The effectiveness of such studies is disputed, but Bank of America, among other banks, claims that such examinations help safeguard their investments.

The banks also cling to short term, high interest loans to LDCs, thus limiting their exposure to tight time frames. "Moreover, the bulk of these loans is from major international banks with the greatest experience in overseas lending and the strongest capital and reserve positions," says G. A. Costanzo, vice chairman of Citibank, New York.

Citibank is the most active lender to LDCs among U.S. banks, with $11.3 billion outstanding. By loaning mostly to higher income developing countries at high interest rates, Citibank contends that it can make higher profits than by concentrating on domestic loans. In fact, the bank made more money in Brazil last year than from all its domestic lending.

"We will continue to seek out such loans," says Citibank Chairman Walter Wriston. "There are 4 billion people out there and only 200 million at home."

Bankers also note that loans to LDCs represent only about 5 percent of total outstanding U.S. bank lending, and that the record on loan losses to LDC's continues to compare favorably to domestic loan losses.

But critics of the deepening bank involvement in the Third World argue that the losses are bound to increase as the debt burden on LDCs becomes more difficult to manage. And the banks are depending on the IMF or even the U.S. government to prop up shaky LDC regimes, they charge. The examples of Peru and Zaire, which most U.S. bankers contend are isolated cases, could become harbingers of the future, the critics say.

Zaire, formerly the Belgian Congo, is heavily dependent on its copper mines in Shaba province for export revenue. An invasion by Katangese rebels two years ago nearly halted production before Zairian troops regained control. A similar invasion this year has knocked out the mines for six months or more, putting debt-ridden Zaire close to bankruptcy.

At stake are $252 million in U.S. bank loans. Citibank, the leading Zairian creditor, and a consortium of U.S. banks have put together a new $215 million loan package to Zaire to insure that current debt payments are met. But Zaire may be so short of cash that the Citibank rescue effort will prove futile.

Peru flirted with bankruptcy in 1976 when its balance of payments fell $1.3 billion into the red, and appeared unable to meet an immediate repayment of $300 million on its $3.7 billion foreign debt. Citibank again led a group of banks to the rescue, offering a $300 million loan in two installments.

Now Peru has come dangerously close to missing another series of payments, in part because the military government has spent lavishly on warships and bombers. At stake are $1.8 billion in U.S. bank loans.

In both cases U.S. and major foreign banks are counting on the International Monetary Fund to engender a solution to save their positions. The IMF, created by the United Nations, can extend short term emergency credit to nations faced with crucial balance of payments problems. But in return, the nation must adhere to strict economic controls formulated by the IMF.

In the case of Peru, the IMF has already imposed severe controls. In Zaire, the IMF is planning to place its representative in a key position in the central bank, assuring a firm grip on the country's finances by the international agency.

"Both banks and international officials have the same general view on how a country should be managed," says J. Alexander Caldwell, chief international economist at Crocker Bank. "In Peru they just didn't face up to realities and somebody has got to bite the bullet."

The standby credits issued by the IMF to imperiled nations enable the banks to keep their loans alive. But both Peru and Zaire clearly face enormous hardships in the months ahead which could lead to internal unrest and even more problems for the U.S. State Department.

It is likely that U.S. banks will not lend proportionally as much to LDCs in the next few years. Domestic loan opportunities are improving, and the expected slowdown in world trade would increase the risks of overseas loans.

But U.S. banking had developed a substantial stake overseas," notes Caldwell, and over the long term U.S. bank lending seems bound to increase. A default here or there will not deter the banks, nor will it seriously damage a well managed bank, says Robert Solomon, a senior fellow at the Brookings Institution.

Nevertheless, international authorities are hedging their bets. The IMF is pushing for $10 billion in additional standby credit authority. And some economists are proposing that the World Bank, which concentrates on long term financing for development projects, join with the IMF in backing some critical loans to LDCs.

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[From the Washington Post, June 14, 1978]

ZAIRE ACCEDES KEY ECONOMIC ROLE TO FOREIGNERS

(By Michael Getler)

BRUSSELS.—Zaire's virtually bankrupt government yesterday offered to accept broad foreign control of its economy in an effort to solve crippling financial problems aggravated by the invasion of Shaba Province.

Under the African nation's proposals, according to conference participants, an official from the International Monetary Fund would take a key role in managing Zaire's central bank and another foreign official would supervise all outlays by the Finance Ministry.

The plan was presented at the start of a two-day meeting between Zairian officials and representatives of 10 creditor nations and three international bodies. Together, they exercise a crucial influence on the survival of President Mobutu Sese Seko's government.

While the meeting was scheduled before the invasion by Katangan rebels a month ago, the overriding issue was whether Mobutu's government, and Western investments in the huge country, can be protected time and again from determined attackers—who President Carter has maintained are Cuban-trained.

The creditor nations show little sympathy for Mobutu yet seem to be forced to save him to keep Zaire in the Western camp and capable of paying its debts.

This mood of political frustration lends an air of unreality to the meetings, which is supposed to concentrate solely on financial issues affecting the potentially rich mineral-exporting nation.

Lack of discipline in Zaire's central bank and inefficiency and corruption within the government have been major factors for the past few years in Western reluctance to extend still more credit and aid to a country whose debt is already said to total about $2.5 billion.

The so-called "Mobutu Plan," and Zaire's economic woes, both go back some two years and are due in part to the sharp decline in world copper prices. Copper provides about 70 percent of Zaire's export revenues, with cobalt the second major mineral export.

The situation neared the brink of economic catastrophe following the invasion of mineral-rich Shaba Province by rebels based in Angola. The attack, although eventually diven off by French paratroopers, has shut down the mines for at least six months and driven away or left dead many of the Europeans who operate the mines.

The meeting here is not designed to make decisions on what to do about the economic plight but rather to hear the revised Zaire plan and achieve some sore of consensus about what can be recommended to the governments of the United States, Britain, Bel-

gium, France, West Germany, the Netherlands, Italy, Japan, Canada and Iran, as well as IMF, World Bank, and the executive committee of the European Common Market.

The officials meeting here are trying to agree on recommendations for an initial $100 million to $120 million emergency aid program of food, medicine and humanitarian supplies over the next three months that was agreed in principle at a five-power meeting in Paris earlier this month.

The Mobutu plan, however, could eventually cost a few billion dollars.

Although the plan was not made public, Belgian officials said their former colony indicated its long-term investment needs through 1980 amount to about $1 billion. Whether this would come from governmental or private sectors is now being discussed.

Zaire, according to Belgian officials, already has unmet debt repayments projected at $2.2 billion between 1977 and 1980. Some 40 percent of this is owed to private creditors.

In addition to the investment program, additional aid would be needed from international organizations.

The key factor in whether the plan gains widespread support, however, is said to hinge upon the IMF granting new credits to Zaire. In 1976–77 the IMF granted special standby credits totalling some $273 million.

The Mobutu plan is said to propose major efforts to get the shattered mining industry back into production, attract foreign investors, revamp the public service, improve customs and import licensing services and democratize the country.

Zaire has always had many Europeans in key advisory posts—especially Belgians, who have some $6 billion invested there. But the new plan envisions bringing in many others.

The arrival of these foreign experts, Zairian delegate Bokana W'Ondangela said, "doesn't mean we are coming back to colonialism—but simply into international cooperation. We are turning to our friends and to international organizations for assistance."

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[From the Washington Post, Dec. 24, 1977]

U.S. HELPED VORSTER GET LOANS FROM IMF

(By John M. Goshko)

Despite its official criticism of South Africa's racial policies, the United States has helped Prime Minister John Vorster obtain $163 million from the International Monetary Fund to combat his country's economic problems.

Rooted in that action is a case study of the contradictory choices confronting U.S. officials who must work out a design for furthering U.S. interests and policy objectives on a global basis.

Specifically, U.S. support of South Africa in the IMF raises questions about whether there is a built-in clash between the political and economic goals of Washington's foreign policy.

On one side, there is the concern of the United States, which played the leading role in creating international lending agencies like the IMF, that the integrity and impartiality of these institutions be protected so they can perform the jobs for which they were designed.

In the case of the IMF, that job is to help 130 member countries overcome threats to their economies caused by adverse trade balances—imports outstripping exports—that seriously deplete gold and currency reserves.

The success of the IMF's bail-out operations, U.S. officials note, is important to every country engaged in international trade. If a country, particularly a large country like South Africa, runs into balance-of-payments problems that make it unable to sell products and pay its foreign debts, the resulting chain reactions could disrupt international trade and monetary systems.

For that reason, officials say, the United States must treat loans made by the IMF differently than U.S. aid granted on a direct, government-to-government basis.

Washington, they argue, must set an example for other mebers by ensuring that U.S. votes in the IMF are strictly in accordance with the agency's rules and economic objectives rather than allowing them to be influenced by political considerations.

However, that argument increasingly has been challenged by human-rights activists, leaders of the American black community and other opponents of South Africa's white supremacy policies. They charge that international agencies like the IMF have become convenient, backdoor devices for quietly channeling aid to countries like South Africa, whose domestic policies are bitterly opposed by many Americans.

By helping South Africa bolster its slumping economy, these critics charge, the United States has thrown away one of its most effective potential weapons for putting pressure on the Vorster government. As long as the United States helps keep money coming through agencies like the IMF, they contend. Vorster will be justified in dismissing Washington's remonstrances as "totally irrelevant."

This dissenting viewpoint has been heard with growing frequency in the months since concern with human rights became a major element of U.S. foreign policy. For example, it was the basis of a recent, unsuccessful attempt in Congress to restrict U.S. contributions to some international lending agencies by specifying they could not be used to assist seven countries charged with human rights violations.

South Africa wasn't among them. But, the size and importance of the aid it received from the IMF make it perhaps the best illustration of the problem.

The IMF's balance-of-payments assistance to South Africa the last two years was greater than the combined IMF assistance to all other African countries the same period. In those two years, only two other nations, Britain and Mexico, were bigger beneficiaries of IMF aid.

Of the total received by South Africa, an estimated $107 million came from the U.S. government's contribution to IMF funds. Even more important, the United States, as the IMF's largest contributor and most influential member, probably could have blocked the South Africa loans by objecting.

Instead, U.S. representatives on the IMF's executive board supported the South African requests during closed-door deliberations.

That is revealed by minutes of executive board meetings, obtained by writers James Morrell and David Gisselquist working on a South Africa study for the Center for International Policy, a private, Washington-based political research group.

The documents show the process began in January, 1976, when South Africa applied to the IMF for help in fighting problems it said had been caused by rising imports, a slump in exports and resulting drain on reserves.

During subsequent internal IMF discussions, according to the documents, Thomas Leddy, one of the U.S. delegates to the executive board, strongly endorsed the South African requests.

With this U.S. encouragement, the IMF gave South Africa loans totaling $366 million in 1976. That was during the Ford administration when U.S. policy, under Secretary of State Henry A. Kissinger, tended to emphasize the carrot rather than the stick in dealing wtih South Africa.

The documents do not cover IMF deliberations on South Africa in 1977. However, diplomatic sources say, U.S. delegates to the IMF have continued to support additional South African loan requests through the first year of the Carter administration.

As a result, by October, total IMF aid to South Africa had mounted to $463 million. These loans were made at the same time the Carter administration, in line with its much-advertised championing of human rights, was taking an outspokenly critical task toward the Vorster government.

When asked about the apparent contradictions, administration officials reply that Washington has no single yardstick by which economic decisions on South Africa are made.

Since 1964, for example, U.S. policy has prohibited the Export-Import Bank, a government-controlled and funded agency that provides financing for U.S. sales overseas, from making direct loans to South African purchasers of U.S. products.

However, the bank is permitted to guarantee financing of loans obtained from private U.S. banks by South African importers of U.S. goods. Another federal agency, the Commodity Credit Corp., administered by the Agriculture Department, is allowed to lend money to South Africa for purchase of U.S. farm products.

The State Department follows what it calls "a neutral policy" of neither opposing nor encouraging U.S. business investment in South Africa. Instead, department officials say, they try to ensure that potential investors are aware of South Africa's internal political problems and to urge them to follow "enlightened racial employment policies."

"Neutrality" is also the word used by administration officials when discussing the U.S. role in the IMF. U.S. representatives there, they say, are instructed to approach decisions on strictly economic grounds, taking into account IMF rules about whether the country in question has a balance-of-payments problem caused by external factors beyond its control.

However, those who oppose that policy point out that the United States frequently has used its votes and influence in other international lending agencies such as the World Bank, the Asian Development Fund and the Inter-American Development Bank for frankly political purposes.

The Carter administration has been especially active in applying human rights considerations to its votes in many of these institutions. Recently, for example, Washington blocked an IADB loan to El Salvador for a hydroelectric project because of human rights factors. Then, when U.S. officials detected improvements they wanted to encourage, Washington reversed itself and offered to put up roughly half the loan.

In the view of human rights activists, South Africa has been treated more favorably by the United States and other industrial powers dominating the IMF. They point to the sizeable U.S. and European investments there, the high percentage of South Africans foreign debt held by American and European banks and the strategic importance to the West of South Africa's mineral exports.

In the study they are preparing, Gisselquist and Morrell cite these charges and argue that political considerations should not—indeed, cannot—be divorced from any assessment of South Africa's economic situation.

They contend that South Africa's economic problems primarily are due not to an externally caused trade imbalance, but to overspending rooted in the high cost of repress-

ing the 83 per cent of the population that is black or colored.

The buttress this argument, they cite a confidential IMF study in April that lists South Africa's defense budget as "a major cause of the rapid increase in total current expenditure; its share of total expenditure has risen from 14 per cent in 1973–74 to 20 per cent in 1976–77."

"As a grisly footnote to the IMF's aid to South Africa," Gisselquist and Morrell add. "the April, 1977, IMF study said that the increase in military spending in 1976–77 came to $450 million—almost exactly the amount of IMF assistance."

The executive board minutes obtained by the two writers show that the only delegate to raise these points was Antoine W. Yameogo of Upper Volta, representing 17 black African countries.

The only doubts voiced by delegates from industrial nations involved questions about whether South Africa had caused its problems by keeping sizeable gold stocks off the export market in anticipation of higher world prices.

Even that objection was dismissed by U.S. delegate Leddy. The documents quote him as saying that "South Africa's export shortfall was probably due to factors largely beyond its control." Accordingly, he found the assistance request reasonble and worthy of support.

In summing up, Gisselquist and Morrell state: "Each of the IMF meetings covered in the minutes was held behind closed doors. Thus while South Africa was earning world condemnation for its racist policies, it was receiving a more tangible measure of support from the IMF. It is difficult to imagine any other international forum in which support would be forthcoming."

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HOW THE IMF SLIPPED $464 MILLION TO SOUTH AFRICA

(By James Morrell and David Gisselquist)

Despite reservations expressed by delegates of 22 African and European countries, the International Monetary Fund in 1976 granted South Africa a record-high aid package of $366 million which by December 1977 had increased to $464 million. This was more than all the rest of the countries in Africa put together received during the same two years and was exceeded in the world only by loans to England and Mexico. Of the $464 million to South Africa, the United States provided $107 million through its contribution to the IMF.

The objecting European and African delegates to the IMF maintained that South Africa didn't really need the monetary agency's assistance, and furthermore, that the South African government had created many of its own economic problems through overspending. The delegates representing West Germany, Italy, Spain and Portugal even charged that the IMF deliberately rigged its own statistical formula to favor the South African request.

But the U.S. and British delegates to these closed-door meetings in 1976 spoke up strongly in favor of the South African request. The IMF's aid, said the British delegate, would among other things give the South African authorities "some feeling of international support," which in his opinion they deserved. With this strong Anglo-African backing, the IMF gave South Africa all it asked for.

THE BACKGROUND: DEFENSE EXPENDITURES

The major component of the South African government's overspending which, through an indirect process, led the government to request aid from the IMF, was a massive and continuing increase in the defense budget. From 1972 to 1975, defense expenditures rose by 97 per cent in real terms. For 1976/1977 another real 25 per cent increase in defense expenditure was budgeted by the South African government. An April 1977 IMF study of recent economic developments in South Africa noted:

In order to accommodate an increase of close to 40 per cent in defense expenditure [in nominal terms] and to ensure at the same time that total government expenditure would not increase in real terms, other government expenditure was budgeted to rise in 1976/77 by only 6 per cent in nominal terms and thus to decline substantially in real terms.

For the 1977/1978 budget, the IMF study reported another large increase:

With defense expenditure budgeted to rise by 21.3 per cent to R 1,654 million [$1.9 billion], the budget provided for other government expenditures to increase in 1977/78 by only 5.1 per cent in nominal terms.

"Defense expenditure has been a major cause of the rapid increase in total current expenditure," the IMF accordingly concluded in its confidential April 1977 economic study, and in turn this rapid increase in government spending led to record budget deficits of 6.8 per cent of gross national product in 1975 and over 7 per cent of GNP in 1976. Government deficits of 7 per cent of GNP for South Africa would be comparable to a $110 billion deficit for the United States, twice the actual for 1976.

These massive budget deficits caused by increased expenditures fueled inflation in South Africa because the government was in effect printing money to pay for more weapons. From 1971 through 1975, money and near-money together increased at about 20 per cent a year. In turn, this inflation caused balance of payments problems as South Africa tried to peg its exchange rate to maintain currency value through foreign borrowing, import taxes, and other restrictions on trade. Although the IMF study does not give a figure for South Africa's arms imports—understandably a very sensitive subject—the study does report "increases in expenditures on defense equipment" as a cause of balance of payments and terms of trade problems in 1976. Defense expenditures leading to budget deficits, budget deficits leading to inflation, inflation leading to balance of payments problems—this is the indirect path by which South Africa arrived at the IMF's door; in addition there was the direct increment to the balance of payments deficit caused by rising arms imports.

JANUARY 1976 REQUEST FOR STAND-BY ARRANGEMENT

Although South Africa's real problem was internal and political in nature—the ever-rising expense of repressing 83 per cent of the country's population—it presented its case to the IMF as purely externally induced: lagging exports, declining reserves, and a deterioration in the balance of payments. Meeting in Washington on January 21, 1976, the IMF's executive board patiently listened to the South African arguments. The delegate from the Netherlands and four other countries responded by saying he was quite prepared to "go along with" the South African request for a stand-by arrangement and an initial $93 million loan, although he fed the government had created many of its own difficulties by overspending and fueling domestic inflation.

The first serious objection, according to the confidential minutes of the meeting, was voiced by Jacques de Groote, executive director for Belgium, Austria, Luxembourg and Turkey. "South Africa had at its disposal one of the world's largest gold stocks," de Groote reminded his listeners, and with the recent increase in gold prices might easily have been expected to contribute to the IMF rather than seek its aid. He acknowledged that South Africa could not easily sell off its gold reserves for dollars without disrupting the world gold market—a situation that called into question the theoretical/value of gold itself as a reserve asset. But he and others questioned the South African gold mine conservation policy of cutting back production every time the world price rose. The authorities were deliberately keeping gold off the market rather than selling it at lower prices to cover their balance of payments deficit. "It could be argued that the current account deficit expected in 1976 was not entirely beyond the control of the authorities," the Belgian director drily concluded. He did not endorse the South African request.

Then came the turn of Antoine W. Yameogo of Upper Volta, speaking for 17 black African nations. South Africa valued its gold reserves at the official price of $42 an ounce, he complained, while the market price was $130 an ounce. Valued at the market price its reserves amounted to $2.7 billion, or the equivalent of about six months' imports. (Three months' cover is generally considered adequate.) South Africa could manage its short-term problem, he said. Its real problem was long-term and structural: its treatment of the black population, which represented 83 per cent of the total population but occupied only 13 per cent of the land. "The education of black people in South Africa [is] not free, their wages and salaries [are] very low relative to those of whites, and the distribution of income and of opportunitity in general [is] heavily weighted toward the white population," he pointed out. In the future, when South Africa needed increasingly skilled and literate workers to compete in world markets, it would not have them. Like all the speakers Yameogo carefully couched his political arguments in economic terms. But despite his objections, the IMF approved South Africa's request for a stand-by arrangement. (Any request that reaches the executive board is assured of approval.)

NOVEMBER 1976 REQUEST FOR LOANS FROM COMPENSATORY FINANCING FACILITY

In November 1976, five months after the first shootings in Soweto, South Africa returned to the IMF with another aid request for $186 million from the compensatory financing facility, which along with earlier loans under the standby arrangement brought the total of IMF loans up to $366 million in 1976. Whereas the stand-by loans initiated in January 1976 required South Africa to show merely a need and a program to correct the balance of payments problems, the November request for compensatory financing of an export shortfall required South Africa to argue that its balance of payments problems were externally caused by circumstances beyond its control. An IMF-conducted staff analysis of South Africa's export performance supported South Africa's request for aid. The staff analysis was, however, severely criticized as well as praised in the executive board's November 1976 meeting. Lamberto Dini, representing IMF staff analysis "suspect" because its estimate of export earning shortfall happened to coincide exactly with the maximum amount South Africa could request under the compensatory financing facility. The West German delegate, Eckard Pieske, also found this coincidence remarkable and flatly stated that the projected shortfall had been "tailored to the size of the requested drawing." The IMF had rigged its own statistical calculations to help South Africa. But Thomas Leddy, the U.S. representative sent by the Ford administration, found the staff's

handling of the statistics entirely reasonable. Again South Africa got all it had requested.

The minutes do not cover IMF executive board meetings in 1977. But the Carter administration quietly supported an additional $56 million loan to South Africa in 1977 even while castigating the white-supremacy government in public. Washington's time-honored tradition of slapping the wrist while greasing the palm was observed once more.

Each of the IMF meetings covered in the minutes was held behind closed doors. Thus while South Africa was earning world condemnation for its racist policies it was receiving a more tangible measure of support from the IMF. It is difficult to imagine any other international forum in which such support would be forthcoming.

As a grisly footnote to the IMF's aid to South Africa, the April 1977 IMF study said that the increase in military spending in 1976/1977 came to $450 million—almost exactly the amount of IMF assistance.

TABLE I.—MILITARY EXPENDITURES

[In millions of dollars [1]]

| | Current | Constant |
|---|---|---|
| Year: | | |
| 1966 | 357 | 541 |
| 1967 | 404 | 596 |
| 1968 | 430 | 606 |
| 1969 | 517 | 695 |
| 1970 | 498 | 635 |
| 1971 | 594 | 720 |
| 1972 | 607 | 707 |
| 1973 | 806 | 887 |
| 1974 | 1,110 | 1,110 |
| 1975 | 1,520 | 1,390 |

[1] 1974=100.

Source: U.S. Arms Control and Disarmament Agency, World Military Expenditures and Arms Transfers, 5966–75 (Washington, D.C. 1976), p. 46.

The study also revealed that, according to U.S. figures, foreign investment in South Africa paid the highest return of any foreign investment in the world—a fact that, along with the high strategic value of South Africa's mineral exports, goes far to explain the enthusiasm of Anglo-American support for aid to the apartheid government. British investments in South Africa are estimated at $7 billion, and U.S. investments at a book value of $1.6 billion.

WITTEVEEN FACILITY

Despite South Africa's successful manipulation of the IMF in 1976, the Carter administration is trying to rush through Congress a new $1.7 billion U.S. contribution to the IMF's Witteveen supplementary financing facility (so-called because it was initiated by the IMF's outgoing managing director Johannes Witteveen). Again South Africa would be an eligible borrower. So far there has been surprisingly little Congressional opposition. A House Appropriations subcommittee on foreign aid chaired by Rep. Clarence Long, Democrat of Maryland, has asked the administration to report the IMF's aid plans to the committee in advance, and Tom Harkin, Democrat of Iowa, intends to offer a human rights amendment to the IMF funding bill. The amendment, similar to those already in effect on the U.S. bilateral aid program and U.S. participation in the multilateral development banks, would require the United States to oppose IMF loans to countries guilty of a "consistent pattern of gross violations of internationally recognized human rights," including death, torture, arbitrary arrests and detention without charges. Both Congressional initiatives, however, fall short of opposing the Witteveen facility directly.

The IMF's decision to funnel $464 million in aid to South Africa when that aid was urgently needed elsewhere may prompt many on Capitol Hill to take a closer look at the overall qualifications of the IMF to administer the vast sums being sought for the Witteveen facility, of which the pending $1.7 billion U.S. contribution is probably only the first installment. The IMF's obsession with secrecy is likely to be a particular issue. Although the IMF fiercely defends its secret procedures as necessary to its operations, the South African transaction illustrates how the long-term costs of secrecy may eventually outweigh its advantages by eroding public trust.

It bears repeating that the IMF's decision to aid South Africa could scarcely have survived public debate and scrutiny in any open forum in the Western world; it needed bureaucrats meeting in the privileged secrecy of the IMF headquarters to approve such aid. The bureaucrats have now abused that privilege of secrecy, and many in Congress will wish to deprive them of it; no issue so effectively welds together anti-foreign aid conservatives and pro-human rights liberals as the privileges of the international financial institutions. The privilege of secrecy allows the IMF to receive confidential information from its member governments, but it also allows the IMF to abuse the confidence of its member populations. It enhances the influence of the IMF but cripples the power of the public. The IMF's partisans will urge the advantages of confidentiality and the costs of openness, and with great justification; without the cloak of secrecy, the IMF's operations could become incredibly cumbersome. Yet as great as the advantages of secrecy are, the cost to democracy is greater. Openness, democracy, public accountability—these are alien principles to the IMF and their application would cause it great inconvenience. It is surely this type of inconvenience Winston Churchill had in mind when he said that democracy is the worst form of government ever invented, except for all the others.

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EXCERPTS FROM IMF EXECUTIVE BOARD MEETINGS ON SOUTH AFRICA

January 21, 1976 meeting to discuss request for stand-by arrangement. Pieter Lieftinck, representing the Netherlands, Cyprus, Israel, Romania and Yugoslavia: "prepared to go along with the stand-by request."

Mr. Lieftinck thought that South Africa had fared quite well during the world recession. The real rate of growth in South Africa had remained positive while the growth rate in a large number of other countries had been negative. Even more impressive was the fact that unemployment had remained very low, no more than 0.5 percent of the labor force, although it was not clear to what extent the low rate was attributable to official policies. In 1975 the Government had introduced rather strong expansionary policies, and the labor force engaged by the public sector had gradually increased, although the precise amount had not been reported. . . .

The final 1976/77 budget had not been completed, Mr. Lieftinck said, but available information suggested that there would not be much retrenchment of fiscal expenditure. Apparently, the expectation was that the deficit would be reduced only from 6.5 per cent of GDP to 6 per cent, which, given the present economic conditions in South Africa, still seemed too high . . .

In view of the present policy stance, the relatively low level of reserves, and the anticipated continuing balance of payments deficit, he was quite prepared to go along with the stand-by request.

Peter J. Bull, representing the United Kingdom: standby arrangement "would give the authorities . . . some feeling of international support, which they deserved."

The South African economy had certainly fared well in comparison with others during the world recession. Although the fiscal deficit had become quite large, unemployment had remained very low, and the growth rate had been satisfactory compared with others. . . . On the external side, however, the outlook did not seem as promising, and the authorities would probably face a number of risks in the coming months. He was therefore pleased that South Africa had requested a stand-by arrangement which would give the authorities some additional room for maneuver and some feeling of international support, which they deserved; the Government was making considerable efforts to deal with its balance of payments problems, and he fully supported the proposed decision.

Jacques de Groote, representing Belgium, Austria, Luxembourg and Turkey: current account deficit "was not entirely beyond the control of the authorities."

South Africa had at its disposal one of the world's largest gold stocks, and a superficial analysis of the country's situation would therefore lead to the conclusion that, with the recent increase in the gold price, South Africa would have experienced no difficulty in financing its deficits and, in fact, could easily have been one of the lenders under the oil facility. Such an interpretation would of course have been incorrect, for the simple reason that the realities of the gold market were quite different from the conceptions of it that were held in many circles, as was clear from the need to set up rather complicated machinery in order to make usable a small fraction of the Fund's gold to help finance the Trust Fund.

South Africa's present situation, Mr. de Groote continued, clearly demonstrated, better than any theoretical analysis could do, that gold was no longer the major reserve asset that it was widely considered to be . . .

It would be useful, Mr. de Groote said, to know more about the relationship between gold production techniques and the balance of payments situation, since the practice had been to switch from the most productive mines to marginal ones according to fluctuations in the market price of gold. It could be argued that the current account deficit expected in 1976 was not entirely beyond the control of the authorities. A country should make the best possible use of its commodities and resources in support of its policies, and, conceivably, the most productive mines could produce more gold at lower costs, which could be sold at lower prices to cover the balance of payments deficit.

Antoine de Yameogo, representing Upper Volta and 17 other black African nations: "basic problems in South Africa . . . were structural ones."

Mr. Yameogo considered that, technically speaking, the stand-by request was justified. However, the current account deficit, although quite large, seemed more than compensated for by the capital account surplus in 1975, as shown in Table 13 in SM/76/8. In addition, more than half the official foreign reserves consisted of gold computed on the basis of the official price of US$42 per ounce, while the market price was US$130 per ounce. The amount of the stand-by request was relatively small, and South Africa could borrow the same amount elsewhere by using its gold as collateral, thus preserving its access to the Fund and avoiding contributing to the fall in the price of gold in the market. Valued at the market price, the gold held by South Africa was worth about SDR 1.8 billion, thus making total reserves equal to more than SDR 2.3 billion, or the equivalent of about six months' imports.

The short-term problems described in the report could be dealt with, Mr. Yameogo commented. In the long run, however, the future of South Africa would depend on its relations with African countries rather than with non-African ones. . . .

The basic problems in South Africa, Mr. Yameogo considered, were structural ones. . . .

November 10, 1976 meeting to consider compensatory financing request, Lamberto Dini, representing Italy, Spain, Portugal and Malta: staff's calculations are "suspect."

TABLE II.—INCREASE IN MONEY SUPPLY, 1971–76

[Levels at end-year, in millions of rand; and percentage change from previous year]

| | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|
| Money and quasi-money | 5,066 | 6,027 | 7,510 | 8,963 | 10,840 | 11,610 |
| | | (6.9 | (19.0) | (24.6) | (19.3) | (20.9) (7.1) |
| Money | 2,448 | 2,812 | 3,387 | 4,019 | 4,290 | 4,436 |
| | | (8.2) | (14.9) | (20.4) | (18.7) | (6.7) (3.4) |
| Quasi-money | 2,618 | 3,215 | 4,123 | 4,944 | 6,550 | 7,174 |
| | | (5.7) | (22.8) | (28.2) | (19.9) | (32.5) (9.5) |

Source: IMF.

So far as the shortfall was concerned, the staff had departed from current practice, since it had not arrived at an estimate of the possible shortfall in the leading export commodity, namely, gold. Naturally, forecasting the future of gold prices was difficult, but if the Fund intended to allow purchases under the compensatory financing facility, it should be prepared to make forecasts of market developments in all relevant commodities, including gold. He would therefore like to see the staff intensify its analytical work on the gold market, and present the result to the Executive Directors when appropriate.

Regarding the nongold merchandise exports, Mr. Dini stated, he had some difficulties with the group entitled "exports other than primary commodities," which included manufactures and semiprocessed products. The staff argued that the shortfall in that category was due mainly to the world recession; and it supported its conclusion by identifying business cycle conditions and the export price index in the industrial countries as the explanatory variables for South Africa's merchandise exports. However, another factor with some effect on merchandise exports must be the level of domestic economic activity, if only because in a country like South Africa goods produced for exports were also in demand at home. In 1975 South Africa had pursued relatively expansionary domestic policies, and consumption and other expenditures had remained at a high level during the first half of 1976. He could therefore not accept the staff view that the shortfall in exports other than primary commodities was due largely to external circumstances, and he would like the staff to provide some explanation. The staff's calculations were the more suspect because the shortfall calculated by the staff appeared to be exactly equal to the amount—50 per cent of quota—requested by South Africa plus the amount of calculated double compensation under the previous drawings from the Fund.

Although he was not happy with the analytical reasoning presented by the staff, Mr. Dini observed, he would support the proposed decision on judgmental grounds. South Africa qualified for the requested drawing even if the shortfall in the group "other exports" was much lower than the one calculated by the staff once the shortfall on account of gold was included.

Thomas Leddy, representing the United States: "prepared to support the request."

Mr. Leddy agreed with Mr. de Vries that the existence of a balance of payments need in South Africa was clearly established. One of the primary causes of the current difficulties had been the authorities' excessive optimism about an export revival and changes in the terms of trade, which had made them reluctant to adopt the needed adjustment measures. South Africa's export shortfall was probably due to factors largely beyond its control. The calculation of the export shortfall had apparently not been dependent on any assumptions with respect to gold, and the staff's approach in that respect was reasonable. He was therefore prepared to support the request.

Eckard Pieske, representing West Germany: "shortfall appeared to be tailored to the size of the requested drawing."

Mr. Pieske said that he agreed with the staff's judgment that South Africa had met all the requirements for a drawing under the compensatory financing facility. On the other hand, he noted that the staff had said that South Africa was cooperating with the Fund, and had instanced the conclusion of the recent stand-by arrangement. He therefore wondered to what extent the targets in the stand-by arrangement were being met. He was particularly interested in even a provisional answer, since the targets laid down in an earlier stand-by arrangement had not all been met.

The shortfall had been calculated largely on the basis of the projected annual growth rate of 16 per cent for nongold exports and of 17 per cent for the so-called "other merchandise exports," Mr. Pieske noted. He agreed with Mr. Dini that the shortfall appeared to have been tailored to the size of the requested drawing, and the assumed annual growth rates used for the purpose appeared rather high.

TABLE III.—IMF LOANS TO SOUTH AFRICA

[In millions of dollars]

| | Loans outstanding (at end of period) | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1976 quarters | | | | 1977 | | | | | | | | |
| | I | II | III | IV | 1st quarter | April | May | June | July | August | September | October | November |
| Standby agreement [1] | 93 | 92 | 179 | 180 | 225 | 225 | 225 | 270 | 272 | 269 | 270 | 274 | 275 |
| Compensatory financing [2] | | | | 186 | 185 | 186 | 186 | 187 | 187 | 186 | 186 | 189 | 189 |
| Total | 93 | 92 | 179 | 366 | 410 | 411 | 411 | 457 | 459 | 455 | 456 | 463 | 464 |

[1] Discussed in January 21, 1976 executive board minutes.
[2] Discusse I in November 10, 1976 executive board minutes.

Note: Disbursements (summary) 1970–75, 0; 1976, $366,000,000; 1977 (Oct. 31), $98,000,000; Total 1976–77, $464,000,000.

Source: IMF, "International Financial Statistics" (Washington D.C.) vol. 30, No. 12—December 1977, pp. 316–317.

Mr. ABOUREZK. I think I will save copies of these for any of my colleagues who would like to see them now, but I think if the managers of this legislation were to inquire with a little bit of depth, they would see that the policies engendered by the International Monetary Fund, which puts such severe restrictions on social-economic rights within the underdeveloped countries, are creating deprivations which no Member of this Senate would abide if he knew they existed.

With the understanding that I be allowed to ask for the yeas and nays on this amendment at a later time, and for a short time for debate after 3 o'clock, I will yield the floor.

Mr. JAVITS. Madam President, I think it is important to lay out our case in advance of further debate, just as the Senator from South Dakota (Mr. ABOUREZK) has laid out his case.

The managers of the bill, insofar as I know—certainly that goes for myself—are opposed to this amendment, for the following reasons: If the amendment is to mean anything, it must be taken at its word in terms of its general purpose, and the United States must be committed to do everything it possibly can to carry it through. Otherwise there would not be good faith involved in respect to the adoption of such an amendment.

In other words, even though one could cynically dismiss this amendment and say, "Well, all it does, really, when you get to its operative provisions, is require the U.S. executive director 'to oppose all such transactions which would contribute to such deprivations or violations,'" then one could say, "OK, even if the U.S. executive director opposes it, if the other executive directors approve, the loan from the supplementary facility would be made, so what is all the argument about? If this is just rhetoric, let us just pass it and forget it."

If we were to be that cynical about this matter, one would approach it in one way. But I cannot be that cynical. I believe too much in human rights, and I believe that is true of the great majority of people in this Chamber. So we have to decide whether we really want to make this a criterion for the use of the supplementary financing facility, because in good faith, should we do that, we would expect that the Secretary of the Treasury and the President would use all their enormous power and influence for the purpose of killing off any use of the supplementary financing facility by any na-

tion which, as this proposal particularly says, engages in a pattern of violation of human rights or deprivation of basic human needs.

Madam President, in my judgment the real "nubbin" of this thing is found in the words "contribute to the deprivation of basic human needs," not in the human rights part of it. It is to be noticed that these matters are joined.

Nobody is going to condone torture or other inhuman activities which we pledge all our national honor to oppose in respect of anything the United States does.

But when we deal with "deprivation of basic human needs" we completely nullify the purposes of the International Monetary Fund and its function and the reason for this supplementary financing facility, because the supplementary financing facility is only to be invoked as a banking matter. After all, this is a monetary organization, engaged in banking functions. It is only to be invoked for borrowing purposes when all else has failed, including the full utilization by the individual borrowing nation of all of its rights to draw on the International Monetary Fund. Most nations which are members, and would therefore be eligible for the supplementary financing facility, have certain drawing rights, and those drawing rights are their right, not a privilege but a right, and so they can draw on them with very few conditions. They can do it in three stages, as their condition worsens. In the first stage there are practically no conditions; in the second stage there are some conditions; in the third stage there are some more conditions. But none of these three stages involves conditions which are deeply severe, and would be as severe as the conditions which would be imposed, by the IMF for the use of the supplementary financing facility.

Madam President, it is simply inconceivable, taking the definition of basic human rights set forth in the report section on this amendment, and that is the way the amendment would have to be read, that if you are going to impose conditions—and one must in this last resort use of the supplementary financing facility, otherwise what good is the financing facility, if it is just going to be a carryover loan with the same conditions which have drained away practically to the point of insolvency everything the borrowing nation has been able to do up to the point where it calls for the supplementary facility? Then the IMF would not be performing its banking function, and we would have no business to go into it.

What it has to be is a bridge to a better future, and in order to make that bridge to a better future there has to be belt tightening, and therefore it is bound to have an effect upon everybody in a given country which has come, through its own actions, to this condition.

Undoubtedly, without any question, looking at the definition, for example, of basic human needs which is contained in subsection (c) of this amendment, there would be a deprivation of basic human needs. It is inconceivable that people in that country will be able to enjoy—to obtain, as the language is—public services, including health care, education, clean water, energy resources, and transportation. As a matter of fact, there are many countries in which they could not be obtained under the best of circumstances, let alone if the country were reduced financially to the condition to which it is reduced.

So, Madam President, we would be dedicating ourselves to the defeat of the very discipline which is essential in order to restore these countries to some kind of a viable condition, so that they could go on, thereafter, without complete dependence upon an international corporation which cannot be made available to them, in financial terms, for any indefinite future, unless they commit themselves to a regime of very grave stringency.

Therefore, this amendment really, in essence, is based upon the theory that "you owe us this." I condemn that theory, time and again. Neither we nor any other nation owe it. A nation, as a price of nationhood, must have a certain amount of willingness and ability to sacrifice; otherwise it should remain some kind of part of some other nation, or ward of some other nation. We cannot simply have an international program which confers nationhood and at the same time accepts a custody and responsibility for a sovereign nation. If the developing countries are proud of their nationhood, as they are, then they should be proud of their willingness to sacrifice both in terms of defending themselves and in economic terms, in belt tightening, in order to put themselves in some kind of viable economic condition.

The world represented in the international fund is recognizing the responsibility to help, but to help to what? To help to a condition where a nation that deserves nationhood is viable. This amendment would tend to negate the real purpose and effect of the supplementary financing facility. If we administered it honestly, the United States would be mandated to use all its vast authority and power in the world to deny the use of the supplementary financial facility to the very nations which would need it the most, because it is a monetary facility and not a political facility.

We would still be engaging in bilateral aid, and in other activities of that character, which is perfectly proper but not germane to the supplementary financing facility.

The Senator from South Dakota mentioned a very interesting case in point, Jamaica. I would like to deal with that, if I may.

An article appeared in the Washington Post of July 24, 1978, authored by Art Pine, on this very subject. This is the second of two articles. I ask unanimous consent that both articles be printed in the RECORD, though I will be dealing primarily only with the latter.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NOW, WHEN THE IMF TALKS, MORE NATIONS ARE LISTENING

(By Art Pine)

Last February, a four-member field team was quietly sent from the International Monetary Fund to the Zambian capital, Lusaka, for discreet negotiations. The subject: the Zambian government's request for a $305 million emergency loan to save the country's credit by underwriting its heavy balance-of-payments deficit.

After 21 days of delicate discussions, Zambia had its money. But in return, Prime Minister Kenneth Kaunda had to promise to devalue his country's currency and slash government spending. The devaluation meant higher prices for imports, and the spending cuts meant reductions in income. The two actions lowered the Zambian standard of living, but the government had no choice. It was either accept the IMF's conditions or go bankrupt.

What occurred isn't unusual, but it serves to illustrate a point. The fund, a 130-nation organization whose job is to police the badly strained world monetary system, is gaining increased power and influence over its members' affairs—often, in the case of weaker nations, to the point of setting the terms of their domestic economic policies.

Besides the Zambia case, the fund has forced stringent austerity measures in 21 deficit-plagued nations over the past several years. In 1974 and 1977, it issued new lines of credit to Italy and the United Kingdom. In June, it approved a loan to Jamaica. And now, IMF officials are in the midst of negotiating with war-torn Zaire. What's more, international experts say the fund's clout is growing almost daily.

The question is, how is the IMF's bureaucracy, housed in a bulky, atrium-topped building on 19th Street, exercising its new power? Some critics say the fund is too arbitrary and inflexible—overly tough on developing countries, and insensitive to the "human" consequences of the belt-tightening it prescribes for problem-ridden nations.

Indeed, fund-mandated government austerity programs recently led to rioting in Peru and Egypt, with residents protesting their leaders' decisions to raise domestic prices. And diplomats from some developing nations regularly grouse that IMF officials demand more of smaller countries than large ones. "If the big countries resist," says one, "the fund disappears."

The increased clout is a relatively recent phenomenon. Only a few years ago, the IMF's attempts to give countries economic advice were treated as little more than a gentleman's game. Fund field representatives held annual "consultations" with all member governments. But their urgings were taken with a grain of salt—particularly if the sitting government disagreed.

But now, with the past few years' dramatic changes in the world economic situation, the fund has become a power to be reckoned with. "These days," says one international economist, "when the IMF talks, more and more countries are listening." And so are private banks and other international lending institutions.

The big multinational banks, in fact, are among the big winners in the fund's hard-line approach. Although the money lent by the IMF ostensibly is for government-to-government balance-of-payments transactions, once it's in a country's hands it can be used to pay off loans to private banks if need be. And the IMF's policy prescriptions serve

to guarantee the banks that the country will be a better credit risk.

The IMF's heightened new influence stems basically from two developments:

The sharp rise in oil prices the Arab nations engineered in 1973 has thrown more countries into deficit—and dependence on IMF loans to save them from bankruptcy. Since private banks rely heavily on IMF judgments—and backup—in their own lending to countries, the fund's pronouncements on policy have extra weight. If a nation wants the IMF's seal of approval, it has to toe the line.

Th recent overhaul of the international monetary system has given the fund formal new authority to exercise "surveillance" over problem countries that have severe payments imbalances. While no one yet knows precisely how much power that entails, the charter revisions have given the IMF's recommendations increased status.

The fund's say-so over domestic economic policies of individual countries stems primarily from its power over its own purse strings—specifically, the conditions it sets for making loans to countries that are in difficulty over exceptionally large balance-of-payments deficits. (A country gets into deficit when its imports and investments abroad outstrip its exports and intake of capital.)

The IMF's role in the world economic system essentially is that of a policeman for the "haves"—other fund members, the nations that have lent money to financially troubled countries, and, indirectly, the large multinational banks. (The World Bank, the fund's sister organization, deals with helping the "have-nots" by offering grants or low-interest loans for economic development projects in poor countries.)

If a rich or poor nation gets into balance-of-payments difficulty, the fund steps in—often as lender of last resort—with an offer to help bail out that government by providing a sizable line of credit. But the credit is hinged on the condition that the country adopt stringent fiscal and monetary policies designed to eliminate its payments deficit. The more a country wants to borrow, the stiffer the terms the IMF sets. Often, by the time a country seeks fund help, it's too late for anything but severe belt-tightening.

Fund officials argue that the tradeoff is fair enough: Were it not for the IMF's underwriting, the individual nations would go bankrupt, and would have to impose much harsher austerity programs than those the fund insists on. Like a benevolent banker, the fund aims for gradually restoring economic health to the deficit country—not pay up on the spot.

Under the basic IMF loan system, nations may borrow up to 100 percent of their "quota," or membership fee in the fund, divided into four separate "tranches" or lending categories, each with a progressively tougher set of strings attached. There also are special longer-term lending pools from which members may borrow additional amounts.

It's the power to set conditions for making loans that gives the fund most of its clout. The organization's charter is worded vaguely enough that officials are free to establish whatever terms they think are needed. Talks between the government and fund representatives often last for weeks. At the end, everything must be approved by the IMF executive board.

The results often are striking. In Zambia's case, for example, the government won a credit line of $305 million, but had to devalue its currency by 10 percent and sharply slash spending. Great Britain won authority to borrow up to $4 billion, but had to raise interest rates and pare spending. Jamaica received $244 million—after devaluing and promising to slow wage increases.

Moreover, the IMF continues to influence national policies even after a loan is granted, because the aid usually is only for a year or so and requires a "performance evaluation" for renewal. So, Jamaica this year had to renegotiate a new domestic economic program after its 1977 efforts failed to meet the fund's criteria. And IMF officials prodded Sri Lanka into its most sweeping economic reforms ever.

IMF authorities insist the fund doesn't "dictate" domestic policies to individual countries. In the first place, the terms it sets almost always are worded in the euphemisms of international economics, unlikely to offend any government. "We never ask a country to devalue its currency," an insider says. "We just agree on limits for net foreign assets of its central bank."

Secondly, fund negotiators almost always suggest several options for governments on each major issue. In the Zambian case, for example, IMF representatives suggested five or six approaches for achieving each economic goal, and then Zambian officials chose among them, based on domestic political considerations.

There's often been criticism that the IMF's judgments are made by staff, not political officials, meaning that a nation's policies, in effect, are determined by sometimes youthful economists who never have been elected to office. In essence, that criticism is accurate. But often the IMF staff members are experienced. And in all cases, their work is reviewed by top fund officials and the executive board.

In the case of the Zambian negotiations, all four fund field team members were economists: a 40-year-old Italian, who has spent his career with the IMF and other international economic institutions; a 33-year-old Japanese economist; a 30-year-old Finn, and a 29-year-old London School of Economics graduate who has been at the fund seven years.

Their proposals, the result of weeks of work, were approved by Zambian policymakers and top IMF officials. The decisions at the Zambian end were made by the prime minister and finance minister.

William B. Dale, a former U.S. Treasury official who is the fund's deputy managing-director, insists that "the fund can't dictate a nation's domestic economic policy." Even if a country "agreed to whatever we suggested" he says, "it's they, not we, who administer the policy. They've got to become satisfied the policies are correct before they adopt them."

And Paul A. Volcker, former U.S. undersecretary of the treasury for monetary affairs and now president of the New York Federal Reserve Bank, says the fund's analysts usually are right on target. "You can pick your individual instances where in the hindsight there's been some problem," Volcker says, "but by and large the fund people do their jobs pretty well."

Still, in the end, even fund insiders agree, the bottom line is whether the deficit-plagued country wants the IMF's money and imprimatur. "The borrowing countries accept the terms because they need the IMF's Good Housekeeping seal of approval," says a U.S. official familiar with the negotiation process. "They know they can't function without it."

Adds one high developing-country policymaker involved recently in negotiating an IMF loan for his country: "It's just astonishing how much authority the IMF mission chief has. You're really dealing with a high-class bunch of people here, and on balance I'd have to say they were fair. But the staff has one hell of a lot of clout."

Fund officials deny the agency is more stringent with developing countries than with industrial nations—citing as examples recent demands on the United Kingdom and Italy. "It's fairly obvious we're not going to push big or small countries if they don't want to," one fund source concedes. "The difficulty is, the smaller countries are in financial trouble more often."

Nevertheless, as holder of the purse strings, the fund can get tough when it wants to. In ongoing negotiations with Zaire, a beleaguered Mobuto government already has agreed to give the IMF extensive influence over the country's economic policies as part of a $1 billion plan to bolster its shaky regime. There even will be an IMF "technical adviser" in the Zairian central bank.

And Robert Solomon, a former Federal Reserve Board international monetary adviser who now is at the Brookings Institution, suggests there may be some truth to the charges that larger countries—and those with balance-of-payments surpluses, which theoretically are supposed to be as bad as deficits—emerge less scathed.

"The fund may indeed have been too tough on some countries," Solomon says, "We seem to have fashioned a monetary system with the same old prejudices—that a deficit is bad but a surplus is good." He also is critical of the way IMF policy prescriptions are formulated: "You sometimes get the feeling that some pretty junior staff people are in effect mandating policy."

In any case, there seems to be agreement that the organization's demands are rarely really unfounded. As a U.S. official puts it, "The problem isn't the fund—the problem is the countries are in a bind and need to take drastic steps to get out. The reality is that the IMF loan makes it less painful for these countries to make their adjustments—even with the demands the fund makes."

The question is, how much is the fund's insistence an unwarranted intrusion on national sovereignty? While some countries go kicking and screaming to the IMF's bargaining tables, others seem to welcome the fund's toughness as a cover for imposing needed cutbacks they know will be unpopular. "The fund makes a terrific scapegoat," one policymaker says.

In still other cases, the governments sometimes turn out to be too weak or ill-equipped to carry out cutback programs on their own. In Peru, for example, outside observers say it's unlikely the regime would have been able to slash programs without fund intervention. And onlookers say Zarian officials simply weren't technically able to develop their own programs.

At least some of the criticism over the way the fund treats developing countries may be reduced as a result of a new approach to IMF lending involving longer-term loans. Until recently, the major form of IMF lending has been to extend credit to a country for a year at a time. If the government did not perform as expected, the line of credit simply was canceled.

Under the new program, however, the fund now works out a longer term plan with borrowing nations designed to help restore the local economy over a three-year period. In the case of Jamaica, where Prime Minister Michael Manley has criticized IMF officials for not fully "understanding" poorer nation's needs, policymakers are viewing the new procedure as "a better tool" for the IMF to use.

What is less certain is how much influence the fund will be able to exert on nations that aren't actually trying to borrow money—such as West Germany, Denmark, or even the United States. Although the organization's newly revised charter grants it in-

creased power in this area, the rules of the game haven't been drawn yet. "They're still feeling their way," a knowledgeable onlooker says.

Dale and other IMF officials insist that "we're taking the matter seriously" in trying to develop standards and procedures for policing countries that are not currently borrowing, but some observers are skeptical. "The fact is, they're just not going to be able to force any nation to make cutbacks if it doesn't need IMF money," one observer says.

The issue may be decided quickly, however. Jacques de Larosiere, the fund's new managing-director, was a coauthor (along with former U.S. treasury undersecretary Edwin H. Yeo) of the fund's new "surveillance" power, and is said to be taking a more aggressive stance than his predecessor, former Dutch finance minister H. Johannes Witteveen.

The fund's directors are appointed by the various finance ministries of the IMF's 130 member nations and take their policy instructions from their home governments. The voting power of the directors is weighted according to the size of the economy of the nation they represent. The U.S. director controls just under 21 percent of the votes. Zambia's ballot is counted in with those of several other African nations as a single regional vote.

In any case, the corner has been turned for the once-toothless IMF. To the officials in the Zambian treasury—and others in governments throughout the industrial and developing world—the fund is now a force to be respected. And for better or worse, analysts say that's unlikely to change very soon.

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ECONOMIC SHOCK: IMF LOAN TERMS FORCE JAMAICAN BELT TIGHTENING

(By Art Pine)

KINGSTON, JAMAICA.—Away from this lush, mountain-capped Caribbean island, Prime Minister Michael Manley likes to portray Jamaica as a major force in the struggle by developing nations to become economically independent. In speeches in various world capitals, Manley calls repeatedly for a "new international economic order" for poorer countries. He often laments big-power "imperialism."

At home, however, Manley is being forced to put his country's economy through the wringer, precisely to satisfy the demands of these very industrial nations. Almost bankrupt from an outsized balance of payments deficit, Jamaica has had to take out a $244 million, three-year loan from the International Monetary Fund. And that means meeting IMF terms for getting its economy up to snuff.

Jamaica's new belt-tightening is one of 21 cases in the past several years in which the IMF has required borrowing nations to take stringent austerity measures to qualify for multilateral aid—part of the 130-member organization's growing power in the face of changing economic conditions. Technically, the fund doesn't mandate specific policy changes. But it won't lend the money until it's satisfied with a country's program.

To meet the IMF's conditions, Jamaica last month began gulping down a harsh dose of economic medicine that includes a massive 30 percent devaluation of its currency, stringent controls on imports, a series of big tax increases on manufacturing and tourists, higher interest rates, limits on credit expansion and a tight wage ceiling on worker's raises.

The result has been a virtual shock wave for already hard-hit Jamaican workers, and a new jolt for the island's close-knit middle class that has sent many fleeing to the United States. Despite government subsidies, prices of many necessities—such as food and gasoline—have jumped more than 30 percent since early May. Domestic business is off. And jobs are scarce.

A can of condensed milk—a staple to the island's poorer families—now costs more than 50 cents at Jamaican food stores. Cigarettes run $1.36 for a pack of 20. And gasoline now costs $3 a gallon in Jamaican currency. Even beer prices have soared—to 65 cents a bottle, up from 41 cents two weeks ago. Says one prominent union leader: "You look at this thing and you just want to cry."

Moreover, Manley's leftish "democratic socialist" government, which won a landslide victory last December before the country's financial straits were made public, is now coming under increasing criticism from both labor and business. Although the charismatic Manley is not up for reelection until 1981, his supporters concede they're no longer fully confident of being returned to office.

Admittedly, terms or no terms, almost everyone in Jamaica agrees the hardship would have been a lot stiffer if the IMF had rejected Jamaica's loan application. Without the IMF money, a high Jamaican official says, private banks would have curtailed their lending and foreign exporters would have cut off short-term credit, stifling needed trade.

With problems of that magnitude, the remedies would have been harsher. "To try to go it alone would have meant operating a siege economy," a finance ministry official said. "You'd virtually have to retire from international commerce, which would be next to suicide for a country that has to import as much as we do. And that would mean serious political upheaval. There really was no choice."

The question is, did the IMF go too far in prodding Jamaica to accept these harsh terms, and how much did Manley's government have to say about what policies it would adopt to meet the fund's terms? Manley himself often has criticized international lending agencies for failing to take account of the "fragile" economics of developing countries. Was this another such IMF fluff?

The negotiations leading up to last month's loan came against a backdrop of continued decline in the Jamaican economy. Caught amid high oil prices, falling revenues from its sugar exports and a tradition of heavy government spending, Jamaica gradually ran down its monetary reserves. Inflation intensified. Layoffs increased. The nation was facing an economic disaster.

In 1977, Manley applied for—and got—a $78 million line of credit from the fund. But after months of half-hearted cutbacks—including an abortive austerity program imposed after Manley won his December 1976 reelection—Jamaica failed to meet previously agreed on economic targets, and the fund closed the window on the loan. The government tried to get along without the IMF's help but eventually it asked for another loan.

Last February, an IMF field team flew down to Jamaica to begin negotiations for the loan, but—with the previous year's performance in mind—insisted on a much tougher set of conditions. On IMF prodding, Jamaica was forced even before the talks began to agree to a 15 percent currency devaluation. When negotiators did sit down in earnest, fund officials were decidedly stern.

Just how much Jamaica was coerced into adopting the policies it did, and how much flexibility it had to pick and choose, depends on the perspective. Although both sides agree that the fund didn't actually dictate the measures it wanted Manley to adopt, the goals the field team set were so specific, it was hard to avoid the tough decisions.

The fund team was headed by David Finch, a bespectacled, fiftyish Australian who has spent his career as an IMF field representative. Far from being dictatorial, Jamaican officials report, Finch and other staffers were almost deferential about what policies Jamaica would have to adopt. (Earlier, Finch had handled loans to Italy and Great Britain as well.)

As a Jamaican official in on the talks describes it, "They never told us specifically what policies we had to follow to qualify. All they would say was, 'You show me what you want to do and I'll tell you if it's correct.' By the end, we were pleading with them, 'Please just impose your conditions and be done with it.' But they said Jamaica had to make up its own mind."

To their credit, Finch and other team members spent their first several weeks simply studying the Jamaican business leaders to see how much each side would be willing to sacrifice. In the process, even Jamaican officials were astonished at their thoroughness. "I learned a lot about this island," one says, "that I didn't know before."

The negotiators' jobs also were made easier because the loan was carried out under a new form of lending pool that gives borrowing nations up to three years—in contrast to the normal one year—to get their financial houses back in order. And a western observer adds pointedly: "There also was more-than-usual regard for appearances. The IMF people were well aware of third-world attitudes toward the fund."

But ultimately, finance ministry policymakers say, Finch was determined about what Jamaica could and couldn't do. "He's by far the toughest negotiator I've ever run into," says one senior official here. "He'd never say no—just sit there, patiently, like some sort of professor, and then say, 'Yes, but...' The gnawing thing was he was so nice about it you couldn't get angry."

By April, there were only two major points of disagreement:

Jamaican officials resented Finch's demand that they devalue their currency by 30 percent (15 percent at the start, and 15 percent a month until the 30 percent is reached). "Our feeling was that 15 percent in total would have been enough," a high Jamaican official recalls. "But we finally had to do it, all 30 percent."

The second was the government's plans to take over all importing through a state trade corporation. The IMF team contended that with so many of Jamaica's trade transactions now coming through U.S. and British subsidiaries, a takeover now would discourage needed expansion. The result was a compromise: Jamaica would "monitor" imports, and if things got out of hand, Manley could publicly call attention to the problem.

On the rest of the package, there was "virtual unanimity," a ministry official asserts: Jamaica would devalue its dollar according to the IMF formula; Manley would try to hold the line on government spending and boost taxes to reduce the budget deficit; imports would be controlled tightly and wage increases would be held to 15 percent.

There's no question these policies have resulted in hardships. Since the program went into effect last month, prices have risen sharply for almost everything, including basic necessities; retail sales have fallen off visibly, in some cases by as much as 40 percent and workers, deprived of catch-up pay increases, are being caught in a squeeze.

For Jason R., a 48-year-old blue-collar worker (many Jamaicans are loathe to

use their full names in print, for fear of losing patronage jobs), the dilemma is acute. The gaunt father of six earns $40 a week at his full-time job. But he must spend $30 for food alone, $10 a week for rent, $5 for transportation and $10 for lunches for his schoolage youngsters.

For now, Jason R. is eking out a living by dipping into a small nest egg the family accrued when his wife worked as a domestic in the United States a few years ago. But in two weeks, that money will be gone, and Mrs. R's visa expired in the interim. "We buy a lot less of everything," he says. 'One pound of flour instead of two, half of what we used to before."

Lascelles Beckford, labor chief of the opposition-allied Bustamante Industrial Trade Union, says such pinching has become commonplace for Jamaica's poorer workers, many of whom still earn the national minimum wage of $24 a week. "You try to write down a typical family's budget," he says, "and you just look at the figures and crumple up the paper. But it's true."

Moreover, the squeeze is so bad it's even hitting the middle class, many of whom are simply giving up and emigrating to Miami. Alvin B., a 29-year-old bank manager, is planning now for just such a move as soon as he can arrange it. "It's really hitting like hell," he says. "We just can't enjoy the same standard of living we had before.

Not surprisingly, union leaders have protested the government's new wage ceiling, which is preventing workers from keeping up with the new rise in prices. Even the Manley-affiliated National Workers' Union is criticizing the prime minister's policies. Says the NWU's president, Carlisle Dunkley: "What we're saying is, 'What assurances can you give us on prices?' And they can't."

Business leaders also are upset. Bruce Rickards, a director of Grace-Kennedy & Co., a major food distributor here, complains that "many items have now been priced out of the reach of ordinary citizens. We're facing problems we've never had before," he says. "The whole thing is turning out to be diminished returns to the very government that needs it. It's a disaster."

Still, despite the widespread hardship, there's been relatively little criticism of the IMF. A nationwide public opinion poll published last week by Carl Stone of the Kingston-based University of the West Indies showed 46 percent of Jamaicans in favor of the IMF loan deal, and 40 percent opposed—not a bad plurality in the island's volatile political structure.

If anything, most of the blame is being laid squarely on Manley. Says the NWU's Dunkley, usually an ally of the prime minister's: "Sure it was a tough deal. But when you go to a bank, you have to do what they tell you. The fact is that Jamaica for too long has delayed the actions needed to restore financial stabiltiy. So now, you might say, the chickens are coming home to roost."

To many observers, the immediate question is whether the government can keep the lid on wages—an element most Jamaican economists regard as the key to the program's success. Although unions and employers are obligated to obey the guidelines, Manley might have to loosen them if opposition intensifies. So far, protests have been perfunctory. But things could heat up if prices rise more.

There also are longer-range problems. As a finance ministry official explains it, the strategy of the IMF team was to use "a short, hopefully temporary jolt of inflation to help dampen workers' buying power and bring consumption into line with production. The problem was solved is it had to be—with a crunch," he says. "It's a novel approach, but we think it will work."

The dilemma is, dampening consumption is only half of what Jamaicans have to do. The other side is to begin spurring production. And on this, Jamaica may well be in an economic Catch 22: To help eliminate its payments deficit, the government must crimp the economy to curtail consumption. But that in turn makes it more difficult to resume production. So, where does the cycle end?

Was the IMF, then, too tough on Jamaica? By a wide majority, both government officials and private-sector spokesmen insist it was not "The negotiations were tough, but the IMF people weren't unfair," says Richard Fletcher, the No. 2 man at Jamaica's embattled finance ministry. "There was only one technical matter on which we disagreed. For the rest we made the key decisions ourselves."

Another top official puts it more candidly: "Just look at the alternatives," he says. "Bilateral aid is a possibility when you have sympathetic men in the State Department, but otherwise I really prefer international organizations. And the big multinational bank boys are nice guys—when you don't need them. When you're in a bind, they just disappear. . . ."

Mr. JAVITS. The article points out that, sure, a major loan of rougly in the $200 million to $250 million range to Jamaica was conditioned upon some very difficult conditions for Jamaica, a very poor country indeed. This is the very critical point I would like to make.

This is speaking of the fact, for example, that prices have had to be put up 30 percent since early May for a country which is very, very poor, and that staples of the most elementary character very materially increased in price causing great hardship to the people in Jamaica, the poor people in Jamaica, and most of them are poor. The article goes on to say:

Admittedly, terms or no terms, almost everyone in Jamaica agrees the hardship would have been a lot stiffer if the IMF had rejected Jamaica's loan application. Without the IMF money, a high Jamaica official says, private banks would have curtailed their lending and foreign exporters would have cut off short-term credit, stifling needed trade.

I continue to quote:

With problems of that magnitude, the remedies would have been harsher. "To try to go it alone would have meant operating a seige economy," a finance ministry official said. "You'd virtually have to retire from international commerce, which would be next to suicide for a country that has to import as much as we do. And that would mean serious political upheaval. There really was no choice."

In short, the adoption of this amendment would be unbelievably harmful to the very poor people whom the amendment ostensibly is designed to help, and would be completely counterproductive. It would make the country poorer, less able to do anything for its poor, than it would be with the conditionality and the tough conditions, but getting the help, nonetheless, of the IMF.

One other things is important. The IMF in setting conditions does not write the conditions for a country but it presents to the country the ultimate objective, financial objective, which has to be attained. That is, what money it can spend compared to what it can take in and how the loan which is coming from the IMF is to be used in an effort to improve its conditions, improve its production, and enable it to attain the goals for which the loan is made, the purpose of the loan being to put the country, over a period of time, 3 to 5 years, into a viable economic condition.

These goals are not, as the economists, say microeconomic goals, that is, some specific regulation about the price of this or interest rates or how to handle exports, what to do about tariffs. The objectives are the ultimate balance of the country in terms of its foreign exchange and in terms of its domestic operations, its creditworthiness, its ability to export and its ability to import, to get the necessary accommodation with respect to its imports, and also to determine the value of its currency. So conditionality often imposed by the IMF goes to the matter of devalution of currency which is overvalued. That was the case in respect of Jamaica.

How the country does it are the macroeconomic goals. How the country does it is up to the country. In short, it is the country itself which will determine whether this is going to be done through the price mechanism, through the interest rate mechanism, through the currency devaluation mechanism, or any combination of those factors.

Again, I quote from this same piece which is so revealing because it relates to a very vivid case in point, to wit, Jamaica:

Was the IMF, then, too tough on Jamaica? By a wide majority, both government officials and private sector spokesmen insist it was not. "The negotiations were tough, but the IMF people weren't unfair," says Richard Fletcher, the number two man in Jamaica's embattled finance ministry. "There was only one technical matter on which we disagreed. For the rest, we made the key decisions ourselves."

In short, the mechanism which is going to be used to attain the result of beginning to put the country back on the road to viability, financial viability, is the choice of the country.

Again, I say the developing countries, and this amendment is very much directed to the developing countries. It is not that the amendment says developing countries, but on page 2, line 25, it refers to "especially as it relates to the poor majority within those countries," which clearly indicates that it is directed to the developing countries. The question is what that country, including a majority of poor people, determines is best for it to do in order to put itself on some kind of a viable road.

Mr. President, it seems to me that that relates directly to the argument which is used to back this amendment respecting "do not contribute to the deprivation of basic human needs." I now pass to the human rights argument.

Again, it deeply appeals to our humanity, to the general policy of the United States, and to what we are doing in many, many areas of our activities, including, and I emphasize this, our AID program, our bilateral activities in this regard. But, Mr. President, again it does not belong here for this reason: It introduces a political note in an international banking enterprise which is a double-edge sword, and we better remember that. We may be working against the activities in genocide—that is taking it to the extreme—in countries where we feel that that is what a violation of basic human rights amounts to. But this is a game which many can play, Mr. President, to introduce these struggles as well as those that we condemn. For example, we must remember that the IMF has both Communists and non-Communists in it, and that itself represents a major source of political division. Yet we are anxious to bring the Communist countries into some kind of relation with the rest of the world. This is extremely important to the future of peace and to the future of the world's economy.

That will represent an immediate line of very strong political division.

Then let us look at a few other struggles. There is the struggle between Greece and Turkey; the struggle between Israel and the Arab States; the struggle between South Africa and the front line black African States; the differences between India and Pakistan. These are the more prominent. There are scores of other potential political and military opponents.

Do we wish to make the IMF a cockpit in which we are going to pit all these people against each other?

Is this not very unwise, from the point of view of the mission of the IMF, through this supplementary fund, trying to bring about a greater degree of viability, or at least an endeavor to have sovereign countries recover their viability, through the utilization of the International Monetary Fund machinery?

Mr. President, it is very illustrative to me, and I cite this as a very important example, that an amendment very much like this one was just rejected by better than 2 to 1 by the other body, where it was endeavored to be put on the Export-Import Bank authorization, the so-called Harkin amendment. That was rejected just last week for precisely the reasons that I am describing: because there are plenty of opportunities, in bilateral aid and other forums, including forums of various other types of assistance and support which the United States gives, to write in human rights conditions; but that it was considered inappropriate to mix up that issue with these banking efforts which are characterized by the IMF and were characterized also by the Eximbank.

The reading of that amendment which the House rejected was almost exactly the amendment which is here presented.

Mr. President, I wish to make just one final point. That is, whom are we benefiting by the IMF facility? Are we not benefiting the very same people whom we are seeking to benefit in these strictures on deprivation of human needs and deprivation of human rights? Are we to say, and I give the signal example of Jamaica, that people who are poor and oppressed are going to be better off if their countries are bankrupt and put into a position of being unable to deal with the basic necessities of life than if we allow them to become economically viable, with an infinitely greater expectation that, if we did, there would be far less deprivation of human needs or deprivation of human rights? I deeply feel that the latter is the intelligent and right course and that, in this particular instance, it would be highly counterproductive to enact an amendment such as has been proposed to us, which I hope, Mr. President, the Senate will reject.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment that has been debated, the Abourezk amendment, I think it is No. 3390, be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1537

(Purpose: To oppose certain assistance by the Supplemental Financing Facility of the International Monetary Fund to Uganda and Cambodia)

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1537:

At the bottom of page 4, add the following:

SEC. 3. The President of the United States shall instruct the Executive Director of the United States to the International Monetary Fund to oppose any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to the Democratic Kampuchea (Cambodia) or the Republic of Uganda, until the President of the United States determines and certifies to the Congress of the United States that Cambodia or Uganda, as the case may be, is in compliance with internationally recognized human rights.

Mr. DOLE. Mr. President, the Senator from Kansas will not spend a lot of time on this amendment. I think it is a very simple amendment. I understand it may be controversial to some and may be opposed by some members of the committee.

Mr. President, this amendment simply directs the President of the United States to instruct our Nation's Executive Director to the International Monetary Fund to oppose any funding to Cambodia or Uganda, through the supplemental financing facility addressed by this legislation.

As the distinguished floor leaders of this bill have already indicated, the legislation would authorize the U.S. Department of the Treasury to make $1.7 billion available as the U.S. contribution to a supplementary financing facility of the International Monetary Fund. Our delegate has already joined with the other Executive Directors of the IMF in approving the establishment of this so-called "Witteveen Facility," to make these financial resources available to member nations with serious balance-of-payments problems. Under the terms of the Bretton Woods Agreement Act, prior congressional approval is required for our participation in this financing facility.

WORST HUMAN RIGHTS OFFENDERS

The amendment I am proposing would block U.S. support for the use of any of these funds for assistance to Cambodia and Uganda—both of which are members of the IMF—until it is determined that they are in compliance with internationally accepted standards of human rights. I think it is safe to say, Mr. President, that these two countries are among the worst offenders of human rights in the world today—not simply because of political repression or social intimidation, but because of the most brutal and gross violations of human dignity imaginable.

It should not be necessary to remind my colleagues that reports indicate as many as 2 million Cambodians have died as a result of disease, starvation, or direct execution since the Communist regime came to power 3 years ago. At the same time, Amnesty International reports that between 30,000 and 300,000 Ugandans have fallen victim to the regime headed by Idi Amin. Both regimes resort to torture and terrors as a means of retaining their authority. I can think of no responsibility that we have—morally, legally, or otherwise—to provide assistance to either of these countries, to assist their balance-of-payments problems. Yet, both nations are official members of the International Monetary Fund and therefore, I understand, eligible to receive assistance through the supplementary financing facility which is under consideration today.

It seems to this Senator that the amendment is in accord with the objective of this administration and this Congress, to deny aid to those countries which are in severe violation of internationally accepted standards of human rights. It seems to me that this is important whether U.S. aid is extended directly, or indirectly through an international loan organization like the International Monetary Fund.

CONTROL OVER FOREIGN AID

None of us knows at this point whether either of the two governments may request such aid through the International Monetary Fund. But

whether they do or not, the principle remains: these two countries are currently eligible for such assistance, and we should make it clear to our delegates that they must object to such applications if they are submitted.

Last Friday, the Senate adopted an amendment placing a U.S. trade embargo on Uganda. That proposal did not address the matter of IMF assistance to Uganda. As a matter of U.S. policy, however, it would be consistent for us to direct our IMF delegates to oppose aid to Uganda. Why should we provide indirectly, what we refuse to provide directly?

I am aware that, under the provisions of our participation in this facility, no actual expenditure of Treasury funds will take place. Nevertheless, the Department of the Treasury does make its resources available—to the extent of approximately $1.7 billion—to make it possible for the facility to assist IMF members with their balance-of-payments problems. I simply think that those resources should not be available to Cambodia or Uganda, to the extent that they are made available through U.S. participation in this organization.

During fiscal year 1976, a full 69 percent of foreign aid dispersed by American agencies and by U.S.-supported international agencies was allocated without congressional review—69 percent without any review by the Congress at all. This erosion of congressional authority over the use of foreign aid funds is deplorable, as it enables use of those funds for purposes alien to the interests of the American people.

Contrary to what some might suggest, this amendment does not violate our responsibility to the International Monetary Fund, nor does it inject politics into the operation of that fund. We are not attempting to dictate their policy. All we are doing, in fact, is defining U.S. policy. It seems to many Americans that it is about time we defined U.S. policy or about time we had a U.S. policy. That is perfectly within our legitimate rights, and does not violate the charter of the IMF. It is simply a statement of U.S. policy toward the organization, and not an attempt to dictate the behavior of the IMF. To be sure, I am hopeful that our policy statement will discourage decisions by the International executive directors to extend aid to Uganda or Cambodia, so long as they are in violation of human rights. But it is hardly a violation of the organization charters, as some would suggest.

PRECEDENTS

I point out, in addition, that there is precedent for this type of action. In 1974, the Senate approved an amendment offered by the distinguished Senator from Louisiana (Mr. LONG) requiring U.S. delegates to oppose World Bank concessional loans for countries which fail to sign the nuclear nonproliferation treaty after exploding a nuclear device.

In 1976, we approved an amendment requiring the U.S. delegate to the Inter-American Development Bank and African Development Fund to vote against loans for countries that consistently engage in gross violations of internationally recognized human rights. Again, in 1976, we agreed to an amendment sponsored by the distinguished Senator from New Mexico, Mr. DOMENICI, requiring our representatives to the African Development Fund to oppose any loans to countries that give refuge to international aircraft hijackers. And last year, during discussion of the international financial institutions bill, the Senate approved an amendment offered by this Senator, to require our delegates to the World Bank and Asian Development Bank to vote against loans to Vietnam, Laos, or Cambodia. There are several additional instances of restrictive U.S. policy toward international monetary organizations, by virtue of congressional directive, and I ask unanimous consent that a list of such precedents be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LEGISLATION AFFECTING U.S. POLICY TOWARD THE INTERNATIONAL BANKS

A. REQUIRED NEGATIVE VOTES

1965 legislation requiring the U.S. representative at the IDB to oppose concessional loans to any countries where the U.S. has suspended its bilateral aid program under terms of the Hickenlooper Amendment following an uncompensated expropriation of U.S. foreign investments.

1967 legislation requiring the U.S. representatives at the IDB to oppose any loans that directly or indirectly assist a country to acquire sophisticated or heavy military equipment.

1972 legislation (Gonzalez Amendment) requiring the U.S. representatives to oppose loans to countries that expropriate American investments.

1972 legislation (Rangel Amendment) requiring the U.S. representatives to oppose loans by the banks to countries that fail to take adequate steps to suppress the illegal drug traffic or the sale of such drugs to U.S. servicemen.

1974 legislation (Long Amendment) requiring U.S. representatives to oppose World Bank concessional loans (IDA) for countries which fail to sign the nuclear non-proliferation treaty after exploding a nuclear device.

1976 legislation (Harkin Amendment) requiring the U.S. representatives to the Inter-American Development Bank and African Development Fund to vote against loans for countries that consistently engage in gross violations of internationally recognized human rights, unless the loan would explicitly benefit poor people of the borrower country.

1976 legislation (Domenici Amendment) requiring U.S. representatives at the African Development Fund to oppose any loans to countries that give refuge to international aircraft highjackers, unless the loan would explicitly benefit poor people in the borrower country.

B. REQUIRED ADVOCACY ON CERTAIN ISSUES

1967 and 1973 legislation (Selden Amendment) directing the executive to seek the establishment of autonomous evaluation units within the international lending agencies.

1974 legislation in the foreign aid bill (Percy Amendment) directing U.S. representatives to seek action within the multilateral banks promoting the integration of women in national economies and improving the professional status of women within the banks themselves.

1975 legislation in the foreign assistance act requiring the President to seek new criteria in the banks evaluating countries in terms of their relative emphasis on aid to the poor and small farmers and their relative progress in things like infant health, population control, employment, and income distribution, and (by implication) new policies in the banks channeling more loans to countries with good performance records in these areas.

1976 legislation (another Long Amendment) directing the U.S. representative at the Inter-American Development Bank to seek a resolution making intermediate technology and light capital methods high priority emphases within the IDB's general program.

Mr. DOLE. Mr. President, I suggest that there is no doubt about the American public's attitude toward this question. There is virtually no support in this country for supply assistance of any kind—moral, technical, or economic—to Uganda or Cambodia, so long as they continue to persecute and execute tens of thousands of their own citizens. I suggest that this is an amendment which all of us can support, with a clear conscience, and with the faint hope that it might actually help encourage some movement toward more humane conditions in both of these countries.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, in connection with this amendment, just for the sake of keeping the record straight, I should like to detail the reasons why, as I understand it, the Treasury Department finds this type of amendment objectionable as it relates to the IMF. I will state my own position on it at a later time in the debate.

The objectionable feature comes from two points: One, the politicization of an international monetary agency dealing with the stability of money and exchange rates and balances of payments among nations, which is the IMF.

In connection with the debate on the Abourezk amendment, I already have given the legion of other political quarrels that could absolutely tear apart the IMF, if we accepted a political reason for the actions of individual countries in the IMF.

The second point, which also is very important with respect to this particular matter, is that this is not assistance by the United States. The amendment reads:

To oppose any extension of financial or technical assistance.

Then it goes on, "by the supplementary financing facility."

That is the basic error, because there we are trying, as I say, to introduce a political criterion for a vast international monetary organization, which would be appropriate if this were assistance by the United States; and, indeed, we have such provisions in our foreign aid authorizing legislation. But it is inappropriate where

it relates to an international monetary organization.

Finally, we have just adopted an amendment relating to Uganda, and that amendment is found now in the bill, section 3(a). Part (e) of that amendment reads as follows:

The Congress directs the President to encourage and support international action including economic restrictions to respond to conditions in the Republic of Uganda.

It seems to me that this gives the President the appropriate directive within the flexibility which matters of this kind require to do what is desired, without running afoul of the politicization of the IMF, which the Treasury feels is to be sedulously avoided. Therefore, the amendment already adopted fully covers what should be done in the best interests of the country respecting the situation of Uganda as a possible prospective borrower from the IMF.

As to Cambodia, I say to the Senator, as a matter of information, that Cambodia is not eligible for supplementary financing assistance, because the IMF governing authorities have been unable to communicate with the Government of Cambodia for 2 years. Hence, they have not lived up to their obligations in terms of reporting, and so forth. So that that is academic. There is no privity between Cambodia and its opportunity or possibility of borrowing from the supplementary facility or to draw anything on the IMF generally.

That is the situation as I see it, Mr. President, with respect to this amendment.

Mr. SARBANES. Mr. President, in considering this amendment, I want to point out an important distinction between it and a previous amendment that was laid aside temporarily, the Abourezk-Hatfield amendment.

One may agree or disagree with the criteria that amendment seeks to lay down, but that amendment sought to establish certain criteria which the U.S. Executive Director of the IMF would bring to the attention of the IMF in considering stabilization programs which the International Monetary Fund would set out when a nation sought to draw on the supplementary facility.

I think that issue is different from the issue that is posed by the amendment now before us, in which the judgment is made for the director with respect to a country drawing, when that country, under certain circumstances, might be entitled to make a draw under the IMF rule. In other words, it would have the right to do so. The amendment offered by the distinguished Senator from Kansas, in effect, would require the interjection of opposition by the American Executive Director in an instance in which the country might, in fact, be entitled to draw.

That, I think, raises a different issue, and may well require a different response, from the issue posed by the amendment proposed by the Senator from South Dakota and the Senator from Oregon and other cosponsors, which talks about the criteria which the IMF must consider in formulating its stabilization program.

Mr. DOLE. Mr. President, I will not quarrel with the statements made by either the distinguished Senator from New York or the distinguished Senator from Maryland. I think the record has been made, and I do not want to belabor the point.

I would like to include in the RECORD a list of the members of the International Monetary Fund as of June of this year. It indicates, at least, that Cambodia is a member and has a Governor and an alternate, and it gives a list of the other countries which belong to the IMF. I ask unanimous consent that this information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL MONETARY FUND

MEMBERS AND GOVERNORS AS OF JUNE 17, 1978

*Member, governor* and alternate**

Afghanistan: Mohammed Hakim, Faiz Mohammed.

Algeria: Seghir Mostefai, Hachemi Saibi.

Argentina: José A. Martínez de Hos, Adolfo C. Diz.

Australia: J. W. Howard, Sir Frederick Wheeler.

Austria: Stephan Koren, Philipp Rieger.

Bahamas: Arthur D. Hanna, T. B. Donaldson.

Bahrain: Mahmood Al Alawi, Abdulla Hassan Saif.

Bangladesh: S. A. Khair, M. Nurul Islam.

Barbados: J. M. G. M. Adams, Courtney Blackman.

Belgium: C. de Strycker, Emiel Kestens.

Benin: Isidore Amoussou, Guy Pognon.

Bolivia: David Blanco Zabala, Manuel Mercado.

Botswana: Brenton C. Leavitt, B. I. Gasennelwe.

Brazil: Mario Henrique Simonsen, Paulo H. Pereira Lira.

Burma: Aye Hlaing, Maung Shein.

Burundi: Elisée Ntahonikora, Aloys Ntahonkiriye.

Cambodia: Kim Nguon Trach, Chin Chuon.

Cameroon: Marcel Yondo, Gotlieb Titti.

Canada: Jean Chrétien, William C. Hood.

Central African Empire: Huges Dobozendi, Jean Marie M'Bioka.

Chad: Beremadji Madengar, Machayl Bako.

Chile: Alvaro Bardon Muñoz Sergio Undurraga Saavedra.

China: Kuo-Hwa Yu, Robert Chun Chien.

Columbia: Germán Botero de los Ríos, Vacant.

Comoros: Said Kafe, Mohamed Mshangama.

Congo, People's Republic of the: Henri Lopes, Gabriel Bokilo.

Costa Rica: Guillermo González Truque, Rigoberto Navarro M.

Cyprus: C. C. Stephani, H. G. Akhniotis.

Denmark: Erik Hoffmeyer, Kurt Hansen.

Dominican Rep.: Fernando Periche Vidal, Luis María Guerrero G.

Ecuador: Rodrigo M. Espinosa, Eduardo Samaniego.

Egypt: Mohamed Abdel Fattah Ibrahim, Aly Mohamed Negm.

El Salvador: Victor Hugo Hurtarte, Roberto Ortiz Avalos.

Equatorial Guinea: Ondo Mañe Ondo Avang, Crisanto Ndong Abaga.

Ethiopia: Legesse Tickeher, Tadesse Gebre Kidan.

Fyi: C. A. Stinson, H. J. Tomkins.

Finland: Mauno Koivisto, Pentti Uusivirta.

France: René Monory, Jean-Yves Haberer.

Gabon: Jerôme Okinda, Jean Paul Leyimangoye.

Gambia, The: Assan Musa Camara, S. S. Sisay.

Germany, Fed. Rep. of: Otmar Emminger, Manfred Lahnstein.

Ghana: A. K. Appiah, A. E. K. Ashiabor.

Greece: Xenophon Zolotas, Evangelos Devietoglou.

Grenada: George F. Hosten, L. F. Wilson, Jr.

Guatemala: Manuel Méndez Escobar, Jorge Lamport Rodil.

Guinea: Momory Camara, Saikou Barry.

Guinea-Bissau: Victor Freire Monteiro, José Lima Barber.

Guyana: F. E. Hope, P. E. Matthews.

Haiti: Antonio André, Emmanuel Bros.

Honduras: Guillermo Bueso, Vacant.

Iceland: Jóhannes Nordal, Jón Sigurdsson.

India: H. M. Patel, I. G. Patel.

Indonesia: Ali Wardhana, Arifin M. Siregar.

Iran: Youssef Khoshkish, Ahmad Memarzadeh.

Iraq: Fakhri Y. Kaddori, Subhi Frankool.

Ireland: George Colley, C. H. Murray.

Israel: Simha Erlich, Eliezer Sheffer.

Italy: Filippo Maria Pandolfi, Mario Ercolani.

Ivory Coast: Abdoulaye Koné, Lamine Diabaté.

Jamaica: Eric Bell, Herbert Walker.

Japan: Tatsuo Murayama, Teiichiro Morinaga.

Jordan: Mohammad Said Nabulsi, Farhi A. Obaid.

Kenya: Mwai Kibaki, Duncan Nderitu Ndegwa.

Korea: Yong Hwan Kim, Byong Hyun Shin.

Kuwait: [1] Abdul Rahman Salim Al-Ateeqy. Hamzah Abbas Hussein.

Lao People's Dem. Rep.: Vacant, Bousbong Souvannavong.

Lebanon: [1] Joseph Oughourlian, Farid Solh.

Lesotho: A. M. Mapetla, J. K. Mollo.

Liberia: James T. Phillips, Jr., Charles Greene.

Libya: [1] Kassem Mohammad Sherlala, Mohamed Finaish.

Luxembourg: Jacques-Francois Poos, Pierre Jaans.

Madagascar: Léon Rajaobelina, Francois d'Assise Indrano.

Malawi: J. Z. U. Tembo, Alfred A. Upindi.

Malaysia: Tengku Razaleigh Hamzah, Ismail bin Mohamed Ali.

Maldives: Amir Abdul Sattar, Hussain Ali Didi.

Mali: Amadou Baba Diarra, Ismáila Kanoute.

Malta: Joseph Abela, C. Lino Spiteri.

Mauritania: Ahmed Ould Daddah, Moustapha Saleck.

Mauritius: Sir Veerasamy Ringadoo, Goorpersad Bunwaree.

Mexico: David Ibarra Muñoz, Gustavo Romero Kolbeck.

Morocco: Prince Moulay Hassan Ben El Mehdi, Ahmed Bennani.

Nepal: Kul Shekhar Sharma, Devendra Raj Panday.

Netherlands: J. Zijlstra, A.H.E.M. Wellink.

New Zealand: R. D. Muldoon, R. W. R. White.

Nicaragua: Roberto Incer Barquero, Carlos López Solís.

Niger: Moussa Tondi, Ahmadou Mayaki.

Nigeria: J. J. Oluleye, Olatunde Olabode Vincent.

Norway: Knut Getz Wold, Steinar Sørbotten.

Oman: Tarik Bin Taimur Al-Said, Yusuf Nimatallah.

Pakistan: S. Osman Ali, Arshad Farooq.

Footnotes at end of article.

Panama: Nicolas Ardito Barletta, Ricardo de la Espriella, Jr.

Papua New Guinea: Barry Holloway, Henry To Robert.

Paraguay: César Barrientos, Vacant.

Peru: Manuel Moreyra Loredo, César Iglesias Barrón.

Philippines: Gregorio S. Licaros, Cesar E. A. Virata.

Portugal: José da Silvas Lopes, Victor Manuel Riberio Constâncio.

Qata: Abdul Aziz Al-Thani, Madhat Abdul Latif Masoud.

Romania: Paul Niculescu-Mizil, Vasile Rauta.

Rwanda: Jean Birara, Celestin Ndagijimana.

Sao Tome: Miguel Anjos Trovoada, Victor Manuel Lopes Correia.

Saudi Arabia: [1] Sheikh Abdul Aziz Al-Quraishi, Mansour Al-Turki.

Senegal: Ousmane Seck, Mamadou Abdoulaye Mbacke.

Seychelles: Guy Morel, Vacant.

Sierra Leone: A. B. Kamara, S. L. Bangura.

Singapore: [1] Michael Wong Pakshong, J. Y. M. Pillay.

Somalia: Mohamud Jama Ahmed, Ahmed Mohamed Nur.

South Africa: Owen Pieter Faure Horwood, Johannes Hendrikus de Loor.

Spain: Fernando Abril Martorell, José Ramón Alvarez Rendueles.

Sri Lanka: Ronnie de Mel, Herbert E. Tennekoon.

Sudan: Osman Heshim Abdel-Salam, Ibrahim Mohamed Ali Nimir.

Suriname: Not yet appointed, Not yet appointed.

Swaziland: R. P. Stephens, E. A. Z. Mayisela.

Sweden: Carl-Henrik Nordlander, Hans Lundstroem.

Syrian Arab Rep.: Mohammed Imady, M. Rifaat Accad.

Tanzania: E. I. M. Mtei, C. M. Nyirabu.

Thailand: Snoh Unakul, Abhijai Jaiwatana.

Togo: Yao Grunitzky, Kwassivi Kpetigo.

Trinidad & Tobago: E. E. Williams, V. E. Bruce.

Tunisia: Mohamed Ghénima, Mohamed Bouaouaja.

Turkey: Vural Gucsavas, Tayyar Sadiklar.

Uganda: Moses Ali, Onegi Obel.

United Arab Emirates: [1] Sheik Hamdan Bin Rashid Al Maktoum, Abdul Malik Al Hamar.

United Kingdom: Denis Healey, C. W. McMahon.

United States: W. Michael Blumenthal, Arthur F. Burns.

Upper Volta: Leonard Kalmogo, Antoine W. Yamégo.

Uruguay: José Gil Diaz, Nilo Berchesi.

Venezuela: Benito Raúl Losada, Reinaldo Figueredo Planchart.

Viet Nam: Tran Duong, Mai Huu Ich.

Western Samoa: V. R. P. Phillips, A. L. Hutchison.

Yemen Arab Rep.: Mohamed Ahmed Al-Gunaid, Abdulla Al-Sanabani.

Yemen, People's Dem. Rep. of: Fadhle Mobsin Abdulla, Ahmed Obeid Fadhli.

Yugoslavia: Ksente Bogoev, Ilija Marjanovic.

Zaire: Bofosso W'amb'ea Nkoso, Vacant.

Zambia: John M. Mwanakatwe, L. J. Mwananshiku.

134 member countries

BOARD OF EXECUTIVE DIRECTORS

J. de Lasosière, chairman.

Executive director—Sam Y. Cross from United States.

Alternate—Thomas Leddy from United States casting votes of United States.

Executive director—William S. Ryrie from United Kingdom.

Alternate—Pendarell Kent from United Kingdom casting votes of United Kingdom.

Executive director—Eckard Pieske from German, Fed. Rep.

Alternate—Gerhard Laske from Germany, Fed. Rep. casting votes of Federal Republic of Germany.

Executive director—Jacques Henri Wahl from France

Alternate—Denis Samuel-Lajeunesse from France casting votes of France.

Executive director—Masanao Matsunaga from Japan.

Alternate—Rei Masunaga from Japan casting votes of Japan.

Executive director—Lamberto Dini from Italy.

Alternate—Eduardo O. de Toledo from Spain casting votes of Italy, Malta, Portugal, Spain.

Executive director—Bernard J. Drabble from Canada.

Alternate—Donal Lynch from Ireland casting votes of Bahamas, Barbados, Canada, Grenada, Ireland, Jamaica.

Executive director—H. O. Ruding from Netherlnds.

Alternate—Tom de Vries from Netherlands casting votes of Cyprus, Israel, Netherlands, Romania, Yugoslavia.

Executive director—Muhammad Al-Atrash from Syrian Arab Rep.

Alternate—Kadham A. Al-Eyd from Iraq casting votes of Bahrain, Egypt, Iraq, Jordan, Kuwait,[1] Lebanon,[1] Libya,[1] Pakistan, Qartar, Saudi Arabi,[1] Somlia, Syrian Arab Republic, United Arab Emirates,[1] Yemen Arab Republic.

Executive director—S. D. Deshmukh from India.

Alternate—Warnasena Rasaputram from Sri Lanka casting votes of Bangladesh, India, Sri Lanka.

Executive director—Jacques de Groote from Belgium.

Alternate—Heinrich G. Schneider from Austria casting votes of Austria, Belgium, Luxembourg, Turkey.

Executive director—R. J. Whitelaw from Australia.

Alternate—Ernest Leung from Philippines casting votes of Australia, New Zealand, Papua New Guinea, Philippines, Western Samoa.

Executive director—Frede Hollensen from Denmark.

Alternate—Matti Vanhala from Finland casting votes of Denmark, Finland, Iceland, Norway, Sweden.

Executive director—Byanti Kharmawan from Indonesia.

Alternate—Kiat Chong Ng from Singapore casting votes of Burma, Fiji, Indonesia, Korea, Lao People's Democratic Republic, Malaysia, Nepal, Singapore,[1] Thailand, Viet Nam.

Executive director—Alexandre Kafka from Brazil.

Alternate—T. Ainsworth Harefood from Trinidad and Tobago casting votes of Brazil, Colombia, Dominican Republic, Guyana, Haiti, Panama, Peru, Trinidad and Tobago.

Executive director—Eduardo Mayobre from Venezuela.

Alternate—Nestor O. Caldera from Nicaragua casting votes of Costa Rica, El Salvador, Quatemala, Honduras, Mexico, Nicaragua, Venezuela.

Executive director—Jahangir Amuzegar from Iran.

Alternate—Costa P. Caranicas from Greece casting votes of Afghanistan, Algeria, Ghana, Greece, Iran, Morocco, Oman, Tunisia, People's Democratic Republic of Yemen.

Executive director—Wila D. Mung'omba from Zambia.

Alternate—Festus G. Mogae from Botswana casting votes of Botswana, Burundi, Ethiopia, The Gambia, Guinea, Kenya, Lesotho, Liberia, Malawi, Nigeria, Sierra Leone, Sudan, Swaziland, Tanzania, Uganda, Zambia.

Executive director—Dante Simone from Argentina.

Alternate—Francisco Garces from Chile casting votes of Argentina, Bolivia, Chile, Ecuador, Paraguay, Uruguay.

Executive director—Samuel Nana-Sinkham from Cameroon.

Alternate—Abderrahmane Alfidja from Niger casting votes of Benin, Cameroon, Central African Empire, Chad, People's Republic of the Congo, Equatorial Guinea, Gabon, Ivory Coast, Madagascar, Mali, Mauritania, Mauritius, Niger, Rwanda, Senegal, Togo, Upper Volta, Zaire.

MANAGEMENT AND SENIOR OFFICERS

Managing Director: J. de Larosiere.

Deputy Managing Director: William B. Dale

The General Counsel: Joseph Gold.

The Economic Counsellor: J. J. Polak.

Administration Department: K. N. Clark, Director.

African Department: J. B. Zulu, Director.

Asian Department: Tun Thin, Director.

Central Banking Service: Roland Tenconi, Director.

European Department: L. A. Whittome, Director.

Exchange and Trade Relations Department: Ernest Sturc, Director.

Fiscal Affairs Department: Richard Goode, Director.

IMF Institute: Gerard M. Teyssier, Director.

Legal Department: Joseph Gold, Director.

Middle Eastern Department: A. Shakour Shaalan, Director.

Research Department: J. J. Polak, Director.

Secretary's Department: Leo Van Houtven, Secretary.

Treasurer's Department: W. O. Habermeier, Treasurer.

Western Hemisphere Department: E. Walter Robichek, Director.

Bureau of Language Services: Bernardo T. Rutgers, Director.

Bureau of Statistics: Werner Dannemann, Director.

Office in Europe (Paris): Aldo Guetta, Director.

Office in Geneva: Fernando A. Vera, Director.

FOOTNOTES

*According to the latest appointments.

[1] Not a participant in the Special Drawing Rights Department of the Fund.

Mr. DOLE. Mr. President, I only point out finally that there is flexibility. The amendment offered by the Senator from Kansas indicates again that the President shall instruct the Executive Director of the United States to the IMF to oppose any extension of financial or technical assistance by the supplemental financing facility, or by any other agency or facility, to Cambodia or Uganda until the President of the United States determines and certifies to the Congress of the United States that Cambodia or Uganda, as the case may be, is in compliance with internationally recognized human rights.

So it does give that degree of flexibility to the President to make that de-

termination and advise Congress that he has made that determination that they are in compliance with what we consider to be recognized human rights.

We have had similar amendments before going back, as I understand it, to 1965. There was legislation adopted that affected our policy toward different international banks. That was followed again in 1967 and there were a number of successful attempts in 1972, 1974, and 1976. So there is precedent, and I understand that it does take away some of the flexibility of the Executive Director of the United States to the IMF, but I think Congress should make this point clear. As pointed out 69 percent of foreign aid expenditures have no congressional review. It seems to me Congress has made it rather clear in the statements that individuals have made and in the action we have taken both toward Uganda and Cambodia.

I hope that the amendment will be adopted.

I am prepared to yield back the remainder of my time. Or there is no time agreement, I guess. But I hope the amendment will be adopted.

The PRESIDING OFFICER. There is no time agreement. The order states that no rollcall votes shall occur before the hour of 3 p.m. today.

Mr. DOLE. I hope at the appropriate time the Senator from Kansas may be permitted to ask for the yeas and nays, which I certainly will do, but there are not enough Senators present right now.

Mr. SARBANES. Mr. President, I ask unanimous consent that the pending amendment of the Senator from Kansas be temporarily laid aside so that the Senator from North Carolina may propose an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1538

(Purpose: To condition the authorization of funds for the Supplementary Financing Facility of the International Monetary Fund)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes unprinted amendment numbered 1538:

At the bottom of page 4, add the following:

SEC. 3. None of the funds authorized to be made available until the Secretary of the Treasury determines and certifies to the Congress that the average salary levels of personnel of the International Monetary Fund and of any related facility or agency of such Fund are not to exceed by 5 per centum the average salary levels of personnel in comparable positions subject to the civil service laws of the United States.

Mr. HELMS. Mr. President, in the schedule of salary payments to its employees, the International Monetary Fund persists in maintaining salary levels for its staff that are far above those of comparable civil service levels and private sector professions. This amendment is aimed at directly stemming this flagrant violation of prudent spending practices.

Under the present system, salaries paid by the IMF to its professional staff are, on the average, some 50 percent above those paid to U.S. civil service employees at the same levels.

Nearly 42 percent of the members of the professional staff at the IMF earn over $50,000 a year, and in the IMF, those who are at the IMF salary grade level of "i," which is comparable to a GS rating of 15, are paid $47,580 and up. Within the standard U.S. civil service salary schedule it is not possible to earn this amount of money until one is at level IV of the executive schedule. Section 5308 of title 5 of the United States Code limits the basic pay that can be received by employees below executive level IV to $47,500.

Mr. President, the U.S. civil service, which is the highest paid national civil service, has far less than 1 percent of its employees earning over $50,000. As a matter of fact, out of 1.4 million white collar workers employed in the U.S. civil service fewer than 2,500 earn salaries of $50,000 or more per year.

Therefore, it is almost utterly unbelievable that over 40 percent of the professional staff at the IMF earn the same salaries as only two-tenths of 1 percent of our own civil service. What is perhaps more ludicrous is that Congress, which is a part of the Government service, continues to authorize funds to the IMF to expand their overpaid bureaucracy.

We know that just about the only thing IMF economists have proved themselves good at is spending other people's money. Their duty supposedly is to help government officials bring spending levels back under control. If that is the case, I suggest that IMF officials start by setting an example within their own ranks by bringing their salary levels back into line with Government and private enterprise.

The IMF managers will argue that they need to pay such high salaries in order to attract the best possible talent. But there is much more to attracting capable people than simply offering the highest salaries. A number of other factors, such as reputation, reliability, and future prospects of the employing organization, also affect a person's decision when he or she is considering a new position. Perhaps the International Monetary Fund should concentrate more on some of these other factors to attract promising employees, rather than trying to bribe them away from government and private business positions. Look at the major banks in New York, for example. Bankers there have little trouble attracting able economists and administrators; yet, on average, less than 7 percent of their officers earn more than $45,000 per year.

There is a limit to the level of premiums we should be subsidizing to help motivate, if that is the proper word, IMF employees. Beyond a certain point it becomes absurd to continue offering benefits to IMF staffers.

What we want and what the taxpayers have a right to expect are hard workers, not people looking for an easy life.

Let us look at salaries again. Another reason they are so high is that the basic salary is "grossed up" to compensate for income taxes. The argument goes that most non-U.S. staffers at the IMF come from countries that do not levy income tax on employees of international organizations. Well, that may be true, but I can also assure you that the basic salary they start with is also nowhere near what the International Monetary Fund pays out. In calcultaing the grossed-up salary, the IMF assumes that all of their employees would take the standard deduction. As a wise man once said though, "when it comes to money, you can't trust anyone." U.S. employees at the IMF which make up some 25 percent of the staff, can realize substantial windfall gains by itemizing rather than taking the standard deduction. A non-American can also do quite nicely by the U.S. Tax Code. If, for example, he has investment income, it is taxed as if it were his only income—and not at the marginal rates that would apply above his salary. An American with investment income would pay at those higher rates.

The other perrequisites that come with IMF employment are equally impressive or, perhaps, the word is depressing if you look at it from the standpoint of the American taxpayer. They say that Washington is a hardship post. An interesting thought; I know the summers are hot, but I never thought they were that bad. IMF professional staff park their cars in a subsidized garage, eat in a subsidized cafeteria, and enjoy other fringe benefits like membership in the Bretton Woods Country Club for $42 a month. Foreigners also receive an education allowance: the IMF will pay up to $2.000 a year of the cost of sending a child to a U.S. primary or secondary school. The Fund will also pick up $2.500 of the cost for an overseas college education. And the list goes on and on.

Mr. President, I believe that if the American taxpayers were really made privy to this situation they would find the munificence of the IMF rather difficult to believe. Both former Secretary Simon and Secretary Blumenthal have vowed that they would cut IMF and World Bank salaries. Unfortunately, though, little has happened. Study groups have been formed by the Treasury, at considerable expense, to make recommendations on how best to reduce salaries. But what is needed is not study groups, but rather, action.

The answer is perfectly simple: Reduce IMF salaries until they are back in line with those at other institutions. It is obvious that this correction is long overdue, and it is about time we stop treating the IMF as a sacred cow.

If we are going to be providing the IMF with another $1.8 billion, let us remind them that, we are going to keep a close watch on how funds are spent, and we are not a bottomless well for funding IMF activities. Congress can cut through a lot of redtape and avoid later troubles for the IMF and the Treasury, by simply

requiring IMF salaries to come down to rational levels if they want U.S. funding of the Witteveen Facility.

If we are good enough to provide the IMF with funds to help lesser developed countries, let us show them we are also good enough to recognize and treat this kind of inequality when we see it.

Mr. President, I yield the floor.

(Mr. CHILES assumed the chair.)

Mr. SARBANES. Mr. President, I just want to make a couple of comments on the amendment and the remarks of the Senator from North Carolina.

First of all, the purpose of the IMF is not to help lesser developed countries. The IMF is the institution under which the international monetary system is established, with the exception of the Soviet Union and certain Communist countries that follow the lead of the Soviet Union.

With respect to the rest of the countries in the world, it is the system which they have established to handle international monetary matters, and that is the basic function and purpose of the International Monetary Fund. So it is not unlike the development banks. It has not been established as a mechanism whose primary objective is assistance to lesser developed countries.

It is true that on occasion it formulates programs and makes balance of payments assistance available, which often has to run to the lesser developed countries, because they find themselves in those difficulties. But its essential function is as the the international monetary institution.

On this question of salaries, let me say, first of all, I do not accept the burden or the position of having to defend or of defending all the existing salary levels and the perquisites and privileges that exist, that may exist, for the personnel at the Monetary Fund and, in fact, I think a review of that situation is appropriate, and that some careful thought needs to be given to it. I commend the Senator from North Carolina in that regard in terms of the attention which he has brought to this issue.

The bill that is before use seeks to address this matter in two ways which, I think, are constructive and productive of good results and ought to be the approach which the Senate should follow at the present time.

The first is to place a limitation upon the compensation paid to the U.S. Executive Director and the U.S. Alternate Executive Director who, after all, are our people who were sent to the Fund to hold these top positions, and it places a limitation upon their compensation at a rate with respect to the Executive Director of not to exceed level IV in the executive schedule, and with respect to the alternate director, level V of the executive schedule. So there is a direct tie between their salaries and salaries for people working in the Government of the United States.

With respect to the general level of Fund salaries, the legislation provides that the Secretary of the Treasury shall instruct the U.S. Executive Director of the Fund to present to the Fund's executive board a comprehensive set of proposals consistent with maintaining high levels of competence of Fund personnel, and consistent with the articles of agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national Government service or private industry.

The Secretary shall report these proposals, together with any measures adopted by the Fund's executive board, to the Congress prior to February 1, 1979; namely, this coming February.

That amendment, which was put into the legislation by the Senate Banking Committee, requires our representative to the IMF to present to the IMF executive board a comprehensive set of proposals, and it is, of course, designed to examine carefully the assertion that the salaries at the Fund greatly exceed what individuals would be receiving either in their own governmental service or in private industry for jobs involving similar levels of responsibility.

I understand that the Fund and the World Bank have set up a joint committee to make recommendations to the government officials of those two organizations concerning salaries paid by the two institutions, and that our representative on the joint committee is seeking to have the concept set out in this amendment, this comparability concept, accepted as the governing concept for the payment of salaries. I think this is the appropriate way to address the problem which the Senator from North Carolina has outlined.

We are not, in a sense, in a position to dictate it unilaterally. There is the very real possibility, at the present time, that this approach, which reflects a seriousness being given to this problem—really, I think, for the first time, on the part of the managing officials of the institution—offers a real chance of producing results, and I would, therefore, suggest that we proceed with the approach set out in the bill, which offers, I think, a real chance of bringing about fruitful results, and I think is the appropriate way to approach this particular problem.

Mr. HELMS. Mr. President, I wonder if I might ask my good friend from Maryland a question? Did I correctly understand him to say that the proposal would limit the Director to executive level IV compensation? I may have misunderstood him; I just wondered if he did say that.

Mr. SARBANES. It reads as follows:

> The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule. . . . The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V.

Mr. HELMS. Yes; now, that level IV specifies a salary somewhere in the range from a $59,000 a year to $79,000 a year.

The problem with that, unless you are addressing yourself to the whole employee situation, is that there will be 50 employees at salary level IV, who will be paid from $71,710 a year to $91,240 a year, and above them there will be 46 employees who will be paid a minimum of $75,360 a year to a maximum of $94,470 a year, and 14 employees, or officials, if you prefer that word, who will be paid a minimum of $84,440 a year to a maximum of $102,550 a year.

I think the Senator will agree that there would be some problem of inequity in that respect. I simply wanted to point that out to him.

Mr. SARBANES. If the Senator will yield, I did not suggest that this limitation placed on our Executive Director and our Alternate Executive Director dealt with the broader problem of the levels of compensation paid by the International Monetary Fund Board to all of its employees. That is why I spent most of my time addressing the study that is underway, and the instructions which the Secretary of the Treasury is required under this legislation to give to our Executive Director in terms of the compensation that we think may well be the proper and applicable compensation in determining Fund salaries.

I only made that point to indicate that in that instance in which we have direct control over a person; namely, our own Executive Director, the legislation does contain limitations.

I do not think, first, that we can, or second, that we should, especially at the present time, seek to reach beyond that and impose, by our own legislation, the salary schedule of the International Monetary Fund, when we have a study underway on a compensation we think makes sense, and the possibility that that may be adopted, or some version of it will be adopted, as the governing policy of the Fund, which would then address itself to some of the salary ranges the Senator has pointed out.

Of course, one has to include in that the other aspects of compensation that people receive in addition to their direct salary, and of course that is, again, specifically alluded to in this legislation, which says, "salaries and other compensation." So the legislation is cognizant of that factor as well.

I think there is a good chance, especially with the February deadline for reporting to Congress—it is not an internal operation in the executive branch, as they report back to Congress—that a policy will evolve that will address this important question of comparability, what are reasonable salaries, and what is necessary in order to attract the kind of talent which it is essential that the International Monetary Fund have. They deal with extremely important problems. On the other hand, it ought not to be paying beyond what is necessary to get the sort of people that are needed to do the job.

I think we have underway now a process that may well bring about a very constructive and fruitful result, and I think we should stick to that approach, and not the one put forward in the Senator's amendment, although, as I say, I recognize the concern which he feels.

Mr. HELMS. I thank the Senator.

Mr. President, just to indicate that I desire the yeas and nays on this amendment, I am going to ask for the yeas and nays now, knowing that there are not enough Senators on the floor for a second.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum, for the purpose of obtaining a second for the yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be considered in order at this time for me to request the yeas and nays on the amendment of the distinguished Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside, so that I may call up another amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 3318

(Purpose: To oppose certain assistance by the Supplemental Financing Facility of the International Monetary Fund to countries assisting aircraft hijackers and international terrorists)

Mr. HELMS. Mr. President, I call up my amendment No. 3318, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 3318:

At the bottom of page 4 add the following:

SEC. 3. ——

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 4 add the following:

SEC. 3. The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to oppose any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

Mr. HELMS. Mr. President, this amendment would instruct our Executive Director to the International Monetary Fund to vote against assistance to nations who provide aid or assistance to terrorists.

This amendment is very similar to one adopted by the Senate to the International Development Assistance Act by a vote of 75 to 4.

The only addition I made in this amendment was to include a provision instructing the U.S. Director to oppose aid to nations harboring aircraft hijackers as well.

As we know, the President recently signed a seven-nation agreement related to aircraft hijacking. I think this move is important, and I think that consistent with the President's efforts and interest in this regard, the Senate should move to put some teeth in this bill to put nations on notice that they risk U.S. opposition to any assistance they might get from the IMF, if they provide sanctuary for hijackers and terrorists.

I am familiar with the arguments that have been aired on this topic: That if we put any conditions on U.S. participation, then the whole concept of the International Monetary Fund has been thrown out the window.

Well, in an effort to accommodate those critics of "conditioning" U.S. participation, this amendment merely instructs the U.S. Director to oppose aid to certain countries. It does not condition the use of those funds.

Just as the U.S. Director to the World Bank is instructed to oppose certain loans from that institution, this amendment would instruct the U.S. Director to oppose certain aid from the IMF.

Now, one last point should be aired. What is terrorism? If it is not sufficiently clear, I will read one short definition I have found in an outstanding book by Mr. Frank Watson entitled "Political Terrorism: The Threat and the Response":

Political terrorism can be defined as a strategy, a method, by which an organized group or person tries to get attention for its aims, or force concessions toward its goals, through the systematic use of deliberate violence. Typical terrorists are individuals trained and disciplined to carry out the violence decided upon by their organizations. And, if caught, true terrorists can be expected to speak and act during their trials not primarily to win personal freedom but to try to spread their organizations' political ideas.

Mr. President, if in fact, this amendment is adopted, I would expect that the U.S. Executive Director would consult with agencies of the U.S. Government on which nations harbor terrorists and hijackers. If he does not satisfactorily fulfill these instructions, then during the course of congressional oversight of the International Monetary Fund, attention could be given to this problem.

In conclusion, I would like to say that our Nation, as the largest single contributor to the International Monetary Fund—if not to the smaller Witteveen Facility—has an obligation to act on this issue. It the United States does not act, it is signaling the world, that we do not consider this issue to be of great importance, and that is the greatest incentive to terrorism that I can conceive of. Terrorism is not something on which, we can stand neutral.

I yield the floor.

Mr. JAVITS. Mr. President, the opposition to this amendment again depends very definitely upon the fact that this is not aid or assistance. It is financing to which individual nations who are members of the IMF are entitled, just like we are. We have used it 23 times. The effort to limit, curtail, or determine the action of the United States, which exercises 20 percent of the voting power, simply weakens our position and gives us a lack of mobility to really have an effective influence in respect of nations like this.

There is no question about what our Executive Director will have to do, even if it is only the drawing which is permitted, what is called the first tranche, with no conditions at all, because the individual country would be drawing out its own money.

I believe this amendment is counterproductive and introduces political considerations into an agency whose laws, including our law on the subject, establishes only economic and financial criteria.

Therefore, it will not accomplish the result which is sought to be accomplished but simply hurt us in depriving us of the utilization of the heavy section of voting power in the International Monetary Fund to be used in a flexible way so that our influence may really be felt, primarily for economic and financial reasons.

For all of those reasons, Mr. President. I oppose the amendment.

I wish to point out, by the way, that the amendment is directed to all borrowings from the IMF, that it does not in any way limit itself to the supplemental financing facility. The amendment reads "to oppose any extension of financial or technical assistance by the supplemental financing facility or by any other agency or facility of such fund," to wit, anything, including a draw down of a normal tranche.

Mr. President, I would also like to point out, too, that, one, the President of the United States has come to a very admirable agreement with other major nations at the summit respecting something really effective on terrorism, which is a

deprival of commercial aircraft service to and from including third countries that touches the airports of those who aid and abet terrorism.

Also, Senator RIBICOFF and I have a very effective bill on this subject which is working its way through the Congress, and which I have every confidence will be adopted. Again, it is an addition to the effectiveness of what the President has just done at Bonn.

For all of those reasons, Mr. President, I believe it would be ill-advised and counterproductive to adopt this amendment.

Mr. HELMS. Mr. President, if no Senator has further comment on the amendment, I ask unanimous consent that it be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I will indicate, Mr. President, that it is my intention to press for this amendment as well.

AMENDMENT NO. 2438

(Purpose: To provide for congressional review of continued United States participation in the Supplementary Financing Facility of the International Monetary Fund)

Mr. HELMS. Mr. President, I have an amendment No. 2438 at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2438.

Mr. HELMS. I ask unanimous consent that further reading of the amendment be dispensed with, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 9, strike out the quotation marks and the period following the quotation marks.

On page 3, between lines 9 and 10, insert the following:

"(c) The authority granted by this section for United States participation in the Supplementary Financing Facility expires at the close of fiscal year 1983.".

Mr. HELMS. Mr. President, the President has endorsed a proposal to provide for periodic reviews of Federal programs. Fifty-three Members of the Senate have cosponsored the legislation offered by the distinguished senior Senator from Maine (Mr. MUSKIE), S. 2.

I propose limiting the program authorized in the bill before the Senate, S. 2152, to a 5-year period similar to that cited in S. 2, the Sunset Act of 1977.

The bill, S. 2152, formally titled the "Bretton Woods Agreement Amendments of 1978," authorizes U.S. participation in a new International Monetary Fund low-interest loan program called "The Supplementary Financing Facility" after the outgoing Director of the IMF, Johannes Witteveen, who worked hard obtaining commitments from various nations to set up this new program.

The U.S. negotiators have promised to put up 1,450 billion special drawing rights, an indefinable sum which, at the printing of the committee report, was about $1.77 billion. The SDR is an accounting device, as the distinguished Presiding Officer knows, based on the relative value of 13 currencies. Since those currencies float in the market and prices change daily, it is not possible to really say just how much the Treasury would be liable for if this program is approved.

Nevertheless, if the bill is approved, funds will be made available to the International Monetary Fund for use in the new facility for nations who are particularly hard hit by economic ills that have been ascribed to a number of problems.

Reading the material provided me on the bill, I find that the thrust of the arguments are in the direction of sustaining, financially, certain less-developed countries for a period of time. The bill contemplates loans of up to 12 years. Mr. President, the Senator from North Carolina feels that 5 years would not be too soon to see how progress is being made to assure the proper use of the funds provided by the taxpayers of the United States in that facility.

Perhaps at that time, added instructions should be given to U.S. representatives to the facility. Perhaps the need for the facility will have gone and U.S. participation will be no longer necessary. Perhaps, if the funds are not being used constructively, Congress would deem that different uses—such as returning them to the taxpayers—might better serve everyone concerned.

In short Mr. President, the Senator from North Carolina feels that the time to start implementing the sunset concept is now. If a majority of the Senate is serious in its commitment to the regular review of the programs authorized by Congress, then this amendment should be adopted.

Mr. President, I yield the floor.

Mr. CHURCH. Mr. President, as I understand it, the amendment offered by the distinguished Senator from North Carolina would place a 5-year limit on American participation in the Witteveen Facility. If this amendment were to be adopted, its effect would be to prevent our participation altogether. The reason is that, although loans under the facility would be made during a maximum period of 5 years, financing provided by participants could be outstanding for up to 12 years. While the loans would be extended during a 5-year period they could be for as long as 7 years. So that, if you add the 5-year period during which the loans are being made to the 7-year maximum maturity for the loans themselves, the whole period of participation contemplated by this bill could run as long as 12 years. Therefore, the question that the Senate needs to pass upon is whether it is in our national interest to participate in the Witteveen Facility. I think it is. The Senator from New York thinks it is.

Both the Senate Foreign Relations Committee and the Banking and Currency Committee have thoroughly reviewed the bill and find it to be in the national interest. Indeed, the stability of the international monetary system in the years to come could well depend upon our participation in the Witteveen Facility. That being so, Mr. President, I hope that the Senate will see fit to reject this amendment, since it would, if adopted, effectively prohibit American participation in the Witteveen Facility.

Mr. JAVITS. Will the Senator yield?

Mr. CHURCH. I yield to my able colleague from New York.

Mr. JAVITS. Mr. President, I wish to associate myself with the views of my colleagues. I believe there are deep concerns about the international monetary system, which are very deep and very urgent. If we needed any further evidence of it, the terrific imbalance which is now being created by the fall of the dollar is a very clear illustration of the gravity of the problem, and the continued drain on the world's economy which comes from the price of oil, bearing most heavily upon the less-developed countries, which must get additional bank credit, and the banks are pretty well loaned up. They can roll things over, and they have done a marvelous job between 1973 and now. But now they are really running short of the additional new money which is required until there can be some acceleration in the world's production and turnover which will enable the developing countries to meet these deficits themselves.

So we face a very grave peril to the system, to which the Witteveen Facility is a bridge, an answer in terms of a bridge. To invalidate it by this provision is simply disregarding the terms of the Witteveen Facility and the reason for it. I believe the reason is absolutely entitled to the highest priority in terms of the monetary affairs of the world. We are contributing 17 percent, as against 83 percent being contributed by others, to a very essential rescue operation as far as the world monetary system is concerned.

I believe simply that one has the choice of proposing an amendment like this, which kind of assumes our interest in the sunset idea, even though it is not apposite at all for this particular situation and will tend to negate what we seek to do in this bill. For all these reasons, Mr. President, I hope the Senate will reject this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the Senate will vote later today on the IMF supplementary financing facility bill (S. 2152), commonly known as the Witteveen Facility. The United States is being requested to contribute 1.45 billion SDR's, which is equivalent to about $1.8 billion, to this facility. The funds made available by the United States will be used to support IMF-member countries suffering from chronic balance-of-payment deficits. In effect the facility will provide countries that have mismanaged their

economics with the opportunity to further extend their credit and continue making the same mistakes that they have made in the past. It will, in addition, result in allocation of real resources to the recipient nations.

SOLUTIONS OR MORE PROBLEMS

Extension of credit to these deficit countries is definitely not an answer to their problems. It is merely a bridging operation that will hold them over until their next crisis or until the interest cost of their borrowings exceeds what they can pay. Some of these deficit countries have already gotten to the point where they finance the interest payments on their old borrowings by arranging for new loans in the international money market. In the past decade the external public debt of developing countries within the IMF has grown from $50.7 to $202.5 billion. That is a 400-percent increase. More importantly, however, it illustrates the alarming tendency of these "debt relief" loans to snowball into ever greater amounts. By providing such countries with more funds we will be only worsening their plight; not improving it.

The inability of these nations to repay their debts clearly indicates that the original loans are not performing as expected. As Roger Darling, a foreign service officer at the Agency for International Development noted in a recent Washington Post article:

> This fact is not at all surprising since many of the original loans should never have been made . . .
>
> Debts were contracted primarily to purchase the resources for development. Yet many poor nations have been subsequently unable to generate the productivity necessary to repay (these) debts.

This leads us to ask a basic question: Will additional loans to buy more development resources perform any better? Probably not. Most countries now in need of these loans are already living far beyond their indigenous capabilities. They simply do not have the ability to ultimately sustain their debt. By providing such countries with more funds we will be only worsening their plight, not improving it.

We all know that if an individual cannot meet the mortgage payments on his house, he should not be borrowing to buy a new car. The same is true for countries experiencing balance-of-payment deficits—they should put their affairs in order before further extending themselves. What we are effectively doing by providing additional loans to these countries is treating the symptoms of international economic maladjustments rather than the disease.

The IMF officials may argue that adjustment programs are required with their loans in order to require these deficit countries adopt appropriate spending and inflation levels. But the evidence indicates that precisely the opposite is in fact occurring. Of 54 countries which have accepted IMF austerity programs during the last decade some 43 have had to come back for additional assistance. If we look at recent examples of IMF assistance and austerity programs we see chaos and rioting replacing what was once confusion and discontent. In Mexico, Egypt, and most recently Peru, IMF programs have led to economic and political trauma without having had any truly beneficial effects on the economy. One may also look at the decline in the situation in Italy since the IMF allegedly "helped" that nation.

On the one hand IMF economists find it difficult to agree among themselves about what course is best to follow. On the other hand the IMF is continually being influenced by political factors which cause them to misdirect their economic tools away from the roots of the problem. The IMF-imposed austerity programs are a mish-mash of political compromise and economic hyprocrisy. The types of tax and wage programs IMF officials have advocated would never pass through the U.S. Congress. Little attention is evidently given to anything that would increase real productive employment and reduce the role of government in the economies of recipient nations. Like a mad doctor with a needle the IMF is practicing acupuncture on the world's economies. The IMF may well be doing more to complicate the economic problems of these countries than to mitigate them.

In a recent speech in London, Johannes Witteveen, the retiring IMF managing director, himself noted that there was no substitute for having deficit countries come to grips with their problems on their own:

> No country can use reserves or borrow indefinitely to finance sizeable payments deficits. Sooner or later, the time to finance comes to an end and the time to adjust arrives.

And he added:

> A country's adjustment program is likely to be successful only if the government itself clearly perceives that the adjustment is needed and is completely committed to seeing it through to its successful conclusion. For that national will and commitment, Fund (IMF) conditionality is not a substitute. The Fund can counsel and agree but it assuredly cannot—as is, unfortunately, so often said—"impose" policies and conditions.

Why then should we prolong the day of reckoning and further burden the American taxpayer? More extensions of credit to these deficit countries are clearly not an answer to their problems. Unless we act now it will only be a few short years before the IMF comes back to us with a request for an additional bigger supplementary financing facility and after that another and then another and so on. We have already seen that the IMF programs and policies are unequal to the task. We are only extending the hardships of the deficit countries and making their adjustment process more difficult by granting these multilateral loans and allowing them to continue following unwise economic policies.

WORLD CENTRAL BANK?

In a classic example of a bureaucracy attempting to justify and simultaneously extend its domain, the IMF is trying to establish itself as a "lender of last resort" in the international arena. The directors of the IMF undoubtedly would like to eventually see the IMF as a Federal Reserve-type bank on an international scale. Yet, the power that IMF now wields is all out of proportion to the powers that it was originally granted in their Bretton Woods Charter in 1944. Back in 1944 we were using a fixed exchange rate system internationally; under that system the IMF was supposed to help keep exchange rates stable by supporting countries that had difficulties maintaining the fixed values of their currencies. For nearly 30 years the IMF tried to artificially support exchange rates. With the advent of floating rates in 1973 this purpose of the IMF became totally passé. As Prof. Henry Hazlitt, a brilliant and widely respected economic commentator, recently wrote:

> Whatever stabilizing function it (the IMF) may once have served ceased completely on August 15, 1973 when the U.S. openly abandoned gold convertibility for the dollar. The IMF's continuance now is inexcusable . . . from the beginning its only effect has been to function as an engine of inflation.

Yet the bureaucracy of the IMF is continuing to grow and it has been going into areas of responsibility which the IMF was never meant to enter. As I mentioned, the IMF management has not attempted to cast the institution into a role as the supplier of world liquidity—a "lender of last resort"—on the international scene. Loans made by the IMF rose from $5 billion in 1974 to over $14 billion in 1976. In this regard it has added extra liquidity—and at a time when the world is awash with sources of available liquidity.

Just as the Federal Reserve Bank in the United States can affect the domestic money supply through manipulation of bank reserves, so also can the IMF affect the world money supply through manipulation of world currency reserves. When the IMF loans out dollars which the United States has supplied, international liquidity increases. When the country which received IMF aid utilizes these funds the world money supply effectively increases. This whole process whereby world monetary liquidity is increased by IMF lending has a substantial inflationary impact on the world economy. Inflation, let us remember, is a monetary phenomenon and not caused by labor unions, businesses, anchovy supplies, or oil prices.

A country which has received a loan from the United States, through the IMF, will find its spending power increased by the new funds it has received. As it purchases goods and services with these "new" funds, it will drive up the prices of those goods and services in the marketplace. The increased demand from these countries will push up prices until the supply of goods and services they require is in line with the new demand. That is the way the marketplace works. Everyone in the world, including American consumers, are subject to the higher price level.

In a free market the buyer of resources could only return to the credit market if he had made effective, productive use of the resources he borrowed and proved to be a good credit risk. If he

could not show that there was something of substance from the resources he had borrowed then he must forfeit his right to return to the marketplace until he can prove his capability. Unfortunately, this is not true of the deficit countries, which are being subsidized to return to the market and consume added resources without proving their credit worthiness. At the same time they are driving up the prices of scarce resources. This is an abbreviated version of the process that is occurring but it is, nevertheless, an accurate portrayal of the net effect of these loans.

If we want to put a stop to this inflation machinery the only recourse we have is to withhold the funding of IMF inflationary programs. Unlike the Board of Governors of the Federal Reserve in the United States, the Executive Directors of the IMF seem to have no responsibility to an authority besides themselves. In 1976, for example, the IMF began selling off its gold reserves including some $700 million of American gold donated to maintain the old system of fixed exchange rates.

The proceeds from this sale are being used to provide aid to less-developed countries. A loophole in the IMF Charter was used to avoid the necessity of obtaining congressional approval for this new foreign aid venture. The loophole that the IMF used was something called the "scarce currency clause," a revision in the IMF Charter which states that the IMF can sell off its reserves if certain currencies are declared to be in short supply. In taking advantage of this loophole, however, the IMF clearly did not stick to the letter of the law. In a study prepared by the American Law Division of the Congressional Research Service it is shown that the enabling portion of the IMF Articles of Agreement, article VII section 2 "does not appear to give the specific or implied power for the proposed disposition."

The IMF, in effect, sold U.S. gold for the agrandizement of the lesser developed countries, an act which Congress had never contemplated or intended when it first transferred some of its gold holdings to the IMF. Furthermore, although the United States originally contributed the gold at the "official price" of $35 per ounce the IMF sold it at a market price of over $150 per ounce. That is a very handsome profit; too bad we will not be seeing any of it.

There are only limited assurances that the IMF will not attempt a similar appropriation of the U.S. assets sometime again in the future. Rather than allow the IMF to become another welfare bureaucracy on an international scale we must hold its spending level down.

IMF STAFF NEEDS AUSTERITY

The IMF, as much as any of the countries it is supposed to be helping, is in need of an austerity program. The ridiculously high level of IMF salaries, some 22 percent above comparable U.S. civil service levels, is just one more example of how excessive spending—of other people's money—pervades the bureaucracy at the IMF.

IMF FUND SHOULD REQUIRE APPROPRIATION

The Senate adopted the Schweiker amendment to require allocations of funds to the IMF be included in the Federal budget in order that they receive the scrutiny that other transactions do. After all, the dollars supplied by the United States to the IMF are lent by them to other nations that ultimately purchase real resources, either from the United States or from other countries. This transfer of resources by all concepts of budgetary analysis should be included in our total budget as it:

First. Increases the aggregate demand for U.S. goods and services; and

Second. Increases the borrowing requirements of the federal governments. U.S. contributions to the World Bank require an appropriation as do most bilateral loans. Recently, for example, the United States negotiated a bilateral loan to Portugal on terms similar to those anticipated for Witteveen Facility lending and this loan required an appropriation. Why not, then, loans that are channeled through the IMF? The Schweiker-Proxmire-Brooke amendment requiring an appropriation for this facility is aimed at correcting this apparent contradiction in our policies. If we are to maintain an effective budgeting system in this country our criteria must remain consistent.

IMF CONDITIONALITY QUESTIONED

The Witteveen Facility will provide us with a good opportunity to tighten up some of the excess and ineffective spending habits of the IMF. We have been paying little attention to how the funds loaned out by the IMF are being used, and it is becoming increasingly obvious that these loan programs need closer scrutiny. Not only is it doubtful that the funds not serving their purpose in terms of supposedly helping countries to readjust, but we are now also finding out that some of these funds are being used in opposition to our national interests. The Peruvians, for example, have been accused of purchasing a quarter-billion-dollar fleet of Russian jet fighters, because of the proceeds from their last loan. This is not the way we want our money to be spent. If we are going to be giving aid we should know how it is going to be spent. Supplicant nations are plentiful. If the IMF cannot give us guarantees that our funds will be used properly, it is of no use to us as a middleman.

IMF AND THE BIG BANKS

It should be clear to all of us that the Witteveen Facility is not a necessity by any means. Perhaps the best way of looking at it is by seeing it as a subsidy for the big banks that have made massive, and ill advised, loans to the Third World. America's big banks have loaned over $60 billion to these countries. Several of these loans are in danger of failing. For all practical purposes several of the larger loans have failed already. It is only additional borrowings and Government guarantees that keep interest payments up to date. One banker highlighted the problem when he said "(cutting) back on development loans would take away the means of earning the funds to repay the existing debt." Pakistan, for example, has a foreign debt nearly the size of its GNP and Peru, whose economy is in turmoil, owes $1 billion, 300 million of it to banks. What are the bankers doing to protect these risky loans? Well, one thing you can be sure of, they would be anxious to transfer the risks of these loans over to the American taxpayers through the Witteveen Facility. By denying U.S. assistance to this facility we will be telling the banks to be more careful with their loans and warn them that Uncle Sam is not always going to be pulling their chestnuts out of the fire. The last thing we need now is another New York City bailout on a global scale.

Let us stop subsidizing mismanagement both at home and abroad. If a country wants to obtain credit let it answer to the conditionality imposed by the free market and not the politically motivated conditionality imposed by the IMF or foreign governments. If market forces were allowed free reign, the current account deficits of countries living beyond their means would correct themselves. Their exchange rates would adjust, and the lower rates would bring trade back into balance by raising the prices of imports and lowering the prices of exports.

We have a choice before us; either we can cast a vote to promulgate continued subsidies for mismanaged economies, or we can cast a negative vote for the Witteveen Facility and thereby negate those forces which are obstructing the adjustment process. Let us not fool the taxpayers into thinking they are helping the poor when, in fact, they are prolonging the agony of the adjustment process. What is needed is not more IMF control, but rather less IMF involvement.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending bill be laid aside temporarily, until 1:45 p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

## VETERANS' AND SURVIVORS' PENSION IMPROVEMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 945, S. 2384.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2384) to amend title 38 of the United States Code in order to provide a security pension program for non-service-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in

need, and for surviving children of veterans of a period of war who are in need; to provide for annual automatic cost-of-living adjustments in the security pension program; to prevent reductions in security pension benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with an amendment in the nature of a substitute.

Mr. CRANSTON. Mr. President, I ask unanimous consent that in anticipation of consideration of S. 2384 later today, the following members of the Veterans' Affairs Committee staff be accorded the privilege of the floor beginning at 12:30 p.m. and until final disposition of that measure: Garner Shriver, Gary Crawford, John Pressly, Ed Scott, Jon Steinberg, Mary Sears, and Babette Polzer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be allowed to suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, S. 2384 as reported by the Committee on Veterans' Affairs on July 17, 1978, the proposed Veterans' and Survivors' Pension Improvement Act, is the product of a sustained 5-year effort to reform and restructure the need-based VA pension program. The enactment of pension reform legislation in the 95th Congress is a major priority of the committee.

Mr. President, with the cosponsorship of all the members of the Committee on Veterans' Affairs, and the Senator from New Jersey (Mr. WILLIAMS), on December 15, 1977, I introduced S. 2384, which I shall refer to as "the committee bill," a bill intended to correct very serious inequities and deficiencies in the Veterans' Administration need-based pension program for wartime veterans who are totally and permanently disabled from non-service-connected causes or age 65 or over and the survivors of wartime veterans.

Mr. President, the impetus for this legislation was the VA's testimony in June 1973, that the program contains inconsistencies and inequities which cannot be corrected without a thorough restructuring. In 1975, our committee reported, and the Senate passed, S. 2635, a pension reform measure. Regrettably, that bill was not accepted by the House, but in this session, the House has passed H.R. 10173, a bill similar in many respects to our committee bill.

Mr. President, there are about 2.6 million persons receiving VA pension benefits under the current program—1 million veterans and 1.6 million surviving spouses and children. In 1978, the VA budget for this program is $3.4 billion according to CBO.

Mr. President, the basic purpose of the committee bill, as reported, is to provide for a new, more equitable and adequate pension program—to be known as improved pension. The improved pension program is designed to achieve the following major objectives:

First, assure an income standard above the Department of Labor's poverty guidelines so that all eligible veterans and survivors receive a pension commensurate with their need;

Second, prevent eligible veterans and survivors from having to turn to welfare;

Third, treat similarly circumstanced veterans and survivors equally;

Fourth, guarantee regular annual increases in improved pension benefits based on the increase in the Consumer Price Index;

Fifth, guarantee that annual increases in improved pension benefits occur at the same rate and at the same time as cost-of-living increases in social security benefit rates—so that no person in the improved pension program will suffer a reduction in pension solely attributable to a cost-of-living increase in benefits under social security or any other Federal retirement program; and

Sixth, insure that our needy World War I veterans are not forgotten.

Since filing the committee report on July 17, the committee received, on July 24, a revised CBO estimate. The revised CBO estimate indicates that the net 5-year outlay costs resulting from the enactment of S. 2384 would be $515,800,000 in fiscal year 1979; $776,300,000 in fiscal year 1980; $1,086,200,000 in fiscal year 1981; $1,444,200,000 in fiscal year 1982; and $1,824,700,000 in fiscal year 1983.

Mr. President, those costs indicate the total increased Federal outlays required for each fiscal year, taking into account offsetting outlay reductions in function 600 for AFDC and SSI benefits and in function 550 for medicaid expenditures; they are based on the assumption that, in the absence of pension restructuring legislation along the lines of the committee bill, Congress would not enact any cost-of-living increases in the current pension program. That assumption, however, in the committee's view, is not realistic in view of continuing inflation and congressional actions in the last decade granting cost-of-living increases. Rather, it is much more realistic to measure the costs of the committee bill against the "current policy" costs of the present program, that is, against the estimated costs of the present program including future cost-of-living increases which could be expected if the committee bill were not enacted. The July 24 revised CBO estimate of the 5-year outlay costs of the committee bill in those terms, by fiscal years is as follows:

[In millions]

| | |
|---|---|
| 1979 | $419.3 |
| 1980 | 470.0 |
| 1981 | 582.5 |
| 1982 | 745.6 |
| 1983 | 930.8 |

In addition, I would also note, Mr. President, that the OMB long-range cost estimate of the "maximum" costs of the current program discussed in the committee report, compared to the estimated long-range costs of the committee bill, indicate that sizable cost savings—in the vicinity of $500 million—would be achieved by 1985 if the bill is enacted this year and those savings would rise thereafter to approximately $1.7 billion by fiscal year 1995.

Moreover, Mr. President, these cost projections do not take into account the very distinct possibility that Congress would, in the absence of the enactment of pension reform legislation, not only enact annual cost-of-living increases but would also enact social security benefit passthrough legislation, along the lines of the provisions proposed by the Senator from New Hampshire (Mr. MCINTYRE) and passed by the Senate last year in a 68-to-20 rollcall vote, as well as some kind of World War I service pension program. These two measures together—social security passthrough and World War I service pension—would increase the costs of not proceeding with pension reform by about $2 billion each fiscal year beginning in fiscal year 1980. Mr. President, I intend to have the full text of the CBO estimate printed in the RECORD at a later point in my remarks.

Mr. President, before yielding to my good friend from Vermont (Mr. STAFFORD) for whatever remarks he wishes to make at this time, I want to say to the Senate what a great privilege it is to work with him on the Veterans' Affairs Committee. No committee in the Congress ever had a more cooperative working relationship between majority and minority than we do on the Veterans' Affairs Committee. Our approach there is truly bipartisan and nonpartisan. In this Congress, for example, all our bills have been ordered reported unanimously.

BOB STAFFORD'S work as ranking minority member of the committee, and Garner Shriver's as minority counsel, offer a model for all to emulate. I am personally deeply grateful for his many courtesies and tremendous contribution to the committee's business and I know that America's veterans share my gratitude for his efforts.

Mr. President, I want also to mention the great work of each and every one of our other committee members on this measure: the Senator from Georgia (Mr. TALMADGE) who serves so ably as the chairman of our Subcommittee on Compensation and Pension and has made such a valuable contribution to the pending measure; the Senator from West Virginia (Mr. RANDOLPH), the ranking majority member of the Subcommittee on Compensation and Pension, who is rushing back from West Virginia to be with us to join in the voting to approve

this measure; the Senator from Florida (Mr. STONE); the Senator from New Hampshire (Mr. DURKIN); the Senator from Hawaii (Mr. MATSUNAGA), the vice chairman of the subcommittee; the Senator from South Carolina (Mr. THURMOND); and the Senator from Wyoming (Mr. HANSEN).

Mr. President, now I would like to speak at greater length on the pending measure, S. 2384, as reported by the Committee on Veterans' Affairs on July 17, 1978, the proposed Veterans' and Survivors' Improvement Act, is the product of a sustained 5-year effort to reform and restructure the need-based VA pension program. The enactment of pension reform legislation in the 95th Congress is a major priority of the committee.

BACKGROUND OF LEGISLATION

Mr. President, with the cosponsorship of all the members of the Committee on Veterans' Affairs, and the Senator from New Jersey (Mr. WILLIAMS), on December 15, 1977, I introduced S. 2384, which I shall refer to as "the committee bill," to correct the inequities and other deficiencies in the Veterans' Administration pension program. The original impetus for a thorough reworking of the pension program was provided by the testimony of the VA in June 1973, that the current pension program contained "inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructured."

During the 93d and 94th Congresses, the Committee on Veterans' Affairs, under the chairmanship of Senator Vance Hartke, conducted extensive investigations, held hearings, and reviewed studies by the VA on the pension program. On December 9, 1975, our committee favorably reported S. 2635, a comprehensive reform measure. That bill was passed unanimously by the Senate on December 15, 1975, but the House did not act on it in the 94th Congress.

However, section 404(a) of Public Law 94–432, the Veterans and Survivors Pension Adjustment Act of 1976, declared it to be the sense of the Congress that the existing pension program—

First, does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

Second, has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

Third, subjects many pensioners annually to reductions in their pensions.

Therefore, in section 404(b) of that law, Congress mandated that by October 1, 1977, the Administrator of Veterans' Affairs report to the President and Congress findings and recommendations based on a comprehensive investigation, analysis, and evaluation of existing and alternative non-service-connected pension programs.

Mr. President, on January 30, 1978, the Veterans' Administration submitted to the Congress its report entitled "Analysis and Evaluation of the Non-Service-Connected Pension Program." In the report, the VA described the inequities it had identified in the current program and recommended that a new pension program be developed in accordance with certain principles advocated by the VA.

On February 3, 1978, the full committee held hearings on S. 2384. Testimony was received from Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, and other representatives of the VA, and representatives of the American Legion, the Veterans of Foreign Wars, AMVETS, Paralyzed Veterans of America, Disabled American Veterans, Veterans of World War I, and Military Widows.

Mr. President, after reviewing the hearing testimony and the VA's report, and giving consideration to various recommendations made by VA staff in discussions with staff of the committee, we met in open session on March 23, 1978, to consider S. 2384 and unanimously voted to report the committee bill with an amendment in the nature of a substitute and a title amendment.

BASIC PURPOSE

The basic purpose of the committee bill, as reported, is to provide for a new, more equitable and adequate pension program—to be known as improved pension. The improved pension program is designed to achieve the six major objectives I outlined earlier.

The committee bill also provides for a similar new program of need-based dependency and indemnity compensation benefits—to be known as improved dependency and indemnity compensation for surviving parents—for the needy surviving parents of veterans who died as a result of service-connected disabilities. In addition, it provides for a cost-of-living increase in the pension payable to certain institutionalized veterans. Finally, it names two Veterans' Administration hospitals located in Tampa, Fla., and Bedford, Mass., after James A. Haley and the late Edith Nourse Rogers, respectively.

SUMMARY OF PROVISIONS

Mr. President, the committee bill has five titles: I—Improved Pension for Veterans and Survivors; II—Improved Dependency and Indemnity Compensation for Surviving Parents; III—Miscellaneous Provisions and Conforming Amendments; IV—Naming of Certain Veterans' Administration Hospitals; and V—Effective Dates.

Title I: Improved Pension for Veterans and Survivors.

Mr. President, the provisions of title I would:

First, establish a new program of pension benefits to be known as improved pension, generally payable monthly to needy wartime veterans who are permanently and totally disabled by reason of non-service-connected disability, or who are 65 or over, with the following annual rates, reduced by the amount of the annual countable income of the veteran and that of the veteran's spouse and dependent children, if any:

| | |
|---|---|
| Veteran without dependent spouse or child | $3,240 |
| Veteran with one dependent (spouse or child) | 4,284 |
| Veteran in need of regular aid and attendance without dependents | 5,340 |
| Veteran in need of regular aid and attendance with one dependent | $6,384 |
| Veteran permanently housebound without dependents | 4,016 |
| Veteran permanently housebound with one dependent | 5,060 |
| Two veterans married to one another | 4,284 |
| Increase for each additional dependent child | 660 |

Second, provide for a 25-percent increase in improved pension benefits payable to veterans of a period of war if veterans of that period of war—such as World War I—were not made eligible for VA educational assistance or home loan benefits similar to those provided under chapters 34 and 37 of title 38, United States Code, or prior corresponding provisions of law.

Third, establish a new program of improved pension benefits payable monthly to needy surviving spouses, of wartime veterans with annual rates for permanently and totally disabled surviving spouses, those who are 65 or over, and those who have a dependent child aged 6 or under or helpless, equal to those applicable to veterans; with rates for disabled surviving spouses in need of regular aid and attendance equal to those for veterans, and with an increase for each additional dependent child equal to that payable to a veteran for an additional dependent child. The applicable annual rates, reduced by the amount of the surviving spouse's annual countable income, and by the income of dependent children, if any, are as follows:

| | |
|---|---|
| Surviving spouse age 65 or over or permanently and totally disabled without dependent children | $3,240 |
| Surviving spouse age 65 or over or permanently and totally disabled with one dependent child | 4,284 |
| Surviving spouse with one dependent child age 6 or under or helpless | 4,284 |
| Surviving spouse permanently and totally disabled in need of regular aid and attendance without dependent children | 5,340 |
| Surviving spouse permanently and totally disabled in need of regular aid and attendance with one dependent child | 6,384 |
| Other surviving spouse without dependent children | 2,172 |
| Other surviving spouse with one dependent child | 2,868 |
| Increase for each additional dependent child | 660 |

Fourth, establish a new program of improved pension benefits payable monthly to each of the needy surviving children of wartime veterans. Such children would be eligible if there is no surviving spouse, if the surviving spouse is ineligible for pension by reason of income or remarriage, or if such children are not in the custody of the surviving spouse. The applicable annual rates, reduced by the child's annual countable income and by the incomes of any persons with whom the child is residing who are legally responsible for the child's support under the laws of the State in which the child resides, are as follows:

| | |
|---|---|
| Each surviving child not in the custody of a person legally responsible for the child's support under the laws of the State in which the child resides | $660 |
| Each surviving child in the custody of such a person (not to exceed) | 660 |

Fifth, require that all income from whatever source derived be counted for purposes of determining eligibility and the amount of improved pension payable, subject to the following exclusions:

First. Donations from public or private relief or welfare organizations;

Second. Amounts equal to amounts paid by a surviving spouse or child for the veteran's just debts and the unreimbursed expenses of the veteran's last illness and burial;

Third. Amounts equal to amounts paid for the last illness and burial expenses of a veteran's spouse or child;

Fourth. Fire insurance policy proceeds;

Fifth. Profit from the sale of real or personal property other than in the course of a business;

Sixth. Amounts in joint accounts acquired by reason of the death of the other coowner.

Seventh. The amount of $780, plus one-half of the amount which exceeds $780, of the current-work income, not otherwise excluded, of the veteran and the veteran's spouse and any children for whom the veteran is receiving increased improved pension, of the surviving spouse and any children for whom the surviving spouse is receiving increased improved pension, or of the surviving child; or $1,560, plus one-half of the amount which exceeds $1,560 of the current-work income, not otherwise excluded, of a veteran in need of regular aid and attendance and the veteran's spouse and any children for whom the veteran is receiving increased improved pension, or of a surviving spouse in need of regular aid and attendance and any children for whom the surviving spouse is receiving increased improved pension. In the case of a dependent or surviving child's current-work income, such income would be countable—and thus subject to the exclusion described above—only to the extent that it exceeds the amount of income required before the child must file a Federal income tax return under section 6012(a)(1)(A)(i) of the Internal Revenue Code of 1954; postsecondary educational or vocational rehabilitation training expenses paid by the child would also be excludable from a dependent or surviving child's current-work income. For the purposes of these provisions, the term "current-work income" is defined as earned income within the meaning of section 401(c)(2)(A) and section 911(b) of the Internal Revenue Code of 1954. Those sections generally provide that "earned income" means income from wages, salaries, professional fees, or net income from self-employment. An unmarried person is presently required to file a Federal income tax return under section 6012 of the Internal Revenue Code of 1954 if such person's taxable income exceeds $2,950;

Eighth. Amounts equal to the lesser of amounts in excess of $100 or 5 percent of annual income, which were paid in the previous calendar year for unreimbursed medical expenses by the veteran, the veteran's spouse, the surviving spouse, or by or on behalf of the surviving children if such expenses were reasonably necessary for the health care of the veteran, the veteran's spouse or child for whom the veteran receives increased improved pension, the surviving spouse, the surviving spouse's children for whom the surviving spouse receives increased improved pension, or the surviving child or children. Where VA health care is available, however, this exclusion would be disallowed under the following circumstances. When such an exclusion has been allowed in a previous year for expenses incurred for services at a non-VA facility despite the fact that adequate health-care services were readily available at a VA facility, a further exclusion for such expenses would be disallowed if, after notice, they are incurred for services of the same kind and such services continue to be readily available at a VA facility;

Ninth. Amounts equal to amounts paid in the previous calendar year by a veteran or surviving spouse in need of regular aid and attendance for expenses incurred in traveling to and from such person's place of employment, to the extent that such expenses exceed those which would have been incurred by a nondisabled person using an appropriate means of transportation; and

Tenth. Amounts equal to amounts paid in the previous calendar year by a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training for educational expenses, including tuition, fees, books, materials, and, in the case of such a veteran or surviving spouse in need of regular aid and attendance, related unusual transportation expenses.

Sixth, require that the payment of improved pension be denied or discontinued when the net worth of a veteran, including the net worth of the veteran's spouse and any dependent children for whom the veteran receives increased improved pension, is such that some portion thereof could reasonably be expected to be used for the support of the veteran. Similar provisions would require the denial or discontinuance of improved pension if the net worth of a surviving spouse, including the net worth of dependents, or of a surviving child, including the net worth of any persons with whom the child is residing who are legally responsible for the child's support, is excessive. In all cases, amounts reasonably set aside for educational or vocational purposes would be excluded from the determination of a dependent or surviving child's net worth.

Seventh, require income and net worth reports to be filed annually with the VA by any person applying for or receiving improved pension; and require prompt notifications to the VA by such persons of changes in income and net worth and in the dependency status of family members, with exemptions (to be established under regulations to be prescribed by the Administrator) from such annual reporting for categories of persons whose sole incomes are federally derived and regularly received.

Eighth, allow all persons residing in the 50 States or the District of Columbia entitled to VA pension under provisions of law in effect on the day before the effective date of the new program to elect benefits under the improved pension program or to continue receiving benefits under such provisions as long as they remain eligible under the terms and conditions of such provisions, as in effect on the day before the effective date of the new program.

Ninth, provide that no person residing in the 50 States or the District of Columbia who becomes entitled to VA pension on or after the effective date of the new program shall be entitled to receive benefits under provisions of law in effect on the day before such effective date unless such person's application was pending on such day.

Title II: Improved Dependency and Indemnity Compensation for Surviving Parents.

Mr. President, the provisions of title II would:

First, establish a new program of improved dependency and indemnity compensation benefits—DIC—to be known generally as improved dependency and indemnity compensation for surviving parents—or improved parents' DIC—payable monthly to the needy surviving parent or parents of a veteran who died as a result of a service-connected disability, if the veteran provided one-half or more of the annual support of such parent during the year immediately preceding the veteran's death, with the following annual rates, reduced by the amount of the parent or parent's annual countable income and the income of a remarried parent's spouse which is available to or for such parent:

| | |
|---|---|
| One parent or each parent, if the parents are living apart | $3,240 |
| Two parents living together | 4,284 |
| One parent (or each parent, if the parents are living apart) in need of regular aid and attendance | 5,340 |
| Two parents living together, one of whom is in need of regular aid and attendance | 6,384 |
| Two parents living together, both of whom are in need of regular aid and attendance | 8,484 |

Second, establish income determinations and exclusions, net worth determinations, and annual reporting requirements similar to those provided for under the improved pension program established under title I of the bill.

Third, allow parents residing in the 50 States and the District of Columbia who are receiving benefits under provisions of law in effect on the day before the effective date of the new program to elect improved parents' DIC benefits if they are eligible or to continue receiving benefits under such provisions as long as they remain eligible under the terms and conditions of such provisions, as in effect on the day before the effective date of the new program.

Fourth, provide that no parent residing in the 50 States or the District of Columbia who becomes entitled to parents' DIC on or after the effective date of the new program shall be entitled to receive benefits under provisions of law in effect on the day before such effective date unless such parent's application was pending on such day.

Fifth, prohibit improved parents' DIC benefits from being paid to parents

residing outside the 50 States and the District of Columbia, and allow such parents who become eligible on or after the effective date of the new program to apply for and receive DIC benefits under provisions of law as in effect on the day before the effective date of the new program as long as they continuously reside outside the 50 States and the District of Columbia.

Title III: Miscellaneous Provisions and Conforming Amendments.

Mr. President, the provisions of title III would:

First, redefine, in part, dependency and indemnity compensation and pension to mean a monthly or other periodic payment.

Second, provide that a reduction in or discontinuance of improved pension or improved parents' DIC benefits resulting from a change in income or net worth would be effective at the end of the month in which the change occurs.

Third, require the VA to increase improved pension and improved parents' DIC rates annually by the same percentage and at the same time as social security cost-of-living increases.

Fourth, require the VA to redetermine the amount of improved pension or improved parents' DIC to which a person is entitled at the same time that social security benefit payments are increased in such a way that no person in either of the improved programs would suffer a reduction in improved benefits attributable to a cost-of-living increase in social security benefit payments or payments under any other Federal program which are increased in accordance with the social security increase.

Fifth, provide that any person who is receiving pension or parents' DIC benefits on the effective date of the new programs who elects benefits under either of the improved programs within 3 calendar months of such effective date shall be paid improved benefits which exceed benefits already paid retroactive to the effective date.

Sixth, provide that benefits under the improved pension program may not be paid to any person residing outside the 50 States and the District of Columbia, but that any person residing outside the 50 States and the District of Columbia on the effective date of the new program who becomes eligible for pension on or after such effective date may apply for and receive benefits under provisions of law as in effect on the day before such effective date as long as such person continuously resides outside the 50 States and the District of Columbia.

Seventh, require a comprehensive study by the VA of the issues involved in the payment of pension benefits to persons residing outside the 50 States and the District of Columbia, including analyses of those aspects of the economies of the countries or U.S. territories, possessions, or commonwealth where such persons reside which are relevant to such issues, estimates of present and future costs of pension benefits or improved pension to such persons, and recommendations to the Congress on the desirability of modifying the pension program in effect on the day before the effective date of the new program for such persons or extending benefits under the improved pension program to such persons.

Eighth, provide that the maximum pension payable to a veteran who has no spouse or child shall not exceed $60 per month after, first, 2 full calendar months of VA domiciliary care, second, 3 full calendar months of VA hospital or nursing home care, unless the VA determines that a continuation of pension benefits for an additional 3 months will facilitate the veteran's return to the community, or third, the month of readmission for such care if the readmission occurs within 6 months of a period of care lasting 2 full calendar months or more.

Title IV: Naming of certain Veterans' Administration hospitals.

Mr. President, this title provides that the VA hospital in Tampa, Fla., and Bedford, Mass., shall be named the "James A. Haley Veterans' Hospital" and the "Edith Nourse Rogers Memorial Veterans' Hospital," respectively.

Title V: Effective dates.

Mr. President, this title provides for an effective date of October 1, 1978, for the improved pension and improved parents' DIC programs, and for provisions relating to the protection of benefits under existing provisions of law and the limited retroactivity for persons making prompt elections of improved benefits. Other provisions of the bill would be effective upon enactment.

Mr. President, in order that all Senators and the public may have a full understanding of the various provisions of this measure, I ask unanimous consent that there be printed in the RECORD at this point pertinent excerpts from Senate Report No. 95-1016 accompanying this bill.

The excerpts follow:

BACKGROUND

HISTORICAL DEVELOPMENT OF THE NON-SERVICE-CONNECTED PENSION PROGRAM

*Overview*

During this century, this Nation has been involved in two world wars and two major conflicts. During each of those four periods of war, millions of Americans have served in our Armed Forces.

There are now 29.8 million veterans of service in the Nation's Armed Forces, of whom 26.2 million are veterans of wartime service. In recognition of the sacrifices made and hardships incurred by the Nation's veterans and of their invaluable service to our national defense and security, veterans' programs serve a wide range of purposes. Those purposes include compensating those who have suffered injury or disease in line of duty for their resultant loss of earning capacity, providing them with the best possible health care and rehabilitation services, and helping to meet the financial, educational training, and certain other essential needs of the surviving dependents of those who died in service or as the result of service-connected causes. Readjustment assistance—primarily educational benefits under the GI Bill for wartime veterans and employment assistance—is provided for the purposes of compensating veterans for the losses of educational and employment opportunities during their active-duty service and helping them make a successful, productive readjustment to civilian life. VA home-loan guaranties are provided to assist veterans to become homeowners. The VA pension program is intended to provide income assistance to needy, non-service-connected disabled and elderly wartime veterans and the needy survivors of wartime veterans for the purpose of affording them a reasonable measure of security so they can live their lives in dignity.

Pension benefits are awarded, not because of the needs arising directly from military service, but because the Nation owes a special obligation to those persons who took up arms in its defense during time of war. Pensions have been granted on the basis of some specified period of service plus other qualifications such as indigence, inability to perform manual labor, disability in some degree incurred after the termination of the war, the attainment of a certain age, or various combinations of those elements.

Prior to World War II, pensions were neither provided nor promised at the time the war was being fought. In fact, from the Revolutionary War through the Spanish-American War, pension laws applied only to veterans of a specific war and were enacted many years after the war ended when the veteran population was advanced in age and reduced in numbers. However, the period between the termination of the war and the enactment of pension legislation generally grew progressively shorter.

The main concern of pension legislation has been to keep wartime veterans and their survivors from destitution. Even where financial need was not required to be shown it was assumed to exist in the cases of most beneficiaries by reason of old age. (Where entitlement to pension is based solely on service for a specified length of time during a particular wartime period, the pension is referred to as a "service pension".)

* * * * *

THE DEVELOPMENT OF THE CURRENT PROGRAM

*The Veterans' Pension Act of 1959*
*(Public Law 86-211)*

From 1933 until 1959, the veterans' pension program consisted of "all-or-nothing" determinations of eligibility. Persons whose incomes did not exceed the specified income limitations received benefits, and the benefits payable to persons with income close to the income limitations were identical to benefits payable to those who had no income or very little income. If one's income exceeded the income limitation by as little as $1, pension benefits were terminated and one's aggregate income was drastically reduced.

In order to make the pension program more responsive to the needs of the recipients, steps to correct the inequities and deficiencies inherent in the "all-or-nothing" pension structure were necessary.

In 1955, President Eisenhower established a President's Commission on Veteran's Pensions and appointed General Omar Bradley as Chairman. In April 1956, the Commission—which had become known as the Bradley Commission—published its findings and recommendations in a comprehensive report entitled *Veterans' Benefits in the United States.*

* * * * *

Further investigation and research by the Congress, together with the recommendations made by the Bradley Commission, led to the enactment of the Veterans' Pension Act of 1959 (Public Law 86-211) which, with substantial amendments discussed below, is the basis for the need-based pension program in existence at the present time. In that law, pension entitlement was adjusted to correspond with the individual recipient's other income. A three-tier structure replaced the one-tier benefit in order to provide a measure of responsiveness to the varying degrees of need of individual recipients.

Thus, enactment of Public Law 86-211, with its graduated levels of pension benefits, gave expression to the philosophy that non-service-connected pension entitlement

should be based on the needs of individual recipients. That law was a major advance in the design of a pension program for wartime veterans and survivors truly responsive to need.

In 1964, anticipating an increase in social security benefits, Congress amended the pension law as revised by authorizing an exclusion of 10 percent of all payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs in determining the annual income of the pensioner. Thus, in addition to a general rate increase, the 10-percent exclusion provided for in Public Law 88-664 generally assured that no individual's pension benefits would be reduced because of the expected social security increase in that year. At the same time Congress also created another exclusion from countable income—the exclusion of all of a veteran's spouse's earned income or $1,200, whichever was the greater.

In 1967, Congress enacted a cost-of-living pension rate increase of 5.4 percent in Public Law 90-77. The following year, 1968, in Public Law 90-275, Congress again increased pension rates and also provided for a $200 increase in the maximum annual income limitations to mitigate against prospective terminations from pension which would occur because of the 13-percent increase in social security benefits that year. The same Act replaced the three-level system of pension rates with a multilevel increment system. Under the previous three-level system, a slight increase in outside income often could result in a disproportionate decrease in a veteran's pension. The enactment of a benefit schedule in which the pension amount was reduced by as many as 20 incremental steps for each $100 of annual income was designed to permit a more orderly and gradual reduction in monthly benefits whenever there was an increase in outside income.

In 1970, in enacting Public Law 91-588, Congress again diminished projected adverse effects on pensioners because of that year's 15-percent increase in social security benefits. It raised the current maximum annual income limitations by $300 and increased the rates by 9.5 percent.

Under early pension laws, the structure of the pension system was such that a small increase in outside annual income could, at certain levels, result in a sharp drop in pension or in a person being dropped from the pension rolls completely. For most pensioners, whose income was not close to such cutoff points, however, outside income could increase substantially with no effect on pension payments or eligibility. When the program, in the interests of equity, was restructured so as to be more sensitive to increases in outside income, that is, more clearly attuned to actual need, another problem arose which became particularly acute. Whenever there were cost-of-living increases in social security, or other similar retirement benefits, which were not offset by pension rate increases of the same or a greater amount, the individual's pension was reduced. Thus veterans complained that whatever social security increase Congress gave with one hand it took back in reduced pension with the other. The reduction in pension was sometimes greater than the increase in social security benefits, producing a decline in the aggregate income of the veteran or survivor.

In Public Law 92-198, enacted in 1971 in response to social security increases that year, Congress increased the pension rates and the maximum annual countable income limitations and adopted rate-decrement-income limitation formulas for establishing the pension rates. The formulas, based on the incremental-step benefit schedules, provided a means by which pension benefits could be calculated to the penny and were intended to prevent the net loss of aggregate income for any pensioner who continued to qualify for a pension and who received an increase in outside income. Under the formula approach, the monthly benefit is computed by reducing the maximum monthly rate by a specified number of cents for each dollar of an individual's annual countable income which exceeds the maximum annual countable income level for the applicable step.

Since 1971, the enactment by Congress of a pension rate increase has meant an increase in the maximum monthly rates and annual countable income limitations by the specified percentage and adjustments in the formulas so that the less-than-maximum rates would reflect the increase.

Because of the July 1972 social security increase, approximately 20,000 pensioners—14,200 veterans and 5,800 survivors—were scheduled to be dropped from the pension rolls on January 1, 1973, the effective date of annual redeterminations of entitlement to pension benefits. Concerned about that situation, the Committee on Veterans' Affairs held hearings on September 12, 1972, to consider legislation to ameliorate the adverse impact of social security increases on pensioners and to adjust for continuing inflation. Subsequently the Committee unanimously ordered reported S. 4006, which would have increased maximum annual income limitations by $400—the approximate amount of the average social security increase—and would have increased the base pension rates by about 8 percent.

The measure unanimously passed the Senate in the closing days of the session on October 11, 1972, but the House was unable to consider pension legislation prior to sine die adjournment.

The subsequent terminations of many persons from the pension rolls in January 1973, as a result of the social security cost-of-living increase which was effective the previous July, focused attention on the pension structure. Although rate increases and increases in the annual income limitations appeared essential to prevent continuing inflation from eroding the purchasing power of pension benefits and to prevent eligibility terminations, many in Congress and in the Administration recognized that the practice of frequent adjustments in the benefit schedule was creating distortions in the equitable structure envisioned by Public Law 86-211 and tended to spread the limited resources available for the pension program more and more thinly. Persons with little or no other income received inadequate benefits while increases in the income limitations tended to result in the payment of very small benefits to large numbers of persons in higher income categories. Each successive rate increase and income limitation adjustment compounded this distortion and led to the anomalous situation, which prevails today, in which substantial numbers of persons with incomes well above the poverty threshold receive benefits, while many other pensioners must seek assistance from social welfare programs such as Supplemental Security Income and food stamps merely to meet their subsistence needs.

This situation has led to the effort to bring about major reform, an effort which has now continued for 5 years.

PREVIOUS PENSION-REFORM MEASURE—S. 2635 AND ITS BACKGROUND

*93d Congress*

During the 93d Congress, the Committee undertook a comprehensive review of the pension program. In testimony before the Subcommittee on Compensation and Pensions on June 18, 1973, representatives of the VA asserted that there were a number of "inconsistencies, inequities, and anomalies" in the present pension system. They advocated a thorough examination and complete revision of the system which, they asserted, could be accomplished quickly, but the VA did not offer a formal draft of legislation for that purpose.

* * * * *

On March 15, 1974, the Administration submitted a formal draft legislative proposal. The transmittal letter stated:

"The enclosed draft measure would (1) fill the gap between the resources available to a veteran and his dependents and a national minimum standard of need; (2) treat veterans and widows equally with regard to income and benefit amount; (3) eliminate the inequities arising from exclusions of income—consideration of family income as a whole; (4) contain an automatic cost-of-living adjustment working simultaneously with that applicable to social security and eliminate the lag in adjusting pension for increase in income; (5) provide benefits which guarantee a minimum income of $166 per month for a single person and $249 per month for a person with one dependent; and (6) provide a hold-harmless provision to permit present recipients of pension to continue receiving benefits under the present provisions of law with a 4-percent rate increase and thereafter, automatic cost-of-living increases."

* * * * *

From information then currently available to the Committee, however, it was apparent that the actual proposals made by the VA would be unduly restrictive and unacceptable in operation. Few of the veterans or surviving spouses in need of pension could qualify under the new system proposed by the Veterans' Administration. For example, if that proposed pension system had been applied to the population of veterans and surviving spouses then receiving VA pensions, almost two-thirds would have been ineligible for pension benefits. It was evident that variations had to be considered and additional information was necessary before the Committee could proceed with pension restructuring.

*Public Law 93-527*

In the meantime, it was necessary to proceed with an interim cost-of-living measure in order to protect VA pensioners from the continued toll of inflation. Thus, Congress enacted S. 4040, the Veterans and Survivors Pension Adjustment Act of 1974, as Public Law 93-527. In addition to providing an average 12-percent increase in the pension rates and a $400 increase in the maximum annual income limitations, Public Law 93-527 also directed the Administrator of Veterans' Affairs to carry out an original study of the needs and problems of veterans and their widows 72 years of age and older. The study was to include a profile of the income characteristics of such veterans and their widows describing the proportion and amount of such income from all sources, and the average cost for all necessities such as rent, food, medical care, and other items. The study was also to evaluate the adequacy of benefits for and the expected mortality rates of such pensioners.

The law further directed that a report of the results be furnished the President and the Congress together with any recommendations for legislative or administrative action to improve the present program of pension benefits for such veterans and widows.

Public Law 93-527 also provided that "in no event shall the monthly rate of pension be less than $5." This provision of a "minimum pension" appeared necessary because there were persons whose countable nonpension income did not exceed the income limitations, but for whom the application of the formula would yield very small amounts of pension or in some cases none at all.

* * * * *

*94th Congress*

* * * * *

On July 22, 1975, the Veterans' Administration transmitted its "Study of the Needs of Older Veterans and Widows", as required by Public Law 93-527.

Graphic evidence that the current pension system is not fulfilling its objectives can be found in that study of the needs of older veterans and widows. The raw data produced by the study has been of great value to the Committee. The data revealed, for example, that large numbers of veterans and widows had incomes below the poverty threshold; 30 percent of the veterans and nearly 37 percent of the widows interviewed reported they could not afford all the food they need; 25.1 percent of the veterans and 20.9 percent of the widows could not afford to pay for all the medical attention they need; and nearly 36 percent reported problems concerning adequate housing.

This study and the continued exposure of anomalies and inequities in the present pension program combined to argue forcefully and persuasively for fundamental restructuring.

The Committee then formulated S. 2635, introduced by then Chairman Hartke and cosponsored by most members of the Committee. The VA, however, did not support S. 2635. It testified that the bill incorporated many of the concepts contained in its draft proposal submitted the previous year, but it opposed the bill principally for the reason that the 8-percent cost-of-living increases in titles II and IV of the bill as reported were not in keeping with the Administration's policy of "holding the line" at 5 percent. On December 15, 1975, S. 2635 passed the Senate unanimously but it was not acted upon by the House and died with the adjournment of the 94th Congress.

S. 2635, the proposed "Veterans and Survivors Pension Reform Act of 1975", generally, would have:

Adopted income standards for all eligible veterans and surviving spouses of $2,700 for a veteran without dependent family members and $3,900 for a veteran with one dependent family member, reduced dollar for dollar by the other income available to a pensioner;

Reduced significantly the number of income exclusions permitted under current law;

Provided for automatic cost-of-living increases based on annual increases in the Consumer Price Index.

In 1976, the Senate considered another pension bill, H.R. 14298, which had passed the House June 21, 1976, and basically provided for a cost-of-living increase in pension benefit levels. On August 4, 1976, the Senate voted to amend H.R. 14298 by substituting the provisions of S. 2635. On September 9, 1976, the House amended H.R. 14298 to contain its original text and it was subsequently signed into law as Public Law 94–432.

Before final passage, however, H.R. 14298 was also amended to require a comprehensive study of the pension program. That amendment, section 404 of Public Law 94–432, provides as follows:

SEC. 404. (a) The Congress finds and declares that the pension program for non-service-connected disability or death, authorized in chapter 15 of title 38, United States Code, and administered by the Veterans' Administration—

(1) does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

(2) has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

(3) subjects many pensioners annually to reductions in their pension.

The Congress further finds and declares that it lacks sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners (and their families) upon which to estimate costs of existing alternative pension programs.

(b) No later than October 1, 1977, the Administrator of Veterans' Affairs shall submit a report to Congress and the President. The report shall contain the findings and recommendations of a comprehensive investigation, analysis, and evaluation of existing and alternative non-service-connected pension programs, and shall include, but not be limited to, the following:

(1) Income characteristics of veterans and survivors currently in receipt of non-service-connected pension.

(2) Actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors (and their families) who may be potentially eligible for benefits under the non-service-connected pension program during the next 25 years.

(3) Identification and analysis of existing inequities, anomalies, and inconsistencies contained in the current non-service-connected pension program.

(4) Current and proposed income exclusions.

(5) Particular problems and needs of catastrophically disabled non-service-connected pensioners.

(6) Alternative proposals which—

(A) assure a level of income for eligible veterans at or above the national minimum standard of need;

(B) treat similarly circumstanced pensioners alike; and

(C) provide the greatest amount of assistance to those with the greatest amount of need.

(c) On the basis of the investigation, analysis, and evaluation required to be made in subsection (b), the report shall identify alternative courses of legislative or administrative action (including proposed legislation) and long-range cost estimates therefor which, in the judgment of the Administrator, would result in a more equitable non-service-connected pension program.

PREPARATION AND INTRODUCTION OF S. 2384

In the 95th Congress, Senator Alan Cranston succeeded Senator Hartke as Chairman of the Veterans' Affairs Committee. On March 15, 1977, the Committee met in executive session to consider its recommendations to the Senate Budget Committee for the fiscal year 1978 Congressional budget and established as a major priority the enactment during the 95th Congress or pension restructuring legislation. Much time had passed since the introduction of S. 2635, and, while the general structure of the program that would have been established under that measure was clearly equitable, the Committee recognized that the legislation could be substantially improved. Drafts of legislation based on the principles of S. 2635 but with substantially increased benefit levels and other modifications were prepared and submitted to the Congressional Budget Office and the Office of Management and Budget for development of cost estimates for the drafts. The Committee expected to receive the data contained in the VA pension report, due to be submitted to the Congress on October 1, 1977, as well as the administration's recommendations, to assist in putting the draft legislation in final form. However, informal communications from the VA in November 1977, indicated that the report might not be submitted to the Congress until as late as January or February of 1978. In order to provide ample time for review by the administration, the veterans' service organizations, and other interested parties prior to hearings planned for February 1978, the Committee decided to prepare the bill for introduction before the end of the first session of the 95th Congress.

In the meantime it had become evident that a reform measure could not be enacted with an effective date in fiscal year 1978. Therefore, pending achievement of comprehensive reform, Congress passed H.R. 7345, a bill to provide cost-of-living increase of approximately 6.5 percent in the pension rates and the annual income limitations. The Committee, in its report (S. Rept. No. 95–374) accompanying H.R. 7345, dated July 29, 1977, reiterated its commitment to the achievement of equitable and adequate pension-restructuring legislation. H.R. 7345 was signed into law on December 2, 1977, as Public Law 95–204.

On December 15, 1977, the Chairman introduced S. 2384, the proposed "Veterans' and Survivors' Income Security Act", with the cosponsorship of all members of the Committee and Senator Williams.

* * * * *

On January 30, 1978, the VA submitted to Congress the report mandated by section 404 of Public Law 94–432. Entitled "Analysis and Evaluation of the Non-Service-Connected Pension Program" (hereinafter referred to as the "VA Pension Report"), it consists of twelve chapters, numerous tables, and an appendix which provides a wealth of data about the current pension program, including analysis of inequities and anomalies in the program. In addition, the report recommends the development of a new non-service-connected pension program incorporating principles specified in the concluding chapter and outlined in the discussion of the VA's testimony on S. 2384, *infra*.

HEARING ON S. 2384

On February 3, 1978, the Committee held a hearing on S. 2384. Testimony was received from Dorothy Starbuck, Chief Benefits Director of the VA, and other representatives of the VA, The American Legion, Veterans of Foreign Wars, Disabled American Veterans, AMVETS, Veterans of World War I, Paralyzed Veterans of America, and Military Widows.

*VA position*

The VA, although stating that the existing pension program is "an immense improvement over earlier programs", identified the following major deficiencies which it had previously described in its pension report:

"While need is one of the traditional and currently legal requirements for entitlement to pension, need is not met sufficiently for a significant number of pensioners.

"Also a spurious need is created by certain exclusions of money available to meet need, but which are not counted as income for pension purposes.

"A central defect of the current pension program is that it fails to provide adequate assistance to many pensioners.

"Another difficulty with the current program is the two variable system. It does not accurately relate pension benefits to pension need. The two variables are the annual income limitations, and a sliding scale of rates. Adjustment of the income limitation to correspond with the increase in cost of living, while beneficial to those in the higher income bracket, does little or nothing for those with minimal or no income, those who have the maximum need.

"One of the most unfortunate and abrasive aspects of the current program lies in the reduction of benefits at the end of the year in which an increase in income has occurred rather than a reduction simultaneous with increases in other income. While well intentioned, it is discriminatory in that it favors those receiving such increases by providing continued receipt of pension at the higher rate for the remaining months of the year. It is abrasive in that it effects a reduction long after the increase in other income has been experienced and after the recipients have become accustomed to a higher total income.

"Still another inconsistency and inequity results from the exclusion of all or part of income actually received from determinations of income for pension purposes. There are instances where veterans living with a spouse may receive pension even though the

spouse is earning a very considerable salary, while another veteran whose spouse is retired and whose retirement is countable receives no pension.

"There is one other inequity of the present program, the unequal treatment as between a veteran and a surviving spouse.

"On the one hand, a veteran must be totally and permanently disabled to be entitled to pension, and the additional amount for additional dependents is less, and limited, than with respect to a surviving spouse. On the other hand, the amount payable to a surviving spouse is less, and such survivor is not entitled to a housebound rate.

"In addition, nonaged surviving spouses qualify for pension without having to meet the disability criteria."

The VA asserted that such "inconsistencies, inequities, and anomalies * * * cannot all be corrected within the framework of the law now constituted" and reiterated the principles which it had advanced for a new pension program in its report * * *

* * * * *

In the light of criticisms and suggestions made in testimony at the hearing and the recommendations of the VA (further amplified in followup discussions between Committee and VA staff), the Committee ordered the bill reported on March 23, 1978, with an amendment in the nature of a substitute and a title amendment. The objectives of the bill as reported . . . are identical to those of the bill as introduced.

The bill as reported also provides for a new program of improved dependency and indemnity compensation benefits for the surviving parents of veterans who died as a result of their service-connected disabilities. In addition, it provides for a cost-of-living increase in the pension payable to certain institutionalized veterans. Finally, it names two VA hospitals located in Tampa, Florida and Bedford, Massachusetts.

OTHER PENSION PROPOSALS

In recent years, there has been much interest in two very costly types of legislation related to the pension program—"social security pass-through" legislation under which the amounts of any social security cost-of-living increases received by a pensioner would be disregarded in computing his or her pension entitlement, and World War I "service pension" legislation under which all World War I veterans and survivors would receive a non-need-based monthly payment.

A pass-through of social security cost-of-living increases is intended to solve the continuing problems experienced by many pensioners, who not only do not benefit from the cost-of-living rate increases in the pension program enacted by Congress, but who also suffer reductions in pension benefits directly attributable to social security cost-of-living increases. Such measures would not, however, address the basic problem inherent in the current program which causes reductions in pension following a social security cost-of-living increase. Rather, such measures would create new inequities; and, within a few years, a class of pensioners would be created having actual income substantially above the national minimum standard of need. For example, on November 3, 1977, the Senate overwhelmingly adopted Amendment No. 1580 to H.R. 9346, the Social Security Amendments of 1977. This amendment, not agreed to in conference, would have directed the VA to exclude from the countable income of a pensioner any social security cost-of-living increase occurring after 1979. Since only persons who have social security income would benefit from this exclusion, and because of the value of the exclusion would be compounded each year, the effect of such a measure would have been to create several classes of pensioners whose aggregate incomes would differ sharply even though their needs were identical. Such an approach would strike at the heart of the pension program as a need-based income maintenance system, by using available resources to benefit those receiving social security income while those who are most in need would not benefit at all.

The first-year (fiscal year 1978) cost of S. 107, a pass-through measure retroactive to 1972, was estimated at $2.2 billion. A bill which would operate prospectively only, S. 1195, would have a first-year (fiscal year 1978) cost of $118.9 million, but its future costs would be almost as high as those for S. 107, which was estimated to cost $1.14 billion in 1982.

The effect of an unrestricted, non-need-based service pension for World War I veterans and survivors would be to distribute a large proportion of the limited dollars available for the pension program to those who are not in need. The estimated costs of a service pension—even if limited to World War I veterans and survivors—would increase budget allocations for pension benefits far beyond what is a reasonable or equitable level for this type of program, when all competing veterans' benefits programs are taken into account—especially those for service-connected veterans. For example, the VA estimated that one World War I service pension measure, if enacted, would add approximately $1.7 billion to the cost of the existing program in fiscal year 1979.

In view of the support evidenced for pass-through and service-pension legislation and the very large costs which they would generate if enacted, the Committee believes that the need is even greater to achieve a restructuring of the pension program that will provide substantial increases in benefits for those in greatest need and eliminate the other inequitable features of the current program which have created many of the quite understandable concerns underlying those approaches.

LONG-RANGE COST ESTIMATE

The Committee has carefully followed the development by the Office of Management and Budget's Special Studies Division of a long-range computer model [1] simulating the anticipated characteristics of the pension population over the next 25 years. At the Committee's request, this model was used to prepare comparisons between the expected total costs of the current program at 5 year intervals between 1980 and 2000 and the expected total costs of S. 2384 over the same period.

The following table, based on one prepared by OMB using its own economic assumptions, estimates the total costs in current dollars of the years indicated. "Current dollars of the years indicated" are calculated to reflect the estimated increase in the Consumer Price Index which is assumed to continue through out the period 1980–2000.

TABLE 3.—OMB ESTIMATES OF TOTAL COSTS IN CURRENT DOLLARS OF THE YEARS INDICATED

[In millions]

| | 1980 | 1985 | 1990 | 1995 | 2000 |
|---|---|---|---|---|---|
| Current program (maximum) [1] | $3,112 | $4,248 | $5,517 | $7,432 | $9,709 |
| Current program (intermediate) [2] | 2,971 | 3,691 | 4,395 | 5,492 | 5,687 |
| S. 2384 | 3,213 | 3,780 | 4,479 | 5,731 | 7,525 |

[1] This estimate assumes that the current program would be adjusted in the future so that all pension payments would be increased in accordance with the rise in the Consumer Price Index.

[2] This estimate assumes that the current congressional practice of adjusting the maximum benefit and the annual income limitations to accord with the rise in the CPI would continue without changing the formula used to calculate actual benefit payments.

[1] A description of the long-range computer model is found in chapter IX of the VA pension report (that chapter is reproduced in its entirely in Appendix B of this report).

It should be noted that OMB's estimate of "total costs" do not include the cost of the pension program for surviving children because there are insufficient data upon which to estimate these costs. However, it is reasonable to assume that the costs shown for "current program" would be many hundreds of millions higher if surviving children were included, but the costs shown for S. 2384 would be only slightly increased. Thus, the net cost of S. 2384 would be significantly lower than shown.

The OMB estimate also does not compare the long-range costs of S. 2384 with the costs of a pass-through or service-pension measure added to the costs of the current program if not restructured. The long-range costs of such legislation would, of course, be far higher even than those shown for "current program (maximum)".

An examination of this table indicates that the difference between the expected long-range maximum total costs of the current program and S. 2384 would be sizable. The two sets of figures shown for "current program" are very different. The "maximum" costs assume that the present pension program would continue more or less in its present form except that all the benefit amounts payable under that program would be "indexed"—increased annually in accordance with the CPI—instead of continuing the current practice of increasing only the maximum benefits payable and the annual income limitations, and providing "adjustments" for the intermediate rates through the application of the formula.

The table indicates that by 1985 the enactment of S. 2384 would result in cost savings of $468 million over the cost of the current program if indexed and that these savings would continue to rise thereafter—to about $1.7 billion by 1995.

IMPROVED PENSION BENEFIT RATES SET ABOVE NATIONAL MINIMUM STANDARD OF NEED

As the foregoing discussion clearly illustrates, this Nation has always acknowledged the special obligation it owes to those veterans who served our country during wartime. A pension program to assist those veterans and their survivors when they are in need is one of the ways our Nation has traditionally discharged this obligation. In the Committee's view, an effective pension program should provide assurance that no veteran who served on active duty in wartime who is unable to support himself or herself by reason of permanent and total non-service-connected disability or age will be relegated to poverty levels of subsistence or to welfare programs to meet basic subsistence needs. To achieve that goal, the Committee concluded that pension rates should be determined by reference to a national minimum standard of need so that beneficiaries will have sufficient assured income to permit them to live in dignity.

* * * * *

However, as a guide to determining the basic maximum annual pension rates ("income standards")—those applicable to a veteran who has no dependent family members and a veteran with one dependent family member—the Committee has adopted the poverty level guidelines published annually (in April) by the Department of Labor in the form of levels of income related to family size. These levels of income are used to establish basic eligibility for certain programs for economically disadvantaged persons, such as employment and training under the Comprehensive Employment and Training Act (CETA). The figures released in April 1978, for use during the following 12 months are shown by the following table (which also shows those published in April 1977, for purposes of comparison):

| Family size | April 1978 Continental United States Nonfarm | Continental United States Farm | Hawaii Nonfarm | Hawaii Farm | Alaska Nonfarm | Alaska Farm | April 1977 Continental United States Nonfarm | April 1977 Continental United States Farm |
|---|---|---|---|---|---|---|---|---|
| 1 | $3,140 | $2,650 | $3,620 | $3,130 | $3,940 | $3,380 | $2,970 | $2,550 |
| 2 | 4,160 | 3,550 | 4,790 | 4,110 | 5,210 | 4,450 | 3,930 | 3,360 |
| 3 | 5,180 | 4,410 | 5,960 | 5,050 | 6,480 | 5,520 | 4,890 | 4,170 |
| 4 | 6,200 | 5,270 | 7,130 | 6,070 | 7,750 | 6,550 | 5,850 | 4,980 |
| 5 | 7,220 | 6,130 | 8,300 | 7,050 | 9,020 | 7,660 | 6,810 | 5,790 |
| 6 | 8,240 | 6,990 | 9,470 | 8,030 | 10,290 | 8,730 | 7,770 | 6,600 |

Source: U.S. Department of Labor.

As the table shows, the continental United States nonfarm level for an individual living alone is $3,140 and for a family of two $4,160.

Those guidelines are based on the basic definition of poverty underlying the census data and are similarly adjusted annually by the increase in the Consumer Price Index. Prepared by and transmitted to the Department of Labor by the Department of Commerce, they are designed to guide Federal agencies in determining eligibility for particular programs and thus provide an appropriate measure of determining whether a person is economically disadvantaged.

* * * * *

*New Income Standard Approach*

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In designing the new program, the Committee was guided by the previous reform measure, S. 2635, the proposed "Veterans and Survivors Pension Reform Act," passed by the Senate in 1975 but not acted on by the House. That bill attempted to meet the objectives of an equitable need-based pension program by establishing a "one-variable system".

The current pension program is a "two-variable" system with an annual income limitation and a sliding scale of rates. Under a one-variable system, basic levels of income support—"income standards"—are established by law, based on family size and other factors, and, in each case, the amount of pension payable is determined by subtracting the annual countable income available to the veteran or survivor from the applicable income standard.

The Committee bill adopts the one-variable approach with income standards established for different categories of beneficiaries. The amounts of the income standards for single veterans and those with a spouse or one dependent child are set at levels designed to guarantee that such pensioners will have income at or above the income standard applicable to their particular situations. In the case of larger families, the income standards are increased to provide income support for the additional family members. In addition, increases are also provided for veterans who are housebound and for those in need of regular aid and attendance.

Under the current pension program, a maximum monthly payment rate is set for veterans and surviving spouses who have little or no other income, and, for those who do have other income, that rate is reduced according to the applicable rate-decrement-income-limitation formula to determine the amount of pension payable, based on their annual countable income, which may not exceed the applicable income limitations.

The maximum annual payment under the current pension program, as increased by the 6.5-percent increase enacted in Public Law 95-204, effective January 1, 1978, is $2,364 ($197 per month) for a veteran who has no dependents and no other income—$1,596 for a surviving spouse. A veteran with one dependent and no other income cannot receive more than $2,544 annually, with $60 added annually for each of up to two additional dependents. The latter amount—$5 per month for each of up to two additional dependents—is obviously inadequate. Thus, a veteran who has a spouse and does not have any other income receives a pension that is far below the national minimum standard of need, which was $4,160 for a two-person household in the most recent data published by the Department of Labor; and married veterans with more than 2 children do not receive increased payments for the additional children.

Existing law provides even less adequately for a surviving spouse. The surviving spouse without dependents who has no other income receives a maximum pension payment from the VA of $133 per month, or $1,596 per year—approximately two-thirds of the veteran's rate.

Thus, many disabled or elderly wartime veterans and the survivors of wartime veterans are forced to turn to income-assistance and in-kind programs such as Supplemental Security Income and food stamps merely to survive.

The benefits payable to pensioners who do have other income are determined by the rate-decrement-income-limitation formulas that are so complicated that literally only a very few people understand how they work. When Congress enacts a cost-of-living increase applicable to the current pension program, the complexities of these formulas are such that the actual percentage increase in the intermediate rates may be more or less than the percentage increase in the maximum rates and the annual income limitations. Moreover, use of this formula approach has meant that, especially in recent years, the aggregate incomes of pensioners who have social security income have not increased commensurately with increases in the Consumer Price Index, thus frustrating the apparent intent of the Congress in providing cost-of-living increases for them, especially in those situations in which the pensioner's total income is composed of VA pension plus social security, both of which Congress intends to be increased according to the rise in the Consumer Price Index. In fact, in many instances, the effect of a pension rate increase is merely to diminish the amount of reduction in pension benefits a veteran or surviving spouse was otherwise scheduled to receive.

On the other hand, features such as the exclusion from income of 10 percent of all retirement income, the exclusion of all of a veteran's spouse's earned income, and the minimum pension provision have tended, singly or in combination, to permit the payment of substantial amounts of pension dollars to persons whose nonpension income is well above the national minimum standard of need.

The one-variable income-standard approach adopted for the improved pension program in the Committee bill replaces this complicated and inequitable system with a simplified method of determining the amount of improved pension payable and ensures that no wartime veteran or surviving spouse who is permanently and totally disabled from non-service-connected causes, or who is 65 or over, will be forced to live at poverty subsistence levels. The basic income standards—maximum rates—are set slightly above the poverty guidelines developed and published by the Department of Labor, and will assure that all eligible veterans and survivors receive a pension commensurate with their need. Under the income-standard approach, persons who have no other income would be entitled to receive the maximum amounts. For persons who do have other income, the improved pension income standard would be reduced dollar for dollar—except for certain exclusions—so that those persons would receive improved pension as a supplement to their other income. In this way, the aggregate income of a veteran who has no other income would generally be identical to that of a similarly-circumstanced veteran who does have some other income.

The income standard for a veteran or surviving spouse who has one dependent would be substantially increased in the Committee bill to be 1.32 times the basic standard for a veteran or surviving spouse with no dependents. That ratio, 1.32:1, is derived from the "poverty level guidelines" developed and published by the Department of Labor. This ratio in current pension law is 1.07:1 for veterans and 1.20:1 for surviving spouses. These ratios are far too low to account for the increased cost of supporting a two-person household.

Moreover, the income standard for each category would be increased by $660 for each additional dependent child. This amount is far more clearly related to the actual cost of supporting a dependent child than are the present levels.

IMPROVED PENSION BENEFITS FOR VETERANS

In the Committee bill, as has been noted, the maximum rates of improved pension payable to veterans who are permanently and totally disabled from non-service-connected causes, or who are 65 or older, are substantially increased over the maximum rates authorized under the current program. Under the current program, the maximum monthly rate payable to a veteran who has no dependent family members and who is not in need of regular aid and attendance nor permanently housebound is $197 per month ($2,364 per year), if the veteran has countable income not exceeding $300 per year. Under the Committee bill, the maximum annual rate authorized for such veteran who has no other income is $3,240 ($270 per month), an amount which is based on the Department of Labor's April 1978, income level ($3,140) for a one-person household, adjusted by the estimated rise in the Consumer Price Index between April 1978, and October 1978, and slightly increased so as to be divisible by twelve.

The following table shows the maximum annual rates of improved pension proposed in the Committee bill for veterans:

TABLE 7.—*Improved pension rates for veterans*

| | Rates |
|---|---|
| Veteran without dependent spouse or child | $3,240 |
| Veteran with one dependent (spouse or child) | 4,284 |
| Veteran in need of regular aid and attendance without dependents | 5,340 |
| Veteran in need of regular aid and attendance with one dependent | 6,384 |
| Veteran permanently housebound without dependents | 4,016 |
| Veteran permanently housebound with one dependent | 5,060 |
| Two veterans married to one another | 4,284 |
| Increase for each additional dependent child | 660 |

* * * * *

Under the Committee bill, the annual income of any eligible veteran who has no dependent family members and whose annual countable income falls below the income standard of $3,240 would be entitled to improved pension benefits in the amount necessary to bring the veteran's aggregate countable income up to the income standard. * * *

* * * * *

The annual rate of improved pension applicable to such a veteran would be reduced by the veteran's annual countable income, dollar for dollar in the case of nonemployment income (such as retirement benefits), but subject to the current-work income exclusion of $780, plus one-half the remainder, and other applicable exclusions, more fully discussed below.

* * * However, there are certain anomalies and inequities in the current program relating to married veterans and those who have children which the Committee bill also would address. It has been previously noted that a veteran who has more than three dependent family members cannot, under current law, receive any increase in pension benefits for such additional family members regardless of how little income the family has. This inexplicable inequity in an income-maintenance program is addressed by the Committee bill, which provides for substantially higher annual income standards applicable to such situations.

A second anomaly in the current program relates to the treatment of family income. Under the current program, the income of a veteran's spouse, with whom the veteran is living or to whose support the veteran is reasonably contributing, is considered as the income of the veteran to the extent such income is reasonably available to or for the veteran. The income of the veteran's dependent children is not considered, regardless of the amount, and the spouse's income is counted only to the extent that it exceeds the greater of (1) $1,200, or (2) all of the spouse's earned income. If the spouse's income is retirement income, only 90 percent of such income is countable.

It must be remembered in connection with provisions relating to married veterans that, in almost all cases, veterans who are pension beneficiaries are male. These provisions were incorporated into the pension program in order to allow married veterans and their spouses to benefit from the increased income support available to a household in which the spouse of a disabled or elderly person is employed or has a separate income. Because pension benefit rates at the time these exclusions were added were relatively low, and the average wages paid to women were also, low, the aggregate household incomes of married veterans—pension plus the veteran's and spouse's other income—did not seem inequitable in view of the increased income necessary to support a two-person household. Since that time, women have entered the work force in increasing numbers and median incomes of women have risen substantially. According to the VA Pension Report, the average family income of married veterans is far above that of those who have no dependent family members—attributable in most cases to the spouse's income. The fact that a veteran may receive need-based pension benefits exceeding $2,500 per year even though his or her spouse earns $10,000 a year or more does a great injustice to the principle that pension dollars should be distributed to those who are truly needy.

The Committee bill, however, is also based on the principle that a need-based income maintenance program must have a higher standard of need, as measured by income, for cases in which the beneficiary is legally responsible for his or her spouse's support and the family's dependent children. Consequently, in the Committee bill, the income standard applicable to a veteran with one dependent family member (who may be either a spouse or a child) has been increased to be 1.32 times the basic income standard applicable to a veteran who has no dependent family members. The ratio in current law is 1.08:1—so that the veteran who has a dependent spouse and less than $500 in annual countable income receives $15 per month for the support of his or her dependent spouse. The ratio adopted in the Committee bill was derived from the ratio between the income levels of a one-person household and a two-person household in the poverty level guidelines previously discussed. As in the case of the income standard applicable to a veteran who has no dependent family members, the income standard applicable to a veteran who has one dependent family member was increased to account for the estimated rise in the Consumer Price Index between April 1978, and October 1978, and then slightly increased so as to be divisible by 12. Consequently, an eligible veteran with a dependent spouse will be assured of improved pension benefits to bring his or her annual aggregate income up to the income standard of $4,284.

The income standard would also be increased by $660 for each dependent child supported by the veteran, without any limitation on the number, thus addressing one of the harshest inequities in the current program.

The Committee bill also recognizes, as a second important principle applicable to a need-based income maintenance program, that, in the case of benefits payable to a household consisting of more than one person. all the income of the family members on whose behalf the primary beneficiary—in this case, the veteran—is to receive benefits should be generally considered, to the extent it is reasonably available to the primary beneficiary. Thus, the Committee bill requires generally that the income of the veteran, the veteran's spouse, and the veteran's dependent children, if any, be considered in determining the veteran's entitlement, if the veteran is to receive increased improved pension for such persons. * * *

IMPROVED PENSION BENEFITS FOR VETERANS WHO ARE IN NEED OF REGULAR AID AND ATTENDANCE

The Commission bill provides for higher improved pension rates—with the amount of the increase in the rate based on the present "aid and attendance" allowance—for veterans in need of regular aid and attendance in response to the very clear and pressing needs of those severely disabled veterans for funds to defray the costs of such care.

Under current law, veterans of World War I and later periods of war who are in need of regular aid and attendance receive $165 per month for this purpose in addition to their pension benefit payment. For example, a single veteran who has little or no other income and is thus entitled to the maximum pension rate of $197 per month would receive a total of $362 per month. A single veteran whose annual countable income is less than $3,770 but more than $3,200 and who is thus entitled to the minimum pension rate of $5 per month would receive a total of $170 per month. In the first case, the veteran would have annual pension of $4,344; in the second case, the veteran would have annual income (pension plus other income) of approximately $5,240, assuming annual countable income of $3,200. If the veteran's nonpension income were retirement income (only 90 percent of which is counted), such as social security benefits, the actual aggregate income would be approximately $5,592.

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Under the Committee bill, the annual income standard applicable to veterans is increased by $2,100, when the veteran is in need of regular aid and attendance. Thus, in the case of a veteran who has no dependent family members, the annual income standard would be $5,340; in the case of a veteran who has one dependent family member the annual income standard would be $6,384, increased by $660 for each additional dependent child. The annual rate would generally be reduced dollar for dollar by other income available to the veteran. However, the current-work income exclusion applicable to the incomes of veterans in need of regular aid and attendance (and their spouses' and children's incomes) would be increased to $1,560 plus one-half of the remainder, permitting these veterans to remain eligible for improved pension at higher levels of aggregate family income.

The substantially higher benefit levels and the higher current-work income exclusion would provide greater income security to these very seriously disabled veterans to help defray the added costs for the personal care they need. Such costs are typically in the form of direct expenditures for a paid attendant or the indirect cost of employment foregone by a family member who provides the necessary assistance.

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IMPROVED PENSION BENEFITS FOR VETERANS WHO ARE PERMANENTLY HOUSEBOUND

The Committee bill also provides for increased improved pension rates—with the amount of the increase in the rate based on the present "housebound" allowance—for those veterans who are not so disabled as to require regular aid and attendance but who are either substantially confined to the immediate premises of their homes (or the ward and clinical areas of a health-care facility if they are institutionalized) or who have additional disabilities independently ratable at 60 percent or more. Under current law, an allowance of $61 per month ($732 per year)—approximately 40 percent of the aid and attendance allowance—is payable to a veteran who is so disabled; this sum is added to the basic pension payment. A veteran eligible for this "add-on" benefit who receives a small increase in nonpension income such that his or her income exceeds the income limitations, loses eligibility for the "housebound" allowance, so that his or her income declines sharply. For example, a housebound veteran without dependent family members who has nonpension income of $3,760 receives $60 per year in pension benefits and a housebound allowance of $732, totaling $4,552 in aggregate income. If the veteran's nonpension income increased by only $25 per year, pension eligibility would be terminated, resulting in a decline in aggregate income of $767 ($4,552 minus $3,785).

Under the Committee bill, the basic annual improved pension rates for these veterans would be increased by $776—to $4,016 in the case of a veteran who has no dependent family members and to $5,060 in the case of a veteran with one dependent family member, with $660 to be added for each additional dependent child. In each case, the rate payable would be reduced by the amount of the veteran's countable annual income and the income of dependent family members which is reasonably available to the veteran. These provisions assure an income standard well above the poverty line for these seriously disabled veterans, and also assure that, in cases in which an increase in outside income results in a termination of improved pension benefits, the veteran does not suffer a sharp decline in aggregate income.

SPECIAL ADD-ON IN IMPROVED PENSION BENEFITS FOR VETERANS OF WORLD WAR I

The Committee bill provides for a 25-percent increase in improved pension benefits payable to a veteran of a period of war if veterans of that period of war were not entitled to home loan guaranty benefits under chapter 37 of title 38 or educational assist-

ance benefits under chapter 34 of such title, or under prior corresponding provisions of law. The extra payment will be proportionately larger to those with little income other than improved pension and will not be subject to reduction by other income. All veterans who would be entitled to the 25-percent add-on are veterans of World War I or earlier periods of war, such as the Mexican border period, because these GI Bill educational and loan guaranty benefits, which were first adopted during World War II, were never extended to veterans of earlier wars.

Under current law, a 25-percent add-on in benefit rates is applicable to the pension payable to any veteran reaching the age of 78. Although this add-on was not intended to benefit World War I veterans exclusively, it was clearly recognized at the time of its adoption in the 94th Congress (Public Law 94-432) that almost all veterans who would be entitled to receive it at that time were veterans of World War I.

The Committee, in considering the design of the improved pension program, rejected the concept of an add-on related to age because there is no data to support the notion that persons 78 years of age and over who are not so disabled as to be housebound or in need of regular aid and attendance have a greater need for income support than persons 75, 70, or any other age less than age 78.

The 25-percent add-on in the Committee bill does not find its justification in the assertion that persons of a particular age require more income support. Nor does it reflect the view that service during any particular war period should be regarded as more or less meritorious than service during any other war period. Rather, the add-on responds to the legitimate claims of World War I veterans, who were never made eligible for the readjustment benefits generally available to veterans of later periods of war. To the extent that the lack of readjustment benefits for World War I veterans prevented some veterans of that war from attaining sufficient income security in their old age to prevent their having to turn to the income assistance provided by the pension program, this special benefit helps to make up for that lack of earlier assistance.

* * * * *

IMPROVED PENSION BENEFITS FOR SURVIVING SPOUSES

The provisions in the Committee bill relating to surviving spouses are substantially different from those in the current pension program. Under current law, the surviving spouses of veterans of World War I and later periods of war generally receive pension benefits, including aid and attendance allowances, at two-thirds of the rate applicable to veterans. However, there are no eligibility requirements of disability or age applicable to surviving spouses; and surviving spouses are not eligible for housebound allowances. If the surviving spouse has a dependent child, and no other income, the maximum monthly rate is increased by $26 to $159 ($1,908 per year)—again, two-thirds of the maximum payable to a veteran with one dependent. For each additional child, however, the surviving spouse may receive $26 per month ($312 per year) with no limitation—anomalously, as compared to the situation when the veteran was living—on the number for whom such additional allowances may be paid.

The pension payable to surviving spouses who have other income is determined by means of a complex formula similar to that applicable to veterans, with a minimum pension of $5 payable to those whose annual countable incomes would yield no pension under the formula but do not exceed the income limitations of $3,770, in the case of a surviving spouse without dependents, and $5,070 in the case of a surviving spouse with one or more dependent children. A surviving spouse who is so disabled as to require regular aid and attendance receives an additional $79 per month.

Although current law provides for determinations of the annual countable income and net worth of surviving spouses comparable to those required of veterans, it does not require that the income of dependent children for whom the surviving spouse receives increased pension be included with the surviving spouse's income in determining pension entitlement.

Certain basic requirements applicable to surviving spouses under current law are retained intact in the improved pension program, such as the eligibility requirements relating to marriage. Generally, a surviving spouse is eligible if the marriage occured before certain specified dates (which differ for each war period), the marriage lasted for 1 year or more, or a child was born of or before the marriage.

With respect to nondisabled, nonelderly surviving spouses without small children, the Committee bill provides for improved pension benefits at two-thirds of the rates applicable to veterans.

However, if the surviving spouse is permanently and totally disabled—using the same standard of disability that applies to a veteran—or is 65 or over, the annual income standard would be the same as that for a veteran, $3,240, and $4,284 if such a surviving spouse has one dependent child. In all cases, the annual income standard applicable to a surviving spouse who has more than one dependent child would be increased by $660 for each such child, the same increase for children as is applicable to veterans. In addition, the benefit rates for all surviving spouses in need of regular aid and attendance are equalized, as are the special exclusions from income applicable to veterans in need of aid and attendance. And if the surviving spouse has a child aged 6 or under, or a dependent helpless child of any age who became helpless before reaching the age of 18, the applicable annual income standard is the same as that for a veteran with one dependent, $4,284.

In all such cases, the surviving spouse may receive increased improved pension benefits for a child of the veteran in the surviving spouse's custody (or in the case of a dependent helpless child, one whom the surviving spouse supports) even though she (or he) is not the natural parent of the child.

The annual income standards for surviving spouses in various categories are thus as follows:

TABLE 10.—*Improved pension rates for surviving spouses*

| | Rates |
|---|---|
| Surviving spouse age 65 or over or permanently and totally disabled without dependent child | $3,240 |
| Surviving spouse age 65 or over or permanently and totally disabled with one dependent child | 4,284 |
| Surviving spouse with one dependent child age 6 or under or helpless | 4,284 |
| Surviving spouse permanently and totally disabled in need of regular aid and attendance without dependent child | 5,340 |
| Surviving spouse permanently and totally disabled in need of regular aid and attendance with one dependent child | 6,384 |
| Other surviving spouse without dependent child | 2,172 |
| Other surviving spouse with one dependent child | 2,868 |
| Increase for each additional dependent child | 660 |

As in the case of a veteran, the annual improved pension rate would be reduced dollar for dollar by annual income, with such income subject to the same exclusions as are applicable to veterans, including the current-work income exclusions.

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IMPROVED PENSION BENEFITS FOR SURVIVING CHILDREN

The Committee bill provides for improved pension benefits for the surviving children of wartime veterans. Although the basic requirements of eligibility would not be changed from those in existing law, the improved pension program for these children differs substantially in other ways.

Under current law, a surviving child is eligible for pension (as distinguished from an increase for the child's support in the pension paid to a surviving spouse receiving pension) only where there is no surviving spouse, the surviving spouse does not have custody of the child, or the surviving spouse is ineligible for pension by reason of income or remarriage. Generally, a child remains eligible until he or she marries, reaches the age of 18, or, in the case of a child attending a VA-approved educational institution, until age 23. However, if the child becomes permanently incapable of self-support before reaching the age of 18, pension benefits may continue throughout the child's life.

If there is only one child, the pension benefit is $61 per month as long as the child's countable income (all earned income is excluded) does not exceed the annual income limitation of $3,080. If there is more than one child, the basic monthly rate is increased by $26 and the total amount is divided by the number of children with each child receiving an equal share. For example, if there are four children, each would receive $34.75 monthly. No other reduction in the amounts payable is made. The annual income of such a child is determined (after excluding all of the child's earned income) according to the rules generally applicable to determinations of annual income. A surviving child is not required to submit annual income reports to the VA, but pension benefits may be denied or discontinued if the child's net worth is excessive. No account is taken of the income or net worth of the person or persons with whom the child resides who are legally responsible for the child's support under State laws.

Although the VA does not gather data on the family situations of surviving children eligible for pension, it seems reasonable to assume that most such children reside with the surviving spouse who is ineligible for pension by reason of income or remarriage.

In the Pension Report, the VA made the following recommendation:

"A new pension program should count all family income for pension purposes, including earned income, as long as the family unit is intact. Pension payments should increase/decrease dollar for dollar as family income [decreases/increases] . . . ." (page 408).

Although, as more fully discussed below, the Committee has not adopted the VA's recommendation on the treatment of earned income, it agrees with the VA that generally all income available to a veteran or survivor should be considered in determining eligibility for improved pension. Thus, the income of a veteran and the income of a veteran's dependent family members are considered together, and the same principle is applied to the income of a surviving spouse and the dependent children for whom the surviving spouse receives increased improved pension. This principle, in the view of the Committee, should also be applied to the income of the surviving child and the income of any person (or persons) with whom a child is residing who is (are) legally responsible for the child's support under the laws of the State where the child resides.

In accordance with these principles, the Committee bill provides for an annual rate of improved pension of $660, reduced by the

child's countable income, in situations where the child is not residing with a person or persons legally responsible for the child's support. If, for example, both the veteran and the veteran's spouse are killed in an accident and the surviving children then live in a foster home, or in the home of a relative having no personal legal responsibility for support, each child would be eligible for improved pension at the annual rate of $660, reduced by each child's annual income. In all cases, the child's current-work income would be counted only to the extent that it exceeds the amounts of income an unmarried person must have before being required to file a Federal income tax return (currently, $2,950). In addition, a child pursuing a postsecondary course of education or vocational rehabilitation or training would be entitled to an exclusion from his or her current-work income amounts equal to amounts paid in the previous calendar year for educational expenses. The excess over those amounts would be subject to the current-work exclusion of $780, plus one-half of the remainder. Those provisions, applicable also to a dependent child's current-work income, are more fully described below. Net worth determinations and annual reporting requirements similar to those required of veterans and surviving spouses receiving improved pension would apply.

However, when the surviving child resides with the surviving spouse who then remarries, the income of the child, together with the income of the surviving spouse, would be considered only if the new spouse assumes eligibility for improved pension. The income of the surviving spouse's new spouse would be considered only if the new spose assumes legal responsibility—generally through adoption—for the support of the veteran's child.

Under the Committee bill, the annual rate of improved pension for any one such child could not exceed the amount by which $660 exceeds the annual income of such child. The annual rate would be determined by subtracting from the applicable income standard the income of the child (subject to the current-work income exclusion) together with the income of the surviving spouse (and the income of the new spouse, if that person has assumed legal responsibility for the support of the child), determined in accordance with the general provisions of the Committee bill relating to income determinations. In all such cases, the applicable income standards would be determined under regulations to be prescribed by the Administrator and based on the provisions of the Committee bill applicable to surviving spouses. * * *

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"MINIMUM" IMPROVED PENSION BENEFITS PAYABLE LESS FREQUENTLY THAN MONTHLY

The Committee bill provides, that when the annual improved pension amount payable to any beneficiary is less than 4 percent of the maximum annual rate payable to a veteran who has no dependent family members and no countable income, improved pension benefits may be paid less frequently than monthly. For the period between the effective date of the bill and the first annual automatic adjustment, which is expected to occur in June 1979 (for payments beginning July 1979), that amount would be any amount less than $129.60 per year (4 percent of $3,240). * * *

This provision differs substantially from existing law, which provides that in no case shall the pension payable to a veteran or surviving spouse, whose countable income does not exceed the applicable income limitations be less than $5 per month. The "minimum pension" provision was added in an effort to address the anomaly created by the rate-decrement-income-limitation formula. Under the formula, a person whose countable income is within the applicable income limitation but above a certain amount would not be entitled to any pension were it not for the "minimum pension" provision. For example, under existing law, a single veteran with countable income of $3,600 per year—whose pension entitlement would otherwise be zero—receives $5 per month. The fact that the incomes of veterans and surviving spouses are generally rising means that each year more and more pensioners receive the minimum pension and that the administrative costs associated with the payment of these minimal benefits are also rising.

The method to be employed under the Committee bill is designed to assure not only that the administrative costs associated with the payment of small amounts of improved pension would be less but also that the amount that would trigger payment less frequently than monthly would rise annually, in accordance with the percentage increase in the applicable annual income standards. * * *

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In this way, the anomaly which the $5 monthly minimum pension benefit represents—of a fixed benefit losing its real value, over time, at the same time that the cost of its administration are rising—would be eliminated in the new program.

DETERMINATIONS OF ANNUAL INCOME

The Committee believes that the veterans' and survivors' non-service-connected disability and death pension program is intended to be, and should be, a need-based income-maintenance program. In such a need-based program, the question of how other income of the potential recipient is to be treated is extremely significant for the reason that most such recipients do have other income and the amount of such income indicates the extent of need. In all such cases, the Committee bill is premised on the theory that it is the aggregate income available to the household for its basic requirements which must be considered in order to make a fair and equitable determination of the need for income-maintenance benefits.

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As previously explained, the Committee bill is designed to achieve several objectives. Among these is to provide a system based on the concept of the poverty line. The improved pension program guarantees that the aggregate income of any elderly or permanently and totally disabled wartime veteran or elderly or permanently and totally disabled surviving spouse of a wartime veteran will not fall below the poverty line. For most such veterans and survivors, the improved pension program will provide a supplement to other income in order to bring their aggregate incomes up to the appropriate income standards. For those persons who do not have any other income, the improved pension program will provide income-maintenance payments at the income standard. Generally, veterans and survivors whose incomes from other sources exceed the income standards will not be eligible for improved pension. This reflects the Committee's judgment that the purpose of the need-based pension program is to protect from poverty levels of subsistence those wartime veterans and their survivors who are unable to provide for themselves by reason of age or disability. Therefore, to the extent that such persons have income from other sources to provide for their basic needs, such income will generally be counted so as to reduce, dollar for dollar, entitlement to improved pension.

EXCLUSIONS FROM COUNTABLE INCOME

Although the income-standard approach of the Committee bill requires that all income from whatever source derived generally be considered in determining an individual's improved pension entitlement, the bill also provides for certain exclusions from countable income.

The current program provides for an extensive list of such exclusions. These may be classified as follows: First, the exclusion of certain income regularly received or a proportion thereof, such as the exclusion of all of a veteran's spouse's earned income and 10 percent of all retirement income; second, the exclusion of certain "one-time" receipts, such as fire insurance policy proceeds; and third, the exclusion of amounts equal to amounts paid out for certain expenses made necessary by events beyond the control of the pensioner, for example, unreimbursed burial or unusual medical expenses.

Certain exclusions permitted under current law are clearly equitable and warranted and are included under the improved pension program, either as they appear in current law or with modifications. Others do not comport with the essential principle that dollars available for ordinary living expenses should be counted in determining improved pension entitlement and are not continued under the new program. The bill also provides for certain exclusions which have no counterpart in the current program. Overall, the bill contains substantially fewer exclusions from income than current law.

With respect to income regularly received, the bill continues the exclusion, permitted under current law, of income received from public or private relief or welfare organizations. The amount of such income is generally predicated on a recipient's other income, such as VA pension. Under the Supplemental Security Income (SSI) program, for example, "income based on need" is counted so as to reduce SSI benefits dollar for dollar (42 U.S.C. 1382a(b)(2)(A)). To count income from such organizations for improved pension purposes would result in a series of back-and-forth adjustments in both pension and welfare payments. This exclusion eliminates such adjustment difficulties.

Regularly received nonemployment income, including retirement income, would be counted dollar for dollar under the Committee bill, because those dollars are available for maintenance. Thus, the current-law exclusion of 10 percent of all retirement income would not be included in the improved pension program.

The bill also does not include the present program's exclusion of all of a veteran's spouse's earned income or $1,200 of the spouse's total income, whichever is the greater. This exclusion, as has been noted, is an anomaly in a need-based income-maintenance program because it permits the payment of pension dollars to families without regard to their need.

Nevertheless, to count all income derived from current work would create another anomaly—that of a federally-sponsored need-based program which discourages work. To some extent, the present program acts as a work disincentive with respect to its primary beneficiary—the veteran. Under current law, *none* of the earned income of a veteran is excluded. Thus, elderly veterans who must depend on the pension program for income support are heavily penalized if they engage in occasional or part-time work, and a catastrophically-disabled younger veteran who might seek to return to the work force may be discouraged from doing so by the risk of losing the income security that pension provides.

Therefore, the bill provides for the partial exclusion, within certain limits, of income derived from the current work of the veteran and the veteran's spouse and children and the surviving spouse and surviving children. The provisions relating to the current-work income exclusions are more fully described below.

The bill incorporates the exclusions per-

mitted under current law which recognize that certain moneys received by a pensioner are not available for living expenses. Thus, the bill provides for the exclusion of the entire proceeds of fire insurance policies and income realized from the disposition of real or personal property other than in the course of a business, because of moneys so received are generally needed and used to replace the property destroyed or sold. Where those amounts are sizable and are not used to replace the property, they would be considered in the net worth determinations required of all participants in the improved pension program.

In addition, the Committee bill provides for the exclusion, permitted under current law, of moneys received from a joint bank account by reason of the death of the other joint owner. This exclusion recognizes that the acquisition of exclusive control over a bank account, formerly held jointly, does not add to the amount of total income available for support.

As under current law, the Committee bill also provides for the exclusion of amounts equal to amounts paid out for certain expenses that are occasioned by events beyond the control of the pensioner and reduce the amount of income available for meeting ordinary living expenses. Thus, amounts equal to amounts paid by survivors for the just debts of a deceased veteran and amounts paid by veterans or survivors for the last illness and burial of a veteran or a veteran's spouse, or for unusual medical expenses, would be excludable.

Other exclusions under the Committee bill are for certain expenditures necessary for the veteran or surviving spouse to pursue a course of education or vocational rehabilitation or training or, in the case of a catastrophically-disabled veteran or surviving spouse who is employed or enrolled in a course of education or vocational rehabilitation or training, to enable that person to travel to and from his or her workplace, school, or training site.

The discussions which follow provide more detailed explanations of those exclusions in the Committee bill which either do not have any counterpart in the current program or would operate in a different fashion.

*Unusual medical expenses*

Unusual medical expenses would be deductible from the pensioner's annual income to the extent that such expenses annually are in excess of $100 or 5 percent of annual income. Unusual medical expenses under current law are excludable from countable income, and by regulation (38 C.F.R. 3.262 (l)), the Veterans' Administration has defined "unusual" to mean those expenses exceeding 5 percent of annual income paid for the pension beneficiary's health-care needs and those of certain close relatives. The VA permits a deduction of amounts paid for medical insurance premiums (including Medicare), physical examinations and diagnostic tests, dentures and eyeglasses, and home health services. * * *

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By providing for a $100 deductible, the unreimbursed medical expenses exclusion generally makes the value of this exclusion equitable with respect to all pensioners under the improved pension program. For example, a person with $3,100 in nonpension income and $800 in unreimbursed medical expenses would be permitted to offset $700 against his nonpension income; under the current program, the offset would be limited to such expenses in excess of 5 percent of $3,100—$155—or $645, but a person with, for example, $1,200 in nonpension income and similar medical expenditures would be permitted to offset $740 (excess over 5 percent of $1,200—$60).

The exclusion of such amounts in excess of 5 percent of nonpension income, if that amount is less than $100, extends this very equitable exclusion to those persons whose annual nonpension income is less than $2,000, and for whom a "5-percent" deductible would prove more advantageous.

The unreimbursed medical expenses exclusion would apply to the expenses reasonably incurred for the health-care needs of the veteran, surviving spouse, and surviving child, as well as the family members for whom the veteran or surviving spouse receives increased improved pension. In the case of a surviving child who is not in the custody of persons legally responsible for the child's support, the exclusion would apply to the child's income. In the case of a child living with persons legally responsible for the child's support, the exclusion would apply to the income of the child considered together with the income of the responsible persons.

Such expenses would be disallowed if they are incurred after 30 days or more following notice to an improved pension beneficiary that health-care services of the same kind as those for which an exclusion had previously been granted were readily available at a VA facility if the VA further determines that VA health-care services continued to be available to the beneficiary. In almost all regions of the country, VA health care facilities are maintained for and available to meet the health needs of veterans receiving pension, and this provision would help to ensure that the VA facilities available to them are appropriately and economically utilized.

*Current-work income exclusion*

The Committee bill provides for an exclusion to benefits veterans or survivors who receive income from current work, defined as earned income within the meaning of sections 401(c)(2)(A) and 911(b) of the Internal Revenue Code of 1954 (26 U.S.C. 401(c)(2)(A) and 911(b)) * * *:

* * * * *

Thus, current-work income generally refers to the wages or salary derived from a person's current employment, including self-employment, as opposed to retirement benefits or other income based on past employment, such as social security benefits and civil service annuities, and income derived from nonemployment sources such as interest, dividends, and capital gains.

For veterans and survivors, generally, this exclusion provides that a recipient of improved pension who engages in current work will be entitled to exclude the first $780, plus one-half of the remainder of his or her current-work income, from annual countable income. If the veteran or surviving spouse is in need of regular aid and attendance, the current-work income exclusion would be the first $1,560, plus one-half of the remainder of annual current-work income. In the case of a veteran entitled to improved pension at an increased rate by reason of marriage or children, the exclusion will apply generally to all the current-work income of the veteran and the family members on whose behalf the veteran is receiving increased improved pension. Similarly, the exclusion will apply generally to all the current-work income of the surviving spouse and the children on whose behalf the surviving spouse is receiving increased improved pension. * * *

* * * * *

In connection with these provisions, it should be remembered that the veteran is eligible for smaller and smaller amounts of improved pension as current-work income nears the cutoff point. This ensures that improved pension would provide the greatest benefit to these most in need, while avoiding a work disincentive.

In this way the current-work income exclusion in the Committee bill differs substantially from the exclusion under current law of all of a veteran's spouse's earned income (or $1,200, whichever is the greater). The current-law exclusion has resulted in the anomaly of thousands of "needy" veterans receiving pension even though their household incomes are far above the poverty threshold.

Consistent with the Committee's view that the new program should not discourage work, the current-work income exclusion would also apply to the income of a veteran's spouse or dependents, which would be especially beneficial in situations where the nature of the veteran's disability precludes employment. The increased current-work income exclusion of $1,560, plus one-half of the remainder, in the situation where the veteran's disability is so severe that he or she is in need of regular aid and attendance recognizes the catastrophic effect which such a disability may have on the family and the increased income which may be required to provide for the family's basic needs.

In the Committee's view, it is extremely important to avoid * * * useful, remunerative employment on a part-time or occasional basis among those over 65 and to avoid provisions whose effect would be the discouragement of efforts to contribute to one's own support.

In the case of a veteran or surviving spouse who has become permanently and totally disabled before reaching the traditional age of retirement, these provisions ensure that such a person's efforts to become wholly or partially self-sustaining are not discouraged by a program which by its structure builds in a disincentive to such efforts. If improved pension benefits were reduced dollar for dollar by each dollar of current-work income, the risk to such a person of losing the income security provided by the improved pension program would greatly discourage a veteran from undergoing the strain, discomfort, and other tribulations which seriously disabled persons often encounter in attempting employment, for the financial incentive to earn these dollars would be eliminated.

In the Committee's view, it is extremely important to avoid discouraging seriously disabled persons from attempting rehabilitation. The Committee bill is designed to further the strong, clear national policy—as reflected in the Rehabilitation Act of 1973—a policy of commitment to removing the barriers preventing seriously disabled persons from participating in the economy as wage earners.

The current-work income exclusion is derived from principles generally applicable to Federal income-maintenance programs designed to offset the risks of disability, old age, or the loss of the family breadwinner. Most of these programs—such as food stamps and SSI—are need-based, in the sense that the other income available to the recipient reduces entitlement; and the Committee bill exclusion itself—$780, plus one-half of the remainder—is patterned after the SSI earned-income disregard.

The largest of the programs, social security, although it responds to need, has never been regarded as need-based. In that program, as amended by the Social Security Amendments of 1977 (Public Law 95-216), a person aged 65 to 72 who is retired under social security may earn from current work as much as $4,000 in a year before any deduction is made from his or her social security benefits. For earnings above $4,000, $1 is withheld for each $2 of earnings. A social security recipient age 72 or over, however, is not subject to any reduction. In 1977 these provisions were liberalized and extended so that in 1979, a social security retiree will be able to earn as much as $4,500 before any reduction is made; in 1980, $5,000; in 1981, $5,500; and in 1982, $6,000, with automatic adjustments in years after 1982. In 1982, the age at which such earnings would be exempt from any reduction will be lowered from 72 to 70. These provisions, which commanded widespread support in the Congress, respond to the

changing trends in our society recognizing the social and economic importance of the work of persons who have passed the traditional retirement age of 65 but who continue to work. The elimination of laws requiring mandatory retirement at specific ages—as in Public Law 95-256, enacted on April 6, 1978—also illustrates this significant trend.

*Current-work income exclusion for dependent and surviving children*

Under the Committee bill, the current-work income of any dependent or surviving child would be excluded from countable income up to the amount of gross income ($2,950) an unmarried individual may have before being required to file a Federal income tax return under section 6012(a)(1)(A)(i) of the Internal Revenue Code of 1954 (26 U.S.C. 6012(a)(1)(A)(i)). * * *

* * * * *

Current-work income exceeding that amount (currently $2,950) would be subject to the general current-work income exclusion of $780, plus one-half of the remainder (or, in the case of a veteran or surviving spouse in need of regular aid and attendance, $1,560, plus one-half of the remainder). Thus, a dependent or surviving child might have as much as $3,730 ($2,950 plus $780) or more in annual current-work income before any reduction in improved pension benefits would occur. Any dependent or surviving child pursuing a postsecondary course of education or vocational rehabilitation or training would also be entitled to an exclusion from such child's current-work income of amounts paid by the child for educational or vocational rehabilitation or training expenses, such as tuition, fees, books, and materials. This exclusion would be cumulative with the $2,950 exclusion described above and is intended to ensure that no child is penalized for working to earn money needed for his or her schooling.

Because most children under the age of 18 do not have annual income from current work exceeding $2,950, the exclusion of this amount will prevent almost all dependent and surviving children under the age of 18 from having to account for their current-work income for improved pension purposes. Dependent and surviving children generally will have the security of knowing that they may retain all of their own earnings, and that their efforts to move toward self-sufficiency are not penalized.

However, in the event that such a child must file a Federal income tax return—and therefore must account for his or her earnings for tax purposes—the veteran, surviving spouse, or surviving child, as the case may be, would be required to report the child's annual current-work income to the extent that it exceeds $2,950.

Under existing law, the earned income of a surviving child is not counted in determining whether the child's income exceeds the income limitation, and no account is taken of children's earnings in determining the eligibility of a veteran or surviving spouse. Those provisions have assured that dependent and surviving children who enter the world of work are not penalized for their efforts. The provisions in the Committee bill applicable to such children's current-work income are also designed to prevent the improved pension program from discouraging the children's efforts to work and from having to keep records of their current-work income—except for the kind of records required for Federal income tax purposes—but the provision of a "cap" ensures that in the rare case in which a child under 18 has current-work income exceeding $2,950 annually, the general principles governing the treatment of income under the improved pension program are applied.

Surviving children remain eligible for pension up to the age of 23 as long as they are attending school, and the discussion above is equally applicable to the current-work income of children ages 18 to 23, except that, of course, it is much more likely that those young adults will have current-work income exceeding $2,950 annually.

*Educational expenses*

Another exclusion relates to the expenses incurred by a veteran or surviving spouse pursuing a program of education or vocational rehabilitation or training. These persons would be entitled to exclude from annual income amounts equal to amounts paid (including those paid from education, training, or rehabilitation allowances provided for under title 38) in the previous calendar year for the costs of such education or vocational rehabilitation or training, such as tuition, fees, books, and materials. In the case of veterans or surviving spouses in need of regular aid and attendance, unusual transportation expenses for traveling back and forth to the place of instruction or rehabilitation would also be deductible, to the extent that they exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation, including public transportation if available.

This exclusion reflects the Committee's view that the incursion of such expenses into a pension beneficiary's limited resources may be a substantial deterrent to efforts to achieve a measure of independence through education or vocational rehabilitation or training. Particularly in the case of younger, catastrophically disabled veterans or surviving spouses—such as those who are blind or paraplegic—this provision furthers the Committee's intention that the improved pension program not operate as a disincentive to a disabled adult beneficiary's efforts to regain a measure of self-sufficiency.

*Unusual transportation expenses incurred by catastrophically disabled veterans and surviving spouses*

The same intent also underlies the exclusion from annual income of unusual transportation expenses, other than those that are reimbursed, incurred by a veteran or surviving spouse who is in need of regular aid and attendance in traveling back and forth to such person's place of employment. As previously noted, the disabilities which create the need for the additional income support provided by the "aid-and-attendance" income standard are severe, in many instances, catastrophic, and they are not easily overcome. In many instances, of course, a person so severely disabled as to require regular aid and attendance is terminally ill or so completely overwhelmed by the nature of his or her incapacitation that employment is not possible. In other cases, the presence of a severe and permanent disability is not an absolute barrier to employment; nor, in the Committee's view, should it be.

Severely disabled persons who attempt employment meet many obstacles, however, which require courage and motivation to overcome. Our society has become increasingly sensitive to the difficulties they encounter—such as in traveling back and forth to the place of employment and gaining physical access to the worksite—but some difficulties cannot be eradicated entirely. By providing for the exclusion of unusual transportation expenses incurred by such persons in traveling back and forth to work, the bill would help to eliminate one barrier for such persons, who must often rely for travel on specially adapted vehicles or other special means of transportation. Like the exclusion of unusual transportation expenses as an educational cost, this exclusion would be of an amount equal to the amount spent in the previous calendar year to the extent that it exceeds the reasonable commuting expenses which would have been incurred by a nondisabled person using an appropriate means of transportation for such purpose, including public transportation if available.

NET WORTH DETERMINATIONS

Under existing law and regulations, no specific dollar limit is placed on the amount of a beneficiary's or prospective beneficiary's net worth in order to determine eligibility for pension. Rather, the VA's authority is to deny or discontinue pension benefits if it determines, under all the circumstances, including the consideration of the beneficiary's income, that some portion of the net worth could reasonably be used for his or her maintenance. This permits individualized determinations in each case. The Committee bill continues this approach for improved pension beneficiaries.

Consistent with the provisions of the Committee bill requiring that the income of veterans and survivors receiving improved pension be considered together with the income of the dependent family members for whom they are receiving increased improved pension benefits, and, in the case of surviving children, the incomes of persons with whom such children reside who are legally responsible for their support, the Committee bill requires evaluations of the estates—the "net worth"—or such persons. "Net worth" generally means the value of a person's assets, such as a home, an automobile, bank savings and checking accounts, stocks, bonds, or real property, minus the amount of liabilities such as mortgages and other debts. Under existing law, net worth determinations are required of pension applicants and recipients, but not of a veteran's or surviving spouse's dependent family members.

By regulation (38 C.F.R. 3.263(b)), the VA excludes from net worth determinations the entire value of a recipient's home and reasonable personal effects. The Committee bill is not designed to change the VA's interpretation permitting this reasonable exclusion, which is generally consistent with similar exclusions in other need-based income-maintenance systems such as SSI. In addition, the Committee bill would expressly authorize the exclusion from any child's net worth of reasonable amounts set aside for the child's educational or other similarly worthwhile vocational goals.

EFFECTIVE DATE OF REDUCTION OR TERMINATION OF IMPROVED PENSION BENEFITS

The Committee bill provides that the effective date of a reduction or termination of improved pension benefits resulting from an increase in income or net worth would be the end of the month in which the increase occurs. Under existing law, such effective date is the end of the calendar year in which the increase occurs.

Although beneficially intended, this provision—known as the "end of the year rule"—may cause unanticipated hardship, as in the situation where a person receives an increase in income early in the year—for example, February—and increases his or her standard of living as a result. No reduction in pension is made until the following January—and the decline which then occurs in aggregate income may seem almost punitive. For the 10-month period, however, pension benefits were predicated on the person's income prior to the increase—and consequently, during that period, not truly reflective of need. By changing the "end of the year rule" to an "end of the month" rule, the Committee bill would thus prevent the new program from countenancing a practice so at variance with the general principles of need-based income maintenance systems, and assures that the payment of improved pension benefits is commensurate with need.

*Reporting requirements and exemptions from annual reporting*

The Committee bill requires, as a condition of eligibility for improved pension benefits, that applicants and recipients provide

information relating to their incomes and net worths, and the incomes and net worths of persons on behalf of whom they are applying for or receiving increased improved pension. A surviving child would be required to report his or her income (other than current-work income that is less than $2,950) and net worth as well as the incomes and net worths of persons with whom he or she resides who are legally responsible for the child's support. Such information would be required of all persons applying for or electing improved pension benefits, and annually thereafter in order to verify eligibility. In addition, the VA is given discretionary authority to require such information at any time. Current law provides for similar reporting requirements, except that the incomes of dependent children are not required to be reported, nor are the net worths of dependent family members.

Material increases in income or net worth or changes in the status or number of dependent family members would also be required, as under current law, to be reported promptly. These requirements are essential to assure proper payments of improved pension benefits and to minimize overpayments, the recoupment of which is administratively burdensome and may create undue personal hardship.

The Committee bill provides for an express exemption, under regulations to be prescribed by the VA, from the annual reporting requirement for persons in categories of persons all of whose nonpension income is regularly received from a Federal program. Under existing law, persons aged 72 years or older who have been receiving pension benefits for 2 years or more and all surviving children are excepted from the requirement of annual reporting.

The present exemption for surviving children is appropriate because under current law the child's earned income is entirely excludable for pension purposes, and it is believed that most such children's countable incomes do not exceed the income limitation. However, the provisions in the Committee bill applicable to children's income render this blanket exemption inappropriate—although, of course, the current-work income of dependent or surviving children would not be required to be reported unless it exceeds $2,950 annually.

The present exemption for persons aged 72 or over is justifiable to the extent that such persons live on fixed monthly incomes but is equally justifiable with respect to persons living on fixed monthly incomes who have not reached the age of 72.

Under the bill, the VA would be authorized to provide by regulation for the exemption from annual reporting of persons in categories of persons all of whose nonpension income is regularly received and derived from a Federal program such as social security, civil service retirement, or railroad retirement. In exercising this authority, the Administrator would generally relieve most persons in the improved pension program who are age 72 or over, as well as many others who have not reached that age, from the burden of annual income reporting.

* * * * *

ELECTION OF BENEFITS UNDER THE IMPROVED PENSION PROGRAM

The Committee bill provides that, with the exception of persons residing outside the United States on the effective date of the new program, any person receiving pension benefits under existing law may elect to receive benefits under the improved pension program and that, if improved pension is paid at any time pursuant to such an election, the election would be irrevocable. Thus, persons receiving pension based on service during the Indian wars or the Spanish-American War, those receiving "old law" pension, and those receiving pension under the current pension program based on service during World War I, World War II, the Korean conflict, or the Vietnam era, would be able to elect the new program. The election would be irrevocable only if improved pension is actually paid to such a person.

Under the bill, veterans and survivors who elect improved pension benefits within 3 months of the bill's effective date (October 1, 1978) would receive improved pension benefits retroactive to the effective date to the extent that those benefits exceed pension benefits already paid to such persons.

Under existing provisions of title 38, United States Code, pension benefits (and other income-maintenance benefits under laws administered by the VA) are generally retroactive to the date of application. However, if the benefits are based on the death or disability of a person, the benefits are retroactive to the date of such death or disability, but only if the application is received within 1 year of such date. These provisions ensure that pension benefits fulfill their intended purpose of income maintenance and prevent "windfalls", and the bill makes no changes in those very necessary provisions. By authorizing limited retroactivity for pensioners who make timely elections, the bill encourages prompt elections by those who would be benefited.

PROTECTION OF EXISTING PROGRAM RIGHTS—"GRANDFATHERING"

The Committee bill would make no changes in the existing programs other than to provide that no person (other than a person who is residing outside the 50 States and the District of Columbia on the effective date of the new law) who applies for pension benefits on or after the effective date of the new law may receive benefits under any of those programs.

Also, the Committee bill expressly provides that none of its provisions is intended to affect the existing rights of any person receiving benefits under the current pension program or the "old law" program, as in effect on the day before the effective date of the new programs, to receive benefits for which he or she is eligible. Moreover, if an application is pending on the effective date and the person is found to be eligible on the basis of such application for one of the existing programs, he or she may receive benefits under that program in lieu of improved-pension benefits. This provision is intended to extend the opportunity so to elect participation in an existing program only with respect to the initial adjudication (including appeals) of the application which was pending on the effective date of the new programs and that any subsequent reopening of a case should not be considered action on the original application.

Under the improved program, persons with annual countable income above the applicable income standards would not be eligible for the new program. Thus, these provisions—known as "grandfather clauses"—ensure that no veteran or survivor currently receiving benefits will have those benefits reduced or terminated because of the enactment of the new program.

* * * * *

It may be anticipated that in the first years following enactment of the Committee bill, there will be cases in which recipients of pension benefits under the current program will become ineligible to continue under that program because of cost-of-living increases in their social security incomes. However, any of those persons whose countable nonpension incomes are below the applicable income standards provided for under the Committee bill would be eligible for benefits under the improved pension program.

* * * * *

IMPROVED DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

The Committee bill provides for an improved program of dependency and indemnity compensation (DIC) benefits for the needy surviving parents of veterans who died as a result of their service-connected disabilities. The improved DIC program, closely modeled after the improved pension program, corrects anomalies, inequities, and inconsistencies in the existing parents' DIC program which are very similar to those identified in the existing pension program.

*Background*

The parents' DIC program was established in 1956 under Public Law 84-881 and replaced the earlier "death compensation" program. Under existing law, parents' DIC is a need-based income maintenance program for the surviving parents of veterans who on or after January 1, 1957, died in service or after service as a result of service-connected disabilities. Eligibility is limited to parents whose annual income does not exceed specified income limitations, and benefits are determined pursuant to rate-decrement-income-limitation formulas similar to those adopted for the pension program. Although parents' DIC is a service-connected program, it is need-based and benefits are established in a manner similar to that used in the pension program; as a result, laws providing for cost-of-living increases in the pension program have applied the same percentage increases to the maximum rates and the annual income limitations of the parents' DIC program. The previous pension-reform measure, S. 2635 (passed by the Senate in 1975), would have restructured that program along the lines of the new pension program envisioned by that measure.

Many of the inequities, anomalies, and inconsistencies which have developed in the pension program also occur in the present parents' DIC program. The current maximum benefits payable to a parent with no other income are extremely low—$152 per month to one parent or $102 per month to each parent if the parents are living together. In the case of a remarried parent, the incomes of the parent and the spouse are combined to determine the DIC amount payable to the parent. DIC benefits payable to such a remarried parent are the greater of (1) the amount payable to a single parent (annual income limitation of $3,770) or (2) the amount payable to each parent if two parents are living together (annual income limitation of $5,070). Rate-decrement-income-limitation formulas like those in the existing pension program are used to determine actual benefit rates. If the parent's countable income is within the income limitation, but exceeds the amount which would yield any benefit under the formula, the DIC payment cannot be less than $5 monthly.

A parent in need of regular aid and attendance receives an additional $79 per month. Annual income determinations, income exclusions, and annual reporting requirements are similar to those in the existing pension program. However, no net worth determination is required of DIC parents.

* * * * *

The theory underlying the payment of DIC benefits to surviving parents is also related to the loss of income support which may result from the veteran's death. In former times, the legal obligation of an adult to support aging parents who were no longer able to support themselves—particularly, one's widowed mother—was sanctioned under most State laws. Even where such laws were not vigorously enforced, many persons assumed this obligation. Moreover, the loss of a son in service was recognized not only as a personal tragedy but, to some extent, an economic sacrifice. Thus, laws providing for "death compensation" to benefit such a veteran's survivors included not only surviving spouses and children but also parents. However, in recognition that the legal obligation of an adult to support needy parents was less clear than such a person's ob-

ligation to support a spouse or child, death compensation benefits payable to surviving parents required a showing that the parent would have been dependent on the veteran had the veteran lived. Once such dependency was established, the parent was entitled to receive death compensation in fixed monthly amounts without regard to need.

In 1956, as noted, Congress supplanted the death compensation program with DIC. Death compensation payments were continued to the parent of any veteran who died before January 1, 1957; the needy parents of a veteran dying after that date became eligible for the new need-based DIC program under which no dependency test was required.

*Committee bill provisions*

Under the Committee bill, a program of improved DIC benefits would be established for the surviving parent or parents of a veteran who died as a result of service-connected disability, if such veteran provided one-half or more of the support of such parent or parents during the 1-year period immediately preceding the veteran's death. This requirement of actual dependency on the veteran by the parent is similar to the dependency requirement of the Social Security Act which must be met before social security survivors' benefits may be paid to the surviving parent of a deceased wage earner.

Under the Committee bill, the maximum annual rates payable under the improved DIC program (based on improved pension rates) would be as follows:

TABLE 16.—*Improved DIC rates for surviving parents*

| | |
|---|---|
| One parent or each parent, if the parents are living apart | $3,240 |
| Two parents living together | 4,284 |
| One parent (or each parent, if the parents are living apart) in need of regular aid and attendance | 5,340 |
| Two parents living together, one of whom is in need of regular aid and attendance | 6,384 |
| Two parents living together, both of whom are in need of regular aid and attendance | 8,484 |

The increased rates in cases in which both parents (living together) are in need of regular aid and attendance reflect the Committee's view that each parent is a "primary beneficiary".

The substantially increased benefit levels and the requirement of a dependency test—measured by the receipt of one-half or more support from the deceased veteran during the 1-year period immediately preceding the veteran's death—reflect the Committee's judgment that the Government's obligation to the parent of a veteran who died as a result of service-connected disability is two-fold: First, to acknowledge the moral obligation of the veteran by continuing to support his or her dependent parents in cases where the veteran had actually assumed such an obligation and provide support; and second, in such cases, to assure such parents of income maintenance above the poverty guidelines.

Like pensioners, DIC parents who have social security income may receive annual reductions in DIC benefits attributable to a social security cost-of-living increase; the effect of DIC rate increases has been, in many cases, merely to diminish the size of the reduction, as it is in the current pension program.

Under the improved parents' DIC program, annual income determinations, income exclusions (including the current-work income exclusions), net worth determinations, and annual reporting requirements would be similar to those under the improved pension program. In the case of a remarried parent, the income of the spouse—if the parent is living with such spouse—would be considered as the income of the parent, to the extent reasonably available to or for the parent. The net worth of the remarried parent's spouse would be considered in a similar fashion.

Parents currently receiving DIC or death compensation benefits would be entitled to elect improved benefits if they meet the eligibility requirements and reside in one of the 50 States or the District of Columbia. Persons not residing in the United States, and those who are ineligible for improved parents' DIC, may continue to receive benefits, if they continue to be eligible therefor, under the provisions of law in effect on the day before the effective date of the new program. Also, parents residing outside the 50 States or the District of Columbia on the effective date of the new program who become eligible on or after that date would be entitled to apply for and receive benefits under those existing provisions if they continuously reside outside the 50 States and the District of Columbia and they remain eligible under such provisions.

IMPROVED PENSION AND PARENTS' DEPENDENCY AND INDEMNITY COMPENSATION RATES AUTOMATICALLY INDEXED TO CONSUMER PRICE INDEX

*Annual automatic cost-of-living adjustments*

The Committee bill includes provisions, known as "indexing provisions" under which annual automatic cost-of-living increases are made in benefit levels in order to prevent the value of benefits from being eroded by inflation. These increases would take place annually at the same time and by the same percentage as cost-of-living increases in social security benefits. Each of the maximum annual rates—income standards—would be increased by the same percentage. * * *

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The bill requires that the new annual rates be published in the Federal Register at the same time that the Social Security Administration is required to publish certain information relating to the percentage increase to be applied to social security benefits.

* * * * *

The Committee bill would require that the Veterans' Administration, in similar fashion, publish the new annual rates of improved pension—in any year in which there is to be a cost-of-living increase in social security benefits—in the Federal Register at the same time as the social security information is published.

Some reservations have been expressed that the indexing provisions—by removing the necessity for the Veterans' Affairs Committees of both Houses of Congress to give attention annually to pension rate increases to counter the effects of inflation—would diminish the role of the pension program in the Committee's annual deliberations. The Committee would like to stress its belief that such reservations are unwarranted and that it intends no future diminution of the emphasis placed on the pension program in its work. Rather, the indexing provisions will give the Committee a better opportunity to examine in greater depth the operations of the improved program and any future proposals for its modification.

The indexing provisions are equally applicable to the improved dependency and indemnity compensation (DIC) program. Like pensioners, these surviving parents are often living on fixed incomes particularly vulnerable to inflation, and the problem of annual reductions in DIC benefits attributable to a social security cost-of-living increase occurs in this program as well. Under the improved DIC program for surviving parents, no parent who has social security income as well as improved DIC will suffer any such reduction attributable to social security cost-of-living increases. Rather, such a parent will be assured of annual cost-of-living increases in his or her improved DIC income, as will parents whose entire income consists of improved DIC payments.

The Committee bill would also provide for annual automatic increases, by the same cost-of-living percentage applied to rates, in the dollar amounts of the exclusions of current-work income. Under the bill, these are $780 in the case of veterans, surviving spouses, and surviving parents not in need of regular aid and attendance and $1,560 in the case of veterans, surviving spouses, and surviving parents in such need. The $780 and $1,560 exclusions (plus one-half of the remainder) also applies to the income from current work earned by any dependent or surviving child with earnings that exceed the amount of income required to file a Federal income tax return. These amounts—$780 and $1,560—would be annually adjusted, and the increased amounts would be published in the Federal Register at the same time as the new annual rates of improved pension and improved DIC. Thus, the special benefit provided by this exclusion would not be diminished by inflation.

ANNUAL REDETERMINATION TO PREVENT REDUCTIONS IN IMPROVED PENSION BENEFITS ATTRIBUTABLE TO SOCIAL SECURITY COST-OF-LIVING INCREASES

During the month in which the increased annual rates become effective, which is the month prior to which increased benefits would actually be paid, the VA would be required to redetermine the amount of improved pension benefits to be paid to those recipients who also have social security benefits or other Federal benefits which are indexed in accord with social security benefits. The VA would be required to annualize the new social security monthly rate and, based on the new annualized social security rate and the increased annual maximum rate of improved pensions, redetermining a recipient's improved pension entitlement accordingly. * * *

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COST-OF-LIVING INCREASE AND OTHER IMPROVEMENTS IN PENSION PAYABLE TO INSTITUTIONALIZED SINGLE VETERANS

The Committee bill provides for a cost-of-living increase in the maximum pension benefits payable to a veteran who has no dependent family members and who is institutionalized at VA expense in a domiciliary, nursing home, or hospital.

Under the existing provisions of section 3203(a) of title 38, the maximum pension payable to such a veteran may not exceed $50 per month after the end of the second full calendar month following the month of admission for treatment or care. If the veteran has been readmitted for treatment or care within 6 months following the termination of a period of care which lasted not less than 2 full calendar months, the maximum pension payable after the month of such readmission cannot exceed $50. A reduction in pension benefits to such veterans is appropriate since all such veterans receive their essential income-maintenance needs—food, shelter, and medical care—at VA expense. The limited amount payable is provided for out-of-pocket expenses for personal and recreational expenses.

The provision for a reduction in benefits in such cases was adopted in Public Law 86–211, the Veterans' Pension Act of 1959. Public Law 93–177 increased the maximum pension payment to an institutionalized veteran without dependent family members from $30 per month to $50, the present maximum.

Under the Committee bill, the maximum pension payable to a veteran residing in a VA domiciliary facility could not exceed $60 per month after 2 months of such residence. If the veteran is receiving VA hospital or nursing home care, the Committee bill would permit such a veteran to receive benefits without any reduction for 3 months follow-

ing the month of his or her admission for such care, and for an additional 3 months if it is determined that the veteran's return to the community would be facilitated by such a continuation of the full rate. After 3 months or 6 months, as the case may be, the maximum pension could not exceed $60 per month. This provision reflects the recognition of the fact that in many instances, a veteran's desire to return to the community may be frustrated if during his or her hospital or nursing home stay, bills for necessary expenses, such as rent, have not been paid.

The Committee bill also provides a cost-of-living increase in the maximum pension payable to a veteran with no dependent family members who is readmitted for care within 6 months after a period of care lasting 2 full calendar months or more. In such cases, pension benefits otherwise payable would be reduced after the veteran's readmission (effective with the following month's benefit payment) to a maximum of $60 per month.

COST ESTIMATE

Mr. CRANSTON. Mr. President, the excerpts just inserted into the RECORD do not include the Congressional Budget Office estimate of the costs of S. 2384 because, since filing the committee report on July 17, the committee received, on July 24, a revised CBO estimate. The revised CBO estimate indicates that the 5-year budget authority requirements resulting from the enactment of S. 2384 would be $693,700,000 in fiscal year 1979; $1,018,500,000 in fiscal year 1980; $1,441,900,000 in fiscal year 1981; $1,922,400,000 in fiscal year 1982; and $2,438,200,000 in fiscal year 1983.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the July 24 revised CBO estimate, including detailed breakdowns and a discussion of the costs of the committee bill over the next 5 fiscal years.

The CBO cost estimate follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2384.

2. Bill title: The Veterans' and Survivors' Pension Improvement Act.

3. Bill status: As ordered reported by the Senate Committee on Veterans Affairs, March 23, 1978.

4. Bill purpose: The bill would establish a new non-service-connected pension program for the veterans and survivors of the Mexican Border Period, World War I, World War II, the Korean Conflict, and the Vietnam Era. The new program, which would take effect on October 1, 1978, would operate concurrently with the existing program. Those individuals who are receiving benefits under the existing program on the effective date of the bill would have the option of selecting whichever program offered them the higher benefit. Election of the reformed program, however, would be irrevocable, and all new cases would only be eligible for the reformed pension.

The maximum benefit levels set by S. 2384 would be $3,240 annually for a veteran with no dependents and $4,284 for a veteran with one dependent. Two levels of benefits would be instituted for surviving spouses. A surviving spouse who is disabled or over the age of 64 would be paid at the same rate as a veteran. If the surviving spouse does not meet these requirements, however, she/he would be paid at rates that are two-thirds those for veterans ($2,172 annually for a surviving spouse without dependents, and $2,868 for a surviving spouse with a child). The benefit level for all pensioners would be increased by $660 a year for each dependent after the first. All rates under the reformed pension program would be adjusted annually for increases in the cost-of-living using the same percentage by which social security benefits are raised. Such increases would be effective at the same time as social security increases.

The treatment of non-pension income under the reformed program would be based on the family-income concept, whereby the incomes of all beneficiaries in the family are treated the same. Under current law, for example, social security survivors' benefits paid to dependent children of surviving spouses or to children alone are not counted against their pension payment, on the theory that this money is considered a trust for the child's education. The reformed pension, however, would treat the income of children in the same fashion as the income of other family members, with the exception that the earnings of a child would only be considered to the extent that they exceed the minimum wages that a child must have before being required to file a Federal income tax return (currently $2,905).

Many of the exclusions of non-pension income permitted under current law would not be allowed in the reformed program. The exclusion of 10 percent of retirement or annuity income would no longer be permitted. The current provisions dealing with the income of a veteran's spouse would also be discontinued. A new exclusion, however, pertaining to current-work income would be established by S. 2384. The new provision would allow $780 of the earnings of all beneficiaries in the family to be excluded from countable income plus one-half of the remaining earnings. For veterans and surviving spouses who receive aid and attendance allowances, the current-work income disregard would be $1,560 plus one-half of the remainder.

Whereas the current pension program uses a formula rate structure to determine the payment level, the reformed program would employ the single-variable method now utilized by the Supplemental Security Income program. The pension payment would be calculated by subtracting countable income from the maximum benefit level.

S. 2384 would also establish a new program, very similar to the reformed pension, for parents of deceased veterans receiving Disability and Indemnity Compensation (DIC). Unlike the present requirements for DIC parents, however, new cases to the reformed DIC parents program would be required to show that they had been receiving one-half or more of their support from the veteran. The maximum benefit level for a single parent would be the same as that for a veteran alone, and two parents living together would receive the same rate as a veteran with one dependent.

The reformed pension program would only be made available to individuals residing within the 50 states and the District of Columbia. The current program would continue unchanged for all eligible individuals residing elsewhere.

5. Cost estimate.

[By fiscal years, in millions of dollars]

| | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|---|---|---|---|---|
| Benefit costs: | | | | | |
| Outlays | 638.2 | 992.5 | 1,408.0 | 1,883.9 | 2,396.9 |
| Savings: | | | | | |
| SSI | −56.9 | −102.6 | −153.2 | −208.9 | −270.0 |
| AFDC | −15.2 | −22.7 | −31.0 | −40.0 | −50.0 |
| Medicaid | −50.3 | −90.9 | −137.6 | −190.8 | −251.5 |
| Net outlays | 515.8 | 776.3 | 1,086.2 | 1,444.2 | 1,824.7 |
| Required budget authority | 693.7 | 1,018.5 | 1,441.9 | 1,922.4 | 2,438.2 |
| Savings: | | | | | |
| SSI | −56.9 | −102.6 | −153.2 | −208.9 | −270.7 |
| AFDC | −15.2 | −22.7 | −31.0 | −40.0 | −50.0 |
| Medicaid | −50.3 | −90.9 | −137.6 | −190.8 | −251.5 |
| Net required budget authority | 571.3 | 802.3 | 1,120.1 | 1,482.7 | 1,866.0 |

The costs of this bill fall within budget function 700. The offsetting savings in the AFDC and SSI programs apply to function 600 and the offsetting savings in Medicaid to function 550.

6. Basis for estimate:

Cost model for VA benefit costs:

The gross program costs of this bill were estimated through the use of a microsimulation model. The data base for this computer model is a one percent sample of all veteran and surviving spouse cases receiving pension under the currently active VA pension program. The sample, which includes the records of nearly 20,000 cases, was extracted from the master file of pension cases in March, 1977. Each record contains, in addition to statistical data such as age, number of dependents, and period of military service, detailed data on the amounts and sources of income received by the case.

To compute the cost of pension program alternatives, the model operates on each of the 20,000 records individually. A case is first aged and mortality assumptions are applied. The non-pension income reported by the case is then updated, using specific economic indicators for each source of income. If the case is a current pension recipient, the model determines which pension program would return the highest payment amount. The case is then assigned to the most advantageous program and recycled through the procedures until all five years of the simulation have been completed. Once the model "switches" a case from the existing pension to reform pension, the model assumes the case to be ineligible under the old program in future years.

When the entire data base has been analyzed to estimate how current beneficiaries would behave given the choice of new or old pension benefits, the process is reinitiated to select new cases. An estimated number of new cases that could be expected to accede to the current program is used to represent the number of potential applicants to the reformed system. This number of cases, once it has been reduced to correspond to the sample size, is randomly selected from the data base of current recipients. These "new" cases are then analyzed in the same manner as current beneficiaries, with the exception that they are assumed to be eligible for the reformed pension only. Counts are kept of the movement and disposition of cases at every stage of the model operation by period of service, type of beneficiary, and year. These counts are then inflated to the full population size to calculate the cost of the proposal.

Other factors:

It is not practical to show the cost of S. 2384 on a section-by-section basis, because a change in one section will affect the number of individuals who switch to the new program and, thereby, change the cost of other sections. A few sections which could not be handled by the microsimulation model, however, are discussed below.

Current-Work Income Disregard: Section 564(a)(8)(B) (chap. 15, title 38, U.S.C) is amended by this bill to provide an exclusion of $1,560 of earnings plus one-half the remaining earnings for veterans and surviving spouses who are in need of aid and attendance. The vast majority of those pensioners who are currently receiving aid and attendance allowances are quite elderly and, most likely, are not in a position to take advantage of this provision. Relatively young and catastrophically disabled veterans, however, could benefit substantially from this change. Under current law, earnings from any regular employment may well cause such veterans to exceed the income limits and terminate from the pension rolls, since the vast majority (over 90 percent) of them receive social security disability benefits. By losing their pensions, these veterans would also lose their eligibility for free VA health care, which, for catastrophically disabled veterans, can be of far more importance than their pensions. Under the new provisions a catastrophically disabled veteran alone, for instance, could earn as much as $12,000 a year (if he had no other income) and still be eligible for a small pension and VA medical care.

Since there are few catastrophically disabled veterans who are presently working in lieu of receiving pension, it is unlikely that this provision will add a significant number of cases to the pension rolls. For those cases now receiving pension, there should be some small savings as they gradually increase their earnings and attain self-sufficiency. The resulting savings would not be significant, however, as this population is quite small.

Payments to Institutionalized Pensioners: Section 206 of S. 2384 would increase from $50 to $60 the maximum pension payable to a veteran with no dependents who is being furnished hospital, nursing home, or domiciliary care by the VA. This section also provides that full pension benefits could be paid for as long as six months in the case of hospital and nursing home patients if it is shown that the extension of full benefits would facilitate the veteran's ability to return to the community. Based on information from VA that there were 7,430 such institutionalized pensioners in June 1977, the estimated cost of this provision is shown below:

[By fiscal years, in millions of dollars]

| | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|---|---|---|---|---|
| Outlays | 1.0 | 1.1 | 1.2 | 1.3 | 1.4 |
| Required budget authority | 1.0 | 1.1 | 1.2 | 1.3 | 1.4 |

Counting Children's Income: In keeping with the family-income concept on which the reformed pension is based, S. 2384 provides that all income of dependent children and children alone (those children not in the custody of an eligible surviving spouse) would be considered in determining their pension benefit level. Although no data are currently available on the incomes of pension children, as they are not required to submit an annual income questionnaire, it is expected that the vast majority of children alone and dependent children of widows receive social security benefits in amounts sufficient to render the cases ineligible under the reformed program. Those children cases presently receiving pension would, therefore, remain under the existing pension program and have no impact on the cost of the new program. There would, however, be substantially fewer new children cases under the reformed program than would be expected under the current program. The amount of the resulting savings cannot be determined with any precision given the data available.

DIC Parents Program: Title III of S. 2384 would establish a reformed program for parents receiving Dependency and Indemnity Compensation. Based on an April 1977 income distribution of these beneficiaries, the estimated cost of this provision would be as follows:

[By fiscal years, in millions of dollars]

| | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|---|---|---|---|---|
| Outlays | 29.0 | 37.9 | 44.8 | 48.9 | 50.5 |
| Required budget authority | 31.5 | 38.8 | 45.9 | 50.1 | 51.7 |

Limiting Eligibility to the 50 States: This bill would limit the eligibility for reformed pension to individuals residing within the 50 States or the District of Columbia. The present pension program would remain open to current and future eligibles who permanently reside outside of the United States. According to Veterans' Administration figures, there were 158,275 veterans and survivors living outside of the United States in fiscal year 1977. Pension benefits of $87.7 million were paid to such individuals in the same year. As there would be no change in the law as it applies to these beneficiaries, this provision would have no budgetary impact.

"Grandparenting" Current Recipients: In addition, S. 2384 would allow individuals who are receiving benefits under the current program on the effective date of the bill to remain under the provisions of current law or to elect to receive the new program as they see fit. Election of the reformed program can be made at any time, but once made, the switch is irrevocable. A similar election provision was contained in Public Law 86–211, which established the present pension program in 1960. A study made by the VA in 1966, six years after the enactment of the program, found that there were still over 100,000 cases who were losing money through failure to elect the new program. Unfortunately, there is insufficient data to determine what percentage this represents of the total number of pensioners who were initially expected to benefit from switching to the new program. Based on what little information is available from this study, it can be expected that some number of persons will choose not to elect the reformed program even though it would provide them with higher benefits.

The experience of Public Law 86–211 will not correspond directly to what would be expected to occur following the passage of S. 2384, however. Under the provisions of the earlier law, there were several reasons for some pensioners to refuse election. In some cases a pensioner could have lost money in the long-run by switching to Public Law 86–211 pension, even through the benefits were higher at the time of election, because of changes in the sources of the veterans' income. For this reason the veteran's service organizations did not support Public Law 86–211 and did not encourage the pensioners in their membership to elect it.

Situations of this sort should not occur in the reformed pension program. If an individual is ever better off under reformed pension, that individual should always be better off under that program. Therefore, although the rate of switching to the reformed program will not be 100 percent of those who would benefit, it should be higher than the rate experienced after enactment of Public Law 86–211. This estimate assumes that every pensioner who would benefit by $1 or more from electing the reformed pension program will make the switch. Because past experience suggests that this may not happen for reasons which cannot be predicted, it is possible that the costs of S. 2384 could be lower than estimated for the first five years.

Budget Authority: Although this bill would result in additional future Federal liabilities through an extension of an existing entitlement, the bill would require subsequent appropriation action to provide the necessary budget authority. These figures shown in the cost estimate above as "Required Budget Authority" represent that amount of budget authority needed to cover the estimated outlays that would result from enactment of S. 2384.

The outlays shown in this estimate are lower than the budget authority, because pension benefits paid in any given month are the result of beneficiary entitlement in the prior month. The obligations created in each September, therefore, would not outlay until October, which would be in the next fiscal year.

VA costs assuming inflation in the current program: Although veterans benefits are not indexed for inflation, the non-service-connected pension program has received legislated cost-of-living increases every year except one since 1971. Given this precedent, it may be of value to examine the cost of S. 2384 over the cost of the current program with annual cost-of-living adjustments. These costs are shown below for informational purposes only. They do not reflect the budgetary impact of S. 2384.

[By fiscal years, in millions of dollars]

Gross outlays assuming inflation in the current program: [1]

| | |
|---|---|
| 1979 | 419.3 |
| 1980 | 470.0 |
| 1981 | 582.5 |
| 1982 | 745.6 |
| 1983 | 930.8 |

[1] These are gross outlay estimates only. The offsets shown on page 3 do not correspond to these figures.

7. Estimate comparison:

The Veterans' Administration's cost estimate for S. 2384 is shown below. The small variance between the two estimates results primarily from the employment of different sets of economic assumptions.

VA estimate [by fiscal years, in millions of dollars]

Costs:

| | |
|---|---|
| 1979 | 742.2 |
| 1980 | 1,031.3 |
| 1981 | 1,383.7 |
| 1982 | 1,787.5 |
| 1983 | 2,191.6 |

8. Previous CBO estimate:

During the 95th Congress, CBO has provided the Senate Veterans Affairs Committee with cost estimates for a wide variety of pension reform proposals, including an estimate of S. 2384 as it was introduced. On May 15, 1978, a formal cost estimate of the bill as ordered reported was transmitted to the Committee. This estimate revises the May 15 estimate to reflect the impact of new economic assumptions.

9. Estimate prepared by: K. W. Shepherd (225–7766).

10. Estimate approved by:

JAMES L. BLUM,
*Assistant Director, for Budget Analysis.*

CONCLUSION

Mr. CRANSTON. Mr. President, this bill is the result of the dedicated labors of all the members of our committee and their staffs; and I particularly want to express my appreciation to the Senator from Vermont (Mr. STAFFORD), our ranking minority member, for his help and guidance, and to the minority counsel, Garner Shriver, and assistant minority counsel, Gary Crawford, for their valuable contributions.

I also would like to thank for their deligent and productive work during the past year and a half in the development of this legislation, committee staff members Mary Sears, Ed Scott, Jon Steinberg, and Harold Carter, as well as Terri

Morgan, Ingrid Post, Ann Garman, and Janice Orr, and our GPO-detailed printers, Jim MacRae and Walter Klingner. They all worked incredibly long and hard to produce what I believe is a fine piece of legislation and a fine committee report.

I urge Senate approval of the pending increase as unanimously reported from the Committee on Veterans' Affairs.

I yield to my good friend the Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I thank my good friend, the distinguished Senator from California and the chairman of the Veterans' Affairs Committee, for yielding to me. I express my pleasure at serving with him on this committee which is devoted to the welfare of the American veterans and is strictly nonpartisan or bipartisan in character, and under Senator CRANSTON'S leadership it has been a great experience to serve with him on the committee and we have had splendid work from the staff on both sides of the aisle, on a bipartisan and nonpartisan basis, to achieve the ends which the committee has sought.

Mr. President, I am pleased to cosponsor and strongly support S. 2384, the Veterans and Survivors' Pension Improvement Act. The improved program of pension benefits is a result of several years study and effort on the part of many people to correct the inequities and deficiencies in the Veterans' Administration pension program. Personally, I consider S. 2384 as one of the most important veterans' bills to be considered by the Senate in recent years.

Much credit for bringing this improved veterans' pension program before the Senate should go to the chairman of our Veterans' Affairs Committee, the distinguished Senator from California, ALAN CRANSTON. He introduced this bill on December 15, 1977, with the cosponsorship of all the members of the committee and Senator WILLIAMS. I would also commend and express appreciation to the staff of the Veterans' Affairs Committee. Both the majority and minority staffs have worked diligently over a long period of time.

The reported bill corrects inequities in the existing pension law. It, also, will provide a standard of living for veterans who served during a wartime period that will result in better lives for them.

The bill before us would establish a new non-service-connected pension program for the veterans and survivors of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era. The new program would operate concurrently with the existing program. Those individuals who are receiving benefits under the existing program on the effective date of the bill would have the option of selecting whichever program offered them the higher benefit. Election of the reformed program would be irrevocable. All new cases would only be eligible for the reformed pension.

Since the Revolutionary War, the United States has paid some form of pension to needy veterans who served in wartime but were not disabled.

In 1778 the Continental Congress guaranteed half pay for 7 years after the war was over to officers who served for the duration. In 1780 the period was extended to half pay for life, regardless of whether the veteran was needy or not.

The forerunner of the present veterans' pension system was in the 1818 law that provided a pension to any veteran of the Revolutionary War who had served 9 months and who, "by reason of his reduced circumstances in life, shall be in need of assistance from his country for support."

The act of 1832, expanded that program to provide full pay for life to all veterans of the Revolutionary War who had served a total of at least 2 years and proportionate payments for life to those who served more than 6 months. There was no requirement of need or disability, but all those who were eligible were persons of advanced age. In 1836, benefits were extended to the widows of men who had been eligible under the 1832 act.

There followed pension legislation for veterans and their survivors of the War of 1812, the Mexican War and the Indian wars in much the same pattern as the Revolutionary War pension program. In 1890, pensions were provided for certain veterans of the Civil War. Sixteen years after the Spanish-American War and at other times following that war, veterans and their survivors were recipients of pension benefits.

At other times Congress has continued to enact and improve pension programs for our veterans and their survivors. I would direct attention to the Senate report of the Committee on Veterans Affairs accompanying S. 2384, for full and complete information concerning the bill before us at this time. It contains an excellent outline of the background for this legislation, and the many changes made from time to time in the veterans pension program.

In the 94th Congress, the Senate Veterans' Affairs Committee formulated S. 2635, by then Chairman Hartke and sponsored by most members of the committee. The Veterans' Administration did not support the reform measure. It passed the Senate unanimously, but it was not acted upon by the House.

The bill before us would substantially increase maximum pension rates, assuring an annual income support level for all eligible veterans above the poverty level. The maximum benefit levels set by S. 2384 would be $3,240 annually for a veteran with no dependents and $4,284 for a veteran with one dependent. Two levels of benefits would be instituted for surviving spouses. A surviving spouse who is disabled or over the age of 64 would be paid at the same rate as a veteran. If the surviving spouse does not meet these requirements, she/he would be paid at rates that are two-thirds those for veterans ($2,172 annually for a surviving spouse with a child). The benefit level for all pensioners would be increased by $660 a year for each dependent after the first.

The Veterans' Administration conducted a comprehensive study of the veterans' existing pension program and in its report made this recommendation:

A new pension program should be developed.

The VA pension program should be a needs-based income maintenance program for the totally and permanently disabled and aged.

The program should treat similarly circumstanced persons similarly.

The same eligibility requirement should be applied to all applicants.

Equal benefits should be provided to those beneficiaries whose circumstances (income and assets) are the same.

Our committee is in agreement with the VA's recommendation. This bill is designed to meet these recommendations for an equitable need-based pension program.

The current pension program is a "two-variable" system with an annual income limitation and a sliding scale of rates. Under a one-variable system basic levels of income support are established by law, based on family size and other factors, and the amount of pension payable is determined by subtracting the annual countable income available to the veteran or survivor from the applicable income standard. The bill before us for consideration adopts the one-variable approach with income standards established for different categories of beneficiaries.

It is intended that the new pension system will allow veterans to live out their lives in dignity and prevent them from having to turn to welfare assistance. It will provide the greatest pension to those with greatest need with all eligible veterans assured of a level of assistance that places them above poverty and welfare levels.

This bill will provide additional assistance to our veterans over 80 years of age. It provides for a 25-percent increase in improved pension benefits to a veteran of a period of war if veterans of that period of war were not entitled to home loan guaranty benefits or GI educational benefits. In other words, the 25-percent add-on will benefit veterans of World War I.

Another important feature of this bill relates to a problem we have heard about every time Congress has authorized a veterans' cost-of-living increase.

Each year around the end of January we all receive letters and complaints about veterans' pension checks being reduced because of an increase in social security. This bill would do away with that problem for veterans and widows. The new program guarantees comparable increases each time there is a cost-of-living increase in social security benefits.

Under the current program, a pensioner who has social security income and gets a social security cost-of-living increase often actually receives a reduction in pension the following January—even though Congress enacts a cost-of-living increase in the pension rates and income limitations. Under the new program created in this bill, this would never happen because pension benefits will be increased automatically by the same percentage and at the same time as social security benefits.

Unrelated to pension, but considered by our committee as significant and im-

portant is the inclusion within S. 2384 of the naming of two Veteran's Administration hospitals. It provides that the VA hospital in Tampa, Fla., shall be named the "James S. Haley Veterans' Hospital"; and the VA hospital in Bedford, Mass., shall be named the "Edith Nourse Rogers Memorial Veterans' Hospital."

S. 2384 makes no changes in existing programs other than to provide that no person, other than a person who is residing outside the 50 States and the District of Columbia on the effective date of the new law, who applies for pension benefits on or after the effective date of the new law may receive benefits under any of those programs. With the exception of persons residing outside the United States on the effective date of the new program, any person receiving pension benefits under existing law may elect to receive benefits under the improved pension program; and that, if improved pension is paid at any time pursuant to such an election, the election would be irrevocable.

Based upon information furnished by the Congressional Budget Office, the 5-year cost resulting from the enactment of the committee bill would be $743.6 million in fiscal year 1979; $1,038.9 million in fiscal year 1980; $1,385.4 million in fiscal year 1981; $1.806.1 million in fiscal year 1982; and $2,271.6 million in fiscal year 1983.

The cost of the bill is within the committee's budget allocation.

Mr. President, this legislation represents a greatly improved veterans' pension program. The other body has passed a similar bill, and I hope that this bill may be passed in the Senate with no great difficulties, so that we can, indeed, reach agreement with the House of Representatives on any differences that may occur.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. TALMADGE. Mr. President, as chairman of the Subcommittee on Compensation and Pension of the Senate Committee on Veterans' Affairs, I rise to speak in favor of S. 2384, the Veterans' Survivors Pension Improvement Act. This bill, introduced by our distinguished chairman, Senator ALAN CRANSTON, provides for a new, improved security pension program. It is a result of 5 years of bipartisan hard work. I am pleased to be a cosponsor of this desperately needed legislation.

Mr. President, S. 2384 will provide needy wartime veterans, who are permanently and totally disabled as a result of a non-service-connected disability, with a new, improved security pension program. In addition, this legislation will establish a new program of security pension benefits to surviving spouses of wartime veterans and surviving children. So, Mr. President, a basic income standard will be provided for eligible needy wartime veterans, surviving spouses, and surviving children to be payable monthly.

This new pension program provides for annual automatic cost-of-living increases, based on the same percentage increase as that for social security, which will realistically become effective January 1, 1979. I am pleased, Mr. President, that by guaranteeing increases in pension benefits at the same time and at the same rate as social security increases, no veteran under the new program will have his pension benefits reduced because of social security benefit increases or other Federal retirement program increases. Also, under the new, more equitable pension program, veterans of World War I will receive a 25-percent increase in benefits if they were not made eligible for VA educational assistance or home loan benefits. These are two provisions affecting many deserving veterans that I am grateful to have included in this legislation.

Mr. President, I certainly hope this legislation will be approved by the Congress as soon as possible since it means a great deal to thousands of needy wartime veterans receiving non-service-connected pension benefits, surviving widows, and children. Like all Americans, veterans in Georgia and throughout the Nation are caught in the middle of rampant increases in the cost of living. The House has passed its version of the bill, and I am hopeful that the full Senate today will approve this bill so that an agreed upon measure, between the House and the Senate, will be sent to the President for his signature as soon as possible.

Mr. THURMOND. Mr. President, I am pleased to be a cosponsor of this measure which will provide relief and meaningful reform for the more than 1 million veterans and survivors currently receiving non-service-connected veterans' pension benefits.

For several years, problems in the area of veterans' pensions have been among the most troublesome in the field of veterans' affairs. Thousands of letters which I have received from South Carolinians continue to relate the same problem of veterans' pension benefits being cut back by cost-of-living increases in social security.

S. 2384 deals realistically and responsibly with the veterans' pension dilemma. The changes which it seeks to effect will, I hope, be the answer to many of the problems that have surfaced in this program in recent years. I am proud to have participated in the formulation of S. 2384 and wish to comment upon several of the provisions which I think are particularly meaningful to veterans and certain survivors now receiving veterans' pension.

First of all, although for purposes of computing pension entitlement S. 2384 contains few income exclusions, benefit levels for certain eligible veterans will be increased significantly under the act. For instance, an eligible veteran without dependents will be entitled to a maximum of $3,240 in pension benefits under the act's improved pension program, compared to $2,364 under current law. Naturally, a veteran's other countable income would reduce one's maximum entitlement under the new program. This procedure is the same as that provided for under current law.

Second, one provision of the bill which was introduced at the insistence of the minority members of the committee and unanimously supported by the full committee, will provide a 25-percent increase in improved pension benefits to veterans of World War I. The bill also provides a new program of pension benefits to certain needy surviving spouses of wartime veterans and equalizes these benefits, in certain instances, with rates now being paid to veterans. The act further provides a new program of dependency and indemnity compensation for eligible surviving parents who were being supported by a veteran who died of a service-connected disability.

Mr. President, one of the most significant provisions of S. 2384 is contained in title III of the act. This provision will require the Veterans' Administration to increase improved pension and the new DIC rates annually by the same percentage and at the same time as social security cost-of-living increases. This provision is intended to assure that no veteran or survivor will suffer a net reduction in VA pension and social security benefits as a result of a cost-of-living increase in social security. This provision, I hope, will eliminate altogether instances where a veteran and his family receive less social security and pension benefits after a social security cost-of-living increase than they did before the social security increase became effective.

Mr. President, I wish to commend the able chairman of the committee, Senator CRANSTON, for his diligence and industry in working out a pension reform measure acceptable to the entire committee. I also wish to commend the staff of the committee, particularly Mary Sears, for their long hours of labor on this proposal. Finally, I acknowledge the contributions of the American Legion, the VFW, the DAV, the AMVETS, the Veterans of World War I, and the Paralyzed Veterans Association without whose efforts our task of reforming this important veterans' program would have been impossible.

Mr. President, I fully support S. 2384 and urge my colleagues to do likewise.

UP AMENDMENT NO. 1539

(Purpose: To relieve the States from certain contributing requirements)

Mr. JAVITS. Mr. President, on behalf of myself and my colleague from New York (Mr. MOYNIHAN) I send an amendment to the desk, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 1539.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 77, line 5, strike " ".".

On page 77, between lines 5 and 6 insert the following:

SEC. 308. (a) Section 1682A(b) of title 38, United States Code, is amended by—

(1) amending clause (6) to read as follows:

"(6) such application was filed with the administrator within 180 days after the date

on which the degree, diploma, or certificate described in clause (5) of this subsection has been awarded to such veteran; and";

(2) striking out the semicolon and the word "and" at the end of clause (7) and inserting in lieu thereof a period; and

(3) striking out all of clause (8).

(b) The first sentence of section 1682A(c) of such title is amended by striking out "and matching amounts paid to the Administrator by a State or local governmental unit, as described in subsection (b)(8) of this section,".

(c) Section 1682A(d) of such title is amended by—

(1) striking out "33⅓ per centum" in clause (2) and inserting in lieu thereof "66⅔ per centum";

(2) inserting "or" at the end of clause (2);

(3) striking out "33⅓ per centum" in clause (3) and inserting in lieu thereof "66⅔ per centum"; and

(4) striking out the comma after "$700" in clause (3) and all that follows down through the word "amount" in clause (4).

Mr. JAVITS. Mr. President, the purpose of this amendment is to deal with the problem of a required State contribution.

The PRESIDING OFFICER. Will the Senator withhold for a moment? Is this the Senator's amendment on which there is to be a one-hour limitation?

Mr. JAVITS. It is. I hope very much we will not take that long.

I yield myself 5 minutes.

Mr. President, I offer an amendment to the bill, S. 2384. This amendment will remove the State matching requirement from the tuition acceleration provision of Public Law 95–202, the GI Bill Improvement Act of 1977.

This amendment and S. 2956 are based upon the tuition acceleration provision passed unanimously by the Senate last October 19, one which would have substantially assisted veterans to utilize their education benefits in educational institutions with high tuition charges. The GI Bill Improvement Act, Public Law 95–202, as initially passed by the Senate in S. 457, included a provision which would allow acceleration of a veteran's educational entitlement to pay 66⅔ percent of tuition costs above $700. Had the Senate position carried, veterans attending higher cost institutions would have been able to receive a greater amount of monthly GI bill educational assistance by utilizing more quickly portions of their 45 months total entitlement.

GI BILL STATE MATCH

However, the House added to the GI bill acceleration provisions a requirement that the States match the Federal contribution. The Federal share was thus reduced to a maximum of 33⅓ percent of a veteran's tuition costs above $700, to be paid only if the State in which the veteran's educational institution is located provides an equal match of State funds for the accelerated GI bill entitlement.

Mr. President, we perceive two basic problems with these acceleration provisions in Public Law 95–202, one philosophical and one pragmatic, which necessitate amendment of the GI Bill Improvement Act:

GI BILL NOT A STATE PROGRAM

First, the history of veterans benefits completely belies the concept of making GI bill assistance into a State matching program. Should veterans' benefits for serving our country depend upon home State ability or, more importantly, willingness, to pay for GI bill benefits? We believe not. It is extremely unwise for Congress to so restrict GI bill entitlements earned by those who have served in our Nations' Armed Forces.

Second, to couple a veteran's ability to accelerate his education entitlement to assist with high tuition costs—which was the Senate's intent in its passage of S. 457—with the requirement that States match Federal dollars, essentially results in little or no help to the veteran who wishes to accelerate. Few, if any, States can afford to meet current costs of higher education—much less provide additional appropriations to match Federal dollars for veterans' educational benefits. Since the State must match for the veteran to receive Federal assistance, the veteran who attends school in a State which cannot provide matching funds is left out in the cold.

Moreover, if a State chooses to match, but at a proportion less than the 33⅓ percent level, a veteran who accelerates will receive a much smaller entitlement than that intended by the Senate in its passage of its version of the GI bill amendments. In this sense, it is the State which determines whether or not the veteran who wishes to accelerate receives Federal GI bill education assistance to which he or she is entitled. According to the Veterans' Administration, not one State has yet put up even one dollar to implement this program.

Furthermore, Mr. President, incorporation in the GI bill of a State matching program entails unnecessary duplication, by States, of administrative functions currently carried out by the Veterans' Administration. Regulations proposed by the Veterans' Administration to conform to the new State matching program indicate that States must undertake additional administrative burdens, including State definition of "educational institution," to implement the matching program. The State matching program clearly results in additional administrative burdens on States while violating the historic intent of GI bill entitlements—to provide equitable benefits nationwide to those who have served in our Armed Forces. The GI bill has a national, not a State, purpose, and to chip away at such a national program in this manner is a grave mistake.

REMOVE THE STATE MATCH

The amendment which we offer today would simply remove the State matching requirement of the tuition acceleration provision in Public Law 95–202 and return the percentage of costs which may be reimbursed by the Federal Government through acceleration to 66⅔ percent of tuition above $700—to wit, a return to the Senate position in its unanimous passage of S. 457.

Mr. President, I am pleased that the Jewish War Veterans of the United States has endorsed this proposal.

We firmly believe that this amendment will permit the acceleration provisions to assist those Vietnam veterans who have earned, with their honorable service, GI benefits bestowed by a grateful nation, and I urge its acceptance by the Senate.

Mr. President, the purpose of this amendment is to relieve the States of the requirement that they must contribute to allow an individual veteran with a higher education entitlement to take advantage of the acceleration which that veteran is entitled to where tuition costs are above $700 a year.

The Senate has stated its position on this issue, which was taken on a previous measure but was amended by the House to provide the requirement from the State contribution. Had the Senate provision carried, veterans attending higher cost institutions would have been able to receive greater GI bill assistance by using more quickly portions of their 45 months total entitlement; but because the other body affixed a requirement for State matching, this provision has become largely inoperative, as the States have been unable or unwilling to do the matching.

Mr. President, this is not a matter of relieving the States, because the GI bill is not a State program, it is a Federal program. The House amendment which was included respecting State matching was simply brought in by the other body. It is rather unique in respect of assistance to veterans for higher education.

Therefore, Mr. President, I introduced a bill, S. 2956, some months ago, which had as its sponsors not only myself and Senator MOYNIHAN, but a broad bipartisan spectrum of Senators, including Senators BAYH, BROOKE, CLARK, NELSON, HUDDLESTON, HUMPHREY, RIBICOFF, RIEGLE, KENNEDY, CASE, WILLIAMS, MCINTYRE, and Senator DURKIN, who is also a member of the Veterans' Affairs Committee.

Mr. President, to show how this works, my own State of New York is considered to contribute extremely generously to higher education for its veterans. The State provides $1.4 billion a year for this purpose. Yet not one dollar of that assistance can be used to meet the State's matching requirement under the GI Bill Improvement Act, since under the law the State must effect a cash transfer from the State to the Veterans' Administration educational loan fund—and that, as I say, even with a State that is as generous about State aid to education, including veterans, as my State has proved in the past—and hence the possibility of accelerating this program, which is so desirable for the GI's who enjoy it, has been made impossible.

According to the Veterans' Administration, the cost to the Federal Treasury of removing the State matching requirement would be as follows: For fiscal 1979, $3,600,000; for fiscal 1980, $12,600,000; for fiscal 1981, $33,300,000; for fiscal 1982, $30,900,000, and for fiscal 1983, $25,200,000, for a 5-year total of $106,500,000. But the effect would really be cumulative in terms of working with and assisting those veterans who have the will and the wish to improve their condition by getting the benefit of this acceleration provision, which has been, in effect, nullified by the State matching requirement to which I refer.

So, Mr. President, I hope very much that the managers of the bill may con-

sider it appropriate to accept this amendment.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield my colleague such time as he may require.

Mr. MOYNIHAN. I thank my senior colleague.

Mr. President, I rise only to associate myself with everything the senior Senator from New York has said with respect to this matter, and I think I speak for other Senators as well. This is a matter, I believe, that will be acceptable to the managers of the legislation, and if that is the case, I wish to express my appreciation to them. This is by no means the end of our discussion of the extraordinary imbalance in the distribution of GI bill benefits in the aftermath of the last war. This is obviously something structural, and that will require a great deal of attention. But the matter has come to the Senate floor now, and the managers of the legislation have seemed receptive to the point we make. I would like to express my appreciation if that is the case, as I understand it to be.

I thank my colleague, and I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I thank the Senators from New York for their comments. Let me say that I appreciate very much the deep personal commitment and concern that have prompted my distinguished colleagues from New York (Mr. JAVITS and Mr. MOYNIHAN) to make this proposal at this time.

However, Mr. President, in the form offered by Senator JAVITS, I cannot accept the amendment, because there are not sufficient funds in the first concurrent resolution on the budget to allow for the increased entitlement spending authority entailed by the amendment along with the entitlement costs of the legislation before us and the two bills, S. 2828, for service-connected compensation and survivors benefits, and H.R. 12028, for veterans housing benefits, which have been ordered favorably reported from the Veterans' Affairs Committee and which I am reporting today.

Mr. President, the Congressional Budget Office has estimated that the first-year cost of enactment of this amendment will be between $158 million and $230 million—depending on the startup time required. This amount would have be deducted from funds reserved in the first concurrent resolution for fiscal year 1979 which were intended to be used for increases and certain improvements in the service-connected compensation program.

As the chairman of the Veterans' Affairs Committee, I cannot accept this result. Nor can America's veterans. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a letter to me from the national commander of the Disabled Veterans specifically opposing this amendment, and a letter from the American Legion, opposing any amendment to the pending pension measure.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
*July 27, 1978.*

Hon. ALAN CRANSTON,
*Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN CRANSTON: This letter is in reference to S. 2384, the Veterans and Survivors Pension Improvement Act of 1978, which, I understand, is scheduled for full Senate consideration on Monday, July 31, 1978.

It is also my understanding that when S. 2384 comes to the Senate floor, Senator Jacob Javits may seek to amend the bill with a proposal that relates to VA educational benefits administered under Chapter 34, Title 38, USC.

Specifically, the Javits Amendment would address the subject of the VA's new direct educational loan program (recently created by Public Law 95–202) proposing to change the "forgiveness of loan" provisions which apply to the program.

Under current law, the VA may waive repayment of up to one-third of the original loan made to the veteran *provided* that the government or appropriate municipality of the state in which the veteran is attending school reimburses the VA with a similar amount. Senator Javits' amendment would delete the state government reimbursement requirement and direct the VA to "unilaterally" waive repayment of up to two-thirds of the loan.

I wish to inform you that the Disabled American Veterans is strongly opposed to the Javits Amendment.

If it were to be enacted into law, it would increase VA expenditures in Fiscal Year 1979 by several hundred million dollars ($230 million is the CBO estimate). This money, not presently anticipated in any allocations made with respect to Fiscal Year 1979 VA expenditures, would have to be obtained from funds presently allocated to other VA programs. The most obvious and likely source would be funds now earmarked for much needed improvements in the VA's service-connected disability and death compensation programs, or in the VA's non-service-connected pension and death pension programs.

The DAV most certainly would object to "shortchanging" America's service-connected disabled veterans, their dependents and survivors in order to implement the provisions of the Javits Amendment.

In your capacity as Chairman of the Committee on Veterans' Affairs, I urge that you oppose such an amendment, should it be offered during the Senate's consideration of S. 2384.

Sincerely,

OLIVER E. MEADOWS,
*National Commander.*

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JULY 27, 1978.

DEAR SENATOR: The American Legion is anxiously awaiting Senate consideration of S. 2384 which is presently pending on the Senate calendar, and hopefully will be considered shortly. For the past several sessions of Congress, The American Legion has proposed and supported legislation to amend the veterans death and disability pension program so as to achieve the objective of (1) assuring an income standard above "poverty guidelines" so that eligible veterans and their survivors receive a pension commensurate with their need; (2) guaranteeing regular annual increases in pension benefits based on the increase in the consumer price index; and (3) guaranteeing that annual increases in pension benefits occur at the same rate and time as cost-of-living increases in social security benefit rates so that no veteran or survivor will suffer a reduction in pension solely due to cost-of-living increases in social security.

While we are not in full agreement with all of the provisions of S. 2384, the Veterans and Survivors Pension Improvement Act, we believe that it places the issue before the Senate and House for resolution between what the Legion is seeking and what the Congress believes is an equitable and reasonable income maintenance program for war veterans and their survivors.

As the legislative history of this and preceding Acts will reveal, your Veterans Affairs Committee has received and considered the views of many members of the Senate, organizations, and others before reporting S. 2384 for your consideration.

With regard to the present posture of the legislative calendar, and the requirements of the Congressional Budget process, we urge that when the measure is under consideration by the full Senate it will be passed without amendment.

The American Legion feels very strongly that the issue of improved pension should be considered on its singular merits and not be cluttered with other issues, which, due to cost or lack of sufficient study and consideration, would endanger its passage by the Congress and approval by the President.

Thank you for receiving the views of the American Legion.

Sincerely,

MYLIO S. KRAJA,
*Director, National Legislative Commission.*

Mr. CRANSTON. As Members will recall, last session, the GI Bill Improvement Act of 1977 as reported from committee made provision for a program to provide accelerated educational assistance allowances to certain veterans to cover 100 percent of tuition and fees above $1,000 for a school year satisfactorily completed by the veteran. During floor consideration of the measure, an amendment by Senators JAVITS and MOYNIHAN—which I cosponsored—was accepted to modify the program so as to provide accelerated entitlement to cover 66⅔ percent of tuition and fees in excess of $700.

However, Mr. President, Members will also recall that the House flatly refused to accept this provision as passed by the Senate. The compromise agreement that was subsequently reached on the legislation—and enacted as Public Law 95–202—provides for a joint Federal-State program whereby, for a veteran who satisfactorily completes his or her program of education at a school where the tuition and fees exceed $700 per year, as to direct loans made to the veteran by the VA, two-thirds of those loans in excess of $700 per year may be canceled—one-third through moneys paid by the State or local government and one-third by the VA on a matching basis.

Mr. President, with respect to the joint Federal-State program for accelerated entitlement enacted as part of Public Law 95–202 last year, the VA has embarked on a program to make State governments aware of and to encourage their participation in this system of accelerated payment of educational assistance allowances. The Administrator of the VA has sent individual letters to each Governor, as well as to the Mayor of the District of Columbia, outlining the basics of the accelerated program and encouraging them to participate in it.

Mr. President, the priorities for fiscal year 1979, I believe, must be to act

on the legislation that I described previously.

However, I am sympathetic to the concerns of my distinguished colleagues from New York to deal with the problems of veterans in States where there are no low-tuition institutions of higher learning.

Hence, joined by Senator STAFFORD, the distinguished ranking minority member of the Veterans' Affairs Committee, I am offering an amendment to the amendment proposed by Senator JAVITS and Senator MOYNIHAN. I send that amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is not in order until all time has been yielded back on the Javits amendment.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. CRANSTON. I yield back the remainder of my time.

UP AMENDMENT NO. 1540 TO UP AMENDMENT NO. 1539

The PRESIDING OFFICER. All time having been yielded back, the clerk will state the amendment to the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. STAFFORD, proposes an unprinted amendment numbered 1540 to the Javits unprinted amendment numbered 1539.

Mr. CRANSTON. I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the amendment proposed by Mr. JAVITS (UP–1539) the following new subsection:

(d) The amendments made by this section shall not create spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (Public Law 93–344). The amendments made by this section shall not take effect until, and only to the extent that, funds for the purpose of carrying out such amendments are specifically earmarked for such purpose in an appropriations Act enacted in the 96th or a later Congress.

Mr. CRANSTON. Mr. President, there are two purposes to our amendment.

First, it would create no new entitlement spending authority, because it would be contingent upon appropriations being made available for the purposes of carrying out the amendment offered by Senator JAVITS. Consequently, it deals with the problem in the context of the congressional budget process that I outlined previously.

Second, by providing that such appropriations may not be made prior to the 96th Congress, it insures that the effort to obtain funds to carry out this amendment, if enacted, will not compete with efforts to appropriate the funds we will be seeking in the remainder of this Congress for improvements in and expansion of the Veterans' Administration health care system.

Mr. President, with this modification, the committee would be willing to accept the amendment of the Senator from New York. We have discussed this modification with the American Legion and the Disabled American Veterans who have written in opposition to floor amendments. Although they still would prefer that the Javits amendment not be offered at this time and on this legislation, they find it more acceptable with the proposed modification.

I hope the Senator from New York (Mr. JAVITS) will be willing to accept the amendment Senator STAFFORD and I are proposing. I yield to Senator STAFFORD.

Mr. STAFFORD. Mr. President, I join in hoping that the distinguished senior Senator from New York and his colleague will accept this amendment so that we can dispose of this matter. Otherwise, we have the difficulties the chairman of the committee has outlined, and the fact that both the DAV and the American Legion are opposed to amendments to this bill.

I might just say that the American Legion wrote all of us under date of July 27, and they said in view of the legislative calendar and the requirements of congressional budget process:

We urge that when the measure, S. 2384, is under consideration by the full Senate that it be passed without amendment.

It is out of consideration for the problem which Senator JAVITS and Senator MOYNIHAN brought to us last year and again this year that I join with the chairman of the committee in offering this amendment to the amendment of the distinguished Senator and hope we can resolve the matter now.

Mr. JAVITS. Will Senator CRANSTON yield?

Mr. CRANSTON. I yield.

Mr. JAVITS. I have one question. As I understand the scheme of the amendment to the amendment, it would provide that next year, that is, when there is a new Congress, we would have to come both within the budget and the appropriation process, but that this would constitute the necessary authorization. Am I correct?

Mr. CRANSTON. The Senator is exactly correct, as he is almost always.

Mr. JAVITS. The Senator is very kind.

I realize our situation. I feel very deeply about this amendment, as does my colleague and all of the cosponsors. I am moved by two reasons to go along with this amendment to the amendment. One, I believe it does represent a recognition of the justice of our position, and for that I am very grateful to the Senator from California and the Senator from Vermont. Second, we find a very wide disparity in the estimates between the Veterans' Administration and the Congressional Budget Office. This will give us an opportunity, authoritatively, to deal with that disparity. I am rather stunned by it. We have an estimate from the Veterans' Administration for $3.5 million, and an estimate from the Congressional Budget Office of well over $150 million. But that is life here in the Congress and we will resolve it. The Senator is offering us a way in which it can be resolved.

May I say one other thing? Not one single State has taken advantage of the State matching provision. So I think really while it is well intentioned it simply has not worked. The congressional intent with respect to acceleration of benefits by GI's has not been realized.

I hope there is enough justice in our cause so that we have a good chance to get relief next year with the authorization on the books.

Again I repeat, I thank both Senators very much for trying to facilitate what we have in mind with this amendment to the amendment. It is acceptable.

Mr. MOYNIHAN. Will Senator CRANSTON yield?

Mr. CRANSTON. I yield to my good friend from New York, who is also currently from California.

Mr. MOYNIHAN. Mr. President, I would like to associate myself with the remarks of my senior colleague, who has guided our purposes so carefully and well in this matter, and to thank the most distinguished chairman and ranking minority member of the committee who have proven friends to our purposes as they have proven friends to veterans throughout this Nation. It is a mark of equity, it is characteristically generous, and yet it is tough-minded, as we have to be in this matter. They are right and we accept their amendment with a sense of gratitude to them both.

Mr. CRANSTON. I thank the Senator from New York very much for his generous remarks and his understanding.

Mr. STAFFORD. If the distinguished Senator will yield to me, Mr. President, I think we could ask that the Senate act on the Cranston-Stafford amendment to the Javits amendment and then stop there until Senator BELLMON gets here.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment to the amendment?

Mr. CRANSTON. Yes.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment to the amendment.

The amendment (UP No. 1540) to the amendment was agreed to.

Mr. CRANSTON. Mr. President, I speak finally on the amendment, as amended, does Senator BELLMON wish to speak on the amendment or something else?

Mr. STAFFORD. If the distinguished Senator will again yield, it is the understanding of this Senator that Senator BELLMON does wish to speak on the Javits amendment.

Mr. President, I suggest the absence of a quorum.

Mr. CRANSTON. Will the Senator withhold that?

Mr. STAFFORD. Yes.

Mr. CRANSTON. I would like to say this as we wait for the Senator from Oklahoma: Before we accept the amendment offered by the Senators from New York, as modified by my amendment, I would like to explain the situation we will be confronting in dealing with the other body.

Mr. President, I believe that my record, the record of the Senate Veterans' Affairs Committee, and the record of the Senate itself is clear: We have

tried, and will continue to try, in a fair and equitable fashion, to help overcome the problems facing veterans in States where there are no low-tuition State-supported colleges.

Mr. President, I wish to say to my friends from New York that, if the Senate accepts this proposal, I will do my very best, as my colleague from New York who serves with me on the Human Resources Committee knows—since we have served together on many long and difficult conferences with the other body in the past—to represent the position of the Senate on this issue.

However, I wish to make very clear to the Members of this body and to the Senators from New York that I will not jeopardize the chances for success of the measure now before the Senate—S. 2384, the Veterans' and Survivors' Pension Improvement Act of 1978. This legislation—a much-needed, carefully designed, and equitable measure which will affect the lives of millions of our Nation's older and needy veterans and survivors—is and must be our No. 1 priority at this time. We have sought enactment of pension reform legislation for many years and now—when success is on the horizon—it would be unfair to jeopardize the chances for enactment of the underlying measure with nongermane provisions that have been unacceptable to the other body in the past.

Mr. President, I say again to the Senators from New York that I will carry the amendment into conference with the House where I will do my best—as is my obligation as a Senate conferee—to convince the House to accept it—just as we urged them to do last year. I can only promise that I will do my very best, but I wish to make it clear to the Senate and the public exactly what position the Senate will be in, and that, given the House's opposition in the past to this provision, I can guarantee no miracles.

I see that the Senator from Oklahoma is now present on the floor. If he could speak at this time, I think it would be appropriate.

Mr. STAFFORD. Mr. President, I shall be glad to yield time off the bill to the Senator from Oklahoma if he wishes time.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STAFFORD. Mr. President, I ask unanimous consent that the time be charged equally to both sides on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I think we are ready now to vote on the amendment of the Senators from New York, since the amendment that Senator Stafford and I offered to it removed the objections of the Senator from Oklahoma.

The PRESIDING OFFICER. The question then, all time having been yielded back, is on agreeing to the amendment as amended.

The amendment (UP amendment 1539) as amended, was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I am also pleased to note my firm support of S. 2384, essential legislation which provides for an improved pension program for disabled and older veterans in need of assistance and for the surviving families of wartime veterans.

Specifically, S. 2384 will provide for an adequate income standard so that eligible veterans and survivors receive assistance which meets their needs. This will insure that veterans and survivors in need of assistance will not have to turn to welfare. In addition, the bill will guarantee regular annual increases in pension benefits, and insure that these increases are commensurate and simultaneous with those in Federal social security and other retirement programs. Finally, the bill provides for a new program of dependency and indemnity compensation for needy surviving parents of veterans who died of disabilities connected with their military service. Through these amendments to the veterans' pension program, we can significantly improve our policy of meeting our special obligation to those who have contributed so greatly to the defense of our Nation.

Mr. CRANSTON. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment of the Senators from New York, as amended.

Mr. STAFFORD. Mr. President, I make the same unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments?

Mr. CRANSTON. I understand that Senator BELLMON has an amendment.

UP AMENDMENT NO. 1541

(Purpose: To require a special report concerning veterans benefit programs)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1541:

Mr. BELLMON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 77, between lines 5 and 6, insert the following:

SEC. 308. The President shall prepare and submit to the Congress, not later than 180 days after the date of enactment of this act, a written report containing the following:

(1) A description of how the Veterans Administration and the Social Security Administration currently coordinate the delivery of Veterans' pension benefits, Social Security retirement and disability benefits, and Supplemental Security Income benefits to elderly and disabled persons.

(2) Recommendations for improving coordination among the programs referred to in paragraph (1), including legislation which would facilitate such improvement.

(3) An assessment of the feasibility of so-called "one-stop" service for persons eligible for benefits under the programs referred to in paragraph (1), including the advantages and disadvantages of unifying administration of intake, eligibility determination, check issuance, and other aspects of program administration.

(4) A description of inconsistencies, inequities, and/or undesirable features in the treatment of needy persons under the programs referred to in paragraph (1).

(5) An assessment of the feasibility and desirability of reconciling differences among the programs referred to in paragraph (1) in terms of features such as: benefit structure, income counted in determining eligibility and the amount of benefits, limitations on assets, accounting period for determining eligibility, and other program features.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. BELLMON. I am happy to yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the IMF bill continue to be laid temporarily aside until no later than 2:45 p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I want to begin by commending the committee for the excellent work that has been done on this bill. I find a great deal in the bill that is an improvement on the present law, and I intend to vote for the bill's passage. I believe this bill will do much to provide for adequate support for many veterans and for their dependents.

There is one correction or one improvement that I believe could be made. That is what the amendment I have offered intends to do. The amendment would require a special one-time report from the President on ways of improving relationships between veterans' pensions and other income support programs.

Mr. President, many needy veterans receive support from supplemental security income as well as from social security. I believe that Congress needs a clearer view on how these programs presently fit together, and how we might fit them together better so that we can make needed improvements to help veterans in the future.

S. 2384 will affect significantly the mix of Federal benefits received by elderly and disabled veterans and their dependents and survivors. For instance, the bill provides that veterans' pensions will automatically be increased in the future in the same percentages as social security benefit increases. The bill also requires that all social security payments and other retirement benefits be deducted in determining veterans pension payments, and it changes the treatment of other types of income. The bill will increase

the levels of pension benefits substantially and will thereby reduce the number of veterans and dependents receiving supplemental security income benefits.

Despite the improvements this bill will make in veterans' pension, I am concerned that none of us have a clear picture of inconsistencies, inequities, and administrative inefficiencies that may exist between income support benefits paid to veterans and their dependents by the Veterans' Administration and those paid by the Social Security Administration. I intend, therefore, to offer the attached amendment to S. 2384. This amendment will require a one-time report from the President by March 31, 1979 providing to Congress the following:

a. A description of how the Veterans Administration and the Social Security Administration currently coordinate the delivery of Social Security, and Supplemental Security Income and Veterans' Pension benefits to elderly and disabled persons and their dependents.

b. Ways in which coordination between these programs could be improved, including legislation which would facilitate such improvement.

c. Assessment of the feasibility of "one-stop" service for persons eligible for these programs including the advantages and disadvantages of unifying administration of intake, eligibility determination, check issuance, and other aspects of program administration.

d. Inconsistencies inequities, and/or undesirable features in the treatment of needy people stemming from differences in these programs.

e. Feasibility and desirability of reconciling differences between these programs in terms of features such as: benefit structure, income counted in determining benefits, limitations on assets, accounting period for determining eligibility, and other program features.

Mr. President, I request unanimous consent that a chart prepared by the Congressional Budget Office be inserted in the RECORD at the conclusion of my remarks. This chart compares eligibility criteria and benefit levels under S. 2384 with current law and with the supplemental security income program.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. BELLMON. Mr. President, I believe that this amendment will help us to get a better view of what we are doing in connection with providing support for our veterans. I strongly urge the adoption of the amendment.

EXHIBIT 1

SELECTED CHARACTERISTICS OF THE CURRENT SUPPLEMENTAL SECURITY INCOME, CURRENT VETERANS PENSIONS, AND PROPOSED VETERANS PENSIONS PROGRAMS

| | Current law SSI (July 1978) | Current law veterans pensions (July, 1978) | New law veterans pensions (S. 2384) |
|---|---|---|---|
| Filing unit | Individual or eligible couple | Family, but eligibility is based on veterans wartime service. | Same as current law. |
| Eligibility | Payments are made to aged, blind, and disabled individuals or couples who have incomes and resources below specified amounts. | Payments are made to needy wartime veterans with total and permanent nonservice-connected disabilities or those needy veterans who are 65 yrs. or older and needy surviving spouses and children of such veterans. | Same as current law. |
| Accounting system | Quarterly prospective system. Redetermination of eligibility is made annually. | Annual prospective system. Redetermination of eligibility is made annually. | Annual prospective system. Redetermination of eligibility is made annually. |
| Assets test | Resources (after exclusions such as home, household and personal effects) may not exceed $1,500 for an individual and $2,250 for couples. SSI must verify resource information. | No prescribed dollar amount. The limit is a function of what part of net worth may be reasonably consumed for claimant's maintenance. Self-declaration of resources is used. | No prescribed dollar amount. Same as current law except that the net worth of dependent family members is included. Self-declaration of resources is used. |
| Countable income [1] | Gross income less:<br>State supplemental benefits based on need, age or State residency.<br>Tuition and fee portions of grants, etc.<br>Refund of taxes.<br>⅓ of child support and all foster care payments.<br>Irregular income (up to $30 per quarter of earned and $60 of unearned).<br>Up to $1,620 per year of earned income for blind or disabled student child.<br>1st $240 a year of earned or unearned income.<br>1st $780 a year plus 50 percent of remainder of earned income.<br>Work expenses of blind.<br>Major disaster relief. | Gross income less:<br>Income from other welfare or relief programs.<br>Earned income of spouse, or $1,200 a year of total income of spouse.<br>10 percent of all retirement income.<br>Proceeds of casualty insurance or sale of property.<br>Joint bank account proceeds from deceased spouse.<br>Expenses of last illness of veteran or spouse.<br>Medical expenses in excess of 5 percent of total income.<br>Earned income of dependent or surviving child.<br>Other miscellaneous exclusions. | Gross income less:<br>Income from other welfare or relief programs.<br>1st $780 a year plus 50 percent of remainder of current work income.<br>1st $1,560 plus 50 percent of remainder of current work income of aid and attendance recipients.[2]<br>Proceeds from casualty insurance or sale of property.<br>Joint bank account proceeds from deceased spouse.<br>Expenses of last illness of veteran or spouse.<br>$100 deductible medical expenses or any in excess of 5 percent of income.<br>Education expenses of veteran, surviving spouse or child.<br>Unusual travel expenses for work or education of the disabled.<br>$2,950 of work income of child plus $780 and 50 percent of remainder. |

| | Basic Federal benefits: | Annual | Basic benefits: | Annual | Basic benefits: | Annual |
|---|---|---|---|---|---|---|
| Benefit structure | Individual | $2,273 | Individual veteran | $2,364 | Single veteran | $3,240 |
| | Couple | 3,409 | (Needs aid and attendance) | 4,344 | (Needs aid and attendance) | 5,340 |
| | | | Veteran and 1 dependent | 2,544 | Veteran and 1 dependent | 3,284 |
| | | | (Needs aid and attendance) | 4,524 | (Needs aid and attendance) | 6,384 |
| | | | Surviving spouse | 1,596 | Surviving spouse | 2,172 |
| | | | Surviving spose and 1 dependent | 1,908 | Surviving spouse and 1 dependent | 2,868 |
| | | | (Needs aid and attendance) | 2,856 | Surviving spouse who is disabled or 65 or over, or has a helpless or under-age-6 child, would receive benefits at the rate applicbale to veterans. | |
| | | | Housebound allowance for veteran | 732 | Housebound allowance | 780 |
| | | | Dependency and indemnity compensation for surviving parents [3] | | | |
| | | | One parent | $1,824 | 1 parent | $3,240 |
| | | | (Needs aid and attendance) | 2,722 | (Needs aid and attendance) | 5,340 |
| | | | 2 parents | 2,448 | 2 parents | 4,284 |
| | | | (1 needs aid and attendance) | 3,396 | (1 needs aid and attendance) | 6,384 |
| | | | (2 need aid and attendance) | 4,344 | (2 need aid and attendance) | 8,484 |
| | Marginal tax rate: 50 percent of earnings above disregards, | | Marginal tax rate: Variable for earnings above disregards. | | Marginal tax rate: 50 percent of earnings above disregards. | |

[1] Income deducted dollar for dollar from basic benefit.

[2] A person is considered to be in need of regular aid and attendance if such person is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need personal assistance from others. This need may be for regular, but not constant assistance.

[3] Benefits for parents of veterans who die from service connected causes.

Source: Congressional Budget Office.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, the purposes of the amendment are quite laudable and, with minor changes, I think I could speak for Senator STAFFORD and myself in accepting it and suggest these modifications to the Senator from Oklahoma: On line 1, instead of having the President prepare and submit a written report, have the Director of the Office of Management and Budget prepare and submit the report.

On the second line, change "180 days" to "1 year". It will be a very complicated report. I think there should be more time.

Next, I should like to strike out the third clause which I really think is covered under the second recommendation for improving coordination.

The matter of "unifying administration" would create a great consternation, among veterans, service organizations, and others. The underlying intent could be covered by our noting that recommendations for improving coordination could obviously cover all such aspects.

If we strike clause (3), then clauses (4) and (5) should be redesignated as (3) and (4). In the first line of what would then be clause (4), which is the first line of the last paragraph, I should like to insert the word "unjustifiable" after the word "reconciling" and before the word "differences."

Mr. STAFFORD. Will the distinguished Senator yield to me?

Mr. CRANSTON. Yes.

Mr. STAFFORD. Mr. President, I join with the distinguished Senator in offering those suggestions to the author of the amendment, the distinguished Senator from Oklahoma. I hope the distinguished Senator will accept them so that we can resolve this matter.

Mr. BELLMON. Mr. President, I find the suggestions of the floor manager and the minority member highly beneficial.

I ask unanimous consent that the amendment be modified accordingly.

The PRESIDING OFFICER. The Senator has the right to modify without unanimous consent, simply requesting that it will be so modified.

Mr. BELLMON. I send the modified language to the desk, Mr. President, and I move the adoption of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 77, between lines 5 and 6, insert the following:

SEC. 308. The Director, Office of Management and Budget shall prepare and submit to the Congress, not later than one year after the date of enactment of this Act, a written report containing the following:

(1) A description of how the Veterans' Administration and the Social Security Administration currently coordinate the delivery of Veterans' pension benefits, Social Security retirement and disability benefits, and Supplemental Security Income benefits to elderly and disabled persons.

(2) Recommendations for improving coordination among the programs referred to in paragraph (1), including legislation which would facilitate such improvement.

(3) A description of inconsistencies, inequities, and/or undesirable features in the treatment of needy persons under the programs referred to in paragraph (1).

(4) An assessment of the feasibility and desirability of reconciling unjustifiable differences among the programs referred to in paragraph (1) in terms of features such as: benefit structure, income counted in determining eligibility and the amount of benefits, limitations on assets, accounting period for determining eligibility, and other program features.

The PRESIDING OFFICER. Is all time yielded back on the amendment, as modified?

Mr. BELLMON. Yes.

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment, (UP. No. 1541) as modified, was agreed to.

Mr. CRANSTON. We are now ready to proceed to act on the committee amendment as amended.

● Mr. BROOKE. Mr. President, I am extremely pleased that we are today considering S. 2384, the Veterans' and Survivors' Pension Improvement Act. This measure is another important link in what has now become a 5-year effort on the part of the Senate to eliminate inequities and other deficiencies in the pension programs administered by the Veterans' Administration.

The desire to provide adequate pension benefits for the veterans most in need has always been one of the major objectives of our veterans programs. Indeed, nearly 25 years ago, President Eisenhower's Commission on Veterans Pensions, headed by Gen. Omar Bradley, recommended that the greatest assistance be provided to those veterans most in need. That philosophy was incorporated in the Veterans' Pension Act of 1959 for veterans with nonservice related disabilities but, because of subsequent adjustments in the benefit schedule through rate increases and increases in the annual income limitation, the program's objectives began to falter.

The 1975 "Study of the Needs of Older Veterans and Widows" prepared by the VA vividly showed the problems. According to that report, 30 percent of the veterans and nearly 37 percent of the widows interviewed reported that they were unable to buy all of the food they needed; 25.1 percent of the veterans and 20.9 percent of the widows were unable to pay for all of their medical care; and 36 percent of those interviewed expressed problems concerning housing.

The Veterans' and Survivors' Pension Improvement Act addresses precisely these problems. The bill is targeted to bring all veterans and veterans' widows with non-service-connected disability pensions above the poverty threshold established by the Labor Department. The bill assures that these individuals will be better prepared to pay for their food, medical care and housing.

For example, under S. 2384, benefits for a veteran without a dependent spouse or child would increase from the present level of $2,364 to $3,240 or slightly above the poverty threshold of $3,140 for such an individual. And, for a veteran with one dependent spouse, benefits would rise from the present level of $2,544 to $4,284.

Mr. President, in addition, to assuring that the greatest assistance which we provide for veterans' pensions programs is based upon need. S. 2384 accomplishes several other important goals. These include:

A guarantee that no individual in the pension program would suffer a reduction in his or her benefits because of a cost-of-living increase in benefits under social security or any other Federal retirement program;

An incentive for veterans receiving pension benefits to work on a part-time basis by allowing $780 of the earnings of all beneficiaries in the family to be excluded from countable income plus one-half of the remaining earnings, or $1,560 for a veteran and his surviving spouse;

An equitable restructuring of benefits for spouses to provide them with 100 percent of their deceased husband's benefits, instead of the present allowance of two-thirds of the original benefits payable to the veteran;

An automatic cost-of-living increase to eliminate the practice of separate legislation to be approved annually by the Congress;

A 25-percent increase in improved pension benefits payable to veterans of World War I who were unable to participate in VA educational assistance or home loan programs; and

An improved program of dependency and indemnity compensation (DIC) benefits for the needy surviving parents of veterans who died because of their service-connected disabilities.

Mr. President, in addition to these provisions, S. 2384 would name the Bedford VA hospital in my State of Massachusetts after the late Edith Nourse Rogers. I am particularly proud that the hospital is being named in her honor because she made so many valuable and lasting contributions to our veterans during her many years in the House of Representatives as a congresswoman and as the distinguished Chairperson of the House Veterans' Affairs Committee.

Mr. President, I am proud to be a cosponsor of this important bill and I urge my colleagues to support it.●

Mr. DOLE. Mr. President, I am pleased to rise in support of S. 2384, the Veterans' and Survivors' Pension Improvement Act.

This measure is the culmination of a 5-year effort to address the inequities and other deficiencies in the Veterans' Administration pension program.

Mr. President, I am certain each and every one of my colleagues has often heard of the difficulties that exist with the veterans' pension program. Over the past 5 years one of the matters that I have heard about most frequently, in my contact with constituents in Kansas, and elsewhere, has been about the problems with the veterans' pension program.

PAST SUPPORT OF VETERANS' PENSION IMPROVEMENTS

Mr. President, during the 93d Congress, I introduced legislation, the Veterans' Pension Improvement Act of 1974, that would have made several improvements in the veterans' pension system. During the 94th Congress, I testified before the Senate Veterans' Affairs Committee in support of veterans pension reform legislation, S. 2635. While this bill was unanimously passed by the Senate, the House did not act on it during the 94th Congress.

Mr. President, the long-time difficulties with the veterans pension program has prompted my support for improvements in the past. . . . Unfortunately, those difficulties continue to exist. Therefore, the Senator from Kansas is pleased to see that a measure of this type, which is long overdue, can be acted upon favorably by the Senate.

OFFSET SOCIAL SECURITY INCREASES

A very serious matter for veterans and their beneficiaries has been the decline in veterans' pension when social security

payments increase. Veterans who serve their country loyally and faithfully feel that they have rightfully earned their pensions. After all these years when veterans are beginning to enjoy the pensions provided by the Government, it is especially disturbing to them to see their pensions reduced when social security is increased. As indicated in the many letters I have received, a great number of older veterans have grown dependent on their pension incomes. The loss or reduction of their pension due to social security increases can be especially painful.

The bill I introduced during the 93d Congress contained a provision to resolve this problem. Likewise, the bill before the 94th Congress also contained a provision to avoid pension reductions due to social security increases. As in past bills, S. 2384 guarantees that annual increases in improved pension benefits occur at the same rate and at the same time as cost-of-living increases in social security benefit rates—so that no person in the improved pension program will suffer a reduction in pension solely attributable to a cost-of-living increase in benefits under social security or any other Federal retirement program.

In my opinion, this provision is especially important for our senior veterans.

IMPACT OF INFLATION

Veterans receiving pensions have clearly been among those most adversely affected by inflation in recent years. Most of those receiving veterans pensions are senior citizens on fixed incomes who cannot go elsewhere to obtain additional income in order to offset rising expenses for food, clothing, housing, and other necessities.

The committee bill, as I understand it, includes provisions, known as "indexing provision," under which annual automatic cost-of-living increases are made in benefit levels in order to prevent the value of benefits from being eroded by inflation. Similarly, my bill also included an automatic cost-of-living escalator so as to increase pensions and income limitations in a manner to offset increases in living increases.

In the past, cost-of-living increases in veterans pensions have required action by the entire Congress. Inclusion of the automatic cost-of-living escalator will avoid any delay in providing the appropriate increase in pensions that might result due to a crowded legislative schedule in the Congress. This provision will allow veterans to receive a cost-of-living increase annually and not be faced with any delay.

EQUALITY FOR WIDOWS

Mr. President, I would also like to express my support for the provision in this bill to provide the same level of pension payments for widows and single veterans. This provision was also included in the bill I introduced in the 93d Congress.

As we all know, pension payments have traditionally been made on the basis of need. However, the simple fact is that it costs as much for a widow to live as it does for a single veteran. In other words, a widow's need for a pension is just as great as that of a single veteran. Yet, the present system provides for a widow's pension of less than two-thirds of that provided a single veteran.

It is also true that in most cases, a veteran's widow shared the economic and financial hardship that the veteran himself experienced. On this basis, pension equality is justified. Pension might be viewed as a reward to a veteran for the economic or financial loss due to the time away from his given profession during the time of his service. In this respect, the veteran would have suffered the same degree of hardship. While widows of veterans may not have experienced the same degree of personal risk from combat as their veteran husbands, certainly many of them experienced the anguish of having their husbands serving in hazardous duty and faced the risk of their spouse becoming a combat casualty.

Mr. President, the discrimination against widows has gone on long enough, and I hope we can end this discrimination as this legislation would provide.

Mr. President, I would like to commend the distinguished members of the Committee on Veterans' Affairs for their dedication and hard work in bringing this bill to the floor.

This bill contains a number of meritorious provisions for our veterans and eligible dependents drawing pension benefits and I urge my colleagues to unanimously adopt it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 10173, the House-passed measure, and that the bill be deemed to have been read twice.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10173) an act to amend title 38 of the United States Code to improve the pension program for veterans, and so forth.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. CRANSTON. Mr. President, I move that H.R. 10173 be amended by striking all after the enacting clause and inserting in lieu thereof the text of S. 2384, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. CRANSTON. Mr. President, I will ask for the yeas and nays in one moment, if we have enough Senators.

Mr. STAFFORD. Mr. President, pending the arrival of Senators, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally between the majority and minority.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the rollcall occur on final passage at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I yield back all time.

Mr. STAFFORD. I yield back all time for the minority.

## BRETTON WOODS AGREEMENTS ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 2152.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 3390

Mr. MARK O. HATFIELD. Mr. President, today I offer an amendment with my colleague from South Dakota which will help insure two fundamental goals of our foreign policy. First, it will bring stronger congressional control over our foreign assistance programs in a time when some would have us totally abandon our constitutional authority over dispersal of tax moneys. Second, this amendment will guarantee that the two historic and fundamental foreign policy goals of this Nation—the support of human rights and replenishment of human needs—are strengthened in an age when human rights are under attack and world poverty engulfs ever-larger numbers of the world's poor.

Before detailing the benefits of this amendment and answering the charges of its critics, let me first say that I am appalled at the efforts by the administration to kill this amendment. These efforts reflect a kind of moral atrophy within the executive branch—a stubborn unwillingness to apply even modest efforts to reorient the international institutions which are fast becoming the driving forces behind the effort to defuse the globe's most serious and entrenched problems.

Nor is this effort the first by this administration in trying to frustrate any effort by this Congress in insuring that U.S. tax moneys do not disappear into the amoral labryinth of the growingly distant complex of international financial structures. Without a single exception, to my knowledge, the administration has opposed human rights amendments by Congress on all foreign aid legislation for the last 2 years. It opposed such language on the World Bank. Congress passed it. It opposed such language with the Asian Development Bank and the African Development Fund. Congress passed it. The administration has opposed efforts to cut back on U.S. military assistance to countries clearly using such aid to strengthen their regimes and smash the expression of all dissent, freedoms and fundamental human rights. Congress passed them. And again we find the administration maneuvering behind the scenes to oppose the amendment we propose today.

And yet we were assured by President Carter recently that—

> My government will not be deterred from our open and enthusiastic policy of promoting human rights . . . in whatever ways we can.

The President is correct. Openly, this administration is enthusiastic about human rights.

Privately, it has attempted to kill virtually every concrete congressional effort aimed at bettering the conditions of the poor throughout the world subjected to the tyrannies of immense poverty and brutal oppression. After 2 years, these actions by the administration have become more than an irony, they have become calculated policy.

Mr. President, the first positive effect of the Abourezk amendment will be to continue a modest congressional influence over the policies of international financial institutions to which this Nation is a major contributor. Toward this end, the amendment seeks to insure that human rights and human needs are at least a consideration during Executive Board deliberations on all IMF loans. The amendment is a legitimate and necessary exercise in congressional authority.

In recent years we have seen a dramatic shift in congressional, and thus U.S. taxpayer control, over foreign aid programs. In fiscal year 1976, the Congress authorized only 31 percent of total U.S.-related assistance to the developing nations of the Third World. This amounted to only $8 billion of the total $25 billion in foreign aid moneys and included expenditures for such direct programs as those administered by AID and Public Law 480. By contrast U.S. contributions to international financial institutions such as the IMF and the World Bank have more than doubled their spending since 1971.

Let me make one thing absolutely clear. I am not an opponent of U.S. involvement and cooperation in these institutions. Indeed, I have supported substantial appropriations for these institutions when their authorized levels have come before the Appropriations Committee, Subcommittee on Foreign Operations, for review. I would challenge anyone to surpass my support in this area.

Let me make another point. Many would prefer that more specific and exacting language be applied as a precondition to the authorization and appropriation of the $1.7 billion U.S. share to the Witteveen Facility. The Abourezk-Hatfield language makes no such precondition—it does not "politicize" the IMF. I have opposed consistently any and all efforts to attach preconditions to the U.S. contributions to international financial institutions because these preconditions clearly make acceptance of the U.S. contribution by the banks impossible.

It is as clear that with human rights language added, such institutions as the World Bank were not only able to accept U.S. funds, but were able and willing to allow the U.S. representative to vote against loans to nations in consistent violations of human rights if that same loan was not directed toward meeting the needs of the poor.

Under our amendment, the same fundamental direction to the U.S. Executive Director of the IMF applies: Explore ways of insuring that both human rights and human needs are a consideration during IMF loan discussions and report to the Congress progress in helping to implement this policy. This does not "politicize" the Fund beyond the stated intention of article I:

> To contribute to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.

It most certainly does not politicize the Fund beyond the rather impressive extent recently reported in the Washington Post wherein:

> An official of the International Monetary Fund would take a key role in managing Zaire's central bank.

If this does not constitute a direct, internal involvement with the political affairs of a sovereign nation, I am at a loss to explain the meaning of the term "political."

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 14, 1978]

ZAIRE ACCEDES KEY ECONOMIC ROLE TO FOREIGNERS

(By Michael Getler)

BRUSSELS.—Zaire's virtually bankrupt government yesterday offered to accept broad foreign control of its economy in an effort to solve crippling financial problems aggravated by the invasion of Shaba Province.

Under the African nation's proposals, according to conference participants, an official from the International Monetary Fund would take a key role in managing Zaire's central bank and another foreign official would supervise all outlays by the Finance Ministry.

The plan was presented at the start of a two-day meeting between Zairian officials and representatives of 10 creditor nations and three international bodies. Together, they exercise a crucial influence on the survival of President Mobutu Sese Seko's government.

While the meeting was scheduled before the invasion by Katangan rebels a month ago, the overriding issue was whether Mobutu's government, and Western investments in the huge country, can be protected time and again from determined attackers—who President Carter has maintained are Cuban-trained.

The creditor nations show little sympathy for Mobutu yet seem to be forced to save him to keep Zaire in the Western camp and capable of paying its debts.

This mood of political frustration lends an air of unreality to the meetings, which is supposed to concentrate solely on financial issues affecting the potentially rich mineral-exporting nation.

Lack of discipline in Zaire's central bank and inefficiency and corruption within the government have been major factors for the past few years in Western reluctance to extend still more credit and aid to a country whose debt is already said to total about $2.5 billion.

The so-called "Mobutu Plan," and Zaire's economic woes, both go back some two years and are due in part to the sharp decline in world copper prices. Copper provides about 70 percent of Zaire's export revenues, with cobalt the second major mineral export.

The situation neared the brink of economic catastrophe following the invasion of mineral-rich Shaba Province by rebels based in Angola. The attack, although eventually driven off by French paratroopers, has shut down the mines for at least six months and driven away or left dead many of the Europeans who operate the mines.

The meeting here is not designed to make decisions on what to do about the economic plight but rather to hear the revised Zaire plan and achieve some sort of consensus about what can be recommended to the governments of the United States, Britain, Belgium, France, West Germany, the Netherlands, Italy, Japan, Canada and Iran, as well as IMF World Bank, and the executive committee of the European Common Market.

The officials meeting here are trying to agree on recommendations for an initial $1100 million to $120 million emergency aid program of food, medicine and humanitarian supplies over the next three months that was agreed in principle at a five-power meeting in Paris earlier this month.

The Mobutu plan, however, could eventually cost a few billion dollars.

Although the plan was not made public, Belgian officials said their former colony indicated its long-term investment needs through 1980 amount to about $1 billion. Whether this would come from governmental or private sectors is now being discussed.

Zaire, according to Belgian officials, already has unmet debt repayments projected at $2.2 billion between 1977 and 1980. Some 40 percent of this is owed to private creditors.

In addition to the investment program, additional aid would be needed from international organizations.

The key factor in whether the plan gains widespread support, however, is said to hinge upon the IMF granting new credits to Zaire. In 1976–77 the IMF granted special standby credits totaling some $273 million.

The Mobutu plan is said to propose major efforts to get the shattered mining industry back into production, attract foreign investors, revamp the public service, improve customs and import licensing services and democratize the country.

Zaire has always had many Europeans in key advisory posts—especially Belgians, who have some $6 billion invested there. But the new plan envisions bringing in many others.

The arrival of these foreign experts, Zairian delegate Bokana W'Ondangela said, "doesn't mean we are coming back to colonialism—but simply into international co-

operation. We are turning to our friends and to international organizations for assistance."

Mr. MARK O. HATFIELD. Mr. President, in July 27, Secretary Blumenthal sent me a letter which I presume he also sent to my colleagues. In that letter, specifically in the section entitled "Should Human Rights/Human Needs Considerations be Applied to the IMF and the Witteveen Facility" the Secretary specifies the adminitsration's latest objections to the amendment we debate today.

Secretary Blumenthal writes in opposition to our language:

The IMF's Articles of Agreement require that decisions on its operations be made only on the basis of economic criteria and that it not involve itself in the political and social policies of members.

Excluding for a moment the IMF personnel involvement in Zaire, I will remind the Secretary that article 1 of the IMF calls for "* * * the promotion and maintenance of high levels of employment * * *" and "* * * the development of the productive resources of all members as primary objectives of economic policy." Indeed, the language we offer today proposes modestly that during the economic considerations of the Fund they, the Board consider economic policies which, to the greatest extent feasible, will not have a prejudicial impact on the poorest of the poor. Indeed, the amendment specifies—even requires—that the U.S. Executive Director seek to apply human rights/human needs criteria to individual loan transactions, within its own discretion.

The intent is clearly and simply to see that when a wide variety of economic factors are considered by the IMF as remedy for the deficit of a borrowing country, that the factors impacting heaviest on the poorest of the poor in the nation be subject to the close scrutiny before they are approved. I hasten to add that this does not prohibit tough economic measures being accepted by the IMF. The amendment does seek to influence such that economic alternatives which hold less harsh implications for the poor, but yet which help toward balancing financial deficits, be given priority consideration. Such alternatives, among many, include reduction in military expenditures and increased temporary taxes on luxury items, for example. Please let me emphasize here, Mr. President, that the amendment in no way requires these specific alternatives or in any way attempts to shackle the freedom with which the U.S. Executive Director could seek still additional alternatives. The language of the amendments suggests policy guidelines—it in no way mandates specific actions.

The amendment refers entirely to the terms under which such loans to borrowing countries are offered. It does not demand that the borrowing country have a faultless human rights record. It refers entirely to the terms under which such loans are offered, an area in which the Fund regularly exercises considerable flexibility. The charter rights of member nations are fully protected since the evaluation is confined to the terms of the stabilization programs recommended and approved by the IMF itself. Moreover, the amendment gives the U.S. representative broad authority to evaluate the rights impacts of proposed transactions and to choose the most effective means of expressing congressional concerns.

IMF members now do not enjoy an unqualified right to borrow from the Fund. The only Fund loans that are granted without conditions are those which correspond to that portion of the member's quota originally paid in gold (or SDR's). Every loan above that, so-called, gold tranche is subject to terms approved by the Fund's executive board.

The proposed amendment would not change this practice. Every member would have a right to a Fund loan if it agreed to meet Fund terms—terms which would continue to refer exclusively to economic considerations. The sole difference is that, in fashioning its own recommendations, the Fund staff would be expected to be attentive to the human rights needs implications of the proposed terms, with the U.S. Executive Director reserving the right to oppose transactions whose economic terms he regards as insensitive to those needs. If such a transaction is rejected by the executive board the potential borrower is entirely free to propose new terms and programs for accomplishing them.

This directly contradicts the Secretary's claim that "application of human rights considerations to IMF transactions would represent an effort to deny a country rights in the IMF to which it is legally entitled * * *"

The Secretary's letter raises another important issue when he writes:

Any attempt to introduce non-economic factors into IMF decisions would seriously undermine the effectiveness of the institution. It would also invite other countries to make political objections to IMF transactions with countries we are interested in helping.

The view that this amendment would introduce political considerations into IMF deliberations in some new way is quite incorrect. In every conventional sense, the IMF is already a political institution, aided by a Board of Governors which reflect and represents the diverse interests of the member nations. The whole purpose of this representative authority—as distinguished, say, from a panel of experts—is to permit member governments to exercise their national interests in the formulation of Fund policies and programs. The Fund is only "nonpolitical" to the extent that decisions concerning the rights and obligations of members are made on the basis of strictly economic criteria. This amendment changes nothing in that traditional practice.

Mr. President, the administration's oft-stated view that the IMF Board operates in some type of a nonpolitical, macroeconomic vacuum approaches practical absurdity.

So too does the administration's claim that a U.S. initiative of this sort could prompt other nations to attach conditions to their own contributions. While we have repeatedly pointed out that we are setting no conditions on the U.S. contribution, it is important to note that such conditions have already been assumed by other major contributors.

Finally, I simply want to make part of the record the immense political and economic implications that IMF policies can have on countries which must meet stricter financia] policies to qualify for IMF loans. I submit for the RECORD news accounts of the negative effects of IMF policies on the very long-term political and economic stability among recipient nations which the administration valiantly assures us the IMF is trying to assure. I ask unanimous consent that these articles be submitted to the RECORD. I would like to read a short excerpt from the New York Times involving the cases of Peru:

The announcement last week of austerity measures required by the IMF stabilization * * * touched off the turmoil (of rioting, strikes, and bloodshed). That, in turn, forced the military government to declare martial law, suspend constitutional guarantees of assembly and free speech, and postpone the Peruvian elections, the first in 15 years.

Mr. President, in conclusion I again emphasize that this amendment offers my colleagues an opportunity to exert some congressional influence over the $1.7 billion we are appropriating. It also reinforces the commitment of this Congress to the goals that have always been paramount within U.S. foreign policy: the protection of human rights and the furtherance of human needs.

It is a modest amendment. It accomplishes precisely none of the onerous liabilities attributed it by the administration. Its language is neither unnecessarily restrictive nor does it take a sledehammer to the structure of the IMF. It is a simple, carefully balanced effort to help the world's poor, and to bring their needs, whenever possible, to the forefront during the far-reaching decision made by the IMF. I ask my colleagues to both understand the limits of our goals, and support this effort to help—however modestly—the dispossessed of the world.

The PRESIDING OFFICER. Who yields time?

Mr. MARK O. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I have carefully read the Abourezk-Hatfield amendment and understand the very laudable goals that the authors have in mind. They are concerned, as I think all members of both the Foreign Relations Committee and the Banking Committee are, with the furtherance of human rights. They are concerned, as I think we all are, with trying to help people and help society eliminate poverty and disease. They are concerned with trying to assure that there is enough food, enough clothing, enough shelter, enough jobs, enough health care so that all the people of the

world may live with a certain amount of basic human decency, and that as a result we might have a more stable and, therefore, more peaceful world. Those are all very good and useful goals. They are goals, however, I suggest that are not best pursued through this legislation.

Mr. President, first let me say that the IMF is not a foreign aid program. We have had amendments like this in the past to foreign aid authorizations and to military assistance authorizations. I have supported some, perhaps all, of those amendments that are responsibly designed to improve human rights and to help other nations achieve more in the human needs area.

However, it is important to note that the IMF is not an aid program. It is the institutional centerpiece of our international monetary system. It serves as a common storehouse of international monetary reserves upon which Members may draw for their economies to help eliminate their balance-of-payments problems.

Its decisions are made only on the basis of economic criteria and, like other international financial institutions, its membership involves not only rights but also obligations that are critical to the functioning of the Fund and to the international monetary system.

Members have avoided introducing noneconomic factors into IMF operations, and the Fund has remained remarkably free of political conflicts.

The members of the IMF, Mr. President, include Communist and non-Communist countries; they include Israel and the Arab States; they include Greece and Turkey, and a variety of other nations with often conflicting ideologies and economic systems.

Introducing human rights and human needs considerations, laudable as those are goals in themselves, into IMF decisions would invite other nations to raise their own political objections to IMF transactions. As a result, we could see this amendment become an example to other countries, and soon we would find the use of similar criteria involving the nonalined countries versus the alined, the Communist versus the non-Communist, the Arab countries versus the Israelis, and so forth.

We do not want any action we take here today to be seen as an attempt to deny a member in good standing in the IMF of its rights in the IMF. Nothing could do more to undermine this institution, which tries to make sure that our monetary system is internationally sound. We do not want to undermine any member's willingness to meet its obligations in the IMF, and we do not want to undermine the IMF's ability to foster a sound international monetary system.

I understand some of the arguments that the proponents of this amendment have made. They have argued that in the past IMF stabilization programs have often been implemented in such a way that the economic hardships they entailed were concentrated among the poor, and they have cited instances where social programs, such as subsidies, are often the first to be eliminated or reduced.

The proponents of the amendment state that this amendment would simply inject badly needed concerns for equity into the formulation of stabilization programs. Although I have not seen the articles that were submitted by the Senator from Oregon a few minutes ago, my understanding is that this is what they deal with.

I would like to respond to that argument because, in fact, IMF stabilization programs deal with broad macroeconomic trends in each country, not with specific industries, not with particular sectors of the economy, and not with particular income groups.

Specific choices in these areas are not the prerogative of the Fund but of the borrower. The Fund does not attempt to make detailed allocative decisions about a member's economy, and it purposely avoids making judgment on the social and economic priorities of the borrower. Indeed, economic stabilization programs are essential to the long-term economic growth and development which will provide a better climate for the observance of basic human rights and needs. The stabilization programs are, in essence, austerity programs which could well, in the short run, reduce the overall living standard.

The Witteveen facility though, will permit countries to establish longer term stabilization programs than normal with less rigid limits on domestic benefits, Government borrowings, public consumption, and so forth, and thus lessen the impact of such a program on a country's standard of living.

The Senator from Montana (Mr. MELCHER) and I had a discussion on this point on Friday where he was concerned that some of the steps required by virtue of an agreement between the IMF and Zambia had forced the sale of copper at extremely low prices; to which I responded that indeed the Government of Zambia might have made a decision to sell copper at a lower price, but had the IMF not been able to step in and stabilize the foreign currency situation in that country, virtual bankruptcy might have resulted, with a consequent worsening of the dumping of copper on the open market.

I think the Senator from Montana was at least partially persuaded by that argument because clearly when you have a desperate situation even more desperate measures are taken. This, I say to my colleagues, Mr. President, is what I think we should remember.

I would hope, too, that the authors of this amendment would remember that the IMF does not, unlike the development banks, finance specific projects or deal with the microeconomic issues I mentioned a moment ago. We are talking about general balance of payments financing based solely on economic criteria, and those criteria are designed to bring that necessary economic stabilization to the borrower by influencing broader macroeconomic trends.

In particular, it is left up to the country with which the IMF has an agreement to decide what choices it is going to make to further the improvement in its economy. Nothing could be further from the truth than to suggest that the IMF in any way takes a role in suggesting that the poor, the hungry, the homeless, or the needy should bear the brunt of any of the stabilization programs.

Mr. President, I would hope, therefore, that we remember, as I said at the outset, that the IMF is not a foreign aid program but a world monetary institution. It is an institution in which members have mutual rights and obligations, and upon which the United States has drawn 23 times in the amount of $3.5 billion for balance-of-payments needs.

It would be a very grave error to begin, as I believe this amendment does, to start, the process of the politicization of this institution which, I believe, has served the international community and this country well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VETERANS' AND SURVIVORS PENSION IMPROVEMENTS ACT

### WAIVER OF PARAGRAPH 3 OF RULE XII

Mr. ROBERT C. BYRD. Mr. President, was paragraph 3 of rule XII waived on getting the final vote on S. 2384, the veterans' pension bill?

The PRESIDING OFFICER. No; the rule was not waived.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that paragraph be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of that bill, because we shall be voting on it in 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in the United States today there are 29.8 million men and women who are veterans of service in our Armed Forces; 26.2 million of these are veterans of wartime service. Since 1969, the welfare of these men and women has been a major concern and interest of the distinguished senior Senator from California, Mr. CRANSTON. Soon after his election to the Senate in 1968, Mr. CRANSTON became chairman of the Subcommittee on Veterans' Affairs of the Labor and Public Welfare Committee. He now serves as chairman of the full Committee on Veterans' Affairs, which performs, in a unified fashion, and legislative and oversight functions previously divided between three subcommittees of standing Senate committees.

Senator CRANSTON has been an eloquent spokesman for those who sacri-

ficed and endured hardship in the service of our country. He has been a diligent and effective legislator whose work has resulted in significant improvements in veterans' programs. Soon after his arrival in the Senate, he conducted an important series of hearings and investigations into the quality of medical care being provided to veterans of the Vietnam war. Although our country has had a longstanding commitment "to care for him who shall have borne the battle," these investigations revealed that our commitment to veterans of this era was not being fulfilled. As a direct result, major changes in veterans health and medical care programs were instituted.

Today the Senate considers another bill introduced by Senator CRANSTON: The Veterans' and Survivors' Pension Improvements Act. Early in December, Senator CRANSTON introduced, on his own behalf and that of the full membership of the Veterans Affairs Committee, a comprehensive bill to reform the Nation's pension program for needy wartime veterans and their survivors. At that time, significant attention and study had already been focused on inequities in the veterans' pension program. When introducing the measure, Senator CRANSTON noted that—

At present, hundreds of thousands of needy, elderly veterans and their survivors are cruelly and unfairly deprived of the full benefit of social security cost-of-living increases because the increases mean a reduction in a veterans' pension.

The measure before the Senate today, S. 2384, will go a long way toward erasing this and other inequities. Its provisions should assure that VA pensioners who are most in need will receive the greatest increase in benefits. The bill includes several inovations designed to guarantee that our veterans can live in dignity, and with some degree of financial security: A cost-of-living adjustment factor incorporated in the new pension program; a partial exclusion of work income which will do away with the existing disincentive to work. And this is a money saving, not an inflationary measure. Cost savings are expected to result from these reforms because benefits are targeted to the needy.

The bill will, I believe, help to achieve the goal stated at its introduction—to establish a minimum income standard "in order to permit veterans and their survivors to live in dignity." Our country can do no less, for we have promised not only to care "for him who shall have borne the battle" but also "to care for * * * his widow and his orphan."

I commend the chairman and the ranking minority member of the Veterans' Affairs Committee, and all its membership, for reminding us of our historic commitment, and for devoting their time and energy to the study of our complex and often archaic veterans' programs. Their work has produced a measure which gives substance to our promises.

In particular, this is an appropriate moment for me to thank the distinguished chairman, Mr. CRANSTON and the ranking minority member, Mr. STAFFORD, for their continued leadership in this area.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on H.R. 10173, as amended. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Utah (Mr. HATCH) are necessarily absent.

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—85

| | | |
|---|---|---|
| Abourezk | Garn | Morgan |
| Allen | Glenn | Moynihan |
| Baker | Gravel | Nelson |
| Bartlett | Hansen | Packwood |
| Bayh | Hart | Pearson |
| Bellmon | Hatfield, | Percy |
| Bentsen | Mark O. | Proxmire |
| Biden | Hatfield, | Ribicoff |
| Brooke | Paul G. | Riegle |
| Burdick | Hayakawa | Roth |
| Byrd, | Heinz | Sarbanes |
| Harry F., Jr. | Helms | Sasser |
| Byrd, Robert C. | Hodges | Schmitt |
| Danforth | Hollings | Schweiker |
| Cannon | Huddleston | Scott |
| Case | Jackson | Sparkman |
| Chafee | Javits | Stafford |
| Chiles | Kennedy | Stennis |
| Church | Laxalt | Stevens |
| Clark | Leahy | Stevenson |
| Cranston | Long | Stone |
| Culver | Lugar | Talmadge |
| Curtis | Magnuson | Thurmond |
| DeConcini | Mathias | Tower |
| Dole | Matsunaga | Wallop |
| Domenici | McClure | Weicker |
| Durkin | McGovern | Young |
| Eagleton | McIntyre | Zorinsky |
| Eastland | Melcher | |
| Ford | Metzenbaum | |

NAYS—0

NOT VOTING—15

| | | |
|---|---|---|
| Anderson | Hatch | Muskie |
| Bumpers | Hathaway | Nunn |
| Goldwater | Humphrey | Pell |
| Griffin | Inouye | Randolph |
| Haskell | Johnston | Williams |

So the bill (H.R. 10173), as amended, was passed, as follows:

TITLE I—IMPROVED PENSION FOR VETERANS AND SURVIVORS

SEC. 101. (a) Chapter 15 of title 38, United States Code, is amended by—

(1) redesignating subchapter IV as subchapter V and by renumbering sections 560, 561, and 562 as sections 571, 572, and 573, respectively; and

(2) inserting after subchapter III the following new subchapter IV:

"Subchapter IV—Improved Pension for Non-Service-Connected Disability or Death

"§ 561. Improved pension for veterans of a period of war

"(a) The Administration shall pay improved pension at the rate prescribed by this section to each veteran of a period of war who meets the service requirements of this section (as prescribed in subsection (h) of this section) and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct.

"(b) If the veteran is unmarried (or married but not living with or not reasonably contributing to the support of such veteran's spouse) and has no child to whose support the veteran is reasonably contributing, improved pension shall be paid to the veteran monthly at the annual rate of $3,240, unless the veteran is entitled to improved pension at the rate provided by paragraph (1) of subsection (d) of this section or by subsection (e) of this section, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse or has a child to whose support the veteran is reasonably contributing, improved pension shall be paid to the veteran monthly at the annual rate of $4,284, unless the veteran is entitled to improved pension at the rate provided by paragraph (2) of subsection (d) or by subsection (e) of this section. If a veteran who is entitled to improved pension at the rate provided for under this subsection has two or more such family members, the annual rate shall be increased by $660 for each such family member in excess of one. In each case, the rate payable shall be reduced by the amount of the veteran's annual income and the annual income of such family members.

"(d)(1) If the veteran is in need of regular aid and attendance, the annual rate of improved pension payable monthly to the veteran under subsection (b) of this section shall be $5,340, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the annual rate of improved pension payable monthly to the veteran under subsection (c) of this section shall be $6,384. If such veteran has two or more family members, as described in subsection (c) of this section, the annual improved pension rate shall be increased by $660 for each such family member in excess of one. In each case, the rate payable shall be reduced by the amount of the veteran's annual income and the annual income of such family members.

"(e) If the veteran has a disability rated as permanent and total and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for improved pension at the aid and attendance rate under subsection (d) of this section, the annual rate of improved pension payable monthly to the veteran under subsection (b) of this section shall be $4,016, and the annual rate of improved pension payable monthly to the veteran under subsection (c) of this section shall be $5,060. If such veteran has two or more family members, as described in subsection (c) of this section, the annual improved pension rate shall be increased by $660 for each such family member in excess of one. In each case, the rate payable shall be reduced by the

amount of the veteran's annual income and the annual income of such family members.

"(f) Where two veterans are married to one another and each meets the disability and service requirements of this section (as prescribed in subsections (a) and (h), respectively, of this section), the annual rates of improved pension payable monthly to such veterans shall be as provided in this subsection. The annual rate of improved pension payable monthly to such veterans shall be a combined annual rate of $4,284. If either veteran is in need of regular aid and attendance, such annual rate shall be $6,384. If both veterans are in need of regular aid and attendance, such annual rate shall be $8,484. If either veterans would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, such annual rate shall be $5,060. If both veterans would be entitled (if not married to one another) to such rate, such annual rate shall be $5,836. If one veteran is in need of regular aid and attendance and the other would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, such annual rate shall be $7,160. In each case, the annual rate shall be increased by $660 for each child to whose support either veteran is, or both veterans are, reasonably contributing and reduced by the amount of the annual income of both veterans and the annual income of each such child.

"(g) The amount of improved pension payable to any veteran under subsection (b), (c), (d), (e), or (f) of this section shall be increased by an amount equal to 25 per centum of the amount otherwise payable in the case of veterans of a period of war if veterans of such period of war were not provided educational benefits or home loan benefits similar to those provided to veterans of later periods of war under chapters 34 and 37, respectively, of this title or under prior corresponding provisions of law.

"(h) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

"(1) for ninety days or more during a period of war;

"(2) during a period of war and was discharged or released from such service for a service-connected disability;

"(3) for a period of ninety consecutive days or more and such period began or ended during a period of war; or

"(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

"(i)(1) The Administrator shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, rating for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

"(2) Where a veteran is found to be entitled under this section to improved pension and is also entitled to compensation for a service-connected disability, the Administrator shall pay such veteran only the greater benefit.

"(3) Where a veteran is found to be entitled under this section to improved pension on the basis of such veteran's own service and is also entitled to improved pension on the basis of any other person's service, the Administrator shall pay such veteran only the greater benefit.

"(j) Notwithstanding subsections (b), (c), (d), (e), and (f) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than 4 per centum of the maximum annual rate payable to a veteran under subsection (b) of this section.

"§ 562. Improved pension for surviving spouses of veterans of a period of war

"(a) The Administrator shall pay improved pension at the rate prescribed by this section to the surviving spouse of each veteran of a period of war who met the service requirements prescribed in section 561(h) of this title or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability.

"(b)(1) If there is no child, or if no child is in the custody of the surviving spouse, improved pension shall be paid to the surviving spouse monthly at the annual rate of $2,172, reduced by the amount of the surviving spouse's annual income.

"(2) If there is a surviving spouse who has custody of a child, improved pension shall be paid to the surviving spouse monthly at the annual rate of $2,868. If the surviving spouse has custody of two or more children, the annual improved pension rate shall be increased by $660 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and the annual income of such child or children.

"(c)(1)(A) If there is no child, or if the surviving spouse does not have custody of a child, and the surviving spouse is permanently and totally disabled from disability not the result of the surviving spouse's willful misconduct, improved pension shall be paid to such surviving spouse monthly at the annual rate of $3,240, reduced by the amount of such surviving spouse's annual income.

"(B) If such surviving spouse has custody of one or more children, improved pension shall be paid to the surviving spouse monthly at the annual rate of $4,284, increased by $660 for each child in excess of one, and reduced by the amount of the surviving spouse's annual income and the annual income of such child or children.

"(2) If there is a surviving spouse and (A) the surviving spouse has custody of a child six years of age or under, or (B) there is residing with the surviving spouse a child who, before attaining the age of eighteen years, became permanently incapable of self-support and depends upon the surviving spouse for over one-half of such child's support, improved pension shall be paid to such surviving spouse monthly at the annual rate of $4,284. If such surviving spouse has custody of one or more additional children, or if there is residing with the surviving spouse one or more additional children who so became permanently incapable of self-support and depend to such extent upon the surviving spouse for support, the annual improved pension rate shall be increased by $660 for each such additional child. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and the annual income of such child or children.

"(d)(1) If a surviving spouse who is entitled to improved pension under subsection (c)(1)(A) of this section is in need of regular aid and attendance, the annual rate of improved pension payable monthly to the surviving spouse thereunder shall be $5,340, reduced by the amount of the surviving spouse's annual income.

"(2) If a surviving spouse who is entitled to improved pension under subsection (c)(1)(B) of this section is in need of regular aid and attendance, the annual rate of improved pension payable monthly to the surviving spouse thereunder shall be $6,384. If there are two or more children in such surviving spouse's custody, the annual improved pension rate shall be increased by $660 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and the annual income of the child or children in the custody of the surviving spouse.

"(e) No improved pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—

"(1) before (A) March 4, 1917, in the case of a surviving spouse of an Indian war veteran, (B) January 1, 1938, in the case of a surviving spouse of a Spanish-American War veteran, (C) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (D) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (E) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (F) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran;

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(f) Notwithstanding subsections (b), (c) and (d) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than 4 per centum of the maximum annual rate payable to a veteran under section 561(b) of this title.

"§ 563. Improved pension for surviving children of veterans of a period of war

"(a) The Administrator shall pay to each surviving child, who is not in the custody of a surviving spouse eligible for improved pension under section 562 of this title and who is not a child described in section 562(c)(2)(B) of this title for whom a surviving spouse is receiving increased improved pension, of each veteran of a period of war who met the service requirements prescribed in section 561(h) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, improved pension monthly (1) at the annual rate of $660, reduced by the amount of such child's annual income, or (2) if such child is residing with a person or persons legally responsible for such child's support under the laws of the State in which such child resides, at an annual rate equal to the amount by which the appropriate annual rate provided under section 562 of this title exceeds the annual income of such child and such person or persons, but in no event exceeding the amount by which $660 exceeds the annual income of such child. The appropriate annual rate under such section shall be determined in accordance with regulations which the Administrator shall prescribe, and the income of such child and such person or persons shall be determined in accordance with the provisions of section 564 of this title.

"(b) Notwithstanding subsection (a) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than 4 per centum of the maximum annual rate payable to a veteran under section 561(b) of this title.

"§ 564. Determinations with respect to annual income; income exclusions

"(a) In determining annual income under this subchapter, all payments of any kind or from any source (including such salary, retirement or annuity payments, or similar income as has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise; but not including improved pension benefits un-

der this subchapter) shall be included except for—

"(1) donations from public or private relief or welfare organizations;

"(2) amounts equal to amounts paid by a spouse for the expenses of a veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

"(A) the veteran's just debts,

"(B) the expenses of the veteran's last illness, and

"(C) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(3) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of the veteran's deceased spouse or child, or

"(B) by a spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;

"(4) proceeds of fire insurance policies;

"(5) profit realized from the disposition of real or personal property other than in the course of a business;

"(6) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(7)(A) except as provided in subclause (B) of this clause, $780, plus one-half of the amount which exceeds $780, of (i) the current-work income of the veteran and the veteran's spouse and, subject to the exclusions set forth in subclause (C) of this clause, of any child or children for whom the veteran is receiving increased improved pension under section 561 (c), (d), (e), or (f) of this title, (ii) the current-work income of the surviving spouse and, subject to the exclusions set forth in subclause (C) of this clause, of any child or children for whom the surviving spouse is receiving increased improved pension under section 562 (b), (c), or (d) of this title, or (iii) subject to the exclusions set forth in subclause (C) of this clause, the current-work income of each surviving child receiving improved pension under section 563 of this title;

"(B) in the case of a veteran or surviving spouse in need of regular aid and attendance, $1,560, plus one-half of the amount which exceeds $1,560, of (i) the current-work income of the veteran and the veteran's spouse and, subject to the exclusions set forth in subclause (C) of this clause, of any child or children for whom the veteran is receiving increased improved pension under section 561 (c), (d), (e), or (f) of this title, or (ii) the current-work income of the surviving spouse and, subject to the exclusions set forth in subclause (C) of this clause, of any child or children for whom the surviving spouse is receiving increased improved pension under section 562(d)(2) of this title; and

"(C)(i) any current-work income of any child, including any surviving child, so long as such child is not required, by virtue of the amount of such income, to file an income tax return under the provisions of section 6012(a)(1)(A)(i) of the Internal Revenue Code of 1954 (26 U.S.C. 6012(a)(1)(A)(i)), to the extent that such current-work income does not exceed the amount specified in such section; and

"(ii) any current-work income of any child, including any surviving child, who is pursuing a postsecondary course of education or vocational rehabilitation or training, to the extent of amounts paid by such child in the previous calendar year for such course of education or vocational rehabilitation or training, including amounts paid for tuition, fees, books, and materials;

"(8) amounts equal to amounts paid in the previous calendar year by the veteran, the veteran's spouse, the surviving spouse, or by or on behalf of the surviving child or children for unreimbursed medical expenses to the extent that—

"(A) such amounts exceed the lesser of—

"(i) $100, or

"(ii) 5 percent of the annual income of the veteran, the surviving spouse, or the surviving child or children (including the income of any person or persons with whom such child is residing if such person or persons are legally responsible for such child's support under the laws of the State in which such child resides), as the case may be, and

"(B) the Administrator determines, under regulations which the Administrator shall prescribe, that such expenses were reasonably necessary for the health needs of—

"(i) the veteran,

"(ii) the veteran's spouse or children for whom the veteran is receiving increased improved pension under section 561 (c), (d), (e), or (f) of this title,

"(iii) the surviving spouse,

"(iv) any child or children for whom the surviving spouse is receiving increased improved pension under section 562 (b), (c), or (d) of this title, or

"(v) the surviving child or children;

but, if the Administrator, has determined that adequate health-care services of the same kind as those for which an exclusion had been granted in a previous year were readily available at a facility operated by the Veterans' Administration, expenses for health-care services incurred more than thirty days after the Administrator has notified the veteran, surviving spouse, or surviving child or children, as appropriate, of the Administrator's determination shall not be taken into consideration in determining the amount excludable under this clause if the Administrator further determines that adequate health-care services of the same kind continued to be so available during the period in which such expenses were incurred;

"(9) in the case of a veteran or surviving spouse in need of regular aid and attendance, amounts equal to amounts paid in the previous calendar year by such veteran or surviving spouse for unreimbursed expenses incurred for travel to and from such veteran's or surviving spouse's place of employment, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation if reasonably available) for such travel; and

"(10) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid in the previous calendar year by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including amounts paid for tuition, fees, books, and materials, and in the case of a veteran or surviving spouse in need of regular aid and attendance, amounts paid for unusual transportation expenses (determined in the same manner as in clause (9) of this subsection).

"(b)(1) Before applying any of the exclusions from annual income provided for under clause (7) of subsection (a) of this section, the Administrator shall apply, first to income other than current-work income and next to current-work income, all of the exclusions from annual income provided for under clauses (1) through (6) and (8) through (10) of such subsection.

"(2) In the case of a child, including a surviving child, the Administrator shall apply the exclusions from annual income provided for under subsection (a)(7)(C) of this section before applying any exclusion provided for under subsection (a)(7)(A) or (B), as the case may be, of this section.

"(3) The exclusions from annual income which are provided for in clause (7) of subsection (a) of this section shall apply to all current-work income not otherwise excluded under this section.

"(c) A veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

"(d) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar amount.

"(e) As used in this section, the term 'current-work income' means any income which is earned income within the meaning of section 401(c)(2)(A) and section 911(b) of the Internal Revenue Code of 1954 (26 U.S.C. 401(c)(2)(A) and 911(b)).

"§ 565. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of imported pension to a veteran under section 561 of this title when the corpus of the estate or estates of the veteran, the veteran's spouse, if any, and any child or children for whom the veteran is receiving increased improved pension under subsection (c), (d), (e), or (f) of section 561 of this title, is such that under all the circumstances, including consideration of the veteran's income, it is reasonable that some part of the corpus of such estate or estates be consumed for the veteran's maintenance, excluding from the corpus of the estate of such child or children reasonable amounts set aside for educational or other similarly worthwhile vocational purposes for the benefit of such child or children.

"(b) The Administrator shall deny or discontinue payment of improved pension to a surviving spouse under section 562 of this title when the corpus of the estate or estates of the surviving spouse and any child or children for whom the surviving spouse is receiving increased improved pension under subsection (b), (c), or (d) of section 562 of this title, is such that under all the circumstances, including consideration of the surviving spouse's income, it is reasonable that some part of the corpus of such estate or estates be consumed for the surviving spouse's maintenance, excluding from the corpus of the estate of such child or children reasonable amounts set aside for educational or other similarly worthwhile vocational purposes for the benefit of such child or children.

"(c) The Administrator shall deny or discontinue payment of improved pension to a surviving child under section 563 of this title when the corpus of the estate of the surviving child is such that under all the circumstances, including consideration of such child's income, the income of a person (or persons) with whom such child is residing who is legally responsible for such child's support under the laws of the State in which such child resides, and the corpus of the estate of such person (or persons), it is reasonable that some part of the corpus of such estate or estates be consumed for the surviving child's maintenance, excluding from the corpus of the estate of such child reasonable amounts set aside for educational or other similarly worthwhile vocational purposes for the benefit of such child.

"§ 566. Election of improved pension benefits

"Except as provided in section 508 of this title, any veteran receiving pension under section 521 of this title, any surviving spouse receiving pension under section 541 of this title, any child receiving pension under section 542 of this title, and any veteran, surviving spouse, or child receiving pension under section 9(b) of the Veterans' Pension Act of 1959 may elect at any time to receive improved pension under this subchapter in lieu of pension payable to such veteran, surviving spouse, or child under any such section. If at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.

"§ 567. Definitions

"For purposes of this subchapter—

"(1) The term 'child' means the veteran's child.

"(2) The term 'veteran' includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty."

(b) The table of sections at the beginning of chapter 15 of such title is amended by striking out

"Subchapter IV—Army, Navy, Air Force, and Coast Guard Medal of Honor Roll

"560. Medal of honor roll; persons eligible.
"561. Certificate.
"562. Special provisions relating to pension."

and inserting in lieu thereof

"Subchapter IV—Improved Pension for Non-Service-Connected Disability or Death

"561. Improved pension for veterans of a period of war.
"562. Improved pension for surviving spouses of veterans of a period of war.
"563. Improved pension for surviving children of veterans of a period of war.
"564. Determinations with respect to annual income; income exclusions.
"565. Net worth limitation.
"566. Election of improved pension benefits.
"567. Definitions.

"Subchapter V—Army, Navy, Air Force, and Coast Guard Medal of Honor Roll

"571. Medal of honor roll; persons eligible.
"572. Certificate.
"573. Special provisions relating to pension.".

(c) Subsection (a) of section 503 of such title is amended by striking out "In determining annual income under this chapter," and inserting in lieu thereof "In determining annual income under subchapters II and III of this chapter,".

(d) Section 504 of such title is amended by striking out "and III" and inserting in lieu thereof a comma and "III, and IV".

(e) Section 506 of such title is amended by—

(1) redesignating subsection (b) as subsection (c);

(2) inserting after subsection (a) the following new subsection (b):

"(b) As a condition of granting or continuing improved pension under section 561, 562, or 563 of this title, the Administrator—

"(1) may require from any person applying for, or in receipt of, improved pension such information, proofs, or evidence as the Administrator determines to be necessary in order to determine the annual income and the corpus of the estate of such person, and of any spouse and child for whom the person is receiving or is to receive increased improved pension, and, in the case of a surviving child, of any person with whom such child is residing who is legally responsible for such child's support under the laws of the State in which the child resides;

"(2) shall require that any such applicant or recipient, other than a person in any category of persons whose sole incomes are regularly received and derived from a Federal program and who are exempted from the requirements of this clause under regulations which the Administrator shall prescribe, file each year with the Veterans' Administration (on the form prescribed for such purpose by the Administrator) a report showing—

"(A) the total income which such applicant or recipient (and any such spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support under the laws of the State in which such child resides;

"(B) such applicant's or recipient's estimate for the then current year of the total income such applicant or recipient (and any such spouse or dependent child) expects to receive and of any expected increase in the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child); and

"(C) in the case of a surviving child, the total income of any person with whom such child is residing who is legally responsible for such child's support under the laws of the State in which such child resides and of any expected increase in the corpus of the estate of such person;

"(3) shall require that any such applicant or recipient promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or recipient (or of any such spouse or dependent child) or a material change in such applicant's or recipient's estimate of the corpus of the estate of such applicant or recipient (or of any such spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support under the laws of the State in which such child resides; and

"(4) shall require that any such applicant or recipient promptly notify the Administrator of any change in the dependency status of any spouse or child for whom such applicant or recipient is receiving or is to receive increased improved pension."; and

(3) amending subsection (c) (as redesignated by clause (1) of this subsection) by striking out "or 542" and inserting in lieu thereof "542, 561, 562, or 563".

(f) Section 507 of such title is amended by inserting "or IV" after "subchapter II".

(g) Paragraph (3) of section 512(a) of such title is amended to read as follows:

"(3)(A) Except as provided in section 508 of this title, any veteran eligible for pension under this section shall, if such veteran so elects, be paid, in lieu of pension under this section or section 521 of this title, improved pension at the rates prescribed by section 561 of this title and under the conditions (other than the service requirements) applicable to improved pension paid under such section 561. Notwithstanding subparagraph (B) of this paragraph, if at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.

"(B) In the case of any veteran of the Spanish-American War who is receiving, or entitled to receive, pension based on a need for regular aid and attendance, the Administrator shall pay monthly to such veteran pension at the rate which (i) is provided for under subsection (a)(1)(B) of this section, or (ii) would be payable to such veteran if such veteran were receiving pension under section 521 of this title, whichever is the greater. Each change in the amount of pension payment required by this subparagraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.".

(h) Section 521 of such title is amended by inserting at the end thereof the following new subsection:

"(i)(1) Except as provided in section 508 of this title, no veteran who makes application for and becomes entitled to pension on or after the effective date of the improved pension program provided for under section 561 of this title may be paid pension under this section.

"(2) Any veteran who made application for pension under this section prior to such effective date may be paid pension under this section if (A) the Administrator determines, after such date, that such veteran is entitled, on the basis of such application, to pension, and (B) such veteran elects to receive pension under this section in lieu of improved pension under section 561 of this title.".

(i) Section 532 of such title is amended by inserting at the end thereof the following new subsection:

"(e) Any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid, in lieu of pension at the dates prescribed by section 562 of this title and under the conditions (other than the service requirements) applicable under such section 562 to surviving spouses of veterans of a period of war. If at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.".

(j) Section 533 of such title is amended by inserting "(a)" before "Whenever" and inserting at the end thereof the following new subsection:

"(b) Any child eligible for pension under this section shall, if such child so elects, be paid, in lieu of pension under this section or section 542 of this title, improved pension at the rate prescribed by section 563 of this title and under the conditions (other than the service requirements) applicable under such section 563 to children of veterans of a period of war. If at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.".

(k) Section 534 of such title is amended by inserting at the end thereof the following new subsection:

"(d) Any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid, in lieu of pension under this section or section 541 of this title, improved pension at the rates prescribed by section 562 of this title and under the conditions (other than the service requirements) applicable under such section 562 to surviving spouses of veterans of a period of war. If at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.".

(l) Section 535 of such title is amended by inserting "(a)" before "Whenever" and inserting at the end thereof the following new subsection:

"(b) Any child eligible for pension under this section shall, if such child so elects, be paid, in lieu of pension under this section or section 542 of this title, improved pension at the rate prescribed by section 563 of this title and under the conditions (other than the service requirements) applicable under such section 563 to children of veterans of a period of war. If at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.".

(m) Paragraph (1) of section 536(d) of such title is amended to read as follows:

"(1) Except as provided in section 508 of this title, any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid, in lieu of pension under this section or section 541 of this title, improved pension at the rates prescribed by section 562 of this title and under the conditions (other than the service requirements) applicable under such section 562 to surviving spouses of veterans of a period of war. Notwithstanding paragraph (2) of this subsection, if at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.".

(n) Section 537 of such title is amended by inserting "(a)" before "Whenever" and inserting at the end thereof the following new subsection:

"(b) Except as provided in section 508 of this title, any child eligible for pension under this section shall, if such child so elects, be paid, in lieu of pension under this section or section 542 of this title, improved pension at the rate prescribed by section 563 of this title and under the conditions (other than the service requirements) applicable under such section 563 to children of veterans of a period of war. If at any time improved pension is paid pursuant to such an election, the election shall be irrevocable.".

(o) Section 541 of such title is amended by inserting at the end thereof the following new subsection:

"(g)(1) Except as provided in section 508 of this title, no surviving spouse who makes application for and becomes entitled to pension on or after the effective date of the improved pension program provided for under section 562 of this title may be paid pension under this section.

"(2) Any surviving spouse who made application for pension under this section prior to such effective date may be paid pension under this section if (A) the Administrator determines, after such date, that such surviving spouse is entitled, on the basis of such application, to pension, and (B) such surviving spouse elects to receive pension under this section in lieu of improved pension under section 562 of this title.".

(p) Section 542 of such title is amended by inserting at the end thereof the following new subsection:

"(d)(1) Except as provided in section 508 of this title, no surviving child, not in the custody of a surviving spouse eligible for pension under section 541 of this title or improved pension under section 562 of this title, who makes application for and becomes entitled to pension on or after the effective date of the improved pension program provided for under section 563 of this title may be paid pension under this section.

"(2) Any surviving child, not in the custody of a surviving spouse eligible for improved pension under section 562 of this title, who made application for pension under this section prior to such effective date may be paid pension under this section if (A) the Administrator determines, after such date, that such surviving child is entitled, on the basis of such application, to pension, and (B) such child elects to receive pension under this section in lieu of improved pension under section 563 of this title.".

(q)(1) The first sentence of subsection (c) of section 571 (as redesignated by subsection (a)(1) of this section) of such title is amended by striking out "562" and inserting in lieu thereof "573".

(2) The second sentence of subsection (a) of section 572 (as redesignated by subsection (a)(1) of this section) of such title is amended by striking out "560" and inserting in lieu thereof "571".

(3) Subsection (b) of section 572 (as redesignated by subsection (a)(1) of this section) of such title is amended by striking out "562" and inserting in lieu thereof "573".

(4) The first sentence of subsection (c) of section 572 (as redesignated by subsection (a)(1) of this section) of such title is amended by striking out "562" and inserting in lieu thereof "573".

(5) Subsection (a) of section 573 (as redesignated by subsection (a)(1) of this section) of such title is amended by striking out "561" and "560" and inserting in lieu thereof "572" and "571", respectively.

TITLE II—IMPROVED DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

SEC. 201. (a) Chapter 13 of title 38, United States Code, is amended by—

(1) inserting "(1)" before "The" in section 401 and inserting at the end of such section the following new paragraph:

"(2) The term 'dependency and indemnity compensation' as used in sections 410, 417, and 418 of this chapter includes improved dependency and indemnity compensation as provided for under section 416 of this chapter.";

(2) redesignating sections 416 and 417 as sections 417 and 418, respectively;

(3) inserting at the end of section 415 the following new subsection:

"(i)(1) Except as provided in paragraph (4) of this subsection, no parent who makes application for and becomes entitled to dependency and indemnity compensation on or after the effective date of the improved dependency and indemnity compensation program provided for under section 416 of this title may be paid dependency and indemnity compensation under this section.

"(2) Any parent who made application under this section prior to such effective date may be paid dependency and indemnity compensation under this section if (A) the Administrator determines, after such date, that such parent is entitled, on the basis of such application, to dependency and indemnity compensation, and (B) such parent elects to receive dependency and indemnity compensation under this section in lieu of improved dependency and indemnity compensation under section 416 of this title.

"(3) Except as provided in subsection (g) of section 416 of this title, any parent receiving dependency and indemnity compensation benefits under this chapter and any parent receiving death compensation benefits under subchapter III or V of chapter 11 of this title who meets the eligibility requirements of the improved dependency and indemnity compensation program provided for under section 416 of this title may elect at any time to receive improved dependency and indemnity compensation under such section 416 in lieu of such dependency and indemnity compensation under this chapter or death compensation under either such subchapter. If at any time improved dependency and indemnity compensation is paid pursuant to such an election, the election shall be irrevocable.

"(4) Any parent residing outside the fifty States and the District of Columbia on the effective date of the improved dependency and indemnity compensation program provided for under section 416 of this title who becomes eligible for dependency and indemnity compensation on or after such date shall be eligible, but only as long as such parent continuously resides outside the fifty States and the District of Columbia after such date and such parent qualifies for benefits under this section, to apply for and receive benefits under this section."; and

(4) inserting after section 415 the following new section 416:

"§ 416. Improved dependency and indemnity compensation to parents

"(a) Improved dependency and indemnity compensation shall be paid to the parent or parents of a deceased veteran at the rate prescribed by this section if during the one-year period immediately preceding such veteran's death the veteran contributed one-half or more to the support of such parent or parents.

"(b) If there is only one parent, or there are two parents living apart, improved dependency and indemnity compensation shall be paid to such parent or to each such parent monthly at the annual rate of $3,240, unless such parent (or parents) is entitled to improved dependency and indemnity compensation at the rate provided by subsection (d) of this section, reduced by the amount of such parent's or each such parent's income and the income of the spouse of a remarried parent, if such parent is living with such spouse, to the extent that such spouse's income is reasonably available to or for such parent.

"(c) If there are two parents living together, improved dependency and indemnity compensation shall be paid to such parents monthly at the annual rate of $4,284, reduced by the amount of such parents' annual income.

"(d)(1) If a parent entitled to improved dependency and indemnity compensation under subsection (b) of this section is in need of regular aid and attendance, the annual rate of improved dependency and indemnity compensation payable monthly to such parent shall be $5,340, reduced by the amount of such parent's annual income and the income of the spouse of a remarried parent, if such parent is living with such spouse, to the extent that such spouse's income is reasonably available to or for such parent.

"(2) If there are two parents living together who are entitled to improved dependency and indemnity compensation under subsection (c) of this section and one parent is in need of regular aid and attendance, the annual rate of improved dependency and indemnity compensation payable monthly to such parents shall be $6,384. If both such parents are in such need of regular aid and attendance, the annual rate payable monthly to such parents shall be $8,484. The rate payable shall be reduced by the amount of the parents' annual income.

"(e)(1) Where a parent is found to be entitled to improved dependency and indemnity compensation under this section and such parent is also entitled to improved pension under section 561, 562, or 563 of this title, the Administrator shall pay such parent only the greater benefit.

"(2) Where a parent is found to be entitled to improved dependency and indemnity compensation under this section and such parent is also a veteran entitled to compensation for a service-connected disability, the Administrator shall pay such parent only the greater benefit.

"(f) Notwithstanding subsections (b), (c), and (d) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than 4 per centum of the maximum annual rate payable to a parent under subsection (b) of this section.

"(g) Improved dependency and indemnity compensation benefits payable under this section shall not be paid to any person residing outside the fifty States and the District of Columbia.

"(h)(1) In determining annual income under this section, all payments of any kind or from any source (including such salary, retirement or annuity payments, or similar income as has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise; but not including improved dependency and indemnity compensation benefits under this section) shall be included except—

"(A) donations from public or private relief or welfare organizations;

"(B) amounts equal to amounts paid by a parent for the expenses of a veteran's last illness, and by a parent of a deceased veteran for—

"(i) the veteran's just debts,

"(ii) the expenses of the veteran's last illness, and

"(iii) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(C) amounts equal to amounts paid by a parent for the last illness and burial of the parent's deceased spouse;

"(D) proceeds of fire insurance policies;

"(E) profit realized from the disposition of real or personal property other than in the course of a business;

"(F) amounts in joint accounts in banks and similar institutions acquired by reason of the death of the other joint owner;

"(G)(i) except as provided in subclause (ii) of this clause, $780, plus one-half of the amount which exceeds $780, of (I) the current-work income of such parent or parents, and (II) in the case of a parent who has remarried, the current-work income of such parent and such parent's spouse with whom such parent is living; or

"(ii) in the case of a parent in need of regular aid and attendance, $1,560, plus one-half of the amount which exceeds $1,560, of (I) the current-work income of such parent

or parents, and (II) in the case of a parent who has remarried, the current-work income of such parent and such parent's spouse with whom such parent is living;

"(H) amounts equal to amounts paid in the previous calendar year by a parent for unreimbursed medical expenses which exceed the lesser of (i) $100, or (ii) 5 per centum of the annual income of the parent, parents, or, in the case of a parent who has remarried, the annual income of such parent and such parent's spouse with whom such parent is living, to the extent that the Administrator determines, under regulations which the Administrator shall prescribe, that such expenses were reasonably necessary for the health needs of the parent or parents; illness,

"(I) in the case of a parent in need of regular aid and attendance, amounts equal to amounts paid in the previous calendar year by such parent for unreimbursed expenses incurred for travel to and from such parent's place of employment, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation if reasonably available) for such travel; and

"(J) in the case of a parent pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid in the previous calendar year by such parent for such course of education or vocational rehabilitation or training, including amounts paid for tuition, fees, books, and materials, and in the case of a parent in need of regular aid and attendance, amounts paid for unusual transportation expenses (determined in the same manner as in clause (I) of this paragraph).

"(2)(A) Before applying any of the exclusions from annual income provided for under clause (G) of paragraph (1) of this subsection, the Administrator shall apply all of the exclusions from annual income provided for under clauses (A) through (F) and (H) through (J) of such paragraph, first to income other than current-work income and next to current-work income.

"(B) The exclusions from annual income which are provided for in clause (G) of paragraph (1) of this subsection shall apply to all current-work income not otherwise excluded under this subsection.

"(i) A parent shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

"(j) As used in subsection (h) of this section, the term 'current-work income' means any income which is earned income within the meaning of section 401(c)(2)(A) and section 911(b) of the Internal Revenue Code of 1954 (26 U.S.C. 401(c)(2)(A) and 911(b)).

"(k) The Administrator shall deny or discontinue payment of improved dependency and indemnity compensation to a parent under this section when the corpus of the estate or estates of the parent, the parents, and the spouse of a remarried parent with whom such parent is living, is such that under all the circumstances, including the consideration of such parent's, parent's, or spouse's income, it is reasonable that some part of the corpus of such estate or estates be consumed for the parent's or parents' maintenance.

"(l) As a condition of granting or continuing improved dependency and indemnity compensation under this section, the Administrator—

"(1) may require from any parent applying for, or in receipt of, improved dependency and indemnity compensation such information, proofs, or evidence as the Administrator determines to be necessary in order to determine the annual income and the corpus of the estate of such parent;

"(2) shall require that any such parent, other than a person in any category of persons whose sole income is regularly received and derived from a Federal program and who are exempted from the requirements of this clause under regulations which the Administrator shall prescribe, file each year with the Veterans' Administration (on the form prescribed for such purpose by the Administrator) a report showing (A) the total income which such parent received (and in the case of a remarried parent, the total income which such remarried parent's spouse received) during the preceding year, and the corpus of the estate of such parent (and in the case of a remarried parent, the corpus of the estate of such remarried parent's spouse) at the end of that year, and (B) such parent's estimate for the then current year of the total income such parent expects to receive (and in the case of a remarried parent, the total income which such remarried parent's spouse expects to receive) and of any expected increase in the corpus of the estate of such parent (and in the case of a remarried parent, any expected increase in the corpus of the estate of such remarried parent's spouse); and

"(3) shall require that any such parent promptly file a revised report whenever there is a material change in the estimated annual income of such parent (or such spouse) or a material change in such parent's estimate of the corpus of the estate of such parent (or such spouse).

"(m) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar amount.

"(n) If the Administrator ascertains that there have been overpayments to a parent under this section, the Administrator shall deduct such overpayments (unless waived) from any future payments made to such parent under this section.".

(b) The table of sections at the beginning of chapter 13 of such title is amended by striking out

"416. Dependency and indemnity compensation in cases of prior deaths.
"417. Restriction on payments under this chapter."

and inserting in lieu thereof

"416. Improved dependency and indemnity compensation to parents.
"417. Dependency and indemnity compensation in cases of prior deaths.
"418. Restrictions on payments under this chapter.".

(c) Paragraph (2) of section 417(a) (as redesignated by subsection (a)(2) of this section) of such title is amended to read as follows:

"(2) Except as provided in subsection (g) of section 416 of this title, any parent receiving death compensation under subchapter III or V of chapter 11 of this title by reason of a death occurring before January 1, 1957, shall, if such parent so elects, be paid improved dependency and indemnity compensation at the rates prescribed by section 416 of this title and under the conditions applicable under that section to parents of veterans who deaths occurred on or after January 1, 1957. If at any time improved dependency and indemnity compensation is paid pursuant to such an election, the election shall be irrevocable".

## TITLE III—MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

SEC. 301. Paragraph (14) of section 101 of title 38, United States Code, is amended by inserting "or other periodic" after "monthly".

SEC. 302. Paragraph (15) of section 101 of title 38, United States Code, is amended by inserting "or other periodic" after "monthly".

SEC. 303. Clause (4) of subsection (b) of section 3012 of title 38, United States Code is amended to read as follows:

"(4) by reason of change in income or corpus of estate shall be the last day of the calendar year in which the change occurred, except that such effective date shall be the last day of the month in which the change occurred for persons receiving payments under section 416, 561, 562, or 563 of this title;".

SEC. 304. (a) Chapter 53 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates and income exclusions

"(a) Whenever, in any calendar year after 1978, benefit payments under title II of the Social Security Act are increased by a percentage effective with any month as a result of a determination made under section 215(i) of such Act, each of the dollar amounts in effect for such month for benefits payable under sections 416, 561, 562, and 563 of this title and each of the dollar amounts shown in subsection (h)(1)(G) of section 416 and subsection (a)(7) of section 564 of this title, as specified in such sections or subsections or as previously increased under this section, shall be increased by the same percentage (and rounded in such manner as the Administrator deems equitable and appropriate), effective beginning with benefits payable for such month; and such dollar amounts so increased shall be published in the Federal Register at the same time as the material required by section 215(a)(2)(D) of the Social Security Act to be published therein by reason of a determination under such section 215(i).

"(b) Notwithstanding any other provision of law, whenever benefit rates payable under sections 416, 561, 562, and 563 of this title are adjusted in accordance with subsection (a) of this section, the Administrator shall recompute the amount of annual improved pension payable to each veteran, surviving spouse, and surviving child, and the amount of annual improved dependency and indemnity compensation payable to each surviving parent, who is also entitled to receive payments under any other Federal program or programs, the rates of which are adjusted as a result of a determination made under section 215(i) of the Social Security Act. Any such recomputation shall be made on the basis of the annual rate of payments to a veteran, surviving spouse, surviving child, or surviving parent under such other Federal program or programs, as increased as a result of the determination made under section 215(i) of the Social Security Act; and the benefit rates recomputed under this subsection shall become effective beginning with the first month in which both the increase in benefit rates payable under sections 416, 561, 562, and 563 of this title and the increase in payments under such other Federal program or programs are effective.".

(b) The table of sections at the beginning of chapter 53 of such title is amended by inserting

"3112. Annual adjustment of certain benefit rates and income exclusions."

below

"3111. Prohibition of certain benefit payments.".

SEC. 305. (a) In any case in which any person is receiving, on the effective date of this Act, pension under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, or dependency and indemnity compensation under chapter 13 of such title, and such person, on or before the last day of the third calendar month following the month in which this Act became effective, elects to receive improved pension or improved dependency and indemnity compensation provided for in the amendments made by this Act, the Administrator of Veterans' Affairs shall pay such person improved pension or improved de-

pendency and indemnity compensation benefits retroactive to the effective date of this Act to the extent that payments under such improved pension program or improved dependency and indemnity compensation program, as the case may be, exceed pension or dependency and indemnity compensation benefits actually paid to such person.

(b) Nothing in the amendments made by this Act shall affect the eligibility of any person who is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, or dependency and indemnity compensation under chapter 13 of title 38, United States Code, as in effect on the day before the effective date of this Act, to continue to receive pension or dependency and indemnity compensation under such section or such chapter as long as such person continues to qualify under such section or such chapter for such pension or dependency and indemnity compensation, as the case may be. The preceding sentence shall not apply in the case of any person for any period on and after the date on which such person is granted, pursuant to the application of such person, improved pension benefits under section 561, 562, or 563 of title 38, United States Code, or improved dependency and indemnity compensation under section 416 of such title, as amended by this Act.

SEC. 306. (a) Chapter 15 of title 38, United States Code, is amended by inserting after section 507 the following new section:

"§ 508. Special provision relating to persons residing outside the fifty States and the District of Columbia

"(a) Improved pension benefits provided for under subchapter IV of this chapter may not be paid to any person residing outside the fifty States and the District of Columbia.

"(b) Any person residing outside the fifty States and the District of Columbia on the effective date of this section who becomes eligible for pension on or after such date shall be eligible, but only as long as such person continuously resides outside the fifty States and the District of Columbia after such date and such person qualifies for benefits under subchapter II or III of this chapter, to apply for and receive benefits under section 521 in the case of a veteran, under section 541 in the case of a surviving spouse, or under section 542 in the case of a surviving child.".

(b) The table of sections at the beginning of chapter 15 of such title is amended by inserting

"508. Special provision relating to persons residing outside the fifty States and the District of Columbia."

below

"507 Disappearance.".

(c)(1) The Administrator of Veterans' Affairs shall carry out a comprehensive study of the income characteristics of veterans of a period of war (as defined in section 101 (11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia, including those who are receiving pension benefits under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959. The Administrator shall include in such study (A) an analysis of the issues involved in the payment of non-service-connected pension benefits to such persons, (B) analyses of such aspects of the economy of each foreign country and each territory, possession, and Commonwealth of the United States in which a substantial number of such persons reside as are relevant to such issues, such as the rate of inflation, the standard of living, and subsistence levels in such foreign country or such territory, possession, or Commonwealth, (C) estimates of the present and future costs of the payment of pension benefits to such persons, and (D) estimates of the potential costs of paying improved pension benefits to such persons.

(2) The Administrator of Veterans' Affairs shall report to the Congress and the President, not later than February 1, 1979, the results of such study, together with the Administrator's recommendations as to the desirability of modifying the Veterans' Administration non-service-connected pension program for veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia and of extending eligibility for improved pension benefits (as provided for in sections 561, 562, and 563 of such title, as added by section 101(a)(2) of this Act) to such veterans and survivors, including recommendations as to the desirability of modifying such improved pension program for such persons if such eligibility were to be extended.

SEC. 307. Paragraph (1) of section 3203(a) of title 38, United States Code, is amended to read as follows:

"(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care.

"(B) Where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after (i) the end of the third full calendar month following the month of admission for such care, or (ii) the end of the sixth full calendar month following the month of admission for care in any case in which the Administrator finds that the receipt of pension benefits (to which the veteran is otherwise entitled) for three additional months will reasonably facilitate such veteran's ability to return to the community.

"(C) No pension in excess of $60 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Veterans' Administration if such veteran is readmitted within six months of a period of care of not less than two full calendar months.".

SEC. 308. (a) Section 1682(b) of title 38, United States Code, is amended by—

(1) amending clause (6) to read as follows:

"(6) such application was filed with the administrator within 180 days after the date on which the degree, diploma, or certificate described in clause (5) of this subsection has been awarded to such veteran; and";

(2) striking out the semicolon and the word "and" at the end of clause (7) and inserting in lieu thereof a period; and

(3) striking out all of clause (8).

(b) The first sentence of section 1682A(c) of such title is amended by striking out "and matching amounts paid to the Administrator by a State or local governmental unit, as described in subsection (b)(8) of this section.".

(c) Section 1682A(d) of such title is amended by—

(1) striking out "33⅓ per centum" in clause (2) and inserting in lieu thereof "66⅔ per centum";

(2) inserting "or" at the end of clause (2);

(3) striking out "33⅓ per centum" in clause (3) and inserting in lieu thereof "66⅔ per centum"; and

(4) striking out the comma after "8700" in clause (3) and all that follows down through the word "amount" in clause (4).

(d) The amendments made by this section shall not create spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (Public Law 93-344). The amendments made by this section shall not take effect until, and only to the extent that, funds for the purpose of carrying out such amendments are specifically earmarked for such purpose in an appropriations Act enacted in the 96th or a later Congress.

SEC. 309. The Director, Office of Management and Budget shall prepare and submit to the Congress, not later than one year after the date of enactment of this act, a written report containing the following:

(1) A description of how the Veterans Administration and the Social Security Administration currently coordinate the delivery of Veterans' pension benefits, Social Security retirement and disability benefits, and Supplemental Security Income benefits to elderly and disabled persons.

(2) Recommendations for improving coordination among the programs referred to in paragraph (1), including legislation which would facilitate such improvement.

(3) A description of inconsistencies, inequities, and/or undesirable features in the treatment of needy persons under the programs referred to in paragraph (1).

(4) An assessment of the feasibility and desirability of reconciling unjustifiable differences among the programs referred to in paragraph (1) in terms of features such as: benefit structure, income counted in determining eligibility and the amount of benefits, limitations as assets, accounting period for determining eligibility, and other program feature.

TITLE IV—NAMING OF CERTAIN VETERANS' ADMINISTRATION HOSPITALS

SEC. 401. The Veterans' Administration hospital in Tampa, Florida, shall hereafter be known and designated as the "James A. Haley Veterans' Hospital". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the James A. Haley Veterans' Hospital.

SEC. 402. The Veterans' Administration hospital in Bedford, Massachusetts, shall hereafter be known and designated as the "Edith Nourse Rogers Memorial Veterans' Hospital". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Edith Nourse Rogers Memorial Veterans' Hospital.

TITLE V—EFFECTIVE DATES

SEC. 501. (a) The amendments made by this Act to title 38, United States Code, and the provisions of subsections (c) and (d) of section 304 of this Act shall become effective on October 1, 1978.

(b) All provisions of this Act other than those specified in subsection (a) of this section shall be effective on the date of enactment of this Act.

Amend the title so as to read: "An Act to amend title 38, United States Code, in order to provide an improved pension program for non-service-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for an improved dependency and indemnity compensation program for surviving parents of veterans who have died from service-connected disabilities who are in need; to provide for annual automatic cost-of-living adjustments in the improved pension and improved dependency and indemnity compensation programs; to prevent reductions in improved pension and improved dependency and indemnity compensation benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes.".

The title was amended so as to read:

A bill to amend title 38, United States Code, in order to provide an improved pension program for non-service-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for an improved dependency and indemnity compensation program for surviving parents of veterans who died from service-connected disabilities who are in need; to provide for annual automatic cost-of-living adjustments in the improved pension and improved dependency and indemnity compensation programs; to prevent reductions in improved pension and improved dependency and indemnity compensation benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes.

Mr. CRANSTON. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Madam President, I ask unanimous consent that S. 2384 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Madam President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate's amendments to H.R. 10173.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following subsequently occurred:)

SENATOR RANDOLPH SUPPORTS VETERANS BENEFITS BILL

Mr. RANDOLPH. Mr. President, earlier today I arrived in the Senate Chamber a few minutes late, being necessarily absent at the time of the vote on H.R. 10173, the Veterans' and Survivors' Pension Improvement Act.

I had desired to speak and would have spoken on this bill, a vital veterans measure.

I ask unanimous consent that my remarks at this time be placed in the RECORD following the vote on that bill.

The PRESIDING OFFICER. The Senator means immediately prior to the vote.

Mr. RANDOLPH. No; I was not here and I think it is appropriate that the remarks appear after the vote. I think that would be proper.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. I thank the Chair.

The following statement contains remarks I would have made during the consideration of this vital veterans bill:

Mr. President, the basic purpose of the bill, of which I have the privilege to be a cosponsor, is to provide for a new, more equitable and adequate pension program for needy wartime veterans who are 65 years or older and for the needy surviving spouses and children of wartime veterans. Chairman Cranston is a dedicated leader in affirmative actions to aid veterans as are other memmers of our committee who join in bringing this bill to the Senate.

It is my belief that the existing pension program first, does not provide sufficient assistance to meet the needs of some eligible veterans and survivors; second, has developed certain inconsistencies and inequities which prevent it from operating in the most efficient and equitable manner; and third, subjects many pensioners annually to reduction in their pensions.

I have been particularly concerned that the present pension program can cause a reduction of a needy veteran's pension when social security payments are increased to compensate for rises in the cost of living. This denies increases to offset the impact of inflation.

The improved program is designed to achieve the following objectives: First, to assure an income standard above the Department of Labor's poverty guidelines so that all eligible veterans and survivors receive a pension commensurate with their need; second, prevent eligible veterans and survivors from the necessity to turn to welfare; third, treat similarly circumstanced veterans and survivors equally; fourth, guarantee that annual increases in improved pension benefits occur at the same rate and at the same time as cost-of-living increases in social security benefit rates—so that no person in the improved pension program will suffer a reduction in pension solely attributable to a cost-of-living increase in benefits under social security or any other Federal retirement program; and fifth, provide a 25 percent add-on in rates for World War I veterans.

Mr. President, my colleagues will vote the approval of this meritorious legislation. Our national Government faces many difficult choices among various competing, legitimate demands on its resources. I firmly believe that we must not, because of the passage of time since our Nation was engaged in large scale conflicts, discount the debt owed to those men and women who have served our Republic to keep us strong, free, and safe from invasion during a century in which powerful military forces have often threatened the security of our people. It is important that we remember the basic principle on which our veterans' benefits system was founded. This Nation owes its greatest debt to those members of the armed forces who have fought in the trenches, sailed the seas and flown the skies to protect our cherished freedoms and our responsibilities.

Mr. President, I thank our capable and cooperative Veterans' Affairs Committee staff for their helpfulness in bringing this legislation to fruition.

Mr. HELMS. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. What is the pending business?

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## BRETTON WOODS AGREEMENTS ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. The Senate will resume consideration of S. 2152, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2152) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

The Senate resumed consideration of S. 2152.

AMENDMENT NO. 2438

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 2438 of the Senator from North Carolina.

Mr. JAVITS. Whose amendment is that, Madam President?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. JAVITS. What is it?

The PRESIDING OFFICER. Amendment No. 2438, the pending amendment by the Senator from North Carolina.

Mr. HELMS. Madam President, I ask that pending amendment No. 2438 be set aside and placed in order of the turns of votes.

Mr. JAVITS. Madam President, reserving the right to object, I did not hear that. What did the Senator want to do?

Mr. HELMS. I simply want to set the amendment aside so it will be voted on in the order in which the various amendments were debated.

Mr. JAVITS. I see.

Mr. HEINZ addressed the Chair.

Mr. JAVITS. I believe I still have the floor.

Mr. HEINZ. Madam President, reserving the right to object, and I hope I do not have to object, I assume that in agreeing to the Senator's request those of us who may be in opposition do not lose our right to move to table the amendment. Is that correct?

The PRESIDING OFFICER. Will the Senator from North Carolina please repeat his request?

Mr. HELMS. Madam President, I simply ask unanimous consent that the amendment be set aside and the vote on it occur in the order in which the amendments were discussed in the Chamber this morning. Of course, the Senator's right to move to table would not be affected by such a unanimous consent request.

Mr. JAVITS. Madam President, further reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What is the order in which amendments will be voted on and what rule provides that order?

The PRESIDING OFFICER. The amendments will recur before the Senate in the order in which they were set aside.

Mr. JAVITS. In the order in which they were set aside. As I recall it, the first amendment set aside was the Aborezk amendment.

The PRESIDING OFFICER. That is right.

Mr. JAVITS. That will be the first amendment voted on?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Notwithstanding that the pending business is the amendment of Senator HELMS or the one described?

The PRESIDING OFFICER. The pending amendment would have to be

set aside prior to a vote on the Abourezk amendment.

Mr. JAVITS. And then the votes preceding beginning with the Abourezk amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I appreciate that.

I have no objection.

Mr. HEINZ. No objection.

Mr. HELMS. Madam President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is the Senator from North Carolina correct in his recollection that he has two amendments on which the yeas and nays have not been ordered?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Madam President, I ask unanimous consent that the yeas and nays be obtained on both of those amendments en bloc.

I ask for the yeas and nays for both amendments.

The PRESIDING OFFICER. Is there objection to the Senator's requests?

Without objection, it is so ordered.

Mr. HELMS. I make such a request now.

Mr. JAVITS. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Before we act further, that means there will be separate votes, not one vote, does it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I thank the Chair.

Mr. HELMS. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from South Dakota.

AMENDMENT NO. 3390

Mr. CHURCH. Madam President, this amendment has been debated at some length today and if Senators are not disposed to debate it further, I will make a tabling motion within the next few minutes. Before doing so, however, I want to stress that the difficulty the floor managers have with the proposed amendment has as much to do with the way it is written as with any other objection we have raised to it.

I call attention to the fact that if this amendment were to be adopted in its present form it would require the Secretary of the Treasury of the United States to direct the U.S. Executive Director of the International Monetary Fund to vote against the extension of any loan or any IMF transaction which would contribute to the deprivation of basic human needs.

Then, Madam President, if you read further you find that basic human needs appear to relate, under section (c) of the amendment, first, to an adequate supply of food with sufficient nutritional value to avoid the debilitating effects of malnutrition; second, to shelter and clothing; third, to public services, including health care, education, clean water, energy resources, and transportation; and, fourth, to productive employment that provides a reasonable and adequate wage.

Madam President, it is hard for me to visualize any condition that the IMF might impose upon a country in acute economic distress—a country in such serious balance of payments deficit that it cannot obtain additional credit from normal sources, a country that is bordering upon bankruptcy, a country in which, in most instances, the economy is entirely out of control—to bring that economy back into balance, that will not require some stringent belt tightening.

It is for this purpose that the IMF was created.

Conditions of austerity normally required to bring an economy back into balance often contain some provision that may mean that the people of the country are going to suffer privations.

Those privations may, in turn, lead to new economic stability, a new basis on which a higher living standard can later be achieved.

But if we are to amend this bill in such a way as to require the Executive Director, representing the United States at the IMF, to vote against any austerity plan, any conditionality that might adversely affect an adequate supply of food with sufficient nutritional value to avoid the debilitating effects of malnutrition, or the availability of shelter and clothing, or public services, including health care, education, clean water, energy resources, and transportation, or productive employment that provides a reasonable and adequate wage then, it seems to me, we might just as well throw in the towel.

There is nothing wrong with the hearts of those who sponsor this amendment. All of us applaud the objectives that they seek in this world. But they would require us to vote at the IMF in ways that would directly impede what the IMF is set up to do. For its purpose is to help countries undertake rescue operations in extreme situations where these countries otherwise would go totally bankrupt.

It may be that there are some economists somewhere, Madam President, who have a prescription for this condition that does not require severe belt-tightening and a period of austerity. But if they exist, they have yet to show themselves. I know of no prescription that any economist would subscribe to, that could magically rescue a country in such distress without imposing austere, stringent conditions upon the spending habits of that country. This is in the very definition of bringing the accounts back into balance again, reestablishing the country's credit, and regaining the ground upon which solid economic growth could again be achieved.

So, Madam President, these conditions imposed by the Fund—although they often require a great deal of discipline and belt-tightening—do, in the long run, lead to the restoration of sound economic conditions under which all of the objectives cited in the amendment can be realized.

Mr. McCLURE. Madam President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. I yield to the Senator from New York for a unanimous-consent.

Mr. JAVITS. Madam President, I think that came from the Senator from Idaho (Mr. McCLURE).

Mr. CHURCH. I yield to Senator McCLURE.

Mr. McCLURE. I ask unanimous consent that Jim Streeter, of my staff, have the privileges of the floor during all stages of the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Madam President, I do hope the Senator will yield to me for a minute or two.

Mr. CHURCH. I yield to the Senator from New York.

Mr. Abourezk addressed the Chair.

Mr. JAVITS. Madam President, I think I have been yielded to.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. ABOUREZK. He was about to give up the floor and I am seeking recognition.

Mr. JAVITS. Madam President, he just yielded to me. That is not giving up the floor.

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. One Senator cannot yield the floor to another. He has to yield the floor. The Chair, I think, if I am not mistaken, must recognize the Senator.

Mr. JAVITS. Madam President, I ask the Senator to yield for a question.

Is it not a fact that two points deserve to be emphasized in this particular debate which are pertinent: My first question, therefore, is based on the fact that the other body just took a vote the other day on the Harkin amendment which sought to put exactly, almost exactly, the same kind of a so-called human rights amendment on the Export-Import Bank bill. The amendment was rejected 286 to 103, because it simply did not belong in a bill dealing with an agency involved in export financing, which is like the International Monetary Fund essentially a banking and monetary agency.

So I ask the Senator from Idaho whether or not the recent is pertinent to some action on a similar Human Rights amendment in terms of showing the views of a coordinate body on this issue.

Mr. ABOUREZK. Madam President——

Mr. JAVITS. Will the Chair keep order?

Mr. ABOUREZK. The Senator yielded for a question. Why is the Senator making a speech?

Mr. JAVITS. I insist on order, and that the Senator be ordered to take his seat. I make that point of order.

Mr. ABOUREZK. Madam President, I seek recognition.

The PRESIDING OFFICER. The Senator from Idaho has the floor and he yielded for a question.

Mr. CHURCH. Madam President, I yielded for a question, and the Senator

from New York has just put that question to me. The answer to his question is yes, indeed.

[Laughter.]

Mr. JAVITS. Madam President, I ask the Senator if he will yield for another question.

Mr. CHURCH. I will be happy to.

Mr. JAVITS. Madam President, is it not a fact, that the experience of the IMF in regard to Jamaica, is a relevant experience to our consideration of this facility, especially in view of the fact that it is admitted by the Jamaican authorities that if the loan had not been made, the poor and needy of Jamaica would have indeed been much worse off?

Mr. CHURCH. The answer to the Senator's question is, that I believe Jamaica to be a highly pertinent example of how IMF conditions can contribute to stabilizing a national economy and forming the basis for its future growth.

Mr. JAVITS. I thank the Senator.

Mr. CHURCH. Madam President, after concluding my argument I will be happy to yield the floor to the distinguished Senator from South Dakota, the sponsor of this amendment. I would like to mention that another reason for opposing this amendment is the mischief done when any participant in the International Moneary Fund begins to impose certain conditions upon how the deposits in that Fund are to be loaned out.

The process, of course, has been called the politicalization of an international instrumentality. We must avoid it because once we begin to lay down conditions on an international bank or the International Monetary Fund that have to do with certain political objectives of the United States—however laudatory those objectives may be—we invite other participants in the Fund to do likewise.

Remember that the Witteveen facility is the first such activity that has secured practically half of its money from the Arab countries. It used to be that the United States would put up 40 percent of the money for an international financial institution, and that the rest of the world would put up 60 percent of the money. But in the case of the Witteveen facility the United States is putting up only 17 percent of the money and the Arab countries alone are putting up nearly half. I think they should, because they have had much to do with creating the conditions of economic instability that the Witteveen facility is designed to address.

But if the United States begins to impose political conditions upon the Fund, then on what basis do we object when the Arab countries do likewise? I can think of many conditions that they might want to impose. And the European countries will, no doubt, have a basket of conditions they wish to impose, and pretty soon you will not have an International Fund at all, but rather is hobbled, fettered organization that is forced to work within conditions and limitations that will make it useless.

So, Madam President, we must resist these efforts to impose our own restrictions upon the operations of organizations that we helped design to be free from such conditions and limitations. If we fail to do that, and start down the road of conditioning our contributions to this Fund upon certain political objectives we seek to secure in the world, then we must expect that other participants in the Fund will do the same thing, and we will have effectively destroyed its usefulness.

Mr. HEINZ. Madam President, will the Senator yield for a question or two?

Mr. CHURCH. Yes.

Mr. HEINZ. I suspect the Senator is familiar with many of the rules of the IMF. Let me ask if the Senator is familiar with article VIII, entitled "General Obligations of Members," section 1, which states:

> In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

And then section 2 says:

> Avoidance of restrictions on current payments.—(a) Subject to the provisions of Article VII, Section 3(b), and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

Would not that section appear to say to us that anything we do here today is, on its face, in contravention, illegal, if you will, in terms of the Bretton Woods agreement to which we are a signatory?

Mr. CHURCH. I would think so. It would appear to be in direct contradiction to the obligations we agreed to when the fund was first established.

Mr. HEINZ. I thank the Senator. I think this is a point that needs to be stressed, Mr. President, to all our colleagues: While we, on one hand, seek to bind the IMF, the fact is that we are bound by its international agreements, which we signed in good faith, and for us to adopt this amendment would be to break our good faith with the international community, and that would be not only bad policy but, as the Senator from Idaho has pointed out, would begin to make a mockery of the principles upon which the IMF has heretofore been based.

We do not want to see it politicized, and I hope we will defeat the Abourezk amendment.

Mr. CHURCH. Madam President, I want the Senator from South Dakota to understand that when I took the floor a few minutes ago, I thought the debate on the amendment had largely been completed and I rose for the purpose of making a motion to lay his amendment on the table.

I would like to inquire what the Senator has in mind in the way of time, so that we can make plans for the remainder of the day. We have about half a dozen amendments still pending that we would like to vote on.

Mr. ABOUREZK. Madam President, I do not really have any plans on time. I would like to respond to some arguments that have been made. The principal cosponsor, Senator HATFIELD, is on his way over. I am sure he would like to speak before the vote takes place.

Mr. CHURCH. I thank the Senator. With that understanding, Madam President, I yield the floor.

Mr. ABOUREZK. Madam President, I would like to correct one or two statements that have been made.

First of all, the House passed this identical amendment by voice vote. To my knowledge, there was no objection. There it was called the Harkin amendment.

We in the Senate will look somewhat foolish if we defeat an amendment that passed quite easily over on the House side. The Senate has always had the reputation of being a somewhat more progressive body than the House. I would hate to see that turned around on a human rights amendment such as this.

Comments have been made by the opponents of the amendment on Jamaica quoting a Washington Post story which could stand some correction.

I wish to read briefly from an article by Michael Moffitt entitled "Jamaica and the IMF: Another View." I ask unanimous consent that the entire article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Recently, the Washington Post ran a two-part series by Art Pine on the growing power of the International Monetary Fund in the world economy and the recent Fund negotiations with the Manley government of Jamaica. While these articles were very useful in st'mulating public debate over the enhanced role of the Fund in the world economy, the explanation of the Fund's recent agreement with Jamaica is misleading in important respects.

While many Americans have probably never heard of the Internatonal Monetary Fund, the IMF is the principal issue in Jamaican politics today. Mr. Pine's casual remark that there has been "relatively little" criticism of the IMF in Jamaica simply does not square with the facts. There is widespread criticism of the conditions which the Fund attached to the May 1978 agreement with Jamaica from the left, the right, and from ordinary Jamaicans who just want to maintain their living standards. Many Jamaicans believe the Fund is a "new imperialist" which has come to tell the natives how to live. Even the conservative opposition leader Mr. Edward Seaga said recently that the Manley government should "renegotiate" the Fund agreement on more favorable terms. It is true that the oopposition Jamaica Labor Party does not usually criticize the Fund, but instead blames Jamaica's current economic crisis in the policies of the Manley government. The Jamaican Labor Party and the Bustamante Industrial Trade Union which it controls is exploiting the severity of the IMF's demands to try to force Manley to abandon the People's National Party's program for democratic socialism in Jamaica or to resign. Nonetheless many of Manley's supporters encouraged him to accept the IMF loan because, for the time being, there is no reasonable alternative.

The harsh conditions which the Fund attached to the new $220 million stand-by agreement with Jamaica have had profoundly destabilizing effects on Jamaica, both politically and economically. The improved relations with the United States under the Carter Administration have been damaged by Jamaica's difficulties with the IMF. In a recent trip to Jamaica, Under Secretary of State Richard Cooper and NSC staff economist Guy Erb gave the Jamaican government no indication that they are even thinking about alternatives to the IMF shock

treatment. American Embassy officials remark smugly that "Manley got what he deserved, now that he has learned the Soviets can only support one in the Caribbean." As one Jamaican official told me, "the IMF has destabilized Jamaica more successfully since 1977 than the CIA did during the anti-Manley campaign in 1976."

Jamaica's severe economic crisis, which the Fund used to justify its harsh policy recommendations, was not caused by Manley's prolifigacy. The causes of the crisis are far more complicated and are rooted in the structure of Jamaica's dependent economy. Moreover, the IMF's proposed remedies are likely to exacerbate, rather than solve the problems.

The "continued decline in the Jamaican economy," which the Fund bemoans is not simply due to "high oil prices, falling revenues from its sugar exports and a tradition of heavy government spending," as Mr. Pine asserts. To be sure, these are contributing factors, but much of Jamaica's current debt burden and economic crisis originated in other world economic developments since 1974. The combined effects of the recession in the developed countries, weak bauxite demand, abnormally low tourism revenues, and capital flight (legal and illegal) have deprived the country of needed resources. Confidence in the future of the economy evaporated when the opposition and the CIA peddled rumors (especially during the December 1976 IMF meeting in Kingston) that Jamaica "was going communist." The increased revenues produced by the government's bauxite levy buoyed the financial situation temporarily, but by 1975 the Manley government had to choose between heavy foreign borrowing or driving the country into a depression in order to reduce import expenditures and conserve foreign exchange. For a government committed to development with equity, as Manley's government is, the 20 percent unemployment rate alone made the latter course unacceptable. In addition, 1976 was an election year and adoption of a deflationary policy would have meant political suicide for any government. That year, Jamaicans returned Michael Manley to office with the highest percentage of the vote that a Jamaican Prime Minister has ever received and gave him a mandate for broad social change in Jamaica.

Though bauxite revenues improved in 1977, the government realized it had to hold the lid on expenditures and borrow new resources just to pay off old debts. That is why Jamaica approached the IMF in June of 1977 and accepted a $78 million stand-by agreement in July. Contrary to the impression left by Mr. Pine, the Jamaican authorities recognized the need for economic austerity. The questions are still what kind of economic austerity and who bears the burden of Jamaica's adjustment to changed international economic conditions. In this respect, it is not true that, following the 1977 stand-by agreement, the Manley government made only "half-hearted" attempts to meet its conditions. For example, by restricting imports, the government brought exports and imports into balance in 1977, after several years of heavy deficits.

Mr. Pine also fails to mention the circumstances under which the Fund revoked the loans available under the 1977 agreement. The Fund had demanded a tight monetary policy, which the government complied with. When the Fund authorities conducted their regular audit in December of 1977, Jamaica exceeded the net domestic assets test by a mere 3 percent. Had the Fund conducted its audit on another day, it is likely the government would have passed the test.

When the Fund revoked the balance of the 1977 stand-by agreement, other public and private creditors started dragging their feet on new loans to Jamaica. This worsened the foreign exchange shortage and forced Manley to come to terms with the IMF. By the Spring of 1978, the Manley government was in a much weaker bargaining position vis-a-vis the Fund that it had been in 1977. Hence the terms of the May 1978 agreement—which include holding down wage increases while prices are de-controlled, reducing government spending on social programs, and restricting the growth of the public sector—are much stiffer than those of the 1977 agreement.

A graphic illustration of this is the magnitude of devaluation the Fund demanded. In early April 1977, the Jamaican dollar exchanged at J$.90 to-US$1.00. When devaluation became inevitable to stem the flood of non-essential imports, the government adopted a two-tier exchange rate in order to shield imports of basic necessities from the inflationary impacts of the devaluation. For foods medicines, and other necessities, the old exchange rate was retained, but all other imports were subject to the new rate of J$1.25 to U.S.$1.00. During the 1978 Fund negotiations, the Fund demanded scrapping of the two-tier rate (which it had reluctantly accepted in 1977) and requested a new devaluation to the current rate of J$1.59 to U.S.$1.00. This amounts to an effective devaluation of about 72 percent in slightly more than one year.

More importantly, even a devaluation of this magnitude is unlikely to have its intended effects of reducing imports and increasing exports. According to standard monetary theory, devaluation of an overvalued currency will make imports more expensive and discourage consumption. However, Jamaica's imports of oil, inputs to the tourism industry and other goods are not very responsive to price changes; i.e. the demand is price inelastic. As Professor Arthur B. Laffer has shown, a devaluation may be inflationary without causing any reduction in imports. Moreover, the devaluation may have a mixed impact on Jamaica's export performance. The import content of Jamaica's exports is as high as 60 percent for some goods, so that the inflated costs of inputs may well negate the competitive advantages offered by the devaluation.

Much of the Fund stabilization package is a grab-bag of incentives which the private sector was unable to wring from Manley without the clout of the Fund. By limiting the power of the State Trading Corporation, for example, necessary controls over imports may slacken and importers will revert to over-invoicing imports as a way of transferring capital out of Jamaica.

What the Fund's standard package of deflation plus devaluation portends for Jamaica is a prolonged bout with stagflation, not greater economic stability. The increasing unemployment resulting from lower government expenditures and the negative distributional consequences of inflation and wage controls will rigidify income inequalities without expanding output and eliminating underlying structural imbalances. Jamaica desperately needs investment in agricultural infrastructure to increase food self-sufficiency, reduce unemployment and create demand for native consumer goods. Now Jamaica cannot even afford the fertilizer to enrich land in cultivation.

The Jamaican situation raises fundamental questions about the enhanced role of the IMF in the world economy. While the Fund denies that it dictates policies to member countries, as the world's lender of last resort, it wields considerable leverage over debt-ridden poor countries. In Jamaica, compliance with the tough IMF conditions will likely reverse the process of democratic social change set in motion by the Manley government. Many of Manley's supporters believe that this is what the IMF had in mind all along.

Though the Post opposes the human rights/human needs amendment attached to the House version of the Witteveen supplementary lending facility bill, it cannot be denied that there is a direct conflict between the new "basic needs" thrust of the World Bank's lending policies and the conservative fiscal and monetary policies the IMF is pushing in countries like Peru, Egypt and Jamaica. The United Auto Workers union has suggested that representatives of trade unions be included on IMF missions to assess the impacts of Fund stabilization programs on wage earners.

As Mr. J. Daniel O'Flaherty asks in a recent issue of Foreign Policy, does the Administration have a coherent policy toward democratic countries like Jamaica, which are trying to pursue humane paths of development? The Carter Administration's persistent silence on the issue suggests that it does not.

Mr. JAVITS. What is the publication?

Mr. ABOUREZK. I do not know what it was published in. It is a mimeographed article which was handed to me.

Now, Madam President, I read a letter this morning from the Maryknoll Fathers in Lima, Peru. It is a short letter and I would like to read it again for the benefit of other Members of the Senate who are in the Chamber at this point. The letter is dated June 23, 1978, addressed to me. It says:

DEAR SENATOR ABOUREZK: As U.S. citizens and missioners serving the people in Peru, we follow with great interest and concern the Human Rights Policy practiced by the current administration. It is our judgment that the policy has been consistent in favor of civil political rights, while ignoring social-economic rights.

We are deeply concerned with this policy. Its area of pressure for the civil-political rights is good and we support it completely. However, its lack of balance, in failing to recognize the most fundamental human rights for food, clothing and shelter is seriously negating and in fact destructive for the people of our under-developed nations.

We as missionaries here in Peru accompany our people on a day to day basis and have seen the results of what we consider this unbalanced policy: The poor (85% of the people) have moved from malnutrition to the border of starvation while being given the right to vote in the midst repression. In other words, the vote is more important than bread. We must register our strong disagreement with this policy and its effects on the poor we serve.

We write to you, Mr. Abourezk, because to a great extent the IMF is responsible for this situation. It has made demands on this Nation which are humanly impossible to meet. What nation can pay out 60% of its export earnings in one year simply to pay its debts? This policy has resulted in all food subsidies being taken away, real wages dropping over 40% in three years, and in 100 times more deaths (through disease and deprivation) than could be caused through riots or repression.

We are aware, Mr. Abourezk, that your Human Rights amendment to the Witteveen Facility is being faced with a stiff challenge in the Senate and that the administration would prefer that it not pass. Our position on your amendment is that of strong support.

We are strongly in favor of civil rights, but we consider them as valid only within the context of the full human rights that guarantee the basic necessities of life and allow the poor to live with some sense of personal human dignity.

This letter is signed by a number of Maryknoll priests who work in Peru and by a number of other missionaries.

I have other correspondence as well. This has already been printed in the RECORD, Madam President.

If I might try to conclude this part, I will say that it seems incredible to me that the distinguished managers of this legislation would oppose trying to provide only the basic human needs of poor people in developing nations. All of this talk about belt tightening, all of this talk about sacrifices that have to be made by the governments of these countries, really is not directed at sacrifices being made by the leaders of the countries which the IMF loans money to. We are talking about the poor people who cannot at this point even afford any further belt tightening. The phrase that they move from malnutrition to near starvation is an actual, real thing. It is reality. It has nothing to do with sacrificing. Leaders of those countries will still be able to buy Mercedes-Benzes. They will be able to afford gasoline for their limousines. But the poor people, under the policies imposed on them by the IMF, are not going to be able to continue to eat what little bit they have now.

I think it is encumbent upon the United States to exercise some kind of moral leadership in the area of just basic human needs.

I might say to the Senator that the confusion that is spread by the reference to section (c) of this amendment, that this has to be followed before the representative from the United States can cast his vote, is not quite accurate. The only requirement in this amendment for opposition to transactions that contribute to violations or deprivations of human needs is that any program which is developed in those countries in connection with the utilization of Fund resources cannot contribute to the deprivation of basic human needs or to the violation of basic human rights.

That is the extent of the requirement for a negative vote by the U.S. representative.

Madam President, I yield the floor at this time while waiting for my colleague, Mr. HATFIELD, to come to the Chamber.

Mr. JAVITS. Madam President, I certainly think my record here is far from that of some callous person who does not take to heart and feel deeply the problem of the poor people in developing countries. If I thought, Madam President, that by favoring the Abourezk amendment I would be their friend, I would vote for the amendment. I would, however, not be their friend and that is why the evidence from Jamaica is so pertinent.

I asked the Senator very specifically what publication took this article of the gentleman he quoted and the Senator said it was a mimeographed copy that somebody had handed to him.

I quoted from the Washington Post and one of the 'eading economic reporters of the Washington Post, and I quoted not his opinion but his quote, that he received from Jamaican finance ministry officials who were deeply troubled about this matter.

This is what one of those officials said, a finance ministry official, in the July 24 issue of the Washington Post. By the way the Washington Post is certainly not a reactionary journal.

This is what Mr. Art Pine reported:

"To try to go it alone would have meant operating a siege economy," a finance ministry official said. "You'd virtually have to retire from international commerce, which would be next to suicide, for a country that has to import as much as we do. And that would mean serious political upheaval. There really was no choice."

Let us remember that we are talking here, Madam President, about a program of the International Monetary Fund, not a bilateral aid program of the United States or Great Britain or Germany or Japan. We in the United States give hundreds of millions of dollars away in food under Public Law 480. That is the place where these considerations pertinently and properly belong. I have supported such consideration for years and I will so long as I serve in this body.

But, Madam President, the International Monetary Fund is an aggregation of resources of many countries. We have a very heavy participation by surplus OPEC countries in the facility. Its purpose and design are totally different from those of bilateral aid programs. The design of the facility is designed to make these countries take tough businesslike decisions themselves which will bring them to fiscal and economic soundness. Jamaica and many other countries can still get from us, assistance to the poor, the needy, the sick, the lame, the halt, and the blind which we have been voting for years, ever since I was in the House of Representatives, beginning in 1947.

We have the FAO, the Food and Agriculture Organization; the World Health Organization, and many other international organizations, which deal with exactly these problems. We contribute to them munificently. The point is that we cannot apply the same principle to all international organizations.

That is what we are arguing. We are not heartless, either. We understand the situation. I know how poor Jamaica is. I stopped going there some years ago because, literally, I could not bear going through the deep pockets of poverty to some posh country club at one of the beaches. I would rather stay here and vote the best I can on what they might need.

I would not be doing them a favor if I were to vote for this amendment. On the contrary; I would make it much more difficult for them ultimately to develop a viable economic base. That is why the managers of the bill are arguing against the amendment, Madam President.

The Senator says the House passed it on a voice vote. That is a nice way to pass something over to the Senate, which has been responsible in the past in this matter, I am sure that the House was confident that the Senate would take a harder look at it. I am frankly not impressed with the fact that it was whisked through the House. I served in the House. I have seen that happen many, many times.

Mr. ABOUREZK. If the Senator will yield, a minute ago, the Senator said, when he was talking earlier, that the amendment was defeated in the House. He was not impressed then; he was not impressed when it was passed.

Mr. JAVITS. I was not conscious of saying the amendment was defeated. I was conscious of saying it was whisked through the House on a voice vote.

Mr. ABOUREZK. It was either the Senator from New York or Senator CHURCH. I cannot remember which one.

Mr. JAVITS. Well, it is good to keep us separate.

Be that as it may, Madam President, I have already given an answer "in a question" which I have already propounded to Senator CHURCH. A vote on this kind of proposition took place last week in the House, in which a similar amendment was defeated by more than two to one.

That is why, Madam President, when the motion to lay this amendment on the table is made, I hope it will be successful.

Mr. ABOUREZK. Madam President, I just want to make one more short argument.

We have given up virtually any exercise of congressional authority over foreign aid programs of this type. I think the amendment is a legitimate exercise of congressional authority. For example, in fiscal year 1976, Congress authorized only 31 percent of total U.S.-related Third World aid, or about $8 billion out of a total of $25 billion. I think it is time, and this is a good time to do it, on this type of amendment, for Congress to try to restore some sort of authority over where this foreign aid money is going. I think it is essential that we not only take the moral leadership but the fiscal leadership in this respect.

I am ready to vote. I think Senator HATFIELD will be delayed too much and I am ready to vote on this.

Mr. CHURCH. I thank the Senator very much.

Mr. JAVITS. Madam President, could the Senator allow me to straighten out one thing? A statement was made that this is foreign aid. Madam President, it is not foreign aid; this is foreign public investment. That is a very important difference.

Mr. CHURCH. Madam President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), The Senator from

Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 62, nays 27, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—62

| | | |
|---|---|---|
| Baker | Glenn | Moynihan |
| Bartlett | Gravel | Nelson |
| Bellmon | Hansen | Packwood |
| Bentsen | Hart | Pearson |
| Biden | Hatch | Percy |
| Byrd, Robert C. | Hayakawa | Randolph |
| Cannon | Heinz | Ribicoff |
| Chafee | Hollings | Roth |
| Chiles | Huddleston | Schmitt |
| Church | Humphrey | Sparkman |
| Clark | Jackson | Stafford |
| Cranston | Javits | Stevens |
| Culver | Kennedy | Stevenson |
| Curtis | Laxalt | Stone |
| Danforth | Long | Talmadge |
| DeConcini | Lugar | Thurmond |
| Domenici | Magnuson | Tower |
| Eagleton | Mathias | Wallop |
| Eastland | Matsunaga | Williams |
| Ford | McIntyre | Young |
| Garn | Morgan | |

NAYS—27

| | | |
|---|---|---|
| Abourezk | Hatfield, | Metzenbaum |
| Allen | Mark O. | Proxmire |
| Bayh | Hatfield, | Riegle |
| Brooke | Paul G. | Sarbanes |
| Burdick | Helms | Sasser |
| Byrd, | Hodges | Schweiker |
| Harry F., Jr. | Leahy | Scott |
| Case | McClure | Stennis |
| Dole | McGovern | Weicker |
| Durkin | Melcher | Zorinsky |

NOT VOTING—11

| | | |
|---|---|---|
| Anderson | Haskell | Muskie |
| Bumpers | Hathaway | Nunn |
| Goldwater | Inouye | Pell |
| Griffin | Johnston | |

So the motion to lay amendment No. 3390 on the table was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1537

The PRESIDING OFFICER (Mr. RIEGLE). The question occurs on unprinted amendment No. 1537, by the Senator from Kansas (Mr. DOLE). The yeas and nays have been ordered.

Mr. CHURCH obtained the floor.

Mr. DOLE. Mr. President, I wonder whether I might have 1 minute to speak on the amendment.

Mr. CHURCH. I yield 1 minute to the Senator from Kansas.

Mr. DOLE. Mr. President, I point out that this is not the same amendment on which we just voted. It is a very simple amendment. It simply directs the President of the United States to instruct our Nation's Executive Director to the IMF to oppose any funding to Cambodia or Uganda by the Supplemental Financing Facility.

There is precedent for this in other areas. I suggest that we do not need to extend credit to Idi Amin or those in Cambodia who have been responsible for the slaughter of about 2 million people.

Mr. JAVITS. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. CHURCH. I yield.

Mr. JAVITS. Mr. President, in the debate we pointed out that the amendment adopted prior, by which Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in Uganda, would fully subsume instructions to the IMF Executive Director, under this amendment.

Again, for the same reason that we tabled the principal amendment a minute ago, it is inadvisable to complicate our activities in this particular fund in the way which has been described in this amendment.

Mr. CHURCH. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 30, nays 57, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—30

| | | |
|---|---|---|
| Chafee | Hart | McIntyre |
| Church | Hayakawa | Moynihan |
| Clark | Heinz | Nelson |
| Cranston | Huddleston | Packwood |
| Culver | Humphrey | Percy |
| Danforth | Javits | Sarbanes |
| Durkin | Kennedy | Schmitt |
| Eastland | Lugar | Sparkman |
| Ford | Mathias | Stevenson |
| Gravel | Matsunaga | Williams |

NAYS—57

| | | |
|---|---|---|
| Allen | Byrd, Robert C. | Hansen |
| Baker | Cannon | Hatch |
| Bartlett | Case | Hatfield, |
| Bayh | Chiles | Mark O. |
| Bellmon | Curtis | Hatfield, |
| Bentsen | DeConcini | Paul G. |
| Biden | Dole | Helms |
| Brooke | Domenici | Hodges |
| Burdick | Eagleton | Hollings |
| Byrd, | Garn | Jackson |
| Harry F., Jr. | Glenn | Laxalt |
| Leahy | Proxmire | Stevens |
| Long | Randolph | Stone |
| Magnuson | Ribicoff | Talmadge |
| McClure | Riegle | Thurmond |
| McGovern | Roth | Tower |
| Melcher | Schweiker | Wallop |
| Metzenbaum | Scott | Weicker |
| Morgan | Stafford | Young |
| Pearson | Stennis | Zorinsky |

NOT VOTING—13

| | | |
|---|---|---|
| Abourezk | Haskell | Nunn |
| Anderson | Hathaway | Pell |
| Bumpers | Inouye | Sasser |
| Goldwater | Johnston | |
| Griffin | Muskie | |

So the motion to lay Mr. DOLE's amendment No. UP 1537 on the table was rejected.

The PRESIDING OFFICER. The vote now recurs on the Dole amendment. The question is on agreeing to the amendment of the Senator from Kansas.

Mr. JAVITS. Mr. President, have the yeas and nays been ordered on the Dole amendment?

The PRESIDING OFFICER. They have been.

Mr. JAVITS. I ask unanimous consent that the request for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and the request is agreed to.

The question then is on agreeing to the amendment of the Senator from Kansas.

(Putting the question.)

The amendment was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1538

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1538 of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 31, nays 55, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—31

| | | |
|---|---|---|
| Allen | Bentsen | Byrd, |
| Bartlett | Burdick | Harry F., Jr. |

| | | |
|---|---|---|
| Cannon | Helms | Roth |
| DeConcini | Hollings | Schmitt |
| Dole | Jackson | Scott |
| Domenici | Laxalt | Stevens |
| Garn | Magnuson | Talmadge |
| Hansen | McClure | Thurmond |
| Hatch | Morgan | Wallop |
| Hatfield, Mark O. | Proxmire | Young |
| | Randolph | Zorinsky |

NAYS—55

| | | |
|---|---|---|
| Baker | Glenn | Melcher |
| Bayh | Gravel | Metzenbaum |
| Bellmon | Hart | Moynihan |
| Biden | Hatfield, Paul G. | Nelson |
| Brooke | Hayakawa | Packwood |
| Byrd, Robert C. | Heinz | Pearson |
| Case | Hodges | Percy |
| Chafee | Huddleston | Ribicoff |
| Chiles | Humphrey | Riegle |
| Church | Javits | Sarbanes |
| Clark | Kennedy | Schweiker |
| Cranston | Leahy | Sparkman |
| Culver | Long | Stafford |
| Curtis | Lugar | Stevenson |
| Danforth | Mathias | Stone |
| Durkin | Matsunaga | Tower |
| Eagleton | McGovern | Weicker |
| Eastland | McIntyre | Williams |
| Ford | | |

NOT VOTING—14

| | | |
|---|---|---|
| Abourezk | Haskell | Nunn |
| Anderson | Hathaway | Pell |
| Bumpers | Inouye | Sasser |
| Goldwater | Johnston | Stennis |
| Griffin | Muskie | |

So Mr. HELMS' amendment (UP No. 1538) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3318

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The question recurs on amendment No. 3318. The yeas and nays have been ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that Mr. Michael Choukas of Senator LEAHY's staff may be granted the privileges of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I move to table the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3318. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 42, nays 44, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—42

| | | |
|---|---|---|
| Bellmon | Hatfield, Paul G. | Moynihan |
| Biden | Hayakawa | Nelson |
| Case | Heinz | Pearson |
| Chafee | Huddleston | Percy |
| Church | Humphrey | Ribicoff |
| Clark | Jackson | Riegle |
| Cranston | Javits | Roth |
| Culver | Kennedy | Sarbanes |
| Danforth | Leahy | Schmitt |
| Durkin | Lugar | Sparkman |
| Eagleton | Mathias | Stafford |
| Ford | McGovern | Stevenson |
| Glenn | McIntyre | Williams |
| Gravel | Metzenbaum | |
| Hart | | |

NAYS—44

| | | |
|---|---|---|
| Allen | Eastland | Packwood |
| Baker | Garn | Proxmire |
| Bartlett | Hansen | Randolph |
| Bayh | Hatch | Schweiker |
| Bentsen | Hatfield, Mark O. | Scott |
| Brooke | Helms | Stevens |
| Burdick | Hodges | Stone |
| Byrd, Harry F., Jr. | Hollings | Talmadge |
| Byrd, Robert C. | Laxalt | Thurmond |
| Cannon | Long | Tower |
| Chiles | Magnuson | Wallop |
| Curtis | Matsunaga | Weicker |
| DeConcini | McClure | Young |
| Dole | Melcher | Zorinsky |
| Domenici | Morgan | |

NOT VOTING—14

| | | |
|---|---|---|
| Abourezk | Haskell | Nunn |
| Anderson | Hathaway | Pell |
| Bumpers | Inouye | Sasser |
| Goldwater | Johnston | Stennis |
| Griffin | Muskie | |

So the motion to lay on the table amendment No. 3318 was rejected.

The PRESIDING OFFICER. The question recurs on the amendment.

Mr. CHURCH. Mr. President, a parliamentary inquiry: have the yeas and nays been ordered on this vote?

The PRESIDING OFFICER. They have.

Mr. CHURCH. I ask unanimous consent that the yeas and nays be vitiated on the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2438

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2438. The yeas and nays have been ordered.

Mr. CHURCH. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay the amendment on the table. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 65, nays 21, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—65

| | | |
|---|---|---|
| Baker | Hart | Melcher |
| Bayh | Hatfield, Mark O. | Metzenbaum |
| Bellmon | Hatfield, Paul G. | Moynihan |
| Bentsen | Hayakawa | Nelson |
| Brooke | Heinz | Pearson |
| Burdick | Hodges | Percy |
| Byrd, Robert C. | Hollings | Proxmire |
| Case | Huddleston | Ribicoff |
| Chafee | Humphrey | Riegle |
| Chiles | Jackson | Sarbanes |
| Church | Javits | Schmitt |
| Clark | Kennedy | Schweiker |
| Cranston | Laxalt | Sparkman |
| Culver | Leahy | Stafford |
| Danforth | Long | Stevenson |
| DeConcini | Lugar | Stone |
| Dole | Magnuson | Talmadge |
| Durkin | Mathias | Tower |
| Eagleton | Matsunaga | Weicker |
| Ford | McGovern | Williams |
| Garn | McIntyre | Young |
| Glenn | | |
| Gravel | | |

NAYS—21

| | | |
|---|---|---|
| Allen | Eastland | Roth |
| Bartlett | Hansen | Scott |
| Biden | Hatch | Stevens |
| Byrd, Harry F., Jr. | Helms | Thurmond |
| Cannon | McClure | Wallop |
| Curtis | Morgan | Zorinsky |
| Domenici | Packwood | |
| | Randolph | |

NOT VOTING—14

| | | |
|---|---|---|
| Abourezk | Haskell | Nunn |
| Anderson | Hathaway | Pell |
| Bumpers | Inouye | Sasser |
| Goldwater | Johnston | Stennis |
| Griffin | Muskie | |

So the motion to lay on the table amendment No. 2438 of the Senator from North Carolina (Mr. HELMS) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1542

(Purpose: To require an annual report to Congress concerning human rights in each country aided by the United States)

Mr. McCLURE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1542.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following: The Bretton Woods Agreement Act, as amended, is further amended by adding at the end thereof the following: The Secretary of the Treasury shall prepare and submit to Congress an annual report on the observance of Human Rights in each country which is aided directly or indirectly by the United States. The term "Human Rights" includes the following principles:

Consent of the governed, as evidenced by freely contested periodic elections and the right of opposition parties to operate without hindrance;

The rule of law (freedom from government terror, especially as signified by the ability of the courts to decide against the government and the absence of imprisonment or torture for political reasons);

Individual freedom, including freedom of religion, freedom of speech, independence of the media from governmental control, freedom to choose among educational systems and occupations, freedom of movement, freedom to obtain private property and operate in the market freely, and freedom to join private organizations of choice; and

Minority rights (the right of ethnic, linguistic, religious and other groups to preserve traditional values and culture).

Mr. McCLURE. Mr. President, this amendment calls for a reporting by the Secretary of the Treasury, on an annual basis, of the observance of human rights in each country which is aided directly or indirectly by the United States. The amendment sets forth the standards by which that report would be made and the criteria by which that observance should be judged.

Mr. President, because the issue of human rights has become a dominant theme of American foreign policy, it is critically important that we state clearly and simply what this country believes to be the basic components of a political system that respects human rights. No political position that I can recall has enjoyed as much popular support as this renewed emphasis on morality in foreign policy. But there is a nagging fear by many that a double standard will prevail, that certain countries will be singled out for condemnation while tyranny in other—perhaps more dictatorial countries—will be condoned.

There is, I believe, justification for this fear. The U.N. Commission on Human Rights, for example, has adamantly refused to look into the heinous violations of human rights in Uganda while almost gleefully condemning the far milder violations in rightist countries. In the May 1977, issue of Commentary, Walter Laquer has written:

The real problem is that in most member states of the UN, elementary civil liberties do not exist, and, more important still, there has been little if any progress in that direction. In theory such states subscribe to principles of human freedom and civil liberties as outlined in the United Nations conventions and their own constitutions, but too often in reality the practice is oppression, persecution, and the violation of basic human rights. A new unholy alliance has come into being at the United Nations, one that has a vested interest in the denial, not the promotion, of human rights, and one that shows a great deal of solidarity in pursuit of that interest.

I do not intend, nor do I attempt, by this amendment to define the entire meaning of the term "human rights"; but it seems to me that there are some base lines from which we could judge whether human rights are being observed or whether they are being violated.

I borrowed heavily from the United Nations declaration on human rights and standards, by which Freedom House makes its observation of human rights in various countries that are recipients of our aid. They refer to four major areas:

First, the consent of the governed. Is it a freely elected government?

Second, does that government rule by law, so that the citizens of the country are free from terror? Are they subjected to police harassment or torture in the jails?

Third, the area of individual freedoms, including freedom of religion, freedom of speech, independence of the media from government control, freedom to choose among educational systems and occupations, freedom of movement, freedom to obtain private property and operate in the market freely, freedom to join private organizations of choice.

Fourth, finally, the issue of minority rights: Will minorities, ethnic minorities and others within that category, be given the opportunity to preserve their traditional values and culture?

These, I think, are basic to our understanding of the term "human rights."

I hope when the Secretary files his report he will include some other matters in addition, but I believe these are beyond dispute.

They have international recognition. They have the support of the United Nations in the Declaration Of Human Rights.

I think they at least should be included in the report filed by the Secretary.

I realize that few governments in the world today respect in actual practice these basic human rights. These standards are high, but they are not trivial. They appear in the U.N. Declaration of Human Rights and in the constitutions of most countries.

When judged by objective standards, the state of human rights is not too encouraging. The problem today is not that countries fall short of our ideals. It is that in far too many countries the goal of government is not an open, free society, but a Marxist dictatorship. My colleague, Senator MOYNIHAN, has pointed out that the newly-independent countries of the 1940's and 1950's almost unanimously tried to establish the institutions of liberal democracy. Today, the model proclaimed by country after country is totalitarianism. The fact that some of the vocabulary of freedom is still used makes it even more important that we examine the standards of freedom I have mentioned.

Consent of the governed, as evidenced by freely contested, periodic elections and the right of opposition parties to operate without hindrance or some form of broadly based power sharing, is increasingly rare. It is nonexistent in any Communist country.

The rule of law, by which I mean due process and fair trials by an independent judiciary which is able to decide against the government, is the strongest instrument for protection against arbitrary imprisonment and torture. The rule of law is the antithesis of rule by terror. This, too, must be included in any consideration of human rights.

The extent of individual freedom, including freedom of religion and the others which I have already cited, is itself a measure of how much freedom a government allows its citizens and must be emphasized in any evaluation of human rights.

Minority rights are the standards by which human rights should be measured. They are the basis of the United Nations Declaration of Human Rights which was unanimously adopted.

I have no illusion about how the world is run. I know how rarely these values are heard at the United Nations.

I am aware of the effort being made to invent human rights standards by which totalitarian regimes look better than open societies. It cannot be done, except by the perverse standards which exalt life in any well run penitentiary over freedom. In jail you get free medical care, free housing, adequate food and equality.

Sometimes we concentrate so much on the imperfections in the anti-Communist countries that we forget communism is the real threat. Vladimir Bukovsky, when asked how many political prisoners there were in the Soviet Union, replied 250 million—the entire population.

Mr. President, this amendment, which I have offered with the standards which govern and would govern the report by the Secretary, is not on intrusion into the rights or the internal operation of foreign countries because this does not condition the loans to be made based upon the standards which I have outlined. It would simply provide a means by which Congress and the American people can judge whether or not the money that we are contributing is being used to further the observance of human rights or whether it is being used as a matter of fact to further enchain and enslave people.

Mr. President, this is an amendment that is critically important to the U.S. policy today. It is an identical language to that which I offered last year on the Foreign Assistance Authorization Act and on the State Department Authorization Act and in both instances the managers of the bill accepted the amendment

last year. I hope that the managers of the bill will accept this amendment this year.

The conference report in those matters last year referred to another section of law rather than continuing this language, and that other section of law refers to gross violations of internationally recognized human rights. I do not know of any definition other than that which has been written into our statutes, and I think there can be arguments about what gross violations of internationally recognized human rights might be.

Mr. President, it seems to me that the Senate would be wise to adopt a definition, if as a matter of fact this definition is imperfect and I recognize that it is—it has some genesis in the imperfections which we have already ratified by our actions here and in the United Nations, but at least we should set up a standard. I might note that:

The Soviet bloc nations clearly expect to be the target of western criticism in connection with their dissident movements and they want to counter that with an effort to show what it considers the genuine human rights, the right to work, to free medical care, to free education and to age-old pensions are guaranteed only in the Communist countries.

That, Mr. President, was a quotation from an article that appeared in the New York Times on Thursday, April 14, 1977, written by Paul Hoffman, and it seems to me that rather than allow them to argue about their standards of human rights we should assert in our own legislation very clearly what we expect by way of an observance of human rights.

Mr. President, let me quote only very briefly from a very perceptive article that appeared in Commentary magazine in August 1977, authored by our colleague, the junior Senator from New York (Mr. MOYNIHAN), and this quotation is from that article.

Unless standards of human rights are seen to be applied uniformly and neutrally to all nations regardless of the nature of their regimes or the size of their armaments, unless this is done it will quickly be seen that it is not human rights at all which are invoked when selective applications are called for, but simply arbitrary political standards dressed up in the guise of human rights.

Finally, Mr. President, I ask unanimous consent that an article by Irving Kristol, entitled "The 'Human Rights' Muddle," dated March 20, 1978, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "HUMAN RIGHTS" MUDDLE

(By Irving Kristol)

Having pressed the "human rights" issue so vigorously during the 1976 campaign, and then having so vociferously reiterated it in the early months of his administration, President Carter is now stuck with it. Obviously, and predictably, the whole business now makes him very uncomfortable and he rather wishes it would go away.

I doubt that Mr. Carter ever gave any serious thought to what he meant by "human rights." To some degree, surely, he merely seized the issue as a way of mobilizing, in an America thirsty for self-affirmation, the latent electoral appeal of Wilsonian idealism against Henry Kissinger's version of Realpolitik. The younger and more "liberal" members of his staff, on the other hand, who believe that left-wing authoritarian regimes are by definition more "humane" than right-wing ones, saw it as offering pleasing possibilities for disrupting relations with the likes of Chile. Argentina, the Philippines, etc. It was, therefore, an issue with an ambiguous attractiveness both to anti-Communist sentiments, troubled by "detente," and to left-wing opinion. One may safely assume that it lost Mr. Carter no votes.

But the election is over; the inaugural rhetoric has been dissipated, while the serious job of conducting a foreign policy remains. And, quite suddenly, this issue of "human rights" seems to plague the administration at every turn. That it complicates our relations with our enemies is surely less important than the fact that it even more severely complicates our relations with many friendly governments. (This is so, in part, because Congress, taking the administration at its word, has demanded that the State Department publish "evaluations" of human rights in all countries which receive American military or financial assistance.) We seem to be heading toward a posture of moralistic isolationism while simultaneously being irretrievably involved in the brute actualities of world politics, i.e., power politics. No wonder the rest of the world is at a loss to figure out the relation of what we say to what we mean to what we might in fact do.

The trouble, of course, begins with that phrase and concept, "human rights." It's not that the idea behind this phrase is meaningless. On the contrary, it has too many meanings—and we have, sometimes mindlessly, sometimes with premeditation, made an incoherent jumble of them.

FOUR VERY DIFFERENT IDEAS

The concept of "human rights" really includes four very different political ideas. Not necessarily incompatible, one hastens to add, and in practice always overlapping—but nevertheless very different. I would put these four meanings of "human rights" as follows:

Human rights proper: This is the least political of the four meanings, since it applies equally to all governments, regardless of their political structure. It refers to those practices of government which, in the perspective of our Judaeo-Christian civilization, can flatly be called abominations—i.e., where questions of degree are irrelevant. Genocide, whether on a large scale or small, is such an abomination. So is torture. And so are restrictions on the right to emigrate.

Though the United States since World War II has been properly outspoken on the issue of genocide and torture, it has avoided making any fuss about the right to emigrate. The reason, to put it bluntly, was fear of offending the Soviet and other Communist governments. The Carter administration seems willing to continue this particular policy of "moral detente"—on the one moral issue which most directly affects the lives of tens of millions of people.

Civil rights: These are the rights of an individual vis-a-vis his government, and are summed up in the phrase, "the rule of law," to which even government is subject. It is important to emphasize, since we Americans have so parochial and impoverished a sense of history, that such civil rights can exist even in nonliberal or nondemocratic societies. In both Tudor England and Tsarist Russia, it was not uncommon for people to be arrested, tried—and acquitted by judge or jury. Neither Henry VIII nor Tsar Nicholas I ever presumed to think he had the kind of arbitrary power which many member governments of the United Nations exercise today as a matter of course.

Naturally, we Americans prefer to see the scope of civil rights, everywhere, defined as broadly as possible; and it would be absurd if our government did not publicly affirm this basic principle of our polity.

But, as Robert Goldwin recently emphasized, we seem to have forgotten that our own broad definition is rooted in our political and economic structure—in federalism, the separation of powers, judicial review, the diffusion of property in a private sector. In short, our civil rights derive from the theory and practice of limited government.

But our political leaders, when they come to praise civil rights in one world forum or another, do not argue in favor of limited government—perhaps because they no longer really believe in it. They always talk as if their mission is to persuade authoritarian or totalitarian governments to make a gift of civil rights to their people. Not only is this a silly and fruitless exercise; it also suggests that our leaders have quite forgotten the relation of civil rights to limited government, and seem to believe that the people's civil rights are distributed by a paternalistic government as part of a general welfare program.

Political rights: These are the rights to participate, in one degree or another, in government. Again, and properly, we Americans cherish such rights. But only if one has a kind of mystic belief in "the people" (like the "proletariat" in Marxist mythology) as a redeeming force in history will one be inclined to give political rights priority over or even equality with, civil rights or human rights proper. One person, one vote is indeed a constitutional principle by which a people may govern itself. But it is not the sole such principle, and only a dogmatist would insist that it is, everywhere and always, the best principle. Even the United States, after all, for most of its history has not been governed by this principle.

The proper extent of political rights in any nation is not something our State Department can have a meaningful opinion about. It can only be determined by the people of that nation, who will draw on their own political and cultural backgrounds in arriving at a suitable disposition of this matter. We can try to set them a good example by making our democratic republic as admirable as possible—as our Founding Fathers urged. But that's about all we can do—as our Founding Fathers recognized.

A FOOLISH DOCTRINE

Socio-economic rights: These were inscribed in the United Nations Charter, and the United States, in its folly, has duly subscribed to the principle behind them. The principle is that a welfare state is always and everywhere better than a non-welfare state; that the more comprehensive a welfare state, the better; and that the right to a broad range of government services is absolute, whether the nation can afford them or not, and whether the people want them or not. A particular and debatable version of 20th-Century liberalism is suddenly presented to us as a universal "human right." Since, at this late date, it might be difficult to repudiate this absurd principle outright, we ought to ignore it as much as possible.

These four aspects of "human rights" are more closely intertwined in the real world than I have suggested. And, taken together, they will naturally and inevitably help shape our foreign policy. Under ordinary circumstances, our closest allies will always be those nations which share our basic political values, since they will also share with us a common vision of a desirable (or even tolerable) world order. But there will also be circumstances in which considerations of strategic interest—of who is friend, who is foe, for whatever reason on whatever occasion—must enter into the making of foreign policy. It would therefore be nice if the United States were less vaguely moralistic in its pronouncements, more specifically moral when it can properly be—and, above all, more candid with itself and its citizenry

as to the limited if real role which, under conditions prevailing at the moment, the pursuit of "human rights" will play in the conduct of our foreign affairs.

It would also be nice if the Carter administration would disengage itself from the double standard, whereby left-wing governments are given the benefit of every doubt as concerns "human rights," while right-wing regimes are continually indicted. Nothing could more effectively make a mockery of the whole issue.

Mr. CHURCH. Mr. President, I share fully the concern that has been expressed by the Senator from Idaho (Mr. McCLURE) about the lively controversy in the world concerning the meaning of "freedom."

We know what we mean by "freedom." Would that the world contained more countries which could meet the standards set forth in this amendment. They constitute, in abbreviated form, a kind of restatement of our own constitutional system and bill of rights.

For example, the definition of "human rights" contained in this amendment, includes:

Consent of the governed, as evidenced by freely contested periodic elections and the right of opposition parties to operate without hindrance;

The rule of law (freedom from government terror, especially as signified by the ability of the courts to decide against the government and the absence of imprisonment or torture for political reasons);

Individual freedom, including freedom of religion, freedom of speech, independence of the media from governmental control, freedom to choose among educational systems and occupations, freedom of movement, freedom to obtain private property and operate in the market freely, and freedom to join private organizations of choice; and

Minority rights (the right of ethnic, linguistic, religious and other groups to preserve traditional values and culture).

Well, this, Mr. President, represents the optimum bundle of values that we Americans would associate with our form of freedom. I fully concur in the importance of those values because I love our kind of freedom.

But there are many countries in the world quite different from our own that spring from an entirely different tradition, from a different system of ethics and religion, from different conditions of life which obtain.

One can probably count on the fingers of two hands the number of governments in all this world that could meet these particular tests of freedom that emanate, mainly from the Anglo-Saxon tradition. Most of the world is not free at all as judged by Anglo-Saxon standards. Most people, in most places, most of the time, have lived under some form of tyranny, a condition that continues right down to the present day.

So what will it avail us to ask the Secretary of the Treasury to give us an annual listing of those governments that have received aid under this International Monetary Fund which fail to meet such exacting standards?

We now know they cannot meet them. We now know that most of the participating governments which will receive aid cannot possibly be counted among the restricted group of nations that enjoy our kind of freedom.

So I question the practicality of this amendment, or the reason for attempting to impose our standards upon a world of such diversity, where most of the people would not understand these principles, because they are consumed with getting food for their families or some crude semblance of medical care to fight pestilence and disease. To them, our form of freedom is unreal because they not only have never known it, they have no way to measure it, no conception even of being deprived of it.

So what can we achieve by adopting an amendment of this kind? It makes more sense, far more, to take the definition of human rights that has already been enacted into law, which Congress meant as a guideline for the aid we give to foreign governments. Then, if it is the will of Congress, the Secretary of the Treasury could give us a listing of governments that receive aid from this particular IMF facility each year, as the Secretary of State is now obliged to give, under the provisions of our bilateral foreign assistance program.

This definition of human rights makes a great deal more sense in terms of the actual world in which we live, a world in which freedom is often parceled out meagerly, and the major question is the extent of the deprivation, the brutality, the gross and flagrant violation of those fundamental human rights concerning which the whole world can agree.

Let me read the definition of human rights now contained in the law. It is section 116(a) of our Foreign Assistance Act of 1961, as amended. It reads:

No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of a person, unless such assistance will directly benefit the needy people in such country.

Now, section 116(d) of the same act imposes upon the Secretary of State the obligation:

(d) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding—

(1) the status of internationally recognized human rights, within the meaning of subsection (a), in countries that receive assistance under this part; and

(2) the steps the Administrator has taken to alter United States programs under this part in any country because of human rights considerations.

I believe we could achieve the objective sought by the Senator from Idaho (Mr. McCLURE) in a way consistent with action already taken by Congress, by substituting the existing definition of human rights as the basis for the reporting requirement.

Mr. McCLURE. Mr. President, will my colleague yield so we might order the yeas and nays on the amendment?

UP AMENDMENT NO. 1543

Mr. CHURCH. I would, first of all, send to the desk a substitute amendment which would incorporate this definition of human rights, and I would like to read it into the RECORD, and then I will be glad to yield.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes a substitute for the amendment of Mr. McCLURE, No. 1542, which will be numbered UP amendment number 1543, to read as follows:

The Bretton Woods Agreement Act, as amended, is further amended by adding at the end thereof the following. The Secretary of the Treasury, shall in consultation with the Secretary of State prepare and submit to Congress an annual report on the observance of internationally recognized human rights, as defined in Section 116(a) of the Foreign Assistance Act of 1961, as amended, in each country which draws on funds made available under the Supplementary Financing Facility of the International Monetary Fund.

Mr. CHURCH. Mr. President, I ask for the yeas and nays on the substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. On the Senator's amendment?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment (UP No. 1543) of the senior Senator from Idaho (Mr. CHURCH). The yeas and nays have been ordered. The clerk will call the roll.

Mr. McCLURE. Mr. President, I understand what my colleague from Idaho is attempting to do in substituting the old definition rather than the new one.

I would agree with the criticism that he has raised concerning the definition in my amendment, because the old definition is imprecise. The old definition does not really say anything more than that gross violations of internationally recognized human rights shall not be tolerated.

I would agree with my colleague from Idaho that we cannot impose our standards upon other nations. My amendment does not seek to do that. My amendment simply says that these are the standards by which we judge whether or not human rights are being violated.

Would my colleague indicate that there are countries in the world where we concede that the people who are governed should not have the right to consent to that government? Would my colleague indicate that the rule of law is an improper standard for human rights in any country in the world? Does my colleague urge that individual freedoms, including freedom of religion, freedom of speech, independence of the media from

government control, freedom to choose among educational systems, freedom of movement, freedom to obtain private property and operate in the market freely, and freedom to join private organizations of their choice, are irrelevant stands? Is it argued that minority rights are irrelevant in the world today?

It is suggested by my colleague from Idaho that these standards are indeed too high. Since when has the United States been afraid to hold up a high standard to the world? When has it become the American goal, the American ideal, that we dilute our concern for human rights by trying to state that we are for the achievable, and not for the ideal?

The United States, if it has stood for anything for over 200 years, has been a beacon of freedom for suppressed peoples all over the world. Are we now saying we should not hold that beacon, let us turn the light down, let us mute the cry for freedom, let us abandon our idealism at this stage because it is impractical to hold that up as a standard for the rest of the world?

Surely I recognize that other countries do not meet these standards. Everyone must recognize that. But does that mean we should not say it is a standard? Must we, because other countries are oppressing their citizens, change our own perception of the goals for mankind?

Yes, other countries have societies and political systems that are different from ours. But does that mean that we confess that our system is wrong, that the goal of freedom that has been beating in the breast of every free man in the world and every oppressed person as well is not just as vital and just as viable today as it was when the Declaration of Independence electrified the world by lighting a beacon for the rest of the world?

Mr. President, I think it would be a tragic error for this country to turn its back upon that call for freedom and adopt a watered-down version that means nothing but is expedient.

If we were trying to interest ourselves into their internal affairs, I might say that my colleague for Idaho had some basis for it. But when all we are doing is asking to set up a standard by which their conduct can be measured, it seems to me to be a tragic error that I hope the Senate will not adopt to mute that cry, to dim that light, to lose our faith in our own ideal.

I hope, Mr. President, that the substitute amendment will be defeated.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the substitute amendment offered by the senior Senator from Idaho (Mr. CHURCH). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 57, nays 30, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—57

| | | |
|---|---|---|
| Bayh | Hart | Metzenbaum |
| Bentsen | Hatfield, | Morgan |
| Biden | Paul G. | Nelson |
| Brooke | Hayakawa | Nunn |
| Burdick | Heinz | Percy |
| Byrd, Robert C. | Hodges | Proxmire |
| Cannon | Hollings | Randolph |
| Case | Huddleston | Ribicoff |
| Chiles | Humphrey | Riegle |
| Church | Jackson | Sarbanes |
| Clark | Javits | Sparkman |
| Cranston | Kennedy | Stafford |
| Culver | Leahy | Stevenson |
| DeConcini | Long | Stone |
| Durkin | Magnuson | Talmadge |
| Eagleton | Mathias | Weicker |
| Eastland | Matsunaga | Williams |
| Ford | McGovern | Zorinsky |
| Glenn | McIntyre | |
| Gravel | Melcher | |

NAYS—30

| | | |
|---|---|---|
| Allen | Garn | Pearson |
| Baker | Hansen | Roth |
| Bartlett | Hatch | Schmitt |
| Bellmon | Hatfield, | Schweiker |
| Byrd, | Mark O. | Scott |
| Harry F., Jr. | Helms | Stevens |
| Chafee | Laxalt | Thurmond |
| Curtis | Lugar | Tower |
| Danforth | McClure | Wallop |
| Dole | Moynihan | Young |
| Domenici | Packwood | |

NOT VOTING—13

| | | |
|---|---|---|
| Abourezk | Haskell | Pell |
| Anderson | Hathaway | Sasser |
| Bumpers | Inouye | Stennis |
| Goldwater | Johnston | |
| Griffin | Muskie | |

So Mr. CHURCH's amendment (No. UP 1543) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to:

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I wonder if I could have the attention of my colleague from Idaho.

Earlier today, there had been unanimous consent for a rollcall vote on the McClure amendment. In view of the outcome of this vote and the fact that a second vote would relate now to the substitute and would be a second vote on the same measure, I wonder if there would be any objection to vitiating the order for a yea-or-nay vote on the measure now pending, so that we do move then to a final vote?

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, I do that not because I intend to object, but because I want to explain to some of my colleagues that I have been wrestling in my own mind and conscience whether to ask for a rollcall on a motion to reconsider.

There are some Senators who are here now who may not have been aware that the amendment that was just turned down as a result of adopting the Church substitute was identical to that which was accepted by the Senate a year ago, and is a substantial watering down of our commitment to the standard of human rights in the world. In fact, last year, Senator Humphrey, in managing the bill on the floor of the Senate, had accepted the McClure amendment as an appropriate statement and standard for human rights. I am distressed that the Senate perhaps was unaware of the issues and that it was difficult to explain to them as they walked into the room what the issues really are.

I shall not insist upon a rollcall on the motion to reconsider in view of the hour and the temperament of this body. Nor will I object to the vacating of the yeas and nays on the McClure amendment as amended by the Church amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from New York.

Mr. JAVITS. May I say to the Senator, I have really looked at this very, very carefully. I am one of the managers of the bill and I have great conscience about these matters.

This particular Witteveen fund differs from the assistance acts that we are called upon to consider.

Second, I deeply appreciate the desire of the Senator from Idaho to spell out human rights. He spelled it out, in his view, within the terms of the Declaration of Human Rights. I have gone through the Declaration of Human Rights—to which, by the way, we are not a party in any official way. In any case, I have gone through it carefully and I do find some differences.

Mr. McCLURE. Will my colleague yield on that?

Mr. JAVITS. Yes.

Mr. McCLURE. I am afraid there may be some confusion between the Declaration on Human Rights and the Covenant of Human Rights. The United Nations adopted a declaration of human rights and did so by unanimous vote. The Covenant on Human Rights the United States is not a party to. I do not want to confuse the two.

Mr. JAVITS. The declaration was a declaration of the United Nations. What I meant was we are not a signatory.

For example, the Senator's amendment contained the following words:

> Freedom to obtain private property and operate in the market freely.

I think there would be grave challenge as to whether everybody could operate in the market freely in our country, considering our regulatory laws.

The Senator spoke of minority rights and the right to preserve traditional values and culture. There are all sorts of minority rights, traditional values and culture practices which may very well be

inconsistent with individual human rights.

My point is not to be critical, but simply to say this to the Senator: We are going to contend with a House amendment which was incorporated in the bill and which was tabled here—to wit, the Abourezk amendment. We are going to deal with the amendment of Senator CHURCH which followed the pattern that we have in the foreign assistance bill. Personally, and strictly speaking for myself, I shall do my utmost in the resolution of that problem to be creative, to consult with the Senator from Idaho, and to hope to work out some specificity which will be consonant with the operation of this particular facility and, at the same time, do all I can to advance the proposition made to us by the Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the distinguished Senator from New York for his statement and for his promise to help, which I know that he will do, as his word is always good, on the floor of the Senate and elsewhere. I just comment that the right to own property and participate freely in a free enterprise system, in a free market, may not be fully and wholly achieved everywhere, but I hope the United States has not abandoned that as a standard, and an appropriate standard, of the freedom of human beings.

With respect to some of the other standards that are set forth here, I think there is no doubt that they are tough standards to meet, but they are the kind of idealistic goals that this country has always held high. I see no reason to abandon those goals now on the altar of expediency in international economics.

I might just mention that, with regard to the right of ethnic minorities to maintain their own culture, I was yesterday in Boise, Idaho, at a Basque picnic. There is a very strong desire on their part to maintain their own identity. Something I know my colleague from Idaho shares with me is the pride that we have in the Basque people and their willingness to continue to express their own culture in their own ways and with their own songs and dances and the exposition of the Basque flag, which they do.

There will be another such picnic in Mountain Home, Idaho, 1 week later, on next Sunday, where another group, and many of the same ones, will again be saying:

We as an ethnic minority have a right to maintain our identity.

That is not something we have abandoned. That is something we cherish, even though it may not be observed everywhere in the world.

Certainly, we are all aware of the struggles that the Basque people have had against oppression within Spain. We have said repeatedly, in this body and elsewhere, that those people have a right to maintain their own identity. Here we are, on the floor of the Senate, saying that is no longer a goal of the United States. I hope the world will not look at this action here today as being the final statement on the concern of the U.S. Senate for the ethnic minorities throughout the world.

Mr. President, I shall not object.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The yeas and nays are vacated.

The question now occurs on agreeing to the amendment offered by the junior Senator from Idaho, as amended by the substitute amendment offered by the senior Senator from Idaho.

The amendment, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1544

(Purpose: To require a balanced budget beginning with fiscal year 1981)

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be stated.

I might say that I plan to speak for only a minute or two.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 1544:

At the end of the bill, add a new section:

"Section — . Beginning with Fiscal year 1981, the total budget outlays of the Federal government shall not exceed its receipts."

Mr. HARRY F. BYRD, JR. Mr. President, I will take just a moment.

This amendment would mandate a balanced budget beginning in fiscal year 1981.

During his campaign for the presidency, President Carter promised the American people a balanced budget by 1981.

If this amendment is adopted, it would be a matter of record on the part of the Senate for a balanced budget beginning in the fiscal year 1981.

I am prompted to offer this amendment, because of the official Government reports last week that our country now has double-digit inflation.

I am convinced we will not get the cost of living under control until we get the cost of Government under control. Our Nation has been operating on deficit financing now for many years. We have had only two balanced budgets in 20 years.

I think it is time to get back to a balanced budget. This proposal does not mandate a balanced budget for fiscal 1979, nor even for fiscal 1980.

It does mandate a balanced budget beginning with fiscal year 1981.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to UP amendment No. 1544 of the Senator from Virginia (Mr. HARRY F. BYRD, Jr.). The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 58, nays 28, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—58

| | | |
|---|---|---|
| Allen | Eastland | Morgan |
| Baker | Ford | Moynihan |
| Bartlett | Garn | Nunn |
| Bayh | Hansen | Packwood |
| Bellmon | Hatch | Percy |
| Bentsen | Hatfield, Mark O. | Proxmire |
| Biden | Hayakawa | Randolph |
| Brooke | Heinz | Roth |
| Burdick | Helms | Schmitt |
| Byrd, Harry F., Jr. | Hollings | Schweiker |
| Cannon | Huddleston | Scott |
| Chafee | Laxalt | Stafford |
| Chiles | Leahy | Stevens |
| Church | Lugar | Stone |
| Danforth | Magnuson | Talmadge |
| DeConcini | Matsunaga | Thurmond |
| Dole | McClure | Tower |
| Domenici | McIntyre | Wallop |
| Durkin | Melcher | Young |
| | | Zorinsky |

NAYS—28

| | | |
|---|---|---|
| Byrd, Robert C. | Hodges | Ribicoff |
| Case | Humphrey | Riegle |
| Clark | Jackson | Sarbanes |
| Cranston | Javits | Sparkman |
| Culver | Kennedy | Stevenson |
| Eagleton | Long | Weicker |
| Glenn | Mathias | Williams |
| Gravel | McGovern | |
| Hart | Metzenbaum | |
| Hatfield, Paul G. | Nelson | |
| | Pearson | |

NOT VOTING—14

| | | |
|---|---|---|
| Abourezk | Griffin | Muskie |
| Anderson | Haskell | Pell |
| Bumpers | Hathaway | Sasser |
| Curtis | Inouye | Stennis |
| Goldwater | Johnston | |

So UP amendment No. 1544 of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the names of the Senator from North Carolina (Mr. HELMS) and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I know of no further amendments, and I presume we can now go to third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote for the day.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 9214, Calendar No. 582.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9214) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CHURCH. Mr. President, I move to strike all after the enacting clause and substitute the text of S. 2152 as amended by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 69, nays 16, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—69

| | | |
|---|---|---|
| Baker | Ford | Moynihan |
| Bartlett | Glenn | Nelson |
| Bayh | Gravel | Nunn |
| Bellmon | Hart | Packwood |
| Bentsen | Hatfield, Paul G. | Pearson |
| Biden | Hayakawa | Percy |
| Brooke | Heinz | Proxmire |
| Burdick | Hodges | Ribicoff |
| Byrd, Harry F., Jr. | Hollings | Riegle |
| Cannon | Huddleston | Roth |
| Case | Humphrey | Sarbanes |
| Chafee | Jackson | Schmitt |
| Chiles | Javits | Schweiker |
| Church | Leahy | Sparkman |
| Clark | Lugar | Stafford |
| Cranston | Magnuson | Stevens |
| Culver | Mathias | Stevenson |
| Danforth | Matsunaga | Stone |
| DeConcini | McGovern | Talmadge |
| Dole | McIntyre | Tower |
| Durkin | Melcher | Weicker |
| Eagleton | Metzenbaum | Williams |
| Eastland | Morgan | Zorinsky |

NAYS—16

| | | |
|---|---|---|
| Allen | Hatfield, Mark O. | Randolph |
| Byrd, Robert C. | Helms | Scott |
| Domenici | Laxalt | Thurmond |
| Garn | Long | Wallop |
| Hansen | McClure | Young |
| Hatch | | |

NOT VOTING—15

| | | |
|---|---|---|
| Abourezk | Griffin | Kennedy |
| Anderson | Haskell | Muskie |
| Bumpers | Hathaway | Pell |
| Curtis | Inouye | Sasser |
| Goldwater | Johnston | Stennis |

So the bill (H.R. 9214) was passed, as follows:

That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2) is amended by adding at the end thereof the following new section:

"SEC. 28. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as the 'facility') established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

"(b) The Secretary of the Treasury shall account, through the fund established by section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a), for any adjustment in the value of monetary assets held by the United States in respect of United States participation in the facility.

"(c) Notwithstanding any other provision of this section, the authority of the Secretary to enter into agreements making resources available under this section shall be limited to such amounts as are appropriated in advance in appropriation Acts. Effective October 1, 1978, there are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as are necessary to carry out subsection (a) of this section, but not to exceed an amount of dollars equivalent to 1,450 million Special Drawing Rights.".

SEC. 2. (a) Section 3(c) of the Bretton Woods Agreements Act (22 U.S.C. 286a(c)) is redesignated as section 3(c)(1) and amended by adding at the end thereof the following new paragraph:

"(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) The Secretary of the Treasury shall instruct the United States executive director of the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national government service or private industry. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the Congress prior to February 1, 1979.".

(b) Upon entry into force of the amendment to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31–4 of the Board of Governors of the Fund, section 3(c) of the Bretton Woods Agreements Act, as amended by subsection (a), shall be redesignated as section 3(d) of such Act, and the text of section 3(d)(1) of such Act shall be amended to read as provided in section 2(2) of Public Law 94–564.

SEC. 3. (a) The Congress finds that—

(1) the Government of Uganda, under the regime of General Idi Amin, has committed genocide against Ugandans;

(2) the United States maintains substantial trade with the Republic of Uganda; and

(3) the relationship of the United States with Uganda is unique and justifies an exceptional response by the United States to the actions of the Government of Uganda.

(b) It is the sense of the Congress that the Government of the United States should take steps to disassociate itself from any foreign government which engages in the international crime of genocide.

(c) Notwithstanding any other provision of law, after date of enactment of this section, no corporation, institution, group or individual may import, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.

(d) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(m) No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.".

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda.

SEC. 4. The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to oppose any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

SEC. 5. The President of the United States shall instruct the Executive Director of the United States to the International Monetary Fund to oppose any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to the Democratic Kampuchea (Cambodia) or the Republic of Uganda, until the President of the United States determines and certifies to the Congress of the United States that Cambodia or Uganda, as the case may be, is in compliance with internationally recognized human rights.

SEC. 6. The Bretton Woods Agreements Act, as amended, is further amended by adding at the end thereof the following: "The Secretary of the Treasury, shall in consultation with the Secretary of State prepare and submit to Congress an annual report on the observance of internationally recognized human rights, as defined in section 116(a) of the Foreign Assistance Act of 1961, as amended, in each country which draws on funds made available under the Supplementary Financing Facility of the International Monetary Fund.".

SEC. 7. Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that S. 2152 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 9214.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, if the Senator will yield to me briefly, I would like to thank very much the staff—Jacques Gorlin, Barry Johnson, Karin Lissakers, Janice O'Connell and Robert Russell—who worked very hard on this bill on our side and on Senator CHURCH's side, and to express my appreciation for the cooperation of Senators HEINZ and STEVENSON, and Senator CHURCH for his always intelligent and active cooperation in getting what I consider to be a very important measure passed.

Mr. CHURCH. Mr. President, it is a pleasure to work with the distinguished and able Senator from New York in all matters but, particularly, to work with him in the management of a bill of this importance on the Senate floor.

I join him in extending congratulations to the members of the staff who have worked on both sides of the aisle, to the members of the committee staff who served the entire committee so well, and to Senator STEVENSON and Senator HEINZ for their valuable assistance throughout the debate.

Mr. JAVITS. I thank my colleague.

Mr. HEINZ. I would simply like to respond on behalf of Senator STEVENSON and myself, who have enjoyed the privilege of working with Senator CHURCH, the chairman, and Senator JAVITS, the ranking member, on this issue, both from the Committee on Foreign Relations.

I think the committee working together has produced a balanced and excellent project. I am sure Senator JAVITS views this as a very important piece of legislation, one on which he has been working as early as 1977 to insure passage thereof.

I also want to commend Senator CHURCH, the chairman of the committee, as well as my chairman on the International Finance Subcommittee, Senator STEVENSON, for the leadership they have shown in all these matters.

Mr. JAVITS. I thank the Senator.

Mr. CHURCH. I thank the Senator very much for his generous remarks.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, before yielding to my distinguished colleague, I ask unanimous consent that there be a period for the transaction of routine morning business and that Senators be allowed to speak for up to 10 minutes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE HOUSE

At 12:16 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 9400. A bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States.

### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 5:35 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 920. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma;

S. 2463. An act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to raise certain authorized funding levels contained therein, and for other purposes;

S.J. Res. 102. A joint resolution entitled "American Indian Religious Freedom"; and

H.R. 12138. An act to name a certain Federal building in Laguna Niguel, Calif., the "Chet Holifield Building."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. EASTLAND).

## HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 9400. An act to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

S. 3119. A bill to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency (Rept. No. 95–1050).

By Mr. EAGLETON, from the Committee on Governmental Affairs, with an amendment:

S. 3120. A bill to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia (Rept. No. 95–1051).

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment and an amendment to the title:

S. 3271. A bill to amend the Food Stamp Act of 1977 to extend the operation of the workfare pilot projects (Rept. No. 95–1052).

S. 3272. A bill to amend the Packers and Stockyards Act, 1921, to authorize value based tariffs (Rept. No. 95–1053).

Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment and an amendment to the title:

S. 2828. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes (Rept. No. 95–1054).

H.R. 12028. An act to amend title 38, United States Code, to improve the housing programs for the Veterans' Administration (Rept. No. 95–1055).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

S. Res. 530. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2640. Referred to the Committee on the Budget.

By Mr. BAYH, from the Committee on the Judiciary with an amendment and an amendment to the title:

S. 1393. A bill to authorize actions by the Attorney General to redress deprivations of constitutional and other federally protected rights of institutionalized persons (together with minority views) (Rept. No. 95–1056).

By Mr. WILLIAMS, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 531. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 11567. Referred to the Committee on the Budget.

By Mr. WILLIAMS, from the Committee on Banking, Housing, and Urban Affairs, with an amendment and an amendment to the title:

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes (Rept. No. 95–1057).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time

and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS (for himself, Mr. ROTH, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, and Mr. MCCLURE):

S. 3355. A bill to provide for an advisory referendum with respect to a balanced Federal budget; to the Committee on Governmental Affairs.

By Mr. LUGAR:

S. 3356. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small business; to the Committee on Finance.

By Mr. BENTSEN:

S. 3357. A bill to amend the Internal Revenue Code of 1954 with respect to punitive damages received by private litigants under the Clayton Act; to the Committee on Finance.

By Mr. SPARKMAN (for himself and Mrs. ALLEN):

S. 3358. A bill to authorize the Secretary of the Army to make studies of means of preventing streambank erosion at historic Blakeley, Ala.; to the Committee on Environment and Public Works.

By Mr. CHILES (for himself and Mr. HEINZ):

S. 3359. A bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000; to the Committee on Governmental Affairs.

By Mr. PERCY:

S.J. Res. 150. A joint resolution authorizing the President to proclaim the month of November 1978 as "National REACT Month"; to the Committee on the Judiciary.

By Mr. HEINZ:

S.J. Res. 151. A joint resolution authorizing and requesting the President to designate November 11 through 17, 1978, as "Vietnam Veterans Week"; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CURTIS (for himself, Mr. ROTH, Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, and Mr. MCCLURE):

S. 3355. A bill to provide for an advisory referendum with respect to a balanced Federal budget; to the Committee on Governmental Affairs.

(The remarks of Mr. CURTIS when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. LUGAR:

S. 3356. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small business; to the Committee on Finance.

SMALL BUSINESS TAX RELIEF ACT OF 1978

● Mr. LUGAR. Mr. President, I am pleased to introduce S. 3356, the Small Business Tax Relief Act of 1978. This bill is the companion legislation to H.R. 10540, which has been introduced in the House by Congressman RICHARD SCHULZE, a distinguished member of the Ways and Means Committee.

S. 3356 addresses six critical tax issues facing the small business sector. The importance of small business in American life is easily and often forgotten by Federal policymakers who design policies with which large corporations can contend, but which create enormous difficulties for small businesses.

The Internal Revenue Code exemplifies this situation. As the compilation of congressional tax policy, the code places overbearing financial and administrative burdens on small businesses.

Internal Revenue Service data show that in 1974 there were 1,978,059 corporations, and a total of nearly 14 million U.S. business enterprises. About 2,500 of these corporations are listed on stock exchanges, and the stock of approximately 2,500 more was traded over the counter on a national basis.

Most of these corporations, partnerships, and sole proprietorships could be classified as small business. The definition of small business varies with the context in which it is discussed. The corporate surtax exemption represents an effort by the Congress to define small business according to the level of taxable income. The most recent restructuring of the surtax exemption occurred in 1975 in the Tax Reduction Act of that year. For taxable years 1975 through 1978, Congress imposed a tax of 20 percent on taxable income up to $25,000 and 22 percent on taxable income between $25,000 and $50,000. Above $50,000 the 26-percent surtax is added to the 22 percent for a total corporate tax of 48 percent. Unless Congress acts this year, the surtax exemption will occur on taxable income above $25,000.

As a fundamental part of the economic scene, small business in this country shares in our capital investment shortage. The United States is rapidly losing its competitive advantage in world markets. We lag behind most developed nations in both capital investment and productivity growth.

The average annual rate of real economic growth during the decade of the 1960's for the 20 OECD nations ranged from a high of 11.1 percent in Japan to a median of about 5 percent for Australia, the Netherlands, and Norway, to a low of 2.8 percent for the United Kingdom. The United States during this time experienced an average growth rate of only 4 percent a year—17th among the 20 nations.

Capital investment influences economic growth more than any other single factor. The United States retains a position of economic leadership because it has enjoyed an adequate combination of several economic variables along with political stability and improving social mobility. However, a quick examination of the relative rate of capital investment in this country during the 1960's will illustrate that our present economic position is in jeopardy. The gap has increased between the U.S. level of investment, measured as a share of national output, and the commitment of other leading industrial nations. Treasury Department figures indicate that total U.S. fixed investment as a share of national output during the period 1960 through 1973 was 17.5 percent which ranks the United States last among a group of 11 major industrial nations. Our investment rate was 7.2 percentage points below the average commitment of the entire group:

Investment as percent of real national output, 1960–73 [1]

| | Total fixed [2] | Nonresidential fixed |
|---|---|---|
| Japan | 35.0 | 29.0 |
| West Germany | 25.8 | 20.0 |
| France | 24.5 | 18.2 |
| Canada | 21.8 | 17.4 |
| Italy | 20.5 | 14.4 |
| United Kingdom | 18.5 | 15.2 |
| United States | 17.5 | 13.6 |
| 11 OED countries | 24.7 | 19.4 |

[1] OECD concepts of investment and national products. The OECD concept includes nondefense Government outlays for machinery and equipment in the private investment total which required special adjustment in the U.S. national accounts for comparability. National output is defined in this study as "gross domestic product," rather than the more familiar measure of gross national product, to conform with OECD definitions.

[2] Including residential.

Source: U.S. Department of the Treasury.

Prof. Paul W. McCracken, former Chairman of the Council of Economic Advisers, has estimated that the amount of nonresidential capital formation per person during the 1970's is 22 percent below the level reported in the decade of 1956 to 1965. It is true that the United States still maintains a considerably higher capital-to-labor ratio than does Europe or Japan. However, our advantage has deteriorated as other nations have increased their capital investments per worker. The Commerce Department estimates that since 1960 the existing base of plant and equipment assets has nearly doubled in France and Germany and more than tripled in Japan. The United States experienced an increase of no more than 50 percent during the same period:

GROSS NONRESIDENTIAL FIXED INVESTMENT PER PERSON ADDED TO CIVILIAN LABOR FORCE (IN 1958 DOLLARS)

| Period: | *Amount* |
|---|---|
| 1956–60 | $49,500 |
| 1961–65 | 55,300 |
| 1966–70 | 46,400 |
| 1971–74 | *41,000 |

*Estimate based on incomplete data for 1974.

The Congress and the administration must directly and forcefully change the attitudes and policies toward investment which have developed over a period of years if adequate amounts of capital are to be invested in this country over the next decade. This investment in our Nation's future economic vitality requires action in a variety of areas, particularly through amendments to the Internal Revenue Code.

The small business community has particular tax problems. S. 3356 addresses six specific tax problem areas for small business entities.

First. It permits sole proprietors with gross receipts of less than $1 million to elect either the cash or accrual method of reporting income.

Second. It increases the corporate surtax exemption from the present $50,000 to $150,000 and reduces the overall corporate tax rate from the present 48 to 40 percent over a 4-year period as indicated below:

PRESENT LAW

[In percent]

| Taxable income: | Rate of tax |
|---|---|
| $0–$25,000 | 20 |
| $25,001–$50,000 | 22 |
| $50,000– | 48 |

SMALL BUSINESS TAX RELIEF ACT OF 1978

[In percent]

| | Rate of tax | | | | |
|---|---|---|---|---|---|
| | 1st year | 2d year | 3d year | 4th year | 5th year |
| Taxable income: | | | | | |
| $0–$50,000 | 20 | 18 | 16 | 15 | 14 |
| $50,000–$150,000 | 22 | 20 | 18 | 17 | 16 |
| $150,000 | 48 | 46 | 44 | 42 | 40 |

Third. It provides for the tax-free rollover of the profits realized on the sale of a small business by an individual under age 55 if all of the profits from the sale are reinvested in another small business within 18 months. Taxpayers age 55 or over may elect either the normal capital gain treatment or the 10-year income averaging treatment under section 402(e)(1).

Fourth. It provides for the rapid amortization within 36 months of certain changes or improvements to plant and equipment which are required by Federal law or regulation. The aim of this provision is to give a rapid writeoff to businesses forced to comply with Federal laws or regulations such as pollution control, OSHA, HEW rules for the handicapped, and so forth. To qualify for rapid amortization, such changes would have to be certified by the particular Federal agency as being in compliance with the law and of a type which does not significantly increase output or capacity. The provision would not apply to new facilities.

Fifth. It increases the amount of additional first-year depreciation which may be deducted from the present $10,000 to $25,000.

Sixth. It grants a 15-percent investment tax credit to a business which expands or relocates within a 50-mile radius of its present location. The increased tax credit would apply only to the first $3 million of qualifying expenditures including the cost of buildings.

Section 6 grants a 15-percent investment tax credit to those businesses which modernize or expand their facilities or which relocate within 50 miles of their existing place of business. The credit would be limited to the first $3 million of qualifying expenditures per year and would extend for a period of 10 years. In short, for each $1 million of qualified expenditures, a corporation could credit $150,000 against its final income tax liability with a maximum credit of $450,000 if $3 million had been spent during the year. Existing law would also be changed to allow the credit to apply to the cost of a building and its structural components including any plant or facility which is used by the taxpayer in a trade or business of manufacturing or producing goods.

Mr. President, I ask unanimous consent that the text of S. 3356 be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3356

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Tax Relief Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. OPTIONAL CASH METHOD OF ACCOUNTING FOR TAXPAYERS OPERATING AS A SOLE PROPRIETOR.

(a) GENERAL RULE.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end thereof the following new subsection:

"(f) OPTIONAL CASH METHOD.—

"(1) IN GENERAL.—An individual who owns the entire interest in an unincorporated trade or business may elect to compute taxable income from such trade or business—

"(A) under the cash receipts and disbursements method, and

"(B) without any requirement to use inventories under section 471.

"(2) GROSS RECEIPTS LIMITATION.—Paragraph (1) shall not apply for any taxable year with respect to any unincorporated trade or business if for any prior taxable year the gross receipts from such trade or business exceeded $1,000,000.

"(3) ELECTION.—An election under paragraph (1) may be made by the taxpayer with respect to any trade or business without the consent of the Secretary—

"(A) for the taxpayer's first taxable year which begins after the date of the enactment of the Small Business Tax Relief Act of 1978, or

"(B) for during the first taxable year during which the taxpayer owns the entire interest in such trade or business.

"(4) SPECIAL RULE FOR MARRIED INDIVIDUALS.—For purposes of this subsection, any interest in an unincorporated trade or business owned by a husband and wife as joint tenants, tenants by the entirety, or community property shall be treated as owned by one individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. REDUCTION IN CORPORATE INCOME TAX RATES.

(a) $150,000 SURTAX EXEMPTION.—

(1) IN GENERAL.—Subsection (d) of section 11 (defining surtax exemption) is amended to read as follows:

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is $150,000, except that, with respect to a corporation to which section 1561 (relating to certain multiple tax benefits in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

(b) REDUCTION IN CORPORATE TAX RATES FOR TAXABLE YEARS BEGINNING IN 1979.—

(1) NORMAL TAX.—Subsection (b) of section 11 (relating to normal tax) is amended to read as follows:

"(b) NORMAL TAX.—The normal tax is equal to—

"(1) 20 percent of so much of the taxable income as does not exceed $50,000, plus

"(2) 22 percent of so much of the taxable income as exceed $50,000".

(2) MUTUAL INSURANCE COMPANIES.—

(A) IN GENERAL.—Section 821(a)(1) (relating to mutual insurance companies) is amended to read as follows:

"(1) NORMAL TAX.—A normal tax equal to the lessor of—

"(A) the sum of—

"(i) 20 percent of so much of the mutual insurance company taxable income as does not exceed $50,000, plus

"(ii) 22 percent of so much of the mutual insurance company taxable income as exceeds $50,000, or

"(B) 44 percent of the amount by which such taxable income exceeds $6,000; plus".

(B) SMALL COMPANIES.—Section 821(c)(1)(A) (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) NORMAL TAX.—A normal tax equal to the lesser of—

"(i) the sum of 20 percent of so much of the taxable investment income as does not exceed $50,000, plus 20 percent of so much of the taxable investment income as exceeds $50,000, or

"(ii) 44 percent of the amount by which such taxable income exceeds $3,000, plus".

(3) CONFORMING AMENDMENT.—The last sentence of section 1561(a) (relating to limitations on certain multiple tax benefits in case of certain controlled corporations) is amended by striking out "$25,000" each place it appears and inserting in lieu thereof "$50,000".

(4) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1978.

(c) REDUCTION IN CORPORATE TAX RATES FOR TAXABLE YEARS BEGINNING IN 1980.—Effective with respect to taxable years beginning in 1980, the following provisions are amended by striking out "20 percent" and inserting in lieu thereof "18 percent" and by striking out "22 percent" and inserting in lieu thereof "20 percent":

(1) Section 11(b).

(2) Section 821(a)(1).

(3) Section 821(c)(1)(A).

(d) REDUCTION IN CORPORATE TAX RATES FOR TAXABLE YEARS BEGINNING IN 1981.—Effective with respect to taxable years beginning in 1981, the provisions specified in subsection (c) are amended—

(1) by striking out "18 percent" and inserting in lieu thereof "16 percent", and

(2) by striking out "20 percent" and inserting in lieu thereof "18 percent".

(e) REDUCTION IN CORPORATE TAX RATES FOR TAXABLE YEARS BEGINNING IN 1982.—

(1) NORMAL TAX.—Effective with respect to taxable years beginning in 1982, the provisions specified in subsection (c) are amended—

(A) by striking out "16 percent" and inserting in lieu thereof "15 percent", and

(B) by striking out "18 percent" and inserting in lieu thereof "17 percent".

(2) SURTAX.—Effective with respect to taxable years beginning in 1982, subsection (d) of section 11 (relating to surtax) is amended by striking out "26 percent" and inserting in lieu thereof "25 percent".

(f) REDUCTION IN CORPORATE TAX RATES FOR TAXABLE YEARS BEGINNING AFTER 1982.—

(1) SURTAX.—Effective with respect to taxable years beginning after 1982, the provisions specified in subsection (c) are amended—

(A) by striking out "15 percent" and inserting in lieu thereof "14 percent", and

(B) by striking out "17 percent" and inserting in lieu thereof "16 percent".

(2) SURTAX.—Effective with respect to taxable years beginning after 1982, subsection (c) of section 11 (relating to surtax) is amended by striking out "25 percent" and inserting in lieu thereof "24 percent".

SEC. 4. GAIN FROM SALE OF SOLE PROPRIETORSHIP.

(a) GENERAL RULE.—Part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 1041. GAIN FROM SALE OF UNINCORPORATED TRADE OR BUSINESS.

"(a) IN GENERAL.—

"(1) SALES BEFORE TAXPAYER ATTAINS AGE 55.—If—

"(A) an individual owns the entire interest in an unincorporated trade or business, and

"(B) such individual sells or exchanges substantially all of the property used in such trade or business in one transaction,

then, at the election of the taxpayer, gain realized from such sale or exchange shall be recognized only to the extent that the amount realized from such sale or exchange exceeds the cost of qualifying replacement property purchased during the 18-month period beginning on the date of such sale or exchange. An election under this paragraph shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(2) If the sale or exchange described in paragraph (1)(B) occurs after the individual attains age 55, at the election of the taxpayer, gain on such sale shall not be included in gross income but shall be taxed as ordinary income in a manner similar to that provided by Section 402(e)(1) (relating to special 10-year averaging).

"(b) QUALIFYING REPLACEMENT PROPERTY.—For purposes of subsection (a), the term 'qualifying replacement property' means any property which is used in connection with any unincorporated trade or business—

"(1) the entire interest in which is owned by the taxpayer, and

"(2) which was begun by the taxpayer after the date of the sale or exchange refered to in subsection (a)(2).

"(c) SPECIAL RULE FOR JOINTLY HELD PROPERTY.—If the entire interest in an unincorporated trade or business is held by a husband and wife as joint tenants, tenants by the entirety, or community property, then this section shall be applied as if such husband and wife were one individual who had attained an age equal to the age attained by the older of such spouses.

'(d) BASIS OF QUALIFYING REPLACEMENT PROPERTY.—To the extent gain is not recognized because subsection (a) applies, such gain shall be applied to reduce (in the order listed) the basis for determining gain or loss of the following types of qualifying replacement property—

"(1) stock in trade or other property of a kind which would properly be included in inventory if on hand at the close of the taxable year, or property held primarily for sale to customers in the ordinary course of trade or business;

"(2) accounts or notes receivable acquired in the ordinary course of business; or

"(3) property, used in trade or business, of a character which is subject to the allowance for depreciation provided in section 167.

"(e) ASSESSMENT OF DEFICIENCIES.—If the taxpayer has made an election under subsection (a) with respect to a sale, then notwithstanding any other provision of law or rule of law the statutory period for the assessment of any deficiency (including interest and additions to the tax) shall not expire until 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of the purchase of qualified replacement property or the failure to timely purchase such property. Such deficiency may be assesed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such asessment."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (5) of section 1245(b) (relating to exceptions and limitations) is amended—

(A) by striking out "1071 and 1081" in the paragraph heading and inserting in lieu thereof "1041, 1071, and 1081"; and

(B) by inserting "section 1041 (relating to gain from sale of unincorporated trade or business)," before "section 1071 (relating".

(2) Paragraph (5) of section 1250(d) (relating to exceptions and limitations) is amended—

(A) by striking out "1071 and 1081" in the paragraph heading and inserting in lieu thereof "1041, 1071, and 1081", and

(B) by inserting "section 1041 (relating to gain from sale of unincorporated trade or business);" before "section 1071 (relating".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1041. Gain from sale of unincorporated trade or business."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 5. RAPID AMORTIZATION FOR CERTAIN FEDERALLY REQUIRED EXPENDITURES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 192. AMORTIZATION OF CERTAIN FEDERALLY REQUIRED PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of any federally required property based on a period of 36 months.

"(b) FEDERALLY REQUIRED PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'federally required property' means any property which—

"(A) is used on or in connection with any plant or facility which is in operation before the date of the enactment of the Small Business Tax Relief Act of 1978,

"(B) is of a character subject to the allowance for depreciation,

"(C) is certified by the Federal certifying authority to the Secretary as being necessary or appropriate for the operation of such plant or facility to be in compliance with—

"(i) the requirements of any Federal law (other than the laws referred to in section 169(d)(1)(B)), or

"(ii) any State law requirements which were adopted to meet a requirement of such Federal law;

"(D) does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of any property, or

"(ii) alter the nature of any manufacturing or production process, and

"(E) cannot reasonably be expected to recover over its useful life by reason of profits derived through the recovery of wastes or otherwise.

"(2) FEDERAL CERTIFYING AUTHORITY.—The term 'Federal certifying authority' means the head of the Federal agency which has the primary jurisdiction over the Federal law referred to in paragraph (1)(A)(i).

"(c) AMOUNT OF DEDUCTION.—The amortization deduction for many federally required property shall be an amount, with respect to each month of the 36-month period within the taxable year, equal to the adjusted basis of the federally required property at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any federally required property for any month shall be in lieu of the depreciation deduction provided by section 167 and any other amortization deduction with respect to such property for such month. The 36-month period shall begin, as to any federally required property, at the election of the taxpayer, with the month following the month in which such property was placed in service or with the succeeding taxable year.

"(d) SPECIAL RULES FOR ADJUSTED BASIS.—

"(1) For purposes of this section, the adjusted basis of any federally required property with respect to which an election has been made under subsection (e) shall not be increased for amounts chargeable to capital account for additions or improvements after the amortization period has begun.

"(2) The depreciation deduction provided by section 167 shall, notwithstanding subsection (c), be allowed with respect to the portion of the adjusted basis which is not taken into account in applying this section.

"(e) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction, and the election to begin the 36-month period with the month following the month in which the federally required property is placed in service or with the taxable year succeeding the taxable year in which such property is placed in service, shall be made by filing with the Secretary in such manner, in such form, and within such time, as the Secretary may be regulations prescribe, a statement of such election.

"(f) TERMINATION OF ELECTION.—

"(1) BY THE TAXPAYER.—A taxpayer which has elected under subsection (e) to take the amortization deduction with respect to any federally required property may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such property.

"(2) CONSTRUCTION TERMINATION.—If at any time during the amortization period any federally required property becomes property with respect to which an amortization deduction under this section is not allowable by reason of subsection (g), the taxpayer shall be deemed to have terminated under paragraph (1) his election under this section. Such termination shall be effective beginning with the month in which a lease exists which causes disallowance under subsection (g).

"(g) NONCORPORATE LESSORS.—No amortization deduction shall be allowed under this section with respect to any property of which a person which is not a corporation is the

lessor. In the case of property of which a partnership is the lessor, the amortization deduction otherwise allowable under this section with respect to such property to any partner which is a corporation shall be allowed notwithstanding the preceding sentence and subsection (f)(2). For purposes of this subsection, an electing small business corporation (as defined in section 1371) shall be treated as a person which is not a corporation.

"(h) LIFE TENANT AND REMAINDERMAN.—In the case of any federally required property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(i) APPLICATION OF SECTION.—This section shall apply with respect to any property—

"(1) the construction, reconstruction, or erection of which is completed by the taxpayer after the date of the enactment of the Small Business Tax Relief Act of 1978, or

"(2) which is acquired by the taxpayer after such date of enactment.

In applying this section to property described in paragraph (1), there shall only be taken into account that portion of the basis which is attributable to construction, reconstruction, or erection after such date of enactment.

"(j) CROSS REFERENCE.—

"For treatment of certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) REDUCTION IN AMORTIZATION PERIOD FOR POLLUTION CONTROL FACILITIES.—Subsections (a) and (b) of section 169 (relating to amortization of pollution control facilities) are each amended by striking out "60" each place it appears and inserting in lieu thereof "36".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 192. Amortization of certain federally required property."

(2) The second sentence of section 46(c)(2) (defining applicable percentage for purposes of determining qualified investment) is amended by striking out the period at the end thereof and inserting in lieu thereof "(or, if the taxpayer has elected an amortization deduction with respect to the property under section 192, the amortization period)."

(3) Section 642(f) (relating to amortization deductions of estates and trust) is amended by striking out "and 191" and inserting in lieu thereof "191, and 192".

(4) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(5) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking out "or 191" each place it appears and inserting in lieu thereof "191, or 192".

(6) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 6. INCREASE IN ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE FOR SMALL BUSINESS.

(a) INCREASE IN PERCENTAGE.—Subsection (a) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by striking out "20 percent" and inserting in lieu thereof "25 percent".

(b) INCREASE IN DOLLAR LIMITATION.—Subsection (b) of section 179 (relating to dollar limitation) is amended—

(1) by striking out "$10,000" each place it appears and inserting in lieu thereof "$25,000", and

(2) by striking out "$20,000" and inserting in lieu thereof "$50,000".

(c) ALLOWANCE OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR BUILDINGS.—Paragraph (1) of section 179(d) (defining section 179 property) is amended by striking out "tangible personal property" and inserting in lieu thereof "tangible property".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. INCREASE IN INVESTMENT TAX CREDIT FOR CERTAIN PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended to read as follows:

"(2) AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The amount of the credit determined under this paragraph for the taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(i) the regular percentage,

"(ii) in the case of qualified manufacturing property, the qualified manufacturing percentage, and

"(iii) the ESOP percentage.

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is—

"(i) 10 percent with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, or

"(ii) 7 percent with respect to the period beginning on January 1, 1981.

"(C) QUALIFIED MANUFACTURING PERCENTAGE.—For purposes of this paragraph, the qualified manufacturing percentage is—

"(i) 15 percent with respect to the period beginning on the date of the enactment of the Small Business Tax Relief Act of 1978 and ending on the date 10 years after such date of enactment, or

"(ii) zero with respect to any other period.

"(D) SPECIAL RULES FOR QUALIFIED MANUFACTURING PROPERTY.—

"(i) DOLLAR LIMITATION.—The amount of qualified investment which may be taken into account under subparagraph (A)(ii) for any taxable year may not exceed $3,000,000. Under regulations prescribed by the Secretary, rules similar to the rules provided by the last two sentences of section 48(c)(2)(A) and subparagraphs (B), (C), and (D) of section 48(c)(2) shall apply for purposes of the preceding sentence.

"(ii) COORDINATION WITH REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage shall not apply to any property to which the 15-percent qualified manufacturing percentage applies under subparagraph (A)(ii).

"(E) ESOP PERCENTAGE.—For purposes of this paragraph, the ESOP percentage is—

"(i) with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, 1 percent, and

"(ii) with respect to the period beginning on January 1, 1977, and ending on December 31, 1980, an additional percentage (not in excess of ½ of 1 percent) which results in an amount equal to the amount determined under section 301(e) of the Tax Reduction Act of 1975.

This subparagraph shall apply to a corporation only if it meets the requirements of section 301(d) of the Tax Reduction Act of 1975 and only if it elects (at such time, in such form, and in such manner as the Secretary prescribes) to have this subparagraph apply."

(b) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (l) as subsection (n) and by inserting after subsection (k) the following new subsections:

"(l) QUALIFIED MANUFACTURING PROPERTY.—

"(1) ALLOWANCE OF CREDIT FOR BUILDING.—For the period beginning on the date of the enactment of the Small Business Tax Relief Act of 1978 and ending on the date 10 years after such date of enactment, in the case of qualified manufacturing property, subsection (a)(1)(B) shall be applied by disregarding the phrase '(not including a building and its structural components)'.

"(2) QUALIFIED MANUFACTURING PROPERTY.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified manufacturing property' means—

"(i) any qualified manufacturing facilty, and

"(ii) any machinery or equipment placed in service by the taxpayer on or in connection with a qualified manufacturing facility.

"(B) QUALIFIED MANUFACTURING FACILITY.—The term 'qualified manufacturing facility' means any plant or facility which is used by the taxpayer in a trade or business of manufacturing or producing goods and—

"(i) which is, on the date of the enactment of the Small Business Tax Relief Act of 1978, owned by the taxpayer and used by him in such a trade or business, and on such date had been so owned and used by him for at least 1 year; or

"(ii) which is located within 50 miles of a plant or facility described in clause (i).

Such term does not include any plant or facility used predominantly in a trade or business described in section 46(c)(3)(B).

"(C) SPECIAL RULE.—For purposes of subparagraph (B)—

"(i) members of the same affiliated group of corporations (as defined in section 1504(a)) which file a consolidated return for the first taxable year ending after the date of the enactment of the Small Business Tax Act of 1978 and for each taxable year thereafter before the taxable year, for which the credit is determined under section 46(a)(2) shall be treated as one taxpayer;

"(ii) assets acquired by the taxpayer after the date of the enactment of the Small Business Tax Act of 1978 in a transaction to which section 381(a) applies shall be treated as not owned by the taxpayer on such date.

"(m) APPLICATION OF CERTAIN TRANSITIONAL RULES.—Where the application of any provision of subsection (l) of this section or subsection (a)(2) or (c)(3) of section 46 is expressed in terms of a period, such provision shall apply only to—

"(1) property to which section 46(d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after the first day of such period, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection during such period,

"(2) property to which section 46(d) does not apply, acquired by the taxpayer during such period and placed in service by the taxpayer during such period, and

"(3) property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46) with respect to qualified progress expenditures made during such period"

(c) RECAPTURE IN CASES OF CHANGE IN USE—

(1) IN GENERAL.—Subsection (a) of section 47 (relating to certain dispositions, etc. of section 38 property) is amended by re-

designating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) PROPERTY CEASES TO BE QUALIFIED MANUFACTURING PROPERTY.—If during any taxable year any section 38 property taken into account as qualified manufacturing property (within the meaning of section 48(l)(2)(B)(ii)) ceases to be used on or in connection with a qualified manufacturing facility, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from not treating such property as qualified manufacturing property (after giving due regard to the period before such change in use). If the application of this paragraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1)."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (5) of such subsection (a) (as redesignated by paragraph (1)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) or (4)".

(B) Paragraph (6)(B) of such subsection (a) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended to read as follows:

"(A) For the period beginning on January 1, 1981, in the case of any property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.●

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By Mr. CHILES (for himself and Mr. HEINZ):

S. 3359. A bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000; to the Committee on Governmental Affairs.

● Mr. CHILES. Mr. President, I am today introducing legislation which will have a great impact on small and minority construction contractors around the country as they attempt to do business with the Government. This legislation, to increase the threshold of the Miller Act is being cosponsored by the ranking minority member of the Governmental Affairs Subcommittee on Federal Spending Practices, the Senator from Pennsylvania (Mr. HEINZ).

The subcommittee held 2 days of hearing to listen to contractors discuss their problems in doing business with the government—local, State, and Federal.

In hearings which the subcommittee held in Miami I heard contractors from my State talk about the constraints they face daily in the construction industry. Some of the problems they discussed are problems which the Government can do little about. However, there is one constraint, one problem that the Congress can address—that problem concerns itself with the bonding restrictions imposed by the Miller Act.

Presently, any construction contractor who wishes to do business with the Government must get a bond even if that job is only $2,000. The $2,000 limit was enacted in 1935 and it's still in force. Lots of other things have changed since 1935 but not the Miller Act.

In fact, when the Miller Act's $2,000 limitation was imposed, bread only cost 15 cents a loaf, the minimum wage was generally accepted at 35 cents an hour, Franklin Delano Roosevelt had been President less than 3 years and this Senator from Florida was barely 5 years old. Well, the senior Senator from Florida is more than 5 years old now but the Miller Act remains unchanged.

I had the distinct pleasure of serving on the Procurement Commission which reviewed the antiquated Government procurement laws and made several recommendations. The Commission had this to say about the Miller Act:

> The Act was enacted in 1935 and requires, in general, performance and payment bonds under any Federal contract in excess of $2,000 for the construction, alteration, or repair of any public building or public work of the United States. The Act's application is coextensive with that of the Davis-Bacon Act. It was designed to replace and correct the shortcomings of the Heard Act of 1894, a law that requires prime contractors to provide a single penal bond which served as both the performance and the payment bond.

Under the Miller Act, two separate bonds are required—a performance bond and a payment bond. The requirement for a performance bond is intended to protect the Government against failure of the contractor to complete construction work, while the payment bond is, in effect, a substitute for the protection afforded on private construction projects by a mechanics lien, a remedy not available against the Government because of the doctrine of sovereign immunity.

Although the Miller Act bonding requirements are beneficial to Federal construction procurement, the act presents a number of problems which impact the procurement process and construction costs.

In practical effect, requiring performance and payment bonds for contracts in excess of $2,000 means requiring bonds for all construction contracts—indicates that the $2,000 threshold for bonds is expensive to the Government and limits competition on small construction jobs; either because potential construction contractors will not go through the paperwork and expense of getting bonds or are unable to do so.

The number of construction contracts under $25,000 is substantial, although it represents only a fraction of the total construction expenditures; for example, in fiscal 1972 the number of actions representing military prime contract awards for construction between $10,000 and $24,000 numbered 6,095—over 44 percent of the reported construction contracts—for a value of about $94 million. The types of work involved included small projects for repair and alteration, work in remote areas such as fences and cattleguards, and rehabilitation of housing in preparation for sale.

The Miller Act, as currently written, authorizes DOD to waive the bonding requirements for cost-type contracts. Other agencies who do not have that authority must obtain such bonds or resort to other legal grounds for omitting this requirement.

DOD had exercised its waiver authority under an industry representative, from whom views were solicited by GAO, expressed the belief that the value of performance and payment bonds lies not so much in the indemnification of Government losses as in the other functions performed by the sureties. The construction industry's chief concerns appear to be the screening out of unqualified contractors and the protection of suppliers and laborers. Government agencies share these concerns and want the assistance of the surety to help to avoid a default and in taking over and completing the construction project when a default does occur. The act with respect to cost-type contracts has required that cost-type contractors obtain Miller Act "equivalent" bonds from their fixed-price subcontractors. Although these bonds are intended to provide protection equal to that under the Miller Act, they are "private bonds" and must be enforced under State law rather than the Miller Act.

Lacking the DOD waiver authority, NASA among others apply the bond requirements of the act to fixed-price subcontractors under their cost-type prime contractors. Although the Comptroller General has held that the bonds obtained from such subcontractors are Miller Act bonds, representatives of the surety industry continue to have concerns about the status of such bonds. The General Accounting Office in a report on the desirability of expanding the Government's self-insurer role in numerous phases of its activities, devoted considerable attention to the Miller Act requirements for payment and performance bonds on Government construction contracts.

The survey by GAO disclosed that the cost of the bonds was substantial and the number of defaults few. It was indicated that the deletion of the bond requirements and the acceptance of the occasional inconveniences, disruption, and expense of an uninsured default might result in a net benefit to the Government Agency.

The $2,000 limitation of the Miller Act is particularly harsh on minority contractors simply because so many of them are small contractors. In testimony before my subcommittee, Fred Law, the president of the Florida Association of Minority Contractors, had this to say about the Miller Act limitation:

> Minority contractors virtually have two strikes going against them when the Miller Act is applied. The $2,000 limit is simply too low. It (the limit) stops you from getting a foot in the door. Minorities need that foot in the door very badly.

Minority firms often face more than the ordinary barriers that majority firms have to hurdle. It is indeed a true dilemma.

Minority firms are constantly striving to gain equal access to a marketplace that in many respects is arrayed against them. A recent article in Ebony magazine noted that minorities own only about 4 percent of the Nation's businesses and control less than 1 percent of total business assets. That same report showed a gap estimated at roughly $218 billion between white and minority businesses. The gap is growing wider instead of smaller.

I would be among the first to agree that bonding requirements are necessary. The original intent of the Miller Act is laudatory. The act was passed to provide protection to the Government on construction work as well as insuring workers and suppliers with some insurance.

The intent and purpose of the act must be maintained. However, the present threshold is simply unrealistic.

When I heard testimony in Miami on the Miller Act several witnesses made these two important points:

First. State and local governments have adopted their own versions of the Miller Act, and

Second. Federal contract officers have been permitted to treat many non-Miller Act contracts—that is, requiring surety bonds from the contractor, as though they were Miller Act contracts—even though there is no statutory requirement for such actions. Examples of such non-Miller Acts are janitorial services, window washing, grasscutting, timber removal and sales, kitchen police (KP), service contracts, computer software, et cetera. These are difficult to underwrite contracts; therefore, surety bond requirements for these non-Miller Act contracts are particular onerous to small contractors.

Admittedly, if the Federal Government were to take the lead as this bill does, and increase the Miller Act threshold to $25,000 it is reasonable to expect that the State and local public bodies will follow suit and amend their own "little Miller Act."

It is important Mr. President that the Congress recognize the Miller Act's impact upon the small construction contractor. True, it is difficult for many of these contractors to obtain the requisite surety bonds because these are not very profitable bonds for private sureties to underwrite—unless they write many such bonds per year for a contractor.

I would be remiss, Mr. President, if I did not acknowledge the great leadership already shown by several other organizations in this area of concern, foremost among them is AMCAP.

Further, Mr. President, the administration has gone on record supporting legislation which would raise the Miller Act threshold to $25,000.

I am also aware that the Senator from Texas (Mr. BENTSEN) has been instrumental in this area and I welcome his support on this vital legislation.

I know that the Senator from Pennsylvania (Mr. HEINZ) has a statement to make. Again, I welcome his cosponsorship of this legislation.●

Mr. HEINZ. Mr. President, I thank my colleague, the distinguished senior Senator from Florida (Mr. CHILES) for stating the case so well. I am proud to join him in cosponsoring this bill which is so long overdue. I endorse this bill because it is the necessary first step in striking out at the gross injustice perpetrated on our small and minority contractors by an outdated law.

If we are to realize our national goals to support and encourage minority businesses it is essential that the Miller Act bonding limits be raised to a realistic level. This is so important, Mr. President, that at the same time I am cosponsoring this bill, I am also submitting an amendment to increase the limit to $50,000 instead of the $25,000 contained in the bill.

The encouragement of small and minority businesses is one of the most important responsibilities the Federal Government has ever taken on. Time and again Congress has enacted measures which are designed to insure that all Americans are given the opportunity to fully participate in a great American institution—the free enterprise system. We do that because no one should be deprived through economic or social disadvantage of the benefits which that system can provide.

But as is so often the case, the Government offers with one hand what it denies with the other. At the same time the President wants to triple the amount of Government business performed by minority businesses, Government may be failing to provide the helping hand needed to take advantage of that business.

Surety bonding and construction contracts is one shocking example of this paradox. While the President wants to increase the amount of business placed with minority construction firms, he also has to enforce the Miller Act which requires that these firms post performance and payment bonds for any contract over $2,000. But, on the whole, minority firms just cannot get bonding. With one hand the Government giveth and with the other it taketh away.

What good does it do, then, to negotiate an 8(a) construction contract with a Government agency if the disadvantaged business cannot get a performance bond? What good does it do to set aside 10 percent of local public works projects? What good does it do to set aside 30 percent of the Pittsburgh convention center for minority participation? It does no good if they cannot get bonding.

There are a number of reasons why this situation exists. Some say it is because small businesses are too risky. Some say that bonding small businesses is unprofitable. I am not looking for excuses, however. I am looking for solutions.

If the Federal Government really wants to help small and minority businesses to survive in the free enterprise system, it has to provide the tools needed to compete in the open market. Erecting or maintaining barriers like the Miller Act is self-defeating. But merely tearing them down will not solve the problem.

Bonding is a fact of life. To truly succeed in the construction industry, firms must be able to get bonding. The problem then is twofold. First, how does the Miller Act restrict access to Government business on the part of small and minority contractors; and, second, what can the Federal Government do to help these same firms obtain bonding so they can compete effectively in the open market?

In a hearing held in Pennsylvania, we were told how bonding is the No. 1 deterrent prohibiting minority contractors from fully participating in the mainstream of the construction industry. We were told how the Miller Act bonding limit is a thorn in the side of both small and minority contractors because it tends to exclude them completely from participating in Government construction contracts.

For many small businesses today it is already too late to address this issue. But better late than never, we have to begin. We have to begin to understand that, in this crucial industry, we can make a real difference; and we have to start making that difference now.

The Miller Act bonding limit must be raised. That is an essential first step. But to be truly effective it must be raised to at least $50,000. That was the overwhelming conclusion of those minority contractors who have lost so much because of the $2,000 limit. A $25,000 limit just does not go far enough. Before too long the $25,000 barrier will be just as effective in excluding the small and minority contractor as the $2,000 limit is now. That is why, while I am cosponsoring this bill, I am also proposing an amendment to set the limit at $50,000.

We cannot and will not stop here, however. The real solution to the problems concerns the ability of small and minority contractors to obtain surety bonds. We will continue to explore ways of insuring that these firms are not locked out of public or private contracts because they cannot get bonding.

I do not want to see our efforts wasted. I want to see effective Government programs that nurture small businesses into strong, viable ones. I want to see that our small construction companies can succeed with the right kind of help, the help they really need.

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By Mr. PERCY:

S.J. Res. 150. A joint resolution authorizing the President to proclaim the month of November 1978 as "National REACT Month"; to the Committee on the Judiciary.

NATIONAL REACT MONTH

● Mr. PERCY. Mr. President, I am today introducing a joint resolution requesting that the President designate the month of November 1978 as National REACT Month. This measure, originally introduced in the House by my good friend and colleague, PAUL FINDLEY, is designed to recognize the efforts of those citizens across the country who have volunteered as members of a REACT team. REACT, or Radio Emergency Associated Citizens Teams, is a volunteer organization which involves more than 200,000 Americans who, using their own CB radios, work in their local communities to insure highway safety and emergency communications. Countless lives are saved through the efforts of these citizens. Their work, which totaled an estimated 50 million volunteer man-hours this year, speeds the arrival of medical or other emergency help to the scene of an accident or natural disaster. REACT also has a formal cooperative understanding with the American Red Cross, and many REACT members have been trained by the Red Cross in emergency first aid help.

REACT, International, Inc., the nonprofit coordinating body for the local groups, is headquartered in Chicago. I am particularly proud of the numerous Illinoisans who participate in the REACT program. By providing 24-hour monitoring of the airwaves, they have been invaluable in giving warning of tornadoes and blizzards in Illinois, and in assisting law enforcement officials to speed help to accidents on Illinois highways. A National REACT Month would be a good time for all of us to recognize the fine efforts of this organization and of the many dedicated local citizen groups and their members.●

By Mr. HEINZ:

S.J. Res. 151. A joint resolution authorizing and requesting the President to designate November 11 through 17, 1978, as "Vietnam Veterans Week"; to the Committee on the Judiciary.

Mr. HEINZ. Mr. President, today I am introducing a resolution calling upon the President of the United States to dedicate a week in which to honor the veterans of the Vietnam War, beginning Veterans Day, November 11, 1978 and ending November 17, 1978.

This period would be a fitting and proper tribute to those men and women who dedicated their efforts, and in many cases, their lives to the service of their country. As the only Vietnam-era veteran who has served to date in the Senate, I offer this resolution in recognition of these veterans' loyalty and bravery during those very troublesome years. This is a tribute they very rightly deserve.

Since the end of the war in Southwest Asia, the Vietnam veterans have been quietly forgotten. Their readjustment has been a slow and most difficult one because they are struggling to be accepted into a society that would rather forget this period of our history. Whatever feelings one may have about the U.S. involvement in Southeast Asia dedication rendered by those who served this country well must not be overlooked.

The Vietnam veteran, in many cases, is still faced with a high rate of unemployment and an unacceptable degree of underemployment. Although employers of Vietnam veterans are encouraged to provide adequate training and advancement opportunity, such efforts have not been successful in meeting the capability and capacity of the veteran.

Those with special health care needs must be accommodated either by available VA facilities or by private institutions and made more accessible to the veteran.

Additionally, the Vietnam veteran is encountering the hardship of an increase in the cost of education coupled with a decrease in funding available. The aid presently received by the veteran should be proportioned according to State to allow the individual to pursue an education in any part of the country—so that the quality, and not the cost, is the determining factor.

We have allowed the Vietnam veteran to struggle with these problems alone; I believe that we must now share this burden as a matter of justice and fairness. It is our obligation and duty to do all that we can to honor these veterans as we have those who served before them.

I ask my colleagues to join with me in support of this resolution for a Vietnam Veterans Week.

Mr. President, I ask unanimous consent the text of my resolution appear at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 151

Whereas members of the Armed Forces of the United States who served in Southeast Asia during the Vietnam conflict performed such service under the most trying conditions because of the lack of domestic support for the conflict and because of the nature of the conflict itself;

Whereas the battlefield performance of America's soldiers, sailors, marines, and airmen during the Vietnam conflict was by all measures the equal of that of their counterparts in previous conflicts;

Whereas an adverse image has often been unfairly attached to the Vietnam veteran as an individual because of the controversial nature of the Vietnam conflict; and

Whereas the Nation has never fully expressed its gratitude to those who gave a substantial portion of their lives at their government's request and in the name of the people of the United States to serve in such conflict: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested—

(a) to issue a proclamation designating November 11 through 17, 1978, as "Vietnam Veterans Week" and calling upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies and activities; and

(b) to initiate and coordinate appropriate ceremonies and activities within the Executive Branch for the observance of such period.

## ADDITIONAL COSPONSORS

S. 2828

At the request of Mr. TALMADGE, the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 2828, the Veterans Disability Compensation and Survivor Benefits Improvements Act of 1978.

S. 3111

At the request of Mr. PACKWOOD, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 3111, a bill to allow taxpayers to deduct charitable contributions whether or not they use the standard deduction.

S. 3248

At the request of Mr. MORGAN, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 3248, a bill to create a National Agricultural Cost of Production Board.

S. 3308

At the request of Mr. STEVENS, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3308, a bill to authorize an allowance based on living costs and conditions of environment for judicial employees employed outside the continental United States or in Alaska.

S. 3311

At the request of Mr. DOMENICI, the Senator from Oregon (Mr. MARK O. HATFIELD) was withdrawn as a cosponsor of S. 3311, a bill to amend the Social Security Act to provide reimbursement at a level of 100 percent to States for the administrative costs they incur in implementing the Indian Health Care Improvement Act.

S.J. RES. 149

At the request of Mr. MELCHER, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Joint Resolution 149, to direct the CAB to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes.

AMENDMENT NO. 3067

At the request of Mr. CRANSTON, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of amendment No. 3067 intended to be proposed to S. 2828, the Veterans Disability Compensation and Survivors Benefits Improvements Act of 1978.

AMENDMENT NO. 3241

At the request of Mr. FORD, the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arizona (Mr. DECONCINI), the Senator from North Dakota (Mr. YOUNG), the Senator from North Dakota (Mr. BURDICK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arkansas (Mr. HODGES), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of amendment No. 3241 intended to be proposed to S. 3229, a bill to amend title 39 of the United States Code to improve the organizational structure of the U.S. Postal Service, to provide authorizations for funds to maintain the public service function of the U.S. Postal Service, to provide a reduced rate for certain individuals, and for other purposes.

AMENDMENT NO. 3320

At the request of Mr. HELMS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 3320 intended to be proposed to S. 2152, a bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

## SENATE CONCURRENT RESOLUTION 99—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING PRINTING

Mr. NELSON submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 99

*Resolved by the Senate (the House of Representatives concurring),* That a revised edition of the committee print of the Senate

Select Committee on Small Business entitled "Small Business and the Quality of American Life," a compilation of source material on the relationship between small business and the quality of life, 1946–78, be printed, with illustrations, as a Senate document; and that there be printed twenty thousand additional copies of such document for the use of that select committee.

## SENATE CONCURRENT RESOLUTION 100—SUBMISSION OF A CONCURRENT RESOLUTION TO ESTABLISH A JOINT COMMITTEE ON NATIONAL HEALTH POLICY

Mr. JAVITS submitted the following concurrent resolution, which was referred to the Committee on Governmental Affairs:

S. CON. RES. 100

*Resolved by the Senate (the House of Representatives concurring),*

SECTION 1. There is hereby established a Joint Committee on National Health Policy (hereinafter referred to as the "Joint Committee"). The Joint Committee shall be composed of 28 members. Sixteen members of the Joint Committee shall be the Chairman and Ranking Minority members of the Senate Committees on Human Resources and Finance and the Committees on Interstate and Foreign Commerce and Ways and Means of the House of Representatives and their designees from the respective subcommittees. The remaining twelve members shall be designated six by the Speaker of the House of whom three shall be from the majority and three from the minority and six by the Vice President of whom three shall be from the majority and three from the minority.

AUTHORITY AND DUTY

SEC. 2. The Joint Committee shall make continuing studies of a national health insurance program. During each session of Congress the Joint Committee may conduct hearings of the purpose of receiving information concerning the foregoing.

LEGISLATIVE JURISDICTION

SEC. 3. (a) All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the creation or implementation of a national health insurance program shall be referred to the Joint Committee. The Joint Committee shall report to the Senate and the House of Representatives by bill their recommendations with respect to matters, which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee.

(b) Any bill, resolution, or other matter may be referred by the Joint Committee to another appropriate Committee of a matter referred to it under this subsection with such time limitations as it may deem necessary or appropriate.

CHAIRMAN

SEC. 4. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members who execute the functions of the Joint Committee, and shall be filled in the same manner as in the caes of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members at the beginning of each Congress. The Vice Chairman shall act in the place of the Chairman in the absence of the Chairman. The Chairmanship shall alternate between the Senate and the House of Representatives with each Congress, and the Chairman shall be selected by the Members from that House entitled to the Chairmanship. The Vice Chairman shall be chosen from the House other than that of the Chairman by the Members of that House.

POWERS

SEC. 5. In carrying out its duties under this resolution, the Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure printing and binding and to make such expenditures as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary, except that no measure or recommendation shall be reported from the Joint Committee unless the majority of the Committee agree. Subpoenas may be issued over the signature of the Chairman of the Joint Committee or by any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in case of any failure of any witness to comply with the subpoena or to testify when summoned under authority of this section. The expenses of the Joint Committee shall be paid from the contingent funds of the Senate and the House of Representatives on an equal basis from funds appropriated for the Joint Committee. Members of the Joint Committee, and its employees and consultants, while traveling on official business for the Joint Committee, may receive either the per diem allowance authorized to be paid Members of Congress or its employes, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

STAFF AND ASSISTANTS

SEC. 6. The Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees, as it deems necessary and advisable. The Joint Committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

ADMINISTRATION

SEC. 7. (a) The Joint Committee shall keep a complete record of all committee actions, including a record of votes on any question on which a record vote is demanded.

(b) Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of health.

● Mr. JAVITS. Mr. President, on Saturday, July 29, 1978, HEW Secretary Califano announced the principles which the administration intends will guide the development of a national health insurance plan. I am pleased to see the administration take this important step. As a long-time champion of comprehensive national health insurance, the announcement of these long-awaited principles represents, to me, a significant commitment which should move us closer to the enactment of a comprehensive national health insurance plan.

Since I first came to the Congress, I have participated in the fashioning of many health bills and witnessed the growth of the Federal commitment to health care. At the same time, I have observed increasing fragmentation in committee jurisdiction relating to health policy matters as the scope and breadth of major issues warranting congressional consideration expanded. Today, as a result, certainly four committees of the Congress have some jurisdiction over some issue which in some way impacts on health policy.

This widespread fragmentation has led to lack of coordination and undue delay in the policymaking process on national health insurance. In my judgment, this whole policymaking effort is often seriously jeopardized by the jurisdictional distinctions which exist between services, financing, and regulatory issues, as most recently evidenced by this Congress' attempts to act on the administration's proposed hospital cost containment bill.

The administration expects to produce a tentative national health plan by the end of the year. Therefore, I believe the Congress should act now to overcome the obstacles associated with divided health policy jurisdiction. In this regard, Mr. President, I am proposing today an alternative which I feel represents a prudent solution to this jurisdictional problem.

The resolution which I am now submitting would establish a 28-member joint House-Senate Committee on National Health Policy. My proposal gives the committee exclusive jurisdiction over all bills, resolutions, and other matters which relate primarily to the establishment of a national health program. Sixteen of the members would be the chairmen and ranking minority members of the Senate committees on Human Resources and Finance and the House committees on Interstate and Foreign Commerce and Ways and Means and their designees from the respective health subcommittees. The remaining 12 members of the committee would be apportioned equally between the House and Senate, majority and minority, and appointed by the Speaker of the House of Representatives and the President of the Senate, respectively.

Mr. President, while the joint committee may not solve all the problems associated with divided jurisdiction, I believe that the joint committee could serve as an effective mechanism for facilitating congressional consideration of national health insurance legislation and would serve to encourage strong congressional leadership in the development of a coordinated national health insurance policy. I urge my colleagues to act favorably on this legislation.●

## SENATE RESOLUTION 530—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 530

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 2640, a bill to reform the civil service laws.

Such waiver is necessary to permit consideration of S. 2640, a bill to reform the civil

service system. While the bill authorizes to be appropriated such funds as may be necessary, the Congressional Budget Office estimated the cost of the bill at $13,600,000 for the fiscal year beginning October 1, 1978.

The President only submitted the bill to Congress on March 3, and the number of hearings required and the complexity of the subject made it impossible for the committee to report the bill before the May 15 budgetary deadline.

## SENATE RESOLUTION 531—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. WILLIAMS, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 531

*Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 11567, a bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–1981, and for other purposes. Such waiver is necessary to permit consideration of H.R. 11567.

Compliance with section 402(a) was not possible by May 15, 1978 because of the press of business within the committee and within the Senate. Because of this schedule, the committee was unable to hold hearings until May 18, 1978. The hearing record was not closed until earlier this month at which time the committee resumed its consideration of the bill.

## AMENDMENTS SUBMITTED FOR PRINTING

### REHABILITATION ACT AMENDMENTS—S. 2600

AMENDMENTS NOS. 3391 THROUGH 3405

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted 15 amendments intended to be proposed by him to S. 2600, a bill to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a comprehensive services program for the severely handicapped, and for other purposes.

● Mr. McCLURE. Mr. President, I am today submitting 15 amendments to S. 2600, the Rehabilitation Act amendments. Fourteen of these are designed to substitute the administration's budget recommendations for those reported by committee.

The administration's figures would expand some programs and shrink or abolish others. It would limit all authorizations to 3 years, rather than the 5-year period contained in the legislation. On the whole, the President's figures would save the taxpayer several hundred million dollars.

There is not a Member of this body, Mr. President, who does not support a strong, effective, and workable program to provide assistance to the handicapped. There are many Members, myself included, who question whether money spent for construction projects, such as the placement of ramps on desolated street corners in deserted part of the city, might not better be used for projects which give more direct assistance to those whom we are trying to help. There are also those who question whether throwing more money at marginally productive solutions—in which large amounts of money go to sustain central bureaucracies—is going to really make much difference for the average handicapped person.

Perhaps we would be better served by expanding the tax exemption to include types of disabilities aside from blindness. Perhaps a greater amount of funding should go directly to handicapped people so that they can make their own decisions concerning its use. These are questions which will not be able to be considered until 1984 if the 5-year authorizations recommended by the committee are adopted.

At the very least, it seems to me that the principals on the committee should be willing to sit down with the administration to discuss these concerns and attempt to reach some mutually acceptable compromise. It is my understanding that, despite HEW's attempt to reach such an accommodation, the managers of the legislation have declined to consider its objections to the bill and continue to push for expedited passage. Said one staff member:

The Administration doesn't have a vote.

I have instructed my staff to provide whatever assistance is needed to help the parties reconcile their divergent views.

But I would caution the administration that fiscal responsibility goes beyond positing proposals for which it is not willing to work. If the President is genuinely committed to the thoughtful reprioritizing contained in his budget recommendations, he should work with the Congress for the purpose of translating his views into policy. I stand ready to help in any way I can.

### REGIONAL RAIL REORGANIZATION ACT AMENDMENT OF 1978—S. 2788

AMENDMENT NO. 3406

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. MOYNIHAN, Mr. WEICKER, and Mr. JAVITS) submitted an amendment intended to be proposed by them, jointly, to S. 2788, a bill to amend section 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $600 million of the series A preferred stock of the corporation, and for other purposes.

## NOTICES OF HEARING

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommitee on Administrative Practice and Procedure of the Committee on the Judiciary, will continue hearings on the FBI Charter as follows: Tuesday, August 15, domestic security; Monday and Tuesday, August 28 and 29, information policy and NCIC; and September 14, overall policy. Hearings will begin each day at 10 a.m., in 2228 Dirksen Building.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will have hearings on August 17, 22, and 24, 1978, on the issue of grand jury reform. The hearings will begin each day at 10 a.m., and will be in room 2228, Dirksen Building.

Anyone wishing to submit testimony for the RECORD, contact Jessica Josephson, Subcommittee on Administrative Practice and Procedure, 162 Russell Building, Washington, D.C. 20510.●

## ADDITIONAL STATEMENTS

### THE INSPIRATIONAL CAROBETH LAIRD

● Mr. McGOVERN. Mr. President, the July 30, 1978, issue of Parade carried an inspirational account of one of our most creative citizens, Carobeth Laird, an 83-year-old California author.

I submit for the RECORD the article by Rita Rooney, entitled "Carobeth Laird: An Old Woman Dreams—and Writes Books."

The article follows:

CAROBETH LAIRD: AN OLD WOMAN DREAMS—AND WRITES BOOKS

(By Rita Rooney)

SAN DIEGO, Calif.—Although she's been writing all her life, Carobeth Laird didn't become a successful author until a few weeks before her 80th birthday, when her first book, *Encounter With an Angry God,* was published by Malki Museum Press. Located on a reservation in Banning, Cal., the small Indian press followed shortly with *The Chemehuevis,* written earlier by Mrs. Laird.

The second book, a scholarly account of her husband's people, established Carobeth Laird as an authority on American Indian culture.

Today, with *Encounter* a popular paperback, a third book seeking a publisher and a fourth in first draft, Mrs. Laird is a women driven by a quiet sense of urgency.

"The more I live, the more I want to record what I've seen," say the 83-year-old author. "So much of what I wrote when I was younger is now scattered to the winds. I'd like to think some of it will turn up someday in an old trunk. But, of course, that's an old woman's dream. I know it's gone."

Recently, seventh-graders at the Howard T. Herber School in Malverne, N.Y., raised $612 for Mrs. Laird to fly from California to address their class. The meeting signaled a high point in a long-distance relationship that began more than a year ago.

Teacher Dorothy Lamb explains that, though her students have read some of Mrs. Laird's work, it is the woman herself who has captured their interest.

"She is the oldest person most of them have met," she says. "I think they fell in love with her when she first answered their letters. Her sense of humor and her insights are so sharp."

The friendship began when the children became curious about a photograph of a grave marker in a textbook. They wondered about the name on the marker—Thompson Porter Laird. Who was he? Did he have any living descendants?

The teacher encouraged her class to make inquiries of museums and universities in the Southwest. Finally a reply from a historian

at Arizona State University put them in touch with the dead man's daugher-in-law, Carobeth Laird.

Considering Mrs. Laird's tenacity as a writer and the long, patient years of being unpublished, it might be assumed her message to young people would be "perseverance." It wasn't.

"I talked to them about growing old," she said when she returned to Poway, the rural community in San Diego's back-hill country where she now lives.

"Old age can be a splendid time, as long as one still lives in the world of the mind. Oh, it's grand if you can jog when you're 90, but it's more important to be able to think. I tried to encourage those precious children to read, to prepare their minds, to go as far as they can with understanding. Then whatever happens, even if they are deaf and in solitary confinement, they will have a resource which cannot be taken from them."

The writer is no stranger to hardship. The daughter of a Texas newspaper publisher, she first married an eccentric linguist and ethnologist, John Peabody Harrington. He introduced her to Indian life by sending her on field trips to live among obscure tribes, studying their language patterns. She remembers being alone, eight months pregnant, and sleeping on a dirt floor with an ax under her pillow—a precaution she now knows was unnecessary, but an understandable one to a girl raised on scalping stories.

After six years of marriage to Harrington, she divorced him to marry his Indian interpreter, George Laird. Though Laird died in 1940, she says, "he is still more real to me than any living being."

Carobeth Laird has known both poverty and rejection. She gave birth to eight children, suffered the loss of one. As a widow, she was left practically destitute. A few years ago, she spent some time in a nursing home, "fighting for sanity and identity." Today, she is partially crippled, unable to raise her arms or walk without aid. But she has survived through a remarkable spiritual toughening, a determination she calls The Will, and the resource that has never failed—her mind.

Although she never finished high school and has taken only one short course in creative writing, there was never a time that Mrs. Laird didn't consider herself a writer. Even as a child, she made up stories, scribbled them on paper, and gave them to her father with instructions to print them in his newspaper. As a young mother living on an Indian reservation, she devoted Sunday afternoons to perfecting her skill with words.

"On Sundays, George always took the children on an outing, and I stayed home. It was the only time I had to write," she recalls.

The young Carobeth was as passionately devoted to reading as to writing. Any subject that caught his fancy became an object of serious study even during the years when she had no money for books and the closest library was 20 miles away by dirt road. She once tried to learn Japanese from library books.

She credits the King James version of the Bible as having the most significant influenco on her writing style. Laughing, she remembers that as a child she could be "bribed" to take a daily dose of bad-tasting medicine by having her mother read from the Book of Revelations. "It wasn't a religious inclination with me," she explains. "I have always been drawn to the pure poetry of the King James version. Of course, Shakespeare has the same effect. But Shakespeare hasn't always been available to me."

Carobeth's first book, Encounter With an Angry God, which received high praise from critics, tells of her marriage to Harrington and her subsequent romance and marriage to George Laird. She's currently working on a manuscript she calls Mirror and Pattern, the mythology of the Chemehuevi Indians.

During her 20 years with George Laird, the couple spent most evenings recording tribal mythology. When he died, she couldn't bear to look at the work they had compiled together, and it lay abandoned for years. Now that she has taken it up again, she is translating her own writing style to the native idiom in an effort to preserve the spirit and personality of the Chemehuevis, as well as their myths.

NURSING HOME STORY

But it is Limbo, an account of her experience in an Arizona nursing home, that she most wants to see published.

So far, the book has been turned down by most of the major publishing houses. The primary objection seems to stem from a disbelief that anyone who had lived through such an experience could write about it with the detachment Laird projects.

"That is unfair," Carobeth says. "Don't they realize that, as a writer, I think in a detached manner?"

Looking back, she says, "I went to that nursing home with a sinking heart. But I had no choice at the time. I had nowhere else to go.

"It was neither the best nor the worst of nursing homes," she says. "It wasn't horrible, just dehumanizing."

She tells of the disheartening effect of living in a room in which the shades are always drawn, being called "dear" in a patronizing tone by employees, and being forced to choose between staying in bed all day or sitting upright in a wheelchair for eight hours at a time.

"Once the beds were made," she explains, "the staff didn't like to have them disarranged."

According to Laird, more than two-thirds of the patients in the facility were severely incapacitated mentally, as well as physically. There was no separation between these patients and those who were mentally alert. She recalls daily battles with the staff during her determined efforts to assert some degree of independence.

Did she ever win any of those battles? "Not really," she admits sadly. "If I mentioned anything about my life or my books, the aides merely humored me with their condescending 'yes dear, no dear.' There was no respect for a person's dignity."

During those days, Carobeth read whatever she could get her hands on. Not that the hospital library was equipped with the kind of literature that had always been her joy. But she read Gothic novels or anything that set her apart from her surroundings and helped her maintain the struggle for sanity. Admitted as an emergency patient, she didn't even have her Bible with her. Now she says, "I will never be without the Book of Psalms again. As soon as I got out of there, I set myself to memorizing it."

At the home, Carobeth had little contact with the outside world. Telephone calls were not permitted. Her editor, Harry Lawton, finally got through by conferring on her the title of Professor Laird and demanding she be called to the phone.

Fortunately for Carobeth, two old friends, Mickie and Ralph Michelson, took her from the nursing home to their own home in Poway—the place where she and George Laird had lived and raised their family.

STILL AT WORK

Carobeth keeps few personal possessions. Her small room at the Michelson home is filled with books—everything from Joseph Conrad to Margaret Mead. A portable typewriter sits on a modest-looking desk, and in a drawer lie 600 pages of her current manuscript, to which she devotes four hours a day. She says the Michelsons saved her life, but Mickie is quick to disagree.

"It's that will of hers," she says. "It keeps her going. She is her own salvation."

"Perhaps that's true," Carobeth admits. "At least, I know there is more I want to do, and The Will—I can't describe it except to call it that—does give me the stamina to keep plugging away."

Her goals include the publication of Limbo, the completion of her mythology and eventually the writing of her memoirs. There is none of the wild ambition of youth in Carobeth Laird. But then, according to her, there never was.

As for the possible wealth that might come from publication, she smiles slowly and says: "I have never had money. It would be nice. It would be especially good to know I won't ever be destitute. Beyond that, I would like to have a year or two of being able to do something for my friends, and I would like to have a really good library of my own."●

## PROPOSALS TO STIMULATE ECONOMIC GROWTH

● Mr. McCLURE. Mr. President, as a nation, we stand at a crossroads. One road, that traveled by Great Britain, has the immediate appeal associated with redistributing existing wealth; but it also holds in store the ultimate pain of sharing not the wealth but the resultant poverty. The other, less frequently traveled road, promises continued progress and gradual enrichment for all members of society. The course I have fought for instead of our present drift toward socialism is based on three major reforms. First, we need a permanent, across-the-board cut in taxes. Second, we must cut back excessive Federal regulations, redtape, and paperwork. Finally, we need a constitutional amendment to limit the amount of our money which the Federal Government may spend.

Since 1975, Congressman JACK KEMP and I have been fighting for passage of our Jobs Creation Act.

This bill contains five major provisions:

First, it provides a permanent reduction in individual income taxes.

Second, it allows an exclusion from gross income of qualified additional savings investment made during a tax year—an exclusion of up to $1,000 or $2,000 for a married couple filing a joint return.

Third, it eliminates the present system of double taxation of dividends by allowing a deduction for dividends paid by domestic corporations.

Fourth, it amends the corporate normal tax rate and increases the corporate surtax exemption, including provisions for reduced taxes for small business, to give an effective corporate income tax reduction in the range of 6 percent.

Fifth, it allows taxable year price adjustments in property through capital recovery allowances.

The Jobs Creation Act will do just that—create jobs in the private sector of our economy. It would eliminate the need for expanded Federal grants and loan programs by reducing unemployment and returning persons to self-sufficiency and a tax-generating rather than a tax-consuming status. It would encourage additional savings and investments by the individual, stimulate home construction, and assure an increase in real purchasing power by the work force.

Investment is the key to economic growth. A look at history gives adequate

evidence of the extent to which our prosperity depends on the availability and use of private capital. For example, just 100 years ago, it took a week to produce the same amount of wheat that today can be produced with just a single hour of human labor. What did it? The steel plow, tractor, harvester, better seed, and cheap transportation. All of these in turn were made possible by the use of investment capital.

Capital is the key word. Capitalism—the use of funds to build plants and to replace equipment—has been the most important factor in raising our standard of living, and it can be the answer to a steady economic recovery and continued stable growth.

Because we have been so caught up in our ever-increasing rate of consumption, America has fallen behind in its investment rate. Investment in new plant and equipment, per person added to the labor force, in the 1970's was 22 percent less than that invested in 1956 and 1965. Our rate of capital formation was one of the lowest in the major industrialized nations. On the other hand, France and Germany have doubled their industrial capacity and Japan has tripled its capacity. America has gradually lost a competitive edge in the world market and consequently fewer jobs are available. The United States will have to provide jobs for 7 million more people in the labor force by 1980 and in addition upgrade productivity and earning power of the present labor force. An average investment of $35,000 will be needed to support each worker with plant and equipment.

Every dollar invested in capital does not necessarily go into expansion alone. Some must also be used for replacement of aging capital—at inflated prices, conversion of existing assets into similar but more technically advanced ones, or to purchase pollution abatement equipment and OSHA-mandated compulsory but nonproductive items. Those dollars which are ultimately invested in new plant and equipment are the keys to an expanding and fully employed economy.

One thing we must always remember is that people pay taxes and ultimately people bear the tax burdens of corporations. They pay direct taxes: Individual income tax, sales tax, gasoline and fuel tax, gifts and estate taxes. They pay indirectly through high prices paid for purchased goods and services. Corporation income tax, real estate, and sales taxes paid by businesses are passed on to the consumer.

In 1929, Federal, State, and local tax collections constituted only 13 percent of total national income. By 1950, it had risen to 26 percent. By 1974, it had risen to 40 percent. By 1985, total Government's share of national personal income could be 54 percent—more than half the people's earnings—if present trends are allowed to continue. These figures do not reflect the effects of inflation—the great unlegislated tax. When the Government spends money, it is spending tax dollars—hard-earned dollars of the consumer.

This same contagious "uncontrollability" has infected Government regulatory agencies as well, swelling their numbers to 80 and their bureaucratic forces to 105,000. It has been shown that regulatory agencies have often fueled inflation, stifled competition, focused on trivia while neglecting significant issues, and resulted in a loss of jobs while reducing productivity. Yet, lest they be thought ineffectual, these agencies continue frantically to pour out regulations to the tune of $130 billion a year in compliance costs.

Decades of increasing governmental regulation—controlling various aspects of the securities business, railroads, oil companies, antitrust, utilities, food and drugs, wages and hours, shipping, broadcasting, aviation, antidiscrimination, health and safety, environmental protection, energy, et cetera, have also resulted in wildly rocketing taxpayer costs and open-ended bureaucratic proliferation. Regulatory bodies at the Federal, regional, State, and local levels now number in the thousands. Due to their explosive growth and desire to perpetuate themselves, paperwork in agencies such as EPA, OSHA, IRS, and FEA has burgeoned to some 10,000 Federal forms alone.

We must now reverse the trend where every business is treated as a enemy of the State trying to circumvent its laws, rather than as its actual provider. To do so, we must eliminate regulatory overkill, by arming the public and Congress with information about present regulations, by strengthening oversight of the regulatory agencies, by measuring the cost versus benefits of new and existing regulations, and by reducing Federal report filing and recordkeeping requirement.

The time for regulatory reform has arrived. Restoring the public's confidence in our Government demands that we get the Government bureaucrat off the individual's back. Government must serve the people and not continue as a dictatorial parasite. Government can exist only on the production of the private citizen. Strangling that production is both immoral and suicidal.

Last month I introduced a constitutional spending limitation amendment to limit the amount of our tax money which the Federal Government may spend. This amendment will provide protection against oppressive taxation in the same way the Bill of Rights protects our civil liberties and political rights. Now is the time to halt the growth of government, and a constitutional limit on the spending power of government is the best way to do it.

During my 11 years of service in Congress, I have sponsored over 25 bills to reverse the tax-and-spend philosophy which dominates Washington.

These measures have not been adopted or failed to halt the growth of big government, because the beneficiaries of our tax dollars are well organized and skillful at manipulating Washington. The Congress and Federal Government have an insatiable appetite for problems-to-solve and pressure-groups-to-please. Until now, these forces have overwhelmed the ability of the average American who pays for all this to influence the course of events.

To correct this imbalance I propose that we amend the Constitution to limit Federal expenditures to one-third of the national income. The Federal Government is now spending just under 35 percent of that figure. This amendment would result in an immediate reduction of between $10 and $12 billion and more importantly it prevents Federal tax bites from becoming any larger.

I believe these proposals will unleash the productive energy of the American people and lead to the greatest period of economic growth in our history. But important as the economic effects of these proposals are, the most important benefit will be the preservation of this country as the land of the free where, as George Washington said, government is the servant, not the master of the people. No one is free if he does not own the fruits of his labor. Limiting the power of Government to spend our money is the most important issue we face. It will be the dominant political issue of the next few years. Those of us who have long fought for tax and spending limits are heartened by the recent votes in California and Tennessee. The voters of these States have shown that big government is not inevitable. It can be halted. We do have a choice.●

## TRANSFER OF THE CHILD NUTRITION PROGRAMS

● Mr. McGOVERN. Mr. President, last week the American School Food Service Association (ASFSA), meeting in New Orleans for its 32d annual convention, passed unanimously a resolution urging the Senate to adopt Senator PERCY's amendment to S. 991 preventing the transfer of the child nutrition programs from the Department of Agriculture.

The association's 66,000 members are responsible for serving 27 million children every day through the national school lunch program.

ASFSA is one of the major national organizations which has worked with the Congress closely over the year, helping to expand and develop the school feeding programs. They have testified before the Congress often on this subject and their opinions are respected by the Committee on Agriculture, Nutrition and Forestry.

I ask that the ASFSA resolution, as well as the testimony of Senator PERCY on this subject, and a letter sent by Senators TALMADGE, DOLE, and myself to Senator RIBICOFF be printed in the RECORD. I believe that these documents explain why the members of the Agriculture Committee are strongly opposed to such a transfer even though it would not effect our committee's jurisdiction over the programs.

The material follows:

JULY 26, 1978.

Hon. GEORGE S. MCGOVERN,
*Chairman, Subcommittee on Nutrition, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I wanted to bring to your attention the attached Resolution passed at our 32nd Annual Convention in New Orleans, Louisiana.

I hope that this Resolution will be brought to the attention of all the Senate when it votes on S. 991.

Thank you for your very great support for our Association's position on this issue. You are a very great friend.

Sincerely yours,

MRS. GENE WHITE,
*President.*

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RESOLUTION

Whereas the American School Food Service Association's 66,000 members are responsible for serving 27 million school children each and every day, and;

Whereas the American School Food Service Association has been the leading spokesman on behalf of the National School Lunch program for the last 30 years, and;

Whereas the National School Lunch program has been successfully administered through the U.S. Department of Agriculture and the ASFSA workers for the last 30 years, and;

Whereas during this 30-year period the program has grown tenfold, so that it now represents the most successful and largest feeding program in the world, and;

Whereas this success is directly attributable to the experience, care and interest of the USDA, the ASFSA, and the Members of the Senate Agriculture Committee, and;

Whereas the President's recommendation to transfer the national school feeding programs from USDA to the proposed Department of Education is precipitous and detrimental to this unique and successful partnership of interest which has nurtured the school feeding programs to their present level of service to America's school children, and;

Whereas this recommendation by the President preceded the completion of his own Task Force on Food and Nutrition Study of this issue, and;

Whereas the Senate Committee on Government Affairs has incorporated the President's recommendation in its legislation creating a Department of Education after having defeated an amendment to strike out this transfer by an eight-to-eight vote, and;

Whereas the ASFSA strongly supported the above-mentioned amendment;

Be it resolved that the American School Food Service Association petitions the Membership of the United States Senate to pass the Percy Amendment prohibiting the transfer of the USDA school feeding programs to the proposed Department of Education.

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TESTIMONY OF SENATOR CHARLES H. PERCY

My amendment would strike the proposed transfer of the child nutrition programs. There are a number of sound reasons for keeping these programs in USDA.

First, a Department of Education will be dominated by educators. Educators have had a history of obstructing the placement of these programs within the schools. In testimony received by the Committee, the Food Research and Action Center, a non-profit anti-hunger advocacy center, stated that:

"A good portion of our effort has been in the area of School Lunch and School Breakfast Program expansion. Time after time we have found that state and local Boards of Education have been at best uninterested, and at worst obstructionists, in this expansion effort. FRAC and/or Legal Services attorneys have brought numerous lawsuits seeking to expand school lunch programs in local areas. These lawsuits, brought on behalf of low-income plaintiffs, resulted in the establishment of school lunch programs in Hartford, Connecticut; Bridgeport, Connecticut; Mount Vernon, New York; Cleveland, Ohio; and the State of Rhode Island, among others. In many of these areas, litigation would not have been required if state and local Boards of Education and education administrators had viewed the school food programs as integral parts of an educational environment."

FRACs testimony continues:

"In short, in the past, poor people have not been able to look to education administrators and policy makers to spearhead the need for school food programs. Instead, these administrators have often taken the position that such programs are expensive, administratively burdensome, and must take a distant backseat to other education priorities."

In addition to FRAC's testimony, The Children's Foundation testified that it is completing a study on barriers to the implementation of the school breakfast program. The study is entitled "I'd Rather Go to Hell Than Run a Breakfast Program." This was the direct quote of a local school official. It is indicative of the view that many such officials have of these programs.

Second, the transfer will jeopardize the funding of the child nutrition programs. Since educators have not generally viewed nutrition programs as a vital part of the educational process, it is reasonable to assume that a Federal Department of Education would be no more responsive to the importance of such programs. When faced with budgetary constraints, these programs will be seen as expandable. This would be particularly true of those child nutrition programs with little or no connection to school systems, such as the summer food and day care feeding programs.

Third, USDA would still keep the research support vital to these programs. USDA is increasing its research in both nutrition and agricultural economics. It would be counter-productive to remove the child nutrition programs from a Department that is presently equipped to do research in areas directly related to the improvement of these programs.

Fourth, although the Administration has pledged its continued support for the commodities aspect of these programs, this guarantee may become worthless several years down the road as the programs become dominated by educators. Moreover, we must not lose sight of one of the original reasons behind the creation of the school lunch program, which was commodity support. Instead of paying farmers not to grow crops, we are paying them for their surplus crops and using those surplus crops to feed hungry children. This is a much more efficient use of taxpayers' money. As Senator Talmadge brought to our attention,

"The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stability to those farm commodities that do not enjoy the protection of government price support programs."

Fifth, one approach to improving the quality of meals in these programs requires training food service personnel to procure and prepare food more effectively and economically. USDA has the expertise to accomplish this and is initiating activities in this area. A Department of Education is less likely to attack such a problem or to have the expertise to do so effectively.

Sixth, the transfer is opposed by a broad spectrum of groups, including agriculture groups, child-oriented public interest groups, nutritionists, and school food administrators. This grouping includes the American School Food Service Association, which is the largest national association representing people who direct, manage, and work in school nutrition programs at the State and local level. These groups have worked the closest with and are the most knowledgeable on the child nutrition programs.

Seventh, the President's Reorganization Project is presently conducting a study of the Federal nutrition effort. This study is not scheduled to be completed until next year. As a result, the transfer of these programs at this time would be premature.

Regarding nutrition education, I would again like to quote one of our witnesses. Mr. Hendrick Wentink of the Poultry and Egg Institute of America. He states,

". . . while nutrition education historically has nowhere received the emphasis it has deserved, it cannot be disputed that the USDA is exerting aggressive leadership in the area today. Secretary Bergland has formed a Human Nutrition Policy Committee to coordinate all USDA nutrition programs included food assistance, safety, quality research and education. Interim regulations to implement nutrition education grants to the states under the 1977 Child Nutrition Act amendments have been promulgated. The Department is conducting a novel nutrition awareness project which will test out a multimedia approach for issuing and reinforcing nutrition messages. Authority under recent amendments of the National School Lunch Act to prohibit the sale of "junk food" in participating schools is being invoked. The focus of Extension activities is being expanded to reach urban areas more effectively. The very substantial Expanded Food & Nutrition Program within the Extension Service is developing a special program to emphasize nutrition counseling for food stamp users. And these are far from all the fronts of the USDA's nutrition education campaign."

It has been stated that the best place for nutrition education is in the schools. I agree. But I also ask, if educators are so interested in nutrition education, why have they not instituted these programs in the schools? The answer, of course, is that they are not interested. In fact, they are so disinterested that they have actually promoted non-nutritious "junk foods" in the schools. In order to raise extra money, they have candy and soda machines in the schools. These junk food machines compete with the nutritious lunches served in the school cafeteria. Congress recognized this problem, a problem created by educators, last year when it mandated USDA to ban the sale of junk foods that compete with the school lunch program. USDA has responded to that mandate and that ban is going into effect this summer. How can we justify transfering these programs to a Department which will be dominated by such insensitive interests?

In conclusion, the question has been asked, "Where will these programs best operate and serve our nation's children?" The answer is that they will best operate and serve our children in USDA. As the former Ranking Minority Member of the Select Committee on Nutrition and Human Needs, I have watchd with great satisfaction the growth of the child nutrition programs. Due to the work of the Nutrition Committee, we have come to understand that it is vitually important that our food, nutrition and agricultural policies be coordinated. As Senator Talmadge stated in a letter to the Committee, co-signed by the entire Senate Committee on Agriculture, Nutrition and Forestry, USDA is the best place for achieving maximum coordination. In the letter, he states.

"GAO in a recent report on nutrition research, found 'a lack of central focus and coordination' to be the number one barrier to progress in the area. We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or departments; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture."

As I have shown, educators have a marked distinterest in nutrition education and in the school feeding programs. On the other hand, USDA has demonstrated great interest and enthusiasm. Transfer of these programs would not solve any problems, it would only create new ones. The child nu-

trition programs should and must remain in a broadbased Department of Agriculture.

U.S. SENATE,
*Washington, D.C., July 13, 1978.*

Hon. ABRAHAM RIBICOFF,
*Chairman, Governmental Affairs Committee, Washington, D.C.*

DEAR MR. CHAIRMAN: We have read with interest your statement in the Congressional Record of July 10 with regard to the transfer of the child nutrition programs from the Department of Agriculture to the proposed Cabinet-level Department of Education that would be created under S. 991.

While recognizing that this is an issue on which reasonable people can differ, there are a number of points we wish to make that we feel provide compelling reasons why the child nutrition programs, including school lunch, should remain in the Department of Agriculture.

First, we do not believe that the Department of Education could—or should—"meet all the developmental needs of children"—as you state. If that were the goal of the new department, it would mean transferring the Child Health Assessment Program, the National Institute of Child Health and Human Development, the Maternal and Child Health and Crippled Children Services, and a host of other child development programs of the Federal government. It is our understanding that these programs are not proposed to be included within the jurisdiction of the Department of Education.

We—and we believe we speak for all members of the Committee on Agriculture, Nutrition, and Forestry—respectfully disagree that "education and nutrition are inextricably linked." If that were the case, it would be logical to transfer the Special Supplemental Food Program, the Emergency Food and Nutrition Educational Program, the Food Stamp Program, and nutrition research to the Department of Education. But this is not proposed.

Indeed, we believe that it is nutrition and agriculture that are "inextricably linked." This would also appear to be the perception of the Senate in formally adding "Nutrition" to the jurisdiction and name of the Committee on Agriculture and Forestry under S. Res. 4.

We also cannot accept the implication of your July 10 statement that the Department of Agriculture traditionally has been unreceptive to nutrition issues. A study of the development of Federal involvement in this area clearly indicates otherwise.

The original mandate creating the Department of Agriculture in 1862 envisioned U.S.D.A. as being involved with the issues of food production and consumption. The first appropriation by the Congress to a Federal agency specifically for studies in human nutrition was made to the Department of Agriculture in 1893.

Later, the Research and Marketing Act of 1946 elaborated upon this general mission, provided specific legislative authority, and directed the Secretary of U.S.D.A.:

To conduct and to stimulate research into the laws and principles underlying the basic problem of agriculture in its broadest aspects, including but not limited to . . . research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to gains or losses in nutritive value that may take place at any stage in their production, distribution, processing and preparation by the consumer. Including such investigations as have for their purpose . . . the maximum contribution by agriculture to the welfare of the consumer.

The Food and Agriculture Act of 1977 passed by the Congress less than a year ago, declared:

That there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States; that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effect of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States Agriculture policy.

Most recently, the Secretary of Agriculture, Bob Bergland, told the Congress:

We think this country must develop a policy around human nutrition, around which we build a food policy for this country and as much of this world as is interested. And in that framework we have to fashion a more rational farm policy. We've been going at it from the wrong end in the past.

Central to the development of a national nutrition policy is the Nation's food program's: food stamps, school lunch, school breakfast, and WIC among others. These programs which represent the Nation's backbone in the fight against hunger must be built upon as we broaden our knowledge in the area of nutrition and begin to address other important nutrition issues: obesity, the relationship between diet and disease, nutrition research, food labelling, and nutrition education.

Indeed, as we progress into these other issues the food programs may provide a valuable source of information for consumption data, a forum for nutrition education, and perhaps other research information. In short, it is of paramount importance that the United States have a coordinated food and agriculture policy. To accomplish that goal we are strongly persuaded that these two areas must remain united in the Department of Agriculture.

Rather than suffering from neglect at U.S.D.A., the child nutrition programs have enjoyed consistent growth and expansion, as you acknowledged. This is true not only of the school lunch program, but of other U.S.D.A. administered feeding programs as well. Nor do we understand why an Assistant Secretary for Child Nutrition in the Department of Education would be in a stronger advocacy position for the child nutrition program within the administration than is the existing Assistant Secretary for Food and Consumer Services in the Department of Agriculture.

Finally, we are aware, as you pointed out, that a number of state school administrative offices support the transfer of the school lunch program to the Department of Education. These officials have responsibility for all education activities in their respective states. But we believe it is significant that the American School Food Services Association (ASFSA) representing 70,000 administrators who direct, manage, and work in school nutrition programs at the state and local levels strongly oppose the school lunch transfer. These are the professionals who have direct responsibility for feeding the Nation's 25 million children who daily participate in the school lunch program.

The ASFSA position is shared by the Children's Foundation, the Community Nutrition Institute, the Food Research and Action Center (FRAC), American Academy of Pediatrics, and other prominent organizations concerned about child nutrition. We think the people who make up these organizations are in the best position to advise Congress on this crucial question.

We appreciate the opportunity to make these observations to you and to your colleagues on the Senate Governmental Affairs Committee as you prepare to complete mark-up on S. 991.

Sincerely,

HERMAN E. TALMADGE,
*Chairman, Senate Committee on Agriculture, Nutrition, and Forestry.*
GEORGE MCGOVERN,
*Chairman, Subcommittee on Nutrition.*
ROBERT DOLE,
*Ranking Minority Member, Senate Committee on Agriculture, Nutrition, and Forestry; and the Subcommittee on Nutrition.*●

## GOVERNMENT ASSISTANCE PROGRAMS

● Mr. DOMENICI. Mr. President, for some time I have been extremely concerned about the problems that small communities must face as they apply to Government assistance programs. I have repeatedly been contacted by municipal leaders who find it nearly impossible to comply with the exorbitant amount of regulations and keep up with the paperwork generated.

By way of example, last fall I was contacted by the small city of Truth or Consequences, N. Mex., concerning the town's lack of capability to maintain an in-house staff to keep up with this Government redtape. Specifically, the city made reference to its experiences in receiving funding for a wastewater treatment project. The project, which was conceived in 1970, with an estimated cost of around $1 million, underwent numerous changes and last fall was scheduled to be completed in February of this year at a cost of $2 million—twice as much as was originally projected.

Because of Truth or Consequences' difficulties, I began to explore possible remedies. Because part of the difficulty was a paperwork problem, I turned to the Commission on Federal Paperwork and its final report to see if the problems facing a community such as Truth or Consequences were addressed. The solutions posed by the Commission, which, among other things, included the establishment of a special agency on Federal paperwork, did not begin to address itself to the real essence of the problems facing small communities.

I was in a quandary as to where to turn next. I knew that last session in the committee reorganization bill, Senate Resolution 4, a section had been included to require each committee to consider the impact of any legislation being reported out in terms of the paperwork involved, however, that amendment did not apply to past laws and the impact that they were currently having on the country.

Fortunately, the Senator from Missouri (Mr. DANFORTH) has proposed a bill entitled the "Small Communities Act of 1978." I commend my colleague on this important piece of legislation, for this bill is a first step in addressing the specific problems that face a small community as it attempts to approach the Federal Government for assistance. What this bill does is to consolidate grant rules and regulations of different agencies to make the application process easier and

less burdensome for small communities. I am happy to join the Senator from Missouri as a cosponsor of this legislation and hope that this bill will begin to draw attention to the plight of the small community.

As well, I would like to request that the letter which I received from the city of Truth or Consequences be printed in the RECORD, for I believe that this is an extremely good explanation of the difficulties facing small communities who apply for Federal assistance.

The letter follows:

TRUTH OR CONSEQUENCES, N. MEX.,
*September 21, 1977.*

HON. PETE V. DOMENICI,
*U.S. Senator, East Griggs Avenue,*
*Las Cruces, N. Mex.*

DEAR SENATOR DOMENICI: Reference is made to our recent discussion regarding the multitude of administrative and financial burdens mandated upon small towns.

The complexity and redundancy of federal regulations are particularly onerous for small "non-hold harmless" towns that are not eligible for yearly funding or "up front" financial aid for planning services. The lack of a strong tax base makes it almost impossible to maintain basic services, employ additional personnel to plan for and administer federal/state programs and simultaneously set aside matching funds required by mandated federal/state programs.

This lack of capability to employ an in-house staff, places a small town at the mercy of 1) professional management/engineering firms whose income is largely based upon project dollar totals, and 2) the federal/state bureaucracy who mandate the regulations under which the various programs are carried out. Further, both federal/state agencies, in turn, exercise design supervision, monetary and administrative control over the majority of participatory programs.

Local governments have little, if any, say so in their own community as to the scope and/or costs of mandated programs. However, should a local government decline to participate in a mandate program, they are subject to federal court jurisdiction and may be legally coerced into participation regardless of desire or financial ability.

An example of project aggrandizement, which I do not believe is unique, is our Wastewater Collection and Treatment Project—as conceived in 1970, costs were estimated at $138,284, after intervention of State (EIA) and Federal (EPA) agencies, estimated costs were increased to $1,023,707 as of January, 1973—from January 1973 to date there were a number of mandated scope and design changes, (I am not counting routine administrative changes) which have resulted in today's estimated cost of $2,002,923 for a project that is not scheduled for completion until February 1978. Should there be additional changes it is impossible to estimate the final cost of this project. It must be said that a considerable percentage of cost increases have root in environmental pollution control standards and of recent years runaway inflation.

With your kind indulgence, I will attempt restructuring high points of one project in hope it will give you an insight into the problems of a small town, that has literally no control of its own destiny, as far as federal/state governments bureaucracy is concerned. See Attachment I

Should you become bored and/or confused by perusal of Attachment I, which is an abbreviated account of just one project imagine the problems associated with being simultaneously involved with ten federal and five state agencies, (plus consulting engineers). All with a different set of regulations, financial accounting systems, reporting procedures, and with assumed authority to make decisions, (which in many cases are retroactive for the convenience of the agency) effecting the day to day operations of a municipal government, and in many cases do not reflect the intent of the Congress.

For small towns who by and large are governed by elected laymen serving on a part time basis, with no experience or exposure to federal/state agencies (except IRS),—these part time governments are confronted with the identical federal/state regulations and paper work load as is Albuquerque, which is a hold-harmless city with funding for planning and administrative costs, for the federal/state bureaucracies to demand a perfect level of performance from small towns who are not funded to employ qualified personnel to cope with the endless stream of federal/state paper and maintain daily operations is at best ludicrous.

A further problem is the lack of qualified personnel familiar with federal/state rules and regulations, to watch over the best interest of small municipalities, results in "Management by default" either the consulting engineer or the bureaucracy.

My recommendations on this problem are:

1. Establish a firm fixed % of all grant programs for planning and administrative costs regardless of population of the community involved. A % figure would provide small local governments with foreknowledge of funding available to assist in the payment of the additional planning/administrative costs entailed in all federal/state programs. These funds should be made available on an "up front" basis—of course, contingent upon agency acceptance of a local grant request for federal/state assistance.

2. Establish for all agencies a standard engineering services contract that clearly sets forth responsibilities and compensation factors for contracted engineering services. To my knowledge the best example is: FmHA, Form FHA 442–19 (Revised 7–21–67), which is specific as to responsibilities and FmHA in this contract specifically establishes compensation limits—there is no leeway for project design change, scope increase, etc., without prior consultation and approval by FmHA, local government concerned.

3. Standardization and simplification of administrative and financial reporting regulations, basic assurances relating to civil rights, discrimination, equal opportunity, utilization of small and/or minority businesses, pecuniary responsibilities etc., are spelled out in the U.S. Code, why the necessity of each agency re-working and requiring a different reporting format to comply with one basic law; an example the HUD–CDBG program grant agreement—15 pages in length contains 46 references to various Public Laws, CFR's. USC's, Executive Orders, and the Housing and Community Development Act of 1974—none of which say anything not contained in the codes of the Law other than being couched in HUD terminology.

Recommendation one simplified standard compliance form for all agencies to be signed and executed by the responsible local governmental officials.

4. Without doubt HUD is the epitomy of repetitious bureaucratic paper work, an example is the completed 27 page "grantee performance report" (enclosure 2)—concerning HUD Project B–75–DN–35–0003—Water Systems Improvements (Drilling of 2 Wells) as you may note from the enclosure the vast majority of information requested concerns "housing" which by the wildest stretch of the imagination cannot be associated with drilling water wells.

On February 9, 1976 the 1st copy of this report was forwarded—on May 11, 1976, a 2nd (revised form) copy with the identical information was forwarded as a part of an application for a paving assistance grant—on January 5, 1977 the same essential information was forwarded as a part of an application for Storm Drainage and Paving Assistance—on March 11, 1977 another complete 27-page copy (the 3rd) was forwarded, the only change in information context was that the project had been completed. All of the information requested directly relating to drilling the wells could have been answered by a half page letter report.

Recommendation: elimination of repetitive reporting requirements for the same information, particularly information unrelated to the project in question.

5. Another quaint habit of the bureaucracy is ignoring their own regulations while at the same time demanding absolute compliance by local governments—an example is the attached correspondence (enclosure 3) from the city to HUD, Dallas—to date no reply has been received.

6. The continuous revision of rules and regulations (HUD and EPA are the worst offenders) which are primarily administrative and by and large do not alter the basis of a program, impose a considerable amount of unnecessary paper work on a small community, and on the surface appear to be a bureaucratic "make work" operation rather than an attempt to improve program content.

7. Attachment No. 4 is a sequential report of funding for the Wastewater Facilities project, which I do believe will indicate the financial uncertainties faced by a local government in paying their bills when due.

I wish to express my gratitude to you for taking time out of a busy schedule to look at this problem. I do appreciate the fact that this letter with all of its enclosures is voluminous, but do not know a better way to illustrate the magnitude of paper work requirements faced by Truth or Consequences and hundreds of small towns across the nation.

In conclusion, I do hope this will be of assistance to you in your continuing efforts to reduce federal/state red tape. My sincere best wishes to you for the future.

Sincerely,

QUENTIN M. DRUNZER,
*City Manager.*●

## HUMAN RIGHTS AND CYPRUS

● Mr. RIEGLE. Mr. President, the tragedy of Cyprus is first of all a tragedy of human beings. While the legal and constitutional issues must be solved, we today witness about 200,000 refugees driven from their homes. In this brutal process, about 4,000 were killed and several thousand are still missing.

The Honorable L. G. Loucaides, Deputy Attorney General of Cyprus, recently addressed the Limassol, Cyprus Rotary Club and spoke of this aspect of the Cyprus issue. I ask that the text of his remarks be printed in the RECORD.

The remarks follow:

THE CONTINUING VIOLATIONS OF HUMAN RIGHTS BY TURKEY IN CYPRUS WITH PARTICULAR REFERENCE TO THE STAND TAKEN BY THE COUNCIL OF EUROPE AND TO THE U.S. POLICY ON HUMAN RIGHTS

As we all know, taking advantage of the coup against the President of the Republic Archbishop Makarios, Turkey, on the 20th July, 1974, invaded Cyprus with the alleged aim of re-establishing the Constitutional Order and safeguarding the rights of all Cypriots.

The human tragedy caused by the Turkish invasion to the people of Cyprus far from justifying the aims of such invasion as claimed by Turkey, in order to deceive the

world opinion, revealed the real policy and objectives of the invasion.

On setting foot on the Cyprus territory the Turkish army began implementing a prearranged and organized plan of full scale atrocities against the Greek Cypriot inhabitants of the northern part of Cyprus with the object of eradicating and exterminating the Greek population of a large area consisting of about 40 percent of the island, which came to be known as the "Attila line," and supplanting them with Turks. The ultimate aim of the plan was to convert by artificial means the Turkish occupied areas into Turkish populated areas under the full authority and control of Turkey and change the demographic structure of Cyprus, in furtherance of the long followed policy of partitioning the island under the guise of federation.

That was the Turkish policy all along both before and after the establishment of the Cyprus Republic.

TURKISH CLAIM ON CYPRUS

As far back as 1955 the Turkish Foreign Minister the late Zorlou, made no secret at the Tripartite Conference on Eastern Mediterranean and Cyprus held in London in August-September 1955, that Turkey had claims on Cyprus.

The same claims were repeated in June 1964 by the then Turkish Foreign Minister Mr. Erkin when at the London Conference on Cyprus he described the geographical position of Cyprus as being a continuation of the Anatolian Peninsula and that it had a vital importance for Turkey "on account of its geostrategic bearing."

In order to implement the said policy, the Turkish forces ever since the invasion have been engaging in a consistent pattern of gross violations of internationally recognised human rights in the occupied areas of Cyprus in the form of murders and other physical violence, forcible expulsion, looting of whole towns and villages, robbery and usurpation of properties, arbitrary detention, deprivation of freedom of movement and inhuman and degrading treatment of thousands of persons of all ages and of both sexes.

All these crimes were directed against the Greek Cypriots simply because of their ethnic origin, race and religion.

Almost four years have elapsed since the Turkish invasion of Cyprus. The resulting organised and massive violations of human rights are unprecedented in recent history.

Of course the rate of atrocities in the form of physical violence, as compared with crimes against property, gradually decreased as the Greek population of the occupied areas became less and less numerous. Having managed to evacuate these areas of the bulk of the Greek Cypriot population—which are still prevented to return to their homes—Turkey had no need to continue engaging in atrocities against the remaining Greek Cypriot inhabitants with the same ferocity as during the first year after the invasion. But violations of basic human rights such as the right to respect one's private family life, his home and property, the freedom of movement etc. continue unabated and on a permanent basis in order to maintain by the force of arms the "Attila" line.

A MATTER OF HUMAN RIGHTS

And while the human drama of Cyprus, reminiscent of medieval ages, still continues in its main parts, the Cyprus problem—which is nothing else than a humanitarian problem—does not seem to occupy in its true nature the civilised world.

The Cyprus problem is considered as a difference between Greek Cypriots and Turkish Cypriots or a difference between Greece and Turkey; as a constitutional or political question while in actual fact it is a pure question of protection of human rights.

The remedy suggested for the continuing violations of human rights by Turkey in Cyprus is for the two communities of the island, in other words the innocent victims, to negotiate the terms under which such violations will be condoned and accepted on a permanent basis, and this again under the threat of arms.

The net result is that the true sense of the Cyprus problem is disguised and disappears in political expediencies.

The reaction of the international community in respect of the Cyprus tragedy has been until now generally very disappointing.

COUNCIL AT EUROPE FAILURE

Even the Council of Europe which because of the legal commitments of its members and its basic philosophy for the protection of human rights in the European space, was raising expectations for a clear and effective decision against Turkey, has failed until now to carry out its responsibilities.

I am referring in this respect to the decision of the Committee of Ministers of the Council of Europe taken on 21st October 1977 in respect of the Applications filed by the Cyprus Government against Turkey in September 1974 and March 1975 for the violations of human rights by Turkey in Cyprus.

The Applications were originally filed before the European Commission of Human Rights of the Council of Europe which is the appropriate legal organ of the Council for investigating complaints for violations of the European Convention on Human Rights by any member state, in this case Turkey. The Commission is composed of jurists representing all member-states of the Council of Europe.

On 26th May, 1975 the Commission rejected the legal objections of Turkey in respect of the Cyprus Applications including the objection that the Cyprus Government was not legally representing the Republic of Cyprus and the objection that the violations complained of did not relate to an area within Turkey's jurisdiction. Thereafter the Commission investigated the complaints of the Cyprus Government. They collected evidence and heard witnesses.

COMMISSION REPORT ADOPTED

Turkey disregarded the proceedings before the Commission ever since the rejection of her legal objections, and refused to participate in the investigation of the charges against her or to reply to them, on the pretext that her participation would amount to recognition of the Cyprus Government.

The Commission carried out its task in a judicial and objective manner, and in July 1976 adopted a Report setting out their findings. The Report was submitted to the Committee of Ministers of the Council of Europe in August 1976.

Although this Report is confidential its contents became known through a publication of the English Newspaper "SUNDAY TIMES" in January 1977. According to this publication, the accuracy of which was not disputed by Turkey, the Turkish Government was found guilty by the Commission for the gross violations of human rights complained of by the Cyprus Government.

The final task for taking action on the basis of the said Report belonged to the Committee of Ministers of the Council of Europe which is the highest executive organ of the Council of Europe.

The Committee before deciding the issue asked for the views of the Turkish Government. Turkey then in an effort to politicize the question of violations of human rights by her forces in Cyprus presented a voluminous document full of unfounded and misleading allegations which she refused to place before the Commission of Human Rights for legal scrutiny. In the said paper there were also counter allegations for violations by the Cyprus Government (described by Turkey as "Greek Cypriot Administration") of human rights of the Turkish Cypriots, which again Turkey never dared to place before the Commission for investigation though challenged to do so. Such allegations could not be the subject of consideration by the Committee of Ministers and could not in any way, either legally or morally, provide a justification for the violations of human rights of the Greek Cypriots by Turkey, especially having regard to the big scale and continuing nature of such violations as found by the Commission.

A TAINTED COMPROMISE

In spite of all that the Committee of Ministers in October last, came up with a compromising politically tainted and motivated inconclusive decision in respect of the complaints of the Cyprus Government. The Committee in a vague way found that violations of unspecified human rights in general took place in Cyprus and interlinked the question of their restoration with the intercommunal talks.

Although the Committee reserved the right to revert on the subject in nine months' time, a provision that leaves room for some hope, the fact remains that by its decision in question the Committee failed to keep the letter and spirit of the European Convention on Human Rights.

The theory was advanced that the stand taken by the Committee of Ministers of the Council of Europe was aiming at affording the opportunity to Turkey to restore voluntarily the human rights violated by her, through a political solution of the Cyprus problem before a final clear cut decision against Turkey was taken. Hence the proviso for a right of the Committee to revert on the matter in nine months' time. According to the same theory to condemn or penalize Turkey outright would have made it impossible for the Government to cooperate in the implementation of her obligations under the Convention. Whether this theory will produce any results remains to be seen. Personally I doubt its effectiveness considering Turkey's attitude on the Cyprus problem all along.

A POLITICAL REPORT

The fact remains that the Council of Europe, through the Committee of Ministers has politicized the issue of violations of human rights in Cyprus and has thus failed to carry out its responsibilities under the Convention. It is only to be hoped that the Committee will revert on the matter and change its attitude; and that in any case a more effective decision will be taken in the new proceedings against Turkey brought during last September before the Council of Europe by the Cyprus Government for the continuing violations of human rights in the occupied areas. These proceedings are now pending before the Commission of Human Rights and are to be examined during the session of the Commission in July next.

What is interesting however about the stand taken by the Council of Europe is that it seems to reflect the general policy of the Western countries towards the Cyprus problem; the policy of avoiding offending or exposing in any way Turkey, an important ally of the Western block. Therefore one is tempted to believe that the majority of the member-states of the Council of Europe are following an attitude on the issue of violations of human rights by Turkey in Cyprus which is more compatible with their strategic interests rather than with the principles of human rights which they advocate. For how else the indulgences shown to Turkey in the field of human rights can be explained at a time when the Western countries seem to be oversensitive for violations of human rights elsewhere such as in the Soviet Union and South Africa.

That inevitably reminds us of the U.S.

policy on human rights which in this respect calls for some comment.

During the presidential campaign of 1976 Mr. Carter identified human rights as an important issue. Admitting that the record of the U.S. was not faultless in this regard he pledged himself to make an active concern for human rights throughout the world a key goal of American foreign policy.

PRESIDENT CARTER'S RECORD

Early in his presidency he criticized the Soviet Government for repressing dissident intellectuals. Then his accusing finger swept around the horizon, pointing to violations of human rights in Africa, particularly in Uganda, in Latin America and in Asia. He also sent his Secretary of State, Cyrus Vance before Congress to warn that U.S. military and economic aid would be cut or withheld from any country that consistently violated human rights.

Given the policy of the new U.S. Government the people of Cyprus accepted with joy the change of the administration in U.S. However with the passage of time it was most disappointing to find out that the new Administration persistently ignored the flagrant violations of human rights by Turkey in Cyprus. The accusing finger of President Carter failed to point towards the direction of Turkey. On the contrary by his recent report on human rights in Cyprus President Carter made an obvious attempt to exonerate the Turkish occupation forces from responsibility for the continuing violations of human rights in Cyprus and tried to politicise the issue in a similar way as the Council of Europe had done. President Carter has even decided few days ago to ask the Congress to lift the embargo on U.S. Security Assistance to Turkey although the Turkish forces continue to violate through their occupation of the northern part of Cyprus basic human rights of the Greek-Cypriot population.

One therefore cannot but suspect that President Carter's policy on human rights is not free from political expendiencies and that other considerations such as strategic are prevailing and overshadowing this policy. In the words of Mr. Talbott, the diplomatic correspondent for TIME magazine "a repressive government fortunate enough to find itself on the hot line of World War III enjoys a special dispensation from the Carter Administration and can violate the rights of its citizens with less fear of American pressure than say, Argentina or Ethiopia."

U.S. CREDIBILITY INVOLVED

On our part we say that this selective application by U.S. of the universal principles of human rights cannot but result inevitably to the crumbling down of the whole philosophy of the new foreign policy of the U.S. regarding human rights. Mr. Carter's pledge to restore morality to U.S. foreign policy so as to correspond to the values of the American people is therefore bound eventually to lose its credibility.

President Carter during the Presidential campaign was accusing the Ford Administration and in particular Henry Kissinger of conducting "cynical policies" and of "seeking might at the expense of right". Yet one is tempted now to consider these words as applicable to the stand taken by the Carter Administration in respect to the violations of human rights by Turkey in Cyprus.

We do consider it useful to add that even from the point of view of strategic interests U. States' attitude towards Turkey will eventually prove ineffective since a government which consistently violates human rights could not be an ally of a doubtful value. For what is the point of having an ally who acts contrary to the very principles that the alliance is supposed to be defending.

In his report President Carter supports the position that "human rights in Cyprus cannot be treated in isolation from political considerations." The decision of the Committee of Ministers of the Council of Europe seems also to be based on the same premise. This is an entirely wrong approach since it implies that violations of human rights can take place continually ad infinitum pending the settlement of political issues.

INTERIM STEPS NEEDED

It is correct that political settlements could give a final and durable protection of the human rights in issue; and that efforts should be directed towards the achievement of such a lasting solution of the problem. But the question is whether in the meantime human rights may be denied.

If one proceeds on what should be the correct assumption that any settlement of any political issue should safeguard human rights and should be reached through peaceful means, then the correct approach should be that restoration of human rights should not await the settlement of related political issues but on the contrary it should be used as a means to bring about such settlement. This is not only dictated by humanitarian and juridical considerations but also by the practical necessity in the interest of world peace and welfare not to allow states for any reason to have unfettered freedom to deny the basic human rights and freedoms to people under their authority. This is the raison d' etre of any human rights system. To accept the contrary would inevitably lead us backwards to the times when oppression in any form was an acceptable instrument for creating law.

If political differences were allowed to block the way to the protection of human rights that would render the very notion of human rights entirely meaningless; for serious violations of human rights are as a rule the result of political controversies. If, then, it is accepted, that no remedy is possible pending the solution of such controversies this would amount to condoning continuous violations of human rights on any scale and on a permanent basis at times when these rights are in special need of protection.

The existing international institutions for the enforcement and protection of human rights may not as yet be sufficiently equipped to give an effective remedy to situations such as the ones under consideration. But both they and all states concerned with the protection of human rights certainly can and should exercise pressure on those governments that are violating these rights by approaching the problem correctly, free from any political expediency, and condemning outright and without hesitation any such violations, mindful always of the necessity and usefulness of such condemnation. For apart from the other evident, beneficial moral and political effects this is the only way to maintain the essential principle that power or physical victory is not enough to give legal backing to the resulting faits accomplis or other situations so long as they amount to contraventions of the basic humanitarian rules and the principles of international law.

Maintaining that principle may by itself be quite effective for to use Rousseau's own words, "the powerful is never so powerful as to remain himself always a master unless he succeeds to convert his power to a legal right and the obedience due to him to a moral duty."

I should add on our part that we will not yield to power and we will not give a legal right to the powerful. We will never give up our human rights for, as rightly observed by the U.S. Deputy Secretary of State Warren Christopher in his speech before the American Bar Association last August, "It is, after all, these rights that make life worth living."●

## LUKYANENKO: 30 YEARS IN SOVIET GULAG?

● Mr. CASE. Mr. President, earlier this month, in a remote town in the Ukraine, the Soviets meted out another brutal sentence to yet another of its citizens monitoring Soviet compliance with the Helsinki accords. Of all the republics in which Soviet monitoring groups have been set up, it is the Ukrainian Helsinki Group which has had to pay the heaviest toll in terms of arrests and sentences. Of the 10 original members of the Kiev Group, fully half have received prison terms of at least 12 years.

Lukyanenko was sentenced to a 10-year term in special regimen camps plus 5 years of internal exile. Only 2 years ago, Lukyanenko returned from a previous 15-year term in the GULAG. In 1961, Lukyanenko was sentenced for supporting the idea that the Western Ukraine vote on a referendum on withdrawal from the Soviet Union. For this, Lukyanenko has had to spend 15 years in prisons, camps, and psychiatric hospitals.

It seems that one of the most serious charges against Mr. Lukyanenko is that as a founding member of the Ukrainian Helsinki Group, he wrote a document on systematic discrimination against Ukrainians who desire to emigrate, using his own case as an example.

Away from the eyes of the West, dissidents such as Levko Lukyanenko continue to suffer Soviet reaction against dissent and documentation of abuse.

People in the West tend to hear less about Soviet dissidents who live outside Moscow. This does not mean that those people who live in other parts of the U.S.S.R. are less deserving of our support. This does not mean that Ukrainian dissidents are less important than their Moscow counterparts. It does mean that we should redouble our efforts to make the fates of these stalwart men and women better understood in the West.●

## INDIAN ALCOHOLISM CONFERENCE

● Mr. DOMENICI. Mr. President, in December of 1977, the Office of Navajo Economic Opportunity's alcoholism program sponsored an All Indian Alcoholism Conference in Albuquerque, N. Mex. During that conference, Dr. Robert Bergman, a professor at the University of New Mexico and former psychiatrist on the Navajo Reservation, presented some alarming statistics which support my conclusion that alcoholism is the No. 1 health problem on the Navajo Reservation. In his presentation, Dr. Bergman stated the following:

In New Mexico, five of the ten leading causes of death among Indians are alcohol-related; 90 percent of the persons convicted of murder on the reservation last year were intoxicated at the time of the incident; over 80 percent of all Navajo police arrests were related to alcohol; of 3,238 Indian Health Service hospital cases in Albuquerque in 1976, 1,124 were alcohol-related.

While these startling statistics relate specifically to the Navajo Nation, there is no question in my mind that problems of alcoholism and alcohol abuse are very prevalent among other Indian tribes as well.

The problem of alcoholism and alcohol abuse among American Indians is a relatively new one, but the proportion of Native Americans experiencing alcohol-related difficulties is increasing rapidly. It is estimated by some experts that the incidence of alcoholism among American Indians is as high as 10 to 25 times greater than that for the non-Indian population. My amendment to the Health Planning Act, by authorizing a study of this matter, will provide the Congress with a better understanding of the unique cultural and psychological factors which lead native Americans to alcohol abuse. Once the National Commission on Alcoholism is established and operating, we will have a clearer picture of the scope and extent of alcohol abuse and alcoholism among Indian tribes throughout the country.

Furthermore, it is my hope that this study will go beyond a mere analysis of a grave dilemma. We will have to develop, within a very short period of time, a comprehensive, coordinated, program of dealing with the problem of alcoholism and alcohol abuse among American Indians. I look forward to the results of this study, and to the positive recommendations I know it will produce. Once a thorough assessment of this subject is completed, my colleagues and I will be able to discern the best course of action for combating and overcoming this insidious problem.●

## FUNDS FOR VIETNAM

● Mr. HARRY F. BYRD, Jr. Mr. President, the Library of Congress has done a study showing the amount of money the Socialist Republic of Vietnam has received and is likely to receive from international banking institutions.

Much of the funding for the United Nations and the international banks comes from the pockets of the American working men and women, through taxes paid to the Federal Government.

I submit for the RECORD the following memorandum from the Library of Congress:

PRELIMINARY DATA ON INTERNATIONAL FUNDS FOR VIETNAM

WASHINGTON, D. C.,
*June 28, 1978.*

To the Honorable Harry F. Byrd, Jr.,
Attention Christopher Lehman.
From Jonathan E. Sanford,
Analyst in International Relations.
Via Chief, Foreign Affairs and National Defense Division.

At your request, I am preparing an update to the study which Marjorie Browne and I prepared last year showing how much money might be available to the Socialist Republic of Vietnam in 1977 from international organizaitons. This memorandum provides preliminary data you requested showing the amount which might be available from international organizations in 1978. A more complete analysis of the total, and a report on the programs being funded, will be included in the final update of the study when it is completed.

In 1977, the Socialist Republic of Vietnam obtained about $118.9 million from international organizations, $73 million of it from UNICEF and the World Food Program and another $35.8 million from the IMF.

In 1978, it appears that Vietnam may have about $140.2 million available from international organizations, $54.5 million of it from UNICEF and the World Food Program and $54.9 million from the IMF.

It appears at this time that the World Bank may also approve two loans totalling $150 million for Vietnam in 1978, but the disbursements on those credits will probably not start until 1979 at the earliest.●

## BOAT AND LAND PEOPLE

● Mr. HAYAKAWA. Mr. President, I would like to bring to the attention my distinguished colleagues the work of a fine organization addressing itself to the plight of a very desperate group of refugees, the so-called boat people found in the South China Sea off the coast of Vietnam. For the last 25 years, World Vision International, based in Monrovia, Calif., has been involved in extensive charitable programs around the world. Besides providing swift-acting relief in major disasters, World Vision has completed many agricultural training and water projects in underdeveloped countries and has provided support for nearly 100,000 refugee orphans.

In the present situation, World Vision has taken an important first step to aid the boat people by chartering a large vessel, staffed with medical personnel and stocked with supplies which has made two forays to date into international waters and made contact with them. Although President Carter, in recognition of the problem, recently authorized American vessels to pick up refugees, World Vision, in order to maintain a neutral stance in a delicate political situation, has not taken any aboard up to this point.

As the following editorial details, the refugees face many serious obstacles. Often families are separated, their boats are inadequate, and capture by Vietnamese police boats is frequent. If a boat can reach Thailand admission to that country is still possible, but the Thai Government is overburdened with the 100,000 refugees already there and wants assurance that any new refugees can be transferred to a third country.

It is up to the international community, particularly the United States, to act on behalf of these people. I urge my colleagues to lend their full support to both Federal programs and effective programs in the private sector like that of World Vision.

It is imperative that the United States demonstrate its good faith to the Thai Government by continuing to admit refugees to this country and helping them to make a new beginning once they are here.

I am pleased to offer for your information the editorial which recently appeared in the Richmond Times Dispatch and ask that it be printed in the RECORD.

The editorial follows:

[From the Richmond (Va.) Times-Dispatch, June 27, 1978]

BOAT AND LAND PEOPLE

Chances of survival for the pitiable "boat people" from Vietnam have been estimated at about 50–50. These are the Vietnamese refugees who put out in the treacherous South China Sea in small fishing boats in desperate efforts to escape communist rule.

At any one time, an estimated 5,000 refugees are adrift. The sea is their only hope because neighboring countries are also communist-ruled. But about half of them perish because of lack of food, medicine and water, the unseaworthiness of their vessels, or attacks by coastal pirates. Many large commercial vessels steer clear of the boat people for fear of having to take them aboard.

Now at least one helping hand is being extended on the water. World Vision International, a Christian organization, has chartered a 345-foot vessel, staffed it with doctors, nurses and mechanics, and stocked it with food, water, clothing, fuel and boat repair parts. The ship will sail the South China Sea in search of refugees in distress until the monsoon season begins in October.

As tragic as the plight of the boat people is, recent developments in Vietnam raise the question whether the "land people"—those left behind—aren't even more to be pitied. Hanoi has announced plans for the forcible ressettlement of four million urban inhabitants by 1980. City dwellers are being moved to so-called "new economic zones" in the regime's effort to spur agricultural production and eradicate the urban middle class. Doubtless many will be worked to death in the fields as slave laborers.

More than one million persons reportedly have perished as a result of neighboring Cambodia's forced evacuations of major cities. A tragedy of that scale could be in the making in Vietnam, which in any case has already executed an estimated 250,000 persons, according to refugee reports.

Even the risky escape route of the open sea is being closed off as part of the new communist crackdown. Fishing boats are being placed under police guard at night, and fishermen have to go out in groups under the surveillance of armed guards.

Critics of American motives in aiding South Vietnam's anticommunist struggle often contended it really didn't make much difference which Vietnamese side won the war; some even suggested the communists were the humanitarians, the pure-spirited "agrarian reformers." But for thousands of boat people—and millions more of land people—the outcome made a drastic, and cruel, difference in their lives.●

## S. 3350—THE JOB OPPORTUNITY BONUS ACT OF 1978

● Mr. HATCH. Mr. President, the distinguished and Nobel Prize winning journalist, Mr. George Will, recently described Washington, D.C. as an enclave surrounded on four sides by reality. Perhaps not every one of my colleagues will agree on this working definition of our Nation's Capital. Yet on the subject of jobs, employment, and the pending economic crisis, I believe that the Federal Government has been acting in accordance with this popular definition.

In an effort to do something to improve the Federal Government's reputation among the citizens, and of greater importance, to do something to solve the immediate economic problems we face in the areas of unemployment and inflation, I introduced S. 3350, the Job Opportunity Bonus Act of 1978. The text of my proposed legislation is also offered as a substitute in the form of an amendment to S. 50, the Full Employment and Balanced Growth Act of 1978.

The purpose of my bill is to maximize the chances of employment for every American, especially those in the so-

called structural category. It is intended to attack the problem both in our urban and rural areas. It is intended to enhance dramatically the job opportunities for young people and our minority citizens who have been especially victimized by the cancer of inflation and the sluggish influenza within our national economy which takes the form of unemployment and increased job instability.

My bill, S. 3350, is predicated on the belief that we can do this without having to tax our fellow Americans out of existence; without having to resort to many of the well intended but vaguely defined gimmickry plaguing the so-called Humphrey-Hawkins bill, S. 50. Certainly the goals of S. 50 and the idealism on which they were forged are shared by nearly everyone in this Chamber. In fact, these goals, as written into particular parts of S. 50 read almost like poetry at times; certainly it is reminiscent of the greatness of our departed colleague, Senator Humphrey.

Tragically, however, the Humphrey-Hawkins legislation loses in practical application and hard economics what it makes up for in inspiring reading. H.R. 50 and S. 50 offer generalized national planning solutions and unreachable economic targets when the worst unemployment problems are among specific groups. In a nation which remains committed to private capitalism as our basic system of economy, the Humphrey-Hawkins bill would significantly enlarge the role of the Federal Government in our economic planning. The bill would expand public service employment by forcing the Federal budget upward by at least several billion dollars. Nearly every working economist who has reviewed the bill, from Milton Friedman to John Kenneth Galbraith, agrees that this approach would add 2 to 4 points on our national rate of inflation. What the long-term effects would be, and what they portend for the future of our beleaguered economy is anyone's guess. In short, the Humphrey-Hawkins bill is the last grasp of New Deal economics. If the time was ever right for such a bill, and the overwhelming arguments are against it, that time has passed.

Mr. President, I believe that there is a better way. I believe that we can use the machinery of our Federal Government in a proper, in a responsible way to cooperate with the private and independent sector of our economy to solve the problem of structural unempolyment, to relieve the high level of joblessness among minorities and youth. The national unemployment rate at any one time over the last 2 years has hovered between 4.7 and 6 percent. But for women, the rate has been 5.8 percent; for black members of the work force, it has been 11.8 percent; and for black teenagers, a staggering 35.8 percent. My legislation will use private rather than public dollars to fund the solution to this everpresent problem. It will provide a social bonus to private sector businessmen and to independent sector leaders such as charitable organization heads, nonprofit research organizations and others. It will give them the incentive to offer job opportunities which do not now exist, and to provide lasting job skills to those desperately in search of them; to those desperately looking for a way to restore their economic independence and their dignity as citizens in what is ironically the most affluent society in the world.

We can do these things, and we can do them without depressing our affluence or compromising our liberties. We can do it without having to suspend diplomatic relations with economic reality. Proposition 13 is exactly just such a reality. If nothing else, it is a signal to Washington —a signal to us not that America is insensitive; not that our fellow citizens seek to deny the American dream to others. It is a signal that America is in pain, in pain because of the continuing oppression of inflation and limitless taxation.

Mr. President, I believe that my measure, S. 3350, is a reasonable way out of our present economic dilemma. In the days ahead, I will continue to address myself to this issue. As always, I seek the counsel and the cooperation of my distinguished colleagues in enacting legislation to solve our problem.●

## SUPPORT FOR WATER BANK PROGRAM IMPROVEMENTS

● Mrs. HUMPHREY. Mr. President, I would like to share with my colleagues an editorial which appeared in the August edition of Fins & Feathers, supporting legislation I have introduced, S. 3198, to improve wetlands conservation.

The water bank is a Federal program created in 1970 to preserve wetlands and provide nesting habitat for waterfowl and other wildlife. The Water Bank Act was enacted in order to discourage the conversion of the Nation's wetlands to agricultural uses that are incompatible with the critical natural functions wetlands provide. I believe the water bank program should be an incentive program. It should be economically feasible and attractive to the farmer or landowner to place these areas in the water bank.

Similar legislation, currently pending before the House Merchant Marine and Fisheries Committee, is expected to be acted upon shortly. I am hopeful that the Senate Subcommittee on Environment, Soil Conservation and Forestry will take action on this legislation in the very near future. While we still have over 75 million acres of wetlands remaining, conversion continues at a rate of 200,000 to 300,000 acres a year.

Mr. President, I ask that the Fins & Feathers editorial be printed in the RECORD.

The editorial follows:

HUMPHREY WATER BANK PROGRAM IS BADLY NEEDED

In our November, 1977 editorial, we wrote about a great program which has not been allowed to reach its potential. The federal Water Bank Program was established to help preserve and restore one of our nation's most important but threatened resources—our wetlands. Without denying that the program has accomplished a lot in the first several years of its existence, we have to report that it has been shackled with an inadequate level of funding, and consequently has not met the objectives Congress envisioned for it.

That would change if Congress passes a bill recently introduced by Senator Muriel Humphrey (co-sponsored by Wendell Anderson and several others). The bill, S. 3198, would increase the level of funding from 10 million to 50 million dollars annually. Passage of this bill would benefit everyone—farmers, the general public, sportsmen and wildlife.

The Water Bank Program works by offering landowners an incentive to preserve or improve wetlands. They sign a lease for a ten year period, offering to preserve or restore the wetlands in return for an annual payment. This payment compensates them for the money they could realize by draining the marshes and putting them into production.

At least that's the way the program would work if it were properly funded. As it is, Minnesota's payments are so low that farmers are reluctant to enter the program. Some who signed ten year leases in the program's early years are bitter about the mistake they made, since land values have soared in the years since the program's funding level was established. An incentive program with no true incentive is not going to work. If you offer a farmer a $5 per acre rental fee when he can rent cropland for $80 an acre, you are not offering much incentive!

The Humphrey bill would address that problem. Those who have worked with the program estimate that passage of the bill would allow us to add 20 to 30 thousand acres in Minnesota each year to the amount of land preserved for wildlife.

In addition to the funding inadequacy, a few other problems have limited the effectiveness of the Water Bank Program. Some of these have been technical in nature, others have been administrative. But the biggest limitation so far has been poor funding. Incentives that sounded pretty good in 1970 when Congress set the program up just don't work in the world of 1978 land values.

Sportsmen don't need to hear how valuable marshes and their associated upland acres are. Even if they weren't vital to wildlife production, they would be important for their functions as nutrient traps, flood control devices and maintainers of healthy water levels. Wetlands are a critical part of our environment. And they are being destroyed at an alarming rate.

But sportsmen may not have given enough thought to the plight of farmers who own wetlands. What is good for society (namely keeping or restoring wetlands) is often bad for individual farmers. They are trying to survive in a very difficult financial climate, one which continues to drive smaller and less efficient farms out of existence. Even if they are aware of the importance of wetlands, individual farmers can not often afford to pass by the financial gains from draining marshes and turning the lands into production—even when those acres just go into a "set-aside program." If marshes are important to society, and they obviously are, the only fair way to protect them is to share the cost of preservation through a program like Water Bank.

We can't tell how much opposition the Humphrey bill will get. Humphrey will not be back in the Senate next year, and some of the bill's other co-sponsors are also not returning. Senator Anderson faces a very difficult campaign this year and is now trailing in the polls.

Clearly, Minnesota sportsmen need to speak out in favor of this bill, making it clear that we mean to fight to preserve our precious wetland areas. The Water Bank Program offers the best hope for that. It is time to get the program a full level of funding so it can do what it was created to do.●

## NO NEED TO REINSTITUTE DRAFT

● Mr. MARK O. HATFIELD. Mr. President, the Housing and Urban Development Subcommittee of the Senate Appropriations Committee will be considerning the fiscal year 1979 appropriation for the Selective Service Agency today when the full committee meets to mark up the HUD-Independent Agencies appropriations bill.

In light of the expressed interest of the Senate Armed Services Committee to significantly expand the function of the Selective Service Agency as reflected in both its report language and the $17 million authorization level for the agency, I find it extremely appropriate and timely that several of the top officials in the Defense Department have made strong statements denying the alleged inadequacy of U.S. manpower levels to provide for our Nation's security requirements.

Mr. President, in acknowledging that there are some natural problems which will arise in any military recruitment system of the size necessay to maintain present force levels, Secretary of Defense Harold Brown, Army Chief of Staff General Bernard Rogers, and Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, Mr. John White, have each spoken highly of the success of the all-volunteer military force. I ask that their respective statements as reported in the Atlanta Constitution, the Colorado Springs Sun, and the Washington Post be printed in the RECORD following the balance of my remarks.

Mr. President, before embarking on any expansion in the authority of the Selective Service Agency, or the establishment of a national registration program of 18 year olds, we would do well to consider and challenge the premises underlying current force levels and examine their relation to actual defense requirements. As this has not been done by either the administration or the Congress (outside of hearings on the matter), I would suggest that we are adding to the waste of taxpayers' money in having a system functioning without the necessary induction authority to carry out the draft.

Finally, Mr. President, reflective of the hysteria which has led to some congressional calls for a resumption of the draft, I want to quote from a report which served as the basis for hearings on the all-volunteer military force entitled "Achieving America's Goals: National Service or the All-Volunteer Force?" written by Mr. William King. Mr. King's study in arguing for a return to the draft asserts that the volunteer force "is essentially a peacetime concept." Perhaps I am mistaken, Mr. President, but I have assumed that it is precisely because we have been at peace that we initially went to the all-volunteer force. Am I to believe that this country is not in peacetime, and therefore, the need for a return to the draft?

Mr. President, I contend that the calls for a return to the draft reflect the saber rattling of the Cold War era and have little relationship to our true defense requirements. If this Nation is not at war, and I have no reason to believe it is, then I must conclude that there is no reason to return to a draft.

I trust that any efforts to move us in this direction will be defeated in the Appropriations Committee today, and on the Senate floor during the debate on the HUD appropriations bill.

The articles follow:

[From the Washington Post, July 30, 1978]

### MILITARY MANPOWER CHIEF SEES NO NEED FOR DRAFT

(By George C. Wilson)

The post-Vietnam experiment of trying to fill the ranks of the peacetime military entirely with volunteers is working so well that there is no need for the draft in sight, according to the Pentagon's manpower chief.

Dr. John P. White, in taking that position during an interview with the Washington Post, dismissed the recent political talk about returning to the draft as "more smoke than fire."

Even with the upcoming sharp drop in the nation's population of 18 year olds, White said, the Army, Navy, Air Force and Marine Corps should be able to keep filling their ranks with volunteers.

A shortage of 18-year-old males, he said, could be offset by taking more females into the services.

Other responses planned, he said include reducing the dropout rate within the services and inspiring more people in the service to reenlist.

Although several lawmakers have recently been warning that the "all-volunteer force" is not working and some kind of compulsory national service may have to be legislated, White countered that such suggestions fly in the face of hard numbers.

In contrast to the mid-1950s when the armed services took 75 percent of the eligible 18-year-old males, White said, today they need only about 20 percent of them. Reasons for this include a smaller infantry—2 million on active duty in 1978 compared to 3.3 million in 1954; longer enlistments; a larger teen-age population to draw from, and more women in the ranks.

The services should not have to recruit a significantly higher percentage of the 18-year-old males between now and 1985, White said. He predicted the total recruited would still be close to the current 20 percent of those eligibile. (The United States had 1.8 million militarily eligible 18-year-old males in 1977 and is expected to have 1.6 million in 1985.)

White and his Pentagon colleagues have declared war on the dropout rates of the services to reduce the need for new volunteers. The Army, for example, saw 42 of every 100 men who signed up in 1974 drop out before finishing their obligated tours. New goals to reduce attrition have been set for all the services.

"There are several things" driving demands to return to the draft, White said, despite what he considers the proven success of the volunteer system.

"One, which is a legitimate social issue, is the question of whether or not people have an obligation to serve in some way.

"If you really look at that, it comes back down to some kind of national service" for young Americans that would require creation of additional government service agencies to absorb the young people the military could not use.

Or, to put it another way, "back to the CCC," the Civilian Conservation Corps established by President Franklin D. Roosevelt to combat unemployment during the Depression.

Critics of the all-volunteer force, White said, tend "to hold it up for comparison against some poorly defined but clearly better system. The impression is that there is always an alternative that will work better. * * *

"If you give us more people" by going back to the draft, White continued, "you're going to shorten the tour length. If you shorten the tour length, I'm not going to be able to train them as well."

White acknowledges there are problems in the all-volunteer force. "You bet your life we have" them, he said. "Anybody who recruits between 350,000 and 400,000 people a year is going to have problems." Congress could help the Pentagon with these problems by approving legislation for managing the force better, such as more flexibility in giving bonuses to service people, White said.

Chairman John C. Stennis (D-Miss.) of the Senate Armed Services Committee has referred to reported shortcomings of the all-volunteer force in urging that alternatives be considered.

A yearning for "the good old days" is another part of the political impetus for going back to the draft, White believes.

White, who was a lieutenant in the Marine Corps from 1959 to 1961, said, "I am bemused by surveys and TV shows from Europe which quote captains of the infantry as saying the Army isn't like it was during the draft. The captain talking wasn't in the Army when we had a draft. He's never seen anything but a volunteer soldier." (Draft calls ended in December 1972.)

Also, said White, some people want to return to the draft to obtain a bigger U.S. military force. "As I go around" talking about the all-volunteer force, said White, I hear that "it isn't big enough."

However, given the statistical and political realities, "the press is overplaying 'here comes the draft' " stories, White said.

"When you translate those legitimate concerns" about the current all-volunteer force "into registration and conscription," the political sentiment for shifting back melts away, he said.

The toughest test ahead for the all-volunteer force will come between 1985 and 1990 when the 18-year-old population dips.

Asked if he expects the draft to be reinstituted during his scheduled four-year tour of duty at the Pentagon, barring war, White replied without hesitation:

"No, I do not. I do not see either any need nor any sentiment for it. There's more smoke than fire."

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[From the Atlanta Constitution, June 23, 1978]

### BROWN UNCERTAIN ABOUT FUTURE OF ALL VOLUNTEER MILITARY FORCE

SEATTLE (AP).—Defense Secretary Harold Brown said Thursday he feels optimistic about the all-volunteer military force, but is uncertain about its future.

"So far, in peacetime and in an economy operating at less than full employment, it is working," Brown said.

But, the Pentagon chief added, "we don't yet know for sure" whether an adequate volunteer-based military force can be maintained when civilian jobs become plentiful and when a declining youth population reaches military age in the 1980s and 1990s.

And Brown forecast more acute competition from private industry for technically trained personnel needed to operate increasingly sophisticated military equipment.

Brown's appraisal of the five-year-old all-volunteer service came in a speech prepared for delivery to graduates of the University of the Pacific College of Dentistry in San Francisco.

The speech followed by two days Sen. Sam Nunn's assertion that "there is growing consensus that the all-volunteer force * * * may fail to provide an adequate foundation

for the future national security needs of our nation."

The Senate Armed Services Committee, at the Georgia Democrat's behest, has ordered the Pentagon to study alternatives.

Without specifically noting Nunn's criticisms, Brown said the armed services are managing to achieve 96 percent of their recruiting goals while maintaining forces at about 2.1 million men and women. This, he said, "approaches the minimum needed for our national security."

The defense secretary also said fears that the volunteer service would become a "poor man's force" of questionable quality "had not been realized."

"Analysis to date suggests that the armed forces today * * * are a reasonable reflection of the population of the United States—perhaps a bit less so than under the draft," Brown said. He added that various indicators of quality are mixed.

"We are obtaining high-school graduates in adequate numbers for the most part, although the number of recruits in the highest mental categories is not so great as previously," Brown said.

"We have problems recruiting and retaining for some technical skills and some less attractive positions," he added. "But discipline and morale in general appear to be higher than under the draft. Commanders tell me that their troops are the best ever."

Brown acknowledged, however, that the National Guard and Army Reserve forces constitute another problem. He said "our ability to attract volunteers for the reserve units . . . has not been entirely satisfactory."

Brown also said a number of measures are being taken to improve the attractiveness of military service in both the active and reserve components, and that women are being given an increasingly wider role.

But, the defense secretary added, "I see no likelihood of removing" restrictions against women serving in direct combat roles.

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[From the Colorado Springs Sun, June 17, 1978]

"TOO EARLY" TO DISCREDIT VOLUNTEER ARMY: ROGERS

It is too early to call the volunteer Army a failure, Gen. Bernard W. Rogers, Army Chief of Staff, said Friday in a news conference at Fort Carson.

Gen. Rogers, who was commander of Fort Carson from September 1969 to December 1970, said the Army is in good shape as far as the number and quality of active troops is concerned. The problem, he said, is that the Army Reserve and the National Guard are short of men.

The government should extend some of the same benefits that have been successful in getting men into the Army to men considering the reserves, Gen. Rogers said. These benefits should include enlistment bonuses for recruits joining reserve units that would be called up early during an emergency, he said.

Educational assistance—$2 from the government for every $1 a soldier saved for his future education—should also be offered reservists, Gen. Rogers said.

He said the active units are getting both the quantity and quality of men needed under the volunteer Army system. Despite what some reports might lead one to believe, he said, the soldiers in the volunteer Army are "winners."

"These troops are among the best soldiers I've served with in my 35 years in the service," Gen. Rogers said.

Gen. Rogers said criticism of President Carter made by recently retired Maj. Gen. John Singlaub was not justified.

Gen. Singlaub has attacked the president for ignoring the advice of the Joint Chiefs of Staff. Gen. Rogers said he had a better view of the situation because, unlike Gen. Singlaub, he had attended the meetings between the Joint Chiefs and the president.

"President Carter had met with the Joint Chiefs an unprecedented number of times," he said. "He doesn't always take our advice, but he listens."

Gen. Rogers said he was pleased to see the progress that had been made at Fort Carson since he was commander there. He noted there had been progress in replacing the World War II-era barracks with new living quarters and said that, by 1980, Fort Carson would be one of the finest bases in the Army.

One never uses "never" in the Army, he said, and so he could not say Fort Carson would never be closed down.

"I am a betting man, however, and I would bet the base will be open for a long time to come," he said.●



## ALASKA LANDS: A PRIORITY FOR THE 95TH CONGRESS

● Mr. RIEGLE. Mr. President, at this time each year we all start thinking of which issues and bills we hope the Senate will consider before the Congress adjourns. While we have acted on many important issues this Congress, much work remains to be done.

In deciding what legislation to take up in the time remaining, I think it is very important that we look to the American people to make sure we are aware of what they consider to be priorities for the 95th Congress. A recent editorial from the Grand Rapids (Mich.) Press states very clearly what is on the minds of many of my constituents:

The U.S. Senate is confronting a very busy calendar. With the labor "reform" bill out of the way for at least the time being, there remain the nation's big four concerns to be faced up to: tax reform, energy, inflation, and unemployment. A fifth major consideration—the Alaska National Interest Lands Conservation Act—demands Senate action this year as well.

Mr. President, there are other indications that many Americans are thinking about an Alaska lands bill in 1978. A recent poll by Louis Harris found that an amazing 32 percent of the citizens contacted were aware that Alaska lands legislation is pending in Congress, and of those 32 percent, an overwhelming 67 percent favored passage of such legislation.

Consider also the vote earlier this year in the House of Representatives. An overwhelming majority of our colleagues in the House—277–31—voted to pass H.R. 39, the Alaska National Interest Lands Conservation Act. The Members of the House certainly would not have acted so decisively on this complex issue if they did not believe a strong Alaska lands bill was what the people want.

Finally, Mr. President, Alaskans, too, are calling for a bill this year. A recent editorial from an Alaskan newspaper, the Tundra Times, speaks of the need to end uncertainty over the land legislation so that the State can get on with building an economically secure future.

The editorial states:

. . . prolonging the uncertainty over this federal land legislation can only add to the deep-rooted pessimism one now finds throughout Alaska's economic community. Far more than large parks and wildlife refuges themselves, which will have positive economic value for the state, delay in drawing final park and refuge boundaries will only keep the brakes on Alaska's post-pipeline efforts to build financial stability and security for the future.

Mr. President, there is no question in my mind that passage of a strong Alaska lands bill—this year—is what the American people want. For that reason I am pleased to be a cosponsor of S. 1500 (amendment No. 2176), the Alaska National Interest Lands Conservation Act. I urge my colleagues to take to heart the sentiments of the American people and place passage of a strong Alaska lands bill high on their list of priorities for the 95th Congress. To do less would be to ignore our responsibilities as representatives of the people.

Mr. President, the essential text of the editorial from the Grand Rapids Press, dated June 30, 1978, follows. I ask that it be printed in the RECORD:

THE ALASKAN LAND BILL

The U.S. Senate is confronting a very busy calendar. With the labor "reform" bill out of the way for at least the time being, there remain the nation's big four concerns to be faced up to: tax reform, energy, inflation and unemployment. A fifth major consideration—the Alaska National Interest Lands Conservation Act—demands Senate action this year as well.

Under the Alaskan Statehood Act, the 49th state was granted 105 million federal acres, or about 28 percent of the available land and water, when it entered the Union. Selection proceeded slowly and was interrupted by litigation, most notably the Alaska Native Claims Settlement Act of 1971 which gave Eskimos, Aleuts and Indians millions of dollars in grants and mineral rights plus 44 million acres of land.

In consideration for removing legal barriers to the construction of the Alaskan pipeline, conservationists insisted that Congress set aside "national interest" lands to provide for national parks, wildlife refugees and wilderness areas. Under section d-2 of the Native Claims Act this was to be accomplished no later than Dec. 18, 1978.

No amount of acreage was specified, however, and Congress has been debating that question off and on ever since. Last month, by a margin of 277–31, the House of Representatives set aside 124 million acres—an area roughly equal to the size of California. President Carter has recommended 92 million acres. The state of Alaska thinks that 25 million acres are enough.

It is in the Senate that the future of Alaska will be determined. Unless that body acts by the December deadline the government in Juneau may resume claiming the balance—or 30 million acres—of the 105 million acres to which the state is entitled.

Among the traditions still largely observed in "the highest deliberative body in the world" is senatorial courtesy. The unwritten understanding provides that in matters bearing directly on a senator's home state his colleagues will defer to his wishes. In this case, both Democrat Mike Gravel and Republican Ted Stevens have united to oppose large "withdrawals" of land to protected status. They want much more territory left open for economic development.

But even if a majority of senators choose to ignore senatorial courtesy, there is another danger to the proposals advanced by the administration and the House-passed set-aside. That danger is a filibuster led by the Alaskans.

At this point it is clear that Sen. Donald Riegle would be a party to neither senatorial courtesy nor a filibuster. He is co-sponsoring

a bill which sets aside 110.5 million acres. This in itself is a significant breakthrough for it is the first time the Flint Democrat has lent his name to environmental legislation.

By far Alaska is the nation's largest state. Its 365 million acres of land and 10 million acres of inland waterways account for one-fifth the area of the United States. Its wildlands are unmatched anywhere in North America. This gift of nature is a national treasure to be jealously guarded and preserved.

When Alaska became a state, more than 99 percent of its territory belonged to the federal government. In granting statehood, Congress' offering of 105 million acres of land and water to the people of Alaska was most generous. Indeed it was the largest federal land transfer to any state in the Union, greater in fact than all past grants west of the Missouri combined.

Since then the Senate has been very helpful to the development needs of Alaska. It has expedited oil and gas pipelines, granted the most valuable development land (such as Prudhoe Bay) to the state in the 105-million acre Statehood Land Grant, and resolved the "freeze" on lands settling the Native land claims.

Now, however, it is appropriate that the Senate act in the best interests of all Americans—not just Alaskans—for it is they who own the territory in question. A strong Alaskan bill is owed this nation's future generations.●

## GOOD REASONS FOR GOLD MEDALLION

● Mr. HATCH. Mr. President, recently a newspaper column in the New Haven Register was brought to my attention, which defines briefly and clearly the purpose of the Gold Medallion Act of 1978, a bill I have cosponsored with Senator JESSE HELMS and others. After having to plow through all the verbiage that usually accompanies the justification for a piece of legislation, it was good to come across this succinct, brief account of what we are trying to accomplish with that bill.

This is a bill that should be passed and I will do what I can to see that the bill is given the consideration it deserves as soon as possible.

The author of the column, Mr. John Chamberlain, states simply that it is unfair that Americans cannot buy American gold, that Americans need protection against depreciating paper money as much as "any gnome from Zurich or any sheik in Saudi Arabia," and that the Gold Medallion Act of 1978 would help alleviate these problems.

Mr. Chamberlain is a journalist of vast experience. Now a columnist for King Feature Syndicates, in his long career he has been a dean of the Troy, Ala. School of Journalism, a lecturer and associate professor at the Columbia School of Journalism, an editor of Life magazine, and a contributor to Harper's Bazaar, Barron's, and the Wall Street Journal, among others. He has written several books, including "Fanfare to Reform," "The Roots of Capitalism" and "The Enterprising American—A Business History of the United States."

Obviously, Mr. Chamberlain is a man of great economic sophistication. He has undoubtedly carefully analyzed all available information to reach his conclusions about the Gold Medallion Act. I know that much good information has been put out by the Institute on Money and Inflation. IMI is an important new source of economic analysis, facts, and figures. It is about time that Congress begins learning about sound money, and how we can restore a stable currency.

Mr. President, I ask unanimous consent that Mr. Chamberlain's article be printed in the RECORD.

The article follows:

U.S. CAN SELL GOLD MEDALLIONS

The U.S. Treasury has been presented with a plan to help save the dollar by selling small amounts of gold from its 277-million-ounce Fort Knox hoard at periodic intervals. In present—circumstances if Washington were to auction some 400,000 ounces at $160 an ounce once every month to foreigners for Eurodollars, it would help tip the scales of our deteriorating balance-of-payments position.

The idea of soaking up paper Eurodollars is a good one, but it obviously discriminates against stay-at-home Americans who need protection against depreciating paper money as much as any gnome from Zurich or any sheik from Saudi Arabia.

True enough, the stay-at-home would benefit indirectly from the Treasury sales, for they would keep the price of gold from skyrocketing before he could put in his bid for rand coins from South Africa. The sale of gold medallions from the U.S. Treasury direct to citizens would be a matter of convenience, which would be appreciated by value-conscious voters.

The Treasury has always been loath to accommodate ordinary U.S. citizens. It took some doing to get a right-to-own-gold clause through Congress in the first place. Later, after some clever parliamentary footwork by Sen. Jesse Helms of North Carolina, Congress agreed to legalize contracts specifying payments in gold by consenting adults. The then Secretary of the Treasury William Simon, and Arthur Burns, boss of the Federal Reserve Bank, finally agreed to withdraw objections making a gold clause optional in contracts. But it is still hard to get hold of gold in the United States in easily understood and easily handled shapes. So what next?

One of Sen. Helms's aides who happens to be blessed with a sense of humor suggested that the Treasury should make available to the people gold medallions known as the Hubie and the Half-Hubie. His idea is that a gold coin bearing the likeness of the late Sen. Hubert Humphrey would give it a Populist sanction. Of course, there is no likelihood that the Senate, a sober, body, would ever kid around with Humphrey's memory. But even such a chronic inflationist as Hubert himself might have seen the value of letting the average American have parity with a Zurich gnome or an Arab sheik when it comes to letting gold be held as a hedge against the inconsiderate or hasty acts of back scratching politicians.

In any case, Sen. Helms is now busy with a bill, the Gold Medallion Act of 1978, to provide for the issue of gold medallions. The medallions would be sold, on order of the secretary of the treasury; in one ounce and half-ounce sizes. The one ounce medallion "shall have on its face the likeness of the Statue of Freedom atop the dome of the Capitol Building, surrounded by laurel leaves." The word "freedom" would be inscribed above the likeness, and the words "one ounce of fine gold" would be placed inside the edge of the medallion. The half-ounce medallion would be inscribed with the words, "Human Rights." Liberals who refuse to accept the idea that the right to hold easily negotiable gold coins is a human right might be mollified by the thought that a domestic supplier of gold medallions would help destory the market for gold rands from South Africa, a country that is growing in disfavor with leftists who insist on making symbolic protest against the institution of apartheid. Not that it really makes much difference where gold originates. But symbolic protests make their point—and the Helms Gold Medallion Act of 1978 would do double duty in satisfying symbol hunters of both the Right and the Left.●

## THE UNPERSUASIVE BAKKE DECISION

● Mr. HAYAKAWA. Mr. President, the Supreme Court has recently handed down a rather two-sided opinion in the case of University of California against Allan Bakke. While the Court ruled that Allan Bakke had been unfairly discriminated against because of his race, the Court also decided that race could be used in making admissions decisions.

This decision, though it may be hailed by some as statesmanlike and diplomatic, appears to lack the rational, objective constitutional arguments characteristic of a Court which is above public opinion.

It appears that the Court has interpreted the 14th amendment to allow a measure of reverse discrimination. So-called affirmative action programs, which are intended to eradicate racial discrimination are in themselves discriminatory. The purpose of the Civil Rights Act of 1964 was to guarantee equal rights to all persons, and equal rights means that each person should have the opportunity to be judged on the basis of his or her personal merits, and not by skin color. I personally believe the Constitution is colorblind when it states that no person shall be denied equal protection of the laws.

Mr. Robert Bork, Chancellor Kent professor of law at Yale University Law School has written a very insightful analysis of the Bakke decision questioning whether or not the Court "adequately discharged its constitutional function" in the Bakke decision.

I ask that Professor Bork's article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, July 21, 1978]

THE UNPERSUASIVE BAKKE DECISION

(By Robert H. Bork)

The hurricane of learned and semi-learned commentary that followed instantly upon the Bakke decision reminds us once more that the Supreme Court of the United States is probably the most superficially discussed major institution of government.

We learned the views of civil rights leaders, constitutional lawyers, administrators in government and in education, both before and after they had actually read the opinions, about what the case portends for affirmative action or reverse discrimination. The court's opinions, six in all, were skillfully analyzed in the mass media from every conceivable perspective—except the perspective that is ultimately crucial: whether the court, whatever the political acceptability of its results, adequately discharged its constitutional function.

The press encourages the public to judge the court only by the political assessment of results. But in democratic theory, the court's power must be justified by constitutional reasoning. As Alexander M. Bickel said, "The process of the coherent, analytically warranted, principled declaration of general

norms alone justifies the court's function." Otherwise, "its insulation from the political process is inexplicable." That is the old faith at least, and we do not have a coherent alternative to replace it. In Bakke, the court paid it tribute by producing, all told, 154 pages of legal argumentation. It is time we examined the case less for its practical wisdom and more for the legitimacy of its sources.

The decisive opinion was Mr. Justice Powell's, because the remainder of the court split evenly for and against the racial quota used by the Davis medical school for admissions. Justice Powell's middle position—universities may not use raw racial quotas but may consider race, among other factors, in the interest of diversity among the student body—has been praised as a statesmanlike solution to an agonizing problem. It may be. Unfortunately, in constitutional terms, his argument is not ultimately persuasive.

THE 14TH AMENDMENT MEANS?

The 14th Amendment, centered historically on problems of race, guarantees equal protection of the laws to "persons." Bakke and his allies argued that it requires colorblindness, equality of opportunity unhindered by law, while proponents of affirmative action contended that it means equality of outcomes, and so permits states to favor blacks and other minorities until they achieve proportionally equal number in universities and elsewhere without the aid of official preference.

Justice Powell attempted to find a position between these two by tempering a colorblind version of the 14th Amendment with the First Amendment. The fourteenth, he said, is strict about any use of race: "The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal." The use of such classifications requires strict judicial scrutiny, and only the most compelling governmental interests can justify them.

Davis, however, had advanced one such interest: ". . . the attainment of a diverse student body. This clearly is a constitutionally permissible goal for an institution of higher education." It is an aspect of "academic freedom" and so a "special concern of the First Amendment."

The upshot is that Davis' quota violates the law, and Bakke must be admitted, because the school focused solely on race rather than seeking a "genuine diversity." When genuine diversity is sought, race may be one of the factors accorded preference.

There may, at first glance, seem something appealing about this. The courageous and badly treated Bakke goes to medical school next fall, the hard-core racists of reverse discrimination are defeated, but a softer policy of affirmative action, at least in universities, is left some breathing space. As politics, the solution may seem statesmanlike, but as constitutional argument, it leaves you hungry an hour later.

The trouble is, it is hard to take seriously the idea that the First Amendment permits university freedom from the strictures of the fourteenth so long as they pursue an educational policy held in good faith. Were that true, a university could believe that education is more effective under conditions of genuine homogeneity and so count against applicants, among other factors, the fact of being black, female, Chicano, etc. Nobody supposes for a moment that such a policy, however sincerely adopted, would be shielded by the First Amendment from the fourteenth.

But if it is not, Justice Powell's use of the First Amendment fails; it is not a real factor and we have at bottom a statement that the 14th Amendment allows some, but not too much, reverse discrimination. Yet that vision of the Constitution remains unexplained. Justified neither by the theory that the amendment is pro-black nor that it is colorblind, it must be seen as an uneasy compromise resting upon no constitutional footing of its own.

Mr. Justice Brennan's opinion for the four-member bloc that approved racial quotas fares no better. It turns upon a startling analogy.

A company that discriminated may be required to restore blacks to seniority wrongfully denied, even though that injures whites not responsible for the discrimination. It is equally proper, the argument runs, to note that the entire society has discriminated against blacks and to conclude that institutions, such as the Davis medical school, may provide a remedy by admitting blacks in preference to better qualified whites. The white employees who lose seniority are not really damaged since, absent the discrimination, the blacks in question would have been ahead of them on the list anyway.

Justice Brennan concludes: "If it was reasonable to conclude—as we hold that it was—that the failure of minorities to qualify for admission at Davis under regular procedures was due principally to the effects of past discrimination, then there is a reasonable likelihood that, but for pervasive racial discrimination, (Bakke) would have failed to qualify for admission even in the absence of Davis' special admissions program."

Even granting the speculative premise, we cannot know which individuals under a hypothetical national history would have beaten out Bakke. Justice Brennan appears to mean, therefore, that the particular individuals admitted in preference to Bakke on grounds of race are proxies for unknown others. Bakke is sacrificed to person A because Davis guesses that person B, who is unknown but of the same minority race as A, would have tested better than Bakke if B had not suffered pervasive societal discrimination. A is advanced to compensate for B's assumed deprivation, and Bakke pays the price. The argument offends both ideas of common justice and the 14th Amendment's guarantee of equal protection to persons, not classes.

THE TACTICS OF THE MINORITY

The remaining four Justices, in an opinion written by Mr. Justice Stevens, adopted a tactic that would have been quite useful had they been a majority but was less so in their tactical position. They decided that racial quotas were outlawed by Title VI of the Civil Rights Act of 1964, which, unlike the other five Justices, they said did not merely follow the court's interpretation of the 14th Amendment, and they refused to give advice about other forms of racial preference not before the court. Had this been an opinion for the court, the ruling would have had the distinct advantage of placing the reverse discrimination issue on the political agenda of the nation unencumbered by the moral weight of a constitutional interpretation. "Focusing attention on constitutionality," as Justice Frankfurter said, "tends to make constitutionality synonymous with wisdom." When the democratic process had chosen a policy, it would have been time enough for the court to measure it against the Constitution.

As a minority position, however, reliance on Title VI accomplishes little. It has no dramatic impact, and the fact that the five Justices who spoke to the broadest constitutional issues endorsed, in different degrees, government classifications by race skews the political process in favor of reverse discrimination and may abort full political consideration of the issue altogether.

If so, universities have been ratified in a daring social policy by a court majority. (Justice Powell's rule may not prove remarkably different in action from Justice Brennan's, for it does not allow for the hypocrisy of many universities in this area. Race will be taken into account, and educators' candor may suffer more than quotas. The merits of the social policy aside, the court's constitutional warrant for authorizing it was not displayed in the Bakke opinions. A press which regards itself as a guardian of democracy ought to make that fact quite as much the focus for discussion as the ruling's impact upon affirmative action programs.●

## TRADE EMBARGO ON UGANDA

● Mr. MARK O. HATFIELD. Mr. President, I would like to extend the debate on the Weicker-Hatfield amendment which passed the Senate last Friday—July 28—and would mandate a trade embargo on Idi Amin's Uganda. In so doing I want to clarify the Record confused by the Sunday—July 30—Washington Post article on this issue written by J. Regan Kerney. Since no reporter consulted with me or any of the other prime sponsors of boycott legislation—Senator WEICKER, Congressman PEASE, and Congressman BONKER—it is urgent for all to know that the inference of reprisals by Amin against Americans while not totally outside the realm of possibility has been responsibly anticipated and guarded against.

Congressman DONALD PEASE's office undertook the responsibility of writing all of the missionary organizations which have personnel in Uganda. I am submitting to the RECORD copies of that letter, three typical responses of the many received, and the list of the agencies contacted.

The material follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., January 26, 1978.*

Sister MAGDELIN WHELAN,
*Franciscan Sisters,*
*Foster Street,*
*Brighton, Mass.*

DEAR SISTER MAGDELIN: To date, 75 congressmen have joined me in sponsoring legislation to end U.S. commercial trade with the government of Idi Amin in Uganda. In addition, several organizations including the National Coalition of American Nuns and the United Church Board for World Ministries of the United Church of Christ have endorsed the legislation. My purposes in writing you are twofold: 1) to apprise you of the likelihood of hearings on Uganda in the near future and 2) to ask you to briefly respond to a few questions of direct relevance to your personnel in Uganda.

Now that the legislation to establish a trade ban has been introduced in both houses of Congress, it is probable that hearings will be held in the near future. Plans have already been set in motion to have congressional staff organize a series of hearings to explore the current status of U.S.-Ugandan relations and to discuss options for changing our policies.

Since persons affiliated with your organization conceivably could be affected by a change in policy (i.e. enactment of a trade ban), I seek answers from you to the following questions.

1. Is it true that the State Department has repeatedly urged you to withdraw your personnel from Uganda? If so, why have you chosen not to do so?

2. Given that your personnel in Uganda assume certain risks and could be taken hostage as "political pawns" by Amin, what are the reasons for your policy of allowing them to remain?

3. The presence of your personnel in Uganda is the reason most often cited by the State Department for its refusal to support a commercial trade ban with Amin's govern-

ment. Do you think the presence of your personnel in Uganda should be a dominant factor in government U.S.-Ugandan relations and in stifling efforts to end substantial U.S. commercial support for Amin?

4. If it became apparent that the presence of your personnel in Uganda is the decisive factor in determining congressional approval or disapproval of a commercial trade ban with Amin, would you then be willing to withdraw your personnel in Uganda?

5. Would it be possible for you to pass word to your personnel in Uganda to leave if a trade ban were imminent in such a manner as to allow those to leave who wish to and as not to provoke Amin?

I am very concerned about the well-being of all Americans in Uganda. Consequently, your insights and prompt consideration of these matters would be greatly appreciated.

Sincerely yours,

DON J. PEASE,
*Member of Congress.*

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WHITE FATHERS OF AFRICA,
*Plainfield, N.J., February 11, 1978.*

Hon. DON J. PEASE,
*Member of Congress, Longworth Building, Washington, D.C.*

DEAR MR. PEASE: I am in receipt of your letter of January 26th regarding the presence of White Father personnel in Uganda, and I will do my best to answer your questions.

1. To my knowledge, the State Department has never asked us to withdraw our men from Uganda. Even if they had asked us, we would not have withdrawn them. We have been in Uganda for over 100 years for plainly religious reasons and we have never been involved in politics. Our men have preferred to remain with the people and help them to live through the difficult moments of life. We have never been ones to wave the flag and be deported, so that we could make the headlines.

2. From my answer in question 1), you have the reasons why missionaries consider risks as a normal part of their daily lives. If we are to bring the true spirit of Christ to these people, we must not abandon them.

3. I do not think that the State Department should use the missionaries in any way as a pawn to stress their point in United States/Uganda relations. The presence of missionaries should not affect in any way U.S./Uganda politics or commercial relations.

4. We will never agree to withdrawing our men for political or commercial reasons.

5. Our men on the spot have the power to decide their own movements and make decisions for their own lives. It would not be possible nor advisable for me to influence them in one way or the other.

I think from these answers you can see how missionaries have managed to survive in Africa for over 100 years, and this is the policy which we will continue to maintain.

Yours sincerely,

REV. JOHN JOE BRAUN, W. F.,
*Provincial, White Fathers—U.S.A.*

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FOREIGN MISSION BOARD OF THE SOUTHERN BAPTIST CONVENTION,
*January 31, 1978.*

Congressman DON J. PEASE,
*Longworth Building,*
*Washington, D.C.*

DEAR MR. PEASE: It was kind of you to write relative to your concern for missionary personnel in Uganda. I have discussed your letter with Dr. Davis Saunders, secretary for our mission work in East Africa.

Actually, our missionary staff in Uganda is very small, consisting of only two couples at present.

In keeping with long-standing policy of our board, missionaries in Uganda have repeatedly been assured of their freedom to make decisions at any time concerning their departing from or remaining in the country. They are given assurance of full support from our board in implementing those decisions. From time to time, they have withdrawn from the country during periods of special tension and have returned to their work when it seemed advisable.

Missionaries of our board devote themselves to ministries of Christian witness and service and do not become involved in the political affairs of the country in which they serve.

It is our point of view that Congress might well proceed with whatever legislation it deems advisable from the standpoint of our country and international consideration without the presence of the missionary being the determining factor.

Sincerely,

BAKER J. CAUTHEN.

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JESUIT MISSIONS,
*Washington, D.C., March 10, 1978.*

Representative DON J. PEASE,
*Longworth Building,*
*Washington, D.C.*

DEAR REPRESENTATIVE PEASE: Your letter of January 26th has been awaiting a response for some time, principally since I have been out of the country since Christmas.

Consequently, my responses may be of little or no value at this time, but I can make them very briefly in any case.

To the best of my knowledge, there is only one American Jesuit in Uganda. The State Department has been in touch with our representative in New England (where the Father in Uganda comes from), but as far as I know it was not to urge that we withdraw that man from Uganda.

There are indeed risks taken by anyone who stays in Uganda, including the possibility that they could be used as "political pawns" as you mention in your letter. Any reasons we would have for retention of personnel in Uganda have no relation to either economic or political interests. Our personnel are there for the purpose of serving the local church and that priority becomes increasingly more important as things heat up in that country.

I do not think that the presence of any of our American personnel in Uganda should be a dominant factor in U.S.-Ugandan relations, least of all in stifling efforts to end substantial support for Idi Amin. You are aware, no doubt, that the persecution of church personnel (as happened recently in El Salvador and is happening in Rhodesia and Nicaragua and other places) will not see us remain silent.

It is hardly likely that the presence of any Jesuit personnel in Uganda would be a decisive factor in determining congressional action on a commercial trade ban. My own personal concern would be to inquire who would be the ultimate victims of such a ban. It is hard for me to imagine that the victims would be any other than the Ugandan peasants and hence the issue is rather complex

If a trade ban were imminent, I doubt very much that we would pass word to our one man there to leave. He has been there for many years and is quite capable of making his own decision in all prudence and common sense.

Many thanks for the esteem implied in your letter of inquiry and I hope that these answers are satisfactory, even though the extent of our personnel in Uganda is so minimal.

Sincerely yours,

SIMON E. SMITH, S.J.,
*Executive Secretary.*

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U.S. RELIGIOUS ORGANIZATIONS SPONSORING PERSONNEL IN UGANDA

Bahai Faith (Wilmette, Ill.) 312–256–4400.

Christian Brother Institute (Alfred, Maine) 207–324–6612.

Daughters of Wisdom (Islip, N.Y.) 516–277–2660.

Franciscan Sisters (Brighton, Mass.) 617–254–4343.

Holy Cross Fathers (South Bend, Indiana) 219–289–6850.

Holy Cross Sisters (Notre Dame, Indiana) 219–284–4100.

Jesuits (Washington, D.C.) 387–3720.

Medical Missionaries of Mary (Winchester, Mass.) 617–729–3610.

Sacred Heart Mission (Bay St. Louis, Miss.) 601–467–4898.

Seventh-Day Adventist Church (Washington, D.C.) 723–0800.

Sisters of the Immaculate Heart of Mary (Monroe, Mich.) 313–241–3660.

Southern Baptist Convention (Virginia) 804–353–0151.

Verona Fathers (Cincinnati, Ohio) 513–921–1186.

Verona Sisters (Virginia) 804–266–2975.

White Fathers (Plainfield, N.J.) 201–756–8383.

Mr. MARK O. HATFIELD. In addition, Mr. President, as late as February, when it became apparent that congressional action was imminent, the State Department sent Telex messages through the West German Embassy to all Americans residing in Uganda urging them to leave. There are only 150 plus registered Americans left in the country; 100 are missionaries who have vowed to stay as long as possible no matter what the danger is to them personally. As you can see from the letters they do not want our policy considerations to be limited because of their presence in Uganda. The remaining 50 or so are representatives of American companies who are still doing business with Amin in spite of encouragement by congressional committees to cease. These people can be expected to have the freedom to leave shortly since this legislation, when enacted, will preclude the necessity of their presence in Uganda.

Further, the Post article suggested, as has the State Department over the months, that the trade embargo "will probably have little impact on Uganda anyway." The fact is that we have solid evidence from within the Amin government that they are having extreme difficulty in making up the markets already lost. Amin's Secretary of Commerce has been visiting Eastern European cities, searching for new purchasers, to no avail. If as anticipated, the British Parliament follows our lead in the matter of a trade embargo with Uganda it will be next to impossible for Amin's regime to rebound given the economic and political breakdown now occurring. As I have conveyed repeatedly to the State Department and the National Security Council, this "no effect" argument is reprehensible. How do we know for sure that an embargo would be ineffective? At the very least it would put action to our verbalized human rights intentions, and in so doing would be a witness to the world. A principled stand, in fact, has the potential of wide impact.

I am hopeful that further news articles will give full and fair coverage to the important issue of this trade embargo and its implications.●

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## NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Edward R. Korman, of New York, to be U.S. attorney for the eastern district of New York for a term of 4 years vice David G. Trager, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, August 7, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

## TREASURY VIEWS ON GOLD MEDALLION—A REBUTTAL

Mr. HELMS. Mr. President, recently I received a letter from the Treasury Department on the Gold Medallion Act of 1978, a bill which is something of a rarity, a bill which places no great burden on the Treasury Department, especially none on the taxpayers of this country, but one which seems to have aroused its great consternation among some associated with the Treasury Department.

Last Friday, the chairman of the Senate Banking Committee pledged early hearings on this bill. On May 3 of this year, I addressed a letter to Secretary Blumenthal and asked for any official or informal suggestions on my bill, S. 2843. The letter I received almost 2 months later was a dogmatic, predictable, and unfortunately inaccurate account of the bill and the relevant effects it may have.

Because a similar letter was sent to the chairmen of the House and Senate Banking Committees, I have sent a response to both Chairman PROXMIRE and Chairman REUSS. I believe that in the course of any consideration of this bill, the other side of Treasury's contentions should be aired.

Mr. President, I ask unanimous consent that my letter to Chairman PROXMIRE and Secretary Blumenthal's letter to me be printed in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
*Washington, D.C., June 29, 1978.*

Hon. JESSE A. HELMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HELMS: Thank you for your letter in which you asked for my views on S. 2843, authorizing the production by the United States Treasury of one ounce and one-half ounce gold medallions. After careful consideration of the provisions of the bill, and the reasons for your introducing the proposed legislation as stated in the Congressional Record of April 6, I have concluded that issuance of these gold medallions would be contrary to the public interest, and I could not support such action.

S. 2843 provides that, upon a determination by the Secretary of the Treasury to sell gold, such sales shall, in the first instance, be in the form on one ounce and one-half ounce gold medallions. The first 1.5 million ounces of gold to be sold in any fiscal year would be required to be sold in this form. The balance of gold sales could be in such a manner as the Secretary deems appropriate. The medallions, although they would not be legal tender, would have a typical style of U.S. circulating coins, with the Great Seal of the United States on one side. The medallions would be sold at a market-related price.

Among the stated purposes of this legislation are: (1) to make inroads into the current market for the South African Krugerrand, and similar gold coins; and (2) to provide all U.S. citizens a U.S. issued source of investment as a hedge against inflation.

In my view, the provisions of S. 2843 would be contrary to U.S. monetary and economic policy. First, I do not believe the U.S. Government should permit the erroneous impression to be created that it cannot or will not take the necessary steps to combat inflation and that the public therefore needs to buy gold as a hedge against inflation.

President Carter has recently announced a comprehensive anti-inflation program. The seriousness of our commitment to that program could be undermined by the minting and sale of gold medallions by the U.S. Government as a hedge against inflation. The theme that the purchase of such medallions or gold coins will provide an anti-inflationary hedge is being used extensively in advertisements of the Krugerrand, and indeed is one of the reasons you have stated for introducing the bill. The general public would naturally interpret the U.S. Government action of issuing these medallions in this way, and public confidence in the soundness of the dollar could be weakened.

Second, the U.S. Government should not take any action to encourage U.S. citizens to invest in gold, nor to suggest that gold is a sound way for U.S. citizens to invest their earnings. Gold is a speculative commodity, subject to highly volatile swings in price. Those who might purchase the medallions could sustain substantial financial losses. The Treasury cannot condone a proposal which would place the U.S. Government in the position of encouraging the public to make such investments.

Third, the proposal would be contrary to the U.S. policy to reduce the monetary role of gold. The Treasury Department did not object to the recent legislation allowing gold clause contracts (P.L. 95–147), because we believed that that step alone would not have an adverse effect on our policy of reducing the monetary role of gold. However, one reason you have given in support of S. 2843 is that the gold medallions sold by the United States would be a helpful adjunct to the legalization of gold clause contracts. You believe the medallions would be a convenient form in which to make payment in gold under those contracts. Thus, in effect, you intend for the medallions to function as coins, or a medium of payment.

I do not believe it is in the public interest for the U.S. Government to take an action which would encourage our citizens to use gold as a substitute for U.S. legal tender as a medium of exchange. Moreover, the issuance of such gold medallions could lead those who favor the return to a gold-based domestic monetary system to seek to make such medallions legal tender as the next step in a continuing process to restore the monetary role of gold.

In contrast to your proposal regarding U.S. sales of gold, the current U.S. Government policy is to sell gold to help meet import demand and to further reduce the monetary role of gold. The issuance of gold medallions by the U.S. Government would be a change in policy that would undoubtedly be misinterpreted by foreign governments and the market as a move toward enhancing the monetary role of gold.

For those reasons, I strongly believe that enactment of S. 2843 is not advisable and could seriously undermine our efforts to meet U.S. economic and monetary policy objectives.

Sincerely,

W. MICHAEL BLUMENTHAL.

U.S. SENATE,
*Washington, D.C., July 27, 1978.*

Mr. WILLIAM PROXMIRE,
*Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Recently you received a letter from the Treasury Department signed by Secretary Michael Blumenthal on the "Gold Medallion Act of 1978," S. 2843. Some observations on the Secretary of the Treasury's comments are in order and I hope they will encourage you to support the measure and schedule action on it in the near future.

First of all, I would like to point out a factual error. The letter states that the first 1.5 million ounces of gold to be sold in any fiscal year would be required to be sold in the form of gold medallions. A more careful reading of the text of the bill would have disclosed (in Sec. 3, part 2) that after the first year of gold medallion sales, in any fiscal year in which gold sales were held, the number of medallions to be produced and sold would be adjusted to meet the anticipated demand.

Later in his letter, the Secretary states that part of the current U.S. policy is, "to sell gold to help meet import demand." I chose the figure of 1.5 million ounces to be the amount of gold made into medallions in the year after enactment because in 1977 1.5 million ounces were imported—in the form of 1-ounce and ½-ounce bullion coins. The reason this gold was imported, is that the U.S. Treasury now disposes of its gold in 400-ounce bars. At $70,000 apiece, these gold bars are obtainable to only a very few Americans: people must look abroad for gold in smaller units.

One of Treasury's main objections to this bill is that it is concerned that if the U.S. Government issues gold pieces and if they are used as hedges against inflation, that might be an admission that the U.S. Government "cannot or will not take the necessary steps to combat inflation." A gold medallion or lack of it will not affect the credibility of the President's program anywhere near the effect of the President's economists predicting a 7.2 percent inflation rate for this year, 1.1 percent higher than the President had predicted in January. Not only that, they predict little improvement for next year. Treasury should look closer to home for threats to be credibility of the President's inflation-fighting efforts.

The Secretary's letter also states that this bill will weaken public confidence in the soundness of the dollar. Confidence in all currencies, not only the dollar, is already weak, or there would be less demand for foreign gold pieces in the first place. He cites gold as being a "speculative commodity, subject to highly volatile swings in price," and says that therefore the government should not encourage its citizens to buy it. This bill does not "encourage" gold purchases and I would oppose the government trying to artificially develop markets for its products, regardless what they are—medallions, stamps, bonds, publications or other things.

The Secretary is on soft ground when he dislikes the idea of a gold medallion because gold is subject to swings in price. I would not want to defend or encourage gold speculation, but the only "swings in price" affecting gold in recent years have been in the upward direction. In July of last year, gold was selling for $141.25 an ounce. Now an ounce sells for $194.20. By contrast, the U.S. dollar has been declining steadily in the international money market. A year ago the dollar used to purchase Deutsch Marks, Swiss Francs, and Japanese Yen, was worth an average of 20 percent more than it is today. Therefore, if Secretary Blumenthal is truly worried about U.S. citizens sustaining "substantial financial

losses," he might want to urge people to stay away from the dollar.

The Secretary also expresses concern that were this bill to pass, that since the medallions could be used as a medium of exchange under gold clause contracts, they would necessarily function as money. Without debating the classical definitions of money (one of which is that it serve as a store of value—something dollars do not), a medium of exchange is not necessarily money. The medallions would clearly not be "legal tender." The gold in gold clause contracts can be viewed as merely a commodity, just as contracts denominated in wheat, potatoes, or pork bellies. Even if the U.S. government does not begin to issue medallions, gold in the form of Krugerrands, Austrian 100 Kronen, and Mexican 50 peso pieces will be available for use in gold clause contracts.

In any case, only dollars are legal tender and any gold medallions provided could be expected to change in price. The dollar is depreciating—a newly minted gold piece could change its dollar value in merely a matter of weeks.

Despite the contention of the Treasury's response that this bill is not in the "public interest", the public is most definitely interested in gold medallions. The Gold Medallion Act of 1978 would see that Americans could buy domestic gold, would provide additional Federal revenues from the sale, and would help meet import demand.

I hope you will see fit to schedule early action on this bill. It is important that this inequity in U.S. gold sales policy be cleared up.

Sincerely,

JESSE HELMS.

## THE CONSUMER PRODUCT SAFETY COMMISSION—A "BATTERED AGENCY"

Mr. FORD. Mr. President, a June 10 article in the Nation entitled "The Case of the Battered Agency" is a constructive study of the Consumer Product Safety Commission. It includes a very convincing argument by Mark Green, director of Public Citizen's Congress Watch, and David Moulton, an attorney at Congress Watch, of the need for certain changes in the Consumer Product Safety Commission's legislative charter, and I think my colleagues would benefit from having the opportunity to read this article since we will soon be acting on several proposed changes regarding the Commission. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

THE CASE OF THE BATTERED AGENCY

(By Mark Green and David Moulton)

The Consumer Product Safety Commission (CPSC) is a case study in how to give good intentions a bad name. Launched five years ago on a wave of overwhelming legislative support and impeccable purpose, it has drifted and plunged to overwhelming unpopularity ever since. A business community that still thinks the government should stick to running toll roads has consistently criticized its regulatory performance. But so have many consumer groups, dismayed by its lack of productivity and focus. And so has the Carter Office of Management and Budget, some of whose staff—not unmindful of the antigovernment sentiment that helped Carter get elected—have urged in internal memorandums that the commission be abolished.

Ironically, at the very moment when criticism has coalesced to the point of threatening the very existence of the CPSC there is a genuine potential for reform and rehabilitation. The resignation of an unpopular chairman, its first Democratic majority, and some internal restructuring may yet resuscitate this comatose body. The outcome, however, is still in doubt. As one CPSC commissioner said of the agency's Congressional overseers after a recent hearing, "They trash us in one breath and raise us up in the next."

In 1968, President Johnson appointed the National Commission on Product Safety to "conduct a comprehensive study and investigation" of the risks of consumers of hazardous household products. The conclusions of this panel were startling: 20 million Americans injured each year in home as a result of incidents connected with consumer products; 110,000 permanently disabled; 30,000 killed; and an estimated cost to the nation in excess of $5.5 billion. The report found that "The exposure of consumers to unreasonable consumer product hazards is excessive by any standard of measurement," and recommended the establishment of a new, highly visible, independent product safety commission.

However, the business community and the Nixon administration opposed the unified agency approach, preferring a reorganization of existing programs within the Food and Drug Administration of the Department of Health, Education, and Welfare. Congress brushed aside this effort to submerge and trivialize the problem of product safety; it approved a separate regulatory agency by a margin of 318 to 50 in the House and 69 to 10 in the Senate. But it then managed to design the commission in such a way as to snatch defeat from the jaws of victory, compromising the powers of the agency almost to the point of paralysis.

In most regulatory agencies, setting a standard involves the publication of a proposed rule, invitation of public comment, consideration of those comments, and promulgation of a final rule. Courts rarely overturn this process, upholding the agency's judgment except upon the unusual showing that the agency has acted "arbitrarily" or "capriciously."

Setting standards at CPSC differs from this norm in two crucial ways. First, before the agency can proceed on its own, it must by law solicit offers from nongovernment groups to write a proposed product safety standards. The theory behind this so-called "offeror process" is to insure public involvement in the standard-setting process. The result, though, has been substantial delay as the outside consumer or business group—which, in the first instance may lack technical prowess, or in the second, have a self-interest in weak criteria—struggles to develop the standard, only to have much of the work duplicated when the CPSC staff reviews the submitted proposal. Although the Consumer Product Safety Act specifically provides that the entire process shall take no more than 330 days, a recent investigation by the Government Accounting Office found that the three standards issued to date took an average of 834 days to develop.

Second, there is a legal test that the commission must satisfy to rebuff challenges in court by an affected industry. Mandatory standards promulgated by the commission must be justified by "substantial evidence," according to the Consumer Product Safety Act, and that is a higher degree of proof than merely demonstrating that a standard is neither "arbitrary" nor "capricious"—language that applies to nearly all other agencies. On March 3, 1978, a federal court invalidated the CPSC's standard on swimming pool slides, the first mandatory standard issued under the offeror process. The court expressed frustration at the "legislative anomaly" of requiring that the CPSC satisfy a higher standard of proof while at the same time delegating so much authority in the process to outside groups. A portion of the commission's matchbook standard suffered a similar fate only four weeks later. These two standards together account for more than four years of work and were designed to help prevent an estimated 10,000 injuries annually.

Exacerbating these designed-in defects have been severe personnel difficulties. The agency's first chairman was Richard Simpson, a former engineering consultant who was deputy assistant secretary for product standards at the Department of Commerce before being appointed by Nixon to the CPSC. Simpson, who had previously testified against the concept of an independent product safety agency in hearings before Congress, never hired a permanent executive director in his three years at the commission. "He tried to do everything himself, without bringing in the other commissioners," says one high agency official. "We knew nothing." Because of his inability to set priorities, outside petitions dictated the commission's work. The ill-fated swimming pool slide standard, for example, occupied the early years of standard setting at CPSC simply because it was the first petition accepted—which is not to say that dangerous swimming pool slides are desirable, only that they were not the most urgent product safety problem facing the embryonic agency.

After serving an initial two-and-a-half-year term, Simpson waited fruitlessly for months for reappointment. Instead, President Ford finally submitted the name of S. John Byington, who turned out not to have been worth the wait. As the deputy in President Ford's Consumer Affairs Office helping plan to defeat consumer protection agency legislation, Byington was bitterly opposed by consumer groups who saw him as a Ford crony steeped in business and politics. But after twice rebuffing Byington's nomination, the Senate surrendered to the presumption in favor of Presidential regulatory nominees and confirmed him 45 to 39.

Byington began his term in May 1976 by proclaiming that "the age of infancy at CPSC is over. Three years is long enough to get your act together." But before the curtain fell on him two years later, Byington managed to perform in a fashion that made Simpson look good by comparison.

Although the agency's budget of $40 million is the third smallest of all independent regulatory agencies, and tiny in relation to its broad jurisdiction. Byington recently admitted in a Senate hearing that 200 of his 900-person agency earned at least $28,755 last year. His year long reorganization project led to frequent charges of personnel abuse. An investigation by the Civil Service Commission carefully reported numerous instances of favoritism, misuse of consultants, and promotion of unqualified applicants. "Most of the violations . . . occurred as a direct result of actions taken or sanctioned by either Mr. Byinton or Mr. Dimcoff [a former CPSC management chief]," the report concluded. Dimcoff resigned in November 1977. In December a GAO study reiterated the litany of CPSC failure: inefficient management, misplaced priorities, lack of enforcement, delays from the offeror process, and very few standards actually issued.

Then, in January 1978, Byinton disclosed that the Justice Department was investigating allegations that a Los Angeles consulting firm, Terzian Associates, did free public relations work for him in return for government contracts totaling $17,000. Some high-level White House staff began discussing the possibility of attempting to remove Byington "for cause," a step no President had ever accomplished. Sen. Wendell Ford (D., Ky.), chairman of the Senate Commerce Committee's Consumer Subcommittee, called for his resignation. Finally, blaming "political harassment" and keeping one step ahead

of the sheriff and of clamoring Congressional committees, Byington announced that he was submitting his resignation from the commission effective June 30, four months before the expiration of his term.

After five years of Republican dominance, the CPSC seems ripe for a revival. President Carter has brought in two new Democrats as commissioners—Susan King and Edith Sloan—and reappointed a third, David Pittle. And Byington's resignation leaves the chair vacant.

This combination of appointments made and to be made, plus the prospect of legislative reforms in the offeror process, has been enough to encourage many CPSC critics to hope for a new dawn. After all, when the Carter administration dealt with the even less popular OSHA and EEOC, it chose reform over abolition, selecting strong chairwomen with the mandate to clean up their agencies. So why not the Consumer Product Safety Commission?

But some in the administration had other plans. On March 2, a group of White House and OMB officials met in the office of Harrison Wellford, director of the President's Reorganization Project, to discuss a draft memorandum by OMB staffer Stan Morris on the future of the CPSC. After noting that the commission would need reauthorizing legislation this year and that the chairman was leaving in July, the Morris memorandum proposed that "serious consideration should be given to abolishing CPSC and transferring its functions to other agencies." FDA would be assigned product safety activities, while EPA would be given carcinogenic (cancer-causing) hazards. Justification for this proposal was threefold: (1) "reduce the number of agencies," (2) "streamline federal health and safety activities," and (3) "help overcome the often criticized piecemeal bureaucratic regulatory image." Incredibly, nowhere did Morris discuss the prospects for achieving vigorous product safety regulation in one bureaucratic framework rather than another. Nevertheless, despite strong expressions by some participants that this was a politically dangerous attack on consumers, there was substantial sentiment in support of the proposal, and news stories of a White House move to kill CPSC began to appear. When one reporter later chided an OMB official for the administration's inability to cut down the size of the bureaucracy, he was told that OMB would soon move to abolish the CPSC and the Commodity Futures Trading Commission.

In one sense an effort to abolish or dismember this consumer agency should not have been entirely unexpected. An administration pledged to reduce thousands of agencies to 200 felt the pressure to begin demonstrating its anti-bureaucratic macho. And even during the debate last fall on the proposed Office of Consumer Representation, the long knives were being drawn. As Rep. Pete McCloskey stated on the House floor, "I only regret that we were not able under the germaneness rule to abolish the Consumer Product Safety Commission." Several other Members have since privately warned CPSC commissioners that they were considering moves to end the agency.

But those in Congress specifically charged with monitoring the agency had a different idea. Wellford and Rick Neustadt of the White House met with Senator Ford, and were told that anything less than a three-year authorization was unacceptable to him. On the House side, Reps. Bob Eckhardt (D., Texas) and John Moss, (D., Calif.) chairmen of Congressional committees that oversee CPSC, both expressed dismay at the timing of the proposal and fired off a joint letter to the President. "The agency needs and deserves an opportunity to function during the period in which it has a majority of commissioners who are both able and committed to the mission of the agency," wrote Eckhardt and Moss. "To dismember it would be premature and ill-advised, coming as it does at a time when a new leadership team capable of shaping an effective regulatory program is just beginning to assert itself."

In Senate hearings in early April, all five commissioners appeared before the Senate Consumer Subcommittee to make their own defense of the battered agency and to support the reauthorization. All agreed that anything less than a three-year reauthorization would demoralize staff, cut off needed research, and make it impossible to hire or keep talented people. Of course, there would also be an effect on the commissioners themselves, two of whom President Carter had recruited just weeks before to help turn the agency around. "When I was asked if I would serve on the commission," said newcomer Susan King, "I was asked by the White House to make a commitment—to a full seven-year term. It is somewhat of a surprise to see [the Carter administration's] interest in less than a three-year authorization. . . . It's like getting on the *Amoco Cadiz* when its going to ooze out from under you."

Nearly simultaneous with these hearings, a "decision" memo was being prepared for President Carter containing three options—dismantle, two-year authorization, or a three-year authorization. Although OMB would have been comfortable either with dismantling or a two-year authorization, consumer affairs adviser Esther Peterson argued strenuously in a memorandum to Carter for the three years. And Peterson, who within the week was to be given added authority by Carter to influence administration policy affecting consumers, prevailed. On Monday, April 24, on the eve of committee markup. Rick Neustadt called Senate and House staff to inform them that the President had decided to support the three-year option.

Without Carter's support, the CPSC would probably have either been splintered or subjected to a punitively brief reprieve. Even so, problems remain. The saber rattling that accompanied the debate on the Office of Consumer Representation is bound to be heard again as the CPSC reauthorization goes to full House and Senate for a vote. Those who wish to reduce the number of agencies in government, regardless of their mission, and those who wish especially to eliminate the ones that annoy business, have been altered by the debate within the administration. They may yet have an opportunity to capitalize on it.

And there remains the important matter of making a timely designation of a new chairman. The lack of one for any substantial time will put the commission in the same state of limbo that occurred between the chairmanships of Simpson and Byington. Yet White House sources say that Byington's successor is not expected to be named "for some time."

Rather than conveying such mixed signals, the Carter administration could better redesign and expedite the slow-motion, standard-setting process and designate a competent and dedicated chairman to replace Byington. For what is at stake here is not merely reshuffling some organizational boxes in Washington but the lives of tens of thousands of Americans, many children, who are being killed or permanently injured by shoddy products.

The commission still has the potential to reduce this suffering significantly, and indeed has done so in several instances to date. For example, child-resistant caps on packages containing poisonous or toxic substances, required by CPSC regulation under the Poison Prevention Packaging Act, are estimated to have prevented 40,000 poisonings since 1973. An estimated 4,500 injuries and 175 deaths have been avoided since 1974 as a result of CPSC regulations requiring that cribs be designed to minimize the chance that infants will suffocate between the mattress and slats.

Such regulation is a necessary supplement to a tort system that permits recovery, if at all, only after injury has occurred. Nor can we depend on the free market to produce the desired results. As Philip Elman, former member of the Federal Trade Commission, has said, "The answer, very simply, is that competition and voluntary actions of businessmen do not always suffice to safeguard the public interest. Competition does not inevitably take the form of a rivalry to produce the safest product. Indeed, the competition struggle may sometimes lead to a 'shaving' of the costs of manufacture involving some sacrifice of safety."

Thus, to kill the CPSC would be, effectively, to kill people. That is perhaps why the administration finally relented and agreed to a three-year reprieve for this struggling agency. It now has time to prove that government can be humane and efficient when the marketplace fails to protect consumers. But then, says Senator Ford, "They won't have to say anything to me about dismantling it if it hasn't performed. I will be the first to dismantle it myself."

## TO HONOR THE MEMORY OF DR. CHARLES H. BEST

Mr. CURTIS. Mr. President, millions of individuals around the world who suffered from diabetes have had their lives saved and have enjoyed many years, because of the work and the dedication of the late Dr. Charles H. Best. We owe so much to two of our late Canadian friends, Dr. Best and the late Dr. Frederick Banting.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the obituary of Dr. Charles H. Best which appeared in the magazine Nutrition Today in its May/June 1978 issue. I also ask unanimous consent to have printed in the RECORD an article published in the same magazine in 1971 which is a report of an interview of Dr. Charles Best. He tells the fascinating story of the discovery of insulin.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CHARLES H. BEST

Charles Herbert Best, M.D., D.Sc., research physician who helped save the lives of millions of diabetics because he was the co-discoverer of insulin, died at age 79.

Born in West Pembroke, Maine, 1899, Dr. Best was the son of a Canadian-born country doctor, and often made the rounds with his father in a horse and buggy. Dr. Best went to the University of Toronto to study arts, but his education was interrupted by military service in World War I. When he returned, he switched his area of study to physiology and biochemistry.

He was a 21-year-old undergraduate when he accepted an invitation from the late Dr. Frederick Banting to help isolate the hormone insulin, leading to the discovery that saved or lengthened the lives of an estimated 40 million diabetics around the world. Dr. Banting, at the time a 29-year-old orthopedist from London, Ontario, persuaded the late Dr. J. R. MacLeod, then head of the University of Toronto's physiology department, to lend him and Dr. Best a laboratory.

A third member of the team was Margaret Mahon, the future Mrs. Best, who was being courted by young Best at the time. They were married in 1924. In almost storybook fashion, this young woman urged and encouraged both men toward their mutual goal. In years to come, Dr. Best recalled, "Mar-

garet was the only person other than the two of us, Banting and me, who knew the progress of the insulin investigation from day to day." When the time came to write the first paper on insulin, Margaret Mahon Best played a significant role; in fact, three pages of the original manuscript are in her handwriting.

For eight weeks in the summer of 1921 the two men lived in MacLeod's laboratory, unpaid, spending their own money for test animals and supplies, seeking a hormone secreted by the pancreas that stimulates the body to change sugar into energy. After weeks of watching their test animals die, the researchers injected a moribund dog with a substance extracted from a steer pancreas. The dog soon stood up and licked their hands. Six months later, a dying 14-year-old diabetic boy became the first human to control the disease with insulin.

After eighty positive experiments with insulin on dogs, Best and Banting presented their work to their scientific peers at a local meeting of the University of Toronto Physiological Society on November 14, 1921. Dr. Best tells of the excitement their report aroused.

"We hadn't intended any widespread publicity until we had made sure we could produce the insulin in sufficient quantities to treat patients. But there must have been a spy there. Some enterprising reporter picked up the story and it appeared in the newspapers next day in garbled fashion. The long-distance telephone calls started. Telegrams—which weren't at all usual in those days—poured in, as did thousands of pleading letters from diabetics all over the world."

Dr. Banting and Dr. MacLeod—because he was head of the department where the discovery was made—received the 1923 Nobel Prize. Dr. Banting, angry that Charles Best was overlooked, split his prize money with him. Dr. MacLeod said later, "I did not win the Nobel Prize for my discovery of insulin, but for my discovery of Best."

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A CHAT WITH DR. CHARLES BEST

(By Richard M. Stalvey)

(Three articles about current knowledge of diabetes have been published in this series, so it was time to pay a visit to the renowned Canadian physician who participated in the discovery of insulin. The series will be completed with the publication of "The Dietary Management of Diabetes" in the near future. Notice: This material may be protected by Copyright Law (Title 17 U.S. Code).)

When Leonard Thompson died in a motorcycle accident in Toronto in 1937, newspapers around the world carried the story. The accident wasn't newsworthy, but Thompson was. For it was remarkable that Thompson had lived long enough to have the accident. Fifteen years before, while in a diabetic coma, he had been the first human diabetic to receive an injection of insulin.

To hear the story of the discovery of insulin firsthand and perhaps get a quick glimpse of what lies ahead in diabetes, I had several long talks with Dr. Charles Best. This is the report.

Fifteen-year-old Leonard was a diabetic. He was being treated with the only therapy available—a starvation diet, with the inevitable sequelae of wasting away, coma, and death.

Eight months earlier, two young scientists, Frederick Banting and Charles H. Best, concluded after long discussion that between them they had just the skills necessary to find the elusive substance that could cure diabetes, an affliction recognized by the ancient Greeks. By the beginning of this century there was a general conviction that the source of the problem lay in the pancreas. Best, a physiologist albeit yet without any graduate degree, (which had much to do with the subsequent distribution of the Nobel Prize), and Banting, a surgeon, were confident that together they could find a solution to the riddle of diabetes.

The two young men—Best was 22 and Banting 30—put their proposition to J. J. R. Macleod, professor of physiology at the University of Toronto, who was sufficiently impressed to give them laboratory space and the necessary animals upon which to experiment. They began working late in May 1921. Within a few months, applying deft surgery and thoughtful physiology, they isolated from the pancreas of several dogs a factor that, they believed, contained the essential anti-diabetes factor. They tested it on depancreatized—hence diabetic—dogs, and it worked. When the professor returned from vacation, Best and Banting could hardly wait to tell him of their results. They knew they were hot on the trail. When they took out the pancreas, the dog's blood sugar shot up; when they gave their purified extract, it dropped. Even more electrifying was the clinical improvement in the dogs. While Macleod was impresed, he advised caution. After 75 dogs had reacted uniformly, he appeared satisfied. The two young researchers then injected themselves, just to see if it were safe. The crudity of such experimentation would send shivers up the spines of today's cautious medical researchers. It would also send them to jail. In fact, one can't resist the speculation whether we'd have insulin yet if the present F.D.A. restrictions on medical research had been in force in 1922.

When he was satisfied that the material was safe, and without a word to the young researchers, Macleod took a bottle of the extract to the hospital. He gave it to the head of the diabetic service and suggested he try it on some patient *in extremis*. This head physician, in turn, passed the vial along to a young intern in what was later described as a very cursory manner. Looking around his ward, he had many very sick diabetics to choose from. He picked the fellow who looked the strongest, Leonard Thompson. The results were only mildly encouraging. The intern, being cautious, gave only half the vial and this he administered subcutaneously not intramuscularly as Best had done in the dogs. Not only did Thompson not get well right away, but a sterile abcess developed at the injection site. This was hardly an auspicious start. When the young researchers heard what had happened, they made a more potent extract, gave a large dose intravenously, and Leonard responded miraculously. This is just the way Charles Best told me the story.

So many things followed this event that, when you listen to Charles Best tell about them, it is hard to sort things out.

ONLY A BACHELOR

One thing I am curious to learn about was why the Nobel Prize in Medicine went to Macleod and Banting, when everyone speaks of Banting and Best as the discoverers of insulin. Easily understood, says Dr. Best. "At the time I had only a bachelor's degree. I was not yet a physician and the Nobel Prize people don't give awards to undergraduates." As Best says, "The Nobel Prize is carefully researched, very carefully researched. The process of finding the right person is very complicated. I was young and, quite frankly, I felt that Professor Macleod might have nominated me, but he didn't. I was quite disappointed, of course, but never bitter about it. I did get the public acknowledgment from Fred Banting and he gave me half his prize money. That was ten thousand dollars." He smiled and added, "I hope you won't be one of those people who tell me how much I'd be worth today if I'd invested that $10,000 in the stock of Eli Lilly in 1922."

This candor prompted me to ask more questions about the financial rewards of the insulin discovery. But there is something about the way Charles Best smiled when he heard a delicate question that told you a puckish answer was on the way. I asked anyway.

GOOD MOSELLE

"Well," he said, "when I started the work with Fred, I went off my fifty-dollar-a-month salary from the University of Toronto's research institute. It took us about three months to isolate the extract. When our discovery was accepted by the medical profession, the institute voted me the three months' back pay. So you might say I got $150." He paused and then as an afterthought added, "Oh, yes. After we picked Lilly to make insulin in the United States, we looked for a European manufacturer. Or rather they came after us. Hoechst was selected in Germany, and every year since then I have received six bottles of good Moselle wine from them."

Lilly apparently got the hugely profitable rights to insulin almost by accident. "The first paper we gave, the one at the Toronto meeting, wasn't submitted for publication right away, so we got up another paper and included all the work we'd done since then. We knew that the American Physiological Society was meeting at Yale in December, and we asked for a place on the program. The scientific director of Lilly, Dr. H. H. Clowes, was at the meeting and heard the paper. He was a good scientist and he seemed to be anxious for his company to make insulin. We gave them a license to make it for one year. That was almost 50 years ago, and they were only a small company then. Now look at them. They're one of the biggest in the world and insulin had a lot to do with it."

RETURNING VETERANS

We fell to talking about his early days. "Well, after Fred Banting came back from World War I, he set up a private surgical practice in London. I think the measure of his efforts, however, is indicated by the fact that he told me that it was 28 days before the first patient presented himself, and at the end of the first month he had four dollars on the books." The succeeding months were only slightly more fruitful, so Banting took a part-time job as demonstrator in anatomy and physiology at the newly developing medical school of the University of Western Ontario in London. Best, also a returning war veteran, was working on a master's degree in physiology at the University of Toronto and had managed to get some work at the University's research institute.

With a slight grin, Best said, "We both figured we couldn't do much worse financially, so when we hit upon the idea of going after the anti-diabetic factor, I readily agreed to work on the project. What I didn't know then was that the institute salary didn't go along with the new job."

Frederick Banting, who was later killed in a plane crash, recalled the story some years ago. "It happened that one evening I was preparing a lecture on the relation of the pancreas to diabetes. When the lecture was completed, I commenced the perusal of the newly arrived number of *Surgery, Gynecology, and Obstretrics*. This journal contained an article by Moses Barron in which he pointed out the analogy between the degenerative changes which follow the experimental litigation of the pancreatic duct and the blockage of the duct by gallstones. After reading the article I was unable to sleep." The next morning Banting talked with a number of the professors at the University of Western Ontario and requested laboratory space and facilities. Since the buildings for the medical school were still incomplete, he was advised to see Professor Macleod at the older University of Toronto.

PERSISTENT FELLOW

Best takes up the store here "Professor Macleod was understandably skeptical. He asked Banting what he hoped to accomplish when the best-trained physiologists had not

succeeded in establishing or proving that there *was* and internal secretion of the pancreas. But Fred was a persistent fellow, and he persuaded Macleod to give him some laboratory space, ten dogs, and facility for doing blood and urine analyses. He also needed an assistant who could do the analyses since he was a surgeon, not a biochemist. Two of us volunteered. The scheme was that we'd each work four weeks out of the eight weeks Macleod had agreed to. We flipped a coin to see who'd take the first shift. I won. The other student—his name was, strangely enough, Nobel—decided not to join in, so I did the whole thing." Professor Macleod left for his summer visit to Scotland. On May 16, 1921, Banting and Best began their experiments. By July 27, they were ready to treat the first dog. "It wasn't really a dramatic result," Best recalled, "but it was enough to encourage us. Then, during August, we gave a dozen more injections and got dramatic results every time. It was about then that we really knew we had found the internal secretion. The dogs reacted beautifully. The blood sugar went down from four times normal to below normal. And the dogs obviously felt much better. The clinical improvement was as marked as the biochemical changes.

"In September we submitted our data to Macleod. But he was rather critical. Not too enthusiastic. We wanted to go on to new things, but he wanted us to keep on repeating our efforts. So we did . . . rather reluctantly, but I know now it was the right thing. We continued until we had 75 positive experiments without any failures."

Even then, Professor Macleod suggested a few more confirmatory steps. It wasn't until November 14 that the researchers were ready to present their work to their scientific peers. They chose a local meeting of the University of Toronto Physiological Society because they wanted to make certain that their work was acceptable to the scientific community before they let the public in on it. "We showed we had resurrected more than 80 dogs that were in all respects inevitably dying. We hadn't intended any widespread publicity until we had made sure we could produce the insulin in sufficient quantities to treat patients. But there must have been a spy there. Some enterprising reporter picked up the story and it appeared in the newspapers the next day in rather a garbled fashion. The long-distance telephone calls started. Telegrams—which weren't at all usual in those days—poured in, as did thousands of pleading letters from diabetics all over the world."

As Best recited the events of the days that followed his voice became more animated; even his visitor was caught up in the remembered excitement. "We, of course, had to get on with the job of purifying enough insulin to start treating humans. It was a hectic time and we were working night and day." I interrupted him to point out that he kept referring to the extract as insulin while his original notebooks used the term "isletin." "Insulin wasn't the word we first used. As early as August we were calling it 'isletin.' But Professor Macleod was rather insistent that the internal secretion of the pancreas was properly 'insulin.' Later on we found that Sharpey and Schaeffer of Edinburgh had suggested 'insulin' about 1910."

I asked him if it were possible that this question of terminology could be resonsible for the controversy over whether insulin had been discovered earlier by a Rumanian scientist. Best replied deliberately and emphatically, "There were more than twenty other people who had worked on insulin before us, and some of them got very interesting and significant results. Even Professor Macleod had tried to extract insulin many years before. But none of them convinced the world of what they had. This is the most important thing in any discovery. You've got to convince the scientific world. And we did. I wouldn't be surprised if there were a lot of things in the books right now that might be considered discoveries, but until the scientific world is convinced, you can't really recognize them."

EXPRESSMAN COMETH

Just at this moment, the expressman arrived to pick up the collection of trunk-sized luggage waiting in the hall. Dr. Best was off to South America for a series of anniversary lectures. With apologies from my host for having to cut our visit short, but with assurances that we'd take it up again after he had returned from Brazil, I left just as the trunks covered with stickers proclaiming millions of miles of travel, were carried out.

The few weeks I anticipated before the next interview stretched into months. Dr. Best came down with pneumonia this summer. When I heard of his illness and hospitalization, I was genuinely sorry, because our meeting had left me with a feeling of affection for this warm and charming man. It wasn't until early October that we were able to continue our talks.

Resuming where we had left off in the summer, I asked him what had been accepted and commercial production of insulin assured. Had he turned to the "new things" he had been so anxious to tackle when Professor Macleod had wanted them to proceed more cautiously? "Unfortunately, Fred apparently felt he'd have more freedom in another department, so he transferred to pharmacology. I went on to medical school. Afterward I continued to do research. One thing I worked on was stimulated by the depancreatized dogs that developed cirrhosis and fatty livers during the insulin experiments. My colleagues, Dr. Hersey and Dr. Huntsman, and I followed that up and we discovered a new vitamin, choline. For eight or ten years, I thought choline was the most important thing in the world. But we always managed to keep someone working on insulin in the department. That has gone on for the whole fifty years, except when I was in the Navy during the Second World War."

Whatever "injustice" may have been connected with the Nobel award, it certainly left no obvious bitterness, nor had disappointment dissuaded him from a very active career with many significant contributions to medical science. He held the Banting and Best Chair in Physiology, established in their honor at Toronto. He co-authored, with William Taylor, what is perhaps the best known and most widely used textbook of medical physiology. He taught thousands of young scientists and physicians. He continues, he said, to meet with young scientists from all over the world. "This gives me great pleasure. I lecture to the medical students, to the dental students, to the pharmacology students. I give lectures to students all over the world." I asked if he has any problem with the "generation gap."

CLEAN AND KEEN

"I think in my case, going back to 1921 when I was a student, there may have been a generation gap there. But as a teacher, I've never noticed it. It may have occurred sometime during my career. I couldn't be sure. But I enjoy talking with students now—they may be long-haired and have beards, but they're clean and they're keen. There were quite a few of my students at the meeting I went to today. Of course, some of them are already approaching retirement themselves. They're the cream of the world in diabetic research. I feel that we have more superbly trained young people working in the field than we ever had before. Too often though, I am afraid their research is not applied to the treatment of patients. For example, we should not overlook the benefits of good nutrition and good diets in managing diabetics. You can do quite a lot with a good diet in preventing atherosclerosis and other complications of diabetes. If you take good nutrition and antibiotics, and add them to the modern treatment of diabetes, the diabetic has a much better chance. I wish more diabetics and their families could go to the big clinics for instructions in diet. The child could go with its mother, or a married couple could go together if one of them has diabetes. In the course of two or three weeks, they could unravel the mysteries of the diabetic diet. It really should be a family affair. And diets can be made so that you can still eat well. Why, I had lunch today with a diabetic who has been on insulin for 49 years. He had roast beef, three boiled potatoes, carrots, and a piece of pumpkin pie. I don't believe he ate a roll. I know I didn't—and I sure didn't eat the pie." This last remark was made with a rueful grin, while he patted his waistline.

Dr. Best unhappily conceded that many practicing physicians are reluctant to recognize the importance of nutrition in medical practice. "One reason," he said, "is they may be a little bored with the subject. There's so much about it in the newspapers and magazines that their patients may even know more about it than they do. Of course, the dietitians are terribly interested in nutrition and it seems to be left in their hands, doesn't it? I know I have been in hospital for various things, and when the dietitian comes, she plans the diet and I don't think the physicians take as much interest as they should. I think that's true even among diabetic specialists, at least those that aren't in the big clinics. I try to put myself in the place of the general practitioner who has, say, perhaps ten diabetic patients. I can understand his problems. He can't take a lot of time for diet instructions. For example, my father, who was a country doctor, went to Toronto and took a course in insulin in 1922. He also learned about the diet for diabetics. He was very clever. But when he went home, he told his patients, 'eliminate most of the carbondydrates, take a low-calorie diet, don't eat too much, keep your weigh low' and that's about as far as he went. Except to give insulin, of course."

THE ONLY TREATMENT

Best's interest in diabetes was stimulated not by his father and his medical practice, but by another relative. "It was an aunt of mine. She was a nurse, and I was particularly fond of her. She got diabetes and the only treatment they had was the starvation diet. She went into diabetic coma and died in 1918 while I was away in the war. That was really what made me so interested in diabetes and so aware of what a terrible thing it was. Of course, I was greatly influenced in medicine by my father. It's funny, at first I was an arts major, but after the war I changed to science."

Like so many sons of doctors in those simpler days, Best often accompanied his father on his rounds. "He practiced in Pembroke, Maine, but he actually took his patients across the line to hospital in Canada. I even used to give anesthesia for him. I learned though that sometimes it was better for patients to give it to themselves. We don't have too many family doctors left today. We have one in Toronto who will come any time. It's very reassuring."

Dr. Best still spends as much time as possible at his summer home on the Maine shore where his father practiced and he grew up. The house in Pembroke where he was born was bought by the American Diabetes Association, and is maintained as a monument to the role he played in the discovery of insulin.

A WONDERFUL WOMAN

While we talked, Best kept looking toward the door, explaining that he expected his wife. She had gone to a luncheon and a tour of the art museum. Finally the door opened

and the doctor was on his feet immediately. But the open door revealed only the maid, and Best's disappointment showed. "Oh, I thought it was Margaret. She's a wonderful woman; I want you to meet her. We were engaged to be married in 1920 when she was eighteen. She was Margaret Mahon. She has shared everything about the insulin work. She was going to be a lawyer, but she decided after we got engaged that she would go through in liberal arts. She specialized in history and botany. We have two boys. One is a historian and the other a botanist so that shows her influence on our family. We have six grandchildren. Someone at the Joslin Clinic once said that I must have been disappointed that neither of the boys became a doctor—well, they're both doctors, but not medical doctors. Perhaps some of the grandchildren will be doctors. I hope I live to see it. It would be very nice. You know, my father was a doctor, one of his brothers was a doctor, and there was the aunt who died, she was a trained nurse, so it runs in the family."

The door opened again and this time it was Mrs. Best. She is vivacious and attractive, possessing all the poise and charm one would expect in the wife of a world-famous scientist.

Mrs. Best was wearing a gold medallion on a chain around her neck. The design was unusual, and I asked about it. "It came with an honorary degree Charlie received in Venezuela. When he gave it to Charlie, the rector of the university handed Charlie the hood and the scroll and then said 'the medal is for the girlfriend.' He got a beautiful medal at the Vatican, but the Pope didn't mention anything for the girlfriend."

Speaking of all the awards that have come to him, Dr. Best said, "Any one of them would be honor enough, but I must say that the one I am going to get in February from the Queen gives me a particular pleasure. I am going to be given the Companion of Honor. It's one of the highest honors you can get in the British Empire. And because of my background, I am very happy about it. My ancestors all came from England and northern Ireland. They settled in Nova Scotia at the time Halifax was founded. Louisburg was a French fortress, so the British decided to counterbalance it with Halifax. That was in 1749."

Dr. Best turned gack to his wife and softly suggested perhaps she should lie down for awhile and rest before the evening's festivities. When she left the room, he said, "I'm afraid we're going to be spending most of this year and next year with insulin celebrations. Margaret gets caught up in these things, and I'm afraid she does too much. I have to watch out for her. Excuse me, I want to fix some pillows for her to put her feet up." While he was gone Mrs. Best reappeared to claim some pictures of her grandchildren that were left behind. "You know," she said, "Charlie gets caught up in these things and I am afraid he will do too much. I have to watch out for him."

I departed amid genial goodbyes and return invitations. In the cab to the airport I reflected on what a profound effect two women have had on the life of Charles Best. Indeed, on the lives of millions of people.

## ORDER FOR RECESS UNTIL 10:00 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF RECOGNITION OF LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if it is agreeable with the distinguished minority leader, that the leaders' time on tomorrow be limited to 5 minutes each rather than 10.

Mr. BAKER. Mr. President, if the Senator will yield, I will be happy to agree to that limitation.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SPECIAL ORDERS FOR TOMORROW, AND ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized tomorrow, the Senator from North Carolina (Mr. MORGAN) be recognized for not to exceed 15 minutes, and that he be followed by the Senator from Alaska (Mr. STEVENS) and the Senator from California (Mr. HAYAKAWA), each for not to exceed 15 minutes, after which the Senate proceed to the consideration of Calendar Order No. 887, S. 3243, the local public works bill, upon which there is a time agreement; that upon the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 822, S. 2090, the community services bill, on which there is a time agreement; and that after the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 815, S. 2788, the ConRail bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it might be necessary, if a measure or some measures are cleared for action on both sides, that the leadership would attempt to sandwich something else in between one or more of these measures, depending upon the circumstances at the time.

## ORDER FOR RECONSIDERATION OF S. 3342

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be directed to request the House of Representatives to return the papers on S. 3342, and that the action of the Senate in tabling the motion to reconsider the vote by which that bill was passed be vitiated; that the bill be returned to second reading; that an amendment by the Senator from Nebraska (Mr. CURTIS) be in order; that there be a 30-minute time limitation on that amendment, to be equally divided between and controlled by Senator CURTIS and Senator RANDOLPH; that no other amendment be in order; that no other motion and no further debate be in order; but that upon the disposition of that amendment one way or the other, the bill be again advanced to third reading and passed without further debate or motion; and that a motion to reconsider then be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make this request at the urging of Mr. CURTIS, who for good reasons, was unable to be here at the time that bill passed the Senate and a motion to table a motion to reconsider was quickly made. Mr. CURTIS had wanted to offer an amendment to that measure.

This request has been cleared with Mr. RANDOLPH, the chairman of the committee, and all around.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I would only rise to thank the majority leader for accommodating Senator CURTIS, who, of course, is chairman of our conference and is occupied with many duties that carry him away from the floor. As the majority leader pointed out, it was an inadvertence, one of those things that rarely but sometimes happen in the Senate, and I thank the majority leader for this opportunity to pick up that dropped stitch.

Mr. ROBERT C. BYRD. I was happy to do it, and I thank the minority leader for those kind remarks.

The PRESIDING OFFICER. The Chair will observe that that can only happen in this great legislative body.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the benefit of Senators, I will now state the program for tomorrow, to appear in the RECORD immediately preceding the order to recess for the day.

Mr. President, there will be rollcall votes tomorrow on three measures that have been laid down. The Senate will come in at 10 o'clock. Messrs. MORGAN, STEVENS, and HAYAKAWA will each be recognized for not to exceed 15 minutes after the two leaders have been recognized under the order for not to exceed 5 minutes each.

After the disposition of the orders for recognition of Senators, the Senate will proceed to take up the local public works bill, on which there is a time agreement; following that, the Senate will take up the community services bill, on which there is a time agreement; and following that, the Senate will take up the ConRail bill, on which there is a time agreement.

It is hoped that the debt limit extension measure can be taken up tomorrow. There may be other measures which can be cleared for action. So all in all, I would say the prospects are that there will be several rollcall votes tomorrow, and it is possible that the Senate will stay in until a reasonably early hour in the evening.

## RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:15 p.m. the Senate recessed until tomorrow, Tuesday, August 1, 1978, at 10 a.m.

# HOUSE OF REPRESENTATIVES—*Monday, July 31, 1978*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
*July 31, 1978.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*He leadeth me in the paths of righteousness for His name's sake.*—Psalms 23: 3.

Eternal Father of our spirits, in whom we live and move and have our being, come Thou anew into our hearts and make us ready for the work we have to do. In the duties of this day keep us seekers after the truth, strivers for justice, and servants of peace. Rekindle in us and in our people a reverence for Thy Commandments, a true love of freedom, and a higher conception of patriotism that we may keep our Nation good in spirit, generous in attitude, and great in service to others.

Bless the homes of our people, the institutions of learning in our land, the concerns which conduct the business of our Republic, and all who work in local, State, and national office. Be Thou the Lord of their inner life and outer conduct that into our world may come a greater spirit of freedom, justice, and good will. So may Thy kingdom come and Thy will be done in us and on Earth to the glory of Thy holy name. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## CALL OF THE HOUSE

Mr. MOTTL. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 618]

| | | |
|---|---|---|
| Addabbo | Goldwater | Patten |
| Akaka | Gonzalez | Patterson |
| Ammerman | Goodling | Pattison |
| Archer | Green | Pepper |
| Armstrong | Gudger | Pettis |
| Ashley | Hanley | Pickle |
| Biaggi | Harkin | Pressler |
| Boggs | Harrington | Pursell |
| Boland | Hillis | Quayle |
| Bonker | Holtzman | Quie |
| Breaux | Hubbard | Rangel |
| Brinkley | Jeffords | Reuss |
| Burke, Calif. | Jenkins | Richmond |
| Burke, Mass. | Johnson, Colo. | Risenhoover |
| Burton, Phillip | Jones, Okla. | Rodino |
| Butler | Jones, Tenn. | Roe |
| Byron | Kastenmeier | Roncalio |
| Caputo | Krueger | Rooney |
| Cederberg | Le Fante | Rosenthal |
| Chisholm | Lehman | Ruppe |
| Clay | Lent | Russo |
| Cleveland | Levitas | Santini |
| Cohen | Lloyd, Tenn. | Sarasin |
| Collins, Ill. | Luken | Sawyer |
| Conyers | Lundine | Scheuer |
| Cotter | McCormack | Shipley |
| Davis | McDade | Shuster |
| Dellums | McDonald | Sisk |
| Dent | McHugh | Skubitz |
| Diggs | McKay | Spellman |
| Dodd | McKinney | St Germain |
| Drinan | Maguire | Steiger |
| Duncan, Oreg. | Mann | Teague |
| Eckhardt | Markey | Thone |
| Edwards, Calif. | Mathis | Traxler |
| Edwards, Okla. | Meeds | Tsongas |
| Ertel | Metcalfe | Tucker |
| Evans, Del. | Mikva | Udall |
| Fish | Milford | Vander Jagt |
| Flowers | Mitchell, N..Y | Waxman |
| Ford, Mich. | Moffett | Weiss |
| Ford, Tenn. | Moss | Whalen |
| Fowler | Murphy, N.Y. | Wiggins |
| Fraser | Nix | Wirth |
| Frey | Nolan | Zeferetti |
| Garcia | Nowak | |

The SPEAKER pro tempore. On this rollcall 295 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 12138. An act to name a certain Federal building in Laguna Niguel, Calif., the "Chet Holifield Building."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2463. An act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10787. An act to authorize appropriations for activities and program carried out by the Secretary of the Interior through the Bureau of Land Management.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2391) entitled "An act to extend the Commodity Exchange Act, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. HUDDLESTON, Mr. CLARK, Mr. STONE, Mr. LEAHY, Mr. DOLE, Mr. BELLMON, and Mr. LUGAR to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2399. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes;

S. 2820. An act to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes; and

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake."

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

## OCEAN SHIPPING ACT OF 1978

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9998) to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 9998

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Ocean Shipping Act of 1978".

SEC. 2. The first section of the Shipping Act, 1916, as amended (46 U.S.C. 801), is further amended by inserting the following definition of the term "controlled carrier" immediately following the definition of the term "common carrier by water":

"The term 'controlled carrier' means a common carrier by water operating, offering, or proposing to offer service in the foreign commerce of the United States which carrier is or whose operating assets are directly

or indirectly owned or controlled by the government under whose registry the vessels of the controlled carrier operate. Ownership or control by such government shall be deemed to exist if a majority portion of the interest in the carrier is owned or controlled in any manner by such government, by any agency of the government, or by any person, corporation, or entity controlled by such government. Ownership or control shall also be deemed to exist if the government has the right to appoint or disapprove the appointment of a majority of the directors or the chief operating or executive officer of the carrier".

SEC. 3. Section 18 of the Shipping Act, 1916, as amended (46 U.S.C. 817), is further amended by adding at the end thereof, the following new subsection:

"(c)(1) No controlled carrier subject to this Act shall maintain rates or charges in its tariffs filed with the Commission that are below a level which is just and reasonable, nor shall any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in such tariffs. An unjust or unreasonable classification, rule, or regulation means one which results or is likely to result in the carriage or handling of cargo at rates or charges which are below a level which is just and reasonable. The Commission may at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations which the controlled carrier has failed to demonstrate to be just and reasonable. In any proceeding under this subsection, the burden of proof shall be on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier which have been rejected, suspended, or disapproved by the Commission are void, and their use is unlawful.

"(2) For the purpose of this subsection, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors, including, but not limited to, whether: (i) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade; (ii) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade; (iii) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or (iv) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

"(3) Notwithstanding the provisions of subsection (b)(2) of this section, rates, charges, classifications, rules or regulations of controlled carriers shall not, without special permission of the Commission, become effective within less than thirty days following the date of filing with the Commission. Following the effective date of this subsection, each controlled carrier shall, upon the request of the Commission, file within twenty days of request, with respect to its existing or proposed rates, charges, classifications, rules, or regulations a statement of justification which sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations, upon which the Commission may reasonably base its determination of the lawfulness thereof.

"(4) Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why such rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend such rates, charges, classifications, rules, or regulations at any time prior to their effective date. In the case of any rates, charges, classifications, rules, or regulations which have already become effective, the Commission may, upon the issuance of an order to show cause, suspend such rates, charges, classifications, rules, or regulations on not less than sixty days notice to the controlled carrier. No period of suspension hereunder may be greater than one hundred and eighty days. Whenever the Commission has suspended any rates, charges, classifications, rules or regulations under this provision, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations: *Provided, however,* That the Commission may reject such new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

"(5) Concurrently with the publication thereof, the Commission shall transmit to the President any order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to the provisions of this subsection. Within ten days after the receipt or the effective date of such Commission order, whichever is later, the President may request the Commission in writing to stay the effect of the Commission's order if he finds that such stay is required for reasons of national defense or foreign policy which reasons shall be specified in the report. Notwithstanding any other provision of law, the Commission shall immediately grant such request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

"(6) The provisions of this subsection shall not apply to: (i) any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; (ii) any controlled carrier of a state which, on the effective date of this subsection, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development; (iii) rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement approved under section 15 of this Act, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection; (iv) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein, and the United States, or any of its districts, territories, or possessions; or (v) a trade served exclusively by controlled carriers.".

SEC. 4. The provisions of this Act, including the amendments made by this Act, shall become effective thirty days after its date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9998, as amended, the Ocean Shipping Act of 1978.

The purpose of this legislation is to strengthen the provisions of the Shipping Act, 1916, and thus, the powers of the Federal Maritime Commission to regulate the rate-cutting practices of state-controlled carriers. The objective of this strengthening is to preserve legitimate competition, among all common carriers engaged in the foreign commerce of the United States, insure the survival of the American merchant marine, provide a means to monitor and check, if necessary, the future penetration of state-owned carriers into U.S. trade, and thus maintain and promote our international trade.

The United States is the largest trading Nation in the world today, but American liner companies must compete for cargoes in this trade with the liner companies of other nations. In order to penetrate the liner trades of the United States, state owned or controlled carriers, backed by the full resources of sovereign governments and motivated by noncommercial considerations, have actively and systematically pursued a practice to rate cutting to attract more cargo for their ships. This threatens to disrupt our international trade and jeopardize the economic viability of U.S. and other privately owned carriers serving this trade.

The U.S. liner trade is essentially an open trade without restrictions to entry or exit. Groups of carriers have traditionally organized as shipping conferences, establish agreed-upon rate levels for member carriers, and operate on most of the major trade routes. It should be readily apparent that the U.S. liner trades are designed to give American-flag carriers—and those of the nations with whom we trade—a fair chance to compete for cargoes in their own trades.

Since 1971 there has been an unprecedented penetration by Soviet liner fleets into the U.S. foreign trades. This penetration by the state-controlled Soviet merchant marine is separate and distinct from the grain and bilateral cargo trade resulting from the U.S.-U.S.S.R. maritime agreement of 1972. On U.S. trade routes modern Soviet intermodal vessels are now cross trading between the United States and Japan in the North Pacific and between the United States and Western Europe in the North Atlantic. From a relatively insignificant penetration of 0.3 percent in 1971, the Soviet merchant marine has increased its share of the U.S. commercial liner cargo

market to 3.4 percent as of the first 9 months of 1977. This represents a tenfold increase in the Soviet's market share during this 6-year period. But even this sizable increase in market share does not measure the true extent of Soviet penetration.

A more representative view of the level of Soviet activity in the U.S. trades can be gained by focusing on those trade routes where they have made their heaviest peneration.

On trade route 7—the U.S. North Atlantic to West Germany—the Soviets controlled 12.3 percent of the market for the first 9 months of 1977. The Far East trades have also been heavily impacted by the Soviet merchant marine.

In tonnage terms the Soviets had their largest market share on trade route 29—the U.S. Pacific, to the Far East. For the full year of 1976, the Soviet carried 458,823 tons or cargo on this trade route, which was by far the largest amount of cargo carried by the Soviet merchant marine in the U.S. liner cross trades.

The problems that could develop in the future because of the presence of the Soviet's fleet can only be appreciated if this selective penetration tactic is understood.

Maritime Administration has forecast that by 1985 the Soviets will command a 6.6-percent market share. But this forecast is predicated on the entire U.S. liner trade, not the selective routes the Soviets have chosen to penetrate. The forecast of 6.6 percent market share is approximately a 100-percent increase over the 1977 penetration level of 3.4 percent. If past patterns held true, this means that on selected trade routes, such as those already mentioned, the Soviet market share will be in the range of 20 percent on major Atlantic trade routes and over 10 percent on the all-important Pacific-Far East trades.

This increased Soviet market share is coming at the expense of all national-flag carriers, including U.S. operators. From 1974 to 1976 the Soviet share as a relative proportion of the U.S.-flag share of our liner trade has increased significantly. In 1974 the Soviet cargo carried was 1,073,000 tons while U.S. vessels carried 15,350,000 tons; the Soviet share of this total cargo was therefore 6.5 percent. By 1976 the Soviet were carrying 1,434,000 tons of cargo while the U.S. carriage remained relatively stagnant at 15,380,000. The Soviet share of this total pool of cargo increased to 8.5 percent. This represents a 30.1-percent increase in the Soviet's relative share of this pool of cargo over a span of only 2 years.

The Soviets have been able to increase their market share by rate cutting which may be 10 to 50 percent lower than competing conference rates and by a concerted effort to upgrade the portion of their fleet utilized in U.S. liner trades. As new specialized container ships and roll-on/roll-off vessels come off the assembly line a large percentage of this new Soviet construction is immediately placed in the U.S. trades. The magnitude of the potential of the Soviets to further penetrate U.S. markets is demonstrated by the fact that their 5-year plan (1976–80) calls for a threefold increase in containerships and roll-on/roll-off vessels. There is every reason to believe that the Soviets will devote increasing numbers of these sophisticated vessels to the U.S. cross trades since a large proportion of the Soviet oceanborne trade is more suitable to bulk- and tanker-type vessels, not container and roll-on/roll-off vessels.

One of the most troubling aspects of Soviet entry into the cross trades is their motivation. Normal market theory would state that firms will enter a market and increase their penetration if they expect to sustain profits from their operations. The company must earn a normal rate of return or profit over the long run if it is to remain a going concern. Pricing below costs is obviously impossible if the company is going to survive. The Soviets, however, are not constrained by demands from the investment community that they earn profits. The Soviet motivation is political, military, and economic; but their economic motivations are distinct from normal market motivations. The Soviet key to performance is their compelling and persistent need for earning of hard currency. If the earning of hard currency is the goal, then the Soviet carrier can lose money in an overall operational sense, that is gross expenditures in dollars and rubles may exceed dollars received in revenue, but so long as the net dollars received is positive, the goal of earning hard currency will be achieved.

It is imperative that the Soviets earn hard currency to pay for badly needed grain and high technology imports from the West and also to service their accumulated hard currency deficit. The Soviet's need to earn hard currency stems from the fact that their accumulated hard currency debt with the West is approximately $16 billion. The annual interest payments on this debt consume about 25 percent of the Soviet's annual hard currency earnings. Clearly, the Soviets are desperate to earn dollars, marks, yen, and other convertible currencies and the U.S. merchant marine is bearing the brunt of the Soviet's inability to find other means to earn hard currency.

The conflicting goals of hard currency earnings for the Soviets and conventional profit maximization for Western carriers makes competition between the two an extremely difficult proposition; the Soviet economic system with its nonmarket pricing techniques, industrial and wage subsidies, makes competition untenable. Market oriented carriers simply are not able to compete on equal grounds with Soviet carriers which are not required to cover their full costs either in the long run or short run.

It is appropriate to add that the damage caused by the controlled carriers to our liner trades strikes at the heart of the promotional programs embodied in the Merchant Marine Act, 1936. In the absence of the enactment of H.R. 9998 or similar legislation, it may become questionable for the Government and it would be foolish for private industry to invest substantial sums in enterprises that at best can produce marginal returns. Moreover, despite the availability of subsidy, the adverse effect of predatory rate practices also jeopardizes the U.S.-flag liner fleet and casts serious doubt upon the capability of the fleet to meet its national security purpose, which, I need not remind you, is one of the primary goals of the Merchant Marine Act, 1936, as reconfirmed by Congress in the Merchant Marine Act of 1970. We cannot afford to allow the predatory practices of the controlled carriers to thwart this vital purpose of the U.S.-flag fleet.

To meet this very real threat to the waterborne foreign commerce of the United States, the Shipping Act, 1916, must be amended to provide more effective enforcement procedure against predatory rate practices.

H.R. 9998, as amended, would amend the Shipping Act, 1916, to define ocean carriers which are owned or controlled by foreign governments as "controlled carriers." In conjunction with this new definition, which describes the criteria for determining government control or ownership, H.R. 9998 would establish new requirements governing the rates, fares, charges, or classifications in the tariffs of such controlled carriers. The bill would prohibit the use of rates which are below a level that is just and reasonable. To enforce this prohibition, H.R. 9998 would give the Federal Maritime Commission the authority to disapprove the rates after notice and hearing.

Whenever the FMC believes that a controlled carrier's rates are not just and reasonable according to the criteria in H.R. 9998, the Commission could issue an order to show cause why the rates should not be disapproved. Pending a determination of the issue, the bill would permit the FMC to suspend such rates, for a period not exceeding 180 days, whether they were then in effect or merely proposed. During the suspension period, the controlled carrier could file new rates which would take effect immediately unless the FMC was of the opinion that they were unjust and unreasonable. H.R. 9998 assigns to the controlled carrier the burden of proof for justifying the rates on file. The use of any disapproved, rejected, or suspended rates would be illegal. This bill empowers the President to intervene in order to prevent a suspension or final order of disapproval of the controlled carrier's rates if he finds such action is necessary for reasons of national defense or foreign policy reasons. The bill would also require every controlled carrier to submit, within 20 days after an FMC request, a detailed statement in support of its proposed or existing rates. In addition, no rates could become effective in less than 30 days after FMC filing without special FMC permission.

Significantly, the provisions of H.R. 9998 would not apply to all controlled carriers or to all the rates filed by those controlled carriers which are subject to the bill. For example, controlled carriers of a state whose vessels receive national or most-favored-nation treatment by treaty and those carriers which are members of conferences or other section 15 agreements in the applicable trade are excluded from the bill's provision. In addition, the rates of a controlled carrier which govern the transportation of cargo between the United States and the nation under whose flag the controlled car-

rier operates, that is bilateral trade, and those in a trade served exclusively by a controlled carrier are exempted from the provisions of H.R. 9998, as amended.

After several years of factfinding and deliberation, the committee has concluded that the rate-cutting activities of controlled carriers in the U.S. liner trades demand a swift and just resolution. If the Soviet liner fleet is allowed to penetrate our trade routes to the point where it weakens or destroys our merchant marine, it would seriously erode our capability to independently supply our own forces, when and where required.

In addition to the convincing testimony adduced at the hearings on H.R. 9998, the committee conducted a briefing on October 27, 1977, partly classified, on Soviet maritime activities and their effective on the U.S. liner trades. The subjects covered included the structure of the Soviet merchant marine, employment, U.S.-U.S.S.R. maritime agreements, liner trade penetration, and Soviet maritime strategy and policy. This briefing provided background information which reinforced our conclusions reached on H.R. 9998.

The committee believes it has wisely and equitably addressed the need for strengthening the powers of the FMC to deal with the unique problem of the controlled carriers in our liner trades. H.R. 9998, as amended, will provide a flexible, credible and long-term deterrent to predatory rate practices and would thereby protect the American shipping public and contribute to shipping in the foreign commerce of the United States. At the same time it would conform to our international obligations and to our commitment to fair competition in shipping.

Many other Western nations have expressed their concern with this worldwide problem of the trade disruption by the fast growing Soviet merchant marine, and several different approaches to the problem are being considered by those nations. I believe we have moved forward with the approach which is best for the United States and its various interests. Most importantly, we have moved forward before it is too late to correct the problem.

Mr. Speaker, I think this legislation is long overdue, and I would certainly urge all my colleagues to join us in its passage.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Mr. Speaker, I rise in support of H.R. 9998, a bill "to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes."

The American foreign trades are the most lucrative in the world. American flag liner vessels compete for cargoes in these trades with the ships of many other nations. The competition for these cargoes, however, is being distorted by a startling phenomenon.

By their rate-cutting activities, the carriers of the Soviet Union have captured large amounts of cargo that would be carried by U.S.-flag vessels and vessels of our trading partners and have had a severely disruptive effect of our liner trades. In the transpacific trades, where, in tonnage terms, Soviet penetration has been greatest, the Federal Maritime Commission has found widespread illegal rebating, the conference system has been weakened by many carriers dropping out, and one of our own U.S.-flag carriers, Pacific Far East Lines has been forced into bankruptcy.

In our Atlantic coast/Northern Europe trade, the Soviets have captured over 13 percent of the cargo since 1971 by charging rates as much as 60 percent below those of other carriers. During this period of Soviet growth, two other independent, nonconference carriers attempted to match the Soviets' rate-cutting practices and terminated their operations in bankruptcy. A third carrier was forced to withdraw from the trade because of Soviet competition.

In the inbound trade from the Philippines, one of the major commodities is rattan furniture. As a result of charging rates that average about 28 percent below the conference rates on this important cargo, the Soviet Far Eastern Steamship Co. is now on the way to gaining a near monopoly of its movement to the United States.

The Soviets have recently entered our trade with Australia. By constructing special "freight-all-kinds" rates, they are carrying some high value cargo at rates approaching 50 percent of those of the conference in that trade.

The record of hearings on this bill is replete with examples such as these.

The Soviets can charge whatever they need to in order to attract the cargo and the hard currency that pays for it. They are simply not constrained by profit motives, a situation that the Shipping Act, 1916, is not designed to encompass.

This legislation is sorely needed in order to protect our trade and to preserve the fleets of our own Nation and those of our trading partners.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is one of those rare moments when the gentleman from New York and I are in agreement, albeit from slightly different viewpoints.

I support H.R. 9998, the controlled carrier bill, because it represents perhaps the only reasonable way to effectively monitor the growing intrusion of Eastern bloc carriers into United States ocean trades at the present time. This intrusion would be welcome were it not for the degree of government support which is involved in what has been ordinarily a competitive, free enterprise system of transportation.

While a free enterprise economy is generally the strongest overall, it is vulnerable to a controlled economy's ability to target on specific economic sectors. The Soviets obviously have found U.S. trade routes a suitable area for targeting because they can thereby establish a commercial presence around the world, provide badly needed hard currency to pay for Western imports, provide intelligence gathering capability and enhance their auxiliary capacity for the growing Soviet Navy. Our own governmental policies in support of our merchant marine could obviously be made ineffective by permitting unlimited Soviet support of their merchant marine.

Thus, it is appropriate that our Government have the authority to monitor, and check if necessary, an undue presence of government-supported carriers in our trades when that governmental support prevents fair competition. Commercial operators, confronted with competition backed by the full resources of sovereign governments which are motivated by noncommercial considerations, cannot do the job alone. The bill aims to assist our ocean carriers by authorizing the Federal Maritime Commission to suspend or reject controlled carriers' rates that are below a level the Commission finds "just and reasonable."

It may well be argued that the FMC has not earned the right to this increase in its power, and indeed, the FMC has a rather miserable performance record in many of its areas of responsibility—in policing illegal rebating and resolving the minibridge issue, for example.

The FMC's procedural delays are atrocious, and when our forthcoming oversight hearings get underway next month, I think it highly possible that we may want to abolish the agency entirely, transferring its domestic regulatory authority to the ICC and its foreign affairs authority to a Cabinet-level department.

There are other concerns. The bill may permit some restriction on legitimate commercial competition. For example, the committee did not adopt an administration-suppported amendment which would have permitted a controlled carrier's rate unless it was more than 15 percent below conference rates or lower than that of any other independent. Thus, the bill could prevent controlled carriers from reducing their rates to meet those of their competition. If the bill is administered to permit this, it could effectively prevent legitimate operators from entering into U.S. trades. Congress will have to be vigilant to insure that this does not happen, since the FMC has not demonstrated any ability in the past to move with speed unless U.S. shipping companies were endangered, and even then the FMC's record is very weak.

Also the bill adds yet another layer of Government regulation onto U.S. foreign trade. This is not only expensive to administer, but adds to the costs of the importers and exporters who utilize the services of controlled carriers. As a policy matter, this is clearly undesirable.

For the time being, however, the bill before us gives us at least a chance of improving a difficult situation. The President has recently formed an interagency task force on maritime policy and promised comprehensive recommendations for changes in our maritime policy before Congress reconvenes in 1979. I am hopeful that as a part of this comprehensive package, the President will honor his campaign promise to reduce bureaucracy and governmental regulation by recommending a more direct, less complicated means of dealing with controlled carriers. This bill as an interim measure should do no harm,

but neither should it lull us into abandoning our forceful inquiry and search for an entirely new policy which will permit an honest, competent, and efficient service to our American shippers—something we have not had for many years. The new policy may very well require abolition of the agency we strengthen today, the Federal Maritime Commission, but that welcome action can wait until next year and the next Congress. The problem this bill addresses cannot.

● Mr. ANDERSON of California. Mr. Speaker, I rise in support of H.R. 9998, the Ocean Shipping Act of 1978.

I cosponsored this bill to provide our merchant marine with an opportunity to legitimately compete for a fair share of available cargoes with the merchant marine of the Soviet Union, or other countries' owned or controlled ships.

The committee received expert testimony that showed the Soviet merchant marine are filling their ships by cutting the commercially negotiated rates. Their Government supports their merchant marine, thus the term "state-owned or controlled carrier." The Soviet's motivation is: First, economic—they need to earn hard currency, that is, foreign income in dollars or other convertible currency to finance the importation of high technology products and grain, and second, political—a country carrying its own cargo and a share of world shipping, while calling at 40 U.S. ports and 64 foreign ports is a show of strength.

Since the Soviet Union does not have to adhere to making a profit they are now offering service in at least 16 U.S. trade routes. Their penetration into our trades has been remarkable. The committee's report on this bill said:

> Since the signing of the U.S.-U.S.S.R. Maritime Agreement in 1972, bilateral liner cargo carried by the Soviet fleet has averaged about 10 to 15 percent of their total liner carriage with the remaining 85 to 90 percent being cross-trade cargo. In 1971, the Soviets carried 160,000 long tons of the U.S. trade; in 1976, they carried 1,434,000 long tons. The increase was 896 percent in 5 years or an average annual growth of 179 percent.

Specifically, on trade route 29, the route between the Pacific Coast, Hawaii to the Far East the Soviet Union has 6.4 percent of the market. They are concentrating their rate cutting on the high valued, large volume, commodities in each trade.

This "skimming" worries U.S.-flag liner operators, because the Soviet merchant marine in their rate-cutting practices is grabbing the best business.

Recently, the Committee on Merchant Marine and Fisheries learned that a portion of 398 articulated diesel buses, which were financed by a grant from the Urban Mass Transportation Administration—Department of Transportation—were shipped on Soviet vessels. The Soviet freight rate for the buses was lower than the U.S.-flag rate. Many of us are bothered by the fact that our Federal Government was subsidizing the Soviet merchant fleet, while apparently ignoring our Cargo Preference Act of 1954—Public Law 664—which requires that at least 50 percent of Government generated cargoes be shipped on U.S.-flag vessel.

This legislation is designed to help the survival of our American merchant marine by strengthening the provisions of the Shipping Act, 1916, and thus, the powers of the Federal Maritime Commission to regulate the rate-cutting practices of state-controlled ships. Mr. Speaker, I urge the House adopt H.R. 9998.●

● Mr. MOAKLEY. Mr. Speaker, I rise in support of H.R. 9998, the Ocean Shipping Act of 1978.

The Soviets have a merchant fleet in excess of their own national trade requirements which they utilize for full time cross trading. Since the Soviets are hard pressed for hard currency, their maritime activity in the cross trades in the United States is not motivated by normal commercial practices but by the compelling imperative to maximize hard currency earnings. The Soviets are not bound to uphold any criteria of profitability that is similar to that required in market-economy companies.

The Soviet operators have entered the U.S. trades through rate cutting which may be 10 to 50 percent lower than the competing conference rates. From only 0.3 percent in tonnage of the U.S. liner trade in 1971, the Soviets increased their penetration to 3.4 percent in 1977. With greater Soviet vessel capacity predicted increased Soviet penetration of the U.S. liner trades could cause serious instability in our international trades.

Since the Soviet fleet is not motivated by commercial objectives but by military, political, and state economic considerations, the privately owned fleets of the Western World cannot long survive such nonmarket competition which is not profit based.

The Soviet merchant fleet has experienced substantial growth during the last two decades. Since 1960, the Soviets have increased their merchant fleet markedly both in numbers of vessels and in carrying capacity. In 1960, the Soviet merchant fleet had 650 vessels of 3.9 million dwt. It is reported that the Soviet merchant marine at the end of December 1977 consisted of 1,708 vessels of 17.5 million dwt. The Soviet merchant fleet has increased an average of 0.8 million dwt per year since 1960. In 1977, the fleet increased by 1 million dwt, a 6-percent increase over 1976.

As of December 31, 1977, the fleet consisted of 1,356 dry cargo vessels of 10,564 thousand dwt, representing 60 percent of the fleet; four combination oil/dry bulk carriers or 364 thousand dwt, 2 percent of the fleet; and 348 tankers of 65,991 thousand dwt, 38 percent of the fleet.

In 1978, the Soviet merchant fleet is expected to acquire 63 vessels of 1.6 million dwt. This includes 43 dry cargo vessels of 511,981 dwt; 15 tankers of 479,325 dwt; and five OBO's of 565,876 dwt. Additions to the dry cargo fleet will include 34 liner types of 391,234 dwt including 8 full containerships of 76,340 dwt; 15 Ro/Ro's of 208,140 dwt, 1 barge carrier of 36,600 dwt and 10 general cargo vessels of 70,154 dwt.

The dry cargo fleet in 1977 included 789 liner type vessels of 6,613 thousand dwt, 32 refrigerator vessels of 158 thousand dwt, 408 timber carriers of 2,093 thousand dwt, and 127 bulk carriers of 1,699 thousand dwt.

The liner fleet of the Soviet merchant marine has become increasingly specialized. At the end of 1977, the specialized fleet, that is, partial containerships, full containership, and Ro/Ro's consisted of 184 vessels of 1.6 million dwt, including 145 partial containerships of 1.3 million dwt, 15 full containerships of 140,232 dwt; and 24 Ro/Ro's of 184,260 dwt with all of these vessels being built since 1970. In 1977, the specialized fleet increased approximately 11 percent over its 1976 size, with the delivery of 11 partial containerships of 124,455 dwt, 1 full containership of 17,499 dwt and 5 Ro/Ro's of 25,518 dwt. Thus far in 1978, the Soviet fleet has taken delivery of four partial containerships totaling 34,999 dwt; one full containership totaling 17,499 dwt; and two Ro/Ro's totaling 22,300 dwt.

The Soviets have tended to employ vessels of the larger classes of their specialized fleet in the U.S. trades. In 1977, partial containerships of the Geroi Panfilovtsy class averaging 13,500 dwt with 342 TEU's; the Varnemyunde class, averaging 12,025 dwt with 368 TEU's; and the Nikolay Novikov class, averaging 14,000 dwt with 308 TEU's; were in regular service in the U.S. liner trades.

In 1977, full containerships were represented by all four vessels of the Khudozhnik Saryan class, each of 17,499 dwt and 729 TEU's. The first of these vessels was built in 1975, two in 1976, and one in 1977. A fifth Khudozhnik Saryan class vessel has been added to the fleet this year and is operating regularly in the U.S. liner trades.

In 1977, Ro/Ro service in the U.S. trades was provided by the two vessels comprising the Magnitogorsk class averaging 21,846 dwt of 1,368 TEU's and two vessels of the Skulptor Konenkov class, each 18,460 dwt with 772 TEU's. A new Skulptor Konenkov class vessel, the Skulptor Golubkina of 17,500 dwt, has been added to the fleet this year and is operating in the U.S. Atlantic/Gulf liner trades.

H.R. 9998, as amended, represents a viable, balanced approach to the very real threat posed by the actions of certain controlled carriers operating in our waterborne foreign commerce. However, I should stress, Mr. Speaker, that we do not suggest that this legislation should be enacted merely to protect U.S. liner interests. Rather, to the extent that the new procedures enable the FMC to provide a more stable business environment in the U.S. trades generally, such stability will benefit all carriers in those trades, regardless of flag, as well as their patrons. As participants in the more stable environment. U.S. liner interests will also benefit.●

● Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of H.R. 9998, the Ocean Shipping Act of 1978, a bill which I believe is vitally needed to insure the survival of the U.S. liner fleet. I also would commend the chairman and the members of the Merchant Marine and Fisheries Committee for preparing and bringing before the Congress today a bill that should serve as a credible, flexible, and effective deterrent to the rate-cutting activities of State-controlled shipping companies.

Penetration of U.S. trade routes by Soviet liner vessels has increased significantly since afforded the right under the U.S.-U.S.S.R. maritime agreements to participate in our oceanborne trades. This participation has been heaviest in our trades which do not even involve the Soviet Union, such as the United States to Japan and United States to West Germany trades where the Soviets have no valid national interest.

The Soviet merchant fleet has increased its overall penetration level tenfold since 1971 and their vessels currently carry 3.4 percent of all oceanborne cargo carried in the U.S. trades. Projections by the U.S. Maritime Administration forecast a 6.6-percent penetration level by 1985.

These numbers do not tell the full story of the impact of Soviet penetration, however. The Soviets have been selective as to which trades they wish to disrupt. On some of our most vital trade routes the Soviets have shown an intense desire to gain a sizable market share.

Based on MarAd's forecast of a doubling of the Soviet's market share by 1985, we can conclude that the Soviet threat to particular U.S. trades will become much more aggragated in the future. The Soviets will have over 20 percent of our North Atlantic to West Germany, and Gulf to Far East trades, and more than 10 percent of our huge Pacific coast to Far East trade. Clearly, this drain on the cargo available to U.S. carriers and those of our trading partners will cause increasing financial difficulties for these vessel operators.

Furthermore, as an ever larger share of our foreign trade is carried on Soviet ships, we run the risk of becoming overly dependent on the Soviet Union for the transportation of our necessities. Action must be taken now to prevent further inroads into our liner-shipping industry by the rate-cutting tactics of these and other State-controlled carriers. I, therefore, fully support the passage of H.R. 9998.

Mr. Speaker, I have no further requests for time.●

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. OBÉY). The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 9998, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## DUTIES SUSPENSION ON STRONTIUM NITRATE

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5044) to suspend until January 3, 1980, a portion of the duties on strontium nitrate, as amended.

The Clerk read as follows:

H.R. 5044

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 907.12 the following new item:

| | | | | |
|---|---|---|---|---|
| " 907.15 | Strontium nitrate (provided for in item 421.74, part 2C, schedule 4). | Free... | No change. | On or before 1/3/80.". |

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5044, which provides for the temporary suspension of duties on imports of strontium nitrate, was introduced by our colleagues, Messrs. BAUMAN, FINDLEY, and HILLIS.

Strontium nitrate is used in the manufacture of tracer bullets, flares and other signal-type products since it produces a red color during combustion. The principal consumers are the military and the railway and trucking industries. Currently, there is only one domestic producer of strontium nitrate which is unable to meet domestic demand. U.S. manufacturers of signal products, unable to obtain domestic supplies of strontium nitrate, are therefore forced to increase their costs of production through payment of the duty on the imported strontium nitrate.

Section 1 of H.R. 5044, as amended, provides that the column 1 (MFN) rate of duty of 6 percent ad valorem would be suspended until January 3, 1980. The column 2 rate of duty, which applies to imports from most Communist countries, would remain unchanged.

Section 2 of H.R. 5044, as amended, would provide that the provisions of section 1 would take effect on the date of enactment.

Public hearings were held by the Subcommittee on Trade on April 26–28, 1977, on this and other miscellaneous tariff measures. During these hearings favorable testimony was received on H.R. 5044. Unfavorable reports were received from the Departments of Commerce, Treasury, State and Labor as well as from the Office of the Special Representative for Trade Negotiations which oppose enactment on the grounds that duty reductions generally should take place in the context of the MTN and that the single domestic producer currently meets a substantial portion of domestic demand. Your committee is not convinced that there is much negotiating value in a duty reduction amounting to a revenue loss of $17,000. Also, as pointed out earlier, the inability of the single domestic producer to meet all domestic demand merely serves to increase the production costs of those manufacturers unable to obtain domestic supplies.

Mr. Speaker, as introduced, H.R. 5044 provided for the temporary suspension of duties on imports of strontium nitrate under both column 1 and column 2. Your committee deemed it desirable to eliminate the provision providing for the temporary suspension of duty on imports of strontium nitrate entering under the column 2 rate of duty applicable to imports from most Communist countries. The amendment conforms the bill to the decision of the committee.

Your committee believes H.R. 5044, as amended, to be meritorious and unanimously urges its approval.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting H.R. 5044, as amended. As the gentleman from Ohio has described already, the bill would suspend the column 1 rate of duty on imports of strontium nitrate through January 3, 1980.

Because there was some controversy associated with this bill, the Trade Subcommittee and the full Ways and Means Committee considered its merits very carefully.

Only one domestic firm, located on the west coast, currently produces strontium nitrate for use in the manufacture of tracer bullets, flares, and other signal type products. Although complete production statistics are not available because of confidentiality requirements associated with its military use, it is apparent that this single domestic producer cannot meet entirely the demand for the chemical in this country. The east coast has fulfilled its needs in the past principally by importing strontium nitrate from a firm in Canada. That firm has now closed, partly because they could not continue to absorb the cost of the tariff and still remain competitive.

Having to rely on a single producer of strontium nitrate, whether domestic or foreign, puts U.S. manufacturers of products derived from the chemical, as well as consumers, at a disadvantage. One producer shielded by a tariff is not conducive to either competitive pricing or efficient production.

In addition, there are few natural deposits of strontium nitrate in the United States. We must rely on imports, or face a shortage that could drive up prices even higher. Suspending the duty in this case may encourage new production in countries where ample natural deposits exist.

The temporary nature of the duty suspension will give Congress the opportunity to reevaluate the domestic situation in a little over 2 years to see if additional U.S. firms take up production of strontium nitrate and to see if demand is being adequately met at reasonable prices.

The administration has objected to the bill in part because duty reductions should be negotiated in the context of the Multilateral Trade Negotiations (MTN) now in progress in Geneva. Be this as it may, I agree with my colleague that the projected revenue impact is so slight as to have little negotiating value.

In conclusion, I would like to point out that the suspension applies only to column 1 rates. The committee rightly concluded that column 2 rates should remain the same unless a careful evaluation is made of all the political and economic ramifications associated with extending trade concessions to Communist countries.

Mr. Speaker, I believe that all the arguments against the bill have been adequately met, and that the bill is a good one in its present form. I urge my colleagues to pass H.R. 5044, as amended, at this time.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Ohio yield to me?

Mr. VANIK. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just want to thank the gentleman's committee for its kind consideration including both the efforts of the gentleman from Ohio (Mr. VANIK) and the gentleman from Wisconsin (Mr. STEIGER).

Mr. Speaker, I rise as the sponsor of this bill to provide for my colleagues a brief explanation of its intent and purpose and why I believe it should be passed without delay.

For those unfamiliar with the chemical, strontium nitrate is the prime ingredient in the flares that are used by motorists, boaters, and military personnel as well as the luminating component in tracer bullets used by the military during night combat. It is not the kind of product that is in constant use, as it is quite common for a motorist or boater to purchase one flare for emergency purposes and to have the flare sit for long periods of time. However, when the occasion calls for the use of the flare, the need is very great indeed. It is frequently a matter of life and death and the flare can make a great difference in the outcome.

Up until the past few years there have been several domestic suppliers of strontium nitrate to the manufacturers of pyrotechnic products, but in 1975 Du Pont, which had been a major supplier of strontium nitrate to domestic manufacturers, elected to terminate its activities in this area. Accordingly, only one U.S. source is now available to supply this market. This corporation has one plant, and it can only produce a limited amount of the supply of this chemical which is needed domestically. The only other alternative for the pyrotechnic industry has been the foreign importation of strontium nitrate from Canada. While the U.S. pyrotechnic industry has done this; that is, importing the chemical from Canadian Kaiser Aluminum which runs the only nitrate plant in Canada, Kaiser has most recently announced that the present high duties on strontium nitrate may force the closure of its one plant in Nova Scotia.

This closure, which would come about as a direct result of the high tariff rates imposed by this country to protect domestic industry, would create a monopoly for the production of strontium nitrate for a company that is only able to supply a portion of the demand. Such a situation would be tragic for the several U.S. manufacturing companies in Maryland, Indiana, Illinois, and elsewhere that depend upon strontium nitrate to produce the flares and safety devices used by the consuming public and the military. Many hundreds of jobs will be affected by this decision because the pyrotechnics industry employs thousands of people and that industry is completely dependent upon a steady supply of strontium nitrate to continue operations.

The bill will act to prevent the creation of a monopoly industry in the supply of strontium nitrate in this country, will help to insure the continued operations of the pyrotechnics industry that relies upon strontium nitrate, and will insure that the American consumer will pay a reasonable price for the flares that save lives in emergencies and prevent accidents in hazardous conditions. It will save money, save jobs, and save lives, and I commend it to my colleagues for passage.

Mr. STEIGER Mr. Speaker, I have no further requests for time.

Mr. VANIK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 5044, as amended.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to suspend the duty on strontium nitrate until the close of January 3, 1980.".

A motion to reconsider was laid on the table.

## OCEAN SHIPPING ACT OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 9998, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 9998, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 329, nays 6, not voting 97, as follows:

[Roll No. 619]

YEAS—329

| | | |
|---|---|---|
| Abdnor | Drinan | Lujan |
| Alexander | Duncan, Tenn. | McClory |
| Ambro | Early | McCloskey |
| Anderson, Calif. | Edgar | McEwen |
| Anderson, Ill. | Edwards, Ala. | McFall |
| Andrews, N.C. | Edwards, Calif. | McHugh |
| Andrews, N. Dak. | Edwards, Okla. | McKinney |
| Annunzio | Eilberg | Mahon |
| Applegate | Emery | Marks |
| Archer | English | Marlenee |
| Armstrong | Erlenborn | Marriott |
| Ashbrook | Evans, Colo. | Martin |
| Aspin | Evans, Del. | Mattox |
| AuCoin | Evans, Ga. | Mazzoli |
| Badham | Evans, Ind. | Meeds |
| Bafalis | Fary | Meyner |
| Baldus | Fascell | Michel |
| Barnard | Fenwick | Mikulski |
| Baucus | Findley | Mikva |
| Bauman | Fish | Miller, Calif. |
| Beard, R.I. | Fisher | Miller, Ohio |
| Beard, Tenn. | Fithian | Mineta |
| Bedell | Flippo | Minish |
| Beilenson | Flood | Mitchell, Md. |
| Benjamin | Florio | Moakley |
| Bennett | Flynt | Moffett |
| Bevill | Foley | Mollohan |
| Bingham | Forsythe | Montgomery |
| Blanchard | Fountain | Moore |
| Blouin | Frenzel | Moorhead, Calif. |
| Boggs | Fuqua | Moorhead, Pa. |
| Boland | Gammage | Moss |
| Bolling | Gaydos | Mottl |
| Bonior | Gephardt | Murphy, Ill. |
| Bowen | Giaimo | Murphy, N.Y. |
| Brademas | Gibbons | Murphy, Pa. |
| Breckinridge | Gilman | Murtha |
| Brodhead | Ginn | Myers, Gary |
| Brooks | Glickman | Myers, John |
| Broomfield | Gore | Myers, Michael |
| Brown, Calif. | Gradison | Natcher |
| Brown, Mich. | Grassley | Neal |
| Brown, Ohio | Guyer | Nedzi |
| Broyhill | Hagedorn | Nichols |
| Buchanan | Hall | O'Brien |
| Burgener | Hamilton | Oakar |
| Burke, Fla. | Hammer-schmidt | Oberstar |
| Burleson, Tex. | Hannaford | Obey |
| Burlison, Mo. | Hansen | Ottinger |
| Burton, John | Harris | Panetta |
| Burton, Phillip | Harsha | Patterson |
| Byron | Hawkins | Pattison |
| Carney | Heckler | Pease |
| Carr | Hefner | Perkins |
| Carter | Heftel | Pike |
| Cavanaugh | Hightower | Poage |
| Chappell | Hillis | Pressler |
| Chisholm | Holland | Preyer |
| Clausen, Don H. | Hollenbeck | Price |
| Clawson, Del | Holt | Pritchard |
| Clay | Horton | Quayle |
| Cochran | Howard | Rahall |
| Coleman | Huckaby | Regula |
| Conte | Hughes | Reuss |
| Corcoran | Hyde | Rhodes |
| Corman | Ichord | Rinaldo |
| Cornell | Ireland | Roberts |
| Cornwell | Jacobs | Robinson |
| Cotter | Jenrette | Rogers |
| Coughlin | Johnson, Calif. | Rose |
| Crane | Jones, N.C. | Rosenthal |
| Cunningham | Jordan | Rostenkowski |
| D'Amours | Kasten | Rousselot |
| Daniel, Dan | Kastenmeier | Roybal |
| Daniel, R. W. | Kazen | Rudd |
| Danielson | Kelly | Runnels |
| Davis | Keys | Russo |
| de la Garza | Kildee | Ryan |
| Delaney | Kindness | Santini |
| Dellums | Kostmayer | Satterfield |
| Dent | Krebs | Scheuer |
| Derrick | LaFalce | Schroeder |
| Derwinski | Lagomarsino | Schulze |
| Devine | Latta | Sebelius |
| Dickinson | Lederer | Seiberling |
| Dicks | Leggett | Sharp |
| Dingell | Lehman | Shuster |
| Dodd | Livingston | Sikes |
| Dornan | Lloyd, Calif. | Simon |
| Downey | Long, La. | Sisk |
| | Long, Md. | Skelton |
| | Lott | Skubitz |

| | | |
|---|---|---|
| Slack | Taylor | Whitley |
| Smith, Iowa | Thompson | Whitten |
| Smith, Nebr. | Thornton | Wiggins |
| Snyder | Treen | Wilson, Bob |
| Solarz | Trible | Wilson, Tex. |
| Spellman | Udall | Winn |
| Spence | Ullman | Wolff |
| St Germain | Van Deerlin | Wright |
| Staggers | Vanik | Wydler |
| Stangeland | Volkmer | Wylie |
| Stanton | Waggonner | Yates |
| Stark | Walgren | Yatron |
| Steed | Walker | Young, Alaska |
| Steers | Walsh | Young, Fla. |
| Stokes | Wampler | Young, Mo. |
| Stratton | Watkins | Young, Tex. |
| Studds | Weaver | Zablocki |
| Stump | White | |
| Symms | Whitehurst | |

NAYS—6

| | | |
|---|---|---|
| Collins, Tex. | Leach | Railsback |
| Conable | Quillen | Steiger |

NOT VOTING—97

| | | |
|---|---|---|
| Addabbo | Hanley | Patten |
| Akaka | Harkin | Pepper |
| Ammerman | Harrington | Pettis |
| Ashley | Holtzman | Pickle |
| Biaggi | Hubbard | Pursell |
| Bonker | Jeffords | Quie |
| Breaux | Jenkins | Rangel |
| Brinkley | Johnson, Colo. | Richmond |
| Burke, Calif. | Jones, Okla. | Risenhoover |
| Burke, Mass. | Jones, Tenn. | Rodino |
| Butler | Kemp | Roe |
| Caputo | Krueger | Roncalio |
| Cederberg | Le Fante | Rooney |
| Cleveland | Lent | Ruppe |
| Cohen | Levitas | Sarasin |
| Collins, Ill. | Lloyd, Tenn. | Sawyer |
| Conyers | Luken | Shipley |
| Diggs | Lundine | Stockman |
| Duncan, Oreg. | McCormack | Teague |
| Eckhardt | McDade | Thone |
| Ertel | McDonald | Traxler |
| Flowers | McKay | Tsongas |
| Ford, Mich. | Madigan | Tucker |
| Ford, Tenn. | Maguire | Vander Jagt |
| Fowler | Mann | Vento |
| Fraser | Markey | Waxman |
| Frey | Mathis | Weiss |
| Garcia | Metcalfe | Whalen |
| Goldwater | Milford | Wilson, C. H. |
| Gonzalez | Mitchell, N.Y. | Wirth |
| Goodling | Nix | Zeferetti |
| Green | Nolan | |
| Gudger | Nowak | |

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Butler.
Mr. Breaux with Mr. Jeffords.
Mr. Richmond with Mr. Cederberg.
Mr. McDonald with Mrs. Pettis.
Mrs. Burke of California with Mr. Johnson of Colorado.
Mr. Akaka with Mr. Madigan.
Mr. Jenkins with Mr. Cleveland.
Mr. Zeferetti with Mr. Whalen.
Mrs. Lloyd of Tennessee with Mr. Vander Jagt.
Mr. Garcia with Mr. Cohen.
Mr. Weiss with Mr. Frey.
Mr. Waxman with Mr. Lent.
Mr. Shipley with Mr. Caputo.
Mr. Rooney with Mr. Kemp.
Mr. Rangel with Mr. Quie.
Mr. Pepper with Mr. Pursell.
Mr. Biaggi with Mr. Sarasin.
Mr. Ford of Michigan with Mr. Ruppe.
Mr. Gonzales with Mr. Duncan of Oregon.
Mr. Hanley with Mr. Eckhardt.
Mr. Harrington with Mr. Flowers.
Mr. Maguire with Mr. Sawyer.
Mr. Metcalfe with Mr. Stockman.
Mr. Novak with Mr. Tucker.
Mr. Jones of Tennessee with Mr. Krueger.
Mr. Roe with Mr. Bonker.
Mr. Brinkley with Mr. Conyers.
Mr. Ashley with Mr. Fowler.
Mr. Mathis with Mr. Goodling.
Mr. McCormack with Mr. Green.
Mr. Nix with Mr. McDade.
Mr. Ford of Tennessee with Mr. Goldwater.
Mr. Ertel with Mr. Gudger.
Mrs. Collins of Illinois with Mr. Teague.
Ms. Holtzman with Mr. Thone.
Mr. Harkin with Mr. Roncalio.
Mr. Ammerman with Mr. Mann.
Mr. Diggs with Mr. Fraser.
Mr. Le Fante with Mr. Hubbard.
Mr. Levitas with Mr. Jones of Oklahoma.
Mr. Lundine with Mr. Pickle.
Mr. Patten with Mr. Markey.
Mr. Traxler with Mr. McKay.
Mr. Tsongas with Mr. Mitchell of New York.
Mr. Vento with Mr. Milford.
Mr. Nolan with Mr. Charles H. Wilson of California.
Mr. Wirth with Mr. Risenhoover.
Mr. Burke of Massachusetts with Mr. Luken.

So the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 9998, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING THE 5-MINUTE RULE ON JULY 31, AUGUST 1 AND 2, 1978

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security of the Committee on Government Operations be permitted to sit during the 5-minute rule on Monday, Tuesday, Wednesday, and Thursday, July 31, August 1, 2, and 3, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, is it my understanding that there will be absolutely no markup of any legislation?

Mr. BROOKS. If the gentleman will yield, there would not be any markup on Monday, Tuesday, and Wednesday. There is a slight possibility that on Thursday, if we have heard all of the witnesses, we might consider that.

Mr. ROUSSELOT. I would be constrained to object if the gentleman's committee were going to mark up on Thursday. Could the gentleman just get permission for the 3 days and then come back?

Mr. BROOKS. We will just get it for the 3 days and then come back on Thursday.

Mr. ROUSSELOT. Why does the gentleman not do that? Will the gentleman amend that request?

Mr. BROOKS. Mr. Speaker, I will amend that request to include only Monday, Tuesday, and Wednesday.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## REQUEST FOR PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE REPORT ON H.R. 11208

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service may have until midnight tonight to file a report on the bill H.R. 11208, relating to civil service reform.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us why we need unanimous consent on this bad bill that was so distorted in the committee?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the staff has been working night and day to get this ready. They might have it ready by adjournment this evening, but they probably will not. This is the usual request to have until midnight tonight.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman make it midnight tomorrow night?

Mr. UDALL. Mr. Speaker, if the gentleman will yield further, if we do, we miss our deadline with the Committee on Rules.

Mr. ROUSSELOT. Why not do it tomorrow night?

Mr. UDALL. Mr. Speaker, I am not able to accommodate the gentleman on that. Under the rules of the Committee on Rules, we are not eligible to schedule on Wednesday unless it is filed tonight. That is the problem.

Mr. ROUSSELOT. Mr. Speaker, then I am constrained to object, and I do object.

The SPEAKER pro tempore. Objection is heard.

## PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT PAST 10 O'CLOCK A.M. ON TUESDAY AND WEDNESDAY, AUGUST 1 AND 2, 1978

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, be permitted to sit beyond 10 a.m. on Tuesday and Wednesday, August 1 and 2, 1978, to conduct hearings on National Development Bank legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what is this?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if the gentleman will yield, this is for hearings only, I will say to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the gentleman can absolutely assure us there will be no markup of any legislation?

Mr. MOORHEAD of Pennsylvania. I can assure that to the gentleman absolutely.

Mr. ROUSSELOT. Mr. Speaker, it is just 2 days of hearings?

Mr. MOORHEAD of Pennsylvania. Just 2 days.

Mr. ROUSSELOT. It is Tuesday and Wednesday?

Mr. MOORHEAD of Pennsylvania. Yes.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 12514, FOREIGN AID AUTHORIZATIONS

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1286 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1286

*Resolved*, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12514) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes, and all points of order against section 16 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, and two hours to be equally divided and controlled by Members designated by the chairman of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12514, it shall be in order in the House, section 402 (a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to take from the Speaker's table the bill S. 3075 and to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 12514 as passed by the House.

The SPEAKER pro tempore (Mr. PIKE). The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON) for the purpose of debate, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1286 provides for the consideration of H.R. 12514, the International Security Assistance Act of 1978. This resolution provides for an open rule with 3 hours of general debate, 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, and 2 hours to be equally divided and controlled by members designated by the chairman of the Committee on International Relations.

In addition, the resolution contains a waiver of section 402(a) of the Congressional Budget Act since section 16 of the bill makes a supplemental authorization for fiscal year 1978. The chairman of the Committee on the Budget has stated that he has no objection to this waiver.

The resolution also waives all points of order against section 16 of the bill for failure to comply with provisions of clause 5 of rule XXI. This section changes the status of funds for Turkey and in so doing is subject to clause 5 of rule XXI which prohibits an authorizing committee from making appropriations.

Finally, the resolution provides that after the passage of H.R. 12514, it shall be in order in the House, section 402 of the Congressional Budget Act notwithstanding, to take from the Speaker's table the bill S. 3075 and to strike out all after the enacting clause and insert in lieu thereof the provision contained in H.R. 12514 as passed by the House.

Mr. Speaker, H.R. 12514, the International Security Assistance Act of 1978, amends the Foreign Assistance Act of 1961 and the Arms Export Control Act and authorizes the appropriation of $999.3 million for fiscal year 1979 for International Security Assistance programs and a $5 million supplemental appropriation for fiscal year 1978 for foreign sales financing for Lebanon.

This authorization of $999.3 million will fund security assistance programs amounting to $2.458 billion.

The $999.3 million authorization is broken down as follows:

First, $674.3 million, or 67 percent of the total, for foreign military sales credits to 32 nations. This amount will finance a program of $2.085 billion;

Second, $163.5 million for military assistance to five nations;

Third, $50 million for economic support for Turkey;

Fourth, $40 million for international narcotics control;

Fifth, $32.1 million for international military education and training;

Sixth, $29.4 million for international peacekeeping activities; and

Seventh, $10 million for the President's foreign assistance contingency fund.

As my colleagues well know, this bill contains a number of controversial provisions, including, of course, the lifting of the arms embargo to Turkey, and the transfer of up to $800 million worth of U.S.-owned defense articles to Korea without reimbursement.

Enough will be said concerning these two major issues and other that I will not now take up my colleagues' time with a discussion on them. However, I would like to take this opportunity to highlight the basic purpose of this bill before it gets lost amidst what promises to be a long and thorough debate on some of this bill's more controversial provisions.

The primary purpose of this bill is to provide credits to allow nations to buy weapons or to provide countries direct military assistance and to educate and train foreign military personnel in the use of the weapons they buy.

Arming other nations is one of the heaviest responsibilities the United States shoulders—a responsibility which I feel we have grown to take too lightly. Year after year, the United States provides armaments worth billions of dollars to countries around the world. The Arms Control and Disarmament Agency reports that we exported 5 billion, 206 million dollars in arms in fiscal year 1977. In that same fiscal year, we concluded $9.3 billion in arms sales agreements. And in spite of the fact that a number of bilateral and multilateral negotiations are now taking place which seek to control the worldwide arms race, global expenditures on military forces are now estimated to exceed $400 billion annually. And that tremendous yearly figure is expected to grow even larger.

In the interests of our own security, we, of course, have a responsibility and a duty to insure that our allies and friends around the world are able to meet their legitimate security needs. Yet it seems to me that we often find ourselves unable to say no to a request for military assistance from friendly nations. I wonder at times whether our arms transfer policy is really in response to our own security concerns, or whether it has become a way of ingratiating ourselves with other countries and of buying their friendship. Unfortunately, a situation has evolved where the level of our friendship with any one country seems to depend on the degree of sophistication of the weapons we provide them with.

We should not only ask whether a nation has legitimate security concerns before providing arms, we must also consider what impact these weapons will have on that nation and on others. Will transferring arms to a particular nation stimulate a regional arms race, promote a repressive regime, contribute to regional instability, or increase the ability and willingness of that country to resort to the use of force before exploring other alternatives? These are questions which we in Congress must also address before approving specific arms sales or before approving credits to nations seeking to buy arms.

Some people argue that we must do all that we can to help our friends in any

way, even to the point of providing them with weapons too sophisticated for them to maintain without direct American assistance or with weapons of a technological level which exceed their real security needs. And, of course, we may find that our friends of the past, like South Vietnam or Ethiopia, may not remain our friends for long.

Proponents of arms sales also maintain that building weapons is good for our economy and for providing employment. But the manufacturing of weapons, whether for our own defense or for export, should never be used simply in a public works role. Our defense production should facilitate the defense of the United States or the defense of our allies and other nations with which we share common security concerns, and for that purpose only. In fact, the arms for employment argument is a rather specious one considering that most defense industries are capital, not labor-intensive, and because the production of defense articles generates little civilian employment once the product is finished.

A third argument one hears with increasing frequency is that if we do not sell a nation the arms that it requests, it will simply get them elsewhere. That, I believe, is the worst of all arguments. If other arms suppliers sell weapons to nations whom we feel are undeserving, then let them. The United States is a nation that shoulders a great moral responsibility in the world. We undermine that responsibiliy to argue that if another nation is willing to do something we do not think is right, then perhaps we should consider doing it as well. The standards we maintain for deciding whether to sell arms abroad should remain intact regardless of what others may do.

I know that my colleagues are anxious to proceed with the consideration of House Resolution 1286 and then with the full consideration of H.R. 12514, the International Security Assistance Act of 1978.

I ask my colleagues to listen carefully to the arguments which will be presented in favor of providing foreign military sales credit, direct military assistance, and military education and training to particular nations. And I ask that these requests be carefuly assessed only in light of the security needs of the United States and the legitimate security requirements of each nation in question.

Mr. Speaker, I request that we adopt House Resolution 1286 so that we may proceed to the consideration of the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1286 is a 3-hour open rule providing for the consideration of H.R. 12514, the International Security Assistance Act of 1978. One hour of the general debate time will be divided between the chairman and ranking minority member of the Committee on International Relations, and the other 2 hours will be equally divided and controlled by Members designated by the chairman of the International Relations Committee. The purpose of this latter provision is to insure that equal time will be given to proponents and opponents of lifting the Turkish arms embargo. As a member of the minority party let me state unequivocally that it is not our intention that this procedure should in any way be considered a precedent for future rule requests since this does run contrary to the traditional right of equal debate time afforded the minority party. The minority did not object to this particular exception in the Rules Committee with the understanding that this was a rare exception and that the chairman of the International Relations Committee and his designees would give proponents and opponents of lifting the embargo on this side of the aisle sufficient time to make their cases. But, in the future I think we should adhere to the time-honored tradition of equal time along party lines. It has been my observation that managers on both sides have almost always made a good faith effort to accommodate all those requiring time on their respective sides of the aisle, without regard to their positions on specific issues.

The other special features of this rule include waivers of section 402(a) of the Budget Act and clause 5, rule XXI, against section 16 of the bill. The need for the Budget Act waiver is the provision in section 15 of the bill for a fiscal year 1978 emergency supplemental authorization to carry out the foreign military sales credit and guaranty programs—primarily to assist Lebanon in reconstituting its armed forces. Since section 402(a) of the Budget Act prohibits the consideration of any bill reported after May 15 preceding the fiscal year in which it is to take effect, and since this bill was reported after May 15 of 1977, a budget waiver is necessary. The Rules Committee did receive a letter from the chairman of the House Budget Committee, Mr. GIAIMO, dated July 26, in which it is stated in part:

* * * on the basis of the documentation presented by the Committee on International Relations and our own inquiry, we have concluded that this supplemental authorization satisfies the emergency standards embodied in section 402(a) of the Budget Act. Accordingly, the Budget Committee has no objection to granting a waiver of section 402(a) to permit consideration of this bill.

The rule also waives clause 5, rule XXI, prohibiting appropriations on an authorization bill, against section 16 of the bill which would lift the present prohibitions on arms assistance to Turkey, effective upon enactment of this bill.

Finally, the rule makes it possible, after passage of this bill, to take the Senate counterpart bill, S. 3075, from the Speaker's table, strike all after the enacting clause, and insert the language of the House-passed bill, for the purpose of going to conference with the other body.

Mr. Speaker, H.R. 12514, the bill which this rule makes in order for consideration, authorizes some $999.3 million for U.S. security assistance programs in fiscal year 1979. As I already mentioned, the bill would lift the current partial arms embargo on Turkey and authorize some $50 million in security supporting assistance and $175 million in foreign military sales for that country. In addition, the bill increases the initial request for security assistance for Greece by $53 million. Greece is authorized to receive $35 million in grant military assistance and $140 million in foreign military sales.

The bill authorizes $1 billion in military sales credits to Israel and authorizes the President to transfer up to $800 million of U.S. defense articles and services to the Republic of Korea in connection with the withdrawal of the 2d U.S. Infantry and support forces from Korea.

Mr. Speaker, the focus of attention during general debate and the amendment process will be on section 16 of the bill which repeals section 620(x) of the Foreign Assistance Act of 1961, as amended, which prohibits delivery of previously ordered material to Turkey under the military assistance program and military sales and financing for Turkey in excess of $175 million in fiscal year 1978 as well as continuation of sales and financing for Turkey after September 30, 1978, under the foreign military sales program. An effort will be made to strike that provision of the bill which repeals the partial embargo.

Last week the other body voted to lift the arms embargo against Turkey by a vote of 57 to 42 after adopting additional language offered by the distinguished Senate majority leader (Mr. ROBERT C. BYRD) setting forth certain U.S. policy guidelines with respect to Cyprus.

The compromise language adopted by the Senate reiterated the high priority we attach to implementing U.N. resolutions calling for the withdrawal of Turkish troops from Cyprus and the restoration of full sovereignty to that island through the negotiation of a just settlement. The Senate language also underscored that any arms transfers to Greece and Turkey be solely for defensive purposes, to insure military balance in the region, and to sustain the strength of the NATO alliance. The language further called for a continuing review by the President and Congress of progress toward a Cyprus settlement as a determinant of future U.S. economic and military policy toward the region. To that end, the Senate-passed bill requires periodic reports by the President to Congress on progress toward a settlement, and certification that any requested arms transfers to the region will contribute to such a settlement.

Mr. Speaker, I would point out that similar language is already contained in section 18 of H.R. 12514 as reported by the Committee on International Relations, including the reporting and certification requirements. It is my understanding that further amendments may be offered to clarify and strengthen those

policy guidelines and requirements, and, to the extent that they will enhance the prospects for a peaceful solution of the Cyprus conflict, I intend to support them.

The important thing in all this is that the Congress is not granting an unconditional lifting of the embargo, as some have characterized it. It is quite clear from the language of both the House and Senate bills that our future economic and military policy in the region will be largely shaped by the progress that is made toward a peaceful solution. The lifting of the embargo by no means signals an open ended, multiyear commitment to providing military assistance to any of the countries in the region. At the same time, the lifting of the embargo does recognize that our efforts to date, through the imposition of the embargo, have not elicited the positive response some had hoped it would. Instead, it has produced the opposite effect of prolonging the stalemate on negotiations, poisoning our relations with the parties to the dispute, and jeopardizing the security interests of the United States and our NATO allies. As Secretary of State Vance put it in his House testimony:

Continued maintenance of the embargo would be harmful to U.S. security concerns, harmful to our bilateral relations with Turkey and harmful to our role as a potential contributor to a Cyprus settlement.

Elaborating on the security implications of continuing the embargo, Secretary of Defense Brown offered the following testimony:

Unless our security relationship with Turkey is returned to a sound footing, Turkey's sense of isolation will continue to grow, and nationalistic pressures will edge it toward a search for possible non-NATO sources to satisfy its defense requirements. Such an eventuality, we judge, would not be in Turkey's best interests, nor the interests of NATO, nor those of Greece.

I do not think any objective analysis of the situation can deny the vital, strategic importance of Turkey to the security interests of both the United States and the NATO alliance. As our colleague, the ranking minority member on the International Relations Committee (Mr. BROOMFIELD) points out in his supplemental views:

Turkey controls the Dardanelles—a vital gateway to the Mediterranean;

Turkey has numerous strategic military bases;

Turkey is essential to NATO's southern flank and in particular, the U.S. 6th Fleet;

Turkish ground forces, third largest in NATO, can help to counter the Soviet threat; and

Turkey has vital U.S. intelligence bases necessary to the monitoring of Soviet conventional and strategic activities.

Nor do I think anyone can deny that this entire situation has deteriorated considerably since the imposition of the embargo, no matter how strong the legal and moral arguments, and no matter how well intentioned the motives of the proponents of the embargo. Mr. Speaker, I would submit that we have exacted our pound of flesh, we have made our point with respect to the use of American-provided arms, and we have punished Turkey. We now have a choice of dwelling on the past or looking to the future. The central question before us today is not whether Turkey acted illegally in invading Cyprus in 1974. Rather, the central questions are whether the continuation of the embargo serves the best interests of the United States, of the NATO alliance, and of the prospects for a peaceful settlement of the Cyprus dispute. There is no guarantee that the lifting of the embargo will be a complete success on all three counts. But there is considerable evidence that the present policy has utterly failed on all three counts.

Finally, I would stress that lifting the embargo does not represent a tilt toward Turkey and against Greece. I think it is abundantly clear from the assistance provided to both countries under this bill that what we are seeking is a military balance and stability in the region that will bring about a tilt toward peace.

Mr. Speaker, I urge adoption of this rule and, at the appropriate time, rejection of any efforts to strike the provision repealing the Turkish arms embargo.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I thank the gentleman, and I wish to congratulate the gentleman from Illinois (Mr. ANDERSON) for speaking up so resolutely and, I think, courageously in support of lifting the embargo. I say that with sadness because, as of this moment, he is the first Member of the leadership on either side of the aisle to take that step. I hope he will not be the last, but he is the first.

Mr. Speaker, I asked for this time because over the weekend other Members, I am sure, just as I did, read some accounts in the press forecasting that the votes are in sight to lift the embargo.

Mr. Speaker, I have been working diligently on the effort to lift the embargo for several months now, not just for several days, but for several months, trying to keep track of votes, and influence votes especially on the Republican side of the aisle. In all candor, whoever says that the votes are in sight to lift the embargo just does not know the facts. It will happen, I hope, but the votes certainly are not in place at this moment.

Those who are making that prediction are, I think, overlooking the fact that many of the votes on both sides of the aisle have to be classified as "soft."

Many Members dread voting to lift the embargo because of Greek-American constituencies back home. They dread it as much, I suppose, as Socrates dreaded drinking that hemlock. Moreover, if they get a chance to duck it, they are going to do it.

Mr. Speaker, the worst message they could be given would be a false appraisal of how the vote is going to come out. I would estimate that there are at least 15 Republicans whom we are counting on to vote to lift the embargo, but who really do not want to vote that way; and if they feel that they can get by by taking the other position because somebody else is going to do the duty for them, they will vote against lifting the embargo. Furthermore, Mr. Speaker, I suspect that there are twice as many on the Democratic side who have to be classified in that column.

The SPEAKER pro tempore (Mr. PIKE). The time of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. I hope, as the Members consider this difficult issue, they will not try to leave it to somebody else to do their duty.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 21, not voting 88, as follows:

[Roll No. 620]

YEAS—323

| | | |
|---|---|---|
| Abdnor | Brown, Mich. | Dicks |
| Alexander | Brown, Ohio | Dodd |
| Ambro | Broyhill | Dornan |
| Anderson, Calif. | Buchanan | Downey |
| | Burgener | Drinan |
| Anderson, Ill. | Burke, Fla. | Duncan, Tenn. |
| Andrews, N.C. | Burleson, Tex. | Early |
| Andrews, N. Dak. | Burlison, Mo. | Edgar |
| | Burton, John | Edwards, Ala. |
| Annunzio | Burton, Phillip | Edwards, Calif. |
| Applegate | Byron | Edwards, Okla. |
| Archer | Carney | Eilberg |
| Armstrong | Carr | Emery |
| Ashbrook | Carter | English |
| Aspin | Cavanaugh | Erlenborn |
| AuCoin | Chappell | Evans, Colo. |
| Badham | Chisholm | Evans, Del. |
| Bafalis | Clausen, Don H. | Evans, Ga. |
| Baldus | | Evans, Ind. |
| Barnard | Clay | Fary |
| Baucus | Cochran | Fascell |
| Beard, R.I. | Coleman | Fenwick |
| Beard, Tenn. | Conable | Findley |
| Bedell | Conte | Fish |
| Beilenson | Corcoran | Fisher |
| Benjamin | Corman | Fithian |
| Bennett | Cornell | Flippo |
| Bevill | Cornwell | Flood |
| Biaggi | Cotter | Florio |
| Bingham | Coughlin | Flynt |
| Blanchard | Cunningham | Foley |
| Blouin | D'Amours | Forsythe |
| Boggs | Daniel, Dan | Fountain |
| Boland | Daniel, R. W. | Frenzel |
| Bolling | Danielson | Fuqua |
| Bonior | de la Garza | Gammage |
| Bowen | Delaney | Gaydos |
| Brademas | Dellums | Gephardt |
| Breckinridge | Dent | Giaimo |
| Brodhead | Derrick | Gibbons |
| Brooks | Derwinski | Gilman |
| Broomfield | Devine | Ginn |
| Brown, Calif. | Dickinson | Glickman |

| | | |
|---|---|---|
| Gonzalez | Mattox | Scheuer |
| Gore | Mazzoli | Schroeder |
| Gradison | Meeds | Schulze |
| Grassley | Meyner | Sebelius |
| Green | Michel | Seiberling |
| Guyer | Mikulski | Sharp |
| Hagedorn | Mikva | Shuster |
| Hall | Miller, Calif. | Sikes |
| Hamilton | Miller, Ohio | Simon |
| Hammer-schmidt | Mineta | Sisk |
| | Minish | Skelton |
| Hanley | Mitchell, Md. | Skubitz |
| Hannaford | Moakley | Slack |
| Harris | Moffett | Smith, Iowa |
| Hawkins | Mollohan | Smith, Nebr. |
| Heckler | Montgomery | Solarz |
| Hefner | Moore | Spellman |
| Heftel | Moorhead, Calif. | Spence |
| Hightower | | St Germain |
| Hillis | Moorhead, Pa. | Staggers |
| Holland | Moss | Stangeland |
| Hollenbeck | Mottl | Stanton |
| Holt | Murphy, Ill. | Stark |
| Holtzman | Murphy, N.Y. | Steed |
| Horton | Murphy, Pa. | Steers |
| Howard | Murtha | Steiger |
| Huckaby | Myers, Gary | Stockman |
| Hughes | Myers, John | Stokes |
| Hyde | Myers, Michael | Stratton |
| Ireland | Natcher | Studds |
| Jacobs | Neal | Stump |
| Jenrette | Nedzi | Thompson |
| Johnson, Calif. | Nichols | Thornton |
| Jones, N.C. | O'Brien | Treen |
| Jones, Okla. | Oakar | Trible |
| Jordan | Oberstar | Udall |
| Kasten | Obey | Ullman |
| Kastenmeier | Ottinger | Van Deerlin |
| Kazen | Panetta | Vanik |
| Keys | Patten | Vento |
| Kildee | Patterson | Volkmer |
| Kindness | Pattison | Waggonner |
| Kostmayer | Pease | Walgren |
| Krebs | Perkins | Walsh |
| Krueger | Pickle | Wampler |
| LaFalce | Pike | Watkins |
| Lagomarsino | Pressler | Weaver |
| Leach | Preyer | White |
| Lederer | Price | Whitehurst |
| Lehman | Pritchard | Whitley |
| Lent | Quayle | Whitten |
| Livingston | Quillen | Wilson, Bob |
| Lloyd, Calif. | Rahall | Wilson, C. H. |
| Long, La. | Railsback | Wilson, Tex. |
| Long, Md. | Regula | Winn |
| Lott | Reuss | Wolff |
| McClory | Rhodes | Wright |
| McCloskey | Rinaldo | Wydler |
| McEwen | Robinson | Wylie |
| McHugh | Rogers | Yates |
| McKinney | Rosenthal | Yatron |
| Mahon | Rostenkowski | Young, Alaska |
| Markey | Roybal | Young, Fla. |
| Marks | Russo | Young, Mo. |
| Marlenee | Ryan | Zablocki |
| Marriott | Santini | |
| Martin | Satterfield | |

NAYS—21

| | | |
|---|---|---|
| Bauman | Ichord | Rousselot |
| Clawson, Del | Kelly | Rudd |
| Collins, Tex. | Latta | Runnels |
| Crane | Lujan | Snyder |
| Davis | Poage | Symms |
| Hansen | Roberts | Taylor |
| Harsha | Rose | Walker |

NOT VOTING—88

| | | |
|---|---|---|
| Addabbo | Ford, Mich. | Lundine |
| Akaka | Ford, Tenn. | McCormack |
| Ammerman | Fowler | McDade |
| Ashley | Fraser | McDonald |
| Bonker | Frey | McFall |
| Breaux | Garcia | McKay |
| Brinkley | Goldwater | Madigan |
| Burke, Calif. | Goodling | Maguire |
| Burke, Mass. | Gudger | Mann |
| Butler | Harkin | Mathis |
| Caputo | Harrington | Metcalfe |
| Cederberg | Hubbard | Milford |
| Cleveland | Jeffords | Mitchell, N.Y. |
| Cohen | Jenkins | Nix |
| Collins, Ill. | Johnson, Colo. | Nolan |
| Conyers | Jones, Tenn. | Nowak |
| Diggs | Kemp | Pepper |
| Dingell | Le Fante | Pettis |
| Duncan, Oreg. | Leggett | Pursell |
| Eckhardt | Levitas | Quie |
| Ertel | Lloyd, Tenn. | Rangel |
| Flowers | Luken | Richmond |
| Risenhoover | Shipley | Weiss |
| Rodino | Teague | Whalen |
| Roe | Thone | Wiggins |
| Roncalio | Traxler | Wirth |
| Rooney | Tsongas | Young, Tex. |
| Ruppe | Tucker | Zeferetti |
| Sarasin | Vander Jagt | |
| Sawyer | Waxman | |

The Clerk announced the following pairs:

Mr. Burke of Massachusetts with Mr. Caputo.
Mr. Addabbo with Mr. Jeffords.
Mr. Shipley with Mr. Madigan.
Mr. Waxman with Mr. Sarasin.
Mr. Breaux with Mr. Quie.
Mr. Richmond with Mrs. Pettis.
Mr. Zeferetti with Mr. Cederberg.
Mr. Akaka with Mr. Cleveland.
Mr. Rooney with Mr. McDade.
Mr. Rangel with Mr. Wiggins.
Mr. Pepper with Mr. Tucker.
Mr. Ashley with Mr. Ruppe.
Mr. Dingell with Mr. Pursell.
Mr. Harrington with Mr. Butler.
Mr. Jones of Tennessee with Mr. Cohen.
Mr. Diggs with Mr. Frey.
Mr. Garcia with Mr. Goldwater.
Mrs. Burke of California with Mr. Goodling.
Mr. McDonald with Mr. Thone.
Mr. Ford of Michigan with Mr. Leggett.
Mr. Roe with Mr. Risenhoover.
Mr. Nix with Mr. Roncalio.
Mr. Weiss with Mr. Vander Jagt.
Mrs. Lloyd of Tennessee with Mr. Whalen.
Mr. Jenkins with Mr. Teague.
Mr. Maguire with Mr. Luken.
Mr. Mathis with Mr. Eckhardt.
Mr. Ford of Tennessee with Mr. Duncan of Oregon.
Mrs. Collins of Illinois with Mr. Fraser.
Mr. Harkin with Mr. McKay.
Mr. Metcalfe with Mr. Sawyer.
Mr. Bonker with Mr. Gudger.
Mr. Conyers with Mr. Kemp.
Mr. Ammerman with Mr. Fowler.
Mr. Le Fante with Mr. McFall.
Mr. Traxler with Mr. Mann.
Mr. Wirth with Mr. Levitas.
Mr. Brinkley with Mr. Ertel.
Mr. Flowers with Mr. Johnson of Colorado.
Mr. Hubbard with Mr. Nolan.
Mr. Lundine with Mr. Tsongas.
Mr. Novak with Mr. Mitchell of New York.
Mr. McCormack with Mr. Milford.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE REPORT ON H.R. 11280

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service may have until midnight tonight to file a report on the bill H.R. 11280, relating to civil service reform.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Reserving the right to object, may I inquire of the gentleman from Arizona whether the gentleman from California (Mr. ROUSSELOT) has been consulted on this request?

Mr. UDALL. If the gentleman will yield, I have consulted with the gentleman about 2 minutes ago. The gentleman from California said he no longer has any objection.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 12931, FOREIGN AID APPROPRIATIONS, FISCAL YEAR 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1247 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1247

*Resolved*, That during the consideration of the bill (H.R. 12931) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6, rule XXI, are hereby waived: beginning on page 2, line 9 through page 3, line 10; beginning on page 3, line 16 through page 4, line 9; beginning on page 4, lines 13 and 14; beginning on page 4, line 24 through page 5, line 21; beginning on page 6, line 20 through page 8, line 11; beginning on page 8, line 22 through page 9, line 21; beginning on page 13, lines 3 through 8; beginning on page 13, line 17 through page 15, line 3; and beginning on page 22, line 19 through page 23, line 19. It shall be in order to consider the following amendment to said bill if offered by Representative Young of Florida, and all points of order against said amendment are hereby waived:

"On page 23, line 19 insert the following new section:

'SEC. 510. The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose and seek adoption of an amendment to the Articles of Agreement for their respective institutions to establish human rights standards to be considered in connection with each application for assistance.' "

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON); pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution, to the best of my knowledge, is not controversial, although the subject matter is very controversial that will be brought up under it. It provides for a great many waivers of points of order necessitated by the failure of the authorization to be in place; points of order on unauthorized appropriations, points of order on reappropriations.

There is one unusual feature in the rule and that is that it makes in order an amendment, if offered by Representative YOUNG of Florida, dealing with human rights. That amendment appears

on page 2 of the rule. It was part of the arrangement made and presented by the Committee on Appropriations and agreed to, as I remember it, overwhelmingly by the Committee on Rules.

Therefore, Mr. Speaker, I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 1247 provides for the consideration of H.R. 12931, the foreign assistance and related programs appropriation bill, 1979. This is an excellent example of the type of rule which is quickly becoming the tranished hallmark of the Rules Committee. It is a rule consisting of one waiver after another.

First, let me point out to my distinguished colleagues that the rule now before us is the second rule to be reported by the Rules Committee. The first rule was superseded after a special meeting of the Rules Committee, which was held on June 22, produced the rule we now consider. Committee members were given a mere 19 hours notice of this meeting. Therefore, some questions have been raised as to the propriety of the meeting, which was deemed an emergency because of the eminent call of H.R. 12931 to the floor. Please note that H.R. 12931 has been pending over 1 month, to this date. The result of this so-called emergency meeting was House Resolution 1247 which is a rule that is substantially different from the first rule reported by the Rules Committee.

The resolution first waives clause 2, of rule 21, which prohibits unauthorized appropriations and legislation on general appropriation bills. At the time this bill was passed by the Rules Committee, a mere 37 percent of the excessive $7.3 billion recommended in the bill had completed the authorization process. Passage of the rule for H.R. 12514 has not alleviated my concern over this apparent circumvention of the authorizing committees and the entire authorization process. Nor has it alleviated the need for the waiver.

Furthermore, I would like to draw attention to the fact that the Rules Committee has opted to legislate in this appropriation bill by use of waivers. The first resolution reported by the Rules Committee did not contain a waiver for sections 508 and 509 of H.R. 12931. The rule now before us does contain such a waiver. Matters of great and far-reaching importance are contained in these sections. Members are encouraged to examine carefully and to exercise their wisdom concerning the issues dealt with here.

The rule further waives all points of order lying against specified portions of the bill for failure to comply with the provisions of clause 6, rule 21, which prohibits provisions reappropriating unexpended balances of prior appropriations. Although it is a common practice to reappropriate unspent balances, we must not allow ourselves to grow lax when dealing with such exceptionally large sums of the taxpapers' money.

Finally, the rule waives all points of order against the amendment, printed in the rule, of the gentleman from Florida (Mr. YOUNG).

In closing, Mr. Speaker, I again point out to my distinguished colleagues the enormous appropriation in this bill. Do we have sufficient justification for giving away $7.3 billion when our national debt is already $755 billion?

Mr. Speaker, I recommend a no vote on the rule.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, having no requests for time, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PIKE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 84, not voting 83, as follows:

[Roll No. 621]

YEAS—265

| | | |
|---|---|---|
| Abdnor | Conable | Gephardt |
| Alexander | Conte | Giaimo |
| Ambro | Corman | Gibbons |
| Anderson, Calif. | Cornell | Gilman |
| | Cornwell | Ginn |
| Anderson, Ill. | Cotter | Glickman |
| Andrews, N.C. | Coughlin | Gonzalez |
| Andrews, N. Dak. | D'Amours | Gradison |
| | Daniel, Dan | Green |
| Annunzio | Danielson | Gudger |
| Applegate | de la Garza | Hagedorn |
| Ashley | Delaney | Hall |
| Aspin | Dent | Hamilton |
| AuCoin | Derrick | Hanley |
| Baldus | Derwinski | Hannaford |
| Barnard | Dickinson | Harris |
| Baucus | Dicks | Hawkins |
| Beard, R.I. | Diggs | Heckler |
| Bedell | Dingell | Hefner |
| Beilenson | Dodd | Heftel |
| Benjamin | Dornan | Hightower |
| Bennett | Downey | Hillis |
| Bevill | Drinan | Holland |
| Blanchard | Edgar | Hollenbeck |
| Blouin | Edwards, Ala. | Holtzman |
| Boggs | Edwards, Calif. | Horton |
| Boland | Eilberg | Howard |
| Bolling | Emery | Hughes |
| Bonior | Erlenborn | Hyde |
| Bowen | Ertel | Jacobs |
| Brademas | Evans, Del. | Johnson, Calif. |
| Breckinridge | Evans, Ga. | Jones, N.C. |
| Brodhead | Evans, Ind. | Jordan |
| Brooks | Fary | Kastenmeier |
| Broomfield | Fascell | Kazen |
| Brown, Calif. | Fenwick | Keys |
| Brown, Mich. | Findley | Kildee |
| Burke, Fla. | Fish | Kostmayer |
| Burlison, Mo. | Fisher | Krebs |
| Burton, John | Fithian | Krueger |
| Burton, Phillip | Flippo | LaFalce |
| Carney | Flood | Lagomarsino |
| Carr | Florio | Lederer |
| Carter | Foley | Lehman |
| Cavanaugh | Forsythe | Lent |
| Chappell | Fountain | Livingston |
| Chisholm | Frenzel | Lloyd, Calif. |
| Clausen, Don H. | Fuqua | Long, La. |
| | Gammage | Long, Md. |
| Clay | Gaydos | McCloskey |
| McEwen | Panetta | St Germain |
| McFall | Patten | Staggers |
| McHugh | Patterson | Stangeland |
| McKinney | Pattison | Stanton |
| Madigan | Pease | Stark |
| Mahon | Perkins | Steed |
| Markey | Pickle | Steers |
| Marks | Pike | Stokes |
| Marlenee | Pressler | Stratton |
| Marriott | Preyer | Studds |
| Mattox | Price | Thompson |
| Mazzoli | Pritchard | Thornton |
| Meeds | Rahall | Traxler |
| Meyner | Railsback | Treen |
| Mikulski | Regula | Udall |
| Mikva | Reuss | Ullman |
| Miller, Ohio | Rhodes | Vanik |
| Mineta | Rinaldo | Vento |
| Minish | Roe | Volkmer |
| Mitchell, Md. | Rogers | Walgren |
| Moakley | Rose | Walsh |
| Moffett | Rosenthal | White |
| Mollohan | Rostenkowski | Whitehurst |
| Moorhead, Pa. | Roybal | Whitten |
| Moore | Rudd | Wilson, Bob |
| Moss | Russo | Wilson, C. H. |
| Mottl | Ryan | Wilson, Tex. |
| Murphy, Ill. | Santini | Winn |
| Murphy, N.Y. | Scheuer | Wolff |
| Murphy, Pa. | Sebelius | Wright |
| Murtha | Sharp | Wydler |
| Myers, Gary | Sikes | Wylie |
| Myers, Michael | Simon | Yates |
| Natcher | Sisk | Yatron |
| Nedzi | Skelton | Young, Fla. |
| Nichols | Skubitz | Young, Mo. |
| Nowak | Slack | Young, Tex. |
| Oakar | Smith, Iowa | Zablocki |
| Oberstar | Solarz | |
| Obey | Spellman | |

NAYS—84

| | | |
|---|---|---|
| Archer | Hammer-schmidt | Quillen |
| Armstrong | | Roberts |
| Ashbrook | Hansen | Robinson |
| Badham | Harsha | Rousselot |
| Bafalis | Holt | Runnels |
| Bauman | Huckaby | Satterfield |
| Beard, Tenn. | Ichord | Schroeder |
| Bingham | Jenrette | Schulze |
| Brown, Ohio | Jones, Okla. | Seiberling |
| Broyhill | Kasten | Shuster |
| Burgener | Kelly | Smith, Nebr. |
| Burleson, Tex. | Kindness | Snyder |
| Byron | Latta | Spence |
| Clawson, Del | Leach | Steiger |
| Cochran | Lott | Stockman |
| Coleman | Lujan | Stump |
| Collins, Tex. | McClory | Symms |
| Corcoran | Martin | Taylor |
| Cunningham | Michel | Trible |
| Daniel, R. W. | Miller, Calif. | Van Deerlin |
| Davis | Montgomery | Vander Jagt |
| Devine | Moorhead, Calif. | Waggonner |
| Duncan, Tenn. | | Walker |
| Early | Myers, John | Wampler |
| Edwards, Okla. | Neal | Watkins |
| English | O'Brien | Weaver |
| Flynt | Ottinger | Whitley |
| Grassley | Poage | Young, Alaska |
| Guyer | Quayle | |

NOT VOTING—83

| | | |
|---|---|---|
| Addabbo | Garcia | Mitchell, N.Y. |
| Akaka | Goldwater | Nix |
| Ammerman | Goodling | Nolan |
| Biaggi | Gore | Pepper |
| Bonker | Harkin | Pettis |
| Breaux | Harrington | Pursell |
| Brinkley | Hubbard | Quie |
| Buchanan | Ireland | Rangel |
| Burke, Calif. | Jeffords | Richmond |
| Burke, Mass. | Jenkins | Risenhoover |
| Butler | Johnson, Colo. | Rodino |
| Caputo | Jones, Tenn. | Roncalio |
| Cederberg | Kemp | Rooney |
| Cleveland | Le Fante | Ruppe |
| Cohen | Leggett | Sarasin |
| Collins, Ill. | Levitas | Sawyer |
| Conyers | Lloyd, Tenn. | Shipley |
| Crane | Luken | Teague |
| Dellums | Lundine | Thone |
| Duncan, Oreg. | McCormack | Tsongas |
| Eckhardt | McDade | Tucker |
| Evans, Colo. | McDonald | Waxman |
| Flowers | McKay | Weiss |
| Ford, Mich. | Maguire | Whalen |
| Ford, Tenn. | Mann | Wiggins |
| Fowler | Mathis | Wirth |
| Fraser | Metcalfe | Zeferetti |
| Frey | Milford | |

The Clerk announced the following pairs:

Mr. Burke of Massachusetts with Mr. Sarasin.
Mr. Addabbo with Mr. Wiggins.
Mr. Shipley with Mr. McDade.
Mr. Akaka with Mrs. Pettis.
Mr. Waxman with Mr. Quie.
Mr. Breaux with Mr. Jeffords.
Mr. Zeferetti with Mr. Tucker.
Mr. Rooney with Mr. Ruppe.
Mr. Rangel with Mr. Butler.
Mr. Pepper with Mr. Cohen.
Mr. Richmond with Mr. Pursell.
Mr. Jones of Tennessee with Mr. Cleveland.
Mr. Garcia with Mr. Goldwater.
Mr. Harrington with Mr. Thone.
Mrs. Burke of California with Mr. Cederberg.
Mr. McDonald with Mr. Frey.
Mr. Ford of Michigan with Mr. Goodling.
Mr. Dellums with Mr. Risenhoover.
Mr. Gore with Mr. Crane.
Mr. Nix with Mr. Whalen.
Mr. Weiss with Mr. Teague.
Mrs. Lloyd of Tennessee with Mr. Sawyer.
Mr. Mathis with Mr. Kemp.
Mr. Ford of Tennessee with Mr. Johnson of Colorado.
Mr. Harkin with Mr. Mitchell of New York.
Mr. Metcalfe with Mr. Milford.
Mr. Ammerman with Mr. Buchanan.
Mr. Le Fante with Mr. Hubbard.
Mr. Ireland with Mr. Roncalio.
Mr. Bonker with Mr. McKay.
Mr. Conyers with Mr. Mann.
Mr. Wirth with Mr. Fraser.
Mr. Lundine with Mr. Eckhardt.
Mr. Brinkley with Mr. Duncan of Oregon.
Mr. Tsongas with Mr. Evans of Colorado.
Mr. McCormack with Mr. Fowler.
Mr. Flowers with Mr. Leggett.
Mr. Levitas with Mr. Luken.
Mr. Maguire with Mr. Jenkins.
Mrs. Collins of Illinois with Mr. Caputo.
Mr. Biaggi with Mr. Nolan.

Mr. MURPHY of New York changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## TABLING HOUSE RESOLUTION 1239

Mr. BOLLING. Mr. Speaker, I ask unanimous consent to lay on the table House Resolution 1239, waiving certain points of order against the bill H.R. 12931, making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes. This rule is not needed because we have just adopted House Resolution 1247.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## FOREIGN AID AUTHORIZATIONS, FISCAL YEAR 1979

Mr. ZABLOCKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12514) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 11, not voting 104, as follows:

[Roll No. 622]

YEAS—317

| | | |
|---|---|---|
| Abdnor | Dent | Johnson, Calif. |
| Alexander | Derrick | Jones, N.C. |
| Ambro | Derwinski | Jones, Okla. |
| Anderson, Calif. | Devine | Jordan |
| Anderson, Ill. | Dickinson | Kasten |
| Andrews, N.C. | Dicks | Kastenmeier |
| Andrews, N. Dak. | Diggs | Kazen |
| Annunzio | Dingell | Kelly |
| Applegate | Dodd | Kemp |
| Archer | Dornan | Keys |
| Armstrong | Drinan | Kildee |
| Ashbrook | Duncan, Tenn. | Kindness |
| Ashley | Early | Kostmayer |
| Aspin | Edwards, Ala. | Krebs |
| Badham | Edwards, Calif. | Krueger |
| Bafalis | Eilberg | Lagomarsino |
| Baldus | Emery | Latta |
| Barnard | Ertel | Leach |
| Baucus | Evans, Del. | Lederer |
| Bauman | Evans, Ind. | Leggett |
| Beard, R.I. | Fary | Lehman |
| Bedell | Fascell | Lent |
| Bellenson | Fenwick | Livingston |
| Benjamin | Findley | Long, La. |
| Bennett | Fish | Long, Md. |
| Bevill | Fisher | Lott |
| Biaggi | Fithian | Lundine |
| Bingham | Flippo | McCormack |
| Blanchard | Flood | McEwen |
| Blouin | Florio | McFall |
| Boggs | Flynt | McHugh |
| Boland | Foley | McKinney |
| Bolling | Fountain | Madigan |
| Bowen | Frenzel | Mahon |
| Brademas | Fuqua | Markey |
| Breckinridge | Gammage | Marks |
| Brodhead | Gaydos | Marlenee |
| Brooks | Gephardt | Marriott |
| Broomfield | Giaimo | Martin |
| Brown, Mich. | Gibbons | Mattox |
| Brown, Ohio | Gilman | Mazzoli |
| Broyhill | Ginn | Meeds |
| Buchanan | Glickman | Meyner |
| Burgener | Gonzalez | Michel |
| Burke, Fla. | Gradison | Mikva |
| Burleson, Tex. | Grassley | Miller, Calif. |
| Burlison, Mo. | Green | Miller, Ohio |
| Burton, Phillip | Gudger | Mineta |
| Butler | Guyer | Minish |
| Byron | Hagedorn | Moakley |
| Carney | Hall | Moffett |
| Carr | Hamilton | Mollohan |
| Carter | Hammer-schmidt | Montgomery |
| Cavanaugh | Hanley | Moore |
| Chappell | Hannaford | Moorhead, Calif. |
| Chisholm | Harris | Moorhead, Pa. |
| Clausen, Don H. | Harsha | Moss |
| Clawson, Del | Hawkins | Mottl |
| Cochran | Heckler | Murphy, Ill. |
| Conable | Hefner | Murphy, N.Y. |
| Conte | Heftel | Murtha |
| Corcoran | Hightower | Myers, Gary |
| Corman | Hillis | Myers, John |
| Cornell | Holland | Natcher |
| Cotter | Hollenbeck | Neal |
| Coughlin | Holt | Nedzi |
| Crane | Holtzman | Nichols |
| Cunningham | Horton | Nowak |
| D'Amours | Howard | O'Brien |
| Daniel, R. W. | Huckaby | Oakar |
| Danielson | Hughes | Oberstar |
| de la Garza | Hyde | Obey |
| Delaney | Ichord | Ottinger |
| Dellums | Ireland | Panetta |
| | Jacobs | Patten |
| | Jenrette | Patterson |
| | Pattison | Shuster |
| | Pease | Sikes |
| | Perkins | Simon |
| | Pickle | Skelton |
| | Pike | Slack |
| | Poage | Smith, Iowa |
| | Pressler | Smith, Nebr. |
| | Preyer | Snyder |
| | Price | Solarz |
| | Pritchard | Spellman |
| | Quillen | Spence |
| | Rahall | St Germain |
| | Regula | Staggers |
| | Reuss | Stangeland |
| | Rhodes | Stanton |
| | Rinaldo | Stark |
| | Roberts | Steed |
| | Robinson | Steers |
| | Roe | Steiger |
| | Rogers | Stockman |
| | Rosenthal | Stokes |
| | Rostenkowski | Stratton |
| | Roybal | Studds |
| | Rudd | Taylor |
| | Ryan | Thornton |
| | Scheuer | Traxler |
| | Schroeder | Treen |
| | Schulze | Trible |
| | Sebelius | Udall |
| | Seiberling | Ullman |
| | Sharp | Van Deerlin |
| | | Vander Jagt |
| | | Vanik |
| | | Vento |
| | | Volkmer |
| | | Waggonner |
| | | Walgren |
| | | Walker |
| | | Walsh |
| | | Wampler |
| | | Watkins |
| | | Weaver |
| | | White |
| | | Whitehurst |
| | | Whitley |
| | | Whitten |
| | | Wiggins |
| | | Wilson, C. H. |
| | | Wilson, Tex. |
| | | Winn |
| | | Wolff |
| | | Wright |
| | | Wydler |
| | | Wylie |
| | | Yates |
| | | Yatron |
| | | Young, Alaska |
| | | Young, Fla. |
| | | Young, Mo. |
| | | Zablocki |

NAYS—11

| | | |
|---|---|---|
| Collins, Tex. | Lujan | Stump |
| Davis | Mitchell, Md. | Symms |
| Edwards, Okla. | Quayle | Wilson, Bob |
| Hansen | Rousselot | |

NOT VOTING—104

| | | |
|---|---|---|
| Addabbo | Fowler | Nolan |
| Akaka | Fraser | Pepper |
| Ammerman | Frey | Pettis |
| AuCoin | Garcia | Pursell |
| Beard, Tenn. | Goldwater | Quie |
| Bonior | Goodling | Railsback |
| Bonker | Gore | Rangel |
| Breaux | Harkin | Richmond |
| Brinkley | Harrington | Risenhoover |
| Brown, Calif. | Hubbard | Rodino |
| Burke, Calif. | Jeffords | Roncalio |
| Burke, Mass. | Jenkins | Rooney |
| Burton, John | Johnson, Colo. | Rose |
| Caputo | Jones, Tenn. | Runnels |
| Cederberg | LaFalce | Ruppe |
| Clay | Le Fante | Russo |
| Cleveland | Levitas | Santini |
| Cohen | Lloyd, Calif. | Sarasin |
| Coleman | Lloyd, Tenn. | Satterfield |
| Collins, Ill. | Luken | Sawyer |
| Conyers | McClory | Shipley |
| Cornwell | McCloskey | Sisk |
| Daniel, Dan | McDade | Skubitz |
| Downey | McDonald | Teague |
| Duncan, Oreg. | McKay | Thompson |
| Eckhardt | Maguire | Thone |
| Edgar | Mann | Tsongas |
| English | Mathis | Tucker |
| Erlenborn | Metcalfe | Waxman |
| Evans, Colo. | Mikulski | Weiss |
| Evans, Ga. | Milford | Whalen |
| Flowers | Mitchell, N.Y. | Wirth |
| Ford, Mich. | Murphy, Pa. | Young, Tex. |
| Ford, Tenn. | Myers, Michael | Zeferetti |
| Forsythe | Nix | |

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12514, with Mr. FUQUA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

As designated by the chairman, the gentleman from Wisconsin (Mr. ZA-

BLOCKI), the gentleman from Florida (Mr. FASCELL) will be recognized for 1 hour, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 1 hour.

The Chair now recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

PARLIAMENTARY INQUIRY

Mr. ZABLOCKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ZABLOCKI. Mr. Chairman, under the rule, it is my understanding that the 1 hour for general debate on the entire bill, that that hour is equally divided between myself and the ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD).

Then the 2 hours that the rule provides for the Greek-Turkey-Cyprus issue, that there be 1 hour in support of lifting the embargo and 1 hour in opposition, and that the hour in support would be divided between myself and the gentleman from Michigan (Mr. BROOMFIELD), and those in opposition to lifting the embargo would be managed by the gentleman from Florida (Mr. FASCELL) and the gentleman from Illinois (Mr. DERWINSKI).

The CHAIRMAN. The Chair will respond to the gentleman from Wisconsin (Mr. ZABLOCKI) that the Chair has been informed that the gentleman from Wisconsin has designated the gentleman from Florida (Mr. FASCELL) for 1 hour, and also the gentleman from Illinois (Mr. DERWINSKI) for 1 hour. The rule, of course, does not confine any such debate to the embargo issue alone.

Mr. ZABLOCKI. Mr. Chairman, half of that, one-half of the 2 hours is for support of the committee's position and one-half in opposition.

The CHAIRMAN. Is the chairman, the gentleman from Wisconsin, wishing to designate himself to control one-half of the majority time?

Mr. ZABLOCKI. Mr. Chairman, on the Democratic side, I designate myself in support of the committee's position and one-half hour for the gentleman from Florida (Mr. FASCELL).

As to the Republican side, I allocate one-half hour of the hour to the gentleman from Michigan (Mr. BROOMFIELD) and one-half hour to the gentlemen from Illinois (Mr. DERWINSKI).

The CHAIRMAN. The Chair will state that the chairman of the committee has the authority to so designate the time if he wishes to designate it in that manner.

Mr. ZABLOCKI. Unless there are any requests for changes on the part of the minority, Mr. Chairman, I submit that is my designation.

Mr. BROOMFIELD. Mr. Chairman, on the part of the minority, I would like to suggest the designation of the gentleman from Illinois (Mr. DERWINSKSI) to have one-half hour for the retention of the embargo and the gentleman from Illinois (Mr. FINDLEY) to have one-half hour in opposition.

The CHAIRMAN. The Chair will so designate.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 12514, the International Security Assistance Act of 1978, is perhaps the most important piece of legislation in the foreign policy field and to the interests of U.S. national security to come before the Congress this session. Because of its significance members of the International Relations Committee worked especially hard and, I think, effectively and responsibly on this bill.

If there is one message that this measure conveys abroad it is this: The United States will stand behind our friends and will never fall behind our adversaries.

H.R. 12514 authorizes funding for grant military assistance, foreign military credit sales, international peacekeeping operations, narcotics control, and the contingency fund.

Among the important foreign policy issues contained in H.R. 12514 are the lifting of the Turkish arms embargo and the U.S. troop withdrawal plan for Korea. In working its will on such crucial questions I am confident Congress will demonstrate its wisdom and good sense. By providing prudent policy guidance on military assistance matters Congress will be exercising its legitimate interest to help shape U.S. foreign policy.

Mr. Chairman, there are times when the overuse of words or phrases leads us to slide over words without appreciating their true meaning and value. It may be that the words "United States" have suffered that fate.

The point of all this is what I said a moment ago: The chief objective of H.R. 12514 is to uphold U.S. national security interests. While this bill does contain policy provisions related to many different countries it is chiefly concerned with the best interests of the United States. That in my judgment should be the only criteria on which we should vote on this bill.

I feel that the $999.3 million this bill authorizes for appropriations in fiscal year 1979 is needed to achieve vital U.S. national security objectives abroad in the areas of security assistance and foreign military sales.

H.R. 12514 is the result of 27 hearings by the Committee on International Relations and its subcommittees.

Recommendations by the committee, subcommittees, and by an ad hoc group of committee members established to consider the so-called Humphrey bill on foreign assistance reorganization were incorporated into H.R. 12514. Although section 16, lifting the Turkish arms embargo was adopted by a narrow vote of 18 to 17, the bill was ordered favorably reported by the Committee on International Relations on May 3 by a voice vote, a quorum being present.

Because vital U.S. national security interests are involved, the committee devoted a major part of its time and effort this year to consideration of our policy concerning Greece and Turkey. Testimony was received from Members of Congress, executive branch, and public witnesses. The committee also heard the firsthand views of the principals involved in the conflict over Cyprus: the Prime Minister of Greece and Turkey, Mr. Karamanlis and Mr. Ecevit, as well as the President of Cyprus, Mr. Kyprianou, and the Turkish Cypriot leader, Mr. Denktash.

The Greece-Turkey-Cyprus issue will be discussed at length. The rule provides 2 hours of debate for that purpose and I will not dwell on that issue at this time.

GRANT MILITARY ASSISTANCE

The bill authorizes $163.4 million for grant military assistance programs for fiscal year 1979, a reduction of $65.4 million from the $228.9 million authorized last year. Moreover, the bill continues the policy of phasing out grant military assistance by reducing from 8 to 5 the number of countries authorized to receive such assistance and the number of Armed Forces personnel from 865 to 800 that may be assigned overseas to perform security assistance management functions.

GRANT MILITARY TRAINING

For grant military education and training, the bill authorizes $32.1 million, an increase of $1.1 million over that authorized for this program in fiscal year 1978. However, despite the increase in program funds, the number of students receiving training through the program will be reduced because of inflationary increases and by further implementation of full costing procedures by the Department of State.

FMS CREDIT GUARANTEES

H.R. 12514 authorizes appropriations of $674.3 million to finance an overall foreign military sales credit program of $2 billion 085.5 million. This is $2.7 million less than the $677 million which Congress authorized in last year's legislation while the aggregate ceiling is almost $16.9 million less than the $2 billion 102.35 million set for fiscal year 1978.

In authorizing appropriations for FMS credit Congress make available 10 percent of the principal amount of the loan extended to foreign countries to purchase U.S. defense articles and services. This 10 percent is used by the Department of Defense as a guarantee of loans extended by the Federal Financing Bank. As in past years, the authorization also makes available $1 billion to Israel and provides terms used in prior years: $500 million of the credit is forgiven; repayment shall be in not less than 20 years, following a grace period of 10 years on repayment of principal.

PEACEKEEPING OPERATIONS AND OTHER PROGRAMS

The peacekeeping operations funds authorized in section 11 of H.R. 12514 had in past years been programed under security supporting assistance. Because of recommendations made by the ad hoc group of committee members studying the Humphrey bill, the bulk of security supporting assistance funds are now authorized in H.R. 12222 the International Development and Food Assistance Act of 1978 which the House passed on May 15.

The separation of these funds into two accounts reflects committee recognition of the fact that major portions of what was formerly security supporting assistance should properly be considered economic aid. By contrast, the funds au-

thorized in this bill under peacekeeping operations are related more directly to the national security interests of the United States.

The $29.4 million authorized in H.R. 12514 will fund the Sinai Support Mission to monitor the demarcation line in the Sinai and United Nations forces in Cyprus, support commitments undertaken by the 1976 Treaty of Friendship and Cooperation with Spain, and provide $2 million for a Middle East special requirements fund. The latter will enable the United States to respond expeditiously to unforeseen requirements for funds to promote Middle East regional security.

Additionally, the bill authorizes the appropriation of $40 million for the international narcotics control program for fiscal year 1979, an increase of $1 million over last year. The bill also authorizes $10 million for a contingency fund which is $5 million more than the authorization for fiscal year 1978. The contingency fund is rarely used but gives the President the ability to meet unusual emergency situations as the needs arise.

Finally, H.R. 12514 contains provisions that clarify and add to existing human rights law applicable to security assistance. It also expresses the sense of Congress that a balanced approach should be taken in implementing conventional arms transfer policy and requires quarterly reports on security assistance surveys.

These are the major authorizations for appropriation in the bill. Altogether the bill authorizes $27 million less than Congress provided for similar programs for fiscal year 1978.

In closing, I believe that the members of the Committee on International Relations deserve full credit for the hard work and many hours of careful consideration that, on a bipartisan basis, have been devoted to this bill. I want to also note and pay tribute to the staff for their untiring efforts in assisting in the preparation of this legislation.

Mr. Chairman, as I stated earlier, H.R. 12514 serves our national security interest and those of our allies. It also demonstrates responsible congressional oversight over the security assistance and arms transfer programs of the United States.

The bill demonstrates that the House can exercise its oversight role over foreign policy with wisdom, good judgment, and a careful and responsible attitude toward this Nation's national security. It deserves endorsement and I urge my colleagues to vote for H.R. 12514.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in light of the ominous projection of Soviet military power worldwide, our need for collective security is greater than ever before. In the last year, for example, the Soviet Union has escalated its challenge to the United States throughout the world, especially in Africa, the Near East, and Europe.

Of particular concern has been the increasing naval strength of the Soviet Union. Seapower, as evidenced by the new *Kiev*-class ships, has probably been the most dynamic military element in the Soviet Union's attempt to attain mobility and flexibility in globally projecting power—and thus extracting political and strategic benefits worldwide. To be sure, the extensive Soviet shipbuilding program, demonstrates the Soviet Union's intense interest in exploiting the seas for economic, political, and military purposes. As a recent report by the Atlantic Council concluded, the Soviet Union seeks military superiority for political purposes and will continue to improve its armed forces, giving it the opportunities to exploit any power vacuum or imbalance of power.

Geopolitically, the Soviets, with growing ground, air, and seapower, are especially intent upon outflanking our Near Eastern friends and West European allies. As King Hassan of Morocco recently stated regarding Soviet aims:

> I agree with those who say it is to encircle, weaken and neutralize Western Europe. . . .

In particular, the Soviets have demonstrated their lack of interest in any peaceful solutions to Near East problems with their transfer of sophisticated conventional arms to radical African and Arab States, as well as the Warsaw Pact. In this regard, I believe that H.R. 12514 can help to offset the Soviet Union's encirclement of the Near East by providing essential support to our friends and allies in that region. Moreover, through such support, we can better encourage peace negotiations in that area of the world.

By providing for security of our Near Eastern friends—which H.R. 12514 helps to do—the United States takes an important step in the overall improvement of our collective security. The Near East—with its sea-lanes to the Persian Gulf, the Black, Aegean, and Mediterranean Seas, and the Indian Ocean—is a strategic economic and military crossroads. Moreover, this area is important to the security of the Western alliance and in particular, the NATO structure.

The security of Western Europe and the Near East assumes timely and strategic importance in light of recent military buildups in nearby African, Arab, and Warsaw Pact countries. At this time the Soviet Union and its Warsaw Pact allies have established a conventional military superiority over NATO forces in Western Europe. Moreover, Soviet forces in Europe have undergone significant expansion in the past decade and are now being qualitatively improved with new weaponry such as the Backfire bomber and the SS-20 mobile missile. At a recent meeting NATO defense ministers noted that the military disparity between NATO and the Warsaw Pact continues to widen.

In particular, the projection of Soviet power in the eastern Mediterranean poses numerous problems to our good friends on the southern flank of NATO. In order to confront the growing threat from the Soviet Union and the Warsaw Pact, it is extremely important that our good friends and longtime allies on the southern flank continue to work out their political, economic and military differences. In this regard, I believe that the legislation that we have before us will help to encourage an accommodation in the eastern Mediterranean which will be in the best interests of all parties to the Atlantic alliance. Moreover, H.R. 12514 will not only strengthen the structure of NATO, but also provide for the maintenance of our overall worldwide security interests and, as a result act as an important counter to the ever-growing Soviet threat.

In summary, Mr. Chairman, I believe the legislation we have before us is vital to our country's security and strategic interests. I urge your support of H.R. 12514.

Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, I rise in support of H.R. 12514, the International Security Assistance Act of 1978.

The legislation that we have before us today is important to our national and collective security. In particular, the legislation provides for the maintenance of our worldwide security interests be they in Europe, the Near East, or Northeast Asia.

I believe that with the ever-growing Soviet arms buildup, there is a great need for the United States to join its good friends and allies in seeking new and better ways to collective security.

In this regard, I believe that H.R. 12514 can help to counter the Soviet threat by providing necessary support to such good friends and allies as Greece, Turkey, and Israel.

In particular, H.R. 12514 lifts the arms embargo against Turkey and provides for the transfer of U.S. military equipment to South Korea, now that the administration has decided to withdraw our ground troops from Korea. I believe that it is time to lift the embargo, largely because the embargo has been a dismal failure in relation to a Cyprus settlement. The embargo has also jeopardized NATO's security.

The bill we have before us today also is important, because it provides for less money than last year's legislation thus reflecting the taxpayers' concerns. Moreover, the legislation—under section 20—reduces Federal paperwork by repealing provisions in past foreign assistance legislation calling for one-time or redundant foreign policy reports.

For these reasons, Mr. Chairman, I urge my colleagues to support this legislation.

Mr. BROOMFIELD. Mr. Chairman, under this first phase of the rule, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Chairman, I yield back the balance of my time of the 30 minutes allotted to me in this first phase.

Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, this is unquestionably a very difficult and complex issue. It is for me one of the most difficult and complex questions which I

have confronted ever since coming to the Congress 4 years ago. It has been complex, because of the intractability of the issues involved and it has been difficult, because of the extent to which many of my constituents care passionately about the continuation of the embargo against Turkey.

Had I been a Member of this House in 1974, when the embargo was first imposed, I would have voted for that legislation, because I believe that it was legally required and politically prudent. After coming here in 1975, as a member of the Committee on International Relations, I decided to go out to the Eastern Mediterranean, and to take a look at the situation in that troubled part of the world. After going to Greece and Turkey, and to the Greek and Turkish sectors of Cyprus, and talking at length with Prime Minister Demirel of Turkey and Foreign Minister Bitsios of Greece, and the leader of the Greek community in Cyprus, Archbishop Makarios, and the leader of the Turkish Cypriot community, Mr. Denktash, I came to the conclusion that the embargo had been completely counterproductive.

I had the opportunity to return to the Eastern Mediterranean 4 months ago, and once again I engaged in a round of conversations with the leaders of all of the countries and communities involved. I came away more convinced than ever that, whatever the merits of the embargo when it was first imposed after the invasion of Cyprus, it was now clear that the embargo had not accomplished the objectives which it was originally designed to achieve.

I think it is fairly clear that, when the embargo was first imposed, there were three main reasons for imposing it.

The first was to uphold the so-called rule of law and to carry out what a majority of the Members of the Congress interpreted as our obligation under the law to terminate the future sale of American arms to a country; namely, Turkey—which had violated the restrictions which had been imposed on them.

Second, the purpose of the embargo was to reinforce the credibility of our restrictions on the use of American arms, not only in the eastern Mediterranean, but everywhere else in the world where we sell them as well.

And, third, the proponents of the embargo told us that through the enactment of this legislation we would be able to put the kind of pressure on Turkey which would enable us to extract from the Turks the kind of concessions which were necessary for a resolution of the Cyprus problem.

Four years later, 4 years after the embargo, which, from a military point of view, has gone a long way toward enfeebling one of the most important countries in the NATO alliance, what has happened? First, insofar as the rule of law is concerned, I think we can fairly say to the Members of the Congress and to the people of this country that the rule of law has been upheld. The embargo was imposed and we met our obligations under the law as it was written at that time. But there is nothing in the law which requires the embargo to remain in existence in perpetuity. Having upheld the law for the last 4 years, we now have to make the determination as to whether or not it is in the American interest—not in the Greek interest, not in the Turkish interest, not in the Cypriot interest—but whether or not it is in the American interest to continue the embargo.

Second, I would submit that we demonstrated that the restrictions which we impose on the use of our arms do have teeth in them. Turkey has suffered, and suffered substantially, as a result of the imposition of the embargo. I think it is fair to say that literally every country in the world, which has been the recipient of American arms, is now on notice that if they violate the terms under which we sell them those arms, they, too face the possibility that such an embargo will be imposed on them.

Third, insofar as the argument is concerned that only by putting this kind of pressure on Turkey can we expect to get a resolution of the problem on Cyprus, I think it is clear that the embargo has made things worse rather than better in terms of achieving a resolution of this very difficult dispute. The fact of the matter is that so long as the embargo remains in existence the chance of achieving an agreement on Cyprus will be virtually nonexistent. The Turks, in the final analysis, are unlikely to make the kind of ultimate concessions, under the pressure of an embargo, which will be necessary for an agreement. And the Greek Cypriots, who very much want the embargo to continue, because they truly believe that only by continuing the embargo can they hope to get the right kind of concessions, are unwilling to even enter into intercommunal discussions with the Turkish Cypriots, out of fear of legitimatizing the impression here in Congress that progress is being made toward the resolution of the conflict on Cyprus, thereby strengthening the possibility of eliminating the embargo altogether.

Let me be absolutely clear about one thing: There is no guarantee that if we lift the embargo the conflict on Cyprus will be settled, but we can be virtually certain that if the embargo is not lifted, the chance of reaching an agreement will be virtually nil. In this sense, I think the elimination of the embargo is a necessary, if not a sufficient condition for a resolution of the dispute over Cyprus.

A number of the Members of this House, who originally voted for the embargo have said:

> If only there were some indications that the Turks were flexible and were prepared to make a few concessions, we could justify voting to eliminate the embargo on the grounds that the government in Ankara had shown some good faith.

Let me say to my colleagues in the House that if they carefully review the record of the last few months they will realize that the Government of Turkey has made a number of significant concessions which constitute a significant manifestation of the interest of the new Government in Turkey in genuinely resolving this very difficult dispute.

First, just a few months ago, the Government of Turkey submitted very detailed constitutional proposals which Secretary General Waldheim of the United Nations termed "concrete and substantial."

Second, since the invasion of Cyprus, the Turks have withdrawn over 17,000 troops from Cyprus, and since April of this year they have withdrawn up to 2,500 troops from Cyprus. Furthermore, in this regard, the Turks have made it clear that in the context of the settlement of the Cyprus dispute, they are prepared to withdraw all of their forces from Turkey, except those which the agreement would entitle them to keep on the island.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield on that point?

Mr. SOLARZ. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Turkey and the Turkish Cypriots have been accused of inflexibility, but is it not correct that from the moment President Carter called for the lifting of the embargo, things began to happen? A lot of forward movement occurred that I think should cause all of us to take comfort and hope that even better things will follow.

Mr. SOLARZ. This is precisely the point I was trying to make, and I thank the gentleman for reinforcing it.

I think the Turks since April have made six significant concessions. I pointed to two. Let me point to a third. They have also offered to consider making substantial territorial concessions on Cyprus in the context of an agreement with the Greek Cypriot community.

Fourth, they have agreed to permit Greek Cypriot refugees—up to 35,000—to return to Verusha under a U.N. administration.

Fifth, they have agreed to reopen, once the intercommunal talks resume, the airport at Nicosia for civilian traffic, perhaps under U.N. auspices.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ZABLOCKI. I yield 5 additional minutes to the gentleman.

Mr. SOLARZ. I thank the chairman for yielding.

Finally, the Turks have emphasized over and over again that the concessions to which I have already referred are the opening rather than the final position with which they are prepared to resume the intercommunal talks. They have said that they are flexible with respect to these conditions and are prepared, once the negotiations are resumed, to make more concessions.

Have the Turks gone far enough? Of course not. Should they make more concessions? Of course they should. But have they demonstrated a good-faith effort to resolve this conflict? I think the answer is "yes," and I think the Congress should reflect that recognition by voting now, 4 years after it was first established, to eliminate the embargo.

There is fundamentally one of two ways in which this dispute over Cyprus is going to be resolved. Either it is going to be resolved on the basis of a unilateral

withdrawal by Turkey from Cyprus and a consequent reestablishment of the status quo ante, or it will be resolved in the context of a bilateral negotiation between the Greeks and the Turks and the two communities on Cyprus. I think it is self-evident that, however, this dispute is resolved, it will not be resolved purely on the basis of a unilateral Turkish withdrawal from Cyprus. The Turks can no more be expected to withdraw unilaterally from Cyprus than the Israelis can be expected to withdraw unilaterally from the territories they occupied in the 1967 war against the Arabs. If there is going to be a resolution of the Cyprus dispute, it will have to be on the basis of a negotiation, and if we are going to get a negotiation going, we are going to have to lift the embargo. There is virtually no chance whatsoever, if this embargo continues in existence, of getting meaningful concessions from the Turks, let alone a meaningful negotiation underway, for all of the reasons I have already described.

May I in conclusion, Mr. Chairman, offer one other argument in favor of the elimination of the embargo against Turkey, and that is that at a time when there is a growing concern not only in our country, but throughout the Western World about the Soviet buildup in Eastern Europe, and the development of a dangerous conventional imbalance between NATO and the Warsaw Pact, at a time when we are significantly increasing our own expenditures for defense in order to counter that buildup of Eastern forces in Europe, it seems to me to make no sense whatsoever to pursue and perpetuate a policy which not only has made it virtually impossible for Turkey to fulfill its NATO obligations, but which over the course of time runs the risk of actually driving Turkey out of the NATO Alliance itself.

The fact of the matter is that Turkey now has the second largest ground force in NATO, over a half million men who are committed to the defense of Western Europe. Together with Greece, they tie up over 26 Soviet divisions, which were Turkey at some point in the future to withdraw from NATO, could very easily be shifted to the even more critical central sector.

Second, by virtue of their geographic location and their control of the Bosporus and the Dardanelles, the Turks are in a position to bottle up the Soviet Black Sea fleet and to enable us, through our own 6th Fleet in the Mediterranean, to establish naval control of that absolutely critical waterway.

Third, Turkey provides the 6th Fleet with up to 1 additional hour of warning time in the event that the Soviets and their Warsaw Pact allies should launch a surprise attack in the Eastern Mediterranean. An amount of time that could mean the difference between survival and annihilation in the event of another war.

Finally, I think it is fair to say that if, through a perpetuation of the embargo, we were to drive Turkey out of NATO, not only would we suffer, not only would NATO suffer, but Greece itself would suffer, because without Turkey to shore up the Southern flank of NATO, the real threat to Greece, which comes not from Ankara but from Moscow, would be substantially increased.

Mr. Chairman, we are going to hear a lot of comment in the next few hours about principle, and I believe in principle, too; but what about the principle of maintaining a conventional balance of power in Europe so that we can avoid the possibility of a third world war?

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLARZ) has again expired.

Mr. ZABLOCKI. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. This really is my final point. What about the principle of supporting democracy in the developing world? We are going to be taking up the foreign aid appropriations bill later this week and we are going to have a whole raft of amendments designed to withdraw funds from countries that have violated human rights. Perhaps we should move in that direction; but Turkey is one of the few countries in the developing world which has a genuine commitment to democracy. And, I think we have an obligation to strengthen the forces of democracy in that country.

There is a struggle for the soul of Turkey which is now underway in that country between those who would move it in a Western direction, who believe in the principles of democracy to which our own country is committed, and those who would move it away from the West, perhaps in a more neutralist or nonalined or even in an Islamic direction, who are not sympathetic to the principles of democracy in which we believe.

And there can be little doubt that, if the embargo is continued, we will undermine the forces of democracy in Turkey, and strengthen the forces of reaction.

On the other hand, if we do eliminate the embargo, what will we have accomplished?

First, we will have reinforced and strengthened NATO and its vital southern flank.

Second, we will have created conditions which will make possible real progress in the Cyprus dispute.

Third, we will reinforce those forces within Turkey which are committed to democracy and a close relationship with the West.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I would be delighted to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I would like to congratulate my friend, the gentleman from New York (Mr. SOLARZ) on what I consider to be a thoroughly brilliant exposition of the issue. I do not know of any member of the committee in my experience who has been more diligent and better prepared for a wide range of issues and the gentleman certainly has demonstrated that competence here today.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, after my friends, the gentleman from Illinois (Mr. FINDLEY) referred to the statement of the gentleman from New York (Mr. SOLARZ) as "brilliant," I am wondering why I bother to take the well. But we have to balance this argument.

I appreciate the fact that a great deal of rhetoric is going to go into this debate this afternoon and tomorrow. Much of it may well be repetitious. Let us take a look at the facts before us. There really are not too many to consider.

The fact is that in August of 1974 there was an invasion of the island of Cyprus by the Turks. As a result of that invasion, which was successful since the Cypriot armed forces were not then or now a potent military force, the Turks occupied about 40 percent of the island. In the process over 200,000 people found themselves in the tragic situation of being refugees.

That was 4 years ago, 4 years ago this August. The situation is still the same. The number of refugees really has not diminished. The occupation remains substantially the same.

The concessions the gentleman from New York (Mr. SOLARZ) speaks about are more cosmetic than real. They do not involve large chunks of real estate; they do not involve the port of Famagusta, which was one of the keys to the thriving economy of Cyprus before 1974.

So what we really have is a 4-year-old status quo—a status quo which consists of an invasion and an occupation in which U.S. military arms were used in contradiction to our law. That is the issue.

The argument over whether or not the Turks may shift left or right, closer to or farther from NATO, begs the original question. The original question is: Was their invasion justified? By an overwhelming vote on each occasion since 1974, and including one in May 1977, the Congress has said: That the invasion was not justified, and the embargo that we imposed was justified.

Now, some argue that since, after 4 years of maintaining this very proper embargo, it has not produced the needed concessions, then we should drop it, that would be in my opinion a false premise on which the Congress should base any action. Following that reasoning, those who advocate an embargo against Rhodesia, might as well join us in lifting that embargo. What about those who at various times have advocated the imposition of sanctions against Indonesia, Chile, Argentina, and other countries for violating regional security measures or some concept of human rights? After an embargo is imposed, the argument that because, after a period of time, the embargo has not achieved its purpose and, therefore, should be lifted is, indeed, a shallow one.

As I see it, Mr. Chairman, the issue is this: Congress wisely imposed the embargo 4 years ago. Nothing really has changed. To be consistent with our votes in the past, I suggest we maintain that embargo.

Now, the political facts of life are that a few members of the majority party will switch from their previous position. This is understandable, with the communica-

tions and pressures from the Carter White House. It is my hope that an equal number of members on the minority side will switch their positions, since they are no longer under the type of pressure that was exerted by the White House in the Kissinger era. If that happens, the balance of the votes will find Congress back in the position of sustaining the embargo until there is some real progress in Cyprus.

In an age in which we have come close to upsetting relations with the Soviet Union, because three or four dissidents were being tried simultaneously, one wonders about the 200,000 refugees who have been stripped of their property, stripped of their personal possessions, and stripped of their investments are completely forgotten.

Since we are going through an era in the House of championing human rights, individual as well as group rights, I would suggest that the 200,000 Greek Cypriot refugees on Cyprus merit our attention as much as the Soviet dissidents. They merit the protection of Congress, they merit the interest of Congress, and they merit the consistent support of Congress.

If anything is going to budge the Government of Turkey, it is not going to be a unilateral lifting of the embargo; it will be the House insisting the embargo be maintained until there is good, solid, substantial progress on Cyprus. Until then there is no basis, in my judgment, for lifting the embargo.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, a great deal has been told to us about the political situation in Turkey. And yet we hear very little mentioned about the political situation in Greece. Is not this the very reason that just a few years ago we were concerned about the continuation of democracy and the existence of a free republic, and is not that all the more reason why to change ships in the middle of this channel would be a very dangerous thing?

Mr. DERWINSKI. I think the gentleman is correct.

I did not want to make the point at this time, since it would sound like a threat that the Greeks would move left if the Congress shifted its position.

The facts of life are that the anti-Karamanlis minority in the Greek Government, led by Mr. Papandreou, who has a record of anti-Americanism that dates back many years, would be perfectly capable of exploiting this issue and using it against the best interests of the government of Mr. Karamanlis which at the present time has the majority in the Greek Parliament.

Mr. McKINNEY. If the gentleman will yield further, is it not also true that the Government of Turkey has stated publicly they will stay in NATO regardless of what we do in this policy?

Mr. DERWINSKI. I think any government, the Turkish Government, of the Government of Iceland, for example, at the other end, will remain in NATO as long as it serves their practical interest. I believe that the membership of Turkey in NATO serves their practical interest, and that should be the main reason why they remain active members.

Mr. McKINNEY. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose very strongly, lifting the embargo on Turkey. During the 5-minute rule I shall offer an amendment, for myself and other colleagues, to strike the language in the bill which lifts the embargo. If the Turkish Government, as has been suggested, is making such forthcoming concessions with respect to the settlement of the matter of Cyprus, I suggest that they go right ahead and do it. There is nothing in the embargo, as such, that prevents them from doing it—and the quicker they get about it, the better off we will all be.

I would be slightly amused—if it were amusing—at the suggestion that I have heard and the colloquy that in some way the United States is responsible for what has happened in Cyprus or the relationships that exist between the Turkish Government and the Greek Government. I really do not understand that—as if the United States is at fault in some way for what has happened to two good friends who are involved with us in NATO. I do not understand why the United States has the sole responsibility for action and is accused of standing in the way of the settlement of an issue which is irritating, annoying, potentially explosive, and frustrating everybody.

What are the Turks waiting on? Certainly it is not the lifting of the embargo. The embargo could not possibly have had any effect on the Turks. Since the embargo has been in effect, they have gotten $600 million from the United States. How much more money do they want?

Even in this bill wherein it is suggested that the embargo be lifted, the program for military assistance to Turkey in fiscal year 1979 is at the same rate that it has been under the embargo. So lifting of the embargo is not connected to the receipt of more U.S. arms in fiscal year 1979—but what of fiscal year 1980 and thereafter?

How does that inhibit the Turkish Government from doing what is right? Which is to settle the Cyprus issue. If it is right, why do they not go and do it? If it is wrong that there are 200,000 refugees on Cyprus, why do not the Turks correct it?

If it is wrong that the Turks invaded Cyprus and the U.N. said that they should get out with their troops, why do they not get out? If it was wrong under our law that they used our arms to invade Cyprus and they are still there with our arms, and if that is a violation of our law, why do they not send the arms and the troops back? Then the Turkish Government would be in complete consonance with both the U.N. resolution and U.S. law.

Mr. Chairman, I think it is absolutely ridiculous to predicate this discussion on the basis that the United States is wrong in some respect. If something was wrong, it is a fact that the Turks invaded Cyprus in the second invasion which was 4 years ago this month, having happened in August of 1974, and they are still there.

Mr. Chairman, as far as the United States is concerned, we have provided assistance to two allies who are in a serious dispute. It is in our interests, if we are going to look at the matter strictly selfishly, from the U.S. point of view, that that dispute be settled. If our two allies saw things as we see them, they would settle that dispute tonight because, Mr. Chairman, the embargo does not have anything—and everybody knows it does not have anything—to do with the settlement of that dispute.

As a matter of fact, the argument is made contrarywise. The argument is made that the embargo has not been effective at all; and because it has not worked, we ought to, therefore, get rid of it and do something else.

"However," one speaker said, "we want to caution you now that we are not making any promises. We are not saying that if you lift that embargo, anything is going to happen tomorrow."

Mr. Chairman, I do not blame the gentleman for filing a disclaimer today, because I agree with him. I do not think it is either, because the issue is not the embargo in settling that dispute. That dispute can be settled only by the parties. If the United States had the power, it would settle that dispute today.

Mr. Chairman, let me ask one further question: What is it that the Turkish Government fears? Is it the United States? It cannot be. We have continued to provide substantial arms to Turkey. Is it the Greeks? Militarily, the Turks have the Greeks outnumbered 5 to 1.

Mr. Chairman, in terms of military assistance, in the last 12 years the Greeks have received about $2 billion and the Turks about $5 billion from the United States. As far as fiscal year 1979 is concerned, in this very bill, we get on an even footing: $175 million for each country.

If that is fair, as the proponents who want to lift the embargo suggest, it is fair with me. However, the basic fact remains that the Turks are on Cyprus. They have 40 percent of the land. They have their troops there. They are not moving. There is no settlement. In other words, it is clear that the Turks have the position and the power and intend to use the embargo as an excuse.

Mr. Chairman, I would hope that the parties could settle the dispute; but I say this: It would be absolutely wrong for the United States at this point to lift the embargo as a matter of principle, even though politically, as a matter of symbolism, the embargo has not had any effect on Turkey.

The point is, Mr. Chairman, that only the Turks and Greeks can settle the issues of Cyprus. To maintain that the Turks cannot settle, because the United States has an embargo on United States arms to Turkey, notwithstanding that the United States has furnished substan-

tial military assistance to Turkey, is an attempt to confuse or ignore the basic problem—the restoration of the integrity and sovereignty of Cyprus.

The embargo is a response to U.S. law—it should be no bar to the settlement of a serious dispute. The embargo should not be lifted.

Mr. FINDLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my friend from Illinois (Mr. DERWINSKI) raised the question as to why we do not consider just as expeditiously lifting the embargo against Rhodesia; perhaps doing the same for Argentina or Indonesia—if we had an embargo in place. It suggests that he is overlooking a very important fact that has not really been emphasized in the debate so far today.

We are bound with Turkey by a very unique obligation. We are committed, through the North Atlantic Treaty, to defend the territory of Turkey, as well as of Greece and other members of the NATO Alliance, as if that were our own territory. In other words, we have decided that the community of interests between the people of our country and the people of Turkey is so deep, so intimate, so interrelated in so many ways, that we feel that any threat upon the territory of Turkey must be viewed exactly the same as if our own territory were threatened.

Now, we have no such compact with Rhodesia; we have no alliance of any nature with Rhodesia, nor do we have with Argentina or Indonesia so far as I am aware, so it is not surprising that we would take with greater sensitivity insults that are perceived by our close ally, Turkey, an insult that takes the form, of course, of the embargo against sales of U.S. military equipment to that government. The statement was made that Ecevit has promised that he will stay in NATO even if the embargo stays in place. I take him at his word that that will be his objective, but is there any assurance that Mr. Ecevit would remain in power if this body tomorrow should make the most unfortunate decision of rejecting the language which terminates the embargo? Who knows what might happen in Turkey? The Ecevit government might fall. Indeed, democracy itself might disappear from that country. And there is a growing force and restiveness in those factions in Turkish politics that are urging Turkey to assume a neutral defense posture and worse. They are using the embargo to demonstrate the necessity for such a turn. These forces will become increasingly difficult for Prime Minister Ecevit to control. It will be recalled that former Turkish Prime Minister Demirel did not himself wish at first to close U.S. bases, but did so eventually, if reluctantly, in response to similar domestic pressures.

I think it is far better for us to give a chance for the reconciliation of the great misery on Cyprus, a reconciliation which can follow the lifting of the embargo. It is very true, as the gentleman from Florida suggested, that we have authorized the sale—the sale on credit to be paid in hard money—of military equipment during this interim period, but it is also true that a considerable amount of grant military assistance that had been approved, had been appropriated, was in the pipeline when the embargo was imposed, and has been kept in the pipeline and has never been delivered.

The real problem for Turkey is not so much the denial of military support, but the insult represented by the embargo itself. No proud nation—no proud nation is going to make the reforms that we all want so much on the island of Cyprus under an insult of that character. It is true, as the gentleman from New York (Mr. SOLARZ) said, that there is no guarantee that a settlement will occur on Cyprus, but the prospect is there—the great promise is there based upon what Mr. Ecevit and Mr. Denktash have assured us.

To the contrary, if the embargo is not lifted—if the embargo is not lifted, can anyone really say with confidence that the refugees on Cyprus will soon return to their homes; that their misery will end; that that island will once more be returned to a harmonious state? No. The denial by this body of lifting the embargo will, I feel, seal the fate of that unhappy island, and insure that the misery will continue.

Since the imposition of the embargo, Turkey has received $600 million in military equipment, but this does not mean the embargo has been meaningless. Quite the contrary.

Some proponents of the embargo would like to have it both ways. They say the embargo has been meaningless but let us keep it in place. They argue that Turkey has received much military aid under the embargo. Would they have us return to a total embargo then?

Actually, the embargo has had a devastating effect on Turkey above and beyond the humiliation and political difficulties it continues to pose for a longtime friend and ally:

Supreme Allied Commander Haig has stated that the embargo has caused a 50 percent deterioration in Turkish military capabilities. Turkish force preparedness is below NATO standards.

FMS credits extended to Turkey have, in good part, been used to purchase F–4 aircraft. This has been necessary to replace Turkish aircraft of immediate post World War II vintage (F–86's). This aircraft is intended for NATO purposes. Because of this large buy, the embargo has not permitted Turkey to purchase the spare parts needed to maintain other weapons system.

Approximately $70 million in equipment financed under the military assistance grant program before the embargo was imposed will be released from the pipeline. Most of these items are in storage and can be delivered quickly.

With the embargo lifted, we will be able to give permission to our European allies to sell or transfer U.S.-origin or licensed equipment to Turkey. The Germans, the Dutch, and others have aircraft and other equipment which we know they would be willing to transfer to Turkey once the embargo is lifted.

We will then be able to resume military training for Turkish personnel in the United States—an item of great importance to the Turks.

There would no longer be an annual ceiling on foreign military sales transactions with Turkey. While we have sought only $175 million in credit authority in 1979—same as in 1978—with the lifting of the embargo Turkey could make additional cash purchases through Defense Department channels.

Finally, we would be able to intensify joint planning with Turkish military authorities to find ways to work together in the future to deal with Turkey's force obsolescence problems.

Mr. Chairman, U.S. interests compel Congress to lift the arms embargo against Turkey. And it is proper that we view this issue primarily from the perspective of our own interests rather than the vantage point of other nations.

Happily, however, by lifting the arms embargo, we would coincidentally secure not only our own interests but those of our friends and allies in Europe, including Greece, Turkey, and Cyprus.

With our alliance partners we share a need for a strong NATO. The NATO deterrent is assuming an ever-increasing importance in light of the unprecedented Soviet buildup of Soviet forces on NATO's southern flank and central front. Meeting this Soviet challenge, however, is a NATO whose southern flank has been severely crippled by the arms embargo against Turkey. The damage has been twofold:

First, the embargo has crippled Turkey's military capabilities. Spare parts are lacking for weapons systems that are often of immediate post-World War II vintage. Supreme Allied Commander Haig has estimated that Turkish military effectiveness has decreased by 50 percent since the imposition of the embargo in 1975. Turkey, therefore, will be increasingly unable to perform the NATO tasks assigned it.

Second, also, the embargo has provoked Turkey's growing alienation from the United States. Despite the pull to the East of its geography and Muslim religion, Turkey has formed an attachment to the values and ideas of the West. Yet there are powerful forces within Turkey which see the embargo as an indication of rejection by the West and urge a renewed Turkish identification with the nonalined world.

A congressional refusal to lift the embargo will perhaps not cause Turkey immediately to withdraw from NATO. After all, Prime Minister Ecevit has stated that he has no intention of detaching Turkey from NATO. But it will surely give great impetus to those forces that argue for a neutral Turkish posture and may make their objective irresistible.

NATO'S INTERESTS

A Turkish drift away from NATO to a neutralist stance or worse would pose a grave threat to the collective security of the United States and Europe.

Turkey is strategically important to NATO. Its landmass provides the vital air defense warning upon which U.S.

ships in the eastern Mediterranean depend while it bottlenecks Soviet war vessels moving from the Black Sea into the Mediterranean. Located on Turkish soil are a large number of well-placed NATO facilities which serve critical combat, communications, navigation, and support functions for NATO forces. In addition, Turkish ground forces are the second largest in NATO and tie down 26 Warsaw Pact divisions that might otherwise be shifted to the central front.

GREECE'S INTERESTS

Turkey is particularly important to the defense of Greece. Turkey's participation in NATO increases Soviet force requirements for a Soviet-Bulgarian attack upon Greece. Soviet air and sea invasion routes to Greece are within easy reach of NATO forces based in Turkey or, like the Dardanelles, are under Turkish control. A Turkish detachment from NATO would leave Greece surrounded by Communist or neutralist countries and would dangerously expose it to political and military forces not respectful of freedom.

Thus, it is very much in the long-term interests of Greece for Turkey to remain within the Western alliance system. To lift the embargo does not, therefore, represent a measure against Greece. Indeed, it is to the ultimate benefit of Greece for us to do so.

True, there are some within Greece who would prefer to see the embargo kept in place and Turkey further weakened and humiliated. The rivalry of Greece and Turkey in the eastern Mediterranean is old. But the United States should not take its counsel from those who seek to stimulate that rivalry. Rather, we should attempt to contain and reduce it much as we have within NATO these past 30 years. Greece and Turkey have cooperated within the European alliance and can do so again to bring peace and stability to the eastern Mediterranean. A Turkish alienation from NATO, provoked by the continuation of the embargo, would effectively reduce U.S. leverage with Turkey and our ability to help resolve tensions in the eastern Mediterranean through diplomacy. This would not be to the advantage of Greece.

To accept the argument that we must keep the embargo in place for fear of unleashing anti-Americanism in Greece would be an unfortunate acquiescence to blackmail. There is an undercurrent of anti-Americanism in Greece which, by and large, is connected to Greek perceptions of U.S. support for the nondemocratic Greek military rule in the late 1960's up until 1974. But the embargo of a 3½-year duration has not placated those elements in Greece which are anti-United States, anti-NATO, and anti-West in general. Indeed, our chances for improving our bilateral relations with Greece would have been far better had we devised an effective way, which the embargo patently is not, to promote a resolution of the Greek-Turkish differences on Cyprus and in the Aegean.

And we do not have the good fortune to have in Prime Minister Karamanlis an outstanding leader with whom we can work. The elections of the fall of 1977 gave his coalition government a comfortable parliamentary majority and the opportunity to remain in power until the next national elections in 1981.

CYPRIOT INTERESTS

It is thus apparent that the arms embargo is in the interests of neither NATO, Greece, or Turkey. And, after 3½ years, it should be equally obvious that the embargo is not in the interests of the people of Cyprus.

The embargo has impeded rather than promoted a settlement. It has stiffened resistance to accommodation by encouraging both sides, for their own reasons, to withhold necessary concessions. Proud Turkey will not yield to pressure while the Greek side sees certain advantages to maintaining the embargo.

To cling stubbornly to a policy that has been patently counterproductive offers no hope for the future of Cyprus or its people. It would also end the positive initiatives begun by the Turkish side since April 6, 1978, when President Carter asked Congress to lift the embargo. There is a message in the negotiating proposals, elaborative statements, and offers on Varosha the Turks have made since April. The message is:

We want to work with you. We want to reciprocate the move to end the embargo with positive measures of our own. No, you have not been able to force us to the negotiating table by beating us over the head with the embargo. But, you see, we still can and we want to cooperate with you very much.

We should build upon these initiatives by giving the Turks a chance. There are no guarantees that they will blossom immediately into a settlement. But we can be certain that, with a continuation of the embargo, there will be no settlement at all.

NEW SITUATION

We are, then, faced with a new situation. Adding to the opportunity of the moment is the fact that, for the first time since the fall of 1974 we have a single-party government in Turkey. Although Mr. Ecevit has a bare four seat majority in parliament, he is not hampered by the extreme nationalist coalition partners that made concessions from his predecessor, Mr. Demirel so difficult. We have in Greece a strong government and a strong leader in Prime Minister Caramanlis. He enjoys the largest single party majority in Western Europe and does not face reelection until 1981. Like Greece and Turkey, elections in Cyprus are now behind us. We, thus, have many of the ingredients needed for successful negotiation.

U.S. INTERESTS

Let us seize this opportunity and work toward a Cyprus settlement. Let us consider the interests of our friends and allies in NATO, including both Greece and Turkey. And of course, let us consider the United States and its needs and interests. Indeed, it is most often the interests of the United States that are overlooked in this debate.

It must be recalled that Turkey sent the largest single detachment of any foreign country to fight beside American troops in Korea. In 1957, to help the United States and in defiance of Soviet threats, Turkey concentrated its forces on the border of the newly pro-Soviet Syria. Turkey provided help that was critical to the U.S. effort to stabilize Lebanon and, during the 1962 Cuban missile crisis stood firmly with us despite Khruschev's threat that "nuclear war was on Turkey's doorstep." Moreover, during the October 1973 war against Israel, Turkey provided the intelligence regarding Soviet troop moves which resulted in the United States worldwide alert. These intelligence stations are now not operating because of the embargo.

Today Turkey could provide the warning that would be vital to the protection of our 6th Fleet operating off the shores of the Middle East. And Turkish geography alone blocks Soviet unimpeded access not only to the Middle East but to the Persian Gulf and Horn of Africa as well. It is Turkey's support with respect to these broad U.S. needs that proponents of the embargo are now ready to write off.

Out of consideration of the interests of the United States, of its allies in NATO, including both Greece and Turkey, and the people of Cyprus, I urge my colleagues to lift the embargo.

Mr. Chairman, I yield 5 minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, I guess I am faced with the same problem as many other Members of this body are faced with this week. This is probably one of the most difficult and all-consuming foreign policy questions that we are going to be faced with in some time. We have a dilemma: On one hand we cannot overlook the rule of law. We cannot overlook a situation that involves American arms being used between two allies to disrupt the peaceful existence of people on the island of Cyprus. We cannot overlook the fact that American arms have been used to deny some people their civil rights. We cannot overlook the fact that the people of Cyprus have been denied their right to self-determination.

We cannot deny the fact that over the last several years there has not been sufficient movement with the embargo to encourage or to coerce or to force or to cajole these two sides to sit down and to work out a long-term arrangement that will allow both to escape with their pride and their national feelings intact and at the same time allow the Cypriots to run their own affairs.

On the other hand, we have a national security problem which is bigger than we have been able to face. It is a fact that without both Greece and Turkey in the NATO Alliance, we are weak. We are not necessarily able to maintain our commitments to ourselves or to our allies in that part of the world. It is in our domestic and international interests to see to it that both Greece and Turkey are strong and not only cooperate with NATO and the United States but also cooperate with each other because it is certainly true if we face a military confrontation in that part of the world neither Greece nor

Turkey is going to be able to hold up their end of the NATO agreement alone.

It seems to me we have a responsibility in this body not only to try to dictate what is in the best interest of American policy but also to try to work out an arrangement whereby we may lift the embargo and allow our national security to be protected but at the same time to insure that both Greece and Turkey realize that if their NATO commitments are to be met they are going to have to sit down and work out a long-term arrangement from Cyprus.

I think there is some middle ground we in the House of Representatives can meet. That middle ground is somewhere between lifting the embargo without recognizing the obligations Turkey has or maintaining the embargo in the name of supporting our Greek allies in the name of maintaining our national security. Tomorrow I am going to offer a couple of amendments that I hope will allow us to find that middle ground.

One is to maintain the independence of Cyprus and to recognize the rights of the Greek and Turkish Cypriots to live in their own homes and maintain their own government and determine who their own leaders will be.

The second is to maintain a restriction against the use of American military equipment on Cyprus. I think we must express our displeasure on the use of any American military equipment in Cyprus against either of our allies. Also I will propose a period during which time the Turks, in order to show us their good faith, will announce their plans for the orderly withdrawal of Turkish forces from Cyprus.

I think without dictating to our allies, which we cannot do successfully, or forcing them through military action or through embargoes that have not worked, we can show our displeasure with some actions and our encouragement of other actions by including in this legislation some guidelines and some goals we would like to see both our allies meet on the Island of Cyprus.

I hope when my amendments are offered tomorrow we may debate them in greater detail. And, it may help some of us, with constituencies, that have supported the embargo to do the responsible thing on the part of our national security. At the same time it makes our feelings known to the Greeks and Turks that we will not overlook the abuse of civil rights of the Cypriot people but, at the same time, not rudely and unnecessarily destroy their pride or the unity of NATO.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I thank the gentleman for yielding and I would like to congratulate the gentleman for the constructive ideas he has set forth here today. I wish to assure the gentleman, and I am sure he is aware of this, that his ideas are already under consideration in the drafting process of language that will, undoubtedly, be offered tomorrow. So the gentleman already has had a very constructive effect on the process.

Mr. EMERY. Mr. Chairman, I thank the gentleman from Illinois (Mr. FINDLEY) very much. Of course, when I see the language that is offered I will support it if possible but, in any event, my amendments are awaiting in the wings if prior to tomorrow my objections have not been addressed.

Again I thank the gentleman.

Mr. ROSENTHAL. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this is, I think, the ninth time we had this debate. There is one dominating argument in the scheme of those who want to lift the embargo, and that is it has not worked, but, more importantly, we are tired of this debate. It is becoming somewhat tiring. But there are a couple of factual errors that have crept into the debate that must be corrected.

The dispute is not necessarily between two allies, Greece and Turkey, the dispute involves a separate independent sovereign nation, the Island of Cyprus a Cyprus member of the United Nations, was invaded on July 14, 1974, by an armada supported almost entirely, maybe 95 percent, by American equipment, using American naval vessels assigned to Turkey for NATO defense purposes, using American small arms and heavy arms assigned to Turkey for NATO defense purposes.

In the invasion of July 14 and the second invasion in August, 5,000 persons were killed on this independent nation island. The Turks occupied at that time, through their invading force, 40 percent of the island. To this day Turkey occupies every inch it occupied as of the day that the United Nations declared a ceasefire.

A number of the speakers who are supporting the removal of the embargo have said, A, it is counterproductive, and, B, it has not worked. Some of them said they have supported the embargo in the first instance because there was a violation of law, but that we cannot enforce the violation, and that while there has been no curing of the violations, the embargo still has not worked.

Those who believe that we should lift the embargo should know that they are only for their removal for all time of the limitation on the use of American arms. In every element of American jurisprudence, when a sentence is imposed because it is required to be imposed under the law, one does not rescind the sentence because they are tired of it, or because the sentence has not been successful in eradicating the condition under which it was imposed.

I was not in the Congress when the original restrictions on American arms were put into the law. Nor was I here when Turkey signed bilateral agreements incorporating the language which stipulated in precise and unequivocal terms that any nation, in light of the bilateral agreements, Turkey in particular, could not use that equipment for any purposes other than its own defense or a NATO-related purpose.

When the U.S. administration in 1974 failed to impose the embargo as specified, the Congress decided that there was no choice. The law had been clearly violated. We have had nine votes since then. Precisely the same considerations which justified imposition of the embargo in 1974 exist today. There is no factual dispute to discuss. The presence of the Turkish force, regardless of size, occupies the same identical territory it occupied in August 1974. Thus we are offered no choice, tired or not, weary or not, unhappy or not. The violation of law has yet to be cured.

The violation of law for which the embargo was imposed still exists, and we cannot be pragmatic about it. We cannot change and remove violations simply because the style or the substance or the tempo changes, or because we become tired of events. I would be delighted to see this embargo removed. I think it is absolutely essential that Turkey and Greece become viable partners in the southern flank of NATO, but we have no choice in the matter. We cannot relinquish the integrity of this institution or the supremacy of our law for the whim or caprice of foreign governments. We simply do not have a choice.

In September 1974, at Secretary Kissinger's request, we delayed the imposition of the embargo for 2 months. What was the Turkish Government's response? There was none. In December 1974 Congress delayed the embargo 2 more months at Secretary Kissinger's request. Again there was no response. In October 1975 we released the embargo in the hope that there would be inducement to Turkey to be cooperative, and to remove the violation by withdrawal from Cyprus, by giving them $185 million in arms, unlimited commercial sales, and there was again no response by Turkey. From 1974 to 1976 we had 9 meetings—those of us who believed in the imposition and maintenance of the embargo—with President Ford and Secretary Kissinger, and again there was no response. In April 1976 we authorized $125 million in foreign military sales to Turkey, and again no response. In May 1976 Congress added $125 million in foreign military sales to Turkey for fiscal year 1977—and what do you think happened? No response. In April 1977 Congress increased the foreign military sales, with my agreement—with my agreement—40 percent to $175 million, and again no response.

The hard, cold fact of life, as the gentleman from Florida (Mr. FASCELL) has so articulately pointed out, is that there has not been an embargo. The embargo has not affected in any way a settlement on Cyprus. Between the imposition of the embargo and today, Turkey has received $600 million in U.S. military assistance. It is a charade to say that this embargo is hampering, hindering, or bothering Turkey in coming forth with a settlement on Cyprus. The embargo has absolutely nothing to do with it because there is no embargo. We are engaged in political rhetoric.

But there is one commanding obligation that we all have, and that is the

maintenance of the rule of law. Like it or not, like the principles or not, like the parties or not, this is a country established and grounded and cemented in a rule of law. Because our executive branch has consistently undermined the rule of law by telling Turkey the embargo would be lifted, the embargo has been, in the words of those who want to lift it, counterproductive.

A rule of law is never counterproductive. We have only one obligation, whether we like it or not, and that is to sustain the rule of law by maintaining the embargo.

Mr. DERWINSKI. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, in 1975, a total arms embargo was voted by the Congress after Turkey, in clear violation of American laws, had used American weapons for offensive purposes in its second invasion and occupation of Cyprus in August of 1974. Whereas Turkey's action of the previous month against Cyprus was mounted in response to a coup instigated by the Greek junta there, its second invasion took place at a time of relative peace. By August of 1974, the junta had fallen, a cease-fire was in effect, and peace negotiations were underway in Geneva. In response to this second, clearly offensive military operation, Congress, in accordance with U.S. arms export law, placed a complete embargo on Turkey.

Foreign policy considerations were urged by the executive branch later in 1975, as reasons the Congress should modify the arms embargo. The Congress responded by permitting the purchase, by military sales or credit, of arms by Turkey, "necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization" (NATO). However, these sales were contingent upon Turkey's observation of the cease-fire in Cyprus, not increasing its military and civilian presence on that island republic, and not transferring to Cyprus any U.S.-supplied arms. I voted for this modified embargo in the hopes it would lead to more peaceful process.

Now President Carter asks the Congress for a further change in U.S. foreign policy, to lift completely the present modified arms embargo on Turkey, contending that the embargo: First, adversely affects Turkey's military posture and NATO's capability, and second, lifting it should result in Turkish concessions in the Cyprus dispute.

Congress, in my judgment, has three issues before it: First, the embargo's effect on NATO's military posture in the eastern Mediterranean; second, its relationship to the prospects for a Cypriot settlement; third, this Nation's ability to control the use of U.S. arms sold overseas.

In the 3½ years since Congress first imposed and later modified its arms embargo, $425 million in arms have been sold to Turkey so that it may fulfill its obligations as a member of NATO. The President's request before the Congress for arms credits and sales to Turkey is identical—no more, no less—to the current fiscal year dollar figure of $175 million. Fifty million dollars in economic aid is added to a package that compares favorably to that allowed Greece. I understand that in no preembargo year has military aid to Turkey been as high. One may wonder if indeed an embargo is actually in place. Certainly, in view of the level of military aid, it is difficult to see that it is its existence that affects Turkey's military efficiency.

Greece is no less crucial to the security of NATO's southern flank than is Turkey; both are essential elements of the alliance. The administration is at best vague when addressing what effect lifting the embargo would have on the political stability of Greece. I submit that the impact could be severe. One may speculate that a nonalined Greece could isolate Turkey. Greek-Turkish relations are severely strained and the administration frankly admits it has no commitment from Turkey to attempt to improve relations. Any unilateral gesture on our part at a cost of unknown consequence to our alliance with Greece would be hollow indeed.

It is likewise difficult to understand how the embargo affects a Cypriot settlement. Totally lifting the embargo would be rewarding Turkish aggression in advance for initiatives not yet perceived. What would be the incentive for Turkey to make concessions toward a Cyprus solution if the final vestige of America's influence in bringing about a settlement is removed?

Finally, Turkey is still in violation of U.S. arms export laws. How would lifting the embargo affect U.S. control over arms shipped overseas? Would we not be giving a signal to other nations that we are not concerned over the use of U.S. arms? Clearly a foreseeable consequence is to encourage aggression by other recipients. Lifting the embargo may set a dangerous precedent, where this Nation could lose all control over arms manufactured here and sold abroad.

The present modified embargo language insisting that U.S. arms be used only for NATO purposes is consistent with law—U.S. law and the U.N. Charter.

The embargo conditions are similar to those imposed on Saudi Arabia with respect to their use and deployment of aircraft sold to them. What might we expect their reaction to be to a U.S. renunciation of the principles on which arms are supplied?

Mr. Chairman, I hold no personal animosity for Turkey, its people, or its Government. This is not an easy issue, affecting as it does the vital interests of the United States. I conclude that in the absence of any demonstrated steps by Turkey, or a commitment with respect to a resolution of tensions with Greece and a settlement on Cyprus, lifting the embargo at this time is premature. The United States would lose what leverage it has to promote negotiations, undermine the credibiilty of its laws, and invite a deterioration of its influence in the eastern Mediterranean and the Middle East. The status quo is preferable.

Mr. ZABLOCKI. Mr. Chairman, I yield such time as he may require to the gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Chairman, I rise in support of those provisions of H.R. 12514 which seek to ameliorate several U.S. interests in the eastern Mediterranean.

This bill seeks to address several important and interrelated interests of the United States throughout the eastern Mediterranean.

Provisions of H.R. 12514 seek to:

Repeal section 620(x) of the Foreign Assistance Act of 1961 which currently prohibits:

Delivery of previously ordered material to Turkey under the military assistance program or the grant MAP program; and

Military sales and financing for Turkey in excess of $175 million in fiscal year 1978 as well as continuation of sales and financing for Turkey after September 30, 1978, under the foreign military sales program. (The repeal of section 620(x) would be effective upon the bill's enactment.)

Authorize the appropriations of $35 million in grant military assistance authorization for Greece;

Authorize $140 million in FMS credits and financing for Greece and $175 million for Turkey:

Authorize the appropriation of $50 million to be used for a loan to Turkey under the Economic Support Fund, formerly called Security Supporting Assistance. This $50 million loan will serve to bolster Turkey's economic situation made difficult by a serious balance-of-payments deficit;

Make an important policy statement that a just and lasting settlement of the Cyprus dispute remains a central objective of U.S. foreign policy. A just and lasting settlement in Cyprus is described as permitting the establishment of a free and independent government on Cyprus which guarantees the human rights of the people of Cyprus;

Require the President to certify to the Congress in proposing security assistance programs for Greece or Turkey, that such assistance is intended for defensive or North Atlantic Treaty Organization (NATO) purposes only, and in consistent with the objective of a peaceful settlement on Cyprus. Our intent is to assure all the parties involved that the U.S. Government will continue to use its influence to insure the continuation of a cease-fire on Cyprus until an equitable negotiated settlement is reached;

And finally require the President to report to the Congress every 60 days on the progress made during that period toward the conclusion of a negotiated settlement on Cyprus conflict. This is a continuation of the requirement now contained in section 620(x) of the Foreign Assistance Act of 1961.

These several provisions support important American interests throughout the eastern Mediterranean. They seek to:

Improve United States-Greek and United States-Turkish relations and maintain the strength of their armed forces;

Enhance the southern flank of NATO;

Maintain our firm commitment to a Cyprus settlement;

Reinforce our political and humanitarian interest in a united and democratic Republic of Cyprus, free from foreign domination; and

Give hope to all refugees that their legitimate grievances will be addressed.

For most of us, the present situation in the eastern Mediterranean is clearly unacceptable. In effect, what we have is an unraveling of the American position in the eastern Mediterranean.

Intercommunal Cyprus talks are deadlocked as both parties continue to politick in Washington rather than negotiate with one another;

NATO security has deteriorated;

The agony of many Cypriots persists and many Greek Cypriots who cannot return to their homes;

Our bilateral ties with Greece, Turkey and Cyprus are suffering.

So, everyone agrees the present situation is unacceptable.

The question becomes: how does the United States act to improve it?

The fundamental flaw in the argument of those who propose we maintain the embargo is that the status quo will remain—nothing will have changed; and U.S. interests in the eastern Mediterranean will continue to deteriorate.

The arms embargo against Turkey was legislated in 1974, went into effect in February 1975, and was partially lifted in October 1975.

It is time now to lift the embargo completely. Six strong arguments can be advanced for why we need to support the provision of H.R. 12514.

First, the embargo has failed to achieve its intended objective of promoting a settlement on Cyprus. Rather, it has stiffened resistence to accommodation by encouraging both the Greeks and the Turks, for their own reasons, to withhold necessary concessions.

The basic rationale for the embargo is that it would pressure the Turks into making concessions on Cyprus that would eventually yield a settlement and the withdrawal of Turkish troops. The proponents of the embargo apparently believe that the embargo will force the Turks to make significant unilateral concessions that will produce a settlement favorable to the Greek side. They rely on the embargo to achieve a solution.

They acknowledge that we have not had any progress on Cyprus, but they contend we should continue the same policy.

I conclude just the opposite: We have not made any progress under the present policy of the embargo. Therefore, we need to try a new approach.

Turkey, a proud and firmly independent nation, rejects the idea of yielding to pressure. The Turks find the embargo a painful humiliation.

Many Greeks want to keep the embargo in place because:

They fear Turkish military strength and possible action in the Aegean Sea region;

They believe its removal will weaken their bargaining position in Cyprus talks; and

They believe that any progress in negotiations will lead to the embargo's removal.

By lifting the embargo and espousing a policy of evenhandedness in negotiations, the United States can contribute to the creation of an environment in which constructive Cyprus talks can occur. Overt American pressure on one party will at best produce a temporary settlement and, at worst, produce no settlement. In this sense the embargo has reduced, rather than strengthened, our leverage.

The proponents of the embargo argue that Turkey will alter its policy under pressure of the embargo. But it is apparent that the embargo humiliates Turkey and that the Turks will not budge on Cyprus while the embargo is in effect.

Second, the embargo has jeopardized NATO security, the long-range defense interests of Greece, and American capabilities in the eastern Mediterranean.

These damaging consequences are magnified by the unprecedented buildup of Soviet forces on both the southern flank and the central front.

Turkey, with the second largest standing army in NATO, is of great importance to both the alliance and the United States.

With the understandable exception of Greece, all our NATO allies urge an end to this embargo.

Turkey's cooperation and full support in NATO is of great consequence for several reasons:

First. It is a vital link in the chain of nations forming the southern flank of NATO.

Second. It is a barrier to Soviet political, economic, military expansion in the Mediterranean, the Middle East, the Persian Gulf, and Africa. Denial or restrictions on the Turkish straits, land routes, or airspace would greatly complicate Soviet operations.

Third. It is a gateway for United States and NATO into areas of vital interest. Turkey's military facilities have major strategic value.

Fourth. U.S. intelligence facilities in Turkey provide warning and data on Soviet military activities of importance to NATO and the United States.

Fifth. Turkish forces tie down major Warsaw Pact forces. Well over 20 Soviet divisions are tied down by Turkish forces.

Four points should be emphasized:

First, the decline of Turkey's forces leaves the whole of southeastern Europe more vulnerable to Soviet penetration.

Five former Supreme Allied Commanders of NATO have expressed their fear that should Turkey turn away from this country as a result of the embargo and reduce or terminate its commitment to NATO, the whole of southeastern Europe and the Middle East would become more vulnerable to Soviet military pressure.

Turkey's ability to maintain defensive forces is diminishing. Conservative intelligence estimates indicate that Turkish forces today are 40 percent combat effective and that if the embargo continues, by 1980 the combat forces in Turkey will be only 20 percent effective. For the time being, it is doubtful that the Turks can fulfill their NATO mission.

Second, Greece's own position would be much more precarious without Turkey in NATO as a full partner.

General Haig has stated that so long as Turkey remains fully within the alliance, any Warsaw Pact attack on Greece would be a highly risky venture, while without Turkey's support the defense of Greece is vastly more difficult. That the Warsaw Pact forces maintain the capability to deploy more than 50 divisions against Turkey is clear evidence of Turkey's importance to NATO's southern flank. Turkey is, then, important to the defense of Greece. Without Turkey in NATO, Greek defense against Warsaw Pact would be severely undermined. Without Turkey, Greece stands exposed on all sides and the Warsaw Pact forces would face the simplified task of concentrating only on one front without fear of a flank exposed to Turkey.

Third, since the embargo went into effect our loss of intelligence on missile tests and troop movements in the Soviet Union has been significant.

The experts agree that these intelligence facilities are of great value, and that substitutes have been only partial. Estimates I have seen suggest that because of the embargo and closure of intelligence facilities, our information in certain key areas covered from Turkey has been degraded by about 50 percent.

Fourth, we should not lose sight of the fact that the strategically important Turkish land mass separates the Soviet Union from the Middle East and the Mediterranean. It controls exist from the Black Sea and entry into the Aegean.

The cooperation of both Greece and Turkey is needed to inhibit the Warsaw Pact and without the full commitment of Turkey to NATO, our national interest will suffer measurably.

Third, the embargo encourages Turkey to rethink both its basic foreign policy direction and its ties with NATO and the United States.

The consequences of the embargo are not only military. Turkey is the developing country with the longest continuous history of democracy in recent times. The Turkish revolution earlier in this century started a process of westernization that was consummated three decades ago when Turkey joined NATO. This history helps to explain Turkey's anguish over its treatment by the United States.

Turkey is today deeply disappointed in the United States, and we should be concerned about it.

The Turks drift toward neutralism should not be allowed to continue. The concern is not that Turkey would join the Warsaw Pact or become allied with the Soviet Union, but rather that its NATO orientation will erode and neutralism will become the cornerstone of its foreign policy. If Turkey did become neutral, then the Warsaw Pact could put great pressure on Greece and the eastern Mediterranean could become less stable, adversely affecting Israel and other U.S. friends in the region.

Fourth, the principle of the law has been upheld and Turkey has been punished for its misuse of American arms in Cyprus.

We have demonstrated to all countries that we are serious about enforcing the law, which provide for the termination of military aid in cases where U.S.-supplied equipment has been used for aggressive purposes rather than legitimate self-defense.

The focus of our concern should not be to punish Turkey, but to achieve an objective, to act in the U.S. national interest.

Is it not reasonable to think that an embargo that has crippled Turkish military capabilities for nearly 4 years is sufficient punishment for the misuse of American equipment? Is no allowance at all to be made for the circumstances surrounding the initial incident, including Turkey's perception of its treaty obligations to insure the independence of Cyprus and what it sees as its forbearance in the face of violations of the civil and human rights of the Turkish minority on Cyprus? Is the law not now being applied selectively?

Clearly, the time has come to question whether the rule of law is enhanced by unyielding and selective application.

There have been other violations of the law that have gone unpunished. A brief review by the Library of Congress indicates that there may have been as many as 26 violations since World War II by foreign governments, including perhaps Greece, of bilateral agreements with the United States, which defined prescribed uses of U.S.-supplied equipment. In only a few instances were arms shipments stopped and then only for a short period of time.

Turkey violated its bilateral agreements with the United States in August 1974 and it has paid a heavy price for what it did with U.S. arms. But punishment need not be of extended scope and prolonged duration to be useful. Beyond a certain point, it becomes self-defeating.

In these complicated disputes, the United States should avoid the pretense that moral or legal issues are black and white ones in which we can sit in judgment. Such pretense undercuts our representation for balanced concern about the role of law.

Fifth, negotiations for an overall settlement of the Cyprus situation are more likely after the embargo is lifted.

We all agree that the plight of Greek Cypriot refugees needs to be resolved and that the longstanding grievances of the Turkish Cypriot minority must be treated.

Turkish troops did commit violations of human rights in 1974 when it invaded Cyprus. Turkish and Greek Cypriots did in the 1950's and 1960's carry out violent acts against each other's communities. But as important as these issues are, they do not justify the continuation of the embargo if the embargo is an obstacle to negotiations. And it clearly is today.

Our objective today should be not to judge the past, but to give today's refugees hope for the future.

The problems of human and political rights that stem from decade of communal antagonism on Cyprus can better be addressed in the context of negotiation for an overall Cyprus settlement than in the present deadlocked situation. These human and political rights problems are not being adequately addressed today and can only be resolved in a settlement between the parties.

Lifting the embargo will facilitate the negotiation process. The United States can play a more useful role because we will be seen by the parties as even-handed in our approach. An embargo against one side makes it impossible to play that role.

Sixth, the Turkish Government and the Turkish Cypriots have recently shown a willingness to negotiate a Cyprus settlement.

While initial Turkish proposals are neither all the Greek side wants nor all it should expect, they should not be viewed with indifference. There is a new political situation in Turkey today, and Prime Minister Ecevit has latitude in Cyprus that his predecessor did not have.

Turkey has withdraw more than 17,000 troops over the months, and the Turkish Cypriots have displayed a willingness to:

Make significant territorial adjustments in six specific areas,

Reduce troop levels further,

Allow tens of thousands of Greek Cypriots to return to new Famagusta as negotiations begin,

And reopen the Nicosia Airport.

Furthermore, a detailed constitutional recommendation is on the table for discussion.

These initial proposals are promising and constructive. They offer a basis for renewed talks.

Tentative manifestations of Turkish flexibility and compromise will be dissipated if the embargo is kept in place. New and evolving Turkish positions can be drawn out and developed only through negotiations. Prime Ministers Ecevit and Karamanlis are meeting and the Cypriot leaders should do likewise.

As we move to lift the embargo, there must be no misunderstanding about the U.S. attitude toward Greece. It is an important ally and valued friend. Good relations with Greece are not predicated on bad relations with Turkey. Lifting the embargo against Turkey does not mean that the United States will or should provide a cornucopia of arms to Turkey. We do not seek to upset the military balance in the area, and we want both Greece and Turkey fully engaged in NATO.

Lifting the embargo may cause short-term strains in our relationship with Greece, but putting behind us the complications of the embargo, which now serves as a wedge between us, will in the long run promote reconciliation between Greece and Turkey.

The Greek commitment to democracy is deep, and their attachment to Western values and institutions that we share with them is proud. Our relationship will endure this strain, and will grow and prosper.

Mr. Chairman, there can be no guarantee that lifting the embargo will either resolve problems in our relations with these NATO allies or help achieve progress toward a Cyprus settlement. But there is certainty that the present unacceptable situation will be perpetuated and a Cyprus settlement further postponed if the embargo remains.

The reasonable hope is that lifting the embargo would trigger progress in the area.

It is important to note that we will not be voting on the 4-year Defense Cooperation Agreement with Turkey which was signed in January 1976. That agreement has been shelved by both Turkey and the United States. This means that we are in the position of being able to evaluate the situation from year to year and we will have leverage on the situation.

The parties are clearly unwilling to negotiate until the embargo issue is settled. The constant argument about the embargo has weakened our ties with all states and has adversely affected the domestic situation in Greece. Its removal can start the essential healing process in the region and can provide a basis for negotiations.

After 3 years of deepening risk to our national interests, it is time to try to break the impasse we face in the eastern Mediterranean.

Few foreign policy issues are as crucial today as this situation. We must adopt an approach more likely to produce a settlement on Cyprus. We need a policy that is more attuned to American concerns in the eastern Mediterranean.

Let us see who favors lifting embargo:

All members of NATO (except Greece);

All NATO Supreme Allied Commanders;

All our military leaders;

Ford and Carter administrations; and

All nine members of the European community.

The options before us are three:

One. We can tighten the embargo—no one is really arguing for that.

Two. We can continue as it is—that is what the proponents want, but it has not worked—for whatever reason.

Three. We can repeal it, start again, put new elements into this complex equation, create new circumstances, and the United States, with renewed vigor, can work with all the parties to reach a settlement of outstanding differences.

Mr. FINDLEY. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I urge my colleagues to join me in voting to lift the arms embargo against Turkey.

Debate over the Turkish arms embargo tends to focus on two issues: First, Turkish violations of human rights on Cyprus, and the punitive measures U.S. law requires that we take in response; and second, the effect of the arms embargo on NATO's ability to protect the security of its members, and to hinder the projection of Soviet power. Opponents of lifting the embargo tend to concentrate on the former issue and to remain silent regarding the latter. This is because, of course, their best case is the human rights issue. But as we shall see, the actual facts of the case are far more ambiguous than many would have us believe. The opponents of lifting the embargo generally avoid discussions of the effect of the embargo upon NATO, largely be-

cause the facts are self-evident, and speak for lifting the embargo. But before I detail the case for lifting the embargo, I will examine the arguments against doing so.

The strongest case made by the advocates of the embargo concerns alleged Turkish violations of human rights in Cyprus. Upon examination, this case is not as strong as many claim, and can only be made by ignoring substantial evidence which does not support a preconceived conclusion.

The Turkish invasion of Cyprus in 1974 is cited as the violation of human rights. But here the inquiry stops. Seldom do the embargo's supporters examine the events that led up to the invasion.

Were they to do so, they would find claims of brutal persecution of the Turkish minority of Cyprus by the Greek Cypriots.

These efforts culminated in a coup in 1974 by Greek Cypriots determined to achieve union with Greece. The ominous implications of these events for the fate of the Turkish Cypriots was not lost upon the Turkish Government, which intervened to protect the embattled minority. In so acting, the Turks claimed they were exercising their rights under the provisions of the Treaty of London of 1960, which provided for unilateral action by either Greece, Turkey, or Great Britain, in the event that the Cyprus settlement was threatened with collapse. The Turks asked Great Britain to intervene, it failed to do so. The Turks claim the invasion then, was the consequence of Greek violations of the human rights of the Turkish Cypriots.

The Foreign Assistance Act of 1961 requires that U.S. arms are sold on the condition that they be used only for defensive purposes. So, it is argued that the Turks utilized U.S. arms in an illegal fashion in the invasion of Cyprus. However, U.S. weapons supplied by the then Greek Government were illegally employed by the Greek Cypriots in their ill-fated attempt to take over the island.

So, an examination of the human rights and legal issues reveals contrary to what the supporters of the embargo say, there is justice and injustice on both sides of the issue. It seems to me, that the reasonable course of action to take in a dispute between two allies over a matter not affecting your vital interests, is to take a stance of neutrality or even-handedness. Obviously, an embargo, against one side or the other is a departure from neutrality. At least after it has been in effect 4 years and has not worked.

Turning to the case for lifting the arms embargo, the vital strategic role played by Turkey in the security of NATO's southern flank is undeniable. As General Haig, Commander of NATO, pointed out in testimony before the Senate Armed Services Committee on June 28 of this year, Turkey commands the Bosporus and the Dardanelles, "strategic chokepoints on the Soviet route to the Mediterranean and Indian Oceans." Furthermore, General Haig argued that Turkey serves as a buffer between the Soviet Union and the Middle East and Africa, thereby providing an impediment to the Soviet projection of power and influence to those regions. Incidentally, our military, and retired military, are unanimous on this issue.

In addition to these geopolitical considerations, U.S. listening posts in Turkey, closed in retaliation to our arms embargo, provided us with invaluable intelligence information, which cannot be gathered from alternative information sources. For example, it was from listening posts in Turkey that we learned during the October 1973 Middle East war that Soviet nuclear warheads were in route to Egypt, and that Soviet paratroop divisions were being assembled for movement to the Middle East. Having the advantage of this early warning, we were able to head off Soviet armed intervention in the Middle East by going to a worldwide alert. In addition, our Turkish listening posts gave us our best intelligence on the development of Soviet strategic missile systems. But now those posts are silent.

Failure to lift the arms embargo against Turkey would deal a profound blow to NATO's southern flank and the result would be a corresponding ascendancy of Soviet influence in the Middle East and Africa. It would be a sorrowful tragedy if U.S. lawmakers inadvertently brought such a grim state of affairs to pass.

Finally, let us not forget the people of Cyprus, in whose behalf we acted in the first place. It is unfortunate that the embargo has prevented rather than facilitated a settlement of the Cyprus problem. The Turks resist compromise because their pride will not allow them to suffer the humiliation of a settlement dictated by the United States. And the Greek Cypriots perhaps do not negotiate as seriously as they should but rather wait for the pressures of the U.S. embargo to wring concessions from the Turks. However, Turks have made substantial proposals and have withdrawn troops.

Mr. Chairman, Supreme Court Justice Robert Jackson had occasion during a dissent to remind his colleagues that overly narrow interpretations of the Constitution which ignore the fundamental realities of the day threatened to convert the Constitution into a suicide pact. In the spirit of Justice Jackson, I say "let us not convert provisions of the Foreign Assistance Act of 1961 into a suicide pact."

Mr. DERWINSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN of Illinois. Mr. Chairman, I thank the genleman from Illinois (Mr. DERWINSKI) for yielding to me.

Let me state at the outset that my participation in this debate is not to try to persuade any of my colleagues to vote for or against lifting the present Turkish arms embargo. My purpose is simply to inform the Members of the House and President Carter that I cannot support the proposal to lift the aforesaid embargo in its present form.

Moreover, I believe after much correspondence and many private discussions with my colleagues here in the House of Representatives that there are several Members in much the position as I am on this question—we would like to see the embargo lifted but we want some concrete, specific details from the Turkish Government on ending the occupation of Cyprus as a prior condition to lifting the embargo.

Whether or not the House will follow the other body and support the pending proposal to lift the Turkish arms embargo is a question which will be answered this week. Should the House not follow suit with the other body and refuse to support the President's proposal, I believe support could be generated among Members like myself who would like to see the embargo lifted if prior to its lifting we have some specific details on the Turkish timetable for withdrawing its more than 25,000 troops on Cyprus.

In reviewing many of the events which have taken place since the imposition of the Turkish arms embargo nearly 4 years ago, I have come to the conclusion that not enough good faith negotiations on the part of the Turkish Government have occurred to warrant a lifting of the embargo. As a new Member of Congress who has never faced this issue before, I have taken a great deal of time to study this matter before making my decision. Until recently I was uncommitted on this issue, waiting to see for myself how both sides in this dispute justified their methods of approach.

I have been invited to the White House where the President along with the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and others discussed with me and several of my colleagues their reasons for wanting to lift the embargo. Their arguments were very persuasive considering the impact that this dispute could have on the continued well-being of the NATO alliance. I have taken this point under advisement as well as the fact that both of these countries—Greece and Turkey—are old and reliable international allies and trading partners of the United States.

But the problem boils down to this: Turkey, although removing several of its forces off Cyprus, has not discussed and seems unwilling to discuss any specific timetable for the departure of the rest of their forces. I doubt that Greece will ever negotiate with Turkey if their (Turkish) forces remain on the island in such large numbers. If such a timetable for withdrawal was effected, the burden for negotiating in good faith would then fall upon the Greeks. Further, the Cyprus question is a very real problem of considerable consequence to the United States and the free world and thus we should begin taking action which brings these two contestants to the negotiating table, not moving in a direction which hardens the age-old lines between them.

It seems to me that, for once, we should conduct our foreign policy with our own national interest foremost, then take action following responsive action by other countries—not act first in deference to "the other guy," as in the case of the Panama Canal giveaway "because unless we give in, the canal will be blown to bits," or "unless we lift the arms embargo, Turkey might move toward the

Soviets in its international alliances." I am tired of this increasingly weak trend in our foreign policy and the resulting aggressive, mischievous, tangible actions by our adversaries around the world.

Mr. Chairman, this is not a partisan issue and this is not a pro-Greek, anti-Turk issue. It is a matter which transcends politics. Unless there is a cessation of hostile activities on the island of Cyprus and a withdrawal of Turkish troops within a specified time period, the entire NATO alliance along our southern flank could be permanently weakened. Therefore, I will continue to oppose any lifting of the embargo until there are some good faith negotiations; let us for once conduct our foreign policy on the basis of the performance, not just the promises, of other countries in the world community of nations.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in support of continuing the Turkish arms embargo. It is my belief that the United States cannot maintain a double standard on human rights for friend and foe.

In recent weeks, many Members of Congress joined in the world denunciation of Soviet human rights violations. I applaud the Carter administration's support for Scharansky and other Soviet dissidents. However, the administration seems to be overlooking the human rights violations of our friends, the Turks. To ignore severe and brutal human rights violations of such friends as this is, at best, expedient, and, at the very least, hypocritical.

The administration vetoed the sale of a new computer to the Soviet Union's news agency to express our disapproval of their treatment of Scharansky and Ginsburg. Such action has brought quick results, as evidenced by the parole of a recently convicted dissident. At the same time, however, the Carter administration has asked Congress to lift the embargo on arms sales to Turkey.

Why should we technically sanction one nation which violates human rights and then turn around and open up arms sales to another? If the United States expects to be effective as a voice for human rights, we must be morally consistent.

There has been a systematic accounting of the brutal human rights violations committed by the Turkish forces in Cyprus. Although the State Department has attempted to stifle the factual account of the massive human rights violations by Turkey, a recently released report by the Council of Europe presents a sad picture of abuses by the American-equipped Turkish forces on Cyprus.

The European Commission on Human Rights of the Council on Europe found Turkey guilty of violating six articles of the European Convention on Human Rights.

Turkish troops on Cyprus have systematically killed innocent civilians on a substantial scale. Turkish occupation forces have been found guilty of raping women of all ages, and particularly teenage girls. Remember—these Turkish troops are using American weapons as tools of repression.

The Human Rights Commission also found that prisoners and those detained for questioning have suffered inhumane tortures. There has been extensive looting and robbing of Greek Cypriot homes and businesses. With the force of American arms, the Turkish troops refuse to allow the return of refugees to their homes.

Many of these atrocities are being perpetrated by Turkish troops using American arms. These violations of human rights would have the indirect blessing of Congress if we lift the arms embargo before the Turkish forces leave the sovereign soil of the Republic of Cyprus.

Congress should not lift the embargo while Turkey flaunts the Convention on Human Rights and systematically does violence to innocent victims on Cyprus. American weapons must not be used as tools of repression anywhere in the world.

One part of this bill prohibits arms assistance to countries who engage in persistent violations of human rights. The Turks are violating human rights on Cyprus.

Therefore, Mr. Chairman, to lift the embargo would be illogical, inconsistent, and inhumane.

Therefore, Mr. Chairman, I support the retaining of the embargo.

Mr. ZABLOCKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I rise in support of lifting the embargo.

Mr. Chairman, it is time for realism in dealing with the arms embargo placed upon Turkey by Congress 4 years ago. The embargo was imposed because of an explosive situation on the Island of Cyprus between the Turks and the Greeks. The Greeks have been our warm friends for many years. Most of us in Congress have Greek-American constituents who are good citizens and active friends. This situation has outweighed efforts to achieve calm reason in our attitude toward the conflict. What is now clear is that the effectiveness of the NATO alliance is more and more threatened. That means the peace of the world is threatened because the embargo is steadily pushing the Turks toward a new alliance which could prove to be dangerous for NATO, dangerous for Greece itself, and dangerous for the United States because of our intimate associations with the nations of the Mediterranean.

Turkey is important to the United States for a number of reasons. First, and most obvious, is Turkey's strategic position with regard to the Soviet Union. Turkey's geographic location is a key element in discouraging Warsaw Pact and Soviet aspirations toward the Mediterranean and Middle East. Major land, sea, and air routes to these areas lead across Turkey.

We and the NATO alliance have enjoyed the use of highly important military bases in Turkey. These bases include some of the most important information-gathering sites available to us anywhere in the world. As a result of the embargo, we and NATO no longer have the advantage of operations in Turkey and we have lost invaluable intelligence on Soviet space, military activity, and strategic nuclear activities.

Another reason that makes Turkey important is its standing army of 480,000, NATO's second largest. This large army, which protects the eastern edge of NATO's southern flank, costs us nothing and ties down approximately 26 Warsaw Pact divisions. Without having to face this formidable line of defense, these Warsaw Pact forces could be transferred to other areas along NATO's lines of defense which would require significant money and manpower to offset.

Without Turkey, the southern flank of NATO is left exposed and virtually indefensible. Turkey has depended principally on the United States for arms for years. They have not been available since the embargo was imposed. That means obsolescence is creeping in. Spare parts, essential to any military operation, are not available. Existing stocks have been cannibalized to continue operability of the remaining weapons. The Turks are realistic. They must have arms for their own defense. They want to stand with the United States and with NATO. If we continue to rebuff them, their predictable course is crystal clear. Russia is a readily available source of weapons. Turkey is being seriously courted by the Soviets. They are offering military and economic aid.

The Turkish Government which took office in January of this year under Prime Minister Ecevit has indicated a willingness to be more flexible with regard to the Cyprus situation. The Turkish Government has, with the United States playing a key role, agreed to certain principles under which a new government in Cyprus might be organized and Turkish troop withdrawals accomplished. These new positions represent an advance over stands the Turks and Turkish-Cypriots have taken in previous negotiations. A lifting of the embargo would be an important sign of our support for these new initiatives toward peace. Lifting the embargo can insure a continuation of these talks and of the hope for a peaceful settlement.

If we fail to remove the embargo it should be clear that the Turks will become more adamant over Cyprus. Nothing will have been accomplished by years of waiting. Greece itself, our good friend for so many years, will become the nation with the most to lose. Let us not forget that in the late 1940's the Communists made a determined and nearly successful bid to seize the Greek nation. Active American military and economic support stalled the Soviet effort. If Russia can establish a working arrangement with Turkey with a naval passage through the Dardanelles and overland communication to the oil rich Middle East, you can be certain that Greece will be caught in a new pincers movement which will far overshadow the seriousness of the present Cyprus negotiations.

We must lift the Turkish embargo to show our desire for the friendship and support of an important ally as well as

our desire to take the only step that can lead to a peaceable solution of the Cyprus problem.

Mr. FINDLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I believe that if this Congress is to act in the best interest of the United States the Turkey arms embargo must be removed. This is a complex issue and certainly an emotional one to many Americans. Nevertheless, it would be a mistake to view the removal of the embargo as an anti-Greek vote. Indeed, lifting the embargo is also in the national security interest of Greece. The defense of Greece, a valued ally and friend of the United States, would be much more difficult if Turkey were not also a valued ally.

I am sure that we all understand the strategic importance of Turkey. The contiguity of Turkey with the Soviet Union, the Mediterranean, the Middle East, Western Europe, and the Balkans speaks for itself. Turkey's importance to NATO, and the United States in particular, mandates that its military be capable to meet any threat. Due largely to the embargo, Turkey's military readiness is extremely low. This situation has been the subject of much concern throughout NATO.

If NATO is to be strong, Turkey must be strong. Not only is Turkey's location important, but it supplies more NATO troops than any other country.

While Turkey's military capabilities are cause for concern and cause enough to support lifting the embargo, it is the Cyprus situation that is the focal point of attention. Until just recently the situation was stagnant. The embargo has failed to resolve the Cyprus issue and will continue to only act as a roadblock to any future settlement.

The United States imposed the embargo to illustrate our displeasure with Turkey for breaking bilateral agreements in using U.S. weapons in Cyprus. We have made our point. We now need to look forward and determine what actions are necessary to facilitate a settlement on Cyprus.

By lifting the embargo under the terms requested by the administration, or the terms agreed to by the Senate last week, the United States, and in particular the Congress, can review Turkey's efforts to resolve the Cyprus situation. Should Turkey fail to make any substantial overtures in resolving the Cyprus issue, we will have the opportunity to reevaluate our policies with respect to our military assistance.

In the meantime Turkey would be well aware that unless the Cyprus issue was resolved to our satisfaction they would once again face reduction in military assistance.

For his part, the President has decided to stop the multi year $1 billion defense cooperation agreement with Turkey and negotiate new agreements. Further security assistance from the United States will be decided on a yearly basis.

Should the embargo not be lifted today, we lose the leverage to force Turkey to negotiate a Cyprus settlement. Further, by not lifting the embargo we continue to hurt ourselves as well.

With the embargo Turkey suspended our activities at five major installations used to gather intelligence information on the Soviet Union. The loss of these facilities has made it more difficult to obtain current information on Soviet military and space activities.

Unless we lift the embargo Turkey's feelings of isolation will continue to grow. Turkey views U.S. security assistance as evidence of our intent to continue as a stable and dependable ally.

The embargo has served mainly to damage United States-Turkey relations. Whatever point we wished to make by imposing the embargo was made long ago. The embargo has now become counter-productive. We must use the lifting of the embargo as an incentive to the Turks to resolve the Cyprus situation. Our commitment toward settling the Cyprus issue and our security interest demand lifting the embargo.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

The gentlewoman from Maryland took note of atrocities and human rights violations on Cyprus at the hands of Turkish soldiers. The record actually is replete on both the Greek and Turkish sides with atrocities and human rights violations. I think it ought to be noted that the violations that occurred in 1974 were the acts of individual men, moved by hate and fear, and were not the policies of any government, including the government of Turkey.

Mr. FINDLEY. I would like to refer my colleagues to my insertion in the RECORD of July 25, p. 22664 which documents Turkey's current record on human rights. It shows that Turkey is not engaged in substantial violations of human rights either on Cyprus or in Turkey.

Refugees—both Turkish- and Greek-Cypriots—resulted from the 1974 Turkish intervention. The stalemate that has existed on Cyprus because of the embargo has not benefited them. Their well-being will be best assured within the context of a final settlement which will be best stimulated by our lifting the embargo on both.

Several other points:

First. Much is made of a European Commission of Human Rights report on Turkish violations in 1977. I would call to the attention of my colleagues the fact that the Council of Europe has declined to endorse or issue this report. The Council of Europe has noted the violations committed by both sides in 1974. And Turkey has filed charges of the violations of Turkish-Cypriots during the years 1963–74.

Second. Turkey cooperates fully with Amnesty International.

The basic question we should ask ourselves is: Will the repeal of the embargo improve or worsen the well-being of the Greek- and Turkish-Cypriots?

Mr. Chairman, I believe it will improve the well-being of both by stimulating a settlement.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Chairman, in 1975 I came to the Congress and I heard the arguments many times that we have heard about the mechanics of what is going to be in the best interests of the United States, what is going to be in the best interests of Cyprus, what is going to be in the best interests of Turkey; but I think we must address the question, does might make right? I say in this case, no.

I think that is what has happened here today. I am surprised. I am just shocked to hear so many state that, because of the power that Turkey possesses, the fact that Turkey is in a position to help us monitor the Russians, but we are completely ignoring one of the most important issues of this debate, the people of Cyprus. Cyprus is not Greece, Cyprus is a sovereign state. In Cyprus, the people right now live in tent camps.

In 1975, I presented my credentials as a Member of this House to the Turkish Government at the checkpoint and was refused at gunpoint. That was their expression. That was their response.

The United States is to be a showpiece of democracy, a showpiece according to this administration for human rights. I think the human rights of these Cypriot people are being completely ignored, because it is desirable to have a good military relationship with our other ally, Turkey.

I do not think we should trade democracy and human rights for the sake of lifting the arms embargo to have friendly relationships with a country that has pointed guns at Cyprus and is using gun barrel diplomacy. I think it is wrong and I think we are going to make a mistake here if we demonstrate to the world that we will completely back down for a country, because we need them for military power or military strategy.

I think the human rights issue should supersede any other issue here. The people of Cyprus are struggling. They will have little or no chance unless we hold by the principle that might does not make right. That is really what is happening here.

We are representatives of the people, as a Congress. Just because the administration says they want to lift the embargo, I heard that before, I heard that with Mr. Kissinger. Mr. Kissinger said it is absolutely necessary to have these strategic points in Turkey. We got along without them, so those arguments do not go. They hold no water.

I say we must think about those people on Cyprus, our other ally, even though they are a small country, even though they cannot defend themselves. Has this country forgotten its promise to help those that cannot help themselves?

I am telling you, the only way we should consider this vote, and I would be the first to vote to lift the embargo, is if Turkey sat down and really, truly, negotiated and started total withdrawal from the country of Cyprus.

Mr. GILMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in opposition to the provision contained in the bill before

us, H.R. 12514, to end the arms embargo against Turkey.

This embargo, as we recall, was imposed after Turkey violated U.S. laws by using American-supplied weapons for offensive purposes in its August 1974, invasion and occupation of Cyprus. Unfortunately, the Cyprus crisis remains unresolved and the adverse consequences of its continuation increase daily.

In a good-faith effort to help resolve the problem, I joined with a majority of the Congress, in October 1975, in passing legislation to partially lift the embargo against Turkey. It was our hope then that such action would encourage Turkey to reach a settlement. This has not happened, despite military sales to Turkey in the approximate sum of $425 million during the past 3 years.

Now, we are being asked to fully repeal the embargo despite the lack of any substantial progress toward a settlement on Cyprus. We are being asked to repeal the embargo despite the fact that Turkey remains in violation of several of our laws and agreements arising out of its invasion and occupation of Cyprus. We are asked to repeal the embargo despite the fact that it has never actually been given a chance to work. I remain convinced that the effective use of the embargo represents the best leverage for settling the Cyprus question and restoring the full rights to the more than 200,000 refugees now living there.

By opposing this effort to lift the embargo, I am not seeking to punish or to discriminate against Turkey and in no way am I questioning Turkey's strategic importance or association with NATO. What I am seeking, however, is that Turkey live up to the responsibilities required of all good allies and partners in NATO and in the defense of the free world. By removing this embargo, we will be removing the major incentive for Turkey to respond.

Accordingly I urge my colleagues in the interest of seeking a resolution of the Cyprus problem to reconsider the action taken by the Committee on International Relations and vote to retain the arms embargo against Turkey.

Mr. FINDLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I hope very much that we will raise this embargo.

We have heard excellent speeches on both sides today from sober and responsible people wrestling with a very difficult problem. I do not think it is useful to accuse Members of personal bias or hypocrisy. I think we are far beyond that here.

We have an embargo that is, according to those who would keep it, a sham, but they are unwilling to let go of it. We have here a status quo that is agony, according to those who would keep the status quo. We have here a system under which we have operated now under two administrations of two different parties which has led to 20 violations.

We know that we do not impose an embargo on all countries, because 20 times our arms have been used in ways that are contrary to the prescription, and we have done nothing.

Why are we now suddenly descending on the Turks? I have no particular brief for Turkey. Greece is the country I love best. I have been there 18 times, and I have never been to Turkey. I have studied Greek philosophy and Greek plays. We are all heirs of the Greeks.

But that does not mean that we can let our hearts and our whole inclination rule us when we are trying to deal with the welfare of our country and the peace of the world.

As we look around the Mediterranean. what is happening? We see new troubles in Portugal. Spain is not yet fully settled after a long and difficult dictatorship. We see Italy with grave political problems. We see Yugoslavia ruled by an 86-year-old President. Then there is Greece and Turkey. Lebanon is on fire.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

Mr. FINDLEY. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank the gentleman. That will allow me to continue my tour of the Mediterranean.

Mr. DERWINSKI. Mr. Chairman, I yield 3 additional minutes to the gentlewoman from New Jersey (Mrs. FENWICK) so she can do the complete circle.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman.

Mr. ROSENTHAL. Mr. Chairman, will the gentlewoman yield for a question?

Mrs. FENWICK. Yes, of course.

Mr. ROSENTHAL. Mr. Chairman, is the gentlewoman aware that there have been a dozen—and I may be off by one or two in my figures—United Nations resolutions by direct vote of the Security Council in the General Assembly directing Turkey to remove itself from Cyprus?

Mrs. FENWICK. Mr. Chairman, I think those resolutions have been brought to our attention this afternoon. Nobody is denying the situation. The question is: How is it going to be improved?

What we have been doing is a sham, according to those who wish to keep the embargo, and it is also useless. Let us just consider what we really should be trying to do. I say to the Members, those of us who have particular attachments to one country or the other—and I have confessed my own—that we are trying to deal with the safety and security of our country and with the peace of the world. The Mediterranean cannot be just left to go off by itself without our allies in full cooperation with us.

To continue the tour of the Mediterranean, we come to Egypt, with its economic problems. Then we look at Lebanon and Israel, which is only stable, but under great pressure. Then we have Algeria and Lybia, which are certainly not commanded by two of the most stable statesmen in the world.

Then we see Tunisia, with a fine President now very old. Then we come to Morocco and the Atlantic ocean, and we have made the whole tour of a desperately difficult part of the world—a part of the world which may get us all involved in some hideous conflagration.

Why do the Members suppose two administrations of different parties have been opposing the embargo? Not because they have any fancy ideas, but because they are concerned about the security of our country and the defense of the whole Mediterranean.

Mr. ROSENTHAL. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. ROSENTHAL. I thank the gentlewoman for yielding.

The previous administrations, the Nixon and Ford administrations, for 7 years supported the military junta in Greece, over my objections, over the objections of the gentleman from Florida (Mr. FASCELL), and over the objections of the gentleman from Indiana (Mr. BRADEMAS).

Mrs. FENWICK. Mr. Chairman, if I may take back my time, we are not talking about 7 years. We are talking about the efforts to lift the embargo, and we are talking about the embargo. We are not talking about the previous 7 years.

Mr. ROSENTHAL. I am talking about administration policy.

Mrs. FENWICK. I thank the gentleman for his comment, but there is no use of bringing in more than we are talking about. This issue is not easy for anybody. That is all I am trying to say. We must not impugn each other's motives.

Mr. FINDLEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, much has been properly made today of the rule of law, and there could hardly be a more appropriate place for that expression to be made than in this Chamber. That is what our society is all about. And yet I think all of us believe that punishment should fit the crime, and we should all recognize that Turkey has been punished very severely for whatever infraction of the law was undertaken in its placement of troops on Cyprus. But we ought to keep in mind several other things, and one of them is that we have been very selective about our application of this particular law. We have seen fit to punish just one nation, and yet there is a long list of nations which, in 26 instances, according to a Library of Congress study, have misused U.S.-supplied arms.

The gentleman from New York (Mr. ROSENTHAL) is on the Committee on International Relations. He is privy to classified documents which give the chapter and verse of violations of recent date. And yet only one nation, namely, Turkey, has been singled out for punishment.

So we have been selective in our application of the rule of law. We have neither applied the rule of law nor considered justice.

The other thing I think we ought to keep in mind is that Turkey believed it was acting in compliance with international law when it moved on Cyprus in 1974. The Prime Minister was Mr. Ecevit. In fact, he made a trip to London to con-

sult with the Government of Great Britain, a 1960 treaty guarantor power on Cyprus according to Turkey's treaty violations.

We ought to keep in mind that Ecevit thought he was acting in compliance with international law when he moved troops on the shores of Cyprus.

Mr. FASCELL. Mr. Chairman, I yield whatever time I have remaining to the distinguished gentleman from Indiana (Mr. BRADEMAS).

The CHAIRMAN. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 7 minutes.

Mr. BRADEMAS. Mr. Chairman, 7 years ago I testified before the House Foreign Affairs Committee in strong opposition to the policy of the administration in supplying U.S. arms to the military dictatorship in Greece. The reason I did so is because I thought that that policy was profoundly hostile to the interests of the West, hostile to NATO, and hostile to the national interest of the United States. But the Department of State at that time, the administration at that time, argued, "Oh, we have to give arms to the Greek military dictators although they torture and put their political enemies in jail, because, of course, we need them for NATO."

I think that the folly of that policy followed by the then administration has been clear for all to see. But the same kind of argument is being used by the present administration today. For, Mr. Chairman, there seems to be very little disagreement, certainly on the part of the executive branch, no disagreement, that the Government of Turkey violated its bilateral agreements with the United States and provisions of American law in invading and occupying 4 years ago next month, the month of August, some 40 percent of the Island of Cyprus, an independent, sovereign republic, throwing some 200,000 Cypriot citizens into refuge status.

In spite of all of these facts, Mr. Chairman, the administration today still insists that it is important that we continue to supply arms to the Government of Turkey because of the importance of NATO.

However, NATO is not what this argument is all about, Mr. Chairman. This argument is about a fundamental principle of American law, a fundamental principle of American foreign policy, namely, that arms supplied to other countries by the United States are not to be used for aggressive purposes.

Despite the representations that have been made by some speakers here today, we have not used the argument that maintaining the embargo will produce a settlement and that this is the reason Congress imposed the embargo. We imposed the embargo because the executive branch of the Government of the United States refused, and willfully refused, to enforce the laws of the land.

Mr. Chairman, I would remind my good friend, the gentleman from Illinois (Mr FINDLEY), that it is just not accurate for him to have said or to have suggested or to have implied that the Government of Great Britain gave approval to the Government of Turkey to invade the Island of Cyprus.

The fact of the matter is that there were two invasions of Cyprus by Turkish forces, one in July, to which no objection was entered by Congress; and another in August 1974, when Turkish forces invaded and occupied 40 percent of Cyprus at a time when peace talks, which included the British, were being held in Geneva.

In the light of these facts, Mr. Chairman, it is extraordinary that the administration has engaged in a massive lobbying effort not to persude the Government of Turkey to redresss the wrong which almost everyone acknowledges that it committed on the Island of Cyprus in August of 1974; but, rather, to persuade the Congress of the United States to abandon our law, to abandon principle.

It has been said, Mr. Chairman, that we have really not been responsive here in Congress to the impasse which has taken place on the island of Cyprus. However, as the gentleman from New York (Mr. ROSENTHAL) has already pointed out, Congress has made effort after effort, after effort to induce the Government of Turkey to respond with concrete actions on Cyprus.

Mr. Chairman, I cite two instances: Congress agreed to a 40-percent increase in the level of foreign military sales to Turkey from fiscal year 1977 to 1978. Yet the Government of Turkey did not move 1 inch on the Island. And then the President of the United States, Mr. Carter, made a complete reversal of his policy during the 1976 campaign, namely, that of linking a resumption of a full arms relationship with Turkey to a just settlement on Cyprus.

What was the response of the Government of Turkey to this change of policy? Nothing. The Government of Turkey did not move 1 inch. Yet, if the administration spent as much time and energy, Mr. Chairman, in trying to get Turkey to take some concrete action on Cyprus as it has in trying to win a victory over Congress and trying to persuade us to abandon our historical principles and the law of our land, we would have had a settlement of this problem a long time ago.

Mr. Chairman, there is one other point I would like to make. Again and again I have heard it argued that we have tried the embargo and it has not worked. However, that is just not true. Officials of this administration, even at a time when the President of the United States was maintaining fidelity to his campaign promise that he would link a resumption of full arms sales to Turkey to a just settlement on Cyprus, in instance after instance, undermined the effectiveness of the embargo. Out of the sides of their mouths, as it were, these administration officials, by their actions, said to the Government of Turkey, "Don't worry about the embargo. We do not really take it seriously."

Why do I say that? The U.S. Ambassador to Ankara, who has been roaming the halls of Capitol Hill, some months ago, early this year, went on Radio Ankara and did an interview in which he attacked the policy of the President of the United States, at least the policy as it was then. The American Ambassador to Turkey attacked the Congress of the United States for having written the embargo into law, and said that he hoped that a way could be found to circumvent the law.

That interview was a direct signal to the government of Turkey not to take seriously either the then policy of the President or the law passed by the Congress of the United States.

Again, the administration, despite its statements in support of the rule of law, allowed the use of a little-known NATO agency located in Luxembourg called NAMSA as a funnel through which to launder money, to circumvent the statute passed by Congress in order to get money for arms to Turkey. The administration, as the gentlewoman from Maryland has made clear, despite its reiterated pronouncements on the importance of human rights as a new dimension in American foreign policy, is turning a blind eye—a blind eye—to the continuing massive, ongoing violations on the island of Cyprus where 200,000 people—200,000 people—are refugees from their homes. To give the Members an idea, Mr. Chairman, if there were that proportion of refugees in our country, that would be 75 million Americans driven from their homes, still not able to return to their homes.

I hope, Mr. Chairman, that we will remain faithful to our principles, faithful to the rule of law and that we will maintain the embargo.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. DERWINSKI. Mr. Chairman, I yield 1 minute to the distinguished majority whip.

Mr. BRADEMAS. I thank my colleague and friend from Illinois.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of continuing the embargo on weapons to Turkey. Our national policy as legislated by Congress some years ago is that we not send weapons to countries for any other reason than self-defense or collective security. This is no time to retreat from the sound policy of not providing weapons to our friends to kill each other.

Mr. BRADEMAS. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, in the spirit of bipartisanship I yield 3 minutes to the distinguished gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding to me. I would like to associate myself with the remarks of our distinguished colleague, the gentleman from Indiana (Mr. BRADEMAS).

The proponents of lifting this embargo keep citing General Haig. I mean, who is General Haig? He was nobody until Henry Kissinger, the architect of this corrupt policy of not having the embargo, plucked him from someplace, and he ended up being the head of NATO after he was Nixon's last chief of staff. So, I think he has got a vested interest in what the program used to be and what brought about the embargo. I think we should take his words accordingly.

Second, it was stated that Turkey—and I do not know this to be a fact, but certainly some people believe that they have seen chickens with lips—but Turkey is one of the oldest democracies in the developing world. The developing world, I thought, was made up of colonies, and to call Turkey either a long democracy or to call it part of the developing world when it was really the center of the Ottoman Empire kind of defies description.

The embargo is very simple, and we would not have to go through this charade, because the President can certify to Congress that Turkey is observing the American laws. We are a society of laws and not men, although sometimes people forget that.

He can certify that there is substantial progress toward a settlement in Cyprus, and that is all it takes. What we are saying to those who want to lift the embargo is that they do not care whether or not the laws of this land are observed, and they do not care if there is substantial progress toward a settlement on Cyprus, because if these two conditions were met, the embargo would automatically be lifted, because the President could make a certification.

That is really what it is about. It is very simple.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, the gentleman is absolutely correct. I just want to read this, so that we can be absolutely accurate. It says:

All military assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Turkey, shall be suspended on the data of enactment of this subsection unless and until the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, 497 and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus:

If the President felt that Turkey was in compliance with the law and that they had in good faith made progress toward withdrawing forces, he could then lift this embargo. Why does he not do it?

Mr. JOHN L. BURTON. I do not know. I would say to those who are worried about the fact that somehow Turkey is going to leave NATO, I do not know anybody who has reason to be more concerned about the Soviets than Turkey. Certainly, Turkey is not going to join the Warsaw Pact.

That Turkey may go neutral, God forbid that anybody in the world becomes a neutral. But, the most important thing is that all they have to do is observe the law of this Congress and this country, and the conditions upon which they get their arms, and have significant progress toward settling the Cyprus situation. I think they ought to do that, and I think the embargo should be maintained until they do that.

If we cannot do that, let us just repeal all of our laws, because it just does not make any sense to have somebody obey the law if somebody else says it is a bad idea that one should obey a law of the United States.

I thank my friend, the gentleman from the great State of Illinois, for yielding.

Mr. FINDLEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, my good friend, the gentleman from Illinois (Mr. BRADEMAS), recalled the days of the Papadopoulos regime in Greece when he and I both opposed military assistance to that regime, but his point really proves the point I was trying to make earlier: How selective we are in applying our rule of law.

Here Greece was in the firm control of a dictatorship and the party of the gentleman from Illinois was in control of Congress. Yet good reason did not prevail and we did not shut down military assistance to that regime. I regret it. I am sure the gentleman does.

The gentleman from Indiana in a recent newsletter, his newsletter No. 4, relates to congressional action and Turkish actions in negotiations on Cyprus. And the column on Turkish action lists nothing but no response. But curiously, the timetable ends with April 1977, which of course means he did not need to list the detailed proposals on Cyprus tabled April 13 which U.N. Secretary General Waldheim termed "substantial and concrete," and the further elaboration of these proposals made by the Turks and Turkish Cypriots on May 22, and the Turkish offer of July 20 to turn an interim administration was proposed for Varosha over to the United Nations and permit 35,000 Greek Cypriots to return to Varosha. Also, more than 2,000 troops have been withdrawn since April. Curiously the information in the newsletter was silent on these very important steps taken. Yet, now the Greek Cypriots have responded to the Turkish proposals, have made a counter offer. If agreement on Varosha can be reached and it looks as though it will be, we will have real momentum developing toward a Cyprus settlement.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield the balance of my time to my friend, the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Chairman, the reason I did not list those various instances the gentleman cites is that the highest officials of the executive branch, and I do not want to embarrass them by citing their names in public, have told me that these so-called Turkish proposals cannot be taken seriously.

Mr. FINDLEY. But why is the gentleman requiring ironclad promises from the Turkish side?

Mr. BRADEMAS. Will the gentleman let me respond?

Even the highest officials of the executive branch of the United States regard those instances as cosmetic, as transparent, as disappointing.

As I said earlier, we are not asking promises from the Turkish side but concrete actions on Cyprus.

Mr. DERWINSKI. Mr. Chairman, I yield myself 1½ minutes at this time.

First, I want to say to my friend, the gentleman from Illinois (Mr. FINDLEY), that I consider him to be one of the great agricultural experts in the House of Representatives.

Now, to get back to foreign policy, the facts are as the gentleman from Indiana mentioned, that the withdrawal of 2,500 Turkish troops is merely a gesture. It is not a significant adjustment. The reason is that the Greek Cypriot forces are not capable of any offensive military action. The Turks could withdraw 10,000 and it would not endanger their military control.

Second, Verusha is a small piece of real estate.

Famagusta is the major port and major city and also a great resort center and that would be a major concession if the Turks withdrew.

Last, but not least, I would like to point out to the Members, that in 1967 the junta took over in Greece, because of possible control of the government by Mr. Andreas Papandreou. That gentleman is still in Greece today as a leader of the minority party. If there is a sudden adjustment in U.S. policy, it could very well precipitate a political situation such as that which existed in Greece in 1967. Greece as an historic ally deserves better understanding from the United States.

Mr. Chairman, I reserve the balance of my time.

Mr. ZABLOCKI. Mr. Chairman, would the gentleman from Illinois yield me the balance of his time?

The CHAIRMAN. Would the gentleman from Illinois (Mr. DERWINSKI) yield his remaining 1 minute to the gentleman from Wisconsin?

Mr. DERWINSKI. Mr. Chairman, I yield the remainder of my time to the chairman, the gentleman from Wisconsin (Mr. ZABLOCKI), if the gentleman promises not to misuse it.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI) for 2 minutes.

Mr. ZABLOCKI. Mr. Chairman, at the outset let me sincerely and deeply thank my colleague, the gentleman from Illinois (Mr. DERWINSKI) for yielding me this time.

In closing the debate, Mr. Chairman, I would specifically like to address myself to those of our colleagues who have voted for the embargo and who now are considering changing their vote.

The decision to change is never easy. But rarely has change been so urgently required as it is today on the question of lifting the Turkish arms embargo. It is needed not only in the interests of U.S. and NATO security needs, but also in order to facilitate genuine movement toward a solution on Cyprus.

The House must decide today whether it wants to cast yet another vote on retaining the embargo or whether it is instead prepared, in the light of fact and logic, to embark on a more hopeful, commonsense, and promising course.

Our debate today is of overriding importance and great historical consequence. Let us then begin this debate by ridding ourselves of the false choices which have paralyzed decision for so long.

These false choices are: First, that we must either vote for the rule of law or else abandon a foreign policy based on principle; second, that we must vote either for Turkey or against Greece, and third, that we must vote either to retain leverage over a Cyprus settlement or else throw such leverage irretrievably away.

Once we have rid ourselves of these erroneous assumptions and come to understand the facts, it will be easier for us to set our policy on a saner course; it will also be easier to see the real risks which we would incur by remaining on our present one.

SECURITY VERSUS RULE OF THE LAW

Let us first examine the argument that by lifting the embargo on Turkey we would be putting security interests in front of U.S. legal principles and moral aims. This argument disserves the truth.

To begin with, the rule of law has been upheld. Punishments derive their validity from the fact that they have been applied—not that they are everlasting. This sanction has been in effect for nearly 4 years. By the evidence of all responsible observers, it has crippled Turkey's military capability. For example, Turkish air and armor are reportedly at only 50 percent operability, forcing units to resort to existing equipment for most of their spare parts and replacements. Overall, the general readiness of Turkey has declined even below the point formally permitted by NATO rules.

To argue in the light of this that the rule of law was undermined because some aid reached Turkey indirectly by means of a common NATO supply, is to suggest that in addition to a fine and jail, the prisoner must also be starved.

Obviously, U.S. security interests figure in this decision in a most important way. But proponents of retaining the embargo say you must choose between these interests and higher principles. In doing so they imply that our strategic objectives are devoid of all moral content and therefore less worthy of respect. In point of fact, U.S. and NATO security interests serve the broadest moral requirement of all: namely, to preserve the liberty and independence from which the rule of law itself flows.

GREECE VERSUS TURKEY

Let us take a look at false choice No. 2: That lifting the embargo is a vote for Turkey and against Greece. This, too, is simply wrong. The fact is that a vote to lift the embargo is really a vote to assure that the best long-term interests of Greece are fully protected. The problem is that these interests are not always immediately discernible, obscured as they are by an emotionalism as intense as it is understandable.

Whether or not it is willing to admit it, Greece needs Turkey, just as the United States needs the friendship of both. Greece needs Turkey as an active partner in NATO and as a committed member of the West. Without Turkey, Greece would be completely isolated by Communist States and members of the Warsaw Pact. It would be cut adrift in a lonely and vulnerable corner of the Mediterranean and susceptible to serious pressures. Without Turkish help a credible Western defense of Greece would be almost impossible since Soviet troops and supplies would be able to move swiftly across the Black Sea.

Moreover, Greece stands to profit, not lose, from the restoration of sound United States-Turkish ties. Even proponents of the embargo concede that U.S. influence has been crucial several times before in preventing armed hostilities on Cyprus—at time of wrongs against the Turkish Cypriot population. The United States failed in this regard only once, when warnings were too feeble and too late and when our diplomatic attention was diverted elsewhere. The point, of course, is that when U.S. ties with Turkey are firm, the prospects for stability are increased, and from this Greece is best served.

Finally, if Turkey were to drift away from the West and to take its bearings increasingly from the neutralist or even radical camps, Greek-Turkish bilateral difference would become more acute. Does it make sense, is it in U.S. interests to let this alienation become ever more likely, by retaining the embargo?

RETAINING LEVERAGE OR THROWING IT AWAY

This brings us to the third and final false choice: That we can either lift the embargo and lose our leverage over a Cyprus settlement, or retain the embargo so as to prod Turkey toward settlement.

This, too, is simply wrong. We have little leverage now, and will surely have less for each month the embargo remains in effect. The political dynamics in Turkey would promptly vote out any government that succumbed to the embargo.

Nor can we expect negotiating flexibility from those Greek Cypriots who mistakenly see the embargo as the key to unilateral Turkish concessions. The result is a vicious circle, a stalemate, and a progressive poisoning of the processes of peace.

Now it happens that Turkey has very real and natural incentives of its own for wanting to reach a settlement on Cyprus. The high cost of stationing troops on the island is an added burden to Turkey's pressing economic problems. But these domestic incentives for peace are buried for the moment under layers of bitterness brought about by our well-intentioned but decidedly out-lived punishment of the Turkish Government.

It is time to realize that the purpose of the embargo has been served. It is time to realize that its extension would only result in greater antagonism, a lessening of NATO capability, and a further erosion of the U.S. position in the eastern Mediterranean.

It has been said of course that the President has changed his position on this issue, as if that alone were an argument against lifting the embargo. Years ago, Winston Churchill addressed similar criticism by saying:

> The only way a man can remain consistent amid changing circumstances is to change with them while preserving the same dominating purpose.

The dominating purpose today is as it was 4 years ago. To promote peace and stability among our friends on NATO's southern frontier, and to secure the best interests of the United States.

If men like President Jimmy Carter, Secretary of State Cyrus Vance, and special adviser to the President on this issue, Clark Clifford, have come to change their point of view, one ought to wonder why. The answer comes back like a shot:

Because the times have changed.

Because the threat to NATO's security has increased.

And because the embargo has choked off the natural incentives for settlement on the island of Cyprus.

We too must face this same set of facts as we cast and justify our vote today. In their light the false choices of political rhetoric and the understandable urgings of the past must inevitably pale.

Mr. STRATTON. Mr. Chairman, I am disturbed by the impact of section 19 in this bill—dealing with the transfer of U.S. military equipment to the Republic of Korea—and intend to offer an amendment to this section at the proper time. My amendment has been included today in the CONGRESSIONAL RECORD.

Let me explain the background of this issue and the rationale for my amendment to my colleagues, so as to solicit their support for it.

Shortly after he took office in January 1977, President Carter ordered the withdrawal of all U.S. ground forces from South Korea over a 5-year period. He made that decision in spite of the fact that the Joint Chiefs of Staff strongly disagreed; and that virtually all U.S. officials in Korea, military and diplomatic (including General Singlaub), believed that withdrawing the U.S. Second Division would definitely increase the risk of war in Asia.

The Investigations Subcommittee of the House Armed Services Committee, of which I am chairman and which visited Korea and its Asian neighbors last January, concluded:

> All of the testimony presented to the subcommittee agrees that the presence of U.S. forces in Korea, particularly U.S. ground forces, has been the single most important factor in preventing the outbreak of a new war in Korea . . . (The) deterrent capability of these U.S. ground forces . . . is not based exclusively on (their) combat capability. It also involves a very significant psychological deterrent.

Earlier this year Senator GLENN and the late Senator Hubert Humphrey issued a Senate Foreign Relations Committee report which expressed similar concern over the withdrawal decision, and urged going very slowly and carefully.

Yet Congress has still taken no formal action to assert its right to a say in the making of this most important decision—one that could conceivably lead to a new war in Asia.

Section 19 of the foreign aid authorization bill, which is up today and tomorrow, represents an effort to get congressional approval now for the withdrawal of all 32,000 U.S. ground troops

through 1983, and without any provision for phased congressional review and decision.

I believe it would be a serious dereliction of duty for the House automatically to grant the President a blank check on this whole withdrawal, without insisting on further periodic congressional review and restraint.

Last week the Senate added an amendment to its own version of the same bill, offered by Senator PERCY and NUNN, that "It is the sense of Congress that further withdrawal of U.S. ground forces from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress. Prior to any further withdrawal the President should report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea * * *" and on a detailed list of other important strategic questions.

I share the Senate's concern. But if it is to mean anything more than words Congress cannot grant authority for the complete pullout on this same bill.

Section 19 of the present bill would authorize the President to transfer to the Republic of Korea all $800 million worth of the combat equipment of the U.S. Second Infantry Division and its associated support units between now and December 31, 1982, as these 32,000 troops are withdrawn over a 5-year period. If section 19 becomes law as it stands, Congress will have lost all meaningful say in the matter of further withdrawals. The Percy-Nunn amendment would become a nullity.

So I will seek to amend section 19 by reducing the equipment transfer authority from $800 to $90 million—which is enough to cover the equipment associated with the first 6,000 troops originally scheduled for withdrawal by President Carter.

Before the President could get further transfer authority, however, he would have to present to Congress all the extensive military assessments called for in the Percy-Nunn amendment.

Mr. Chairman, this is a most important amendment. It does not interfere with the President's authority. It simply recognizes that Congress must have a legitimate, coordinate share in any action that might involve one of Congress most important responsibilities—the warmaking power.

I urge my colleagues to support this amendment.

The CHAIRMAN. All time has expired.

Mr. ZABLOCKI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12514) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes had come to no resolution thereon.

## PERMISSION TO FILE CONFERENCE REPORT ON H.R. 10929, DEFENSE DEPARTMENT PROCUREMENT AUTHORIZATION, 1979

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Monday, July 31, 1978, to file a conference report on the bill (H.R. 10929) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to announce that we are going to take up the bill H.R. 12931, foreign assistance appropriations for 1979. We expect to finish debate on that legislation. We will rise when we have finished the general debate, or at 7 p.m.

## FOREIGN AID APPROPRIATIONS

Mr. LONG of Maryland. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Florida (Mr. YOUNG) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Maryland.

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Texas (Mr. KAZEN) as Chairman of the Committee of the Whole House and requests the gentleman from Washington (Mr. FOLEY) to assume the Chair temporarily.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12931, with Mr. FOLEY (Chairman pro tempore) in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the unanimous-consent agreement, the gentleman from Maryland (Mr. LONG) will be recognized for 1 hour and the gentleman from Florida (Mr. YOUNG) will be recognized for 1 hour.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I submit for your consideration today the foreign assistance and related programs appropriation bill for fiscal year 1979.

Congressman BILL YOUNG of Florida, the capable and hard-working ranking member, has spent many hours asking probing questions and conducting outside research and study. DAVID OBEY, CHARLES WILSON, SIDNEY YATES, YVONNE BURKE, MATT MCHUGH, ED ROYBAL, LOUIS STOKES, SILVIO CONTE and VIRGINIA SMITH have all made valuable contributions to this year's bill. In the main, we agreed more often than not.

Let me make it clear that I support foreign aid if properly administered and that my chief desire is first to reform foreign aid to bring it closer to doing what it has always claimed to do—help the really poor people; and second, to put the bill in a form that will enable it to pass the House.

The foreign assistance appropriation bill is an omnibus bill. The committee recommends a total appropriation of $7 billion, 353 million, an increased of $614 million above fiscal year 1978. The largest part of the increase being attributed to the international financial institutions. The committee recommendation provides for a $702 million increase for the IFI's over the fiscal year 1978 appropriation level. Because increases of this size will hardly be acceptable to the House, I shall offer an amendment, cosponsored by Representative CLARENCE MILLER of Ohio, to reduce the proposed funding for the Inter-American Development Bank (IDB), and the International Development Association (IDA), to a figure which represents an increase closer to that in the rest of the foreign aid program and closer to the percentage increases in domestic programs, such as social security, defense, public works, veterans, and community development. If this amendment to reduce IDB and IDA by $584 million is accepted, I believe we shall have a foreign aid appropriation bill that the House can support and I urge the House to pass this bill after these reductions are made. Needless to say, I shall support the bill, whether or not the Long-Miller amendment passes.

Mr. Chairman, I support foreign aid that is directed to the really poor people in poor countries, and not to rich people in poor countries, for some of the richest people in the world are found in poor countries. I see no justification in taking money from poor people in rich countries and giving it to rich people in poor countries, with the idea of letting the poor scramble for the scraps that may fall off the banquet table. Because of Congress redirection of our bilateral

aid program and because of the Agency for International Development's (AID) willingness to refashion its programs away from a heavy capital approach and toward light capital technology, I have supported increases in funding for AID's development assistance accounts of 25 percent over fiscal year 1978 appropriation levels. Our main objective is to redirect foreign aid, to make it do what it has always claimed to do—help the poor to a better life and help them moreover to help themselves. Some success toward this end is being achieved by our bilateral aid program under the able direction of John Gilligan, who has displayed a willingness to cooperate with this committee in making foreign aid do a better job than it has in the past. If the House supports our efforts to reduce funding to the multilateral banks until they recase their aid programs and become more accountable to the U.S. Congress, we could have a better chance of success of making them do in fact what they have claimed to have been doing.

A selective reduction such as the Long-Miller amendment proposes is better than a meat-axe reduction which hurt good programs such as agriculture, rural development, nutrition, population control, health, education, schools and hospitals abroad, disaster assistance, refugee relief, Peace Corps, support for Israel, Africa, and Greece. If the Long-Miller amendment to reduce the international banks is accepted, Mr. Miller will not offer an amendment to apply an across-the-board reduction.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, does the gentleman have an explanation as to whether or not someone else might offer that amendment, if the gentleman from Ohio (Mr. MILLER) did not?

Mr. LONG of Maryland. I have talked to a lot of people on the minority side and I have found nobody that intends to offer the amendment but if anybody does we would have to deal with it at that time.

Mr. CHARLES WILSON of Texas. Has the gentleman talked to the gentleman from Maryland, for instance, who might offer the amendment?

Mr. LONG of Maryland. Mr. Chairman, I have no reason to go into this matter at this time. I would like to finish my statement.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I thank the gentleman.

Mr. LONG of Maryland. Mr. Chairman, important subjects are addressed in the report. Funds are being channeled into areas of light capital technology with the aim of more directly helping the poor and encouraging more self-development, at less cost to the U.S. taxpayer. Improving the quality of life of the 1 to 2 billion poor in the developing world is far beyond the resources of the United States even when aided by other developed nations.

Helping the vast majority of the world's poor must be primarily an undertaking of self-help, in which we can show the way, hopefully in the right direction.

The committee recommends $3.8 billion for activities carried under title I of this bill which includes the basic economic and military assistance programs.

The United States has a vital stake in a Middle East peace and the committee recommends the continued funding of the various Middle East programs which amount to about $2.3 billion of the total bill. This represents no increase in funding for the Middle East programs over fiscal year 1978.

Under title II, the committee recommends an appropriation of $648 million for military credit sales. The committee also addressed the desirability of the administration reducing the amount of U.S. arms sold around the world and we hope international negotiations will be undertaken by the major arms suppliers to discuss a coordinated effort for reducing worldwide arms sales.

The committee markup recommended $2,628 million for the six international financial institutions requesting funding in fiscal year 1979. This recommendation is $702 million above the previous fiscal year appropriation. The Long-Miller amendment would reduce funding of IDB and IDA to a combined level that would still be the highest in the history of the banks and which will still represent a bigger percentage increase, plus 14 percent, than the President's budget allowed for major domestic programs, such as social security, plus 13 percent, energy, plus 12 percent, national defense, plus 9 percent, veterans, 0, public works, minus 11 percent, and community and regional development, minus 11 percent.

The committee recommends the full limitations on the use of corporate funds for the Export-Import Bank of $5.4 billion.

The committee also expressed its concern over human rights. This year the committee is recommending that reductions be made in the military assistance, but that no countries be named in the bill and that instead an illustrative list accompanied by a general statement be included in the report—page 9. So many countries have perceived human rights violations, and the situation is capable of changing so fast, that the committee felt that this approach would be prudent and reasonable.

The committee recommends that the bill retain the prohibitions against direct aid to Vietnam, Cambodia, Laos, Uganda, Mozambique, Angola, and Cuba, both for human rights reasons and because Congress has expressed its disapproval of these dictatorships, both left wing and right wing.

Last is the issue dealing with commodities which our foreign aid is subsidizing overseas in competition with U.S. products. The Members may want to read sections 508 to 509 on pages 22 and 23 of the bill. Language in section 508 would prohibit direct foreign aid, as well as the Export-Import Bank, and the Overseas Private Investment Corp. from assisting in the establishment or expansion of production of any commodity for export which is in surplus on the world markets and which would cause substantial injury to U.S. producers of the same or similar commodity. Section 509 directs the Secretary of the Treasury to instruct the U.S. Executive Directors of the various IFI's to use the voice and vote of the United States to oppose any assistance by these institutions for the production of any commodity for export which is in surplus on the world market and which would cause substantial injury to U.S. producers of the same or similar commodity.

Mr. Chairman, I especially support foreign aid that is directed at really poor people in poor countries. Because of Congress redirection of our bilateral aid program, I have supported increases in funding for the Agency for International Development's (AID) development assistance accounts of 25 percent over fiscal year 1978 appropriation levels—from $931 million in fiscal year 1978 to $1,160 million in fiscal year 1979. AID has shown a willingness to fashion away from a heavy capital, trickle-down approach and toward a light capital technology, bottom-up approach that will enable the poor people to improve their own lives by marshaling their own sweat capital and their own money capital and with a minimum of outside help.

Foreign aid must be redirected. Aid-giving countries, especially the United States, suffer an acute shortage of capital. The developing countries, to help any considerable proportion of their poor, must stretch their own capital and their aid from us over as many people as possible. The greatest resource of poor nations is the underutilized labor time of their people, what I call sweat capital. In addition, there are in poor nations scattered money savings that are not now available for development because the poor peasants do not feel they can deposit their savings in confidence and not lose their money through embezzlement, mishandling, or inflation. To continue with past development strategies that emphasize large amounts of capital per worker would mean that only a small percentage of the world's poor would be helped, with the great majority of the poor getting nothing.

What I am trying to accomplish is the redirection of foreign aid, away from heavy capital, prestige projects that benefit the rich and well-to-do, toward light capital, self-help projects that reach the really poor people. To achieve this redirection, I have done the following:

Strongly supported from the beginning the Appropriate Technology, International (ATI), a private organization set up by Congress to help poor countries develop their own light capital technologies.

Initiated with AID a program, now being designed, to reach two-thirds of all small and poor farmers in Honduras over the next 5 years with light capital technologies. This program will be studied by a large number of Latin American nations to see what works and what does not work.

Persuaded AID to undertake a feasibility study to examine the possibility for a worldwide information system on light capital technologies so that experts in the field can have a choice of

the best light capital solution to particular problems.

Prompted AID to develop low-cost methods of delivering new methods to illiterate small farmers. One possibility that AID is exploring is the use of instructional pamphlets consisting wholly of pictures.

Had enacted into law an amendment requiring the United States to place "important emphasis" on light capital technologies in preparing for and participating in the U.N. Conference on Science and Technology for Development.

Had enacted into law two amendments requiring the United States to "promote the development and utilization of light capital technologies—as major facets" of the multilateral development banks' development strategies.

Had accepted by the House an amendment to the Humphrey-Hawkins Full Employment Act requiring the President to utilize light capital technologies in implementing employment policies and programs of the act. U.S. emphasis on light capital technologies for domestic projects will help show developing countries that there is nothing "obsolete" or "second-class" about such technology.

Instrumental in obtaining funds in fiscal year 1978 and fiscal year 1979 for the Department of Energy's program in light capital energy technologies. Although primarily for domestic purposes, this program will be coordinated with U.S. efforts to help developing countries devise alternative energy technologies and will illustrate the need by the most advanced industrialized countries for light capital technologies.

Persuaded AID to shift personnel from Washington to the field, to cut living and operating expenses abroad, and to establish effective accounting procedures.

Through my legislation and funding recommendations, I hope to inspire U.S. leadership to reform the multilateral banks so that these institutions can increasingly help the poor in poor countries. Reforms that I am trying to bring about in the multilateral banks are the following:

The allocation of multilateral bank aid to light capital technology and self-help projects that will really help the poor.

Revision of career incentives for the banks' employees away from merely moving money toward designing and carrying out projects that help the really poor.

Reduction of extravagant salaries, travel practices, and fringe benefits.

Prohibition of aid to countries that are gross human rights violators.

Increased accountability to the U.S. Congress of the multilateral banks' activities and openness of the banks' activities to the public.

Elimination of aid to steel, textile, electronics, sugar, palm oil, citrus, and other industries which this foreign aid subsidy enables foreign producers to compete unfairly with U.S. producers in violation of free enterprise.

My main objective in reforming our foreign aid program is to make it do what it has always claimed to do and that is to help the poor help themselves. Some success toward this end has been achieved by our bilateral air program. I hope the House will support my efforts to reduce funding to the multilateral banks until they reform their aid practices.

Mr. Chairman, that completes my presentation.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it hardly seems a year since we went through this great debate in fiscal year 1978, but it has been a long time and a lot of things have taken place since we began that debate last year.

I want to pay tribute to the chairman of our subcommittee, who has done a remarkable job, especially when one considers the tremendous complexities of this legislation, the fact that there are very few people in the United States who actively support this foreign aid program, and the fact that he presided over a subcommittee that had as many divergent views as it has members.

In addition to the gentleman from Maryland (Mr. LONG), I want to pay tribute to the Members on the majority side, along with the Members on the minority side, the gentleman from Massachusetts (Mr. CONTE), who has been a real assistance to me—his many years of service on this committee have provided him much insight that he has been willing to pass on to me—and the gentlewoman from Nebraska (Mrs. SMITH), a newer member of the subcommittee but also one who has a tremendous interest in this whole question of foreign aid and how it fits into the economy of the United States and how it is received by the people of America. And, Mr. Chairman, we have an outstanding staff on this subcommittee. On the majority side, we have the professional committee staff, with Don Richbourg and Don Denton. On the minority side, we have Jim Fairchild and Jim Conrow. I do not know how Don and Don teamed up with Jim and Jim, but it works out well, and it is a good bipartisan team. There is no partisanship involved in this. They have done a good job for the subcommittee.

Mr. Chairman, as the debate goes on and as we go through the amendment process, I want to get it said for the record early that there are programs in our foreign aid accounts that I think are handled very well and that I think are needed and provide a service for the people they are intended to provide.

Programs, such as family planning, disaster relief programs, the Middle East package for Israel, and the American schools and hospitals abroad are some examples of what I consider to be good foreign aid type programs, and I do not think the general American public would be opposed to them if they fully understood them or if they had an opportunity to know just actually what they included.

It has been one of the big problems with foreign aid that too many people know too little about what is going on in the foreign aid program. I know that my interest was aroused last year when administration officials said that it was their plan to double our foreign aid program, and they said they were going to double it, primarily, through the international financial institutions, like the World Bank, IDA, the Asian Development Bank, and others. As a matter of fact, the U.S. Congress has no control over the way those American dollars are used. I was really concerned when the administration said they were going to double our foreign aid program mostly through the international financial institutions. And I was not the only one who was concerned. Many of my colleagues, those who oppose our foreign aid and those who support our foreign aid, spoke out and indicated that doubling our foreign aid program in a 5-year period was quite a big bite to chew. So the administration officials changed their language from "doubling" the foreign aid to "a substantial increase." At the same time they were talking about the substantial increase, they threw in some new language. They talked about a new international economic system. The things seemed to tie together, but it was hard to get any real answers as to just how they did tie in together. But the question of doubling through the international financial institutions was not so far off. The administration requests for fiscal year 1979 for the international banks was 82 percent larger than the amount appropriated by this Congress for fiscal year 1978. That is almost double that particular part of the program in only 1 year. Because of the action of the subcommittee, that 82-percent increase was reduced considerably, but as of today it is still a 36-percent increase over the amount of money appropriated for the IFI's last year, and a 36-percent increase just ain't bad when it comes to spending money.

When this all came about, I asked my colleagues, I asked the news media of this great Nation of ours, I asked the people of this country, the various organizations they belonged to, to engage in a national debate to talk about this foreign aid program, to try to get answers to their questions, to develop information as to what the foreign aid was all about.

Mr. Chairman, we got that national debate. There have been hundreds of newspaper columns, radio and TV comments, and editorials on the subject of foreign aid. I would like to say that they all supported the position that I hold, but they did not. Many of them did, many of them did not.

As a matter of fact, Mr. Chairman, if any of the Members have been reviewing the CONGRESSIONAL RECORD lately, they will see many pages of newspaper editorial comments favorable to the foreign aid program, which have been listed. I would be happy to do the same thing and would provide copies to all of the Members as to the editorials and the comments which have been adverse to our foreign aid policy as it is today; but I do not have the advantage of the State Department's clipping service, and I cannot afford to pay for it myself. Therefore, I do not have copies of all of them. I just have copies of several hundred which were sent to me by interested Americans from many, many parts of this great land of ours.

Mr. Chairman, I will tell the Members one thing that this great debate has done for Members of Congress: We have had more attention from the White House, from the State Department, from the Treasury Department, and more infor-

mation presented to us in "Dear Colleague" letters in the last few months on the subject of foreign aid than ever before. My colleagues have been to the White House for breakfast, for lunch, for buffet suppers, to hear the story of foreign aid.

In the next couple of days, we are going to hear a large story on foreign aid because this is the way I see our foreign aid program. My friends and colleagues, whether you agree with the position I take or not, understand this, that I have spent a lot of time asking questions, seeking out answers, developing opinion. Believe me, whether the Members agree or not, they should at least understand that I do not enter into this debate lightly and without some reason for taking the positions that I do.

Frankly, Mr. Chairman, there is just too much ripoff in our foreign aid program. The $7.3 billion that are to be appropriated by this bill before us here this evening are full of programs which are full of ripoffs. The Members know what a ripoff is. That is where the money that has been appropriated for a specific purpose never accomplishes that purpose.

Mr. Chairman, I would like to call the attention of the House to an international policy report on the question of the foreign aid program in Bangladesh. It talks about a tubewell project. It goes into many specifics, and I am not going to bother the Members with most of them. I just want to report some of the conclusions.

The title of this one paragraph is, "Food Aid—Who gets it?"

The report says:

For nine months in 1975, the authors did research for a book in a village in northwestern Bangladesh. They learned that the supposed beneficiaries of foreign aid, the small farmers and the landless were the last to receive it. While commodity aid did not directly affect them, food and project aid did. Instead of reaching the poor, such aid benefited those who needed it least.

Mr. Chairman, is that what our foreign aid program is supposed to be all about? Our foreign aid program is supposed to help the poorest of the poor. Throughout this debate the Members are going to hear about some amendment that I might offer or which might be offered by the gentleman from Maryland (Mr. LONG), our chairman, or by some other Member, and we will hear arguments that we should not adopt that amendment because this program helps the poorest of the poor.

The problem is that while it is intended to help the poorest of the poor, unfortunately, seldom does that really happen.

Mr. Chairman, let me read another sentence from this same report. These are the same people who spent 9 months in Bangladesh. They say the following:

At first, we were surprised that the beneficiary of the World Bank's aid should be the richest man in our village.

Did the Members hear that? They said:

At first, we were surprised that the beneficiary of the World Banks' aid should be the richest man in our village, but on closer investigation, we learned that this was not so strange.

A foreign expert working on the project told us, "I no longer ask who is getting the well. I know what the answer will be, and I don't want to hear it. One hundred percent of these wells are going to the big boys."

So, when Members hear the talk about this great aid program helping the poorest of the poor, in theory that is great, but in practice that is just not the way it has happened. I have one more paragraph from this report:

The village potentates of northwestern Bangladesh were not the only beneficiaries of the project. Corrupt government officials took their share in the form of sundry bribes and kickbacks. The SIDA evaluation notes that the tubewells provided certain officials with "a source of additional income, as they could protract or expedite matters in the decision-making process relating to the allocation of their tubewells. Most actions or non-actions could (and can) be priced." But the man who appears to have benefited most from the tubewell project is neither a government official nor a village landlord. He is a private businessman named Jahural Islam, reputed to be Bangladesh's richest citizen.

After months of behind-the-scenes maneuverings, the details of which remain shrouded in secrecy, Dacca Fibers won the contract for supply of the pumpsets for the IDA tubewell project.

This is somewhat long and complicated, but bear with me because it is important that the Members know where our dollars are going and who is handling them. I quote further:

In the process, the price tag on the pumpsets jumped to $12 million, although another company had reportedly offered to provide them at the World Bank's original estimate of $9 million.

I cannot understand that. They could have had the tubewell pump sets for $9 million, but when some of the corrupt politicians got through, it jumped to $12 million. What did the World Bank do about this? Nothing. According to a report in the Far Eastern Economic Review, at this point the Dacca staff of the bank urged that the project be postponed. They could not understand the 33-percent increase in price all of a sudden either. They recommended that the project be postponed or canceled altogether, but they were overruled in Washington. In the words of one reporter:

Islam's extra $3 million was easier than robbing a bank.

Members are going to hear more about this tubewell project as we proceed, but I just wanted to take the time to let them hear about this particular ripoff, and the examples go on and on. I will have some amendments that will be aimed at some of these ripoffs. I hope Members will support them. They may or they may not, that is, of course, a decision Members ought to make, and I would never attempt to tell another Member of the House of Representatives how he should or should not vote. I see my role as one of bringing information to the Members upon which they can make their judgment.

Incidentally, while we are talking about this helping the poorest of the poor and this report talked about food, somewhere in the debate Members are going to hear that the gentleman from Florida (Mr. YOUNG) is strangely opposed to feeding hungry children in the world. I read that in some newspaper articles printed in my district, wondering why I was against feeding hungry kids throughout the world. My friends, that is not the case. I am not opposed to feeding hungry children. I do not want to see anybody in this Nation or in any other nation go hungry, but I do not want to see the corrupt politicians getting rich while those poor kids we think we are feeding are not getting any of the benefits.

On that subject, I think Members should know that the legislation we are working on here tonight is not—and I repeat, is not—the food for peace program. This is not the program under which we export millions and millions of dollars worth of food to other countries to feed poor people. That is not what is in this bill at all, despite some of the arguments the Members will undoubtedly hear which would lead them to believe that.

Mr. Chairman, there are many, many other arguments I would like to present here this evening on this overall program. I am not going to use any more time at this point, but as we get to the amending process we will have more comments and facts and figures to bring to the Members. What I present this evening is symbolic, and are some examples of the foreign aid program not working.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend the gentleman for his statement, and also for doing what he has described and stated that he has been doing, namely, bringing information to us, information that is very helpful in making up our minds on how we should vote on these various issues that come before us. I would also like to say that I follow the gentleman's general philosophy about these programs.

I think that much of foreign aid can be and in fact is helpful and beneficial, and that most of us could agree with it and support it. I think it is important, for example, that we maintain the strength of Israel and that we have a strong Middle East program, as this bill does.

I also share with the gentleman his concern and at least to some extent opposition to the huge role we are assigning to the international financial institutions. I think this is where we are really letting down, where we ought to be much more careful, where we ought to have many more guidelines, and where we ought to have a lot more control than we have now.

I think the American people certainly are correct when they criticize us for putting these millions and billions of dollars in these programs over which we have so little and sometimes no control at all.

Mr. Chairman, I appreciate the gentleman yielding.

Mr. YOUNG of Florida. Mr. Chairman, I appreciate the gentleman's comments.

Since he raised that one issue, I would like to read another sentence from a Treasury memorandum that talks about what these programs are all about. The World Bank through the International Development Association, which Members will hear referred to as IDA, is the organization that makes soft loans—soft loans being loans for which there is no interest paid at all, less than 1 percent administrative cost, nothing to be repaid during the first 10 years. Incidentally, they tell us these IDA loans are not in default and most of them are really current. The truth is that most of them are still in the 10-year grace period, so there is no repayment scheduled.

But let me tell the Members what our Treasury Department says about IDA and whether or not in fact it is intended to help the poorest of the poor:

The concessional rate of interest paid to the Development Banks is substantially lower than the interest collected by the DFC's from ultimate borrowers.

We know some of the ultimate borrowers pay as high as 17 percent for what these banks get for practically nothing.

This difference results in a special "benefit" which accrues on these loans.

Obviously there is a benefit if one gets the money for nothing and reloans it for a high interest rate. There is a benefit. No question about that.

IDA and ADF follow the principle that these benefits should accrue to the government concerned.

We just have too many examples of the benefits accruing to the government concerned and never getting to the poorest of the poor that these foreign aid programs are intended to accomplish.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I join the gentleman from California (Mr. LAGOMARSINO) in expressing my personal appreciation to both the gentleman from Florida (Mr. YOUNG) and the gentleman from Maryland (Mr. LONG) for the position they have taken on this legislation. They have not opposed it 100 percent, but it is refreshing to me after 5 years in Congress to see a committee coming forward with positions that are both pro and con on foreign aid but which at least question not only the premise of the foreign aid program but the actual operating details. It is a welcome change from the operation we have had in the past years.

I do not think it is the duty of any committee in the Congress to rubberstamp, a program, no matter how detailed the program is described by the agency that administers it. Certainly our colleague, the gentleman from Florida, Mr. Young, in their "Dear Colleague" letters has brought to our attention a great many details. He has done a service not only to his constituency but also to the entire Congress, as well as the people of the United States. I think the gentleman deserves a great deal of commendation.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for his comment.

I do not particularly relish the role of leading an attack on a program so well established. I would much rather have the administration lobbyist coming into my office and patting me on the back and saying: "You have done a great job."

Rather than what they do say, rather than what they do have other colleagues say in their "Dear Colleague" letters, I would rather have a different role. But if someone does not focus the spotlight and give sufficient attention to this issue, we will double our foreign aid program and still the poorest of the poor will not get the benefits, the rich will continue to get richer, and the poor are still going to be poor, the way it has always been.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding and I commend the gentleman for his well thought out remarks and for his deep concern and consideration as to what happens to our country abroad through the various programs we have established during the years, and I might add that some of them will come back to haunt us a little bit.

Mr. Chairman, it is inevitable that Members of Congress will face problems and difficulties of one degree or another with the U.S. foreign aid program.

I disagree with many of the aid programs included in this bill, and support others.

I believe that most of us agree that it is our responsibility—and in the best interests of the United States—to provide military and economic assistance to allied nations, who support U.S. efforts to promote freedom and oppose Communist totalitarianism throughout the world.

We hope that those nations which receive our assistance will feel a kinship for the United States and its people.

We expect such nations who benefit from U.S. foreign aid to treat us properly and fairly in all our dealings, and to put equity in the forefront of their relationship with the American people.

This principle applies to business relations, when American business people and their companies are involved in contractual agreements to provide goods, technology, and services in foreign countries that receive our assistance, as well as to government-to-government relations.

As Congressman representing the people and companies of Arizona's Fourth Congressional District, I have been involved with the State Department in a problem faced by the Del E. Webb Co. which in 1972 completed construction of the magnificent Tela-La Ceiba Highway in Honduras.

The Del Webb Co. has for 5 years been attempting to settle a claim for cost overruns on the Tela-La Ceiba project, but the claim has previously been rejected by the Government of Honduras.

The Honduran Government is currently reconsidering the Del Webb claim, on the basis of a reduced amount submitted by the U.S. company last November.

I believe that the Government of Honduras is to be commended for its efforts to reconsider this claim, and hopefully to arrive at a negotiated settlement with the Del Webb Co.

Fair and equitable treatment of American companies overseas, that in good faith provide people of foreign nations with the products of American technology and expertise, is an important hallmark of good relations with the United States.

● Mr. SANTINI. Mr. Chairman, during the examination of the foreign aid appropriations, I feel that it is most relevant that my colleagues be aware of a conflict involving the Government of Honduras. This Government will receive $20 million in foreign economic assistance and $2.5 million for military sales credits if our legislative proposals are implemented.

The Del Webb Corp. is an important business contributor to the States of Nevada and Arizona. It is among the top 10 general contractors in the United States. This corporation has been trying for the past 5 years to settle a claim for cost-overruns on the Tela-La Ceiba Highway project. The Webb Corp. has grounded its claim upon these considerations:

First. Approximately 1,800 change orders occurred during the course of constructing the highways.

Second. Extraordinary quantity overruns were experienced—roadway excavations alone show 66 and 37 percent quantity overruns on the two highways.

Third. Shifting of personnel and equipment occurred as required by the supervising engineer, though Webb Corp. believed such changes to have been unreasonable.

Fourth. The highways required an additional 17 months to complete. All requests for extensions of time were granted and no liquidated damages were assessed against Webb.

This claim has been previously rejected by the Honduran Government. The Webb Corp., however, resubmitted its claim on the basis of reducing the settlement by $1 million in November of 1978. The Government of Honduras is currently reconsidering the claim, and it is hoped that it will arrive at a negotiated settlement with the Del Webb Corp.

I cannot interject my judgment on the strengths and weaknesses of this plea. I have been informed, however, that this claim has not received deliberative consideration.

My information is that this sizeable contract obligation has been summarily disregarded in a callous exercise of governmental indifference. I hope this assertion is invalid and that this claimed deficit will receive the balanced consideration that appears warranted by the available facts.

When a government receives so much in the way of help from our Nation, certainly one of our leading corporate entities deserves, at the very least, a fair disposition of its claims.●

Mr. LONG of Maryland. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, while I extend a great deal of credit to the gentleman from Florida (Mr. YOUNG), for the many issues he has raised about this bill, nevertheless, I do not want it thought that this committee has been merely a committee that has rubberstamped what any administration requested in the way of appropriations for foreign aid. Anybody who remembers the long career of Otto Passman knows that there were more than a few questions asked, some of them good and some bad.

I would also point out in my own case that I have only voted for foreign aid in the last 3 years. When I first came to the Congress I came here fully expecting to vote for foreign aid, but when I looked at the specifics of the bills before us in those days I just could not because I thought the programs in many places were misdirected. I thought the investments in many areas were pretty bad. I thought that the aid, in the main, did not get down to the poorest of the poor as both the gentleman from Maryland (Mr. LONG), and the gentleman from Florida (Mr. YOUNG), have indicated. But if you have looked closely at foreign aid, as I have tried to do since I have been a member of this subcommittee, you have to recognize the fact that the direction of our foreign aid program has changed and has changed substantially in the last 3 or 4 years, especially since 1973.

The Members are going to hear a lot of things about this bill today and Wednesday. You will hear that this bill is a huge bill and that we cannot afford it, that we are spending outrageously for the international banks whereas the fact is that this bill, if you look at it in total, above last year's bill by about 9 percent.

That amounts to an inflation factor plus 1 percent. I really do not think that anybody can seriously suggest that this bill, therefore, is a runaway appropriation because the facts just do not bear that out.

Second, this bill has been cut by 13 percent from the administration's request, $1,100,000,000, the largest cut of any appropriation bill this year. And, in fact, the area of the most controversy where attempts will be made to cut the bill even further, has been cut by a larger amount than any other section in the bill.

You are going to hear that this bill is a giveaway program and, therefore, we should not support it. The fact is that that is nonsense. The fact is that 87 percent of our AID program winds up financing purchases of American goods in the good old U.S.A., which benefits American workers, and American business. We do not ship bushel baskets full of dollars across the waters. That is not the way foreign aid works. You give people drawing rights; you give them purchasing rights; and that is what happens. If we are really going to be honest about it, the single biggest beneficiary of foreign aid in the world is the American worker who has a job because of this program, making products or providing services that this program helps facilitate, or the business that does the same thing. We also have to remember that very large amounts of funds contributed by other countries to foreign aid programs wind up being spent in this country, also benefiting our own workers and our own companies. I am, frankly, amazed that that fact gets lost in the shuttle.

Another fact: This bill is $7.3 billion, but the fact is that 10 percent of it, $700 million, is not economic aid at all. It is military assistance, which is related to our own military security in many instances. Twenty-five percent of the bill represents the Middle East security package. That leaves $4.8 billion in economic aid, about 1 percent of the Federal budget. Big deal! One percent of the Federal budget! And 20 percent of that is callable capital only, which means that it will never be put out. It will never contribute to our deficit in any way. That brings it down to $3.8 billion, and of that amount 800,000,000 bucks, 22 percent, is in this bill to help us keep faith with commitments that were made by past administrations to the funding of programs such as the international banks.

You will hear how outrageous it is that we provide money to the "dreaded seven": Uganda, Mozambique, Angola, Cuba, Laos, Cambodia, and Vietnam. The fact is that none of those countries receives any direct aid from the United State, and the support they receive from multinational institutions is miniscule, eight-tenths of 1 percent of the total amount in this bill.

Fact No. 3: There is no way that this House by any amendment that it can pass can limit the amount of money that the banks provide for those countries—those few countries who belong to the banks that are consistently mentioned—because the bank charters prohibit taking any money which is earmarked, and most people, I think, understand that.

The question is whether we want to go through the trouble of explaining that fact of life to the people we represent. That is the real question. What Congress has to decide on the question of direct and indirect aid to countries we do not like is whether we believe that the political and economic stability which those institutions provide or help to provide, is more valuable to us, whether that is more important to us than trying to punish a few countries we do not like with an amendment that has no effect anyway.

You will also hear that aid to the banks is bad because we have no control over how they spend the money. Let me ask you a question: If you want to avoid money being poured down a rat hole, how would you rather have that money handled? Would you rather have it handled by State Department types who in judging the worthwhileness of projects have to take into account the political question of whether the recipient country will like or dislike us, based upon how we handle that project, because that is what you have got to do in your regular direct program.

Or would you rather have that money spent by hard-nosed Republican-type bankers, people who are going to look at those projects and say, "Hey, fellows, in economic terms, that does not measure up to third-grade economics. We ain't going to fund it."

That is what you can do with international banks that you cannot do with our direct aid program.

If I had my way, I would much prefer to see a much higher portion of our foreign aid provided through the banks and less provided through AID, because I think the banks in the last analysis are a lot harder nosed than our own AID programs.

You have heard that the banks do not help poor people. The facts are that the congressional research study shows that the banks have significantly shifted their programs to emphasize aid to the poor.

You will not hear from the opponents of this legislation, that the banks are a good deal for American business and American workers. You will not hear from them that for every dollar we contribute to the banks, that those banks spend $2.35 in this country, because we only contribute about 25 percent of the total share.

It is a good deal for us, for American workers and for American business. We ought to recognize that.

You will also not hear in this most pragmatic year that there are 70 million people in the Third World who do face starvation each year.

There are 1 billion who lack, not convenient water supplies, but safe water supplies, and the incredible suffering that results from that fact is something this bill tries to do something marginal about. We really do not affect them at the core. All we can do is try to affect them a little bit around the edges. That is all you can expect of this program. With all its faults, it does it better than anything else that we know.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

Mr. OBEY. Mr. Chairman, would the gentleman from Maryland yield 2 more minutes?

Mr. LONG of Maryland. Mr. Chairman, I think we are running on a constraint of time. I wonder if we could finish this, since we have one gentlewoman who wants to talk who has to leave in a few minutes.

The gentleman has had his 10 minutes.

Let us call on some of the others.

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman would like to have one of his speakers go ahead because of the time element, I would be pleased to grant that. If not, we will proceed.

Mr. LONG of Maryland. Mr. Chairman, that would be a very great courtesy to the gentlewoman from Maryland who has to leave at a certain time.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise to speak generally in favor of the foreign appropriations bill that we have under discussion, but only really with the proviso to the effect to look at the amendment of the gentleman from Maryland (Mr. LONG). I am going to support the amendment of the gentleman from Maryland (Mr. LONG), because I mean it as a signal to the international financial institutions that certain changes in their policies must occur if they wish to continue to receive full financial support from the Congress.

Mr. Chairman, I was one of the supporters of the original Marshall Plan where the money was designed to help people pull themselves up by their own bootstraps; however, now, as I scrutinize the Foreign Aid programs, it is my opinion that the IFI's subsidize American competition, destroy the social fabric of the rich developed countries and help the rich and the status quo.

It is my feeling that the IFI's must create a development strategy that is truly helpful to those people eating two bowls of rice a day and not those slurping up two martinis for lunch at the taxpayers' expense.

The second point that I want to make is that the IFI's must pay much more attention to the women in particular of the Third World. The Third World is poor, and it is starving. When we take a look at it, when we go into the villages, we see the women are the poorest of the poor, and they tend to be the most abused.

Studies have shown that the higher the level of education of women, the more improved their economic status. When women's economic status improves, the mortality rate and the population rate go down and the quality of life improves. We must try to give special attention to the Third World women.

Our planet is no longer young. Depletion of energy resources is becoming increasingly evident with each passing year. International development is not directed with a country's culture and supply of natural resources in mind. The IFI's and all countries that give foreign aid must examine these important factors and make them the basis of their aid programs. We must take a look at a country's needs, take a look at the country's resources, and take a look at the country's culture and supply of natural resources and then try to help the people develop their own resources.

Mr. Chairman, right now what we are providing to the nations of the Third World is not aid but a toxic substance.

Mr. YOUNG of Florida. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I want to thank the gentleman from Florida (Mr. YOUNG) for his very kind and thoughtful remarks. As the gentleman said, I have been on the committee longer than any other Member—18 years. This would have been my 20th year, but I got off the committee for 2 years.

I have seen a lot of Members come and go on that committee. I once stated to the lovely gentlewoman from Nebraska as she was sitting here: "You know, at one time on this committee the ranking Republican Member was Gerry Ford and he became President of the United States, the second ranking Republican on the committee was Mel Laird, and he became Secretary of HEW and Secretary of Defense, and the third ranking Republican on that committee was JOHNNY RHODES, and he, as a Republican, became the minority leader. The fourth ranking Republican on that committee was SIL CONTE, and I am still there." I have not moved very much, but it has been interesting because I have worked with a lot of fine legislators. I have seen a lot of Members come and go.

The gentleman from Florida (Mr. YOUNG) has really impressed me as a man who is dedicated to his job, a man who does his homework and does it well. I would say to the gentleman, "You have done it as well, Mr. YOUNG, as anyone I have seen in the 18 years I have been on that subcommittee. You are certainly to be commended for it, and your people are really fortunate to have such a hard-working conscientious individual. You fight a good hard fight, but you fight it clean and you fight it on the issues."

Mr. Chairman, since the late forties, guided by her devotion to democratic principles and the generosity of her people, America has provided assistance to the less developed countries battling for freedom—that is freedom from want, from ignorance and freedom from the military dominance of hostile neighbors. Beginning with the Marshall plan, designed to rectify the war torn economy of Europe, the United States has been a leader in the development efforts of those less fortunate nations. This leadership has been expanded and shared through affiliation and support of the United Nations funds, the military assistance programs, the Agency for International Development, and the international financial institutions.

The programs have traditionally been undertaken for humanitarian and political reasons, not for the economic benefits that might accrue to the United States, but times have changed. Mr. Chairman, with each passing day, the nations of the world become increasingly interdependent. And the fact that economic decisions made in Bonn can affect what the dollar will buy in Tokyo is illustrative of such interdependence. Trade is increasingly being recognized as a key component of U.S. economic welfare. One out of every eight jobs in manufacturing and one-third of all productive acreage is geared toward export production. Of these exports, 40 percent are shipped to the developing world.

Our interdependence is evident also with regard to imports. The developing nations control many raw materials crucial to our industrial strength. Control of the supplies of bauxite, rubber, tin and copper are only a few examples of the potential leverage wielded by these nations over the industrialized world. And of equal importance is the influence of these nations in the solution of major world problems currently plaguing the globe—economic instability, rapid population growth, adequate food and energy production and environmental deterioration. There is little doubt that the world's greatest reservoir of marginal productivity is the still underdeveloped and underutilized physical and human resources of the developing countries. Foreign assistance is a key to releasing this untapped potential. By raising the purchasing power of these nations, releasing new resources and developing new markets for both poor and rich, higher levels of economic activity can be created within and between all countries. In essence, the developing nations of the South, could over the next two decades become one of the crucial engines of growth in this world.

Yes, Mr. Chairman, interdependence has linked not only states, but men, requiring a global approach to the problems confronting us today. Foreign aid is such an approach.

Through the appropriate mix of bilateral and multilateral aid, directed for infrastructure as well as New Directions projects, the U.S. aid program not only assists in development, but helps to engender the managerial and technical know-how which will enable these nations to devise and implement their own development strategies. This process is not only costly, it is time consuming.

It is a recent revelation that true development must be an indigenous "grass roots" process. And such a process does not happen overnight. We realize now that we must share, rather than shove our western values and traditions upon the developing world, and that we must judge their progress by standards which realistically take into account the obstacles they face. Because we do not readily perceive tangible results, acceptable to our interpretation of success, does not imply that progress has not been achieved. Mr. Chairman, often we cannot see the forest through the trees. We are so deeply enmeshed in the process that the effects are not so easily seen. Yet, viewed over the long run, progress has been made. A recent study revealed that within the past 25 years, development has yielded substantial results:

The amount of food per capita has kept pace with increased populations in the developing countries since World War II;

Life expectancy is now 50 years, an achievement which took only 25 years to accomplish—for Europe it took 100 years;

Infant mortality rates have dropped substantially;

Many diseases have been eliminated;

The literacy rate has increased to 50 percent; and

Primary and secondary school enrollments have increased six-fold.

Yes, true progress has been achieved, but we cannot stop now. Man continues to press the generous bounty of nature and often with sad results. At this time 930 million persons in the developing world are undernourished. 1.2 billion do not have access to safe drinking water. 800 million lack basic housing. 800 mil-

lion are deprived of fundamental health care services. And 1.1 billion lack even the most rudimentary education. Our foreign assistance programs deal specifically with the means by which we challenge this grim reality and deal with the dangers that we will face as fellow-travellers on the planet Earth.

Mr. Chairman, the debate we are immersed in is reminiscent of a debate which took place just three decades ago. Then as now, those who would retreat from world leadership clashed with those who recognized that it is our duty to provide it. Then as now, the debate took place against the background of public clamoring for lower taxes, anti-inflation programs and concern with foreign competition to U.S. industry. Then as now, hunger, unemployment, economic stagnation and resultant despair—those handmaidens of political unrest—plagued the less fortunate members of the global community. Then as now, concern was evident over the strain of U.S. financial and material resources being poured down a proverbial "rathole." Thirty years ago, arguments were put forth by the late great Senator Vandenburg which have applicability today—bipartisan unity, realism and self-interest for the United States—were invoked to promote foreign aid.

The following words of Senator Vandenburg ring as true today as they did when they were first spoken:

> It would be a far happier circumstance if we could close our eyes to reality, comfortably retire within our bastions and dream of an isolated and prosperous peace. But that which was once our luxury, would now become our folly.

Now more than ever, America's prosperity cannot be assured in a broken world. In 1948 this Nation's leaders were plagued by the same anxities which disturb us today. Yet after careful weighing of the costs and benefits of aid, they responded positively. The Marshall plan thus became a reality. Mr. Chairman, we too are confronted with that same debate from which emerged America's first giant step into the foreign aid arena. Unfortunately the debate of today centers around cuts and restrictive amendments which in essence constitute a giant step backward. Shall we retreat knowing full well the dangers involved in doing so, or shall we support this well-trimmed bill which represents a mere 1¼ percent of total Federal expenditure? I urge that the latter course be taken, if for no other reason than for the self-interest of the United States.

Mr. LONG of Maryland. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. McHUGH).

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I rise in support of the bill before us provided that the amendment to be offered by my good friend and distinguished colleague from Maryland, Mr. LONG, to reduce funds to two multilateral banks, is incorporated into the measure.

I am convinced that some reduction in foreign aid appropriations is inevitable. I believe that Mr. LONG's amendment is the most effective way to control and target that reduction without cutting much-needed assistance to the hungry and the poor in other nations.

Assigning priorities among many deserving programs is a difficult task. However, if we wish to reduce the funding available for foreign aid, we must carefully and thoughtfully determine where we wish the burden of that reduction to fall. I believe the gentleman from Maryland has found that area in which a reduction can do the least harm, while furthering our own national policy goals.

Even with the reduction proposed by Mr. LONG, the funding levels for the International Development Agency (IDA) and the Inter-American Development Bank (IDB) will still increase over fiscal year 1978. The careful targeting of Mr. LONG's amendment emphasizes our concern over the development policies of the multilateral banks, while reaffirming our basic goal of aiding the poor through bilateral humanitarian aid.

The multilateral banks have had an abysmal record meeting the needs of the poorest of the poor in their recipient nations. For example: Fewer than half of IDB projects in 1977 were even designed to reach the poor.

By preserving our bilateral programs, which include the Peace Corps and the Agency for International Development, we underline our commitment to aiding the world's least privileged. By reducing the funding for the IDA and IDB, we emphasize our desire for a more effective multilateral aid program that truly improves the lot of the poor, rather than a series of loans whose primary beneficiaries are the well-to-do and those in power in the recipient nations.

Let us continue to help those in need the world over. And, if reductions become necessary, let us make certain that we reduce funding only for those agencies which have failed to adequately meet that basic goal.

I urge my colleagues to support this bill and the Long amendment.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

In my earlier comments, I made some comments about how the subcommittee had done its work.

I wanted to wait until the gentleman from New York (Mr. McHUGH) took the floor before I said that he, as the newest member of the subcommittee, has really studied more and become more aware of the issues confronting our subcommittee on this legislation and has done just an outstanding job that I wanted to pay him that compliment publicly.

Mr. McHUGH. Mr. Chairman, I thank the gentleman from Florida (Mr. YOUNG) for his very kind and thoughtful remarks.

Mr. Chairman, I rise in support of the bill as reported from committee. It is the product of many months of hearings by our Subcommittee on Foreign Operations, ably chaired by our colleague, Mr. LONG of Maryland. In my judgment, this bill will allow us to meet our international responsibilities without compromising our responsibility to address the very real problems we face at home.

Although Mr. LONG has explained the bill in some detail, there are a couple of points that are worth repeating.

The first is that our subcommittee has already substantially reduced the administration request. Indeed, this is one of the smallest appropriation bills to come before the House. As Mr. LONG explained, the total cut made by the subcommittee amounts to $1.1 billion, which is 13 percent below the administration's request. Moreover, it is important to note that another 13 percent of the funds in this bill, or $966.5 million, represents callable capital which will not result in any actual spending by the Government.

The most significant reduction is in the President's request covering U.S. contributions to the international financial institutions (IFI's). The budget request for the IFI's was cut by $876 million. I strongly believe that any further reduction would make us appear to be reneging on our international obligations.

For example, while other nations completed their contributions to the fourth replenishment of the International Development Association in 1976, to date we have contributed only 50 percent of the pledge we made in 1973. The administration maintains that continued failure to appropriate the requested funds would put us in default on a legally binding international obligation. Regardless of the legal questions involved, our failure to fulfill this pledge would bring into question our ability to make and keep international agreements.

Consequently, Mr. Chairman, I hope that this committee will reject amendments aimed at reducing still further our contributions to the IFI's, as well as any amendment for an across-the-board reduction since such an amendment would also seriously affect these institutions.

Our subcommittee also made substantial reductions in the three military assistance programs funded by this bill. In part, we did so because of testimony we received regarding continuing violations of basic human rights in a number of the countries to which the administration proposed to provide assistance. However, we chose not to make specific country by country reductions because we found it difficult to draw meaningful distinctions between alleged human rights violators, and to fully evaluate the legitimacy of the claims presented by witnesses.

Many of us were also concerned that some of these nations were spending too much of their own resources on arms, resources that could better be used to meet their very pressing economic and social problems. At the same time, the administration failed to provide compelling evidence that its request for many of these countries was truly related to our security needs.

I would like to comment on this last point briefly. President Carter has stated that:

The United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be demonstrated that the transfer will contribute to our national security.

However, we concluded that too many officials continue to view our assistance as an ordinary instrument for promoting better relations with other governments, or as a method for assuring a store of political influence for future contingencies. These are not compelling national security objectives. Each is important to our overall foreign policy, but neither is directly related to U.S. security needs.

Finally, smaller reductions than the foregoing were made in the requests for the Agency for International Development, the Peace Corps, and a number of agencies funded through the State Department. However, we made no change in the administration's request for Israel or for other nations in the Middle East, believing it would be highly inappropriate to do so at this sensitive time.

Here again, Mr. Chairman, I would urge the members of this committee to reject any across-the-board reduction that may be offered. This type of approach, while politically attractive today, is neither reasonable nor sound and is certainly not sensitive to the diverse programs funded under this bill.

For example, should we agree to an amendment that may be offered to reduce funding across the board by 8 percent, a reduction of approximately $150 million in military and economic assistance for Israel would result. At a time when our special relationship with Israel is in question, I do not think a reduction of this magnitude serves our interests or the cause of peace in the Middle East.

If such an amendment were passed, funding for some programs would be reduced below the amount we are providing this year. For example, an 8-percent across-the-board reduction would reduce funding for international disaster assistance below the amount provided in fiscal year 1978, despite reports of renewed drought in the Sahel and threatened famine in eastern Africa from a locust plague. As the minority views point out in the committee report:

Another positive program is our International Disaster Assistance program . . . We are deeply committed to assisting people devastated by natural disasters. It is our view that this program is truly representative of the goodwill of the American people.

I hope this committee will oppose the meat-ax approach.

WHY A FOREIGN AID PROGRAM?

Mr. Chairman, I realize how difficult it is to support this bill today. It seems to lack any significant consistency. Understandably, the American people are primarily concerned about our economic problems at home. Many fail to appreciate the need for a foreign aid program.

Of course, one reason to support a foreign assistance program is to help alleviate the ancient enemies of mankind: Hunger, poverty, and disease.

Last January Norman Borlaug, the American scientist often described as the father of the green revolution and a distinguished winner of the Nobel Prize, told Vice President Mondale:

If we look at the future, we have to look at it with fear.

His meaning is evident when one considers some of the relevant and depressing statistics:

There are 1.2 billion people throughout the world without access to safe drinking water or public health facilities; 1 billion people do not consume enough calories to meet minimum daily adult requirements; between 450 and 750 million people are chronically malnourished; 550 million people cannot read or write; 220 million people live in urban areas without adequate shelter; and 26 people die every minute as a result of hunger.

The people who suffer most are children and women, especially pregnant and nursing mothers. It is estimated that there are 860 million children under 15 years of age in the developing world:

Half of them suffer from debiliating diseases likely to have long-term effects; a third of them are undernourished; and almost 300 million of them are not and will not be able to attend school.

Surely, we will not be indifferent to these figures, Mr. Chairman. Surely, we will bear a fair share of the burden, as we always have in the past. As a free people fortunate to live in a nation with one of the highest standards of living in the world, surely we cannot fail to respond.

Beyond our traditional humanitarian concerns, our foreign aid program is vital to our own interests. Our national security will be affected by how successful the developing nations are in increasing agricultural production, curbing birth rates, and becoming more self-sufficient.

In real economic terms, our economy has become increasingly linked to the nations of the developing world. Like it or not, the United States has become more dependent upon them for the raw materials needed to fuel our economy. Two-thirds of our imports are essential resources, or goods we cannot readily produce.

For example, we are dependent upon imports for approximately 98 percent of our cobalt and manganese requirements, 93 percent of our tin, 85 percent of our bauxite, 71 percent of our nickel, 59 percent of our zinc ore, 3¢ percent of our iron ore, and 15 percent of our copper requirements. And, of course, there is our continuing dependence upon foreign oil. Many of the developing nations are primary suppliers of these materials.

Furthermore, these nations are vital export markets for us, and they offer the best opportunity for expanding our markets in the future. Exports now contribute almost $200 billion to our gross national product. They provide one out of every eight manufacturing jobs in the United States. And, for every one of these jobs, another is created in a supporting industry.

Fully one-third of our agricultural produce is exported, and half of these exports go to the developing nations. For example, last year they purchased 50 percent of our exports of cotton, 65 percent of our wheat exports, and nearly 70 percent of our rice exports. Equally important, each dollar of agricultural exports stimulates more than a dollar's worth of output in a food related industry.

Today, $1 out of every $3 of U.S. corporate profits is derived from international activities, and the developing countries host over 20 percent of total U.S. direct investment worldwide. Earnings on these investments amounted to $7 billion in 1975 and almost $11 billion in 1976. The rate of return on our investments in the developing countries was more than twice the rate of return on our direct investments in the developed countries. These investments help expand the output of raw materials critical to our economy and expand markets for U.S. exports by stimulating demand in the host countries.

It is also clear that our political objectives cannot be achieved solely through the maintenance of our Armed Forces. Regional stability and peace in the Middle East, Africa, and East Asia cannot be achieved without the cooperation of the developing nations. Ties to them are essential for deploying our Armed Forces, maintaining access to straits, ports, and aviation facilities, and to achieving progress on vital issues affecting peace, such as arms restraint and nuclear nonproliferation.

Mr. Chairman, the social unrest which breeds conflict can only be prevented if economic growth and a more equitable distribution of resources are realized. As Pope John XXIII so eloquently put it:

In a world of constant want, there is no peace. . . .

MYTHS ABOUT FOREIGN AID

Unfortunately, much of what passes for fact about our foreign aid program would better be described as myth.

For example, the prevailing view is that foreign aid is a giveaway program, a kind of international welfare system. However, much of our bilateral program funded through AID is in the form of loans that must eventually be repaid. Moreover, some of our bilateral aid is tied to the purchase of goods and services in the United States, and that means business and jobs for Americans.

Last year over 2,900 firms in this country received more than $600 million of AID appropriations for commodities they provided to the developing countries. And 129 colleges and universities received $130 million in AID appropriations for contracts and grants in connection with the Agency's work overseas.

The same phenomenon pertains with respect to expenditures by the international financial institutions such as the World Bank. For every dollar of paid-in capital we have contributed to these insitutions, they have spent $2 here to purchase goods and services.

These institutions have come under attack because we have less control over how their funds are used, which is true. But every dollar we contribute leverages $3 in subscriptions and contributions from other nations, thus spreading the burden more equitably. Since these institutions use paid-in capital to borrow extensively in world

capital markets, our contributions actually leverage far more than $3. It is estimated, for example, that every $1 that the U.S. contributes to the World Bank generates more than $36 in resources for bank lending in the developing world.

To be sure, these institutions sometimes finance the production of commodities which are competitive with American products. However, they all have well established policies to preclude financing commodities which are, or could become, surplus commodities on world markets. Moreover, our bill includes two sections which would prohibit the Export-Import Bank and the Overseas Private Investment Corporation from financing the production of such commodities, and direct our executive representatives to the international financial institutions (IFI's) to oppose lending for such commodities.

For these reasons I hope that this committee will oppose any amendments to establish protectionist walls around certain domestic industries. The American people have a vital interest in a fair and open trading system. In the long run we lose much more than we gain from an excess of protectionism.

Mr. Chairman, we expect other amendments to be offered which would place conditions on our contributions to the IFIs by country. Specifically, we can anticipate that attempts will be made to restrict "indirect" aid to Angola, Cambodia, Cuba, Laos, Mozambique, Uganda, and Vietnam.

Of course, these amendments are prompted by the objections we all have to the governments of these countries. Nevertheless, such amendments are ill-conceived. The IFIs are precluded by their charters from accepting any of our contributions with such conditions attached. To attach them, therefore, would be destructive of the banks. Surely, we are not going to effectively cut off all our contributions to the banks for this reason?

Mr. Chairman, another myth about foreign aid is that the United States is contributing far more to the developing countries than other developed nations. While that may have been true at one time, it is no longer the case. In absolute terms, the U.S. program is larger than that of any other nation. However, as a percentage of gross national product, we rank in the bottom quarter of all non-Communist donor countries in terms of official development assistance.

For example, while Sweden spends 1 percent of its GNP on development assistance, we spend only 0.22 percent of our GNP. Significantly, that figure has been declining over the last decade. In 1966, we spent 0.41 percent of our GNP on development aid. As might be expected, official development assistance as a percentage of our Federal budget reflects this decline. The funds in this bill amount to 1.29 percent of our budget.

Finally, Mr. Chairman, there is the most damning myth of all, the myth that our foreign assistance does not work. The record shows otherwise. Of course, it is impossible to distinguish foreign assistance from other factors that affect development. However, it surely has played a role in helping to promote some accomplishments of which we can be proud.

Between 1950 and 1975, for example, the developing countries achieved higher growth rates than either they or the developed nations achieved in the past. Substantial increases in life expectancy have occurred in many countries. The number of children in primary schools has tripled since 1950 and the number of students in secondary schools has increased sixfold during the same period. The battle against communicable diseases has had results, with smallpox now confined to a small area of Africa. There are many other accomplishments which could be cited.

Some may ask why we must continue to provide assistance if the program has been so successful. The answer, very simply, is that the problem is immense. There are no quick fixes, and therefore we can only persevere with others to deal realistically and responsibly with the problems.

CONCLUSION

Mr. Chairman, I understand the mood of the House and the country. That mood is not generally supportive of foreign aid. Nonetheless, we must recognize that foreign aid is an essential element of a foreign policy. This bill represents a modest, but vital, contribution to a sound foreign policy. It reflects our traditional humanitarian values. Beyond that, however, it is in our national interest. As former President Kennedy put it:

If a free society cannot help the many who are poor, it cannot save the few who are rich.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LONG of Maryland. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I sincerely hope the members of this committee will approve the work of our subcommittee, work which has taken months, and will approve the bill which is before the committee at this time.

Mr. YOUNG of Florida. Mr. Chairman, I yield 5 minutes to the very distinguished member of the subcommittee, the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska, Mr. Chairman, first I would like to express my appreciation of the dedicated leadership of the chairman of the Foreign Operations Subcommittee, Mr. LONG, and the ranking minority member, Mr. YOUNG.

Now, I would like to take this opportunity to speak against the foreign assistance appropriations bill and for the Long amendment which will be before the House of Representatives. As a member of the Subcommittee on Foreign Operations of the Committee on Appropriations, I have had an opportunity to closely follow this legislation and all of the controversies which surround it.

Although the full Appropriations Committee has reduced this bill from the original budget request by more than $1 billion, it is still $600 million more than the fiscal 1978 bill. This causes me great concern. I was elected to represent the Third District of Nebraska. The people of my district are as generous as other Americans. They never hesitate to help a neighbor in distress. But their feelings about the generosity of the U.S. Government when it comes to sending their money overseas is another matter. They want to see some results. They have not been shown any.

As other Members of the House of Representatives strive to do, I try to keep in close touch with the people who sent me here. In that regard, each year I send out a questionnaire. Of course, it is not a scientific survey in the technical sense of the word, but I analyze the results very carefully. This year, I asked the question: "Do you favor a plan by the Carter administration to increase the amount of economic assistance the U.S. provides to foreign countries?"

There is no doubt about the feeling of my constituents on this matter. A total of 95 percent responded, "No." That negative feeling is being reflected throughout the entire country. The results of the latest Gallup poll indicate the deep dissatisfaction the American people have with our Government's foreign policy—a substantial part of which deals with the distribution of foreign aid.

Next to the high cost of living and inflation and unemployment, U.S. foreign policy is the most important problem facing this country today, according to the Gallup poll. This concern ranks above such problems as the energy situation, crime and lawlessness, and drug abuse. This surely is a sign that Americans are not happy with the direction of the current administration's foreign programs.

Mr. Chairman, I voted against this bill during both subcommittee and full committee consideration. While I support the $1 billion cut, I believe there are many, many other areas where this bill can be reduced. For more specific information on these areas, I would refer my colleagues to the minority views on this bill which appear on page 64 of the accompanying report and were signed by seven of my colleagues and myself.

One of the major problems I have with the foreign assistance program is the concept under which it is administered. This concern is well articulated in a June 27, 1978, article in the Washington Post.

It was written by Roger Darling, a Foreign Service officer who had the courage to speak his mind on a subject on which he has had first hand experience.

He says that:

Our present foreign assistance strategy substitutes foreign initiatives, values and resources for indigenous responsibility. It acts in the absence of indigenous concern for the poor and therefore evades the causes of the poverty. The aid is pure welfare—it stimulates no productivity. The aid encourages poor nations to continue with business-as-usual in the face of escalating human suffering and expanding poverty; it causes greater—not less—dependency on rich nations. The human needs strategy does not help solve Third World poverty—it expands it.

Mr. Darling has hit the nail right on the head. Our giveaway programs overseas are not helping the people we want to help. Those who do get the aid we

send have no incentive to improve their station in life. In fact, many foreign governments and their people resent our assistance. Our foreign aid program through the years has not won us any friends, but it may have created many enemies. Yet, we have poured out since the end of World War II nearly $200 billion in foreign assistance. It has helped our cause in the world very little.

Mr. Chairman, with the approval of proposition 13 in the State of California, there is now a new awareness on the part of many of my colleagues to save tax money; to spend less. I suggest that a good place to start is with this bill now before us.

I want to turn now to the issue of funds for the so-called international lending institutions. It works like this. We give tax money to be loaned or given to foreign countries which claim to need some sort of special assistance. In return, we have no say over how the money is spent or to whom it is loaned or given. In fact, inquiries from Congress about some of the procedures of these organizations are taken as an affront. We are told, in effect: "Now that we have your money, how dare you inquire as to how it is being disbursed."

No, Mr. Chairman, what I have described to you is not a fairy tale. It is the truth. At this point, I would like to commend my colleague on the Foreign Operations Subcommittee (Mr. YOUNG) for his efforts in exposing some of the abuses in this phase of our foreign aid program. He has pointed out how the taxpayer's money is being sent to Communist Vietnam after being "laundered" by India and how American dollars are going to Castro to help Cuba expand its subversive activities in Africa.

I am pledging my support to all efforts to substantially reduce our payments to these international financial organizations who use our money to flaunt the foreign policy directives of the Congress.

Mr. Chairman, time and time again, proponents of increased American aid to these international lending institutions have come before the Foreign Operations Subcommittee and said that if we reduce our contributions we will somehow be violating commitments we have made to these organizations.

However, I would like to point out that all of our so-called commitments—under the law—are subject to approval by the Congress for funds. If any commitments to these organizations are being made by representatives of the current administration, they do not have the force of law and are certainly not binding on this Congress. Let me refer you to the law. Public Law 95–118, which authorizes U.S. participation in these international lending institutions contains the following clause:

> The Congress * * * notes that the availability of funds for the United States contribution to the international financial institutions is subject to the appropriations process.

Mr. Chairman, the "appropriations process" to which the law refers is the process in which we are now engaged. If we decide to substantially reduce our contributions to these institutions, we have violated no commitment. We are the ones who are determining that commitment. The only pressure we should be feeling is that of the taxpayer whose funds we are committing. This is something we must never forget.

There has been much pressure put to bear on the Members of the House in recent weeks to oppose any further reduction in this bill. The administration has gone so far as to issue misleading statements about the content of that bill. As you know, I represent an agricultural area of this great country. Most of my constituents either directly or indirectly depend upon the sale of agricultural products for their livelihood.

Low farm prices and a decreasing export market causes them great concern. With that in mind, in recent days I received letters from the Secretary of Agriculture and the Secretary of Commerce telling me that if I vote to cut this bill, I will be doing a great disservice to my State and congressional district. In addition, I have a press release issued by the Agency for International Development which indicates that the Federal Government has purchased $39.5 million in goods, services and agricultural products from Nebraska for the foreign aid program during the past year.

In the latter case, the press release is written so that it appears Nebraska would not get these sales if the foreign aid bill is not approved. It barely mentions that $37.7 million of the total purchased in Nebraska was for the food for peace program. As we all know, money for this program was contained in the Agriculture appropriations bill. Obviously, the AID press release was issued in an attempt to mislead the people of Nebraska about the content of this bill now before us. It is obvious that this bill cannot be defended with facts, it must be defended with innuendo and deception.

In conclusion, Mr. Chairman, let me point out that America has always been more than willing to help those in need. It has helped and will continue to help those countries and people who have suffered natural disasters. But I do not believe it is our responsibility nor our desire to throw away the taxpayer's money on ineffective, dubious programs that do more to create enemies than to win us friends. My opposition to this bill is staunch because of its size and its direction. If we are truly dedicated to saving money, reducing our budget deficit and rejecting programs that are not working then we must vote against this legislation.

Mr. LONG of Maryland. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. WILSON), who I believe has yielded his time to the gentleman from Wisconsin (Mr. OBEY).

The CHAIRMAN. To whom does the gentleman from Maryland yield the time?

Mr. LONG of Maryland. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, if I can pick up where I left off before, I would simply like to say what I think this bill really represents to the United States.

I think, first of all, the bill is simply a signal to the world that we are not going to fade into a condition of "benign neglect." I think it will be a signal to the world that we are not yet frozen in the ice of our own indifference—if I can steal a quotation from Franklin D. Roosevelt which was issued on another subject many years ago—and, let me say I think it will signal to the world, and to our constituents, that Congress can separate, in a mature way, in our view of what we like from our view of our own national interests and resist the temptation to tie the hand of the President and deny him the flexibility which he needs to pursue our own national interests.

I think really what we have to ask is what is the real cost of this bill? I know many people back home simply think we are just shoveling out $50 or $60 billion every year abroad and that is because we have never bothered to tell them otherwise. But the fact is that this bill costs us about 1.4 percent of the entire Federal budget. It costs us about three-tenths of 1 percent of our gross national product. It costs each American, on a weekly basis, about 56 cents. That is less than a pack of cigarettes. Or, if you really want to get to an important comparison, it is about the cost of a bottle of beer in my district and maybe it is about half the cost of a bottle of beer when we buy it here in Washington.

The cost to each American in support of the banks is about 14 cents per week. That is about the cost of a pack of gum, 14 cents every week.

I hardly think that that is an outrageous cost for us to participate in the world. That is really what we are doing when we deal with the question of the banks.

We are going to spend $110 billion plus, come the end of this week, on the defense appropriation bill. We are probably going to add over $2 billion for a carrier that the President says he does not want.

I think the major argument on this bill is going to come on the chairman's amendment which will cut an area in this bill which we have already cut more than we have any other item in the bill.

I want to ask you this: How much more do you think we are going to be expending on the defense budget 10 years from now if we do not make some additional progress in trying to reduce the enormous turmoil and ferment which you can see all around the Third World if we do not begin to make even greater progress in attacking some of the economic problems which they face.

If you are going to vote against the program and vote to gut the program on the basis of some corruption, or because there are some specific parts of the program that you do not like, then what you ought to do is apply that same standard to every other program that comes to this floor. You ought to vote against CETA because, God knows, there is corruption in that program. You ought to vote against the medicare program. You ought to vote against the medicaid program. You ought to vote against the welfare program. You ought to vote against the highway programs. You

ought to vote against cancer research because God knows there has been a lot of rip-offs in those programs as well. The GAO has found waste there as well as it has found waste in foreign aid. There is waste everywhere. We know that, but you do not throw out the baby with the bath.

But I ask you, when you consider the chairman's amendment on Wednesday, do you really want to put us in default on an international agreement entered into by previous Presidents?

I know what the law is in this country. Every Member knows what it is on this floor. But the fact is that, whether we like it or not, if we support the chairman's amendment we will be the only country in the world which is not meeting the amount of contribution which we have agreed to meet when that program was first brought before us.

I invite the Members to read the report of the authorizing committee on the bill when we pass the bill, providing for that fourth replenishment, because it indicated at that time that if we approved that authorization—and we did not approve it the first time, we turned it down—but we approved it the second time—and what that committee report said is that that would constitute in the eyes of the world an agreement on our part. I do not think Americans are in the habit of moving back on their agreements.

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNG of Florida. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. I thank the gentleman from Florida for yielding, and I appreciate his leadership in this area.

I want to echo the words of the gentleman from Maryland (Mr. BAUMAN), in which he said how refreshing it is to have a chairman and ranking minority member of this subcommittee who are not rubberstamps for the programs emanating from the committee. That is, indeed, very refreshing.

As I sat here through the debate today, trying to understand the reasons put forth by the proponents of foreign aid programs, as we were being told why they ought to be supported by the people of this country, I have heard that we ought to do so, first, because it is for our own economic prosperity, as if we can borrow ourselves into prosperity. It follows a little the philosophy that if we borrow and spend on domestic programs, we are going to be more prosperous; likewise the philosophy goes borrow, ship the money overseas, and let people buy products that are manufactured in America, and thus it is really for our own economic self-interest to have a foreign aid program because most of the money leads to economic prosperity at home. Next it is said that it is for the self-interest of the American people to support a foreign aid program. Other proponents indicated that it follows the humanitarian instincts of our people to support needy nations. And it has not been said, but I have a suspicion that perhaps maybe some of the reason we are asked to vote this aid is there are certain guilt feelings that this generation has because of the disparity between the wealthy nations of the world and the poor nations of the world, and we are trying to counteract that guilt feeling. So whether it is for our economic prosperity or whether it is for our self-interest, or whether it is because of our humanitarian instincts or whether it is because of some guilt feelings my generation might have, let me submit to the Members that it is one thing to do all these nice gestures today, for our generation in a sense to do them today by voting this massive amount of funds, and to pay for it today—which we are not doing—and quite another thing to borrow today, borrow ourselves deeper into debt, and leave it for a future generation to pick up the bill.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding. I apologize for interrupting the gentleman, but on that point I would like to say he has really struck a nerve. While we are borrowing money to pay for this foreign aid program, it might be interesting to note whom we are borrowing from. India, a country that is one of the largest recipients of our foreign aid program directly and indirectly, owns $774 million worth of our national debt, but we are in fact borrowing from India and we turn right around and give India money back in this foreign aid program. I appreciate the gentleman's raising that point.

Mr. Chairman, I yield 1 additional minute to the gentleman from Iowa.

Mr. GRASSLEY. I thank the gentleman. It sounds to me like the gentleman is saying that we are taking money out of one pocket and putting it in the other.

I submit to the Members that for whatever reason we are doing this—for our economic prosperity, for our self-interest, because of our humanitarian instincts, or because we have guilt feelings—it is one thing for us to do that today and pay for it today and assume the responsibilities of all of these so-called nice programs, and pay for it out of our own pockets so that you and I are not living high on the hog at the expense of future generations, and quite another thing—and wrongly so—for us to do it today this way outside of the confines of a balanced budget. We have not had a balanced budget for so many years it is difficult to remember the last one. We are not doing it within the concept of a balanced budget, and hence we should not be doing it.

Then, lastly, I want to compliment the gentleman from Maryland (Mr. LONG), the chairman of the committee, because he so forcefully brought home, brought to the attention of all of us, the things that are wrong about this program in a "Dear Colleague" letter to us dated sometime during the month of July 1978.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GRASSLEY) has again expired.

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 additional minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I think this Congress can be grateful for the work of the gentleman from Florida, as the gentleman in the well, the gentleman from Iowa, just mentioned, in trying to bring to us a better understanding of what the real results are of this program for which we have gotten into deficit financing in order to fund.

Mr. Chairman, I am especially appreciative of the fact that the gentleman in the well has continually brought out when this appropriation comes up, along with my colleague, the gentleman from Florida, how many absolutely unreasonable places this money is being spent. It is not carrying out the humanitarian objectives of the program. As a matter of fact, in some cases it goes to just outright waste and in no way reaches the people it is supposed to help.

Now, our colleague, the gentleman from Wisconsin, a member of the committee, a minute ago tried to indicate that by supporting these cuts that the gentleman from Maryland has suggested and the gentleman from Florida has suggested that it is similar to just totally opposing the program. That just is not true.

I think that those who have argued today and will argue tomorrow that it is showing a lack of care for understanding by cutting some of this obvious waste out of the program, that these individuals who are suggesting this are insensitive, is just not a fair appraisal or a correct appraisal.

Mr. Chairman, I compliment the gentleman from Iowa for taking the time to review some of these areas where we should be saving the American taxpayers, who have to come up with this money or to cover the deficit that we have; so I compliment both the gentleman from Florida and the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GRASSLEY) has again expired.

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 additional minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I want to compliment the chairman of the committee, because in the gentleman's "Dear Colleague" letter, the gentleman not only substantiated what the gentleman from Florida was saying, that this trickle-down theory of foreign aid is not even helping the people it was supposed to help, but the situation, in fact, is really deteriorating over the years because the disparity between the rich and the poor is becoming greater. As the gentleman said in his letter regarding the palm oil situation:

> Have you been moved by the argument that our subsidizing palm oil production in foreign lands helps the overseas poor? Take another look! Despite increased palm oil output in Malaysia (the world's largest producer between 1957 and 1970), the poorest fifth of rural households lost over 40% of their average incomes, while the average income of the next fifth fell 16%.

The economic situation of the poor people of the world is getting worse.

Then in regard to sugar, he said:

Subsidizing foreign sugar helps the poor in poor countries! Who's kidding whom? While world sugar prices rose, the real wage of a cane cutter in the Dominican Republic fell to less than it was 10 years earlier, not enough to buy food.

Then in regard to citrus, he said:

Yes, this costs us money and hurts our citrus industry, but it does help poor people in poor countries! Right? Wrong!

According to the Board of Science and Technology of Mexico, a country which has been a recent recipient of citrus loans, Mexico is facing "an acute crisis in supply * * * of basic food for the poor."

Then lastly, he asks the question:

Can we put restraints on subsidies that hurt our own workers and widen the gap in poor countries between rich and poor?

I agree with Mr. LONG; we cannot.

Mr. LONG of Maryland. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I have listened to this debate with considerable interest.

What we are trying to do with foreign aid is buy a livable world for our children. We are trying to do it by helping what the famous historian Arnold Toynbee, called the external proletariat—that is the people of the undeveloped countries—raise their standard of living so they do not take the other option, which is to migrate to the developed areas, as they are, indeed, doing. So in addition to humanitarian considerations, it is a matter of plain, unquestionable self-interest.

There are presently 12 million illegal aliens in this country. When I first came to Congress, 8 years ago, there were 1 million. Ten years from now there will be 30 million, unless these people can raise their standard of living and find jobs in their own countries. If we do not want to be engulfed and have our national economy disrupted, our culture overrun, and our social structure dislocated in that way, then it is important that we try to do something to help people in the less developed countries survive.

I do not know whether this is the best way to do it, but I will say this: Until we develop a better way, we had better stick with this.

Last May, some of us had the privilege of sitting down with our former colleague Brad Morse, now in charge of the U.N. development assistance program. I think all of us were deeply impressed with the effectiveness with which funds we are contributing to that program are used.

We are surely indebted to the gentleman from Maryland (Mr. LONG) for trying to strike a balance on his subcommittee. I would like to commend the entire subcommittee as well and, in particular, for the fact that it has included some really important human rights provisions. The members of the subcommittee have singled out certain countries which have serious human rights problems, and they have made some cuts in the military assistance to those countries in order to remind them that we are not just kidding when we talk about protecting basic human rights.

Last week the gentleman from Maryland (Mr. LONG) and I, along with others, attended a meeting with Mrs. Marcos, the wife of the President of the Philippines. She is a very charming, gracious, beautiful, and intelligent person. I know that some Members thought we were too blunt in speaking to Mrs. Marcos and telling her of our concerns about what is going on in the Philippines. But let me say this: When it comes to fundamental human rights, I think we do leaders of countries with whom we have close ties a real disservice if we do not convey to them the depth of our feelings and those of our people on this subject.

Mrs. Marcos was not coming to us on a social occasion. She was not coming as a guest. She invited us to meet with her in private and talk about the problems. She sat down with us as a politician, and a very able one. She is not only a member of the legislature of the Philippines but is the Governor of the city of Manila. So we talked to her, politician to politician, and I hope the frankness of our words was taken, as it was intended to be, helpful not destructive.

We must let other governments know that we do not want our military assistance used to throw people in jail for what they say and what they print. We do not like to see certain countries arresting the political opposition and putting them in prison 2 days after an election.

I think it is a mistake to think we can tell all the countries in the world how to run their internal affairs. But where we are providing financial support for a country or where we are allied with that country so that we in some sense share responsibility for some phases of its activities—for example, where we supply military assistance and the military are the people who enforce the laws, as they do in the Philippines—then I think we have an obligation to insist that our support be used in a way that does not suggest that we have a part in supporting cruelties and indignities on the people of that country.

I would just say in closing, for the benefit of some of the gentlemen who spoke on the other side of the aisle, that we have spent $194 billion since World War II on military and economic assistance to other countries. That is not much more than 1 year's defense budget. Last year all the countries of the world spent $400 billion on military and defense activities. That is more than the world spends on education. It is more than it spends on health.

About one-third of the people of the world are at or below the starvation level. Is it any wonder that we have situations of great unrest and true human tragedy all over the world?

If all those billions, indeed trillions, had been spent on basic human needs, in the last 30 years, what a different world we might be living in today. We cannot turn back the clock or recapture all that waste of resources. But certainly we can take a tiny fraction of that money and try to help alleviate some of the suffering in some of these countries, and move them to a more humane level of existence.

Mr. Chairman, I commend this bill, and I hope the Members will join me in giving it their full and wholehearted support.

Mr. YOUNG of Florida. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Indiana (Mr. JOHN T. MYERS), a member of the Committee on Appropriations.

Mr. JOHN T. MYERS. Mr. Chairman, I have been listening this afternoon with some interest to the discussion here upon the bill that is now before us. And time and time again I have heard it said that the programs provided for in this legislation will help poor people, will help developing nations become better partners in the world. And as I look through and see what some of these programs are, I could not help but notice the public works section, particularly from the Inter-American Development Bank, as well as IDA, the fact that there are huge sums of money in this bill that will be provided with other countries, too, to help other countries develop their water resources, irrigation, hydropower, navigation, flood control—all of the same water resource programs that we were once building in this country. The chairman, in his opening remarks, noted that our own budget from the administration this year was down 11 percent to develop our own natural water resources, yet this is up considerably this year. And I find it rather difficult to see what we are helping other countries develop their water resources, to develop their flood control, so that the farmers can produce, and we provide irrigation so that they can raise larger crops, and this is development for other countries, but when we identify and try to do the same thing for our own people in this country, to help our farmers with irrigation programs, to help our folks who live in flood plains, to avoid being flooded out every year, when we look at development of our navigation systems, and so forth, then they are pork barrels.

This administration sent out a series of letters on July 12, just this month, and one of them said we had to reexamine—which is in the process now. I understand—our water projects, making sure that we bring them up to date, as far as benefit-cost ratio. One of the Members went on to say that we had to be more realistic about the cost of money. Yet I am shocked to see here that although the interest rates vary, many of them are three-quarters of 1 percent. Do we call this a loan? Three-quarters of 1 percent, with 50 years to pay. There are others here with 1 percent with a 10-year grace period, nothing to be paid the first 10 years. Do we call these loans? Gee, I know a lot of communities out there which are trying to build water systems, sewage systems, irrigation systems, but these are projects that those communities would love to get for three-quarters of 1 percent.

I do not think anybody in this country would have nerve enough to call that a loan.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I appreciate the gentleman making this point at this time. I thought the gentleman might like to know, and that the rest of our colleagues might like to know, that tomorrow is August 1, 1978, and tomorrow the World Bank will take up and consider the first of five loans for Vietnam, soft loans, three-quarters of 1 percent administrative cost, no interest, and 50 years in which to repay.

The first loan is for $60 million and is for irrigation and water-management projects on the Saigon River.

Mr. JOHN T. MYERS. That is another area where, again, we are doing more for our former enemy than we are doing for our own people in this country.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to ask the gentleman from Florida (Mr. YOUNG) if there is any action whatsoever that this Congress can take, any action whatsoever, which can prevent that loan.

Will killing this entire bill prevent that loan?

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would like to respond to the gentleman, and I am not suggesting killing the bill.

Mr. OBEY. If the gentleman will yield further, Mr. Chairman, I would like to have the gentleman answer the specific question.

The answer to that question is "no," is it not?

Mr. YOUNG of Florida. If the gentleman will yield, Mr. Chairman, the answer to the gentleman is simply no because the loan is going to be made tomorrow.

Mr. OBEY. If the loan were to be made a year from now, could it be stopped? The answer is "no," is it not?

Mr. YOUNG of Florida. The answer is "no" as of today, for this particular loan.

If the gentleman will let me finish the answer, the answer is no, we cannot stop this loan tomorrow. Next year and the year after perhaps there are four more which are in the process of being made.

Mr. YOUNG of Florida. If the gentleman will yield further, Mr. Chairman, I would say to the gentleman from Wisconsin (Mr. OBEY) that we can prevent the use of American money to make those loans. That is not as difficult as the gentleman will try to make it appear. When we get to that point during the amendment procedure the money can be deleted; but yes, the answer is that we can stop American moneys from going into that loan.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. JOHN T. MYERS) has expired.

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 additional minutes to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. To continue, Mr. Chairman, what we have been doing here—and I have been noting it—is that we have been contributing 28 percent to IDA and then we contribute to the Inter-American Development Bank 36 percent, and then there are some funds for special operations, to which we are contributing 55 percent.

It seems to me that what I was trying to say here is that I am not sure, but I think perhaps some of these loans are good.

Earlier in the authorization we talked about the dual concept we have here. We use a different type of yardstick with certain nations, but we are not consistent. Why is it that these are good programs for this administration to propose in the budget for other countries, but the identical types of programs in this country are bad in that they cost too much, and some even go so far as to call them "pork-barrel"?

If they are good for other countries—and I happen to believe that many of these programs are good—why are we not doing more for ourselves? Why is it that we are contributing 55 percent to do things for other nations while we are not willing to help ourselves?

Mr. Chairman, I think our God-given water resources are a tremendous asset to preserve, and we need to keep them and to develop them. Why is it other nations which enter into programs like this are not willing to help themselves? I do not think we can throw our hands up and say, "Here is the money. Spend it as you like."

I think that is just exactly what the gentleman from Florida (Mr. YOUNG) has identified as not being the way in which the American taxpayers want their money to be spent, through the World Bank or anything else. They are not interested in seeing their hard-earned tax dollars spent in this way.

Mr. LONG of Maryland. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield back the balance of my time.

Mr. LONG of Maryland. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. VOLKMER) having assumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes, had come to no resolution thereon.

## GENERAL LEAVE

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 12931, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

## ENHANCING OUTDOOR RECREATION OPPORTUNITIES FOR PEOPLE OF UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8336) to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment to the text of the bill.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

TITLE I

Sec. 101. The Congress finds the natural, scenic, recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the "recreation area"). The recreation area shall consist of the river and its bed together with the lands, waters and interests therein within the boundary generally depicted on the map entitled "Chattahoochee River National Recreation Area," numbered CHAT-20,000, and dated July 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the recreation area to delete tracts that would involve significant severance damages to remaining lands, to delete lands having valuable improvements that would be of little or no benefit to the recreation area, to encompass severed lands and to accommodate technical and operational considerations, except that the total area within the recreation area, exclusive of the river and its bed may not exceed six thousand three hundred acres.

Sec. 102. (a) Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase, with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation. The Secretary may refrain from purchase of tracts of land or portions thereof used or to be used for other than noncommercial residential purposes if the owner shall, within one year of the date of enactment of this Act, enter into an agreement with the Secretary assuring that such property shall be used under such terms and conditions as the Secretary, in his discretion, may prescribe for the preservation and protection of the recreation area.

(b) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such agricultural or residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or,

in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition less the fair market value of the term retained by the owner.

(c) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(d) As used in this section the term "improved property" means a detached, year-around noncommercial residential dwelling the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 103 (a) The Secretary shall administer, protect, and develop the recreation area in accordance with the Act of August 25, 1916 (39 Stat. 535), and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this Act. In developing and administering the recreation area the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not limited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

(b) The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this Act.

(c) In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area are complementary.

(d) In administering the recreation area the Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with applicable State and Federal laws, except that he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, any rules and regulations of the Secretary pursuant to this subsection, shall be put into effect only after consultation with the appropriate State agency.

SEC. 104. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established, except where such project is determined by the State of Georgia to be necessary for water supply or water quality enhancement purposes and authorized by the United States Congress. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on the date of approval of this Act. Nothing contained in this subsection shall preclude the upgrading, improvement, expansion or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established.

(b) No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, or shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance, (a) advising the Secretary in writing of its intention to do and (b) reporting to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate the nature of the project involved and the manner in which such project would conflict with the purposes of this Act or would affect the recreation area and the values to be protected by it under this Act.

(c) Nothing in this Act shall be construed in any way to require the manipulation or reduction of the lake water levels in Lake Sidney Lanier or to restrict, prohibit or affect any recommendation of the Metropolitan Atlanta Water Resources Study as authorized by the Public Works Committee of the United States Senate on March 2, 1972.

SEC. 105. (a) There is hereby established the Chattahoochee River National Recreation Area Advisory Commission (hereinafter referred to as the "Commission") which shall be composed of nine members to be appointed by the Secretary for terms of five (5) years as follows:

(1) Six members to be appointed from recommendations submitted by the Governor of the State of Georgia, two of which shall be residents of the Chattahoochee River Corridor Area, and two of which shall be from the membership of Georgia conservation groups;

(2) One member to be appointed from a recommendation submitted by the Secretary of the Army; and

(3) Two members to be appointed from recommendations submitted by the Atlanta Regional Commission.

(b) The Commission shall terminate ten years from the date of establishment of the recreation area.

(c) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term). The Chairman of the Commission shall be designated by the Secretary.

(d) The Commission shall act and advise by affirmative vote of a majority of its members.

(e) The Secretary or his designee shall from time to time, but at least semiannually, consult with the Commission with respect to matters relating to the development of the recreation area.

(f) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon presentation of vouchers signed by the Chairman.

SEC. 106. (a) The Secretary may not expend more than $72,900,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities: *Provided*, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

Within three years from the effective date of this Act, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States a general management plan for the use and development of the recreation area consistent with the findings and purposes of this Act, indicating:

(1) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, the estimated cost of acquisition, and the recommended public acquisition agency;

(2) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(3) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

## TITLE II

### FINDINGS AND PURPOSE

SEC. 201. (a) The Congress hereby finds that—

(1) the purpose of the national park system is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the national park system have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the national park system to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage, and by requiring roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this Act is to make the national park system more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to units of the national park system with minimum disruption to nearby communities through authorization of a pilot transportation program.

SEC. 202. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to formulate transportation plans and implement transportation projects where

feasible pursuant to those plans for units of the national park system.

(b) To carry out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this Act, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which property shall be administered as part of the unit: *Provided,* That any land or interest in land owned by a State or any of its political subdivisions may be acquired only by donation: *Provided further,* That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Acquisitions pursuant to subsection (b) (3) and (4) shall become final within sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and National Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in the absence of a concurrent resolution of objection.

(d) All fees collected in the operation of the facilities and services authorized by this Act shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

(e) The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of transportation modes other than personal motor vehicles for access to and travel within the unit of the national park system.

(f) Transportation facilities and services provided pursuant to this Act shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (79 Stat. 969) and may be undertaken by the Secretary directly or by contract without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided,* That the Secretary or his contractor shall consult with the appropriate State or local public service commission or other such body having authority to issue certificates fo convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such requirements would not be consistent with the purposes and provisions of the Act.

(g) No grant of authority in this Act shall be deemed to expand the exemption of section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4)).

SEC. 203. (a) To carry out the purposes of this Act, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

(b) Within one hundred and eighty days from the enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this Act. The Secretary shall revise the compilation thereafter as he deems necessary.

SEC. 204. (a) The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 2 of this Act—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system;

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the national park system.

(b) Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary shall proceed with the implementation of such plan after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) in the absence of a concurrent resolution of objection.

SEC. 205. The Secretary shall submit a report to the Congress, within three years of the effective date of this Act. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resource values within units of the national park system through access alternatives;

(b) effects of the projects on communities in close proximity to the units of the national park system; and

(c) future transportation projects formulated pursuant to this Act.

SEC. 206. In carrying out the purposes of this Act, there is hereby authorized to be appropriated $1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended.

TITLE III

SEC. 301. Section 4 of the Act approved August 31, 1965 (79 Stat. 588), as amended, providing for the commemoration of certain historical events in the State of Kansas, is further amended by changing $2,000,000." to "$2,750,000.".

Amend the title so as to read: "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes.".

The Clerk read the House amendment to the text of the Senate amendments, as follows:

Strike all after the enacting clause and insert in lieu thereof:

TITLE I

SEC. 101. The Congress finds the natural, scenic, recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the "recreation area"). The recreation area shall consist of the river and its bed together with the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Chattahoochee River National Recreation Area", numbered CHAT–20,000, and dated July 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatves and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may, by publication of a revised map or other boundary description in the Federal Register, (1) make minor revisions in the boundary of the recreation area, and (2) revise the boundary to facilitate access to the recreation area, or to delete lands which would be of little or no benefit to the recreation area due to the existence of valuable improvements completely constructed prior to the date of enactment of this Act. The total area, exclusive of the river and its bed, within the recreation area may not exceed six thousand three hundred acres.

SEC. 102. (a) Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

(b) When a tract of land lies partly within and partly without the boundaries of the recreation area, the Secretary may acquire the entire tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the recreation area may be exchanged by the Secretary for non-Federal land within such boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

(d) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be

subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(e) As used in this section, the term "improved property" means a detached, year-round noncommercial residential dwelling, the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use; together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 103. (a) The Secretary shall administer, protect, and develop the recreation area in accordance with the Act of August 25, 1916 (39 Stat. 535); and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this Act. In developing and administering the recreation area, the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not limited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

(b) The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this Act.

(c) In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area are complementary.

(d) In administering the recreation area, the Secretary may permit fishing in waters under his jurisdiction in accordance with applicable State and Federal laws and regulations. The Secretary, after consultation with the appropriate State agency responsible for fishing activities, may designate zones where, and establish periods when, fishing shall be permitted and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, such regulations shall be put into effect only after consultation with the appropriate State agency.

SEC. 104. (a) The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established, except where such project is determined by the State of Georgia to be necessary for water supply or water quality enhancement purposes and authorized by the United States Congress. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on the date of approval of this Act. Nothing contained in this subsection shall preclude the upgrading, improvement, expansion or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established.

(b) No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance, (1) advising the Secretary in writing of its intention to do so and (2) reporting to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate the nature of the project involved and the manner in which such project would conflict with the purposes of this Act or would affect the recreation area and the values to be protected by it under this Act. It is not the intention of Congress by this Act to require the manipulation or reduction of lake water levels in Lake Sidney Lanier. Nothing in this Act shall be construed in any way to restrict, prohibit, or affect any recommendation of the Metropolitan Atlanta Water Resources Study as authorized by the Public Works Committee of the United States Senate on March 2, 1972.

(c) The Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this Act.

SEC. 105. (a) From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended, not more than $72,900,000 may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this Act.

(b) Effective on October 1, 1978, there are authorized to be appropriated not to exceed $500,000 for the development of essential public facilities.

(c) Within three years from the effective date of this Act, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the recreation area consistent with the findings and purposes of this Act, indicating:

(1) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, the estimated cost of acquisition, and the recommended public acquisition agency;

(2) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(3) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

TITLE II

SEC. 201. Section 4 of the Act approved August 31, 1965 (79 Stat. 588), as amended, providing for the commemoration of certain historical events in the State of Kansas, is further amended by changing "$2,000,000." to "$2,750,000."; *Provided*, That such increase shall be effective on October 1, 1978.

TITLE III

FINDINGS AND PURPOSE

SEC. 301. (a) The Congress hereby finds that—

(1) the purpose of the national park system is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the national park system have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the national park system to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage, and by requiring the provision of roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this title is to make the national park system more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to and within units of the national park system with minimum disruption to nearby communities through authorization of a pilot transportation program.

SEC. 302. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to formulate transportation plans and implement transportation projects where feasible pursuant to those plans for units of the national park system.

(b) To carry out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this title, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which probably shall be administered as part of the unit: *Provided*, That any land or interests in land owned by a State or any of its political subdivisions may be acquired only by donation: *Provided further*, That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Acquisitions pursuant to subsection (b) (3) and (4) of this section shall not

commence prior to sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(d) All fees directly collected by the National Park Service in the operation of the facilities and services authorized by this title shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

(e) The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of transportation modes other than personal motor vehicles for access to and travel within the units of the national park system.

(f) Transportation facilities and services provided pursuant to this title shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (78 Stat. 969) and may be undertaken by the Secretary directly or by contract without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided*, That the Secretary or his contractor shall consult with the appropriate State or local public service commission or other such body having authority to issue certificates of convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such requirements would not be consistent with the purposes and provisions of this title.

(g) No grant of authority in this title shall be deemed to expand the exemption of section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4)).

SEC. 303. (a) To carry out the purposes of this title, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

(b) Within one hundred and eighty days from the enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this title. The Secretary shall revise the compilation thereafter as he deems necessary.

SEC. 304. (a) The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 302 of this title—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system;

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the national park system.

(b) Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary may proceed with the implementation of such plan only after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) have elapsed following submission of the plan.

SEC. 305. The Secretary shall submit a report to the Congress within three years of the effective date of this Act. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resources values within units of the national park system through access alternatives;

(b) effects of transportation projects on communities in close proximity to the units of the national park system; and

(c) future transportation projects formulated pursuant to this title.

SEC. 306. In carrying out the purposes of this title, there is hereby authorized to be appropriated $1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended. In a fiscal year when the amounts actually appropriated are less than the amounts listed above, the authorized but unappropriated amount shall continue to be available for appropriation in succeeding fiscal years.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I shall not object, but I would like to ask the gentleman from California if he could explain to us what this bill does and what the Senate amendment is.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, the amendment we are sending back to the Senate is, in effect and in all particulars, the same, with minor exceptions. We are accepting a reduction of $100,000 in the bill. We are accepting the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) with reference to Fort Scott. We are accepting the Senate amendment, the access bill, which is S. 975, access to the national parks.

Mr. LAGOMARSINO. Has the chairman consulted with the ranking minority member of the committee?

Mr. PHILLIP BURTON. That is correct.

Mr. LAGOMARSINO. And the ranking minority member has no objection?

Mr. PHILLIP BURTON. That is correct.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON) to dispense with further reading of the amendments?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from California?

There was no objection.

## ON THE RETIREMENT OF A GREAT NAVAL LEADER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

● Mr. SIKES. Mr. Speaker, on August 1, Adm. Frederick H. Michaelis, U.S Navy, the Chief of Naval Material, will retire from active duty after 38 years of active service. I should like to bring to the attention of my colleagues the splendid record of service and achievement of this great American naval officer, and in honoring Admiral Michaelis, to also honor that generation of American fighting men and women who were his comrades-in-arms through nearly four decades of war and peace.

Admiral Michaelis, a native of Missouri, is one of the few remaining officers of flag rank whose service began before the United States entered World War II. He witnessed the beginning of the war from the deck of the battleship U.S.S. *Pennsylvania*, which was at Pearl Harbor on December 7, 1941, the day of the Japanese attack on American sea, land, and air forces.

During World War II Admiral Michaelis served bravely and skillfully as a fighter pilot in the Pacific, shooting down five enemy aircraft, and commanding both fighter and fighter-bombing squadrons. For his extraordinary heroism and fearlessness in combat, he was awarded the Navy Cross, the Silver Star, and the Air Medal.

Following World War II Admiral Michaelis served in a number of vital assignments in air development and in special weapons, helping develop the aircraft, weapons, and tactics that enabled the U.S. Navy to forge a new era in weaponry and ship propulsion.

He was the second commanding officer of the world's first atomic-powered aircraft carrier, U.S.S. *Enterprise*, an assignment he handled with distinction. He also was given a number of sensitive staff positions in Washington and in seagoing commands, including command of Carrier Division Nine in the Gulf of Tonkin during the Vietnam war.

As a vice admiral, he was Deputy Director, Joint Strategic Target Planning Staff, Offutt Air Force Base, and from 1972 to 1975, was Commander, Naval Air Force, U.S. Atlantic Fleet.

Since April 1975, Admiral Michaelis has handled one of the largest and most

diverse commands in the Navy, the Naval Material Command. In this position of great responsibility as commander of an organization of more than 210,000 military and civilian personnel and an annual budget exceeding $20 billion, Admiral Michaelis consistently displayed unparalleled qualities of leadership, professional skill, vision, and force.

Under Admiral Michaelis, the Naval Material Command substantially improved its ability to acquire naval systems and equipment and to support them in the fleet.

Through formation of a Navy Claims Settlement Board and other actions, he made significant progress in resolution of residual shipbuilding claims that masked the Navy's real management capability in acquiring new ships and submarines and seriously damaged the Navy's relationship with its shipbuilders, the Congress, and other parts of the Federal Government.

His contributions to the effectiveness of his command and to the present and future readiness of naval forces stand in the highest traditions of the naval service.

Mr. Speaker, I believe you will share my pride in the fact that Adm. Frederick H. Michaelis has served his country and the U.S. Navy with uncommon skill and devotion and I know you and our colleagues will join me in wishing him and his family well in his retirement and in the years ahead.●

## AN EXPLANATION OF THE BROYHILL AMENDMENT TO THE ADMINISTRATION'S HOSPITAL COST CONTAINMENT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 10 minutes.

● Mr. BROYHILL. Mr. Speaker, on July 21, 1978, the Washington Post published an editorial with reference to the House Commerce Committee's action on the administration's hospital cost containment bill, H.R. 6575. As many of my colleagues are aware, I successfully offered an amendment to the bill which removed the onerous, Federal revenue control limit from the bill. The motivation behind my amendment was simply to find some common ground of agreement by the committee to support a reasonable and meaningful measure, much unlike the administration's bill.

My amendment was adopted by a vote of 22 to 21. Following the vote, the Post criticized the committee's action stating that the committee would rather not arrive at a decision about the problem of rising hospital costs. Indeed, the committee did arrive at a decision on the administration's bill. It considered the merits of the bill and found it to be lacking. Consequently, the committee decided to reject that proposal and adopt a more rational approach which I offered.

Regretfully, the Post editorial made no reference to the fact that the legislation was reported out of committee by a vote of 15 to 12. Accordingly, in an effort to present the other side of the issue, I responded to the Post editorial which has yet to be published. I am submitting the text of my letter into the RECORD which I trust will be of interest to my colleagues.

In addition, I would like to bring to the attention of my colleagues a brief legislative history, which I prepared, on the events surrounding the cost containment issue. This summary also contains an outline of my amendment adopted by the Commerce Committee.

The articles follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 24, 1978.*

PHILIP GEYELIN,
*Editor of the Editorial Page, the Washington Post, Washington, D.C.*

DEAR MR. GEYELIN: As the sponsor of the amendment to the Administration's hospital cost containment bill, H.R. 6575, recently adopted by the House Commerce Committee, I must take strong exception to your editorial of July 21, 1978.

The Commerce Committee's approval of my amendment, thereby rejecting the Administration's proposal, was not a decision to abandon attempts at solving the problem of rising hospital costs. In fact, those Committee Members who supported the Broyhill amendment did so with a firm understanding of the issue and, accordingly, acted responsibly to support a rational approach to addressing the problem.

My compromise amendment would establish a National Commission to monitor the efforts of the hospital industry to control costs voluntarily. Further, the amendment authorizes the Commission to provide Congress with a comprehensive analysis of the problem and submit recommendations to the President on alternative, permanent reforms to address hospital costs. Additionally, the amendment provides Federal assistance to states to encourage them to develop their own cost containment programs as well as payments to hospitals to consolidate or discontinue existing services shown to be in excess.

Indeed, the Commerce Committee has not disregarded the issue of health care costs. This same Committee has reported to the House comprehensive and meaningful legislation designed to address this problem. The Health Planning and Resources Development Act, Health Maintenance Organization legislation and Professional Standards Review Organization legislation are just a few of many programs which, in part, have as their goal quality health care at reasonable costs. What we should be doing is to improve upon existing programs rather than create another, new layer of Federal bureaucracy which, in itself, is costly.

As you accurately stated, though, the Commerce Committee does recognize that hospital costs are intolerably high. The data are persuasive and compelling. But to describe H.R. 6575, as has the Administration, as the major legislative proposal to control inflation is, to borrow a word recently used by HEW Secretary Joseph Califano, an "affront" to the American people. This bill would not have controlled inflation. If the Administration is truly committed to fighting inflation, it should approach the problem with a wider perspective befitting an issue of such magnitude.

Unfortunately, the Administration's bill was nothing more than a short-sighted, stopgap solution to a very complex problem. This was obvious the moment the bill was introduced on April 25, 1977, and has since been the reason why H.R. 6575 has been in serious trouble. The fact that the Committee spent almost seven weeks in markup sessions is testimony that H.R. 6575 was simply not a workable solution.

As presented to the Committee, H.R. 6575 proposed to place a limit of one and a half times the GNP deflator (9%) on the rate of increase in hospital revenues over a designated base year, and limit capital expenditures to $3 billion. Then, at the end of five years, the estimated cost savings to Americans would be $30 billion or $56 billion or $28 billion, depending on whom you asked in the Administration.

Implementing H.R. 6575 would have been an administrative nightmare. Under the numerous exception, exemption and review processes proposed by the bill, Secretary Califano would have become the "super hospital administrator" of America. One of the hallmarks of the Carter Administration has been to return decision making authority back to localities. This bill would have had absolutely an opposite effect.

Additionally, the practical effect of the bill would have been a reduction in health services. Small hospitals in rural areas, which have tended to practice economy measures, would have been especially hard hit. For them, a reduction or discontinuance of health services would have been a likely result. As a consequence, the community would have suffered. Such an outcome may cut costs, but the health and well-being of millions of Americans would be jeopardized. In my opinion, such an outcome is unacceptable. I venture to say that most Americans would agree.

Regarding the Voluntary Effort, organized by the health community, I believe that this program should be given a chance to work without the threat of a fallback Federal mandatory control program. The President himself asked industry to voluntarily control costs. I am aware of no other industry which has met the Administration's challenge as has the hospital industry. Why then the later contradiction exemplified in H.R. 6575?

Recent April data are encouraging: total hospital expenditures were 3.8 percentage points lower than the rate of increase for 1977. I might add that the Congressional Budget Office has estimated the savings obtained from the Voluntary Effort to be $30 billion over the next five years.

It seems to me we should encourage the industry to further its progress. The adoption of my amendment is an effort to foster such a goal. Should the Voluntary Effort fail, then as provided by my amendment, recommendations are to be made to Congress within 60 days of such a determination on an interim program designed to address the problem while long-term recommendations are developed for permanent reform.

Unquestionably this was a difficult decision for most Members on the Committee. It is hard to oppose legislation which has an appealing title. Upon close examination, though, it was clear the merits of H.R. 6575 were in serious question. The debate has been fruitful and informative. I am hopeful that the adoption of my amendment will serve notice to the Administration that Members of Congress will respond to the problem of rising health care costs, but only when presented with a rational, equitable, and workable approach to the problem.

JAMES T. BROYHILL,
*Member of Congress.*

LEGISLATIVE HISTORY

The Administration's Hospital Cost Containment Act of 1977 was introduced as H.R. 6575 by Congressmen Paul Rogers and Dan Rostenkowski on April 25, 1977. The thrust of the Administration's bill was to limit inpatient hospital revenue increases for each year to specific percentage increases in revenue above a base year. The complicated formula provided for an approximate 9 percent revenue cap. Additionally, the bill would have imposed a national limitation for all hospital capital expenditures less than $2.5 billion.

The bill was jointly referred to the Ways and Means and Interstate and Foreign Commerce Committee's Subcommittees on Health. The Commerce Subcommittee on Health, on which I serve, held markup sessions and approved an amended version of the bill for full Committee consideration on October 13, 1977. Although amended, the bill as reported by the Commerce Subcommitee on Health was basically similar to the legislation as first introduced in April.

It soon became evident that the bill's chances for passage in 1977 were in serious question. Opponents of the bill, including me, felt such a program was inequitable and unfair in singling out one segment of one industry for special economic controls. Further, many of my colleagues and I felt the bill would have a severe and adverse impact on small, rural hospitals which have tended to practice efficiency measures. Consequently, the bill failed to pass in the last session of Congress.

Then, last November, the health care industry was challenged by Representative Rostenkowski, Chairman of the Ways and Means Subcomittee on Health, to develop its own voluntary program to contain costs. The American Medical Association, the American Hospital Association and the Federation of American Hospitals agreed to meet that challenge by jointly sponsoring a nationwide voluntary cost containment program known as the "Voluntary Effort."

The objective of the Voluntary Effort is to achieve a 4 percent reduction in hospital cost expenditures over the first two years that the program is in effect. The voluntary program would allow a maximum rate of increase in hospital expenses for 1978 at 2 percent less than the rate of increase in 1977; for 1979, and each succeeding year, the allowable rate of increases would be 4 percent less than the rate of increase for 1977.

In response to the Voluntary Effort, Chairman Rostenkowski proposed an alternative to the Administration's bill. The Rostenkowski proposal was a two-part plan which would allow the hospital industry an opportunity to voluntarily achieve specified reductions in hospital expenditures. In the event this failed, a mandatory Federal revenue cap—a modification of the original H.R. 6575—would become effective. The Chairman began markup sessions in his subcommittee on February 8, 1978. On February 18, 1978, the Rostenkowski bill was approved by a narrow vote of 7 to 6 and reported to the full Ways and Means Committee.

The legislation was still surrounded in controversy in spite of the action by the two Health Subcommittees which had reported out amended versions of the original legislation. Then, on May 19, 1978, Chairman Rogers of the Commerce Health Subcommittee introduced a substitute hospital cost containment bill which modified his earlier bill previously reported by his subcommittee. The Rogers substitute bill conformed to the general outline of the "standby" cost containment program proposed by Chairman Rostenkowski. The Rogers bill would have provided for a conditional trial of the Voluntary Effort, however. A "trigger" mechanism would implement a standby version of the Administration's revenue cap of 9% on increases in hospital revenues if the Voluntary Effort were not successful.

While both the Rogers substitute and the Rostenkowski bill appeared to be reasonable compromises, it was still generally felt that these measures were inequitable. Both proposals would have undermined the very essence of a voluntary approach. They would not allow for the desirable flexibility and spontaneity sought through a voluntary program. They would discourage special efforts of hospitals to reduce expenditures as they would then be penalized under the "cap" program. Thus the threat of the fallback program would be self defeating.

The full House Commerce Committee began its markup sessions on the new Rogers substitute on June 6, 1978. Because of the inherent problems with the bill, numerous amendments were offered by Committee members. Consequently, the Committee spent almost seven weeks in markup sessions. It was becoming increasingly clear to the Committee that the bill was not a viable or workable program to address hospital costs. Further, proponents were successful in having the bill amended to exempt certain interests. For example, an amendment was approved 15 to 13 to provide a mandatory wage pass-through for non-supervisory employees. It seemed unfair and impractical to ask hospitals to control costs when non-supervisory wages, which comprise 40% of total hospital expenditures, would be exempt from consideration as an option for possible control.

After nearly seven weeks, the measure was being described as the "swiss cheese" bill. Various amendments, including ones sponsored by the opponents, had been adopted. But still, it was clear that the bill was simply a bad piece of legislation and not worthy of final passage by the Committee.

Accordingly, in an effort to strike a balanced compromise which was reasonable and workable, I offered a comprehensive amendment. My amendment has four basic parts:

1. To establish the goals of the Voluntary Effort to reduce the rate of increase in hospital costs; to establish a reporting and monitoring system; and to establish a National Commission on Hospital Costs to monitor the voluntary program and to immediately begin to study and make recommendations to the Congress on long-range reforms in reimbursement and cost control efforts;

2. To provide assistance to states desiring to institute their own cost containment programs. Each state (other than those which have already received assistance under Section 222 of the Social Security Amendments of 1972) could receive up to 80% of the amount needed to support a program. The state would be required to administer the program through a commission on hospital budgets or through a designated state agency;

3. To establish an annual limit of $4 billion on capital expenditures in excess of $150,000 which result in a net increase in bed capacity of Medicare hospitals. The limit applies only to bed capacity and not for equipment or construction;

4. Federal funds would be made available to assist hospitals to close those facilities and services deemed in excess as reviewed and approved by the HSA, state planning agency, and the Secretary.

On July 18th, my amendment was agreed to by a vote of 22 to 21. The Committee then voted 15 to 12 to report the bill out of Committee. The measure now goes to the House Ways and Means Committee. At the present time, it is uncertain what action, if any, that Committee will take this year.

Basically, my amendment encourages the hospital industry to further continue its successful Voluntary Effort to reduce the rate of increase in hospital expenditures. April data just released show the rate of increase in total hospital expenditures was 3.8 percentage points lower than the rate of increase for the entire year of 1977.

The Voluntary Effort is working. My amendment will allow the industry to continue its efforts, however. It should be noted that with the adoption of the Broyhill amendment, we are putting the industry on call. Should the Voluntary Effort fail, then the National Commission is to submit recommendations regarding cost containment to Congress within 60 days. Conceivably, the Commission could propose programs similar to the Administration bill.

The Broyhill amendment allows the industry to prove itself and thus avoid a new, cumbersome Federal program with all the bureaucratic regulations which accompany such action. More importantly, the threat of reduced or discontinued health services for millions of Americans, a probable result of the Administration's cost containment bill, is now avoided. The Broyhill amendment will allow a thorough and complete analysis of ways to address the problem of rising hospital costs.●

## HUMAN RIGHTS—THE SOVIET VERSION AND OURS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 15 minutes.

● Mr. BURKE of Florida. Mr. Speaker, we have heard much of the recent sentences the Soviet Union meted out to Anatoly Scharansky and Aleksandr Ginzberg. These sentences are shocking and disheartening to all who have sympathy for individuals strong enough to stand for the basic human rights for human beings. We cannot be misled about Soviet intentions respecting human rights, nor can one argue that jailing Mr. Scharansky instead of executing him was an indication of Soviet leniency. It certainly indicates that the action of the Soviet courts is nothing more than a precise and forceful demonstration that nothing has changed in the Soviet system of a controlled society. The only real freedom in the Soviet Union is the freedom to agree with the state. Despite Soviet pronouncements about the Helsinki accords, despite protests from the West, the word to capture Soviet intentions and behavior is not "Helsinki," it is "Gulag."

Mr. Speaker, I need not repeat the dismal facts in Scharansky's case, other than to say that it is obvious that to suggest life is imperfect in the Soviet Union is such a threat to Soviet notions of loyalty that one's very life is subject to forfeit.

There is a point, however, in cases such as Scharansky, Ginzberg, and other objectors and ruthlessly mold public opinion at home that backfires on the Soviet Union. For all the Soviet's propaganda abroad they cannot prevent the free press of the West from reporting what monstrosities transpire in the Soviet Union. It is not enough that their own people must live in a world of "never

question" where freedom is subversion, and where submission is freedom but by blatant pressures by the Soviet Union on American journalists try, fortunately without success, to condition the thinking of the free world. For some years the Soviets have sought through UNESCO and other sources to foster the notion that every country should manage its own press in the same manner as the Soviet Union does. In much of the Third World where basic freedoms of the press are often stifled, the Soviet suggestions have been welcomed. Now they have begun once again to try to manipulate the American press, I hope that our major news purveyor, NBC–TV, will cancel its multimillion dollar agreement to cover the 1980 Olympics without becoming a vehicle for Soviet influence.

Unfortunately, some of those who would try to convince the Western nations, and the American public in particular, of the morality of the Soviets' politically obscene treatment of its dissidents have had its helpful allies in our Nation.

Many analysts, including our own United Nations Ambassador Andrew Young have attempted to explain what Ambassador Young meant by reference to political prisoners in the United States. Ambassador Young, in essence, created the general impression that the United States has no right to criticize the Soviet Union for imprisoning Mr. Scharansky because we are equally guilty. In explaining his statements he said he meant that anyone who was in jail because he could not afford the best legal counsel was a political prisoner. I regret Ambassador Young, as our Ambassador to the U.N. is not aware of the basic differences.

The most thoughtful accounts that I have seen indicated that there are some 29,000 inmates in Federal prisons in this country, of whom at the most there might be a dozen who might be classed being in jail for political activities. For instance one prisoner is serving a term for attempting to overthrow the Government by force or violence; two are serving terms for espionage, and nine people are serving sentences for attempting political assassinations. There are, in addition 11 who are in prison for committing violence in pursuit of political aims. There were some, not long ago that called Alger Hiss a political prisoner—yet the trial of Alger Hiss has been analyzed and reanalyzed and according to reputable historians and legal scholars, not only was his trial fair but his guilt has been reputably verified.

Mr. Speaker, as a personal admirer of Andy Young, I consider it reprehensible for him to make the statement that he did—as one of our leaders in the United States and one who has benefited and enjoyed being elected and serving it, to refer to persons in jail because of economic circumstances as political prisoners is inexcusable. This sort of careless rhetoric implies either that it is subversive to be poor or that American society and law is determined to repress poor people by jailing them at public expense. To me, the statement, further implies that Andrew Young is as guilty as the rest of us of being shortsighted about the poor people.

Mr. Speaker, it is clear from the scandals disclosed from welfare programs that we have failed and spend more encouraging people to be poor than we do encouraging them to produce. It is obvious that a nation would not systematically repress the poor, and yet at the same time generously subsidize them.

Mr. Speaker, in the Soviet Union the government is sentencing its dissidents to jail and in some instances even those who have attempted merely to leave have invited harassment, arrest, and imprisonment. I cannot recall any American dissident who wanted to voluntarily leave the United States or give up his citizenship being refused permission to do so except if wanted for a crime. It is true that there have been several instances of such persons who left the United States, some perhaps to escape prosecution for criminal acts or for various idealistic reasons, but I recall also those who emigrated to these so-called Socialist paradises who have since returned to the United States considerably wiser. One of these is Eldridge Cleaver. In short it is very clear that there are vast and sharp contrasts between systematic Soviet oppression and accidental American abuses. No society is perfect and certainly we recognize that the American economic and legal systems are not without flaw. And I am sure that some are sentenced to terms in jail when perhaps with better legal assistance, they would not. Yet, we do try to tolerate those who disagree with our system just as long as they do not break the laws established to protect life and property.

In short, Mr. Speaker, the differences between American and Soviet societies are not erased by superficial comparisons supported only by sophomoric logic. To make such a dishonest statement only plays into the hands of those who would convince us that it really does not matter to the United States that thousands of Jews and Christians face persecution, intimidation, prison, and even torture at the hands of the Soviet Government. It is absurd to say that no society is free of blemish, and hence no society has the right to criticize injustices in another. I do not and will not believe this kind of irresponsible thinking. If we are to hold freedom dear to Americans, then we must hold it dear to all people everywhere. To suggest that freedom is less important to other peoples than it is to us is a betrayal of our own selves and the freedoms we presently enjoy.

Mr. Speaker, we cannot compromise our consciences by remaining silent against the injustices practiced by other nations.●

## NATIONAL CONSUMER CO-OP BANK, H.R. 2777

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 10 minutes.

● Mr. ROUSSELOT. Mr. Speaker, in a few days, the House will vote on the Conference Bill on H.R. 2777, the National Consumer Cooperative Bank Act. This bill reported by the Committee of Conference is the same as the Senate bill, except that the Bank would be permitted to borrow up to 10 times its paid-in capital and surplus instead of 5 times, as provided in the Senate bill.

I urge my colleagues to defeat this measure. A National Consumer Cooperative Bank has never been shown to be worthy of a Federal effort and it stands now as a clear test of our response to the taxpayers' message of revolt.

A "no" vote will provide a welcome opportunity to assist the President in achieving his goal of cutting the budget for fiscal year 1979 by $5 billion and of achieving cuts for subsequent years as well. When the President announced that cuts would be needed, he declined to identify specific programs to cut. If he is serious, I call upon the President to name this bill as his first specific effort to cut future budgets.

There are several reasons why this bill would be an excellent place to begin:

First. Defeat of this bill would save $100 million for fiscal year 1979 and a total of $200 million over the succeeding 4 years in seed money for the Bank. It would also save $10 million for fiscal year 1979 and a total of $65 million for the succeeding 2 fiscal years in funding for the Self-Help Development Fund.

Second. The administration has had great difficulty determining whether there is a need for this bill. Originally, it strongly opposed the coop bank and called instead for a study. Upon deciding to support the bill, its justification was hardly convincing. A second change in position would be much more credible, for now the administration can at least find strong reason to oppose this increase in spending.

Third. Defeat of this bill will not cause the elimination of any existing programs or the displacement of any existing jobs. Therefore, the decision to cut this program is relatively easy compared to the much harder decisions that will have to be faced later on if the President's budget reduction target is to be reached.

If budget cuts are to be made, it certainly makes sense to stop creating new nonessential programs which will become unassailable priorities in future budgets.

The nationwide surge of sentiment for reductions in taxes and spending at all levels of government which was manifest by the approval of proposition 13 makes it clear that the public mood strongly opposes the establishment of unnecessary new programs, such as the Co-op Bank.

Mr. Speaker, I urge our colleagues to cast their votes in opposition to this new spending measure and in full support for the President's call for budget reductions in 1979. I call upon the Presi-

dent to demonstrate his resolve to cut the budget by withdrawing support for this unnecessary addition to the 1979 and future budgets.●

## GARY A. MYERS AMENDMENT TO INTERNATIONAL SECURITY ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes.

Mr. GARY A. MYERS. Mr. Speaker, when the House considers the International Security Assistance Act, I plan to offer an amendment which would provide the President with increased flexibility in dealing with the arms embargo issue. In essence, my amendment would retain the limited arms embargo against Turkey while providing the President with additional authority to lift the embargo if he determines and legally certifies to Congress that the national security of the United States will be immediately threatened or irreparably harmed by a continuation of the restrictions.

I would like to emphasize that any legal certification which asserts that lifting the arms embargo is essential to U.S. national security is no simple task. The President would be forced to balance and consider the possible loss of Turkey as a NATO ally or an effective NATO partner and the vital U.S. surveillance bases located there against any potential adverse reactions in both Cyprus and Greece and the potential loss of U.S. Naval bases in Greece if the embargo were lifted.

It seems reasonable that the executive branch is best equipped and properly structured to gather and evaluate vital information on ending the arms embargo as well as to conduct a comprehensive analysis regarding the impact of ending this embargo.

Congress should not lift the arms embargo while the conditions under which Turkey violated U.S. arms transfer law still exist. To do so would run contrary to the principle of maintaining the arms embargo until positive negotiations are initiated between the parties involved.

However, it is clear that the language in section 620(x) of the current legislation is seriously flawed. No provision is made to grant the executive the necessary flexibility to insure that our primary goal is taken into consideration; that is, the President should be given the option to lift the embargo if he is thoroughly convinced and able to legally certify to Congress that the U.S. national security is immediately threatened or irreparably harmed by the continuation of such restrictions. It should be stressed that such a determination must include a detailed assessment of the repercussions in Greece as a result of lifting the embargo. Such a determination would in no way absolve Turkey from its illegal action but it would prevent Congress and the President from facing a no-win situation in which the United States would be the ultimate loser. As the Greek-American constituents who have contacted me have indicated, above all else, we must place the interests of America first.

In recent weeks I have been in contact with administration officials on several occasions and have discussed this complex issue at length with them. It has become clear to me that if the administration is capable of producing a preponderance of evidence indicating that U.S. security would be harmed by a maintenance of the embargo, then Congress should, at a minimum, provide the Executive with the flexibility to lift these restrictions.

I would like to share a letter which I wrote to the President regarding this issue.

JULY 14, 1978.

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I would like to thank you for giving me the opportunity to personally hear your arguments in favor of lifting the arms embargo against Turkey. I found the breakfast meeting and my follow-up discussions with U.S. Ambassador Ronald I. Spiers useful and informative.

However, during our breakfast meeting, time did not permit me to raise one particular issue with you; it has occurred to me that Congress has already granted the Administration adequate flexibility to end the arms embargo, assuming that certain conditions have been fulfilled. These conditions furthermore appear to be included in your rationale as to why Congress should vote to lift the arms embargo. Namely, as I read Section 620 X of the International Security Assistance Act, it states that the embargo can be lifted if ". . . the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus. . ."

Consequently, if the information you possess convinces you that Turkey is moving toward gradual demilitarization of Cyprus and is willing to pledge to use U.S. supplied weapons only for defensive purposes within the context of the NATO security zone, then you should make such a determination, as provided under the law. Congress would then have the opportunity to react to your decision.

I fully realize that you would prefer Congressional action to lift the arms embargo rather than face the ambiguity associated with a unilateral Presidential determination that the conditions for ending the arms embargo have been met. I commend you for your sensitivity to constitutional comity regarding both the role of Congress and the Executive in the realm of foreign policy. However, I am willing to concede that the Executive branch is in a better position to evaluate those subjective factors existing within and among foreign leadership groups (which are virtually impossible to convey to the Congress) and which are so vital in any realistic assessment of the opportunities for achieving our objectives.

There are three related questions which I believe to be especially relevant to this issue and which I would like to raise at this time.

1. To what degree have the actions of the Turkish Government regarding Cyprus fulfilled the criteria which would permit you to exercise your flexibility under Section 620 X?

2. What are the missing factors, if any, in these Turkish efforts?

3. Have these factors (in number two above, if any) been conveyed to the Turkish Government?

Although, at this time, I cannot agree with you that it is in the best interest of this country to lift the arms embargo until Turkey takes more concrete action to end its illegal occupation of Cyprus, it appears that you do possess the authority under Section 620 X to determine otherwise and to act according to your analysis of that complex situation.

Sincerely,

GARY A. MYERS,
*Member of Congress.*

The administration's reply came in the form of a personal visit from the Counselor of the Department of State, Mr. Matthew Nimetz. In essence, Mr. Nimetz described the difficulty of any diplomatic effort to present the Turkish Government with a list of criteria to be fulfilled which would permit the administration to lift the arms embargo under the terms of section 620(x). In Mr. Nimetz' opinion, 620(x) did not afford sufficient flexibility to the executive to lift the embargo under present circumstances even if U.S. national security interests were in jeopardy.

I consider this to be a serious flaw in the current legislation and consequently I plan to offer a remedy for this inflexibility when the House considers the International Security Assistance Act.

## THE DENIAL OF HUMAN RIGHTS—CASE NO. 71

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, the violation of basic human rights is indeed a subject of much attention and debate today, but at times we must be reminded that the denial of civil liberties is not only confined to Communist nations. It is apparent that in Northern Ireland, those detained in prisons, out of the watchful eye of the public, are often denied civil rights as well.

Recently, as you know, Amnesty International, the Nobel Prize winning organization, has boldly investigated the conditions of Castlereagh Prison in Northern Ireland. The atrocities committed at the hands of the Royal Ulster Constabulary are indeed an outrage to every man, woman, and child in Ireland, the United Kingdom, and the United States. The focus on the denial of human rights in Castlereagh is a constant reminder of the atrocities which have been committed in Ulster throughout its bloody history.

As a member of the Ad Hoc Congressional Committee on Irish Affairs, it is my duty to provide you with the facts of Case No. 71, and to remind you that even as we stand here today, the conditions facing this prisoner are duplicated

throughout Castlereagh Prison and throughout Northern Ireland.

CASE NO. 71

*Male,* arrested 1977, then brought to Castlereagh Holding Centre. Detained four days, then transfered to Crumlin Road Jail. Had a medical examination on arrival at Castlereagh and also during his stay there. No information about medical examination on release.

*Maltreatment alleged:* threats, beating, hairpulling, direct trauma to the head, head banged against a wall. Kicking. Thrown to the floor, one of the interrogators jumped on his back. Choking. Penis and testicles twisted. Beaten in kidney area and on his back with a chair.

*Symptoms:* no first hand information, but a relative has stated that he had difficulties moving and was nervous and shaking.

*Medical reports:* by Dr. Y1, examinations the day he arrived at the detention center (1) and two days later (2).

*Signs:* (1): no signs. (2): bruises on the face, heels and across his shouler blades and upper back and neck. Tenderness on palpation in the stomach, throat, clavicula and right lower leg. An area of tenderness and swelling localised to the right *bursa sub patellaris.* Bruises on the right upper arm. Tenderness in the scalp.

*Conclusion:* There is consistency between the alleged maltreatment and the signs. It would be of great interest to compare Dr. Y1's report with the police doctor's report.●

## GREATER CLEVELAND BAR OPPOSES FEDERAL CRIMINAL CODE PROVISIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recogized for 10 minutes.

● Mr. STOKES. Mr. Speaker, There is great concern nationwide over the proposed Criminal Code Reform, S. 1437/H.R. 6869. Unfortunately, Mr. Speaker, I feel that this concern is totally justified.

S. 1437/H.R. 6869, should it be passed, would expend Federal jurisdiction to areas never before reserved for our Federal Government. This bill broadens Federal law enforcement powers by increasing jurisdiction for Federal prosecutors, Federal agents, and Federal investigative agencies. The expansion of Federal police power without showing a dire need would be a dangerous infringement upon our constitutional rights.

S. 1437/H.R. 6869 tells judges that they are to regard prisons to be for detainment and forget about rehabilitation. The basic anatomy of criminal justice embodied in the sentencing provisions to this bill creates a mentality that would be satisfied to imprison rather than attempt to solve the enigma of criminal justice in this Nation.

The Bar Association of Greater Cleveland's Criminal Court Committee has written the official position of the Bar Association with regard to the proposed Federal Criminal Code. So that my colleagues in the House may share in its message, I would like to submit for the RECORD the Bar Association of Greater Cleveland's press release of July 17, 1978, and its position paper on the proposed Federal criminal code:

GREATER CLEVELAND BAR OPPOSES FEDERAL CRIMINAL CODE PROVISIONS

The Bar Association of Greater Cleveland today announced strong opposition to two provisions of the proposed new Federal Criminal Code.

The Bar's position was announced by President Andrew L. Johnson, Jr., after the Board of Trustees approved the report and recommendations from the Association's Criminal Law Committee.

The Association specifically opposed:

Establishing a Sentencing Commission and a procedure which "is more mechanical than fair and dangerously infringes upon judicial discretion."

Expanding the federal jurisdiction "at the expense of the states' rights to fashion their own criminal laws."

Under the new Code with its expanding jurisdiction "the federal criminal case load may be increased by 183,150 cases per year," the Criminal Law Committee reported to the Bar's Board of Trustees.

"This would create total chaos within the federal prison and court systems," the report stated.

The Committee emphasized that by pinpointing the provision on sentencing and the jurisdictional provisions, it did not intend to suggest it approved "in total, the remainder of the Bill."

"Rather, it is our belief that these are two issues of the most immediate concern," the report indicated.

Copies of the committee's report which became the official position upon approval by the Board of Trustees, were sent to members of Congress and the two Ohio Senators.

REPORT TO THE BAR ASSOCIATION OF GREATER CLEVELAND: S. 1437: THE PROPOSED FEDERAL CRIMINAL CODE

INTRODUCTION

On April 20, 1978, Dennis Butler, Chairman of the Criminal Law Committee of the Bar Association of Greater Cleveland appointed Gordon S. Friedman to head a subcommittee to review the proposed federal criminal code, S. 1437. What follows is a report of that sub-committee.

I. PENALTY AND SENTENCING PROVISIONS

The penalty and sentencing provision of S. 1437 proposes major changes in the criminal justice system. It is the conclusion of the Committee that the present bill will not realize its own objectives and will very likely create greater hazards and disparity within the area of sentencing.

THE SENTENCING COMMISSION

Under Section 99, a Sentencing Commission is to be created within the judicial branch and will consist of seven members. Four members, including the chairman, are to be selected by the President and three are to be designated by the Judicial Conference. The goal of the commission is to establish sentencing guidelines, policies and practices for use by trial judges in the federal criminal justice system.

The creation of a Sentencing Commission injects politics into the critical area of sentencing in criminal cases. It supports a system of presumptive sentences and transfers significant sentencing authority to the prosecutor. The commission strips the trial court of crucial discretion in the imposition of sentences under the guise of certainty and fairness.[1] Experience has shown that trial courts have at times abused their discretion in the imposition of criminal sentences. However, it is the Committee's belief that the creation of the Sentencing Commission will not adequately deal with the problem of sentence disparity. It will merely transfer power and the potential for its abuse to a less viable, less accountable political entity—the Sentencing Commission.

The standards recommended by the Commission will replace judicial discretion with rigid and often inappropriate standards that may fit the crime but not the criminal. Furthermore, S. 1437 would allow for appellate review of sentences only if a sentence is above or below Commission standards. In the latter case, the prosecutor may appeal the sentence. The Committee rejects this procedure and suggests that it is inconsistent with the Constitution.

The Committee considers the appellate review of sentences to be a strong alternative to the Sentencing Commission and to disparate sentences. However, the Committee rejects the prosecutorial right to appeal sentences. We believe this position is borne out by the ABA's Report on Standards Relating to Appellate Review of Sentences (approved draft 1968). There is no existing law permitting the federal prosecutor to appeal criminal sentences.

Passage of S. 1437 in its present form shall increase the frequency and length of jail sentences; notwithstanding the fact that the United States presently has the most severe jail sentences in the free world.[2] Under S. 1437, maximum sentences are increased and the use of mandatory minimum sentences are also increased. There is, as noted earlier, a presumption in favor of incarceration. The ideal of rehabilitation of offenders is literally written out of the new criminal code. Likewise, S. 1437 totally ignores any rehabilitative scheme for the youthful offender as is presently found in the Youth Offender Act. Finally, S. 1437 significantly reduces the trial court's authority to reconsider a criminal sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

This Committee supports a reconsideration and reform of the imposition of criminal sentences in the Federal courts. However, S. 1437 fails to properly address itself to the problems posed. It is not a reform but rather a device to impose sentences in an inflexible manner. The Committee recommends and accepts the findings and conclusions regarding S. 1437 found in the Bar Association of New York's report on S. 1437 as well as the position paper and testimony of the Federal Public and Community Defenders. The Committee concludes that S. 1437's sentencing provisions should not pass in its present form.

II. THE NEW CODE AS IT AFFECTS JURISDICTION

S. 1437 attempts to expand federal jurisdiction to a boundary heretofore unprecedented in American jurisprudence. This expansion would be accomplished by several methods. First, jurisdiction is significantly extended in the area of crimes against property and persons by key jurisdictional phrases that have been incorporated into the legislation. These phrases suggest that in certain areas an incident that can only be remotely connected to federal jurisdiction, might give rise to a federal indictment.

Next, jurisdiction is expanded by making into an offense acts that make use of a facility of interstate commerce or crossing a state boundary, even though the acts do not affect or impact commerce or a federal interest. This is a significant departure from similar existing law under 18 U.S.C. Sections 865 and 1952.

Furthermore, jurisdiction is expanded by making federal crimes, certain acts committed during the course of another federal offense, even though the acts themselves may not be of federal character. All together in this category there are seventeen seemingly "non-federal" acts that, if committed during the course of numerous federally proscribed acts, become federal offenses. Thus, statistically there is the possibility for several variations on the same theme and a consequent plethora of new federal offenses; [3] all this notwithstanding the insignificance of the federal interest in the underlying crime.

Further, jurisdiction is expanded by more subtle, indirect methods, e.g. the burden of proof of certain affirmative defenses on the prosecution is less stringent in the federal court than the state court under the new law thus presumably encouraging "forum shopping" where the prosecution anticipates difficulty in the state court. Finally under S. 1437 the prosescution has virtually unbridled discretion because of the legislation's failure to set guidelines or other effective legislative control or discretion.

COMMENT

If much of the new legislation is not utilized by the prosecution (this being the suggestion of many), the obvious question becomes, "why clutter an already cluttered system with more extra baggage?" The obvious dysfunctional affect of new, unused statutes is obvious.

If, on the other hand, the prosecution fully employs its expanded jurisdiction, (which is only logical to assume) the massive dangers are equally obvious. In this latter event the threat is twofold. First of all there exists a threat of a federal "takeover" of state and individual rights. Secondly, there exists the likelihood of an overwhelmingly increased docket load in the courts and increase in federal penitentiary population.

As to the first threat, the bill's opposition clearly indicated that the bill would "curtail constitutional rights and civil liberties and would inhibit 'whistle blowing on government wrong-doing'." [4] Furthermore, if there is employment of the expanded jurisdiction, there seemingly would be a complementary expansion of federal law enforcement and its organization. The probability of federal usurpation of state rights causes concern.

Regarding the increase in prison population, and criminal litigation, the United States Courts docket approximately 38,000 to 40,000 criminal cases per annum. Experts feel that the caseload could be increased by 183,150 cases per annum under the new code.[5] It is hard to imagine the catastrophic effect of such an increased caseload on an already over burdened system.

CONCLUSION

The Criminal Law Committee of the Bar Association of Greater Cleveland supports the need for the reform and recodification of the federal criminal law. However, S.1437 in its present form is unacceptable. In particular the Committee rejects the creation of a Sentencing Commission and the sentencing scheme of the proposed legislation. It represents a device that is more mechanical than fair and dangerously infringes upon judicial discretion. Furthermore, the Committee cannot support S.1437's expansion of federal jurisdiction at the expense of the states right to fashion their own criminal laws. Under the new code with its expanding jurisdiction there is the potential that the federal criminal case load may be increased by 183,150 cases per year. This would create total chaos within the federal prison and court systems.

By focusing on the sentencing and jurisdictional provisions of S.1437 this Committee in no way adopts in total the remainder of the bill. Rather, it is our belief that these are two issues of the most immediate concern.

FOOTNOTES

[1] 28 U.S.C. 991(b)(1)(B) The purpose of the commission is to provide "certainty and fairness in meeting the purposes of sentencing avoiding unwarranted sentence disparity".

[2] "Criminal Sentences: Law Without Order"; Marvin E. Frankel, Hill and Wang.

[3] The number of these new or "piggyback" offenses is somewhere between 300–350 offenses depending on which evidence one refers to.

[4] Analysis of opposition of Senators Cranston (D-Calif), Allen (D-Ala) and McClure (R-Idaho) in Supplement to 22 Criminal Law Reporter No. 23 (3/15/78).

[5] Testimony of Professor John Quigly, Ohio State Law School, before House Judiciary Subcommittee on Criminal Justice in February, 1978.●

## A BETTER FARM PROGRAM NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 5 minutes.

● Mr. NOLAN. Mr. Speaker, since the 1930's, Congress and succeeding administrations have remained committed to maintaining a farm program which establishes price supports for agricultural commodities at a level which will give farmers an opportunity to recover their cost of production. According to President Carter, the 1977 farm bill was no exception. In his statement prior to signing the 1977 farm bill, the President described it as a great piece of legislation which would cover the production costs of most farmers.

The farmers, however, knew better. The level of price protection in the 1977 farm bill was ridiculously low, as many Members of Congress realized, but the administration had repeatedly threatened to veto anything more realistic. The farmers then decided to come to Washington to personally get the message across to Congress and the Carter administration. Congress and the President responded by making a few concessions which improved the set-aside, grain reserve, and price support programs, but the support levels still remained far too low.

The farmers continued their efforts to persuade Congress to consider a long-range farm bill instead of piecemeal efforts to get agriculture back on an even keel. On June 6, 1978, national delegates representing the American Agriculture Movement unanimously endorsed the Economic Recovery Act (H.R. 12689)—a comprehensive, long-range farm bill which I had introduced the previous month. The Economic Recovery Act would bring farm commodity prices up to 100 percent of parity in the marketplace within 5 years, implementing the economic goals outlined in the Humphrey-Hawkins Full Employment and Balanced Growth Act.

Efforts during the past several weeks to build support for the Economic Recovery Act have garnered 24 cosponsors, but the measure will not receive serious consideration until a substantially larger number of Members endorse the bill. Experience indicates that building wide support for the bill will be an educational effort requiring considerable time and more intensive lobbying by farmers and their allies. My long-range goal for agriculture continues to be the farm program outlined in the Economic Recovery Act, as well as in the Family Farm Development Act (H.R. 10739), but it will take time for such long-range farm programs to emerge from the legislative process.

In the meantime, farmers continue to face an economic crunch as market prices, particularly for grains, fail to cover costs of production. In western Minnesota, grain prices remain at exceedingly low levels. Despite the claims of Carter administration officials, grain prices have not improved much since last year. A comparison of western Minnesota prices received by farmers for various grains and soybeans on July 25, 1977, and on the same date in 1978 reveals the inadequacy of current market prices:

| | |
|---|---|
| 1977: | |
| Wheat (43% of parity) | $2.19 |
| Corn (50% of parity) | 1.75 |
| Soybeans (83% of parity) | 6.36 |
| Oats (52% of parity) | .91 |
| 1978: | |
| Wheat (50% of parity) | 2.65 |
| Corn (48% of parity) | 1.76 |
| Soybeans (68% of parity) | 5.90 |
| Oats (50% of parity) | .96 |

The figures demonstrate that grain prices are generally not any better than a year ago and, indeed, are worse when rising costs of production are taken into account. The Carter administration's set-aside and reserve programs have failed to adequately raise market prices for wheat and feedgrains. The current market prices, as well as the support levels and target prices, are a disaster which seriously aggravates the U.S. balance-of-payments deficit to the detriment of farmers and consumers alike.

Congress has given the administration all the authority it needs to implement a good farm program. The Carter administration already has the authority it needs to provide realistic price protection administratively—without new legislation. The law allows the administration to raise price support levels for milk, wheat, feedgrains, and soybeans to 90 percent of parity. To date, however, the Carter administration has failed to raise price supports to adequate levels.

NOW IS THE TIME TO IMPLEMENT 1976 BERGLAND FARM PRICE RESOLUTION

In early 1976, when the market prices for farm products were sliding below USDA's cost of production figures, then Congressman Bob Bergland introduced a resolution (H. Con. Res. 578) calling upon Agriculture Secretary Earl Butz to use his existing administrative authority to "promptly raise price support levels to

90 percent of parity." Congressman Bergland described such an action as "exactly what should be done as soon as possible to offer protection to farmers * * *."

In March 1977, Agriculture Secretary Bergland brought the Carter administration's 1977 farm bill to the Hill. The new Agriculture Secretary's former colleagues were dismayed at the President's meager proposals. Bergland himself was lukewarm, admitting that the Carter farm program "was not what I would suggest" as a private citizen. Since that time, the Carter administration has failed to heed Bob Bergland's advice on a number of occasions. If Congress passed Bergland's 90 percent of parity resolution today, the President's economic advisers and the Office of Management and Budget would be sure to prohibit the Secretary of Agriculture from raising the support levels. It is up to Congress to provide Secretary Bergland with the 90 percent of parity loan program he requested in 1976.

The need for a better farm program is obvious. The spread between cost of production and current market prices—particularly for wheat, feedgrains, and soybeans—is now wider than the spread which existed at the time Bergland introduced his resolution.

JOINT RESOLUTION TO RAISE SUPPORT LEVELS

Today, therefore, I am introducing a joint resolution similar to the one which Congressman Bergland introduced on March 9, 1976. Rather than being an advisory measure, my joint resolution requires the Carter administration to raise the loan rates on milk, wheat, feedgrains, soybeans, and cotton to 90 percent of parity. In addition, the joint resolution also adjusts the grain reserve's release and call-in levels to 100 percent and 110 percent of parity respectively.

Except for cotton, the administration already has the authority under existing law to raise the support levels for the above-mentioned commodities to 90 percent of parity. The joint resolution mandating 90 percent of parity prices represents an immediate step, which Congress can take before this session adjourns, to realistically improve the existing price support programs.

Raising and stabilizing the prices of milk, wheat, feedgrains, soybeans and cotton will have a positive effect not only in the farm sector but also throughout the Nation's entire economy:

Livestock producers will benefit, because leveling out the wide swings in the price of feedgrains will restrain the equally wide swings in the cattle production and price cycle.

Raising the loan rates and adjusting the grain reserve's release and call-in levels will improve the administration's ability to rationalize production and promote orderly marketing, because more farmers will have an incentive to participate in the existing set-aside and reserve programs.

Raising the support levels will not increase Treasury costs because, as President Carter himself has stated, commodity loans are a recoverable item for the Government.

Raising the loan levels to 90 percent of parity will fight inflation by putting earned income into the hands of farmers and the unemployed, thus reducing interest rates and the balance-of-payments deficit.

Congress therefore should enact the joint resolution mandating 90 percent of parity as soon as possible in order to provide farmers and consumers with price stability at levels fair to both, while generating the agricultural income necessary to stimulate the Nation's economy.

The joint resolution already has the support of many farmers. Meeting in St. Louis on July 21-22, national delegates representing the American Agriculture Movement unanimously endorsed the resolution as a move Congress should take immediately. In Washington, D.C. National Farmers Union spokesman Reuben Johnson also endorsed the resolution, terming it "consistent with Farmers Union policy and a step in the right direction toward providing farmers with the price protection they need."

I urge my colleagues to join in support of the joint resolution.

The joint resolution follows:

H.J. RES. 1093—JOINT RESOLUTION RAISING THE PRICE SUPPORT LEVELS FOR MILK, WHEAT CORN, SOYBEANS AND COTTON TO 90 PER CENTUM OF THE RESPECTIVE PARITY PRICES THEREFOR, AND FOR OTHER PURPOSES

Whereas Congress has given the Secretary of Agriculture the authority to raise the price support levels and target prices for agricultural commodities in order to provide farmers with realistic price protection; and

Whereas the Secretary of Agriculture already has the authority to raise the price support levels for milk, wheat, corn and soybeans to 90 per centum of the respective parity prices; and

Whereas the prices farmers receive for major agricultural commodities remain at levels which are below the cost of production: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof the following new section 113:

"SEC. 113. (a) Notwithstanding section 201 of this Act, the price of milk shall be supported at not less than 90 per centum of the parity price therefor.

"(b) Notwithstanding section 107 of this Act, the Secretary shall make available to producers loans and purchases on each crop of wheat at not less than 90 per centum of the parity price therefor.

"(c) Notwithstanding section 105 of this Act, the Secretary shall make available to producers loans and purchases on each crop of corn at not less than 90 per centum of the parity price therefor.

"(d) Notwithstanding sections 201 and 301 of this Act, the Secretary shall make available to producers loans and purchases on each crop of soybeans at not less than 90 per centum of the parity price therefor.

"(e) Notwithstanding section 103 of this Act, the Secretary shall make available to producers loans and purchases on each crop of upland cotton at not less than 90 per centum of the parity price therefor.

"(f) Section 110 of this title is amended by deleting parts (5) and (6) and inserting in lieu thereof the following:

"'(5) conditions designed to induce producers to redeem and market the wheat or feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market prices of wheat or feed grains have attained a specified level which is not less than 100 per centum of the respective parity price therefor; and (6) conditions prescribed by the Secretary under which the Secretary may require producers to repay such loans, plus accrued interest thereon, and other charges as may be required by regulation, whenever the Secretary determines that the market prices of wheat or feed grains are not less than 110 per centum of the respective parity price therefor.'" ●

## MEMBERS OF WAYS AND MEANS TRADE SUBCOMMITTEE URGE PRESIDENT TO CONSIDER SURCHARGES AGAINST JAPANESE IMPORTS FOR BALANCE-OF-PAYMENTS PURPOSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, last week five members of the House Ways and Means Committee's Subcommittee on Trade wrote to President Carter urging that he consider using 1974 Trade Act balance-of-payments authority to impose temporary import surcharges of up to 15 percent for a period not to exceed 150 days on Japanese imports.

We wrote urging consideration of this strong and unprecedented action because United States-Japan trade imbalances "are reaching the danger point, threatening international monetary stability and our own competitive payments and trade position in the world economy."

The letter points out that in numerous meetings with Japanese officials, the subcommittee members have warned that improved access to Japanese markets must be obtained:

These warnings that time and patience are running out do not appear to be taken seriously.

Our letter contains trade statistics which clearly explain the rising concern in the Congress over United States-Japan trade imbalances and the need for corrective action:

JULY 25, 1978.

HON. JIMMY CARTER,
*The President,*
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: We have watched with increasing concern the continuing weakness of the United States dollar in relation to other major currencies and our substantial balance-of-payments and balance-of-trade deficits overall and particularly the no longer acceptable trade deficit with Japan. These serious and continuing imbalances are reaching the danger point, threatening international monetary stability and our own competitive payments and trade position in the world economy.

The United States deficit on current account was over $15 billion last year and is already over $6 billion in the first quarter of 1978, the worst balance-of-payments deficit in our history. The United States experienced a record trade deficit last year of over $26 billion, a deficit already in the first quarter of 1978 of nearly $10 billion. The dollar is declining daily in terms of the Japanese yen.

The rapid appreciation of the yen should have made Japanese goods far less competi-

tive in the United States market and United States exports cheaper and more attractive in Japan with the decline of the dollar. Instead, United States exports to Japan have declined in the first four months of this year while imports from Japan have increased 48 percent. The trade deficit with Japan is increasing so far this year to $12 billion from $8 billion in 1977.

The Members of the Subcommittee on Trade have repeatedly pointed out to Minister Ushiba and other Japanese officials during their visits to Washington in recent months that Japan should undertake measures in the Multilateral Trade Negotiations to improve access to the Japanese market substantially and fulfill its commitments in the January Strauss-Ushiba communique to reduce the current acount imbalance with the United States soon if a liberal trade posture and favorable reaction to the result of the trade negotiations with Japan are to be sustained in the Congress. These warnings that time and patience are running out do not appear to be taken seriously.

We have considered the options available under the circumstances and, short of direct action such as that envisaged in section 122 of the Trade Act of 1974, the chances for immediate action are limited. As you know, section 122 requires the President to proclaim a temporary import surcharge of up to 15 percent and/or temporary import quotas for a period not exceeding 150 days whenever special measures to restrict imports are required to deal with a large and serious United States balance-of-payments deficit, to prevent an imminent and significant depreciation of the dollar in foreign exchange markets, or to cooperate with other countries in correcting an international balance-of-payments disequilibrium. Import restrictions are to be applied on a non-discriminatory basis to all countries unless the President determines the purpose would best be served by action against only one or more countries having large or persistent balance-of-payments surpluses.

The basic problem of economic imbalances has been discussed and possible solutions considered, in bilateral talks, in discussions in the context of the MTN, and at the Summit in Bonn. There appear to be few alternatives to deal with the immediate threat of the continued imbalance in our international accounts. Therefore, we urge you to give full consideration to action under section 122.

Sincerely,

Charles A. Vanik, Chairman; Bill Frenzel, Dan Rostenkowski, James R. Jones, and William A. Steiger.●

## PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following vote. If I had been present, I would have voted as indicated.

July 24, 1978: Rollcall 588, "yes."●

## STATEMENT BY THE HONORABLE DAN ROSTENKOWSKI, CHAIRMAN, SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON WAYS AND MEANS, CONCERNING PRESIDENT CARTER'S STATEMENT OF PRINCIPLES ON NATIONAL HEALTH INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, in announcing his principles for national health insurance this past weekend, President Carter has taken a prudent and responsible step forward in the development of legislation to improve the structure and operation of health care financing in this country. The 10 principles announced by the President represent a realistic commitment in a legislative and social area that is complex and controversial.

The President's outline, with which I concur, recognizes wisely, in my view, that a program of major magnitude should not—and for that matter, will not—be debated in an economic vacuum. The principles he has announced demonstrate both his commitment to a comprehensive health care program and his desire to see that program actually enacted.

The President's national health insurance principles, by facing economic and budgetary realities squarely, deprive him of the political luxury afforded others who can augur from absolutist premises. On the one side are those who have insisted on an uncompromising commitment to a costly program regardless of competing budgetary priorities. On the other side are those who continue to oppose any meaningful health care reform. The President now occupies the middle.

By rejecting the political temptation to promise in health care legislation what he could not hope to deliver, the President has put himself in a better position to deliver what others have for years only promised.●

## IN SUPPORT OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I was pleased to join with my colleagues in supporting the reauthorization of the Elementary and Secondary Education Act (H.R. 15). This bill is noteworthy for the emphasis the Carter administration is giving to quality education for our schoolchildren. However, it is probably more pertinent to note that it was passed without an acrimonious and divisive debate over "busing" which has normally accompanied any education bill in Congress in recent years.

It appears that the American people, through their elected Representatives in the House, are beginning to come to grips with what "desegregation" really means, and are receptive to some constructive discussion of the link between "desegregation" and quality in education.

For the first time since title IV of the 1964 Civil Rights Act, this body is encouraging the States to assist local school districts in planning for voluntary ways to reduce racial isolation in its educational system. Necessary funds for technical assistance and training are provided. This program, however, is optional, and the House is merely making the opportunity available for responsible State involvement in planning for peaceful community support for desegregation. The principal State incentive is a 2-to-1 Federal match should the State government decide to accept this opportunity.

If the States pursue this challenge, it may bring about a significant change in the desegregation process of this country. Both the Congress and the States have generally refrained from pursuit of a rational desegregation policy since the 1954 Brown against Board of Education decision. The Brown ruling stated that, as a constitutional principle, States could not discriminate between schoolchildren on the basis of race, and that the doctrine of "separate but equal" had no place in our public education system.

Thus, the Court initiated a judicially dominated decisionmaking process in desegregation. From that time to the present, there has been a long and difficult road for our children and communities toward the goal of equal educational opportunity—a goal we have yet to achieve.

During this process, much criticism has been leveled at the Federal judges who were ordering the desegregation plans. This has occurred, because their plans often included busing, failed to improve the quality of education for all the students, and disrupted community life.

In fairness, it should be pointed out that it was not the obligation of the courts to issue orders designed to improve the quality of education, although many judges wisely did attempt to maintain or upgrade the quality of education during the desegregation process. Their obligation and responsibility was limited to guaranteeing equality of education, as required by the 14th amendment and enunciated in decisions of the Supreme Court. However, in so doing, the Federal judiciary often usurped local control of the educational process.

Congress, in an emotional reaction to the shift away from local control, did take action, but unfortunately used the device of amendment to appropriations bills which has proven totally futile. Time and again, Congress has prohibited the use of Federal funds to pay for transportation of students for purposes of desegregation. In so doing, Congress has used its legislative power to create false hopes rather than developing national leadership in this area.

Under this new planning section of the Emergency School Aid Act, the House is setting an example of leadership. Responsibility rests with the States, where innovation, community involvement, and community control can become reality. The bill explicitly says that grants to States must necessarily be developed in consultation with teachers, educators, parents, and representatives of the general public. Furthermore, the proportion of minority group individuals involved in

this consultatioin must approximate the proportion of minority group children enrolled in the elementary and secondary schools in the State.

All of us, and I believe this includes most of those in all three branches of the Federal Government, know that neither the Congress, the courts, nor the Department of Heatlh, Education, and Welfare can run local schools very well. The State and local people who will benefit or suffer the most as a result of the decisions that are made in education are the people who ought to provide leadership.

As the late, distinguished law professor, Alexander Bickel, stated:

Trying to ward off busing by lashing out against it negatively can at best be partly effective—and then at the cost of damage to our educational system—because busing is only a symbol of what we wish to ward off and change. What is needed is the affirmative provision of constructive alternatives to busing.

Hopefully, the States will welcome this opportunity to design constructive alternatives. The stakes are high, because positive action could very well provide the link between equal opportunity in education and quality in education.

This is a small first step, but in taking it, we will again be nurturing the spirit of moderation in our society which courts alone cannot provide. To quote Judge Learned Hand:

(A) Society so riven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes, no court need save; that in a society which evades its responsibility by thrusting upon courts the nurture of that spirit, that spirit in the end will perish.●

## STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 13511, REVENUE ACT OF 1978

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. ULLMAN. Mr. Speaker, on July 27, 1978, the Committee on Ways and Means ordered favorably reported to the House H.R. 13511, the Revenue Act of 1978, with amendments. The bill provides a 1979 tax reduction of approximately $16 billion for individuals and corporations, including substantial tax relief for middle-income taxpayers, homeowners, and small businesses, and significant tax incentives for capital formation.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 13511 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified open rule which would provide for:

First. The following five amendments, which would not be subject to amendment, if printed in the CONGRESSIONAL RECORD and if offered on the floor:

An amendment by Mr. KEMP to the individual tax rate reductions contained in title I of the bill;

An amendment by Mr. FISHER in the nature of a substitute for the reported bill, if such substitute conforms to the conceptual framework of the substitute offered by Mr. FISHER in committee;

An amendment by Mr. CORMAN in the nature of a substitute for the reported bill, if such substitute conforms to the conceptual framework of the substitute offered by Mr. CORMAN in committee;

An amendment by Mr. VANIK and Mr. PICKLE in the nature of a substitute for the reported bill, if such substitute conforms to the conceptual framework of the substitute offered by Mr. VANIK and Mr. PICKLE in committee; and

An amendment in the nature of a substitute for the reported bill embodying the text of H.R. 12078 which is the administration's original tax reform and reduction proposal;

Second. Pro forma amendments to said amendments for purposes of debate (on said amendments) only;

Third. Committee amendments, which would not be subject to amendment;

Fourth. Four hours of general debate, to be equally divided;

Fifth. Waiving all necessary points of order; and

Sixth. One motion to recommit, with or without instructions.

I anticipate that H.R. 13511 will be officially reported to the House and the committee report filed on Friday, August 4, 1978. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

## PLIGHT OF THE CYPRIOT PEOPLE

(Mr. AUCOIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. AUCOIN. Mr. Speaker, tomorrow the House will vote on whether to lift the arms embargo to Turkey. This is an issue of extreme importance and considerable complexity.

At the center of the issue is a concern for the basic human rights of the people of Cyprus. John S. Marandas, a Portland, Oreg., attorney and a member of the National Conference of Christians and Jews' board of directors, has written a comprehensive treatise on the plight of the Cypriot people.

This report contains vivid documentation of the very real situation on Cyprus, a situation that must be confronted in voting on the lifting of the arms embargo.

I commend this paper, titled "An American Perspective of the Legal, Moral and Human Rights Crisis on the Island of Cyprus," to my colleagues before they cast their vote on this crucial issue:

AN AMERICAN PERSPECTIVE OF THE LEGAL, MORAL, AND HUMAN RIGHTS CRISIS ON THE ISLAND OF CYPRUS

(By John S. Marandas)

I. INTRODUCTION

Cyprus is the third largest island in the Mediterranean with an area of 3,572 square miles. It lies in the northeastern corner of the east Mediterranean basin at the meeting point of three continents—Europe, Asia and Africa. This fact added considerably to the island's importance and development through the ages. The island has a population of 650,000 (mid 1973) of which 530,000 (82%) are Greeks and 120,000 (18%) are Turks. The language of the overwhelming Greek Cypriot majority is Greek and their religion Greek Orthodox. The language of the Turkish community is Turkish and its religion Moslem.

II. HISTORICAL BACKGROUND

*A. Pre-nineteenth century*

Since its early stages, Cyprus had an adventurous history, which was the result mainly of its geographical position. It appeared for the first time in the history of civilization in the 6th millennium B.C. during the Neolithic Period. This period which occupies three millenniums is followed by the Bronze Age that lasted until 1500 B.C. when, for the first time the Mycenaean Greeks came to Cyprus as merchants and emigrants. A little later on, in the 13th century B.C. the Achaean Greeks arrived and settled in Cyprus; they introduced the Greek language and culture both of which have been preserved until today. At the end of the 4th century B.C. Cyprus became part of the Kingdom of Alexander the Great. During the first century B.C. it became a province of the Great Roman Empire and remained as such until the 4th century A.D. when it was attributed to the Eastern part of the Roman Empire. This marks the beginning of the Byzantine Period, which lasted until the 12th century A.D. when, during the crusades, King Richard, Coeur de Lion, conquered the island. He then handed it over to Guy de Lusignan who established a French dynasty that lasted to the end of the 15th century. In 1480 Cyprus became part of the Republic of Venice until 1571 when it was conquered by the Ottomans. It remained part of the Ottoman Empire until 1878 when it was sold to Great Britain.

*B. Nineteenth century*

In 1878 the expansionist policy of Tsarist Russia led the Turks to cede Cyprus to Britain which promised to help Turkey in the event of an attack by Russia on certain bordering provinces. The Turco-British agreement was concluded in disregard of the wishes of the Greek Cypriot people, who had been demanding incorporation of their island to the rest of the Greek trunk.

*C. Twentieth century*

1. British Colony

On the outbreak of the First World War, Cyprus had been annexed to the British Empire, and in 1925 it had formally been declared a British Crown Colony. By that time, Turkey had, under the Treaty of Lausanne of 1923, Article 16, renounced any right or title over Cyprus and by Article 27 of the same Treaty divested itself of the exercise of any power or jurisdiction in political, legislative, or administrative matters over the nationals of Cyprus. When Cyprus was declared a British Crown Colony, the Turkish population of the island—descendants of members of the Turkish occupation force and expatriated from Turkey—had been invited to choose between repatriation to Turkey or permanent settlement in Cyprus, and a number of them had elected to remain in Cyprus.

2. Anti-Colonial Struggle

In 1950 the Greek Cypriots indicated by near unanimous vote their desire to seek union with Greece after a plebiscite. In 1955, after a constant but unsuccessful struggle to attain their freedom by peaceful methods, the people of Cyprus took up arms against the colonial power. The United Kingdom Government, in its effort to thwart aspirations for self-determination, used the

presence in Cyprus of the Turkish minority, and even sought assistance from Turkey itself in obstructing the trend of events in Cyprus. After some hesitation in defiance of its undertaking under the Treaty of Lausanne, the Turkish Government accepted the invitation to intervene in Cyprus. Thus, a portion of the Turkish minority in Cyprus became the instrument of the United Kingdom which threatened that if self-determination were ever to be applied in Cyprus the result would be the partition of the island. The Turkish minority would be offered the right of self-determination separately. That threat might have been intended to discourage the Cypriot people's struggle; but its consequences became an objective of Turkish foreign policy, and a number of Turkish Cypriots took arms against the Cypriot freedom fighters, while the Turkish leadership advocated either partition or the continuation of United Kingdom colonial rule.

3. London and Zurich Agreements of 1959

According to the terms of these agreements Cyprus was to become an independent republic where Britain would have two military bases over which she would maintain sovereign rights. Greece and Turkey were also to maintain small military contingents (950 Greeks and 650 Turks) on the island. The three powers guaranteed the independence of, and respect for the constitution of the new republic. The three powers undertook to consult each other in the event of a breach of the threaty, but each reserved the right to act unilaterally to defend the treaty provisions. The agreements sought to recognize and preserve constitutionally a distinction between the two communities.

4. The Constitution

On the basis of the agreements a constitution was drafted and Cyprus was proclaimed an independent State on August 16, 1960. The constitution provided for under the agreements had divided the people into two communities on the basis of ethnic origin.

In addition, although Turkish Cypriots constituted only 18 percent of the population, they had a right to these positions: 30 percent of the civil service, 30 percent of seats in the Parliament and 40 percent of the police and the army; the Vice-President of the Republic who had to be a Turkish Cypriot was granted veto rights on various vital matters.

Any modification of the Electoral Law and the adoption of any law relating to municipalities or any fiscal laws required separate simple majorities of the Greek and Turkish members of the House could defeat a bill voted by 35 Greek members and 7 Turkish members.

There were created separate Greek and Turkish Communal Chambers with legislative and administrative powers in regard to educational, religious, cultural, sporting and charitable matters, co-operative and credit societies.

Separate municipalities were provided for Greeks and Turks in the five largest towns of the island.

5. Treaties

Two treaties agreed upon in Zurich affected the independence of the Republic of Cyprus:

(1) The Treaty of Guarantee between Cyprus on the one hand and Greece, the United Kingdom and Turkey on the other, whereby the said three powers were given the right of joint or even unilateral intervention for the purpose of re-establishing the state of affairs created by the London and Zurich Agreements, and

(2) The Treaty of Alliance between Cyprus, Greece and Turkey entitling Greece and Turkey to station contingents of their own forces on the Cyprus soil. (It should be noted, however, that these treaties were never presented to the Cyprus House of Representatives for ratification, as the House would not ratify them and thus an impasse would have been created.)

6. Postindependence

In November, 1963, the President of the Republic suggested thirteen amendments to the Constitution. Those amendments had been submitted to the leaders of the Turkish minority in Cyprus; but before the latter had a chance to consider them, the Turkish Government—to which they had been communicated simply for information—had dismissed them as unacceptable thus compelling the Turkish Cypriot leadership to follow suit. In December, 1963, there had been a more ominous reaction from the Turkish Government—the rebellion against the State launched by the Turkish underground organization in Cyprus, and threats of invasion by Turkey itself.

7. London Conference/U.N. Mediation

In January 1964, in view of the serious situation resulting from the fighting in Cyprus, the threats and acts of intervention and aggression from outside and the forcible movements of population, the United Kingdom Government had called a conference in London to deal with the problem. But a few days after the conference had started it had become clear that its purpose was to persuade the Cyprus Government to agree to the dispatch to Cyprus of troops from various countries friendly and allied to Britain and Turkey; but the representatives of Cyprus had opposed that plan and all similar plans submitted to them. To avoid foreign intervention Cyprus brought the matter before the United Nations. To do so, it had had to resist pressure brought to bear from several quarters. At one point, it had even been told that an appeal to the Security Council would be sufficient reason for Turkey to invade Cyprus. During the entire period the threat of Turkish invasion had been constant, with Turkish military aircraft flying over Cyprus, and Turkish war material and trained officers and men clandestinely landed on the island. All these culminated in the bombing by Turkish jets of Cypriot villages and towns in August, 1964. The number of people killed or injured and the damage caused was considerable. (It was in 1964 and again in 1967 that U.S. President L. B. Johnson warned Turkey against invasion.)

The United Nations has been continuously involved in the Cyprus problem since 1964 both in the Security Council and in the General Assembly. In March, 1964, under Security Council Resolution 186 (1964), a U.N. Peace Force was sent to the island (originally for three months, but following separate extensions, it is still on the island), to help restore peace and normal conditions. Mediators were appointed by the Secretary General to study the question and make recommendations as to its solution.

The Mediator stated that the problem of Cyprus could not be resolved by attempting to restore the situation which existed before December, 1963, but that a new solution must be found which must be consistent with the provisions of the United Nations Charter. In particular, he recommended that the solution must be capable of satisfying the wishes of the majority of the population and at the same time of providing for the adequate protection of the legitimate rights of all the people. This report, which was prepared after Turkey proposed partition of 40% of Cyprus, was rejected by Turkey; this had brought mediation efforts to an end.

8. Cyprus at the United Nations

The United Nations repeatedly dealt with the Cyprus problem. On December 18, 1965, the General Assembly passed a Resolution in which it *inter alia* said:

"Take cognizance of the fact that the Republic of Cyprus as an equal member of the United Nations, is, in accordance with the Charter, entitled to and should enjoy full sovereignty and complete independence without any foreign intervention of interference;

"Calls upon all States, in conformity with their obligations under the Charter, and in particular article 2, paragraphs 1 and 4, to respect the sovereignty, unity, independence and territorial integrity of the Republic of Cyprus and to refrain from any intervention directed against it;

"Recommends to the Security Council the continuation of the United Nations mediation work in conformity with the resolution of March 1964 (S/5575)."

In June, 1968, following recommendations by the U.N. Secretary-General, talks started between the Greek Cypriots and the Turkish Cypriots to find a solution to the Cyprus problem; but the Turkish aim appeared to be the promotion of the island's partition. No progress was achieved in the intercommunal talks.

Following the Secretary-General's call, the Cyprus Government proceeded unilaterally with normalization measures expecting similar gestures on the part of the Turks. But their reply was to announce further division by establishing on December 29, 1967, a Turkish Cypriot Provisional Administration in the areas under their control. Intercommunal talks continued, but without substantial progress during the 1968–73 period.

During the six years, the intercommunal talks were carried out with the understanding that settlement of the island's constitutional problems would be based on the context of the unitary, independent and sovereign state. This was mentioned by the United Nations Secretary-General and it was repeatedly declared at U.N. sessions. Turkey did not object but let it be understood that it fully agreed with this notion.

By February, 1974, Turkey was going through a government crisis. As a result, the coalition government of the Republican People's Party with the National Salvation Party under Premier Bulent Ecevit, signed a protocol in which it declared that only federation could be accepted in Cyprus.

9. The Greek Junta

The leaders of the military junta who took power in Greece in April, 1967 found Cyprus a political embarrassment. (It has been suggested that tension between Greece and Turkey at that crucial stage would mean the transfer of Greek army units to the north of Greece to confront Turkish troops.)

The military junta in Athens viewed President Makarios as a dangerous element, a leading member of the non-aligned bloc. There were fears that Cyprus would become a Cuba of the Mediterranean. General Grivas "exiled" to Greece after 1967 somehow managed to "escape" surveillance and returned to Cyprus to set up EOKA B, a fanatic body with two aims (a) to destroy President Makarios and (b) to achieve Enosis, physical union with Greece which most Cypriots realized was neither feasible nor viable as President Makarios had stated publicly.

After Grivas's arrival in Cyprus in 1971 a reign of terror followed in which government installations were attacked and President Makarios had to set up a Special Reserve Force to combat the extremists.

When President Makarios talked about self-determination, Enosis or any link with Greece, whether with a democratic Government or a military junta, he had expressed the cultural, traditional and religious affinities of two countries. Since 1959, he had seen the implications of a physical attachment of the island of Cyprus, logical though it might seem in human terms, with that of Greece and realized that it was not feasible.

10. Separatist System of Government

The Turkish Cypriots with encouragement if not compulsion by Turkey had all along

been trying to promote a solution to the problem aiming ultimately at the island's division. This was sought by proposals for direct partition or for federation envisaging removal of populations and the setting up of two distinct administrations. The Turkish aims came into the open in July-August, 1974, when Turkey invaded Cyprus and immediately afterwards started implementing its long prepared plans for partition and annexation to mainland Turkey.

11. Events of 1974

July 2, 1974: President Makarios writes a letter to President Ghizikis of Greece asking for the withdrawal of Greek officers in the Greek Contingent and National Guard who are plotting against him. Meanwhile the Council of Ministers passes a bill for a reduction in the forces of the National Guard, in an effort to de-fuse a militaristic situation which had continued for 10 years.

July 15, 1974: Military coup de'etat against President Makarios staged by Greek National contingent officers and Greek officers of the National Guard as well as members of EOKA B. Makarios escapes to Paphos and then flies to London via Malta. Nicos Sampson installed as President.

July 17, 1974: News blackout in all eastern regions of Turkey, two journalists arrested in Mersin for trying to send out news of troop movements.

July 18, 1974: Premier Ecevit of Turkey makes visit to London for discussions with other 'guarantor power'—Britain.

July 20, 1974: Turkey using the coup'd etat of July 15, 1974, invaded Cyprus as a 'guarantor' of the independence of Cyprus. U.N. Security Council resolution calls for ceasefire and recognition of sovereignty of Cyprus.

July 23, 1974: Military junta falls in Athens. Democratic government under Constantine Karamanlis installed. Sampson is removed in Cyprus and Glafkos Clerides, as President of the House of Representatives, undertakes duties as acting President according to the Constitution. UNFICYP (U.N. Forces) announce local ceasefire.

July 23–30: Turkey, which had said it had intervened in Cyprus to restore constitutional order does not keep ceasefire but doubles the territory captured in the Kyrenia district. 25,000 Cypriots are made homeless.

July 30, 1974: The Foreign Ministers of Britain, Greece and Turkey meet in Geneva and sign a Declaration on Cyprus.

July 30–August 9: Delineation of a ceasefire line by U.N. experts. UNFICYP and the Cyprus National Guard confronted by advancing Turkish Army.

August 9–August 13: Geneva Conference on Cyprus attended by British Foreign Secretary, James Callaghan; Greek Foreign Minister George Mavros; Turkish Foreign Minister Turan Gunesh, Cyprus Acting President Glafkos Clerides and representative of the Turkish Cypriots, Rauf Denktash.

August 13, 1974: Turkey in Geneva issued an ultimatum—the acceptance immediately of one of two Turkish plans, both based on Turkish administration of 34% of the territory of Cyprus. Clerides and Mavros asked for 36 hours for discussions with their governments. Gunesh refused.

(Callaghan remarked that 36 hours grace was reasonable and that all diplomatic avenues had not been fully explored. He accused Gunesh of being unreasonable. The result was the breakdown of the conference in the early hours of August 14, 1974.)

August 14, 1974: Second Turkish military offensive to capture by force what Turkey had asked for at Geneva—plus extra territory bringing the total to 40%.

August 16: Turkey does not hold the ceasefire she had suggested for 1800 hours local time. Turkish army eventually stopped at a line called in Ankara the *Attila Line*. (This is in fact the line suggested to the U.N. Mediator in 1965 by Turkey.)

Intercommunal negotiations had once again started between Clerides and Denktash, inaugurated by Secretary-General Kurt Waldheim on a visit to Cyprus, and on:

February 10, 1975: Clerides was to hand over Greek Cypriot proposals for the solution of the Cyprus problem. Denktash called off the meeting but the proposals are still sent through the U.N.

February 13: Rauf Denktash proclaims the setting up of the Turkish Federal State of Cyprus.

12. Recourse to the United Nations

During its 29th Session the U.N. General Assembly adopted unanimously Resolution 3212 which provided the framework for a solution to the Cyprus problem. In its key provisions it calls for the respect of the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus, for the speedy withdrawal of all foreign armed forces from the Republic, the cessation of all foreign interference, and for the taking of urgent measures for the return of the refugees to their homes in safety.

The Resolution of the General Assembly was endorsed by the Security Council in its Resolution 361/1974 of 13 December, 1974, thus, its implementation is made mandatory.

13. Turkish Non-Compliance

Turkey, however, although one of the countries voting for the Resolution had been following an attitude of disregard of and non-compliance with any of the provisions of the resolution. There has been no withdrawal of troops and no indication of intention to do so; there have been no measures for a return of the refugees to their homes.

Turkey continues to ignore completely the 1949 Geneva Conventions, its international obligations for the respect of Human Rights and all relevant Resolutions of the United Nations. June 8, 1975 in collaboration with the Turkish-Cypriot leadership, Turkey promoted a "referendum" in the occupied part of the Republic of Cyprus. The referendum established a new constitution.

The provisions of the constitution provide in its preamble, that the "Turkish-Cypriot community constitutes the inseparable part of the Great Turkish Nation". That the constitution aims at linking the occupied part with Turkey becomes clear from the affirmation of the members of the Assembly to respect the "principles of Ataturk" and not the principles of the Constitution of Cyprus. The document in all relevant provisions calls the members of the Turkish-Cypriot population as "Turkish citizens".

Another feature of the above constitution is the fact that the Greek Cypriots, together with all non-Turkish communities in the territory under occupation by Turkey, are defined as "aliens". They will not enjoy the fundamental human and political rights, as the Turks, since the rights of the "aliens" are left to be determined by a special law for "aliens". Further, the ownership rights of Greek-Cypriots are not protected. On the contrary, the constitution contains such provisions which application presupposes the expropriation and allocation of property belonging to Greek-Cypriot displaced persons, such as houses, fields, factories, hotels etc. to Turkish Cypriots and Turks from Turkey. (The Turkish-Cypriot leadership also enacted a "Law" for the distribution of bounty to the Turks.)

III. THE TURKISH INVASION AND ITS CONSEQUENCES

*A. Refugees*

200,000 Greek Cypriots and 80,000 Turkish Cypriots were expelled from over 142 villages and from the towns Famagusta, Kyrenia and Morphou; 5,000 families lost their breadwinner; one child in 125 has become an orphan. By June, 1977, of the total 200,000 only 51,666 persons (26%) had been given acceptable accommodation in newly built settlements. For 65,403 (33%) housing was unsatisfactory because it lacked fundamental facilities, while 55,934 (23.2%) were housed in a very unsatisfactory accommodation (makeshift sheds) and 25,485 (12.8%) in extremely unsatisfactory accommodations.

*B. Dead and missing*

4,000 Greek Cypriots including civilians, (including old men, women and children) were killed during the Turkish invasion, while another 2,100 are still missing.

Most of these persons are not missing in action but, according to indisputable evidence, they were arrested by Turkish soldiers or armed Turkish Cypriot civilians acting under the directions of the Turkish army after the fighting was over. Almost half of the people listed as missing were unarmed civilians taken from their homes or the places where they had run for refuge. Many of the missing were detained by the Turks in prisons in Turkey or Cyprus or in concentration camps well after the cessation of the hostilities.

The number of 2,100 Greek Cypriots—out of a population of 530,000-missing after hostilities which lasted only for few days represents a figure out of proportion to any other military operation. (The case of 800 missing Americans in Vietnam related to a war which lasted for 8 years.)

Many missing persons are still alive in the hands of the Turkish army well after the hostilities. The Turkish side has been persistently refusing to cooperate and accept suggested procedures for the tracing of the missing through humanitarian organizations.

The Turkish side has been insisting that no Greek-Cypriots are held. Yet on a few occasions when the Turkish side had to accept U.N. and ICRC (International Committee of the Red Cross) representatives, unannounced visits to places resulted in the finding of several Greek-Cypriots who were imprisoned in the Turkish occupied areas.

The question of missing persons was raised at the 3rd round of the Inter-Communal talks in Vienna in the presence of the U.N. Secretary-General; and, it was agreed mutually to extend full facilities for searches in response to information given.

The Turkish side flatly refused to implement this agreement.

On the application of the Cyprus Government the Third Committee of the U.N.O. (Human Rights Commission) discussed the problem of the missing persons at length during its session in November, 1975, and then referred it to the General Assembly, which on 9–12–75 adopted Resolution No. 3450.

*C. Economic consequences*

Thousands of people lost all their means of subsistence, homes, jobs, property and had to rely on the state for their economic survival. The level of unemployment at the end of 1974 reached unprecedented heights being 24.5% of the economically active population as opposed to only 1.2% in 1973.

Another problem that has been tormenting not only the enclaved Greek Cypriots but also the mass of the Turkish Cypriots is that an enclaved person can only cultivate the fields next to his house. (The majority of the enclaved are farmers, stockbreeders and fishermen.) The survival of the enclaved Greek Cypriots depends exclusively on assistance sent to them through the U.N.

Percentages of privately owned lands are as follows:

| | Percent |
|---|---|
| Greek Cypriots | 82.7 |
| Turkish Cypriots | 16.7 |
| Others | 0.6 |

The average per capita income in Cyprus was, according to World Bank (1974) figures, $1,180 (compared to $370 in Turkey, $240 in Egypt, $810 in Yugoslavia). The 40% of the island captured by Turkey had the highest per capita income except for the capital.

The refugees in Cyprus came from the most developed area of the island, and cover all strata of society. The occupied part of Cyprus represents 70% of production from all sources.

*D. Housing*

50,000 homes were destroyed. Over one-third of all housing is under Turkish control. Temporary housing for nearly 200,000 refugees had to be constructed, while 67,468 housing units were available in the Turkish occupied areas.

67,468 housing units of 289,661 rooms means 2.4 rooms are available for every Turkish Cypriot in the North.

*E. Health services*

Two out of six major hospitals are occupied by the Turkish army.

Eight out of 17 rural health centers are occupied.

A most difficult task faced by public and private health services is the provision of medical care to the 200,000 displaced persons of all ages. This is especially true since 82% of the population is being serviced by the six hospitals and nine health centers.

*F. Effects on education*

34.6% of school buildings occupied or affected.

41.1% of primary school children displaced.

34.6% of school buildings occupied or affecting 29.7% of pupils.

(The whole Greek Cypriot population (82%) has been forced to concentrate in 60% of the country, and use 65.4% of the school buildings.)

*G. Violations of human rights*

Turkey has violated basic human rights by its aggression in Cyprus. In its report, the European Commission of Human Rights of the Council of Europe has found Turkey guilty of such violations as civilian murders, looting, rape, destruction, expulsion, and brutal behavior of Turkish military personnel. The *London Sunday Times* of January 23, 1977, published excerpts of the damaging report and stated: "It is a horrendous indictment against Turkey and its soldiers and civilians sent from the mainland".

Groups such as Amnesty International and ASME Humanitas of West Germany have documented other violations such as the torture of Greek Cypriot prisoners of war and the forcible expulsion of Greek Cypriots from the Turkish occupied sector. (See Amnesty International Briefing Paper on Turkey, April, 1977, and *London Sunday Times*, March 7, 1976).

ASME—Humanitas, on May 5, 1977, after an extensive investigation on the whole island, revealed the following extensive violations of human rights.

"In particular we wish to refer to the following violations:

(a) In the island a considerable number of persons are being deprived of their property, homes, and means of livelihood due to the restrictions of freedom of movement resulting from the policy of the authorities controlling the northern part of Cyprus.

(b) The population in the North faces great difficulties because of lack of security for their lives and property.

(c) The conditions of life of the Greek Cypriots in the North are particularly oppressive as they are deprived of their basic human rights. We established these facts on visiting the Karpass-Area and talking to many persons on May 3rd, 1977.

In particular—

(1) They are deprived of the freedom of movement and trade.

(2) They live under permanent fear for their life and property because of continuous harassment by the mainland Turks and lack of protection.

(3) They are deprived of secondary education and of sufficient elementary school facilities.

(4) They are deprived of proper medical services.

(5) They are not allowed to look after their fields freely and in many cases not even at all.

(6) Homes and other properties are often the object of theft and the people themselves are being beaten and generally inhumanly treated.

(7) The problems of the population in the north are becoming greater because of the attitude of the mainland Turks who have settled there in thousands. We received many complaints of many crimes and atrocities committed by the mainland Turks against the population of the north, both Greek-Cypriots and Turkish-Cypriots, without being punished.

(8) We believe that the presence of an army in this area is one of the main causes for the bad living-conditions and the human suffering which continues in this island.

We hope that this Press Conference will help the situation because having seen many Turkish Cypriots we believe that they themselves, being victims of the situation, should try to come to an understanding with the Greek Cypriots for a quick solution of all humanitarian problems in the interest of the population of Cyprus as a whole."

The following violations include evidence derived by the European Commission of Human Rights of the Council of Europe:

(Turkish defense to violations found by the Commission: None offered, but jurisdiction challenged. By letter dated November 27, 1975, Turkey told the Commission it refused to accept the Greek-Cypriot administrations' right to go to the Commission, "since there is no authority which can properly require the Turkish government to recognize against its will the legitimacy of a government which has usurped the powers of the state in violation of the constitution of which Turkey is a guarantor".)

1. Physical

a. Breaking into homes and robbing: In some areas this has been a general, routine feature, from which few houses escape. Even old men and women living alone and cripples have not been spared.

b. Murders: There is substantial evidence of violations of Article 2, that killings took place on a substantial scale. There were two mass killings at Palekythron where 30–40 soldiers on each occasion, after having surrendered, were shot dead and burned so as to leave no evidence. Civilians holding children, shepherds, and elderly were murdered.

c. Rapes and Threatened Rapes: Many cases of rapes have been reported. The cases of threatened rapes are numerous. This method was particularly used to expel the Greek Cypriots from villages.

A mentally-retarded girl of 24 was raped in her house by 20 soldiers. When she started screaming they threw her from the second-floor window. She fractured her spine and was paralyzed.

One day after their arrival at Voni, Turks took girls to a nearby house and raped them.

One woman from Voni was raped on three occasions by four persons each time. She became pregnant.

One girl, from Palekythron who was held with others in a house, was taken out at gunpoint and raped.

d. Torture: The Commission of Human Rights concluded that prisoners were in a number of instances physically ill-treated by Turkish soldiers. By their severity they constitute "inhuman treatment" in the sense of Article 3 of the Human Rights Convention, for which Turkey is responsible under the convention.

Evidence to Commission: Main witness was a schoolteacher, one of 2,000 Greek Cypriot men deported to Turkey. He stated that he and his fellow detainees were repeatedly beaten after their arrest, on their way to Adana (in Turkey), in jail in Adana and in prison camps at Amasya.

On ship to Turkey—"That was another moment of terrible beating again. We were tied all the time, I lost the sense of touch. I could not feel anything for about two or three months. Every time we asked for water or spoke we were being beaten."

Arriving at Adana—"... then, one by one, they led us to prisons, through a long corridor ... Going through that corridor was another terrible experience. There were about 100 soldiers from both sides with sticks, clubs and with their fists beating every one of us while going to the other end of the corridor. I was beaten at least 50 times until I reached the other end."

In Adana anyone who said he wanted to see a doctor was beaten. "Beating was the agenda every day. There were one or two very good, very nice people, but they were afraid to show their kindness, as they told us."

e. Harassment: Knocking on doors during the night, firing in the air and throwing stones at houses as a means of harassment in the middle of the night, in order to terrorize the Greek Cypriots are widely adopted.

f. Searching of houses: Turkish Police search the houses of the Greek Cypriots and ask them to produce documents of ownership of their belongings, such as cookers, heaters, radios, etc., and seize the items in respect of which such documents cannot be produced.

2. Psychological

a. Denial of Education: The refusal of Turks to allow teachers to go to the Turkish occupied areas, as envisaged by the Vienna III Agreement, aims at denying education to Greek Cypriot children for the fourth year in succession. Also no textbooks were allowed to go to the occupied area.

Education in the occupied areas has virtually been non-existent since the invasion. The only exception is the rudimentary functioning of elementary schools at Rizokarpasso and Ayia Trias. The Ayia Trias elementary school has been operating with only one enclaved school mistress.

The Greek Gymnasium at Rizokarpasso has been used as elementary school for the children of Turkish colonists who have settled at Rizokarpasso. Furthermore, one of the buildings of Ayia Trias elementary school is now being used for the children of settlers. One of the rooms has been turned into a mosque.

The denial to the enclaved of educational opportunities is an indirect oppressive measure of the Turkish Cypriot Administration aiming at forcing the enclaved population to apply for transfer to the free areas for the sake of their children's education. This measure has so far produced the results expected by the Turkish Cypriot leadership, because many people have applied for and have been transferred to the free areas for the sake of their children's education.

b. Denial of Medical Services: The refusal of the Turks to allow doctors and priests to go to the Turkish occupied area to serve the Greek Cypriots, as envisaged by the Vienna III Agreement, serves the same purpose of forcing the Greek Cypriots out.

Turkish Cypriot doctors visit once a week the villages where there are enclaved persons. A general practitioner and a dentist visit the enclaved at Rizokarpasso every Tuesday and Thursday. However, those of the enclaved who need further medical treatment and must, therefore, go to Famagusta, need a permit from the local Turkish Cypriot Police, which is not always granted. In all cases one has to be accompanied by a Turkish Cypriot policeman.

c. *Denial of Religious Freedom:* The army of Turkey has systematically destroyed

churches and has pillaged and burned significant antiquities. The complete 100 page UESCO report detailing the destruction and desecration of the churches has been suppressed. However, John Fielding, a correspondent for Britain's Thames Television and the *Manchester Guardian* confirmed the findings of UNESCO, prepared by Jasques Dalibard, an authority on religious works of art, and recited on May 8, 1976:

"We visited 26 former Greek villages. Only four churches in the 26 could be described as being in decent condition. We found not a single undesecrated graveyard.

"In some instances, an entire graveyard of 50 or more tombs had been reduced to pieces of rubble no larger than a matchbox.

"En route, in the mountans to the south we found the chapel of Ayios Demetrios at Ardhana empty but for the remains of the altar plinth, and that was fouled with human excrement.

"At Syngrasis, the church interior was smashed beyond recognition, littered with the remains of icons, pews, and beer bottles. The broken crucifix was drenched in urine. At Ayios Yeoryios, north of Famagusta, the church tower was apparently in the process of demolition, with one of its four pillars knocked away. The roof was holed and windows smashed.

"At Lefkoniko, the church furniture was piled outside in the rain, and half a dozen icons were strewn across the rubble in the churchyard. One of the churches in Limnia was utterly wrecked. In a corner lay a stinking pile of household refuse.

d. *Restriction of Movement and Communication:* The enclaved are not allowed to move from village to village or go behind the limits of their village without a written permit from the Turkish Cypriot police, but even this is granted only for certain areas and for a limited radius round the village.

A curfew is imposed from 9 o'clock in the evening to 6 o'clock in the morning and enclaved persons who were taken prisoner by the Turks have to report to the Turkish Cypriot "Police Station" of their village every Thursday.

As a result of the restrictions on their movement, the enclaved cannot carry out their farming operations or meet even their most elementary social needs. This is another measure of indirect pressure on the enclaved to leave the occupied area, despite the Turkish Cypriot leadership's claim that applications are submitted voluntarily.

e. *Colonization:* In defiance of international law, and in order to colonize as soon as possible the Turkish occupied areas by Turks imported from Turkey and not to leave Greek-Cypriots in such areas (in conformity with the declared policy of "homogeneous regions"), the Turkish leadership has acknowledged that the Greek Cypriots are leaving their homes not of their own free will.

In some areas, Greek Cypriot enclaved people were forced to leave to make room for the Turks who were transplanted there, in implementation of the plan of Turkey to change the demographic structure of the occupied region, as a next step to eventual partition. While the world public opinion was urging the parties in the Cyprus dispute to abstain from any action likely to prejudice the efforts to reach a settlement, Ankara launched and consequently intensified a plan for the colonization of the occupied areas with emigrants from the Turkish mainland. The plans of Turkey in this respect provide for the transfer of 200,000 emigrants from poor provinces of Anatolia and Black Sea coastal areas to the occupied areas of Cyprus.

The Los Angeles Times said in a recent article that about 20,000 Turkish settlers live in the Famagusta area.

The publication also refers to the problems created in the occupied north as a result of the presence of the Turkish settlers.

It shows that the different cultural and social level of the settlers has given rise to many problems which have led to conflicts with the local Turks, an increase in crime and an aggravation of the unemployment and production problems.

The Turkish Cypriot daily *Halkin Sesi* wrote, for example, that the settlers from Turkey were "lawless, unemployed and illiterate wanderers . . . who engage in stealing and plundering".

*Tercuman* of Istanbul reported that the Turkish settlers were "thieves, pickpockets, professional prostitutes and people with criminal records".

A report by the Swedish U.N. contingent said "a lot of incidents" occurred between the settlers and the local population.

The problems become more acute because the settlers are being given preferential treatment by the administration both as regards employment and housing.

There has been a steady influx of mainland Turks to the occupied areas of Cyprus since February, 1975. Initially the settlers were variously described as families of Turkish soldiers, "seasonal workers" and Turkish Cypriots returning to their homeland.

f. It is now estimated that the total number of mainland Turks settled in the occupied area is approximately 40,000.

The first settlers were given the citrus groves of Famagusta, Morphou and Lapithos/Karavas. They moved into the homes and orchards of the evicted Greek Cypriot population.

Their presence worsened the unemployment situation in the north. And although they were described as "agricultural workers", the result has been that the occupied area imported more than 3 million dollars worth of fresh fruits and vegetables from Turkey last October.

IV TURKEY VIOLATES AMERICAN LAWS, AGREEMENTS, TREATIES AND U.N. RESOLUTIONS.

A. U.S. Foreign Assistance Act of 1961:

"Defense articles and defense services to any country shall be furnished solely for internal security, for legitimate self-defense."

The Rule of Law Embargo Amendment—620x states that any assistance to Turkey violates the existing provisions of amendment 620x to the Foreign Assistance Act of 1961, which imposes a rule of law embargo on arms transfers to Turkey until Turkey is in compliance with American laws because of Turkey's violation of the Act in illegally using U.S. supplied arms for aggression in Cyprus and for the continuing occupation of 40% of Cyprus.

B. U.S. Foreign Military Sales Act:

"Any country which hereafter uses defense articles or defense services furnished such country . . . in substantial violation of sections 2311–2320 of this title or any agreements entered into pursuant to any of such Acts shall be *immediately ineligible* for further assistance." (Emphasis supplied. (22 U.S.C.A. Sec. 2314(d).)

The U.S. Congress voted repeatedly in the fall of 1974 to impose a Rule of Law arms embargo on Turkey. The arms embargo finally went into effect on February 5, 1975. The Administration submited a new bill, a few weeks later, to lift the Rule of Law arms embargo. The Administration bill was defeated on July 24, 1975, despite extraordinary Administration lobbying efforts. Turkey on July 25, 1975, unilateraly abrogated its 1969 base agreement with the U.S.

C. U.S. International Security Assistance and Arms Export Control Act:

International Security Assistance and Arms Export Control Act (22 U.S.C.A. Sec. 2304) arms transfers of Turkey are in direct violation of the human rights provision of the Act which states in part that:

"No security asistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."

D. U.S.-Turkey Bilateral Agreements:

U.S.-Turkey Bilateral agreements under the U.S. Foreign Assistance and Military Sales Acts were violated by use of U.S.-supplied equipment for aggression against Cyprus.

E. U.S.-Turkey Base Agreements of 1969:

Turkey illegally terminated in July, 1975, the U.S.-Turkey bases agreement.

F. NATO Charter.

The Turkish invasion of Cyprus violated the fundamental principles of the NATO Charter, as expressed in the Preamble and Article 1. The Preamble to the NATO Treaty states:

"The parties of this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

"They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

"They seek to promote stability and well-being in the North Atlantic area."

Article 1 of the NATO Charter states:

"The Parties undertake, as set forth in The Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purpose of the United Nations."

G. United Nations Charter:

Article 3 provides that only peaceful means are now the only acceptable methods for settling international disputes.

H. United Nations General Assembly Resolutions: Violations by Turkey include:

1. Resolution of 18 December, 1965; which called for:

(a) Recognition of Security Council resolutions adopted in 1964 and 1965;

(b) Recognition and respect by all nations in conformity with their obligations under the Charter to respect the sovereignty, unity, independence and territorial integrity of the Republic of Cyprus; and

(c) Refraining from any intervention in Cyprus.

2. Resolution No. 2734, which stated that the territory of a nation shall not be the object of military occupation resulting from the use of force.

3. Resolution No. 3212, (November 1, 1974, by 117 to 0 vote), which called for:

(a) Withdrawal of foreign troops from Cyprus;

(b) Allowance of refugees to return to their homes;

(c) Cessation of foreign interference;

(d) Recognition of the sovereignty of Cyprus.

4. Resolution No. 3220, (November 14, 1974), which stated that information on those who are missing or have died should not be delayed.

5. Resolution No. 3395, (November 14, 1974), which called for:

(a) Reaffirmation of Resolution 3212;

(b) Resumption of meaningful negotiations;

(c) Refraining from changes in the demographic structure of Cyprus.

6. Resolution of 12 November, 1976, which called for:

(a) Reaffirmation of Resolutions 3212 and 3395;

(b) All parties to cooperate with the Secretary-General.

7. Resolution No. 3450, which called for:

(a) Informing families in Cyprus about missing relatives;

(b) Joint efforts between the U.N., the Commission on Human Rights and the International Committee of the Red Cross.

I. United States Security Council Resolutions: Violations by Turkey include:

1. Seven U.N. Security Resolutions in 1964–1965, which:

(a) Created a peace keeping force;

(b) Called for restraint in use of armed force, and maintenance of the territorial integrity of Cyprus.

2. Resolution of July 20, 1974, (#353), which:

(a) Respected the sovereignty of Cyprus;

(b) Called for cessation of fighting, and an end to foreign military personnel on Cyprus.

3. Resolution of July 23, 1974, (#354), which called for immediate compliance with Resolution No. 353.

4. Resolution of August 1, 1974, (#355), which acknowledged the sovereignty of the Republic of Cyprus.

5. Resolution of August 14, 1974 (#357), which

(a) Calls for a ceasefire; and

(b) Reaffirmed Resolution 353.

6. Resolution of August 15, 1974, (#358), which:

(a) Insisted upon full implementation of prior resolutions;

(b) Sought immediate and strict observance of the ceasefire.

7. Resolution of August 15, 1974, (#359), which:

(a) Deplored that U.N. members had been killed and wounded;

(b) Called for cooperation with the U.N. Forces.

8. Resolution of August 16, 1974, (#360), which:

(a) Recorded formal disapproval of unilateral military actions taken by Turkey against Cyprus;

(b) Urged immediate withdrawal without delay of Turkish personnel;

(c) Called for meaningful negotiations.

9. Resolution of August 30, 1974, (#361), which:

(a) Called on Turkey to insure fundamental human rights for every person;

(b) Urged the parties to allow the return of refugees to their homes in safety.

10. Resolution of December 13, 1974, (#365), which:

(a) Reaffirmed Resolutions 3212 and 3295;

(b) Extended the U.N. Peace-Keeping Force.

11. Resolution of March 12, 1975, (#367), which:

(a) Condemned the Turkish declaration that a part of Cyprus would become a federated Turkish state;

(b) Called upon all nations to refrain from attempting to partition the island or seek unification with any other country.

12. Resolution of December 13, 1975, (#383), which:

(a) Reaffirmed its decision to maintain a U.N. Force in Cyprus;

(b) Reaffirmed Resolution 3212.

J. Geneva Cease Fire Agreement of July 30, 1974, was violated by Turkey.

K. Cease Fire Declaration of August 16, 1974, was violated by Turkey.

L. Treaty of Guarantee, guaranteeing the sovereignty of the Republic of Cyprus, respecting its territories integrity, and prohibiting union or partition of the island, was violated by Turkey.

M. Treaty of Alliance, wherein Turkey, Greece and Cyprus were to cooperate in the defense of Cyprus, and to undertake to resist any attacks or aggression against the independence and territorial integrity of the Republic of Cyprus, was violated by Turkey.

N. International Covenant on Civil and Political Rights of 1966, by not allowing inhabitants of the occupied territories, who had previously fled or expelled to return to their homes, was violated by Turkey.

O. European Convention on Human Rights: The European Commission on Human Rights of the Council of Europe has found Turkey guilty of violating six articles of the European Convention on Human Rights including systematic killings of innocent civilians committed on a substantial scale, rapes, torture of prisoners and persons detained, looting and robbing on an extensive scale, continuing violation of human rights by refusing to allow the return of refugees to their homes, and enforced expulsions.

A Guardian news article of January 18, 1977, and the London Sunday Times of January 23, 1977, published excerpts of the damaging report. The Sunday Times detailed the Commission's verdicts that Turkey had violated six articles of the European Convention on Human Rights by its:

(1) Systematic killings of innocent civilians committed on a substantial scale;

(2) Rapes of women of all ages from 12 to 71;

(3) Torture of prisoners and persons detained;

(4) Looting and robbing on an extensive scale;

(5) Continuing violation of human rights by refusing to allow the return of refugees to their homes;

P. Geneva Convention of 1949: The Turks have illegally transferred impoverished mainland Turks to the island in a policy of deliberate forced colonization, a violation of the Geneva Convention IV, Article 49 which prohibits an occupying power from transferring part of its own civilian population into the territory it occupies, as well as the reverse.

Q. Vienna Agreement of August 2, 1975: The forced expulsions of over 18,000 Greek Cypriots from the north contrary to the Vienna Agreement signed on August 2, 1975, is summed up by the Senate Subcommittee on Refugees report, Crisis on Cyprus, 1976: Crucial Year for Peace.

R. London Agreements of 1959 relating to the founding of Cyprus, were violated by Turkey.

S. The Montreaux Convention of 1936, was violated by Turkey.

T. The 1955 Convention on the Continental Shelf, was violated by Turkey.

U. Lausanne Treaty of 1923. Articles 37 through 41 were violated by Turkey.

V. Helsinki Agreements of 1975, were violated by Turkey.

W. United Nations Declaration of Human Rights, was violated by Turkey.

X. Geneva Declaration on Cyprus of July 30, 1974, was violated by Turkey.

V. CONCLUSION

A recent volume of the *U.S. Congressional Record* carries statements on Cyprus made by Senator KENNEDY.

Senator KENNEDY's statement reads:

"Mr. President, for tens of thousands of Cypriots, being a refugee has become a way of life. Thousands still live in tents and countless more are crowded into temporary, inadequate housing. Over three years have now passed since the Turkish invasion of Cyprus and not a single refugee has been able to return to his home or lands a few miles away.

"The continuing tragedy of Cyprus has tended to slip from our view, as the Cyprus crisis has been overtaken by newer problems in new areas. But fortunately, articles occasionally appear in our press which serve to remind us that the Cyprus problem continues, unchanged and that we cannot forget the plight of the Cypriot people.

"Such an article appeared in today's *New York Times* by William Farrell, describing the life of the Cypriot refugees in the small town of Kolossi. It captures what life is like as a refugee in one's own country—with one's home and fields only a short distance away, but blocked by an army of occupation.

"Mr. President, we cannot forget the refugees of Cyprus, even as we cannot ignore the problem of Cyprus, because they represent more than just a humanitarian problem or a political issue. More than anything else, Cyprus is a moral issue which we can ignore at our peril. As a recent editorial in *The Guardian* of London stated:

"'*For all the intricacies of Cyprus, the essential issues are moral ones.*

"'*Can a country invade another under the West's nose and get away with it? Is might right? And, if might is not right, what are we going to do about it*'." (Emphasis ours.)●

## GENERAL LEAVE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that all Members may be permitted 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on the bill, H.R. 12514, the foreign assistance authorization bill for fiscal year 1979, which was considered by the House earlier today.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

## CONFERENCE REPORT ON H.R. 10929

Mr. PRICE submitted the following conference report and statement on the bill (H.R. 10929) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1402)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10929) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $972,400,000; for the Navy and Marine Corps $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: for the Navy, $6,191,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

SEC. 203. The Secretary of Defense shall, not later than September 30, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.

(2) The Navy, 523,550.

(3) The Marine Corps, 190,000.

(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programmed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.

(2) The Army Reserve, 195,750.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,000.

(5) The Air National Guard of the United States, 92,150.

(6) The Air Force Reserve, 53,075.

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED RESERVES

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking out "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military service; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (a).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENTS IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the Ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2,000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

"(e) The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a)(1) Section 269 of title 10, United States Code, relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended—

(1) by inserting "(a)" before "Under regulations";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection:

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c)(1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended—

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473)"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and" at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armd Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

"§ 652. Ready Reserves: requirement of notification of changes of status.".

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selected Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirement of notification of changes of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 664 of title 10, United States Code, is amended by striking out subsection (c).

(b)(1) Section 279 of such title is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

## TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) for fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

## TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized to average military training student load as follows:

(1) The Army, 50,738.
(2) The Navy, 57,996.
(3) The Marine Corps, 21,324.
(4) The Air Force, 44,410.
(5) The Army National Guard of the United States, 11,793.
(6) The Army Reserve, 5,959.
(7) The Naval Reserve, 991.
(8) The Marine Corps Reserve, 3,074.
(9) The Air National Guard of the United States, 2,471.
(10) The Air Force Reserve, 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for One Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security and provides for the most cost effective and efficient management of the training base, in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to

such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment.

For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

## TITLE VII—CIVIL DEFENSE

### AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

### CIVIL-DEFENSE STUDY

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating, and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

## TITLE VIII—GENERAL PROVISIONS

### EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

### AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) Sections 308(f) and 308a(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting is lieu thereof "September 30, 1980."

### EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

### CAREER SEA PAY

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay grade E–4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

| "Years of sea duty: | *Monthly rate* |
|---|---|
| Over 3 | $25 |
| Over 5 | 35 |
| Over 12 | 55 |

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

| "Years of sea duty: | *Monthly rate* |
|---|---|
| Over 3 | $25 |
| Over 5 | 35 |
| Over 7 | 45 |
| Over 12 | 55". |

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1)), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

| "Years of sea duty: | *Monthly rate* |
|---|---|
| Over 3 | $25 |
| Over 5 | 35 |
| Over 7 | 45 |
| Over 9 | 55 |
| Over 10 | 65 |
| Over 11 | 75 |
| Over 12 | 100". |

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 305a of this title may not be paid special pay under this section for the same period of service."; and

(C) by striking out "sea duty or" in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).

### CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 3040(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

(b) (1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 3081. Dental Corps: Chief, functions

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the advisor to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.".

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps: Chief, functions.".

(c) (1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a) (1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT-MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by——

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsection (a)(4) a new clause (5) as follows:

"(5) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions or may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions.".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient numbers and having sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including navy aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG–2 DESTROYER CONVERSION

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG–2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of Congress expires following the date on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79; 91 Stat. 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

CERTIFICATION OF CLAIMS

SEC. 813. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85–804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85–804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85–804, or other similar requests submitted before the date of enactment of this Act.

RESTRICTION ON CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 814. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be per-

formed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act or performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

PROHIBITION ON SALE OF CERTAIN DEFENSE ARTICLES FROM DEPARTMENT OF DEFENSE STOCKS

SEC. 815. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stock' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 12, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 816. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 818. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty".

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof "active duty".

COMMISSARY BAGGERS

SEC. 819. Notwithstanding any other provison of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

And the Senate agree to the same.

MELVIN PRICE,
CHARLES BENNETT,
SAMUEL S. STRATTON,
RICHARD H. ICHORD,
LUCIEN N. NEDZI,
CHARLES H. WILSON,
ROBERT L. LEGGETT,
RICHARD C. WHITE,
BILL NICHOLS,
BOB WILSON,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE
(for consideration of differences regarding intelligence - related activities only),
EDWARD P. BOLAND,
BILL D. BURLISON,
NORMAN Y. MINETA,
J. KENNETH ROBINSON,
*Managers on the Part of the House.*

JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
THOMAS J. MCINTYRE,
HARRY F. BYRD, Jr.,
SAM NUNN,
JOHN C. CULVER,
GARY HART,
JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,
DEWEY BARTLETT,
JAKE GARN,
*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10929) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying (changes.)

TITLE I—PROCUREMENT

AIRCRAFT

ARMY

*C–12A (light utility aircraft)*

The House recommended $19.6 million for the procurement of 20 C–12 aircraft for the Army. The Senate bill contained no authorization for the C–12.

House conferees argued that this authorization would allow the Army to exercise the fourth of five options to purchase 20 C–12 aircraft per year for five years, and avoid the renegotiations of the existing contract.

Senate conferees were adamant in their position that the Army did not need to acquire additional light utility aircraft this year.

The House recedes.

*CH–47C (Chinook)*

The House approved the Army request for 16 CH–47C helicopters in the amount of $78.4 million. The Senate deleted the entire request.

House conferees pointed out that the CH–47C is a critical item in worldwide Army combat readiness pending the introduction of the CH–47D through a modernization program.

Senate conferees argued that the CH–47C helicopters in this bill would not incorporate the improvements now being incorporated in the CH–47D's and would have to be returned for modification and upgrade.

The conferees agreed to authorize $33 million for CH–47C helicopters.

The Senate recedes with an amendment.

NAVY

*A–6E (Intruder)*

The House approved $18.2 million for advance procurement for twelve A–6Es fiscal year 1980. The Senate deleted the entire request.

The House took the position that the A–6E is the only all-weather attack aircraft currently in production in the Free World, and that to let the production line close would not be in the best interests of the United States Navy.

Senate conferees argued that the A–6E inventory will be adequate to sustain squadron operating requirements through the mid-1980s because the inventory objective is exceeded with the present procurement.

After much discussion, the Senate conferees prevailed.

The House recedes.

*A–7E (Corsair)*

The January budget submission did not contain a request for any A–7E aircraft, but it did contain a request for $26.1 million in the procurement account for support of the present A–7E fleet. In view of Navy testimony indicating the need for further A–7E procurement, the House added $144.88 million to the budget request for a total of

$170.98 million for the procurement of 24 A–7E's.

The Senate authorized the requested $26.1 million for support but no new A–7E's.

The conferees agreed to authorize $110.4 million for 12 aircraft and support.

The Senate recedes with an amendment.

*F–14A (Tomcat)*

The budget request was for $524 million for 24 F–14A aircraft. The House added $200 million for 12 additional aircraft, bringing the total to 36. The Navy testified that the flyaway cost would increase $3.0 million per copy if the buy for fiscal year 1979 was 24 instead of 36.

The Senate authorized funding for 28 aircraft on the basis that 44 F–14's were funded in fiscal year 1978 and, thus, 28 authorized in fiscal year 1979 would maintain F–14 production at 36 per year.

The Senate recedes.

*F–18 (Hornet)*

The budget request was $311.9 million for 5 F–18 aircraft and $38.6 million for advanced procurement for 15 F–18 aircraft in fiscal year 1980. Both the House and Senate authorized funding for 9 aircraft in fiscal year 1979 and $85.0 million for advanced procurement for 30 aircraft to be procured in 1980. However, the Senate amendment added $117.6 million to the authorization request and the House added $121.6 million, a difference of $4 million.

The conferees agreed to authorize $429.5 million for 9 F–18 aircraft in fiscal year 1979.

The House recedes.

*AV–8A (Harrier)*

The House added $90 million for the procurement of 15 AV–8A aircraft in lieu of 18 A–4M's requested for the Marine Corps. The Senate also deleted the authorization requested for A–4M's but did not authorize any AV–8A's.

The Senate conferees pointed out that additional money was justified in the Research and Development account to accelerate the development schedule for the AV–8B and that the conferees could delete the 15 AV–8A's.

The House recedes.

*CTX (Navy light utility transport aircraft)*

The House bill contained an authorization for $27.4 million for 22 CTX aircraft. The Senate did not authorize these aircraft.

The House conferees were strong in their position that these aircraft were necessary for the modernization of Navy's utility transport fleet. The Senate conferees did not dispute the requirement but expressed concern that Navy had not bought the CTX's authorized last year through open competitive bidding, but used the Military Interdepartmental Purchase Request (MIPR) to contract for the 22 CTX aircraft authorized and funded in fiscal year 1978. The Senate conferees argued that significant savings could still be achieved if the aircraft authorized this year were bought through open competition. However, House conferees pointed out that the House report contained language that these aircraft were authorized with the understanding that the aircraft procured would be common with the light utility aircraft of the Army and Air Force.

After much discussion, the conferees agreed that the aircraft authorized should be procured through open competitive procedures insofar as possible, and without breaching existing contractual commitments.

The Senate reluctantly recedes.

*C–9 (Navy transport)*

The C–9 aircraft is an aircraft used by the Navy to provide airlift support to the fleet and Naval forces. The budget requested no C–9 authorization; however, the Senate added authorization for $16.1 million for 1 C–9 aircraft for the modernization of the Naval Reserve airlift fleet.

The House recedes.

*S–3A (Modification)*

The House added $3.0 million for the conversion of 2 existing S–3A anti-submarine warfare aircraft originally used in the R&D flight test program in order to provide a carrier-on-board delivery capability.

The Senate recedes.

AIR FORCE

*ATCA (Advanced tanker/cargo aircraft)*

The budget contained a request for $143.5 million for 2 ATCA's. The House approved the request.

The Senate expressed concern that further design and engineering effort of the modification and support equipment should be completed before commencing production of the second ATCA and authorized only one.

The House conferees pointed out that such a reduction would result in a minmum total program cost increase of $30 million.

The Senate recedes.

*C–130H (Hercules)*

There was no request for C–130H aircraft. However, the House added $145 million for 16 C–130H's to prevent further degradation in mission performance of the older C–130's.

The Senate, with the intent of modernizing the Air National Guard, added $77.5 million for 8 C–130H's.

The Senate prevailed in the discussion of the two positions.

The House recedes.

*TA–7D (two-place trainer)*

The Senate recommended $194.6 million for 21 TA–7D two-place trainer aircraft for the Air National Guard. The House bill contained an authorization of $141 million for 16 of these aircraft.

The Senate conferees pointed out that the Air National Guard is presently building toward an A–7 force of 15 squadrons, in addition to a training squadron, and the Senate authorization would provide each squadron with one trainer and the training squadron with six trainers.

The House conferees concurred with the Senate as to the need for these aircraft by the Air National Guard but insisted on its position since these aircraft were not in the President's budget request.

The conferees expressed concern that the Air Force has not begun the A–7D two-place modification project authorized and funded last year but recognized the project had been underfunded. Therefore, the conferees included funds necessary to complete the project within the authorization for the two-place trainer.

The Senate recedes with an amendment authorizing $145.5 million for 16 aircraft.

*E–4 (advanced airborne command post)*

The $15 million added by the House was intended to support advance procurement and production engineering work on aircraft 1 through 4. The Senate did not include authorization for this aircraft.

The House conferees pointed out that a lack of procurement funds for fiscal year 1979 would lead to an overall cost increase and a schedule slip and would disrupt present contract agreements.

The conferees agreed on a total of $10 million for this program.

The Senate recedes with an amendment.

*EF–111 (Modification)*

The request was for $161.3 million to modify 5 F–111 tactical attack airplanes into electronic warfare radar jamming airplanes.

The House bill deleted all authorization for the EF–111, citing excessive cost growth in the program and an inadequate number of EF–111 aircraft in the program to adequately perform the mission. The Senate amendment provided the full request.

The conferees agreed to provide $151.3 million for 5 EF–111 modifications.

The House very reluctantly recedes.

*KC–135 (Modification)*

The House added $9 million to the Air Force aircraft modification account to start KC–135 aircraft reengining. The Senate did not include authorization for this purpose.

The House conferees pointed out that substantial benefits, including energy savings, reduced costs, increased safety and improved mission effectiveness, will be derived from reengining the aircraft.

The Senate recedes.

*CRAF (Civil Reserve Air Fleet, modification)*

Th House approved the budget request of $68.5 million for the CRAF modification. The Senate approved only $7.5 million.

After receiving the Department of Defense reclama stating that $28.5 million plus $7.5 million approved in fiscal year 1978 would fully fund a pilot program of four aircraft, the conferees agreed on $28.5 million. These funds are authorized only for modification of new production wide-body passenger aircraft.

The House recedes with an amendment.

*ALQ–131 (Other production charges)*

Included in the category of "Other Production Charges" was a requets of $61.5 million for the ALQ–131 radar jamming pod. The House approved the request but the Senate deleted the entire amount. The Senate rationale was that the delays in the development program on the ALQ–131 has caused the planned contracting date for the fiscal year 1979 procurement to slip into fiscal year 1980.

The House recedes.

MISSILES

ARMY

*Hawk*

The House bill authorized $94.7 million for procurement of 805 Hawk missiles. The Senate authorized $72.3 million for procurement of 608 missiles.

The House recedes.

*Roland*

The House bill authorized $200.1 million for initial procurement of 15 fire units and 314 missiles. Due to program adjustments, the Army subsequently determined that $200.1 million would procure only 7 fire units and 157 missiles.

The Senate authorized $99.4 million to fund engineering services and initial production facilities, but deferred initial procurement of fire units and missiles to ensure that all test corrections had been validated before entry into production.

The conferees agreed to authorize $165 million for procurement of 3 fire units and 75 missiles.

*Chaparral modifications*

The House bill authorized $10 million for Chaparral modifications. The Senate authorized $7.1 million.

The Senate recedes.

*TOW modifications*

The House bill authorized $.5 million for TOW modifications. The Senate authorized $3.4 million.

The Senate recedes.

*TOW missile procurement, Army and Navy*

The House and Senate bills authorized $42.3 million for procurement of TOW missiles for the Army and $8.3 million for procurement of TOW missiles for the Navy.

The conferees agreed that the Army should negotiate the buy of TOW missiles in a manner so as to secure as many missiles as possible within the authorized funding level for fiscal year 1979. However, the

conferees agreed that the Army should not bind the Congress to future procurements of TOW missiles.

*Spares and repair parts (Roland)*

The House bill authorized $2.6 million for initial spares for the Roland program.

The Senate contained no authorization for Roland initial spares.

The Senate recedes.

NAVY AND AIR FORCE

*Cruise missiles*

The Department of Defense request for the fiscal year 1979 cruise missile procurement program totaled $215.0 million, of which $40.1 million was for the procurement of long lead items for the Ground-Launched Cruise Missile (GLCM), and $174.9 million was requested for the Air-Launched Cruise Missile (ALCM). The Department of Defense did not request any funds for long lead procurement of the Sea-Launched Cruise Missile (SLCM) variant. The House bill provided full authorization for the procurement of 36 ALCM's; no authorization for the long lead procurement of the GLCM; and $40.1 million to initiate long lead procurement for the SLCM.

The Senate amendment provided authorization for 24 ALCM's at $156.9 million; $20.0 million for the SLCM; and $40.1 million for the GLCM.

The conferees agreed with the House recommendation that greater emphasis should be placed on procurement of the SLCM in light of the Navy's urgent requirement for a long range anti-ship missile capability. Consequently, the conferees authorized $30.1 million for the SLCM. The House conferees agreed with the Senate position to provide long lead funding authorization for that equipment peculiar to the GLCM in the event that this weapon is selected for use as a theatre tactical nuclear weapon. The conferees recommended an authorization of $20.2 million for the GLCM.

The House recedes to the Senate position to provide $156.9 million for the ALCM.

AIR FORCE

*AIM-7F (Sparrow)*

The House approved the FY 1979 procurement authorization of $134.9 million for the Sparrow program. The Senate reduced this by $24.7 million and 300 missiles on the basis that the improved Monopulse version of the Sparrow will be ready for production in FY 1980.

The conferees finally agreed on an authorization of $127.1 million for 1500 Sparrow missiles.

The Senate recedes with an amendment.

*AGM-65A (Maverick)*

The House approved the FY 1979 procurement request of $34.5 million for the Maverick missile program. The Senate reduced the request by $7.6 million planned for procurement of missile depot maintenance facility equipment believing the equipment is not needed at this time.

House conferees pointed out that construction to house the equipment was on schedule and the equipment purchase must go forward.

The Senate recedes.

*BGM-34C (Remotely piloted vehicle)*

The House added $11 million for 3 BGM-34C RPVs. The Senate bill contained no authorization for this program.

House conferees pointed out that authorization for this program is imperative and the addition of $11 million in authorization will insure a timely production program.

The Senate recedes.

*Defense support program missile procurement*

The House reduced the authorization for the Defense Support Program by $15 million. The Senate authorized the full amount requested. The conferees agreed to this reduction because the Defense Department was unable to justify their full request for fiscal year 1979.

This reduction is not intended as a denial of support for the efforts but rather a deferral.

*Trident advance procurement*

The House authorized the requested $274.8 million for advanced procurement for future Trident ballistic missile submarines.

The Senate authorized $55 million for this purpose.

The Senate recedes.

*CVN-71 nuclear carrier*

The House authorized $2,129.6 million for a nuclear aircraft carrier with improved passive protection of the ordnance storage areas.

The Senate authorized $1,930.0 million for a repeat Nimitz-class nuclear aircraft carrier.

The Navy is encouraged to make such changes as can be made within the funds authorized to further decrease the vulnerability of the nuclear aircraft carrier.

The House recedes.

*CGN-42 nuclear cruiser*

The House authorized $1,096.0 million for full funding of one Aegis equipped nuclear cruiser.

The Senate authorized no funds for this purpose.

The Senate recedes with an amendment providing the authorization of $369 million for advanced procurement only.

There is an urgent need to get the Aegis anti-ship missile defense system to sea.

The Senate conferees reluctantly agreed to authorize long-lead funding for Aegis system components for a nuclear-powered Aegis cruiser, whether the vessel be a new vessel or a conversion of the Virginia class. The House accepted a caveat that the Aegis components should be common to the conventionally-powered DDG-47 system, should it be necessary to interchange the equipment among these ships.

The Senate recedes with an amendment.

*DDG-2 conversion*

The House bill authorized a request of $151 million for advance procurement for conversion of the DDG-2 guided missile destroyer.

The Senate amendment authorized $128 million for this purpose.

The House recedes.

*LPH conversion*

The Senate amendment authorized $45 million for conversion of one LPH amphibious assault ship to a light carrier.

The House authorized no funds for this purpose.

The conferees note Navy testimony that antisubmarine warfare and mine countermeasure platforms are inadequate. They are concerned that priority be given in evaluating this serious shortage and that the Navy move more rapidly toward providing air-capable platforms for these purposes.

Conversion of one LPH assault ship to a light carrier is authorized at the cost of $45 million. A light carrier will add to the Navy's at-sea air capability and complement existing fleet carriers by being capable of being converted to undertake a variety of missions such as antisubmarine warfare, mine countermeasures operations, presence and amphibious assault.

Before any actual conversion is undertaken, the Secretary of the Navy shall report to the Committees on Armed Services of the House and Senate on the cost and details of the conversion and the advantages and disadvantages of the proposed conversion in sufficient detail to allow the committees to review and further evaluate the conversion. The conversion shall not be undertaken until the expiration of a period of thirty days of continuous session of Congress following the submission of the Secretary's review.

The House recedes.

*LHA advance procurement*

The Senate amendment authorized $70 million for advance procurement for a sixth LHA amphibious assault ship.

The House authorized no funds for this purpose.

The House recedes.

TRACKED COMBAT VEHICLES

ARMY

*M113A1 Armored personnel carrier*

The House bill authorized $74.2 million for procurement of 910 M113A1 vehicles. The Senate authorized $44.5 million for procurement of 550 M113A1's.

The House recedes.

*M88A1 recovery vehicle*

The House bill authorized $73.9 million for procurement of 112 M88A1 tank retriever vehicles. The Senate authorized $51.5 million for procurement of 78 vehicles.

The conferees agreed to authorized $62.7 million for procurement of 95 M88A1's.

*M60A3 tank production*

The House bill authorized $382.4 million for procurement of 480 M60A3 tanks. The Senate authorized $190.4 million for procurement of 240 tanks.

The conferees agreed to authorize $343.6 million for procurement of 410 M60A3 tanks.

*Infantry fighting vehicle (IFV), XM-3 Cavalry fighting vehicle (CFV)*

The House bill authorized $34.6 million for long lead procurement for the Infantry Fighting Vehicle and $4.0 million for long lead procurement for the Cavalry Fighting Vehicle.

The Senate authorized $39 million for long lead procurement for the Infantry Fighting Vehicle only.

The House recedes.

The conferees agreed to defer long lead procurement on the Cavalry Fighting Vehicle without prejudice since that derivative of the IFV had not been justified to the Senate.

The conferees note that this authorization applies only to the Infantry Fighting Vehicle in its present TOW, Bushmaster armored turrent (TBAT-II) configuration. Any derivatives of this basic design are subject to future congressional approval.

*Mortar carrier conversion*

The Senate authorized $1.4 million to convert 4.2 inch M106A1 mortar carriers to the 81mm M125A1 configuration. The House bill contained no authorization.

The Senate recedes.

*M60 modifications*

The House bill authorized $147.6 million for modification of M60 series tanks, to include conversion of 500 tanks from the M60A1 to the M60A3 configuration.

The Senate authorized $151.2 million, to include 460 conversions.

Subsequent program developments established that neither program could be fully executed within the fiscal year 1979 funded delivery period. The conferees therefore agreed to authorize $132.4 million for M60 modifications, to include conversion of 380 tanks from the M60A1 to the M60A3 configuration.

*Production base support (XM-1)*

The House bill authorized $73.4 million for production base support for the XM-1 program. The Senate authorized $58.4 million.

The conferees agreed to authorize $68.4 million.

MARINE CORPS

*M60A1 tank*

The House bill authorized $19.9 million for procurement of 28 M60A1 tanks. The Senate authorized $17.3 million for the same number of tanks.

The Senate recedes.

TORPEDOES

*Mark 48 torpedoes*

The House bill authorized $173.4 million for 319 Mark 48 Torpedoes.

The Senate authorized the Administration's request of $110.7 million for 127 Mark 48 Torpedoes.

The conferees agreed on $142.1 million for 223 torpedoes.

The House recedes with an amendment.

*Mark 46 torpedoes*

The House bill authorized $364.1 million for Mark 46 Torpedo modifications.

The Senate authorized $335.4 million.

The House recedes.

OTHER WEAPONS

ARMY

*M198 howitzer*

The House bill authorized $26 million for procurement of 107 M198 Howitzers. The Senate authorized $32.1 million for the same number of Howitzers.

The conferees agreed to authorize $28.8 million for procurement of 107 M198 Howitzers.

*M2 machine gun*

The House bill contained no authorization. The Senate authorized $26.3 million for procurement of 3060 M2 machine guns.

The conferees agreed to authorize $13.2 million for procurement of 1530 M2 machine guns.

NAVY

*Mark 15 close in weapons system*

The House authorized $114.1 million for 45 systems.

The Senate authorized $58.4 million for 19 systems.

The conferees agreed on $71.1 million for 32 systems. The conferees do not want to interfere with the production line of these systems. Consequently, as much of the $71.1 million as may be needed may be used for long lead time items for next year's planned production.

The House recedes with an amendment.

MARINE CORPS

*M198 howitzer*

The House bill authorized $21.5 million for procurement of 80 M198 Howitzers.

The Senate authorized $19.3 million for procurement of 60 M198 Howitzers.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

GENERAL

The Department of Defense requested authorization of $12,473,412,000 for the fiscal year 1979 Research, Development, Test and Evaluation appropriations. The following table summarizes the Senate and House modifications to the Research and Development budget request:

R.D.T. & E SUMMARY

[In thousands of dollars]

| | Request | House | Senate | Conference |
|---|---|---|---|---|
| Army | $2,721,400 | $2,586,215 | $2,727,340 | $2,661,701 |
| Navy | [1] 4,495,912 | [1] 4,287,009 | [1] 4,585,894 | [1] 4,504,268 |
| Air Force | 4,339,100 | 3,989,400 | 4,343,500 | 4,164,500 |
| Defense agencies | 889,400 | 947,216 | 876,600 | 905,800 |
| Director, test and evaluation | 27,600 | 27,600 | 27,600 | 27,600 |
| Total, R.D.T. & E | 12,473,412 | 11,837,440 | 12,560,934 | 12,263,969 |

[1] Includes $5,412,000 in special foreign currency.

As shown, the conferees agreed on a total of $12,263,869,000 which is $209,543,000 less than the amount requested for fiscal year 1979. The details of the differences between the House bill and the Senate amendment and the changes adopted by the conferees are reflected in the following tables:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION, ARMY—FISCAL YEAR 1979

| Item No. | Program element | Budget request, fiscal year 1979 | House authorization | Senate authorization | Change from House | Conference |
|---|---|---|---|---|---|---|
| 101 | Missile technology | 30,126 | 28,726 | 30,126 | +1,400 | 28,726 |
| 102 | Classified program | 21,128 | 24,569 | 21,128 | −3,441 | 24,569 |
| 103 | Small caliber fire control technology | 9,473 | 9,448 | 9,473 | +25 | 9,448 |
| 104 | Ballistic technology | 18,309 | 18,009 | 18,309 | +300 | 18,009 |
| 105 | Chemical munitions combat support | 5,231 | 5,231 | 5,731 | +500 | 5,731 |
| 106 | Chemical and biological defense | 9,686 | 9,686 | 12,186 | +2,500 | 12,186 |
| 107 | Personnel and manpower technology | 4,392 | | 4,392 | +4,392 | 4,000 |
| 108 | Military facilities technology | 3,500 | | 3,500 | +3,500 | 3,000 |
| 109 | RPV's support technology | 2,375 | | 2,375 | +2,375 | 1,100 |
| 110 | Medical defense against chemical agents | 6,027 | 6,027 | 7,027 | +1,000 | 7,027 |
| 111 | Military environmental stress | 4,552 | | 4,552 | +4,552 | 3,000 |
| 112 | Test, measure diagnostic equipment technology | 435 | | 435 | +435 | 0 |
| 113 | Military energy technology | 2,200 | | 2,200 | 2,200 | 2,200 |
| 114 | Aircraft weapons | 100 | | 100 | +100 | 0 |
| 115 | Aircraft avionics equipment | 1,304 | 804 | 1,304 | +500 | *804 |
| 116 | Terminal homing systems | 4,100 | | 4,100 | +4,100 | 4,100 |
| 117 | Missile/rocket components | 1,344 | 844 | 1,344 | +500 | 844 |
| 118 | Advance land mobility concepts | 22,000 | 12,000 | 22,000 | +10,000 | 15,000 |
| 119 | Landmine warfare | 8,690 | 4,690 | 8,690 | +4,000 | 4,690 |
| 120 | Night vision advance development | 8,437 | 8,437 | 10,937 | +2,500 | 10,500 |
| 121 | Military personnel performance development | 4,786 | | 4,786 | +4,786 | 4,300 |
| 122 | Contemporary issue development | 450 | | 450 | +450 | 0 |
| 123 | Soldier support survivability | 2,527 | 1,527 | 2,527 | +1,000 | 2,000 |
| 124 | Automatic test equipment | 2,047 | | 2,047 | +2,047 | 0 |
| 125 | General reduction | | | −20,000 | −20,000 | 0 |
| 126 | Surface-to-surface rocket systems | 70,800 | 62,800 | 70,800 | +8,000 | *62,800 |
| 127 | Army/Navy SAM | 5,300 | | 5,300 | +5,300 | 0 |
| 128 | Assault breaker | 10,300 | | 10,300 | +10,300 | 0 |
| 129 | Advanced multipurpose missile | 8,100 | | 8,100 | +8,100 | 1,000 |
| 130 | Tank gun cooperative development | 8,100 | 8,100 | 45,600 | +37,500 | 35,600 |
| 131 | Mobility | 1,753 | 400 | 1,753 | +1,353 | 400 |
| 132 | Field artillery cannon system | 7,835 | 2,835 | 7,835 | +5,000 | 2,835 |
| 133 | Identification friend or foe developments | 3,463 | | 3,463 | +3,463 | 3,463 |
| 134 | Tactical operations system | 100 | | 100 | +100 | 0 |
| 135 | Aerial scout | 5,487 | | 5,487 | +5,487 | 5,487 |
| 136 | Precision laser designator | 12,593 | 9,193 | 12,593 | +3,400 | 9,193 |
| 137 | Roland | 22,663 | 22,663 | 33,663 | +11,000 | 22,663 |
| 138 | Pershing II | 10,111 | | 10,111 | +10,111 | 0 |
| 139 | Forward observation vehicle | 3,700 | | 3,700 | +3,700 | 2,000 |
| 140 | Unattended ground sensors | 8,690 | | 8,690 | +8,690 | 4,000 |
| 141 | IFF equipment | 1,000 | | 1,000 | +1,000 | 0 |
| 142 | Command and control | 7,227 | 6,227 | 12,227 | +6,000 | 14,227 |
| 143 | Battlefield systems integration | 7,000 | 5,000 | 3,000 | −2,000 | 3,000 |
| 144 | Chaparral | 100 | 10,100 | 100 | −10,000 | 10,100 |
| 145 | Classified programs | 40,209 | 40,209 | 28,809 | −11,400 | 34,509 |
| 146 | Target missiles | 4,000 | | 4,000 | +4,000 | 500 |
| 147 | Studies and analysis | 4,460 | | 3,500 | +3,500 | 1,800 |
| 148 | Tradoc studies and analysis | 2,600 | 1,300 | 2,600 | +1,300 | 2,000 |

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION, ARMY—FISCAL YEAR 1979—Continued

| Item No. | Program element | Budget request, fiscal year 1979 | House authorization | Senate authorization | Change from House | Conference |
|---|---|---|---|---|---|---|
| 149 | Material systems analysis | 9,700 | 9,700 | 9,300 | −400 | 9,300 |
| 150 | Foreign weapons evaluation | 2,700 | | 2,700 | +2,700 | 2,700 |
| 151 | Expendable drones | | 3,800 | | −3,800 | 0 |
| 152 | Technical information activity | 4,559 | 4,559 | 3,559 | −1,000 | 3,559 |
| | All other, Army | 2,285,631 | 2,269,331 | 2,269,331 | | 2,269,331 |
| | Total, Army R.D.T. & E | 2,721,400 | 2,586,215 | 2,727,340 | +141,125 | 2,661,701 |

*Without prejudice.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION, NAVY—FISCAL YEAR 1979

[In thousands of dollars]

| Item No. | Program element | Budget request, fiscal year 1979 | House authorization | Senate authorization | Change from House | Conference |
|---|---|---|---|---|---|---|
| 201 | Charged particle beam technology | 5,600 | | 5,600 | +5,600 | 0 |
| 202 | Strike warfare weapon technology | 30,384 | 29,000 | 30,384 | +1,384 | 29,000 |
| 203 | Electronic development technology | 21,049 | 19,000 | 21,049 | +2,049 | 20,000 |
| 204 | Personnel support technology | 3,014 | 2,800 | 3,014 | +214 | 2,800 |
| 205 | Energy and environmental protection | 10,944 | 5,086 | 11,244 | +6,158 | 11,244 |
| 206 | Avionics (VSTOL) | 13,833 | 10,550 | 13,833 | +3,283 | 9,000 |
| 207 | Aircraft propulsion technology (VSTOL) | 6,140 | | 6,140 | +6,140 | 6,000 |
| 208 | Aircraft (VSTOL) | 9,348 | 5,000 | 9,348 | +4,348 | 5,000 |
| 209 | Antiradiation missile system technology | 4,973 | | 4,973 | +4,973 | 2,500 |
| 210 | Air-to-air missile technology demonstration | 2,917 | | 2,917 | +2,917 | 1,600 |
| 211 | Manpower effectiveness | 3,641 | 2,000 | 3,641 | +1,641 | 2,800 |
| 212 | Advanced electronic devices | 2,089 | | 2,089 | +2,089 | 0 |
| 213 | Surface electromagnetic optical system | 7,569 | 2,369 | 7,569 | +5,200 | 5,369 |
| 214 | General reduction (advanced development programs) | | | −10,000 | −10,000 | −10,000 |
| 215 | Trident II | 15,000 | 5,000 | 15,000 | +10,000 | 5,000 |
| 216 | Classified program | 649 | | 649 | +649 | 0 |
| 217 | Trident I | | 8,200 | | −8,200 | 8,200 |
| 218 | Elf (seafarer) | 40,549 | 10,000 | 34,149 | +24,149 | 20,000 |
| 219 | SSBN–X | | | 16,000 | +16,000 | 3,000 |
| 220 | Tactical air infrared countermeasures | 1,149 | | 1,149 | +1,149 | 1,149 |
| 221 | Advanced vehicle for sea control | 3,983 | 1,000 | 3,983 | +2,983 | 2,500 |
| 222 | Advanced aircraft system (VSTOL) | 11,657 | | 6,657 | +6,657 | 5,000 |
| 223 | VSTOL aircraft development | 40,810 | | 23,810 | +23,810 | 7,500 |
| 224 | Acoustic search sensors | 886 | | 886 | +886 | *0 |
| 225 | Aircraft vulnerability | 3,853 | 2,206 | 3,853 | +1,647 | 3,853 |
| 226 | Advanced surface-to-air weapons | 19,507 | 19,507 | 9,907 | −9,600 | 19,507 |
| 227 | SIRCS | 14,481 | | 9,581 | +9,581 | 0 |
| 228 | Long-range dual mode missile | 8,133 | | 2,133 | +2,133 | 0 |
| 229 | Air-to-ground weapons | 7,110 | 1,000 | 7,110 | +6,110 | 3,000 |
| 230 | Advanced defense suppression system | 1,206 | | 1,206 | +1,206 | 0 |
| 231 | Air-to-ground standoff weapon | 5,465 | 2,251 | 5,465 | +3,214 | 5,465 |
| 232 | WVR antiaircraft missile | 6,047 | | 1,000 | +1,000 | 0 |
| 233 | Advanced submarine sonar development | 52,264 | 52,264 | 47,064 | −5,200 | 47,064 |
| 234 | Air control (MWLS) | 3,301 | | 3,301 | +3,301 | 0 |
| 235 | Over-the-horizon target | 6,371 | 15,000 | 6,371 | −8,629 | 15,000 |
| 236 | Submarines (advanced) | 34,798 | 34,798 | 31,298 | −3,500 | 31,298 |
| 237 | Submarine tactical warfare system | 22,746 | 22,746 | 22,246 | −500 | 22,246 |
| 238 | Ship development (advanced) | 14,286 | 14,286 | 12,286 | −2,000 | 12,286 |
| 239 | Advanced submarine nuclear propulsion | 10,607 | 10,607 | 9,507 | −1,000 | 9,507 |
| 240 | Advanced Marine Corps weapons | 1,680 | 1,680 | 6,680 | +5,000 | 6,680 |
| 241 | Classified programs | 42,070 | 12,618 | 42,070 | +29,452 | 17,618 |
| 242 | Lamps III | 124,491 | | 118,391 | +118,391 | 95,000 |
| 243 | AV–8B engine development | 35,564 | 35,564 | 122,964 | +87,400 | 122,964 |
| 244 | S–3A improvements | 963 | 7,963 | 963 | −7,000 | 963 |
| 245 | A/C IR signal suppression | 997 | | 997 | +997 | *0 |
| 246 | Airborne tactical signal exploitation | 1,121 | | 1,121 | +1,121 | 600 |
| 247 | Aegis | 14,418 | 25,418 | 14,418 | +11,000 | 25,418 |
| 248 | Air-to-air missile system engineering | 28,506 | 28,506 | 32,306 | +3,800 | 32,306 |
| 249 | NATO Sea Sparrow | 7,963 | 7,963 | 5,463 | −2,500 | 7,963 |
| 250 | Standard missile | 49,071 | 49,071 | 45,071 | −4,000 | 45,071 |
| 251 | Ship development (engineering) | 58,650 | 45,000 | 40,150 | −4,850 | 40,150 |
| 252 | CSGN development | 19,383 | 19,383 | 4,983 | −14,400 | 11,000 |
| 253 | Naval special WF craft | 5,973 | | 5,973 | +5,973 | 0 |
| 254 | Shipboard EW improvements | 4,142 | | 4,142 | +4,142 | 0 |
| 255 | Major caliber lightweight gun | 6,161 | 38,661 | 6,161 | −32,500 | 6,161 |
| 256 | Other Marine Corps development (engineering) | 9,579 | 16,579 | 9,579 | −7,000 | 12,579 |
| 257 | A–6 squadrons | 8,481 | 8,481 | 7,418 | −1,063 | 8,481 |
| 258 | A–7 squadrons | 1,069 | | 1,069 | +1,069 | 800 |
| 259 | Harpoon | 2,563 | | 2,563 | +2,563 | 1,500 |
| 260 | Modular glide weapons, improvement | 5,086 | 9,086 | 5,086 | −4,000 | 9,086 |
| 261 | Surface effect ship | | 93,000 | 30,000 | −63,000 | 80,000 |
| 262 | Half-length MK 48 torpedo | | 5,000 | | −5,000 | 3,000 |
| 263 | Light carrier design | | | 25,000 | +25,000 | 25,000 |
| 264 | Classified program | 14,719 | 14,719 | 13,319 | −1,400 | 14,719 |
| 265 | Target system development | 567 | | 567 | +567 | 0 |
| 266 | Range instrumentation and system development | 8,931 | 4,642 | 8,931 | +4,289 | 8,931 |
| 267 | Foreign weapons evaluation | 2,800 | | 2,800 | +2,800 | 1,400 |
| 268 | Center for naval analysis | 9,215 | 9,215 | 8,715 | −500 | 9,000 |
| 269 | Fleet tactical D. & E. | 20,941 | 12,000 | 11,541 | −459 | 12,000 |
| 270 | USN test pilot school | 5,490 | | 5,490 | +5,490 | 0 |
| 271 | T. & E support | 177,061 | 160,000 | 177,061 | +17,061 | 172,000 |
| 272 | AV–8B Plus | | | 5,500 | +5,500 | 3,000 |
| 273 | ARAPAHO | | | 7,000 | +7,000 | 6,500 |
| 274 | ARAPS sonar | | | 2,000 | +2,000 | 0 |
| 275 | SEAMOD | | | 7,700 | +7,700 | 7,700 |
| 276 | SWATH | | | 7,500 | +7,500 | 1,000 |
| 277 | Reserve merchant ship defense | | | 1,000 | +1,000 | 1,000 |
| | All other, Navy | 3,376,486 | 3,402,378 | 3,402,378 | | 3,402,378 |
| | Total, Navy, R.D.T. & E [1] | 4,490,500 | 4,281,597 | 4,580,482 | +298,885 | 4,498,856 |

[1] Without prejudice.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION
AIR FORCE—FISCAL YEAR 1979

[In thousands of dollars]

| Item No. | Program element | Budget request, fiscal year 1979 | House authorization | Senate authorization | Change from House | Conference |
|---|---|---|---|---|---|---|
| 301 | Defense research sciences | 99,700 | 96,700 | 99,700 | +3,000 | 99,700 |
| 302 | Aero flight dynamics | 49,700 | 46,700 | 49,700 | +3,000 | 46,700 |
| 303 | Aerospace avionics | 55,900 | 53,900 | 55,900 | +2,000 | 53,900 |
| 304 | Conventional munitions | 27,900 | 13,400 | 27,900 | +14,500 | 27,900 |
| 305 | Personnel utilities technology | 4,900 | 4,200 | 4,900 | +700 | 4,900 |
| 306 | Conventional weapons technology | 22,000 | 7,160 | 22,000 | +14,900 | 22,000 |
| 307 | Advanced drone/RPV development | 3,000 | 2,000 | 3,000 | +1,000 | 2,000 |
| 308 | Engine model derivative | 2,900 | | 2,900 | +2,900 | 1,000 |
| 309 | General reduction (Advanced Development Programs) | | | −20,000 | −20,000 | −20,000 |
| 310 | ABRES | 105,000 | 130,000 | 105,000 | −25,000 | 105,000 |
| 311 | Strategic bomber enhancement | 63,300 | 58,300 | 81,800 | +23,500 | 58,300 |
| 312 | Missile surveillance technology | 19,900 | 3,900 | 19,900 | +16,000 | *3,900 |
| 313 | Warning information correlation | 4,100 | | 4,100 | +4,100 | 4,100 |
| 314 | Integrated NUDETS | 9,100 | 9,100 | 16,100 | +7,000 | 16,100 |
| 315 | B-1 | 105,500 | | 105,500 | +501,500 | 55,000 |
| 316 | Cruise missile carrier | 41,200 | | 41,200 | +41,200 | 20,600 |
| 317 | Space defense system | 73,000 | 73,000 | 84,000 | +11,000 | 84,000 |
| 318 | Airborne command center | 1,000 | | 1,000 | +1,000 | 0 |
| 319 | Advanced B-52 defensive avionics | | 7,000 | | −7,000 | 7,000 |
| 320 | Minuteman squadrons | 54,100 | 49,100 | 56,100 | +10,000 | 56,600 |
| 321 | Air Force SATCOM | 33,000 | 19,400 | 33,000 | +13,600 | 19,400 |
| 322 | Traffic control and land system | 8,600 | 3,700 | 8,600 | +4,900 | *3,700 |
| 323 | Night attack aircraft | 10,000 | 10,000 | | −10,000 | 0 |
| 324 | WVR A-A missile | 6,100 | | 1,100 | +1,100 | 0 |
| 325 | Advanced attack weapons | 28,600 | 2,500 | 8,100 | +5,600 | 11,100 |
| 326 | EF-111A | 8,800 | | 8,800 | +8,800 | 8,800 |
| 327 | Low-level laser GB | 2,000 | | 2,000 | +2,000 | 0 |
| 328 | Other operational equipment | 14,600 | 12,500 | 14,600 | +2,100 | 12,500 |
| 329 | Improved tactical bombing | 16,500 | 16,500 | 7,500 | −9,000 | 7,500 |
| 330 | Reconnaissance electronic warfare equipment | 11,200 | 6,700 | 11,200 | +4,500 | 11,200 |
| 331 | Tactical $C^3$ countermeasures | 4,000 | | 4,000 | +4,000 | 4,000 |
| 332 | Drone RPV system development | 4,000 | 7,400 | 4,000 | −3,400 | 7,400 |
| 333 | Surface defense suppression | 26,000 | 26,000 | 14,000 | −12,000 | 14,000 |
| 334 | NATO AWACS | 10,000 | | 10,000 | +10,000 | 10,000 |
| 335 | AMST | | 3,000 | 25,000 | +22,000 | 14,000 |
| 336 | Theater mobile ballistic missile | | | 2,000 | +2,000 | 20,000 |
| 337 | Advanced space communications | 30,400 | 35,400 | 30,400 | −5,000 | 35,400 |
| 338 | Satellite system survivability | 9,200 | 19,200 | 23,200 | +4,000 | 23,200 |
| 339 | Satellite control station | 1,000 | | 1,000 | +1,000 | 0 |
| 340 | General purpose communication system | 8,100 | | 8,100 | +8,001 | 0 |
| 341 | Special activities | 195,464 | 151,964 | 232,404 | +80,500 | 189,464 |
| 342 | Preliminary design and development | 3,800 | | 2,100 | +2,100 | 1,000 |
| 343 | Common NATO munitions | 20,200 | 9,900 | 3,000 | −6,900 | 3,000 |
| 344 | Foreign weapons evaluation | 3,500 | | 3,500 | +3,500 | 2,000 |
| 345 | International cooperative R. & D | 500 | | 500 | +500 | 0 |
| 346 | T. & E. support | 287,000 | 275,000 | 287,000 | +12,000 | 280,000 |
| 347 | Advanced systems engineering and planning | 7,500 | 7,500 | 6,000 | −1,500 | 6,000 |
| 348 | Public affairs | 300 | | 300 | +300 | 0 |
| 349 | Expendable Drones | 3,800 | | | | 3,800 |
| | All other Air Force | 2,832,736 | 2,828,336 | 2,828,336 | | 2,828,336 |
| | Total, Air Force R.D.T. & E. | 4,339,100 | 3,989,400 | 4,343,500 | +354,100 | 4,164,500 |

*Without prejudice.

June 15, 1978

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION
DEFENSE AGENCIES—FISCAL YEAR 1979

[In thousands of dollars]

| Item No. | Program element | Budget request, fiscal year 1979 | House authorization | Senate authorization | Change from House | Conference |
|---|---|---|---|---|---|---|
| 401 | Tactical technology (DARPA) | 78,600 | 147,000 | 78,600 | −68,400 | 98,000 |
| 402 | Charged particle beam (DARPA) | | 12,000 | | −12,000 | 12,000 |
| 403 | Classified programs | 281,809 | 272,409 | 279,909 | +7,500 | 277,709 |
| 404 | OSD/JCS | 24,184 | 11,000 | 13,284 | +2,284 | 13,284 |
| | All other, defense agencies | 504,807 | 504,807 | 504,807 | | 504,807 |
| | Total, defense agencies | 889,400 | 947,216 | 876,600 | −70,616 | 905,800 |
| 405 | Director, Test and Evaluation, Defense | 27,600 | 27,600 | 27,600 | | 27,600 |
| | Total, Defense R. D. T. & E. program | 917,000 | 974,816 | 904,200 | | 933,400 |

ARMY

*Advanced Multi-Purpose Missile*

The Army requested $8.1 million for the development of an advanced missile system as a follow-on to the Tube-launched Optical-tracked-Wire-guided (TOW) missile as a hedge against advances in Soviet tank armor technology. The House bill deleted the entire Army request, while the Senate amendment authorized the full request.

The House conferees emphasized that there was insufficient justification provided by the Department of Defense to proceed with the development of an entirely new missile system as a replacement for the TOW missile. The House conferees remained unconvinced that the Army required or could afford the development of a new system when, in fact, there is a great potential for using a ground-launched Hellfire as a future antitank weapon.

The conferees agreed on an authorization of $1 million to be used only for the ground-launched Hellfire. If it can be shown that the Hellfire is not adequate, a request for reprogramming can be considered.

The Senate recedes with an amendment.

*Aerial Scout Helicopter*

The House bill denied the Army's request for $5.487 million for the Aerial Scout Helicopter Advanced Technology program. The Senate amendment authorized the full amount.

The conferees express concern about the Army's past inability to present an acceptable development plan for an Aerial Scout Helicopter. The conferees expressed concern that the Army may not be able to adequately fund development and procurement of a new helicopter for the aerial scout mission within its future budget priorities, and should, therefore, examine all alternatives. The conferees wish it understood that continued support for this program will depend on developing a program that provides an IOC not later than December 31, 1984.

The House recedes.

*Army/Navy SAM*

The House bill deleted the full $5.3 million Army request for the Army/Navy Surface-to-Air Missile (SAM) program.

The Senate authorized the full request.

The conferees agreed to delete the Army request with the recommendation that the funded Navy portion of this joint program be fully coordinated with the Army.

The Senate recedes.

*Foreign weapons evaluation*

The Department of Defense requested $9.0 million for foreign weapons evaluation, $2.7 million for the Army, $2.8 million for the Navy, and $3.5 million for the Air Force. The House bill deleted the entire request and the Senate amendment authorized all $9 million. The conferees agreed to authorize $6.1 million: $2.7 million for the Army, $1.4 million for the Navy, and $2.0 million for the Air Force. The conferees agreed that the Under Secretary of Defense for Development, Research and Engineering (USDDR&E) should exercise more stringent control over these funds. In addition, the conferees suggest that any request for funds for foreign weapons evaluation in the fiscal year 1980 budget be included in a budget for the USDDR&E instead of the service budget requests.

*Joint tactical microwave landing system (MLS)*

The Department of Defense requested $8.6 million to initiate the development of the MLS in support of the joint Department of Transportation/Department of Defense/NASA National MLS program. The House bill denied the request for funds for this program. The Senate amendment approved authorization for the full request.

The conferees recommended that all authorizations requested by the Department of Defense for the development of a tactical variant of the MLS be denied without prejudice.

The conferees agreed to authorize $3.0 million for continued development of the equipment required to provide compatibility between the Marine Corps Remote Area Approach and Landing (MRAALS) system and the national MLS. Additionally, the authorization is intended to provide for whatever airborne test and evaluation of components and subsystems is required. The authorization is provided in the Other Marine Corps Engineering program element.

The conferees request that the Office of the Under Secretary of Defense for Research and Engineering submit a plan to the Committees on Armed Services delineating the cost/performance trade-off of developing a national tactical MLS variant relative to the currently available military systems.

TENCAP

The conferees agreed to recommend a reduction of $12.0 million in the TENCAP program. A total of $6.3 million of this reduction should be applied to the Tactical Surveillance System program, terminating the related prototype development effort. The remaining $5.7 million should be allocated by the program manager, with priority given to improving signal intelligance (SIGINT) support to tactical forces.

NAVY

*Advanced electronic devices development, surface electro-magnetic and optical systems*

The Navy requested $2.089 million for the Advanced Electronic Devices Development program and $7.569 million for the Surface Electro-Magnetic and Optical System program. The House bill deleted the entire authorization request for the Advanced Electronic Devices program and recommended a reduction of $5.2 million from the Surface Electro-Magnetic and Optical Systems program. The Senate amendment provided full authorization for both programs.

The conferees wish to convey to the Navy the necessity for technology exploitation to culminate in operationally deployable systems. Consequently, the conferees agreed to provide authorization to complete the test and evaluation of the joint U.S./Canadian infrared search and track system.

Additionally, the conferees agreed to provide authorization to continue the focal plane array project in support of the development of a forward-looking infrared system.

The total agreed-upon authorization for these two projects is $5.369 million under the Surface Electro-Magnetic and Optical System program. No funds are authorized for the Advanced Electronic Devices program.

*Airborne tactical signal exploitation*

The conferees agreed to recommend authorization of $600,000 in the Airborne Tactical Signals Exploitation program. Although the requirement for a sea-based signal intelligence (SIGINT) collection capability is valid, the need for a new airborne collector should be examined in the context of existing and programmed national and tactical intelligence assets.

*Air-to-ground stand-off weapons*

The Navy requested $5.465 million to develop a high-performance, air-to-ground weapon capable of attacking high-value, heavily-defended, land and sea targets. The House bill deleted $3.214 million for this effort and supported only the development of a classified project within the total program. The Senate amendment authorized the full request.

The House recedes to the Senate position with the understanding that the Navy plan will be in consonance with a three-year weapon system development program.

*Harpoon*

The request is for $2.563 million for improvements on the Harpoon anti-ship missile. The House deleted the entire request; the Senate amendment approved the full request.

The conferees agreed to authorization of $1.5 million for this program, with the understanding that none of these funds shall be used for development of the vertical-launch Harpoon.

*Light Airborne Multi-purpose system (LAMPS III)*

The Navy requested $124.491 million for the development of the LAMPS III anti-submarine warfare (ASW) helicopter system. The House bill deleted the entire authorization request with the recommendation to terminate the LAMPS III program. The Senate amendment authorized $118.391 million with the recommendation to delete the anti-ship surveillance and targeting mission.

The House conferees expressed the view that the LAMPS III system cost has escalated to the point where the system is too costly for the performance that it will provide. The program acquisition cost of the total LAMPS III system is over $15 million per deployed helicopter in fiscal year 1979 dollars. The addition of realistic inflation estimates increases the program acquisition cost estimate per complete system to over $20 million.

Both the House and Senate conferees concur in the Navy requirement for an ASW helicopter, but also concur that the program has not been properly managed and that there is high potential for substantial cost reductions in the LAMPS III development and procurement program. The Secretary of the Navy, in a letter dated July 17, 1978, advised the conferees of the possibility of realizing nearly a half billion dollars in cost savings through program restructuring that would not degrade the operational capability of the LAMPS III system.

The conferees agreed to authorize $95 million with the expectation that the Navy would not obligate or expend these funds until the Secretary of the Navy advises the Committees on Armed Services that the Navy has restructured the LAMPS III program to effect total program cost savings of a minimum of $400 million below the total program cost of $3.9 billion specified in the Secretary's letter. The restructured program must meet the Navy ASW requirements for the LAMPS III system with a planned Initial Operational Capability (IOC) of not later than calendar year 1984. Upon completion of the above requirements, a request for reprogramming for the additional funds, if any, required for the fiscal year 1979 development effort can be considered.

*Light carrier design*

The House authorized no funds for this program.

The Senate amendment authorized $25 million to continue design of a Light Carrier.

The conferees agreed to authorize $25 million for design work on a light carrier for aircraft operations in anti-submarine warfare, mine countermeasures, and other such missions as may be found useful. This authorization applies only to the design for a new ship, not for a conversion.

The House recedes.

*Navy V/STOL aircraft*

The Navy requested $72.4 million in several program elements to support development of basic aircraft technology related to future V/STOL designs and also to pursue V/STOL concept studies and initial development efforts on a subsonic (Type A) V/STOL aircraft.

The House reduced the technology development program and deleted all funds for the Type A aircraft.

The Senate reduced the budget request by a total of $22.4 million but added another $5.5 million for design studies of an AV–8B "Plus," a Naval version of the Marine Corps AV–8B Harrier close air support airplane. The Senate report warned that the evolving realities of the design penalties of V/STOL (as compared with conventional take-off and landing (CTOL) alternate designs) are such as to temper earlier enthusiasm for the V/STOL concept. The Senate did, however, strongly endorse continuation of the Navy's basic study program of the costs, cost effectiveness, and operational concepts of V/STOL

The conferees agreed that the Navy's Sea Based Air Master Study Plan was fundamental to achieving a systematic evaluation of the pros and cons of V/STOL and should be implemented as planned. The conferees also agreed that it is premature for the Navy to commit to a V/STOL hardware development program or to make a choice of starting a Type A or a Type B (supersonic) prototype until the cost effectiveness and operational concepts of V/STOL, as compared to CTOL alternatives, have been thoroughly evaluated. Accordingly, the conferees agreed to provide $7.5 million to support this study and the on-going Thrust Augmented Wing prototype program. In addition, $25.0 million was provided in several other programs elements to support basic aircraft technology developments that are not uniquely related to V/STOL.

The conferees agreed that the AV–8B "Plus" should be included in the overall master study, so that its cost effectiveness and place in the Navy's force structure could be evaluated. The conferees provided $3.0 million to support the AV–8B "Plus" in the master studies and for additional engineering analysis of the aircraft's design and cost.

*SIRCS and SEAMOD*

The House bill deleted the $14.5 million request for SIRCS and did not authorize SEAMOD.

The Senate deleted $4.9 million for a new missile development from SIRCS and added $7.7 million for SEAMOD although no funds were requested by the Navy.

The conferees agreed to authorize $7.7 million to establish a Combat System Architectural Approach to incorporate elements of SEAMOD, SIRCS, and other programs to meet multimission requirements in a timely and effective manner.

The conferees agreed to delete the total request for the SIRCS program.

*Small wetted area twin hulled (SWATH) ship*

The House bill provided no funds for this program.

The Senate amendment authorized $7.5 million for study and evaluation of the SWATH ship.

The House recedes with an amendment authorizing $1.0 million for SWATH.

*SSBN–X*

The Senate initiated a $16 million program to support preliminary design studies of a SSBN which would be mixed with our planned Trident submarine Fleet in the future.

The House bill contained no such funds.

The conferees agreed to authorize $3 million to support preliminary design studies of a high performance, cost-effective, although not necessarily smaller SSBN of the future. The conferees fully support the continued construction of Trident submarines as planned.

*Surface effect ship (SES)*

The Department of Defense did not request any funds for fiscal year 1979 for the Surface Effect Ship (SES) program. The House bill recommended the addition of $93 million to the Navy's budget request for continued research and development of the SES. The Senate amendment authorized $30 million for SES component development only.

The House conferees emphasized that the SES is the Navy's only high-technology program that could provide a high speed deep water surface ship for the post-1980 period.

The conferees agreed to authorize $80 million for continued SES research, development, test and evaluation. The conferees have been advised that this authorization is adequate to proceed with the development of the 3,000-ton prototype SES during fiscal year 1979.

*Within visual range air-to-air missile*

The Navy requested $6.047 million and the Air Force $6.1 million to initiate the joint development of a dogfight missile that would eventually replace the current Sidewinder.

The House bill deleted all funds requested for authorization while the Senate amendment provided $1.0 million for the Navy and $1.1 million for the Air Force. The conferees agreed that the formal start of a new missile program was premature and accepted the House position. Additionally, the conferees agreed that this action was made without prejudice to ongoing technology investigations such as the PAVE–PRISM project and that these efforts should be pursued with available basic technology funds.

AIR FORCE

*Advanced medium STOL transport (AMST)*

The House bill authorized $3 million for the AMST and the Senate amendment authorized $25 million. The conferees agreed to authorize $14 million. The conferees agreed that the funds are to be used to complete source selection for the AMST. In addition, the conferees expect the Secretary of Defense to reevaluate this program. If the Secretary of Defense decides to develop the AMST, the $14 million plus $8 million available from FY 1978 authorizations should be adequate to continue sustaining engineering work until Congress has an opportunity to consider a full-scale development decision.

*Air Force Public Affairs Office*
*Navy test pilot school*

The House bill denied authorization of $0.3 million requested by the Air Force for the Public Affairs program and $5.49 million for support of the Navy Test Pilot School.

The Senate amendment provided the full authorization request for both programs.

The conferees agreed that funding for these programs should be provided from the Operations and Maintenance Appropriation account and not from Research, Development, Test and Evaluation funds.

The Senate recedes.

*B–1*

The House bill denied without prejudice the Air Force request for $105.5 million to continue the B–1 research and development program during fiscal year 1979. The Senate amendment authorized the entire amount.

The House conferees believed that since the Administration had cancelled B–1 production, it was not prudent to spend an additional $296 million through 1983 to determine B–1 effectiveness.

The House conferees agreed with the Senate position that, in the absence of the B–1, the offensive and defensive avionics and other subsystems developed for the B–1 should be fully explored for potential application to the B–52 in as timely a manner as practical. However, the House conferees also insisted that the B–1 be investigated as a potential cruise missile carrier candidate. The Senate conferees agreed to this stipulation.

Conferees for both Houses agreed that approval of any authorization this year did not imply a commitment to continue this program through 1983.

The conferees agreed to authorize $55 million to be used for B–1 research, development, test and evaluation and the collection and analysis of data pertinent to strategic bomber penetration with the understanding that none of the funds will be used for other manned penetrating bomber development conversion or procurement programs.

*Engine model derivative*

The Air Force requested $2.9 million to develop improved performance variants of existing aircraft engines. The House bill denied the funds for this program, while the Senate amendment authorized the full request.

The conferees agreed to provide $1.0 million and to request the Secretary of Defense to consider transferring into this program the $15 million in unused fiscal year 1977 funds authorized and appropriated for the Navy F–14B reengining project. The $16 million should be made available only for a joint Navy/Air Force development effort for engine model derivatives.

*Low-level laser guided bomb*

The House bill denied the $2.0 million requested by the Air Force for development of a low-level laser guided bomb. The Senate amendment approved the request.

The conferees recommend that the Air Force use existing production funds to institute engineering changes as necessary to insure the earliest possible operational deployment of an improved laser guided bomb to Europe.

The Senate recedes.

*Single seat attack programs*

The request is for $21.9 million in two program elements to develop night vision Flir pods for the A–10 and F–16. An additional $6.9 million was requested in a program entitled Common NATO Munitions which would be allocated to developing a day-only laser designation pod for the F–16.

The House bill approved the funding requests; the Senate amendment provided $2.9 million and recommended that the Flir pod being developed for the F–18 be adopted by the Air Force.

The conferees agreed to provide $2.9 million as recommended by the Senate. This action is without prejudice to ongoing simulator tests on night attack flying being conducted by the Air Force.

The House recedes.

*Surface defense suppression (GBU–15)*

The House authorized the full $26.0 million request for the GBU–15 air-to-ground weapon development.

The Senate reduced the request by $12.0 million, expressing concern over the limited range and vulnerability of the Planar Wing Weapon and lack of Air Force justification for the full $26.0 million request. The Senate reiterated its view that there is a definite need for a powered standoff weapon to penetrate and destroy hard point targets and air defense systems.

The conferees agreed to authorize $14.0 million for Surface Defense Suppression, emphasizing that priority should be given to the task of continuing development of the Planar Wing Weapon.

The House recedes.

*Theater mobile ballistic missile*

The House added $25 million authorization to the $105 million requested for the joint service Advanced Ballistic Reentry Systems Program (ABRES) in the Air Force budget request. Of this authorization $20 million was to support the development of the Pershing II reentry vehicle and included the transfer of $10.1 million requested by the Army for that purpose. The remaining $5 million was a transfer of funds requested by the Army for that purpose. The remaining $5 million was a transfer of funds requested by the Army to support the development of the Conventional Airfield Attack Missile (CAAM).

The Senate initiated a program for the Air Force with $2 million authorization, for preliminary design of a long-range, mobile ballistic missile for our theater nuclear forces. The Senate authorized the $10.1 million as requested by the Army for the Pershing II, and the $105 million requested for ABRES. It denied the authorization requested for CAAM.

The conferees agreed to authorize appropriations for the Air Force for $20 million for a theater mobile ballistic missile program to support the Pershing II reentry vehicle development and to initiate a $2 million design effort for a long-range mobile ballistic nuclear missile. The conferees agreed to delete the $5 million requested for CAAM development.

The conferees are strongly concerned that the division of responsibility for surface-to-surface missiles for theater use between the Air Force and Army and the lack of centralized leadership in the Department of Defense have produced weapons programs which are proceeding independently and in some cases without adequate funds. The Pershing II reentry vehicle development, the ground launched cruise missile program, and the new, long-range mobile ballistic missile initiative should all be part of an integrated development and deployment plan to modernize our theater surface-to-surface missile force. Therefore, the conferees recommend that the Secretary of Defense define such a plan and submit it to the Congress not later than the time of the fiscal year 1980 budget submission.

The conferees anticipate that the Secretary of Defense will insure close coordination between the Army Pershing team and the Air Force to facilitate an orderly transition to the fielded Pershing system. In the event the Secretary of Defense decides that it is more effective to return the funding to the Army for the Pershing II development program, the Defense Department integrated development and deployment plan must be submitted to both the Senate and House Armed Services Committees at least thirty days before such transfer.

DEFENSE AGENCIES

*Charged particle beam technology*

The Navy requested $5.6 million for continued research in the area of charged particle beam technology. The House bill deleted the entire Navy request for authorization and transferred the program to the Defense Advanced Research Projects Agency

(DARPA) with an increased authorization for appropriation of $6.4 million, resulting in a total fiscal year 1979 authorization of $12.0 million. The Senate amendment authorized the Navy request.

The conferees agreed upon an authorization of $12.0 million to initiate the development of the advanced technology accelerator.

*Technical support to the Office of the Secretary of Defense/Office of the Joint Chiefs of Staff*

The House bill reduced the Defense Department's $24.184 million request for this program to $11 million. The House specified that of this $11 million, $7 million was authorized for the Office of the Under Secretary of Defense for Research and Engineering, $2.55 million for the Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics and the remaining $1.45 million for the Offices of the Assistant Secretary of Defense Program Analysis and Evaluation and the Assistant Secretary of Defense for International Security Affairs.

The Senate amendment authorized $13.284 million for this program.

The conferees agreed to authorize $13.284 million. The conferees further agreed that the funds are to be distributed as indicated in the House report with the additional $2.284 million to be used as required by the Secretary of Defense.

*Terminally guided submunitions*

The House bill deleted the $85.5 million requested by the Department of Defense for the Terminally Guided Submunitions programs, including the Army's Assault Breaker and the Air Force Wide Area Anti-Armor Munitions (WAAM) projects, and instead authorized $68.4 million for these programs in the Defense Advanced Research Projects Agency (DARPA) Tactical Technology Program.

The House expressed strong support for these programs but stated that it was essential that strong central management be applied to these programs to assure an early deployment of this new concept in air-to-ground weapons, to reduce costs and to eliminate duplication of effort.

The Senate amendment reduced the $26.1 million request under Advanced Attack Weapons for WAAM concept validation to $5.5 million and authorized the full $21.0 million request for WAAM technology efforts. The Senate viewed the request as excessive in light of the still evolving technologies for these weapons.

The Senate deleted the $10.3 million requested under Common NATO Munitions for Anti-Armor Weaponization Demonstration. The Senate position was that the request was premature in that the project plans were not well defined and technologies concerned were still evolving. The Senate deleted an additional $6.9 million from the Common NATO Munitions line for other tasks not related to anti-armor terminally-guided submunitions.

The conferees shared the concern that the initiation of three parallel efforts in which terminally-guided submunitions were to be developed (Assault Breaker, WAAM, and GSRS Terminally-Guided Warhead) would lead to a duplication of effort. The conferees therefore agreed to delete without prejudice the $8.0 million request under SSM Rocket Systems for the GSRS Terminally-Guided Warhead.

The conferees agreed that DARPA should take the management lead in the Assault Breaker program and agreed to remove all Assault Breaker related authorization from the services' accounts and to add an additional $19.4 million to the DARPA Tactical Technology account for this purpose.

The House conferees reluctantly recede from the House position that WAAM-related work be managed by DARPA and agree to the Senate position that this effort should be funded in the Air Force. The House, therefore, receded to the Senate on WAAM with an amendment that an additional $3 million be authorized for the Advance Attack Weapons program for support of WAAM related work.

The conferees agreed that strong centralized management should be applied to all TGSM related efforts. The conferees, therefore, request that overall management accountability for the entire TGSM effort be vested in the Office of the Under Secretary of Defense for Research and Engineering.

The following table summarizes the conference recommendation relating to Terminally Guided Submunitions work.

ACTIONS ON ASSAULT BREAKER/WAAM/TGSM

[In thousands of dollars]

| | Request | House | Senate | Conference |
|---|---|---|---|---|
| Army: | | | | |
| Missile technology | 30,126 | 28,726 | 30,126 | 28,726 |
| Surface-to-surface rocket systems | 70,800 | 62,800 | 70,800 | [1] 62,800 |
| Assault breaker | 10,300 | 0 | 10,300 | [2] 0 |
| Air Force: | | | | |
| Conventional munitions | 27,900 | 13,400 | 27,900 | 27,900 |
| Conventional weapons technology | 22,000 | 7,100 | 22,000 | 22,000 |
| Advanced attack weapons | 28,600 | 2,500 | 8,100 | 11,100 |
| Common NATO munitions | 20,200 | 9,900 | 3,000 | [2] 3,000 |
| DARPA: Tactical technology | 78,600 | 147,000 | 78,600 | 98,000 |

[1] Without prejudice.
[2] All assault breaker work transferred to DARPA for centralized management.

*Section 202—Extremely low frequency (ELF)*

Section 201 of the House bill authorized $10 million for the Extremely Low Frequency (ELF) communications system. Section 202 of the Senate bill authorize $34.149 million for ELF. In addition, both Houses imposed certain restrictions in the bill on the use of the funds authorized.

The conferees agreed to authorize $20 million for the ELF system and included bill language which combines and modifies the restrictions of both the House and Senate bills.

*Section 203—Survivable ICBM*

The managers on the part of the House and Senate reiterate their support, as stated in the fiscal year 1977 conference report, for a survivable land-based ICBM system. Such a system may consist of many elements, such as Multiple Aim Point (MAP), rebasing, a more efficient missile, etc., whose design should provide for an enduring, survivable land-based ICBM force capability as required by national policy.

The goals of providing a secure strategic deterrent, and the goals of SALT, to guarantee the security of our strategic forces, are clearly consistent with each other. Details of the proposed SALT II treaty, protocol, and supporting documents should, therefore, provide the necessary safeguards to preserve the U.S. option to deploy a survivable system, regardless of Soviet responses.

The conferees are concerned about the growth in Soviet strategic capability and the attendant vulnerability of the land-based ICBMs. We desire the Department to act on a new program within a time frame consistent with that threat and in a manner which provides program flexibility to respond to changes in the threat with time. Further, we urge the Administration to act, in a timely fashion, on whatever additions or changes, if any, are necessary in SALT II to protect the U.S. option to deploy a new system and to protect U.S. interests should the Soviets deploy a similar system.

Section 201 of the Department of Defense Appropriation Authorization Act, 1978, (P.L. 95–79) included for the Air Force authorization for $15.7 million. The legislation prohibits either obligation or expenditure of any amount of the $15.7 million "until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft."

The law was enacted to prohibit the United States from financing, with fiscal year 1978 appropriations, development of the NATO AWACS system before a NATO ally agreed to contribute to the purchase of AWACS aircraft.

The United States has expended development funds during fiscal year 1978 for a cooperative NATO AWACS development program. These funds were available for obligation from appropriations for fiscal year 1977. Other NATO countries also contributed to the fiscal year 1978 development program.

Presently, NATO nations are considering commitment to the acquisition of the AWACS system as a multi-lateral procurement through a multi-national organization. The Department of Defenese anticipates a program acquisition decision during the fall of 1978. In order to continue an orderly cooperative development program during the interim before a procurement decision, the Secretary of Defense has requested legislative modification of the fiscal year 1978 authorization in order to permit the United States to obligate and expend $4,066 million as its share of the on-going program.

The Senate amendment considered by the conferees contained a provision which deleted all legislative restrictions on the obligation or expenditure of the $15.7 million authorized for fiscal year 1978. The House conferees accepted the Senate proposal, as requested by the Secretary of Defense, to delete the restriction.

The conferees agreed that the removal of the restriction is done with the intent that the Secretary of Defense has immediately available for obligation $4.066 million. If additional funding is required before a NATO ally has agreed to contribute to AWACS procurement, the Secretary of Defense must notify both the Senate and House Armed Services Committees.

The conferees further agreed that for fiscal year 1979, $10 million would be authorized for the NATO AWACS development program. This authorization is restricted by the same language included in the fiscal year 1978 authorization.

The House recedes.

Cooperative Tank Gun

The House bill contained a provision (Sec. 201) which stated that of the RDT&E authorization for the Army, $8.1 million available for cooperative tank gun development shall not be obligated unless the Committee on Armed Services acts favorably on the proposed reprogramming action for fiscal year 1978 for the program. The House committee subsequently did approve the reprogramming and, therefore, the House recedes.

Cruise Missile Carrier

Of the funds authorized to be appropriated under Section 201 for the Air Force, $20,600,000 shall be available only for study and exploratory development, including hardware development, including a cost and operational effectiveness analysis to determine the most cost effective system, and including a cost and operational hardware analysis of the aircraft platforms for use as a cruise missile carrier. Such study shall include consideration of use of both military

and civilian aircraft, including the B–1, AMST, C–141 and C–5A in addition to the B–52. None of the funds authorized to be appropriated for this purpose shall be available for engineering development leading to production of aircraft other than the B–52 for use as a cruise missile carrier. The President shall report to the Congress on the results of such study and exploratory development, together with his decision and recommendations on the aircraft and systems to be used as a cruise missile carrier when a request is made for such system.

Section 204 of the Senate amendment included a provision restricting use of funds for development of a cruise missile carrier aircraft pending receipt of an arms control impact statement. The House conferees strenuously objected to this language.

The Senate recedes.

TITLE III—ACTIVE FORCES

Active duty military strengths in the House bill and Senate amendment differed by a total of 5,850. The conferees agreed to authorize the following end strengths.

| | House bill | Senate bill | Conference report |
|---|---|---|---|
| Army | 776,600 | 775,800 | 775,800 |
| Navy | 525,300 | 521,700 | 523,550 |
| Marine Corps | 191,500 | 190,000 | 190,000 |
| Air Force | 566,350 | 566,400 | 566,400 |
| Total | 2,059,750 | 2,053,900 | 2,055,750 |

The authorized end strength for the Army exceeds the Administration request by 4,100. This increment includes an increase of 2,100 for the Army training establishment, and 2,000 spaces for recruiters for the Army National Guard and the Army Reserve.

The Department of Defense manpower program for fiscal year 1979 proposed a total of 4,100 positions as outlined in the Senate report, in the Army National Guard and Army Reserve primarily for recruiters for these components. These recruiters were to be on active duty tours as reservists on "active duty for training." The conferees agree it is inappropriate to characterize these reservists as on active duty for training when their function is operational in substance.

By including half of these people in this year's authorization, the conferees have provided for a transition from this status of "active duty for training" to a new status of active duty for organizing, administering, recruiting, instructing or training the reserves. The conferees agree that a legislative proposal will be considered at the earliest possible date to create authority for this new category.

Reserve recruiters shall continue to be paid from reserve appropriations and remain under the operational control of the reserves.

The end strength authorized for the Navy in fiscal year 1979 is 523,550. The increase of 1,850 over the Administration request is for an increase in the amount of formal training planned for new enlistees in fiscal year 1979. The conferees expect the Navy to maintain current standards of quality for accessions in their recruiting program in fiscal year 1979. The conferees are convinced that the Navy can increase the contribution of Naval Reservists in manning the shore establishment and expect to see plans to use the Naval Reserve in base support and other areas in which the active Navy is undermanned.

The House recedes to the Senate on the end strength authorized for the Marine Corps in fiscal year 1979.

For the Air Force, the conferees agreed to authorize an end strength of 566,400. This figure, which is 800 over the Administration request, provides for a transition of reserve recruiters into the new category mentioned above, and for an adjustment made necessary by a decision, made after the budget was submitted, not to accomplish the modernization of certain intelligence activities.

The conferees are concerned about the current and future status of the All Volunteer Force and endorse the language in the Senate report which suggests that the Department of Defense examine the possibility of alternatives to the All Volunteer Force.

The conferees are also aware that in its current status, the Selective Service System probably cannot meet established Department of Defense requirements for manpower in a mobilization. The Selective Service System must be managed and funded in a manner to meet national security requirements.

As one alternative to be examined, the Secretary of Defense is requested to conduct a test of a two year enlistment option for the combat arms skills in the Army, and the seagoing engineering ratings in the Navy, to determine whether this option will attract higher quality personnel. This option is to be coupled with an enhanced post service educational program under the Secretary of Defense's existing authority to increase the government's contribution under the Post-Vietnam Era Veterans' Educational Assistance Program (GI Bill Improvements Act of 1977).

The results of the test should be made available to the Committees on Armed Services and Appropriations of the Senate and House as soon as possible. An evaluation of the test should accompany the report to Congress. The report should address the cost impact of the two-year enlistment option in terms of attrition, marital status, and increased turnover due to this shorter term and other factors which may result from the kind of personnel attracted to the force by this option.

TITLE IV—RESERVE FORCES

Title IV, section 401, of the bill contains the authorization for the strength of the Selected Reserve of each reserve component of the Armed Forces for fiscal year 1979.

The House and Senate positions differed on the strengths of the Army National Guard, Army Reserve, Air National Guard, and Air Force Reserve. The difference resulted from the Senate's decision to include full-time reservists on recruiting and management duties in active duty strengths.

The strength agreed to permits the reserve recruiters not transitioned into the new category during fiscal year 1979 to continue to be accounted for under reserve strengths until the transition is completed into a single category.

RESERVE RECRUITING INCENTIVES

Section 402, 403 and 404 of the House bill established the educational assistance program, the enlistment bonus and the reenlistment bonus as permanent authority. The Senate amendment extended the authority for an educational assistance program and a reenlistment bonus for one year.

The conferees agreed to authorize all three of the incentives for a period of two years.

The Senate recedes to the House language for each of these three incentives except that, for the reenlistment bonus, the Secretary's authority to determine to whom the bonus is offered is clarified.

The conferees agree that the enlistment bonus and the educational assistance program shall be implemented on a test basis. The enlistment bonus should be tested with the dollar amount of the bonus offered at varying levels. In the cases of the reenlistment bonus, if the test underway is successful, this bonus may be used in a broader program for units identified for early deployment or early support missions in time of mobilization.

On section 405 of the House bill, which established a specific dollar figure for these incentives in law, the House recedes.

The conferees agree that these authorizations may be used in a program of up to $25 million in fiscal year 1979 and that the Department may and is expected to reprogram additional funds for use in this manner if reserve strengths continue to decline. The conferees do not intend for these incentives to be regarded as entitlements, but as necessary pilot expedients to meet an existing problem.

Restriction on Transfer From the Ready Reserve to the Standby Reserve

Section 406 of the House bill eliminates the option for an individual in the Ready Reserve to transfer to the Standby Reserve for the last year of obligated service.

The Senate recedes with an amendment.

TITLE V—CIVILIAN PERSONNEL

For fiscal year 1979, the Department of Defense requested an end strength of 1,007,500.

The House authorized a Department-wide end strength of 1,018,200.

The Senate authorized a civilian end strength for each of the Services totaling 999,100.

The conferees agreed to provide for an overall Department of Defense-wide authorization for civilian personnel of 1,005,500—a reduction of 2,000 from the Administration's request.

The conferees agree that this reduction should be made in white collar civilians in the Washington area, primarily in command/headquarters. This reduction should be accomplished by attrition and without a reduction-in-force. The conferees agree on an increase of 1,100 civilians for the Naval Air Rework facilities and an increase of 400 in aircraft maintenance for the Air Force.

The conferees are also concerned about the justifications for increases in foreign military sales personnel and in the level of Army white collar civilians as expressed in the Senate report.

The conferees agreed that particularly in activities engaged in maintenance, construction or repair, the Department of Defense must manage manpower resources in a manner that will insure these activities are provided sufficient civilian manpower to fulfill work requirements for which funds have been appropriated. The recommended reductions are not directed at these activities, many of which are industrially funded.

The conferees request the Secretary of Defense to report to the Committees on Armed Services of each house within 60 days an initial allocation of the authorized strength, and with a subsequent report by January 31, 1979 on a final allocation of this strength for fiscal year 1979. The report should address the allocation of the authorized strengths among the military departments and Defense Agencies, as well as the Defense planning and programming categories therein.

Authority for Secretary of Defense To Exceed the Authorized Strength

The conferees agreed to provide authority for the Secretary of Defense to exceed the authorized strength by 1¼ percent when he determines it is in the national interest to do so. The Secretary shall promptly notify the Congress of any decision to effect such an increase.

TITLE VI—MILITARY TRAINING STUDENT LOANS

Sec. 601. Army One Station Unit Training combines Recruit Training and Initial Skill

Training in certain skills into a single, continuous course conducted by a single training unit at one location. The conferees fully support the concept of One Station Unit Training, including the full implementation of Infantry One Station Unit Training at Fort Benning in fiscal year 1979. The increase of 324 for the authorized One Station Unit Training load in the Army is to permit this program to continue at Fort Bliss. The conferees also agree on an increase of 100 for Physician Assistant Training in the Army.

The House recedes with an amendment.

The Senate had not provided authority for the Secretary to adjust the authorized military training student loads for the Army or Air Force. The conferees do not intend that this authority be used for a decrease in One Station Unit Training loads. The Senate therefore recedes.

Reduction or Realignment of the Training Base

Section 602 of the House bill requires the Secretary of Defense to notify the Committees on Armed Services and Appropriations of the Senate and House of the specific details of any substantial reduction or realignment of the training base structure planned as a part of the fiscal year 1979 Defense program, and certify that the plan is in the best interest of national security and provides for efficient management. No action implementing the plan submitted can be taken until thirty legislative days have passed.

The Senate recedes.

TITLE VII—CIVIL DEFENSE

The Administration budget request for programs of the Defense Civil Preparedness Agency was $96.5 million. The House bill provided $137 million for civil defense and the Senate bill authorized $96.5 million.

The conferees agreed to the Senate level of $96.5 million.

The House recedes.

Both versions provided for the study of the civil defense needs of counterforce areas in the United States. The Senate bill included those areas where significant defense-related research laboratories or facilities are located. The conferees agreed to this modification.

In the event that either House does not reject the Administration's emergency preparedness reorganization plan currently before the Congress, the conferees agreed to the Senate technical amendment that would allow transfer of authorization of the Defense Civil Preparedness Agency programs to a successor agency.

TITLE VIII—GENERAL PROVISIONS

Extension of Authority for Special Pay for Health Professionals

Section 801 of the House bill contained a provision that extends, for two years, authority to provide special pay and bonuses for military health professionals. These programs include special pay for physicians, dentists, optometrists, and veterinarians; Variable Incentive Pay for physicians below flag rank; and Special Continuation Pay for physicians above pay grades O–6 (Colonel/Navy Captain) and dentists. Authority for these programs presently expires on September 30, 1978.

The Senate amendment contained no such provision.

The Senate recedes.

Extension of Reenlistment and Enlistment Bonuses

Section 802 of the House bill contained a provision that extends, for two years, authority to provide reenlistment and enlistment bonuses to enlisted personnel in critical skills. These programs provide up to $15,000 as a reenlistment bonus and up to $3,000 as an enlistment bonus. Authority for these programs presently expires on September 30, 1978.

Section 802 also would guarantee that the bonus in effect for a skill at the time a member agrees to retrain in that skill would be the bonus payable to him once he qualifies and reenlists in the new skill. Under present law, a member may only be paid a bonus when the skill in which he reenlists is designated for a bonus at the time of reenlistment. The Secretary of each military department should insure that the time between an agreement to retrain and actual reenlistment is held to a minimum.

The Senate amendment contained no such provision.

The Senate recedes.

Extension of Platoon Leaders Class Subsistence Payment

Section 803 of the House bill contained a provision that extends, for two years, the authority to provide financial assistance to officer candidates under the Marine Corps Platoon Leaders Class program. The program expires on September 30, 1978. This program provides a subsistence payment of $100 for each of the 9 months of the college year after an officer candidate has successfully completed summer training. This is similar to the subsistence allowance paid to ROTC candidates while in the senior ROTC program.

The Senate amendment contained no such provision.

The Senate recedes.

Special Pay for Sea Duty

Section 902 of the Senate amendment modifies the structure and rates of sea pay for enlisted personnel assigned to sea duty along the lines of a DOD legislative proposal.

Current rates vary from $8 per month to $22.50 per month based on pay grade and are paid whenever the member is on sea duty.

The rates authorized by the Senate vary from $25 per month to $100 per month and are based on the member's total amount of sea duty. Payment would be restricted to enlisted members who have achieved petty officer grade (E4 and above) and who have completed 3 years of cumulative sea duty.

The provision includes a one-year save pay provision that would insure that anyone on sea duty on September 30, 1978, would continue to receive at least the current rates for that year.

The House bill contained no such provision.

The House conferees proposed an amendment to the Senate provision that would continue the application of the present system to all enlisted members on active duty on September 30, 1978, who would lose eligibility under the new sea pay provision. In addition, this save pay protection would be effective for three years. Instead of moving immediately to the new higher rates, the House amendment would move gradually, over three years, to the new rates.

The House recedes with an amendment.

Reorganization of the Army Dental Corps

Until recently a dental activity at an Army unit would be under the control of the unit's medical activity. Organizationally, the commander of the medical activity reported to the post commander; and the hospital and the dental activity were organizationally under the medical activity. The commander of the medical activity and the commander of the hospital was the same individual. Resource allocations such as manpower, funds and equipment were made by the physician in his capacity as the head of the medical activity.

Section 804 of the House bill contained a provision that places in statute the revised organizational structure in which the commander of the medical activity and the commander of the dental activity both report to the post commander. The hospital would continue to be under the command of the commander of the medical activity. The Army has already implemented—administratively—many of the provisions of section 804.

Section 804 also contained a provision that establishes the statutory position of Assistant Surgeon General for Dental Services in the Air Force.

The Senate amendment contained no such provision although a similar bill is now pending in the Senate.

The Senate recedes.

Commandant of the Marine Corps on the Joint Chiefs of Staff

Section 913 of the Senate amendment altered section 141 of title 10, United States Code, to make the Commandant of the Marine Corps a member of the Joint Chiefs of Staff. The House bill contained no such provision.

The House recedes.

Women on Ships

Section 302 of the House bill and section 901 of the Senate amendment contained language which removes restrictions in law to permit Navy women to be assigned to noncombat vessels on a permanent basis, and to temporary duty aboard combat vessels not expected to be assigned combat missions.

The House bill included additional language which (1) clarified that women on temporary duty with a combat ship will fill billets in addition to the ship's required complement and only for a period of not more than six months; (2) stated that every reasonable effort would be made to disembark women on a ship assigned a combat mission; (3) defined the term combat mission as one which has as one of its primary objectives "to seek out, reconnoiter, or engage the enemy"; and (4) empowered the Secretary of the Navy to promulgate regulations for the assignment of women to ships.

The House recedes.

Female Undergraduates at Military Colleges

The Senate bill contained a provision (section 602) that requires that military colleges must make military training available to qualified undergraduate female students under regulations established by the Secretary of Defense, but the Secretary shall not require that military training for female students be compulsory.

The House recedes with a technical amendment to the language.

U.S. Navy Shipbuilding Policy

Section 801 of the Senate amendment contained a provision stating in part that it is the policy of the U.S. government to build smaller and less costly aircraft carriers, unless the President advised the Congress that construction of such ships was not in the national interest.

The House bill contained no such provision.

The conferees agreed that in the request for authorization for additional ships for the combatant forces, including aircraft carriers, the President should include a recommendation as to whether or not the ship should be nuclear powered, and the reasons therefore.

The House recedes with an amendment.

Carrier Service Life Extension Program (SLEP) and DDG–2 Destroyer Conversion

Section 810 of the House bill contained a provision that would preclude the assignment of any of the carrier SLEP or DDG–2 conversion ships to a specific public or private shipyard until a comprehensive study is completed by the Secretary of the Navy and presented to the Congress as to the least cost alternative to the government of accomplishing the work.

Section 908 of the Senate amendment contained an almost identical provision.

The House and Senate amendments did not differ in substance or intent. The conferees agreed upon clarifying language blending both provisions.

The House recedes with an amendment.

Sea-Based Aircraft Platform Study Funds

Section 809 of the House bill provided that leftover funds authorized to be appropriated in Public Law 95-78 for comprehensive evaluation studies of sea-based aircraft platforms be applied toward continuing study of any aircraft carrier platform authorized by the FY 1979 Defense Authorization Act.

The Senate amendment contained no such provision.

The Senate recedes.

Certification of Claims

Section 808 of the House bill contained a provision requiring that a senior company official certify that a claim and supporting data against the U.S. Government, is accurate, complete and current.

The Senate amendment contained no such provision.

The conferees agreed to modifying language so that certification of claims could be more reasonably administered by senior company officials. The retroactive feature of the House bill has been eliminated.

The Senate recedes with an amendment.

Restriction on Contracting Out Commercial and Industrial Type Functions

Section 805 of the House bill contained a provision requiring the Secretary of Defense to use, during fiscal year 1979, the policy and regulations which were in force before June 30, 1976, when determining whether commercial or industrial functions should be performed by defense employees or private contractors. This requirement would lapse before the end of fiscal year 1979 if the Secretary of Defense submits a report detailing proposed changes in policy and regulations to the Congress ninety days before implementation of the changes.

The Senate amendment had no similar provision.

The conferees agree to amend the language of the section by reducing the time from ninety days to sixty days that the Secretary of Defense must wait before implementing changes in policy and regulations after submitting a report to Congress.

The Senate recedes with an amendment.

Prohibition on Sale of Certain Defense Articles from Stocks of the Department of Defense

Section 911 of the Senate amendment prohibited the sale of certain defense articles from stocks of the Department of Defense unless the President determined that there was an international crisis affecting the national security of the United States and that the sale of such stocks was in the national interest. The House bill contained no such provision.

The House recedes with certain technical amendments.

*1980 Olympic Winter Games*

Section 806 of the House bill provided logistical support and personnel services, including medical services, transportation, communications, course preparation and security to the 1980 Olympic winter games. Also, the Secretary of Defense could lend and provide equipment and such other services as may be considered necessary and appropriate.

The Senate amendment contained no similar provision.

The Senate conferees were concerned with the suggested use of military personnel for certain non-military purposes and offered an amendment to which the House conferees concurred, which would authorize the Secretary of Defense to provide logistical support and personnel services, to lend and provide equipment and provide such other services as may be considered necessary and appropriate. In addition, cost of such assistance would be limited to $2 million, in fiscal year 1979, with an additional requirement that the funds be appropriated.

The use of Armed Forces personnel and equipment should only be for specialized services that are uniquely within the competence of the Department of Defense. It is not intended that Armed Forces personnel will be used for the construction of facilities or as a replacement for services available from civilian sources.

The Senate recedes with an amendment.

*Panama Canal*

Section 813 of the House bill provided that none of the funds authorized to be appropriated shall be used for the purpose of effecting any force reduction or base realignment in the Panama Canal Zone in support of implementation of the Panama Canal Treaties without a specific Act of Congress. There was no similar provision in the Senate amendment.

The Senate conferees offered an amendment which would restrict expenditure of funds authorized to be appropriated in this Act for the realignment of any military installation in the Canal Zone to such use as is consistent with the responsibility of and the necessity for the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1978. The House conferees concurred.

The Senate recedes with an amendment.

Technical Amendment Authorizing the Number of Navy Admirals and Marine Corps Generals

Section 903 of the Senate amendment contained a provision that authorizes the distribution of flag officers by grade for the Navy and Marine Corps consistent with those of the Army and Air Force. The provision substitutes the term "active duty" for the term "active list" as it applies to flag officers in pay grades O-9 and O-10.

The House bill contained no such provision.

The House recedes.

Commissary Baggers

Section 909 of the Senate amendment provided that individuals who perform bagger or carryout service in a commissary shall not be considered employed for the purpose of the Fair Labor Standards Act of 1938 if sole compensation is derived from the commissary patron as a result of tips.

The House recedes.

NATO Defense Expenditures

The Senate amendment contained a provision (Sec. 910) that would require the President to submit to Congress a report, not later than February 1, 1979, on the defense expenditures of each NATO member nation for fiscal year 1978 and the planned defense expenditurs for fiscal year 1979.

The House bill contained no such provision.

The House conferees agreed that such a report should be submitted to Congress but argued strongly that the requirement for the report should be contained in the Statement of Managers and not the law.

Accordingly, the conferees request the Secretary of Defense to submit to the Congress not later than February 1, 1979, a written report showing the actual NATO defense expenditure of each member nation, including the United States, during the fiscal year ending September 30, 1978, and the planned NATO defense expenditure of each such member nation for the fiscal year ending September 30, 1979. The Secretary of Defense shall indicate in the case of each such member nation whether the planned expenditure for the fiscal year ending September 30, 1979, represents an increase or decrease from the previous fiscal year, after adjustment for inflation, and the percent of such increase or decrease, after adjustment for inflation.

Restriction on Procurement of Articles Containing Foreign-Produced Specialty Metals

Section 807 of the House bill contained a provision that would prohibit, with certain minor exceptions, the use of funds authorized to be appropriated under section 138 of title 10, United States Code, for the procurement of any article containing specialty metals (including stainless steel flatware) not produced in the United States or its possessions.

The Senate amendment contained no such provision. The conferees agreed that the President of the United States should determine whether or not the importation of steel from foreign countries for arms manufacture is excessive, depressive or beneficial to American national interest; and if he finds that the importation is excessive, he should take active steps to negotiate a fairer proportion of American steel for production of arms in the United States.

The House recedes.

Nuclear Powered Navy

Section 907 of the Senate amendment contained a provision to repeal Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408) which required that submarines and major combatant ships of the Navy be nuclear powered.

The House bill contained no such provision.

The conferees agreed that the provision was no longer necessary since such objectives can be achieved through the legislative process.

The House recedes.

Shipbuilding Commission

Section 906 of the Senate amendment contained a provision requiring a comprehensive study of current policies and procedures for procuring ships by a special commission to be appointed by the President.

The House bill contained no such provision.

The conferees note that the Navy is devoting increased attention to the solution of existing shipbuilding problems. However, a recently completed Navy study points to the need for continued diligent effort toward final solution of management and policy problems facing the Navy and the entire maritime industry.

The conferees are mindful of the unqualified support of the shipbuilding industry of the need for a comprehensive study by a special Presidential commission. In that such a commission does not require establishment by special statute, the Senate recedes. However, the conferees urge that the President give consideration to establishment of such a commission to assist in identification and resolution of shipbuilding and maritime problems.

The Senate recedes.

Manpower Productivity Study

Section 812 of the House bill required the Secretary of Defense to provide a report to the Congress by the end of fiscal year 1979 on efforts to formulate a productivity plan for manpower needs and to gather productivity data upon which to base manpower requests for subsequent years.

The Senate report contains language requesting an analysis of manpower productivity in next year's Military Manpower Requirements Report. The conferees endorse this request.

The House recedes.

MELVIN PRICE,
CHARLES BENNETT,
SAMUEL S. STRATTON,
RICHARD H. ICHORD,
LUCIEN N. NEDZI,
CHARLES H. WILSON,
ROBERT L. LEGGETT,
RICHARD C. WHITE,
BILL NICHOLS,
BOB WILSON,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,

FLOYD SPENCE
(for consideration of differences regarding intelligence - related activities only),
EDWARD P. BOLAND,
BILL D. BURLISON,
NORMAN Y. MINETA,
KENNETH J. ROBINSON,
*Managers on the Part of the House.*

JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
TOM MCINTYRE,
HARRY F. BYRD, JR.,
SAM NUNN,
JOHN C. CULVER,
GARY HART,
JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,
DEWEY BARTLETT,
JAKE GARN,
*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mrs. LLOYD of Tennessee (at the request of Mr. WRIGHT), for July 27 through July 31, on account of medical reasons.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. RICHMOND (at the request of Mr. WRIGHT), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 10 minutes, today.

Mr. BROYHILL, for 10 minutes, today.

Mr. BURKE of Florida, for 15 minutes, today.

Mr. GILMAN, for 60 minutes, tomorrow, August 1, 1978.

Mr. ROUSSELOT, for 10 minutes, today.

Mr. GARY A. MYERS, for 5 minutes, today.

(The following Members (at the request of Mr. AUCOIN) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. STOKES, for 10 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. NOLAN, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LONG of Maryland, to include extraneous matter on H.R. 12931.

Mr. YOUNG of Florida, to include extraneous matter on H.R. 12931.

Mr. AUCOIN, and to include extraneous matter notwithstanding the fact that it exceeds five pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,971.

(The following Members (at the request of Mr. COLEMAN) and to include extraneous material:)

Mr. KEMP in four instances.

Mr. JEFFORDS.

Mr. CUNNINGHAM.

Mr. DERWINSKI in two instances.

Mr. RHODES.

Mr. SEBELIUS.

Mr. MCCLORY in two instances.

Mr. ANDERSON of Illinois.

Mr. GRASSLEY.

Mr. BURKE of Florida.

Mr. DORNAN in two instances.

(The following Members (at the request of Mr. AUCOIN) and to include extraneous material:)

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. JOHNSON of California.

Mr. HAMILTON in three instances.

Mr. WOLFF.

Mr. ROSE in three instances.

Mr. MCHUGH.

Mr. BINGHAM in 10 instances.

Mr. NOLAN.

Mr. HARRIS.

Mr. MOAKLEY.

Mr. MAHON.

Mr. ROGERS.

Mr. JOHN L. BURTON in three instances.

Mr. LAFALCE.

Mr. MOFFETT.

Mr. EILBERG.

Mr. MILLER of California in three instances.

Mr. COTTER.

Mr. SKELTON.

Mr. MOORHEAD of Pennsylvania.

Mr. GARCIA.

Mr. FOWLER.

Mr. BRECKINRIDGE in two instances.

## ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 12138. An act to name a certain Federal building in Laguna Niguel, Calif., the "Chet Hatfield Building."

## SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 920. An act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma;

S. 2463. An act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes; and

S.J. Res. 102. Joint resolution, American Indian religious freedom.

## BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 28, 1978, present to the President, for his approval, bills of the House of the following titles:

H.R. 11832. To authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes; and

H.R. 12426. To authorize the Secretary of the Treasury to provide financial assistance for the city of New York.

## ADJOURNMENT

Mr. AUCOIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, August 1, 1978, at 10 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4666. A letter from the Deputy Secretary of Defense, transmitting reports of nine violations of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

4667. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 47 of title 10, United States Code, to prescribe the power of the President to promulgate rules for the administration of military justice within the armed forces; to the Committee on Armed Services.

4668. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to transfer an auxiliary ocean tug to the Government of Haiti, pursuant to 10 U.S.C. 7307; to the Committee on Armed Service.

4669. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to transfer four landing craft to the Government of Indonesia, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4670. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed interim final regulations regarding federally insured loans to graduate students in selected health care fields, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committe on Education and Labor.

4671. A letter from the Attorney General, transmitting notice of a proposed new records system by the Community Relations Service of the Department of Justice, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4672. A letter from the vice president for Government affairs, National Railroad Passenger Corporation; transmitting the financial report of the Corporation for the month of April 1978, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4673. A letter from the Secretary of the Army, transmitting a report on Plum Island, Mass., in response to resolutions of the House and Senate Committees on Public Works adopted March 29, 1973, and April 11, 1974, respectively; to the Committee on Public Works and Transportation.

4674. A letter from the Administrator of Veterans' Affairs, transmitting his annual report for the transition quarter and fiscal year 1977, pursuant to 38 U.S.C. 214; to the Committee on Veterans' Affairs.

4675. A letter from the Administrator of Veterans' Affairs, transmitting a report covering calendar year 1977 on cases in which equitable relief from administrative error was granted, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

4676. A letter from the Comptroller General of the United States, transmitting a report on the strategic need and cost effectiveness of stretching the C–141 (PSAD–78–121, July 31, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4677. A letter from the Comptroller General of the United States, transmitting a report on the critical safety issues in transporting and storing liquefied energy gases (EMD–78–28, July 31, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, Merchant Marine and Fisheries, and Public Works and Transportation.

4678. A letter from the Under Secretary of Energy, transmitting revisions to the Department's uranium enrichment services criteria pursuant to section 161v of the Atomic Energy Act of 1954, as amended; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

4679. A letter from the Secretary of Agriculture and the Secretary of the Army, transmitting drafts of three proposed bills, (1) to deauthorize the Cross Florida Barge Canal project, and for other purposes, (2) to provide for restoration of the Oklawaha River portion of the project and disposition of other lands and facilities outside the Oklawaha River Area, and (3) to authorize study of the Oklawaha River for potential addition to the National Wild and Scenic Rivers System; jointly, to the Committees on Public Works and Transportation, and Interior and Insular Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. Supplemental report on H.R. 12611. A bill to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares (Rept. No. 95–1211, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. CHARLES H. WILSON of California. Committee on Post Office and Civil Service. H.R. 13369. A bill to amend the provisions of title 39, United States Code, relating to the mailing of solicitations disguised as invoices or statements of accounts; with amendment (Rept. No. 95–1401). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee of conference. Conference report on H.R. 10929 (Rept. No. 95–1402). Ordered to be printed.

Mr. NIX: Committee on Post Office and Civil Service. H.R. 11280. A bill to reform the civil service laws; with amendment (Rept. No. 95–1403). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. LEVITAS, Mr. GOLDWATER, Mr. EDGAR, Mr. EVANS of Georgia, Mr. YATRON, Mr. OTTINGER, Mr. GILMAN, Mr. GREEN, Mr. ROBINSON, Mr. RICHMOND, Mr. FRENZEL, Mr. DORNAN, Mr. RINALDO, Mr. WOLFF, Mr. BUTLER, Mr. SOLARZ, Mr. CARR, Mr. MINISH, and Mr. MCCLORY):

H.R. 13652. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and for other purposes; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. DRINAN (for himself, Mr. AUCOIN, Mr. BUTLER, Mr. CAVANAUGH, Mr. DOWNEY, Mr. GAYDOS, Mr. HILLIS, Mr. JENRETTE, Mr. MARKEY, Mr. MINETA, Mr. MOAKLEY, Ms. OAKAR, and Mr. ROSENTHAL):

H.R. 13653. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

By Mr. JACOBS:

H.R. 13654. A bill to amend the Freedom of Information Act to prevent the disclosure of personnel, medical, and similar files for commercial purposes; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. CARTER, Mr. BROYHILL, and Mr. SKUBITZ):

H.R. 13655. A bill to amend the Public Health Service Act to revise and extend the program of assistance under that act for health maintenance organizations; to the Committee on Interstate and Foreign Commerce.

By Mr. SEBELIUS:

H.R. 13656. A bill to require that for 2 years the General Services Administration may not award a single-source contract for any commercially available product that may be procured from a multiple-award schedule, and for other purposes; to the Committee on Government Operations.

By Mr. WAGGONNER:

H.R. 13657. A bill to suspend the duty on mixtures of mashed or macerated hot red peppers and salt until the close of June 30, 1981; to the Committee on Ways and Means.

By Mr. BOWEN:

H.R. 13658. A bill to amend the Endangered Species Act of 1973 to clarify congressional findings, intent, policy and purposes; to provide for economic and inflationary assessment of proposed listings; to review certain actions to determine whether exemptions, from certain requirements of that act should be granted for such actions; to establish an Endangered Species Committee to review those actions; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FLORIO (for himself and Mr. ROONEY):

H.R. 13659. A bill to amend section 206 of the Regional Rail Reorganization Act of 1973 to extend the time period applicable to the transfer of certain properties from CONRAIL to a State, local or regional transportation authority, or Amtrak; to the Committee on Interstate and Foreign Commerce.

By Mr. PREYER:

H.R. 13660. A bill to provide for complete financial disclosure by Members of the House of Representatives, Senators, officers of either House of Congress, candidates for Congress, and certain individuals employed by Members, Senators, officers, or committees of either House of Congress; to the Select Committee on Ethics.

By Mr. RICHMOND (for himself, Mr. MURPHY of Pennsylvania, Mr. WEAVER, Mr. THOMPSON, Mr. DOWNEY, Mr. EDWARDS of California, Mr. MCHUGH, Mr. RANGEL, Mr. MITCHELL of Maryland, Mrs. FENWICK, Mr. NOLAN, Mr. PRICE, Ms. MIKULSKI, Mr. EILBERG, Mr. ROYBAL and Mr. TRIBLE):

H.R. 13661. A bill to provide Federal assistance to screen those workers (and members of their families) exposed to asbestos who cannot otherwise receive the screening under a workman's compensation, health insurance, or other program; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. WALGREN, Mr. CARTER, Mr. BROYHILL, and Mr. SKUBITZ):

H.R. 13662. A bill to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research; to the Committee on Interstate and Foreign Commerce.

By Mr. BAUCUS (for himself and Mr. Mr. BALDUS):

H.J. Res. 1090. Joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Public Works and Transportation.

By Mr. BONIOR (for himself, Mr. MURTHA, Mr. ASPIN, Mr. CAVANAUGH, Mr. CORNWELL, Mr. DODD, Mr. ERTEL, Mr. GORE, Mr. HARKIN, Mr. JONES of Oklahoma, Mr. LAFALCE, Mr. PANETTA, and Mr. PRESSLER):

H.J. Res. 1091. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on November 11, 1978, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. DODD (for himself and Mr. LEACH):

H.J. Res. 1092. Joint resolution authorizing the President to proclaim the third week in June 1979, as "National Veterans' Hospital Week"; to the Committee on Post Office and Civil Service.

By Mr. NOLAN:

H.J. Res. 1093. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

## MEMORIALS

Under clause 4 of rule XXII,

462. The SPEAKER presented a memorial of the Legislature of the State of Arizona, relative to Soviet immigration policies; to the Committee on International Relations.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FISHER introduced a bill (H.R. 13663) for the relief of Harold F. Kenny, which was referred to the Committee on Interior and Insular Affairs.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

523. The SPEAKER presented a petition of the American Library Association, Chicago, Ill., relative to an extension to the ratification time limit on the equal rights amendment, which was referred to the Committee on the Judiciary.

## AMENDMENTS

Under clause 6 of Rule XXIII, proposed amendments were submitted as follows:

### H.R. 7308

By Mr. WAGGONNER:

—Page 39, strike out line 10 and all that follows down through line 17 and insert in lieu thereof: "at a foreign power as defined in section 101(a) (1), (2), or (3); and".

Page 47, strike out line 4 and all that follows down through line 14, and redesignate subsections (c) and (d) accordingly.

Page 50, strike out line 22 and all that follows down through line 6 on page 51, and redesignate subsections (d) through (g) accordingly.

Page 51, line 9, strike out ", except that" and all that follows down through line 13 and insert in lieu thereof ".".

### H.R. 12514

By Mr. BAUMAN:

—Add a new section as follows:

SEC. . Section 533(d) of the Foreign Assistance Act of 1961 is amended by striking out the period at the end of the paragraph, insert a semicolon, and adding the following:

(d)(2) In furtherance of the purposes of this section and the foreign policy interests of the United States, the government of the United States shall not enforce any sanctions against the government of Southern Rhodesia before October 1, 1980 unless the President shall determine that (1) the transitional government of Southern Rhodesia has not demonstrated its willingness to negotiate in good faith at an all-parties conference held under international auspices on all relevant issues; or (2) the transitional government has made no significant progress toward the holding of free and fair elections.

### H.R. 12514

By Mr. ICHORD:

—Following line 4, page 11, add the following: Section 13. Section 5 of the UN Participation Act of 1945 is amended

(1) by striking out the second and third sentences of subsection (a) and inserting in lieu thereof the following: "no Executive Order issued under this subsection applying measures against Rhodesia pursuant to any resolution of the United Nations Security Council shall be enforceable subsequent to December 31, 1978 provided that (a) a Government has been installed, chosen by free elections in which all political groups have been allowed to participate freely, with observation by impartial internationally recognized observers, and (b) the President determines that the Rhodesian Government has in good faith encouraged negotiation and participation of all parties and has imposed no barriers which would preclude the free participation of said parties in the conduct of these elections.".

(2) by striking out subsection (b) and (c). Renumber all subsequent sections accordingly.

### H.R. 12514

By Mr. GARY A. MYERS:

—Page 13, strike out lines 1 through 7 and insert in lieu thereof the following new section 16:

TURKISH ARMS EMBARGO

SEC. 16. (a) Section 620(x)(1) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1978" both places it appears in the proviso and inserting in lieu thereof "fiseal year 1979".

(b)(1) That section is amended in the text preceding the proviso—

(A) by inserting "(A)" immediately after "the President determines and certifies to the Congress"; and

(B) by striking out "substantial progress toward agreement has been made regarding military forces in Cyprus" and inserting in lieu thereof "removal of the restrictions contained in this subsection will facilitate an agreement concerning the Turkish military preserve on Cyprus, or (B) that the national security of the United States will be immediately threatened or irreparably harmed by a continuation of those restrictions".

(2) Notwithstanding section 21 of this Act, the amendments made by this subsection shall take effect on the date of enactment of this Act.

—Page 13, strike out lines 1 through 7 and insert in lieu thereof the following new section 16:

TURKISH ARMS EMBARGO

SEC. 16. (a) Section 620(x)(1) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1978" both places it appears in the proviso and inserting in lieu thereof "fiscal year 1979".

(b)(1) That section is amended in the text preceding the proviso—

(A) by inserting "(A)" immediately after "the President determines and certifies to the Congress"; and

(B) by striking out "substantial progress toward agreement has been made regarding military forces in Cyprus" and inserting in lieu thereof "removal of the restrictions contained in this subsection will lead to a withdrawal of the Turkish military forces occupying Cyprus, or (B) that the national security of the United States will be immediately threatened or irreparably harmed by a continuation of those restrictions".

(2) Notwithstanding section 21 of this Act, the amendments made by this subsection shall take effect on the date of enactment of this Act.

### H.R. 12514

By Mr. SAWYER:

—Page 19, immediately after line 20, insert the following new section:

UNITED STATES CITIZENS IMPRISONED IN TURKEY

SEC. 22. (a) The Congress finds that—

(1) although informal discussions have been held, no final agreement has been reached on a prisoner exchange treaty between the United States and Turkey;

(2) the Congress has already enacted the legislation necessary to implement prisoner exchange treaties (Public law 95-144); and

(3) Turkey has already ratified a prisoner exchange treaty involving European countries and therefore should be willing to enter into such a treaty with the United States.

(b) The Congress urges the President to press forward vigorously with efforts to rapidly conclude negotiation of a prisoner exchange treaty with Turkey.

(c) The President shall report to the Congress within 60 days after the date of enactment of this Act, and at least once every 30 days thereafter, on the status of the negotiations with Turkey on a prisoner exchange treaty and on progress toward full respect for the fundamental human and legal rights of all United States citizens detained in Turkey.

### H.R. 12514

By Mr. SEIBERLING:

—Strike Subsection 16(a) and substitute the following:

"(a) Section 620(x) of the Foreign Assistance Act of 1961 is amended by striking out all after the (x) in the first line of the Subsection and substitute the following:

(1) The Congress expects that measurable progress toward a settlement of the Cyprus dispute will occur in the immediate future, including the following:

(i) Removal of all Turkish armed forces from the municipality of Famagusta and their replacement by United Nations Security Forces;

(ii) Freedom for all former residents of Famagusta to return to their homes and properties in that city;

(iii) Resumption of intercommunal negotiations for settlement of the Cyprus problem based upon United Nations General Assembly Resolution 3212.

(2) In the case of any letter or offer to sell any defense article or defense service, any proposed sale, credit or guaranty or any proposed security assistance to Turkey if such articles or services have an aggregate value of $25 million or more or if any major defense equipment has a value of $7 million or more, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a statement containing (A) a brief description of the defense article or service involved, (B) the dollar value thereof, (C) the branch of the United States Armed Forces involved, and (D) the day on which the offer to sell is to be issued or the proposed sale, credit, guaranty or transfer is to take place. Such letter of offer, credit or guaranty shall not be issued or such transfer shall not be made if either the House or Senate, within 30 legislative days after receiving any such statement, adopts a resolution stating in effect that it objects to such proposed sale, credit, guaranty or transfer: *Provided*, That the President may exempt a specific offer to sell, credit, guaranty or transfer from the provisions of this sentence if he declares in such statement that there is an emergency affecting the security interests of the United States which is of sufficient urgency as to require immediate action on the proposed sale, credit, guaranty or transfer.

### H.R. 12514

By Mr. STRATTON:

—On page 15, strike out all of line 12 and all that follows down through line 20 and insert the following:

SEC. 19. (a)(1) The President is authorized, until September 30, 1979—

(A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of not more than 6,000 troops of the 2nd Infantry Division and associated Army support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of those United States Army units scheduled to depart from Korea; and

On page 17, line 14 strike out "$800,000,000" and insert "$90,000,000".

On page 17, line 15, strike out all after the comma and down through "1983" on line 18

and insert the following: "not later than January 20, 1979".

On page 17, line 20: strike out the period after "section", insert a comma and the following: "together with such recommendations as he may wish to make for the withdrawal of additional United States ground troops in subsequent periods." And strike out "Each such" in line 20, and insert "Such".

On page 18, at the end of line 4, add the following new sentence: "Such report to the Congress shall also include assessments of the effect of any proposed withdrawal of further troops from Korea on preserving deterrence in Korea; the reaction anticipated from North Korea; a consideration of the effect of the proposed additional withdrawal on increasing incentives for South Korea to develop an independent nuclear deterrent; the effect of any further troop withdrawals on our long-term military and economic partnership with Japan; the effect of any proposed further withdrawals on the United States-Chinese and the United States-Soviet military balance; and the possible implications of any proposed further withdrawal on the Soviet-Chinese military situation."

H.R. 12514

By Mr. WOLFF:

—Page 19, immediately after line 20, add the following new section:

UNITED STATES RELATIONS WITH THE SOVIET UNION

SEC. 22.(a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.

(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, shall make a full review of United States policy towards the Soviet Union. This review should cover, but not be limited to—

(1) an overall reevaluation of the objectives and priorities of the United States in its relations with the Soviet Union;

(2) the evolution of and sources of all bargaining power of the United States with respect to the Soviet Union and how that bargaining power might be enhanced;

(3) what linkages do exist and what linkages should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

(4) the policies of the United States toward human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

(6) the current status of other arms control negotiations between the United States and the Soviet Union;

(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet those challenges more effectively;

(8) the impact of our relations with the People's Republic of China on our relations with the Soviet Union;

(9) the impact of strategic parity on relations between the United States and the Soviet Union and on the ability of the United States to meet its obligations under the North Atlantic Treaty;

(10) United States economic, technological, scientific, and cultural relations with the Soviet Union and whether those relations are desirable and should be continued, expanded, restricted, or linked to other aspects of relations between the United States and the Soviet Union;

(11) the evolution of Soviet domestic politics and the relationship between Soviet domestic politics and its foreign policy behavior, especially towards the United States; and

(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

(c) The President shall report the results of the review called for by subsection (b) to the Congress not later than 90 days after the date of enactment of this Act.

—Page 19, immediately after line 20, insert the following new section:

"SEC. 22. It is the sense of the Congress that the United States should be responsive to the defense requirements of Israel, and sell Israel additional advanced aircraft in order to maintain Israel's defense capability, which is essential to peace."

H.R. 12931

By Mr. DERWINSKI:

—On page 6, line 23, strike "$1,827,000,000" and insert in lieu thereof "$1,737,000,000".

On page 7, in line 1, immediately after "Egypt," insert "and";

On page 7, in line 2, immediately after "Jordan" strike all that follows through the end of that line and insert in lieu thereof a colon;

On page 7, in line 13, strike the period at the end of the line and insert in lieu thereof a colon;

On page 7, immediately after line 13 insert the following new proviso: "*Provided further*, That none of the funds appropriated under this heading may be used to provide assistance to Syria."

# EXTENSIONS OF REMARKS

## WANT TO RUN THE POST OFFICE?


## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES


*Monday, July 31, 1978*

● Mr. DERWINSKI. Mr. Speaker, one of the most educational columns in recent years on the Postal Service was one by the veteran columnist Roscoe Drummond, writing in the Christian Science Monitor of July 26. May I add that not only members of the press but also Members of Congress very often do not understand nor appreciate the complex situation effecting the Postal Service. The article follows:

WANT TO RUN THE POST OFFICE?

(By Roscoe Drummond)

WASHINGTON.—The U.S. Postal Service has millions of disgruntled customers. You are probably one of them—and with good reason. Your mail usually arrives late. It is often misdirected and travels back and forth across the country. The price of stamps rises faster than inflation. In many cities companies have to hire messengers to deliver their letters in a radius of 10 to 20 miles in order to transact the day's business; don't depend on the mailman.

No improvement is in sight.

It's a mess all right, and while columnists affect to have good answers for almost everything—which we usually don't have—I am at a loss for any clear solution.

But I can see what has been going wrong. Seven years ago Congress shed itself of all responsibility for running the Post Office because it was running it into the ground and couldn't wait to assure the voters that the politicians weren't to blame any more.

They just bundled it up in one big package called the Postal Reorganization Act and told the new Postal Service to run itself, to borrow billions of dollars to modernize, to bargain with labor, and to price its services so that it could soon pay its own way.

The mandate didn't work—and probably couldn't be made to work the way it was set up.

The new electronic, fast-moving, automatic equipment helped; some worked badly, some worked well and in a few years 63 percent of the letter mail went through sorting machines compared with 5 percent in earlier years.

But what about greatly needed savings if the Postal Service was ever to get in the black? Reduced personnel, yes; the number of workers down from 729,000 to 655,000 and this during an increase of mail volume from 87 billion to 92 billion pieces a year.

But hear this: labor cost under the old Post Office amounted to 83 percent of total operating expenses. And after all the modernization, the labor share of total operations rose to 84 percent.

The reason: the collective bargaining provision of the so-called postal reform act caused postal wages (once too low) to climb from $10,000 a year to $18,000 a year (a level far out of line). Mostly as a result of these high labor costs, it took $9 billion to operate the mails in 1971 and $15.3 billion last year. No wonder we have been witnessing the most rapid rise in postal rates in history—and there is no end in sight.

One thing needs to be understood. Individual letter writers no longer provide much of the postal business. They constitute a small part of the mail. At least 80 percent of first-class mail comes from or goes to businesses. Thus it is the senders of mail which do most to support the Postal Service and, if the Postal Service is ever to get into the black, the income will have to come overwhelmingly from business firms. Already for some of them postage is one of the largest costs of operation.

In many ways businesses pay the freight for most of the Postal Service costs and the household recipients do most to put the service in the red. This is why the postal authorities want to cut back deliveries to private residences to thrice weekly and business deliveries to five days a week.

Congress shrinks from this measure. There are too many recipients who vote. Perhaps Congress should face the prospect of subsidizing public service mail and let business mail pay only its fair share.

I suspect you don't want to run the Postal Service.●

## NATIONAL LEAGUE OF CITIES SUPPORTS AIRPORT AND AIRCRAFT NOISE REDUCTION ACT AND URGES PROMPT AND POSITIVE ACTION

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ANDERSON of California. Mr. Speaker, we have been furnished a copy of a letter from Mayor Tom Moody of Columbus, Ohio, president of the National League of Cities, and Alan Beals, executive director written to the Honorable James J. Delaney chairman of the Committee on Rules. The letter forthrightly supports H.R. 8729, the Airport and Aircraft Noise Reduction Act and its companion Ways and Means bill, H.R. 11986, which is proposed as title III of the former.

The National League of Cities represents a constituency located in every congressional district in the country. Their support of titles I, II, and III cannot be taken lightly. It represents an affirmation not only of the seriousness of the problem but of well-considered action to solve the problem.

NATIONAL LEAGUE OF CITIES,
*Washington, D.C., July 19, 1978.*

Hon. JAMES J. DELANEY,
*Chairman, Committee on Rules,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: The National League of Cities urges the Rules Committee to report out the Airport and Aircraft Noise Financing Bill (H.R. 8729) and its Ways and Means Committee companion, the Noisy Aircraft Revenue Act (H.R. 11986) as soon as possible. The National League of Cities has supported and helped develop this bill to abate noise around the Nation's major airports. Some 7 million people who live in urbanized areas are affected by high levels of airport and aircraft noise pollution. There is growing and convincing evidence that this noise is detrimental to emotional and physical health.

This legislation represents the best chance to enact meaningful aircraft noise reduction legislation during this session of Congress. Title I of H.R. 8729 provides for $15 million in noise mapping and planning grants for FY 79 and FY 80 with an additional $400 million of noise implementation grants for FY 79 and 80. These grants noise impacted land around busy airports. will help airport operators purchase severely Title II contains additional authority for construction and safety grants for airports. Title III seeks to reduce noise at its source which is the aircraft engine. NLC's policy has long supported abatement of pollution at the source.

We urge your Committee to take prompt and positive action on reporting these two bills to the Floor. Our membership across the country supports them fully and it is hopeful that Congress will take this first step toward combating aircraft noise pollution.

Sincerely,

TOM MOODY,
*President.*
ALAN BEALS,
*Executive Director.*●

## THE TURKISH ARMS EMBARGO DEBATE, NO. 3

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. HAMILTON. Mr. Speaker, in their third letter to Members of the House of Representatives, the proponents of keeping the arms embargo against Turkey argue that lifting the embargo would be extremely dangerous to vital American security interests abroad and that keeping the embargo is the only way to bring about the full participation of both Greece and Turkey in NATO.

I attach for the attention of my colleagues the third letter from the proponents of the embargo and my rebuttal. I argue in a rebuttal that the predominant view of defense experts and our defense leaders is that it is essential to lift the embargo and that the question is not whether Turkey stays in NATO but at what strength. In addition, it is noteworthy that we need both Greece and Turkey in NATO but lifting the embargo is more likely to bring Greece back in full NATO participation on the terms Greece seeks.

This exchange of letters follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., July, 1978.*

THE EMBARGO AND NATIONAL SECURITY

DEAR COLLEAGUE: In its attempt to lift the Turkish arms embargo, the Carter Administration has avoided discussing the requirements of American law and has focused instead on what it claims are overriding national security considerations.

The Administration's strategy is understandable. For to focus on the law, and on Turkey's continuing violation of the law through its continuing occupation of Cyprus, would make ending the embargo at this time unthinkable.

As a result, the Administration speaks of Turkey's importance to NATO and of the need to do whatever is necessary to preserve U.S. relations with Turkey.

We yield to no one in our support for NATO. Yet it is clear to us that, even on "national security" grounds, the Administration's current tilt toward Turkey is shortsighted and extremely dangerous to vital American security interests abroad.

We know that both Turkey and Greece are necessary for the security of NATO's southeastern flank; the Administration has conceded as much in its recent testimony before the House International Relations Committee. It is not, therefore, a question of choosing one country over the other—we must do all we can to insure that both participate fully in NATO.

As matters now stand, Turkey is a full member of NATO, while Greece has partially withdrawn from NATO as a result of U.S. mishandling of the Turkish invasion of Cyprus in 1974.

The Greek government has made it clear that it wishes to return to a full role in NATO, but that it cannot do so unless the embargo is maintained as a way to encourage a just settlement on Cyprus.

The Turkish government, meanwhile, has made it equally clear that it will remain in NATO regardless of the outcome of the embargo vote in Congress.

Therefore, a vote to continue the embargo is the only way to bring about the full participation of both Turkey and Greece in NATO. Statements made by the leaders of the two countries on their recent visits to Washington make this conclusion obvious.

Mr. Karamanlis told Members of Congress that, despite Administration claims to the contrary, a lifting of the embargo would be a major political issue in Greece, would further damage U.S.-Greek relations and would make the reintegration of Greece into NATO far more difficult. Mr. Karamanlis also revealed that a vote to lift the embargo—and the American abandonment of Greece such a vote would imply—could topple his pro-Western Government, with untold consequences for American security interests in that vital region of the world.

Mr. Ecevit, for his part, set forth Turkey's position quite plainly:

"We do not intend to leave NATO in any case, because we believe that the front in which we have a stake is based on a rather delicate balance, and Turkey has a responsibility to maintain that balance." (The Today Show, Interview held May 30, 1978)

And again:

BARBARA WALTERS. "Mr. Prime Minister, suppose the arms embargo is not lifted. Would you pull Turkey out of NATO?"

Mr. ECEVIT. "No, I have always said explicitly that we would still want to remain in NATO." (ABC Evening News, Interview held June 1, 1978)

Mr. Ecevit's statements should not be surprising. Mr. Ecevit knows that continued participation in NATO is to Turkey's benefit. He knows, too, that the embargo has not been as harmful to Turkey as some have claimed—Turkey has received more than $600 million in American military equipment for NATO purposes since the embargo began. And he knows, finally, that Turkey has been permitted since 1975 to purchase additional American-made equipment in unlimited amounts through U.S. commercial channels.

Yet, despite this, Administration officials have suggested that voting an end to the embargo is the only way to keep Turkey in NATO. In light of Mr. Ecevit's statements on this issue, these Administration claims are difficult to accept. We have, in fact, only two choices:

We can assume that Mr. Ecevit is telling the truth when he says that Turkey remains committed to NATO—in which case the Administration's arguments are groundless and Congress need not fear voting to maintain the embargo.

Or we can assume that he is not telling the truth—in which case the credibility of any of his commitments respecting Turkish flexibility on Cyprus or Turkey's reliability as an ally are themselves open to serious question, and Congress has no reason to lift the embargo.

The Administration simply cannot have it both ways, disputing Mr. Ecevit on this major concern and yet vouching for his reliability in all other respects.

We believe the statements of both Mr. Ecevit and Mr. Karamanlis on this issue: Turkey will remain in NATO regardless of the embargo vote, while Greece will only be able to rejoin NATO if the embargo is maintained. The need to have both Turkey and Greece play full roles in NATO leads to only one conclusion: that the embargo must be maintained.

We ask you, therefore, in the name of America's security interests abroad, to cast

your vote in support of the Turkish arms embargo.

Sincerely,

Dante B. Fascell, Edward J. Derwinski, Benjamin S. Rosenthal, John Brademas, Charles Rose, Parren J. Mitchell, Norman Y. Mineta, Paul E. Tsongas, Donald M. Fraser, James J. Blanchard, Barbara A. Mikulski, Benjamin A. Gilman, Mario Biaggi, George M. O'Brien, John L. Burton, Robert W. Edgar, Wyche Fowler, Jr., James J. Florio, Norman E. D'Amours, Martin A. Russo, Charles B. Rangel.

COMMITTEE ON INTERNATIONAL RELATIONS

DEAR COLLEAGUE: This letter is in response to the third letter sent to you by the proponents of keeping the arms embargo against Turkey. Their third letter addresses the interrelationship between the arms embargo and our national security.

Arguments made by the proponents of keeping the arms embargo against Turkey:

1. The Administration's tilt toward Turkey is shortsighted and extremely dangerous to vital American security interests abroad;

2. A vote to continue the embargo is the only way to bring about the full participation of both Turkey and Greece in NATO.

Counter:

1. There is no "tilt" toward Turkey in United States policy.

We seek to lift the arms embargo against Turkey precisely because we seek to treat our two allies, Turkey and Greece, equally. Today there is an embargo against Turkey, but not Greece, and that is a "tilt" toward Greece.

2. The predominant—if not unanimous—view of defense experts and our defense leaders is that it is essential for our security interests to lift the embargo.

Five former Allied Commanders, all NATO members except Greece and almost all present and past United States military leaders support the lifting of the embargo. Both Presidents Ford and Carter support the lifting of the embargo.

3. The question before the Congress is not whether Turkey remains in NATO, but with what strength.

Turkey, with the second largest standing army in NATO, is of great importance to both the alliance and the United States. But the decline of Turkey's force since the embargo went into effect leaves all of southeastern Europe more vulnerable to Soviet penetration. Conservative intelligence estimates indicate that Turkish forces are today 40 percent combat effective and that if the embargo continues, by 1980 the combat forces in Turkey will be only 20 percent effective. It is doubtful now that the Turks can fulfill their NATO mission.

4. We need both Greece and Turkey in NATO and lifting the embargo is more likely to bring Greece back fully into NATO.

The argument that a vote to continue the embargo is the only way to bring about the full participation of both Turkey and Greece in NATO is patently wrong. The embargo is on today and the result is a severely weakened Turkey and a Greece which partially withdrew from NATO in 1974. We must pursue a policy which encourages both these valued friends and allies to participate fully in NATO, and that requires a policy that treats them equally.

5. Lifting the embargo is in the long term national interest of Greece and United States-Greece relations.

Lifting the embargo may cause short-term strains in our relationship with Greece, but putting behind us the complications of the embargo, which now serves as a wedge between us, will in the long run promote reconciliation between Greece and Turkey.

The Greek Government seeks to maintain a pro-West and pro-NATO stance and we should seek to reinforce those policies. By getting the embargo issue behind us and working for a Cyprus settlement, we will be able to restore trust and confidence to US-Greek relations

6. For both the short and the long run the strategic and military importance of Turkey cannot be minimized.

Since the embargo went into effect, our loss of intelligence on missile tests and troops movements in the Soviet Union has been significant. Our intelligence information in certain key areas covered from Turkey has been degraded by about fifty percent since 1975.

In addition, the strategically important Turkish land mass separates the Soviet Union from the Middle East and the Mediterranean. Today, well over 20 Soviet divisions are tied down by Greece and Turkey. The cooperation of both states is needed to inhibit the Warsaw Pact. Without the full commitment of Turkey to NATO and its full combat readiness, our national interest suffers measurably and American friends in the region, like Israel, are made more vulnerable.

The United States has many important national interests in the Eastern Mediterranean region and we need a carefully orchestrated set of policy initiatives in order to rebuild confidence and trust in our relations with Turkey, Greece and Cyprus. Lifting the embargo is only part of the answer. Striving for a Cyprus settlement is also part of the answer. What is essential is that we start now, with a new approach, to address the present unacceptable situation in the Eastern Mediterranean.

I hope that you agree and will vote to lift the arms embargo against Turkey.

Sincerely yours,

LEE H. HAMILTON, M.C.●

## SALUTE OF JOHN ERICSSON AND SOLAR ENERGY

### HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. MOAKLEY. Mr. Speaker, in a time when many still feel solar energy is exotic and will not be practical for many years into the future, I think it is important to share with my colleagues one of the many accomplishments of John Ericsson.

For today marks the 185th anniversary of the birth of the brilliant inventor who listed among his many contributions to mankind the Sun motor.

Ericsson, a man of great foresight, wrote in 1868:

I cannot omit adverting to the insignificance of the dynamic energy which the entire exhaustion of our coal fields would produce, compared with the incalculable amount of force at our command, if we avail ourselves of the concentrated heat of the solar rays.

He continued by writing:

It is true that the solar heat is often prevented from reaching the earth. On the other hand, the skillful engineer knows many ways of laying up a supply when the sky is clear and the great store-house is open, where the fuel may be obtained free of cost and transportation. At the same time, a great portion of our planet enjoys perpetual sunshine. The field therefore awaiting the application of the solar engine is almost beyond computation, while the source of its power is boundless. Who can foresee what influence an inexhaustible motive power will exercise on civilization, and the capability of the earth to supply the wants of our race?

It fascinates me to look back to the mid-19th century and see someone expounding on the potential good of solar commercialization.

We in Government are facing a critical stage in our country's development through the debate over a national energy plan. I hope we do not lose sight of Ericsson's words and deeds for we must make it our national policy to fully develop the vast potential of our greatest resource—the Sun.

Tapping this potential will take the dedication and ingenuity of both the public and private sectors, and only by working together can we realize the promise of this clean, inexhaustible resource.●

## EDITORIAL SUPPORT FOR THE FOREIGN AID BILL

### HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. McHUGH. Mr. Speaker, the foreign assistance appropriations bill will soon come before the House for consideration. As every Member is aware by now, numerous amendments will be offered to reduce funding and to restrict how our assistance may be used in a variety of ways.

I am opposed to these amendments, Mr. Speaker, and for the last week I have been inserting into the RECORD some examples of the many thoughtful and responsible editorials that have been published in newspapers across the Nation opposing these amendments.

Given the volume of editorials that have been written in support of the bill as reported from committee, it has been impossible to include all of them. However, for the benefit of those Members who may not be aware of the extent of editorial support for the bill, I am including in the RECORD at this time a list of newspapers that have indicated their support for it and their opposition to the various amendments that will be offered.

I might add that there is no way of knowing if this list is comprehensive. It includes only those editorials that have come to my attention:

EDITORIAL SUPPORT FOR THE FOREIGN AID BILL

Boston Globe.
Chicago Sun-Times.
Christian Science Monitor.
Cincinnati Journal.
Des Moines Register.
Houston Post.
Los Angeles Times.
Louisville Courier-Journal.
Miami Herald.
Milwaukee Journal.
Newsday.
New York Times.
Portland Oregonian.
Reading (Penn.) Eagle.
Republican (Minn.) Eagle.
Salt Lake City Tribune.
St. Petersburg Times.
Washington Post.●

## GENERAL SERVICES ADMINISTRATION SHOULD RELY ON LOCAL SMALL BUSINESSES

### HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. SEBELIUS. Mr. Speaker, small businesses in my district and around the country are becoming increasingly concerned because the U.S. General Services Administration (GSA) appears to be cutting back on the Federal Government's reliance on small firms for high technology commercial products.

If GSA goes ahead, Federal agencies will find themselves cut off from local repairs, local supplies of replacement parts, and local help in setting up and operating equipment.

Up until now, GSA has negotiated with manufacturers to gain special prices for Federal agency buyers. These prices are then published throughout the Government as the multiple awards schedule. Any manufacturer willing to give the Government a favorable discount is listed in the schedule. Under this multiple awards procedure, local Federal agency buyers purchase from a selection of models and prices. The multiple awards products are available from those local firms which represent the listed manufacturers. But GSA's Federal Supply Service is moving toward awarding sole-source contracts to one rather than a multiple of manufacturers and in doing so forcing Federal agencies to buy direct from the factory rather than through local dealers and distributors.

I feel strongly, as do many Members, that wherever possible, Federal agencies should buy locally. And because the multiple awards schedule gives a preset discount price, I see no reason why GSA should discontinue reliance on local companies as long as these companies adhere to the multiple awards schedule of discount prices.

Right now, this whole matter is being studied by the Office of Federal Procurement Policy (Office of Management and Budget) and the General Accounting Office. There is also legislation in the Senate (the Federal Acquisition Act, S. 1264, reported by the Senate Government Affairs Committee) which calls for greater reliance on small businesses for commercial off-the-shelf products.

Because of all of this study, I feel it is inadvisable for the GSA to make further switches fom the multiple awards schedule to single, sole-source awards. Therefore, I am introducing a bill which would place a 2-year moratorium on switches from the multiple awards schedule. This will assure that while the whole matter is being widely studied, Federal agencies will continue to purchase locally from small businesses, that GSA will be restrained from entering into cozy relationships with single manufacturers, and that rather than centralizing all Federal buying decisions under the GSA umbrella, individual agencies will have some latitude to select among items which can be bought at special Federal Government prices.●

## NUCLEAR BALANCE MAY BE EVEN—DO RUSSIANS KNOW IT?

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. DERWINSKI. Mr. Speaker, writing in the Chicago Tribune of July 25, Peter Reich, the internationally respected science columnist, discusses a subject which I deem especially important in light of strategic arms negotiations between the United States and the Soviet Union. I commend the article to the attention of the Members:

NUCLEAR BALANCE MAY BE EVEN—DO RUSSIANS KNOW IT?

(By Peter Reich)

Remember the old story about the two guys who are walking in the park when a big, fierce-looking dog runs towards them?

"Don't worry," one guy reassures the other. "See, his tail's wagging. That's a sure sign he won't bite."

To which the other guy, unconvinced, replies, "I know that, and you know that—but does the dog?"

I was reminded of that when Sen. John Culver [D., Iowa] released an unclassified Central Intelligence Agency analysis of the Soviet Union's civil defense system the other day.

The analysis concluded, he said, that the Soviet civil defense system does not provide sufficient protection to encourage the U.S.S.R. to risk starting a nuclear war.

Specifically, Sen. Culver said, the study shows that Soviet civil defense efforts "are not sufficient to prevent millions of casualties and massive industrial damage in the event of a nuclear war."

Thus, the senator argued, "Soviet [civil defense] programs are not enough to tip the strategic balance against us."

The senator forgot to mention a few facts.

For example, it is generally agreed that the Soviet Union today has about 600 more intercontinental ballistic missiles on station, capable of hitting the United States, than we have ICBMs capable of striking them. What's more, the Soviet missiles are bigger, longer-ranged, and carry heavier, much more powerful nuclear warheads.

The Soviets also have pulled ahead of the United States in submarine launched ballistic missiles—an area in which we for many years had held the lead.

We still are ahead in manned, intercontinental-range bombers—but our Strategic Air Command's B–52s are aging fast, and, since President Carter decided not to build the B–1, we have nothing to replace them.

It seems to me, then, that when Sen. Culver talks about civil defense not tipping "the strategic balance against us," he forgets that the balance already teeters toward the Soviet side.

Ergo, how much more would it take to convince some future Soviet hothead that a nuclear war would be far less devastating for the Soviet Union than for the United States—and tempt him to push the button?

Sen. Culver also seems to forget that what really matters is not how much retaliatory force we have now, but how much we will have left after Russian missiles clobber us.

If a substantial portion of our land-based missiles, and at least some of our manned bombers, are wiped out by a Soviet first strike, is it not possible that the same hypothetical Russian hothead might conclude that the U.S.S.R.'s civil defense gives him just the edge he needs to come out ahead in a nuclear exchange?

"Despite widespread claims that Soviet leaders might launch a nuclear attack because they expect to suffer only moderate damage and few casualties . . . the professional judgment of our intelligence community is that they would not be emboldened to expose their country to a higher risk of nuclear attack," Sen. Culver asserts.

He contends that a U.S. retaliatory strike would "devastate the Soviet Union and kill more than 100 million people."

A lot of military people disagree. They figure United States dead would top 100 million, but they think Soviet casualties—because of such things as dispersal of factories, anti-missile missiles, very good anti-aircraft defense [including superb jet interceptors], plus civil defense measures—might turn out to be a lot less.

The Soviet Union, many people seem to have forgotten, suffered some 25 million dead in World War II.

Yet the country survived, and emerged victorious. So, how many casualties would its Communist leaders deem "acceptable" in a future war that could spell the end of the United States? ●

## ARSON CONTROL IN SEATTLE

### Hon. John E. (Jack) Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. CUNNINGHAM. Mr. Speaker, since I represent a portion of the city of Seattle, I point with pride to the greatest job done by our city in the field of arson control. One year ago, I was privileged to have a Seattle firefighter on my Washington, D.C., staff, Mr. Bob Clark of West Seattle. Bob acquainted me and my staff with the efforts of the city to control the growing disease of arson.

Now these efforts have been nationally recognized, in the Washington Post for July 29, 1978, in an article by Mr. Neal R. Pierce. In submitting his remarks to my colleagues and hope that we learn from this local community that all solutions do not, and cannot, come from Washington, D.C.:

[From the Washington Post, July 29, 1978]

IN SEATTLE "IF YOU START A FIRE, YOU'RE GOING TO GET CAUGHT"

(By Neal R. Peirce)

SEATTLE.—While headlines proclaim that arson is spreading like a prairie fire, this city has demonstrated how concerted action can dramatically reduce arson incidents and the losses to property—and often life—that go with it.

Only a handful of other cities—among them Houston, Los Angeles, New York's South Bronx, Boston and Lynn, Mass.—have launched anti-arson campaigns in any way comparable ot Seattle's. But the formula, explains City Councilman Randy Revelle, is deceptively simple:

"Make arson a priority crime. Establish a specialized arson unit within the fire department; combine its investigative work with that of the police department. Provide arson investigations training—that's absolutely critical. And involve local insurance companies and the media in anti-arson campaigns."

Richard Hargett, commander of "Marshal 5," the Seattle Fire Department's arson unit, says that by 1975 arson had become "the

most serious problem facing the fire force." Between 1971 and 1974, losses in Seattle had soared from $621,000 to $3.2 million. It was feared they would hit $4.4 million in 1975.

But with its new program, Seattle reduced fire losses to $2.6 million in 1975. Last year the figure was down to only $1.7 million and will probably be less in 1978. Arson incidents were down while arrests and convictions went up: In 1974, there were 622 arson incidents, with only 73 arrests; last year, incidents were down to 518, arrests up to 217, and 196 of those arrests resulted in convictions.

Seattle's turnaround stands in stark contrast to the epidemic-like spread of arson nationwide. The insurance industry estimates that national losses last year were close to $4 billion, up from only $634 million in 1975 and a mere $68 million a decade before. Arson accounts for 40 percent of all property losses, the insurers believe, and now kills about 1,000 people a year and injures 10,000 more.

How did Seattle turn the table on the arsonists?

The credit begins with Fire Chief Frank Hansen, who reasoned that the causes of arson were so complex that no single "cure" would work. So he persuaded then-mayor Wes Uhlman to set up a task force including representatives of the city fire and police departments, the mayor and city council, the county prosecutor, Seattle Chamber of Commerce and the state's insurance council.

Early on, the task force discovered arsonists had good reason to believe they would get away with it. Nationally, for every 100 cases of known or suspected arson, only nine persons are arrested, only two are convicted and seldom is anyone actually jailed. The reason: Arson is difficult to detect because incriminating evidence, such as fingerprints, is often destroyed in the fire.

But Hansen publicly laid down the gauntlet to would-be arsonists. Many city and private agencies would be watching them, he said. "From now on, if you start a fire, you're going to get caught And when you're caught, you're going to jail."

Delivering on that promise required tackling a problem that has plagued effective anti-arson work everywhere, lack of cooperation between police and fire departments. Typically both agencies claim authority, but neither gives arson proper attention or manpower.

Fire fighters rarely have the investigative skills to solve the more sophisticated cases, and police find arson "unglamorous" compared with robbery and murder. Jurisdictional confusion means neither department pursues arson to the point of prosecution.

Hansen solved the problem by convincing the police to give the fire department authority over arson from initial investigation through prosecution. But he persuaded the police to assign to the fire department two detectives to assist in investigations. Police/fire department tensions melted away; today, police and fire fighters share tips on arson and other crimes and the police often back up the fire department with assistance in surveillance and stakeouts and use of police helicopters, district patrol cars and communications systems.

Training for all arson-squad members includes basic law-enforcement techniques and sophisticated crime labwork. The Marshal 5 squad investigates all fires causing over $1,000 damage, and can crack seemingly insolvable arson cases. "Arsonists tend to believe they have destroyed all traces of their crime in the flames; what they fail to realize and what gives us the edge is that the very ashes that are left are where we find our clues," says Inspector Jack Higham.

The motives for arson are several: A business competitor or a disgruntled employee or even a shunned lover may seek revenge. A burglar or murderer may try to cover up another crime. A child playing with matches may be mentally disturbed or making a bid for attention. A would-be "hero" may set fires to receive accolades for discovering them. "Arson is just another means of assault," Hargett says. "It's less risky—there's no face-to-face conflict. The chances of being identified are almost nil."

Finally, there's arson for profit by financially troubled businessmen or homeowners seeking to collect insurance money. Despite the publicity surrounding such events as the arrest of 33 "respected" Bostonians in an arson ring last year, the number of fraud fires is actually small. But the dollar losses are great.

Seattle attacked the motives one by one. Since 50 percent of Seattle fires were set by juveniles, reaching them was a top priority. A United Way agency was hired to counsel children who displayed an "unusual" interest in fire; the fire department created an "arson rat" as the symbol of arsonists and received more than 5,000 entries in a campaign to name him. The winning entry: "Sinder Sid."

Neighborhoods and business districts with high arson rates were identified; each night between 11 p.m. and 3 a.m. fire fighters travel through them in highly visible vehicles, clearly marked "Community Fire Alert/Arson Patrol." The patrol operates on tips from private citizens, employees of ailing businesses, or health and liquor inspectors who may learn that a bar or restaurant owner is contemplating arson. "If we've been given a tip a building might burn or see four garbage-can fires in a small area, it's often a way for us to catch arsonists and put out a fire quickly," Hargett says. The presence of vehicles with red lights on top and spotlights makes some residents nervous, "but we want everyone to know they're there," he adds.

Insurance companies agreed to withhold payment of large-loss fire claims when the policyholder may have been responsible. And the benefits of the Seattle effort spread statewide when the insurance industry set up a $5,000 pot to reward "secret witnesses" and underwrote a statewide toll-free arson hotline. The program is particularly valuable to small towns where residents often don't know who to call to report information, or are afraid of being traced.

Finally, Seattle newpapers and television stations cooperated in a long-term publicity campaign about the arson problem and the success of investigations. A four-week television series on arson produced by a local station even won an award for investigative reporting.

But the cost to the taxpayers of the entire Seattle effort is only $100,000 a year. It's an investiment even the most ferocious taxpayers' association might find worthwhile.●

## AIRCRAFT NOISE REDUCTION EFFORT SUPPORTED BY 2,500 PILOTS

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ANDERSON of California. Mr. Speaker, It is important that I call the attention of the House to a telegram which I have received today concerning H.R. 8729, the Airport and Aircraft Noise Reduction Act; and H.R. 11986, which the Rules Committee is considering as title III of H.R. 8729. The telegram is indicative of the broad support this bill has among labor as well as industry and public officials. The telegram follows:

NEW YORK, N.Y.,
*July 27, 1978.*

Hon. GLENN M. ANDERSON,
*House Office Building,*
*Washington, D.C.:*

2,500 pilots of Pan-Am urge your support for H.R. 8729 and H.R. 11986 as written.

Captain PR METCALF,
*Chairman, Pan American Master Executive Council.*●

## FDA'S PROPOSED RESTRICTIONS ON ANTIBIOTICS: CONGRESS OBJECTIVES—PART III

### HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ROSE. Mr. Speaker, today I would like to submit the first part of a report, "Antibiotics in Animal Feeds: Risk vs. Benefit," outlining the history of FDA's proposed restrictions on the subtherapeutic use of antibiotics in animal feed. The information contained in this very well-done editorial feature was distributed by Watt Publishing Co., and written by Ian McNett and R. Frank Frazier. It speaks for itself. Part IV shall present the second part of this report dealing with the scientific and economic concerns:

ANTIBIOTICS IN FEED: RISK VERSUS BENEFIT

PROPOSED BAN—A VEXING MAZE OF POLITICS, SCIENCE, AND ECONOMICS

Dr. Donald Kennedy, FDA Commissioner: "Our actions should be viewed as a first step toward FDA's ultimate goal of eliminating, to the extent possible, non-therapeutic use in animals of any drugs needed to treat disease in man."

The U.S. Food & Drug Administration is proposing restrictions on the use of antibiotics in animal feed.

Some experts think these restrictions threaten modern, mechanized production of poultry and red meat. Producers would have to spend more for feed and consumers would have to pay more for meat, even though the quality would be lower. This would contribute to inflation.

As with any issue concerning food and human health, this one stands a good chance of becoming obscurred in a blizzard of fear, rhetoric, and supposition. But, the basic question remains: Do the health and economic benefits of using antibiotics in animal feed outweigh the risks to human health of their continued use?

The proposed restrictions of penicillin and the tetracyclines have already prompted three Congressional hearings, a study by the Congressional Office of Technology Assessment, a request for another study by the National Academy of Sciences, threats of court action, and a great deal of concern in the poultry, meat, and animal health industries.

The controversy probably will last several years before the administrative and judicial machinery grinds to a conclusion.

The economic implications are substantial.

One integrated broiler producer and processor from Maryland's Eastern Shore estimates that the proposed regulation of penicillin, which he uses in broiler feed, would increase his costs by $100,000 annually.

Robert K. Wagstaff told the Dairy and Poultry Subcommittee of the House Agri-

culture Committee that costs would increase $600,000 if penicillin and tetracyclines could not be used in the treatment of broilers, and if substitutes were not available. Wagstaff is executive vice president of Golden Pride, Inc., Berlin, Md. He estimated that the subtherapeutic (low level) use of a variety of antibiotic compounds yielded annual economic benefits of $4,778,000 to Golden Pride, Inc.

FDA'S JUSTIFICATION

Just eight days after he assumed office, FDA Commissioner Donald Kennedy announced that he had decided to restrict the use of penicillin and tetracyclines in animal feed, although the process leading to his decision had been in the works for seven years. Dr. Kennedy said, "The theoretical possibility that drug-resistant pathogens can be produced by antibiotic selection has become a real threat with the emergence of human disease (typhoid and childhood meningitis) caused by ampicillin- and chloramphenicol-resistant *Salmonella and Haemophilus*.

"The point is," he continued, "that known routes of transfer exist by which antibiotic use in animals can contribute to such threats."

However, Dr. Kennedy said he was not suggesting that typhoid and childhood meningitis were caused by strains of bacteria that gained their resistance through the use of antibiotics in animal feeds.

THE BRIEF FOR CONTINUED USE

Representatives of the meat production industry, animal health scientists, and the drug industry, claim that Dr. Kennedy's hypothesis is refuted by more than 25 years' experience in the use of antibiotics in animal feed.

"So far as we are aware, there is no evidence that these low-level uses, which have been practiced for nearly 30 years, have created any human hazards," Edward H. Covell, chairman of the board, National Broiler Council, testified before the Dairy and Poultry Subcommittee.

Apparently, the antibiotics do not even cause long-term resistance in animals that eat them. Thomas H. Jukes, professor of medical physics, University of California, said, ". . . When we first started to use (antibiotics) I thought that they would be only good for a year or two and then resistance would catch up and their use would die off. However, to our astonishment, for some reason this did not happen. The animals kept responding year after year."

Dr. Kennedy conceded that "we can point to no specific instance in which human disease is more difficult to treat because drug resistance has arisen from an animal source." He maintains however, that "it is likely such problems could have gone unnoticed."

Dr. C. D. Van Houweling, director, FDA's Bureau of Veterinary Medicine, speculates that the bacteria which become resistant may not be the ones on which antibiotics work to produce a growth effect. He cited experiments in which oxytetracycline was fed in the same pig operation for 15 years. "The results at the tail end were as good as at the beginning; there was no evidence of reduced effectiveness," Van Houweling said in an interview.

THE NEXT STEPS

The proposals to restrict the use of penicillin and tetracyclines are merely a step along a road that we took seven years ago. We could continue down this road for another six years. Publication of the proposed regulations in the *Federal Register* gives affected parties an opportunity to ask for hearings.

Manufacturers of affected products almost certainly will request hearings, according to Fred Holt, executive vice president of the Animal Health Institute, a trade association of companies that manufacture animal drugs.

Dr. Van Houweling has said that the FDA would prefer not to hold hearings. It must determine whether the issue raised is sufficiently material to justify holding hearings, he said.

Despite its reluctance, FDA now feels it must hold hearings anyway. When it decided not to hold hearings on withdrawing approval for the use of DES (diethylstilbestrol, a synthetic hormone which causes cancer in rats when used in high concentrations) its decision was successfully challenged in court.

The hearings could stretch out for a year or two, Dr. Van Houweling said. After all the facts were presented, an administrative law judge would make a recommendation to the Commissioner, who could accept or reject it. Any final decision by the Commissioner could be challenged in court. Once into the judicial process, with many opportunities for delay and appeal, another three or five years could be consumed before the issue was finally resolved, Dr. Van Houweling said.

Commissioner Kennedy announced his decision April 15, 1977. Within the next few months the following Congressional actions occurred:

Rep. Charles Rose (D-N.C.), chairman of the House Agriculture Dairy and Poultry Subcommittee, held three days of hearings on antibiotics and other food issues.

Sen. Herman Talmadge (D-Ga.), chairman of the Senate Agriculture, Nutrition, and Forestry Committee, asked the Office of Technology Assessment to undertake a thorough study of the use of drugs and chemicals as feed additives.

Rep. John Moss (D-Calif.) held hearings before his House Interstate and Foreign Commerce Subcommittee on Oversight and Investigations on the FDA's regulation of antibiotics used in animal feed. Chairman Rose was among those who testified.

Sen. Patrick Leahy (D-Vt.) held hearings September 21 and 22 in his Senate Agriculture Subcommittee on Agricultural Research and General Legislation.

The General Accounting Office issued a report that sharply criticized FDA for moving too slowly on the issue of antibiotics-in-feed. In addition, GAO criticized FDA for using its National Advisory Food & Drug Committee to study and make recommendations on a technical issue. The committee was created to deliberate on broader policy ranges, the GAO report said. The GAO investigation and report had been requested by Rep. Moss.

HOUSE SUBCOMMITTEE HEARINGS

Chairman Rose characterized his hearings as a fact-finding effort. Witnesses were invited from FDA, from the dairy, poultry and red meat industries, from drug companies, from consumer groups, and from the agricultural scientific community. Rose said he believes "there should be a clear ability for the poultry business and agribusiness generally to use antibiotics and other necessary drugs in feeding animals."

Rose said in a key point emerged in the hearings: "Dr. Kennedy feels that while there has been no evidence of resistant pathogens harmful to humans resulting from the subtherapeutic feeding of antibiotics to animals over the past quarter century, there is a theoretical possibility that it could occur and that therefore he has a moral responsibility to guard against that theoretical possibility.

"As a member of the legislative branch, my immediate reaction to that has been and still is that God help us if the executive branch is now setting forth to save us from theoretical possibilities and not from clear and present dangers that are currently in front of us."

Chairman Rose said he plans no further hearings, but would not be "bashful" about holding more if the situation called for it. He said he asked the National Academy of Sciences/National Research Council to study the issue with funding support from the U.S. Department of Agriculture. The Academy was willing to do the study, but USDA asked that it wait until other studies now under way are completed. Rose also asked the Office of Technology Assessment to evaluate what impact the proposed ban would have on the dairy and poultry industries.

THE OTA ASSESSMENT

Congress established the Office of Technology Assessment (OTA) to provide it with objective, scientific information about important technological issues. Behind the establishment of the OTA was a suspicion of the objectivity of executive branch experts, on whom Congress had relied in the past for scientific information.

The OTA study of animal feed additives will be a broad-gauged investigation of the benefits and risks. Principal investigator for the study is Dr. T. C. Byerly, a prominent animal health scientist, who formerly served as USDA's Assistant Director for Science and Education.

OTA will analyze thoroughly the available evidence on the benefits and risks of using drugs as feed additives. In a major departure the OTA will analyze the economic impact that banning the use of drugs in feed will have on the structure of the poultry and meat industry.

Walter Wilcox, project leader of the OTA study, said it would have three aspects: "One, we will try to integrate and look at all the information, both pro and con, all at once, not just one side. Two, we will try to get all the latest information, published or unpublished. And three, we will try and make a better benefit/risk evaluation than has ever been done."

J. B. Cordaro, program manager of the study and the first draft of the study would be ready by the end of March, with the final draft expected in late June, 1978. The report will list the options open to Congress for improving regulations of drugs used as animal feed additives.

The persons interviewed for this article were not prepared to say in what direction legislation affecting the regulation of feed additives might go. While not commenting on specific legislative proposals, Cordaro noted that the question of antibiotics in animal feeds was part of a larger issue that embraced the use of saccharine, environmental contaminants, and other drugs.

Cordaro said, "The danger as I see it is that in every instance where there is a specific chemical or a specific food additive, Congress will set itself up as the arbiter and try to legislate. My personal judgement is that that's not the way the issue ought to be handled."

THE CONTENDERS

The issue of antibiotics in animal feeds has been chewed over for a half dozen years, but not much interest has been evoked from the public, the press, or consumer groups. No consumer or environmental advocates turned up at the Dairy and Poultry Subcommittee hearings or a September, 1977 public proceeding of OTA. Chairman Rose said he had heard no "consumer outcry," demanding the regulation of antibiotics in animal feed.

Generally, the issue has pitted the Food and Drug Administration against the animal production and animal health industries. Knowledgable observers in Washington expect Commissioner Kennedy to stick to his guns on the issue.

Representatives of the poultry, red meat, and animal health industries turned out in force for the Dairy and Poultry Subcommittee hearings and the OTA proceeding. They can be expected to fight the FDA proposals to the last ditch.

The political climate in the country and in Washington has changed substantially in the 25 years since antibiotics were first used in animal feeds.

The past 10 years have witnessed the growth of the environmental and consumer movements.

Consumer advocates represent both a danger and an opportunity for those who benefit from the use of antibiotics in animal feed. Consumers are interested in health and pocketbook issues. A few years ago, consumers were picketing supermarkets in a protest against high meat prices, which are likely to occur again if the use of antibiotics is severely restricted.

Carol Forbes, counsel to the House Dairy and Poultry Subcommittee, said she believes that consumers can be reached on the antibiotic issue. She noted the need to distinguish between synthetic chemical food additives that are potentially cancer-producing and antibiotics which occur in nature and do not cause cancer.

In addition to the volatile potential represented by consumer advocates, there is another trend in the political climate. That is a questioning of the scope, powers and roles of the regulatory agencies. Indeed, there are proposals to break up FDA by sending its food divisions to USDA. In addition, there is a sizeable and growing body of opinion that the federal government does entirely too much regulating. This is balanced by a large body of opinion that more, not less, regulation is needed to protect consumers from dangers, health hazards and fraud in an increasingly complex society and economy.

Generally, the forecast for the feed additive issue is an extended period of political turbulence. There will be conflicting viewpoints on the scientific, economic, legal and political aspects of the issue. From these conflicting views the public must sort out the facts.●

## AMERICAN PRODUCTIVITY

### HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. RHODES. Mr. Speaker, the July 31 issue of the Washington Post has in its lead editorial laid out in a concise way the very serious problem of declining productivity in American industry.

The Post notes that we are dropping behind other countries, at a time of stiffening competition from abroad. The editorial expresses concern over deteriorating productivity, a view that I have been espousing for some time.

The Post piece is an excellent capsulized summary of this alarming trend in our productivity. I urge my colleagues to read this review, and to note particularly that the Post suggests that Congress may want to cut the capital gains tax to stimulate investment in productive facilities.

Text of the Post editorial is as follows:

AMERICAN PRODUCTIVITY

Throughout most of the years since World War II, productivity in the American economy has risen briskly. As it went up, it carried with it people's earnings and standards of living. But the rise began to slacken about a decade ago, and for the past year and a half there has been hardly any rise at all. Of, all the changes overtaking the American economy, the behavior of productivity is one of the most peculiar—and one of the most disquieting.

The immediate consequence of no productivity gains is that inflation will become harder than ever to control. But if the present pattern continues, it will also ignite uncomfortable political questions about dividing the pie in a country that has come to expect, and to count on, steady increases in both public and private wealth. Nobody really knows why productivity has stopped rising. All explanations are, to one degree or another, speculative. But the evidence suggests that it is no minor passing blip on the chart. The causes seem to lie deep in the changing structure of the national economy.

Productivity is simply the average output per hour of labor. The Labor Department computes it every three months, and it has just published the figures for the spring quarter of this year. They show that productivity was rising at the minuscule rate of 0.1 percent a year, after having fallen during the winter. Through the 1950's and most of the 1960's, it was going up at an impressive pace of nearly 3 percent a year. In the years after 1968, the trend dropped to half that rate Since late 1976, it has been almost flat.

That departure is consistent with two other surprises. Inflation has been running considerably higher in recent months than most people expected, and unemployment has been considerably lower. Output over the past year has been raised by putting more people on payrolls, not by improving each person's capacity to produce.

It's a striking departure, and one explanation may well lie in the rather low rates at which business has been investing new capital. That, in turn, may be the result of low profits. Another possibility is the cost of the new environmental and safety rules, requiring industry to invest heavily in equipment to control air and water pollution.

Whatever the influences controlling productivity, they vary enormously from one country to another. In international competition, the United States is currently not doing well. The following brief table compares the increases in productivity in manufacturing, for the decade 1967–77, among some of the major industrial powers:

United States 27 percent, France 72, West Germany 70, Italy 62, Japan 107, Canada 43, Great Britain 27.

There is a tendency in this country to regard Britain as the world's great example of industrial decline. But you will note that the rate of productivity gain in British factories over the past 10 years has been the same as in American factories.

Since no one is quite sure why the American rate has fallen, no one is in a position to offer a sure remedy. But these latest productivity figures may well strengthen the impulse in Congress to cut taxes on capital gains, in an effort to increase investment. Beyond that, it's also necessary to consider the possibility that some of this change may lie beyond the reach of government policy. A good many Americans' ideas about work, incomes and economic growth began to change around 1968. These new attitudes may now be showing up in the statistics on the nation's economic performance.●

## GOLD MEDAL STUDENTS RECEIVE GOLD MEDAL

### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. BURKE of Florida. Mr. Speaker, this year the eighth world music contest was held in Kerkrade, Holland, during the separate periods of June 24 to 25, July 1 to 2, 8 to 9, and 15 and 16. The World Music Festival lasted nearly a month and is held every 4 years under the auspices of the National and International Music Federations. It is with great pride, Mr. Speaker, for me to have in my congressional district the South Broward High School which is located in Hollywood, Fla. The South Broward High School band and its Browardettes drill team participated in the World Music Festival this year and was a gold medal winner.

The hard work of the teachers, students, parents, and the many others which resulted in this victory is to be commended. In fact, it is with great pride that I, myself, am able to tell my colleagues of this outstanding achievement and the winning of this gold medal by the students of the South Broward High School marching band and drill team, since in doing so they had to compete with 27 other bands from throughout the world.

Mr. Speaker, it is easy for me and others, to congratulate and to offer our plaudits to these young people who won this honor, but I am sure all of my colleagues know that champions become champions because of their desire, hard work, and willingness to overcome the many difficult obstacles that are placed in their paths. Champions, in other words, are not born, they are molded together by desire, and hard work, and by overcoming those who say "It cannot be done." The champions that I am talking about had to raise funds for their trip. They had to plan and work long and hard, not only by practicing, but by participating in many community fundraising affairs. To raise the money needed for their transportation, the students and members of the band as well as others held car washes, spaghetti dinners, participated in raising art objects for sale at flea markets and solicited moneys from public and private groups. I am sure the thrill of winning at this international competition will be a lifelong memory for all the students, parents, and teachers who participated and cannot be replaced, and thus, the effort was well worth every ounce expended. The students while on tour visited Holland, Germany, Italy, Switzerland, and Austria; and in each town and place they visited they gave performances in the town square which brought happiness and delight to thousands of people who came to see this great high school band and drill team from the United States. The students, as young people generally are, were warm, friendly, and exuberant and their attitude indicated their pride in themselves and in the country from whence they came.

Mr. Speaker, as I stated, in order to become a champion, it takes hard work and with this group of young people this was no exception. Before they could even participate in the World Music Festival in Holland, where they won a gold medal, they had to first participate and win in competition with other bands from the United States. It was from this partici-

pation and competition with these other bands that they were selected as one of the 10 outstanding school bands in the United States and was thereby justifiably invited to participate in the World Music Festival contest. In winning the gold medal, they did so by outperforming 27 other bands from nations throughout the world. And finally, during the performances on July 8 and 9 in the finals, they openly disclosed their own mettle by winning the gold medal over the other 27 bands from throughout the world. Thus, the 178 students who participated with the South Broward High School Band and Browardettes Drill Team brought everlasting fame not only to their own high school but to the city of Hollywood, Fla., and indeed, to the entire United States. But the students alone, like all champions had to be molded in the crucible of champions by others and in this case by, Edward Parsons, the band director, and by Lynn Baker, the drill team director, and by Elizabeth Bousfield, principal of South Broward High School. I am confident the students will agree that without the guidance of so many outstanding people, Edward Parsons, Lynn Baker, and Elizabeth Bousfield, and the assistance and guidance of so many others that their victory which they so gallantly won would not have been possible.

Mr. Speaker, it is with great pride, therefore, that I congratulate these outstanding students of South Broward High School, Edward Parsons their band director; Lynn Baker, director of the Browardettes Drill Team and the other faculty members, students, directors, parents and the many boosters who helped in so many ways not only in raising funds for the trip, but also by the love and encouragement which made this outstanding feat possible for the champions.

Mr. Speaker, it is with great pride that I submit herewith the separate names of the South Broward High School Band students and the South Broward High School Browardettes majorettes and to each individually, I extend my sincere congratulations. The names of those who are individually and as a group, champion "gold medal" winners in their own right are:

SOUTH BROWARD HIGH SCHOOL BAND STUDENTS

Nancy Adams, Sec., Steve Adler, Georgene Avitabile, Debbie Barrow, Dan Block, Joanne Bolly, Band Manager, Chuck Bowers, Wes Bowers, Carrie Burckhartt, Patty Cagney, Pam Carey, 2nd Lt., Anne Catalano, Lory Chadwick, Jeff Coats.

Dan Collodel, Andy Cowdery, Denise Davis, Phillip Davis, Chantal Desrosiers, John Dewild, Mike Dorsey, Carl Dubberly, Jane Foody, Richard Fray, Jim Garand, Jean Garand, Ken Garand, Colleen Gibbons, Roger Golden.

Jon Goodman, Sharon Gordon, Mike Grandinetti, Jeanette Guker, Shirley Guker, Mark Hancock, Capt., Regina Harrison, Rhonda Hartmann, Katrina Hayes, Tony Hayes.

Roger Kobert, Sean Heston, Cindy Jennessee, 1st Lt., Richard Johnson, Drum Major, Wendy Landon, Chris Jordan, Karen Kine, Beth Krothenberg, Mark Lawson, Sean Lawson, Kim Landon.

Brinda LaRiviere, Scott Levy, Todd Lewis, Al Lexow, Brian Lisle, Kregg Lupo, Sgt. at Arms, Mike Lynch, Russ Madio, Kathy Marsh, Pete Marsh, Sharon Miner, Danny Moran, Curtis Noble.

Debra Parsons, Kelly Padgett, Kirk Pappa, Jim Parker, Mary Phillips, Leslie Phipps, David Quillen, Karen Quillen, Ruth Quillen, Jerome Ravenna, Jim Renn, Ray Rivet, Bob Ross, Jim Sanders, Cindy Santamaria, Treas.

Doug Sherron, Randy Shopoff, Jim Silvernale, Brad Smith, Richard Smith, Pete Sobota, Kathy Sprague, Dave Stewart, Colleen Sullivan, Shelley Talotta, Danny Teixeira, Suzy Tieger, Tony Turturici, Greg Vazquez, David Walters, Jackie Zenobia, Mrs. Olive LaRiviere, Pres. Parents Assoc.

BROWARDETTES MAJORETTES

Julie Arendas, Deanna Lee Baker, Laura Ann Barbato, Cynthia Bartlett, Robin Belew, Elaine Chernoff, Teri Lynn Coats, Jean Elizabeth Cobb, Beverly Cook, Linda Corriveau.

Cheri Lea Cory, Kathy Lynn Farmer, Cindy Fatout, Julie Anne Fields, Sandra Foster, Shari Ann Gooden, Janice Lynn Goodman, Kimberly Groat, Beth Hartzell, Tracy Hilton, Brentley Hlay, Kathleen Ingallinera, Gina Itzkowitz, Mary Ann Keener, Kathryn Kelly.

Georgeanne Kohn, Tami Larro, Barbara Losh, Mary Ann Masuzzo, Carrie Meek, Maua Milcyzynski, Denise Mongo, Michelle Mongo, Elizabeth Nugent, Sharon Pakula, Antonia Protano.

Catherine Reside, Elizabeth Roberto, Kathy Rogers, Cindy Ellen Roth, Jacauelin Rusciano, Carol Sadler, Lisa Janine Sharp, Carla Simmons, Marva Simmons, Kerry Spaeth, Deanna Stenger, Kimberly Wayne, Mr. Jim Hilton, Pres. Parents Assoc.●

## WHY DOES $2.20 PER BUSHEL CORN FROM IOWA SUDDENLY BECOME WORTH $6 IN ROTTERDAM?

### HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. GRASSLEY. Mr. Speaker, as we all know, agricultural exports make a sizable and significant positive contribution to the balance of payments of the United States. Exports are important to farmers in Iowa and other parts of the country. However, the question keeps coming up as to why corn which sells for $2.20 per bushel in Iowa sells for $6 per bushel in Rotterdam. An excellent article appeared in the July 22, 1978, edition of the Iowa Farm Bureau Spokesman addressing this subject. The article details the costs associated with the various marketing phases needed to get corn from Iowa to Rotterdam, Japan, and Odessa, Russia. It is important to note the variable levy applied by the European Economic Community which keeps the price of corn arriving in Rotterdam at $6 per bushel no matter what it sells for in Iowa. The text of the article follows:

WHY DOES $2.20 PER BUSHEL CORN FROM IOWA SUDDENLY BECOME WORTH $6 IN ROTTERDAM

(By Robert N. Wisner, C. Phillip Baumel and John A. Wallize)

After finishing corn planting in May, a Greene county farmer's attention turned to old crop corn still in storage. Prices had moved up a bit and he'd heard a nearby elevator was buying corn for shipment to Europe.

The bid at the local elevator was $2.20 per bushel in mid-May. But the Greene county farmer learned of another price from a market report in his reading materials that had accumulated during the planting season. That item was the price of corn in Rotterdam—the destination for corn he was selling to a nearby elevator. Rotterdam prices were an astonishing $6 per bushel.

How could his corn sell in Europe for almost three times as much as the local price? He wondered and asked questions.

The Greene county farmer asked enough questions to reach the Iowa Farm Bureau headquarters in Des Moines and marketing specialists at Iowa State University. The main question: How can corn from West Central Iowa sell for more than $6 per bushel in Rotterdam?

Here's the answer: First, after paying the farmer $2.20 for the corn, the country elevator must add 5 to 10 cents per bushel as a merchandising margin. This margin covers interest, insurance and handling costs of the corn, any shrinkage or change in grade that may occur, taxes, labor expenses, penalties the elevator must pay for late delivery, overhead costs and, of course, the elevator's profit.

The merchandising margin varies with transportation and supply-demand conditions, and in mid-May was a bit larger than usual. A shortage of railroad cars was creating the risk of penalities for late deliveries. In addition, country elevators faced increased storage costs and lower export bids for shipments that would be delayed to 8 weeks. Merchandising margins tended to increase to cover these added costs. Margins shown in Table 1 are based on reports from trade sources and are believed to be reasonably typical, but may not cover all situations.

UNIT TRAINS

Usually, the least expensive way to move large volumes of grain from Central and Western Iowa to Rotterdam is by 75-car rail shipments to the Gulf of Mexico export elevators. In May, the 75-car rail rate to the Gulf was 37.2 cents per bushel from West Central Iowa. This rate increased to 38.6 cents per bushel on June 17.

Not all Iowa elevators can use the 75-car rates. Some may have the rate available, but don't have the facilities to load that many cars. If the elevator must ship at a more costly rate, the elevator operator has to either reduce merchandising margins or reduce bids to farmers—or a combination of the two.

In May, the 50-car rate from West Central Iowa to the Gulf was 39.5 cents—2.3 cents per bushel higher; the 25-car rate was 42.3 cents or 5.1 cents per bushel more than the 75-car rate; and the single car rate was 47.3 cents or more than 10 cents a bushel higher. These rates increased about 2 cents per bushel on June 17.

The elevator assembling the Rotterdam shipment was using the 75-car rate. But with its merchandising margin and freight to the Gulf, the cost of $2.20 corn rose to $2.67 per bushel as it arrived at the Gulf port by rail.

EXPORT ELEVATOR

At the export elevator, additional costs and marketing margins are involved. The port elevator's markup is much like the country elevator's merchandising margin—except that costs can be higher. Markups at this point cover demurrage—a charge beyond the time allowed for loading and unloading or sailing on ships waiting to be loaded, demurrage on rail cars or barges waiting to be unloaded, the costs of receiving, handling, inspecting, official grading and loading out the grain, as well as interest, insurance and overhead costs, shrinkage and grade changes.

TABLE 1.—MID-MAY CORN PRICES AND MARKETING COSTS FROM IOWA TO OVERSEAS MARKETS

[Via Gulf ports]

| | West central Iowa to— | | | East central Iowa to— | | |
|---|---|---|---|---|---|---|
| | Japan | Rotterdam | Odessa, Russia | Japan | Rotterdam | Odessa, Russia |
| Corn price per bushel | $2.20 | $2.20 | $2.20 | $2.22 | $2.22 | $2.22 |
| Country elevator margin | 0.05–0.10 | 0.05–0.10 | 0.05–0.10 | 0.05–0.10 | 0.05–0.10 | 0.05–0.10 |
| Freight costs to ports | .372 | 0.372 | .372 | 0.35–0.55 | 0.35–0.55 | 0.35–0.55 |
| Total | 2.622–2.672 | 2.622–2.672 | 2.622–2.672 | 2.62–2.87 | 2.62–1.87 | 2.62–2.87 |
| Port elevator margin | 0.08–0.22 | 0.08–0.22 | 0.08–0.22 | 0.08–0.22 | 0.08–0.22 | 0.08–0.22 |
| Ocean freight | .287 | 0.152 | .406 | 0.287 | 0.152 | .406 |
| Unloading margin | 0.08–0.20 | 0.08–0.20 | 0.08–0.20 | 0.08–0.20 | 0.08–0.20 | 0.08–0.20 |
| Total | 3.069–3.379 | 2.934–3.244 | 3.188–3.498 | 3.067–3.577 | 2.932–3.442 | 3.186–3.696 |
| Variable levy | 0 | 2.77 | 0 | 0 | 2.77 | 0 |
| Approximate price to foreign buyers | 3.069–3.379 | 5.704–6.014 | 3.188–3.498 | 3.067–3.577 | 5.702–6.212 | 3.186–3.696 |

There's also the export elevator profit and costs of required air pollution control equipment. Trade sources indicate marketing margins at the Gulf generally range from 8 to 22 cents per bushel for corn. Here again, strong demand, limited handling capacity and transportation problems boost costs and tend to widen the margins.

In mid-May, marketing margins at Gulf ports reportedly were at or near the upper end of this range because of heavy shipments and transportation problems. The loss of two Gulf port elevators from explosions last December also increased congestion at the remaining elevators and contributed to wider than normal margins.

Table 1 spells out the costs of moving grain from West Central and Eastern Iowa to three overseas destinations. This article concentrates on the second column of that table—moving grain from West Central Iowa to Rotterdam via the Gulf of Mexico.

The other columns provide comparisons on cost to Japan and Russia. Transportation from Eastern Iowa to the Gulf is based on unregulated truck-barge rates, which fluctuate with changing supply and demand conditions.

Total costs for the Greene county corn were about $2.89 per bushel at the export elevator as it was being loaded into ships in mid-May.

Next, ocean freight must be added to get the grain to foreign buyers. In mid-May corn could be moved from the Gulf of Mexico to Rotterdam for just over 15 cents a bushel. It cost nearly 29 cents to move it to Japan and about 41 cents to Odessa, Russia, on the Black Sea in United States' flag ships. Shipping cost to Odessa via foreign flag lines generally would be about 5 cents per bushel cheaper.

Our grain from Greene county is now approaching Rotterdam and is valued at more than $3 per bushel.

At Rotterdam, another markup is added at the receiving elevator—an unloading charge. Trade sources indicate it ranges from 8 to 20 cents per bushel and involves costs similar to those encountered at U.S. ports.

Figuring the maximum costs within the ranges given, the $2.20 corn from Greene county is now valued at nearly $3.25 a bushel in the elevator at Rotterdam. That's still considerably below the $6 per bushel our Greene county farmer heard about. But there's one more charge to come.

VARIABLE LEVY

The final charge is a $2.77 variable levy or import tax applied to corn imported into the European Economic Community (EEC—or the Common Market). The basic goal of the EEC levy is to protect farmers and agriculture in nine Western European countries. A specific goal is to keep corn at about $6 per bushel in the EEC.

The system works well for the Europeans. Adding the $2.77 levy—which varies with world price—the $2.20 Iowa corn is now priced at $6.01 per bushel in elevators at the receiving port of Rotterdam.

When world prices go down, the EEC variable levy goes up to keep EEC corn prices at the $6 per bushel level. Consequently, reduced transportation costs make U.S. grain more competitive in most areas of the world—but in the European Common Market. Without the variable levy, U.S. corn could have been sold at about half the domestic EEC price in mid-May.

Ultimate goal of the duty and $6 corn is to encourage more grain production in Europe. Nearly doubling the price of imported grain is expensive for European consumers. But Europeans are willing to make that sacrifice and subsidize agriculture in order to gain self-sufficiency in production.

EEC SUBSIDY

There are a number of reasons for the EEC subsidization. First, European agriculture consists of many small farms. So there's a larger percentage of farmers in the population, compared to the United States, to back the import duty.

Also, the subsidization has existed long enough that corn prices are now capitalized into land values. This, too, provides great resistance to change.

Finally, many European consumers have experienced risks in addition to those of the Greene county farmer. Twice in this century, the continent has been the scene of the world wars. Consequently, Europeans may place a higher value upon food security and self-sufficiency in agriculture than their U.S. counterparts.

For the Greene county farmer, exports represent the most rapidly growing area of demand for corn in recent years. Exports, along with domestic feeding, production and government price support programs are the key elements in grain prices. Since exports influence the ability to maintain higher grain prices in the U.S., farmers oppose any restrictions that tend to limit exports.

In Europe, of course, there are different attitudes and values. Those differences spell $2.20 corn in Greene county and $6.01 in Rotterdam.●

## ANDREW YOUNG DOES NOT LIE

### HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. CLAY. Mr. Speaker, in the wake of the recent controversy over Ambassador Young's remarks on political prisoners in the United States, my colleague, the gentleman from Ohio, LOUIS STOKES, has written a hard-hitting, intuitive commentary in support of Ambassador Young. So that my colleagues in the House can share its message, I submit to you Mr. STOKES' editorial piece which appeared in the July 27, 1978, edition of the Cleveland Plain Dealer:

REPRESENTATIVE STOKES: "YOUNG DOESN'T LIE"

(By LOUIS STOKES)

A newspaper article said White House press secretary Jody Powell hinted that U.N. Ambassador Andrew Young will have to clear future statements on human rights with the White House. The article said Young was reprimanded by President Carter for telling a French newspaper there are "hundreds, even thousands of political prisoners" in American jails.

I find this disturbing. Had the President reprimanded Ambassador Young for lying I would understand his reprimand. I do not understand how President Carter can, pursuant to his policy of human rights, express strong objection to the trials of Scharansky and Ginzburg in the Soviet Union for speaking out against their government and simultaneously squelch Andy Young for criticizing his government.

We cannot have one human rights policy for the residents of the Soviet Union and another for our own country. Lost in the hue and cry for Andy to be reprimanded, silenced, impeached or fired in the fact that no one has refuted him on any issue.

When examined, it is apparent that now, as on previous occasions, the hue and cry is not over Andy telling untruths; it is that he spoke at a time when Cyrus Vance was beginning the SALT talks and President Carter was decrying the trials of Soviet dissidents Scharansky and Ginzburg.

One also cannot ignore the element of racism in the zealousness of the attack on Young. If not racism, then why was there was not a similar uproar from the media when the author of Nixon's benign neglect policy toward blacks, former Ambassador Daniel Patrick Moynihan, on occasion after occasion embarrassed the United States by using his U.N. forum to insult Third World nations?

Let us now examine some of Young's previous statements which created such a furor in the press. In each case, it is necessary to note that in spite of the uproar, nobody has yet to call him a liar.

On one occasion, he was assailed for calling former Presidents Nixon and Ford racists. On that occasion as now, the media chose to take his statement out of context. What Andy said was Nixon and Ford "were racists not in the aggressive sense but in that they had no understanding of the problems of colored peoples anywhere."

But what if he did call them racists? What's wrong with that?

It was Nixon who had this writer and 11 other black congressmen on his enemies list.

It was Nixon who didn't have a single black in his cabinet. It was Nixon who in spite of his boasts of expertise in foreign affairs didn't even have an African policy.

And what about Gerald Ford who during 25 years in Congress became a leader in offering crippling and dismantling amendments to every piece of civil rights legislation ever passed? As president, he too did not even have an African policy.

That's what Andy meant when he said that "they had no understanding of the problems of colored peoples anywhere."

Let's examine another of his statements which caused consternation. He is supposed to have insulted Great Britain by making reference of its having a history of racism. Well, history tells me that it was the British themselves who boasted that "the sun never sets on the British Empire." It is not a lie that Britain colonized people of other colors from Africa to Asia to Hong Kong.

And now let's examine Andy Young's statement that the South Africa government is illegitimate. Well, isn't that the tuth? What else is it when 2.3 million whites rule 26 million blacks in their own country? What is legitimate about the policy of apartheid?

What is legitimate about denying 26 million blacks citizenship in their own country and confining them to sections of their own country designated as "Homelands"?

Now let us examine the current controversy. In an interview in a French newspaper Young is alleged to have said, "After all, in our prisons there are also hundreds, maybe even thousands of people I would call political prisoners."

He continued: "Ten years ago, I was sentenced myself in Atlanta for organizing a protest movement. And three years later I was in the Georgia legislature. It's true things don't change so quickly in the Soviet Union, but they do change there, too."

According to the article, the ambassador also said: "While there is nobody in prison in the United States for criticizing the government, there are all varieties of political prisoners." In support of this, Young is alleged to have further said: "In the United States people can be in prison much more because they are poor than because they are bad. But that's a problem we are working on and one on which we are making great progress."

Now if his critics are contending that he lied, about what did he lie? If, on the other hand, it is the contention of his critics that he told the truth, but he just should not have told it right now, then we are confronted with an entirely different matter.

Young has had the extraordinary experience of being a black man in a racist society who rose to the top. He didn't rise to the top by mouthing what somebody told him to say, and I predict that if he is ever told what he must say, he will quit.

No one can refute his statement that he has been in jail and has himself been a political prisoner in America. No one can deny that Dr. Martin Luther King and hundreds of civil rights activists in the 1960s were jailed as political prisoners in America, and no one in his right mind can deny the ugly truth that today in America there are jails full of poor people, a majority of whom are black.

Many of those are guilty of no crime except that of being black and poor. The Amnesty International report for 1977 verifies Young's statement that there are political prisoners in jails in America. Whether their figures agree with Young's as to the number of political prisoners in American jails is really not important. The fact is that this Nobel Peace Prize organization corroborates the ambassador's basic premise.

The tragedy which we cannot hide from the world, even by firing, muzzling and gagging Ambassador Young, is that America does have political prisoners. The Carter administration is to be applauded for its campaign to highlight human rights violations around the world. But if Mr. Carter and the American people are to be credible, he cannot speak out about injustices in the Soviet Union while being silent about human rights violations in North Carolina.

It would seem that Mr. Carter would be equally vocal about the outrageous imprisonment of Rev. Ben Chavis and the Wilmington 10 which is cited by Amnesty International as a human rights violation in America.

It would also seem appropriate that while protesting the treatment accorded Scharansky and Ginzburg he would also protest the human rights violation of the Charlotte Three and the others in the 14 cases of American prisoners now adopted by Amnesty International.

The president and the rest of America should realize that Andrew Young's speaking out did not create the problems he addresses, and silencing him will not solve them.

Until America can give free speech to Andy Young, it cannot in good faith protest the suppression of free speech in other nations.●

## CONGRESSMAN WOLFF ON SUNSET LAWS

### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. WOLFF. Mr. Speaker, I rise to call to the attention of my colleagues the testimony I offered to the Subcommittee on Rules and Organization of the House Committee on Rules regarding its consideration of "sunset" legislation and reauthorization measures to improve program review.

I believe the concept on which "sunset" laws are based is a vital one to the improvement of Congress budget authorization procedures. It is my hope, Mr. Speaker, that my testimony will help my colleagues in their consideration of this important issue:

TESTIMONY OF LESTER WOLFF

Mr. Chairman, I want to thank you and this committee for giving me the opportunity to offer my views on the need for sunset legislation to be considered and enacted by the House. I believe that a free exchange of views on the issue will prove helpful to the committee, the Congress, and the public at large.

It is quite fashionable today, Mr. Chairman, to say that the American people are in "revolt" against excessive taxes and government excess. In a sense, I think they are. But many have responded to this sentiment with simplistic, superficial proposals. When considering tax reform, we must be responsible, not simplistic. I would urge the House to consider tax reform in that spirit.

But today I want to express my sympathy for one manifestation of revolt: the public outcry against waste and inefficiency in government.

Simply stated, I believe the people of American want "big government" off their backs and bad government out of their pockets.

Inefficient government. Wasteful bureaucracies. Excessive regulation. These are elements that make up a large part of many an American's perception of his institutions and elected officials. This is a fact to which Congress must face head on. Waste must be trimmed, outmoded programs reevaluated, the bureaucracy whittled down to its necessary elements. We must distinguish between the essential and the excessive.

There is spending reform legislation which answers the cry of the taxpayer effectively and justly. I refer to H.R. 1756, H.R. 9533, and H.R. 10421, those bills which embody the concept commonly known as "sunset". I should like to say here that I also endorse the budgetary procedure known as zero-base budgeting, a similar method of fiscal frugality.

The concept of "sunset" laws offers Congress and the President the opportunity to fulfill their pledge to tame the wild bureaucracy.

The major provisions of "sunset" legislation which I support are:

The implementation of a fixed period for review and reauthorization of all Federal programs under the jurisdiction of the sunset laws. This would prohibit the authorization of new budget authority for more than this fixed period.

It would also prohibit authorization for a subject program for which a sunset review has not been conducted within this fixed period.

The requirement that all covered programs file a statement of objectives and a list of the costs and accomplishments of each programs to Congress;

The requirement that committee reports identify the effectiveness of authorized programs, potentially duplicitive programs, and previous efforts to accomplish the objectives of the program;

The requirement that the President's budget indicate the justification of any program subject to sunset review in light of previous examination of that program under sunset law.

The objective here is to institutionalize reevaluation. I should say that I see "sunset" as a concept designed, through its powerful threat of termination, to make programs more responsive to the desires of the authorizing committees, and thus the people. I do not see the goal of sunset to be the termination of agencies just for the purpose of termination. The simultaneous objective of tax dollars saved and taxpayers served can be best achieved by holding these agencies and programs accountable for the tight, efficient, and responsive administration of their authorized duties.

Congressional oversight has a history of support in the Congress. Unfortunately, it is an undistinguished history, full of rhetoric and intent but devoid of effective action. True, attempts at oversight have been made. Begining with the Legislative Reorganization Act of 1946, which directed authorizing committees to "exercise continuous watchfulness" over the programs under their auspices, there has existed the recognition that ongoing performance evaluation plays an important role in assuring effective and efficient tax dollar utilization.

In 1970, the Comptroller General and the General Accounting Office were ordered to investigate the effectiveness of Federal programs. And in 1974, the oversight role of committee was strengthened with the Congressional Budget and Impoundment Control Act.

Yet, despite these measures, ongoing performance evaluation has not been a characteristic element of Congress' budget authority. Unfortunately, the practices of incremental budgeting and interminable authorization without regard to cost-effectiveness have continued. It is time for performance to live up to promise.

One innovative method of Congressional oversight is offered by the concept of "sunset." Already, twenty-five states now have such legislation on their books.

In 1976, Colorado introduced the nation's first sunset law. There, "sunset" has been aimed at regulatory agencies, and the first review, of 13 of the state's 43 agencies, took place in 1977. Of those thirteen, three were terminated: the Board of Professional Sanitarians, the Board of Shorthand Reporters, and the State Athletic Commission. The State Boards of Barber Examiners and Cosmotologists were consolidated, and four other agencies were reestablished with modifications designed to improve their accountability and responsiveness to the public interest while reducing the ties between the regulators and the regulated.

Other states have reported similar success with their "sunset" implementation efforts. State "sunset" programs have proven that the concept, when properly implemented, can effectively spot bureaucratic waste and take positive measures to curb it.

"Sunset's" primary corrective power lies in its "action-forcing device, the threat of termination. It requires positive action to renew a program, placing the burden of justification on the programs themselves. If this does not keep agencies on their toes and responsive to the dictates of the committees, then nothing will.

I believe that it is now time for the Congress to explore the "sunset" concept. A recent Harris poll reported that 72 per cent of Americans "no longer feel they get good value from their tax dollars." The blame for the prevalence of this atitude rests primarily with those that allocate these dollars, Congress and the Executive branch. Federal programs have been allowed to stagnate and become institutionalized, acting under open-ended authorizations and antiquated statutes. Simple common sense dictates that certain agencies will need periodic reform as the nature of the functions they are responsible for change and progress. "Sunset" will give us, and it will give the American people, an opportunity to continually oversee the performance of the institutions to which we entrust our welfare. "Sunset" offers our government a real possibility of reaching a new dawn for governmental effectiveness and efficiency.●

## TRIBUTE TO BILL DONNELLY, MINORITY BUSINESS ENTERPRISE COORDINATOR

### HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. JOHNSON of California. Mr. Speaker, minority business enterprise programs are serving a very important role in Federal-private business relations in recent years. One of the very successful programs is conducted by the Bureau of Mines in the Department of the Interior. It has been my privilege through the years to know Bill Donnelly, the present coordinator of the Bureau's minority enterprise program. Bill is a very capable individual and has distinguished himself in this position in the relatively short time he has served in this position.

Bill has worked for the Federal Government since the days of the Kennedy administration. Throughout his career in Government, he has always been a loyal and dedicated public servant. He has done this while at the same time overcoming serious and crippling injuries suffered in World War II.

It is my pleasure to recognize the important efforts of Bill Donnelly as a minority business enterprise coordinator. To outline his accomplishments, I ask that the July 17, 1978, letter written by Charlotte Spann, Chief of the Department of the Interior's Branch of Minority Procurement, be printed in the CONGRESSIONAL RECORD at this point:

WASHINGTON, D.C.,
*July 17, 1978.*

CHUCK DOZOIS,
*Bureau of Mines, Columbia Plaza, Washington, D.C.*

DEAR CHUCK: On Wednesday, May 19, 1978, I had the pleasure of discussing the Department of the Interior Minority Business Enterprise (MBE) Program with your Bureau Director, Dr. Morgan and the Program Assistant Directors. The exchange of information and ideas was most beneficial to me and, I hope, of some value to the Bureau of Mines managers.

My first meeting, in fact, my first contact with Bill Donnelly occurred on that same day. At that time, I expect that many of the "how-to's" of the MBE program were as unfamiliar to Bill, the Bureau's Minority Business Enterprise Coordinator (MBEC), as they were to the program managers. However, Bill has been a very fast and a very enthusiastic learner. The purpose of this letter is to express to you and other appropriate Bureau officials my appreciation for appointing a person such as Bill Donnelly to the MBEC position.

As you have probably noted in the draft regulations, the MBEC function is essentially a three-way liaison among the procurement personnel, program technical personnel, and the minority vendor community. The purpose of that liaison, of course, is to ensure maximum awareness understanding, and participation in the MBE program by all three elements.

During the past forty-five days, I have noted that Bill Donnelly has not only understood the MBEC functions, but has carried out many of those duties in an exemplary manner. I have received very positive comments from Bureau of Mines personnel and from minority business representatives regarding Bill's aggressive and effective pursuit of increased minority business contract awards. My staff and I are delighted to be able to refer vendors to an MBEC who is knowledgeable about Bureau programs, as well as sincerely interested in the MBE program.

I appreciate the cooperation and support that you have given Bill by ensuring that he has the information and training needed to continue his performance in an outstanding and effective manner.

Please contact me whenever I can be of any assistance to you in your MBE efforts.

Sincerely,

CHARLOTTE SPANN,
*Chief, Branch of Minority Procurement.*●

## CIVIL SERVICE CHAOS IN THE NAME OF REFORM

### HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. HARRIS. Mr. Speaker, H.R. 11280, the civil service "reform" bill, has been reported from the House Post Office and Civil Service Committee on which I serve.

H.R. 11280 is a comprehensive bill with a noble objective, to "reform" the civil service system. It presented to the committee and to me a serious challenge which I was prepared to meet when the bill was submitted on March 3, 1978.

Yet I was compelled to vote against the bill, because I believe it is fatally flawed: It will open the door to politicization.

Cleaning up and streamlining the operations of the Federal Government is a worthy goal, an effort I support fully. Citizens should not have to wade through layers of bureaucracy to get their questions answered, to track down their social security check, or understand our tax laws. Government should be understandable; Government should be accessible. Government should not be a bureaucratic monolith impossible to cope with. Government should be responsive with decisions based on justice, not political intrigue or pressure.

Pursuant to the goal of developing a sound bill, I participated in 15 hearings, 12 in the Congress and 3 in agency headquarters here in Washington, and 10 days of markup. Additionally, I personally held three "town meetings" in my district to hear the views and suggestions of the citizens of the Washington area, Federal employees and non-Federal employees, individuals probably most familiar with the operations of the Federal Government.

The most persistent thread in the comments we heard from rank-and-file workers was that various provisions of this bill were a threat to the morale and structure of a nonpartisan, professional civil service system.

On February 27, 1978, I introduced H.R. 11165 which contains several strong provisions that would make innovation possible, but insulate the Federal Government against a spoils system. During the committee markup, after discussing these provisions with Civil Service Commission officials and other witnesses during the hearings, I attempted to get the safeguards embodied in my bill into H.R. 11280. Most were rejected.

I am dismayed that this committee has apparently articulated the thesis that politicizing the system is essential, in fact, is the centerpiece of a responsive and revitalized government. In fact, it was said of my amendments to prevent politicization that some would be a "bodyblow" to the bill.

I am afraid that in the name of "civil service reform" the House Post Office and Civil Service Committee has developed "civil service chaos." While the bill has some sound provisions, many elements which would have made it a true landmark for good government are lacking. My primary fear is that this bill will begin a slow unraveling of our merit system, a system that insures the impartial administration of our laws. This conclusion is inescapable: This bill opens the door for the politicization of the civil service system.

AN OPEN DOOR FOR POLITICAL MANIPULATION—SENIOR EXECUTIVE SERVICE

The committee's adoption of an amendment to implement the Senior Executive Service in three agencies over

a 2-year period is an appropriate go-slow approach. However, the Senior Executive Service, while meritorious in purpose in many ways, will allow too many career jobs to become political, because of a fundamental flaw in the way appointments can be made. Currently, there are important safeguards and procedures that keep the designation of career and political positions at the high levels of Government quite distinct. Congress decides which jobs will be filled by political appointees at executive levels. For those GS–16, 17, and 18 pay grade levels, the President can designate which jobs should be political according to clear standards.

I offered a substitute to title IV, the Senior Executive Service, which would have made the SES a career service only. My substitute failed. If the President wished to designate certain jobs at these levels to be filled by political appointees, the duties of the job would have had to meet certain standards prescribed in law, such as engaging in the advocacy of administration programs or serving as a confidential assistant to a political appointee.

Under this bill, although there is a numerical limit on the number of jobs that can be filled by political appointees, this limit has no relationship to the responsibilities of the job. Thus, the head of a division handling grants, contracts, or tax returns can be a political appointee. By adopting my substitute, Congress would have been exercising clear controls over which positions are filled by career individuals and which by political appointees. And it would have provided that the type of appointment—career or political—would be determined by the responsibilities of the job, not an arbitrary agency- or Government-wide "magic" number.

EXCEPTING POSITIONS FROM THE CAREER SERVICE

Similarly, my amendment to provide clear criteria for excepting positions from the career service for all general schedule jobs would have insured against manipulation of jobs. Under the current law, which this bill does not change, the President can put a "competitive service" position in the "excepted service" (individuals not hired by competitive examinations and appointment) by only determining that "conditions of good administration warrant" this action. There are standards in regulations which can be changed any time. But my amendment would have firmly fixed strong standards in law.

We have heard too many stories of a "buddy system" and end runs around the merit system, stories of jobs being "moved" from a competitive hiring designation to excepted to accommodate a favored candidate. There is room and there is a need for noncompetitve positions in the executive branch. But there should be strong controls. My amendment, which was defeated, would have provided these controls.

POLITICAL INFLUENCES IN PERSONAL ACTIONS

The section of the bill on merit employment would have been strengthened has the committee adopted my amendment to clearly bar unwarranted political recommendations in hiring, promotions, and other personnel actions. Under my amendment, political recommendations from Members of Congress, their staff, White House officials, and political appointees in the executive branch would have been clearly prohibited. The notion that elected and other political officials ought to "determine who gets what jobs" in the career merit system is simply wrong. Some argue that it is a "fact of life." If so, it is wrong. It is time to stop winking at it. If we are going to have true civil service reform, then we must get politics out—once and for all. It has not been that long since the very foundations of our Government were almost pulled out from under us by inside political manipulation. My amendment would have greatly improved this bill.

The bill allows the new Office of Personnel Management to delegate to agencies various personnel functions, such as examining, hiring, and promotions. While allowing agencies to perform personnel functions previously centralized in the Civil Service Commission may speed up these procedures. I am concerned that here again the floodgate may be opened from improper political influences. This is why I offered an amendment to require that every chief personnel official be a career employee. I cannot see any reason why a personnel official, clearly performing an administrative function, should be a political appointee. This was another effort to keep politics out of the merit system; yet the committee rejected this provision.

AN IMPARTIAL MERIT SYSTEM PROTECTION BOARD

The bill establishes a new Merit System Protection Board to handle alleged violations of civil service rules and regulations. I believe the composition of this board would have been strengthened by the requirement that one member be from the career ranks of the Federal Government as I proposed. As it stands, these three political appointees, can be the former board chairman of a corporation or the former head of a campaign. While the bill rightly insures a political mix, I believe that a career employee could have provided an important career employee perspective in the board's proceedings.

Similarly, the selection of the chairman of the board is faulty since the bill provides that "the President shall from time to time designate one of the board members as the chairman of the Merit System Protection Board." My amendment, which was defeated, would have required the board members to elect a chairman every 2 years. Under the bill, the President can choose one chairman, and the next month choose another. This, I believe, is a loophole that can lead to political shuffling and reshuffling.

CLEAR RESPONSIBILITY AT THE TOP FOR THE MERIT SYSTEM

Under the bill submitted by the administration, the delegation of personnel administration caused me great concern. The bill allowed the President to delegate responsibilities to the director of the Office of Personnel Management who in turn could delegate to agencies. The General Accounting Office could investigate violations of the merit system if requested by Congress. The special counsel could investigate complaints and the board could hear them. But the bill was very fuzzy as to who, in fact, was responsible—where did the buck stop?

I offered several amendments which were accepted that make it clear that the director of the Office of Personnel Management is the individual responsible for compliance with civil service laws and procedures. Thus, for example, if an agency adopts a hiring procedure that gives favoritism to certain applicants, OPM cannot "get off the hook" by saying the agency was in charge. OPM cannot turn a blind eye. OPM is responsible for seeing that merit system principles are enforced and that corrective action is taken when violations occur.

EMPLOYEE RIGHTS AS PRIVATE CITIZENS

I continue to believe that employees should be able to engage in voluntary political activities as private citizens, and I helped draft H.R. 10, which would revise the current Hatch Act prohibitions on those rights. However, I do believe it is wrong to tie those revisions to a legislative vehicle that opens the door to politics within the system. The Hatch Act has never protected employees from on-the-job political pressures; a strong, impartial merit system provides that protection. But this bill severely weakens many of those protections.

OPEN AVENUE OF COMMUNICATION FOR OPM AND THE BOARD

I am pleased that the committee adopted my amendments to allow both the OPM and the Merit Protection Board to express their views directly to Congress without clearance by another agency. The Post Office and Civil Service Committee has too often been frustrated by the Office of Management and Budget's stranglehold on agency statements to Congress. Under my amendment OMB can make its views known; there is no barrier. But these agencies can express their views on policies, answer questions directly, and present testimony to congressional committees without first getting their views cleared and laundered by OMB. This is a most important Government reform.

EMPLOYEE PAY: A MIXED PICTURE

The committee adopted my recommendation that supervisory employees in GS–13 to 15 grades continue to receive annual comparability adjustments. Keeping Federal pay rates competitive with those of private industry is a sound principle, established by the 1970 Federal Pay Comparability Act. Had we deprived employees in these grades of an nual comparability, I believe we would have violated the basic principle of our Federal pay system.

However, the committee did not accept my amendment that would have guaranteed true comparability. My amendment would have removed the loophole in the current law that has allowed Presidents of both parties to deviate from true comparability six times since 1970. We understand the President will follow this unfortunate precedent again this year. The concept of comparability is negated if in-

herent in the law is an escape hatch allowing the President to thwart it.

The new merit pay system, to reward GS-13, 14, and 15 supervisory employees for performance on the job, is a worthy concept. However, it would be a new system and I believe Congress needs to know in the future whether it is actually working, whether it is in fact improving performance. Thus, I am pleased that the committee accepted my amendment to require the Office of Personnel Management to report in 3 years on whether it is working and how. My amendment requires OPM to show us in quantitative terms if it is achieving the purposes set out in this legislation. It is my hope, for example, that we can determine that because of merit pay incentives, social security claims processing has been speeded up or decisionmaking on grants has been expedited and that such improvements are saving taxpayer dollars. My amendment also requires OPM to recommend changes in the law to improve the new pay system. Instead of letting a program grind on interminably without close scrutiny, this amendment will provide a proper mechanism for a review in 3 years.

CONTROLLING GOVERNMENT GROWTH

I am pleased that the committee has essentially incorporated my bill, H.R. 8332, which begins a process of curbing the growth of top, political appointive positions. There has virtually been no control in the growth of executive level positions in the Federal Government, since Congress has created them sporadically without any sense of overall planning or consistency. In fact, the Civil Service Commission is unsure of the exact number of executive level positions.

Creating a new Assistant Secretary position at executive level III or a Deputy at executive level IV may be justifiable. Yet we have the questionable situation of the Administrator of the National Aeronautics and Space Administration at level II ($57,500) and the Administrator of the General Services Administration at level III ($52,500).

Under my bill and the provisions added to H.R. 11280, the number of positions becomes fixed and the President is required to send to Congress a plan in 2 years for bringing some order and coherence to what is presently a hodgepodge.

Similarly, the committee has incorporated certain provisions of H.R. 5054 which will bring some sense to the "supergrade sprawl." This bill reaffirms the concept of a central supergrade pool and repeals the many "extraneous" authorities outside the pool that have been enacted.

Both of these sections represent an attempt to have a government that is controlled, orderly, and rational.

I am concerned and will continue to oppose an amendment adopted on a voice vote to require the Office of Personnel Management to conduct a study of the location of Federal agencies and a review of the possibility of relocating agencies out of the Washington, D.C., area. First, this is an inappropriate mission for the OPM. Second, the amendment does not provide clear direction for the study by specifying the criteria that should be considered, for example, the effect on employment or unemployment, the need for access to the President and Congress, cost to the taxpayer, environmental considerations, or delivery of services. Third, there is no apparent purpose or demonstrated need for the study. Another useless study will not improve Government efficiency.

Despite these meritorious changes, the bill adds up to a minus—not a plus—for the Federal employee and the American taxpayer. This bill is an unfortunate chapter in the history of an impartial, nonpolitical Federal Government. It may shake the very foundations of our merit system. It suggests that political affiliation is more important than competence. By creating cracks for political influences to seep into the system, it makes the argument more valid that Federal employees should be denied rights of citizenship in order to protect them. Should H.R. 11280 be enacted into law, protections for the employee will be greatly diminished and the merit system will be placed in great jeopardy.●

## THE ANIMAL SAVING ASSOCIATION

### HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. KASTENMEIER. Mr. Speaker, I recently had the pleasure of meeting with several young constituents who are members of the Animal Saving Association which is dedicated to the preservation of wildlife.

The president of the Animal Saving Association, Liza DiPrima of Madison, Wis., presented me with a copy of the organization's philosophy and wildlife protection program. Since a number of the Animal Saving Association's interests are pending before the Congress, and are deserving of our support, I would like to share their concerns as expressed by Liza with my colleagues.

MONDAY, JULY 24, 1978.

We are speaking for the children of the world who are concerned about the welfare of animals and do no want to see them brutally murdered. We are also speaking for the animals, who have no voices of their own

For thousands of years people have been using animals for their own enjoyment. When it pleases a man to go hunting, or just as long as a man can make money off of an animal's skin, he'll do it, without giving the animal a second thought. The truth is, animals do have feelings, and should be taken into consideration.

This world was not created for human beings alone, and animals have as much right to be on it as we do. Because we have aggressive tendencies, and because we have separated ourselves from the rest of the world and developed our own little communities known as cities and suburbs, we have classified animals as beneath ourselves and as being "renewable resources" and as not being able to feel pain. Man is not so godlike and almighty that he is in a situation to judge animals. Animals are not any "lesser beings," than we are.

In fact, they are the same in a number of ways. They think, they move around, they eat, they sleep, they breathe, they feel pain, and they talk in a language we can't understand. And if people feel that they are in such a position that they can judge animals and use them so, then I think we are the lesser beings.

Terrible things are happening to animals now. There are many good men and women in the Government and things are being done to change what's happening to animals. But the things that are being done are few and far between and millions of animals are still suffering or being murdered for no good reason. And if animals keep being killed at this rate by the time our generation gets to the Government there will be nothing left to save.

We would like to see the cruel things that are happening to animals stopped. There are programs for energy and defense and poverty, and now we feel it's time there was a program for the animals. Here are our suggestions.

(1). Immediately passing the Alaskan conservation bill that would turn about ¼ of Alaska into national parks, forests, and refuges.

(2). Stopping hunting and trapping on *all* the national parks, forests, and wildlife refuges.

(3). Stopping *all* the poisoning of wolves, coyotes, and other predators on national land and keeping it stopped.

(4). Making a law to make the wolf our national mammal so that these beautiful intelligent creatures don't have to die out.

(5). Stopping federal grants for people to conduct unnecessarily cruel and unusual experiments on animals in laboratories in the name of science.

(6). Having the Endangered Species Act protect *all* animals, even where a multimillion dollar dam is concerned.

(7). Enforcing the Marine Mammal Protection Act which says that *no* dolphins can be killed in tuna nets while catching tuna.

(8). Putting pressure on the Japanese and Soviet governments to stop killing the whales which are one of the most intelligent and one of the highest forms of life on earth.

(9). Stopping our government from deciding to allow people to resume killing the California Grey Whale.

(10). Stopping the Eskimos from killing the Bowhead Whales, because no "culture" justifies killing a form of life at least as highly developed as our own.

(11). Stopping the importation of all ivory to help Kenya and other countries in a fight to save the last of the world's elephants.

(12). Putting more pressure on the government of Canada to force them to stop allowing the harp seal hunt to go on.

Here are our ideas for what we feel is a better kind of world. Us kids have been accused by our opponents as not knowing anything and therefore not being able to have an opinion. But the words I wrote here are my own, and the thoughts that helped put them on paper are also my own. And if the kids are going to inherit this world then I feel that we should have opinions about the things that are happening in our world. We feel these issues are among the most important in the world and we won't stop fighting until the things we have talked about here come to be.

LIZA DIPRIMA AGELL.

President, Animal Saving Association and the children in the world who care about the animals and who would like to see the horrible torture and brutal murder stopped.●

## CAMBODIAN INTERVIEWS

## HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ANDERSON of Illinois. Mr. Speaker, I am placing in the RECORD two more interviews with Cambodian refugees conducted last month:

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE 1978

ACCOUNT OF SOURCE A*

Source A, 41, from Battambang Province, worked in the Wildlife and Forestry Department of the former government. After April, 1975, he was ordered by the Khmer Rouge to move to another village to become a farmer. After building a bamboo hut in the forest and beginning to clear land in the jungle, he was moved to another village, where he stayed until he fled to Thailand. He worked in the rice fields in the rainy season and helped to dig dams and irrigation ditches during the dry season. He escaped to Thailand May 19, 1978. His account follows:

CONDITIONS OF LIFE IN DEMOCRATIC KAMPUCHEA

"During 1975, rice rations were adequate. Each person received two tins of rice (500 grams) per day. Starting in 1976, the 156 members of my collective ate together. In 1976–78, the people received only rice porridge in inadequate amounts. There was no fish or vegetables to eat. Banana leaves and morning glories were mixed in the porridge. Everyone in the village was sickly. Diarrhea, malaria, and beriberi were very common. There was no modern medicine. The Khmer Rouge made their own of roots and leaves. After eating the Khmer Rouge medicine, some people got better, but others died. The medicine was not very effective. In general, life was getting increasingly difficult."

SYSTEM OF ADMINISTRATION AND DISCIPLINE

"There were 10,301 people assigned to my collective. Six villages were administered by an Administrator (*kha mar pibal*) from Angka (the Organization or Communist Party). Each village was headed by a chief, also from Angka. Occasionally, I saw a few Khmer Rouge soldiers, but not many. The village chiefs, and the group chiefs under them, received their orders from the Administrator. The village chiefs, in turn, passed orders to group chiefs who told us, the people, each day what work was to be done.

"Regarding discipline, for minor errors, such as being late for work thirty minutes, you were warned and given an oral reprimand. You might be reprimanded one or two times. The third time you committed the error, you were executed. If you were a former Government of the Khmer Republic (GKR) soldier or official, you would not be warned; you were executed even for the first minor error. If you committed a serious mistake, such as talking favorably of the former Government or criticizing the new Government, you were executed immediately. For other serious mistakes, such as stealing a banana or other food, you would be executed immediately.

"Rules were given orally in the Political seminars held every tenth day. They were not too clear, however. The village chief would merely say, 'work hard. Do not do anything wrong,' without specifying what was 'wrong.'

"Sometimes the village chief or group chief would reprimand you: advise you privately of your mistake. Other times, you would be reprimanded in the political seminars.

"In each village there were spies for the Administrator, called (chhlop). The spies arrested persons guilty of mistakes and took them to the Administrator. Only the Administrator could order execution. If you commit an offense, there is no recourse. "You are not allowed to defend yourself. You are simply executed."

EXECUTIONS

"I saw in my village in 1976 the execution of a former GKR soldier. The soldier had said, 'Let the others work before me; I will work after.' The soldier was executed immediately before my eyes. The Khmer Rouge knew that the man was a soldier under the former regime. This was the only execution I saw personally, but I heard of many both in my village and in the adjoining villages. You don't dare ask about such a thing, since everyone is afraid he will be executed if he is curious. People are not familiar with what is going on.

"I heard often that former soldiers and officials of the old government were executed. Each year the same story would circulate, as the Khmer Rouge discovered more former soldiers and officials. I heard that they did not catch them all at first.

"I heard the same thing on May 15 this year. I had a friend who worked in the Administrator's office. My friend told me that my name was on the list to be executed. I fled to Thailand, arriving four days later."

HUMAN, CIVIL, AND POLITICAL RIGHTS

"We, the villagers, were not allowed to make any suggestions about anything such as decisions affecting our lives, hours of work, what to grow or what to eat. Because of fear, no one ever dared to make any suggestion about living or working conditions.

"There are no human rights at all in Cambodia . . . You cannot talk, listen to the radio, cannot communicate from one house to another, one village to another. You are not allowed to move from one village to another, or even from one house to another. I have not seen a radio since April, 1975."

*(The name of the individual refugee who provided this account has been excised to protect the identity of family members or friends still in Cambodia.)

INTERVIEW WITH CAMBODIAN REFUGEES IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE 1978

ACCOUNT OF SREP SARANG*

Srep Sarang, 30, came from Kouk Chrey village, Sasak Sdam, Siem Reap Province. He arrived alone in Thailand May 17, 1978. His account follows:

CONDITIONS OF LIVING IN DEMOCRATIC KAMPUCHEA

"During the harvest, we had little rice, but we usually had gruel. We got the equivalent of two U.S. Army canteens of gruel a day. Beginning in 1978, we got one day off after ten days of work. Before that we worked every day. During the day off, we were allowed to go and look for food. Sometimes we could find a frog or a crab. I look fat now, but after starving so long, you swell when you finally get some food.

"In Kouk Chrey there are 100 families, or about 400 people; most were women. In late 1975, there was a period of starvation. Lots of men died of hunger. Women seem to be able to survive better."

*(Refugee agreed to use of his name in a public document.)

EXECUTIONS

"In 1975, I was told by the Khmer Rouge to dig graves. I was told that the graves were for the educated people, the wives of soldiers and teachers. I also dug eight holes where eighteen former soldiers were buried. These graves were in Trapeang Khim. Later it was discovered that I had been a local militia chief. After that, I was no longer used by the Khmer Rouge to dig holes.

"In 1976–77 the guilty would be executed alone. After late 1977 and in 1978 the guilty and his family also were executed, even for a minor offense. For example, if you were executed for being late to work, your family would be executed too. This may have been because of the leader. In 1975, the head of the northern sector in Siem Reap, Sot, was not too strict. Sot was found to be a traitor and was replaced in late 1977 by Se, who was more strict. Se followed the policy of killing wives and children of former soldiers and teachers. Se said that wives were the vestiges of the old society and are still corrupt.

"I saw lots of executions because I drove bullock carts from Poul District to my village Koul Chrey. After the past harvest, lots of people, but mainly women, were killed in Pouk District. There were also seventeen families who were taken to Trei Nhor and killed. A fellow who used to work for the Khmer Rouge, but who has become disaffected, told me about this. Four of the families had men. The rest were widows with kids, even pregnant ones. They were taken to Trai Nhor so the villagers would not know what happened to them.

"In February, 1978 100 families in Samrong Yea, Siem Reap, rose up and killed 2 Khmer Rouge. When this was known, the Khmer Rouge sent thirty soldiers to Samrong Yea in Pouk District and the other surrounding villages in Pouk District to kill the villagers. The people fled, but the Khmer Rouge hunted them down and killed most of the 3,000–4,000 who lived in nine villages. The people only had knives but the Khmer Rouge had AK–47 rifles. The people rose up because they could not get enough to eat and had no freedom.

"I was taken to be killed by the Khmer Rouge in December, 1977. There was a serious food shortage and hunger right before the harvest. A father and his son killed a water buffalo for food for themselves and the other villagers. I did not kill the buffalo but asked for some meat. The Khmer Rouge found out and took the father, son and me to jail. There were fifteen others there waiting to be executed. After fifteen days in jail, seven Khmer Rouge took the eighteen of us to a place four kilometers away called Kanhchoan Svey. All eighteen of us were tied together. Three Khmer Rouge dug a hole for our corpses. While they were digging the hole, I united myself and fled. I was very skinny since we got only one bowl of gruel a day in the prison. I hid in the rice fields. Finally, I crawled to the hut of my father. He was a sugar palm worker and received an extra ration of rice because the work was so hard. I then made my way to a place near Tonle Say where relatives lived. Everyone wanted to help me since everyone hates the Khmer Rouge, but no one knew what to do. I hid out for many weeks and finally escaped to Thailand.

"Before I made it to Thailand, I ran into a neighbor who told me that my wife, Kum Ku, 19, son Sarong Sarun, 5, and sister-in-law Kum Mey, 11, had been killed by the Khmer Rouge."

"HUMAN, CIVIL AND POLITICAL RIGHTS

"There are no human rights in Cambodia. The central government policy is to have genuine communism in Cambodia. The Khmer Rouge keep telling the people, 'This is communism.' Religion is no longer allowed. There was a wat near our village. The Buddha images in it were all smashed, and the place

was demolished. They took the reinforcing bars from the building to construct dams. You don't even have the right to keep your children. They are taken away from their parents at age six to work. What people want is the same life that they had before."●

## TRIBUTE TO BENJAMIN FRIEND

### HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. JOHN L. BURTON. Mr. Speaker, last week saw the passing of Mr. Benjamin Friend, a distinguished San Franciscan. Known to his many friends as Benny, he was a leader in the Jewish community and a person beloved by all who came into contact with him.

I am sure all Members will join with me and my colleague PHILLIP BURTON in offering our sympathy to Benny Friend's family.

SAN FRANCISCO MERCHANT BENJAMIN FRIEND

Benjamin Friend, a leader of San Francisco's Jewish community and pioneer Market street merchant who helped found Howard's Clothing Co., died yesterday at the age of 84.

At the time of his death, the patriarch of the three-generation family business was still active as chairman of Howard's executive committee.

A native of Russia, Mr. Friend came to San Francisco from New York in 1913. At first, until he could find work at his trade as a capmaker, he sold newspapers on the city's Barbary Coast and later was a conductor for the Market street railway.

The first family business was the United Cap Works established in 1920 at Eddy and Fillmore streets.

The specialty of the tiny firm—made by his wife, Mollie—was the white cloth cap favored by the city's longshoremen. Through Mr. Friend's merchandising efforts, the company's caps became popular throughout Northern California.

With capital derived from the cap works, he and his son, Eugene L. Friend, started Howard's in 1937 at Fifth and Market streets as a store specializing in fashionable men's wear.

Over the years, from the zoot suits of the '40s to the disco outfits of the present, the store mirrored the fashion habits of the San Francisco male.

In 1968, due to BART construction at Fifth street, the clothing store moved to its present expanded quarters at 969 Market street.

"He was a man who was devoted to the interests of his customers, his family, the city and to the Jewish community in particular," a family friend said yesterday.

As a leader of the city's Jewish community, he served as president of Temple Beth Israel in 1963 and was active with the Jewish Welfare Federation.

He is survived by his wife Mollie, his son, Eugene, president of the city's Recreation and Park commission, two grandsons, Robert and Donald, and a great-granddaughter.●

## NAACP BAKKE SYMPOSIUM

### HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. JOHN L. BURTON. Mr. Speaker, Dr. Carlton Goodlett, president of the National Newspaper Publishers Association, gave the following address at the NAACP Bakke Symposium in Detroit.

I commend its contents to the Members of the House.

BAKKE: A FAILURE OF BLACK PROFESSIONALS AND THE U.S. SUPREME COURT

(By Carlton B. Goodlett, Ph.D., M.D.)

Black leaders throughout America have been called to the NAACP Bakke Symposium. However, this forum apparently is dominated by Black lawyers who seem more concerned with a microscopic search for the blessings which Blacks allegedly find in the U.S. Supreme Court Bakke decision.

These Black members of the bar do evil greater than their knowing, because either they do not know the truth or they refuse to speak the truth on the latest Supreme Court's refusal again in the 115th post-Lincoln Emancipation year to unequivocally declare that in the USA there is only one kind of citizen, one kind of equality, and that Blacks are equal, period, under the law.

The time has come when the majority of Black physicians, dentists and lawyers residing in Northern California should be publicly condemned for their failure to deal a death blow to Bakke in the early days of the Bakke litigation. On two occasions, California Black physicians and Black lawyers refused to expend $1,600 for a Friend of the Court brief during the six months of delay in which the retired California Superior Court judge delayed his decision in the Bakke vs. University of California Medical School, Davis, California. Only three of sixteen Black doctors, dentists or lawyers could be found who would contribute $100 to defend minority youth's right to professional training in the early days of the Bakke case. In a moment of spirited conversation, members of the Charles Houston Law Club refused to financially support a Friend of the Court brief prepared by two radical female white lawyers: one, former President of the National Lawyers Guild, and the other, Western Regional Director, National Lawyers Guild. At the insistence of Black lawyers, Chief Counsel, NAACP, Nathaniel Jones came to California and spent three hours in discussion of the Bakke case and the evil results which would occur should Bakke go unchallenged. The Chief NAACP Counsel promised to do his duty in filing an amicus brief supporting the U.C. Medical School against Bakke; yet those conferees never heard from or saw any activity on the part of the NAACP Chief Counsel.

However, after the 6 to 1 California Supreme Court decision declared that the University of California Medical School, Davis, California, was guilty of "reverse discrimination" and ordered the admission of Bakke to medical school, alarm spread throughout America.

A few hardy souls, led by Attorney Nathaniel Colley, NAACP National Board Member and Regional Counsel, and Verna Canson, Executive Secretary, Region 1, NAACP, demanded that the University Regents appeal the California Supreme Court decision to the U.S. Supreme Court. The NAACP General Counsel, the Director of the NAACP Legal Defense Fund and other former friends in the civil rights struggle adamantly opposed the Board of Regents' appeal to the U.S. Supreme Court; they argued that Bakke was the wrong case to be taken to the U.S. Supreme Court. After intensive struggle by Colley, Canson and several others, the U.C. Regents yielded and appealed the Bakke decision to the nation's highest tribunal.

THE STRUGGLE WITH THE CARTER ADMINISTRATION

Lo and behold, on the second weekend of September, 1977, the game plan of the Carter administration in the Bakke case became evident. President Carter and U.S. Attorney General Griffin Bell were low-keying the U.S. Department of Justice's participation, deferring to Solicitor-General McCree and Drew Days, Assistant Attorney General for Civil Rights, the preparation of the brief. The initial U.S. Department of Justice brief pointedly rejected the argument that race was a viable criteria in the assignment of admissions to the medical schools.

An awesome amount of national Black pressure was brought to bear upon McCree and Days which reached even to the White House, before Carter and Bell relented and ordered McCree and Days to rewrite the U.S. Justice Department brief.

This tale of professional California Blacks, through selfishness and parsimony in the first instance, refusing to contribute financially to the constitutional question of equal rights for Blacks, accompanied by the foot-dragging of the National League staffs of the NAACP and the reluctance of the Black U.S. Solicitor General and his assistant to lead the struggle for full Black citizenship rights, seems like a fairytale or a bad dream; but these facts stated above are true.

U.S. SUPREME COURT: THE BAKKE DECISION

Finally, the Supreme Court of the U.S. in its 5 to 4 decision straddled the issue, giving a semblance of victory to Bakke and his reactionary supporters on one hand, while throwing a bone to placate Blacks by a 5 to 4 decision deciding that race is a viable factor in the selection of students in medical schools.

THE BAKKE DECISION—BETRAYAL OF BLACKS BY THE U.S. SUPREME COURT:

The Bakke decision was wrong. The State Supreme Court was wrong in its absurd pronouncement that the 1964 Civil Rights statute upholds the right of whites to continue trampling on minorities. And the U.S. Supreme Court was likewise wrong in its equally absurd allowance that Allan Bakke was the victim of "reverse discrimination."

During Reconstruction, laws were passed to enable former slaves to reap some of the benefits that American society had to offer its citizens; but whites soon grew tired of the notion of sharing their wealth and privileges with black people. Fortunately for them, the courts became easy allies, upholding Jim Crow laws and validating concepts like "separate but equal," just as the current Supreme Court has validated "reverse discrimination." Even with the Warren Court's historic unanimous school desegregation decision in '54, great mischief was done by the phrase "with all deliberate speed." The stark truth of the matter is that in a racist society, all of its institutional forms—legislative, executive and judicial—are honed to serve the racism of that society. The hard reality is that the Supreme Court has never unequivocally ruled in any constitutional question involving the rights of black people an affirmative *Yes*, indicating that blacks are henceforth to be judged as equal. With this truth, the survival of blacks depends upon the hard reality of injustice, and not the myth of "justice."

Hopelessly divided decisions, such as the Bakke one, can never satisfy those in need of protection and help from the courts, because they do absolutely nothing to help vanquish the three-headed scourge that afflicts the very vitality of American society: racism, sexism and classism. It is to these evils that the "eight old men in black who think white" need to address their attention, not the question whether one white man might not like the way an affirmative action program works.

THE BAKKE CASE—A CONDEMNATION OF THE SYSTEM

The Bakke Case says that blacks are denying loyal, competent, educated white males their god-given right to be educated at public expense in the professions. However,

many factors were mitigated against Bakke's entry into a medical school, the foremost being the unwritten law of his age. Actually, 40,000 aspirants applied and 26,000 were rejected across the nation. The U.S. Supreme Court was asked to determine how this coveted pie of only 13 or 14 thousand admitted applicants could legally be divided among the competing groups: Blacks, Chicanos, women, handicapped, too old, too young, or even, like Bakke, white Protestant male; but the court did not address the underlying question: not just "Who get in?" but "Why isn't there room for more?"

The inability of all the contestants in the Bakke case to understand the basic indictment against a socio-economic system will deter the coalescence and unity so necessary for structured social change in the nation. The many inequities which exist in housing, education, employment and health care result from the parsimony of the government as well as the rampages of the military-industrial complex upon the people for all the profits that the traffic can bear. Now, even the Black masses clearly perceive that racial minorities have a stake in the development of a political ideology of abundance. The victims of economic racism, whose families for generations have been denied gainful employment, are saying: "There must be something better than this, and we're ready for it!"

These victims of racism and poverty can never surmount, alone, these handicaps imposed by a system which denies enriched opportunities to its people, not only in the field of medicine but also in jobs, education, and adequate health and welfare, to serve the needs of every citizen. Even Cuba, with its many demanding problems, finds it possible to educate proportionately more of its citizens in the medical sciences and healing arts than the USA, the world's richest and most powerful nation.

Support for affirmative action must be coupled with the understanding that the DeFunises and the Bakkes as well as every other person excluded from law school or medical school because of the restricted number of admissions, or because the level of unemployment is kept artificially high, are part of a problem which is not just a racial one, but an old economic shell-game, in which ethnic and racial groups, Black workers and white workers as well as women are played off against each other. The progressive forces must understand this no-win game; strategies must be developed which unite, not divide, the masses with their common needs, who are ruthlessly exploited by multi-national corporations and profiteers extracting their profits from the nation's reservoir of human, physical and moral resources, and having only one god: profits!

SUGGESTED ACTION:

The education of the children of five million or more Californians in the professions is severely threatened. The affirmative action program at UC-Davis was a result of a ten-year struggle against racism and sexism in the university system, as regards student body composition, faculty appointments and administrative officers. Clearly, California's racial minorities have been denied "equal protection under the law," which is a violation of both the U.S. Federal and the State of California constitutions. The racial minorities cannot continue to climb the Bakke mountain. Therefore, we recommend that Black leaders in California, in cooperation with leadership organizations, should enter both Federal and State Courts with legal action against the State Controller, Ken Corey, restraining him from dispensing any public funds to the Universtiy of California system or the State University system because of the lack of a higher educational policy guaranteeing the graduate and professional education and training of the children of five million Californians, who are more numerous than the population of 27 or 28 of the sister states. This action in the State and Federal Courts would place upon the University of California Board of Regents and the State University system Board of Trustees a court mandated timetable for the redress of this unconstitutional condition, and the courts themselves might become the first agents to monitor the performance of higher education and professional authorities of the University of California and the State University System.

SUMMARY

We have come to Detroit to say to both White and Black America, in a clarion voice, that the leaders of 1.8 million Black Californians the second largest Black population in any of the fifty States, will assume leadership in defining the evil intent of Proposition 13, the true significance of the Bakke Decision, and the formulation of the correct procedure to be followed in the struggle to mitigate the evil circumstances and aftermath if these infamous acts, both political and judicial, of White Californians. We will not under any circumstances permit others to speak for us, about us, or consider California's racist behavior without us.

The Bakke Decision must be a milestone which signals the final awakening of the people. This NAACP Bakke Symposium can become a historic event, if we have the strength and understanding to define the true intent of White California and White America to continually use its political and judicial institutions to thwart the just demands and the determined drive of Black Americans to be accepted as first-class citizens and to announce to the world that Black America, led by the National Association for the Advancement of Colored People, will pay any price and make any sacrifice, to destroy institutional and individual racism in the USA. If the opponents of this justifiable demand want to take this serious problem out of the area of firm, objective discussion and into the arena of confrontation, let it be so. At long last, it has dawned upon Black America, via Kerner Report enlightenment, that our struggle is not one against abberrant sociological and moral behavior, but that Blacks live in a society suffering from the social pathology of racism. Blacks accept the tragic reality that conversation will be as successful in eradicating institutional and individual racism in America as a neurosurgeon is successful in combatting brain cancer with aspirins. Racism is a dangerous disease which is leading to the destruction of the nation and all of its peoples. Moreover, if conversation of the appeal to reason would have given Black Americans full citizenship, we would have achieved our goal eons ago.

There are far too many educated Blacks and professionals who think that the Black upper class can make it, alone, in racist White America. Reality belies this myth. Blacks have and belong to each other. For those Black professionals—medical and legal—who have betrayed the Black masses in the struggle against Bakke, we leave their acts of penance and redemption to the good judgment of this Bakke Symposium.●

## QUESTIONNAIRE RESULTS

## HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. NEAL. Mr. Speaker, it is customary in my office, as in the offices of many Members, to periodically seek the opinions of my constituents through a legislative questionnaire.

Earlier this year, I mailed such a questionnaire to each household in the Fifth Congressional District of North Carolina. A total of about 7,400 responses were returned to my office, and now have been tabulated.

I am pleased to share this tabulation with my colleagues in order to add the expressed opinions of a great many North Carolinians to public opinion data which they already have accumulated.

The results of the questionnaire survey follow:

A. CONCERNING THE FEDERAL BUDGET

How should the Federal dollar be spent? The Federal budget is outlined below according to the budget categories currently in use. Please indicate whether you think Congress should allocate more, less, or the same amount for each category:

HOW SHOULD THE FEDERAL DOLLAR BE SPENT? THE 1978 FEDERAL BUDGET IS OUTLINED BELOW ACCORDING TO THE BUDGET CATEGORIES CURRENTLY IN USE. PLEASE INDICATE WHETHER YOU THINK CONGRESS SHOULD ALLOCATE MORE, LESS OR THE SAME AMOUNT FOR EACH CATEGORY

[In percent]

| | 1978 budget (billions) | More | Less | Same | No response |
|---|---|---|---|---|---|
| A. CONCERNING THE FEDERAL BUDGET | | | | | |
| 1. National defense | $107.6 | 32 | 26 | 32 | 10 |
| 2. International affairs | 6.7 | 5 | 55 | 27 | 14 |
| 3. Science, space and technology | 4.7 | 29 | 25 | 34 | 12 |
| 4. Natural resources, environment and energy | 19.9 | 45 | 18 | 25 | 11 |
| 5. Agriculture | 9.1 | 35 | 21 | 33 | 11 |
| 6. Commerce and transportation | 19.8 | 14 | 40 | 34 | 13 |
| 7. Community and regional development | 9.6 | 14 | 46 | 27 | 13 |
| 8. Education, training, employment and social services | $27.4 | 21 | 46 | 22 | 11 |
| 9. Health | 44.2 | 22 | 31 | 31 | 12 |
| 10. Income security (including social security) | 147.6 | 18 | 40 | 31 | 12 |
| 11. Veterans benefits | 18.9 | 16 | 29 | 43 | 11 |
| 12. Law enforcement | 4.0 | 41 | 13 | 35 | 12 |
| 13. General Government | 4.1 | 2 | 62 | 24 | 12 |
| 14. Revenue sharing | 9.8 | 15 | 40 | 30 | 14 |
| 15. Interest on the national debt | 43.8 | 19 | 35 | 31 | 16 |

HOW SHOULD THE FEDERAL DOLLAR BE SPENT? THE 1978 FEDERAL BUDGET IS OUTLINED BELOW ACCORDING TO THE BUDGET CATEGORIES CURRENTLY IN USE, PLEASE INDICATE WHETHER YOU THINK CONGRESS SHOULD ALLOCATE MORE, LESS OR THE SAME AMOUNT FOR EACH CATEGORY—Continued

[In percent]

| | Yes | No | No response |
|---|---|---|---|
| **B. CONCERNING ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES** | | | |
| 1 Should Congress support the President's energy policy? | 49 | 34 | 18 |
| 2 Should Congress deregulate, and thereby increase, the price of natural gas and oil to insure sufficient supplies of energy in the future? | 43 | 48 | 10 |
| 3 If a new tax on crude oil is established, should the taxes be rebated to low and middle income consumers rather than given to oil and gas producers as an incentive to increase production? | 49 | 38 | 13 |
| 4 Does the Government pay too much attention to environmental concerns like air and water pollution, and protecting wilderness areas? | 31 | 64 | 5 |
| 5 Should Congress substantially increase Federal spending on solar energy research and development? | 69 | 25 | 6 |
| 6 Should construction of the proposed Perkins nuclear powerplant on the Yadkin River be approved? | 53 | 36 | 12 |
| **C. CONCERNING EMPLOYMENT AND LABOR** | | | |
| 1. Should Federal spending on public service jobs be increased to help reduce unemployment? | 26 | 68 | 6 |
| 2. Should Congress have increased the Federal minimum wage? | 38 | 57 | 5 |
| 3. Should public employees have the right of collective bargaining? | 32 | 61 | 7 |
| 4. Should public employees have the right to strike? | 19 | 76 | 6 |
| 5. Should affirmative action programs, which establish hiring and other quotas for minorities, be continued? | 21 | 71 | 7 |
| 6. Should Congress have approved the labor law reform act which makes it easier for employees to organize unions? | 24 | 69 | 7 |
| **D. CONCERNING SOCIAL PROGRAMS** | | | |
| 1. Should social security taxes have been increased to keep the social security program financially sound? | 45 | 48 | 7 |
| 2. The Supreme Court has ruled that abortions cannot be denied to women who chose them and can afford them. Should abortions be paid for by the medicaid program for welfare recipients? | 24 | 70 | 6 |
| 3. Should Congress approve a constitutional amendment prohibiting abortion? | 40 | 55 | 5 |
| 4. Should Congress replace the food stamp and other welfare programs with cash payments to welfare families and financial incentives for welfare recipients who find employment? | 40 | 47 | 13 |
| 5. Should Congress establish a comprehensive national health insurance program administered by the Federal Government? | 25 | 68 | 8 |
| 6. Should Congress establish a comprehensive national health insurance program administered by private insurance companies? | 29 | 60 | 12 |
| **E. CONCERNING FOREIGN AFFAIRS** | | | |
| 1. Should the Senate approve the new Panama Canal treaty? | 31 | 60 | 9 |
| 2. Should the United States continue to negotiate with the Soviet Union to reduce the number of nuclear weapons each country has? | 78 | 16 | 6 |
| 3. Should the United States go ahead with production of the B-1 bomber at a cost of more than $100,000,000 per airplane? | 30 | 59 | 11 |
| 4. Should the United States give up to 1 percent of its gross national product to the poorest nations in the world? | 24 | 66 | 10 |
| 5. Should the United States break diplomatic relations with Taiwan in order to establish full diplomatic relations with the Peoples Republic of China? | 12 | 75 | 13 |
| 6. Should American troops be removed from South Korea? | 38 | 51 | 11 |
| **F. CONCERNING OTHER ISSUES** | | | |
| 1. Should Congress make every effort to reduce inflation, even if it means higher unemployment? | 64 | 25 | 11 |
| 2. Should our tax system be simplified by considerably limiting deductions? | 43 | 44 | 12 |
| 3. Should Congress establish a new Federal agency to protect the interests of consumers? | 35 | 58 | 7 |
| 4. Should the Congress approve a constitutional amendment against busing? | 70 | 24 | 6 |
| 5. Should capital punishment be reinstated for some crimes? | 79 | 15 | 6 |
| 6. Should Congress extend the deadline for the States to ratify the equal rights amendment to the Constitution? | 24 | 70 | 9 |
| 7. Should the ERA be ratified? | 28 | 64 | 8 |
| 8. Should congressional elections be federally financed like the 1976 presidential election? | 32 | 60 | 8 |
| 9. Should the Postal Service be returned to congressional control and subsidized to the extent necessary to insure adequate and timely service? | 45 | 43 | 12 |
| 10. Should Congress pass the Humphrey-Hawkins bill? | 23 | 52 | 25 |

## NEED FOR IMPROVED NUTRITION EDUCATION IN PUBLIC SCHOOLS


### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES


*Monday, July 31, 1978*

● Mr. MILLER of California. Mr. Speaker, the Washington Post recently published a story which illustrates the great need for improved nutrition education in our public schools. The Congress has wisely moved to increase this effort through creation of a $26 million nutrition education last year.

As a member of the committee which acts on authorizing legislation for school and summer feeding programs, I have seen the extent to which such laudable programs have been captured by industry. Often, I have feared, the programs have more to do with the purchase of excess commodities than with assuring that our children get nutritious and healthy meals. This problem is exacerbated when the foods fed our schoolchildren are in the form of junk and garbage foods. Even though sometimes filled with vitamins and nutrients, these foods resemble regular products which are not fortified. Encouraging the consumption of heavily sweetened foods through the school programs therefore is contrary to one of the fundamental goals of the program, good nutrition.

During our hearings, we all recognized that nutrition education must be a major part of any program. The Post article indicates, however, how this field, too, has been largely captured by the food industry which cannot hope to offer the impartial and factual mode of presentation we would all hope for. The program which will be generated through the funding contained in the summer feeding bill will hopefully be far more independent, and therefore more along the lines envisioned when the program was created.

I would like to share the Post article with my colleagues.

WHAT DID YOU LEARN IN SCHOOL TODAY?

(By Marian Burros)

Angel food cake with ice cream. Balls of cream cheese softened with cream or fruit juice, rolled in chopped nuts and served with fruit.

Is it appropriate to recommend these to school children as low-calorie desserts?

The executive director of the Center for Science in the Public Interest, a nutrition activist, was telling a congressional committee last week that he doesn't think so even though the National Dairy Council offers them as such. Dr. Michael Jacobson said he believes the reason they are included in one of the Dairy Council's many publications used in the schools is simply because they contain dairy products.

He was using the National Dairy Council as an example of his claim that much of the nutrition education offered in classrooms comes from biased sources. "Many school systems have basically turned over the job of nutrition education to the Dairy Council. Teachers take its workshops, use its materials and echo its messages." Jacobson said the "industry-subsidized" organization has "contributed to nutritional ignorance, nutritional misinformation, and nutrition-related diseases."

The council's emphasis on dairy products, Jacobson said, "has something to do with the fact the Dairy Council's multimillion-dollar project is funded in large part by the dairy industry."

The Dairy Council is a trade association whose products were generally assumed to be good for everyone. That is, until recently, when many health experts began to recommend a decrease in the consumption of fat. Despite their acknowledged nutritional value, many dairy products are high in fat. But Jacobson might have chosen from dozens of other sources with more obvious direct commercial interests to make his point.

Material from Kraft's consumer relations department tells students that additives put into food are "beneficial" and "essential", and specifically that: "Safe human tolerances can be established for some substances that have induced cancer in experimental animals which have been submitted to questionable tests."

Many additives are used in Kraft products.

A Sugar Association brochure used in home economics classes says: "The Association has not found concentrated opposition to sugar in responsible medical circles, but it has detected concern among many individual doctors and dentists unfamiliar with the facts. This, unfortunately, seems to influence the thinking and actions of national and local politicians."

Isolated examples of companies or trade associations pushing their products and their points of view to the nation's student population? Not at all. These are just a smattering from the material, most of it free for the asking, available to school teachers all over the country. Much of it can be seen every year at the annual convention of the American Home Economics Association attended by many home economics teachers.

This year's exhibit in New Orleans had 240 booths. All but a very few of them were distributing information from people who have something to sell—whether sewing machines, microwave ovens, carpet sweepers, baby products, soft drinks, sugar-coated cereals, jams, jellies, marmalades, fish and cheese.

Only four government agencies had displays: the Food and Drug Administration, the Department of Agriculture, the National Bureau of Standards and the National Heart, Lung and Blood Institute.

According to Sheila Harty, who has made a study of corporate advertising in schools, most teachers are delighted to have this material and are not critical of it. The slick, highly professional films, bright workbooks and recipe guides with four-color illustrations and photos are not available from other sources.

One Florida high school teacher told Harty, an education media specialist for Ralph Nader's Center for the Study of Responsive Law: "Materials disseminated by private industry couldn't be perceived as anything else but a sales pitch. But who cares? The federal government couldn't do as well."

The material is divided into two categories: that which is specifically geared to teaching and that which is informational and used both in classrooms and as promotional material to fill requests from the public. Some of the advertising is fairly subtle: the company's name is mentioned only occasionally. But the majority are like a recipe booklet from Dr. Pepper.

"Cooking with Dr. Pepper" offers a history of soft drinks, information on kitchen technology, nutrition information on the soft drink and about 40 recipes, all of which use Dr. Pepper as an ingredient. There is one for corn bread (1 package of cornbread mix and Dr. Pepper), another for Sugar Free Gazpacho Salad for which sugar-free Dr. Pepper is recommended.

In Campbell Soup Company's "Nutrition" pamphlet, under the headings of the well-known four food groups, the company lists its products. The nutrition information tables contain only the items the company sells—from canned soups and beans to frozen TV dinners.

Betty Crocker offers a filmstrip extolling the virtues of convenience foods—its convenience foods. Each recipe suggestion calls for a General Mills product.

Sometimes a company is quite direct in counterattacking suggestions that its products might not be the most nutritious in the world. At the convention, Hershey's offered home ec teachers: the story of chocolate and cocoa, including how Hershey's came into being; 48 of Hershey's favorite recipes; answers to some questions about Hershey Foods Corp., and a 28 minute film, "The Great American Chocolate Factory." In addition the company's literature includes a statement to consumers.

In essence it says that the company "shall stand firmly in our position that Hershey's products are mixture of ingredients which inherently have nutritional value," despite charges to the contrary that they and other confectionery products are " 'empty calorie' or so called 'junk' foods."

The brochure includes excerpts from a speech made by the company's director of research. Questioning the FTC's proposal to regulate children's advertising, Dr. Barry Zoumas says: . . . is an apple consumed between meals more or less carcinogenic than a candy bar? Since apples contain a greater percentage of their calories from sugar than most candy bars, this is an important question to have answered before one bans the advertising of candy on television and attempts to encourage the consumption of apples."

The catalogue of educational publications and audio-visual aids from the National Livestock and Meat Board includes a pamphlet explaining "beef's role in feeding a hungry world": "With millions of lives at stake, decisions must be based on facts, not slogans. Anti-beef critics have seized on the world food situation to strengthen their arguments—often using misleading, unfactual statements. This folder sets the record straight. . . ."

The Cereal Institute has "facts and perspectives" to correct "confusing and mislead" impressions about the nutritional value of sugar-coated cereals.

Filmstrips on microwave cooking cover safety questions: "Myths concerning microwave ovens are scientifically dispelled."

The National Soft Drink Association puts in a pitch for education rather than "punitive or restrictive container laws," (bans on nonreturnable bottles and cans) to control litter.

Critics of this kind of nutrition education material are asking the government to provide the material instead. Some attempts are being made. The Department of Agriculture has just made $26 million available to the states to develop classroom materials, instruct teachers in nutrition principles and educate both students and school food-service workers about the relationship between diet and health.

The critics, for the most part nutrition activists inside and out of government, have a curious ally in their belief that business should not be in the business of educating the nation's children. What the president of the Association of National Advertisers, Peter Allport, has to say about the role of television advertising as a vehicle for educating children applies to education in the schools as well. In a letter to the editor of Advertising Age, Allport wrote:

". . . Education (as well as other things 'of the spirit') does not fall within society's mandate to business or, indeed, within its competence. Accordingly, I can think of few things which would be more inevitable than a rightful public outcry against an intrusion by business into areas such as education where it has neither competence nor a publicly legitimized role."●

## THE RECLAMATION LAW CONTROVERSY: BEHIND THE SMOKE

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. MILLER of California. Mr. Speaker, in recent months a great debate has developed over the issue of the 1902 Reclamation Act. Some very expensive and slick advertising has been bought in national magazines and major newspapers which creates the impression that enforcement of the law will cause a catastrophic disruption of American agriculture. As I pointed out in my testimony before the Water and Power Subcommittee last week, enforcement of the law will affect only farmers in reclamation districts. Such farms constitute just two-tenths of 1 percent of all U.S. farms, and just 1 percent of all farmland. Moreover, the 1.3 million acres of reclamation land which is excess constitutes just a fraction of the total acreage, most of which is entirely in compliance with the law today.

Why then the major outburst? I would suggest that it has been generated not by a wide group of individuals, but by a select group of special interests who have been profiteering from lax enforcement of the law, and lavish taxpayer subsidies, for many years. While these special interests point to the jobs created and the taxes they have paid over the years, it is important to note the enormous personal profits—hundreds of millions of dollars—which they have enjoyed, all at the taxpayer expense, because it is the taxpayer and the utility ratepayer who pick up the tab for the subsidized water and the forgiven interest.

Let us look for a moment at just one of these districts. The Westlands Water District, which is part of the San Luis Unit in the Central Valley of California, is the largest, and probably one of the richest reclamation districts in the world. It is composed of 600,000 acres of land, converted by federally subsidized water into one of the most productive agricultural areas in the world. Without the Federal subsidy, it would have remained grazing land, for the most part. Every year, Westlands uses over 1 million acre feet of subsidized water, paying a rate established in the mid-1950's. The contract contains no inflation escalator clause, and runs until 2008. Every year water is delivered under that contract, taxpayers and utility ratepayers are making up the difference. This year, the subsidy totals $7 million.

Let me indicate the size of the subsidy enjoyed by this one reclamation district, noting in advance that it is not by any means representative of all districts. But neither are all other districts or landowners decrying enforcement of the law, or making the ludicrous demands upon the public treasury, which are a matter of habit to Westlands. I think it would be especially illuminating to compare the size of the subsidy to this one district, with its few hundred landowners, to the fiscal condition of New York City. Hopefully, the comparison will help my colleagues from nonreclamation States appreciate the magnitude of the benefits which have been bestowed for years on these special interests.

The Bureau of Reclamation has estimated that the subsidy to Westlands equals $1,600 per acre. Given Westlands' 600,000 acres, that totals $960,000,000 in subsidy. Although Westlands has a "population" of 9,000 people, few of these actually own land. There are actually only about 200 farm operations. But assume that all 9,000 profit from the subsidy. That means a per capita subsidy of $107,000.

Now, by comparison, New York City has 7,600,000 people. According to Westlands' formula, New York City deserves a subsidy of over $800 billion. And, I would point out, New York City also generates great wealth, and its residents pay a lot in taxes. Naturally, no one is suggesting that we began laying out enormous amounts of money for these kinds of subsidies to cities, or even to farmers in other regions of the country. Nor are all farmers in the West enjoying such benefits. But these figures should cause us to wonder a bit about all the furor which has exploded over the Reclamation Act, because the loudest cries are coming from a very select, and very prosperous farm elite. The rest of us should study the record carefully, and hang onto our wallets.●

## AMERICAN PRODUCTIVITY

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. LaFALCE. Mr. Speaker, the lead editorial in this morning's Washington Post addresses a subject which, in my judgment, should be of great concern to all Americans. I refer to the alarming decline in the growth of productivity in this Nation in the past few years.

Productivity, the output per hour of the American worker, grew at amazing rates during the years following the Second World War, and the United States took a commanding lead in world markets. The growth in productivity allowed Americans to improve their standard of living across the board, and this improvement continued over a period of so many years that we have come to expect it. The difficulty lies in the fact that we are not making the gains in productivity that are a prerequisite to the further upgrading of our standard of living.

Improving our Nation's productivity will not be as simple as it has been in the past. It will require hard work, creative thinking, and positive attitudes. All levels of the work force must be willing to put in a full day's work for a full day's pay while at the same time developing ways in which jobs can be done better and more efficiently. The challenge can be met, with awareness and true commitment to the improvement of our own standard of living, and indirectly, that of the rest of the world.

I direct the attention of my colleagues to the article, reprinted here.

[From the Washington Post, July 31, 1978]

AMERICAN PRODUCTIVITY

Throughout most of the years since World War II, productivity in the American economy has risen briskly. As it went up, it carried with it people's earnings and standards of living. But the rise began to slacken about a decade ago, and for the past year and a half there has been hardly any rise at all. Of all the changes overtaking the American economy, the behavior of productivity is one of the most peculiar—and one of the most disquieting.

The immediate consequence of no productivity gains is that inflation will become harder than ever to control. But if the present pattern continues, it will also ignite uncomfortable political questions about dividing the pie in a country that has come to expect, and to count on, steady increases in both public and private wealth. Nobody really knows why productivity has stopped rising. All explanations are, to one degree or another, speculative. But the evidence suggests that it is no minor passing blip on the chart. The causes seem to lie deep in the changing structure of the national economy.

Productivity is simply the average output per hour of labor. The Labor Department computes it every three months, and it has just published the figures for the spring quarter of this year. They show that productivity was rising at the minuscule rate of 0.1 percent a year, after having fallen during the winter. Through the 1950s and most of the 1960s, it was going up at an impressive pace of nearly 3 percent a year. In the years after 1968, the trend dropped to half that rate. Since late 1976, it has been almost flat.

That departure is consistent with two other surprises. Inflation has been running considerably higher in recent months than most people expected, and unemployment has been considerably lower. Output over the past year has been raised by putting more people on payrolls, not by improving each person's capacity to produce.

It's a striking departure, and one explanation may well lie in the rather low rates at which business has been investing new capital. That, in turn, may be the result of low profits. Another possibility is the cost of the new environmental and safety rules, requiring industry to invest heavily in equipment to control air and water pollution.

Whatever the influences controlling productivity, they vary enormously from one country to another. In international competition, the United States is currently not doing well. The following brief table compares the increases in productivity in manufacturing, for the decade 1967–77, among some of the major industrial powers:

United States, 27 percent; France, 72; West Germany, 70; Italy, 62; Japan, 107; Canada, 43; Great Britain, 27.

There is a tendency in this country to regard Britain as the world's great example of industrial decline. But you will note that the rate of productivity gain in British factories over the past 10 years has been the same as in American factories.

Since no one is quite sure why the American rate has fallen, no one is in a position to offer a sure remedy. But these latest productivity figures may well strengthen the impulse in Congress to cut taxes on capital gains, in an effort to increase investment. Beyond that, it's also necessary to consider the possibility that some of this change may lie beyond the reach of government policy. A good many Americans' ideas about work, incomes and economic growth began to change around 1968. These new attitudes may now be showing up in the statistics on the nation's economic performance.●

## NEVER TOO LATE

### HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. GARCIA. Mr. Speaker, my district has become a symbol of what is gone wrong in urban America, and, fortunately, it has begun to become the laboratory in which we will discover some of the ways to make our urban policy work again. Unfortunately, the perception of my community—and it is a community—has been colored by all the bad news—the documentaries about arson, the photographs of rubble-strewn streets, the stories about crime and addiction. But I want to talk about another South Bronx, the South Bronx that has the capability of producing people who are lawyers, scientists, and ministers, and yes, Members of Congress like myself. That South Bronx exists, and one of my priorities here in the Congress is to get that image of my community across to Americans.

Recently, an article appeared in Nuestro, a new English-language magazine that covers the American Hispanic community. It was an article about the 12 outstanding Hispanic graduates of 1978, and among those graduates was Luis Maceira, a native and resident of the South Bronx, who, after receiving a degree as a premed psychology major this spring, will enter medical school this fall—at the age of 35. Luis wants to stay in the South Bronx to help. I applaud his determination, his vision, and his talents. It is people like Luis Maceira who will revitalize the South Bronx for future generations.

LUIS MACEIRA: NEVER TOO LATE

Looking back today, he remembers Morris High School in New York's South Bronx barrio as "not the best school around." So Luis R. Maceira dropped out at age 17 and joined the Air Force. For four years, he was a "grease monkey" fixing Air Force machinery in Viet Nam and elsewhere. Along the way he decided to finish his education and worked first for his high school general equivalency diploma, then for a degree at City College of New York. This month Maceira gets his diploma as a pre-med psychology major; next he goes to med school at State University of New York at Stony Brook. When he graduates, he will be a G.P.—35 years old. Luis is unfazed by his delayed start; he does not believe it is ever too late for change. The native of Santurce, Puerto Rico, has already forsaken bachelorhood for marriage and fatherhood. Nor do the well-publicized difficulties of med school daunt him. By now, Maceira knows that he can stick to his studies. His greater motivation is the people of the South Bronx. "People here always get the bad end of the stick. But as a doctor, I can help people directly. It may sound corny, but I got into this to help my people. I have lived in the South Bronx all my life. I want to practice here as a family doctor. I want to give something back to this place."●

## SUPPORT FOR CETA

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I wish to express my strong support for H.R. 12452, the Comprehensive Employment and Training Act (CETA). This bill provides job training and employment opportunities for the economically disadvantaged, the unemployed, and the underemployed. This bill also implicitly provides a measure of the heart and wisdom of America. It is not news to anyone that America has a chronic employment problem—millions of people who want to work cannot find jobs. The policymakers of the United States have two options—to try and actively do something about it or not. I would hope that only the most callous would not want to make the attempt. Failure to try means not only that we do not care about the welfare of our citizens but also means that the rolls of those on welfare will swell. It is in the enlightened self-interest of America to try—and try hard. When administered properly and run efficiently, CETA represents such an effort. The individual dignity innate in each and every human being demands that those who want to work can.

I have recently received telegrams from Richard S. Caliguiri, mayor of Pittsburgh, and from Allegheny County Commissioners Jim Flaherty, Thomas J. Foerster and Robert N. Peirce, in full

support of the CETA bill. I strongly support their statements and urge others to consider their arguments.

Mr. Speaker, I respectfully request unanimous consent to have these telegrams printed in the RECORD.

PITTSBURGH, PA.,
*July 21, 1978.*

Congressman WILLIAM MOORHEAD,
*House Office Building,*
*Washington, D.C.*

It is my understanding that the CETA reauthorization bill is scheduled to reach the House the week of July 24. The CETA program has been extremely successful in the City of Pittsburgh. Since its inception it has provided employment and training services for over 34,000 individuals. The unemployment rate in the city, according to the latest available figure, is 6.4 percent—the lowest it has been for several years. However, the unemployment rate for minorities and women is above the 6.4 percent mark and is estimated to be even higher for minority youth. Although the economy of the city has shown signs of improvement in the past few months, there remains thousands of economically disadvantaged individuals waiting to obtain training and/or a public service job in the city's public service and training applicant files. I believe that funding for such programs should be cut. In addition, I do not believe that the current CETA legislation concerning PSE wages and supplementation should be altered. If a person is to be placed in a public service job that person should receive a wage commensurate with the wages received by other employees doing the same job. More importantly, it seems terribly unfair that if a PSE participant has the same skills as a non-PSE employee that the CETA participant should only be paid the minimum wage. The intent of CETA is not merely to provide jobs but also to provide a decent standard of living for the economically disadvantaged. The City of Pittsburgh is about to enter into a new phase of economic growth. It is my hope that this growth is not suddenly hindered by a reduction in the CETA program which would add considerably to our jobless rate. I look forward to a CETA re-enactment which will enhance the success which the program has enjoyed.

RICHARD S. CALIGUIRI,
*Mayor of Pittsburgh.*

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PITTSBURGH, PA.,
*July 27, 1978.*

Hon. WILLIAM S. MOORHEAD,
*House of Representatives, Rayburn Building,*
*Washington, D.C.*

Allegheny County strongly opposes efforts currently underway to add amendments to CETA reenactment. H.R. 12452, as it is presently reported by the Education and Labor Committee, is already a reform bill with controls against fraud and abuse, strict eligibility requirements, limitations on length of time an individual may hold a P.S.E. job, wage limitation, etc. Please vote against all amendments concerning public service employment that would effect any of the following: 1. lower P.S.E. wage ceiling, 2. restrict P.S.E. to minimum wage, 3. eliminate age indexing by area or consumer price index 4. reduce the number of jobs authorized in title VI, 5 eliminate P.S.E. in title II, 6. eliminate title VI, 7. change the title II allocation formula or any other amendments that would impede the intent of the original legislation.

JIM FLAHERTY,
*Chairman of the Board of County Commissioners.*
THOMAS J. FORESTER,
ROBERT N. PIERCE,
*Commissioners.*●

## TRIBUTE TO GEORGE HUBERT BATES

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. SKELTON. Mr. Speaker, with sadness, I bring to your attention the passing of a very special friend of mine, George Hubert Bates of Jefferson City, Mo., dedicated his life to serving people of our State. He held State offices for 28 years, being State treasurer from 1953 to 1957 and commissioner of finance from 1957 until he retired in 1961.

Mr. Bates was active throughout his life. He was chief clerk at the Lexington Selective Service Board in World War I. He served as president of the Lexington Chamber of Commerce and the Lexington Country Club. He belonged to the Lexington Elks Club, the Woodmen of the World, the Masons, and the Scottish Rite bodies. He was a member of the Lexington Methodist Episcopal Church and served as superintendent of its Sunday school.

He was a warm and good friend. We became acquainted when I was a boy, as he and my father were close friends.

Besides his accomplishments, Mr. Bates was a man you could turn to for advice. He lived a long and admirable life and I am honored to have known such a dedicated man.●

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## MEDICAL RESEARCH ON HUMAN SUBJECTS

### HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ROGERS. Mr. Speaker, I am pleased to introduce today legislation to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The proposed Commission would succeed the present National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research which goes out of existence on October 31, 1978.

The studies of the National Commission have been of great value to the Department of Health, Education and Welfare and to Congress in developing policies which would take into account the ethnical aspects of research involving human subjects and guarantee that the rights of such individuals be fully protected. The Commission's reports concerning the conduct of research on prisoners and children, on psychosurgery, on informed consent, and a variety of other difficult topics dealing with human research subjects were produced by a very able and hard-working group of outstanding individuals, whose efforts deserve our highest praise.

While ethical problems connected with research on human subjects still are very much with us, our society is currently grappling with many very difficult ethical dilemmas in the practice of medicine and in the conduct of biomedical and behavioral research which go far beyond the protection of the rights of the research subject. It is time that we began to deal with these problems directly and as expertly as possible. Our experience with the National Commission has demonstrated that the concept of a working study commission is a valid one, and has provided a model which may now be applied to the study of these areas at a time when Congress and the administration is having to make crucial policy decisions.

A glance at virtually any newspaper or television news program in recent weeks would indicate that both medicine and science have reached such a high degree of sophistication that we must now give serious thought to the ethical aspects of techniques and procedures which were believed to be impossible only a few years ago. Last week, it was the achievement in England of the fertilization of a human egg cell outside the human body and its subsequent transportation into the womb of the egg's donor. As you know, this resulted in the birth of a normal baby. While I regard this as an achievement which will be of great benefit to many couples presently unable to have children, there are, nevertheless, both ethical and legal questions raised by the use of the technique, particularly if it proceeds past the experimental stage to routine practice.

In hearings held by the Subcommittee on Health and the Environment over the past few months, many other equally important issues were brought to the subcommittee's attention. For example, we have seen the development of X-ray technology to the point where it has become such a commonplace, routine diagnostic aid, that it's use is rarely questioned by either physicians or the public. Yet we were told in our hearings that the common practice of the routine X-ray screening of apparently healthy individuals is needlessly exposing the public to the risks of radiation and is adding substantially to the cost of health care while providing little or no benefit. This is but one of many examples where a technique led to a standard procedure with no prior or ongoing evaluation of whether the practice was efficacious or if it posed risks to the patient.

The once widely practiced tonsillectomy, the use of high oxygen levels for premature infants and the treatment of acne with X-rays all serve as past reminders of immediately applying a technique to routine practice before it was shown to provide a net benefit to the patient. More recently, we have had the swine flu issue. And, we are now trying to assess whether or not coronary bypass operations are really a good thing. Thus the current lack of a mechanism to establish standards of efficacy in procedures performed on humans poses a serious ethical problem.

Another perplexing area which the subcommittee looked into was the increasingly costly end stage renal dialysis

program, which is projected to cost taxpayers upward of $1 billion per year in the near future. While prolonging the lives of kidney patients, a majority of those on dialysis are still very sick people and cannot lead normal lives. Dialysis cannot cure the disease. Yet only a very small fraction of this sum was spent on research to better understand the causes of kidney disease and to find a more satisfactory treatment. Is this the most effective way for us to allocate our resources for health care and for biomedical research? Is it the most ethical? Should we opt in favor of research which will provide the greatest long-term benefit, or is it more important to provide the greatest relief possible to those who are suffering now? Can a proper balance be found?

There are many other issues which must receive serious attention soon. Are the patients rights in clinical trials fully protected? Is it appropriate for American drug companies to conduct clinical trials outside the United States where standards for the protection of the subject are far less stringent than under FDA rules? We have in recent years based much of our health policy on the proposition that health care is a right, not a privilege. Yet the quality and availability of health care differs widely depending on one's income and where in the country one happens to live. Can we develop a sound program of national health insurance without first examining the ethical problems in distribution of health services? Should the maintenance of life, per se, at any cost, override all other considerations in making medical decisions? Does one have a right to die? If so, under what conditions? And what of informed consent in agreeing to a particular medical procedure? Do patients or next of kin, at a time of great anxiety, really carefully read the forms they are signing? Does "informed consent" mean that one gives up the right to legal remedies in the event that person is unnecessarily harmed by a procedure?

With a little reflection, I am sure we could all add many more topics to this list. However, as a beginning, I have included in the charges to the proposed Commission the following eight subject areas. Additional mandates may be added by the President:

First. The allocation of Federal resources for biomedical and behavioral research and for health care delivery;

Second. The requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

Third. The establishment of a uniform definition of death;

Fourth. Counseling and testing for genetic diseases;

Fifth. The differences in the availability of health services as determined by the income or residence of the persons receiving the services;

Sixth. The requirements and guidelines applicable to clinical trials;

Seventh. The establishment of standards of efficacy applicable to medical procedures performed on humans; and

Eighth. Human in vitro fertilization.

I call upon my colleagues to support the proposed legislation and work for its speedy passage.●

## THE HUMAN VALUE OF THE HOSPICE PROGRAM

### HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. JOHN L. BURTON. Mr. Speaker, I had the pleasure to attend a meeting of Marin County Hospice members where I was informed about the tremendous job being done in treating the terminally ill.

I would like to share the remarks of Jim White, a hospice survivor, that clearly indicates the human value of the hospice program.

WHAT HOSPICE MEANT TO US

(Remarks by James D. White, retired Associated Press correspondent and editor, to a luncheon at Hospice of Marin in San Rafael, Calif., for Rep. John Burton, his staff and other guests, July 7, 1978.)

When Jenifer, my wife for 44 years, died of bone cancer last October, she had been under Hospice care for about six months. She was 65, I was nearly 70, and we had no children or other family members nearby. Help from Hospice therefore had special meaning for us, and at the receiving end we concluded—in many discussions that continued as long as she lived—that we could discern three outstanding qualities in what the Hospice people did and how they went about it.

The first was Hospice's candor and conscience in filling the cancer information gap. We knew no more than anyone else about cancer: this despite Jenifer's 10 years as a surgical secretary during which she got no closer to cancer than operative notes—and we all know that in most cases an operation is only the opening skirmish with cancer; and as for my 40 years as a newsman, well, among the scores of stories I have written or edited dealing with cancer I can think of none that contained any substantive information about what actually happens with cancer. As for doctors, we had found them usually—and understandably—reluctant to go into detail about the progression of cancer.

Where it could, Hospice answered our questions, with tact and patience. Where it didn't have the answers, it went after them and reported back. Hospice people told us what equipment we'd need, what skilled and unskilled help was available, and where to get all these. In other words, they told us what to expect, what could be done about it, and how to do it.

The second factor that we found extremely valuable was Hospice's accessibility. We felt that the importance of the 24-hour call-in service cannot be overestimated. Yes, our doctor had told us to call him at any hour, day or night, and he meant it. But general practitioners tend to overwork themselves—ours certainly did—and are distracted by other patients and other kinds of patients, and one hesitates to add to their burden. It therefore was invaluable to us to be able to call Hospice at any hour in the 24-hour clock and get a sympathetic and helpful answer from specialists in our kind of case.

The third element that we thought was extremely important was Hospice's insistence upon fitting the care to the patient, instead of stuffing the patient into the relentless routine of some institution designed for other purposes. We were deeply impressed by the care and the tact with which this approach was carried out. Typically, Hospice asked us early in the game if we had any particular religious or philosophical beliefs. No, we said, we're agnostics, holding nothing more complicated than the simple Taoist concept of the cosmos as a balance, and that within that balance there are no effects without causes. The question never came up again, and we appreciated very deeply the wisdom of Hospice's universalist approach and its willingness to work within any reasonable framework of beliefs.

Jenifer first heard of Hospice from a nurse on the midnight-to-dawn shift at Marin General Hospital where she was undergoing radiation therapy in April, 1977. At our request, Hospice entered her case, and when radiation was finished it was Hospice's help and guidance that enabled us to be at home together for a whole month. In addition to the advice, information and special equipment provided by Hospice nurses such as a sheepkin and an eggcrate mattress, I should mention the lessons given me by the home health aide in bathing, bedmaking and other details which enabled me to take care of Jenifer.

During that month she was able to go through the whole house with me, in her wheelchair, deciding all the things that had to be decided after 44 years of life together. This made it possible for an innately tidy person to feel that her affairs were in some sort of order, and it made it possible for me to know what her wishes were and to carry them out later without having to guess about them.

When she no longer could sit up, Hospice and our doctor helped us arrange for a private room in a rest home where I could be with her 24 hours a day. There, we had three months together.

As she grew progressively weaker and more helpless, I was able to help her more, with her feeding, her medication, her bathing, massage and taking care of her colostomy. In this environment of quiet and privacy, she became much freer of pain, more cheerful and alert, and was fully aware of everything, including her own condition.

To Jenifer, Hospice meant that it was possible for her to end her life with the same sense of self-possession with which she had lived her 65 years. Together, we faced the end in peace and dignity which would have been impossible without Hospice.

For me, it meant that Hospice had helped her to suffer much less, and had made it possible for me to feel that I had been able to do as much for her as anyone could.

Because Hospice really works, I can stand here and talk to you about what it did and still does. I mean, now, the bereavement program, in which it is wonderfully helpful to be able to meet and talk again with those wonderful people who helped us both, who know what happened to us both. I have received much help from others who are ahead of me in the survivor experience, who understand without being told what the problems are. And I find it deeply satisfying to be able to understand and, at times, help those who are just entering the survivor sequence and are struggling up through the overwhelming sense of loss and disorientation I know something about.

Finally, I find what volunteer work I've done for Hospice immensely therapeutic, providing a sense of being part of something that is as uniquely useful as it is desperately needed.●

## PROBLEMS WITH 5.5 PERCENT CAP ON FEDERAL PAY RAISE

### HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mrs. SPELLMAN. Mr. Speaker, sections 860 and 861 of H.R. 13635, the defense appropriations bill for fiscal year 1979, as reported by the House Appropriations Committee, would place a 5.5-percent ceiling on all Federal blue collar

employee pay raises which take effect during fiscal year 1979 (October 1, 1978 to September 30, 1979). I can appreciate the House Appropriations Committee following the President's recommendation that Federal white collar pay raises be kept at the 5.5-percent level. However, there are some problems with this appropriations "cap" which I wanted to bring to my colleagues' attention.

Because Federal blue collar raises are not implemented simultaneously, but, rather, are given to the various local wage areas at different times during the year, an appropriations ceiling will not treat all Federal blue collar employees equally. For instance, those who receive their raises in January will have their wages affected for approximately 9 months, while workers who receive their raises in June will have their wages capped only for 4 months. It is hard to imagine that any organization in the private sector would pursue such an inequitable policy, and I do not believe we in the Congress should either. There is no system at present to allow either the President or the Congress to fairly apply a ceiling on blue collar raises, particularly in an appropriations bill. Besides, the President's remarks of April 11, before the American Society of Newspaper Editors, when he announced that he wanted Federal pay increases kept at 5.5 percent, were specifically directed to white collar (general schedule) employees, with no mention of blue collars:

> Last year, Federal white collar salaries rose by more than 7 percent. I intend to propose a limit of about 5½ percent this year, thereby setting an example for labor and industry to moderate price and wage increases.

Thus, while it appears that the House Appropriations Committee was following President Carter's wishes by reporting sections 860 and 861, this is not the case.

Additionally, my colleagues should be aware that the continuing distortion of pay comparability for Federal employees enforces the arguments for collective bargaining. If the President and/or the Congress persist in depressing Federal salaries and wages, the efforts to have Federal pay set at the bargaining table would be strengthened. We should not overlook this fact.

Finally, I know there has been much concern lately over the growing power of the Appropriations Committees at the expense of the authorizing committees, and I believe sections 860 and 861 are further evidence that these concerns are not groundless. Public Law 92-392 refined and codified a complex procedure for establishing pay comparability in the blue collar wage area. It was developed by the House Post Office and Civil Service Committee, and it is this law which should be amended to allow for the equitable application of a pay "cap" for Government blue collar personnel. Therefore, sections 860 and 861 do not attempt to usurp the authority of an existing legislative program, but are an "end run" around the members of the House Post Office and Civil Service Committee, who have jurisdiction over Federal pay.

So, as you can see, although sections 860 and 861 are well intentioned, they are not sound pieces of legislation. Thus, I urge you to strike these provisions from H.R. 13635.●

## THE NATURAL GAS BILL

### HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. MOFFETT. Mr. Speaker, I would like to share with my colleagues the following Washington Post article on the natural gas bill. As this article points out, the current agreement is very different from the bill passed by the House last August.

The Energy Information Administration report cited in the article states that the compromise agreement will cost $32 billion more than the House bill. This would result in consumers paying from $28.5 billion to $50 billion more for gas through 1985. Yet, the EIA projects supplies to increase only by 0.2 trillion cubic feet over the House bill—last year's production alone was nearly 20 trillion cubic feet. The inflationary effect of paying $32 billion more for virtually the same amount of gas is disconcerting to say the least.

Finally, both the article and the EIA study indicate that the twin goals of conserving gas supplies for high priority users and protecting residential users from sharp price increases will not be met. Rather, the compromise is seen as providing less gas at higher prices to these users than would have occurred under the House bill.

[From the Washington Post, July 30, 1978]

AFTER SQUEEZING THROUGH HILL PIPELINE, GAS BILL NOW SKEWED TOWARD INDUSTRY

(By William Greider)

When President Carter first proposed his national energy plan, one principle was clear: The nation's dwindling pool of natural gas would be saved for the homeowners of America. Industry would be coaxed or driven, by taxes, prices and regulatory rules, to shift to other less-precious fuels.

Now, 15 months later, that priority has been reversed.

Carter's compromise natural gas bill, scheduled this week or next for an up-or-down climax vote in the Senate, is skewed in the other direction—big industry is supposed to get more natural gas in the future, a lot more, while homeowners and businesses are expected to get along on less.

The reason for this is simple, according to C. William Fischer, deputy administrator of the Department of Energy's quasi-independent analytical section. The final prices set for homeowners are much higher in the compromise measure than they were in the original plan—high enough to drive residential and commercial users away from gas, not toward it.

The NEP originally envisioned an increase in residential-commercial consumption of natural gas of 8 percent by 1985. The compromise bill, according to an evaluation by Fischer's Energy Information Administration, will produce a decrease of about 4 percent. Total industrial consumption, on the other hand, was expected to hold even or decline slightly by 1985, as companies switched to coal and other fuels. Now the administration bill claims that total industrial use will grow by 10 to 14 percent in the next six years.

"There are rational reasons for that," said Fischer, "the main one being the price differentials. . . . The compromise has a price for residential of $3.31 [per thousand cubic feet] by 1985. That's a significantly higher price, 57 cents higher than the national energy plan. That would tend to drive down consumption in the residential sector."

In terms of future consumption, said a staff professional on the House Commerce Committee, "industrial users are just coming out the big winners."

This is one of the fundamental mutations that have crept into the president's program during its arduous journey through Congress, a trip which has left all sides exhausted and politically jangled by so many bargains made and unmade, so many angry speeches and private deals, so many fortunes won or lost in the fine print of this legislation.

No one seems very eager for the Senate showdown ahead. Another filibuster is expected from the pro-consumer liberals who are opposed to deregulation and higher gas prices, in any form. They may be joined this time by a few pro-oil conservatives who are disgusted with the compromise's extremely complex formula for phased deregulation over seven to 10 years. They think the oil industry should kill this bill and try again next year for immediate deregulation of gas prices.

The administration hopes to break the filibuster on the third or fourth try, depending upon a middle spectrum of Democrats and Republicans, senators who are either loyal to the Carter program or loyal to the oil industry, who started out this fight on opposite sides.

The political imperative that unites them now is to pass something, to settle the matter once and for all, even if the victory is riddled with impurities. Passage of the gas bill would give the president a much-needed political victory and, for industry, it promises what gas producers have been fighting 24 years to accomplish—an end to federal control over interstate natural gas prices.

What would this bill do for America? Or to America? as the critics would say. All answers and explanations must be hedged by this note of caution: virtually all aspects of this measure—the economic impact, the impact on energy production, the fine print and the larger purposes—are the subject of intense dispute at this moment, extremely technical arguments that are not likely to be resolved by the final political rhetoric coming up in the Senate and the House.

In simplest terms, the measure will authorize a substantial transfer of income within American society—at least $28.5 billion over the next six years—from all the consumers of natural gas to all the companies that produce it. Some critics claim that the transfer will be much larger, closer to $50 billion, but at the very least the gas industry should derive an increase of 17 percent in its expected revenue.

The White House inflation watchers, who are concerned about the inflationary effects of government regulation for safety and the environment, have not shown much interest in the inflationary potential of deregulation. An inquiry at the Council on Wage and Price Stability produced this response: "We have not done anything with natural gas. It's a very complex, complicated thing. With our limited staff, there wasn't any way we could get into it."

The Department of Energy claims that the $28.5 billion is a good investment for the nation with these benefits: Increased gas production would be stimulated by the higher prices. The nightmare of regional gas shortages in hard winters would be eliminated. The prices would also shift industrial use of gas from wasteful boiler burning to more essential purposes like manufacturing processes. The bill also proposes gradual melding of the two gas markets which now cause so many headaches to energy planners, users and producers—the interstate national market whose prices are controlled by federal government and the unregulated intrastate

market of Texas, Louisiana and Oklahoma, where smaller independent producers can sell gas for a much higher price now, as long as their fuel doesn't cross state lines. The dual market is blamed for many problems—large and small companies hold their gas for the higher-priced southwest market, if they can, while northern customers come up short.

Top aides to Energy Secretary James R. Schlesinger did a bit of backing and filling on the question of who will get this new gas production stimulated by the bill. Jim Bishop, Schlesinger's press secretary, first responded by pointing out that the national energy plan mandated a natural gas policy favoring homeowners.

"That's the heart of the Carter policy," Bishop explained. "Gas is going to be reserved for the homeowner."

After more discussion, Bishop referred the question to DOE experts, including Leslie J. Goldman, deputy assistant secretary, who likewise expressed disbelief that any DOE documents were claiming increased industrial consumption as a consequence of the natural gas bill.

Later, Goldman examined the figures and responded with a clarification: Yes, industrial uses would increase—by as much as 2 trillion cubic feet by 1985—and residential use would be held even.

Goldman argued that these consequences would still be consistent with the President's plan. Total industrial consumption will go up, he said, but the wasteful uses will go down—particularly the use of natural gas for electricity generation and oil refineries. He claims that no oil refineries will be burning natural gas for heat by 1985. Furthermore, he insists that the residential users won't be hurt because insulation and other conservation measures will save so much gas that many more homes will burn the same amount of natural gas by 1985.

It should be noted that some private industry analysts think the administration's projections on future consumption are strange, to put it nicely. They point out that homeowners have fewer options than industry about choosing a fuel to burn. A large factory can easily switch from gas to oil, as many have done in recent years, while residential use of natural gas has continued to increase.

Once a home is hooked up for gas, the owner is not likely to switch, even if stuck with a sharp price increase. Total industrial consumption has declined slowly since the early 1970s when energy prices shot up—a trend that might be accelerated not reversed, by future price increases.

Homeowners have always paid much higher rates for natural gas than industrial or commercial customers. The original plan favoring homeowners was to shrink that difference drastically but, as various amendments and industrial exemptions were bargained into the pricing formula, that goal evaporated. The final version does reduce the gap, but by only a few cents, from an average of 85 cents to 72 cents.

The irony of all this back and forth is that the substantial increase targeted for industry may be an embarrassment to energy planners—but has also become one of the major political selling points for their bill. Administration lobbyists, according to one DOE memo, should remind business and labor and senators of this point:

"Industrial use of gas could increase by more than 2 trillion cubic feet; there would be no curtailment of firm demand. The gas supply in the heavily industrialized midwest would increase by nearly 50 percent."

The unions are an important battleground in this political struggle—union members are homeowners who oppose higher heating bills but they are also workers who need industrial growth for jobs. The administration argument is that, on balance, the compromise bill hurts homeowners less than the alternative of total deregulation and it will also stimulate economic growth. Unions, as a matter of principle, oppose deregulation, but the question is how hard they will fight against Carter's version of it.

"The consumer folks," said one administration official, "are trying to get the unions to look at this in terms of higher prices. We're trying to get them to look at it in terms of jobs."

On a regional basis, the administration is selling broad economic benefits to most sections of the country, quite apart from the national impact of higher prices for everyone. The sales pitch goes like this:

The midwestern industrial cities—the great centers of steel, glass, autos—are being promised a reliable supply for healthy industrial growth.

Midwestern agriculture, which depends heavily on natural gas for chemical fertilizer and corn-drying and other processes, will pay more for gas—but agriculture production has been exempted from the higher-priced pool that affects most industrial users. This same argument will appeal to other farm regions, like the South, where textiles and food-processing plants are also exempted from the higher industrial prices.

In the East, the increase in natural gas is supposed to displace more expensive fuels—liquefied natural gas and synthetic gas—that are used there in small amounts, thus moderating the average costs for everyone. If you are paying $3.60 or so for LNG, then natural gas at $2.13 looks pretty good.

For New England, which doesn't burn much gas in any case, the argument heard on Capitol Hill is any gas-pricing measure that raises the cost of manufacturing for the rest of the nation is bound to help the depressed industrial base of New England.

For the West, there is an additional argument: passage of the natural gas bill would pave the way for pipeline projects to bring vast new quantities of gas by the late 1980s from both Alaska and Mexico.

The Carter administration suspended negotiations with the Mexican government on an import project for its newly discovered gas until after passage of this bill. Mexico wants a guaranteed price of $2.60, well above the current market, and the bargaining is expected to resume if Congress raises the U.S. price closer to that target.

The Alaskan gas pipeline is waiting on the higher prices too. A higher price base would make it easier to arrange financing for the mammoth project. In the meantime, states like Alaska have arranged an exemption of their own—ensuring that state-enacted severance taxes on natural gas will be excluded from the federal pricing scale.

Everyone in Congress understands that the major regional beneficiary would be the southwest, though the benefits won't be spread evenly there by any means. The oil-producing states are where most of America's natural gas lies and that's where most of the $28.5 billion would go. The administration reminds everyone that the prices and the cash transfer would have been much worse under the total deregulation bill passed by the Senate last year.

The pro-consumer opponents of this compromise would argue that all this money doesn't have to change hands in order to accomplish the various economic benefits promised by the Carter administration. Their solution, in the extreme, would be simply to extend federal price control to all that intrastate gas production in Texas, Louisiana and Oklahoma and then, by federal regulation, allocate the sale of that gas to the customers who will need it most.

If there is any doubt that the oil industry came out of this legislative struggle with good results, listen to Sen. J. Bennett Johnston (D-La.) addressing a meeting of Texas independent gas producers in Houston last month, trying to persuade them to support the compromise:

"I tell you this—compared to the president's program, compared to the House bill, compared to what we feared and, frankly, even compared to what we had hoped, this is a magnificent bill, believe it or not."

Many of the smaller independents do not believe it. They have smaller wells that sell gas in the unregulated intrastate market—so this bill puts them under the thumb of Uncle Sam for the first time. Their gas production would become subject to a nightmarish system of price categories—17 different flavors of natural gas or 23, depending on who does the counting. This "reregulation," as DOE officials now call it, is supposed to expire by 1985, but the oil men are skeptical—they fear that a future president or a future Congress will change their minds and they'll be stuck permanently under federal regulation.

In any case, the largest benefits will flow to the larger companies that control the major reservoirs, either onshore or in offshore waters. This is natural gas that would inevitably be sold to interstate customers in the North, whether price controls continue or not.

When Carter announced his energy plan, the regulated interstate price for new gas was an average of $1.42, up from 52 cents in 1976. The president first proposed $1.75. The argument moved upward to $1.93. The compromise bill envisions a final price by 1985 in the neighborhood of $2.60 per thousand cubic feet.

Even allowing for the distortion of inflation built into those figures, they demonstrate crudely the way this argument has gone—in favor of the producers. Major companies that have purchased expensive offshore leases, as one petroleum analyst puts it, "were sitting on a lot of 50-cent gas that's now going to sell for $1.80 or $2."

The administration is "cautiously confident" that this package of interests will sell the natural gas legislation, when the votes are counted. Working in its favor now is plain fatigue: everyone is sick of fighting over this horribly complex subject.

"What we hear on the Hill," said one energy aide, is: "Let's get it through. Let's get it out of here."●

## TRIBUTE TO JOHN W. "JACK" JACQUES

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. SKELTON. Mr. Speaker, it is with sorrow that I note the passing of John W. "Jack" Jacques, of Slater, Mo. Mr. Jacques, president of the State Bank of Slater for 30 years, was an esteemed member of the banking profession for 52 years. He was a member of the Slater Airport Board and the Zoning and Adjustment Board. From 1921 until 1964, he served as treasurer of the Brotherhood of Railroad Trainmen. Mr. Jacques was a member of the Slater First Baptist Church, a Scoutmaster, and a Mason.

I join all who mourn the passing of this good man.●

## ILLEGAL ALIENS

### HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. MAHON. Mr. Speaker, today as we debate our Nation's foreign aid program, I think it important that we take note of a related problem—that of the

increasing tide of illegal aliens coming into this country.

The following article from the New York Times is based on a new book, "The Illegals," by a distinguished Texan, Grace Halsell. She is a talented and responsible writer who has been my very good friend for many years. I would commend the article to my colleagues for the insight it provides into the growing problem of illegal aliens.

For two years I have been living with people on both sides of the Mexican border investigating the illegal immigrants who are entering this country.

Our border with Mexico is a line on a map that, in reality, is difficult to discern. On either side of that 2,000 mile border that runs from Brownsville, Tex., to just south of San Diego, Calif., there is the same expanse of brilliant sky, the same soil producing the same fruits and vegetables, and people who feel equally at home in Mexico or in the Southwest.

The borderlands comprising four American states and six Mexican states, are not two distinct countries so much as a binational, bicultural regional entity, a zone of interlocking economic, social and cultural interests.

Cruz Sedillo, 87 years old, can trace his family history in the Southwest for 12 generations, to the 1500's. A native of New Mexico, he observed, "Hispanos have always lived in the Southwest. We're second only to the Indians. And, like the Indians, we are an indigenous people."

The Spaniards were here more than two decades before the Pilgrims landed at Plymouth Rock. El Paso, Tex., has been Spanish and Mexican far longer than it has been part of the United States.

All of what is now the Southwest once belonged to Mexico. In 1846, with the discovery of gold in California, President James K. Polk ordered United States troops to march into Mexico. By taking California, and the land between, he extended the United States to the Pacific.

Henry David Thoreau went to jail rather than pay taxes to support this war. Abraham Lincoln, then a freshman Congressman, accused President Polk of ordering United States troops "into the midst of a peaceful Mexican settlement, purposely to bring on a war." Ulysses S. Grant, a young second lieutenant in the Mexican war, called it a "political war," one of the "most unjust" ever waged.

By winning the war, the United States not only annexed half of Mexico, but acquired all the Mexican citizens who were living in the Southwest.

Mexicans still observe the anniversaries of their defeats at Chapultepec and Molino del Rey as national days of fasting and prayer. And as recently as 1943, Mexican schools were using maps designating the land we acquired as "territory temporarily in the hands of the United States."

This history is important in understanding why so many Mexicans come over the border illegally. I interviewed scores of Mexican nationals in American jails who had crossed without documents.

And, on several occasions, to better understand their experiences, I swam the Rio Grande, crawled through the sewers of Tijuana and was guided at night through the infamous Smugglers Canyon" near San Diego.

Undocumented workers do not feel they commit a crime in traveling north from Mexico. They call it going to *el norte*. As far as the Southwest is concerned, we are the legals, the Anglos the illegals," one Mexican said.

Hispanos are the nation's youngest and fastest growing group and soon they will outnumber blacks as the largest minority. The largest number has come here from Mexico and they are scattered throughout this country—in New York and Chicago as well as the Southwest.

Today, every fifth Texan is of Mexican origin. In some of that state's southern counties, their proportion is as high as 98 percent. Los Angeles has 1.5 million Mexican-Americans and, after Mexico City, is the second largest "Mexican" city. Before 1985, it is predicted, Mexicans-Americans will comprise a majority of California's population.

Already Hispanos swing many important elections. Some have argued that they delivered Texas—and Presidential victory—to Jimmy Carter. Others say they will determine the future for Governor Edmund G. Brown Jr. of California.

Mexican immigrants often retain their traditions and language. Many come from small villages, they retain customs and hold deep personal and religious convictions. The newcomers constantly renew the Mexican heritage of Mexican-Americans. And in doing so they are aided, as no earlier immigrant group was, by civil-rights legislation.

The United States defeated Mexico and took the Southwest," a Mexican-American, Roberto Salazar, told me. Now I think the conquerors are being conquered. Anglo culture is being influenced more than it wants to be, or is aware of."

Mexicans as well as Anglos are moving into to fastest growing part of the United States, and who will control the land there is still in doubt. Mexican-Americans may regain, through the ballot box, the control they lost through war.●

## FDA'S PROPOSED RESTRICTIONS ON ANTIBIOTICS

### HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ROSE. Mr. Speaker, I insert in the RECORD a report, "Antibiotics in Animal Feeds: Risk vs. Benefit," outlining the scientific and economic concerns of the Food and Drug Administration's proposed restrictions on the use of antibiotics in animal feeds.

Part V shall present the first part of a U.S. Department of Agriculture briefing paper on the FDA's proposed antibiotics use restrictions:

SCIENCE—DEFENDING 25 YEARS OF BENEFITS

THE SCIENTIFIC BASIS OF FDA'S CASE

In 1970, the Food & Drug Administration established a task force to study whether antibiotics used subtherapeutically in animal feeds should be restricted. The move followed a report from a committee in England that recommended restricting the use of antibiotics in animal feed. England subsequently required the use of many antibiotics in animal feed be limited to prescription by a licensed veterinarian. The FDA task force was headed by Dr. Van Houweling. His special assistant was Gerald B. Guest, who is now acting deputy associate director of the Bureau of Veterinary Medicine.

In an interview, Dr. Guest explained the way resistance is developed in bacteria exposed to antibiotics and how that resistance can be passed from one bacterium to another He said that until 1960 scientists assumed that resistance developed due to chance genetic mutations of bacteria exposed to antibiotics. However, scientists found in 1960 that genetic material carrying the resistance can be passed directly from one bacterium to another. The resistance can be passed from a non-pathogenic strain of bacteria to one that does produce disease.

"If there are a few resistant bacteria in an animal's gut and you put the antibiotic in, you select for the resistant organisms by clearing out the sensitive ones. A population will develop that is 90 to 95 percent drug resistant. When the animal defecates, bacteria that get into the environment are drug resistant. We know they stay that way for long periods of time.

"They contaminate the environment of farm families. We know from studies that farm families, if they have animals receiving antibiotics, carry more germ resistance than families that live in cities. That's because they get the bacteria on their hands. The other factor may be that they're handling antibiotic dusts and residues from mixing operations."

Dr. Guest said scientists know there is a common pool of various kinds of bacteria that can be passed back and forth between animals and human beings.

The 1972 report of the FDA Task Force on the Use of Antibiotics in Animal Feeds summarized the scientific findings that FDA used as the basis for restricting the use of such antibiotics:

"1. The use of antibiotics, especially subtherapeutic amounts, favors the selection and development of single and multiple antibiotic resistant and R-factor-bearing bacteria. (R-factor is the genetic material carrying the resistance.)

"2. Animals which have received either subtherapeutic and/or therapeutic amounts of antibiotic in feed may serve as a reservoir of antibiotic-resistant pathogens and nonpathogens. These reservoirs of pathogens can produce infections.

"3. The prevalence of multi-resistant R-factor-bearing pathogenic bacteria in animals has increased and has been related to the use of antibiotics.

"4. Organisms resistant to antibacterial agents have been found on meat and meat products.

"5. There has been an increase in the prevalence of antibiotic resistant bacteria in man."

The concern of FDA, and the reason for Commissioner Kennedy' decision is that resistant pathogens could cause disease outbreaks in humans for which there would be no antibiotic treatment. A number of human diseases resist antibiotic treatment now, according to the testimony of Dr. Richard P. Novick, Chief, Department of Plasmid Biology, The Public Health Research Institute of the City of New York, Inc. These include *E. coli* diarrhea, pneumonia, salmonellosis and gonorrhea, Dr. Novick told the Senate Agriculture Subcommittee on Agriculture Research and General Legislation.

The source of this resistance, whether hospitals or animal feed, is not known.

THE SCIENTIFIC REBUTTAL

"Apart from the technicalities of the feared transfer of antibiotic resistance from long recognized resistant strains and species of enteric microflora (intestinal bacteria) to other species which could conceivably cross over into humans and, at least theoretically, elicit an uncontrollable epidemic in man, the fact rather solidly remains that after 25 years of feeding a multiplicity of various antibotics, coccidiostats, anthelmintics, sulfonamides, nitrofurans, etc. to over 100 billion head of livestock in the U.S. alone, and perhaps another 50 billion abroad, it has never happened yet," declared Dr. Robert H. White-Stevens, chairman, Bureau of Conservation and Environmental Science, Rutgers University, at the Dairy and Poultry Subcommittee hearings. "This does not mean it will never happen, but only that the odds that it will are somewhere around one in 100 billion or more."

Dr. Jukes, the University of California medical physics professor, testified: "The question of resistance-transfer is fascinating.

Careful laboratory studies show that this takes place more readily in the test tube than it does in the digestive tract."

Dr. Jukes cited an experiment on antibiotic resistance that compared a community in Iowa where antibiotics were used in animal feed with an urban population in Connecticut. "There was no difference in the pattern of antibiotic resistance between the two populations, with a few exceptions," Dr. Jukes said. "The tetracycline resistance, however, showed no geographical pattern. If anything, it was somewhat lower in Iowa."

A position paper issued by Pfizer, Inc., entitled "In Defense of Animal Feed Antibiotics," disputes the main scientific points advanced by FDA as the basis for restricting the use of antibiotics in animal feed.

Pfizer said that even though intestinal bacteria in humans and animals are the same strains, it was found in one industry study "that fecal specimens from human subjects in daily contact with calves showed no significant differences in the marked R-factor, marked E coli (a bacterium) or changes in resistant coliforms when comparisons were made with respect to whether or not the calves received tetracyclines."

Both Pfizer and Dr. Jukes reported on experiments where attempts have been made to colonize human intestines using massive doses of *E. Coli* of animal origin. "In general, *E. Coli* of animal origin have been shown to be poor colonizers of the human intestinal tract, even when exceptionally large doses of bacteria were ingested," Pfizer concluded.

Generally, the position of those supporting the use of subtherapeutic levels of antibiotics in animal feeds is that the link between use of antibiotics in animals and the development of resistant bacteria in humans has never been established. They contend that the resistance in humans probably is due to the use and misuse of antibiotics to treat human diseases.

Even FDA's Dr. Van Houweling says the link between animals and humans is very difficult to establish. At the OTA's first public meeting, Dr. Van Houweling said, "To identify bacteria in animals and then have them show up in a person several weeks or a month later technologically has not been achieved. We have to use circumstantial evidence and say, "Yes, we put the associations together and have come to this conclusion."

THE EFFICACY OF ANTIBIOTICS

The fact that using antibiotics in animal feeds promotes growth and improves feed conversion has been well established for a quarter of a century.

Dr. Byerly presented a paper on "Efficacy of Drugs Used as Feed Additives" at the OTA meeting. He said, "Antibiotics used as growth promotant levels in the feed may save two million metric tons of feed a year. In the absence of equally effective alternates, this accounts for 400,000 metric tons of red and poultry meat—about 100,000 metric tons of beef and veal, 250,000 metric tons of pork, 45,000 metric tons of chicken, and 5,000 metric tons of turkey."

Dr. White-Stevens was a pioneer in the use of antibiotics in animal feed. He testified that growth promotion is due to the antibiotics' effect on bacteria and other organisms in the farm animal. These organisms "compete intestinally for its food, secrete undesirable toxins, or infect and pathologically ravage its tissues."

In addition to promoting growth, antibiotics are used subtherapeutically in feed to control animal diseases. White-Stevens said these diseases included "shipping fever and foot rot in steers; scours and liver abcesses in calves; transmissable gastro enteritis, scours and rhinotracheitis . . .; coccidiosis, aerosacculitis, synovitis and 'rot gut' in chicks; and blackhead, sinusitis, and blue comb in turkeys, plus a score of other diseases that plague the husbandman."

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ECONOMICS—WHO PAYS THE PIPER

THE ECONOMICS BENEFITS

The core of the case for continued use of antibiotics in animal feed lies in the demonstrated economic benefits vs. theoretical and unproven risks.

FDA readily concedes that subtherapeutic use of antibiotics benefits both producers and American consumers. Examining the economic consequences of restricting the subtherapeutic use of tetracyclines in feedlot cattle and swine, the FDA concluded that American consumers would pay $1.9 billion more for meat each year if tetracyclines were not used. American Cyanamid Co., a drug producer, said "this translates into an increase of 7 cents a pound for beef, and 15 cents a pound for pork. And this does not even take into account any death losses resulting from increased disease among animals on the farm."

FDA did not make a similar analysis of the impact of its proposed restrictions on poultry prices. However, in another analysis based on 1970 figures, FDA calculated that the use of antibiotics in animal feed provided a $33 million benefit for broiler producers and $13.9 million for turkey producers.

The U.S. Department of Agriculture estimated that the use of antibiotics in feed was worth $100 million to drug producers; $1 billion to the poultry and meat industry, and $2.1 billion to consumers. Scientists at the Texas Agricultural Experiment Station estimated that two million additional crop acres would be required to produce the added 103 million bushels of corn and 23 million bushels of soybeans that would be needed to maintain beef and pork production, if the use of antibiotics in feed was stopped.

All of these estimates are based only on the changes in the efficiency of feed conversion. They do not take into account the greater losses from disease and from higher mortality among animals and birds that did not get antibiotics in their feed. This would be difficult to estimate. But diseases could spread rapidly among high concentrations of chickens in modern poultry operations, or among cattle in feedlots.

THE "DOMINO PRINCIPLE"

The economic facts notwithstanding, FDA is going ahead with its restrictions on penicillin and tetracyclines.

Commissioner Kennedy told the Dairy and Poultry Subcommittee that "when we are confronted with what we view as a serious public health risk, we are not allowed to consider the economic side of the issue. We simply have to make that risk evaluation."

Fred Holt of the Animal Health Institute contends that if the commissioner cannot weigh the economic benefits, then no drug intended for food producing animals is safe from being banned. He said in an interview, "If we can't consider the value to the grower, if any risk, no matter how small, allows FDA to remove a product from the market, then we're not just looking at these specific products (penicillin and tetracyclines). If this philosophy is employed, it will have a domino effect and we could end up with virtually no feed additives available to agriculture."

Dr. Kennedy said in his announcement restricting the use of penicillin and tetracyclines, "These actions should be viewed as a first step toward FDA's ultimate goal of eliminating, to the extent possible, the nontherapeutic use in animals of any drugs needed to treat disease in man. In our view, the benefit of using these drugs routinely as over-the-counter products to help animals grow faster, or in prophylactic (disease prevention) programs does not outweigh the potential risks posed to people."

RIGHT FOR WRONG REASONS?

Dr. Kennedy's apparently hasty declaration of FDA's policy intentions did not catch everyone flatfooted. The drug ban position paper which he adopted had been in the making for several years. With this attitude developing within FDA, some drug manufacturers introduced "animal use only" antibiotics to the American market. (In fact, even before regulatory action, one manufacturer introduced a non-therapeutic feed antibiotic solely for growth promotion and feed efficiency).

Universally, they agree with the Animal Health Institute that there is probably no *scientific* problem with regard to the cross-resistance factor in human and animal bacteria. But they feel a case can be made for the use of alternatives as a means of at least circumventing what may become a *regulatory* problem.

Supporting their animal-use only argument, they say, is increasing evidence that some of the more popular antibiotics require higher and higher usage levels to produce the same effectiveness they did when first introduced. (Bacitracin, for example, is cited as one drug which was fed at 10 grams a ton 10 years ago, but which most mixers use today at a minimum of 25 grams.)

If animal-use manufacturers are raising an issue, in order to circumvent a marketing problem, they at least pose this question: Aside from human risk, which they consider absolutely minimal in current drugs, what will increased resistance of animal bacteria face, given continued exposure to certain antibiotics?

It isn't the human Dr. Kennedy should be trying to protect, long-range, they are saying in effect, but the animal world! They are consistent, however, in criticizing Dr. Kennedy's tack. They don't want the FDA camel to get his nose under the tent, either, because they think FDA's human risk assumption is entirely wrong. This sets the stage, then, for examining industry's unanimous posture on the proposed drug ban.

THE POSITION OF INDUSTRY

The meat producing, animal feed, and animal health industries have taken strong positions that the use of antibiotics for growth promotion and disease control is not only desirable but absolutely essential.

Oakley Ray, president of the American Feed Manufacturer's Association, said the withdrawal of antibiotics used in animal feed would mean "we would have to go back to the kind of agriculture I grew up with, where there were 300 birds on one farm."

Lee Boyd, vice president of the same association, noted that the Soviet Union and other European countries were adopting the "factory model" for producing poultry. He said this method will be threatened in the United States if FDA withdraws its approval of our using antibiotics to control disease. This would mean that U.S. producers would be going backward. Boyd said this would put the United States at a disadvantage in world markets.

All the representatives of the meat, feed and drug industries stress that they want nothing in meat that will endanger human health. Ed Covell, chairman of the National Broiler Council, said, "It is our position that such substances must be withdrawn when they have proven harmful, but not on the basis of unproven theories."

THE OUTLOOK

The battle lines are just beginning to form. The poultry and meat producing industries have a number of solid allies in the congressional committees on agriculture. But hearings being held by other committees may or may not be less friendly. The issue will not be resolved by the agriculture committees alone, or even by Congress alone. Unless Dr.

Kennedy backs down, which few people expect, the penicillin and tetracycline regulations will be challenged in court. This is a cumbersome, time-consuming process.

In Congress, the subcommittees dealing with health, the environment, and consumer affairs are beginning to be heard from. Because of jurisdictional questions, these committees can have much more impact on the antibiotic issue than the more friendly agriculture committees.

In hearings before the House Subcommittee on Oversight and Investigations, FDA was criticized sharply for moving too slowly to restrict the use of penicillin and tetracycline in animal feeds. Some committee members felt the antibiotics represented a sufficient health hazard to require immediate action. The parent Interstate and Foreign Commerce Committee has jurisdiction over FDA legislation and therefore more influence than the Agriculture Committees.

In general, knowledgeable observers expressed some confidence that the FDA actions would not withstand the scrutiny of the courts. Most believe that the evidence weighs heavily in favor of continued use of subtherapeutic levels of antibiotics in animal feed.

EFFECT ON THE PRODUCER

"It is impossible to produce today's abundant supply of high-quality, reasonably-priced eggs, without the use of various pharmaceuticals that science has provided," declared James Fleming, vice president for governmental relations, United Egg Producers. In the Dairy and Poultry Subcommittee hearings, he said: "In 1950, the average commercial hen produced only 174 eggs. In 1976, the average was 235 eggs. Feed conversion improved from 5.4 pounds of feed per dozen eggs in 1950 to 4.1 pounds per dozen eggs in 1976.

"What do these figures mean in dollars and cents?

"Today, if a farmer owns 10,000 commercial hens (today's average is about 30,000), he would use 127.3 tons less feed per year than he would have needed in 1950. At today's feed prices ($160 per ton) he would save $20,368 a year on feed alone . . . it is impossible to estimate the savings resulting from mass production technique."

John Shaheen, director of the Northeastern Poultry Producers Council, testified at the same hearings. He said, "Without an antibiotic feed program, producers would lose to mortality, morbidity and condemnations up to 10.5 percent more broilers, 10 percent more turkeys, and 12 percent more laying hens. To offset (these) losses, producers would be forced to raise more birds . . . which in turn would significantly increase feed grain consumption and energy requirements."

An FDA study using 1970 figures estimated that the use of antibiotics in animal feeds provided a one-cent economic advantage per broiler due to reduced feed and labor costs. This would amount to $1,000 for a broiler producer who sold 100,000 birds. The same study showed that using antibiotics yielded a 12 cent economic advantage for each turkey raised.

The economics of antibiotics have not been analyzed in terms of the producers' return on investment, the impact of capacity when higher costs trigger reduced demand, or changes in demand for specific meat products because the FDA action will have an unequal impact on different species.

It is clear that use of antibiotics and other drugs has contributed to the concentration of the poultry and meat industries.

The Pfizer position paper estimated that "73% of all meat and poultry in the U.S. is produced in this type of intensive operation." A number of observers fear that the ultimate result of FDA's curent position on the use of drugs in animal feeds will be to make intensive animal husbandry impossible. Without the pharmaceutical tools to control diseases in confined populations of animals, producers would have to revert to dispersion of animals in smaller and more scattered flocks and herds.

ANOTHER KIND OF RISK

The Pfizer position paper speculated that, in addition to economic considerations, the FDA proposal also raises new questions about human health hazards coming from disease-producing bacteria from livestock. "Ironically the proposed ban on certain feed antibiotics could create a more serious human health problem than it is intended to prevent," said the paper. Pfizer said the following scenario was not impossible:

"Morbidity of livestock increases precipitously—and a host of sick animals abound.

"These are hurried off to slaughter.

"Meat comes to market contaminated with high concentrations of bacterial pathogens.

"Dysentery reappears, and epidemics of salmonellosis and other dysenteries become more frequent.

"Regulatory bodies are condemned for permitting unsanitary food to reach the consumer.

"Policy reversal is attempted, confusion is compounded and science policy mechanisms are only further discredited."

Pfizer did not address the economic impact of such a scenario. It seems likely that consumers would buy much less meat after a contamination episode.

COPING WITH THE ISSUE

Producers' response to FDA's proposed ban on penicillin and tetracyclines falls into two categories: what to do at the production level, and what to do politically.

The FDA says there are substitutes that can replace penicillin and the tetracyclines. Some it lists: flavormycin, virginiamycin, bacitracin (zinc and methylene disalicyclate), erythromycin, bambermycins, carbadox, oleandomycin, tylosin, sulfaquinoxaline, hygromycin (B), sulfadimethoxine-ormetoprim, arsanilic acid, roxarsone, carborsone, sodium arsanilate, linomycin and monesin.

FDA also maintains that animal diseases can still be treated therapeutically and that producers can still use penicillin and tetracyclines if they have a veterinarian's prescription. Animal scientists and producers counter that there are too few veterinarians in the United States to treat all sick animals. J.R. Legates, Dean, School of Agriculture and Life Sciences, North Carolina State University, says that North Carolina would be particularly hard hit since there are no veterinarians in 18 out of its 100 counties.

FDA also recommends that disease be controlled through improved sanitation, quarantines, and isolation of sick birds and animals. Animal producers generally respond that these methods are difficult, expensive, and often ineffective.

WITH ONE VOICE

Chairman Rose in his interview with Watt Publishing Company urged "everyone in industry and agribusiness to be aware of these proposals, their possible impact, and to get the facts to their representatives in the House and Senate."

They should make sure, he said, that "all segments of the poultry and meat industries join in a coordinated effort to speak to this problem with one voice so the issue does not get decided in a vacuum or without all having a chance to be heard."

Senators and Congressmen are just as confused as laymen about the safety, or lack of it, of drugs used in humans and animal health, Representative Rose asserts. He suggested a well-funded, well-planned educational approach, not an adversary position. "Say what you believe, and say it convincingly," he suggests, "using your trade associations to provide organized leadership."●

## BALANCE(S) OF POWER—BOOK II C(i), NATIONAL RESOURCES

## HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, in the continuing series of articles on the strategic balance of power between the United States and the Soviet Union, we turn next to the important factor of natural resources. Although our Nation is blessed with a significant wealth of resources, we are by no means as self-sufficient in raw materials as the Soviet Union.

The Soviet advantage is particularly striking in energy resources and the use of those resources as this article by C. Sharp Cook, entitled "Their Energy—Our Crisis," demonstrates. As we strive to formulate an energy policy designed to meet national needs without damaging our strategic position, we need to be reminded of Soviet strengths in this regard.

The following article first appeared in the U.S. Naval Institute Proceedings, August 1976. The article follows:

THEIR ENERGY—OUR CRISIS

(By C. Sharp Cook)

Nikita Khrushchev's famous prophecy, "We will bury you," should be considered seriously by citizens of the United States, especially those of the younger generation who are now in high school and college. At the moment, the U.S. and Soviet postures relative to military and civilian strengths appear comparable. However, a look at future supplies of natural resources, especially energy resources, may well provide cause for alarm.

The statement by Khrushchev was not intended as a military threat but as a boast, to indicate the strength of the Soviet Union in overall productive capability. A better understanding of his meaning can be attained by quoting another statement: "We will survive you, we will be alive and stronger at your demise than we are now." Of course, if one side became overwhelmingly stronger militarily, no deterrent would exist to prevent it from overrunning the other with its armies.

At the moment, with the U.S.S.R. having problems in the production of enough wheat to feed its people, any concern about the competitive position of the Soviet Union might seem a bit ludicrous. However, closer examination of the extent of natural resources in the two countries quickly and clearly indicates the need for concern. Over the past century, the United States has rapidly depleted its originally abundant supplies of oil and natural gas and has wasted many of these supplies. While the per capita use of energy in this country is about six times the world average, the per capita use of energy in the U.S.S.R. is only about two and a half times the world average, a clear indication of the relative rate at which we are using our resources. U.S. domestic resources of oil and natural gas, if current exploitation rates continue, are sufficient to supply a significant fraction of our needs for slightly more than another quarter of a century.

On the other hand, the Soviets have found vast amounts of both these energy resources in Siberia. Furthermore, this abundance covers the whole spectrum of energy resources. Siberia, once thought to be a vast wasteland, has turned out to be a vast storehouse of almost any conceivable natural resource. For example, continuing explotation has re-

vealed that the area probably holds more than half the coal reserves of the world, far outstripping those of the United States, even though most Americans consider the U.S. supplies of coal as abundant.

Although the Soviets are somewhat secretive about their supplies of oil and natural gas, enough information is available to reveal that they have tremendous quantities of both these commodities. One set of estimates, based on Soviet publications, indicates that the U.S.S.R. has 45% of the world's remaining natural gas and 37% of its oil-bearing areas. Since much of eastern and central Siberia has not yet been thoroughly explored, much more oil and natural gas will probably be found. In the period between 1956 and 1970, the natural gas reserves of western Siberia increased tenfold. Reserves are those resources that are known to exist and can be extracted economically. Whereas the oil-pumping rate in the United States has been declining since 1970, the pumping rate in the U.S.S.R. has been increasing. During both 1974 and 1975, the Soviet pumping rate exceeded that of the United States. The 1975 average was 9.79 million barrels a day for the U.S.S.R. and 8.36 million barrels a day for this nation.

Another source of energy is water power. Again, the supply in the Soviet Union is tremendous. The U.S.S.R has five huge river systems and a considerable part of the Amur system, which they share with the People's Republic of China. In the European part of the U.S.S.R., the Dnieper River has already been fully developed to take advantage of its hydroelectric power Development of the Volga River system is rapidly being completed. However, in Siberia the Ob, the Lena, and the Yenisey River systems are only partially developed and still have many good dam sites to be exploited. Full development of the hydroelectric potential of these five huge river systems could provide the complete electrical needs, including all residential, commercial, and industrial needs for between 70 and 100 million people. The Soviets may possess as much as 12% of the world's potential hydroelectric power. By comparison, the only area of the United States that can depend on hydroelectric power to supply essentially all its electrical energy needs is the Pacific Northwest One of the initial purposes of the Tennessee Valley Authority was to take advantage of the hydroelectric potential of the Tennessee River system. However, that resource has long been surpassed, and now hydroelectric plants supply only a fraction of the electrical output of the TVA system.

The Soviets' nuclear power program is also going strong. They have a prototype breeder reactor in operation, at Shevchenko, on the northeast coast of the Caspian Sea. While environmental lobbyists actively oppose the construction of any nuclear reactors for power purposes in this country, no such wrangling exists in the Soviet Union regarding programs for the development of a fast breeder reactor. Few, if any, questions are raised about the safety on the environmental impact of the project, certainly none comparable to the ballot initiatives that have found their way to the voters in several of our states. As a result a continuing sustained effort is leading to a set of nuclear reactors that use nuclear fuel in the most efficient manner possible. Some technical problems have been encountered, but successful tests of breeder reactors in other countries, especially France, indicate that the Soviets will ultimately reach their goal.

In the U.S.S.R., fast breeder reactor development has followed an orderly progression in size and sophistication. A small breeder at Obninsk, went into operation in 1958 with an electrical output of 5 megawatts. A larger experimental reactor started operating in 1970 at Melekass. The prototype electric power plant breeder reactor at Shevchenko began operations in 1973 with a rated capacity output of 350 megawatts. However, this plant has thus far operated only up to 30% of full power. A larger 600 megawatt demonstration power plant is scheduled for completion in 1977 at Belogarsk, and a commercial power station using a breeder reactor, with a rated output of 1500 megawatts, is now being designed. This commercial power station is expected to be operating by 1985.

One of the world's largest research programs on nuclear fusion has been in existence in the U.S.S.R. for many years and has made many major contributions. The program includes research both on magnetically confined plasmas and on laser fusion. While nuclear fusion is still in the research stage and no guarantee exists that a practical source of energy will ever be developed, only those who work on such a program have any chance of success in developing a practical source of energy. Comparisons of research programs are difficult, but all indications are that the Soviet effort in nuclear-fusion research is as large, and maybe larger, than the American effort.

The Soviets have not been inactive in other areas of energy research. For example they have one of the two existing tidal electric generating stations in the world. Admittedly, this plant near Murmansk is only experimental, but it is one more tidal-energy plant than the United States possesses. Furthermore, estimates indicate that the long coastline of the Soviet Union has the potential for supplying relatively large quantities of tidal energy, probably about 20 percent of the world's total capability. The Soviets also have a leading, if not the leading, research program in the use of magnetohydrodynamics as a more efficient means of producing electrical energy from the burning of fossil fuels.

Even though the United States has the largest geothermal electric generating station in the world, at the Geysers just north of San Francisco, the electrical output of this station is still less than any new electric generating station powered with either fossil or nuclear fuel. The Soviets also have a number of geothermal projects, including a small electricity generating station at Pauzketsk at the southern end of the Kamchatka Peninsula and a number of experiments in the area of the Caspian Sea and the Black Sea.

When one compares the energy resources of this country and the U.S.S.R., it seems obvious that future generations of Americans are going to encounter problems unless proper precautions and planning take place. U.S. military services obtain an extremely large portion of their energy from fossil fuel, primarily oil. As domestic oil supplies disappear, other energy resources must be found to power the military or else a tremendous deterioration of our military posture will take place.

Even food production, an area in which we currently far outstrip the Soviets, is vitally dependent on energy resources to continue at its present rate. To maintain the present capability of the food industry, including production, distribution and preparation, the United States uses about nine calories of energy for each single calorie of food that reaches an American dining room table. Most of these nine calories come from fossil fuels, and most of these fuels are oil and natural gas, the ones of most concern. During 1974, a total of 2.5 percent of our natural gas supply went into making nitrogen fertilizer for use on the farms of America.

The time has long passed for a careful and thorough analysis of the energy situation in the United States, especially with respect to our future capability to compete in the world arena with the Soviet Union. A full and honest evaluation of the potential effects of the huge Soviet energy supplies is needed. If past experiences are any indication, nothing will be done until a crisis has been reached, and in this case it will unfortunately then be too late. The situation with regard to energy resources was analyzed in considerable detail by the Truman Commission in 1952. This commission also made a series of recommendations to the federal government as to how to avoid disaster. Unfortunately, the report of the findings has essentially been ignored by subsequent administrations of the federal government.

During the next few decades, it will be interesting to observe how and when the American people and their elected leaders come to the realization that they have some rather serious problems. These are problems that have been discussed in the past but about which very little has been done, largely because most people are more concerned about the present than the future. How these problems are solved, if they are, will also be interesting to observe. One conclusion is certain. We have at most three or four more decades in which we can live in the sort of ignorant bliss we have enjoyed for the past quarter of a century.●

## BALANCE(S) OF POWER BOOK III B(i) NATO NORTHERN FLANK

## HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. BRECKINRIDGE. Mr. Speaker, although the confrontation of opposing forces in the center sector of NATO and the Warsaw Pact poses the most apparent threat to peace in Western Europe, we must be aware also that military activities in the areas known as the flanks of NATO may be regional developments with the potential to do equal damage to the military balance in Europe.

Today's selection, "The Nordic Balance," examines the awesome Soviet presence on the Northern flank, and particularly the buildup of Soviet bases in its Kola Peninsula region. The author, Col. Arthur F. Dewey, suggests that "there are indeed limits to tampering with the Nordic Balance, beyond which the U.S.S.R. ventures only at the risk of upsetting the wider international balance of power," concluding that those risks must now appear worth taking to the Soviets. Accordingly, this analysis demands our attention.

This writing first appeared in Strategic Review, Fall 1976. The first part of Col. Dewey's article follows:

THE NORDIC BALANCE

(By Col. Arthur E. Dewey, USA)

IN BRIEF

Perhaps least noticed in the recent development of Soviet naval power is the region which contains most of that power—the Northern Cap and the Baltic Sea. The Murmansk area contains the world's largest naval and submarine base and one of the world's mightiest concentrations of military power. This area supports more ships than are supported by all ports of the United States combined. The most important consequence of this military build-up is the perception it fosters that Norway has now fallen behind the legitimate defense lines of the Soviet Union. A second development suggests the opposite hypothesis: that new technology of the weapon systems based on the Kola Penin-

sula now frees the Soviet Navy from its vulnerable egress gauntlets and thus sharply reduces the strategic importance of Norway. These seemingly contradictory hypotheses converge in the conclusion that the concept of Norwegian neutrality, soundly discredited in World War II, may again become a thinkable proposition. The heart of the problem we are now witnessing with respect to the Nordic Balance is the asymmetrical application of the rules of balance by the USSR and NATO. Although the military part of NATO has voiced a realistic appreciation of the situation for some time, the shifting of the Nordic Balance is basically a political issue and needs to be assessed in NATO's political circles. An initiail step would appear to be an appraisal by the United States national security apparatus of the northern flank in its entirety. Hopefully, from such an appraisal would come a commitment from the United States to consult with its NATO partners and seek a set of guidelines designed to restore and regulate the balance in the North and to communicate those guidelines to the USSR and the Warsaw Pact. Progress must also be made in the crucial area of bilateral U.S.-Norwegian issues before one can hope for any broader adjusting mechanisms of the Nordic Balance to have a lasting effect.

The most insistent and pervasive voices in Western strategic circles today carry the message that the impulses, and the capabilities, of Soviet expansionism are rapidly coming to alignment. The growth of the Soviet Navy has been fundamental to the capability side of this equation. This growth has been rapid; the kinds of equipment and doctrine developed have been carefully structured to support an expansionist global strategy; and the locations for this formidable build-up of power have been calculated to minimize the handicaps of geography for the Soviet Union, while exploiting the geopolitical vulnerabilities of her adversaries.

Western strategists have singled out for special attention the increased Soviet naval presence in the Mediterranean—its impact on the North Atlantic Treaty Organization's southern flank, and on war and peace in the Middle East; they have watched the gradual build-up of Soviet presence and littoral anchorages in the Indian Ocean region; and in the post-Vietnam era, they are watching. In particular, Soviet challenges to U.S. naval presence in the Pacific. Perhaps least noticed in the recent developments of Soviet naval power is the region which contains most of that power. Well over one-half of the USSR's newly developed naval capability is tucked away in one of the "safest" and least worried about corners of the earth—the Northern Cap and the Baltic Sea. Most of this sea power in the north, contained in the Northern Fleet, is positioned in one of the world's remotest and most inhospitable spots—the largely icebound Kola Peninsula.

It is the intent of this article to explore the Soviet Union's reasons for stationing so much of its military strength in that place, and to examine the potential influence of this strength in the so-called "Nordic Balance" (particularly with respect to Norway because of the special location of this NATO member) and on the general security posture of NATO.

To be sure, alert observers in U.S./NATO military circles, and especially Norwegian strategic thinkers, have in the past called attention to this problem and what it may mean for the Nordic countries and for the West. It seems important to highlight the situation at this time for two principal reasons. First, although the large build-up of naval power opposite NATO's northern flank has been a reality for nearly five years, the politico-military impact of the situation has developed so glacially that one could say that only within the last year has it been possible to shift from speculation over its meaning to identification of specific trends. Secondly, where trends adverse to Western security interests are identified, there may still be time to reverse, or attempt to reverse, some of them.

THE OVERALL BUILD-UP PATTERN

Several points, or segments, stand out on the long curve, which stretches from root impulses of the Soviets to project influence beyond their homeland to the achievement of a capability to do so, which we are watching today. Frustration and stagnation of the Cold War seem to have dramatized the Soviet Union's requirement to leap out of its shell of encirclement and rectify the military imbalance which so clearly constrained its ability to influence events far from its shores. A key point on this curve is certainly the humiliation the Soviet Union suffered as a result of the October 1962 Cuban missile crisis. The extent to which this event translated into subsequent Kremlin decisions is alluded to in the remarks of a senior Soviet diplomat to John J. McCloy as the confrontation was drawing to a close. He said, "This will never happen to us again."

Efforts to insure it would not happen again brought about a complex orchestration of military programs, not least of which was the program to redress the strategic nuclear imbalance which figured prominently in the Cuban missile confrontation. In addition, the imbalance in general purpose air and sea forces, strategically deployable, was a sobering lesson for the Soviets. The case is convincing that Cuba was the proximate cause for a rethinking of the role of military force in support of foreign policy objectives. The Soviet Navy, especially in its widening pattern of maneuvers and deployments, became the most visible instrument in undertaking an enlarged political/diplomatic function on the part of general purpose forces.

In addition to signaling a change in naval employment doctrine, the post-1962 actions of Kremlin policy-makers also represented a ratification of the design of Navy Commander-in-Chief Sergei Gorshkov. This design, parts of which trace their beginning to Admiral Gorshkov's appointment as Navy Chief in 1955, called for: global naval intelligence gathering (largely through fishing trawlers); construction of what was to become the world's largest submarine fleet; arrangements for the global infrastructure of facilities, or access to facilities needed by a great naval power; development of sea control capability, utilizing attack submarines, but especially missile-firing surface ships; and ability to project power ashore with helicopter carriers and eventually aircraft carriers.

In a Navy Day speech in July 1966, Admiral Gorshkov was able to declare: "An end has been put to the complete domination of the seas by the imperial powers." In another Navy Day speech four years later, when the major portion of the build-up had been completed, Gorshkov stated: "Soviet navy ships are constantly on the ocean, including the stamping ground of the NATO strike fleets." In a public statement in September 1970 he said: "In the past our ships and naval units have operated principally near our coasts. Now we intend to prepare for broad offensive operations against the sea and group troops of the imperialists in any part of the world's oceans and adjacent territory."

Much of the military force confronting the "NATO strike fleets" is contained in the largest of the Soviet Union's four fleets, the Northern Fleet with its headquarters at Murmansk and operational elements based nearby along the relatively short, ice-free portion of the Kola Peninsula shoreline. This complex has made the Murmansk area the world's largest naval and submarine base, and one of the world's mightiest concentrations of military power. This area supports more ships than are supported by all ports of the United States combined. Here are based approximately 500 surface vessels, including 60 major combatants. The Northern Fleet commands a total of 175 submarines, including 80 with nuclear power. Most significantly, nearly 70 per cent of the Soviet top priority naval capability—the ballistic missile submarine—is based in the Murmansk vicinity.

THE SIGNIFICANCE OF THE SOVIET BUILD-UP

A rigorous assessment of what this relatively recent development means for Norway, for NATO, and for United States-Soviet relations is already overdue. The situation takes on an acute importance when one considers its impact on the very cornerstone of security relationships among the Nordic states, and between these states and the Soviet Union—the so-called Nordic Balance. This balance began to take shape as early as the entry of Denmark and Norway into NATO in 1949. Mindful that geography had made their territories an inescapable part of the strategic calculus of the Soviet Union, entry into a rival military alliance was softened by Danish and Norwegian unilateral renunciation of NATO bases on their soil in peacetime. Shortly thereafter, this was followed by a ban on the peacetime shortage of nuclear weapons. Concomitant with the formulation of this position, known as the "base and ban" policy, was the undertaking in the Norwegian Parliament (Storting to compensate for these restrictions on the deployments of allied forces with a corresponding increase in Norwegian conventional strength).

Self-restraint and deterrence, then, became the principal components of the Nordic Balance. Self-restraint has acted, not only to assure the Soviets that their defense sensitivities are taken fully into account in this part of the world: it also reassures the Nordic neutrals—Sweden and Finland—who are well aware of the strategic value of their northern regions to the Soviets should the USSR perceive threats or provocations by, or on behalf of, the other Nordic NATO members. Deterrence, on the other hand, involves first the Norwegian forces deployed in the north, and Norway's perceived will to resist from the outset any Soviet moves against her territory. But to be effective, deterrence depends upon Norway's link with the other forces of NATO, and the clear understanding that these forces will also be employed to resist violations of Norwegian sovereignty.

In theory, these stabilizing mechanisms of self-restraint and deterrence are designed to cope with attempts to alter the security equilibrium. That is, if weight is added on the Soviet side, the balance can be restored by adding more Norwegian forces, or by removing the "base and ban" restriction on other NATO forces. In practice, however, such compensating moves do not appear to be available. To begin with, the force increase envisaged to offset the "base and ban" concession has yet to materialize in Norway. In the fifteen years since the Storting unanimously recognized the need for the offset, there has been no serious attempt to bring it about. Yet the assurance, or self-restraint, stabilizer, which included not only "base and ban," but also bars to allied maneuvers in Finmark (that part of Norway contiguous to the USSR) and allied air or naval activity east of 24° east longitude, appears to be locked in concrete. Both within Norway, and by the USSR, self-restraint as defined by these restrictions is viewed, not as part of an adjusting mechanism, but as a sacrosanct tenet or Norwegian foreign and domestic policy. For example, the Soviet side of the scales can be weighted at will with almost no likelihood of counterweights being added by the countries on the other side in the region (and conversely, Norwegian attempts to strengthen its forces can be challenged by the USSR through invocation of its meaning

of the "balance"). So one needs to view the Nordic Balance, not in terms of its potential as a stabilizer for the region, but in terms of the dangers it holds, as currently practiced, for institutionalizing disequilibrium.

Given these characteristics of the Balance, the massive weight represented by the Kola Peninsula build-up has ominous implications, both for Western security and for Norwegian freedom of action. One of the first spokesmen to describe the seriousness of this new situation in the North was the Norwegian Minister of Defense speaking to the Storting in November 1970: "One of the most powerful groups of bases in the world has now been built up close to Norway's borders with Russia . . . the large scale exercise *Sever* in July 1968 and *Okean* in April 1970 proved that the Soviets are capable of undertaking amphibious operations at great distances from their base, and that an exercise pattern has now been created which, in future, would make it possible for an amphibious force to set out from the Baltic and Kola Peninsula without this necessarily having to be noted as unusual."

Later, Norwegian Prime Minister Trygve Bratteli stated in a July 1971 interview with United Press International: "The Soviet Union has carried out a colossal military build-up on the northern flank of NATO where her military forces are greater than ever before, with the possible exception of the Second World War . . . the fact that such great military strength is deployed so near to our country underlines the seriousness of the international strategic situation."

The Defense Minister's characterization of the Kola Peninsula augmentation is noteworthy in the context of Norway's consistent policy of self-restraint in the face of security moves by its giant Soviet neighbor. The strength of Mr. Bratteli's retort suggests that there are indeed limits to tampering with the Nordic Balance, beyond which the USSR ventures only at the risk of upsetting the wider international balance of power. In the calculus which led to their approaching, and even exceeding, these bounds, Kremlin strategists must have taken into account the geographical and political aspects of the Nordic environment, along with the superpower relationship, and concluded that the risks were indeed, worth taking.

From the geographical standpoint, Moscow's military planners surely recognized that they were positioning the preponderance of their naval power in one of the world's most inhospitable environments. For example, while the Gulf Stream maintains a year-round channel of open water to Murmansk, just east of that city, winter ice shuts off all but a small portion of the Peninsula's coastline to surface shipping for nearly six months of the year. This limitation alone compresses the bulk of the Kola naval complex into the short coastal band between what was formerly Finland's Petsamo Peninsula (now Soviet Pechenga, following annexation after World War II) and the ice line east of Murmansk. Even more vulnerable than the crowded location of the Peninsula bases, however, is the channelization of the fleet when it leaves its bases for the open sea. Egress to attack areas and firing positions leads through three formidable choke points. The first is encountered almost immediately on leaving the concentrated base areas—the gateway guarded by Norway's North Cape on the south and Spitsbergen Island on the north. Through this gap, the ice in winter may force surface shipping into an even narrower channel closer to Norway's northern coast. The second and third gateways also anchor on NATO territory, i.e., Greenland-Jan Maven Island-Lofoten Island, and Greenland-Iceland-United Kingdom. These choke points not only define the Soviet egress gates; they also represent NATO's logical defense and surveillance lines against its principal undersea and surface attack threats.

WHY HAS THE USSR DONE IT?

Why then would the USSR install such a crucial strategic asset on a largely icebound peninsula, contiguous to a NATO member, and at the end of sea lanes choked by NATO territory?

Accepting the fact that the Kola basing meets the distance requirements to the Fleet's prime target areas, perhaps the simplest answer is that this location is better than any of the others. Look at the home ports of the other three fleets—the Baltic, the Black Sea and the Pacific—together with the gauntlets each must run in reaching its operational areas. The Baltic Fleet, based in the Leningrad area, offers perhaps the best comparison since it, too, is positioned opposite NATO's northern flank. Its exit through the Kattegat, Skagerrak, and Oresund is clearly more restrictive than that faced by the Northern Fleet. Similarly constrictive gateways guard the Black Sea Fleet at the Bosporus and the Dardanelles, and the Pacific Fleet at the Sova, Tsugaru, and Tsushima Straits.

Beyond the risk of geography, there were the risks of politics. There was, indeed, the Western interpretation of Nordic Balance to consider—an arrangement in which the Nordics themselves and indirectly, the U.S. superpower had a considerable stake. What then could have led political analysts in Moscow to conclude that a large-scale, potentially provocative build-up, which the Kola challenge to NATO's north flank clearly represented, rested within tolerable limits?

Several factors suggest reasons for the USSR acting as it did. With respect to the risk of pressing NATO too hard in the North, the psychology of the region has been conditioned to just the opposite concern, i.e., provoking the USSR. It has also been recognized that NATO's preoccupation is with the central region of Europe. Henry Kissinger addressed this focus on the center, at the expense of the flanks, while he was still a Harvard professor in 1963—approximately two years before the Kola build-up began in earnest. He wrote in a foreword to a paper entitled, "Europe's Northern Cap and the Soviet Union": "Most of NATO thinking has concentrated on the contingency of a massive Soviet attack on the central front.

Very likely, this danger is less real than that of Soviet pressures in peripheral areas where Soviet power can be demonstrated at much smaller risk. The Northern Cap is remote geographically and psychologically from the overriding concerns of Atlantic strategy."

Another key political factor lessening the risks of a Soviet move opposite the northern flank is the relatively greater instability of the southern flank. When NATO had to divert its attention to the edges of the Alliance, it was, of course, to the southern edge that it looked—to Greece and Turkey, and to Portugal.

Perhaps equal in importance to the external political factors in NATO are the internal political trends in Norwary, and the effect of these trends on Norwegian reaction to external strategic changes. First of all, Norway's impressive record as a stalwart NATO partner suggests continuing resistance to outside pressure and influence. Norway became a charter member of the Alliance in 1949. Support since then, as measured in public opinion polls, has been consistently solid, ranging from a low of 56 per cent to a peak of 64 per cent. In a recent sounding, 60 per cent favored continuation of the NATO link, including a surprising 30 per cent of the normally anti-NATO far left political coalition.

Other indicators similarly point to the steadfastness of Norway's NATO commitment. Norwegian military expenditures per capita, for example, have remained consistently high among NATO members. Norway has also taken an aggressive lead in such Alliance modernization/standardization projects as the replacement of the F–104 fighter aircraft with F–16s.

This the record seems to argue against any near-term weakening of Norwegian resolve or change in defense policy. Other factors need to be looked at, however, in assessing such prospects over the longer term.●

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## THE TURKISH ARMS EMBARGO DEBATE, NO. 4 AND NO. 5

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues another exchange of "Dear Colleague" letters I have had with proponents of keeping the arms embargo against Turkey.

In their fourth letter, the proponents of the embargo argue that in the last 4 years Turkey has failed to make a single substantive response to congressional concessions in lifting partially the embargo and allowing limited FMS transactions.

And in their fifth letter, it is argued that the Turkish arms vote will be used as a wedge in the administration's growing effort to exclude Congress from its rightful place in the foreign policy process.

In my reply, I point to the recent detailed and constructive Turkish proposals to which the Greeks have replied. The Turkish proposal and the Greek response give new hope that some progress can be achieved and that the suffering of the Cypriot people will be alleviated if the embargo is ended. It should be said that the vote on the Turkish arms embargo will not adversely affect congressional activism in foreign affairs which will continue, is necessary, and has, on many occasions, helped produce better policies that served the national interest.

The exchange of letters follows:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 1978.*

THE EMBARGO AND TURKISH INTRANSIGENCE

DEAR COLLEAGUE: We will soon be called upon to vote again on the Turkish arms embargo. Because this issue first came before Congress nearly four years ago, many important details tend to be forgotten. In addition, many Members have joined the House since this issue was first considered in the wake of Turkey's August, 1974 invasion and occupation of forty percent of Cyprus.

The Administration suggests, in its effort to lift the embargo, that the failure to achieve a Cyprus settlement is due, not to continued Turkish intransigence, but to Congressional inflexibility. If Congress would only ease the pressure on Turkey, we are told, Turkey would respond by taking the substantive actions necessary to promote a Cyprus settlement.

The Administration's argument ignores the clear historical record.

Congress has taken action after action in the past four years to "ease the pressure on

Turkey" in response to similar Administration pleas. Yet Turkey has failed to make a single substantive response to these Congressional concessions. It seems, in fact, that Congressional flexibility on this issue has merely encouraged further Turkish resistance.

We ask you to consider the following facts:

Congressional action—September 1974; Congress delays embargo two months as Kissinger's request to use his influence on Turkey.

Turkish action: No response.

Congressional action—December 1974: Congress delays embargo two more months at Kissinger's request to use his influence on Turkey.

Turkish action: No response.

Congressional action—October 1975; Congress relaxes embargo to allow: (a) $185 million in arms ordered before embargo to be released to Turkey; (b) unlimited commercial arms sales to Turkey; (c) future FMS sales to Turkey.

Turkish action: No response.

Congressional action—1974–1976: Nine meetings with President Ford and/or Secretary Kissinger initiated by embargo supporters to show ways Congress would move immediately if Turkey indicated it wanted to solve Cyprus.

Turkish action: No response.

Congressional action—April 1976: Congress authorized $125 million in FMS to Turkey for FY 1976.

Turkish action: No response.

Congressional action—May 1976: Congress adds $125 million in FMS to Turkey for FY 1977.

Turkish action: No response.

Congressional action—April 1977: Congress increases FMS to Turkey for FY 1978 to $175 million, a forty percent boost.

Turkish action: No response.

When the Administration claims that Congress is responsible for preventing progress on Cyprus, remember the past record of substantive actions taken by Congress.

When will Turkey act?

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 1978.*

THE EMBARGO AND CONGRESS ROLE IN FOREIGN POLICY

DEAR COLLEAGUE: In our previous letters to you about the Turkish arms question, we have discussed a number of reasons why continued Congressional support for the embargo is necessary:

The embargo is required by law so long as the Turkish occupation of Cyprus, aided by American-supplied weapons, continues.

Effective use of the embargo represents the best chance of settling the Cyprus question and restoring full human rights to the more than 200,000 refugees now living there.

The embargo has never been given a chance to work, and a strong Congressional vote in favor of the embargo at this time would demonstrate conclusively the futility of further Turkish intransigence on Cyprus.

Lifting of the embargo would threaten grievous consequences to the southeastern flank of NATO.

Turkey has utterly failed to respond to previous Congressional concessions with respect to the embargo.

Each of these is, in our view, reason enough to vote for continuing the embargo—together, they make a case which simply cannot be ignored.

But events of recent weeks suggest still another reason to resist Administration pressure on this important issue: The Turkish arms vote will be used as a wedge in the Administration's growing effort to exclude Congress from its rightful place in the foreign policy process.

Certain high-ranking members of the Administration have made no secret of their distaste for a Congressional role in the conduct of American foreign policy. They see it as "interference"; they feel their "hands are tied".

We disagree. We feel that a strong and active Congressional role is required not only by our Constitution, but by the needs of the present day as well.

We reach this conclusion with the experience of recent years firmly in mind. Our long and tragic involvement in Vietnam was in large part a result of Congressional acquiescence in uncontrolled Presidential diplomacy.

And the retreat of the White House behind an ever-widening cloak of secrecy and claims of "national security"—again with Congressional acquiescence—made possible a Watergate, a long train of abuses in which the legitimate organs of government were subverted to serve wrongful ends.

Largely as a consequence of these two events, Congress has begun to reassert its proper role in the conduct of American foreign policy. Congress should resist any effort to neutralize this process.

We need not accuse the Carter Administration of bad intent to recognize that the members of the executive branch are not always correct in their assessments of our national interest.

We know that, even now, the White House is of several minds about how to deal with Congress on foreign policy questions. A decision by Congress to surrender to Administration pressure on the Turkish arms issue will be seen as an abdication of our newly-regained responsibilities, and will enable some members of the executive branch to continue to press their efforts to bypass Congress.

As a clear statement that Congress remains committed to an active but proper role in the foreign policy process, we urge you to reject the Administration's effort to remove the arms embargo against Turkey.

Sincerely,

Dante B. Fascell, John Brademas, Edward J. Derwinski, Charles Rose, Benjamin S. Rosenthal, Parren J. Mitchell, Norman Y. Mineta, James J. Blanchard, Mario Biaggi, Robert W. Edgar, Norman E. D'Amours, Paul E. Tsongas, Barbara A. Mikulski, George M. O'Brien, Wyche Fowler, Jr., Martin A. Russo, Donald M. Fraser, Benjamin A. Gilman, John L. Burton, James J. Florio, Charles B. Rangel.

DEAR COLLEAGUE: This letter is in response to the fourth and fifth letters sent to you by the proponents of keeping the arms embargo against Turkey. Their fourth letter addresses the question of whether there has been no progress toward a Cyprus settlement because of Turkish intransigence or Congressional inflexibility and the fifth letter deals with the role of Congress in foreign policy and the implications of the Turkish vote on that role.

Arguments made by the proponents of keeping the arms embargo against Turkey:

1. In the last four years. . . . Turkey has failed to make a single substantive response to. . . . Congressional concessions.

2. Congressional flexibility on this issue has merely encouraged further Turkish resistance.

3. The Turkish arms vote will be used as a wedge in the Administration's growing effort to exclude Congress from its rightful place in the foreign policy process.

Counter:

1. Turkey has recently made detailed, constructive proposals which give new hope for successful progress.

Secretary General Waldheim has termed recent Turkish proposals as "concrete and substantial". Among other things, the Turks have offered to:

Consider making substantial territorial readjustments in six, specific areas;

Permit up to 35,000 Greek Cypriot refugees to return to an initially UN-protected Varosha as soon as talks resume;

Carry out substantial further reductions in the number of Turkish troops on Cyprus beyond the more than 17,000 troops already withdrawn;

And reopen the International Airport at Nicosia under the United Nations auspices.

These proposals are not all that the Greek Cypriots want and deserve, but they reflect a clear improvement over other, previous Turkish offers and the Turks have said these proposals are initial positions and are negotiable.

It cannot be said, as the proponents of the embargo argue, that Turkey has failed to make a single substantive response in the last four years.

2. It is unreasonable to expect any proud nation to capitulate to U.S. pressure.

Turkey, a proud and firmly independent nation, rejects the idea of yielding to pressure. The Turks find the embargo a painful humiliation and it has stiffened their resistence to making substantial concessions. The embargo has led to anguish in Turkey over its treatment by the United States after what the Turks regard as thirty years of steadfast pro-West support. A successful negotiating environment will be almost impossible to arrange as long as the embargo is in effect.

3. Turkey should not be expected to respond to moves by the U.S. Congress with immediate moves on Cyprus.

The Cyprus conflict involves decades of inter-communal tensions and its resolution will require detailed and complicated negotiations. Turkish moves on the Cyprus issue will come in negotiations between the Greek and Turkish Cypriots, not directly and immediately because of legislation Congress may or may not take.

The Congressional legislative process cannot determine the moves, concessions and compromises—the substance—which may be part of a Cyprus settlement but Congressional action, in this case the embargo, can affect the timing and the environment in which negotiations may or may not take place. The embargo has had a negative impact on Cyprus negotiations and in creating an environment in which the parties will negotiate.

4. The vote on the Turkish arms embargo will not adversely affect Congressional activism in foreign affairs which will continue, is necessary and has, on many occasions, helped produce better policies that served the national interest.

Congressional activism, which is defensible, is not the issue in the vote. Congress, like all other foreign policy actors, however, should be accountable for its actions in the foreign policy arena. For whatever reasons, the embargo has not worked. For whatever reasons, the partial lifting of the embargo in October, 1975, did not lead to the Turkish responses many of us hoped for. Congress needs to act now to protect U.S. national interests.

As a result of this situation and the embargo, national interests of the United States throughout the Eastern Mediterranean are suffering and we are unable to help promote a Cyprus settlement. This is the present, unacceptable situation we must address, not the rights or wrongs of how we got here.

A new approach is the best hope for improving our relations with Turkey, Greece and Cyprus and creating an environment in which Cyprus peace talks can proceed. I hope you agree and will vote to lift the embargo.

Sincerely yours,

LEE H. HAMILTON.●

## INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS ENDORSE H.R. 8729, AIRPORT AND AIRCRAFT NOISE REDUCTION ACT, AND URGE AFFIRMATIVE VOTE

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. ANDERSON of California. Mr. Speaker, the million-plus membership of the International Association of Machinists & Aerospace Workers through their international president, William W. Winpisinger, have advised me of their strong support for H.R. 8729, the Airport and Aircraft Noise Reduction Act.

Although this is an environmental bill as Mr. Winpisinger points out, the IAM is quick to recognize that it also is a jobs bill and that it will play a vital role in maintaining our world leadership in respect to aerospace exports. As he further points out its represents a valuable opportunity for Congress to enact legislation that would help alleviate a wide range of problems that continue to plague our Nation's economic growth, stability, and social aspirations.

The following is what Mr. Winpisinger wrote me:

INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS,
*Washington, D.C., July 28, 1978.*

Subject: H.R. 8728, "The Airport and Aircraft Noise Reduction Act."

Hon. GLENN M. ANDERSON,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR REPRESENTATIVE: On behalf of more than 1,000,000 members of the International Association of Machinists and Aerospace Workers, I wish to express our endorsement and support for H.R. 8729. We firmly believe it represents a valuable opportunity for Congress to enact legislation that would help alleviate a wide range of problems that continue to plague our nation's economic growth, stability, and social aspirations.

First of all, passage of this bill would help rejuvenate our faltering airframe and aircraft engine industrial output which needs to be bolstered if we are to maintain our world leadership in respect to aerospace exports. This would be a positive step to significantly improve our balance of foreign trade.

Secondly, the environmental problems that have accompanied the introduction of jet aircraft to most communities would be substantially reduced, if not eliminated. However, in order to comply with prescribed federal noise standards, the airline industry, which is the keystone of intercity travel, must have a sound financial formula which ensures a positive, but not punitive, equipment transition. The introduction of new technology aircraft and engines would not only result in noise abatement, but would also substantially decrease the use of fuel and other vital energy sources of paramount concern to our nation's future.

Airport operators and responsible local governments must have the incentive and availability of funding to solve their airport-community problems, and this bill offers that initiative.

Finally, and of major importance, this is a jobs creating and public works bill affecting every part of the country and the adoption of this legislation would translate into tens of thousands of badly needed new jobs at a time when our country is struggling to regain its economic vitality. I strongly urge your support and affirmative vote for the passage of HR 8729.

WILLIAM W. WINPISINGER,
*International President.*●

## ONE LAST CHANCE TO SAVE OUR AMERICAN CANAL IN PANAMA

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. DORNAN. Mr. Speaker, once upon a time the Emperor had no clothes, but no one realized this until the proverbial little Dutch boy told us so. It is in this spirit that I would like to address myself to the White House press corps, to the networks, to the editorialists, and to American citizens still sick over the giveaway to Torrijos. And I would like to remind all of us that we have not yet lost our American canal in Panama. I would also suggest to all of us who stand opposed to the Carter-Torrijos treaties not to remain undaunted, but to reject defeat.

The fact remains that there is still one more test the treaties must withstand. This test is in the form of the enabling legislation which this body, the House of Representatives, must pass for the Carter-Torrijos agreements to go into effect. Without passage of this legislation, there will be no more money provided to implement the treaties. With passage of this legislation, the treaties still cannot take effect until March 31 of 1979.

To date, only the Senate has spoken on the matter of the treaties, and it is with a muffled voice that they have done so. Every poll, every survey, and every knowledgable reading of the American people reveals the overwhelming rejection of this grand sellout. But while the upper legislative Chamber has so acted, it is still incumbent upon that legislative body which is closest to the American people to finally decide the outcome for all time. It is up to us, the Congress of the people, to finally render a verdict. The giveaway of the Panama Canal is not the first second-rate idea to eminate from the Carter administration, and God protect us, it will probably not be the last. Yet it lingers before us now, and I pray that enough of us have the energy and resolve to see it dissolve. I hope that all of my colleagues will accept this responsibility, and to recognize that the Panama Canal question is on the ballot. This November, in elections everywhere around our country, the Panama Canal question will be the implicit issue which will decide how many of us will or will not return to the Nation's Capital as representatives of the people.

Already, citizens' organizations and independent groups of Americans have begun to rally around this one last chance to save the canal. One group in particular has been in the vanguard of this struggle, the Council for Inter-American Security (CIS). It is young, it is privately backed, and it is independent of outside political influences. But through the CIS campaign, candidates for Congress are being forced to take a stand on the canal question. Just as the Texas Presidential primary in 1976 became a Panama Canal referendum for candidates Ford and Reagan, the November elections are beginning to turn into a similar form of popular referendum on the future of the canal.

CIS is one of the leading organizations orchestrating a newspaper advertising campaign to bring the message to all of the American people. I commend every responsible effort to focus public attention on what ought to be the decisive issue in the congressional elections to come. No effort should be spared to remind every American that they have the opportunity to vote on the Panama Canal question in November by supporting or rejecting those politicians, those running for Congress, who are empowered with writing the ending to this critical chapter of America's history.●

## VIRGINIA B. PATTERSON: 50 YEARS OF NURSING

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. SKELTON. Mr. Speaker, I take this opportunity to speak of a truly remarkable person. Miss Virginia B. Patterson, today, ends an illustrious and dedicated nursing career which has spanned a half a century. During these 50 years she has given comfort and aid to all who came to her. She has worked relentlessly to care for those who needed her help and for the institutions which provide the medical attention and special needs of their patients.

Miss Patterson's achievements range from being surgical supervisor at Freeman Hospital in Joplin, Mo., to working as school nurse at the Joplin public schools for 11 years, to being director of nursing services at Johnson County Memorial Hospital in Warrensburg. From February of 1975 until today she has worked as director of special services at Johnson County Memorial Hospital in Warrensburg.

For many years Miss Patterson almost singlehandedly was responsible for the entire day-to-day operation of the Johnson County Memorial Hospital, coordinating all the necessary functions of the hospital. Until 3 years ago, Miss Patterson oversaw all three shifts at the hospital, while simultaneously serving on several staff committees and committees within the 10th District Nursing Association.

Finally, Mr. Speaker, there are a lot of nurses. There are even some who have worked as many years as Miss Patterson has dedicated to the nursing profession. But I am confident there are singularly few who can claim to have helped so many people in so many ways as has Miss Patterson. In her 50 years in the medical profession, she has transcended the boundaries of competence and embodied the ideal of human caring. I join all who know Miss Patterson in saluting her and thanking her for making this a better world in which to live.●

## DEPRESSION AND SUICIDE AMONG YOUNG CHILDREN

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. MILLER of California. Mr. Speaker, the Los Angeles Times recently published a study of severe depression and suicide among American children. Like the phenomenon of spousal violence, few doctors or researchers had believed that there was so severe an incidence of suicidal acts among young children until very recently. But the results of the studies referred to in the Times' account indicates a problem of serious magnitude, which, like spousal violence, extends to all social classes.

Five percent of all the troubled children studied at one facility were found to be "severely depressed and self-abusive, or suicidal," an incredible percentage considering the paucity of attention this matter has been given. If this percentage is translated to the national population, the implications are staggering.

I particularly want to draw attention to the correlation which is drawn between this depressing behavior in children, and the incidence of family violence. In one study, 11 of the 13 children studied and found to be severely depressed came from families in which fighting was common. Even if the child is not involved directly in the violence between his parents, the witnessing of such fighting has a depressing effect on the child.

To place this fact in its proper context, we should look back to the figures on domestic abuse which were presented to this House a few months ago, during the considering of my bill, H.R. 12299, the Domestic Violence Assistance Act. During the debate on that legislation, which did not pass, unfortunately, I noted that the incidence of violence within families is far more frequent than generally presumed. Some estimate that violence occurs within half of the Nation's families, and that in 10 percent of the cases there is severe injury committed. As we learned during the hearings on H.R. 12299, family violence tends to spread from spouses to children, and children who are abused or who witness abuse as children tend to abuse their spouses in adulthood.

This article tragically records that we need not wait until those children reach adulthood to see the results of their exposure to, or involvement in, family violence. I hope that my colleagues will read this article, and keep it fully in mind when we next consider legislation to help the victims of domestic abuse:

CHILD SUICIDES—THEY ARE SAD, YOUNG AND WANT TO DIE

(By Lois Timnick)

Now as I was young and easy under the apple boughs
About the lilting house and happy as the grass was green . . .
In the sun that is young once only,
Time let me play and be
Golden in the mercy of his means . . .
—Dylan Thomas, in "Fern Hill."

The 11-year-old had slashed his wrists.

"I want to go to heaven," he sobbed. "I can't stand these stomach aches and being unhappy . . . if I could only die . . . it's hard to live . . . living is horrible. I just want to die because nobody cares if I die, so I just want to die."

Childhood, we are told, is supposed to be a time of joy and carefree innocence, but for this boy and many others it is so sad and painful they want to die. The poet's halcyon days of youth—easy, happy, golden—somehow elude them, and they want out of life even before they are old enough to understand the permanence and irreversibility of death.

For years the experts questioned whether young children could really suffer severe depression and intentionally seek death. Now it seems clear that they do both, and that many "accidents"—like swallowing poison or darting into heavy traffic—are in fact conscious or unconscious suicide attempts.

Consider, for example, these attempted suicides:

A 12-year-old girl hanged her doll by its neck, drugged her little sister, cut both her legs with scissors, slashed her wrists, and overdosed on hypnotic drugs. "I would be better off dead," she explained. "Then no one will ever have to look at my ugly face again."

An 11-year-old boy tried to kill his dog, attempted to suffocate his baby brother with a pillow, and stabbed pins and needles into his stomach. Asked why, he answered: "because mother doesn't have any love in her for me."

An 11-year-old boy, preoccupied with death and the idea of rejoining his dead grandmother, threatened to throw himself in front of a car, beat and disfigured his face, and finally jumped out the window of a two-story building.

A 5-year-old girl, obssessed with knives, burned her 3-year-old sister and tried to choke her with a shoestring, threatened her mother with a knife and fled from the house into heavy traffic.

A 6-year-old boy who wanted to die "because nobody loves me," first cut himself with his father's razor and was later found hanging from a second-story window.

These youngsters were among 34 preteens labeled severely depressed and self-abusive or suicidal when seen at UCLA's Neuropsychiatric Institute (NPI) during a four-year period. They represent only about 5% of the troubled 12-and-under children seen there. But even that number is staggering considering that until recently both parents and professionals ignored the possibility that young children could feel so much pain.

The wish to die can be based on misconception—as in the case of one youngster who thought that by killing himself he could rejoin a loved grandparent who had died and another who wanted to escape from home "to fly like Santa Claus." Of it can be a wanting to be dead just for the moment, since most children don't comprehend the finality of death before about the age of 8.

But the UCLA medical psychologist who studied these suicidal children says his findings "demonstrate that preteen-age children *CAN* experience the pain of life to the point of wanting to die. Aloneness, fear of rejection and threats of violence are as meaningful to a 4-year-old as to an adult," Morris J. Paulson said. "And health providers and caregivers must realize that (some) young children are 'at risk' for suicide."

Paulson was one of three national experts on childhood suicide and depression who spoke at a recent weekend conference at Lake Arrowhead sponsored by the Southern California Society for Child Psychiatry.

Of the nearly 2,000 children and teenagers in the United States who killed themselves in 1976 (the latest year for which figures are available), fewer than 200 were under 14 years old. But many suicides go unreported, and Paulson says so-called accidental injuries and poisonings in school-age children are often "purposeful, self-destructive acts."

For example, fully one-fourth of the admissions to the psychiatric unit at Children's Hospital of Los Angeles-Edgemont Hospital during its first year of operation have involved suicide attempts or a preoccupation with self-destruction, according to Dr. Howard Hansen, head of the division of psychiatry there and a participant in the conference.

The suicidal children at UCLA were mostly boys. Nearly half were failing in school despite normal IQs. Many had no friends. Some complained of physical ailments, while others turned their inner hate and anger onto others.

The economic level of the family—most were low-income WASPs, semiskilled and with high-school educations—did not seem to matter, since Paulson and his colleague Dorothy Stone found similarly suicidal children in an earlier study of more affluent families.

What did matter was the emotional poverty found in nearly all the families of suicidal children (some of whom had close relatives who had also attempted suicide); more than half the parents were separated or divorced; the remainder could hardly be said to be living in harmony.

As Paulson describes it: "For the younger age children, the most frequent immediate event leading to referral (to the NPI clinic for treatment) was perceived or imagined abandonment by a parent figure. For some families, divorce was the ultimate separation of a hostile, feuding, pathological relationship of violence between husband and wife."

In other families, Paulson said, the birth of a new brother or sister—a rival for the parents' love—and the mother's decision to go back to work were interpreted by the child as rejection.

Said one such 6-year-old, feeling emotionally rejected by his mother: "I want to die because nobody loves me."

"For many older children," Paulson continued, "the witnessing of family violence both verbal and physical, precipitated acute panic, fear and concern that they also may be the next victim of violent assault."

Said an 8-year-old girl: "They don't like me, I wish I was dead."

And another: "I would rather die than be spanked. They want me dead."

A battered 10-year-old whose 13-year-old brother had committed suicide earlier was philosophical: "Everyone kills and everyone dies . . . there is no escape."

(These children and their parents were treated with a variety of therapies: behavior modification training, individual or family psychotherapy, hospitalization, and foster home or institutional placement or adoption were sometimes necessary. Only 13 of those 34 treated could be traced three years later, but of those, none had committed suicide.)

Although depression is the leading cause of suicide, there are many more depressed children than completed suicides.

The psychiatrist who heads the only hospital ward in the United States devoted to studying childhood depression, Dr. Joaquim Puig-Antich of Columbia University and the New York State Psychiatric Institute, estimates that at least 1 percent of all children are depressed. This is based, in turn, on estimates that 10 to 15 percent of children in urban areas have some psychiatric disorder and that that disorder is depression between 5 and 10 percent of those cases.

When psychiatrists talk about Depression with a big D, however, they are talking about

much more than just feeling blue. And sometime much less than wanting to die.

No one denies that children feel sad or discouraged at times, says UCLA psychiatrist Dr. Gabrielle Carlson. Or that they may feel depressed at being separated from a loved one or at being trapped in a miserable environment. The controversy among professionals has centered on whether children can suffer adult-like depression: an illness with definite signs and symptoms, a family history of related disorders, certain biochemical levels in the body and a predictable response to antidepressant drugs.

Studies by Carlson, Puig-Antich and others show that they do; whether they will outgrow it or become depressed adults, however, is another—and still unanswered—question that will require long-term follow-up studies, since depression most often first shows up when a person is in his 30s.

Carlson says the only two follow-up studies done so far have reached opposite conclusions.

She herself looked back for early signs of depression or other psychiatric illness in the childhoods of 50 manic-depressive patients at the National Institute of Mental Health; few were found. That type of depression—which has high and low mood swings—doesn't seem to start until adolescence, although Columbia's Puig-Antich believes some depressed children may simply start with the lows and not experience the first high (the manic phase of the illness) until the teens.

What, then, does a depressed child look like? Carlson says, for starters, that most readily admit that they feel sad or "down" if anyone bothers to ask. They may, however, also have a behavior disorder like hyperactivity that draws more attention: "When a kid comes in who's been burning down the house, you don't stop to do a depression inventory," Carlson notes.

Besides an unhappy mood, the depressed child may be irritable and weepy. Other symptoms include: thoughts of death or suicide, tiredness, withdrawal from other people or aggressiveness and getting into fights, loss of interest in things that used to be fun, guilt feelings, poor concentration (and consequently, poor performance in school), insomnia or a lot, and, sometimes, changes in appetite and weight. If a child appears sad and has as many as five of these symptoms for more than a couple of weeks, chances are he is depressed.

The current view of how depression develops in children goes like this: depression runs in families. But children born with a susceptibility to the disorder—a "high genetic load" in scientific parlance—may not become depressed until later in life, if ever—unless they are also subjected to traumatic events—separations, divorces, cruelty, neglect, the death of someone close—during their first five years

"The child has to be hit both ways," Puig-Antich explained.

Swedish researchers have shown that poor early home environment can lower the age of depression's onset from the 30s and 40s to the teens and 20s; Puig-Antich's studies suggest that, given a high enough genetice vulnerability, it can be pushed even lower. He sees childhood depression as the same illness suffered by adults but simply occurring at a different point in development.

In a pilot study of 13 depressed children between 6 and 12 years old (at the Bronx Municipal Hospital Center and the Sound View-Throggs Neck Community Mental Health Center in New York), Puig-Antich and other researchers at Albert Einstein College of Medicine found 11 had suffered major losses or long separations from parents or other important figures.

Eleven came from families where fighting was a way of life.

And information gathered on 83 of these children's relatives turned up severe depression or alcoholism in 51. Similarly, Carlson's study at UCLA of 28 depressed youngsters between 7 and 17 found that one-third of them had close relatives who were alcoholics, half had depressive or manic-depressive relatives, a fifth had sociopaths.

Blood samples from severely depressed children also showed an excessive amount of cortisol, an essential hormone secreted by the adrenal gland whenever the pituitary gland releases a certain hormone. Depression appears to be the only disease in which the cortisol "faucet" fails to shut off in the evening as it does in normal people. As the depression gets better, however, the cortisol level drops.

Measuring such hormone levels gives researchers a sort of window on the brain: the brain chemicals that have been implicated in adult depression—sertonin, norepinephrine, and dopamine—and which are the targets of the antidepressaant drugs, regulate the limbic system, thought to be the seat of the emotions. The limbic system, in turn, regulates the pituitary. So the amounts of hormones in the blood and breakdown products of these brain chemicals in the urine provides clues as to what's going on up in the brain.

The drug that seems to wipe out depression in these children is imipramine (Tofranil). Puig-Antich's pilot study showed that 7 out of 8 children responded to it, and now he has embarked on a $500,000, 3-year study that will, among other things, evaluate its effectiveness.

Imipramine is not used longer than 3 or 4 months, he said, and only to alleviate the depression so that other therapy can be started: "It's a losing ballgame to try to treat with psychotherapy while they are still depressed," he explained.

The study, which began three months ago, should provide many of the answers needed to help unhappy children before they reach the point of wanting to die.●

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## ARMS EMBARGO SHOULD BE MAINTAINED!

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## HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. FOWLER. Mr. Speaker, as a member of the House International Relations Committee, I have had the privilege to participate in formulating H.R. 12514, the International Security Assistance Act of 1978. Curiously, the finished product, which the House is debating on the floor today, differs significantly in one crucial area from what the majority of the committee members actually support; namely, the issue of lifting the Turkish arms embargo.

Debate over lifting the embargo had centered around two issues: A just solution to the Cyprus question and the need to maintain a strong southeastern flank of NATO. The question we must, therefore, ask is, will lifting the embargo resolve these issues? I believe it will not.

A just solution to the Cyprus question is already in existence. It can be found in United Nations General Assembly Resolution No. 3212 of November 5, 1974, which calls for the political independence and territorial integrity of Cyprus and a government which will provide autonomy for both Greek and Turkish Cypriots to enable them to pursue their own interests without compromising their rights. This kind of settlement could lead to the restoration of peaceful relations between Greece and Turkey. Furthermore, by improving relations between Turkey and Greece, this settlement would enhance their ability to defend the southeastern flank of NATO jointly.

By taking steps to repeal the embargo, Congress is putting itself in the position of undermining the laws which it has passed over the years. The embargo was a response to a clear violation of American laws and bilateral agreements already in effect. Under provisions of both the Foreign Assistance Act and the Foreign Military Sales Act the only response to the Turkish invasion of Cyprus in August of 1974 and the subsequent occupation of Cyprus was to institute an embargo as provided for under the law.

Despite the embargo Congress did make concessions to Turkey. The $185 million in weapons ordered prior to the embargo were delivered while the embargo was in place. In addition, more than $800 million in American arms were provided to Turkey through foreign military sales credits and commercial arms sales during the embargo. However, the Turkish Government has not responded by negotiating in good faith for a just solution to the Cyprus problem.

In light of these concessions and the lack of positive action by the Turkish Government, it is not logical to assume that lifting the embargo will spur the Ankara Government to negotiate in a more open and constructive manner. I hope that you will join me and a majority of the House International Relations Committee in defeating this premature effort to lift the Turkish arms embargo.

At this time I insert the separate views of the majority of the International Relations Committee at this point in the RECORD, as follows:

SEPARATE VIEWS OF REPRESENTATIVES DANTE B. FASCELL, CHARLES C. DIGGS, JR., ROBERT N. C. NIX, DONALD M. FRASER, BENJAMIN S. ROSENTHAL, LESTER L. WOLFF, GUS YATRON, MICHAEL HARRINGTON, CARDISS COLLINS, HELEN S. MEYNER, GERRY E. STUDDS, ANDY IRELAND, ANTHONY C. BEILENSON, WYCHE FOWLER, JR., JOHN J. CAVANAUGH, EDWARD J. DERWINSKI, J. HERBERT BURKE, BENJAMIN GILMAN, AND TENNYSON GUYER

A majority of the members of this committee oppose the administration's efforts to repeal section 620(x) of the Foreign Assistance Act, which now provides for a limited arms embargo against Turkey.

We have reached this position for a variety of reasons, among which are the following:

As supporters of the rule of law in the conduct of American foreign policy, we recognize that Turkey's second invasion of Cyprus in August 1974, was a clear violation of the Foreign Assistance Act, the Foreign Military Sales Act, and our bilateral agreements with Turkey respecting the proper use of American-supplied weapons. The continuing occupation by Turkey of 40 percent of Cyprus constitutes a continuing violation of those laws and agreements.

As supporters of NATO, we recognize the great importance of our southeastern European defense flank, and we hesitate to take any action which might threaten the full participation of both Turkey and Greece in that defense effort.

As supporters of human rights, we are not convinced that lifting the embargo constitutes a course likely to lead to a just settlement of the Cyprus tragedy and a resolution of the refugee problem.

As supporters of restraint in U.S. arms sales abroad, we feel that lifting the embargo before Turkey has taken the substantive actions necessary to a settlement on Cyprus would serve as a harmful precedent to future recipients of American weapons.

And, finally, as practical men and women, we recognize that the embargo is, even now, a limited one. Turkey has received $600 million in U.S. arms since the embargo was first imposed. Even if the administration's amendment is defeated, Turkey will still receive an additional $175 million in U.S. arms for fiscal year 1979. Moreover, the provisions of section 620(x) themselves permit President Carter to end the embargo in a moment, if he is willing to certify to the Congress that Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and its bilateral agreements with the United States, and that substantial progress has been made toward an agreement regarding military forces on Cyprus. We believe that these provisions offer an appropriate means of dealing with the Turkish arms question.

For the foregoing reasons, we believe that the administration's effort to end the Turkish arms embargo at this time should be defeated.

Dante B. Fascell, Charles C. Diggs, Jr., Robert N. C. Nix, Donald M. Fraser, Benjamin S. Rosenthal, Lester L. Wolff, Gus Yatron, Michael Harrington, Cardiss Collins, Helen S. Meyner, Gerry E. Studds, Andy Ireland, Anthony C. Beilenson, Wyche Fowler, Jr., John J. Cavanaugh, Edward J. Derwinski, J. Herbert Burke, Benjamin A. Gilman, and Tennyson Guyer.●

## FAITH BETRAYED

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. DORNAN. Mr. Speaker, terrorism has no limits. This repugnant fact was brought to my attention by a recent article in the Los Angeles Times. It appears that well-intentioned Christian churches, who for years have supported democratic, freedom-preserving African movements, now find that, inadvertently, they are supporting revolutionary terrorism. And the targets of the murder, torture and rape are often members of their Christian faith, fellow servants of God.

The following article offers us this sad revelation:

[From the Los Angeles Times, July 7, 1978]

AFRICA MISSIONARIES CAN THANK CHURCHES FOR THEIR TROUBLES

(By Georgie Anne Geyer)

If I were one of the dozens of American or European missionaries martyred recently in Rhodesia, these days from heaven I would be saying an extra prayer. It would be for the sanity of many of my church's leaders.

For if we are to look at the heinous murders of missionaries and educators realistically, there is one thing stranger than the fact that the churches themselves bought many of the bullets—the fact that church leaders can't figure out why missionaries are being singled out.

"It is as if the devil has gotten hold of the country," the Catholic bishop of Bulawayo, Henry Karlan, remarked, shaking his head after the most recent massacre last week. He is wrong. The devil isn't half the story.

He has the churches with him.

I have before me a press release from the World Council of Churches from April 16, 1975, headed: "Special Fund Allocates $479,000 to Liberation/Support Groups."

The release reads, "More than one-half of this amount will go to liberation movements of Zimbabwe (Rhodesia), Namibia and South Africa working for black-majority rule." In addition, aid continued to Mozambique and Angola, two Marxist one-party dictatorships supporting the Rhodesian terrorists.

At the recent synod of the Anglican Church of Canada, its primate, the Most Rev. E. W. Scott, was reported in Vancouver as saying that the church must support African "liberation" movements. Asked whether he thought that the church should provide assistance to Christian-based liberation movements rather than to Marxist-based ones, he said that no one could make such a "distinction."

In 1972, the world council appealed to British churches for support of its "Fund to Combat Racism." The fund's director said that the setting up of the fund was a symbol to the oppressed of "the transfer of power from the powerful to the powerless." Approximately $10,000 was given by the council to ZAPU and ZANU, the two groups widely believed responsible for the recent murders.

Proofs of this strange dialectic of guilt, martyrdom and criminal naivete could be offered indefinitely. But perhaps it is better to ask "Why?" A church does not deliberately kill its own prophets—or does it?

When the churches, both Catholic and Protestant, began giving aid to the African "liberation" movements in the early '60s, there was a good reason for it—a reason of which I approved. It was to end colonialism.

But by now they should know better (perhaps I should say that they should know *something*!). After all, the Catholic Church in Mozambique strongly opposed Portuguese colonialism and supported Frelimo, the "liberation" movement there, only to have Frelimo totally outlaw religion once it came to power.

The money, of course, is also supposed to go only for "humanitarian" purposes, but no one seriously believes that any more.

So where are we today? In a horrendous situation in which Marxist guerrillas based in Zambia and Mozambique systematically wipe out missionaries and church educators (who have made black Rhodesia the most educated black population on the continent) to (1) destabilize and terrorize the country; (2) get rid of the only ideology that opposes them—Western democracy and Christianity, and (3) leave a void that only Marxism can fill.

To just touch on the mountain of evidence: In May, 1977, Free Methodist missionaries were told by a terrorist leader, "If the Jews had not killed Christ, I would have done it"; in April, 1974, Sister Vianny of the Avila mission was lectured by a terrorist about "the Catholic Church representing the evils of capitalism"; surviving missionaries say guerrillas trained in Cuba and East Germany were more brutal and anti-Christian than locally trained ones.

But perhaps a document published by Mozambique's Frelimo in late 1975 was most prophetic: "Progressively, we will replace the religious element by the Marxist element. We will thus transform the false conscience into true conscience, so that Catholics may eventually destroy their own movement . . ."

And what is the reaction of today's Rhodesian church superiors to the carnage of their brothers and sisters in Christ? Over and over these past weeks, they have asked in their traumatized innocence, "Why should they kill us when we have been for them?"

The situation is complex. Most members and many ministers and priests of the world council and the Catholic Church and others certainly do not want their money used to rape nuns before axing them to death. They do not have to. The cerebral, remote decisions are made far away, and seldom analyzed.

But what is unforgivable on the decision-making level is the intellectual and moral incoherence of people who cannot even distinguish between Christian and democratic revolution and Marxist totalitarianism. One could almost say that these church leaders have introduced a new term into the historic Christian vocabulary: auto-martyrdom. One could certainly say that, while they think that they are living their faith by their actions, in actuality they are only killing it.●

## COUNTERSPIES

## HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. McCLORY. Mr. Speaker, recently, the Chicago Tribune ran an editorial commenting favorably on the proposed foreign intelligence electronic surveillance measure now pending before the House.

This measure, which was passed previously in the other body, has now raised serious questions among our Members and is being actively opposed by the Association of Retired Intelligence Officers and many other individuals who are knowledgeable in the area of foreign intelligence.

I am attaching to these remarks copies of two letters to the editor which that editorial evoked.

The letters follow:

COUNTERSPIES

WASHINGTON.—It was with interest that I read your June 26 lead editorial entitled "Restraining the counterspies."

Your reference to pending legislation to control foreign intelligence electronic surveillance relates to a subject pending before the House Judiciary Committee on which I serve as the ranking minority member, and which has already been considered by the House Intelligence Committee on which I also serve.

You indicate support for electronic surveillance legislation to be developed "in such a way as to interfere as little as possible with operations that are essential to the national security." I would question whether legislation should interfere in any respect whatever with operations which are essential to our national security. Certainly, the administration bill which would prevent any and all electronic surveillance unless first authorized by an order of a special court could completely frustrate electronic surveillance activities, notwithstanding the urgency or seriousness of the need for intelligence information which may be available only through such means.

While commenting unfavorably on the measure which I have presented to provide statutory direction for electronic surveillance activities by the executive branch of government, you justify the involvement of a special court in such operations by stating that "enough evidence of past abuse has come to light since Watergate to justify

nudging the pendulum back toward the protection of individual privacy."

I should point out that there is no evidence which has been produced in the Senate or House Intelligence Committee hearings indicating any abuses "since Watergate." Indeed, the justification which Sen. Kennedy [D., Mass.] and the American Civil Liberties Union give for this legislation is that domestic wiretaps, wrongfully excused on the ground of national security, were carried out against Joseph Kraft, Martin Luther King Jr., and Morton Halperin, but these were at least four years ago, and there is no evidence that any abuses have occurred during recent years while Atty. Gen. Bell and former Atty. Gen. Levi have been operating under strict presidential guidelines.

You conclude your editorial by stating that in your opinion as well as the Justice Department's "the intelligence agencies should be able to live with" the legislation providing across-the-board warrants for all foreign intelligence electronic surveillance.

I should advise you that at least one of the intelligence agencies remonstrated by convincing the House Intelligence Committee that, indeed, it could not live with such restraints and "special court involvement." While the other intelligence agencies have failed to speak up in opposition to the Carter administration's plan, the private expressions which have come to me are almost entirely to the contrary.

In my opinion, to transfer authority and accountability for foreign intelligence electronic surveillance from the President and the executive branch to a special court is unthinkable and dangerous to our national security.

ROBERT MCCLORY.

HIGHLAND PARK.—Thanks for the June 26 editorial on the Foreign Intelligence Surveillance Bill now before the House Judiciary Committee.

Rep. Robert McClory [R., Lake Bluff] is correct in looking closely at the bill despite the Senate's 95 to 1 passage. This nearly unanimous Senate rubber stamp was less a measure of intelligence than naivete about counter-intelligence.

The U.S. intelligence community must keep 1,400 foreign adversary agents on station here and their U.S. contacts and subagents under surveillance. This enormous national security assignment is much more than protecting sensitive information—it includes surveillance of covert operations of neutralization, sabotage, and subversion; dissemination of false information; infiltration for the purpose of deep penetration into commerce, industry, and government for manipulation of domestic and foreign policy, and assassination and terrorism.

The good intentions of the bill to curtail surveillance of U.S. citizens need not extend equally to noncitizens and certainly not to individuals intent upon overthrowing the government.

The U.S. intelligence community can best counter the enemy within without this legislation which adds blinders and ear muffs to the cloak and dagger uniform.

GEORGE HISCOTT IV,
*Member of the Association of Former Intelligence Officers.*●

## MISGUIDED U.S. POLICY TOWARD AFRICA

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. STOKES. Mr. Speaker, from July 31 through August 2, 1978, the House of Representatives will debate and vote on the foreign assistance appropriation bill (H.R. 12931). During the course of this debate, I expect to hear rhetoric from my colleagues concerning U.S. aid which purportedly, supports so-called socialist and Marxist countries like Mozambique and Angola. I also expect Representative ROBIN BEARD to offer an amendment to prohibit indirect aid to Mozambique and Angola through U.S. contributions to international financial institutions and other international organizations.

Mr. Speaker, the Beard amendments and the rhetoric associated with this amendment represent ill-conceived U.S. policy toward Africa. To begin with, they make the serious mistake of politicizing economic and humanitarian assistance and more significantly they assume that so-called socialist and Marxist nations have embraced communism. It is in regards to this last matter that I have submitted an article by distinguished author and commentator Carl T. Rowan. This article, which appeared in the July 27, 1978, Plain Dealer sheds much needed light on an area of foreign policy, which I am sad to say, many of my colleagues have convoluted.

The article follows:

UNITED STATES STUPID IN AFRICA
(By Carl T. Rowan)

WASHINGTON.—Americans ought not underestimate the importance of Nigeria's warning to Russia and Cuba that they should not overstay their welcome in Africa.

It is of great importance that the most populous and powerful black nation in Africa should publicly tell the Soviets that Africa "is not about to throw off one colonial yoke for another." Those were the words of Lt. Gen. Olesegun Obasanjo, Nigeria's head of state, at a summit meeting of the Organization of African Unity, Khartoum, Sudan.

Americans—Congress particularly—are so hung up on words like "socialist" and "Marxist" that we adopt stupid policies inimical to our national interest regarding countries like Mozambique and Angola. A majority of Congress, and a lot of newspaper editors, get their minds thrown out of joint because African leaders do not embrace capitalism or governmental systems that match our two-party cultural indoctrination. So Americans conclude, irrationally, that these African countries have become the allies and pawns of Russia, Cuba, East Germany or the People's Republic of China.

Obasanjo pointed out that Egypt, Sudan and Somalia threw out the Russians rather than see the Soviets become imperial rulers.

I recently was in Mozambique, where President Samora Machel governs "along Marxist lines." What on earth does that mean? It means that his Front for the Liberation of Mozambique (FRELIMO) moved quickly to wipe out a situation where doctors served only whites and a few important Africans. The African masses got little or no health care. So FRELIMO nationalized medical care and abolished private practice. Some 90% of the Portuguese doctors fled, leaving fewer than 50 to serve 9 million people. Still, Mozambique's masses are now getting more and better medical care, more inoculations against infectious diseases, than in 400 years of Portuguese rule.

Does this, and other socialist innovations by Machel, put Mozambique in the pocket of the Kremlin? Far from it. I found Mozambicans already up to their throats in disenchantment with the Soviets. They talk privately about how, last year, they caught the Soviet airline, Aeroflot, engaging in flimflammery of ticket prices, costing economically pressed Mozambique at least $3 million in precious hard currency. (Mozambique forced Aeroflot to close its Maputo office.) They talk about how the Soviets are ripping off Mozambique in a fisheries agreement where the Russians take a catch of about 10,000 tons a year out of Mozambican waters and pay a ridiculously low compensation.

But Congress is so blinded by the word "Marxist" that it will not let the United States offer Mozambique an alternative to exploitation by the Soviets.

Since independence three years ago Mozambique has suffered devastating floods, a severe drought and hundreds of military attacks by Rhodesia. It is losing at least $150 million a year because of the Rhodesian war, and is trying to feed some 50,000 refugees who have fled Rhodesia. Yet Congress has forbidden aid to Mozambique, meaning that the United States cannot provide even food, drugs, clothing or agricultural assistance. This is political insanity.

The rhetoric of American know-nothings puts Mozambique in the same bag with Uganda, Chile and other countries of gross oppression and human rights violations. This is shamefully unfair to Mozambique.

Congress ought to take a better-informed look at Mozambique. It will discover that, like Nigeria's Obasanjo, Mozambicans do not want the yoke of the Soviet Union to replace that of the Portuguese. And we ought not deny Mozambique an alternative.●

## CAPTIVE NATIONS WEEK

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 31, 1978*

● Mr. EILBERG. Mr. Speaker, this month marks the 20th observance of Captive Nations Week. This year, as in every year since 1958, we set aside a week during July—the month of our own national independence—to honor those who have struggled to obtain the freedom that Americans enjoy as a right.

This yearly observance reminds us that all people do not enjoy basic liberties and human rights—a grim message brought home to us recently, when the Soviet Union, in blatant and callous disregard for human rights, sentenced Anatoly Shchransky, Alexsandr Ginsburg, and Viktor Pektus to prison terms for their so-called "crimes" of speaking out against government wrongs and attempting to help others leave the Soviet Union.

Even without the reminder of the cruelty of the recent Soviet action, we must recognize the continuing Soviet oppression of the millions of struggling individuals in Eastern Europe. These brave individuals have maintained their courage and perseverance, in the face of continued occupation and control by the Soviet Union.

Mr. Speaker, it is vital that we in the United States do not disappoint these brave individuals. It is incumbent upon us to continue to voice our outrage whenever and wherever human rights are violated.

Captive Nations Week must be more than just a once-a-year occasion for speeches and rhetoric. We must continually demonstrate to the Soviet Union

that we will not be silent in the face of systematic violations of international agreements such as the Helsinki Final Act.

Mr. Speaker, I am a cosponsor of House Concurrent Resolution 177—A measure which calls for independence for Latvia, Lithuania, and Estonia, three Eastern European countries now suffering from Soviet occupation.

I believe this measure is a step in the right direction for a Congress which wants to affirm its commitment to the objectives of freedom and human rights. Let us reaffirm the principles of Captive Nations Week and pledge to support this resolution and any others which will discourage Communist oppression and encourage freedom in all captive nations.

Mr. Speaker, WCAU–TV in Philadelphia recently editorialized on the occasion of Captive Nations Week. I offer for the RECORD the text of that editorial, because I feel it is an intelligent, thoughtful statement about the underlying issues of importance of Captive Nations Week.

The editorial follows:

CAPTIVE NATIONS WEEK

President Carter has declared July 16 to 23 "Captive Nations Week."

The idea of paying attention to and paying honor to "Captive Peoples" came out of American reaction to Soviet expansion following World War II.

Soviet dictator Josef Stalin rushed his tanks and his troops across Eastern and Central Europe following the collapse of Nazi Germany. He filled a power vacuum. People who thirty years before had heard the gospel of "self-determination of peoples" found themselves swallowed by new conquerors. Marxist totalitarianism was enforced by Red Army soldiers. And most of Europe's Slavic peoples were walled up behind what Churchill named "The Iron Curtain."

America's response was to try to live with it—to strengthen our own defenses—and to hope for change. Some change has come.

The American and Soviet superpowers have remained at the stage of where talk has replaced troops, where negotiation has been preferred over nuclear war. And we say this is good.

But events of this past week—the news of the trials of Jewish dissidents inside Russia—remind us of the connection between the enslavement of the Slavs and the continuing imprisonment of the human conscience.

The concept behind Captive Nations Week must, we feel, be more than a ceremonial sop to American voters of Eastern-European origin. We must continue to speak out for the human conscience and human rights wherever they are imperiled: in Central Africa, in Chile, in Korea, or in Russian courtrooms.

(File tape Russian invasions of the Ukraine.)

Presented by John A. O'Connor—Editorial Director.●

## SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 1, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

9:00 a.m.
Energy and Natural Resources
To continue mark up of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Appropriations
District of Columbia Subcommittee
To mark up H.R. 13468, making appropriations for fiscal year 1979 for the District of Columbia Government.
S–126, Capitol

Environment and Public Works
Regional and Community Development Subcommittee
To hold hearings on S. 3319, authorizing funds for programs under the Public Works and Economic Development Act for fiscal year 1979.
4200 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on the quality of patient care in nursing homes.
8302 Dirksen Building

Judiciary
Penitentiaries and Corrections Subcommittee
To continue hearings on S. 3227, to establish a program of therapeutic communities in Federal prisons.
2228 Dirksen Building

10:00 a.m.
Armed Services
Military Construction and Stockpiles Subcommittee
To hold hearings on military base realignments by the Department of Defense.
212 Russell Building

Finance
To resume mark up of S. 1470, to reform administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and on H.R. 12232 and H.R. 12380, reporting dates for the Unemployment Compensation Commision, and other amendments related to unemployment programs.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on organized crime activities in South Florida, with testimony on loansharking, arson, and narcotics trafficking.
1202 Dirksen Building

Select on Intelligence
To resume hearings on S. 2525, to improve the intelligence systems of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
1318 Dirksen Building

Special on Aging
To hold hearings on vision impairment problems of older Americans, and on aspects of S. 3038, to provide payment for lenses prescribed to improve the eyesight of individuals with severely limited vision.
6226 Dirksen Building

3:00 p.m.
Conferees
On H.R. 12598, FY 79 authorizations for the Department of State, the International Communication Agency, and the Board for International Broadcasting.
S–116, Capitol

AUGUST 4

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 134, extending the deadline for ratifying the ERA.
318 Russell Building

9:30 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume oversight hearings on the Government in the Sunshine Act (Public Law 94–409).
3302 Dirksen Building

10:00 a.m.
Environment and Public Works
To hold hearings on several public building prospectuses.
4200 Dirksen Building

10:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 2755, the Drug Regulation Reform Act, and S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
4232 Dirksen Building

AUGUST 7

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on the problem of property insurance in urban America.
5302 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2475 and H.R. 10587, to improve conditions of the public grazing lands.
3110 Dirksen Building

AUGUST 8

9:30 a.m.
Judiciary
To hold hearings on the nominations of James D. Phillips, Jr., of North Carolina, to be U.S. circuit judge for the fourth circuit, and Harry E. Claiborne, to be U.S. district judge for the district of Nevada.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2533, proposed 82 Gasohol Motor Fuel Act.
3110 Dirksen Building

AUGUST 9

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on what information is currently available to the public on food labeling and nutrition content.
322 Russell Building

10:00 a.m.
Budget
To mark up second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 2533 proposed Gasohol Motor Fuel Act.
3110 Dirksen Building
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed initiatives designed to improve Federal water resource programs transmitted by the President in his message of June 7, 1978.
4200 Dirksen Building
Finance
To mark up miscellaneous tariff bills.
2221 Dirksen Building
Rules and Administration
To consider further the nominations of John Warren McGarry, of Massachusetts, and Samuel D. Zagoria, of Maryland, to be members of the FEC.
301 Russell Building

AUGUST 10

8:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2560, to expand the Indiana Dunes National Lakeshore.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To continue hearings on what information is currently available to the public on food labeling and nutrition content.
322 Russell Building

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
6202 Dirksen Building
Environmental and Public Works
To hold hearings on several public building prospectuses.
4200 Dirksen Building

AUGUST 11

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
6202 Dirksen Building

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Energy Research and Developmental Subcommittee
To hold hearings on S. 2860, proposed Solar Power Satellite Research, Development, and Demonstration Program Act.
3110 Dirksen Building

AUGUST 15

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on H.R. 2329, proposed Fish and Wildlife Improvement Act, and H.R. 8394, proposed Refuge Revenue Sharing Act.
4200 Dirksen Building
Human Resources
Labor Subcommittee
To hold joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns domestic security.
2228 Dirksen Building

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
285 Russell Building
Energy and Natural Resources
Business meeting on pending calendar business
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

AUGUST 17

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the physical and financial condition of the Erie canal.
4200 Dirksen Building
Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings on S. 2053, the Deep Seabed Mineral Resources Act, now pending in the Commerce, Science, and Transportation Committee.
4221 Dirksen Building
Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold joint hearings with the Governmental Affairs Subcommittee on Federal Spending Practices and Open Government on S. 2515, dealing with occupational alcoholism programs.
3302 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 18

10:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 22

9:00 a.m.
Human Resources
To hold hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 28

9:00 a.m.
Human Resources
To continue hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

AUGUST 24

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building